

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA
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Staff Report: 11/21/02
Hearing Date: 12/10-13/02
Commission Action:

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

APPLICATION NO.: 4-02-014

APPLICANT: Malibu Design Associates

AGENTS: Mehrdad Sahafi

PROJECT LOCATION: 723 Latigo Canyon Road, unincorporated Malibu (Los Angeles County)

APN NO.: 4464-010-015

PROJECT DESCRIPTION: Construction of a new two story, 35 ft. high, 4,949 sq. ft. single family residence with an attached three-car, 913 sq. ft. garage, balconies, swimming pool and jacuzzi, driveway, 7 ft. high max. retaining walls (773 ft. long along driveway, 324 ft. long around structure), installation of a new septic system, and performance of 1391 cu. yds of grading (392 cu. yds. cut and 999 cu. yds. fill). In addition, the project includes a request for after-the-fact approval of vegetation removal on the proposed building pad and rough grading for the existing access road where the proposed driveway will be located.

Lot area	2.08 acres
Building coverage	4,192 sq. ft.
Pavement coverage	4,099 sq. ft. onsite, 5,423 sq. ft. in easement area
Landscape coverage	12,490 sq. ft.
Height Above Finished Grade	35 ft.
Parking spaces	3

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, November 6, 2001; County of Los Angeles Environmental Health Services, Sewage Disposal System Design Approval, May 7, 2002; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, December 5, 2001; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, November 20, 2002.

SUBSTANTIVE FILE DOCUMENTS: "Update Engineering Geologic Report," Mountain Geology, Inc., January 16, 2002; "Updated Soils Engineering Investigation," Coastline Geotechnical Consultants, Inc., February 6, 2002; Certificate of Compliance (E) No. 01-015 (recorded as document no. 01-1524842).

Summary of Staff Recommendation

Staff recommends **APPROVAL** of the proposed project with **NINE (9) SPECIAL CONDITIONS** regarding (1) geologic recommendations, (2) drainage and polluted runoff control, (3) landscaping and erosion control plans, (4) wildfire waiver, (5) structural appearance, (6) future development, (7) lighting restriction, (8) deed restriction and (9) condition compliance.

The project site is a vacant 2 acre parcel located in the Santa Monica Mountains. Although no environmentally sensitive habitat area was designated on the subject site in the Santa Monica Mountains Land Use Plan (LUP), a blueline stream traverses the subject parcel downslope of the proposed building site with surrounding, relatively undisturbed native habitat consisting of riparian woodland and chaparral plant communities. Therefore, the entire site is considered environmentally sensitive habitat pursuant to Section 30107.5 of the Coastal Act. Standing alone, Section 30240 would require denial of the proposed development to prevent adverse impacts to ESHA on the site. However, Section 30010 provides that the Commission cannot construe the Coastal Act as authorizing the Commission to deny a permit in a manner that will take private property for public use. To avoid a "taking" of private property, the Commission must allow a reasonable residential development on the applicant's parcel.

The area surrounding the project site is characterized by natural hillside terrain and is moderately developed with custom single family residences. The proposed development area is visible from scenic public viewing areas along Latigo Canyon Road.

As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-02-014 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 Update Engineering Geologic Report dated January 16, 2002 prepared by Mountain Geology, Inc. and the Updated Soils Engineering Investigation dated February 6, 2002 prepared by Coastline Geotechnical Consultants, 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 applicant 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 engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms 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 (i.e., 2 or greater), 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.
- (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 fuel modification plan shall specify that no riparian plant species shall be removed or disturbed; only thinning or removal of dead plant material within the riparian corridor shall be allowed for fuel modification purposes. 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 of Liability

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. Structural Appearance

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 4-02-014. 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 4-02-014 if such changes are specifically authorized by the Executive Director as complying with this special condition.

6. Future Development

This permit is only for the development described in coastal development permit No. 4-02-014. Pursuant to Title 14 California Code of Regulations §13250(b)(6), the exemptions otherwise provided in Public Resources Code §30610(a) 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. 4-02-014, 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. 4-02-014 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

7. Lighting Restriction

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

- (1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
- (2) Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
- (3) The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

8. Deed Restriction

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to

terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

9. Condition Compliance

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

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant is proposing to construct a new two story, 35 ft. high, 4,949 sq. ft. single family residence with an attached three-car, 913 sq. ft. garage, balconies, swimming pool and jacuzzi, driveway, 7 ft. high max. retaining walls (773 ft. long along driveway, 324 ft. long around structure), install a new septic system, and perform 1391 cu. yds of grading (392 cu. yds. cut and 999 cu. yds. fill) (Exhibits 3-9). In addition, the project includes a request for after-the-fact approval of vegetation removal on the proposed building pad and rough grading for the existing access road where the proposed driveway will be located.

The project site is a vacant 2 acre parcel located south of Latigo Canyon Road near the northern edge of the coastal zone in the Santa Monica Mountains area (Exhibits 1 & 2). The subject parcel will be accessed from Latigo Canyon Road via the proposed access road/driveway located within an easement across parcels to the north. The area surrounding the project site is characterized by natural hillside terrain and is moderately developed with custom single family residences, primarily to the north. During a site visit by Commission Enforcement staff in December 2001, it was discovered that unpermitted development had occurred on the subject parcel prior to submission of this permit application involving significant vegetation clearance including the removal of coastal sage scrub and other vegetation down to bare mineral soil in approximately the same area on site where the proposed building pad and fuel modification zones A and B are proposed. In addition, there is a rough-graded access road in approximately the same location as the proposed access road. The applicant asserts that the road was previously existing prior to his purchase of the property, however, based on review of both Commission records and historic aerial photographs by Commission staff, the road did not exist on site prior to 1986 and was constructed without the required coastal development permit. As noted above, the project proposal includes improvements to this road for access to the building pad including moderate grading to change the gradient and widen the existing access road to achieve access and safety requirements. As such, the applicant requests after-

the-fact approval for the unpermitted development described, which is located in those areas proposed for construction of the new residential development or, in the case of vegetation clearance, within the required fuel modification zones A and B.

The subject parcel is comprised of moderate to steep sloping hillside terrain, overall physical relief is on the order of 80 feet. Natural slopes descend from east to west to a ravine below and a blueline stream, which traverses the southwestern corner of the property. The riparian corridor along this stream contains sycamores, cottonwoods and 1 oak tree. As described above, vegetation at the project site is heavily disturbed in the vicinity of the existing building pad and access road/driveway area due to previous grading operations and brush clearance requirements associated with existing adjacent development. However, the hillside terrain surrounding the building site, which has not been previously disturbed for brush clearance purposes, supports extensive native vegetation and natural habitat. The submitted vegetation survey prepared by Steven Williams, biologist, illustrates chaparral habitat over most of the site, which is presently intact and undisturbed. In addition, hillside terrain that extends outside the south and west property boundaries contains significant chaparral vegetation creating a large area of contiguous habitat.

Staff notes that the proposed location for the driveway and building pad is the preferred alternative in order to minimize grading and disturbance to sensitive habitat onsite. The proposed development is clustered within a building pad area less than 10,000 sq. ft. in size and is setback more than 100 feet from the stream corridor. The project site is located within a designated viewshed area and will be visible from Latigo Canyon Road which affords scenic vistas of the relatively undisturbed canyon area.

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. The Commission notes that the proposed development is designed to minimize the need for grading and excessive vegetation removal on the slopes of

the property, as well as avoid direct development on sloped terrain, and therefore will reduce the potential for erosion and geologic instability.

Furthermore, the applicant has submitted an Update Engineering Geologic Report dated January 16, 2002 prepared by Mountain Geology, Inc. and an Updated Soils Engineering Investigation dated February 6, 2002 prepared by Coastline Geotechnical Consultants, 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 Update Engineering Geologic Report dated January 16, 2002 prepared by Mountain Geology, Inc.:

Based upon our investigation, the proposed development will be free from geologic hazards such as landslides, slippage, active faults, and settlement. The proposed development will have no adverse affect upon the stability of the site or adjacent properties provided the recommendations of the Engineering Geologist and Geotechnical Engineer are complied with during construction.

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 Update Engineering Geologic Report dated January 16, 2002 prepared by Mountain Geology, Inc. and Updated Soils Engineering Investigation dated February 6, 2002 prepared by Coastline Geotechnical Consultants, 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.

The Commission finds that 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)**.

Furthermore, the Commission 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.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native 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.

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. 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 previously mentioned, there is a blueline stream that traverses the southwest corner of the subject property. 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 County of Los Angeles 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.

D. SENSITIVE RESOURCES

Section 30230 of the Coastal Act states that:

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

Section 30231 states:

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

Section 30240 states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

Section 30107.5 of the Coastal Act, defines an environmentally sensitive area as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other

means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Sections 30107.5 and 30240 of the Coastal Act state that environmentally sensitive habitat areas must be protected against disruption of habitat values. Therefore, when considering any area, such as the Santa Monica Mountains, with regard to an ESHA determination one must focus on three main questions:

- 1) Is a habitat or species rare or especially valuable?
- 2) Does the habitat or species have a special nature or role in the ecosystem?
- 3) Is the habitat or species easily disturbed or degraded by human activities and developments?

In making ESHA determinations, scale is important. Both temporal and spatial scales must be considered in determining ecologically sensitive habitat, and at different scales the conclusions may vary. Whereas on a local scale a small patch of degraded habitat might not be called ESHA, on a landscape scale its status might be different. For example, on a landscape scale it may form a vital stepping stone for dispersal of a listed species between larger habitat patches. At this scale it is valuable, performing an important role in the ecosystem and is easily degraded by human activities and developments, and so it fits the Coastal Act definition of ESHA. Similarly, habitats in a largely undeveloped region far from urban influences may not be perceived as rare or providing a special function, whereas a large area of such habitats surrounded by a dense urban area may be exceedingly rare and each constituent habitat within it an important functional component of the whole. Therefore, in order to appropriately assess sensitivity of habitats, it is important to consider all applicable ecological scales and contexts. In addition to spatial and temporal scales, there are species scales. For example, one can focus on single species (e. g., mountain lions, flycatchers or tarplants), or one can focus on whole communities of organisms (e.g., coastal sage scrub or chaparral) or interconnected habitats in a geographic region (e. g., the Santa Monica Mountains and its habitats). On a world-wide scale, in terms of numbers of rare endemic species, endangered species and habitat loss, the Malibu/Santa Monica Mountains area is part of a local hot-spot of endangerment and extinction and is in need of special protection (Myers 1990, Dobson et al. 1997, Myers et al. 2000).

In the case of the Santa Monica Mountains, its geographic location and role in the ecosystem at the landscape scale is critically important in determining the significance of its native habitats. Areas such as the project site form a significant connecting links between the coast and large, undisturbed habitat areas in the Santa Monica Mountains such as the area of the project site. These areas are in turn connected by narrow corridors to the Sierra Madre, San Gabriel and San Bernardino Mountains to the north. Much of the ecological significance of the habitat at the site is the proximity to riparian corridors that connect large inland watersheds with the coast. These corridors are home to many listed species and are easily disturbed by development, and in fact some have already been subject to considerable development near the coast, e.g. Las Flores Canyon, Malibu Creek & Lagoon, Ramirez Canyon and Trancas Canyon. Proceeding inland from the coast, however, the quality of the habitat improves rapidly and soon approaches a relatively undisturbed environment consisting of steep canyons containing riparian oak-sycamore bottoms, with coastal sage scrub and chaparral ascending the canyon walls.

As previously mentioned, the site is located in a relatively undisturbed canyon area and contains two main intact sensitive habitat types characterized as riparian woodland and

chaparral. The applicant has submitted a vegetation survey prepared by Steve Williams, biologist, which illustrates the sensitive resources on the site. Natural slopes descend from east to west to a ravine below and a blueline stream, which traverses the southwestern corner of the property. The riparian corridor along this stream contains sycamores, cottonwoods and 1 oak tree. As previously described, vegetation at the project site is heavily disturbed in the vicinity of the existing building pad and access road/driveway area due to previous unpermitted grading operations and brush clearance requirements associated with existing adjacent development. However, the hillside terrain surrounding the building site, which has not been previously disturbed for brush clearance purposes, supports extensive native vegetation and natural habitat. In addition, hillside terrain that extends outside the south and west property boundaries contains significant chaparral vegetation creating a large area of contiguous habitat. Given the steep hillside terrain of the majority of the site, the building pad location is the most feasible location for the proposed residence in order to minimize landform alteration and habitat disturbance. The building pad area is less than 10,000 sq. ft. and is proposed for development of the residence, garage, pool, jacuzzi and patio/balcony areas.

As explained above, the majority of the parcel, except for the previously disturbed pad area and access road, contains vegetation that constitutes an environmentally sensitive habitat area (ESHA) pursuant to Section 30107.5. In addition, the disturbed areas were cleared of sensitive vegetation without the benefit of a coastal development permit and would be a part of the entire habitat area had they been left intact, thus, the entire site qualifies as ESHA. Section 30240 requires that "environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." As the entire parcel constitutes an environmentally sensitive habitat area, Section 30240 restricts development on the parcel to only those uses that are dependent on the resource. The applicant proposes to construct a single family residence and other appurtenant structures on the parcel. As single family residences do not have to be located within ESHAs to function, the Commission does not consider single family residences to be a use dependent on ESHA resources. Application of Section 30240, by itself, would require denial of the project, because the project would result in significant disruption of habitat values and is not a use dependent on those sensitive habitat resources.

However, the Commission must also consider Section 30010, and the Supreme Court decision in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S.Ct. 2886. Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what government action results in a "taking" was addressed by the U.S. Supreme Court in *Lucas v. South Carolina Coastal Council*. In *Lucas*, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. For instance, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project denial would deprive his or her property of all economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the proposed project would constitute a nuisance under State law. Another factor that should be considered is the extent to which a project denial would interfere with reasonable investment-backed expectations.

The Commission interprets Section 30010, together with the *Lucas* decision, to mean that if Commission denial of the project would deprive an applicant's property of all reasonable

economic use, the Commission may be required to allow some development even where a Coastal Act policy would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, Section 30240 of the Coastal Act cannot be read to deny all economically beneficial or productive use of land because Section 30240 cannot be interpreted to require the Commission to act in an unconstitutional manner.

In the subject case, the applicant purchased the property in November 1997 for \$175,000. The parcel was designated in the County's certified Land Use Plan in 1986 for residential use. At the time the applicant purchased the parcel, the County's certified Land Use Plan did not designate the vegetation on the site as ESHA. Based on these facts the applicant had reason to believe that they had purchased a parcel on which they would be able to build a residence.

The Commission finds that in this particular case, other allowable uses for the subject site, such as a recreational park or a nature preserve, are not feasible and would not provide the owner an economic return on the investment. The parcel is 2.08 acres, and is nearly surrounded by other residentially-zoned undeveloped parcels. There is no indication that a public agency would consider it a priority to purchase a small parcel, such as the subject parcel. Additionally, as there are no parklands contiguous with the subject parcel, it is unlikely that a public agency would attempt to acquire the site for a park or preserve. The Commission thus concludes that in this particular case there is no viable alternative use for the site other than residential development. The Commission finds, therefore, that outright denial of all residential use on the property would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.

Next the Commission turns to the question of nuisance. There is no evidence that construction of a residence on the subject property would create a nuisance under California law. Other houses have been constructed in similar situations in coastal sage scrub and/or chaparral habitat in Los Angeles County, apparently without the creation of nuisances. The County's Health Department has not reported evidence of septic system failures. In addition, the County has reviewed and approved the applicant's proposed septic system, ensuring that the system will not create public health problems. Furthermore, the use that is proposed is residential, rather than, for example, industrial, which might create noise or odors or otherwise create a public nuisance. In conclusion, the Commission finds that a residential project can be allowed to permit the applicant a reasonable economic use of their property consistent with Section 30010 of the Coastal Act.

While the applicant is entitled under Section 30010 to an assurance that the Commission will not act in such a way as to take their property, this section does not authorize the Commission to avoid application of the policies of the Coastal Act, including Section 30240, altogether. Instead, the Commission is only directed to avoid construing these policies in a way that would take property. Aside from this instruction, the Commission is still otherwise directed to enforce the requirements of the Act. Therefore, in this situation, the Commission must still comply with Section 30240 by avoiding impacts that would disrupt and/or degrade environmentally sensitive habitat, to the extent this can be done without taking the property.

Commission staff has considered whether alternative proposals for residential development on the subject parcel would minimize adverse impacts to ESHA. The proposed development is sited to take advantage of the most environmentally preferable and feasible building location for the residence and access road. Any other location on this parcel would require substantially more grading for construction of the proposed development. As proposed, the project requires

minimal grading to improve the access road and prepare the building pad. Therefore, there is no alternative location for the residence on the parcel that could reduce the adverse impacts to ESHA.

In this area, the Fire Department requires fuel modification in a 200-foot radius from all habitable structures to reduce the risks of wildfire. The fuel modification requirements will cause significant disruption of habitat values in ESHA. The proposed development lies upslope from a blueline stream. Special Condition No. Three (3) includes a provision for the protection of riparian plant species along the stream to be incorporated into the fuel modification plan approved by the Fire Department, thereby minimizing the extent of fuel modification and habitat disturbance of the sensitive riparian habitat on and just off site. The Commission notes that no riparian plant species shall be removed or disturbed and only thinning or removal of dead plant material within the riparian corridor shall be allowed for fuel modification purposes, and therefore finds that construction of the proposed project will minimize significant adverse impacts on the sensitive riparian habitat.

In past permit actions, the Commission has applied a 10,000 sq. ft. limit on building pad areas on sites within significant watersheds and sensitive habitat areas to minimize adverse impacts to those sensitive resources. As noted above, the proposed building area, upon which all development is proposed to be clustered with the exception of the driveway, is less than the maximum allowed 10,000 sq. ft. In addition, the building pad location is the most preferred location as it is setback over 100 feet from the stream and requires minimal grading due to the natural topography onsite. As such, the Commission finds that the proposed project, as conditioned, is adequately located and designed via setbacks, clustering, minimal landform alteration, and an accommodating fuel modification plan, to minimize potential adverse impacts to ESHA existing on and near the project site.

The Commission has determined that in conjunction with siting new development to minimize impacts to ESHA, additional actions can be taken to minimize adverse impacts to ESHA. The Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, Special Condition No. Three (3) requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

The Commission notes that seasonal streams and drainages, such as the natural tributary located on the subject site, in conjunction with primary waterways, provide important habitat for wetland and riparian plant and animal species. Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible through means such as: controlling runoff, preventing interference with surface water flows and alteration of natural streams, and by maintaining natural vegetation buffer areas. In past permit actions the Commission has found that new development adjacent to coastal streams and

natural drainages results in potential adverse impacts to riparian habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species, disturbance of wildlife, and loss of riparian plant and animal habitat.

In the case of the proposed project, no removal of vegetation in the sensitive riparian habitat area identified on site is proposed. However, the Commission finds that the value and quality of the riparian habitat on the subject site is directly related to the water quality of the coastal tributary that sustains the habitat. As such, the Commission finds that potential adverse effects of the proposed development on riparian habitat at the site may be further minimized through the implementation of a drainage and polluted runoff control plan, which will ensure that erosion is minimized and polluted runoff from the site is controlled and filtered before it reaches natural drainage courses within the watershed. Therefore, the Commission requires Special Condition No. Two (2), the Drainage and Polluted Runoff Control Plan, which requires the applicant to incorporate appropriate drainage devices and Best Management Practices (BMPs) to ensure that runoff from the proposed structures, impervious surfaces and building pad area is conveyed offsite in a non-erosive manner and is treated/filtered to reduce pollutant load before it reaches coastal waterways. (See Section D. Water Quality for a more detailed discussion of coastal water quality).

Moreover, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. The subject site contains sensitive habitat area. Therefore, the Commission limits the nighttime lighting of the property and residence to that necessary for safety as outlined in **Special Condition No. Seven (7)**, which restricts night lighting of the site in general; limits lighting to the developed area of the site; and specifies that lighting be shielded downward. The restriction on night lighting is necessary to protect the night time rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area. In addition, low intensity security lighting will assist in minimizing the disruption of wildlife traversing this area at night that are commonly found in this rural and relatively undisturbed area. Thus, the lighting restrictions will attenuate the impacts of unnatural light sources, hence, reducing impacts to sensitive wildlife species.

Finally, the Commission finds that the amount and location of any new development that may be proposed in the future on the subject site is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, to ensure that any future structures, additions, change in landscaping or intensity of use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition No. Six (6)**, the future development restriction, has been required. Finally, **Special Condition No. Eight (8)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

E. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

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 reservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. The subject site is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides.

The project site is located within a designated viewshed area and will be visible from Latigo Canyon Road which affords scenic vistas of the relatively undisturbed canyon area. The applicant proposes to construct a new two story, 35 ft. high, 4,949 sq. ft. single family residence with an attached three-car, 913 sq. ft. garage, balconies, swimming pool and jacuzzi, driveway, 7 ft. high max. retaining walls (773 ft. long along driveway, 324 ft. long around structure), install a new septic system, and perform 1391 cu. yds of grading (392 cu. yds. cut and 999 cu. yds. fill). The applicant has minimized the proposed grading for the project, which is proposed only within the immediate area of the building pad and driveway to prepare the site for construction of the new development. The proposed access road/driveway is designed to meet the minimum standards required for Fire Department access and the applicant has applied retaining walls along the road in order to minimize grading in that area. Therefore, no significant landform alteration of the site will result from construction of the proposed project. The proposed development will be in an area nearly surrounded by vacant land and undisturbed hillside terrain to the south and west of the project site. As the proposed residence will be unavoidably visible from scenic viewing areas along Latigo Canyon Road and within the designated viewshed, the Commission finds it necessary to require mitigation measures to minimize visual impacts associated with development of the project site.

Requiring the residence to be finished in a color consistent with the surrounding natural landscape and, further, by requiring that windows of the proposed structure be of a non-reflective glass type, can minimize impacts on public views. To ensure visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as detailed by **Special Condition No. Five (5)**.

Visual impacts associated with proposed grading, and the structure itself, can be further reduced by the use of appropriate and adequate landscaping. As such, Special Condition No. Three (3) incorporates the requirement that vertical screening elements be added to the landscape plan to soften views of the proposed residence from public scenic viewing areas along Latigo Canyon Road. 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. Implementation of Special Condition No. Three will partially screen the proposed structures and soften the visual impact of the development from public views. 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 to 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 any 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, Section 30251 of the Coastal Act. Special Condition No. Six (6), the Future Development Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Finally, Special Condition No. Eight (8) requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the subject property.

The proposed project, as conditioned, will not result in a significant adverse impact to scenic public views or character of the surrounding area. Therefore the Commission finds that, as conditioned, the proposed development is consistent with section 30251 of the Coastal Act.

F. VIOLATIONS

Unpermitted development occurred on the subject parcel prior to submission of this permit application involving significant vegetation clearance including the removal of coastal sage scrub and other vegetation down to bare mineral soil in approximately the same area on site where the proposed building pad and fuel modification zones A and B are proposed. In addition, there is a rough-graded access road in approximately the same location as the proposed access road. The applicant asserts that the road was previously existing prior to his purchase of the property, however, based on review of both Commission records and historic aerial photographs by Commission Enforcement staff, the road did not exist on site prior to 1986 and was constructed without the required coastal development permit. As noted above, the project proposal includes improvements to this road for access to the building pad including moderate grading to change the gradient and widen the existing road to achieve access and safety requirements. As such, the applicant requests after-the-fact approval for the unpermitted development described, which is located in those areas proposed for construction of the new residential development or within the required fuel modification zones A and B. The subject permit application addresses the unpermitted development, as well as the new development proposed in the subject application. Special Condition No. Three requires that the applicant plant all disturbed and graded areas with primarily native plant species. In order to ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition No. Nine (9)** requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 120 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

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

G. LOCAL COASTAL PROGRAM

Section 30604(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 County's ability to prepare a Local Coastal Program for the Malibu/Santa Monica Mountains area which is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

H. 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.

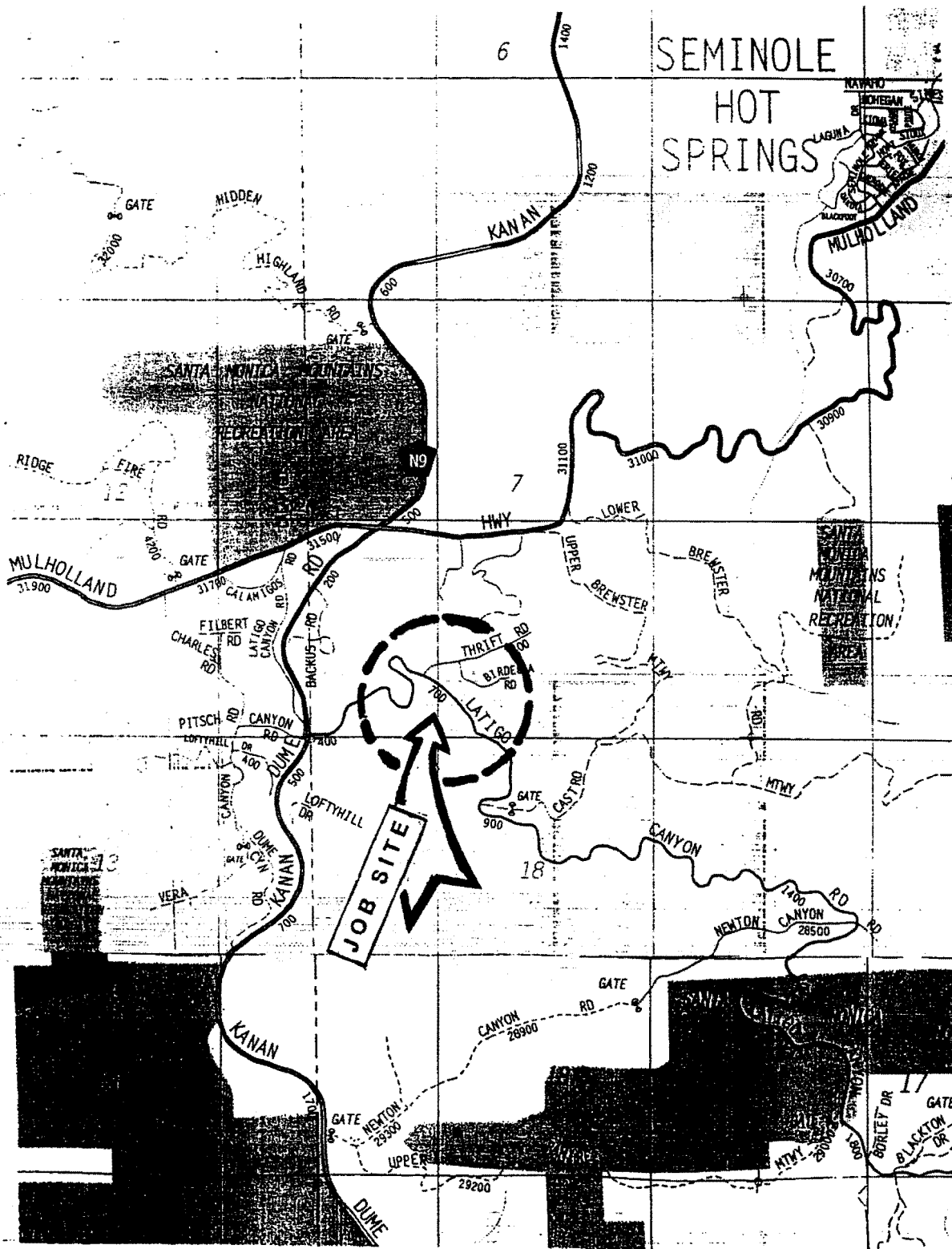
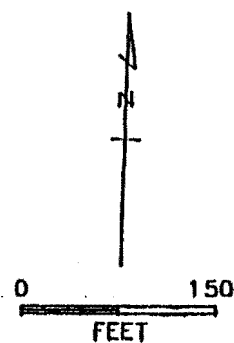


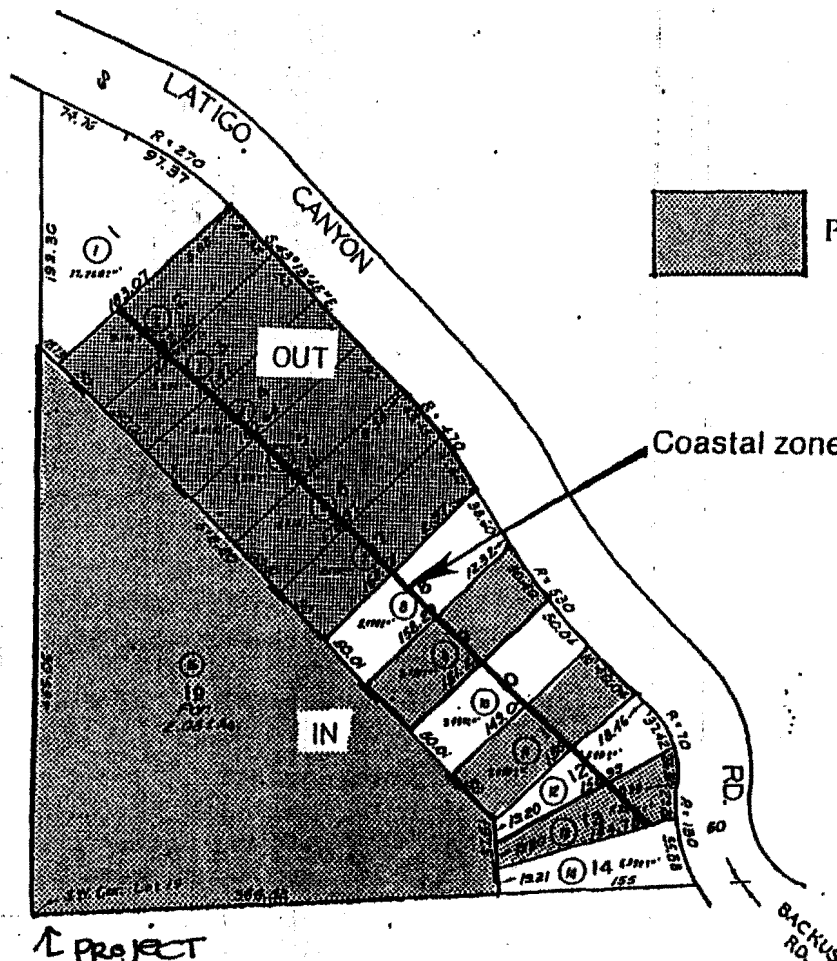
EXHIBIT NO. 1
APP. NO. 4-02-014
VICINITY MAP

4464 10

EXHIBIT NO. 2
APP. NO. 4-02-014
PARCEL MAP/COASTAL ZONE
BOUNDARY DETERMINATION



FOR PREV. ASSAULT, SEE: (BND) - 30 & 40



Parcels in Question

Coastal zone boundary

BD# 41-97
APN# 4464-010-002, -003, -004, -005,
-006, -007, -009, -011, -013, -015

PROJECT
SITE

TRACT NO. 10544

M.B. 157-5-6

TRACT NO. 10343

M.B. 151-45-47

ADDITIONAL MAP
COUNTY OF LOS ANGELES, CALIF.

REV.	DATE	BY	CHKD.	DESCRIPTION



MALIBU DESIGN ASSOCIATES
 29050 PACIFIC COAST HIGHWAY SUITE 200 MALIBU, CA 90265
 PHONE (310) 457-4998 FAX (310) 457-3920

PROJECT NO.	04-02-014
DATE	04-02-014
DESIGNED BY	JOHN L. BROWN
CHECKED BY	JOHN L. BROWN
APPROVED BY	JOHN L. BROWN
DATE	04-02-014

PROJECT NO.	04-02-014
DATE	04-02-014
DESIGNED BY	JOHN L. BROWN
CHECKED BY	JOHN L. BROWN
APPROVED BY	JOHN L. BROWN
DATE	04-02-014

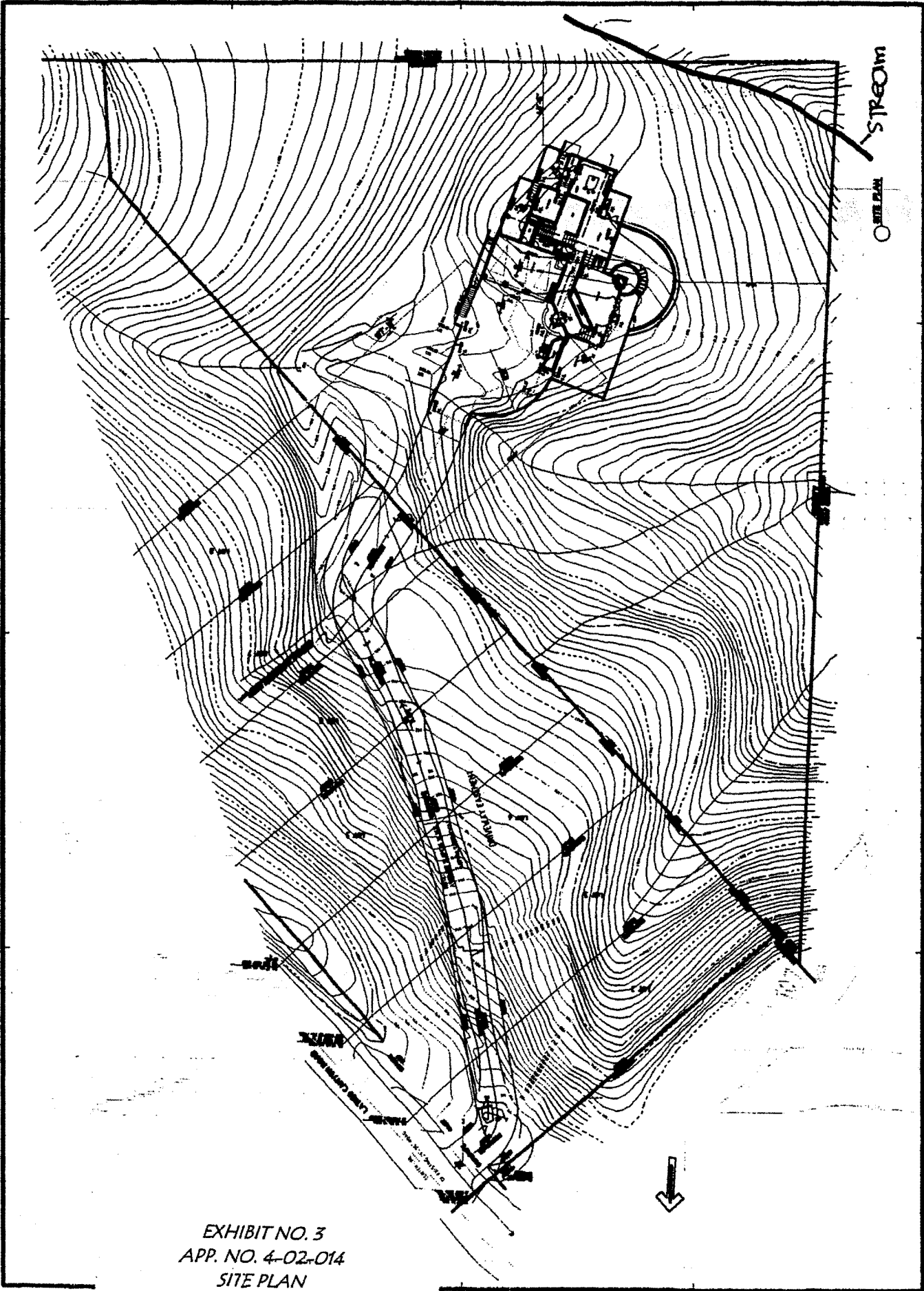


EXHIBIT NO. 3
 APP. NO. 4-02-014
 SITE PLAN

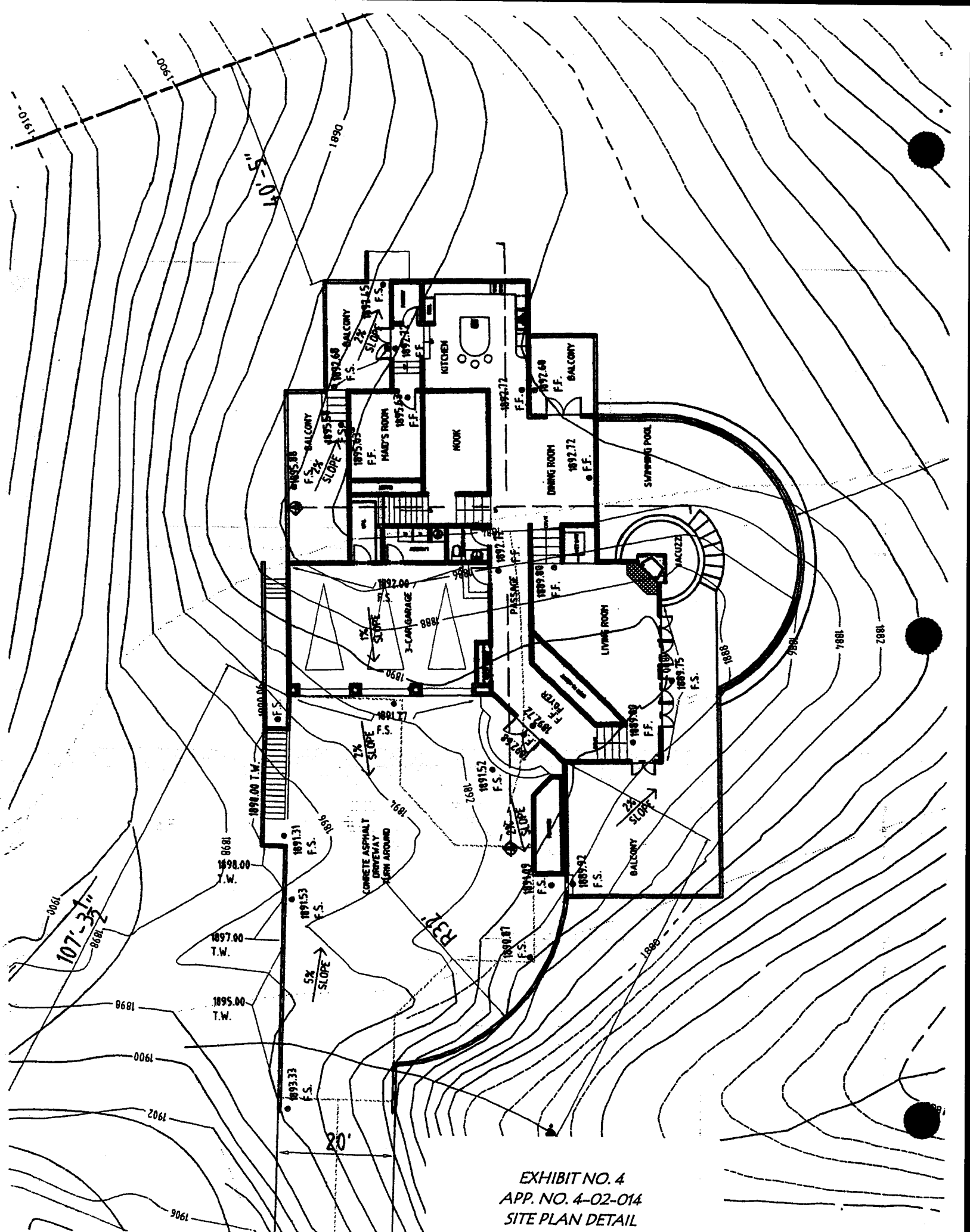


EXHIBIT NO. 4
APP. NO. 4-02-014
SITE PLAN DETAIL

DATE	
BY	
REVISIONS	



MALIBU DESIGN ASSOCIATES
 2955 PACIFIC COAST HIGHWAY SUITE 20 MALIBU, CA 90265
 PHONE (310) 457-4990 FAX (310) 457-5928

PROJECT NO.	100-100-100
OWNER	THE LAYTON COMPANY
DESIGNER	MALIBU, CA 90265
DATE	10/10/00
BY	
REVISIONS	

DATE	10/10/00
BY	
REVISIONS	

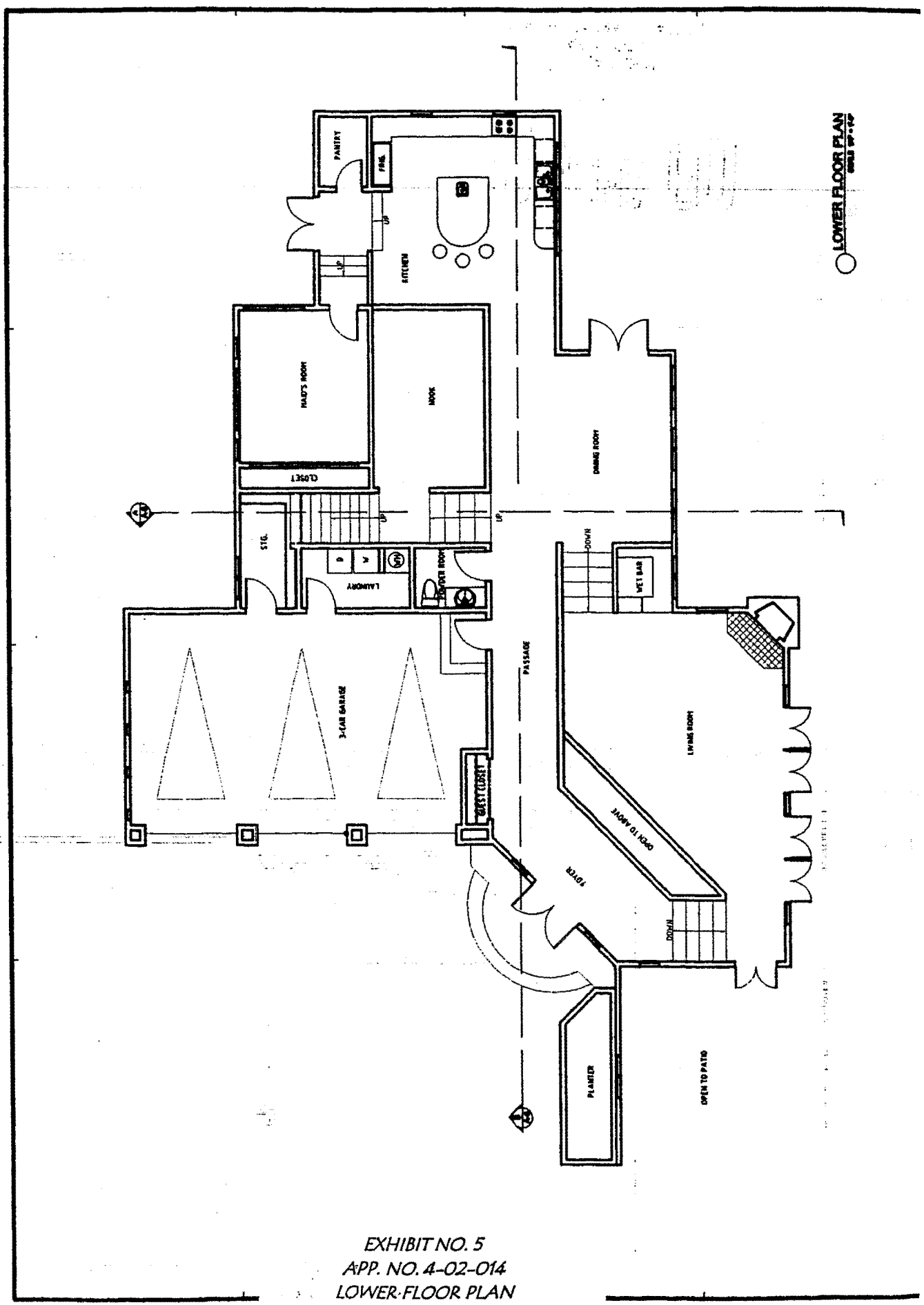


EXHIBIT NO. 5
APP. NO. 4-02-014
LOWER-FLOOR PLAN

DATE	
BY	
REVISIONS	
NO.	
DESCRIPTION	



MALIBU DESIGN ASSOCIATES
 2955 PACE COAST HIGHWAY SUITE 20 MALIBU, CA. 90265
 PHONE (310) 457-4996 FAX (310) 457-3992

PROJECT NAME	UPPER FLOOR PLAN
OWNER/ARCHITECT	THE LAYTON CALVIN ROAD MALIBU, CA 90265
DESIGNER	CHUCK PETERSON
DATE	

DATE	10-1-88
BY	CHUCK PETERSON
REVISIONS	
NO.	
DESCRIPTION	

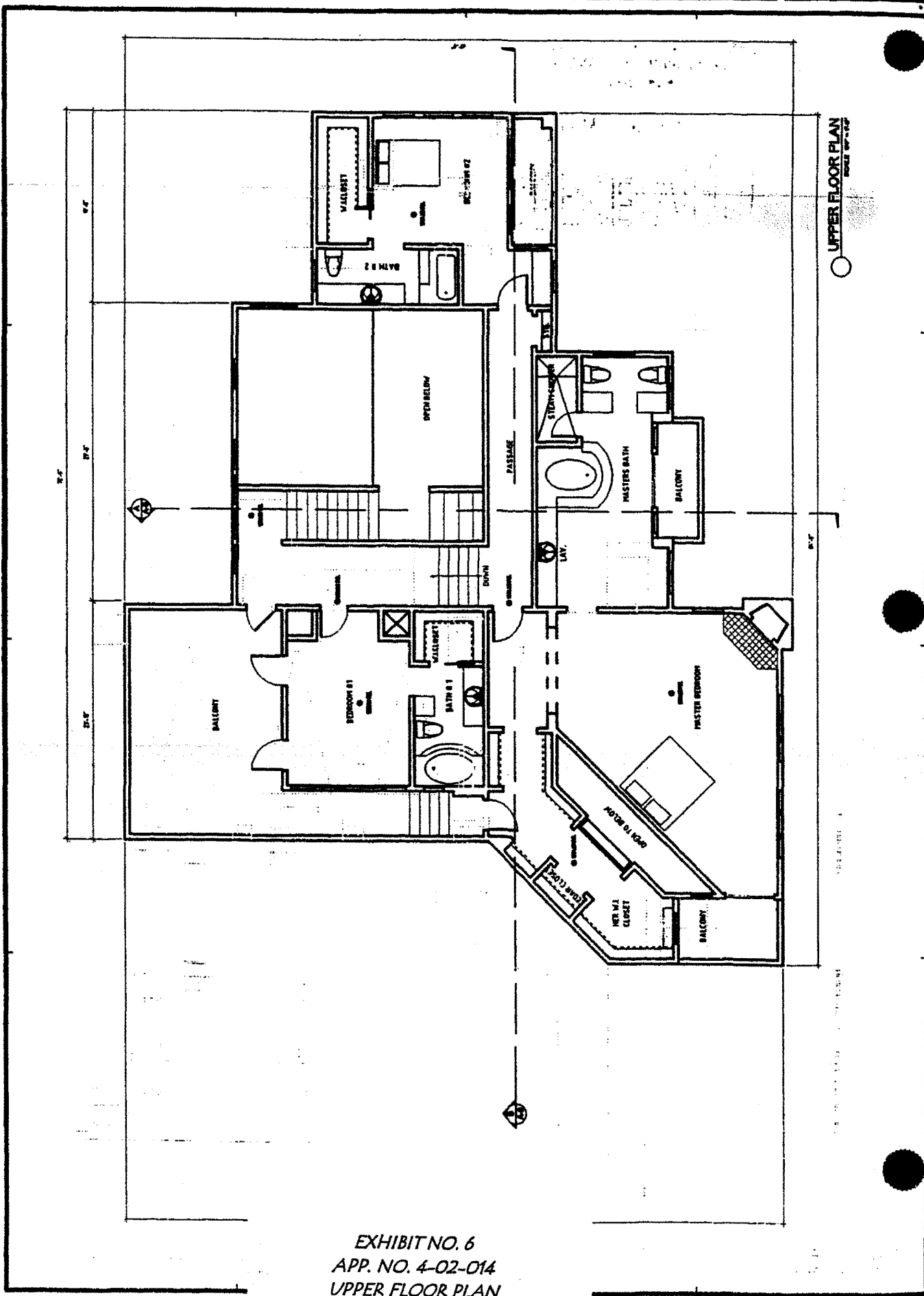


EXHIBIT NO. 6
 APP. NO. 4-02-014
 UPPER FLOOR PLAN

REVISED	BY	DATE



MALIBU DESIGN ASSOCIATES
 22005 PACIFIC COAST HIGHWAY SUITE 200 MALIBU, CA 90265
 PHONE (310) 457-1494 FAX (310) 457-2905

PROJECT NO.	DATE
CLIENT	ARCHITECT
DESIGNER	DATE

PROJECT NO.	DATE
CLIENT	ARCHITECT
DESIGNER	DATE

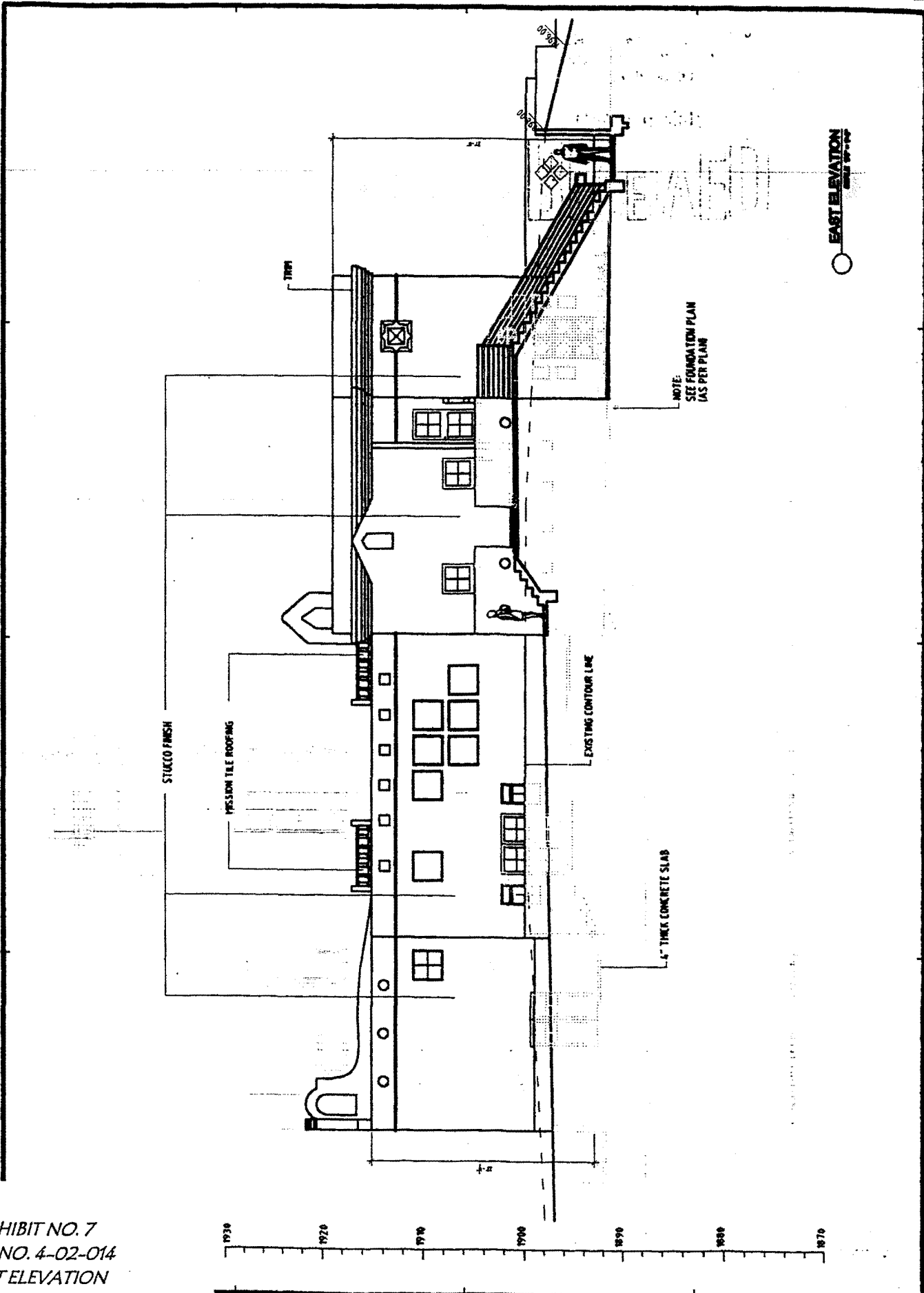


EXHIBIT NO. 7
 APP. NO. 4-02-014
 EAST ELEVATION

DATE	10/1/80
BY	W. J. JONES
FOR	W. J. JONES
PROJECT	W. J. JONES
REVISION	W. J. JONES
DATE	10/1/80
BY	W. J. JONES
FOR	W. J. JONES
PROJECT	W. J. JONES
REVISION	W. J. JONES



MALIBU DESIGN ASSOCIATES
 2000 PACIFIC COAST HIGHWAY, SUITE 200, MALIBU, CA 90265
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PROJECT NO.	1000
PROJECT NAME	W. J. JONES
PROJECT ADDRESS	W. J. JONES
PROJECT CITY	W. J. JONES
PROJECT STATE	W. J. JONES
PROJECT ZIP	W. J. JONES

DATE	10/1/80
BY	W. J. JONES
FOR	W. J. JONES
PROJECT	W. J. JONES
REVISION	W. J. JONES
DATE	10/1/80
BY	W. J. JONES
FOR	W. J. JONES
PROJECT	W. J. JONES
REVISION	W. J. JONES

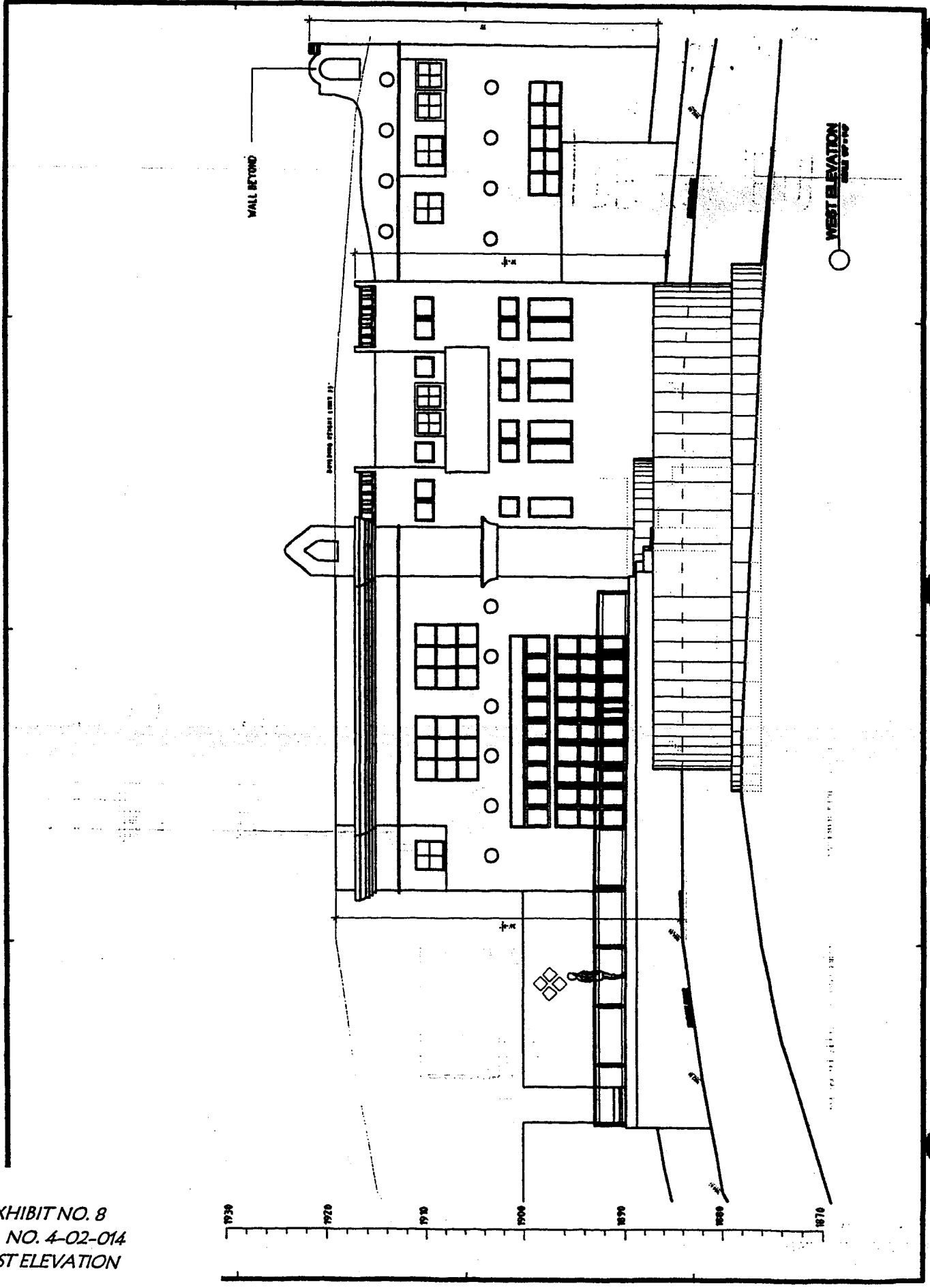


EXHIBIT NO. 8
 APP. NO. 4-02-014
 WEST ELEVATION

DATE	
BY	
APP'D	
REVISIONS	



MALIBU DESIGN ASSOCIATES
 2955 PACIFIC COAST HIGHWAY SUITE 200 MALIBU, CA 90265
 PHONE (310) 457-4990 FAX (310) 457-3992

PROJECT NO.	
DATE	
BY	
APP'D	
REVISIONS	

DATE	
BY	
APP'D	
REVISIONS	

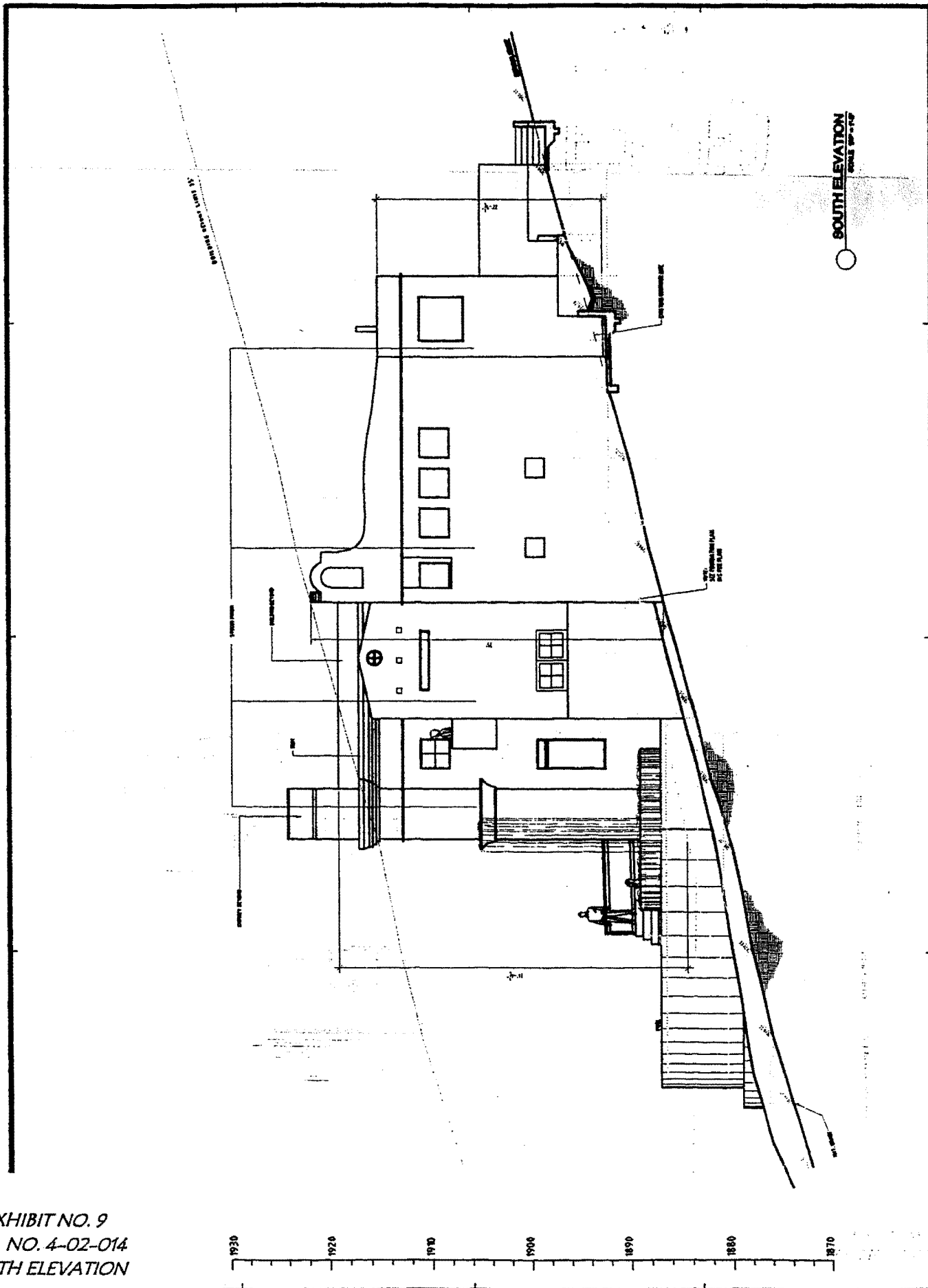


EXHIBIT NO. 9
 APP. NO. 4-02-014
 SOUTH ELEVATION

DATE	
BY	
CHKD	
APP'D	
REVISED	



MALIBU DESIGN ASSOCIATES
 2905 PACIFIC COAST HIGHWAY SUITE 200 MALIBU, CA 90265
 PHONE (310) 452-4798 FAX (310) 457-392

PROJECT NO.	00000000
CLIENT NAME	THE MALIBU COMPANY
PROJECT ADDRESS	2905 PACIFIC COAST HIGHWAY SUITE 200 MALIBU, CA 90265
DATE	01/01/00

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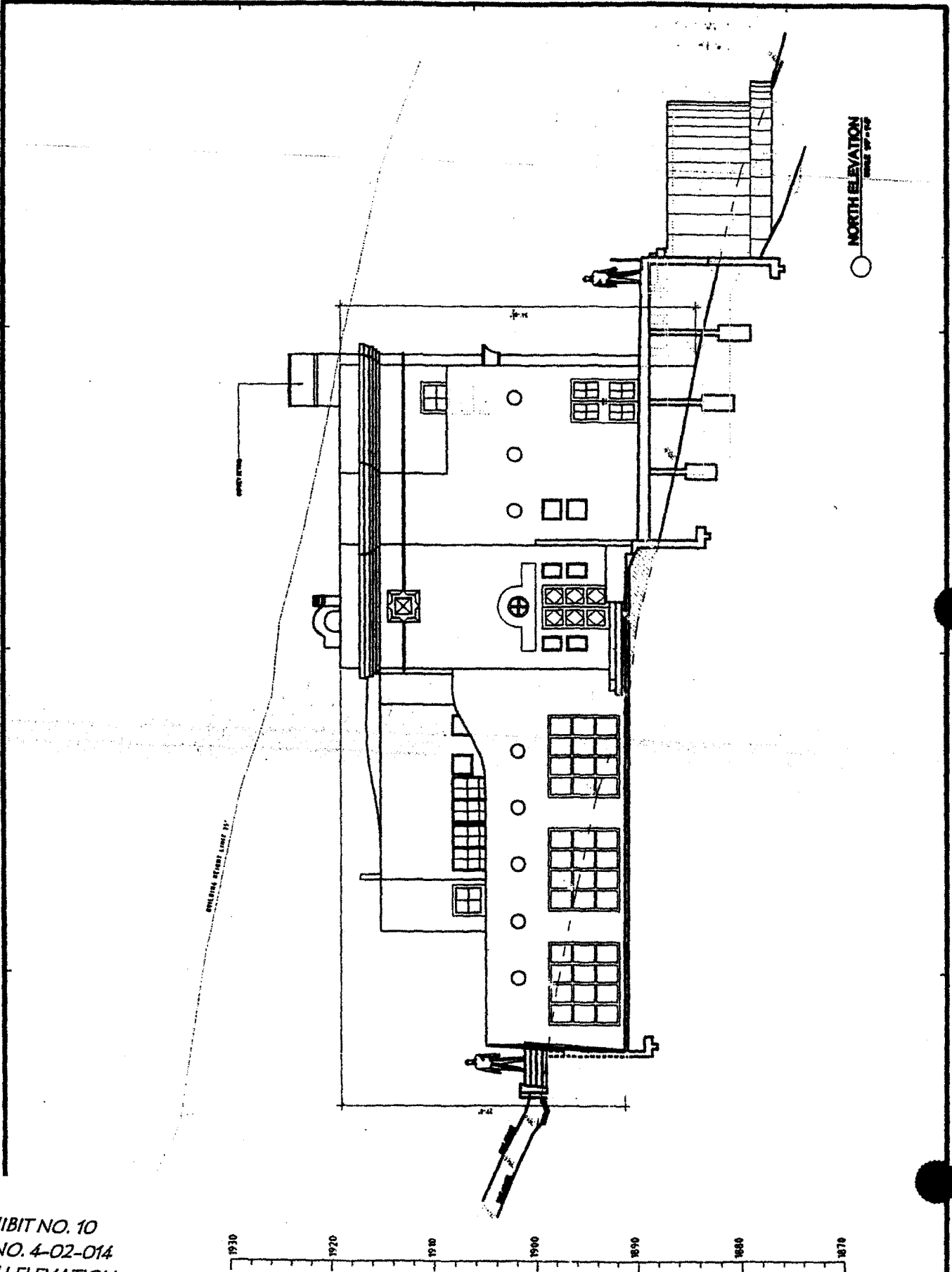


EXHIBIT NO. 10
 APP. NO. 4-02-014
 NORTH ELEVATION