

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: 6-11-97
 49th Day: 7-30-97
 180th Day: 12-8-97
 Staff: SPF-VNT *SPF*
 Staff Report: 6-18-97
 Hearing Date: July 8-11, 1997
 Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-89-193-A2

APPLICANT: Kam Majd

PROJECT LOCATION: 5868 Zumirez Drive, City of Malibu; Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 2,700 square foot, 15 feet high, single family residence with driveway, garage, and septic system; amended to allow for 1,251 cubic yards of cut to construct the building pad.

DESCRIPTION OF AMENDMENT: Revise project description to allow for the construction of a 5,033 square foot, 27 foot high single family residence with a pool, spa, and gazebo and less than 20 cubic yards of grading.

LOCAL APPROVALS RECEIVED: Approval in concept from the City of Malibu.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan. Coastal Development Permits 5-89-193 (Mendola), 5-90-537 (Fisher), and 5-90-538 (Kelso).

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. Admin. Code 13166.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing a single family residence in the same location as the previously approved residence with changes in the design, height, and size. The proposed project involves no additional grading, and does not encroach into the deed restricted use area. The staff recommends that the Commission determine that the proposed development with the proposed amendment, subject to the conditions below, is consistent with the requirements of the Coastal Act.

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby approves the amendment for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

NOTE: Unless specifically altered by the amendment, all standard and special conditions attached to the previously approved permit remain in effect.

II. Special Conditions

1. Landscaping and Erosion Control Plans

Prior to the issuance of a coastal development permit, the applicant shall submit a landscaping and erosion control plan for all graded and disturbed areas, prepared by a licensed landscape/architect or other qualified professional, for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or 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 Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) Cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native species using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two years and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils.
- (c) Vegetation within 50 feet of the proposed house may be removed to mineral earth. Selective thinning for a maximum radius of 200 feet from the residence, for purposes of fire hazard reduction, shall be allowed in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall indicate all vegetation within 200 feet of the structure to be removed or reduced in size. The applicant shall be prohibited from clearing all vegetation further than 50 feet from the residence, and in no case should vegetation thinning occur in areas greater than a 200' radius of the main structure.

2. Plans Conforming to Geologic Recommendations

All recommendations contained in the Geologic/Geotechnical Engineering report, dated December 4, 1996 and prepared by Gold Coast GeoServices, Inc, shall be incorporated into all final design and construction including drainage and foundations. All plans must be reviewed and approved by the consultants prior to commencement of development. Prior to the issuance of the coastal development permit, the applicant shall submit evidence for the review and approval of the Executive Director of the consultant's review and approval of all final design and construction plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to grading, geologic setback, and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

3. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicants shall submit assigned 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.

III. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Project Description and Background

The applicant is proposing to modify the design and size of the approved single family residence. Specifically, the applicant is proposing the construction of a 5,033 square foot, 27 foot high single family residence with an attached garage. The applicant is also proposing a swimming pool, spa and gazebo. Less than 20 cubic yards of additional grading is proposed. All development is above the 440 foot contour line.

The original permit requested the construction of a 2,700 square foot, 15 foot high single family residence. The Commission approved the application with four special conditions requiring review by the consulting geologist, the recordation of an assumption of risk deed restriction, the recordation of a restricted use area and review of final approval of the septic system by the Los Angeles Department of Health Services. Those conditions were met and the notice of permit effectiveness was sent to the previous applicant on July 12, 1990. On November 1, 1990, an amendment to the permit was issued which allowed for the grading of 1,251 cubic yards for the creation of the building pad.

The grading permit was issued by the County of Los Angeles in November of 1990; building permits were subsequently issued by the County in March of 1991. The previous applicant did the grading on site to create the building pad, poured the foundation for the garage and installed water pipes and the

septic system on site. Thus, the permit was exercised. However, the residence was never built. The applicant has received a transfer of assignee for the original permit.

The current applicant is proposing the construction of the modified residence in the same general location as the previously approved residence utilizing the same driveway, building pad, and septic system. Minimal grading (less than 20 cubic yards) is required prior to the construction of the residence. The applicant has received an approval in concept from the City of Malibu for the proposed residence. In addition, the applicant has received a favorable geologic review sheet from the City geologist and obtained an approval from the City Health Department for use of the existing septic system.

B. Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed residence is located on a minor east-west trending ridgeline north of Pacific Coast Highway, and east of Kanan-Dume Road. Both of these roads are recognized in the LUP as scenic highways. Although the Commission certified Malibu/Santa Monica Mountains LUP is no longer legally effective in the City of Malibu, the Commission has relied upon the LUP for guidance.

In this case, the subject site is not visible from Pacific Coast Highway; however, the site is highly visible from Kanan Dume Road. There is also a turn-out on Kanan Dume Road, north of the subject site, from which the subject residence will be visible. The applicant has set the residence back from the edge of the ridge; the slope is not proposed for any development, including landscaping. There are two other residences located along this ridgeline which were approved under previous coastal development permits [5-90-537 (Fischer) and 5-90-538 (Kelso)]. In both coastal development permit applications, the Commission found that the residences would be visible from Kanan Dume Road. To mitigate any adverse visual impact caused by the residences, the Commission required the submittal of landscaping plans. As the structures were already set back from the ridge, no additional conditions were imposed for setbacks. In both cases, the residences approved by the Commission were larger than the subject residence. In 5-90-537 (Fischer) the Commission approved a 5,816 sq. ft., 32.6 foot high residence. In 5-90-538 (Kelso), the Commission approved a 6,299 sq. ft., 32.8 foot high residence.

The subject residence does not encroach further down the slope than the other two residences approved on this ridgeline. Moreover, the subject residence is proposed at only 27 feet. In order to minimize any visual impacts from Kanan Dume Road, and to minimize erosion, the Commission finds it necessary to require the applicant to submit a landscaping plan which shows the planting of

native vegetation in all disturbed and previously graded areas. The Commission finds that as proposed, the project is consistent with Section 30251 of the Coastal Act and previous Commission action.

C. Geologic Hazards

Section 30253 of the Coastal Act states in 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, geologic 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 in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property. The applicant is proposing to construct a single family residence. The applicant's geotechnical consultant has reviewed the property and concluded that:

Based upon our review of all the information provided in the previous reports and on our subsurface investigation of the planned building site and east side of the property, the terrace top building site is suitable for the proposed residential development, as shown on preliminary plans proposed by the project architect.

Based on the recommendations of the consulting geologist, the Commission finds that the development should be free from geologic hazards so long as all recommendations regarding the proposed development are incorporated into project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting geotechnical consultant, Gold Coast GeoServices, Inc. as conforming to their recommendations.

The previous geologic report, prepared by GeoSoils, and dated June 13, 1988, indicated a large on-site landslide downslope and east of the proposed building site. The previous geologic report identified a Los Angeles County designated restricted use area in the vicinity of the landslide area. The previous consulting geologist stated that no development, including the placement of structures, shall occur in this area. The Commission, under the original permit, required the recordation of a deed restriction to prohibit development below the 430 foot contour line, the area where this restricted use area was identified. That restricted use area is shown in Exhibit 4.

The current geologist conducted additional geologic testing in this restricted use area. No landslide debris, open fractures, or clay bed were encountered.

The consulting geologist has thus concluded that existing landslides do not affect the east side of the property.

The City of Malibu is requiring that the applicant be restricted from development below the 430 contour line, consistent with the previously recorded deed restriction imposed by the Commission under the original coastal development permit. The City of Malibu is requiring this deed restriction to protect the native habitat zone. In this zone, the City has stated that no vegetation shall be removed. In coastal development permit 5-90-538, the Commission required the applicant to record a deed restriction restricting development below the 420 foot contour line based on adverse geologic hazards and for the protection of the canyon habitat. Thus, the existing deed restriction is consistent with previous Commission action and current City action on the site. Staff notes that the applicant is not opposed to the existing deed restriction previously recorded for the original permit by the previous property owner.

Finally, due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from the associated risks. Through the waiver of liability 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. Only as conditioned above is the project consistent with Section 30253 of the Coastal Act.

D. Local Coastal Program

Section 30604(a) 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 the division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

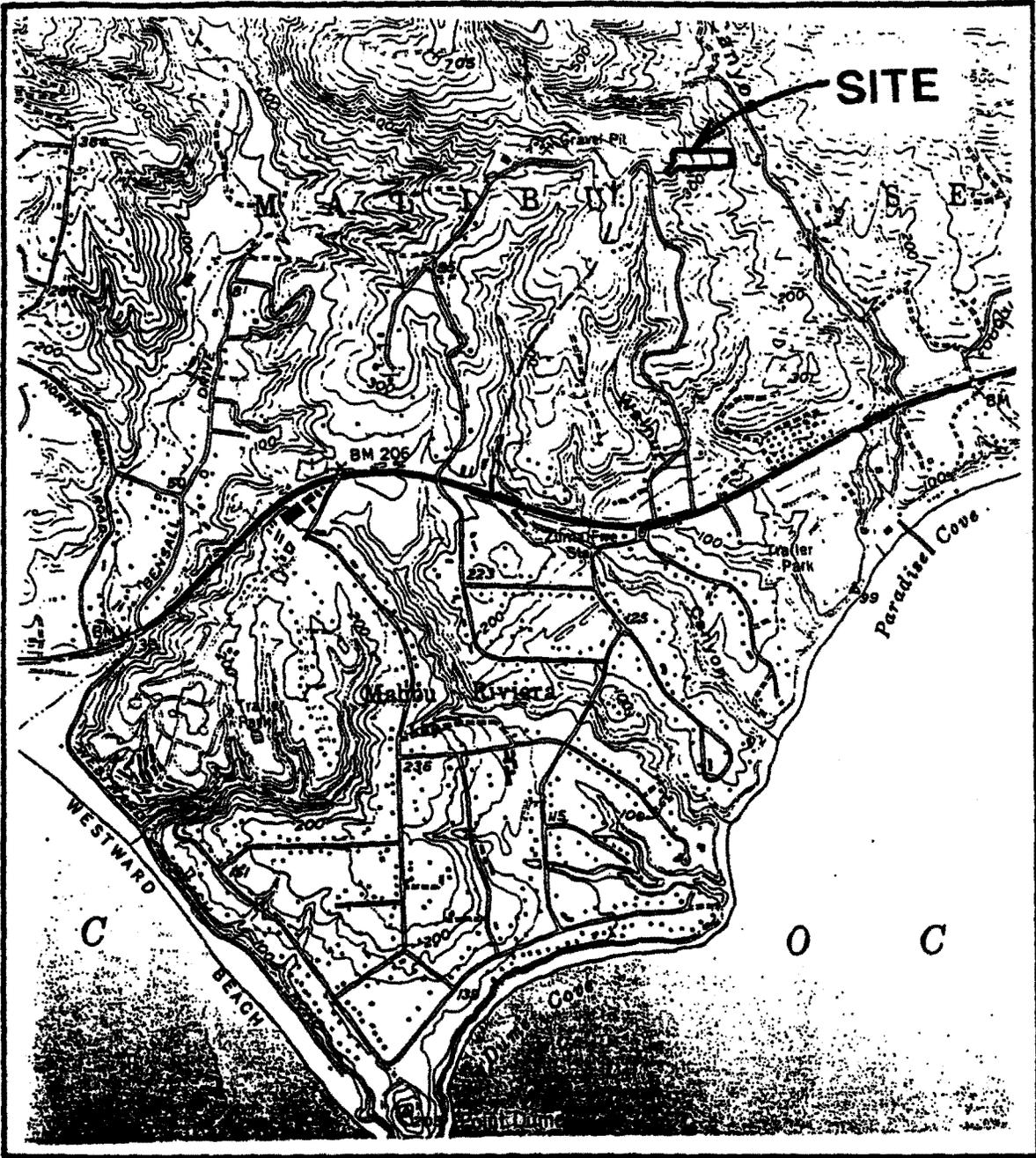
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections 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 development 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's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. CEQA

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications 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)(i) 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 impact which the activity may have on the environment.

The proposed permit amendment, as conditioned, is consistent with the applicable policies of the Coastal Act, and will not have significant adverse effects on the environment, with the meaning of the Environmental Quality Act of 1970. There are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed permit amendment, as conditioned, is found consistent with CEQA and the policies of the Coastal Act.

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BASE MAP: USGS 7.5' POINT DUME QUADRANGLE



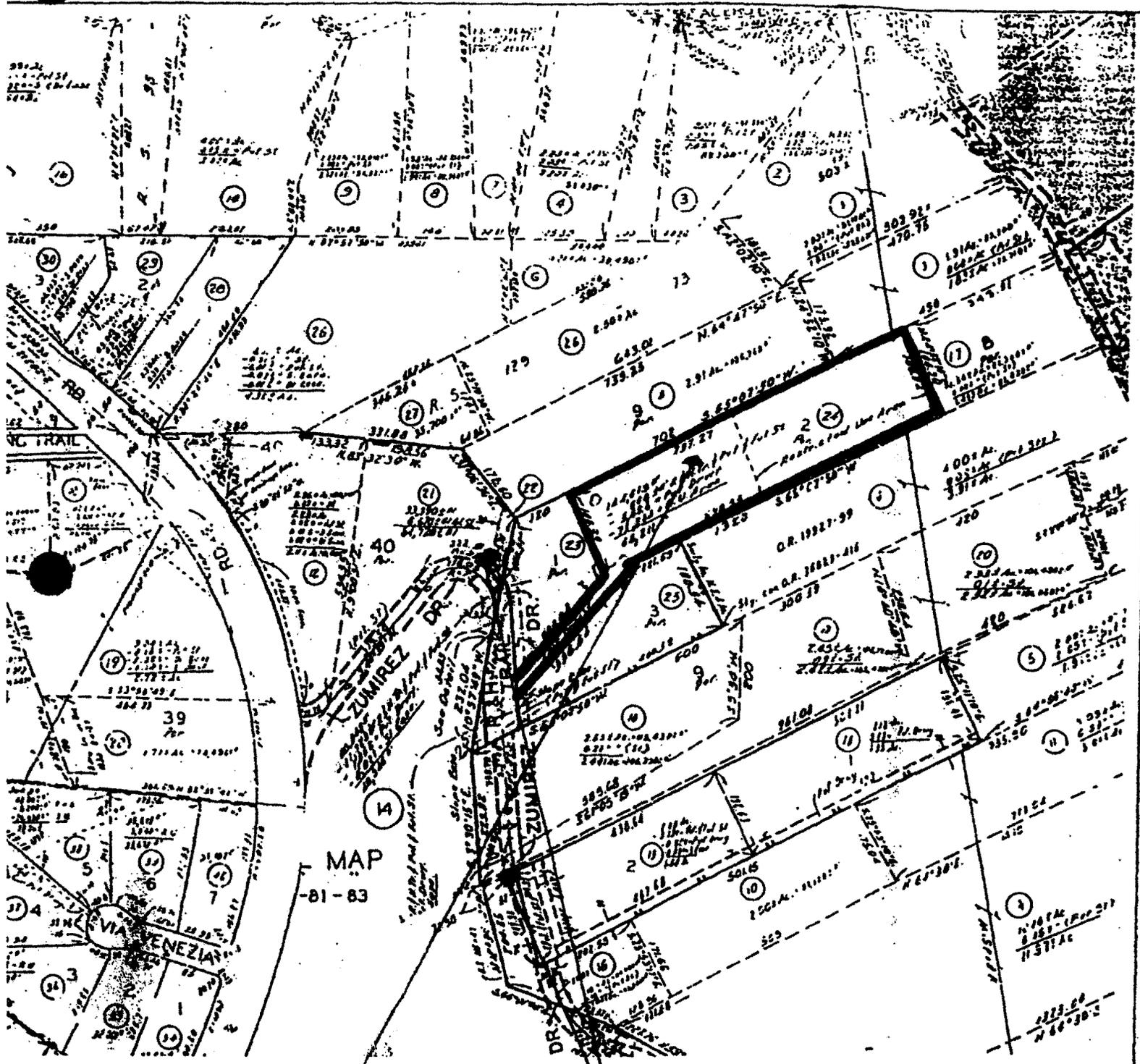
Gold
Coast
GeoServices, Inc.

Exhibit 1: Location Map
5-89-193-A2

DATE 11-96

5868 ZUMIREZ DR, MALIBU

FIGURE 1



MAP
-81-83

TWO FIRE HYDRANTS
SUBJECT PROPERTY IS 800 FEET
FROM KAMANTOME RD.

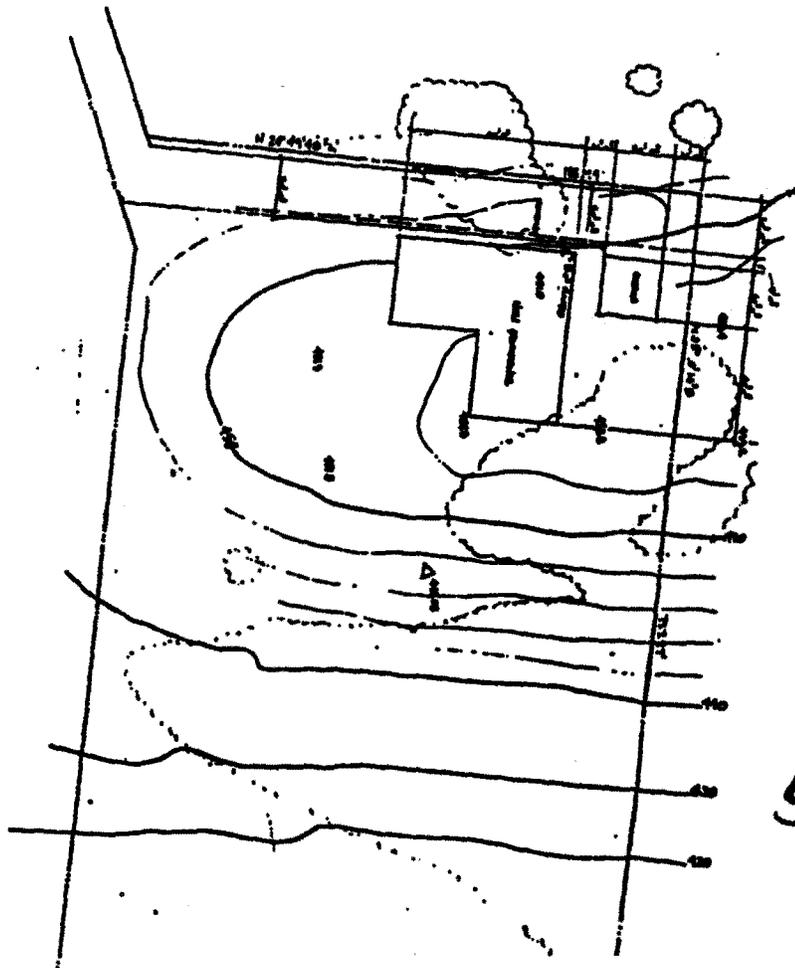
Exhibit 2: Parcel Map
5-89-183-A2

PROPERTY

RECEIVED 5-89-193
MAR 7 1989

CALIFORNIA
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SOUTH COAST DISTRICT

SITE PLAN



5-89-193

Exhibit 3: Approved Site Plan
5-89-193-A2

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A1

1
1

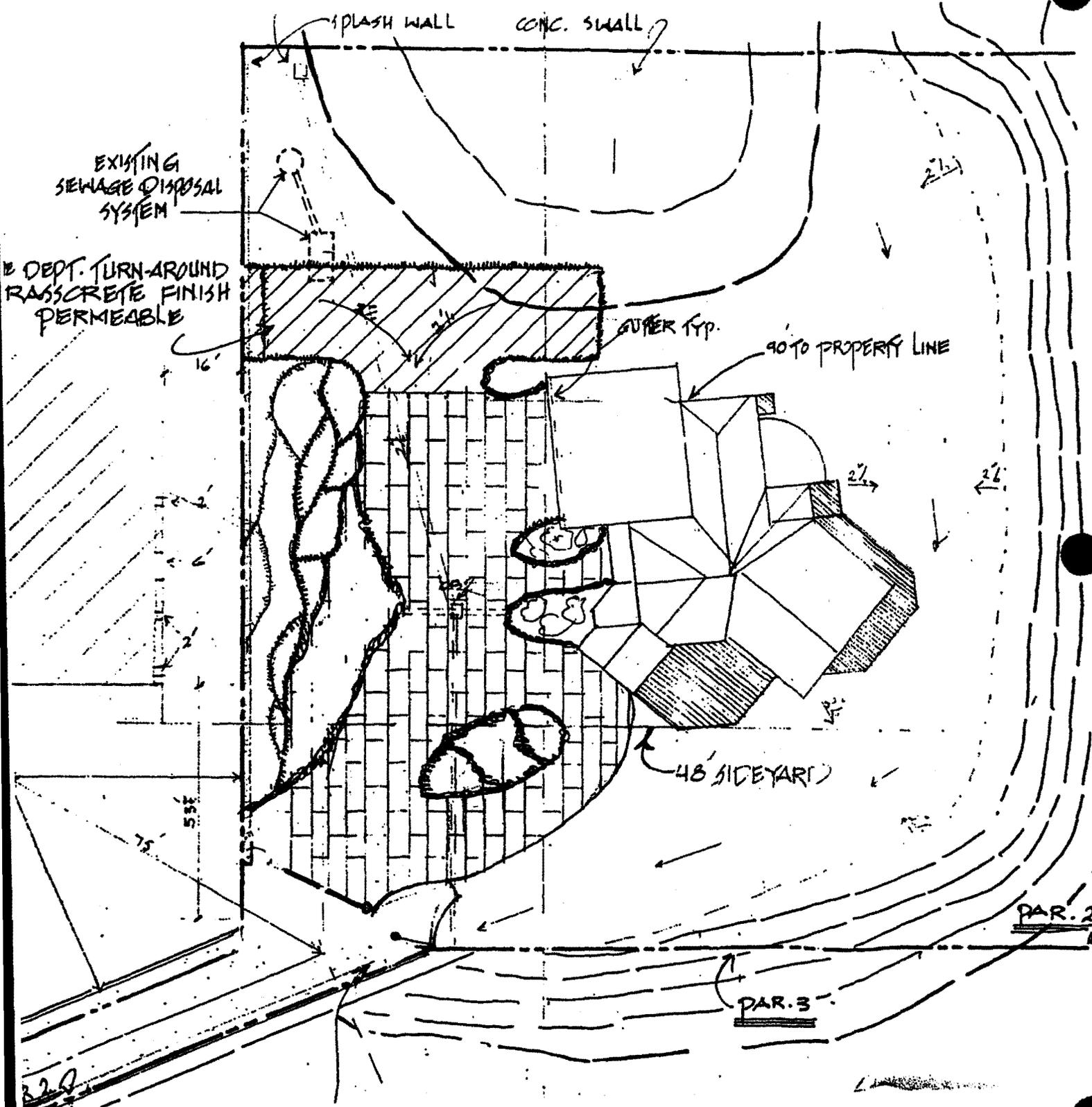
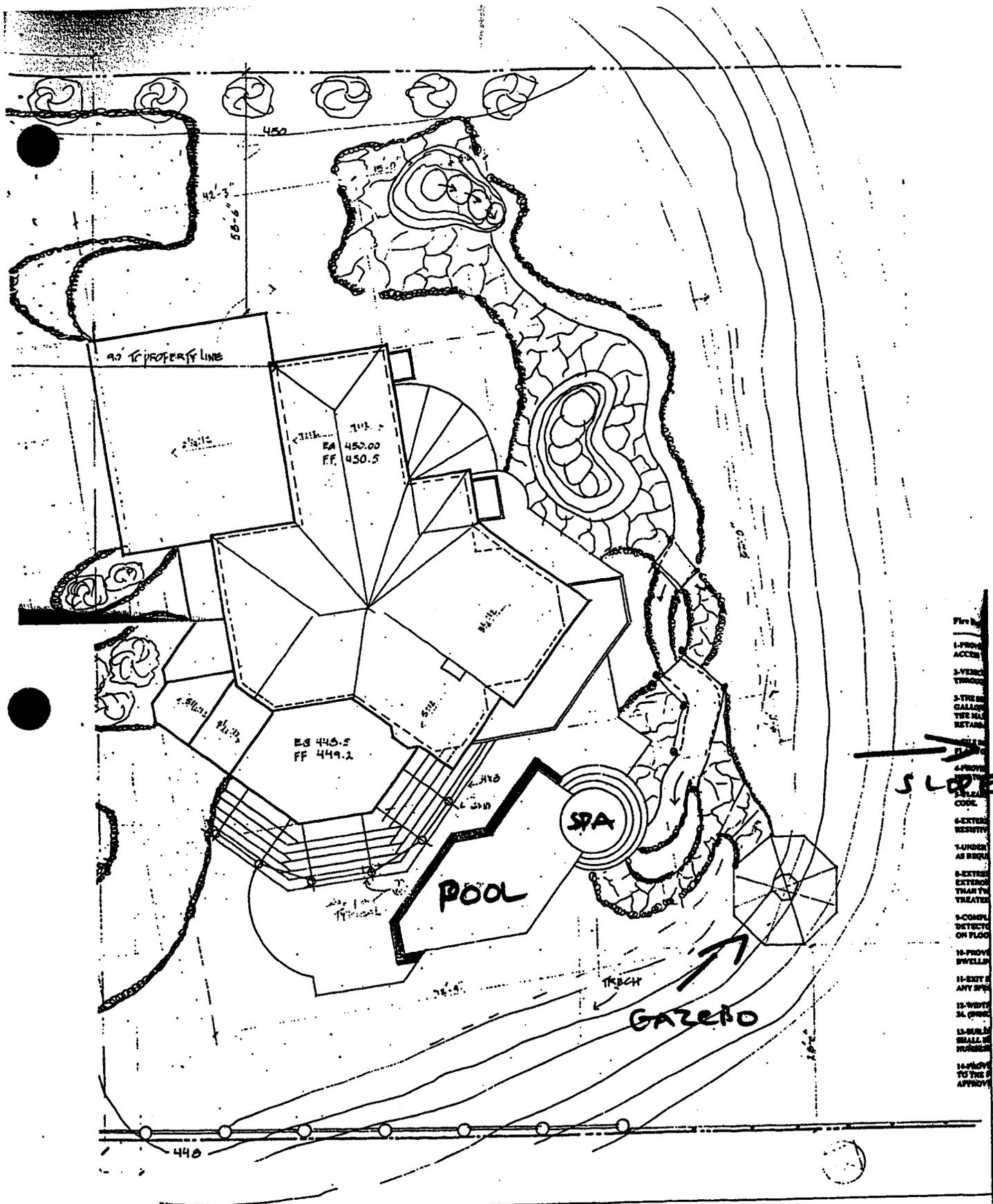


Exhibit 5: Current Site Plan
5-89-193-A2



- 1-PROVIDE ACCESS
- 2-VERIFY THROUGH
- 3-THEIR CALLS TO THE HEAD RETAIN
- 4-PROVIDE WITH PERMITS
- 5-VERIFY CODE
- 6-EXTEND RESULT
- 7-LANDED AS REQD
- 8-EXTEND EXTERIOR TRAIL TO TREAT
- 9-COMPL DETECT ON FLOOR
- 10-PROVIDE SWELLS
- 11-EXT IN ANY SPV
- 12-WIDTH 24 (INCH)
- 13-SHALL BE NUMBER
- 14-PROVIDE TO THE APPROVE

Exhibit 6: Pool, spa and gazebo
5-89-193-A2