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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
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Staff: Betz-V
Staff Report: 6/17/98
Hearing Date: 7/7-10/98

**STAFF REPORT: CONSENT**

APPLICATION NO.: 4-98-149

APPLICANT: Peter and Heather Higgins AGENT: Denver Dale

PROJECT LOCATION: 5330 Horizon Drive, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a 28 ft. high, 5480 sq. ft., two story single family residence with attached garage, retaining wall, septic tank and seepage pit. No grading is proposed.

Lot Area	64,711 sq. ft.
Building Coverage	3,710 sq. ft.
Pavement Coverage	5,930 sq. ft.
Landscape Coverage	2,000 sq. ft.
Land Use Designation	Residential I, 1 du/ac
Project Density	.68 du/ac

LOCAL APPROVALS RECEIVED: Approval in Concept, Planning Department, City of Malibu, dated 4-17-98; In-concept approval, Environmental Health Department, City of Malibu, dated Mar 20, 1998.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Coastal Development Permits No. 5-86-823 (Macias), 5-83-814 and 5-83-823E (Macias), 4-94-025 (Morillo) and 4-97-138 (Ricciardone); GeoSystems, Inc.: Response to City of Malibu Geology and Geotechnical Engineering Review Sheet, December 24, 1997; Updated Soils and Engineering-Geologic Investigation for Proposed Single Family Residence Lot 1, Parcel Map 7300 5330 Horizon Drive, Malibu, California, July 31, 1997; Supplemental Geotechnical Investigation of Proposed Setback Retaining Wall, August 13, 1993; Final As Built Engineering Geologic And Final Compaction Report, October 3, 1988; Update Soils and Engineering Report, February 24, 1987; and Soils and Engineering Geologic Investigation Report, 12-27-82.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval of the proposed development with special conditions addressing landscaping and erosion control, plans conforming to the geologic recommendation, and wild fire waiver of liability.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby approves the coastal development permit on the grounds that, as conditioned, the development 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 in the application for permit, subject to any special conditions 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 project during its development, 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

Prior to the issuance of the permit the applicant shall submit, for the review and approval by the Executive Director, evidence of the geology consultant's review and approval of all project plans. All recommendations contained in the GeoSystems, Inc.: Response to City of Malibu Geology and Geotechnical Engineering Review Sheet, December 24, 1997 and Updated Soils and Engineering-Geologic Investigation for Proposed Single Family Residence Lot 1, Parcel Map 7300 5330 Horizon Drive, Malibu, California, July 31, 1997 including issues related to foundations, grading, and drainage shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic 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.

2. LANDSCAPE AND EROSION CONTROL PLANS

Prior to issuance of permit, the applicant shall submit a landscape plan and an erosion control plan prepared by a licensed landscape architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- a) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes according to the approved landscape plan within thirty (30) 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, Los Angeles - Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species 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. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage.
- b) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location, either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- c) Plantings will 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) 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.

3. WILD FIRE 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, operations, 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 proposal is to construct a single family residence on a lot where construction was previously initiated, possibly under the AB 643 exclusion for construction of single family dwellings. The project is the proposed construction of a 28 ft. high, 5480 sq. ft., two story single family residence with attached garage, retaining wall, septic tank and seepage pit, and no grading on a 64,711 sq. ft. parcel. The parcel is located on the upslope side of Horizon Drive, which represents the landward extent of development in this area of the coast, north of which is vacant hillside land under public ownership. The building site is located at the approximate 750 ft. elevation.

The area to the north and east is steep, brush covered hillside. Segments of the Coastal Slope Trail are located in this area and are visible from the project site. The Trail is above the project, across a canyon and approximately one-half mile to the northeast. The area to the west, south and east is residential single family development.

The lot was created as allowed by an earlier coastal development permit, 5-86-823 (Macias), for a lot split (land division into two parcels). The permit was issued. The permit was subject to conditions requiring a transfer of development credit to extinguish the development right to one lot in the Malibu/Santa Monica Mountains, as well as a drainage and erosion control plan and a restriction on future development requiring a coastal development permit. (At that time it was not required that the future development condition be recorded as a deed restriction, as is present practice.) The present landform of the parcel substantially conforms to the grading and erosion control plan submitted under the earlier permit.

Construction of a single family residence has been initiated by installation of a system of caissons. The present project plans are to construct the residence without use of these caissons which will remain in the ground underneath the house and in adjacent yard areas.

Neither the application material nor Commission records indicate when construction was initiated on the site. There was a previous, 1976 permit for a single family residence on this site, P-156 (Hyde), for construction of a single family residence. The project area was excluded from the requirement for a coastal development permit for construction of a single family residence on a vacant lot under the AB 643 exclusion, prior to the 1991 incorporation of the City of Malibu, at which time the exclusion was no longer in effect. The City does not recognize this area as an exclusion area and, therefore, a coastal development permit is required for construction of a single family residence.

Related to this, the GeoSystems, Inc., Response to City of Malibu Geology and Geotechnical Engineering Review Sheet, December 24, 1997 notes that previous grading has resulted in engineered and compacted fill being placed in the area between the residence and the driveway and construction of retaining walls. The 1986 aerial photograph of the area shows site preparation and a driveway cut. There is no record of a violation on the project site.

B. Visual Resources/Landform Alteration

Section 30251 of the Coastal Act states (in part) 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 surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. ...

There are a number of applicable policies regarding visual resources and landform alteration in the certified LUP for Los Angeles County, now used for guidance only for the review of development proposals since the City of Malibu has been incorporated. These include the following (paraphrased as applicable): P 82: minimize grading to avoid runoff and erosion effects; P 91: minimize impacts and alterations of physical features; P 129: attractive appearance and harmonious relationship with the surrounding environment; P 130: conceal raw-cut slopes, not significantly intrude into the skyline as seen from public viewing places; P 134: conform to the natural topography, as feasible, massive grading and reconfiguration discouraged.

Most of the development is confined to a pad at the intermediate location on the lot at about 750 ft. in elevation. The project site has sweeping views of the coastline and some view of the ridges to the northeast. The subject property is briefly visible from the scenic Pacific Coast Highway, but much of the view is blocked by intervening vegetation and topography close to the highway.

The view of the project from the Coastal Slope Trail, one half-mile further inland, is not significant considering that the project represents infill along an existing secondary ridgeline and not on a skyline crest. The view downhill from the trail and across the property includes, and merges visually, with similar residential development along the coast.

The proposed residence is similar in scale and character with surrounding development. Conditions of approval relative to visual quality have not been required by the Commission in recent development in the vicinity i.e. permit 4-94-025 (Morillo) at 5441 Horizon Dr.. The surrounding area is characterized by concentration of development of large residences on large lots, including both single and two story residences. The proposed development is partially cut into the side of the hillside due to the previously constructed building pad.

Because of these circumstances, the project creates similar or less visual impact than existing development. Because it represents infill of an existing developed area, no special condition such as a color restriction is necessary.

However, the site has been cleared of native vegetation and it is necessary to require the applicant to submit landscaping plans for areas disturbed by grading operations and development activities. The landscape plan will include native plants to minimize and control erosion, as well as screen with vertical elements and soften the visual impact of the proposed development as seen by the public from the designated scenic highway and the public trail. The Commission, therefore, finds that it is necessary to require through condition two (2) that the applicant submit a landscaping plan for all graded and disturbed areas utilizing native plant species to minimize the need for irrigation, prevent erosion and soften the visual impact of development.

In summary, the proposed project as conditioned will ensure consistency with Coastal Act policies on visual quality and landform alteration. The Commission, therefore, finds that the proposed project as conditioned is consistent with Section 30251 of the Coastal Act.

C. Geologic Stability

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.

In addition, the Malibu Land Use Plan, which serves as guidance in the City area, contains the following policies regarding geologic stability: P147 -- evaluate all new development for impact on, and from, geologic hazard; P149 -- require a geologic report, prepared by a registered geologist, prior to approval of proposed development.

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.

The proposed development has been subject to geologic and geotechnical review as part of the local review process and new development is proposed which would raise an issue under Section 30253. As noted by GeoSystems, Inc., Supplemental Geotechnical Investigation, August 18, 1993:

Based on our calculations and our field observations, the site with the proposed construction is considered to be suitable from a geotechnical standpoint provided our recommendations are followed and integrated into the construction plans

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

Based on the findings and recommendations of the consulting geologist, the Commission finds that the development is consistent with PRC Section 30253 so long as all recommendations regarding the proposed development are incorporated into 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 consultant, as noted in special condition one (1).

In addition to the need to minimize geologic hazard, in this particular area the Commission must evaluate the potential for fire hazard as well. The proposed residence and other development is in an area subject to extraordinary potential for damage or destruction from wildfire and contains natural slopes containing native vegetation as well as areas of native vegetation which have been revegetated subsequent to grading. Surrounding undeveloped areas contain native vegetation, and lots now developed with single family development contain undisturbed areas of native vegetation, as well as revegetated areas of native and non-native vegetation.

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 three (3).

Thus, the Commission finds that only as conditioned to incorporate all recommendations by the applicant's consulting geologist, require landscape and erosion control plans, provide for the wild fire waiver of liability will the proposed project be consistent with Section 30253 of the Coastal Act.

D. Septic System

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

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

Section 30250(a) of the Coastal Act states in part that:

New residential, ... development, ... shall be located within, ... existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed development includes constructing a septic system for the new residence to provide for adequate sewage disposal. The applicant's geology reports indicate that the percolation rate is adequate to absorb effluent for the project. The applicant has submitted a conceptual approval for the sewage disposal system from the Department of Environmental Health Services, City of Malibu. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the City of Malibu Plumbing Code. The Commission has found in past permit actions that compliance with the City's 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 Sections 30231 and 30250 of the Coastal Act.

E. 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.

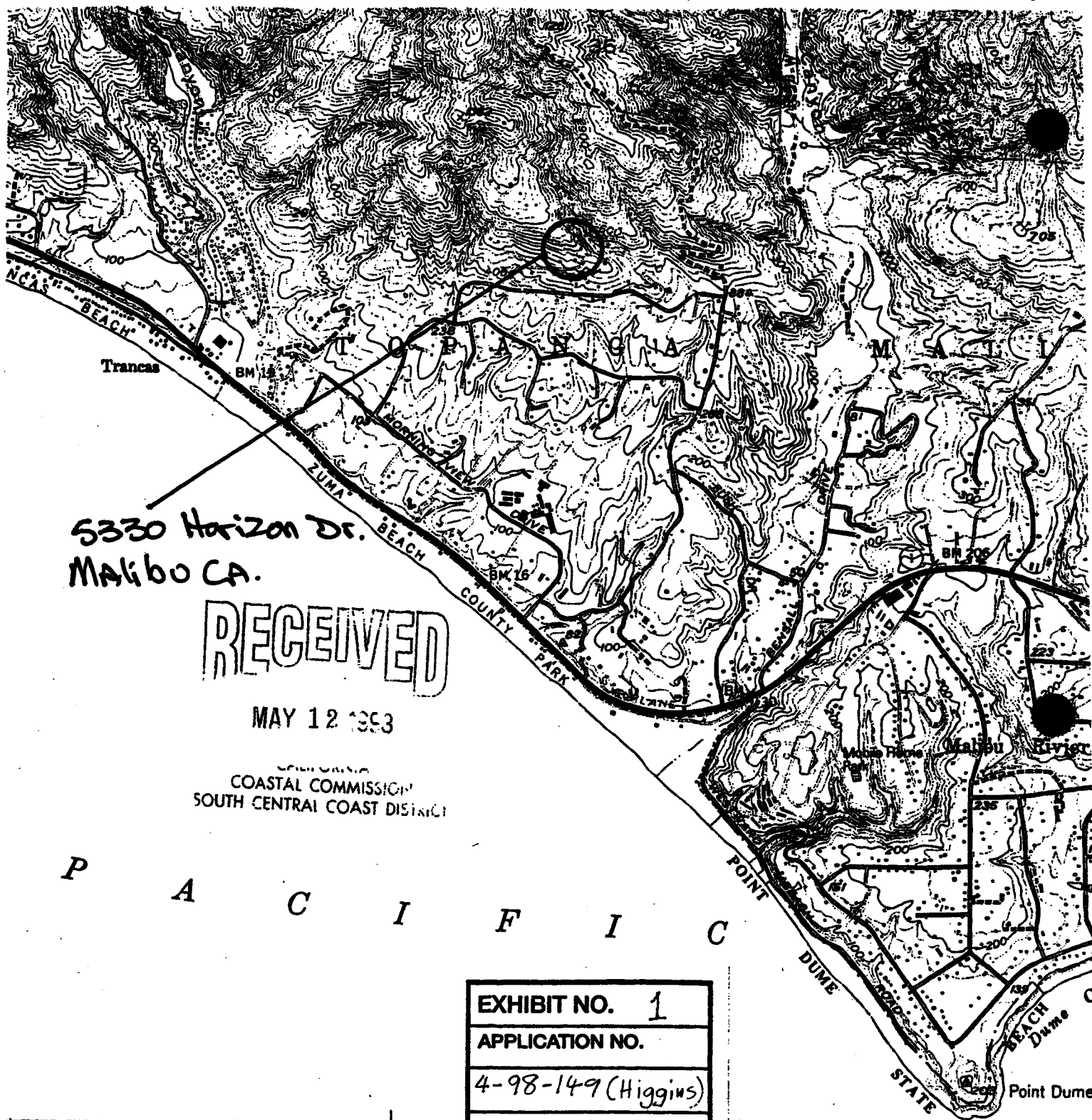
As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu and the Santa Monica Mountains which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned 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 effects which the activity may have on the environment.

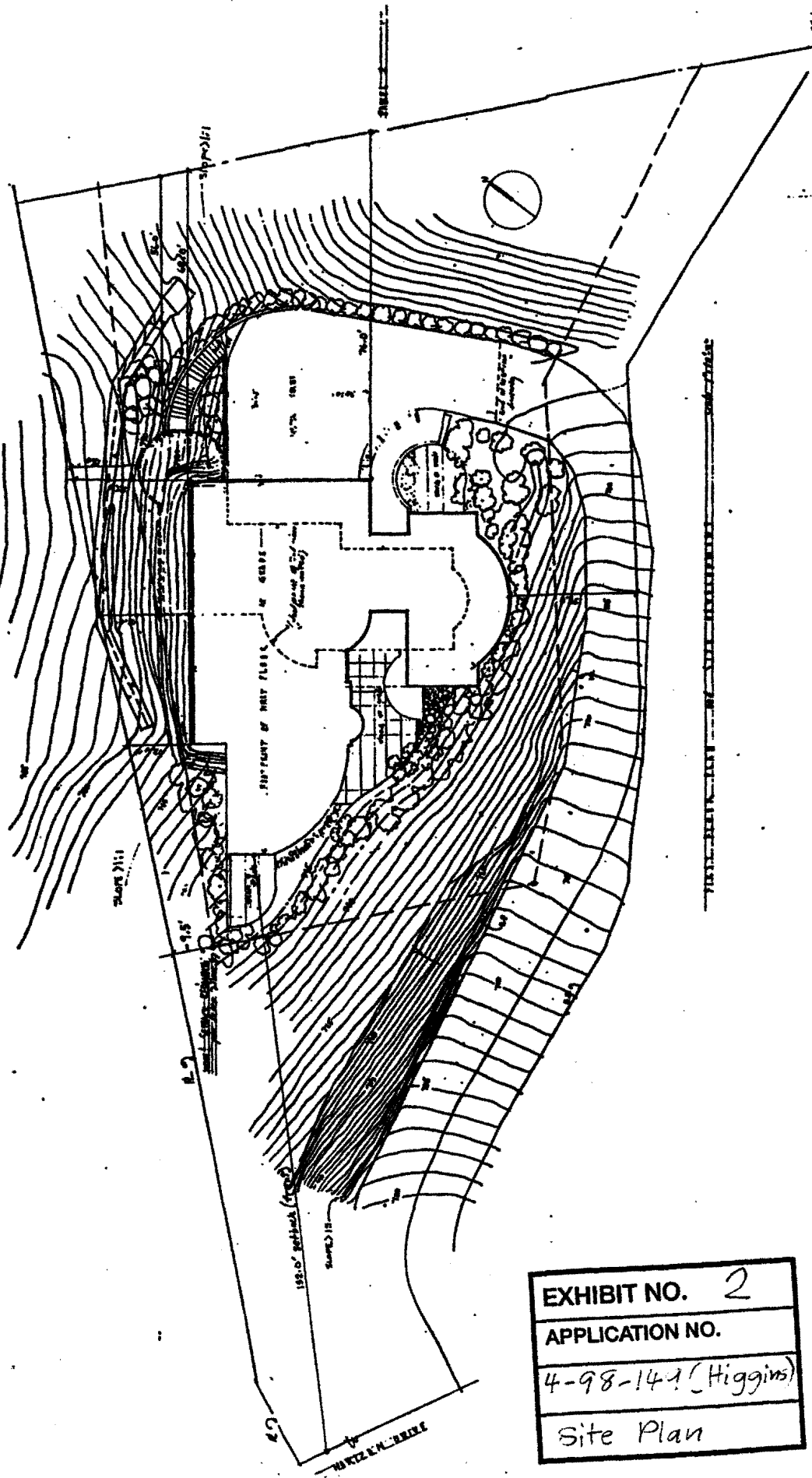
The proposed development would cause no adverse environmental effects which would not be adequately mitigated by the project conditions required herein. Therefore, the proposed project, as conditioned, is found to be consistent with CEQA and the policies of the Coastal Act.

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'H OF EMPLOYERS Q-Q-8 The Home of Heaven & Life Rapids to family - 5300 Livingston Drive Medbury California First Her Exquisite Site-Landscaped - Many Nurseries - Landscaped

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EXHIBIT NO. 2
APPLICATION NO.
4-98-141 (Higgins)
Site Plan

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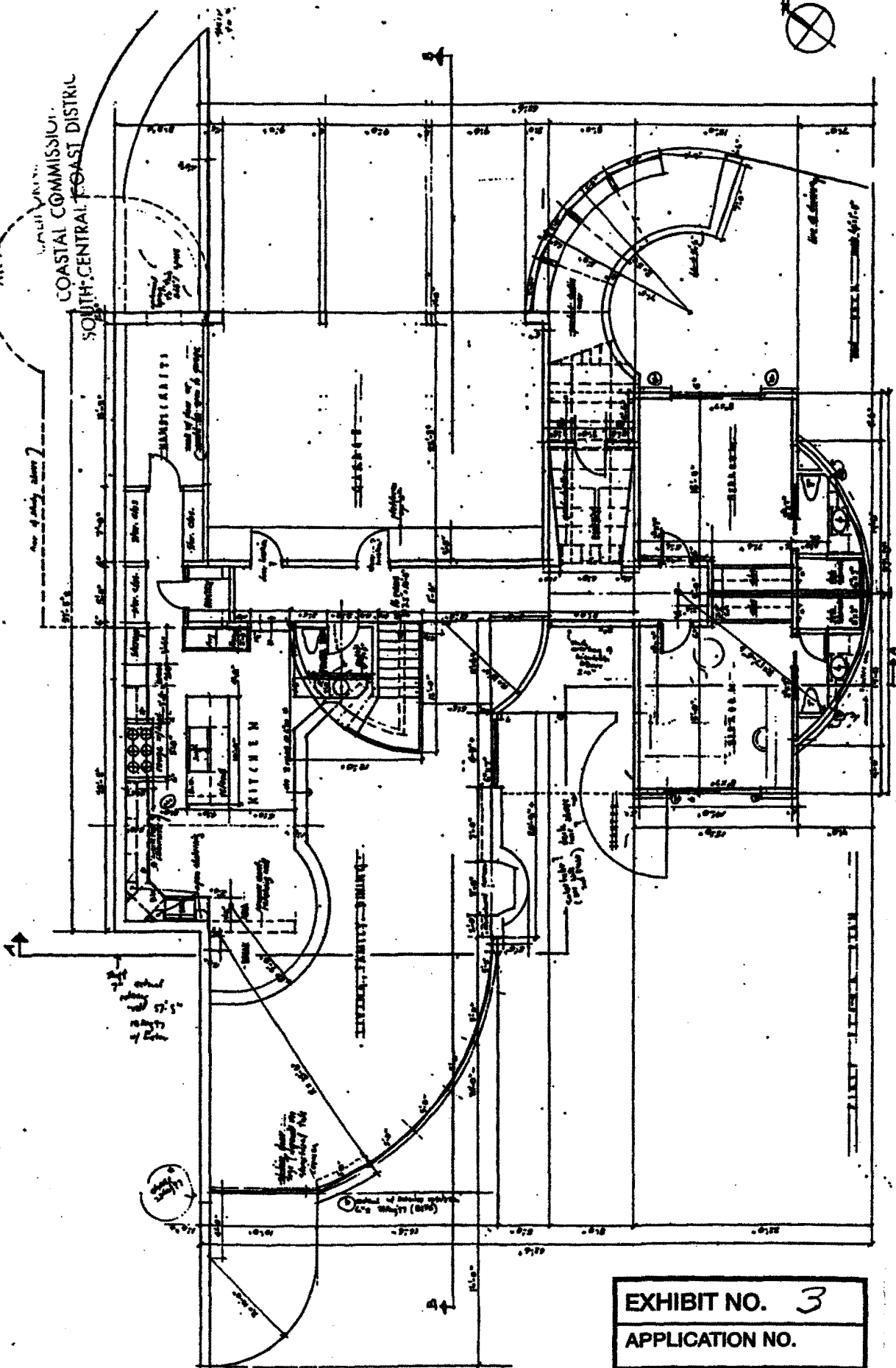


EXHIBIT NO. 3
APPLICATION NO.
4-98-149 (Higgins)
First Floor Plan

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