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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

MALIBU, CA 93001

(805) 641-0142

**RECORD PACKET COPY**

Filed: March 19, 1999
49th Day: May 5, 1999
180th Day: September 15, 1999
Staff: MH-V *CD*
Staff Report: March 23, 1999
Hearing Date: April 13 - 15, 1999
Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION No.** 4-99-064**APPLICANT:** Allan and Kelly Brown **AGENT:** Jamie Harnish**PROJECT LOCATION:** 29020 Cliffside Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Remodel existing one story, 4,660 sq. ft. single family residence by adding 1,705 sq. ft. second story addition (24 ft. high above grade), 213 sq. ft. addition to first floor, and 1,140 sq. ft. basement, new septic system, and 454 cu. yds of grading (all cut, exported to county landfill located outside of the coastal zone).

Lot area: 48,838 sq. ft.
Building coverage: 4,873 sq. ft.
Pavement coverage: 2,787 sq. ft.
Parking spaces: 3 enclosed (no change)
Ht. abv. fin. grade: 24 ft.

LOCAL APPROVALS RECEIVED: City of Malibu, Approval-in-Concept, June 12, 1998, Environmental Health Approval-in-Concept, May 2, 1997.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains certified Land Use Plan; Geologic and Geotechnical Engineering Investigation, C.Y. Geotech, February 24, 1997, Coastal Development Permits P-6997 (Tiffany), 5-81-287 (Burns), 4-97-175 (Brown).

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval of the proposed project with special conditions regarding incorporation of geologic recommendations into final plans and designs, and applicant's assumption of risk.

March 23, 1999

I. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

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

All recommendations contained in the Geologic and Geotechnical Engineering Investigation, dated February 24, 1997, prepared by C.Y. Geotech, shall be incorporated into the final project plans and designs. All plans must be reviewed and approved by the consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.

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."

2. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicants 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 without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Assumption of Risk, Waiver of Liability and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from bluff retreat, erosion, landslide and earth movement, and that such risks may be exacerbated by wave attack at the base of the bluffs supporting the site of the proposed development; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants as landowners shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of

this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to remodel an existing one story, 4,660 sq. ft., single family residence by adding a 1,705 sq. ft. second story addition (24 ft. high above grade), a 213 sq. ft. addition to the existing first floor, and a new 1,140 sq. ft. basement, a new septic system, and 454 cu. yds of grading (all cut, to be exported to a county landfill located outside of the coastal zone).

The proposed development is located on the south side of Cliffside Drive, on a rectangular parcel situated atop steep ocean-facing bluffs. The proposed remodel and addition would not intrude into the 25 foot bluff setback generally required by the Commission in accordance with the guidelines established in the certified Malibu/Santa Monica Mountains Land Use Plan and relied upon by the Commission in past permit decisions.

The Commission notes that a portion of the proposed remodel and addition was previously considered and approved by the Commission under Coastal Development Permit No. 4-97-175 in November of 1997. That permit approval, however, was conditioned to include a remediation plan to remove unpermitted structures on the site and to restore the bluff edge. Those actions were necessary to remove an unpermitted bluff-edge retaining wall and small ocean viewing platform that had been constructed by previous owners without the benefit of coastal development permits. Under this application, the applicant's have additionally incorporated the proposal for construction of a basement and a slight redesign of the roofline.

The proposed project, including the second story addition, would not be visible from public coastal views or scenic highways. The existing residence, as remodeled, would be consistent with the general character of the developed neighborhood on Cliffside Drive.

The required preparation of the remediation plan proved problematic when, in 1998, the applicants' geotechnical consultant raised concerns that removing the retaining wall could destabilize the bluff edge. The consultants presented additional information to support this assertion in March of 1999. Without prejudice as to the Commission's ultimate position concerning the outcome of the remediation plans and the resolution of the existing violation, the Commission has separated the resolution of the violation and

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the review of the applicants' unrelated proposal for the remodeling of the existing residence, through this application. The applicants are informed that the continued retention of the bluff top wall and the viewing platform is a violation, and the applicants have indicated through their agent that they are preparing a separate application for the wall and viewing platform and will seek resolution of the violation through continuing participation in the coastal development permitting process.

B. Geologic Stability and Wild Fire Hazards

Geology

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, 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 applicant proposes to remodel an existing one story, 4,660 sq. ft., single family residence by adding a 1,705 sq. ft. second story addition (24 ft. high above grade), a 213 sq. ft. addition to the existing first floor, and a new 1,140 sq. ft. basement, a new septic system, and 454 cu. yds of grading (all cut, to be exported to a county landfill located outside of the coastal zone). The subject site is located on an ocean-facing coastal bluff subject to wave attack at the base of the bluff. The existing residence and proposed addition are set back more than 25 feet from the bluff edge, as required by the Commission in past permit actions.

Notwithstanding the project's consistency with the required setbacks, the Commission nevertheless finds that coastal bluff erosion is a dynamic, long-term process and that no structure situated on a coastal bluff, particularly a bluff exposed to wave attack at the beach elevation, can be completely free of hazard. Therefore, the Commission finds it necessary to impose Special Condition 3, a geologic assumption of risk, to ensure that the applicant understands the hazards involved in undertaking additional development on a bluff backed beachfronting parcel, and that the applicant agrees to assume the risk from such development and to indemnify the Commission, its employees, and agents from all liability associated with proceeding with such development despite such unmitigable hazards.

The applicant has provided a report titled "Geologic and Geotechnical Engineering Investigation," dated February 24, 1997, prepared by C.Y. Geotech, Inc., evaluating the geologic stability of the proposed development. The report incorporates numerous recommendations regarding construction, foundations, and drainage, and states that:

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"...Based on the findings of this investigation, it is our opinion that the proposed development will be safe from geologic hazards such as landslide, settlement, and slippage, and will not adversely affect the stability of adjacent properties provided that the recommendations of this report are properly incorporated into final design and implemented during construction.

Therefore, the Commission finds that based on the recommendations of the applicants' geotechnical consultants, the proposed development is consistent with the requirements of Section 30253 of the Coastal Act so long as the geologic consultant's recommendations are incorporated into the final project plans and designs. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the geotechnical consultants in accordance with Special Condition 1.

Wild Fire Waiver

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. The typical vegetation in 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 Special Condition 2, the wild fire waiver of liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition 3 the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

For all of the reasons set forth above, the Commission concludes that the proposed project, as conditioned by Special Conditions 1 through 3, is consistent with the requirements of Section 30253 of the Coastal Act.

C. 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:

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

The applicant proposes to construct a new, 1,500 gallon septic tank and disposal system as shown on the plans approved by the City of Malibu, Environmental Health Department. The conceptual approval by the City 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 project, as conditioned, is consistent with Section 30231 of the Coastal Act.

D. 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).

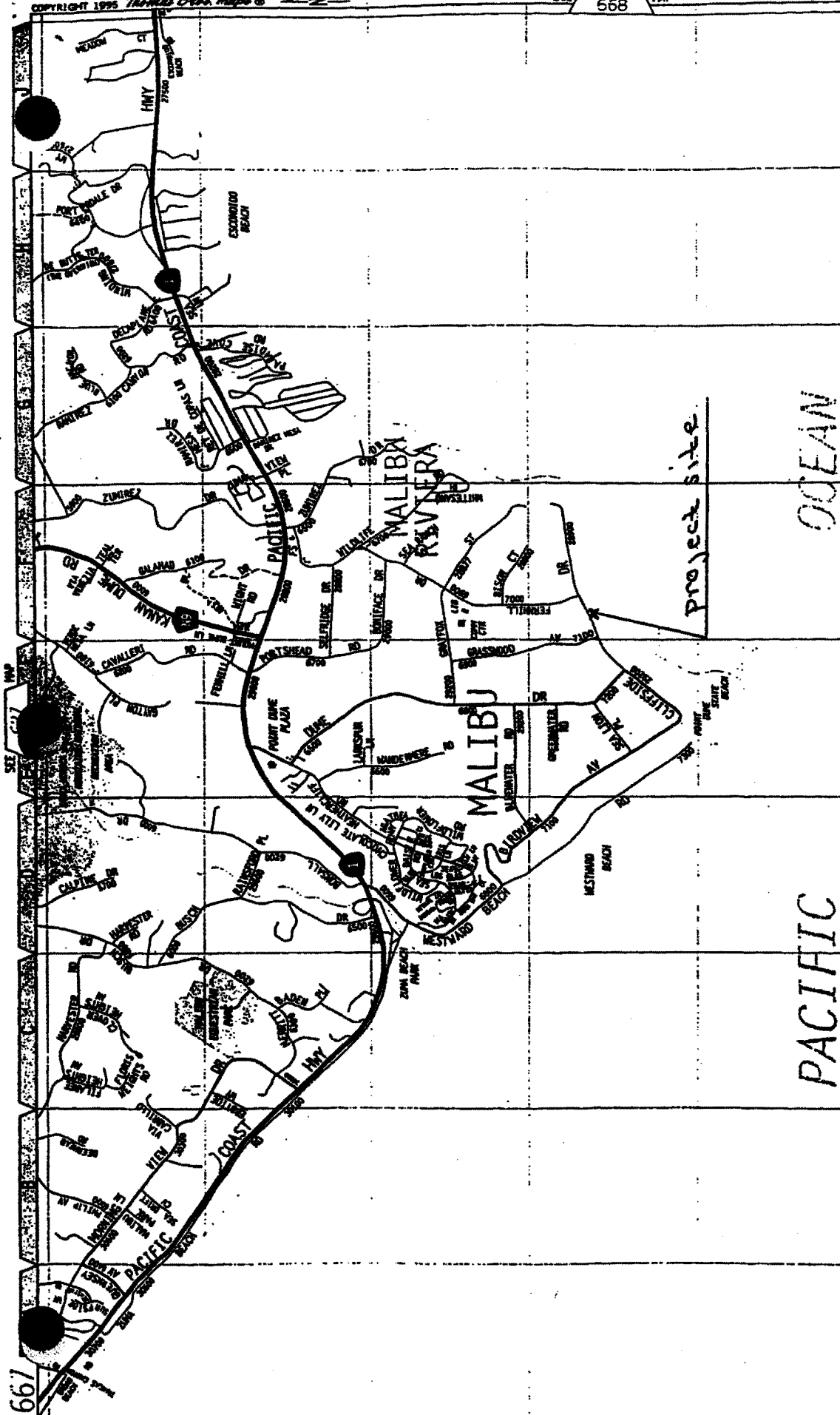
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding 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).

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E. 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 project, as conditioned, will not have any 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 consistent with CEQA and the policies of the Coastal Act.



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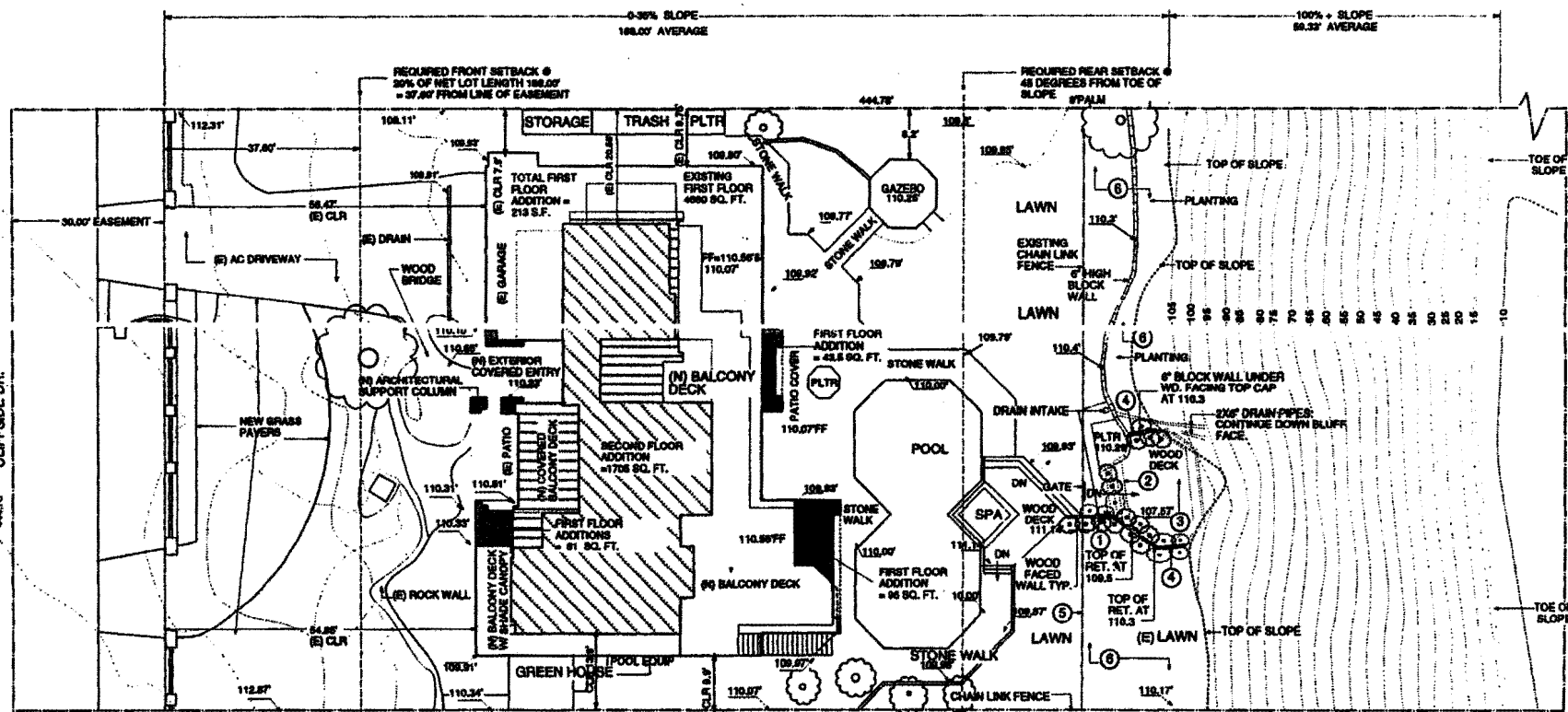
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

EXHIBIT NO. 1

APPLICATION NO.

4-99-064(Brown)

DETAIL



SITE PLAN

SCALE: 0 10 20 FT

BLUFF TOP MITIGATION NOTES

- 1 REMOVE EXISTING WOOD WALL CAP & SCREEN W/NEW NATIVE VEGETATION
- 2 REMOVE EXISTING ACCESS STEPS & REPLACE W/NEW NATIVE VEGETATION
- 3 REMOVE ENTIRE EXISTING VIEWING PLATFORM AND SUPPORTS PLANT W/NEW NATIVE VEGETATION
- 4 EXISTING CONCRETE BLOCK RETAINING WALLS TO REMAIN - SCREEN W/NEW NATIVE VEGETATION
- 5 RELOCATE (E) CHAIN LINK FENCE
- 6 REMOVE ALL (E) GRASS AND NON-NATIVE VEGETATION SEAWARD OF THE CHAIN LINK FENCE, REPLACE WITH NATIVE VEGETATION.

LEGEND

- NEW 1ST FLOOR AREA
- NEW 2ND FLOOR AREA
- 2ND FLOOR AREA REMOVED FROM PREVIOUSLY APPROVED PLANS PPR 97-077

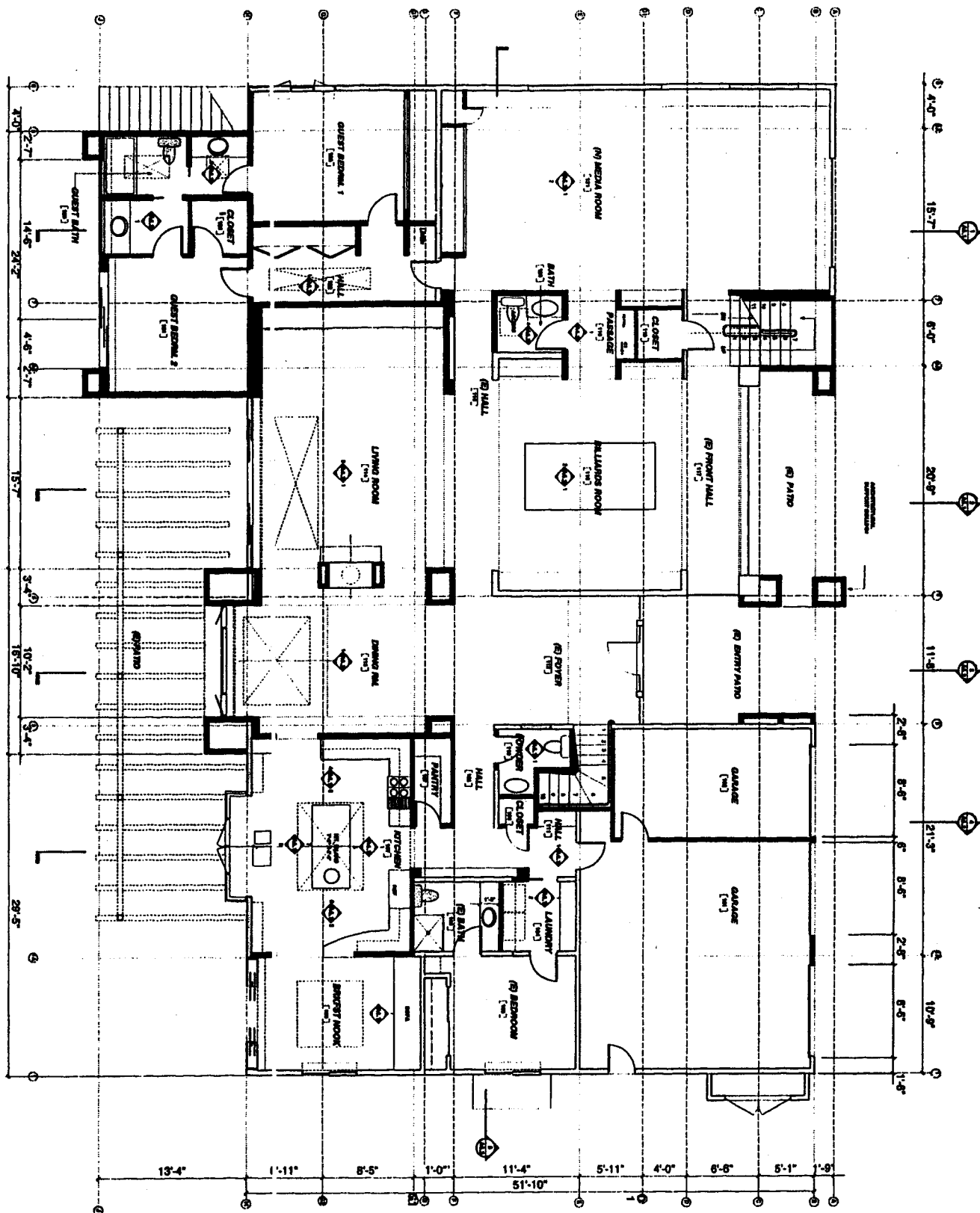
Bluff edge
structures,
walks, etc.
part of this
permit - this
4-99-064
approval

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OCT 09 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST DISTRICT

PROJECT: 29020 CLIFFSIDE DRIVE MALIBU, CA 90262	
shubin + donaldson	
DATE: 10/09/98	PROJECT NO. T.1
BY: [Signature]	FILE SHEET

EXHIBIT NO. 2
APPLICATION NO. 4-99-064
shubin

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**IMPROVED ALBERTA LAB BUILDING,
29020 CLIFFSIDE
MILLIKEN, CO. 80546**

shubin + donaldson

A2.2

FIRST FLOOR PLAN

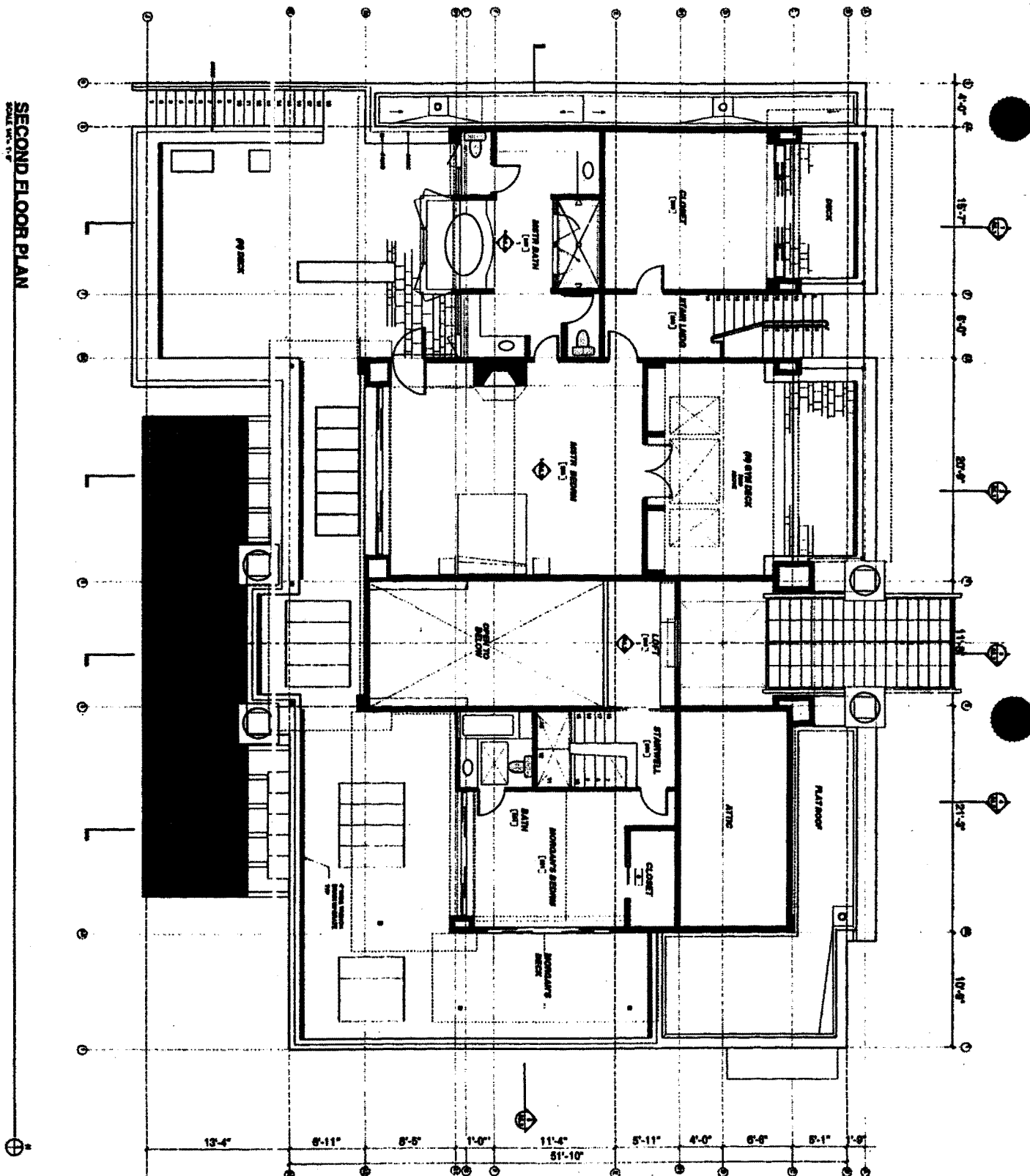
EXHIBIT NO. 3

APPLICATION NO.

4-99-064

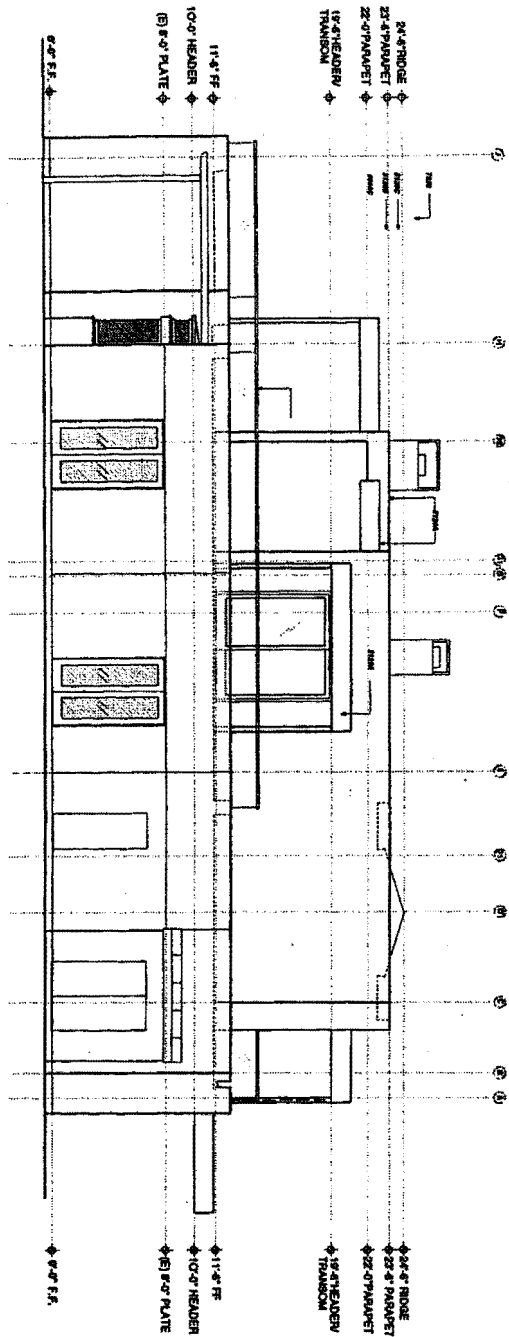
Brown

SECOND FLOOR PLAN
SCALE 1/8" = 1'-0"

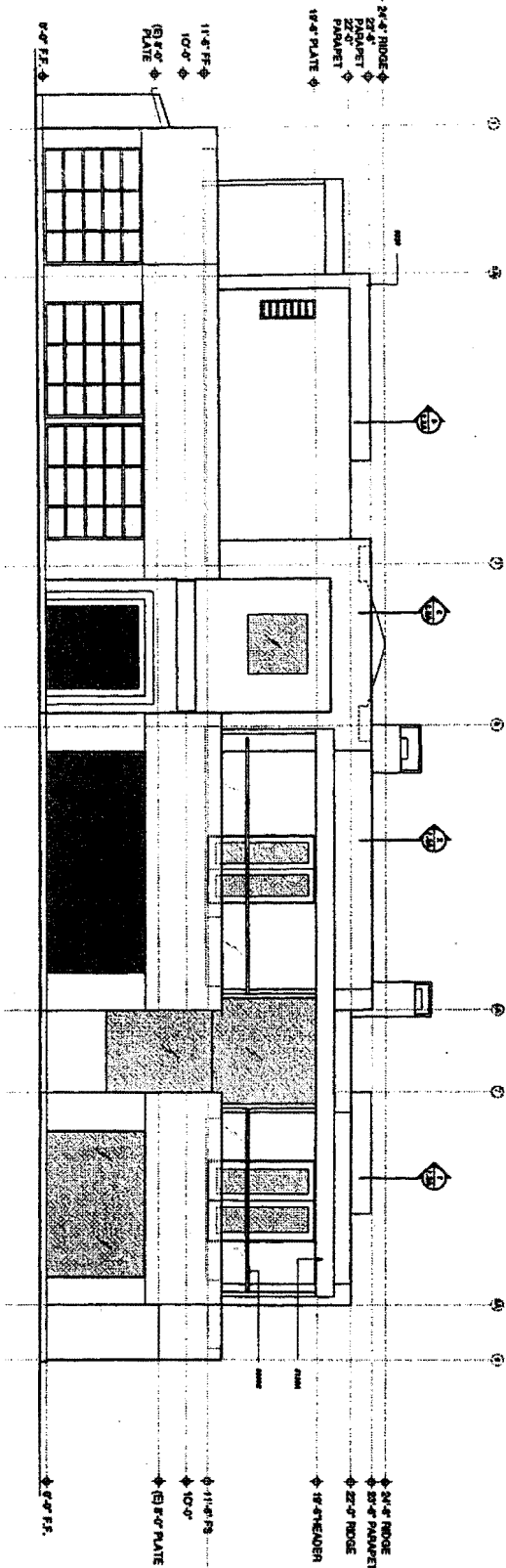


PROJECT: 29020 CLIFFSIDE
 ADDRESS: 29020 CLIFFSIDE
 CITY: MALIBU, CA 90265
 ARCHITECT: SHAFER + DOWNES
 DATE: 10/1/99
 SHEET: A2.3
 SECOND FLOOR PLAN

EXHIBIT NO. 4
APPLICATION NO.
4-99-064
Brown



EAST ELEVATION
SCALE 1/8\"/>



NORTH ELEVATION
SCALE 1/8\"/>

MATERIAL KE

- 4400- 1/2\"/>
- 8710A- ALUMINUM TIE
- 8716A- RELOCATE AND
- 8718B- WOOD FRENCH DOORS AND FRAME
- 8719A- WOOD SLIDING GLASS DOOR AND FRAME
- 8720A- WOOD SECTIONAL OVERHEAD DOOR
- 8715A- WOOD FIBER WINDOW
- 8718B- WOOD CASERMENT WINDOW
- 8716C- WOOD AWNING WINDOW
- 8904A- EXISTING FIXED GLASS CURTAIN WALL
- 8904B- NEW FIXED GLASS CURTAINWALL
- 8900C- GLASS HANDRAIL SYSTEM
- 8200- EXTERIOR PORTLAND CEMENT PLASTER

EXHIBIT NO. 5
APPLICATION NO.

4-99-064

Brown

29020 CLIFFSIDE DRIVE
MILPITAS, CA 95035

shubin + donaldson

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ELEVATIONS

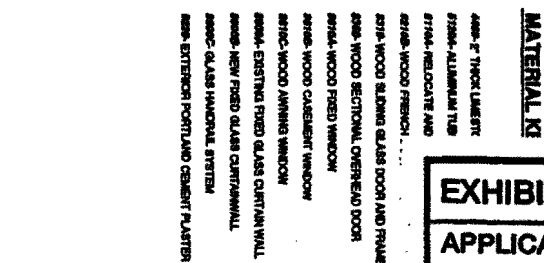
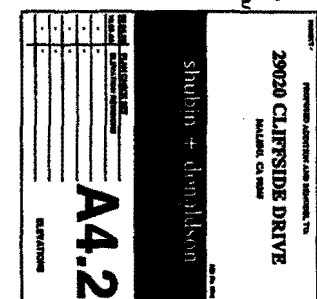


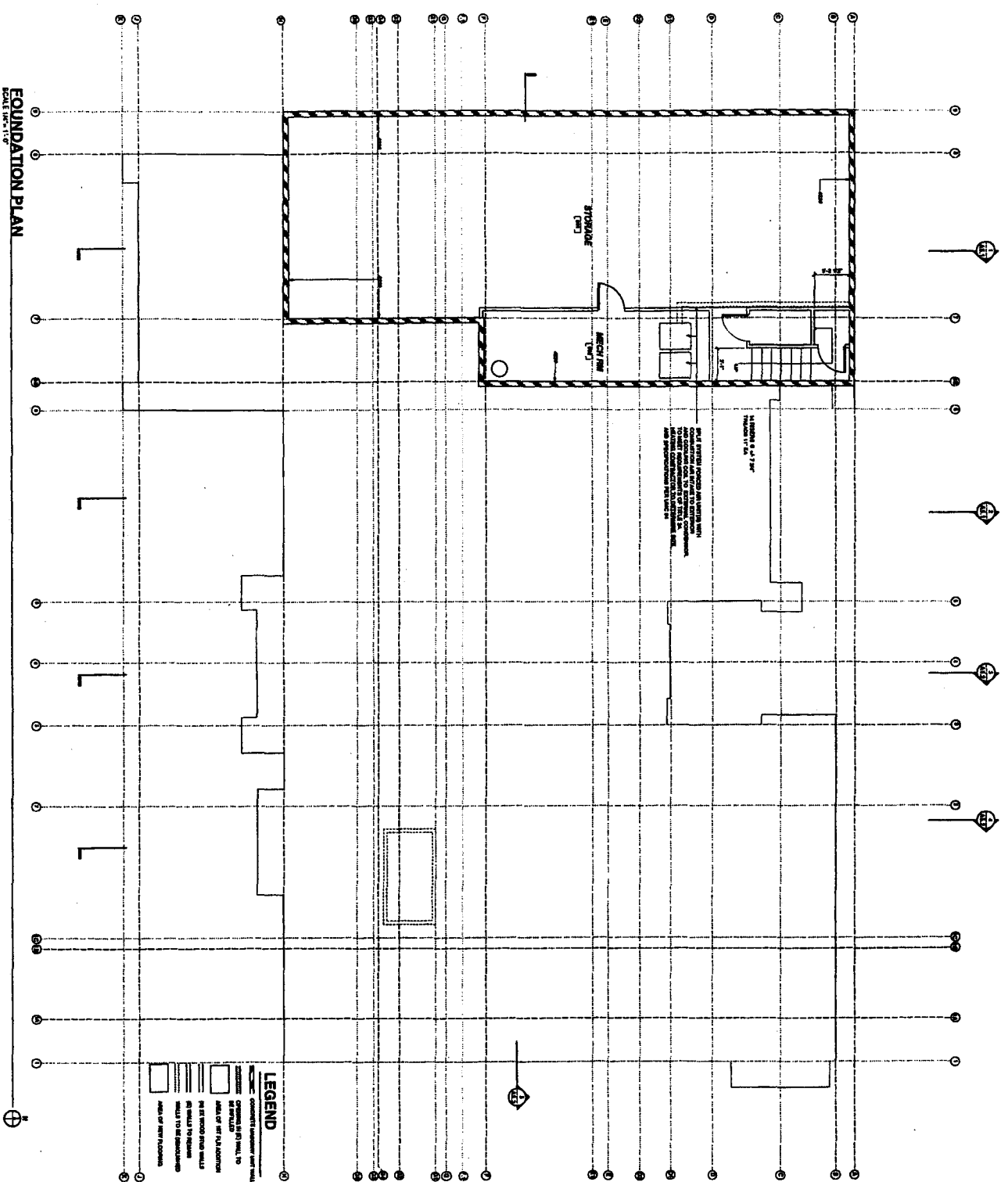
EXHIBIT NO. 6
APPLICATION NO.

4-99-064
Brown



FOUNDATION PLAN

SCALE 1/4" = 1'-0"



LEGEND

- 1. CONCRETE FOUNDATION WALL, 18" THICK
- 2. CONCRETE FOUNDATION WALL, 12" THICK
- 3. CONCRETE FOUNDATION WALL, 10" THICK
- 4. CONCRETE FOUNDATION WALL, 8" THICK
- 5. CONCRETE FOUNDATION WALL, 6" THICK
- 6. CONCRETE FOUNDATION WALL, 4" THICK
- 7. CONCRETE FOUNDATION WALL, 3" THICK
- 8. CONCRETE FOUNDATION WALL, 2" THICK
- 9. CONCRETE FOUNDATION WALL, 1" THICK
- 10. CONCRETE FOUNDATION WALL, 0" THICK

CODE NOTES

1. Foundation walls shall be constructed of concrete, unless otherwise specified.
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MATERIAL KEY

- 1. CONCRETE FOUNDATION WALL, 18" THICK
- 2. CONCRETE FOUNDATION WALL, 12" THICK
- 3. CONCRETE FOUNDATION WALL, 10" THICK
- 4. CONCRETE FOUNDATION WALL, 8" THICK
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- 6. CONCRETE FOUNDATION WALL, 4" THICK
- 7. CONCRETE FOUNDATION WALL, 3" THICK
- 8. CONCRETE FOUNDATION WALL, 2" THICK
- 9. CONCRETE FOUNDATION WALL, 1" THICK
- 10. CONCRETE FOUNDATION WALL, 0" THICK

EXHIBIT NO. 7

APPLICATION NO.

4-99-064 (Brown)

Basement Plan

29020 CLIFFSIDE DRIVE

SALE, CA 94068

shubin + donaldson

ARCHITECTS

1000 14TH AVENUE

NEW YORK, NY 10018

DATE: 10/1/99

PROJECT: 29020 CLIFFSIDE DRIVE

SCALE: 1/4" = 1'-0"

1. FOUNDATION PLAN

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