

**CALIFORNIA COASTAL COMMISSION**

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

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Hearing Date: 11/17/00  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-00-021

**APPLICANT:** Ralph Herzig, Ph.D. **AGENT:** Skylar Brown

**PROJECT LOCATION:** 21200 & 21202 Pacific Coast Hwy., Malibu, Los Angeles Co.

**PROJECT DESCRIPTION:** Construct eight two-story, 27. ft. high above existing grade residential condominium units (including stairway to beach), including lot line adjustment between two adjacent beachfront lots, flood control improvements, seawall, 29 paved parking spaces, septic disposal system, demolish and remove residual debris from foundation of previously burned structure, and 1,000 cu. yds. of grading (all cut and export). The proposed project is residential development of beachfront lands presently designated for Visitor-Serving Commercial use in the certified Malibu/Santa Monica Mountains Local Coastal Program.

<b>Lot area (total, both lots):</b>	30,570 sq. ft.
<b>Building coverage:</b>	8,826 sq. ft.
<b>Pavement coverage:</b>	4,282 sq. ft.
<b>Landscape coverage:</b>	772 sq. ft.
<b>Parking spaces:</b>	27 enclosed; 2 guest

**LOCAL APPROVALS RECEIVED:** City of Malibu approvals include General Plan and General Plan Land Use Map Amendment 96-001 (with Negative Declaration 96-009) and Rezoning and Zoning Map Amendment 96-002, July 22, 1996, Lot Line Adjustment 98-010 approved January 19, 1999, and Planning Department Approval-In-Concept for subject proposal, including Plot Plan Reviews 99-183 and -184, Conditional Use Permit 99-004 and -005, and Negative Declaration 99-013 and -014, all cited in planning approval-in-concept dated November 16, 1999, and Environmental Health Department septic approval-in-concept dated October 14, 1999.

**SUBSTANTIVE FILE DOCUMENTS:** Los Angeles County's certified Malibu/Santa Monica Mountains Land Use Plan; City of Malibu Economic Plan, prepared by Applied Development Economics, dated March 2000; City of Malibu Interim Zoning Ordinance (Malibu Municipal Code, dated September 30, 1998); State Lands Commission letter of review dated February 17, 2000 (File Ref: SD 98-09-22.2); Report of Geotechnical Investigation for Proposed Residence, 21202 Pacific Coast Highway," prepared by Law

Crandall, dated August 4, 1999; Coastal Development Permits P-75-6353 (Hall), P-79-4918 (Felina's), 4-96-009 (Polos).

### **STAFF SUMMARY**

Staff recommends **denial** of the proposed project. The project is for the construction of a multi-unit residential condominium project on lands presently designated for visitor serving commercial use in Los Angeles County's certified Malibu/Santa Monica Mountains Local Coastal Program. The City of Malibu has redesignated and rezoned the subject site, which contains dedicated vertical and lateral public access easements owned by the State Coastal Conservancy, from visitor-serving commercial to multi-family residential. The City's actions, however, have not been certified by the Coastal Commission. Most importantly, the land use changes adopted by the City reduce and possibly eliminate the small remaining stock of undeveloped beachfront lands designated for visitor serving commercial use within the City of Malibu.

Since incorporating in 1991, Malibu has eliminated visitor-serving commercial sites and discouraged any form of new development that would attract or serve non-resident coastal visitors. Staff knows of no case where the City has reversed this trend by designating or zoning lands previously identified for residential or general commercial/industrial development to visitor serving commercial use anywhere within the city limits, with the sole exception of 4 acres of non-beachfront land north of Pacific Coast Highway, along Las Flores Creek. The City purchased these lands (and proposes to construct a park<sup>1</sup>) because the parcels are situated within the flood hazard area of Las Flores Creek and cannot be safely developed for residential use. Yet even in this case, the lands are not suitable or zoned for visitor-serving commercial. A neighborhood park situated away from Pacific Coast Highway would be more likely to

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<sup>1</sup>The City tentatively proposes to develop a park on the acquired acreage, which conceptually will include an interpretive center, amphitheater, equestrian trails, footpaths, picnic areas, and parking. The City notified Commission staff that the downstream flood control improvements (primarily the widening of the Las Flores Creek channel) proposed by the applicant would reduce the risk of upstream flooding, thereby providing a benefit for the proposed park. The City supported the applicant's claim that because the residential development of the applicant's property would include flood control improvements that would partially facilitate the development of a park elsewhere, and because coastal visitors could use the eventual park, the applicant's project should be considered a net benefit to coastal visitors. The staff notes that the flood control improvements associated with the applicant's proposed project alone would not achieve significant changes to the Las Flores Creek floodwater capacity until or unless Caltrans also undertakes the replacement and widening of the Pacific Coast Highway bridge over Las Flores Creek, adjacent to the proposed project site. Caltrans is not presently proposing these improvements and the applicant is not proposing to fund and undertake the bridge replacement as part of the subject proposal.

serve as a local resource, which is different from the visitor-serving commercial use given priority under the Coastal Act.

The Commission has consistently expressed the view that adequate lands and opportunities for public access and recreation to the beaches, trails, and other coastal recreation amenities in the Malibu area must be provided, consistent with the requirements of the Coastal Act. The Commission's support for the preservation of visitor-serving commercial land stock arises from the requirements of Section 30222 of the Coastal Act, among other applicable policies. Section 30222 requires that lands suitable for visitor or recreation-serving commercial use be protected for such use—particularly in preference to residential or other general commercial/industrial use:

**Section 30222 of the Coastal Act:**

**The use of private lands suitable for visitor-serving commercial recreation facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.**

These requirements are echoed in Policies 18b and 18c of the certified Malibu/Santa Monica Mountains LUP. Policy 18b provides that lower cost recreation and visitor-serving facilities shall be protected, expanded and where feasible provided. Policy 18c provides that visitor-serving facilities shall have priority over private residential, general industrial, or general commercial development on land suitable for visitor-serving commercial or residential facilities.

As noted, the City has a history of converting lands designated for visitor serving commercial use to residential use or to other forms of non-visitor-serving commercial use. As discussed further in the staff report, City documents completed as recently as last spring continue to set forth the City's position that no new hotels or other overnight visitor accommodations will be encouraged or approved within the City. Excerpts from the City's Economic Plan (March 2000), prepared by Applied Development Economics, clearly state the City's opposition to visitor-serving commercial uses such as hotels and bed-and-breakfast accommodations, despite demographic data indicating the presence of significant existing and potential demands for additional rooms now and in the future. The Malibu Economic Plan states in part:

**The Visitor Market: The City of Malibu's leadership does not want the community to become a visitor destination. However, the city's beaches attracted 8.8 million visitors in 1999 even without a visitor center and with a limited supply of only 135 hotel or motel rooms. This limited lodging supply decreases local revenues significantly. Despite the community's desire to retain Malibu as a quiet beach town, its location makes it a major destination for visitors living elsewhere in southern California.**

... Since incorporation...the city government halted the development of all proposed visitor lodging facilities.

... The City of Malibu's leadership has indicated no desire to transform the community into a visitor destination. The community has expressed its desire to discourage additional visitors in a couple (of) different ways during the past five years. First, a Chamber of Commerce proposal to develop a visitor center at PCH was not supported by the City Council, although a more limited facility as part of the existing Bluff Park facility might have received more support. Currently, this leaves visitors without a central place to stop for information on recreation and shopping opportunities. Second, the City Council and a large group of vocal residents have opposed new hotels out of concerns that additional overnight lodging facilities will attract more visitors to Malibu.

...Despite the community's desire to retain Malibu as a private residential retreat, the beaches are a major destination that attracted 8.8 million visitors in 1999... In fact, throughout the 1990s Malibu beaches attracted between 6.7 and 9.8 million annual visitors.

**Future of New Hotels in Malibu:** Malibu has only six overnight lodging facilities with 135 rooms for rent in Malibu. Despite the fiscal benefits of new lodging facilities, the community wants visitors to go home at night. Thus, no new visitor lodging projects have been approved since the 1991 incorporation. Moreover, there has been no effort to even study the market demand for lodging facilities.

... any additional expansion of overnight lodging facilities is unlikely to be approved by the community's leadership. (staff note: this does not refer to two projects "in the pipeline" - the Adamson Hotel proposed for 106 rooms, and the Beau Rivage bed and breakfast, proposed for 32 rooms)

As an example, Item 8a on the Commission's Friday, November 17 agenda proposes the construction of a self-storage facility on a 7-acre site of which more than half was previously designated for Recreation-Serving Commercial. The City redesignated and rezoned this property from a recreation-serving commercial use to a designation and zoning necessary to authorize use of the site for local self-storage facilities.

Staff notes that the City has redesignated and rezoned lands formerly earmarked for visitor serving or recreational use in a piecemeal fashion without undertaking any substantive planning studies of the demand for such land uses within the City. As the authors of the City's March 2000 Economic Development Plan state, "... **there has been no effort (by the City of Malibu) to even study the market demand for lodging facilities.**" Still, with an annual coastal visitorship of over 8 million, a total stock of 263 rooms (135 built, 128 proposed) appears inadequate to satisfy the existing and potential demand for visitor accommodations.

In September, 2000 California Governor Gray Davis signed into law Assembly Bill 988 (Hertzberg-Burton), which requires the Coastal Commission to certify a Land Use Plan for the City of Malibu in January, 2002 and to fully certify a Local Coastal Program for the City of Malibu by September 15, 2002. In response, the Commission staff has commenced the preparation of a Land Use Plan for the City of Malibu, which will be reviewed and certified by the Commission during the next year. The matter of visitor serving commercial uses will be addressed in a comprehensive manner by the planning process that is underway. Thus, through the certification process the Commission will soon have the opportunity to fully review the issue of providing for visitor-serving commercial uses within the City of Malibu. Staff recommends that at a minimum the Commission certify the Land Use Plan—if not the complete Local Coastal Program—before making a decision as to whether the applicant's beachfront parcels should be converted from visitor-serving commercial to residential use.

Staff further notes that in addition to designation for visitor-serving use, the subject site also contains both vertical and lateral access easements previously accepted by the State Coastal Conservancy, and thus in perpetual public ownership. Thus, the site contains a coastal access resource in public ownership. The staff cannot determine that it is consistent with the Chapter 3 policies of the Coastal Act to approve conversion of these parcels to residential use in light of these resources, and in consideration of the City's lack of evaluation of the impact of the proposed conversion on the availability and sufficiency of other sites in Malibu to satisfy the need for visitor-serving facilities.

Thus, to diminish the supply of visitor-serving commercial lands prior to the culmination of the pending LCP certification would prejudice the City's and the Commission's ability to prepare and certify a Local Coastal Program pursuant to the requirements of AB 988, and the requirements of Coastal Act Section 30604 which states:

**Section 30604 (in pertinent part):**

- 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 coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).**

Under AB 988, the responsibility for preparing a local coastal program that is in conformity with the provisions of Chapter 3 of the Coastal Act, which includes Section 30222 of the Coastal Act, among others, is transferred to the Coastal Commission. Therefore, because the Commission may determine in the course of certifying the forthcoming LCP that the subject lands must remain designated for visitor serving commercial use, approval at this time of a coastal development permit to convert the

subject lands from the existing visitor serving commercial designation to multi-family residential use, would be prejudicial (see Section 30604 of the Coastal Act cited above).

## **I. STAFF RECOMMENDATION:**

**MOTION:**        *I move that the Commission approve Coastal Development Permit No. 4-99-021 for the development proposed by the applicant.*

## **STAFF RECOMMENDATION OF DENIAL:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of the majority of the Commissioners present.

## **RESOLUTION TO DENY THE PERMIT:**

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will 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. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

## **IV. Findings and Declarations**

The Commission hereby finds and declares:

### **A. Project Description and Background**

The proposed site, which the applicant states has been vacant since 1978, previously contained unoccupied structures that burned to the ground in the Malibu fires of 1993. The site is located south of Pacific Coast Highway, on beachfront property bounded on the upcoast (westward) side by a gasoline service station and strip of condominiums, and on the downcoast side by a channelized portion of Las Flores Creek. The site marks the boundary between La Costa Beach to the west (upcoast) and Las Flores Beach to the east (downcoast). The two parcels comprising the site include a channelized portion of Las Flores Creek, and two vertical and two lateral public access easements (see Exhibit 11) – one set of which is owned by the State Coastal Conservancy.

The proposed project includes the construction of two, 2-story, 4-unit, 27. ft. high above existing grade residential condominium units ranging from two to three bedrooms each, for a total of 8 condominium units, access stairs to the beach, a lot line adjustment between the two adjacent parcels that comprise the project site, the construction of flood control improvements to the adjacent bank of Las Flores Creek, a seawall, 29 paved parking spaces (27 enclosed), a new septic disposal system, the demolition and removal of residual debris from the foundation, concrete walls, and timbers of the previously burned structure, and 1,000 cubic yards of grading (all cut and export). The applicant proposes to retain a residual rock revetment along the southerly portion of the subject site.

The proposed project is located on two adjacent lots totaling 30,570 sq. ft. (about three-fourths of an acre). The lots comprise an irregular, triangular location divided unevenly between the two parcels. Parcel 1, the westernmost of the two (upcoast) is 17,820 sq. ft. (15,400 net sq. ft.) Parcel 2, the downcoast parcel to the east of Parcel 1, is 12,750 sq. ft. (9,220 net sq. ft.).

The downcoast parcel includes a channelized portion of Las Flores Creek and two vertical beach accessways. Two lateral beach accessways traverse the southerly portion of the two parcels. The State Coastal Conservancy owns one set of vertical and lateral accessways (originating as offers to dedicate public access pursuant to CDP P-79-4918- Felina's, as shown on Exhibit 11). Commission staff has observed that these accessways are used by the public for fishing and surfing access to the beach and intertidal area. In addition, in response to the posted notice of pending development on site, members of the nonprofit CoastWalk organization contacted the Commission's Statewide Coastal Access Coordinator, Linda Locklin, to reaffirm that the public access easements on the subject site are part of the Coastal Trail and are used during the annual statewide CoastWalk event as well as at other times of the year.

The proposed project includes measures to widen Las Flores Creek channel, in the area of the public accessways (there is a vertical access easement on each side of Las Flores Creek, on the eastwardmost parcel). The applicant states that the flood control improvements will not interfere with the public easements, and that the portion of the proposed project that overlaps the nearest vertical accessway will be cantilevered over the accessway and stream channel via above-grade construction on caissons. The applicant states that the flood control improvements will make the stream channel wider yet will not interfere with the accessways. The proposed plans do not include final plans for the flood control improvements, nor do the conceptual plans include any details of the relationship between the public accessways and the flood control improvements. If the Commission had approved the project, revised plans incorporating such details would have been required prior to issuance of the permit. Among other things, the revised plans would have been required to show the accessway in relation to such flood control improvements, and verification by the consulting civil engineer that the accessways would be protected.

The portion of Las Flores Creek within the applicant's property is both channelized and highly disturbed and does not support riparian habitat. The proposed project would not be likely to impact Environmentally Sensitive Habitat Areas, however, had the project been approved by the Commission, preconstruction surveys for the endangered Tidewater Goby would have been necessary, and if fish were present, mitigation measures such as sediment control required.

As noted above, the applicant proposes to adjust the line between the two parcels to facilitate City approval of the project (the lot line adjustment was approved by the City on January 19, 1999, pursuant to Lot Line Adjustment No. 98-010). The City has rezoned the subject parcels from visitor serving commercial use to multi-family beachfront residential, with a 4 unit/lot (not per acre) maximum. The applicant states that 4 units could have been constructed on each parcel without resorting to the proposed lot line adjustment, including the highly constrained easternmost parcel containing Las Flores Creek and two vertical access easements. The applicant has not demonstrated how such development could be undertaken, including the necessary parking, without the lot line adjustment. It is possible that Commission approval of the lot line adjustment, contrary to the present recommendation of denial, would result in intensified development of the subject parcels for residential use. The applicant has the right to rebuild the restaurant and hotel that burned to the ground years ago, but the applicant has no grandfathered rights to residential development of the subject site.

In addition, if the Commission elected to approve the subject proposal, an alternatives analysis to evaluate a revised proposal that would result in landward relocation of the proposed septic disposal system (see Exhibit 3), thereby potentially facilitating the further landward location of the proposed bulkhead, would be necessary to ensure that potential impacts of the proposal on shoreline processes are minimized.

Further, the Commission notes that the subject proposal relies on deck and structural stringlines that reflect baseline measurements from beachfront multifamily units on the upcoast side and Duke's restaurant on the downcoast side of the site. The Commission finds that these stringlines are not the appropriate line for determining the approvable seaward extent of development in the subject area. As can be seen in the vicinity map shown in Exhibit 1, the site is located on the boundary of La Costa and Las Flores beaches, on a point that juts significantly seaward from the nearby areas. The Commission has noted in past deliberations and actions that the stringline used to evaluate infill development does not bind the Commission in anomalous circumstances where the use of the stringline measured from the nearest applicable adjacent corners of development on neighboring lots encourages the seaward location of development as opposed to simple infill development.

Nevertheless, the primary concern of the Commission, and the overarching basis for denial of the subject proposal, is that the project converts one of the few remaining sites for beachfront visitor-serving commercial to a residential use. As noted in the staff summary and addressed further in the following sections, the Coastal Act protects visitor serving commercial uses and affords priority to such uses in preference to



residential uses, particularly in beachfront areas such as the subject site where dedicated, publicly owned vertical and lateral public accessways associated with previous visitor-serving use approvals, exist.

The proposed project includes 29 parking spaces, which the City of Malibu approved through a variance because the necessary parking for the eastwardmost 4-unit complex (downcoast) does not fit into the available space for such parking as the project is presently designed. Thus, at least 8 spaces associated with the downcoast complex will be located on the upcoast parcel and subject to easements for such continued use under the City's applicable conditions. The proposed project does not include public access parking.

The applicant states that construction of a visitor serving use on the site is not financially feasible. The applicant believes that the seasonal demand for overnight accommodations would render the site unprofitable for development as a small bed and breakfast unit or small hotel of equivalent number of rooms to the condominium proposal, due to anticipated high off season vacancy rates. The applicant states that seasonal use patterns leave high vacancy rates in the City's existing, total 135-room overnight accommodation capacity. The Economic Development Plan prepared for the City of Malibu in March, 2000 states however that the City of Malibu attracted over 8 million coastal visitors in 1999. The report further states that Malibu beaches attracted 2.7 million visitors in July, 1999 alone, with off-peak months (November through March) attracting between 142,000 and 171,000 visitors per month. Higher off-season vacancy rates are to be expected in any seasonal tourist destination. Still, a visitorship of over 150,000 people per month even in the off months suggests that Malibu overnight guest rooms are far from overbuilt at the present level of 135 total existing hotel/motel/bed & breakfast rooms within the city limits (and even when the 138 potential additional rooms in the planning "pipeline" are considered).

The applicant further states that the cost of providing flood control improvements to widen the Las Flores Creek channel would render any non-residential development project financially infeasible.

The applicant has not submitted economic data detailing these costs, or providing a feasibility comparison of an 8-unit residential condominium project with an 8-unit (or more) small hotel or bed and breakfast unit. As parking requirements are somewhat less for a hotel/motel than for a residential unit, it is possible that the same developable area could yield as many as twice the number of overnight accommodation units as condominium units. The present proposal requires approximately 18,000 square feet of gross floor area, excluding parking. The applicant's analysis of average daily trips associated with project alternatives cited room sizes of 500 square feet for motel units. Thus, allowing 500 sq. ft. for an office, at least 25 units could be constructed utilizing the same area and providing a minimum of one parking space per overnight unit, plus four spaces for office use. Thus, 29 parking spaces and 25 overnight units appear to feasibly fit on the same site. Assuming a 90% occupancy rate May through September and a \$150 per night room rate (relatively modest by Malibu standards for peak season

use), the site could generate approximately \$3,375 in revenue per day. At a 20% occupancy rate off-season (or higher occupancy with lower daily rates) the site would still generate significant revenues. In addition, the \$150 per night rate during the peak season likely underestimates the prevailing room rates in Malibu.

In addition, it appears that due to the site's location immediately adjacent to a gasoline service station without an associated convenience market, an ancillary use of the site for a convenience market that would attract and serve the gasoline station's patrons (the station generates 400 traffic trips per day according to City documents). This would be a visitor-serving commercial use of the site and likely would build on the trips into the overall site rather than add the additional trips that would characterize a restaurant, for example.

Moreover, the applicant has not submitted data on the purchase price of the property when acquired, in addition to other relevant economic data necessary to fully evaluate the economic argument asserted by the applicant. The Commission also notes that at the time of acquisition, the applicant purchased lands designated for visitor-serving commercial use, with a long history of disuse and a number of physical constraints (such as the presence of dedicated public access easements and the presence of Las Flores Creek) and does not appear to have had a reasonable, investment-backed expectation that the lands would necessarily ever be authorized for any other use. Thus, it appears that the applicant acquired the subject lands fully aware that they are constrained by significant flooding risks, an uncertain occupancy history, problematic ingress/egress associated with Pacific Coast Highway, and dual vertical and lateral public access corridors.

Staff concludes that the use of the site for visitor serving commercial use appears to be potentially feasible, and of likely continuing importance in light of the limited supply of undeveloped lands designated and zoned for this purpose. Staff believes that the subject site may be the only undeveloped beachfront site available for visitor serving use within the city limits and so designated in the certified Malibu/Santa Monica Mountains LUP. Moreover, staff notes that even if the applicant demonstrates that a small motel or bed-and-breakfast style development is infeasible on the subject site, staff observes that the site is adjacent to an existing gasoline service station which generates approximately 400 trips per day according to documents supplied by the applicant but does not have a convenience store associated with it. An adjacent small market/convenience store would be a very compatible visitor serving commercial use and could rely upon the traffic trips already being generated on the adjacent parcel for most visitor stops to use such a store. Staff notes that a convenient source of portable, affordable food items and sundries, such as a convenience store placed on the subject site and next to the existing gasoline station, both taking access from same intersection off Pacific Coast Highway, would be a very compatible pairing of related visitor-serving commercial uses.

## **B. Visitor Serving Commercial Uses**

Sections 30213, 30222, and 30223 of the Coastal Act state in pertinent part that lower cost visitor facilities shall be protected, that private lands suitable for visitor serving commercial recreational facilities shall have priority over private residential, general industrial, or general commercial development, and that upland lands necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

**Coastal Act Section 30213 states:**

**Lower cost visitor and recreational facilities shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred.**

**Coastal Act Section 30222 states:**

**The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.**

**Coastal Act Section 30223 states:**

**Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.**

In addition, the certified Malibu/Santa Monica Mountains Land Use Plan contains specific policies protective of visitor serving commercial land uses in coastal communities. The Commission has looked to the certified LUP for guidance in past permit actions because in certifying the LUP, the Commission found the policies of the LUP, which were developed as the blueprint for development in the Malibu and surrounding area of the Santa Monica Mountains, consistent with the applicable policies of the Coastal Act. The Commission adopted specific findings when certifying the LUP, and these findings emphasized the importance placed by the Coastal Act on the protection and provision of visitor-serving/recreational opportunities, particularly in the coastal Malibu area. The certified LUP specifically states in Policies 18 b and 18 c respectively that new lower cost recreation and visitor-serving facilities shall be provided where feasible and that visitor-serving facilities shall have priority over private residential, general industrial, or general commercial development on land suitable for visitor-serving commercial facilities.

The proposed project is situated on two adjacent parcels comprising a total of just over 30,000 square feet (or about three-fourths of an acre) of beachfronting land south of, and taking access from, Pacific Coast Highway. The site is located at the juncture of La Costa Beach (upcoast) and Las Flores Beach (downcoast), bordered bordered on the west side (upcoast) by a gasoline service station adjacent to Pacific Coast Highway, and a strip of condominiums along the beach, and on the east (downcoast) side, by a

channelized portion of Las Flores Creek. Duke's restaurant complex is located downcoast, immediately across Las Flores Creek.

The proposed project is for the construction of two, 2-story, 4-unit private residential condominiums clusters on the beachside of the irregular, triangular-shaped lot taking access off Pacific Coast Highway. The two parcels comprising the site are designated in the certified Malibu/Santa Monica Mountains LUP as visitor-serving commercial. The City of Malibu has redesignated and rezoned the lands for use as multifamily residential; however, these changes have not been certified by the Coastal Commission.

The Commission has found in past permit actions that the construction of residential uses on lands designated for visitor-serving commercial use may adversely impact public recreation and coastal access by reducing the supply of lands that could be developed to support the needs of coastal visitors. The Commission notes that the City of Malibu has published an Economic Development Plan (March, 2000) and quoted extensively in the staff summary incorporated by reference herein. As previously noted, the Economic Development Plan states that over 8 million people visited the beaches of Malibu in 1999. In July, 1999 alone, the Plan states that almost 3 million people visited the public beaches between Malibu/Surfrider and Nicholas Beaches (source: Los Angeles County Department of Beaches and Harbors, Lifeguard Division). According to the Plan, even the lowest visitor months of the off-peak season (November through March) saw attendance of over 145,000 most months at the public beaches.

While there are some public camping facilities in the Malibu area, typical visitor-serving commercial use for overnight guestroom accommodations (such as motel, hotel, or bed-and-breakfast units) are extremely limited (totaling 135 rooms at present), with 138 additional rooms conceptually approved for the Adamson Hotel (proposed for a 28-acre site near the intersection of Pacific Coast Highway and Malibu Canyon Road) and up to 32 rooms for the Beau Rivage restaurant complex (situated on a 5.5-acre site along Pacific Coast Highway, north of Malibu Canyon Road). Thus, considering the intense use by visitors from southern California, and the population projections for significant regional growth, the demand for visitor-serving commercial uses in Malibu is not likely to diminish in the future.

The applicant states that the subject site is unimportant for coastal access or recreation, with the beach portion being underwater the majority of the time, and ideal access available only at the lowest tides. Nevertheless, Commission staff has frequently observed visitors using the publicly owned vertical and lateral public accessways on site for surfing and fishing access to the beach and intertidal area. Two vertical accessways and two lateral accessways traverse the site, and the State Coastal Conservancy owns one set. Thus publicly owned, perpetually dedicated public vertical and lateral access exists on site

The subject parcels could potentially be used to develop a small hotel or bed and breakfast unit, or for a convenience market to provide additional goods and services to

patrons of the adjacent gasoline service station (which does not have an internal convenience market). Any of these alternatives would provide a visitor-serving commercial use of the site. These options are further discussed in the staff summary and background sections, hereby incorporated by reference.

As stated above, the City of Malibu has approved general plan and zoning ordinance amendments, and a lot line adjustment, to redesignate and rezone the subject parcels from visitor-serving commercial use to multifamily residential, and to maximize the number of units that could be constructed on the parcels, in light of the constraints posed by the lots' triangular shape, and the presence of the Las Flores Creek floodplain and two vertical and two lateral coastal access easements within the total approximately 30,000 sq. ft. site.

Coastal Act Sections 30213, 30222, and 30223 cited above protect lower cost visitor facilities, protect visitor-serving commercial land uses in preference to residential development, and reserve upland lands necessary to support coastal recreational uses. The City of Malibu has not undertaken any studies to support a position that the subject site could be converted to residential use without damaging the supply of visitor-serving lands necessary to adequately serve the needs of present and future Malibu coastal visitors. In fact, the City's Economic Plan indicates that the City has an entrenched position that additional coastal visitors – particularly those would avail themselves of overnight accommodations—are to be deflected through strategic deployment of land use policies that generally serve to block the future construction of lodging accommodations.

**The Visitor Market:** The City of Malibu's leadership does not want the community to become a visitor destination. However, the city's beaches attracted 8.8 million visitors in 1999 even without a visitor center and with a limited supply of only 135 hotel or motel rooms. This limited lodging supply decreases local revenues significantly. Despite the community's desire to retain Malibu as a quiet beach town, its location makes it a major destination for visitors living elsewhere in southern California.

... Since incorporation...the city government halted the development of all proposed visitor-lodging facilities.

... The City of Malibu's leadership has indicated no desire to transform the community into a visitor destination. The community has expressed its desire to discourage additional visitors in a couple (of) different ways during the past five years. First, a Chamber of Commerce proposal to develop a visitor center at PCH was not supported by the City Council, although a more limited facility as part of the existing Bluff Park facility might have received more support. Currently, this leaves visitors without a central place to stop for information on recreation and shopping opportunities. Second, the City Council and a large group of vocal

**residents have opposed new hotels out of concerns that additional overnight lodging facilities will attract more visitors to Malibu.**

**...Despite the community's desire to retain Malibu as a private residential retreat, the beaches are a major destination that attracted 8.8 million visitors in 1999... In fact, throughout the 1990s Malibu beaches attracted between 6.7 and 9.8 million annual visitors.**

**Future of New Hotels in Malibu: Malibu has only six overnight lodging facilities with 135 rooms for rent in Malibu. Despite the fiscal benefits of new lodging facilities, the community wants visitors to go home at night. Thus, no new visitor lodging projects have been approved since the 1991 incorporation. Moreover, there has been no effort to even study the market demand for lodging facilities. (Emphasis added)**

**...(except for the Adamson Hotel, proposed for 106 rooms, and the Beau Rivage bed and breakfast, proposed for 32 rooms but in the process of redesigns that could reduce that number to approximately 10 rooms) ... any additional expansion of overnight lodging facilities is unlikely to be approved by the community's leadership.**

The Commission notes that the City's pattern of piecemeal rezoning of lands designated for visitor serving or recreational use for residential or other commercial use has been undertaken without any substantive planning studies to justify such actions in light of the requirements of Coastal Act Sections 30213, 30222, 30223, and certified LUP policies 18 b and c. Although the present applicant asserts that the rezoning in the case of the present proposal isn't significant in the overall scheme of visitor-serving overnight accommodations, to the contrary the Commission notes that the City appears to have eliminated the supply of undeveloped visitor-serving commercial land stocks – particularly on the seaward side of Pacific Coast Highway, where demand for such lands could be expected to be at a premium. Thus, the subject site is one of the few, if not the only site that is designated for visitor serving commercial but has not yet been developed.

The applicant also states that that the site is unsuitable for visitor serving commercial uses, and points out that more than one large restaurant proposal has been suggested for the site, only to run afoul of extensive on and off-site parking requirements that are difficult to address because of the irregular shape and relatively small size of the parcels under consideration. The applicant cites the constrained access to the site from Pacific Coast Highway; however this problem could be addressed by the installation of a turn arrow light that will likely be required to control traffic regardless of the type of use eventually developed on site. The applicant also states that necessary flood control improvements could not be afforded if the site is developed with a small hotel or bed and breakfast establishment instead of 8 condominiums. That issue is addressed below, and in the background section of this report. The applicant also believes that the value of the site as an attractive visitor-serving destination is limited

because the beach is underwater most of the time. Still, rooms with a bluewater Pacific view, in Malibu, and with even limited beach access would still be likely to attract visitors, and such rooms might be somewhat more affordably priced than at the higher end, luxurious hotels such as the proposed Adamson Hotel, which the City's Economic Development Plan indicates will have some rooms renting for as much as \$1,500 per day.

The applicant has not produced an alternatives analysis of a small hotel or bed and breakfast unit that comprised of at least the same number of units as the residential condominium complex (8) and potentially more as the applicant has grandfathered rights to reconstruct the extent of previously approved development on site that was destroyed in the 1993 fire (a small hotel and restaurant). The applicant states that such a use would cause significantly greater traffic impacts than the proposed 8-unit condominium, relying on traffic trip generation estimates of approximately 8.8 trips per day for each overnight lodging room, yet counting only 6 trips per day weekdays, and slightly more on weekends, for the condominium units. This analysis seems incomplete because a family occupying a condominium, depending on number of members of the family, the ages and activities of its members, etc., could easily exceed a trip count of 6 trips per day – particularly considering the additional trips added by visitors, etc. and the day-to-day, year around nature of the trip generation. Guest lodging facilities in a community with a seasonal peak occupancy could be expected to contribute fewer than the cited 8.8 trips per day for the six to seven off, or lower than, peak months per year. Thus, on an annualized basis, the key constraint cited by the applicant (that traffic congestion on PCH renders a visitor-serving use of the site virtually impossible) appears to warrant further consideration.

The applicant also states that the cost of constructing necessary flood control improvements to widen and improve the channelized corridor of Las Flores Creek that crosses the easternmost (downcoast) parcel renders all but the construction of the most profitable, luxury condominiums economically infeasible. The background section of this report sets forth some very basic, non-technical analyses of the potential revenues that might be generated by a 25 unit small hotel utilizing similar floor space, divided into approximately 500 sq. ft. units. The simple calculations of revenue assumed \$150 per night room rates (relatively inexpensive compared to peak season rates in Malibu), 90% occupancy in peak months, and 20% occupancy in off peak months. These assumptions generated potential revenue estimates of as much as \$3,375 per day, during the height of the season, and as low as approximately \$700 per day during the winter season. Even if only half that number of rooms could be approved, it seems obvious from the City's own statistics on Malibu visitorship that significant patronage could be expected.

For example, a twelve unit small hotel or bed and breakfast project renting for \$150 per day (a conservative estimate), occupied at a 90% occupancy rate during May through August, and only a 20% occupancy rate the remainder of the year would generate over \$250,000 in revenue per year.

Or, an alternative use might be for a convenience store or market taking advantage of the approximately 400 trips per day generated by the patrons of the adjacent gasoline/service station that does not have such a convenience store. This alternative, rather than generating significant additional trips, would provide value-added for the visitors already stopping at the gas station for fuel. Visitors could also retrieve to-go food, beverages, and sundry items in one stop as they head for the beach, or homeward.

The Coastal Act places a priority on the protection and provision of coastal access and recreation. Visitor-serving commercial development is a priority use under the Coastal Act – above residential land uses in priority for the limited supply of lands adjacent or near the sea that may be used to serve coastal visitors. This is so because public coastal resources may be difficult for visitors to reach or enjoy without adequate visitor-serving commercial support. Coastal visitors must often journey – sometimes at a great distance—from the comfort of their own homes to visit California's coastal resources. Coastal visitors need lodging of various kinds, fuel for travel, and sustenance. These are basic needs. The City of Malibu has performed an economic analysis that indicates that people from relatively nearby communities shopping in Malibu stores generate the largest portion the retail sales revenue realized within the city limits from visitors. Therefore, Malibu has a stated preference for visitors who will spend their money in Malibu stores, "but go home at night" as the City's Economic Development Plan states. While such a plan may be expedient for the unique needs of the City of Malibu, it does not necessarily serve the broader interests of the citizens of California, or of the many visitors from other states and even other countries who seek out California's magnificent public beaches. Many of these visitors may only reach the coast on rare occasions made possible by significant travel. Coastal access resources unaccompanied by reasonable provisions for nearby visitor-serving commercial support, render coastal access unavailable in practical terms, for many potential visitors. That is why the Coastal Act specifically calls out the policies contained in Sections 30213, 30222 and 30223 and discussed herein.

Moreover, as outlined previously, the Commission staff is presently undertaking the preparation of a Local Coastal Program for the City of Malibu, pursuant to Assembly Bill 988 (Hertzberg-Burton) signed into law by California Governor Gray Davis last September. Under the law, the Coastal Commission must certify the Local Coastal Program by September 15, 2002. If, during the course of this planning effort the Commission staff is able to identify sufficient lands to provide for present and future visitor serving commercial uses within the city limits without reliance on the subject parcels, and the Commission agrees with such conclusions as demonstrated through Commission certification of a Local Coastal Program that does not designate the subject lands for visitor-serving commercial use, it would be possible, and a more appropriate time for, the Commission to consider the applicant's proposal to develop the subject parcels with private condominiums.

For all of the reasons set forth above, the Commission finds that the proposed project is not consistent with the requirements of Coastal Act Sections 30213, 30222, and 30223.



## **C. 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 not be in conformity with the provisions of Chapter 3 of the Coastal Act. The proposed development would result in adverse impacts to coastal resources, inconsistent with the policies contained in Chapter 3.

In addition, the Commission notes that in its previous certification of the Los Angeles County Malibu/Santa Monica Mountains Land Use Plan, the Commission found that the two parcels comprising the subject site were suitable for the provision of visitor-serving commercial development (such as overnight lodging, restaurant, gasoline service station and convenience market, for example). The subject lands were designated for visitor-serving commercial use on the certified Land Use Plan Maps. The Commission further notes that although the City has redesignated and rezoned the subject site to multifamily residential under its general plan and interim zoning ordinance, and thus the proposed project is consistent with the City's resultant residential designation and zoning, the City's general plan and interim zoning ordinance have not been certified by the Commission. Thus the City's actions to redesignate and rezone the subject parcels within the coastal zone from visitor-serving commercial to residential is neither binding nor legally valid, and has no force or effect in the coastal zone.

Further, the Commission notes that under Assembly Bill 988 (Hertzberg-Burton) signed into law in September by California Governor Gray Davis, the Commission must prepare and certify a Local Coastal Program for the City of Malibu by September 15, 2002. Thus to the extent that the Commission identifies a lack of conformity of a proposed project with the provisions of Chapter 3 of the Coastal Act prior to certifying the pending LCP, and further finds that approval of such proposed project, given the identified lack of conformity with Chapter 3 of the Coastal Act, would prejudice the local government's ability (in this case the Commission's own ability) to prepare a local program that is in conformity with Chapter 3, the Commission shall deny such a proposal pursuant to the requirements of Section 30604 of the Coastal Act.

Therefore, the Commission finds that approval of the proposed project, prior to the certification by the Commission of a Local Coastal Program for the City of Malibu, would prejudice the ability of the Commission, in lieu of the City pursuant to the legal requirements of Assembly Bill 988, to prepare a Local Coastal Program which is consistent with the policies of Chapter 3 of the Coastal Act, particularly those policies addressing visitor-serving and recreation, as required by Section 30604(a).

#### **D. CEQA**

Section 13096(a) of the Commission's administrative regulations requires Commission action on a 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)(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 may have on the environment.

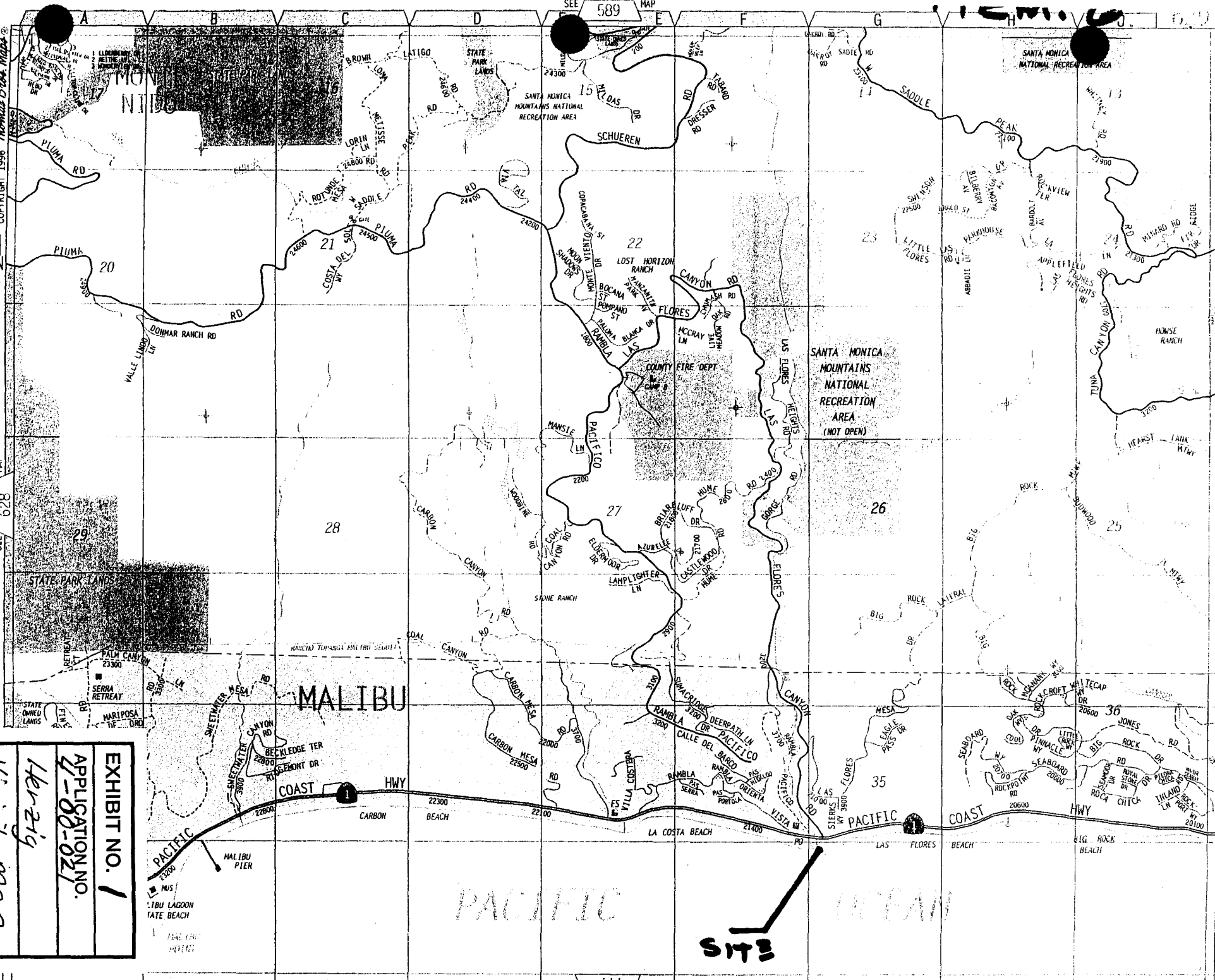
The proposed project would result in significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. There are feasible alternatives and/or mitigation measures that would substantially lessen any significant adverse effects which the proposed project would have on the environment. Therefore, the proposed project is determined to be inconsistent with CEQA and the policies of the Coastal Act.

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SEE 628 MAP

SEE 589 MAP

EXHIBIT NO. 1
APPLICATION NO. 4-00-021
Herzig
Vicinity map



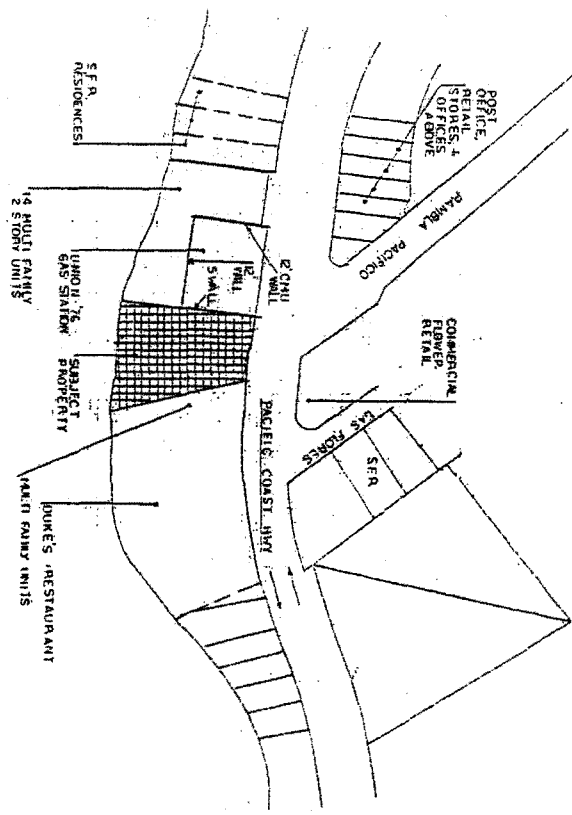
ITEM 7

O C E A N U S

VICINITY MAP

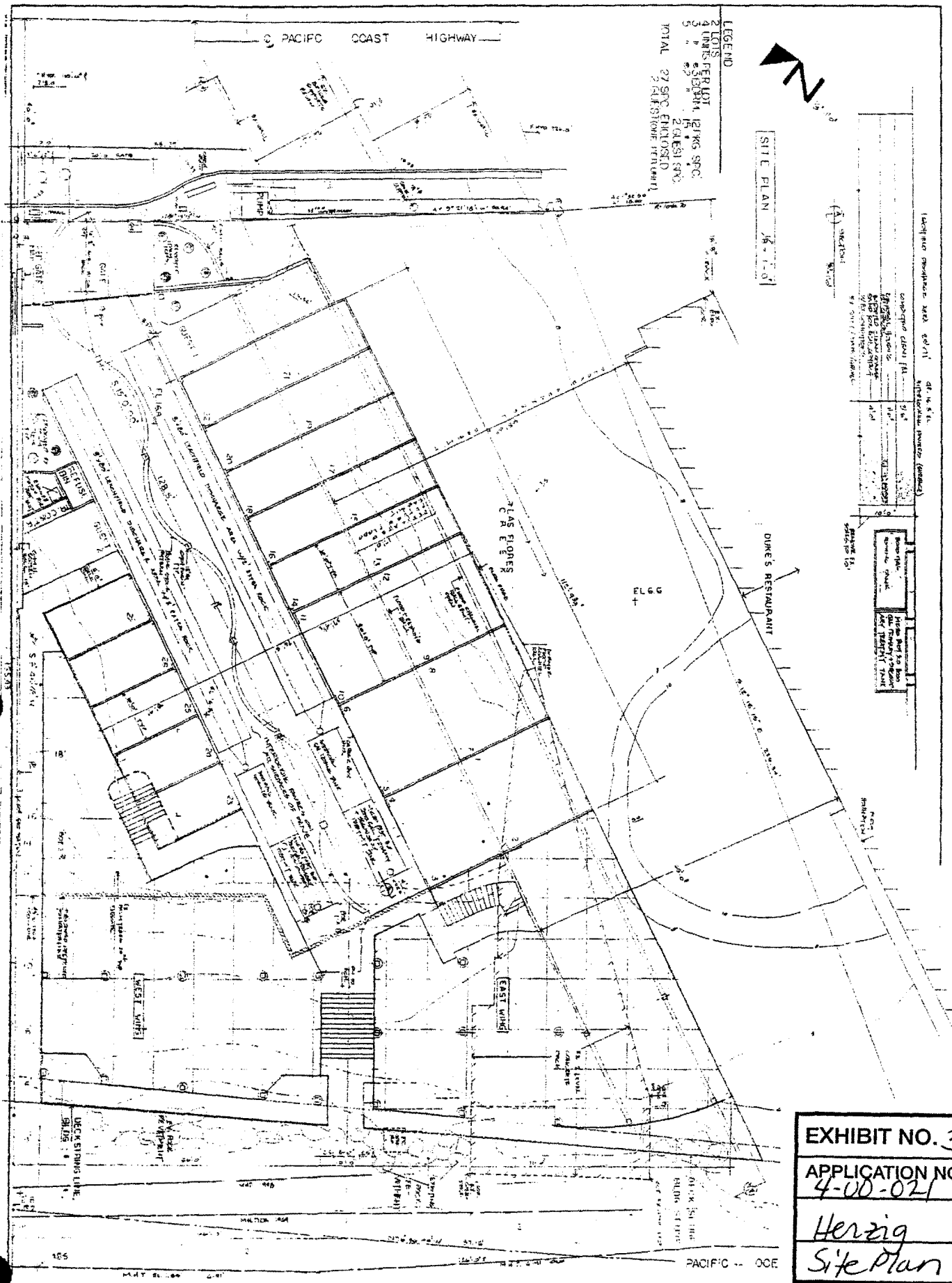
1" = 100'-0"

P A C I F I C O C E A N



21322	PACIFIC	COAST	HIGHWAY	MALIBU,	CALIFORNIA	90286	8458 SYCAMORE MEADOWS DRIVE	MALIBU, CALIF.
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EXHIBIT NO. 2
APPLICATION NO. 4-00-021
Herzig
Area Map







SITE PLAN - 1/8" = 1'-0"

LEGEND  
2 LOTS PER LOT  
4 UNITS PER LOT  
3 # 2 1/2" DIA. 12" DIA. SPC.  
3 # 2 1/2" DIA. 12" DIA. SPC.  
TOTAL 27 SPC. ENCLOSED  
27 GUESTS PER UNIT

Legend

1. 1/2" DIA. 12" DIA. SPC.	2. 1/2" DIA. 12" DIA. SPC.
3. 1/2" DIA. 12" DIA. SPC.	4. 1/2" DIA. 12" DIA. SPC.
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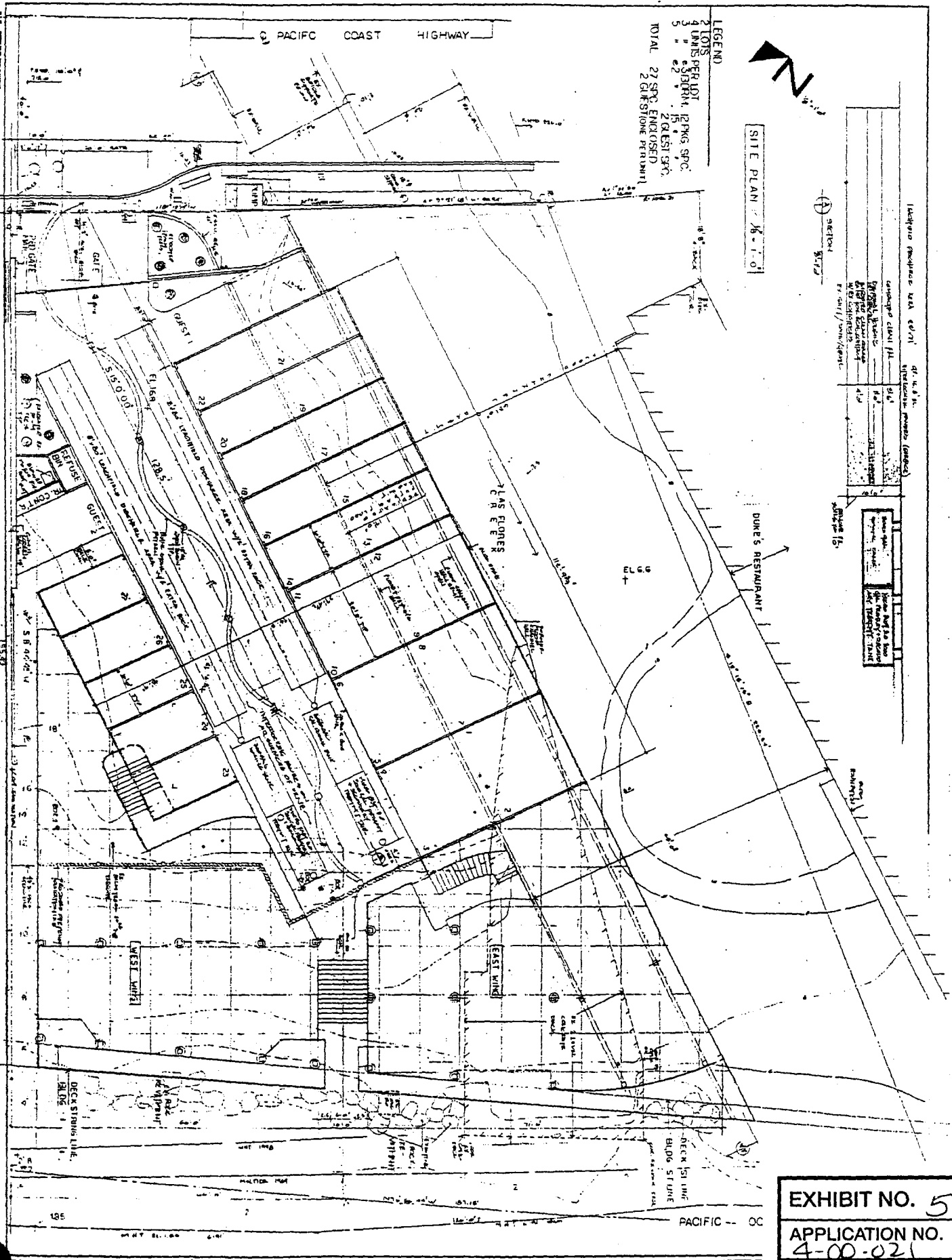


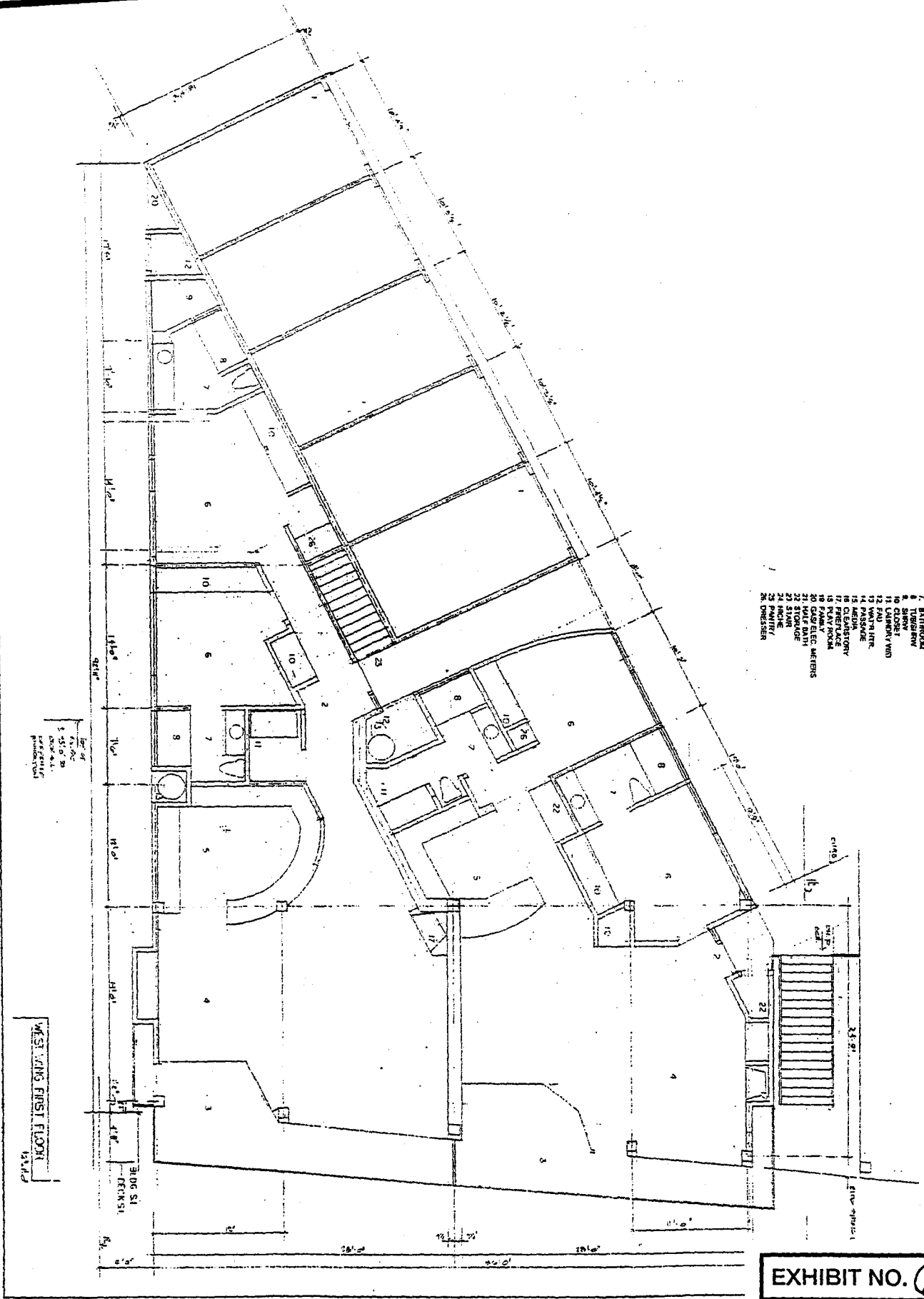
EXHIBIT NO. 5

APPLICATION NO.  
4-00-021

Herzig

Site Plan, cont.

OCEANUS  
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BYCAMORE MEADOWS DRIVE MALIBU, CALIFORNIA 90261  
SKYLAR BROWN ARCHIT



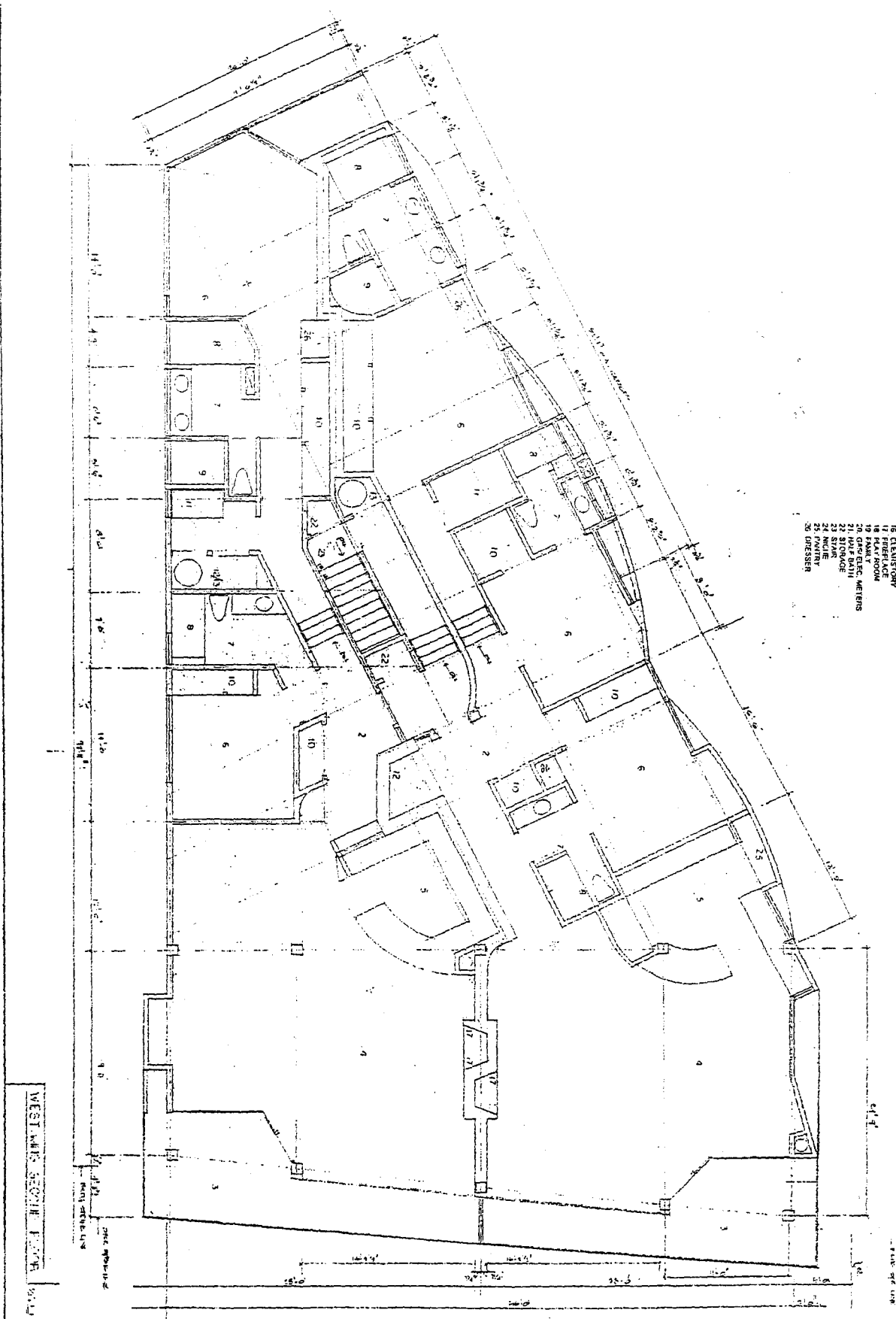
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3. LIVING RM
4. LIVING RM
5. KITCHEN
6. BEDROOM
7. BEDROOM
8. BATH
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25. BATH
26. BATH

WEST WING FIRST FLOOR

21000	PACIFIC COAST	HIGHWAY	MALIBU, CALIFORNIA	90288	6453 SYCAMORE MEADOWS DRIVE	MALIBU, CALIFORNIA
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EXHIBIT NO. 6a
APPLICATION NO. 4 00-021
Heryg
Project Plans





1. GARAGE
2. ENTRY
3. LIVING ROOM
4. KITCHEN
5. BREAKFAST ROOM
6. BEDROOM
7. BATH
8. HALL
9. CLOSET
10. CLOSET
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WESTLANDS SECURE TOWN

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3	1-1-78	SKYLAR BROWN	3
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5	1-1-78	SKYLAR BROWN	5
6	1-1-78	SKYLAR BROWN	6
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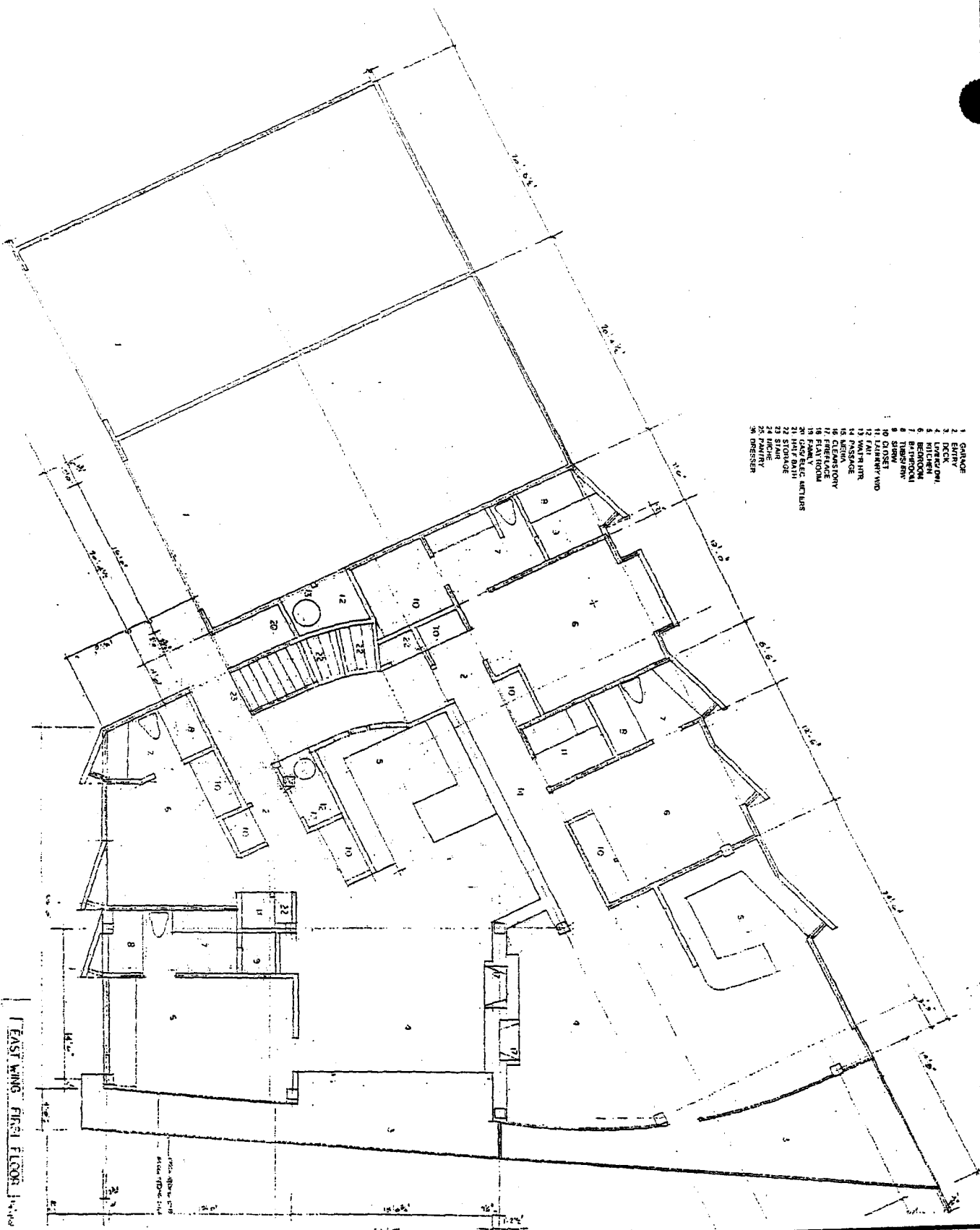
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EXHIBIT NO. 66

APPLICATION NO. 4-00-021

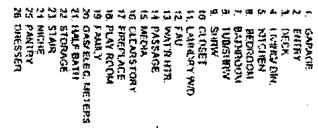
Hensig Project Plans

- 1 GARAGE
- 2 ENTRY
- 3 LIVING RM.
- 4 KITCHEN
- 5 BREAKFAST RM.
- 6 BEDROOM
- 7 BATH
- 8 CLOSET
- 9 HALL
- 10 STAIR
- 11 CLOSET
- 12 HALL
- 13 HALL
- 14 PASSAGE
- 15 FIREPLACE
- 16 CLOSET
- 17 CLOSET
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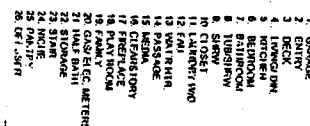
EAST WING FIRST FLOOR

EXHIBIT NO. 6C  
 APPLICATION NO. 4-10-021  
 Henry  
 Project Plans



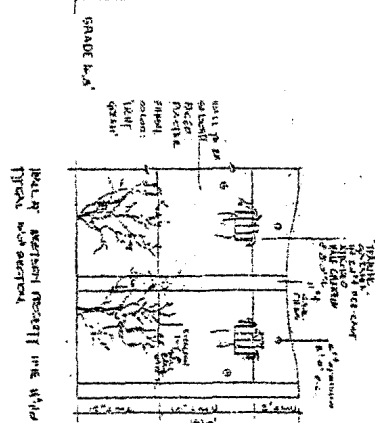
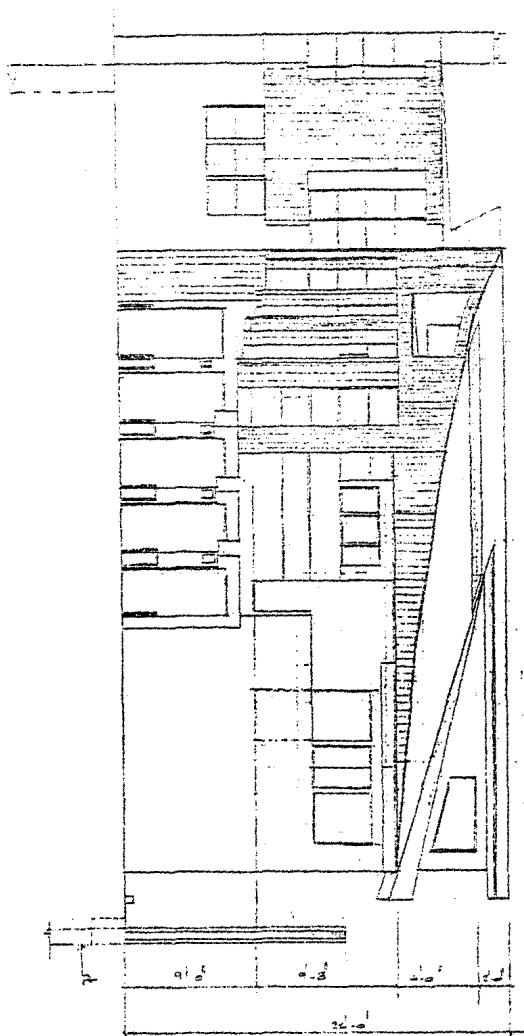
	O	C	E	A	N	U	S	SKYLAR BROWN; ARC
917002	PACIFIC	COAST	HIGHWAY	MALIBU,	CALIFORNIA	92055	6856 SYCAMORE MEADOWS DRIVE	MALIBU, CALIFORNIA

Herzig  
Project Plans

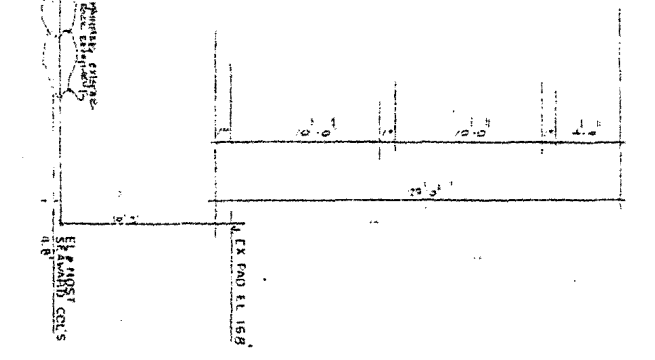
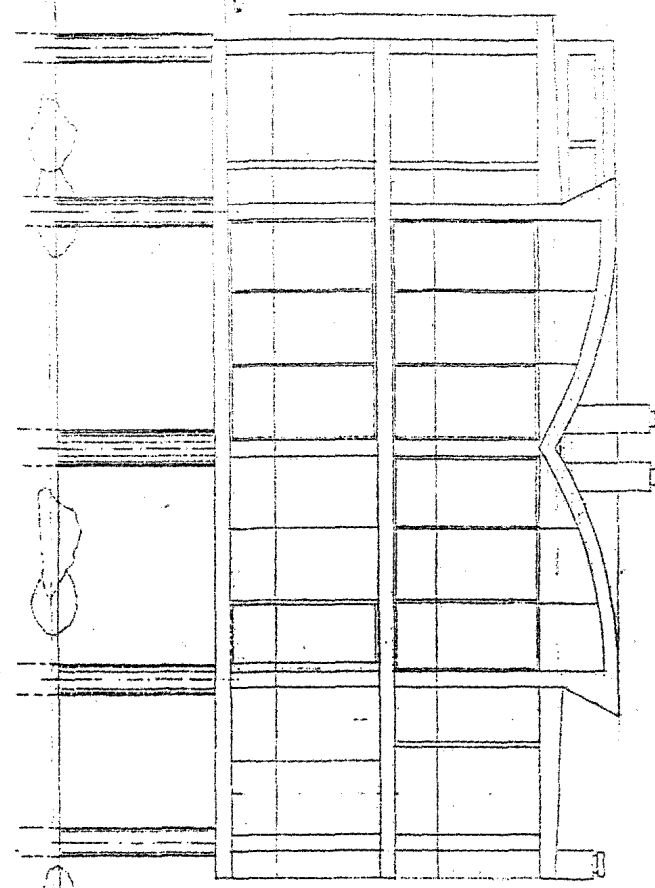


20	State	( )	O	C	E	A	N	U	S		SKYLAR BROWN:A
	Zip Code	91208	PACIFIC	COAST	HIGHWAY	MALIBU	CALIFORNIA	90265	9465	SYCAMORE WOODS DRIVE MALIBU, CALIFOR	

# Henry's Project Plans



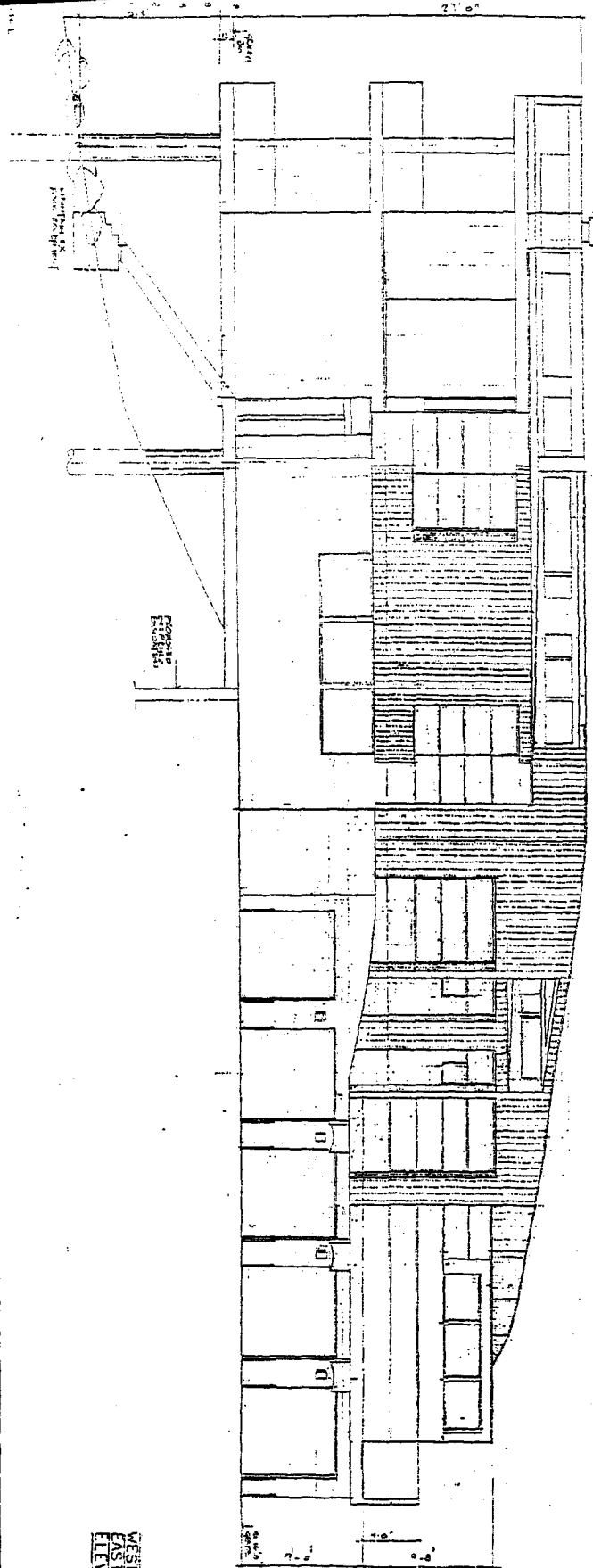
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NORTH  
ELEV



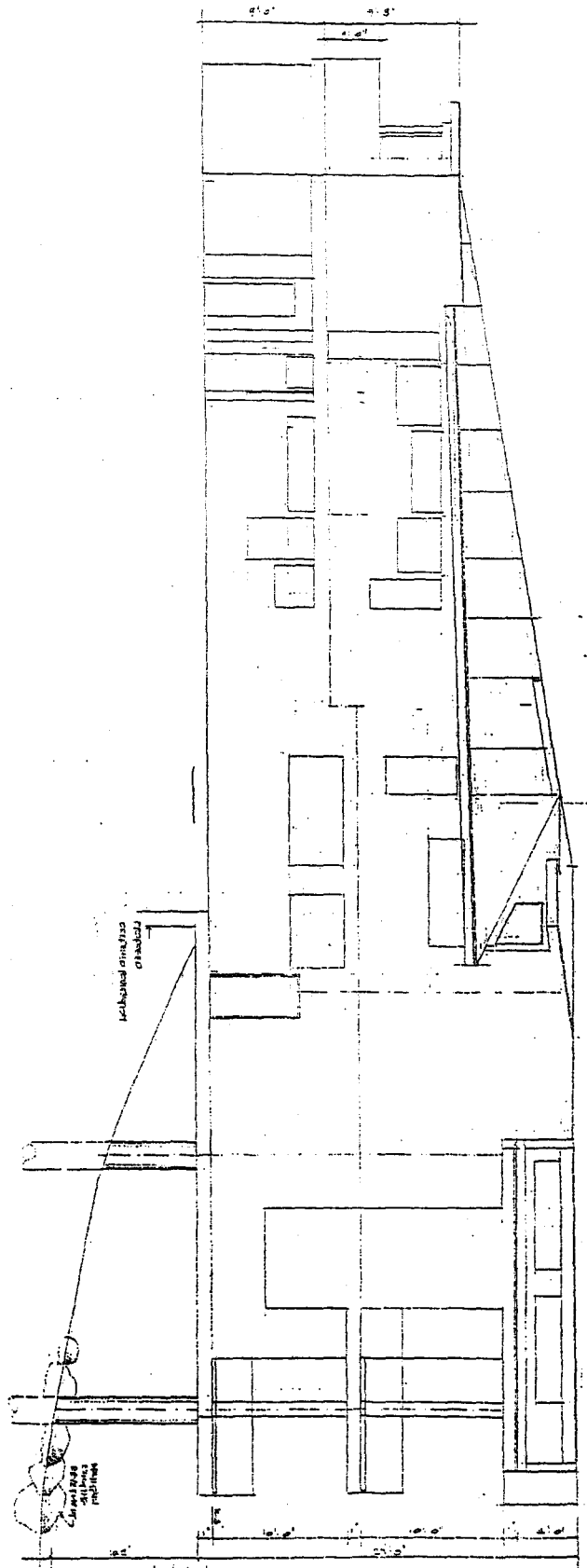
WEST MILLS  
SOUTH  
ELEV

EXHIBIT NO. 6f
APPLICATION NO. 4-00-021
Herzig
Project Plans

OCEANUS SKYLAR BROWN: A  
21002 PACIFIC COAST HIGHWAY MALIBU CALIFORNIA 90262 8455 SYCAMORE MEADOWS DRIVE MALIBU CALIF



WEST WING  
EAST  
ELEV



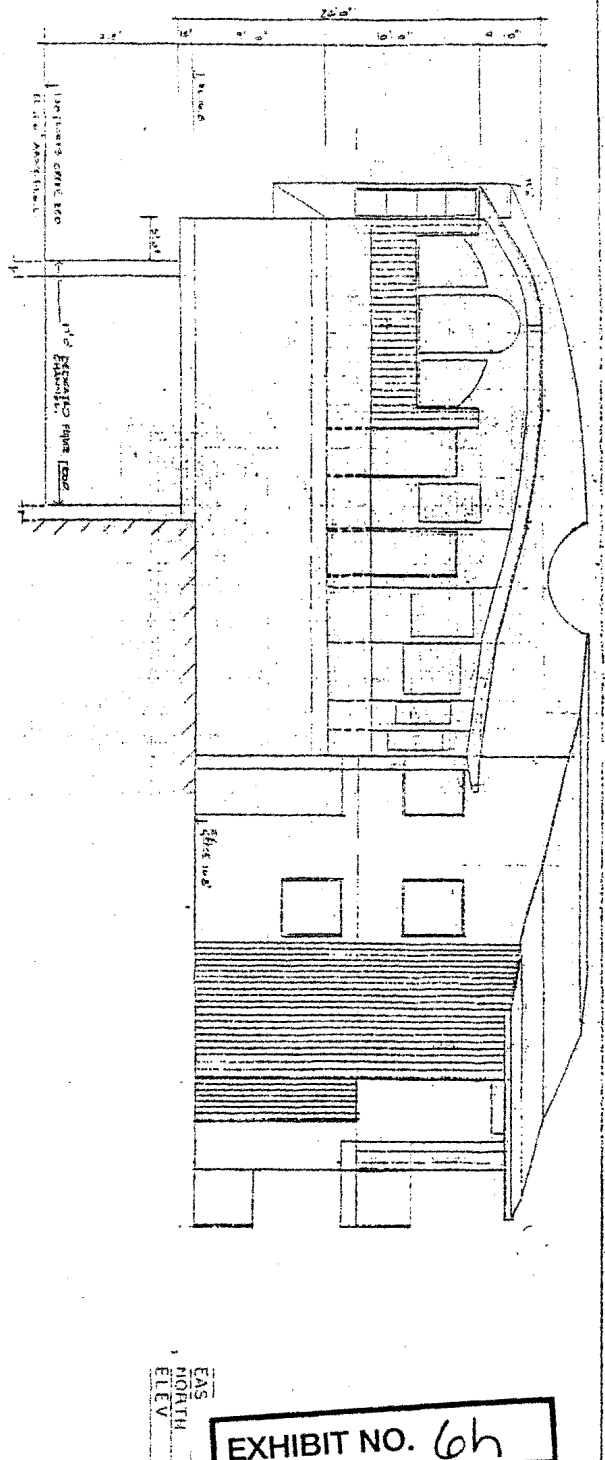
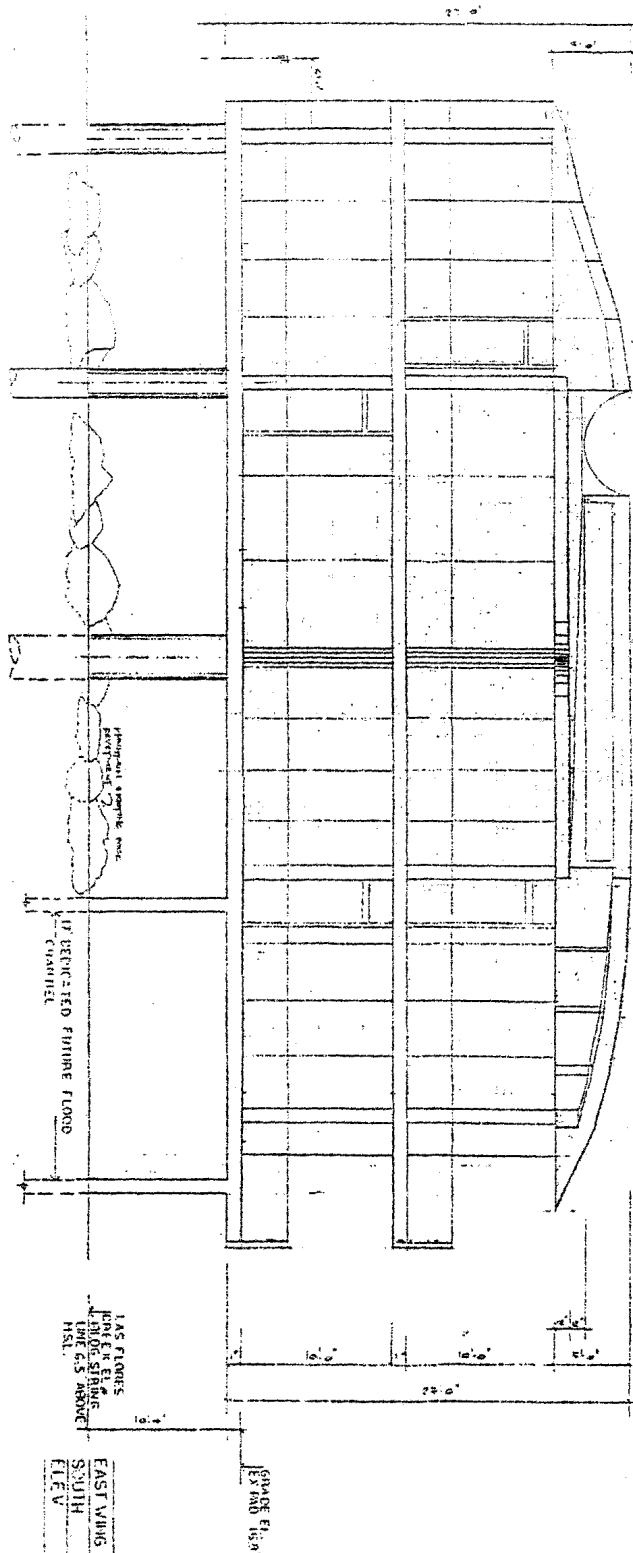
WEST WING  
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O C E A N U S SKYLAR BROWN: AR  
21232 PACIFIC COAST HIGHWAY MALIBU, CALIFORNIA 90265 4455 SYCAMORE MEADOWS DRIVE MALIBU, CALIFORNIA

EXHIBIT NO. 69

APPLICATION NO.  
4-00-021

Herzig  
Project Plans



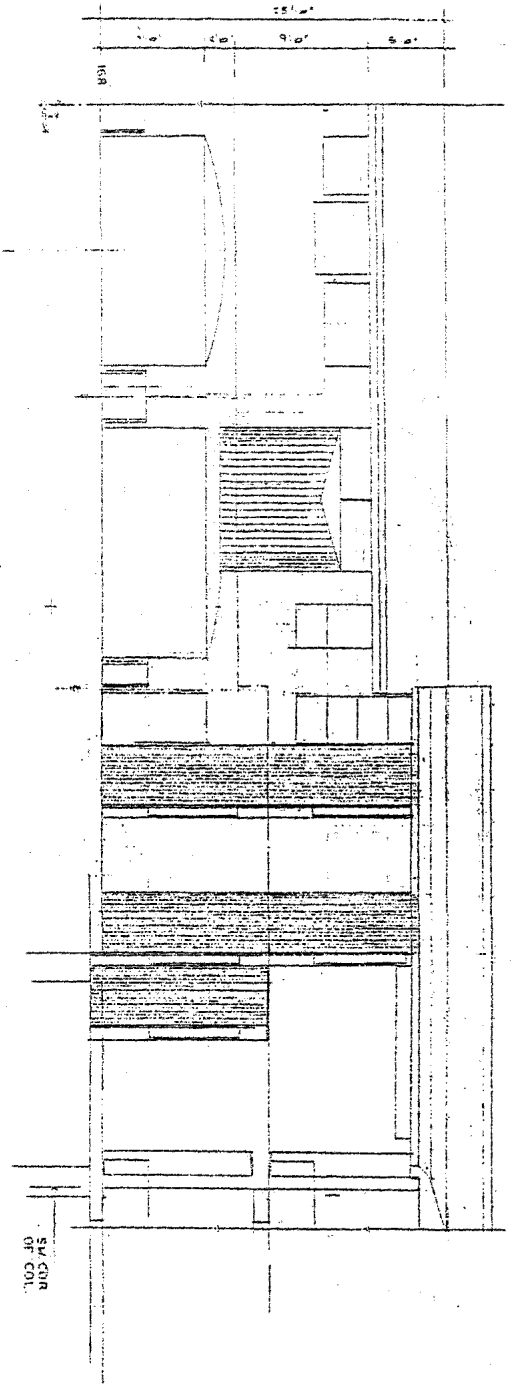
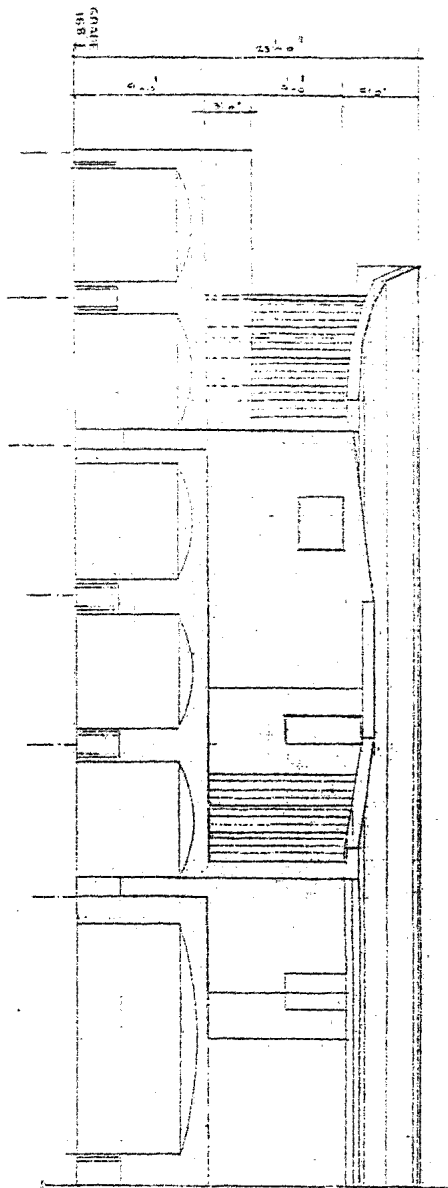
21222 PACIFIC COAST HIGHWAY MALIBU CALIFORNIA 90263  
 3466 SYCAMORE MEADOWS DRIVE MALIBU, CA

EXHIBIT NO. 6h  
 APPLICATION NO. 4-00-021  
 Herzig  
 Project Plans



EXHIBIT NO. 61
APPLICATION NO. 4-08-021
Herzig
Project Plans





EAST WING  
WEST  
ELEV.

EAST WING  
WEST  
ELEV.

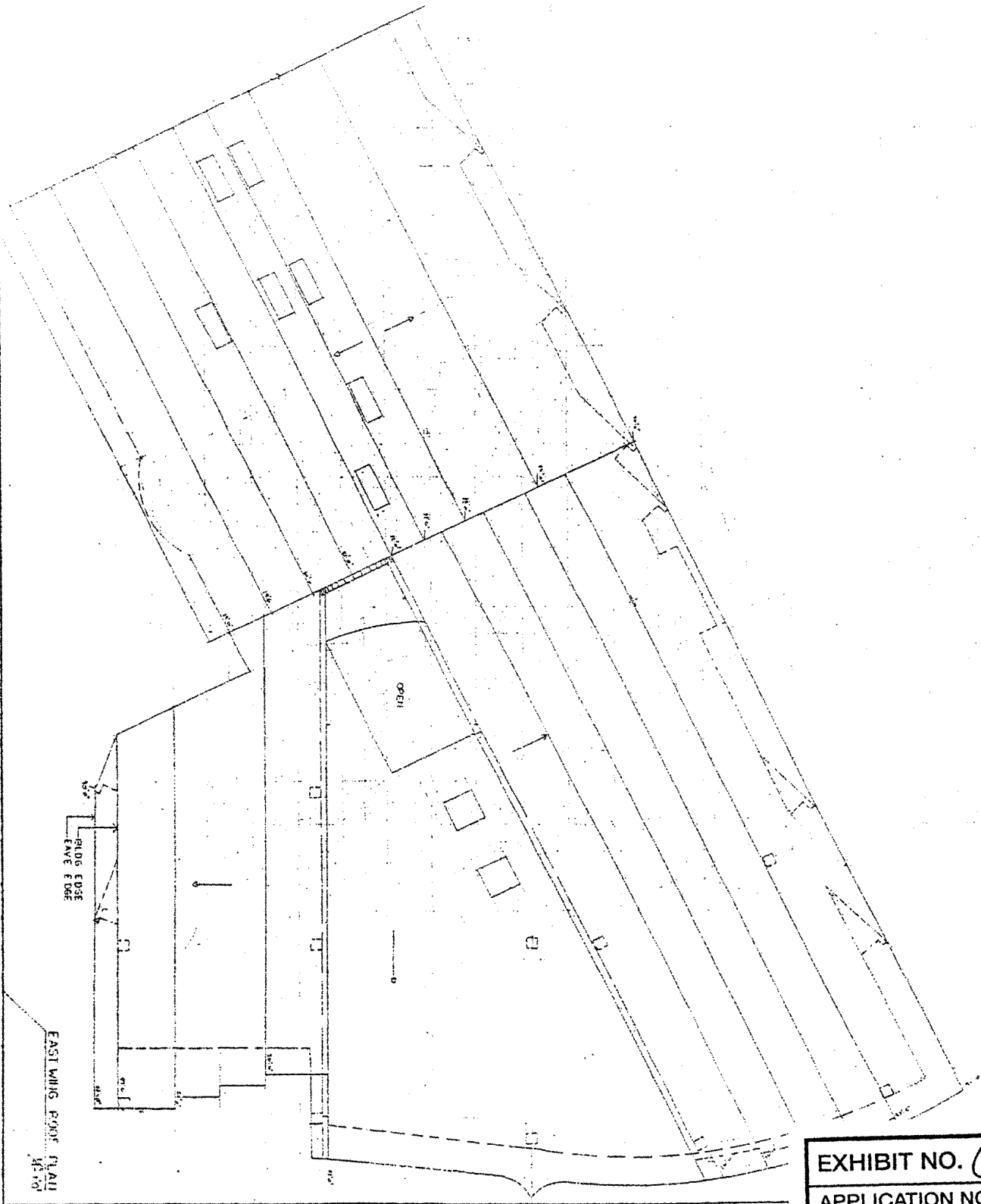
OCEANUS SKYLAR BROW  
2-232 PACIFIC COAST HIGHWAY MALIBU CALIFORNIA 90265 6455 SYCAMORE MEADOWS DRIVE MALIBU

EXHIBIT NO. 65  
APPLICATION NO.  
4-00-021

Herzig  
Project Plans

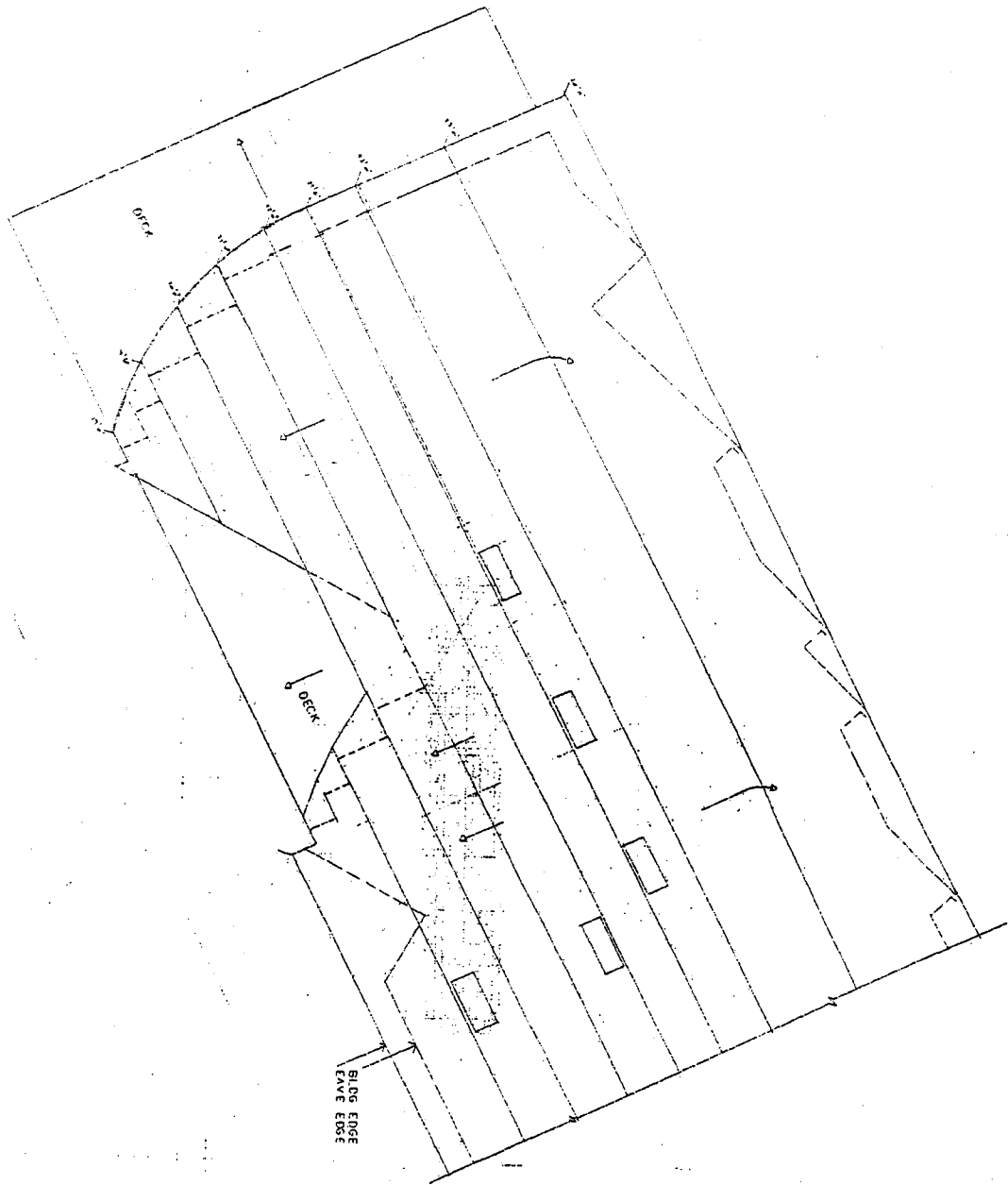
REVISIONS  
BY





DATE	13
SCALE	1:5
BY	
CHECKED	
APPROVED	

EXHIBIT NO. 62
APPLICATION NO. 4-00-021
Heryig
Project Plans



EAST WING ROOF PLAN 1/4" = 1'-0"

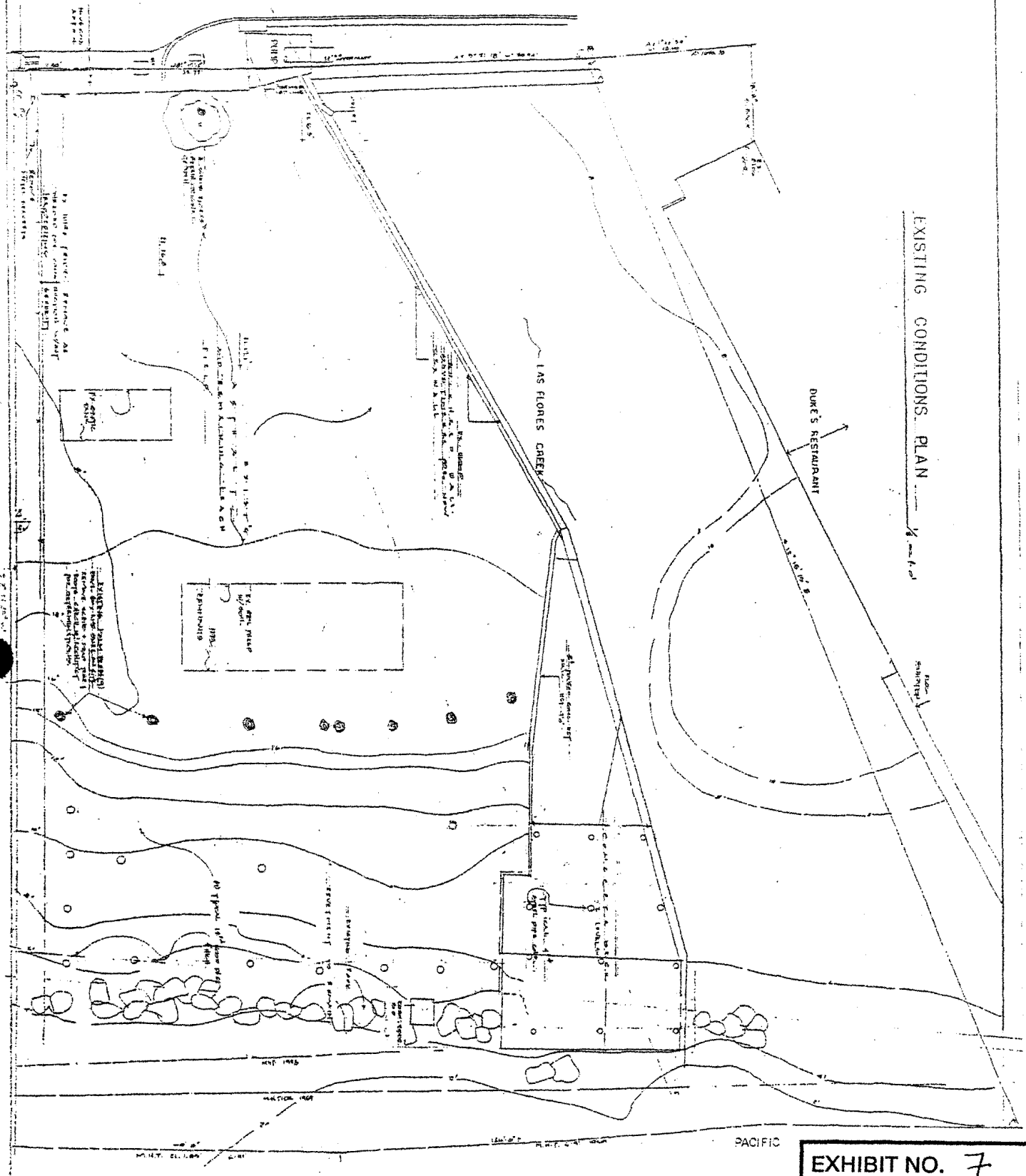
NO.	14	O C E A N U S SKYLAR BROWN: A									
DATE	1/4	21222	PACIFIC	COAST	HIGHWAY	MALIBU,	CALIFORNIA	90288	8435	SYCAMORE MEADOWS DRIVE	MALIBU, CALIFORNIA

EXHIBIT NO. Com

APPLICATION NO.

4-00-021

Heilig  
Project Plans



EXISTING CONDITIONS PLAN

OCEANUS 8455 GYCAMORE MEADOWS DRIVE MALIBU, CALIFORNIA 90265  
21232 PACIFIC COAST HIGHWAY MALIBU, CALIFORNIA 90265  
SKYLAR BROWN:ARC

EXHIBIT NO. 7
APPLICATION NO. 4-60-021
Herzig
Existing Site Conditions

**EXHIBIT NO. 4**

APPLICATION NO.  
4-00-024

Angie  
was Flores C

was Flow Creek /

Subject Parcel



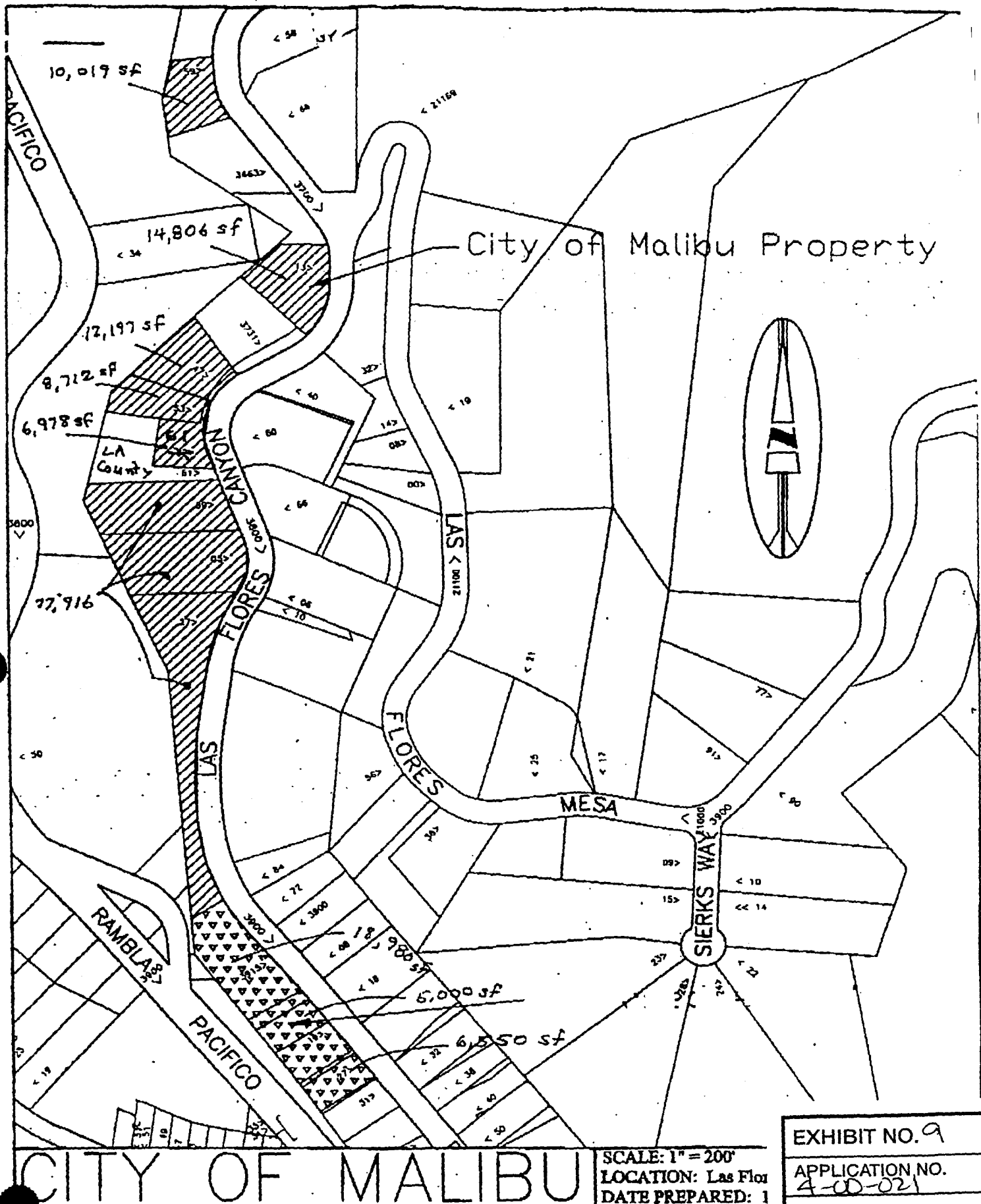


EXHIBIT NO. 9

APPLICATION NO.  
4-00-021

Herrig  
City Parks/Park  
Proposed

SCALE: 1" = 200'  
LOCATION: Las Flores  
DATE PREPARED: 1

**REQUEST FOR PROPOSAL  
FOR DESIGN DEVELOPMENT SERVICES  
CITY OF MALIBU  
LAS FLORES PARK AND COMMUNITY BUILDING**

The City of Malibu (City) is seeking the services of a qualified and experienced team consisting of park planning, engineering services and environmental consultants to provide planning environmental analysis, facilitation, and design services for the City of Malibu's proposed Las Flores Park site. The following information should be considered as part of your proposal:

**Project Description**

The City of Malibu owns eleven lots totaling approximately 6.7 acres along one side of Las Flores Canyon road with Las Flores Creek running along the rear of the lots (a plot map has been attached). The lots are of irregular shapes, are continuous with the exception of two lots and are near Pacific Coast Highway in a residential area. Several lots had homes on them and are subject to flooding during peak flows of the creek. One home and several foundations remain will be removed. It is the intention of the City to construct a neighborhood park on the site that will meet the needs of the community while being sensitive to the concerns of the surrounding neighborhood and providing a buffer area for creek overflow.

The proposal being requested is to provide planning, environmental, facilitation, and design services for the development of the park. Direction and input on the uses of the park will be provided to the Consultant by the City through staff, the Parks Master Plan, and through two community workshops.

It is envisioned that the park will include such uses as picnic and passive areas, an interpretive trail highlighting the native riparian environment, a playground, a parking lot and a 2,000 sq. ft community building with classrooms, an office, restrooms, and storage facilities.

**Design Consideration**

The design shall incorporate appropriate methods and materials to design and develop a multi-purpose neighborhood park, which will meet the present and future recreational, maintenance, security, durability, handicap-accessibility, utility, lighting, landscaping, and site planning needs of the City. The Consultant will also be responsible for the development of an itemized construction estimate. The Consultant shall provide all professional services necessary to provide for park planning, engineering, geology, environmental analysis, community meeting facilitation, and a complete set of biddable documents (working drawings, special conditions, and specifications). City staff will assist in, but not be responsible for, obtaining required information relating to the project design and will be responsible for the preparation of the Environmental Initial Study and other environmental clearance for the project.

5 pages

EXHIBIT NO. 10
APPLICATION NO. 4-00-021
Herzlig
City Park Proposal



## Scope of Work

### Design Phase to Adoption

1. Serve as a resource to staff and the Parks & Recreation Commission during the initial planning process.
2. Facilitate two (2) public community meetings
3. Site visit with City staff during the planning phase
4. Preparation of site information including topographical, soils, hydrology, geology and civil engineering, including utilities, and traffic engineering.
5. Preparation of all required environmental documentation.
6. Preliminary design specifications, cost, and time of construction estimates.
7. Final working-documents, including itemized cost estimate (by Division) for construction.

### Construction Phase

At this time, the project is not funded for construction. The City will apply for funds from the recently approved state park bond. At the time of construction, the City will negotiate with the Consultant for the following construction administration services:

1. Attend pre-bid and pre-construction meetings; respond to Requests for Information (RFI). Issue Architect Supplemental Instructions (ASI) as required.
2. Review all contractor submittals.
3. Attend construction project meetings, and attend final inspection meeting prior to acceptance of the park by the City.
4. Develop punch list prior to final acceptance.

Note: City staff shall be responsible for obtaining all necessary Building, Planning and Engineering Division approvals required for the project.

### Timeline

The timeline for the design of the Las Flores Park site ensures that plans and estimates will be completed by March 2001. The following timeline highlights key dates for the process.

September 15, 2000 Proposals due to City  
September 29, 2000 Consultant interviews and recommendation  
October 23, 2000 Council awards consultant contract  
November 14, 2000 Parks & Recreation Commission meets with consultant and prioritizes needs.

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COASTAL COMMISSION  
SOUTHERN COAST DISTRICT

### Meeting and Presentation Requirements

As part of the design development and final approval process, the Consultant will be required to attend and facilitate meetings and make presentations to various City groups including:

City staff  
Community Groups (2 public meetings)  
Parks & Recreation Commission  
City Council

The Consultant will be required to facilitate the two public meetings. The purpose of the meetings will be to receive public comment for the design of the park, focusing on park uses and their impacts on the surrounding neighborhoods. The Consultant will be expected to rely on their experience to offer solutions to challenges brought forth at the community meetings.

### Proposal Content

The response for the Request for Proposal (RFP) shall be prepared by the Consultant in a task format and shall contain the following minimum information:

1. A brief summary of the Consultant's previous experience with the planning and development of natural setting neighborhood parks, including the process which was utilized in the development of the designs, the names of the primary owner's representatives, and date of completion.
2. The name and resume of the responsible person who would be in charge of the project, information of other design team members, and the resumes of each, and current and projected commitments for the period commencing 30 days after the proposals are due, and names and resumes of any other consulting firms who will be involved in the project.
3. An estimate of the time to complete the project
4. A copy of the Consultant's current published rates
5. A certification of Consultant form (attached).
6. The proposed fee based upon cost plus net fee. The fee is to be broken down by task demonstrating how the fee was calculated. The Consultants proposal shall identify the fees for all work associated with the project. The fee schedule should be enclosed in a separate, sealed and clearly marked envelope.

Ten (10) copies of the proposal must be submitted as indicated at the end of this document.

### Selection Process

City staff and the Parks & Recreation Commission will review all responses to the Request for Proposal and select the most qualified Consultants to be interviewed by the selection committee, composed of members of the Parks & Recreation Commission and the City Council Parks & Recreation Subcommittee. The selection of the top Consultants shall be based upon the following criteria:

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

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Initial Evaluation of Proposals:

1. Qualifications of the firm and staff (project team must be identified) as demonstrated in the proposal.
2. Previous experience with community park planning process, design, and facilitation of community-oriented meetings.
3. Examples of recent community park project projects successfully designed and constructed.
4. Ability to meet the City's timeline.

After the proposals are evaluated, a short list will be developed. The most qualified responders will be invited for an oral interview before the selection committee.

Interview Criteria:

The following criteria shall be considered in the final evaluation (interview process) of the top Consultants:

1. Consultant's past record of performance with similar projects including control of costs, quality of work, meeting schedules; and number of types of change orders (if applicable). References will be checked.
2. Consultant's demonstrated capability to develop innovative and advanced designs.
3. Demonstrated ability to facilitate meetings, build consensus, and effectively work with members of the public.
4. Demonstrated understanding of the project as evidenced in the oral interview.
5. The present workload of the firm and the availability of staff for the project.
6. City's prior experience with Consultant.

After the interview before the selection committee, the City Council will authorize staff to negotiate a contract with the selected Consultant based on the proposed fees and services.

After the final negotiations, the Director of Public Works will make a recommendation to the City Council for an award of contract.

General Information

1. The Consultant must be able to meet all City insurance requirements.
2. Joint venture proposals will be accepted provided that a copy of the agreement is furnished, that a project manager has complete responsibility for the project and that the primary consultant.
3. The City reserves the right to request additional information from any or all of the respondents.
4. The City reserves the right to reject any or all of the proposals. All late or incomplete proposals will not be considered. The City shall have sole discretion in determining the completeness of each proposal.
5. The City shall reserve the right to contact past clients for references.
6. The terms and scope of the contract will be determined on the basis of professional negotiations between the City and the prospective Consultant. If the City and the

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CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

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prospective Consultant fail to reach a contractual agreement, the City may negotiate with any other highly ranked Consultant.

7. Following the selection of the Consultant and execution of the contract, all respondents will be notified of the City's decision.

Any questions regarding the project should be directed to; Paul Adams, Director of Parks & Recreation, (310) 317-1364.

Staff will be available at the Parks & Recreation Department to escort consultants to the project site by appointment.

**Submission Deadline**

TEN (10) copies of the proposal shall be submitted and received no later than 4:00 P.M., Tuesday, September 15, 2000. FAX proposals will not be accepted. The proposal shall be sent to:

Office of the City Clerk  
City of Malibu  
23555 Civic Center Way  
Malibu, CA 90265  
(310) 456-2489

Requested by:

\_\_\_\_\_  
Paul L. Adams,  
Director of Parks & Recreation

\_\_\_\_\_  
Chuck Bergson,  
Director of Public Works

**Attachments:**

- A1: Site Plan
- A2: City Standard Professional Services Agreement and Requirements

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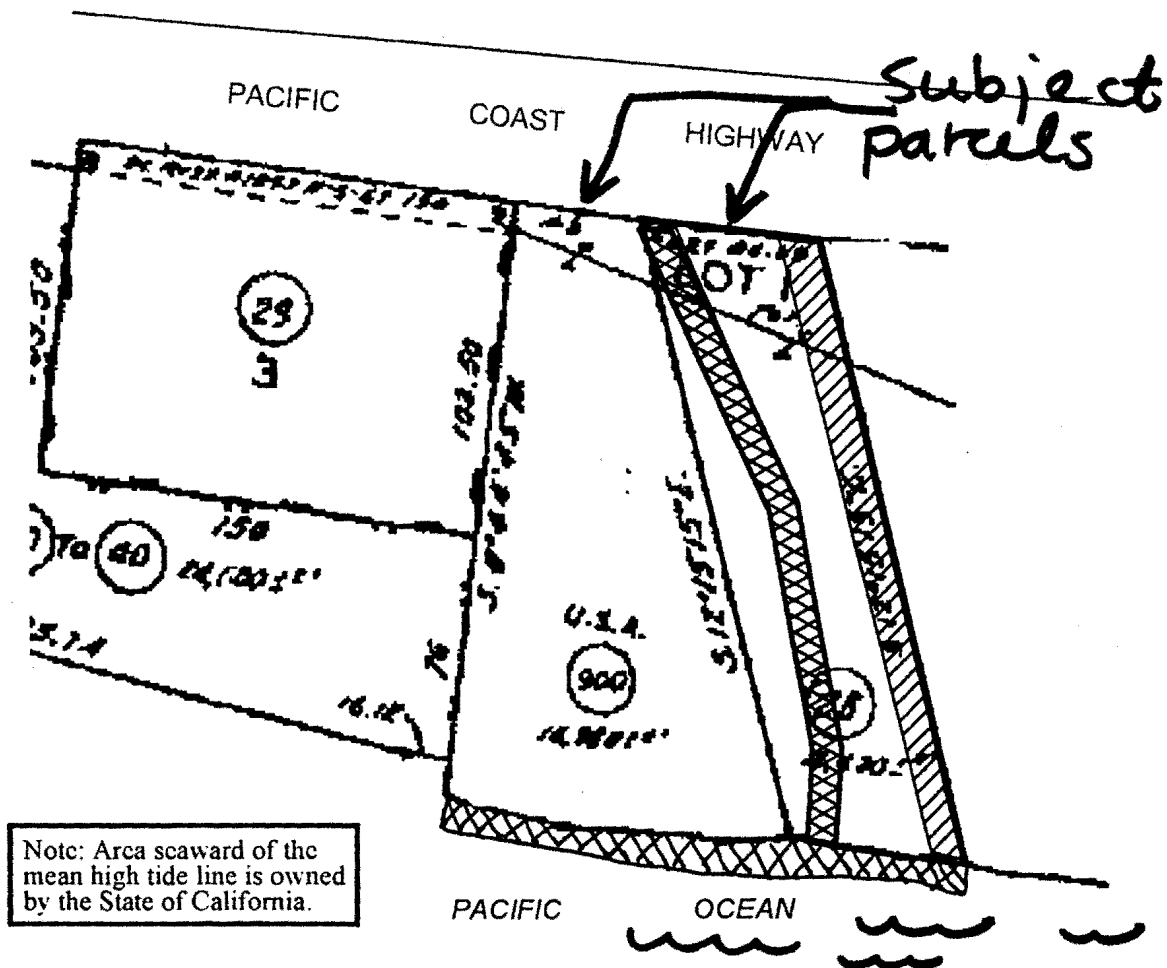
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CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

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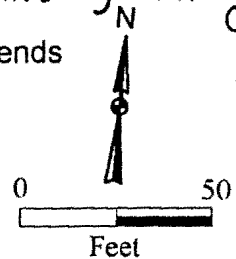
# Offer to Dedicate Public Access

FELINA'S (CDP# P-79-4918)  
and  
Deed Restriction for Public Access  
HALL (CDP# P-75-6353)  
Malibu, Los Angeles County



Note: Area seaward of the mean high tide line is owned by the State of California.

- FELINA'S 10 Foot Wide Vertical Access Easement (Extends from Northerly Property Line to Mean High Tide Line) *Lateral/* Owned by State Coastal Conservancy
- HALL 10 Foot Wide Vertical Access Deed Restriction (Extends from Northerly Property Line to Mean High Tide Line) *Lateral/*
- Property Boundary  
L. A. County APN 4452-001-900



Note: All Locations Approximate.  
For Illustrative Purposes Only.



California Coastal Commission  
Coastal Access Program

Source: California Coastal Commission  
Base Map Source: L. A. County Assessor's Office

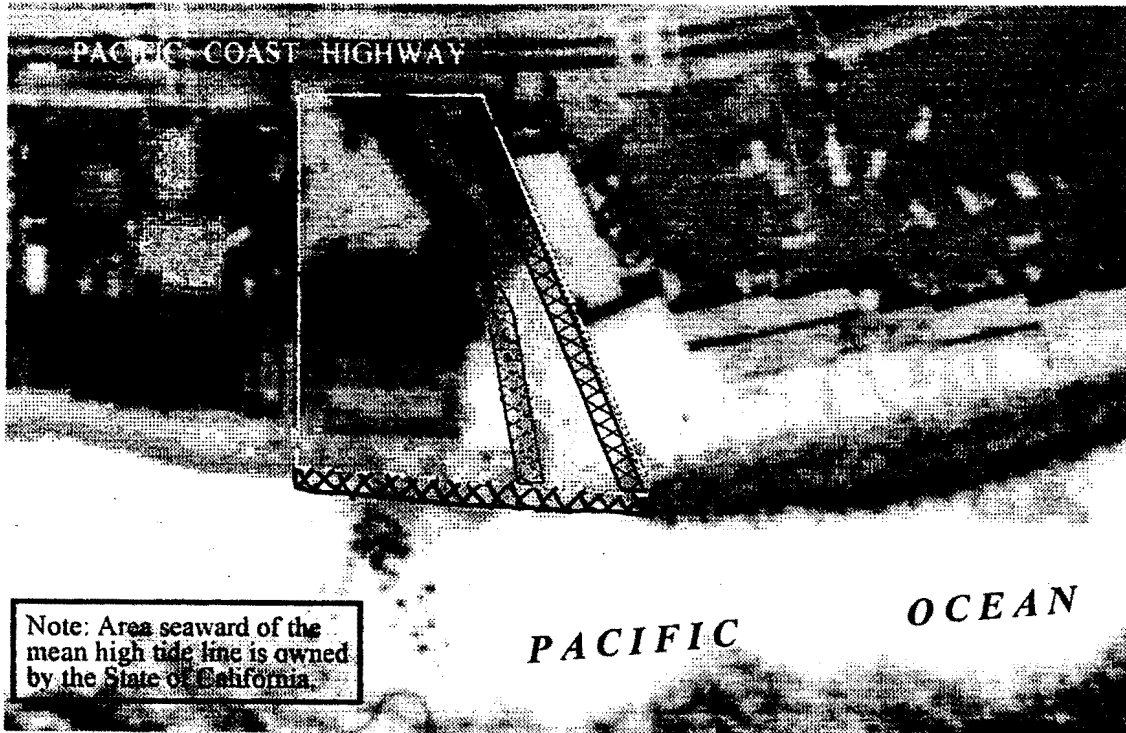
EXHIBIT NO. 11
APPLICATION NO. 4-00-021
Herzig Access Easements

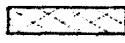
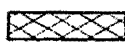




# Offer to Dedicate Public Access

FELINA'S (CDP# P-79-4918)  
and  
Deed Restriction for Public Access

## HALL (CDP# P-75-6353)

Malibu, Los Angeles County



-  FELINA'S 10 Foot Wide <sup>Lateral</sup> Vertical Access Easement (Extends from Northerly Property Line to Mean High Tide Line). *Owned by State Coastal Conservancy*
-  HALL 10 Foot Wide <sup>Lateral</sup> Vertical Access Deed Restriction (Extends from Northerly Property Line to Mean High Tide Line)
-  Property Boundary  
L.A. County APN 4452-001-900
-  Indicates Property Boundary is Ambulatory
-  N
-  0 100  
Feet

Note: All locations approximate.  
For illustrative purposes only.



California Coastal Commission  
Coastal Access Program

Source: California Coastal Commission Access Program  
Photo Source: CA Dept. of Boating and Waterways, 1993

RR, 5/98

*Exhibit 11  
Page 2 of 2*