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**CALIFORNIA COASTAL COMMISSION**

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

Filed: 1/12/99  
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180th Day: 7/11/99  
Staff: MB-V  
Staff Report: 2/18/99  
Hearing Date: 3/9-12/99

**RECORD PACKET COPY****STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NO.:** 4-98-330  
**APPLICANT:** Malibu United Methodist Church  
**AGENT:** Don Wilkins  
**PROJECT LOCATION:** 30128 Morning View, City of Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Add 1,440 sq. ft. modular classroom building and 2,880 sq. ft. modular multi-purpose building with individual septic systems. Remove existing 450 sq. ft. modular classroom building.

<b>Lot area:</b>	2.1 acres
<b>Building coverage:</b>	4,320 sq.ft. (proposed)
<b>Pavement coverage:</b>	1,000 sq. ft. (proposed)
<b>Landscape coverage:</b>	1,000 sq. ft. (proposed)
<b>Height above fin grade:</b>	14 feet

**LOCAL APPROVALS RECEIVED:** City of Malibu: Planning Department, Approval In Concept, dated 3-24-98; Planning Commission, Conditional Use Permit 97-009 and Variance 97-020, dated March 9, 1998; Geology and Geotechnical Engineering Review Sheet, dated 9-24-98; Environmental Health, In-concept Approval, dated Nov 12, 1998.

**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains Certified Land Use Plan; Keith W. Ehlert, Geologic and Fault Investigation, August 17, 1998; Rhalph Stone and Company, Ind.: Addendum No. 1, Response to City of Malibu, July 31, 1998 and Geotechnical Engineering Investigation and Report, April 27, 1998; Coastal development permits 4-97-193 (Saver) and 4-96-077 (Malibu Jewish Center and Synagogue).

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the project with special conditions relating to: Conformance to geologic recommendations, landscaping and erosion control plans, and waiver of wildfire liability.

## 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, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

### II. Standard Conditions

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

### III. Special Conditions

#### 1. Plans Conforming to Geologic Recommendations

Prior to the issuance of a coastal development permit the applicant shall submit, for review and approval by the Executive Director, evidence of the geology and geotechnical consultants' review and approval of all project plans. All recommendations contained in the Keith W. Ehler, Geologic and Fault Investigation, August 17, 1998 and Rhalph Stone and Company, Ind., Geotechnical Engineering Investigation and Report, April 27, 1998 shall be incorporated into all final design and construction plans including recommendations concerning, foundations, settlement, slabs, grading and erosion. All plans must be reviewed and approved by the consultants as conforming to these recommendations.

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 consultant shall require an amendment to the permit or a new coastal permit.

#### 2. Landscaping Plans

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans for review and approval by the Executive Director. The landscaping and erosion control plans 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:

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of certificate of occupancy of the residence. To minimize the need for irrigation 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 plan species which tend to supplant native species shall not be used.
- (2) Plantings will 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 applicable landscape requirements. Irrigated lawn, turf and ground cover planted within the fifty

foot radius of the proposed additions shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

- (3) 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 either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- (4) 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.

### 3. Waiver of Liability

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

## IV. Findings and Declarations

The Commission hereby finds and declares:

### A. Project Description

The applicant proposes to add a 1,440 sq. ft. modular classroom building and 2,880 sq. ft. modular multi-purpose building with individual septic systems. Removal and recompaction consists of 1,600 cu. yds. (800 cu. yds. removal and 800 cu. yds. redeposition) at the site of the proposed additions. The project includes also removal of an existing 450 sq. ft. classroom building.

The existing site has been developed and graded previously to create the present complex of buildings and parking for the United Methodist Church and the nursery/day care school held during the week. Surrounding development is of a single family and institutional character, including the Malibu Equestrian Park and Malibu High School. A single family

residence nearby was recently approved for demolition and construction of a new, larger residence at 30254 Morning View Drive through Coastal development permit 4-97-193 (Saver).

Because of the location and surrounding topography, the project will not impact on views from the nearby Coast Highway, a designated scenic route. A segment of the Zuma Ridge Trail is located approximately one third mile north of the project site and the proposal will not create a impact on the scenic views from this trail. There are no environmentally sensitive habitat area designed in the Malibu/Santa Monica Mountains LUP in the vicinity of the project site, including offshore areas.

**B. 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, 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 on a terrace between the southern flank of the Santa Monica Mountains and the seas. The Mountains are 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.

The subject site is on a relatively gently sloping lot with a gradient of approximately 3.5 degrees and no identified geologic problems on the site or in the surrounding area.

**1. Geology**

The applicant has submitted a Rhalph Stone and Company, Ind.: Addendum No. 1, Response to City of Malibu, July 31, 1998 and Geotechnical Engineering Investigation and Report, April 27, 1998 and Keith W. Ehlert, Geologic and Fault Investigation, August 17, 1998 for the subject site. The April 27, 1998 geological investigation concludes that.

It is the opinion of the undersigned ... that if constructed in accordance with our recommendations and the recommendations of the other project consultants, and properly maintained the proposed structures will be safe against hazard from landslide, damaging settlement, or slippage, and that the proposed building or grading construction will have no adverse effect on the geotechnical stability of property outside of the building site.

Based on their evaluation of previous research, site observations, excavation, laboratory testing, and analysis, the geotechnical engineer has provided recommendations to address the specific soil conditions related to the design of the building foundation, settlement, slabs, grading and erosion.

Thus, based on the findings and recommendations of the consulting geotechnical engineer, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting geotechnical engineer as conforming to their recommendations, as noted in *special condition number one (1)* for the final project plans for the proposed project.

## 2. Landscaping and Erosion

Surface drainage on site is predominately by sheet flow toward the south and the street to the north. There are no sensitive inland areas such as environmentally sensitive habitat areas affected by flow from the site, nor are there such areas offshore of the site such as kelp beds and intertidal areas. The consulting geologist is concerned about the drainage associated with the proposal and recommended that drainage should be dispersed in a non-erosive manner, and preclude concentration of runoff and erosion.

The Commission finds that the project will not significantly increase the amount of impervious surfaces on the site which will increase both the volume and velocity of storm water runoff. Drainage and erosion control is through surface drainage to the street through an existing system of parking, walkway and driveway areas. The portions of these improvements in the vicinity of the additions will be augmented as part of the project. Since the site is almost fully developed, and the proposed developments are of a minor nature, the proposal will not significantly contribute to erosion on and off the site which could destabilize the site.

However, the Commission finds that landscaping with native and drought resistant plants of disturbed areas is necessary to minimize the potential for erosion and grading and ensure that non intrusive vegetation is avoided as required in *special condition number two (2)*. Replanting when necessary, use of siltation control during the rainy season if necessary, and review of any changes to the approved plan will ensure compliance with this condition. However, because of the minor nature of the improvements relative to the extensive build out of the property, the requirement of a five year monitoring review is not necessary.

### 3. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

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 these associated risks. Through the waiver of liability, 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, as incorporated by *special condition number two (2)*.

### C. Public Access/Traffic and Parking

A basic mandate of the Coastal Act is to maximize public access and recreational opportunities along the coast. The Coastal Act has several policies which address the issues of public access and recreation along the coast.

Section 30210 of the Coastal Act states:

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

Section 30211 of the Coastal Act states:

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

Section 30212 of the Coastal Act states (in part):

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...

Section 30223 of the Coastal Act states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

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 ... (3) providing adequate parking facilities or providing substitute means of serving the development with public transportation ...

In addition, Section 30250(a) of the Coastal Act requires that new development be permitted only where public services are adequate and where such development will not have any adverse impacts on coastal resources.

The proposed development is in an area where staff has observed heavy peak season parking demand for visitors to Zuma Beach, a popular destination for beach users for the Los Angeles region. This demand results in parking of both the subject property and the nearby Malibu High School as not available for beach users. However, the parking is restricted for a distance of approximately one mile by signs designating no parking and/or limited parking hours along Morning View Drive to inland a few hundred feet beyond Via Cabrillo. Much of this area has no shoulder and blind curves, rendering parking unfeasible.

Based on the need for beach-related circulation and parking, generated on a regional basis, the Commission examines the question as to any potential project generation of parking demand which cannot be accommodated on the site, and extend into the area designated for limited parking along Morning View or to other streets near Zuma Beach. Past Commission findings, such as in the permit for construction of a 16,700 sq. ft. addition to the Malibu Jewish Center and Synagogue (4-96-077) on the Pacific Coast Highway indicate Commission's concern that institutional uses not create parking demand that adversely impact upland parking serving beach areas.

The 1986 Malibu/Santa Monica Mountains Land Use Plan (LUP) was reviewed and certified by the Commission in 1986 and has since been used for guidance in reviewing permit applications in the City of Malibu. The Commission, in reviewing the LUP, considered a previous 1983 study by the State Department of Transportation (Caltrans) which found that the Pacific Coast Highway was limited in its capacity to accommodate new development. In certifying the LUP, the Commission reconfirmed parking standards which had previously been used in the 1981 District Interpretive Guidelines.



In summary, these actions are evidence that the Commission's review of development proposal includes evaluation of public parking in terms of demand by the general public and certain standards for parking need generated by the development proposal to ensure upland support for beach access. To ensure that parking provision for the proposed additions to the existing institutional use do not adversely impact on public parking, the Commission has consistently applied the standards found in the certified LUP which is used by the Commission to carry out Coastal Act policy.

The proposed parking impact of the proposed development requires an evaluation of the various components of existing and proposed development in terms of the standards shown in the certified LUP, noted above as used by the Commission for guidance. Such an analysis was completed by the applicant for review by the City of Malibu, which uses the same parking generation factors as found in the LUP (Table 2 off-street parking requirements). This included separate calculations using LUP standards for the chapel, day care, offices, and meeting rooms. The calculation concluded that 96 spaces would be needed if all floor area were used simultaneously. Use of the chapel (for services) was only found to generate the need for 35 spaces, based on the provision of one space for every three fixed seats with no changes proposed under this application. Daytime use during the week for office and nursery school use was found to take place between 8 a.m. and 2 p.m. and generate the need for 21 spaces (13 existing and no additional spaces) based on 1 space for 250 sq. ft.. Use for offices, meetings and activities, which would not coincide with chapel or nursery use, was found to take place between 2 p.m. and 8 p.m. and generate the need for 48 spaces (20 existing and 28 new or converted spaces) based on 1 space for 250 sq. ft..

In evaluating the cumulative parking demand and circulation generated by the project, it is reasonable to consider that the various uses provided for by the development take place at different times and that simultaneous use is not practicable. The applicant proposes that up to one-half the night use of meeting and activity space may overlap with day time use for office and nursery functions (i.e. demand for approximately 24 spaces, based on staff calculation) and still result in sufficient parking accommodation on-site. Such an overlap is unlikely because the operations are separated by function and time of day and time of week, although some day care/nursery use could take place during evening meetings or Sunday services. Although provision for overlap is not a standard found in Table 2 of the LUP, the Commission considers the amount of parking to be provided on-site of is allowance to be reasonable and will not result in demand for parking on surrounding streets which may be otherwise used by beach users.

In summary, the proposed provision of 82 spaces is sufficient to accommodate the existing and proposed development, and not impact on circulation and beach access in the surrounding area. The project, therefore, avoids adverse impact on coastal access and recreational opportunities and is consistent with Sections 30210 through 30212, 30250(a) and 30252.

**D. Septic System**

The Commission recognizes that the potential build-out of lots in Malibu, 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 entertainment, 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 proposal includes individual 1500 gallon septic systems for the two modular buildings in addition to the existing 2000 gallon septic tank. The applicant has received approval for the sewage disposal system from the City of Malibu Department of Environmental Health. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code. The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed septic system is consistent with Section 30231 of the Coastal Act.

**E. Local Coastal Program**

Section 30604(a) of the Coastal Act states that:

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

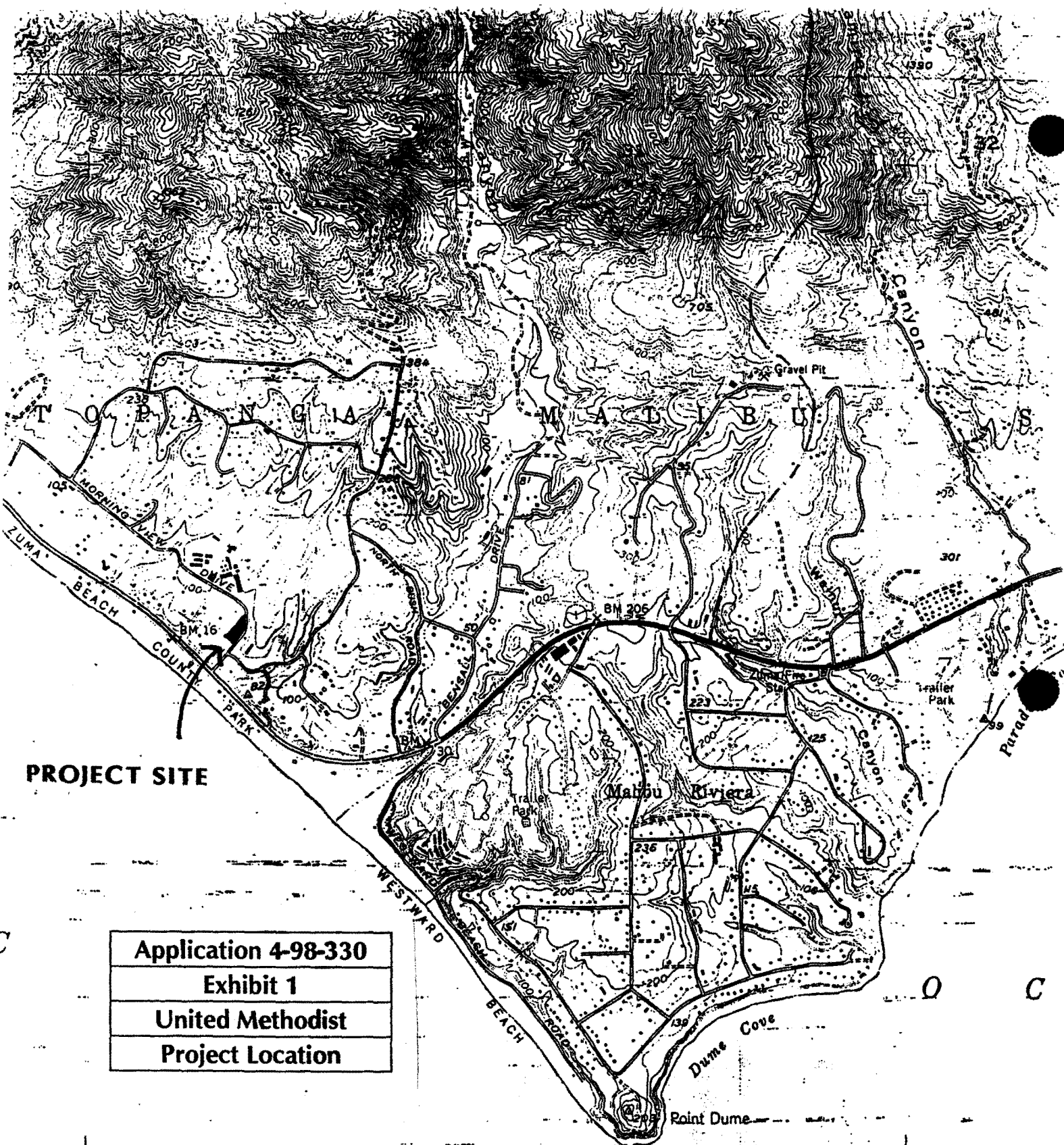
not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3.

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. 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)(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 would have on the environment.

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

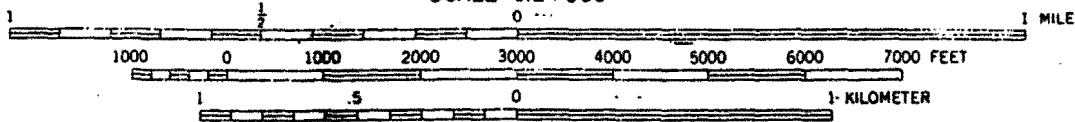


**PROJECT SITE**

Application 4-98-330
Exhibit 1
United Methodist
Project Location

50' 131 132 133 134 47'30" 135

SCALE 1:24 000

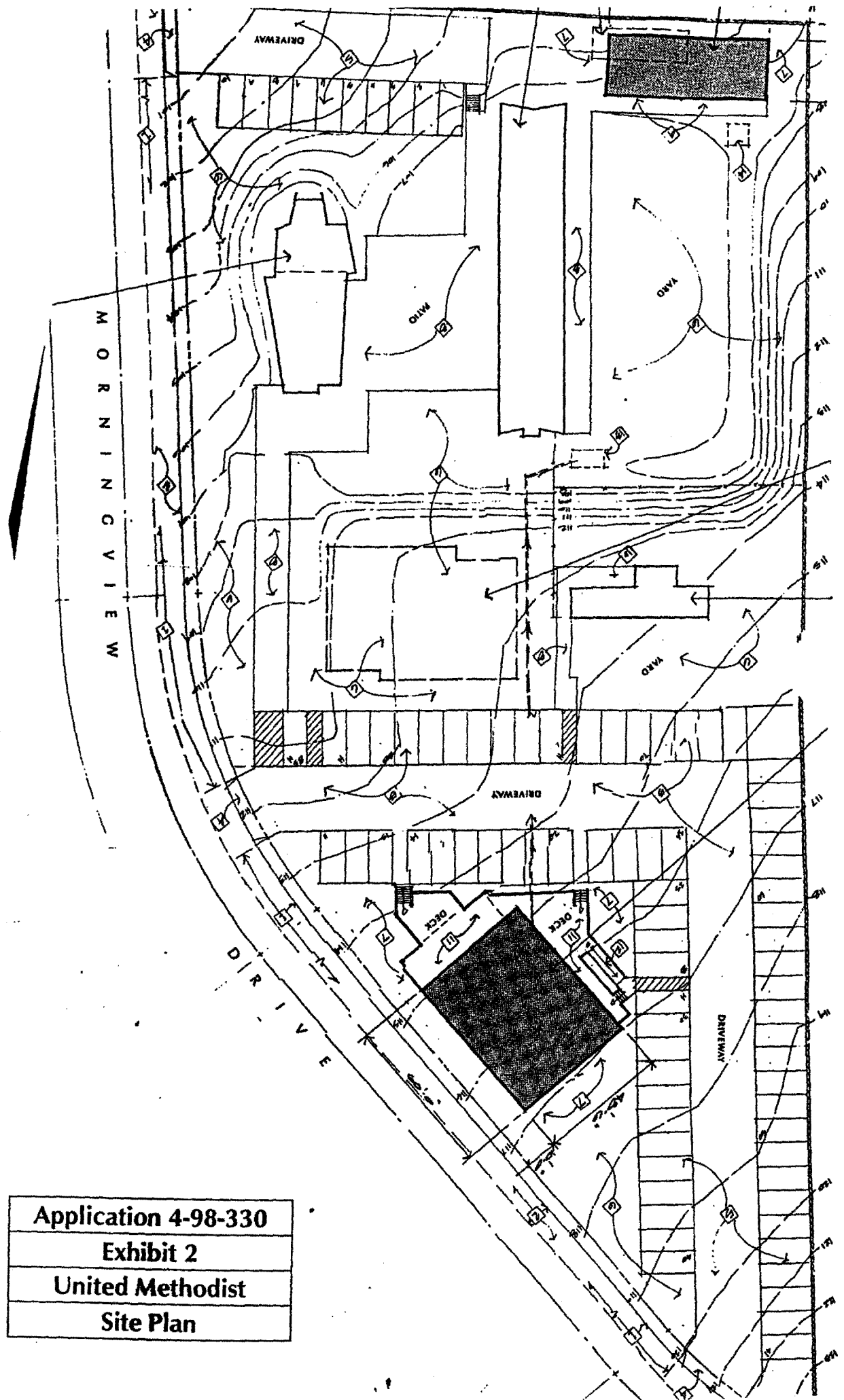


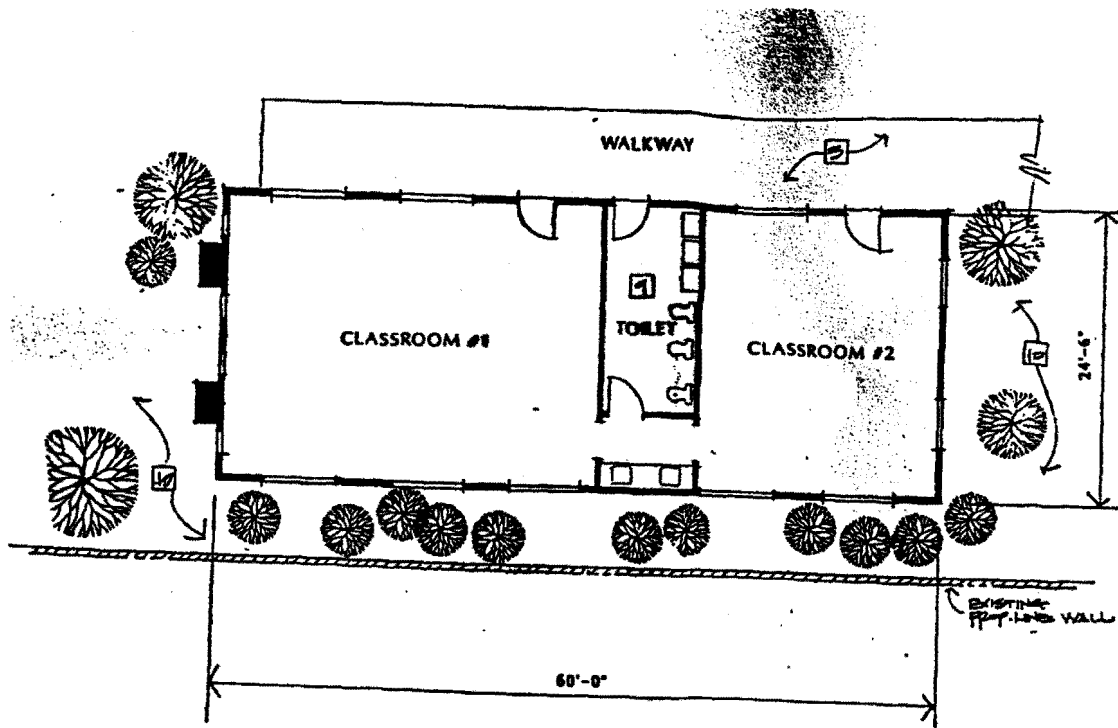
CONTOUR INTERVAL 25 FEET

NATIONAL GEODETIC VERTICAL DATUM OF 1929

SHORELINE SHOWN REPRESENTS THE APPROXIMATE LINE OF MEAN-HIGH-WATER...  
THE MEAN RANGE OF TIDE IS APPROXIMATELY 4 FEET

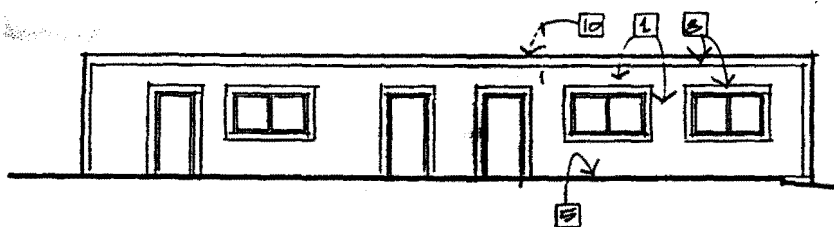
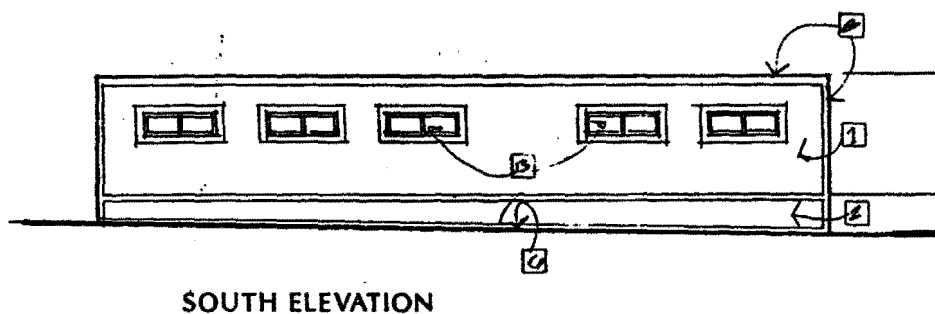
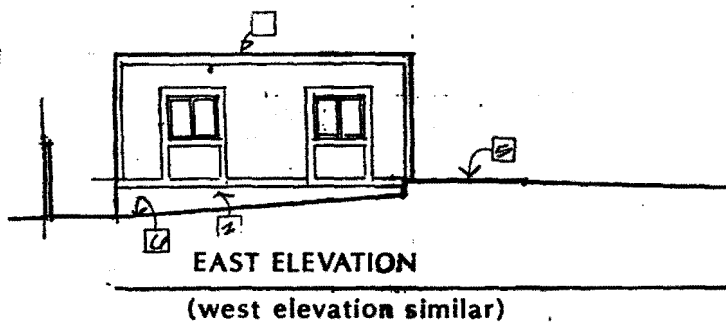
Application 4-98-330
Exhibit 2
United Methodist
Site Plan



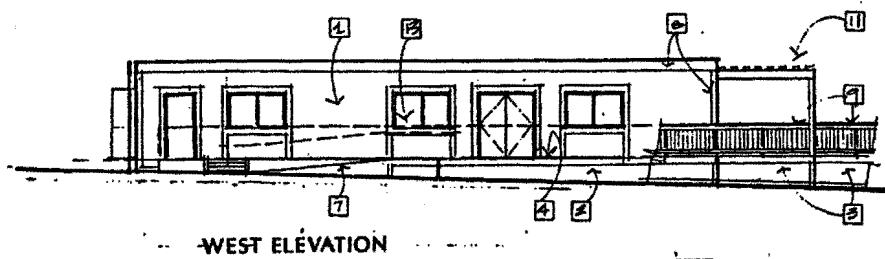
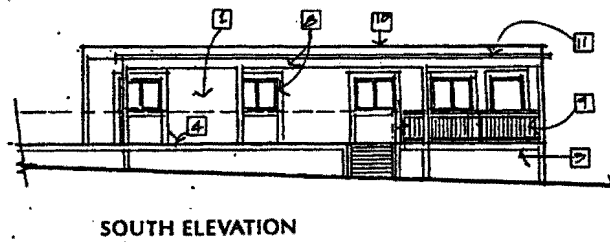
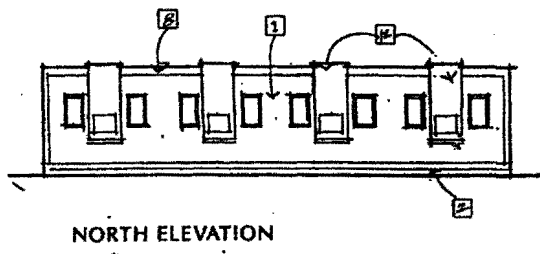
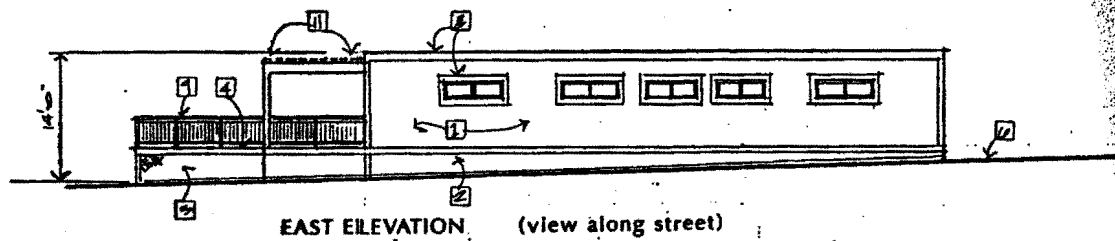
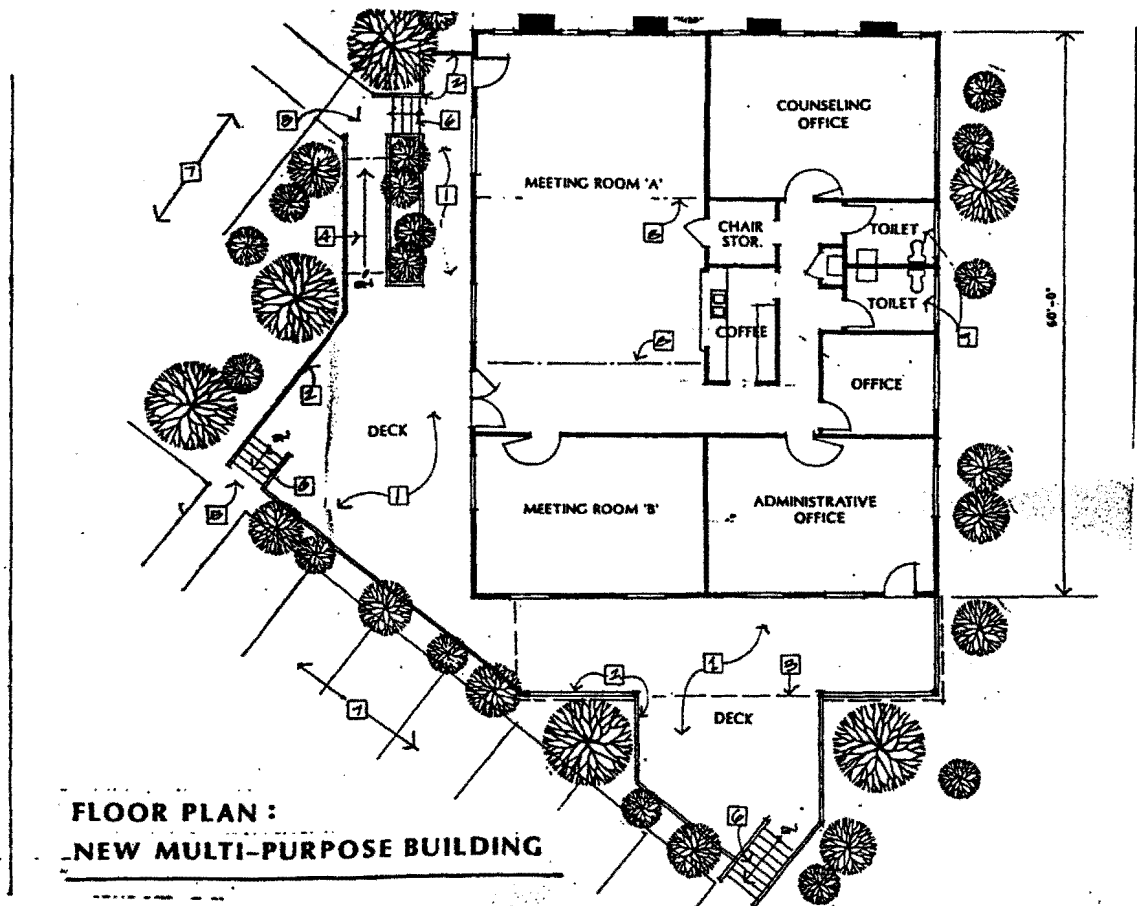


# **FLOOR PLAN : NEW CLASSROOM BUILDING**

SCALE: 1/8" = 1'-0"



Application 4-98-330
Exhibit 3
United Methodist
Floor Plans and Elevations



Application 4-98-330
Exhibit 3
United Methodist
Floor Plans and Elevations





**RECORD PACKET COPY****CALIFORNIA COASTAL COMMISSION**

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

Filed: 1/12/99  
49th Day: 1/12/99  
180th Day: 7/11/99  
Staff: mb-V  
Staff Report: 2/19/99  
Hearing Date: 3/9-12/99



TU4f

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NO.:** 4-98-331

**APPLICANT:** Dennis R. and Mrs. Brown

**PROJECT LOCATION:** 30601 Morning View Drive, City of Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Demolish an existing single family residence and construct 28 ft. high, two story, 9,188 sq. ft. single family residence with basement and attached 742 sq. ft. guest house, swimming pool, attached two car garage, septic tank, and grading of 950 cu. yds. (901 cu. yds. cut and 49 cu. yds. fill). Excess cut material will be exported off site to a landfill outside the coastal zone.

<b>Lot area:</b>	5.45 acres
<b>Building coverage:</b>	8,648 sq. ft.
<b>Pavement coverage:</b>	16,202 sq. ft.
<b>Landscape coverage:</b>	5.45 acres
<b>Parking spaces:</b>	two covered
<b>Ht above average finished grade:</b>	28 ft.

**LOCAL APPROVALS RECEIVED:** County of Los Angeles, Fire Department, fuel modification plan review letter, dated 12/14/98; City of Malibu: Planning Department – Notice of Decision Site Plan Review Permit No. 98-041, November 25, 1998 and Approval in Concept, dated 12-4-98; Environmental Health Department, In-concept Approval, dated Aug 11, 1998; Geology and Geotechnical Review Sheet, dated 9-16-98.

**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains certified Land Use Plan; Chester King, Archaeological Reconnaissance at 30601 Morning View Drive, March 3, 1998; Mountain Geology, Inc., Preliminary Engineering Geologic and Seismic Report, October 30, 1997, Addendum Engineering Geologic Report #2, August 11, 1998, and Addendum Geologic Report # 3, September 9, 1998; Coastal development permits 4-90-327 and 4-95-074 (Javid), 4-96-037 (Seastar Estates Homeowners Association), and 4-97-187 (Bossetti).

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### **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the project with special conditions relating to: ***conformance to geologic recommendations, landscape, drainage and erosion control, and fire waiver of liability, deed restriction on future development, color restriction and archaeological monitoring.***

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### **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, 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.
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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 permute to bind all future owners and possessors of the subject property to the terms and conditions.

### III. Special Conditions

#### 1. Plans Conforming to Geologic Recommendations

Prior to the issuance of a coastal development permit the applicant shall submit, for review and approval by the Executive Director, evidence of the geology and geotechnical consultants' review and approval of all project plans. All recommendations contained in the Mountain Geology, Inc., Preliminary Engineering Geologic and Seismic Report, October 30, 1997 shall be incorporated into all final design and construction including site preparation, grading, and foundations. All plans must be reviewed and approved by the consultants.

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 consultant shall require an amendment to the permit or a new coastal

#### 2. Landscape, Drainage and Erosion Control Plan

##### a. Submittal of Plans

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans for review and approval by the Executive Director. The landscaping and erosion control plans 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:

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of the receipt of certificate of occupancy of the residence. To minimize the need for irrigation 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.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. 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;

- (3) Plantings will 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 applicable landscape requirements;
- (4) 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 either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- (5) A *Drainage 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 manner which avoids ponding on the pad area. Site drainage shall not be accomplished by sheetflow runoff down the slope. Should the project's drainage structures fail or result in erosion, the applicant/ landowner or successor interests shall be responsible for any necessary repairs and restoration. The permittee shall undertake development in accordance with the final approved plan. Any changes to the final approved 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.
- (6) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

**b. Monitoring**

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 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 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 conformance with the original approved plan.

**3. Waiver of Liability**

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

**4. Color Restriction**

- a. The color of the structures and roofs permitted hereby shall be restricted to a color compatible with the surrounding environment (white tones shall not be acceptable). All windows shall be comprised of non-glare glass.
- 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, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances 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.

**5. Future Improvements**

- a. This permit is only for the development described in coastal development permit No. 4-98-331. 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)-(b) shall not apply to the entire parcel. Accordingly, any future improvements to the permitted structures (guest unit and single family residence), including but not limited to clearing of vegetation or grading, other than as provided for in the approved fuel modification, landscape and erosion control plan prepared pursuant to Special Condition number two (2), shall require an amendment to Permit No. 4-98-331 from the Commission or shall require an

additional coastal development permit from the Commission or from the applicable certified local government.

- 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, 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.

**6. Archaeological Resources**

- a. By acceptance of this permit the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation that involve earth moving operations. The number of monitors shall be adequate to observe the earth moving activities of each piece of active earth moving equipment. Specifically, the earth moving operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that any significant archaeological resources are discovered during operations, grading work in this area shall be halted. An appropriate data recovery strategy by the applicant's archaeologist, the City of Malibu archaeologist and the native American consultant consistent with CEQA guidelines shall be developed, subject to review and approval of the Executive Director.
- b. All recommendations contained in the Chester King, City of Malibu, Archaeological Reconnaissance, March 3, 1998, as well as any additional recommendations developed by the archaeologist(s) during any further Archaeological Evaluation undertaken pursuant to special condition 6(a), shall be incorporated in to all final design and construction. If the consulting archaeologist's recommendations, based on any further Archaeological Evaluation of the site, require a substantial modification or redesign of the proposed project plans, an amendment to this permit is required. The Executive Director shall determine whether required modifications are substantial.

**IV. Findings and Declarations**

The Commission hereby finds and declares:

**A. Project Description and Background**

The applicant proposes to construct a 28 ft. high, two story, 9,188 sq. ft. single family residence with basement and attached 742 sq. ft. guest house, swimming pool, attached two car garage, septic tank, and grading of 950 cu. yds. (901 cu. yds. cut and 49 cu. yds. fill) and 852 cu. yds.

export on a 5.45 acre lot. The exported material will be taken to the Lost Hills land fill which is outside the coastal zone. Surrounding land is either vacant or developed as single family residences.

The project site is developed with a 4,000 sq. ft. dilapidated single family residence within a fenced compound. The building and compound is overgrown with vegetation and surrounded with a variety of exotic plants with giant bird of paradise predominating. Ficus trees have overgrown adjacent to the house and have contributed to the structural damage. An unpaved driveway bordered by agave leads up to the existing residence and this route will be used for access by the new residence. The proposed residence will be located just to the west of the present building.

The remainder of the site is cleared and disced with some remaining ruderal vegetation, with the exception of heavy vegetation in a swale along the west property line. The swale had flowing water in it at the time of the staff site visit, which was a few days after a winter storm. The bottom of the swale is the approximate western boundary of the property. Approximately two thirds of the vegetation in the swale is intrusive myoporum which will be removed by hand as noted in plans submitted with the application. The plans include extensive replanting of the whole site with native and low water use vegetation in a manner consistent with California Native Plant Society recommendations. Remaining vegetation in the swale includes laurel sumac, artemesia, and coyote bush, and a single willow in the channel bottom. The south end of the swale drains into an artificial basin and box culvert which are located offsite at the southwest corner of the previously noted Javid subdivision property.

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

PRC Section 30231 states:

***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, and minimizing alteration of natural streams.***

In addition, the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) contains policies that provide useful guidance in evaluating the consistency of the proposed development with the policies of the Coastal Act, and which have been used as guidance in past Commission decisions. For example: ***P 81 – control of runoff into coastal waters, wetlands and riparian areas, by controlling the peak level to not exceed what existed prior to development, P 82 – grading to minimize the potential effects of runoff and erosion; P 86 – a drainage control system to minimize the effects of runoff and erosion and mitigate impacts on downstream sensitive riparian habitats.***

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, 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 on a coastal terrace of the Santa Monica Mountains, which are 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 prominent geomorphic features in the area are Pt. Dume to the southeast and Trancas Canyon to the northwest. The building pad is at the approximate 150 foot contour.

## **1. Geology**

The applicant has submitted a Mountain Geology, Inc., Preliminary Engineering Geologic and Seismic Report, October 30, 1997 which states that:

*"Based upon our exploration and experience with similar projects, the proposed development is considered feasible from an engineering standpoint provided the following recommendations are made a part of the plans and are implemented during construction. ... the proposed development will be free from geologic hazards such as landslides, slippage, active faults, and settlement. The proposed development and installation of the private disposal system 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 construction."*

Given the findings and recommendations of the consulting geotechnical engineer and engineering geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting engineering geologists as conforming to their recommendations, as noted in *special condition number one (1)* for the final project plans for the proposed project.

## **2. Erosion**

Surface drainage, as noted above, on site is predominately by sheet flow toward the west, toward the previously noted swale overgrown with myoporum. Although there is no designated ESHA in



this area or downstream, the landscaping plan developed by the applicant and in fulfillment of approval at the local level will restore this area and the remainder of the site to a more natural and native condition.

The Commission finds that the project will significantly increase the amount of impervious surfaces on the site, which will increase both the volume and velocity of storm water runoff. If not controlled and conveyed off the site in a non-erosive manner, this runoff will result in increased erosion on and off the site could destabilize the site. In addition, the consulting geologist has recommended that the drainage associated with the proposal should be dispersed in a non-erosive manner as well as preclude concentration of runoff and erosion.

The Commission must ensure that drainage from the building pad and remainder of the site is conveyed in a manner consistent with Section 30231 of the Coastal Act. The Commission has found that such uncontrolled runoff can cause erosion and sedimentation and result in introduction of pollution, sediments, and turbidity into marine waters and the nearshore bottom. Pollutants in offshore waters, especially heavy metals, are taken up into the food chain and concentrated (bioaccumulated) to the point where they may be harmful to humans, as well as lead to the decline of marine species

Although the proposed design include several rip-rap water energy flow dissipators at end of drains, there is no complete drainage plan included in the submittal designed by a qualified professional as typically required by the Commission in similar circumstances. Therefore, the Commission finds it necessary to require the applicant to submit a detailed drainage plan by a qualified professional for the proposed development to ensure runoff is conveyed offsite in a nonerosive manner. *Special condition two (2)* provides for such a drainage plan prepared by a licensed engineer.

Landscaping also minimizes the potential for erosion of grading and disturbed soils and thereby ensures site stability. The applicant has submitted a landscape plan that is similar in a number of points with prior Coastal Commission actions relative to use of native vegetation, i.e. measures such as sediment control, replanting, stabilization, and the like. *Special condition two (2)* is included to ensure that the landscaping plan is carried out in a manner consistent with the most recent Commission decisions to provide for maintenance during the life of the project, including monitoring and reevaluation after five years.

### 3. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

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 these associated risks. Through the waiver of liability, 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, as incorporated by *special condition number three (3)*.

#### 4. Summary

The above reviewed the findings and recommendations of the consulting engineering geologists and found it necessary to condition two the project to require their review and certification of project plans. Second, the creation of additional impervious surfaces was reviewed and the resultant increases in the volume and velocity of storm water were noted, requiring mitigation though preparation of a landscape, drainage and erosion control plan which ensures stability of the site and surrounding area and areas downstream. Third, the findings noted that a wild fire waiver of liability was necessary to ensure that the applicant recognizes the extent of the fire hazard. The Commission finds that only as conditioned above is the proposed project consistent with Section 30231 and 30253 of the Coastal Act.

#### C. Visual Resources and Landform Alteration

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.***

In addition, the certified Malibu/Santa Monica Mountains LUP policies regarding protection of visual resources, used as guidance in past Commission actions in the City of Malibu, are applicable to the proposed development: ***P129 Structures designed and located to create an attractive appearance in relationship with the surrounding; P125 New development sited and designed to protect public views; P130 Along scenic highways, new development sited and designed to***

***protect views to and along the ocean. minimize the alteration of natural land forms, be visually compatible with and subordinate to the setting, not intrude into the skyline.***

To assess any potential visual impacts of this project to the public, the Commission reviews the publicly accessible locations where the proposed development is visible, such as parks and trails. The site is located on a coastal terrace north of the Pacific Coast Highway, a designated scenic highway, adjacent to and west of the Javid subdivision (4-95-074 and 5-90-327) and approximately 75 feet west of the Zuma Ridge Trail. The project site is visible from the Pacific Coast Highway and beaches adjacent to the highway to the south and southwest, and is also visible from the Zuma Ridge Trail. Recent development in the project area within the Javid subdivision has been subject to conditions regarding color restrictions and future development because of visual quality issues as seen in coastal development permit 4-96-037 (Seastar Estates Homeowners Association).

The applicant is proposing to construct a 28 ft. high, two story, 9,188 sq. ft. single family residence with basement and attached 742 sq. ft. guest house, swimming pool, attached two car garage, septic tank, and grading of 950 cu. yds. (901 cu. yds. cut and 49 cu. yds. fill) and 901 cu. yds. export on a 5.45 acre lot.. The proposed approximate 9,200 sq. ft. two story residence of spanish eclectic design has a sprawling "ranchero style" spread out along the hillside along the approximate 150 foot contour to within approximately 75 feet of the designated trail.

The project plans further call for enlarging of the building pad of the previous residence resulting in grading of 950 cu. yds. This grading alteration is not considered significant landform alteration relative to PRS Section 30231 for the following reasons. Grading is reduced or minimized to accommodate the proposed design, which includes partial excavation and "keying" of the residence into the sloping terrain and requires some additional fill slopes on the down slope side to accommodate the excavation. Such landform alteration is similar to and consistent with the landform alteration of similar development of large single family residences in the project area.

The project design as noted above is a large, two story single family residence. The project location is near the crest of a minor ridgeline overlooking the coast to the southwest in the vicinity of the Trancas/Coast Highway intersection and is also within approximately 75 Feet of a designated public trail. Consequently, the proposed building will degrade public views from the Zuma Ridge Trail, and visually impact upon the Pacific Coast Highway and adjacent beaches, unless conditioned to reduce the appearance in a manner consistent with the surrounding natural landscape and neighborhood. Thus, it is necessary to ensure that the design of the project will minimize any visual impacts to the maximum extent feasible. Visual impacts associated with the colors of the structure and the potential glare of the window glass will be minimized, consistent with PRC Section 30251, by requiring a future improvements deed restriction as required by *Special Condition number four (4)*.

In addition, future developments or improvements to the property have the potential to create visual impacts as seen from the public places and trails. To ensure that future developments or improvements normally associated with a single family residence, which might otherwise be exempt, be reviewed by the Commission for compliance with the visual resource protection policies of the Coastal Act, *Special Condition number five (5)*, the future improvements deed

restriction, is necessary. This condition will ensure the Commission will have the opportunity to review future projects for compliance with the Coastal Act.

The Commission has also found through past permit action that landscaping softens, screens and mitigates the visual impact of development on views from scenic highways, public beaches and trails. The revised landscaping plan as previously specified in *Special Condition number two (2)* further mitigates visual impacts of development through the use of native, drought tolerant plantings of the Santa Monica Mountains which soften the appearance of the structure and landform alteration and make it compatible with the character of the surrounding area.

In summary, the proposed project, as conditioned, will not adversely impact the scenic public views in this area of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act.

#### D. Guest Unit

The proposed project involves the construction of a 28 ft. high, two story, 9,188 sq. ft. single family residence with basement and attached 742 sq. ft. guest house, swimming pool, attached two car garage, septic tank, and grading of 950 cu. yds. (901 cu. yds. cut and 49 cu. yds. fill) and 852 cu. yds. export on a 5.45 acre lot. Such development is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. In particular, the construction of a guest house which may become a potential second residential unit on a site where a primary residence exists may intensify the use of the site and impacts on public services, such as water, sewage, electricity and roads.

Section 30250 of the Coastal Act address the cumulative impacts of new development. Section 30250(a) of the Coastal Act states:

***New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted 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 the surrounding parcels.***

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

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

In addition, the Coastal Act requires that new development, including accessory structures, be permitted only where public services are adequate and only where coastal resources will suffer adverse cumulative impacts from such development. The Commission has repeatedly emphasized the need to address the cumulative impact of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impacts problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects.

Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, the presence of second units on each existing lot within the Coastal Zone would create adverse cumulative impacts on coastal resources and coastal access. The issue of second units on lots with primary residences consistent with the new development policies of the Coastal Act has been a topic of local and statewide review and policy action by the Commission.

The Commission examines the potential future impacts on coastal resources that might occur with any further development of the proposed structure or any change to residential use. Impacts such as traffic, sewage disposal, recreational uses, and grading can affect the scenic quality and natural resources of the area and are associated with the enlargement of existing residential structures or the development of an additional unit. Limiting the size and use of appurtenant structures generally reduces the impacts on services such as roads, water and sewage disposal.

The Commission has many past precedents on similar projects that have established a maximum size of 750 sq. ft. habitable space for development which may be considered a secondary dwelling unit. The proposed 742 sq. ft. guest house needs to be consistent with the Commission's certification of the Malibu/Santa Monica Mountains LUP and past permit actions allowing for such structures in the Malibu area. The project is consistent with the 750 sq. ft. maximum guest unit limitation in these decisions. The project design, however, with a separate entrance, lack of any internal connection of circulation with the primary residence, and a minimal physical connection with the primary residence, consisting of a single portion of a bathroom wall, is of the type which could encourage conversion to full time habitable space. Such conversion would create potential future impacts on coastal resources as noted above. Therefore, the Commission finds it is necessary to require the applicant to record a future improvements deed restriction that limits future development subject to the Commission's review.

Further, to ensure that no additions or improvements are made to the guest house that may further intensify the use without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction. Recordation of such a document requires the applicant to obtain an amended or new coastal permit if additions or improvements to the development (guest house) are proposed in the future as required by condition number five (5).

Thus, the findings attached to this permit and *Special Condition number five (5)* will serve to ensure that the proposed development results in the development of the site that is consistent with and conforms to the Chapter 3 policies of the Coastal Act.

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

**E. Archaeological Resources**

PRC Section 30244 of the Coastal Act states that:

***Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.***

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The proposed development is located in a region of the Santa Monica Mountains/Malibu area which contains one of the most significant concentrations of archaeological sites in southern California. The Coastal Act requires the protection of such resources to reduce the potential adverse impacts through the use of reasonable mitigation measures.

Degradation of archaeological resources can occur if a project is not properly monitored and managed during earth moving activities and construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. As a result, the remaining sites, even though often less rich in artifacts and other material, have become increasingly valuable as a resource. Further, archaeological sites studied collectively provide information on subsistence and settlement patterns, so that the loss of individual sites can reduce the scientific value of sites which remain intact.

The applicant proposes to construct the proposed residence and remove an existing residence on a parcel that has an archaeological site CA-LAN-335 intruding into at the southeast corner. The main project will not be within the site except that removal of landscaping, irrigation and driveway improvements will be within the site. The City of Malibu's Archaeological Reconnaissance Report notes that construction of the residence will be outside the potentially sensitive area, but recommends that there be monitoring of grading and that the site area be avoided, and that disturbed soils and excavation in the southern portion of the site be monitored.

To ensure that impacts to archaeological resources are minimized, *special condition six (6)* requires that the applicant have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation in order to monitor all earth moving operations. In addition, if any significant archaeological resources are discovered during construction, work shall be stopped and an appropriate data recovery strategy shall be developed by the City of Malibu archaeologist and the Native American consultant consistent with California

Environmental Quality Act (CEQA) guidelines. The Commission further finds that it is necessary to require the applicant to implement all other recommendations contained in the Archaeological Reconnaissance Report. Further, to evaluate new information that may be produced by any Phase II Evaluation, *special condition number six (6)* requires that any recommendations developed by the archaeologist(s) during the Phase II Evaluation shall be incorporated as part of the project and that the applicant submit a report of the evaluation to the Executive Director for review and approval. In addition, if the recommendations require a substantial modification or redesign of the proposed project, the applicant shall be required to submit an amendment to this permit.

In summary, the Commission finds that the proposed development, as conditioned, to mitigate any adverse impacts on archaeological resources, is consistent with Section 30244 of the Coastal Act.

F. Septic System

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

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

The proposed septic system includes a 1,500 gallon septic tank with seepage pits. The installation of a private sewage disposal system was review by the consulting geologist and found not to create or cause adverse conditions to the site or adjacent properties.

A percolation test was performed on the subject property which indicated the percolation rate meets Uniform Plumbing Code requirements for and is sufficient to serve the proposed single family residence. The applicant has submitted a design approval for the sewage disposal system from the City of Malibu Environmental Health Department. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for waste water discharge that could adversely impact coastal streams and waters. Therefore, the Commission finds that the proposed septic system is consistent with Section 30231 of the Coastal Act.

G. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

***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).

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)(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 effects which the activity would have on the environment.

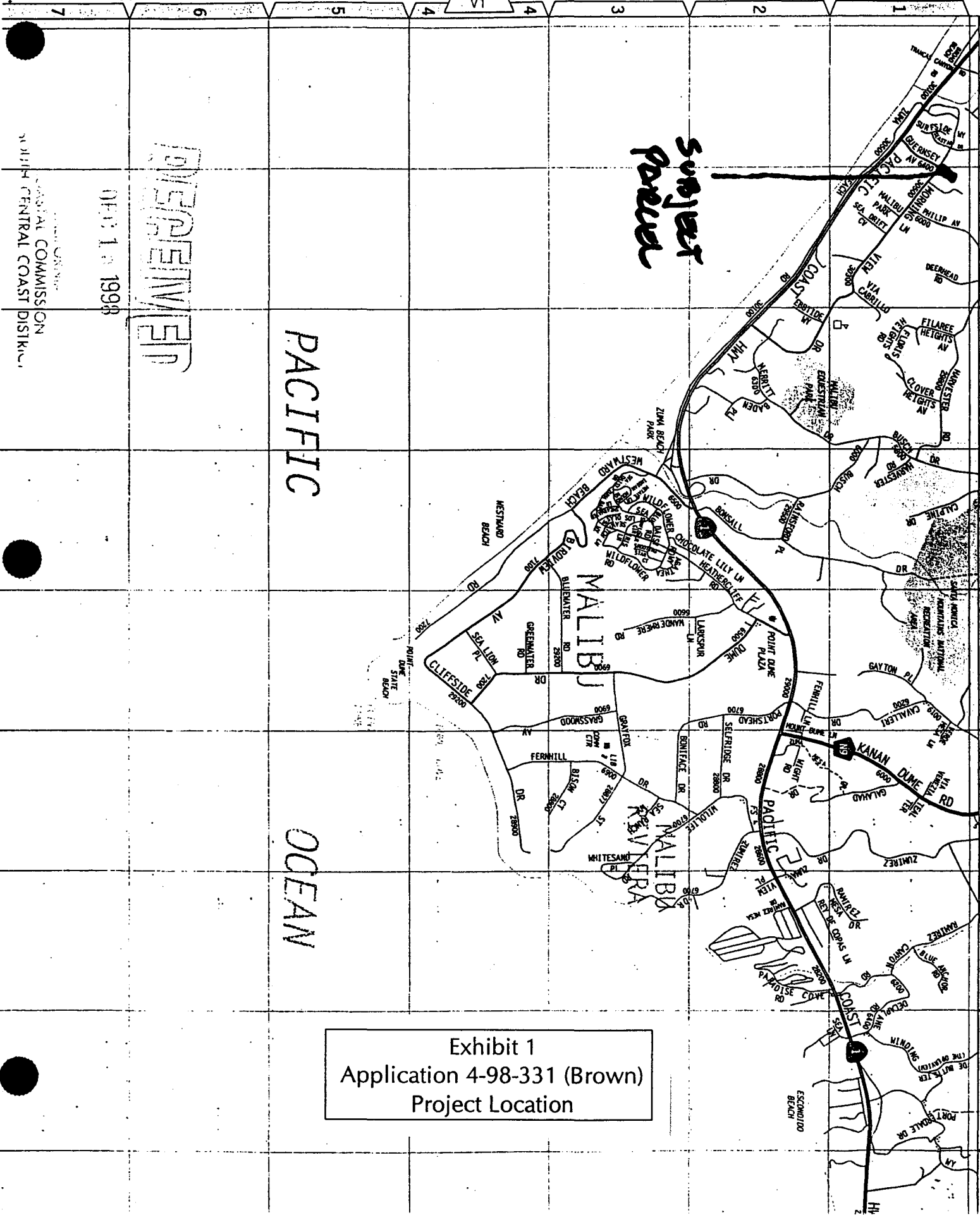
The proposed development would not cause significant, adverse environmental effects which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.



DETAIL

SEE VI MAP

LOS ANGELES CO.



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CENTRAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Exhibit 1  
Application 4-98-331 (Brown)  
Project Location

REC 1 1938

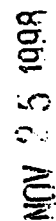


Exhibit 2  
Application 4-98-331 (Brown)  
Site Plan

RECEIVED

DEC 1 1998

COASTAL COMMISSION  
SOUTH CENTRAL COAST DIST.

BROWN RESIDENCE  
2001, 2002, 2003, 2004  
MILWAUKEE, WI 53208

MR. & MRS. BROWN  
2001, 2002, 2003, 2004  
MILWAUKEE, WI 53208

CARL E. VOLANTE  
ARCHITECT  
7107 N. 10TH ST.  
MILWAUKEE, WI 53208

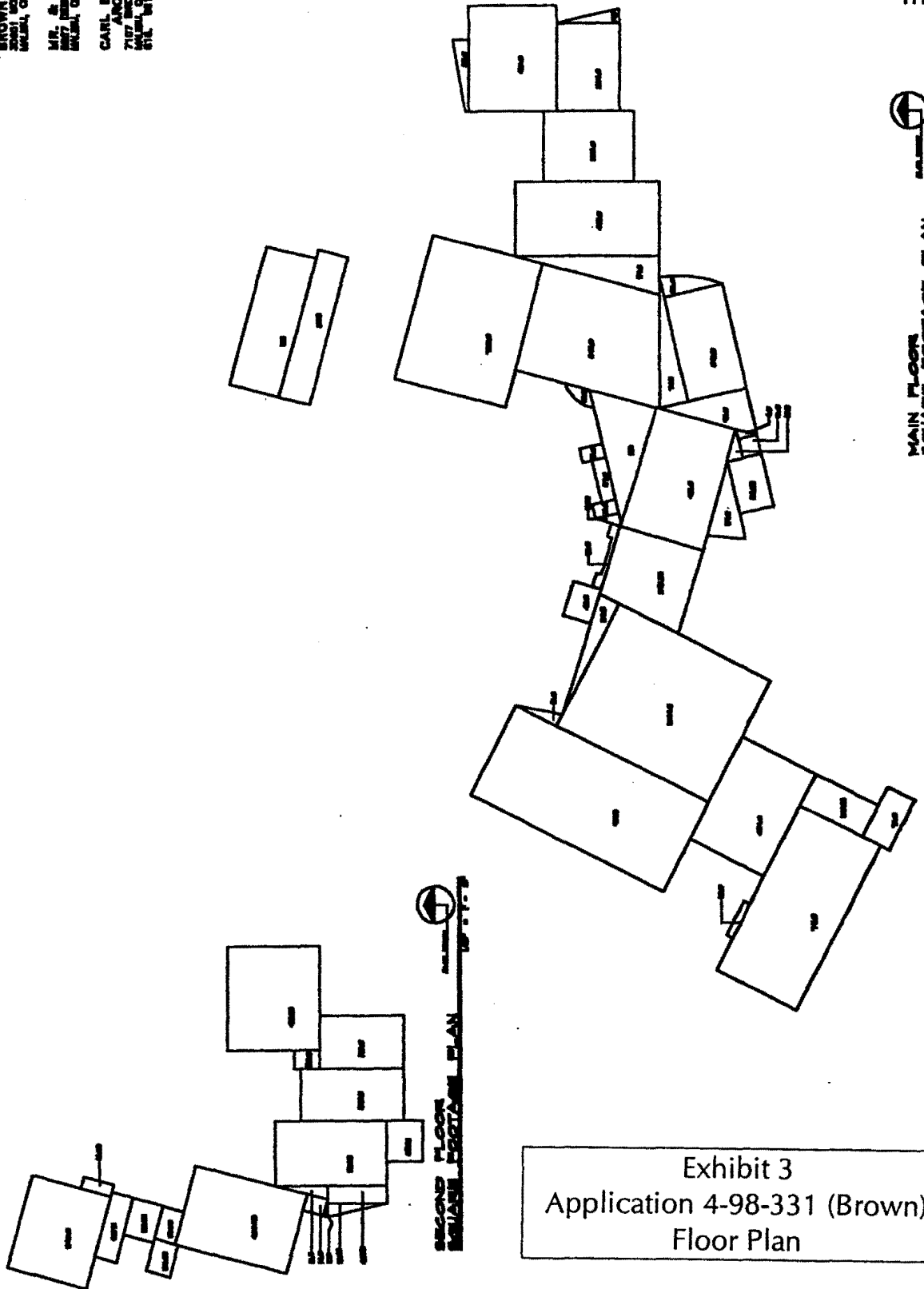
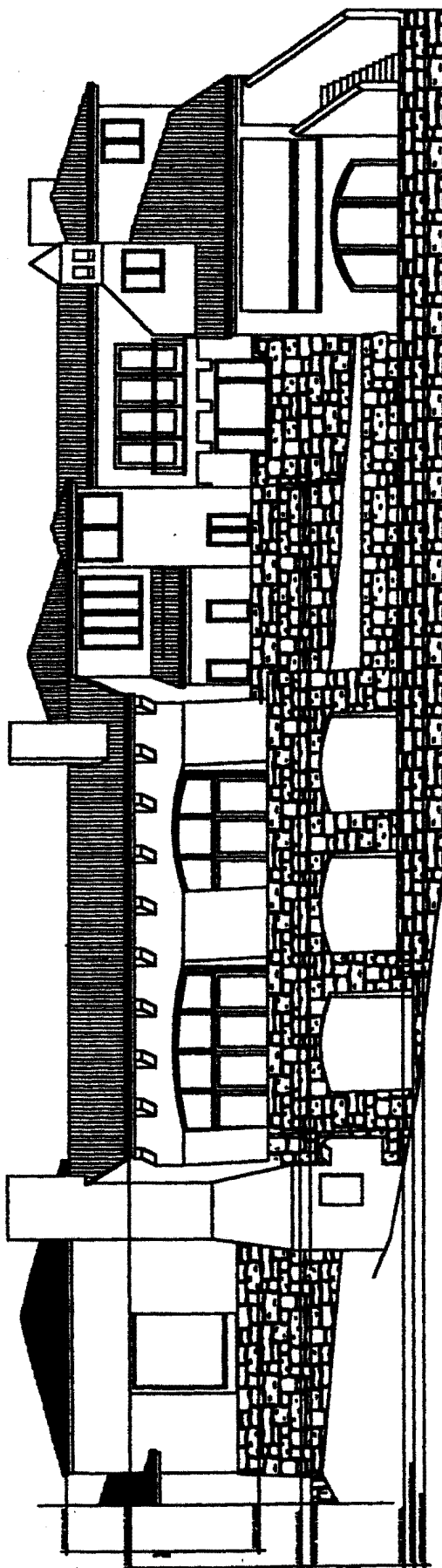


Exhibit 3  
Application 4-98-331 (Brown)  
Floor Plan

MAIN FLOOR  
RESIDENCE FLOOR PLAN  
DATE: 12/1/98  
BY: [Signature]  
SCALE: 1/8" = 1'-0"

**EARL E. VOLAI  
ARCHITECT  
7167 MIDWAY  
DALLAS, TX 75206  
TEL 469.7762**

**NET ELEVATION** **11** **11.15**



# WATER ELEVATION : A

11

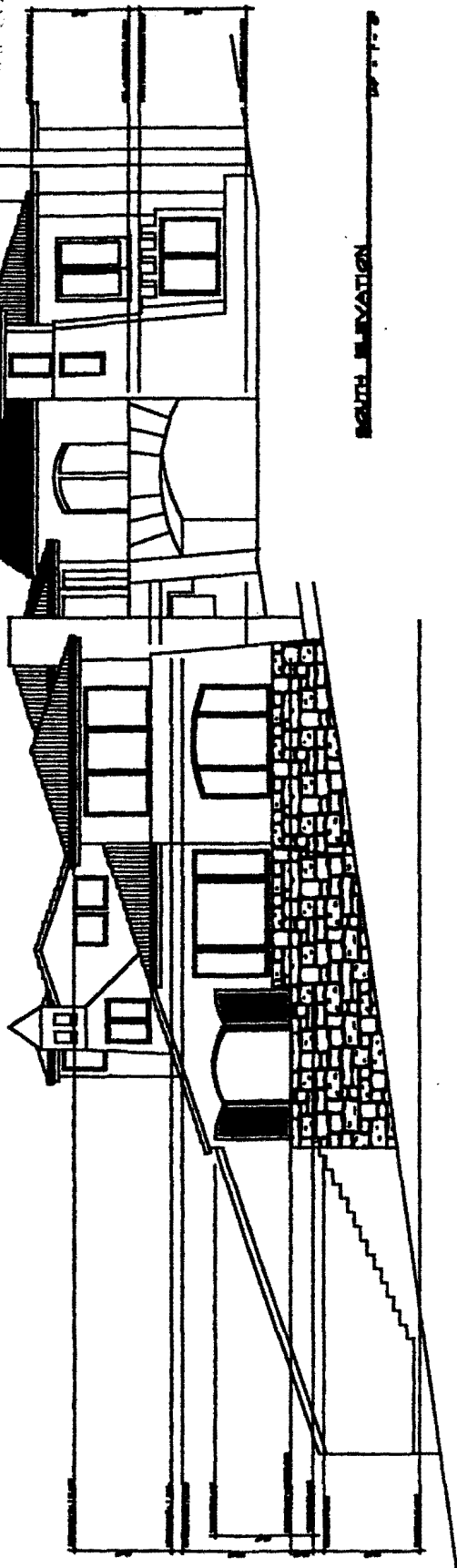
**SHEET A-3**  
**ELEVATIONS**

Exhibit 4 (1 of 2)  
Application 4-98-331 (Brown)  
Elevation

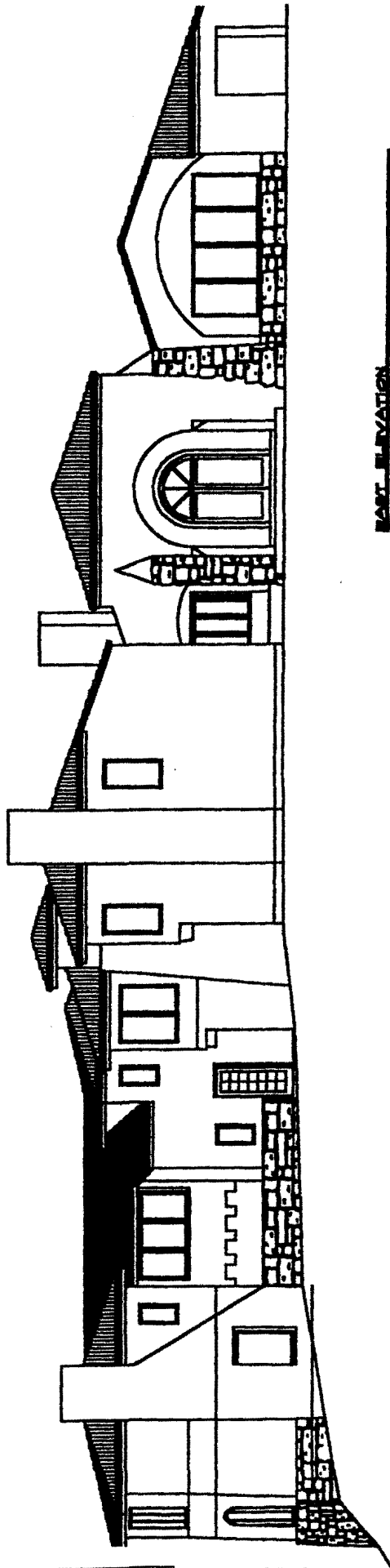
DEC 1998

CITY OF LOS ANGELES  
COUNCIL DISTRICT 11  
CENTRAL COAST DISTRICT

BROWN RESID  
2001, 2002, 2003  
MR. & MRS.  
CARL E. VOLA  
ARCHITECT  
740 N. GARDEN  
LOS ANGELES, CA 90012



SOUTH ELEVATION



EAST ELEVATION

DATE: 12/1/98  
DRAWN BY: J. BROWN  
SHEET A-6  
ELEVATIONS

