

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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Hearing Date: 02/15/00-02/18/00  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION No.** 4-99-248

**APPLICANT:** The Big Wednesday Trust, c/o David C. Meyer, Trustee

**AGENT:** Jaime Harnish

**PROJECT LOCATION:** 28830 Cliffside Drive, Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Partial demolition and remodel of the existing 5,412 square foot single family residence with attached garage, including the addition of 105 square feet to the entry, reduction of 194 square feet from the second floor, replacement of exterior glass walls with wood framing, and increase in height to eighteen feet of the single story section; remodel of the existing 1,510 square foot detached accessory building with no increase in area; replacement of existing conventional septic system with an alternative evapotranspiration system; and removal of two existing bluff top decks with restoration and revegetation of the bluff top upon removal at 28830 Cliffside Drive, Malibu, Los Angeles County.

<b>Area of Lots:</b>	50,490 square feet
<b>Building coverage:</b>	5,958 square feet
<b>Hardscape coverage:</b>	10,270 square feet
<b>Parking spaces:</b>	6 (3 garaged, 3 open)
<b>Height above finished grade:</b>	20.6 feet

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department, Approval-In-Concept, November 2, 1999; City of Malibu Environmental Health, In-Concept Approval, October 25, 1999; City of Malibu, Archaeology Waiver, September 7, 1999; and City of Malibu, Geology Approval, August 19, 1999.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan; California Coastal Zone Conservation Commission Permit Number P-7-23-76-8479 (Aucreman); Coastal Development Permit Number 5-85-122 (Schmidt); Coastal Development Permit Number 5-85-122-A (Schmidt); Coastal Development

Permit Number 5-85-122-A2 (Schmidt); "Visual Geologic Inspection of Residence and Grounds," Earl R. Morley, Jr., Consulting Geologist, June 15, 1973; "Geologic and Geotechnical Engineering Investigation, Proposed House Additions and Remodeling," C. Y. Geotech, Inc., Geology and Geotechnical Engineering, August 12, 1999; "Foundation and Footing Recommendations, Proposed House Additions and Remodeling," C. Y. Geotech, Inc., Geology and Geotechnical Engineering, September 6, 1999; "Concern of Bluff Top Retreat, Proposed House Additions and Remodeling," C. Y. Geotech, Inc., Geology and Geotechnical Engineering, January 11, 2000; and "Additional Information for Bluff Top Retreat, Proposed House Additions and Remodeling," C. Y. Geotech, Inc., Geology and Geotechnical Engineering, January 24, 2000.

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends **approval** of the proposed project with eight (8) special conditions regarding geologic recommendations, removal of deck structures, landscape, drainage, assumption of risk, future development, shoreline protection, and condition compliance. The subject site is a bluff top lot located between the sea and the first public road, (Cliffside Drive), in the Point Dume area of the City of Malibu. The proposed development would be located approximately 40 feet landward of the bluff top and would not include any structural improvements on the bluff face or area at the base of the bluff. This project also includes the removal of two bluff top deck structures, with restoration and revegetation of the bluff area, designated as an environmentally sensitive habitat area (ESHA), upon removal. One of the bluff top deck structures was constructed without the benefit of a coastal development permit, while the other had improvements made to it without the benefit of a coastal development permit.

## **I. STAFF RECOMMENDATION**

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 4-99-248 pursuant to the staff recommendation.*

### **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 (2) years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed within a reasonable period of time. Application for an extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided that the assignee files with the Commission an affidavit accepting all of the 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. Plans Conforming to Geologists' and Engineers' Recommendations

All recommendations contained in the submitted geologic engineering reports prepared by C. Y. Geotech, Inc., Geology and Geotechnical Engineering, relating to foundations, drainage, and erosion control shall be incorporated into all final project plans, designs, and construction, including recommendations concerning septic system plans. All plans must be reviewed and approved by the consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive

Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, drainage, and erosion control. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal development permit. The Executive Director shall determine whether required changes are "substantial."

## **2. Removal of Bluff Top Deck Structures**

The applicant shall remove the two bluff top deck structures located on the edge of the bluff face within 45 days of the issuance of this permit. In addition, prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a demolition plan for the two deck structures, which includes provisions and specifications for removal. These plans shall be reviewed and approved by the geotechnical consultants to ensure that the plans are in conformance with the consultants' geotechnical recommendations.

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

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans for all areas disturbed by construction activities and the removal of the two deck structures, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping plan for areas disturbed by construction activities on the site shall utilize primarily native, drought tolerant species, while the bluff top area disturbed by the removal of the two deck structures shall utilize only native, drought tolerant species, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species, which tend to supplant native species or which are not drought tolerant, shall not be used on any portion of the site. The plans shall include a component that specifically addresses the restoration and revegetation plans for the bluff top portion of the subject site that will be disturbed by the removal of the two deck structures. The final landscaping and erosion control plans, which include this component, shall be reviewed and approved by the consulting engineering geologists to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

### **A) Bluff Top Restoration Component**

The inclusion of a detailed revegetation plan for those portions of the bluff top which will be disturbed by the removal of the two deck structures, as specified in Special Condition Number Two (2), and for that portion of the site located seaward of the residence. The plan shall utilize only native, drought tolerant species, appropriate for coastal bluffs, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their

document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species shall not be used in the bluff top area to be restored. The revegetation program shall use a mixture of seeds and container plants to increase the potential for successful revegetation. No hydroseeding shall occur in areas of the bluff top where native plant material is already established. Disturbed slopes shall be planted within 30 days of disturbance to minimize erosion and bluff top instability.

- 1) Provisions and specifications for the removal of the existing permanent irrigation system, which serves any and all landscaping located seaward of the residence. If irrigation is to be used in the future, only a drip or low flow irrigation system shall be used.
- 2) Removal of the sod lawn and non-native vegetation located seaward of the residence, and revegetation of this area with native grass species or other native, drought tolerant vegetation such as those listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994.
- 3) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

**B) Interim Erosion Control Plan**

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

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

### **C) Monitoring Program**

Prior to the issuance of a coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, a five (5) year Monitoring Program, prepared by a landscaping architect or resource specialist, that certifies the on-site landscaping, including revegetation performance standards for those portions of the bluff top disturbed by the removal of the two deck structures, are in conformance with the landscape plan approved pursuant to this Special Condition. Successful site restoration shall be determined if the revegetation with native, drought tolerant plant species on site is adequate to provide 90 percent coverage of the subject areas by the end of the five (5) year monitoring period. The monitoring report shall include photographic documentation of plant species and plant coverage.

The applicant shall submit, for the review and approval of the Executive Director, written annual reports, beginning after the first year following implementation of the restoration program and include recommendations for mid-program corrections, if necessary. At the end of a five (5) year period, a final detailed report shall be submitted for review and approval of the Executive Director. If this report indicates that the restoration project has in part, or in whole, been unsuccessful, based on the performance standards outlined in the monitoring program, the applicant, assign, or successor in interest, shall be required to submit a revised or supplemental program to compensate for those portions of the original program which were not successful. The revised or supplemental restoration program shall be processed as an amendment to this coastal development permit.

### **4. Drainage Plan and Maintenance Responsibility**

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner which avoids ponding on the pad area. Site drainage shall not be accomplished by sheetflow runoff. Any runoff directed over the bluff top shall be conveyed via a flexible pipe to the beach below. The pipe shall be a color that matches the bluff face. With acceptance of this permit, the applicant agrees that should the project's drainage structures fail or result in erosion of the bluff, the applicant or successors in interest shall be responsible for any necessary repairs and restoration.

**5. Assumption of Risk**

- A. By acceptance of this permit, the applicant acknowledges and agrees to the following:
- (1) The applicant acknowledges and agrees that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire.
  - (2) The applicant acknowledges and agrees 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.
  - (3) The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
  - (4) The applicant agrees 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.

**6. Future Development Deed Restriction**

This permit is only for the development described in Coastal Development Permit Number 4-99-248. Pursuant to Title 14 California Code of Regulations Sections 13253 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (b) shall not apply to the entire parcel. Accordingly, any future additions, change of use, or improvements related to the 1,510 square foot detached accessory structure approved under Coastal Development Permit Number 4-99-248 will require a permit from the Coastal Commission or its successor agency.

**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 Bluff or Shoreline Protective Device**

- A. By acceptance of the permit, the applicant agrees, on behalf of itself and all successors and assignees, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit 4-99-248 including, but not limited to, the residence, garage, accessory structure, swimming pool, spa, septic system, and any other future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, 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 device(s) that may exist under Public Resources Code Section 30235.
- B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including but not limited to, the residence, garage, accessory structure, and 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 OF THE COASTAL DEVELOPMENT PERMIT**, 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. 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. Condition Compliance**

Within 120 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.



#### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

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

The applicant is proposing to partially demolish and remodel the existing 5,412 square foot single family residence, which is located on a bluff top lot seaward of Cliffside Drive, in the Point Dume area of the City of Malibu in Los Angeles County, California. The existing single family residence is extremely unique in that the majority of the exterior walls consist of full height, single pane glass windows and doors, creating the effect of a "glass house." Through this project, these full height, single pane glass walls would be removed and replaced with solid walls, solid and French doors, and new, smaller windows. All of the foundations and footings would remain the same, however. In addition, there would be a 105 square feet addition to the entry, a 194 square foot reduction of the second floor, and an increase in the height of the single story section of the residence to 18 feet. This partial demolition and remodel of the residence will actually result in a decrease in square footage, decreasing the current area from 5,502 square feet to 5,412 square feet. The applicant is also proposing to remodel the existing 1,510 square foot detached two-story accessory building, which also would not result in any increase in area. This detached accessory structure was previously approved pursuant to Coastal Development Permit Number 5-85-122. The proposed project also includes replacement of the existing conventional septic system with an alternative evapotranspiration system.

Furthermore, the applicant is also proposing the removal of two bluff top deck structures, with restoration and revegetation of the disturbed bluff top area upon removal. The western most deck was constructed on the seaward edge of the property and actually extends out over the bluff face. Although it appears that this deck may have originally been constructed prior to 1973, improvements (such as the stone facing) have been made to this deck structure since 1985, without the benefit of a coastal development permit. The eastern most deck, located directly adjacent to the bluff face on the seaward edge of the property, was built after 1985 and was constructed without a coastal development permit. The applicant has, however, proposed to remove these two deck structures and to restore and revegetate the disturbed bluff top area following removal.

##### **Site Description and Background**

The subject site is a bluff top lot located between the sea and the first public road in the area, Cliffside Drive. The site is bounded on the north by Cliffside Drive, on the south by the Pacific Ocean, and on the east and west by neighboring residences. The property is a fairly level, roughly trapezoidal-shaped lot with an existing single family residence with an attached three-car garage, two story guest house/accessory structure, swimming pool, spa, and two bluff top deck structures. The steep ocean facing bluff to the south of the site descends approximately 62 feet from the rear yard to the Big Dume Cove Beach, below.

In past permit actions in Malibu and other similar bluff areas, the Commission has consistently required that new development be set back a minimum of 25 feet from the seaward edge of the top of the bluff and that no new permanent structures be permitted on a bluff face. The proposed remodel and addition would not intrude into this 25 foot bluff setback, which is also consistent with the guidelines established in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). Additionally, the proposed development does not include any structural improvements on the bluff face or the area at the base of the bluff for the purposes of shoreline protection.

Furthermore, the applicant is proposing the removal of the two deck structures located on and adjacent to the upper edge of the bluff face, which is designated as an environmentally sensitive habitat area (ESHA) by the Malibu/Santa Monica Mountains LUP. In addition, offshore kelp beds, also designated as ESHA, are located along this portion of coast, below the bluff. As a result, the removal of the two decks from this area combined with restoration and revegetation will not only comply with the LUP policy guideline requiring a 25 foot setback from the seaward edge of the bluff face, but will also be beneficial to the ESHA.

With regard to the two deck structures, Commission staff has determined that the eastern most deck structure was constructed by a previous owner without the benefit of a coastal development permit, sometime after 1985. Although it appears that there was a similar structure in the location of the western most deck prior to 1973, there were improvements made to the western most deck by a previous owner, including stone facing, also sometime after 1985. The subject site was within the California Coastal Zone Conservation Commission's permit jurisdiction under the California Coastal Zone Conservation Act of 1972 and is within the Coastal Commission's permit jurisdiction today under Section 30600 of the California Coastal Act of 1976.

The proposed project, including the increase in height of the single story section of the residence to 18 feet, would not be visible from either public coastal views, particularly since the development would be setback from the edge of the bluff, which is over 62 feet high. It also will not be visible from any scenic highways due to the secluded nature of the site. In addition, the proposed development will not impair or impede public access to the beach. Furthermore, the removal of the two bluff top deck structures, followed by restoration and revegetation of the bluff top area will result in greater safety to the public on the beach immediately below the subject site. As a result, the proposed project would have no adverse impacts on beach processes or public access and would be consistent with the general character of the developed neighborhood on Cliffside Drive.

## **B. Bluff Top Development/Geologic Stability**

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.

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.*

The proposed development is 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/Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

Furthermore, Section 30253 of the Coastal Act requires that new development minimize risk to life and property in areas of high geologic, flood, and fire hazard, and to assure stability and structural integrity. Coastal bluffs, such as the one located on the subject site, are unique geomorphic features that are characteristically unstable. By nature, coastal bluffs are subject to erosion from sheet flow across the top of the bluff and from wave action at the base of the bluff. In addition, due to their geologic structure and soil composition, these bluffs are susceptible to surficial failure, especially with excessive water infiltration.

Due to the geologic instability of bluffs and their continuing role in the ecosystem, the certified Malibu/Santa Monica Mountains LUP contains a number of policies regarding development on or near coastal bluffs. Although the City of Malibu is now incorporated, these policies are still used as guidance by the Commission in order to determine the consistency of a project with Section 30253 of the Coastal Act. The Malibu/Santa Monica Mountains LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. For instance, Policy 164, in concert with the Coastal Act, provides that new development shall be set back a minimum of 25 feet from the seaward edge of the top of the bluff or a stringline drawn between the nearest corners of the adjacent structures, *whichever distance is greater*, but in no case less than would allow for a 75-year useful life for the structure. Policy 165, in conjunction with the Coastal Act, provides that no new permanent structures be permitted on a bluff face.

The proposed project constitutes significant redevelopment of an existing single family residence on a bluff top parcel in the Point Dume area of the City of Malibu. The existing single family residence is extremely unique in that the majority of the exterior walls consist of full height, single pane glass windows and doors, creating the effect of a "glass house." Through this project, these full height, single pane glass walls would be

removed and replaced with solid walls, solid and French doors, and new, smaller windows. All of the foundations and footings would remain the same, however. In addition, there would be a 105 square foot addition to the entry, a 194 square foot reduction of the second floor, and an increase in the height of the single story section of the residence to 18 feet. This partial demolition and remodel of the residence will actually result in a decrease in square footage, decreasing the current area from 5,502 square feet to 5,412 square feet. The applicant is also proposing to remodel the existing 1,510 square foot detached two-story accessory building, which also would not result in any increase in area. This detached accessory structure was previously approved pursuant to Coastal Development Permit Number 5-85-122. The proposed project also includes replacement of the existing conventional septic system with an alternative evapotranspiration system.

Due to the undulating character of the bluff adjacent to the site, the 25 foot setback from the bluff top is a more practical measure for the proposed development than the stringline analysis, as required by the Malibu/Santa Monica Mountains LUP. With the exception of the two bluff top decks, which would be removed, the existing residence and proposed additions are set back more than 25 feet from the bluff edge, which has also been required by the Commission in past permit actions. The existing and proposed residence is set back approximately 40 feet from the bluff edge. The most seaward portion of the existing and proposed residence is set back 35 feet from the edge of the bluff. Additionally, in their report dated January 24, 2000, C. Y. Geotech, Inc., Geology and Geotechnical Engineering, state that "the stability of the existing and proposed building structures will not be affected by the retreat of the bluff top during a lifetime of 75 years," also in compliance with the Malibu/Santa Monica Mountains LUP policy. The Malibu/Santa Monica Mountains LUP also suggests that no permanent structures be permitted on a bluff face. In this case, the applicant is proposing the removal of two deck structures that are directly adjacent to the bluff face, one of which extends beyond the bluff face.

Notwithstanding the project's consistency with the required setbacks and Malibu/Santa Monica Mountains LUP policies, the Commission nevertheless finds that coastal bluff erosion is a dynamic, long-term process and that no structure situated on a coastal bluff, particularly a bluff exposed to wave attack at the beach elevation, can be completely free of hazard. Therefore, the Commission finds it necessary to impose **Special Condition Number Five (5)**, assumption of risk, to ensure that the applicant understands the hazards involved in undertaking additional development on a parcel located adjacent to a bluff above a beach, and that the applicant agrees to assume the risk from such development and to indemnify the Commission, its employees, and agents from all liability associated with proceeding with such development despite such unmitigable hazards.

The applicant has provided a report titled, "Geologic and Geotechnical Engineering Investigation," prepared by C. Y. Geotech, Inc., Geology and Geotechnical Engineering, dated August 12, 1999, evaluating the geologic stability of the subject site in relation to the proposed development. This report states:

*Provided the recommendations of this report are properly incorporated into the design and are implemented during construction, the proposed development will be safe from geologic hazards such as landslide, settlement and slippage and the development will not adversely affect the geologic stability of adjacent properties.*

In this same report, however, C. Y. Geotech, Inc., Geology and Geotechnical Engineering, also states the following:

*However, localized surficial slumps were observed east and west along the toe of the seacliff. The surficial slump was caused by the fracture nature of the near surface bedrock and the occurrence of joint plains.*

The Commission finds that the recommendations above, and those contained in the referenced geotechnical reports, will serve to increase the stability and geotechnical safety of the site if incorporated into plans and implemented during construction. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the geotechnical consultants, in accordance with **Special Condition Number One (1)**.

The Commission notes that while the location of the proposed structures on the subject site may presently be feasible from a geologic point of view, in order to maintain these structures, further improvements such as concrete block walls and/or other protective structures, may eventually be necessary to ensure slope stability in the future due to instability and erosion. In the case of the proposed project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. In fact, in their report dated January 24, 2000, C. Y. Geotech, Inc., Geology and Geotechnical Engineering, state that due "to the occurrence of bedrock along the toe of the bluff, the use of special erosion design such as seawall for the protection of the bluff will not be required for the life time of the building structures." However, many beach areas of Malibu have experienced extreme erosion and scour during severe storm events, such as the El Nino storms. It is not possible to completely predict what conditions the proposed residence may be subject to in the future.

Though, as stated above, no shoreline protective device is proposed as part of this project, 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, the public's beach ownership interests, and public access. First, changes in the shoreline profile, particularly changes in the slope of the profile, which result 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 they are 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, eventually affecting 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.

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 Number Seven (7)** requires the applicant to record a deed restriction that would prohibit the applicant, or future landowners, 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, swimming pool, spa, or any other structure on the subject site.

Additionally, the applicant's geotechnical consultants, C. Y. Geotech, Inc., Geology and Geotechnical Engineering, also make recommendations pertaining to drainage on the subject site. Their report, dated August 12, 1999, states the following:

*Final grading should provide a positive drainage to divert surface water away from the foundation and footings of any building structure and retaining wall in non-erosive devices to the street or other acceptable areas. Roof gutters and downspouts with proper outlets should also be provided. Area drains should be provided for the yard areas. . . . Proper drainage should be provided to divert surface water away from the foundation and footing areas during construction. This is especially important when construction takes place during rainy seasons.*

In past permit actions, the Commission has found that development on steep bluffs has been found to have the potential to significantly exacerbate the natural processes of erosion. Erosion rates are greater when structures are built on the bluff face. Over time, rain water runs off such structures and tends to undercut and erode the area of the bluff immediately behind the structure. Uncontrolled runoff over the bluff face will contribute to headward erosion and lead to destabilization of the bluff slopes and eventually the building site. Additionally, the loss of vegetation through the altering of

the natural landforms would increase the erosion potential. The Commission finds that a drainage system will serve to minimize hazards associated with erosion. In order to ensure that the final drainage system will be in substantial conformance with the consulting geotechnical engineers' recommendations, including those pertaining to drainage, **Special Condition Number Four (4)** requires that the applicant submit drainage plans certified by the consulting geotechnical engineers as being in conformance with their recommendations.

The Commission finds that that while the proposed drainage system will serve to minimize hazards associated with headward erosion, risks associated with excessive water infiltration on a bluff top can only be minimized by allowing only drip or low flow irrigation seaward of the residence. Incidentally, the applicant is already proposing an alternative evapotranspiration septic system, which will implement a drip irrigation system. The percolation of irrigated water into the bluff can lead to de-stabilization of the bluff, and consequently pose a significant risk to existing and proposed development. There have been numerous incidents, where such irrigation lines have burst, saturating the bluff and thereby subjecting bluff top development to hazardous conditions. Removal of the sod lawn, which currently extends seaward of the residence to the edge of the bluff, followed by revegetation of this area with native grass species or other native, drought tolerant vegetation will also assist in reducing these risks associated with excessive water infiltration on the bluff top and aid in stabilizing the site.

Furthermore, in addition to their previous recommendations, C. Y. Geotech, Inc., Geology and Geotechnical Engineering, also stated the following in their report dated August 12, 1999:

*Landscape watering should be kept to the minimum amount required for vegetation growth. All graded, brushed or bare slope should be planted with low-water consumption, native-type plant varieties recommended by a landscape architect.*

Following construction activities and removal of the two bluff top deck structures, landscaping, restoration, and revegetation of the disturbed areas, including the bluff top, on the project site will enhance the geological stability of the site. In addition, interim erosion control measures implemented during construction and removal of the two bluff top deck structures will minimize erosion and enhance site stability. The Commission finds that the minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to revegetate all disturbed areas of the site with native, drought resistant plant species, compatible with the surrounding environment.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and aid in preventing erosion. In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area.

Increasing urbanization in this area has also caused the loss or degradation of major portions of the native habitat and the loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast-growing trees that originate from other continents, that have been used as landscaping in this area, have invaded and already seriously degraded native plant communities adjacent to development. The Commission finds that in order to ensure the stability of the subject site following construction activities and removal of the two deck structures, the disturbed areas on the site shall be landscaped with appropriate native, drought resistant plant species, as specified in **Special Condition Number Three (3)**.

As stated above, the applicant proposes to remove the two bluff top decks, with restoration and revegetation of this disturbed bluff top area upon removal. **Special Condition Number Two (2)** requires the applicant to submit a demolition plan for the two deck structures, including provisions and specifications for removal. Furthermore, **Special Condition Number Three (3)** also contains specific landscape and restoration requirements for this portion of the bluff top that will be disturbed through removal of the two deck structures. The revegetation component of the restoration plan shall utilize only drought resistant plants, which are native to coastal bluffs, and the plan must be submitted prior to issuance of this coastal development permit.

To ensure that the restoration and revegetation is successful, **Special Condition Number Three (3)** also requires that the applicant agree to monitor the site for a period of five (5) years as discussed in further detail below. Monitoring shall include the submittal of annual reports to the Executive Director, which shall outline the progress of the restoration project and shall include any recommendations for modifications to the project if the initial restoration effort fails. In addition, in order to ensure that these two deck structures are removed in a timely manner, **Special Condition Number Two (2)** requires the applicant to remove these two structures within 45 days of the issuance of the coastal development permit. Finally, **Special Condition Number Eight (8)** dictates that the requirements specified in all of the special conditions that the applicant is required to satisfy as a prerequisite to the issuance of this permit, must be fulfilled within 120 days of Commission action.

Therefore, for all of the reasons cited above, the Commission finds that the proposed project, as conditioned by **Special Condition Numbers One (1), Two (2), Three (3), Four (4), Five (5), Seven (7), and Eight (8)** is consistent with the requirements of Coastal Act Section 30253 applicable to geologic stability.

### Wildfire

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wildfire. The typical vegetation in the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wildfires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural



characteristics of native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition Number Five (5)**, assumption of risk, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of **Special Condition Number Five (5)**, the applicant also agrees to indemnify the Commission, its officers, agents, and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

For these reasons, the Commission finds that as conditioned, the proposed project is consistent with the provisions of Section 30253 of the Coastal Act applicable to hazards specifically posed by wildfire.

### **C. Environmentally Sensitive Habitat Areas and Visual Resources**

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

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, and minimizing alteration of natural streams.*

Section 30240 of the Coastal Acts states:

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

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.*

Sections 30230 and 30231 require that the biological productivity and quality of coastal waters and the marine environment be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, and maintaining natural buffer areas. Further, Section 30251 of the Coastal Act requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

In addition, the Coastal Act defines environmentally sensitive habitat areas (ESHAs) as any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development. In 1979, the California State Water Resources Control Board designated the intertidal and offshore areas from Mugu Lagoon to Latigo Point in Malibu, which includes the proposed project site, as an Area of Special Biological Significance (ASBS). This designation is given to areas requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable. Observation of the subject site by staff has indicated that the bluff slope ESHA has been degraded due to the development of two deck structures adjacent to the bluff edge. Section 30240 of the Coastal Act permits development in areas that have been designated as ESHA only when the location of the proposed development is dependent upon those habitat resources and when such development is protected against significant reduction in value. As previously mentioned, the Malibu/Santa Monica Mountains LUP has also designated this as ESHA.

To assist in the determination of whether a project is consistent with Section 30230, 30231, 30240, and 30251 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the Malibu/Santa Monica Mountains LUP for guidance. The Malibu/Santa Monica Mountains LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. For instance, in concert with Sections 30230, 30231, and 30240 of the Coastal Act, Policy 98 of the Malibu/Santa Monica Mountains LUP provides that development should have no significant adverse impacts on sensitive marine and beach habitat areas. Policy 99 provides that development in areas adjacent to sensitive beach and marine habitat areas be designed and sited to prevent impacts that could degrade the environmentally sensitive habitat

areas. Policy 101 of the Malibu/Santa Monica Mountains LUP provides that only resource dependent uses be permitted in sensitive marine and beach habitat areas.

The proposed project includes the removal of two deck structures built adjacent to the coastal bluff face, followed by restoration and revegetation of the bluff top area upon removal. The coastal bluffs west of Point Dume, including the project site, provide habitat for a relatively rare and restricted plant community (Southern Coastal Bluff Scrub). Furthermore, offshore kelp beds, also designated as ESHA, are located along this portion of the coast. Any development on the bluff top removes vegetation and, therefore, removes nesting, feeding, and shelter habitat for shoreline animals which would result in a loss or change in the number and distribution of species. Development on bluffs also results in cumulative adverse effects to marine and bluff habitat. The existing deck structures on the bluff top contribute to these adverse effects, and will continue to do so, as long as they remain in place.

As previously discussed, the eastern most deck structure located on the bluff edge was originally constructed by a previous property owner sometime after 1985, without the required coastal development permit. The western most deck structure, which extends over the bluff edge, was also originally constructed by a previous owner prior to 1973, although improvements were made sometime after 1985. The subject site was within the California Coastal Zone Conservation Commission's permit jurisdiction under the California Coastal Zone Conservation Act of 1972 and is within the Coastal Commission's permit jurisdiction under Section 30600 of the California Coastal Act of 1976. Thus, the Commission notes that the construction of the eastern most deck structure and at least the improvements to the western most deck structure do require coastal development permits and this development has resulted in the displacement of ESHA due to the direct occupation of habitat area on the bluff edge by the structures. In addition, as noted previously, the Commission has found in past Commission action that development on the edge of a bluff top will result in a potential increase in the rate of erosion. In the case of the subject site, increased erosion of the bluff slope would result in increased sedimentation of coastal waters and adverse effects to the offshore kelp beds, also designated as ESHA. Therefore, due to these concerns, **Special Conditions Number Two (2) and Three (3)** have been required to ensure that the removal of the two decks, followed by restoration and revegetation of the bluff top shall be completed as part of this coastal development permit.

In addition, fire department fuel modification requirements for the proposed development would require that vegetation be thinned around the proposed structure. The proposed single family residence and garage will be approximately 40 feet landward of the bluff edge, while the accessory structure will be located nearly 200 feet landward of the bluff face. The Commission notes that these structures will have an adequate buffer from the bluff top and ESHA (greater than the 25 ft. bluff top setback provided by Policy 164 of the LUP and past Commission action) and will not result in any adverse effects to ESHA resources on site.

Furthermore, the proposed project, including the increase in height of the single story section of the residence to 18 feet, would not be visible from either public coastal views, particularly since the development would be setback from the edge of the bluff, which is

over 62 feet high. It also will not be visible from any scenic highways due to the secluded nature of the site. Furthermore, the only structures visible from the beach below are the two deck structures, which the applicant has proposed to remove as part of this permit. Additionally, if the applicant uses flexible piping to direct runoff over the bluff to the beach below, **Special Condition Number Four (4)** requires this piping to be of a color that matches the bluff face, thereby reducing any visual impacts.

Therefore, as conditioned, the Commission finds that the proposed development will be consistent with Sections 30230, 302321, 30240 or 20251 of the Coastal Act.

#### **D. Cumulative Impacts**

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

*(a) Residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30252 of the Coastal Act states:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

Pursuant to Coastal Act Sections 30250 and 30252, cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts, in addition to the impacts otherwise caused by the primary residential development.

Based on the requirements of Sections 30250 and 30252 of the Coastal Act, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 square feet. In addition, the issue of second units on lots with primary residences has been the subject

of past Commission action in certifying the Malibu/Santa Monica Mountains Land Use Plan (LUP). In its review and action on the Malibu/Santa Monica Mountains LUP, the Commission found that placing an upper limit on the size of second units (750 square feet) was necessary, given the traffic and infrastructure constraints which exist in Malibu and the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 square feet) and the fact that they are likely to be occupied by one or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence. (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1). Finally, the Commission has found in past permit decisions that a limit of 750 square feet encourages the units to be used for their intended purpose - that is, as guest units -, rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

In addition to proposing to partially demolish and remodel the existing single family residence, the applicant is also proposing to partially demolish and remodel an existing, detached 1,510 square foot accessory structure on the subject site. Pursuant to Coastal Development Permit Number 5-85-122, this detached structure was approved with 750 square foot first floor consisting of a garage, recreation room, and storage room and a 750 square foot second floor guest house. The applicant is proposing to convert this detached structure into a 1,510 square foot accessory building with no guest house. The applicant is proposing to convert the first floor into a screening room, gymnasium, bath, and bar and the second floor into a library/conference room and study. The structure approved under Coastal Development Permit Number 5-85-122 had an exterior stairway, for use in accessing the guest house on the second floor. The applicant is not proposing to construct an interior stairway for access to the second floor as part of this project and will retain the exterior access way for the second floor. Furthermore, the square footage of the second floor will remain at 750 square feet. In addition, the applicant has stated that this structure will not be used as an inhabitable guest unit or secondary dwelling. Therefore, the structure may be reviewed as a detached, accessory building to the proposed single family residence, non-inhabitable, and therefore not subject to the 750 square foot limit requirements for detached units.

Due to the concern regarding cumulative impacts from second residential units, however, the Commission finds it necessary to ensure that no additions or improvements are made to this detached accessory building in the future that may enlarge or further intensify its use without due consideration of the potential cumulative impacts that could result. Therefore, the Commission finds it necessary to require the applicant to record a future development deed restriction, as specified in **Special Condition Number Six (6)**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to this accessory structure are proposed in the future. The Commission further finds that, as conditioned, the proposed project is consistent with Section 30250 and 30252 of the Coastal Act.

## E. Septic System

The Commission recognizes that the potential build-out of lots in the Malibu area, 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 replace the existing conventional septic system with an alternative evapotranspiration disposal system with an intermittent sand filter, to serve as the means of wastewater disposal. The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. The applicant has obtained "In-Concept Approval" for the proposed sewage disposal system from the City of Malibu Environmental Health Department, dated October 25, 1999. This conceptual approval from the City of Malibu indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

## F. Violations

Various development has occurred on the subject site without the required coastal development permits, including the construction of the eastern most deck structure and improvements to the western most deck structure. As stated previously, the western most deck was constructed on the seaward edge of the property and actually extends out over the bluff face. Although it appears that this deck may have originally been constructed prior to 1973, improvements (such as the stone facing) have been made to this deck structure since 1985, without the benefit of a coastal development permit. The eastern most deck, located directly adjacent to the bluff face on the seaward edge of the property, was built after 1985 and was constructed without a coastal development permit. The applicant has, however, proposed to remove these two deck structures and to restore and revegetate the disturbed bluff top area upon removal, as part of this permit application.

In order to ensure that the violation portion of this development project is resolved in a timely manner, **Special Condition Number Eight (8)** requires that the applicant satisfy

all conditions of this permit, which are prerequisites to the issuance of this permit, within 120 days of Commission action.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

### **G. Local Coastal Program**

Section 30604 of the Coastal Act states that:

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

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 effects and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City of Malibu's ability to prepare a Local Coastal Program for Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

### **H. California Environmental Quality Act**

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that would substantially lessen any significant adverse effects that the activity may have on the environment.

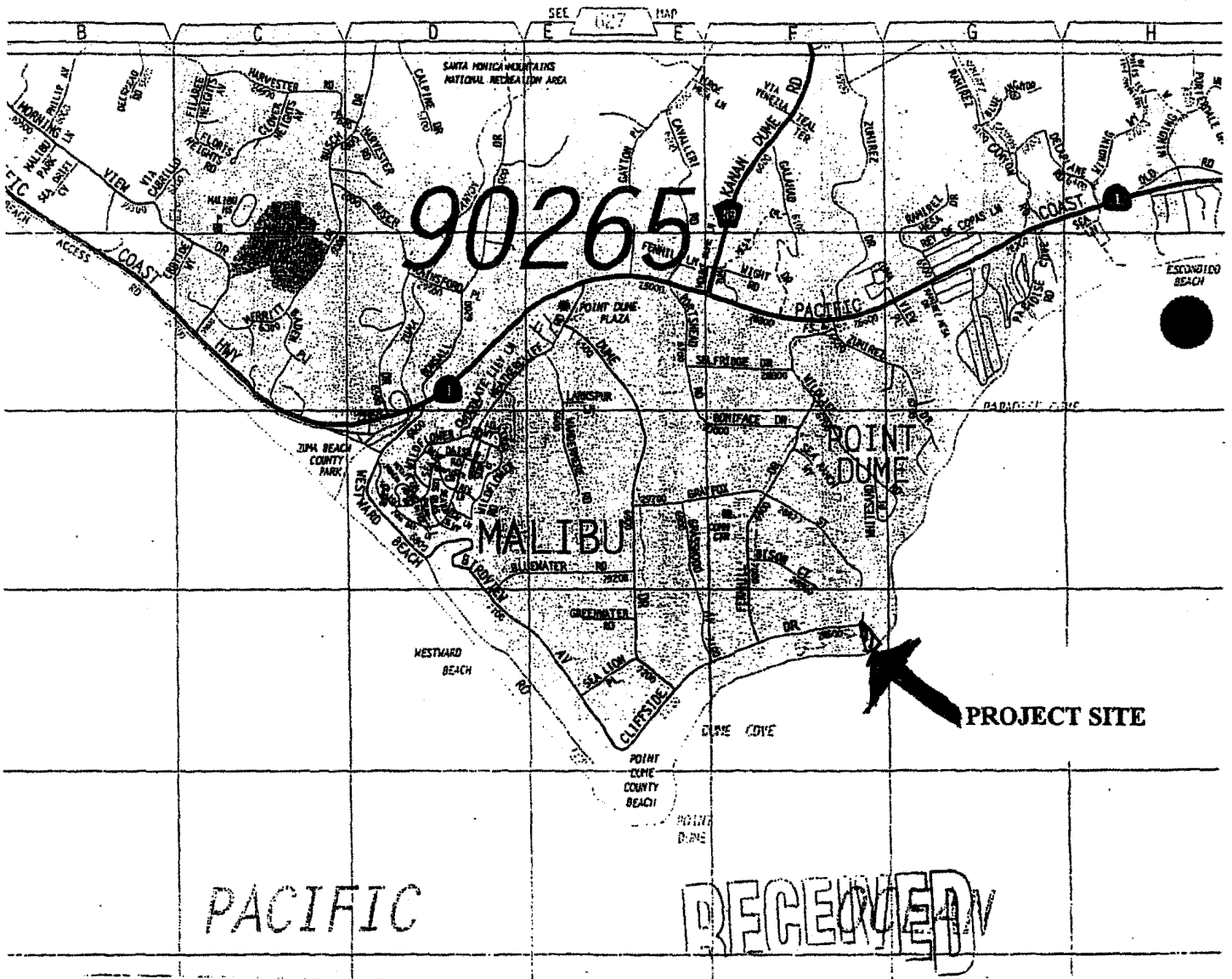
The proposed development, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.

**R L B A R C H I T E C T U R E**  
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**RICHARD L. BLUMENBERG, AIA**  
ARCHITECT

California Coastal Commission File No. 4-99-248

**VICINITY MAP**



DEC 17 1999

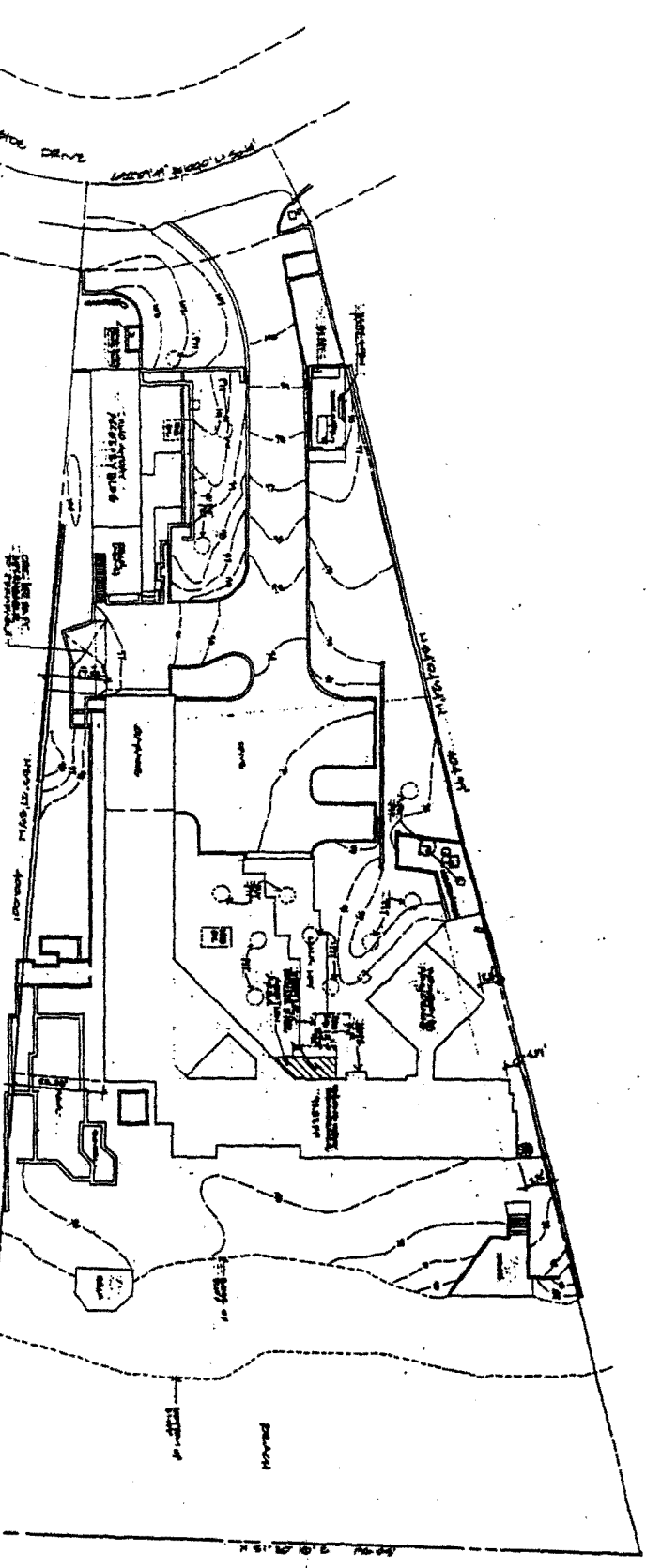
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL

**EXHIBIT 1**

**CDP 4-99-248 (Big Wednesday Trust)**

**Location Map**





**MEASUREMENTS**  
 TOTAL AREA OF PARCEL: 29,470 S.F.  
 AREA OF EXISTING BUILDING: 17,180 S.F.  
 MAX. INTERESTING CONCRETE AREA:  
 20 x 45,000 sq. ft. = 900,000

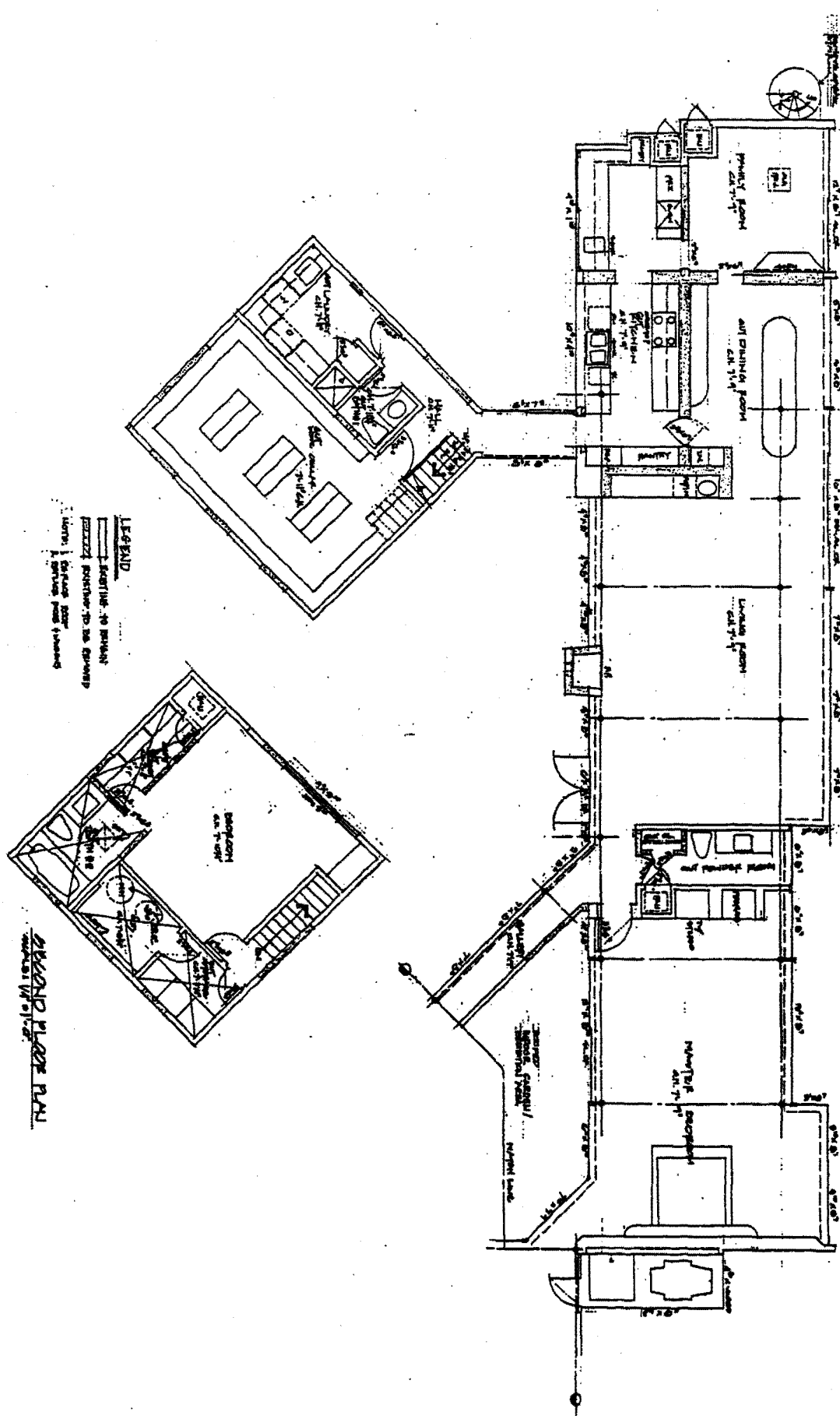
**DEVELOPMENT CONCEPT**  
 BUILDING HEIGHT: 4 STORIES  
 BUILDING FOOTPRINT: 150' x 150'  
 TOTAL FLOOR AREA: 17,180 S.F.  
 TOTAL GROSS AREA: 175,000 S.F.



**SITE PLAN**  
 SCALE: 1/4" = 1'-0"  
 EXISTING FOUNDATION TO REMAIN  
 SERVICE DRIVEWAY TO REMAIN

**AREA CALCULATION**  
 TOTAL AREA: 29,470 S.F.  
 EXISTING BUILDING AREA: 17,180 S.F.  
 TOTAL FLOOR AREA: 17,180 S.F.  
 TOTAL GROSS AREA: 175,000 S.F.

Item	Area	Notes
Lot Area	29,470	S.F.
Imp. Area	17,180	S.F.
Area of Site	17,180	S.F.
Area of Building	17,180	S.F.
Area of Driveway	17,180	S.F.
Area of Yard	17,180	S.F.
Total Area	175,000	S.F.



EXISTING/DEMOLITION  
FIRST FLOOR PLAN

SECOND FLOOR PLAN

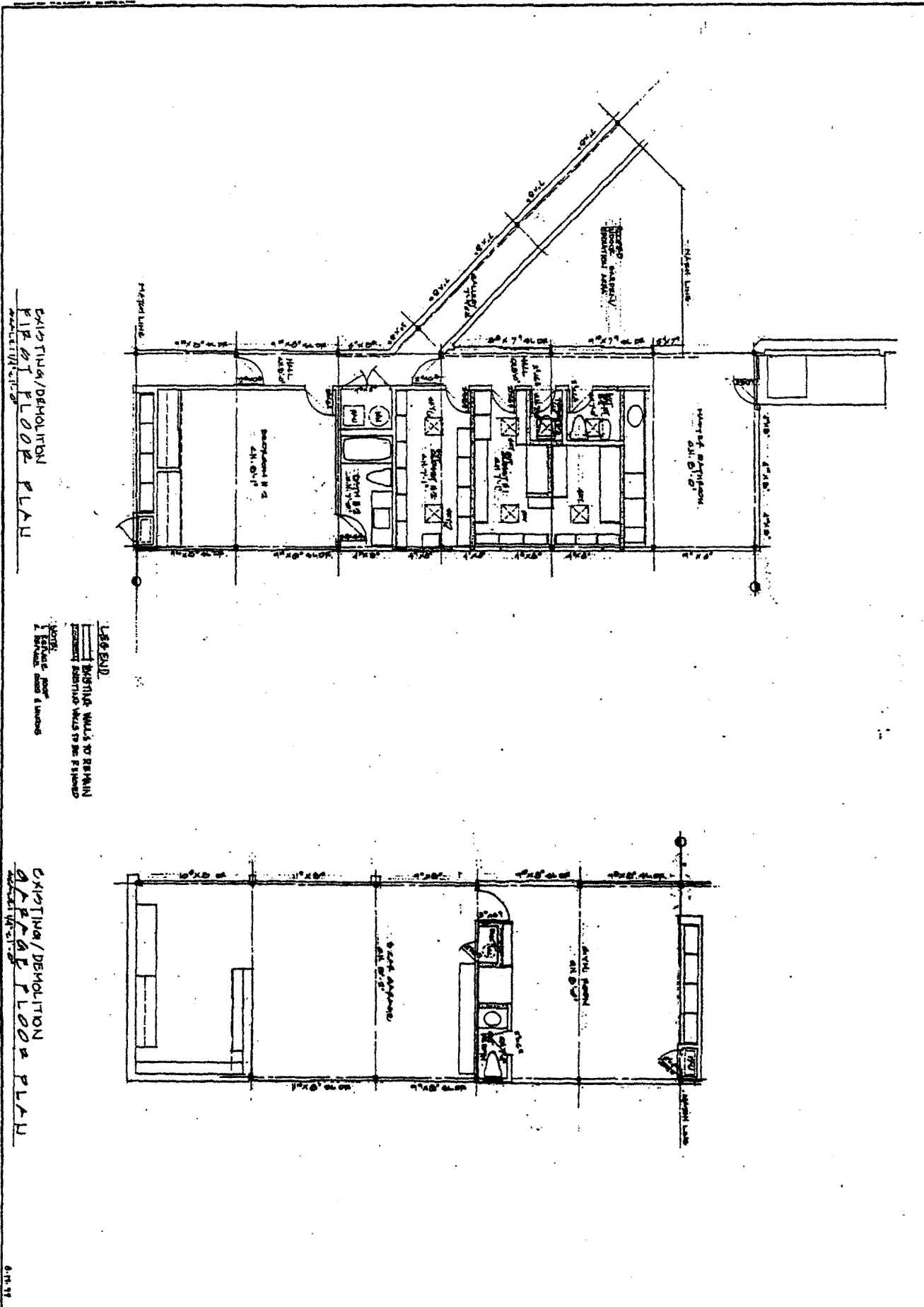
6.15.99

EXISTING/DEMOLITION FIRST/SECOND FLOOR PLAN

Submitted to  
**RESIDENCE**  
3800 Central Drive  
Berkeley, California

Prepared by  
**RESEARCH**  
1000 STREET 100  
SAN FRANCISCO, CALIFORNIA

**EXHIBIT 3**  
CDP 4-99-248(Big Wednesday Trust)  
Existing/Demo Plan-1<sup>st</sup> and 2nd Floor



EXISTING/DEMOLITION  
1ST FLOOR PLAN

EXISTING/DEMOLITION  
GARAGE PLAN

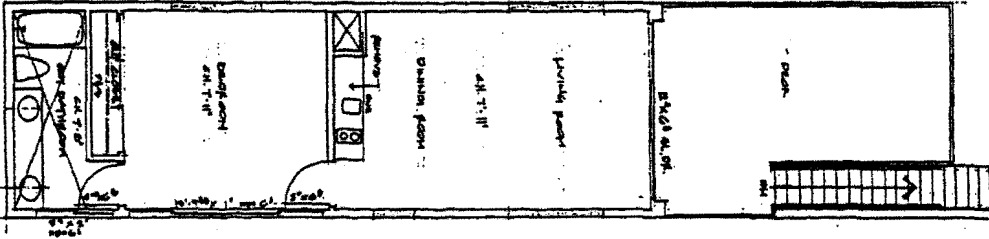
**LEGEND**  
 [Symbol] EXISTING WALLS TO REMAIN  
 [Symbol] EXISTING EXTERIOR WALLS TO BE REMOVED  
 [Symbol] EXISTING INTERIOR WALLS TO BE REMOVED  
 [Symbol] EXISTING DOOR & WINDOW

6-14-11

A-2-2

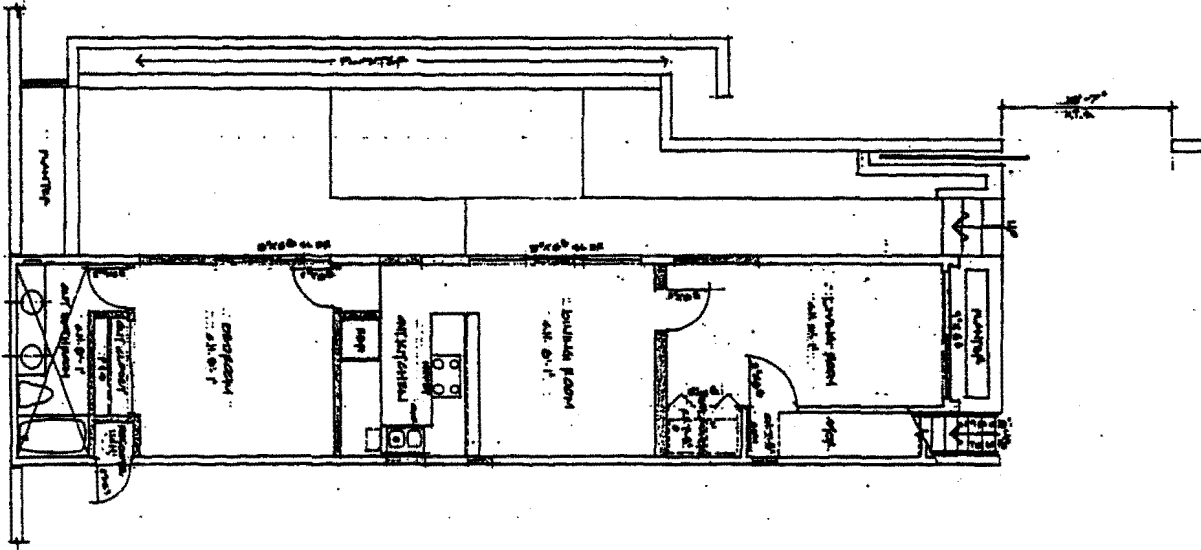
Project: <b>RESIDENCE</b> 1234 Cedar Ave. Irvine, California	Architect: <b>RLB ARCHIT</b> 1234 Main St. Irvine, California
---	--

**EXHIBIT 4**  
 CDP 4-99-248(Big Wednesday Trust  
 Existing/Demo Plan-1st Floor and Garag



SECOND FLOOR PLAN

EXISTING/DEMOLITION  
 ACCESSORY BLDG. PLAN  
 - EXISTING WALL TO REMAIN  
 - EXISTING WALLS TO BE REMOVED  
 - NEW WALLS TO BE REMOVED  
 - REMOVE ROOF

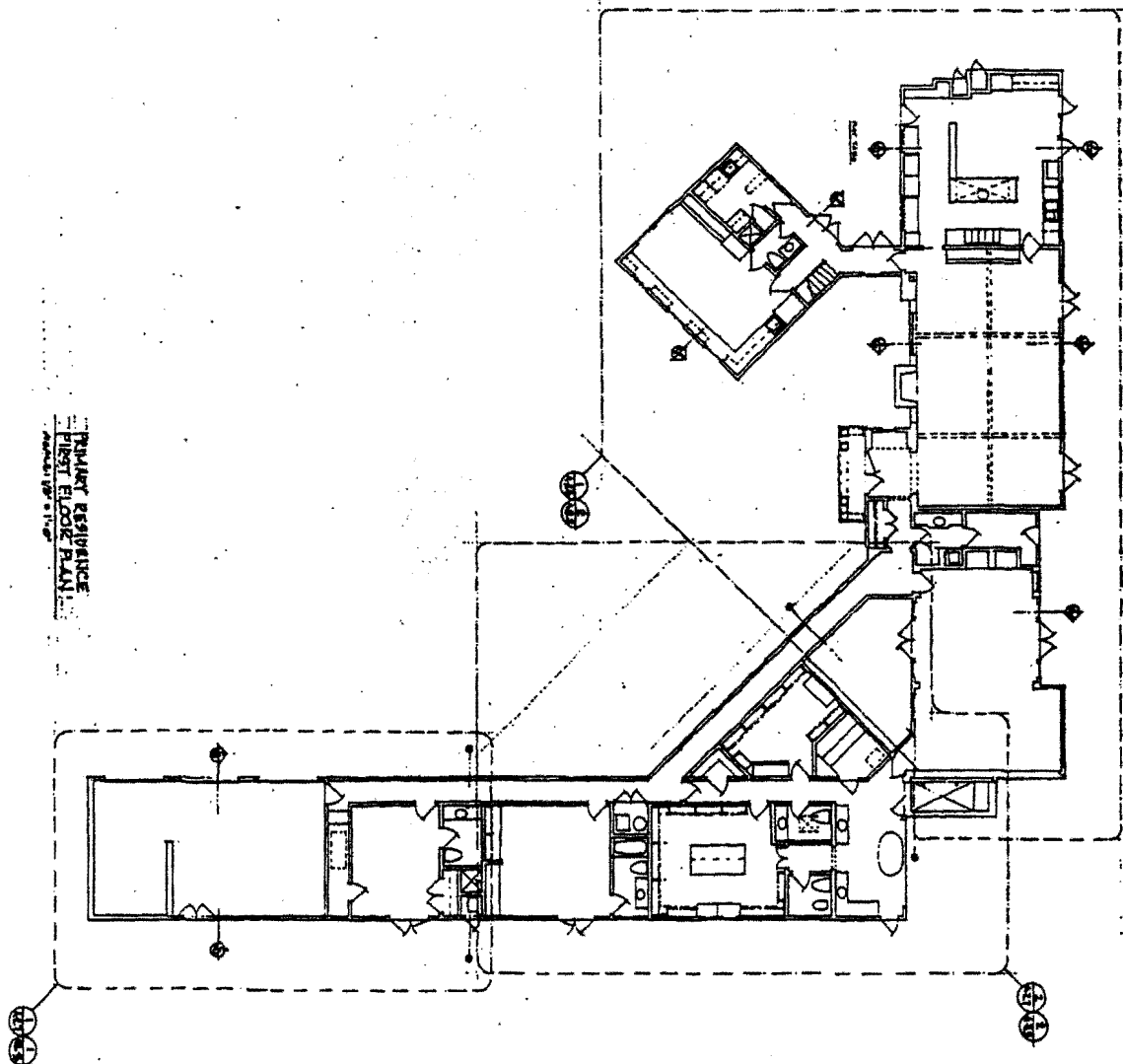


FIRST FLOOR PLAN

8/1/83

A-23 1/2" = 1'-0"	ACCESSORY BLDG. EXIST./ DEMO PLAN	Drawn by <b>RESIDENCE</b> 2000 Citrus Lane Malibu, California	Designed by <b>ROJ ARCHITECT</b> 2000 Citrus Lane, Apt. 200 Malibu, California 90263
	EXHIBIT 5 CDP 4-99-248(Big Wednesday Trust) Existing/Demo Plan-Accessory Bldg.		

PRIMARY RESIDENCE  
FIRST FLOOR PLAN  
ARCHITECT'S SITE



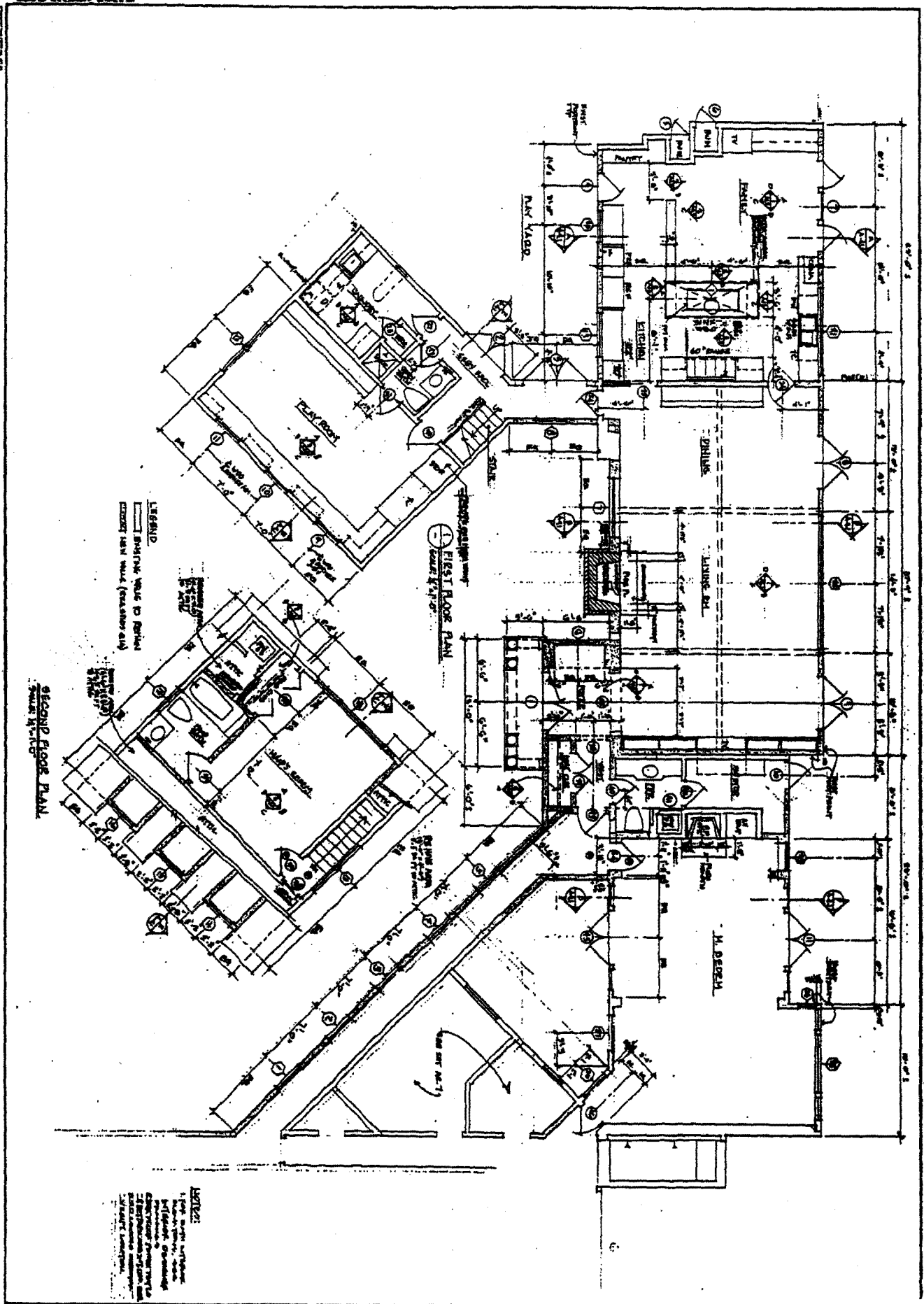
42-A

PRIMARY RESIDENCE  
FIRST FLOOR PLAN

ADDENDUM and Remodel to the  
RESIDENCE  
3850 Collins Drive  
Haltom, California

RODARD L. BLANCKEN  
ARCHITECT  
RLB ARCHITECT  
1000 MARKET BLVD., STE.  
PACIFIC PALISADES, CA 91351

EXHIBIT 6  
CDP 4-99-248(Big Wednesday Trust)  
Proposed 1st Floor Plan



A-2.6

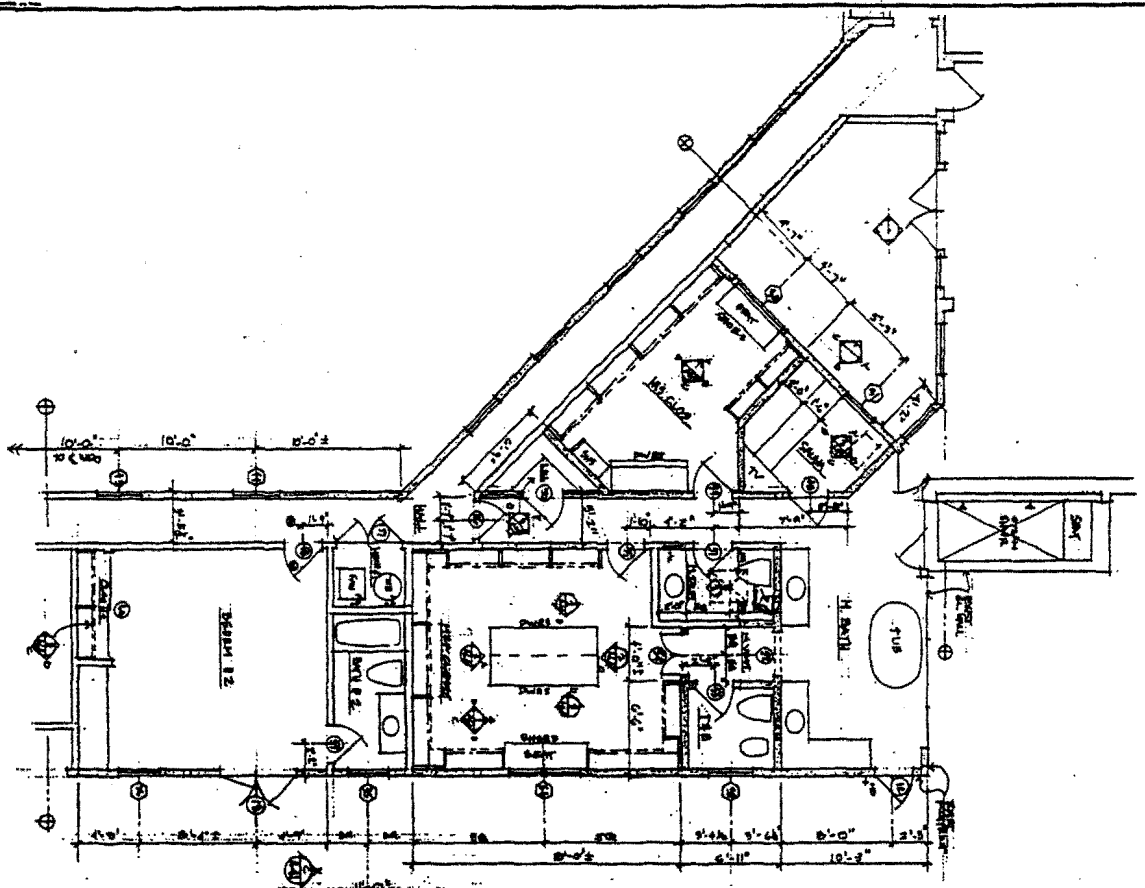
PARTIAL FLOOR PLAN - FIRST FLOOR  
SECOND FLOOR PLAN

Address and Owned by the  
**RESIDENCE**  
2515 Chicago Drive  
Millbrae, California

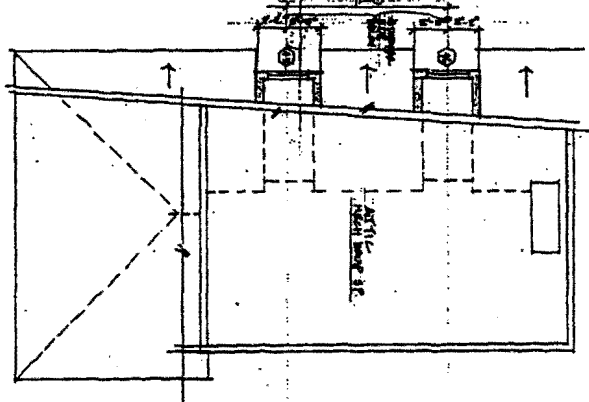
BY **EDWARD ARCHER**  
RLE A  
DATE 10/20/78

**EXHIBIT 7**  
CDP 4-99-248(Big Wednesday Trust)  
Proposed 1<sup>st</sup> Floor and 2<sup>nd</sup> Floor Plan

2 PARTIAL FLOOR PLAN  
 - EXISTING WALLS TO REMAIN  
 - NEW WALLS (2nd FLOOR ELEV.)

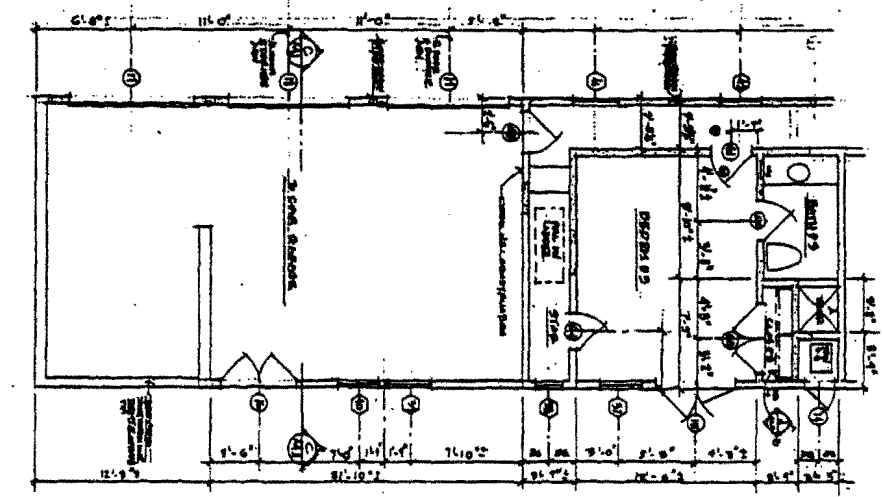


GARAGE ATTIC  
 - EXISTING WALLS TO REMAIN  
 - NEW WALLS (2nd FLOOR ELEV.)



NOTES:  
 1. NEW BRICKWORK, CONCRETE FOUNDATION,  
 AND OTHER STRUCTURAL REVISIONS  
 SHOWN ON SEPARATE SHEETS &...

1 PARTIAL FLOOR PLAN  
 - EXISTING WALLS TO REMAIN  
 - NEW WALLS (2nd FLOOR ELEV.)



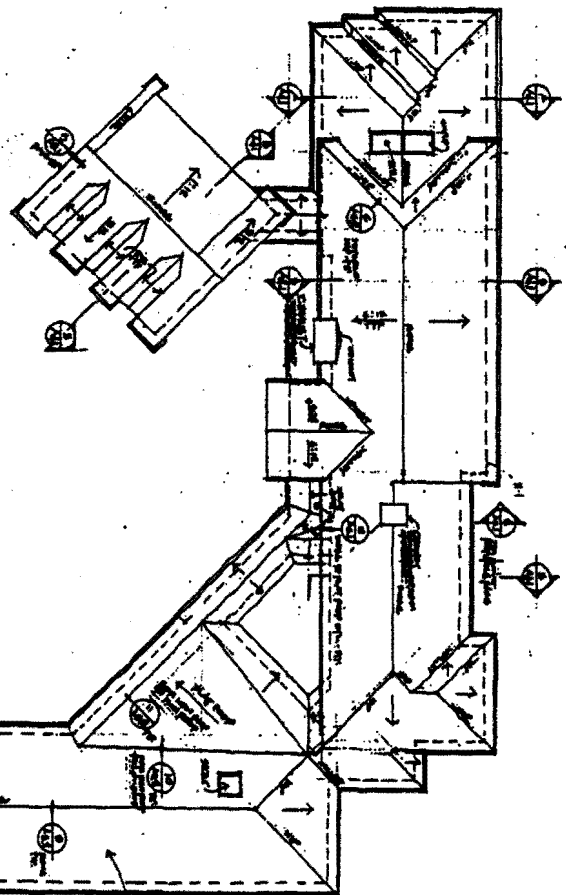
A-2.7

PARTIAL FLOOR PLAN

Added and Revised to the  
**RESIDENCE**  
 1800 CHERRY DRIVE  
 BOSTON, MASSACHUSETTS

RODOLFO L. BLANCO  
 ARCHITECT  
**RLB ARCHITECTS**  
 1000 BERRY AVENUE, 2ND FLOOR  
 PHOENIX, ARIZONA

**EXHIBIT 8**  
**CDP 4-99-248(Big Wednesday Trust)**  
**Proposed 1<sup>st</sup> Floor, Attic, Garage Plan**



**LEGEND**

1. Roof pitch of gable part 12/12 - see 101

2. Roof pitch of gable part 12/12 - see 101

3. Roof pitch of gable part 12/12 - see 101

4. Roof pitch of gable part 12/12 - see 101

5. Roof pitch of gable part 12/12 - see 101

6. Roof pitch of gable part 12/12 - see 101

7. Roof pitch of gable part 12/12 - see 101

8. Roof pitch of gable part 12/12 - see 101

9. Roof pitch of gable part 12/12 - see 101

10. Roof pitch of gable part 12/12 - see 101

11. Roof pitch of gable part 12/12 - see 101

12. Roof pitch of gable part 12/12 - see 101

13. Roof pitch of gable part 12/12 - see 101

14. Roof pitch of gable part 12/12 - see 101

15. Roof pitch of gable part 12/12 - see 101

16. Roof pitch of gable part 12/12 - see 101

17. Roof pitch of gable part 12/12 - see 101

18. Roof pitch of gable part 12/12 - see 101

19. Roof pitch of gable part 12/12 - see 101

20. Roof pitch of gable part 12/12 - see 101

21. Roof pitch of gable part 12/12 - see 101

22. Roof pitch of gable part 12/12 - see 101

23. Roof pitch of gable part 12/12 - see 101

24. Roof pitch of gable part 12/12 - see 101

25. Roof pitch of gable part 12/12 - see 101

26. Roof pitch of gable part 12/12 - see 101

27. Roof pitch of gable part 12/12 - see 101

28. Roof pitch of gable part 12/12 - see 101

29. Roof pitch of gable part 12/12 - see 101

30. Roof pitch of gable part 12/12 - see 101

31. Roof pitch of gable part 12/12 - see 101

32. Roof pitch of gable part 12/12 - see 101

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40. Roof pitch of gable part 12/12 - see 101

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44. Roof pitch of gable part 12/12 - see 101

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79. Roof pitch of gable part 12/12 - see 101

80. Roof pitch of gable part 12/12 - see 101

81. Roof pitch of gable part 12/12 - see 101

82. Roof pitch of gable part 12/12 - see 101

83. Roof pitch of gable part 12/12 - see 101

84. Roof pitch of gable part 12/12 - see 101

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89. Roof pitch of gable part 12/12 - see 101

90. Roof pitch of gable part 12/12 - see 101

91. Roof pitch of gable part 12/12 - see 101

92. Roof pitch of gable part 12/12 - see 101

93. Roof pitch of gable part 12/12 - see 101

94. Roof pitch of gable part 12/12 - see 101

95. Roof pitch of gable part 12/12 - see 101

96. Roof pitch of gable part 12/12 - see 101

97. Roof pitch of gable part 12/12 - see 101

98. Roof pitch of gable part 12/12 - see 101

99. Roof pitch of gable part 12/12 - see 101

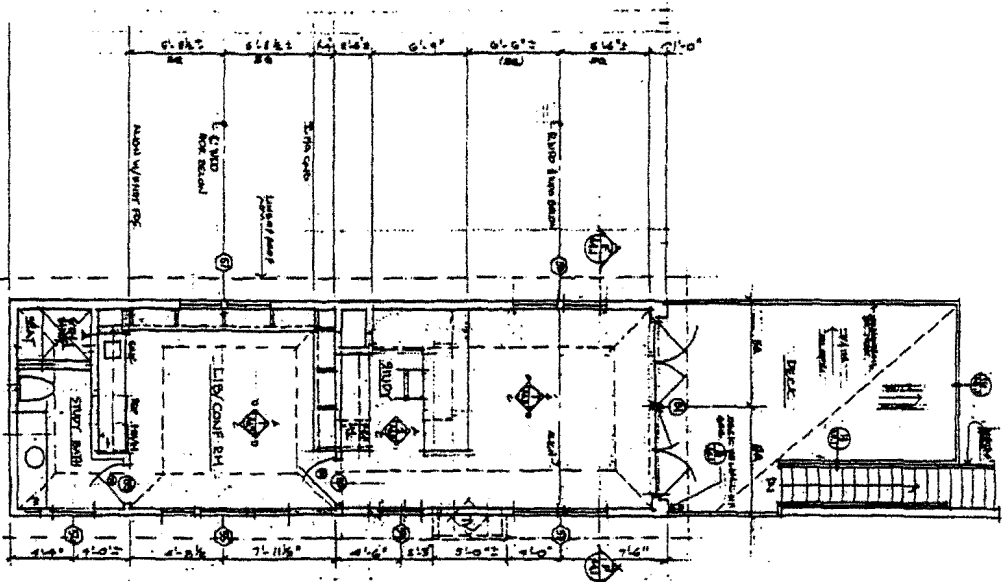
100. Roof pitch of gable part 12/12 - see 101

ROOF PLAN - W-101

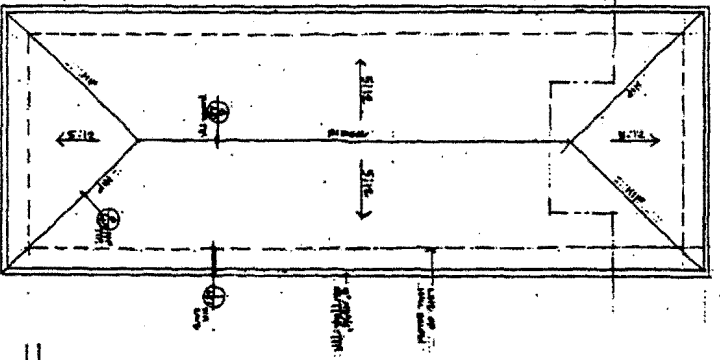
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PROPOSED ACCESSORY BLDG  
5th COND FLOOR PLAN  
Scale: 1/8" = 1'-0"

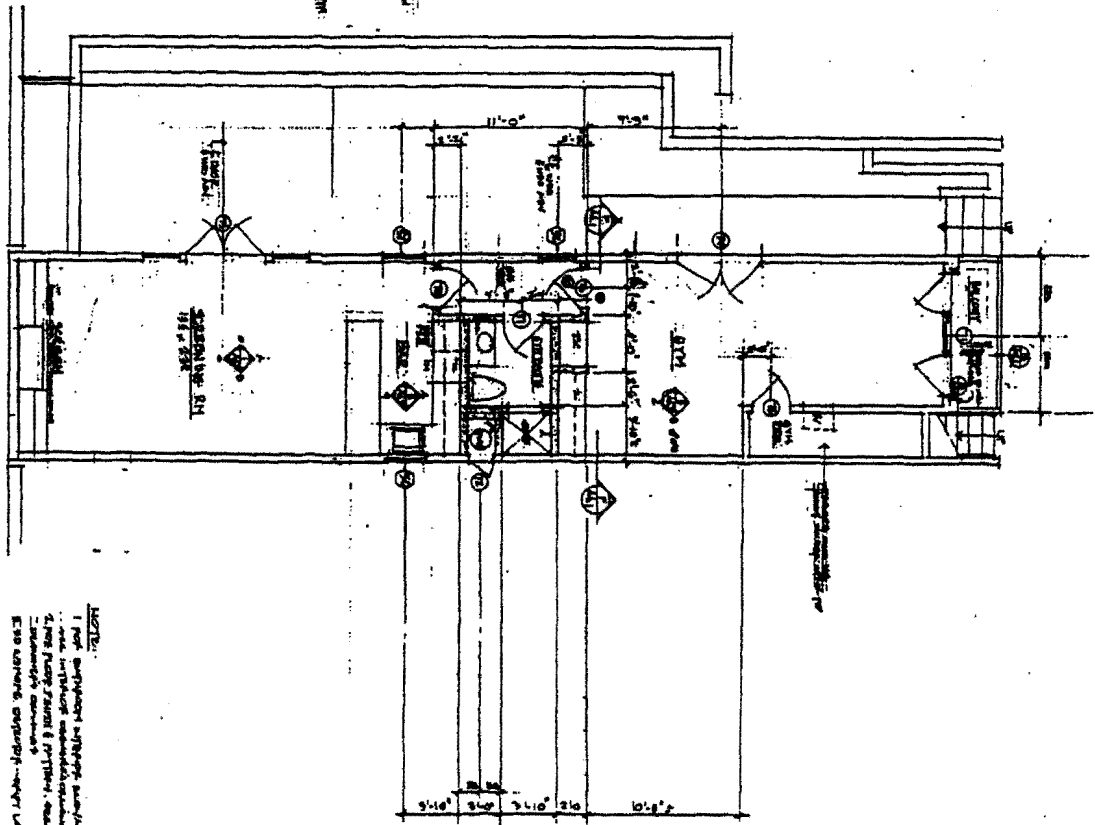


ROOF PLAN  
Scale: 1/8" = 1'-0"



LEGEND  
 [Symbol] EXISTING WALLS TO REMAIN  
 [Symbol] NEW WALLS (SEE NOTES & SPEC)

PROPOSED ACCESSORY BLDG  
FIRST FLOOR PLAN  
Scale: 1/8" = 1'-0"



NOTES:  
 1. ALL DIMENSIONS UNLESS OTHERWISE NOTED.  
 2. SEE ARCHITECT'S SPECIFICATIONS FOR MATERIALS & FINISHES.  
 3. SEE CONTRACT DOCUMENTS FOR ALL OTHER NOTES.

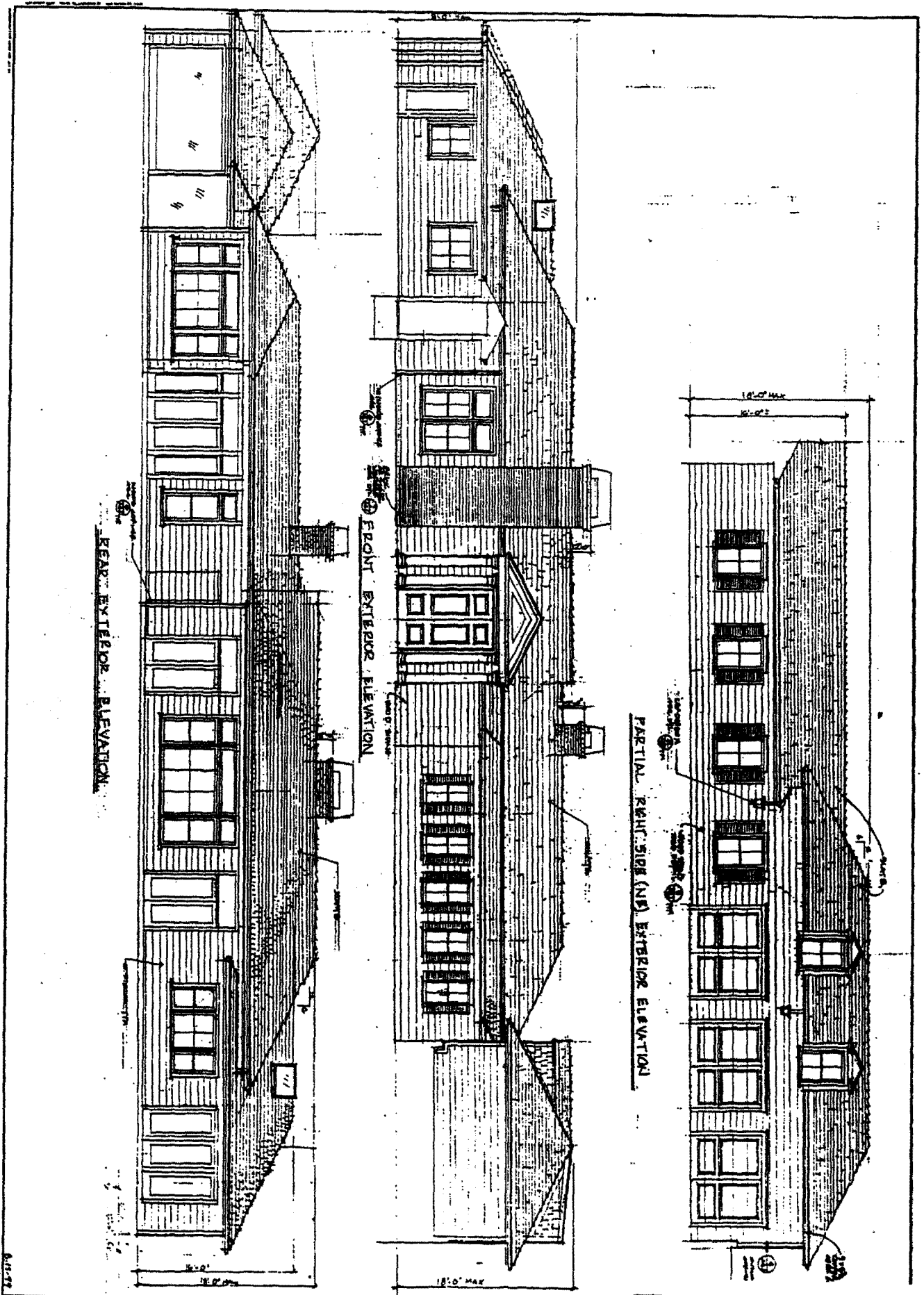
A-20

ACCESSORY BLDG  
FLOOR PLAN

RESIDENCE

RICHARD L. BLANE  
ARCHITECT  
 RLB ARCHITECT  
 1000 BAYVIEW BLVD., SUITE 100  
 PACIFIC PALMS BEACH, FL 33411

**EXHIBIT 10**  
 CDP 4-99-248(Big Wednesday Trust)  
 Proposed Plans for Accessory Bldg



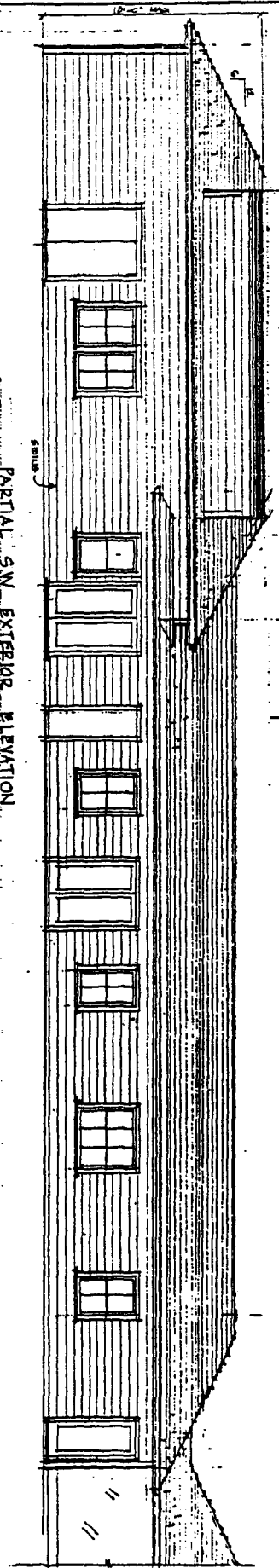
27-A

REVISIONS

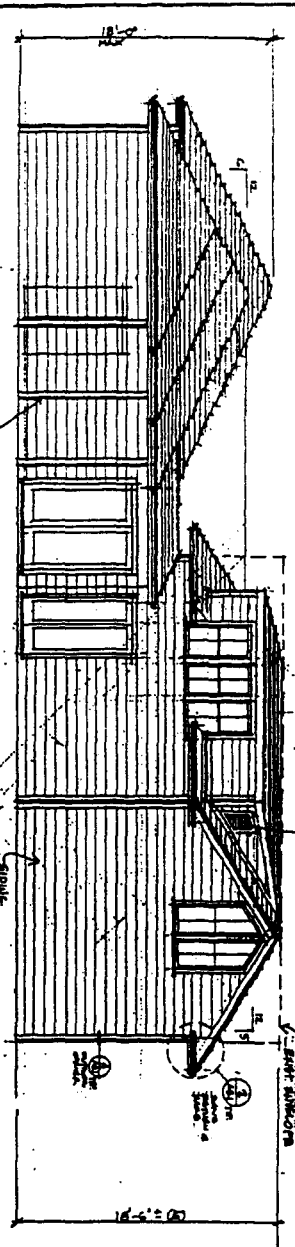
Residence  
 RESIDENCE  
 2801 Colton Drive  
 Dublin, California

HOWARD L. BULL  
 ARCHITECT  
 HLB ARCHT  
 2801 COLTON DRIVE  
 DUBLIN, CA 94568

**EXHIBIT 11**  
 CDP 4-99-248(Big Wednesday Trust)  
 Proposed Elevations for SFR



PARTIAL SW EXTERIOR ELEVATION



PARTIAL NE EXTERIOR ELEVATION

14-11-95

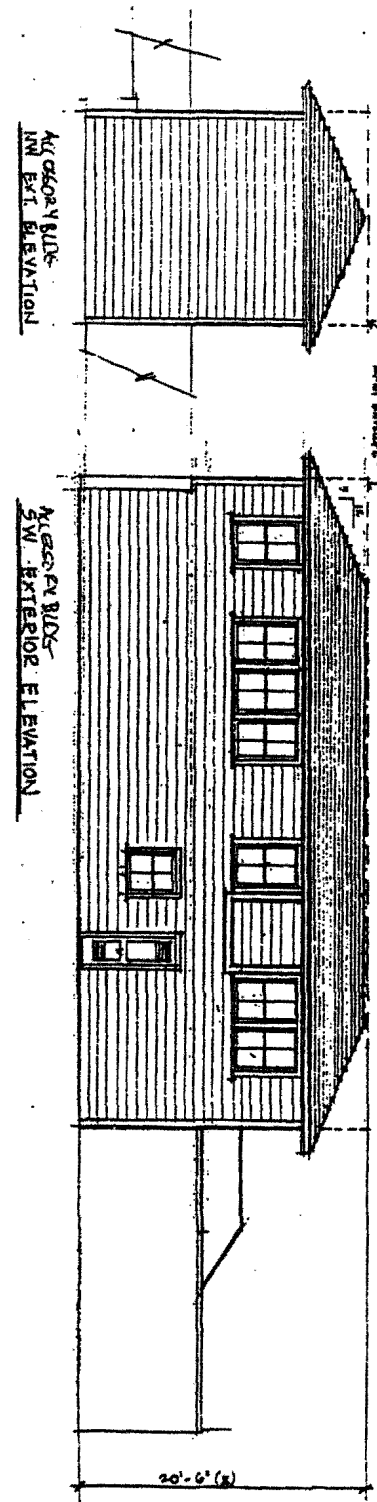
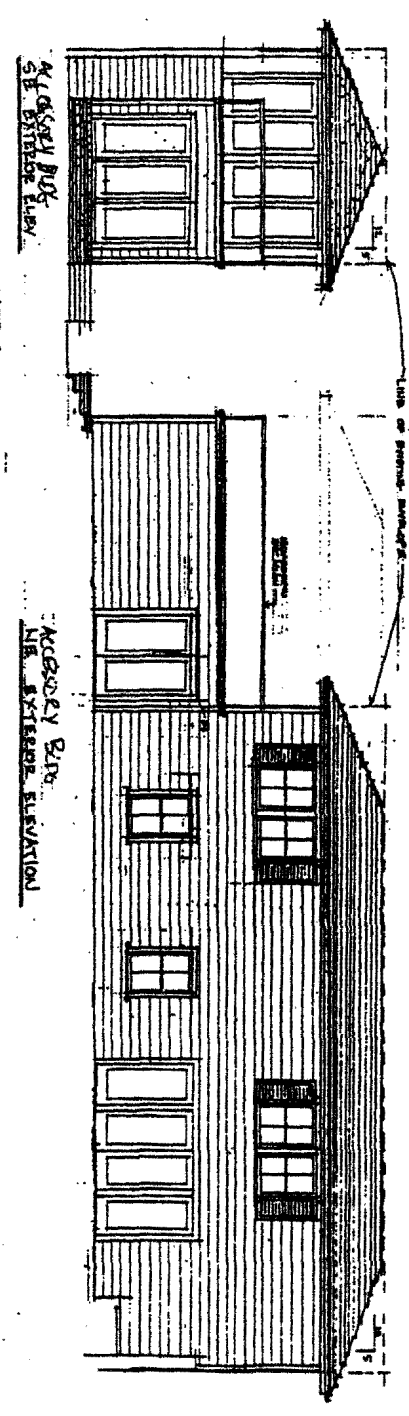
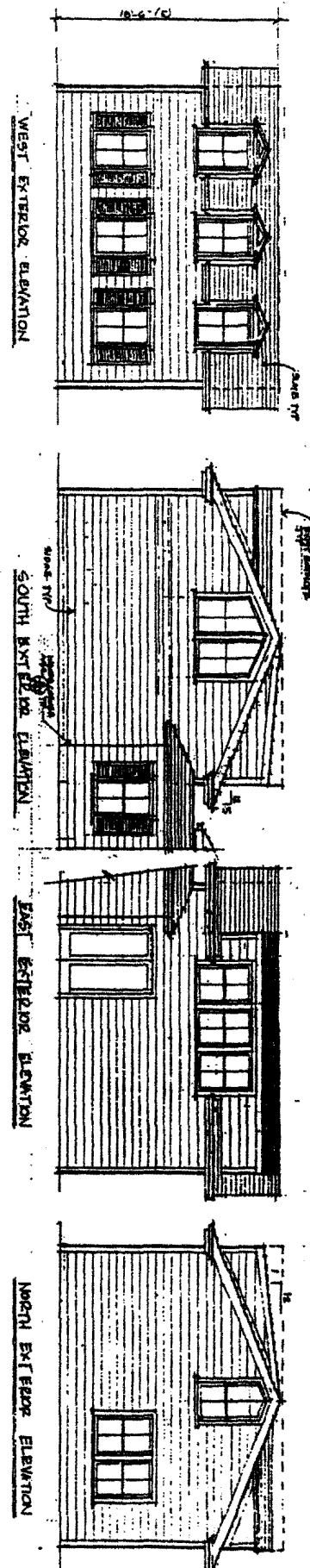
A-6-3

EXTERIOR ELEVATION

Address and Recipient to  
 RESIDENCE  
 3000 CEDAR BLVD  
 MADISON, WISCONSIN

RICHARD L. ARCHITECT  
 RLB ARCHITECT  
 1000 S. MAIN  
 MADISON, WISCONSIN

**EXHIBIT 12**  
 CDP 4-99-248(Big Wednesday Trust)  
 Proposed Elevations for SER



**EXHIBIT 13**  
**CDP 4-99-248(Big Wednesday Trust)**  
**Elevations for SFR/Accessory Bldg.**

Residence  
 2000 Collins Drive  
 Santa, California

PARTIAL MAIN HOUSE INT. PLAN  
 ACCESSORY BLDG EXTERIOR ELEVATIONS

ARCHITECT  
 RLB ARCHITECT  
 1000 MARKET BLVD. #1  
 YORBA LINDAS, CA 91799