

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-99-149

APPLICANT: Antoinette Berget

AGENT: Kurt Beckmeyer

PROJECT LOCATION: 7007 Birdview Avenue, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Remodel and construct additions totaling 6,859 square feet to an existing 3,686 sq. ft. single family residence (SFR), portions of the primary residence will be constructed to 28' ft. in height, construction of a new 684 sq. ft., 25.2' ft. high detached guest house; removal of unpermitted structures, restoration of a portion of the bluff face, and 730 cu. yds. of grading (550 cu. yds. of excavation/180 cu. yds. of fill/370 cu. yds. for export) on a blufftop lot.

Lot area:	1.173 acres
Building coverage:	6,142 sq. ft.
Pavement coverage:	13,080 sq. ft.
Landscape coverage:	31,890 sq. ft.
Parking spaces:	3
Height above ext. grade:	SFR 28 ft. /Gst. Hse. 25.2 ft.

LOCAL APPROVALS RECEIVED: City of Malibu Approval In-Concept (planning stage); City of Malibu Environmental Health Department In-Concept Approval (no renovation required).

SUBSTANTIVE FILE DOCUMENTS: Engineering Geologic Report, by Mountain Geology Inc., dated 3/16/98; Geotechnical Engineering Investigation. By West Coast Geotechnical, dated 3/31/98; Addendum Engineering Geologic Report #1, by Mountain Geology Inc., dated 8/31/99; Addendum Geotechnical Engineering Report, by West Coast Geotechnical, dated 9/8/98; City of Malibu Geotechnical Engineering Review Sheet, dated 9/30/98; Engineering Geologic Memorandum by Mountain Geology Inc., dated 8/19/99; Report of Initial Archeological Study, by the Malibu City Archeologist, Chester King, dated 9/28/99; City of Malibu Biological Review Sheet, dated 10/13/98; Environmental Review Board Resolution No. 99-01, dated 1/27/99; City of Malibu Planning Department Letter re: revised plans, dated 2/23/99; City of Malibu Planning Department Notice of Decision, dated 5/21/99.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed application subject to nine (9) special conditions relating to plan revisions pertaining to the proposed addition, and with regards to landscaping and erosion control; conformance with geologic recommendations, drainage plans, removal of unpermitted structures, future improvements, disposal of excess cut material, assumption of risk, and condition compliance. While the proposed project site is located between the sea and the first public road in the Point Dume area (Birdview Avenue), the proposed improvements would be located on the top of a bluff above a paved road, which serves as an entrance way to a county beach parking lot. The proposed project includes the restoration of a portion of a coastal bluff which is designated as an environmentally sensitive habitat area (ESHA), on which development has occurred without the benefit of a coastal development permit. The proposed development would not include any structural improvements on the bluff face or the area at the base of the bluff.

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. Revised Plans

Prior to issuance of the coastal development permit the applicant shall submit, for the review and approval of the Executive Director, revised project plans, which modify the proposed addition to the seaward side of the residence, so that no portion of the proposed development exceeds a stringline drawn between the nearest adjacent corners of the residences located on the adjacent properties.

2. Plans Conforming to Geologic Recommendation

All recommendations contained in the Engineering Geologic Report, by Mountain Geology Inc., dated 3/16/98, and the Geotechnical Engineering Investigation, by West Coast Geotechnical, dated 3/31/98; and the addendums to the referenced reports as denoted under *Substantive File Documents*, shall be incorporated into all final design and construction including grading, foundations, 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, foundations, 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. The Executive Director shall determine whether required changes are "substantial".

3. Removal of unpermitted structures

The applicant shall remove the concrete and brick patio structures and the associated retaining walls seaward of the residence near the southeastern property boundary, and the concrete slab located on the upper edge of the bluff face near the western property boundary, as shown on Exhibit 2, within 45 days of the issuance of this permit

4. Revised Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit revised landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The revised plans shall include a component which specifically addresses the restoration and revegetation plans for those portions of the bluff which will be disturbed either by the removal of unpermitted development, as specified in Special Condition Three (3), and/or the removal of non-native vegetation, as indicated on the landscaping plans, dated July 1, 1999. The final landscaping and erosion control plans, which include this component, shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

A) Bluff Restoration Component

The inclusion of a detailed revegetation plan for those portions of the bluff which will be disturbed by the removal of unpermitted development (as set forth in Special Condition Three [3]), and/or non-native vegetation as indicated on the landscaping and erosion control plans. The plan shall utilize only native/drought resistant plants, appropriate for coastal bluffs, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants

for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. The revegetation program shall use a mixture of seeds and container plants to increase the potential for successful revegetation. No hydroseeding shall occur in areas of the bluff where native plant material is already established. A temporary irrigation system may be used until the plants are established, as determined by the consulting landscape architect or resource specialist, but in no case shall the irrigation system be in place longer than three (3) years. Disturbed slopes shall be planted within 30 days of disturbance to minimize erosion and bluff instability.

- 1) Provisions and specifications for the removal of the existing permanent irrigation system, which serves any and all landscaping located seaward of the residence.
- 2) Removal of the sod lawn located seaward of the residence, and revegetation of this area with native grass species or other native drought tolerant vegetation such as those listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994.
- 3) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

B) Interim Erosion Control Plan

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to

an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C. Monitoring Program

- 1) Prior to the issuance of a coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, a five (5) year Monitoring Program, prepared by a landscaping architect or resource specialist, which outlines revegetation performance standards for those portions of the bluff disturbed by the removal of unpermitted development, as specified in Special Condition Three (3), and/or by the removal of non-native vegetation, to ensure that revegetation efforts at the project site are successful. All slopes disturbed by the removal of unpermitted structures, shall be replanted within thirty (30) days of disturbance in order to minimize erosion. The removal of exotic vegetation and revegetation with native species, however, may be carried out in several phases to minimize bluff disturbance. Successful site restoration shall be determined if the revegetation of native plant species on site is adequate to provide 90% coverage of the subject area(s) by the end of the five (5) year monitoring period and such vegetation is able to survive without additional outside inputs, such as supplemental irrigation.
- 2) The applicant shall submit, for the review and approval of the Executive Director, written annual reports, beginning after the first year following implementation of the restoration program and include recommendations for mid-program corrections, if necessary. At the end of a five (5) year period, a final detailed report shall be submitted for review and approval of the Executive Director. If this report indicates that the restoration project has in part, or in whole, been unsuccessful, based on the performance standards outlined in the monitoring program, the applicant shall be required to submit a revised or supplemental program to compensate for those portions of the original program which were not successful. The revised or supplemental

restoration program shall be processed as an amendment to this coastal development permit.

5. Drainage Plans and Maintenance Responsibility

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner which avoids ponding on the pad area. Site drainage shall not be accomplished by sheetflow runoff. With acceptance of this permit, the applicant agrees that should the project's drainage structures fail or result in erosion of the bluff, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.

6. Removal of Excess Material

Prior to the issuance of the coastal development permit, the applicant shall provide for the review and approval of the Executive Director the location of the proposed disposal site for the excess cut material. All excess cut materials from the proposed project shall be removed from the subject site and taken to the approved disposal site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

7. Future Improvements

This permit is only for the development described in coastal development permit No. 4-99-149. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6), and 13253 (b) (6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) and (b) shall not apply to the entire parcel. Accordingly, any future improvements to the permitted structures, including but not limited to clearing of vegetation or grading, other than as provided for in the approved, landscape and erosion control plan prepared pursuant to Special Condition Four (4), shall require an amendment to Permit No. 4-99-149 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

- A. Prior to the issuance of a coastal development permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the restricted area. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the restricted area. The deed restriction 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 Commission amendment to this coastal development permit.

8. Assumption of Risk, Waiver of Liability, and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from fire, landsliding, earth movement, bluff retreat, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction 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 Commission amendment to this coastal development permit.

9. Condition Compliance

The requirements specified in the foregoing special conditions that the applicant is required to satisfy as a prerequisite to the issuance of this permit must be fulfilled within 120 days of Commission action. Failure to comply with such additional time as may be granted by the Executive Director for good cause, will result in the nullification of this permit approval.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background.

The applicant is proposing to remodel and construct a large addition to an existing single family residence on a bluff top lot located seaward of Birdview Avenue in the Point Dume area of Malibu (see Exhibits 1 -13). The project includes the addition of 3,020 sq. ft. to the middle level of the residence, and the construction of a 1,246 sq. ft. upper level, or second story, which will reach 28' feet in height. The existing outdoor swimming pool will be filled in, and a new swimming pool will be constructed at the middle level, and enclosed by a solarium (this development is included in the square footage calculation listed above, for the middle level. A 3,020 sq. ft. addition is proposed at the basement level, with the majority of this addition (2,840 sq. ft.) being added by excavation. The additions total 6,859 square feet which will bring the total square footage of the residence to 10, 630 square feet.

The applicant is also proposing a new 684 sq. ft., 25.2' foot high, detached guest house to be located landward of the primary residence, in the front quarter of the property. There are no changes to the private sewage disposal system proposed. The City of Malibu Environmental Health Department reviewed the perc rate of the existing septic system, and evaluated its' adequacy in relationship to the proposed development. The applicant submitted a conceptual approval from the City, dated August 18, 1998, which indicates that no renovation of the private sewage disposal system is required.

In addition, the applicant proposes to remove the unpermitted structures, which consist of concrete slab and brick, patio structures (three [3] total), one (1) of which is located on the bluff face, and the other two (2), located directly adjacent to the face of the bluff, on the seaward extent of the property, and to restore the southwest corner of the property where two (2) of the structures are located (see Exhibit 2). Restoration will involve laying the slope back to its' natural gradient, and revegetating the slope with vegetation native to the Point Dume Coastal Bluffs.

Site Description/Background

The proposed project site is located on Birdview Avenue in the Point Dume area of the City of Malibu (see Exhibit 1). The property consists of a gently sloping bluff-top parcel. Existing development on the property consists of a two (2) - level 3,686 sq. ft. single family residence and a swimming pool. Due to the sloped nature of the lot, the lower level which comprises 1,048 sq. ft. of the existing SFR, is built into the slope, and is accessed from the rear, or seaward side of the residence, and is classified as a basement.

While the proposed project site is located between the sea and the first public road in the area (Birdview Avenue), the proposed improvements would be located on the top of a bluff, above a paved road leading to a County beach parking lot, which interrupts the transition between the bluff and the sandy beach.

The proposed development does not include the addition of any structural improvements on the bluff face or the area at the base of the bluff. Further, the applicant is proposing the removal of those existing structures (patio, slabs and associated retaining walls located on and adjacent to, the upper edge of the bluff face, which were constructed without the benefit of a coastal development permit (see Exhibit 2).

Moreover, because the transition between the bluff and the sandy beach is interrupted by a paved drive, the proposed development does not have the potential to affect sand supply or other beach processes; nor will it interfere with the public's access to or along the beach below. As such, the proposed project will have no adverse impacts on beach processes or public access.

B. Blufftop Development/Geologic Stability and 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.

Section 30253 of the Coastal Act requires that new development minimize risk to life and property in areas of high geologic, flood and fire hazard, and assure stability and structural integrity.

Coastal bluffs, such as this one are unique geomorphic features that are characteristically unstable. By nature, coastal bluffs are subject to erosion from sheet flow across the top of the bluff and from wave action at the base of the bluff. The bluffs along this stretch of the coast are not subject to erosion from wave action because a paved drive leading to a beach parking lot lies at the toe of the bluff, intersecting the shoreline and the coastal bluff. However, due to the geologic structure and soil composition, these bluffs are susceptible to failure, especially with excessive water infiltration.

Due to the geologic instability of bluffs and their continuing role in the ecosystem, the certified Los Angeles County Malibu/Santa Monica Mountains Land Use Plan (LUP) contains a number of policies regarding development on or near coastal bluffs. Although the City of Malibu is now incorporated, these policies are still used as

guidance by the Commission in order to determine the consistency of a project with Section 30253 of the Coastal Act.

As noted above, Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property. The LUP policies suggest that geology reports be required for development in unstable areas, and that development minimize both grading, landform alteration and other impacts to natural physical features. Finally, the LUP suggests that new development be set back a minimum of 25 ft. from the top of the bluff or a stringline, whichever distance is greater, but in no case less than would allow for a 75-year useful life for the structure.

The proposed project includes significant additions to an existing residence on a blufftop parcel on Point Dume. While the additions include a lateral extension of the existing house, on the seaward side of the property, the lateral addition will not extend development any closer to the bluff edge than the existing house. The most seaward edge of the proposed additions is over 25 feet from the bluff edge, however a small portion of the proposed addition to be located on the northwest corner of the property, exceeds a the stringline as measured from the nearest adjacent corners of the residences located on the adjacent properties.

Therefore, the Commission finds it necessary to impose **Special Condition One (1)**, which requires the applicant to submit revised plans which indicate the proposed addition will not exceed a stringline from development on the adjacent properties, at any point on the seaward side of the residence. As conditioned, the additions will be adequately set back to minimize risks from geologic hazards, and consistent with past Commission actions regarding blufftop development setbacks.

The applicant has provided a report entitled Geotechnical Engineering Investigation, dated March 31, 1998, prepared by West Coast Geotechnical, evaluating the geologic stability of the subject site, in relation to the proposed development. The report states:

It is the opinion of West Coast Geotechnical that the proposed development will be safe against hazards from landslide, settlement, or slippage, and that the proposed grading and development will not have an adverse effect on the stability of the subject site or immediate vicinity, provided our recommendations are made part of the development plans and implemented during construction.

The LUP also suggests that no permanent structures be permitted on a bluff face. In this case, the applicant is proposing the removal of three (3) unpermitted structures; one of which is located on the upper portion of the bluff face, the other two are located on the upper edge of the bluff, directly adjacent to the bluff face.

The applicant has submitted an Engineering Geologic Memorandum, prepared by Mountain Geology Inc. dated August 19, 1999, which attests to the feasibility of restoring the slope. The report states:

Based upon our exploration of the site and experience with similar projects, the proposed removal of three (3) concrete slabs, and associated retaining walls, is considered feasible from an engineering geologic standpoint provided the following recommendations are made a part of the removal plans and are implemented during the removal project. The removal of the existing three (3) concrete slabs, and associated retaining walls, will have no adverse effect upon the stability of the site or adjacent properties provided the recommendations of the Engineering Geologist and Geotechnical Engineer are complied with during the described project.

The Commission finds that the recommendations above, and those contained in the referenced geotechnical reports, will serve to increase the stability and geotechnical safety of the site, if incorporated into plans, and implemented during construction. Therefore, to ensure that the recommendations of the applicant's geotechnical engineering consultant's are incorporated into all final project plans, The Commission finds it necessary to require the applicant to submit final project plans that have been certified in writing by the consulting geotechnical engineers, as conforming to their recommendations. This is included as **Special Condition Two (2)**.

The applicant's geotechnical consultants also make recommendations pertaining to drainage on the subject site. The March 31, 1998 report states the following:

Drainage should not be allowed to pond anywhere on the pad, foundations or pavements and should be directed towards suitable collection and discharge facilities.

Uncontrolled runoff over the bluff face will contribute to headward erosion and lead to destabilization of the bluff slopes and eventually the building site. The applicant has submitted conceptual drainage plans which utilize a system which conveys drainage off site in a non-erosive manner, using a corrugated pipe, which will be earth tone in color, in order to reduce the visual impact of the system. The Commission finds that the proposed drainage system will serve to minimize hazards associated with erosion, however in order to ensure that the final drainage system is in substantial conformance with the consulting geotechnical engineers recommendations, including those pertaining to drainage, **Special Condition Five (5)** requires the applicant submit final drainage plans certified by the engineers as being in conformance with their recommendations.

The Commission finds that that while the proposed drainage system will serve to minimize hazards associated with headward erosion, risks associated with excessive

water infiltration on a bluff top, can only be minimized by eliminating the existing permanent irrigation system, which serves landscaping on the seaward side of the residence.

The irrigation system currently in place, and proposed to be maintained, serves a small section of sod lawn located between the seaward edge of the existing residence and the bluff face, as well as the upper portion of the bluff, an area now dominated by non-native ice plant. The percolation of irrigated water into the bluff can lead to destabilization of the bluff, and consequently pose a significant risk to existing and proposed development. There have been numerous incidents, where such irrigation lines have burst, saturating the bluff and thereby subjecting bluff top development to hazardous conditions.

Therefore, the Commission finds, that the proposed development will serve to minimize risks to life and property pursuant to Section 30253 of the Coastal Act, only if the applicant agrees to remove the existing permanent irrigation system, which serves landscaping located seaward of the residence, and to revegetate the existing lawn area with native drought tolerant grass species, which, once established will not be dependant upon regular watering from a permanent irrigation system for sustenance. These requirements are included in **Special Condition Four (4)**.

Further the Commission notes that the amount of cut (grading) exceeds the amount of fill to be placed on site, and will result in approximately 370 cu. yds. of excess excavated material. Excavated materials that are placed in stockpiles are subject to increased erosion. The Commission also notes that additional landform alteration would result if the excavated material were to be retained on site. In order to ensure that the excess cut material that is proposed to be excavated for the project is disposed of in a location and manner whereby risks and impacts to coastal resources are minimized, the Commission finds it necessary to require the applicant to provide the location where such cut material will be placed prior to issuance of the permit. If the disposal site should be located within the Coastal Zone, there must be a valid coastal development permit for that site that includes the use of this material in an approved development. This requirement is included as **Special Condition Six (6)**.

Even though the consultants have determined that the project site will be free of geologic hazards, coastal bluffs are naturally eroding features, and therefore risks associated with blufftop development can never fully be eliminated. Additionally, the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire. Therefore, for the reasons stated above, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by **Special Condition Eight (8)**. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely

affect the stability or safety of the proposed development and agrees to assume any liability for the same. Specifically, through acceptance of **Special Condition Eight (8)**, the applicant agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area subject to the stated risks.

The Commission finds that, only as conditioned above, will the proposed development be consistent with Section 30253 of the Coastal Act.

C. Sensitive Resources.

Section 30240 of the Coastal Act states that:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The proposed project site includes a blufftop and a bluff face that descends steeply to Point Dume State Beach below. The steep bluff faces in Malibu, particularly those on Point Dume, contain rare plant communities and have been considered by the Commission as environmentally sensitive habitat areas (ESHA) in past permit actions. The Commission has required that new development provide adequate setbacks from the edge of bluffs both to minimize impacts to ESHAs as well as to minimize risks from geologic hazards.

Most of the development proposed herein, will be located landward of the existing residence. A portion of the addition, however, is proposed to extend laterally to the north and south sides of the existing home, on the seaward side of the property (see Exhibit 2). The farthest seaward extent of this proposed addition, however, will be located more than 25 ft. from the bluff edge, and no further seaward than the farthest extent of existing development. Therefore the proposed development will not have any additional significant adverse impacts on the bluff face.

In addition the applicant proposes the removal of three (3) unpermitted structures, which consist of concrete slab, and brick, patio type structures, located seaward of the residence, and to restore the southeast corner of the property where two (2) two of the structures are located, to it's natural gradient, and revegetate the slope utilizing vegetation native to the Point Dume coastal bluffs. In order to ensure that the

unpermitted development is removed in a timely manner, **Special Condition Three (3)** requires the applicant to remove the unpermitted development within 45 days of the issuance of the coastal development permit.

The applicant has submitted a landscaping plan which proposes the removal of non-native ice plant from the upper edge of the bluff face. The landscaping plan proposes revegetation of the disturbed area with *sisyrinchium bellum*, a plant species native to coastal areas in the vicinity of the Santa Monica Mountains. **Special condition Four (4)** requires that the applicant submit revised landscaping plans which include a detailed bluff restoration plan for those portions of the bluff which will be disturbed, by either the removal of unpermitted structures or the removal of non-native vegetation. The revegetation component of the restoration plan shall utilize only drought resistant plants, which are native to the Point Dume coastal bluffs.

To ensure that the restoration and revegetation is successful, **Special Condition Four (4)** also requires that the applicant agree to monitor the site for a period of five (5) years as discussed in further detail below. Monitoring shall include the submittal of annual reports to the Executive Director, which shall outline the progress of the restoration project and shall include any recommendations for modifications to the project if the initial restoration effort fails. In addition, to ensure that the removal of unpermitted development and the restoration project will be carried out in a timely manner, **Special Condition Three (3)** requires the applicant to remove the unpermitted structures within 45 days of the issuance of this permit. Finally, **Special Condition Nine (9)** dictates that the requirements specified in all of the special conditions that the applicant is required to satisfy, as a prerequisite to the issuance of this permit, must be fulfilled within 120 days of Commission action.

The proposed bluff restoration and revegetation will serve to restore and enhance the degraded bluff habitat. Further, as conditioned, the additions will be adequately setback to minimize impacts to the bluff face ESHA. Therefore, the Commission finds that, as conditioned the proposed project is consistent with Section 30240 of the Coastal Act.

D. Scenic and Visual Impacts.

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. While the proposed additions do include a lateral extension of the existing house, on the seaward side of the property, the lateral addition will not extend development any closer to the bluff edge than the existing house. Further, as conditioned (reference Special Condition One [1]), the proposed development located on the seaward side of the residence will be consistent with the stringline of development existing on adjacent parcels.

Furthermore, the proposed development does not include the addition of any structural improvements on the bluff face or the area at the base of the bluff. The applicant is proposing the removal of those existing structures (patio, slabs and associated retaining walls located on and adjacent to, the upper edge of the bluff face, which were constructed without the benefit of a coastal development permit.

While the proposed development includes 730 cu. yds. of grading, the majority of the grading, is excavation at the basement level, and fill to be placed in the existing pool. As such, there will be no significant landform alteration or visual impact associated with the proposed grading operations. Therefore, there will be no significant visual impacts, as seen from the public beach below, as a result of the proposed development.

Finally, there are no ocean or coastal views from that portion of Birdview Avenue, which fronts the subject property; consequently there will be no impact on visual resources, as seen from Birdview Avenue either. To ensure that any future additions to the permitted structures, which would otherwise be exempt from permit requirements, are reviewed for consistency with section 30251 of the Coastal Act, the Commission finds, that it is necessary to require that all future additions or improvements to the permitted structures will require a permit or permit amendment, as specified in **Special Condition Seven (7)**.

The Commission finds that as conditioned above the proposed development is consistent with section 30251 of the Coastal Act.

E. 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 a 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 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 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 (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

As proposed, the 684-sq. ft. guesthouse is consistent with past Commission decisions. However, in order to ensure that no additions are made to the guest house without due consideration of the potential cumulative impacts, **Special Condition Seven (7)** requires that any future structures, additions, or improvements related to the proposed guest house, or other development approved under this permit, including, but not limited to, any expansion of the existing structure, will require a permit or permit amendment. Therefore, the Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

F. Violations.

Development has occurred on site without the benefit of a coastal development permit including the construction of three (3) patio like structures on the seaward side of the property. The applicant is proposing the removal of those existing structures (patio, slabs and associated retaining walls located on and adjacent to, the upper edge of the bluff face), which were constructed without the benefit of a coastal development permit; and to restore and revegetate the slope which is the uppermost portion of the coastal bluff on the southwestern corner of the property, where two (2) of the structures are located.

Consideration of this 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, in part, 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

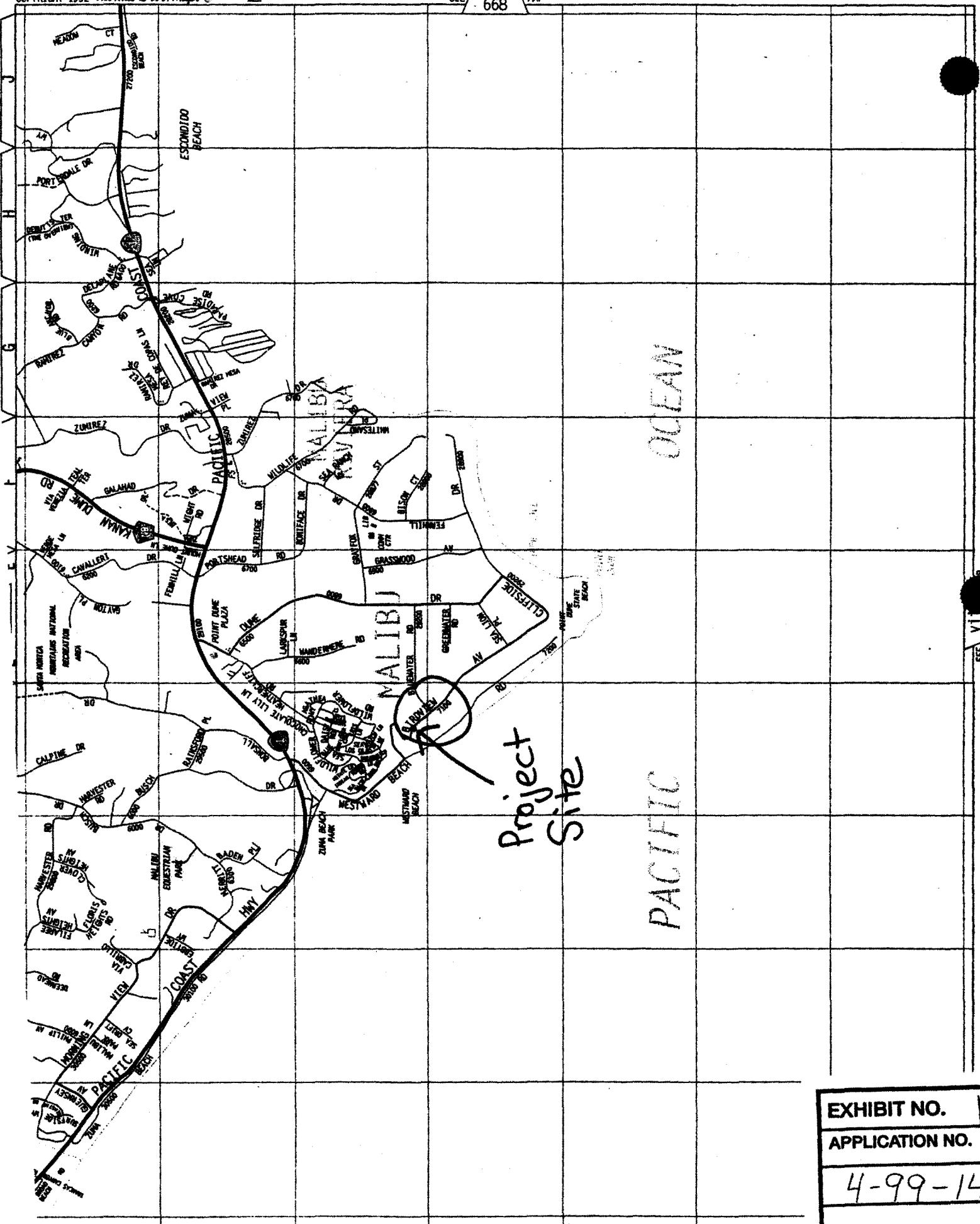
with Section 30200).

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 will not prejudice the City'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. California Environmental Quality Act.

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 would have on the environment.

The proposed development would not cause significant, adverse environmental effects that would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found to be consistent with CEQA and with the policies of the Coastal Act.



Project Site

SEE VI

EXHIBIT NO.
APPLICATION NO.

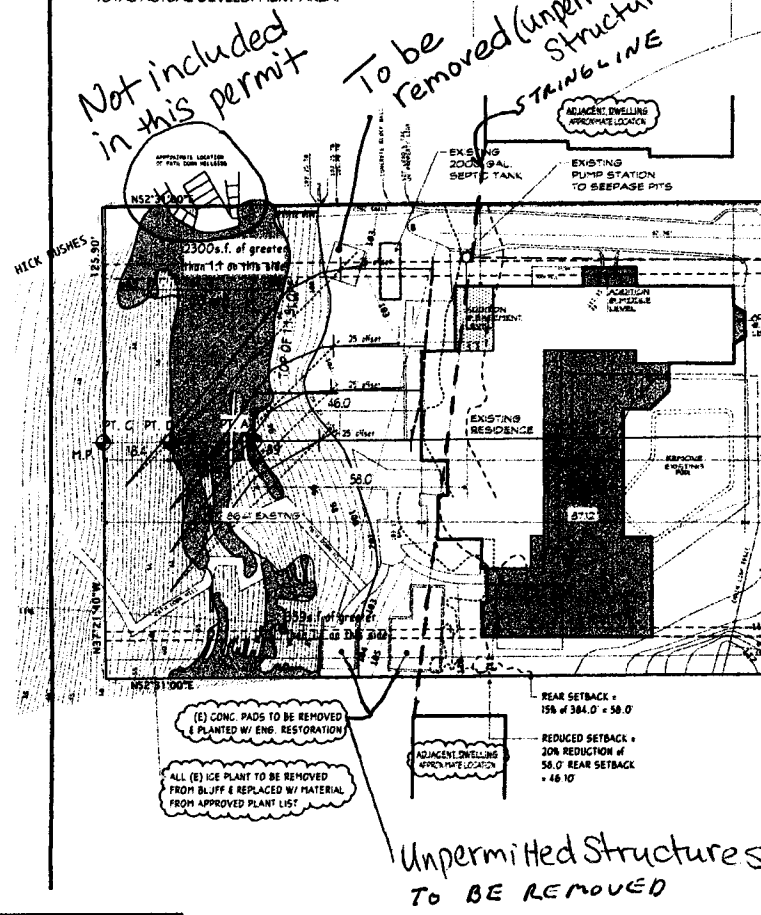
4-99-149

PROPOSED BUILDING AREAS	ACTUAL AREAS		TOTAL	DEVELOPMENT AREA
	EXISTING	ADDED		
LOWER LEVEL EXISTING (BASEMENT CLASSIFICATION)	1,048 S.F.			
TOTAL LOWER LEVEL (BASEMENT CLASSIFICATION)		3,020 S.F.	4,068 S.F.	0 S.F.
MIDDLE LEVEL EXISTING (1st FLOOR CLASSIFICATION)	2/638 S.F.			
MIDDLE LEVEL ADDED (1st FLOOR CLASSIFICATION)		2,593 S.F.	5,231 S.F.	5,231 S.F.
TOTAL MIDDLE LEVEL (1st FLOOR CLASSIFICATION)				
UPPER LEVEL EXISTING (2nd FLOOR CLASSIFICATION)	0,000 S.F.			
UPPER LEVEL ADDED (2nd FLOOR CLASSIFICATION)		948 S.F.		
MEZZANINE ADDED		298 S.F.		
TOTAL UPPER LEVEL (2nd FLOOR CLASSIFICATION)			1,246 S.F.	1,246 S.F.
TOTAL AREAS OF RESIDENCE	3,686 S.F.	6,859 S.F.	10,630 S.F.	
PERCENTAGE OF 2nd FLOOR TO 1st FLOOR (1246/5231)				24%
GUEST HOUSE AREA:				684 S.F.
VOLUME CEILINGS GREATER THAN 16' HIGH:				0 S.F.
TOTAL ACTUAL DEVELOPMENT AREA:				7,161 S.F.

ALLOWED AREA CALCULATIONS		
GROSS AREA	51,112 S.F.	51,112 S.F.
AREA LESS THAN 11'	<2,859 S.F.	<2,859 S.F.
AREA OF RIGHTS-OF-WAY	<2,244 S.F.	<2,244 S.F.
ADJUSTED LOT AREA	+6,219 S.F.	
ADJUSTED GROSS LOT AREA		48,463 S.F.
MAXIMUM ALLOWABLE IMPERMEABLE COVERAGE		
1st 1/4 ACRE (10,890 S.F. x 45%)		4,900 S.F.
2nd 1/4 ACRE (10,890 S.F. x 35%)		3,812 S.F.
REMAINDER (48,219-21,780 x 30%)		7,332 S.F.
TOTAL ALLOWABLE		16,044 S.F.
MAXIMUM ALLOWABLE DEVELOPMENT AREA		
1st 1/2 ACRE (21,780 x 17.7% = 1000)		4,855 S.F.
2nd 1/2 ACRE (10,890 S.F. x 10%)		2,178 S.F.
REMAINDER (48,219-43,560 x 5%)		133 S.F.
TOTAL ALLOWABLE		7,166 S.F.
IMPERMEABLE COVERAGE		
PROPOSED IMPERMEABLE		13,080 S.F.
EXISTING IMPERMEABLE		12,380 S.F.
ADDED		720 S.F.

SHEET INDEX	
1A	SITE PLAN
1B	1/8' LOWER & MIDDLE LEVELS
1C	1/8' UPPER LEVEL & ROOF PLAN
2N	LOWER LEVEL - NORTH HALF
2S	LOWER LEVEL - SOUTH HALF
3N	MIDDLE LEVEL - NORTH HALF
3S	MIDDLE LEVEL - SOUTH HALF
4N	UPPER LEVEL - NORTH HALF
4S	UPPER LEVEL - SOUTH HALF
5N	ROOF PLAN - NORTH HALF
5S	ROOF PLAN - SOUTH HALF
6	FRONT & LEFT SIDE ELEVATIONS
7	REAR & RIGHT SIDE ELEVATIONS
8	SECTIONS A & B
9	SECTIONS C & D
10	SECTION E
11	GUEST HOUSE
1 OF 1	SURVEY
T-1	ASSESSOR, THOS. BROS. USGS MAPS
C-1	GRADING PLAN
C-2	GRADING SECTIONS / CALCULATIONS
L-1	CONCEPTUAL LANDSCAPE PLAN

DEMOLITION / EXISTING WALL ANALYSIS (in feet)			
LOCATION	(E) TO REMAIN	TOTAL	PERCENTAGE OF (E) TO REMAIN
BASEMENT	268	325	89%
1st FLOOR	330	607	54%
TOTALS	618	932	66%



51,200 s.f. - 2300 s.f. - 359 s.f. = 48,541 s.f. lot area

MID POINT: $(A \text{ to } B) + (C \text{ to } D) / 2$
 $(366.0 + 18.0) / 2 = 192.0$
 $(984.0) / 2 = 492.0$

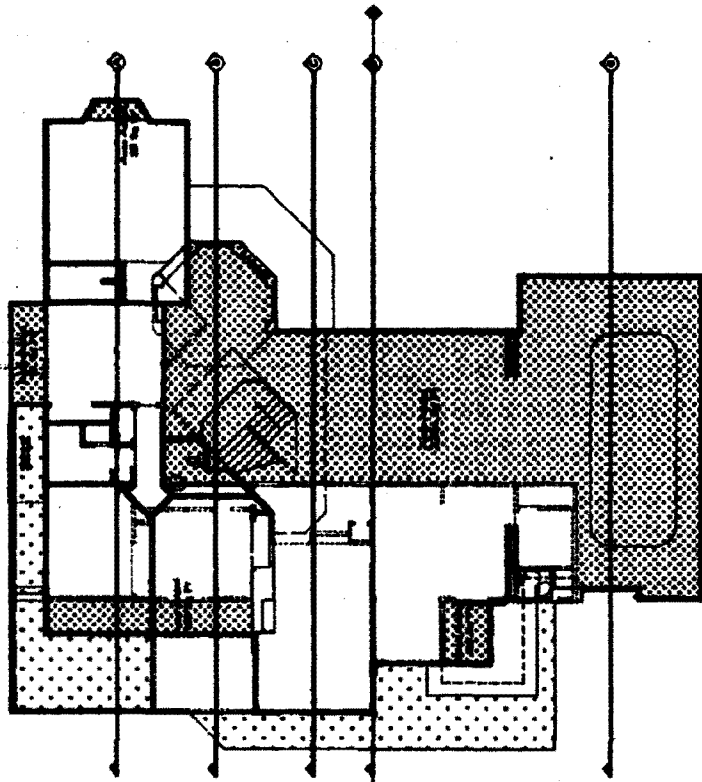
EXHIBIT NO. 2
 APPLICATION NO. 4-99-149

ISSUED FOR
 CLIENT APPROVAL
 PLAN CHECK
 RECORD
 REVISIONS

BECKMEYER CARVER ARCHITECTS
 1101 Bl Camino, Suite E, South Pasadena, CA 91070
 Tel: (818) 794-2277 Fax: (818) 794-2246

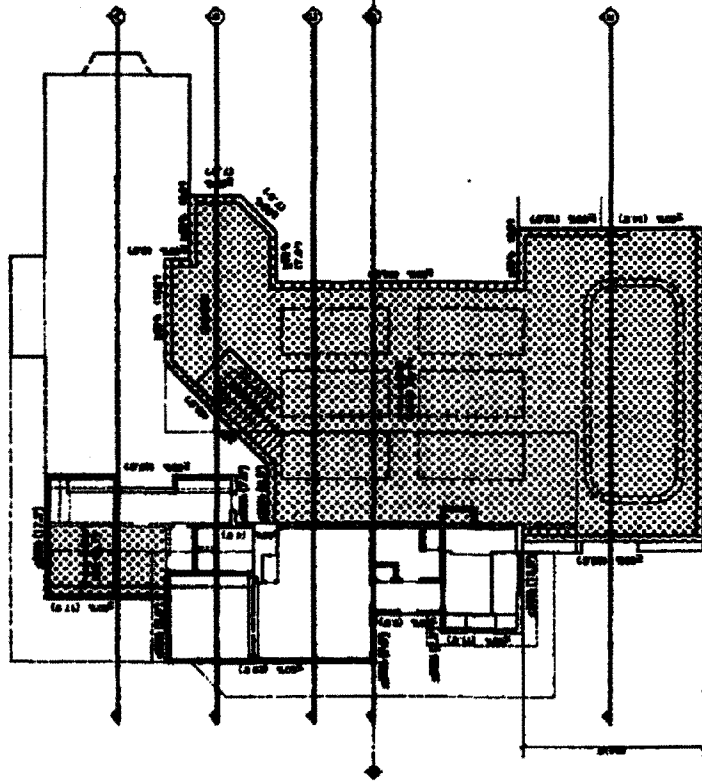
1A

PROJECT: Project Building ARCHITECT: BERNSTEIN CARMON ARCHITECTS 1010 DOWNEY AVENUE, SUITE 100 LOS ANGELES, CALIFORNIA 90015 TEL: (213) 698-1100	DATE: 09/16/99 DRAWING NO.: 11B
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MIDDLE LEVEL FLOOR PLAN

BASEMENT EXTERIOR WALL ANALYSIS FOR DAMAGED CLASSIFICATION
 PERFORMED BY: **BERNSTEIN CARMON ARCHITECTS**
 DATE: **09/16/99**
 SCALE: **AS SHOWN**



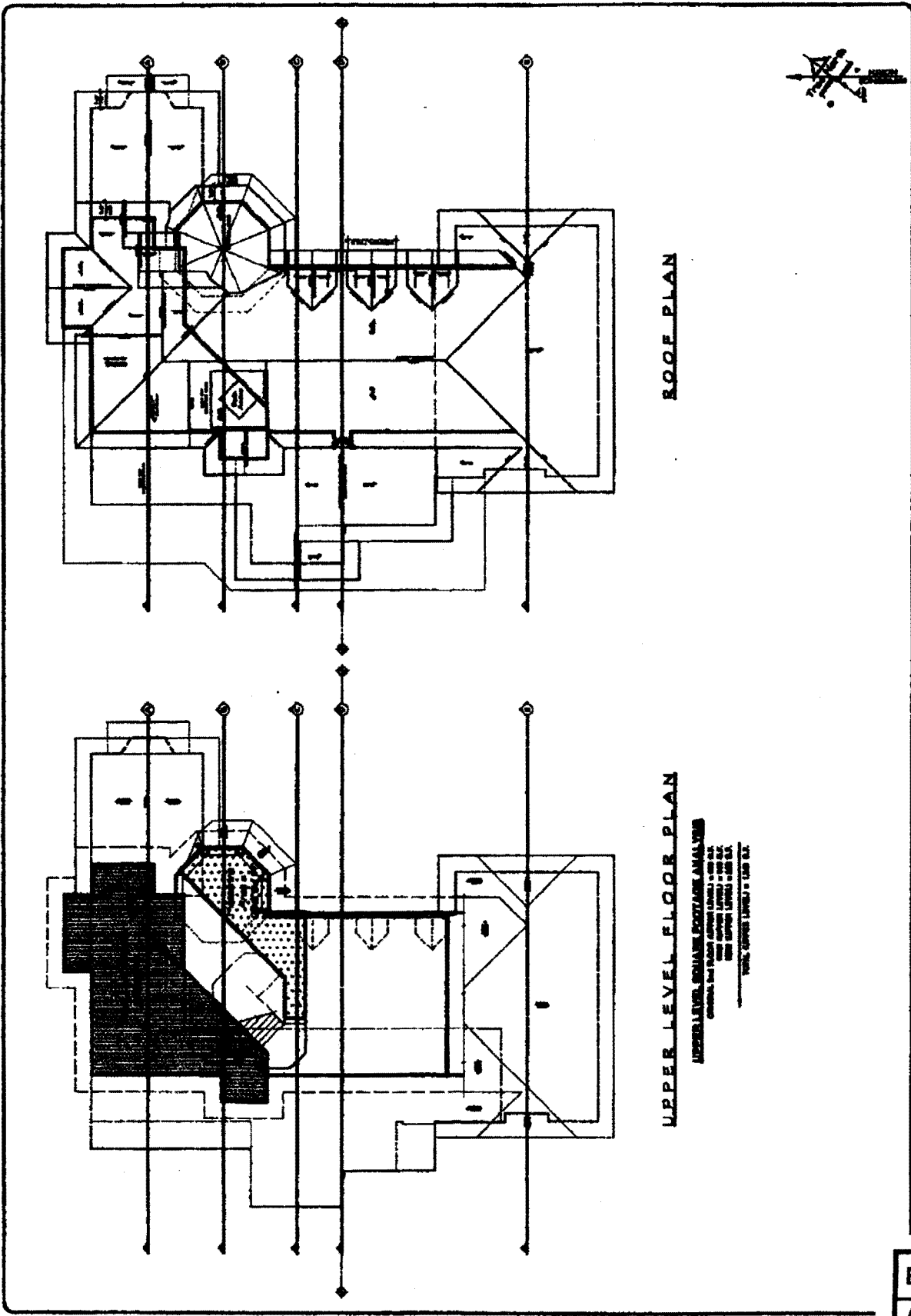
LOWER LEVEL FLOOR PLAN

BASEMENT EXTERIOR WALL ANALYSIS FOR DAMAGED CLASSIFICATION
 PERFORMED BY: **BERNSTEIN CARMON ARCHITECTS**
 DATE: **09/16/99**
 SCALE: **AS SHOWN**

BASEMENT EXTERIOR WALL ANALYSIS FOR DAMAGED CLASSIFICATION
 PERFORMED BY: **BERNSTEIN CARMON ARCHITECTS**
 DATE: **09/16/99**
 SCALE: **AS SHOWN**

EXHIBIT NO.	
APPLICATION NO.	
	4-99-149

PROJECT: **Project Residence**
 ARCHITECT: **ARCHITECTURE CARRERA ARCHITECTS**
 11100 W. 15th Street, Suite 100, San Diego, CA 92161
 TEL: (619) 594-1111 FAX: (619) 594-1112
 DATE: **09/16/1999**



ROOF PLAN

UPPER LEVEL FLOOR PLAN

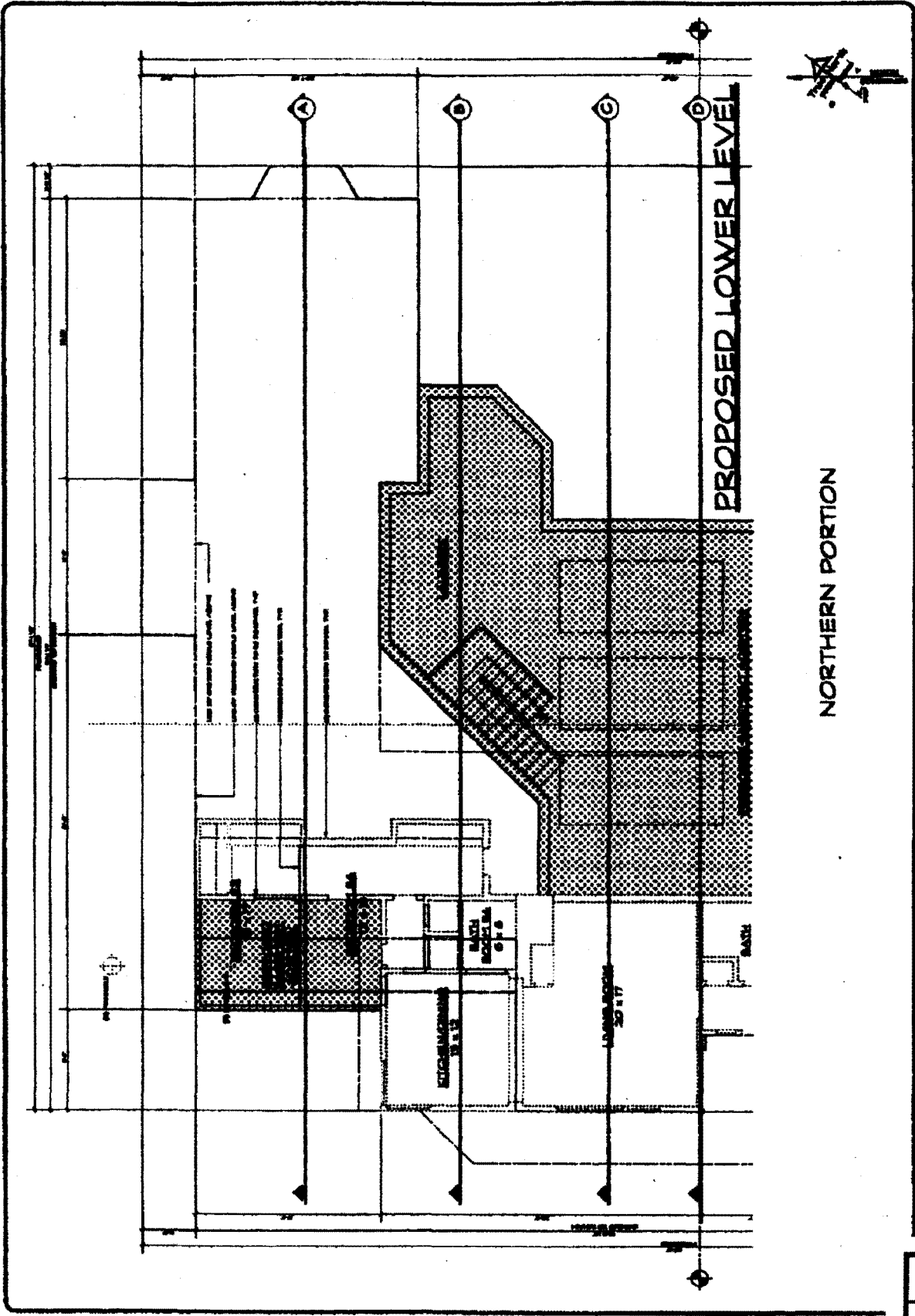
UPPER LEVEL SQUARE FOOTAGE ANALYSIS
 Overall Net Floor Area = 100 sq. ft.
 Overall Net Floor Area - 100 sq. ft. = 200 sq. ft.
 Overall Net Floor Area - 200 sq. ft. = 300 sq. ft.
 Overall Net Floor Area - 300 sq. ft. = 400 sq. ft.

EXHIBIT NO. 4
APPLICATION NO.
4-99-149

100 S. DAVENPORT ST. SUITE 100
 BOSTON, MA 02111
 ARCHITECTS
 100 S. DAVENPORT ST. SUITE 100
 BOSTON, MA 02111
 ARCHITECTS

FLOOR PLAN LOWER LEVEL NORTH
 PROJECT: [illegible]
 DATE: 09/16/99

2N

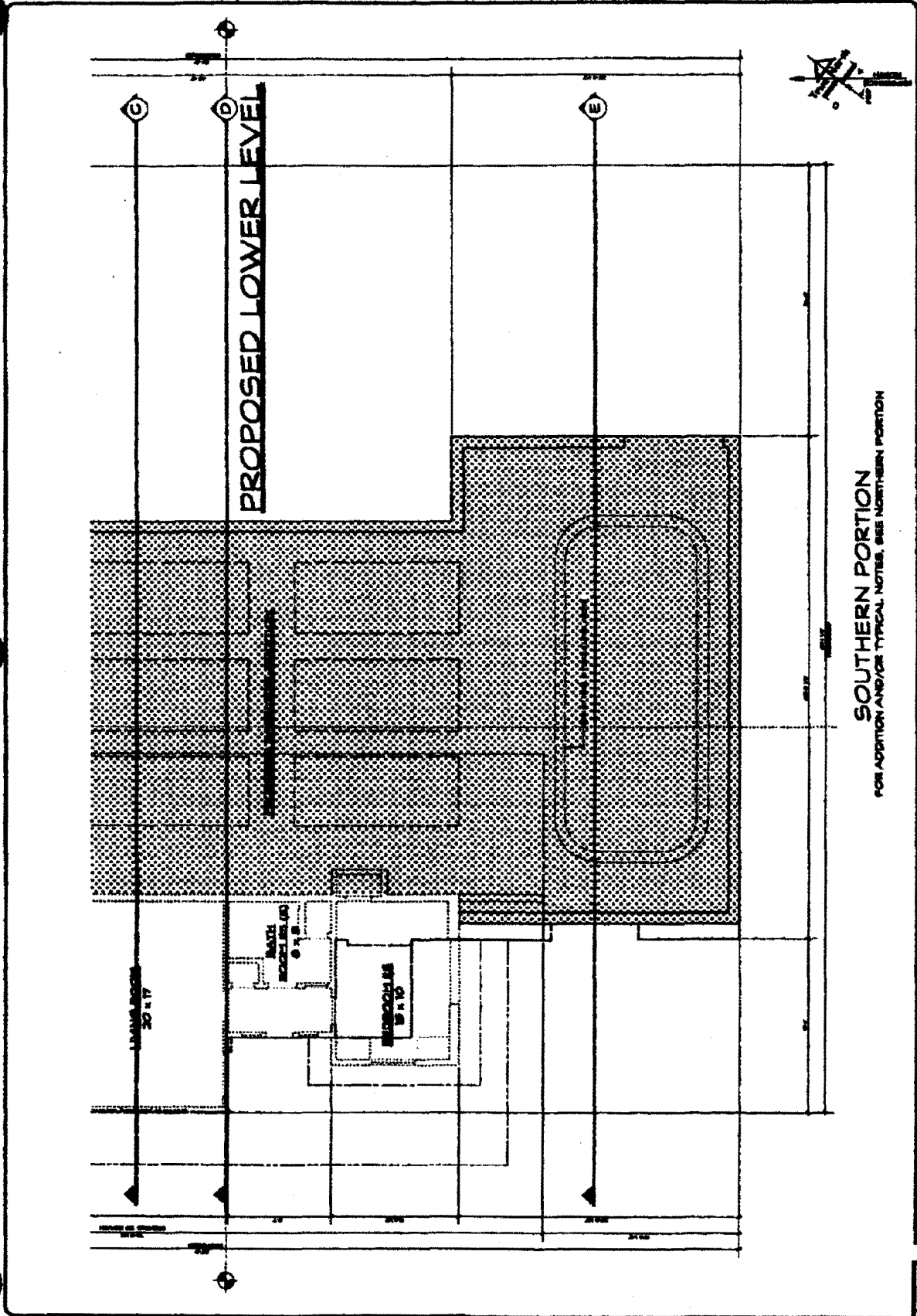


NORTHERN PORTION

EXHIBIT NO.	
APPLICATION NO.	4-99-149

1000 PLYM LUMBER LEVEL, SOUTH
 Robert R. Anderson
 Date: 07/16/99 02:41 PM
 1000 PLYM LUMBER LEVEL, SOUTH
 THE CONSULTING ENGINEERS
 1000 PLYM LUMBER LEVEL, SOUTH

25



SOUTHERN PORTION
 FOR ADDITION AND/OR TYPICAL NOTES, SEE NORTHERN PORTION

EXHIBIT NO. 6
APPLICATION NO.
4-99-149

RECORD BUILDING
 1000 P.M. LEVEL, NORTH
 SECTION CARRY ASSOCIATES
 1111 B. STREET, SUITE 1000, DENVER, CO 80202
 TEL: 303.733.1111 FAX: 303.733.1112

3N

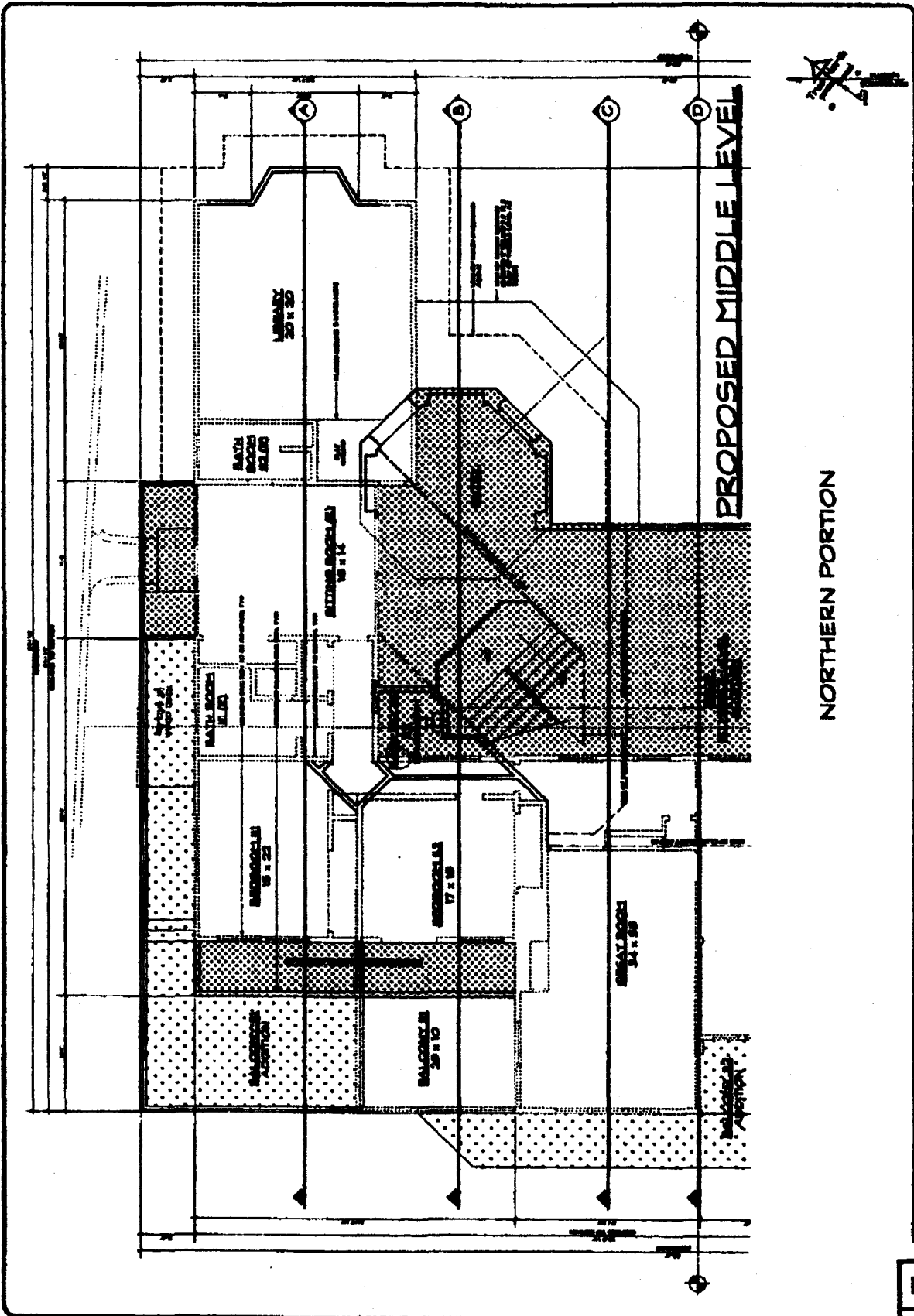
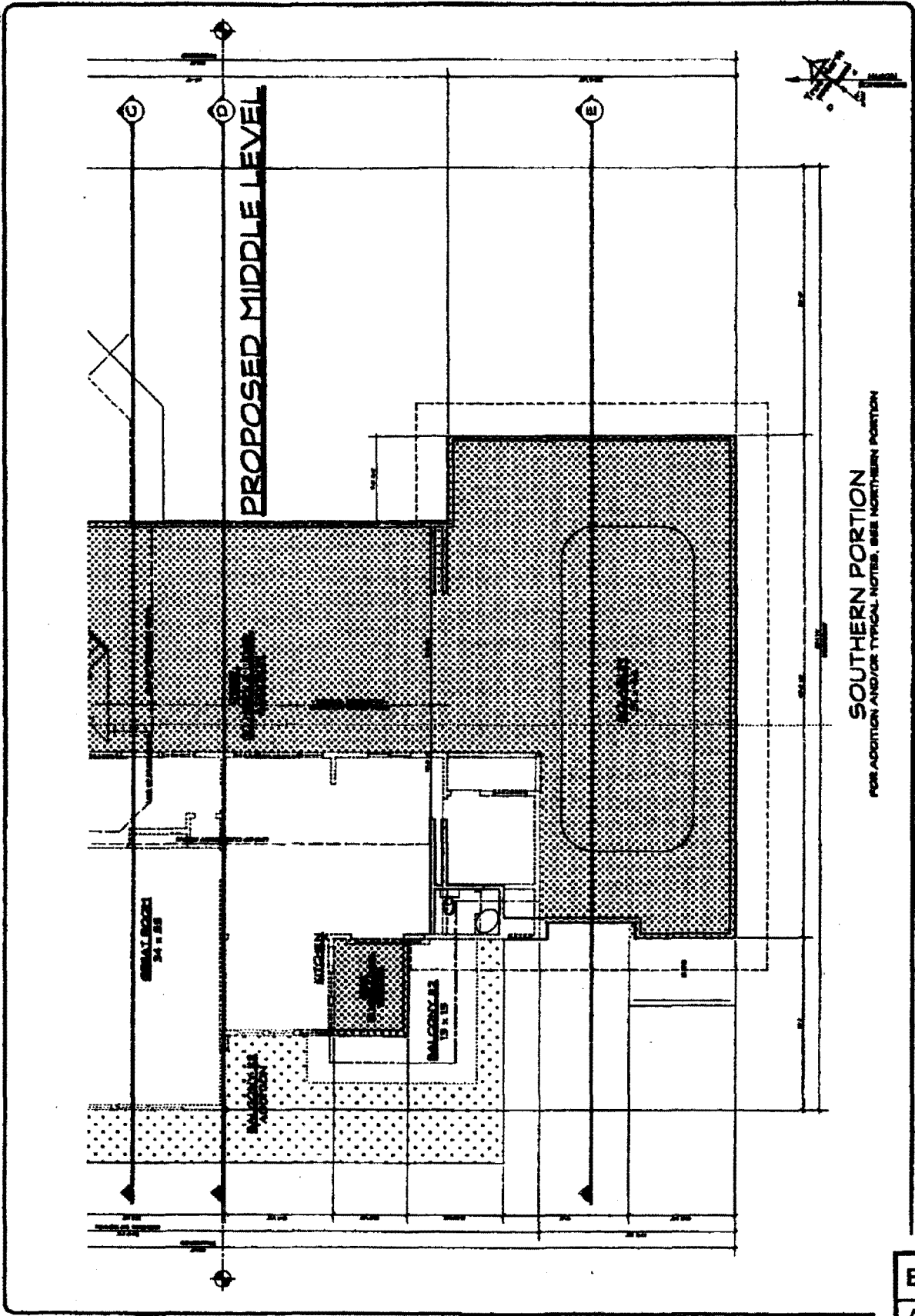


EXHIBIT NO.	7
APPLICATION NO.	
4-99-149	

REGISTERED PROFESSIONAL ARCHITECT
 1011 E. Green, Suite 200, San Diego, CA 92104
 TEL: 619-594-1111 FAX: 619-594-1112
 WWW: WWW.BCAARCHITECTS.COM

FLOOR PLAN - 4000'S LEVEL - SOUTH
 DATE: 09/16/99 BY: J. L. [unclear]

35



SOUTHERN PORTION
 FOR ADDITION AND/OR TYPICAL NOTES, SEE NORTHERN PORTION

EXHIBIT NO. 8
APPLICATION NO.
4-99-149

BOCERREVA CANOVA ARCHITECTS
151 S. CLAYTON ROAD, SUITE 200, DENVER, CO 80202
TEL: (303) 733-1111 FAX: (303) 733-1112

FLOOR PLAN UPPER LEVEL NORTH
REVISED 02.14.99

4N

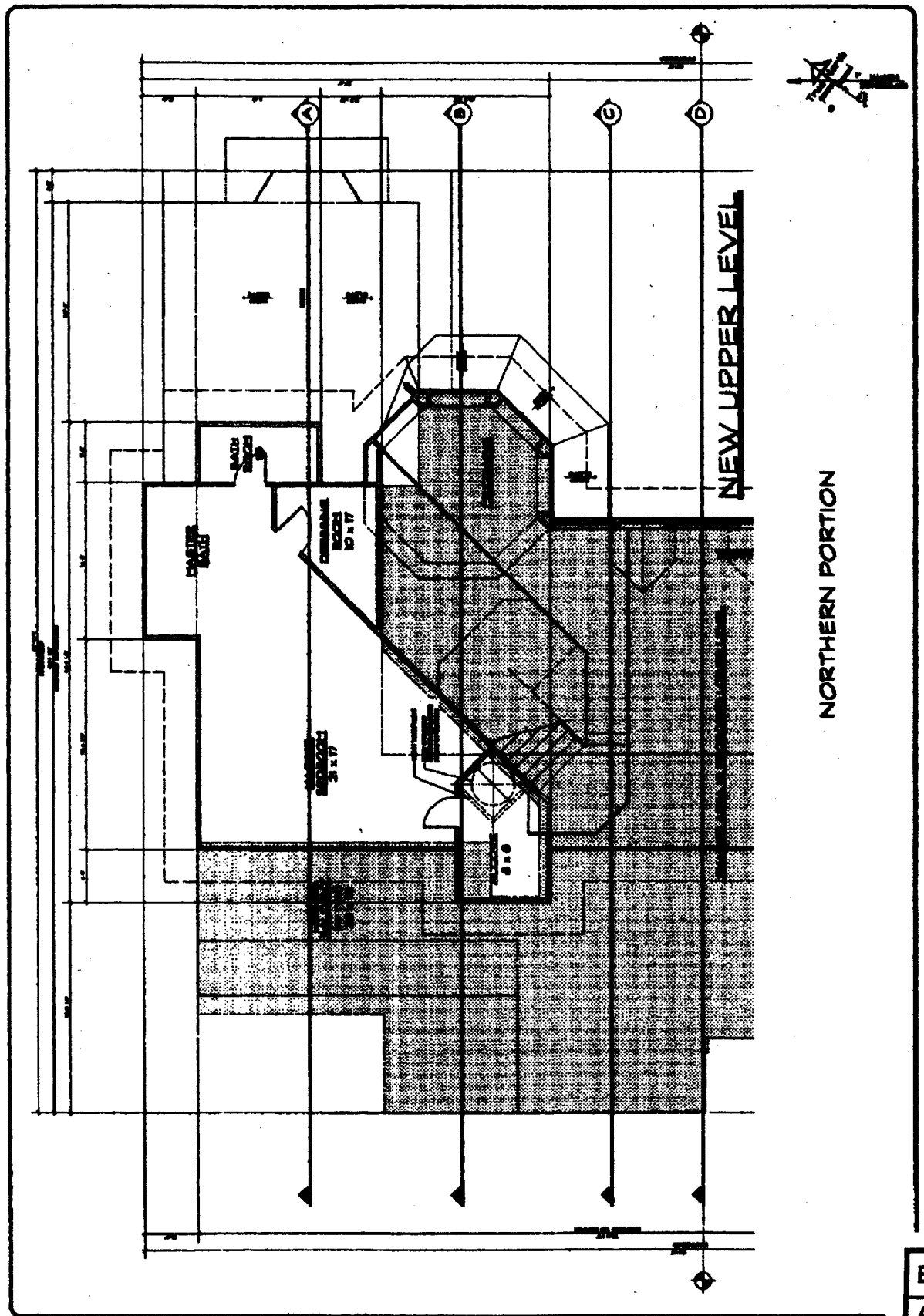
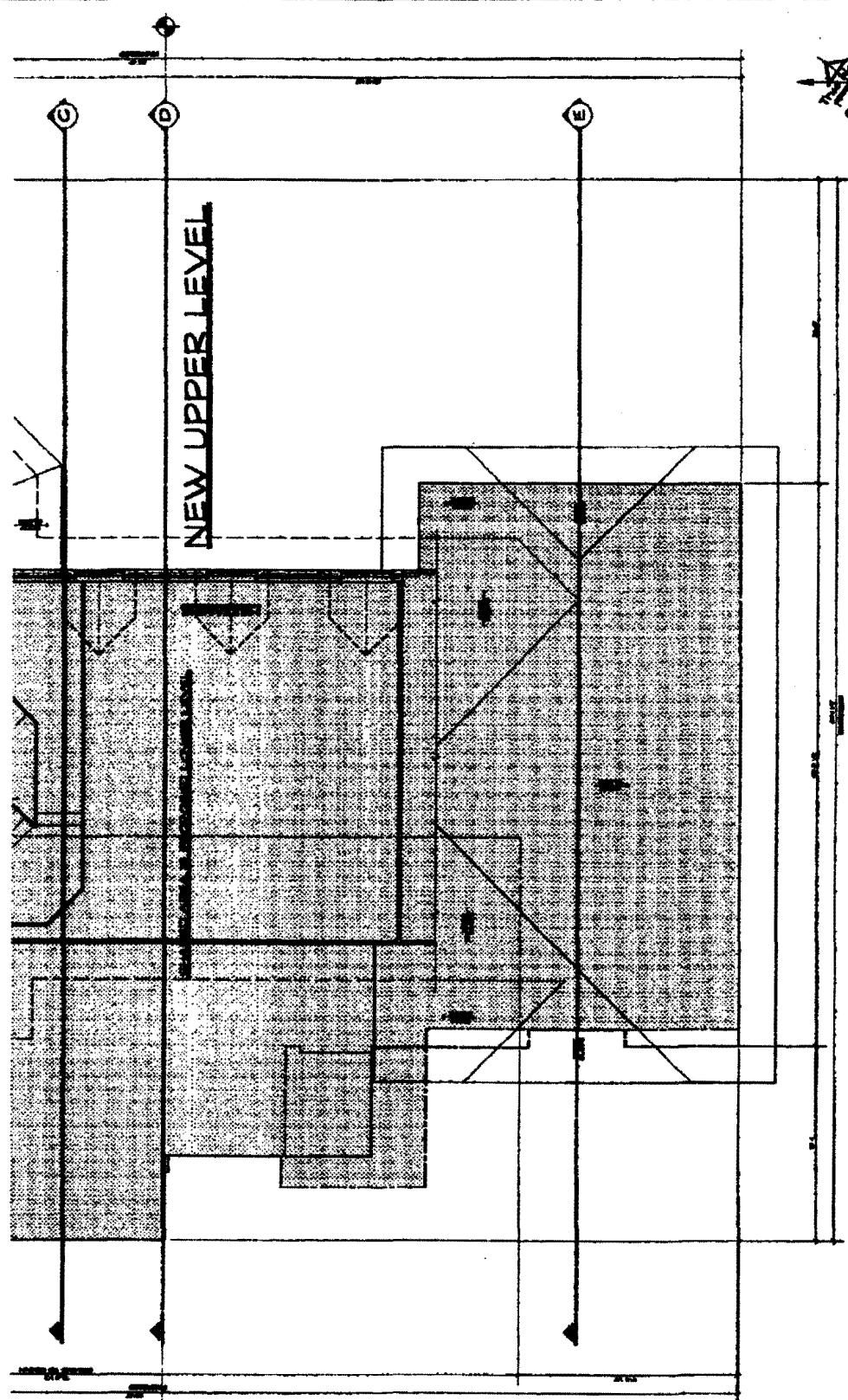
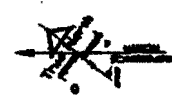


EXHIBIT NO.	6
APPLICATION NO.	
4-99-149	

FLOOR PLAN UPPER LEVEL SOUTH
 Project: **Redlands**
 127 N. Green Street, Redlands, CA 92370
 916.799.2296
 BECKENBERG CARVER ARCHITECTS

4S



SOUTHERN PORTION
 FOR ADDITION AND/OR TYPICAL NOTES, SEE NORTHERN PORTION

EXHIBIT NO.	10
APPLICATION NO.	4-99-149

PROJECT: **RESEARCH CENTER**
 10000 S.W. 10th Avenue, Miami, FL 33155
 ARCHITECT: **RESEARCH CENTER ARCHITECTS**
 10000 S.W. 10th Avenue, Miami, FL 33155

6

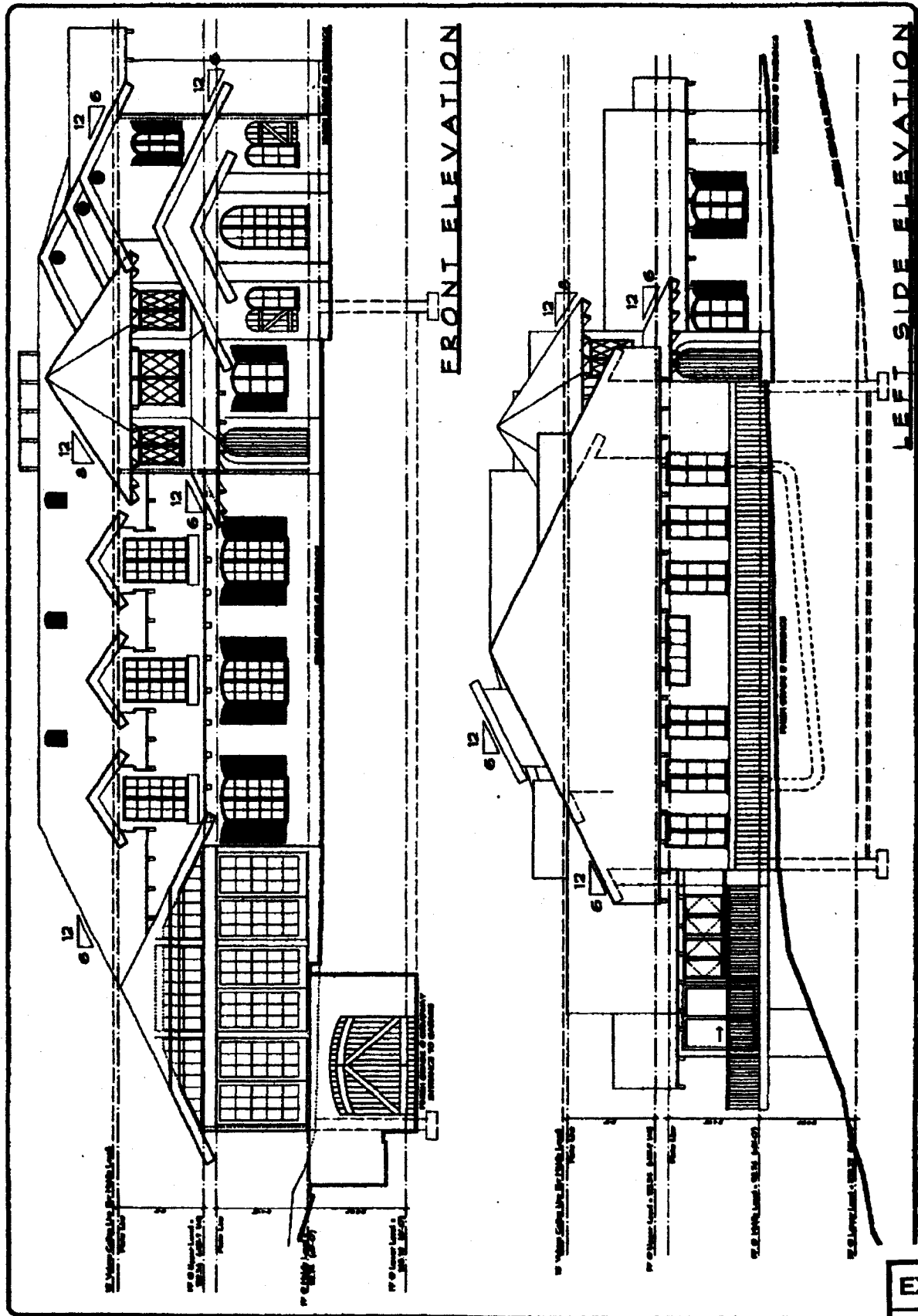


EXHIBIT NO. 11
APPLICATION NO.
41-99-149

REAR & RIGHT SIDE ELEVATIONS
 SACRAMENTO COUNTY ARCHITECTS
 1218 O STREET, SUITE 200
 SACRAMENTO, CA 95811
 PROJECT: REAR & RIGHT SIDE ELEVATIONS
 DATE: 09/16/1999

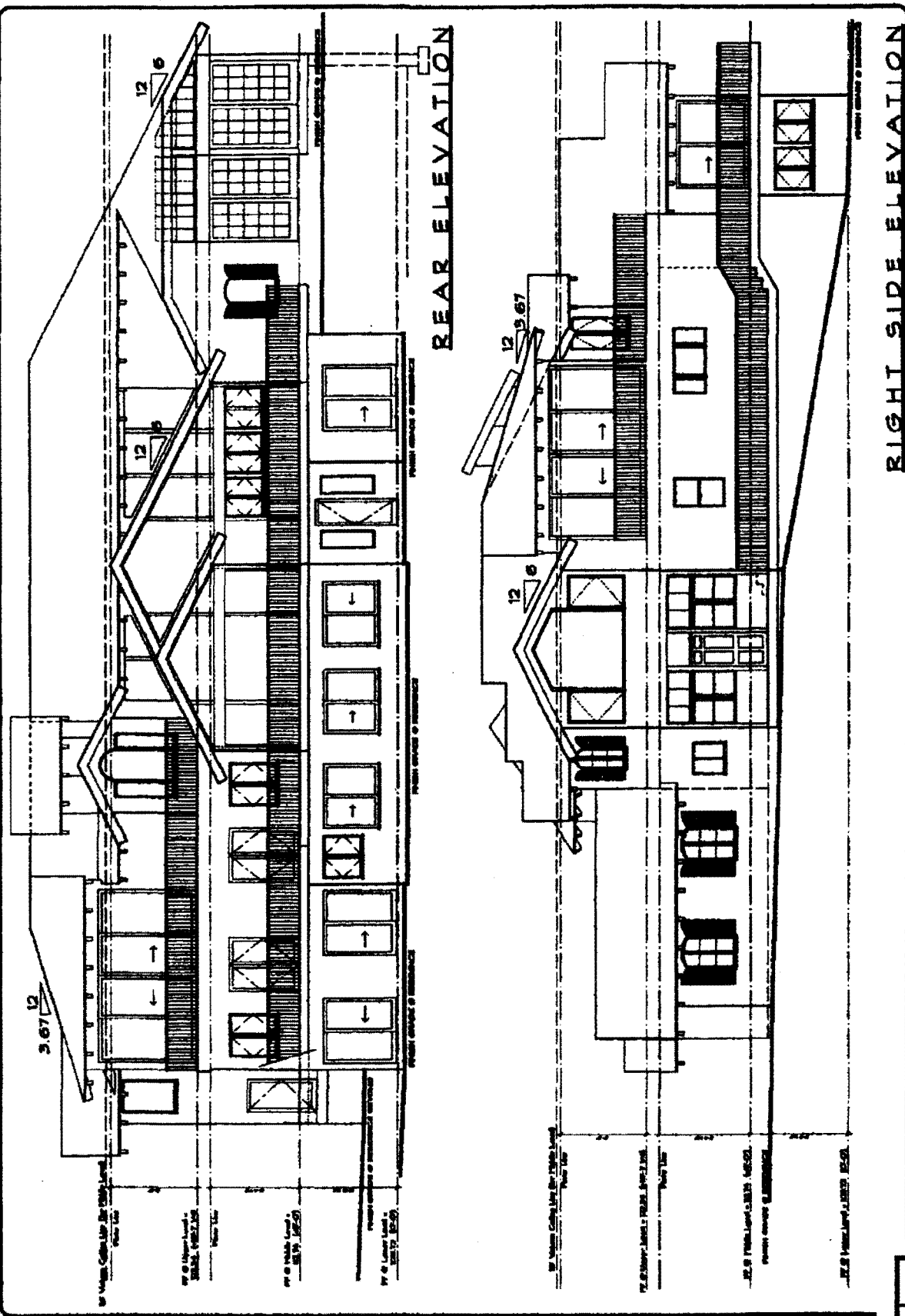


EXHIBIT NO. 12
 APPLICATION NO.
 4-99-149

ARCHITECT: **ROBERT B. BROWN ARCHITECTS**
 112 SOUTH BROAD STREET, SUITE 200
 PHILADELPHIA, PA 19106
 PROJECT NO.: **4-99-149**
 SHEET NO.: **11**
 DATE: **09/21/1999**

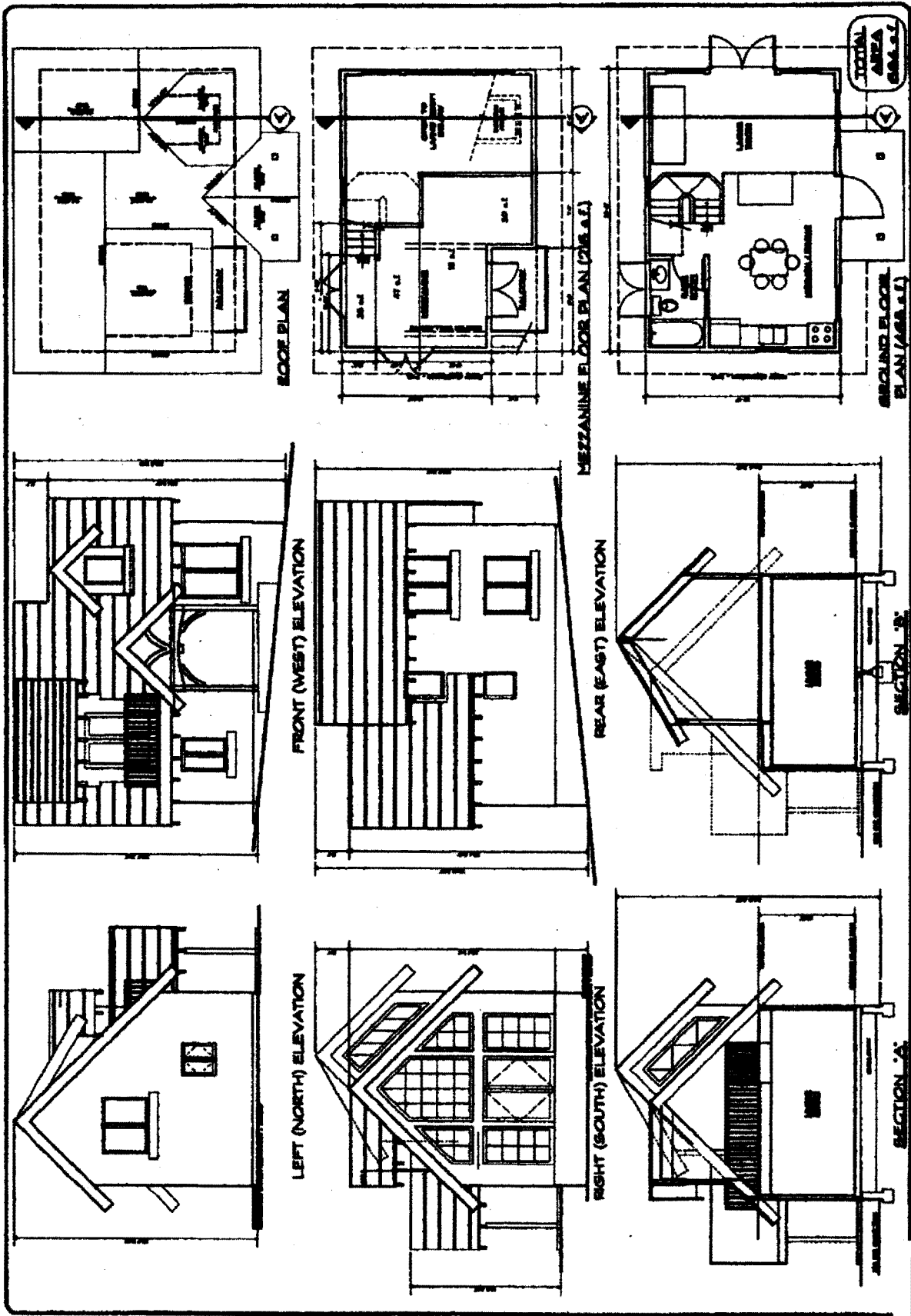


EXHIBIT NO. _____
 APPLICATION NO. _____
 4-99-149