

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: 11/22/02
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Staff: JLA-V
Staff Report: 6/18/03
Hearing Date: 7/8-11/03
Commission Action:



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STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 4-96-077-A1

APPLICANT: Malibu Jewish Center & Synagogue

PROJECT LOCATION: 24855 Pacific Coast Highway, City of Malibu (Los Angeles County)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 16,723 square foot school and religious center with 120 parking spaces on a 7.74 acre, partially developed parcel on the landward side of PCH. The project includes the construction of two septic systems and 9,000 cu. yds. of grading (7,250 cu. yds. cut and 1,720 cu. yds. fill). Parking agreement which specifies that overflow parking for the two annual high holidays will not be located on parking lots used for public beach or trail use.

DESCRIPTION OF AMENDMENT: Delete the 2,880 square foot "Hall of Humanity" structure; construct a 1,000 square foot modular administration building and grass recreation area in the location of the "Hall of Humanity" structure; and minor interior revisions to the temple structure by eliminating several rooms and reconfiguring the interior floor plan resulting in a reduction in the overall square footage of the temple structure from 16,723 sq. ft. to 15,437 square feet. The proposed amendment also includes: restricting grading operations to the dry season from April 1 – October 31; restrict exterior lighting to low intensity and shielded lighting directed down and away from the Puerco Canyon environmentally sensitive habitat area (ESHA); revised fuel modification plan to reduce thinning of vegetation within the ESHA; limit fencing around the developed area to an open rail type design, less than 40 inches high and 14 inches between the rail and ground to allow the free movement of wildlife.

LOCAL APPROVALS RECEIVED: City of Malibu "Revised Approval in Concept" dated 6/16/03.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit No. 4-96-077 (Malibu Jewish Center)

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or

- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material (14 Cal. Code of Regulations Section 13166). In this case, the Executive Director has determined that the proposed amendment is a material change to the project and has the potential to affect previously imposed special conditions required for the purpose of protecting coastal resources.

Staff Note

Due to Permit Streamlining Act Requirements the Commission must act on this permit application at the July 2003 Commission meeting.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the amendment with no special conditions. The development was approved with a minimum setback of 8 feet from the Puerco Canyon ESHA. The proposed amendment reduces the overall square footage of the development, does not move any structures closer to the ESHA than the previously approved structures and the amendment includes additional mitigation measures to reduce adverse impacts to the ESHA. The approved development does not comply with the 100 foot ESHA setback requirement under the Local Coastal Program. However, the approved development is considered a lawfully authorized development and therefore is considered a legal non-conforming development under the Malibu LCP. Under the LCP non-conforming development shall not be intensified or expanded into additional locations or structures. In this case, the proposed development does not intensify the development and does not result in an expansion into additional areas or structures. Therefore, the proposed development is consistent with the Malibu LCP.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit Amendment No. 4-96-077-A1 for the development proposed by the applicant.*

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit amendment 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 amendment for the proposed development and adopts the findings set forth below on grounds that the development will be in conformity with the Malibu Local Coastal Program. Approval of the permit amendment 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.

STANDARD AND SPECIAL CONDITIONS

All standard and special conditions previously applied to Coastal Development Permit 4-00-077 continue to apply.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Amendment Description and Background

The applicants seek to amend the coastal development permit to delete the 2,880 sq. ft. "Hall of Humanities" structure; construct a 1,000 sq. ft. administration building and grass recreation area in the location of the "Hall of Humanity" structure; and minor interior revisions to the temple structure by eliminating several rooms and reconfiguring the interior floor plan (Exhibits 2-7). The overall building area of the temple will be reduced in size from 16,723 sq. ft. to 15,437. The proposed amendment also includes: restricting grading operations to the dry season from April 1 – October 31; restrict exterior lighting to low intensity and shielded lighting directed down and away from the ESHA; revised fuel modification plan to reduce thinning of vegetation within the ESHA; limit fencing around the developed area to an open rail type design, less than 40 inches high and 14 inches between the rail and ground to allow the free movement of wildlife.

The project site is a 4.74 acre site just north of Pacific Coast Highway adjacent to existing office and commercial development to the west (**Exhibit 1**). The northern portion of the parcel extends into Puerco creek that is a designated in the Malibu Local Coastal Program as an ESHA. The development site is located on a previously graded and disturbed area between Pacific Coast Highway and the top of the slope that descends into Puerco Canyon.

On August 15, 1996 the Commission approved the coastal development permit for the Jewish Center and Synagogue with six special conditions relating to 1) Landscaping and Fuel Modification; 2) Future Development restriction; 3) Conformance with Geologic Recommendations; 4) Drainage and Erosion Control; 5) Archaeological Resources; 6) Wildfire Fire Waiver of Liability. The applicant has not complied with all of the conditions of the permit and therefore the permit has not been issued. The permit has been extended five times.

The project as approved established a minimum 8 foot setback area from the ESHA which begins just below the top slope that descends to Puerco stream. The proposed amendment reduces the overall square footage of the development and does not result in any structure moving closer to the ESHA than the previously approved structures.

B. Environmentally Sensitive Habitat

The Malibu LCP provides for the protection of environmentally sensitive habitat areas (ESHA), including both terrestrial and marine habitats. It also provides for the protection of coastal waters, including streams and other surface waters, and the marine environment. The Malibu LCP requires new development to be sited and designed to protect water quality and minimize impacts to coastal waters, through measures such as limiting vegetation clearance and grading to reduce erosion and sedimentation of streams, and limiting disturbance of natural drainage features and vegetation. The Malibu LCP also requires the maintenance of natural vegetation buffers for a minimum distance of 100 feet from riparian habitat, in order to minimize impacts and provide transitional habitat.

Section 30230 of the Coastal Act, which is incorporated as part of the Malibu LCP, states:

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, which is incorporated as part of the Malibu LCP, 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 Act, which is incorporated as a policy of the Malibu LCP, 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.

In addition, the following LCP policies address non-conforming lawfully authorized development and protection of ESHA are applicable in this case:

13.5. Non Conforming Use or Structures

- A. *This section (13.5) shall apply to the following: (1) any existing and lawfully established or lawfully authorized use of land or to any existing and lawfully established or lawfully authorized buildings and other structures that do not conform to the policies and development standards of the certified LCP, or any subsequent amendments thereto and (2) development that is not exempt from the coastal development permit requirements pursuant to Section 13.4 of the Malibu LIP (Exemptions). Development that occurred after the effective date of the Coastal Act or its predecessor, the Coastal Zone Conservation Act, if applicable, that was not authorized in a coastal development permit or otherwise authorized under the Coastal Act, is not lawfully established or lawfully authorized development, is not subject to the provisions of Section 13.5, but is subject to the provisions of Section 13.3 (F) of the Malibu LIP.*
- B. *Non-conforming uses as defined by 13.5(A) of the Malibu LIP shall not be intensified, or expanded into additional locations or structures.*
- 3.1 *Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments are Environmentally Sensitive Habitat Areas (ESHAs) and are generally shown on the LUP ESHA Map. The ESHAs in the City of Malibu are riparian areas, streams, native woodlands, native grasslands/savannas, chaparral, coastal sage scrub, dunes, bluffs, and wetlands, unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in the ecosystem. Regardless of whether streams and wetlands are designated as ESHA, the policies and standards in the LCP applicable to streams and wetlands shall apply. Existing, legally established agricultural uses, confined animal facilities, and fuel modification areas required by the Los Angeles County Fire Department for existing, legal structures do not meet the definition of ESHA.*
- 3.6 *Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.*
- 3.8 *Environmentally Sensitive Habitat Areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- 3.14 *New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.*
- 3.18 *The use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat Areas, shall be prohibited within and adjacent to ESHAs, where application of such substances would impact the ESHA, except where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration. Application of such chemical substances shall not take place during the winter season or when rain is predicted within a week of application.*

- 3.23 **Development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation buffer areas shall be provided around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. All buffers shall be a minimum of 100 feet in width, except for the case addressed in Policy 3.27.**
- 3.25 **New development, including, but not limited to, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation shall not be permitted in required ESHA or park buffer areas, except for that case addressed in Policy 3.27. Habitat restoration and invasive plant eradication may be permitted within required buffer areas if designed to protect and enhance habitat values.**
- 3.26 **Required buffer areas shall extend from the following points:**
- **The outer edge of the canopy of riparian vegetation for riparian ESHA**
 - **The outer edge of the tree canopy for oak or other native woodland ESHA**
 - **The top of bluff for coastal bluff ESHA**
- 3.27 **Buffers shall be provided from coastal sage scrub and chaparral ESHA that are of sufficient width to ensure that no required fuel modification (Zones A, B, or C, if required) will extend into the ESHA and that no structures will be within 100 feet of the outer edge of the plants that comprise the habitat.**
- 3.28 **Variations or modifications to buffers or other ESHA protection standards shall not be granted, except where there is no other feasible alternative for siting the development and it does not exceed the limits on allowable development pursuant to Policies 3.10-3.13.**
- 3.42 **New development shall be sited and designed to minimize impacts to ESHA by:**
- **Minimizing grading and landform alteration, consistent with Policy 6.8**
 - **Minimizing the removal of natural vegetation, both that required for the building pad and road, as well as the required fuel modification around structures.**
 - **Limiting the maximum number of structures to one main residence, one second residential structure, and accessory structures such as, stable, corral, pasture, workshop, gym, studio, pool cabana, office, or tennis court, provided that such accessory structures are located within the approved development area and structures are clustered to minimize required fuel modification.**
 - **Minimizing the length of the access road or driveway, except where a longer roadway can be demonstrated to avoid or be more protective of resources.**
 - **Grading for access roads and driveways should be minimized; the standard for new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the City Planning Commission, upon recommendation of the Environmental Review Board and the determination that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use to be processed consistent with the LIP provisions.**
 - **Prohibiting earthmoving operations during the rainy season, consistent with Policy 3.47.**
 - **Minimizing impacts to water quality, consistent with Policies 3.94-3.155**
- 3.95 **New development shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating measures designed to ensure the following:**

- **Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss.**
- **Limiting increases of impervious surfaces.**
- **Limiting land disturbance activities such as clearing and grading, and cut-and-fill to reduce erosion and sediment loss.**
- **Limiting disturbance of natural drainage features and vegetation.**

The applicants seek coastal development permit to delete the "Hall of Humanities" structure; construct an 1,000 sq. ft. modular administration building and grass recreation area in the location of the "Hall of Humanity"; and minor interior revisions to the temple structure by eliminating several rooms and reconfiguring the interior floor plan.

The northern portion of the 4.74 acre parcel descends into Puerco canyon that contains a blueline stream. The stream course, associated riparian corridor and coastal sage scrub on the slopes are designated ESHA in the Malibu LCP. The undisturbed sections of the north trending slopes support Venturan Coastal Sage Scrub. Several coast live oaks, which provide wildlife habitat, are also found on the north facing slopes below the project site. Typical riparian vegetation which include sycamore and willow are located along the stream channel. The approved building site is a previously graded and disturbed area adjacent to existing office and commercial development located to the west of the project site. The logical development area for this site is this level previously disturbed portion of the site which is a relatively narrow area located between Pacific Coast Highway and the slope descending into Puerco Canyon.

Given the site constraints of the parcel the Commission approved the proposed development with a minimum 8 foot setback from the ESHA vegetation which begins just below the top of the slope descending into the canyon (Exhibit 2). The ESHA setback varied across the site due to the undulating nature of the edge of the slope into Puerco Canyon. The Commission conditioned the permit to require a fuel modification plan that minimized the removal of vegetation within the ESHA. The approved fuel modification plan required a 50 foot clearance zone up to the ESHA and a thinning zone within the ESHA including removal of only highly flammable vegetation and dead material.

The Malibu LCP requires a minimum 100 foot buffer between development and ESHA. The previously approved development plan does not conform to this buffer setback requirement. However, pursuant to Policy 13.5(A) & (B) of the Local Implementation Plan the approved development is considered to be a non-conforming use. The policies states:

13.5 Non-Conforming Development

(A) This section (13.5) shall apply to the following: (1) any existing and lawfully established or lawfully authorized use of land or to any existing and lawfully established or lawfully authorized buildings and other structures (emphasis added) that do not conform to the policies and development standards of the certified LCP, or any subsequent amendments thereto and (2) development that is not exempt from the coastal development permit requirements pursuant to Section 13.4 of the Malibu LIP (Exemptions)...

(B) Non-conforming uses as defined by 13.5(A) of the Malibu LUIP shall not be intensified, or expanded into additional locations or structures.

In this case, the approved coastal development permit is active and the City of Malibu approved the original proposal as well as the amended development. Therefore, the Commission considers this development to be a lawfully authorized structure or development that is non-conforming. Pursuant to 13.5 (B) of the LIP non-conforming uses shall not be intensified or expanded into additional areas and other structures. In this case, the proposed amendment reduces the overall square footage of the proposed structures and the proposed modifications to the site plan does not result in any structures moving closer to the ESHA. The proposed amended development maintains the original setback distance from the approved structures. The proposed 1,000 sq. ft. administration building will replace the 2,880 sq. ft. "Hall of Humanity". The proposed administration structure is moved closer the temple structure in an area previously approved for hardscape and landscape and maintains the same 20 foot setback from the ESHA. The former location of the "Hall of Humanities" will be planted with grass and used as a recreation area. This area included a grass play area and will not encroach any closer to the ESHA than the previously approved development. The proposed amendment does not expand the development area, does not intensify the use of the structures and maintains the approved structural setbacks approved under the original permit.

In addition, the applicant is proposing to amend to the project description to include additional mitigation measures to minimize impacts to the ESHA by: 1) limiting grading operations only to the dry season from April 1 – October 31; 2) minimize exterior lighting with low intensity and shielded lighting directed down and away from the ESHA; 3) revising fuel modification plan by reducing thinning within the ESHA and: 4) limiting fencing to an open rail type design, less than 40 inches high and 14 inches between the rail and ground to allow the free movement of wildlife.

The proposed fuel modification plan has been revised for the area adjacent and within the ESHA by reducing Zone A, the irrigated zone, to 20 feet from the structure, eliminate zone B and within Zone C remove only highly flammable species, reduce thinning as zone moves from structures, remove only dead material within riparian area. The Los Angeles County Department of Forestry has reviewed and approved the revised fuel modification plan. The revised plan reduces the amount of vegetation removal and thinning within the ESHA than the previously approved fuel modification plan. The proposed amendment will result in a less intensive development and the proposed mitigation measures cited above will further minimize adverse impacts to the ESHA.

Therefore, the Commission finds that as proposed the amendment is consistent with the Malibu Local Coastal Program.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

The Commission finds that, the proposed amendment will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of

1970. Therefore, the proposed amendment has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

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SEE 627 MAP

SEE 629 MAP

SEE 668 MAP

SEE 588 MAP

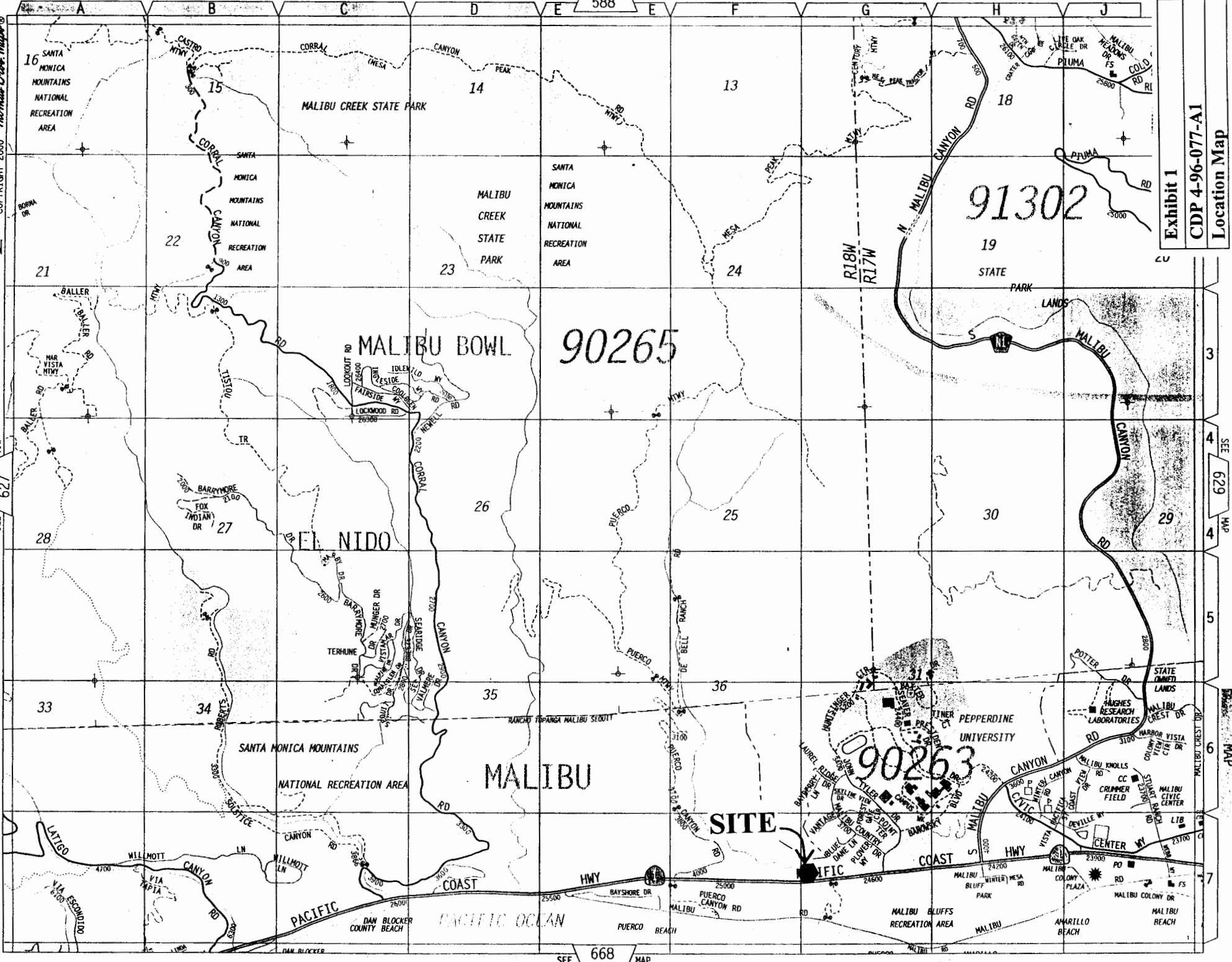


Exhibit 1
 CDP 4-96-077-A1
 Location Map

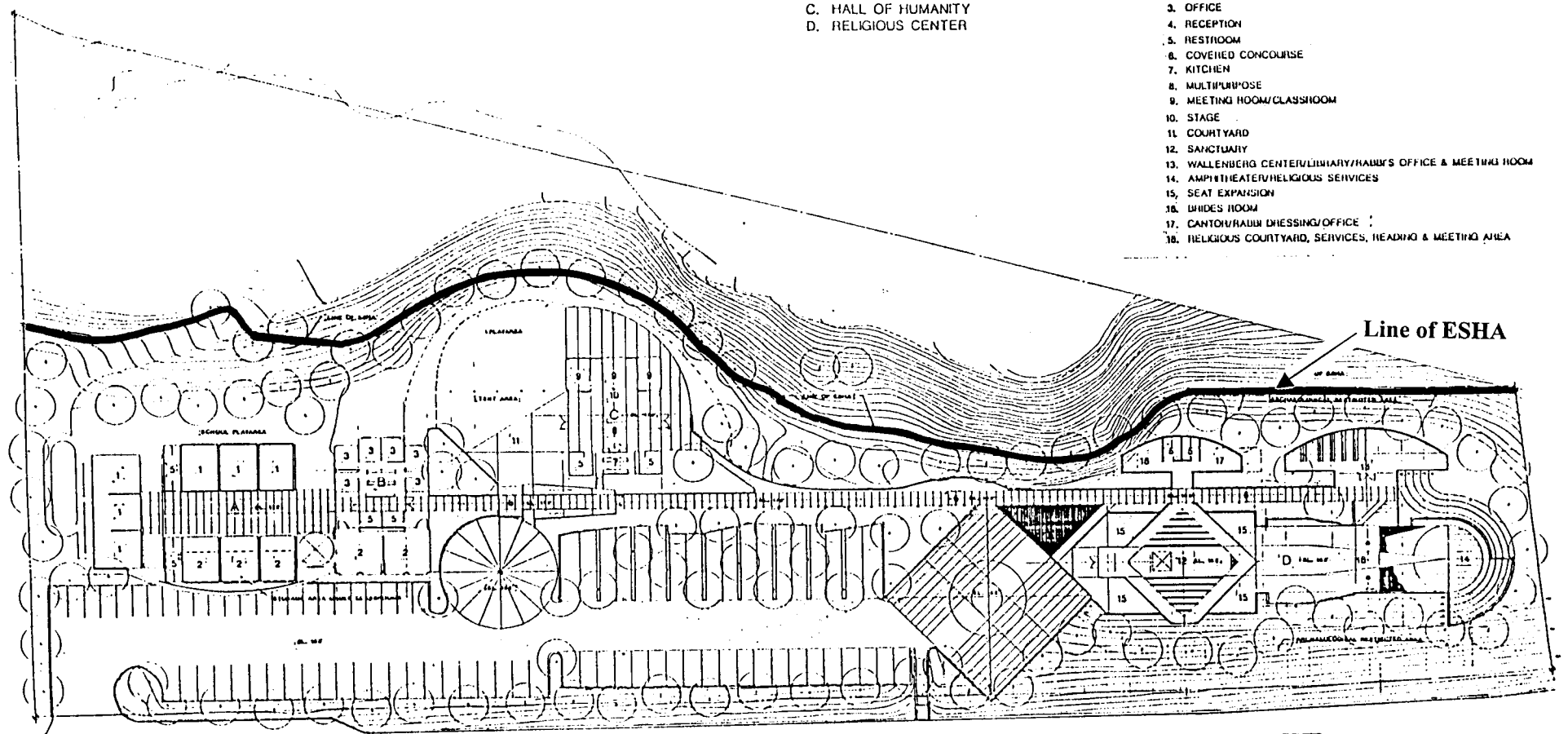
SEE 629 MAP

SEE 629 MAP

SEE 668 MAP

- A. PRESCHOOL & RELIGIOUS SCHOOL
- B. ADMINISTRATION
- C. HALL OF HUMANITY
- D. RELIGIOUS CENTER

- 1. EXISTING CLASSROOM
- 2. PROPOSED CLASSROOM
- 3. OFFICE
- 4. RECEPTION
- 5. RESTROOM
- 6. COVERED CONCOURSE
- 7. KITCHEN
- 8. MULTIPURPOSE
- 9. MEETING ROOM/CLASSROOM
- 10. STAGE
- 11. COURTYARD
- 12. SANCTUARY
- 13. WALLENBERG CENTER/LIBRARY/HAMB'S OFFICE & MEETING ROOM
- 14. AMPHITHEATER/RELIGIOUS SERVICES
- 15. SEAT EXPANSION
- 16. UNDES ROOM
- 17. CANTINA/HALL DRESSING/OFFICE
- 18. RELIGIOUS COURTYARD, SERVICES, READING & MEETING AREA

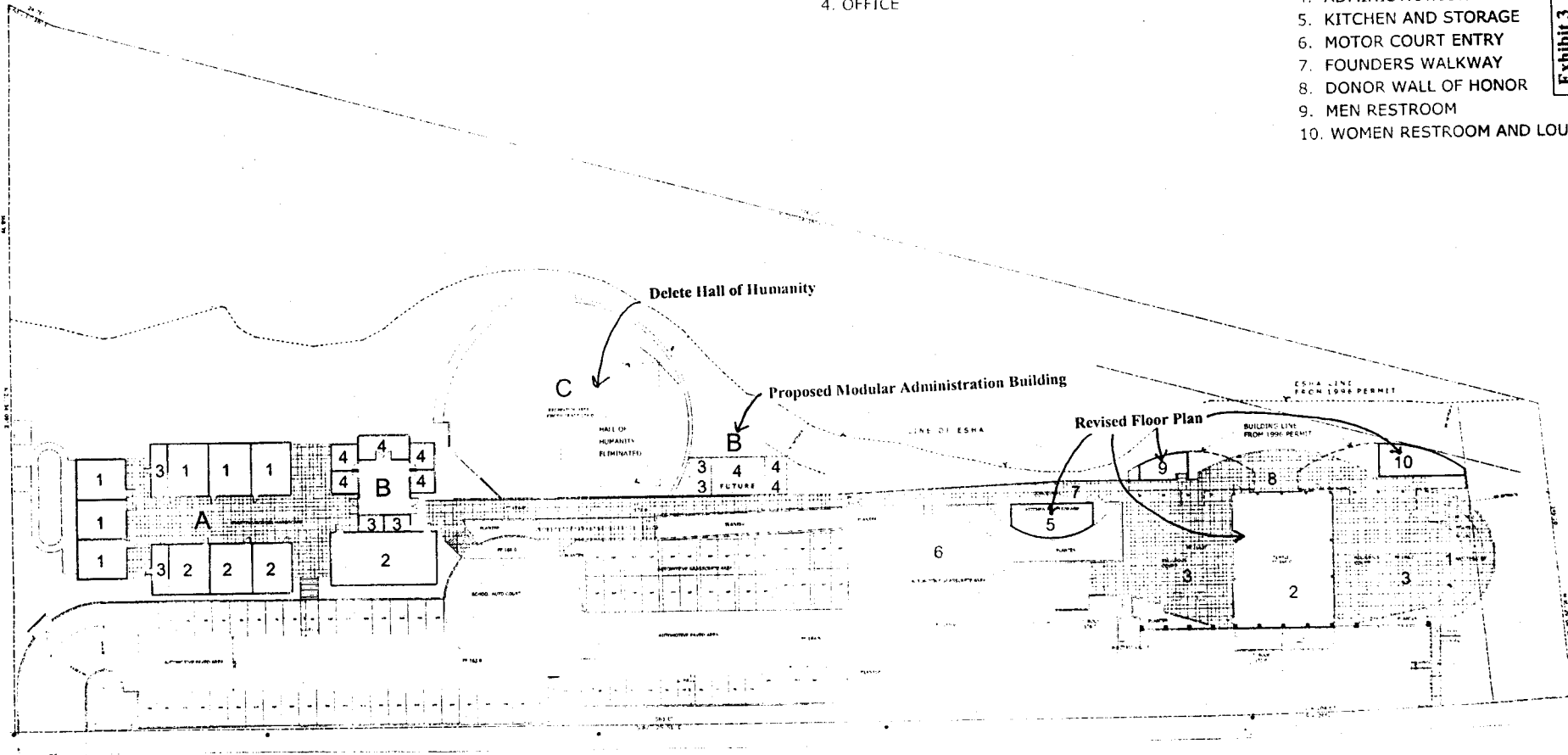


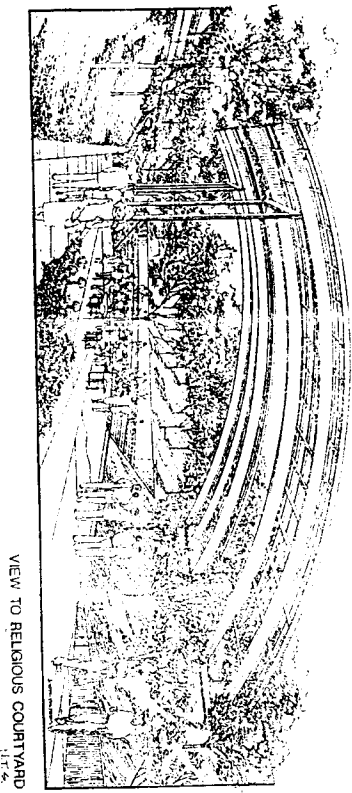
FLOOR PLAN

SCALE 1/8" = 1'-0"

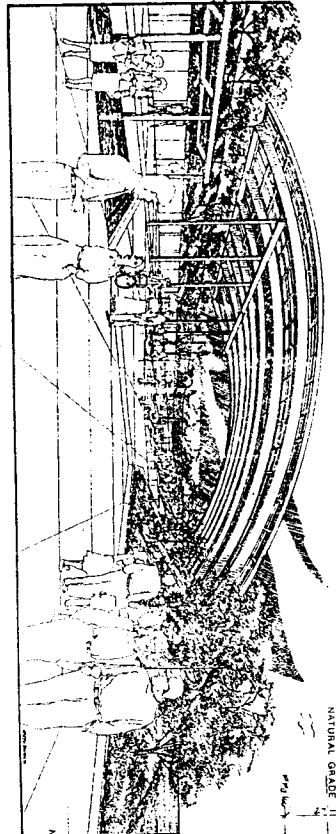
Agenda Item
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 11
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|--|--|---------------------------|--|
| A. PRESCHOOL & RELIGIOUS SCHOOL
1. EXISTING CLASS ROOMS
2. PROPOSED CLASS ROOMS
3. RESTROOMS | B. ADMINISTRATION
1. RECEPTION
2. PROPOSED CLASS ROOMS
3. RESTROOMS
4. OFFICE | C. RECREATION AREA | D. RELIGIOUS CENTER
1. AMPHITHEATER
2. TEMPLE
3. COURTYARD
4. ADMINISTRATION
5. KITCHEN AND STORAGE
6. MOTOR COURT ENTRY
7. FOUNDERS WALKWAY
8. DONOR WALL OF HONOR
9. MEN RESTROOM
10. WOMEN RESTROOM AND LOUNGE |
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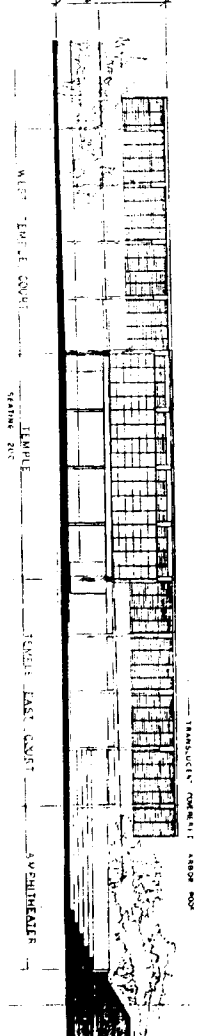
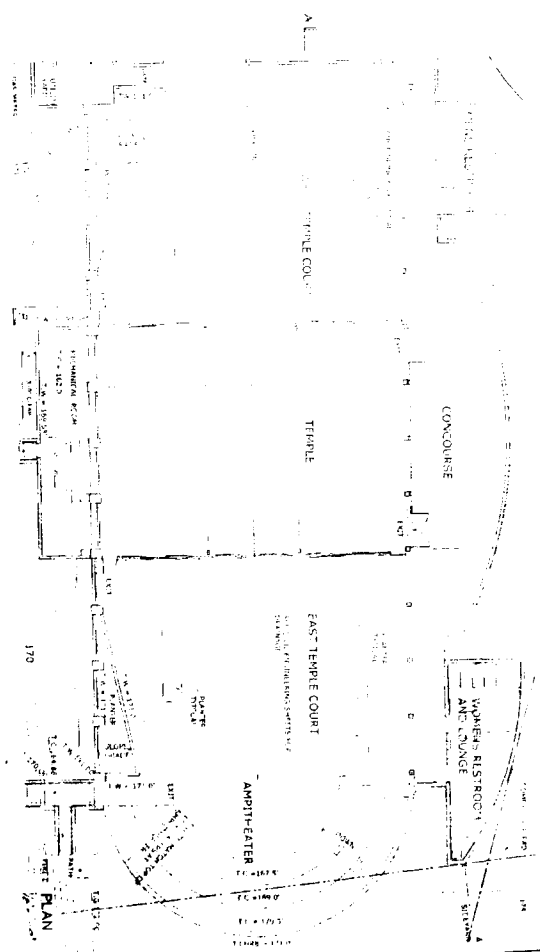




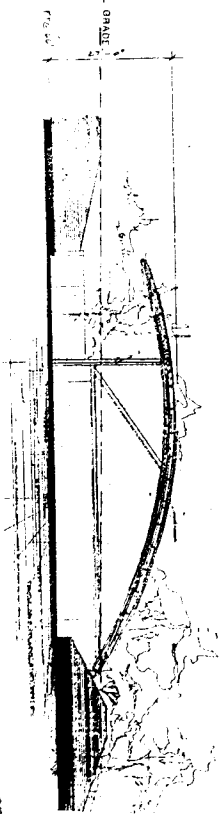
VIEW TO RELIGIOUS COURTYARD



VIEW TO TEMPLE

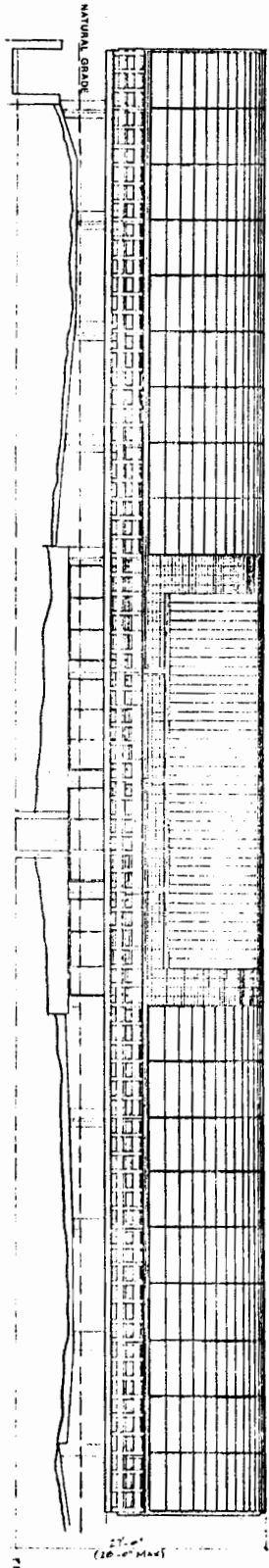


SECTION A-A

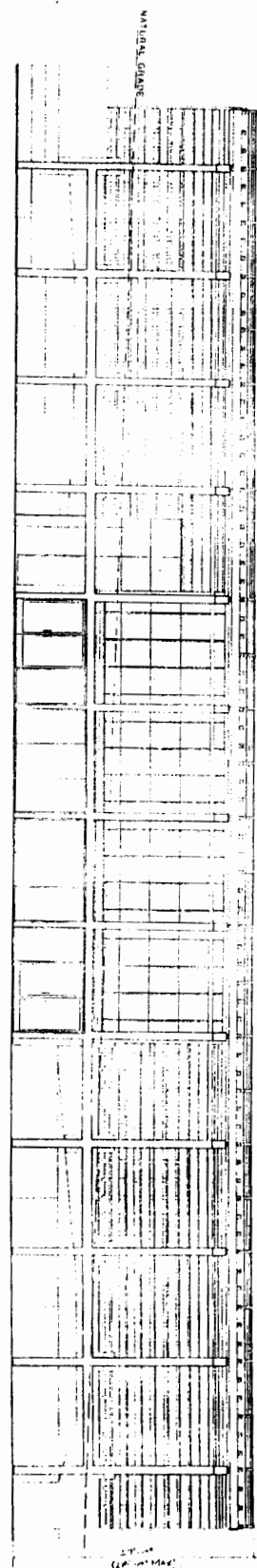


SECTION B-B

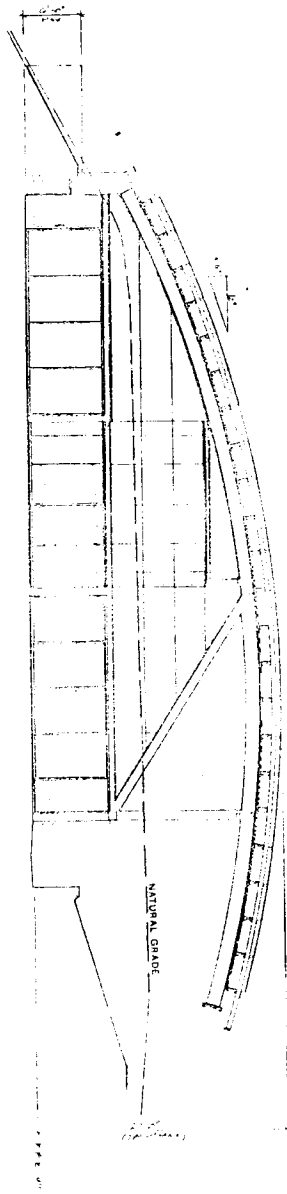
SOUTH ELEVATION



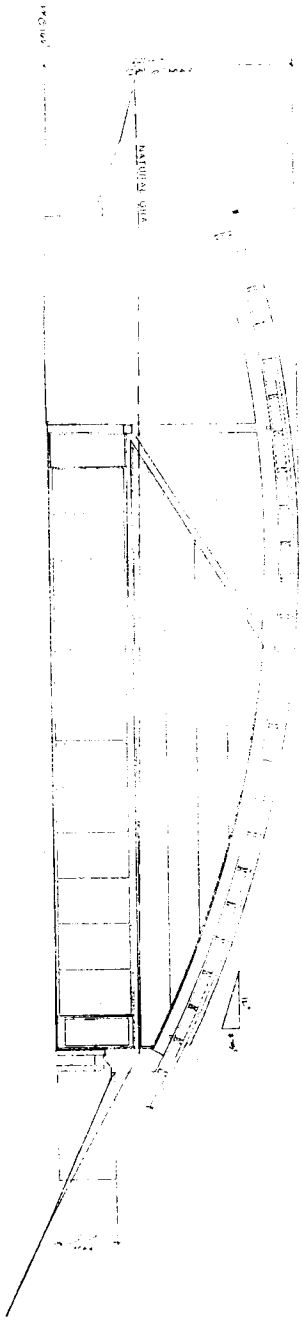
NORTH ELEVATION



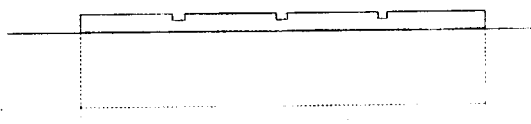
EAST ELEVATION



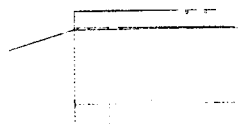
WEST ELEVATION



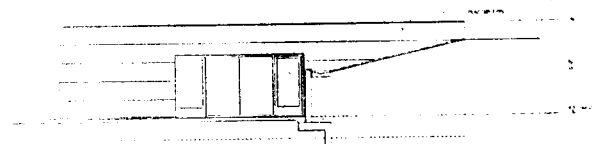
WOMEN'S RESTROOM/LOUNGE, MEN'S RESTROOM AND KITCHEN STORAGE BUILDING ELEVATIONS



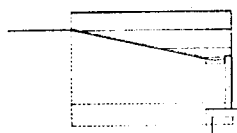
NORTH ELEVATION
WOMEN'S RESTROOM/LOUNGE



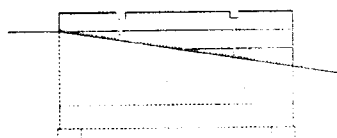
EAST ELEVATION



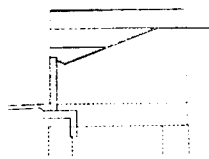
SOUTH ELEVATION



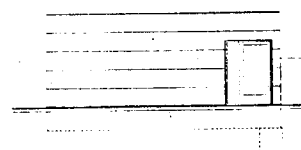
WEST ELEVATION



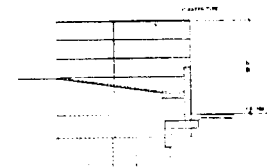
NORTH ELEVATION
MEN'S RESTROOM



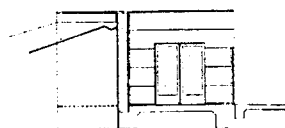
EAST ELEVATION



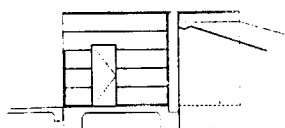
SOUTH ELEVATION



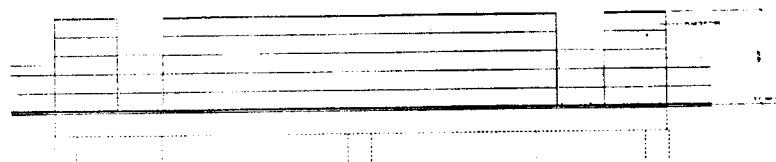
WEST ELEVATION



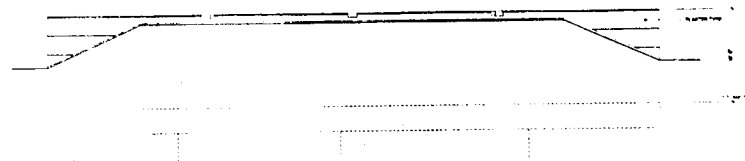
EAST ELEVATION
KITCHEN/STORAGE



WEST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION

06/16/2003

Exhibit 7
4-96-077-A1
Restroom and Kitchen Elevations

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