

CALIFORNIA COASTAL COMMISSION

14TH CENTRAL COAST AREA
1500 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

Filed: 9/20/99
49th Day: 11/08/99
180th Day: 3/18/00
Staff: MH-V
Staff Report: 9/22/99
Hearing Date: 10/12-15/99
Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-98-204

APPLICANTS: Nealand & Alberta Sprik

AGENT: Mehrdad Sahafi

PROJECT LOCATION: 4019 Maguire Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a 2,132 sq. ft., two story, 34 ft. high, single family residence, attached 2-car garage, septic disposal system, and 742 cu. yds. of grading (487 cu. yds. cut and 255 cu. yds. of fill), in the Malibu Vista Small Lot Subdivision.

LOCAL APPROVALS RECEIVED: Los Angeles County Department of Regional Planning, Approval in Concept dated (6/3/98); Department of Health Services, Septic Disposal System Approval (2/12/99).

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; "Geotechnical Update Letter for Lot 153 of Tract 5801 on Maguire Drive," prepared by Brian A. Robinson & Associates, Inc., dated December 12, 1997, and series of Geotechnical Reports and Addenda prepared by Brian A. Robinson & Associates, Inc., for the subject site dated January 14, February 21, and October 2, 1991. Coastal Development Permit 5-91-110 (Sprik); 5-90-230 (Patterson); 5-90-335 (Ketcham).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with Special Conditions concerning: 1) Landscape and Fuel Modification; 2) Removal of Natural Vegetation; 3) Geologic Recommendations; 4) Grading, Drainage and Erosion Control Plans; 5) Assumption of Risk; 6) Future Development; 7) Removal of Excess Fill; 8) Cumulative Impact Mitigation; and 9) Lighting Restrictions.

The proposed project is located in the Malibu Vista Small Lot Subdivision in the Santa Monica Mountains and is therefore subject to the limitations on total structural area addressed by the Gross Structural Area (GSA) analytical formulas contained in the certified

Malibu/Santa Monica Mountains Land Use Plan. In addition, the proposed site is located within the Escondido Canyon Creek Disturbed Significant Oak Woodland, and the proposed structure is less than 100 feet from the streambank of Escondido Canyon Creek and its associated Environmentally Sensitive Habitat Areas.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development, as conditioned, 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 governments 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 effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

6. **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.

7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. **Special Conditions**

1. **Landscape and Fuel Modification Plans**

A. Prior to the issuance of the coastal development permit, the applicants shall submit landscape and fuel modification plans prepared by a licensed landscape architect or qualified ecological restoration biologist for review and approval by the Executive Director. The plan shall incorporate the following criteria:

(1) All disturbed areas on the subject site shall be planted, and exposed areas stabilized by the application of geotextiles or other erosion control measures, immediately upon completion of grading or other site disturbances, such as vegetation removal for fuel modification required by the fire department. Plantings and other erosion control measures (such as the application of geotextiles or mulch to exposed soil areas) shall be continuously 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 List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. Irrigated lawn, turf, or ground cover utilized in planting plan shall be selected from the most drought-tolerant species, subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains area. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage. Exposed soils shall be stabilized by geotextiles, mulch, or other effective erosion control measures until the ninety (90) percent coverage standard is achieved.

(2) All plantings shall be maintained in good growing condition throughout the life of the project, and, whenever necessary, shall be replaced with new

plant materials to ensure continued compliance with applicable landscape requirements.

- (3) All development approved herein shall be undertaken in accordance with the final approved landscape and fuel modification plans. Any proposed changes to the approved final landscape or fuel modification plans shall be reported to the Executive Director. No changes to said plans shall occur without a Coastal-Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (4) Should grading take place during the rainy season (November 1 – March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an authorized disposal location.

B. Monitoring Plan

- (1) Five years from the date of the installation of the landscaping authorized pursuant to the approved landscape plan prepared pursuant to this special condition, 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.
- (2) 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 a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

2. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit

3. Final Plans Conforming to Geologic Recommendations

- (A) All recommendations contained in the geologic reports prepared for the subject property by Brian A. Robinson & Associates, Inc., dated December 12, 1997, and January 14, February 21, and October 2, 1991 shall be incorporated into all final designs, site, grading and construction plans including but not limited to requirements for foundations, grading, drainage, and erosion control. All plans must be reviewed and approved by the consultants. Prior to the issuance of the coastal development permit, the applicants shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.
- (B) 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 which may be required by the consultant shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

4. Grading, Drainage and Erosion Control Plans

- (A) Prior to the issuance of the coastal development permit, the applicants shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the adjacent road, the roof, patios, driveways, parking areas, and all other impervious surfaces on the subject parcels are collected and discharged in a non-erosive manner which avoids ponding on the pad area. The plan shall ensure that site drainage shall not be accomplished by sheetflow runoff.
- (B) The drainage and erosion control plan shall be implemented immediately upon commencement of construction activities on the subject site. By acceptance of this permit, the applicants agree to maintain the drainage devices on a yearly basis in order to insure that the system functions properly. Should the devices fail or any erosion result on or offsite from drainage from the project, the applicants or successor interests shall be responsible for any necessary repairs and restoration.

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 whether an amendment or new coastal development permit is required to authorize such work.

- (C) The requirements of the drainage and erosion control plan shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, drainage, and installation of drainage management devices. 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. The Executive Director shall determine whether required changes are "substantial."

5. Assumption of Risk, Waiver of Liability, and Indemnity

- (A) By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from fire, landsliding, earth movement, and erosion; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- (B) Prior to the issuance of the coastal development permit, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of all four contiguous both of the applicants entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

6. Future Development

- (A) This permit is only for the development described in Coastal Development Permit No. 4-98-204. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code

section 30610(a) shall not apply to the entire set of four (4) contiguous parcels that are the subject of this coastal development permit. These parcels are herein identified as Assessor Parcel Numbers 4461-031-002, -003, -004, and -023. The common street address identified for the four parcels is 4019 Maguire Drive. Accordingly, any future improvements to the affected parcels or permitted structure, including but not limited to clearing of vegetation or grading, other than as provided for in the approved fuel modification, landscape and erosion control prepared pursuant to the applicable special conditions further set forth herein, shall require an amendment to Coastal Development Permit No. 4-98-204 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. Any future improvements shall conform to the allowable Gross Structural Area (GSA) as defined by Policy 271 in the certified Malibu/Santa Monica Mountains Land Use Plan.

- (B) PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall secure recordation of a deed restriction, in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the restricted area. The deed restriction shall include legal descriptions of the four (4) contiguous parcels that are the subject of this coastal development permit. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

7. Removal of Excess Fill

Prior to the commencement of construction authorized pursuant to Coastal Development Permit 4-94-204, the applicants shall submit to the Executive Director the location of the proposed disposal site for all excess fill material not required for the construction of the development authorized herein. The applicants shall submit evidence to the executive Director's satisfaction that the subject disposal location is a licensed disposal facility authorized to accept such material and that the facility has sufficient remaining capacity to accept the volume of fill material proposed for disposal by the applicants.

8. Cumulative Impact Mitigation

Prior to the issuance of Coastal Development Permit No. 4-98-204, the applicants shall submit, for the review and approval of the Executive Director, evidence that all potential for future development has been permanently extinguished on any combination of lots within the Malibu Vista and/or the Malibu Mar Vista Small Lot Subdivisions that have not

previously been subject to such development restrictions, to comply with the requirements of the slope intensity formula in accordance with Policy 271(b)(2) of the previously certified Malibu/Santa Monica Mountains Land Use Plan, provided such lots are legally combined with other developed or developable building sites within the same small lot subdivisions. The maximum allowable gross structural area of 1,564 sq. ft. may be increased by a total of 568 sq. ft. by extinguishing development rights on a minimum of two additional lots, credited at a total of 300 sq. ft. for each lot which is not contiguous but which is in either the Malibu Mar Vista or the Malibu Vista Small Lot Subdivisions.

9. Lighting Restrictions

Prior to the issuance of Coastal Development Permit 4-98-204, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which specifies that all outdoor night lighting shall be the minimum necessary, consistent with safety requirements, and shall be downward directed to minimize the nighttime intrusion of the light from project into sensitive habitat areas. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interests being conveyed.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicants propose to construct a 2,132 sq. ft., two story, 34 ft. high, single family residence, attached 2-car garage, septic disposal system, and 742 cu. yds. of grading (487 cu. yds. cut and 255 cu. yds. of fill), in the Malibu Vista Small Lot Subdivision. The applicants previously obtained Commission approval for a smaller residence on the subject site (1,410 sq. ft. with a 735 sq. ft. garage) but that approval has lapsed. The applicants now seek to construct a larger residence that will require an additional 568 sq. ft. of GSA credit to be obtained prior to the issuance of the permit (Special Condition 8). Although a swimming pool is shown on the site plan, it has not been included in the applicants' project description.

The subject site is comprised of two contiguous lots totaling 10,104 sq. ft. of area. These lots are identified as Assessor Parcel Nos. 4461-031-002 and 4461-031-003. In addition, the applicants have previously agreed to hold two additional contiguous lots identified as Assessor Parcel Nos. 4461-031-004 and 4461-031-023 together with the two former lots (this agreement partially satisfied condition compliance requirements for

the unrelated Coastal Development Permit No. 5-90-335 (Ketcham). The site is a narrow strip of hillside which has been graded in the past due to road construction. Access to the site is from Maguire Drive, and the site is located just westward of Escondido Drive. Escondido Drive borders Escondido Creek, a blue-line stream and inland Environmentally Sensitive Habitat Area. The creek traverses the two deed restricted parcels held together by the applicant with the two parcels proposed for development, as shown on Exhibit 2. In addition, the proposed site is located within the Escondido Canyon Disturbed Significant Oak Woodland.

B. Geology; Hazards.

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, 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.

In addition, the Malibu LUP, which the Commission has utilized as guidance in past permit decisions, contains policies applicable to the proposed project:

P 147 Continue to evaluate all new development for impact on, and from, geologic hazard.

P 149 Continue to require a geologic report, prepared by a registered engineer...

P 156 Continue to evaluate all new development for impact on, and from, fire hazard.

The applicants propose to construct a 2,132 sq. ft., two story, 34 ft. high, single family residence, attached 2-car garage, septic disposal system, and 742 cu. yds. of grading (487 cu. yds. cut and 255 cu. yds. of fill), in the Malibu Vista Small Lot Subdivision.

The subject site is situated on the south flank of the Santa Monica Mountains north of the intersection of Pacific Coast Highway and Latigo Canyon Road in Malibu. This is an area of steep walled canyons and sharp crested ridges. The property consists of a narrow strip of hillside approximately 170 feet south of the intersection of Maguire Drive and Escondido Drive. The site is on the lower portion of the east flank of Escondido Canyon. Portions of the site vary from near vertical to 1.5:1 (horizontal to vertical).

Due to the topography of the site, natural drainage is by sheetflow across the site and into the downslope Escondido Canyon Creek.

The proposed development is located in the Santa Monica Mountains, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains 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.

1. Geology; Site Stability

Section 30253 of the Coastal Act requires that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

The applicants have submitted a series of geology reports addressing the subject site prepared by Brian A. Robinson & Associates, Inc., dated December 12, 1997, and January 14, February 21, and October 2, 1991. The Robinson & Associates reports discuss the potential for debris flow hazards due to the site topography and the weak consolidation of underlying material (fill, alluvium, etc. – see Exhibit 9), and indicate that the implementation of specific requirements for grading, drainage and erosion control are critical to continued the continued stability and safety of the site. Therefore, the Commission finds it necessary to require that the applicants submit grading, drainage and erosion control plans prepared by a qualified engineer for the review and approval of the geotechnical consultants and eventually the Executive Director, prior to the issuance of the coastal development permit (Special Condition 4).

The geologic reports prepared by Mr. Robinson for the subject site contain specific recommendations concerning grading, retaining walls, construction and design, drainage management, and landscaping for the purpose of controlling erosion and protecting site stability. In addition to these measures, the reports indicate that caisson and grade beam construction is necessary to ensure that potential debris flow from steep upgradient slopes opposite Maguire Drive will not affect the proposed residence (see Exhibit 9). While caisson and grade beam construction, and the implementation of other protective measures recommended by the geotechnical consultants may ensure the gross stability of the residence and reduce the risk of debris flow to acceptable levels, there remains the risk that the residence, the garage, adjacent roads, and other development may nevertheless be adversely affected by debris flows or landslides either arising offsite or on the site itself. This risk is inherent to development on a site with the topographic relief and underlying geology of the subject site, and cannot be fully mitigated. In such cases, the Commission has typically required the applicants to

record an assumption of risk deed restriction, as required by Special Condition 5, accepting the liability for developing a site that is subject to such risks, and agreeing thereby to indemnify the Commission and its employees, officers, and agents against any liability of any kind that might arise out of the approval and construction of such development. Because Special Condition 5 must be implemented by means of a recorded deed restriction, it additionally provides the benefit of informing future landowners of the risks associated with the site, thus increasing the likelihood that drainage devices, landscaping, and other measures affecting long term site stability will be maintained and monitored by future land owners in accordance with good site management practices.

As noted above, the geotechnical consultant has specifically noted in the reports cited above that landscaping must be selected and implemented with the goal of protecting against erosion and maintaining gross site stability. The reports recommend reliance on brushy plant species for slope protection. The Commission has found in past permit considerations that the use of shrub species native to the chaparral plant communities characteristic of the Santa Monica Mountains for landscaping—particularly on slopes—offers superior erosion control. The chaparral plant assemblage tends to be deeply rooted and drought tolerant, therefore offering the twin advantages of holding soils with the root system and requiring minimal irrigation on slopes where added water may contribute to slope failure. The use of appropriate, locally native plant species is one of the requirements of the landscape plan that must be prepared in accordance with Special Condition 1. When fully implemented, Special Condition 1 will ensure that an optimal choice of native plants, establishment practices, and erosion control measures taken during rainy season construction will combine to protect site stability and prevent long term erosion.

In addition to the site stabilization benefits of a landscape plan prepared in accordance with Special Condition 1, Special Condition 2 requires that existing vegetation not be removed for fuel modification purposes until the site is occupied. This requirement eliminates unnecessary, premature vegetation clearance and thereby maintains the protective cover of existing vegetation as a buffer against erosion to the maximum extent feasible.

As noted above, Coastal Act Section 30253 requires that new development not create or contribute to erosion. The applicants propose to grade a total of 742 cu. yds. of material (487 cu. yds. of cut, 255 cu. yds. of fill). The applicants propose to dispose of the excess cut material (approximately 232 cu. yds.) at a location to be determined in the future. To ensure that the excess material is not improperly disposed of where it will be subject to the forces of wind and rain, and therefore subject to erosion, the Commission finds it necessary to impose Special Condition 7 (Removal of Excess Fill). When implemented, this condition will ensure that the applicants identify a licensed

disposal site that is authorized to accept such material and has the remaining capacity to do so.

As discussed above, the applicants have submitted a series of geology reports addressing the subject site prepared by Brian A. Robinson & Associates, Inc., dated December 12, 1997, and January 14, February 21, and October 2, 1991. The reports contain specific recommendations concerning construction practices, grading, foundations, drainage, construction specifications, sewage disposal, etc., and conclude that if all of the recommendations are followed, that:

"It is the finding of our firm that this project conforms to the requirements of the Los Angeles County Building Code and will not be affected by landslides, settlement, or slippage after construction."

The Commission finds that based on the recommendations of the consulting geologists, if the referenced recommendations are adequately incorporated into the final project plans and designs, the project will be consistent with the requirements of Coastal Act Section 30253(a). To ensure that these recommendations are incorporated into the project, Special Condition 3 requires the applicants to provide evidence to the Executive Director's satisfaction that the consultant has verified that the recommendations in the referenced geologic reports have been incorporated into the final project plans and designs.

Therefore, for all of the reasons cited above, the Commission finds that the proposed project, as conditioned by Special Conditions 1, 2, 3, 4, 5, and 7, is consistent with the requirements of Coastal Act Section 30253 applicable to geologic stability.

2. Wild Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of 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 that is known to be 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 constructing a residence in an area known to be subject to these risks. Through Special Condition 5, assumption of risk, 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 Special Condition 5 the applicants agree to indemnify the Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or 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

In addition, Special Condition 1 requires the applicants to submit landscape and fuel modification plans. These plans require the use of locally native plant species while incorporating the fuel modification requirements of the Los Angeles County Fire Department, thus reducing the threat of wildfire to the proposed residence.

For these reasons, the Commission finds that as conditioned by Special Conditions 1 and 5, the proposed project is consistent with the provisions of Section 30253 of the Coastal Act applicable to hazards specifically posed by wildfire.

C. Environmentally Sensitive Habitat Areas

Sections 30230 and 30240 of the Coastal Act require that development in and adjacent to Environmentally Sensitive Habitat Areas shall be sited and designed to prevent impacts which would significantly degrade those areas. Section 30231 requires the protection of coastal waters and aquatic ecosystems, through, among other means, controlling runoff (drainage management and erosion control, for example) and limiting the removal of natural vegetation that serves to buffer adverse impacts upon these resources.

Section 30230.

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:

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.

(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.

The certified Malibu/Santa Monica Mountains Land Use Plan (LUP), upon which the Commission has relied for guidance in past permit decisions, contains numerous policies designated to protect sensitive habitat areas from the individual and cumulative impacts of development, including the following

P63: Uses shall be permitted in ESHAs, DSRs, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with the Table 1 and all other policies of this LCP.

Applicable Table 1 standards include:

Removal of native vegetation and grading shall be minimized.

Site grading shall be accomplished in accordance with the stream protection and erosion control policies.

In addition, the LUP contains numerous policies addressing stream protection and erosion control, including:

- P80 The following setback requirements shall be applied to new septic systems:
(a) at least 50 feet from the outer edge of the existing riparian or oak canopy for leachfields, and (b) at least 100 feet from the outer edge of the existing riparian or oak canopy for seepage pits...
- P84 In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low growing ground covers to reduce heat output shall be used. Within ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.
- P86 A drainage control system, including on-site retention or detention where appropriate, shall be incorporated into the site design of new developments to minimize the effects of runoff and erosion...
- P87 Require as a condition of new development approval abatement of any grading or drainage condition on the property which gives rise to existing erosion problems.
- P89 In ESHAs and in other areas of high potential erosion hazard, require approval of final site development plans, including drainage and erosion control plans for new development prior to authorization of any grading activities.
- P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent possible.
- P94 Cut and fill slopes should be stabilized with planting at the completion of final grading. In Environmentally Sensitive Habitat Areas and Significant Watersheds, planting shall be of native plant species using accepted planting procedures, consistent with fire safety procedures.

The proposed project is located in an area designated by the Malibu/Santa Monica Mountains Land Use Plan (LUP) as a Disturbed Sensitive Resource Area (DSR) (Escondido Canyon Disturbed Significant Oak Woodland), and the proposed development will be located (at the nearest edge of the residential structure) less than 100 feet upgradient from the streambank of Escondido Canyon Creek. The creek is a blueline stream corridor designated by the U.S. Geological Survey and bordered by

Environmentally Sensitive Habitat Areas (ESHA) shown on the resource maps of certified LUP.

Disturbed sensitive resource areas have substantial biological value, but due to the encroachment of development, the continuity and quality of the habitat has been significantly modified in comparison to a relatively undisturbed ESHA. Escondido Canyon Disturbed Significant Oak Woodland continues to support native wildlife populations and are sufficiently valuable to warrant some degree of protection.

The applicants propose to construct a 2,132 sq. ft., two story, 34 ft. high, single family residence, attached 2-car garage, septic disposal system, and 742 cu. yds. of grading (487 cu. yds. cut and 255 cu. yds. of fill), on two lots of a total of four lots that are held as one lot in satisfaction of condition compliance (cumulative impact mitigation) for an unrelated permit, CDP 5-90-335 (Ketcham).

The direct impacts of the proposed project, such as vegetation removal, grading and hardscaping formerly natural areas of the developed lots, will be mitigated through the implementation of the applicable special conditions. For example, when implemented, the referenced conditions will accomplish the following mitigation of adverse effects the proposed project may have upon coastal resources: Special Condition 1 (Landscape and Fuel Modification Plans) requires the use of primarily locally native plant species, erosion control measures, etc., Special Condition 2 (limitation on removal of natural vegetation) restricts premature removal or modification of natural vegetation, Special Condition 4 (Grading, Drainage, and Erosion Control Plans) ensures that site grading, construction, and drainage are managed in a non-erosive manner, Special Condition 5 (Future Development) ensures that additional development that may be proposed in the future and that would otherwise be exempt from permit requirements will be reviewed for potential adverse effects that such development might cause to the sensitive habitat areas on and adjacent to the subject site, Special Condition 7 (Removal of Excess Fill), to ensure that excess fill is not improperly disposed and left vulnerable to erosion and resultant runoff into sensitive riparian ecosystems, Special Condition 6 (Future Development) which ensures that all future development proposals for the site that might otherwise be exempt from review (installation of a swimming pool, for example) would be reviewed for potential impacts to sensitive habitat areas, and by Special Condition 9, which echoing recommendations of the Environmental Review Board, recommends eliminating the disruptive effects of night lighting on wildlife occupying adjacent sensitive habitat areas (night lighting disrupts hunting, roosting, and nesting behavior, for example), by restricting outdoor night lighting to the minimum amount consistent with safety.

The fuel modification requirements imposed upon the project by the Los Angeles County Fire Department cannot be fully mitigated on site, however. The fuel modification requirements can affect natural vegetation for up to 200 feet from the

footprint of defensible structures. The nearest corner of the proposed residence is approximately 85 feet from the streambank of Escondido Canyon Creek. Even if the Fire Department accepts only hand thinning of the riparian canopy, chaparral, and grasses present on and adjacent to the site, a loss of some watershed cover will occur. The applicant has consolidated and set back the proposed project from the designated ESHA as far as feasible while still developing a minimum of one residence. The applicants are utilizing two separate, legal lots to construct the proposed project. The potential exists to construct to separate, smaller residences on the two lots, which would result in further encroachment of development toward the ESHA than would result from the present proposal.

As noted previously, the applicants are legally required to hold the four contiguous lots shown in Exhibit 2 together. While the deed restrictions previously applied to the two vacant lots state that a pool or garage could be allowed, such development would be placed within a designated ESHA and no such development is authorized by this permit approval. To ensure that any future proposals for accessory structures or other development on the subject deed restricted parcels are evaluated for consistency with Coastal Act Sections 30230, 30231, and 30240, and that potential impacts upon ESHAs and coastal waters are thereby avoided, the Commission finds it necessary to impose Special Condition 6 (Future Development) specifically for this reason, in addition to the other aspects of the project that require the imposition of the condition that are discussed above. The Commission notes that the construction of swimming pools, art studios, garages, or any other structures within a designated ESHA may not be authorized and that the applicants and successor interests do not have an entitlement to such structures in the future on the two outlying lots shown in Exhibit 2.

Therefore, the Commission finds for all of the reasons set forth above, that the proposed project, as conditioned by Special Conditions 1, 2, 4, 6, 7, and 9, is consistent with the requirements of Coastal Act Sections 30230, 30231, and 30240.

D. Cumulative Impacts of Development

Section 30250(a) of the Coastal Act states:

- (a) 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 30105.5 of the Coastal Act defines the term "cumulatively," as used in Section 30250(a) as:

"...the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

A number of areas in the coastal zone in the Malibu/Santa Monica Mountains area were divided into small "urban" scale lots in the 1920s and 1930s, often resulting in lots as small as 4,000 to 5,000 sq. ft. in area. The Malibu Vista subdivision, within which the proposed project is located, is among these so-called "small-lot subdivisions."

The Commission has recognized that buildout of these small-lot subdivisions would result in a number of adverse cumulative effects upon coastal resources. Among these potential adverse effects are geologic and fire hazards, limited road access, septic and water quality problems, and disruption of rural community character.

As a means of controlling the amount and size of development that may occur in small-lot subdivisions, and thus by extension to limit the potential cumulative effects that associated development may have upon coastal resources, the Commission developed the Slope Intensity Formula. The formula was incorporated into the Malibu/Santa Monica Mountains Land Use Plan, certified by the Commission in 1986. The Commission has since relied on the application of this formula as guidance in reviewing proposed development within small-lot subdivisions, thereby addressing the cumulative effects of such development in accordance with the requirements of Coastal Act Section 30250(a) set forth above.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan requires that new development in small-lot subdivisions comply with the Slope Intensity Formula for calculating the maximum Gross Structural Area (GSA) that may be allowed for a residential unit. The basic concept of the formula assumes that the suitability of the development of small hillside lots should be determined by the physical characteristics of the building site, recognizing, for example, that development on steep slopes has a high potential for adverse effects upon coastal resources.

Slope-Intensity Formula:

$$GSA = (A/5) \times ((50-S)/35) + 500$$

GSA = the allowable gross structural area of the permitted development in square feet. The GSA includes all substantially enclosed residential and storage

areas, but does not include garages or carports designed for storage of autos.

A = the area of the building site in square feet. the building site is defined by the applicant and may consist of all or a designated portion of the one or more lots comprising the project location. All permitted structures must be located within the designated building site.

S = the average slope of the building site in percent as calculated by the formula:

$$S = I \times L/A \times 100$$

I = contour interval in feet, at not greater than 25-foot intervals, resulting in at least 5 contour lines

L = total accumulated length of all contours of interval "I" in feet

A = the area being considered in square feet

The applicants propose to construct a 2,132 sq. ft., two story, 34 ft. high, single family residence, with an attached 2-car garage. The applicable GSA formula indicates that the two lots which the applicants propose to develop qualify for a maximum of 1,564 sq. ft. Therefore, the applicants require an additional 568 sq. ft. of credit to achieve the 2,132 sq. ft. pursuant to the proposed project description. Special Condition 8 requires the applicants to submit evidence, prior to the issuance of the coastal development permit, that all potential for future development has been permanently extinguished on a minimum of two additional lots, for a total of 600 sq. ft. of authorized GSA credit from which the necessary 568 sq. ft. may be drawn, and that such lots must be located within the same small lot subdivision or within the adjacent Malibu Mar Vista small lot subdivision.

To ensure that future additions do not exceed the restriction of total allowable development of the site set forth above, which the applicants propose to exhaust with the construction of a 2,132 sq. ft. single family residence, and that the proposed development conforms with the guidelines of Policy 271(b)(2) of the certified Malibu/Santa Monica Mountains Land Use Plan relative to the maximum size of residential structures in small-lot subdivisions, and is consistent with the requirements of Coastal Act Policy 30250 (a), the Commission finds it necessary to impose Special Condition 6 (Future Improvements). Special Condition 6 requires Commission review and approval of proposals for future improvements of the site.

For the reasons set forth above, the Commission finds that, as conditioned by Special Conditions 6 and 8, the proposed development is consistent with Section 30250(a) of the Coastal Act.

E. Septic System

The Commission recognizes that the potential build-out of lots in the Malibu area, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

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

The applicants propose to construct a septic disposal system relying on the use of a seepage pit as the means of wastewater disposal. The applicants have submitted a percolation test reports for the subject site demonstrating that adequate percolation capacity exists, and that the proposed system will exceed the minimum performance requirements of the Uniform Plumbing Code. The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. In addition, the applicants have obtained approval-in-concept for the proposed septic disposal system from the Los Angeles County Department of Health Services, dated February 12, 1999.

The proposed seepage pits would be located along the eastern portion of the southernmost lot adjacent to Maguire Drive. It is approximately 88 feet from the seepage pits to the far side of Escondido Drive, an additional 10 feet to the riparian canopy associated with Escondido Canyon Creek, and an additional 10 feet to the stream channel. Therefore, the seepage pits are located approximately 100 feet from the riparian canopy, consistent with the certified LUP policy P80, upon which the Commission has relied for guidance in past permit decisions.

For all of these reasons, therefore, the Commission finds that the proposed septic disposal system is consistent with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

(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 Chapter 3 (commencing with Section 30200) 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 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 applicants. As conditioned, the proposed development will not create adverse effects 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 County's ability to prepare a Local Coastal Program for the unincorporated area of Malibu and the 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

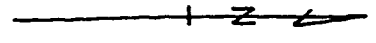
The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that would substantially lessen any significant adverse effects that the activity may have on the environment.

The proposed development, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.

4461 31
CALE 1" = 60'

1995

CODE
8663



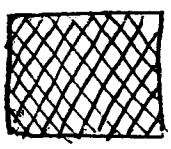
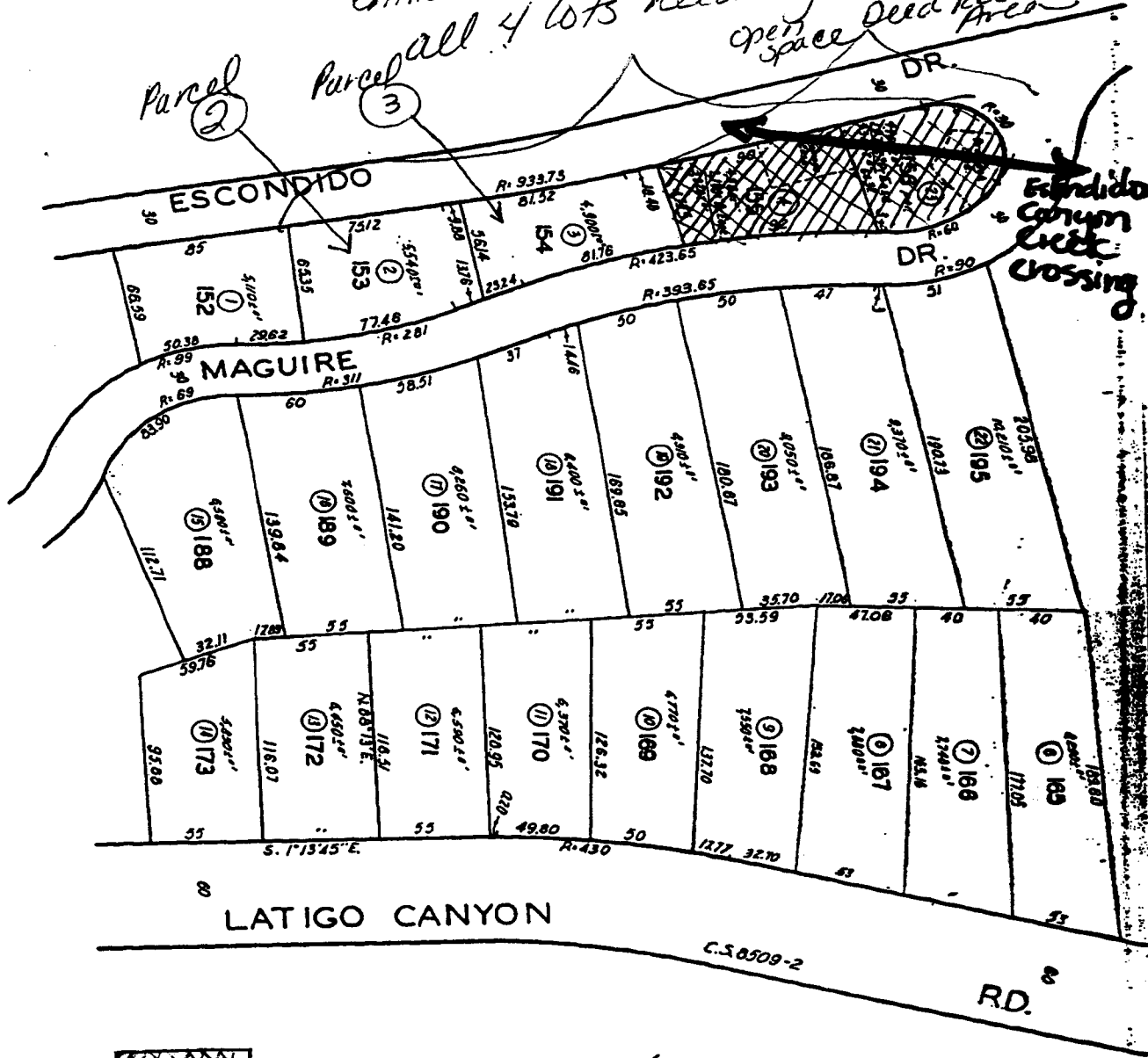
Dev prop. will be constructed
entirely on parcels (2) and (3)
all 4 lots held together
open space deed restricted
Area

Parcel (2)
Parcel (3)

Escondido
Canyon
Creek
Crossing

TRACT NO. 5801
M.B. 149-23-28

LOTS ARE LEGALLY SUBDIVIDED LOTS IN
SMALL LOT SUBDIVISION



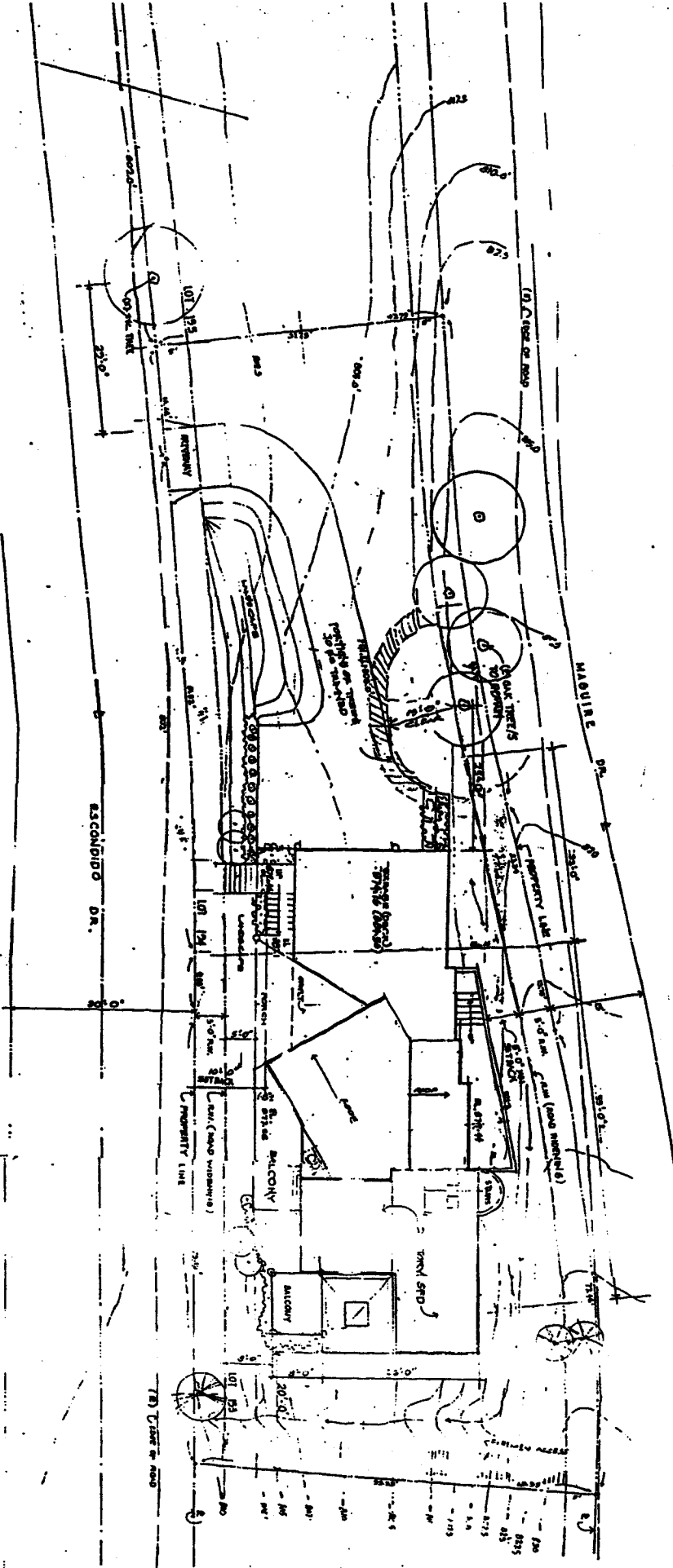
= APN 4461-031-004
and APN 4461-031-023
subject to open space deed restriction

EXHIBIT NO. 2
APPLICATION NO.
SPRINK
4-98-204
Parcel Map and
Open Space Easement

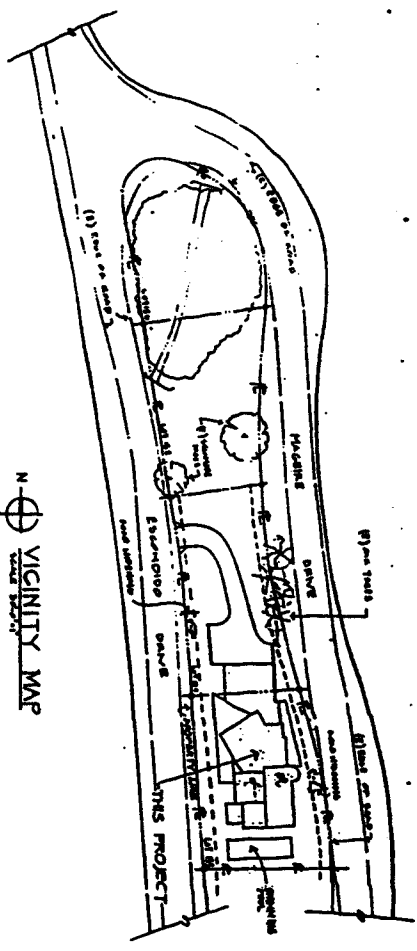
FOR COPY, ASSMKT. SEE: 482-210

ASSASSIN'S MAP
COUNTY OF LOS ANGELES, CALIF.

N
 SITE PLAN
 SCALE 1/8" = 1'-0"

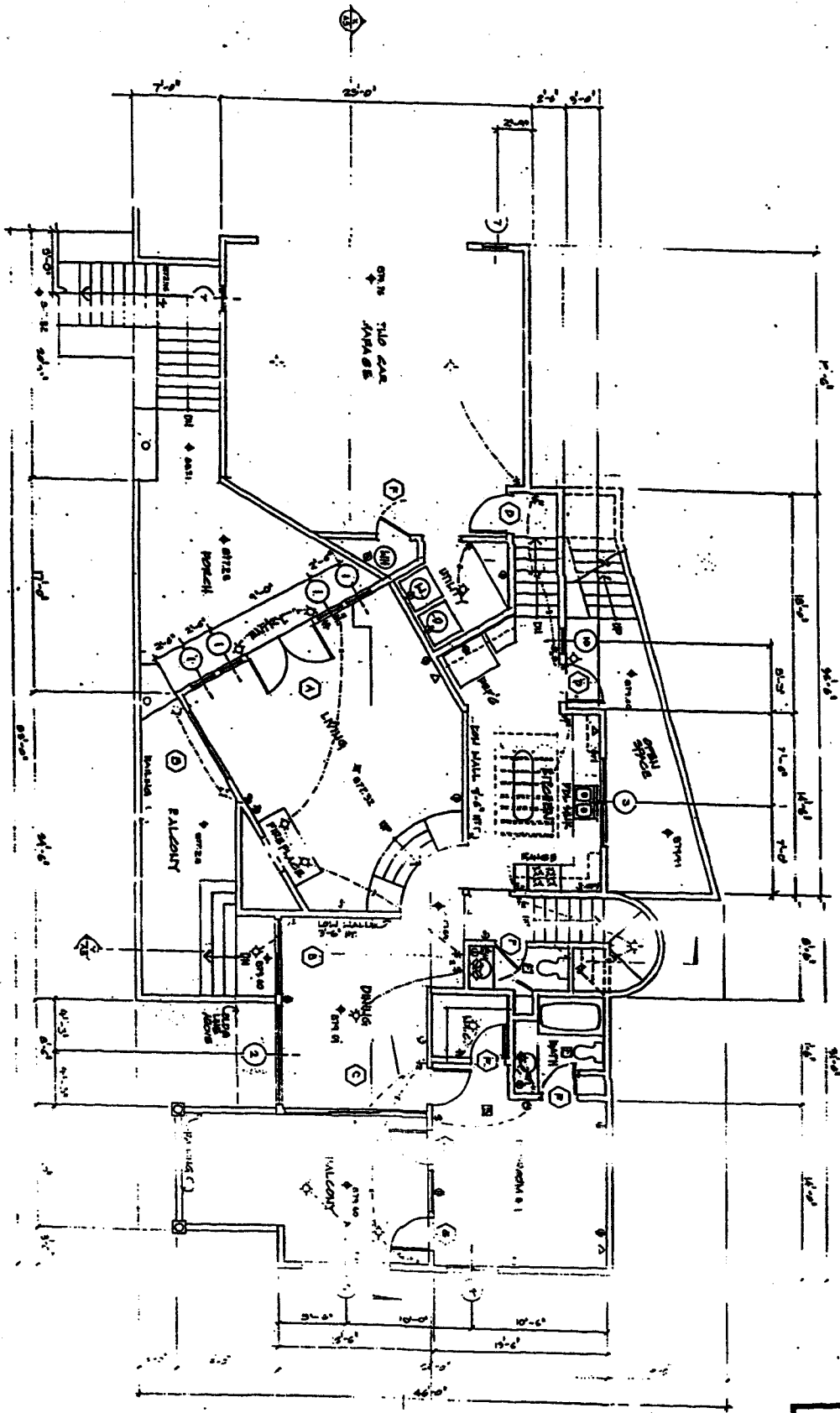


N
 VICINITY MAP



A-1	DATE 01.17.98	PREPARED FOR MR. & MRS. SPRINK	MALIBU DESIGN ASSOCIATES 28955 PACIFIC COAST HIGHWAY SUITE 201 MALIBU, CA. 90265 PH. (310) 557-7002 FAX. (310) 557-6250
	SCALE 1/8" = 1'-0"	SHEET TITLE SITE & VICINITY PLAN	
JOB 356	DRAWN LTD		
SHEET NO.			

EXHIBIT NO. 3
APPLICATION NO. <i>SPNK</i>
4-98-204
Site Plan

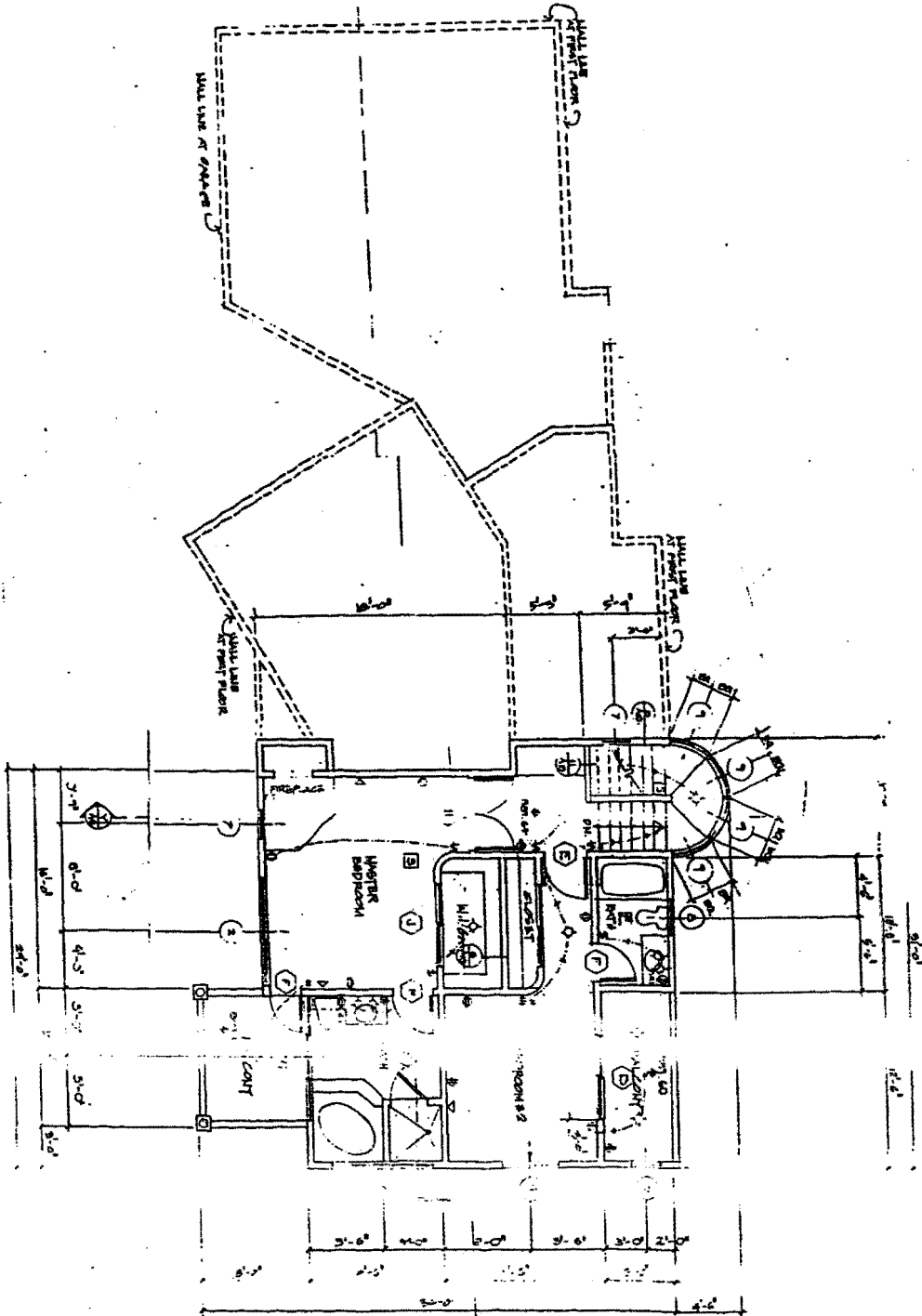


FIRST FLOOR PLAN

EXHIBIT NO. 5
 APPLICATION NO. *Sprink*
 4-98-204
 First Floor Plan

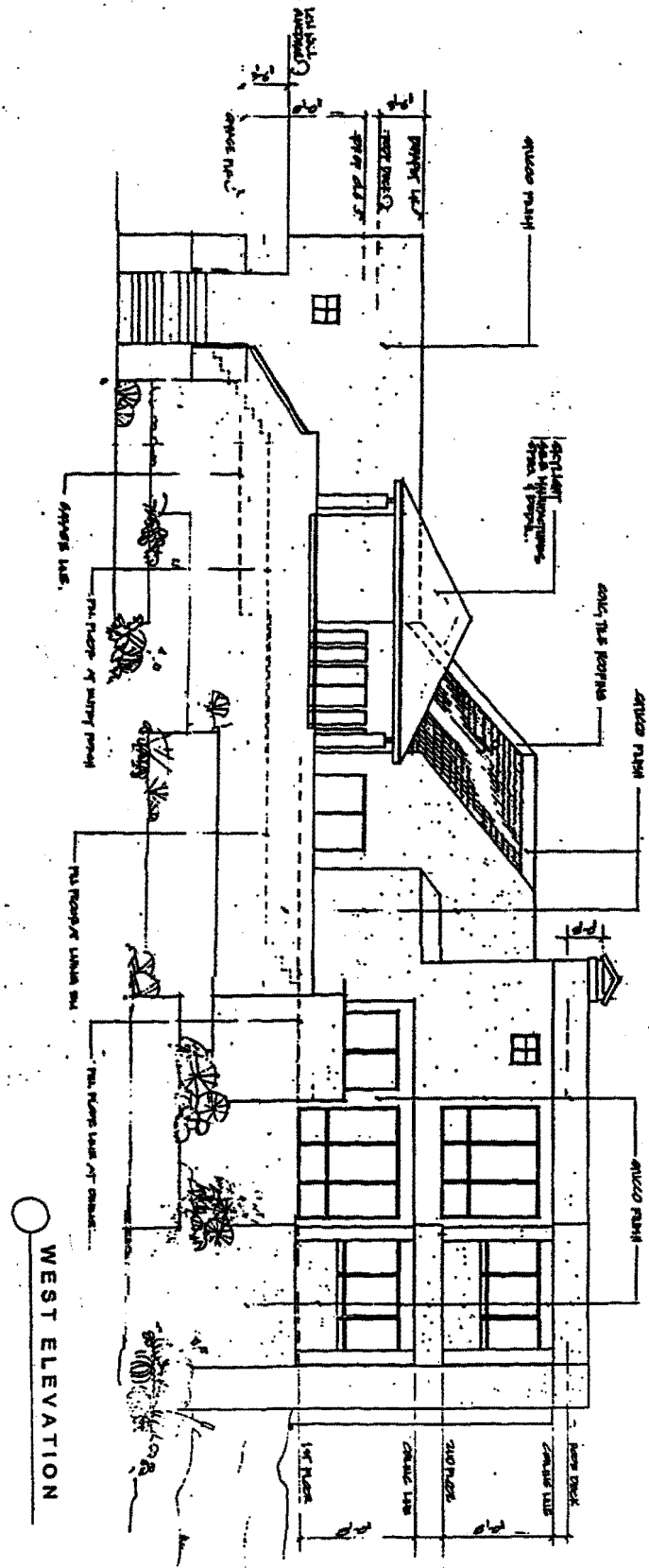
A-2	SHEET NO.	JOB	DRAWN	SCALE 1/8" = 1'-0"	DATE	PREPARED FOR	MR. & MRS. SPRINK 4815 SANDHURST DRIVE MALIBU CA 90265	MALIBU DESIGN ASSOCIATE 28955 PACIFIC COAST HIGHWAY SUITE 201 MALIBU CA, 902
					SHEET TITLE	FIRST FLOOR PLAN		

SECOND FLOOR PLAN

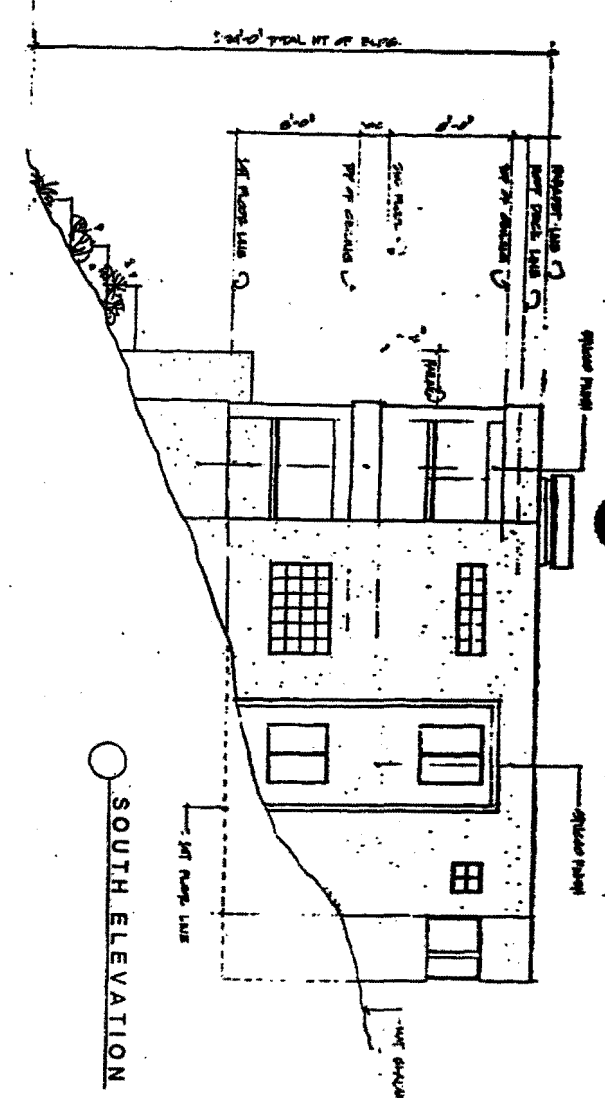
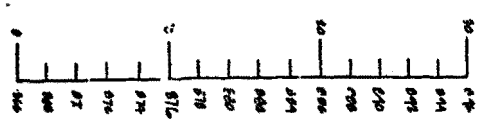


A-3, SHEET NO.	JOB	DRAWN	SCALE 1/8"=1'-0"	DATE	PREPARED FOR	MR. & MRS. SPRICK 4619 MALIBU DRIVE MALIBU, CA. 90265	MALIBU DESIGN ASSOCIATES 28955 PACIFIC COAST HIGHWAY SUITE 201 MALIBU, CA. 90265 TEL. (310) 457-8038 FAX (310) 457-2250
					SHEET TITLE	SECOND FLOOR PLAN	

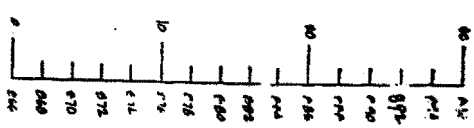
EXHIBIT NO. 6
APPLICATION NO. Sprick
4-98-204
Second Floor Plan



WEST ELEVATION



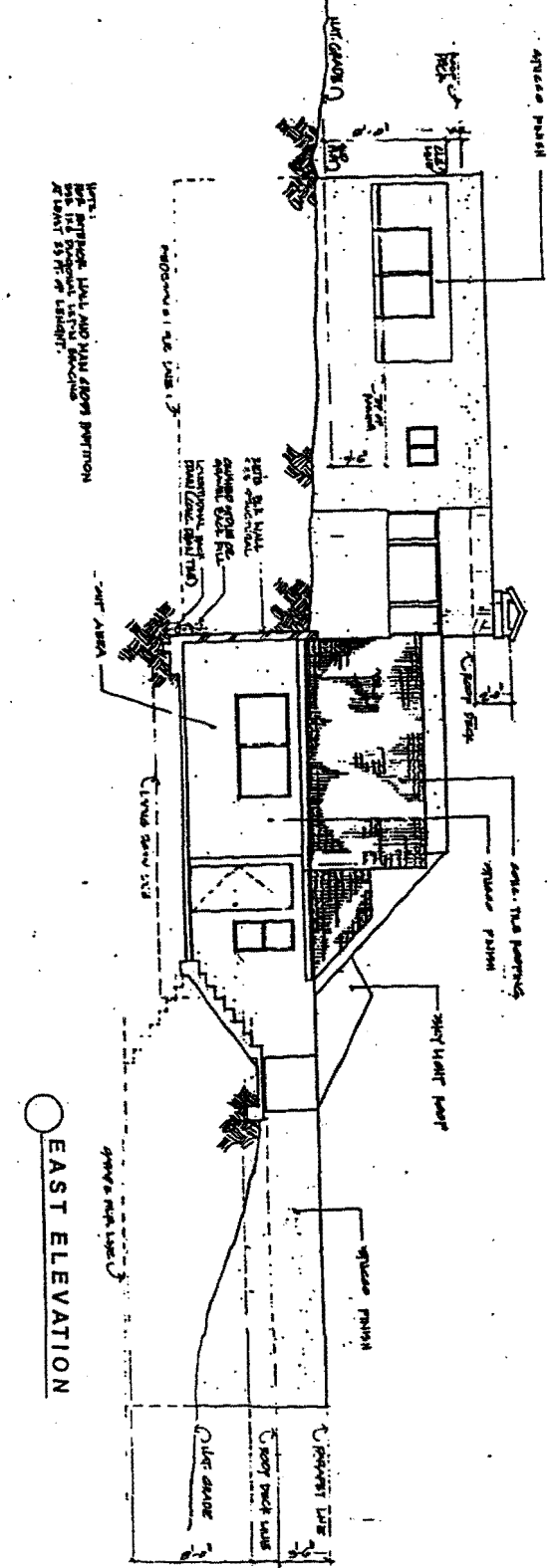
SOUTH ELEVATION



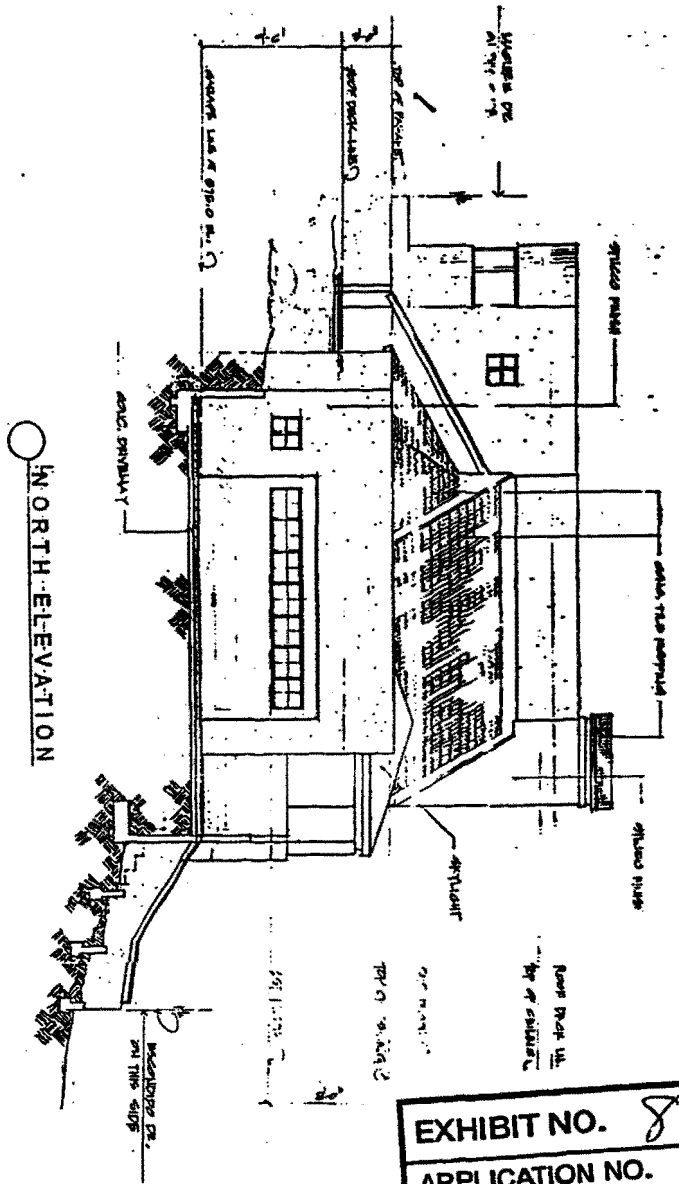
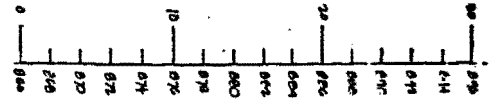
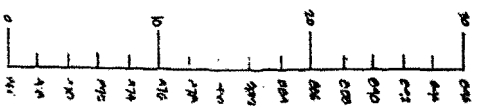
A-6	SCALE: 1/4" = 1'-0"	DATE: _____	PREPARED FOR: MR. & MRS. SPRIK 615 MADISON DRIVE MALIBU, CA. 90263	MALIBU DESIGN ASSOCIATE 1555 PACIFIC COAST HIGHWAY, SUITE 100 MALIBU, CA. 90263
		DRAWN BY: _____	SHEET NO.: _____	

EXHIBIT NO. 7
APPLICATION NO. SPK
4-98-204
South & West Elev's

NOTE: INTERIOR WALL AND FLOOR FINISHES TO BE DETERMINED BY ARCHITECT.



EAST ELEVATION



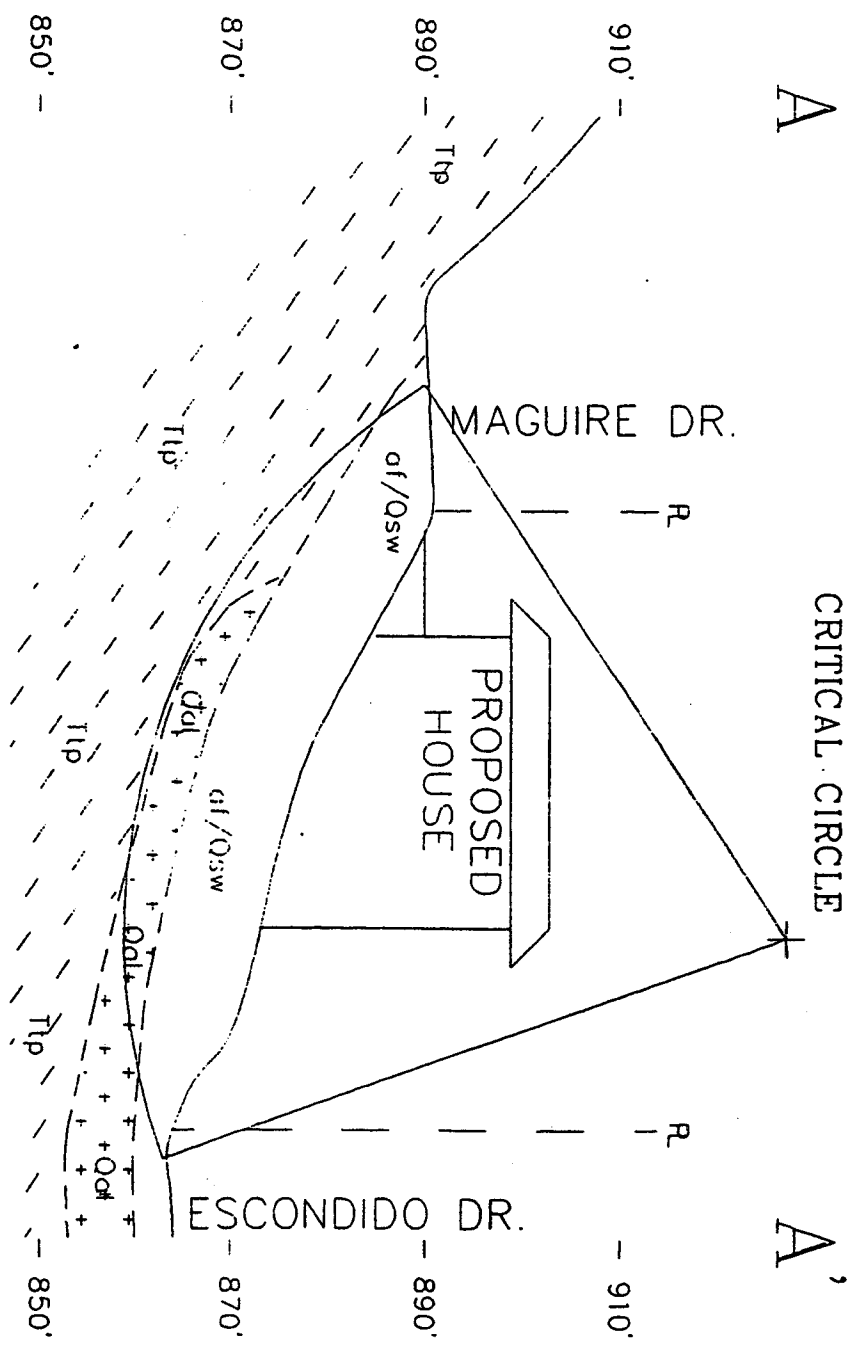
NORTH ELEVATION

EXHIBIT NO. 8
 APPLICATION NO. Sprink
 4-98-204
 A.M. East Elev's

JOB DRAWN SCALE 1/4" = 1'-0" DATE	PREPARED FOR MR. & MRS. SPRINK 495 BUCKINGHAM DRIVE MALIBU, CA 90265	SHEET NO. A-7
	SHEET TITLE ELEVATION	

MALIBU DESIGN ASSOCIATES
 28955 PACIFIC COAST HIGHWAY SUITE 201 MALIBU, CA 90265
 PH: (310) 457-4998

GEOLOGIC CROSS-SECTION



BRIAN A. ROBINSON & ASSOCIATES, INC.
 P.O. BOX 1328, VAN NUYS, CALIFORNIA 91407 (818) 782-8282

J.O.: 1130
 DATE: 1/8/91

SCALE: 1" = 20'
 PLATE: 2

EXHIBIT NO. 9
APPLICATION NO. Spnk
4-98-204
Geo. Cross Section