

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA
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Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 4-99-110

APPLICANT: Mark and Janet Newman

AGENT: John Kilbane

PROJECT LOCATION: 27487 Latigo Bay View Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct 5,887 sq. ft., two story, 27.5 ft. high, single family residence including attached 3-car garage, swimming pool, 466 sq. ft., 14 ft. high detached cabana, septic disposal system, driveway, patios, landscaping, and 904 cu. yds. of grading (512 cu. yds. of cut, 392 cu. yds. of fill, 120 cu. yds. of export to the Calabasas Landfill).

Lot area:	3.8 acres
Building coverage:	3,584 sq. ft.
Pavement coverage:	7,229 sq. ft.
Landscape coverage:	15,000 sq. ft.
Parking spaces:	3 covered

LOCAL APPROVALS RECEIVED: City of Malibu Approval in Concept, dated 7/1/99; Health Department approval in concept - septic disposal system; geology approval in concept, dated 1/25/99; Los Angeles County approval of preliminary fuel modification plan, dated 3/17/99.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Coastal Development Permit 4-97-189 (Segal), 4-97-157 (Malibu Investors), 4-97-121 (Malibu Investors), 4-97-120 (Malibu Investors), 4-98-276 (Malibu Investors), 4-98-274 (Feinstein), 4-98-275 (Malibu Investors), 5-89-1149 (Thorne); "Building Plan Review, Lot 10, Tract 46851," dated November 20, 1998, prepared by Geosystems.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with special conditions addressing: Landscape and Fuel Modification, Removal of Natural Vegetation, Drainage and Erosion Control, Plans Conforming to Geologic Recommendations, Wildfire Waiver of Liability, Design Restrictions, Swimming Pool Drainage Plan, Future Improvements, Structural Engineering Review, Revised Grading/Site Plan. The subject parcel is Lot 10, Tract 46851, of the 19-lot "Malibu Pacifica" subdivision located west of Latigo Canyon Road,

in Malibu, approximately one mile north of Pacific Coast Highway. Lot 10 contains a split-level pad previously graded pursuant to the underlying permit for the subdivision (CDP 5-89-1149 (Thorne)). The Malibu Pacifica subdivision lots are generally visible from several scenic public viewing areas along Latigo Canyon Road. These public vistas are designated as such in the Malibu/Santa Monica Mountains Land Use Plan (LUP) Visual Resources Map (Exhibit 4). In addition, several of the lots, including Lot 10, are particularly visible from the Escondido Falls Trail, and therefore were created subject to specific setbacks and height restrictions when the underlying subdivision was approved by the Commission in 1990. In addition to specific visual restrictions, the developable area of Lot 10 is also constrained by a restricted use zone (where the Malibu Coast Fault traverses the midsection of the parcel), open space restrictions and a 300 foot wide trail buffer along the western boundary of the parcel. These restrictions are further addressed in the findings and special conditions set forth in this report.

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 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 applicant 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. Vertical landscape elements shall be selected to screen the proposed project from public view, particularly from the Escondido Falls Trail, as the plantings mature. 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.
- (5) All irrigation systems and practices beyond a 50 ft. radius from the residence shall be shown or noted on the landscape plan and shall utilize methods that will not contribute to erosion or rely on the long-term application of overhead sprinkler irrigation. Bubblers and/or drip irrigation methods shall be preferred unless demonstrated to be infeasible to the satisfaction of the Executive Director.

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 applicant 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 applicant, 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. Drainage and Erosion Control Plan

- (A) Prior to the issuance of the coastal development permit, the applicant 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, swimming pool, decks, and all other impervious surfaces on the subject parcel 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 and shall not result in the saturation or erosion of the engineered slopes on or adjacent to the subject parcel. The plan shall additionally include a review of the proposed irrigation systems and practices contained in the landscape plan prepared pursuant to Special Condition 1. The consultant shall confirm to the Executive Director's satisfaction that the irrigation plan will not adversely affect site stability. The applicant shall additionally submit evidence that the drainage and erosion control plan has been reviewed and approved by the applicant's consulting engineering geologist prior to submittal to the Executive Director. The engineering geologist shall confirm in writing to the Executive Director's satisfaction that the plan adequately incorporates all recommendations contained in the geologic report titled "Building Plan Review, Lot 10, Tract 46851" prepared by Geosystems, dated November 20, 1998, for the proposed project.
- (B) The drainage and erosion control plan shall be implemented within 30 days of the applicant's receipt of the City of Malibu's issuance of the certificate of occupancy. By acceptance of this permit, the applicant agrees 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 applicant 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 applicant 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."

4. Plans Conforming to Geologic Recommendations

- (A) All recommendations contained in the report titled "Building Plan Review, Lot 10, Tract 46851" dated November 20, 1998, prepared by Geosystems, shall be incorporated into all final design, 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 applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans, including revised grading plans required pursuant to Special Condition 10. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs, including the drainage and erosion control plan required pursuant to Special Condition 3.
- (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."

5. Wildfire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicants shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Design Restrictions

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which restricts the color of the subject residence, garage, cabana, driveway, decks, pool, and roofs to colors compatible with the surrounding environment. Colors shall be selected to minimize the visibility of the proposed project from public viewing locations. White tones shall not be acceptable, nor shall red or red-toned materials for rooftops and other surfaces. All windows shall be of non-glare glass. All night lighting shall be downward directed and shall minimize the visibility of the project from offsite viewing locations to the maximum extent feasible, consistent with minimum safety requirements. 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.

7. Swimming Pool Drainage Plan

Prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, a swimming pool drainage plan prepared by a licensed engineer that connects the swimming pool drain system directly to the previously-constructed storm drain system serving the subdivision. The swimming pool drainage shall not be accomplished by pumping the drained effluent onto adjacent open areas or slopes. The swimming pool drainage plan shall certify that the proposed drainage system is adequate to drain the subject pool's volume of stored water at full capacity and shall specify that swimming pool drainage shall not be accomplished by pumping the drained effluent onto adjacent open areas or slopes.

8. Future Improvements

- (A) This permit is only for the development described in the plans submitted pursuant to the application for coastal development permit No. 4-99-110 and as otherwise specified by the Coastal Commission in this permit approval. Pursuant to Title 14 California Code of Regulations sections 13250, the exemptions otherwise provided in Public Resources Code section 30610 (a) and (b) shall not apply to the entire parcel. Accordingly, any future improvements to the permitted structures, including but not limited to clearing of vegetation and grading, other than as provided for in the approved landscape plan prepared pursuant to Special Condition 1, such as relocation of the approved swimming pool, construction of fences, enlargement of the cabana, or other activities on the subject property that might otherwise be exempt under Public Resource Code Section 30610 (a) or (b), which are proposed within or along the boundaries of the subject parcel, shall require an amendment to Permit No. 4-99-110 from the Commission or shall require an additional coastal

development permit from the Commission or from the applicable certified local government

- (B) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record 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 a map to scale prepared to the Executive Director's satisfaction that maps the subject parcel in accordance with its legal description, and maps all restricted areas for trail buffer, open space, geologic restricted use, and structural footprint and height setbacks applicable to the applicant's entire parcel, in accordance with legal descriptions of such constraints where applicable. 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.

9. Review of Retaining Wall and Preparation of Excavation/Foundation Designs by a Structural Engineer

Prior to the issuance of Coastal Development Permit 4-99-110, the applicant shall submit written evidence, including stamped final project plans and designs, to the satisfaction of the Executive Director verifying that the existing Hilfiker retaining wall located on Lot 10, at 27487 Latigo Bay View Drive, Malibu, has been field inspected and verified by a licensed structural engineer to be of adequate design and condition to provide the necessary site stabilization in accordance with the demands of the applicant's proposed design. In addition, said structural engineer shall provide foundation and excavation designs in accordance with the recommendations of the consulting engineering geologist, pursuant to Special Condition 4, for the proposed project with particular attention to all structures located within fourteen (14) feet of the Hilfiker retaining wall on Lot 10. Further, the applicant shall submit written evidence to the satisfaction of the Executive Director that the consulting engineering geologist has reviewed the plans and designs prepared pursuant to this special condition and determined that they adequately address the concerns raised on page 3 of the report referenced in Special Condition 4 above.

10. Revised Grading/Site Plan

Prior to the issuance of Coastal Development Permit 4-99-110, the applicant shall submit a revised grading and site plan that revises the total grading allowed from the proposed amount (904 cu. yds., including 512 cu. yds. cut and 392 cu. yds. of fill to be redistributed on the lower pad area, and 120 cu. yds. to be exported), as follows: Total allowable grading shall include: 345 cu. yds of cut to reduce the upper pad by approximately 1.0 ft. of finished elevation, and 167 cu. yds. of cut to

excavate the pool and foundations. All cut material (512 cu. yds. total) shall be disposed offsite at the Calabasas Landfill pursuant to the applicant's proposal.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Background and Project Description

The proposed project site is located at 27487 Latigo Bay Drive (APN 4460-035-010), about one mile inland and north of the Pacific Ocean, and west of Latigo Canyon Road. The subject parcel is located within a 19 lot subdivision (with 18 buildable parcels) known as Malibu Pacifica, along a rising ridgeline between Latigo Canyon and Escondido Canyon. The building site is located on an approximately 3.5-acre parcel (known as Lot 10) with an existing split-level, graded pad constructed in accordance with the approved subdivision (CDP 5-89-1149 Thorne, Exhibit 14). The constructed pad – and proposed project – are limited by Special Condition 7 of the underlying subdivision (Exhibit 13) to reduce the visual impacts of the project as seen from public viewing areas to the west, south, and east. The land to the north slopes up the ridge. The approval of the subdivision included an open space easement across most of the steep portion of the property, thus the steeply sloping southwestern portion of the site is restricted as open space, in addition to a 300 foot wide buffer at the margin of the parcel designed as a setback to limit the effects of development on the nearby Escondido Falls Trail. (See Exhibits 1—13, particularly Nos. 3, 3a, 4, 5, and 14).

Access to the site is by the private gated street located on the east side of the building pad. The main access to the subdivision is located off Latigo Canyon Road. The western side of the pad is supported by a combination of 2:1 fill slopes and a 15 ft. high Hilfiker retaining wall. The wall consists of gravel and soil compacted into a wire mesh structure. Steel mats at the top of the wall extend approximately 14 feet into the slope and pad area from the face of the wall. The top of the wall is located about 5 feet below the level of the building pad. Hilfiker walls have been used throughout the subdivision, and the extent of these walls, together with the intensively engineered artificial slopes constructed to produce the authorized pad areas have rendered the subject sites sensitive from the perspective of maintaining future slope stability.

West of the wall a 2:1 fill slope descends approximately 10 feet until it reaches the natural slope, which descends further, approximately 150 feet, into a natural drainage course tributary to Escondido Creek. To the north of the building pad, a 2:1 compacted fill slope ascends approximately 40 feet to a graded building pad on Lot 11. To the south of the building pad, a 2:1 compacted fill slope descends approximately 35 feet to the graded building pad on Lot 9 (see Exhibits 4 and 5).

The steepness of the site and the extent of artificial, engineered slopes and retaining devices clearly illustrates the importance of proper site management, including drainage, runoff collection, pool water drainage, erosion control, landscaping and irrigation, etc. Lot 10 is also traversed by a trace of the Malibu Coast Fault, which resulted in a geologic restricted use area that cuts through areas also restricted as trail buffer and open space. The building pad is set back over 400 feet from the fault as mapped in the substantive documents of the file associated with Coastal Development Permit 5-89-1149 for the underlying subdivision. (See Exhibit 14 for a copy of CDP 5-89-1149).

Lot 10 is also affected by several other deed restrictions that were conditions of approval of the underlying subdivision (CDP 5-89-1149 Thorne). These restrictions include a 300 ft. wide buffer easement for the Escondido Falls Trail on the southwestern portion of the parcel, specific restrictions on building height and setbacks due to the site's visibility from the trail, and an open space easement (see Exhibits 4, 5 and 14).

The 735-foot elevation of the Lot 10 building pad renders the proposed project visible from the Escondido Falls Trail, which skirts the southwestern portion of the site at approximately the 30-foot elevation, ascending along the western side of the subdivision to an elevation of approximately 300 feet adjacent to Lot 10. The Escondido Falls Trail connects perpendicularly to the Coastal Slope Trail, which parallels the coastline south of the subdivision. The building site is also visible from the Ramirez Canyon Trail, De Butts Terrace Road to the west, and from portions of Winding Way to the south. The residence will be visible from very limited portions of Latigo Canyon Road to the east.

Lot 10 drains to Escondido Canyon Creek, an Environmentally Sensitive Habitat Area (ESHA) and a U.S. Geological survey-designated blueline stream. Therefore, development of this parcel must be evaluated for potential effects upon the ecosystem of the ESHA. Vegetation on Lot 10 consists mostly of coastal sage scrub; no sensitive habitats or species are known to occur on site.

B. Geology and Hazards

Coastal Act Section 30253 provides in pertinent part that:

Section 30253.

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 applicant proposes to construct a 5,887 sq. ft., two story, 27.5 ft. high, single family residence including attached 3-car garage, a swimming pool, a detached, 466 sq. ft. cabana, septic disposal system, driveway, patios, landscaping, and 904 cu. yds. of grading (512 cu. yds. of cut and 392 cu. yds. of fill), with excess graded material to be disposed of at the Calabasas Landfill.

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 applicant has submitted a geology report titled Building Plan Review, Lot 10, Tract 46851, dated November 20, 1998, prepared by GeoSystems Environmental and Geotechnical Consultants. The report recommends that all development on Lot 10 be set back a minimum of 14 feet from the existing Hilfiker wall (see background section) on the southwest portion of the site as shown on the site plan (Exhibit 7), or, if development is proposed less than 14 feet from the wall, that the capability of the wall to adequately support the slope in light of such additional development be reviewed by a structural engineer.

The report states (page 3):

According to the final soils engineering report for the Lot by Pacific Soils Engineering, Inc., the steel mats at the top of the wall extend approximately 14 feet into the slope and pad area from the face of the wall. If proposed structures are to be located within 14 feet of the top of the existing wall we recommend that the walls be evaluated by a structural engineer to provide foundation design recommendations for the proposed structures which will not adversely affect the existing walls. In this case additional exploratory excavation may be necessary to determine the extent of the steel mats in the retaining wall structure. In any case proposed foundation or pool excavations should be designed and constructed so that they do not result in damage to the existing retaining wall structure and foundations would not surcharge the existing walls unless approved by the Structural Engineer.

As explained in the geotechnical report, the retaining wall is a critical stabilization feature not only for Lot 10, but for the overall constructed slope ascending to Lot 11. (see Exhibit 4). The total height of the interrelated, constructed slopes connecting the three contiguous lots is over 80 feet. The setback distance from the retaining wall on Lot 14 is specified by the geotechnical consultant as 14 feet because the retaining wall tiebacks extend as far as 14 feet laterally, at varying depths, into the buttress fill slope.¹

The proposed pool and deck are situated less than 14 feet from the referenced retaining wall, and therefore, in accordance with the consulting engineering geologist's recommendations, the applicant must provide evidence that a licensed structural engineer has reviewed and found acceptable the existing, in-field condition of the Hilfiker wall and provided foundation design recommendations to ensure that the proposed pool excavations and other components of the proposed project foundation designs do not adversely affect the integrity of the wall, engineered slope, and existing pad. Special Condition 9 requires the applicant to submit evidence to the Executive Director's satisfaction that these requirements have been met and that the foundation designs of the structural engineer have also been reviewed by the consulting engineering geologist.

As noted by the consulting engineering geologist, future site development that may directly or indirectly affect the integrity of the Hilfiker walls or the stability of the site should be evaluated to ensure that adverse impacts to the site are not created by such proposals. Special Condition 8 ensures that all future development of the site will require the applicant or successor interest to apply for an amendment to this permit or a new coastal development permit, thus assuring the implementation of the consultant's recommendation through future development review on a case-by-case basis.

Coastal Act Section 30253 (a) requires that new development neither cause nor contribute significantly to erosion or site instability. The pad has already been graded, and some erosion is evident on site. Previous landscaping efforts have met with mixed

¹Verified by John Kilbane, applicants' agent.

success, and the extent of engineered slopes and retaining walls, as previously discussed, renders the site highly vulnerable to erosion or instability if erosion and drainage control measures are not well designed and successfully implemented. To assure adequate drainage management, the Commission requires through Special Condition 3 that the applicant retain a licensed engineer to prepare a run-off and erosion control plan to address these concerns. In addition, Special Condition 3 requires the consulting engineer to additionally evaluate the landscape irrigation system and practices contained in the landscape plan prepared pursuant to Special Condition 1. This feature of the condition is necessary to ensure that the landscape plan does not inadvertently contribute to erosion or slope instability by employing the excessive use, for example, of overhead sprinklers when drip irrigation, bubblers, or skillful establishment of drought tolerant, deeply rooted native plant species would obviate the need for such irrigation practices and limit the potential application of excess moisture to the slope retaining system.

In addition, Special Conditions 1 (landscape and fuel modification plans) and 2 (removal of natural vegetation) impose limits on the disturbance of existing native species on site, allowing only that which is mandated by the Los Angeles County Fire Department to control fire hazards and then only at the appropriate time (at issuance of Certificate of Occupancy by the City of Malibu), thereby reducing the potential for erosion from wind and rain that follows the exposure of soils when vegetation removal is undertaken in excess and before necessary. Additionally, implementation of the approved landscape plan is more likely to succeed when the site is actually occupied and residents are present to monitor the plantings.

Special Condition 1 requires specific erosion control measures if grading is undertaken during the rainy season, and further limits potential erosion by conserving native plant species on site and requiring the use of primarily local native plants where additional plantings are proposed. Implementation of Special Condition 1 will additionally prevent erosion by requiring the use of drought tolerant native plants and turf, thereby reducing the application of surficial irrigation and the potential loading of fragile slopes by excessive application of irrigation water (deliberate or accidental).

With regard to potential effluent from the swimming pool and related potential effects upon slope stability, the Geosystems report discusses a swimming pool subdrainage system. The applicant's agent states that such systems would only be used to collect minimal amounts of overtopping from the pool and that higher volume maintenance or emergency drainage of the swimming pool will be directed into the preconstructed storm drain system at the street. The plans as submitted do not indicate how, specifically the drainage connection between the pool and the storm drain system would be accomplished. Therefore, Special Condition 7 requires the applicant to submit a swimming pool drainage plan prepared by a licensed engineer to ensure that proper swimming pool drainage is established to avoid drainage to the adjacent slope and the Hilfiker retaining wall. This requirement is in recognition of the repeated warnings in the Geosystems reports against excessive saturation or loading of the

engineered slopes on site. Thus, implementation of Special Condition 7 will contribute an additional measure of security with regard to protecting future site stability.

As noted previously, the applicant proposes 904 cu. yds. of total grading, including 512 cu. yds. of cut and 392 cu. yds. of fill, with 120 cu. yds. to be exported to the Calabasas Landfill. The applicant states that approximately 100 cu. yds. of cut are required to construct the swimming pool and 67 cu. yds. of cut are required for excavation of the foundations. The balance of the grading (345 cu. yds. of cut) would be redistributed on the lower pad area, increasing the finished lower pad elevation by approximately 2.5 feet in height. The applicant states that the lowering of the upper pad elevation was required by the City of Malibu to reduce the overall finished height of the proposed residence (apparently in lieu of a requirement that the height of the proposed structure itself be reduced).

Distribution of the cut material to the lower pad, as proposed, however, would result in an overall increase of the cabana structure to a finished elevation of approximately 17 feet, whereas Special Condition 7 of the underlying subdivision permit that created the subject lot (CDP 5-89-1149, Exhibit 14) restricts development in the lower pad area to a total height of 15 feet above grade. This requirement limited the potential visual impacts of development in the lower pad area which is visible from the Escondido Falls Trail to the south and west of the parcel. Therefore, to ensure that the proposed project is consistent with the conditions of CDP 5-89-1149, and to limit the project's visual impacts, the Commission finds it necessary to require the applicant to dispose of the excess cut material offsite, instead of recompacting the material on the lower pad. Accordingly, Special Condition 10 requires the applicant to submit a revised site/grading plan according to the following specific requirements: Allowable grading shall include: 345 cu. yds of cut to reduce the upper pad by approximately 1.0 ft. of finished elevation, and 167 cu. yds. of cut to excavate the pool and foundations. All cut material (512 cu. yds. total) shall be disposed offsite at the Calabasas Landfill.

The November 20, 1998 report by Geosystems makes specific recommendations concerning foundations, grading, drainage, foundations, sewage disposal, erosion control, and construction practices. The report concludes that:

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It is the finding of this firm that the proposed building and or grading will be safe and the site will not be affected by any hazard from landslide, settlement or slippage and the completed work will not adversely affect adjacent property in compliance with the County Code, provided our recommendations are followed.

The Commission has, in past permit actions in the Malibu/Santa Monica Mountains area, found that geologic recommendations that ensure project consistency with the applicable requirements of the County Code provide acceptable assurance that a proposed project will be safe and free from geologic hazard, and will not contribute to

offsite geologic hazards or erosion, provided the recommendations of the consulting geotechnical expert are implemented in all relevant final project plans and designs. Thus, the Commission finds that based on the recommendations of the consulting geologists, if the referenced geologic 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 4 requires the applicant to provide evidence that the consultant has verified that the recommendations in the referenced engineering geologic report have been incorporated into the final project plans and designs, including the revised grading plan required by Special Condition 10 and the Drainage and Erosion Control Plan required by Special Condition 3.

The applicants propose to grade (cut) a total of 512 cu. yds. of material for the purpose of regrading the upper pad and excavating the areas required for the swimming pool and foundations. Graded areas are vulnerable to erosion, both immediately after site disturbance, and until landscape plantings have been successfully established and given sufficient time (often years) to mature. As noted above, Coastal Act Section 30253 requires the prevention of erosion that may be caused by new development. In addition, other Coastal Act policies discussed in Section C of this report emphasize the importance of protecting environmentally sensitive habitats, including coastal streams, from the adverse impacts of sediment pollution that may be generated by erosion. As noted in the background section, Escondido Canyon Creek is located less than one half of a mile downgradient of the proposed project.

To achieve the erosion control standard of Coastal Act Section 30253, Special Condition 1 requires the applicant to implement temporary erosion control measures if grading is undertaken during the rainy season. Specific measures may include, but are not limited to, covering stockpiled soils and exposed graded areas with weighted moistureproof coverings, constructing siltation and debris basins, and strategically placing sandbags, bales of hay or straw, geotextiles, or various forms of mulch as necessary to provide adequate protection of disturbed or exposed soils.

Special Condition 1, upon implementation, also additionally provides long-term erosion control by requiring landscaping with primarily locally native plant species. Once established, these species tend to be deeply rooted and drought tolerant, thereby providing erosion control in two ways: (1) by providing deep, complex root systems that tenaciously hold and stabilize soils (particularly on slopes) and (2) by minimizing, or upon successful establishment even eliminating, the need for surface applications of irrigation water. Shallow rooting patterns consistent with surface water application, runoff from improperly monitored irrigation systems or inappropriate volume settings, and occasional gullyng from broken irrigation systems washing out slope areas, can all be avoided by the intelligent implementation of the primarily native landscape palette required by Special Condition 1.

The Commission additionally notes that native species, particularly shrubs, and trees (such as oaks), generally display relatively slow growth characteristics, even under optimal conditions. Therefore, exposed soils between planted seedlings or immature shrubs and trees may be vulnerable to erosional forces (wind, rain) for a number of years until the plants become well-established. Special Condition 1, therefore, incorporates specific requirements for application of geotextiles, mulch, or other means of protecting all exposed soils during the initial years of following implementation of a landscape plan in the wake of site disturbance for construction. The Commission finds that the implementation of the landscape planting and erosion control measures required by Special Condition 1 will further ensure site stability and control potential erosion that may otherwise result from site grading, excavation, and construction.

In addition, and as discussed previously, the Commission further finds that the removal of existing vegetation from the proposed construction site for fuel modification purposes would render the site unnecessarily vulnerable to erosion if undertaken before necessary. Therefore, in accordance with Special Condition 2, such removal of vegetation shall not be undertaken until the local government has issued a building or grading permit for the proposed project.

Finally, with respect to site stability, the Commission notes that the subject site has been identified as having a geologic restricted use area. This area is shown in Exhibits 3, 3a, and 4. The restricted use area delineates the path of the Malibu Coast Fault that traverses a portion of Lot 10. The restricted area extends 75 feet on each side of the fault, for a total width of 150 feet. The area within this zone is associated with a much higher risk of potential surface rupture should the Malibu Coast Fault produce a significant earthquake within the general area of the proposed project. Therefore, to ensure that future development that may be proposed on the subject parcel is setback sufficiently from the mapped geologic restricted use area, the Commission finds it necessary to impose Special Condition 8 (future improvements) to ensure that such future development is sited in consideration of this constraint. Development within the designated zone otherwise poses an extraordinary hazard to occupants of such structures.

Therefore, for all of the reasons cited above, the Commission finds that the proposed project, as conditioned by Special Conditions 1, 2, 3, 4, 7, 8, 9, and 10 will be consistent with the requirements of Coastal Act Section 30253 applicable to geology, site stability, and erosion control.

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.

Much of the Malibu Pacifica subdivision, including the site of the proposed project, burned during the catastrophic 1993 Malibu Fire. Due to the fact that the proposed project is located in an area that is well 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, the wild fire waiver of liability, the applicants acknowledge the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition 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 that might otherwise exist.

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 posed by wildfire.

C. Environmentally Sensitive Habitat

Section 30230 of the Coastal Act states:

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 of the Coastal Act states:

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 of the Coastal Act states:

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 would significantly degrade those areas, and shall be compatible with the parks and recreation areas shall be sited and designed to prevent impacts which continuance of those habitat and recreation areas.

(Amended by Ch. 285, Stats. 1991.)

In addition, the certified Malibu/Santa Monica Mountains LUP contains numerous policies regarding the protection of sensitive resource areas. The Coastal Commission has utilized these policies as guidance in past permit decisions. LUP policies particularly applicable to the proposed project include:

P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.

P 84 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 may be used. Within ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.

P 86 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. Runoff control systems shall be designed to prevent any increase in site runoff over pre-existing peak flows. Impacts on downstream sensitive riparian habitats must be mitigated.

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and quality of coastal waters and the marine environment be maintained and, where feasible, restored. Section 30240 requires the protection of environmentally sensitive habitat areas against significant disruption of habitat values.

As noted previously, the applicant proposed to grade 904 cu. yds. of material to recontour the existing pad constructed pursuant to CDP 5-89-1149 (Thorne) for the underlying subdivision that created the subject Lot 10, and to excavate the swimming pool area and foundations.

The subject parcel slopes downgradient in a southwesterly direction toward Escondido Canyon Creek, as shown on Exhibit 4b. The creek, designated as a blue line stream on the U.S. Geological Survey quadrangle maps, drains to the Pacific Ocean less than one mile downgradient of the proposed project site. The creek is flanked by inland wetlands designated as Environmentally Sensitive Habitat Areas (ESHAs) in the Malibu/Santa Monica Mountains LUP maps, as well as designated Disturbed Sensitive Resource Areas. In addition, the nearshore marine environment affected by the outflow of Escondido Canyon Creek contains kelp beds also designated as ESHAs on the LUP maps.

The disturbance caused by construction and vegetation removal on sites that drain into the watersheds of the Santa Monica Mountains may result in erosion and thus in pollution of these waters that is caused by the release of sediments into downgradient streams and ultimately into the Pacific Ocean. Unmitigated vegetation removal and grading to prepare the building pad and to excavate the swimming pool site, together with the disturbance caused by the staging of construction on or adjacent to slope areas, may expose fragile soils to wind and rain, compact soils (thereby inhibiting revegetation), and contribute cumulatively to long term erosion. Fuel modification for fire control may further exacerbate these disruptions by removing natural plant cover. This disturbance is especially significant in sloping areas which generally have relatively thin, poor soils to begin with. Removal of existing vegetation exposes these slopes to the effects of precipitation runoff, potentially washing away the marginal amount of topsoil that may exist. This sequence further reduces the likelihood that appropriate native vegetation will become reestablished, and therefore accelerates the likelihood of even further erosion. The cumulative result of this process is the ecological destruction

of watersheds, the increased presence of invasive, weedy species that thrive on disturbance—particularly in marginal habitats—and the overall loss of habitat to wildlife species and the inhibition of erosion that natural vegetative cover provides.

The adverse effects on environmentally sensitive habitats such as the downgradient Escondido Canyon Creek are multiplied when erosion occurs on nearby slopes. First, the loss of native habitat impoverishes the critical feeding areas and nesting cover that wildlife species depend upon in the highly productive but extremely limited, sparse riparian habitat areas of the Santa Monica Mountains. Second, the loss of cover strips away the protective buffer provided by the native plant canopy and removes the stabilizing influence of deep, complex native plant root systems. As the result, sediment pollution washes freely into the affected downgradient coastal streams more frequently (every rainstorm thereafter washes in sediment to the creek) and in higher quantities (no sediment is trapped by vegetation and the creek receives the full flush of sediment from every rainstorm) than was the case prior to the advent of the subject site disturbance.

The resultant sediment pollution of downgradient streams and wetlands has been shown to be a primary contributor to the pollution of coastal ecosystems and adversely affects sensitive habitat areas in a number of ways. For example:

1. Eroded soil contains nitrogen, phosphorus, and other nutrients. When carried into water bodies by runoff waters, these nutrients trigger algal blooms that reduce water clarity and deplete oxygen. This process frequently causes fish kills.
2. Excessive deposition of sediments may "pave" the bottom of the habitat, smothering the bottom dwelling biota and destroying aquatic ecosystems. Eventually, this process fills in wetland areas and the former wetland habitat is transformed into grassland, most often invaded by non-native weedy species, with the resultant loss of scarce wetland habitat.

Moreover, once erosional forces begin to act upon a particular area of a watershed, the adverse effects inevitably accelerate, leading to ever more erosion. The loss of natural vegetation and its associated buffering influence renders affected areas more prone to gulying and siltflow, and eventually to major washouts and even landslides. In addition, if not properly managed, the discharge of increased and artificially concentrated volumes of runoff resulting from the increase in the impervious surfaces associated with residential development in relatively natural areas such as Latigo Canyon, may further accelerate erosion and deplete the fragile soils of the affected areas.

For these reasons, the sensitive streams, wetlands, and kelp beds downgradient and downstream from the proposed project may be adversely affected if the potential impacts of the project are not prevented. To avoid the adverse effects on sensitive

habitat described above, the Commission finds the following measures necessary to ensure that the proposed project is consistent with the applicable requirements of the Coastal Act:

First, Special Condition 1, when implemented, requires the use of primarily native plant species in the landscape plan. As noted previously, these species tend to be drought tolerant (thereby requiring minimal surficial irrigation) and deeply rooted upon establishment (thereby providing superior ability to hold soils, particularly upon slopes), and thus provide substantial protection against erosion when utilized in the landscape plan. Special Condition 1 also ensures that non-native, invasive species are not used in the landscape plan, thereby providing important protection against escape offsite of plants that tend to take over sensitive habitat areas by crowding out the native plant species. Therefore, the use of native plant species not only protects the physical environment, but helps to preserve the plant species assemblage characteristic of a healthy riparian ecosystem together with the cover and foraging opportunities provided by the native plants and upon which wildlife depend.

Second, Special Condition 2, when implemented, ensures that native plant cover is not disturbed to effect fuel modification requirements until the applicant obtains a grading or building permit from the applicable local government. This ensures that habitat disturbance is not created prematurely or needlessly and increases the likelihood that an occupied residence will correlate with properly implemented landscape and fuel modification plans.

Third, Special Conditions 3, 4, 7, 9 and 10 together ensure that all possible erosion control and site stabilization measures are undertaken to limit the potential for sediment pollution to Escondido Canyon Creek, its associated wetlands, and the downstream marine habitat of the Pacific Ocean. These conditions are discussed more fully in the geology and hazards section above. Special Condition 3 requires the applicant to submit a drainage and erosion control plan specifically tailored to the proposed project and prepared by a licensed engineer. Special Condition 4 requires the consulting engineering geologist to verify that the final project plans incorporate all of the geologic recommendations, including those specifically aimed at controlling erosion. Special Condition 7 specifically addresses the management of drainage from the proposed swimming pool, which is proposed to be located immediately adjacent to the retaining wall for the lower portion of the previously constructed building pad. Swimming pool drainage, unless directed offsite through the storm drain system, rather than discharged to the engineered slope, has the potential to cause catastrophic slope erosion or washout. Thus, Special Condition 7 protects the downgradient ESHA, when implemented, by ensuring that the pool drainage is properly managed. Additionally, Special Condition 9 protects the engineered slope of the lower pad area by ensuring that a structural engineer reviews the proposed pool in relation to the Hilfiker retaining wall, as recommended by the applicant's consulting engineering geologist. Protecting the stability of the slope additionally protects not only the structure supported by the slope, but the downgradient ESHA that would be polluted by a collapse or washout of

the slope. Finally, Special Condition 10 ensures that the excess cut material generated by the project is directed offsite instead of regraded on the lower pad area, thereby reducing the overall site disturbance and reducing the amount of exposed, disturbed soil that could contribute to downgradient erosion.

Finally, Special Condition 8 (future improvements) is necessary to ensure that future development of the site, including fencing or changes to the landscaping plan or fuel modification plans, does not adversely affect the nearby Escondido Canyon Creek area or any of the natural open space or trail buffers established onsite. These areas are shown on Exhibit 4, and serve collectively to buffer the sensitive downgradient riparian area from the effects of development on the subject parcel. Preservation of these open space and buffer areas also ensures that development of the site is concentrated near the entrance to the parcel off Latigo Bay View Drive, consistent with Coastal Act policies requiring the concentration of new development.

Therefore, for all of the reasons set forth above, the Commission finds that approval of the proposed project is consistent with the ESHA and coastal resource protection policies of Sections 30230, 30231, and 30240 of the Coastal Act only if the project is conditioned in accordance with the requirements of Special Conditions 1, 2, 3, 4, 7, 8, 9 and 10.

D. Visual Resources

Section 30251 of the Coastal Act states:

Section 30251

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 reservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In addition, the certified Malibu/Santa Monica Mountains LUP contains numerous policies regarding the protection of visual resources. The Coastal Commission has utilized these policies as guidance in past permit decisions. LUP policies particularly applicable to the proposed project include:

P 91 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 feasible.

P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands.

P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.

P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:

- Be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.
- Minimize the alteration of natural landforms.
- Be landscaped to conceal raw-cut slopes.
- Be visually compatible with and subordinate to the character of its setting.
- Be sited so as to not significantly intrude into the skyline as seen from public viewing places.

P134 Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.

P135 Ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and protected. The subject site is located within a rural area characterized by expansive mountain vistas and traversed by scenic, public trails. The site is visible from some public vistas along Latigo Canyon Road, which parallels the eastern side of the subdivision. Of more significance, however, is the visibility of Lot 10, upon which the subject project is proposed, from public viewing areas along the Escondido Falls Trail (Exhibit 4).

As stated previously, the applicant proposes to construct a 5,887 sq. ft., two story, 27.5 ft. high, single family residence, including an attached 3-car garage, swimming pool, 466 sq. ft., 14 ft. high above grade detached cabana, septic disposal system, driveway, patios, and landscaping, and to grade 904 cu. yds. of material. The grading proposal includes 512 cu. yds. of cut—345 cu. yds. to lower the finished elevation of the upper portion of the existing pad nearest Latigo Bay View Drive by up to two feet in finished elevation, 392 cu. yds. of fill to redistribute the cut material to the lower pad portion (see Exhibits 4 and 5) thereby raising it by up to two feet in finished elevation, 100 cu. yds. of cut to excavate the pool area, and 67 cu. yds. of cut to excavate the footings for the foundation. A total of 120 cu. yds. of material are proposed to be exported to the Calabasas Landfill.

As noted previously, Special Condition 7 of Coastal Development Permit 5-89-1149 (Thorne) for the underlying subdivision set forth specific height restrictions for the structures that could eventually be placed on Lot 10 (see Exhibit 14). The applicant's proposal to reduce the elevation of the upper pad at the expense of an increased elevation on the lower pad is inconsistent with the requirements of Special Condition 7 because the net result would be an unacceptable increase in the structural height on the lower pad. Therefore, the Commission finds it necessary to impose Special Condition 10 which requires the applicant to submit revised grading/site plans (presently shown in Exhibit 7) to export the cut material from the upper pad and other excavations rather than to redistribute any portion of the material on the lower pad. This revision will reduce total grading from 904 cu. yds. to 512 cu. yds. and eliminate the adverse effects of raising the finished grade of the lower portion of the pad. As conditioned by Special Condition 10, therefore, the proposed project would be consistent with the visual impact mitigation measures imposed via the preexisting Special Condition 7 of CDP 5-89-1149. In addition, the revised grading plan would reduce total landform alteration of the proposed project, consistent with the additional requirements of Coastal Act Section 30251.

As noted, Lot 10 is among the most visible lots of the Malibu Vista subdivision as viewed from the Escondido Falls Trail which runs along the southern and western portions of the 19-lot subdivision. A 300 ft. trail buffer runs along the western boundary of the parcel, and an open space restricted area (and a geologic restricted use area) additionally comprise the balance of the parcel that is not set aside for the pad and driveway (see Exhibits 3 and 4). As noted above, allowable structures on the previously graded pad are subject to specific height restrictions and setbacks set forth in Special Condition 7 of CDP 5-89-1149 (Thorne). Despite these mitigation measures, however, the proposed residence will be visible from some locations along the trail. Therefore, the Commission finds it necessary to require the applicant to record a deed restriction setting forth specific limitations on the materials and colors acceptable for the development on the subject site. These restrictions generally limit colors to natural tones that will blend with the background of the environment and require the use of non-glare glass. White and red tones are not acceptable. If fully implemented by present and future owners of Lot 10, Special Condition 7 will ensure that development of the site is, and continues to be as visually unobtrusive, and as harmonious with the natural color palette of the Santa Monica Mountains, as possible.

In addition, to ensure that all future development of the subject site is reviewed to ensure that adverse impacts on the visual resources of the area are not caused by additional development that might otherwise be exempt from further review under the Coastal Act, the Commission finds it necessary to impose Special Condition 8 (future improvements). Examples of activities that would require the applicant or successor interest to apply for a coastal development permit include, but are not limited to, additions to the residence or cabana, construction of fences, or changes to landscaping (either planting or removing vegetation other than that approved pursuant to the landscape plan required by Special Condition 1).

The Commission further notes that Special Condition 1, discussed initially in Section B above, requires immediate stabilization and planting of all disturbed areas with native plant species. The condition requires the applicant to prepare a landscape plan that draws upon a palette of locally native plant species for the landscape design of the subject parcel. The appropriate choice of native plant materials will not only minimize the potential for erosion (discussed in detail in Section B) and resultant adverse visual impacts, such as gullying, slope washouts, landscape scarring, and loss of vegetative cover, but will ensure that any residual visual effects of the proposed project on public coastal views are minimized. For example, Special Condition 1 requires the use of vertical elements in the landscape plan to shield the proposed project from public views from the Escondido Falls Trail as much as possible upon maturation of appropriate plantings. Special Condition 1 also requires the application of mulch, geotextiles, or other erosion control measures to protect the open areas of disturbed soils until native plantings mature sufficiently to hold the soils in place.

In addition to the affirmative landscaping provisions of Special Condition 1, the Commission has recently begun to impose the requirement (Special Condition 2 herein) that natural vegetation not be removed for fuel modification purposes until the local government has issued a grading or building permit for the subject development, and more specifically prevents vegetation thinning within the applicable fuel modification zone (up to 200 feet from applicable structures) until the commencement of construction of the approved development. This limitation ensures that the disturbance of vegetation necessary to achieve fire safety requirements imposed by the Los Angeles County Fire Department does not take place until there is actually a structure to protect. This limitation avoids the unnecessary loss of habitat – and potential erosion – that could otherwise be caused when vegetation removal is not accompanied by active habitation of the site and the associated implementation of the landscape plan.

Finally, and as discussed in detail in Section B, Special Condition 3 (drainage and erosion control plan), Special Condition 4 (geologic recommendations), and Special Condition 7, contain provisions to ensure that site drainage is collected and discharged in a non-erosive manner, and that all recommendations of the consulting engineering geologist that will ensure site stability and minimize any potential for erosion as the result of project construction, are implemented. These measures, if fully implemented, will additionally ensure that short and long-term erosion does not accompany the proposed development of Lot 10.

The Commission finds for all of the reasons set forth above that the proposed project, as conditioned by Special Conditions 1,2,3, 4, 6, 7, 8 and 10, is consistent with the requirements of Section 30251 of the Coastal Act.

E. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, 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 applicant proposes to construct a new 1,500 gallon septic system with a drain field as shown on the plans approved by the City of Malibu (approval-in-concept dated July 1, 1999). The conceptual approval of the waste disposal system by the City of Malibu Environmental Health Department indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code.

Exhibit 6 shows the geologic cross section, and proposed seepage pit location, as provided in the November 20, 1998 report prepared by the applicant's consulting engineering geologist (Geosystems). The consultant states that:

Seepage pits may be used to serve the sewage effluent disposal needs of the proposed residence. Proposed and future seepage pits should be located in the driveway and yard area on the eastern portion of the building pad, between the residence and the street. This seepage pit location is acceptable from an engineering geologic standpoint. In order to avoid saturation of the descending fill slope a minimum capping depth of 46 feet below existing pad grade (elevation 690') is recommended for this location. Based on the findings of our investigation, it is our conclusion that geologic conditions at the site are favorable for use of seepage pits to serve the residence.

Effluent from the seepage pits is expected to percolate downward within the steeply dipping bedrock. Sustained, long-term use of the private sewage disposal system is not expected to adversely affect the site or adjacent site stability, or result in the mounding or day-lighting of sewage effluent provided our recommendations are followed.

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 applicant's geotechnical consultants have provided specific recommendations for the sewage disposal system that will be

incorporated into the final project plans and designs as required by Special Condition 2. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

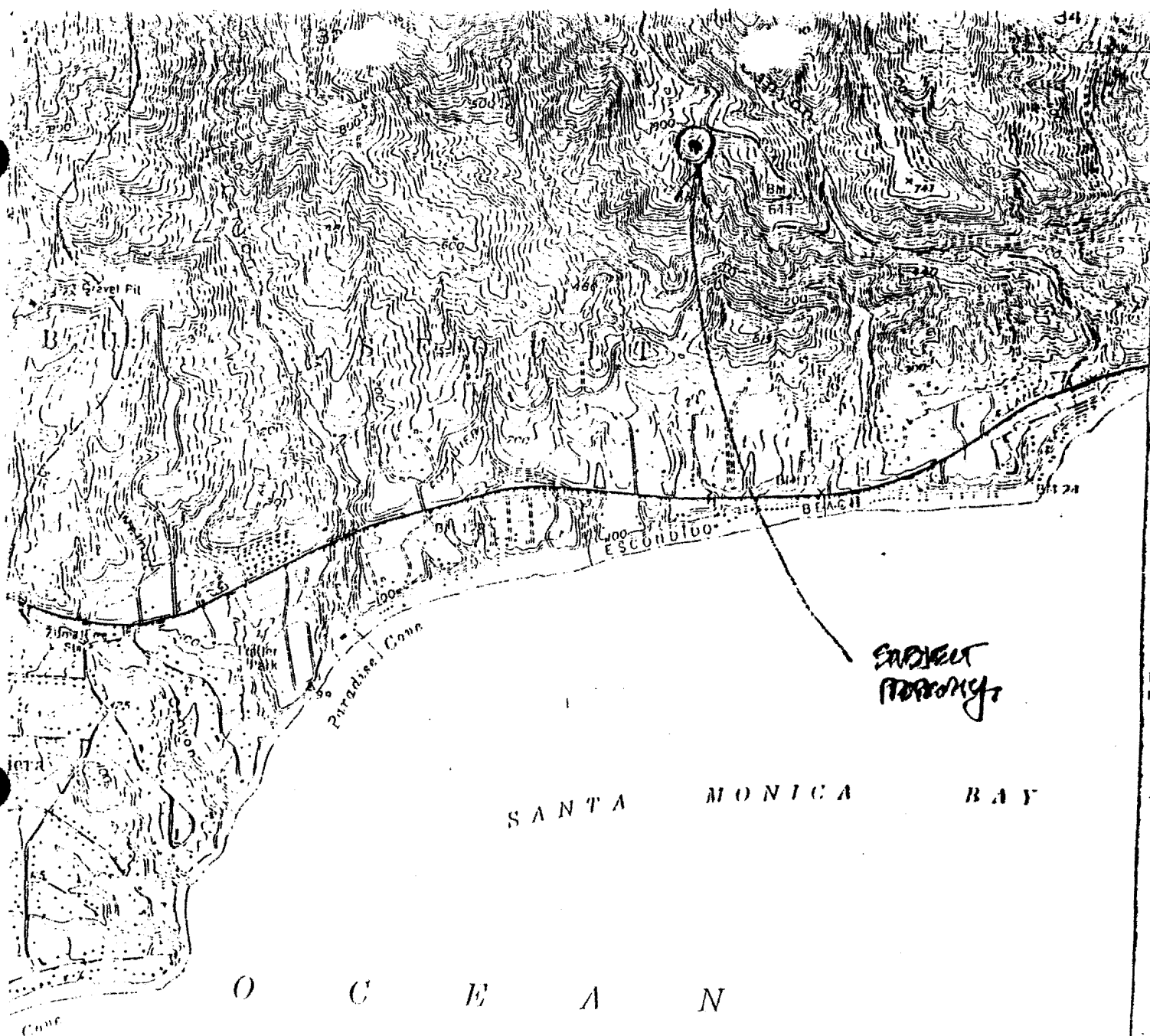
G. California Environmental Quality Act

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

The Commission finds that the proposed project, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the 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.

MH-V/CDP 4-99-110 (Newman): H



SANTA MONICA BAY

O C E A N

Scale: 1 inch = 4700 feet
 1:47,000
 1:47,000
 1:47,000

ROAD CLASSIFICATION
 Heavy duty ——— Light duty - - - - -
 Medium duty - - - - - Unimproved dirt - - - - -
 () State Route



GSIIIA 22092
 1951

Revisions shown in purple and woodland compiled from aerial photographs taken in 1978 and other sources. This is not field checked.

PC

EXHIBIT NO. /
APPLICATION NO. Newman
4-99-110
Area Map 1

I. PROJECT LOCATION MAP

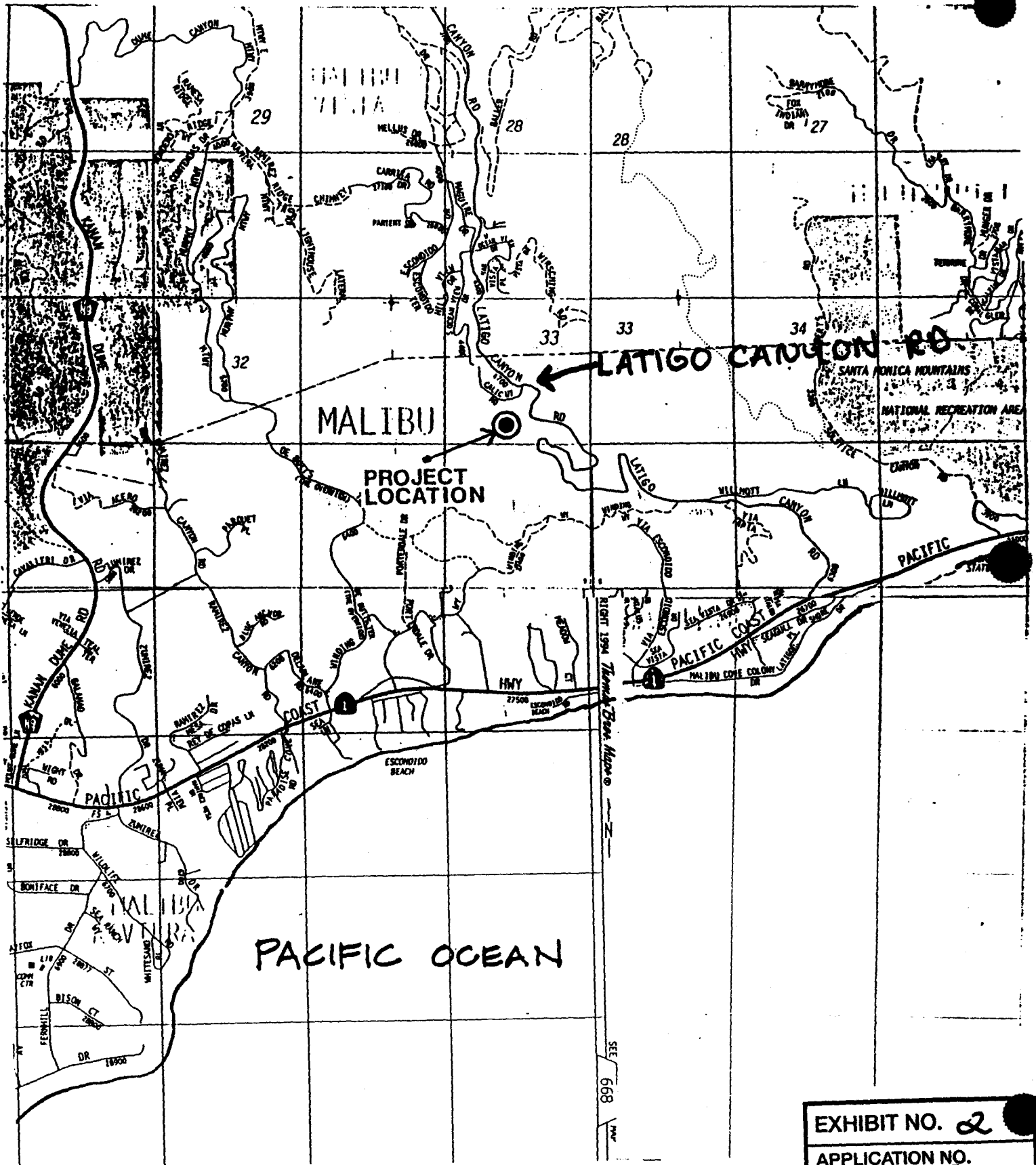
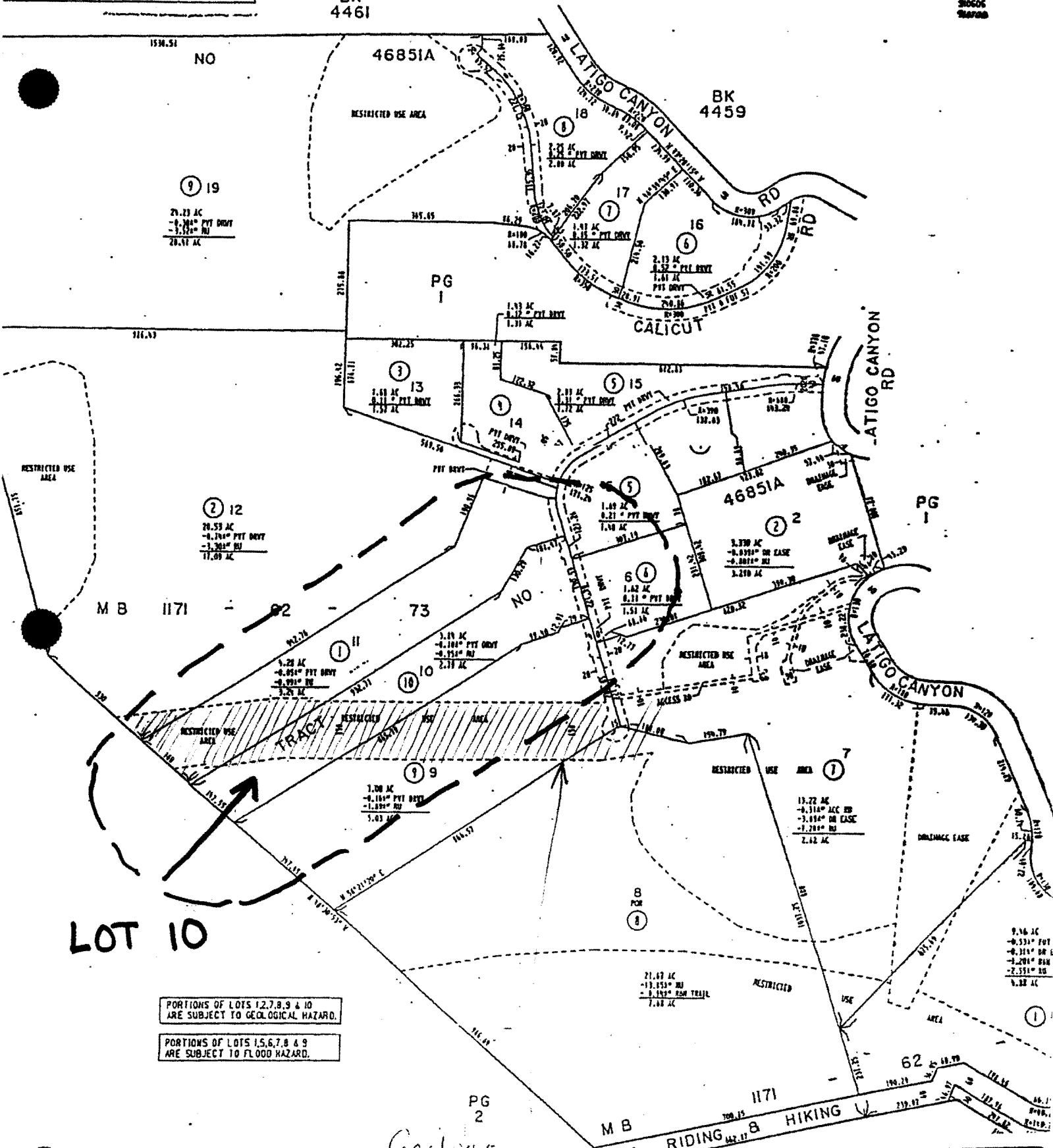


EXHIBIT NO. 2
APPLICATION NO.
Newman
4-99-110
Area Map 2

BK
4461

BK
4459



LOT 10

PORTIONS OF LOTS 1, 2, 7, 8, 9 & 10
ARE SUBJECT TO GEOLOGICAL HAZARD.

PORTIONS OF LOTS 1, 5, 6, 7, 8 & 9
ARE SUBJECT TO FLOOD HAZARD.

*Geologic
Restricted
Use Area -
Malibu Coast
Fault*

THIS PLAN IS FOR YOUR USE IN LOCATING YOUR LAND WITH REFERENCE TO STREETS AND OTHER PARCELS. IT IS NOT A SURVEY. WHILE THIS PLAN IS BELIEVED TO BE CORRECT, THE COMPANY ASSUMES NO LIABILITY FOR LOSS OCCURRING BY REASON OF RELIANCE THEREON.

EXHIBIT NO. 3
APPLICATION NO. Newman
4-99-110 (Lot 10)
Parcel Map



SITE PLAN

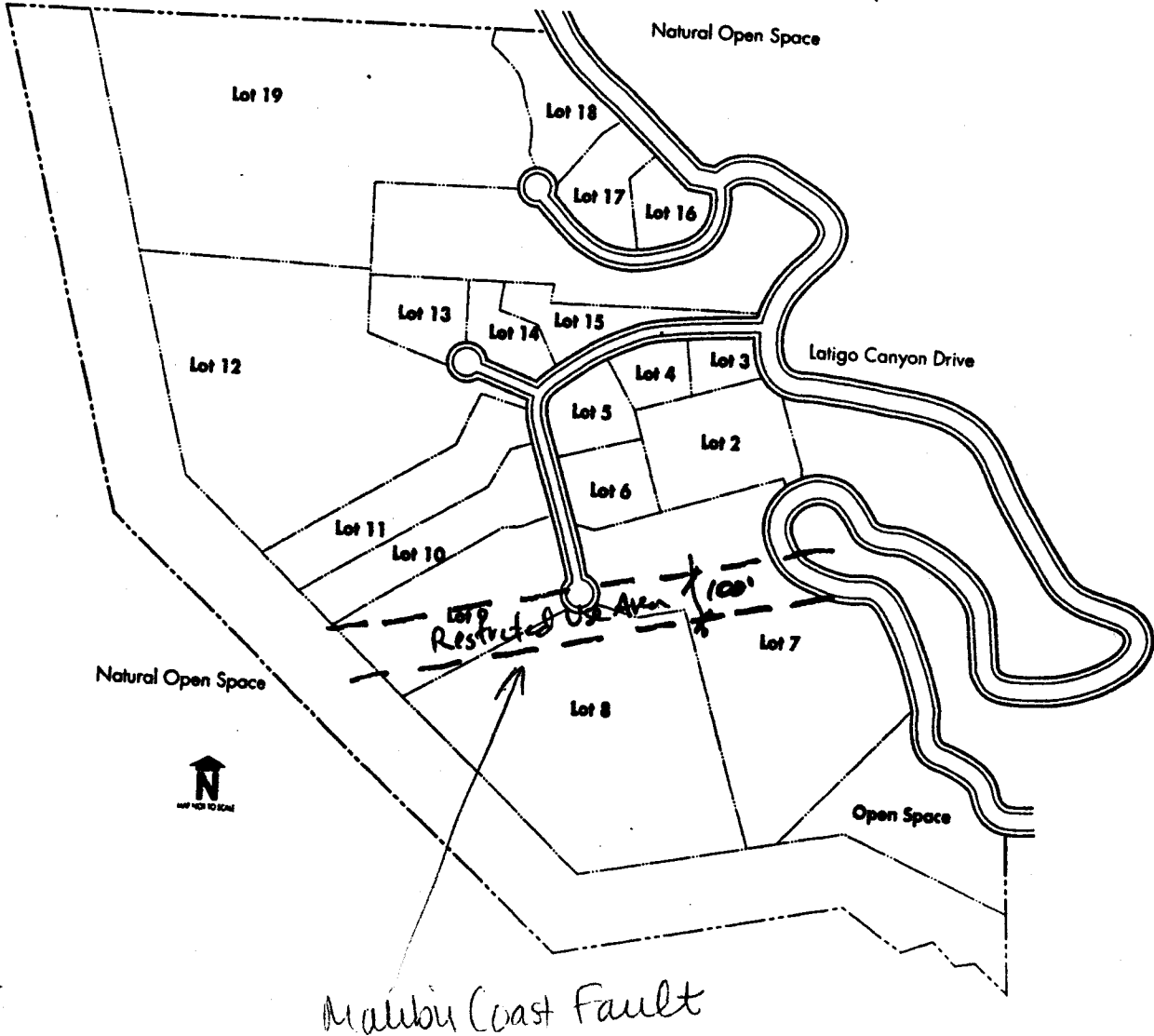
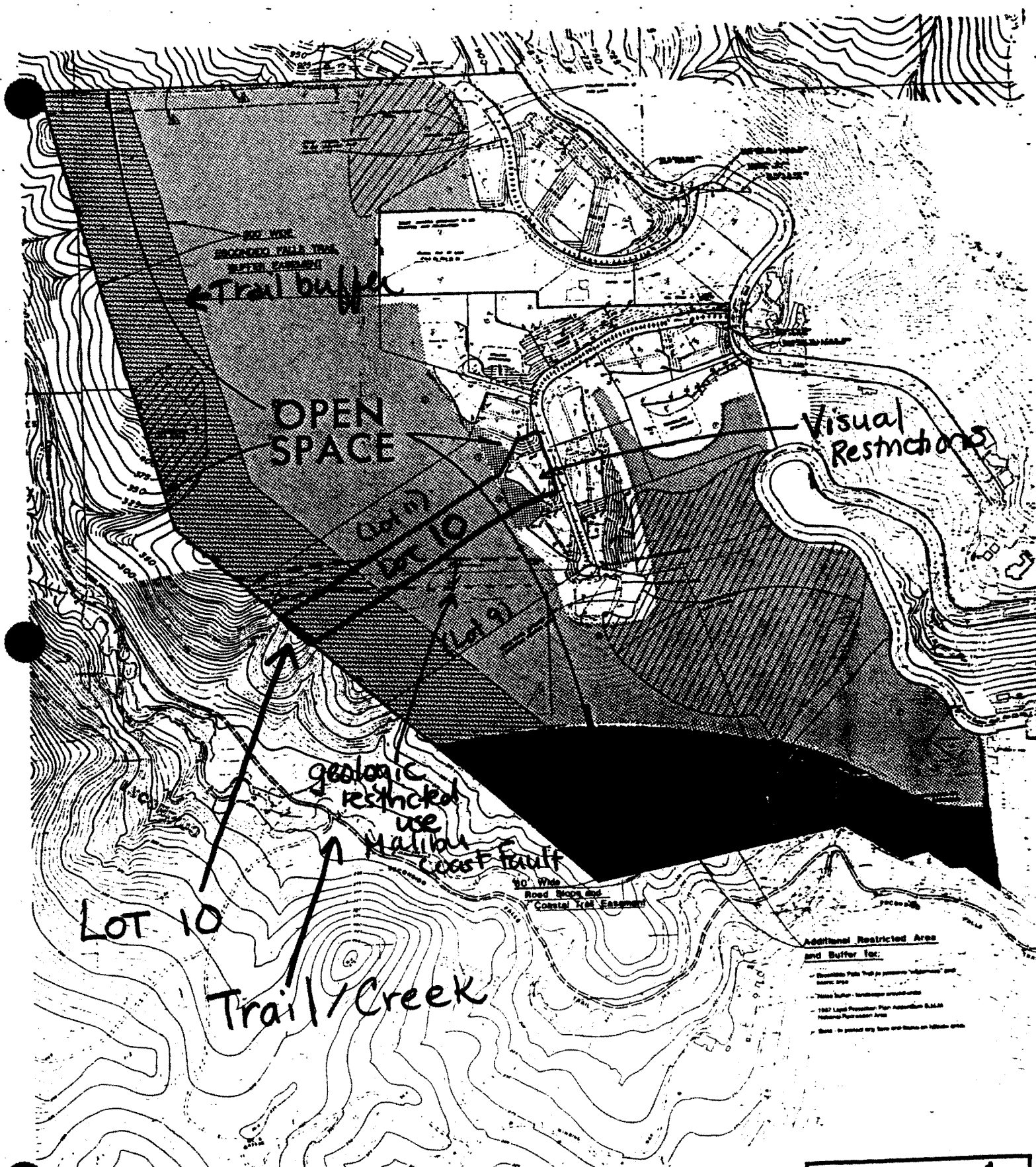


EXHIBIT NO. <i>3a</i>
APPLICATION NO. <i>Newman</i>
<i>4-99-110</i>
<i>Simplified Parcel Plan</i>



Additional Restricted Area and Buffer for:

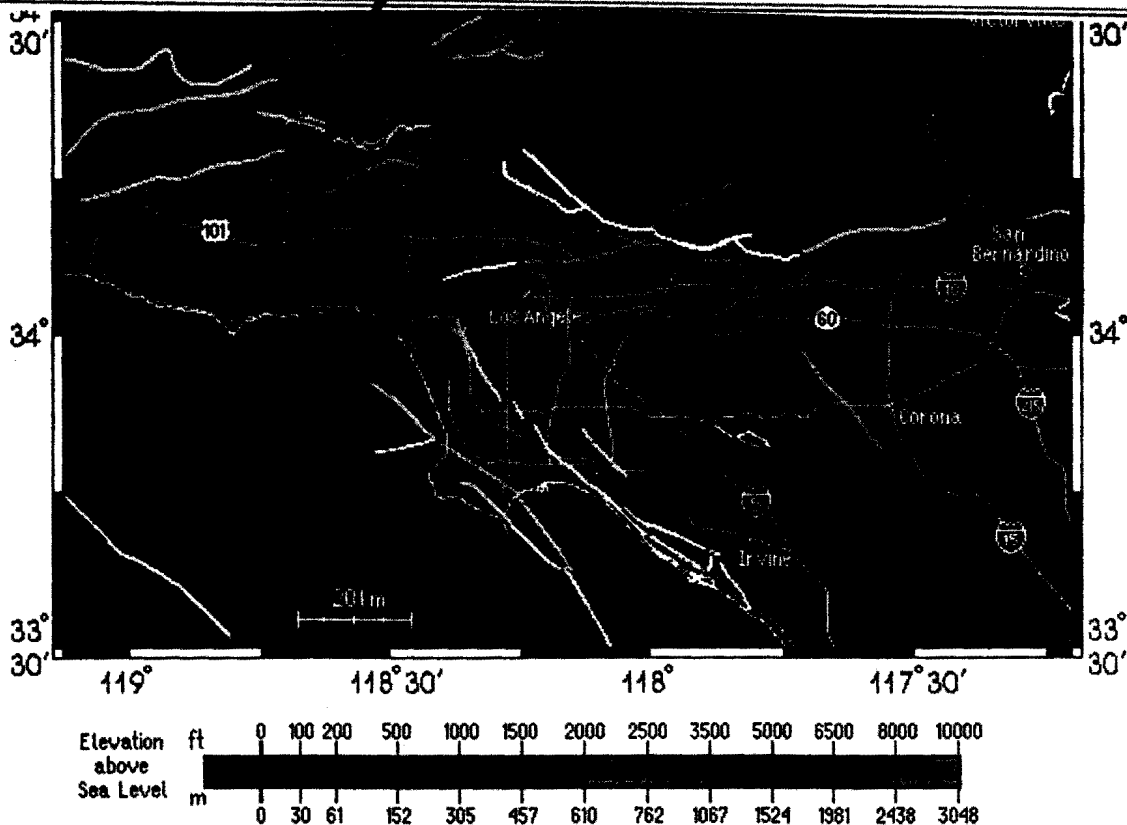
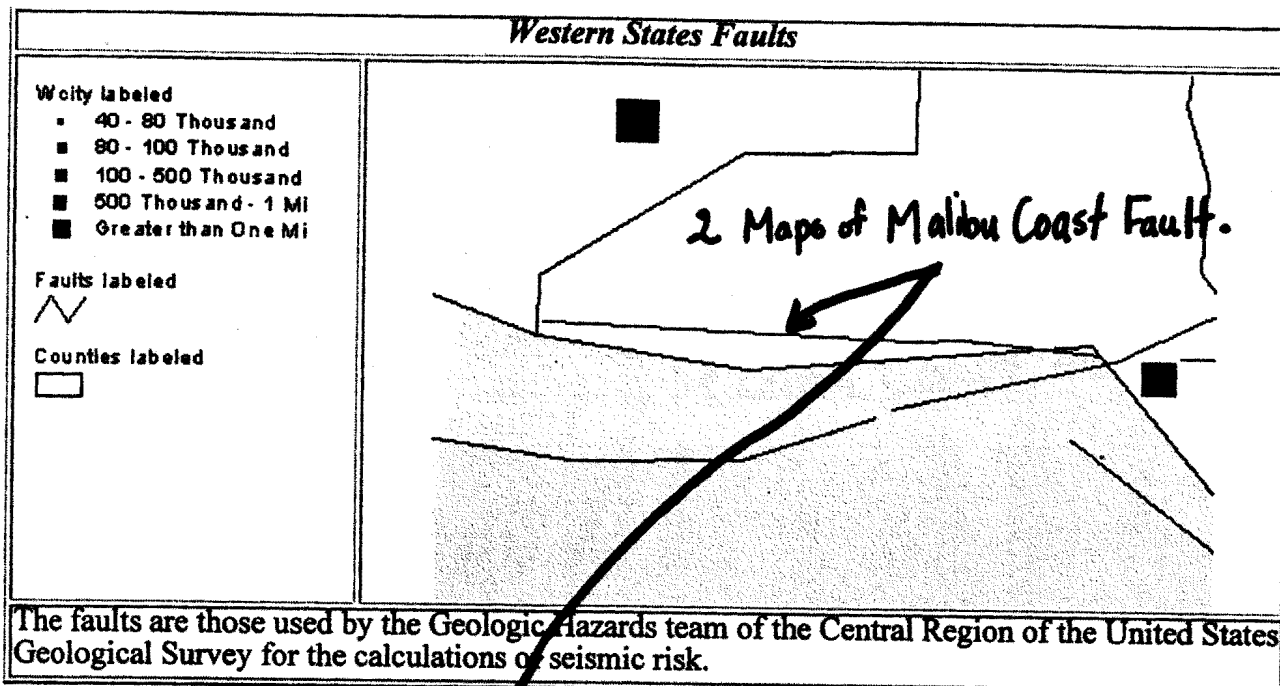
- Municipal Public Park or private "signature" and scenic area
- Historic building - landmark preservation
- 1987 Local Preservation Plan Amendment 8.2.2.1 National Park Service Area
- Note: In general any fence and trees on public lands

OPEN SPACE I
VEST. TEN

ESCO ENGI CONI

EXHIBIT NO.	4
APPLICATION NO.	Newman
	4-99-110
	Constraints Map

FAULTS IN CALIFORNIA LOS ANGELES REGION



An alphabetical index of faults featured within these maps is available

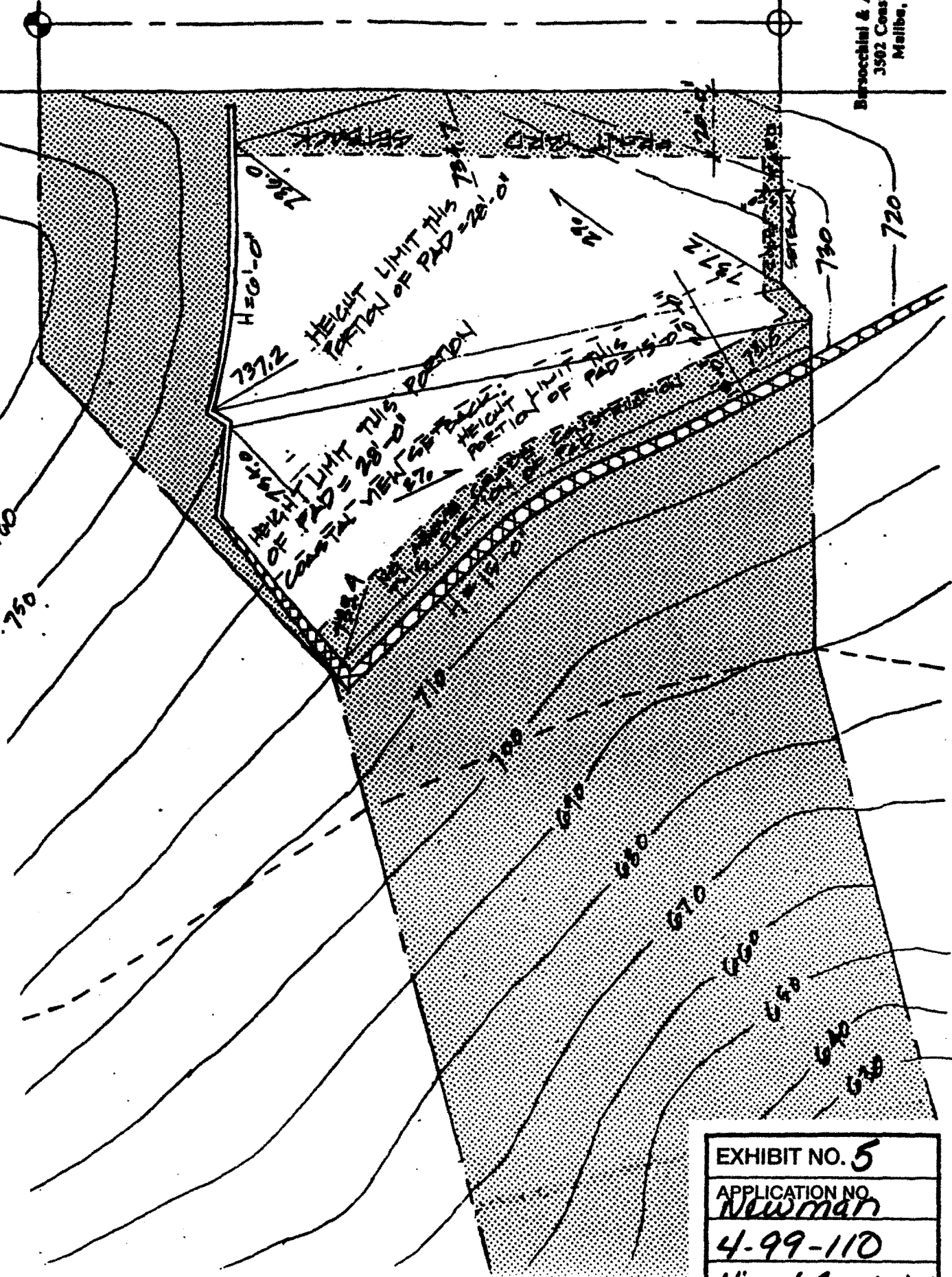
EXHIBIT NO. <i>Aa</i>
APPLICATION NO. <i>Newman</i>
<i>4-99-110</i>
<i>Malibu Coast Fault</i>

Site drainage
to Escondido Canyon Creek
& Pacific Ocean



EXHIBIT NO. 4b
APPLICATION NO. Newman
4-99-110
Drainage to ESHA

Bersocchini & Associates A.I.
3392 Coast View Drive
Malibu, CA 90264



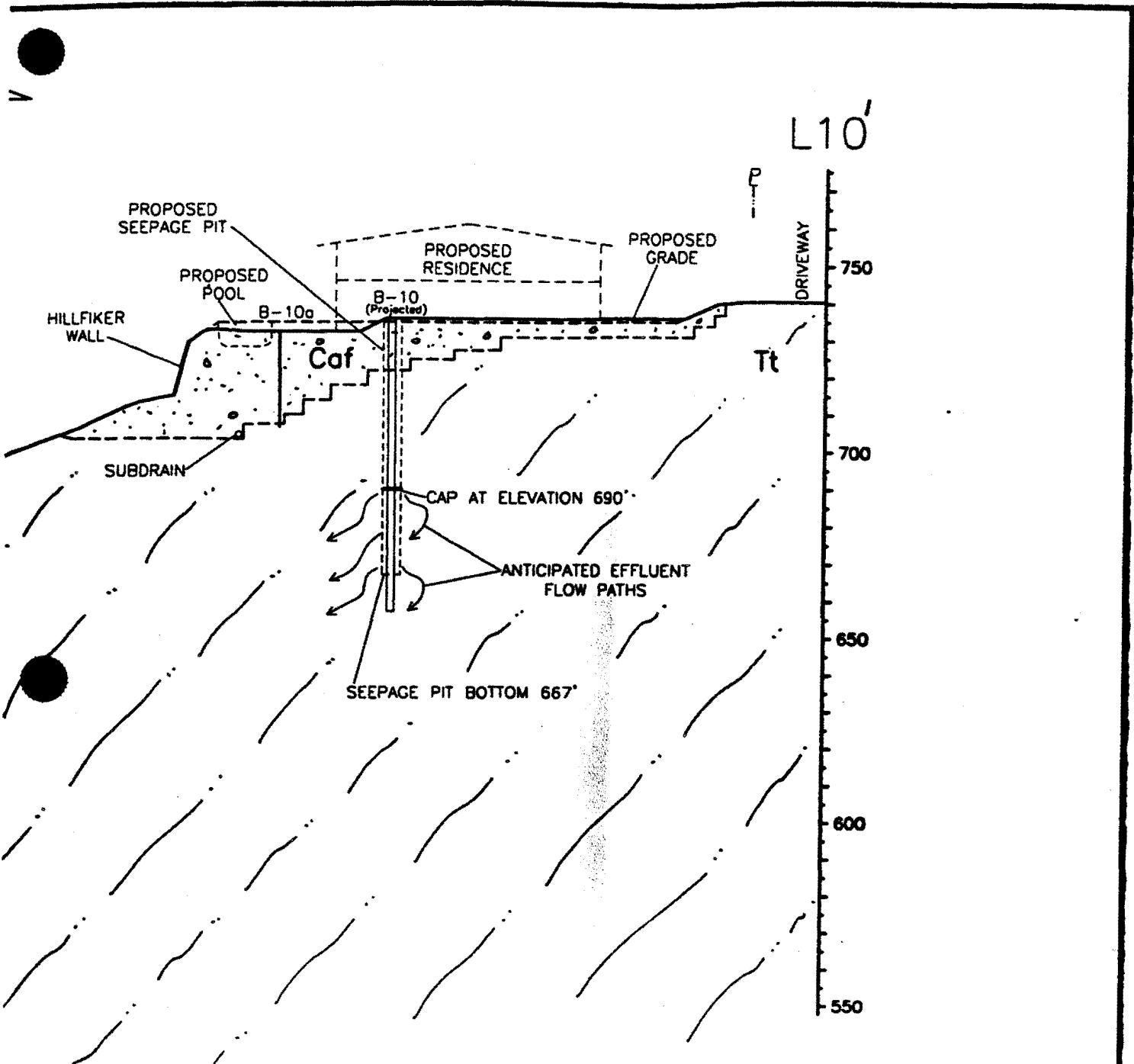
9-40-0'

9/13/91

TRACT 46851 LOT #10

EXHIBIT NO. 5
APPLICATION NO. Newman
4-99-110
Visual Constraint

From
COP
589-1149
Thorne
Subdivision



312 WESTERN AVE
 GLENDALE CA 91201-2836
 PHONE 818-500-9533
 FAX 818-500-0134

GEO SYSTEMS 
 ENVIRONMENTAL AND GEOTECHNICAL CONSULTANTS

GEOLOGIC CROSS SECTION L10 L-10'

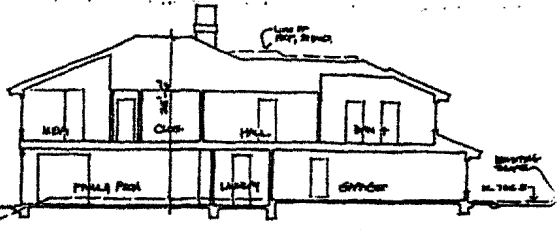
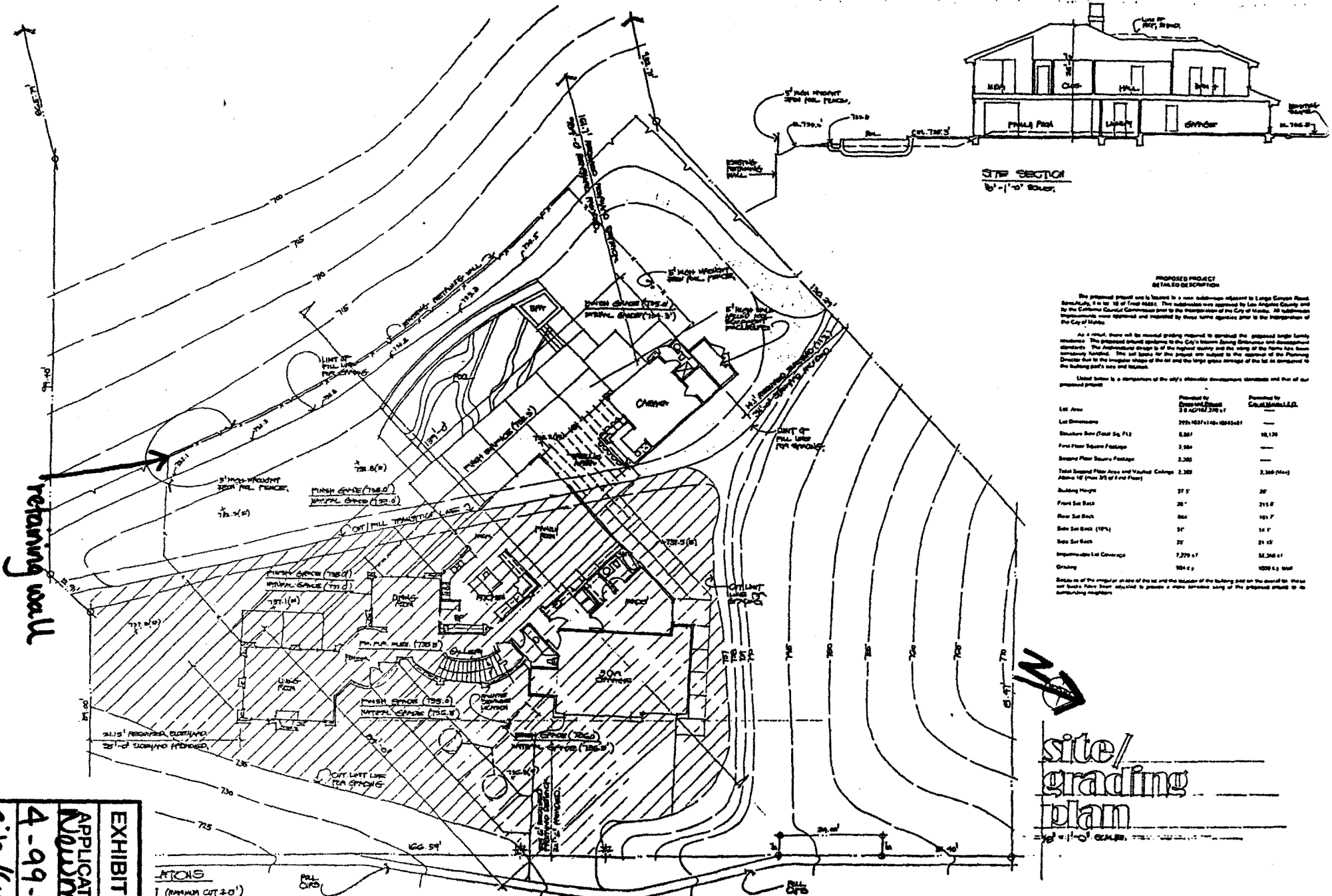
Lot 10, Tract 46851
 Latigo Canyon Road
 Malibu, California

SCALE: 1"=40'

GS 96-1115

DATE: Nov., 1998

EXHIBIT NO. 6
APPLICATION NO. Newman
4-99-110
<i>Geology Cross Section</i>



STEP SECTION
1/2" = 1'-0" SCALE

PROPOSED PROJECT
AS TAKEN IN DESCRIPTION

The proposed project area is located in a name address adjacent to Long Canyon Road, Malibu, CA, in the 10 of Lot 10. The subdivision was approved by Los Angeles County and the California Coastal Commission prior to the acquisition of the City of Malibu. All subdivision requirements were determined and reported by those same agencies prior to the incorporation of the City of Malibu.

As a result, there will be minimal grading required to establish the proposed single family residence. The proposed grading conforms to the City's existing Grading Ordinance and Department standards. The proposed design is of the highest quality and the safety of the design has been completely verified. The set backs for this project are subject to the approval of the Planning Director due to the irregular shape of the lot and the large gross coverage of the lot as compared to the building foot print and height.

Listed below is a comparison of the site's ultimate development standards and that of the proposed project.

	Proposed by Dennis & Susan 218 AGRIAL 218 c f	Proposed by City of Malibu L.L.P.
Lot Area		
Lot Dimensions	270' 10 3/4" x 140' 10 3/4" = 37,811 s.f.	
Structure Foot (Foot Sq. Ft.)	6,881	10,130
First Floor Square Footage	3,500	
Second Floor Square Footage	2,500	
Total Second Floor Area and Attached Garage	2,500	2,300 (MAX)
Attache 1/2" (Max. 2nd of 4 and Floor)		
Building Height	27' 5"	30'
Front Set Back	20'	21' 6"
Rear Set Back	86'	101' 7"
Side Set Back (10%)	5'	14' 4"
Side Set Back	20'	21' 10"
Impervious Lot Coverage	7,275 s.f.	52,260 s.f.
Coverage	104 c f.	1000 c f. MAX

Scale is of the original plan of the lot and the location of the building and on the ground to show set backs. Please consult with the planning department for more complete details of the proposed project in its surrounding neighborhood.

retaining wall



**site/
grading
plan**

NOTES
 (MINIMUM CUT 2'-0")
 (MINIMUM FILL 2'-0")
 CUT + FILL - INDICATES REL. DIFF.
 EXCESS EXCAVATIONS TOTAL 670 c.f.

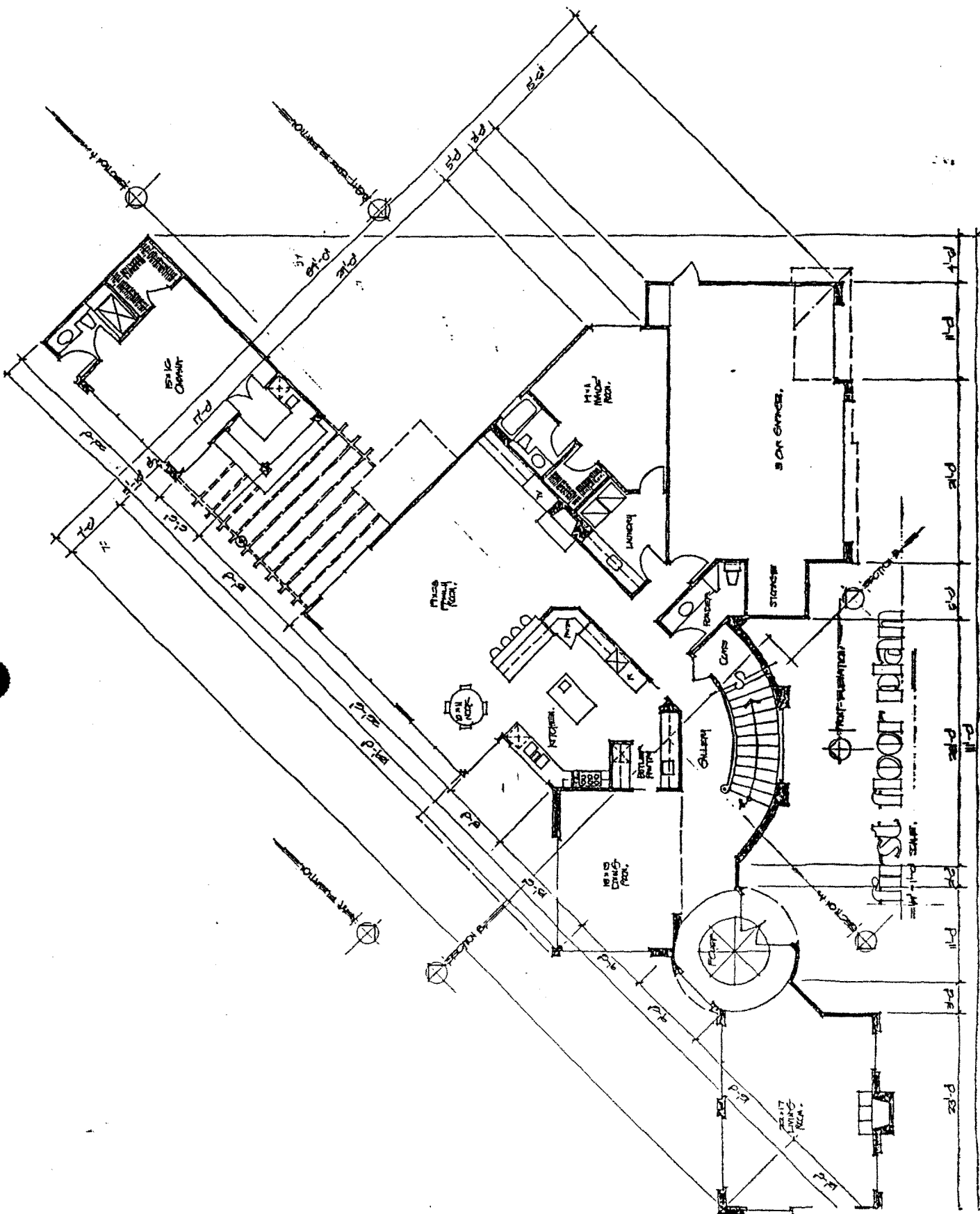
LATIGO BAY VIEW DR.

EXHIBIT NO. 7
APPLICATION NO.
4-99-110
NEWMAN
 site/grading plan

PROJECT OWNER:
MARK A. AND JANET L. NEWMAN
 3715 OCEAN PARK BLVD., SUITE 1048, SANTA MONICA, CA 90405
 TELEPHONE: (310) 394-1116 FAX: (310) 394-2117

ARCHITECT:
ARCHWEST DEVELOPMENTS, INC.
 218 OCEAN PARK BLVD., SUITE 1048, SANTA MONICA, CA 90405
 TELEPHONE: (310) 394-2116 FAX: (310) 394-2117

PROJECT:
MALIBU PACIFICA, LOT 10
 27487 LATIGO BAY VIEW DRIVE, MALIBU, CA 90263



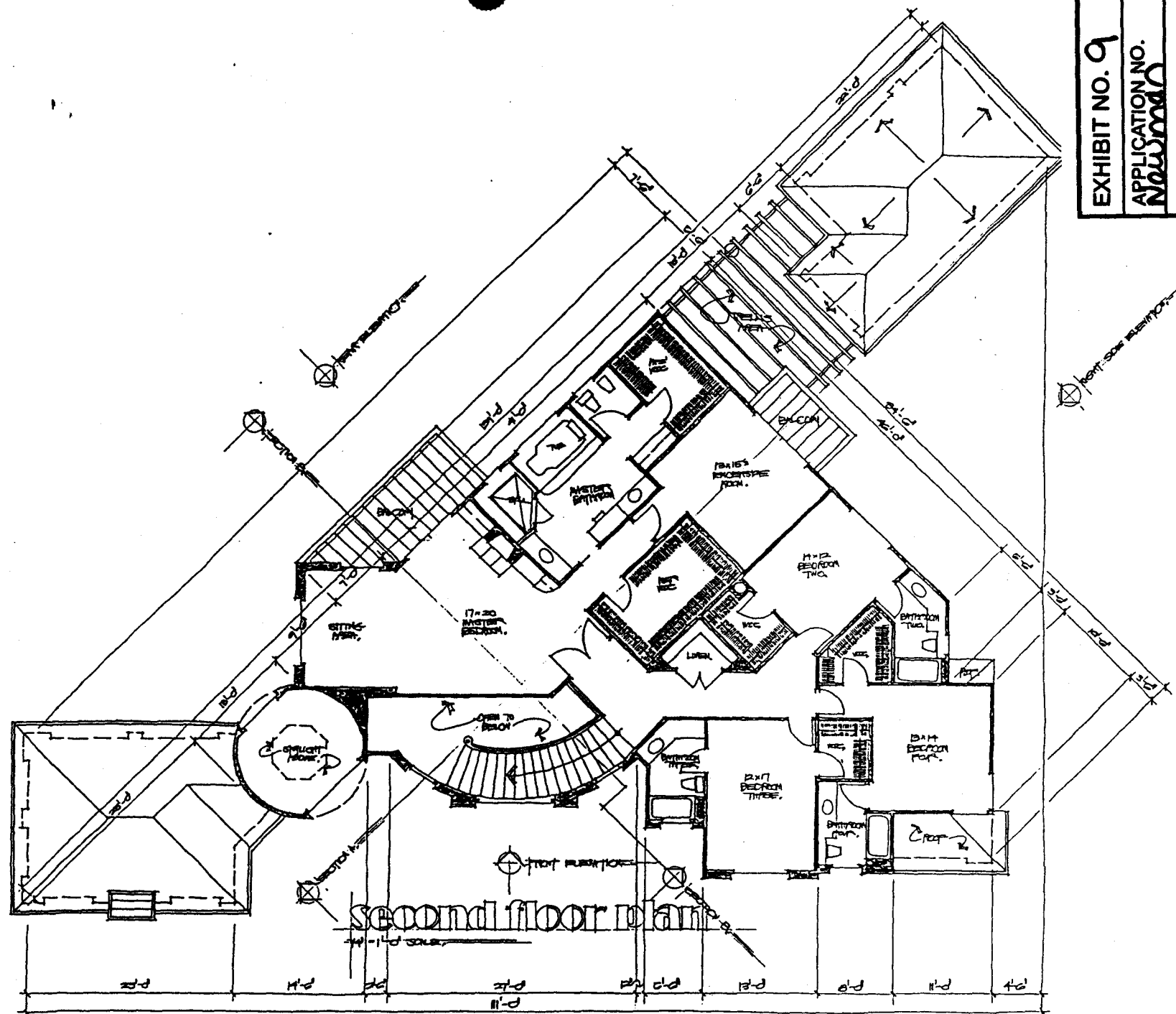
PROJECT:
MALIBU PACIFICA, LOT 10
3147 LATIGO WAY WEST DRIVE, MALIBU, CA 90261

ARCHITECT:
ARCHWEST DEVELOPMENTS, INC.
2715 OCEAN PARK BLVD., SUITE 1004, SANTA MONICA, CA 90404
TELEPHONE: (310) 384-1118 FAX: (310) 384-3117

PROJECT OWNER:
MARK A. AND JANET L. NEWMAN
2715 OCEAN PARK BLVD., SUITE 1004, SANTA MONICA, CA 90404
TELEPHONE: (310) 384-1118 FAX: (310) 384-3117

EXHIBIT NO. 8
APPLICATION NO.
Newman
499-110
1st floor plan

EXHIBIT NO. 9
APPLICATION NO.
NO. 49-110
2nd Floor Plan



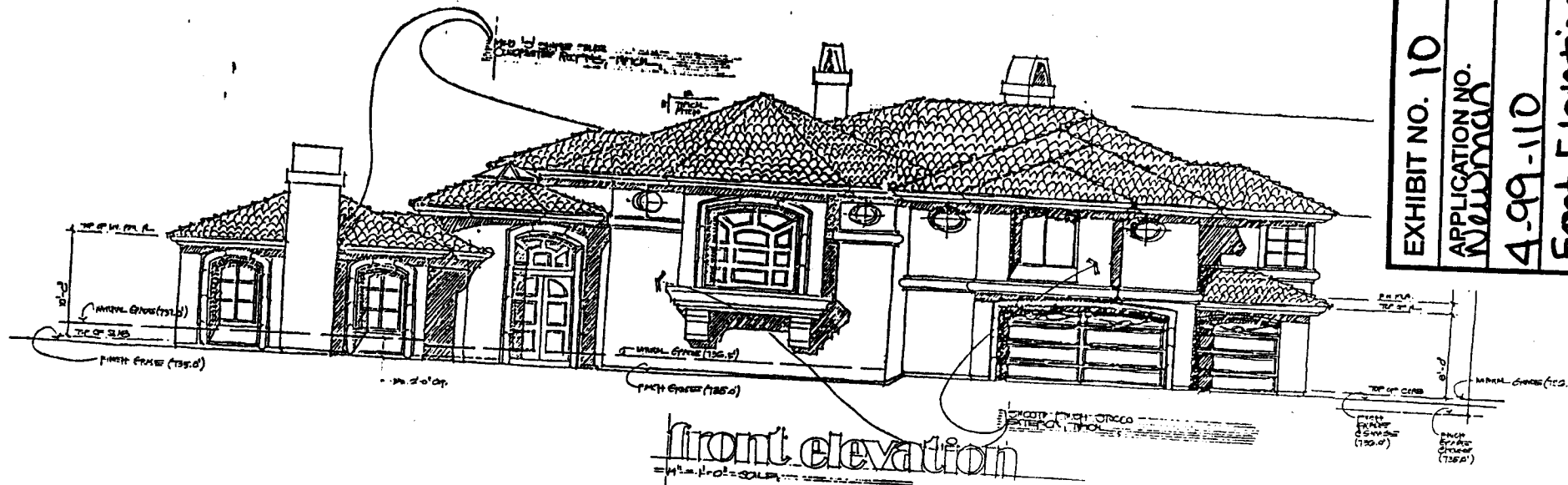
Second floor plan

PROJECT OWNER:
MARK A. AND JANET L. NEWMAN
 2718 OCEAN PARK BLVD., SUITE 104B, SANTA MONICA, CA 90405
 TELEPHONE: (310) 392-4118 FAX: (310) 392-2117

ARCHITECT:
ARCHWEST DEVELOPMENTS, INC.
 2718 OCEAN PARK BLVD., SUITE 104B, SANTA MONICA, CA 90405
 TELEPHONE: (310) 392-4118 FAX: (310) 392-2117

PROJECT:
MALIBU PACIFICA, LOT 10
 27487 LATIGO BAY VIEW DRIVE, MALIBU, CA 90265

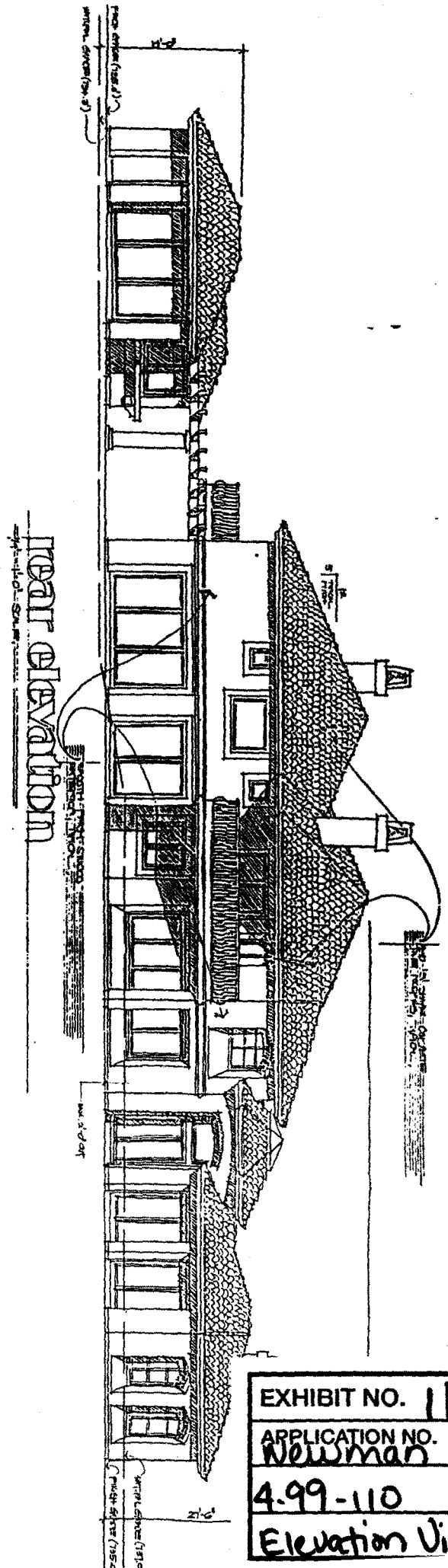
EXHIBIT NO. 10
 APPLICATION NO.
 WLL00004
 4-99-110
 Front Elevation



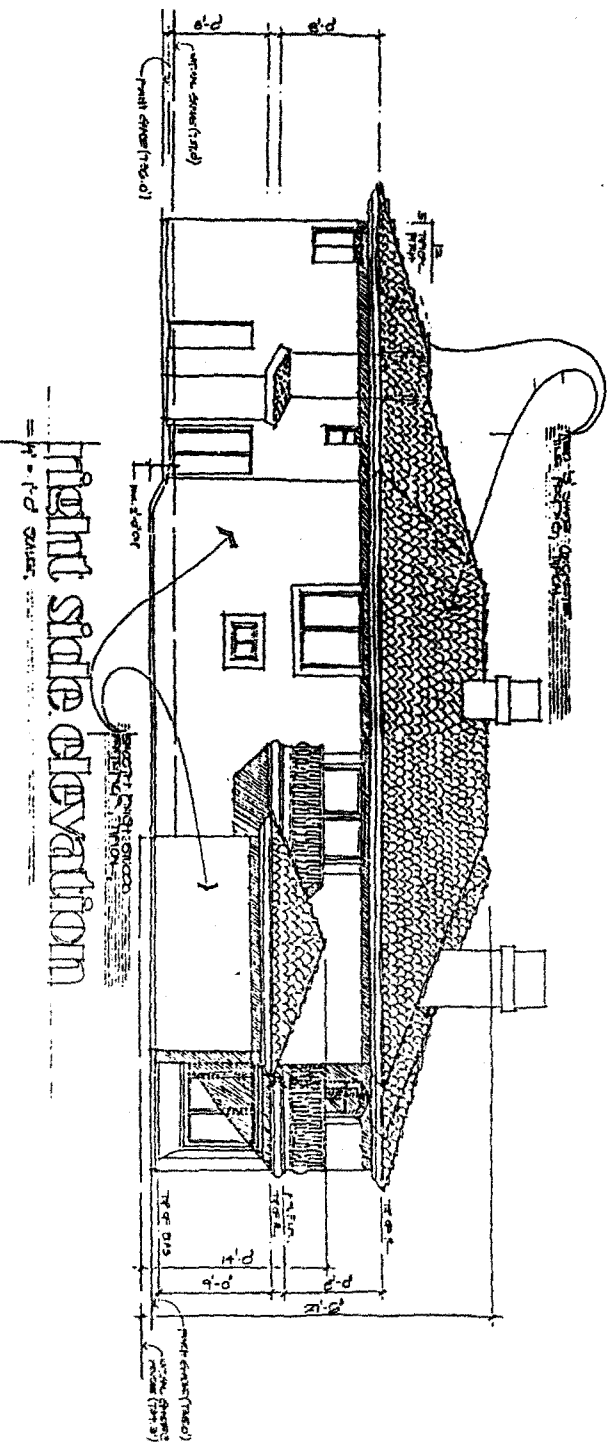
PROJECT OWNER:
 MARK A. AND JANET L. NEWMAN
 2716 OCEAN PARK BLVD., SUITE 1048, SANTA MONICA, CA 90405
 TELEPHONE: (310) 399-4116 FAX (310) 392-2117

ARCHITECT
 ARCHWEST DEVELOPMENTS, INC.
 2716 OCEAN PARK BLVD., SUITE 1048, SANTA MONICA, CA 90405
 PHONE: (310) 399-4116 FAX: (310) 392-2117

PROJECT:
 MALIBU PACIFICA, LOT 10
 27487 LATIGO BAY VIEW DRIVE, MALIBU, CA 90272



REAR ELEVATION
 1/8" = 1'-0"



RIGHT SIDE ELEVATION
 1/8" = 1'-0"

EXHIBIT NO. 11
APPLICATION NO. Newman
4-99-110
Elevation View

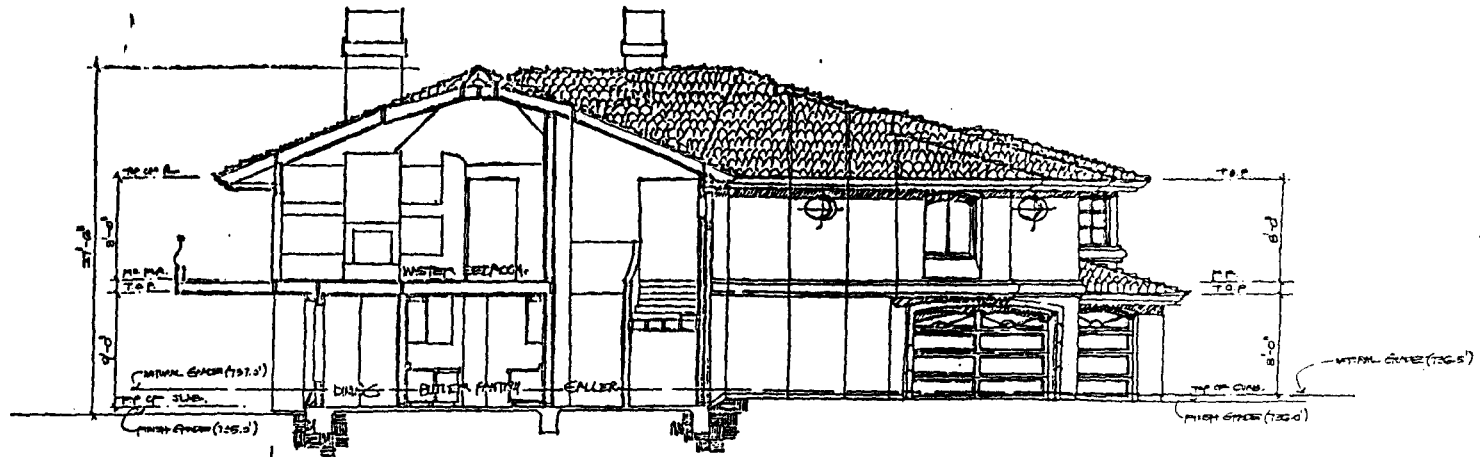
PROJECT OWNER:
 MARK A. AND JANET L. NEWMAN
 2714 OCEAN PARK BLVD., SUITE 104, SANTA MONICA, CA 90404
 TELEPHONE: (310) 353-1111

ARCHITECT:
 ARCHWEST DEVELOPMENTS, INC.
 2714 OCEAN PARK BLVD., SUITE 104, SANTA MONICA, CA 90404
 PHONE: (310) 353-1111 FAX: (310) 353-1111

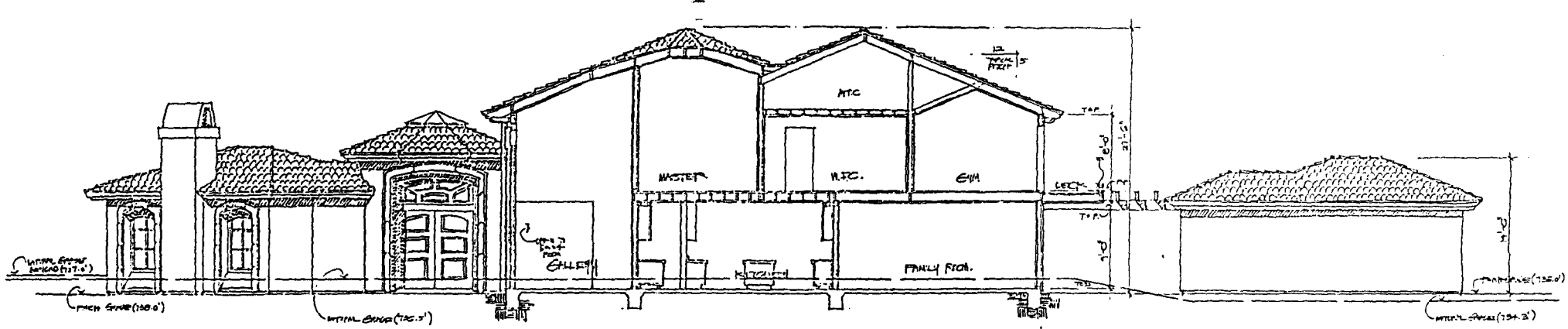
PROJECT:
 MALIBU PACIFICA, LOT 10
 2280 LA JOLLA OAK VIEW DRIVE, MALIBU, CA 90265



EXHIBIT NO. 12
 APPLICATION NO.
 NOLAN
 4-99-110
 E.L.M.



section b
 1/4" = 1'-0" SCALE



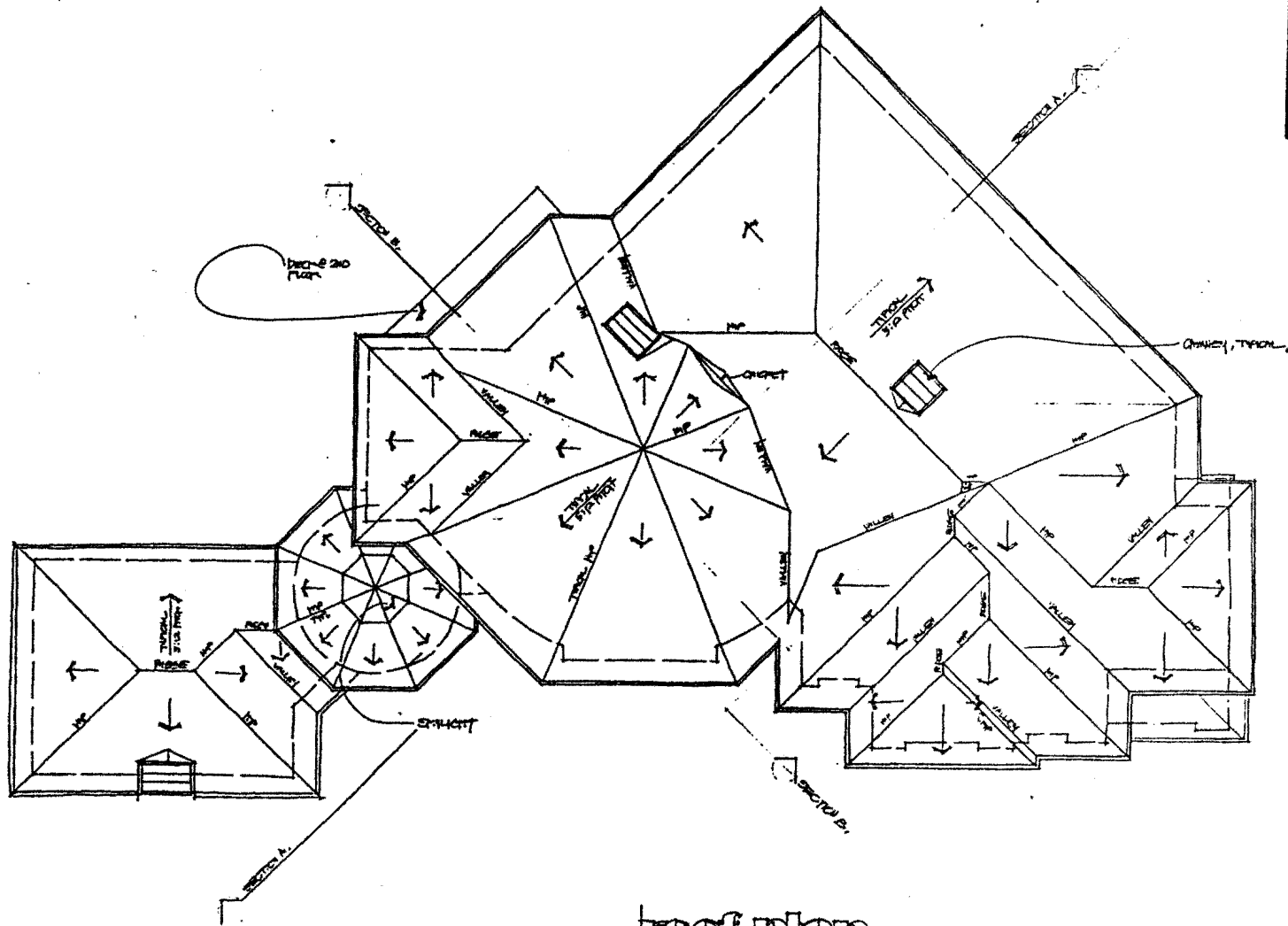
section a
 1/4" = 1'-0" SCALE

PROJECT OWNER:
 MARK A. AND JANET L. NEWMAN
 2716 OCEAN PARK BLVD., SUITE 1018, SANTA MONICA, CA 90405
 TELEPHONE (310) 399-1116 FAX (310) 392-2117

ARCHITECT:
 ARCHWEST DEVELOPMENTS, INC.
 2716 OCEAN PARK BLVD., SUITE 1018, SANTA MONICA, CA 90405
 PHONE: (310) 399-1116 FAX: (310) 392-2117

PROJECT:
 MALIBU PACIFICA, LOT 10
 27187 LATIGO RAY VIEW DRIVE, MALIBU, CA 90265

EXHIBIT NO. 13
APPLICATION NO. <i>NEWMAN</i>
4-99-110
Roof Plan



roof plan
4-10 02/98

PROJECT OWNER:
MARK A. AND JANET L. NEWMAN
 2718 OCEAN PARK BLVD., SUITE 1048, SANTA MONICA, CA 90405
 TELEPHONE: (310) 392-4118 FAX: (310) 392-2117

ARCHITECT:
ARCHWEST DEVELOPMENTS, INC.
 2718 OCEAN PARK BLVD., SUITE 1048, SANTA MONICA, CA 90405
 PHONE: (310) 392-4118 FAX: (310) 392-2117

PROJECT:
MALIBU PACIFICA, LOT 10
 27187 LATIGO BAY VIEW DRIVE, MALIBU, CA 90265

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
145 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
2131 590-5071

RECEIVED
JUN 13 1990
CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT



Page 1 of 5
Date: June 13, 1990
Permit No. 5-89-1149

COASTAL DEVELOPMENT PERMIT

On May 10, 1990, the California Coastal Commission granted to

Larry Thorne

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

Subdivision of 121.9 acres into 19 parcels and construction of streets, septic systems, utilities, and 158,000 cu. yds., of grading (79,000 cut and 79,000 fill). more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at West of and adjacent to Latigo Canyon Rd, approximately 2300 feet north of PCH.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

By: [Signature]

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).

June 25, 1990
Date

[Signature]
Signature of Permit

EXHIBIT NO. 14 (5 pages)
APPLICATION NO. Newman
4-99-110
CDP 5-89-1149

COASTAL DEVELOPMENT PERMIT

Page 2 of 5
Permit No. 5-89-1149

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. Cumulative Impact Mitigation.

Prior to the issuance of the Coastal Development Permit, the applicants shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject development with respect to build-out of the Santa Monica Mountains are adequately mitigated. Prior to issuance of this permit, the applicants shall provide evidence to the Executive Director that development rights for residential use have been extinguished on seventeen (17) building sites in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

- a) one of the five lot retirement or lot purchase programs contained in the Malibu/Santa Monica Mountains Land Use Plan (Policy 272, 2-6);
- b) a TDC-type transaction, consistent with past Commission actions;

- c) participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

2. Trail Dedication.

Prior to issuance of permit, the applicant shall submit an irrevocable offer to dedicate a sixty-foot wide public access trail easements along the southern boundary of the property (along lots 1 & 8, exhibit 3). 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. 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.

3. Landscaping and Erosion Control Plan

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

- (a) All graded 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) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within 90 days and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils including all existing graded roads and pads;

- (c) 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 appropriate approved dumping location.

4. Plans Conforming to Geologic Recommendation

All recommendations contained in the Engineering Geologic Report prepared by California Geo/Systems, INC. (8/17/87) regarding the proposed development shall be incorporated into all final design and construction including grading, sewage disposal, and drainage. All plans must be reviewed and approved by the consultant. Prior to transmittal of the permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans. The geologic restricted use area shall be delineated and recorded on the final parcel map.

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.

5. Revised Tentative Tract Map and Grading Plans

Prior to issuance of permit the applicant shall submit a revised Tract Map and grading plan approved by the County of Los Angeles, for review and approval by the Executive Director, indicating a maximum of 18 building sites (by deleting lot no. 1 and combining lots 19 and 20. Further, the map shall indicate that no more than 158,000 cubic yards of grading is proposed and shall include the visual setback requirements and future grading restrictions stipulated by special conditions 7 and 8 to this permit.

6. 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 along the northern, western and southern portions of the site and shall include all areas outside of the graded pads included in the permit and all designated restricted use areas (see Exhibit 4). The easement shall restrict the applicant from grading, landscaping, vegetation removal or placement of structures within the easement area. The easement shall not restrict the future development of a trail for hiking and equestrian use. 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.

7. Visual Setback

Prior to issuance of the permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which provides that the development of single-family residences on lots 9, 10, 11 and 12 shall conform to a 35 foot visual setback as measured from the proposed retaining wall on each lot. The visual setback shall include a 15 foot structural setback, as measured from the retaining wall, prohibiting the placement of any structures except for pools and ground level decks, plus a 20 foot setback area allowing structures to extend a maximum height of 15 feet. Beyond that point the maximum height shall not exceed 28 feet above natural grade.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed.

8. Future Grading for Single-family Development

Prior to issuance of the permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which provides that the development of single-family residences and accessory structures shall conform to the graded areas approved pursuant to this permit only and that any additional grading shall require a coastal development permit from the Commission or its Successor Agency.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the interest being conveyed.

9. Prior to commencing grading the applicant shall retain the services of an independent consultant with appropriate technical qualifications selected from a list provided to the applicant by the Executive Director to monitor the grading periodically during the course of the work performed under the terms of the approved grading plan. The consultant shall notify the Executive Director if there is any departure from the approved grading plan and shall submit a report to the Executive Director upon completion of grading certifying that the grading was performed in conformance with the approved grading plan.

