

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585 - 1800

Filed: 6/26/01
49th Day: 8/14/01
180th Day: 12/23/01
Staff: K. Kemmler
Staff Report: 8/10/01
Hearing Date: 9/11-14/01
Commission Action:



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STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-01-074
APPLICANT: James Whalen
AGENT: Laura Hanson
PROJECT LOCATION: 31541 Pacific Coast Highway, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Proposal to construct a new two story, 2,390 sq. ft., 18 ft. high single family residence with 77 sq. ft. basement and attached 420 sq. ft. garage, detached 750 sq. ft. guest house, driveway, retaining walls, chain link fence and new septic system including 278 cu. yds. grading (103 cu. yds. cut & 175 cu. yds. fill) and 470 cu. yds. removal and recompaction to prepare the building pad.

Lot area	44,870 sq. ft.
Building coverage	4,305 sq. ft.
Pavement coverage	680 sq. ft.
Landscape coverage	34,015 sq. ft.
Height Above Finished Grade	18 ft.
Parking spaces	3

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, June 18, 2001; City of Malibu Environmental Health, Approval in Concept, April 20, 2001; County of Los Angeles Fire Department, Final Fuel Modification Plan Approval, June 1, 2001; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, May 24, 2001.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; "Geotechnical Engineering Investigation of Planned Development," AGI Geotechnical, Inc., October 10, 1997; "Change of Consultant, Update and Private Sewage Disposal System Report," GeoConcepts, Inc., April 11, 2001; "Supplemental Report I," GeoConcepts, Inc., May 21, 2001.

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) wildfire waiver, (5) future improvements, and (6) color restriction.

I. Staff Recommendation

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-074 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 Investigation of Planned Development dated October 10, 1997 prepared by AGI Geotechnical, Inc. and the Change in Consultant, Update and Private Sewage Disposal System Report dated April 11, 2001 and the Supplemental Report No. 1 dated May 21, 2001 prepared by GeoConcepts, 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, two sets of plans with 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, two sets of 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 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. Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicants shall submit two sets of 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.
- (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) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen the residence to minimize impacts of the development on public views from Pacific Coast Highway located south of the site (Exhibit 3).
- (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 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. Wildfire Waiver

Prior to the issuance of a 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, and expenses of liability arising out of the acquisition, design, construction, operation, 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.

5. Future Improvements

This permit is only for the development described in Coastal Development Permit No. 4-01-074. 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 in intensity of use to the permitted structures approved under Coastal Development Permit No. 4-01-074, 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. 4-01-074 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. Color Restriction

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of coastal development permit no. 4-01-074. The palette samples shall be presented in a format not to exceed 8½" X 11" X ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades

of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by coastal development permit no. 4-01-074 if such changes are specifically authorized by the Executive Director as complying with this special condition.

Prior to the issuance the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances 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.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to construct a new two story, 2,390 sq. ft., 18 ft. high single family residence with 77 sq. ft. basement and attached 420 sq. ft. garage, detached 750 sq. ft guest house, driveway, retaining walls, chain link fence and new septic system including 278 cu. yds. grading (103 cu. yds. cut & 175 cu. yds. fill) and 470 cu. yds. removal and recompaction to prepare the building pad area (Exhibits 3-7).

The subject property is a nearly rectangular parcel encompassing approximately 1 acre (Exhibit 2). The parcel is located north of Lechuza Point on the north side of Pacific Coast Highway (Exhibit 1). Access to the lot is via an existing access road of Pacific Coast Highway, which serves the residences on lots to the south and north and the nursery to the east of the subject lot. The parcel slopes gently to the south. The overall physical relief of the property is about 50 feet. There are scattered trees throughout the site and natural grasses. There is no designated environmentally sensitive habitat area, which exists on or near the site. The proposed project site can be viewed from Pacific Coast Highway, which has been designated a scenic highway in the Malibu/Santa Monica Mountains Land Use Plan (LUP).

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 new two story, 2,390 sq. ft., 18 ft. high single family residence with 77 sq. ft. basement and attached 420 sq. ft. garage, detached 750 sq. ft. guest house, driveway, retaining walls, chain link fence and new septic system including 278 cu. yds. grading (103 cu. yds. cut & 175 cu. yds. fill) and 470 cu. yds. removal and recompaction to prepare the building pad.

The applicant has submitted a Geotechnical Engineering Investigation of Planned Development dated October 10, 1997 prepared by AGI Geotechnical, Inc. and a Change in Consultant, Update and Private Sewage Disposal System Report dated April 11, 2001 and a Supplemental Report No. 1 dated May 21, 2001 prepared by GeoConcepts, 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 Supplemental Report No. 1 dated May 21, 2001 prepared by GeoConcepts, Inc. states:

It is the finding of this corporation, based upon the subsurface data that the proposed seepage system and the building site will be safe from landslide, settlement or slippage and will not adversely affect adjacent property, provided this corporation's recommendations and those of the City of Malibu and Uniform Building Code are followed and maintained.

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 Investigation of Planned Development dated October 10, 1997 prepared by AGI Geotechnical, Inc. and the Change in Consultant, Update and Private Sewage Disposal System Report dated April 11, 2001 and the Supplemental Report No. 1 dated May 21, 2001 prepared by GeoConcepts, Inc. contain several recommendations to be incorporated into project construction, design, sewage disposal 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.

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)**.

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 wildfire waiver of liability, 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 one story 750 sq. ft. guest unit (Exhibits 3 & 5). The proposed guest unit consists of two small bedrooms, a living room, and a bathroom (Exhibit 5). The Commission notes that the proposed 750 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 750 sq. ft. guest unit conforms to the 750 sq. ft. allowed by the Commission in past permit action. However, the Commission 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 the 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 §30250 and §30252 of the Coastal Act.

D. 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, and 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, minimizing alteration of natural streams.

As described, the proposed project includes a new two story, 2,390 sq. ft., 18 ft. high single family residence with 77 sq. ft. basement and attached 420 sq. ft. garage, detached 750 sq. ft. guest house, driveway, retaining walls, chain link fence and new septic system including 278 cu. yds. grading (103 cu. yds. cut & 175 cu. yds. fill) and 470 cu. yds. removal and recompaction to prepare the building pad.

The proposed development will 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.

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 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 No. Two (2)**, 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 policies of the Coastal Act.

Furthermore, interim erosion control measure implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition No. Three (3)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site private sewage disposal system to serve the residence. The applicant's environmental health specialist performed infiltration tests. The City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

E. Visual Resources

Section 30251 of the Coastal Act states that:

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

The proposed project site is located just north of Pacific Coast Highway, and is bordered by substantial residential & commercial development to the north, south, and east. To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic highways. The proposed residence is moderately sized and only 18 ft. above grade. The grading required for the proposed project is minor as the structures are designed to essentially conform to the natural topography. Furthermore, the proposed development will be consistent with the existing development surrounding the project site, however, the property is visible from a designated scenic highway. Pacific Coast Highway has been designated as a scenic highway in the Malibu/Santa Monica Mountains LUP, and the Commission has, in past decisions, required that development visible from scenic highways or other public areas minimize impacts to visual resources. Due to the highly visible nature of the project site from public viewing areas, the Commission finds it necessary to require mitigation measures to minimize visual impacts associated with development of the project site.

In order to soften the visual impacts of the development from the scenic road, the Commission finds it necessary to require the applicant to record a deed restriction providing specific limitations on the materials and colors acceptable for the development on the subject site, as specified in **Special Condition No. Six (6)**. These restrictions generally limit colors to natural tones that will blend with the background of the environment and require the use of non-glare

glass. White and red tones are not acceptable. If fully implemented by present and future owners of the proposed residence, Special Condition No. Six will ensure that development of the site will be as visually unobtrusive to visual resources of the area as possible.

Visual impacts associated with proposed structures, can be further reduced by the use of appropriate and adequate landscaping. **Special Condition No. Three (3)**, the landscaping plan, requires that vertical screening elements be incorporated into the landscape plan to soften views of the proposed residence from Pacific Coast Highway. In addition, Special Condition No. Three requires the applicant to prepare a landscape plan relying mostly on native, noninvasive plant species to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. The implementation of Special Condition No. Three, therefore, will help to partially screen and soften the visual impact of the development as seen from scenic areas near the subject site. In order to ensure that the final approved landscaping plans are successfully implemented, Special Condition No. Three also requires the applicant to revegetate all disturbed areas in a timely manner, and includes a monitoring component, to ensure the successful establishment of all newly planted and landscaped areas over time.

Finally, regarding future developments or improvements, certain types of development on the property, normally associated with a single family residence which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that future development or improvements normally associated with the entire property, which might otherwise be exempt, are reviewed by the Commission for compliance with the scenic resource policy, §30251 of the Coastal Act. **Special Condition No. Five (5)** the future development deed restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with §30251 of the Coastal Act. Therefore the Commission finds that, as conditioned, the proposed development will minimize adverse impacts to scenic public views in this area of the Santa Monica Mountains, and is consistent with §30251 of the Coastal Act.

F. 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).

G. 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 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 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.

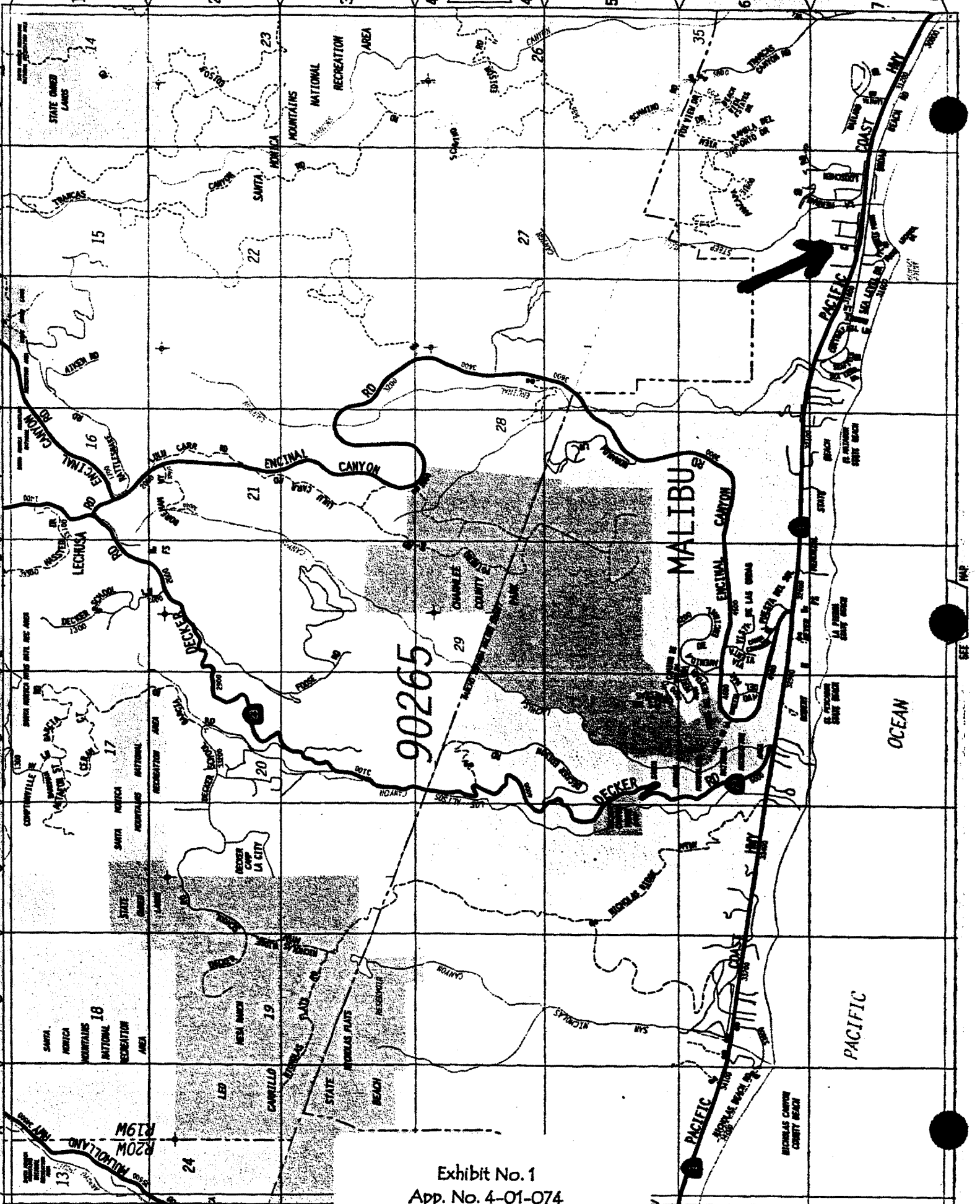


Exhibit No. 1
 App. No. 4-01-074
 Vicinity map

...es, CA , 2001-2002 - 4470-03-023 (Att. Parcel 3), Sheet 1 of 1

4470 9

SCALE 1" = 200'
P.A. 4470 0 3 0

TRA 10653

OFFICE OF ASSESSOR
COUNTY OF LOS ANGELES

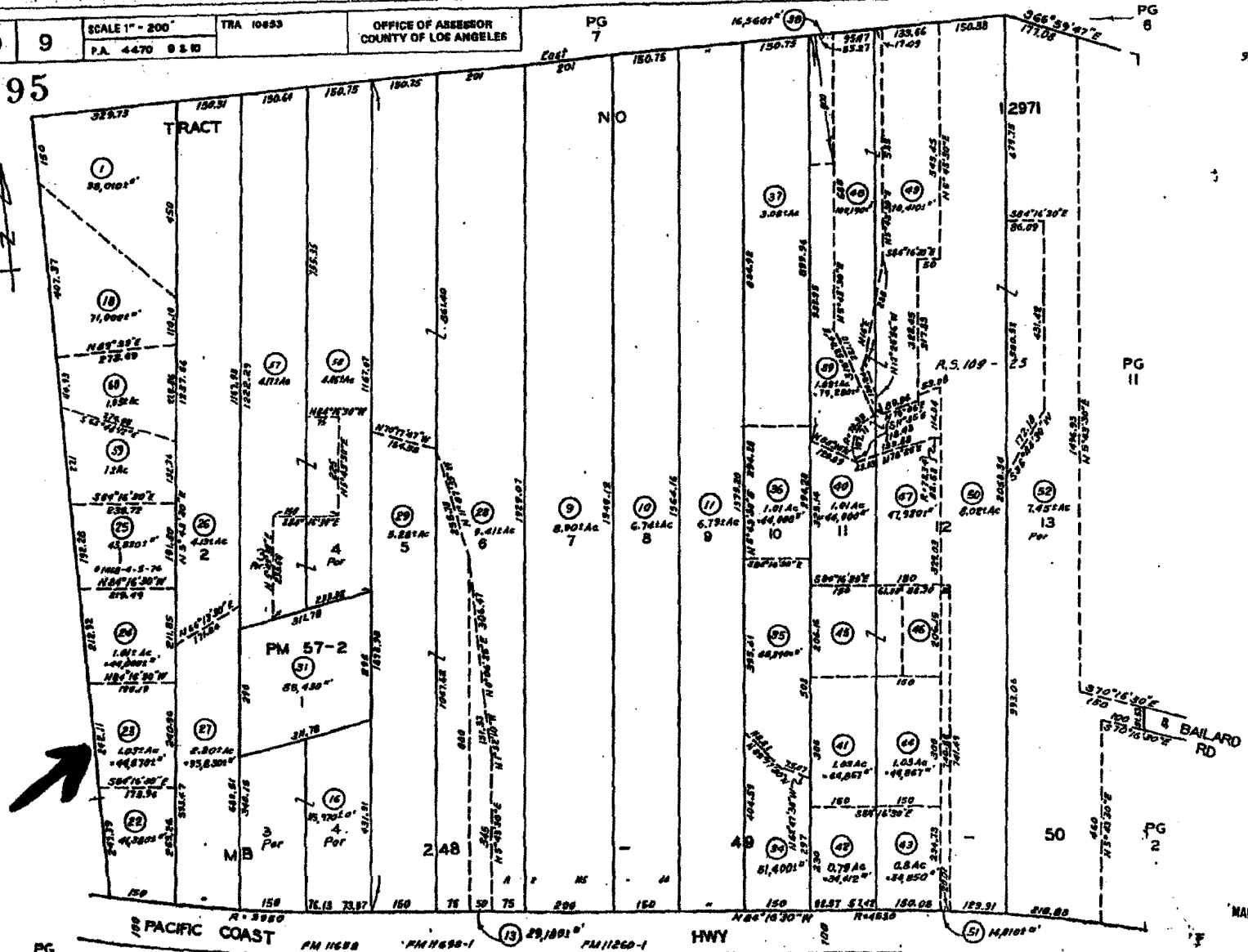
PG 7

PG 8

REVISED
840702 415-85
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59022104003001-07

1995

Exhibit No. 2
App. No. 4-01-074
Parcel map



MAR 29 1995

LEGEND AND ABBREVIATIONS

CL.F.	CONCRETE FENCE
CL.P.	CONCRETE POST AND RAIL FENCE
CL.W.	WOOD POST AND RAIL FENCE
CL.S.	STEEL POST AND RAIL FENCE
CL.T.	TOP OF BANK
CL.B.	BASE OF BANK
CL.E.	EDGE OF BANK
CL.C.	CENTRELINE OF ROAD
CL.L.	LINE OF LEVEL
CL.H.	POWER POLE
CL.M.	WATER METER
CL.N.	WATER METER
CL.O.	SEWER MANHOLE
CL.P.	SEWER MANHOLE
CL.Q.	WATER METER
CL.R.	WATER METER
CL.S.	CONCRETE BLOCK WALL
CL.T.	EXISTING CONTOUR
CL.U.	EXISTING CONTOUR
CL.V.	EXISTING CONTOUR
CL.W.	EXISTING CONTOUR
CL.X.	EXISTING CONTOUR
CL.Y.	EXISTING CONTOUR
CL.Z.	EXISTING CONTOUR
CL.A.	ASPHALT PAVEMENT
CL.B.	CONCRETE
CL.C.	CONCRETE

LEGAL DESCRIPTION

PARCEL 1: A PORTION OF LOT 1 OF TRACT NO. 12871, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 248, PAGES 48 AND 50 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERN LINE OF SAID LOT 1, DISTANT NORTH 7° 23' 38" EAST 243.80 FEET TO THE CORNER OF SAID LOT 1, DISTANT WEST 118.14 FEET TO THE WESTERN LINE OF SAID LOT; THENCE SOUTH 84° 16' 30" WEST 118.14 FEET TO THE WESTERN LINE OF SAID LOT; THENCE SOUTH 01° 01' 00" WEST ALONG SAID WESTERN LINE 118.14 FEET TO THE POINT OF BEGINNING.

PARCEL 2: A PORTION OF LOT 1 OF TRACT NO. 12871, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 248, PAGES 48 AND 50 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EASTERN LINE OF SAID LOT 1, DISTANT NORTH 7° 23' 38" EAST 243.80 FEET TO THE CORNER OF SAID LOT 1, DISTANT WEST 118.14 FEET TO THE WESTERN LINE OF SAID LOT; THENCE SOUTH 84° 16' 30" WEST 118.14 FEET TO THE WESTERN LINE OF SAID LOT; THENCE SOUTH 01° 01' 00" WEST ALONG SAID WESTERN LINE 118.14 FEET TO THE POINT OF BEGINNING.

BENCH MARK

USGASS MON. IN N. BAYVIEW ON PACIFIC COAST HWY. & 6.5M W/O LUNA, NO. 307 SE. W. 7255447 IN FRONT NO. 21640 AND (160 18.80) 847 OF 5457, MALIBU QUAD (1960)

1017 1/4" Sheet EA Santa Monica, CA 90403 In: hanson@hanson.net LAURA M. HANSON

TOPOGRAPHIC SURVEY	
REVISION NO.	1
DATE	04/20/07
CHECKED BY	J.M.H.
DRAWN BY	J.M.H.
SHEET NO.	1
TOTAL SHEETS	1

PROPOSED IMPROVABLE LOT COVERAGE
 Total Proposed Improvable Lot Coverage = 5,000 sq. ft.
 Calculated: 12,700 - 5,000 = 7,700

REMAINING IMPROVABLE LOT COVERAGE
 Remaining Improvable Coverage Allowed = 7,700 sq. ft.
 Proposed: 7,700 - 7,700 = 0

PROPOSED IMPROVABLE LOT COVERAGE
 Total Proposed Improvable Lot Coverage = 5,000 sq. ft.
 Calculated: 12,700 - 5,000 = 7,700

PROPOSED IMPROVABLE LOT COVERAGE
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REMAINING IMPROVABLE LOT COVERAGE
 Remaining Improvable Coverage Allowed = 7,700 sq. ft.
 Proposed: 7,700 - 7,700 = 0

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ANY MEASUREMENTS TAKEN FROM THIS PLAN AND FIELD DATA SHALL BE CONSIDERED AS APPROXIMATE. THE SURVEYOR HAS NOT BEEN REQUIRED TO RE-EXAMINE THE SURVEY OR TO RE-VERIFY THE DATA. THE SURVEYOR'S LIABILITY IS LIMITED TO THE PROFESSIONAL STANDARD OF CARE. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

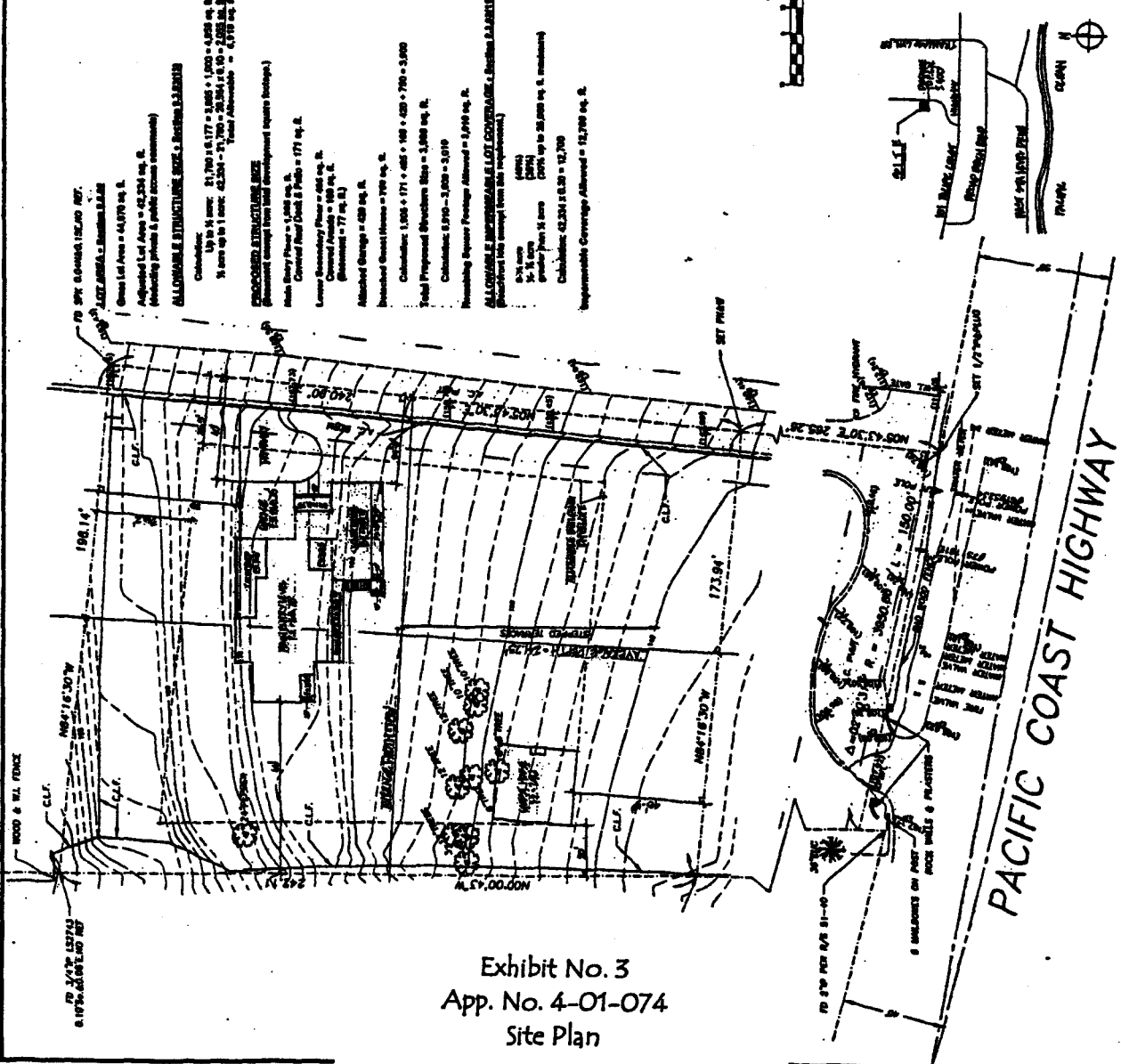


Exhibit No. 3
 App. No. 4-01-074
 Site Plan

NO.	REVISIONS

LAURA W. HANSON
 ARCHITECT
 12101 BENTLEY BLVD
 SCARBOROUGH, CA 94043
 (415) 452-1000
 lwhanson@earthlink.net

1017 1st Street SA
 1-Y
 H 201 18546
 H 201 18546
 H 201 18546
 H 201 18546
 H 201 18546
 H 201 18546

MAIN HOUSE UPPER FLOOR PLAN
 THE COMPASS POINT
 24/76/100A

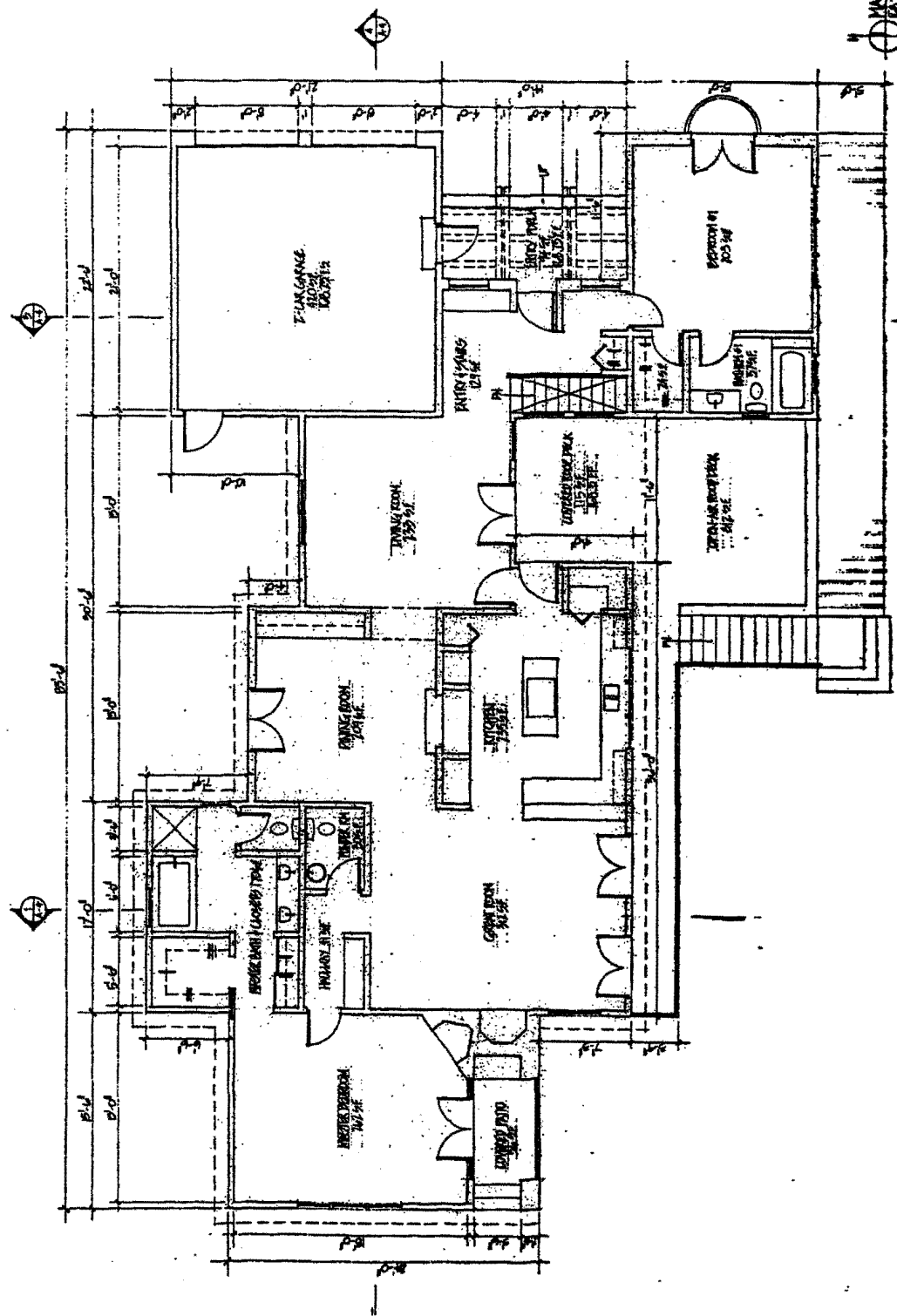


Exhibit No. 4
 App. No. 4-01-074
 Residence Upper Floor Plan

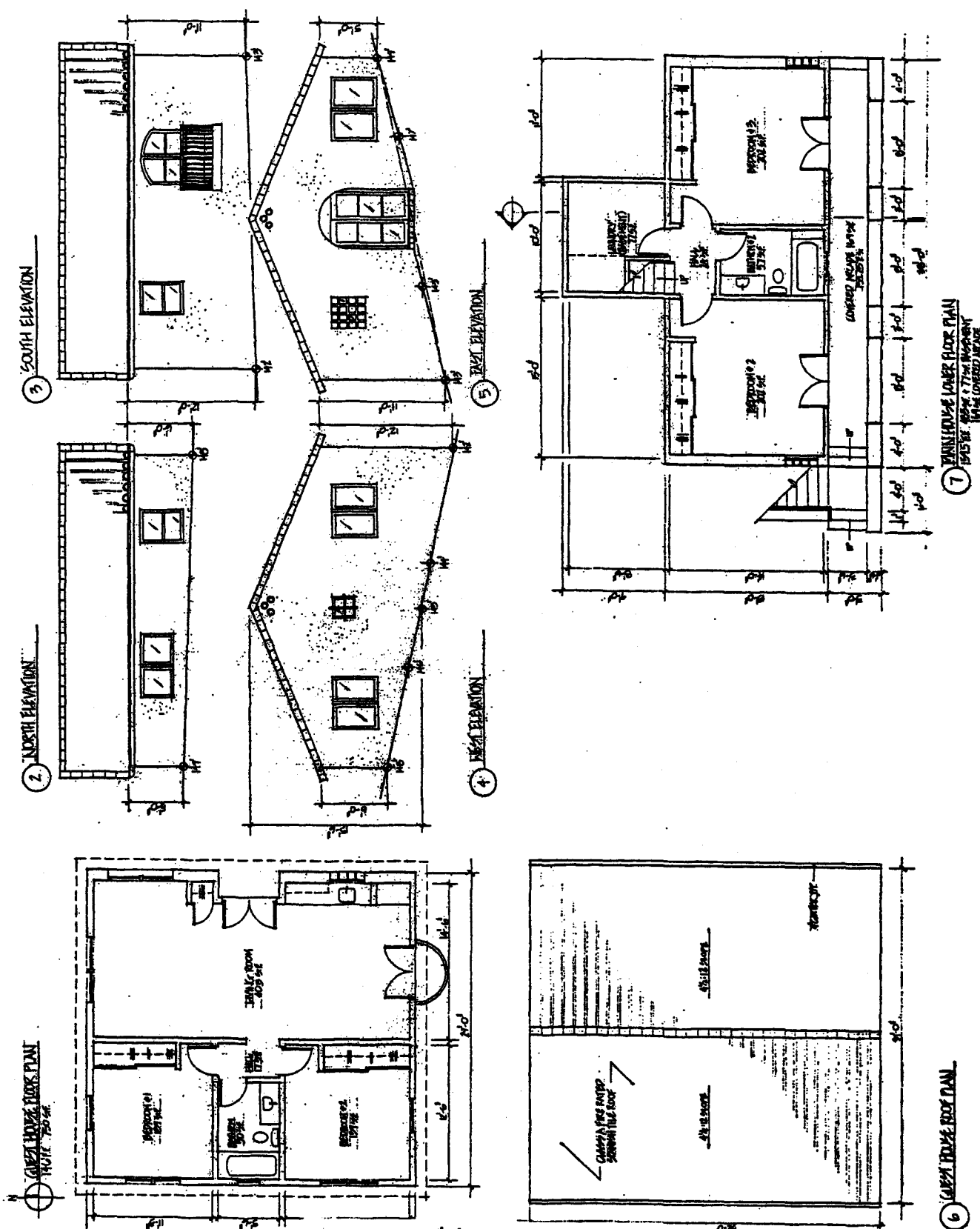


Exhibit No. 5
 App. No. 4-01-074
 Residence Lower Floor Plan, Guest
 House Floor Plans
 & Guest House Elevations

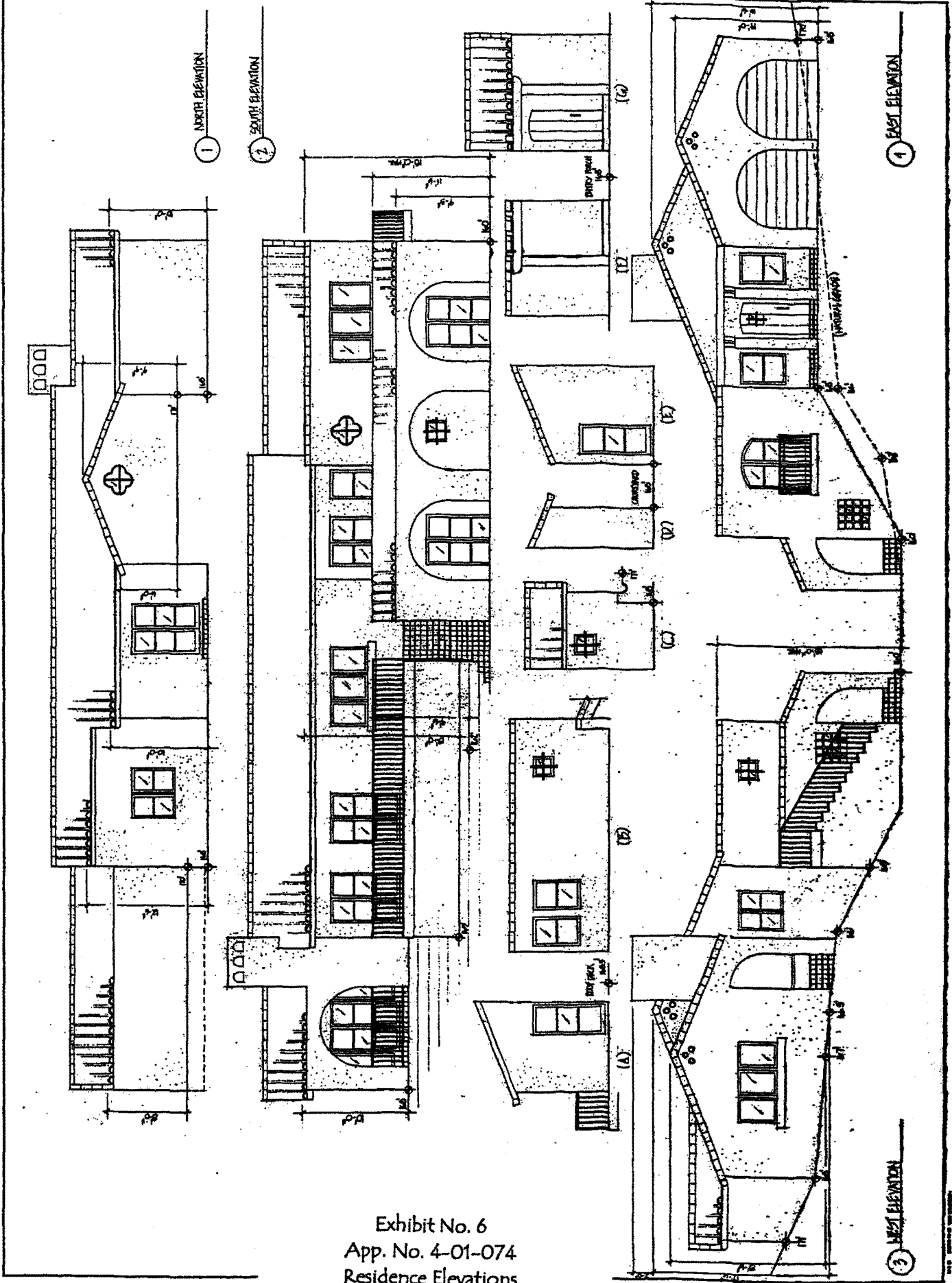


Exhibit No. 6
 App. No. 4-01-074
 Residence Elevations

