

CALIFORNIA COASTAL COMMISSION

4TH CENTRAL COAST AREA
 SOUTH CALIFORNIA ST., SUITE 200
 VENTURA, CA 93001
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 Staff: CAB
 Staff Report: 8/21/99
 Hearing Date: Sept. 14, 1999
 Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-99-127

APPLICANT: Hamid & Evleen Mishkan

PROJECT LOCATION: 21370 Rambla Vista, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of a new 3,255 sq. ft. single family residence (SFR), 42' feet in height, including four (4) parking spaces (two (2) covered, two (2) uncovered), septic system and 46 cu. yds. of grading (16 cut/30 fill).

Lot area:	5,663 sq. ft.
Building coverage:	1,880 sq. ft.
Pavement coverage:	680 sq. ft.
Landscape coverage:	3,103 sq. ft.
Parking spaces:	4

LOCAL APPROVALS RECEIVED: Approval in Concept City of Malibu Planning Department; Approval in Concept City of Malibu Environmental Health Department (Septic).

SUBSTANTIVE FILE DOCUMENTS: Preliminary Geologic and Soils Engineering Exploration by Koracs-Byer-Robertson Inc. dated 12/23/82, Updated Geologic and Soils Engineering Report by Robertson Geotechnical Inc. dated 8/1/88, Updated Engineering Geologic and Geotechnical Engineering Report by Robertson Geotechnical Inc., dated 3/27/98, City of Malibu Geology and Geotechnical Engineering Review Sheet dated 4/30/98; Addendum Report, Response to City of Malibu Geotechnical Review Sheet by Robertson Geotechnical Inc., dated 5/28/98; City of Malibu Geology and Geotechnical Review Sheet dated 6/15/98; Addendum Report No. 2, Additional Exploration, Fault Hazard Evaluation, Response to City of Malibu Review Sheet, dated 9/29/98; City of Malibu Geology and Geotechnical Engineering Review Sheet dated 10/22/98; Updated Report of Perk Test and Recommended Private Sewage Layout by Terra Technology & Instrumentation dated 3/4/99; Approval in Concept City of Malibu Environmental Health Department (Septic), dated 3/29/99.

Summary of Staff Recommendation

Staff recommends approval of the proposed project with five (5) Special Conditions regarding plans conforming to height modification, geologic recommendations, drainage plans, landscape and erosion control plans, and assumption of risk.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local governments having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. **Inspections.** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. **Special Conditions**

1. **Revised Plans**

Prior to issuance of the coastal development permit the applicant shall submit, for the review and approval of the Executive Director, revised project plans, which modify the height of the proposed residence, so that no point of the development exceeds 35 feet in height above the existing grade. Final project plans will remain subject to all conditions specified in this report.

Should the revised project plans, required by this condition, result in substantial changes in the proposed grading, as determined by the Executive Director, an amendment to the permit or new coastal development permit shall be required.

2. **Plans Conforming to Geologic Recommendation**

All recommendations contained in the Updated Engineering Geologic and Geotechnical Engineering Report by Robertson Geotechnical Inc., dated 3/27/98, and the subsequent Geologic and Geotechnical Engineering Addendum Report dated 5/28/98, and Addendum Report No.2 dated 9/29/98. In addition, recommendations contained in the Updated Report of Perk Test and Recommended Private Sewage Layout by Terra Technology & Instrumentation, dated 3/4/99, which refer to the septic system, shall be incorporated into all final design and construction, including foundations, grading and drainage. All plans must be reviewed and approved by the geologic consultant. Final plans for the private sewage disposal system must be reviewed and approved by the technological engineer, as being in conformance with the recommendations contained in the Updated Report of Perk Test and Recommended Private Sewage Layout by Terra Technology & Instrumentation, dated 3/4/99. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and

approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

3. Drainage Plans and Maintenance Responsibility

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the adjacent road, and all impervious surfaces on the subject parcel are collected and discharged in a manner which avoids ponding on the pad area, saturation of the underlying slope, and erosion on or off the subject site. The drainage and erosion control plan shall be implemented within 30 days of the applicant's receipt of the City of Malibu's issuance of the certificate of occupancy. By acceptance of this permit, the applicant agrees to maintain the drainage devices on a yearly basis in order to insure that the system functions properly. Should the devices fail or any erosion result from drainage from the project, the applicant or successor interests shall be responsible for any necessary repairs and restoration. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine whether an amendment or new coastal development permit is required to authorize such work.

4. Landscape, Irrigation and Monitoring Plan

A. Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a landscaping and irrigation plan designed by a licensed landscape architect. The landscape plans shall incorporate the following criteria:

- (1) The subject site, including the slope below the residence shall be planted and maintained for erosion control and visual enhancement purposes according to the final landscape plan approved by the Executive Director within ninety (90) days of the applicant's receipt of the Certificate of Occupancy from the City of Malibu. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary to provide such coverage. To minimize the need

for irrigation and to screen or soften the visual impact of development 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 Native 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 and shall be removed if present on the subject site downslope of the proposed residence. Irrigated lawn, turf, or groundcover planted within a 50 ft. radius (fuel modification zone) of the proposed residence shall be selected from the most drought tolerant species, subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains and the specific characteristics of the planting location under consideration. The plan shall include vertical elements, such as trees and shrubs, which partially screen the appearance of the proposed structure as viewed from Pacific Coast Highway. The plan shall minimize the application of water to the slope areas to the maximum extent feasible, shall minimize or eliminate the need for overhead sprinklers.

- (2) Plantings shall 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.
- (3) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate disposal site located outside the coastal zone or to a disposal site located within the coastal zone with an approved coastal permit.

B. Monitoring Plan

- (1) Five years from the date of the applicants' 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.
- (2) 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.

5. Assumption of Risk, Waiver of Liability, and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from fire, landsliding, earth movement, and erosion; (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 the 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, Background and Physical Setting

The applicant is proposing the construction of a new 3,255 sq. ft. single family residence (SFR), 42' ft. in height, as measured from the lowest point of existing grade (see Exhibit No. 7 showing west elevation), with four (4) parking spaces, two (2) covered and two (2) uncovered (see Exhibit No.'s 2-7). The project will require grading in the amount of 46 cubic yards (16 cut/30 fill).

The subject property is a small hillside lot located along the southern, downhill side of Rambla Vista, in a built out section of Malibu, known as the La Costa area, which consists of numerous single family residences (see Exhibit No.1). Slopes descend to the south from Rambla Vista Road at gradients ranging from about 2:1 to locally as steep as about 1 ¾:1. The site is underlain by fill, soil, terrace deposits and bedrock. The fill exists along the northern portion of the property along Rambla Vista. Vegetation consists of grasses with some shrubs near the toe of the slope. An apartment building is located on the property east of the subject site; a residence is under construction on the west. The property directly north, across the street is vacant and undeveloped.

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

Section 30253 of the Coastal Act mandates that new development provide for geologic stability and integrity and minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The applicant has submitted a number of Geologic and Geotechnical reports, some of which are in response to the City of Malibu's Geology and Geotechnical Review of the project. The Geologic and Geotechnical Report dated 9/29/98 confirms that the subject property is located north of the mapped trace of the Malibu Coast Fault. The Report indicated that a postulated fault trace crossing the upper (northern) portion of the lot was found. The Report states:

The postulated fault is likely a portion of the Malibu Coast Fault. The postulated fault trace crossing the property is not active. The postulated fault is not a hazard, and should not preclude safe development to the site.

With regards to slope stability, the Updated Engineering Geologic and Geotechnical Engineering Report dated 3/27/98 indicates that surficial materials on the subject site are creep prone and unstable. However, the Geologic and Geotechnical Report dated 5/28/98, further acknowledges and states the following with regards to fill and surficial soil stability on the site:

...both fill and soil on the slope are subject to creep, erosion, and surficial instability which is common in hillside areas and can be expected in the future. This has been considered in the foundation design advice. The risk of surficial instability should not preclude safe development of the site provided our recommendations are followed and foundations are designed to be independent of surficial materials. In addition construction will reduce the risk of surficial instability on the site by providing drainage control and covering the majority of the property with impermeable improvements which will drain back towards the street above.

The Geology and Geotechnical consultants conclude the 9/29/98 report with the following statement:

Based on the previous exploration, updated evaluations, and this fault hazard evaluation, it is the opinion of the undersigned that construction of the proposed hillside residence is feasible from a geologic and geotechnical engineering standpoint provided our advice and recommendations are made a part of the plans and are implemented during construction.

To ensure that such recommendations of the geotechnical consultants are incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by **Special Condition Two (2)**, to submit final project plans and designs certified by the geotechnical consultants as conforming to their recommendations.

The Commission also finds that minimization of site erosion, which will increase the geologic stability of the site, can be further enhanced, by the utilization of an adequate drainage system, and appropriate landscaping on the subject site. To ensure that adequate drainage is incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by **Special Condition Three (3)**, to submit drainage plans certified by the consulting geotechnical engineer as conforming to their recommendations. **Special Condition Four (4)** requires the applicant to prepare a landscape plan relying primarily upon drought tolerant locally native plants that, to the extent consistent with fuel modification requirements imposed by the County Fire Department, will enhance slope stability and control erosion. The deeply rooted native plant species provide superior erosion control when compared to non-native, or shallow rooted species requiring significant additional applications of irrigation water. Slope saturation from high volumes of applied water can lead to site instability and erosion.

Thus, if implemented, **Special Condition Four (4)** will enhance the geologic stability of the site.

The Commission notes that the La Costa area of Malibu is known for the active Calle del Barco and Rambla Pacifico landslides, and the specific site proposed by the applicant is of particularly steep relief. Staff finds that the conditions imposed upon the proposed project, will serve to minimize hazards associated with development on the subject site. However, the risks inherent in development of hillside residences in the Malibu/Santa Monica Mountains area, not only from wildfire, which has destroyed structures in La Costa in the past, but also from the risk of landslide, can never fully be eliminated. Therefore, The Commission can only approve the project if the applicant assumes the liability from the associated risks as required by **Special Condition Five (5)**. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will 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 and agrees to assume any liability for the same. Specifically, through acceptance of **Special Condition Five (5)**, the applicant agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area subject to the stated risks.

Therefore, The Commission finds that based on the findings of the geologic and geotechnical reports and other available evidence, the proposed project, as conditioned above, is consistent with Section 30253 of the Coastal Act.

C. Visual Impacts

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 subordinated to the character of its setting.

Section 30251 of the Coastal Act requires that visual qualities of coastal areas shall be considered and protected and that where feasible, degraded areas shall be enhanced and restored.

The applicant is proposing the construction of a new 3,255 sq. ft. single family residence (SFR), which is 42' feet in height, as measured from the lowest point of existing grade (see Exhibit No. 7 showing west elevation). The proposed project is located in the La Costa neighborhood, a built-out section of Malibu consisting of numerous single family residences. The subject site is surrounded by existing reconstructed residences previously burned by the 1993 Malibu fire. The Commission notes that while many of these homes exceed 35 feet in height, these homes are considered exempt from Coastal permitting requirements under Coastal Act Section 30610(g), as disaster re-builds, and therefore did not receive the benefit of Coastal Commission review and/or approval.

Section 30251 of the Coastal Act mandates that new development be sited and designed to protect views to and along the ocean and scenic coastal areas. In addition to Section 30251 of the Coastal Act, the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) includes several policies and standards regarding visual resources. These policies have been certified as consistent with the Coastal Act, and used as guidance by the Commission in numerous past permit actions. Policy P138b states that:

Buildings located outside of the Malibu Civic Center shall not exceed three (3) stories in height, or 35 feet above the existing grade, whichever is less.

The project site is visible from Pacific Coast Highway. Therefore, in order to ensure that new development, as seen from Pacific Coast Highway, a major, scenic coastal transportation corridor, is designed to minimize the visual impacts inherent in new development; staff finds it necessary to impose **Special Condition One (1)**, which requires the applicant to comply with the maximum height standard, set forth in the certified Malibu LUP.

Additionally, staff finds that visual impacts associated with the proposed project will be further minimized by requiring the slope area seaward of the residence to be adequately landscaped with a palette of mostly native plant species and vertical landscape elements, pursuant to the requirements of **Special Condition Four (4)**. The Commission finds therefore, that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

D. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and

geologic hazards in the local area. The Coastal Act includes policies to provide for adequate infrastructure including waste disposal systems. 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.

Section 30250(a) of the Coastal Act states in part that:

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

The proposed development includes constructing a new septic system for the new residence to provide for adequate sewage disposal. The applicant has submitted a report from the technological engineering consultant, Terra Technology & Instrumentation, specifically addressing the proposed location of the new system. The consultant concludes the following:

In our opinion, the effluent from the private sewage disposal system developed according to the recommendations provided herein will not cause any instability either for the subject property or for any neighboring property.

Special Condition Two (2) requires the applicant to submit final plans, which include the private sewage disposal system, that have been approved by the consulting technological engineer as conforming substantially to the recommendations contained in the above referenced report by Terra Technology & Instrumentation, dated 3/4/99.

The applicant has also submitted a conceptual approval for the sewage disposal from the Department of Environmental Health Services, City of Malibu, dated 3/29/99. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the City of Malibu Plumbing Code.

The City of Malibu Uniform Plumbing Code and minimum health code standards have been found by the Commission to be protective of coastal resources and take into consideration the percolation capacity of soils along the coastline, the depth to groundwater, etc. The Commission has found in past permit actions that compliance with

Therefore, the Commission finds that the proposed septic system, subject to compliance with **Special Condition No. 2**, is consistent with Sections 30231 and 30250 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 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 of Malibu's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

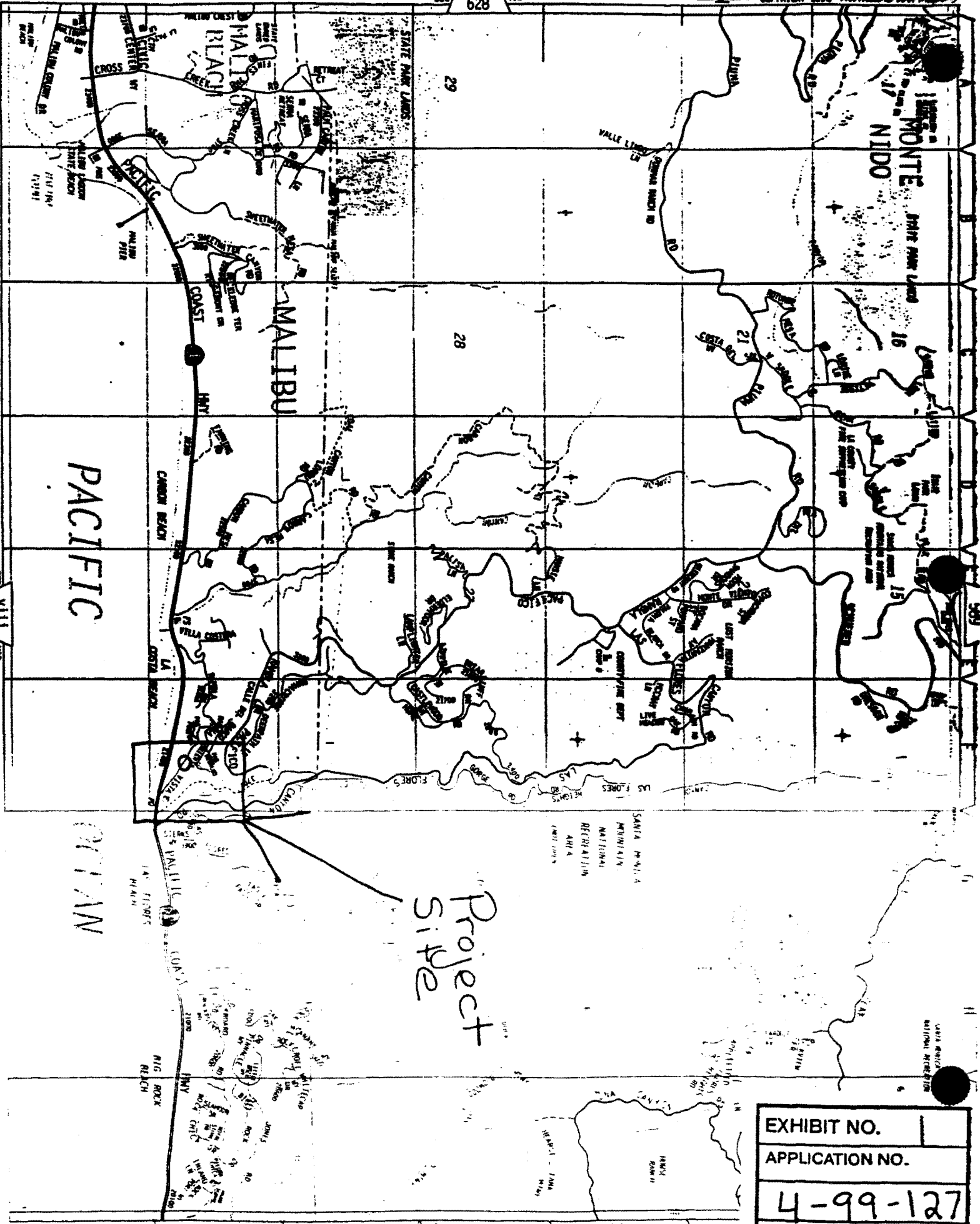
F. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) 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 impact which the activity may have on the environment.

The proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970.

The proposed project, as conditioned will not have 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 determined to be consistent with CEQA and the policies of the Coastal Act.

CAB-VNT



Project Site

EXHIBIT NO.	1
APPLICATION NO.	4-99-127

APPROVED: [Signature] DATE: 10/15/99

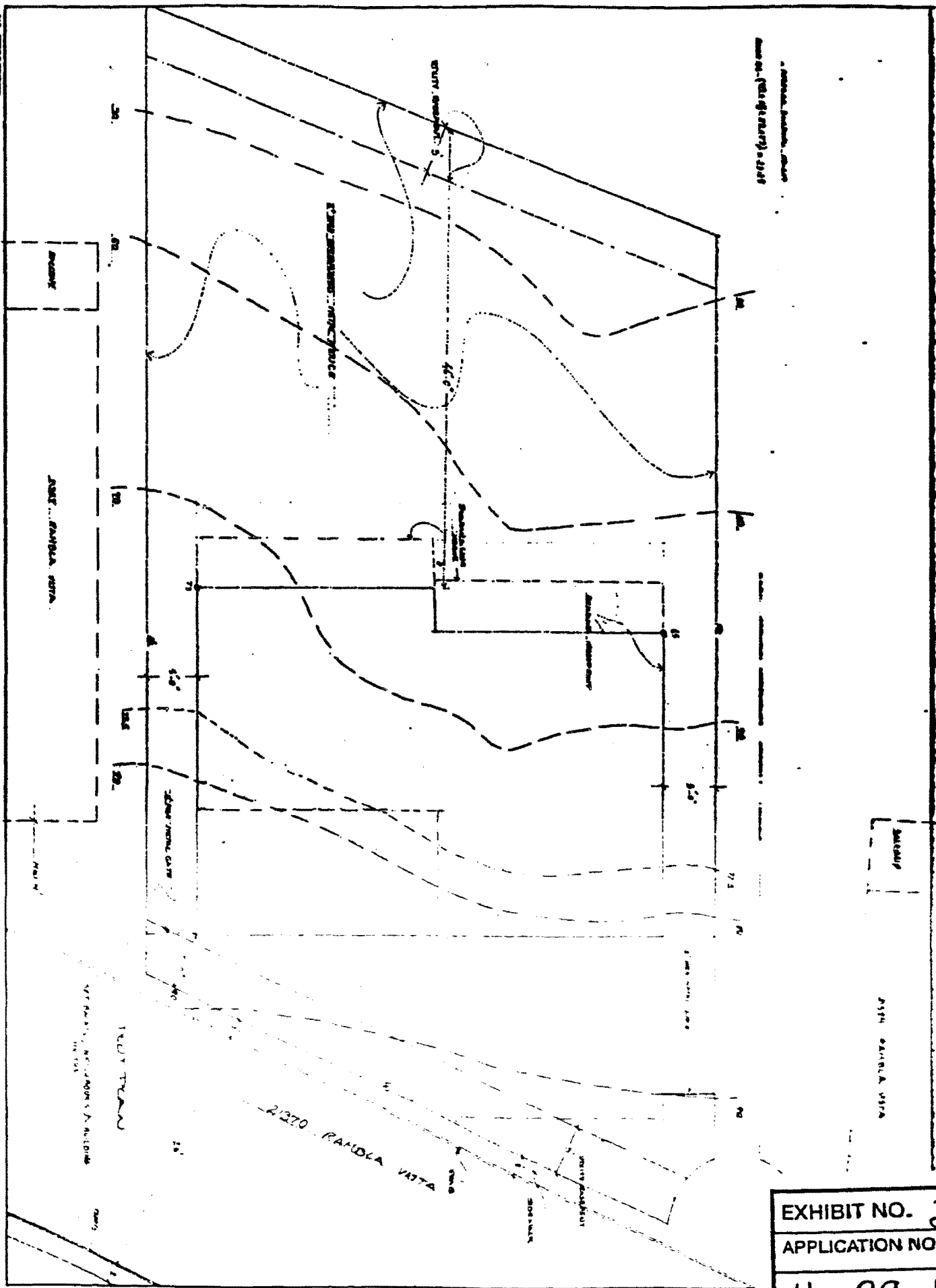


EXHIBIT NO. 2
 APPLICATION NO.
 4-99-12

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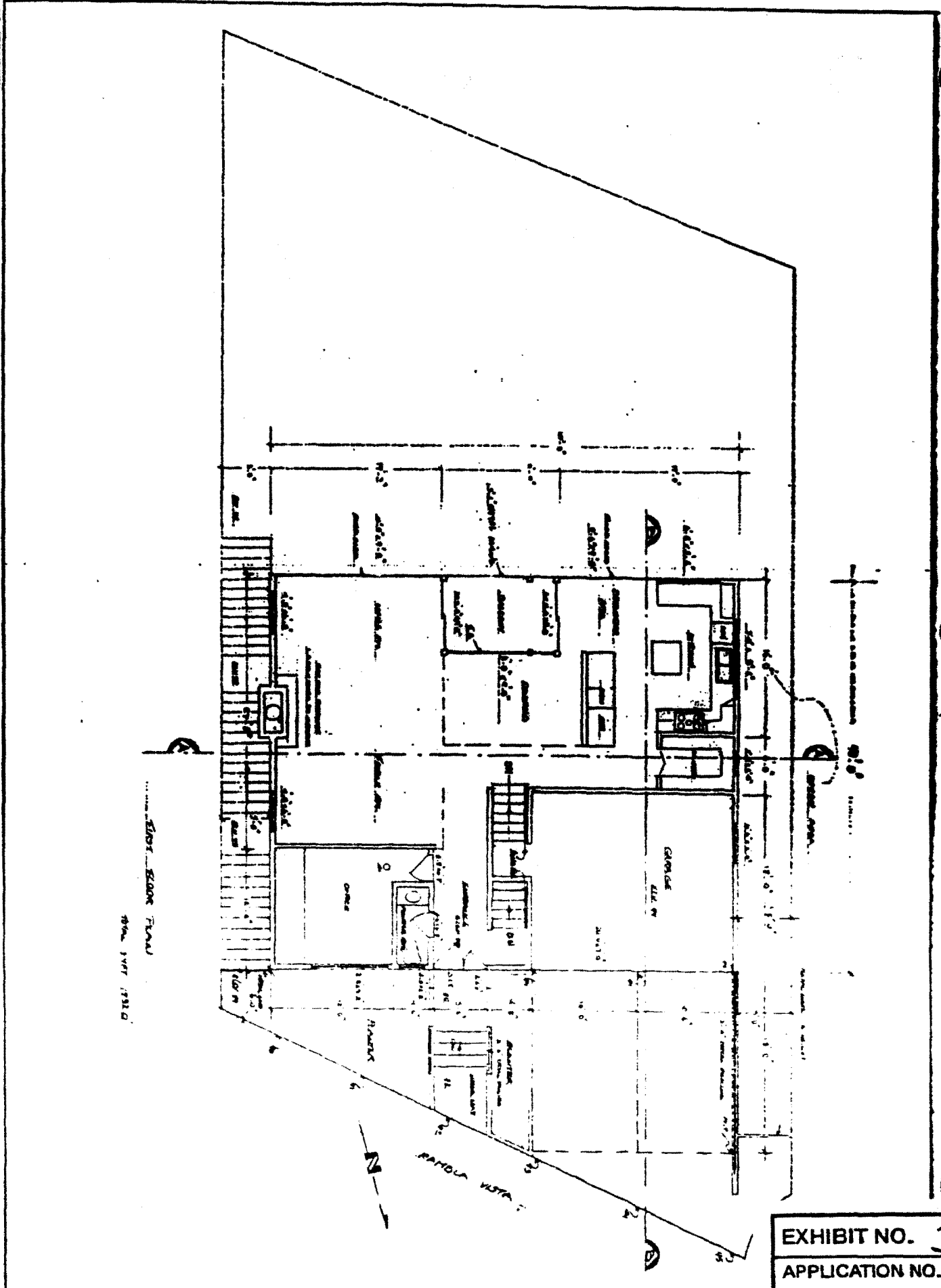


EXHIBIT NO. 3

APPLICATION NO.

4-99-127

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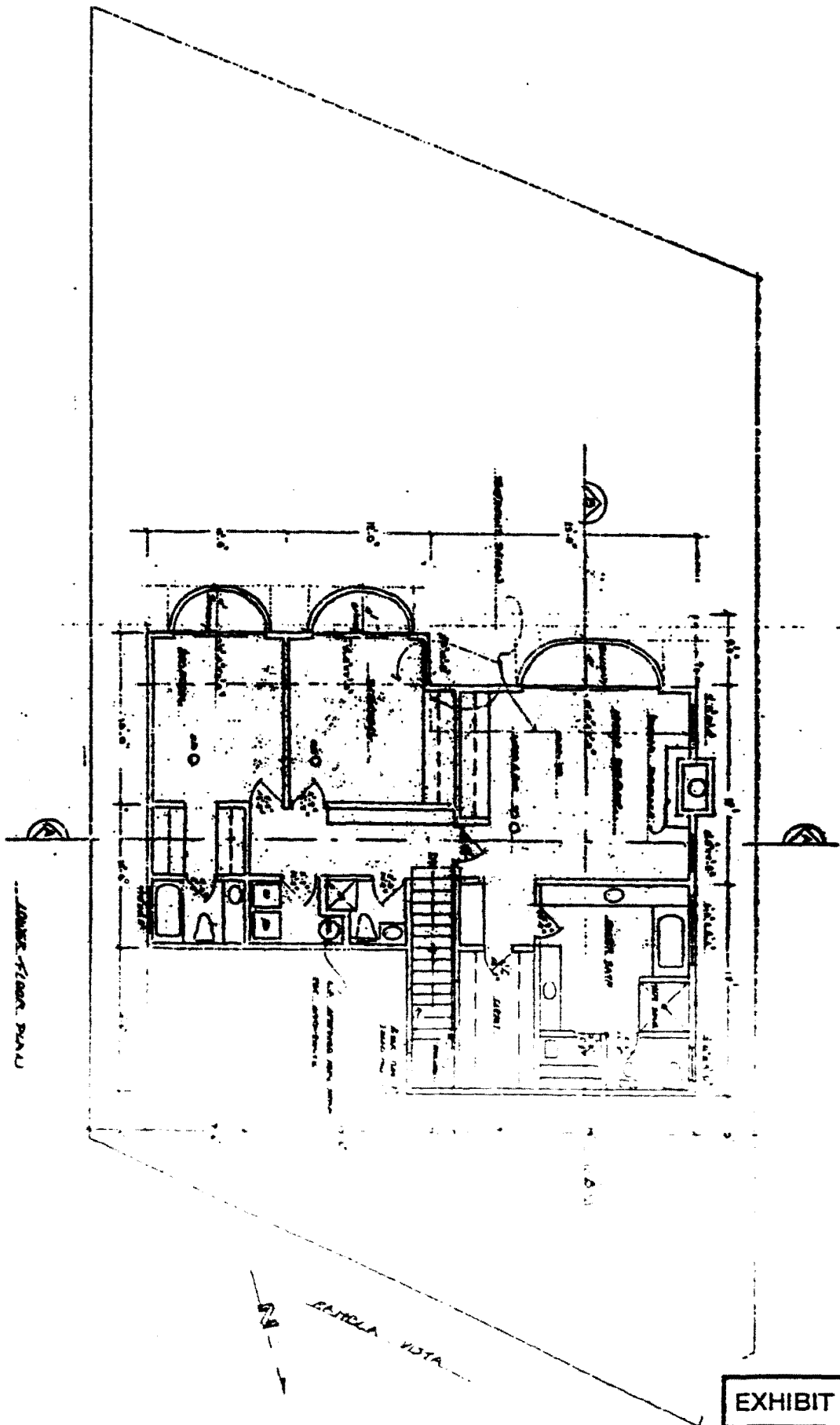


EXHIBIT NO. 4

APPLICATION NO.

4-99-127

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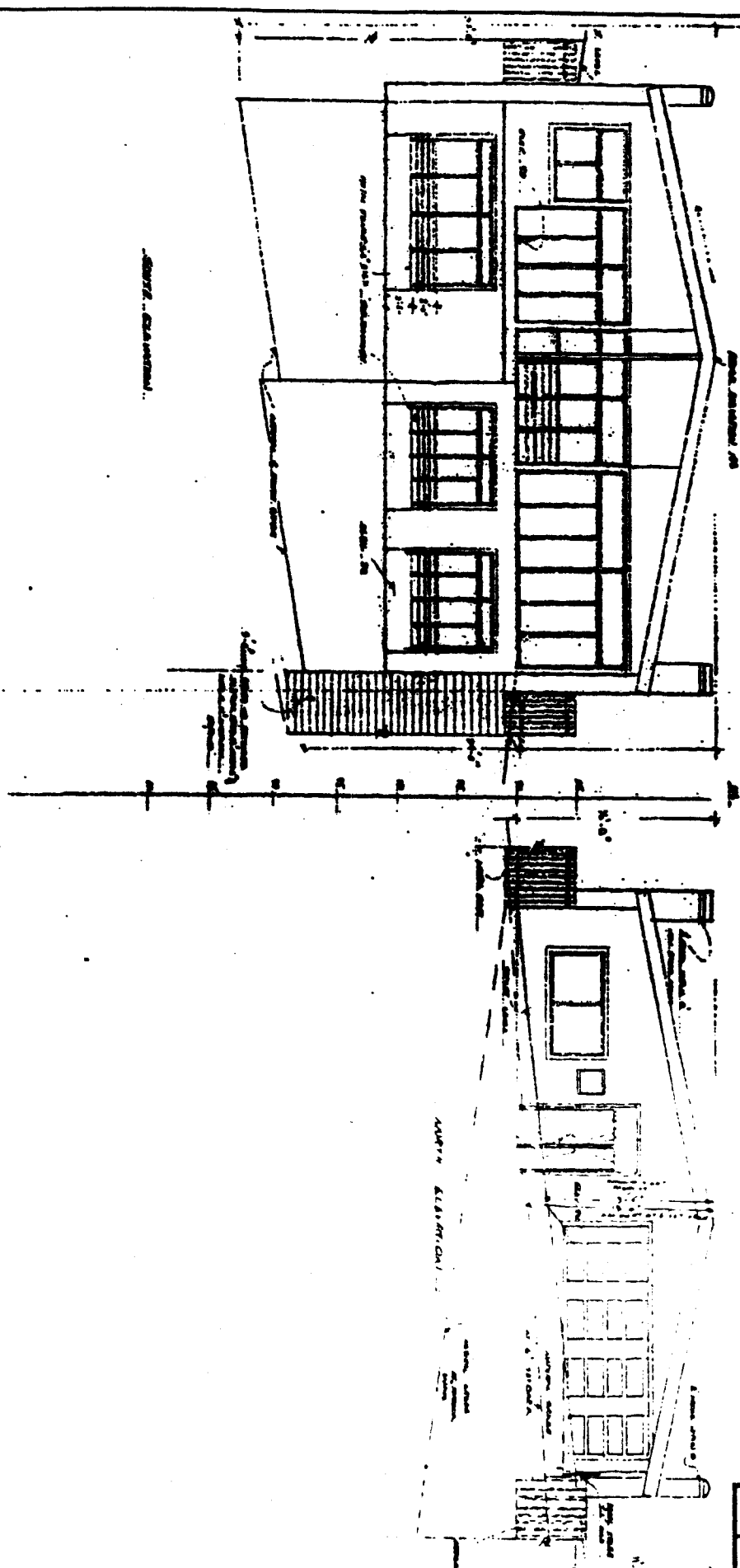


EXHIBIT NO. 5

APPLICATION NO.

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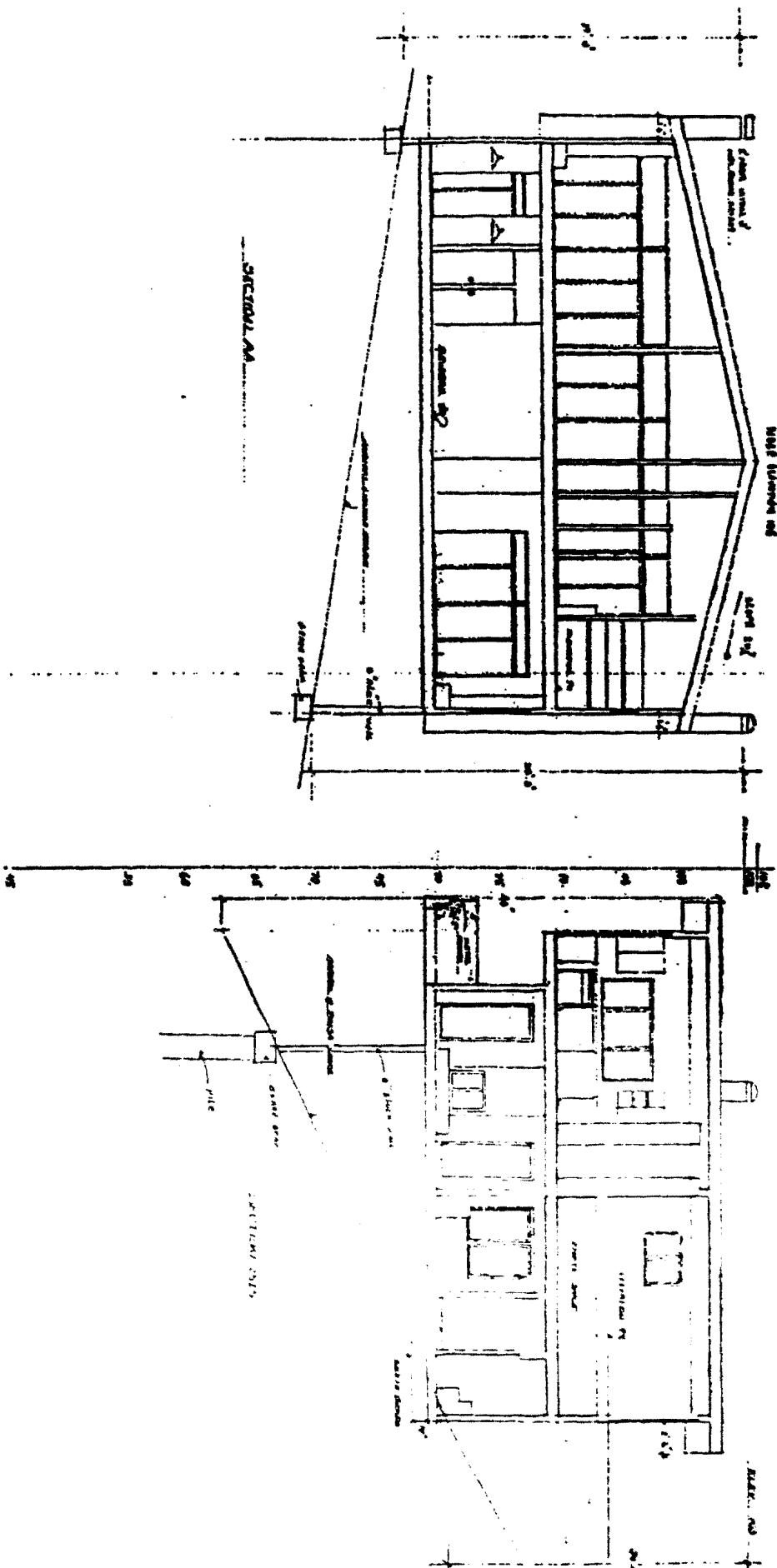


EXHIBIT NO. 6
 APPLICATION NO.
 4-99-12

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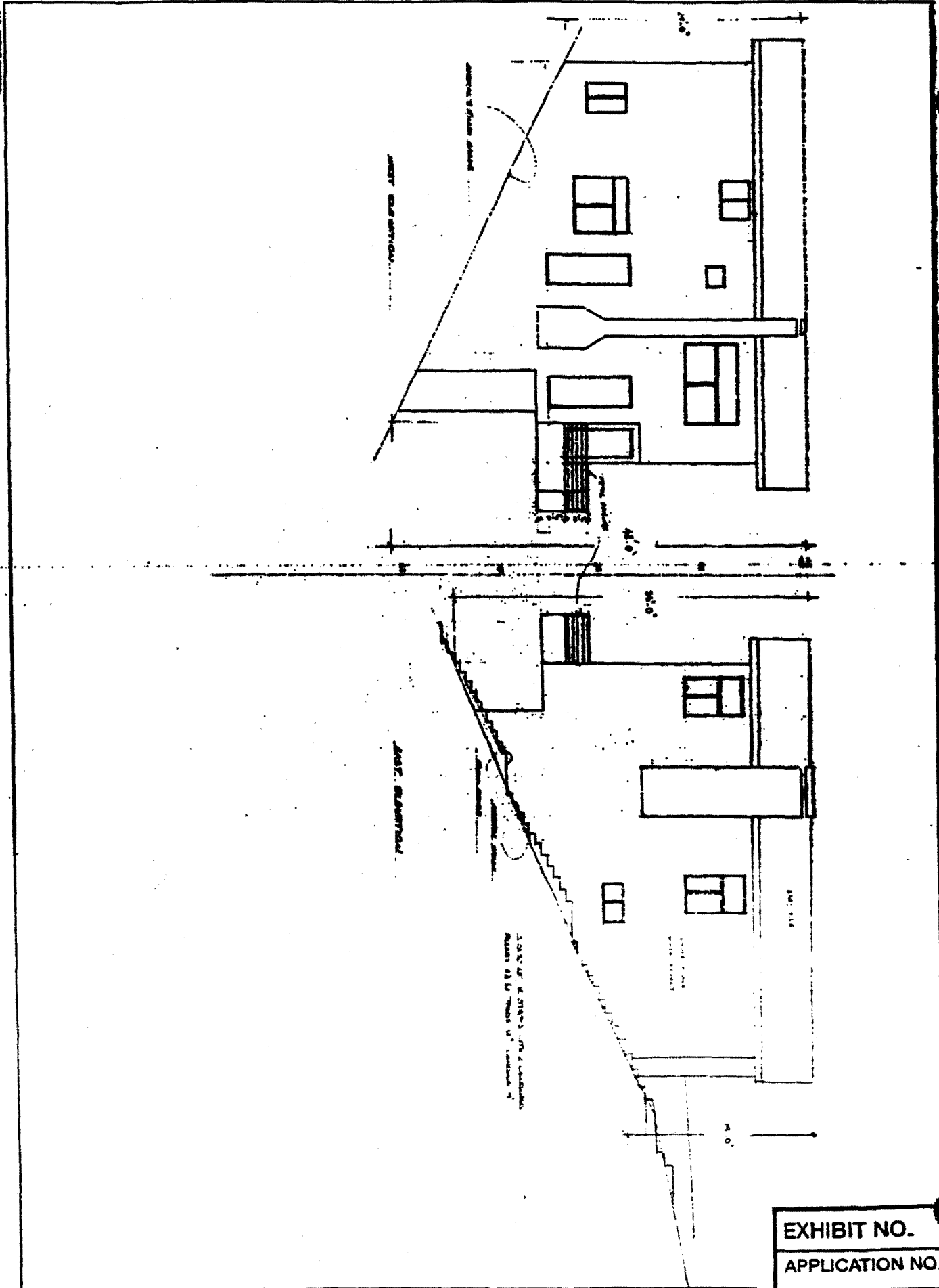


EXHIBIT NO.
 APPLICATION NO.
 4-99-127

At
 11-5-17