

## CALIFORNIA COASTAL COMMISSION

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

Filed: 6/18/99  
49th Day: 8/06/99  
180th Day: 12/15/99  
Staff: MH-V  
Staff Report: 8/26/99  
Hearing Date: 9/14-17/99  
Commission Action:

**STAFF REPORT: CONSENT CALENDAR****APPLICATION NO.:** 4-99-113**APPLICANT:** Samuel Culbert**AGENT:** Ray Kappe**PROJECT LOCATION:** 19854 Pacific Coast Highway

**PROJECT DESCRIPTION:** Remodel of existing 1,370 sq. ft., 2-story, 20 ft. above grade duplex (consisting of two, 2-bedroom apartments) to convert the duplex to a single family residence, including construction of a 1,054 sq. ft. addition to produce a 3 story, 28 ft. high, 2,424 sq. ft. residence, with no grading, vegetation removal, or changes to the existing septic disposal system and bulkhead. No seaward expansion of the existing development footprint is proposed. The two existing garage parking spaces will remain.

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Approval-in-Concept May 13, 1999.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan; "Engineering Geologic Reconnaissance Report, Proposed Remodel," prepared April 27, 1998, prepared by Mountain Geology, Inc., "Limited Engineering Geologic Report," dated April 6, 1999, prepared by Mountain Geology, Inc., State Lands Commission letter of review dated November 30, 1998.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the proposed project with special conditions regarding: Geologic recommendations and Assumption of Risk. The proposed project is located on a beachfront lot adjacent to Pacific Coast Highway along Big Rock Beach. This area of Malibu, south of the Big Rock Landslide, is locally subject to occasional flooding due to erosion and surficial failures associated with the steep slope opposite, and north of, Pacific Coast Highway (PCH). The Big Rock Landslide itself does not threaten the subject site according to the applicant's consulting engineering geologist. However, the consulting geologist notes that the general surficial instabilities of the slope across PCH lend more than the usual amount of geologic risk to the subject site, in addition to the risk posed to any beachfront development by wave attack, flooding, and erosion.

**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. Geologic Recommendations**

All recommendations contained in the report titled "Engineering Geologic Reconnaissance Report, Proposed Remodel," prepared April 27, 1998, by Mountain Geology, Inc., and the report titled "Limited Engineering Geologic Report," dated April 6, 1999, prepared by Mountain Geology, Inc., shall be incorporated into all final project plans and designs and shall be implemented during construction, and all plans must be reviewed and approved by the consulting engineering geologist prior to commencement of construction. Prior to the issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director's satisfaction that the consulting geotechnical engineer has reviewed and approved all final project plans and designs and construction procedures, thereby confirming that the recommendations of the reports referenced herein have been incorporated into the final project plans.

The final plans approved by the consulting engineering geologist shall be in substantial conformance with the plans approved by the Commission. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal development permit. The Executive Director shall determine whether any changes to the plans approved by the Commission constitute a "substantial change."

#### **2. Assumption of Risk**

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslides, storm waves, erosion, or flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's

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

#### **IV. Findings and Declarations**

The Commission hereby finds and declares:

##### **A. Project Description**

The subject site is a beachfront lot located at 19854 Pacific Coast Highway near Big Rock Beach in Malibu. The applicant proposes to remodel a 1,370 sq. ft. existing duplex (consisting of two, 2-bedroom apartments) with attached 420 sq. ft., 2 car garage, and convert the duplex into a single family residence. The applicant proposes to construct a 1,054 sq. ft. addition to produce a 2,424 sq. ft., 3 story, 28 ft. high residence, with no grading, vegetation removal, or changes to the existing septic disposal system or bulkhead. The applicant has provided evidence that no landward relocation of the existing septic system or bulkhead is feasible as there is no available space on the subject lot, other than the existing septic location, that could accommodate the necessary installation. No seaward expansion of the existing development footprint is proposed. The two existing garage parking spaces will remain. The project will not affect public coastal views, access, or recreation.

##### **B. Geology; Hazards**

Coastal Act Section 30253 states that:

##### **Section 30253**

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, 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.

##### **Geologic Stability**

The applicant has submitted a report titled "Engineering Geologic Reconnaissance Report, Proposed Remodel," prepared April 27, 1998, by Mountain Geology, Inc., for

the proposed project. The report contains recommendations regarding foundations, construction, drainage and erosion control and other concerns and concludes that the proposed remodeling is feasible from an engineering geologic standpoint, provided the applicable recommendations are incorporated into the final project plans and designs. Therefore, the Commission finds that the proposed project will be consistent with the geologic stability requirements of Coastal Act Section 30253 provided that the recommendations of the consultant are incorporated into the project description pursuant to Special Condition 1.

#### Assumption of Risks from Natural Hazards

The Malibu coast has been subject to substantial damage as a result of storm and flood occurrences, geological failures and firestorms. Due to its beachfront location, the proposed project site is subject to flooding and/or wave damage from storm waves and storm surge conditions. Past occurrences have resulted in public costs (through low-interest loans for home repairs and/or rebuilding after disasters) in the millions of dollars in the Malibu area alone.

Along the Malibu coast, significant damage has also occurred to coastal areas from high waves, storm surge and high tides. In the winter of 1977-78, storms triggered numerous mudslides and landslides and caused significant damage along the coast. The "El Nino" storms in 1982-83 caused additional damage to the Malibu coast, when high tides over 7 feet combined with surf between 6 and 15 feet. These storms caused over \$12 million in damage. The El Nino storms of 1987-88, 1991-92, and 1997-1998 did not cause the far-reaching devastation of the 1982-83 storms; however, they too were very damaging in localized areas and could have been significantly worse except that the peak storm surge coincided with a low tide rather than a high tide.

The existing bulkhead has been determined by David Weiss, coastal engineer, to be sufficient to protect the existing and proposed development. Nevertheless, despite the existence of the shoreline protective device, all structures on the parcel will continue to be subject to wave attack, flooding, and erosion hazards that in the past have caused significant damage to development along the California coast, including the Malibu coastal zone. In addition, the applicant's consulting engineering geologist has noted that the subject site may be affected by flooding and raveling from surficial failures and runoff from the steep slopes opposite (north of) Pacific Coast Highway. The Coastal Act recognizes that new development, such as the construction of the proposed remodel and addition, 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 determine who should assume the risk.

Therefore, the Commission finds that due to the unforeseen possibility of wave attack, erosion, landslides and flooding to which the subject site is exposed, the applicant shall assume these risks as a condition of approval. Because this risk of harm cannot be completely eliminated, Special Condition 2 requires the applicant to waive any claim of

liability against the Commission, and its agents and employees, for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, when executed and recorded on the property deed, will also show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

The Commission finds, therefore, for all of the reasons cited above, that as conditioned by Special Conditions 1 and 2, the proposed project is consistent with the applicable requirements of Coastal Act Section 30253.

**C. Public Access**

Coastal Act Section 30210 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 states:

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 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.

#### Public Access Considerations for Beachfront Projects

The Commission has established a policy that 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 which posed adverse impacts upon public access 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, or impacts of a proposed shoreline protective device on beach profiles, in contradiction of Coastal Act policies 30210, 30211, and 30212.

Past Commission review of shoreline residential projects in Malibu has shown that individual and cumulative public access impacts of such projects can include encroachment on lands subject to the public trust (thus physically excluding the public); interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and the ability to use public tideland areas.

#### "Stringline" Policy--(control of seaward extent of buildout)

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum access, protect public views and minimize wave hazards as required by Coastal Act Sections 30210, 30211, 30251, and 30253, the Commission has, in past permit actions, developed the "stringline" analysis to control the seaward extent of buildout. As applied to beachfront development, the stringline limits extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks to a similar line drawn between the nearest corners of the adjacent decks.

The Commission has applied this analysis to numerous past permits involving infill on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches. In addition, the Commission has found that restricting new development to building and deck stringlines is an effective means of controlling seaward encroachment to ensure maximum public access as required by Sections 30210 and 30211 and to protect public views and the scenic quality of the shoreline as required by Section 30251 of the Coastal Act.

Consistency with Public Access Policies: Conclusion

The proposed project does not invoke the restrictions of the stringline analysis because the proposed project will not exceed either the first or second floor stringlines as measured from adjacent development. The entire footprint of the proposed addition is landward of the applicable stringlines and will not result in additional development on or adjacent to the sandy beach. The proposed project would not preclude public access to any presently existing vertical or lateral public access easements or rights or adversely affect public coastal views. For all of these reasons, the Commission finds that the project would have no individual or cumulative adverse impacts on public access. Therefore, the Commission finds that a condition to require lateral access is not appropriate and that the project, as proposed, is consistent with Coastal Act Sections 30210, 30211, 30212 and 30251.

**D. Septic**

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 has submitted evidence from the City of Malibu Environmental Health Department indicating that the existing 1,000 gallon septic tank and the existing leachfields are adequate to serve the proposed project. In addition, the applicant has submitted evidence that no feasible, alternative location to move the septic system or bulkhead further landward exists. The City's septic approval for the proposed project confirms that the sewage disposal system upon which the proposed project relies 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 that the relevant codes 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 of the Coastal Act states that:

(a) 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 Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

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 conform 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 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 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.

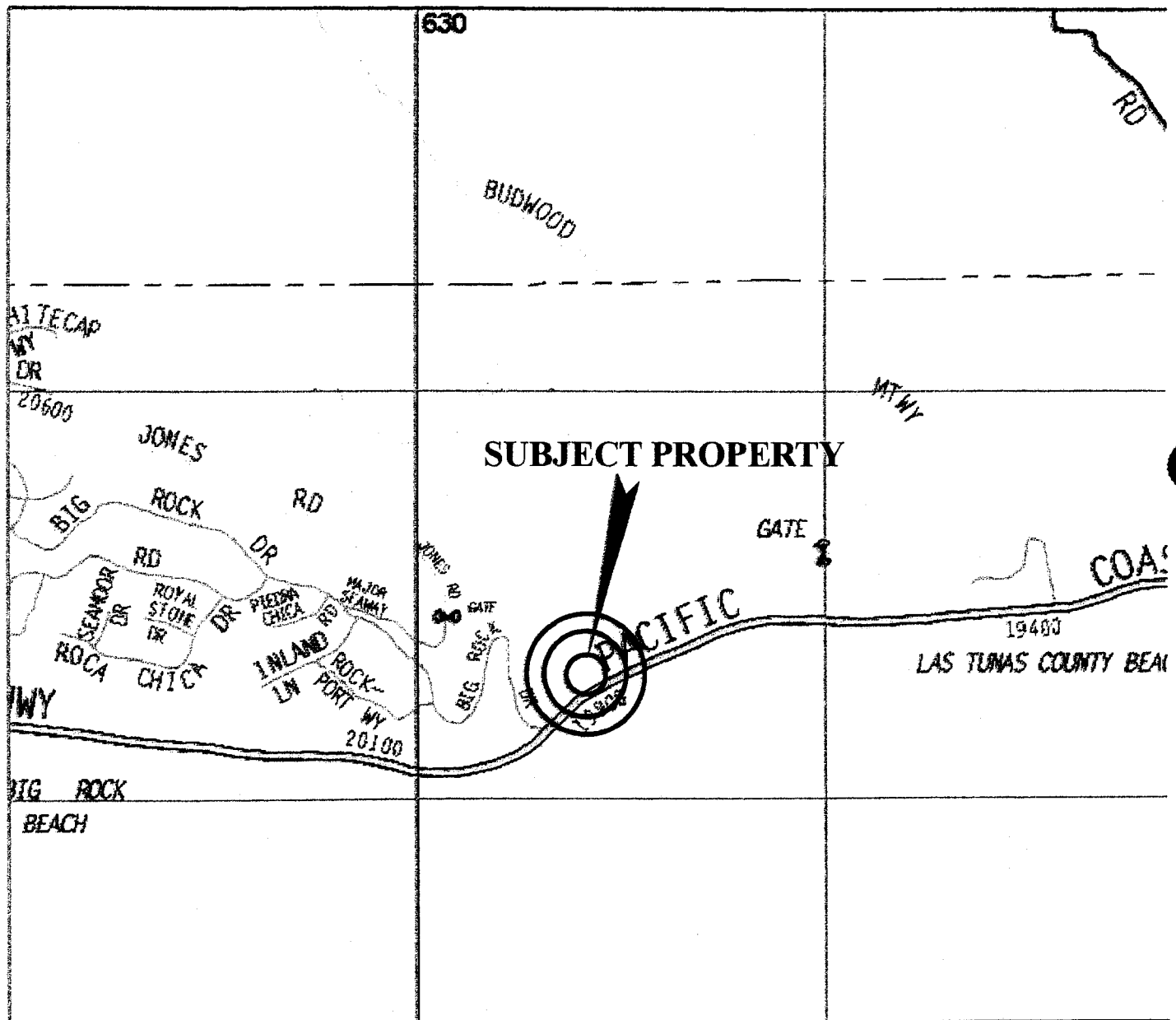
The Commission finds that the proposed project, as conditioned, will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is consistent with CEQA and the policies of the Coastal Act.



## VICINITY MAP

CONSULTING ENGINEERING GEOLOGISTS

REFERENCE: THOMAS BROTHERS MAP GUIDE, PAGES 629 & 630



SCALE



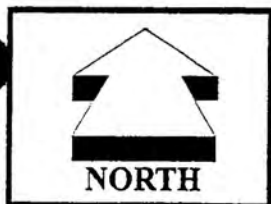
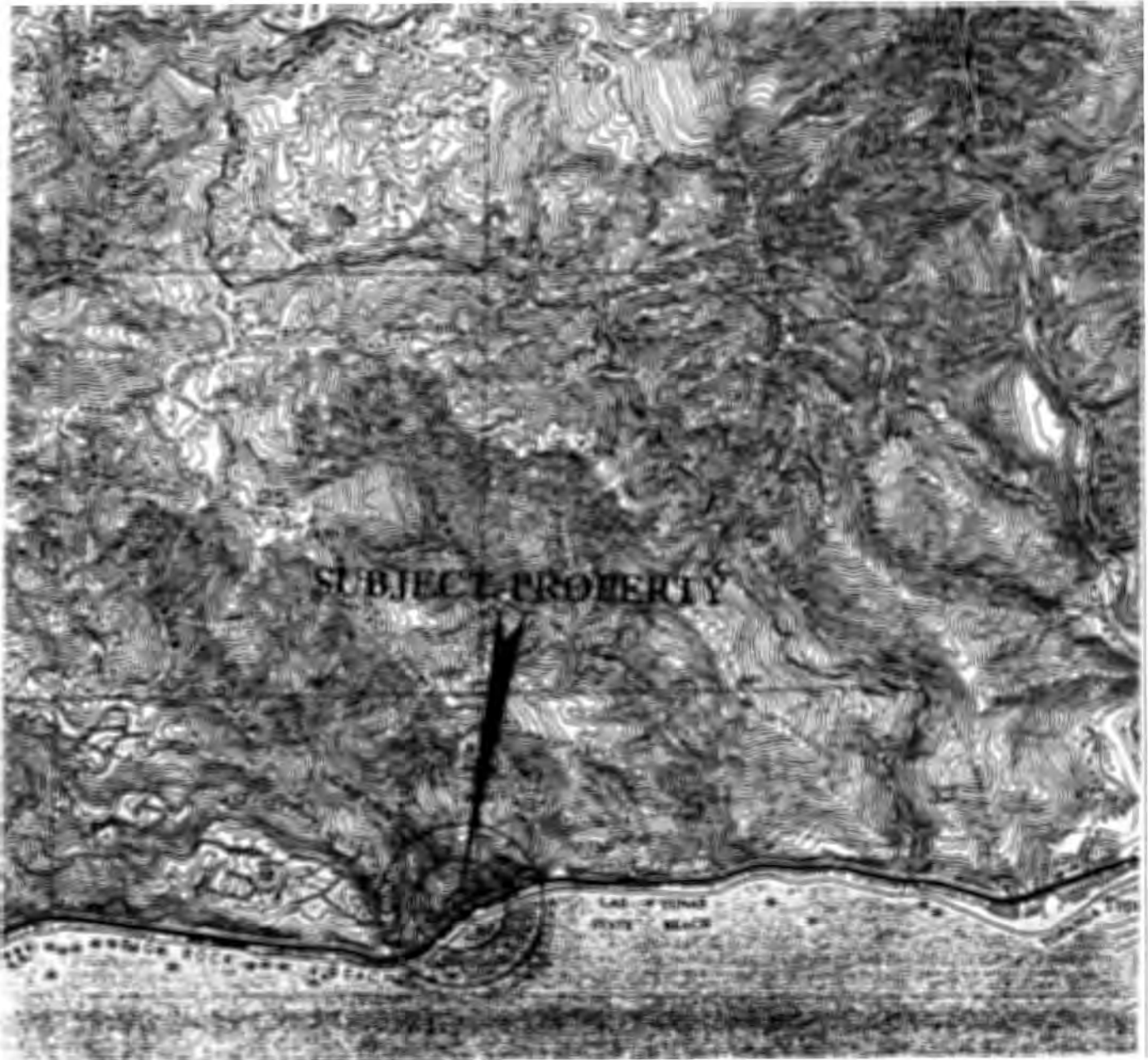
EXHIBIT NO.	/
APPLICATION NO.	
Culbert	
4-99-113	



## VICINITY MAP

CONSULTING ENGINEERING GEOLOGISTS

REFERENCE: U.S.G.S. TOPOGRAPHIC MAP, TOPANGA QUADRANGLE



SCALE

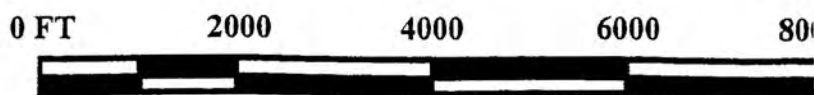
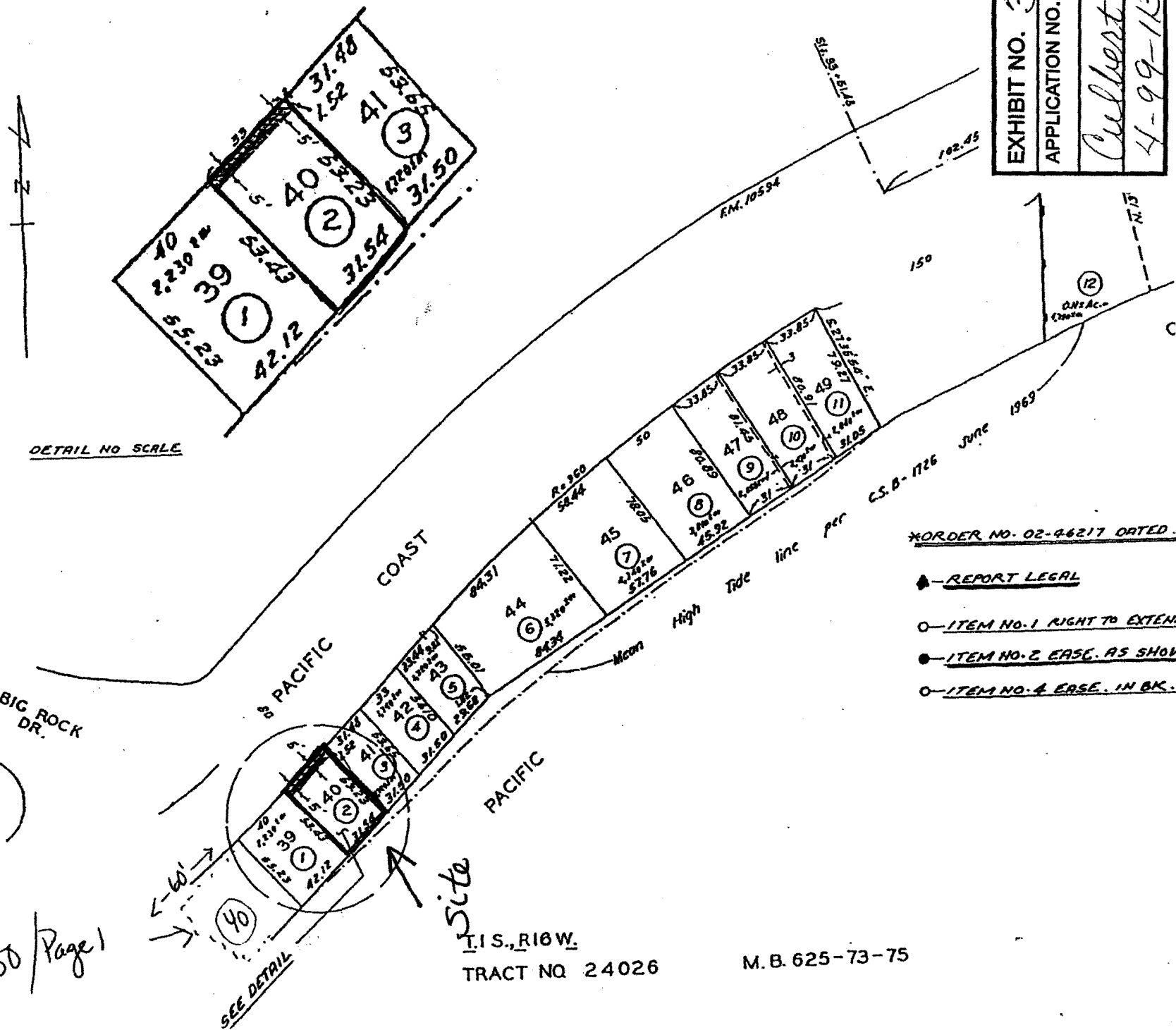


EXHIBIT NO. <i>2</i>
APPLICATION NO.
<i>Culbert</i>
<i>4-99-113</i>

4449 8  
SCALE 1" = 60'

PROGRESSIVE TITLE COMPANY, INC.  
THIS IS NEITHER A PLAT NOR A SURVEY, IT IS FURNISHED AS A CONVENIENCE TO  
LOCATE THE LAND INDICATED HEREON WITH REFERENCE TO STREETS AND OTHER  
LAND. NO LIABILITY IS ASSUMED BY REASON OR RELIANCE THEREON.

EXHIBIT NO. 3  
APPLICATION NO.  
Culbert  
4-99-113



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F.M. 20293-1-2

M2

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17  
R  
W  
16  
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Big Rock Drive

9A

Las Tunas  
State Beach

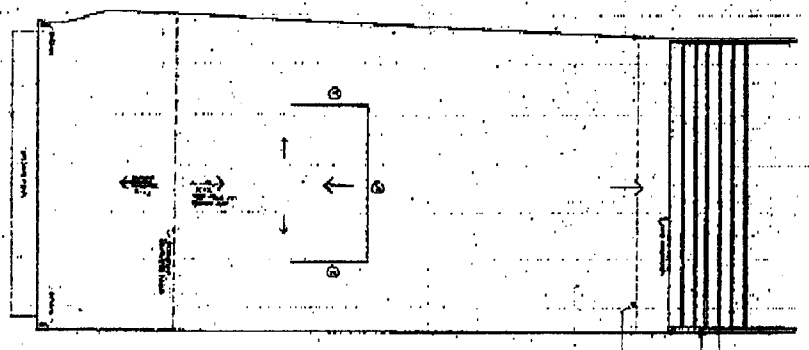
subject parcel

EXHIBIT NO. 4
APPLICATION NO.
Culbert
41-99-113

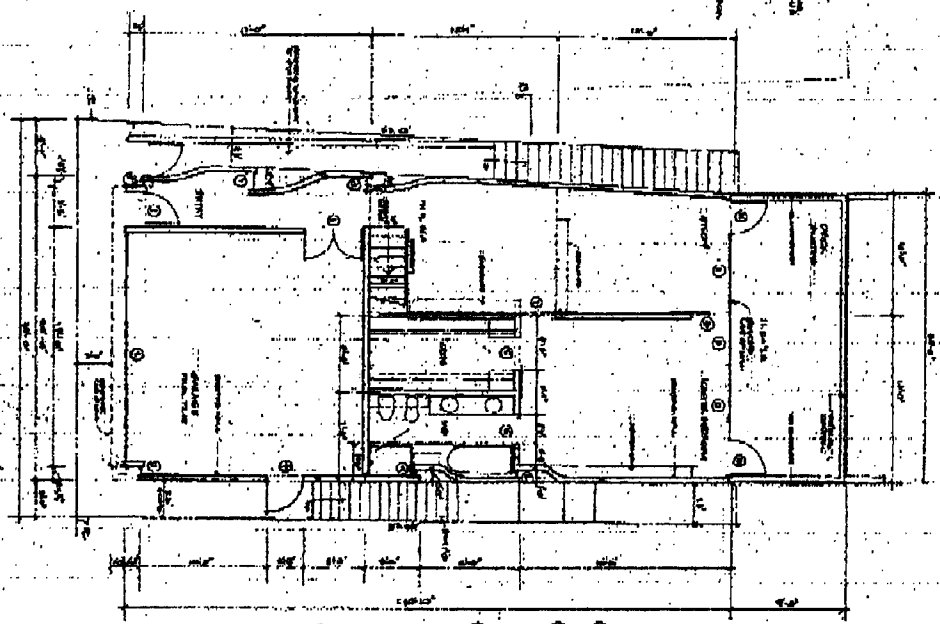


FIRST FLOOR PLAN

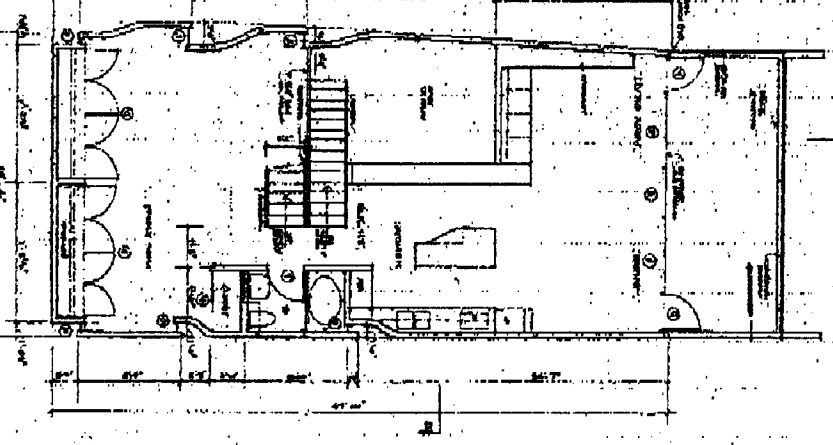
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FIRST FLOOR PLAN



SECOND FLOOR PLAN



REAR PORCH PLAN

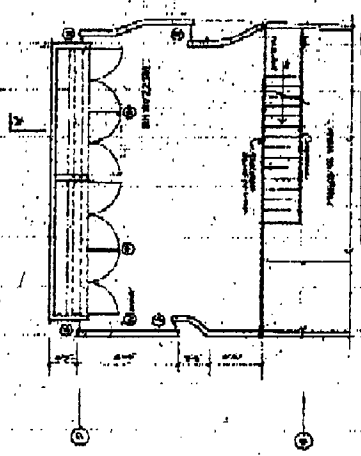
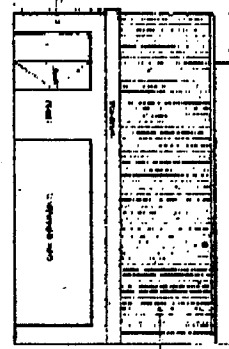
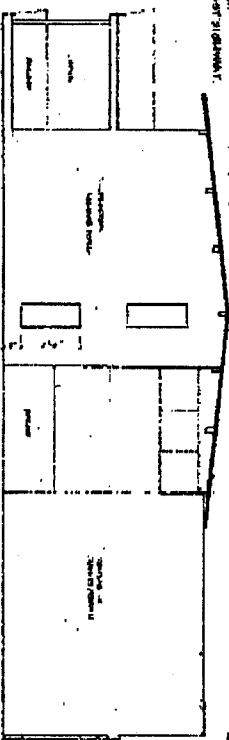
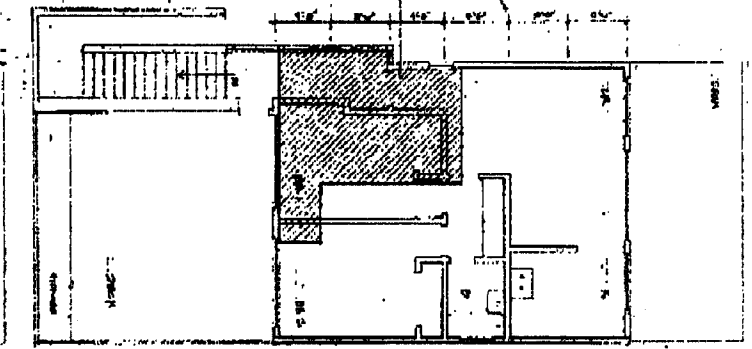
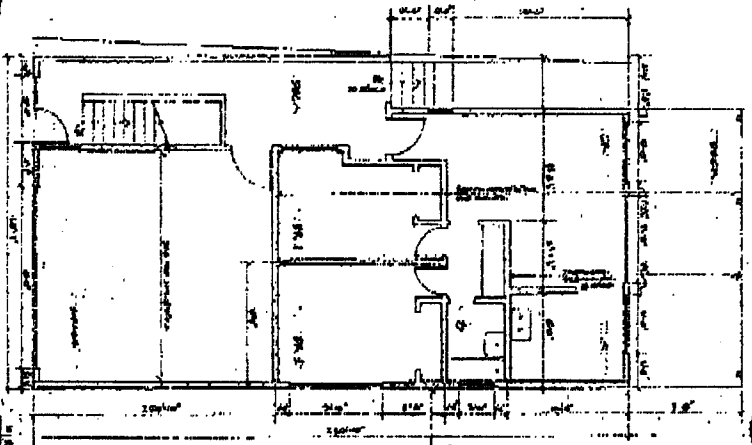
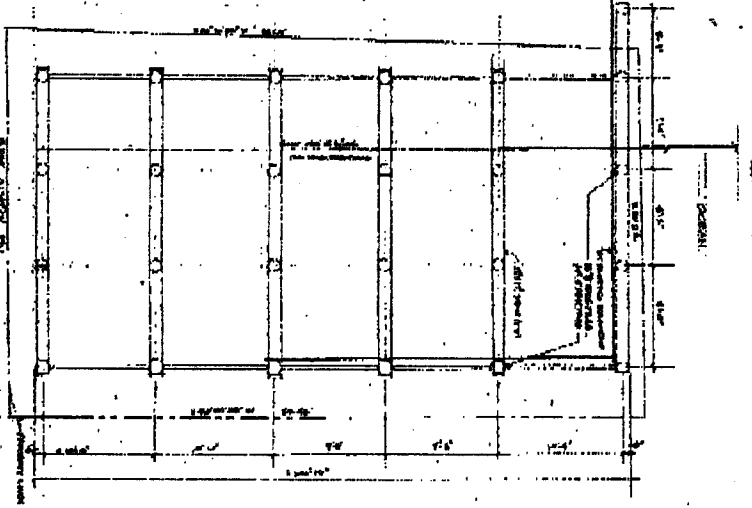


EXHIBIT NO. 6
APPLICATION NO.
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4-99-113

By Architect Engineer	By Engineer	By Surveyor	By Land Surveyor	By Civil Engineer	By Mechanical Engineer	By Electrical Engineer	By Chemical Engineer	By Nuclear Engineer	By Other Engineer



FLOOR PLAN

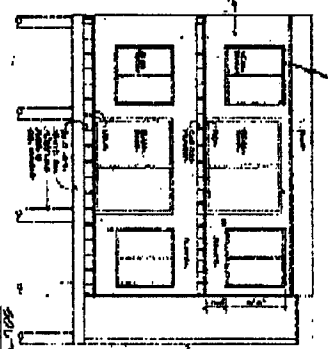
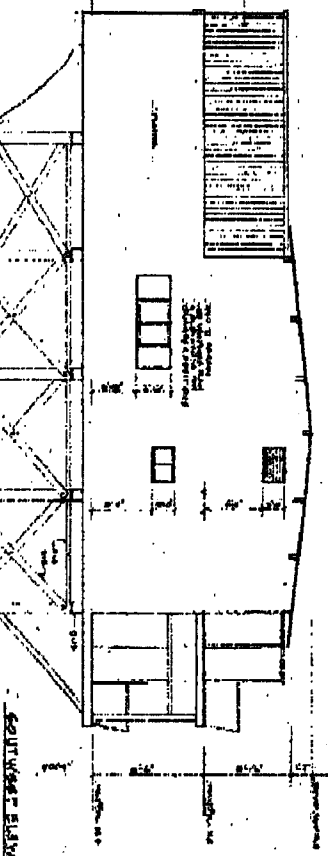
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FLOOR 1 TO FLOOR 2

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FLOOR 2 TO FLOOR 3

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FLOOR 3 TO FLOOR 4

NORTHWEST ELEVATION

NORTHWEST ELEVATION



SOUTHWEST ELEVATION

SOUTHEAST ELEVATION

EXHIBIT NO. 7
APPLICATION NO.
Culbert
4-99-113

OWNER Barnett Culbert 1000 1st St S. Orem 84405	DATE 10/1/88	BY [Signature]	PROJECT [Blank]	REVISIONS [Blank]	NOTES [Blank]	SCALE 1/4" = 1'-0"	AS SHOWN [Blank]
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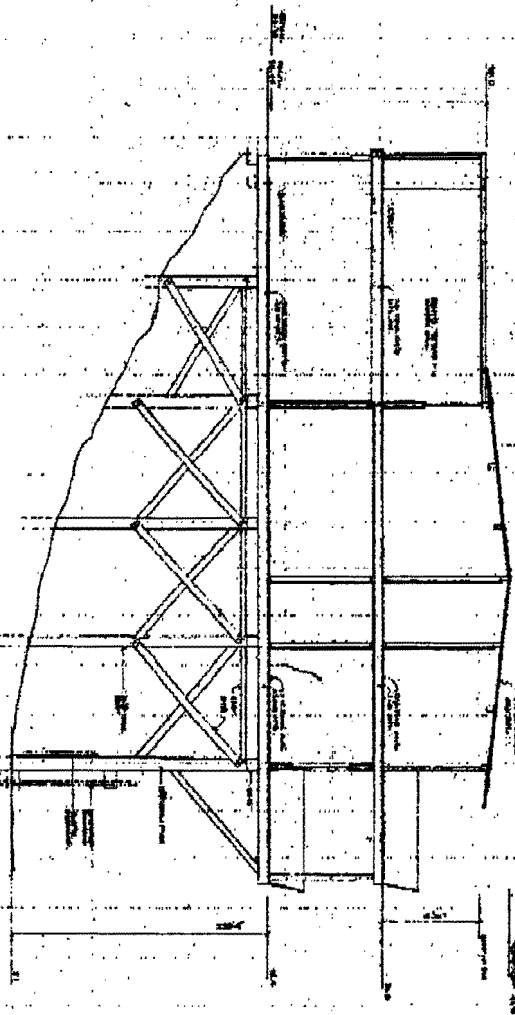
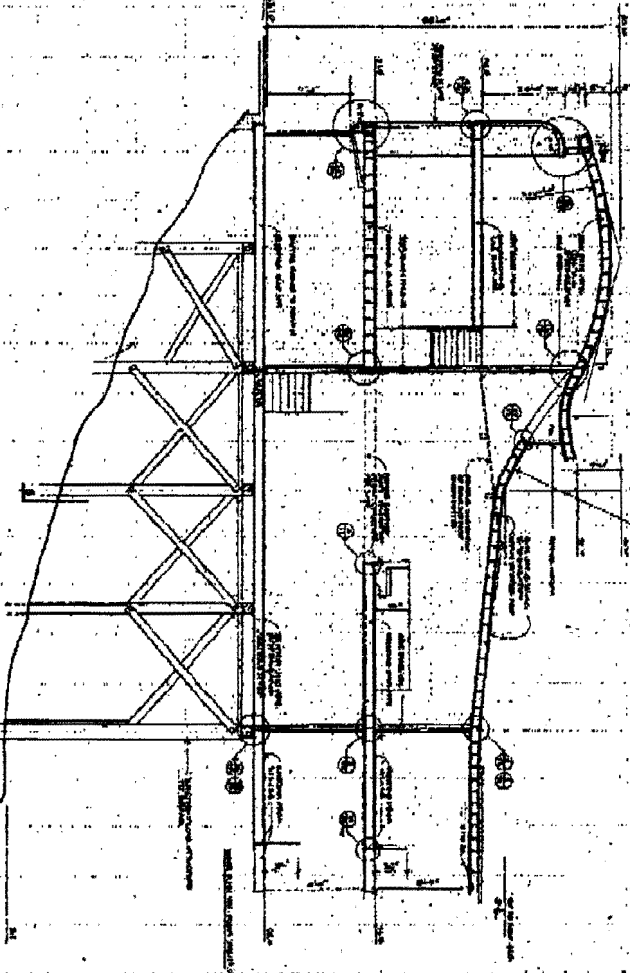
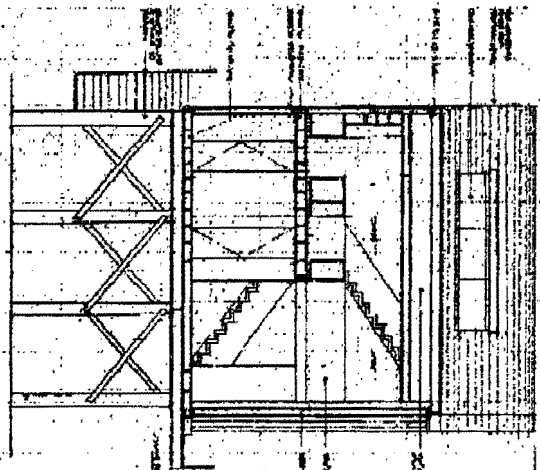
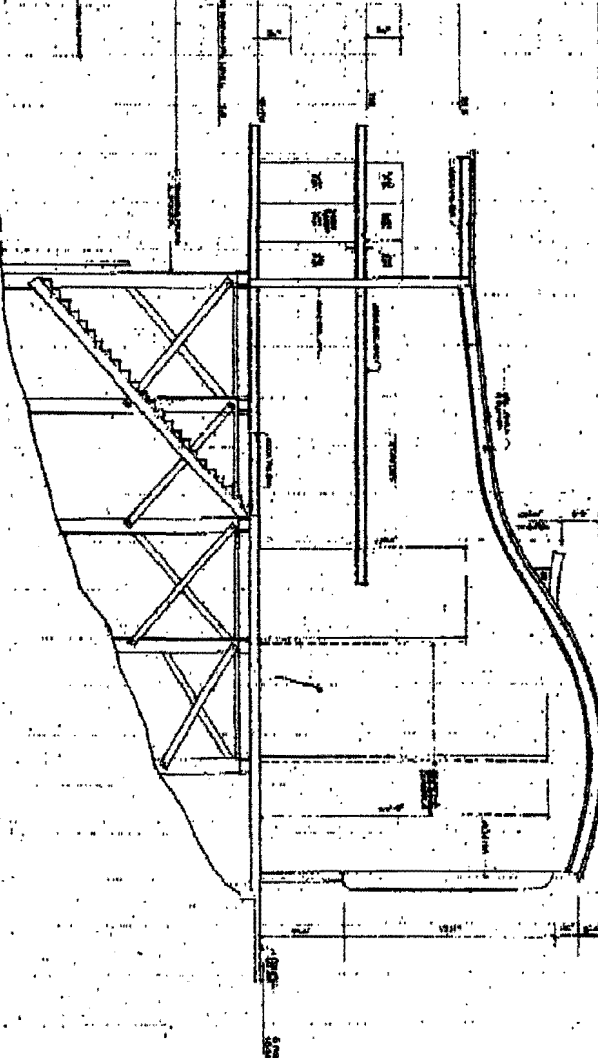
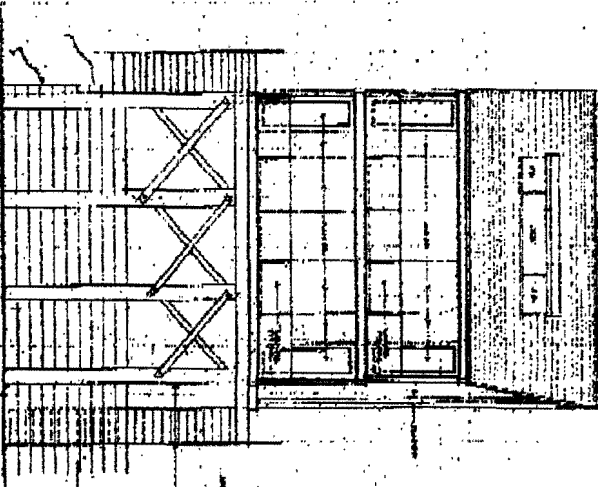
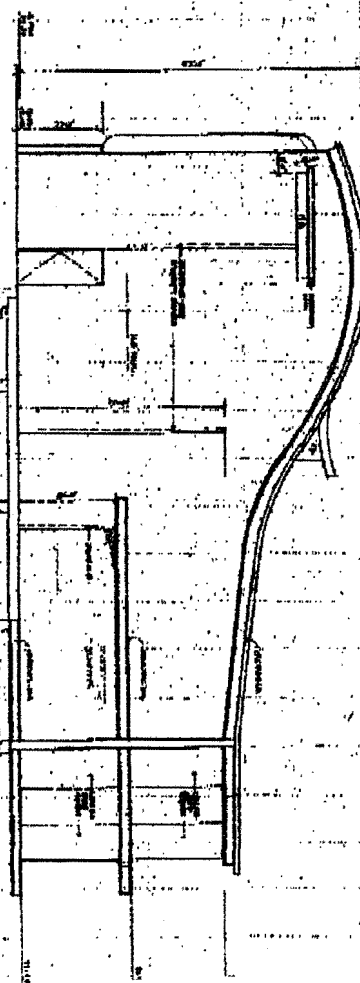
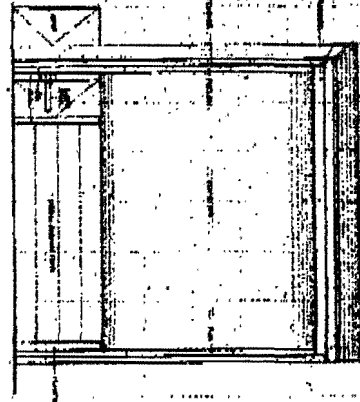


EXHIBIT NO. 8
APPLICATION NO.
Culbert
4-99-113

Designer <b>Bernard Culbert</b> Licensed Professional Engineer License No. 10000	Date drawn 10/1/99	Scale 1/4" = 1'-0"	Drawing title EXISTING SECTION	Sheet No. 1 of 1
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NORTHEAST ELEVATION

SOUTHWEST ELEVATION

EXHIBIT NO. 9
APPLICATION NO.
Culbert
4-99-113

Drawn by Checked by Reviewed by	Scale 1/4" = 1'-0"	NOTES 1. See plan for location of building.	DATE 08-26-1999	BY 08:04	PROJECT Culbert	DATE 08-26-1999	BY 08:04
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