

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-98-329

APPLICANT: Linda and David Shaheen

AGENT: Don Schmitz

PROJECT LOCATION: 23940 & 23946 Malibu Rd., Malibu, Los Angeles Co.

PROJECT DESCRIPTION: Merge two adjacent, separate parcels (APN 4458-8-3 and 4458-8-4) into one parcel and construct a 1,275 sq. ft., two story, 26.5 ft. high addition (on lot presently identified as 23946 Malibu Road) to existing single family residence (on the adjacent lot, 23940 Malibu Road). Addition includes garage, exercise room, decking and landscaping on caisson-supported raised platforms, and tie-in to existing septic system, with no grading, on beachfront lot.

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Approval-in-Concept, dated December 2, 1998; Septic Approval, dated October 2, 1998; Geology Review, dated November 30, 1998.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; "Soils and Engineering-Geologic Investigation for Proposed Studio/Gym and Garage, 23946 Malibu Road," dated April 10, 1998, and "Response to City of Malibu Geology and Geotechnical Engineering Review Sheet dated August 21, 1998," both prepared by Geosystems Environmental and Geotechnical Consultants; "Coastal Engineering Report for 23946 Malibu Road," dated March 27, 1998, prepared by David C. Weiss; California State Lands Commission letter of determination for 23946 and 23040 Malibu Road," dated February 8, 1999; Coastal Development Permit Nos. 4-95-025 (Whitinsky & Sellers), 5-86-458 (Wax), 5-89-080 (Shaheen).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with Special Conditions regarding incorporation of geotechnical recommendations into final project plans and designs, submittal of evidence of lot merger, future development deed restriction, assumption of risk/shoreline protection, and construction responsibilities/debris removal.

April 20, 1999

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

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

- A. This permit is only for the development described in coastal development permit 4-98-329. Accordingly, any future improvements to the permitted addition identified as a garage/exercise area with bathroom, shall require an additional coastal development permit from the Commission or from the successor in interest. If the applicants propose to add to or convert any portion of the subject structure approved pursuant to this coastal development permit for residential occupancy (such as the addition of or conversion to a bedroom or guest unit), in addition to all other applicable filing requirements, the applicant must submit a detailed seismic investigation of ground rupture potential due to active faulting in the immediate vicinity of the project. The seismic investigation shall be prepared by a qualified geotechnical consultant licensed in the State of California and the resultant report shall be approved as adequate by the Executive Director prior to filing such an application for further review.
- 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. 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.

2. Evidence of Lot Merger

In accordance with the applicant's proposal, prior to the issuance of Coastal Development Permit No. 4-98-329, the applicant shall submit evidence to the satisfaction of the Executive Director, that the adjacent parcels identified as 23940 and 23946 Malibu Road have been legally merged into one lot hereafter identified solely as 23940 Malibu Road.

3. Assumption of Risk/Shoreline Protection

Prior to the 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 terms and conditions set forth and listed below. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the

April 20, 1999

Executive Director determines that no amendment is required. The deed restriction shall provide that:

- a) the applicants acknowledge and agree that the site may be subject to hazards from waves, beach erosion, landslides, changes in groundwater levels, liquefaction, earthquake, and wildfire;
- b) the applicants acknowledge and agree to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development;
- c) the applicants unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards;
- d) the applicants agree to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards;
- e) the applicants agree that any adverse impacts to property caused by the permitted project shall be fully the responsibility of the landowner;
- f) neither the applicants nor any successor-in-interest shall construct any shoreline protective device(s) for any purpose of protecting any development approved pursuant to coastal development permit No. 4-98-329, including, but not limited to, elevated gardens/terraces, support caissons, garage/gym/bathroom structure, decks, driveways, walkways, or connections to septic system in the event that these structures are threatened with imminent damage or destruction from any natural hazards set forth in subpart (a) above.

4. Plans Conforming to Geologic Recommendations

All recommendations contained in the Soils and Engineering-Geologic Investigation for Proposed Studio/Gym and Garage, 23946 Malibu Road, Malibu, California, dated April 10, 1998, prepared by GeoSystems, 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

April 20, 1999

coastal permit. The Executive Director shall determine whether required changes are "substantial."

5. Construction Responsibilities and Debris Removal

No stockpiling of construction materials or storage of equipment shall occur on the beach and no machinery will be allowed in the intertidal zone at any time. The permittee shall immediately remove from the beach area any and all debris that result from the construction activities.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicants propose to merge two adjacent separate lots (APN 4458-8-3 and 4458-8-4) known as 23946 and 23940 Malibu Road. The lot presently identified as 23946 Malibu Road is currently vacant (a dilapidated, storm damaged residence and garage were demolished and removed from the site last year pursuant to Coastal Development Permit 4-98-040) and the lot at 23940 Malibu Road contains the applicants' existing single family residence. The applicants propose to construct a 1,275 sq. ft., two story, 26.5 ft. high accessory structure, including garage, exercise room, half bathroom, connecting staircase to adjacent residence, decking and elevated, terraced gardens supported by caissons, and connection to existing septic system serving the existing residence at 23940 Malibu Road. The permanent address for the merged parcels will be 23940 Malibu Road. A stairway will connect the new development to the existing residence.

The proposed development does not include separate residential structures, but will be used for incidental recreational uses associated with the adjacent single family residence. The proposed site is bounded on the east and west by residential development, and would not exceed applicable "stringline" measurements discussed in the following sections of the report. Thus, the proposed project is considered infill development. In addition, the applicant proposes to elevate the gardens on terraced platforms supported by caissons. The caissons allow waves to flow beneath the development without the need to construct shoreline protective devices, and thus no adverse effects on public coastal access would be caused by the project.

The proposed site is a beachfront lot on the south side of Malibu Road, approximately 1/3 mile west of Webb Way, in the City of Malibu, along a relatively narrow strip of Malibu Beach. This area of the coast, west of Malibu Point, is known for its productive offshore kelp beds.

April 20, 1999

The site is bounded on the north by Malibu Road, and immediately opposite (landward of) Malibu Road a slope ascends approximately 120 feet at gradients ranging from nearly vertical at the toe of the slope, to 1.5:1 on the upper portions of the slope. The slope has not been mapped as a landslide, but an area of active and ancient landslides along Malibu Road begins approximately 100 feet west of the property. According to the applicants' geotechnical consultant (Geosystems), the slide does not present a threat to the applicants' site because the direction of slide movement is toward the south.

In addition, the geotechnical consultant states that the Puerco Canyon fault is inferred to be located immediately north of the site under the adjacent Malibu Road. The consultant states that no conclusive data is available to determine when the Puerco Canyon fault was last active, but the consultant concludes that the fault may be related to a main trace of the Malibu Coast fault located approximately 1,000 feet to the north of the site. Because the applicant is not proposing to build a residential structure on the site, the City of Malibu has waived the seismic stability study requirements that would otherwise apply if residential construction were proposed. The consultant states that the City will require seismic safety studies if the applicant ever proposes any form of residential use for the subject site, such as an addition to the structure or conversion to, bedroom(s) or a guest unit.

The subject site previously contained a dilapidated, 1920s-vintage single family residence that was dangerously destabilized by wave attack during the 1997/1998 El Nino storms and was subsequently demolished and removed (Emergency Coastal Development Permit 4-98-040-G and regular Coastal Development Permit 4-98-040 (Shaheen)).

B. Public Access and Seaward Encroachment

All projects that require a coastal development permit and are situated on beachfront lots require review for compliance with the public access provisions of Chapter 3 of the Coastal Act. The applicable policies include:

Coastal Act Section 30210, which states that:

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

Coastal Act Section 30211 which states that:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the

April 20, 1999

use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

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

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

Finally, Section 30251 of the Coastal Act states that:

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

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

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

Past Commission review of proposed shoreline projects in Malibu has shown that such projects may pose one or more of the following individual or cumulative impacts on

April 20, 1999

public coastal access: a) encroachment on lands subject to the public trust (thus physically excluding the public); b) interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and other public beach areas; or c) overcrowding or congestion of such tideland or beach areas; and d) visual or psychological interference with the public's access to and the ability to use public tideland areas.

Site Shoreline Characteristics; Existing Public Access Provisions

The proposed project would be located on Amarillo Beach, landward of a relatively narrow strip of sandy beach. The area is generally developed with single family residences, and the lots east and west of the proposed project are developed. The site upon which the applicants' propose the subject project previously contained a dilapidated, aging single family residence that suffered severe damage during the El Nino storms of 1998. That residence was demolished pursuant to Coastal Development Permit 4-98-040 (Shaheen). Based on the Commission's past experience with Amarillo Beach, and the degree of storm damage experienced along this stretch of coast, it is apparent that this beach is subject to erosion, especially during extreme storm events.

In addition, the Commission notes that the applicant has submitted an evaluation letter prepared by the California State Lands Commission dated February 8, 1999 regarding the applicants' proposal. The letter concludes regarding 23946 Malibu Road, upon which the new development will be constructed, that:

"...We do not at this time have sufficient information to determine whether this project intrudes upon state sovereign lands or interferes with other public rights. Development of information sufficient to make such a determination would be expensive and time-consuming. Given the limited resources of this agency and the circumstances set forth above, we do not think such an expenditure of time, effort and money is warranted in this situation, at this time."

The letter notes, however, that with regard to the adjacent parcel at 23940 Malibu Road, containing the existing residence, an Irrevocable Offer to Dedicate a Public Access Easement recorded as Document 86-1587471, Official Records of Los Angeles County, and executed on October 30, 1986 by the then property owner, Robert L. Miller, is a matter of public record.

The Commission further notes that the subject Offer to Dedicate was required as a Special Condition of Coastal Development Permit 5-86-458 (Wax), cited under the Substantive File Documents section at the beginning of this staff report.

"Stringline" Analysis

April 20, 1999

As a means of controlling seaward encroachment of structures onto beaches subject to the public trust, and to thereby protect and ensure maximum public access, and protect public views, as required by Coastal Act Sections 30210, 30211, and 30251, the Commission has developed the "stringline" analysis method of evaluating beachfront development. This analysis, which has been developed through past permit actions by the Commission, evaluates the seaward extent of buildout on the lots adjacent to the site of proposed new beachfront development. A line is drawn between the nearest corners of similar structures on adjacent lots, and this line establishes the applicable "stringline" that limits the seaward "creep" of new development. By applying the stringline analysis, the Commission seeks to limit new beachfront development to an infill footprint. A similar process establishes a separate stringline for decks.

The seawardmost footprint of the applicants' proposal is comprised of a series of terraced, landscaped decks supported above beach level by caissons. Thus, the relevant stringline for evaluation of the proposal is the deck stringline, as shown on Exhibits 4 and 5. The footprint of the proposed terraces lies within the applicable stringline, and the garage, gym structure is located landward of the applicable structural stringline.

Wave Uprush

In the case of the proposed project, the applicants do not propose the construction of any shoreline protective device. The applicants have submitted a Wave Uprush Study, dated March 27, 1998, prepared by David C. Weiss, which addresses site conditions and design considerations. The consultant determined that the maximum breaking wave elevation would be at 15 feet above sea level (the height of the bottom of the most seaward terrace), and that the wave would affect development to a distance of approximately 53 feet seaward of the Malibu Road right of way line (approximately 10 feet further seaward than the groundlevel elevation of the proposed structure). The consultant's report contains recommendations regarding foundations and septic, and these have been incorporated into the proposal.

As proposed, the project constitutes infill development, and without a shoreline protective device, would not adversely affect local sand supplies or resultant beach profiles. The project will not block public access. The applicants have elected to pursue the coastal engineer's alternative to construct the proposed project without the need for shoreline protective devices by designing (elevating, supporting, and setting back structures to conform with the wave uprush study results and the coastal engineer's recommendations). Therefore, the Commission does not find it necessary to require the applicants to record an offer to dedicate a public access easement that could otherwise have been required if a shoreline protective device had been proposed. As noted previously, the applicants have submitted evidence prepared by a qualified coastal engineer representing that the proposed project will be safe from the maximum wave runup calculated for the proposed site without resort to the construction of a seawall or other shoreline protective device if the project is properly constructed. Thus,

April 20, 1999

Special Condition 3 confirms that on the basis of the representations of the applicants and their consultants, therefore, the development approved pursuant to this permit shall not be entitled to the construction of a future shoreline protective device in the event that these structures are threatened with imminent damage or destruction from any natural hazards set forth in Special Condition 3. The Commission reiterates, therefore, that the Commission's approval of the proposed project rests therefore on the applicants' own representations of these facts and that no shoreline protective devices to protect the development authorized by coastal development permit 4-98-329 may therefore be constructed in the future.

For all of these reasons, therefore, the Commission finds that as conditioned by Special Condition 3, the proposed project is consistent with the applicable policies of the Coastal Act protective of public coastal access, sections 30210, 30211, 30212, and 30251.

C. Geologic Stability

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

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, 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 applicants propose to construct a 1,275 sq. ft., two story, 26.5 ft. high addition, including garage, and exercise room, half bathroom, and terraced decks and gardens elevated on, and supported by caissons, to their adjacent, existing single family residence, and to install decking and elevated, terraced gardens supported by caissons at 23946 Malibu Road. The applicants propose to merge the parcel upon which the ancillary structures are proposed with the parcel containing the residence prior to the issuance of the coastal development permit (Special Condition 2 verifies that the merger is completed as proposed. The Commission notes that the City of Malibu has required this merger as a condition of project approval).

The applicants have submitted a geotechnical report in support of the proposed project titled "Soils and Engineering-Geologic Investigation for Proposed Studio/Gym and Garage, 23946 Malibu Road," prepared by GeoSystems, dated April 10, 1998. In addition, the consultant provided a response to a City of Malibu Geology Review dated November 3, 1998. The reports indicate that the soils on site are prone to liquefaction, that the site is located approximately 100 feet east of an active landslide (known as the Malibu Road landslide), although the landslide movement appears to be generally toward the south and not toward the site, that the site is immediately bordered by the

April 20, 1999

Puerco Canyon earthquake fault, and less than 1,000 feet from the Malibu Coast fault to the north. Additionally, the site is located less than 100 feet south of a slope on the landward side of Malibu Road that ascends approximately 120 feet at gradients ranging from nearly vertical at the toe of the slope to 1.5:1 on the upper portions of the slope.

The consultant did not conduct seismic trenching on site to further investigate the risk of fault rupture potential, due to the presence of beach sands and high groundwater levels, and thus could not adequately evaluate the seismic risks of site to the extent required for new residential development by the City of Malibu. Because the proposed development is only for ancillary structures (garage, gym and associated half bathroom, terraced gardens) and not for residential occupation (such as bedrooms or guest unit), the seismic issues were not evaluated further because the City of Malibu does not consider the proposed structures to be "habitable" and the geotechnical consultant determined that the designs were adequate for the proposed purposes.

The consultants' April 10, 1998 report states:

"...Due to high groundwater levels, loose sandy soil and the proximity of active faulting, the potential for earthquake induced liquefaction of the beach sand and fill materials at the site is considered to be moderate to high. For this reason we recommend that the proposed structures be supported on the underlying bedrock which is not subject to liquefaction. Any structures supported in fill or beach sand including improvements such as garden walls, sidewalks and driveways may be subject to damage due to liquefaction in the event of an earthquake.

...Present and future owners of the property should understand the risks due to liquefaction associated with property in this area of Malibu."

Additionally, the terraced gardens elevated on caissons extend seaward from the garage structure. The geotechnical report further states that:

"...Various landscaping improvements are proposed for the yard area between the garage and the beach. These improvements may include walkways, patio slabs and garden walls. We understand that these improvements are considered to be non-critical structures (*emphasis added*), and that that it may be desirable to support them on existing beach sand or new fill placed for landscaping purposes. This is acceptable provided that the property owner understands that these structures may be subject to cracking and minor settlement over time. Due to the relatively poor, and/or inconsistent quality of the existing beach sand as a bearing material the potential for future distress to structures or fill materials supported on the beach sand cannot be eliminated."

The geotechnical report warns that the garden areas may be prone to distress in the future, and it is not clear that the support caissons for this portion of the proposed project will be founded solidly in bedrock. If the applicant intends to rely on less

April 20, 1999

expensive construction practices for the terraced garden supports, as the consultant's report suggests they may, it is possible that the raised gardens may be rendered somewhat unstable in the future, as the report further warns. If the caissons supporting the elevated terraces do not perform optimally in the future, the appropriate remedy would be to remedially found the caissons in competent underlying bedrock.

As noted in the previous section, and based on the applicants' and the applicants' consultants' representations of the material facts supporting the pending development proposal, the development authorized by this permit is not eligible for construction of a future seawall. The additional possibility that the terraced gardens may not perform to the structural standard that would be achieved by founding the support caissons in bedrock as recommended by the geotechnical consultant provides an additional basis for the Commission's imposition of Special Condition 3. The site is clearly subject to a range of physical environmental challenges and while supporting "non-critical structures" in the most expensive way (caissons extending at least two feet into competent underlying bedrock) may not be economically attractive to the applicants, underperformance by lesser support structures in the future would not provide an adequate basis for construction of a seawall or other shoreline protective structure as an alternative form of future protection.

The geotechnical consultant's report concludes that:

"...It is the finding of this firm that the proposed building and or grading will be safe and that the site will not be affected by an hazard from landslide, settlement or slippage and the completed work will not adversely affect adjacent property in compliance with the City code, provided our recommendations are followed."

In light of the geotechnical consultants' recommendations, the Commission finds that the proposed project can only be approved if the applicant incorporates all recommendations of the geotechnical consultants into the final project plans and designs, as required by Special Condition 4.

In addition, the geotechnical consultants recommend that present and future owners of the site be informed of the potential for damage to structures due to liquefaction, seismic upset, etc. The site is obviously subject to an unusually broad range of potential geologic hazards, in addition to the inherent risks from storm wave attack and other coastal processes posed to all beachfront development. These risks are made even more apparent by the site's history: the residence previously located on the subject parcel was destabilized by storm wave attack during the winter of 1998 and subsequently abandoned by its occupants, demolished and removed.

For all of the reasons set forth above, the Commission finds that due to the potential of upset to the site due to wave attack, erosion, flooding, liquefaction, high groundwater levels, earthquakes, landslides, wildfire, or the unforeseeable damage that may be caused by the interaction of these factors, the Commission can only approve the

April 20, 1999

proposed project if the applicants assume the associated risks as a condition of approval. Through Special Condition 3, therefore, the applicants acknowledge the nature of these risks, the limitations upon potential measures that may be implemented at this site in light of these risks, and the implications of going forward with development on this site despite the inherent risks described herein. Moreover, through acceptance of Special Condition 3, the applicants specifically agree 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 in an area subject to a wide variety of risks posed by the physical environment and its natural forces.

The Commission also finds that construction on the beach has the potential to discharge materials into the marine environment if not managed properly. Construction debris, equipment, and materials used in the intertidal zone or left exposed to tidal cycle contact may be transported into coastal waters or redeposited on sandy beach areas, thereby creating hazards for beach users and swimmers, in addition to the site workers. To ensure that the project is managed in such a way that these adverse effects upon public safety are not caused by construction-associated activities on beachfront areas subject to flooding by tidal conditions, Special Condition 5 and good construction management practices require that the beach be kept clear of such equipment and materials.

Therefore, the Commission finds that the proposed project, as conditioned by Special Conditions 1, 3, 4, and 5, is consistent with the applicable requirements of Coastal Act Section 30253.

D. Septic System

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 tie-in the accessory structures to the existing septic disposal system serving the adjacent single family residence. The City of Malibu, Environmental Health Department, has approved the septic connection proposal, and has evaluated the existing septic system as performing adequately and having sufficient capacity to

April 20, 1999

accept the additional effluent of the proposed half bathroom addition. Thus, the City's septic approval for the proposed project confirms 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, and take into consideration the percolation capacity of soils along the coastline, the depth to groundwater, etc. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

E. Local Coastal Program

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

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal 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).

F. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, 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

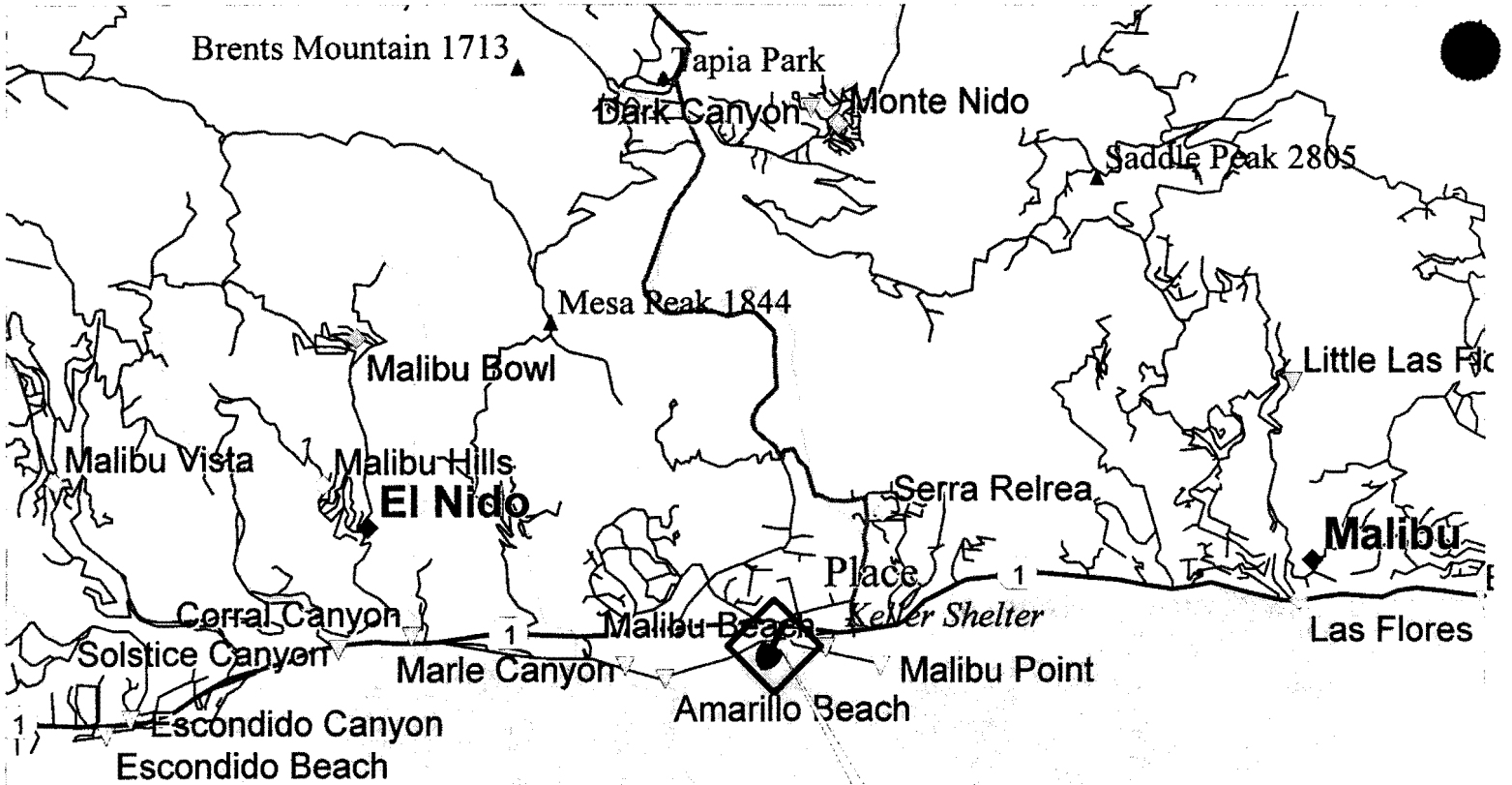
April 20, 1999

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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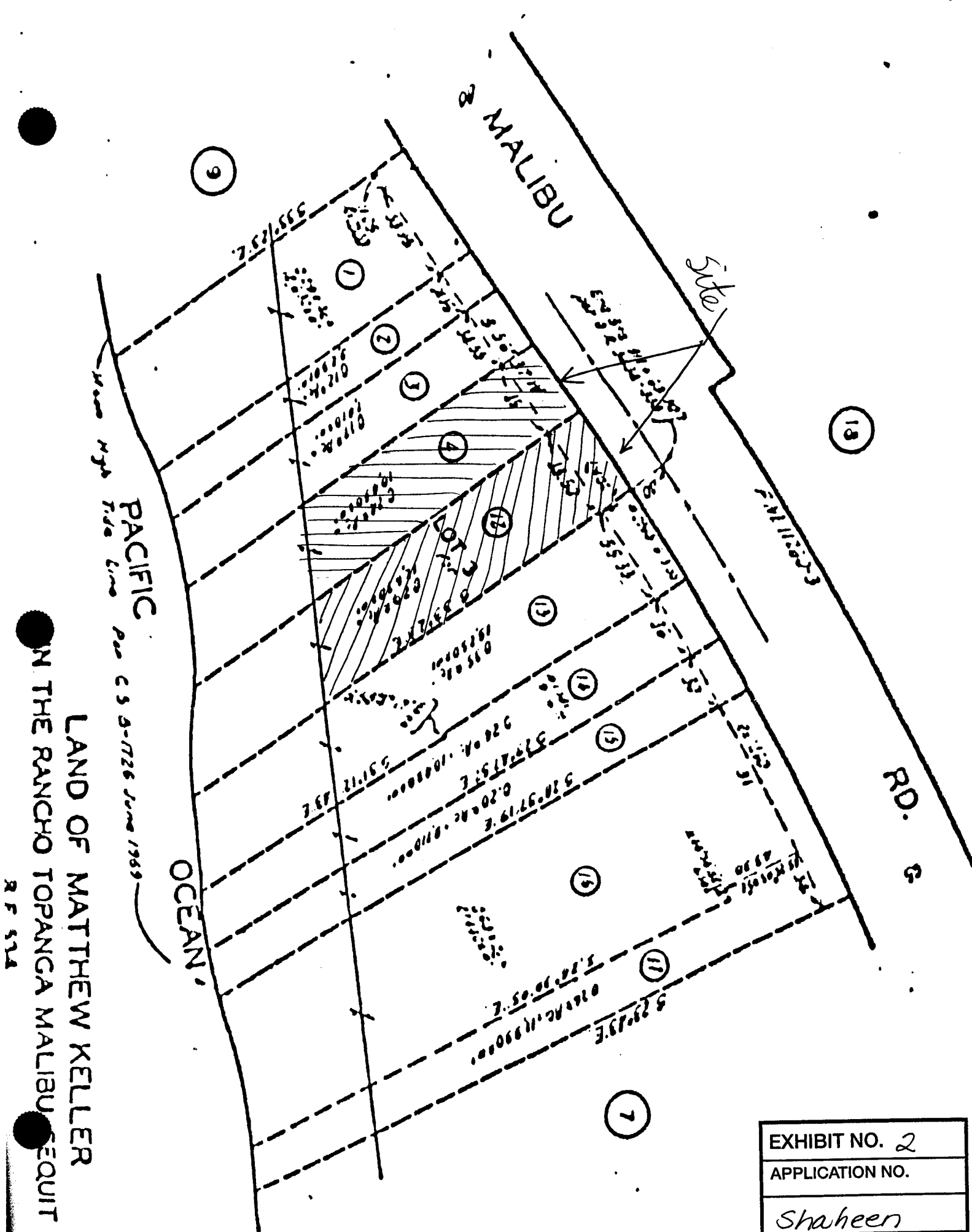
Project Site

Mag 12.00
 Wed Dec 09 15:30 1998
 Scale 1:75,000 (at center)



- Local Road
- Primary State Route
- Major Connector
- - - Utility/Pipe
- ◆ Small Town
- ▲ Summit
- ▽ Geographic

EXHIBIT NO. /
APPLICATION NO.
4-98-329
shaheen



PACIFIC OCEAN
 High Tide Line
 LAND OF MATTHEW KELLER
 IN THE RANCHO TOPANCA MALIBU SEQUIT
 R.F. 514
 P.S. 5-9-1726 June 1969

EXHIBIT NO. 2
APPLICATION NO.
Shaheen
4-98-329

RECEIVED

DEC 1 1993

COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

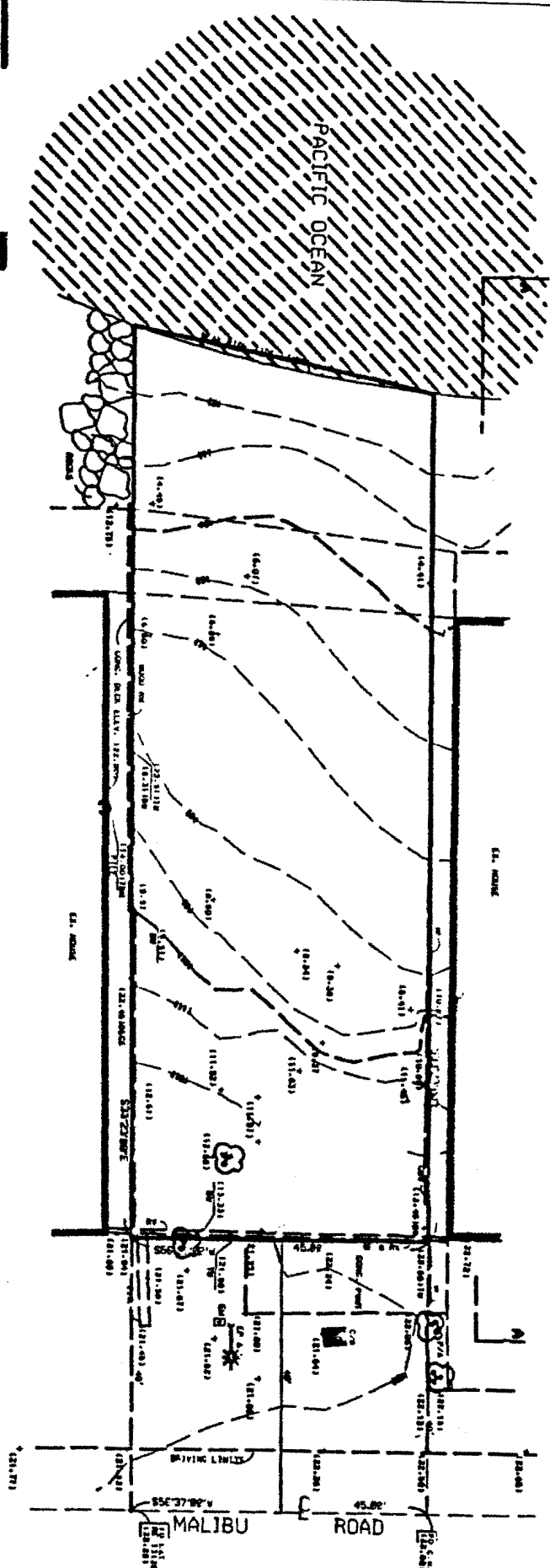
RECEIVED

AUG 15 1998

PLANNING DEPT.

EXHIBIT NO. 3
APPLICATION NO.
Shaheen
4-98-329

SCALE: 1" = 400'



COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT
PLANNING DEPARTMENT
1500 AVENUE 100, MALIBU, CALIFORNIA 90263
TEL: (310) 317-1000 FAX: (310) 317-1001

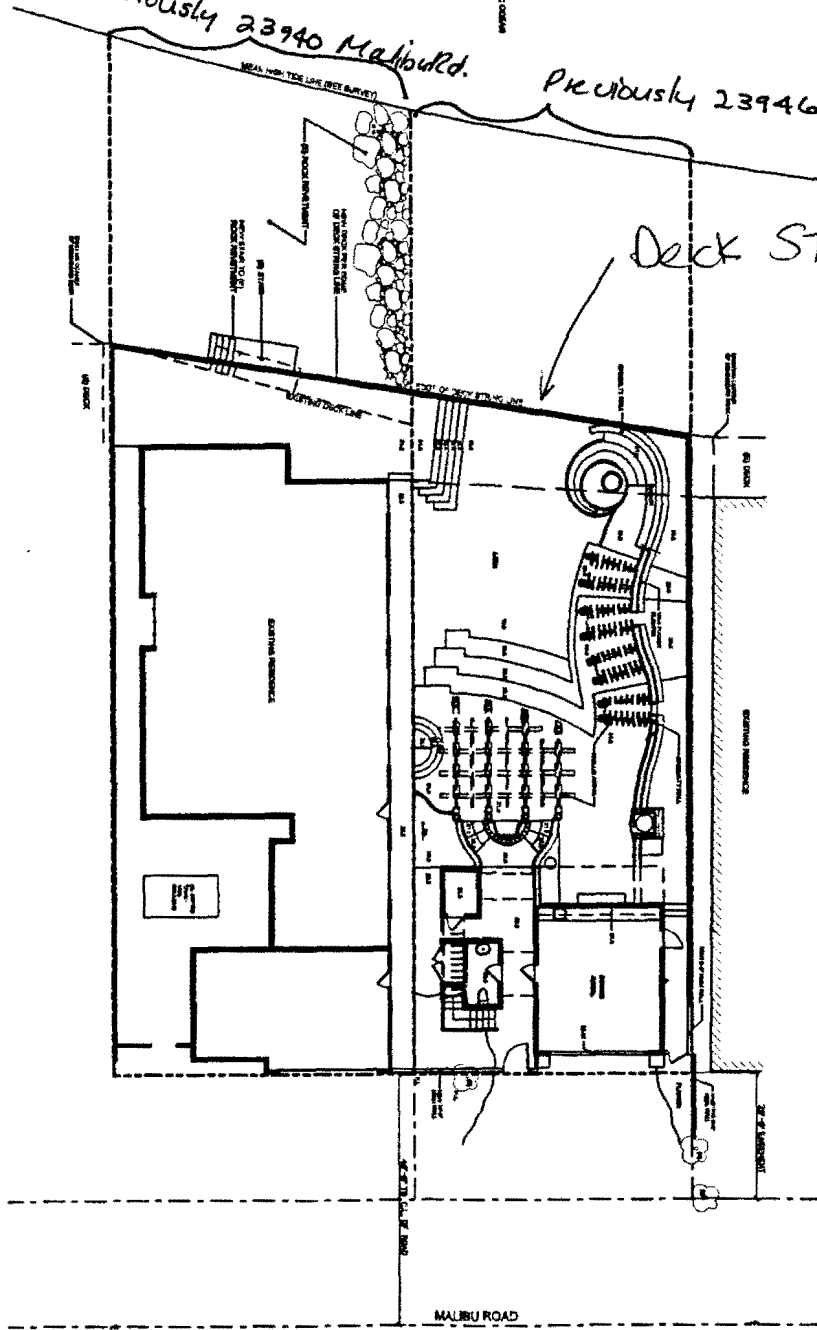
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT
PLANNING DEPARTMENT
1500 AVENUE 100, MALIBU, CALIFORNIA 90263
TEL: (310) 317-1000 FAX: (310) 317-1001

Lots merged as 23940 Malibu Road

previously 23940 Malibu Rd.

previously 23946 Malibu Rd.

Deck stringline



ALL DIMENSIONS ARE IN FEET AND INCHES.
 DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 DIMENSIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE.
 DIMENSIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE.
 DIMENSIONS ARE TO CENTERLINE UNLESS NOTED OTHERWISE.

EXHIBIT NO. 4A
APPLICATION NO.
shaheen
4-98-329

Pacific Ocean

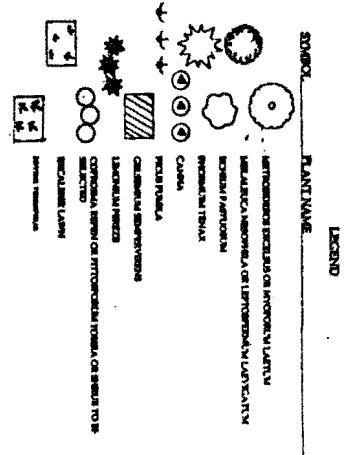
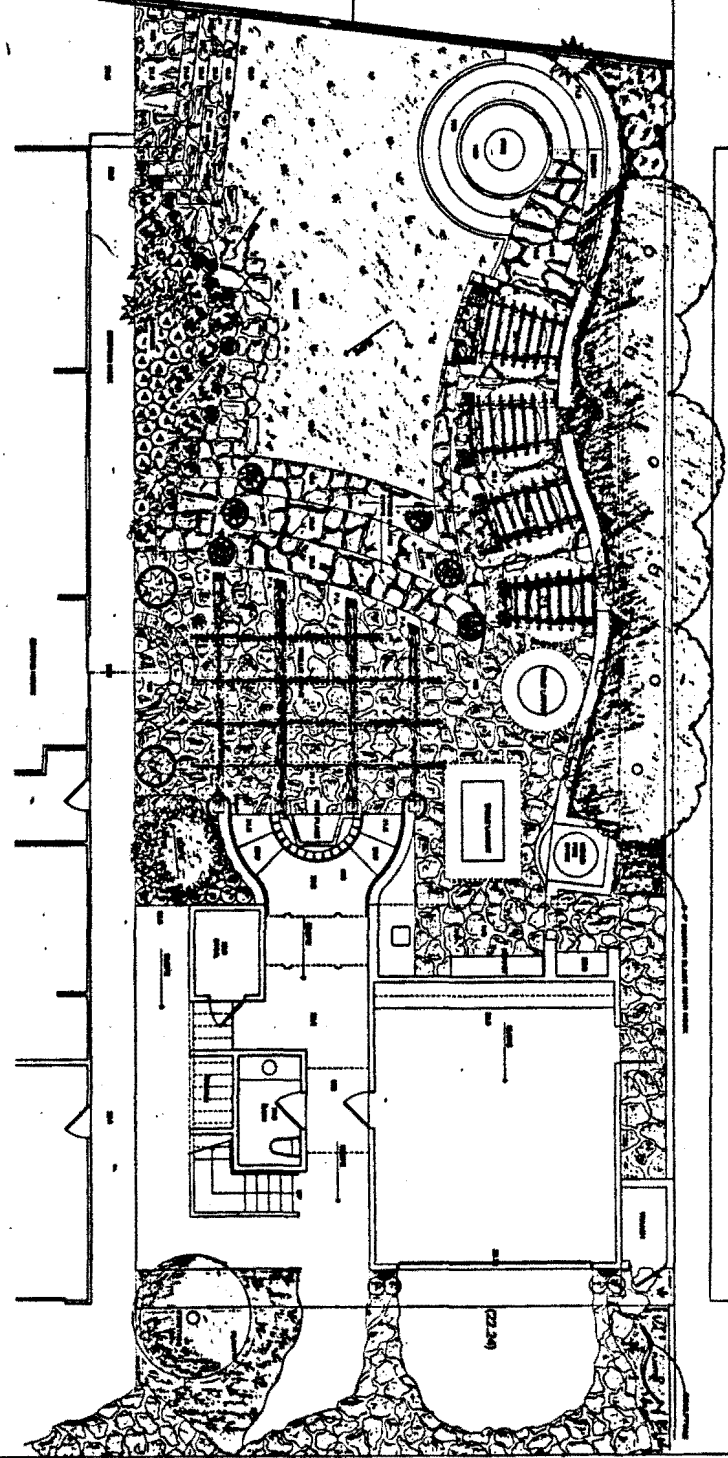
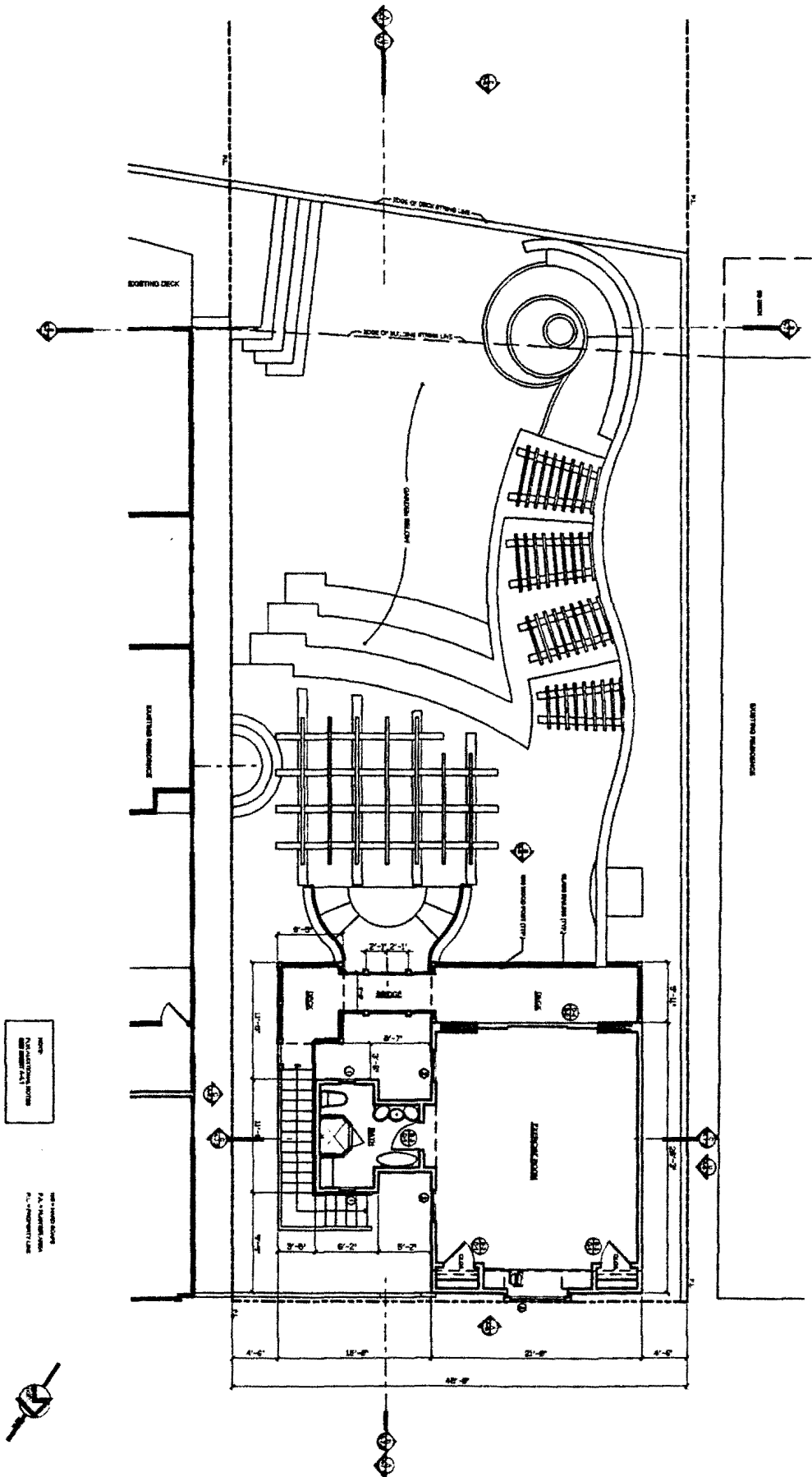


EXHIBIT NO. 4B
 APPLICATION NO.
 Shaheen
 4-98-329

SHAHEEN GARDEN PAVILION
 3146 MAINT. ROAD

LANDRY

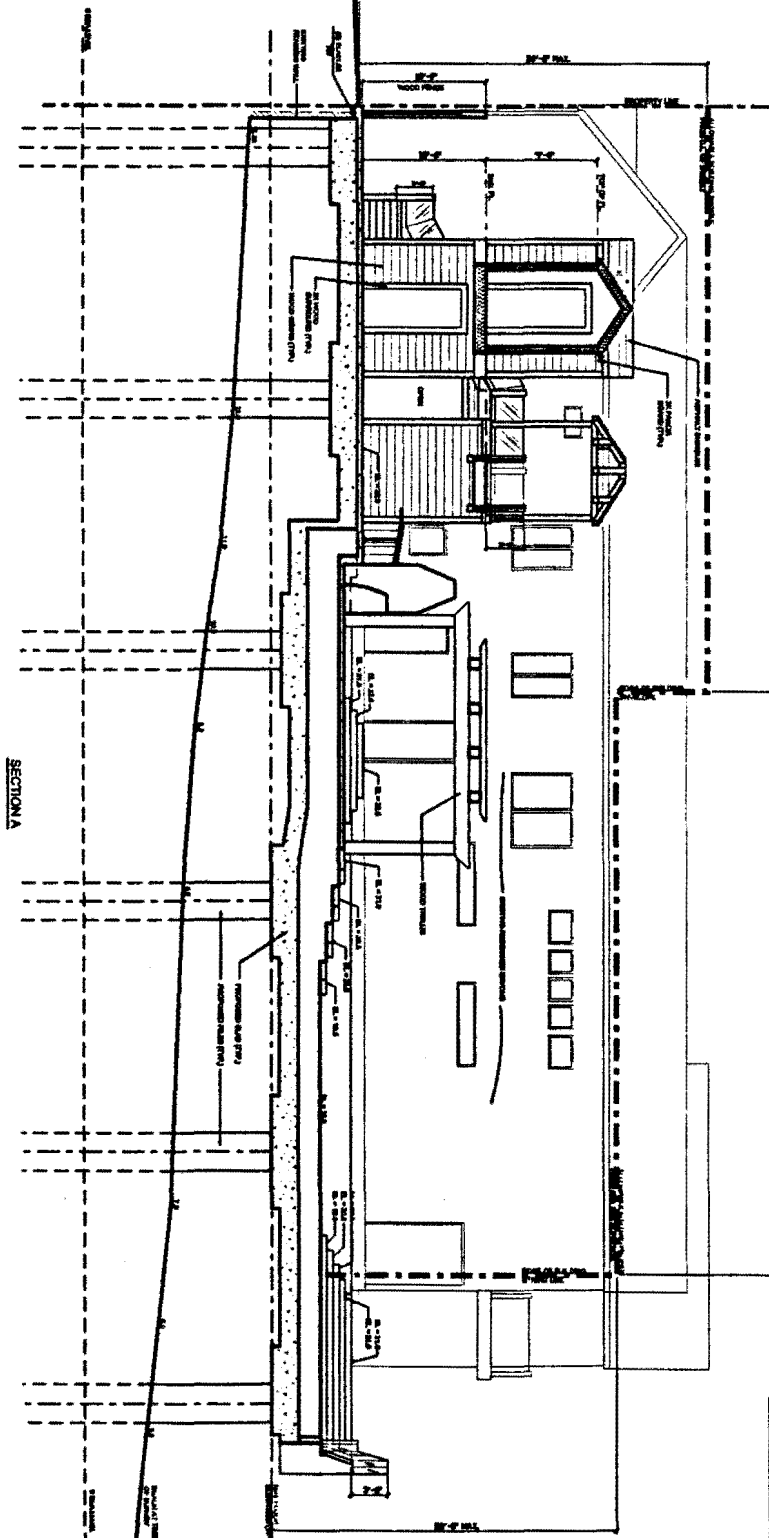
Molin. 0-1



1. ALL DIMENSIONS ARE
 GIVEN UNLESS OTHERWISE
 SPECIFIED

2. ALL DIMENSIONS ARE
 GIVEN UNLESS OTHERWISE
 SPECIFIED

EXHIBIT NO. 5
APPLICATION NO.
Shaheen
4-98-327



SECTION A

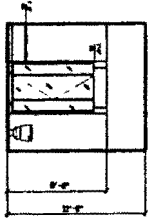
SHAHEEN GARDEN PAVILION
 307 KATHY RD.

LANDRY

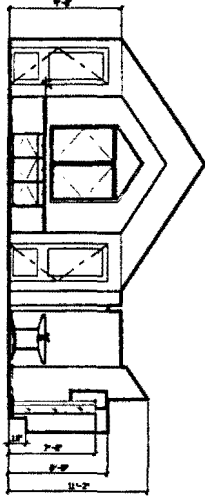
EXHIBIT NO. 6
APPLICATION NO.
Shaheen
4-98-329

INTERIOR ELEVATIONS

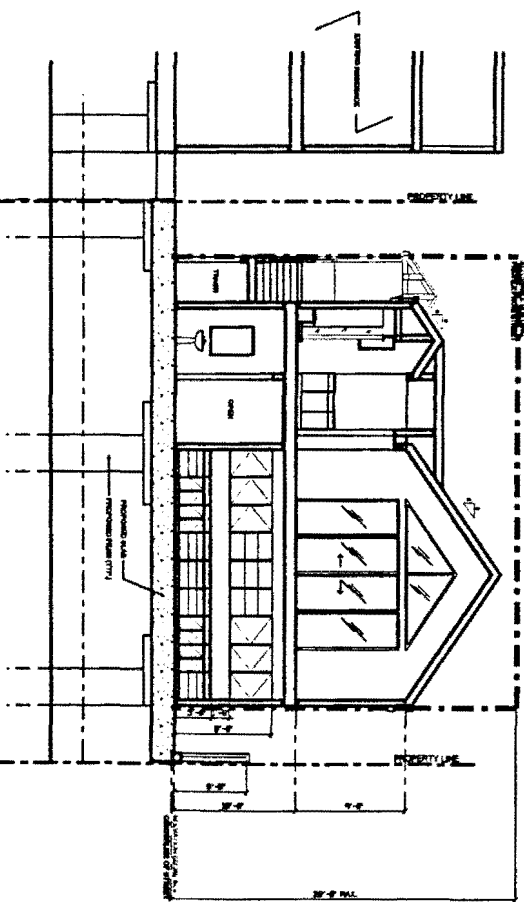
BATH



GYM / HALL



SECTION C



SECTION B

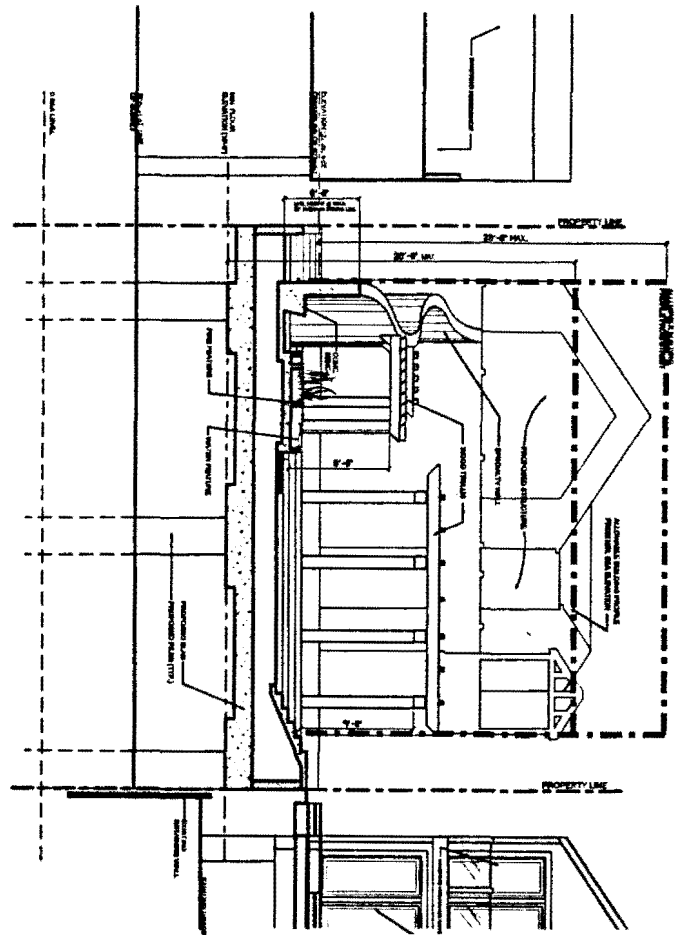


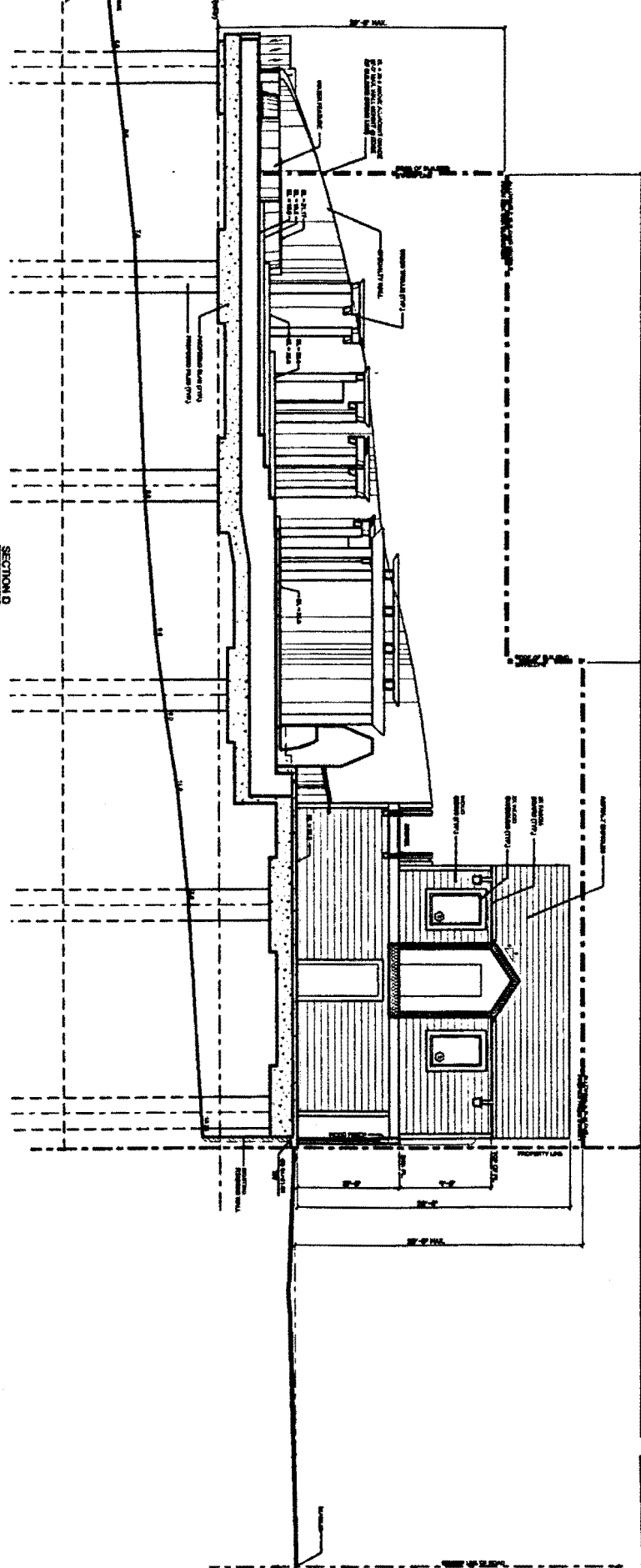
EXHIBIT NO. 7

APPLICATION NO.

Shaheen

4-98-329

SECTION D



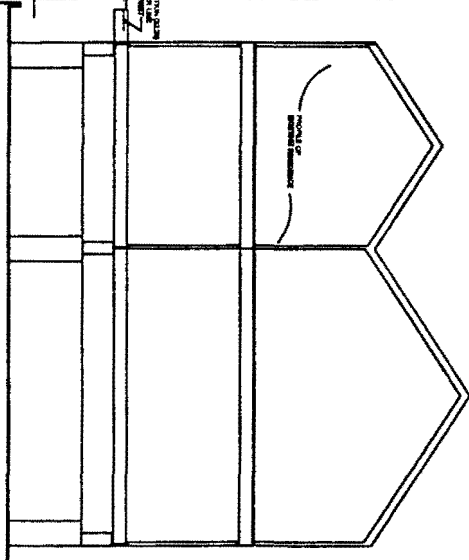
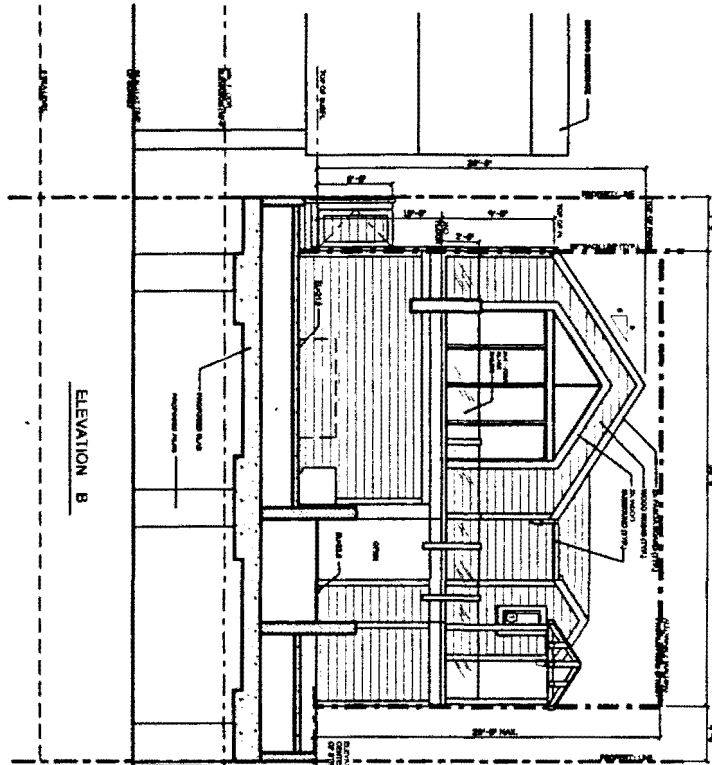
SHAHEEN GARDEN PAVILION
5346 KALEY ROAD

LANDRY

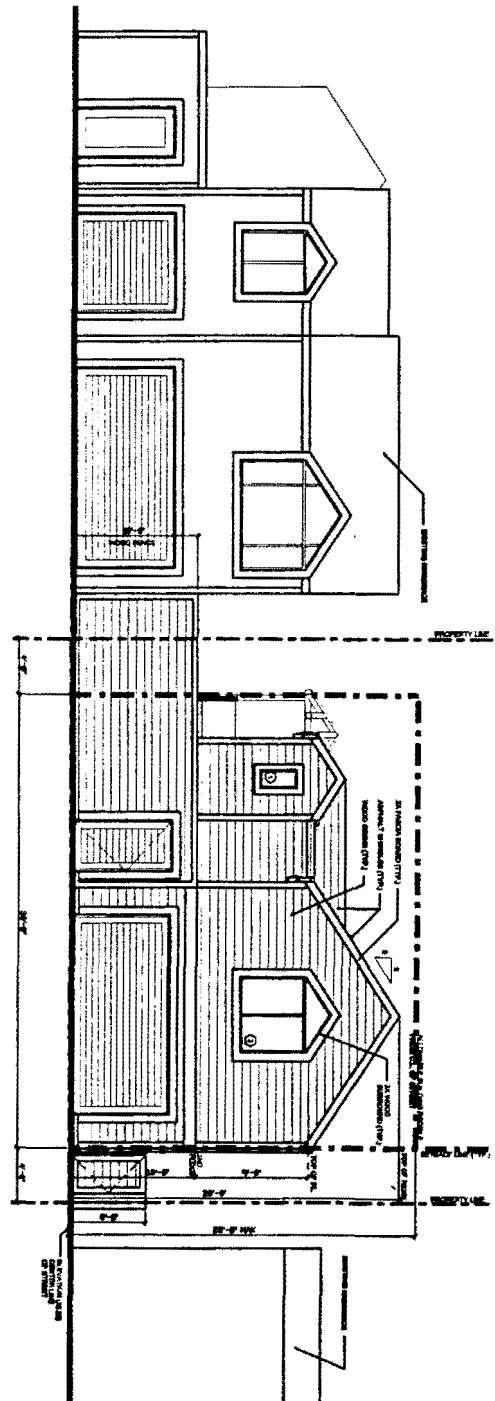
EXHIBIT NO. 8
APPLICATION NO.
<i>Shaheen</i>
4-98-329

CA

SECTION



MALIBU ROAD ELEVATION A



DATE: 11/11/11
 DRAWN BY: [illegible]
 CHECKED BY: [illegible]
 PROJECT NO. 4-98-329

SHAHEEN GARDEN PAVILION
 276 MALIBU ROAD

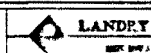
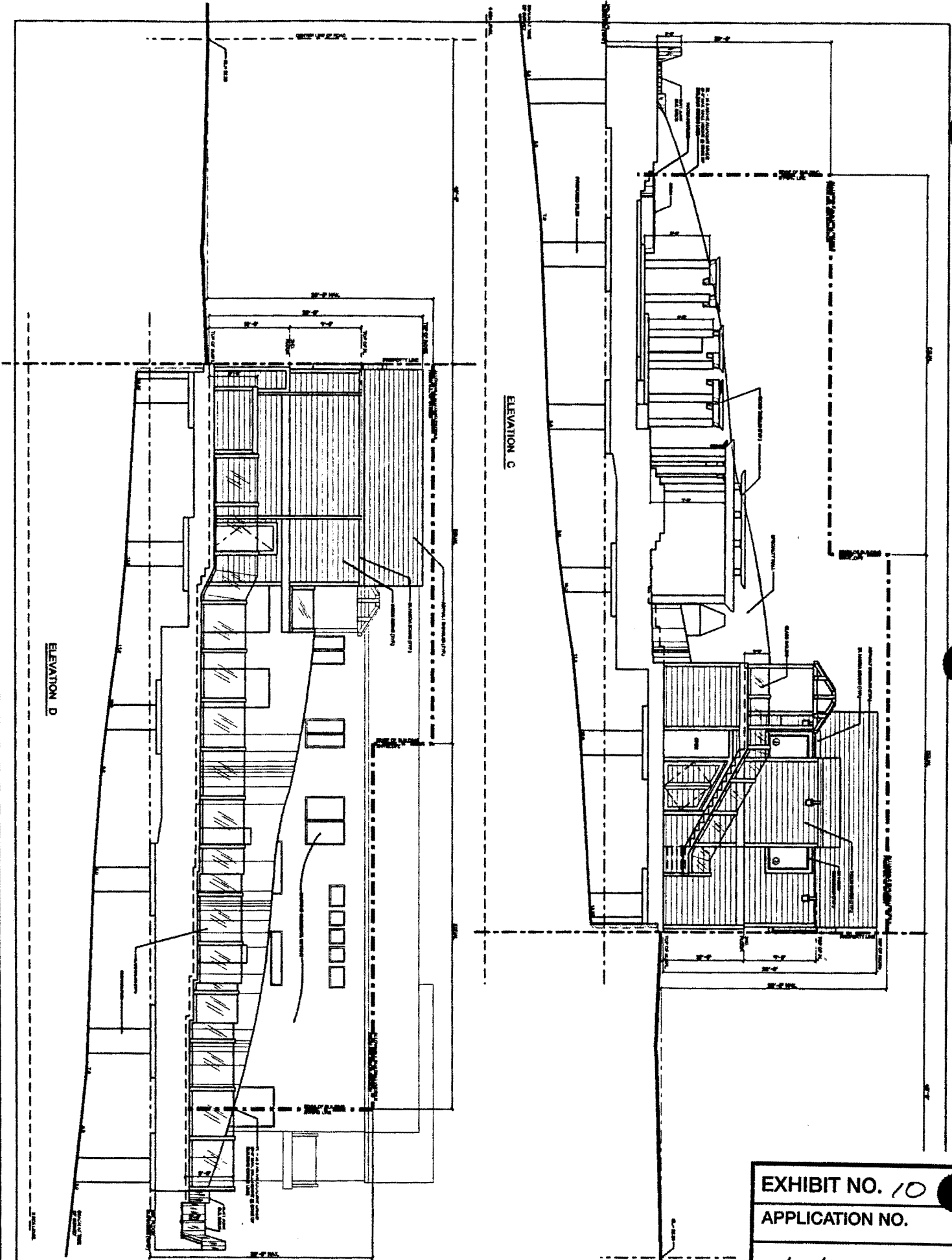


EXHIBIT NO. 9
APPLICATION NO.
Shaheen
4-98-329



ELEVATION D

ELEVATION C

SHAHEEN GARDEN PAVILION
2ND FLOOR PLAN

LANDRY

EXHIBIT NO. 10
APPLICATION NO.
<i>Shaheen</i>
4-98-329

SEA ELEVATION E

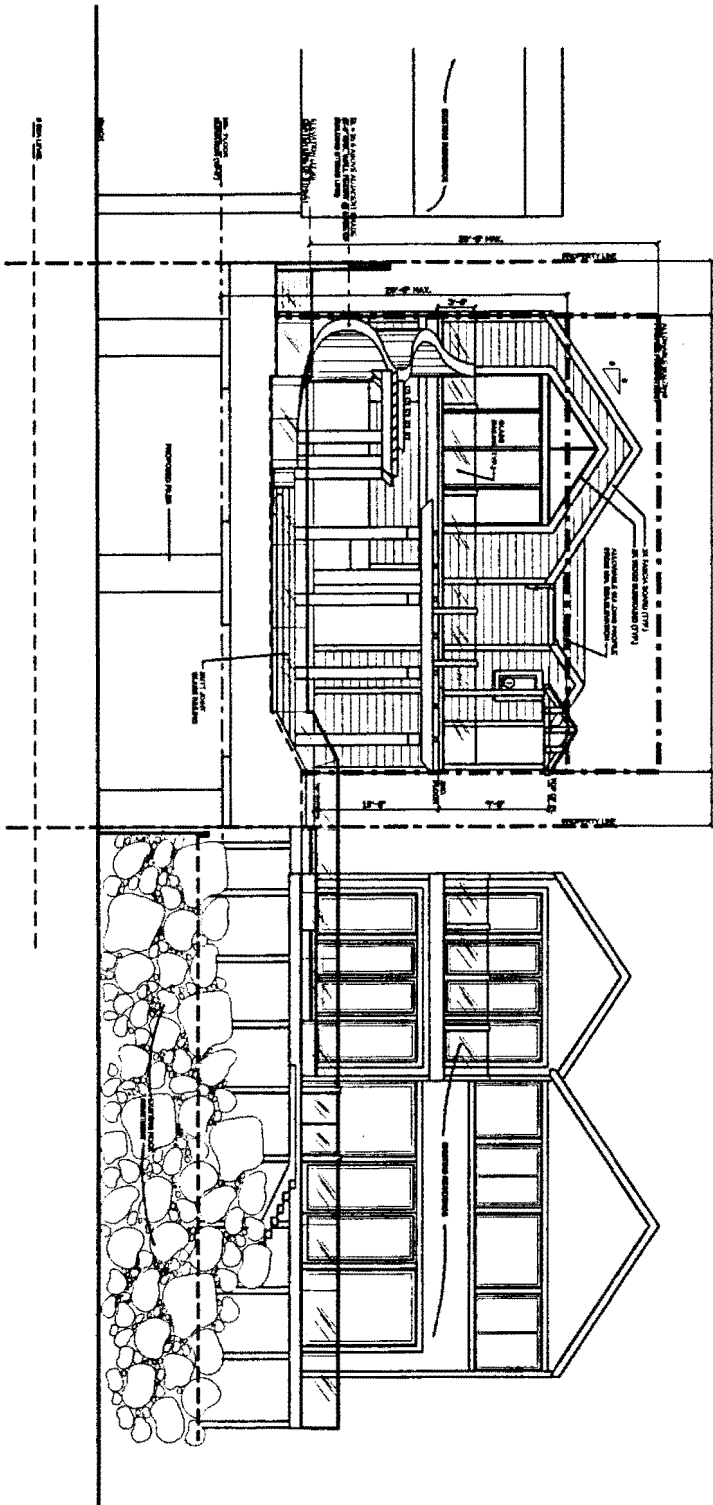
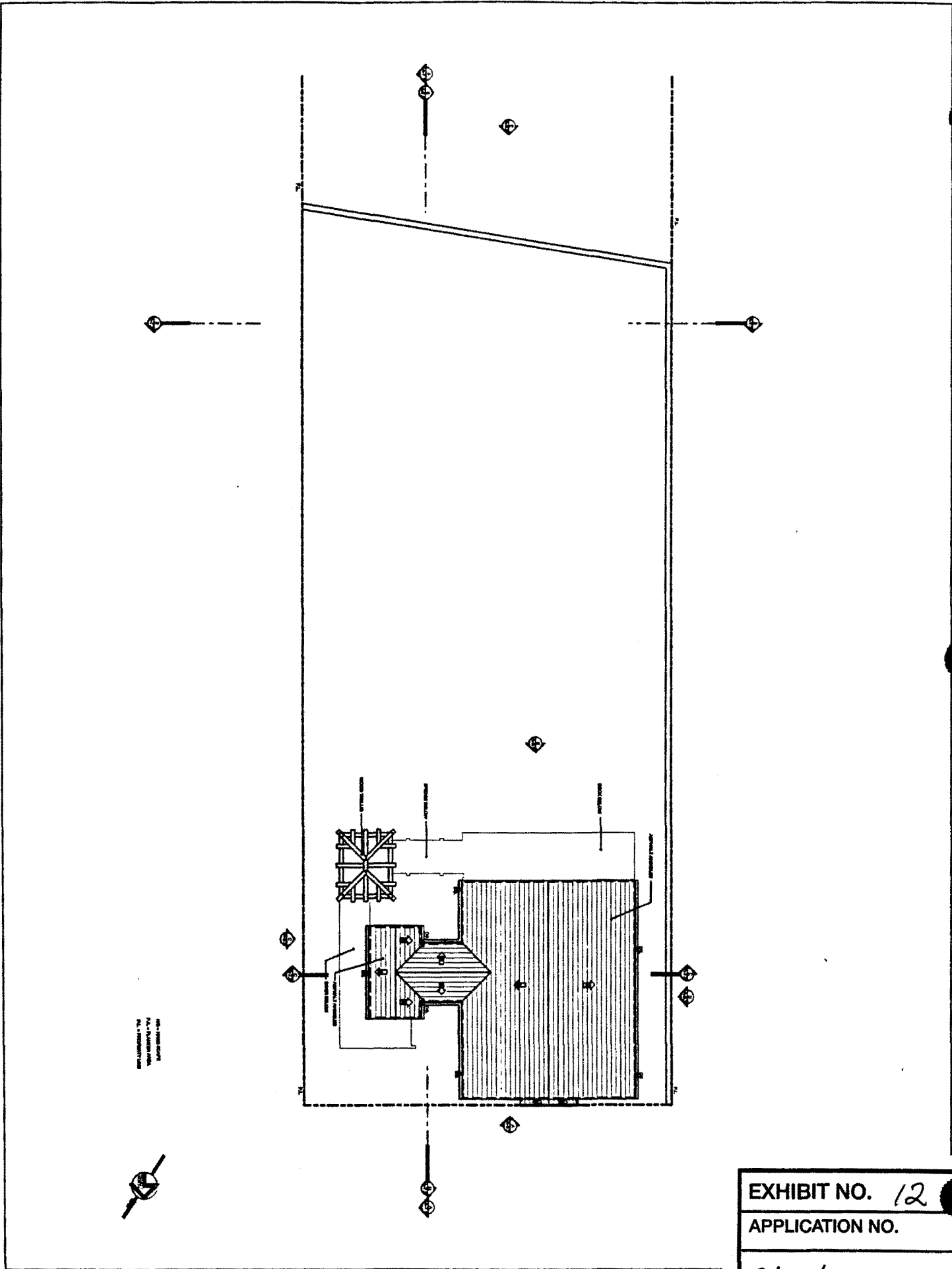


EXHIBIT NO. 11
APPLICATION NO.
Shaheen
4-98-329

EXTERNAL ELEVATION

SHAHEEN GARDEN PAVILION
3344 MAJID ROAD





SEE ELEVATIONS FOR
 WALL FINISHES AND
 ROOF FINISHES

EXHIBIT NO. 12
APPLICATION NO.
<i>Shaheen</i>
4-98-329

ROOF PLAN

SHAHEEN GARDEN PAVILION
 2004 MALIBU ROAD

LANDR
 2004



City of Malibu

23555 Civic Center Way, Malibu, California 90265
(310) 456-2489 FAX (310) 456-3356

Planning Department

December 2, 1998

Mr. Don Schmitz
Schmitz & Associates
29395 Agoura Road, Suite 205
Agoura Hills, CA 91301

NOD

CASE #: PLOT PLAN REVIEW NUMBER 98-209
PROJECT: 1,275 SQUARE FOOT TWO-STORY EXERCISE ROOM, BATHROOM AND GARAGE;
LANDSCAPE GARDENS AND WATER ELEMENT
LOCATION: 23946 MALIBU ROAD
OWNER: MR. AND MRS. SHAHEEN

Dear Mr. Schmitz:

On November 18, 1998, the revised plans for the application listed above were submitted to the City of Malibu Planning Department for processing. Pursuant to State Law, City Staff has completed a second review of the application and determined on December 2, 1998, that the information submitted is complete and Planning Staff has issued an Approval In-Concept. However, prior to final planning approval the following items must be completed:

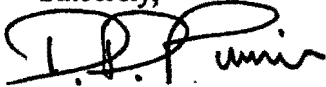
1. The landscape plan shall be modified to include the corrections designated by City Biologist, Dr. Marti Witter (Please See Attached). You may contact Dr. Witter at (310) 456-2489, extension 305 if you have questions regarding the landscape corrections.
2. The applicant shall receive approval of a lot merger pursuant to City Subdivision Ordinance Section 10604 Merger of Parcels and Section 10605 Effective Date of Merger.
3. Approval of septic tanks size, placement and configuration, seepage pits and leach fields from the City Environmental Health Specialist, Mr. Larry Young. Please contact Mr. Young at (310) 456-2489, extension 307 for approval requirements.

If you have any questions regarding this matter, please do not hesitate to contact me at your convenience at (310) 456-2489, extension 243.

EXHIBIT NO. 13
APPLICATION NO. Page 1 of 2
Shaheen
4-98-329

PLOT PLAN REVIEW NUMBER 98-209
23946 MALIBU ROAD
MR. AND MRS. SHAHEEN
DECEMBER 2, 1998

Sincerely,



Drew D. Purvis
Associate Planner

Attachment

\cmpltr98209

EXHIBIT NO. 13
APPLICATION NO. <i>Page 2 of 2</i>
<i>Shaheen</i>
<i>4-98-329</i>