

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: 05/12/98
 49th Day: WAIVED
 180th Day: WAIVED
 270th Day: 02/06/99
 Staff: SMB-V ja
 Staff Report: 01/08/99
 Hearing Date: Feb. 5, 1999
 Commission Action:

STAFF REPORT: AMENDMENT

APPLICATION NO.: 5-90-246-A1

APPLICANT: Gerri Gilliland

AGENT: Jamie Harnish

PROJECT LOCATION: 1400 Corral Canyon Road, Malibu (Los Angeles County)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a one story, 5,637 sq. ft., 29 ft. high, single family residence with attached 2,100 sq. ft. workshop and storage area, 1,641 sq. ft. 4-car garage, swimming pool, water well, septic system, 750 sq. ft. guesthouse, 5,577 cu. yds. of grading (3,390 cu. yds. of cut and 2,187 cu. yds. of fill) and the temporary placement of a mobile home on the site until construction of the residence is completed. The proposed residence will be a natural sand buff color and the roof will be a peach buff color.

DESCRIPTION OF AMENDMENT: After-the-fact approval for the revision of the floor plans of the approved guesthouse to include a 147 sq. ft. loft, a 1,561 sq. ft. patio area, a 90 sq. ft. pool bath area, a 122 sq. ft. storage room, and the construction of a glass window screen. The proposed project also includes the revegetation of the area designated in the recorded offer to dedicate open space with plant species native to the Santa Monica Mountains and the relocation of the temporary mobile home.

LOCAL APPROVALS RECEIVED: Los Angeles County Building & Safety "Approval-in-Concept"; Los Angeles County Health Department.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/ Santa Monica Mountains Land Use Plan, Coastal Development Permit 5-90-246 (Bolton); Coastal Development Permit Assignment T-5-90-246 (Gilliland); Coastal Development Permit 4-95-243 (Cortazzo); 4-95-237 (Perman); Coastal Development Permit 4-95-043 (Rotter).

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

Staff recommends that the Commission take one (1) vote adopting the following two-part resolution for the subject proposal:

Part A to approve the revegetation with plant species native to the Santa Monica Mountains of the area designated in the recorded offer to dedicate open space, the relocation of the temporary mobile home, and after-the-fact approval for the revision of the first level floor plans of the guesthouse to include the construction of a 122 sq. ft. storage room, a 90 sq. ft. pool bath, 1,561 sq. ft. of patio area, and the placement of glass window screens along two sides of the patio, with special conditions requiring the implementation of the restoration plan, monitoring program, approved development, removal of the construction trailer, and condition compliance.

Part B to deny the after-the-fact approval for the addition of a 147 sq. ft. second level loft within the previously approved guesthouse.

STAFF RECOMMENDATION:

The staff recommends that the Commission take one (1) vote adopting the following two-part resolution:

A. MOTION:

I move that the Commission approve with special conditions Coastal Development Permit Amendment 5-90-246-A1 for the revegetation of the area designated in the recorded offer to dedicate open space, the relocation of the temporary mobile home, the revision of the floor plans of the guesthouse to include the construction of a 122 sq. ft. storage room, a 90 sq. ft. pool bath, 1,561 sq. ft. of patio area, and the placement of glass window screens along the length of the patio.

STAFF RECOMMENDATION OF APPROVAL IN PART AND DENIAL IN PART:

Staff recommends a **YES** vote and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION

Part A: Approval with Conditions of a Portion of the Development.

The Commission hereby approves the portion of the coastal development permit amendment, involving the revegetation of the open space easement and the relocation of the temporary mobile home, the revision of the guest unit floor plans including the construction of a 122 sq. ft. storage room, a 90 sq. ft. pool bath, 1,561 sq. ft. of patio area, and the placement of a glass window screen, subject to the conditions below, on the grounds that as modified, 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 effects on the environment within the meaning of the California Environmental Quality Act.

NOTE: All standard and special conditions attached to the previously approved permit remain in effect (Exhibit 12).

Part B: Denial of the Remainder of the Development

The Commission hereby **denies** a coastal development permit amendment for the portion of the proposed development involving the addition of a second level 147 sq. ft. loft within the guesthouse on the grounds that the development will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, and would 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 would result in significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Special Conditions

1. Revised Restoration Monitoring Program

Prior to the issuance of the coastal development permit amendment, the applicant shall submit for the review and approval of the Executive Director a revised restoration-monitoring program. The plan shall incorporate a five year monitoring plan performed by a qualified biologist or resource specialist to ensure successful restoration of the area offered to be dedicated open space through revegetation with native plants. The applicant shall submit to the Executive Director annual reports on the status of the restoration program, prepared by a qualified restoration specialist or biologist with an expertise in restoration. These reports shall be submitted to the Executive Director no later than the first of May each year. The first report shall be required at the end of the 1998-1999 rainy season, but no later than May 1, 1999.

The annual report shall outline the success or failure of the restoration project and include recommendations for additional restoration measures if necessary. If the consulting biologist determines that additional or different plantings are required, the applicant shall be required to do additional plantings by the beginning of the rainy season of that year (November 1). If at the completion of the fifth year of monitoring, the consulting specialist determines that the restoration project has in part, or in whole, been unsuccessful the applicant shall be required to

submit a revised supplemental program to compensate for those portions of the original program which were not successful. The revised or supplemental restoration program shall be processed as an amendment to the original coastal development permit.

2. Implementation of the Restoration Plan

The applicant shall implement revegetation measures of the Revegetation Plan prepared by Dennis Turner dated April 1, 1997 (Exhibit 3) in accordance with such plans. The applicant shall complete implementation of the proposed Revegetation Plan within 60 days of the issuance of the coastal development permit amendment. The Executive Director may grant additional time for good cause.

3. Approved Development

The approval of this permit is limited to the revegetation of the area designated in the recorded offer to dedicate open space easement, the relocation of the temporary mobile home, and the after-the-fact approval for the revised floor plan of the first level of the guesthouse to include the construction of a 122 sq. ft. storage room, a 90 sq. ft. pool bath, 1,561 sq. ft. of patio area, and the placement of glass window screen along the patio as shown in Exhibit 5. This approval does not include the addition of a second level 147 sq. ft. loft within the guesthouse as shown in Exhibits 7-9.

4. Removal of Temporary Construction Trailer

With the acceptance of this permit, the applicant agrees to remove the temporary construction trailer within 60 days of the issuance of the Certificate of Occupancy for the main residence by the Los Angeles County Department of Building and Safety.

5. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. Findings and Declarations.

A. *Project Description and Background*

The applicant is requesting an amendment to the original coastal development permit to revise the floor plan of the originally approved 750 sq. ft. guesthouse to include a 90 sq. ft. attached pool bath, 122 sq. ft. storage, 147 sq. ft. second floor loft, and 1,561 sq. ft. open patio area. The pool bath and storage areas are accessible from an outside access only and there are no interior doorways that connect these rooms with the rest of the guesthouse. The applicant is

also proposing to relocate the temporary construction trailer to bisect the subject site (APN: 4461-004-030) and the adjacent property (APN: 4461-004-004)). The applicant has obtained a written agreement with the adjacent property owner (APN 4461-004-004) to temporarily place the mobile trailer at the proposed location property until the completion of the single family residence (Exhibit 11). Finally, the applicant is proposing to restore an area designated in a recorded offer to dedicate deed restricted open space easement approximately 880 sq. ft. in size. Restoration of the site includes revegetating the area with plant species native to the Santa Monica Mountains.

The subject site is a 39.63 acre lot located on a southeast trending ridgeline on Shultz Ridge Road just off Corral Canyon Road. (Exhibit 1 & 2). The Malibu/ Santa Monica Mountains Land Use Plan (LUP) indicates that the building site is located just outside of the Solstice Canyon Significant Watershed Area. The LUP designates this land as a combination of Rural Land I (1du/10 acres), Rural Land II (1du/5 acres), and Mountain Land- M2 (1du/20 acres). The subject parcel is located just north of the Malibu Bowl Small Lot Subdivision and just south of the State Park Land. The Malibu 50 trail, an undeveloped trail, traverses a portion of the subject parcel and the building site is visible from the Backbone trail. Although the Malibu 50 trail is not recognized by the Los Angeles County Trails Map, the trail is a historic trail which has been used by hikers and equestrians for a number of years.

On May 29, 1990, the Commission approved coastal development permit 5-90-246 (Bolton) for the construction of a one story, 5,637 sq. ft., 29 ft. high, single family residence with attached 2,100 sq. ft. workshop and storage area, 1,641 sq. ft. 4-car garage, swimming pool, water well, septic system, 750 sq. ft. guesthouse, 5,577 cu. yds. of grading (3,390 cu. yds. of cut and 2,187 cu. yds. of fill) and the temporary placement of a mobile home on the site until construction of the residence is completed. The approved guesthouse was one story, two bedrooms, 750 gross sq. ft. in size. As mitigation for the large amount of grading, potential visual impacts, and the property's location within a significant watershed area, the Commission required the applicant to record an irrevocable offer to dedicate an open space easement on the undeveloped portion of the property, with the exception of a small level area adjacent to Schultz Ridge Road (Exhibit 4). To date, only the septic system, guesthouse, patio, pool bath, storage room, and grading have been constructed under the original coastal development permit.

On December 4, 1995 Coastal Development Permit Assignment T-5-90-246 was issued to transfer the underlying permit from Mr. Ray Bolton to Ms. Gerri Gilliland, the applicant. In April of 1996, Commission Enforcement Staff discovered that approximately 400 cubic yards of excavation materials from the guesthouse was dumped on a knoll located within the open space area to create a flat pad area without the benefit of a coastal development permit. In addition, the approved guesthouse was not built in conformance with the floor plans approved by the Commission. The current guesthouse is a one bedroom, two-story structure with 1,111 sq. ft. of gross space including a 90 sq. ft. pool bath, 122 sq. ft. storage area, a 147 sq. ft. second floor loft, and 1,561 sq. ft. patio. The gross floor space of the as-built guest unit, including the storage room and pool bath area, is significantly larger (approximately 361 sq. ft.) than the 750 sq. ft. guesthouse previously approved by the Commission. As previously, stated the pool bath and storage room are not accessible from the guesthouse through an interior doorway and are, therefore not included in the calculation of the habitable space of the guesthouse. However, the habitable area of the guesthouse still exceeds the area approved by the original permit and the maximum allowable square footage of a guest unit within the Santa Monica Mountains by 147 sq. ft. Research indicates that although the original plans for the guesthouse indicate that the second unit, including the attached bath and storage area was 750 sq. ft. the actual square

footage was 1,002 sq. ft. due to the floor plan of the habitable space. Currently, the attached patio area has been enclosed with glass windows. The applicant is proposing to remove the glass on two sides of the structure. The applicant proposes to retain the glass screen, which runs the length of the property will remain to protect against unfavorable weather conditions.

B. Cumulative Impacts

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new 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 it is used in Section 30250(a), to mean:

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

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

In addition, the certified Malibu/ Santa Monica Mountains Land Use Plan (LUP) which the Commission considers as guidance for implementing the Chapter 3 policies of the Coastal Act contains policies regarding secondary units.

P 271 *"In any single-family residential category, the maximum additional residential development above and beyond the principal unit shall be one guesthouse or other second unit with an interior floor space not to exceed 750 gross square feet, not counting garage space."*

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

Based on these policies, the Commission has limited the development of second dwelling units (including guesthouses) on residential parcels in the Malibu and Santa Monica Mountain areas. The issue of second units on lots with primary residences has been the subject of past Commission action in the certification of the Santa Monica Mountains/Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one or at most two people would cause such units to have less impact on the limited capacity of Pacific Coast Highway and other roads (including infrastructure constraints such as water, sewage, electricity) than an ordinary single family residence. (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guesthouses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act in this area (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

In the Malibu/Santa Monica Mountains area 2,110 residential units is the maximum number of units, which may be constructed prior to the construction of upgrades to the existing infrastructure (Policy 274 of the Malibu LUP, which is considered as guidance). This policy is based on evidence that the area's infrastructure cannot support more development [Certified Malibu Santa Monica Mountains Land Use Plan 1986, pg. 29 and P.C.H. (ACR), 12/83 pg. V-1 - VI-1]. The Malibu/ Santa Monica Mountains area does not require a minimum lot size to construct a second unit. In addition, the size of the units are restricted to a maximum of 750 sq. ft.

With respect to permit conditions, Commission action on second units and guesthouses has varied based upon such factors as the types of units proposed, the differences in conditions (or lack thereof) attached by local governments, and differences in the characteristics of the communities where such units are proposed. In the case of the unincorporated Santa Monica Mountains, limitations on the size of second units/guesthouses have historically been placed on their construction for several reasons still existent today. First, a second unit is normally characterized as a self-contained dwelling unit with kitchen facilities on a parcel that is developed with a single-family residence. Second units as typically described would include a

granny unit, caretaker unit or farm labor unit. In areas, such as the Santa Monica Mountains, where public service capacities are limited to support Coastal Act priority land uses (i.e. commercial visitor serving) and public access to the coast, the limit in size of the guest unit ensures against the potential for a large number of occupants. As such, the smaller number of occupants which would range from one to two persons ensures a limited impact on both traffic and sewage disposal. Second, the smaller sized second unit/guesthouse reduces the likelihood that these structures will become separate dwelling units. Third, as set forth in the Malibu LUP, the Commission has found limitations to the capacity of Pacific Coast Highway to serve additional development. Policy 274 of the LUP includes a cap on the number of residential units and commercial square footage, which may be approved before improvements to Pacific Coast Highway are made. As stated in this policy, the second units/guesthouses are assigned a half-residential unit allocation based on their small size and limited occupancy of these structures. The basis for imposing caps on the number of residential units and the square footage of commercial development and the necessary improvements to the highway came from data designed to measure highway capacity produced by the California Department of Transportation (Certified Malibu/Santa Monica Mountains Land Use Plan 1986, pg. 29). To date no improvements to the existing infrastructure has occurred and, therefore, there is no basis to alter the present policy, which limits development as certified by the Commission in certifying the LUP.

The Coastal Act requires that new development be permitted only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impact problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects. Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, future build-out of second units on each existing lot within the Coastal Zone would create adverse cumulative impacts on coastal resources and public access.

As stated previously, the proposed project has received a Development Permit from the County of Los Angeles. As asserted by the applicant this approval was granted based on consistency with the County of Los Angeles' Building Code which does not include the square footage of non-habitable space or lofts in the size calculation of second units square footage.

As evidenced in other certified LCPs, the issue of second units relative to coastal zone resources and public access is unique to each coastal community. The Commission finds that an expansion of the current second unit/guesthouse size limitation is not in order, given that the County has not produced any updated technical studies or new information since the 1986 Plan, which might support the applicant's applications. This planning issue, more appropriately, should be resolved in the LCP. The Commission finds that given that a cumulative impacts study that counts the actual number of lots that could potentially contain second units and or guesthouses has not been performed by the County or anyone else, a deviation from the present 750 sq. ft. policy would result in a tremendous increase in development. As evidenced in the past permit approvals and existing Land Use Designation Maps for this area, the Commission acknowledges that the vast majority of the area is developed with single family residential structures. This indicates that a large number of lots could be subject to future development of second units

In addition, the Commission staff does not have any evidence that the required infrastructure upgrades (as stated in Policy 274 of the certified Malibu LUP which is considered as guidance) are no longer necessary. Where modifications to past restrictions are proposed, it is incumbent upon the responsible jurisdiction to provide evidence and to outline some sort of "performance standards" to ensure the second units would not do the following: 1) significantly out-compete Coastal Act priority land uses; 2) increase the demand on existing infrastructure in a way that would impact coastal resources; and, 3) inhibit public access to the coast. As stated above, the traffic and build-out study are outdated and new studies analyzing the necessary improvements to Pacific Coast Highway based on the potential residential and commercial development have not been conducted or submitted to the Commission for consideration. Therefore, the Commission has no new evidence shedding doubt on its earlier findings. For all of the reasons stated above, a revision from the Commission's prior policy of limiting residential development to one single family residence and one detached 750 sq. ft. second unit/guesthouse is not appropriate.

In comparing the existing 897 sq. ft. unit against a 750 sq. ft. unit, both units might include a driveway, septic system, fire clearance, etc., however, the smaller unit would still be seen as an ancillary or accessory use to an existing single family residence because they typically do not become and have less potential to become full-time rental units. Although the increase in square footage may only be 147 sq. ft., the cumulative impacts are much greater because the additional space could be used as another bedroom, a bath or a full kitchen and can become permanent rental or living quarters for a family of three to four. The additional 147 sq. ft. that could accommodate a family of three to four would also typically result in two cars, a larger septic system, more visitors, and a greater number of vehicle trips than a smaller 750 sq. ft. structure. Statistical studies show that the smaller 750 sq. ft. structure which is typically not occupied full time would only be occupied by one or two persons with one car at most, less septic capacity, less visitors and a smaller number of vehicle traffic trips and, therefore, result in a less intense use of the site. The Commission notes that a large number of the 750 sq. ft. structures, as presently constructed, are utilized as rental units. Rental units differ from guest and granny units in that the daily trips associated with a full time occupant would typically exceed that of a guest's visit or senior citizen's occupancy. The increase in traffic impacts would impact the area's main ingress and egress, and thereby impact public access. Because of the smaller size of a 750 sq. ft. unit, a separate driveway is not typically proposed and usually no garage is proposed (many 750 sq. ft. second units are sited above the existing garage and use the same driveway), the unit can use a small septic system with a leachfield common to the single family residence or a reduced number of seepage pits, and area of total vegetation removal is minimized (given the unit's close proximity to the single family residence). Additionally, a 750 sq. ft. guesthouse typically does not have kitchen facilities.

In this specific case, the subject site has two separate building pads, the main pad for the single family residence and guesthouse approved in the underlying permit and a separate pad located on the southern portion of the property. The Commission has recognized that additional development will create additional demands on the existing traffic infrastructure though. Special Condition Three (3) of Coastal Development Permit 5-90-246 which required the applicant to record a document stating that the second building pad cannot be developed until Schultz Ridge Road is improved in conjunction with a Coastal Commission approved development off of Schultz Ridge Road.

The Commission notes that concerns about the potential future impacts on coastal resources and coastal access might occur with any further development of the subject property. Impacts such as traffic, sewage disposal, recreational uses, visual scenic quality and resource degradation would be associated with the development of the additional unit in this area. Special Condition Five (5) of Coastal Development Permit 5-90-246 required the applicant to include a future improvements deed restriction that specifically limits any future development or improvements to the subject site. The recorded deed restriction allows for future development on the site provided that such development is consistent with the relative policies of the Coastal Act and the Commission approves a coastal development permit or amendment for such development.

The project as proposed would allow for a revised 897 square foot guesthouse, which is greater than the 750 square foot limit the Commission has found appropriate and has previously imposed on second units. As discussed above, allowing a secondary structure to be greater than the 750 square foot maximum area has potential adverse cumulative effects on public services and coastal resources in the surrounding area. Therefore, the Commission denies the proposed 147 sq. ft. addition to the guest unit on the basis that it is inconsistent with Sections 30250(a) and 30252 of the Coastal Act.

The applicant is also proposing to relocate a previously approved temporary construction trailer adjacent to Schultz Ridge Road. The trailer is only a temporary structure and will not require any grading or landform alteration other than minor vegetation removal to relocate. However, in order to ensure that the trailer is temporary and will not be converted into livable space the Commission finds it necessary that the applicant remove the trailer within two months upon the issuance of the certificate of occupancy for the main residence as stated in Special Condition Four (4) of this permit amendment.

The Commission finds that the relocation of the previously approved construction trailer is consistent with Sections 30250 and 30252 of the Coastal Act attached with a special condition which requires the applicant to remove the trailer within two months upon the issuance of certificate of occupancy.

C. Environmentally Sensitive Resources:

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, and minimizing alteration of natural streams.

Section 30240 of the Coastal Act states that:

- (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 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), which may be used as guidance in evaluating a project's consistency with Coastal Act Policy has designated the southern portion of the property lying within the Solstice Canyon as a significant watershed area. Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values.

The Commission found in approving Coastal Development Permit 5-90-246 (Bolton) that the proposed single family residence, guest unit, and driveways required grading on moderately steep portions of the site which would increase the potential for erosion. Any additional grading or landform alteration could adversely affect the subject site and surrounding area by increasing the amount of erosion and interfere with surface water flow. Therefore, the permit was approved attached with Special Condition Four (4) of Coastal Development Permit 5-90-246 (Bolton) requiring the applicant to "submit to the Executive Director, the location of the proposed dump site for all excess fill material not required for the construction of the building pad or driveway for the main residence." In April of 1996 during the construction of the guesthouse, approximately 400 cu. yd. of excavated fill material was placed on an onsite knoll without the benefit of a coastal development permit or permit amendment. A survey performed by CDP associates indicates that the knoll was located within the area offered to dedicate as open space easement.

In determining the consistency of the project with Sections 30240 and 30231 of the Coastal Act, the Commission must address whether fill replacement and the proposed revegetation assures site stability, and whether any environmentally sensitive resource areas are adversely affected. The Commission notes that the proposed project is located upslope from a significant watershed, which in turn drains directly into Solstice Creek. Increased erosion on site would subsequently result in an increase in the sedimentation of the downslope stream and riparian ESHA. The minimization of site erosion will reduce the project's individual and cumulative contribution to sedimentation.

In reviewing the underlying permit, the Commission found it necessary to require the applicant to irrevocably offer to dedicate an open space easement for the portion of the property outside of the building pads. Special Condition One (1) of the underlying permit states:

Prior to transmittal of the coastal development permit, the applicant as landowner shall execute and record a document, in a form and content acceptable to the Executive Director, which irrevocably offers to dedicate to a public agency or private association acceptable to the Executive Director, an easement for open space, view preservation and habitat protection... The easement shall restrict the applicant from grading, landscaping (other than required by this permit), vegetation removal or placement of structures within the easement area."

The offer to dedicate open space was required as mitigation against any adverse effects to the significant watershed and nearby streams resulting from development. Approximately 400 cubic yards of excavation materials and a chain link fence was placed on a knoll within this area to create a flat pad area without a coastal development permit. The added fill has altered the topography of the site from a gently sloping knoll to a flat pad area that drops into the canyon and watershed area. The applicant has not included a proposal in this amendment request to remove the unpermitted fill or fence. The Commission will resolve the placement of these unpermitted items through enforcement measures.

Sections 30231 and 30240 of the Coastal Act require natural buffer zones located adjacent to sensitive habitat areas to be protected and maintained. The applicant has submitted a Restoration Replanting Plan, prepared by Dennis Turner, a licensed landscape architect, dated April 1, 1997 (Exhibit 5). Within the disturbed area, the applicant proposes to remove all exotic landscape plants and revegetate the area with native plants and trees. Restoration of the site includes the seeding of the disturbed area with forty (40) pounds of seed mixture. The applicant is proposing to revegetate the disturbed area with native plant species in order to restore and protect the valuable watershed and habitable characteristics of this area. The Commission finds that restoring the site with native vegetation will minimize erosion and visual impacts created by the unpermitted development. Restoration will also reduce the rate of water run-off, thus decreasing the risk of erosion and sedimentation into the significant watershed and restore the habitat value of this area.

The Revegetation Plan prepared by Dennis Turner includes a one (1) year monitoring program. However, to ensure that the restoration plan is successful, the Commission finds it necessary to require the applicant to carry out a five (5) year monitoring plan. The applicant is proposing to revegetate the area with plant species native to the Santa Monica Mountains. Native plant species are typically slow growing plants that require an adequate amount of time establish their deep setting roots. Also, if the exotic weeds are not controlled and removed from the site they could potentially take over the native plant species. Therefore, the Commission finds that prior to the issuance of the coastal development permit amendment the applicant must submit for the review and approval of the Executive Director a revised monitoring and maintenance plan. The plan shall include proposed irrigation measures and maintenance including weeding.

The applicant shall carry out the five (5) year monitoring plan and submit annual reports to the Executive Director. The annual reports shall include any recommendations for modifications to the project if the initial restoration efforts fail and shall be submitted no later than May 1 for a period of 5 years. The details of restoration and revegetating monitoring are outlined in Special Condition one (1).

Due to the adverse effects the existing unpermitted development is causing on the site, the Commission finds that this permit can only be approved with special conditions relating to the timing deadlines. Special Condition Five (5) requires the applicant to submit the required

information to satisfy the prerequisite conditions of the permit within 90 days of the Commission's action on this permit. In addition, to ensue that this restoration project is carried out in a timely manner, the Commission finds it necessary to require the applicant to implement the restoration plan within 60 days of the issuance of the permit as noted in Special Condition Two (2).

In summary, the Commission finds that by revegetating the knoll, the proposed project will protect the quality of the watershed and will not contribute to erosion of the site or surrounding area as required per Sections 30231 and 30240 of the Coastal Act. The Commission finds that only as conditioned to include a monitoring report and implementation of the restoration plan will the restoration program be consistent with the Coastal Act.

D. Visual and Landform Alteration

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.

Section 30251 of the Coastal Act requires the scenic and visual qualities of coastal areas to be considered and protected as a resource of public importance. The site is located on a large 39 acre parcel just south of a minor peak and a southeast trending ridgeline on Schultz Ridge Road just off of Corral Canyon Road. The subject site is visible from the Backbone Trail, State Parkland, and Corral Canyon Road.

The applicant is proposing to relocate a temporary construction trailer adjacent to Schultz Ridge Road. Due to the existing vegetation the trailer will not be visible from Corral Canyon Road, however the trailer will be visible from Schulz Road. The trailer is only a temporary structure and will be removed upon the completion of the single-family residence. Relocation of the trailer will not require any grading or landform alteration other than minor vegetation removal. However, in order to ensure that the trailer is temporary and will not be converted into livable space, the Commission finds it necessary that the applicant remove the trailer within two months upon the issuance of the certificate of occupancy for the main residence as stated in Special Condition Four (4).

The applicant is proposing to revegetate the site with plant species native to the Santa Monica Mountains. Restoration of the site in accordance with Special Condition One and Two, will reduce the effects of landform alteration including the increased flows of water runoff and restore the site to be more visibly compatible with the surrounding areas.

The Commission finds that the proposed development will be sited and designed to protect the public view along the scenic coastal area and will be visibly compatible with the surrounding

area. Therefore, the Commission finds that the proposed project, attached with conditions, is consistent with Section 30251 of the Coastal Act.

E. Violation

Unpermitted development has taken place prior to submission of this permit application including the alteration of the previously approved guesthouse floor plan to exceed 750 sq. ft., the placement of 400 cu. yd. of excavated fill to create a pad area and installation of a chain link fence area within an offer to dedicate open space easement, and the placement of a temporary trailer. Through this coastal development permit amendment the applicant is proposing to restore and revegetate the knoll. The placement of unpermitted fill, chain link fence, and the construction of a 147 sq. ft. second level loft will be resolved through enforcement measures. To ensure that the restoration project is carried out in a timely manner, Special Condition Five (5) requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of the permit within 90 days of the Commission action. In addition, Special Condition Two (2) requires that the applicant implement the restoration plan within 60 days of the issuance of the permit.

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

F. Local Coastal Program

Section 30604 of the Coastal Act states 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 as conditioned as conditioned for approval for a portion of the project and as modified for denial of a portion of the project, will not create adverse impacts and is consistent with the Chapter 3 policies of the Coastal Act. The Commission finds that the portion of the project that is approved involving the relocation of the construction trailer, revegetation of the of the area designated in the recorded offer to dedicate open space easement, and the revised guesthouse floor plans which include a 122 sq. ft. storage room, a 90 sq. ft. pool bath, and 1,561 sq. ft. of patio will not prejudice the ability of the County of Los Angeles to prepare a Local Coastal Program for the unincorporated area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a). The portion of the project that is denied including the addition of a 147 sq. ft. loft will prejudice the ability of the County of Los Angeles to prepare a Local Coastal Program for

the unincorporated area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act.

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.

There are no negative effects caused by the approval of the portions of the development which have been adequately mitigated. Therefore, the portion of the project involving the relocation of the construction trailer, revegetation of the of the area designated in the recorded offer to dedicate open space easement, and the revised guesthouse floor plans which include a 122 sq. ft. storage room, a 90 sq. ft. pool bath, and 1,561 sq. ft. of patio as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, these aspects of the proposed amendment, as conditioned, have been adequately mitigated and are determined to be consistent with CEQA and the policies of the Coastal Act.

However, the remainder of the development, which consists of a 147 sq. ft. second story loft is not consistent with CEQA and the policies of the Coastal Act. There are feasible alternatives to this portion of the development that would lessen the adverse effects on the environment. CEQA requires that the alternatives be reviewed whether or not the project has been completed. One alternative would be to construct the guest unit as originally approved. The Commission finds that the revised guest unit floor plans are inconsistent with CEQA and the policies of the Coastal Act. There are feasible alternatives, which would eliminate the adverse effects caused by this development. Therefore, the revised guesthouse portion of the amendment request is denied.

SMB-VNT

File: SMB/permit/amed/Gilliland 5-90-246-A1

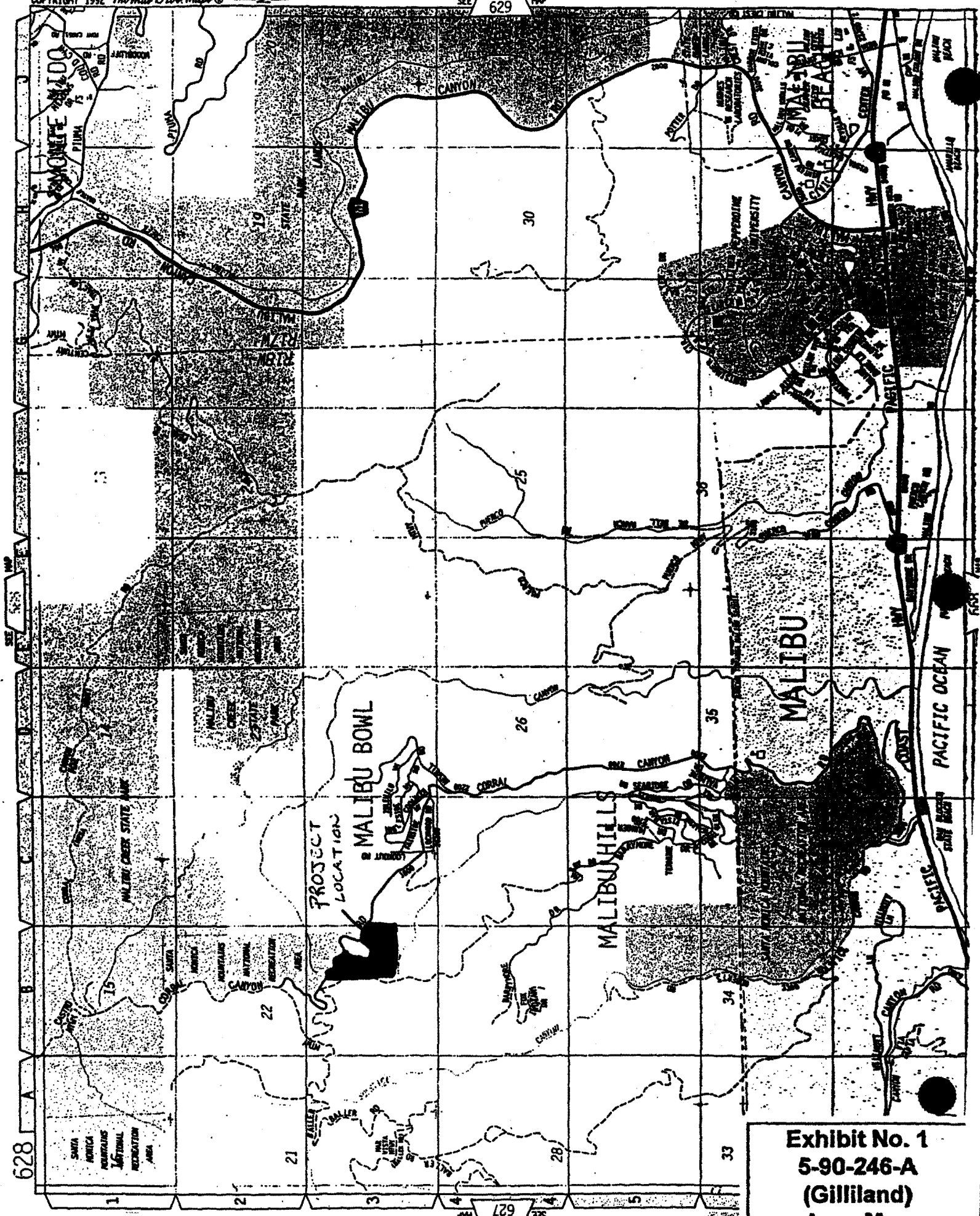
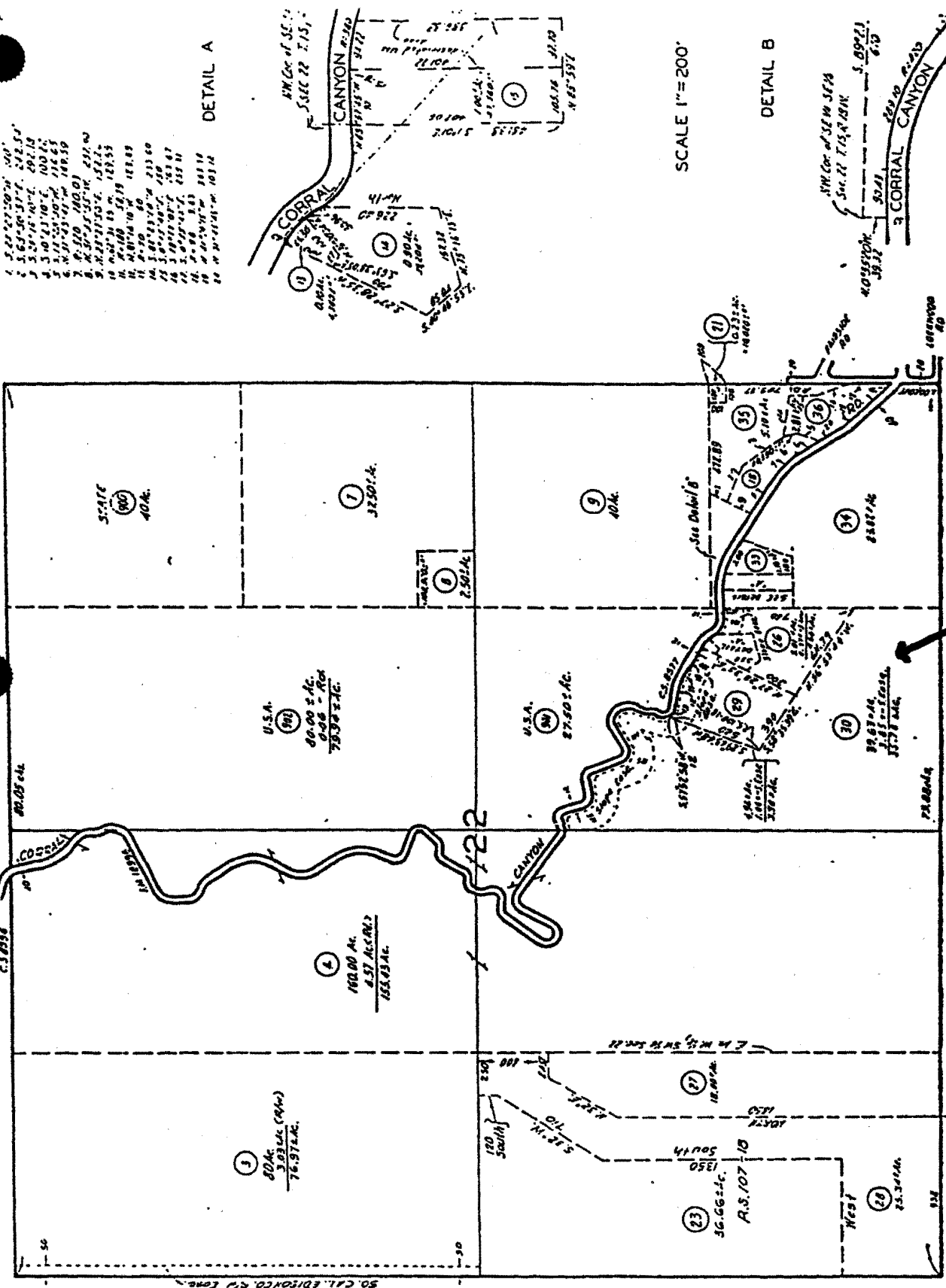
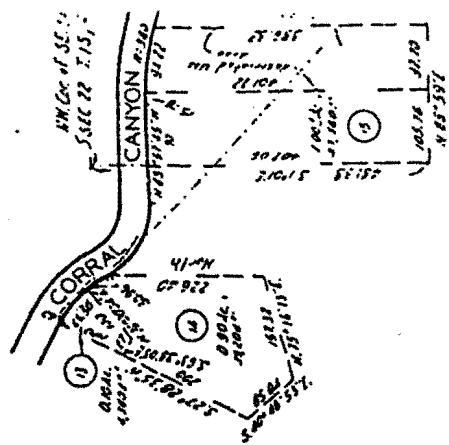


Exhibit No. 1
5-90-246-A
(Gilliland)
Area Map



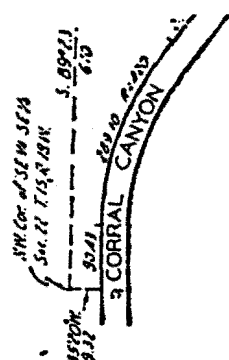
DETAIL A

1	5.21-27-20-24	100'
2	5.63-26-37-4	222.5'
3	5.27-16-40-2	292.14'
4	5.10-23-10-5	100'
5	5.11-25-20-7	148.5'
6	5.12-25-20-7	148.5'
7	5.13-25-20-7	148.5'
8	5.14-25-20-7	148.5'
9	5.15-25-20-7	148.5'
10	5.16-25-20-7	148.5'
11	5.17-25-20-7	148.5'
12	5.18-25-20-7	148.5'
13	5.19-25-20-7	148.5'
14	5.20-25-20-7	148.5'
15	5.21-25-20-7	148.5'
16	5.22-25-20-7	148.5'
17	5.23-25-20-7	148.5'
18	5.24-25-20-7	148.5'
19	5.25-25-20-7	148.5'
20	5.26-25-20-7	148.5'
21	5.27-25-20-7	148.5'
22	5.28-25-20-7	148.5'
23	5.29-25-20-7	148.5'
24	5.30-25-20-7	148.5'
25	5.31-25-20-7	148.5'
26	5.32-25-20-7	148.5'
27	5.33-25-20-7	148.5'
28	5.34-25-20-7	148.5'
29	5.35-25-20-7	148.5'
30	5.36-25-20-7	148.5'
31	5.37-25-20-7	148.5'
32	5.38-25-20-7	148.5'
33	5.39-25-20-7	148.5'
34	5.40-25-20-7	148.5'
35	5.41-25-20-7	148.5'
36	5.42-25-20-7	148.5'



SCALE 1"=200'

DETAIL B



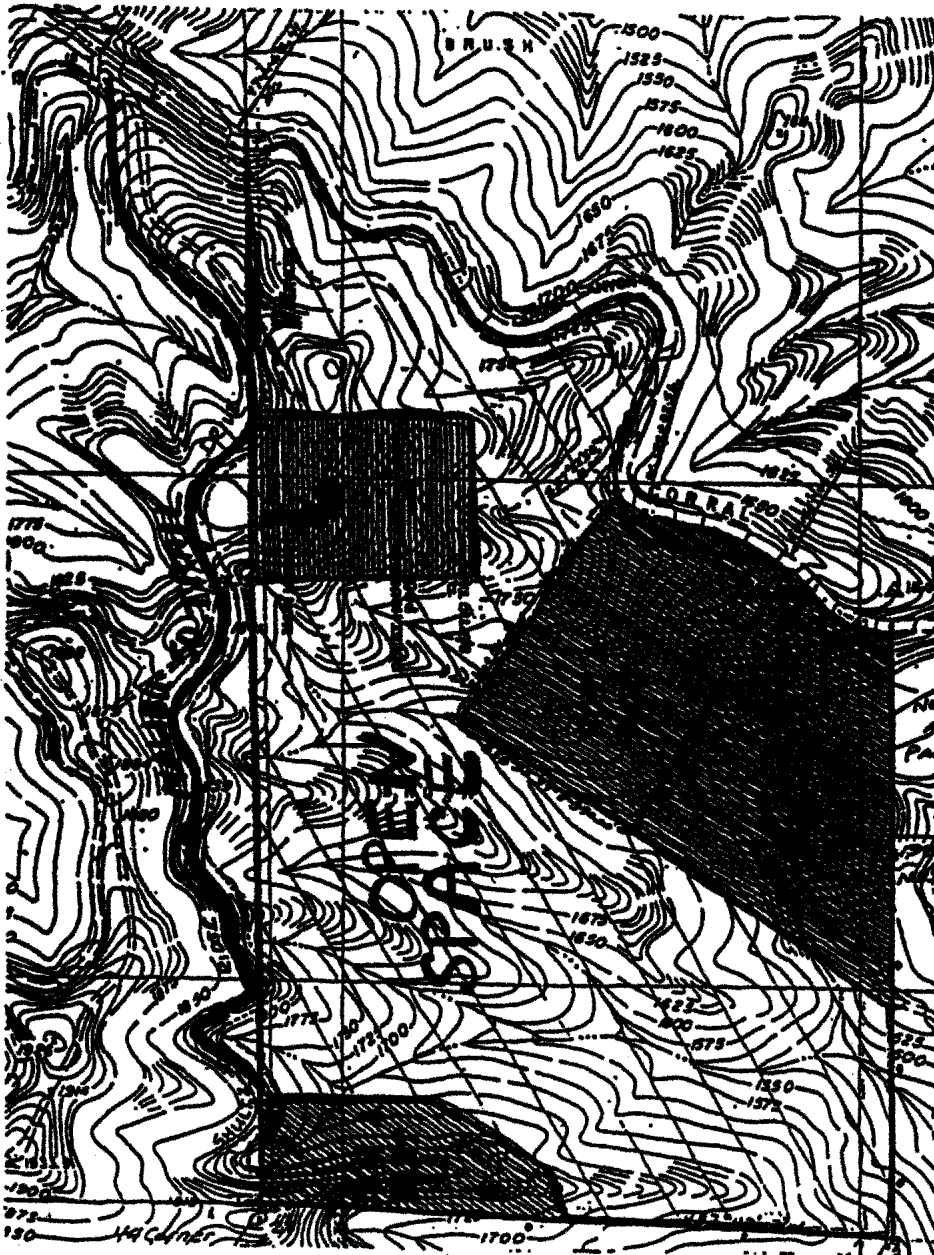
Subject Site

T. 1 S., R. 16 W.

SMT. SEE: 482 - 224

ASSESSOR'S MAP
COUNTY OF LOS ANGELES, C.

Exhibit No. 2
5-90-246-A
(Gilliland)
Parcel Map



SITE PLAN



SCALE: 1" = 100'

PAPER: 0 20
 A.M.A. 1-441-1-00
 CONT. COMPLIANCE 0 20-1478

**BOLTON RESIDENCE!
 AT MALIBU**

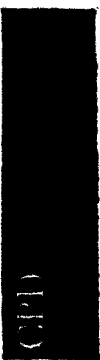


Exhibit C

DESCRIPTION OF DEVELOPMENT AREA

Approximately 6 a.c. starting 320' from n.w. corner of property following the section line 640' due south. A 520' line starting at the 320' point angling 77° south joining a 400' long line that is 505' due east of the section line and paralleling said line. The southerly border would be a 520' line angling 77° north, originating at the s.w. point 560' from the n.w. corner of property and joining the southern point of the 400' line paralleling the section line.

**Exhibit No. 3
 5-90-246-A
 (Gilliland)**

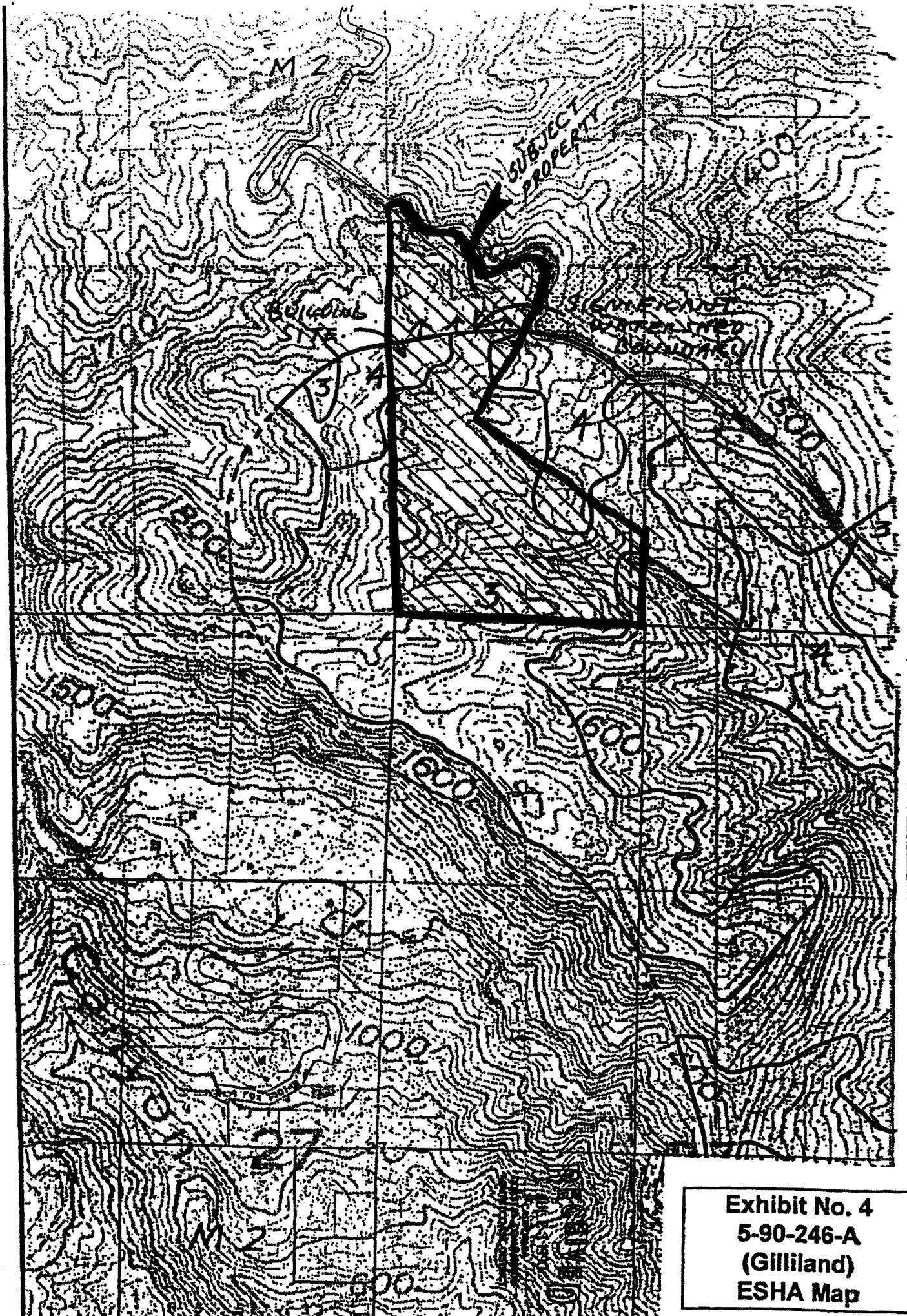
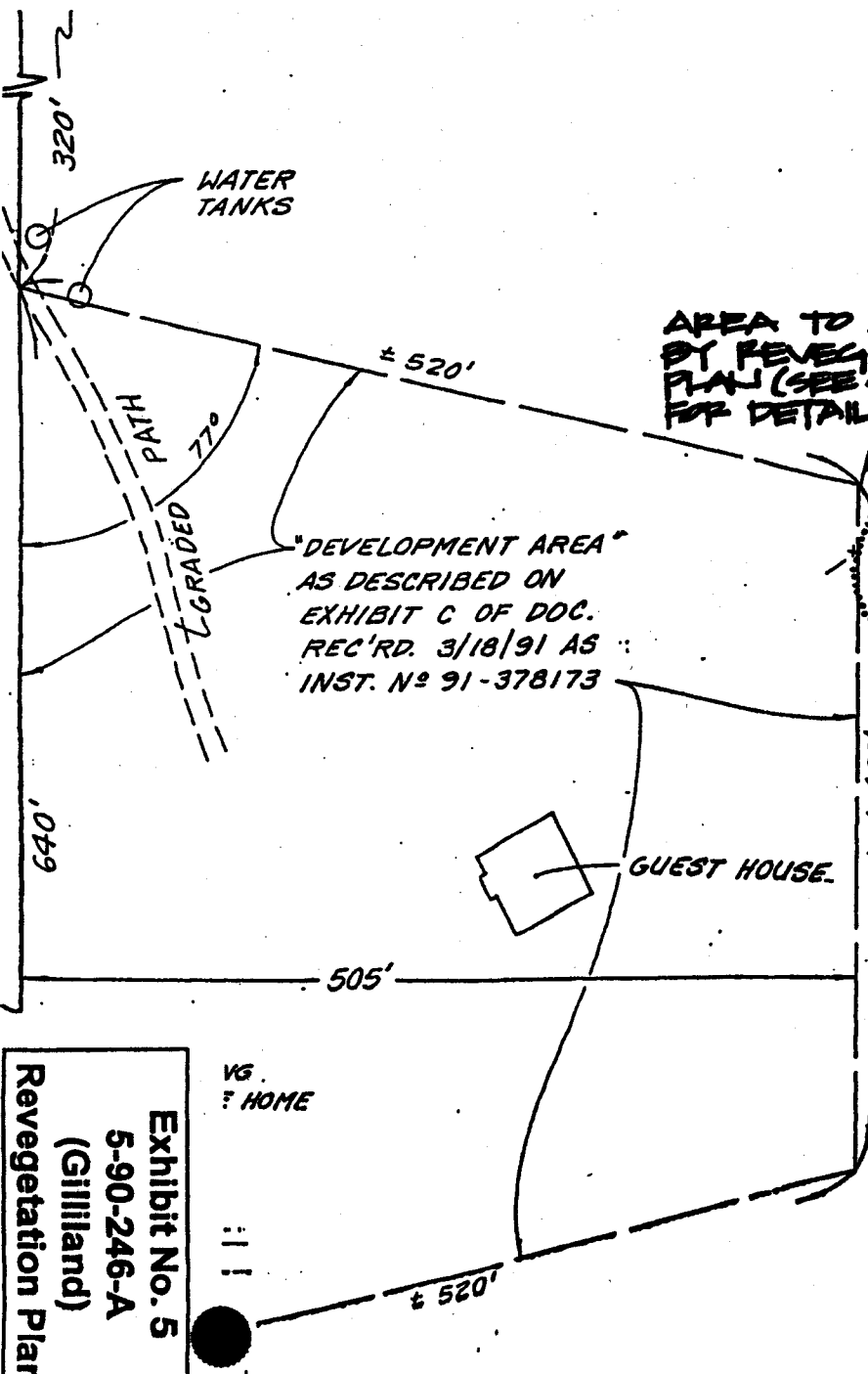


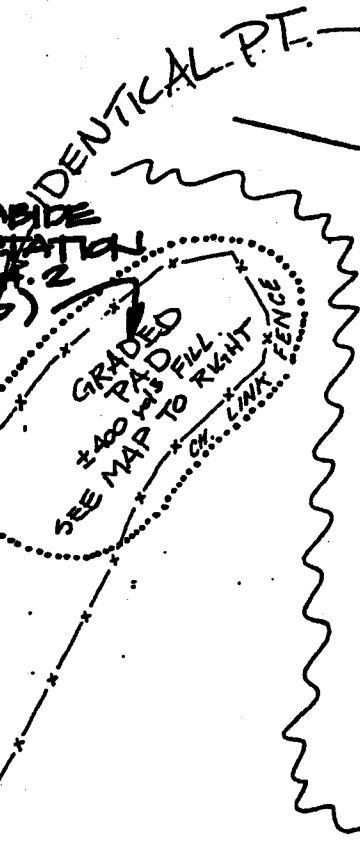
Exhibit No. 4
5-90-246-A
(Gilliland)
ESHA Map



AREA TO ABIDE BY REVEGETATION PLAN (SEE ST. 2 FOR DETAILS)

GRADED ± 400' FILL SEE MAP TO RIGHT

LINK FENCE



INSET MAP SCALE 1" = 4'

LEGEND: AS GRADED CONTOUR

APPROX CONTOUR OF NAT. GROUND FROM L.A. CO. TOPO 108-34-08 OF 1967 BY 5X ENLARGEMENT.

REVEGETATION PLAN 4.1.97

PREPARED BY: PENNY TURNER LANDSCAPE ARCHITECT 810.477.1370

RECEIVED

APR 17 1997

COASTAL COMMUNITY SOUTH CENTRAL COAST DISTRICT

MAP SHOWING EXISTING FEATURES ON A PORTION OF PROPERTY AT 1401 CORRAL CAN. ROAD MALIBU, UNINCORP. L.A. CO. CA.

SURVEYED IN MARCH 1997 PER INSTRUCTIONS OF: JAMES HARNISH BY: QUIROS SURVEYING 22249 P.C.H. MALIBU, CA. 90288 PH. (310) 451-9022

Revegetation Plan
Exhibit No. 5
5-90-246-A
(Gilliland)

SHEET OF 2

REVEGETATION PLAN

1401 Corral Canyon Road, Malibu, California

GOALS:

1. To support existing native growth and to revegetate an area disturbed by grading 2 1/2 years ago with plant species native to the Santa Monica Mountains.
2. To promote genetic diversity.
3. To ensure that all exotic species will not invade this area.

EXISTING CONDITION ON SITE AS OF APRIL 1, 1997:

The revegetation site is a ridge with a downward slope to the Northeast approximately 2000 square feet in size, which was graded with an additional 400 cubic yards of compacted fill 2 1/2 years ago Northeast of the guest house. During the past 2 1/2 years, the area shows no sign of slippage, movement or drainage problems. Many native plant species have reestablished themselves during this 2 1/2 year period.

RECOMMENDED TREATMENT:

1. At this point in time, the sited area should be left as is so as to not disturb the existing revegetation that has been established during the past 2 1/2 years with the following.
2. The area in question shall be identified and delineated in the field.
3. Remove all exotics in this designated area. Care shall be taken not to remove any existing and/or reseeded natives.
4. Any existing native plants with damaged trunk shall be cleaned up to encourage quick healing.
5. Dying plants or any organic material shall be left as mulch.

6. The ground surface of all barren areas within the destined area shall be scratched and seeded with the following seed mixture prior to the next rain season:

<u>lbs/acre</u>	<u>Species</u>	<u>Common Name</u>
2	Artemisia californica	California Coastal Sage
3	Baccharis pilularis	Coyote Bush
3	Eriogonum fasciculatum	California Buckwheat
3	Eriophyllum confertiflorum	Golden Yarrow
2.5	Lasthenia californica	Goldenfields
10	Lotus scoparius	Deerweed
2	Lupinus hirsutissimus	Hairy Lupine
3	Lupinus succulentus	Arroyo Lupine
3	Mimulus longiflorus	Bush Monkeyflower
1.5	Orthocarpus purpurecens	Owl's Clover
2	Phacelia parryi	Parry's Phacelia
2	Sisyrinchium bellum	Blue Eyed Grass
1.5	Stipa pulchra	Purple Needle Grass
2	Heteromeles arbutifolia	Toyon

40 pounds per acre total

Seed barren areas evenly. Some plants from this mixture are expected to establish and form the cover while other plants will reseed annually and p seasonal flowering.

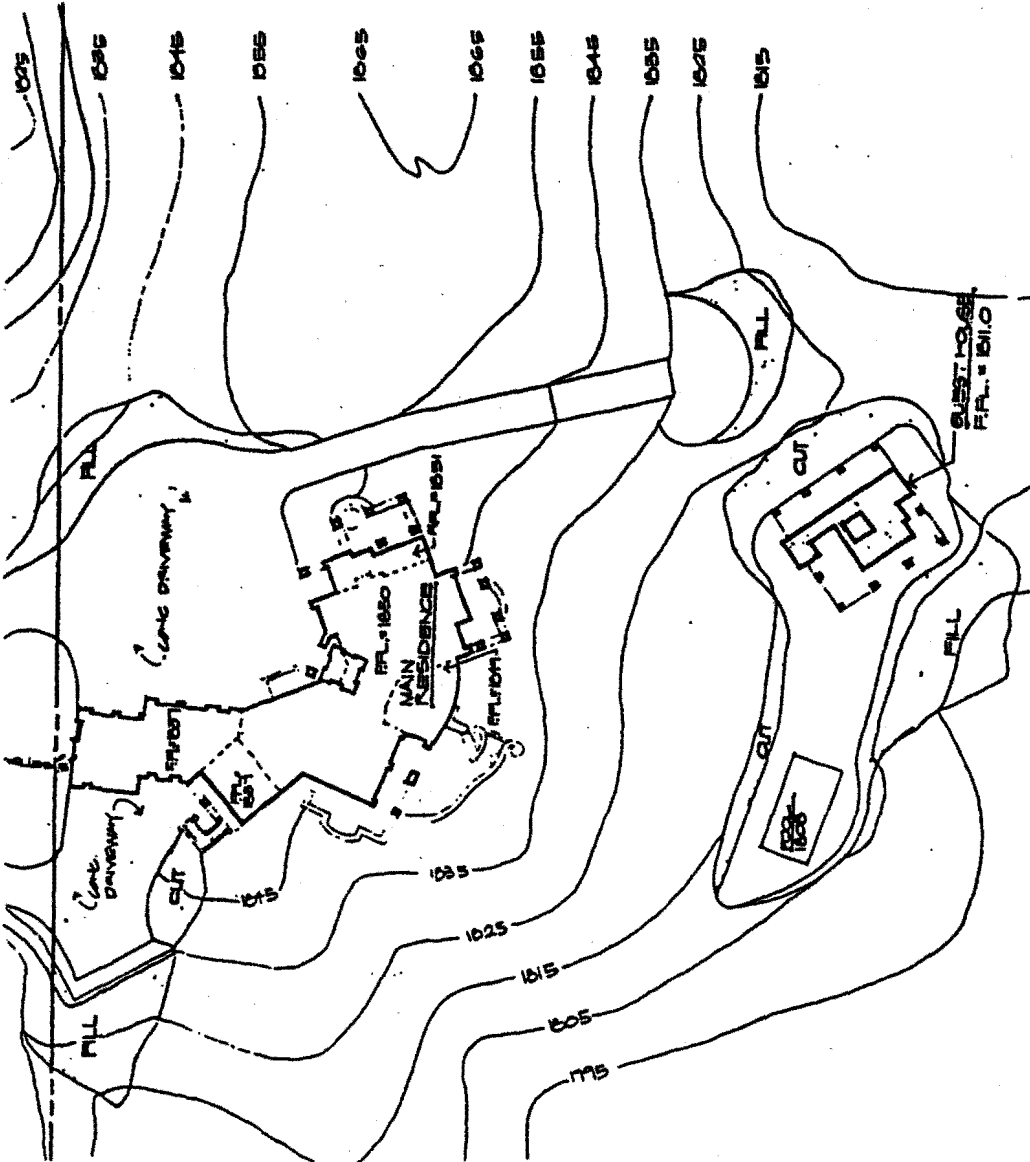
7. Six months after seeding, these areas will be weeded for all exotics. All w exotics shall be removed from the site. Care shall be taken as not to distu new native plantings.
8. One year after seeding, the area shall be monitored for coverage. All exot shall be removed and if needed barren areas shall be reseeded with the s mixture.

Shee

RECEIVED

APR 17 1997

SOUTH CENTRAL COAST DIST.



NOTE:
GRADE LINES SHOWN ARE
FOR THE BUILDING FOUNDATIONS
ONLY. SEE CIVIL ENGINEER'S
FOR GRADING PLAN.

RECEIVED

APR 17 1997

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Exhibit No. 6
5-90-246-A
(Gilliland)
Grading Plan

DIVISION OF BUILDING AND SAFETY
Department of Public Works
APPROVED
March 27, 1992
JAN 07 1992

FOR SITE VISITS DURING CONSTRUCTION
WEST COAST SONS, INCORPORATED
24 HOUR NOTES
(818) 991 7148
(805) 497 1244

THIS PLAN HAS BEEN REVIEWED AND CONFORMS
TO THE RECOMMENDATIONS IN OUR REPORT
NO. 8-90-11-4-71
WEST COAST SONS
1835 S. MAIN ST.
OCEANA, CA 92652
RCE 31502



Foundations and/or wall excavation and is approved by the engineer, prior to the placing

LEGAL DESCRIPTION:

A PORTION OF THE WEST 1/2
OF THE SOUTHWEST 1/4 OF
SECTION 22, TOWNSHIP 1 SOUTH,
RANGE 8 WEST, MALIBU

PROJECT ADDRESS:

1801 CONSALE CANYON RD.
MALIBU, CA 90265

NOTE:

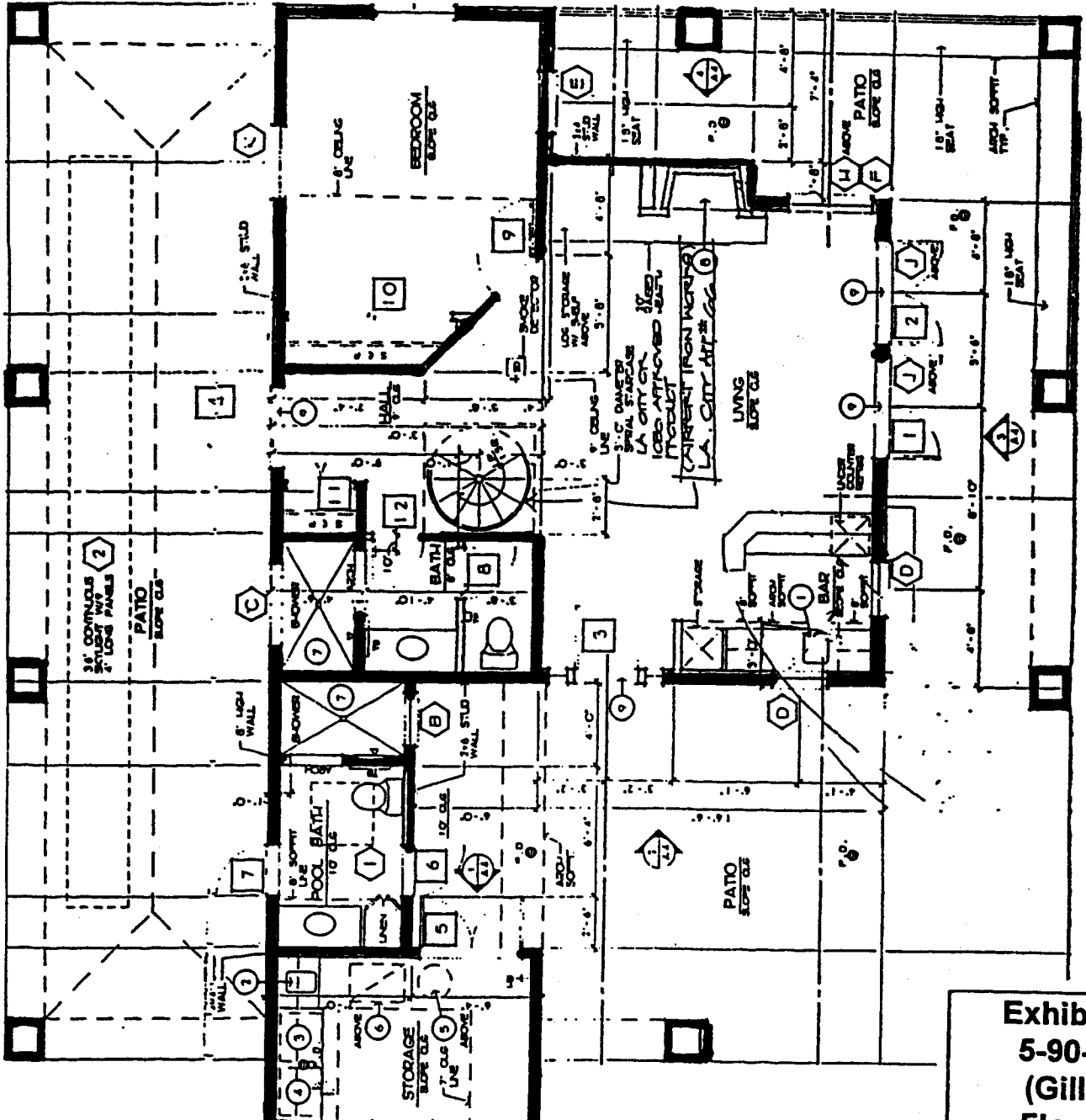
THIS SITE PLAN IS FOR
ILLUSTRATIVE PURPOSES
ONLY. REFER TO CIVIL
DRAWINGS FOR EXACT
BUILDING LOCATIONS &
SITE DETAILS.

ENGINEER RESIDENCE - MALIBU, CA

PLANS 179
A.L.S. # 4651-6-28
CERT. COMPLIANCE 100-1078
P.P. 129227
GEOLOGIST P.C.

DIVISION OF BUILDING AND SAFETY
 Department of Public Works
APPROVED
 [Signature]
 BY [Signature]
 JAN 07 1992

THIS PLAN AND SPECIFICATIONS ARE THE PROPERTY OF THE DIVISION OF BUILDING AND SAFETY AND ARE LOANED TO YOU FOR YOUR INFORMATION. THEY ARE NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF THE DIVISION OF BUILDING AND SAFETY.



MAIN FLOOR PLAN

AREA TABLETON	
FINISHES	780 SQ. FT.
POOL WITH	120 SQ. FT.
STORAGE	121 SQ. FT.
PATIO	1961 SQ. FT.

Exhibit No. 7
5-90-246-A
(Gilliland)
Floor Plan

DIVISION OF BUILDING AND SAFETY
 Department of Public Works
APPROVED
 1/7/92
 JAN 07 1992



ROOF PLAN

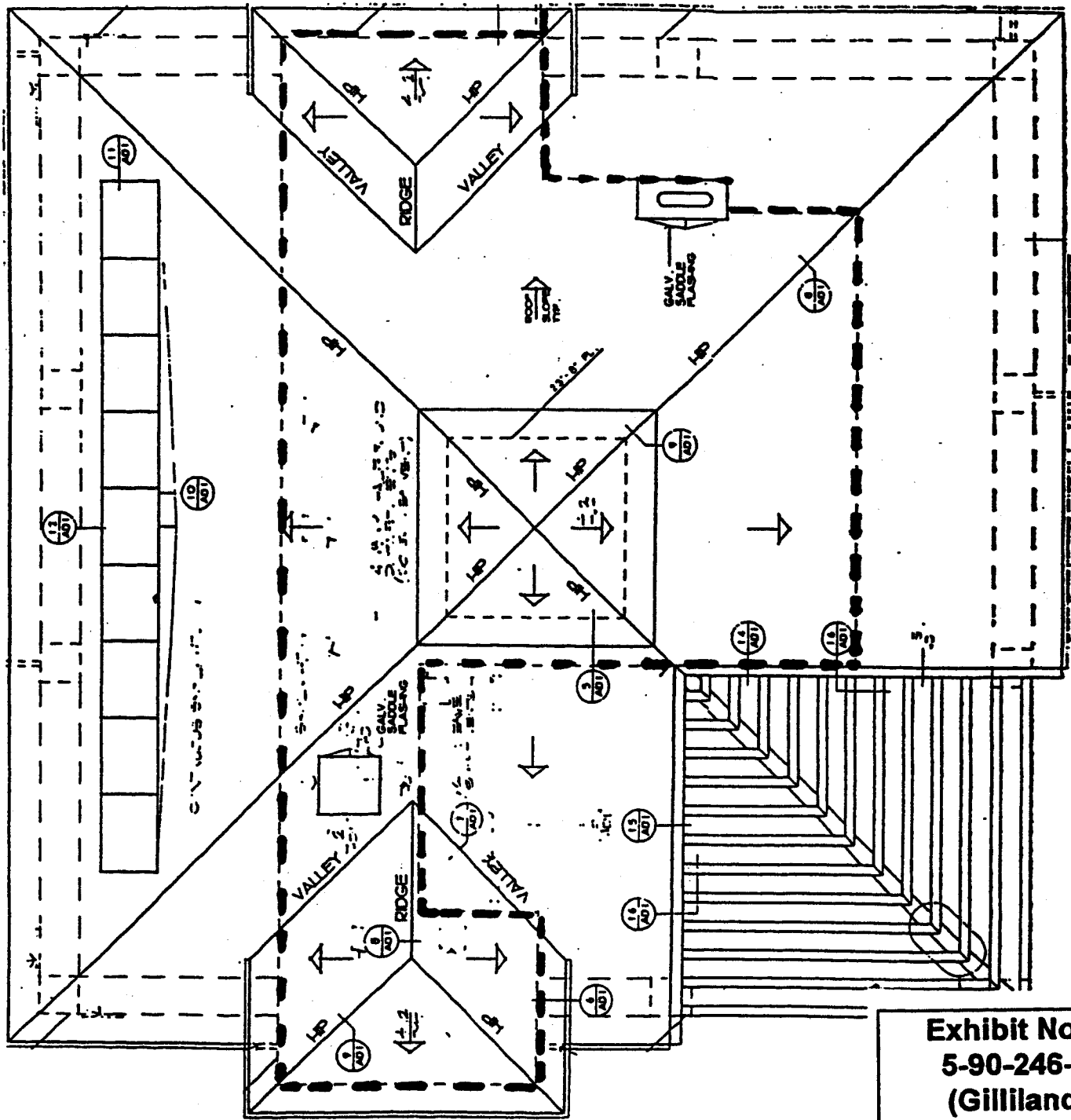
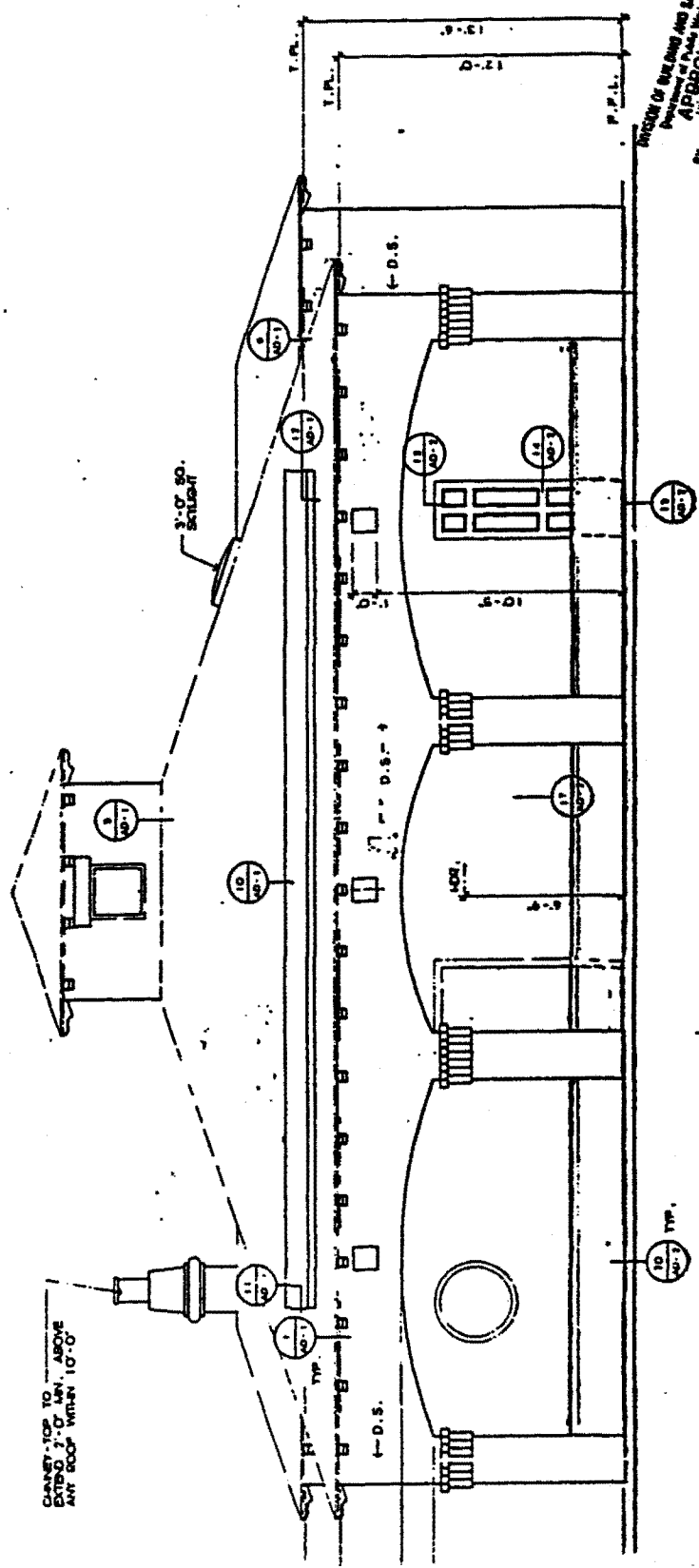


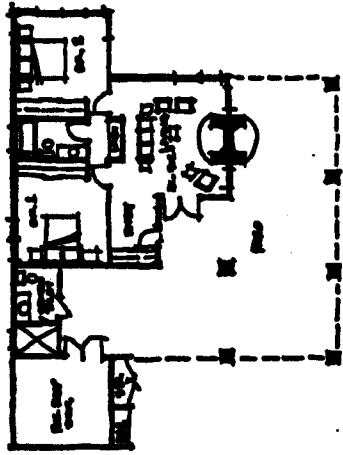
Exhibit No. 8
5-90-246-A
(Gilliland)
Roof Plan



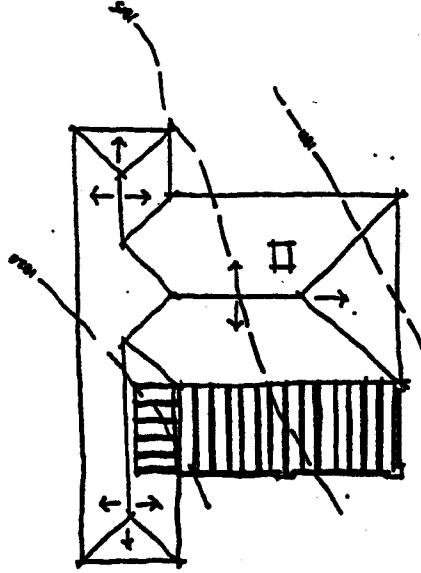
DESIGN OF BUILDING AND ALL
 PARTS THEREOF AS SHOWN
 ON THESE PLANS
 APPROVED
 BY
 [Signature]
 ARCHITECT
 JAN 07 1952

NORTH ELEVATION

Exhibit No. 9
5-90-246-A
(Gilliland)
Elevations



FLOOR PLAN - 750 sq. ft.
 (includes garage, storage, toilet structure (shown for scale))

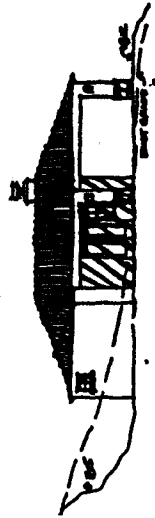
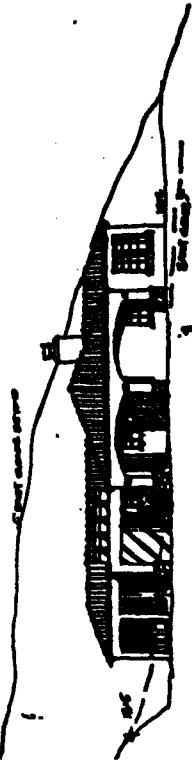


ROOF PLAN



FLOOR PLAN 152 sq. ft.

TOILET STRUCTURE -
 AT TENNIS COURTS.



ELEVATIONS

GUEST HOUSE



SCALE 1/8" = 1'-0"

PARCEL # 80

**BOLTON RESIDENCE
 AT MALIBU**

(CPI)

Exhibit No. 10
 5-90-246-A
 (Gilliland)
 Original Plans

OFFSITE COVENANT

1401 Corral Canyon Road
Malibu, CA 90265

JANUARY 2, 1998

This agreement between Bernard Mc Donald and Marsha Hale and Vidi Vici " Grantor", owners of real property described in attached document and Gerri Gilliland and Theodore Lonsway, "grantees" owners of real property described in attached document allows for the placement of temporary structures, trailers, construction materials etc during construction of the primary residence of Gerri Gilliland and Theodore Lonsway on said property that lies due West of the Gilliland/Lonsway Western property over to and including described road easement held in common by both parties.

Gerri Gilliland

Gerri Gilliland

1-23-98

Date

Theodore Lonsway

Theodore Lonsway

1-23-98

Date

Bernard Mc Donald

Bernard Mc Donald

Jan 23, 98

Date

Marsha Hale

Marsha Hale

January 23, 1998

Date

Exhibit No. 11
5-90-246-A
(Gilliland)
Agreement

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213, 590-5071)

Page 1 of 5
Date: May 23, 1991
Permit No. 5-90-246

COASTAL DEVELOPMENT PERMIT

On August 8, 1990, the California Coastal Commission granted to

RAY BOLTON

this permit subject to the attached Standard and Special conditions, for development consisting of:

Construction of a one story, 9,739 sq. ft., 35 foot high, single family residence with attached six car garage, driveway, swimming pool, tennis court and 750 sq. ft. guest house.

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 1400 Corral Canyon Road, Malibu

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

By: *J. Smith*

Title: Staff Analyst

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

Date _____

Signature of Permittee _____

Exhibit No. 12
5-90-246-A
(Gilliland)

COASTAL DEVELOPMENT PERMIT

Page 2 of 5
Permit No. 5-90-246

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 in the application for permit, subject to any special conditions 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 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 project during its development, 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.

Special Conditions

1. Open Space Dedication

Prior to transmittal of the coastal development permit, the applicant as landowner shall execute and record a document, in a form and content acceptable to the Executive Director, which irrevocably offers to dedicate to a public agency or private association acceptable to the Executive Director,

an easement for open space, view preservation and habitat protection. Such easement shall be located at 1400 Corral Canyon Road, Malibu, Los Angeles County, APN 4461-4-30 and shall include the area depicted in the attached Exhibit 4. The easement shall restrict the applicant from grading, landscaping (other than required by this permit), vegetation removal or placement of structures within the easement area. The existing water well on site shall remain a permitted use within the open space easement area. The offer shall be recorded free of prior liens and encumbrances except for tax liens which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of twenty one (21) years, such period running from the date of recording.

2. Grading and Landscaping Plan

Prior to the issuance of a coastal development permit, the applicant shall submit a landscaping plan prepared by a licensed landscape/architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All graded and brushed 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 November 23, 1988. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) 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 run-off waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.
- (c) 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 90 days and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils.

- (d) Vegetation within 30 feet of the proposed house may be removed to mineral earth, vegetation within a 100' radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur.

3. Development Deed Restriction

Prior to the issuance of the Coastal Development Permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the area in far southwest corner of the subject property that is not within the open space easement area, identified on Exhibit 4, cannot be developed unless Schultz Ridge Road is improved in conjunction with a Coastal Commission approved development off of Schultz Ridge Road.

4. Removal of Excess Fill

Prior to the issuance of the Coastal Development permit, the applicant shall submit to the Executive Director, the location of the proposed dump site for all excess fill material not required for the construction of the building pad or driveway for the main residence.

5. Future Development:

Prior to the transmittal of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 5-90-246; and that any future additions or improvements to the property, including but not limited to clearing of vegetation and grading, will require a permit from the Coastal Commission or its successor agency. Clearing of vegetation consistent with condition 2(d) above for fire protection is permitted. The document shall run with the land, 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 interest being conveyed.

6. Erosion Control and Revegetation Plan

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a detailed erosion control and revegetation plan, for those areas disturbed by brushing activities, prepared by a qualified engineer and landscape architect or resource specialist, that identifies the species, extent and location of all plant materials, irrigation system if any, all erosion control measures, and other landscape features that may be required for the successful erosion control and revegetation of the affected areas. Invasive, non-indigenous plant species which tend to supplant native species, shall not be used. The plan shall be submitted and implemented before the rainy season November 1, 1990.

7. Trail Dedication.

Prior to transmittal of permit, the applicant shall submit an irrevocable offer to dedicate a public access trails easement, continuous with, and over the entire length of the Malibu 50 Trail that lies within the applicant's parcel as shown on Exhibit 4. The irrevocable offer shall be of a form and content approved by the Executive Director, free of prior encumbrances except for tax liens, providing the public the right to pass and repass over the noted route limited to hiking and equestrian uses only. However, the applicant shall not interfere with present public use of this road. The dedicated trail easement shall not be open for public hiking and equestrian usage until a public agency or private association approved by the Executive Director agrees to accept responsibility for maintenance and liability associated with the trail easement. The offer shall run with the land in favor of the State of California binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

8. Geology

All recommendations contained in the Geologic Investigation dated 2-9-89 by Mountain Geology, Inc., shall be incorporated into all final design and construction including foundations, grading and drainage and all plans must be reviewed and approved by the consultants prior to commencement of development. Prior to issuance of the coastal development permit the applicant shall submit evidence to 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 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.