

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff: K. Kemmler
Staff Report: 1/17/02
Hearing Date: 2/5-8/02
Commission Action:

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

APPLICATION NO.: 4-01-055

APPLICANT: Alisa & William Kling

PROJECT LOCATION: 32597 Pacific Coast Highway, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Request for after-the-fact approval to construct drainage structures, four storage structures (1 freestanding: 560 sq. ft., 16 ½ ft. high, 3 connected: 252 sq. ft., 10 ½ ft. high, 361 sq. ft., 13 ft. high & 160 sq. ft., 10 ft. high) and approx. 3600 sq. ft. of paving including minor grading (80 cu. yds. max.).

Lot Area	4.82 acres
Total Building Coverage	7,405 sq. ft.
Total Pavement Coverage	18,295 sq. ft.
Total Landscape Coverage	3 acres
Height of Proposed Structures Above Grade	16 ft.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, February 2, 2001; County of Los Angeles Fire Department, Review/No Approvals Required, December 17, 2001; City of Malibu Geology Review, Approval in Concept, January 18, 2001; Caltrans, Encroachment Permit, July 12, 1993.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; "Civil and Geotechnical Engineering Report, Trancas Beach I- Eastern Development, Drainage Facilities Construction," RJR Engineering Group, December 6, 1993; "Grading For Debris Chute," RJR Engineering Group, November 28, 2001.

STAFF NOTE: DUE TO PERMIT STREAMLINING ACT REQUIREMENTS THE COMMISSION MUST ACT ON THIS PERMIT APPLICATION AT THE FEBRUARY COMMISSION MEETING.

Summary of Staff Recommendation

Staff recommends **approval** of the proposed project with **five (5) special conditions** regarding (1) drainage and polluted runoff control plans, (2) landscaping plans, (3) wildfire waiver, (4) future improvements, and (5) condition compliance.

I. Staff Recommendation

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-055 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. 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 for the development area included in Coastal Development Permit No. 4-01-055, 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 area. 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.

2. Landscaping Plans

Prior to issuance of a coastal development permit, the applicant shall submit two sets of landscaping plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. 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. 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. Plantings should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- (4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (5) Vegetation within 50 feet of the proposed structures may consist of irrigated lawn, turf or ground cover, which shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

b. Monitoring

Five years from the date of issuance of the coastal development permit, 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 onsite 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.

3. 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.

4. Future Improvements

This permit is only for the development described in Coastal Development Permit No. 4-01-055. Pursuant to Title 14 California Code of Regulations §13253(b)(6), the exemptions otherwise provided in Public Resources Code §30610(b) shall not apply to the entire parcel. Accordingly, any future structures, future improvements to the proposed development, or change in intensity of use of the entire parcel, and any grading, clearing or other disturbance of vegetation, other than as provided for in the approved landscape plan prepared pursuant to Special Condition No. Two (2), shall require an amendment to Permit No. 4-01-055 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.

5. Condition Compliance

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

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is requesting after-the-fact approval to construct drainage structures, four storage structures (560 sq. ft., 16 ½ ft. high, 252 sq. ft., 10 ½ ft. high, 361 sq. ft., 13 ft. high & 160 sq. ft., 10 ft. high) and approx. 3600 sq. ft. of paving including minor grading (80 cu. yds. max.) (Exhibits 3-7).

The subject property is a nearly rectangular lot encompassing almost five acres located on the northeast corner of Pacific Coast Highway and Encinal Canyon Road (Exhibits 1 & 2). Pacific Coast Highway forms the southern border of the lot and residential development surrounds the lot to the east, west and north. Topographically, the site is on moderately steep slopes and bound on the west by a natural drainage course that extends up to the north and to the east by a north-south trending ridge that slopes downward to Pacific Coast Highway.

There is no designated environmentally sensitive habitat area present on the site. The proposed project site is located along Pacific Coast Highway, which is designated as a scenic highway in the Malibu/Santa Monica Mountains LUP, however, due to the topography of the site and the surrounding area, the proposed structures will not be visible from any public scenic resource areas.

The parcel contains a single family residence, garage, and swimming pool with decking previously approved under Coastal Development Permit nos. 5-90-160, 5-90-160 A1 and 5-90-160-A2 (Trancas Beach Estates). The original coastal development permit (no. 5-90-160) approved the single family residence with four special conditions including conformance with geologic recommendations, landscaping plans, a future development deed restriction and a color restriction.

The original grading and drainage plan, which was approved by the County of Los Angeles and by the Commission under the above referenced permit, was prepared by L. Liston and Associates. Subsequently, RJR Engineering Group was retained to provide civil and geotechnical engineering services for the proposed project in the midst of the construction phase. At the time of project approval, the runoff from the northwestern drainage flowed down towards the proposed development and was intercepted by an artificial fill berm that was existing on the property prior to development. This berm diverted runoff onto a private driveway (Puesta Del Sol) and water was conveyed down the asphalt concrete road by means of sheet flow to the existing drainage structures at the intersection of Pacific Coast Highway and Encinal Canyon Road. The original drainage plans approved by the County of Los Angeles consisted of removal of the soil berm and diverting drainage along a 15 ft. wide earth channel lined with rip rap. Runoff was to be conveyed and discharged onto the existing southern slope at Pacific Coast Highway.

This drainage concept involved the conveyance of drainage into the Caltrans right-of-way and Caltrans drainage facilities. Therefore, an encroachment permit from Caltrans was required. At the initial site meeting with Caltrans, the applicant and the consulting geotechnical engineer were informed that an approval from the County of Los Angeles as the lead agency was necessary prior to Caltrans approval. In June, 1992, the consultant met with the District Drainage Engineer at the County to review the revised drainage concepts and calculations. At that time, the County declined to review the plans as Malibu had incorporated into a City since the original approval, thus shifting the review responsibilities to the City.

In response, the consultant went back to Caltrans and explained that the City of Malibu was requiring Caltrans approval and that the County would not participate as the lead agency or review the plans. Therefore, Caltrans agreed to meet again in the field and review the conceptual drainage plans. During this meeting, Caltrans directed the consulting engineer to divert drainage back to historic flow patterns, which would entail conveying drainage down the private driveway (Puesta Del Sol), and refused to permit drainage onto the highway requiring the runoff to be piped to an existing facility. Analysis was performed for a burned and bulked

100 year event, as specified by Caltrans to determine runoff volumes and capacity of existing and proposed facilities.

Therefore, plans were developed to collect runoff and convey it down to the existing drainage facilities. Details of this analysis and design are included in a report prepared by RJR Engineering Group, which the applicant submitted to staff. The plans and hydrology report were approved by Caltrans and an encroachment permit was obtained. However, a coastal development permit was never obtained for the new drainage plans.

B. Geologic Stability 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.*

Geologic Stability

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 existing drainage structures, four storage structures (560 sq. ft., 16 ½ ft. high, 252 sq. ft., 10 ½ ft. high, 361 sq. ft., 13 ft. high & 160 sq. ft., 10 ft. high) and approx. 3600 sq. ft. of paving including minor grading (80 cu. yds. max.).

The applicant has submitted a Civil and Geotechnical Engineering Report, Trancas Beach I-Eastern Development, Drainage Facilities Construction dated December 6, 1993 and a Grading For Debris Chute report dated November 28, 2001 prepared by RJR Engineering Group, which describe the grading and construction activities that were performed in creating the drainage structures and include photos. In addition, the applicant submitted a topographical survey of the property and immediate area overlain with an as-built grading plan prepared by RJR Engineering Group. The reports show that the applicant worked closely with the geotechnical engineering consultant to construct the drainage structures in accordance with the consultant's recommendations. As there were also other agencies involved that imposed requirements to be incorporated into project construction, design, and drainage, the Commission finds that the project was carried out in a manner to ensure the stability and geologic safety of the proposed project site and adjacent properties. Moreover, the as-built grading plans for the storage structures indicate that the structures were placed essentially on natural grade with a minimal

amount of grading (between 30 and 80 cu. yds. max). Furthermore, the original geologic report for the proposed single family residence indicated that no geologic hazards exist on the site and that development of the site is feasible and would not adversely affect geologic stability in the area. Thus, the Commission notes that the proposed development coupled with some drainage and landscaping provisions as discussed below will not have adverse impacts on geologic stability.

Controlling and diverting runoff in a non-erosive manner from the proposed structures and impervious surfaces will 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 were included in the proposed development, the Commission requires the applicant to submit drainage and erosion control plans certified by the geotechnical engineer, as specified in **Special Condition No. One (1)**.

The immediate area surrounding the proposed development contains mostly exotic, invasive vegetation. 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. Two (2)** requires the applicant to submit landscaping plans. Special Condition No. Two 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. Staff conducted a site visit to the subject site and notes that disturbed areas on the site have been colonized with non-native, invasive plant species since the construction of the project. Therefore, the Commission finds that in order to ensure site stability, all invasive plant species shall be removed and all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in Special Condition No. Two.

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. Three (3)**, 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. Three, 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.

The Commission notes that the applicant submitted evidence that the Los Angeles County Fire Department approved the proposed development without imposing any fuel modification requirements. In addition, the topographical survey of the subject property and immediate area shows the location of neighboring residential development and staff notes that the extent of existing fuel modification zones are such that they overlap the proposed development, hence, additional fuel modification is not necessary to protect the proposed structures.

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

The proposed project involves the construction of four storage structures on a lot with an existing single family residence, which is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new development.

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 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 the 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. The applicant is requesting after-the-fact approval to construct one freestanding and three attached storage structures that are not proposed to be used as residential units, however, the detached structures could potentially be converted for residential use in the future.

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 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 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.

The applicant has constructed one freestanding and three attached storage structures (see Exhibits 4-7). The storage structures do not contain kitchen or bathroom facilities or even windows and are proposed to be used as garages and storage facilities for the keeping of yard equipment to maintain almost five acres, extra household items and large vehicles. As such, the Commission notes that the structures are not proposed as residential units, but they could potentially be converted for residential use in the future. The garage/storage structures are 560 sq. ft., 252 sq. ft., 361 sq. ft. & 160 sq. ft.. Total square footage of the three attached structures is approximately 800 sq. ft. The Commission finds that the structure is not proposed as habitable square footage. However, the Commission notes that should the garage/storage structures be converted into habitable square footage in the future, the total of the three attached structures would exceed the Commission's 750 sq. ft. limitation for second units.

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 notes that the applicants are not proposing to utilize the storage structures as guest units or secondary dwellings, therefore the structures may be reviewed as accessory buildings to the existing single family residence, non-inhabitable, and therefore not subject to the 750 sq. ft. limitation for detached units. However, the Commission finds it necessary to ensure that no additions, conversion to habitable space, or improvements are made to the detached storage structures in the future that may enlarge or further intensify the use of this structure without due consideration of the cumulative impacts that may result. Therefore, the Commission finds it necessary to require the applicants to record a future development deed restriction, as specified in **Special Condition No. Four (4)**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the detached structures 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. 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 on north side of Pacific Coast Highway, and is surrounded by residential development to the north, west, 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. 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. However, the proposed structures are moderately sized and due to the topography of the site and the immediate area around it, are not visible from the highway. Thus, the project will not have adverse impacts to public scenic resources. Further, the grading that occurred during the construction of the storage structures is minimal (30-80 cu. yds. max) as the structures are designed to essentially conform to the natural topography.

Moreover, visual impacts can be further softened by the implementation of appropriate and adequate landscaping. Special Condition No. Two, the landscaping plan, 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. In order to ensure that the final approved landscaping plans are successfully implemented, Special Condition No. Three also includes a monitoring component, to ensure the successful

establishment of all newly planted and landscaped areas over time and Special Condition No. Five requires the applicant to comply with all special conditions of the permit in a timely manner.

Finally, regarding future developments or improvements, certain types of development on the property, 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. Four, 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.

E. 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 above, the proposed project includes construction of drainage structures, storage structures, and a paved area. As such, the 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 uses 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.

While the Commission recognizes that the drainage structures were designed to handle the drainage debris flows from not only the subject site, but also a substantial surrounding area, in order to ensure that the development is 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 proposed development area. 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. One, 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.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

F. Violations

Various improvements have been carried out on the subject site without the required coastal development permits including the construction of drainage structures, storage structures and a paved area as described in previous sections. The applicant has requested after-the-fact approval for all unpermitted development onsite as a part of this permit application in order to resolve any violation of the Coastal Act.

In order to ensure that the violation aspects of the project are resolved in a timely manner, **Special Condition No. Five (5)** 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.

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

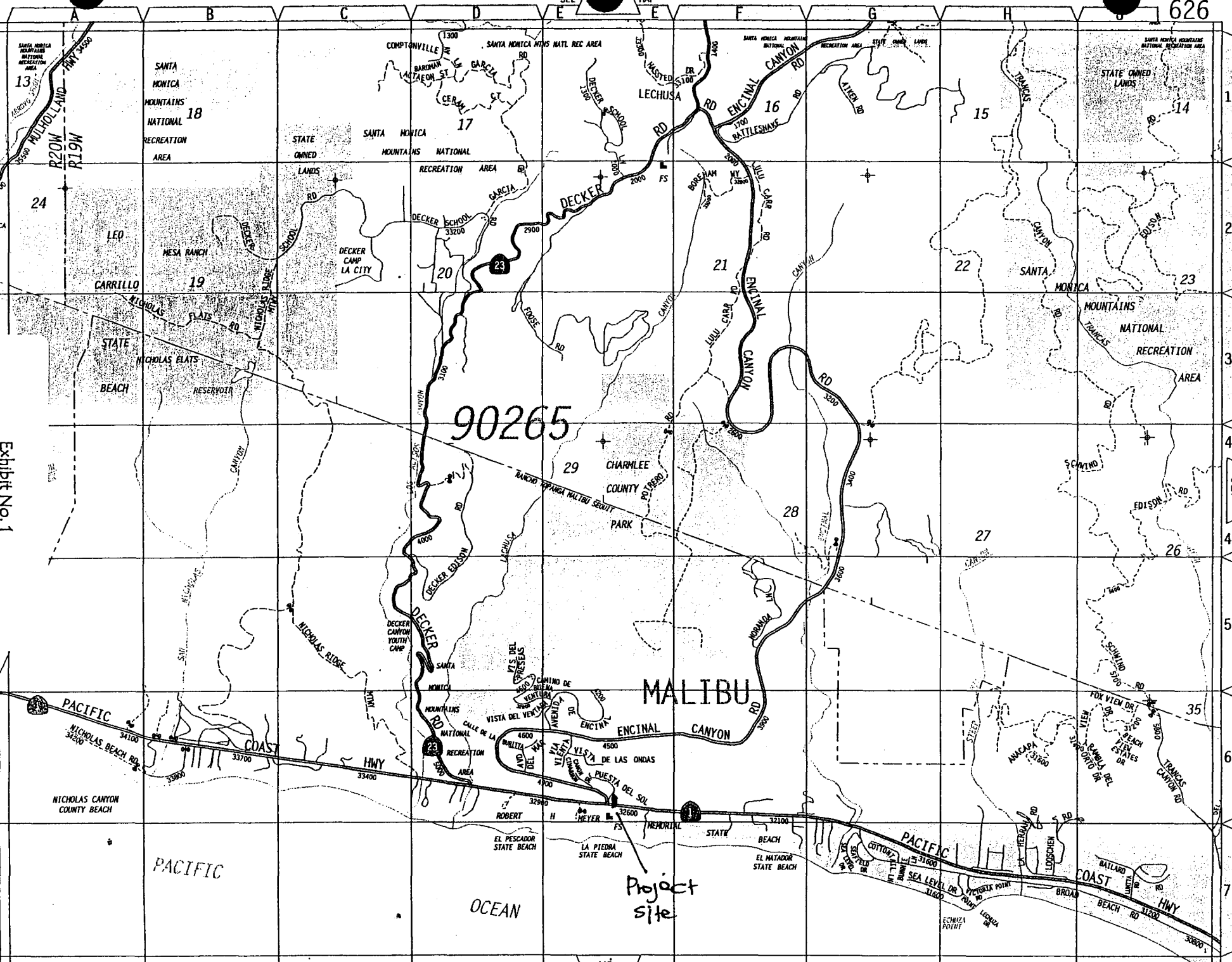
proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing 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 City's ability to prepare a Local Coastal Program for 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.



90265

Project site

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Exhibit No. 1
App. No. 4-01-055
Vicinity Map

4473 25 2001

SCALE 200'

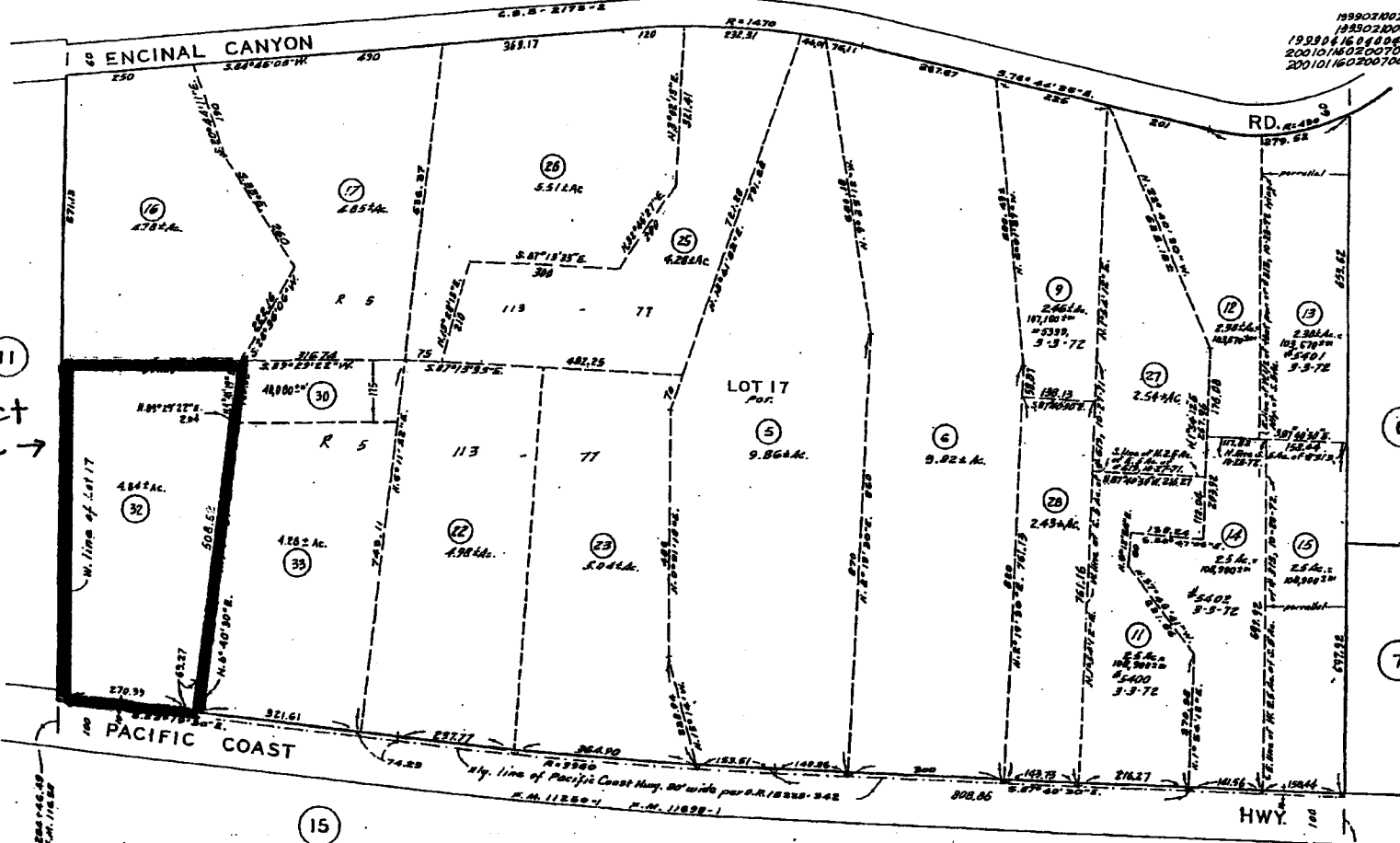
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11

Project Site →

Exhibit No. 2
App. No. 4-01-055
Parcel Map



15

14

6

7

CODE 10853

LAND OF MATTHEW KELLER IN THE RANCHO
TOPANGA MALIBU SEQUIT R.F. 534

FOR PLAT AGAINST SS.
4473-6

RECORDED JAN 16 2001
COUNTY OF LOS ANGELES, CALIF.

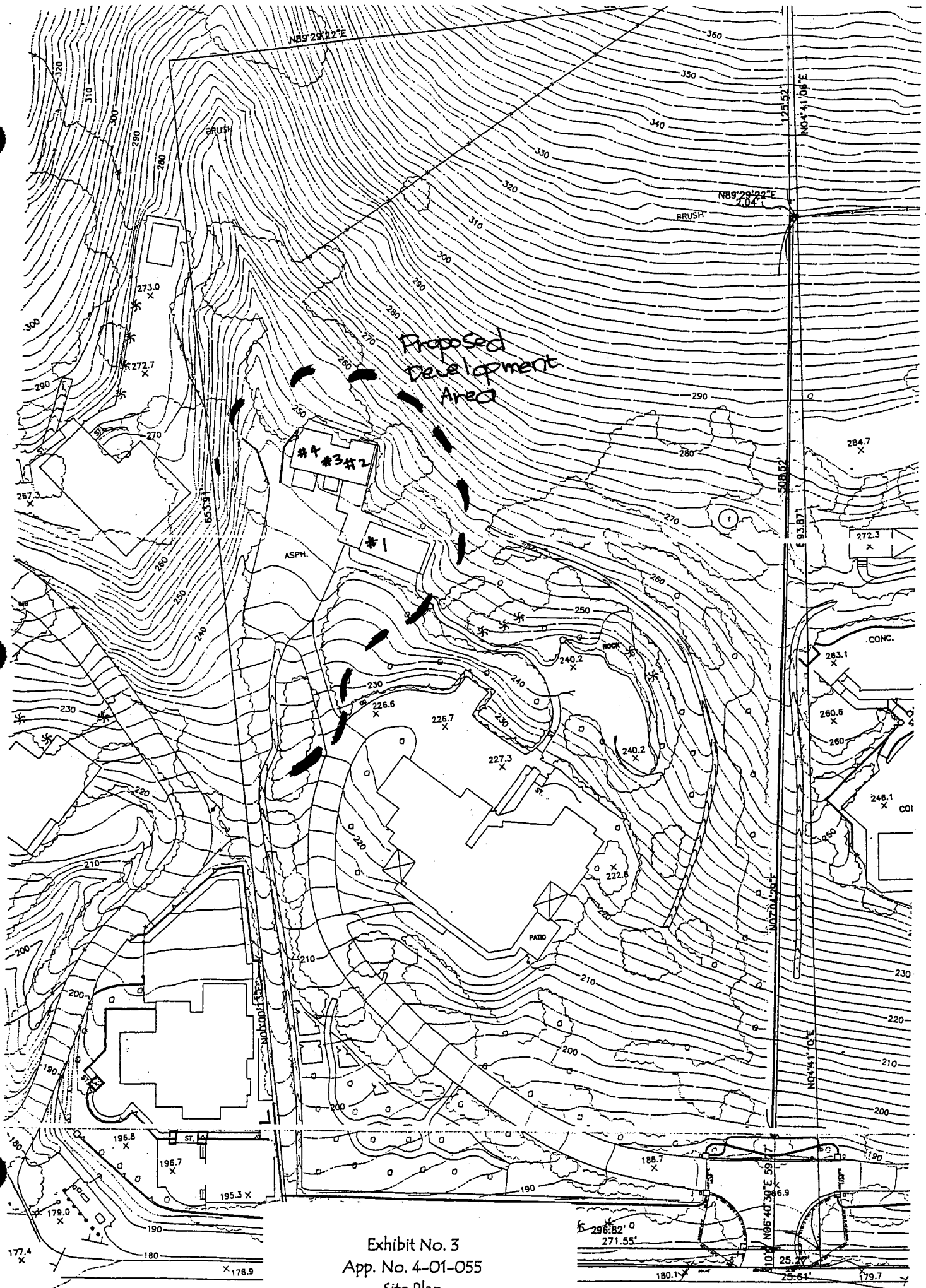
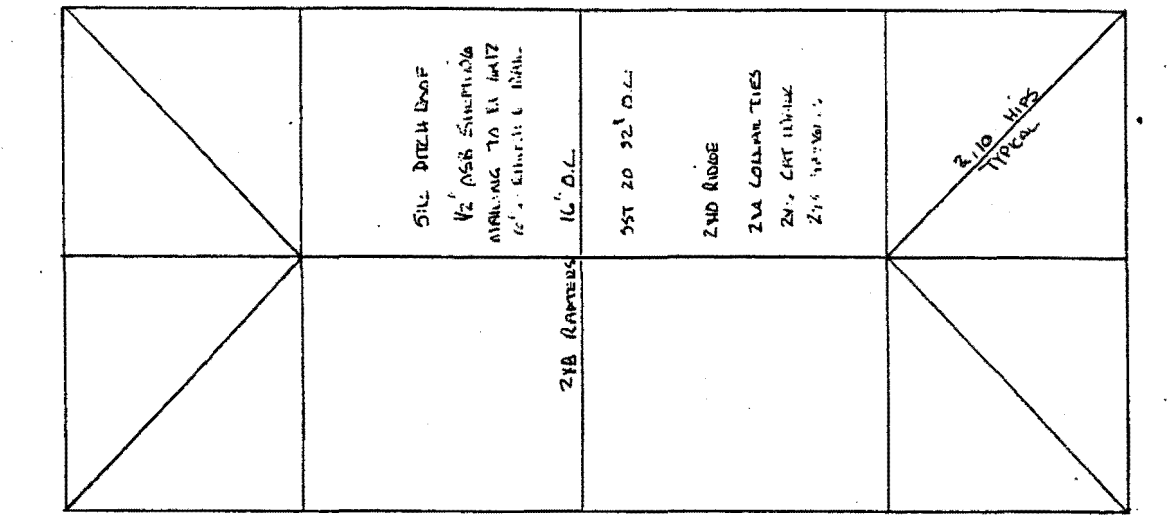
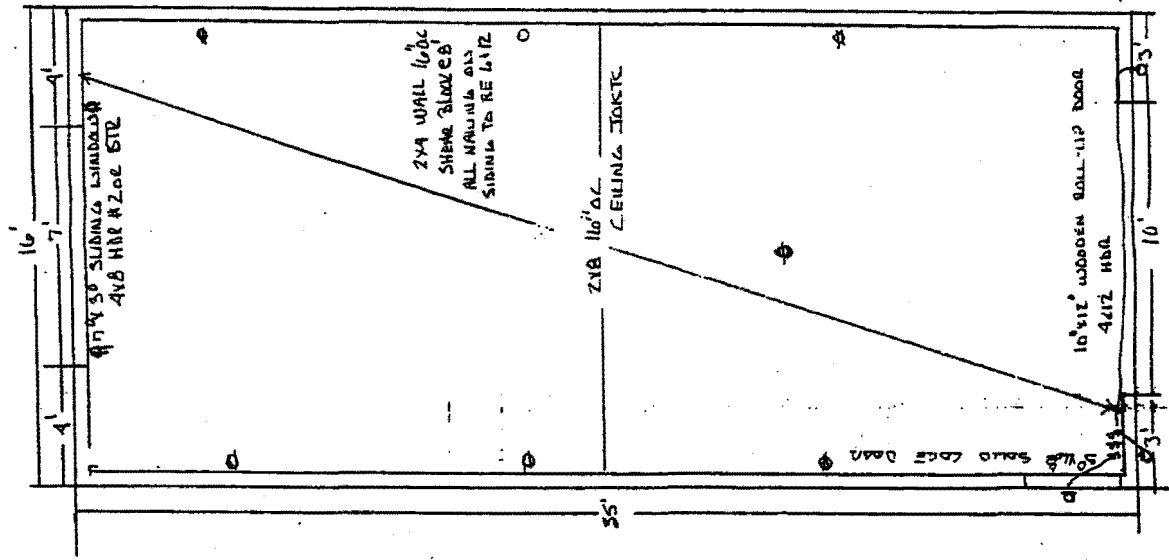


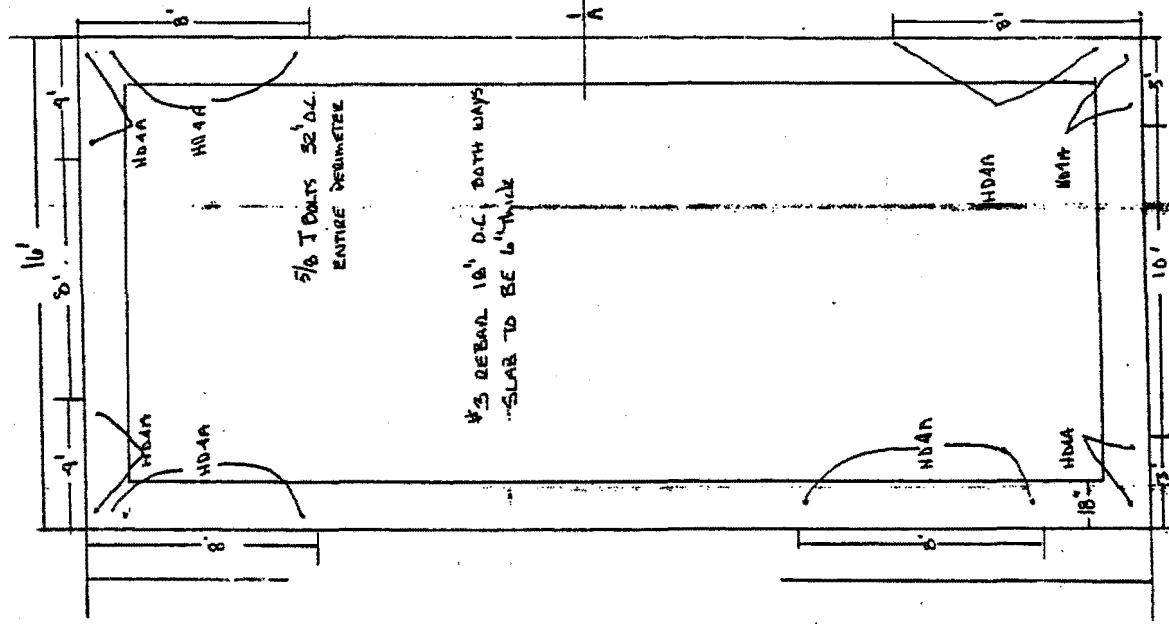
Exhibit No. 3
App. No. 4-01-055
Site Plan



ROOF PLAN

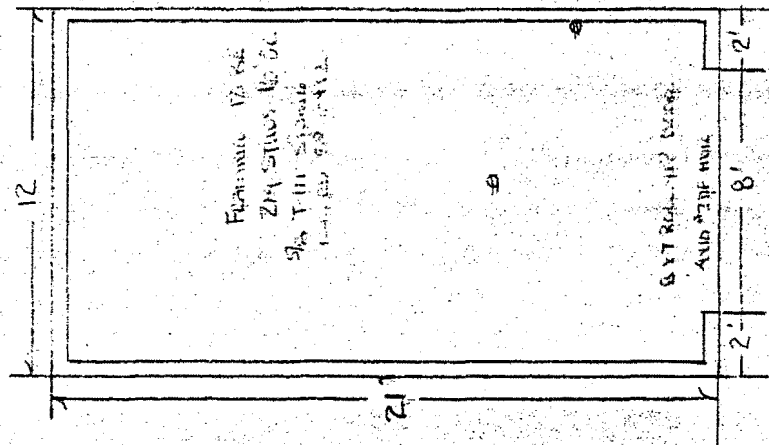


FOUNDATION PLAN + RUC

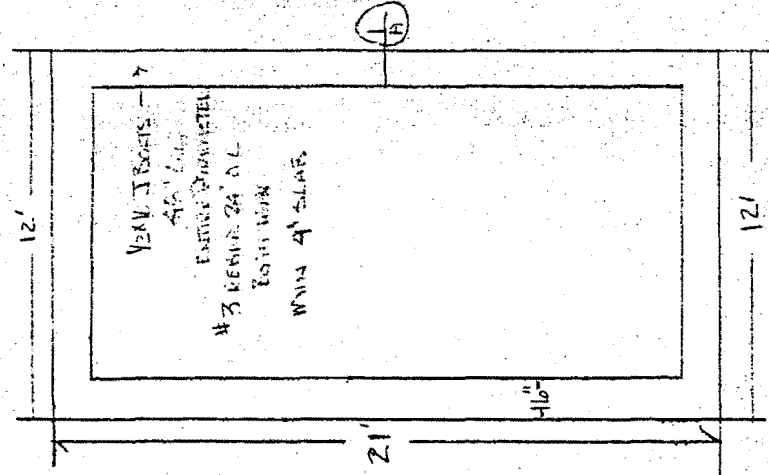


FOUNDATION PLAN
1/4" = 1'

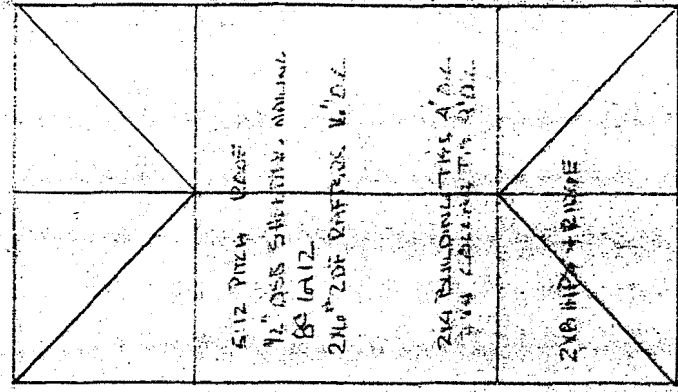
Exhibit No. 4
App. No. 4-01-055
Storage Structure no. 1



FRAMING PLAN 14-11
ELECTRICAL

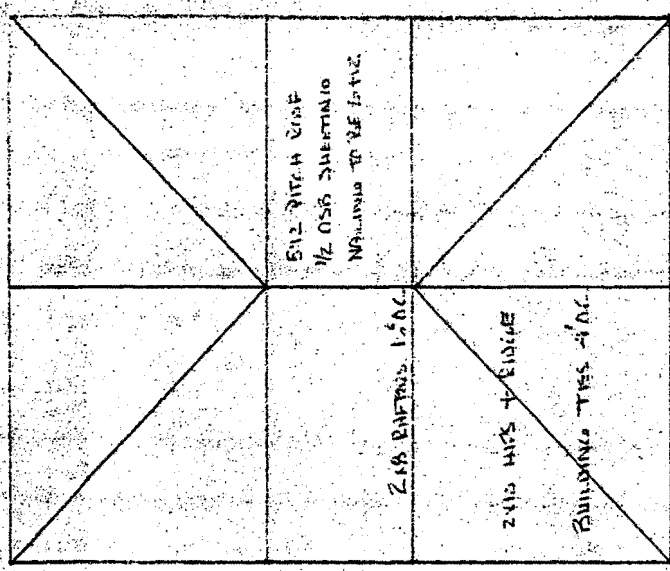


FOUNDATION PLAN 14-11



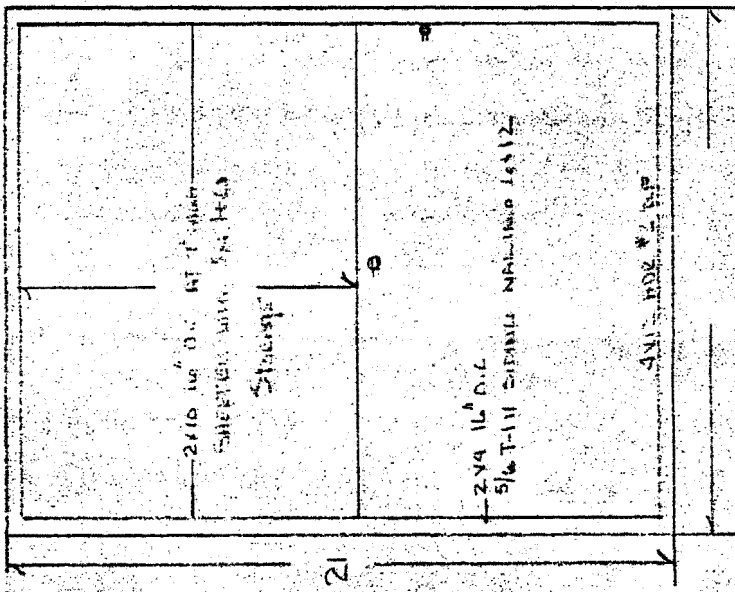
ROOF PLAN 14-11

(A)



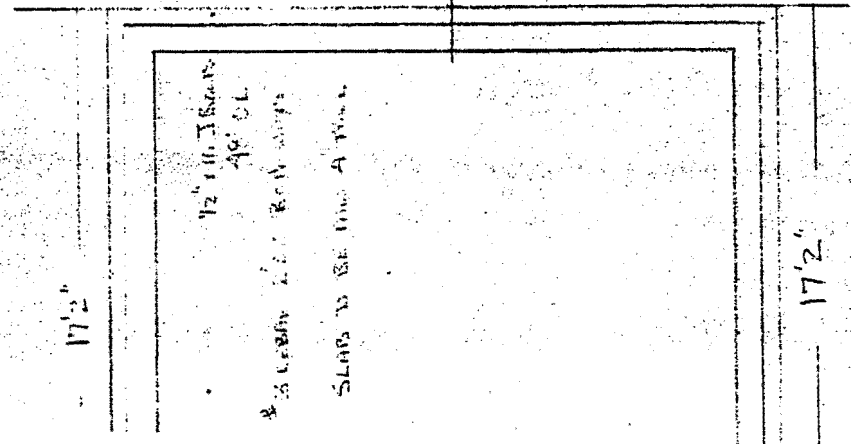
Roof Width 1/4" = 1'

Elevation: (A)

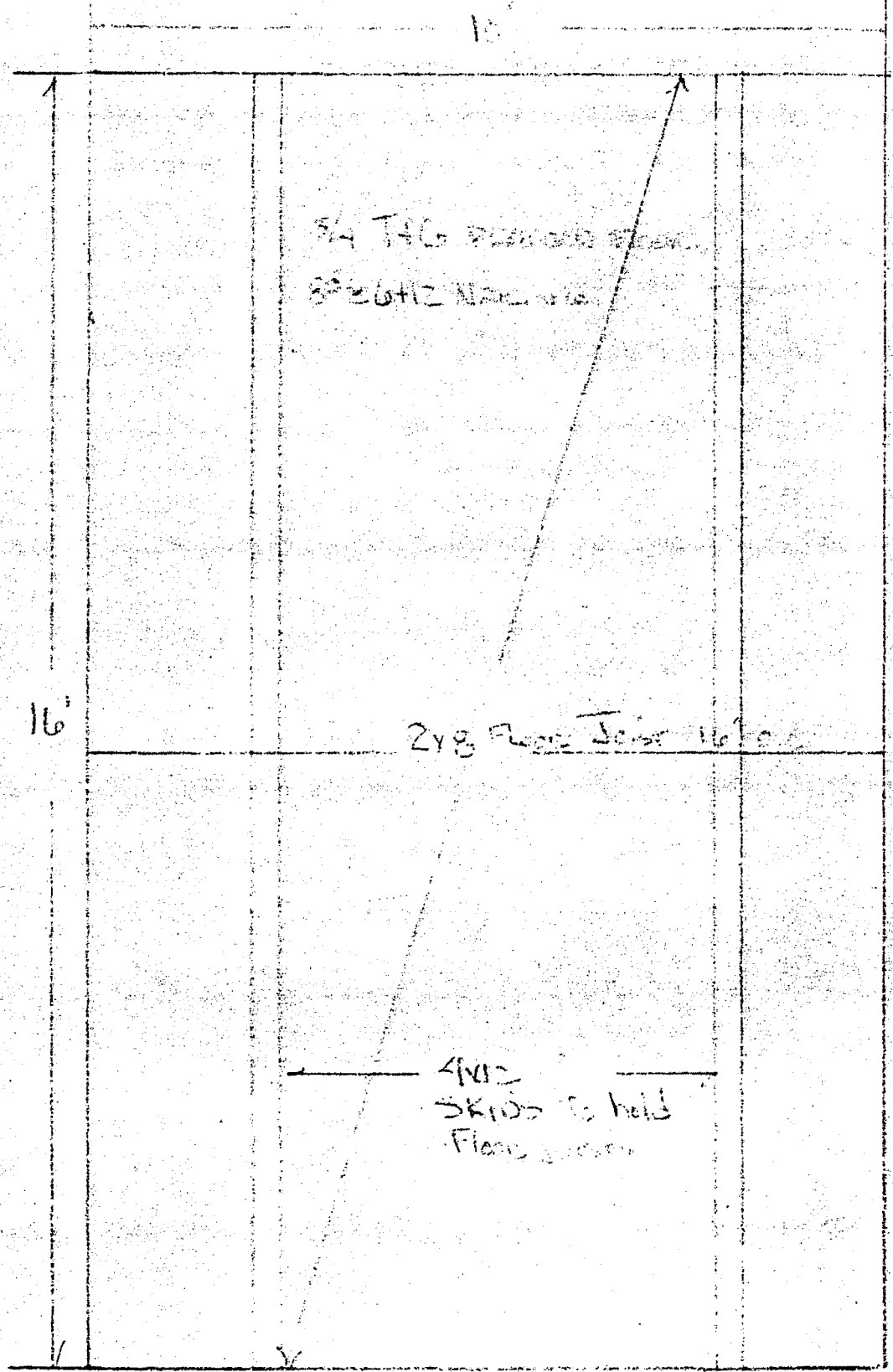


Foundation Beam 1/4" = 1'

(A)



FOUNDATION PLAN 1/4" = 1'



FLOOR PLAN OF STORAGE STRUCTURE

