

**CALIFORNIA COASTAL COMMISSION**

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

Filed: 1/29/99  
49th Day: 3/19/99  
180th Day: 7/28/99  
Staff: S. Hudson *ja*  
Staff Report: 2/18/98  
Hearing Date: March 9-12, 1999  
Commission Action:



RECORD PACKET COPY

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NO.:** 4-98-266

**APPLICANT:** Hamka Corporation

**AGENT:** Carlos Rocha

**PROJECT LOCATION:** 20743 Big Rock Drive, City of Malibu; Los Angeles County.

**PROJECT DESCRIPTION:** Construction of a new 6,087 sq. ft., 28 ft. high, two-story single family residence (SFR) with an attached 705 sq. ft. three-car garage to replace a 4,375 sq. ft. SFR with an attached 618 sq. ft. garage destroyed by wildfire.

Lot area:	35,722 sq. ft.
Building coverage:	5,057 sq. ft.
Pavement coverage:	4,200 sq. ft.
Landscape coverage:	7,000 sq. ft.
Parking spaces:	3
Ht abv fin grade:	28'-0"

**LOCAL APPROVALS RECEIVED:** Approval in Concept City of Malibu Planning Department, Approval in Concept for City of Malibu Engineering and Geotechnical Review, Approval in Concept City of Malibu Environmental Health Department (Septic).

**SUBSTANTIVE FILE DOCUMENTS:** Geotechnical Engineering Reconnaissance Report by RJR Engineering Group dated 8/6/97; Geotechnical Engineering Reconnaissance Report Addendum Letter by RJR Engineering Group dated 1/22/99; Geologic Data for Sewage Disposal System Report by RJR Engineering Group dated 7/30/98.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the proposed project with four (4) special conditions regarding landscape and erosion control plans, plans conforming to geologic recommendations, drainage plans and maintenance responsibility, and assumption of risk. The proposed project is for the construction of a new larger single family residence to replace a previously existing residence destroyed by wildfire. The project site is located within a built out residential area of Malibu. The project site is also located within the boundary of an ancient (currently inactive) landslide in addition to being located immediately adjacent to the currently active Big Rock Mesa Landslide.

## **STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

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

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts 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. Landscaping and Erosion Control Plan**

Prior to the issuance of the coastal development permit, the applicant shall submit a landscaping and erosion control plan for review and approval by the Executive Director. The plan shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

(a) All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native/drought resistant plants 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. Irrigated lawn, turf, or groundcover planted within a 50 ft. radius (fuel modification zone) of the proposed residence shall be selected from the most drought tolerant species, subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

(b) All slopes on site shall be stabilized with planting within 60 days of receipt of the certificate of occupancy. Existing invasive or non-indigenous vegetation plant species shall be removed from slope areas. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;

(c) Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the applicable landscape requirements.

(d) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

(e) Five years from the completion of development, the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies that the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates that the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in compliance with the original approved plan.

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

All recommendations contained in both the Geotechnical Engineering Reconnaissance Report by RJR Engineering Group dated 8/6/97 and the Geotechnical Engineering Reconnaissance Report Addendum Letter by RJR Engineering Group dated 1/22/99 shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by the geologic and geotechnical consultant. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the geologic and geotechnical consultant's review and approval of all project plans.

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

## **3. 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 road and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner. Site drainage shall not be accomplished by sheetflow runoff. With acceptance of this permit, the applicant agrees that should any of the project's surface or subsurface drainage structures fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

## **4. 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, 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 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.

#### **IV. Findings and Declarations.**

The Commission hereby finds and declares as follows:

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

The applicant is proposing the construction of a new 6,087 sq. ft., 28 ft. high, two-story single family residence (SFR) with an attached 705 sq. ft. three-car garage to replace a 4,375 sq. ft. SFR with an attached 618 sq. ft. garage destroyed by wildfire. Pursuant to Coastal Act Section 30610(g)(1), a coastal development permit is not required for the replacement of a structure destroyed by disaster if the structure does not exceed either floor area, height, or bulk of the destroyed structure by more than 10%. In this case, the proposed replacement single family residence and garage will exceed the previous structure by 41% (1,799 sq. ft.) and, therefore, requires a coastal development permit.

The subject site is a 35,722 sq. ft. lot located between a switchback of Big Rock Drive so that the road is located both to the north (upslope) and south (downslope) of the project site. The subject site is generally located within a built out area of Malibu consisting of numerous single family residences constructed on steep slopes (Exhibit 1). The site is also located within the boundary of an ancient (currently inactive) landslide in addition to being located immediately adjacent to the currently active Big Rock Mesa Landslide.

An existing level graded pad area, constructed for the previously existing single family residence, is located on site. An existing swimming pool/spa and deck are located on the existing level pad area immediately south of proposed location for the single family residence. Slopes descend from the level pad area to Big Rock Drive approximately 100 ft. the south at an approximate slope ratio of 1:5 to 2:1 (26° to 33°). Slopes ascend from the level pad area to Big Rock Drive to the north at an approximate slope ratio of 1:5 (26°). Access to the property is provided by an existing short driveway extending from Big Rock Drive to the north.

## **B. Geologic Stability and Hazards**

Section 30253 of the Coastal Act states 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.

The Geotechnical Engineering Reconnaissance Report by RJR Engineering Group dated 8/6/97 indicates that the subject site is not only underlain by an ancient landslide but that the site is also adjacent to the active Big Rock Mesa landslide. However, the report also indicates that no evidence of surficial or gross movement is evident at the site at this time.

The Geotechnical Engineering Reconnaissance Report by RJR Engineering Group dated 8/6/97, states that:

*It is the opinion of RJR Engineering Group that the site can be re-developed....The proposed remedial re-development, as planned, will not decrease the stability of the site or surrounding areas, relative to the conditions that existed at the time of the fire.*

Further, the Geotechnical Engineering Reconnaissance Report Addendum Letter by RJR Engineering Group dated 1/22/99 also states that:

*It is the opinion of RJR that the proposed development will not adversely affect off-site property provided the recommendations presented in this update report are incorporated into the design and construction of the project.*

The Commission notes that the geologic and engineering consultants have included a number of geotechnical recommendations which will increase the stability and geotechnical safety of the site. To ensure that the recommendations of the geologic geotechnical consultant are incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by Special Condition Two (2), to submit project plans certified by the consulting geologic and geotechnical engineering consultant as conforming to their recommendations.

However, because there remains some inherent risk in building on sites underlain by ancient landslides and located immediately adjacent to an active landslide, such as the subject site, and due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by Special Condition Four (4). 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.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions and danger from wildfire is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist potentially hazardous geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question. The Commission has required such deed restrictions for other development throughout the Malibu/Santa Monica Mountains region.

The Commission also finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas and ascending and descending slopes on site with native plants, compatible with the surrounding environment. Therefore, Special Condition One (1) has been required to ensure that all disturbed areas and slopes on site are stabilized and vegetated.

In addition, the applicant's geologic and geotechnical consultant has recommended that drainage not be allowed to pond on the pad or against any foundation or paved area but should be collected and distributed in a non-erosive manner. To ensure that adequate drainage is incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by Special Condition Three (3), to submit drainage and erosion control plans conforming to the recommendations of the consulting geotechnical engineer for review and approval by the Executive Director and that the applicant assume responsibility for the maintenance of all drainage devices on site.

The Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

### **C. 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 subordinated to the character of its setting.*

The applicant is proposing construction of a new 6,087 sq. ft., 28 ft. high, two-story single family residence (SFR) with an attached 705 sq. ft. three-car garage to replace a 4,375 sq. ft. SFR with an attached 618 sq. ft. garage destroyed by wildfire. The proposed project is located within a built-out section of Malibu consisting of numerous single family residences and is consistent with neighboring development. Although the project site is visible from a portion of Pacific Coast Highway the proposed residence is consistent with the character of this area and will not result in a significant adverse impact on the viewshed from the highway. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30251 of the Coastal Act.

### **D. Septic System**

The Commission recognizes that the potential build-out of lots in 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 applicant has submitted approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance 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 is consistent with Section 30231 of the Coastal Act.

### **E. 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's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

### **F. 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/permits/consent/4-98-266 hamka

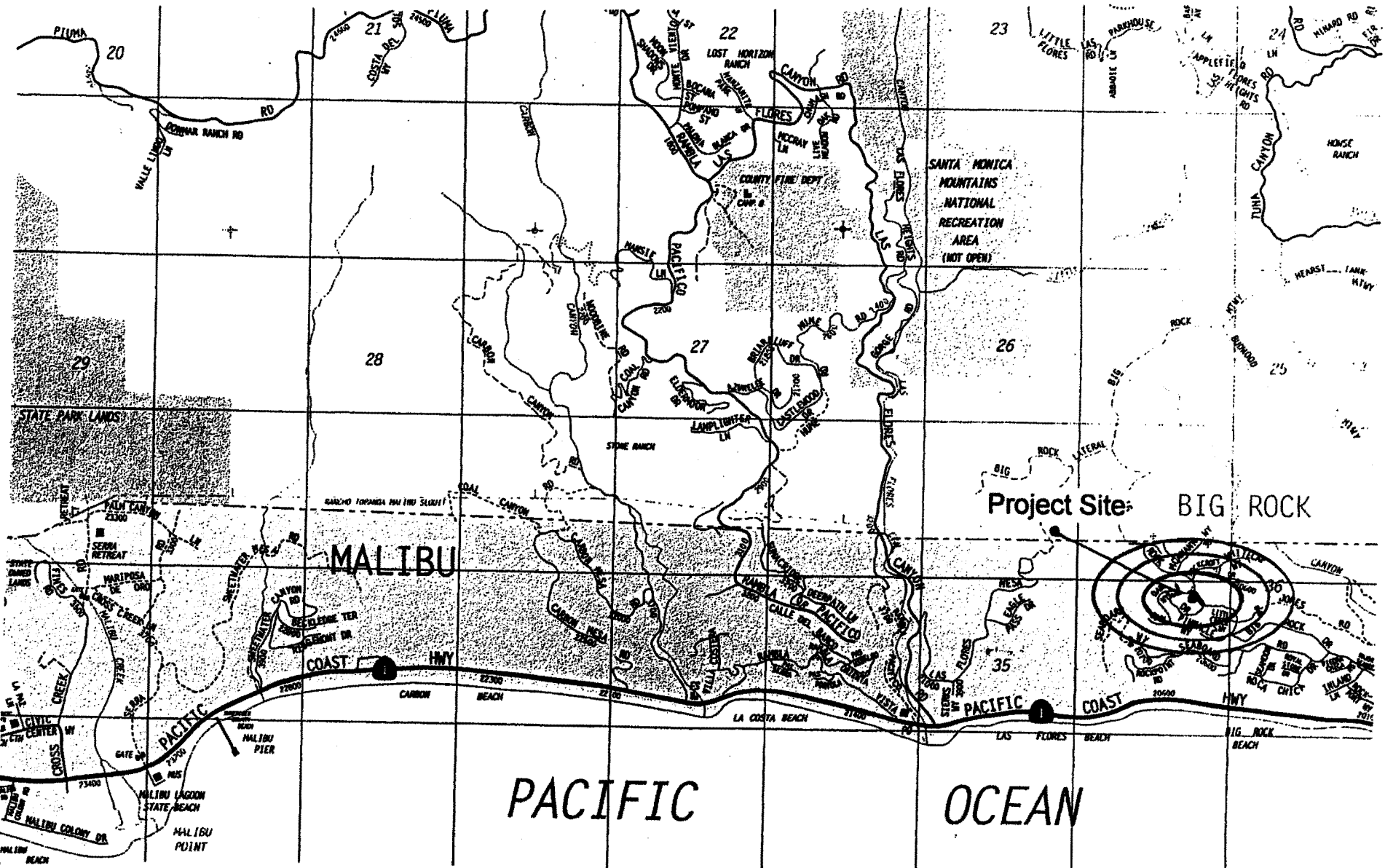
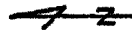


Exhibit No. 1: (4-98-266) Location Map

44-49 | 15  
SCALE 1" = 100'

1997

10853 10854



SCALE IN 1/4" OF AN INCH

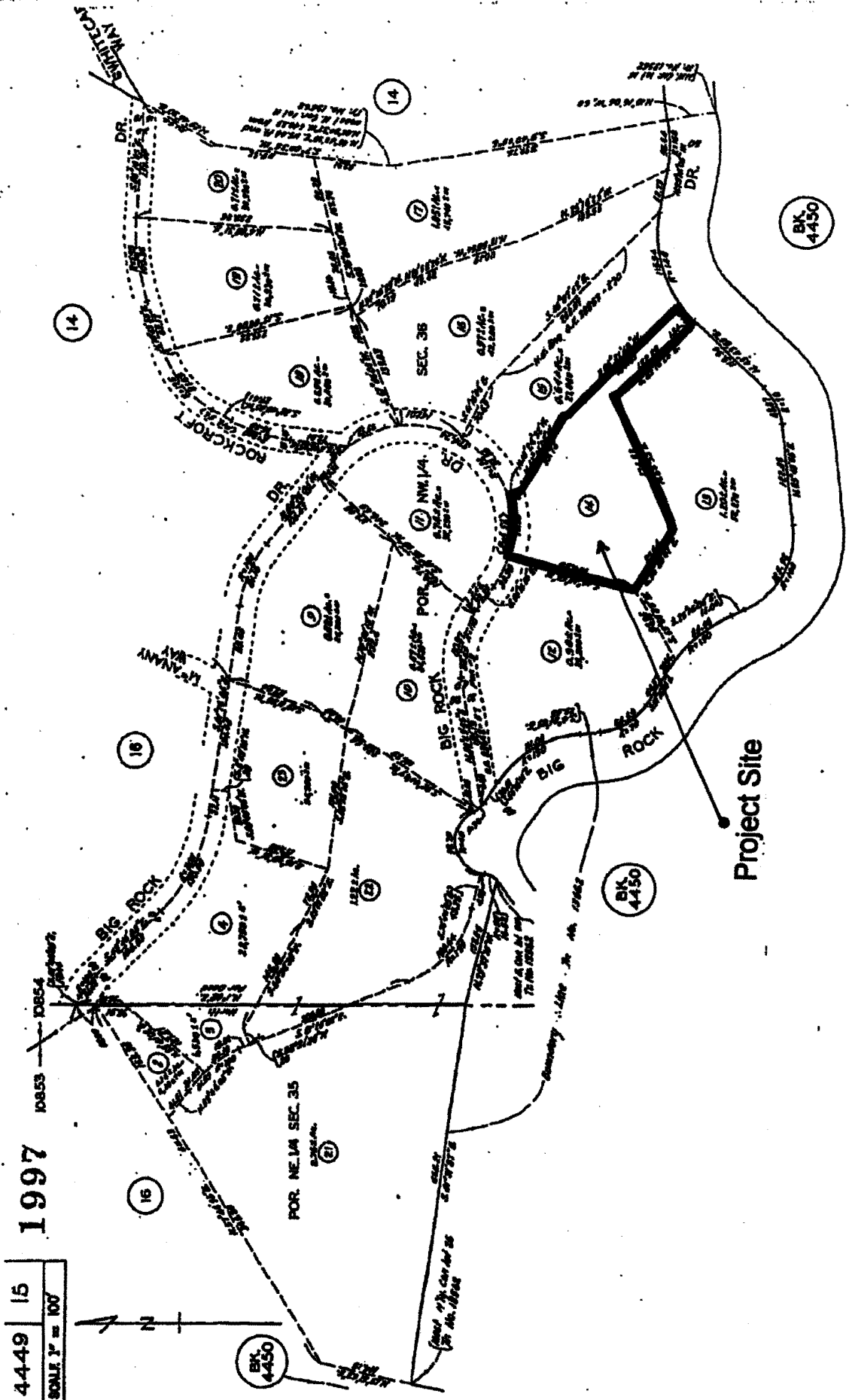
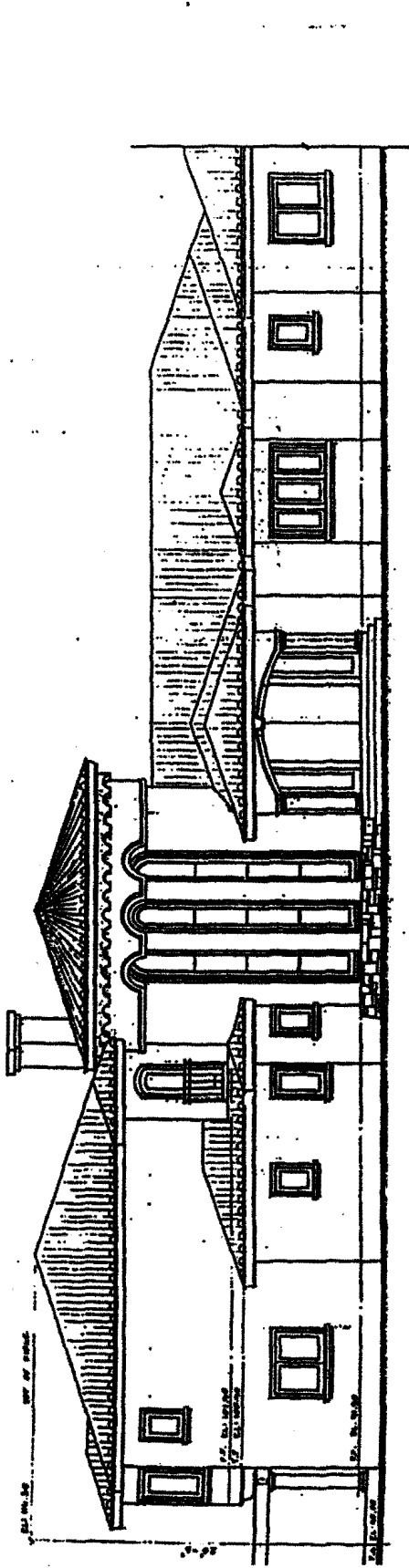
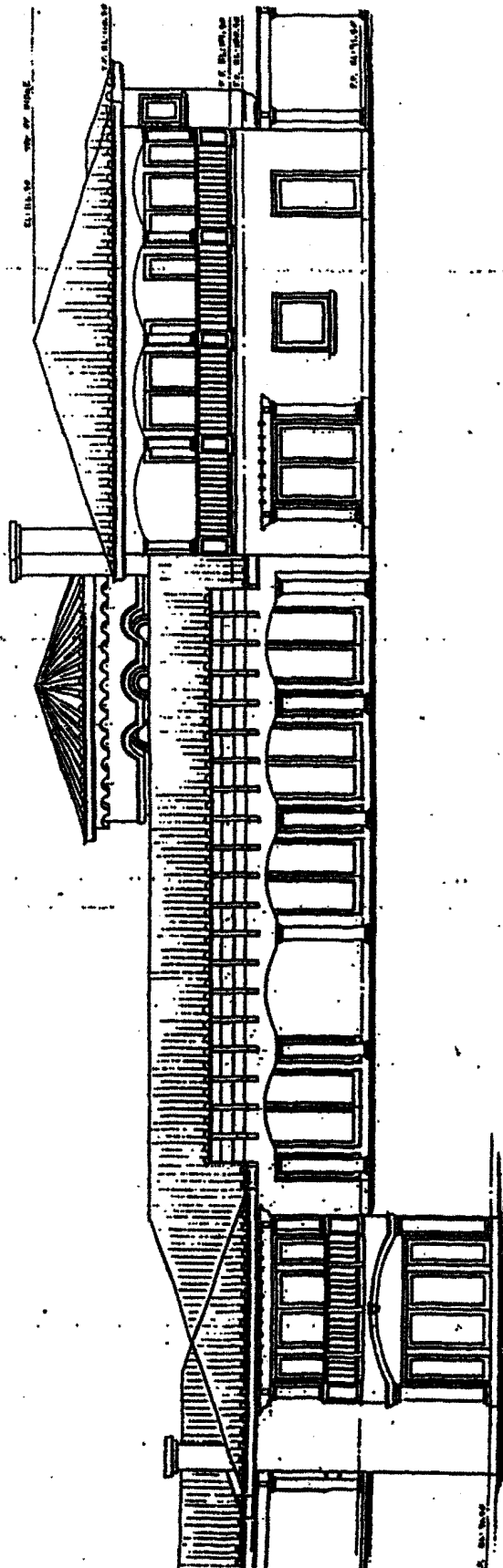


Exhibit No. 2: (4-98-266) Parcel Map

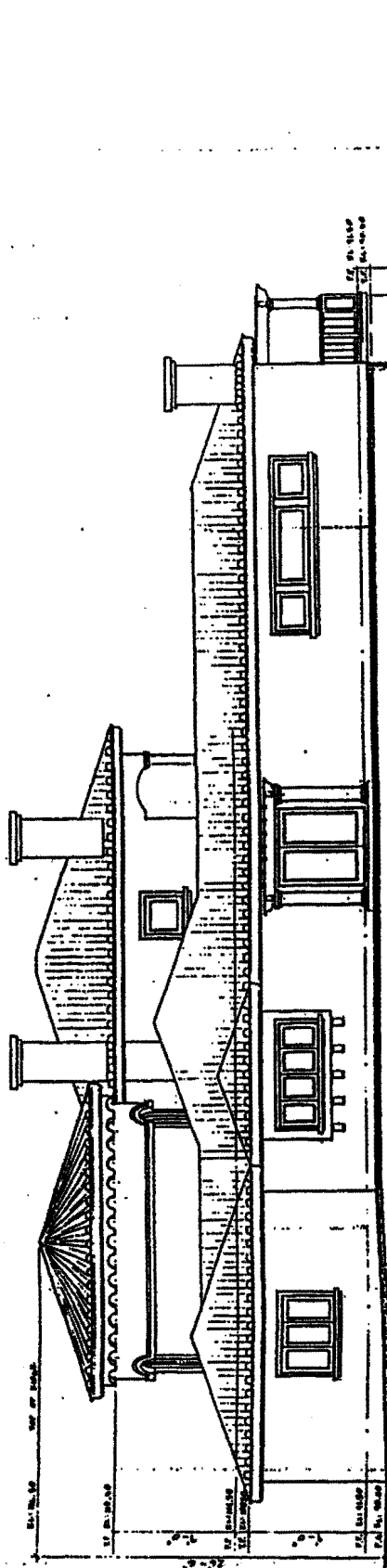




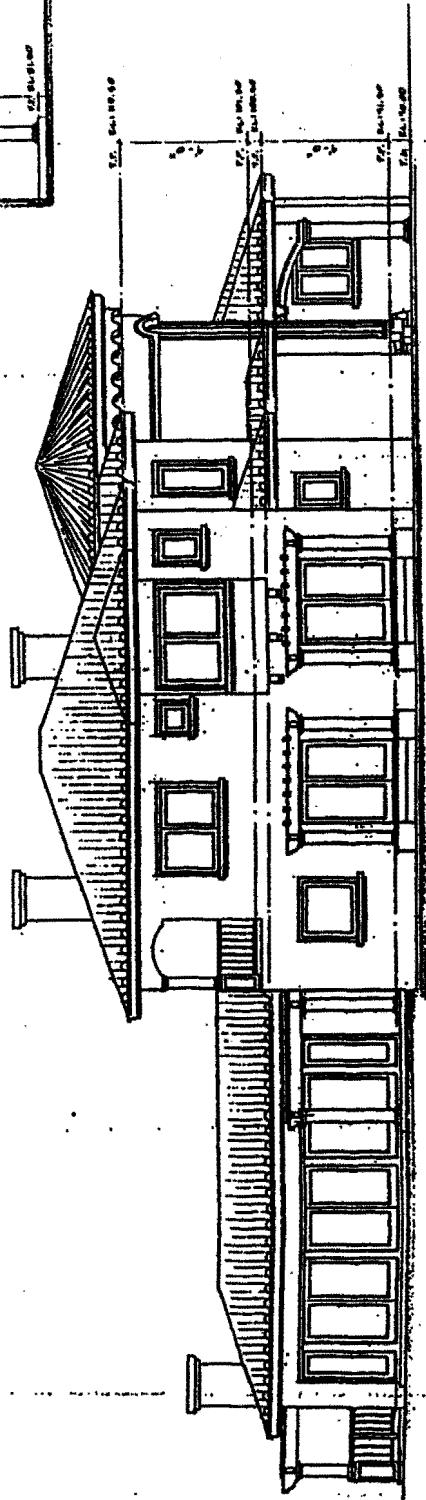
NORTH ELEVATION



SOUTH ELEVATION



WEST ELEVATION



EAST ELEVATION

