

CALIFORNIA COASTAL COMMISSION

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



TV36

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180th Day: 12/02/98
Staff: SMB - VNT
Staff Report: 07/09/98
Hearing Date: August 11, 1998

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-98-096

APPLICANT: Bert Rashby

PROJECT LOCATION: 913 Fernwood Pacific Drive, Topanga; Los Angeles County

PROJECT DESCRIPTION: After-the-fact permit approval for the construction of a 400 sq. ft., 16 ft. high non-habitable accessory building to be used as an art studio. There is no proposed grading, plumbing or heating.

Lot area:	27,537 sq. ft.
Building coverage:	400 sq. ft. new proposed
Pavement coverage:	0 new proposed
Parking spaces:	0 new proposed
Landscape coverage:	0 new proposed
Ht above fin grade:	16 feet

LOCAL APPROVALS RECEIVED: Los Angeles County Department of Building & Safety
Permit issued October 9, 1990.

SUBSTANTIVE FILE DOCUMENTS: Report of Geotechnical Observations Proposed Building Additions prepared by Ebrahim Simantob, P.E., G.E. dated August 17, 1997; G.S.A. calculations performed by John H. Mac Neil dated July 3, 1998; Malibu/ Santa Monica Mountains Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is applying for after the fact approval of a 400 sq. ft., 16 ft. high non-habitable accessory building to be used as an art studio. The structure will not have any plumbing or heating. The proposed project does not include any additional grading. The proposed project raises no adverse environmental or visual issues. Staff recommends that the Commission approve the project with special conditions regarding fuel modification plans, a deed recordation for future improvements, wildfire waiver of liability, and condition compliance.

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, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local governments 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 this permit is reported to 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. Fuel Modification Plans

Prior to issuance of the coastal development permit, the applicant shall submit fuel modification plans prepared by a licensed landscape architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- a) Vegetation within 50 feet of the proposed structure may be removed to mineral earth and vegetation within a 200 feet radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the County of Los Angeles Fire Department, Fire Prevention Bureau.

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, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

3. Future Improvements

Prior to the issuance of a coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in Coastal Commission Permit 4-98-096 and that any future additions or improvements to the proposed structure, that might otherwise be exempt under Public Resource Code Section 30610(b), will require a permit from the Coastal Commission or the local government certified to issue such permit.

The deed restriction shall specify that clearance of vegetation up to 50 feet outward from the approved structure and selective thinning within 200 foot radius of the approved residence as provided in Special Condition 1(a) above, are permitted and shall not require a new permit.

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.

4. Condition Compliance

Within 60 days from the date of Commission action on this 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.:

A. Project Description and Background

The applicant is proposing to construct a 400 sq. ft., 16 ft. high from existing grade, accessory building (Exhibit 5-7). The building will be non-habitable and will not include any plumbing or heating. The subject site is located on three adjacent lots with a combined area of 37,424 sq. ft. within Topanga, Los Angeles County. Specifically, the subject site is located within the Fernwood small lot subdivision within the Santa Monica Mountains (Exhibit 1 & 2). There are existing single family residences surrounding the subject property on both the north and the east. The subject lots are designated Rural II and Residential I by the Malibu/ Santa Monica Mountains Land Use Plan (LUP). According to the Malibu/ Santa Monica Mountains Land Use Plan (LUP), Rural II allows for the construction of one house per every five acres and Residential I allows for one house per every acre (Exhibit 3). All development is located within the Residential I portion of the property. The LUP more specifically describes Residential I as:

Residential areas usually characterized by a group of housing units on gently sloping or flat terrain often within established rural communities.

The site is moderately sloping, at a 2:1 (horizontal to vertical) ratio, vegetated hillside. The site also has a one story 800 sq. ft. single family residence and a 160 sq. ft. detached garage which were constructed in 1939, and therefore, predate the January 1, 1976 implementation of the Coastal Act. The proposed structure is located near the single family residence (Exhibit 4).

On June 4, 1988, the applicant applied for a Building permit with the Los Angeles County Department of Building and Safety for the construction of a 400 sq. ft. accessory building. The applicant received a building permit from Los Angeles County Building and Safety on October 9, 1990 and constructed the structure (Exhibit 8). However, the applicant was apparently never informed that a coastal development permit was required for such a project and therefore, one was never obtained. In October 1997, the applicant

submitted a request for a permit exemption to Commission staff to construct improvements to the existing structure including the addition of 100 sq. ft. At that time Commission staff recognized that the existing studio was unpermitted and requested that the applicant apply for an after-the-fact permit to legalize the unpermitted development. As a result the applicant is applying for a coastal development permit for the existing 400 sq. ft. building. The proposed project does not include any additions or improvements beyond what is existing.

B. Cumulative Impacts

Section 30250(a) of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30105.5 defines the term "cumulatively," as used in Section 30250(a) as:

"...the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

The Commission in past permit actions has recognized certain development constraints common to small-lot subdivisions including geologic and fire hazards, limited road access, septic and water quality problems and disruption of rural community character. As a means of controlling the amount and size of development in small-lot subdivisions the Commission developed the Slope Intensity formula. This formula was incorporated into the 1986 certified Malibu/ Santa Monica Mountains Land Use Plan.

Policy 271(b)(2) of the Land Use Plan requires that new development in small lot subdivisions comply with the Slope-Intensity Formula for calculating the maximum allowable Gross Structural Area (GSA) of a residential unit. The GSA includes all substantially enclosed residential and storage areas, but does not include garages or carports designed for the storage of automobiles. The basic concept of the formula assumes that the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse impacts on coastal resources.

The applicant has submitted Slope Intensity Formula calculations performed by Jon Mac Neil a licensed Land Surveyor. According to the survey, the GSA of the three lots (APN:

4446-015-020, 4446-015-021, and 4446-015-026) equates to 4,526 sq. ft. Detached garages are not included in the Slope-Intensity formula, therefore, the existing 800 sq. ft. single family residence and the proposed 400 sq. ft. accessory building is well under the 4,526 sq. ft. maximum GSA allowed for the subject site under the Slope-Intensity formula.

The Commission notes that given the constraints common to small lot subdivisions, as noted above, any future improvements or additions to the proposed structure could adversely impact coastal resources in the area from an individual and cumulative basis. For example, the expansion of the structure would require additional vegetation removal and thinning due to the LA County Fire Department fuel modification requirements. The removal of vegetation has the potential to increase erosion and sedimentation on site. In addition, expansion of the development would add to the amount of impervious surfaces on site and could have adverse effects on the existing drainage. Furthermore, the Commission through past permit actions and Policy 271 of the Certified Malibu/ Santa Monica Mountains Land Use Plan has found it necessary to place a upper limit on the size of second residential units (750 sq. ft.) given the traffic and infrastructure constraints which exist in Malibu and the Santa Monica Mountains. Although the proposed structure is not proposed as a second unit and does not exceed the 750 sq. ft. limitation, future additions, exempt from permit requirements, and possible conversion into a second unit could exceed the 750 sq. ft. limitation.

Therefore, in order to ensure that future development does not occur which would be inconsistent with Policy 271 of the certified LUP relative to the size of the residential units, and Section 30250(a) of the Coastal Act, a special condition requiring Commission review and approval of proposals for future improvements is necessary as noted in Special Condition Three (3).

The Commission finds that as conditioned, the proposed project is consistent with Section 30250(a) and with all the applicable policies of the Coastal Act.

C. Geological Hazards

Section 30253 of the Coastal Act states:

New development shall:

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

The applicant is proposing to construct a 400 sq. ft., 16 ft. high non-habitable accessory building to be used as an art studio. The proposed project is located in the Santa Monica

Mountains, an area that 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. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

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 wild fire waiver of liability, as outlined in Special Condition Three (3), the applicant also acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development.

Section 30253 of the Coastal Act requires that new development be designed so as not to create or contribute significantly to erosion. The proposed project will be located on a flat pad where a single family residence was once located prior to being destroyed by a wildfire. The applicant is not proposing any additional grading to the site. However, the Los Angeles County Fire Department requires that vegetation within 50 feet of all structures is cleared to mineral earth and vegetation within a 200 feet radius is thinned. In order to ensure that all disturbed areas on the site are stable and that any vegetation clearance as a result of fuel modification will not contribute to erosion of the roadway or properties located downslope of the building site, the Commission finds that a fuel modification plan is required as noted in Special Condition One (1).

Furthermore, section 30253 of the Coastal Act states that new development neither create nor contribute to the geological stability or the destruction of the site or surrounding area. The applicant's consulting geologist, Ebrahim Simantod states that "the site is geologically stable and the proposed construction will not impact any adjoining structures or properties." In addition, Los Angeles County Department of Building and Safety has signed off the building permit on October 9, 1990 indicating that the structure has been inspected and that it conforms to all building codes. Based on the recommendations of the consulting geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act.

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

D. Visual and Landform Alteration

Section 30251 of the Coastal Act states:

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.

According to Section 30251 of the Coastal Act, the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. This area is located in a rural setting characterized by a vegetated westerly sloping hillside. Although the site is not visible from any scenic highways or places of public recreation, the proposed structure will be visible from Fernwood Pacific Drive, a public road.

Section 30251 of the Coastal Act also requires that new development minimize the alteration of natural land forms. The second unit will be built within the building pad of a former single family residence prior to being destroyed in a wild fire. Therefore, the structure will not require any additional grading or land form alteration to the site.

The Commission finds that the proposed development will be sited and designed to protect the public view along the scenic coastal area, will be visibly compatible with the surrounding area, and will have a minimal effect on land form alteration. Therefore, the Commission finds the proposed project consistent with Section 30251 of the Coastal Act.

E. Violation

The construction of a 400 sq. ft., 16 ft. high non-habitable accessory building to be used as an art studio has taken place prior to submission of this permit application. To ensure that the project is carried out in a timely manner Special Condition Four (4) requires that the applicant satisfy all conditions of this permit which are a prerequisite to the issuance of the permit within 60 days of Commission action on this permit.

Consideration of the application by the Commission has been based solely upon Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

F. 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

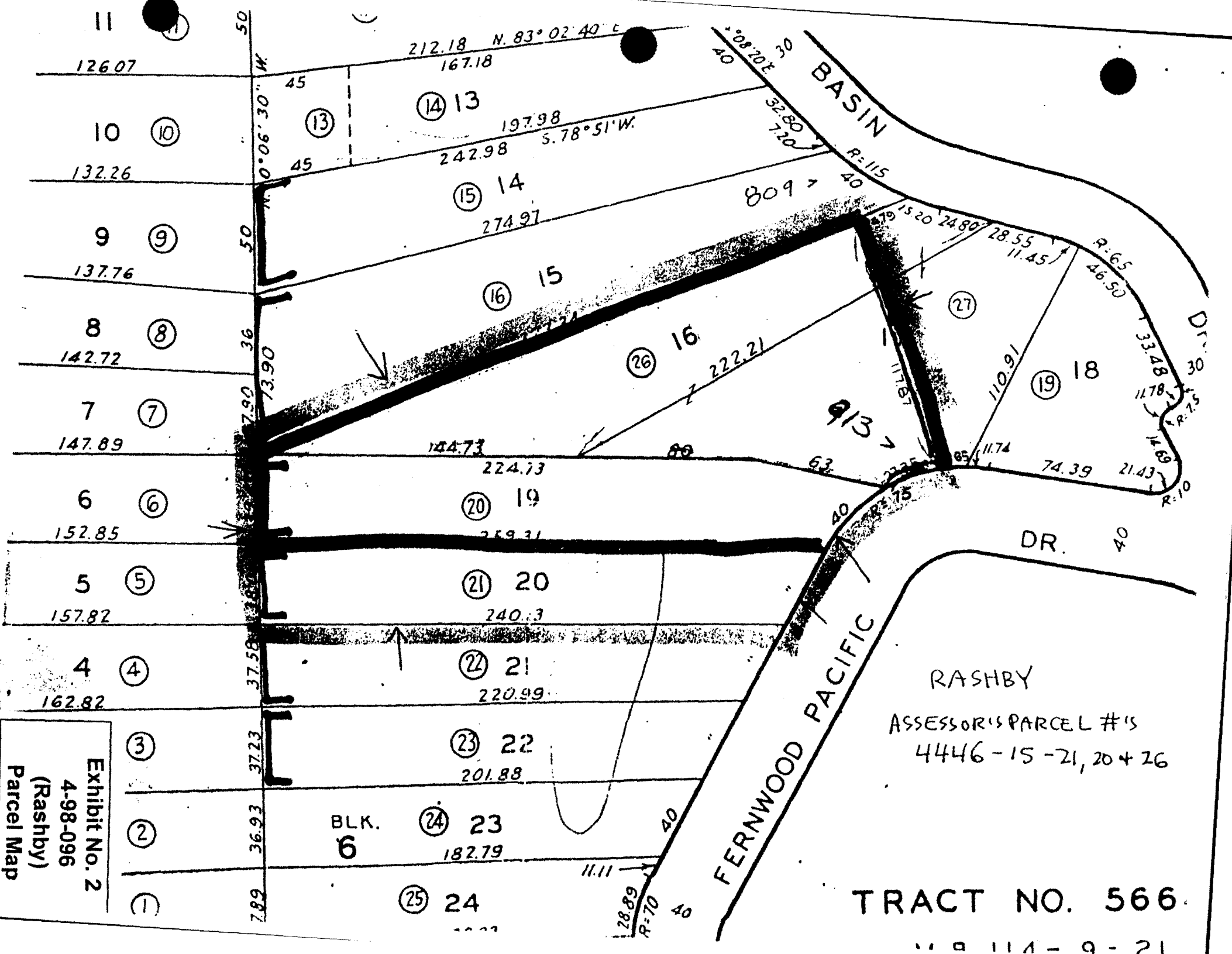
Section 30200).

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

G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.



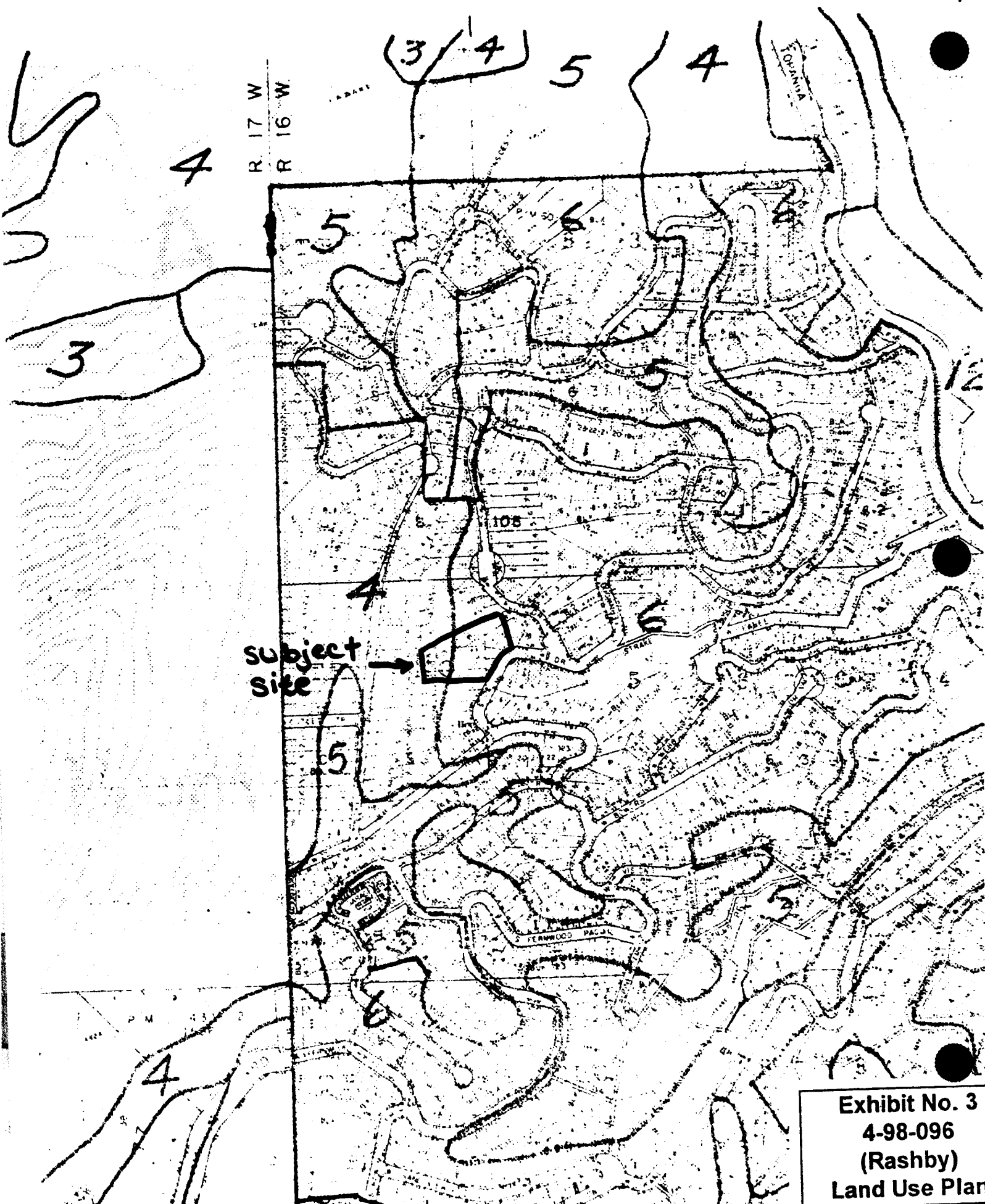
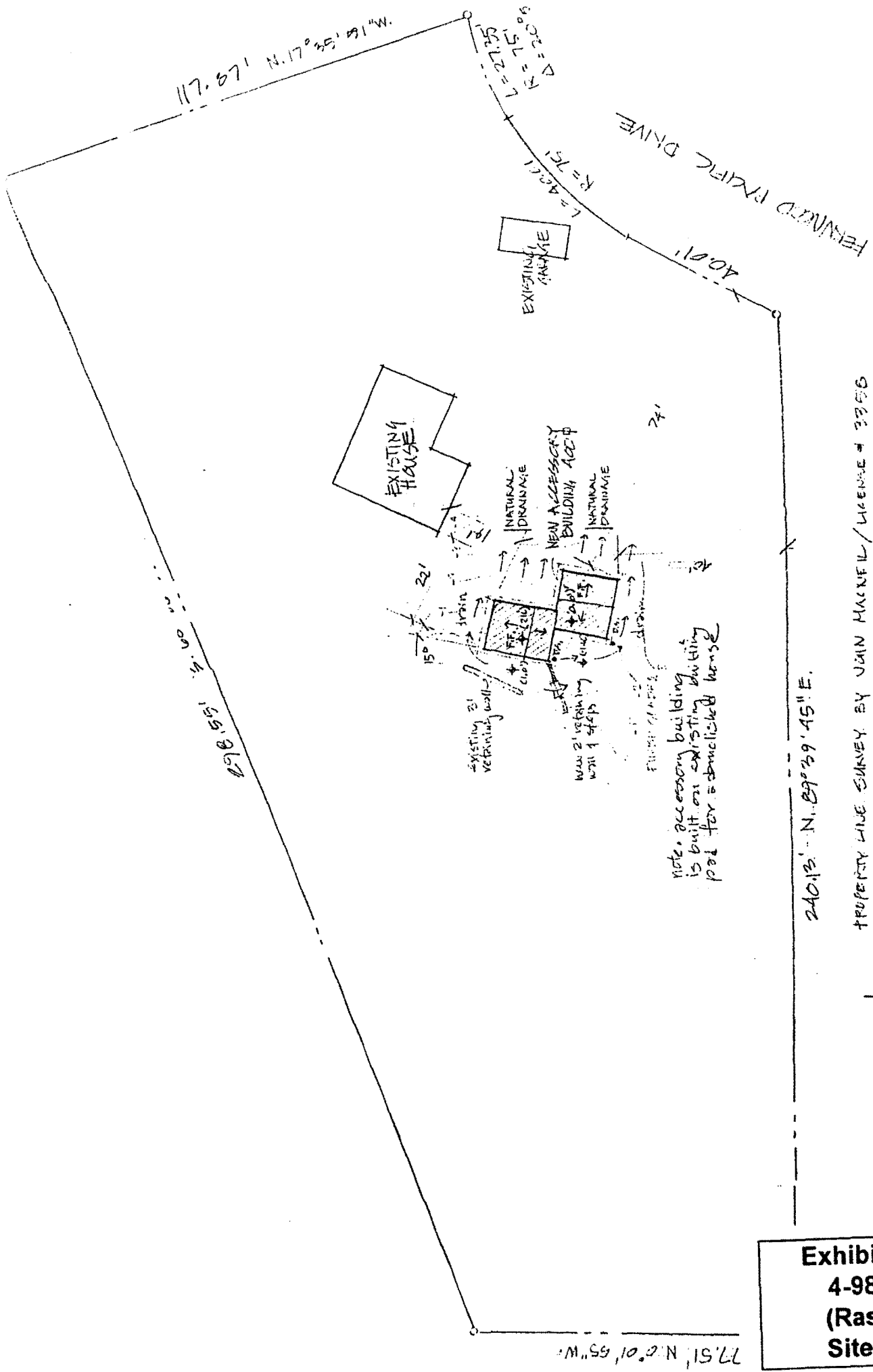


Exhibit No. 3
4-98-096
(Rashby)
Land Use Plan

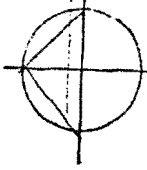


note: accessory building is built on existing building pad for a detached house

240.13' N. 89° 39' 45" E.

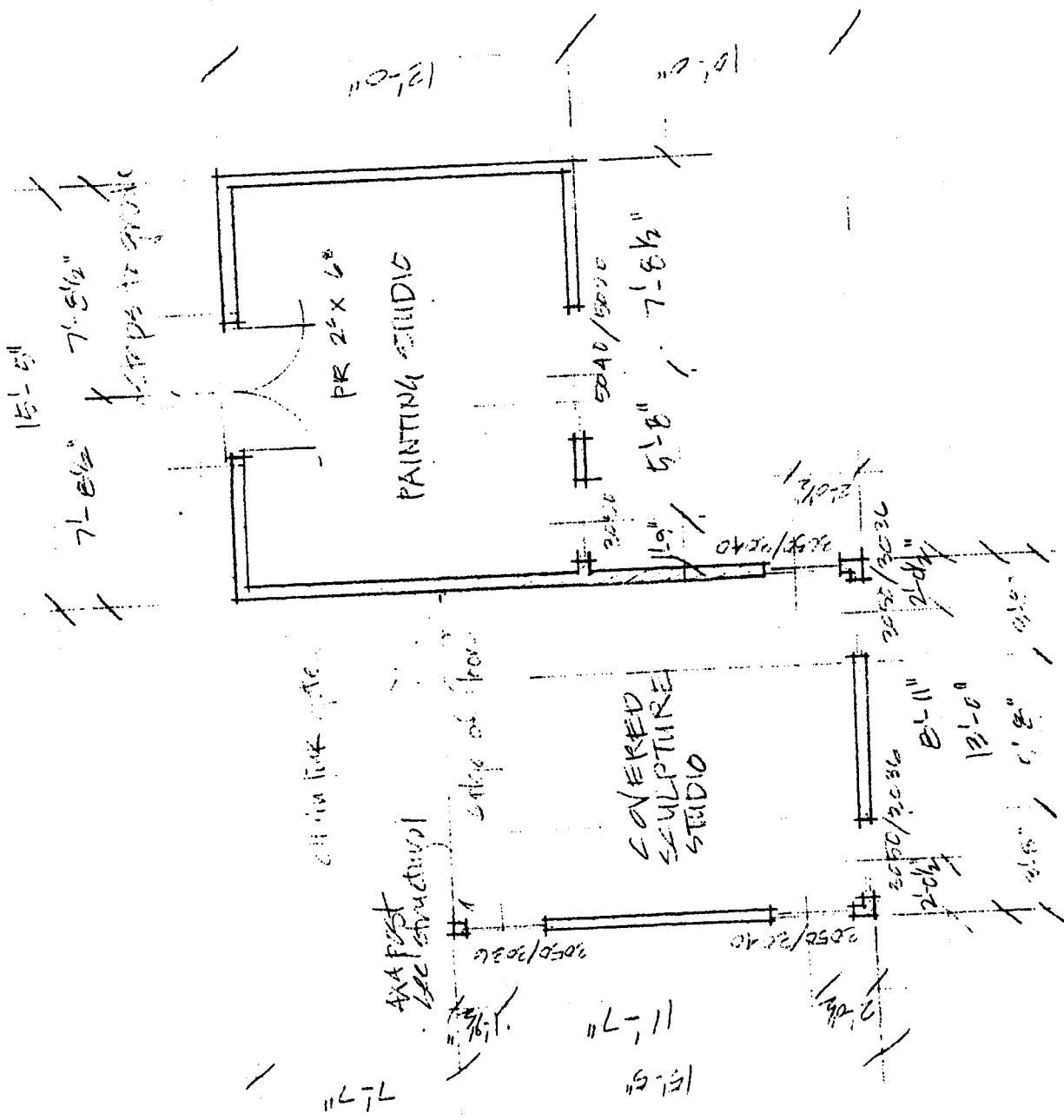
PROPERTY LINE SURVEY BY JOHN MACNEIL / LICENSE # 3358

site plan
1/16" = 1'-0"

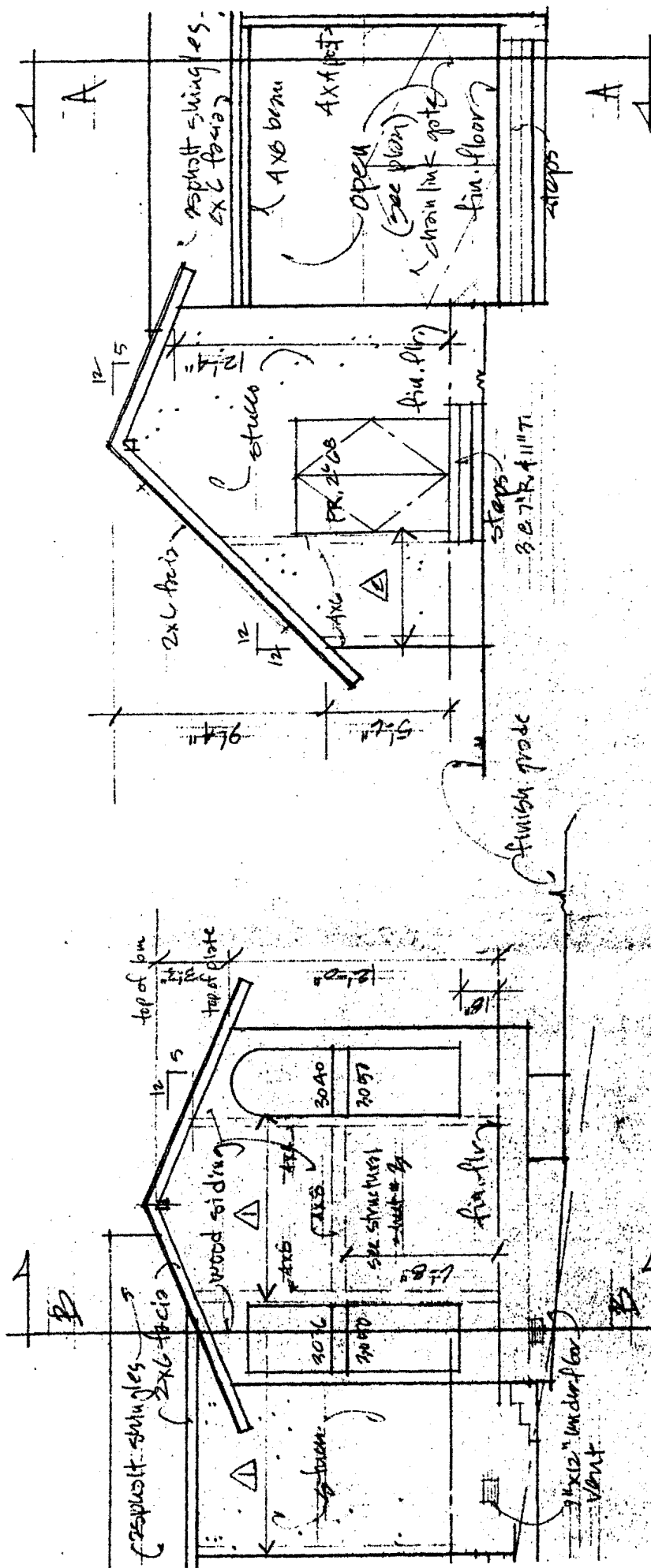


RASHBY 413 FERNWOOD PACIFIC DR.
FERNWOOD, CA 902

Exhibit No. 4
4-98-096
(Rashby)
Site Plan



floor plan
1/4" = 1'0"



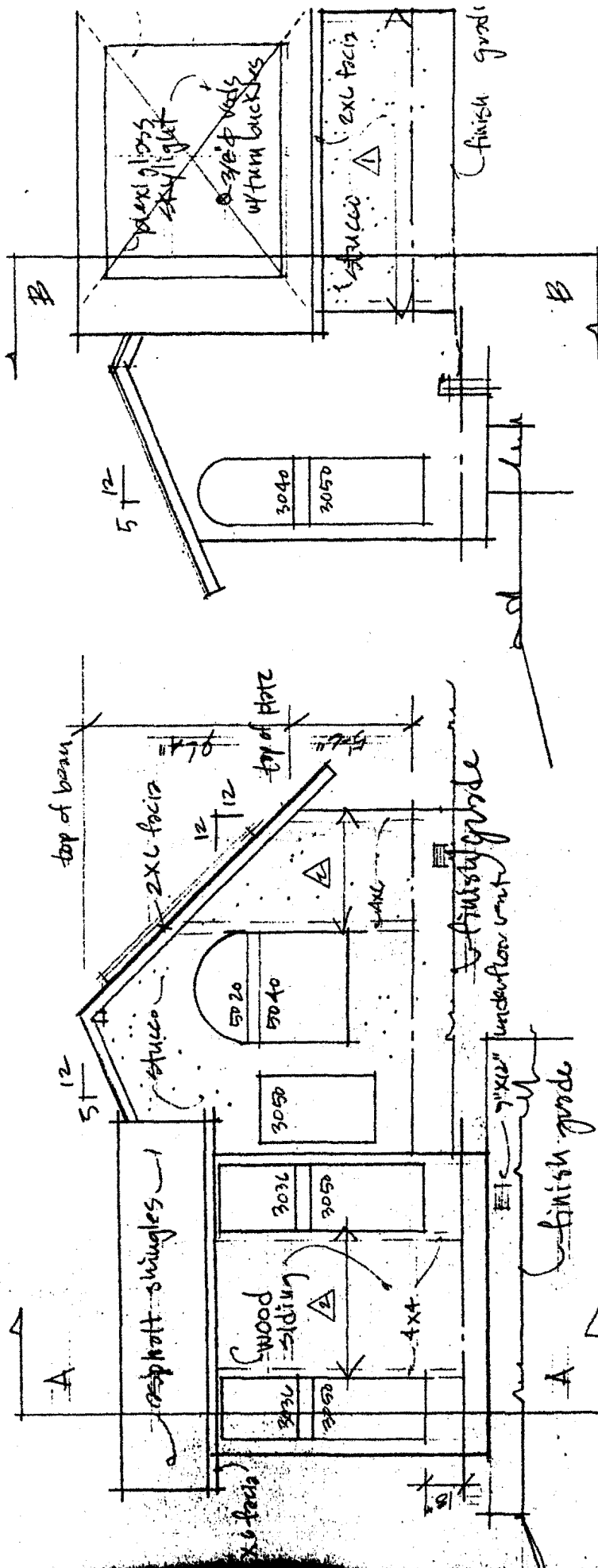
South elevation

1/4" = 1'-0"

West elevation

1/4" = 1'-0"

FREDERICK MEYER / ARCHITECT



north elevation
1/4" = 1'-0"

east elevation
1/4" = 1'-0"

- EAR WALLS Δ 5/8" X 16" BOARD BLOCKED 6" @ 4"
- Δ 3/8" PLYWOOD, STRUCT I BLOCKED 8" @ 4", 12"

WORKER'S COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to self insure, or a certificate of Workers' Compensation Insurance, or a certified copy thereof (Sec. 3800, Lab. C.)

Policy No. _____ Company _____

- ☐ Certified copy is hereby furnished.
- ☐ Certified copy is filed with the county building inspection department.

Date _____ Applicant _____

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

(This section need not be completed if the permit is for one hundred dollars (\$100) or less.)

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws.

Date _____ Applicant _____

NOTICE TO APPLICANT: If, after making this Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 2700) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Number _____ Lic. Class _____

Contractor _____ Date _____

☐ I am exempt under Sec. _____

B.&P.C. for this reason _____

Date: _____

Signature _____

OWNER-BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Section 7031.5, Business and Professions Code):

☒ I, as owner of the property, or my employees with wages as their sole compensation, will do the work and the structure is not intended or offered for sale (Section 7044, Business and Professions Code).

☐ I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Section 7044, Business and Professions Code).

CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ. C.).

Lender's Name _____

Lender's Address _____

I certify that I have read the application and state that the above information is correct. I agree to comply with all County ordinances and State laws relating to building construction, and hereby authorize representatives of this County to enter upon the above mentioned property for inspection purposes.

APPLICATION FOR BUILDING PERMIT

COUNTY OF LOS ANGELES

BUILDING AND SAFETY

FOR APPLICANT TO FILL IN					
BUILDING ADDRESS 913 FERNWOOD PACIFIC DR.					
CITY TORANCA		ZIP 90290			
SIZE OF LOT 1 REG.		NO. OF BLDGS. NOW ON LOT 1			
TRACT	BLOCK	LOT NO.			
OWNER BURT RASHBY		TEL. NO. 455-2885			
ADDRESS 913 FERNWOOD PACIFIC DR.					
CITY TORANCA		ZIP 90290			
ARCHITECT OR ENGINEER FREDERICK MEYER		TEL. NO. 455-1547			
ADDRESS					
CONTRACTOR		TEL. NO.			
ADDRESS		LIC. NO.			
CITY		LIC. CLASS			
SQ. FT. SIZE 400	NO. OF STORIES 1	NO. OF FAMILIES	CHECK ONE		
DESCRIPTION OF WORK			NEW <input type="checkbox"/>		
ACCESSORY BLDG.			ADD <input checked="" type="checkbox"/>		
(Not for human occupancy)			ALTER <input type="checkbox"/>		
USE OF EXISTING BLDG.			REPAIR <input type="checkbox"/>		
APPLICANT (PRINT) BURT RASHBY			TEL. NO. 455-2885		
ADDRESS 913 FERNWOOD PACIFIC DR.					
PRESENT BUILDING ADDRESS TORANCA					
LOCALITY					
MOVING CONTRACTOR			TEL. NO.		
ADDRESS					
REQUIRED SET BACK	YARD	HWY	TOTAL SETBACK FROM PROP. LINE		EXIST. WIDTH
FRONT P.L.					
SIDE P.L.					
P.C. Fee \$ 96.69		Permit Fee 208.50			
177.23		Issuance Fee 10.50			
Investigation Fee ADD P.C. 16.11		Total Fee 219.00			
LDMA Ref. #					
LDMA P/C #					
LDMA Perm. #					

BUILDING ADDRESS 913 Fernwood Pacific Dr.			
LOCALITY Torance			
NEAREST CROSS ST. Basin Dr.			
ASSESSOR MAP BOOK		PAGE	PARCEL
USE ZONE R1	MAP NO. 141-105	SPECIAL CONDITIONS	
DISTRICT 9.2	GROUP R3	TYPE CONST. V	FIRE ZONE II
STATISTICAL CLASSIFICATION		APT.	CONDO.
CLASS NO.		DWELL. UNITS	

SEWER MAP	
BK.	PG.
VALUATION	
\$16,000 xx	
\$32,000.	
FINAL DATE 10-9-99	
FINAL BY J. Rashby	

VALIDATION

11000023
10000000
0614-13

Exhibit No. 8
4-98-096
(Rashby)
L.A. Co. Permit

INSPECTOR COPY

