

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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Filed: 01/24/01  
49th Day: 03/14/01  
180th Day: 07/23/01  
Staff: K. Kemmler  
Staff Report: 03/21/01  
Hearing Date: 04/10-13/01  
Commission Action:



## RECORD PACKET COPY

### STAFF REPORT: CONSENT CALENDAR

**APPLICATION NO.:** 4-00-261  
**APPLICANT:** Sassan & Mahshid Sobhani  
**PROJECT LOCATION:** 3833 Paseo Hidalgo, Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Proposal of a new 2,334 sq. ft. two-story, 28 ft. above grade single family residence with sublevel 391 sq. ft. garage/basement, detached 572 sq. ft. guest house, new septic system, 465 cu. yds. grading (383 cu. yds. cut, 82 cu. yds. fill, and 301 cu. yds. export), swimming pool, and driveway.

<b>Lot area</b>	10,960 sq. ft.
<b>Building coverage</b>	3,393 sq. ft.
<b>Pavement coverage</b>	390 sq. ft.
<b>Landscape coverage</b>	7,566 sq. ft.
<b>Height Above Finished Grade</b>	28 ft.
<b>Parking spaces</b>	4

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department, Approval in Concept, October 26, 2000; City of Malibu Geology Review, Approval in Concept, April 27, 2000; City of Malibu Biology Review, Approval in Concept, December 26, 2000; City of Malibu Environmental Health, Approval in Concept, September 11, 2000; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, November 21, 2000; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, November 28, 2000.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan, "Geotechnical Engineering and Geology Report," RJR Engineering Group, Inc., June 22, 1998; "Addendum Letter No. 1, Response to Review Comments," RJR Engineering Group, Inc., August 30, 1998; "Geotechnical and Geologic Update Report," RJR Engineering Group, Inc., April 10, 2000.

### Summary of Staff Recommendation

Staff recommends **approval** of the proposed project with **six (6) special conditions** regarding (1) geologic recommendations, (2) drainage and polluted runoff control, (3) landscaping and erosion control, (4) assumption of risk, (5) future improvements, and (6) removal of excess grading material.

## I. Staff Recommendation

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 4-00-261 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 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

All recommendations contained in the Geotechnical Engineering and Geology Report dated June 22, 1998 and Geotechnical and Geologic Update Report dated April 10, 2000 prepared by RJR Engineering Group, Inc. shall be incorporated into all final design and construction including *foundations, grading, sewage disposal and drainage*. Final plans must be reviewed and approved by the project's consulting geotechnical engineer and geologist. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, sewage disposal and drainage. 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 permit.

#### 2. Drainage and Polluted Runoff Control Plans

*Prior to the Issuance of the Coastal Development Permit*, the applicants shall submit to the Executive Director for review and written approval, 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 the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geotechnical engineer and geologist to ensure the plan is in conformance with consultant'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 or filter stormwater from each runoff event, up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85<sup>th</sup> 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 30<sup>th</sup> 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. Landscaping and Erosion Control Plans

*Prior to issuance of a coastal development permit*, the applicants 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 geotechnical engineering and geologic consultant to ensure that the plans are in conformance with the consultant's recommendations. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

#### a. Landscaping Plan

- (1) All graded and 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 plant species which tend to supplant native species shall not be used. 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.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Plantings 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) 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.
- (4) 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.

- (5) 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 applicants 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. Assumption of Risk, Waiver of Liability and Indemnity**

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from fire, landsliding, earth movement, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. *Prior to 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.

#### **5. Future Improvements**

This permit is only for the development described in Coastal Development Permit No. 4-00-261. Pursuant to Title 14 California Code of Regulations §13250 (b)(6) and §13253 (b)(6), the exemptions otherwise provided in Public Resources Code §30610 (a) and (b) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-00-261, and any grading, clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition No. Three (3), shall require an amendment to Permit No. 4-00-261 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include legal descriptions 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. Removal of Excess Grading Material**

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

## **IV. Findings and Declarations**

The Commission hereby finds and declares:

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

The applicant is proposing to construct a 2,334 sq. ft. two-story, 28 ft. above grade single family residence with sublevel 391 sq. ft. garage/basement, detached 572 sq. ft. guest house, new septic system, 465 cu. yds. grading (383 cu. yds. cut, 82 cu. yds. fill, and 301 cu. yds. export), swimming pool, and driveway on site of a previous residence destroyed by 1993 Malibu fires (Exhibits 4-12).

The project site is a quarter-acre hillside parcel on Paseo Hidalgo north of Pacific Coast Highway in a densely populated area in the City of Malibu (Exhibit 1). The parcel is bounded on the south by Paseo Hidalgo, on the east and west by residences, and on the north by a vacant lot (Exhibit 2). As mentioned above, the subject parcel is the site of a previous residence that was destroyed by wildfire. Existing vegetation on the lot consists of native grasses and chaparral brush. No environmentally sensitive habitat exists on site (Exhibit 3). The parcel ascends from Paseo Hidalgo on a steep slope that rises to Rambla Pacifico Road. The slope gradient within the parcel is about 3:1 with an overall relief of approximately 50 ft. There is no evidence of landslides on the subject property, however, the Rambla Pacifico Landslide is located approximately 300 ft. easterly of the property (Exhibit 3). Due to the distance from PCH and the natural topography, the subject site is not visible from Pacific Coast Highway and the proposed project would not impact any scenic views.

In 1999, it was determined by staff that the proposed project is not exempt from coastal development permit requirements as a disaster rebuild (Exemption Request No. 4-99-053-X *Jaaskela*). The original development on site included structures with a total of approximately 2,786 sq. ft., whereas, the proposed project includes structures with an approximate total of 3,300 sq. ft. Due to the 18% increase in floor area from the original structure, the replacement structures exceed the 10% criterion in §30610 for disaster rebuild exemptions. Thus, the proposed project does not qualify as an exemption.

### **B. Geology and Wildfire Hazard**

The proposed development is located in the Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic

hazards common to the Santa Monica Mountains 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.

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, 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.**

## **Geology**

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. As previously described, the proposed project includes a 2,334 sq. ft. two-story, 28 ft. above grade single family residence with sublevel 391 sq. ft. garage/basement, detached 572 sq. ft. guest house, new septic system, 465 cu. yds. grading (383 cu. yds. cut, 82 cu. yds. fill, and 301 cu. yds. export), swimming pool, and driveway. The project site is the location of a previous residence that was destroyed in 1993 by wildfire and is also in close proximity to a massive landslide (Exhibit 3).

The applicant has submitted a Geotechnical Engineering and Geology Report dated June 28, 1998 and a Geotechnical and Geologic Update Report dated April 10, 2000 prepared by RJR Engineering Group, Inc. which evaluate the geologic stability of the subject site in relation to the proposed development. Based on their evaluation of the site's geology and the proposed development the consultants have found that the project site is suitable for the proposed project. The project's consulting geotechnical engineer states in the Geotechnical Engineering and Geology Report dated June 28, 1998 prepared by RJR Engineering Group, Inc.:

***..the proposed improvements are feasible from a geologic and geotechnical standpoint. The proposed development should be free of landslides, slumping and excess settlement as described in this report, assuming the recommendations presented in our final design report are implemented during the design and construction of the project. In addition, the stability of the site and surrounding areas will not be adversely affected by the proposed residence, based upon our analysis and proposed design.***

Furthermore, the Geotechnical and Geologic Update Report dated April 10, 2000 prepared by RJR Engineering Group, Inc. states:

***..the proposed residential improvements remain feasible from a geologic and geotechnical standpoint. The site should be free of any geologic or geotechnical hazards, as long as the recommendations of this report are incorporated into the design and construction of the project.***



The geotechnical engineering consultant concludes that the proposed development is feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The Geotechnical Engineering and Geology Report dated June 28, 1998 and a Geotechnical and Geologic Update Report dated April 10, 2000 prepared by RJR Engineering Group, Inc. contain several recommendations to be incorporated into project construction, design, and drainage to ensure the stability and geologic safety of the proposed project site and adjacent property. To ensure that the recommendations of the consultant have been incorporated into all proposed development the Commission, as specified in **Special Condition No. One (1)**, requires the applicant to submit project plans certified by the consulting geotechnical engineer as conforming to all structural and site stability recommendations for the proposed project. Final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultant shall require an amendment to the permit or a new coastal development permit.

Despite the consulting geologist's assurance that the project is optimally designed for long term stability, the steepness of the site and the presence of a massive slide area in close proximity to the site raise concern. The Rambla Pacifico Landslide encompasses about 18 acres along the west flank of Las Flores Creek and is located approximately 300 ft. east of the site (Exhibit 3). The Commission must address those factors as they pose a risk that cannot be completely eliminated and may unavoidably endanger the proposed development.

The Commission notes that because there remains some inherent risk in building on sites adjacent to active and/or historic landslides, such as the subject site, and due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by **Special Condition No. Four (4)**. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same.

Controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad will also add to the geologic stability of the project site. Therefore, in order to minimize erosion and ensure stability of the project site, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicants to submit drainage and erosion control plans certified by the geotechnical engineer, as specified in **Special Conditions No. Two and Three (2 & 3)**.

In addition, the quantity of earth removal required for construction of the proposed residence is more than the quantity of recompaction required for construction resulting in an excess of 301 cu. yds. of graded earth material. Stockpiles of dirt are subject to increased erosion and, if retained onsite, may lead to additional landform alteration. Therefore, **Special Condition No. Six (6)** requires the applicant to export all excess grading material from the project site to an appropriate site for disposal and provide evidence to the Executive Director of the location of the disposal site prior to issuance of a coastal development permit.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the

geologic stability of the site. Therefore, **Special Condition No. Three (3)** requires the applicant to submit landscaping plans certified by the consulting geotechnical engineer as in conformance with their recommendations for landscaping of the project site. Special Condition No. Three also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Finally, Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission notes that non-native and invasive plant species with high surface/foilage 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 and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition No. Three (3)**.

The Commission finds that the proposed project, as conditioned, will serve to minimize potential geologic hazards of the project site and adjacent properties.

### **Wildfire**

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. 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 wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire 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 wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition No. Four (4)**, the assumption of risk, waiver of liability and indemnity, 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 No. Four, 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 the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with §30253 of the Coastal Act.

### **C. 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 (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 §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 Coastal Act §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 is proposing to construct a detached two-story, 18 ft. high, 572 sq. ft. guest unit with a new septic system to service the proposed residence and guest unit. The proposed guest unit consists of a living room, storage, full-bath, and one bedroom (Exhibit 7 & 8). The Commission notes that the proposed 572 sq. ft. guest unit conforms with the Commission's past actions in allowing a maximum of 750 sq. ft. for second dwellings in the Malibu area. However, the Commission notes that additions or improvements to the guest unit could easily convert to additional habitable square footage, beyond that approved by the Commission, therefore increasing the potential to use the proposed structure as a second residential unit.

The Commission has many past precedents on similar project proposals that have established a 750 sq. ft. maximum of habitable square footage for development of detached units which may be considered a secondary dwelling. The Commission finds that the proposed 572 sq. ft. guest unit is less than the 750 sq. ft. allowed by the Commission in past permit action. However, the Commission also finds it necessary to ensure that no additions or improvements are made to the detached guest unit in the future that may enlarge or further intensify the use of this structure without due consideration of the cumulative impacts that may result. Thus, the Commission finds it necessary to require the applicant to record a future development deed restriction, as specified in **Special Condition No. Five (5)**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the structure are proposed in the future.

As conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with Section 30250 and 30252 of the Coastal Act.

#### **D. Local Coastal Program**

Section 30604(a) of the Coastal Act states:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed project will not create 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 Malibu which is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

### **E. California Environmental Quality Act**

Section 13096(a) of the 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 Environmentally 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 that the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned, will not have any 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.

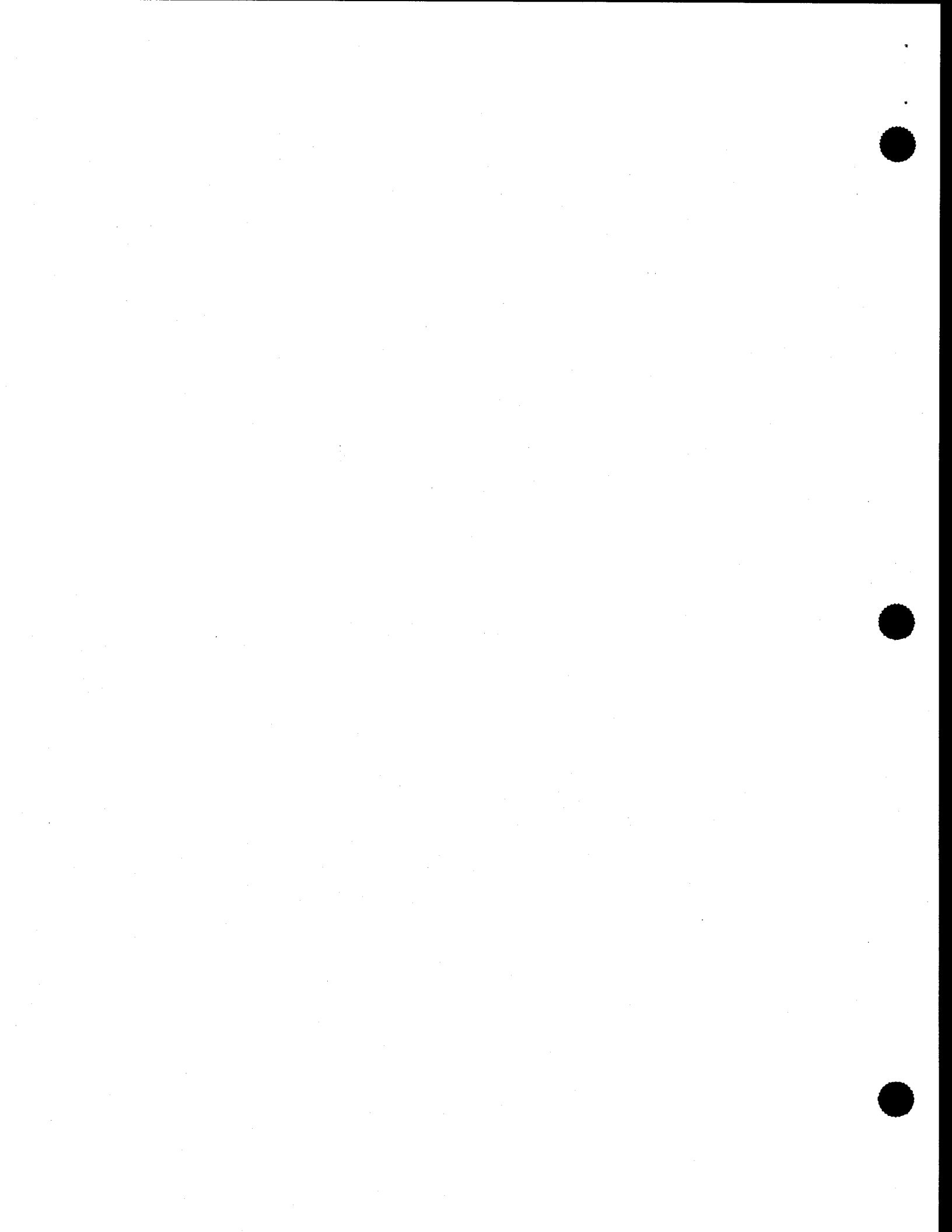
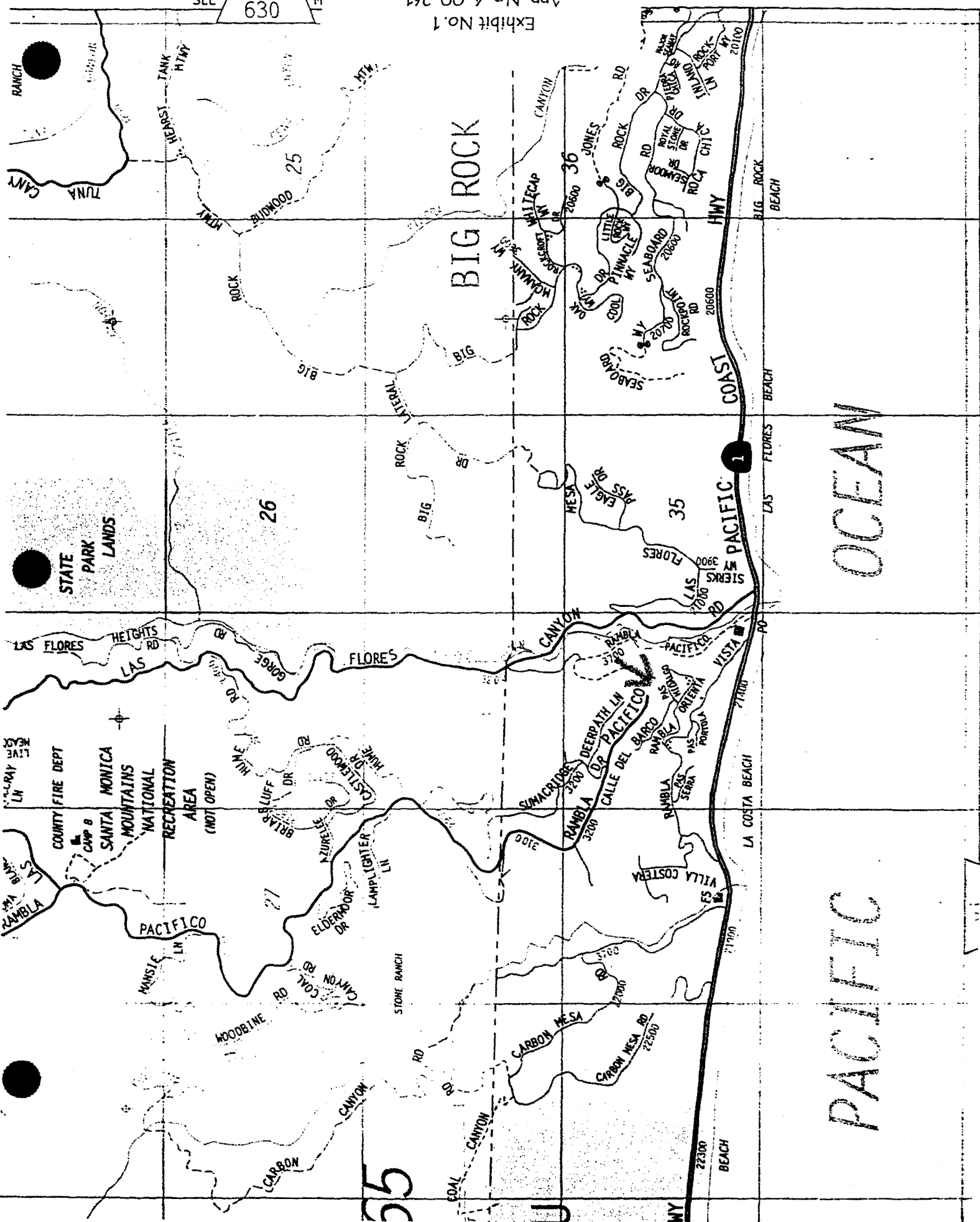


Exhibit No. 1  
App. No. 4-00-261  
Vicinity Map

SEE 630 M



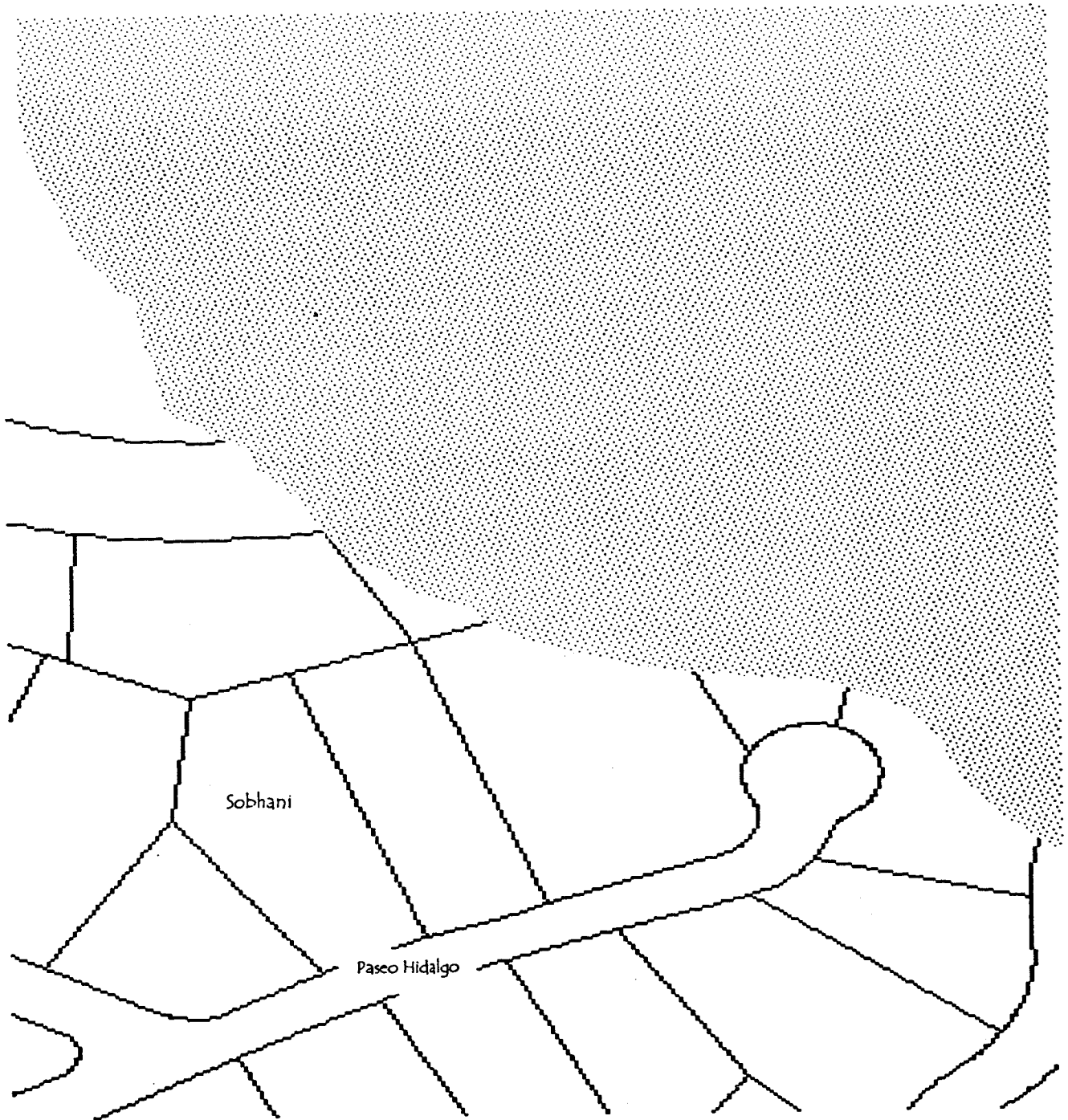
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PACIFIC

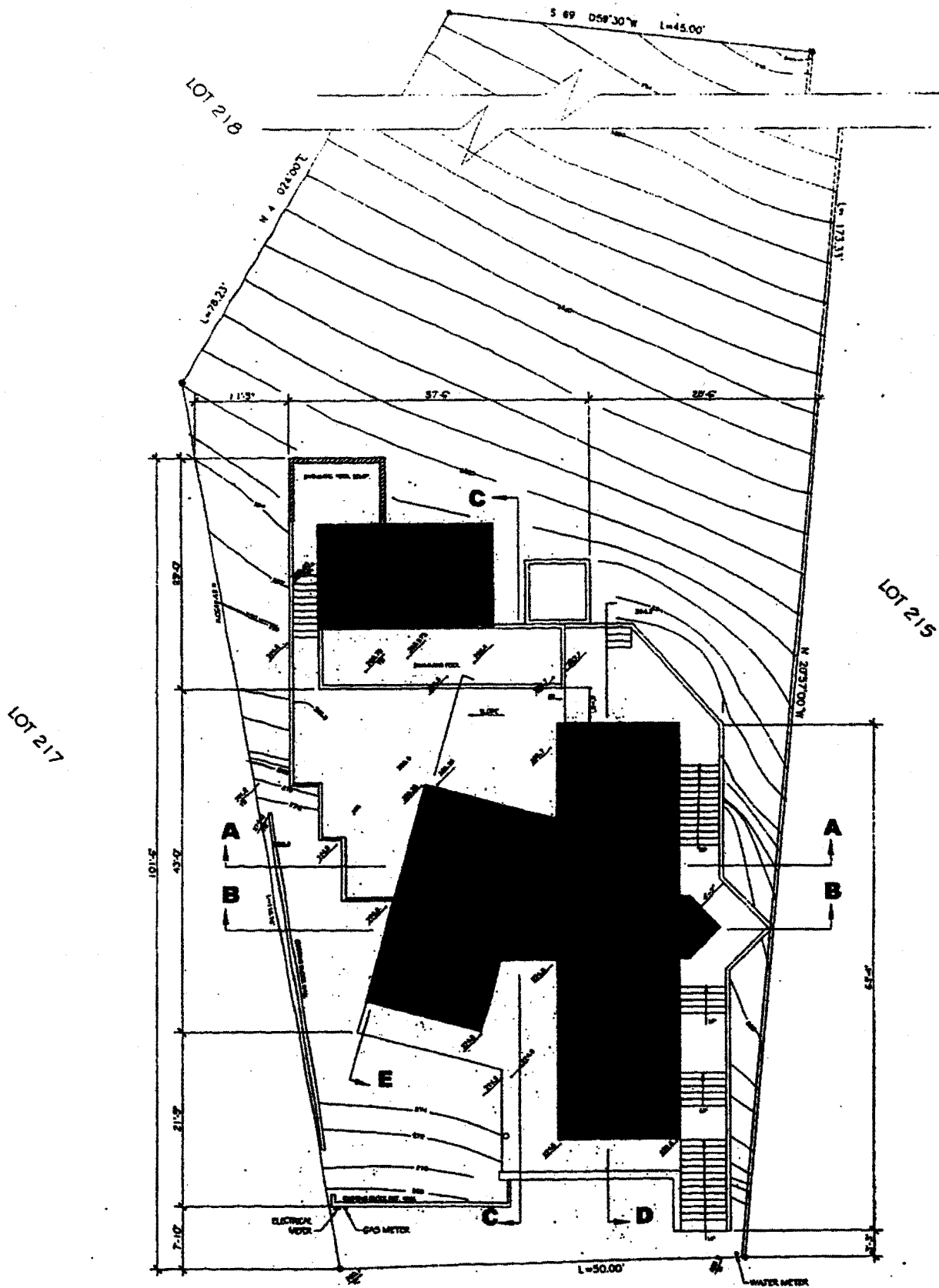




3833 Paseo Hidalgo, Sobhani



- ESHA
- ▨ Landslide

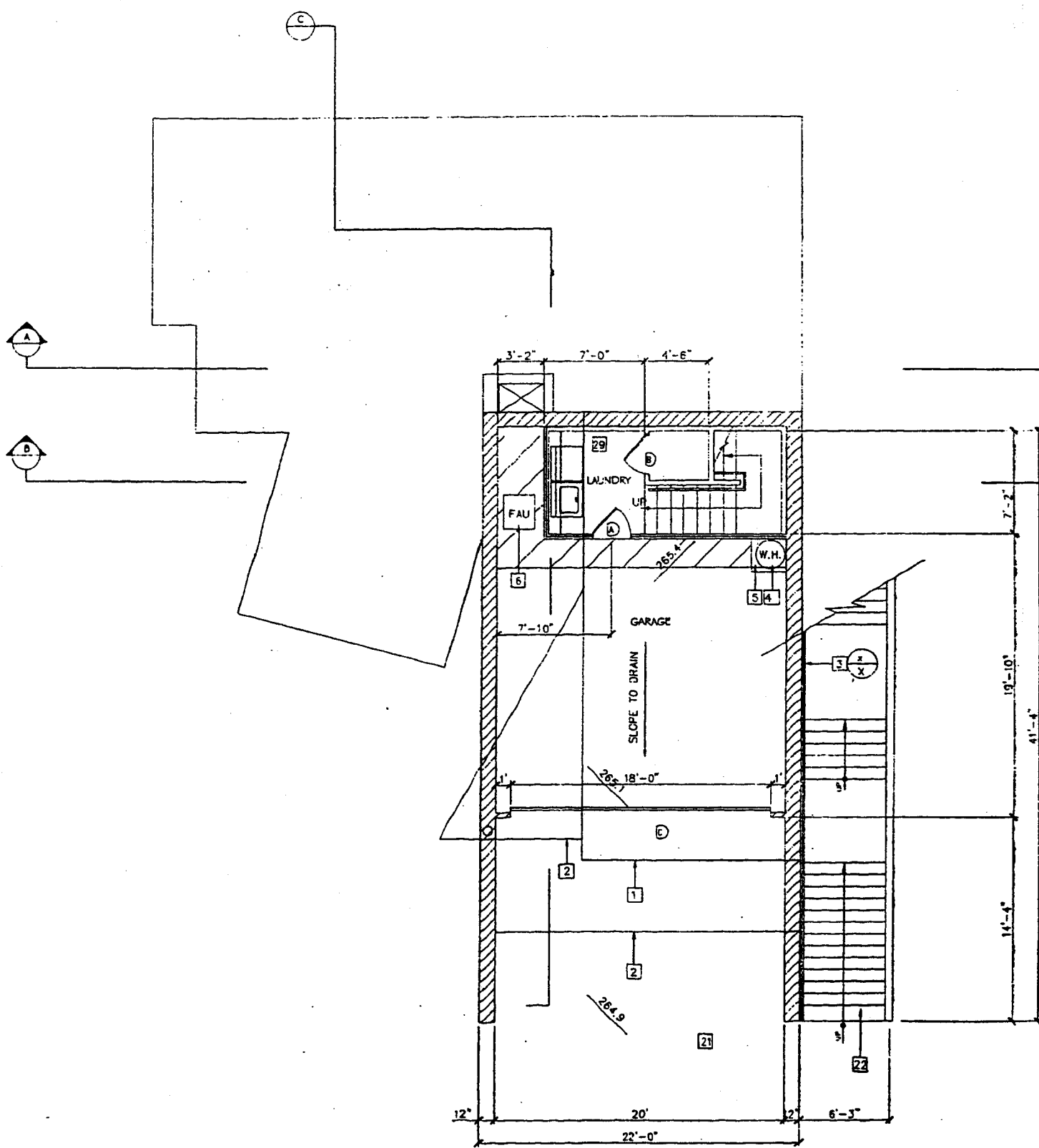


**SITE PLAN**  
 SCALE: 1/8" = 1'-0"

Exhibit No. 4  
 App. No. 4-00-261  
 Site Plan

PASEO HIDALGO

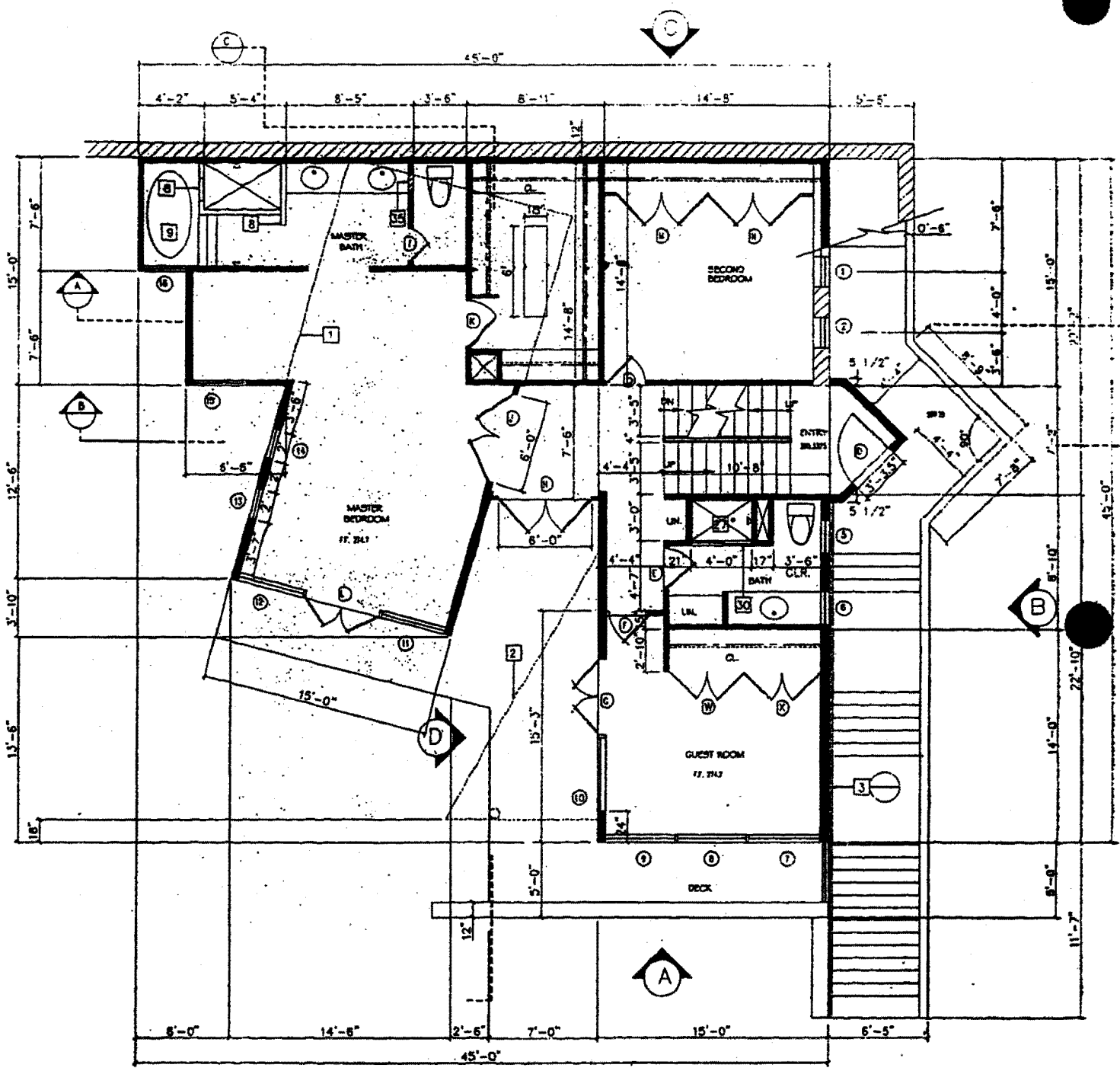




**BASEMENT**

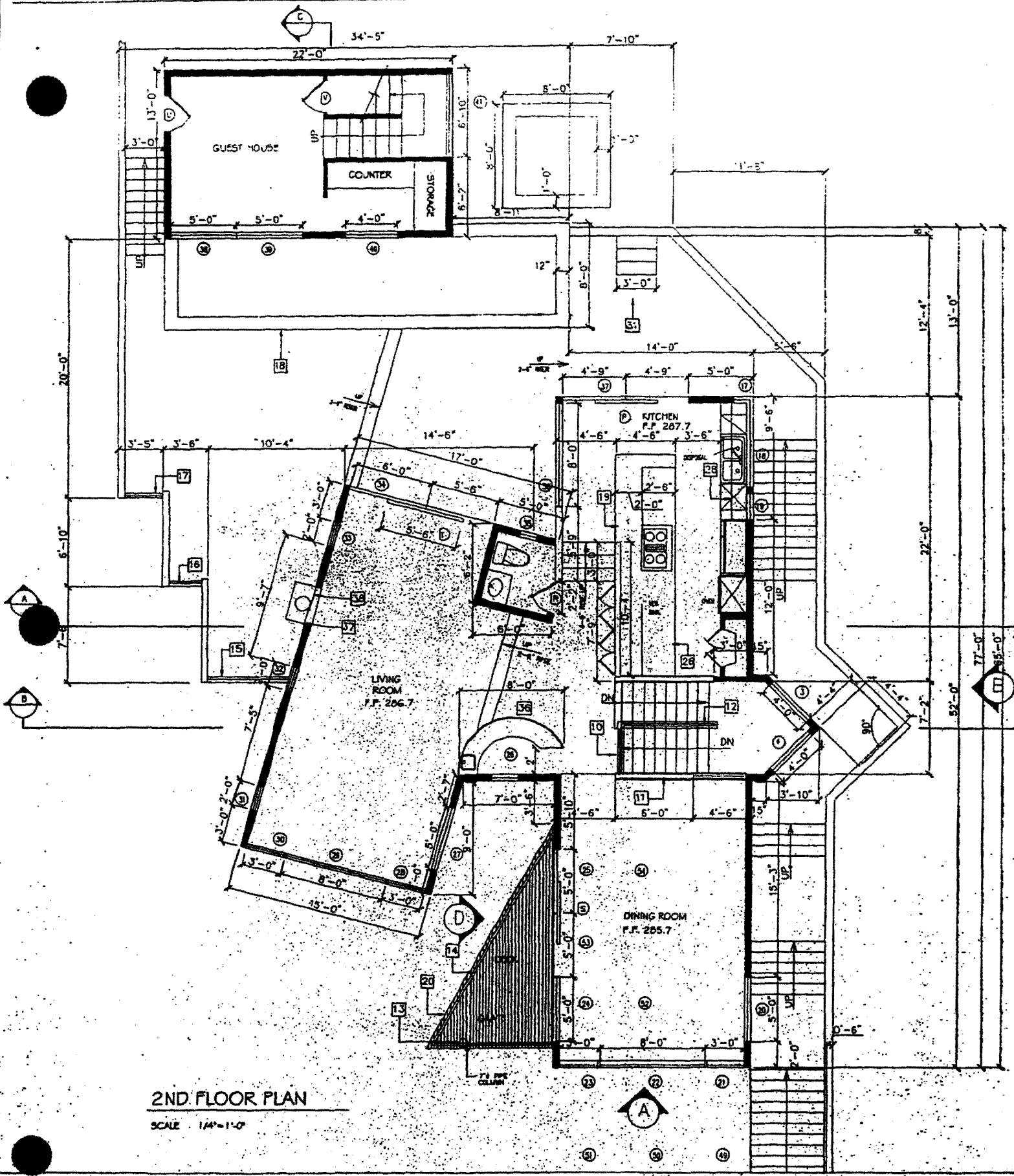
SCALE 1/4" = 1'-0"

Exhibit No. 5  
 App. No. 4-00-261  
 Sublevel Floor Plan



**1ST FLOOR PLAN**  
 SCALE 1/8"=1'-0"

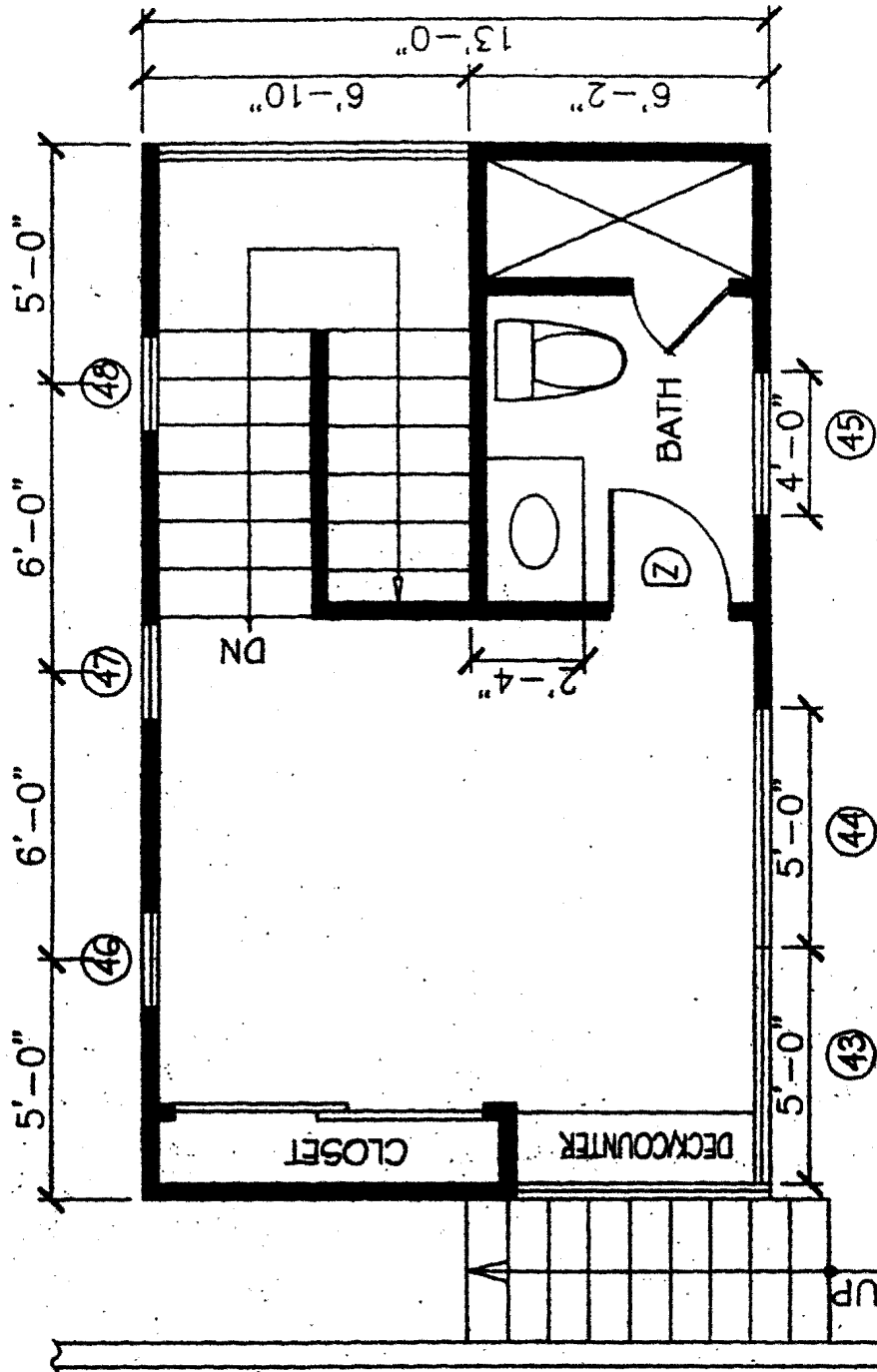
Exhibit No. 6  
 App. No. 4-00-261  
 1st Floor Plan



**2ND FLOOR PLAN**

SCALE 1/4" = 1'-0"

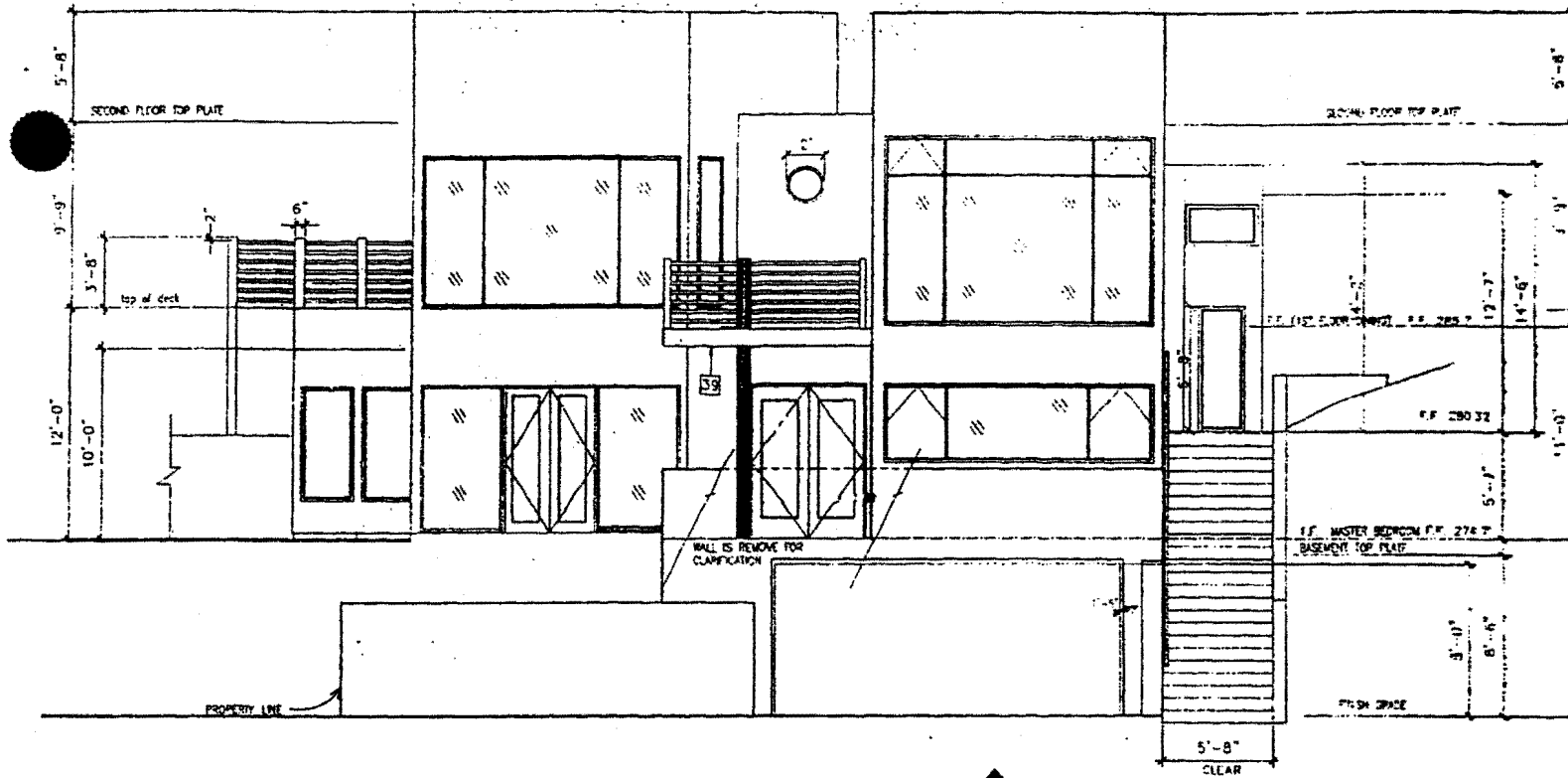
Exhibit No. 7  
 App. No. 4-00-261  
 2<sup>nd</sup> Floor Residence/  
 1<sup>st</sup> Floor Guest House Plan



GUEST HOUSE  
SECOND FLOOR

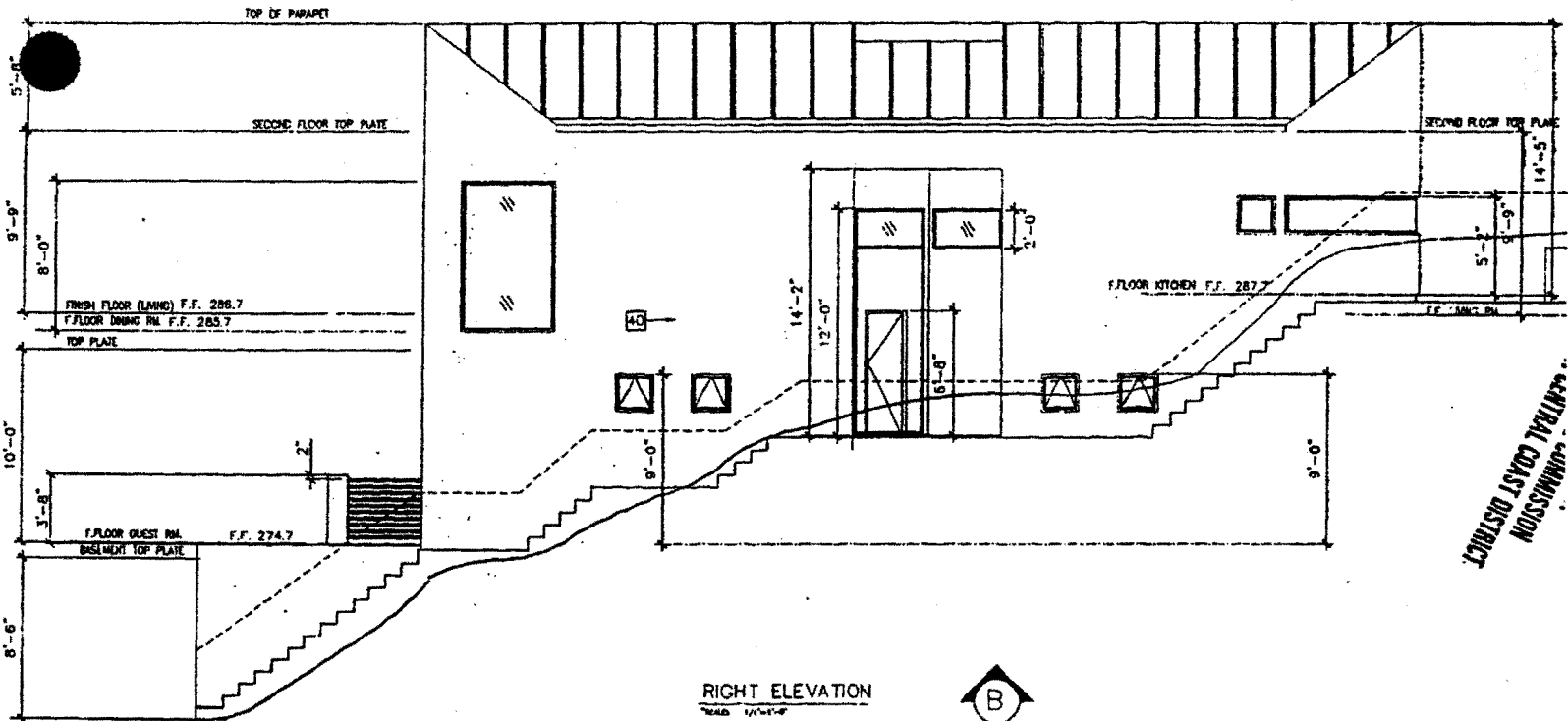
SCALE 1/4" = 1'-0"

Exhibit No. 8  
App. No. 4-00-261  
2<sup>nd</sup> Floor Guest House Plan



FRONT ELEVATION

SCALE 1/4"=1'-0"



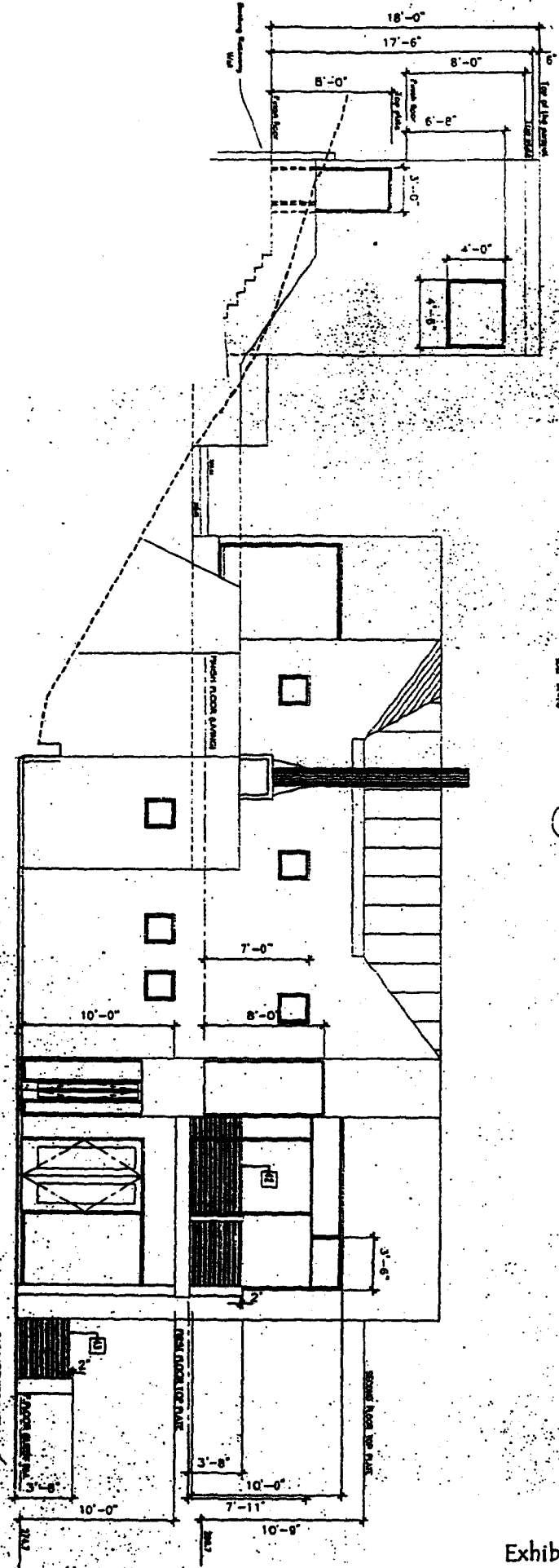
RIGHT ELEVATION

SCALE 1/4"=1'-0"

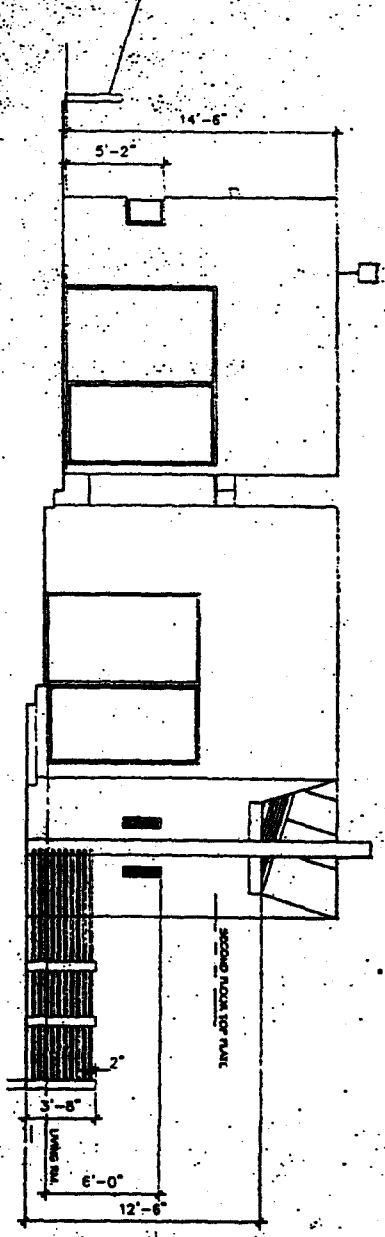


CAPITAL DISTRICT COMMISSION

LEFT ELEVATION



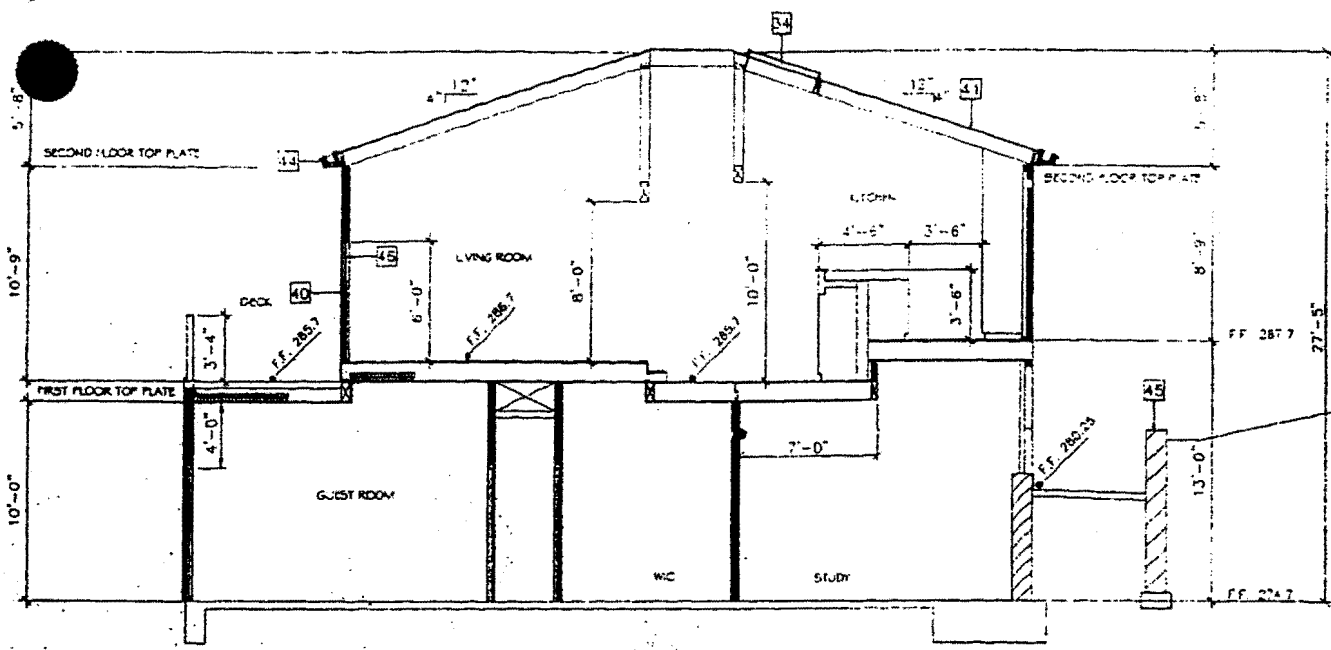
REAR ELEVATION



- 1. EXISTING
- 2. NEW
- 3. DEMOLITION
- 4. FINISH
- 5. ELEVATION

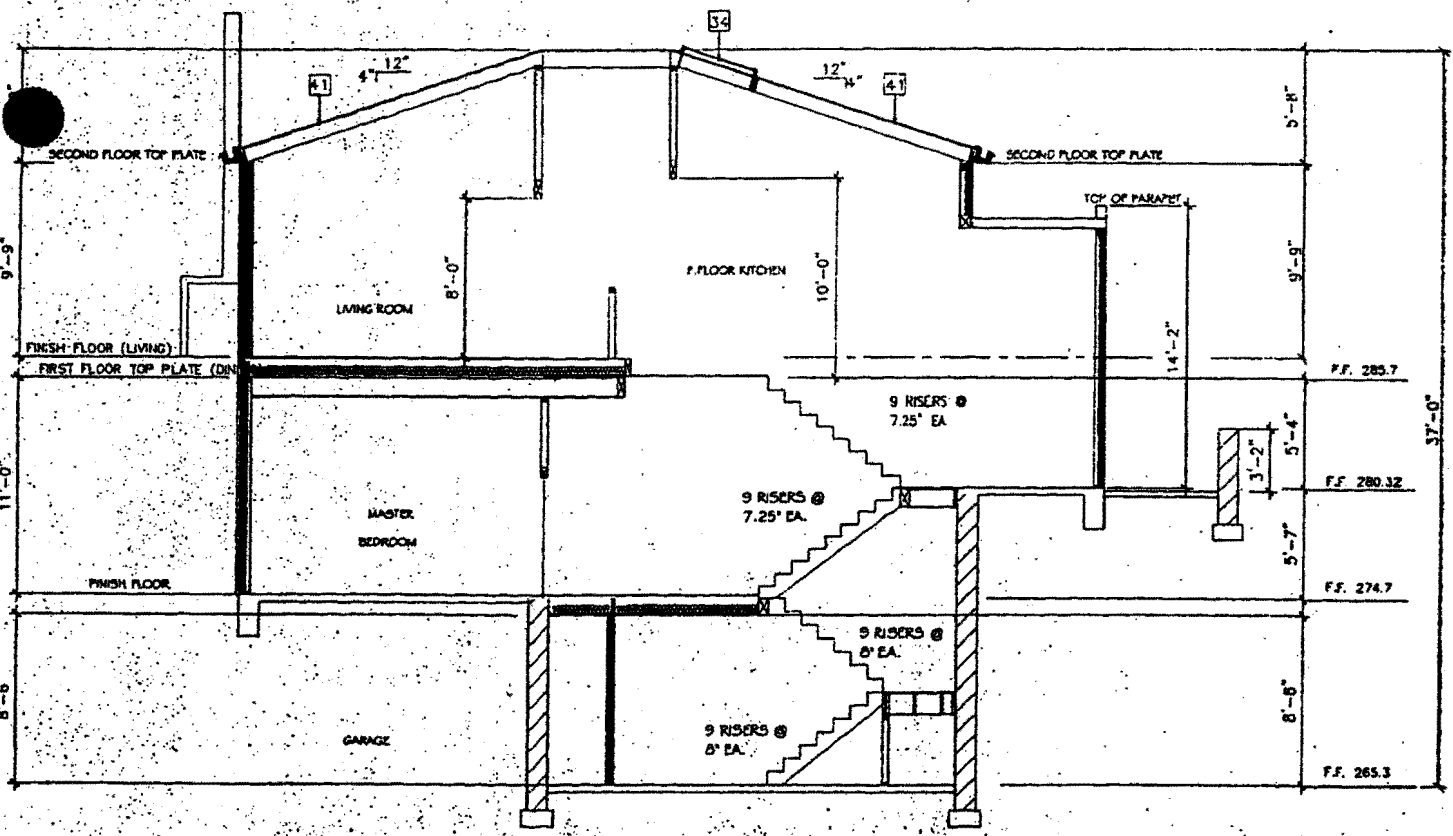
Exhibit No. 10  
App. No. 4-00-261  
Rear & Left Elevations





SECTION A

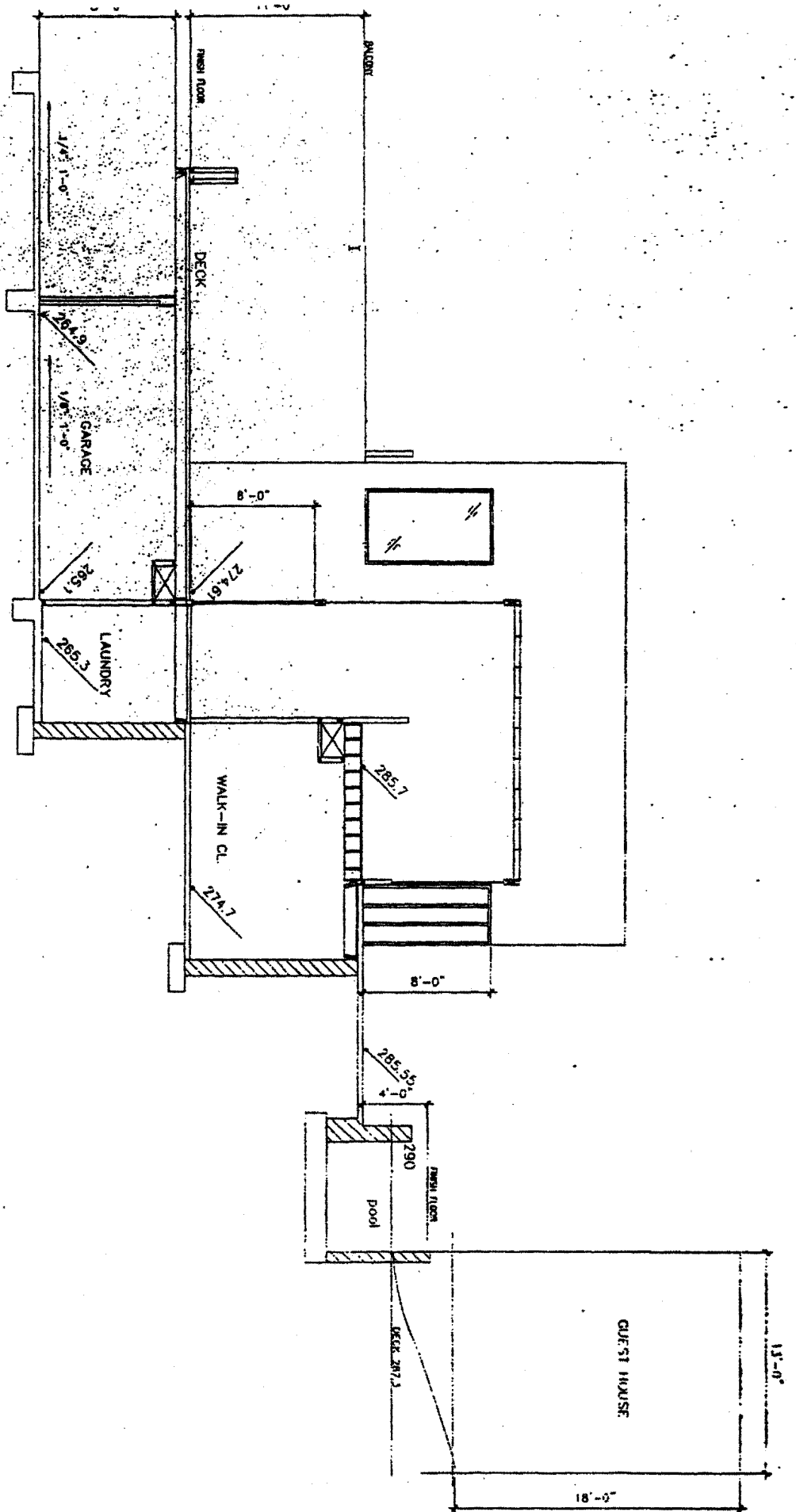
SCALE 1/4" = 1'-0"



SECTION B

SCALE 1/4" = 1'-0"

Exhibit No. 11  
 App. No. 4-00-261  
 Sections A & B



SECTION C  
 WALL VIEW

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Exhibit No. 12  
 App. No. 4-00-261  
 Section C