

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY**

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 Staff Report: 10/26/00
 Hearing Date: 11/14-17/00
 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-00-124

APPLICANT: Scott & Joanne Mednick

AGENT: Roger Osenbaugh

LOCATION: 32537 Pacific Coast Hwy., City of Malibu (Los Angeles County)

DESCRIPTION: After-the-fact approval for construction of an existing pergola and associated grading of approximately 25 cu. yds. (25 fill). The application also includes the addition of an open trellis to the pergola and restoration / revegetation of the previously graded sports court area.

Lot area	178,649	sq. ft. (4.10 ac.)
Building coverage:	7,327	sq. ft.
Pavement coverage:	25,512	sq. ft.
Landscape coverage:	145,810	sq. ft.

LOCAL APPROVALS RECEIVED: Approval in Concept -- City of Malibu Planning Department.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit (CDP) Nos. 5-90-159/160 (Trancas Beach Estates), 4-00-037 (Mednick); *Report of Soil Engineering Investigation -- Proposed Residential Development -- Easterly Portion of 5-acre Parcel (APN # 4473-25-20) Pacific Coast Highway, East of Encinal Canyon Road, Malibu, California*, by SWN Soiltech Consultants, Inc., dated October 13, 1989; *Engineering Geologic Report for Proposed Development of a Single Family Residence on an Approximately 5 Acre Parcel (APN 4473-25-20) Located on Pacific Coast Highway, East of Encinal Canyon Road, Malibu, Los Angeles County, California*, by Donald B. Kowalewsky Environmental & Engineering Geology, dated October 16, 1989; *Update Engineering Geologic Report -- Proposed Sports Court, Retaining Wall, and Associated Grading -- 32537 Pacific Coast Highway, Malibu, California*, by Mountain Geology, Inc., dated January 10, 2000; *Supplemental Geotechnical Engineering Investigation Report - Proposed Basketball Court, Retaining Wall and Grading -- 32537 Pacific Coast Highway, Malibu, California*, by Coastline Geotechnical Consultants, Inc., dated January 20, 2000; *City of Malibu Geology and Geotechnical Engineering Review Sheet for Site Address -- 32537 Pacific Coast Highway*, dated February 29, 2000; *Estimated Grading Calculations for Pergola Construction -- Mednick Residence at 32537 PCH, Malibu*, by VPL Consulting, Inc., dated October 18, 2000.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with five (5) special conditions regarding revised plans, revegetation / restoration plan, plans conforming to geologic recommendations, wildfire waiver of liability, and condition compliance.

I. STAFF RECOMMENDATION

1. **Motion:** *I move that the Commission approve Coastal Development Permit No. 4-00-124 pursuant to the staff recommendation.*

2. 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.

3. 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 in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **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. Revised Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised project plans, for the review and approval of the Executive Director, which eliminate the proposed sports court area.

2. Revegetation / Restoration Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a detailed Revegetation / Restoration Plan, prepared by a licensed landscape architect, civil engineer, qualified resource specialist, or biologist, for the previously graded sports court area. The plan shall include, but not be limited to, the following criteria:

(a) A detailed grading plan, prepared by a licensed professional civil engineer, that illustrates remedial grading to restore the sports court pad to a slope that approximates the original natural slope. The plan shall include temporary erosion control measures such as geofabrics, silt fencing, sandbag barriers, or other measures to control erosion until revegetation of the restored slope is completed. These erosion control measures shall be required on the project site prior to and concurrent with the initial grading operations and shall be maintained throughout the process to minimize erosion and sediment to runoff waters during construction. All sediment shall be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

(b) A revegetation program, prepared by a landscape architect, resource specialist, or biologist, which utilizes only native plant species that are consistent with the surrounding native plant community. The plan shall specify the preferable time of year to carry out the restoration and describe the supplemental watering requirements that will be necessary. The plan shall also specify specific performance standards to judge the success of the restoration effort. The revegetation plans shall identify the species, location, and extent of all plant materials and shall use a mixture of seeds and container plants to increase the potential for successful revegetation. The plan shall include a description of technical and performance standards to ensure the successful revegetation of the restored slope. A temporary irrigation system may be used until the plants are established, as determined by the consulting landscape architect or resource specialist, but in no case shall the irrigation system be in place longer than five (5) years. The restored slope shall be planted within thirty (30) days of completion of the remedial grading operations.

(c) The restoration plan shall be implemented within ninety (90) days of the issuance of this permit. All cut and fill slopes shall be stabilized with planting at the completion of final grading. Revegetation shall provide ninety percent (90%) coverage within five (5) years and shall be repeated, if necessary, to provide such coverage. This time period may be extended by the Executive Director for good cause. Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the revegetation requirements.

(d) A monitoring program, prepared by a qualified environmental resource specialist, shall be implemented which outlines revegetation and restoration performance standards to ensure that revegetation efforts at the project site are successful. The program shall require the applicant to submit, on an annual basis for a period of five years (no later than December 31st each year), a written report, for the review and approval of the Executive Director, prepared by an environmental resource specialist, indicating the success or failure of the restoration project. The annual reports shall include further recommendations and requirements for additional restoration activities in order for the project to meet the criteria and performance standards listed in the restoration plan. These reports shall also include photographs taken from pre-designated locations (annotated to a copy of the site plans) indicating the progress of recovery. During the monitoring period, all artificial inputs shall be removed except for the purposes of providing mid-course corrections or maintenance to ensure the long-term survival of the project site. If these inputs are required beyond the first four (4) years, then the monitoring program shall be extended for a sufficient length of time so that the success and sustainability of the project is ensured. Successful site restoration shall be determined if the revegetation of native plant species on-site is adequate to provide ninety percent (90%) coverage by the end of the five (5) year monitoring period and is able to survive without additional outside inputs, such as supplemental irrigation.

(e) At the end of the five year period, a final detailed report shall be submitted, for the review and approval of the Executive Director, that certifies the on-site landscaping is in conformance with the revegetation / restoration plan approved pursuant to this Special Condition. The final report shall include photographic documentation of plant species and plant coverage. If this report indicates that the restoration project has in part, or in whole, been unsuccessful, based on the approved performance standards, the applicant shall be required to submit a revised or supplemental program to compensate for those portions of the original plan which were not successful. The revised, or supplemental, restoration program shall be processed as an amendment to this Coastal Development Permit.

3. Plans Conforming to Geologic Recommendations

All recommendations contained in the *Update Engineering Geologic Report -- Proposed Sports Court, Retaining Wall, and Associated Grading -- 32537 Pacific Coast Highway, Malibu, California*, by Mountain Geology, Inc., dated January 10, 2000, and the *Supplemental Geotechnical Engineering Investigation Report -- Proposed Basketball Court, Retaining Wall and Grading -- 32537 Pacific Coast Highway, Malibu, California*, by Coastline Geotechnical Consultants, Inc., dated January 20, 2000, shall be incorporated into final design and construction including foundations, grading, and drainage. All plans must be reviewed and approved by the geologic / geotechnical consultant.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval by the Executive Director, evidence of the geologic / geotechnical consultant's review and approval of all project plans. The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes to 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 permit.

4. Wildfire Waiver of Liability

PRIOR TO ISSUANCE OF THE 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, expenses, and liability arising out of the acquisition, design, construction, operations, 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.

5. Condition Compliance

Within ninety (90) days of Commission action on this coastal development permit amendment 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.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is proposing after-the-fact approval for construction of an existing pergola and associated grading of approximately 25 cu. yds. (25 fill). The application also includes the addition of an open trellis to the pergola and restoration / revegetation of the previously graded sports court area. The subject site is a 4.1 acre parcel located in the western end of the City of Malibu near La Piedra State Beach. There is limited natural vegetation on the developed portion of the site consisting of plantings, grasses, scattered trees, ornamentals, and shrubs. To the north, above and behind the pergola and sports court area, there is significant native vegetation including scattered coastal sage scrub.

A previous coastal development permit (CDP No. 5-90-159) was obtained in September 1990 for construction of the existing 7,955 sq. ft. residence, attached garage, approximately 600 foot long driveway, and septic system on-site. In order to prevent excessive landform alteration and visual impact, the original permit had conditions to provide screening vegetation, to restrict painting to visually compatible earth-tone colors, and to restrict future development. A subsequent permit amendment (CDP No. 5-90-159-A1), approved in August 1993, added the pool, spa, and associated concrete decking.

Another permit (CDP No. 4-00-037) was approved in May 2000 for a 1,641 sq. ft. addition to the residence, a 1,083 sq. ft. basement, an additional 3-car garage, a septic system upgrade, and 325 cu. yds. of grading. This permit also included repainting of the existing residence and walls on-site from white to an appropriate earth-tone color as

well as conversion of the 600 foot long driveway from concrete to a semi-permeable "grass-crete" material in order to mitigate the effects of the increased impervious area. The application for the development that was approved in May 2000 originally included the sport court area; but after Coastal staff expressed concern about the additional landform alteration required for the sport court, the applicant deleted the sport court area from their prior application. After the Commission approved that permit in May 2000, the applicant submitted another application (CDP No. 4-00-124), seeking approval of the pergola and the sport court area. The subject permit application was originally scheduled for the September 2000 Commission hearing but was postponed at the applicant's request. The applicant has since removed the sport court area from the project description and proposed restoration of the graded pad area.

B. Visual Resources / Landform Alteration

Section 30251 of the Coastal Act states that:

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 subject site is located on Pacific Coast Highway, a designated scenic highway which passes immediately south of the property. The site is bordered by existing single-family residences to the west, north, and south (across Pacific Coast Highway). A new residence is currently under construction to the east of the subject property. The proposed project involves the after-the-fact approval of an existing pergola and associated grading of approximately 25 cu. yds. (25 fill) which created an approximately 400 sq. ft. pad. The application also includes the addition of an open trellis to the pergola and restoration / revegetation of the previously graded, unpermitted sports court area. The subject development is located behind the existing 7,955 sq. ft. single family residence which was recently approved to expand by 1,641 sq. ft. to 9,596 sq. ft. with an additional 1,083 sq. ft. basement. The existing residence is highly visible from the designated scenic highway (Pacific Coast Highway) to the south. For this reason, special conditions for landscaping, color, and restriction of future development were placed on the parcel in association with Coastal Development Permit No. 5-90-159 and subsequent coastal permits.

To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development may be visible, such as beaches, parks, trails, and scenic roads. The Commission also examines the building site and the size of the proposed development. Although, the existing single family residence on-site is highly visible from Pacific Coast Highway, due to a small ridge which exists between the driveway and PCH, and due to the fact that the rear yard area is screened by the existing residence, the pergola and the sport court area are not visible from the highway. The site is not visible from any designated trails.

Under Coastal Development Permit (CDP) No. 5-90-159, the applicant originally proposed a 16,975 sq. ft. residence and 10,702 cu. yds. of grading (5,351 cut, 5,351 fill). Subsequent discussions with Coastal Commission staff and plan revisions dropped the size of the proposed home to 12,000 sq. ft. with 4,470 cu. yds. of grading (2,235 cut, 2,235 fill) in order to reduce excessive landform alteration and potential visual impact. After further discussion and analysis with Coastal staff, including review of nearby development, coastal permit CDP 5-90-159 was ultimately approved limiting the development to an 8,019 sq. ft. residence, a 6-car garage, and 3,066 cu. yds. of grading (1,533 cut, 1,533 fill).

Since its initial permit approval in 1990, however, the subject property has continued to be developed with additional improvements increasing its size, scale, and the amount of landform alteration. In 1993, the original permit was amended (CDP No. 5-90-159-A1) to add a swimming pool, spa, and approximately 1,400 sq. ft. of concrete decking above and behind the approved residence. The amendment does not specify how much grading was necessary to construct the pool and deck, but the amendment was approved.

Recently, in May 2000, the Commission granted a permit (CDP 4-00-037) for construction of a 1,641 sq. ft. addition, plus a new 1,082 sq. ft. basement, an additional attached 3-car garage, and a new septic tank with 325 cu. yds. of grading (300 cut, 25 fill). At some time, unpermitted grading for the proposed sport court and pergola area, and construction of the pergola occurred. Thus, in sum, the subject property has been approved for a 9,596 sq. ft. residence, an additional 1,083 sq. ft. basement, two attached garages, a pool / spa with some 1,400 sq. ft. of concrete decking, a 600 ft. long driveway, and approximately 3,391 cu. yds. of total grading.

As explained previously, the proposed size of the home and the amount of grading for the original residence were reduced in order to minimize potential visual effects of the property as seen from Pacific Coast Highway, to be compatible with surrounding development, and to minimize landform alteration. However, additions approved through subsequent amendments and coastal permit actions have resulted in an incremental increase in grading and square footage of the residence. The cumulative effects of additional grading and increased square footage raises an issue relative to the cumulative visual impact of the residence and associated landform alteration. The Coastal Act requires that development be sited and designed to protect views to and along the coast and to minimize alteration of natural landforms in scenic coastal areas. The pergola and its proposed trellis addition, however, are consistent with the Coastal Act because they involve minimal grading and are not visible from Pacific Coast Hwy.

The applicant has agreed to restore and revegetate the previously graded, unpermitted sports court area in order to reduce the amount of landform alteration on-site. In order to ensure that this offer is carried out, the Commission requires the applicant to submit revised plans to remove the sport court area from the plans, as specified in **Special Condition One**. In order to ensure that removal of the sport court and the proposed revegetation is successful, **Special Condition Two** requires the applicant to submit a revegetation / restoration plan which includes annual performance reports during a five year monitoring period. If the restoration effort is in part, or in whole, unsuccessful, the applicant shall be required to submit a revised or supplemental restoration plan. In addition, in order to ensure that the site is restored and revegetated with native plant species within a reasonable amount of time, **Special Conditions Two and Five** require that the applicant implement and complete the Revegetation / Restoration Plan required within 90 days of the issuance of this permit. 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.

C. Hazards / Geology

Section 30253 of the Coastal Act states (in part) that:

New development shall:

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

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

The project site is situated on the southern flanks of the western portion of the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, flooding, and earth movement. In addition, fire is a persistent threat due to the indigenous chaparral community of the coastal mountains. Wildfires can denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides.

The prominent geomorphic features in the area are the ridgelines of the Santa Monica Mountains to the north, the Pacific Ocean and various beaches to the south, Lechusa Canyon to the west, and Encinal Canyon to the east. The property consists of several near-level pad areas separated by retaining walls with ascending slopes to the north and descending slopes to Pacific Coast Highway to the immediate south. Elevations on-site range from 326 feet above sea-level in the north to 188 feet near the road for a maximum topographic relief on-site of approximately 138 feet. The existing residence, driveway turnaround areas, pool decking, pergola, and proposed sport court area sit on the near-level graded pad areas, but significantly steeper slopes to the north and south approach a gradient of 2:1 (horizontal to vertical). Surface drainage on-site flows overland across the contours and along the driveway in a southerly direction where it collects in storm drains eventually passing under Pacific Coast Highway and outletting at the beach.

As described previously, the proposed project includes the after-the-fact approval for construction of an existing pergola along with the addition of an open trellis to the pergola and restoration / revegetation of the previously graded sports court area. The applicant has proposed approval of an estimated 25 cu. yds. of after-the-fact grading (25 fill) which served to notch the development into the natural slope. The Coastal Act requires development to minimize the alteration of natural landforms and the construction of protective devices such as retaining walls. The subject property has already been subject to some 4,000 to 5,000 cu. yds. of permitted and unpermitted grading along with the construction of retaining walls to support the existing pool and associated decking. The applicant has offered to revegetate and restore the graded sports court area in order to return that part of the development to a more natural state thereby increasing infiltration, preventing excessive runoff, and promoting slope stability,

but Coastal Commission staff has not yet received site plans corresponding to these changes. Therefore the applicant has been required to submit revised plans as required in **Special Condition One**, showing removal of the sports court area and the restoration of the previously existing slope.

The applicant has submitted reports indicating that the geologic stability of the site is favorable for the project. Based on site observations, slope stability analysis, evaluation of previous research, analysis and mapping of geologic data, and limited subsurface exploration of the site, the engineering geologists have prepared reports addressing the specific geotechnical conditions related to the site. The *Engineering Geologic Report for Proposed Development of a Single Family Residence on an approximately 5 Acre Parcel (APN 4473-25-20) Located on Pacific Coast Highway, East of Encinal Canyon Road, Malibu, Los Angeles County, California*, by Donald B. Kowalewsky Environmental & Engineering Geology, dated October 16, 1989, delineated a restricted use area on-site where the Malibu Coast Fault crosses the property. The pergola and graded sport court area are located within the restricted use area. The Kowalewsky report states:

No habitable structures should be planned within this restricted use area. Development of structures other than habitable structures may be constructed within this zone. Specific recommendations for those structures will be made if development of this zone is desirable.

The *Update Engineering Geologic Report -- Proposed Sports Court, Retaining Wall, and Associated Grading -- 32537 Pacific Coast Highway, Malibu, California*, by Mountain Geology, Inc., dated January 10, 2000, in evaluating the various engineering geologic factors affecting site stability and the existing site conditions, refers to this restricted use area, stating:

MGI concurs with the findings, conclusions, and recommendations of Mr. Kowalewsky with respect to site faulting. Based on the findings of our update engineering geologic investigation, the construction of the proposed sports court, retaining wall, and associated grading within the established Restricted Use Area is considered acceptable from an engineering geologic standpoint as the proposed structures are not habitable.

The 2000 Mountain Geology Inc. report concludes:

Based upon our exploration and experience with similar projects, construction of the proposed sports court, retaining wall, and associated grading is considered feasible from an engineering geologic standpoint provided the following recommendations are made a part of the plans and are implemented during construction. ... Based upon our investigation, the proposed site improvements will be free from geologic hazards such as landslides, slippage, active faults, and settlement. The proposed site improvements will have no adverse effect upon the stability of the site or adjacent properties provided the recommendations of the Engineering Geologist and Geotechnical Engineer are complied with during construction.

The Commission notes that the geologic and engineering consultants have included a number of recommendations which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition Three**, to submit revised project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

Historically, Commission staff has found that cumulative landform alteration through grading and placement of impervious surfaces such as roofs, driveways, and concrete

decking effectively "hardens" the natural surroundings thereby increasing the rate and volume of runoff, potentially causing increased erosion and sedimentation. When runoff is channeled or deflected by impervious surfaces, pollutants are not allowed to settle out and are quickly conveyed downslope. Thus, changes to the topography and soil surface can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff, leading to soils and slope destabilization. The placement of a pergola over the natural terrain along with the associated grading potentially creates a cumulative "hardening" effect.

Special Condition Two requires restoration / revegetation of the graded and disturbed area of the project in order to enhance the geological stability of the site. Interim erosion control measures required by the condition and implemented during construction will minimize short-term erosion and enhance site stability. Long-term erosion can also be minimized by requiring the applicant to revegetate the disturbed area of the site with native plants, compatible with the surrounding environment, in accordance with the requirements of the special condition. The applicant is required to construct or install temporary sediment basins, swales, sandbag barriers, silt fencing, and geofabric or other appropriate cover on the project site. These erosion control measures shall be required on the project site prior to and concurrent with the initial grading operations and shall be maintained throughout the development process to minimize erosion and sedimentation during construction.

In contrast to the use of native plants as required by **Special Condition Two**, invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface / foliage weight. The Commission has found that the use of non-native and invasive plant species combined with the excessive, artificial irrigation these species often require, often results in adverse effects to the stability of a project site. Native species, alternatively, tend to have a deeper root structure and, once established, aid in preventing erosion. Also, 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 caused the loss or degradation of major portions of native habitat and native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast-growing trees originating from other continents which have been used for landscaping in this area have already seriously degraded native plant communities adjacent to development. Therefore, the Commission finds that in order to ensure site stability, all disturbed, graded, and sloped areas on-site shall be landscaped with appropriate native plant species, as specified in **Special Condition Two**.

Finally, the Commission requires that new development minimize the risk to life and property in areas of high fire hazard while recognizing that new development may involve the taking of some risk. Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral, communities which have evolved in concert with, and continue to produce the potential for frequent wildfires. The warm, dry summer conditions of the local Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated. When development is proposed in areas of identified hazards, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the property. 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 wildfire waiver liability, as incorporated in **Special**

Condition Four, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. According to the applicant's agent, who discussed the issue with the Los Angeles County Fire Dept., approval of the pergola will not result in additional clearance for fuel modification purposes from the previously existing plan because the pergola is an existing, uninhabited, non-defensible structure. The Commission therefore finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

D. Violation

Development in the form of the pergola and the graded pad area proposed for the sport court has already occurred on the subject site without the required coastal development permits. The applicant is proposing to retain the pergola and, in addition, add a trellis to the pergola. The applicant is, however, proposing to restore the unpermitted, graded sports court area to its natural slope and to revegetate with native plant species. This application therefore includes the after-the-fact request for a pergola, approximately 25 cu. yds. of grading (25 fill), the addition of a trellis to the pergola, and the restoration of the sports court area.

To ensure that the proposed restoration is carried out in a timely manner, **Special Condition Five** requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action. **Special Condition Two** has been required to ensure that restoration and revegetation of the sports court area takes place and will be successful over a five year period. If the restoration is not successful after that time, the applicant will be required to take steps to correct the difficulty. Although construction has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Action on this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

E. Local Coastal Program

Section 30604(a) of the Coastal Act states (in part):

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 program that is in conformity with Chapter 3 (commencing with Section 30200). ...

Section 30604(a) of the Coastal Act stipulates that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the

proposed development will not create significant adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. 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 the City of Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

F. California Environmental Quality Act (CEQA)

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

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

BCM/bcm

File: D:\BCM\permits\4-00-124 Mednick (11-00)

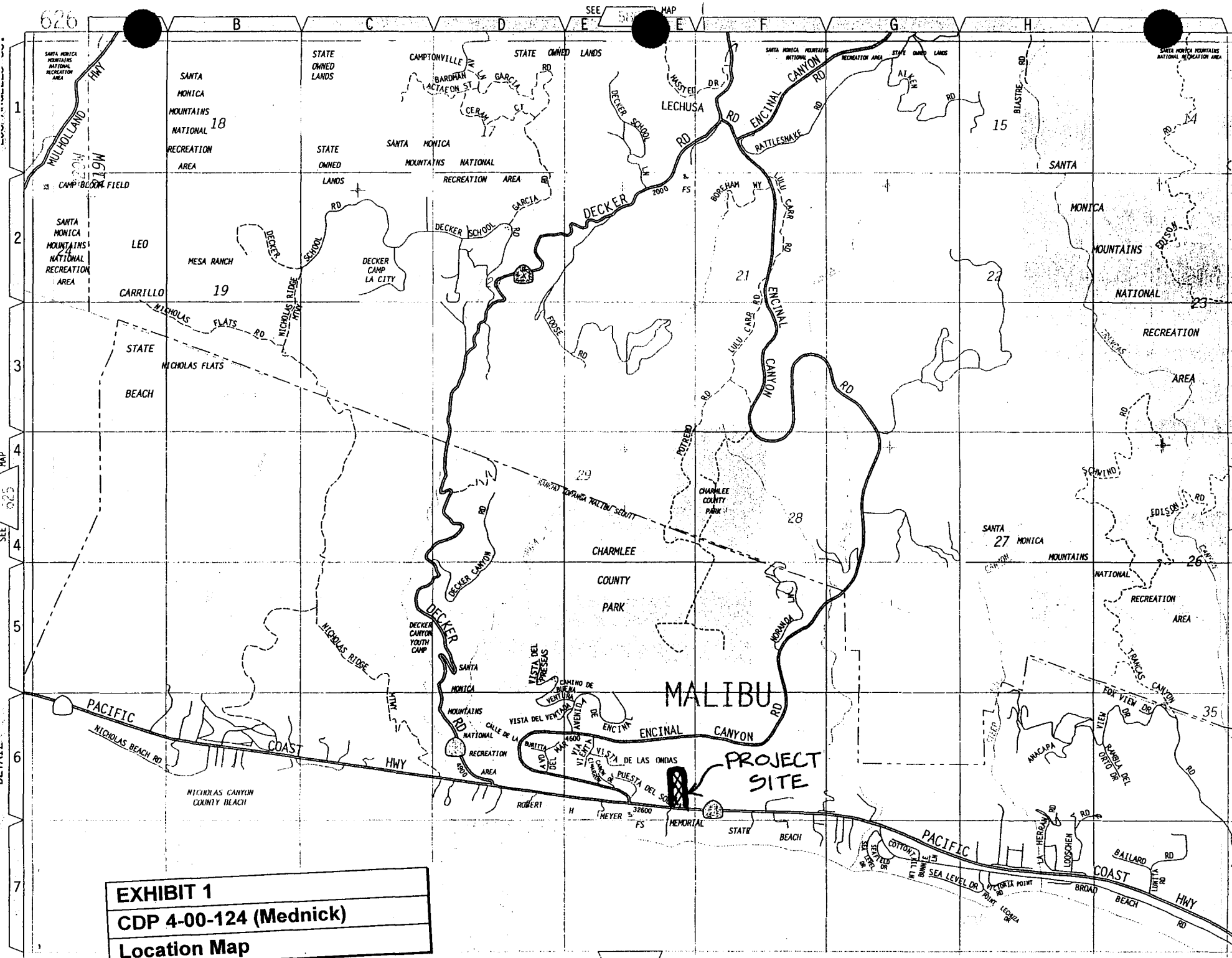
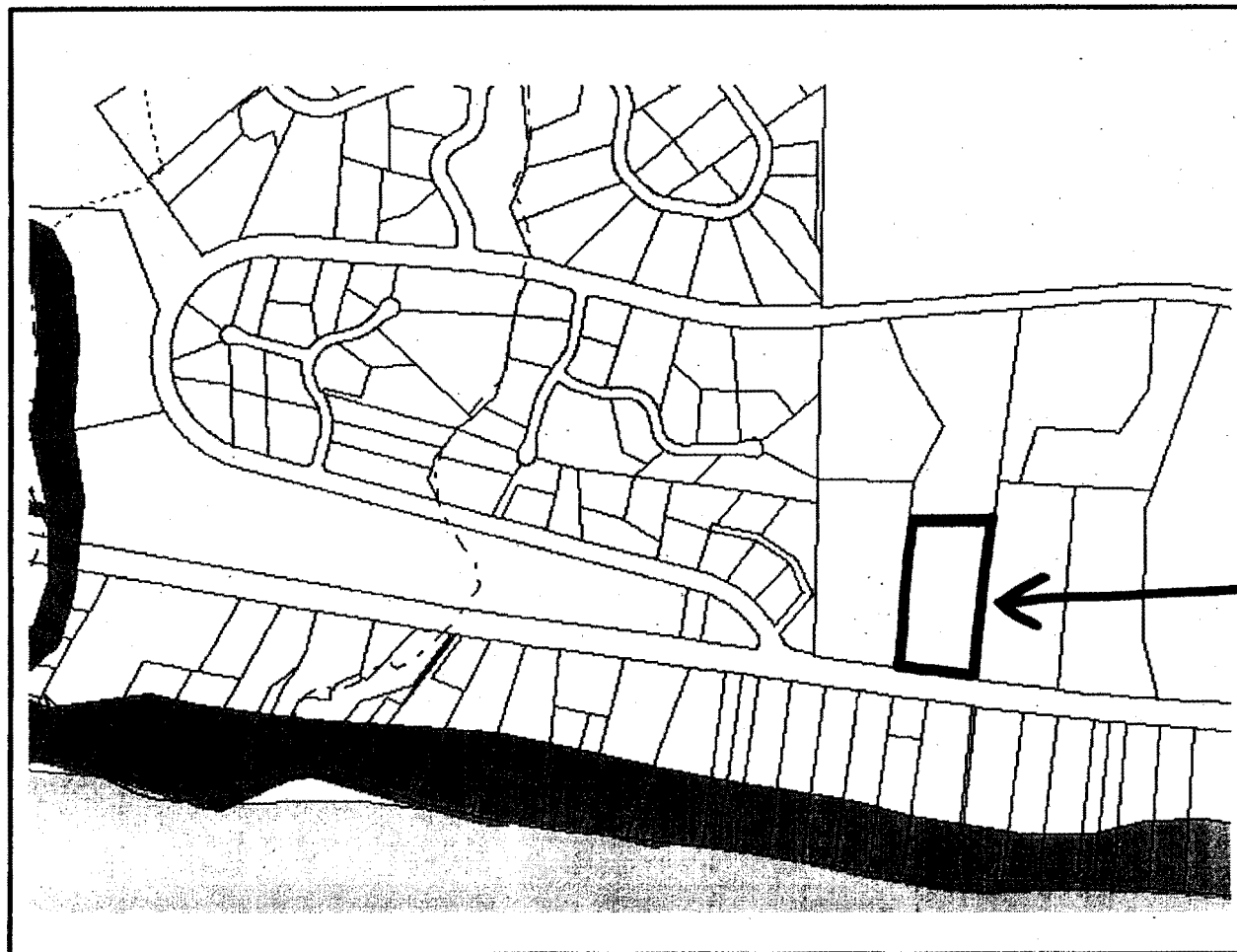


EXHIBIT 1
CDP 4-00-124 (Mednick)
Location Map

ESRI ArcExplorer 1.1

4-00-124 Mednick (32537 Pacific Coast Hwy.)



- Malibu City Boundary
- LA-Ventura County Boundary
- Trails - LA County LUP
- Blue Line Streams
- shoreline
- czbdy
- laprcls
- esha
- Small lot subdivisions
- Ocean

EXHIBIT 2
CDP 4-00-124 (Mednick)
Location Map

100 FT. RADIUS MAP
SCALE: 1" = 200'

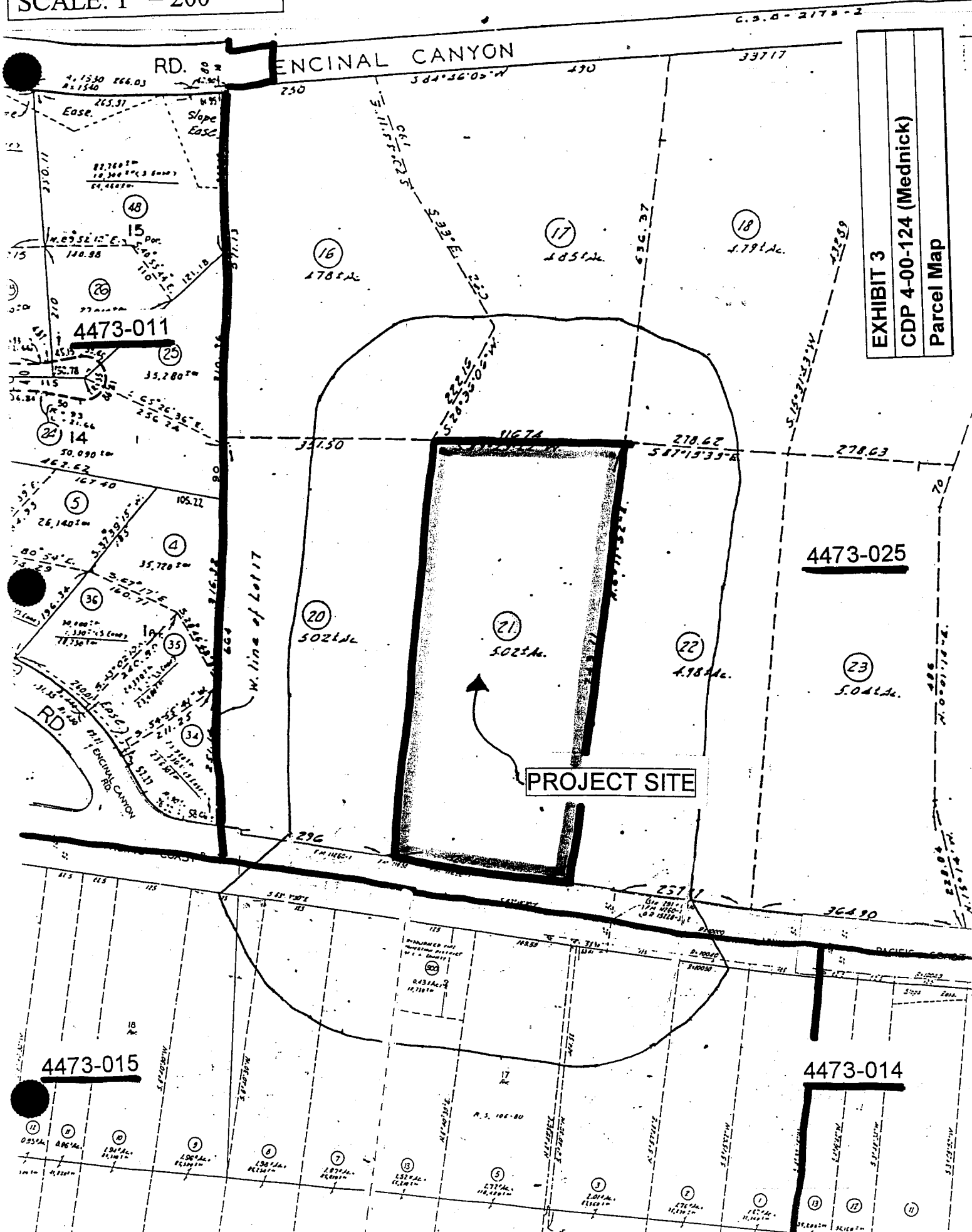


EXHIBIT 3
CDP 4-00-124 (Mednick)
Parcel Map

PROJECT SITE

4473-025

4473-015

4473-014

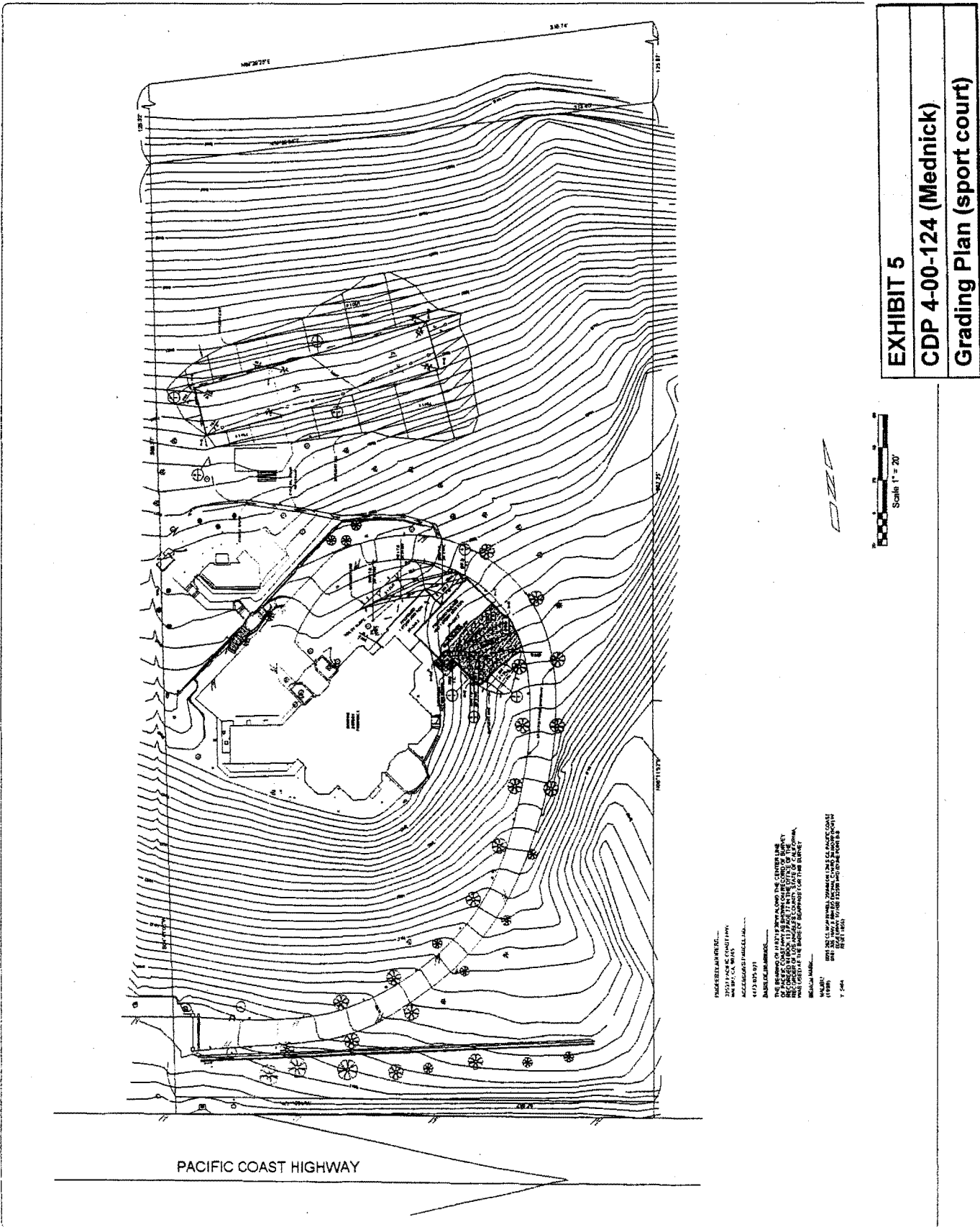
REVISIONS	BY

GRADING PLAN
 ADDRESS: 32537 PACIFIC COAST HIGHWAY
 MALIBU, CALIFORNIA 90265
 OWNER: SCOTT AND JOANNE MEDNICK

CLIVE DAWSON A.I.A.
 architecture and planning
 28855 PINE CREEK HIGHWAY, MALIBU, CALIFORNIA 90265 310 689 1971

VPL CONSULTING, INC.
 7520 HAYBURN STREET, SUITE 100, MALIBU, CALIFORNIA 90265
 (310) 785-5072

DATE	11/11/99
BY	J.V.
CHECKED	J.V.
SCALE	1" = 20'
PROJECT NO.	01221.99
SHEET NO.	C2
TOTAL SHEETS	2



HIGH SCHOOL
LIFE DETAIL
HEREON

CDP 4-00-124 (Mednick)

Site Plan - CDP # 5-90-159

5-90-159

Mednick

