

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: 10/27/00
49th Day: 12/15/00
180th Day: 4/25/01
Staff: AAV *MA*
Staff Report: 11/15/00
Hearing Date: 12/12/2000
Commission Action:

**RECORD PACKET COPY****STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 4-00-075

APPLICANT: VNB Trust

AGENT: Jaime Harnish

PROJECT LOCATION: 6830 Zumirez Drive, Malibu, Los Angeles County.

PROJECT DESCRIPTION: Demolition of an existing one-story single family residence and detached garage and construction of a new two-story, 28 ft. high, 5,900 sq. ft. single family residence with a 3,418 sq. ft. basement, detached 23 ft. high, 524 sq. ft. garage with a 442 sq. ft. basement, new driveway, alternative septic system, landscaping, and 2,620 cu. yds. grading (2,460 cu. yds. cut/excavation, 160 cu. yds fill, 2,300 cu. yds. export).

Lot area:	44,528sq. ft.
Building coverage:	4501 sq. ft.
Paved coverage:	3000 sq. ft.
Landscaped coverage:	19,027 sq. ft.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department Approval-In-Concept 3/30/00; City of Malibu Geology and Geotechnical Engineering Review Approval In-Concept 3/2/99; City of Malibu Biological Review Sheet 2/17/00; City of Malibu Initial Archaeological Study 2/2/98.

SUBSTANTIVE FILE DOCUMENTS: Prepared by GeoSystems Environmental and Geotechnical Consultants: Preliminary Soils and Geologic Investigation 3/10/95, Updated Soils and Engineering Geologic Investigation and Percolation Test Report 11/23/98, Response to Geology and Geotechnical Engineering Review Sheet 1/29/99, Slope Stability with Respect to the Proposed Development 2/21/00, Response to Coastal Commission Review Letter 7/25/00, and Response to Coastal Commission Review Letter 10/24/00.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with **8 Special Conditions** regarding 1) Geologic Recommendations, 2) Drainage and Polluted Runoff Control, 3) Landscaping/Bluff Restoration Plan, 4) Construction Responsibilities and Debris Removal, 5) Assumption of Risk, 6) No Future Shoreline Protective Device, 7) Future Development, and 8) Revised Plans and Alternative Septic System Review.

The subject site is located on a bluff top lot at the terminus of Zumirez Drive in the Point Dume area of the City of Malibu. The proposed project is for the demolition of an existing one-story single family residence and detached garage and construction of a new 5,900 sq. ft. single family residence with a 3,418 sq. ft. basement, detached 23 ft. high, 524 sq. ft. garage with a 442 sq. ft. basement, driveway, and installation of an alternative sewage disposal system. The project also includes removal of a small patio surface on a lower pad area adjacent to the bluff edge and landscaping of the project site incorporating a bluff top revegetation/restoration component. The proposed development will primarily be located 100 ft. landward from the top of bluff, with the exception of the south-eastern corner of the proposed residence, which will be located approximately 94 ft. from the bluff edge, and an existing flagstone patio to be retained on the upper building pad approximately 50 ft. landward of the bluff edge.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-00-016 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed 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 term or 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. Geologic Recommendations

All recommendations contained in the Preliminary Soils and Engineering Geologic Investigation Report dated 3/10/95, Updated Soils and Engineering Geologic Investigation and Percolation Test Report dated 11/23/98, and Slope Stability with Respect to the Proposed Development dated 2/21/00 prepared by GeoSystems shall be incorporated into all final design and construction including recommendations concerning foundation, drainage, and sewage disposal. Project plans must be reviewed and approved by the geologic consultants prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director of the consultants' review and approval of all final design and construction plans.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, drainage, and sewage disposal. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

2. Drainage and Polluted Runoff Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.

The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

3. Landscape, Erosion Control, and Coastal Bluff Habitat Restoration Plan

Prior to issuance of the coastal development permit, the applicant shall submit a landscaping, erosion control, and coastal bluff habitat restoration plan, prepared by a licensed landscape architect and/or a qualified resource specialist, for review and approval by the Executive Director. The landscaping, erosion control, and coastal bluff habitat restoration plan shall be reviewed and approved by the project's consulting geologists and environmental resource specialist confirming that the plans are in conformance with the consultants' recommendations. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

A. Landscaping Plan

- (1) All portions of the site disturbed by construction activities shall be planted within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for

irrigation, landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

- (2) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- (3) Invasive plant species existing at the project site shall be removed and replaced with appropriate native plant species.
- (4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission-approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

B. Coastal Bluff Habitat Restoration Plan

The coastal bluff habitat restoration plan shall include the following components:

- (1) The coastal bluff habitat restoration plan shall clearly delineate the top of bluff and a coastal bluff habitat restoration buffer area to extend from the 88 ft. contour seaward to the coastal bluff edge (Exhibit 11). All invasive and non-native plant species and hardscape surface shall be removed, and the areas restored within the coastal bluff habitat restoration area as generally shown on Exhibit 11. All ice plant and lawn existing seaward of the proposed residence shall be removed and revegetated with appropriate plant species consistent with the terms of part B (2) of this Special Condition.
- (2) The coastal bluff habitat restoration area shall be revegetated with locally native plant species appropriate to coastal bluff vegetation communities. Invasive, non-native plant species shall not be used in the coastal bluff habitat restoration area. The revegetation plans shall utilize a mixture of seeds and container plants to increase the potential for successful revegetation. No hydroseeding or other disturbance shall occur on the project site where native plant material is presently established.
- (3) The plan shall specify the preferable time of year to carry out the restoration. The plan shall also specify specific performance standards to judge the success of the enhancement effort consistent with the terms of part C (1) of this Special Condition. The performance standards shall incorporate ground coverage and survival rates typical of coastal bluff vegetation habitat areas.
- (4) The plan shall include specifications for temporary drip or low flow irrigation structures and measures to deliver supplemental watering that may be necessary to establish newly seeded plant stock. The plan shall provide for the removal of the irrigation structures upon successful establishment of the subject plant species.

- (5) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the final approved plan shall be reported to the Executive Director. No changes to the final approved plan shall occur without a Coastal Commission-approved amendment to the coastal development permit, unless the executive Director determines that no amendment is necessary.

C. Monitoring

- (1) The applicant shall submit, for the review and approval of the Executive Director, a five (5) year Landscape, Erosion Control, and Coastal Bluff Habitat Restoration Monitoring Program, prepared by an environmental resource specialist, which outlines relative restoration performance standards to ensure that restoration efforts at the project site are successful. Successful site restoration shall be determined if the revegetation of native plant species on site is adequate to provide 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. The monitoring program shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) showing the area of the project site where restoration will occur prior to restoration.
- (2) The applicant shall submit, on an annual basis for a period of five (5) 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, evaluating 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 specified in the proposed restoration plan. These reports shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the progress of recovery at each of the sites. 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 years, then the monitoring program shall be extended for an equal length of time so that the success and sustainability of the project site is ensured. Restoration sites shall not be considered successful until they are able to survive without artificial inputs.
- (3) At the end of a five (5) year period, a final detailed report shall be submitted for the review and approval of the Executive Director. 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 program which were not successful. The revised or supplemental coastal bluff habitat restoration program shall be processed as an amendment to this Coastal Development Permit.

D. Interim Erosion Control

- 1) The plan shall delineate the areas to be disturbed by construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.

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

4. Removal of Excavated Material and Construction Debris

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

5. Assumption of Risk

- A. By acceptance of this permit, the applicant acknowledges and agrees to the following:
 - (1) The applicant acknowledges and agrees that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire.
 - (2) The applicant acknowledges and agrees to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.
 - (3) The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
 - (4) The applicant agrees to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

6. **Future Development Deed Restriction**

This permit is only for the development described in **Coastal Development Permit Number 4-00-075**. Pursuant to Title 14 California Code of Regulations Sections 13253 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (b) shall not apply to the entire parcel. Accordingly, any future additions, change of use, or improvements related to the proposed residence and detached garage, or any grading or changes in the landscaping, erosion control, or coastal bluff habitat restoration plan approved under Coastal Development Permit Number 4-00-075 will require a permit from the Coastal Commission or its successor agency.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

7. **No Future Bluff or Shoreline Protective Device**

- A. By acceptance of the permit, the applicant agrees, on behalf of itself and all successors and assignees, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to **Coastal Development Permit 4-00-075** including, but not limited to, the residence, garage, septic system, and any other future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such device(s) that may exist under Public Resources Code Section 30235.
- B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including but not limited to, the residence, garage, and septic system, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

- C. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

8. Revised Plans, Review and Approval of Alternative Septic System

Prior to issuance of the coastal development permit, the applicant shall submit revised plans that incorporate the replacement of the conventional septic disposal system with an alternative disposal system, to be located a minimum of 100 ft. from the top of bluff indicated on the site plan, as proposed by the applicant's revised project description received 11/14/2000. In addition, the applicant shall submit evidence for the review and approval of the Executive Director that the alternative septic system location and design has been reviewed and approved by the project's consulting geologist and the City of Malibu Environmental Health Specialist.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing the demolition of an existing one-story single family residence and detached garage and construction of a new two-story, 28 ft. high, 5,900 sq. ft. single family residence with a 3,418 sq. ft. basement, detached 23 ft. high, 524 sq. ft. garage with a 442 sq. ft. basement, new driveway, alternative septic system, and landscaping including a blufftop revegetation/restoration component (Exhibit 3). The applicant is also proposing approximately 2,620 cu. yds. grading (2,460 cu. yds. cut/excavation, 160 cu. yds. fill, 2,300 cu. yds. export).

The project site is a 44,528 sq. ft. (approximately one acre) bluff top parcel located between Zumirez Drive and a beachfront parcel existing below the bluff on the sandy beach (Exhibit 2). The project site is accessed directly from Zumirez Drive at the road's terminus on the eastern perimeter of Point Dume in the City of Malibu (Exhibit 1). The subject parcel is currently developed with a one-story single family residence and detached garage, driveway, and split-level bluff top patio. The project site is generally flat where it extends from Zumirez Drive toward the bluff edge, however, a graded 3:1 slope from the building pad descends approximately 11 ft. to a lower pad located at the top of bluff along the 84.8 ft. contour line. From the bluff top, the project site descends steeply approximately 70 ft. to the beach below. A natural drainage channel is located 10 to 30 ft. northeast of the site's eastern property boundary.

All existing development including the residence, garage, driveway, and small flagstone patio existing on the lower pad area adjacent to the bluff edge will be demolished, with the exception of a flagstone patio located on the upper building pad area seaward of the existing residence (Exhibit 3). The proposed project includes construction of a new residence, detached garage,

driveway, landscaping with a bluff top revegetation/restoration component, and installation of an alternative sewage disposal system¹. All proposed development will be setback 100 ft. landward from the top of bluff, except the very most south-easterly corner of the main residence which will be approximately 94 ft. landward of the undulating bluff edge, and the patio proposed to be retained on site located approximately 50 ft. from the bluff edge. The location of the proposed structures is consistent with previous permit actions on similar bluff top project sites in Malibu where the Commission has required a minimum set back of 25 ft. from the seaward edge of the top of bluff. Additionally, all portions of the proposed development will be constructed landward of the recommended geologic setback plane to ensure stability of the new development. The proposed project does not include structural improvements on the bluff face or the area at the base of the bluff for the purposes of shoreline protection.

Vegetation at the project site consists of ornamental landscaping including vines and flowering plants, several species of trees, lawn and ice plant, cactus gardens, and natural brush and weeds established on the upper bluff. The applicant is proposing to remove lawn and ice plant from those portions of the project site located seaward of the residence, and to revegetate these areas with cactus gardens. Additionally, the applicant has submitted project plans indicating that non-native/invasive vegetation and the existing flagstone patio located on the lower building pad area adjacent to the bluff edge will be removed and the area revegetated with appropriate native species. Natural brush and grasses are currently established on the upper portion of the bluff and bluff face.

The area surrounding the project site is characterized as a built-out portion of Malibu consisting of numerous single family residences. Due to the secluded nature of the site the proposed development will not be visible from any inland public viewing area or scenic highway, and has a sufficient setback from the 70 ft. bluff face and will therefore not be visible from the beach below. As mentioned, the project site is located on a steep bluff top lot above the sandy beach therefore, the proposed project will not impede public access to or along the beach. As such, the proposed project will not have a significant impact on coastal scenic resources or public access.

B. Bluff Top Development and Hazards

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

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

¹ Applicant originally proposed a conventional septic system but notified staff on November 14, 2000 that the project proposal was revised to include alternative disposal technology.

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

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

Section 30253 of the Coastal Act requires that new development minimize risk to life and property in areas of high geologic, flood, and fire hazard, and to assure stability and structural integrity. Section 30235 of the Coastal Act mandates that shoreline protective devices be permitted only where necessary to serve coastal dependent uses or to protect existing development.

The proposed development is located on a bluff top along the Malibu coastline, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu/Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property. Coastal bluffs, such as the one located on the subject site, are unique geomorphic features that are characteristically unstable. By nature, coastal bluffs are subject to erosion from sheet flow across the top of the bluff and from wave action at the base of the bluff. In addition, due to their geologic structure and soil composition, these bluffs are susceptible to surficial failure, especially with excessive water infiltration.

Due to the geologic instability of coastal bluffs and their integral role in maintaining the ecosystem and shoreline processes, new development on bluff top lots may be found consistent with Sections 30235 and 30253 of the Coastal Act only when the development is sited to ensure geologic stability, and not to require construction of any protective devices which may potentially alter natural landforms and geomorphic process of coastal bluffs. The certified Malibu/Santa Monica Mountains LUP contains a number of policies regarding development on or near coastal bluffs. Although the City of Malibu is now incorporated, these policies are still used as guidance by the Commission in order to determine the consistency of a project with Sections 30235 and 30253 of the Coastal Act. The Malibu/Santa Monica Mountains LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. For instance, Policy 164, in concert with the Coastal Act, provides that new development shall be set back a minimum of 25 feet from the seaward edge of the top of the bluff or a stringline drawn between the nearest corners of the adjacent structures, *whichever distance is greater*, but in no case less than would allow for a 75-year useful life for the structure. Policy 165, in conjunction with the Coastal Act, provides that no new permanent structures be permitted on a bluff face.

The undulating character of the bluff adjacent to the subject site combined with the unusual variation in existing development on adjacent lots renders a strict application of a stringline analysis impractical as the result would restrict development on approximately one-half of the subject property. However, the Commission notes that the majority of the proposed development will be located 100 ft. landward of the top of bluff with the exception of the south-eastern corner of the residence which will be located approximately 94 ft. landward of the bluff

edge. Additionally, the Commission notes that all portions of the proposed structures will be located landward of the geologic setback plane recommended by the project's consulting geologists (Exhibit 3). The Commission further notes that the existing flagstone patio on the upper building pad area proposed to be retained on site is located approximately 50 landward of the bluff edge, and the applicant is proposing to remove the flagstone patio located on the lower pad area within the 25 ft. setback of the top of bluff. In addition, the project's consulting geologists have indicated that the proposed 94 ft.-100 ft. setbacks for the new structures are adequate to protect the development from the hazards of future natural coastal bluff erosion. The Response to Coastal Commission Review Letter addendum report prepared by GeoSystems dated 7/25/00 states:

We understand that a predicted erosion of 2 inches per year has been advanced for the existing coastal bluff at the subject site. Based on our review of aerial photos it appears that the actual rate of erosion has been much less than 1 inch per year for the past 76 years. In this case it is our conclusion that the predicted rate of erosion of 2 inches per year is a conservative estimate, and that the proposed building setback will be adequate to protect the proposed development from the effects of natural coastal bluff erosion for the next 75 to 100 years.

The geologic consultants conclude that the proposed development is setback sufficiently to ensure that bluff erosion will not jeopardize the development during its 75-year useful life without the need to construct protective devices. Therefore, the Commission finds that no portion of the proposed development, or existing development to be retained on site, will encroach into the 25 ft. setback from the bluff top, and the proposed project will be setback so as not be subject to hazards associated with future coastal bluff erosion. Therefore, the Commission finds that the proposed development is sited to provide sufficient setbacks to facilitate geologic stability.

In addition, the applicant has submitted a Preliminary Soils and Geologic Investigation report dated 3/10/95, an Updated Soils and Engineering Geologic Investigation and Percolation Test Report dated 11/23/98 prepared by GeoSystems, Environmental and Geotechnical Consultants, which evaluates the geologic stability of the subject site in relation to the proposed development. The applicant has also submitted four addendum reports prepared by GeoSystems in response to the City of Malibu and Commission staff's comments and questions regarding the proposed development and related geologic conditions. The consultants find that the project site is adequate for the proposed development given that their recommendations are incorporated into the proposed project. The Preliminary Soils and Geologic Investigation dated 3/10/95 prepared by GeoSystems states:

Slopes directly adjacent to the cliff do not demonstrate an adequate factor of safety as required by the City of Malibu. As a result, it is recommended that all foundations extend below a 1.5:1 setback plane projected from the toe of slope.

Results of our analysis indicate the site with the 1.5:1 setback plane limitations to be grossly stable with static and seismic factors of safety in excess of 1.5 and 1.1 as required by the City of Malibu.

The geologic consultants have indicated that the bluff top area of the subject site, where the proposed development will be located, is relatively stable and suitable for residential development. Further, the consultants have concluded that the proposed project will be free

from geologic hazards in an addendum titled Slope Stability with Respect to the Proposed Development dated 2/21/00:

Based on our comprehensive engineering geologic and geotechnical exploration and analysis of the site, and our review of current site development plans, it is our conclusion that the proposed development will be safe, and that the building site will not be affected by any hazard from landslide, settlement or slippage, and that the development will not adversely impact the stability of adjacent slopes including the existing coastal bluff.

The Preliminary Soils and Geologic Investigation dated 3/10/95, Updated Soils and Engineering Geologic Investigation and Percolation Test Report dated 11/23/98, Response to Geology and Geotechnical Engineering Review Sheet dated 1/29/99, Slope Stability with Respect to the Proposed Development dated 2/21/00 prepared by GeoSystems include a number of geotechnical recommendations to ensure the stability and geotechnical safety of the site. Therefore, to ensure that the recommendations of the consulting geologists have been incorporated into all proposed development, **Special Condition One (1)** requires the applicant to submit project plans certified by the consulting geotechnical and geologic engineer as conforming to all recommendations regarding structural and site stability. The final plans approved by the consultants 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 recommended by the consultants shall require an amendment to the permit or a new coastal permit.

The Commission notes that, although the subject site is considered grossly stable from a geologic standpoint, the steep slopes on the subject site are still subject to potential erosion and soil slippage. The Commission finds that the minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed and graded areas of the site with native plants compatible with the surrounding environment. Further, the Preliminary Soils and Geologic Investigation dated 3/10/95 prepared by GeoSystems states:

The ground surface in the vicinity of proposed construction is horizontal and is considered surficially stable...Seacliff erosion resulting in possible loss of yard space can be expected over time. This natural process can be slowed by careful design and maintenance of drainage and landscape. The vegetation which currently exists on the bluff should be maintained in order to minimize future erosion conditions.

The Commission notes that the proposed project involves bluff top development with a significant amount of grading and removal of a flagstone patio from the lower pad adjacent to the bluff edge. In past permit actions, the Commission has found that soil disturbance on steep bluffs has the potential to significantly exacerbate natural processes of bluff top erosion through removal of natural vegetation that serves to stabilize the bluff, and through exposure of bare soils to rain, run-off, and wind erosion. Therefore, in order to minimize erosion and ensure the stability of the site, **Special Condition Three (3)** requires that all disturbed and graded areas on the subject site are revegetated and restored primarily with native vegetation. The Commission finds that invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foilage weight and/or require a greater amount of irrigation and maintenance than native vegetation. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do

not serve to stabilize steep slopes, such as the slopes on the subject site, and that such vegetation results in potential adverse effects to the geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foilage weight but also by their low irrigation and maintenance requirements.

To ensure that revegetation efforts are successful, Special Condition Three (3) also requires that the applicant agree to monitor the site for a period of five (5) years. Monitoring shall include the submittal of annual reports to the Executive Director, which shall outline the progress of the revegetation efforts and shall include any recommendations for modifications to the project if the initial restoration effort fails.

The Commission notes that uncontrolled runoff over the bluff face will contribute to headward erosion and lead to destabilization of the bluff slopes and eventually the building site. Additionally, the Preliminary Soils and Engineering Geologic Investigation Report dated 3/10/95 prepared by GeoSystems states:

Drainage for the Proposed pad and residence should be designed to be collected and transferred to Zumirez Drive or other approved disposal area in non-erosive drainage devices. Drainage should not be allowed to flow over the descending bluff, pond on the pad or against any foundation or retaining wall nor should drainage be allowed to adversely affect the surficial stability of the site.

In order to further minimize erosion and increase the geologic stability of the subject site the Commission finds it necessary to ensure that adequate drainage and erosion controls measures are incorporated into the proposed project. Therefore, **Special Conditions Two (2) and Three (3)**, require the applicant to submit drainage and erosion control plans certified by the consulting geotechnical engineer as conforming to their recommendations. Further, to ensure that the project's drainage structures will not contribute to further destabilization of the project site or surrounding area and that the project's drainage structures shall be repaired should the structures fail in the future, Special Condition Two (2) also requires that the applicant agree to be responsible for any repairs or restoration of eroded areas should the drainage structures fail or result in erosion.

The Commission notes that while the proposed drainage system will serve to minimize hazards associated with headward erosion, potential risks associated with excessive water infiltration on a bluff top causing subsurface destabilization can be minimized by allowing only drip or low flow irrigation seaward of the residence. Percolation of irrigated water into the bluff can lead to destabilization of the bluff, and consequently pose a significant risk to existing and proposed development. There have been numerous incidents, where irrigation lines have burst, saturating the bluff and thereby subjecting bluff top development to hazardous conditions. The applicant is proposing the removal of a lawn and extensive ice plant cover which exists seaward of the residence, and replacement of this vegetation with a cactus garden that will not include excessive water requirements. Additionally, the applicant has submitted project plans indicating that an existing flagstone patio located on the lower pad adjacent to bluff edge will be removed and the area revegetated with native grass species or other native, drought tolerant vegetation. The Commission finds that implementing a landscaping plan that requires removal of non-native and invasive plant species requiring excess water, and replacement of these species with native and drought tolerant vegetation, will assist in reducing these risks associated with excessive water infiltration on the bluff top and aid in stabilizing the site, as required by Special

Condition Three (3). Special Condition Three (3) also requires that supplemental watering features necessary to establish appropriate restorative vegetation will be removed from the restoration area of the bluff edge and that only drip or low flow irrigation will be permitted on any portion of the site seaward of the proposed residence.

Additionally, the Commission notes that conventional septic system effluent utilizing septic pits on bluff top lots may result in excessive water infiltration into the bluff, causing an elevated groundwater table and/or localized saturation of earth materials underlying the site, ultimately resulting in potential bluff destabilization. However, in the case of the proposed project the applicant is proposing to install an alternative sewage disposal system which will disperse treated effluent in such a way that water evaporates directly from the soil or is consumed by vegetation through transpiration. Therefore, the Commission finds that the applicant's proposal to install an alternative sewage disposal system will avoid bluff destabilization that might otherwise result from the use of older septic disposal practices.

The Commission also notes that the amount of new cut grading and excavation proposed by the applicant is larger than the amount of fill to be placed and will result in approximately 2,300 cu. yds. of excess excavated material. Excavated materials that are placed in stockpiles are subject to increased erosion. The Commission also notes that additional landform alteration would result if the excavated material were to be retained on site. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, **Special Condition Four (4)** requires the applicant to remove all excavated material, including any debris resulting from demolition of existing development, from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

Notwithstanding the project's consistency with adequate setbacks, and the Special Conditions imposed on this permit which will serve to minimize potential hazards, the Commission nevertheless finds that coastal bluff erosion is a dynamic, long-term process and that no structure situated on a coastal bluff can be completely free of hazard. Thus, the Commission finds that there remains an inherent risk in building on the subject site with the geologic conditions and constraints described in this section, and due to the fact that the project site is located in an area subject to an extraordinary potential for damage or destruction from wildfire. Typical vegetation in the Santa Monica Mountains consists predominantly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. Additionally, the typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Therefore, the Commission can only approve the project if the applicant assumes the responsibility and liability from the risks associated with developing the project as required by **Special Condition Five (5)**. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site that may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same. Moreover, through acceptance of Special Condition Five (5), the applicants agree to indemnify the Commission, its officers, agents, and employees against

any and all claims, demands, damages, costs, expenses, or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage from geologic and wildfire hazard exists as an inherent risk.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions and danger from wildfire is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist potentially hazardous geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question. The Commission has frequently required such deed restrictions for other development throughout the Malibu/Santa Monica Mountains region.

The Commission notes that while the location of the proposed structures on the subject site may presently be feasible from a geologic point of view, further improvements such as concrete block walls and/or other protective structures may eventually be proposed by the applicant to maintain the development and ensure slope stability due natural coastal bluff erosion in the future. The applicant does not propose the construction of any shoreline protective device to protect the proposed development. The applicant has submitted an addendum report Response to Coastal Commission Review Letter dated 7/25/00 prepared by the project's geology consultants GeoSystems that states:

We understand that a predicted erosion of 2 inches per year has been advanced for the existing coastal bluff at the subject site. Based on our review of aerial photos it appears that the actual rate of erosion has been much less than 1 inch per year for the past 76 years. In this case it is our conclusion that the predicted rate of erosion of 2 inches per year is a conservative estimate, and that the proposed building setback will be adequate to protect the proposed development from the effects of natural coastal bluff erosion for the next 75 to 100 years.

Though the project's consulting geologists find that the proposed setbacks will protect the development from the hazards of future natural bluff erosion for the next 75-100 years without a shoreline protective device, the Commission notes that many beach areas of Malibu have experienced extreme erosion and scour during severe storm events, such as El Nino storms. It is not possible to completely predict what conditions the proposed residence may be subject to in the future.

The Commission notes that no shoreline protective device is proposed as part of this project, however, the Commission also notes that future construction of a shoreline protective device on the proposed project site would result in potential adverse effects to coastal processes, shoreline sand supply, the public's beach ownership interests, public access, and scenic resources. Shoreline protective devices alter and fix the shoreline slope profile, which in turn alters beach width and the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area of public property available for public use. Additionally, such protective devices fix the shoreline and reduce the amount of natural shoreline retreat causing a progressive loss of sand and beach area, as shore material is not available to nourish adjacent beaches and the offshore sand bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore, where they are no longer available to nourish the beach. This affects public access by resulting in a loss of area between the mean high

water line and the actual water. Shoreline protective devices, such as revetments and bulkheads, also cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline, eventually affecting the profile of a public beach. Furthermore, if not sited landward in a location that insures that the shoreline protective device is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments and bulkheads interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

In addition, the Commission notes that Section 30235 of the Coastal Act allows for the construction of a shoreline protective device only when necessary to protect existing development or to protect a coastal dependent use. The Commission further notes that the approval of a shoreline protective device to protect new residential development, such as the proposed project, would not be consistent with Section 30235 of the Coastal Act. The construction of a shoreline protective device to protect a new residential development would also conflict with Section 30253 of the Coastal Act which states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. Construction of a shoreline protective device to protect new residential development would also conflict with Section 30251 of the Coastal Act, which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from such a device. Thus, the Commission can only find the proposed project consistent with the applicable sections of the Coastal Act if the development as proposed, and the site as predicted to perform during the project's useful life (as determined by the project's consulting geologists), will not require the construction of a shoreline protection device. Therefore, to ensure that the proposed project is consistent with Sections 30235, 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, **Special Condition Number Seven (7)** requires the applicant to record a deed restriction that would prohibit the applicant, or future landowners, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application including the residence, septic system, driveway, patios or any other structure on the subject site.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30235 and 30253 of the Coastal Act.

C. Sensitive Habitat Areas and Visual Resources

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 areas 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 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values. The proposed project site includes a bluff top and a bluff face that descends steeply to the sandy beach below. The steep bluff faces in Malibu, particularly those on Point Dume, contain a rare and restricted Southern Coastal Bluff Scrub plant community, and have been considered by the Commission as environmentally sensitive habitat areas (ESHA). In past permit actions, the Commission has required that new development provide adequate setbacks from the edge of coastal bluffs both to minimize impacts to sensitive habitat as well as to minimize risks from geologic hazards.

As previously discussed, the proposed project involves demolition of an existing residence and detached garage and construction of a new residence, detached garage, driveway, installation of an alternative septic system, and landscaping on a bluff top parcel. The majority of new development will be located approximately 100 ft. from the bluff edge and only a portion of the southeast corner of the residence will be located 94 ft. landward of the bluff top. New development at the project site will be located further landward than existing development to be demolished. The Commission notes that the subject site is unique in that it provides adequate space for the proposed development to be sited approximately 100 ft. from the top of bluff, and therefore minimize potential adverse impacts on sensitive habitat of the coastal bluff face. The Commission further notes that the flagstone patio existing on the upper building pad, to be retained on site, is located no less than 50 ft. from the bluff edge and therefore will not result in any additional impacts associated with development on the site on sensitive habitat.

In addition to the above mentioned setback areas, the applicant has submitted a Preliminary Fuel Modification Plan approved by the Los Angeles County Fire Department Fuel Modification Unit which indicates that no cutting or clearing of vegetation will be required for fuel modification purposes on the bluff face. The Fuel Modification Plan indicates that the existing setback areas for the proposed residence from the bluff edge will be adequate for vegetation thinning/clearance requirements for fire safety, and therefore sensitive bluff face vegetation on the subject site will be preserved. The Commission notes that no removal, thinning, or other disturbance of vegetation will occur in the sensitive coastal bluff habitat as a result of constructing the proposed residence and subsequent fuel modification requirements for fire safety standards. Therefore, the Commission finds that the proposed project is adequately located and designed, through adequate setback requirements and an appropriate fuel modification plan, to minimize significant disruption of sensitive coastal bluff vegetation existing at the project site.

Though the proposed project provides adequate setbacks so as not to significantly disrupt sensitive habitat on the project site, the Commission notes that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plant species indigenous to the Malibu/Santa Monica Mountains area. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, **Special Condition Three (3)**

requires that landscaping of the project site consist primarily of native plant species and that invasive plant species shall not be used.

As described, the project site contains a graded 3:1 slope that descends approximately 11 ft. from the upper building pad, seaward to a small lower pad area adjacent to the bluff edge. This lower pad presently contains a small flagstone patio and a combination of native and non-native vegetation. As mentioned, the applicant's plans include the removal of a small flagstone patio on the lower pad directly adjacent to the bluff edge. The applicant proposes to remove this hardscape and to restore the disturbed area with appropriate native plant species. Additionally, the applicant proposes to restore other areas of the lower pad area which have been invaded by non-native/invasive plant species with native vegetative cover adaptive to the coastal bluff environment. The Commission notes that restoration of the lower pad will provide a buffer zone between the proposed development and the sensitive plant community on the bluff face. The restored buffer zone will provide an area of transition between ornamental landscaping proposed for the upper building pad area and the native vegetation of the bluff face. Therefore, the Commission finds it necessary to ensure that a coastal bluff habitat restoration plan is successfully implemented with the proposed landscaping plan as specified in **Special Condition Three (3)**. As specified by Special Condition Three (3), the coastal bluff edge and the coastal bluff habitat buffer area shall be delineated as extending from the 88 ft. contour seaward to the bluff edge, and shall include specific measures for removal of any hardscape and/or non-native, invasive vegetation existing in the restoration zone and revegetation of any disturbed areas in the restoration zone with adequate native and drought tolerant plant species (Exhibit 11). All areas located within the coastal bluff habitat buffer area and seaward from the 88 ft. contour shall be cleared of non-native, invasive vegetation and restored entirely with appropriate native vegetation, and native plant material presently established shall be maintained without significant disturbance. The plan also requires termination of any supplemental irrigation upon successful establishment of planted stock.

Furthermore, as indicated on project plans submitted by the applicant, all areas seaward of the residence containing lawn and ice plant must be cleared and planted with non-native and drought tolerant plant species as required by Special Condition (3). The terms of Special Condition Three (3) do not prohibit existing and proposed cactus gardens seaward of the residence as long as such landscaping is located landward of the 88 ft. contour, outside of the coastal bluff habitat restoration area, and as long as vegetation seaward of the residence is comprised primarily of locally native, drought tolerant species.

Special Condition Three (3) also requires the applicant to submit, on an annual basis for a period of five (5) 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. At the end of a five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If the 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 program which were not successful. The revised or supplemental coastal bluff habitat restoration program shall be processed as an amendment to this Coastal Development Permit.

Finally, the Commission finds that due to the existence of sensitive coastal bluff habitat on the project site, the amount and location of any new development, including structures, pools, patios, and additional landscaping on the subject site is constrained by the presence of

sensitive habitat. Therefore, in order to ensure that any future structures, additions, or landscaping that may be exempt from coastal permit requirements are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition Six (6)**, the future development deed restriction, has been required.

Therefore, the Commission finds that, as conditioned, the proposed project is consistent with Section 30240 of the Coastal Act.

D. Scenic and Visual Impacts

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.

Section 30251 of the Coastal Act requires public views to and along the ocean and scenic coastal areas to be considered and protected when siting new development. The proposed project includes the demolition of an existing one-story single family residence and garage and construction of a new two-story, 28 ft. high, single family residence and detached 23 ft. high garage. As previously mentioned, due to the secluded nature of the site the proposed development and grading will not be visible from any inland public viewing area, or scenic highway. Additionally, the proposed development and has a sufficient setback (approximately 100 ft.) from the 70 ft. bluff face, and therefore will not be visible from the beach below. Furthermore, the proposed development does not include the addition of any structural improvements on the bluff face or the area at the base of the bluff which would be visible from the public beach. Therefore, the Commission finds that the project will not significantly impact public coastal views and is consistent with Section 30251 of the Coastal Act.

E. 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.

Pursuant to Coastal Act Sections 30250 and 30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. The applicant is not proposing to construct a secondary unit, but is proposing to construct a significant detached structure that could potentially be converted for residential use in the future (Exhibit 9).

Based on the requirements of Coastal Act Section 30250 and 30252, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the 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 intended only for occasional use by guests, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence or residential second units. Finally, the Commission has found in past permit decisions that a limit of 750 sq. ft. encourages the units to be used for their intended purpose –as a guest unit- rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

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).

The applicant is proposing to construct a 28 ft. high, 5,900 sq. ft. single family residence with 3,418 sq. ft. basement and a detached, 23 ft. high, 524 sq. ft. garage with a 442 sq. ft. basement and bathroom and lath house. The applicant is not proposing to construct a secondary unit, but is proposing to construct a significant detached structure that could potentially be converted for residential use in the future. Total square footage for the detached structure is 966 sq. ft. The Commission finds that the 524 sq. ft. garage with 442 sq. ft. basement is not proposed as habitable square footage, however, the Commission notes that the structure with plumbing and a bath could easily be converted to habitable square footage and used as second residential unit.

The Commission has many past precedents on similar project proposals that have established a 750 sq. ft. maximum of habitable square footage for development of detached units which may be considered a secondary dwelling. The Commission notes that the applicant is not proposing to utilize the detached garage and basement as a guest unit or secondary dwelling, therefore the structure may be reviewed as an accessory building to the proposed single family residence, non-inhabitable, and therefore not subject to the 750 sq. ft. limitation for detached units. However, the Commission finds it necessary to ensure that no additions or improvements are made to the detached garage and basement in the future that may enlarge or further intensify the use of this structure without due consideration of the cumulative impacts that may result. Therefore, the Commission finds it necessary to require the applicant to record a future development deed restriction, as specified in **Special Condition Six (6)**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the garage and attic structure are proposed in the future. As conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with Section 30250 and 30252 of the Coastal Act.

F. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states that:

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

As described above, the proposed project includes demolition of an existing one-story single family residence and detached garage and construction of a new two-story, 28 ft. high, 5,900

sq. ft. single family residence with a 3,418 sq. ft. basement, detached 23 ft. high, 524 sq. ft. garage with a 442 sq. ft. basement, new driveway, alternative septic system, landscaping, and 2,620 cu. yds. grading (2,460 cu. yds. cut/excavation, 160 cu. yds. fill, 2,300 cu. yds. export). The site is considered a bluff top development, as it involves steeply sloping terrain with soils that are susceptible to erosion.

The proposed development will result in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Two (2)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water

quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition Three (3)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site alternative septic system to serve the residence. An alternative septic system will be installed at the project site to effectively treat septic effluent and minimize potential geologic hazards associated with infiltration of septic effluent on bluff top lots. The Commission has found in past permit actions that review and approval of proposed septic systems by the project's geologic consultants and the City of Malibu Environmental Health Department, determining that the system will not adversely impact the site and meets the requirements of the plumbing code, is protective of resources. The applicant has revised the proposed project to incorporate the use of alternative septic disposal technology, thereby relieving Commission staff of undertaking an extensive geologic review of potential impacts on the coastal bluff posed by the originally proposed conventional septic technology. Thus, there was insufficient time for obtaining the corresponding review by the City's Environmental Health Specialist. Nevertheless, the City's Environmental Health Specialist has advised staff that the newer alternative technology sewage disposal systems are generally superior to older conventional system, thus favorable review of the applicant's proposal is anticipated. To ensure that the applicant's revised proposal receives the benefit of such review, **Special Condition Eight (8)** requires the applicant to submit revised plans with evidence to the Executive Director that both the project's consulting geologist and the City of Malibu Environmental Health Specialist has reviewed and approved the proposed alternative septic system.

The Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

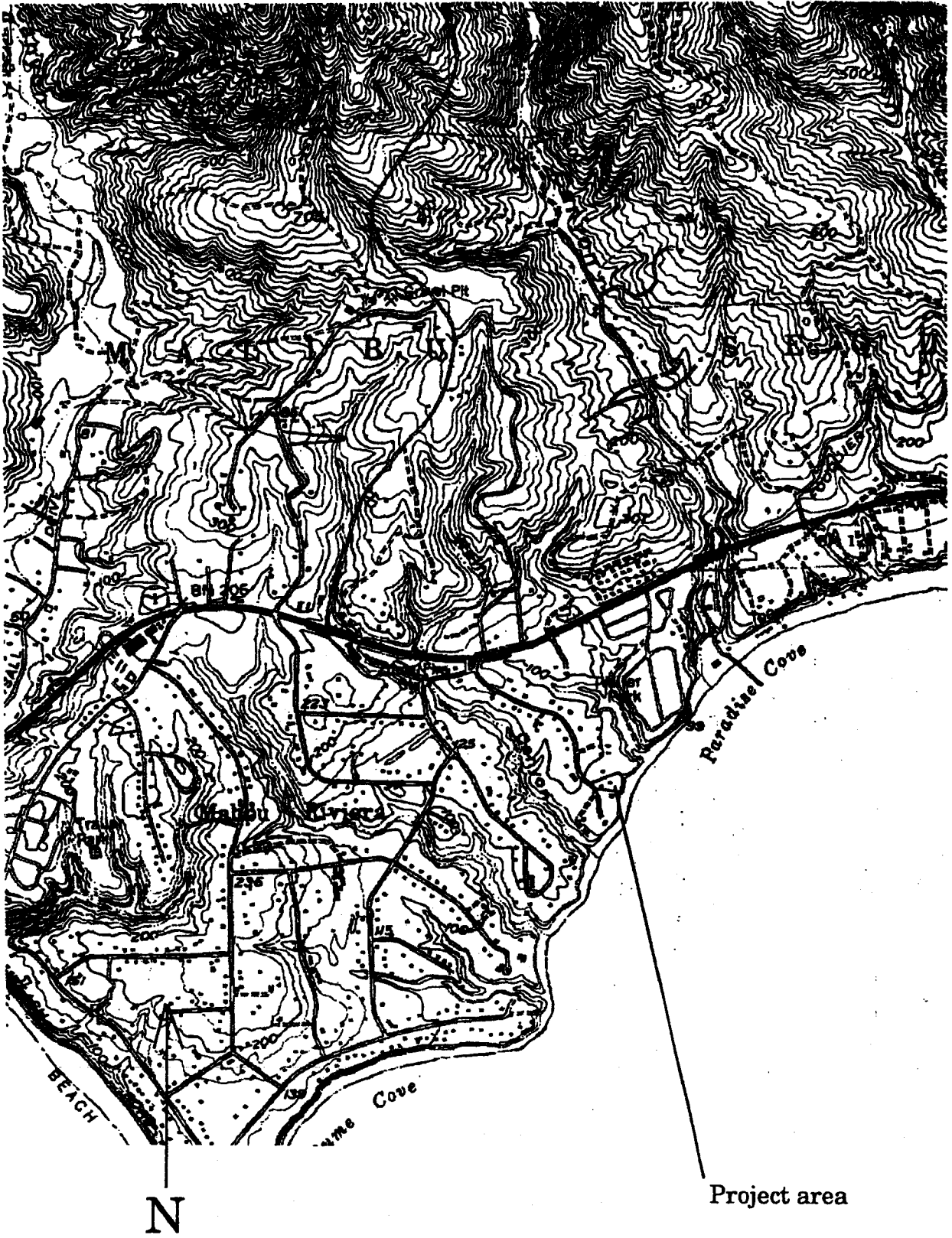
a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the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

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

G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of 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.



Scale 1: 24,000

EXHIBIT 1
CDP #4-00-075
Location Map

4466

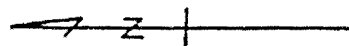
SCALE 1" = 150'

1992

EXHIBIT 2

CDP # 4-00-075

Parcel Map

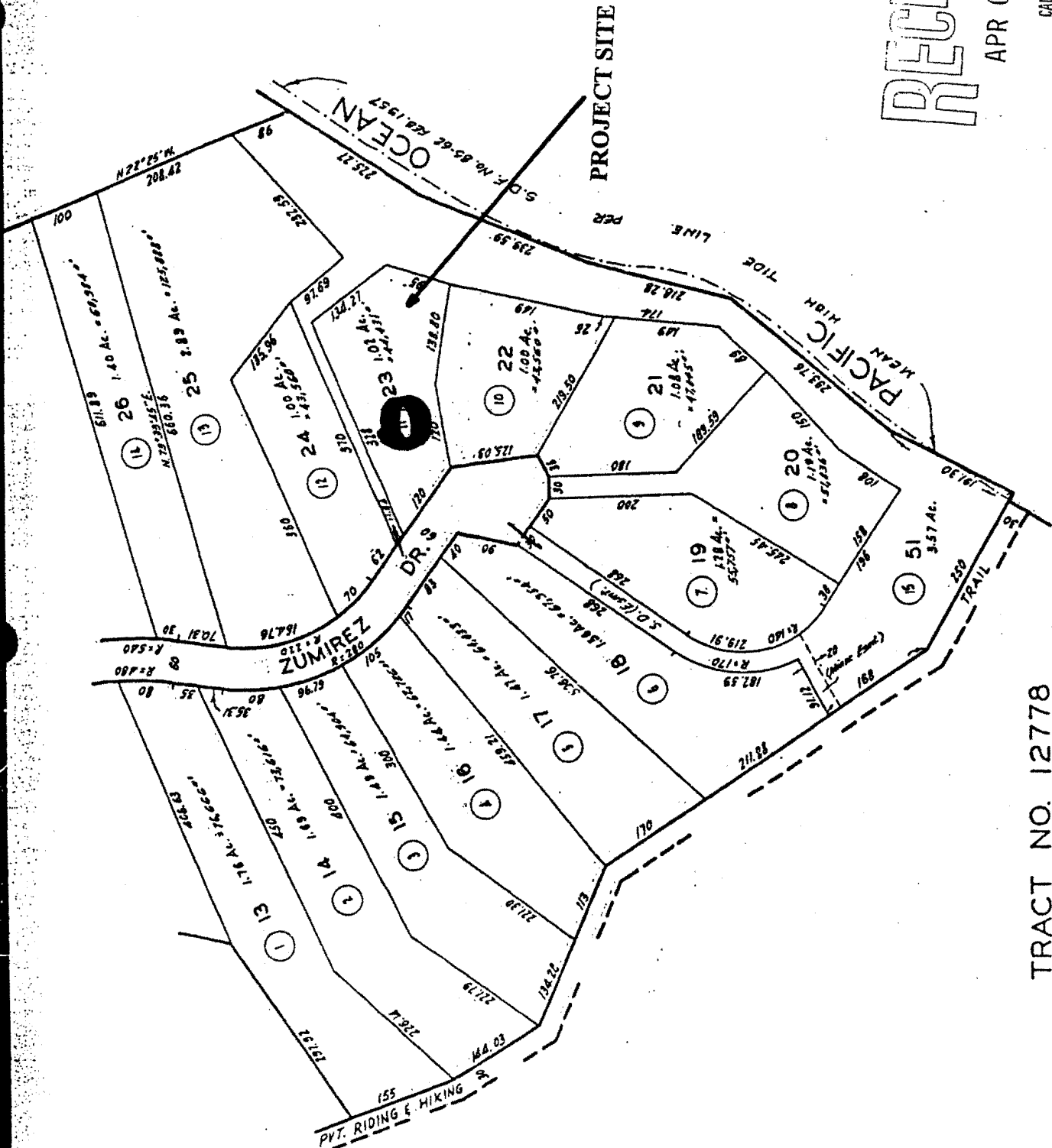


CODE 10860

TRACT NO. 12778

M. B. 262-41-43

FOR PREV. ASSMT. SEE: 482-325



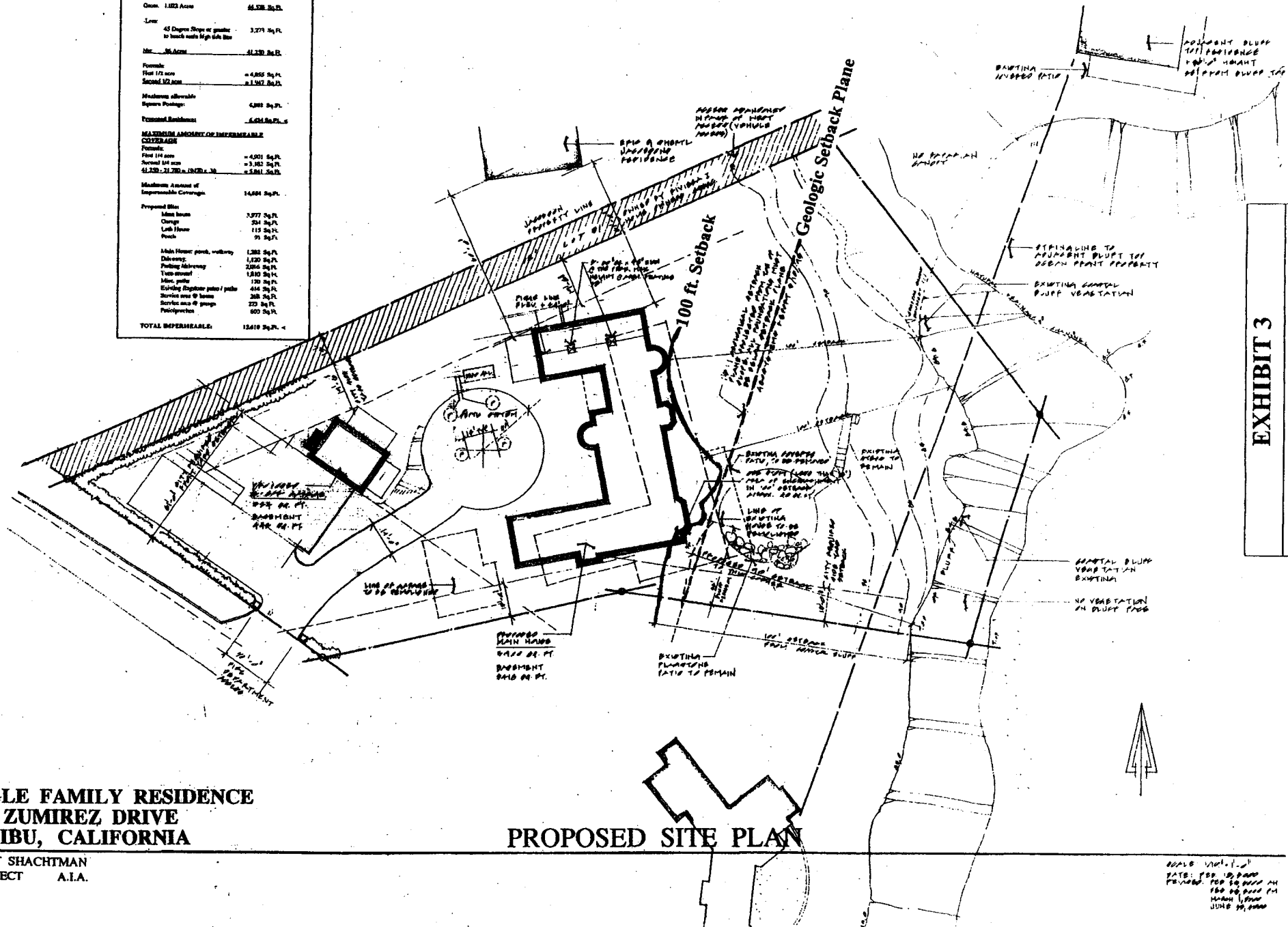
RECEIVED

APR 06 2000

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

COUNT

MAXIMUM ALLOWABLE SQUARE FOOTAGE	
Area of Site	
Open: 1.182 Acres	64,328 Sq. Ft.
Low: 45 Degree Slopes or greater to back near High Side Site	
Net: 56 Acres	41,320 Sq. Ft.
Permitted:	
Flat 1/2 acre	= 4,265 Sq. Ft.
Second 1/2 acre	= 4,197 Sq. Ft.
Maximum allowable:	
Square Footage	8,462 Sq. Ft.
Permitted Residential	8,462 Sq. Ft.
MAXIMUM AMOUNT OF IMPERMEABLE COVERAGES	
Permitted:	
Flat 1/2 acre	= 4,901 Sq. Ft.
Second 1/2 acre	= 4,832 Sq. Ft.
41,320 - 21,733 = 19,587 sq. ft.	
Maximum Amount of Impermeable Coverages	
	14,684 Sq. Ft.
Proposed Site	
Main house	13,777 Sq. Ft.
Garage	324 Sq. Ft.
Lab House	113 Sq. Ft.
Pool	0 Sq. Ft.
Other Structures, Vegetation	
Adult Home: porch, walkway	1,282 Sq. Ft.
Delivery	1,123 Sq. Ft.
Putting driveway	2,816 Sq. Ft.
Tennis court	1,810 Sq. Ft.
Misc. yard	150 Sq. Ft.
Existing (existing patio / porch)	414 Sq. Ft.
Service area @ house	288 Sq. Ft.
Service area @ garage	272 Sq. Ft.
Pool/patio	600 Sq. Ft.
TOTAL IMPERMEABLE:	12,619 Sq. Ft. -



SINGLE FAMILY RESIDENCE
6830 ZUMIREZ DRIVE
MALIBU, CALIFORNIA

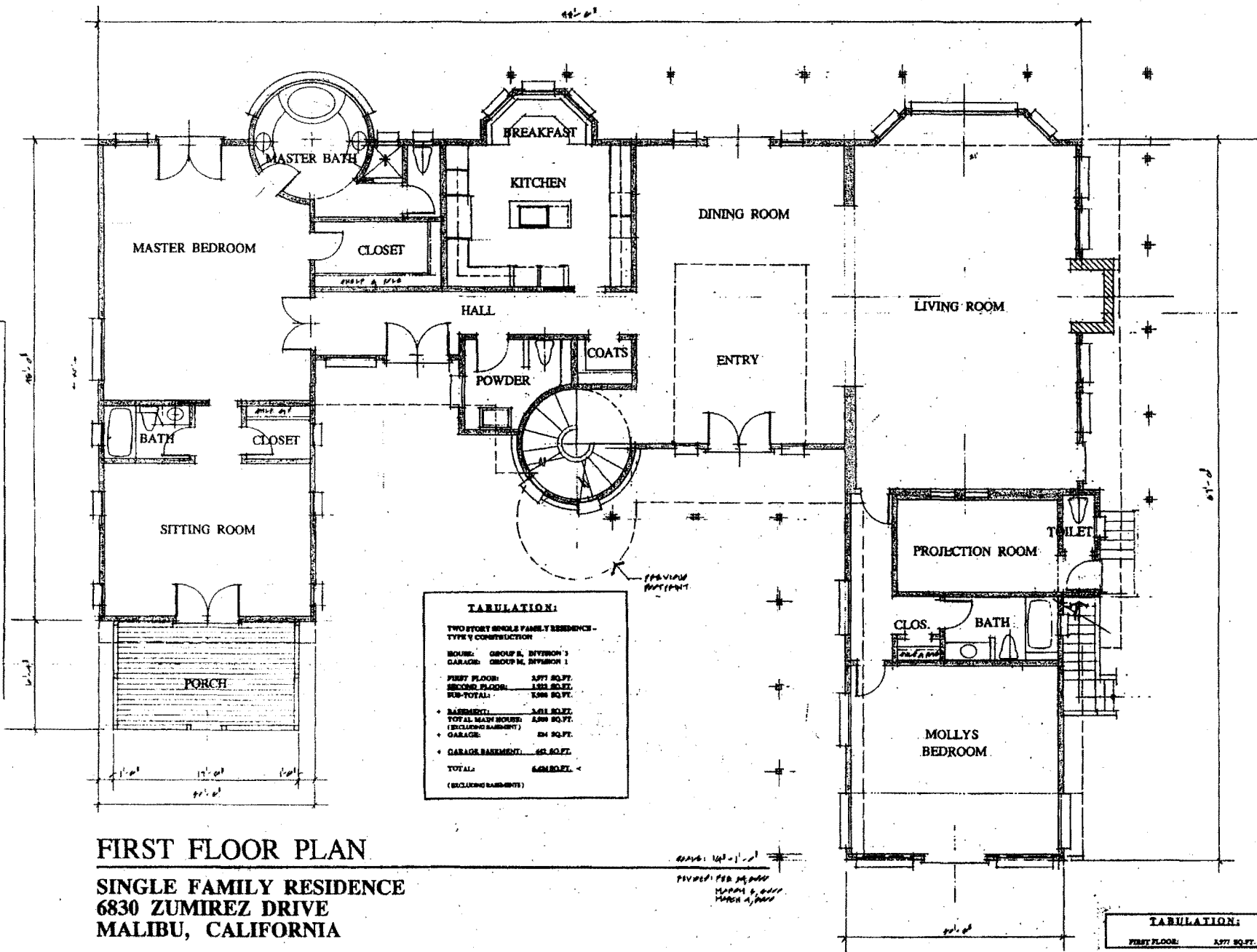
ROBERT SHACHTMAN
 ARCHITECT A.I.A.

PROPOSED SITE PLAN

EXHIBIT 3
CDP # 4-00-075
Site Plan

SCALE: 1/4" = 1'-0"
 DATE: FEB. 19, 2000
 REVISED: FEB. 19, 2000
 100 00, 0000 PM
 100 00, 0000 PM
 100 00, 0000 PM
 100 00, 0000 PM

EXHIBIT 4
 CDP # 4-00-075
 Residence 1st Floor Plan



TABULATION:
 TWO STORY SINGLE FAMILY RESIDENCE -
 TYPE V CONSTRUCTION

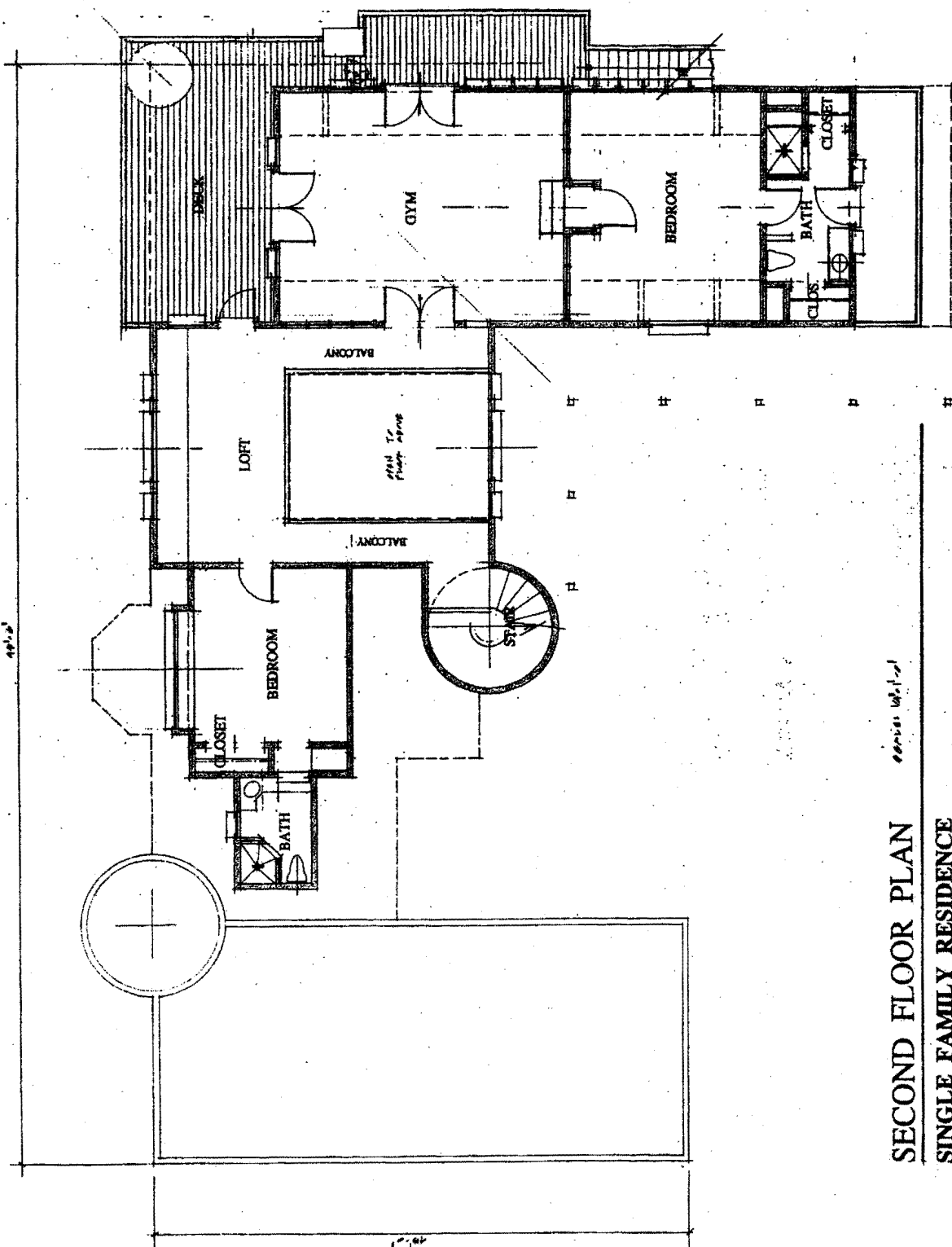
HOUSE:	GROUP B, DIVISION 1
GARAGE:	GROUP M, DIVISION 1
FIRST FLOOR:	1,977 SQ. FT.
SECOND FLOOR:	1,354 SQ. FT.
SUB-TOTAL:	3,331 SQ. FT.
• BARRIERS:	451 SQ. FT.
TOTAL READY HOUSE:	2,880 SQ. FT.
(EXCLUDING BARRIERS)	
• GARAGE:	254 SQ. FT.
• GARAGE BARRIERS:	65 SQ. FT.
TOTAL:	3,200 SQ. FT.
(EXCLUDING BARRIERS)	

TABULATION:

FIRST FLOOR:	1,977 SQ. FT.
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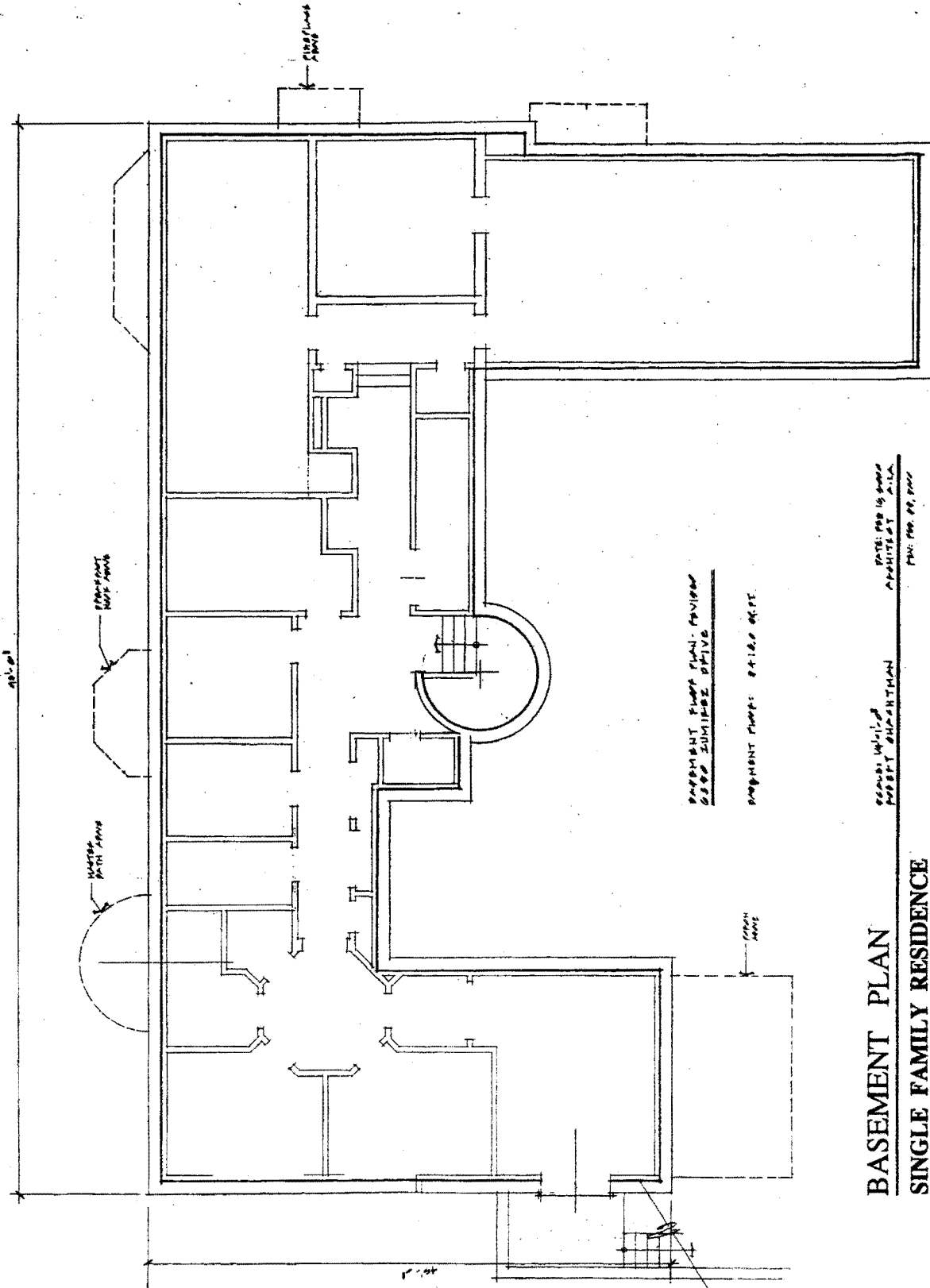
FIRST FLOOR PLAN
 SINGLE FAMILY RESIDENCE
 6830 ZUMIREZ DRIVE
 MALIBU, CALIFORNIA

TABULATION:
 SECOND FLOOR 1,221 SQ. FT.



SECOND FLOOR PLAN
 SINGLE FAMILY RESIDENCE
 6830 ZUMIREZ DRIVE
 MALIBU, CALIFORNIA

EXHIBIT 5
 CDP # 4-00-075
 Residence 2nd Floor Plan



DATE: FEB 15, 1988
 ARCHITECT: AIA
 PLAN NO. 01, 1988

DESIGNER: ROBERT B. BUCHANAN

BASEMENT PLAN
SINGLE FAMILY RESIDENCE
6830 ZUMIREZ DRIVE
MALIBU, CALIFORNIA

TABULATION:
 SHEET NO. 01 OF 02

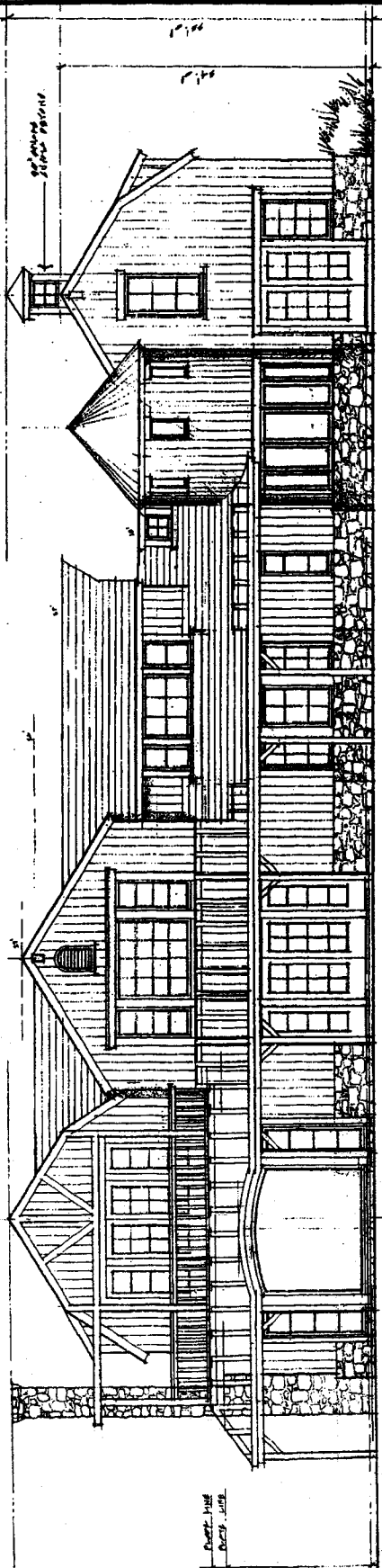
EXHIBIT 6
CDP # 4-00-075
Residence Basement Plan

DATE	
BY	
PROJECT	
NO.	
DATE	
BY	
PROJECT	
NO.	
DATE	
BY	
PROJECT	
NO.	

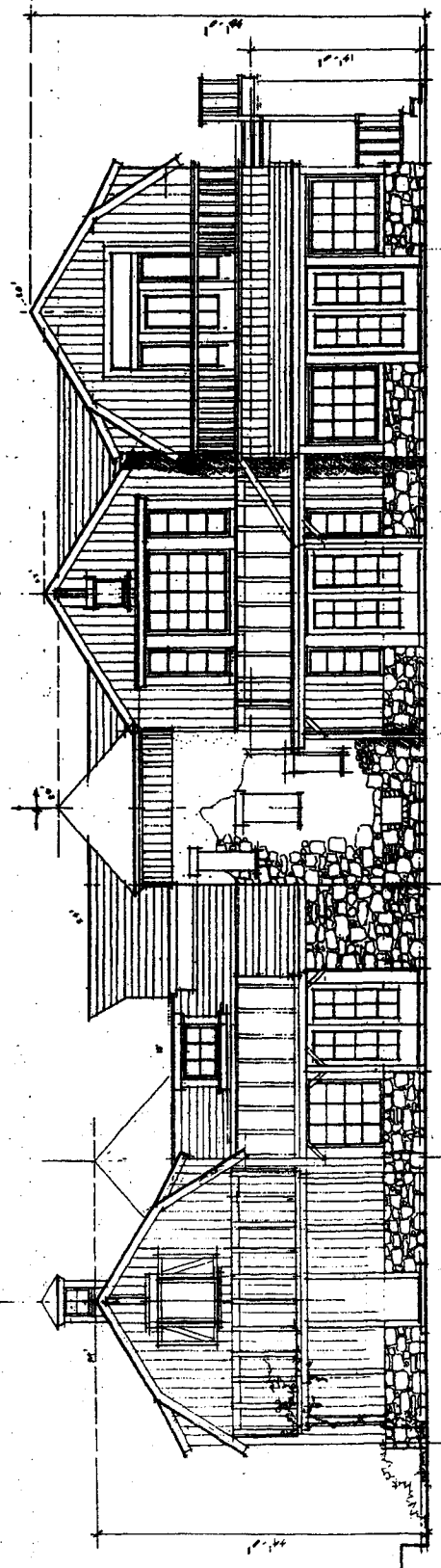
ROBERT ELLIS SHACHTMAN
 ARCHITECTURE
 ARCHITECT
 LOS ANGELES, CALIF.
 (213) 472-9299

SINGLE FAMILY RESIDENCE
 6830 ZUMBEZ DRIVE
 MALIBU, CALIFORNIA

8
 SHEET NO.
 PROJECT NO.
 DATE



EAST ELEVATION



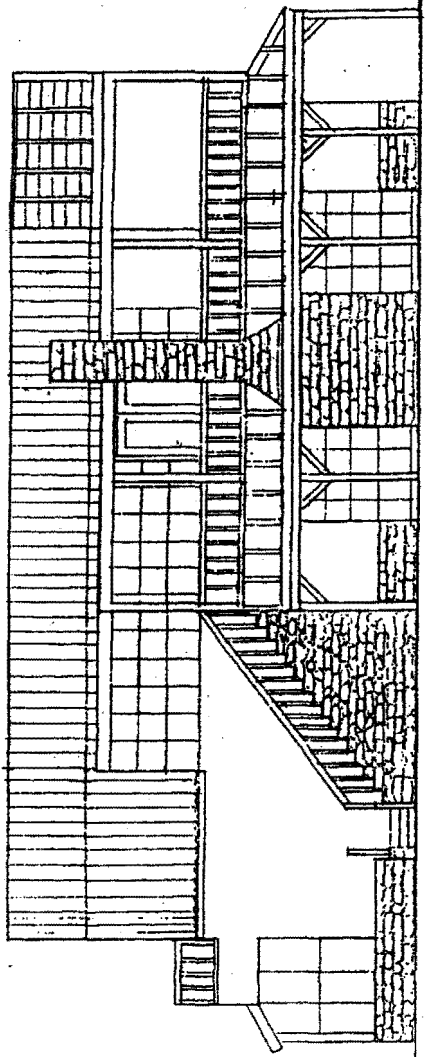
WEST ELEVATION

EXHIBIT 7

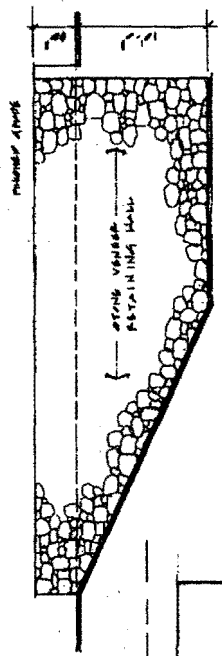
CDP # 4-00-075

Residence Elevations

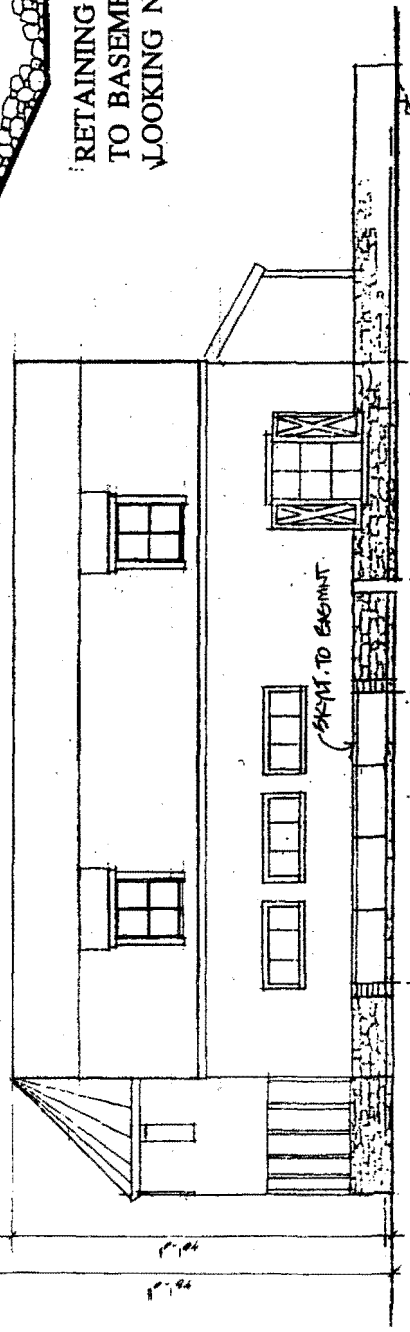
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	PROJECT NO. 11-12
DRAWING BY: 6830 ZUMIEZ DRIVE, MALDEN, CA 90245	CLIENT: SINGLE FAMILY RESIDENCE
DATE:	EXTERIOR ELEVATIONS
NO. DATE REVISION	NO. DATE REVISION
1 1/10/11	1 1/10/11
2 1/10/11	2 1/10/11
3 1/10/11	3 1/10/11
4 1/10/11	4 1/10/11
5 1/10/11	5 1/10/11
6 1/10/11	6 1/10/11
7 1/10/11	7 1/10/11
8 1/10/11	8 1/10/11
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38 1/10/11	38 1/10/11
39 1/10/11	39 1/10/11
40 1/10/11	39 1/10/11



SOUTH ELEVATION



RETAINING WALL TO BASEMENT - LOOKING NORTH



NORTH ELEVATION

MAIN HOUSE EXTERIORS

EXHIBIT 8
 CDP # 4-00-075
 Residence Elevations

DATE: 11/11/00	PROJECT NO: 11	OWNER: 6830 ZUMBEZ DRIVE, MALDEN, CA 90225
NO. DATE REVISION	NO. DATE REVISION	NO. DATE REVISION
GARAGE PLAN		GARAGE PLAN
SINGLE FAMILY RESIDENCE		SINGLE FAMILY RESIDENCE
ARCHITECT: ROBERT ELLIS SHACHTMAN, CALIF. ARCHITECTS, (916) 284-4722		ARCHITECT: ROBERT ELLIS SHACHTMAN, CALIF. ARCHITECTS, (916) 284-4722
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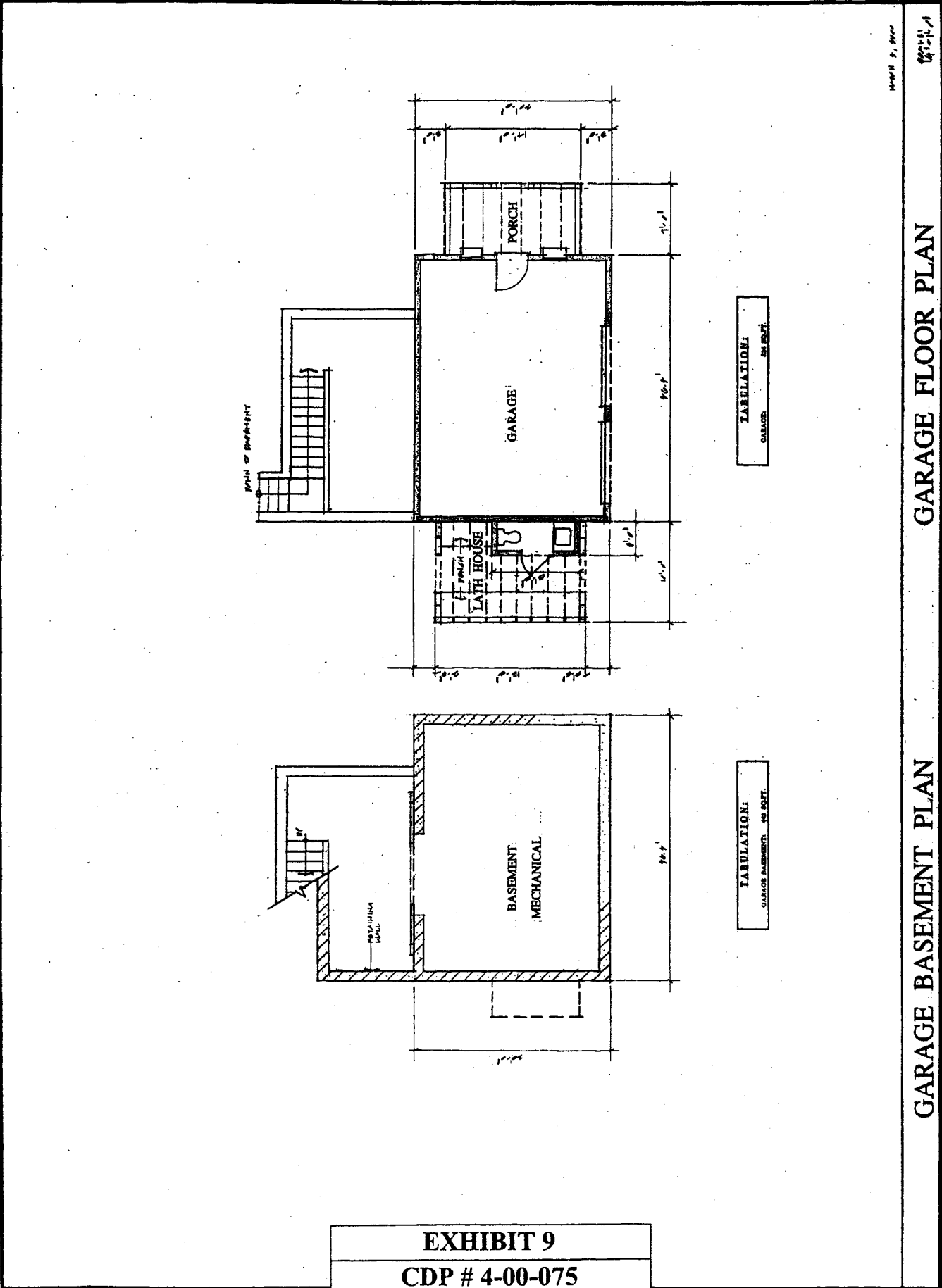


EXHIBIT 9
CDP # 4-00-075
Garage Floor Plans

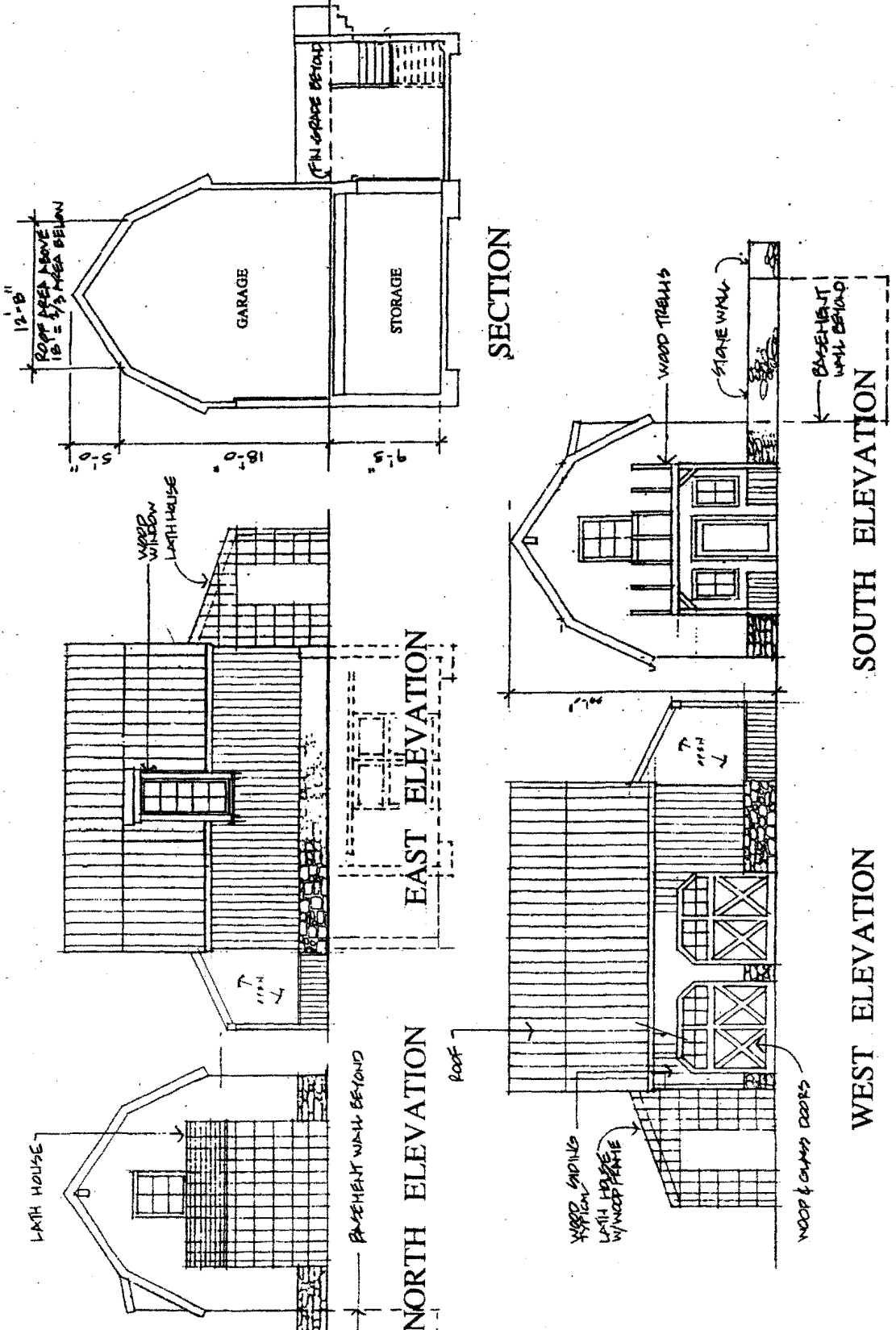


EXHIBIT 10
CDP # 4-00-075
Garage Elevations

GARAGE ELEVATIONS AND SECTION

