

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

MILPITAS, CA 95031

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STAFF REPORT: REGULAR CALENDAR**APPLICATION NO:** 4-98-259**APPLICANT:** Pepperdine University **AGENT:** Michael Barsocchini**PROJECT LOCATION:** 31236 Broadbeach Road, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Demolition of an existing residence and the construction of a 3,220 sq. ft., 24 ft. high from existing grade single family residence with 2-car garage, 447 sq. ft. guest unit, septic system, and 40 cu. yds. of grading (20 cu. yds. cut and 20 cu. yds. fill) on a beachfront lot

Lot area:	9,466 sq. ft.
Building coverage:	1,610 sq. ft.
Pavement coverage:	3,430 sq. ft.
Ht above ext grade:	24 ft.

LOCAL APPROVALS RECEIVED: City of Malibu Approval in Concept, Geology and Geotechnical Engineering Review Sheet, Environmental Health In-Concept Approval

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission approve the proposed project with special conditions relating to assumption of risk, revised plans, and conformance with geologic recommendations. As conditioned to record restrictions that apply to any potential development of a shoreline protective device to protect the proposed development, and to submit revised plans that result in the most landward location of the proposed septic system, the proposed development will minimize impacts to public access, consistent with §30210, §30211, §30212 and §30251 of the Coastal Act. As conditioned to assume the risks of development and to conform to the recommendations of the geotechnical consultants and the coastal engineer, the proposed project will minimize risks to life and property, consistent with §30253 of the Coastal Act. As conditioned to record a future improvements deed restriction for the guest unit, the proposed project will minimize cumulative impacts to coastal resources, consistent with §30250 and §30252 of the Coastal Act.

SUBSTANTIVE FILE DOCUMENTS: State Lands Commission Coastal Development Review, dated 9/4/98; Wave Uprush Study, dated 2/12/98 and Letter Report, dated 11/4/98, both prepared by Pacific Engineering Group; Preliminary Geotechnical Report, dated 2/17/98, and Geotechnical Response to City of Malibu Comments, dated 5/13/98, both prepared by Frank J. Kenton.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

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

Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that:

- (a) the applicant acknowledges and agrees that the site may be subject to hazards from waves, erosion, and wildfire;
- (b) the applicant acknowledges and agrees 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;
- (c) the applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards;
- (d) the applicant agrees 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.
- (e) the applicant agrees that any adverse impacts to property caused by the permitted project shall be fully the responsibility of the landowner;
- (f) the applicant shall not construct any shoreline protective device(s) for the purpose of protecting any ancillary development approved pursuant to coastal development permit 4-98-259, including, but not limited to, at-grade patios, planters, fences, or decks in the event that these structures are threatened with imminent damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future;
- (g) any future applications for shoreline protective device(s) to protect the septic system approved pursuant to coastal development permit 4-98-259, in the event that the septic system is threatened with imminent damage or destruction, shall demonstrate the effect of wave uprush on the septic system and the need for a shoreline protective device. Such an application shall include: 1) detailed analysis of alternative septic system designs which would not require a shoreline protective device; 2), where documented that a shoreline protective device is necessary, detailed analyses of alternative types, designs, and locations of

protective devices including the potential effects of each on beach processes and public access; and (3) any additional information or analysis deemed necessary by the Executive Director. Any proposed shoreline protective device shall be located as far landward on the project site as feasible.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Revised Plans

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, revised septic system plans which show that the leach trench has been deleted and that present and future percolation system shall be accommodated in the area landward of the proposed garage, as shown on Exhibit 2. Percolation may be provided by seepage pits or other alternative method. The applicant shall provide evidence of the City of Malibu Environmental Health Department's review and approval of the revised septic system plans.

3. Geology

All recommendations contained in the Wave Uprush Study by Pacific Engineering Group dated 2/12/98, the Preliminary Geotechnical Report, dated 2/17/98, and Geotechnical Response to City of Malibu Comments, dated 5/13/98, both prepared by Frank J. Kenton shall be incorporated into all final design and construction including recommendations concerning drainage, foundations, and septic system, and all plans must be reviewed and approved by the consultants prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director of the consultants' review and approval of all final design and construction 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 consultant shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial".

4. Future Improvements.

- a. This permit is only for the development described in coastal development permit No.4-98-259. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (b) shall not apply to the guest house structure. Accordingly, any future

improvements to the permitted guest unit shall require an amendment to Permit No. 4-98-259 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 the guest unit. 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:

A. Project Description and Background

The applicant proposes the demolition of an existing residence and the construction of a 3,220 sq. ft., 24 ft. high from existing grade single family residence with 2-car garage, 447 sq. ft. guest unit, septic system, and 40 cu. yds. of grading (20 cu. yds. cut and 20 cu. yds. fill) on a beachfront lot. No shoreline protective structure is proposed as part of the development. The proposed project is located on Broadbeach Road in the City of Malibu.

The applicant is proposing the development of two adjacent parcels, including the subject site (31236 Broadbeach Road) and the parcel immediately upcoast (31232 Broadbeach Road). The subject site is currently developed with a single family residence, while the adjacent parcel contains a paved driveway, motorcourt, and landscaping. The two proposed project sites are the same size (9,466 sq. ft.) and the proposed structures would be the same size, with the floor plans mirror images of each other.

The applicant has submitted evidence of review of the proposed project by the California State Lands Commission (CSLC) dated November 2, 1998, that indicates that the CSLC presently asserts no claims that the project is located on public tidelands although the CSLC reserves the right to any future assertion of state ownership or public rights should circumstances change.

B. Public Access and Seaward Encroachment

Coastal Act Section 30210 states that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs

and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211 states:

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

Coastal Act Section 30212(a) provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Finally, Section 30251 of the Coastal Act states that:

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

Coastal Act sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise, section 30212 of the Coastal Act requires that adequate public access to the sea be provided to allow use of dry sand and rocky coastal beaches.

All beachfront projects requiring a coastal development permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. In past permit actions, the Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline. The major access issue in such permits is the occupation of sand area by a structure in contradiction of Coastal Act policies 30210, 30211, and 30212.

Past Commission review of shoreline residential projects in Malibu has shown that individual and cumulative adverse effects to public access from such projects can include encroachment on lands subject to the public trust (thus physically excluding the public); interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and the ability to use public tideland areas.

Site Shoreline Characteristics

The proposed project would be located on Broadbeach, landward of a wide sandy beach and vegetated dune field. Broadbeach is a 1.3 mile long section of the coast that is heavily developed with single family homes and is located between Lechuza Point to the west and Zuma County Beach to the east. The eastern and central portions of Broadbeach are characterized by low-crested protective sand dunes situated behind a relatively wide beach. The westernmost portion of Broadbeach is unique to the area in that it is subject to substantially different coastal processes than the other parts of Broadbeach and is characterized by a narrow beach lacking a protective dune field. The unique nature of the westernmost portion of Broadbeach is in part due to its location immediately southeast of Lechuza Point, which acts as a barrier to littoral transport of beach material.

The broad expanse of sandy beach and protective dune fields have been taken as givens in past design and development of residences along Broadbeach. However, past extreme storm events have resulted in severe erosion, especially on the west (upcoast) end of the beach. In 1994, the Commission approved the construction of a vertical bulkhead across five lots [4-94-012,013,014,107 and 111 (Hill, Green, Irving, Gale & Moorman)]. More recently, in the El Nino storms of 1998, the area subject to severe erosion extended further downcoast. Numerous emergency permits were granted for the construction of rock revetments to protect existing residences. An emergency permit [4-98-092-X (Noetzger)] granted for a rock revetment at 31268 Broadbeach Road is the closest to the subject site (approximately 245 feet upcoast). In these cases, rock revetments were constructed to protect homes with conventional foundations that were threatened. As waves erode the beach and dunes ever closer to the homes, support for the foundation can be lost, leading to collapse of the structure. The Commission will consider the appropriate placement of shoreline protective devices on each property when follow-up permits are processed for the emergency revetments. Based on the Commission's past experience with development on Broadbeach, it is apparent that this beach is subject to erosion, especially during extreme storm events.

Stringline.

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum public access, protect public views, and minimize wave hazards as

required by Coastal Act Sections 30210, 30211, 30251, and 30253, the Commission has, in past permit actions, developed the "stringline" policy. As applied to beachfront development, the stringline limits the seaward extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks to a similar line drawn between the nearest corners of the adjacent decks.

The Commission has applied this policy to numerous past permits involving infill on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches. In addition, the Commission has found that restricting new development to building and deck stringlines is an effective means of controlling seaward encroachment to ensure maximum public access as required by Sections 30210 and 30211 and to protect public views and the scenic quality of the shoreline as required by Section 30251 of the Coastal Act.

The applicant has included a representation of the applicable deck and structure stringlines based on the existing development on either side of the proposed project site. The proposed stringlines are connected between the adjacent residence immediately upcoast with the residence located two lots downcoast. The parcel immediately downcoast is not developed with any structure. That parcel is the subject of related permit application 4-98-260. The applicant's architect prepared the same stringlines for both projects. These stringlines can be seen on the site plan (Exhibit 2). Staff would note that the proposed stringlines have been drawn from the nearest adjacent corner of the structures, decks, and on-grade patios on the two adjacent developed lots. As such, the stringlines are consistent with past Commission actions. The proposed residence would be located landward of this structure stringline. Likewise, the proposed deck would be located well landward of the deck stringline. Finally, the proposed at-grade patio would be located landward of the at-grade patio stringline.

Wave Uprush.

In the case of the proposed project, the applicant does not propose the construction of any shoreline protective device. The applicant has submitted a Wave Uprush Study, dated 2/12/98, prepared by Pacific Engineering Group, which addresses site conditions and design considerations. The consultant determined that the maximum wave uprush at the subject site would occur approximately 130 feet seaward of the property line at Broadbeach Road. The consultant makes recommendations regarding the foundations of the residence and the location of the septic system. The consultant concludes that the proposed residence may be constructed without a shoreline protective device. The report states that:

The proposed leach field septic system should not be located a distance more than 120 feet seaward from the Broadbeach Road right-of-way line. At this location protection of the septic system from storm wave scour would not be required.

The proposed residence will be located landward of the wave uprush limit as determined by the consultant. As such, the consultant states that:

The proposed residence would not be exposed to wave uprush from non-storm wave run-up during high tides, and the residence would not have any effect on coastal littoral processes during non-storm wave conditions during winter profiles.

The proposed project is currently designed to be located landward of the applicable stringlines, landward of the wave uprush zone, and to include no shoreline protective device. As designed, it would minimize impacts to coastal processes and public access. The development would not preclude public access to any presently existing vertical or lateral public access easements or rights or adversely affect public coastal views.

Future Shoreline Protective Devices.

However, as discussed above, areas of Broadbeach have experienced extreme erosion and scour during severe storm events, such as El Nino storms. It is not possible to completely predict what conditions the proposed residence may be subject to in the future. The future need for shoreline protection cannot be completely precluded. The construction of a shoreline protective device on the proposed project site could have adverse impacts on coastal processes or public access.

Interference by shoreline protective devices can have a number of effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile which results from a reduced beach berm width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on their own property. The second effect on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. This effects public access again through a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. Fourth, if not sited landward in a location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments and bulkheads interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

The impacts of shoreline protective devices are greater the more frequently that they are subject to wave action. In order to minimize impacts from shoreline protective devices that are demonstrably necessary to protect existing development, the Commission has required applicants to site such structures as far landward as is

feasible. Additionally, since shoreline protective devices are most often required to protect existing septic systems, the Commission has also required applicants to locate septic systems as far landward as feasible [4-97-191 (Kim)]. The Commission has also required or applicants have proposed as part of their development proposals the utilization of alternative technologies for sewage disposal such as bottomless sand filter systems because they can occupy less area on the beach.

Sections (f) and (g) of Condition No. 1 require the applicant to record restrictions that apply to any potential development of a shoreline protective device to protect the proposed development. The applicant shall be prohibited from constructing a shoreline protective device for the purpose of protecting any of the ancillary development like the proposed at-grade patio, the deck, planters, or fences. This development would be located seaward of the proposed residence. Any shoreline protective device constructed in this area would be located within the wave uprush zone. As such, it would be subject to wave action more frequently and would therefore result in greater impacts to coastal processes and public access.

The proposed structure would be constructed on a caisson and grade beam foundation. The finished floor elevation would be 14.5 feet mean sea level datum, which is the level the coastal engineer recommends to ensure that risks to the residence from wave attack are minimized. As designed, the proposed residence would not need protection from a shoreline protective device, even if the property were to be subject to extreme erosion and scour. The proposed caissons would extend below scour level so extreme erosion would not result in loss of support for the foundation of the residence. The applicant's representative has confirmed that no shoreline protective device would be necessary to protect the residence or foundations.

While the proposed residence constructed on a caisson and grade beam foundation would not require protection from wave attack, the septic system could be damaged or destroyed by waves, erosion, or scour. In the event that the septic system is threatened with imminent damage or destruction, the Commission would consider a coastal development permit application for the construction of a shoreline protective device to protect the system, if one is designed to minimize impacts to coastal processes and public access, consistent with the policies of the Coastal Act. Section (g) of Condition No. 1 sets forth the information that, at a minimum, the applicant must provide in support of such an application. This condition is required to be recorded as a deed restriction so that future owners will be made aware of these requirements. First, the applicant must demonstrate the effect of wave uprush on the septic system and the need for a shoreline protective device. Such an application shall include, at a minimum: 1) detailed analysis of alternative septic system designs which would not require a shoreline protective device; 2), where documented that a shoreline protective device is necessary, detailed analyses of alternative types, designs, and locations of protective devices including the potential effects of each on beach processes and public access; and 3) any other additional information or analysis deemed necessary by the Executive

Director. Any proposed shoreline protective device shall be located as far landward on the project site as feasible.

To ensure that any future shoreline protective device that could potentially be approved to protect the proposed septic system would be located as far landward on the parcel as possible, the septic system must likewise be located as far landward as possible. The proposed septic system design (Exhibit 6) includes a septic tank located in the courtyard between the proposed main house and the garage/guesthouse structure; a 48 foot long leach trench located along the side of the residence from just landward of the proposed living room to the courtyard; and a seepage pit located landward of the garage which would be utilized for the future percolation. This plan has been approved by the City of Malibu Environmental Health Department as meeting the requirements of the plumbing code. Staff discussed with the applicant's representative alternative designs for the septic system that would be located as far landward as feasible. The applicant's representative, in consultation with the project sanitarian, determined that seepage pits, located landward of the garage, could be provided for both the present and future percolation of effluent, and the leach trench could be deleted from the design. The applicant's representative has agreed to revise the septic system plan accordingly. Condition No. 2 requires the applicant to submit such a revised plan and to provide evidence that it has been approved by the City of Malibu Environmental Health Department as meeting the requirements of the plumbing code.

Conclusion.

As discussed above, the Commission's past experience with development on Broadbeach, has shown that this beach is subject to erosion, especially during extreme storm events. The proposed project is currently designed to be located landward of the applicable stringlines, landward of the wave uprush zone, and to include no shoreline protective device. As designed, it would minimize impacts to coastal processes and public access. The development would not preclude public access to any presently existing vertical or lateral public access easements or rights or adversely affect public coastal views. However, it is not possible to completely predict what conditions the proposed residence may be subject to in the future. The future need for shoreline protection cannot be completely precluded. The construction of a shoreline protective device on the proposed project site could have adverse impacts on coastal processes or public access. Sections (f) and (g) of Condition No. 1 require the applicant to record restrictions that apply to any potential development of a shoreline protective device to protect the proposed development. Condition No. 2 requires revised plans that result in the most landward location of the proposed septic system in order to ensure that any future shoreline protective device that could potentially be approved to protect the proposed septic system would be located as far landward on the parcel as possible. For all of these reasons, the Commission finds that the proposed project, as conditioned, will have no individual or cumulative adverse effects on public access. Therefore, the Commission finds that a condition to require lateral access is not appropriate and that

the project, as proposed, is consistent with Coastal Act Sections 30210, 30211, 30212 and 30251.

C. Geologic Stability

Section 30253 of the Coastal Act states in pertinent part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed development would be located in the Santa Monica Mountains, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Even beachfront properties have been subject to wildfires. Finally, beachfront sites are subject to flooding and erosion from storm waves.

The applicant submitted a Preliminary Geotechnical Report, dated 2/17/98, and a Geotechnical Response to City of Malibu Comments, dated 5/13/98, both prepared by Frank J. Kenton. The consultant determined that the site is appropriate for the proposed development. The proposed project site is underlain by artificial fill, beach sand, terrace deposits and bedrock. No known or suspected active or potentially active faults cross the site. The geotechnical report concludes that:

The site is geotechnically feasible for the proposed development provided the conclusions and recommendations provided within this report are considered during the design and construction. No known hazards related to landsliding slippage, or undue settlement affect the subject site. Furthermore, the proposed construction can be done without adverse impact on adjoining properties provided the conclusions and recommendations contained in this report are adhered to.

Based on the recommendations of the consulting geotechnical engineers, the Commission finds that the proposed development will minimize risks from geologic hazards, consistent with Section 30253 of the Coastal Act so long as the consultants' recommendations 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 geologists as conforming to their recommendations. This is included as Condition No. 3.

As discussed above, the applicant has submitted a Wave Uprush Study, dated 2/12/98, prepared by Pacific Engineering Group, which addresses site conditions and design considerations. The consultant determined that the maximum wave uprush at the subject site would occur approximately 130 feet seaward of the property line at

Broadbeach Road. The consultant makes recommendations regarding the foundations of the residence and the location of the septic system. The consultant concludes that the proposed residence may be constructed without a shoreline protective device.

However, the Commission notes that the proposed development is located on a beachfront lot in the City of Malibu. The Malibu coast has historically been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the past 1997-1998 El Nino severe winter storm season.

The subject site is clearly susceptible to flooding and/or wave damage from storm waves, storm surges and high tides, as evidenced by past erosion of Broadbeach on nearby lots. Past occurrences have caused property damage resulting in public costs through emergency responses and low-interest, publicly subsidized reconstruction loans in the millions of dollars in Malibu area alone from last year's storms.

In the winter of 1977-1978, storm-triggered mudslides and landslides caused extensive damage along the Malibu coast. According to the National Research Council, damage to Malibu beaches, seawalls, and other structures during that season caused damages of as much as almost \$5 million to private property alone.

The El Nino storms recorded in 1982-1983 caused high tides of over 7 feet, which were combined with storm waves of up to 15 feet. These storms caused over \$12.8 million to structures in Los Angeles County, many located in Malibu. The severity of the 1982-1983 El Nino storm events are often used to illustrate the extreme storm event potential of the California, and in particular, Malibu coast. The 1998 El Nino storms also resulted in widespread damage to residences, public facilities and infrastructure along the Malibu Coast.

Thus, ample evidence exists that all beachfront development in the Malibu area is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The Coastal Act recognizes that development, such as the proposed residence, even as designed and constructed to incorporate all recommendations of the consulting coastal engineer, may still involve the taking of some 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 the subject property.

Finally, due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission will only approve the project if the applicant also agrees to indemnify the Commission from any liability associated with such risks.

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, flooding, and threat from wildfire, the applicant shall assume these risks as

conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, as required by Condition No. 1, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

The Commission finds, for the reasons set forth above, that the proposed development, as conditioned, is consistent with Section 30253 of the Coastal Act.

D. Cumulative Impacts

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section **30250 (a)** of the Coastal Act states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section **30252** of the Coastal Act states that:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

New development raises coastal issues related to cumulative impacts on coastal resources. The construction of a second unit on the site where a primary residence exists intensifies the use of a parcel increasing impacts on public services, such as water, sewage, electricity and roads. New development also raises issues as to whether the location and amount of new development maintains and enhances public access to the coast.

Based on these policies, the Commission has limited the development of second dwelling units (including guesthouses) on residential parcels in the Malibu and Santa Monica Mountain areas. The issue of second units on lots with primary residences has been the subject of past Commission actions on coastal development permits. The Commission has found that placing an upper limit on the size of second units (750 sq. ft.) is necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one or at most two people would cause such units to have less impact on the limited capacity of Pacific Coast Highway and other roads (including infrastructure constraints such as water, sewage, electricity) than an ordinary single family residence.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guesthouses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act in this area.

In this case, the applicants propose the construction of a 447-sq. ft. guest unit over the proposed garage. As designed, the guest unit is smaller than the 750-sq. ft. that the Commission has consistently allowed for such units. As shown on Exhibit 3c, the proposed guest unit contains one large room, a wet bar, and full bathroom. At 447 sq. ft., the guest unit would minimize impacts to coastal resources from a second unit on one parcel.

However, future improvements to the proposed guest unit such as additional square footage could raise issues with regard to individual or cumulative impacts to coastal resources. Such improvements and their potential impacts must be addressed by the Commission to ensure conformance with the Chapter 3 policies of the Coastal Act.

To ensure that any additions or improvements that could further intensify the use of the guest unit will be reviewed by the Commission, Condition No. 4 requires that any future structures, additions, or improvements related to the guest unit will require a permit or permit amendment. The Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

E. Septic System.

The proposed development includes the installation of an on-site septic system to provide sewage disposal. 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, and minimizing alteration of natural streams.

In addition, the Malibu/Santa Monica Mountains Land Use Plan, which the Commission has relied upon for guidance in past decisions, contains the following policies concerning sewage disposal:

P217 Wastewater management operations within the Malibu Coastal Zone shall not degrade streams or adjacent coastal waters or cause or aggravate public health problems.

The proposed development includes the installation of a new on-site septic system to serve the proposed residence. The applicant has submitted evidence of the City of Malibu Environmental Health Department's in-concept approval of the proposed septic system. The City determined that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources. However, as discussed above, the applicant must redesign the septic system so that it located as far landward as possible (Condition No. 2). In order to ensure that the redesigned project also meets the requirement of the plumbing code, the revised septic must be approved by the City of Malibu Environmental Health Department. As conditioned, the Commission finds that the proposed septic system is consistent with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

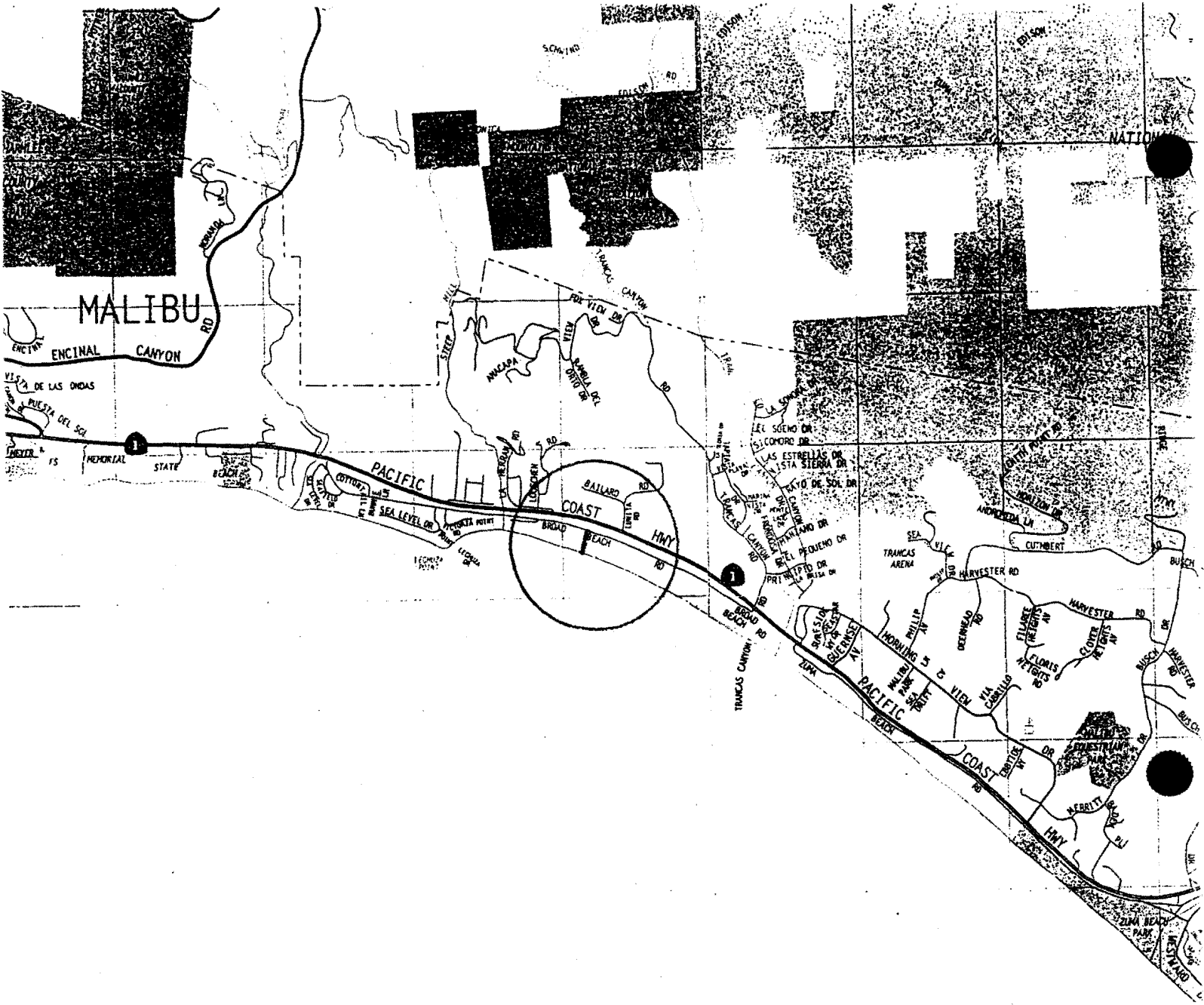
a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the 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 the 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).

G. CEQA

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 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.



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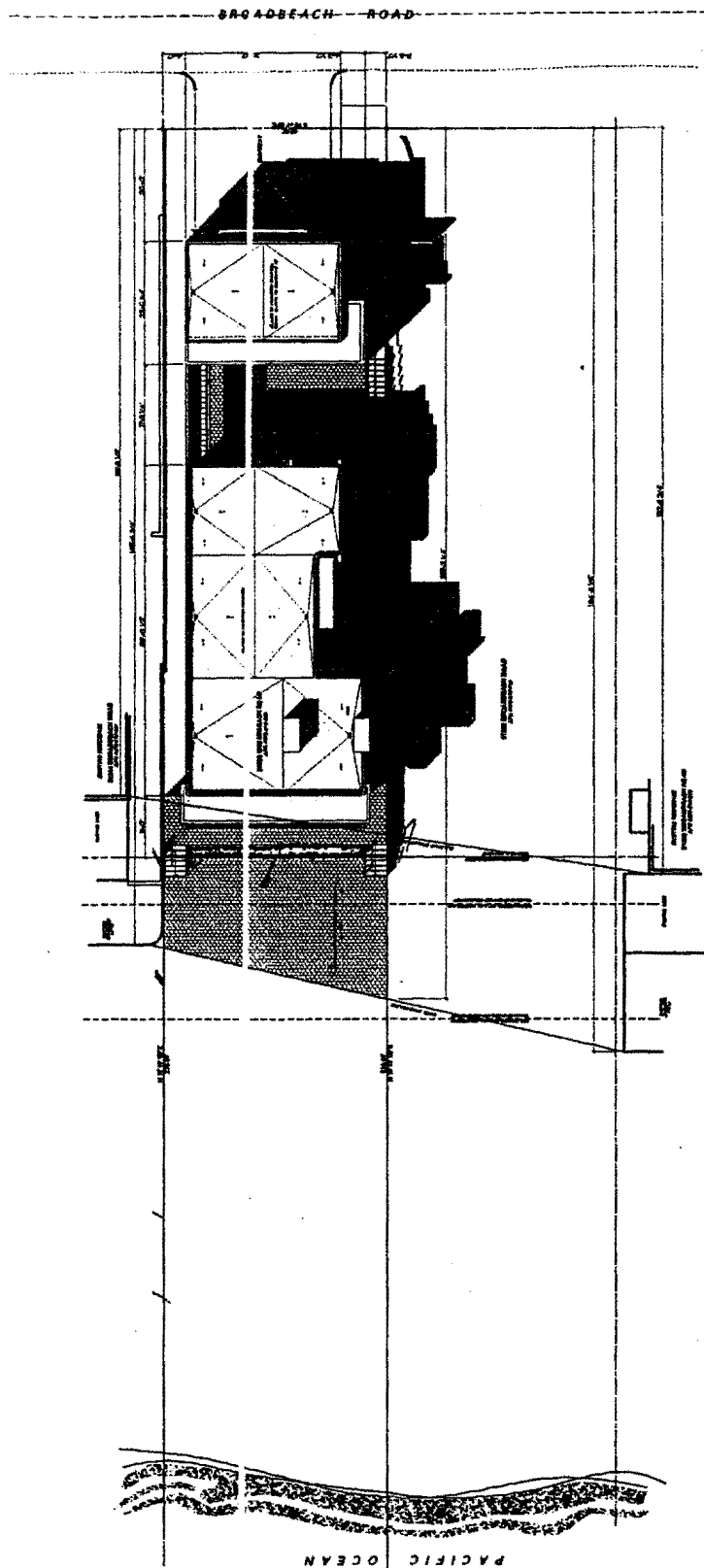
SEP 21 1998

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EXHIBIT 1

4-98-259

Vicinity Map



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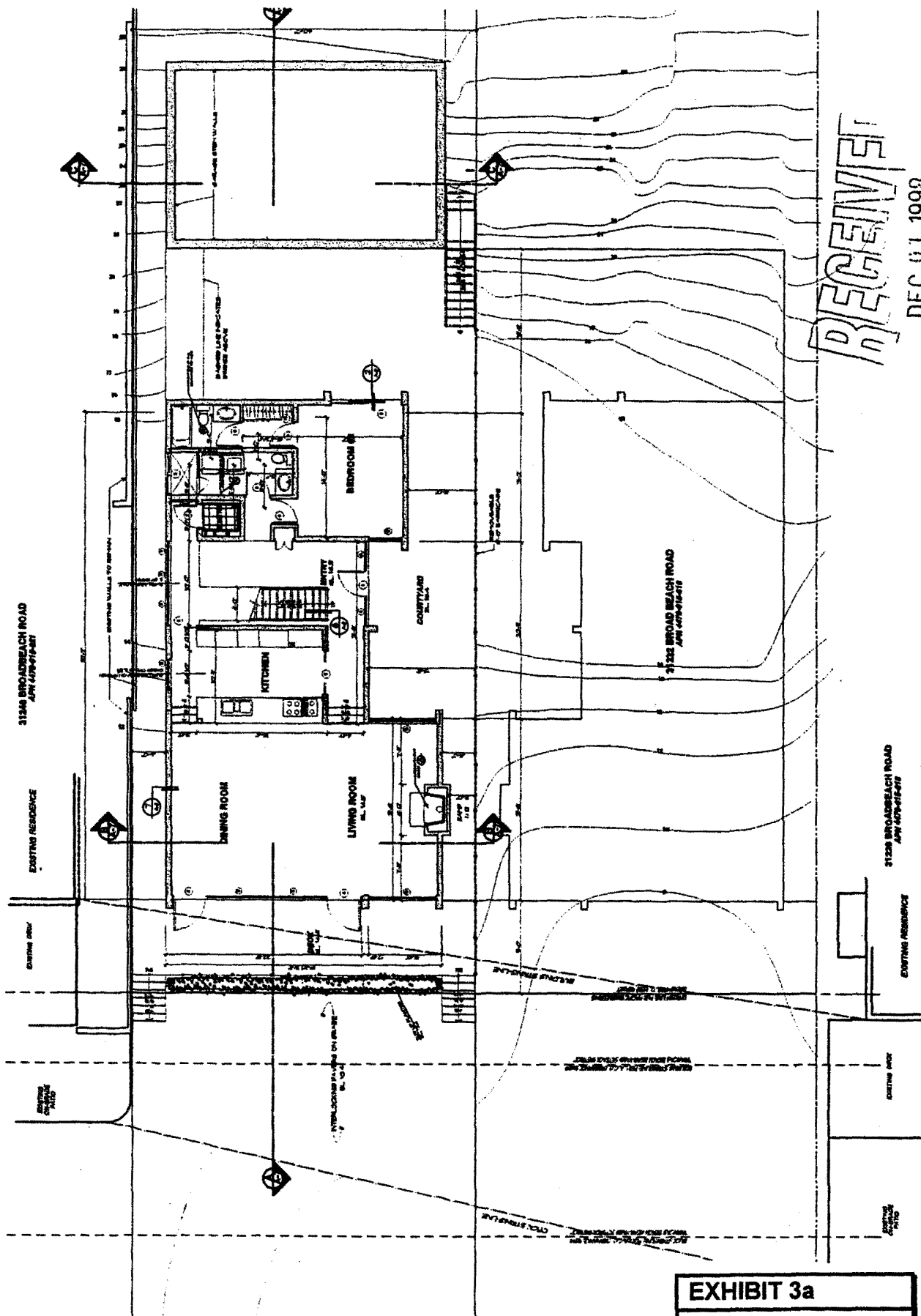
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SOUTH CENTRAL COAST DISTRICT

EXHIBIT 2

4-98-259

Site Plan

SITE PLAN



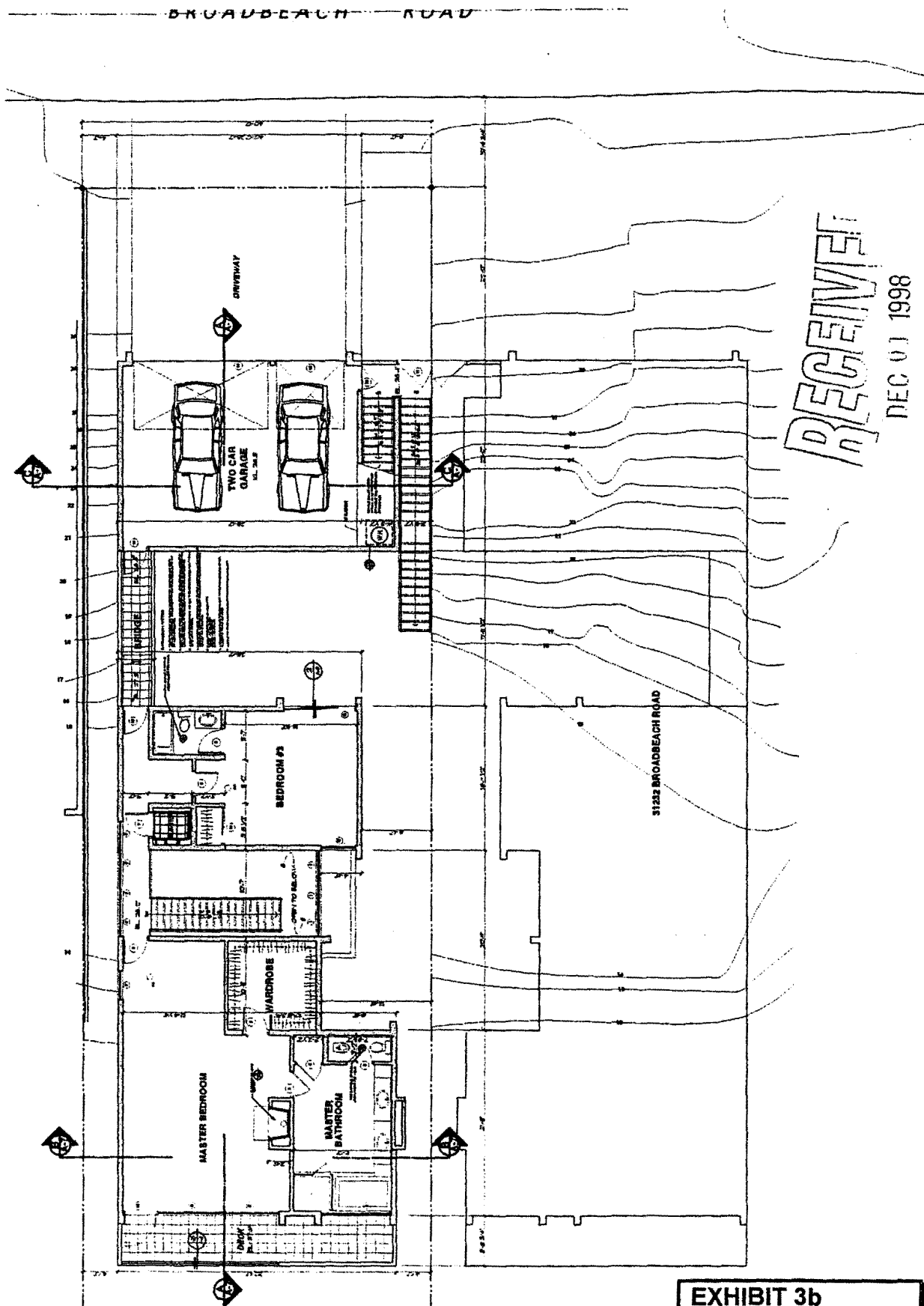
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SOUTH CENTRAL COAST DISTRICT

LOWER LEVEL FLOOR PLAN

EXHIBIT 3a
4-98-259
Floor Plans



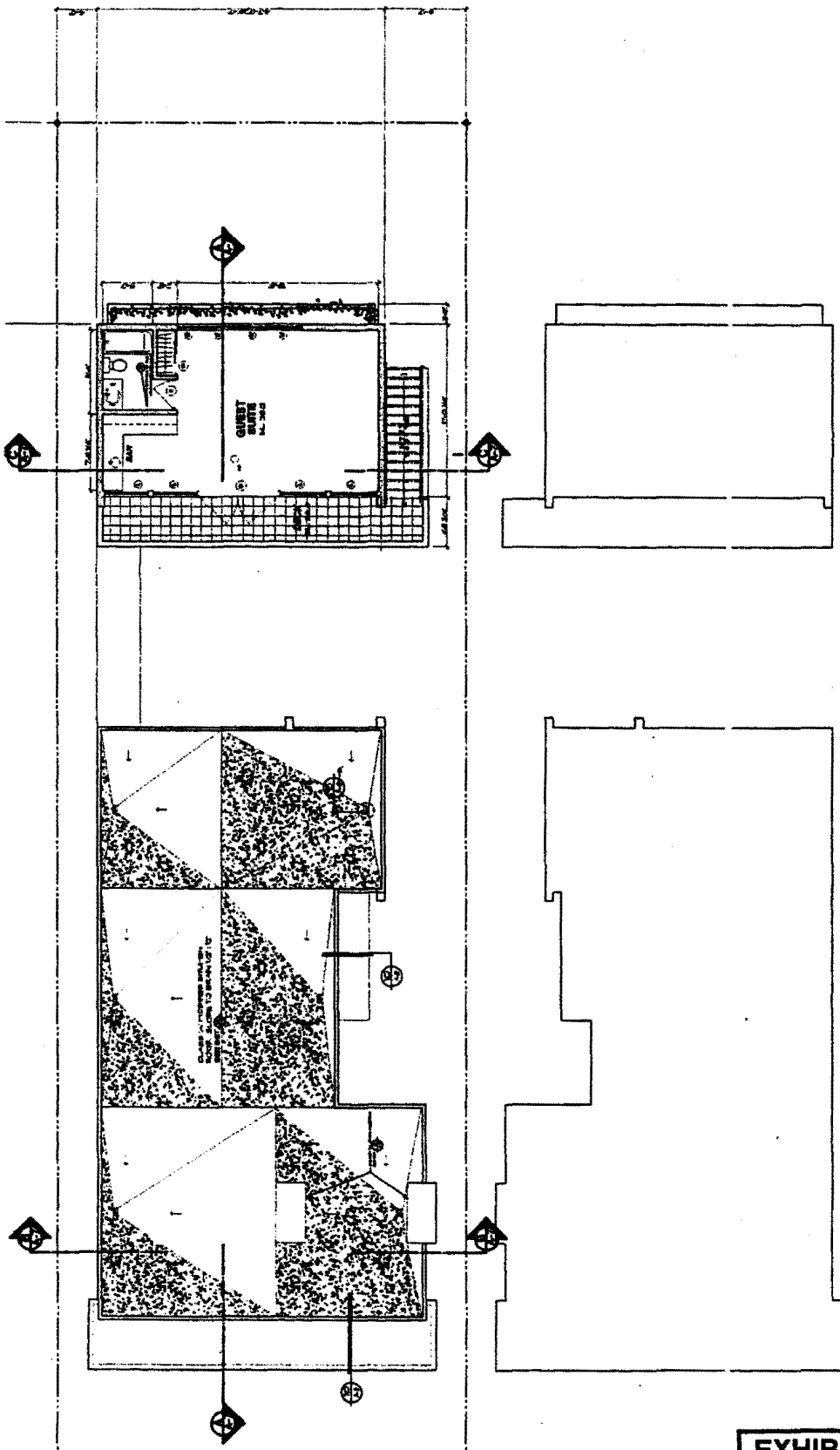
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UPPER LEVEL FLOOR PLAN

EXHIBIT 3b
4-98-259
Floor Plans



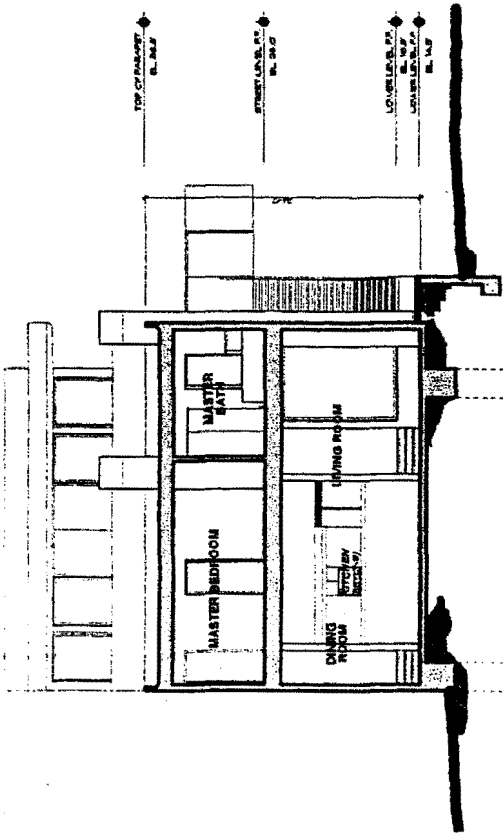
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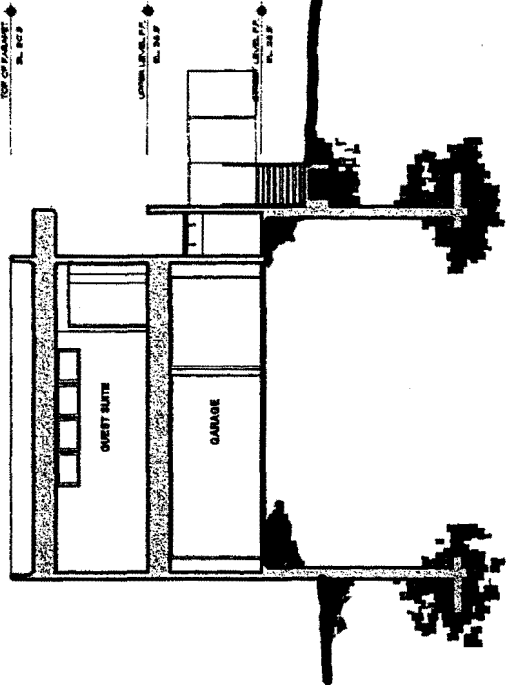
COASTAL COMMISSION
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GUEST SUITE LEVEL PLAN

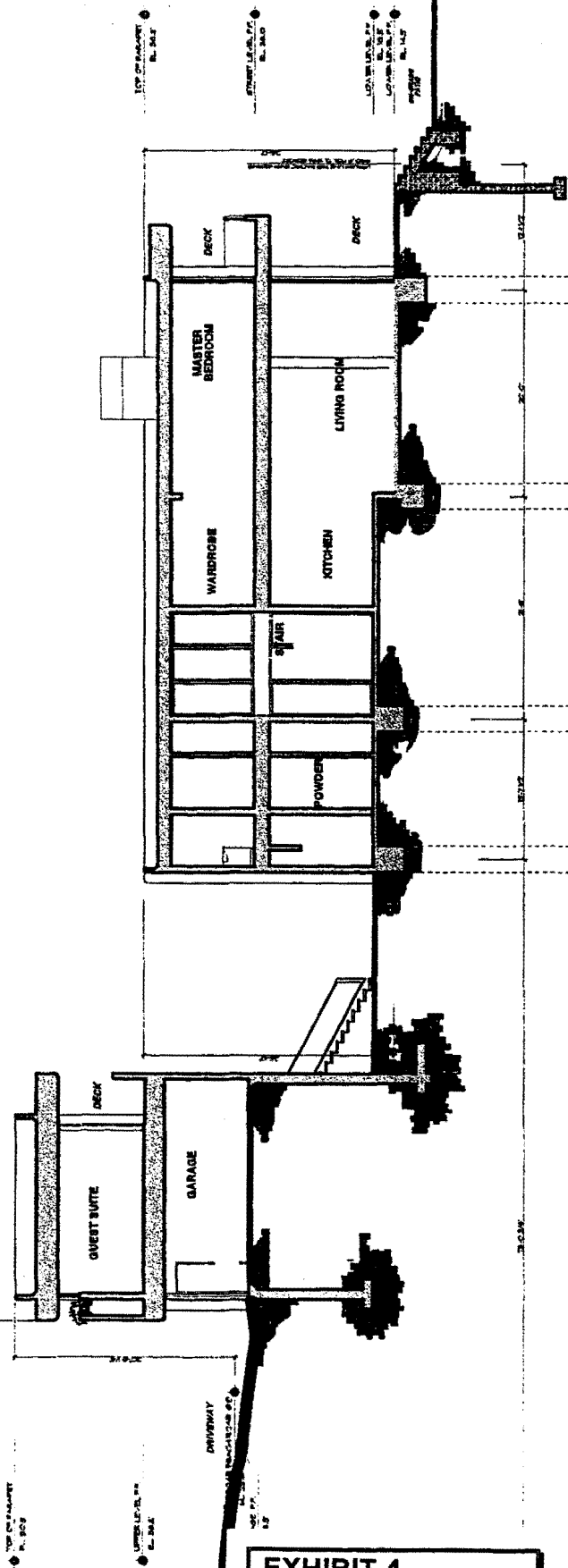
EXHIBIT 3c
4-98-259
Floor Plans



SECTION BB



SECTION CC



SECTION AA

EXHIBIT 4

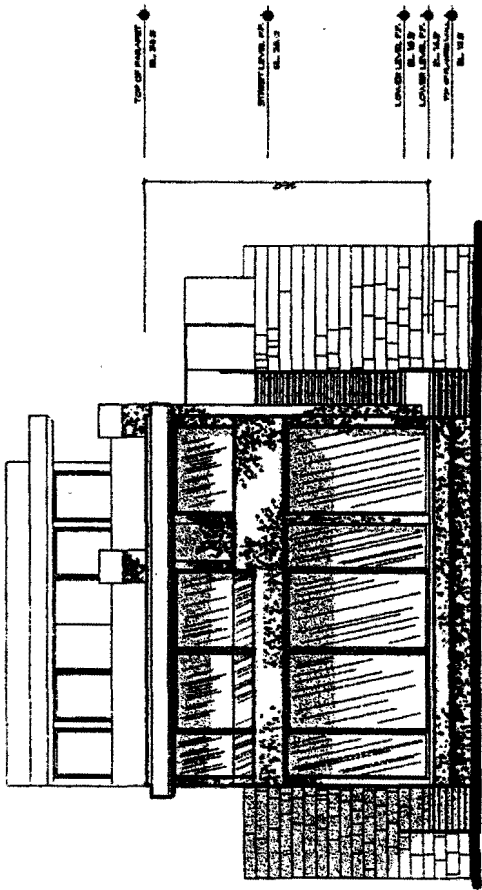
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Sections

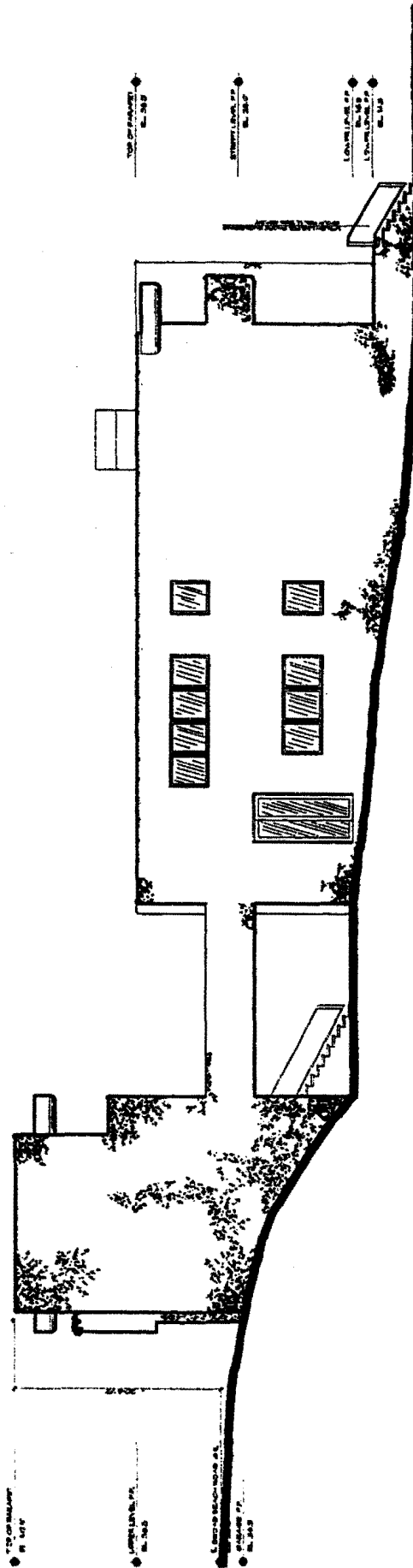
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SOUTH ELEVATION



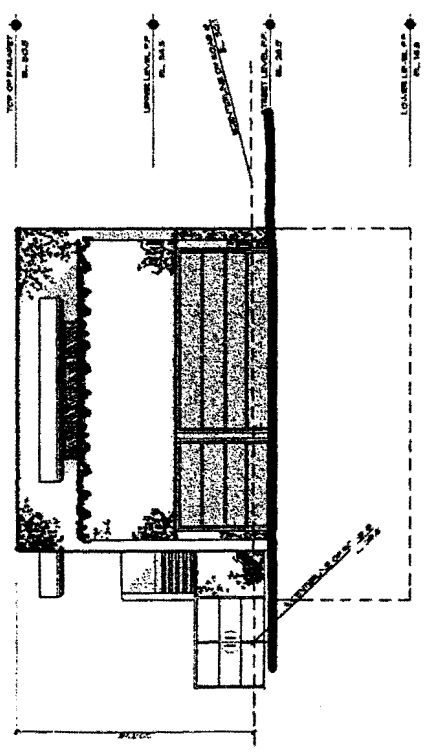
WEST ELEVATION

EXHIBIT 5a
4-98-259
Elevations

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NORTH ELEVATION

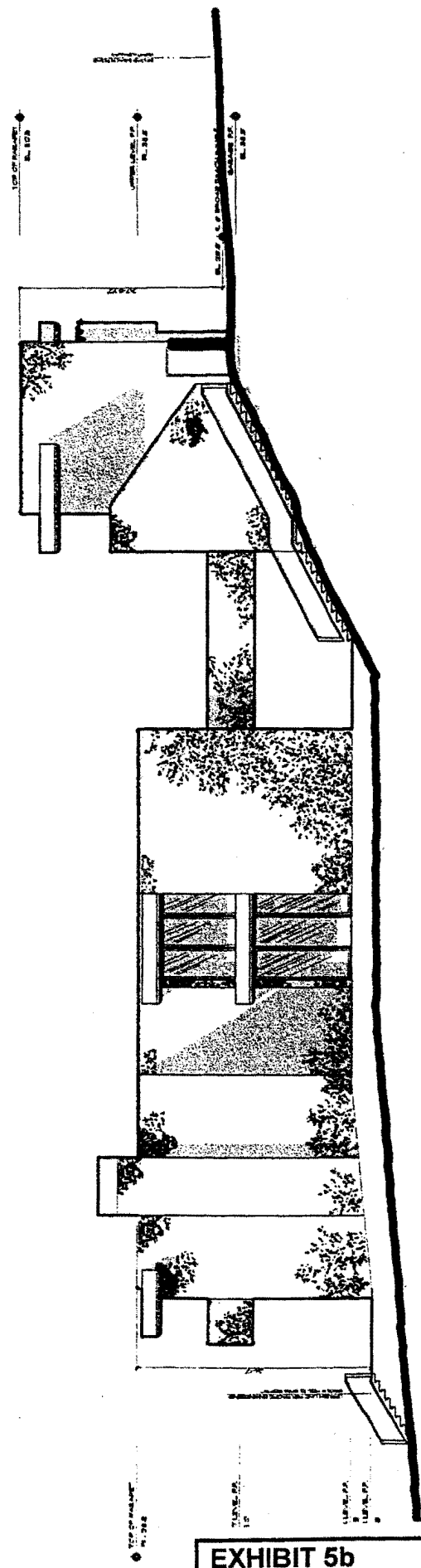
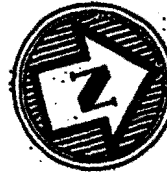


EXHIBIT 5b
4-98-259
Elevations

EAST ELEVATION



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1" = 16'

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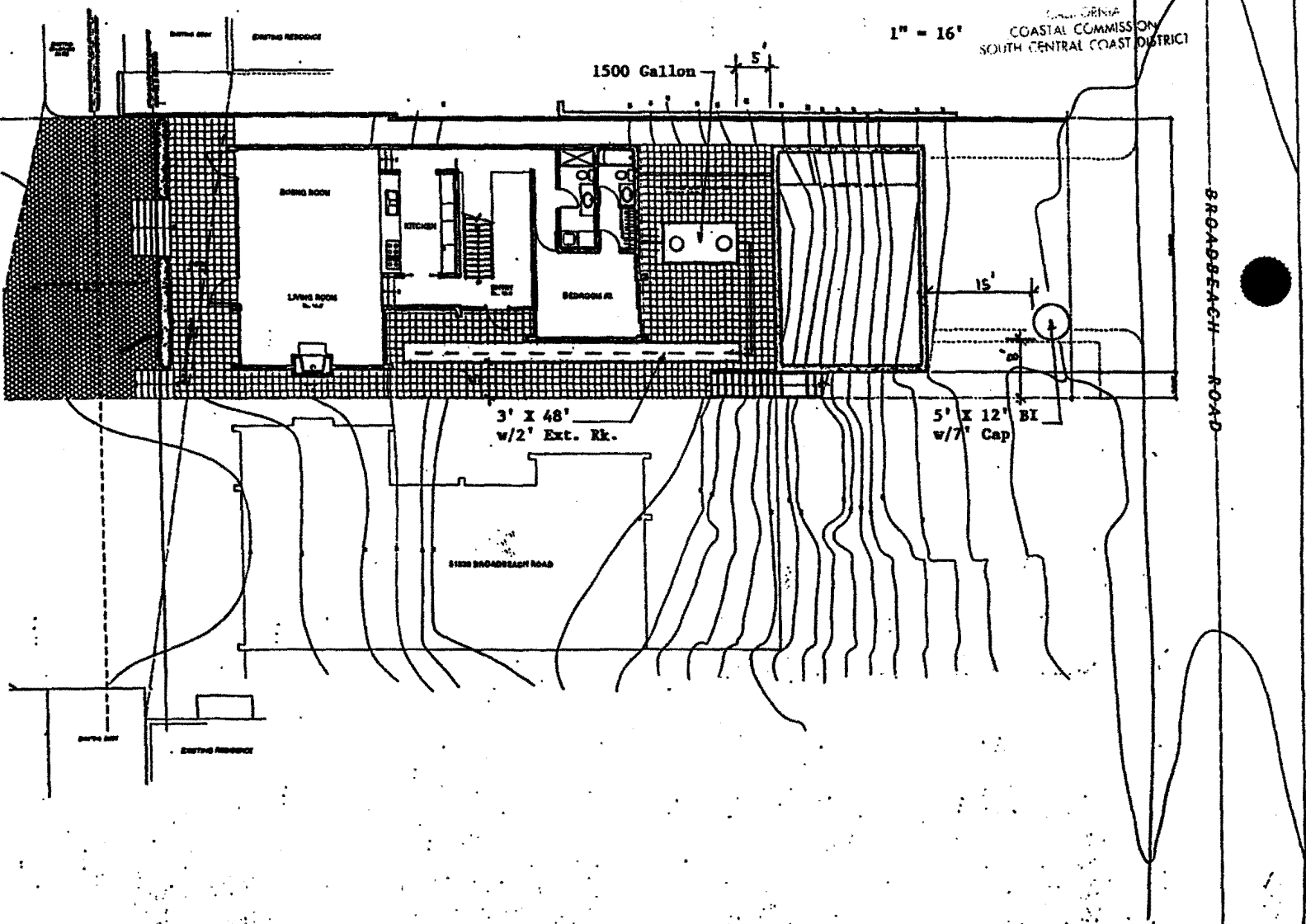


EXHIBIT 6
4-98-259
Septic System Plan