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**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
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Staff: CAREY  
Staff Report: 12/10/98  
Hearing Date: 1/12-15/99

**STAFF REPORT: CONSENT CALENDAR****APPLICATION NO:** 4-98-308**APPLICANT:** George and Tracy Murgatroyd**PROJECT LOCATION:** 6956 Dume Drive, City of Malibu, Los Angeles County**PROJECT DESCRIPTION:** Construction of a one-room, 412 square foot detached art studio on a parcel developed with a single family residence and pool.

<b>Lot area:</b>	44,358 sq. ft.
<b>Building coverage:</b>	412 sq. ft.
<b>Ht above fin grade:</b>	17 feet, 6 inches

**LOCAL APPROVALS RECEIVED:** City of Malibu "Approval in Concept"**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed project with three special conditions regarding: 1) the recordation of a future improvements deed restriction; 2) waiver of liability arising from wildfire hazard; and 3) conformance with the recommendations of the consulting geologist. As conditioned, the project will be consistent with Sections 30253, 30250, and 30252 of the Coastal Act.

**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. 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 4-98-308 and that any future additions or improvements to the art studio approved under Coastal Development Permit 4-98-308, 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 the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

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

All recommendations contained in the Engineering Geology and Geotechnical Update for Proposed Studio, prepared by Donald B. Kowalewsky, dated May 12, 1998, 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.

## **A. Project Description.**

The applicants propose the construction of a 412 square foot, 17.5 foot high detached art studio on a parcel developed with a single family residence and pool. The proposed structure is not intended to be occupied as a residential unit. In fact, no kitchen or restroom facilities are proposed to be included in this structure. The plans show the proposed art studio as a one-room building.

The proposed project site is located on the east side of Dume Drive in the Point Dume area of Malibu. No canyons, streams, or other sensitive habitat areas cross the site. The proposed studio structure would be located on a portion of the site that is currently

landscaped, adjacent to an existing pool/patio area. The proposed structure would require no grading and would result in minimal disturbance directly adjacent to the proposed studio footprint.

## **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 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. 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 Condition No. 2, 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 applicants have submitted an Engineering Geology and Geotechnical Update for Proposed Studio, prepared by Donald B. Kowalewsky, dated May 12, 1998, which indicates that the subject site is suitable for the proposed art studio. The report states that:

From an engineering geologic and geotechnical engineering standpoint, the construction of the proposed studio is feasible provided the following recommendations are incorporated in the design. As previously indicated, there are no apparent geologic hazards on this site that will affect the proposed development. The proposed building site will be safe from geologic hazards including landslide, settlement, and slippage and development will not adversely affect geologic stability of adjacent property.

Based on the recommendations of the consulting geologist, the Commission finds that the proposed development is consistent with Section 30253 of the Coastal Act so long

as the recommendations are incorporated into the project design. Therefore, to ensure that the recommendations of the geologic consultant are incorporated into the proposed development, Condition No. 3 requires the applicant to submit project plans certified by the consulting geologist as conforming to the recommendations contained within his report. The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultant shall require an amendment to the permit or a new coastal permit. The Commission finds that the proposed project, as conditioned to waive the liability of resulting from the wildfire hazard and to require evidence of conformance with geologic recommendations, 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 that:

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 guesthouses) 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 actions on coastal development permits. The Commission has found that placing an upper limit on the size of second units (750 sq. ft.) is 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.

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 guesthouses 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.

In this case, the applicants propose the construction of a 412 sq. ft. detached art studio. This proposed structure is not intended to be occupied as a residential unit. In fact, no kitchen or restroom facilities are proposed to be included in this structure. The plans show the proposed art studio as a one-room building. The proposed project site is a relatively flat parcel, which contains no stream or other sensitive resource area. The proposed structure requires no grading. Only minimal disturbance to the site would result and would be confined to the area directly adjacent to the studio footprint. As such, the proposed project would have no impact on coastal resources.

However, future improvements to the proposed art studio such as additional square footage, addition of kitchen or restroom facilities, or conversion of the structure for residential use could raise issues with regard to individual or cumulative impacts to coastal resources. Such improvements and their potential impacts must be addressed by the Commission to ensure conformance with the Chapter 3 policies of the Coastal Act.

To ensure that any additions or improvements that could further intensify the use of the art studio will be reviewed by the Commission, Condition No. 1 requires that any future structures, additions, or improvements related to the art studio including, but not limited to, a change in use from a non-habitable to a habitable structure, will require a permit or

permit amendment. The Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

#### **D. 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).

#### **E. 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.

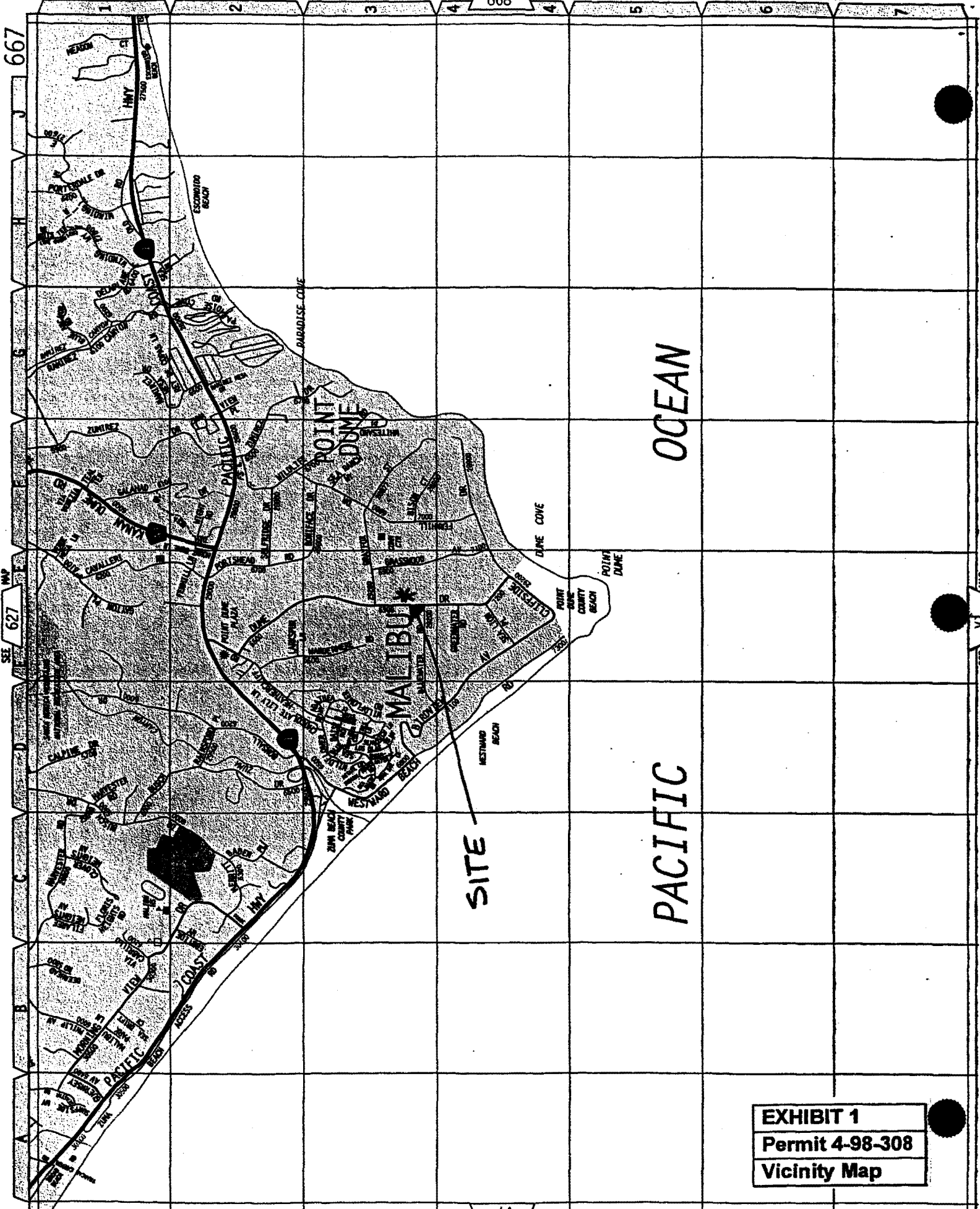


EXHIBIT 1  
Permit 4-98-308  
Vicinity Map



CONDITIONS LISTED BELOW

**NOTES:**  
NO GRADING IS BEING PROPOSED.  
NO LANDSCAPING IS BEING PROPOSED.

<b>EXHIBIT 2</b>
<b>Permit 4-98-308</b>
<b>Site Plan</b>

RECEIVED  
APR 12 1998



SCALE: 1" = 30'-0"

**Project**  
**MURGA TROYD STUDIO ADDITION**  
**6934 TOWER DRIVE, MALIBU, CA**

Sheet Name  
SITE PLAN  
SCALE: 1" = 30'-0"

Date Sheet Number

**SK-1**

2019 10 16 14:14  
2019 10 16 14:14  
2019 10 16 14:14

CITY OF MALIBU  
 PLANNING DEPARTMENT  
 APPLICANT'S SIGNATURE  
 DATE

PLANNING REVIEW NO.

THIS IS NOT A PERMIT  
 AND IS SUBJECT TO ANY  
 CONDITIONS SET FORTH BELOW

THIS APPROVAL IS VALID FOR 180 DAYS FROM THE DATE SET

RECEIVED

NOV 12

CITY OF MALIBU  
 PLANNING DEPARTMENT  
 JASON CENTRAL CITY



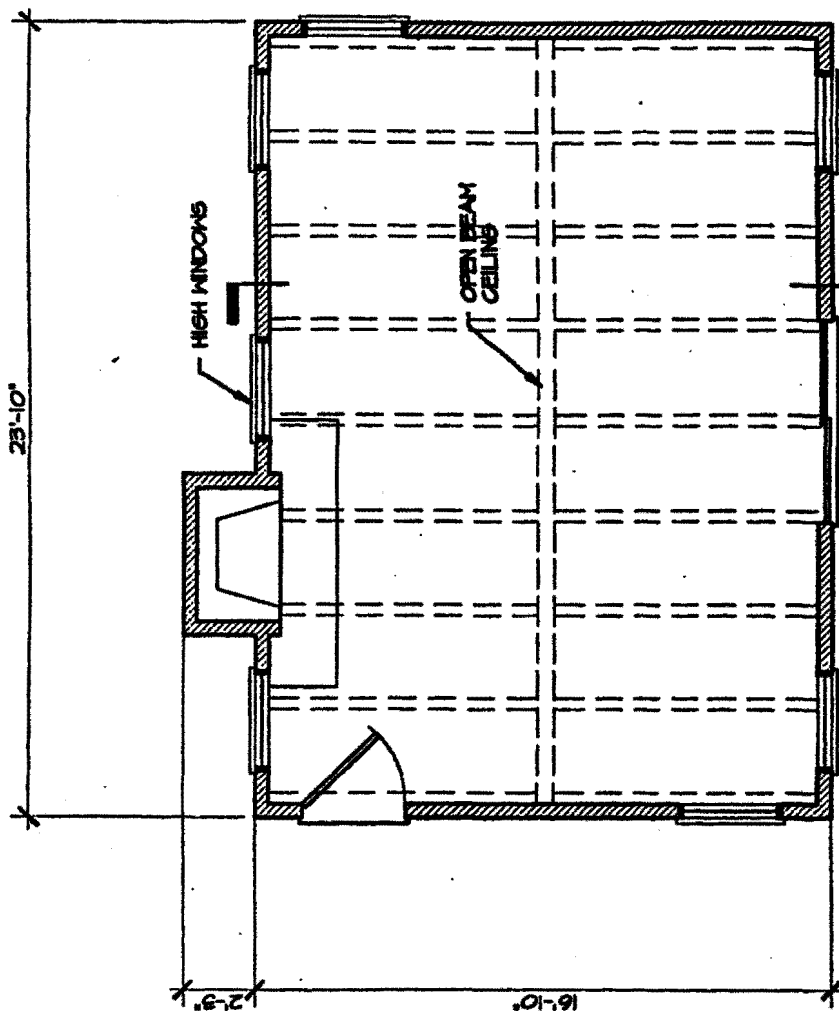
SCALE: 1/4"

DATE: 8/17/98

Project Name: FLOOR PLAN  
 SCALE: 1/4" = 1'-0"

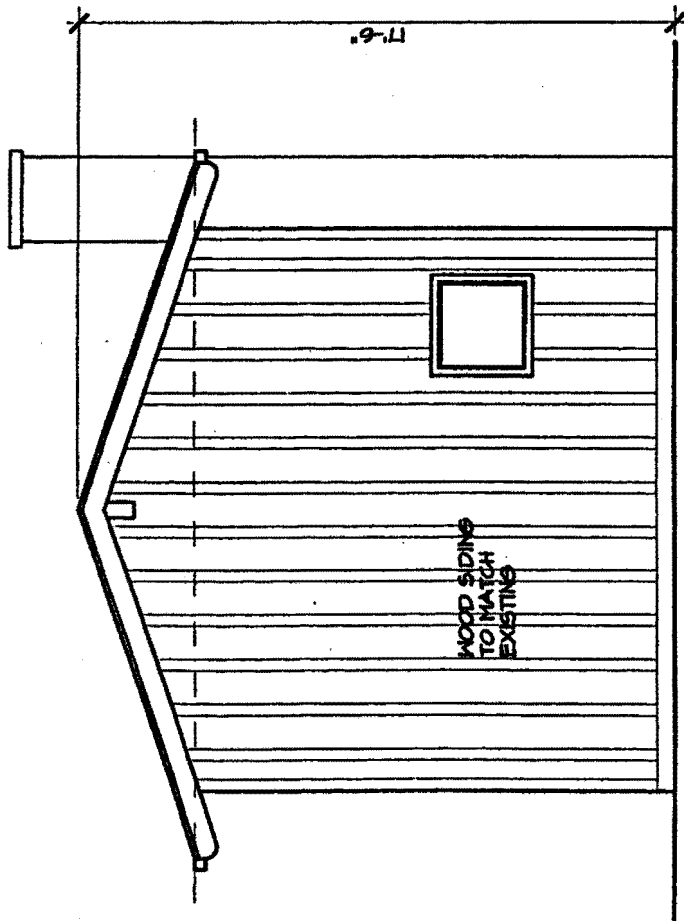
Project: MURRAYTOWN STUDIO ADDITION  
 6855 DUNE DRIVE, MALIBU, CA.

Architectural Design Studio, Inc.  
 Anthony Edick, Architect  
 4535 Goldcrest Avenue  
 Los Angeles, CA 90027 (213) 661-8883



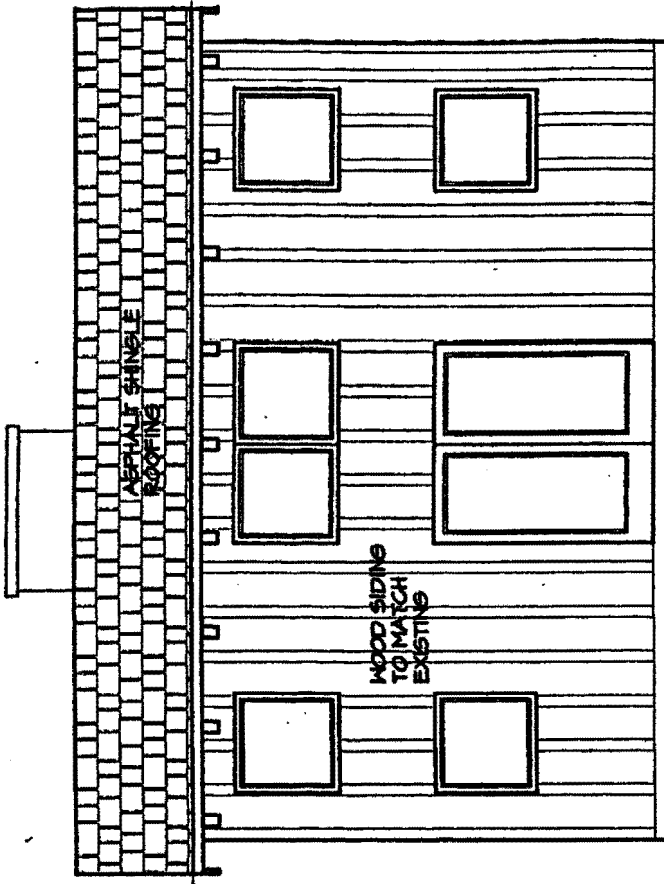
FLOOR PLAN

EXHIBIT 3  
 Permit 4-98-308  
 Floor Plan



EAST ELEVATION

EXHIBIT 4  
Permit 4-98-308  
Elevations



NORTH ELEVATION

CITY OF MALIBU  
PLANNING DEPARTMENT  
APPROVED FOR RECORD  
SIGNATURE *[Signature]*  
DATE *[Blank]*  
PLANNING REVIEW NO. *[Blank]*  
THIS IS NOT A PERMIT  
AND IS SUBJECT TO ANY  
CONDITIONS LISTED BELOW  
NOV 18 1998 THIS APPROVAL IS VALID FOR 1 YEAR FROM THE DATE OF ISSUANCE

CALIFORNIA  
COASTAL COMMISSION  
NORTH CENTRAL COAST DISTRICT

SCALE 1/4"

Sheet Name  
Project  
MURKATROYD STUDIO ADDITION  
6956 DUNE DRIVE, MALIBU, CA.  
Date  
8/17/98  
EXTERIOR ELEVATIONS  
SCALE: 1/4" = 1'-0"

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