

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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Staff: J. Johnson  
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Hearing Date: 8/11/98  
Commission Action:



## Item Tu 3.a.

### STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-98-084

APPLICANT: Mr. and Mrs. Clive Taylor Agents: Carl Volante and Marny Randall

PROJECT LOCATION: 34033 Pacific Coast Highway, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a 28 ft., two story, 7,708 sq. ft., single family residence, with attached 992 sq. ft. garage, driveway, swimming pool, tennis court, landscaping, entry gate, detached 750 sq. ft. guest house, and two septic systems. Grading consists of 943 cubic yards of cut, 13 cubic yards of fill, while 930 cubic yards of material will be disposed outside the coastal zone. The applicants are also requesting 'after the fact' approval of an 'unpermitted' 10,000 gallon water tank, pumps, and underground irrigation system.

Lot area:	26.5 acres.
Building Coverage:	9,450 sq. ft.
Pavement Coverage:	20,279 sq. ft.
Landscape Coverage:	10 acres.
Unimproved Area:	16 acres
Parking Spaces:	3
Plan Designation:	Residential I and Mountain Land
Zoning:	1 du / 1 acre and 1 du /20 acres
Project Density:	one du/ 26 acres
Height abv fin grade:	28 feet

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends approval of the proposed project with eight (8) Special Conditions addressing the following issues: the plans conform to the geologist and engineer report recommendations; wild fire waiver of liability; disposal of excavated material; residential design restrictions; future development and improvements restriction; landscape, fuel modification, and drainage erosion control plan implementation; archaeological resource protection and monitoring; and condition compliance.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, dated 3/20/98; City of Malibu Environmental Health Department, Approval in Concept, dated December 18, 1997; City of Malibu Geology and Geotechnical Engineering Review Sheet, dated 3/9/98; City of Malibu Biological Review, dated 12/18/97; Los Angeles County Fire Department, Coastal Commission Approval, dated 3/19/98; Los Angeles County Fire Department, Preliminary Fuel Modification Plan, dated December 2, 1997.

SUBSTANTIVE FILE DOCUMENTS: Impact Assessment Of Archaeological Site CA-LAN-180 City Of Malibu, Los Angeles County, California, by Brian D. Dillon, PH.D, dated April 22, 1998; Observations On Archaeological Site CA-LAN-180 On The Malibu Coast, Los Angeles County, California, dated April 15, 1995, by Brian D. Dillon, Ph.D.; Addendum Engineering Geologic and Seismic Report and Preliminary Engineering Geologic and Seismic Report, by Mountain Geology, Inc., dated December 31, 1997 and October 30, 1997; Preliminary Geotechnical Investigation Proposed Custom Single Family Residence Swimming Pool, tennis Court and Guest House, by Miller Geoscience, Inc., dated 11-19-97, January 14, 1998, and February 23, 1998; Certified Malibu/Santa Monica Mountains Land Use Plan, Los Angeles County; Coastal Permit No. 4-98-032, Cislo; Coastal Permit No. 4-95-202, William Niles; Coastal Permit No. 4-95-201, Edward Niles; Coastal Permit Amendment No. 4-92-211A, Malibu Sequit Partnership; Coastal Permit No. P-1-12-76-6923, Malibu Sequit Ltd.

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**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**I. Approval with Conditions**

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that 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, is 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 this permit is approved by the Commission. 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 Conform to Geologist and Engineer Report Recommendations

Prior to the issuance of the coastal permit, the applicant shall submit for the review and approval of the Executive Director, evidence of the consultant's review and approval of all project plans. All recommendations contained in the reports: Addendum Engineering Geologic and Seismic Report and Preliminary Engineering Geologic and Seismic Reports, by Mountain Geology, Inc., dated December 31, 1997 and October 30, 1997; and the Preliminary Geotechnical Investigation Proposed Custom Single Family Residence Swimming Pool, tennis Court and Guest House, by Miller Geoscience, Inc., dated 11-19-97; including issues related to: grading recommendations, building recommendations, foundations, friction piles, caissons, lateral design, temporary excavation slopes, foundation settlement, retaining, floor slabs, foundation and building setback, swimming pool construction, drainage protection, retaining walls, foundation setback, sewage disposal, shall be incorporated into all final project design. All final plans must be reviewed and approved by the geologist and engineer consultants.

The final plans approved by the consultants 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 that may be required by the consultants shall require an amendment to this coastal permit or a new coastal permit.

2. 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.

3. Disposal of Excavated Material

The applicants shall remove all excavated material from the site and dispose the material at the Lost Hills/Agoura Landfill, or other appropriate disposal site located outside the coastal zone, as proposed. Should the disposal site be located in the coastal zone, a coastal development permit shall be required.

4. Residential Design Restrictions

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which restricts the color of the subject structures, roofs, fenced entry gate to colors compatible with the surrounding environment. White tones shall not be acceptable. All windows for the structures and any glass shall be of non-glare glass.

The deed restriction shall run with the land for the life of the structure approved in this permit, 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 California Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Future Developments and Improvements Restriction

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in Coastal Development Permit No. 4-98-084. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the guest house governed by Coastal Development Permit No. 4-98-084. Accordingly, any future structures, additions or improvements related to the guest house on the property or to the clearing of vegetation, or any development located within the archaeological site CA-LAN-180 and buffer as noted in Exhibit 18, that might otherwise be exempt under 30610 (a), shall require an amendment

to Coastal Development Permit No. 4-98-084, or an additional permit from the California Coastal Commission, or from the local government certified to issue such permit. However, fuel modification consistent with the requirements of the Los Angeles County Fire Department's fuel modification standards and consistent with special condition number six (6) below, is permitted.

The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances 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.

6. Landscape, Fuel Modification, and Drainage/Erosion Control Plan Implementation

The applicant shall implement the proposed landscape, fuel modification, and drainage/erosion control plans within the time frames specified below:

- a. All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes according to the submitted landscape plan, within ninety (90) days of granting the occupancy permit for either the residence or guest house by the City of Malibu.
- b. Should grading or site disturbance 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 disposal location.
- c. The Fuel Modification Plan approved by the Los Angeles County Fire Department shall be implemented concurrent with the landscape plan within ninety (90) days of granting the occupancy permit for either the residence or guest house by the City of Malibu.
- d. The drainage/erosion control plan shall be implemented within 30 days of completion of final grading. By acceptance of this permit, the applicant agrees to maintain the drainage devices on a yearly basis in order to insure that the system functions properly. Should the device fail or any erosion result from drainage from the project, the applicant or successor interests shall be responsible for any necessary repairs and restoration.

7. Archaeological Resource Protection and Monitoring

The applicants shall comply with all recommendations and mitigation measures contained in the archaeology reports prepared for the project by Brian D. Dillon, PH.D. dated April 15, 1995 and April 22, 1998.

a) The applicants shall comply with the following monitoring conditions during construction:

1) All grading, excavation and site preparation that involves earth moving operations shall be monitored by a qualified archaeologist(s) and appropriate native american consultants to ensure that the site is not damaged by construction grading activities. These monitors shall be empowered to halt and/or redirect grading if such activity inadvertently encounters archaeological or cultural resources outside the boundaries of the CA-LAN-180 site as presently recorded. The results of such monitoring shall be described in a final report detailing compliance with archaeological mitigation requirements for the project.

2) A buffer zone or equipment exclusion area shall be created around the CA-LAN-180 archaeological site so that the site is not inadvertently damaged by heavy equipment working adjacent to it. The northern boundary of this buffer zone shall correspond to the alignment of the utility poles cutting across the Lot 7 property from east to west, and its western boundary should be denoted by the existing paved access road leading uphill to the water tanks.

3) The outermost boundaries of this buffer zone, incorporating both the 50-foot wide safety margin as well as CA-LAN-180 in its entirety, shall be demarked by a physical barrier such as a chain link fence or construction fencing, until all construction and landscaping activities are completed (Exhibit 18).

b) Prior to the issuance of the coastal development permit, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, stating that, in order to protect archaeological resources, future development, with a valid coastal development permit, can only be undertaken consistent with the provisions of the approved archaeology reports completed by Brian D. Dillon, PH.D. dated April 15, 1995 and April 22, 1998 for the area identified in Exhibit 18 as the archaeological site and buffer area. 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.

c) If an area of buried cultural deposits are discovered during any earthmoving operations, all work shall be halted and the applicants shall submit the following:

1) A supplementary archaeology report shall be prepared that addresses the newly-discovered deposits. This report shall be submitted for the review and approval of the Executive Director. If the Executive Director determines that the report recommends changes to the proposed development or changes to the mitigation measures that are de minimis in nature and scope, then construction can be recommenced and the applicant shall comply with all recommendations and mitigation measures contained in the supplementary report. If the Executive Director determines that the changes are not de minimis, the applicant shall submit an application seeking to amend the permit. No further construction shall be allowed until the Commission has acted on the amendment application.

8. Condition Compliance

Within 120 days from the date of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations

The Commission finds and declares:

A. Project Description and Location

The vacant parcel is located at 34033 Pacific Coast Highway at the western end of the City of Malibu. Exhibit 1 locates the project site. The applicants propose to construct on a portion of the 26 acre parcel, a 28 ft. high, two story, 7,708 sq. ft., single family residence, with an attached 992 sq. ft. garage, common driveway shared with the adjoining property to the west, entry gate, swimming pool, tennis court, septic system, and landscaping located on the upper mesa near the center of the property. A detached 750 sq. ft. guest house, with a one car garage, courtyard, entryway, motorcourt, and septic system are proposed for the lower mesa of the property at the southwest corner. Grading consists of 943 cubic yards of cut, 13 cubic yards of fill, while 930 cubic yards of material will be disposed at the Lost Hills/Agoura Landfill located outside the coastal zone. The applicants are also requesting 'after the fact' approval of an 'unpermitted' 10,000 gallon water tank and pumps located at the north side of the upper mesa, and an underground irrigation system installed throughout the upper mesa. Exhibits 3 - 16 illustrate the site plan, grading plan, floor plans, elevations, sections, landscape and irrigation plans, and entry gate for the project.

The subject site is a twenty-six (26) acre parcel located on the inland side of Pacific Coast Highway, about one third of a mile east of Leo Carrillo State Beach Park property and two (2) miles west of Encinal Canyon Road. This parcel is separated from Leo Carrillo

State Park by six (6) adjoining parcels about twenty (20) acres in size, two of which are developed with existing residences, an approximate two (2) acre parcel with an existing residence, and a two smaller parcels with water storage facilities. To the east are three parcels about one (1) to two (2) acres in size with existing residences. To the south across Pacific Coast Highway is Nicholas Canyon County Beach Park. This subject parcel and the surrounding six parcels are part of a seven lot subdivision first permitted by coastal permit number P-1-12-6923 in April 1977 and subsequently amended in April 1993 by coastal permit amendment number 4-92-211A. There are a number of deed restrictions limiting development on these lots which are discussed below in Section IV. C., Visual Resources. Of these seven lots created in 1977, only lots 2 and 3 to the west (Coastal permits 4-95-201, Niles and 4-95-202, Niles) have been developed with single family residences.

The subject parcel is aligned in a north-south orientation as a rectangle with about 428 feet of street frontage along the inland side and upslope side of Pacific Coast Highway and extends about one half mile (2,576 feet) feet up the hillside. Prominent geomorphic features in the immediate area are Willow Creek to the west, San Nicholas Canyon to the immediate east, and the Pacific Ocean to the south. The southern portion of the parcel, the lower mesa, is a moderately sloping coastal terrace, rising up to a 3:1 slope to the upper mesa which is nearly level. However, the northern and eastern most portion of the property, at about 1,100 feet inland and at about the 350 foot contour elevation, slope gradients increase sharply to form steep coastal hillsides ranging from 2:1 to 1:1 and form the west flank of San Nicholas Canyon. The proposed guest house located on the lower mesa is about 413 feet inland from Pacific Coast Highway, while the primary single family residence on the upper mesa is located about 870 feet inland from Pacific Coast Highway. There is an existing small surface reservoir with a gunite bottom on the eastern portion of the upper mesa. The reservoir constructed in the 1930's or 1940's is not in use at this time. An existing water well is located near a drainage leading to Nicholas Canyon which appears to have fed the reservoir in the past. A right to the use of the well was recorded in a deed in 1967, indicating that the well and reservoir existed before the adoption of the California Coastal Zone Conservation Act of 1972. A recorded archaeological site, CA-LAN-180 is located in the vicinity of the reservoir (Exhibit 18). The proposed building sites are located well beyond the archaeological site.

The two lower coastal mesas on the property are highly degraded due to disturbance from past agricultural activities. Vegetation in this area consists of various grasses and exotic weeds. The northern hillsides include coastal sage scrub, oaks, and chaparral.

The Los Angeles County Malibu Land Use Plan has designated the site as Residential I, one dwelling unit for two acres, and Mountain Land, one dwelling unit for twenty acres. The size of the subject property at 26 acres is conforming as to the density allowed by the Land Use Plan.

**B. Geologic and Fire Hazards**



The Coastal Act includes a policy to protect existing and proposed development from 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, geologic instability, nor destruction of the site nor 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 on the landward side of Pacific Coast Highway east of Leo Carrillo State Beach Park, an area which is generally considered to be subject to a high amount of natural hazards. Geologic hazards common to the Santa Monica mountains include soil stability concerns, landslides, and erosion. 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 landslides on property. The applicant submitted two reports and three updates titled, Preliminary Engineering Geologic and Seismic Report and Addendum Engineering Geologic and Seismic Report, by Mountain Geology, Inc., dated December 31, 1997 and October 30, 1997; Preliminary Geotechnical Investigation Proposed Custom Single Family Residence Swimming Pool, tennis Court and Guest House, by Miller Geoscience, Inc., dated 11-19-97, January 14, 1998, and February 23, 1998.

These reports review the proposed sites for the single family residence, guest house, pool and tennis court. The reports indicated that the site is underlain by various earth materials including, fill, soil, colluvium, terrace deposits, intrusive volcanic bedrock and sedimentary bedrock. The Preliminary Engineering Geologic and Seismic Report by Mountain Geology, Inc. dated October 30, 1997 states that:

*The bedrock described is common to this area of the Malibu and the geologic structure is consistent with the regional trends. The natural marine terrace deposits are generally massive and lack significant structural planes. ... Active faults were not encountered in our preliminary engineering geologic investigation and no known faults traverse the subject property. ... The massive nature of the intrusive bedrock and the orientation of the geologic structure is favorable with respect to the stability of the site and proposed project.*

*Based upon the our exploration and experience with similar projects, the proposed development is considered feasible from a engineering geologic standpoint provided the following recommendations are made part of the plans and are implemented during construction. In addition, the massive nature of the*

*underlying intrusive bedrock is favorable with respect to the gross stability of the site.*

*Based upon our investigation, the proposed development will be free from geologic hazards such as landslides, slippage, active faults, and settlement. The proposed development and installation of the private sewage disposal system will have no adverse effect upon the stability of the site or adjacent properties provided the recommendations of the Engineering Geologist and Geotechnical Engineer are complied with during construction.*

Preliminary Geotechnical Investigation Proposed Custom Single Family Residence Swimming Pool, Tennis Court and Guest House, by Miller Geoscience, Inc., dated 11-19-97, concluded that the site was suitable for the proposed development. This report concludes that:

*Based on the findings of our investigation and conclusion of Mountain Geology, Inc., the site is considered to be suitable from a geotechnical engineering standpoint for construction of a custom single-family residence, a swimming pool, a tennis court and guest house, provided the recommendations included herein are followed and integrated into the grading and building plans.*

The recommendations of the consulting geologists and engineers conclude that the development of the site as presently proposed is considered feasible from a geotechnical engineering and engineering viewpoint provided that the recommendations for design and construction are implemented. The consultants provided a number of recommendations addressing: grading recommendations, building recommendations, foundations, friction piles, caissons, lateral design, temporary excavation slopes, foundation settlement, retaining, floor slabs, foundation and building setback, swimming pool construction, drainage protection, retaining walls, foundation setback, and sewage disposal. Based upon the findings and recommendations of these consultants, the Commission finds that the development is consistent with Section 30253 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 final project plans that have been certified in writing by the geologist, geotechnical engineer and engineer consultants as conforming to their recommendations, as noted in special condition number one (1).

Additionally, 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 the associated risks. Through the waiver of liability the applicants acknowledge and appreciate 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 two (2).

The quantity of cut material proposed by the applicants is substantially larger than the amount of fill to be placed. The building sites will be cut to place the proposed structures. Excavated materials that are placed in stockpiles are subject to potential erosion. If the excavated material were to be retained on site additional landform alteration would result. In order to ensure that excavated material will not be stockpiled on or off site, and that landform alteration be minimized, special condition number three (3) requires the applicant to remove all excavated material from the site to an appropriate disposal site located outside the coastal zone. The applicant proposes to dispose the cut material at the Lost Hills/Agoura landfill. Should an alternative disposal site be located within the coastal zone, a coastal development permit shall be required.

Further, the Commission finds that minimizing site erosion will improve the stability of the site and reduce sedimentation to Nicholas Canyon Creek and other drainages leading to the Pacific Ocean. Erosion can be minimized by requiring the applicants to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Therefore, special condition number six (6) is required to ensure that all disturbed areas are stabilized and vegetated as appropriate and that the drainage improvements will be implemented.

Therefore, the Commission finds that the proposed project, as conditioned to address geologic and fire hazards, is consistent in Section 30253 of the Coastal Act.

**C. Visual Resources and Landform Alteration**

The Coastal Act includes a policy to protect public views from development to and along the coast and to minimize the alteration of natural landforms. 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 site is located adjacent to the inland side of Pacific Coast Highway between Leo Carrillo State Beach Park and Nicholas County Beach Park. The site is also located landward of Nicholas Canyon County Beach Park. Pacific Coast Highway is designated a scenic highway in the certified Malibu/Santa Monica Mountains Land Use Plan by Los Angeles County and in the draft General Plan of the City of Malibu. Leo Carrillo State Beach Park is considered a highly scenic area according to the Los Angeles

County Malibu Land Use Plan. The proposed project is located on a coastal terrace west of Nicholas Canyon and Creek. Landward of the coastal terrace, a steep hillside provides a backdrop to the proposed project site. Within this setting, the project site is located on a lower mesa for the guest house, and the upper mesa for the primary residence. An entry gate at the common driveway is proposed to be located just inland of Pacific Coast Highway. The proposed project will be visible along Pacific Coast Highway from short range distances. The residential building sites are not visible from long range distances along Pacific Coast Highway. The subject site now provides a public view of the undeveloped southern California coastal landscape visible with grasses and chaparral.

This parcel, along with the remaining four undeveloped parcels of this seven lot subdivision, consist of one of two significant areas of remaining undeveloped open space in the coastal terrace of the western Santa Monica Mountains (Land Protection Plan, SMMNRA, June 1984). This land had been identified for fee acquisition for the Santa Monica Mountains National Recreation Area. This project site is now located within the City of Malibu near the western most boundary of the City.

The subdivision which created this and six other parcels was granted a coastal development permit in 1977 and amended in 1993 by the Commission. As a condition to the coastal permit, the prior applicant was required to record a deed restriction limiting development on the seven parcels in six ways. The following limitations to the use of these parcels were recorded in 1994:

- 1. No further subdivision shall be permitted beyond the seven lots approved by Coastal Development Permit No. 4-92-211A.*
- 2. Access to the seven (7) lots approved by Coastal Development Permit No. 4-92-211A shall be limited to a maximum of two (2) additional driveways from the Pacific Coast Highway.*
- 3. Residential development on the seven lots approved by Coastal Development Permit No. 4-92-211A shall be set back a distance of 200 feet from Pacific Coast Highway. Development, other than residential development, may be permitted within the 200 foot setback area provided that, in further proceedings before the California Coastal Commission, or its successor, it is found to conform to the visual resource policies set for in Public Resources Code Section 30251, attached hereto as Exhibit B and incorporated herein by reference, or in corresponding provisions of a certified Local Coastal Program.*
- 4. On lots 1 through 5, development which lies 1) above the 250 foot contour line and 2) more than 500 feet inland of the Pacific Coast Highway both as shown on Exhibit C, attached hereto and incorporated by reference, shall be restricted and/or controlled in a manner determined to be appropriate by the California Coastal Commission or its successor.*

*5. In connection with any future residential development on the property the owner shall conduct a survey to determine which areas are visible, both short range and long range, from Pacific Coast Highway. Those areas of development that are found to cause visual impact upon the coastal viewshed shall be designed in a manner to both minimize alteration of the land forms and the visual impact and mitigate for any visual impact that is determined to be unavoidable.*

*6. Any future development on each lot shall be limited to a single family residence of a height and size that is determined to be appropriate by the California Coastal Commission or its successor.*

Each of these limitations will be discussed in the order presented. First regarding deed restriction 1, no further subdivision of the subject parcel is proposed. Second regarding restriction 2, access to the subject lot already exists from Pacific Coast Highway from an existing driveway that also accesses an existing residence to the northwest, a smaller parcel to north, Lot 6 noted above, and water storage facilities owned by Los Angeles Waterworks District. No new driveways from Pacific Coast Highway are proposed to serve this proposed project.

Third regarding restriction 3, the set back for residential development is greater than 200 feet from Pacific Coast Highway. The guest house is no closer than about 413 feet from Pacific Coast Highway and the primary residence is no closer than about 870 feet from Pacific Coast Highway. The restriction allows other development within this 200 foot area from Pacific Coast Highway if it is in conformance with the visual resource policies of the Coastal Act. The only visible development proposed within this 200 foot area consists of an entry gate, turnaround area in front of the entry gate, and the widening of the existing driveway. The entry gate will be the most visible of these developments, however, it will be only six (6) feet high and about 28 feet long with an open gate flanked by solid pilasters, each four (4) feet wide (Exhibit 16). Although the driveway will be widened, it already exists within this area. Because there are potential visual impacts raised by the location and design of this entry gate, this issue will be further discussed below.

Fourth regarding restriction 4, this restriction only applies to Lots 1 - 5 of the subdivision. The proposed development site is on parcel 7, and therefore, does not apply. The Commission found that because of the topography, such a site restriction was not necessary.

Fifth regarding restriction 5, the alteration of landforms and the visual impact of development on the coastal viewshed with site surveys from the highway will be addressed. The applicants propose to construct the primary residence and guest house with a minimum of landform alteration that will be visible from Pacific Coast Highway. The building site for the guest house will be cut into a sloped area at the base of a small hill located at the north side of the lower mesa. About 180 cubic yards of cut with only nine (9) cubic yards of fill are necessary to alter the landform to place the guest house into

the base of the hill. The building site for the primary residence will be cut into a nearly flat portion of the upper mesa well below the hillside providing a visual backdrop for the property. About 763 cubic yards of cut with only about four (4) cubic yards of fill are necessary to alter the landform to place the residence on the upper mesa. Therefore the proposed project will minimize the alteration of landforms that will be visible from Pacific Coast Highway. The applicants have provided site surveys of the proposed guest house and primary residence which indicate that the short range view from Pacific Coast Highway will be limited and will not create an adverse impact on the coastal viewshed (Exhibit 17). The 'as built' 10,000 gallon water tank is located at the far north side of the upper mesa in front of the much larger tanks owned by the Los Angeles County Water Works. The applicant's water tank and water facilities are not visible from Pacific Coast Highway. Therefore, the proposed project's design and location for the building sites will minimize the alteration of landforms and reduce potential visual impacts as viewed by the public from Pacific Coast Highway.

Sixth, regarding restriction 6, the limit of the extent of development on this lot to an acceptable level (i.e. single-family residences only with appropriate height and size limits) will be addressed. The applicants propose to construct three project components, a primary residence, a guest house and an entry gate. The applicants propose to construct the primary residence in a location that reduces the potential for its public visibility from Pacific Coast Highway. This building site is located at about the 300 foot contour elevation and setback on the upper mesa no closer than 870 feet landward from Pacific Coast Highway. This site is about 170 feet above the elevation of Pacific Coast Highway which at this location is at the 130 foot elevation. The south elevation of the primary residence will range from 21 feet to 34 feet (a chimney) in height, with the majority about 24 feet high. See Exhibit 10 for the south elevation and Exhibit 17 for the site line section from the Highway. Due to the distance and elevation from the Highway and a hillside on the adjoining property to the west of the building site, the size and appearance of the primary residence will be limited.

The guest house will also be located at a site that reduces its visibility from the Highway. This building site is located at about the 226 foot contour elevation and setback no closer than about 413 feet landward from the Highway. This site is about 91 feet above the elevation of the Highway which at this location is at the 135 foot elevation. The south elevation of the guest house will range from 15 feet to 23 feet in height. See Exhibit 12 for the south elevation and Exhibit 17 for the site line section. Due to the distance and elevation from the Highway, the size and appearance of the guest house will be limited.

Only the entry gate is located close to Pacific Coast Highway. The entry gate, a maximum six (6) foot high structure 28 feet long will be located at about the 150 foot elevation level about 20 feet above the elevation of the Highway in this area. Lastly, the applicants submitted a landscape plan that utilizes native plant materials compatible with the surrounding area in a manner that further reduces the visibility of these residential structures and the entry gate as seen from Pacific Coast Highway.

Although the applicants propose to construct a two story primary residence and one story guest house some distance above and inland of Pacific Coast Highway, the subject sites are within a visually prominent area as seen by the public. Such development can be visually intrusive with the use of bright colors, red tile roofs, mirrored or glare glass or white tones. The use of earth tones for residential structures, roofs, and the entry gate and non-mirrored glass minimizes the visual impact of these structures and helps them blend in with the natural setting. Nevertheless, because the proposed residence may still be somewhat visible, the Commission finds it necessary to impose special condition number four (4) to restrict the exterior colors of the proposed structures to those compatible with the surrounding environment. This condition also prohibits the use of white tones and requires the use of non-glare glass for the windows of the primary residence and the guest house, and the guest house courtyard enclosure.

The Commission finds it also necessary to impose a future development and improvement restriction through special condition number five (5) to ensure that any future development that might otherwise be exempt from Commission permit requirements is reviewed by the Commission for conformity with the visual resource policies of the Coastal Act.

As noted above, the applicants have located the developments on the moderately sloping and relatively flat portions of the twenty-six acre parcel. The applicants propose to direct runoff to locations immediately below each residential structure which then drains to the area to the west for runoff from the guest house and drains east into Nicholas Canyon for runoff from the primary residence. An energy dissipater is proposed at the end of each drainage system. To ensure that the erosion potential and visual issues are further mitigated, the applicant has submitted a landscape plan. This plan also has been approved by the Los Angeles County Fire Department as a Fuel Modification Plan. A drainage plan was also provided by the applicants. It is necessary to require the applicants, pursuant to condition number six (6), to implement the submitted landscape plan, fuel modification plan, and drainage plan in a timely manner to minimize erosion and sedimentation during grading and construction and to reduce the fire hazard of the site, as noted above.

For these reasons above, the Commission finds that the proposed project, as conditioned to adequately address scenic and visual quality and the alteration of landform issues, is consistent with Section 30251 of the Coastal Act.

#### **D. Cumulative Impacts**

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have

significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed area shall be permitted only where 50 percent of the useable parcel in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

New development raises coastal issues related to cumulative impacts on coastal resources. The construction of a second unit on the site where a primary residence exists intensifies the use of a parcel raising potential impacts on public services, such as, water, sewage disposal, electricity and roads. New development also raises issues regarding the location and amount of new development maintaining and enhancing public access to the coast.

Based on these policies, the Commission has limited the development of second dwelling units (including the proposed guest house) on residential parcels in the Malibu and Santa Monica Mountain areas. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Los Angeles County Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage disposal, electricity) than an ordinary single family residence (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs).



Statewide, additional dwelling units on single family parcels take on a variety of different functions which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, and farm labor unit; and 2) a guesthouse, without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. As such, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act (certified Malibu Santa Monica Mountains Land Use Plan, 1986, page 29). Therefore as a result, the Commission has found that guest houses, pool cabanas, or second units can intensify the use of a site and impact public services, such as water, sewage disposal, electricity, and roads.

The applicants propose to construct a detached 750 sq. ft., one story, 23 ft. high, habitable guest house with a septic system consisting of a living room, bedroom, bathroom, and hall, with non-habitable space consisting of an approximate 500 sq. ft. enclosed courtyard with three retractable glass walls open to the sky and a firepit, a 330 sq. ft. entryway with steps, 230 sq. ft. one car garage, and 709 sq. ft. gravel autocourt accessed from the shared driveway (Exhibits 9 and 12). Although the submitted plans indicate that the guest house is only 744 sq. ft. of habitable space, the City of Malibu has 'Approved In Concept' a 750 sq. ft. guest house. Further, the applicants have requested a 750 sq. ft. guest house in the submitted application; thus, this is the maximum size allowed for the final plans as the six (6) sq. ft. difference below the maximum size allowed is inconsequential. The guest house will be cut into the hillside with five (5) and eight (8) foot tall retaining walls on the north side. The south side of the guest house will be located about 413 feet north of Pacific Coast Highway with a maximum south elevation of 23 feet, while the south side of the primary residence will be located 870 feet from Pacific Coast Highway. Therefore, the proposed maximum 750 sq. ft. habitable guest house, with non-habitable, courtyard, entryway, garage, and autocourt complies with the Commission's size limit of 750 sq. ft. of habitable space.

The Commission has many past precedents on similar projects that have established a maximum of 750 sq. ft. habitable space for development which may be considered a secondary dwelling unit. To ensure that no additions or improvements are made to the guest house and the non-habitable square footage that may further intensify the use without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicants to record a future improvements deed restriction, which will require the applicants to obtain an amended or new coastal development permit if additions or improvements to the development are proposed in the future as required by special condition number five (5). For these reasons, the Commission finds, as conditioned, that the proposed project is consistent with Sections 30250 and 30252 of the Coastal Act.

**E. Environmentally Sensitive Resources**

The Coastal Act includes a policy protecting environmentally sensitive habitat areas from disruption of habitat values. Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.

The proposed project site is located in western Malibu within one of the last major areas of undeveloped open space, in close proximity to Leo Carrillo State Beach Park. Development in this area raises concerns about the incremental and cumulative loss of threatened native plant communities, the loss of a major undeveloped open space along the Malibu coastline, and potential impact on wildlife habitat. The proposed project is located in an area of high biological value due to the presence of coastal sage scrub and associated sensitive wildlife species. However, the proposed project site is not located in a significant watershed, wildlife corridor, or environmentally sensitive habitat area as designated by the certified Los Angeles County Land Use Plan.

The primary residence and guest house are located on the coastal terrace portion of the parcel which has reduced biological habitat value as a result of past land use activities. Prior agricultural activities, primarily disking, have essentially eliminated the native plant community from the coastal terrace. The remaining vegetation consists of exotic weed and native species. However, significant native vegetation is found on the steeper hillside slopes to the north of the building site. The steeper slopes include coastal sage scrub and chaparral species. The applicants propose an adequate setback of about two hundred feet between the primary residence and the vegetated slopes with high biological value. In addition, the residence is located a sufficient distance from the steep hillside to preclude vegetation removal for fire protection from slopes greater than 50 %. Thus, the proposed building sites are not considered to be located within an environmentally sensitive habitat area.

The City of Malibu Environmental Review Board reviewed the proposed project on November 21, 1997, recommending approval to the Planning Department with two comments. These comments included that the landscape plan was consistent with the recommendations of approval from the November 13, 1997 review and that future agricultural use will require a separate review and approval by the Planning Department and is not included in this landscape plan. Although the applicants are not proposing agricultural uses on the coastal terraces at this time, any future agricultural use may be considered by the Commission at a later date after conceptual approval from the City of Malibu is obtained. It is important to point out that prior agricultural uses have occurred on this property in the past.

The proposed project will incrementally contribute to the pattern of habitat fragmentation in the Santa Monica Mountains. Habitat fragmentation reduces the amount of available habitat for native species, particularly those with large ranges; partially or wholly isolates some species, increasing the probability of local extinction; and increases the amount of boundary area between natural habitats and developed lands, thereby promoting detrimental effects. The applicants have reduced such incremental impacts to habitat by locating the project on the coastal terrace with limited biological value and restricting the size of the development envelopes and using native, non-invasive plant species for landscaping a portion of the coastal terrace. Further, the applicants do not propose to construct fencing along the perimeter of the property (except for a physical barrier such as chain link fence around the outermost boundary of archaeological site CA-LAN-180 on the eastern portion of the property, as noted below) which allows for local wildlife to cross the coastal terrace unimpeded. Thus, the proposed project is designed to prevent impacts that significantly degrade the nearby habitat area and will be compatible with the continuance of such habitat.

Therefore, the Commission finds that the proposed project with the mitigations proposed by the applicant is consistent with the protection of environmentally sensitive habitats as required by Coastal Act Section 30240.

**F. Archaeological Resources**

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The Coastal Act requires the protection of such resources to reduce potential impacts through the use of reasonable mitigation measures. Archaeological resources can be degraded if a project is not properly monitored and managed during earth moving activities conducted during construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be lost. As so many archaeological sites have been destroyed or damaged as a result of development activity or natural processes, the remaining sites, even though they may be less rich in materials, have become increasing valuable. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact. The greater province of the Santa Monica Mountains is the locus of one of the most important concentrations of archaeological sites in Southern California. Although most of the area has not been systematically surveyed to compile an inventory, the sites already recorded are sufficient in both number and diversity to predict the ultimate significance of these unique resources.

The applicants submitted two archaeological reports and a review of the project by the City of Malibu Archaeologist. The first report dated April 15, 1995 was prepared by Brian Dillon, Ph.D., consulting archaeologist to review tentative developments plans prepared by the previous property owner, Pritchett-Rapf Realtors. The report indicates that CA-LAN-180 archaeological site was first recorded in 1967 by J. West and updated in 1974 by N. Nelson Leonard. Leonard comments on CA-LAN-180 and estimates it to measure "approximately 200 x 240 feet", with the north-south axis presumably the shorter. "The upper six inches of the deposit has been disturbed by disking and the extreme eastern edge of the site has been destroyed by a small reservoir. The bulk of the deposit has remained intact." Dr. Dillon concludes in his report that:

*Despite any such significance which the site may retain, it should nevertheless be pointed out here that the CA-LAN-180 site is hardly intact, and all previous archaeological visitors have noted substantial damage to it. The site was very badly damaged in the late 1930's or early 1940's by the construction of a large cement reservoir atop it; cutting and filling over the eastern margin of the site has obliterated between 25 and 50% of the original deposit. Since at least that time, the site and its surrounding area have been disc-ploughed, both for agricultural purposes and for fire suppression, and, for many decades, local collectors have removed surface artifacts.*

Dr. Dillon further concludes that archaeological site CA-LAN-180 is physically present on lot 7 and that construction on any part of the site could constitute adverse impacts to the site that must be mitigated under California State Law (CEQA and Coastal Commission Guidelines). Dr. Dillon recommended at that time that: the site be preserved via complete avoidance, reserving it in open space, and withdrawing it from development; no further widening of the cement and asphalt road leading uphill past the site to the west be allowed; and to have an archaeologist monitor the initial grading near the site; the monitor should be empowered to halt and/or redirect grading if such activity inadvertently encounters archaeological resources outside the boundaries of the site.

The City of Malibu Archaeologist provided a review of the subject project in a letter dated September 8, 1997. The letter indicates that the proposed project has been designed in accordance with the recommendations of the Dillon report and should avoid disturbance of the site and that excavations in the vicinity of the site be monitored.

Since then, the applicants have initiated this subject development project by installing an 'unpermitted' water tank, pumps, underground irrigation system, and planting a portion of the proposed landscape plan. On a site visit, staff identified on April 8, 1998 these developments and what appeared to be a portion of the irrigation system and landscaping installed within archaeological site CA-LAN-180, in addition to disking most of the coastal terrace and the site. Staff requested that the applicant provide an updated archaeological letter to address the issue of whether or not the recent installation of the irrigation system had impacted archaeological resources, and if so, what mitigation

measures should be incorporated into the proposed project to adequately mitigate any impacts. Staff also asked the applicants to clarify if the existing driveway was to be widened five feet to the west and east for a total of a 20 foot wide driveway. Any widening to the east along a short section would encroach into the archaeological site. Subsequently, the applicants have redesigned the proposed driveway to avoid any widening to the east for the short distance adjacent to the archaeological site.

Dr. Dillon provided an update report titled, Impact Assessment of Archaeological Site CA-LAN-180 City of Malibu, Los Angeles County, California dated April 22, 1998. Dr. Dillon states that three kinds of adverse impacts to the archaeological site were observed on April 19, 1998. The first impact is the disk-ploughing to a depth between six (6) inches and one (1) foot, even deeper in some places across the archaeological site and remaining portion of the property. Numerous prehistoric artifacts on the newly ploughed surface had been brought up from the subsurface. Mr. Dillon concludes that this discing was done to comply with the May 1 deadline for brush and grass clearance for fire hazard abatement. The second impact was the buried irrigation system using 2 1/2 inch metal pipes as main trunk lines, with smaller diameter metal and plastic feeders with sunken or semi-subterranean plastic control boxes housing water equipment. The maximum depth was estimated at six (6) inches to 18 inches deep, averaging about a foot in depth. Since the trenching took place after the disc-ploughing, it is likely that such trenching simply disturbed archaeological site deposits already disturbed many times before. Dr. Dillon concluded that the installation of the irrigation system should be considered to be considerably less than that occasioned by the recent disc-ploughing. The third impact observed consisted of a series of young tree plantings dug into holes within the site boundaries directly to the west and northwest of the cement reservoir. Dr. Dillon believed that as these trees (non-native evergreen trees) grow the possibility of damage from root intrusion and other longer term changes can destroy the archaeological site. (The applicant has subsequently revised the submitted landscape plan to replace these non-native trees with native species)

Dr. Dillon concludes that the irrigation system at the archaeological site did impact the archaeological resources of the site in at least a minor way. Recommended mitigation measures should be incorporated into the project as noted below. In summary, Dr. Dillon recommended the following mitigation measures:

That the CA-LAN-180 site be preserved via complete avoidance, reserving it in open space, and withdrawing it from development; that the present alignment of the driveway leading uphill past the site be widened to the east only if specific protective mitigation measures are followed (the applicants have revised the project to delete any widening of the driveway to the east in the vicinity of the archaeological site); an archaeologist monitor initial grading near the site and be empowered to halt and/or redirect grading if such activity inadvertently encounters archaeological resources; a formal archaeological record search at UCLA Archaeological Information Center be done; the maximum limits of the site be marked with pin flags; establish a buffer zone around the site to prevent

inadvertent damage by heavy equipment; the outermost boundaries be demarked by a physical barrier such as a chain link fence; and complete a preliminary report on the 1972 UCLA research.

The City of Malibu was asked to review the second Dillon report addressing the impact assessment on the site. The City declined to review the report and recommendations to provide comments to the Commission, as the project had already received all necessary approvals from the Planning Department.

The Commission finds that because archaeological resources are present on the project site and the proposed development sites are located near a known archaeological site, and limited impacts to archaeological resources have occurred as a result of 'unpermitted' development on the site, it is necessary to require the applicants to comply with special condition number seven (7). This condition requires the applicant to comply with all recommendations in the archaeology reports, and have an archaeologist monitor initial grading near the archaeological site so as to ensure that the site is not accidentally damaged by heavy equipment working nearby. This monitor shall be empowered to halt and/or redirect grading if such activity inadvertently encounters archaeological resources outside the boundaries of the CA-LAN-180 site as presently recorded. The results of such monitoring shall be described in a final report detailing compliance with archaeological mitigation requirements for the project. The maximum limits of the CA-LAN-180 archaeological site shall be located in as much as is possible from surface contexts. Clearing surface grass cover with weed-whacks and placement of pin flags on lines radiating out from the reservoir would be an appropriate means of doing this, so as to ensure that the boundaries of the archaeological site can be clearly identified for ease of protection via avoidance. A buffer zone or equipment exclusion area shall be created around the CA-LAN-180 archaeological site so that the site is not inadvertently damaged by heavy equipment working adjacent to it. The northern boundary of this buffer zone shall correspond to the alignment of the utility poles cutting across the Lot 7 property from east to west, and its western boundary shall be denoted by the existing paved access road leading uphill to the water tanks. The outermost boundaries of this buffer zone, incorporating both the 50-foot wide safety margin as well as CA-LAN-180 in its entirety, shall be demarked by a physical barrier such as a chain link fence rather than simple staking and flagging (Exhibit 18). Accidental entry can always occur unless a physical barrier is erected. If an area of buried cultural deposits are discovered during any project operation, all work shall be halted while the applicant complies with the following:

A supplementary archaeology report shall be prepared that addresses the newly-discovered deposits. This report shall be submitted for the review and approval of the Executive Director. If the Executive Director determines that the report recommends changes to the proposed development or changes to the mitigation measures that are de minimis in nature and scope, then construction can be recommenced and the applicant shall comply with all recommendations and mitigation measures contained in the supplementary report. If the Executive Director determines that the changes are not de minimis, the applicant shall submit

an application seeking to amend the permit. No further construction shall be allowed until the Commission has acted on the amendment application.

In addition, special condition number five (5) requires the applicants to obtain a coastal permit for any future development located within the archaeological site and buffer as noted in Exhibit 18. This condition is necessary to protect these known archaeological resources and provide for any necessary mitigation measures through the coastal permit application process which will require a coastal permit for any future development located within this geographic area.

In order to ensure the protection of this archaeological site, from any future development, the Commission finds it necessary to require a deed restriction that allows only future development, with a valid coastal development, be undertaken consistent with the approved archaeology reports by Dr. Brian Dillon, PH.D, dated April 22, 1998 and dated April 15, 1995 for the areas of resources identified in Exhibit 18 as the archaeological site and buffer area. Special condition number seven (7) also provides for this long-term protection of archaeological resources.

Thus, the Commission finds that the proposed project, as conditioned, mitigates any adverse impacts on archaeological resources and therefore, the proposed development is consistent with Section 30244 of the Coastal Act.

#### **G. Septic System**

The Coastal Act includes policies to provide for adequate infrastructure including waste disposal systems. 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, and 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 the construction of two separate on-site septic tanks to provide sewage disposal for the primary residence (1,500 gallon tank) and the guest house (750 gallon tank) both connected to common seepage pits located below the guest house. The applicants have submitted an 'In Concept Approval' of the proposed septic system from the City of Malibu Environmental Health Department, dated December 17, 1997. This approval indicates that the proposed systems for the project comply with all minimum requirements of the City of Malibu Plumbing Code. The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for waste water discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed septic systems are consistent with Sections 30231 and 30250 of the Coastal Act.

#### **H. Violation**

Although development has taken place prior to the filing of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

Because a portion of the proposed project includes after the fact development (unpermitted 10,000 gallon water tank, pumps, and underground irrigation system, partially located within a recorded archaeological site) and requires a coastal permit in order to be in conformance with the Coastal Act. The Commission finds it necessary to require the applicants to fulfill all of the special conditions as a prerequisite to the issuance of this permit, as required by special condition number eight (8) within a reasonable period of time, within 120 days of Commission action. Only as conditioned is the proposed development consistent with Sections 30240, 30244, 30250, 30251, 30252, and 30253 of the Coastal Act.

#### **I. 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 coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the



proposed project will be in conformity with the provisions of Chapter 3, if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City of Malibu's ability to prepare a Local Coastal Program for this area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

**J. California Environmental Quality Act**

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that would substantially lessen any significant adverse effects that the activity may have on the environment.

The proposed development, as conditioned, will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.

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SEE 62/ MAP

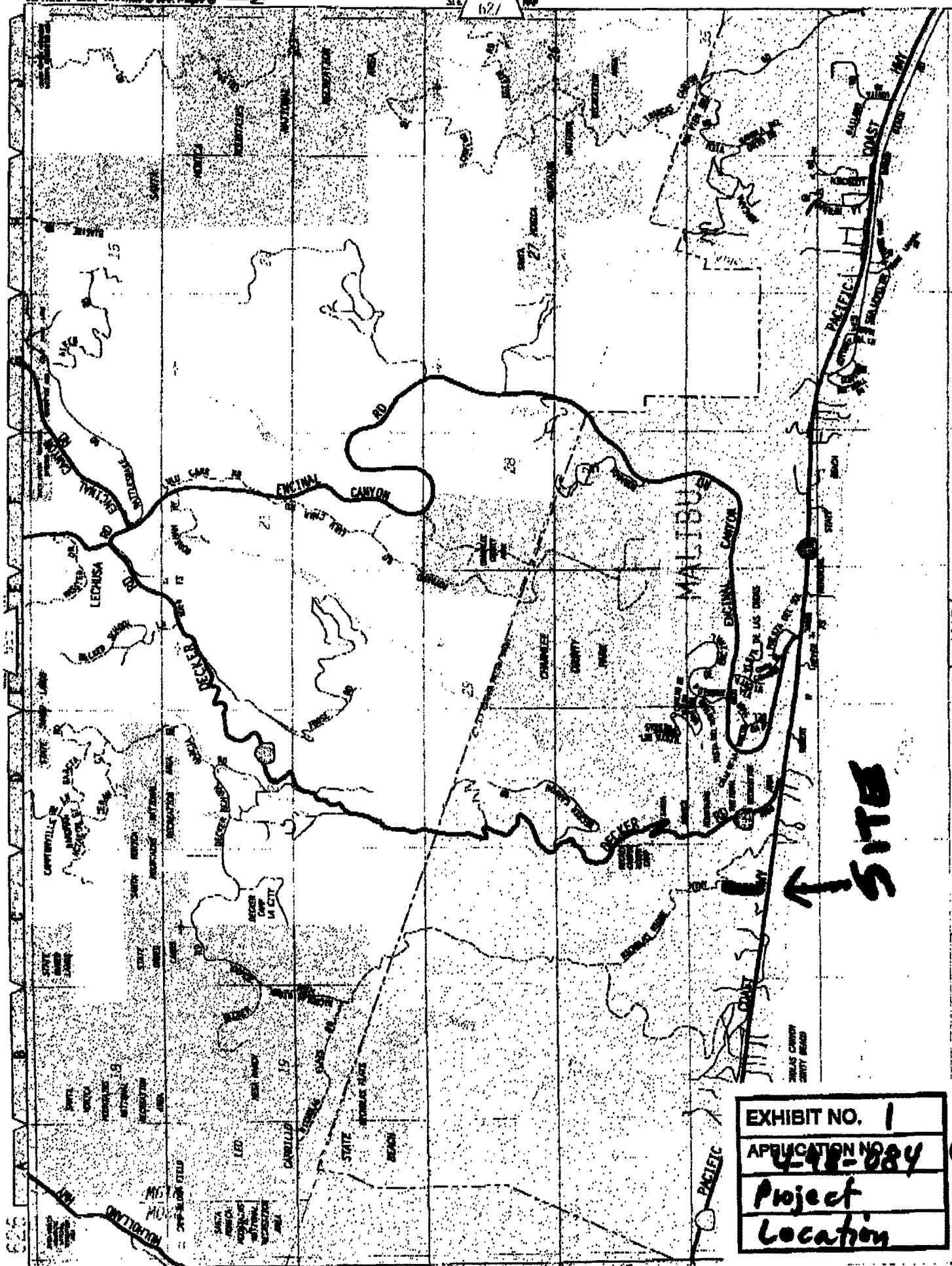


EXHIBIT NO. 1
APPLICATION NO. 4-98-084
Project Location

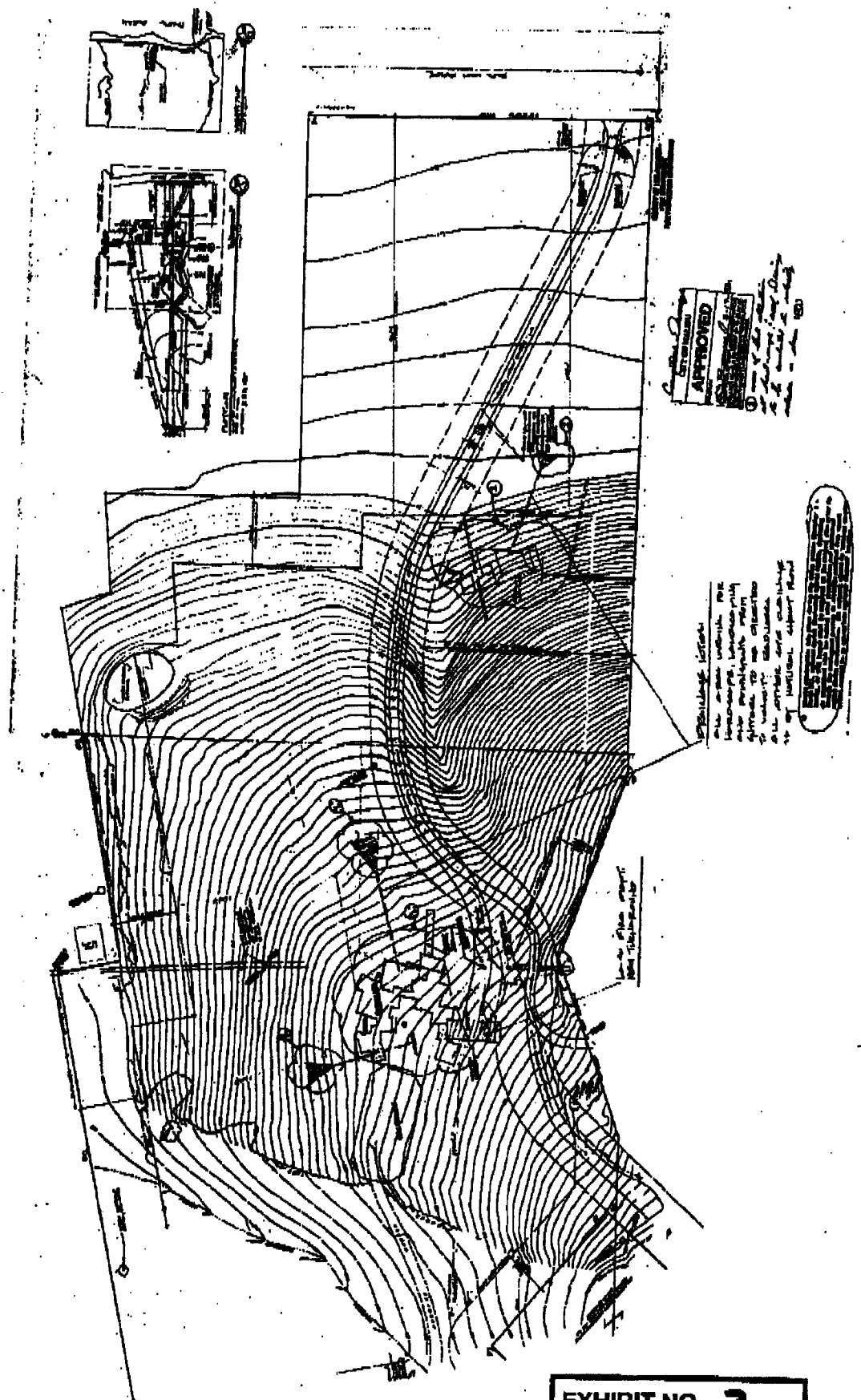


EXHIBIT NO. 2

APPLICATION NO. 4-98-024

Site Plan

Upper &amp; Lower Mesa

A-11

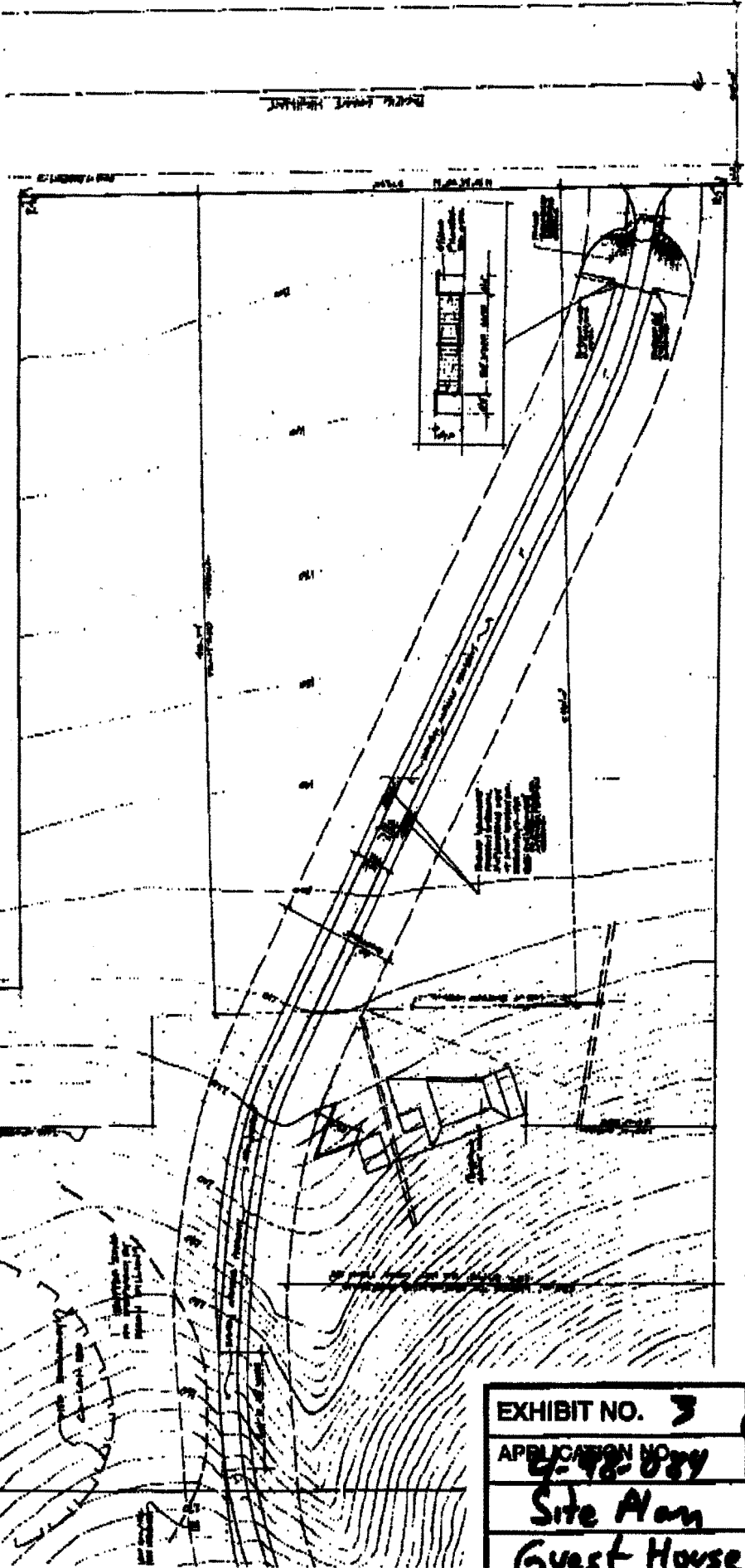
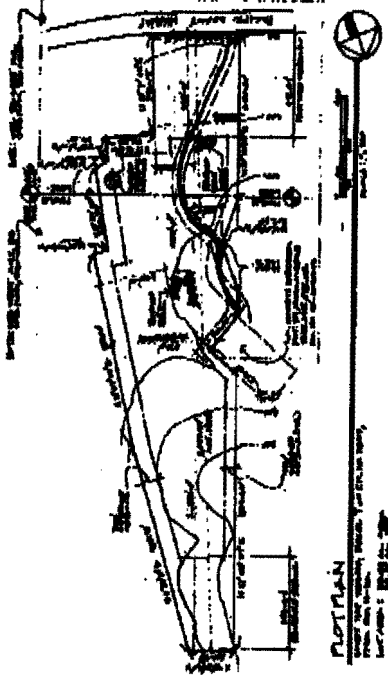
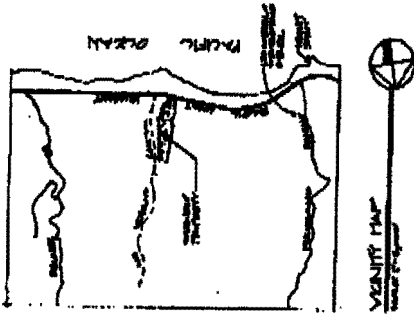


EXHIBIT NO. 3
APPLICATION NO. 97-08-089
Site Plan
Guest House

000 - 1

TOPOGRAPHICAL MAP  
OF PORTION OF PARCEL 7  
OF PARCEL MAP NO. 1041  
IN THE CITY OF MALIBU  
LOS ANGELES COUNTY, CALIF.

By: [Signature]  
DATE: 10/1/98  
SCALE: 1" = 100'

NOTE: This is not a map of a building survey.  
The building survey was done on a  
part of the site.  
It is to be used only for the purpose  
of the map on which it  
is based.

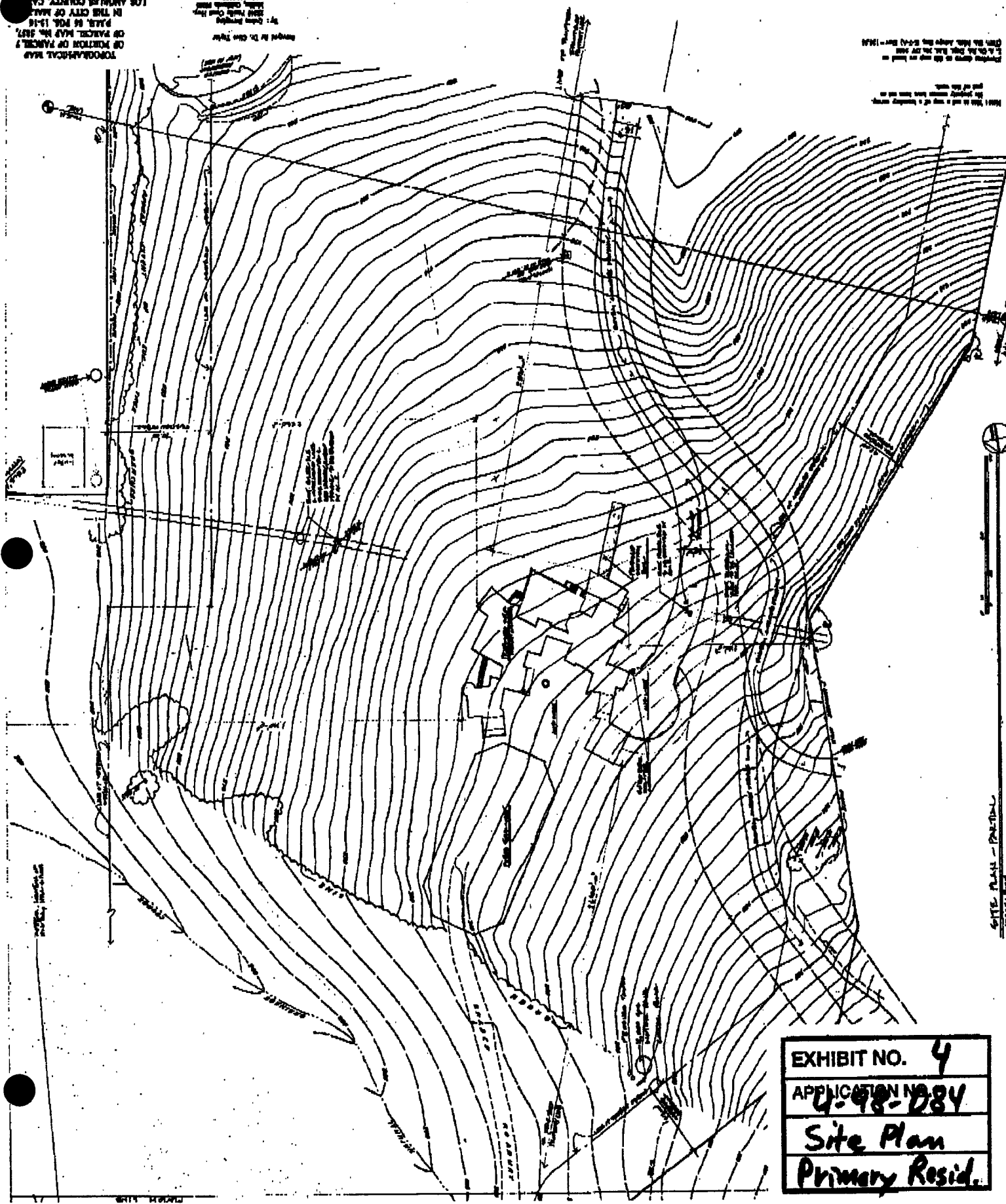


EXHIBIT NO. 4  
APPLICATION NO. 4-98-084  
Site Plan  
Primary Resid.

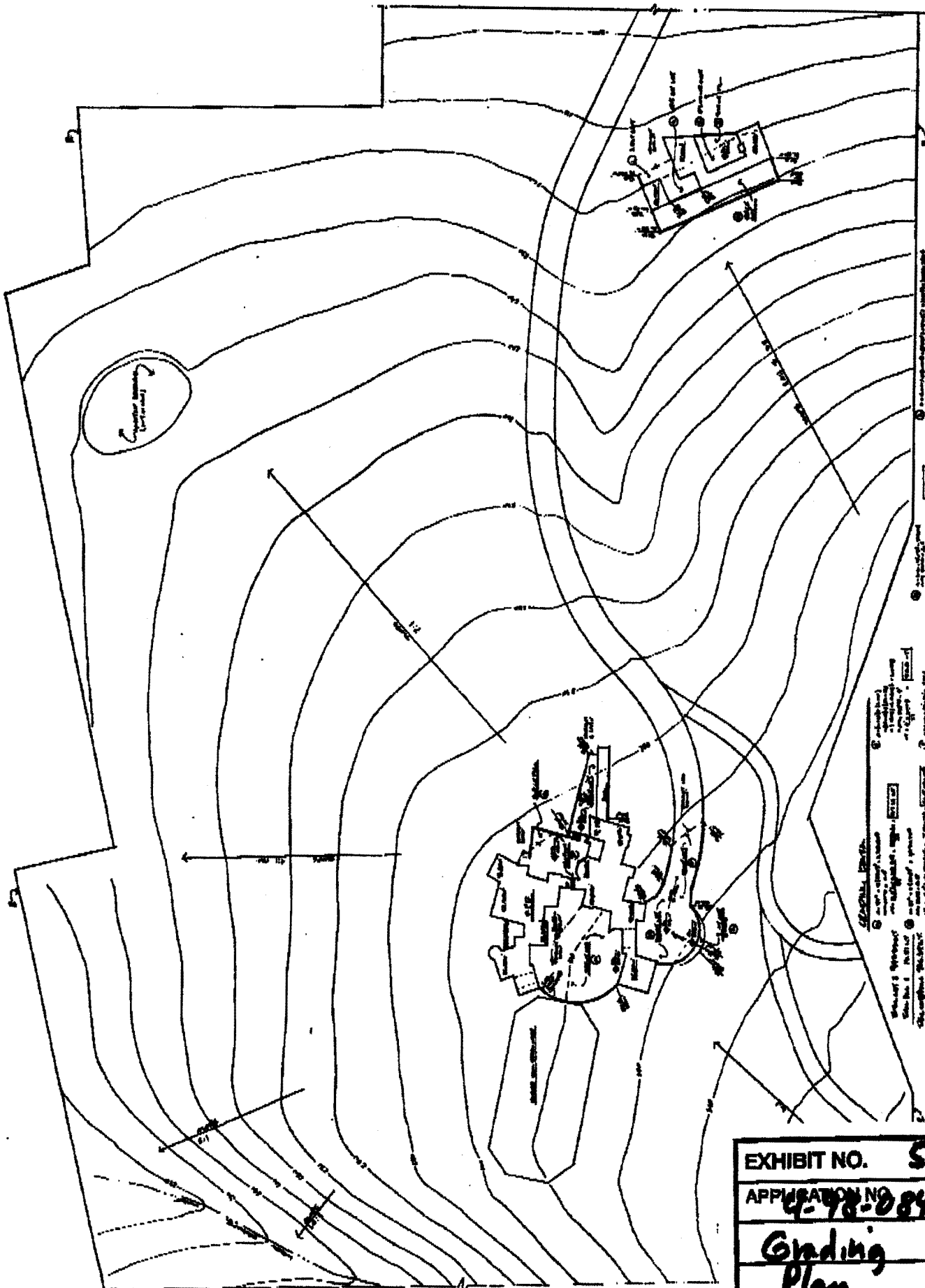


EXHIBIT NO.	5
APPLICATION NO.	4-98-084
Grading Plan	

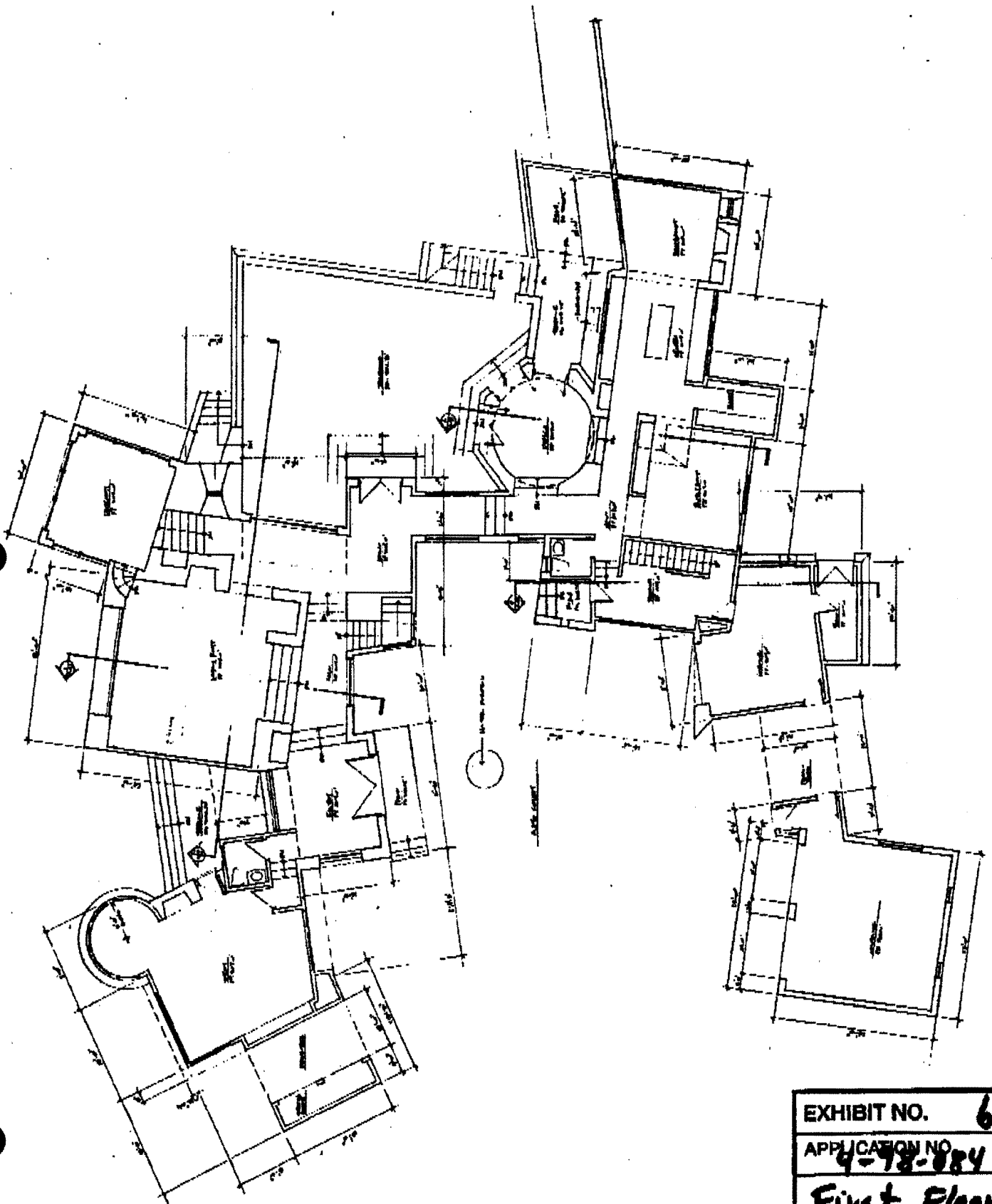


EXHIBIT NO.	6
APPLICATION NO.	4-78-884
First Floor Plan	

A-2.2

2nd Floor Plan

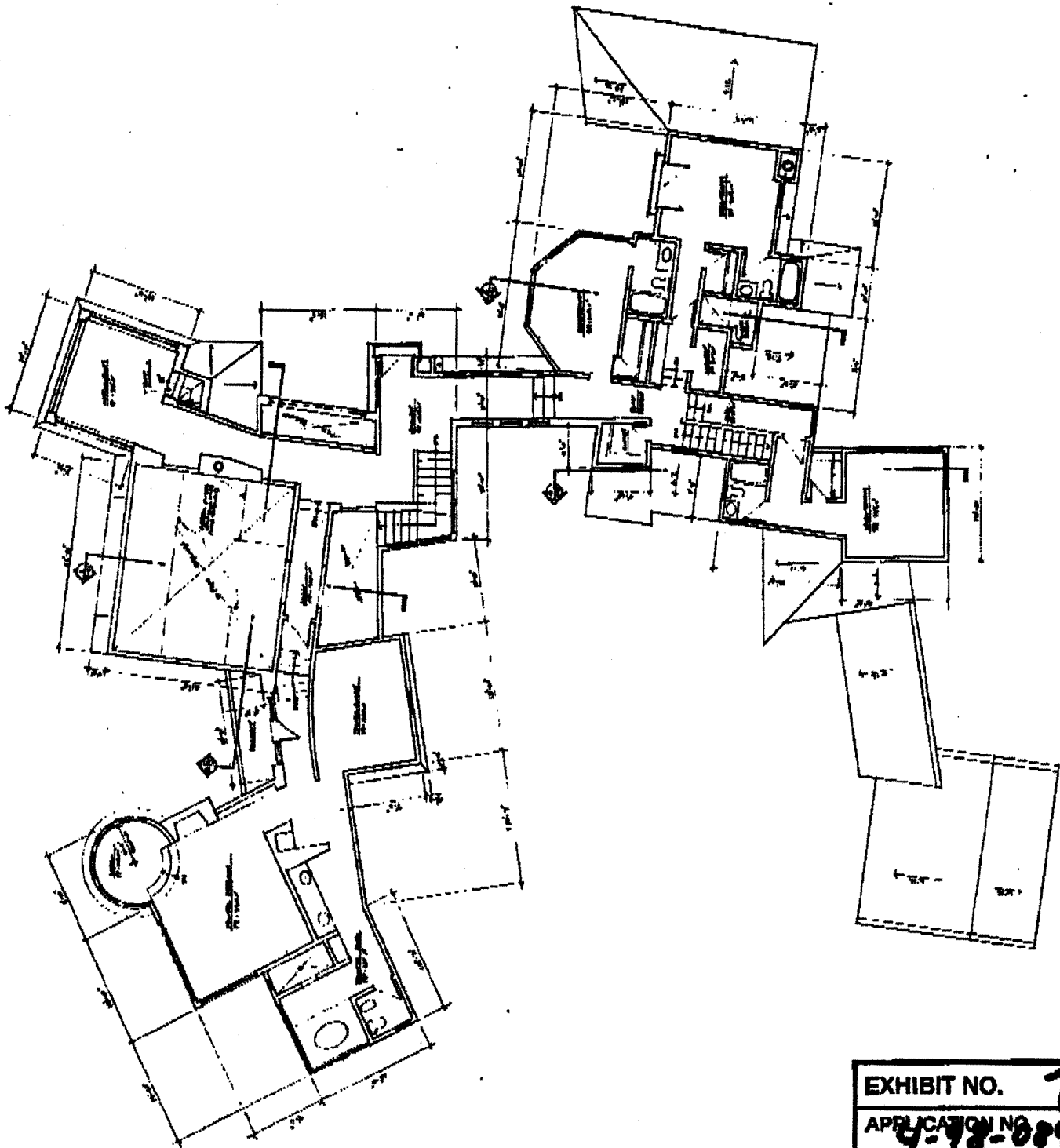
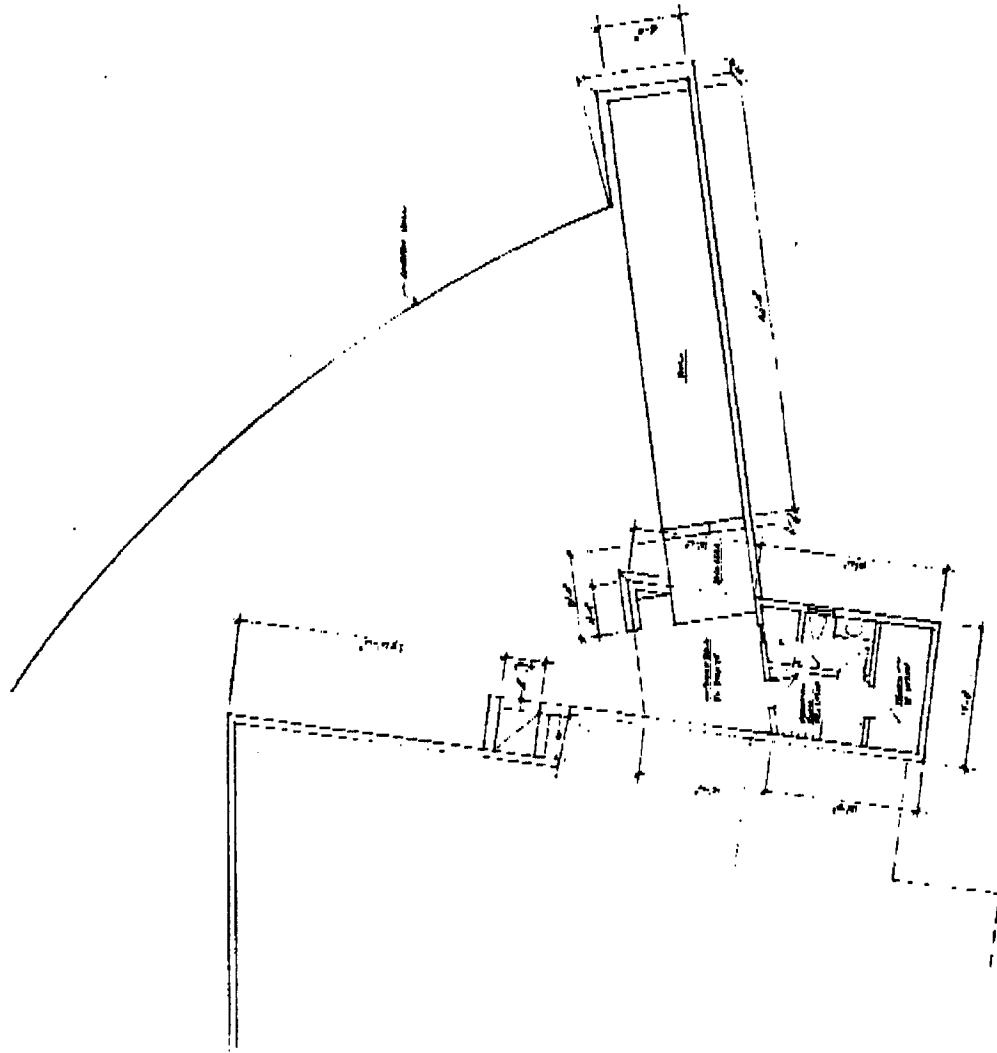


EXHIBIT NO.	7
APPLICATION NO.	4-98-084
2nd Floor	
Plan	



A-2.5

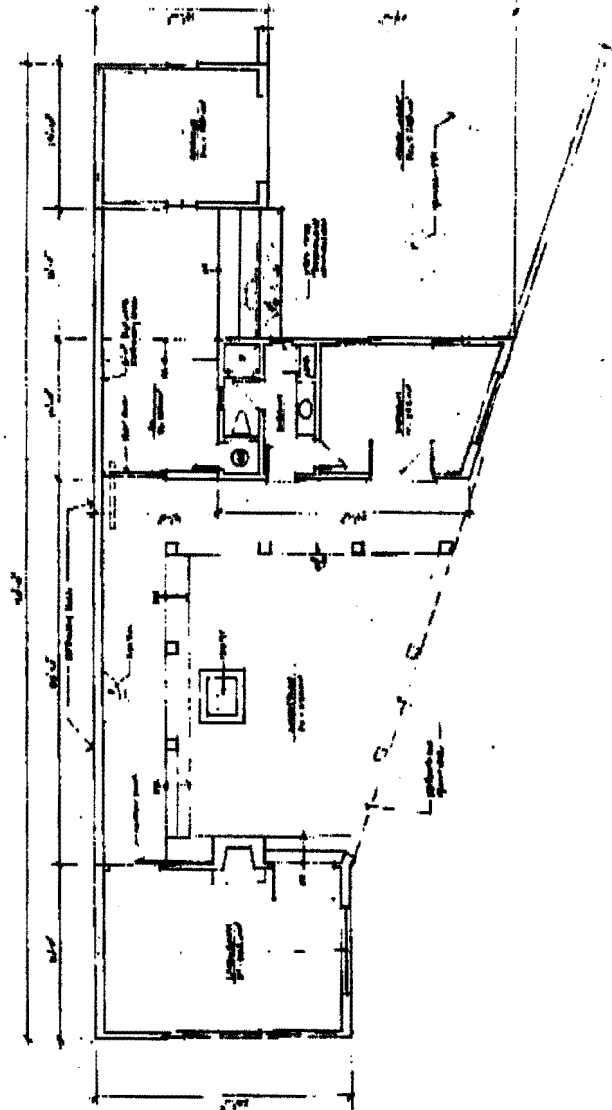


POOL DECK - 10' x 12'

POOL HOUSE - 10' x 12'

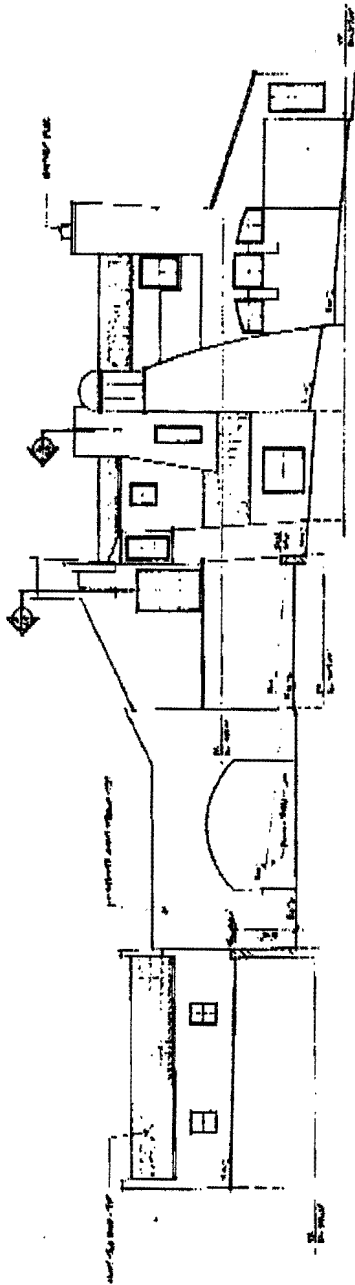
EXHIBIT NO.	8
APPLICATION NO.	4-98-084
	Pool Level

A-2.4

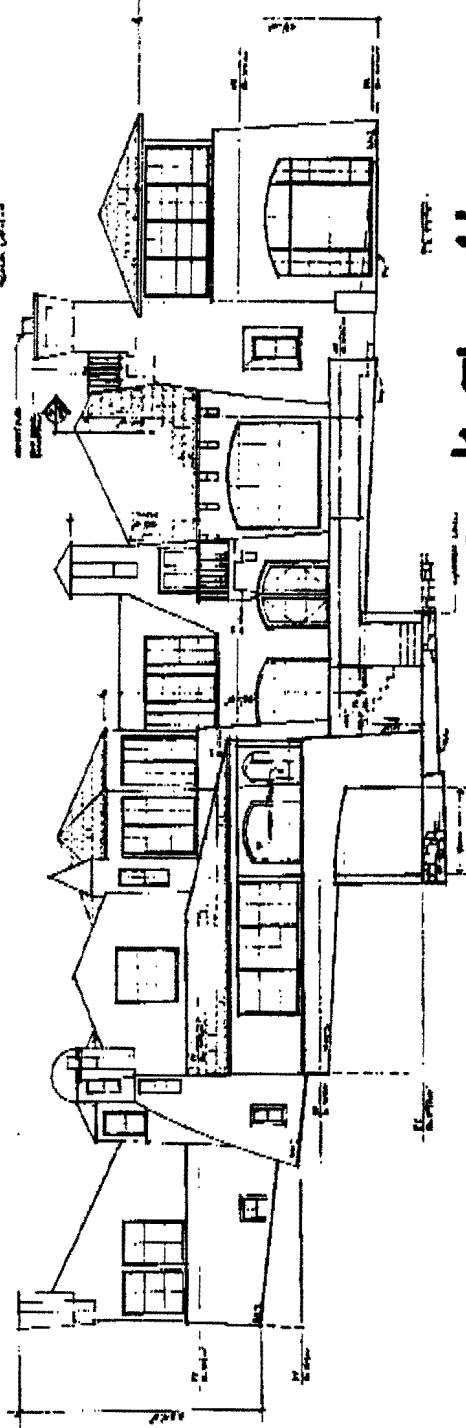


GUEST HOUSE PLAN

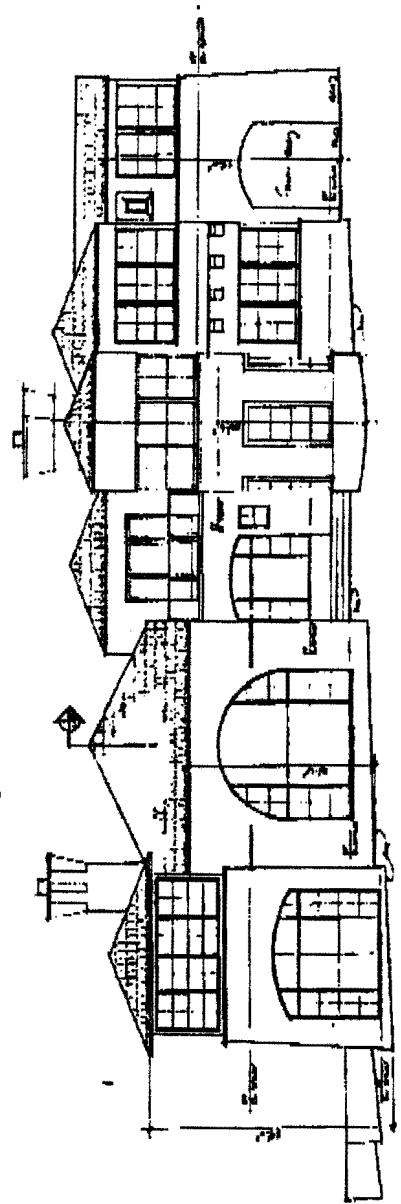
EXHIBIT NO.	9
APPLICATION NO.	4-98-024
Guest House Floor Plan	



WEST ELEVATION

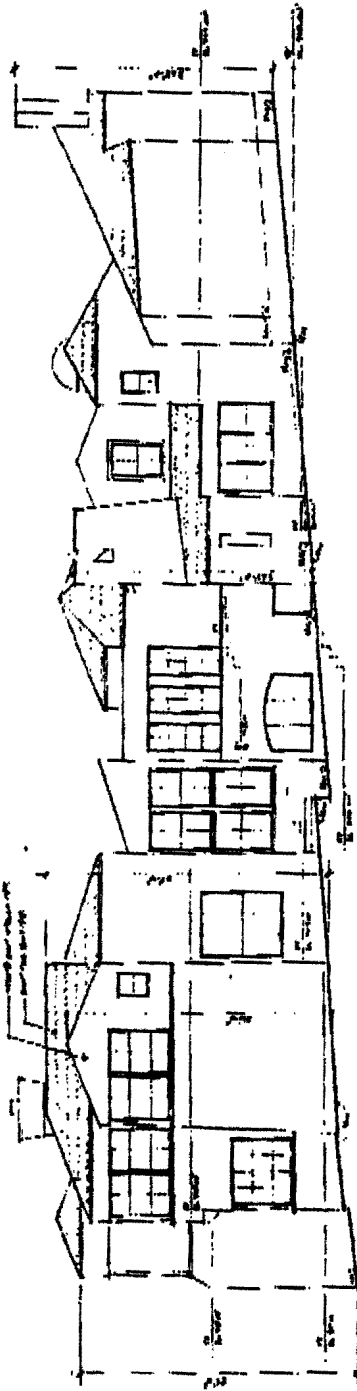


SOUTH ELEVATION

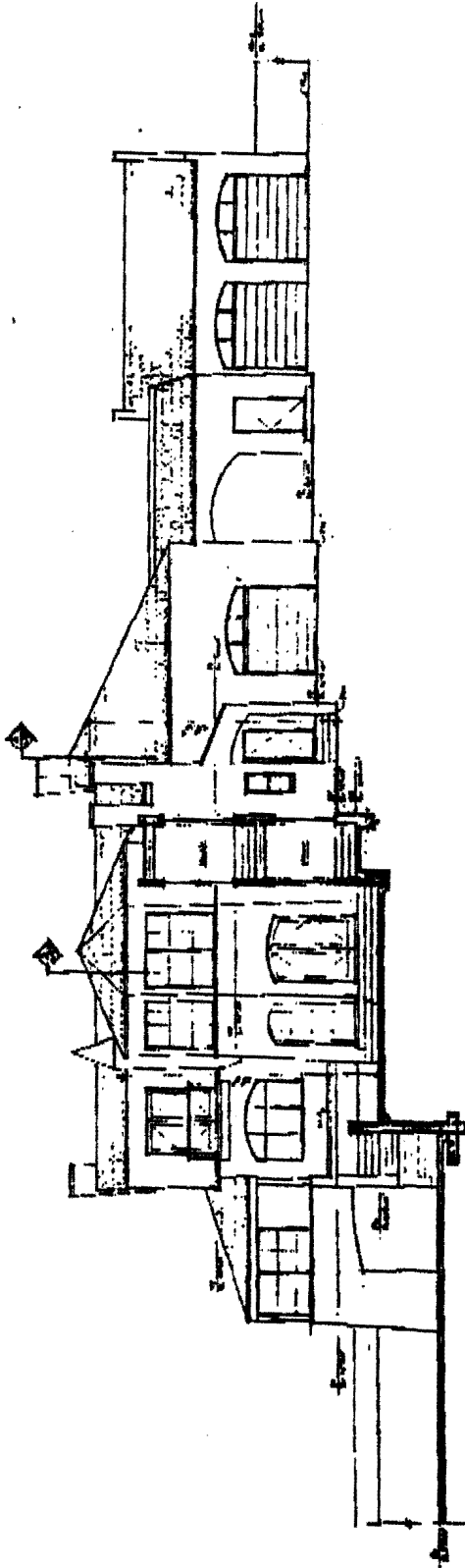


EAST ELEVATION

EXHIBIT NO.	10
APPLICATION NO.	4-98-024
Primary Res Elevations	



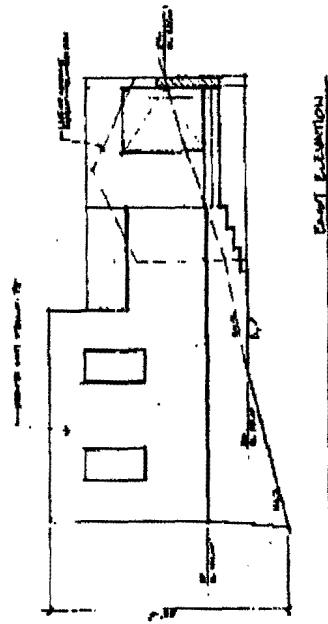
REAR ELEVATION OF BUILDING



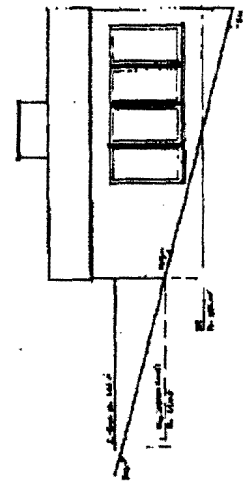
EAST ELEVATION OF BUILDING

EXHIBIT NO. 11
APPLICATION NO. 4-92-884
Primary Res Elevations

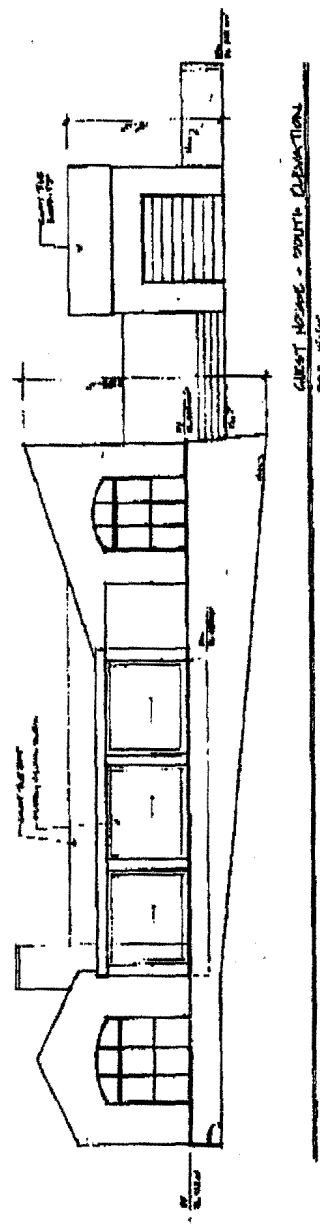
A-13



EAST ELEVATION

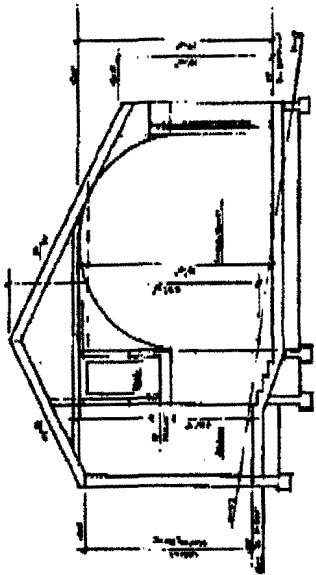


WEST ELEVATION

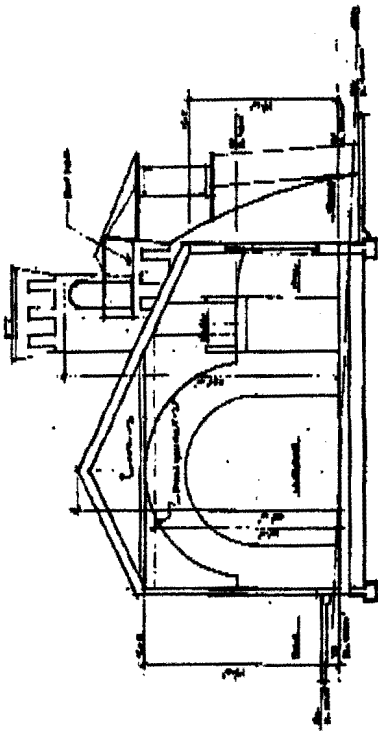


GUEST HOUSE - SOUTH ELEVATION

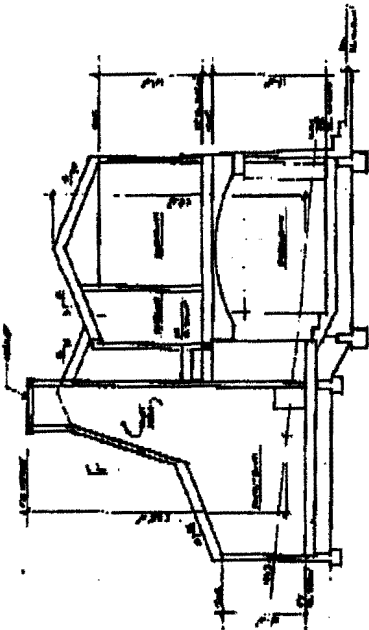
EXHIBIT NO.	12
APPLICATION NO.	4-48-084
Guest House Elevations	



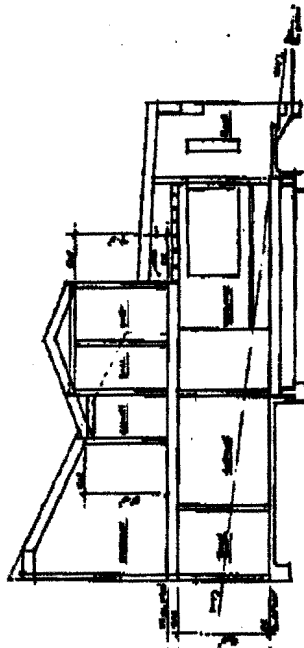
SECTION 1



SECTION 2



SECTION 3



SECTION 4

EXHIBIT NO.	13
APPLICATION NO.	4-48-084
Primary Res	
Sections	

RANDALL LANDSCAPE DESIGN  
909 ELIOT ST., #8  
SANTA MONICA, CALIF. 90403  
310/395/2815/FAX/310/395/2388

PLANNING, FUEL MODIFICATION  
& VEGETATION MANAGEMENT  
PLAN

PROJECT ADDRESS  
34033 PACIFIC COAST HIGHWAY  
MALIBU, CALIFORNIA

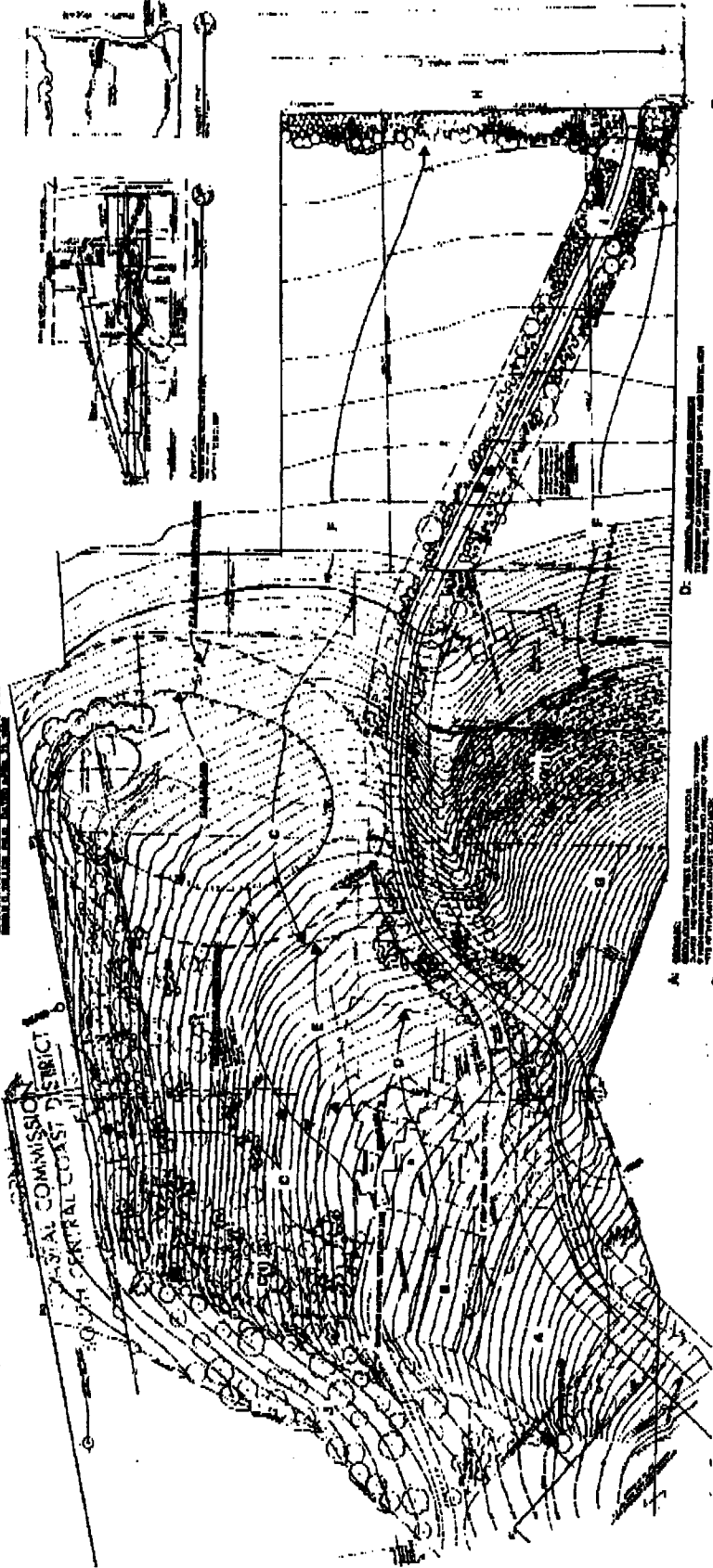
OWNERS:  
SUE & CLIVE TAYLOR  
1801 MARBENGO AVENUE  
SOUTH PASADENA, CALIFORNIA

DATE: NOVEMBER 1997  
DRAWING NO. 14

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MAY 06 1998

EXHIBIT NO. 14
APPLICATION NO. 4-98-884
Landscape Plan

PROJECT ADDRESS  
34033 PACIFIC COAST HIGHWAY  
MALIBU, CALIFORNIA

OWNER:  
SUE & CLIVE TAYLOR  
1801 MARBAGO AVENUE  
SOUTH PASADENA, CALIFORNIA

PROJECT ADDRESS  
34033 PACIFIC COAST HIGHWAY  
MALIBU, CALIFORNIA

OWNER:  
SUE & CLIVE TAYLOR  
1801 MARBAGO AVENUE  
SOUTH PASADENA, CALIFORNIA

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

MAY 06 1998

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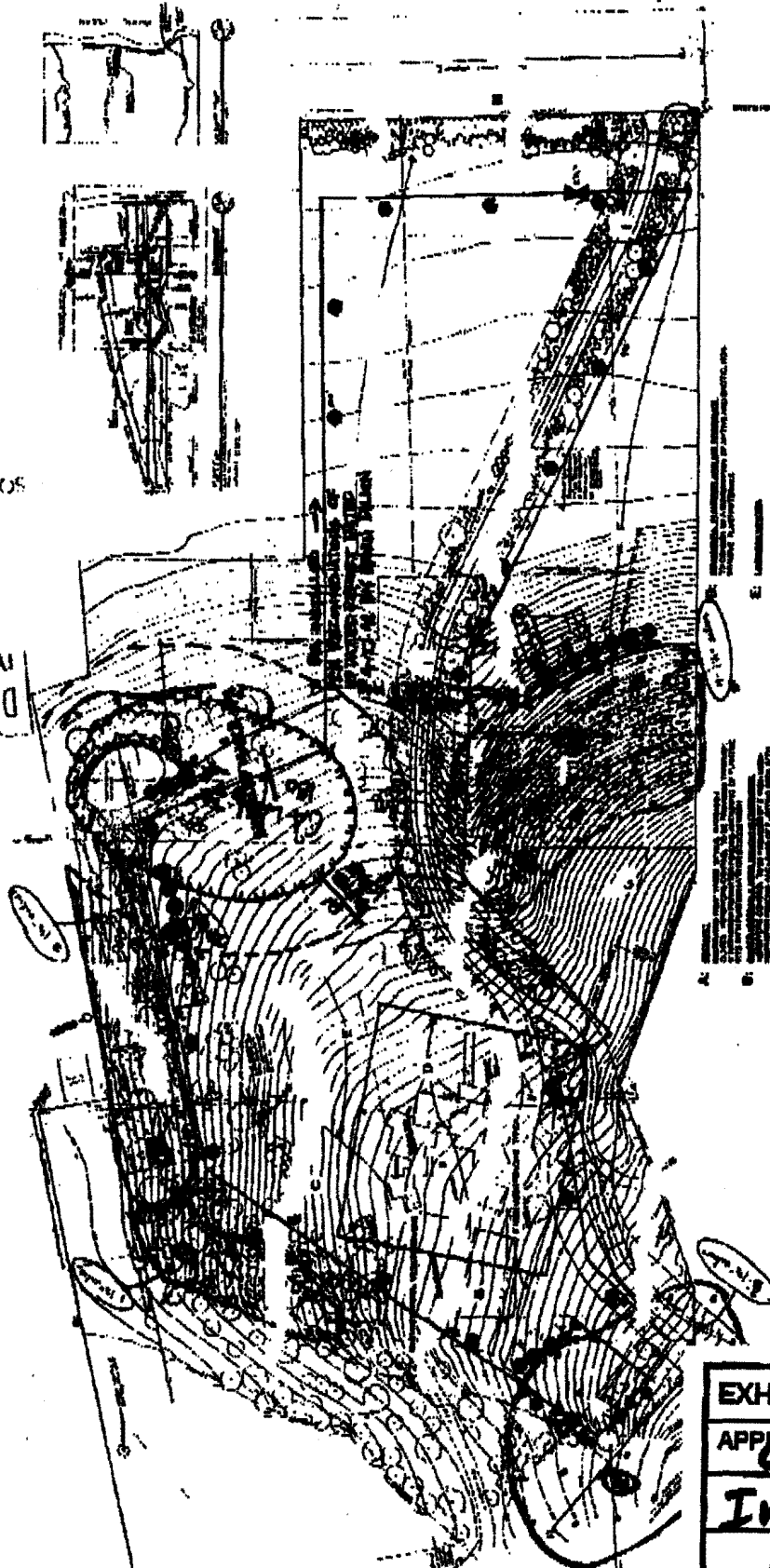


EXHIBIT NO.	15
APPLICATION NO.	9-98-084
Irrigation Plan	





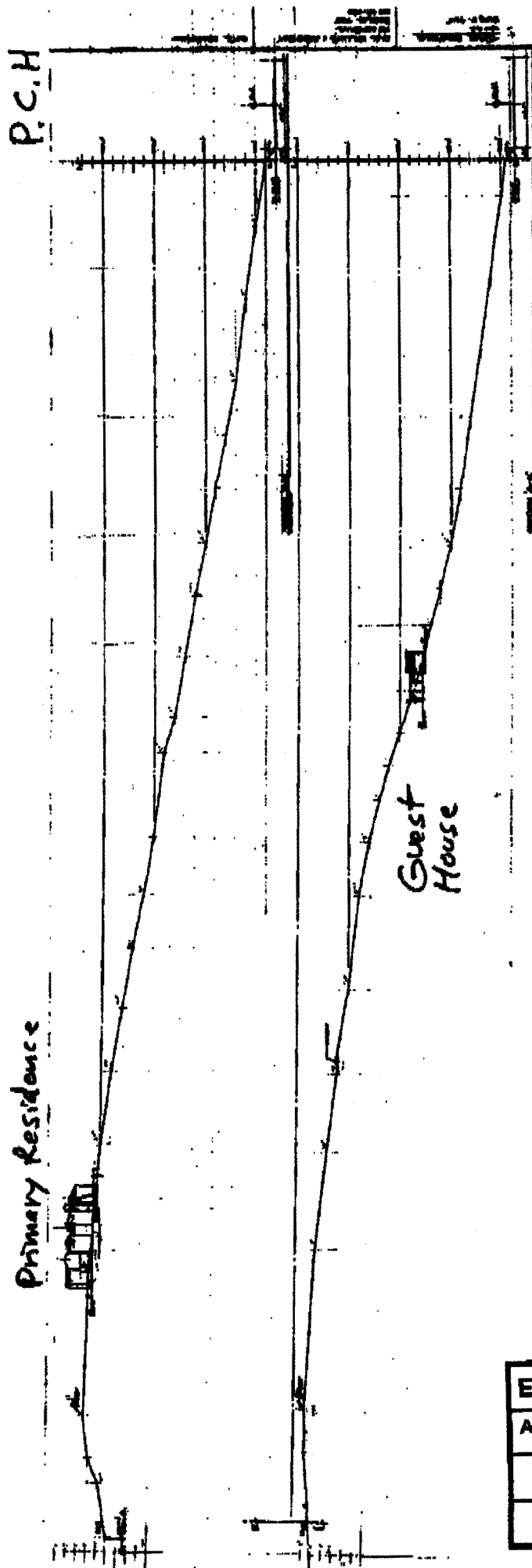


EXHIBIT NO.	17
APPLICATION NO.	4-98-004
PCH Site	
Line Sections	



