


Th3a

CALIFORNIA COASTAL COMMISSION

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

Filed: 12/10/98
49th Day: 1/28/99
180th Day: 6/8/99
Staff: mb-V 
Staff Report: 3/23/99
Hearing Date: 4/13-16/99



RECORD PACKET COPY

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-98-247

APPLICANT: Philip K. and Joan Embleton

PROJECT LOCATION: 3035 Sequit Drive, El Nido, Santa Monica Mountains, Los Angeles County

PROJECT DESCRIPTION: Construct 35 ft. high, three story, 800 sq. ft. single family residence with two attached single car garages and septic system. No grading.

Lot area:	7,940 sq. ft.
Building coverage:	740 sq. ft. (approximate)
Pavement coverage:	540 sq. ft. (approximate)
Parking spaces:	two covered
Height above finished grade:	35 ft.

LOCAL APPROVALS RECEIVED: County of Los Angeles: Regional Planning, Approved In Concept, dated 10/9/98; Environmental Health Department, sewage disposal approval, dated 4/30/98; Department of Public Works, geologic review sheet, dated 10/20/97.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains certified Land Use Plan; West Coast Geotechnical, Update Geotechnical Engineering Report, September 1, 1998; Mountain Geology, Inc., Update Engineering Geologic Report, August 18, 1998.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the project with special conditions relating to: ***color restriction, future improvements restriction, review of floor plans and elevations, conformance to geologic recommendations, landscape and erosion control, and fire waiver of liability.***

STAFF NOTE: This item was originally scheduled for regular calendar consideration at the Coastal Commission meeting of March 9-12, 1999, but was postponed to clarify the ownership of adjacent land to the south. The land adjacent and south of the site is not National Park Service (NPS) park land, but is owned by the Department of Water and

Power. The NPS will not allow vegetative clearance for fire safety around adjacent development to extend onto their park land.

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.
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.

(b) Monitoring.

Five years from the date of the receipt of the Certificate of Occupancy for the residence 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.

6. Wild Fire 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.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a 800 sq. ft., three story, 35 ft. high, single family residence with two attached single car garages and a septic system with a 1000 gallon tank and seepage pit on the west side of the residence. No grading is proposed although there will be minor excavation for purposes of installation of six 35 ft. deep friction piles and construction of the septic system. This has been estimated by staff at approximately fifteen cu. yds.

The project is located at the approximate 625 to 650 ft. elevation. The site is very steep at an over 100% slope, i.e. exceeding a 45 degree gradient. The project design is unusual in that the house is to be constructed as two adjoining and connected three story modules, with each capped by a single car garage at the top (third) level, connected to the street by a bridge driveway. Such a design is very similar to two adjoining residences to the west.

The lot contains a rock outcrop and grasses and a few isolated chaparral plants while public land adjacent and downhill has been cleared of major vegetation. This vacant land to the south belongs to the Department of Water and Power. This land is part of a large parcel which extends along the west side of Corral Canyon from the El Nido small lot subdivision to Pacific Coast Highway. West of this land is the Sostice Canyon Park recently acquired by the National Park Service.

The project is located along the south boundary of the El Nido small lot subdivision. Adjacent development is multistory and single family in character on small, steep lots to the east, west and north.

B. 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

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. Structure 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.

2. Future Improvements

- A. This permit is only for the development described in coastal development permit No. 4-98-247. Pursuant to Title 14 California Code of Regulations Sections 13250 (a) and 13253(b)(6) the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements to the permitted structure, including but not limited to enclosure of deck areas, 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 five (5), shall require an amendment to Permit No. 4-98-247 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. Any future improvements shall conform to the allowable Gross Structural Area (GSA) as defined by Policy 271 in the certified Malibu/Santa Monica Mountains Land Use Plan.

- 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, reflecting the above restrictions on development in the restricted area. 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.

3. Review of Floor Plans and Elevations

Prior to the issuance of a coastal development permit, the applicant shall submit revised project plans (floor plans and elevations) in a form and content acceptable to the Executive Director showing that the jacuzzi area shown as "outside the living area" on the lower deck as shown on Exhibit 5 is completely open on two sides. Such plans shall indicate that this area is not part of the living area of the residence.

4. 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 West Coast Geotechnical, Update Geotechnical Engineering Report, September 1, 1998 and Mountain Geology, Inc., Update Engineering Geologic Report, August 18, 1998 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 development permit. The Executive Director shall determine whether required changes are "substantial".

5. Landscaping and Erosion Control Plan

- (a) 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 disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of final 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 disturbed areas 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) 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.

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 provides policies regarding protection of visual resources, which are used as guidance and are applicable to the proposed development. These policies have been applied by the Commission as guidance, in the review of development proposals in the Santa Monica Mountains.

- P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.**
- P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public park lands. Where physically and economically feasible, development on sloped terrain should be set below road grade.**
- P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:**
- be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP;**
 - minimize the alteration of natural land forms;**
 - be landscaped to conceal raw-cut slopes;**
 - be visually compatible with and subordinate to the character of its setting;**
 - be sited so as not to significantly intrude into the skyline as seen from public viewing places.**
-
- P131 Where feasible, prohibit placement of structures that will break the ridgeline view, as seen from public places.**
- P134 Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.**

The applicant is proposing to construct a 800 sq. ft., three story, 35 ft. high, single family residence with two attached single car garages and a septic system with a 1000 gallon tank and seepage pit on the west side of the residence. The proposed construction is of stucco or similar finish exterior. As previously noted, the site is very steep at an over 100% slope, i.e. exceeding a 45 degree gradient. The house is proposed of a design with two adjoining and connected three story modules, with each capped by a single car garage at the top (third) level, connected to the street by a bridge driveway.

Surrounding development is vacant undeveloped Department of Water and Power land to the south and vacant undeveloped land to the east, and single family development to the north and west. Approximately 800 feet to the southwest is National Park Service land in Solstice Canyon Park and the project will be highly visible from this land. The DWP land to the south has already been subject to vegetation clearance, possibly for fire safety purposes.

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 overlooks Solstice Canyon Park to the southwest although it does not share a common boundary with the Park. The Park has a number of habitat, trail and visual quality resources as mapped in the certified LUP, including the Solstice Canyon Trail. Further, the Coastal Slope Trail, within the Park and Department of Water and Power land, is located immediately below the site at the approximate 500 ft. elevation. The Commission typically also examines the building site and the size of the structure.

Staff conducted a site visit of the site and found the proposed building site to be the most appropriate and feasible location, a given the steep natural terrain and difficulty of access off the adjoining street. The slope/intensity formula, discussed in greater detail below, limits the size of the house to 800 sq. ft. Although the proposed residence is of a small size, any residence which could be constructed on the site would be of a location and mass which would create a strong visual impact residence upon park land and the trail below the site. Further, to construct any residence, multiple stories are necessary because of these site constraints.

It is necessary to ensure that the design of the project will minimize any visual impacts to the maximum extent feasible. The impact on public views from both Solstice Canyon Park, to the southwest, and Solstice Canyon Trail, located to the south and southwest, can be mitigated by requiring the residence to be finished in a color consistent with the surrounding natural landscape and if the numerous windows of the proposed structure were of a nonreflective nature. To ensure any visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission finds it necessary to require the applicant to use colors compatible with the surrounding environment and non-glare glass, as required by *Special Condition number one (1)*.

In addition, future developments or improvements to the property have the potential to create significant adverse visual impacts as seen from the public places. It is necessary 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 two (2)*, the future improvements deed restriction, 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. Therefore, the Commission finds it necessary to require a revised landscaping plan in keeping with the native vegetation of the Santa Monica Mountains to mitigate any visual impacts of development through the use of native, drought tolerant plantings, as specified in *Special Condition number five (5)*.

In summary, the proposed project, as conditioned, will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act and the policy guidance contained in the certified Malibu/Santa Monica Mountains LUP.

C. Cumulative Impacts of New Development

The proposed project involves the construction of a new single family residence which is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. Sections 30250 and 30252 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.

Throughout the Malibu/Santa Monica Mountains coastal zone there are a number of areas which were subdivided in the 1920's and 30's into very small "urban" scale lots. These subdivisions, known as "small-lot subdivisions" are comprised of parcels of less than one acre but more typically range in size from 4,000 to 5,000 square feet. The total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources. Cumulative development constraints common to small-lot subdivisions were documented by the Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled: "Cumulative Impacts of Small Lot Subdivision Development In the Santa Monica Mountains Coastal Zone".

The study acknowledged that the existing small-lot subdivisions can only accommodate a limited amount of additional new development due to major constraints to buildout of these areas that include: Geologic, road access, water quality, disruption of rural community character, creation of unreasonable fire hazards and others. Following an intensive one-year planning effort by Commission staff, including five months of public review and input, new development standards relating to residential development on small lots in hillsides, including the Slope-Intensity/Gross Structural Area Formula (GSA) were incorporated into the Malibu District Interpretive Guidelines in June 1979. A nearly identical Slope Intensity Formula was incorporated into the 1986 certified Malibu/Santa Monica Mountains Land Use Plan under policy 271(b)(2).

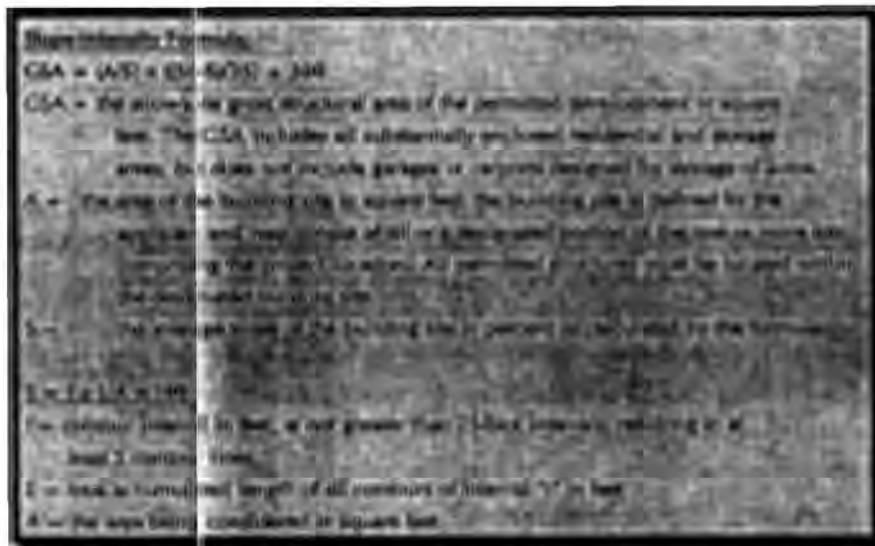
The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots which already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains creates cumulative impacts on coastal resources and public access over time. Because of this, the demands on road capacity, public services, recreational facilities, and beaches could be expected to grow tremendously.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan (LUP) requires that new development in small lot subdivisions comply with the Slope-Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit. Past Commission action certifying the LUP indicates that the Commission considers the use of the Slope Intensity Formula appropriate for determining the maximum level of development which may be permitted in small lot subdivision areas consistent with the policies of the Coastal Act.

The basic concept of the formula assumes the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse impacts on coastal resources.

Some additions and improvements to residences on small steep lots within these small lot subdivisions have been found to adversely impact the area. Many of the lots in these areas are so steep or narrow that they cannot support a large residence without increasing or exacerbating the geologic hazards on and/or off site. Additional buildout of small lot subdivisions affects water usage and has the potential to impact water quality of coastal streams in the area. Other impacts to these areas from the buildout of small lot subdivisions include increases in traffic along mountain road corridors and greater fire hazards.

The following illustrates the Commission's Slope Intensity Formula:



The proposed project is located in the El Nido small lot subdivision of Malibu Bowl and involves the construction of a single family residence with 800 sq. ft. of living area. The applicant originally submitted a 925 sq. ft. living area design, but based on conversation with

staff has submitted a revised project plan and GSA calculation. Staff has determined that the calculation is accurate. According the allowable gross structural area would be 800 sq. ft. Therefore, the proposed 800 sq. ft of habitable space is consistent with the maximum allowable GSA for the subject site.

However, for all the reasons described above, new ancillary structures, additions or improvements to the subject property could cause adverse cumulative impacts on the limited

resources of the subdivision. The Commission, therefore, finds it necessary for the applicant to record a future improvements deed restriction on this lot, as noted in *special condition number two (2)*. This condition requires that any future structures, additions or improvements to the property, beyond those now proposed, require review by the Commission to ensure compliance with the policies of the Coastal Act regarding cumulative impacts and geologic hazards. At that time, the Commission can ensure the new project complies with the guidance of the GSA formula and is consistent with the Coastal Act.

In addition, the present design includes a jacuzzi area on the lower story which is not opened fully so that it still constitutes a part of the living area, and is therefore inconsistent with the Slope Intensity Formula noted above. The jacuzzi area is the same design as that previously submitted except for insertion of two window openings with partial walls on the sides facing south and east. To ensure that the jacuzzi area is a non-living area, the Commission finds that it is necessary to require the applicant to submit revised plans, as required by *special condition number three (3)*, to specify that this area will be fully opened on at least two sides. A structural support on the corner may be allowed. *Special condition number two (2)* clarifies that enclosure of this or any other deck areas will be subject to permit review.

The Commission therefore finds that the proposed project, only as conditioned, consistent with Section 30250(a) of the Coastal Act.

D. Geologic Stability and Hazards/Stream Protection

PRC Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

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 in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The project site is underlain by rock of volcanic origin with a shallow layer of surface soil. The prominent geomorphic features in the area are Solstice Canyon to the south and the ridgeline to the east along which are located the subject El Nido as well as the Malibu Bowl small lot subdivisions. The project drains to the south toward Solstice Canyon which contains environmentally sensitive habitat areas (ESHAs) as designated in the certified LUP in terms of the stream (Solstice Canyon Creek) and the adjacent area of riparian woodland. Associated with the Creek and adjacent, but upstream of the drainage from subject project, is an oak woodland and a significant watershed. Upstream and closer to the project location is Dry Canyon Creek, which is a blue line stream and inland ESHA as designated in the certified LUP. The project drains into a natural swale which drains into Dry Canyon Creek.

1. Geology

The applicant has submitted a West Coast Geotechnical, Update Geotechnical Engineering Report, September 1, 1998; Mountain Geology, Inc., Update Engineering Geologic Report, August 18, 1998.

The a West Coast Geotechnical, Update Geotechnical Engineering Report states that:

"It is our opinion, based on site stability analyses performed as part of our referenced reports, that the proposed development will be safe against hazard from landslide, settlement or slippage, and that the proposed development will not have an adverse affect on the stability of the subject site or immediate vicinity, provided our recommendations are made part of the development plans and are implemented during construction."

Given the findings and recommendations of the consulting 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 four (4)* for the final project plans for the proposed project.

2. Erosion

Surface drainage on site is by sheet flow toward the south toward a undesignated (i.e. not blue line) tributary of Dry Creek which drains into Solstice Canyon. Both Dry Creek and Solstice Canyon Creek are designated blue line streams and

respectively are located approximately ¼ and 1/3 miles south of the project site. As noted above, Solstice Canyon Creek and Dry Creek are designated as an environmentally sensitive habitat areas in the land use component of the Malibu/Santa Monica Mountains Local Coastal Program.

The consulting geologist has stated that drainage should be dispersed in a non-erosive manner, and preclude concentration of runoff and erosion. The Commission finds that the project will significantly increase the amount of impervious surfaces on the site, which increases 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 and affect site stability. Increased erosion may also result in sedimentation and degradation of riparian systems in the following manner:

- Eroded soil contains nitrogen, phosphorous, and other nutrients which, when carried into water bodies, trigger algal blooms that reduce water clarity and deplete oxygen which leads to fish kills and creates odors.
- Excessive deposition of sediments in streams blankets the bottom fauna, paves stream bottoms, and destroys fish spawning areas.
- Turbidity from sediment reduces in-stream photosynthesis, which leads to reduced food supply and habitats.
- Suspended sediment abrades and coats aquatic organisms.
- Erosion removes the smaller and less dense constituents of topsoil. These constituents, clay and fine silt particles and organic material hold nutrients that plants require. The remaining subsoil is often hard, rocky, infertile, and droughty. Thus, reestablishment of vegetation is difficult and the eroded soil produces less growth.
- Introduction of pollution, sediments, and turbidity into marine waters and the nearshore bottom has similar effects to the above on marine life. 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.

In the case of this project, the site plan includes detailed erosion control measures including two rock energy dissipators, swales and trench drains. This plan provides for erosion control in a manner consistent with past Commission actions, to control and convey runoff in a non-erosive manner and avoid impacts on downstream ESHAs.

The Commission also finds that a landscaping and erosion control plan is necessary to minimize the potential for erosion of grading and disturbed soils and thereby ensures site stability. Therefore, the Commission finds it necessary to require submittal of a landscaping and erosion control plan for the replanting of disturbed areas, and providing for future monitoring of the plan, as noted in *special condition number five (5)*. Furthermore, to minimize erosion considering the steep topography of the site and erodability of surface soils, the Commission finds that the landscape plans must be reviewed and approved by the consulting engineering geologist, as also noted in this condition. The landscaping plan needs to include plants primarily of a native drought/tolerant nature, include maintenance, and provide for siltation control during the rainy season, as also noted.

In summary, the landscaping and erosion control plan required by *special condition number five (5)* ensures erosion control avoids adverse effects on site stability and downstream resources. Therefore, as conditioned the project is consistent with PRC Section 30253, relative to minimization of risk and geologic hazard, as well as Sections 30240 and 30231, relative to protection of ESHAs and the biological productivity and quality of coastal waters and streams.

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 six (6). The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 of the Coastal Act.

E. 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.

In addition, Section 30250(a) of the Coastal Act states that:

New residential ... development ... shall be located within ... existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed septic system includes a 1000 gallon septic tank with a seepage pit. The installation of a private sewage disposal system was reviewed by the consulting geologist, Mountain Geology Inc, and found not to create or cause adverse conditions to the site or adjacent properties.

A percolation test was performed on the subject property indicated that the percolation rate meets Uniform Plumbing Code requirements for and is sufficient to serve the proposed single family residence. This test indicated that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code. In addition, the project received approval from the County Environmental Health Department relative to 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 waters. Therefore, the Commission finds that the proposed septic system is consistent with Section 30231 and 30250 of the Coastal Act.

F. 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 County'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. 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.

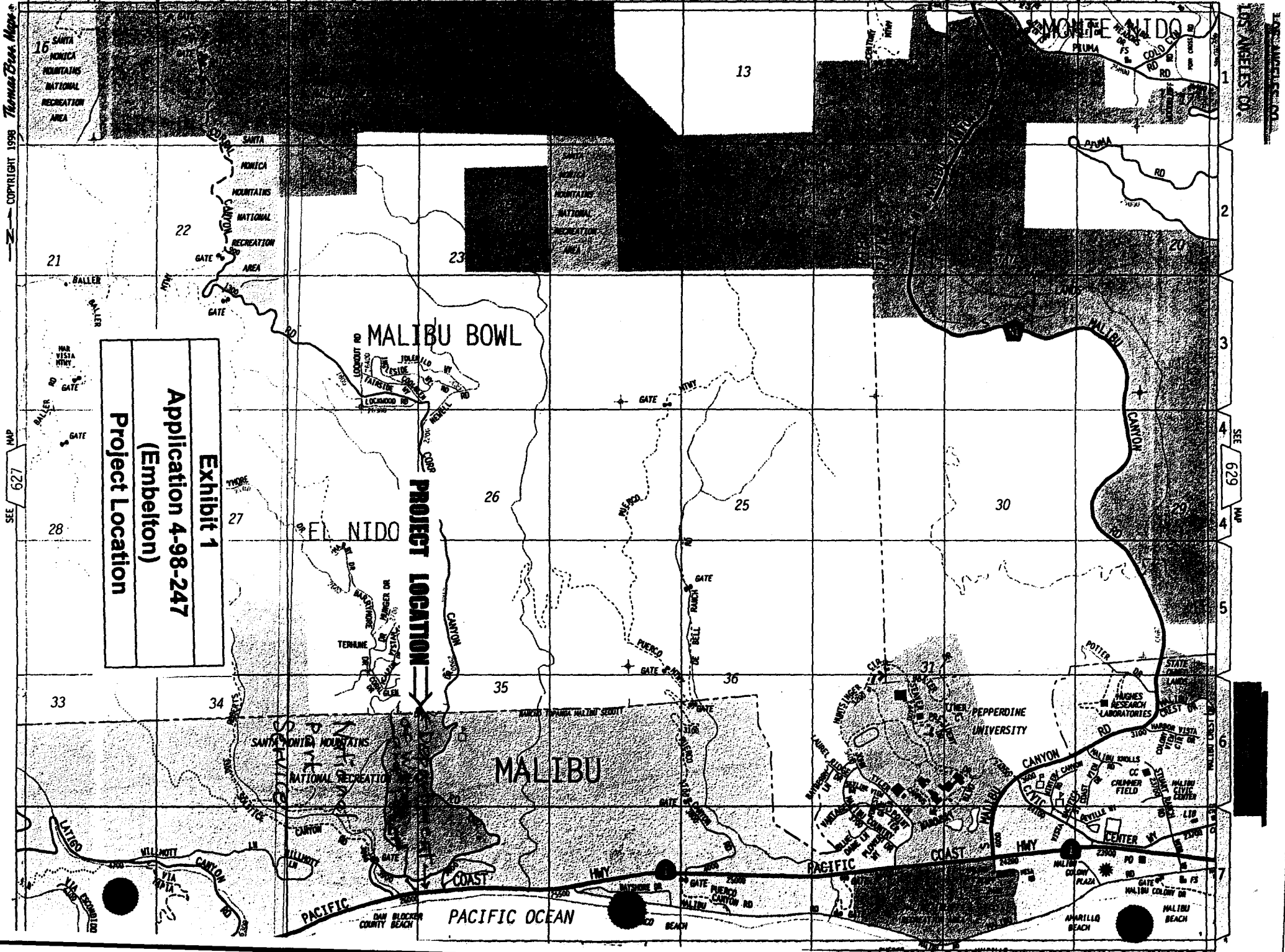


Exhibit 1
Application 4-98-247
(Embelton)
Project Location

LOS ANGELES CO.

SEE 629 MAP

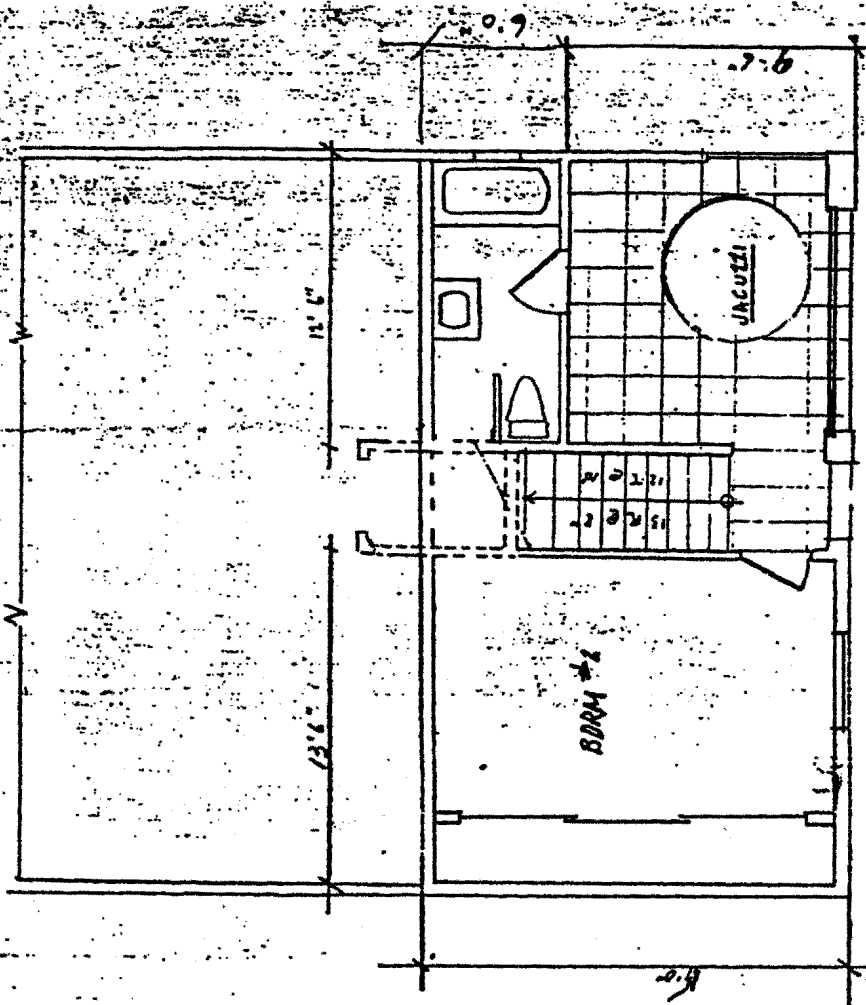
RECEIVED

SEQUIT DRIVE
RESIDENCE

Owners: Phil Emberton, Jr.

Legal: 7
Lot 105/1201/241
LPT/107

111



Lower Deck
Sc: 1/4" - 1'0"

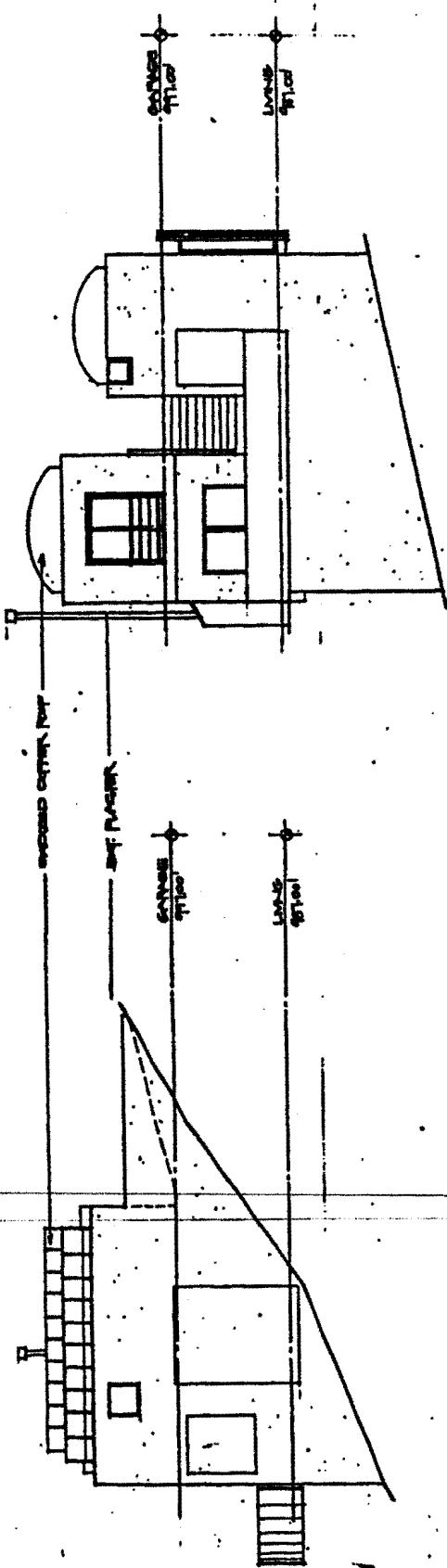
Exhibit 5
Application 4-98-247
(Embleton)
Lower Floor Plan

105% 3rd St. NW
P.O. Box 1218
Santa Monica
California
90406
713 438 8387

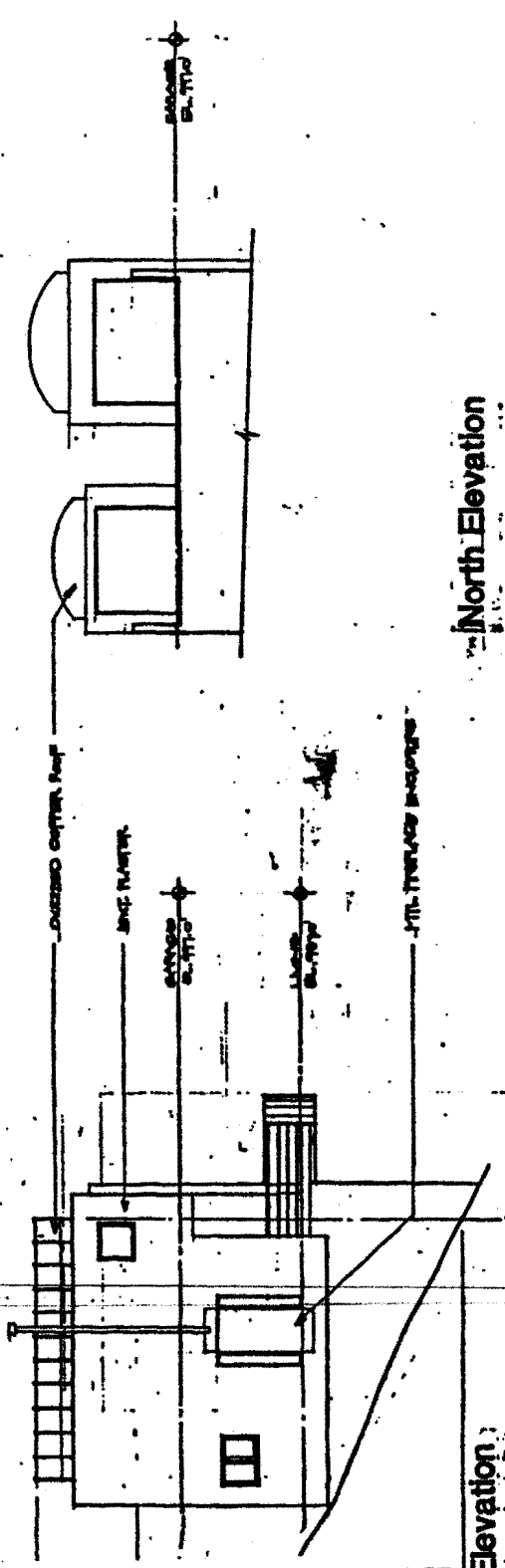
This document is the property of William Adams Architects AIA. It is to be used only for the project and site specified herein. It is not to be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of William Adams Architects AIA.

SEQUIT DRIVE
RESIDENCE
Owners:
Phil Embleton
Finn Skelton
Legal:
Lot 10 Tract 9456

Site Plan

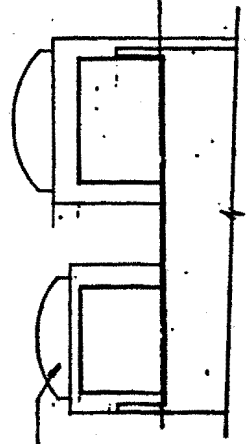


East Elevation

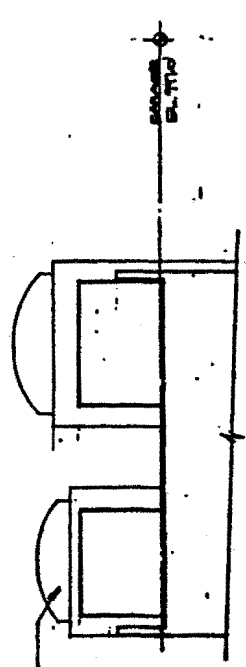


West Elevation

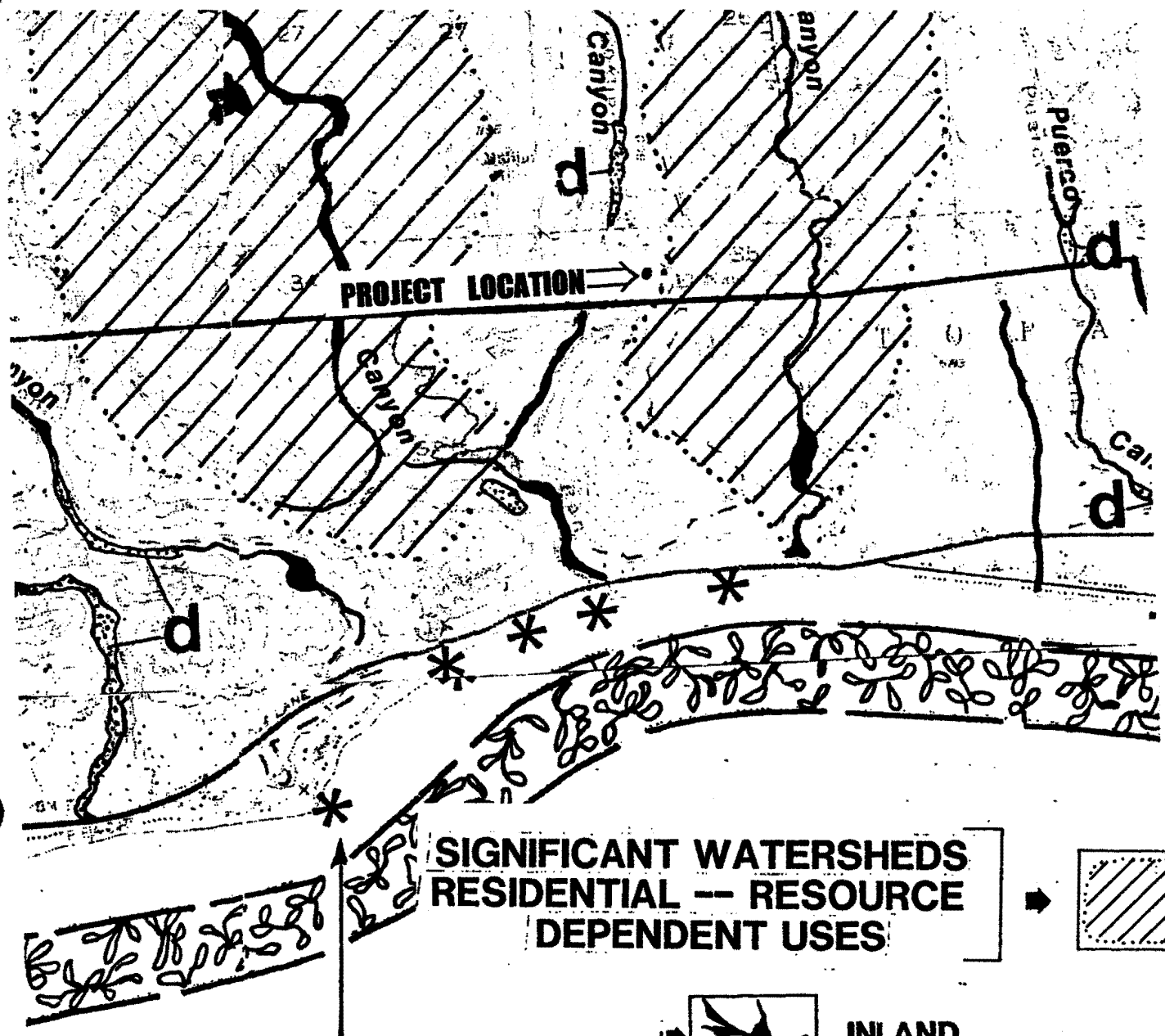
Exhibit 6
Application 4-98-247
(Embleton)
Elevations



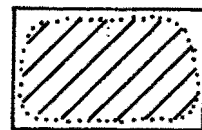
North Elevation



South Elevation



**SIGNIFICANT WATERSHEDS
RESIDENTIAL -- RESOURCE
DEPENDENT USES**

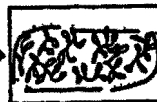


LATIGO POINT

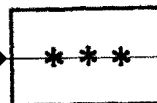
**ENVIRONMENTALLY SENSITIVE
HABITAT AREA -- RESOURCE
DEPENDENT USES**



INLAND



**OFFSHORE --
KELP BEDS**



**SHORELINE --
ROCKY AREAS**



**SHORELINE --
SEA LION HAUL OUT**

**Exhibit 7
Application 4-98-247
(Embleton)
ESHAs and Project Site**

135% 3rd St. NE
P.O. Box 1288
Seattle, WA 98101
206-461-1111

210 458 3397

This document is submitted for information only. It is not intended to be used for construction without the approval of the architect. The architect is not responsible for the accuracy of the information provided. The architect is not responsible for the accuracy of the information provided. The architect is not responsible for the accuracy of the information provided.

**SEQUIT DRIVE
RESIDENCE 7**

Owners:
Phil Embleton
Finn-Olektor

Legal:
Lot 10 Tract 9456

1/16"

Architect

45

Living Level

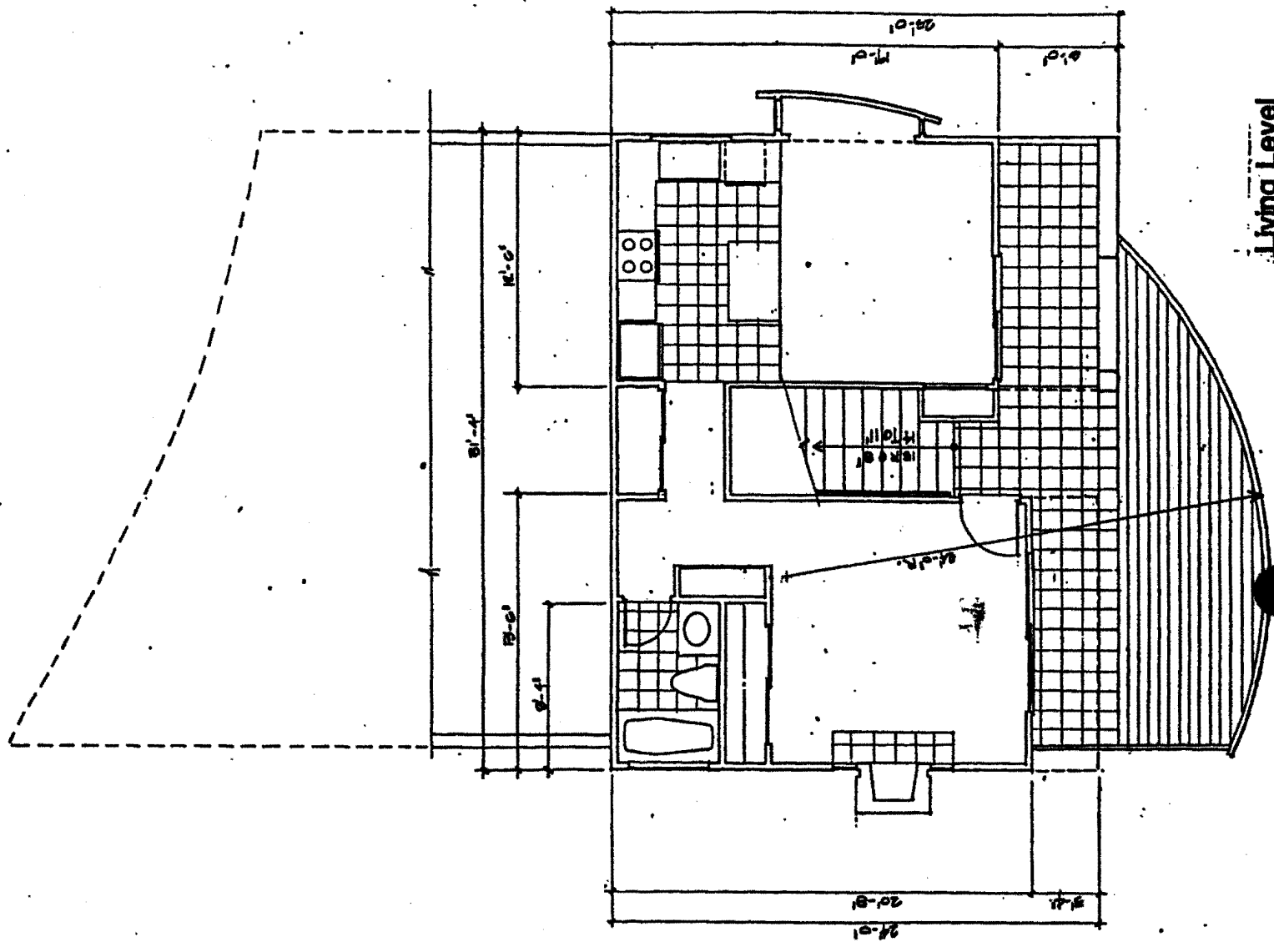


Exhibit 4
Application 4-98-247 (Embleton)
Middle Floor Plan