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STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION

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Staff Report: 12/16/99
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Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION No. 4-99-201

APPLICANT: Brian Fox

AGENT: Jaime Harnish

PROJECT LOCATION: 6277 Seastar Drive, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Construction of a new two-story, 28 ft. above grade, 7,145 sq. ft. single family residence with an attached 992 sq. ft. three-car garage, detached 750 sq. ft. guest house, swimming pool with spa, and new septic system with 1,928 cu. yds. of grading (1,109 cut, 113 fill, and 706 of overexcavation).

Lot area:	56,062 sq. ft.
Building coverage:	4,435 sq. ft.
Impermeable coverage:	16,818 sq. ft.
Parking spaces:	4 (3 garaged, 1 open)
Height above finished grade:	28 ft.

LOCAL APPROVALS RECEIVED: City of Malibu Approval-in-Concept, City of Malibu Engineering and Geotechnical Review Approval-in-Concept, City of Malibu Biological Review, City of Malibu Environmental Health In-Concept Approval, County of Los Angeles Fire Department Coastal Commission Approval Only, and County of Los Angeles Fire Department Approval and Assessment for Fuel Modification Plan #498.

SUBSTANTIVE FILE DOCUMENTS: "Addendum Letter, Response to City Review Sheet," April 7, 1999, Alpine Geotechnical; "Geology and Geotechnical Engineering Review Sheet," March 26, 1999, City of Malibu; "Geologic and Soils Engineering Investigation," January 6, 1999, Alpine Geotechnical; "Cultural Resource Investigation of Tentative Tract Map No. 45585, Los Angeles County," August 1989, Greenwood and Associates; United States Department of the Interior, National Park Service letter to Saied T. Javid, August 16, 1994; United States Department of the Interior, National Park Service letter to Brian Fox, December 9, 1999; Coastal Development Permit No. 5-90-327 (Javid); Coastal Development Permit No. 5-90-327A

(Javid); Coastal Development Permit No. 5-90-327-A3 (Diva Partners/Seastar Estates Homeowners Association); Coastal Development Permit No. 4-95-074 (Javid); Coastal Development Permit No. 4-96-037 (Seastar Estates Homeowners Association); Coastal Development Permit No. 4-97-011 (Seastar Estates Homeowners Association); and the Certified Malibu Santa Monica Mountains Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends **approval** of the proposed project with seven (7) special conditions regarding geologic recommendations, revised landscape and erosion control, removal of natural vegetation, removal of excavated material, wildfire waiver of liability, color restriction, and future improvements.

USAGE NOTE: To approve a coastal development permit, the Commission must vote "yes" on a motion to approve a permit for the proposed development. A permit is approved only if a majority of Commissioners present vote "yes." (Public Resources Code § 30604.)

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-99-201 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

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 within a reasonable period of time. Application for an 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 that the assignee files with the Commission an affidavit accepting all of the 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. Plans Conforming to Geologist's and Engineer's Recommendations

All recommendations contained in the submitted geologic engineering reports prepared by Alpine Geotechnical relating to grading, foundations, and drainage shall be incorporated into all final project plans, designs, and construction, including recommendations concerning foundation, drainage, and septic system plans. 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. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.

The final plans approved by the consultants shall be in substantial conformance with the plan 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 consultants shall require an amendment to the permit or a new coastal development permit. The Executive Director shall determine whether required changes are "substantial."

2. Revised Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit revised landscaping and erosion control plans, prepared by a licensed landscape architect or qualified resource specialist, for review and approval by the Executive Director. The revised landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologists to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

A) Revised Landscaping Plan

- 1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation and to screen and 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. The plan shall include vertical elements, such as trees and shrubs, which partially screen the appearance of the proposed structures as viewed from the Pacific Coast Highway, the Zuma Ridge Trail easements, National Park Service land, and nearby beaches. The plan shall specify the erosion control measures to be implemented and the materials necessary to accomplish short-term stabilization, as needed on the site.
- 2) 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 ninety (90) percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- 3) Plantings will 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;
- 4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- 5) Fuel modification shall occur only in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes, and location of plant materials to be removed and how often thinning is to occur. Financial responsibility for fuel modification shall remain with the applicant, or future owners and possessors of the subject property. In addition, the applicant shall submit evidence that the final fuel modification plan has been reviewed and approved by the Los Angeles County Fire Department and the National Park

Service to ensure conformance with Los Angeles County Fire Department and National Park Service requirements.

B) Interim Erosion Control Plan

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas, and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31), the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils, and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) Monitoring

Five (5) years from the date of the receipt of the Certificate of Occupancy for the residence, 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.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the revised 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 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.

3. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification shall be pursuant to the plan approved by the County of Los Angeles Fire Department and the National Park Service and shall not be permitted until commencement of construction of the structures approved pursuant to this permit, and not until the local government has issued a building or grading permit for the development approved pursuant to this permit.

4. Removal of Excavated Material

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

5. Wildfire Waiver of Liability

Prior to the issuance of a coastal development permit, the applicant 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, and 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 wildfire exists as an inherent risk to life and property.

6. Color Restriction

The color of the structures, roofs, and driveway permitted hereby shall be restricted to a color compatible with the surrounding environment (white tones shall not be acceptable). All windows shall be comprised of non-glare glass.

A. 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, that reflects the restrictions stated above on the proposed development. 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 encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

7. Future Development Deed Restriction

This permit is only for the development described in Coastal Development Permit No. 4-99-201. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) and 13253(b)(6), 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 single family residence or second residential unit (guest house) structure, including but not limited to clearing of vegetation or grading, other than as provided for in the approved fuel modification landscaping, and erosion control plans prepared pursuant to **Special Condition Number Two (2)**, shall require an amendment to Permit No. 4-99-201 from the Commission or shall require

an additional coastal development permit from the Commission or from the applicable certified local government.

A. **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, which reflects the above restrictions on development in the deed restriction and shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a new two-story, 28 ft. above grade, 7,145 sq. ft. single family residence with an attached 992 sq. ft. three-car garage, detached 750 sq. ft. guest house, swimming pool with spa, and new septic system with 1,928 cu. yds. of grading (1,109 cut, 113 fill, and 706 of overexcavation).

The subject property is a flag lot located at the north end of Seastar Drive, east of Trancas Canyon, and north of the Pacific Coast Highway. The lot is located between the Santa Monica Mountains to the north and the Pacific Ocean to the south and is described as Lot 8, Parcel Map 194-35-36, Seastar Drive, Malibu, California. The subject site is the northernmost lot in the previously approved subdivision of Tract 45585 and was previously graded pursuant to the creation of the subdivision under Coastal Development Permit ("CDP") No. 5-90-327 (Javid). In general, slope gradients on the site area vary from a nearly level pad to as steep as 3:1 (horizontal:vertical) to the north and are considered to be stable. The east side of the pad descends approximately seven feet to a catch basin that was installed pursuant to the subdivision. Directly to the north of the subject property is Lot 20, which was dedicated for open space and is to become National Park Service land. The main trace of the Malibu Coastal Fault is located approximately one hundred feet or more to the north of the building site. The subject property is highly visible from the Pacific Coast Highway, the Zuma Ridge Trail easements, National Park Service land, and is also visible from nearby beaches.

In August of 1990, this Commission approved CDP No. 5-90-327 (Javid), allowing the subdivision of a forty-five acre parcel into twenty-one lots with ten special conditions. These special conditions included the dedication of trail easements and open space, revised grading plans to limit the amount of grading to 80,500 cu. yds. with no graded building pads, and a future grading deed restriction. This future grading deed restriction required all single family residences in the subdivision to conform to the natural contours of the site, limit grading to the minimum amount necessary for driveway access, and prohibited grading for tennis courts, pools, or other ancillary uses that would require a level pad. Of the twenty-one lots created in

the subdivision, nineteen were designated for residential development, one for a common recreational lot, and one for open space.

Since the Commission's approval of the subdivision, several subsequent permit applications have been presented to the Commission. First, in 1991, Mr. Javid applied for an amendment to the original permit to allow 22,000 cu. yds. of additional grading on some of the lots for geologic testing and the clearance of vegetation, which had already been performed without the benefit of a coastal development permit. The Commission denied this request, finding it to be inconsistent with the previous Commission decision on the original permit, excessive grading, and landform alteration. The Commission later approved CDP 4-95-074 (Javid), which allowed for the restorative grading of the affected lots, to the greatest extent feasible, and revegetation of Lot 20, which was dedicated as open space. Since the subject property, Lot 8, was one of the lots graded without a permit, restorative grading was performed on Lot 8 pursuant to CDP 4-95-074 (Javid).

Furthermore, the Commission subsequently granted approval of CDP 4-96-037 (Seastar Estates Homeowners Association) for the construction of two tennis courts and an 800 sq. ft. structure on the common recreational lot. In 1997, the Commission then approved CDP 4-97-011 (Seastar Estates Homeowners Association), which allowed for the installation of a motorized security gate, monument wall, signs, and road and public trail easement improvements. Finally, the Commission approved a request from Diva Partners/Sea Star Estate Homeowners Association for an amendment to CDP 4-90-327 (Javid), which created a lot line adjustment between the open space and common recreation lots, thereby increasing the area of the recreational lot by one acre. Since the approval of the Seastar subdivision in 1990, seven of the nineteen lots have received approval for single family residences.

B. Hazards

The proposed development is located in the Malibu/Santa Monica Mountains area, 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 area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

Section 30253 of the Coastal Act states in pertinent part that new development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The applicant has submitted a geologic report titled "Geologic and Soils Engineering Investigation," prepared by Alpine Geotechnical, dated January 6, 1999, evaluating the geologic stability of the proposed development. The report incorporates numerous recommendations regarding construction, foundations, and drainage, and states that:

"The subject property is considered a suitable site for the proposed development from a geologic and soils engineering standpoint. It is the opinion of the undersigned that the proposed development will be safe against hazards from landslides, settlement or slippage, and that the proposed grading and development will not have an adverse effect on the geologic stability of the property outside the building site provided our recommendations are followed during construction."

In the "Addendum Letter," dated April 7, 1999, Alpine Geotechnical estimates that the main trace of the Malibu Coastal Fault is located approximately one hundred feet or more to the north of the building site. Additionally, in the "Geologic and Soils Engineering Investigation," dated January 6, 1999, Alpine Geotechnical states that a former portion of the Malibu Coast Fault passes underneath the site, but has been isolated from the main trace and deactivated through grading and the excavation of a keyway below the fault plane. Alpine Geotechnical reports that this keyway intercepted and interrupted the fault plane, providing a homogenous layer of material which would prevent the portion of the fault plane which passes underneath the site from being activated during a seismic event. Due to these remedial measures, the restricted use area that previously passed directly through the center of the subject property has now been relocated to the extreme northwest corner of the lot and outside of the building envelope.

Therefore, the Commission finds that based on the recommendations of the applicant's geotechnical consultants, the proposed development is consistent with the requirements of Section 30253 of the Coastal Act, so long as the geologic consultant's recommendations are incorporated into the final project plans and designs. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the geotechnical consultants in accordance with **Special Condition Number One (1)**.

Landscaping of the graded and disturbed areas on the project site will enhance the geological stability of the site. In addition, interim erosion control measures implemented during construction will minimize erosion and enhance site stability. The Commission finds that the minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to revegetate all disturbed areas of the site with native plants, compatible with the surrounding environment.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission finds that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and aid in preventing erosion. In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area. Increasing urbanization in this area has also caused the loss or degradation of major portions of the native habitat and the loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast-growing trees that originate from other continents, that have been used as landscaping in this area, have invaded and already seriously degraded native plant communities adjacent to development. Therefore, the Commission finds that in order to ensure site stability, the disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition Number Two (2)**.

In addition, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds it necessary to impose a restriction on the removal of natural vegetation, as specified in **Special Condition Number Three (3)**. This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced.

Bordering the subject property to the immediate north, is Lot 20, consisting of 20.95 acres. Lot 20 was dedicated for open space under the original subdivision permit and is intended to become National Park Service property in the future. Although there is an offer to dedicate Lot 20 to the National Park Service for open space, the National Park Service has not yet accepted the offer pending completion of site restoration efforts by Mr. Javid. The proposed residential structure will be located approximately thirty-five feet from Lot 20, which has been offered to the National Park Service as open space. As a result, approximately one hundred and sixty-five feet of vegetation thinning will occur on National Park Service property for fuel modification, as required by the Los Angeles County Fire Department regulations for fire protection purposes. The Commission was aware that fuel modification would be required on the open space lot in its approval of the subdivision under CDP 5-90-327 (Javid). The applicant has received preliminary approval from the Los Angeles County Fire Department for the fuel modification plan, though not final approval, and review and approval from the National Park Service is still pending.

The National Park Service has indicated in a letter to Mr. Javid, dated August 16, 1994, that vegetation clearance would be permitted on Lot 20 subject to the following requirements:

1. Vegetation clearance will be permitted only with approval and in accordance with methods acceptable to the National Park Service in conformance with the County of Los Angeles Fire Code Sections 27.30, 27.301, and 27.302;
2. Weed abatement will be accomplished by hand mowing (mechanical devices such as "weed-eater" are acceptable) or selective hand thinning-**NO DISKING WILL BE PERMITTED**;
3. A transition zone will be created where a feathered effect is maintained to avoid an abrupt break in the appearance of the vegetation;
4. Vegetation clearance shall remain the *financial responsibility of the owner* of the property to be protected; and
5. Any future modifications of property adjacent to National Park Service land that requires a building permit or that requires any modification of the fuel reduction zone will be conducted as described in items 1-4, above.

As noted above, the applicant has submitted a fuel modification plan that received preliminary approval by the Los Angeles County Fire Department and is awaiting approval from the National Park Service. Therefore, in order to ensure that the project conforms with all conditions and standards required by the Los Angeles County Fire Department and the National Park Service with respect to fuel modification, the applicant shall submit evidence that the final fuel modification plan has received final approval from both the Los Angeles County

Fire Department and the National Park Service, as stipulated under **Special Condition Number Two (2)**.

Further, the Commission also notes that the amount of new cut grading proposed by the applicant is larger than the amount of fill to be placed and will result in approximately 1017 cu. yds. of excess excavated material. Excavated materials that are placed in stockpiles are subject to increased erosion. The Commission also notes that additional landform alteration would result if the excavated material were to be retained on site. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, **Special Condition Number Four (4)** requires the applicant to remove all excavated material from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

Wildfire Waiver

The proposed project is located near the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wildfire. The typical vegetation in 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 wildfires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition Number Five (5)**, the wildfire waiver of liability, the applicant acknowledges 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 Number Five (5)**, the applicant also agrees to indemnify the Commission, its officers, agents, and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

The Commission finds that only as conditioned to incorporate the landscape and erosion control plans, all recommendations by the applicant's consulting geologist and engineer, and the wildfire waiver of liability, will the proposed project be consistent with Section 30253 of the Coastal Act.

C. Visual Impacts

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and protected:

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

In addition, the certified Malibu Local Coastal Program Land Use Plan (LUP) provides policies regarding protection of visual resources, which are used as guidance and are applicable to the proposed development. These LUP policies have been applied by the Commission as guidance in the review of development proposals in the Santa Monica Mountains:

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 shall 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 ... shall be sited and designed to protect views to and along the ocean and to and along other scenic features, ... minimize the alteration of natural land forms, ... conceal raw-cut slopes, be visually compatible with and subordinate to the character of its setting, [and not] intrude into the skyline as seen from public viewing places; P134 Structures shall be sited to conform to the natural topography, as feasible.

As stated above, the applicant proposes to construct a new two-story, 28 ft. above grade, 7,145 sq. ft. single family residence with an attached 992 sq. ft. three-car garage, detached 750 sq. ft. guest house, swimming pool with spa, and new septic system with 1,928 cu. yds. of grading (1,109 cut, 113 fill, and 706 of overexcavation).

The site is highly visible from the Pacific Coast Highway, the Zuma Ridge Trail easements that pass to the east and west of the property, and National Park Service land to the immediate north. In addition, the subject site is minimally visible from nearby beaches to the south. The project site is located within a partially developed residential subdivision, located on the periphery of a built-out area of Malibu, consisting of numerous single family residences constructed on moderate to steep slopes. There are currently existing large, single family residences to the south, east, and northeast. In addition, the subject site is not situated on the ridgeline and there is open space and National Park Service land to the north. The proposed project, therefore, will be consistent with the character of the surrounding area. Furthermore, minimal grading is proposed and the residence is designed to conform to the topography of the site. However, due to the visible nature of the project as seen from the Pacific Coast Highway, the Zuma Ridge Trail easements, National Park Service land, and nearby beaches, the Commission finds it necessary to require mitigation measures to minimize visual impacts as seen from these scenic public resources.

Furthermore, to protect the scenic quality of this area, the Commission required all future development on the sites to conform to the natural topography and minimize grading to the amount necessary for driveway access under the original subdivision permit, CDP 5-90-32 (Javid). In addition, CDP 5-90-327 (Javid) stated that "no grading for tennis courts or other ancillary uses which require level pads shall be permitted." For this project, the applicant is

proposing 1,928 cu. yds. of grading, consisting of the following: 566 cu. yds. of excavation, 339 cu. yds. of cut, and 23 cu. yds. of fill for the main house and attached garage; 19 cu. yds. of cut and 20 cu. yds. of fill for the guest house; 142 cu. yds. of excavation for the swimming pool and spa; 43 cu. yds. of cut and 70 cu. yds. of fill for the driveway and fire department turn around areas; and 706 cu. yds. of overexcavation, requiring removal and recompaction of the of existing fill on site. This grading is necessary for the construction of the driveway and fire department turn around areas, excavation and notching of the 4,435 ft. main structure, garage, and guest house into the slope, and excavation of the swimming pool and spa and the amount of cut and fill required for this project has been minimized. Additionally, the building plans were designed so that the main house will be slightly stepped down the slope of the lot and the guest house will be notched into the slope to minimize the need for grading and reduce visual impacts from the development.

Requiring the residence to be finished in a color consistent with the surrounding natural landscape and, further, that the windows of the proposed structures be of a non-reflective nature, can mitigate the impact on public views. To ensure that any visual impacts associated with the colors of the structures and potential glare of the window glass are minimized, the Commission finds it necessary to require the applicant to use colors compatible with the surrounding environment and non-glare glass, as required by **Special Condition Number Six (6)**.

In addition, future developments or improvements to the property have the potential to create significant adverse visual impacts as seen from the Pacific Coast Highway, the Zuma Ridge Trail easements, National Park Service land, and nearby beaches. It is necessary to ensure that future developments or improvements normally associated with a single family residence, which might otherwise be exempt, be reviewed by the Commission for compliance with the visual resource protection policies of the Coastal Act. **Special Condition Number Seven (7)**, the future improvements deed restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act.

Additionally, requiring the residence to be adequately landscaped can mitigate visual impacts. The landscaping should consist of native, drought resistant plants and be designed to minimize and control erosion, as well as partially screen and soften the visual impact of the structures from the Pacific Coast Highway, the Zuma Ridge Trail easements, National Park Service land, and nearby beaches with vertical elements such as trees and shrubs. Furthermore, the fuel modification plan will be designed to reduce negative visual impacts from vegetation clearance. Therefore, the Commission finds that it is necessary to require the applicant to submit a revised landscape plan as specified in **Special Condition Number Two (2)**.

In summary, the proposed project, as conditioned, will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act.

D. Cumulative Impacts

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section **30250 (a)** of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

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

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

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

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

result, the Commission has found that guest houses, pool cabanas, second units, or maid's quarters can intensify the use of a site and impact public services, such as water, sewage, electricity, and roads.

As proposed, the 750 sq. ft. guest house conforms with the Commission's past actions allowing a maximum of 750 sq. ft. for a second dwelling unit in the Malibu area.

The Commission has approved many similar projects that have established a maximum size of 750 sq. ft. habitable space for development that may be considered a secondary dwelling unit. The guest house is considered a potential second residential unit. To ensure that no additions or improvements are made to the guest house that may further intensify the use without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the guest house are proposed in the future as required by **Special Condition Seven (7)**.

Therefore, the Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 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.

Section 30250(a) of the Coastal Act states in part that:

New residential, ...development, ...shall be located within, ...existing developed areas able to accommodate it...and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The applicant proposes to construct a new 1,500 gallon septic tank and disposal system to service the main house and a 750 gallon septic tank and disposal system to service the guest house, as shown on the plans that received in-concept approval from the City of Malibu, Environmental Health Department. This conceptual approval by the City indicates that the sewage disposal systems for the project in this application comply with all minimum requirements of the Uniform Plumbing Code.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 and 30250 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 that the activity would have on the environment.

The proposed project, as conditioned, will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is consistent with CEQA and the policies of the Coastal Act.

4469

47

SCALE 1" = 200'

TRA
10053OFFICE OF ASSESSOR
COUNTY OF LOS ANGELES
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1995

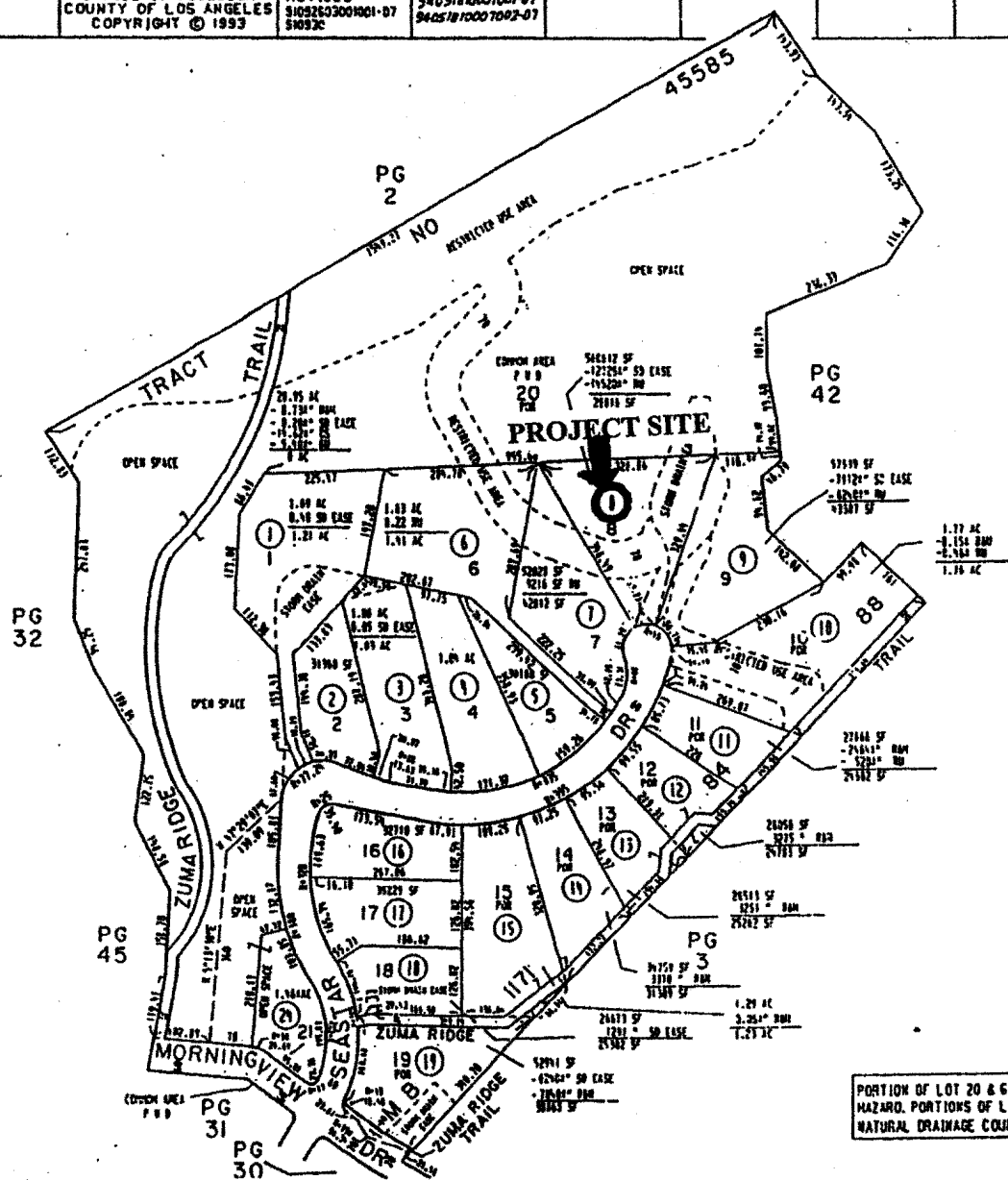


EXHIBIT 3
CDP 4-99-201 (Fox)
Topographic Map (with Restricted Use Area)

Fox Residence

Brian & Kristen Fox
Lot 8
Seashar Drive
Malibu
California 90265
(310) 599-3414

Jaime Pavez Architecture & Design

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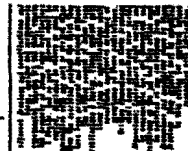
Carsten
Jaime Herrick
28715 Heatherly Rd.
Malibu, Ca. 90265
Tel: (310) 487-4850

Structural

SITE PLAN

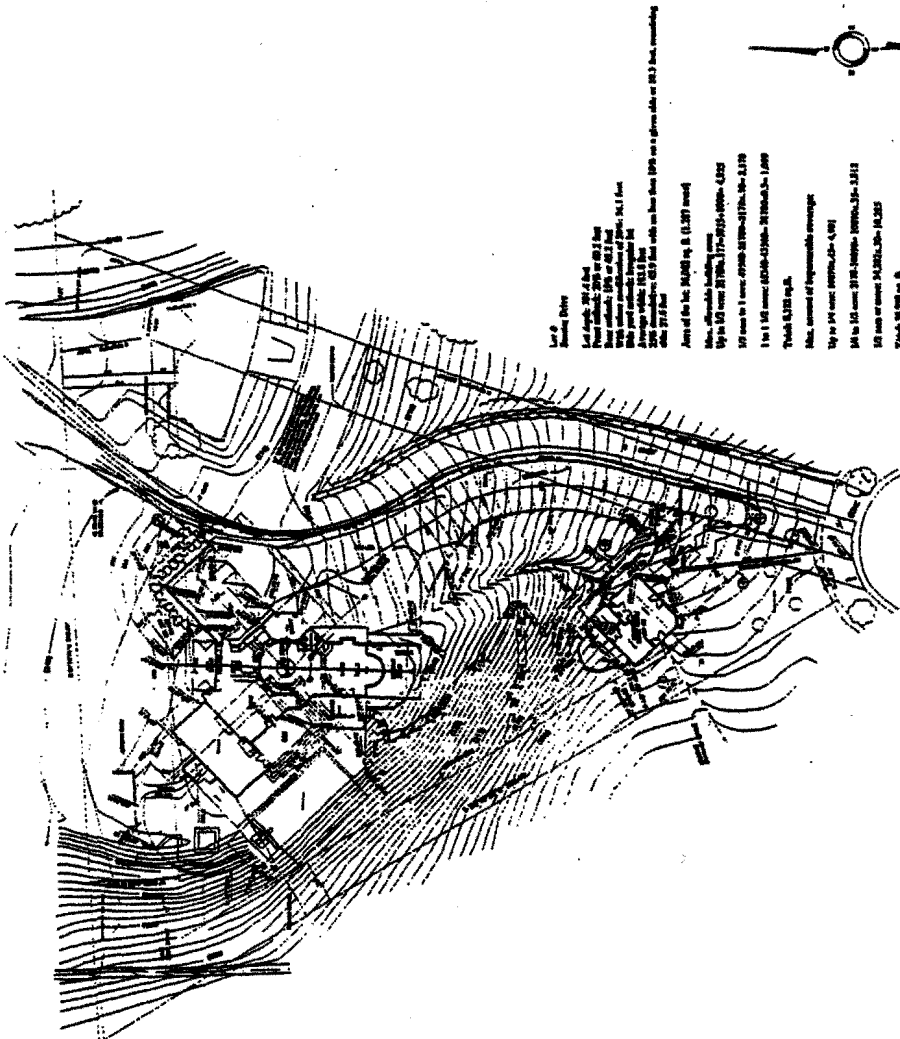
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Revisions	
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2	2-21-00
3	3-3-00



Sheet No.

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SITE PLAN

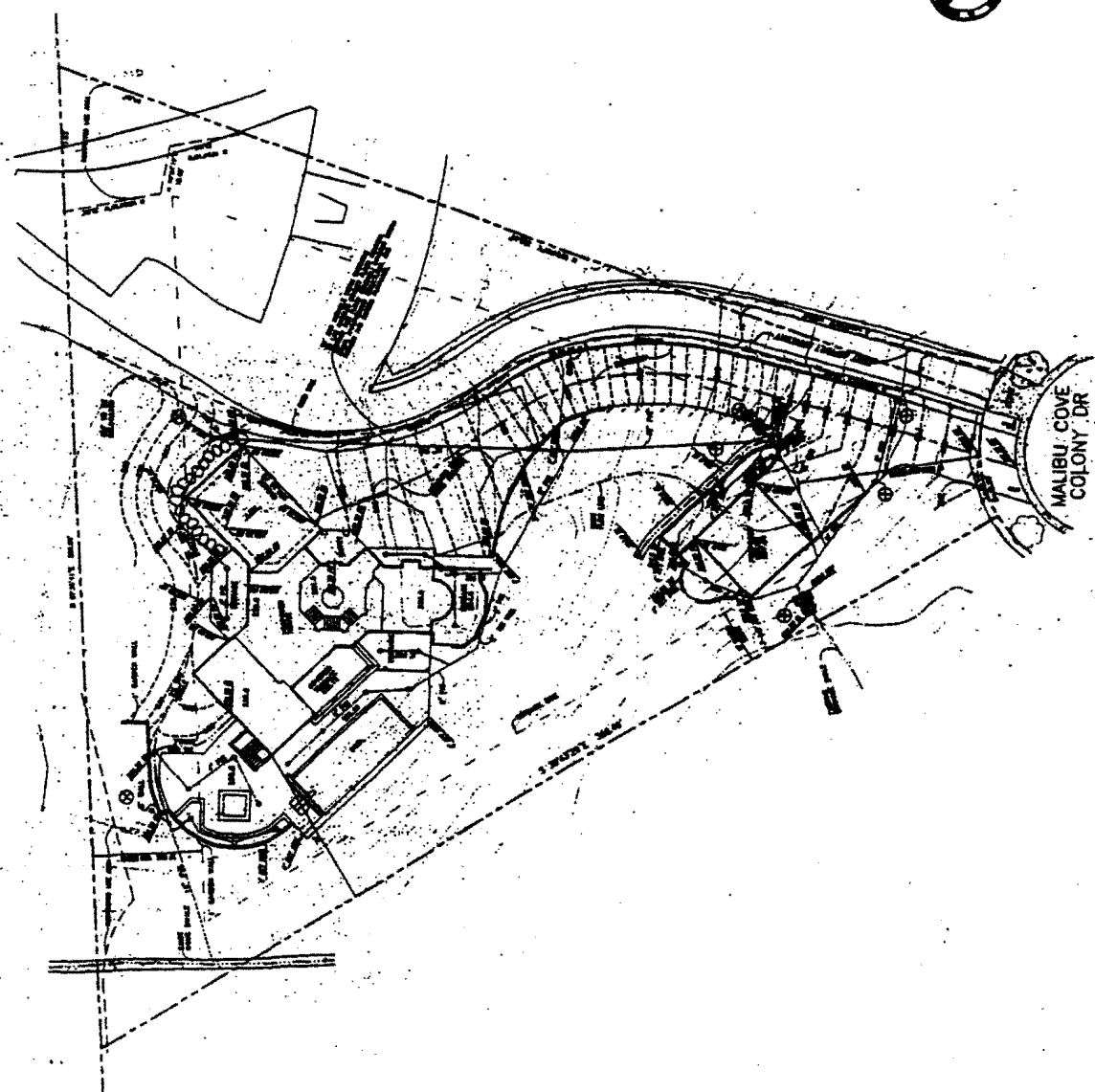
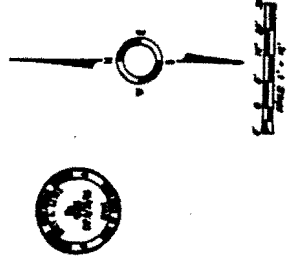
LEGEND

1	PROPOSED LOT
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96	PROPOSED LOT
97	PROPOSED LOT
98	PROPOSED LOT
99	PROPOSED LOT
100	PROPOSED LOT

EXHIBIT 4

CDP 4-99-201 (Fox)

Site Plan



LEGEND

1	EXISTING LOT
2	PROPOSED LOT
3	EXISTING DRIVE
4	PROPOSED DRIVE
5	EXISTING SIDEWALK
6	PROPOSED SIDEWALK
7	EXISTING CURB
8	PROPOSED CURB
9	EXISTING PAVEMENT
10	PROPOSED PAVEMENT
11	EXISTING GRAVEL
12	PROPOSED GRAVEL
13	EXISTING ASPHALT
14	PROPOSED ASPHALT
15	EXISTING CONCRETE
16	PROPOSED CONCRETE
17	EXISTING FILL
18	PROPOSED FILL
19	EXISTING EXCAVATION
20	PROPOSED EXCAVATION
21	EXISTING EROSION CONTROL
22	PROPOSED EROSION CONTROL
23	EXISTING VEGETATION
24	PROPOSED VEGETATION
25	EXISTING UTILITIES
26	PROPOSED UTILITIES
27	EXISTING FENCE
28	PROPOSED FENCE
29	EXISTING SIGN
30	PROPOSED SIGN
31	EXISTING LIGHTING
32	PROPOSED LIGHTING
33	EXISTING LANDSCAPE
34	PROPOSED LANDSCAPE
35	EXISTING STRUCTURE
36	PROPOSED STRUCTURE
37	EXISTING POOL
38	PROPOSED POOL
39	EXISTING PATIO
40	PROPOSED PATIO
41	EXISTING DECK
42	PROPOSED DECK
43	EXISTING PORCH
44	PROPOSED PORCH
45	EXISTING STAIRS
46	PROPOSED STAIRS
47	EXISTING RAMP
48	PROPOSED RAMP
49	EXISTING DRIVEWAY
50	PROPOSED DRIVEWAY
51	EXISTING GARAGE
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54	PROPOSED SHED
55	EXISTING BARN
56	PROPOSED BARN
57	EXISTING WAREHOUSE
58	PROPOSED WAREHOUSE
59	EXISTING FACTORY
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62	PROPOSED OFFICE
63	EXISTING STORE
64	PROPOSED STORE
65	EXISTING RESTAURANT
66	PROPOSED RESTAURANT
67	EXISTING BAR
68	PROPOSED BAR
69	EXISTING CLUB
70	PROPOSED CLUB
71	EXISTING GYM
72	PROPOSED GYM
73	EXISTING SPA
74	PROPOSED SPA
75	EXISTING SAUNA
76	PROPOSED SAUNA
77	EXISTING HOT TUB
78	PROPOSED HOT TUB
79	EXISTING JACUZZI
80	PROPOSED JACUZZI
81	EXISTING SWIMMING POOL
82	PROPOSED SWIMMING POOL
83	EXISTING BEACH
84	PROPOSED BEACH
85	EXISTING PARK
86	PROPOSED PARK
87	EXISTING GOLF COURSE
88	PROPOSED GOLF COURSE
89	EXISTING TENNIS COURT
90	PROPOSED TENNIS COURT
91	EXISTING BASKETBALL COURT
92	PROPOSED BASKETBALL COURT
93	EXISTING SOFTBALL FIELD
94	PROPOSED SOFTBALL FIELD
95	EXISTING BASEBALL FIELD
96	PROPOSED BASEBALL FIELD
97	EXISTING CRICKET PITCH
98	PROPOSED CRICKET PITCH
99	EXISTING RUGBY PITCH
100	PROPOSED RUGBY PITCH

EXHIBIT 5
CDP 4-99-201 (Fox)
Grading Plan

Fox Residence

Brian & Kristin Fox
Lot 6
Sawyer Drive
Malibu
California 90265
(310) 559-5414

Jalme Pavez Architecture & Design

13645 Shattuck Place
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Email: arch@jalmedesign.com

Centech
Jalme Pavez
29716 Hawthorn Rd.
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Tel (310) 487-8850

Structural:

BASEMENT FLOOR PLAN

SCALE: 1/8" = 1'-0"

Revisions	
1	12.20.98
2	2.27.99
3	3.3.99



Sheet No.

A 4.0



BASEMENT AREA: 1,604.84 SQ. FT.

BASEMENT FLOOR PLAN

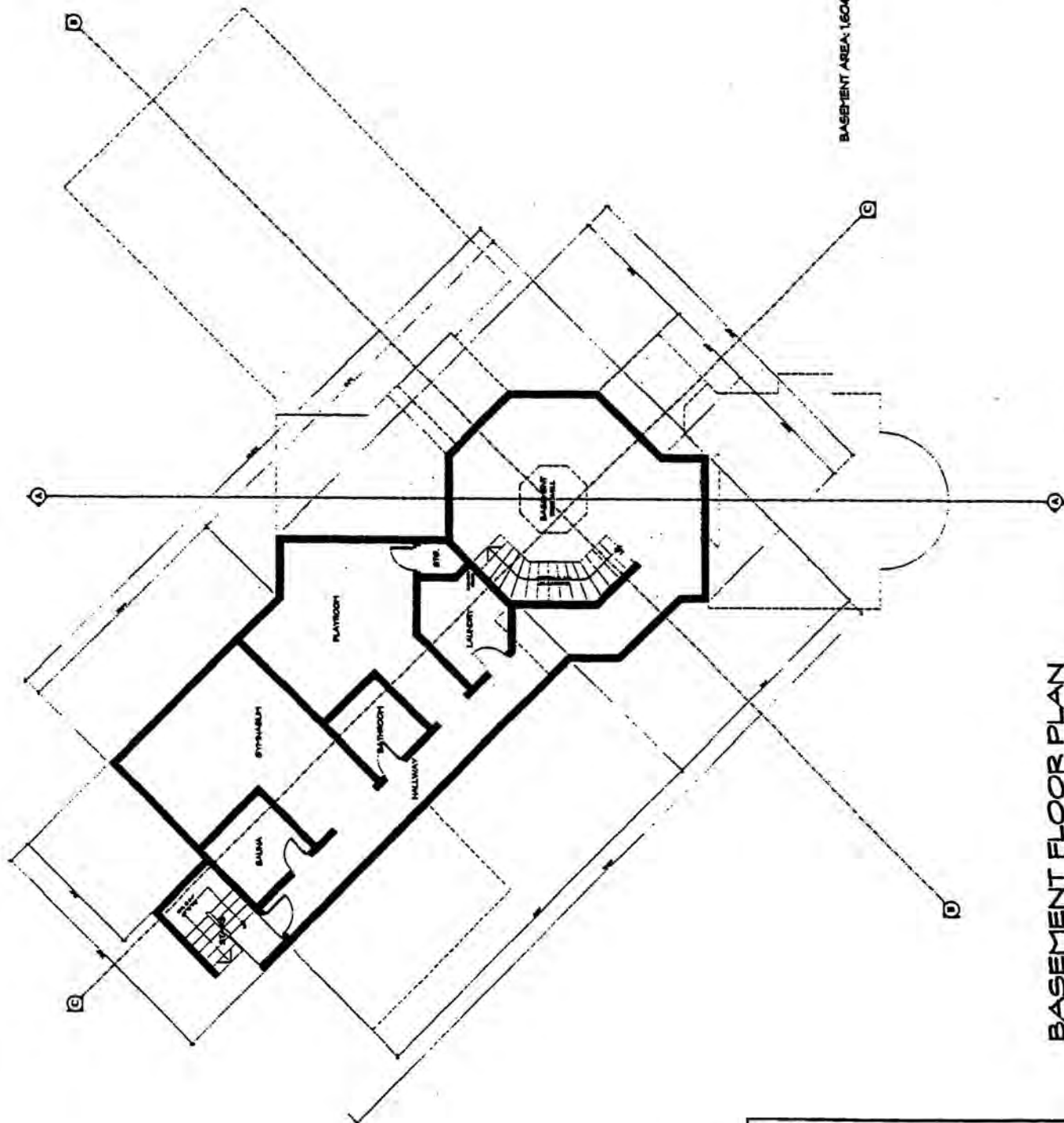


EXHIBIT 6
CDP 4-99-201 (Fox)
Basement Floor Plan

210A



FIRST FLOOR COVERED AREA: 4,344.08 SQ. FT.
FIRST FLOOR HOUSE AREA: 2,893.74 SQ. FT.
GARAGE AREA: 992.74 SQ. FT.
COVERED DECK AREA: 657.61 SQ. FT.

EXHIBIT 7
CDP 4-99-201 (Fox)
First Floor Plan

Brian & Kirsten Fox
Lot 6
Seester Drive
Madera
California 90265
(310) 589-5414

**Jaime Pavez
Architecture
& Design**

1969 Sheffield Place
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Fax: (805) 497-1835
Email: aradham@earth.net

Contact:
John Marshall
29778 Hawthorne Rd.
Marina, Ca. 90265
Tel (310) 574-6550

Structural:

**SECOND
FLOOR PLAN**

Reviews
1 12-20-06
2 2-31-09
3 1-8-09

The second group of respondents, consisting of 100 individuals, was selected from the same population as the first group. This group was also divided into two subgroups of 50 each, based on the same criteria as the first group. The results for this group are presented in Table 2.

Study 1

Oni



Second Floor Plan

Fox Residence

Brian & Karen Fox
Lot 8
Beverly Drive
Malibu
California 90265
(310) 589-8414

Jaime Pavez Architecture & Design

1349 Sheffield Place
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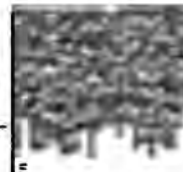
Jaime Harish
28718 Hawthorne Rd.
Malibu, Ca. 90265
Tel (310) 487-6850

Structural:

LOFT FLOOR PLAN

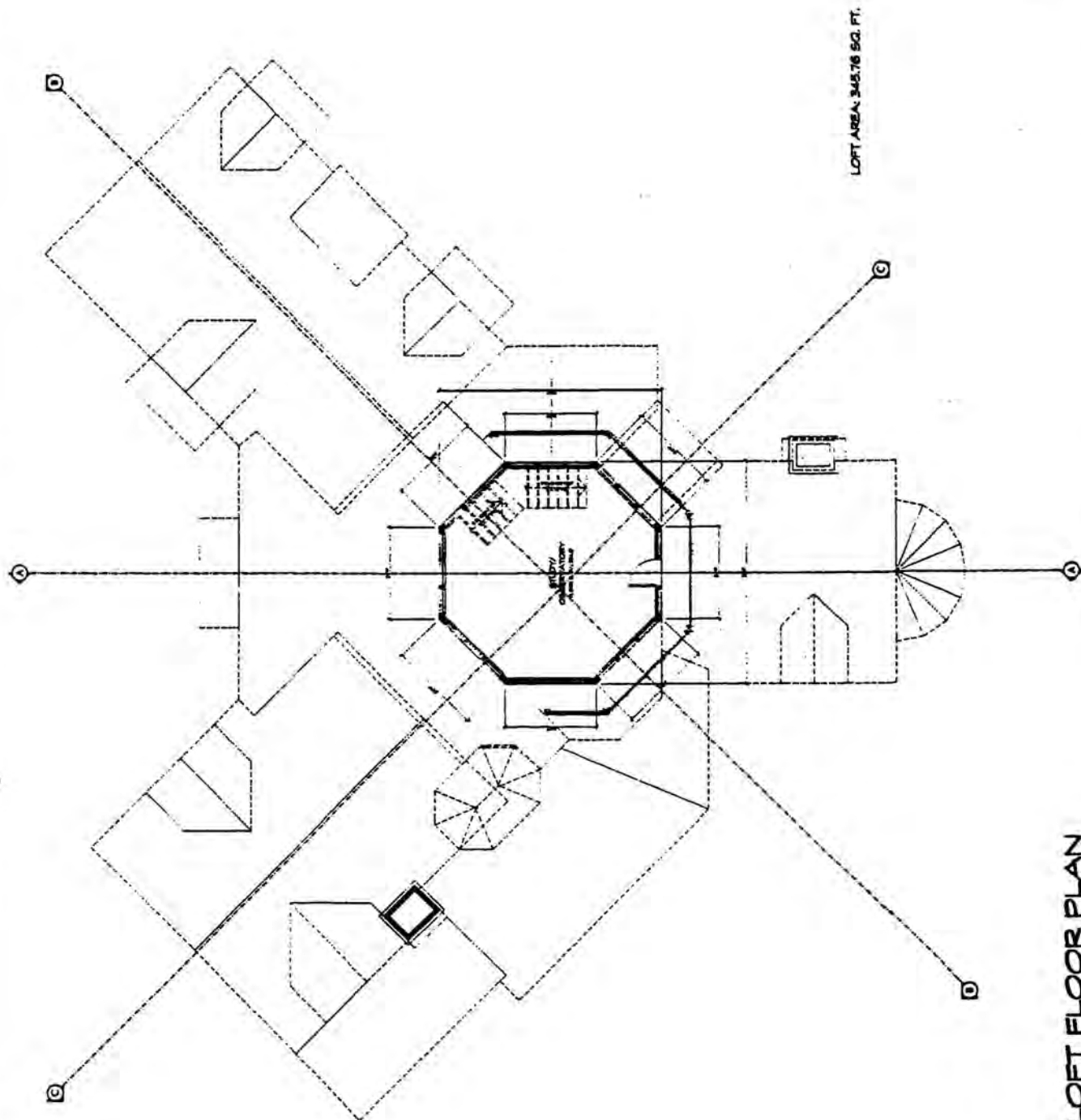
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Revisions	
1	12-30-98
2	3-27-99
3	3-23-99



Sheet No.

A 3.0



LOFT FLOOR PLAN

EXHIBIT 9

CDP 4-99-201 (Fox)

Loft Floor Plan

Fox Residence

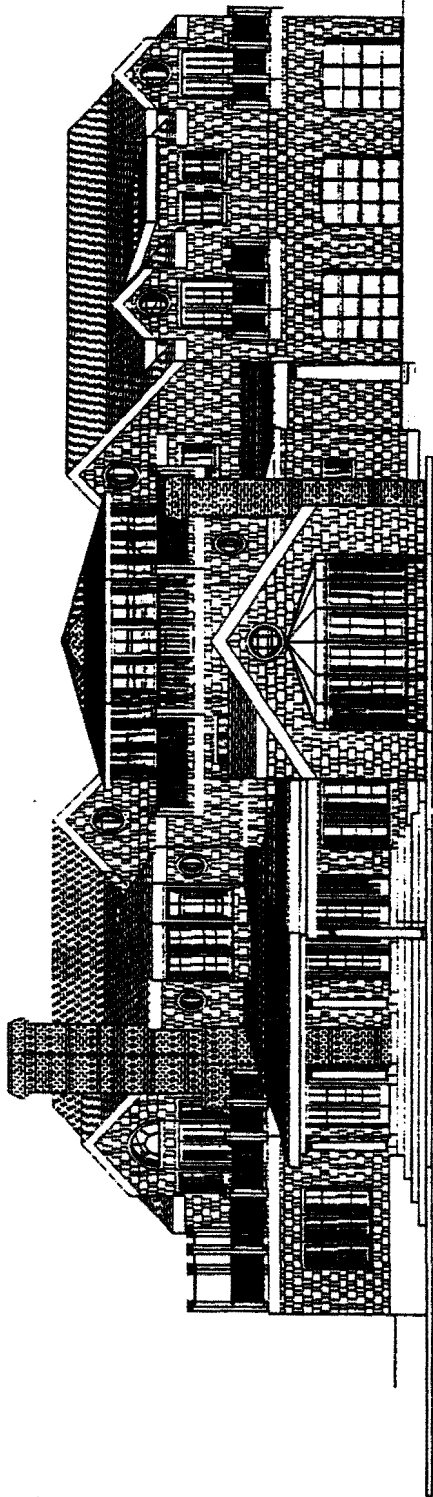
8100 & 10000 Pk
Laf B
Beverly Drive
Malibu
California 90265
(310) 569-5414

Jaime Pavez Architecture & Design

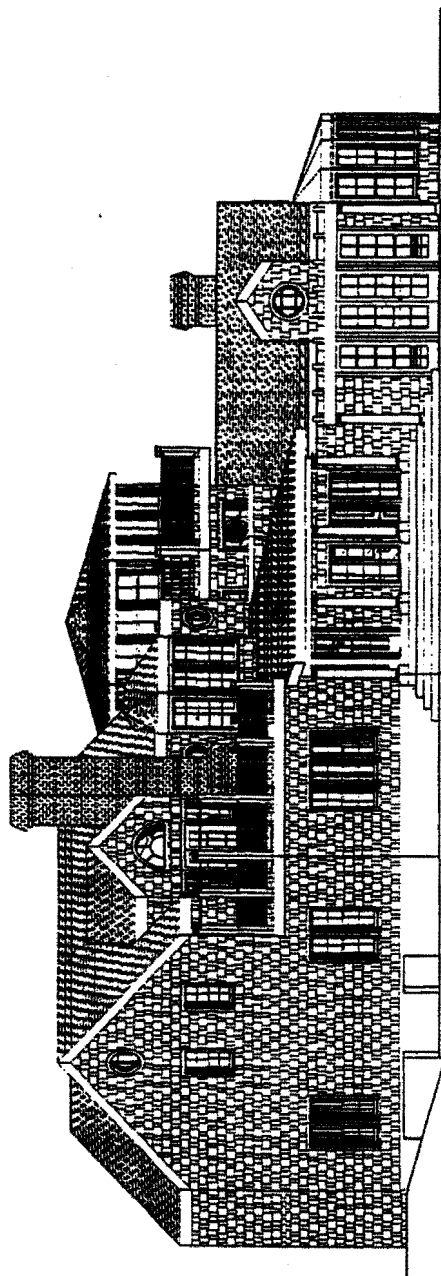
1966 Shufflet Place
Thousand Oaks
California 91320
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Fax (805) 477-1835
Email: jpa@jpa.net

Contractor
James Herrick
28775 Hawthorn Rd.
Malibu, Ca. 90266
Tel (310) 457-6890

Structural:



SOUTH ELEVATION



WEST ELEVATION

SOUTH & WEST ELEVATIONS

SCALE: 1/8" = 1'-0"

Revision	Date
1	10-30-98
2	2-25-99
3	3-3-99

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Sheet No.

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EXHIBIT 10

CDP 4-99-201 (Fox)

South and West Elevations

Fox Residence

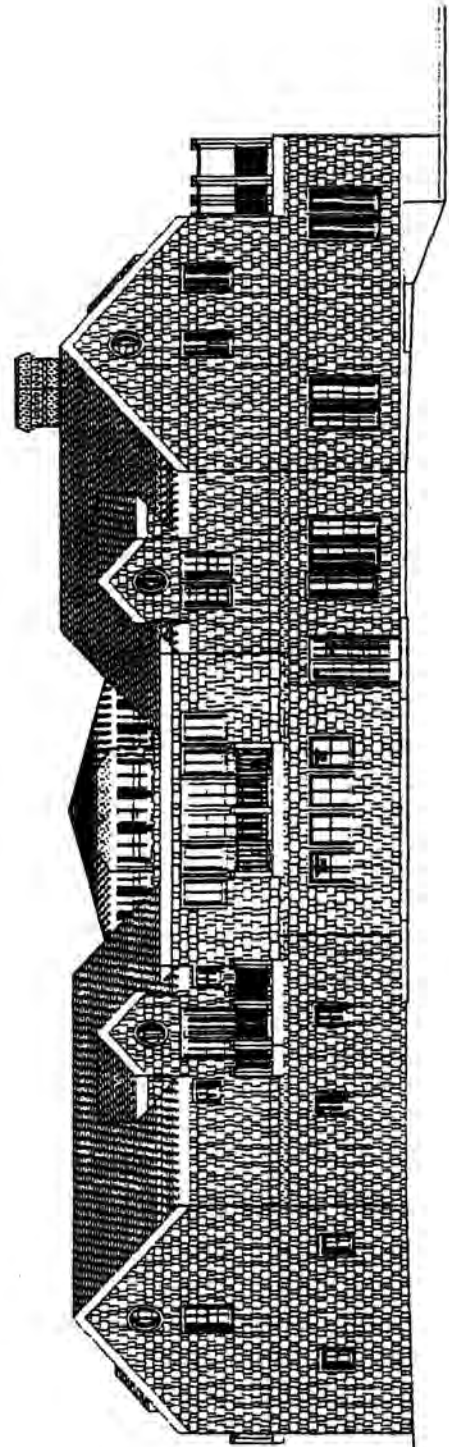
Brian & Karen Fox
Lot 8
Essex Drive
Malibu
California 90265
(310) 568-5414

Jaime Pavez
Architecture
& Design

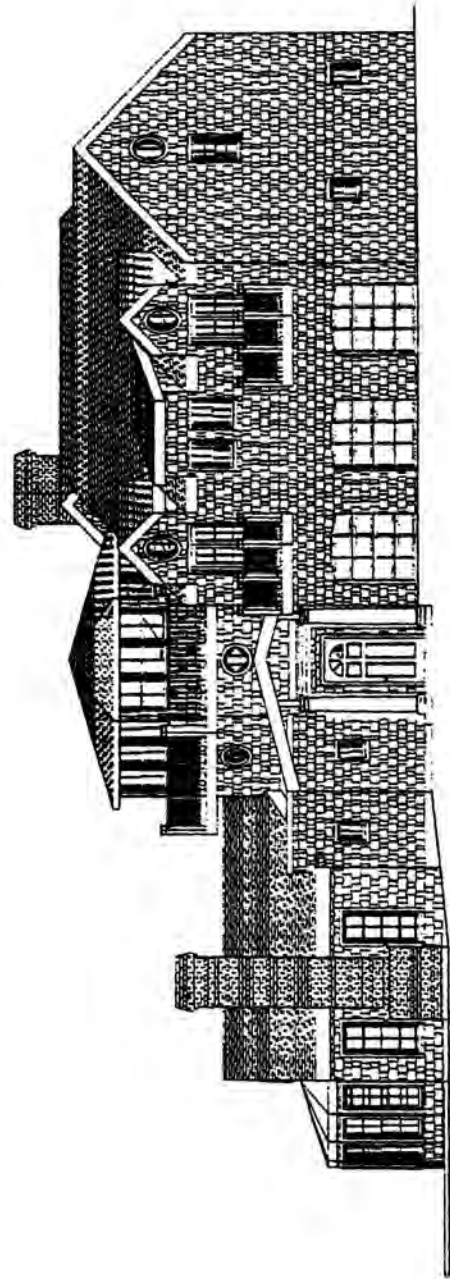
1368 Shullard Place
Thousand Oaks
California 91320
Tel: (805) 487-3125
Fax: (805) 487-1635
Email: arch@japd.com

Carlson
Jaime Pavez
28778 Hammeroff Rd.
Malibu, Ca. 90265
Tel: (310) 487-4950

Structural:



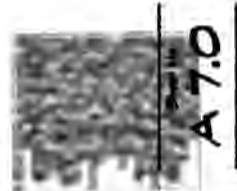
NORTH ELEVATION



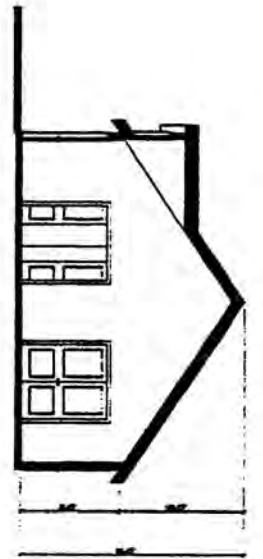
EAST ELEVATION

NORTH
& EAST
ELEVATIONS
SCALE 1/4" = 1'-0"

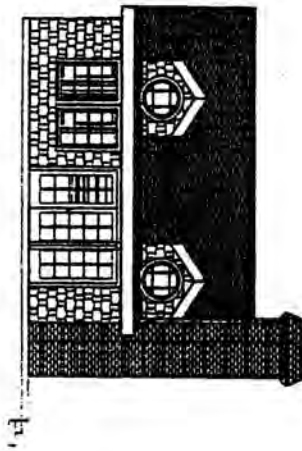
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2	3-27-88
3	3-3-88



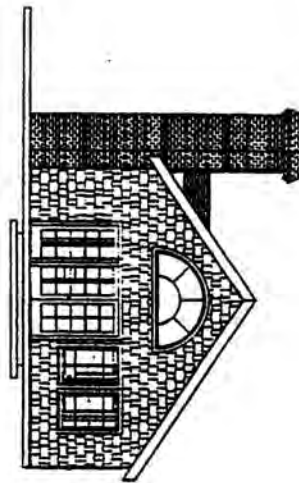
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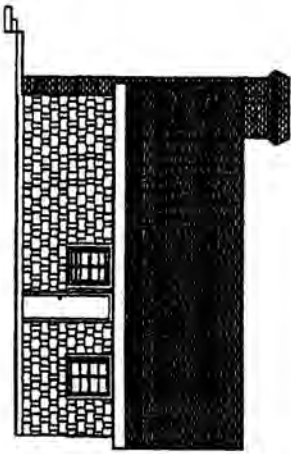
CROSS-SECTION



WEST ELEVATION



SOUTH ELEVATION



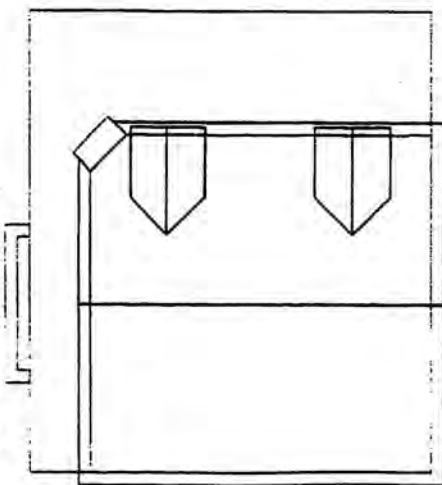
EAST ELEVATION



NORTH ELEVATION



FLOOR PLAN



ROOF PLAN



EXHIBIT 12
CDP 4-99-201 (Fox)
Guest House-Floor Plan/Elevations

GUEST HOUSE PLANS
 HOUSE NO. 107

Rooming
 1 12'0" x 12'0"
 2 10'0" x 10'0"
 3 8'0" x 10'0"

A GH.1