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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Hearing Date: 09/10-13/02
Commission Action:



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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-02-011

APPLICANTS: Joanne and Jon Fletcher

AGENT: Jim Eserts

PROJECT LOCATION: 6902 Wildlife Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Demolition of existing 3,500 sq. ft. single family residence and construction of a two story, 28 foot high, 7,450 sq. ft. single family residence, including 1,150 sq. ft. attached five-car garage, 750 sq. ft. guest house, 550 sq. ft. tennis court cabana, tennis court, new driveway, new septic system, and approximately 500-700 cu. yds. of grading (removal and recompaction). The project also includes removal of retaining walls and invasive plant material on a canyon slope and revegetation with native plantings.

Lot area:	51,891 square feet
Building coverage:	3,700 square feet
Pavement coverage:	11,250 square feet
Landscape coverage:	~31,941 square feet
Unimproved:	~4,000 square feet

LOCAL APPROVALS RECEIVED: City of Malibu, Planning Department, Approval in Concept, January 10, 2002; City of Malibu, Biological Review, Approval in Concept, July 1, 2001; County of Los Angeles, Fire Department, Approval in Concept, February 28, 2002; City of Malibu, Environmental Health, Approval in Concept, June 22, 2001; City of Malibu, Geology Review, Approval in Concept, June 29, 2001; County of Los Angeles, Fire Department, Fuel Modification Plan, Preliminary Approval, May 14, 2001.

SUBSTANTIVE FILE DOCUMENTS: "Initial Evaluation of cultural resources at 6902 Wildlife Road in the City of Malibu, Los Angeles County, California," C. A. Singer and Associates, March 4, 2001; "Limited Geologic and Soils Engineering Investigation, Single Family Residence and Tennis Court, 6902 Wildlife Road, Malibu, California," GeoConcepts, Inc., April 9, 2001; "Supplemental Report No. 1, 6902 Wildlife Road, Malibu, California," GeoConcepts, Inc., June 19, 2001.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with eight (8) special conditions regarding conformance with geologic recommendations, landscape and erosion control plans, drainage and polluted runoff control plan, wildfire waiver of liability, future development restriction, lighting restrictions, generic deed restriction, and revised plans.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-02-011 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 permittees 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 permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Plans Conforming to Geologic Recommendations

All recommendations contained in the reports prepared by GeoConcepts, Inc. ("Limited Geologic and Soils Engineering Investigation, Single Family Residence and Tennis Court, 6902 Wildlife Road, Malibu, California," GeoConcepts, Inc., April 9, 2001 and "Supplemental Report No. 1, 6902 Wildlife Road, Malibu, California," GeoConcepts, Inc., June 19, 2001.) shall be incorporated into all final design and construction including foundations, grading, and drainage. Final plans must be reviewed and approved by the project's consulting geotechnical engineer. Prior to the issuance of the Coastal Development Permit, the applicants shall submit, for review and approval by the Executive Director, evidence of the consultant's review and ~~approval~~ of all project plans.

The final plans approved by the consultant 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 that may be required by the consultant shall require an amendment to the permit or a new Coastal Development Permit.

2. Landscaping and Erosion Control Plans

Prior to issuance of the Coastal Development Permit, the applicants shall submit landscaping, erosion control, and fuel modification plans prepared by a licensed landscape architect or qualified resource specialist for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and

approved by the engineering geologist to ensure that the plans are in conformance with the consultant's recommendations. The plans shall incorporate the following criteria:

A) Landscaping Plan

- 1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation and to screen and soften the visual impact of development, 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 that tend to supplant native species shall not be used. Native plantings shall be used that are visually harmonious and blend with the character of the surrounding undeveloped slopes. Non-native, invasive vegetation shall be removed from the canyon slopes and riparian area of the site and restoration and revegetation shall occur with native plant species suitable for this area. The plan shall specify the erosion control measures to be implemented and the materials necessary to accomplish short-term stabilization, as needed, on the site.
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting 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 ninety (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 Permittees shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the Coastal Development Permit, unless the Executive Director determines that no amendment is required.
- 5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes, and location of plant materials to be removed, and how often thinning is to occur. In addition, the plan shall include a notation that no riparian plant species shall be removed or thinned for fuel modification purposes. Furthermore, prior to issuance of the Coastal Development Permit, the applicants shall submit

evidence that the final fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf, and ground cover planted within the 50 foot radius of the proposed structures shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B) Interim Erosion Control Plan

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas, and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31), the applicants 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 shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout 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 of the coastal zone or within the coastal zone to a site permitted to receive fill.
- 3) The plan shall also include ~~temporary erosion control measures~~ should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils, and cut and fill slopes with geotextiles, mats, sand bag barriers, and/or silt fencing; and temporary drains, swales, and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) Monitoring

Five years from the date of the receipt of the certificate of occupancy for the residence, the applicants shall submit, for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed landscape architect or qualified resource specialist that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicants (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 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. Drainage and Polluted Runoff Control Plan

Prior to issuance of the Coastal Development Permit, the applicants shall submit, for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with engineering geologist's recommendations. In addition to the above specifications, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate, or filter 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, one (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 applicants, landowner, or successor-in-interest shall be responsible for any necessary repairs to the drainage, filtration system, and BMPs and restoration of any eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicants 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.

4. Wildfire Waiver of Liability

Prior to the issuance of a Coastal Development Permit, the applicants 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 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 wild fire exists as an inherent risk to life and property.

5. Future Development Restriction

This permit is only for the development described in coastal development permit No. 4-02-011. Pursuant to Title 14 California Code of Regulations §13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code §30610(a) and (b) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-02-011, and any grading, clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition No. Two (2), shall require an amendment to Permit No. 4-02-011 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. Lighting Restrictions

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

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

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

7. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

8. Revised Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, revised project plans prepared by a registered engineer and architect, that show all development removed at least 25 feet southwest of the top of the canyon slope, as shown in **Exhibit 4**.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicants are proposing to demolish an existing 3,500 square foot single family residence that was constructed prior to the Coastal Act. The applicants are also proposing to construct a new two-story, 28 foot high, 6,336 square foot single family residence with an attached 1,150 square foot garage, 750 sq. ft. guest house, 550 sq. ft. tennis court cabana, tennis court, new driveway, new septic system, and approximately 500-700 cu. yds. of earthwork (removal and recompaction). In addition, the applicants are also proposing to remove retaining walls and all invasive plant

material on the canyon slope below the proposed residence and revegetate with native plantings (**Exhibits 3-11**).

The approximately 1.2 acre project site is located in the residential neighborhood of Point Dume in the City of Malibu, Los Angeles County. The area surrounding the project site is developed with single family residences with the exception of the lot immediately northwest of the subject site, which is vacant. The site is currently developed with a single family residence, which was built circa 1961 (**Exhibit 3**).

As mentioned previously, the site descends in a northeasterly direction from Wildlife Road to the bottom of Walnut Canyon. The site consists of a near level pad on the southwest half of the parcel and gradients up to 3:1 on the canyon slopes. The pad maintains a light to moderately dense growth of vegetation, consisting of grass, trees, and ornamental plantings. Vegetation on the descending slopes consists mainly of non-native, invasive ground cover and several trees. Native plant species, including Black willow (*Salix laevigata*) and Coyote brush (*Baccharis pilularis*) are also found in the riparian area at the bottom of Walnut Canyon (**Exhibits 5 and 11**).

Walnut Canyon contains a blueline stream, as designated by the U.S. Geological Survey. The blueline stream and riparian area is an environmentally sensitive habitat area and has been recognized as such in past Commission actions. The applicants have proposed to remove all non-native, invasive vegetation from the canyon slope and revegetate with native plantings.

The proposed project will not be visible from Pacific Coast Highway or any other public viewing area. An Initial Evaluation of cultural resources was done for the subject site and proposed development, which indicated that no prehistoric or historic archaeological resources were encountered within the project area.

B. Hazards and Geologic Stability

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 applicant has submitted two geologic reports: "Limited Geologic and Soils Engineering Investigation, Single Family Residence and Tennis Court, 6902 Wildlife Road, Malibu, California," GeoConcepts, Inc., April 9, 2001, and "Supplemental Report No. 1, 6902 Wildlife Road, Malibu, California," GeoConcepts, Inc., June 19, 2001. The reports make numerous recommendations regarding drainage, grading and earthwork,

foundations, settlement, excavations, slabs on grade, sewage disposal, plan review, and construction review.

The GeoConcepts, Inc. report dated April 9, 2001 concludes:

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

In addition, the GeoConcepts, Inc. report dated June 19, 2001, states:

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

Therefore, based on the recommendations of the applicant's engineering geologic consultants, the proposed development is consistent with the requirements of Section 30253 of the Coastal Act, so long as the engineering geologic consultant's recommendations are incorporated into the final project plans and designs. Therefore, it is necessary to require the applicant to submit final project plans that have been certified in writing by the engineering geologic consultant as conforming to all recommendations of the consultant, in accordance with **Special Condition One (1)**.

Erosion

Section 30253 of the Coastal Act requires that new development neither create nor contribute significantly to erosion. As noted above, the site of the the proposed project is an approximately 1.2 acre lot that descends at gradients up to 3:1 down the southwest slope of Walnut Canyon. The canyon slope is vegetated primarily with non-native, invasive groundcover and some native riparian species in the canyon bottom. Runoff from the site travels northeasterly down the canyon slope toward Walnut Creek. Walnut Creek flows into the ocean approximately ¼ mile southeast of the subject site.

The applicant proposes to demolish an existing 3,500 square foot single family residence that was constructed prior to the Coastal Act. The applicants are also proposing to construct a new two-story, 28 foot high, 6,336 square foot single family residence with an attached 1,150 square foot garage, 750 sq. ft. guest house, 550 sq. ft. tennis court cabana, tennis court, and new driveway.

In total, the project will result in 14,950 sq. ft. of impervious surface area on the site, increasing both the volume and velocity of storm water runoff. Unless surface water is controlled and conveyed off of the site in a non-erosive manner, this runoff will result in increased erosion on and off the site.

Uncontrolled erosion leads to sediment pollution of downgradient water bodies. Surface soil erosion has been established by the United States Department of Agriculture, Natural Resources Conservation Service, as a principal cause of downstream sedimentation known to adversely affect riparian and marine habitats. Suspended sediments have been shown to absorb nutrients and metals, in addition to other contaminants, and transport them from their source throughout a watershed and ultimately into the Pacific Ocean. The construction of single family residences in sensitive watershed areas has been established as a primary cause of erosion and resultant sediment pollution in coastal streams.

In order to ensure that erosion and sedimentation from site runoff are minimized, the Commission requires the applicant to submit a drainage plan, as defined by **Special Condition Three (3)**. **Special Condition Three (3)** requires the implementation and maintenance of a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. Fully implemented, the drainage plan will reduce or eliminate the resultant adverse impacts to the water quality and biota of coastal streams. This drainage plan is fundamental to reducing on-site erosion and the potential impacts to coastal streams. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

In addition, the Commission finds that temporary erosion control measures implemented during construction will also minimize erosion and enhance site stability. **Special Condition Two (2)** therefore requires the applicant to implement interim erosion control measures should grading take place during the rainy season. Such measures include stabilizing any stockpiled fill with geofabric covers or other erosion-controlling materials, installing geotextiles or mats on all cut and fill slopes, and closing and stabilizing open trenches to minimize potential erosion from wind and runoff water.

The Commission also finds that landscaping of ~~graded and disturbed~~ areas on the subject site will reduce erosion and serve to enhance and maintain the geologic stability of the site, provided that minimal surface irrigation is required. Therefore, **Special Condition Two (2)** requires the applicant to submit landscaping plans, including irrigation plans, certified by the consulting geologists as in conformance with their recommendations for landscaping of the project site. **Special Condition Two (2)** also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that the use of 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, invasive species and therefore aid in preventing erosion.

In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area. Increasing urbanization in this area has caused the loss or degradation of major portions of the native habitat and loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast growing trees that originate from other continents that have been used as landscaping in this area have invaded and seriously degraded native plant communities adjacent to development. Such changes have resulted in the loss of native plant species and the soil retention benefits they offer. As noted the implementation of **Special Condition Two (2)** will ensure that primarily native plant species are used in the landscape plans and that potentially invasive non-native species are avoided. Therefore, the Commission finds that in order to ensure site stability and erosion control, the disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition Two (2)**.

Wild Fire

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 applicants assume the liability from these associated risks. Through **Special Condition Four (4)**, the wildfire waiver of liability, the applicants acknowledge 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 Four (4)**, the applicants also agree 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.

In summary, the Commission finds that, as conditioned by **Special Conditions One (1), Two (2), Three (3), and Four (4)**, the proposed project is consistent with Section 30253 of the Coastal Act.

C. Environmentally Sensitive Habitat Area and Water Quality

Section 30230 of the Coastal Act states that:

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

Section 30231 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, and minimizing alteration of natural streams.

Section 30240 of the Coastal Acts states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Sections 30230 and 30231 require that the biological productivity and quality of coastal waters and the marine environment be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, and maintaining natural buffer areas.

In addition, Section 30240 of the Coastal Act permits development in areas that have been designated as ESHA only when the location of the proposed development is dependent upon those habitat resources and when such development is protected against significant reduction in value. The Coastal Act defines environmentally sensitive habitat areas (ESHAs) as any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development.

As mentioned previously, the site descends in a northeasterly direction from Wildlife Road to the bottom of Walnut Canyon. The site consists of a near level pad on the southwest half of the parcel and gradients up to 3:1 on the canyon slopes. The pad maintains a light to moderately dense growth of vegetation, consisting of grass, trees, and ornamental plantings. Vegetation on the descending slopes consists mainly of non-native, invasive ground cover and several trees. Native plant species, including Black willow (*Salix laevigata*) and Coyote brush (*Baccharis pilularis*) are also found in the riparian area at the bottom of Walnut Canyon.

Walnut Canyon contains a blueline stream, as designated by the U.S. Geological Survey. The blueline stream and riparian area is an environmentally sensitive habitat area and has been recognized as such in past Commission actions. In addition, the stream outlets into an area that has been recognized through past Commission permit actions as an Offshore Kelp Bed Environmentally Sensitive Habitat Area (ESHA).

In past permit actions involving new development adjacent to inland ESHAs and offshore ESHAs, the Commission has required that new development be sited to protect such sensitive habitats. In addition, the Commission has regularly required that grading and landform alteration be reduced to ensure that the potential negative effects of run-off and erosion on watersheds, streams, and sensitive habitat areas are minimized.

The proposed development will be set back approximately 170 feet from the blue line stream and the associated riparian area, and approximately 15 to 20 feet from the top of the canyon slope. The proposed location of the residence will establish a 200-foot brush clearance radius that will extend approximately 50 feet further down the canyon slopes and into the riparian area than the radii already establish by adjacent properties (Exhibit 2). In addition, the applicants have submitted a Fuel Modification Plan with final approval by the County of Los Angeles Fire Department, dated 8/20/02. The plan indicates that Fuel Modification Zone A will extend 20 feet from the structure; Zone B will extend an additional 50 feet down the canyon slope; and Zone C will extend an 100 feet downslope from Zone B to the edge of the riparian vegetation. This plan significantly reduces the extent of Zone B, which, as originally submitted, extended 80 feet down the canyon slope and resulted in the extension of Zone C into the riparian area. The fuel modification plan does not require removal or thinning of riparian plant species. In addition, the applicants have proposed to remove existing retaining walls and non-native, invasive vegetation on the canyon slopes and to revegetate with native species.

In past permit actions, the Commission has required development to be set back at least 25 feet from the top of canyon slopes in and adjacent to the ESHA areas of Point Dume canyons. The 25-foot setback ensures that grading, excavation, and construction equipment staging will not take place at the slope's edge. Such activities increase the potential for overcasting of graded spoils down the flanks of the adjacent slope, compaction of slope edges, and trampling and destruction of vegetation at the slope's edge that would otherwise inhibit erosion and enhance gross slope stability. The

setback further reduces the potential for erosion by reducing the impact of surface runoff from impervious surfaces adjacent to the edge of the slope, and reducing the extent of irrigated fuel modification zones on the canyon slopes. In addition, the 25 foot setback will reduce the extension of the brush clearance radius into the riparian area of the site. The 25 foot setback will minimize the potential for erosion and sedimentation of Walnut Creek and reduce impacts associated with vegetation clearance in and adjacent to the riparian ESHA. Moreover, the 25 foot setback will minimize the adverse effects of lighting and sound from the residential development on sensitive animal species utilizing the riparian ESHA. For all of these reasons, the Commission finds it necessary to impose **Special Condition Eight (8)**, which requires the applicants to submit revised plans that remove all development at least 25 feet southwest of the the top of the canyon slope.

As noted above, the applicants have proposed to remove non-native, invasive vegetation on the canyon slopes and to revegetate the site with native plant species. To ensure that the site is planted with native vegetation, **Special Condition Two (2)** requires a landscape plan comprised primarily of native plant species, in conjunction with an interim erosion control plan. The landscaping of the disturbed areas of the subject site, particularly with respect to particularly steep slopes, with native plant species will assist in preventing erosion and the displacement of native plant species by non-native or invasive species. Furthermore, interim erosion control measure implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. In addition, the landscape and fuel modification plan required under **Special Condition Two (2)**, will also mitigate adverse impacts to native vegetation, surrounding resources, and water quality. Finally, **Special Condition Two (2)** requires the fuel modification plan to include a notation on the plan that no riparian plant species shall be removed or thinned for the purpose of fuel modification. Therefore, the Commission finds that **Special Condition Two (2)** is necessary to ensure the proposed development ~~will not adversely~~ impact water quality or coastal resources.

Furthermore, night lighting of a high intensity has the potential to disrupt the hunting, roosting, and nesting behavior of wildlife that occupy or migrate through the sensitive habitat area adjacent to the creek that crosses the site. As a result, **Special Condition Six (6)** reduces the disruptive effects that night lighting can have on the wildlife occupying or migrating through this sensitive habitat area, by restricting outdoor night lighting to the minimum amount required for safety. In addition, **Special Condition Five (5)** addresses future development by ensuring that all future development proposals for the site, which might otherwise be exempt from review, would require prior review so that potential impacts to this sensitive habitat area may adequately be considered.

Special Condition Three (3) requires a drainage and polluted runoff control plan, which will ensure that drainage will be conducted in a non-erosive manner. A drainage system will serve to minimize the environmental and sensitive habitat degradation

associated with erosion. In order to further ensure that adverse impacts to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant to incorporate filter elements that intercept and infiltrate or treat the runoff from the subject site, as is also required by **Special Condition Three (3)**. Such a plan will allow for the infiltration and filtration of runoff from the developed areas of the site and will capture the initial "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season, making the capture of the "first flush" flow a vital component of the drainage and polluted runoff control plan. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

The proposed development will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; bacteria and pathogens from animal waste; and effluent from septic systems.

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 Three (3)**, 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.

Lastly, the applicants are proposing to construct a new 2,500 gallon MicroFast septic system as shown on the plans approved "in-concept" by the City of Malibu Environmental Health Department on June 22, 2001. The conceptual approval by the City of Malibu indicates that the sewage disposal systems for the project in this application comply with all minimum requirements of the Uniform Plumbing Code. The Commission has found the City of Malibu's minimum health and safety standards for septic systems to be protective of coastal resources and to take into consideration the percolation capacity of soils, the depth to groundwater, and other pertinent information. Therefore the Commission further finds that project compliance with the City's standards for septic disposal will minimize any potential for wastewater discharge that could adversely impact coastal waters.

Therefore, the Commission finds that, for the reasons set forth above, the proposed project, as conditioned by **Special Conditions Two (2), Three (3), Five (5), Six (6), and Eight (8)** is consistent with the requirements of Sections 30231 and 30240 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.

New development raises coastal issues related to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of a parcel increasing impacts on public services, such as water, sewage, electricity and roads. New development also raises issues as to whether the location and amount of new development maintains and enhances public access to the coast.

Based on these policies, the Commission has limited the development of second dwelling units (such as the proposed guest house) on residential parcels in the Malibu and Santa Monica Mountain areas. In past Commission actions, the Commission has found that placing an upper limit on the size of second units (750 square feet) is necessary given the traffic and infrastructure constraints which exist in Malibu and the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 square feet) and the fact that they are likely to be occupied by one, or at most two people, would cause such units to have less of an impact on the limited capacity of the Pacific Coast Highway and other roads (including infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence.

The Commission has also raised the second unit issue 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 functions, which in large part consist of: 1) a second unit with kitchen facilities, such as a granny unit, caretaker's unit, or farm labor unit and 2) a guest house, 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. As such, 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. Therefore, as a result, the Commission has found that guest houses, pool cabanas, studios, second units, or maid's quarters can intensify the use of a site and impact public services, such as water, sewage, electricity, and roads.

The applicant proposes to build a 750 sq. ft. guest house and a 550 sq. ft. tennis cabana on the subject site. The cabana is intended for recreational use, not for living

space. The guest house is located above the cabana; however, no internal connection exists between the two levels. The guest house conforms to the Commission's past actions, allowing a maximum of 750 square feet for a second dwelling unit in the Malibu area. However, future improvements or additions to the structure could increase the size of the guest unit beyond the maximum of 750 sq. ft. and constitute a violation of this coastal development permit. Therefore, in order to ensure that no additions or improvements are made to the guest house that may further intensify the use without due consideration of the potential cumulative impacts, the Commission finds it necessary to impose **Special Condition Five (5)**. **Special Condition Five (5)** requires the applicant to obtain an amended or new coastal development permit if additions or improvements to the guest house are proposed in the future.

Therefore, as conditioned, the Commission finds that the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

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).*

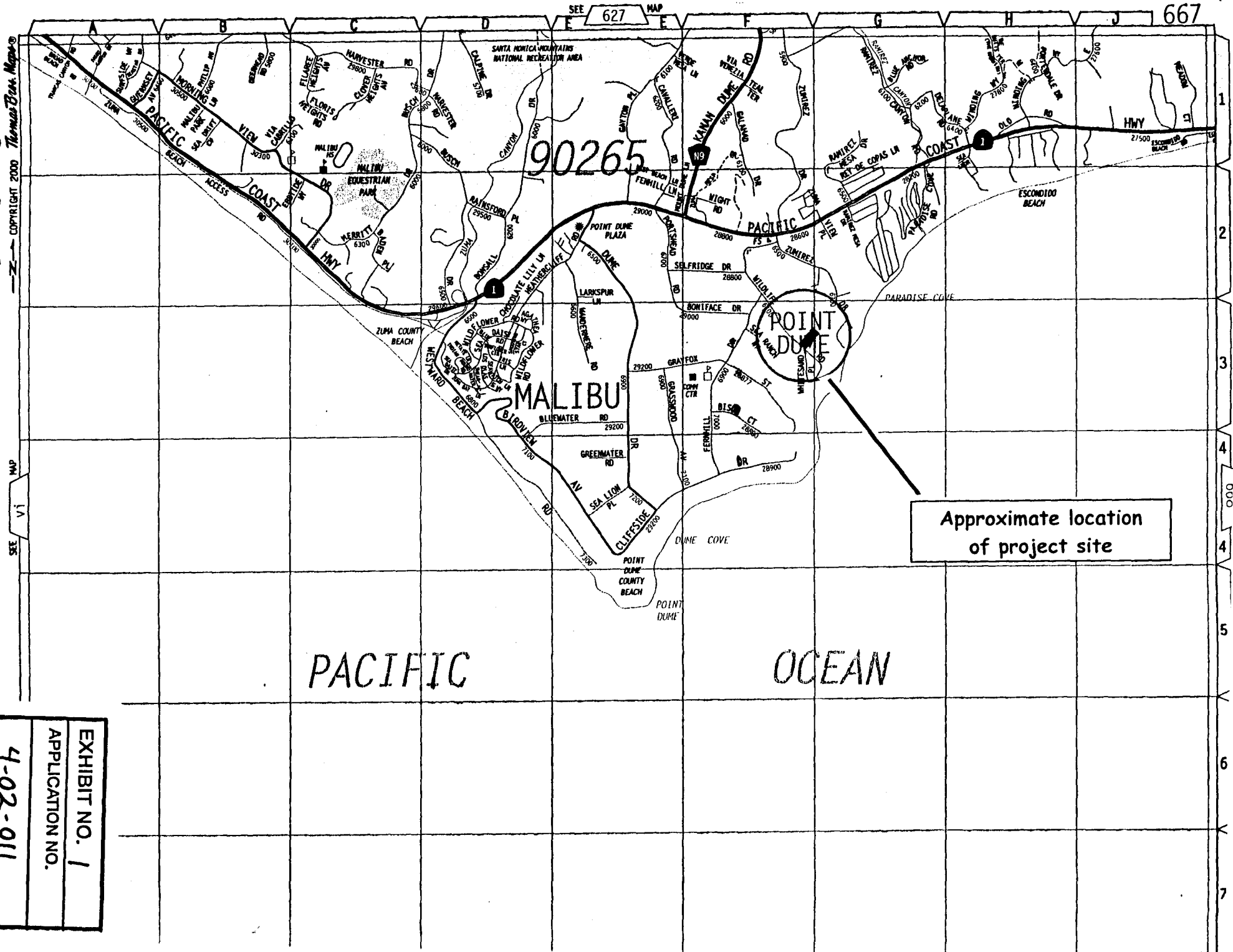
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit ~~only if~~ the project will not prejudice the ability of the local government having jurisdiction ~~to prepare a Local Coastal Program that conforms to Chapter 3~~ policies of the Coastal Act. The preceding 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 applicants. 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 for the City of Malibu area and Santa Monica Mountains that 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 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 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.



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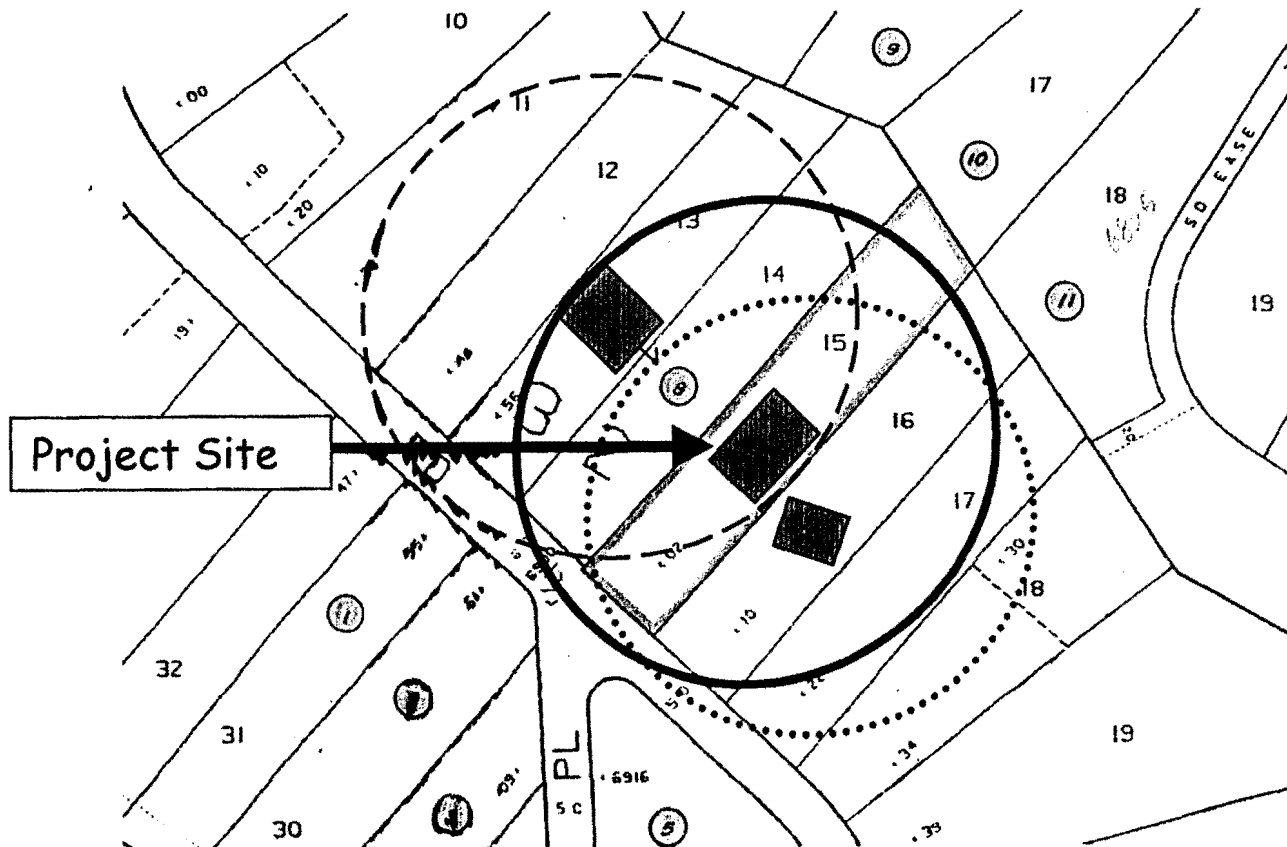
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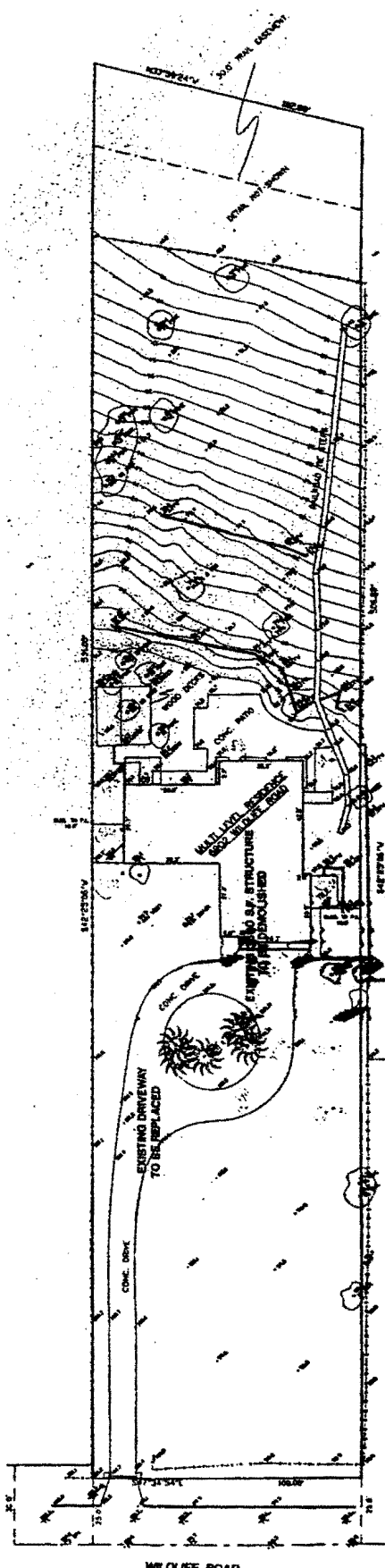
Approximate location
of project site

EXHIBIT NO. 1
APPLICATION NO.
4-02-011
VICINITY MAP



Approximate location of neighboring residences and 200' brush clearance radii. Boxes represent approximate location of residences, and do not reflect actual building configurations.

EXHIBIT NO. 2
APPLICATION NO.
4-02-011
BRUSH CLEARANCE



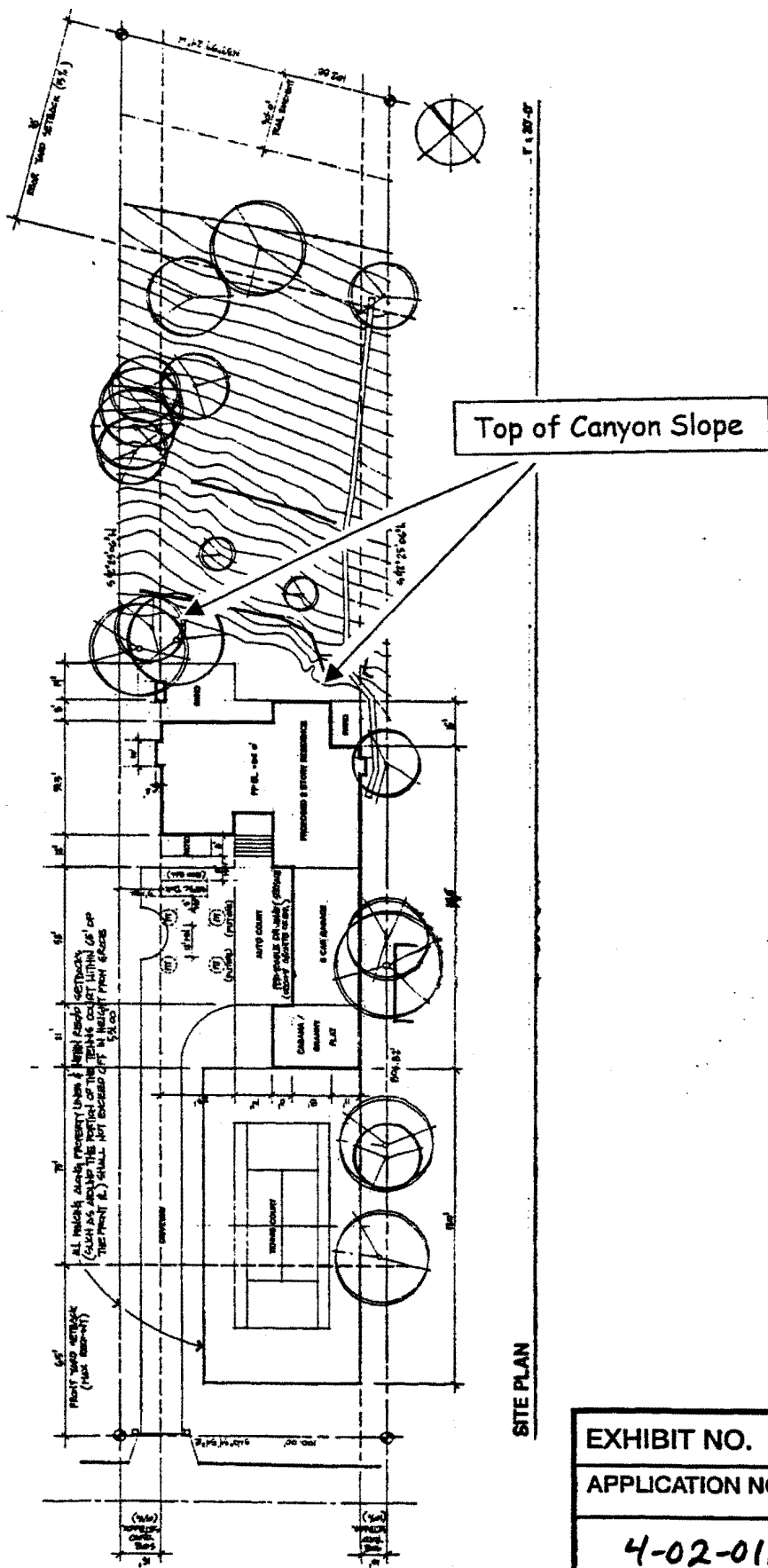
CIVIL SURVEY

PERSONNEL

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EXHIBIT NO. 3
APPLICATION NO.
4-02-011
SITE SURVEY



SITE PLAN NOTES

- * CONSTRUCTION PERSONS SHALL BE PLACED AS LESSORS THAN THE LANDS OF THE STATE.
- * ALL NEW DEVELOPMENT SHALL BE STRICTLY NO MORE THAN 50% FROM THE EXISTING STRIP.
- * THE STATE SHALL BE REQUIRED TO CONSIDER THE PLANNING AND CONTINUED EXISTENCE OF THE NATIONAL PARK SYSTEM IN ACCORDANCE WITH THE PUBLIC GENERAL LAW, ALL LANDS SHALL BE MAINTAINED AS DESCRIBED IN THE LANDSCAPE AND SHALL BE PROTECTED FROM FUTURE DEVELOPMENT OF THE LANDSCAPE AND THE RECREATION PARK. FAILURE TO COMPLY WITH THE PROVISIONS OF THE LANDSCAPE AND RECREATION PARK SHALL BE CONSIDERED A VIOLATION OF THE PROVISIONS OF THE PROTECT APPROVAL FOR THIS PROJECT.
- * EXISTING LANDFILL SHALL BE REMOVED. ALL EXISTING LANDFILL SHALL BE LOW IMPACT AND BE USED AS A RECREATION PARK AND BE USED AS A RECREATION PARK. THERE IS NO CREATING GLASS.
- * FENCING SHALL BE PERMISSIBLE TO HELP THE MOVEMENT

SITE PLAN

EXHIBIT NO. 4
APPLICATION NO.

4-02-011

SITE PLAN

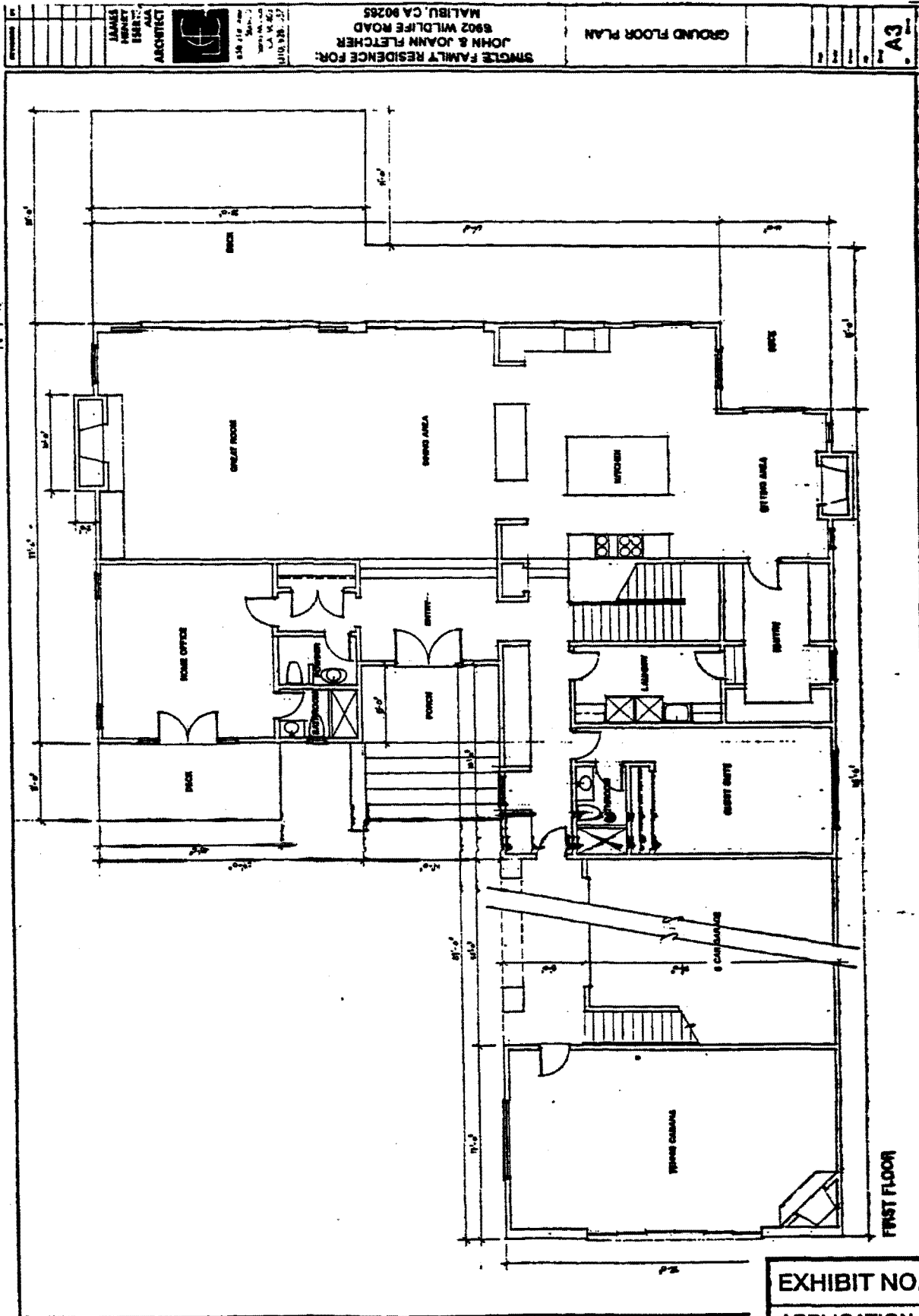


EXHIBIT NO. 6
APPLICATION NO.
4-02-011
FIRST FLOOR PLAN



SECOND FLOOR PLAN

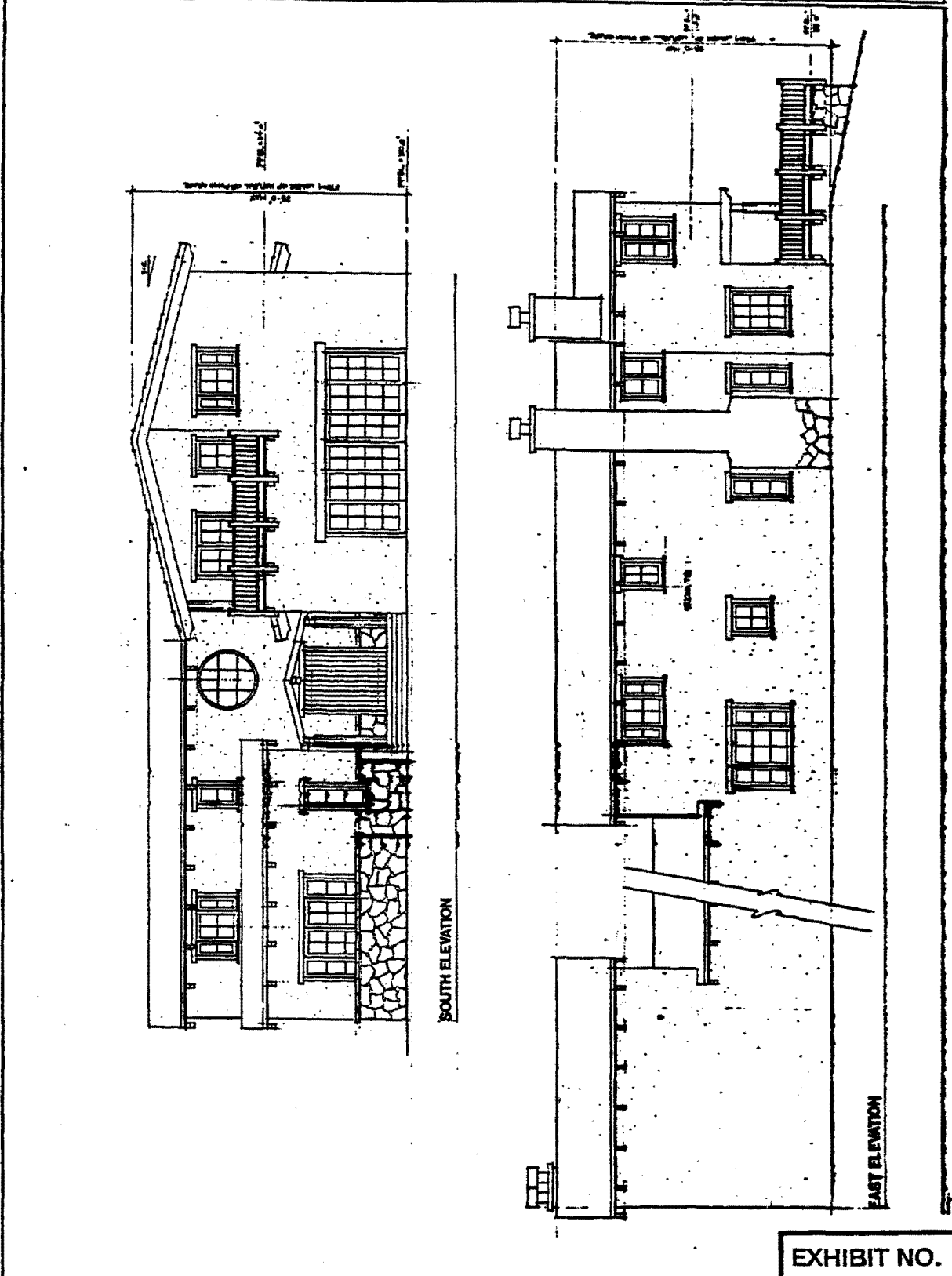
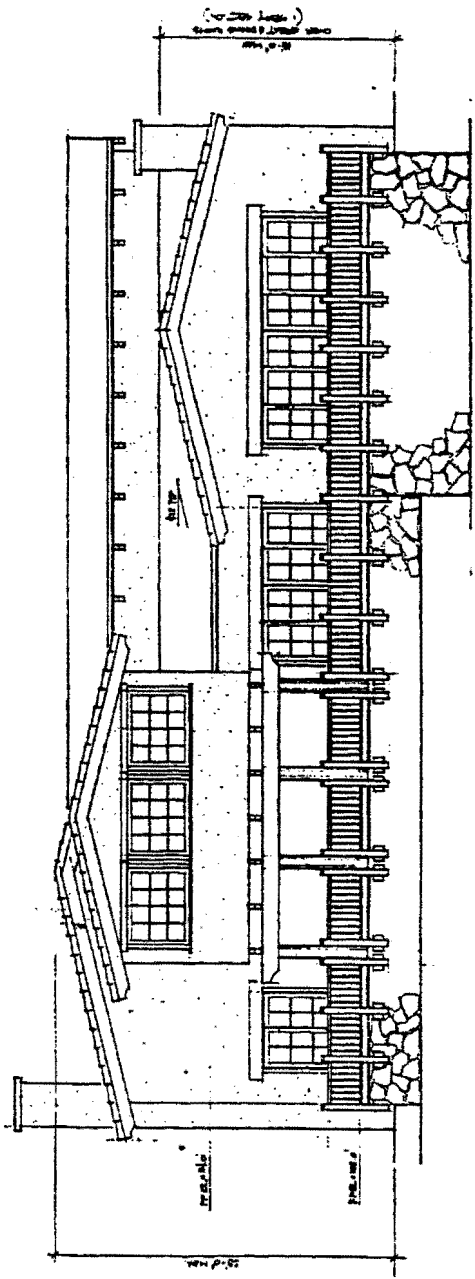
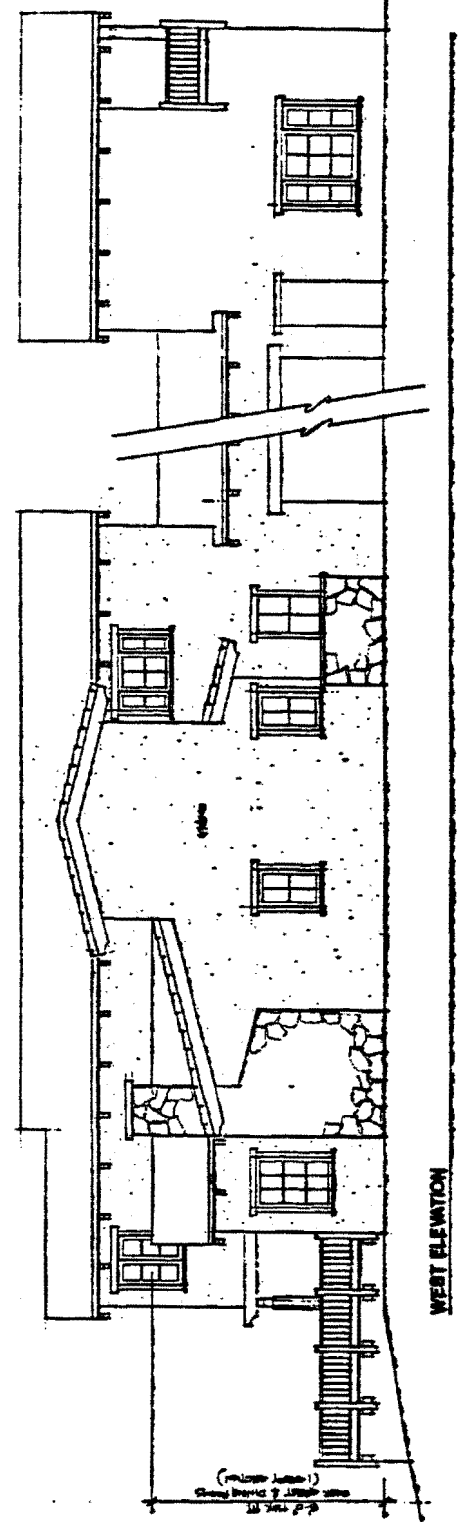


EXHIBIT NO. 8
APPLICATION NO.
4-02-011
ELEVATIONS



NORTH ELEVATION



WEST ELEVATION

EXHIBIT NO. 9
APPLICATION NO.
4-02-011
ELEVATIONS

SECTION A-Y

SINGLE FAMILY RESIDENCE FOR:
JOHN & JOANN FLETCHER
6902 WILDLIFE ROAD
MALIBU, CA 90265



**JAMES
HENRY
ESBERTS,
AIA
ARCHITECT**

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6					

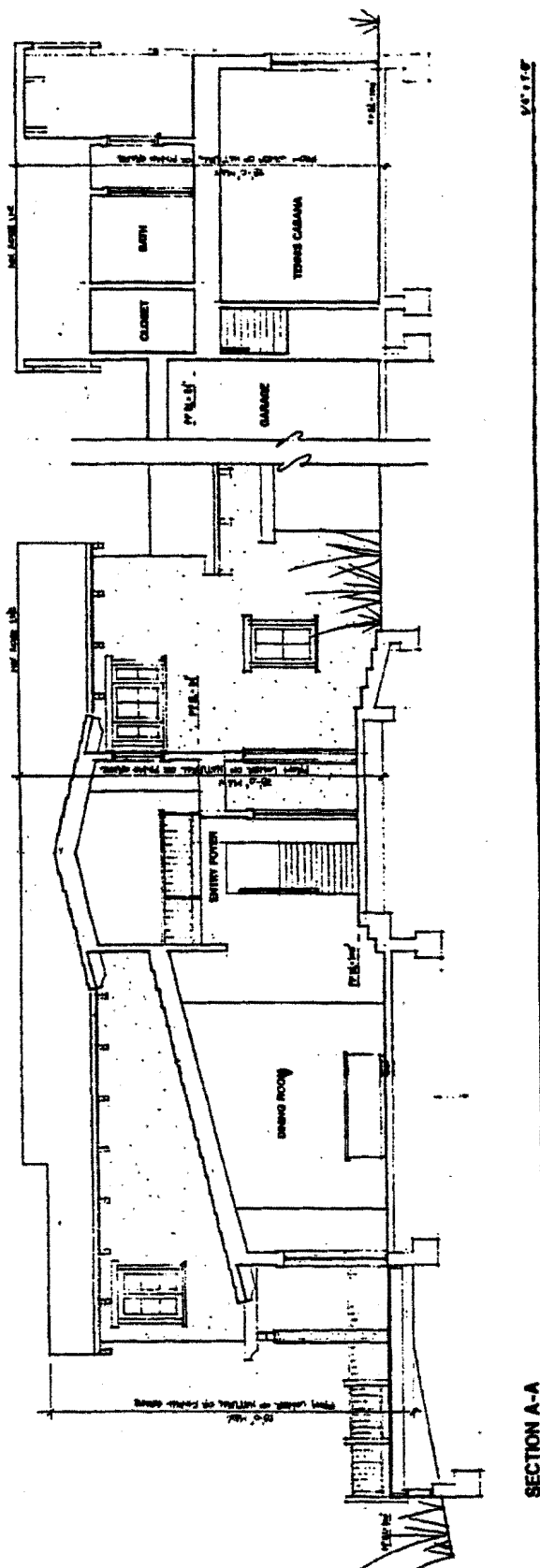


EXHIBIT NO. 10
APPLICATION NO.
4-02-011
SECTIONS

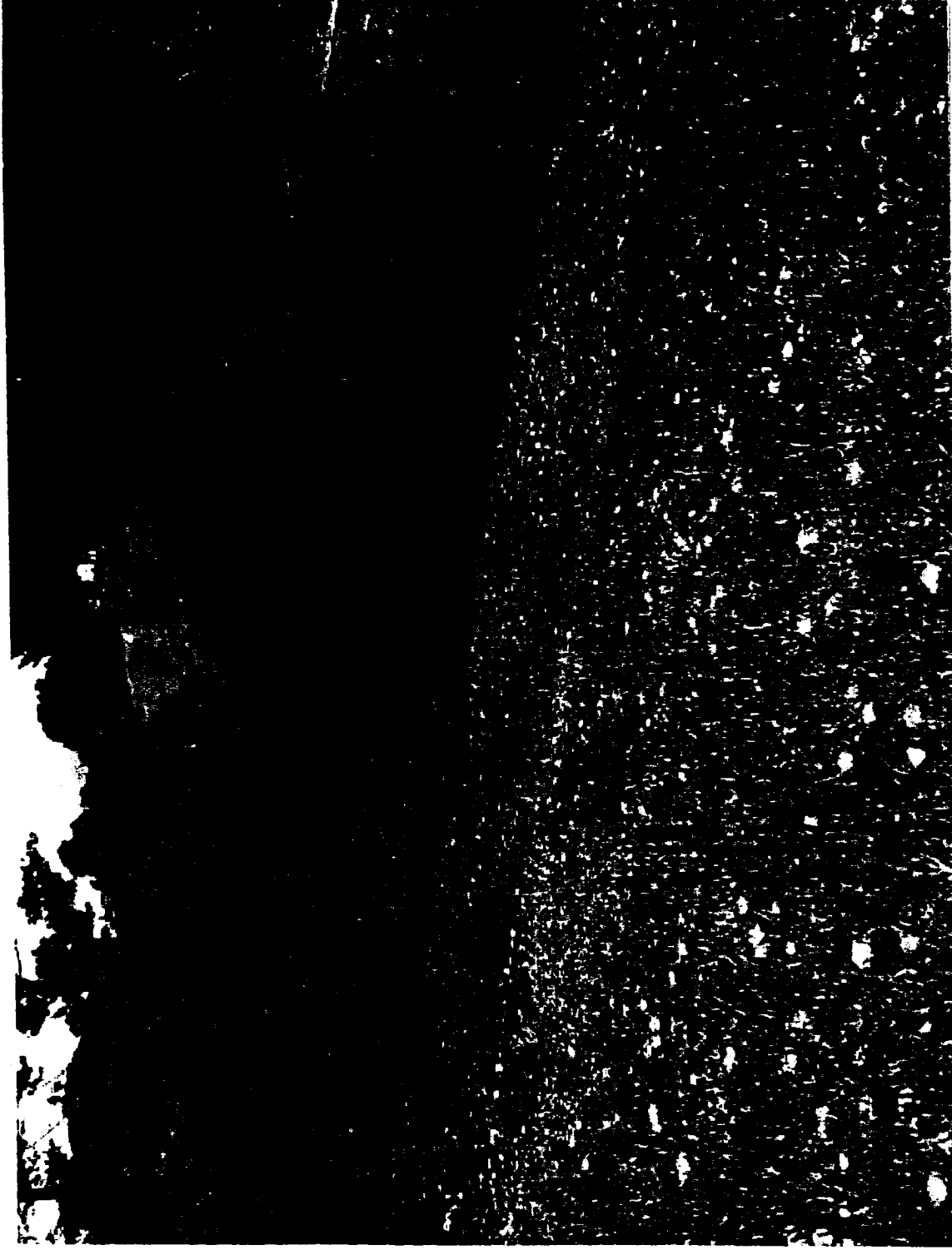


Photo 2: Canyon slope below residence. View is to the north.



Photo 3: Patio at top of canyon slope. View is to the southeast.



Photo 1: Canyon slope and proposed residence. View is to the south.

EXHIBIT NO. 11
APPLICATION NO.
4-02-011
PHOTOS (5 pages)



Photo 4: View down canyon slope from north edge of patio. View is to the east.



VIEW UNDER WILLOWS
BARE GROUND

(2)



VIEW LOOKING WEST
WILLOWS ON SW SIDE OF CREEK
GRASS
CASTOR BEAN
FENNEL

(3)

