

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

1000 SOUTH CALIFORNIA ST., SUITE 200

MALIBU, CA 93001

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Hearing Date: 6/10-14/02
Commission Action:

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

APPLICATION NO.: 4-01-220
APPLICANT: Alan and Ruth Berliner
AGENTS: Tom Torres A.I.A.; Alan Block
PROJECT LOCATION: 6112 Bonsall Drive, Malibu, Los Angeles County
APN 4467-022-014

PROJECT DESCRIPTION:

Remodel and 3,152 sq. ft. addition to existing 2,872 sq. ft. single-family residence. Relocation of septic tank and leach field and upgrade to 3,000-gallon tank, driveway and landscaping. The project also includes the request for after-the-fact approval of a 314 sq. ft. storage building; 570 sq. ft. guest unit; 329 sq. ft. pool cabana; 417 sq. ft. office; 441 sq. ft. barn/dog kennel; and 283 sq. ft. storage shed. No grading is proposed.

Lot area: 81,892 sq. ft. (1.88 acres)
Building coverage: 8,378 sq. ft.
Pavement coverage: 7,200 sq. ft.
Landscape coverage: 66,314 sq. ft.
Maximum height: 18 ft. from existing grade

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, dated 11/21/01; City of Malibu Environmental Health Department, Approval in Concept (Septic), dated 8/30/01; City of Malibu, Geology and Geotechnical Engineering Review Sheet, Approval in Concept, dated 11/14/01; Approval in Concept, Los Angeles County Fire Department, Preliminary Fuel Modification Plan Approval, dated 10/30/01.

SUBSTANTIVE FILE DOCUMENTS: Geotechnical Engineering Investigation Report, Coastline Geotechnical Consultants, Inc., dated 7/20/2001; Supplemental Engineering Investigation, Coastline Geotechnical Consultants, Inc., dated 10/19/01; Limited Engineering Geologic Investigation, Pacific Geology, Inc., dated 7/11/02; Supplemental Engineering Geologic Report, Pacific Geology Consultants, Inc., dated 9/25/01.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with **6 Special Conditions** regarding (1) conformance to geologic recommendations for design and construction, (2) drainage and polluted run-off control, (3) landscaping and revegetation of disturbed areas, (4) wildfire waiver of liability, (5) future improvements deed restriction; and (6) condition compliance.

The applicant is proposing a partial demolition, remodel (over 50%), and 3,152 sq. ft. addition to existing 2,872 sq. ft. single-family residence which will result in a one-story, 18 ft. above existing grade, 6,024 sq. ft. single-family residence; and replacement and expansion of the existing septic system. The applicant's proposal also includes a request for after-the-fact approval for 6 existing accessory structures: (1) 314 sq. ft. storage building; (2) 570 sq. ft. guest unit; (3) 329 sq. ft. pool cabana; (4) 417 sq. ft. office; (5) 441 sq. ft. barn/dog kennel; and (6) 283 sq. ft. storage shed; at 6112 Bonsall Drive. No grading is proposed. (Exhibits 3-10)

The subject site is a 81,892 sq. ft. parcel located north of Pacific Coast Highway in the Point Dume area, a highly developed residential area of the City of Malibu (Exhibits 1-3). The site is a level site, with a total gradient change of approximately 20 ft. The site is currently developed with an existing 2,872 sq. ft. single-family residence, built prior to the inception of the Coastal Act, and the six accessory structures listed above.

The project site is fully developed, and landscaped. The project site is located in a residentially developed area of Point Dume in Malibu. No environmentally sensitive habitat area exists at the site and the proposed project will not be visible from any public viewing areas. The proposed project, as conditioned, is consistent with all applicable policies of the Coastal Act.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-220 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 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. 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.

SPECIAL CONDITIONS

1. **Plans Conforming to Geologic Recommendation**

All recommendations contained in the *Geotechnical Engineering Investigation Report*, Coastline Geotechnical Consultants, Inc., dated 7/20/2001; *Supplemental Engineering Investigation*, Coastline Geotechnical Consultants, Inc., dated 10/19/01; *Limited Engineering Geologic Investigation*, Pacific Geology, Inc., dated 7/11/02; *Supplemental Engineering Geologic Report*, Pacific Geology Consultants, Inc., dated 9/25/01 shall be incorporated into all final design and construction including foundations, drainage, retaining walls, and sewage disposal. Final plans must be reviewed and approved by the project's consulting geotechnical engineer. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' 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, 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 ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geotechnical engineer and engineering geologist to ensure the plan is in conformance with consultants' recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

(1) The plan shall be configured and designed to generally conform with the conceptual drainage plan shown on Exhibit 4.

(2) 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.

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

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

(5) 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 Revegetation of Disturbed Areas

Prior to issuance of the coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a qualified landscape professional for the review and approval of the Executive Director. The plans shall identify the species, extent, and location of all plan material and shall incorporate the following criteria:

- (1) All disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of certificate of occupancy for the residence;
- (2) Planting should be primarily of native plant species indigenous to the Santa Monica Mountains, using accepted planting procedures, and 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. Invasive, non-indigenous/exotic plant species which tend to supplant native species shall not be used;
- (3) Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure compliance with the applicable landscape requirements.

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 construction 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, 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 construction 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 include temporary erosion control measures should construction 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 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 construction operations resume.

C. Monitoring

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved

pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

4. Wildfire Waiver of Liability

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

5. Future Improvements

This permit is only for the development described in Coastal Development Permit No. 4-01-200. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) & 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a)&(b) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-01-220, shall require an amendment to Permit No. 4-01-220 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 description of the applicant's entire parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

6. 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 proposing partial demolition and remodel (over 50%), and a 3,152 sq. ft. addition to existing 2,872 sq. ft. single-family residence which will result in the creation of a one-story, 18 ft. above existing grade, 6,024 sq. ft. single-family residence; and replacement and expansion of the existing septic system. The applicant's proposal also includes the request for after-the-fact approval for 6 existing accessory structures: (1) 314 sq. ft. storage building; (2) 570 sq. ft. guest unit; (3) 329 sq. ft. pool cabana; (4) 417 sq. ft. office; (5) 441 sq. ft. barn/dog kennel; and (6) 283 sq. ft. storage shed; at 6112 Bonsall Drive. No grading is proposed. (Exhibits 3-10)

The subject site is a 81,892 sq. ft. parcel located north of Pacific Coast Highway in the Point Dume area, a highly developed residential area of the City of Malibu (Exhibits 1-3). The site is a level site, with a total gradient change of approximately 20 feet. The site is currently developed with an existing 2,872 sq. ft. single-family residence, built prior to the inception of the Coastal Act, and the six accessory structures listed above.

The project site is fully developed, and landscaped. The site is located in a residentially developed area of Point Dume in Malibu. No environmentally sensitive habitat area exists at the site and the proposed project will not be visible from any public viewing areas. Access to the site is from Pacific Coast Highway to Bonsall Drive, a public road which forms the northwestern border of the property.

The proposed project, which is not visible from any public areas with the exception of Bonsall Drive, is consistent with the surrounding development and will not result in any new impacts to visual resources.

The applicant has submitted Fuel Modification Plans with Final Approval by the County of Los Angeles Fire Department, Fuel Modification Unit, dated 8/30/01, for the proposed additions to the residence which indicates the extent of vegetation removal and/or thinning requirements required to reduce fire hazard for the proposed finished residence. The area will overlap significantly with areas previously disturbed by yearly fuel modification completed for adjacent developments (Exhibit 2). As such, the proposed development will not have additional adverse impacts on designated sensitive habitat areas or significant natural vegetation.

There has been one previous Commission action on the site. CDP 4-92-212 (Rosen-Ducat) involved an application for a 541 sq. ft. addition to the main residence and for a 748 sq. ft. second story addition to one of the accessory structures located on site. The Commission approved this permit application in December 1992; however, the permit was never issued, and subsequently expired.

B. Geology and Fire Hazard

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.**

The proposed development is located on a fully developed, level pad in Malibu, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu / Santa Monica Mountains area include landslides, erosion, flooding, and earth movement. In addition, fire is a persistent threat due to the indigenous chaparral community of the coastal mountains. Wildfires can denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides.

The prominent geomorphic features in the area are the Santa Monica Mountains to the north, and Point Dume and the Pacific Ocean to the south. The site is located on a near-level pad, which drains primarily by sheet flow runoff to the west, and offsite to Bonsall Drive. Maximum topographic relief on-site is approximately 20 feet.

The applicant's geologic and engineering consultant has determined that the proposed project site is suitable from a soils and engineering standpoint for construction of the proposed project. The Supplemental Engineering Geologic Report, 6112 Bonsall Drive, by Pacific Geology, dated 9/25/2001, in evaluating the various engineering geologic factors affecting site stability and the existing site conditions, states:

Providing the recommendations contained herein and those of the Geotechnical Engineer are followed, the residence additions will be safe from landslide hazard, settlement, and slippage. In addition, the proposed construction will not adversely affect off-site properties from a geological standpoint.

The Geotechnical Engineering Investigation Report prepared by Coastline Geotechnical Consultants, Inc., dated 7/20/2001, also states:

Based on the findings summarized in this report, and provided the recommendations of this report are followed, and the designs, grading and construction are properly and adequately executed, it is our finding that construction within the building site would not be subject to geotechnical hazards from landslides, slippage, or excessive settlement...

The Commission notes that the geologic and engineering consultants have included a number of recommendations which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition 1**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The project will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. ~~Interim erosion control measures~~ implemented during construction will minimize short-term erosion and enhance site stability. However, long-term erosion and site stability must be addressed through adequate landscaping and erosion control plans. To ensure that runoff is conveyed off-site, in a non-erosive manner, the Commission finds it necessary to require the applicant, through **Special Conditions 2 and 3**, to submit plans for landscape and revegetation of all disturbed areas on site, and drainage and polluted runoff plans conforming to the recommendations of the consulting geotechnical engineer for review and approval by the Executive Director, to adequately control erosion during and after construction of the proposed project.

In addition to controlling erosion during construction operations, landscaping of the disturbed areas of the project will enhance the stability of the site. Long-term erosion can be minimized by requiring the applicant to revegetate the site with native plants compatible with the surrounding environment. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface / foliage weight. The Commission has found that such plant species do not serve to stabilize slopes and may adversely affect the overall stability of a project site. Native species, alternatively, tend to have a deeper root structure and aid in preventing erosion. Invasive, non-indigenous plant species tend to supplant species that are native to the Malibu / Santa Monica Mountains area. Increasing urbanization in this area has already caused the loss or degradation of major portions of native habitat and native plant seed banks through grading and removal of topsoil. Moreover, invasive and fast-growing trees and groundcovers originating from other continents, which have been used for landscaping in this area have seriously degraded native plant communities adjacent to development. Therefore, the Commission finds that in order to ensure site stability, all disturbed areas on-site shall be landscaped with appropriate native plant species, as specified in **Special Condition 3**.

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

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the wildfire waiver of liability, as incorporated in **Special Condition 4**, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. The Commission finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

C. Water Quality

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

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

As described, the proposed project includes a partial demolition and remodel (over 50%), and a 3,152 sq. ft. addition to an existing 2,872 sq. ft. single-family residence to result in a one-story, 18 ft. above existing grade, 6,024 sq. ft. single-family residence; and replacement and expansion of the existing septic system. The applicant's proposal also includes after-the-fact approval for 6 existing accessory structures: (1) 314 sq. ft. storage building; (2) 570 sq. ft. guest unit; (3) 329 sq. ft. pool cabana; (4) 417 sq. ft. office; (5) 441 sq. ft. barn/dog kennel; and

The proposed development will result in an increase in the amount of impervious surface on site, 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 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 measures 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 2** is necessary to ensure the proposed development will not adversely impact water quality of downstream coastal resources.

Finally, the proposed development includes the installation of an on-site septic system with a 3,000-gallon to serve the residence. The applicant's geologic consultants performed percolation tests and evaluated the proposed septic system. The City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

Therefore, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

D. Cumulative Impacts

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2)

providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Pursuant to Coastal Act §30250 and §30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development.

Based on the requirements of Coastal Act §30250 and §30252, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are intended only for occasional use by guests, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence or residential second units. Finally, the Commission has found in past permit decisions that a limit of 750 sq. ft. encourages the units to be used for their intended purpose –as a guest unit- rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guesthouses 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 proposes after-the-fact approval for the construction of a total of six accessory structures: (1) 314 sq. ft. storage building; (2) 570 sq. ft. guest unit; (3) 329 sq. ft. pool cabana; (4) 417 sq. ft. office; (5) 441 sq. ft. barn/dog kennel; and (6) 283 sq. ft. storage shed (see Exhibits 3, 8-12). The proposed accessory structures are located on a level lot surrounded by residential development and will not result in any individual or cumulative adverse impacts to coastal resources. The 570 sq. ft. proposed guest unit conforms to the Commission's previously applied size limitation of 750 sq. ft. for guest units. The other five structures are not intended for residential use; however, they each have the potential to be converted for residential use in the

future. Therefore, the Commission finds it necessary to ensure that no additions or improvements are made to the structures in the future ~~that may enlarge or further~~ intensify their uses without due consideration of the cumulative impacts that may result. Therefore, the Commission finds it necessary to require the applicants to record a future improvements deed restriction, as specified in **Special Condition 5**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to any of the six approved 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.

E. Violations

Development has occurred on the subject site without the required Coastal Development Permits, including the construction of the six existing accessory structures. These structures were built and/or modified from their originally intended uses without the review of the Commission. The applicant is currently proposing a substantial redevelopment of the site and seeks after-the-fact approval for the construction of the 314 sq. ft. storage building; 570 sq. ft. guest unit; 329 sq. ft. pool cabana; 417 sq. ft. office; 441 sq. ft. barn/dog kennel; and 283 sq. ft. storage shed under this permit application. To ensure that the violation portions of this development project that are addressed in this permit action are resolved in a timely manner, **Special Condition 6** requires that the applicant satisfy all conditions of this permit, which are prerequisites to the issuance of this permit, within 120 days of Commission action.

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

F. Local Coastal Program

Section 30604 of the Coastal Act states:

- A) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with 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.

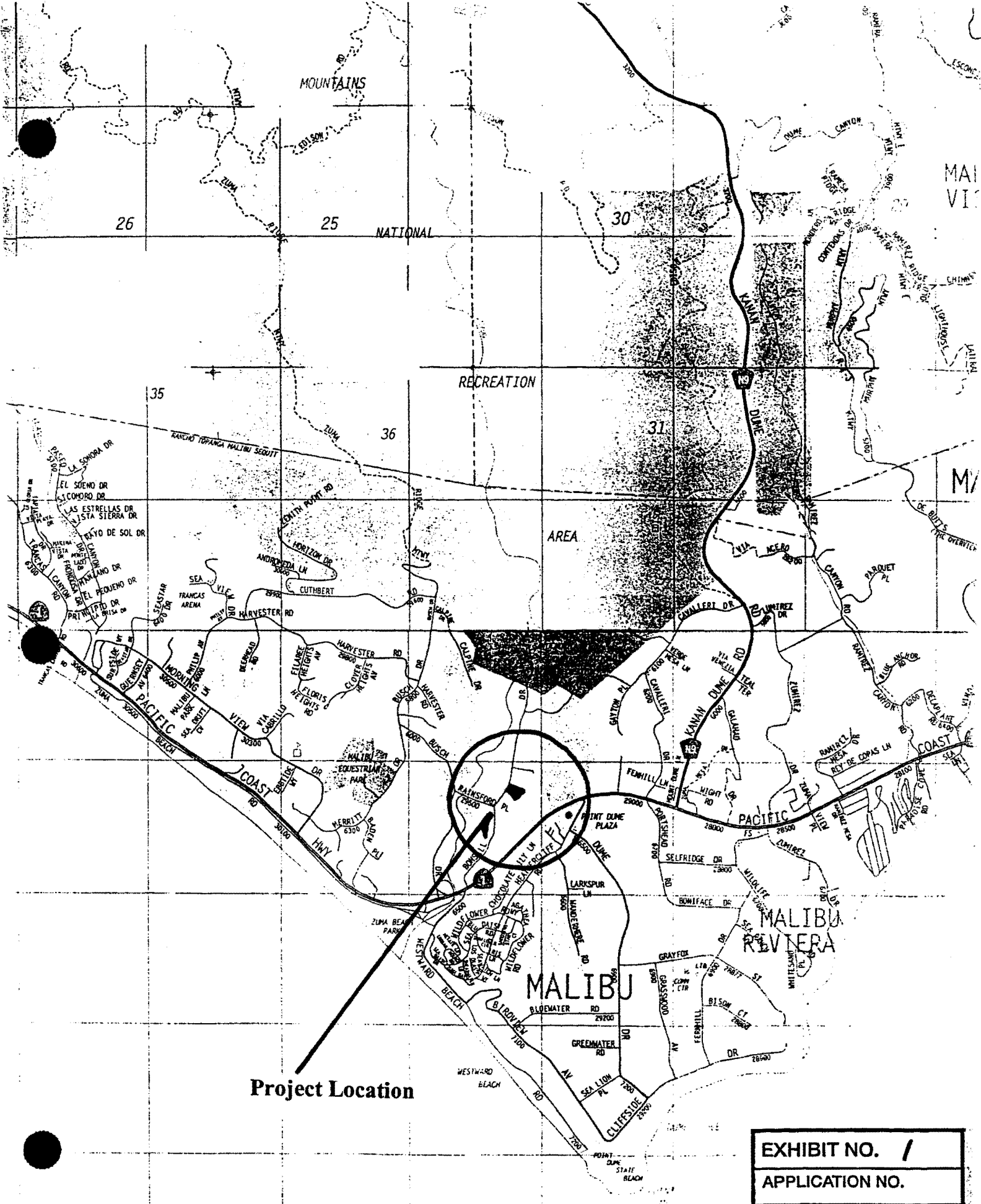
The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City of

Malibu's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. California Environmental Quality Act

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

The Commission finds that, the proposed project, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.



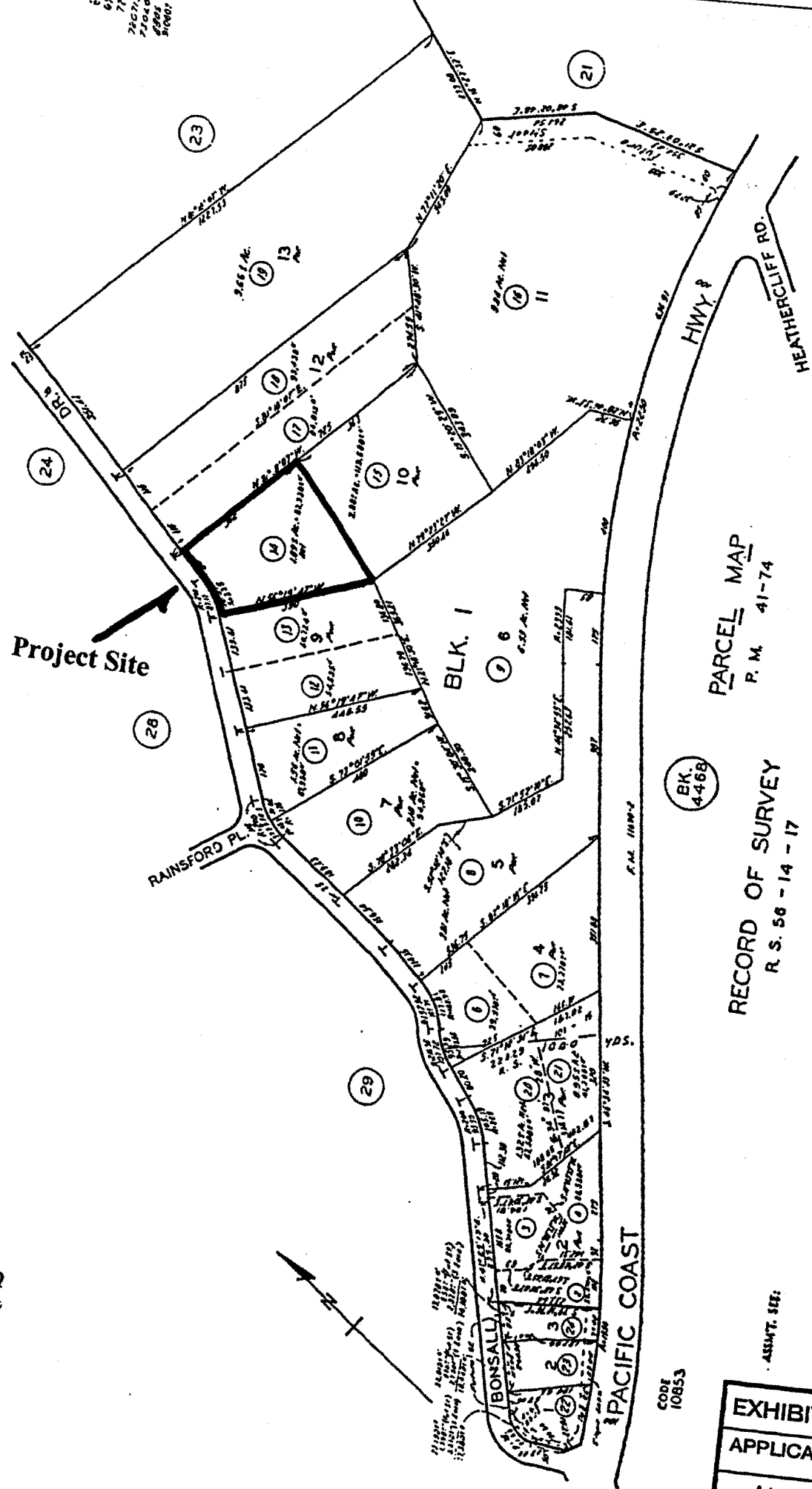
Project Location

PACIFIC

EXHIBIT NO. 1
APPLICATION NO.
4-01-220
VICINITY MAP

6500
6501
7121
26792
27041
28013
28007

ASSessor's MAP
COUNTY OF LOS ANGELES, CALIF.



Project Site

BLK. 1

PARCEL MAP
P. M. 41-74

RECORD OF SURVEY
R. S. 56 - 14 - 17

BK
446B

CODE
10853

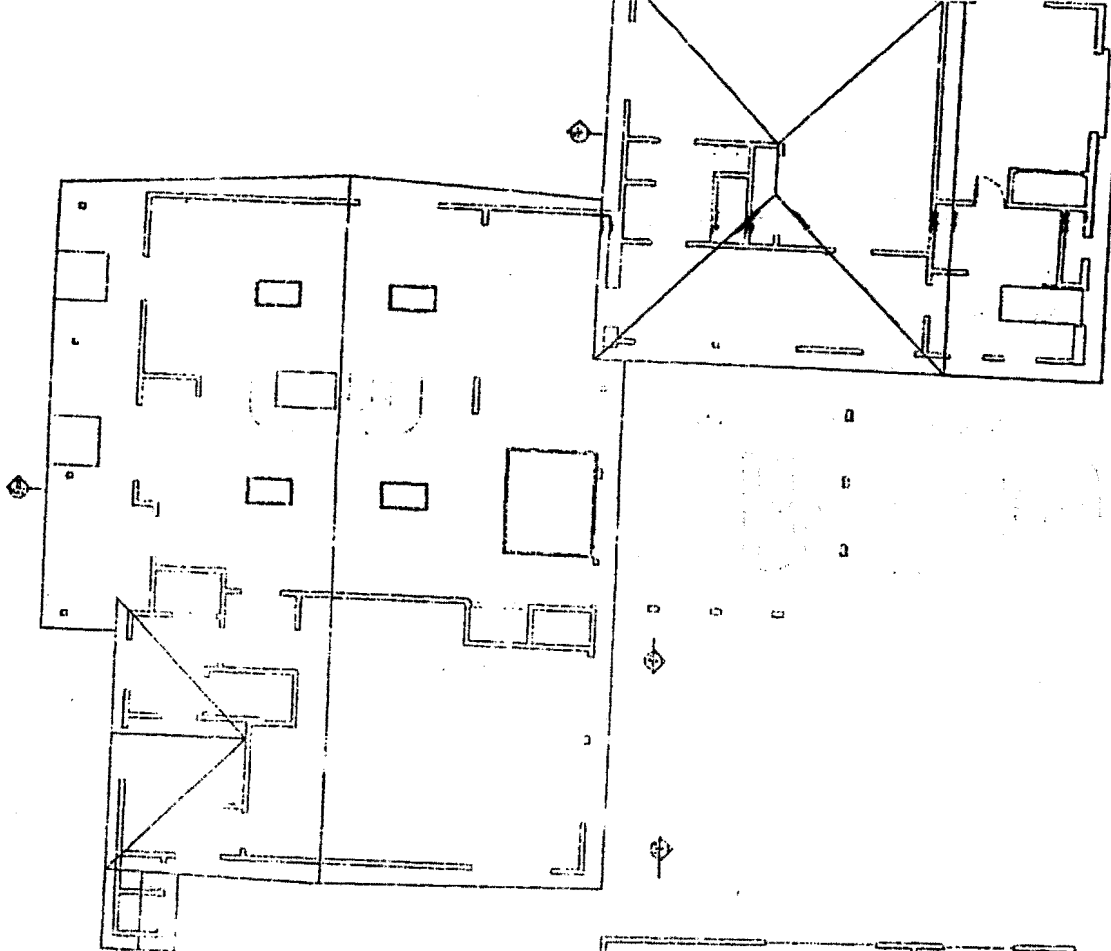
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4467 | 22
SCALE 1" = 200'

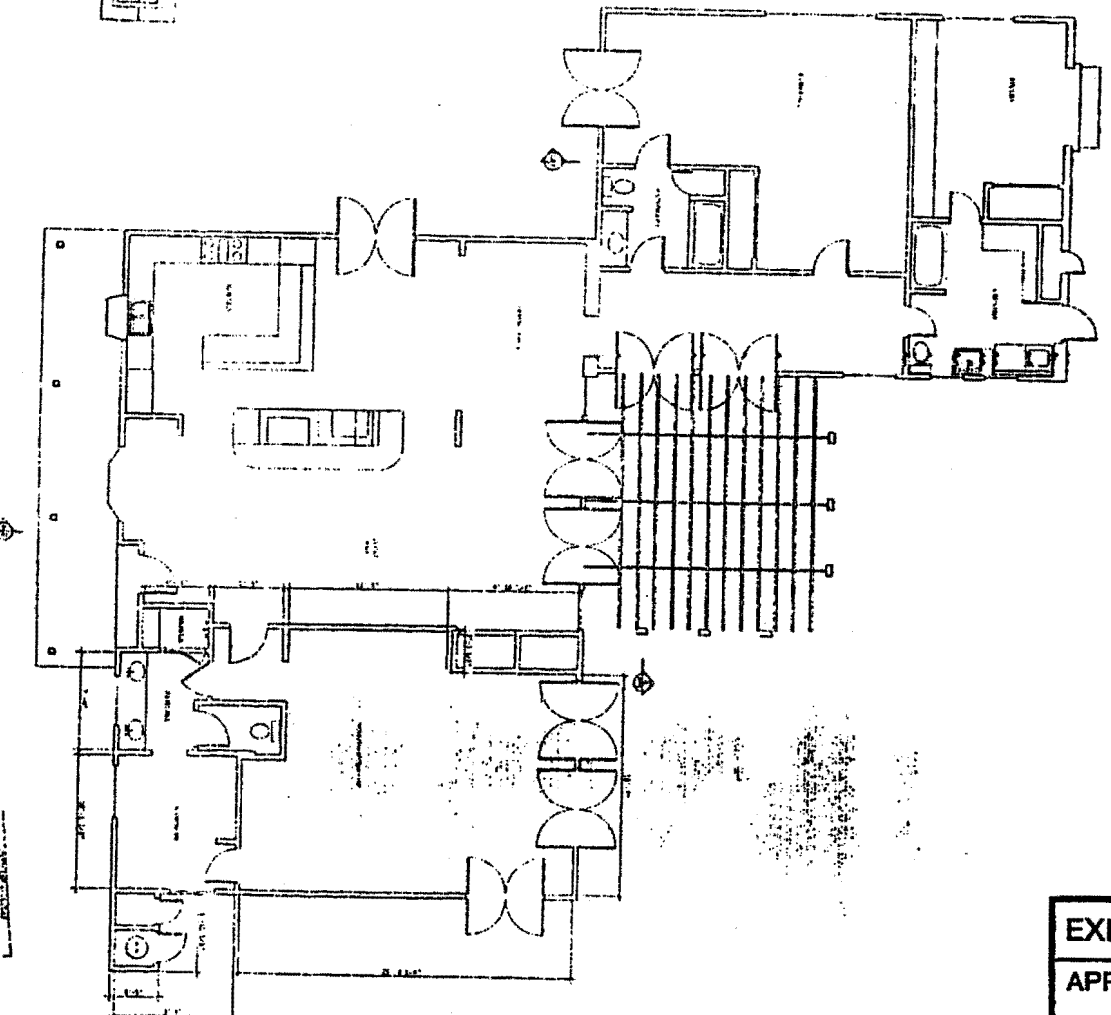
1992

EXHIBIT NO. 2
APPLICATION NO.
4-01-220
PARCEL MAP

EXISTING ROOF PLAN



EXISTING FLOOR PLAN



EXISTING FLOOR PLAN / ROOF PLAN

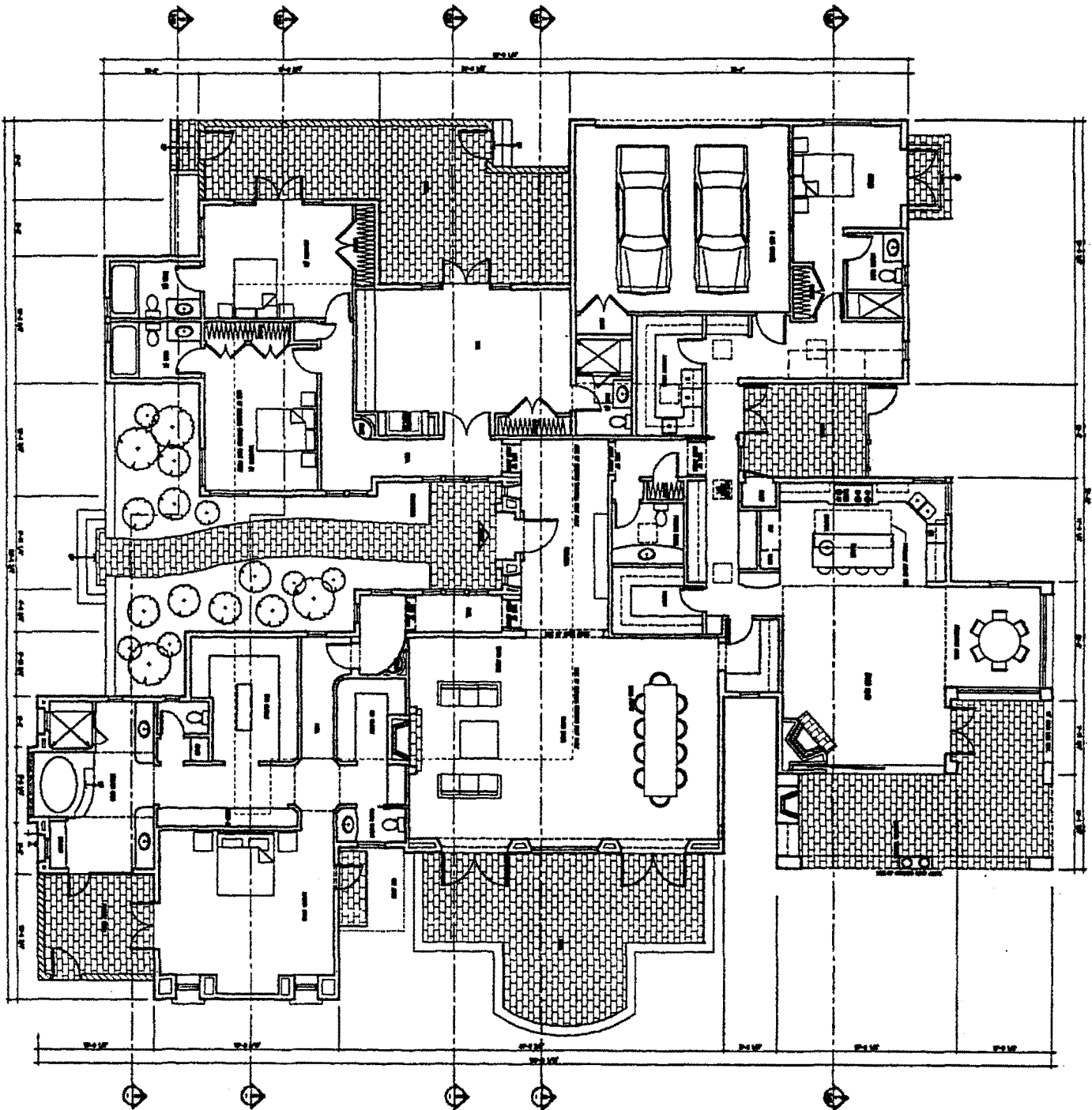
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SCALE: AS SHOWN
DRAWN BY: [Name]
CHECKED BY: [Name]

BERLINER RESIDENCE

A.T. TORRES, J.

NO.	DESCRIPTION	QTY.	UNIT
1	CONCRETE	100	sq. ft.
2	STEEL	50	lb.
3	WOOD	200	sq. ft.
4	GLASS	10	sq. ft.
5	PAINT	50	gal.
6	CEILING	100	sq. ft.
7	FLOORING	100	sq. ft.
8	MECHANICAL	10	sq. ft.
9	ELECTRICAL	10	sq. ft.
10	PLUMBING	10	sq. ft.

EXHIBIT NO. 4
 APPLICATION NO.
 4-01-220
 EXISTING FLOOR PLAN



0110
 PROPOSED
 FLOOR PLAN

BEELINER RESIDENCE
 A.T. TORRES, AIA
 2000 S. 10TH AVE.
 SUITE 100
 PHOENIX, AZ 85041
 602-998-1111

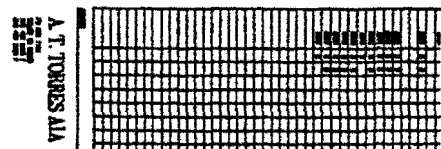


EXHIBIT NO. 5
 APPLICATION NO.
 4-01-220
 PROPOSED FLOOR PLAN

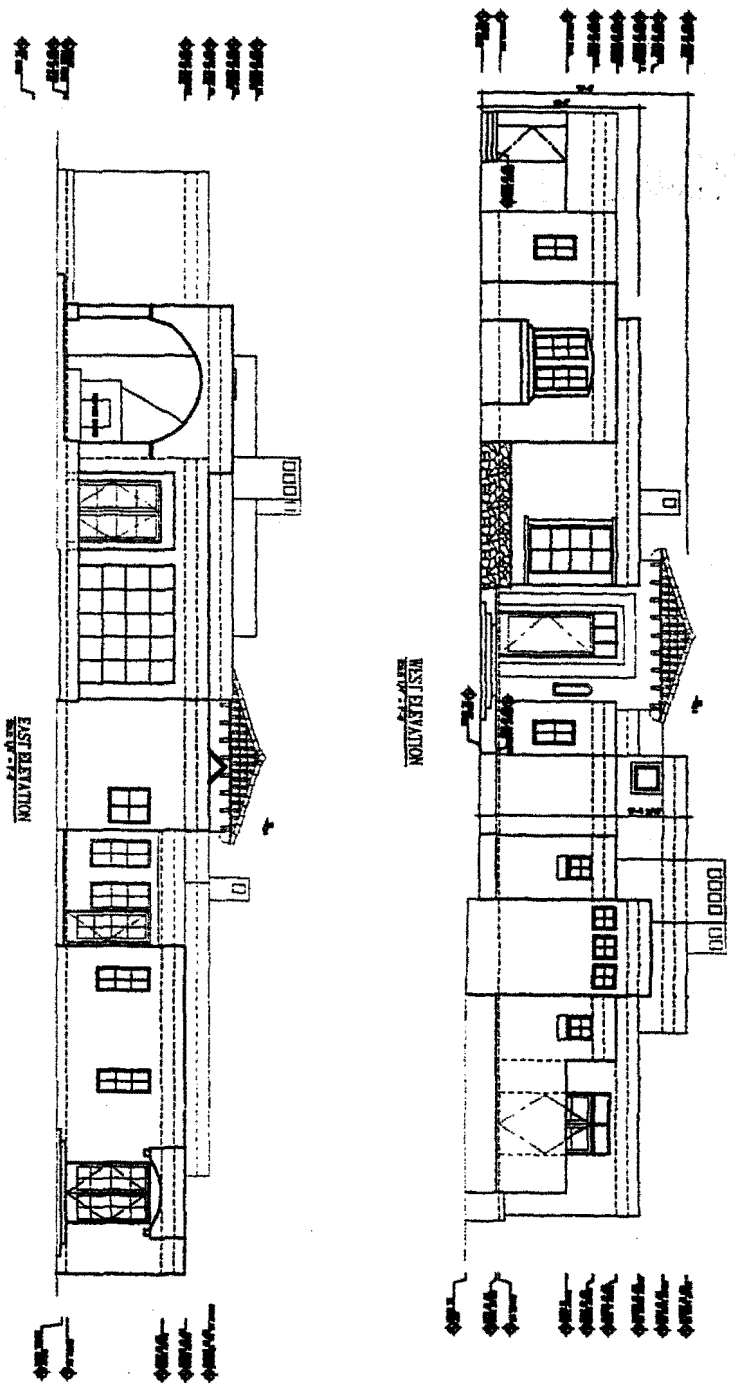
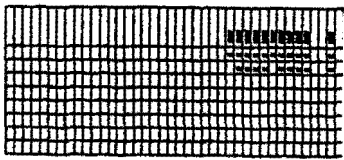


EXHIBIT NO. 6
 APPLICATION NO.
 4-01-220
 ELEVATIONS I

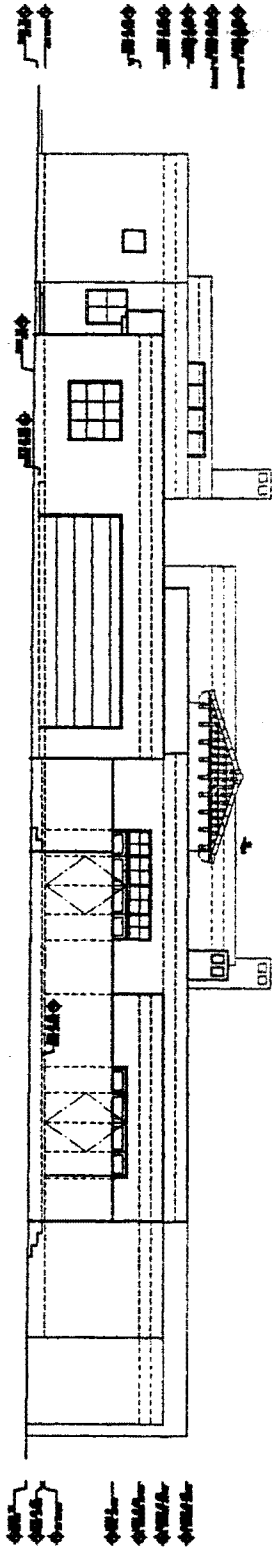


A. T. TORRES AIA
 ARCHITECT

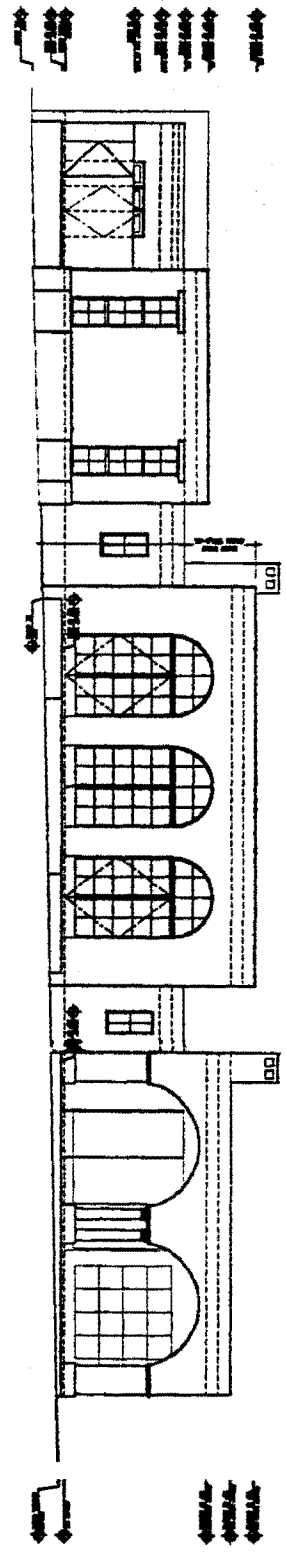
BERLINER
 RESIDENCE

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PROPOSED
 ELEVATIONS
 A210

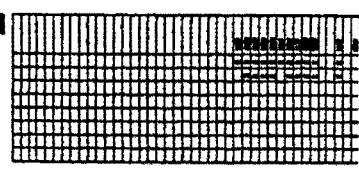


NORTH ELEVATION



SOUTH ELEVATION

EXHIBIT NO. 7
APPLICATION NO.
4-01-220
ELEVATIONS II

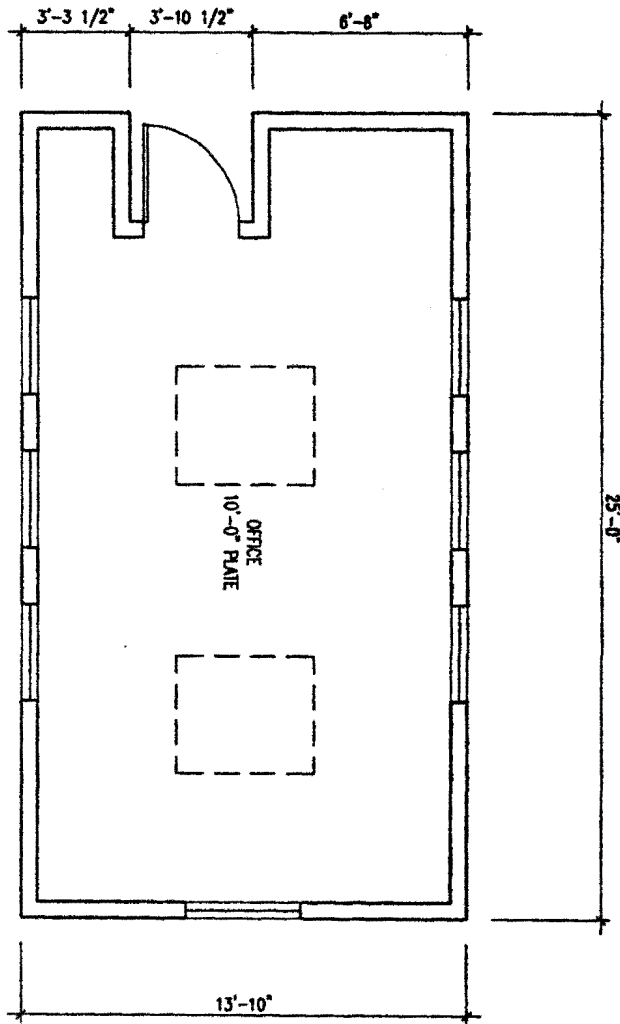


A. T. TORRES, AIA
 ARCHITECT

BENLAUER
 RESIDENCE
 ELEVATIONS

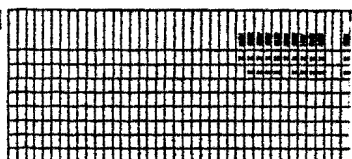
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 CHECKED BY: [Name]
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 SHEET NO. 1
 TOTAL SHEETS: [Total]

PROPOSED
 ELEVATIONS
 A.220



EXISTING OFFICE: FLOOR PLAN
 SCALE: 3/16" = 1'-0"

EXHIBIT NO.	11
APPLICATION NO.	
	4-01-220
BLDG #	4 ^{sq} 417



A. T. TORRES AIA
 ARCHITECT

BERLINER
 RESIDENCE

DATE: 10/10/00
 DRAWN BY: [illegible]
 CHECKED BY: [illegible]
 SCALE: 3/16" = 1'-0"

FLOOR PLAN
 EXISTING OFFICE
 OFFICE

