CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
URA, CA 93001
585-1800

RECORD PACKET COPY

Filed:	9/13/01
49th Day:	11/02/01
180th Day:	03/10/02
Staff:	BL
Staff Report:	09/12/01
Hearing Date:	10/09-12/01
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-112

APPLICANT: Alan and Thordis Carson

PROJECT LOCATION: 5845 Clover Heights Avenue, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Demolition of an existing, unpermitted 525 sq. ft. secondary unit; construction of a new 750 sq. ft., 14 ft. high, guest unit with 20 sq. ft. mechanical room and attached 425 sq. ft. one-car garage; new 1,600 sq. ft. 22 ft. high art studio, and 1,023 sq. ft. two-car covered carport; secondary driveway with fire department turnaround for access to the proposed structures, septic system, retaining walls and landscaping. The project includes 940 cu. yds. of grading (670 cu. yds. cut, 270 cu. yds. fill).

Lot area	45,701	sq. ft. (1.05 ac.)
Building coverage:	4,741	sq. ft.
Pavement coverage:	8,170	sq. ft.
Landscape coverage:	32,790	sq. ft.
Parking spaces:	5	(covered)
Ht abv fin grade:	22'0"	

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department, dated 6/14/2001; Approval in Concept (Septic System), City of Malibu Environmental Health Department, dated 12/12/2000; Approval in Concept, City of Malibu, Geology Review Referral Sheet, dated 9/13/2001; Approval in Concept, Los Angeles County Fire Department, Fire Prevention Bureau, dated 12/11//2000.

SUBSTANTIVE FILE DOCUMENTS: *Limited Geologic and Soils Engineering Investigation for Proposed Guest House and Garage, 5845 Clover Heights Ave., Malibu, California*, by GeoConcepts, Inc., dated 3/23/1999; *Supplemental Report No. 1* by GeoConcepts, Inc., dated 7/13/1999; *Update Report/Letter* by GeoConcepts, Inc., dated 9/11/2001; *Private Sewage Disposal System, Guesthouse*, by GeoConcepts, Inc., dated 2/10/2000; Approval in Concept, City of Malibu, Geology and Geotechnical Engineering Review Sheet, 8/12/1999.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with nine **9 Special Conditions** regarding Conformance with Geologic Recommendations, Drainage and Polluted Runoff, Landscaping and Erosion Control, Removal of Excavated Material, Wildfire Waiver of Liability, Future Development Deed Restriction, Removal of Existing Secondary Unit, Condition Compliance, and Revised Plans.

I. STAFF RECOMMENDATION

1. **Motion:** *I move that the Commission approve Coastal Development Permit No. 4-01-112 pursuant to the staff recommendation.*

2. **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.

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

4. **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.

5. **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 Geologic Recommendations

a) All recommendations contained in the *Limited Geologic and Soils Engineering Investigation for Proposed Guest House and Garage, 5845 Clover Heights Ave., Malibu, California*, by GeoConcepts, Inc., dated 3/23/1999, shall be incorporated into all final design and construction including **site preparation**, **foundations**, **retaining walls**, **settlement**, **floor slabs**, **drainage**, **sewage disposal**, and **grading**. All plans must be reviewed and approved by the geologic / geotechnical consultant. Prior to 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.

b) 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 to 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 permit. The Executive Director shall determine whether required changes are "substantial."

2. Drainage and Polluted Runoff Control Plan

Prior to issuance of a coastal development permit, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with the geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

(a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.

(b) Runoff shall be conveyed off site in a non-erosive manner.

(c) Energy dissipating measures shall be installed at the terminus of outflow drains.

(d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the

project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

3. **Landscape and Erosion Control Plan and Fuel Modification**

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

A) **Landscaping Plan**

(1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plan species which tend to supplant native species shall not be used.

(2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;

(3) The proposed berms and areas adjacent to the seasonal blueline stream on the western portion of the site shall be revegetated with primarily riparian species to encourage the recovery of the habitat area and to prevent further degradation of the streambed and slopes through erosion. Such plantings shall include native grasses and groundcovers, in addition to trees and shrubs;

(4) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant

materials to ensure continued compliance with applicable landscape requirements;

(5) 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.

(6) Vegetation within 50 feet of the proposed house may be removed to mineral earth; vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B) Interim Erosion Control Plan

(1) The plan shall delineate the areas to be disturbed by grading or 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 grading 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 cut or fill 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 grading operations and maintained through out 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**

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

4. **Removal of Excavated Material**

Prior to issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all debris and material excavated from the site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

5. **Wildfire Waiver of Liability**

Prior to issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, and liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

6. **Future Development Deed Restriction**

This permit is only for the development described in Coastal Development Permit No. 4-01-112. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the structures approved herein. Accordingly, any future structures, additions, or improvements related to the guest unit and art studio approved under Coastal

Development Permit No. 4-01-112 will require a permit from the California Coastal Commission or its successor agency.

Prior to issuance of a 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. Removal of Existing Guest Unit

The existing secondary unit/guesthouse on-site shall be removed within 90 days of the issuance of this permit. After the unit is removed, the disturbed site shall be revegetated as required by **Special Conditions Two and Three** within sixty (60) days. The Executive Director may grant additional time for good cause.

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.

9. Revised Plans

Prior to issuance of the coastal development permit (#4-01-112), the applicant shall submit revised project plans, for the Executive Director's review and approval, which illustrate that no development is proposed **within 50 feet of the blueline stream** (As shown on Exhibit 4). The revised plans shall illustrate that the proposed guest unit and garage, are deleted or relocated beyond this setback line.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is proposing demolition of an existing, unpermitted 525 sq. ft. secondary unit; construction of a new 750 sq. ft.; 14 ft. high, guest unit, 20 sq. ft. mechanical room, and attached 425 sq. ft. one-car garage; new 1600 sq. ft., 22 ft. high art studio, and 1,023 sq. ft. two-car covered carport; secondary driveway with fire department turnaround for access to the proposed structures, septic system, retaining walls and landscaping (Exhibits 4, 6, and 7). The project includes 940 cu. yds. of grading (670 cu. yds. cut, 270 cu. yds. fill).

The subject site is a relatively flat, 45,701 sq. ft. (1.05 ac.) parcel located northwest of the Point Dume area of the City of Malibu (Exhibit 1). Maximum topographic relief on-site is approximately 10 feet. Drainage from the property is by sheetflow to low-lying areas, swale drains, offsite and/or to the street. The site is directly adjacent to a USGS designated blueline stream, which runs seasonally along the northwestern border of the property.

Access to the project site is from Harvester Road to Clover Heights Avenue, a public street northeast of the property (Exhibit 2). The site is surrounded by existing single-family residences to the north and southwest, and is currently developed with a 1,428 sq. ft. single-family residence a 518 sq. ft. 2-car garage, and a 525 sq. ft. accessory structure (Exhibits 3 and 5). The existing house and garage are located on the southern portion of the property. The existing secondary unit/guesthouse, which appears to have been developed in multiple stages/phases, is located on the northwest side of the property, within 15 feet of the blueline stream that parallels the property line on that side of the lot. The applicant has stated that the existing guest unit/accessory structure was constructed in stages beginning in 1968 and continuing for many years thereafter. However, as no definitive evidence exists as to when construction began, and no records of local permits appear to exist, the Commission staff cannot consider the unit as a legal permitted structure. Therefore, Commission staff is addressing the existence of this building as after-the-fact in nature. It should be noted that the demolition and removal of this building is currently proposed by the applicant. The remainder of the parcel consists of lawn areas, grasses, and ornamental shrubs and trees. There have been no previous coastal development permits obtained for the subject property.

There are no designated environmentally sensitive habitat areas (ESHA) on the site; however, there exists a designated blueline stream which parallels the northwestern side of the property. This seasonal streambed has been highly impacted by the nearby surrounding development, including the proximity of the subject property's existing 525 sq. ft. secondary unit (Exhibit 3 and 5). There are no public trails that traverse the subject property, and the site is not visible from any public viewing areas.

B. Geologic Stability and Hazards

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...***

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

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

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, flooding, and earth movement. In addition, fire is a persistent threat due to the

indigenous chaparral community of the coastal mountains. Wildfires can denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides.

The property is located within the southeast portion of the Santa Monica Mountains, and consists of a near level pad with ascending slopes to the north and west and descending slopes to the south. The maximum topographic relief on site is approximately 10 feet (Exhibit 5). Surface drainage on-site is currently accomplished via sheetflow down descending slopes to low-lying areas, swale drains, offsite and/or to the street. The prominent geomorphic features in the area are the Santa Monica Mountains to the north, and the Pacific Ocean, and various beaches to the south. The nearest active fault is that of the Malibu Coast fault, located 1,500 feet north of the subject property.

The applicant has submitted reports indicating that the geologic stability of the site is favorable for the project and that no potentially active faults, adversely oriented geologic structures, or other hazards were observed by the consultants on the subject property. Based on site observations, slope stability analysis, evaluation of previous research, analysis and mapping of geologic data, and limited subsurface exploration of the site, the engineering geologists have prepared reports addressing the specific geotechnical conditions related to the site.

The *Limited Geologic and Soils Engineering Investigation, Proposed Guest House and Garage, 5845 Clover Heights Avenue*, by GeoConcepts, Inc., dated March 23, 1999, in evaluating the various engineering geologic factors affecting site stability and the existing site conditions, states:

> ***It is the finding of this corporation, based upon subsurface date, that the proposed project will be safe from landslide, settlement, or slippage, and will not adversely affect adjacent property, provided our recommendations are followed... No known active faults exist beneath the proposed project... Ancient or recent landslides were not observed on the subject site at the time of our field investigation...***

The Commission notes that the geologic and engineering consultants have included a number of recommendations regarding **site preparation**, **foundations**, **retaining walls**, **settlement**, **floor slabs**, **drainage**, **sewage disposal**, and **grading** which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition One**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The project will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. The applicant's geologic / geotechnical consultant has recommended that site drainage be collected and distributed in a non-erosive manner. Interim erosion control measures implemented during construction will minimize short-term erosion and enhance site stability. However, long-term erosion and site stability must be addressed through adequate landscaping and through implementation of a drainage and runoff control plan. To ensure that runoff is conveyed off-site in a non-erosive manner, the Commission finds it necessary to require the applicant, through **Special Conditions One, Two, and Three** to submit drainage / erosion control plans conforming to the recommendations of the consulting geotechnical

engineer for review and approval by the Executive Director, to adequately control runoff from impervious surfaces, and to assume responsibility for the maintenance of all drainage devices on-site.

Erosion and sedimentation can also be minimized by requiring the applicant to remove all excess dirt a and debris from cut / fill / excavation / demolition activities. The applicant has estimated 960 cu. yds. of grading consisting of 670 cu. yds. of cut, 270 cu. yds. of fill). The Commission has found that minimization of grading and exposed earth on-site can reduce the potential impacts of sedimentation in nearby creeks, stormwater conveyances, and the ocean. Therefore, **Special Condition Four** has been required to ensure that all excavated or cut material in excess of material proposed to be used for fill on the project site, and all debris from the demolition of the guest unit be removed and properly disposed of.

In addition to controlling erosion during grading operations, landscaping of the graded and disturbed areas of the project will enhance the stability of the site. Long-term erosion can be minimized by requiring the applicant to revegetate the site with native plants 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 has found that such plant species do not serve to stabilize slopes and may adversely affect the overall stability of a project site. Native species, alternatively, tend to have a deeper root structure and aid in preventing erosion. Invasive, non-indigenous plant species tend to supplant species that are native to the Malibu / Santa Monica Mountains area. Increasing urbanization in this area has already caused the loss or degradation of major portions of native habitat and native plant seed banks through grading and removal of topsoil, resulting in the severe degradation of the blueline stream adjacent to the property. Moreover, invasive and fast-growing trees and groundcovers originating from other continents which have been used for landscaping in this area have seriously degraded native plant communities adjacent to development. Therefore, the Commission finds that in order to ensure site stability, all disturbed, graded, and sloped areas on-site shall be landscaped with appropriate native plant species, as specified in **Special Condition Three.**

The Commission requires that new development minimize the risk to life and property in areas of high fire hazard while recognizing that new development may involve the taking of some risk. Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral, communities which have evolved in concert with, and continue to produce the potential for frequent wildfires. The warm, dry summer conditions of the local Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated. When development is proposed in areas of identified hazards, 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 property.

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 the wildfire waiver of liability, as incorporated in **Special Condition Five**, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. For fire suppression, and to protect residences, the Fire Department requires the reduction of fuel through the removal and thinning of vegetation for up to 200 feet from any structure.

The applicant has submitted a Fuel Modification Plan with final approval by the Los Angeles County. Therefore, Commission finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

C. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states:

> ***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.***

As described above, the proposed project includes the demolition of an existing, unpermitted, 525 sq. ft. secondary unit; construction of a new 750 sq. ft., 14 ft. high, guest unit with 20 sq. ft. mechanical room and attached 425 sq. ft. one-car garage; new 1600 sq. ft. art studio, and 1,023 sq. ft. two-car covered carport; secondary driveway with fire department turnaround for access to the proposed structures, septic system, retaining walls and landscaping. The project includes 940 cu. yds. of grading (670 cu. yds. cut, 270 cu. yds. fill). The construction of the proposed guest unit and art studio (Exhibit 4) will increase the amount of impervious coverage and reduce the amount of vegetated area on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. Further, use of the site for expanded residential purposes will introduce additional sources of pollutants such as petroleum, household cleaners and pesticides, as well as other accumulated pollutants from rooftops and other impervious surfaces.

The building area is sited on a moderately level, and disturbed portion of the property. The blueline stream, which runs along the north-westerly property line, is a highly impacted and degraded stream. Because of close proximity of this stream, the increase in impervious coverage, and the resultant potential for significant water velocities, soil erosion, and pollutant transport, it is important to adequately control site drainage through runoff detention, velocity reduction, filtration, and/or other best management practices (BMPs).

Additional structures and driveways on site result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides;

and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from the site in a non-erosive manner, drainage and water pollution control measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site is returned to the soil, overall runoff volume is reduced. Slow surface flow of runoff allows sediment and other pollutants to settle into the soil where they can be filtered. The reduced volume of runoff takes longer to reach streams and its pollutant load is greatly reduced.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The project is conditioned, by **Special Condition Two**, to implement and maintain a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. This drainage plan is required in order to ensure that risks from geologic hazard are minimized and that erosion, sedimentation, and polluted runoff are minimized to reduce potential impacts to the nearby blueline stream, natural drainages, and environmentally sensitive habitat areas. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Two**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine resource protection policies of the Coastal Act.

In past permit actions in Malibu the Commission has typically required a minimum development setback of 50 feet from blueline streams to provide a buffer area for the protection of riparian areas and water quality. In addition, where feasible, the Commission has required restoration of degraded riparian corridors as required by Section 30231 of the Coastal Act. In this case, the proposed development is located within 34 feet of the existing blueline stream.

The siting of development in close proximity to streams results in the direct removal of riparian vegetation both for the actual construction of the building, and for fire prevention protection of the structure. The potential impact to the stream and its associated riparian habitat extends far beyond the actual building footprint, as vegetation clearance up to 200 ft. from the structure may be required, pursuant to Los Angeles County Fire Department regulations. Riparian vegetation serves to hold erosive soils in place by slowing the surface flow of runoff and allowing it to infiltrate into the ground, thereby reducing the volume, velocity, and the potential pollutant load of the runoff prior to its entry into a stream. The removal of this riparian vegetation, in turn, results in an increase in the potential force and flow of rainwater and sheetflow runoff, which leads to increased erosion, nutrient loading, sedimentation, and pollutant loading of the streambed. This degradation of the stream's water quality continues downstream in a domino effect, altering the potential makeup of the organismal community (algae, insects, amphibians, and fish) which can survive within the streambed, and those which rely on the such organisms for their food supply, such as insectivorous birds, and bats.

Development in close proximity to streams, and the removal of riparian vegetation, results in the degradation of riparian habitat essential to the functioning of the stream ecosystem as a whole. Riparian habitats also serve as movement corridors for wildlife, connecting otherwise isolated populations and habitats essential to the survival of rare and threatened species such as the red-legged frog, willow flycatchers, and the Least Bell's Vireo. Development in close proximity to such streams can disturb the wildlife, disrupting their natural behavioral patterns, and forcing them to search further afield for necessary resources.

In order to ensure that development within the blueline stream corridor does not occur, which would have the potential to further impact the potential habitat and water quality of blueline stream and downstream drainages, the Commission staff finds it necessary to require the applicant, through **Special Condition Nine**, to submit revised project plans which illustrate a minimum 50 foot setback from the blueline stream for all proposed structures (Exhibit 4). Such setback, in conjunction with appropriate landscaping, as required by **Special Condition Three**, to re-establish native vegetation along the stream corridor, will serve to create a buffer, helping to reduce the negative

impacts of expanded residential development near the blueline stream, and preventing further erosion of the streambed.

Finally, the proposed development includes the installation of a second, on-site septic system with 1000-gallon tank (Exhibit 4) to serve the proposed art studio and guest unit. The septic system is proposed to be set back 100 feet from the blueline stream. The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains and the resultant installation of septic systems may contribute to adverse health effects and geologic hazards in the local area. The applicants' geologic consultants performed percolation tests and evaluated the proposed septic system. The report concludes that the site is suitable for the septic system and there would be no adverse impact to the site or surrounding areas from the use of a septic system. The applicant has submitted in-concept approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance with the minimum requirements of the Uniform Plumbing Code. The City of Malibu minimum health code standards for septic systems take into account the percolation capacity of soils, the depth to groundwater, and other considerations, and have generally been found to be protective of coastal resources. The Commission therefore finds that the proposed project, as conditioned, is consistent with Section 30231 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:

> ***New 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 (l) 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 §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. The applicant is proposing to construct a 750 sq. ft. detached guest unit with 425 sq. ft. attached garage, a 1,600 sq. ft art studio, and a 2-car, covered carport. While separate structures, the guest unit is proposed to be connected to the art studio by means of a covered breezeway (See Exhibits 3-7).

Based on the requirements of Coastal Act Sections 30250 and 30252, 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 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are intended only for occasional use by guests, 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 or residential second units. Finally, the Commission has found in past permit decisions that a limit of 750 sq. ft. encourages the units to be used for their intended purpose –as a guest unit- rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCPs have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act in this area (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

The applicant proposes to construct a detached one-story, 750 sq. ft. guest unit with a 425 sq. ft. attached garage (see Exhibit 6). The 750 sq. ft. guest unit conforms with past commission permit actions in allowing a maximum of 750 sq. ft. for second units in the Malibu area. The guest unit is proposed to be connected to the 1,600 sq. ft. art studio by means of a covered breezeway. Additionally, the art studio has the potential to be converted to residential use in the future. The Commission finds it necessary to ensure that no additions or improvements are made to the guesthouse or the art studio in the future that may enlarge or further intensify the use of these structures without due consideration of the cumulative impacts that may result. Therefore, the Commission finds it necessary to require the applicant to record a future improvements deed restriction, as specified in **Special Condition Six**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the guest unit

or art studio are proposed in the future, and to ensure that the art studio's use remains non-residential in nature. As conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with Sections 30250 and 30252 of the Coastal Act.

E. Violations

Section 30106 of the Coastal Act states that:

> ***"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; use of land,... ...change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility...***
>
> ***As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.***

The construction and placement of a 525 sq. ft. secondary unit on the property (See Exhibit 3), and within 15 feet of a blueline stream, occurred without the required coastal development permit. The applicant is proposing the demolition of the existing 525 sq. ft. secondary structure as a part of this project description. To ensure that the demolition and removal of this unit is resolved in a timely manner, **Special Condition Seven** requires that the applicant remove the secondary unit within 60 days of Commission action. To further ensure that the violation portion of this development project that is addressed in this permit action is resolved in a timely manner, **Special Condition Eight** 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.

F. Local Coastal Program

Section 30604(a) of the Coastal Act states (in part):

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

Section 30604(a) of the Coastal Act stipulates 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 significant adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. 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 Los Angeles County which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

G. California Environmental Quality Act (CEQA)

Section 13096(a) of the Coastal Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The 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.

bkl

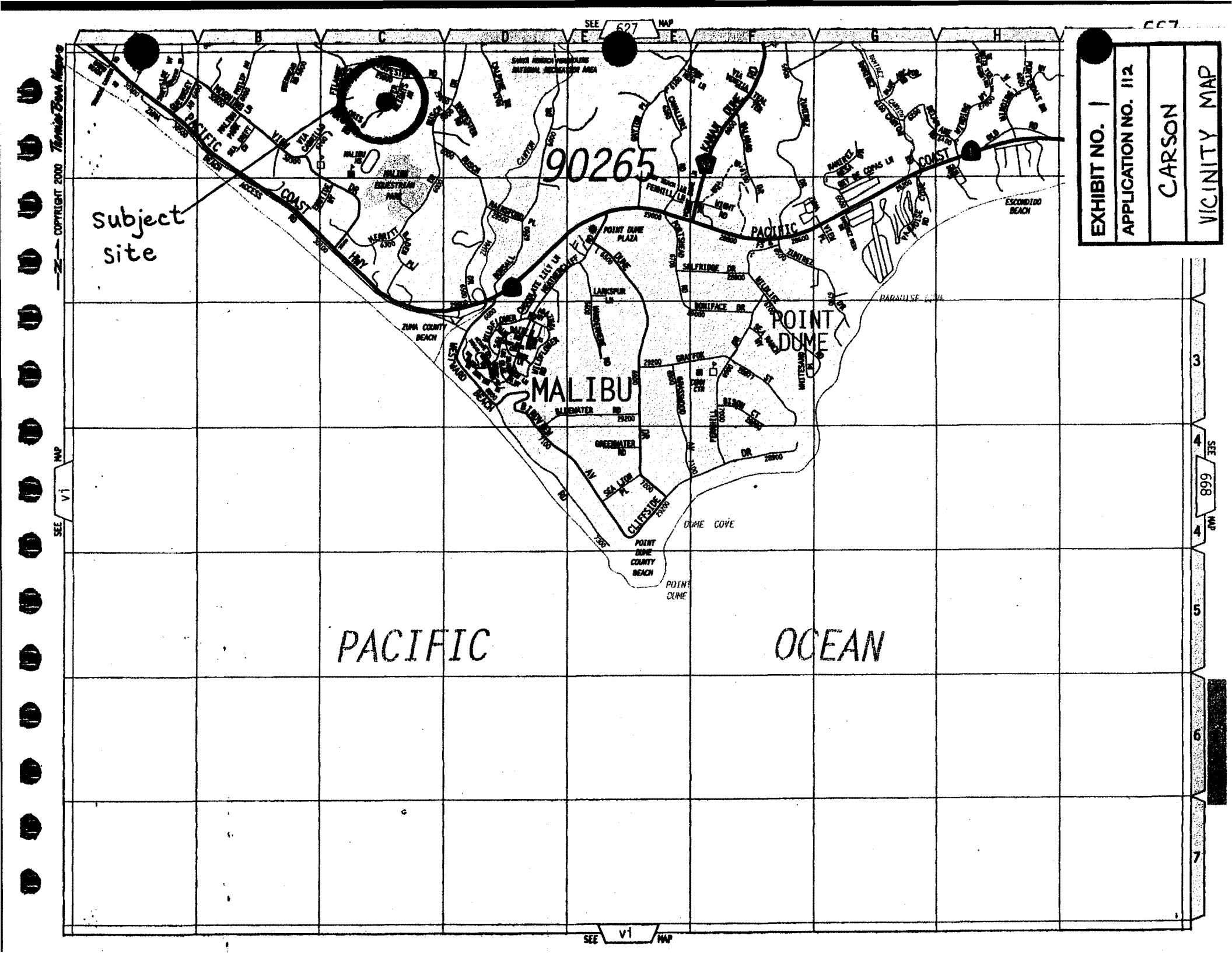


EXHIBIT NO. 1
APPLICATION NO. 112
CARSON
VICINITY MAP
Subject site
90265
MALIBU
POINT DUME
PACIFIC OCEAN
PACIFIC COAST HWY
ZUMA COUNTY BEACH
POINT DUME COUNTY BEACH
DUME COVE
ESCONDIDO BEACH
PARADISE COVE
SEE 627 MAP
SEE V1 MAP
SEE 899 MAP
COPYRIGHT 2000 Thomas Bros. Maps

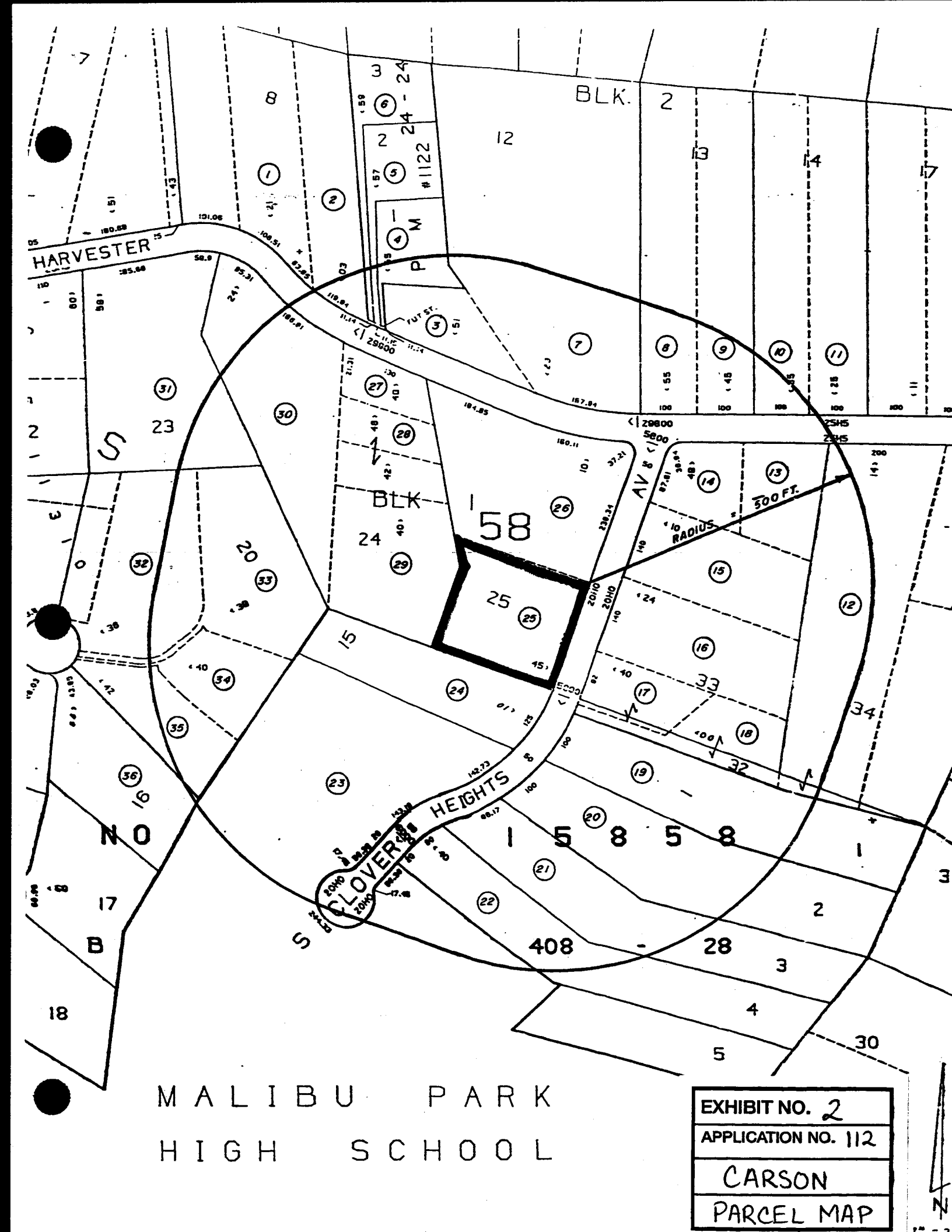
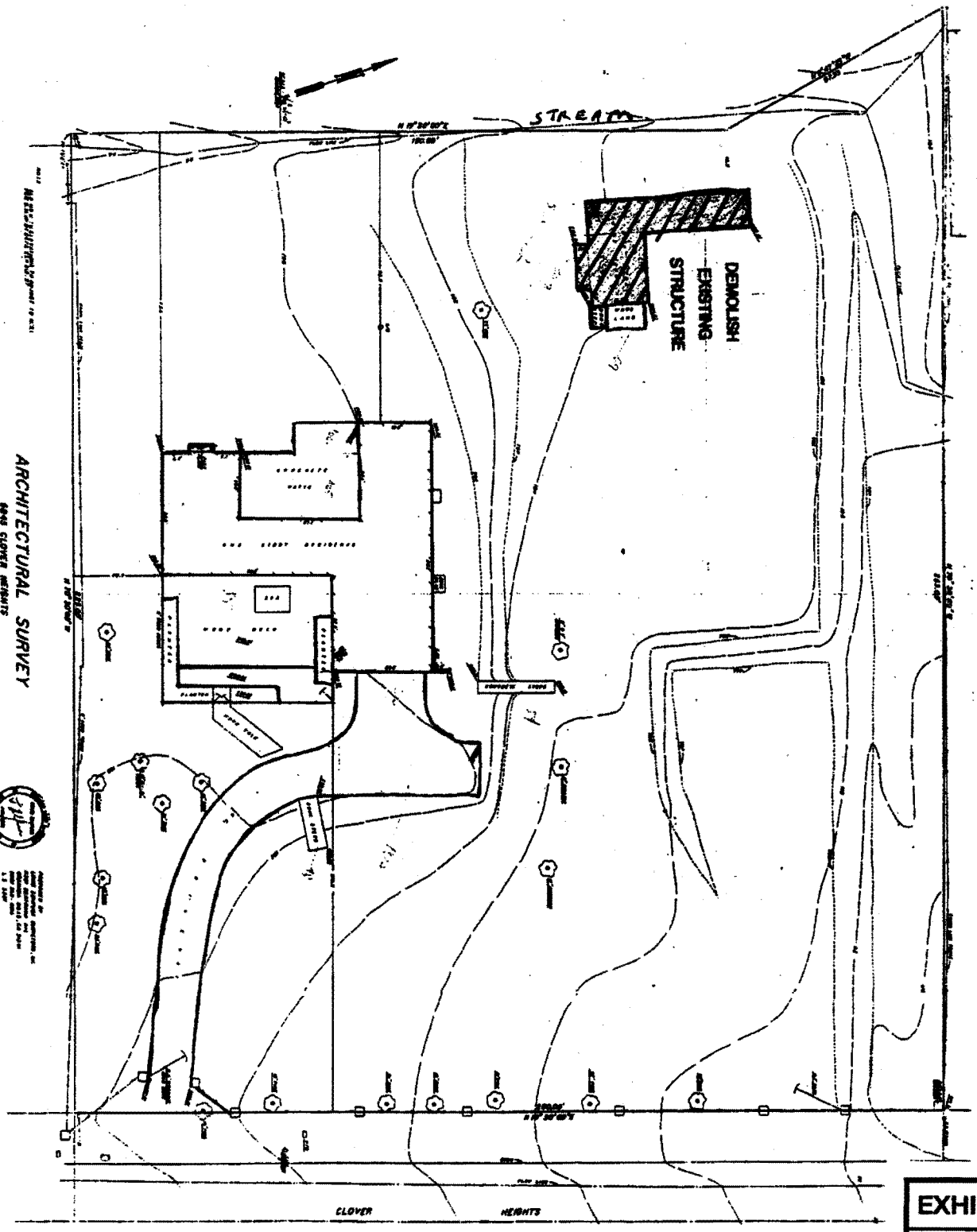


EXHIBIT NO. 2
APPLICATION NO. 112
CARSON
PARCEL MAP



ARCHITECTURAL SURVEY

EXHIBIT NO. 3
APPLICATION NO. 12
CARSON
DEMOLITION PLAN

C-1

CIVIL SURVEY

NEW ACCESSORY STRUCTURE
GARAGE & CARPORT FOR:
MR. & MRS. CARSON
5845 CLOVER HEIGHTS, MALIBU

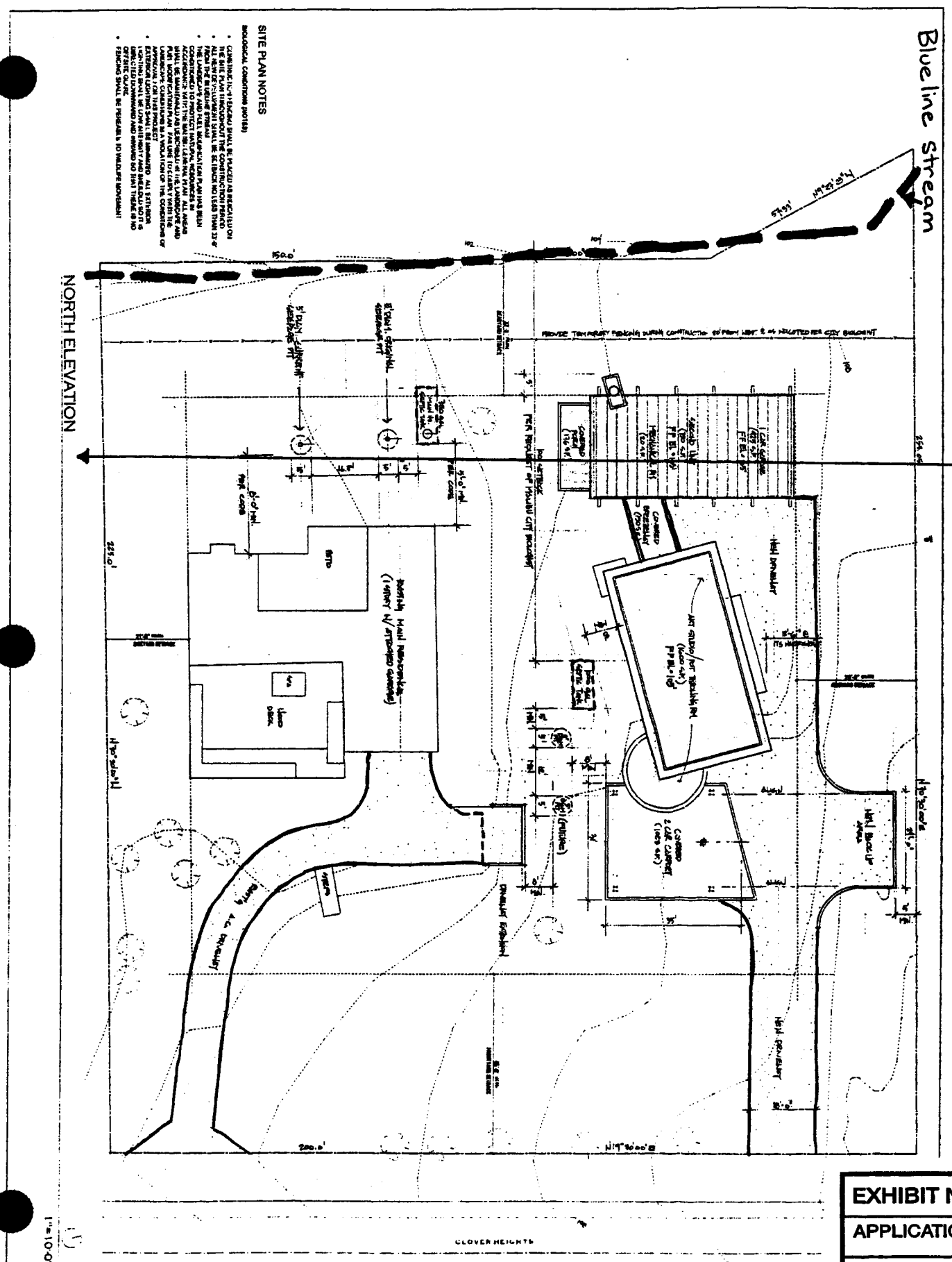


EXHIBIT NO.	4
APPLICATION NO.	112
CARSON	
SITE PLAN	

SITE PLAN

NEW ACCESSORY STRUCTURE
GARAGE & CARPORT FOR:
MR. & MRS. CARSON
5845 CLOVER HEIGHTS, MALIBU

JAMES HENRY ESSERTIER AIA ARCHITECT

A-2

Approximate Line of 50 ft setback from blueline stream

Blueline stream

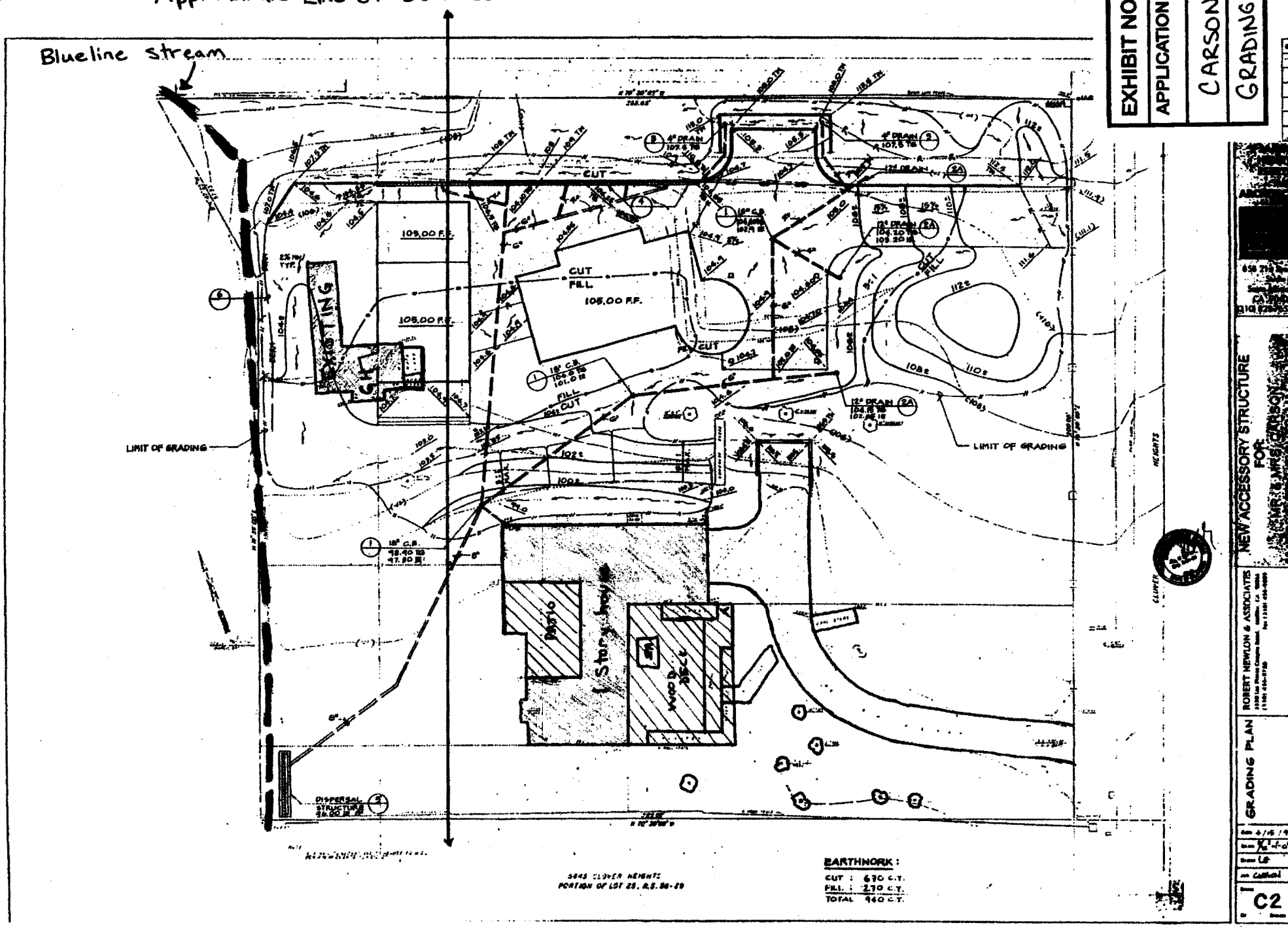


EXHIBIT NO. 5
APPLICATION NO. 1
CARSON
GRADING PLAN

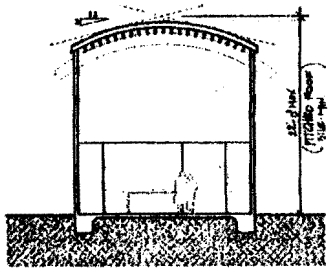
NEW ACCESSORY STRUCTURE FOR MR. & MRS. CARSON

ROBERT NEWLON & ASSOCIATES

GRADING PLAN

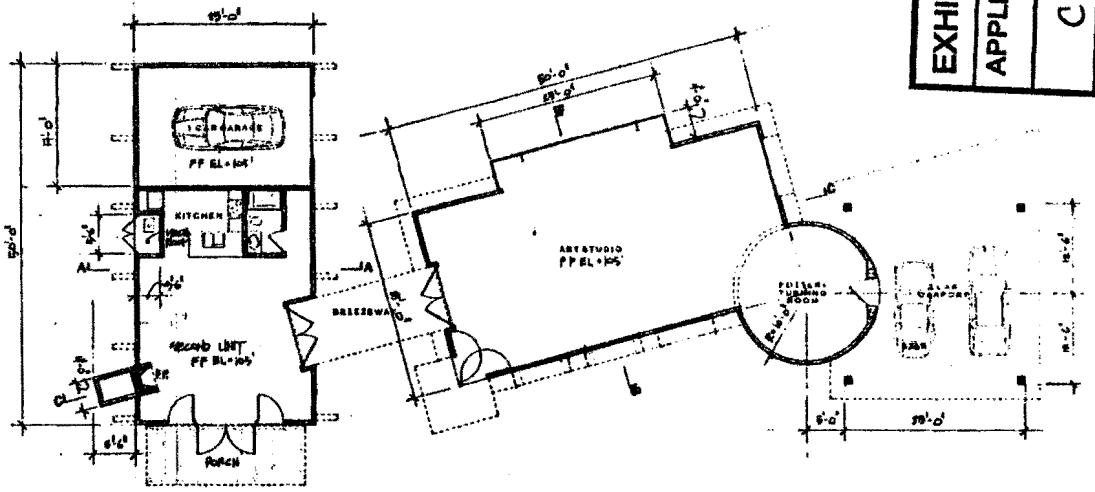
C2

EXHIBIT NO. 6
APPLICATION NO. 112
CARSON
SECTIONS/FLOOR



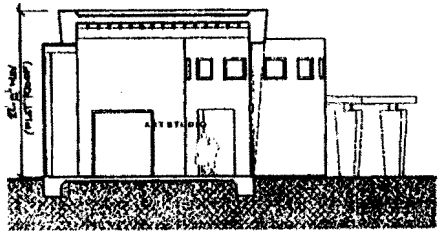
SECTION A-A

1/8"=1'-0"



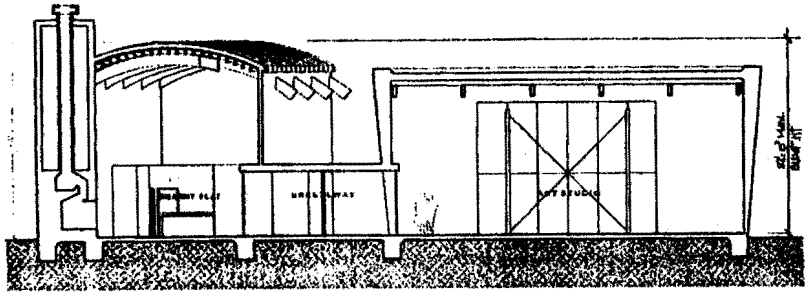
FLOOR PLAN

1/8"=1'-0"



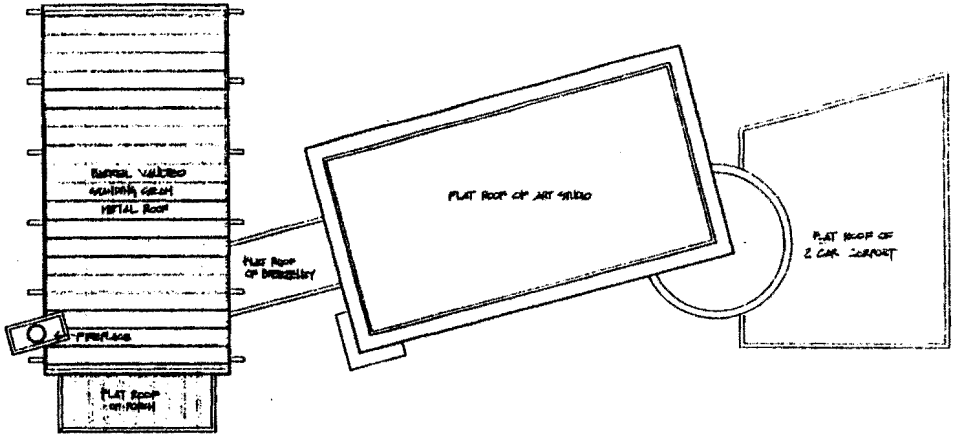
SECTION B-B

1/8"=1'-0"



SECTION C-C

1/8"=1'-0"



ROOF PLAN

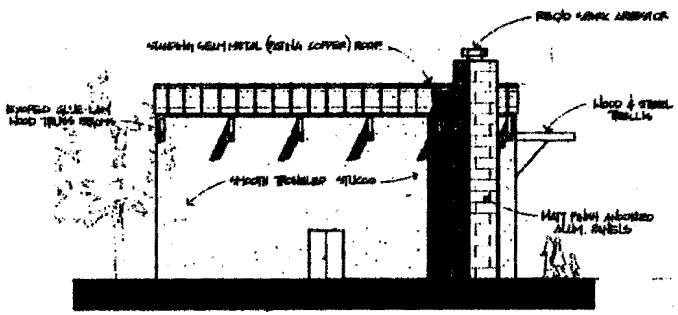
1/8"=1'-0"

NEW ACCESSORY STRUCTURE
GARAGE & CARPORT FOR:
MR & MRS. CARSON
5845 CLOVER HEIGHTS, MALIBU

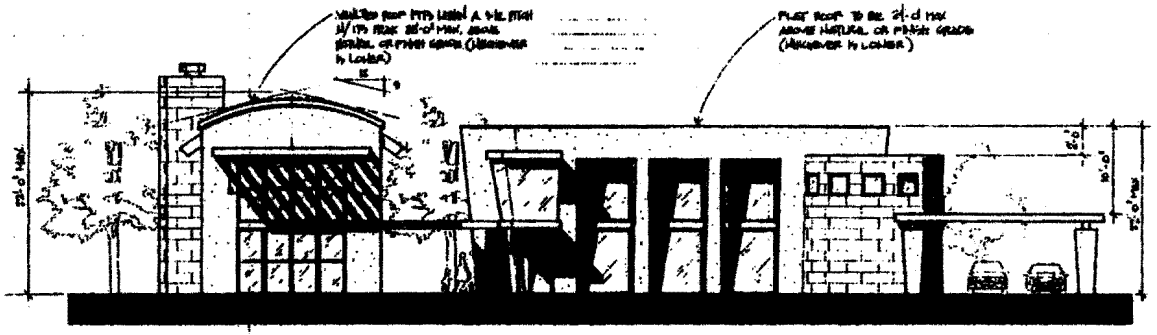
PLANS
SECTIONS

A-3

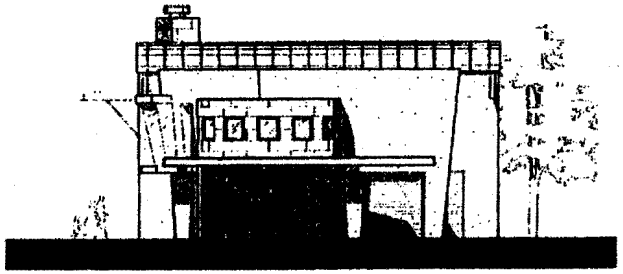
EXHIBIT NO. 7
APPLICATION NO. 11
CARSON
ELEVATIONS



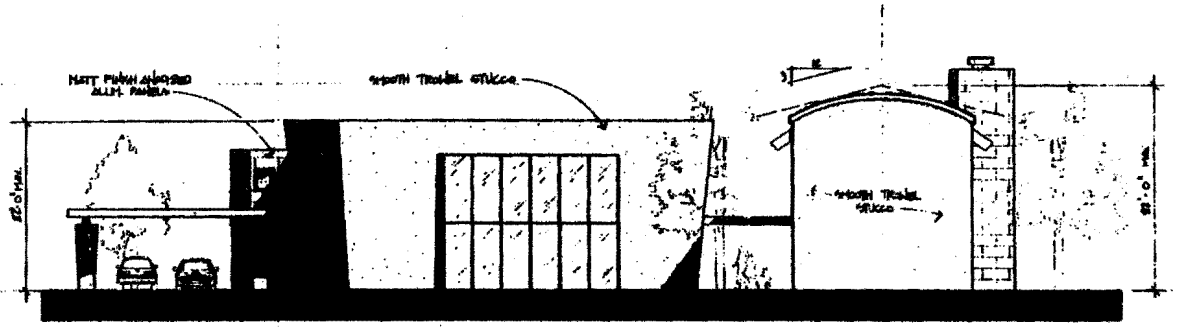
EAST ELEVATION
1/8"=1'-0"



SOUTH ELEVATION
1/8"=1'-0"



WEST ELEVATION
1/8"=1'-0"



NORTH ELEVATION
1/8"=1'-0"

JAMES HENRY ROBERTS, AIA ARCHITECT

NEW ACCESSORY STRUCTURE
GARAGE & CARPORT FOR:
MR. & MRS. CARSON
5845 CLOVER HEIGHTS, MALIBU

ELEVATIONS

A-4