

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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Commission Action:

**RECORD PACKET COPY****STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-99-216

**APPLICANT:** Joseph Cohen

**AGENT:** Alan Block

**PROJECT LOCATION:** 31350 Broad Beach Road, Malibu; Los Angeles County

**PROJECT DESCRIPTION:** Demolition of an existing 2,800 sq. ft. single family residence and the construction of a new 3,885 sq. ft. single family residence, an attached 582 sq. ft. garage, a two-car uncovered parking area, and a septic system. The project also includes an offer to dedicate a lateral public access easement over the southern beachfront portion of the site with a ten foot privacy buffer as measured from the seawardmost approved structure at the first floor elevation, and the removal of an existing rock revetment. The proposal includes 98 cu. yds. of grading (49 cu. yds. of cut and 49 cu. yds. of fill) for construction of the residence and up to 200 cu. yds. of additional excavation to remove the rock revetment.

<b>Lot area:</b>	9,476 sq. ft.
<b>Building coverage:</b>	2,406 sq. ft.
<b>Pavement coverage:</b>	1,658 sq. ft.
<b>Landscape coverage:</b>	1,060 sq. ft.
<b>Parking spaces:</b>	4
<b>Ht. above existing grade:</b>	28 ft.

**LOCAL APPROVALS RECEIVED:** City of Malibu: Planning Approval in Concept, Engineering and Geotechnical Review, Environmental Health (septic).

**SUBSTANTIVE FILE DOCUMENTS:** Wave Uprush Study and Coastal Engineering Report by David C. Weiss, Structural Engineer dated 12/27/98; Updated Coastal Engineering Report by David C. Weiss, dated 1/21/00; Geotechnical Engineering Report by Coastline Geotechnical Consultants, Inc., dated 4/12/99; Reply to Geology and Geotechnical Engineering Review Sheet by Coastline Geotechnical Consultants, dated 5/21/99.

## SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with seven special conditions addressing: 1) Revised Plans, 2) Construction Responsibilities and Debris Removal, 3) Geotechnical Recommendations, 4) Sign Restriction, 5) Offer to Dedicate Lateral Public Access, 6) Assumption of Risk, 7) No Future Shoreline Protective Device, and 8) Removal of Rock Revetment.

The proposed project is an infill development on a portion of Broad Beach, accessed via Broad Beach Road, that is developed with existing single family residences. The proposed project is located 45 feet up coast (west) of the existing vertical access easement to the beach, and the applicant is offering to dedicate a lateral public access easement (subject to a ten foot privacy buffer) south of the proposed residence.

The proposed project includes the demolition of an existing single family residence that has been "yellow tagged" by the City of Malibu in the wake of severe storm damage that occurred during the winter storms of 1998. The applicant also proposes to remove an existing rock revetment that the applicant's agent indicates was placed in 1998 in reliance upon what the applicant believed was verbal authorization for the placement of the revetment by Commission staff. The applicant did not submit a subsequent application for the construction of the revetment.

A previous coastal development permit (CDP 4-93-107, Gale) was approved by the Commission in 1994 to remove a previously placed rock revetment on the subject parcel and to construct a bulkhead in place of the revetment. That revetment was subsequently removed, vesting CDP 4-93-107, but the approved bulkhead was not constructed. The applicant's agent has confirmed that the applicant relinquishes any entitlement to build the bulkhead authorized pursuant to CDP 4-93-107 upon the approval of Coastal Development Permit 4-99-216, which does not include the construction of a shoreline protective device.

The applicant initially sought approval under the present application for the construction of a bulkhead to protect the proposed septic disposal system. In consultation with staff, the applicant redesigned the septic disposal system to incorporate the contemporary "bottomless sand filter" type of construction, and relocated the system as far landward as feasible. The septic plan changes resulted in the relocation of the septic disposal system sufficiently landward that the applicant's coastal engineer confirmed that a bulkhead is not necessary to protect the system. Therefore, the present proposal eliminates the request to construct a bulkhead or any other shoreline protective device.

The staff nevertheless recommends the imposition of Special Condition 1 (revised plans) to require the applicant to revise the project plans to either raise the elevation of the proposed ground level terrace and stairs to an elevation above the maximum

design wave height (17 MSL) or eliminate the structures, thereby ensuring that no hardscape features will affect beach profiles by interfering with shoreline processes.

## **I. STAFF RECOMMENDATION:**

**MOTION:**        *I move that the Commission approve Coastal Development Permit 4-99-216 pursuant to the staff recommendation.*

The staff recommends that the Commission adopt the following resolution:

### **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## **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 term or 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 the issuance of Coastal Development Permit 4-99-216, the applicant shall submit revised plans that either raise the elevation of the seaward side beach level terrace, stairs, and other hardscape features to a minimum elevation of 17 MSL or delete such features.

#### **2. Construction Responsibilities and Debris Removal**

The applicant shall, by accepting this permit, agree: a) that no stockpiling of dirt or construction materials shall occur on the beach; b) that all grading shall be properly covered and sand bags and/or ditches shall be used to prevent runoff and siltation; and, c) that measures to control erosion must be implemented at the end of each day's work. In addition, no machinery will be allowed in the intertidal zone at any time. The permittee shall remove from the beach area any and all debris that result from the construction period.

#### **3. Geotechnical Recommendations**

All recommendations contained in the Wave Uprush Study and Coastal Engineering Report by David C. Weiss, Structural Engineer dated 12/27/98; Updated Coastal Engineering Report by David C. Weiss, dated 1/21/00; Geotechnical Engineering Report by Coastline Geotechnical Consultants, Inc., dated 4/12/99; and Reply to Geology and Geotechnical Engineering Review Sheet by Coastline Geotechnical

Consultants, dated 5/21/99, shall be incorporated into all final design and construction including recommendations concerning foundation, drainage, and septic system. Final project plans must be reviewed and approved by the consultants prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the satisfaction of the Executive Director of the consultants' review and approval of all final design and construction 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.

#### **4. Sign Restriction**

No signs shall be posted on the property subject to this permit which (a) explicitly or implicitly indicate that the portion of the beach on the subject site (Assessor's Parcel Number 4470-016-013) located seaward of the residence and deck permitted in this application 4-99-216 is private or (b) contain similar messages that attempt to prohibit public use of this portion of the beach. In no instance shall signs be posted which read "*Private Beach*" or "*Private Property*." In order to effectuate the above prohibitions, the permittee/landowner is required to submit to the Executive Director for review and approval prior to posting the content of any proposed signs.

#### **5. Offer to Dedicate Lateral Public Access Easement**

In order to implement the applicant's proposal of an offer to dedicate an easement for lateral public access and passive recreational use along the shoreline as part of this project, the applicant agrees to complete the following prior to issuance of the permit: the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easement shall be located along the entire width of the property from the mean high tide line landward to the seawardmost extent of beach level development approved by the Commission pursuant to Coastal Development Permit 4-99-216 as illustrated on the revised plans prepared pursuant to Special Condition 1 above, and approved by the Executive Director.

The document shall contain the following language:

- (a) Privacy Buffer

The area ten (10) feet seaward from the seawardmost extent of beach level development approved by the Commission as illustrated on the revised final project plans prepared pursuant to Special Condition 1 shall be identified as a privacy buffer. The privacy buffer shall be applicable only if and when it is located landward of the mean high tide line and shall be restricted to pass and repass only, and shall be available only when no other dry beach areas are available for lateral public access. The privacy buffer does not affect public access should the mean high tide line move within the buffer area.

(b) Passive Recreational Use

The remaining area shall be available for passive recreational use.

The document shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions of both the applicant's entire parcel and the easement area. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**6. Assumption of Risk**

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

and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**7. No Future Shoreline Protective Device**

- A. By acceptance of the permit, the applicant agrees, on behalf of itself and all successors and assignees, that no shoreline protective devices shall ever be constructed to protect the development approved pursuant to Coastal Development Permit 4-99-216 including, but not limited to, the construction of the residence, garage, uncovered parking area, stairways, decks, terraces, landscaping, septic system and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, landslides, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including but not limited to, the residence, garage, uncovered parking area, septic system, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- C. Prior to issuance Coastal Development Permit 4-99-216, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicant's entire parcel(s). 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.

**8. Removal of Rock Revetment**

Prior to commencement of construction of the proposed new residence approved pursuant to Coastal Development Permit 4-99-216, but no later than 180 days after Commission approval of Coastal Development Permit 4-99-216, the applicant shall submit evidence to the satisfaction of the Executive Director that the entire existing rock

revetment located seaward of the development approved pursuant to this coastal development permit on the subject parcel has been removed from the beach.

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

The Commission hereby finds and declares:

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

The applicant proposes to demolish an existing 2,800 sq. ft. single family residence that was "yellow tagged" by the City of Malibu after severe damage to the structure resulted during heavy surf and storm conditions during 1998, and to construct a new, 3,885 sq. ft., two story, 28 ft. high above centerline of Broad Beach Road grade (35 ft. high above lowest beach level elevation) single family residence with attached 582 sq. ft. two car garage, a two car uncovered parking area, and a septic disposal system. The applicant proposes to grade 98 cu. yds. of material to prepare the site (49 cu. yds. cut and 49 cu. yds. fill) and may require up to 200 cu. yds. of excavation to remove the existing rock revetment as required by Special Condition Eight (8). In addition, the project includes an offer to dedicate a lateral public access easement over the southern beachfront portion of the site as measured from the mean high tide line landward to the seawardmost beach level development approved by the Commission and shown in the revised plans required by Special Condition 1, discussed below. The offer includes the retention of a ten foot buffer measured from the approved beach level structural footprint.

All proposed development (including the residence, garage, and uncovered parking area) will be constructed entirely on a caisson/grade beam foundation designed at an elevation above the maximum design wave profile. No shoreline protective device is proposed as part of the development. As noted in the staff recommendation summary, the initial application proposed a different septic disposal system configuration and a bulkhead to protect that septic footprint. In consultation with staff, the applicant has revised the project designs to relocate the septic disposal system landward, thereby pulling the system back from the maximum wave uprush zone delineated by the applicant's coastal engineer. As the result, the applicant's coastal engineer has confirmed that a bulkhead is therefore unnecessary, and the applicant has revised the proposed project description to incorporate the revised septic disposal plan and to eliminate the previously proposed bulkhead.

As the staff summary also noted, the subject site was the subject of a previously approved coastal development permit approved in 1994 (CDP 4-93-107, Gale) that authorized the construction of a bulkhead and the removal of a then-existing rock revetment. The revetment was removed but the bulkhead was not constructed. The



applicant's agent, Alan Block, esquire, has confirmed that the applicant relinquishes any entitlement to the construction of the previously approved bulkhead in consideration of Commission approval of the newly proposed project incorporating a caisson and grade beam construction design, which does not require the construction of a bulkhead.

The applicant's agent has explained that an existing rock revetment was placed on the seaward side of the subject parcel sometime in 1998, during the heavy surf conditions of that winter. The agent represents that the applicant placed the revetment in the belief that a verbal approval to do so had been obtained from Commission staff. No written emergency coastal development permit was processed according to Commission records and no followup regular permit application was received. Therefore, the applicant has agreed to remove the existing revetment, which is unnecessary to protect the proposed project according to the applicant's consulting coastal engineer.

## **B. Shoreline Processes and Seaward Encroachment**

Section 30235 of the Coastal Act states:

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Section 30251 of the Coastal Act states that:

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

Finally, 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, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Past Commission review of shoreline residential projects in Malibu has shown that such development results in potential individual and cumulative adverse effects to coastal processes, shoreline sand supply, and public access. Shoreline development, if not properly designed to minimize such adverse effects, may result in encroachment on lands subject to the public trust (thus physically excluding the public); interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and the ability to use public tideland areas. In order to accurately determine what adverse effects to coastal processes will result from the proposed project, it is necessary to analyze the proposed project in relation to characteristics of the project site shoreline, location of the development on the beach, and wave action.

### **Site Shoreline Characteristics**

The proposed project site is located on Broad Beach in the City of Malibu. Broad Beach is characterized as a relatively wide beach which has been extensively developed with single family residences surrounding and adjacent to the subject site. The Malibu/Los Angeles County Coastline Reconnaissance Study by the United States Army Corp of Engineers dated April 1994 indicates that residential development on Broad Beach is generally protected by the wide nature of the beach; however, the report also states that Broad Beach is subject to periodic episodes of beach recession and recovery that expose development along Broad Beach to potential storm damage and flooding from severe storm events. The applicant's coastal engineering consultant has also indicated that Broad Beach is an oscillating (equilibrium) beach which experiences seasonal erosion and recovery. The Wave Uprush Study by David C. Weiss dated 12/27/98 further indicates that the width of the beach changes seasonally and that the subject beach experiences a seasonal foreshore slope movement (oscillation) by as much as 40 ft.

### **Stringline**

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum public access and minimize wave hazards, as well as minimize adverse effects to coastal processes, shoreline sand supply, and public views, the Commission has, in past permit actions, developed the "stringline" policy. As applied to beachfront development, the stringline limits the seaward extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks to a similar line drawn between the nearest corners of the adjacent decks. The Commission has applied this policy to numerous past permits involving infill on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches.

In the case of this project, the proposed development will be located landward of the appropriate stringline and will not result in the seaward encroachment of residential development on Broad Beach. Therefore, the Commission finds that the proposed project will not result in the seaward encroachment of development on Broad Beach and will serve to minimize adverse effects to coastal processes.

### Wave Uprush and Mean High Tide Line

The applicant's coastal engineering consultant has submitted information regarding the location of the mean high tide line on the subject site as measured during several different summer and winter months between 1951 and 1998. The applicant's coastal engineering consultant has further asserted that the most landward measurement of the ambulatory mean high tide line on the project site occurred in May of 1998 when the mean high tide line on site was located approximately 165 ft. seaward of the Broad Beach Road right-of way line. The seawardmost extension of the proposed development will be located approximately 110 ft. seaward of the right-of-way line. Based on the above information, the Commission notes that the proposed development will be located landward of all referenced mean high tide line surveys and should not extend onto public tidelands under normal conditions.

Although the proposed structure will be located landward of the high tide line, the Wave Uprush Study prepared by David C. Weiss, dated 12/27/98 indicates that the maximum wave uprush at the subject site is expected to occur approximately 70 ft. seaward of the Broad Beach Road right-of-way line. The Commission notes that although the proposed residence will not be subject to wave uprush under normal tidal conditions, recent winter storms, including the El Nino Event of 1998 resulted in severe erosion of the beach and damage to several residences located in the Broad Beach area. The applicant's engineering consultant has indicated that all portions of the proposed residence, including the two-car uncovered parking area and garage, will be constructed on a friction pile foundation and will not require a shoreline protection device to ensure structural stability in the event that the proposed development is exposed to wave action during storm events. The seaward extent of the revised septic system and leach field will be located approximately 68 ft. from the Broad Beach Road right-of-way line (approximately 2 ft. landward of the maximum wave uprush limit). The applicant's coastal engineering consultant has concluded that since the proposed septic system will be located landward of the maximum wave uprush limit, no shoreline protection device is required to protect any portion of the proposed system. The Wave Uprush Report updated 1/21/00 states that:

*"...In this office's Coastal Engineering Report of Reference Number Two above, I stated that if the sewage disposal system were to be located no further than 70' from the Broad Beach Right of way line, no protective structure would be required. Accordingly, the most seaward edge of the sewage disposal system is now located approximately 68' from the property line at Broad Beach Road, out of the wave uprush zone. At that location, no protective structure will be required for the sewage disposal system.*

The applicant's coastal engineering consultant has made several other recommendations regarding the foundations of the residence, floor slab elevation, and the location of the septic system in order to minimize adverse effects to shoreline sand supply and to ensure the structural stability of the proposed development. To ensure that all recommendations by the coastal engineering consultant have been incorporated into the proposed development, Special Condition Three (3) requires the applicant to submit project plans certified by the consulting coastal engineer and geotechnical engineer as conforming to all recommendations contained in the Wave Uprush Study and Coastal Engineering Report by David C. Weiss, Structural Engineer dated 12/27/98; Updated Coastal Engineering Report by David C. Weiss, dated 1/21/00; Geotechnical Engineering Report by Coastline Geotechnical Consultants, Inc., dated 4/12/99; and Reply to Geology and Geotechnical Engineering Review Sheet by Coastline Geotechnical Consultants, dated 5/21/99 to ensure structural and site stability and that the proposed development will not result in adverse effects to shoreline processes. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

#### **Future Shoreline Protective Devices**

In the case of the proposed project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. However, as discussed above, areas of Broad Beach have experienced extreme erosion and scour during severe storm events, such as El Nino storms. It is not possible to completely predict what conditions the proposed residence may be subject to in the future. The Commission notes that the construction of a shoreline protective device on the proposed project site would result in potential adverse effects to coastal processes, shoreline sand supply, and public access.

Interference by shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile which results from a reduced beach berm width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on their own property. The second effect on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. This effect additionally reduces public access through a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads

cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. As set forth in earlier discussion, Broad Beach is currently characterized as a wide oscillating beach. However, the applicant's consultant has also indicated that seasonal foreshore slope movement on the subject site can be as much as 40 ft. in the area of the applicant's parcel, and elsewhere on Broad Beach as much as 100 ft. The Commission notes that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists. Fourth, if not sited landward in a location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

The adverse effects of shoreline protective devices are greater the more frequently that they are subject to wave action. In order to minimize adverse effects from shoreline protective devices, when such devices are found to be necessary to protect existing development, the Commission has required applicants to locate such structures as far landward as is feasible. In addition, since shoreline protective devices are most often required to protect existing septic systems, the Commission has also required applicants to locate septic systems as far landward as feasible (Examples: CDP 4-97-191 Kim, and 4-99-086 Greene). The Commission has also required the utilization of alternative technologies for sewage disposal such as bottomless sand filter systems because they are able to be designed to occupy less area on the beach and, therefore, be located further landward than a standard system. In the case of the proposed project, the proposed septic system will be of a bottomless sand filter design and will be located as landward as feasible. As noted above, the applicant's coastal engineering consultant has confirmed that no shoreline protective device is required to protect the proposed development (the residence, garage, and uncovered parking area will be constructed entirely on an engineered caisson/grade beam foundation able to withstand wave action) or to protect the septic system.

In addition, the Commission notes that Section 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. The Commission further notes that the approval of a shoreline protective device to protect new residential development, such as the proposed project, would not be required by Section 30235 of the Coastal Act. The construction of a shoreline protective device to protect a new residential development would conflict with Section 30253 of the Coastal Act which states that new

development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. In addition, the construction of a shoreline protective device to protect new residential development would also conflict with Section 30251 of the Coastal Act which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from such a device. To ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, Special Condition Seven (7) requires the applicant to record a deed restriction that would prohibit the applicant, or future land owner, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application including the residence, septic system, etc.

### **Existing Rock Revetment**

As noted previously, the applicant states that a rock revetment was placed seaward of the existing residence proposed for demolition in 1998. The applicant's coastal engineer has found that no shoreline protective device is necessary to protect any aspect of the presently proposed project, including the septic disposal system. Therefore, the rock revetment is not necessary to protect the proposed development and did not successfully protect the existing structure damaged by wave attack in 1998. The applicant represents that the rocks were placed under emergency conditions in reliance upon verbal approval by Commission staff prior to the placement of rock. The matter of whether a proper emergency approval was made by staff notwithstanding, the applicant did not submit an application for a followup permit after placing the revetment. The applicant proposes to resolve the matter by removing the existing rock revetment that extends laterally on the beachfront area of the applicant's parcel. Therefore Special Condition Eight (8) is necessary to ensure that the revetment is removed before the onset of the next storm season and before construction commences on the residence approved pursuant to this permit. Implementation of Special Condition Eight will ensure that the adverse effect of the existing revetment on shoreline processes is eliminated.

### **Sea Level Rise**

Sea level has been rising slightly for many years. In the Santa Monica Bay area, the historic rate of sea level rise has been 1.8 mm/yr. or about 7 inches per century<sup>1</sup> Sea level rise is expected to increase by 8 to 12 inches in the 21<sup>st</sup> century.<sup>2</sup> There is a growing body of evidence that there has been a slight increase in global temperature

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<sup>1</sup> Lyles, S.D., L.E. Hickman and H.A. Debaugh (1988) Sea Level Variations for the United States 1855 – 1986. Rockville, MD: National Ocean Service.

<sup>2</sup> Field et. al., Union of Concerned Scientists and the Ecological Society of America (November 1999) Confronting Climate Change in California, [www.ucsusa.org](http://www.ucsusa.org).

and that an acceleration in the rate of sea level can be expected to accompany this increase in temperature. Mean water level affects shoreline erosion several ways and an increase in the average sea level will exacerbate all these conditions.

On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore. On a relatively flat beach, with a slope of 40:1, every inch of sea level rise will result in a 40-inch landward movement of the ocean/beach interface. For fixed structures on the shoreline, such as a single family residence, pilings, or seawalls, an increase in sea level will increase the inundation of the structure. More of the structure will be inundated or underwater than are inundated now and the portions of the structure that are now underwater part of the time will be underwater more frequently.

Accompanying this rise in sea level will be increased wave heights and wave energy. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. So, combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to both inundation and wave attack, and those areas that are already exposed to wave attack will be exposed to more frequent wave attack with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

A second concern with global warming and sea level rise is that the climatic changes could cause changes to the storm patterns and wave climate for the entire coast. As water elevations change, the transformation of waves from deep water will be altered and points of energy convergence and divergence could shift. The new locations of energy convergence would become the new erosion "hot spots" while the divergence points may experience accretion or stability. It is highly likely that portions of the coast will experience more frequent storms and the historic "100-year storm" may occur every 10 to 25 years. For most of California the 1982/83 El Niño event has been considered the "100-year storm." Certain areas may be exposed to storms comparable to the 1982/83 El Niño storms every few decades. In an attempt to ensure stability under such conditions, the Commission has required that all new shoreline structures be designed to withstand either a 100-year storm event, or a storm event comparable to the 1982/83 El Niño. Also, since it is possible that storm conditions may worsen in the future, the Commission has required that structures be inspected and maintained on a regular basis. The coast can be altered significantly during a major storm and coastal structures need to be inspected on a regular basis to make sure they continue to function as designed. If storm conditions worsen in future years, the structures may require changes or modifications to remain effective. In some rare situations, storm conditions may change so dramatically that existing protective structures may no longer be able to provide any significant protection, even with routine maintenance.

Therefore, if new development along the shoreline is to be found consistent with the Coastal Act, the most landward location must be explored to minimize wave attack with higher wave forces as the level of the sea rises over time. Shoreline protective devices must also be located as far landward as feasible to protect public access along the beach as discussed further below. In the case of this project, the proposed development will be located as landward as feasible and will not require the construction of a shoreline protection device.

### Conclusion

The proposed residence will be located landward of the August 1951 mean high tide line and landward of the landwardmost mean high tide line referenced by the applicant (May, 1998), and designed to eliminate the necessity for a shoreline protective device. The septic system for the proposed residence will be located as landward as feasible, will not be subject to wave uprush, or require the construction of a shoreline protective device. Further, the proposed development will be located landward of the appropriate stringline and will not result in the seaward encroachment of residential development on Broad Beach.

In addition, no shoreline protective device is proposed as part of the development. The applicant's coastal engineering consultant has confirmed that no shoreline protective device is required to protect either the proposed residence or the septic system. However, as previously discussed, areas of Broad Beach have experienced extreme erosion and scour during severe storm events, such as El Nino storms. It is not possible to completely predict what conditions the proposed residence may be subject to in the future. As discussed in detail above, the construction of a shoreline protective device to protect new residential development would result in potential adverse effects to coastal processes, shoreline sand supply, and public access and would not be consistent with Sections 30235, 30251, or 30253 of the Coastal Act. Therefore, to ensure that the proposed project is consistent with Sections 30235, 30251, and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, Special Condition Seven (7) requires the applicant to record a deed restriction that would prohibit the applicant, or future land owner, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application including the residence, septic system, driveway, etc. Further, to ensure structural and site stability, Special Condition Three (3) requires the applicant to submit project plans certified by the consulting coastal engineer and engineering geologist.

Therefore for all of the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30235, 30251, and 30253.



### **C. Hazards and Geologic Stability**

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

***(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***

***(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

The proposed development would be located along the Malibu coastline, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu coastline include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Even beachfront properties have been subject to wildfires. Finally, beachfront sites are specifically subject to flooding and erosion from storm waves.

The applicant has submitted a Wave Uprush Study and Coastal Engineering Report by David C. Weiss, Structural Engineer dated 12/27/98; Updated Coastal Engineering Report by David C. Weiss, dated 1/21/00; Geotechnical Engineering Report by Coastline Geotechnical Consultants, Inc., dated 4/12/99; and Reply to Geology and Geotechnical Engineering Review Sheet by Coastline Geotechnical Consultants, dated 5/21/99. The consultants have determined that the proposed development will serve to ensure geologic and structural stability on the subject site. The referenced geotechnical engineering report dated 4/12/99 concludes that:

***Based on the findings summarized in this report, and provided the recommendations of this report are followed, and the designs, grading and construction are properly and adequately executed, it is our opinion that construction within the building site will not be subject to geotechnical hazards from landslides, slippage or settlement in excess of ¼ inch over 30 feet. Further, it is the opinion that the proposed building and anticipated site grade will not adversely effect the stability of the site, or adjacent properties, with the same provisos listed above.***

The Wave Uprush Study and geotechnical reports include a number of recommendations to ensure the stability and geotechnical safety of the site. To ensure that the recommendations of the geotechnical and coastal engineering consultants have been incorporated into all proposed development, Special Condition Three (3) requires the applicant to submit project plans certified by both the consulting geotechnical and geologic engineer and the coastal engineering consultant as conforming to all recommendations to ensure structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development approved by the

Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

As discussed above, the Commission notes that the applicant's engineering consultants have indicated that the proposed development will serve to ensure relative geologic and structural stability on the subject site. However, the Commission also notes that the proposed development is located on a beachfront lot in the City of Malibu and will be subject to some inherent potential hazards. The Commission notes that the Malibu coast has historically been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the 1998 severe El Nino winter storm season. The subject site is clearly susceptible to flooding and/or wave damage from storm waves, storm surges and high tides. Past occurrences have caused property damage resulting in public costs through emergency responses and low-interest, publicly subsidized reconstruction loans in the millions of dollars in Malibu area alone from last year's storms.

In the winter of 1977-1978, storm-triggered mudslides and landslides caused extensive damage along the Malibu coast. According to the National Research Council, damage to Malibu beaches, seawalls, and other structures during that season caused damages of as much as almost \$5 million to private property alone.

The El Nino storms recorded in 1982-1983 caused high tides of over 7 feet, which were combined with storm waves of up to 15 feet. These storms caused over \$12.8 million to structures in Los Angeles County, many located in Malibu. The severity of the 1982-1983 El Nino storm events are often used to illustrate the extreme storm event potential of the California, and in particular, Malibu coast. The 1998 El Nino storms also resulted in widespread damage to residences, public facilities and infrastructure along the Malibu Coast.

Thus, ample evidence exists that all beachfront development in the Malibu area is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The proposed development will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future. The Coastal Act recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting coastal engineer, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the

Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, as required by Special Condition Six (6), when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

In addition, the Commission notes that construction activity on a sandy beach, such as the proposed project, will result in the potential generation of debris and or presence of equipment and materials that could be subject to tidal action. The presence of construction equipment, building materials, and excavated materials on the subject site could pose hazards to beachgoers or swimmers if construction site materials were discharged into the marine environment or left inappropriately/unsafely exposed on the project site. In addition, such discharge to the marine environment would result in adverse effects to offshore habitat from increased turbidity caused by erosion and siltation of coastal waters. To ensure that adverse effects to the marine environment are minimized, Special Condition Two (2) requires the applicant to ensure that stockpiling of construction materials shall not occur on the beach, that no machinery will be allowed in the intertidal zone at any time, all debris resulting from the construction period is promptly removed from the sandy beach area, all grading shall be properly covered, and that sand bags and/or ditches shall be used to prevent runoff and siltation.

Therefore, the Commission finds, for the reasons set forth above, that the proposed development, as conditioned, is consistent with Section 30253 of the Coastal Act.

#### **D. Public Access; Visual Resources**

The Coastal Act mandates the provision of maximum public access and recreational opportunities along the coast. The Coastal Act contains several policies which address the issues of public access and recreation along the coast.

Coastal Act Section 30210 states that:

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

Coastal Act Section 30211 states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

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

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

Section 30220 of the Coastal Act states that:

*Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such use.*

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.*

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

All projects requiring a coastal development permit must be reviewed for compliance with the public access and recreation provisions of Chapter 3 of the Coastal Act. Based on the access, recreation and development sections of the Coastal Act, the Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline.

The major access issue in this permit application is the occupation of sandy beach area by a structure and potential effects on shoreline sand supply and public access in contradiction of Coastal Act policies 30211 and 30221. The subject site is located on Broad Beach, approximately 150 ft. west (upcoast) of the nearest public beach (Zuma Beach County Park) and approximately ½ mile to the east (downcoast) of an existing

public vertical accessway. The Commission notes that Zuma Beach County Park is the most heavily used beach in the Malibu area. The Commission further notes that many beachgoers who access the beach from Zuma Beach County Park, or the public vertical accessways along Broad Beach, often walk along the shoreline between Lechuza Point (located approximately 1 mile upcoast from the project site) and Point Dume (located approximately 3 miles downcoast from the project site) including the southern beachfront portion of the subject site.

The State owns tidelands, which are those lands located seaward of the mean high tide line as it exists from time to time. By virtue of its admission into the Union, California became the owner of all tidelands and all lands lying beneath inland navigable waters. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The public trust doctrine restricts uses of sovereign lands to public trust purposes, such as navigation, fisheries, commerce, public access, water oriented recreation, open space, and environmental protection. The public trust doctrine also severely limits the ability of the State to alienate these sovereign lands into private ownership and use free of the public trust. Consequently, the Commission must avoid decisions that improperly compromise public ownership and use of sovereign tidelands.

Where development is proposed that may impair public use and ownership of tidelands, the Commission must consider where the development will be located in relation to tidelands. The legal boundary between public tidelands and private uplands is relation to the ordinary high water mark. In California, where the shoreline has not been affected by fill or artificial accretion, the ordinary high water mark of tidelands is determined by locating the existing "mean high tide line." The mean high tide line is the intersection of the elevation of mean high tide with the shore profile. Where the shore is composed of sandy beach whose profile changes as a result of wave action, the location at which the elevation of mean high tide line intersects the shore is subject to change. The result is that the mean high tide line (and therefore the boundary) is an "ambulatory" or moving line that moves seaward through the process known as accretion and landward through the process known as erosion.

Consequently, the position of the mean high tide line fluctuates seasonally as high wave energy (usually but not necessarily) in the winter months causes the mean high tide line to move landward through erosion, and as milder wave conditions (generally associated with the summer) cause the mean high tide line to move seaward through accretion. In addition to ordinary seasonal changes, the location of the mean high tide line is affected by long term changes such as sea level rise and diminution of sand supply.

The Commission must consider a project's direct and indirect effect on public tidelands. To protect public tidelands when beachfront development is proposed, the Commission must consider (1) whether the development or some portion of it will encroach on public tidelands (i.e., will the development be located below the mean high tide line as it may

exist at some point throughout the year) and (2) if not located on tidelands, whether the development will indirectly affect tidelands by causing physical impacts to tidelands. In the case of the proposed project, the State Lands Commission presently does not assert a claim that the project intrudes onto sovereign lands.

Even structures located above the mean high tide line, however, may have an adverse effect on shoreline processes as wave energy reflected by those structures contributes to erosion and steepening of the shore profile, and ultimately to the extent and availability of tidelands. That is why the Commission also must consider whether a project will have indirect effects on public ownership and public use of shorelands. The applicants seek Commission approval of a new beachfront residence supported on friction pile foundation. As previously discussed in detail, although the proposed project will not include the construction of any shoreline protection device, the direct occupation of sandy area by the proposed residence, will result in potential adverse effects to public access along the sandy beach.

Although no shoreline protective device is proposed as part of this project, the Commission notes that interference by a shoreline protective device has a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile, which results from reduced beach width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area of public property available for public use. The second effect on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. The effect of this on the public is again a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they eventually affect the profile of a public beach. Fourth, if not sited landward in a location that insures that the revetment is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave' energy. Finally, revetments and bulkheads interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

As previously discussed in detail, the applicant's coastal engineering consultant has indicated that no shoreline protective device is required to protect either the proposed residence (which will be constructed on a caisson/grade beam foundation) or the septic system (which will be located landward of the maximum wave uprush limit). Therefore,

to ensure that the proposed project does not result in future adverse effects to public access, Special Condition Ten (10) requires the applicant to record a deed restriction that would prohibit the applicant, or future land owner, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application including the residence, garage, at-grade courtyard, septic system, driveway, etc.

In addition, the Commission must also consider whether a project affects any public right to use shorelands that exist independently of the public's ownership of tidelands. In addition to a new development's effects on tidelands and on public rights protected by the common law public trust doctrine, the Commission must consider whether the project will affect a public right to use beachfront property, independent of who owns the underlying land on which the public use takes place. Generally, there are three additional types of public uses identified as: (1) the public's recreational rights in navigable waters guaranteed to the public under the California Constitution and state common law, (2) any rights that the public might have acquired under the doctrine of implied dedication based on continuous public use over a five-year period; and (3) any additional rights that the public might have acquired through public purchase or offers to dedicate.

These use rights are implicated as the public walks the wet or dry sandy beach below the mean high tide plane. This area of use, in turn moves across the face of the beach as the beach changes in depth on a daily basis. The free movement of sand on the beach is an integral part of this process, and it is here that the effects of structures are of concern.

The beaches of Malibu are extensively used by visitors of both local and regional origin and most planning studies indicate that attendance of recreational sites will continue to increase significantly over the coming years. The public has a right to use the shoreline under the public trust doctrine, the California Constitution and California common law. The Commission must protect those public rights by assuring that any proposed shoreline development does not interfere with or will only minimally interfere with those rights. In the case of the proposed project, the potential for the permanent loss of sandy beach as a result of the change in the beach profile or steepening from potential scour effects, as well as the presence of a residential structure out over the sandy beach does exist.

In past permit actions, the Commission has required that all new development on a beach, including new single family residences, provide for lateral public access along the beach in order to minimize any adverse effects to public access. In order to conclude with absolute certainty what adverse effects would result from the proposed project in relation to shoreline processes, a historical shoreline analysis based on site-specific studies would be necessary. Although this level of analysis has not been submitted by the applicant, the Commission notes that because the applicant has

proposed as part of the project an offer to dedicate a lateral public access easement along the southern portion of the lot, as measured from the mean high tide line landward to the seawardmost extent of beach level development approved by the Commission (subject to a ten foot privacy buffer), it has not been necessary for Commission staff to engage in an extensive analysis as to whether the imposition of an offer to dedicate would be required here absent the applicant's proposal. As such, Special Condition Five (5) has been required in order to ensure that the applicant's offer to dedicate a lateral public access easement is transmitted prior to the issuance of the coastal development permit.

In addition, the Commission notes that chronic unauthorized postings of signs illegally attempting to limit, or erroneously noticing restrictions on, public access have occurred on beachfront private properties in the Malibu area. These signs have an adverse effect on the ability of the public to access public trust lands. In fact, staff notes that more conflicts between private property owners and public beachgoers have been documented along Broad Beach than along any other beach in the Malibu area and that a "Private Beach Patrol" has been used by the Broad Beach Homeowner's Association in past years to patrol Broad Beach and enforce a "No Trespassing" policy. Staff have received numerous complaints, particularly during summer months, from beachgoers who have stated that private residents, or the Beach Patrol, have inhibited public access along Broad Beach. The Commission has determined, therefore, that to ensure that applicants clearly understand that such postings are not permitted without a separate coastal development permit, it is necessary to impose Special Condition Four (4) to ensure that similar signs are not posted on or near the proposed project site. The Commission finds that if implemented, Special Condition Four (4) will protect the public's right of access to the sandy beach below the MHTL.

Finally, the Commission notes that the proposed structure will not intrude into scenic coastal views available from Pacific Coast Highway, due to topographic relief and the access of the site from Broad Beach Road. The proposed residence and decks would extend no further seaward than existing development on either side as defined by a stringline connecting adjacent development. As such, the Commission finds that the project, as conditioned, will not significantly affect public views of the coast from the sandy beach or from designated scenic highways.

For all of these reasons, therefore, the Commission finds that as conditioned, the proposed project is consistent with Sections 30210, 30211, 30212, 30220, and 30251 of the Coastal Act.



## 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.

Section 30231 of the Coastal Act states that:

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

The applicant proposes to install a new septic system which includes a 2,500 gallon septic tank and a leachfield which will be located no further than 68 ft. seaward of the Broad Beach Road right-of-way line. In order to reduce the size of the required leachfield for the proposed septic system and to allow the system to be located as far landward as possible, the applicant is proposing to install a bottomless sand filter septic system which is designed to produce treated effluent with reduced levels of organics, biochemical oxygen demand (BOD) and total suspended solids (TSS) while occupying only 50 percent of the area required for a conventional septic system and leachfield. As proposed, the septic system will be located as landward as possible.

The applicant has submitted approval from the City of Malibu Environmental Health Department dated January 24, 2000 stating that the proposed septic system is in conformance with the minimum requirements of the City of Malibu Uniform Plumbing Code. The City of Malibu's minimum health code standards for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of soils along the coastline, the depth to groundwater, etc. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

## F. 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).*

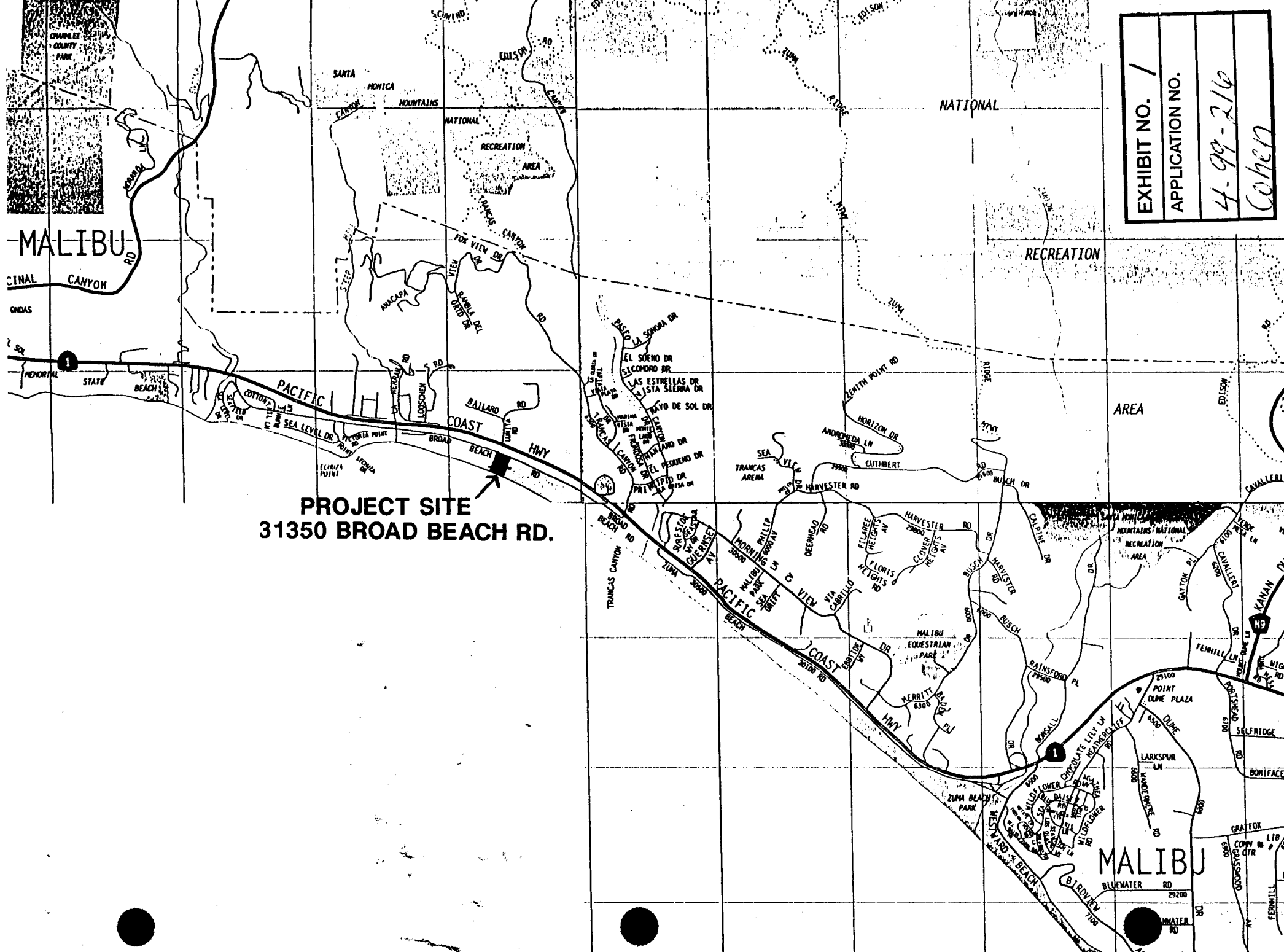
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections 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's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

### **G. 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)(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 Commission finds that, 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.

M. Hale/Ventura



**PROJECT SITE**  
**31350 BROAD BEACH RD.**

EXHIBIT NO. /
APPLICATION NO.
4-99-216
Cohen

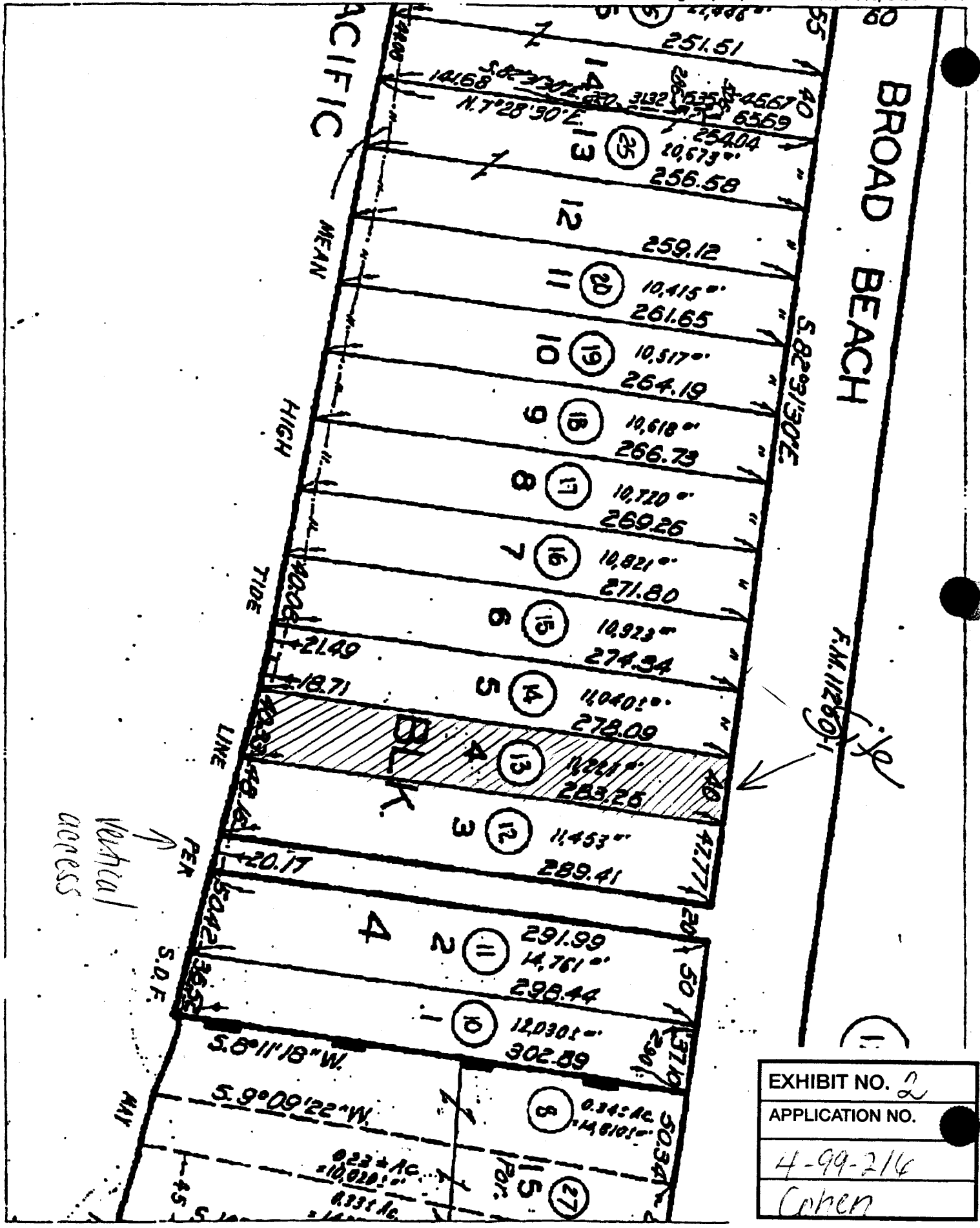


EXHIBIT NO. 2
APPLICATION NO.
4-99-214
Cohen

# RECONSTRUCTION & ADDITION TO 1998 STORM DAMAGED RESIDENCE

(HOUSE YELLOW TAGGED BY CITY OF MALIBU)

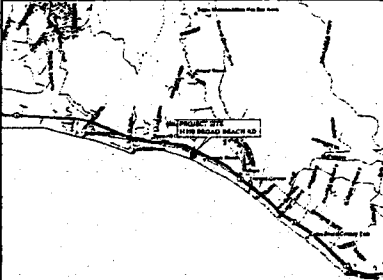
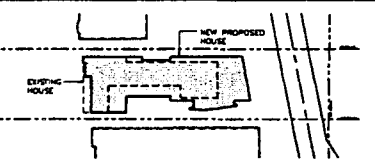
# COHEN RESIDENCE

## 31350 BROAD BEACH RD MALIBU, CA

EXHIBIT NO. 3  
APPLICATION NO.  
4-99-216  
Cohen

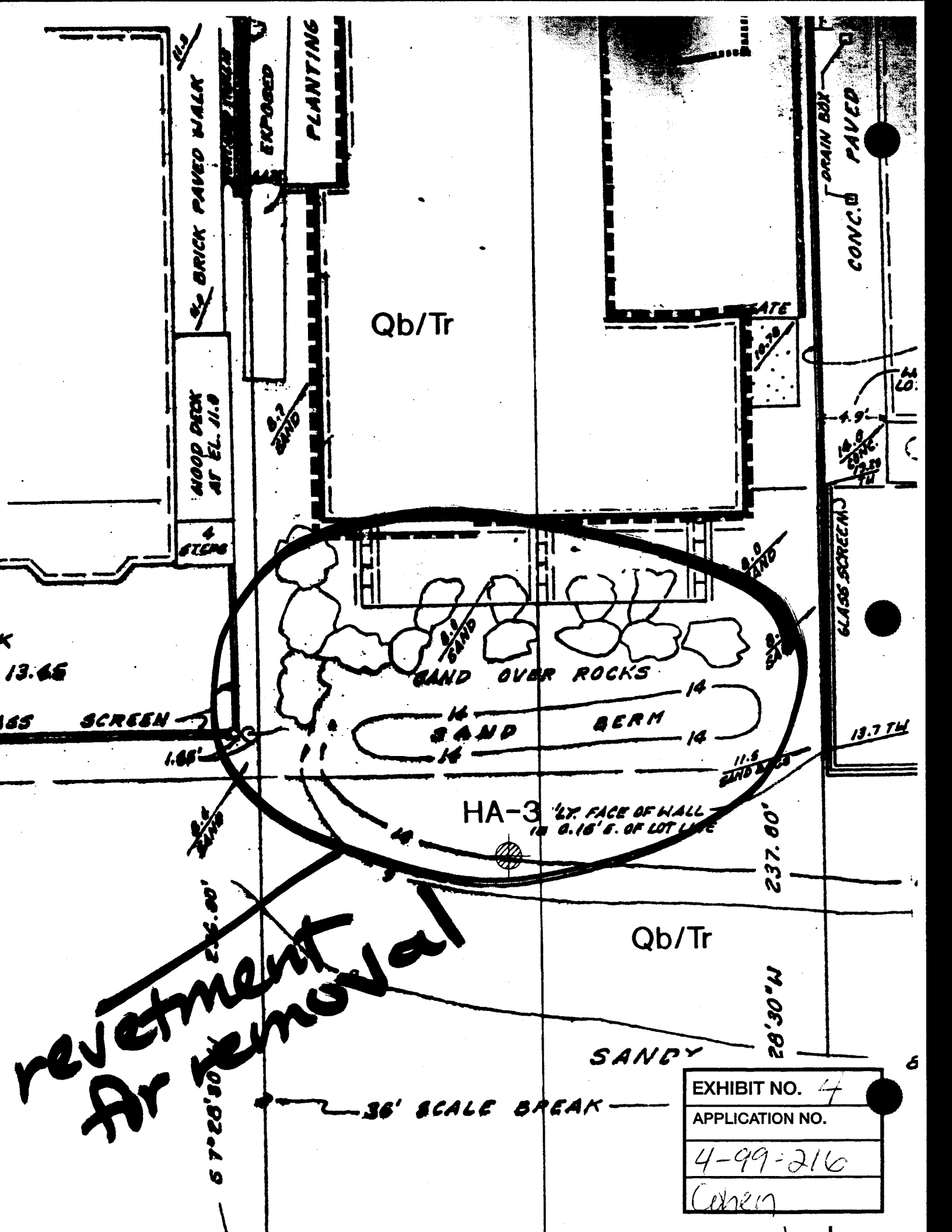
NOT FOR CONSTRUCTION UNLESS  
APPROVED BY THE ARCHITECT

COHEN BEACH HOUSE  
31350 BROAD BEACH RD  
MALIBU, CA

VICINITY	PLOT PLAN	DRAWING INDEX	BUILDING INFORMATION	GENERAL NOTES	COVER SHEET								
		<ul style="list-style-type: none"> <li>A1 COVER SHEET SURVEY</li> <li>A1.2 DOOR-WINDOW &amp; FINISH SCHEDULE</li> <li>A1.3 TITLE 24 - ENERGY CALC.</li> <li>A2 SITE PLAN</li> <li>A3.1 FIRST FLOOR PLAN</li> <li>A3.2 SECOND FLOOR PLAN</li> <li>A3.3 ROOF PLAN</li> <li>A4.1 EXTERIOR ELEVATION</li> <li>A4.2 EXTERIOR ELEVATION</li> <li>A5.1 BUILDING SECTION</li> <li>A5.2 BUILDING SECTION</li> <li>A6.1 WALL SECTION</li> <li>A6.2 WALL SECTION</li> <li>A6.3 WALL SECTION</li> <li>A6.4 WALL SECTION</li> <li>A6.5 WALL SECTION</li> <li>A7.1 EXT. WATERPROOFING DRAINAGE DETAILS</li> <li>A7.2 WALL &amp; FLOOR DETAILS</li> <li>A7.3 DOOR, WINDOW &amp; SKYLIGHT DETAILS</li> <li>A7.4 STAIRS &amp; RAILING DETAILS</li> </ul>	<p>R-3 SINGLE FAMILY RESIDENTIAL - TWO STORIES WITH ATTACHED GARAGE TYPE V - NON RATED CONSTRUCTION</p> <p>LOT AREA 9,478 SQ.FT.</p> <p>BUILDING FLOOR AREA:</p> <table border="0"> <tr> <td>FIRST FLOOR</td> <td>1824 SQ.FT.</td> </tr> <tr> <td>SECOND FLOOR</td> <td>2081 SQ.FT.</td> </tr> <tr> <td>GARAGE</td> <td>582 SQ.FT.</td> </tr> <tr> <td><b>TOTAL FLOOR AREA</b></td> <td><b>4487 SQ.FT.</b></td> </tr> </table>	FIRST FLOOR	1824 SQ.FT.	SECOND FLOOR	2081 SQ.FT.	GARAGE	582 SQ.FT.	<b>TOTAL FLOOR AREA</b>	<b>4487 SQ.FT.</b>	<p>GENERAL NOTES</p> <p>DATE</p> <p>SCALE/REVISION</p> <p>1</p>	<p>COVER SHEET</p> <p>A1</p>
FIRST FLOOR	1824 SQ.FT.												
SECOND FLOOR	2081 SQ.FT.												
GARAGE	582 SQ.FT.												
<b>TOTAL FLOOR AREA</b>	<b>4487 SQ.FT.</b>												
<p><b>LEGAL DESCRIPTION</b></p> <p>LOT 4 TRACT NO. 12909 M.B. 263, 37-40 CITY OF MALIBU COUNTY OF LOS ANGELES, CA</p>	<p><b>CONSULTANTS</b></p> <table border="0"> <tr> <td> <p><b>STRUCTURAL ENGINEER</b> DAVID YERGEN 1501 COLORADO BLVD. SANTA MONICA, CA 90404 PH (310) 458-9919</p> </td> <td> <p><b>GEOLOGICAL REPORT</b> PACIFIC GEOTECH CONSULTANT, INC. 24372 WANDEN STREET, #2038 WEST HILLS, CA 91307 PH (818) 883-0924</p> </td> </tr> <tr> <td> <p><b>T-SHAFTING CONSULTANT</b> SOLARIS, INC. 22026 NEVADA BLVD. #707 WOODLAND HILLS, CA 91364 PH (818) 347-8098</p> </td> <td> <p><b>GRAVITY STATE/CHINA</b> 1448 WEST 177TH STREET CAROLINA, CA 90248 PH (310) 217-1504</p> </td> </tr> </table>	<p><b>STRUCTURAL ENGINEER</b> DAVID YERGEN 1501 COLORADO BLVD. SANTA MONICA, CA 90404 PH (310) 458-9919</p>	<p><b>GEOLOGICAL REPORT</b> PACIFIC GEOTECH CONSULTANT, INC. 24372 WANDEN STREET, #2038 WEST HILLS, CA 91307 PH (818) 883-0924</p>	<p><b>T-SHAFTING CONSULTANT</b> SOLARIS, INC. 22026 NEVADA BLVD. #707 WOODLAND HILLS, CA 91364 PH (818) 347-8098</p>	<p><b>GRAVITY STATE/CHINA</b> 1448 WEST 177TH STREET CAROLINA, CA 90248 PH (310) 217-1504</p>								
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IF THIS SHEET IS NOT 24"X36", IT IS A REDUCED PRINT

**retention  
Dr Removal**



Qb/Tr

Qb/Tr

SANDY

EXHIBIT NO. 4
APPLICATION NO.
4-99-216
Cohen

36' SCALE BREAK

13.65

165

SCREEN

1.85'

57°28'30" 236.00'

HA-3 1/2" FACE OF WALL  
IN 0.15' S. OF LOT LINE

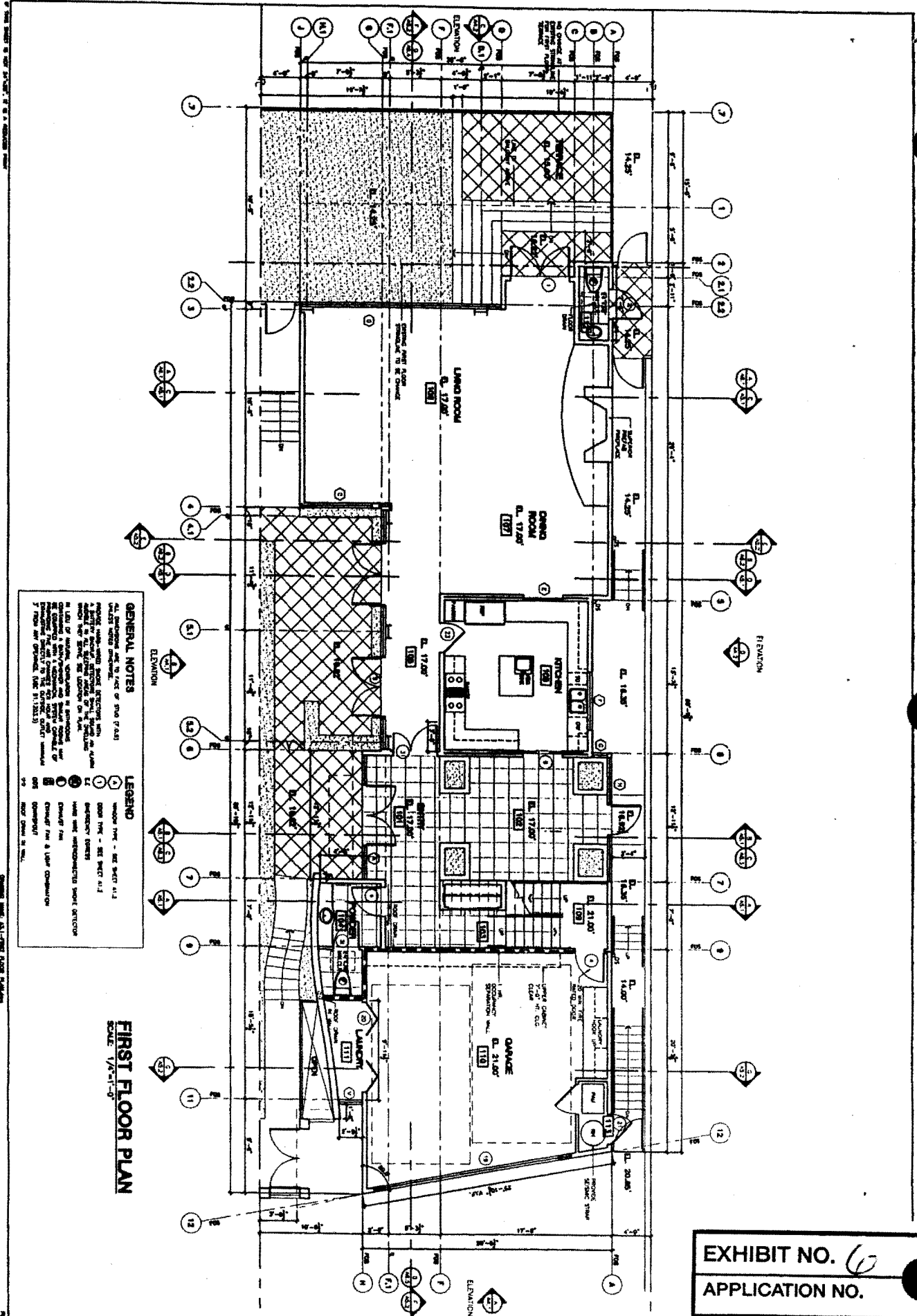
237.80'

28°30'W

13.7 TH

8





**GENERAL NOTES**

ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

CONCRETE FLOORING SHALL BE 4" THICK WITH 1/2" REBAR ON 18" SPACING.

CEILING SHALL BE 8'0" UNLESS OTHERWISE NOTED.

WALLS SHALL BE 8" THICK UNLESS OTHERWISE NOTED.

ROOF SHALL BE 2" POLYSTYRENE INSULATION WITH 1/2" CONCRETE ON TOP.

FOUNDATION SHALL BE 12" CONCRETE WITH 4" REBAR ON 18" SPACING.

DOOR AND WINDOW THRESHOLDS SHALL BE 2" ALUMINUM.

ALL OPENINGS SHALL BE REINFORCED WITH 4" REBAR.

SEE SHEET 31-1 FOR FOUNDATION PLAN.

SEE SHEET 31-2 FOR ROOF PLAN.

SEE SHEET 31-3 FOR SECTION 1-1.

SEE SHEET 31-4 FOR SECTION 2-2.

SEE SHEET 31-5 FOR SECTION 3-3.

SEE SHEET 31-6 FOR SECTION 4-4.

SEE SHEET 31-7 FOR SECTION 5-5.

SEE SHEET 31-8 FOR SECTION 6-6.

SEE SHEET 31-9 FOR SECTION 7-7.

SEE SHEET 31-10 FOR SECTION 8-8.

SEE SHEET 31-11 FOR SECTION 9-9.

SEE SHEET 31-12 FOR SECTION 10-10.

SEE SHEET 31-13 FOR SECTION 11-11.

SEE SHEET 31-14 FOR SECTION 12-12.

SEE SHEET 31-15 FOR SECTION 13-13.

SEE SHEET 31-16 FOR SECTION 14-14.

SEE SHEET 31-17 FOR SECTION 15-15.

SEE SHEET 31-18 FOR SECTION 16-16.

SEE SHEET 31-19 FOR SECTION 17-17.

SEE SHEET 31-20 FOR SECTION 18-18.

SEE SHEET 31-21 FOR SECTION 19-19.

SEE SHEET 31-22 FOR SECTION 20-20.

SEE SHEET 31-23 FOR SECTION 21-21.

SEE SHEET 31-24 FOR SECTION 22-22.

SEE SHEET 31-25 FOR SECTION 23-23.

SEE SHEET 31-26 FOR SECTION 24-24.

SEE SHEET 31-27 FOR SECTION 25-25.

SEE SHEET 31-28 FOR SECTION 26-26.

SEE SHEET 31-29 FOR SECTION 27-27.

SEE SHEET 31-30 FOR SECTION 28-28.

SEE SHEET 31-31 FOR SECTION 29-29.

SEE SHEET 31-32 FOR SECTION 30-30.

SEE SHEET 31-33 FOR SECTION 31-31.

SEE SHEET 31-34 FOR SECTION 32-32.

SEE SHEET 31-35 FOR SECTION 33-33.

SEE SHEET 31-36 FOR SECTION 34-34.

SEE SHEET 31-37 FOR SECTION 35-35.

SEE SHEET 31-38 FOR SECTION 36-36.

SEE SHEET 31-39 FOR SECTION 37-37.

SEE SHEET 31-40 FOR SECTION 38-38.

SEE SHEET 31-41 FOR SECTION 39-39.

SEE SHEET 31-42 FOR SECTION 40-40.

SEE SHEET 31-43 FOR SECTION 41-41.

SEE SHEET 31-44 FOR SECTION 42-42.

SEE SHEET 31-45 FOR SECTION 43-43.

SEE SHEET 31-46 FOR SECTION 44-44.

SEE SHEET 31-47 FOR SECTION 45-45.

SEE SHEET 31-48 FOR SECTION 46-46.

SEE SHEET 31-49 FOR SECTION 47-47.

SEE SHEET 31-50 FOR SECTION 48-48.

SEE SHEET 31-51 FOR SECTION 49-49.

SEE SHEET 31-52 FOR SECTION 50-50.

SEE SHEET 31-53 FOR SECTION 51-51.

SEE SHEET 31-54 FOR SECTION 52-52.

SEE SHEET 31-55 FOR SECTION 53-53.

SEE SHEET 31-56 FOR SECTION 54-54.

SEE SHEET 31-57 FOR SECTION 55-55.

SEE SHEET 31-58 FOR SECTION 56-56.

SEE SHEET 31-59 FOR SECTION 57-57.

SEE SHEET 31-60 FOR SECTION 58-58.

SEE SHEET 31-61 FOR SECTION 59-59.

SEE SHEET 31-62 FOR SECTION 60-60.

SEE SHEET 31-63 FOR SECTION 61-61.

SEE SHEET 31-64 FOR SECTION 62-62.

SEE SHEET 31-65 FOR SECTION 63-63.

SEE SHEET 31-66 FOR SECTION 64-64.

SEE SHEET 31-67 FOR SECTION 65-65.

SEE SHEET 31-68 FOR SECTION 66-66.

SEE SHEET 31-69 FOR SECTION 67-67.

SEE SHEET 31-70 FOR SECTION 68-68.

SEE SHEET 31-71 FOR SECTION 69-69.

SEE SHEET 31-72 FOR SECTION 70-70.

SEE SHEET 31-73 FOR SECTION 71-71.

SEE SHEET 31-74 FOR SECTION 72-72.

SEE SHEET 31-75 FOR SECTION 73-73.

SEE SHEET 31-76 FOR SECTION 74-74.

SEE SHEET 31-77 FOR SECTION 75-75.

SEE SHEET 31-78 FOR SECTION 76-76.

SEE SHEET 31-79 FOR SECTION 77-77.

SEE SHEET 31-80 FOR SECTION 78-78.

SEE SHEET 31-81 FOR SECTION 79-79.

SEE SHEET 31-82 FOR SECTION 80-80.

SEE SHEET 31-83 FOR SECTION 81-81.

SEE SHEET 31-84 FOR SECTION 82-82.

SEE SHEET 31-85 FOR SECTION 83-83.

SEE SHEET 31-86 FOR SECTION 84-84.

SEE SHEET 31-87 FOR SECTION 85-85.

SEE SHEET 31-88 FOR SECTION 86-86.

SEE SHEET 31-89 FOR SECTION 87-87.

SEE SHEET 31-90 FOR SECTION 88-88.

SEE SHEET 31-91 FOR SECTION 89-89.

SEE SHEET 31-92 FOR SECTION 90-90.

SEE SHEET 31-93 FOR SECTION 91-91.

SEE SHEET 31-94 FOR SECTION 92-92.

SEE SHEET 31-95 FOR SECTION 93-93.

SEE SHEET 31-96 FOR SECTION 94-94.

SEE SHEET 31-97 FOR SECTION 95-95.

SEE SHEET 31-98 FOR SECTION 96-96.

SEE SHEET 31-99 FOR SECTION 97-97.

SEE SHEET 31-100 FOR SECTION 98-98.

SEE SHEET 31-101 FOR SECTION 99-99.

SEE SHEET 31-102 FOR SECTION 100-100.

**FIRST FLOOR PLAN**

SCALE: 1/8" = 1'-0"

**EXHIBIT NO.** 6

**APPLICATION NO.** 4-99-216

Cohen

**COHEN BEACH HOUSE**  
 3130 BROAD BEACH RD  
 MALIBU, CA

**A 31**

NO.	REVISION
1	ISSUED FOR PERMITS
2	REVISED PER PERMITTING AGENCY COMMENTS
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100	REVISED PER PERMITTING AGENCY COMMENTS

FIRST FLOOR PLAN  
 1/8" = 1'-0"

DATE OF PREPARATION: 01/27/99

ISSUED FOR PERMITS

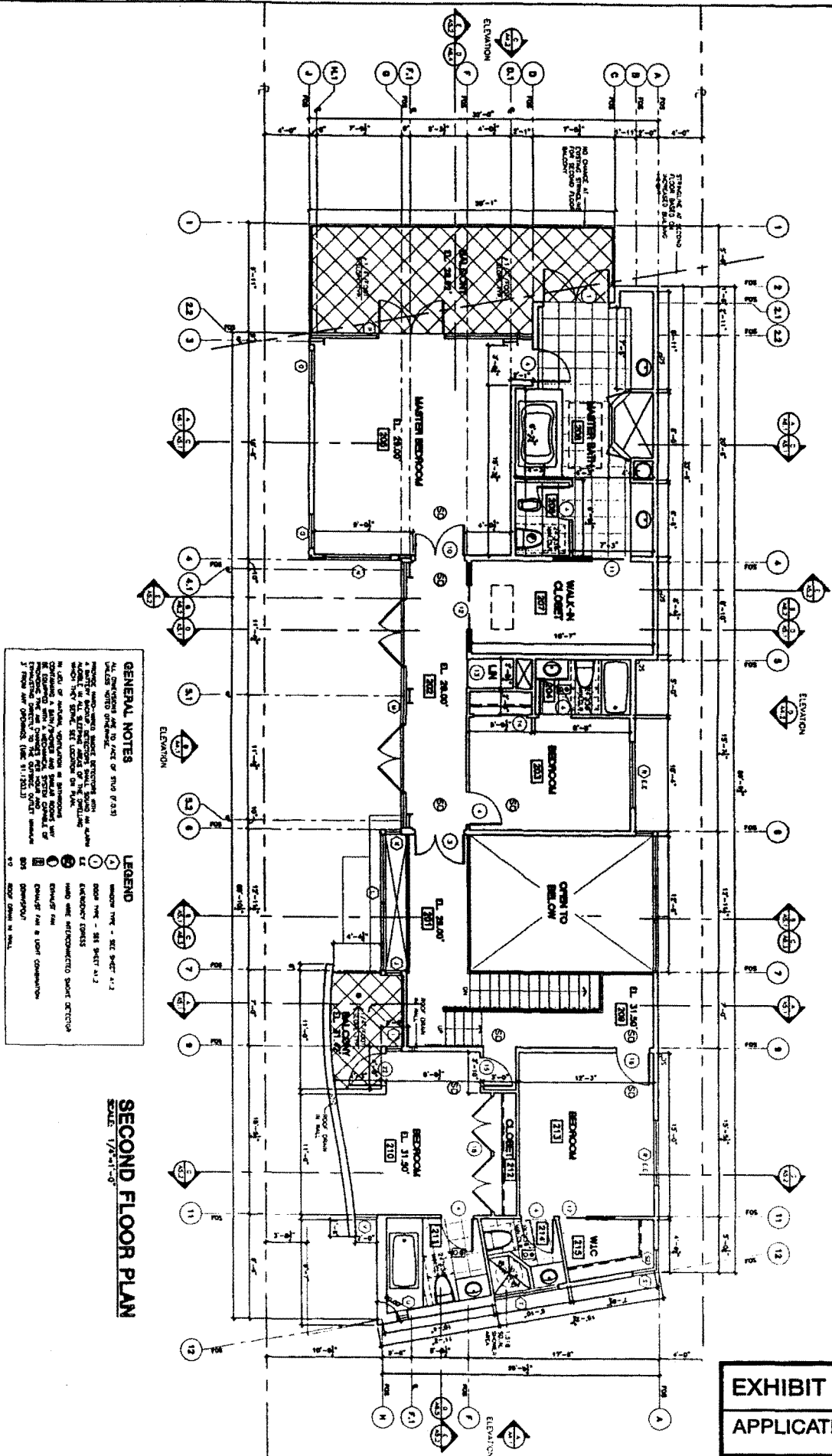
DATE OF PREPARATION: 01/27/99



THIS SHEET IS NOT TO BE USED IN CONNECTION WITH ANY OTHER SHEET.

CONSTRUCTION SHALL BE IN ACCORDANCE WITH CALIFORNIA BUILDING CODES.

DATE: 08/17/2009



**GENERAL NOTES**

1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.

2. FINISH FLOOR TO BE DETERMINED BY THE ARCHITECT.

3. FINISH FLOOR TO BE DETERMINED BY THE ARCHITECT.

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30. FINISH FLOOR TO BE DETERMINED BY THE ARCHITECT.

**LEGEND**

1. WINDOW TYPE - SEE SHEET 4.1.2

2. DOOR TYPE - SEE SHEET 4.1.2

3. EXTERIOR DOOR

4. HAND AND INTERCONNECTED DOOR DETECTOR

5. STAIR

6. STAIR

7. STAIR

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**SECOND FLOOR PLAN**

SCALE: 1/8" = 1'-0"

EXHIBIT NO. 17
APPLICATION NO.
4-99-216
Cohen

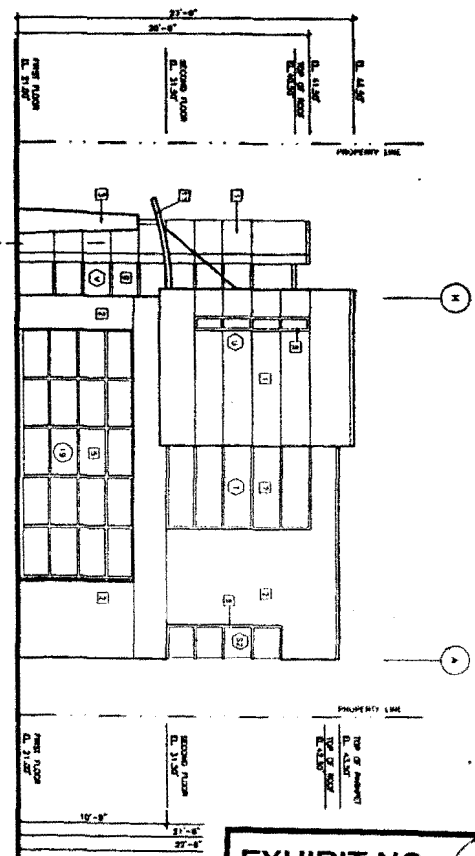
**COHEN BEACH HOUSE**  
3335 BROAD BEACH RD  
MALIBU, CA

SECOND FLOOR PLAN  
1/8" = 1'-0"

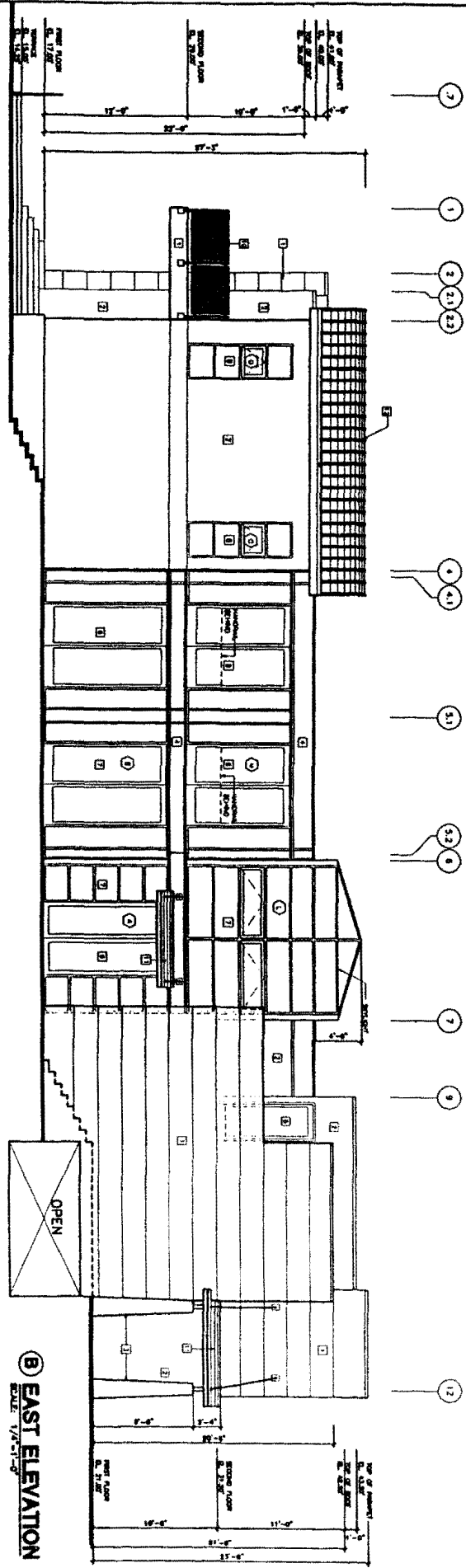
A 32



- 1 STAINLESS STEEL
- 2 MET. INERT. ACETIC
- 3 CONCRETE COLUMN
- 4 GLASS
- 5 MET. & GLASS SHEET PANEL
- 6 GLASS PANEL
- 7 FINISH/PAINT WINDOW
- 8 MET. FRAME WINDOW/DOOR
- 9 PAINTED GLASS
- 10 GLASS WINDOW
- 11 MET. LAMINA
- 12 STAINLESS STEEL WITH ROOF
- 13 STAINLESS STEEL ROOF & PANELS
- 14 PAINTED CONCRETE
- 15 OPERATOR



**Ⓐ STREET ELEVATION**  
SCALE: 1/8"=1'-0"



**Ⓑ EAST ELEVATION**  
SCALE: 1/8"=1'-0"

7' HIGH WALLS & 6" HIGH SILLING, 1" & 2" REINFORCED CONCRETE

GROUND LEVEL: A11-07.1 ELEVATION

NOTED ON 8/17/2000 SHEET

**A 41**

NO.	REVISIONS	DATE	BY
1	ISSUED FOR PERMIT	8/17/2000	...
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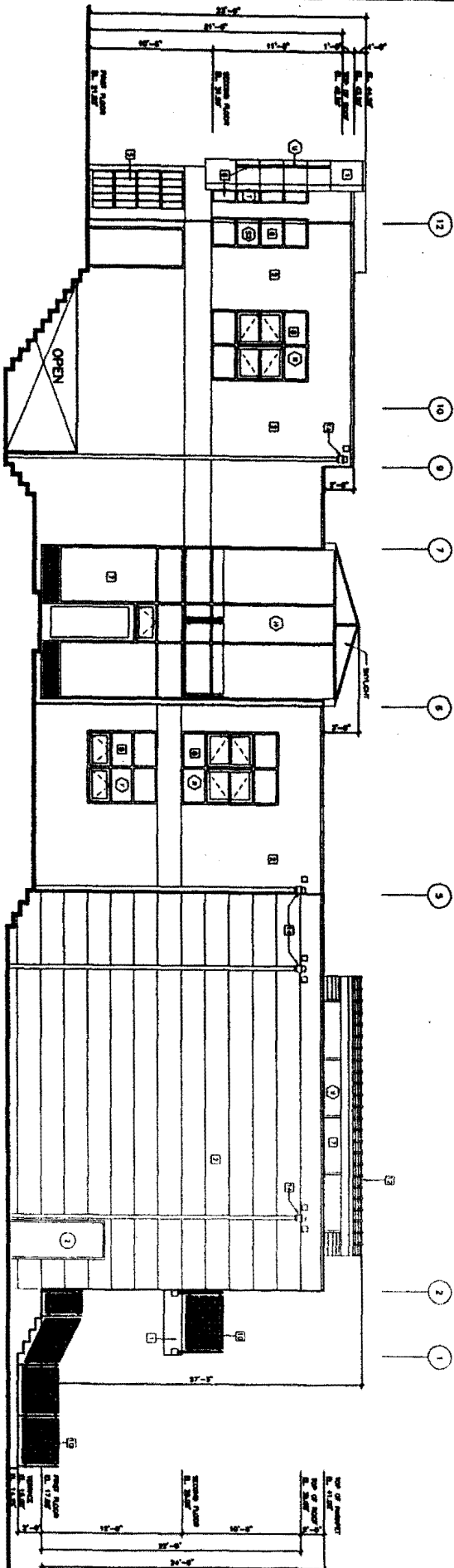
**COHEN BEACH HOUSE**  
31350 BROAD BEACH RD  
MALIBU, CA

EXHIBIT NO. 9
APPLICATION NO.
4-99-216
Cohen

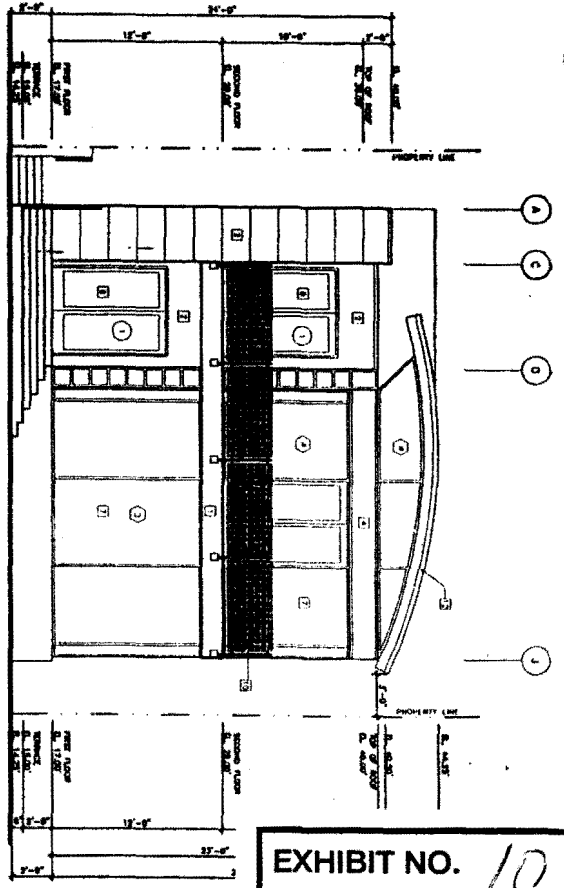
DATE: 08/15/07 11:58 AM

SCALE: 1/8"=1'-0"

DATE: 08/15/07 11:58 AM



**Ⓓ WEST ELEVATION**  
SCALE: 1/8"=1'-0"



**Ⓒ BEACH ELEVATION**  
SCALE: 1/8"=1'-0"

- 1 SHIMMER STEEL
- 2 WELDED TIEBARS
- 3 CONCRETE COLUMN
- 4 SLAB
- 5 STEEL & GLASS GROUND FLOOR
- 6 GLASS DOOR
- 7 FLOORING/CEILING
- 8 WOOD TRIM/SHOULDER
- 9 SHIMMER GLASS
- 10 GLASS WINDOW
- 11 WOOD TRIM
- 12 STAIRS
- 13 PLASTER CORNER SLAB & TRIM PLASTER DETAILS
- 14 CALVERT CONCRETE/STEEL

**A 42**

NO.	REVISION	DATE

**COHEN BEACH HOUSE**  
31350 BROAD BEACH RD  
MALIBU, CA

**EXHIBIT NO.** 10  
**APPLICATION NO.**  
 4-99-216  
 Cohen