

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

STURBA, CA 93001

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 Hearing Date: 7/13-16/99



### STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-99-090

APPLICANT: Ocean View Estates Limited AGENT: Grant Davis

PROJECT LOCATION: 6283 Cavalleri Road, City of Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Construct a two story, 6,260 sq. ft., 28 foot high single family residence with attached three car garage, pool and septic system. 1000 cu. yds. of grading (60 cu. yds. cut and 940 cu. yds. fill) with 880 cu. yds. of import from outside the coastal zone.

Lot area:	47, 388 sq. ft.
Building coverage:	5,442 sq. ft.
Pavement coverage:	8, 210 sq. ft.
Landscape coverage:	14,828 sq. ft.
Parking spaces:	three covered, three open
Height above finished grade:	28 feet

**LOCAL APPROVALS RECEIVED:** City of Malibu, Planning Department, Approval In Concept, dated 4/8/99; Health Department, In-concept Approval, dated 2/3/99; County of Los Angeles, Fire Department, Approval In-concept, dated 2/4/99.

**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains certified Land Use Plan, August 4, 1998; Gorian Associates, Inc., Geotechnical Investigation and Update, December 17, 1997, Percolation Test Results, June 27, 1997, Addendum Geotechnical Report, September 15, 1998, Infiltration Test Results, February 9, 1999, and Geotechnical Update, April 26, 1999; Innovative Environmental, Conventional Onsite Septic System Design, February 18, 1999.

### **SUMMARY OF STAFF RECOMMENDATION**

The proposed development is one of three single family residences proposed on three adjacent parcels for this agenda in the Cavalleri Road area west of Kanan Dume Road and north of Pt. Dume. The project, if approved with the recommended special conditions, will not adversely impact on the nearby unnamed blue line stream draining to immediately east of Dume Cove. Staff recommends approval of the project with special conditions relating to: **conformance to geologic recommendations, landscape and erosion control, removal of natural vegetation, and wild fire waiver of liability.**

## **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 permute 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 permute to bind all future owners and possessors of the subject property to the terms and conditions.

### **III. Special Conditions**

#### **1. Plans Conforming to Geologic Recommendations**

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 Gorian Associates, Inc., Geotechnical Investigation and Update, December 17, 1997 shall be incorporated into all final design and construction plans 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.

#### **2. Landscaping and Erosion Control Plans**

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, 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:

##### **A) Landscaping Plan**

- 1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for 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 cut and fill slopes 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.
- 5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

**B) Interim Erosion Control Plan**

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not

limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

**C.                    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.

**3.            Removal of Natural Vegetation**

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surroundings the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

**4.            Wild Fire Waiver of Liability**

PRIOR TO THE ISSUANCE OF THE 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, operations, 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 two story, 6,260 sq. ft., 28 foot high single family residence with attached three car garage, pool and septic system. The applicant has amended his grading proposal by a letter (April 21, 1999) which reduces grading to 1,000 cu. yds. (60 cu. yds. cut and 940 cu. yds. fill) with 880 cu. yds. of import from outside the coastal zone.

The site is a polygon configuration with development approximately 300 ft. from the unnamed blue line stream to the west draining under the Pacific Coast Highway to Dume Cove beach. The unnamed tributary is an USGS-designated blue line stream and is also a County-designated flood hazard area. This blue line stream is not a designated as an environmentally sensitive habitat area in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP), but does contain intrusive eucalyptus trees but no significant natural vegetation in the vicinity of the project. There is some chaparral type of vegetation to the south, adjacent to the condominiums constructed under the previous permit 5-83-591 (Regan/Sunset). The area adjacent to the same stream south of the Pacific Coast Highway is designated as Significant Oak Woodland in the LUP.

The site has been overgrown with non-native vegetation such as grasses and wild mustard and wild radish. Surrounding development includes single family residences and vacant land. In this developed area, the proposed development will not have an adverse impact on neighborhood character or views to and along the coast. The proposed development is similar to existing development of large single family residence in a valley west of Kanan Dume Road

The project site was subject to coastal development permit 5-83-591 (Regan/Sunset) for demolition of a single family residence, construction of a 68 condominium project, a park and recreation area, three single family residences with tennis courts in the location of the present project, and grading on a 13.44 acre site. The project was approved with a condition making the proposal subject to 62.5 transfer of development credits. The condominium and park and recreation area has since been completed but the originally proposed three residences with tennis courts were never constructed, although grading for creation of three building pads took place.

The proposal for development of the subject site and the two sites on the same agenda are for development on existing pads which were constructed under the previous permit 5-83-591 (Regan/Sunset). The present proposal represents a reduction in the scope of the previous proposal because development does not

include the majority of the site but is, rather, confined to the previously constructed pads. Development has been moved further away from the blue line stream and the tennis courts are no longer proposed.

**B. Geologic Stability and Hazards**

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 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 prominent geomorphic features in the area are Pt. Dume to the south and the LUP-designated Significant Ridgeline to the east. Physical relief across the pad is approximately flat.

**1. Geology**

The applicant has submitted a Gorian Associates, Inc., letter dated May 14, 1999 which states that:

It is the finding of this corporation, based upon subsurface data and the review of pertinent geotechnical reports prepared for the subject site, that the proposed project will be safe from landslide, settlement, or seepage and will not adversely impact adjacent property, provided this corporation's recommendations and those of the City of Malibu's Building and Grading Codes are followed and maintained.

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 one (1)* for the final project plans for the proposed project.

2. Erosion

Most of the project drainage is directed toward the west to a large energy (flow) dissipator on the fill slope at the bottom of the building pad. The consulting geologist has specifically noted concern with drainage associated with the proposal and has recommended that vegetation and drainage control structures be used to reduce the risk of erosion and degradation, and that final drainage direct erosion away from the stream to the west. Surface drainage is specified as part of the submittal, through a drainage plan indicating the direction of water runoff and conveyance through devices such as drains, swales, energy dissipators, etc.

As noted above, the unnamed tributary is a USGS-designated blue line stream and is also a County-designated flood hazard area, but is not a designated environmentally sensitive habitat area in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). The project will significantly increase the amount of impervious surfaces on the site, increasing 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 adversely affect site stability. Increased volume and velocity of runoff may increase erosion and sedimentation of the nearby stream.

Although the applicant has submitted a drainage plan, the Commission finds it necessary to require the applicant to submit a revised and more detailed drainage and erosion control plan for the proposed development for several reasons. A landscaping component, review and approval by the consulting engineering geologist, measures for replanting, soil stabilization, maintenance, sedimentation control, and monitoring are all necessary parts of this plan to minimize the potential for erosion and disturbed soils and thereby ensure site stability and stream protection. Approval with *special condition number two (2)* is necessary, therefore, to so that the landscape and erosion control plan can ensure site stability and avoidance of the potentially adverse impacts of erosion and sedimentation on the blue line stream in a manner consistent with PRC Section 30253.

In addition, *special condition number three (3)* is necessary to ensure that removal of natural vegetation for fuel modification purposes does not take place prior to construction of the proposed single family residence. Unnecessary fuel modification should be avoided as it is contrary to the provisions of PRC Section 30253 including ensuring site stability and avoiding adverse impacts of erosion and sedimentation.

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 four (4)*. The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 of the Coastal Act.

### C. Septic System

The Commission recognizes that the potential build-out of lots in Malibu and the Santa Monica Mountains, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

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

The proposed septic system includes a 2,500 gallon septic tank, pre-treatment and storage system, and two leach lines which are all located to the rear of the residence and the street, approximately 250 ft. away from the blue line stream. The above noted City approval indicates that the system complies with the minimum requirements of the City of Malibu Plumbing Code. The Commission has found in past permit actions that compliance with the City health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. Therefore, the

Commission finds that the proposed septic system is consistent with Section 30231 of the Coastal Act.

#### **D. Local Coastal Program**

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

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

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

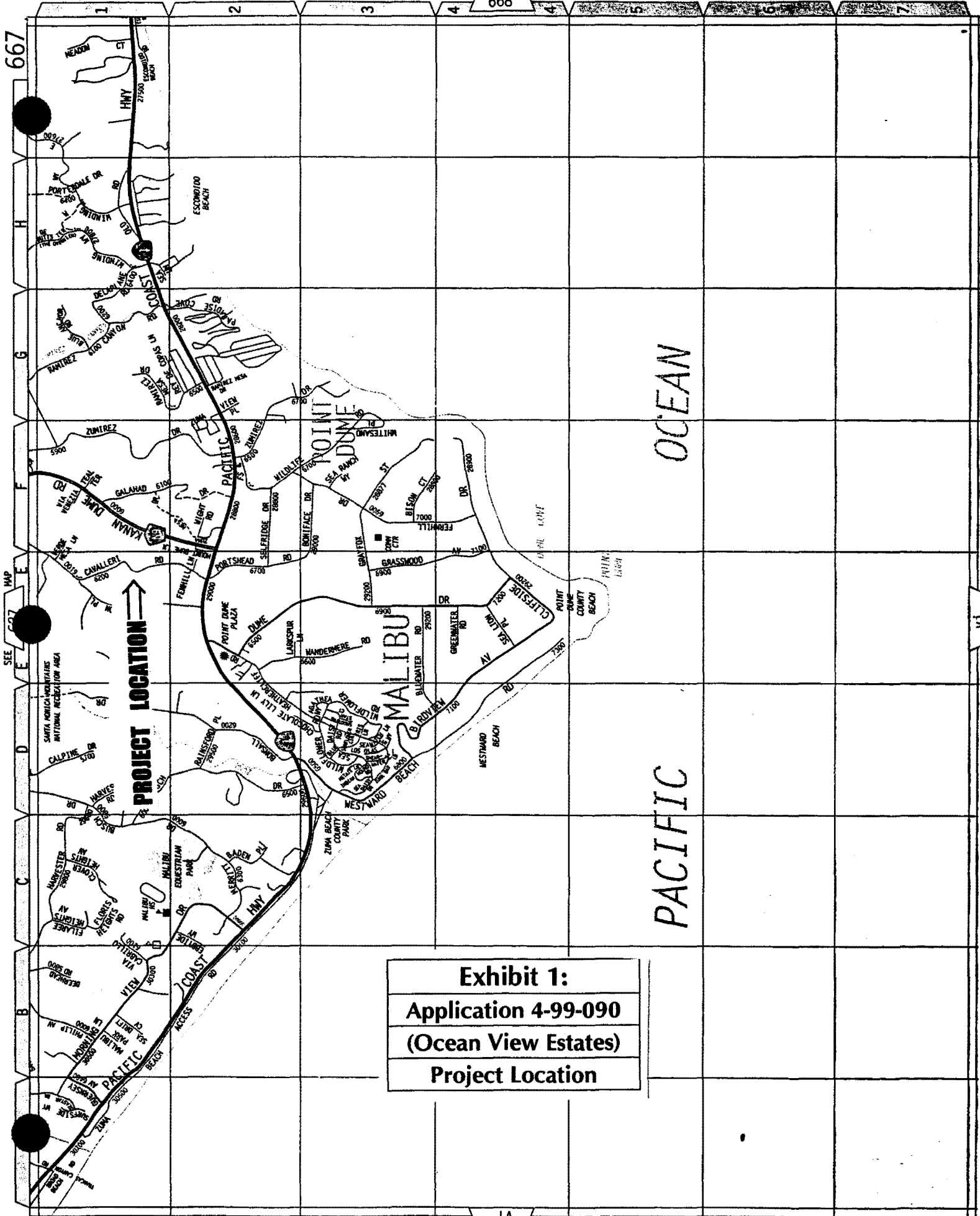
Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (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 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.

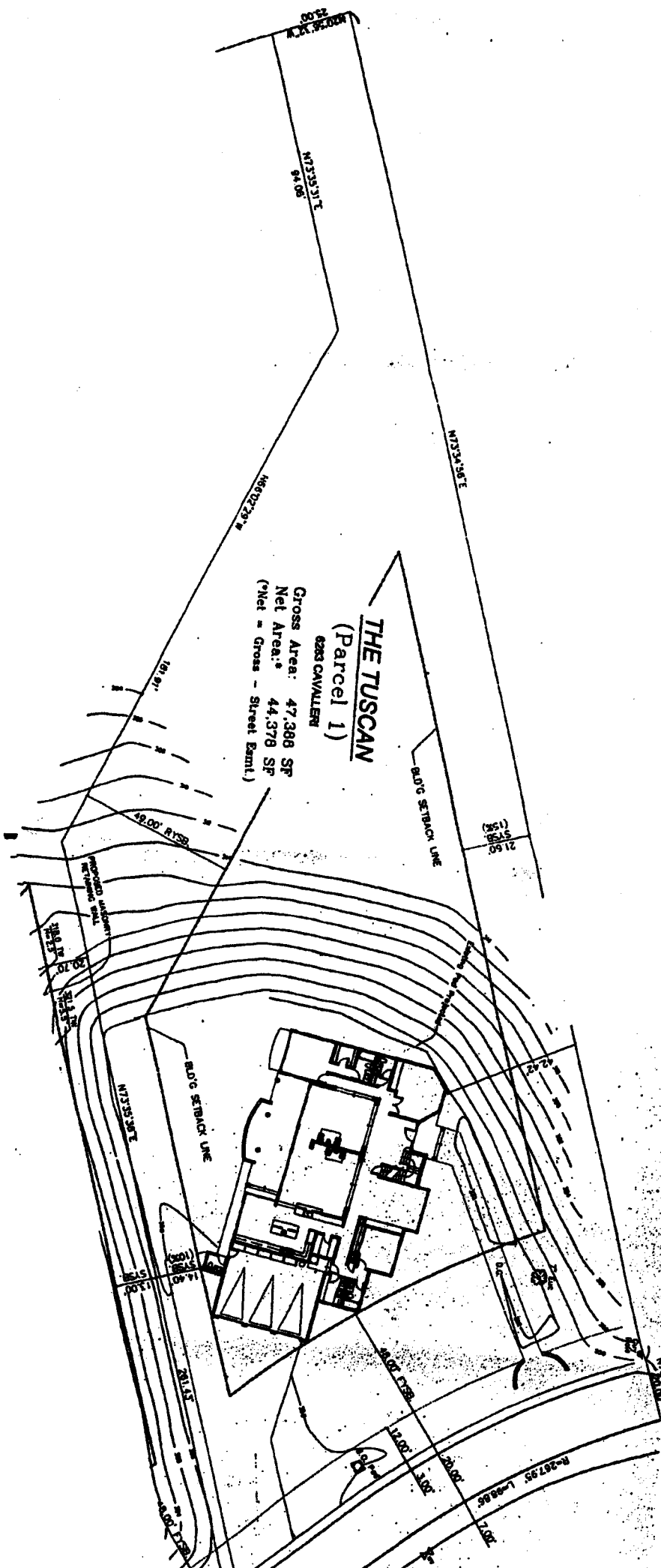
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SEE 667 MAP

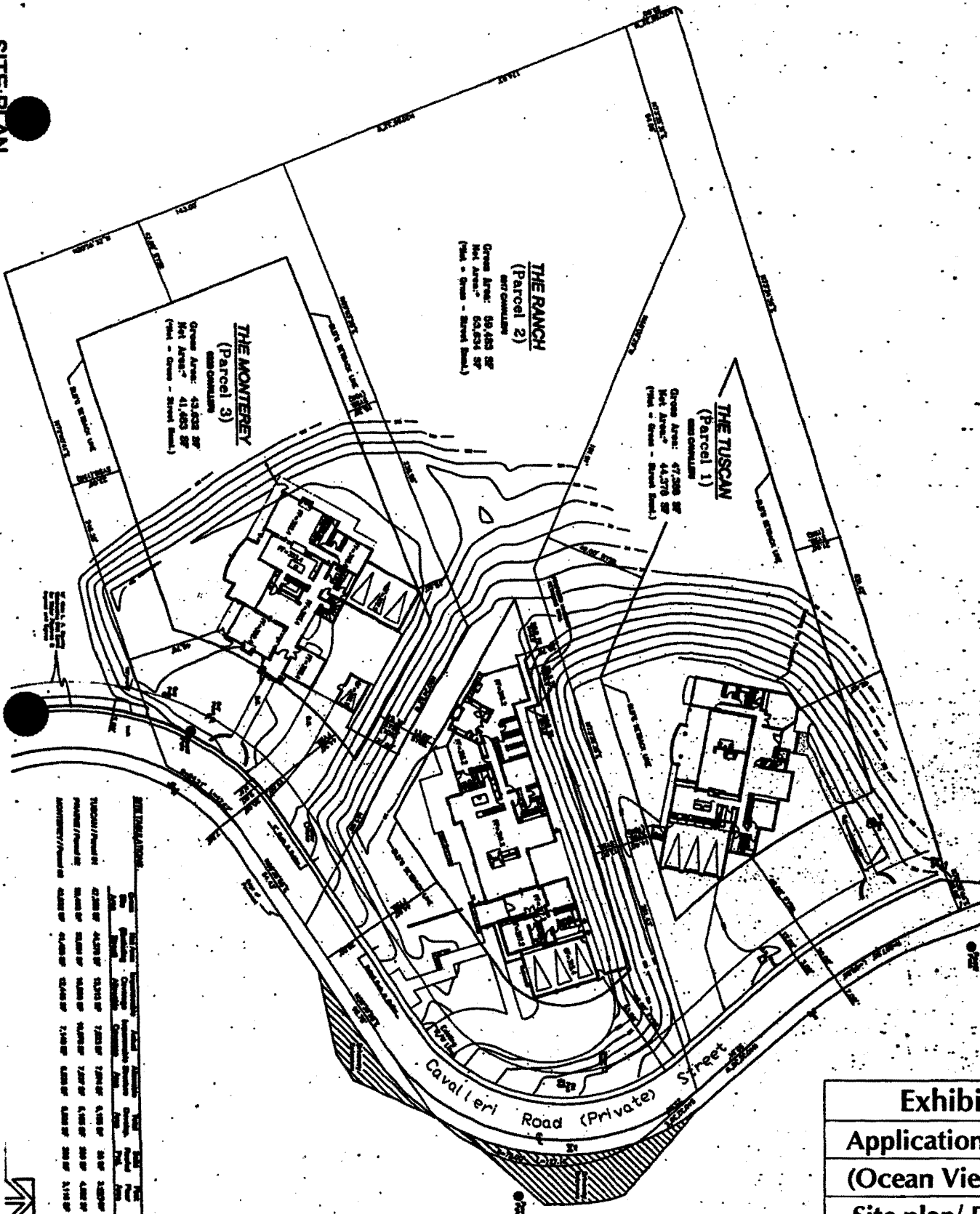
SEE V1 MAP



**Exhibit 1:**  
**Application 4-99-090**  
**(Ocean View Estates)**  
**Project Location**



<b>Exhibit 2a:</b>
<b>Application 4-99-090</b>
<b>(Ocean View Estates)</b>
<b>Site plan/ Floor Plan</b>



**Exhibit 2b:**  
**Application 4-99-090**  
**(Ocean View Estates)**  
**Site plan/ Floor Plan**

**SETBACKS:**

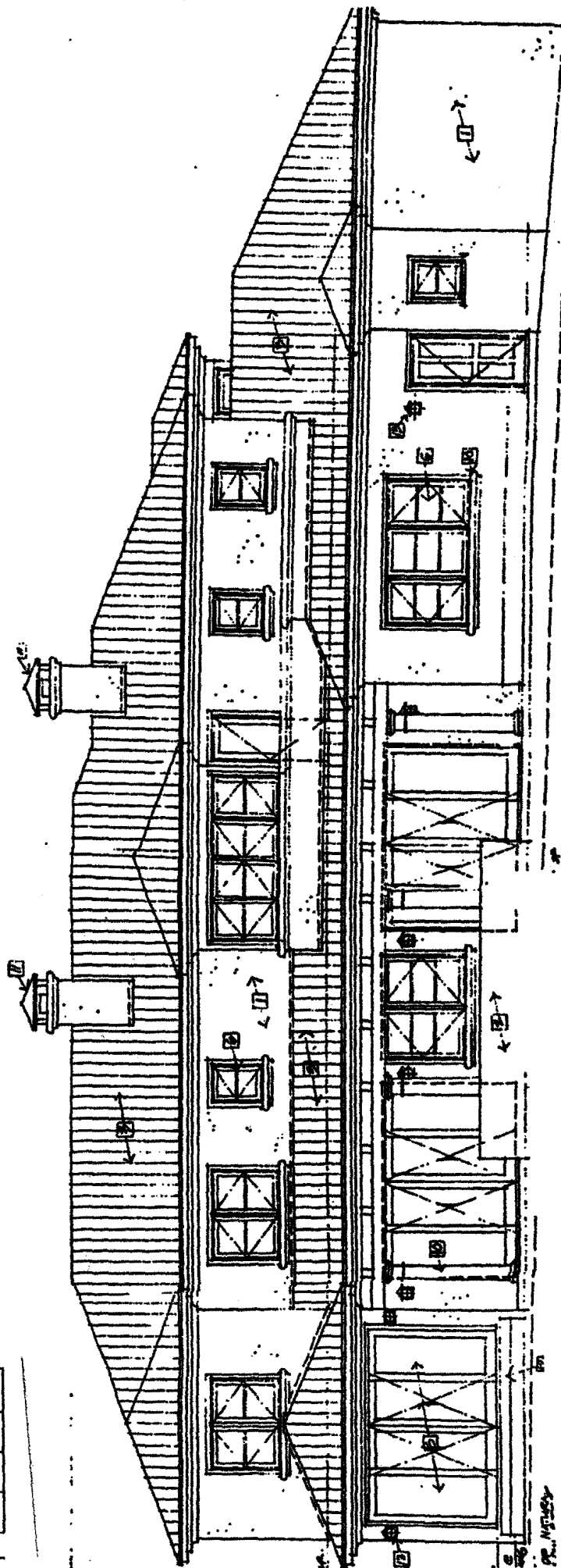
Setback	Front	Side	Back	Front	Side	Back	Front	Side	Back
Minimum	10'	5'	5'	10'	5'	5'	10'	5'	5'
Maximum	20'	10'	10'	20'	10'	10'	20'	10'	10'



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**OCEAN VIEW ESTATES, LTD.**

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<b>Exhibit 3a:</b>
<b>Application 4-99-090</b>
<b>(Ocean View Estates)</b>
<b>Elevation</b>

<b>Exhibit 3b:</b>
<b>Application 4-99-090</b>
<b>(Ocean View Estates)</b>
<b>Elevation</b>

