Th3b

STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY DAVIS, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
[illegible]OUTH CALIFORNIA ST., SUITE 200
[illegible]URA, CA 93001
(805) 641 - 0142

RECORD PACKET COPY

Filed: 3/09/99
49th Day: 4/27/99
180th Day: 9/05/99
Staff: MH-V
Staff Report: March 18, 1999
Hearing Date: April 15, 1999
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO: 4-98-249

APPLICANT: Ceres, Inc. Plant Science

PROJECT LOCATION: 3011 Malibu Canyon Road, Malibu, Los Angeles Co.

PROJECT DESCRIPTION: Construct a 3,456 sq. ft., one story, 18 ft. high greenhouse, a 5 ft. high retaining wall, and 676 cubic yards of grading (338 cu. yds. cut and 338 cu. yds. fill) on an approximately 13-acre parcel within the total 65 acre site containing the Hughes Research Laboratory research complex.

LOCAL APPROVALS: City of Malibu Approval in Concept; City of Malibu Environmental Health Department Septic System Approval.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains certified Land Use Plan; "Preliminary Geotechnical Investigation, Proposed Greenhouse Construction Hughes Research Facility, 3011 Malibu Canyon Road," prepared by Gorian Associates, Inc., dated July 8, 1998; CDP Nos. 5-82-708 (Hughes Aircraft), 5-85-493 (Hughes Aircraft), and 4-93-164 (Hughes Aircraft).

STAFF RECOMMENDATION: Staff recommends **approval** of the proposed project with special conditions regarding geologic recommendations and wildfire waiver of liability. The proposed greenhouse would be used for research projects based on genetically-altered plants. Greenhouse operations would be conducted in accordance with the regulations administered by the National Institute of Health and by the U.S. Department of Agriculture and would not involve the release of genetically modified organisms into the natural environment. The greenhouse would be located within the existing research complex and would not affect public coastal views or displace natural habitat.

I. STAFF RECOMMENDATION:

Approval with Conditions.

The staff recommends that the Commission adopt the following resolution:

The Commission hereby **grants** a permit, subject to the conditions below, 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.

1. Plans Conforming to Geologic Recommendations

All recommendations contained in the Geologic and Geotechnical Engineering Study, Proposed Residential Development, 27605 Pacific Coast Highway, Malibu, California, dated March 27, 1998, prepared by RJR Engineering Group, Inc., 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 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 3,456 sq. ft., one story, 18 ft. high greenhouse, 5 ft. high retaining wall, and grade 676 cu. yds. of material (338 cu. yds. cut and 338 cu. yds. fill) on an approximately 13 acre site within the total 65-acre parcel containing the Hughes Research Facility industrial park development. The applicant leases the site from HRL, Laboratories, LLC, and Hughes has elected not to become a co-applicant in the pending permit request.

The greenhouse would be situated in the midst of the developed portion of the site, at the southerly end of parking lots 8 and 9, and would not be visible from public viewing areas. There are no sensitive habitat areas on or adjacent to the site proposed for placement of

the greenhouse. No sensitive habitat areas are located on or adjacent to the subject parcel. Drainage at the site is by sheetflow to the south.

The applicant proposes to use the greenhouse to grow plants, including genetically modified plants, for agricultural research purposes. The applicant will not be field testing any research products at the site of the proposed project.

Regulations that pertain to research on genetically modified plants are administered by the National Institutes of Health (NIH; reference: Guidelines for Research Involving Recombinant DNA Molecules revised May 1998) while regulations pertaining to the shipment and release of genetically engineered organisms are administered by the Animal and Plant Health Inspection Service (APHIS; 7CFR340, last updated May, 1997) of the U.S. Department of Agriculture (USDA).

The proposed Greenhouse meets or exceeds all NIH procedures to ensure that there is no routine release of live plant material, including pollen and the soil bacteria that are used to add the new genes to the plants. The proposed greenhouse is partitioned into three rooms as shown on Exhibit 4. The smaller room (vestibule) is for potting and transplanting, and an additional long, narrow add-on (exclusion room) allows the entry of insect-free air into the greenhouse. Rolling shelves made of reinforced wire will maximize internal space and keep the plants off the concrete floor.

Water drains into the middle of each room to a closed concrete sump sink. The water from the sinks is pumped from each room to a closed concrete sump sink. The water is pumped from the sump sink to a heating unit to kill any microorganisms before being pumped to a tank for cooling. From the cooling tank the water is pumped directly into the existing septic tanks of the Hughes Research Laboratory facility, and the effluent is ultimately discharged into the associated drainage field. If an uncontrolled discharge of effluent escaped the facility, it would drain into abandoned leach beds and the leach field at the foot of the facility. No water coming from the greenhouse could be released into the storm drain system, as there are no storm drains accessible from the greenhouse site that would be reached by escaping effluent before interception by the downgradient leach beds.

The greenhouse will be cooled with fans. While not required by NIH guidelines for the experiments that the applicant plans to conduct, a fine mesh screen will be used to prevent insects from entering and pollen and other plant parts from exiting the greenhouse. The 8 ft. by 108 ft. exclusion room is completely covered with screen. The fans are built into the side of the greenhouse inside the exclusion room and will pull air through the screen. The air is vented to the top of the green house, through fine mesh screen.

Water usage for plants inside the greenhouse is not expected to exceed 100 gallons per day. Discharge is expected to be less than 20 gallons per day.

The applicant states that it intends to grow several different plant species in the greenhouse, and that these species will be limited to standard agricultural crops and *Arabidopsis* (a model plant used in hundreds of laboratories around the world). No plants will be grown which are able to interbreed with noxious weeds in the immediate geographic area (as per NIH guidelines).

Used soil, pots and flats will be placed into an autoclave bag and then into a metal container with a sealed top. The metal containers will be transported from the greenhouse to Ceres' autoclave room in Building 251. The bags will then be removed from the metal containers, placed in the autoclave and sterilized. After sterilization, the bags will be treated as other non-hazardous waste.

B. Geologic Stability and Hazards

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

> (l) 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.

Section 30253 of the Coastal Act requires that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The applicant proposes to construct a new 3,456 sq. ft. greenhouse on a flat pad requiring 676 cu. yds. of grading (338 cu. yds. cut, 338 cu. yds. fill) within the site of the existing Hughes Research Facility industrial research park.

The applicant has submitted a report titled Preliminary Geotechnical Investigation, Proposed Greenhouse Construction, Hughes Research Facility, 3011 Malibu Canyon Road, City of Malibu, California, prepared by Gorian Associates, Inc., dated July 8, 1998. The consultant's report makes numerous recommendations regarding site preparation, grading, foundation design, construction, and other matters concerning the geotechnical stability of the proposed project.

The applicant's geotechnical report concludes that:

> "It is the opinion of the undersigned, a duly registered geotechnical engineer and engineering geologist, based upon tests conducted as outlined in this report and copies of test results being available for review, if the proposed project is constructed in accordance with our recommendations and properly maintained, (1) the proposed structure(s) will be safe against hazard from landslide, settlement, or slippage, and that (2) the proposed building or grading construction

will have no adverse effect on the geologic stability of property outside of the building site."

The Commission finds that, based on the conclusions of the applicant's geotechnical consultants, Gorian Associates, Inc., the proposed development will be safe from geologic hazards if all recommendations of the geotechnical consultants are incorporated into the final project plans and designs. Accordingly, Special Condition 1 requires the incorporation into the final project plans and designs of all recommendations contained in the consultant's July 8, 1998 report. The Commission finds that as conditioned by Special Condition 1, the proposed project is consistent with the geologic stability requirements of Coastal Act Section 30253.

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 2 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 and 2, 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:

> 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 discharge approximately 20 gallons per day of heat treated, and subsequently cooled, effluent from the proposed greenhouse research project. Except for installing a connection to the existing septic disposal facilities already on site, the applicant does not propose any new septic disposal facilities or upgrades to existing facilities. The City of Malibu, Environmental Health Department, has approved the applicant's proposal and determined that no additional changes to the onsite septic disposal facilities are necessary to accommodate the applicant's proposed project, and has therefore found that the proposed project complies with all minimum requirements of the Uniform Plumbing Code.

In addition, the applicant has submitted evidence that any accidental discharge of effluent from the proposed greenhouse would be intercepted by an existing leachfield onsite and subsequently funneled into the associated drain field. Thus, no effluent from the proposed project would enter the storm drain system or surface waters. For all of these reasons, therefore, the Commission finds that the proposed project will have no adverse impacts on coastal aquatic resources and that the project as proposed is therefore 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).

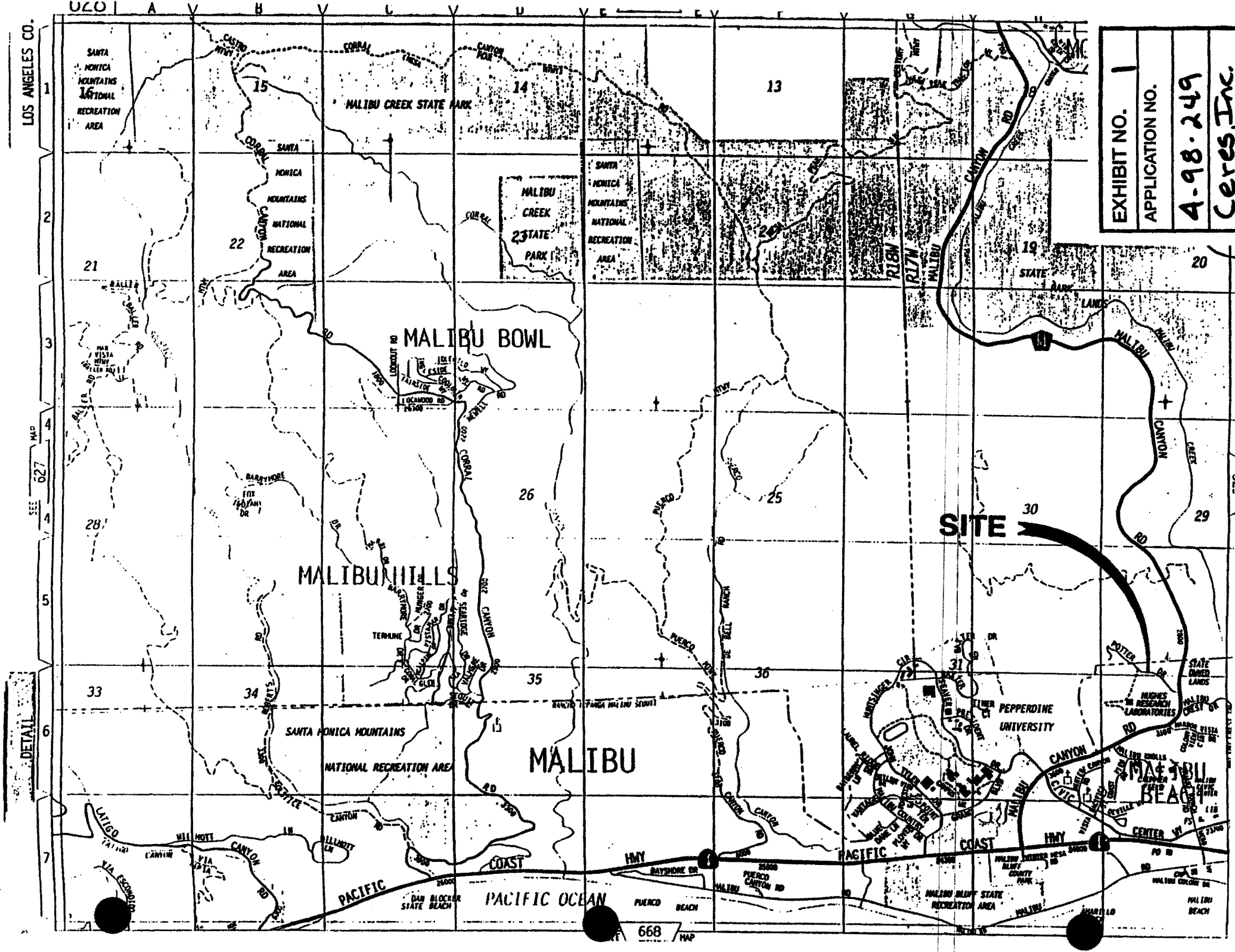
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding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

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.


SITE
MALIBU BOWL
MALIBU HILLS
MALIBU
MALIBU CREEK STATE PARK
SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA
PEPPERDINE UNIVERSITY
PACIFIC OCEAN
PACIFIC COAST HWY
MALIBU BEACH
MALIBU BLUFF STATE RECREATION AREA
DAN BLOCKER STATE BEACH
PIERCO BEACH
LOS ANGELES CO.
DETAIL
668 MAP
EXHIBIT NO. 1
APPLICATION NO.
4-98-249
Ceres, Inc.

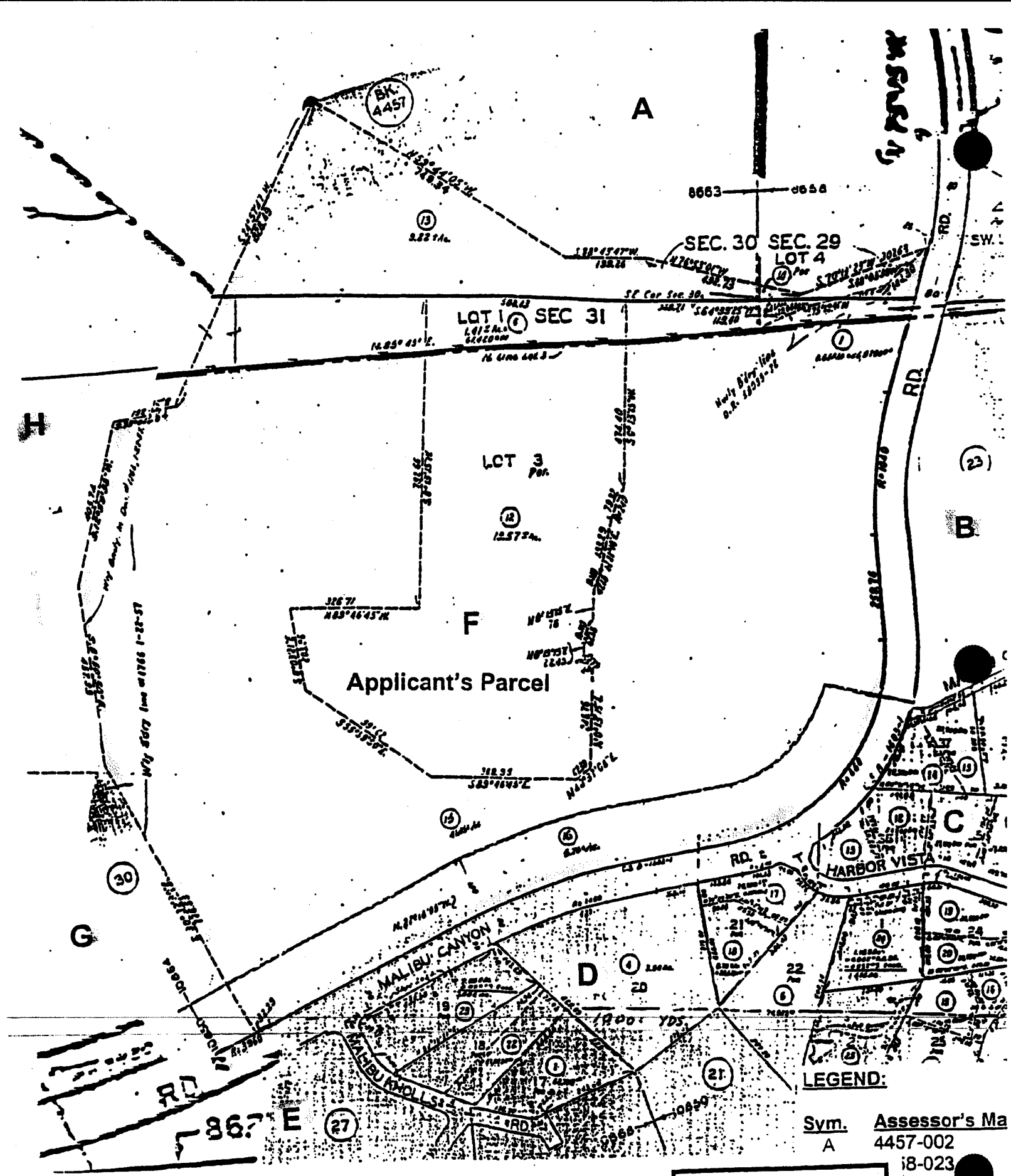


EXHIBIT NO. 2
APPLICATION NO.
4-98-249
Ceres, Inc.

LAUTERBACH & ASSOCIATES

GREENHOUSE
HOUSE & RESEARCH AND DEVELOPMENT

SITE PLAN/PARTIAL SITE PLAN

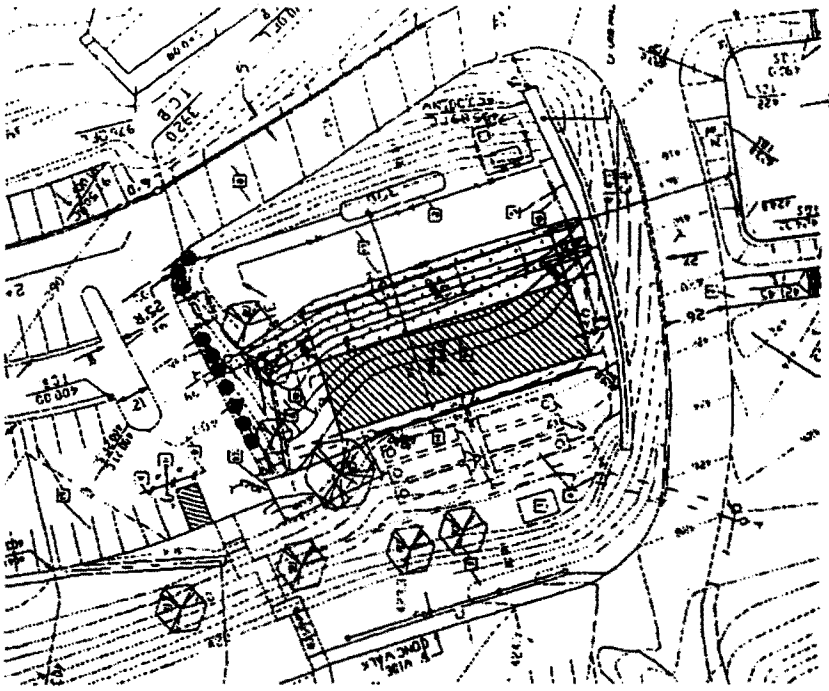
1.11

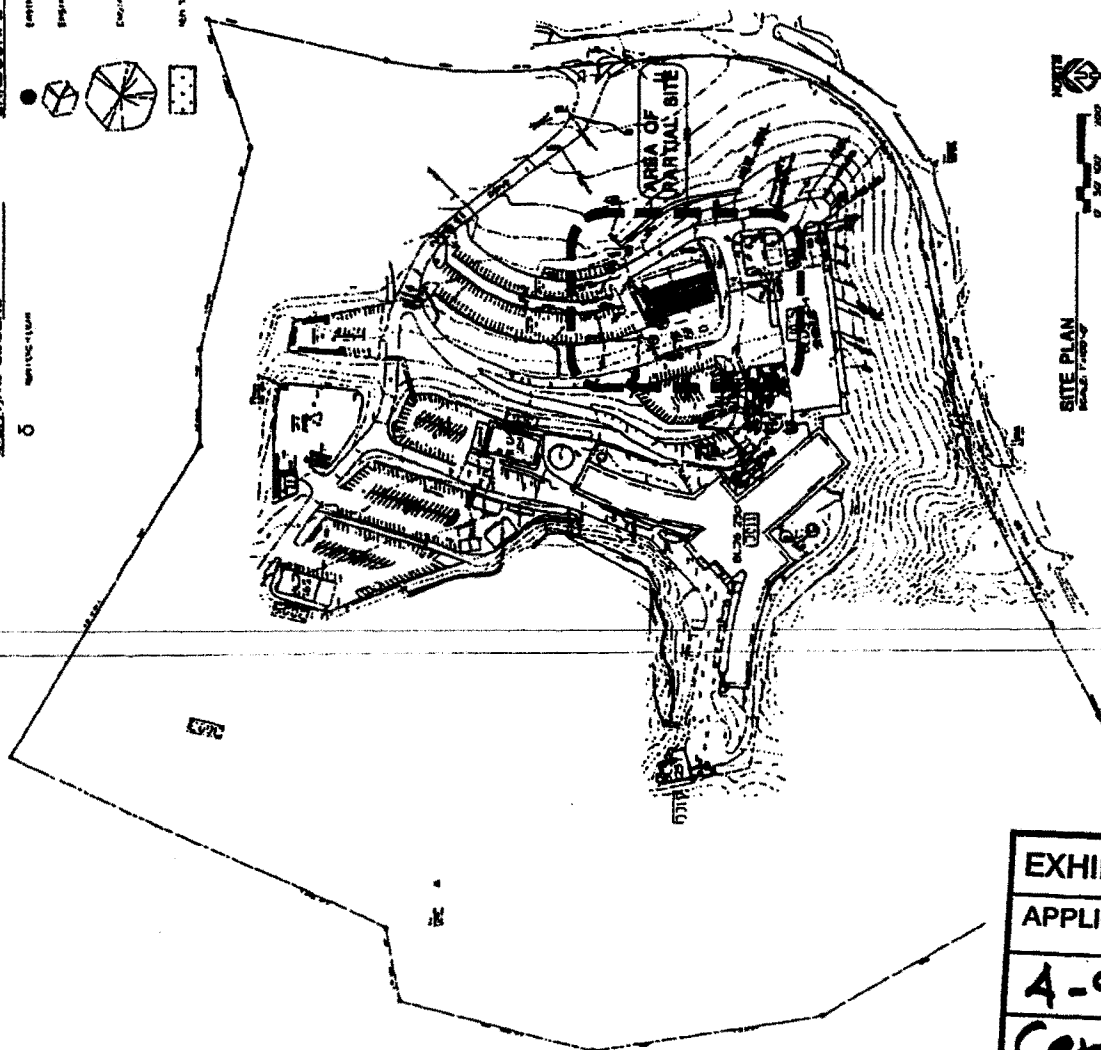
KEY NOTES :

PROJECT ANALYSIS :

LANDSCAPE LEGEND :

LIGHTING LEGEND :





SITE PLAN

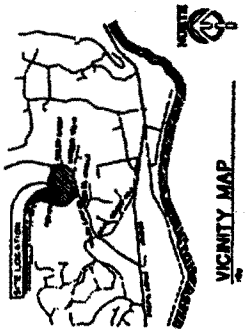


EXHIBIT NO. 3
APPLICATION NO.
4-98-249
Ceres, Inc.

LAUTERBACH & ASSOCIATES

FLOOR PLAN/ELEVATIONS

GREENHOUSE

MJDES RESEARCH AND DEVELOPMENT

2.0

KEY NOTES

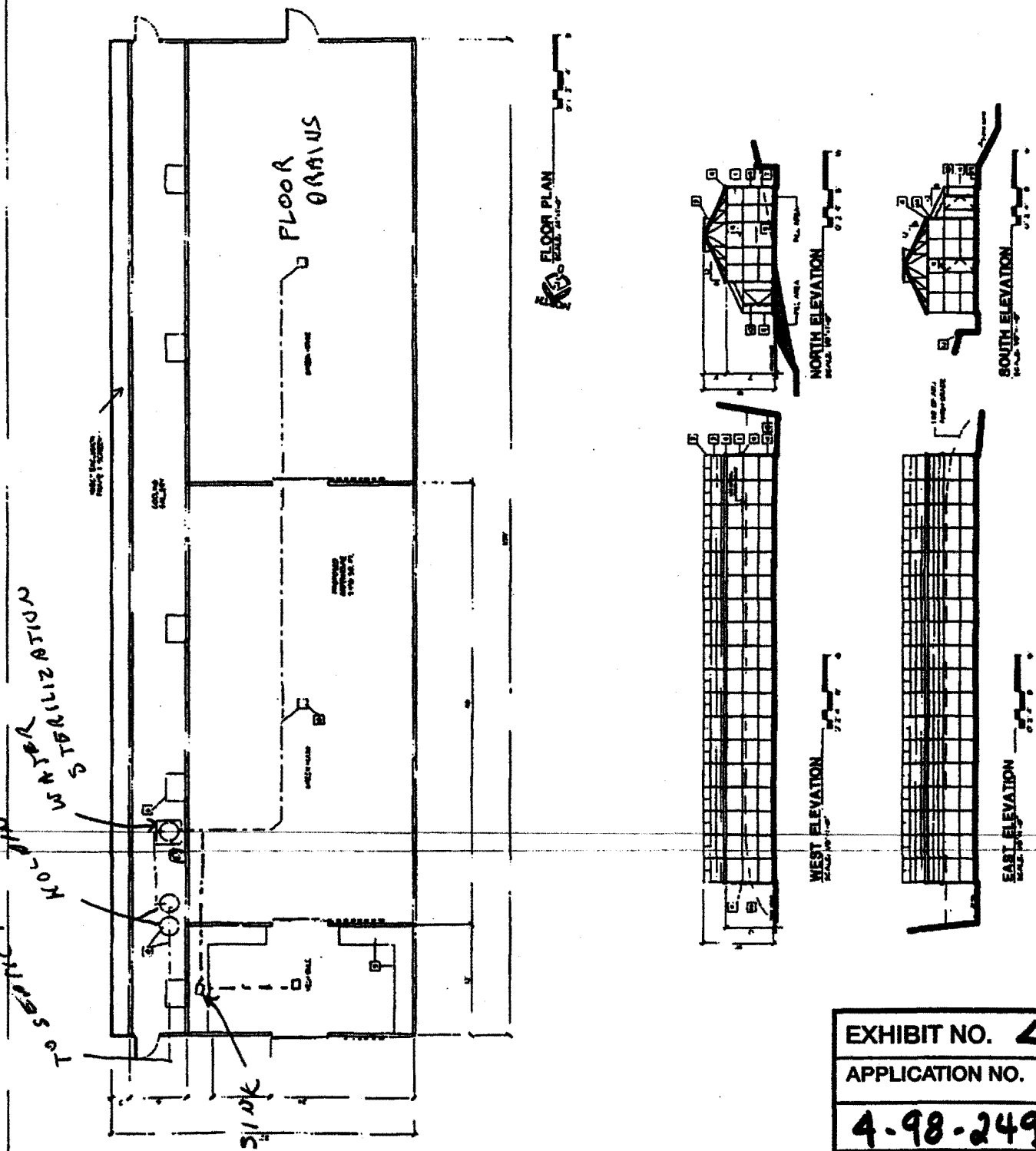


EXHIBIT NO. 4

APPLICATION NO.

4-98-249

Ceres, Inc.

[18] LINE FROM STORAGE TANKS TO TIE INTO (E) SEWER LINE.

[17] ABANDON LEACH FIELD AREA.

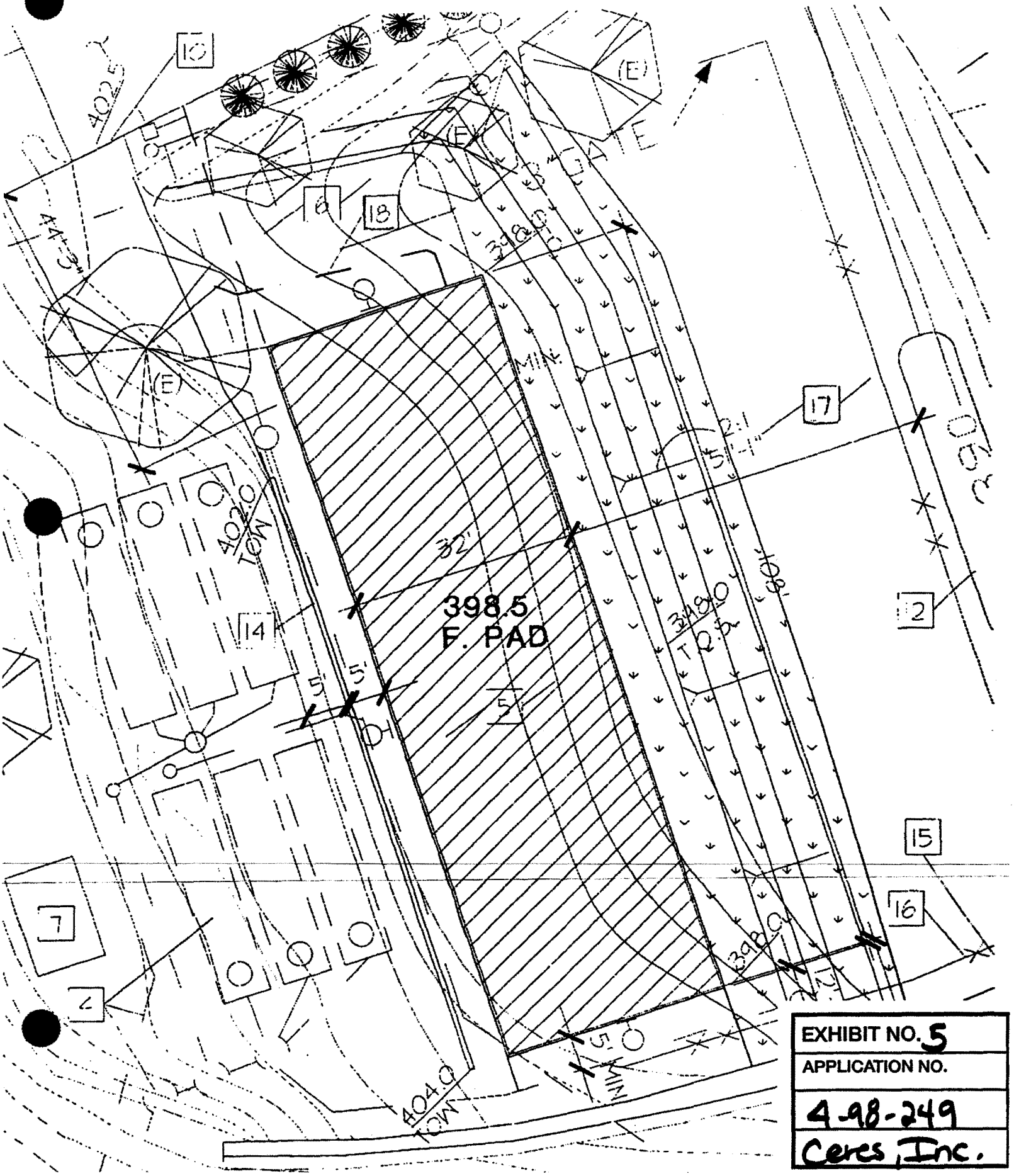


EXHIBIT NO. 5

APPLICATION NO.

4-98-249

Ceres, Inc.