

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
 89 SOUTH CALIFORNIA ST., SUITE 200  
 MALIBU, CA 93001  
 (818) 641-0142

**RECORD PACKET COPY**

Filed: 2/8/00  
 49th Day: 3/28/00  
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 Staff: BCM-V  
 Staff Report: 2/24/00  
 Hearing Date: Mar. 14-17, 2000  
 Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-99-234

**APPLICANT:** William & Catherine Bindley

**PROJECT LOCATION:** 27801 W. Winding Way, City of Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Construction of a new swimming pool, spa, tennis court, retaining walls, and a 745 sq. ft. guesthouse addition over an existing 4-car garage. The project includes 930 cu. yds. of grading (930 cut).

Lot area	65,459 sq. ft. (1.50 ac.)
Building coverage:	4,190 sq. ft.
Pavement coverage:	15,140 sq. ft.
Landscape coverage:	46,129 sq. ft.
Parking spaces:	4 (covered)
Ht abv fin grade:	24'9"

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

**SUBSTANTIVE FILE DOCUMENTS:** *Pre-Escrow Geologic Site Inspection Investigation Data Sheet*, by Donald B. Kowalewsky Environmental & Engineering Geology, dated February 16, 1994; *Preliminary Geologic and Soils Engineering Investigation, Proposed Guest House, Swimming Pool, and Tennis Court, 27801 West Winding Way, Malibu, California*, by Alpine Geotechnical, dated February 6, 1998; *Update Letter, Geologic and Soils Engineering Investigation, Proposed Guest House, Swimming Pool, and Tennis Court, 27801 West Winding Way, Malibu, California*, by Alpine Geotechnical, dated November 2, 1999; *City of Malibu Planning Commission Agenda Report*, by City of Malibu Planning Department, for meeting date June 7, 1999; *City of Malibu Planning Commission Resolution No. 99-024*, for meeting date June 7, 1999

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed project with eight (8) special conditions regarding landscape / erosion control plans, drainage plans and maintenance responsibility, plans conforming to geologic recommendations, removal of excavated material, restriction of future development, color and tennis court lighting restriction, and wildfire waiver of liability.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

#### 1. Landscaping and Erosion Control Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit landscaping / erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plans shall identify the species, location, and extent of all plant materials and shall incorporate the following criteria:

##### a) Landscaping

All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation and to screen or soften the visual impact of development, all landscaping shall consist primarily of native / drought-resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated October 4, 1994. The plan shall include vertical elements, such as trees and shrubs, which partially screen the appearance of the proposed structure(s) as viewed from Pacific Coast Highway and the Coastal Slope Trail. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide ninety percent (90%) coverage within two (2) years, and this requirement shall apply to all disturbed soils. Planting 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 applicable landscape requirements.

Vegetation within fifty feet (50') of the proposed structure(s) may be removed, and vegetation within a two-hundred foot (200') radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such removal and thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes, and location of plant materials to be removed and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Fire Department of Los Angeles County. Irrigated lawn, turf, or groundcover planted within a fifty foot (50')

**2. Drainage and Polluted Runoff Control Plan**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a drainage and polluted runoff control plan designed by a licensed engineer to minimize 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 the geologists' recommendations. The plan shall be subject to the following requirements, and shall at a minimum, include the following components:

(a) Structural and/or non-structural Best Management Practices (BMPs) designed to capture, infiltrate or treat runoff from all roofs, parking areas, driveways and other impervious surfaces shall be identified and incorporated into final plans.

(b) Selected BMPs shall, when implemented ensure that post-development peak runoff rate and average volume from the site, will be maintained at levels similar to pre-development conditions. The drainage system shall also be designed to convey and discharge runoff from the building site in non-erosive manner.

(c) The plan shall include provisions for BMP maintenance. All structural and non-structural BMPs shall be maintained in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) all traps / separators and/or filters shall be inspected, cleaned and repaired prior to the onset of the storm season, no later than September 30<sup>th</sup> 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 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. Plans Conforming to Geologic Recommendations**

All recommendations contained in the *Preliminary Geologic and Soils Engineering Investigation, Proposed Guest House, Swimming Pool, and Tennis Court, 27801 West Winding Way, Malibu, California*, by Alpine Geotechnical, dated February 6, 1998, 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.

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

#### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares as follows:

##### **A. Project Description and Background**

The applicant is proposing construction of a new swimming pool, spa, tennis court, retaining walls, and a 745 sq. ft. guesthouse addition over an existing 4-car garage. The project includes 930 cu. yds. of grading (930 cut). The subject site is a 65,459 sq. ft. (1.50 ac.) parcel located in the Escondido area of the City of Malibu, north of Pacific Coast Highway and east of Kanan Dume Road. Access to the project site is from Pacific Coast Highway to West Winding Way, a street which borders the east side of the property. There is an existing 3,300 sq. ft. single family residence, a detached 890 sq. ft. garage, and a level graded pad area on-site which were constructed prior to the Coastal Act.

The subject property is a rectangular shaped site with open fields to the southeast and residential development to the west and southwest. The gently to moderately sloping site is located on the east-facing slope of a south-trending ridge on the lower flanks of the Santa Monica Mountains; therefore the general topography slopes to the southeast. Drainage from the property flows overland and down the existing driveway in this southeasterly direction. A five to six foot (5-6') high retaining wall is located along the eastern property line adjacent to West Winding Way and diverts drainage in a lateral manner. The runoff is then conveyed along and across Winding Way eventually reaching Fouquier Creek in Escondido Canyon which outlets at Escondido Beach.

Generally, slope gradients on the property range from 2:1 to 10:1 (horizontal : vertical) with an overall average of 5:1 or twenty percent (20%) descending from the rear yard area to West Winding Way. Locally steeper slope segments are present in the lower yard portion adjacent to Winding Way. In the area of the proposed swimming pool and guesthouse, the property is less sloping, and the slope gradient is approximately 10:1. Overall site relief is approximately fifty-two feet (52'), and the elevation in the level area proposed for the swimming pool is approximately 285 feet. This site is minimally visible from Pacific Coast Highway to the southeast and the Coastal Slope Trail to the northeast. Vegetation on-site is extensive and consists of landscaped lawns and numerous shrubs and trees. There is a large amount of vegetation between the wall along Winding Way and the existing residence which, along with the wall, serves to screen the property from the road.

In order to further mitigate the visual and environmental impact of the proposed development, the Commission finds that it is necessary to require the applicant to submit a deed restriction prohibiting all tennis court lighting, whether temporary or permanent, as specified in **Special Condition Six**. The Commission has found that night lighting of areas in the Malibu / Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. **Special Condition Six**, therefore, will protect the nearby scenic areas from avoidable disturbance that would otherwise be associated with nighttime use of the tennis court.

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. Therefore the Commission finds that, as conditioned, the proposed development is consistent with section 30251 of the Coastal Act.

### C. Hazards

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

*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...*

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

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

The proposed development is located in 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 subject area are the Santa Monica Mountains to the north, Point Dume, the Pacific Ocean (Santa Monica Bay), and various beaches to the south, Ramirez Canyon to the west, and Escondido Canyon to the east. The property is located on a moderately sloping site which descends in an easterly direction to West Winding Way. A moderate amount of grading is proposed for this project, mostly for terracing and excavation work. Surface drainage on-site is currently accomplished via the concrete paved driveway and naturally by sheetflow toward

the engineering geologists have prepared reports addressing the specific geotechnical conditions related to the site.

The applicant's geological consultants have noted that an active landslide is present in the vicinity of the proposed development. The *Preliminary Geologic and Soils Engineering Investigation, Proposed Guest House, Swimming Pool, and Tennis Court, 27801 West Winding Way, Malibu, California*, by Alpine Geotechnical, dated February 6, 1998 states:

***Results of the research of existing reports in the immediate vicinity of the subject property indicate that active landsliding has occurred to the east of this site, at 27725 West Winding Way. This site is located on the other side (east side) of a drainage. Corrective measures of the landslide were reportedly performed. The landslide does not have a direct affect [sic] on the subject property.***

There may also be a potentially active fault present in the vicinity of the subject site:

***The nearest recognized active fault is the Malibu Coast Fault, located approximately 1500 feet north of the site. The Ramirez Fault, which may be potentially active, is located immediately south of the subject property.***

The Alpine Geotechnical report continues:

***Fractures observed were generally randomly oriented, tight, and did not appear to have an affect [sic] on the proposed project. Significant faults, folds or other geologic hazards were not encountered during our exploration. The geologic structure is generally favorably oriented for the site and proposed project.***

Referring to seismicity, the Alpine Geotechnical report states:

***The subject site has no known active or potentially active faults crossing the property. ... Secondary effects, such as earthquake-induced landsliding, liquefaction or ground rupture are not considered likely to occur.***

The Alpine Geotechnical report concludes:

***Based upon the exploration performed for this investigation, it is our finding that construction of the proposed project, as described, is feasible from a geologic and soils engineering standpoint, provided our advice and recommendations are made a part of the plans and are implemented during construction. The subject property is considered a suitable site for the proposed development from a geologic and soils engineering standpoint. It is the opinion of the undersigned that the proposed development will be safe against hazards from landslide, settlement or slippage, and that the proposed grading and development will not have an adverse impact on the geologic stability of the property outside the building site provided our recommendations are followed 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 project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The Commission also requires that new development minimize the risk to life and property in areas of high fire hazard while recognizing that new development may

construction of a second unit on the site where a primary residence is also being built or already exists intensifies the use of a parcel creating potential impacts to public services, such as water, sewage, electricity, and roads. Such development also raises issues regarding maintaining and enhancing public access to the coast.

Based on Coastal Act policies, the Commission has limited the development of second potential dwelling units on residential parcels in the Malibu and Santa Monica Mountains areas. 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 second units, the Commission found that the small size of the units (750 sq. ft.) and the fact that they are likely to be occupied by one or at most two people, 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 (certified *Malibu Santa Monica Mountains Land Use Plan 1986*, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms such as: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; or 2) a guesthouse, with or without separate kitchen facilities. Past Commission actions have consistently found that second units, guesthouses, pool cabanas, maids' quarters and the like have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCPs 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).

As proposed, the 745 sq. ft. second residential unit (guesthouse) conforms to the Commission's past actions allowing a maximum of 750 sq. ft. for a second dwelling unit in the Malibu area. To ensure that no additions or improvements are made to the guest unit that may further intensify the use without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as required by **Special Condition Five**. The Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

## **E. 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,

the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

## **F. 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 City of Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

## **G. California Environmental Quality Act (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**

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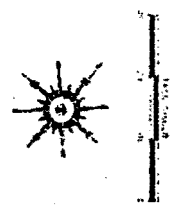


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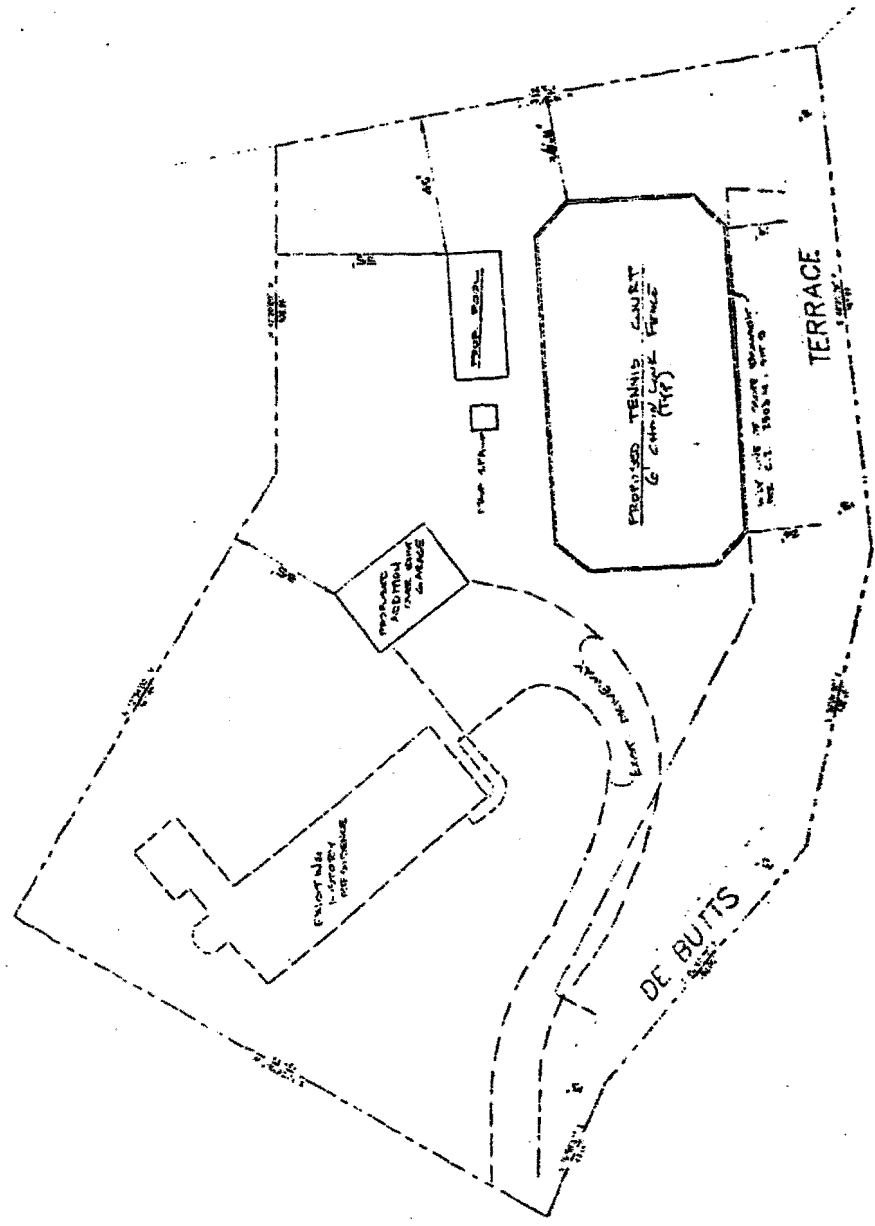
**SITE PLAN**  
 ADDRESS: 27801 WEST WINDING WAY  
 MALIBU, CA  
 A.P.N. 4467-05-021  
 WILLIAM BINDLEY  
 OWNER:

**VPL ENGINEERING, INC.**  
 7625 HAYVENHURST AVE., #16, VAN NUYS, CA 91406  
 (818) 796-3072

DATE	
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RECEIVED  
 MAR 12 1999  
 PLANNING DEPT.



**Exhibit 2**  
**4-99-234 (Bindley)**  
**Site Plan**

**LOT AREA:**  
 TOTAL 1.24 AC  
 NET 1.18 AC

**EARTHWORK:**  
 EXCAVATION 11,000 CU YD  
 FILL 1,000 CU YD  
 TOTAL 12,000 CU YD

**SO. FT. ANALYSIS:**  
 EXISTING 1.24 AC  
 PROPOSED 1.24 AC  
 TOTAL 1.24 AC

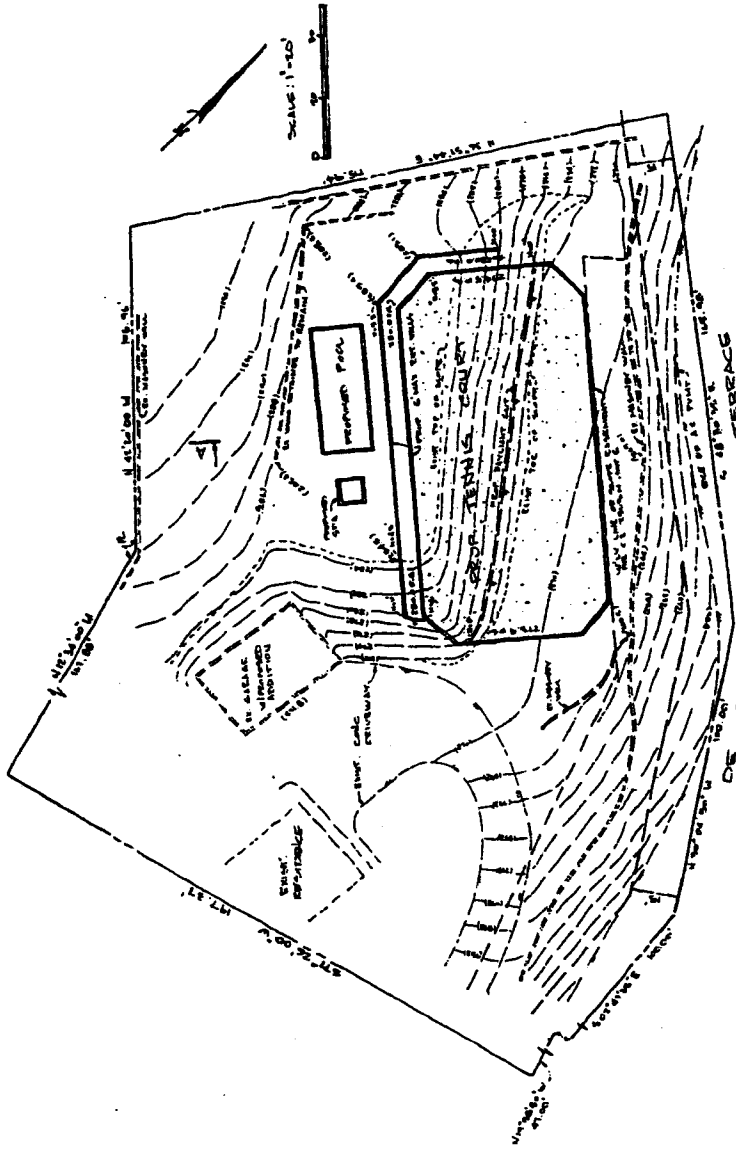
**IMPERMEABLE LOT COVERAGE:**  
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 PROPOSED 1.24 AC  
 TOTAL 1.24 AC

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SCALE	
PROJECT	
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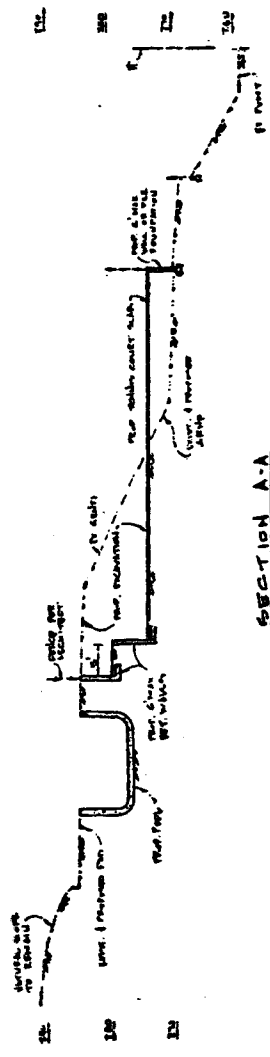
VPL ENGINEERING, INC.  
 7625 HAYWARD AVE. #16, VAN NUYS, CA 91406  
 (818) 786-5072

GRADING PLAN  
 ADDRESS: 27801 WEST WINDING WAY  
 MALIBU, CALIFORNIA  
 A.P. N. 446705-021  
 OWNER: WILLIAM BINDLEY

NO.	
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SECTION A-A  
 SCALE: HORIZ. & VERT. 1"=10'



Exhibit 4  
 4-99-234 (Bindley)  
 Grading Plan