

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
 9 SOUTH CALIFORNIA ST., SUITE 200  
 VENTURA, CA 93001  
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 Staff: S. Hudson *fe*  
 Staff Report: 8/20/98  
 Hearing Date: September 10, 1998  
 Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.:** 4-98-098**APPLICANT:** Richard and Patti Marin**AGENT:** Land and Water Company**PROJECT LOCATION:** 32024 Pacific Coast Highway, City of Malibu; Los Angeles County

**PROJECT DESCRIPTION:** The applicant is requesting "after-the-fact" approval for the conversion of an existing 2,100 sq. ft., 21 ft. high, one-story, non-habitable storage structure to a 2,865 sq. ft., 24 ft. high, two-story single family residence, construction of a 450 sq. ft. pool house, a paved driveway, upgrade septic system, a retaining wall, 65 cu. yds. of cut grading, and the new construction of a 575 sq. ft. attached garage.

Lot area:	29,970	sq. ft.
Building coverage:	3,545	sq. ft.
Pavement coverage:	11,470	sq. ft.
Landscape coverage:	10,000	sq. ft.
Parking spaces:	4	

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department Approval in Concept; Approval in Concept City of Malibu Health Department.

**SUBSTANTIVE FILE DOCUMENTS:** Geologic/Geotechnical Update and Reconnaissance Report by Southwest Geotechnical, Inc. dated June 15, 1998; Geotechnical Investigation by Robert Stone and Associates, Inc. dated May 11, 1987; Coastal Development Permit 5-87-907.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the proposed project with four (4) special conditions regarding plans conforming to geologic recommendations, future development, wildfire waiver of liability, and condition compliance. The applicant is requesting "after-the-fact" approval for the conversion of an existing 2,100 sq. ft., 21 ft. high, one-story, non-habitable storage structure to a 2,865 sq. ft., 24 ft. high, two-story single family residence, construction of a 450 sq. ft. pool house, a paved driveway, upgrade septic system, a retaining wall, 65 cu. yds. of cut grading, and the new construction of a 575 sq. ft. attached garage. All proposed development, with the exception of the construction of a 575 sq. ft. attached garage, has been previously carried out.

The subject site is located on the seaward side of Pacific Coast Highway between Encinal Beach and Lechuza Point in an area of the western portion of Malibu which has been developed with single family residences. The site is separated from Pacific Coast Highway to the north by an adjacent lot developed with a single family residence and from the beach to the south by another adjacent lot also developed with a single family residence (Exhibits 1 & 2). Although the subject site is located between the first public road and the beach, the subject site is not a beachfront lot and is not visible from either Pacific Coast Highway, the beach, or any other public areas. An existing driveway/road within a 20 ft. private easement for ingress and egress provides adequate emergency vehicle and private access to the subject site from Pacific Coast Highway (Exhibit 3). Staff notes that the proposed project will not result in any adverse impacts to public access or to visual resources.

Coastal Development Permit 5-87-907, for the construction of a 2,100 sq. ft., one-story, non-habitable storage structure with a bathroom and a 750 gallon septic tank system on the subject site, was approved by the Commission on March 24, 1988, with two special conditions regarding a future development deed restriction and building plans. The future development deed restriction was required to ensure that any improvements or additions (including the conversion of the non-habitable storage structure to a habitable residence) would require a coastal development permit or amendment to ensure that parking and the septic tank system would be adequate to provide service for a potential future residential unit on the subject site and that cumulative impacts to coastal resources would not be adversely impacted.

The recorded deed restriction allows for the conversion and use of the storage structure provided that a coastal development permit or amendment for such development is approved by the Commission. Staff notes that the proposed septic system and parking improvements are adequate for the use of the structure as a single family residence and the applicant has submitted approval from the City of Malibu Environmental Health Department stating that the proposed 1,000 gallon septic system will conform with the minimum requirements of the City of Malibu Uniform Plumbing Code. The proposed project also includes after-the-fact approval for a 450 sq. ft. pool house. Although no second residential unit is proposed as part of this project, the pool house could potentially be converted to a second residential unit. To ensure that any additions or improvements that could further intensify the use of the pool house will be reviewed by the Commission, Special Condition Two (2) requires that any future structures, additions, or improvements related to the pool house including, but not limited to, a change in use from a non-habitable to a habitable structure, will require a permit or permit amendment.

To ensure that the recommendations of the geotechnical engineering consultants are incorporated into all new and after-the-fact development, Special Condition One (1) requires the applicant to submit project plans certified by the consulting geotechnical engineer as conforming to the recommendations contained within the Geotechnical Investigation, by Robert Stone and Associates, Inc. dated May 11, 1987, as well as any new or additional recommendations by the consulting geotechnical engineer to ensure structural and site stability. In addition, Special Condition Three (3) has been required to ensure that the applicant acknowledges the risk and agrees to indemnify the Commission against any claims arising out of the project in light of the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. To ensure that the violation regarding after-the-fact development is resolved in a timely manner, Special Condition Four (4) requires the applicant satisfy all conditions of this permit, which are prerequisite to the issuance of this permit, with 90 days of Commission action.

## **STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

### **I. Approval with Conditions**

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

### **II. Standard Conditions**

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

### **III. Special Conditions**

#### **1. Plans Conforming to Geologic Recommendation**

All recommendations contained in the Geotechnical Investigation, by Robert Stone and Associates, Inc. dated May 11, 1987, as well as any new or additional recommendations by the consulting geotechnical engineer to ensure structural and site stability, shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by a geologic/geotechnical engineer as conforming to said recommendations. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

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 to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

#### **2. 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 4-98-098 and that any future additions or improvements to the pool house approved under Coastal Development Permit 4-98-098, including, but not limited to, a change in use from a non-habitable to a habitable structure, that might otherwise be exempt under Public Resource Code Section 30610(b), will require a permit or permit amendment from the Coastal Commission or from the appropriate local government with a certified Local Coastal Program. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that 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.

#### **3. Wild Fire Waiver of Liability**

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

#### **4. Condition Compliance**

Within 90 days of Commission action on the 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 the 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 hereby finds and declares:

##### **A. Project Description and Background**

The applicant is requesting "after-the-fact" approval for the conversion of an existing 2,100 sq. ft., 21 ft. high, one-story, non-habitable storage structure to a 2,865 sq. ft., 24 ft. high, two-story single family residence, construction of a 450 sq. ft. pool house, a paved driveway, a retaining wall, upgrade septic system, 65 cu. yds. of cut grading, and the new construction of a 575 sq. ft. attached garage. All proposed development, with the exception of the new construction of a 575 sq. ft. attached garage, has been previously carried out.

The subject site is located on an elevated marine terrace on the seaward side of Pacific Coast Highway between Encinal Beach and Lechuza Point in an area of the western portion of Malibu which has been developed with single family residences. The site is separated from Pacific Coast Highway to the north by an adjacent lot developed with a single family residence and from the beach to the south by another adjacent lot also developed with a single family residence (Exhibits 1 & 2). Although the subject site is located between the first public road and the beach, the subject site is not a beachfront lot and is not visible from Pacific Coast Highway, the beach, or any other public viewing areas. A previously existing swimming pool is located on the subject site. An existing driveway/road within a 20 ft. private easement for ingress and egress provides adequate emergency vehicle and private access to the subject site from Pacific Coast Highway (Exhibit 3).

The project site has been the subject of past Commission action. Coastal Development Permit Waiver 4-97-021 for a minor lot line adjustment between the project site and the beachfront lot located immediately to the south was approved by the Commission on July 8, 1997. Coastal Development Permit 5-87-907 for the construction of a 2,100 sq. ft., one-story, non-habitable storage building with a bathroom and a 750 gallon septic tank system was approved by the Commission on March 24, 1988, with two special conditions regarding a future development deed restriction and building plans. The future development deed restriction was required to ensure that any improvements or additions (including the conversion of the non-habitable storage structure to a habitable residence) would require a coastal development permit.

Review of aerial photographs, the permit record, information submitted by the applicant, and site visits by staff indicate that between 1988 and 1997, the 2,100 sq. ft., 21 ft. high, one-story, non-habitable storage structure with a 750 gallon septic tank (approved by the Commission in 1988 by Coastal Development Permit 5-87-907) was converted to, or originally constructed as, a 2,865 sq. ft., 24 ft. high, two-story single family residence with a 1,000 gallon septic tank. In addition, between 1988 and 1997, the construction of a 450 sq. ft. pool house, a paved driveway, a retaining wall, and 65 cu. yds. of cut grading was also carried out without the required coastal development permits or amendments.

## **B. 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, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

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 will only approve the project if the applicant agrees to indemnify the Commission from any liability associated with such risks. Through the waiver of liability, incorporated by Special Condition Three, (3), the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development and agrees to indemnify the Commission for any liability arising out of the project.

The applicant has submitted a Geotechnical Investigation by Robert Stone and Associates (RSA), Inc. dated May 11, 1987, which indicates that the subject site is relatively stable. In regard to the storage/residential structure, the report states that:

*It is our finding, based upon subsurface investigation and analysis, that the proposed development will be safe from landsliding, slippage, and settlement, and that the construction will not have an adverse effect on adjacent properties provided that the recommendations contained in this report are incorporated into the design and construction of the project.*

The applicant has also submitted a Geologic/Geotechnical Update and Reconnaissance Report by Southwest Geotechnical, Inc. dated June 15, 1998, which indicates that the storage structure/residence and pool house appear to be free of "visible signs of any significant cracking and distress" and that the retaining wall, 65 cu. yds. of grading, and driveway "appear to have been constructed in accordance with regard to the referenced RSA report."

The Geotechnical Investigation by Robert Stone and Associates, Inc. dated May 11, 1987, included a number of geotechnical recommendations to ensure the stability and geotechnical safety of the site. To ensure that the recommendations of the geotechnical engineering consultants are incorporated into all new and after-the-fact development,

Special Condition One (1) requires the applicant to submit project plans certified by the consulting geotechnical engineer as conforming to the recommendations contained within the Geotechnical Investigation, by Robert Stone and Associates, Inc. dated May 11, 1987, as well as any new or additional recommendations by the consulting geotechnical engineer to ensure structural and site stability. 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 to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit. Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

### **C. 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 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 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 transportation, (5) assuring the potential for 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 increasing impacts on public services, such as water, sewage, electricity and roads. New development also raises issues as to whether the location and amount of new development maintains and enhances public access to the coast.

Based on these policies, the Commission has limited the development of second dwelling units (including guest houses) on residential parcels in the Malibu and Santa Monica

Mountain areas. The issue of second units on lots with primary residences has been the subject of past Commission action in the certification of the Santa Monica Mountains/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 would cause such units to have less impact on the limited capacity of Pacific Coast Highway and other roads (including infrastructure constraints such as water, sewage, 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 forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or 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. Thus, 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 in this area (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

The applicant is requesting "after-the-fact" approval for the conversion of an existing 2,100 sq. ft., 21 ft. high, one-story, non-habitable, storage structure to a 2,865 sq. ft., 24 ft. high, two-story single family residence, construction of a 450 sq. ft. pool house, a paved driveway, a retaining wall, upgrade septic system, 65 cu. yds. of cut grading, and the new construction of a 575 sq. ft. attached garage. A deed restriction (required as a special condition of Coastal Development Permit 5-87-907 for the construction of the 2,100 sq. ft. non-habitable storage structure) was recorded by the applicant on June 16, 1988, restricting the use of the structure for storage only with "no residential dwelling use or automobile and/or truck parking...and that any future additions, conversions, or development...will require an amendment...or coastal development permit." The future improvements deed restriction was required by the Commission to ensure that parking and the septic system would be adequate to provide service for a potential future residential unit on the subject site and that cumulative impacts to coastal resources were not adversely impacted.

The recorded deed restriction allows for the conversion and use of the storage structure provided that a coastal development permit or amendment for such development is approved by the Commission. The proposed project includes after-the-fact approval for a driveway, two uncovered parking spaces, and the upgrade of the previously approved 750 gallon septic tank system to a 1,000 gallon septic tank. In addition, the applicant is also proposing the construction of a new 575 sq. ft. two car attached garage. Staff notes that



the proposed septic system and parking improvements are adequate for the use of the structure as a single family residence and the applicant has submitted approval from the City of Malibu Environmental Health Department stating that the proposed 1,000 gallon septic system will conform with the minimum requirements of the City of Malibu Uniform Plumbing Code. An existing driveway/road within a 20 ft. private easement for ingress and egress provides adequate emergency vehicle and private access to the subject site from Pacific Coast Highway (Exhibit 3). The proposed project also includes after-the-fact approval for a 450 sq. ft. pool house. Although no second residential unit is proposed as part of this project, the pool house could potentially be converted to a second residential unit or guest unit. To ensure that any additions or improvements that could further intensify the use of the pool house will be reviewed by the Commission, Special Condition Two (2) requires that any future structures, additions, or improvements related to the pool house including, but not limited to, a change in use from a non-habitable to a habitable structure, will require a permit or permit amendment. Therefore, the Commission finds that, as conditioned, the proposed development is consistent with Sections 30240, 30250 and 30252 of the Coastal Act.

#### **D. Public Access and Visual Resources**

Coastal Act Section 30210 states that:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Coastal Act Section 30211 states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Finally, Section 30251 of the Coastal Act states that:

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

New development on a beach or between the nearest public roadway to the shoreline and along the coast raise issue with the public access policies of the Coastal Act. As previously noted, although the proposed project is not a beachfront lot, it is located between the first public road and the beach. Coastal Act Section 30210 requires that the

public access policies of the Coastal Act be administered in a manner that is "consistent with...the need to protect...rights of private property owners..." The need to carefully review the potential impacts of a project when considering imposition of public access conditions was emphasized by the U.S. Supreme Court's decision in the case of Nollan v. California Coastal Commission. In that case, the court ruled that the Commission may legitimately require a lateral access easement where the proposed development has either individual or cumulative impacts which substantially impede the achievement of the State's legitimate interest in protecting access and where there is a connection, or nexus, between the impacts on access caused by the development and the easement the Commission is requiring to mitigate those impacts.

The Commission's experience in reviewing shoreline projects in Malibu indicates that individual and cumulative impacts to access by development can include, among others, encroachment on lands subject to the public trusts, thus physically excluding the public; interference with natural shoreline processes which are necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public access such as above.

In this case, the subject site is located more than 250 ft. landward from the mean high tide line and is separated from the sandy beach by an adjacent lot developed with a single family residence and guest house. Therefore, the proposed project will not affect lateral access along the beach. In addition, the project will not impact any public vertical accessways to the beach. Further, the subject site is separated from Pacific Coast Highway by an adjacent lot developed with a single family residence and is not visible from Pacific Coast Highway, the beach, or any other public viewing areas. Therefore, the Commission finds that the proposed development will have no adverse effects on public access or visual resources and, as conditioned, is consistent with Sections 30210, 30211 and 302511 of the Coastal Act.

### **E. Septic System**

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

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

The proposed development includes after-the-fact approval for the conversion of an existing 2,100 sq. ft., 21 ft. high, one-story, non-habitable storage structure to a 2,865 sq. ft., 24 ft. high, two-story single family residence and the after-the-fact upgrade for a 1,000 gallon septic system to replace the 750 gallon septic system previously approved by the Commission. Staff notes that the after-the-fact approval of the larger septic system will serve to provide for adequate sewage disposal for the proposed conversion of the storage structure to a single family residence. The applicant has submitted approval from the City of Malibu Environmental Health Department stating that the proposed 1,000 gallon septic system will conform with the minimum requirements of the City of Malibu Uniform Plumbing Code.

The City of Malibu's minimum health code standards for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of soils along the coastline, the depth to groundwater, etc. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

## **F. Violations**

The applicant is requesting "after-the-fact" approval for the conversion of an existing 2,100 sq. ft., 21 ft. high, one-story, non-habitable storage structure to a 2,865 sq. ft., 24 ft. high, two-story single family residence, construction of a 450 sq. ft. pool house, a paved driveway, upgrade septic system, a retaining wall, and 65 cu. yds. of cut. All work was carried out without the required coastal development permit and constitutes a violation of the Coastal Act. To ensure that this violation is resolved in a timely manner, Special Condition Four (4) requires the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action.

Consideration of this permit application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this 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.

## **G. Local Coastal Program**

Section 30604 of the Coastal Act states that:

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

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

## **H. 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 Commission finds that, 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.

**SMH-VNT**

File: smh.p2/98-098

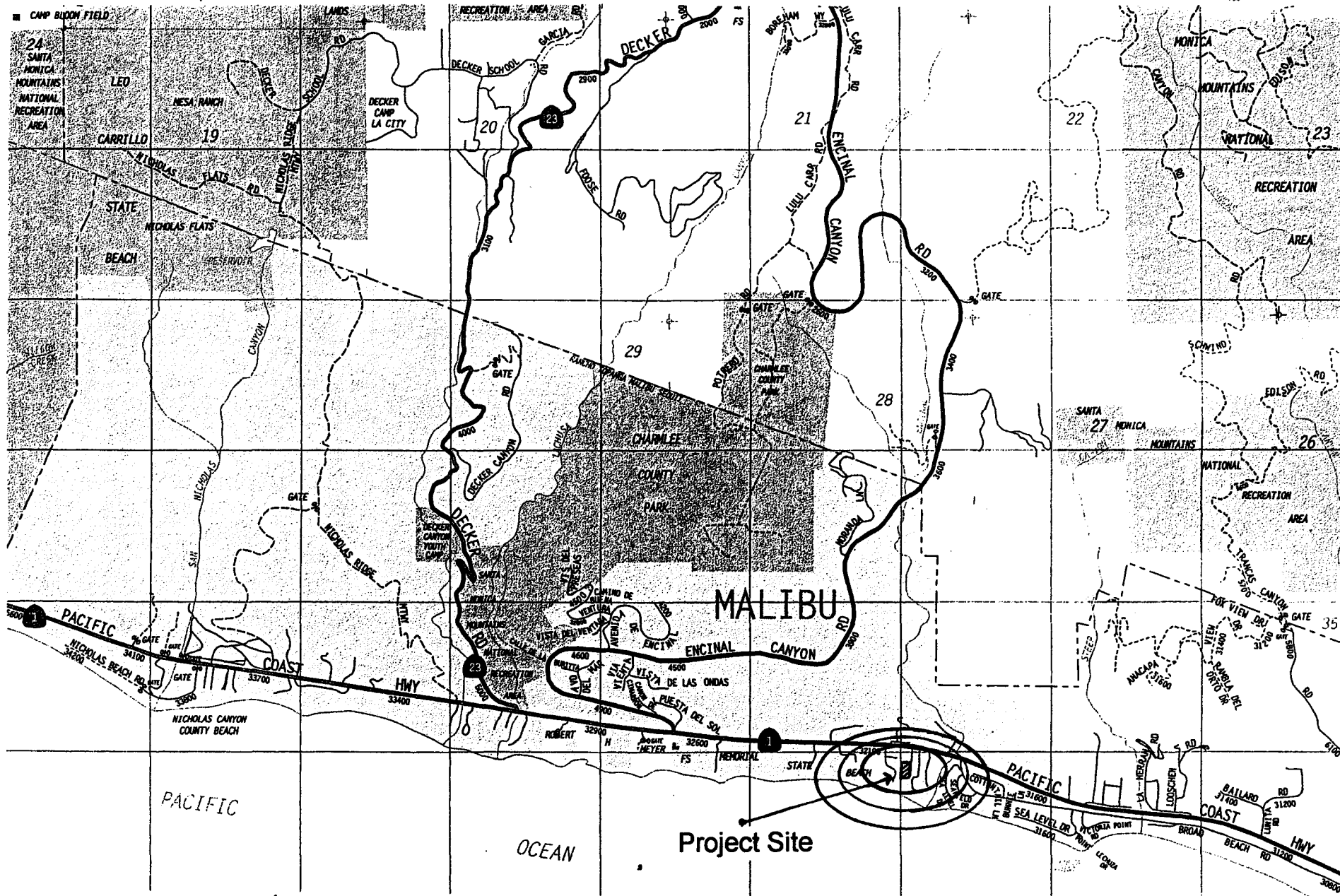
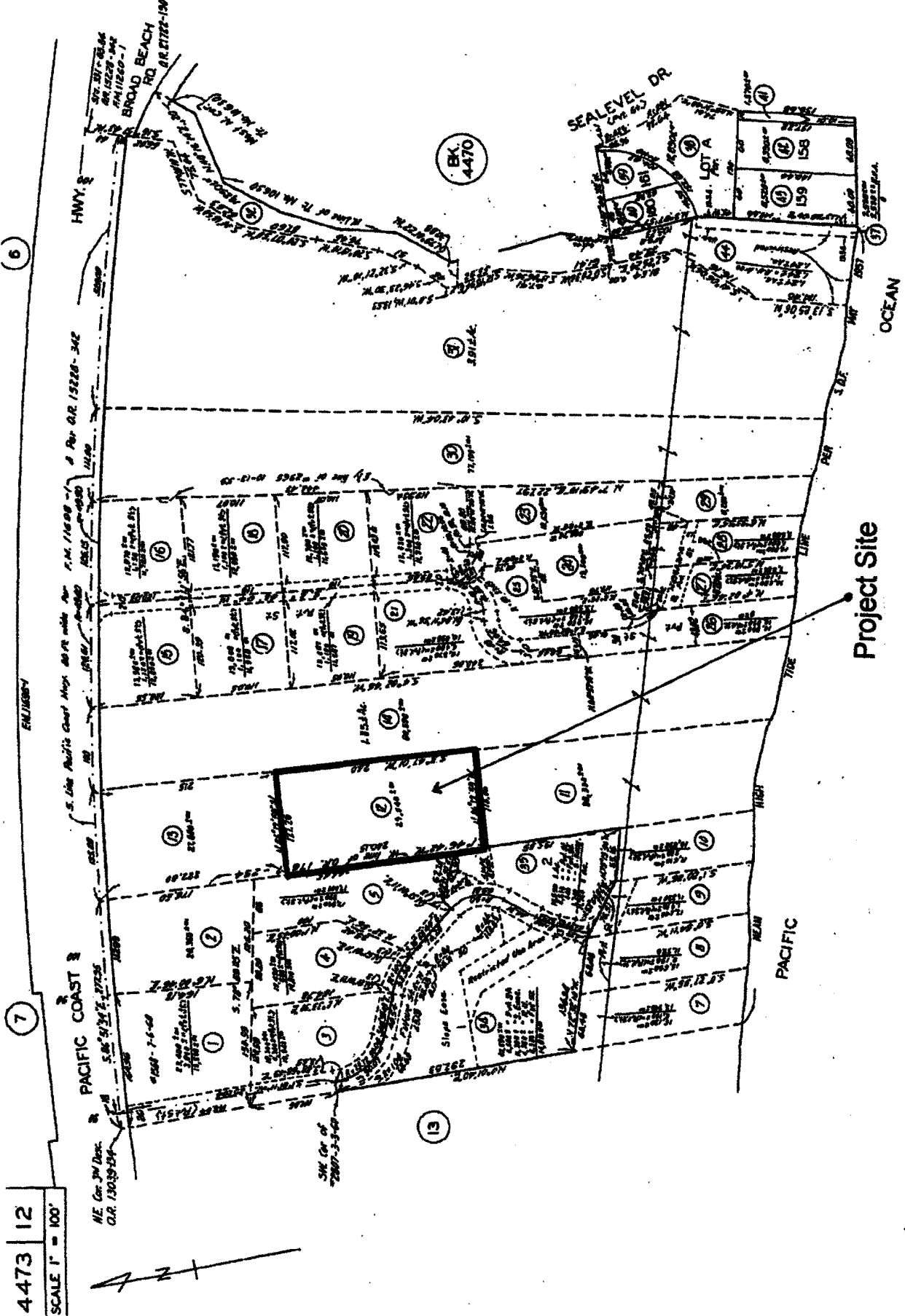


Exhibit No. 1: (4-98-098) Location Map

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SCALE 1" = 100'

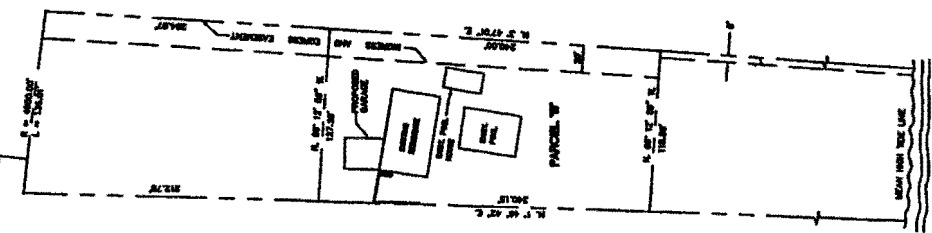


Project Site

Exhibit No. 2: (4-98-098) Parcel Map

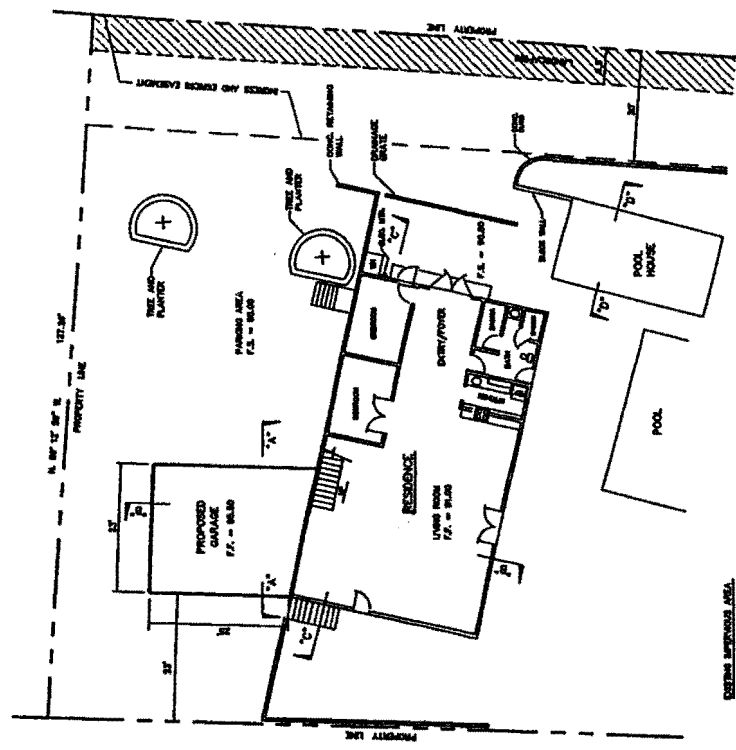


PACIFIC COAST HIGHWAY



PACIFIC OCEAN  
FLOR PLAN  
SCALE 1" = 40'

NOTE: SHOWN PROPERTY AND BLUE PLAN  
PRODUCED BY CLIENT UNDER TITLE 11, CHAPTER 1



SITE PLAN  
SCALE 1" = 10'

EXISTING STRUCTURAL AREA  
2,875 S.F.  
REAR PORCH  
1,200 S.F.  
POOL  
1,200 S.F.  
TOTAL  
5,275 S.F.

NOTE:  
NO THOUSAND Y/N/A/N/A/NO/NO/NO

PROPOSED STRUCTURAL AREA  
2,875 S.F.  
GARAGE  
1,200 S.F.  
TOTAL  
4,075 S.F.

NET GROSS AREA  
2,875 S.F. + 1,200 S.F. = 4,075 S.F.

NOTE: NO GRADING PROPOSED

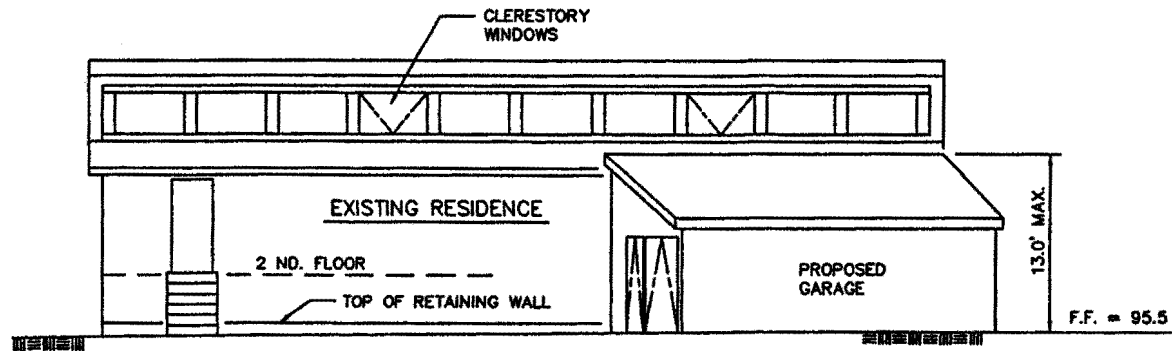
THE LAND & WATER COMPANY  
(714) 952-1622

PROPOSED GARAGE ADDITION  
TO SINGLE FAMILY RESIDENCE  
32024 PACIFIC COAST HIGHWAY  
MALIBU  
CALIFORNIA

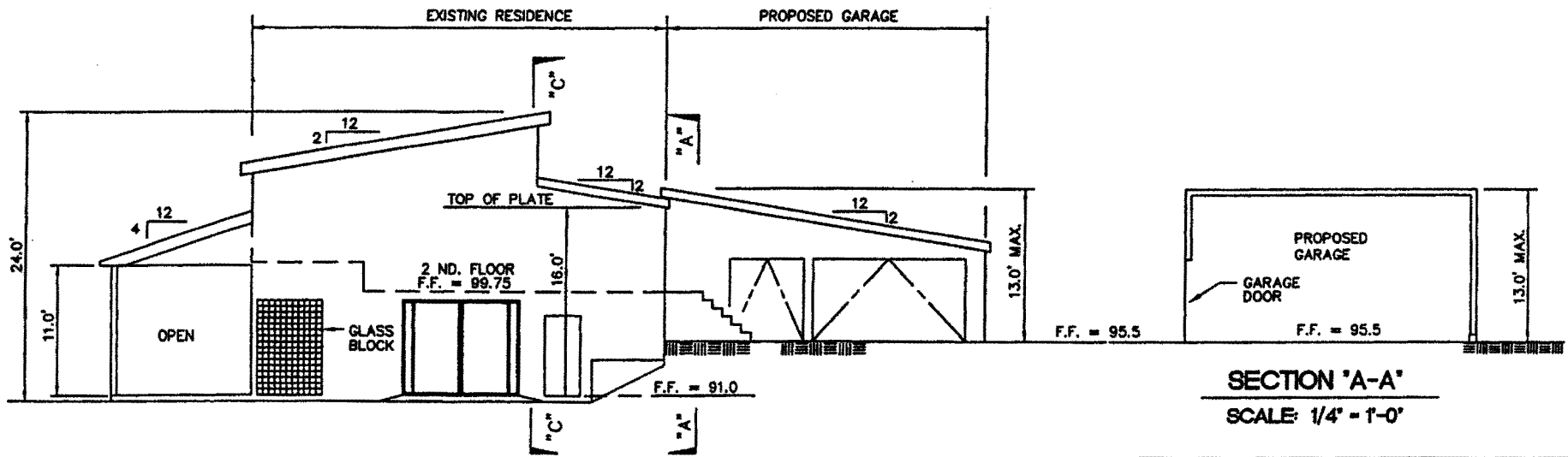
OWNER	DATE	SCALE
THE LAND & WATER COMPANY	11/10/98	1" = 10'
DESIGNER	DATE	SCALE
REDWOOD ENGINEERING	11/10/98	1" = 10'
CHECKER	DATE	SCALE
THE LAND & WATER COMPANY	11/10/98	1" = 10'
APPROVER	DATE	SCALE
THE LAND & WATER COMPANY	11/10/98	1" = 10'

95-178-10

Exhibit No. 3: (4-98-098) Site Plan/Ground Floor Plan



**NORTH ELEVATION**  
SCALE: 1/4" = 1'-0"

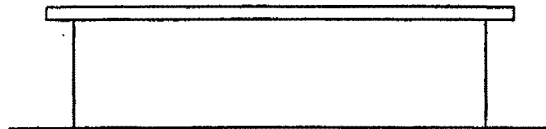


**EAST ELEVATION**  
SCALE: 1/4" = 1'-0"

THE LAND & WATER COMPANY (714) 965-1622		THE LAND & WATER COMPANY	
BEDROCK ENGINEERING (714) 375-0877		<b>PROPOSED GARAGE ADDITION          TO SINGLE FAMILY RESIDENCE</b> 32024 PACIFIC COAST HIGHWAY MALIBU CALIFORNIA	
PREPARED BY: [ ] CHECKED BY: [ ] DATE: [ ]	DESIGNED BY: [ ] DRAWN BY: [ ] DATE: [ ]	PROJECT NO.: 95-178-11	SHEET NO.: [ ]

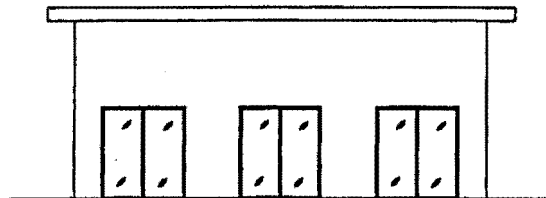
**Exhibit No. 4: (4-98-098) Elevations of Single Family Residence**





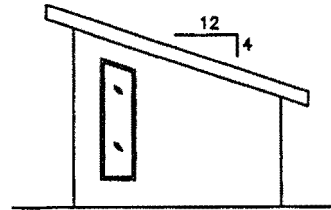
**EAST ELEVATION**

SCALE: 1/4" = 1'-0"



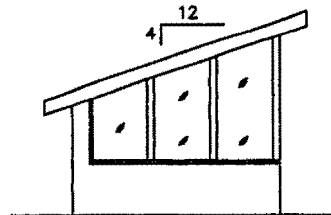
**WEST ELEVATION**

SCALE: 1/4" = 1'-0"



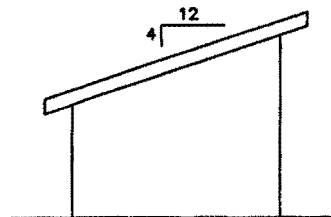
**SOUTH ELEVATION**

SCALE: 1/4" = 1'-0"



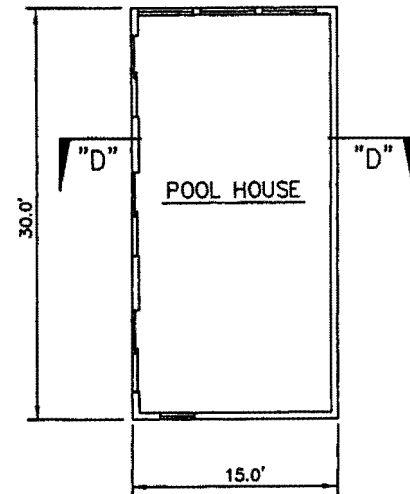
**NORTH ELEVATION**

SCALE: 1/4" = 1'-0"



**SECTION 'D-D'**

SCALE: 1/4" = 1'-0"



**POOL HOUSE FLOOR PLAN**

SCALE: 1/4" = 1'-0"

THE LAND & WATER COMPANY (714) 965-1622		THE LAND & WATER COMPANY	
BEDROCK ENGINEERING (714) 375-0877		PROPOSED GARAGE ADDITION TO SINGLE FAMILY RESIDENCE	
32024 PACIFIC COAST HIGHWAY		MALIBU CALIFORNIA	
DATE: 03/24/98		95-178-16	

NO.	DATE	BY	REVISION

**Exhibit No. 5: (4-98-098) Floor Plan and Elevations of Pool House**

