

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: AMENDMENT

APPLICATION NO: 5-90-246-A2

APPLICANT: Gerri Gilliland **AGENT:**

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

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

DESCRIPTION OF AMENDMENT: After-the-fact approval for modifications to the approved project, including: 1) additions to the approved guesthouse, including a 147 sq. ft. loft, 90 sq. ft. wet bar, and glass wind screen; 2) additional grading totaling 400 cu. yds. (200 cu. yds. cut and 200 cu. yds. fill) to create garden pad; 3) revised location for placement of approved temporary construction trailer. The proposal also includes the revision of the required open space deed restricted area to remove 4.1 acres and add 3.5 acres to open space.

LOCAL APPROVALS RECEIVED: Los Angeles County Approval in Concept and Health Department Preliminary Approval

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/ Santa Monica Mountains Land Use Plan, Coastal Development Permit 5-90-246 (Bolton); Coastal Development Permit Assignment T-5-90-246 (Gilliland).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission approve the proposed amendment. As conditioned to record a revised open space dedication, the project, as amended, would be consistent with §30231, §30240 and §30251 of the Coastal Act. As conditioned to remove the guest house loft and construction trailer within 60 days of occupancy of the main residence, the project, as amended, would be consistent with §30250 and §30252 of the Coastal Act.

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,**
- 2) Objection is made to the Executive Director's determination of immateriality, or**
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.**

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material (§13166 of the California Code of Regulations).

I. STAFF RECOMMENDATION:

The staff recommends that the Commission APPROVE the permit amendment, with special conditions.

MOTION

I move that the Commission approve the proposed amendment to Coastal Development Permit No. 5-90-246-A3 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would

substantially lessen any significant adverse impacts of the amended development on the environment.

II. SPECIAL CONDITIONS.

NOTE: All standard and special conditions attached to the previously approved permit, except as modified below, remain in effect.

1. Revised Open Space Dedication

Prior to the issuance of Amendment 5-90-246-A2, 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 preservation. Such easement shall be located on the property (Assessor's Parcel 4461-004-030) including the area depicted in the Revised Exhibit 4. In the area covered by the easement, there shall be no development as defined by Section 30106 of the Coastal Act except vegetation removal required by the Los Angeles County Fire Department for fuel modification:

The document shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. 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 21 years, such period running from the date of recording. The recording document shall include legal descriptions and exhibits of both the applicant's entire parcel(s) and the easement area. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Guest House Loft.

Prior to issuance of Amendment 5-90-246-A2, the applicant shall submit, for the review and approval of the Executive Director, revised guest house plans which show that the stairs to the loft area have been removed and that the interior walls of the guest house have been reconfigured such that the loft is not accessible to the interior of the guest house, except by means of a small attic access door, and does not constitute livable area. The loft area may be incorporated into the existing attic area.

The applicant shall make the modifications to the guest house required by this revised guest house plan within 60 days from the issuance by the Los Angeles County Department of Building and Safety of the Certificate of Occupancy for the main residence approved under Permit 5-90-246 and later amended under Permit Amendment 5-90-246-A3.

4. Removal of Temporary Construction Trailer

The applicant shall remove the temporary construction trailer within 60 days of the issuance by the Los Angeles County Department of Building and Safety of the Certificate of Occupancy for the main residence approved under Permit 5-90-246 and later amended under Permit Amendment 5-90-246-A3.

5. Condition Compliance

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

III. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description

The applicant is proposing an amendment to Permit 5-90-246 (Bolton) for after-the-fact approval for modifications to the approved project, including: 1) additions to the approved guesthouse, including a 147 sq. ft. loft, wet bar, patio, and glass wind screen; 2) additional grading totaling 400 cu. yds. (200 cu. yds. cut and 200 cu. yds. fill) to create garden pad; 3) revised location for placement of approved temporary mobile home. The proposal also includes the revision of the required open space deed restricted area to remove 4.1 acres and add 3.5 acres to open space.

The proposed project site is a 39.63 acre lot located on a southeast trending ridgeline on Shultz Ridge Road just off Corral Canyon Road. (Exhibit 1 & 2). The Malibu/ Santa Monica Mountains Land Use Plan (LUP) indicates that the Solstice Canyon and Corral Canyon are both designated Significant Watersheds. As shown on Exhibit 3, the northern fourth of the subject parcel is located within the Solstice Canyon Significant Watershed. The remainder of the site, including the building pad area is located between and just outside of the Solstice Canyon and Corral Canyon Significant Watershed Areas. The LUP designates this land as a combination of Rural Land I (1du/10 acres), Rural Land II (1du/5 acres), and Mountain Land- M2 (1du/20 acres). The subject parcel is located just north of the Malibu Bowl Small Lot Subdivision and just south of National Park Service property and Malibu Creek State Park.

As described in more detail below, the Commission approved Permit 5-90-246 (Bolton) for the construction of a single family residence, guest house, pool, temporary construction trailer along with grading for the creation of building pads and driveways. The original applicant complied with the conditions of approval, the coastal development permit was issued, and the applicant began construction of the project. Site grading was carried out, the guest house was constructed, a mobile home was placed on the site and landscaping was planted. Not all of the improvements were in conformance with the plans as approved under Permit 5-90-246. Each of the modifications proposed by the applicant is described as follows:

1. Guest House.

The guest house constructed on the subject site is not in conformance with the approved plans for this structure. The floor plans for the approved permit show a structure of 750 sq. ft., consisting of two bedrooms, one bathroom, living room, and a bathroom exterior to the main unit which is called a "shower toilet". Finally, a pool equipment storage area is shown, but apparently not included in the overall square footage of the guest house. Finally, an "L" shaped patio, covered partly under the roof of the structure, and partly under a shade trellis is shown on the front of the guest house. Exhibit 10 shows the floor plan and elevation for the approved guest house.

The as-built plans for the guest house show that a larger structure was actually constructed. Exhibit 7 is the floor plan, Exhibit 8 shows the roof plan, and Exhibit 9 is the elevation of the as-built guest house structure. The first floor main unit consists of one bedroom, one bath, living room, and wet bar/kitchen area. The area of the structure where the wet bar is located is additional enclosed building area of approximately 90 sq. ft. that is not shown on the approved plans.

The resultant ground floor of the main guest house unit, including the additional "wet bar", comprises approximately 750 sq. ft. In addition to the main unit, there is an exterior "pool bath" and storage area which are the same size and configuration as shown on the approved plans. The pool bath and storage areas are accessible from exterior doors only and there are no interior doorways that connect these rooms with the rest of the guesthouse. As such, these areas have not been included in the total square footage of the guest house unit.

However, a second level loft of 147 sq. ft. was also added, which was not included on the approved plans. This loft area which is partially open to the guest house unit below is accessible from inside the guest house by a circular stairway. The loft level of the guest house is shown in Exhibit 12. Given that this area is accessible to the interior of the guest house, it must be included in the overall square footage of the unit. The addition of this loft results in a guest house of 897 sq. ft. Finally, a glass wind screen was added around the exterior patio.

2. Construction Trailer.

The original permit approved the placement of a temporary construction trailer on the site. A construction trailer has been placed at the site, but in a different location on the building pad than was approved in the permit. This location is partially on the applicant's property and partially on an adjacent parcel. The applicant has obtained a written agreement with the adjacent property owner (APN 4461-004-004) to temporarily place the mobile trailer at the proposed location property until the completion of the single family residence (Exhibit 11).

3. Grading

At the time that the original owner carried out the grading plan approved in Permit 5-90-246, additional grading beyond that approved by the Commission also occurred. The original owner used 400 cu. yds. (200 cu. yds. cut and 200 cu. yds. fill) of grading to construct a flat pad area on a knoll adjacent to the main building pad. Apparently, this area was intended for some equestrian facilities. The current applicant is not applying to install any equestrian facilities. Rather, this amendment application includes the retention of this grading and the use of the existing pad for a garden. The proposed pad area is located within the open space area, as recorded.

4. Open Space Area.

As a condition of approval of Permit 5-90-246, the original owner was required to record an offer to dedicate an open space easement across most of the 39.6-acre project site (Exhibit 6 of this report shows the recorded open space exhibit). Two areas of the site were specifically excluded from the open space easement. One area surrounds the approved building site and was intended to include all the approved development on the site. There was some confusion regarding the size and boundaries of this excluded area. Clearly, the intention of excluding this approximately 3-acre area was to ensure that the approved development would not be within the area restricted to open space. However, the exhibit prepared by staff to depict the Commission action was drawn on a small-scale exhibit which showed the topography of the entire 39.6-acre site, but did not show all of the approved development. Comparison of staff's open space exhibit with the approved development footprint shows that some of the approved grading and drainage devices would be located within the area restricted for open space. Additionally, fuel modification necessary for the main house and the guest house would extend into the open space area as drawn on staff's exhibit. When the original owner recorded the open space offer to dedicate, staff's exhibit was included as an attachment to the deed restriction, but the surveyed legal description prepared by the owner did not match the exhibit. Rather, the legal description described a larger exclusion area of approximately 6-acres which included all of the approved development.

The second excluded area is a 3.5-acre area at the southwest corner of the site, adjacent to Schultz Ridge Road. The exhibit referenced in the open space condition of the original permit is shown in Exhibit 6 of this report (this exhibit was known as Exhibit 4 in the original permit). Finally, water tanks for the project were specifically allowed to be located within the open space dedication area.

The applicant proposes three modifications to the exhibit of the open space area included in the recorded offer to dedicate open space:

- a. Incorporation of the 3.5-acre detached area exclusion area into the open space offer to dedicate. This area, located at the southwest corner of the property, would be included as open space area, thereby eliminating the possibility that this area could be subdivided or otherwise developed in the future.
- b. Clarification of the area around the approved development which is excluded from the open space area. This area would be reflected both on the recorded exhibit and the recorded legal description as the 6-acre area shown on Exhibit 5 rather than the approximately 3-acre area on staff's exhibit.
- c. Exclusion of the 1-acre graded pad area and the 0.1-acre water tank site from the recorded open space area.

The resultant open space area that would be recorded as an offer to dedicate is shown on the Revised Exhibit 4.

B. Background

On August 8, 1990, the Commission approved coastal development permit 5-90-246 (Bolton) for the construction of a one story, 5,637 sq. ft., 29 ft. high, single family residence with attached 2,100 sq. ft. workshop and storage area, 1,641 sq. ft. 4-car garage, swimming pool, water well, septic system, 750 sq. ft. guesthouse, 5,577 cu. yds. of grading (3,390 cu. yds. of cut and 2,187 cu. yds. of fill) and the temporary placement of a mobile home on the site until construction of the residence is completed. The approved guesthouse was one story, two bedrooms, 750 gross sq. ft. in size (Staff would note that this approved structure did include an exterior pool bath and storage area that were not included in the 750 sq. ft.).

The project site is located off of Corral Canyon Road, just northwest of the Malibu Bowl small lot subdivision and immediately south of property owned by the National Park Service (across Corral Canyon Road and downslope of the project site). Malibu Creek State Park is located a short distance further north of the site. Exhibit 1 shows these parklands in relation to the project site.

Additionally, the project site is located between the Solstice Canyon Significant Watershed and the Corral Canyon Significant Watershed, as designated in the Malibu/Santa Monica Mountains Land Use Plan. The northernmost portion of the site is within the boundary of the Solstice Canyon Significant Watershed. The remainder of the

site, including the existing building area is located just outside and to the south of the Solstice Canyon Significant Watershed, as shown on Exhibit 3

At the time of the approval, the Commission had concerns with the potential impacts of the project on visual resources, particularly the amount of the landform alteration and the size and height of the main structure. The applicant worked with staff to reduce the height of the structure and to reduce the overall site grading by deleting a proposed tennis court and revising the configuration of the road access to the proposed guest house. Additionally, as mitigation for visual impacts from the remainder of the grading, and the property's proximity to a significant watershed area, the applicant proposed and the Commission required the applicant to record an irrevocable offer to dedicate an open space easement on the undeveloped portion of the property, with the exception of the building pad area and a small level area adjacent to Schultz Ridge Road (Exhibit 4).

To date, the grading, septic system, and guesthouse, have been constructed by the original owner (Ray Bolton) under the original coastal development permit. During this construction, an additional small pad area was graded on a knoll adjacent to the building pad area with a minor amount of grading (200 cu. yds. cut and 200 cu. yds. fill). Mr. Bolton apparently intended to develop equestrian facilities in this area (although it should be noted that no such facilities were constructed). Additionally, the revisions to the guesthouse detailed above were incorporated into the construction of that structure. These modifications to the overall project were undertaken without the benefit of an amendment to the approved permit.

On December 4, 1995, Coastal Development Permit 5-90-246 was transferred from Mr. Ray Bolton to Ms. Gerri Gilliland, the applicant of this amendment. In April of 1996, Commission Enforcement Staff discovered that the grading and guesthouse modifications were not in conformance with the approved project.

Ms. Gilliland applied for Permit Amendment 5-90-246-A1 which included the approval of the after-the-fact elements considered in the subject amendment request. Just prior to the February 1999 hearing, staff suggested that the applicant withdraw that amendment request so that staff could consider modifications to the recorded open space offer to dedicate. The applicant withdrew Permit Amendment 5-90-246-A1 and resubmitted the same request as Permit Amendment 5-90-246-A2 (Gilliland) which is considered herein. Additionally, the applicant submitted Permit Amendment 5-90-246-A3 to reduce the total size of the main residence from a 9,739 sq. ft. residence with a six-car garage to a 7,131 sq. ft residence with a 3-car garage. This amendment was approved as an immaterial change in July 1999. This residence has not been constructed to date.

C. Sensitive Resources, Visual Resources, and Landform Alteration

Section 30231 of the Coastal Act states that:

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

Section 30240 of the Coastal Act states that:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30251 of the Coastal Act states:

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

The certified Malibu/ Santa Monica Mountains Land Use Plan (LUP), which may be used as guidance in evaluating a project's consistency with Coastal Act Policy has designated the southern portion of the property lying within the Solstice Canyon as a significant watershed area. Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Section 30240 of the Coastal Act states that

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

The Commission found in approving Coastal Development Permit 5-90-246 (Bolton) that the proposed single family residence, guest unit, and driveways required grading on moderately steep portions of the site which would increase the potential for erosion. Any additional grading or landform alteration could adversely affect the subject site and surrounding area by increasing the amount of erosion and interfere with surface water flow. Additionally, the Commission found that the proposed residence was of such a large size and required landform alteration of such a magnitude that the project could result in adverse impacts to visual resources.

As described above, the applicant worked with staff to reduce the height of the structure and to reduce the overall site grading by deleting a proposed tennis court and revising the configuration of the road access to the proposed guest house. Additionally, as mitigation for visual impacts from the remainder of the grading, and the property's proximity to a significant watershed area, the applicant proposed and the Commission required the applicant to record an irrevocable offer to dedicate an open space easement on the undeveloped portion of the property, with the exception of the building pad area and a small level area adjacent to Schultz Ridge Road. Condition No. 1 of the original permit states:

Prior to transmittal of the coastal development permit, the applicant as landowner shall execute and record a document, in a form and content acceptable to the Executive Director, which irrevocably offers to dedicate to a public agency or private association acceptable to the Executive Director, an easement for open space, view preservation and habitat protection. Such easement shall be located at 1400 Corral Canyon Road, Malibu, Los Angeles County, APN 4461-4-30 and shall include the area depicted in the attached Exhibit 4. The easement shall restrict the applicant from grading, landscaping (other than required by this permit), vegetation removal or placement of structures within the easement area...

The required Exhibit 4 referred to in Condition 1 of Permit 5-90-246 is shown here as Exhibit 6. As shown in the exhibit, the offer to dedicate an open space easement extends across much of the 39.6-acre project site. Two areas of the site were specifically excluded from the open space easement. One area surrounds the approved building site and was intended to include all the approved development on the site. There was some confusion regarding the size and boundaries of this excluded area. Clearly, the intention of excluding this approximately 3-acre area was to ensure that the approved development would not be within the area restricted to open space. However,

the exhibit prepared by staff to depict the Commission action was drawn on a small-scale exhibit that showed the topography of the entire 39.6-acre site, but did not show all of the approved development. Comparison of staff's open space exhibit with the approved development footprint shows that some of the approved grading and drainage devices would be located within the area restricted for open space. Additionally, fuel modification necessary for the main house and the guest house would extend into the open space area as drawn on staff's exhibit. When the original owner recorded the open space offer to dedicate, staff's exhibit was included as an attachment to the deed restriction, but the surveyed legal description prepared by the owner did not match the exhibit. Rather, the legal description described a larger exclusion area of approximately 6-acres which included all of the approved development. The second excluded area is a 3.5-acre area at the southwest corner of the site, adjacent to Schultz Ridge Road.

The applicant now proposes three modifications to the exhibit of the open space area included in the recorded offer to dedicate open space:

1. Incorporation of the 3.5-acre detached exclusion area into the open space offer to dedicate. This area, located at the southwest corner of the property, would be included as open space area, thereby eliminating the possibility that these 3.5 acres could be subdivided or otherwise developed in the future.
2. Clarification of the area around the approved development which is excluded from the open space area. This area would be reflected both on the recorded exhibit and the recorded legal description as the 6-acre area shown on Exhibit 5 rather than the approximately 3-acre area on staff's exhibit.
3. Exclusion of the 1-acre graded pad area and the 0.1-acre water tank site from the recorded open space area.

The resultant open space area that would be recorded as an offer to dedicate is shown on the Revised Exhibit 4. The result of these proposed modifications would be to add 3.5-acres of open space area and exclude an additional 4.1-acres from the open space restrictions. The resultant 7.1-acre excluded area would encompass all graded, and developed portions of the site, including all area necessary for fuel modification for the approved structures. Additionally, the outlying 3.5-acre exclusion area would be eliminated, thereby eliminating all potential for development on the site outside the proposed 7.1-acre development area. This 3.5-acre exclusion area is located a significant distance from the approved building area, adjacent to Schultz Ridge Road. A deed restriction recorded as a condition of the original permit states that this area cannot be developed until and unless Schultz Ridge Road is improved in conjunction with a Commission approved development taking access from this road. No such improvements have taken place to date. It is unknown at this time if such improvements will ever be approved. However, significant grading would likely be necessary to improve this road to a standard required by the Los Angeles County Fire Department. Additionally, grading would likely be necessary to develop a building pad on this 3.5-acre area. Finally, depending on the type of development proposed for this area, services like water, electric, gas, etc. would have to be extended to the site and a septic

system provided. Therefore, development of the 3.5-acre exclusion area could be expected to have impacts on visual and other coastal resources. Conversely, the proposed modification would serve to concentrate development into one clustered development area, thereby reducing potential further impacts to visual resources and sensitive coastal resources.

The proposed consolidation of all potential development on the site into the single 7.1-acre area surrounding or adjacent to the approved building pad area would ensure that impacts to visual resources and watershed resources are minimized on the site. In order to ensure that these modifications are made, the Commission finds it necessary to require the applicant to record a revised open space offer of dedication which includes the open space area and excluded area shown in the Revised Exhibit 4. Condition No. 1 requires the recordation of a Revised Open Space Offer to Dedicate.

With regard to the proposed grading in the knoll area adjacent to the approved development area, the 400 cu. yds. of grading (200 cu. yds. cut and 200 cu. yds. of fill) resulted in slight flattening of a gently sloping knoll area. No significant landform alteration resulted. This grading does not have any adverse visual impacts on trails or parklands nearby. The applicant has requested to use this area for gardening at present. The applicant has indicated she may wish to develop some small structure of an undetermined type in this area in the future. There is a recorded future improvements deed restriction in place on the project site, so any future development on this or any other area of the site would require Commission review. At such time of review, the Commission would have to consider any potential impacts that might result from such development.

In conclusion, the Commission finds that the proposed amendment to the approved and recorded open space dedication will result in consolidating and clustering development approved in the original permit, development approved in this amendment and any future development into a single 7.1-acre area of the 39.6-acre project site. Further, the potential for subdivision or development of the 3.5-acre area at the southwest corner of the site would be eliminated. Since this area would likely require grading for road improvements and the extension of services, development in that location would likely have adverse impacts to visual resources and to nearby watershed resources. As such, the proposed modification to the open space dedication area would minimize impacts. As conditioned to record the amended open space dedication, the project, as proposed to be amended, is consistent with Sections 30231, 30240 and 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:

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

Section 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 Pacific Coast Highway and other roads (including infrastructure constraints such as water, sewage, electricity) than an ordinary single family residence. (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal

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

In this case, the Commission approved a guest house structure of 750 sq. ft., consisting of two bedrooms, one bathroom, living room, and a bathroom exterior to the main unit which is called a "shower toilet". Further, a pool equipment storage area is shown, but apparently not included in the overall square footage of the guest house. Finally, an "L" shaped patio, covered partly under the roof of the structure, and partly under a shade trellis is shown on the front of the guest house. Exhibit 10 shows the floor plan and elevation for the approved guest house.

The guest house constructed on the subject site is not in conformance with the approved plans for this structure. The as-built plans for the guest house show that a larger structure was actually constructed. Exhibit 7 is the floor plan, Exhibit 8 shows the roof plan, and Exhibit 9 is the elevation of the as-built guest house structure. The first floor main unit consists of one bedroom, one bath, living room, and wet bar/kitchen area. The area of the structure where the wet bar is located is additional enclosed building area of approximately 90 sq. ft. that is not shown on the approved plans.

The resultant ground floor of the main guest house unit, including the additional, unpermitted "wet bar", comprises approximately 750 sq. ft. In addition to the main unit, there is an exterior "pool bath" and storage area, which are the same size and configuration as shown on the approved plans. The pool bath and storage areas are accessible from exterior doors only and there are no interior doorways that connect these rooms with the rest of the guesthouse. As such, these areas have not been included in the total square footage of the guest house unit.

However, a second level loft of 147 sq. ft. was also added, which was not included on the approved plans. This loft area which is partially open to the guest house unit below is accessible from inside the guest house by a circular stairway. As shown on Exhibit 12, the 147 sq. ft. loft is an upper level space above a portion of the ground floor guest house space. This area is enclosed by walls on three sides, as shown. The fourth side is open to the guest house below, with a 36-inch high guardrail. Access to this area is provided by a circular stairway from the ground level. The slope of the roof above, reduces the headroom within this loft area. Given that this area is accessible to the

interior of the guest house, it must be included in the overall square footage of the unit. The addition of this loft results in a guest house of 897 sq. ft.

As such, the guest house, as constructed, exceeds the maximum square footage that the Commission has approved in past permits, in order to minimize the cumulative impacts associated with the traffic, septic waste, runoff, etc. resulting from additional residential units on parcels already developed with a single family residence. If the guest house would be allowed to remain at 897 sq. ft. along with the approved single family residence planned for the site, these potential cumulative impacts would be realized. The Commission finds that it is necessary to require the applicant to reduce the size of the guest house to no more than 750 sq. ft. in interior square footage. As described above, the main ground floor guest house unit is limited to approximately 750 sq. ft. in area. However, the upper level loft of 147 sq. ft. exceeds this maximum square footage. As such, it is necessary to require the applicant to eliminate this loft space in order to limit the total square footage of this second unit. This is required by Condition No. 2.

The elimination of the loft space could be accomplished in several different ways. For one, the circular stairway must be removed. An attic access door could be installed in its place so that access to the area could be provided for maintenance of heating and ventilation equipment that the applicant has stated are located in this area. The interior walls in this area can be reconfigured such that the loft space is converted into enclosed attic space and combined with the small existing attic space adjacent to it. This may involve the extension of ductwork to the rest of the guest house. Staff cannot design these modifications to the guest house structure. Therefore, the Commission finds it necessary to require the applicant to submit revised plans for the guest house which shows that the loft area has been redesigned such that the stairs to the loft area have been removed and that the interior walls of the guest house have been reconfigured such that the loft is not accessible to the interior of the guest house, except by means of a small attic access door, and does not constitute livable area. The loft area may be incorporated into the existing attic area.

In this case, the main residence has yet to be constructed or occupied. Therefore, at this time, only one residential structure is existing on the project site. Given these circumstances, cumulative impacts from the development of a larger guest house and a single family residence would not result until such time as the approved residence is constructed and occupied. Therefore, the Commission finds it necessary to require the applicant to implement the revised plans within 60 days of the issuance of a certificate of occupancy for the approved main residence on the project site. Condition No. 2 requires the applicant to submit revised guest house plans and to implement the plans to eliminate the loft within 60 days of occupancy of the main house.

The applicant is also proposing to relocate a previously approved temporary construction trailer adjacent to Schultz Ridge Road. The trailer is only a temporary structure to be used during construction and did not require any grading or landform

alteration other than minor vegetation removal when it was placed in the new location. However, in order to ensure that the trailer is temporary and will not be converted into livable space, the Commission finds it necessary that the applicant remove the trailer within two months after the issuance of the certificate of occupancy for the main residence as stated in Condition No. 4 of this permit amendment.

Finally, as discussed above, the applicant proposes to revise the previously recorded open space offer to dedicate in order to exclude 4.1-acres adjacent to the approved development area and to include a 3.5-acre area located some distance from the development area at the southwest corner of the site as open space. This modification will have the result of precluding the possibility of the 3.5-acre area being subdivided or otherwise developed. This modification would serve to concentrate development into one clustered development area, thereby reducing potential cumulative impacts. Condition No. 1 requires the recordation of the revised open space offer to dedicate.

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

E. Violation

Unpermitted development has taken place prior to submission of this permit amendment application including the alteration of the previously approved guesthouse floor plan to exceed 750 sq. ft., the grading of 400 cu. yds. to create a pad area within an open space easement area, and the placement of a temporary trailer in a different location than previously approved. Through this coastal development permit amendment the applicant is proposing to retain the graded pad, to retain the guest house loft until occupancy of the main house, and make modifications to the recorded open space area. To ensure that the unpermitted development on the site to be resolved through this amendment, is resolved in a timely manner, Condition No. 5 requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of the permit within 90 days of the Commission action. In addition, Condition No. 1 requires the recordation of a revised Open Space Offer to Dedicate. Finally, Condition No.2 requires that the applicant submit revised plans for the removal of the guesthouse loft and that the applicant implement this removal plan within 60 days of the issuance of the certificate of occupancy for the main house.

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

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

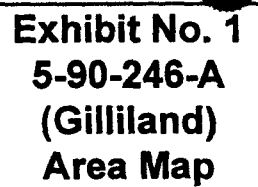
(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the project, as proposed to be amended, 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 development, as proposed to be amended, 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 amendment will not prejudice the County's ability to prepare a Local Coastal Program Implementation Plan for the unincorporated Santa Monica Mountains area 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)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity would have on the environment.

The proposed development would not cause significant, adverse environmental impacts that would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.



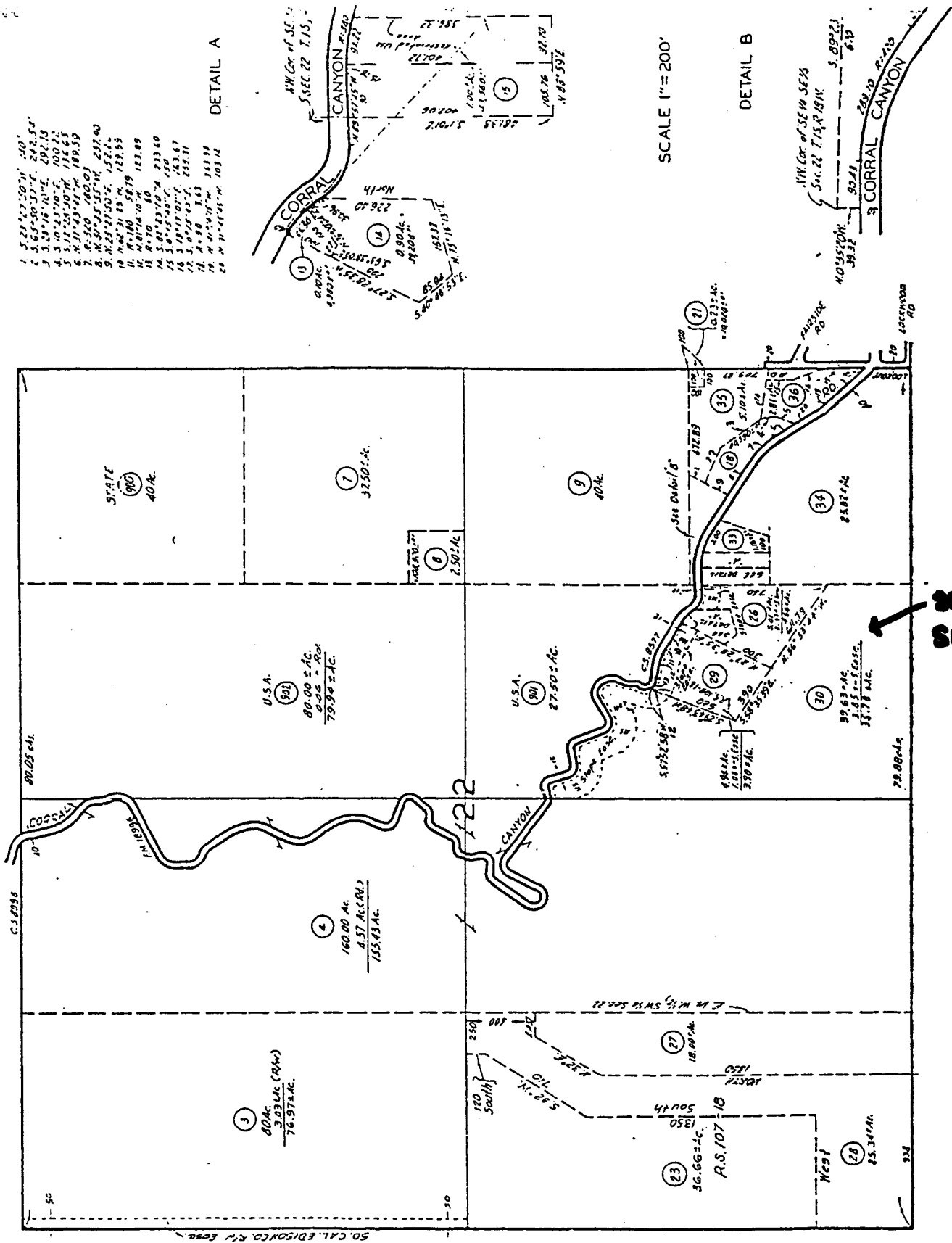
SCALE 1"=200'

DETAIL B

SMT. SEE: 482-224

T. 1 S., R. 18 W.

ASSESSOR'S MAP



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

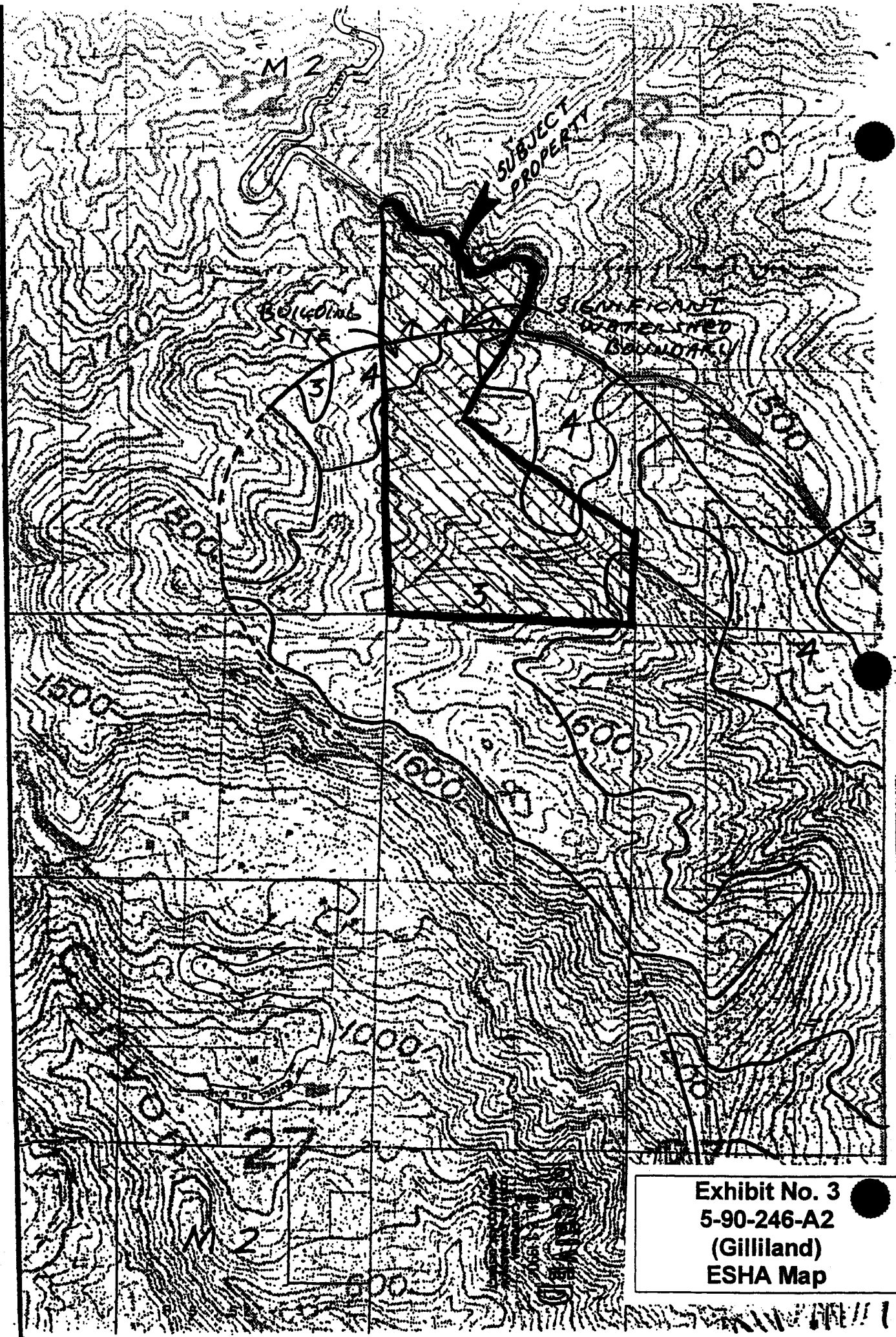
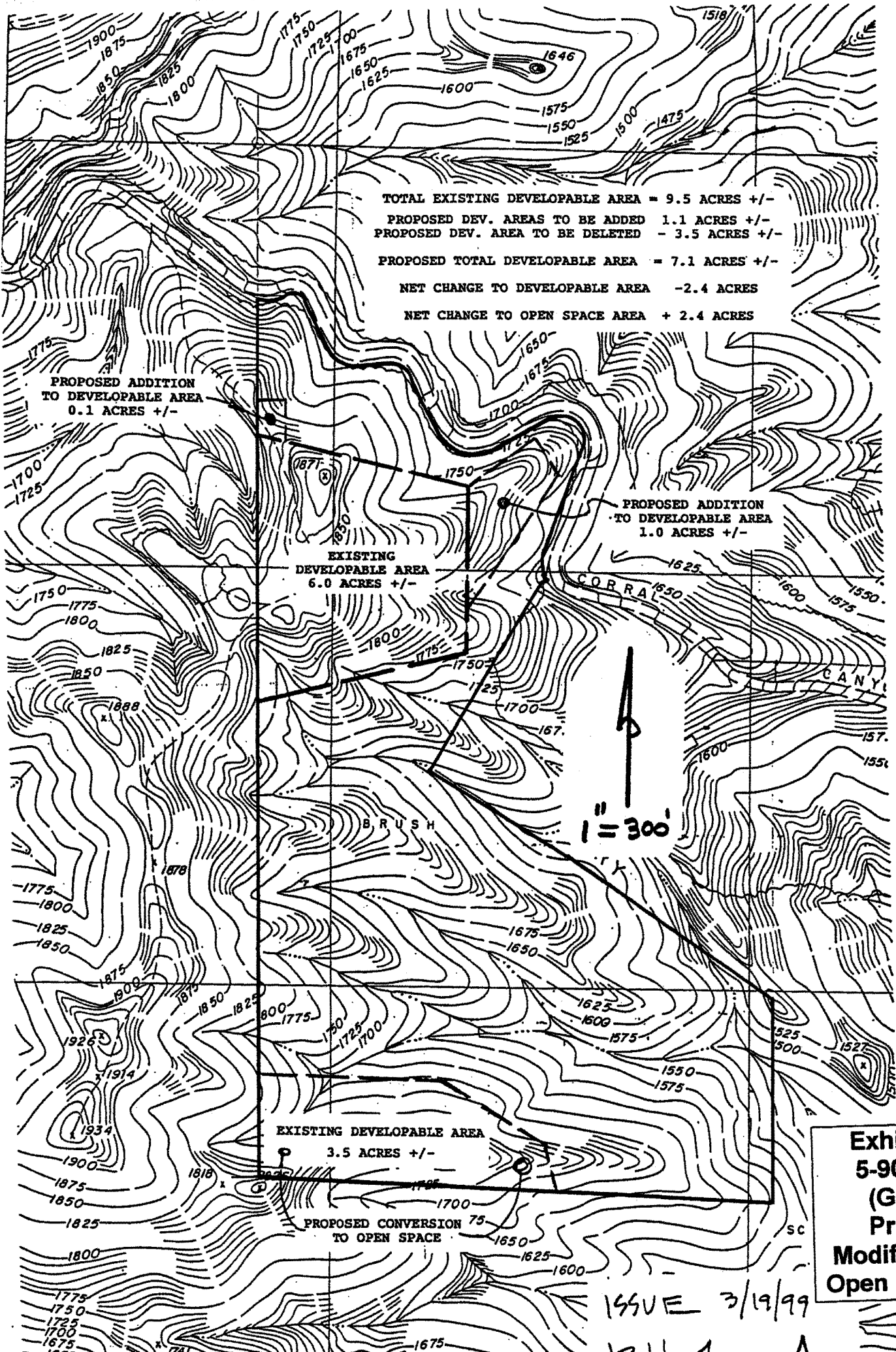


Exhibit No. 3
5-90-246-A2
(Gilliland)
ESHA Map



TOTAL EXISTING DEVELOPABLE AREA = 9.5 ACRES +/-
PROPOSED DEV. AREAS TO BE ADDED 1.1 ACRES +/-
PROPOSED DEV. AREA TO BE DELETED - 3.5 ACRES +/-
PROPOSED TOTAL DEVELOPABLE AREA = 7.1 ACRES +/-
NET CHANGE TO DEVELOPABLE AREA -2.4 ACRES
NET CHANGE TO OPEN SPACE AREA + 2.4 ACRES

PROPOSED ADDITION
TO DEVELOPABLE AREA
0.1 ACRES +/-

EXISTING
DEVELOPABLE AREA
6.0 ACRES +/-

PROPOSED ADDITION
TO DEVELOPABLE AREA
1.0 ACRES +/-

1" = 300'

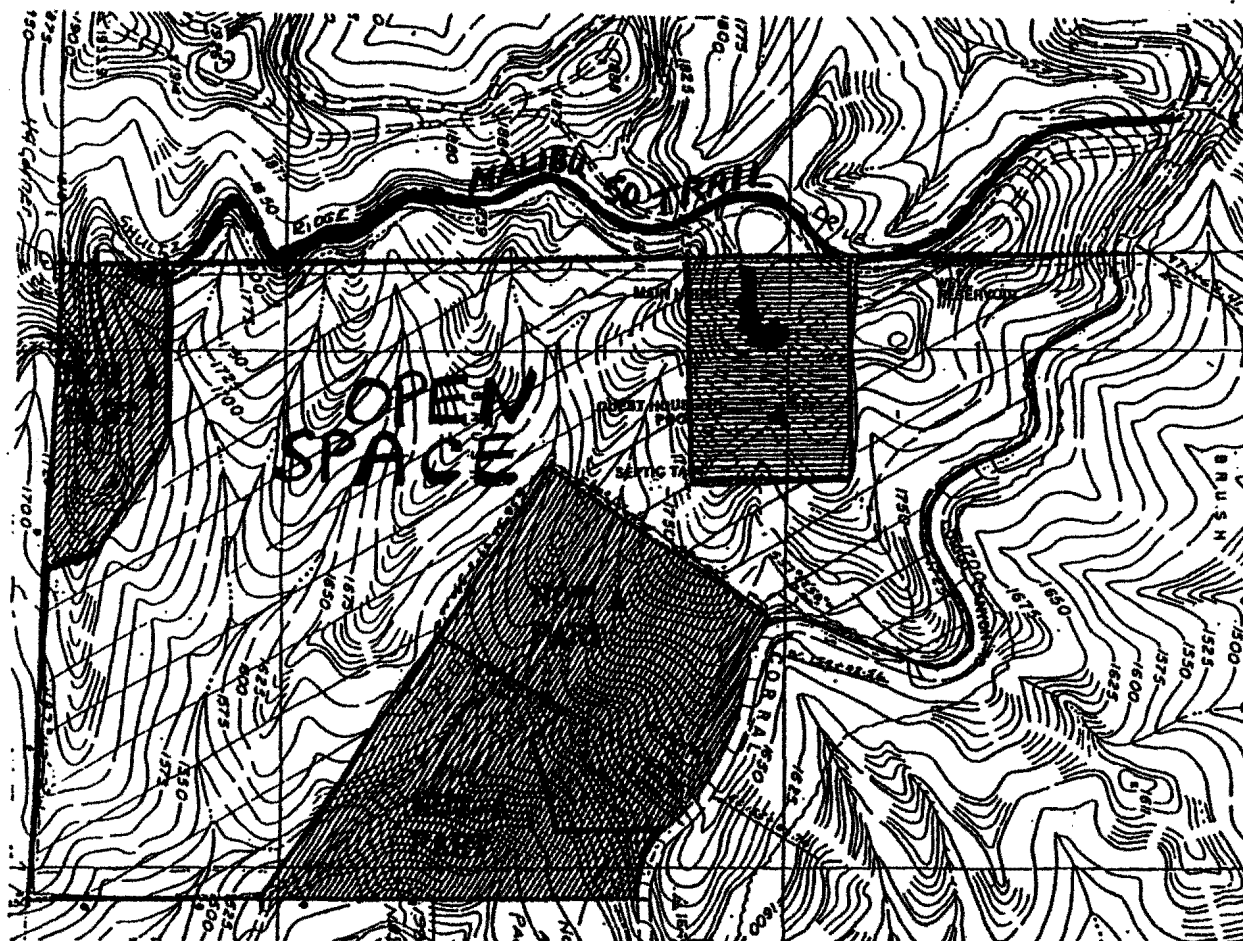
EXISTING DEVELOPABLE AREA
3.5 ACRES +/-

PROPOSED CONVERSION
TO OPEN SPACE

Exhibit No. 5
5-90-246-A2
(Gilliland)
Proposed
Modifications to
Open Space Area

ISSUE 3/19/99

1211-1



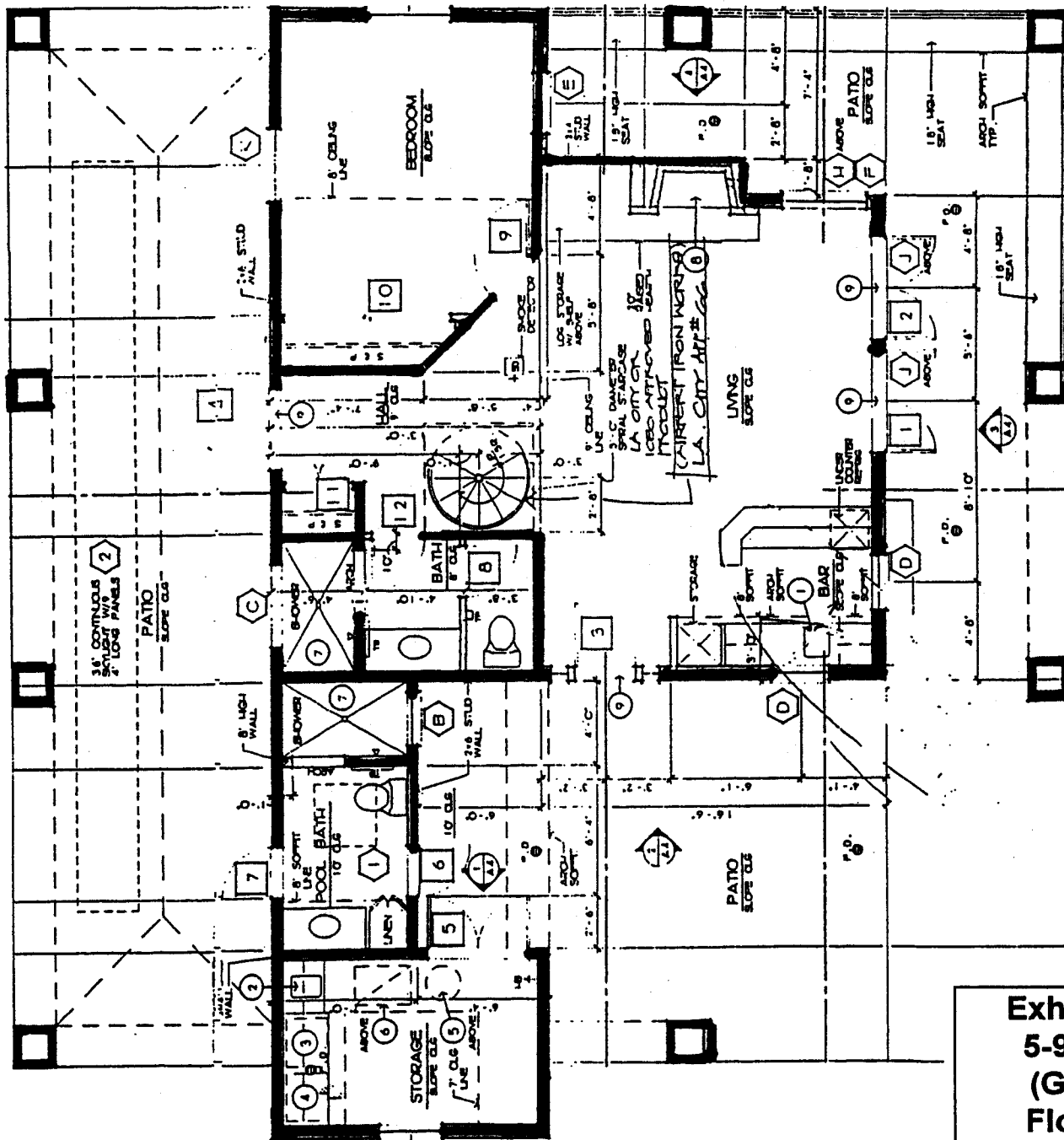
Approximately 6 a.c. starting 320' from n.w. corner of property following the section line 640' due south. A 520' line starting at the 320' point angeling 77° south joining a 400' long line that is 505' due east of the section line and paralleling said line. The southerly border would be a 520' line angeling 77° north, originating at the s.w. point 960' from the n.w. corner of property and joining the southern point of the 400' line paralleling the section line.



SITE PLAN

PARCEL # 30
A.M.B. P-4461-4-30
CERT. COMPLIANCE # 88-1478

Exhibit No. 6
5-90-246-A2
(Gilliland)
Recorded Open



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



MAIN FLOOR PLAN

AREA TABULATION	
DWELLING	750 SQ. FT.
POOL BATH	90 SQ. FT.
STORAGE	122 SQ. FT.
PATIOS	1561 SQ. FT.

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

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

JAN 07 1992

1. This plan is to be used for the purpose of showing the location of the roof structure and the location of the roof structure components. It is not to be used for the purpose of showing the location of the roof structure components. It is not to be used for the purpose of showing the location of the roof structure components.



ROOF PLAN

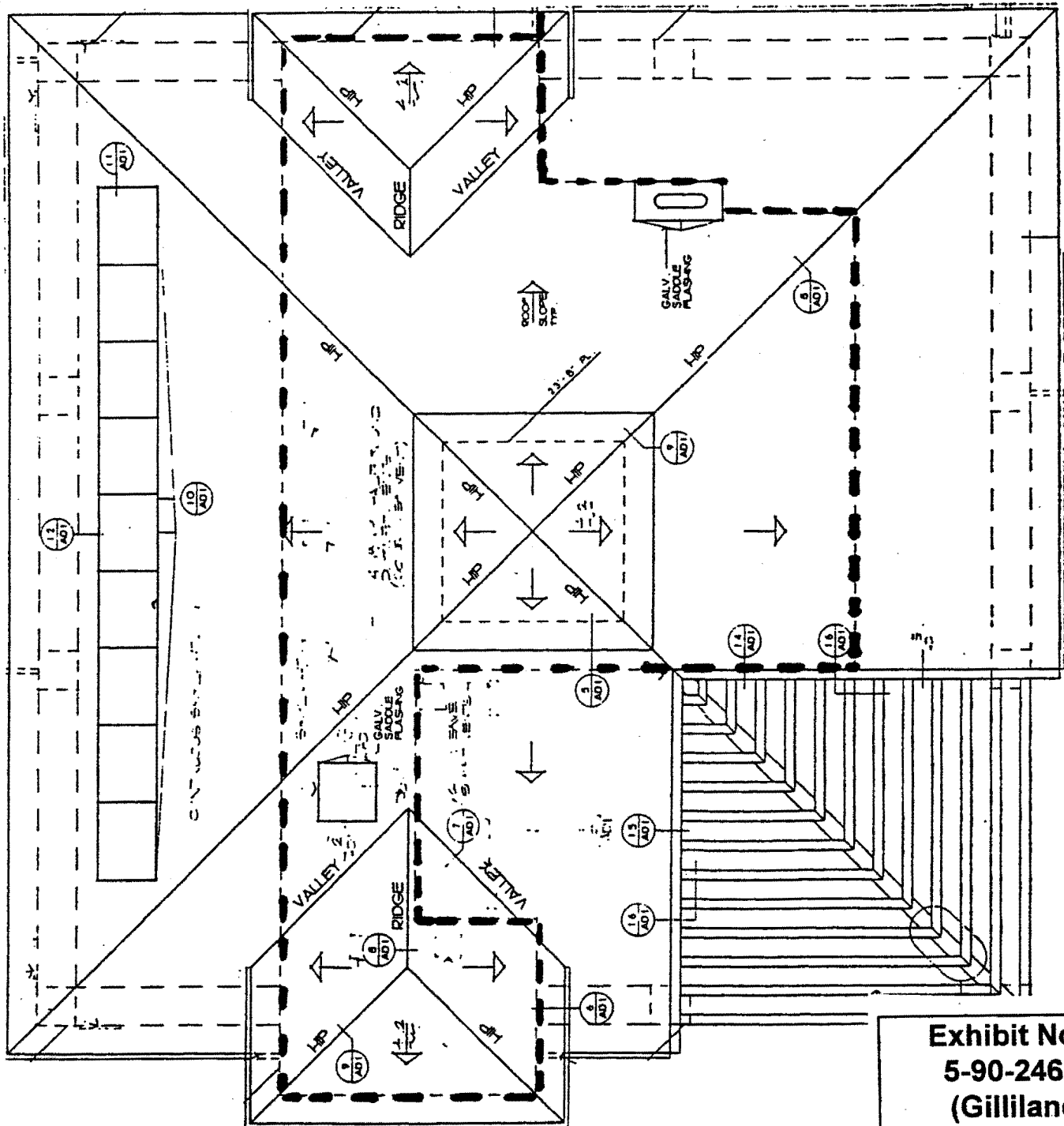
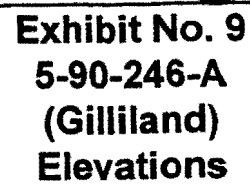
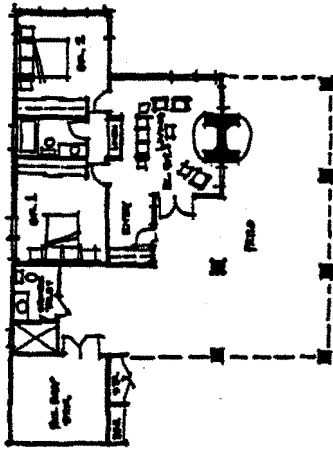


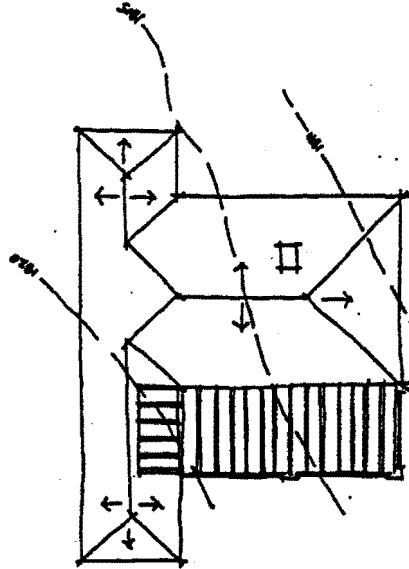
Exhibit No. 8
 5-90-246-A
 (Gilliland)
 Roof Plan

NORTH ELEVATION





FLOOR PLAN 1700 sq. ft.,
2 bedrooms, bath, kitchen, living area



ROOF PLAN



FLOOR PLAN 152 sq. ft.

TOILET STRUCTURE
AT TENNIS COURTS

GUEST HOUSE

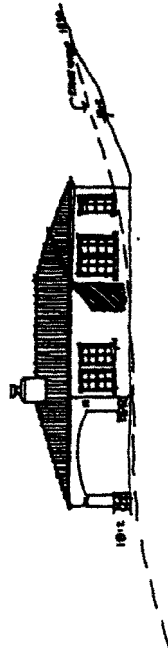
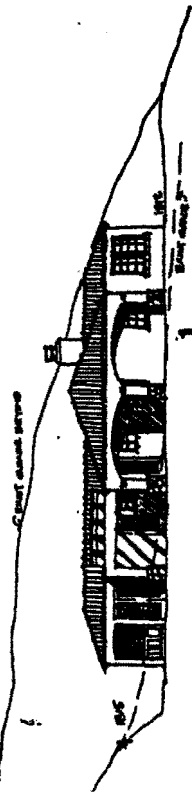


SCALE 1/8" = 1'-0"

PARCEL # 30

BOLTON RESIDENCE AT MALIBU

CPD
ASSOCIATES



ELEVATIONS

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

OFFSITE COVENANT

1401 Corral Canyon Road
Malibu, CA 90265

JANUARY 2, 1998

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

Gerri Gilliland
Gerri Gilliland

1-23-98
Date

Theodore Lonsway
Theodore Lonsway

1-23-98
Date

Bernard Mc Donald
Bernard Mc Donald

Jan 23, 98
Date

Marsha Hale
Marsha Hale

January 23, 1998
Date

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

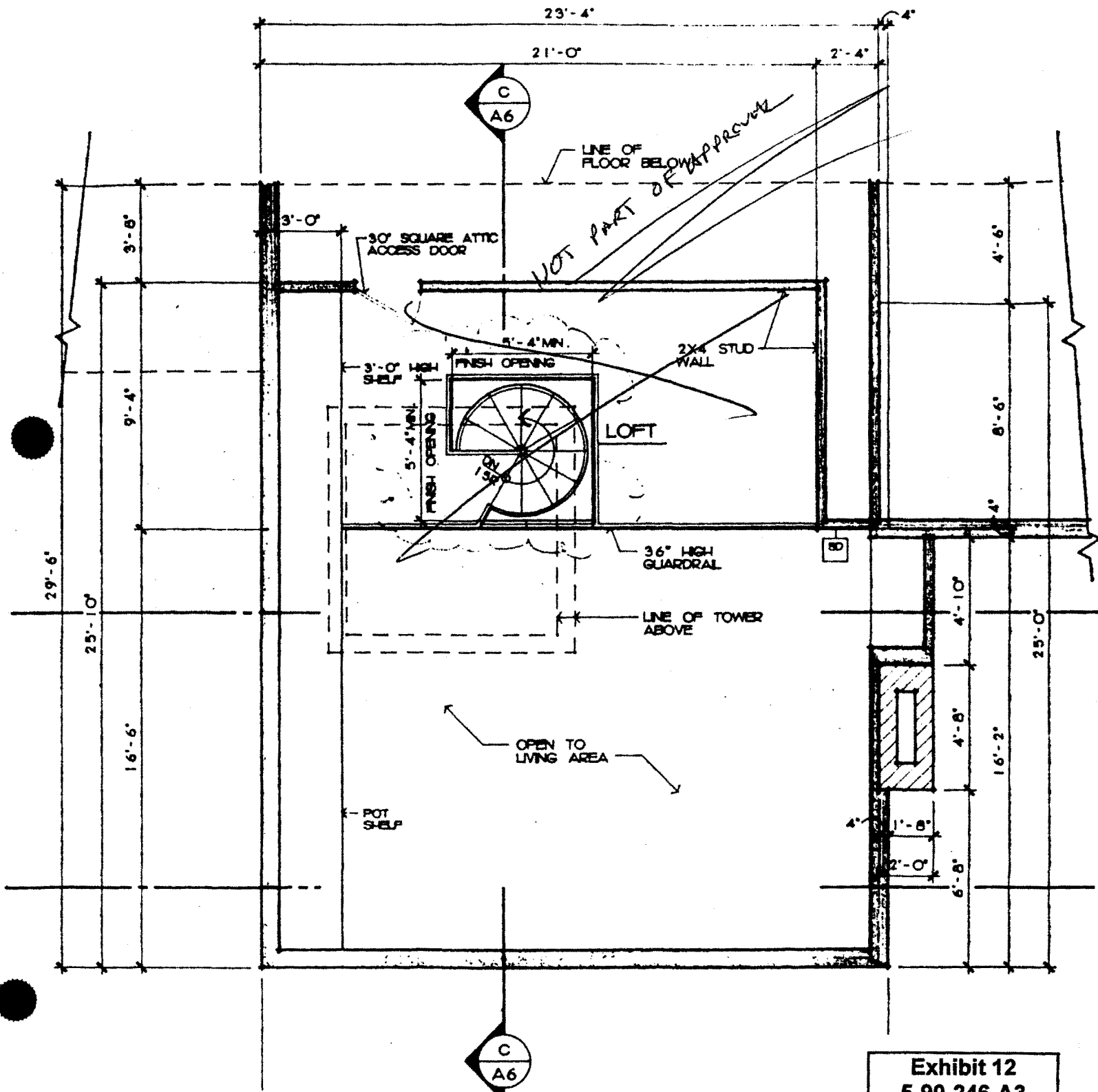


Exhibit 12
5-90-246-A3
(Gilliland)
Loft Plan

