

CALIFORNIA COASTAL COMMISSION

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Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION No. 4-99-274

APPLICANT: Clarence T. Schmitz

AGENT: Goldman Firth Architects

PROJECT LOCATION: 31751 Pacific Coast Highway, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Construction of a new single-story, 17.5 feet above grade, 750 square foot detached guest house, new 1,000 gallon septic tank and seepage pit, 275 square foot outdoor patio with trellis, and 151 cubic yards of grading (cut) on a lot with an existing 8,936 square foot single family residence with attached garage. The proposal also includes retaining 50 cubic yards of excavated earth for landscape purposes, with the remainder to be removed to a location outside of the coastal zone.

Lot Area:	292,800 square feet (6.72 acres)
Building Coverage:	5,350 square feet
Paving Coverage:	15,085 square feet
Height Above Finished Grade:	17.5 feet

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval-In-Concept, December 14, 1999; City of Malibu, Geology Approval, October 28, 1999; and City of Malibu Environmental Health, In-Concept Approval, November 18, 1999.

SUBSTANTIVE FILE DOCUMENTS: "Change of Consultant and Update Report, Proposed Guesthouse," GeoConcepts, Inc., December 21, 1999; "Update Engineering Geologic Report," Mountain Geology, Inc., April 14, 1997; "Geotechnical Updated Report," Coastline Geotechnical Consultants, Inc., April 11, 1997; "Addendum Soils Report," Coastline Geotechnical Consultants, Inc., March 7, 1994; "Progress Compaction Report - Proposed Residence and Guest House," Coastline Geotechnical Consultants, Inc., December 22, 1993; "Addendum Engineering Geologic Report, Proposed Residence and Guest House," Mountain Geology, Inc., February 26, 1991; "Geologic Review Sheet," Los Angeles County Department of Public Works, January

29, 1991; "Log of Seepage Pit Excavation, Proposed Residential Development," Mountain Geology, Inc., January 14, 1991; "Preliminary Seismic Hazard and Engineering Geologic Investigation," Mountain Geology, Inc., May 3, 1990; "Soils Investigation, Two Proposed Residences," Coastline Geotechnical Consultants, Inc., June 15, 1990; Coastal Development Permit 5-90-1138 (PCHD Co., Inc.); Coastal Development Permit 5-90-1138-A (PCHD Co., Inc.); and the certified Malibu Santa Monica Mountains Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends **approval** of the proposed project with six (6) special conditions regarding geologic recommendations, landscape and erosion control, removal of excavated material, wildfire waiver of liability, color restriction, and future improvements.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-99-274 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed within a reasonable period of time. Application for an extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided that the assignee files with the Commission an affidavit accepting all of the terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Plans Conforming to Geologists' and Engineers' Recommendations

All recommendations contained in the submitted geologic engineering reports prepared by GeoConcepts, Inc., Mountain Geology, Inc., and Coastline Geotechnical Consultants, Inc., relating to grading, foundation, and drainage shall be incorporated into all final project plans, designs, and construction. All plans must be reviewed and approved by the consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting engineers' and geologists' stamps and signatures to the final project plans and designs.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, foundation, grading, and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal development permit. The Executive Director shall determine whether required changes are "substantial."

2. Landscape Plan

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

A) Landscaping Plan

- 1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within 60 days of receipt of the certificate of occupancy for the guest house. To minimize the need for irrigation, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. The plan shall include vertical elements, such as trees and shrubs, which partially screen the appearance of the proposed structure, as viewed from the Pacific Coast Highway;
- 2) All cut and fill slopes shall be stabilized with planting at the completion of construction activities. 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 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- 3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- 5) Vegetation within 50 feet of the proposed guest house may be removed to mineral earth and vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such 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 Forestry Department of Los Angeles County. Irrigated lawn, turf, and ground cover planted within the 50 foot radius of the proposed guest house shall be selected from the most drought

tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B) Interim Erosion Control Plan

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas, and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that should grading or 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 graded or 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 through out the development process to minimize erosion and sediment from runoff waters during grading and 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, construction, or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled material, access roads, disturbed soils and slopes with geotextiles and/or mats, sand bag barriers, silt fencing, temporary drains, swales, and sediment basins. The plans shall also specify that all graded and 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 construction operations resume.

C) Monitoring

Five (5) years from the date of the receipt of the Certificate of Occupancy for the guest house, the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate

those portions of the original plan that have failed or are not in conformance with the original approved plan.

3. Removal of Excavated Material

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

4. Wildfire Waiver of Liability

Prior to the issuance of a coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

5. Color Restriction

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

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, that reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

6. Future Development Deed Restriction

This permit is only for the development described in Coastal Development Permit No. 4-99-274. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the proposed guest house. Accordingly, any future improvements to the second residential unit (guest house) structure, including but not limited to clearing of vegetation, other than as provided for in the approved fuel modification, landscaping, and erosion control plans prepared pursuant to **Special Condition Number Two (2)**, shall require an amendment to Permit No. 4-99-274 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a new single-story, 17.5 feet above grade, 750 square foot detached guest house, new 1,000 gallon septic tank and seepage pit, 275 square foot outdoor patio with trellis, and 151 cubic yards of grading (cut) on a lot with an existing 8,936 square foot single family residence with attached garage. The proposal also includes retaining 50 cubic yards of excavated earth for landscape purposes, with the remainder to be removed to a location outside of the coastal zone.

The subject property is a rectangularly shaped parcel, located on the extreme southern flank of the Santa Monica Mountains in the City of Malibu, Los Angeles County. The site is located west of Trancas Canyon Road, East of Encinal Canyon Road, and north and adjacent to the Pacific Coast Highway in a sparsely developed beachside neighborhood. From the Pacific Coast Highway, the parcel ascends at approximately 5:1 (horizontal: vertical) for about 500 feet. The prominent geomorphic features in the area include Encinal Canyon to the west, Steep Hill Canyon to the east, a marine terrace on which the property is situated, and Lechuza Beach to the south below the Pacific Coast Highway. The subject property is highly visible from the Pacific Coast Highway, although it is not visible from nearby beaches.

The subject site is currently occupied by a two-story single family residence, located on the northern end of the property, which was constructed pursuant to Coastal Development Permit (CDP) 5-90-1138 (PCHD Co., Inc.). In 1997, PCHD Co., Inc. received an amendment to CDP 5-90-1138, which permitted the construction of an entry gate and a fence along the southern and eastern property lines of the site. Although a 750 square foot guest house was originally proposed under the application for CDP 5-90-1138, the applicant ultimately chose not to build the guest house structure under that permit and the guest house was taken out of the project prior to the approval of CDP 5-90-1138. The proposed guest house will be located approximately 90 feet to the south of the eastern most portion of the existing single family residence on an existing level area with a lawn and pathway.

Regional geologic maps and geologic investigations have indicated that traces of the Malibu Coast Fault traverse portions of the subject site. Although the Malibu Coast Fault had been, until recently, classified as being potentially active, recent seismic investigations in the Malibu area suggest that splays of the Malibu Coast Fault may, in fact, be active. Due to the mapping of these fault splays on the property, two geologic restricted use areas were established within the northern and southern portions of the subject site. Additional seismic hazards to the site include offshore splays of the Malibu Coast Fault Zone, the Newport-Inglewood Fault located approximately 28 miles to the east, and the San Andreas Fault Zone located approximately 50 miles to the northeast. Both the existing single family residence and the proposed guest house are located outside of the two geologic restricted use areas on the subject site.

B. Hazards

The proposed development is located in the Malibu/Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

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

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.**
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.**

The applicant has submitted a geotechnical report entitled "Preliminary Seismic Hazard and Engineering Geologic Investigation," prepared by Mountain Geology, Inc., dated May 3, 1990, evaluating the geologic stability of the proposed development. The report incorporates numerous recommendations regarding construction, foundation, and drainage, and states that:

"Based upon our investigation, the proposed development is free from geologic hazards such as landslides, slippage, active faults, and undue differential settlement provided the recommendations of the engineering geologist and geotechnical engineer are complied with during construction."

The applicant has also submitted a geologic report entitled, "Soils Investigation, Two Proposed Residences," prepared by Coastline Geotechnical Consultants, Inc., dated June 15, 1990, also evaluating the geologic stability of the proposed development. The report incorporates numerous recommendations regarding construction, foundations, and drainage, and states that:

"Based on the findings summarized in this report, and provided the recommendations of this report are followed, and the designs, construction, and grading are adequately and properly executed, it is our opinion that construction within the building site would not be subject to geotechnical hazards from landslides, slippage, or excessive settlement. Further, it is our opinion that the proposed building and anticipated site grading would not adversely effect the stability of this site, nor adjacent properties, with the same provisos listed above."

In their report entitled "Change of Consultant and Update Report, Proposed Guesthouse," dated December 21, 1999, GeoConcepts, Inc. state that they have reviewed the previous reports of Mountain Geology, Inc. and Coastline Geotechnical Consultants, Inc., including the two reports cited above. GeoConcepts, Inc. states in this report that those reports "were reviewed and the geologic and soils engineering recommendations are agreed to and accepted by GeoConcepts, Inc. for the proposed project."

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

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

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

Further, the Commission also notes that the applicant proposes 151 cubic yards of new cut grading. Although the applicant proposes to retain 50 cubic yards of the excess cut material for landscape purposes, there will be approximately 101 cubic yards 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 excess excavated material were to be retained on site. In order to ensure that the excess excavated material will not be stockpiled on site and that landform alteration is minimized, **Special Condition Number Three (3)** requires the applicant to remove the excess excavated material, approximately 101 cubic yards, from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

Wildfire Waiver

The proposed project is located near the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wildfire. The typical vegetation in the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wildfires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition Number Four (4)**, the wildfire waiver of liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of **Special Condition Number Four (4)**, the applicant also agrees to indemnify the Commission, its officers, agents, and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

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

C. Visual Impacts

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

Section 30251 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.

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

Policy 125 of the certified LUP states that:

New development shall be sited and designed to protect public views from LCP-designated scenic highways, to and along the shoreline, and to scenic coastal areas, including public parklands . . .

Policy 129 of the certified LUP states that:

Structures shall be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment . . .

Policy 130 of the certified LUP states that:

In highly scenic areas and along scenic highways, new development . . . shall be sited and designed to protect views to and along the ocean and to and along other scenic features, . . . minimize the alteration of natural land forms, . . . conceal raw-cut slopes, be visually compatible with and subordinate to the character of its setting, [and not] intrude into the skyline as seen from public viewing places . . .

Policy 134 of the certified LUP states that:

Structures shall be sited to conform to the natural topography, as feasible.

As stated above, the applicant proposes to construct a new single-story, 17.5 feet above grade, 750 square foot detached guest house, new 1,000 gallon septic tank and seepage pit, 275 square foot outdoor patio with trellis, and 151 cubic yards of grading (cut) on a lot with an existing 8,936 square foot single family residence with attached garage.

The building site for the project is a large 6.72 acre parcel located on the north side of the Pacific Coast Highway. The subject site consists of a partially graded, gently sloping hillside parcel located on the extreme southern flank of the Santa Monica Mountains on a coastal terrace. The guest house will be highly visible from the Pacific Coast Highway, as is the existing single family residence. The subject site is not visible from the nearby beaches to the south, however. The project site is situated within a

sparsely developed beachside neighborhood consisting of similarly sized single family residences. The proposed project, therefore, will be consistent with the character of the surrounding area. Furthermore, minimal grading is proposed, since the guest house will be situated on an existing level area located approximately 90 feet from the existing single family residence. The only grading required for the proposed guest house is 151 cubic yards of cut, which will serve to lower the level building area by approximately one and a half feet. Although the applicant is proposing to utilize 50 cubic yards of the excess cut material for landscaping purposes, the remaining 101 cubic yards will be removed to an appropriate offsite location, pursuant to **Special Condition Number Three (3)**, which will further minimizing landform alteration.

Due to the highly visible nature of the project as seen from the Pacific Coast Highway, however, the Commission finds it necessary to require mitigation measures to minimize visual impacts as seen from a scenic public resource. Requiring the guest house to be finished in a color consistent with the surrounding natural landscape and, further, that the windows of the proposed structure be of a non-reflective nature, can mitigate the impact on public views. To ensure that any visual impacts associated with the colors of the structure and potential glare of the window glass are minimized, the Commission finds it necessary to require the applicant to use colors compatible with the surrounding environment and non-glare glass, as required by **Special Condition Number Five (5)**.

In addition, future developments or improvements to the property have the potential to create significant adverse visual impacts, as seen from the Pacific Coast Highway. It is necessary to ensure that all future developments or improvements of this structure be reviewed by the Commission for compliance with the visual resource protection policies of the Coastal Act. **Special Condition Number Six (6)**, the future improvements deed restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act.

Additionally, requiring the area surrounding the guest house to be adequately landscaped can also mitigate visual impacts. The landscaping should consist of primarily native, drought resistant plant species and be designed to minimize and control erosion, as well as partially screen and soften the visual impact of the structure from the Pacific Coast Highway with vertical elements such as trees and shrubs. Furthermore, the fuel modification plan will be designed to reduce negative visual impacts from vegetation clearance. Therefore, the Commission finds that it is necessary to require the applicant to submit a landscape plan, as specified in **Special Condition Number Two (2)**.

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

D. Cumulative Impacts

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

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

Section 30252 of the Coastal Act states that:

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

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

Based on these policies, the Commission has limited the development of second dwelling units (including guest houses) on residential parcels in the Malibu and Santa Monica Mountain areas. The issue of second units on lots with primary residences has been the subject of past Commission action in the certification of the Santa Monica Mountains/Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 square feet) 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 square feet) and the fact that they are likely to be occupied by one, or at most two, people would cause such units to have less of an impact on the limited capacity of the Pacific Coast Highway and other roads (including 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 Commission has also raised the second unit issue with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different functions, which in large part consist of: 1) a second unit with kitchen facilities, such as a granny unit, caretaker's unit, or farm labor unit; and 2) a guest house, without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. As such, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act (certified Malibu/Santa Monica Mountains Land Use Plan, 1986, page 29). Therefore, as a result, the Commission has found that guest houses, pool cabanas, second units, or maid's quarters can intensify the use of a site and impact public services, such as water, sewage, electricity, and roads.

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

The Commission has approved many similar projects that have established a maximum size of 750 square feet of habitable space for development that may be considered a secondary dwelling unit. The proposed guest house is considered a second residential unit. To ensure that no additions or improvements are made to the proposed guest house that may further intensify the use without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction, which will require the applicant to obtain an amended or new coastal development permit if additions or improvements to the guest house are proposed in the future, as required by **Special Condition Six (6)**.

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

E. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

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

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

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

The applicant proposes to construct a new 1,000 gallon septic tank and disposal system to service the proposed guest house, as shown on the plans that received in-concept approval from the City of Malibu, Environmental Health Department. The existing single family residence is already serviced by a 1,500 gallon septic system. This conceptual approval by the City indicates that the sewage disposal systems for the project in this application comply with all minimum requirements of the Uniform Plumbing Code.

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

F. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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

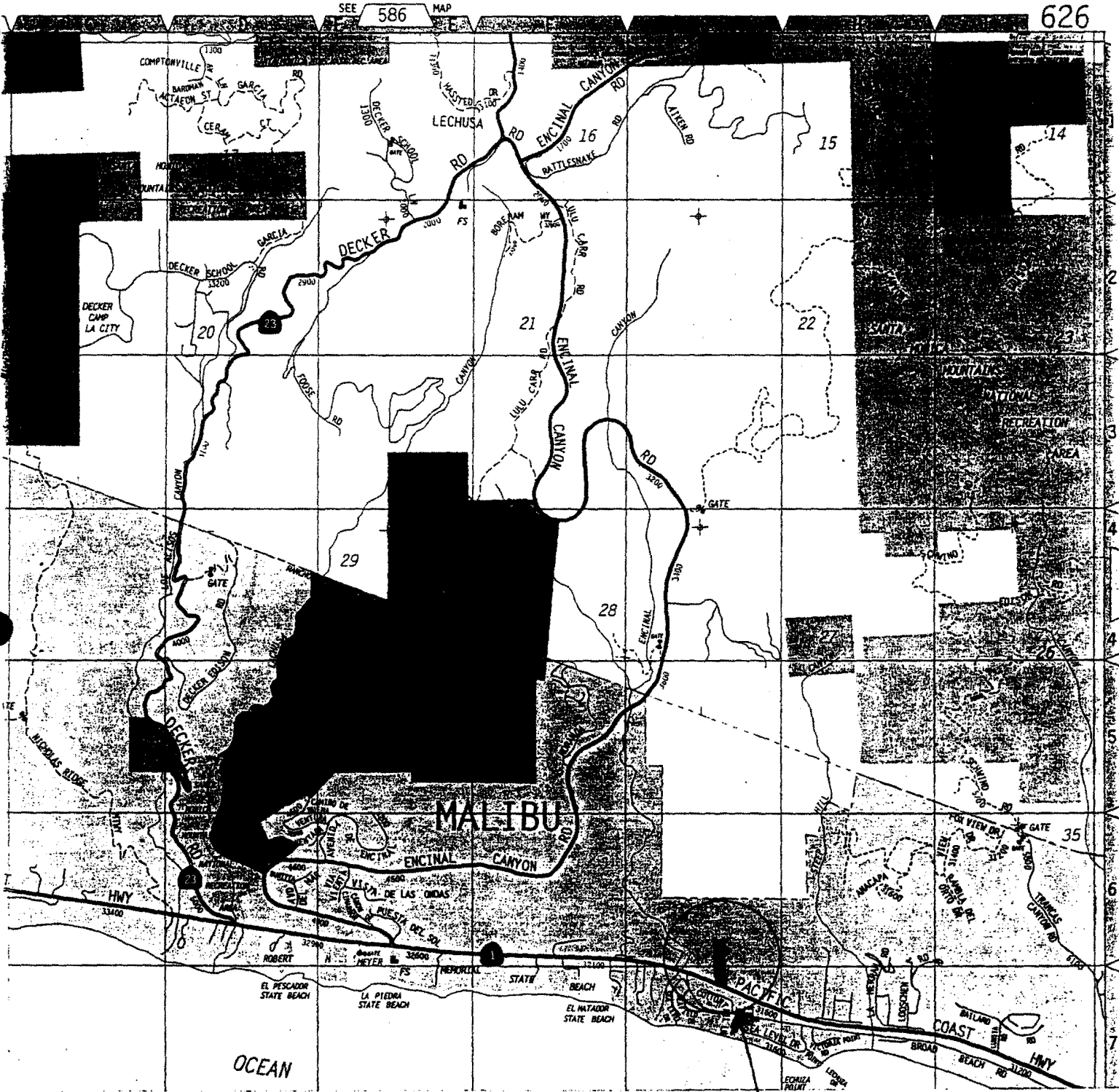
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 of the Coastal Act, 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 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 Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

G. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if

there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity would have on the environment.

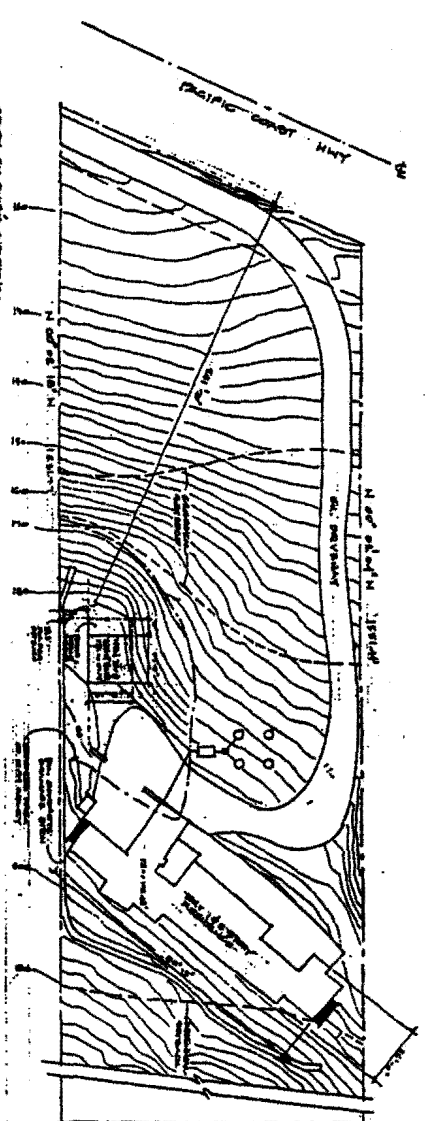
The proposed project, as conditioned, will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is consistent with CEQA and the policies of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



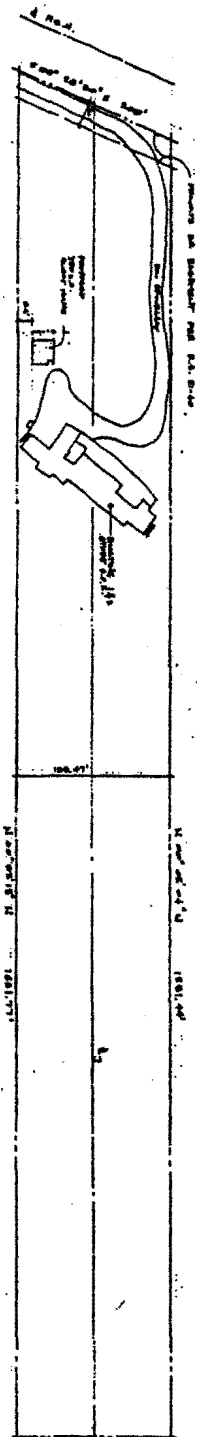
Vicinity Map
 31751 Pacific Coast Highway
 Malibu, CA 90265

PROJECT SITE

EXHIBIT 1
 CDP 4-99-274 (Schmitz)
 Location Map



SITE PLAN - GENERAL INFORMATION



SITE PLAN - SCALE 1/4\"/>

- SHEET INDEX**
- A1 SITE PLAN - GENERAL INFO
 - A2 PROJECT DATA
 - A3 DEVELOPMENT STANDARDS
 - A4 VARIATION
 - A5 VARIATION
 - A6 VARIATION
 - A7 VARIATION
 - A8 VARIATION
 - A9 VARIATION
 - A10 VARIATION

PROJECT DATA

ONE STORY GUEST HOUSE
750 S.

OWNER:
CLARENCE T. SCHMITZ
51751 PACIFIC COAST HWY
MALIBU, CA
TEL: 310-457-5100

LEGAL DESCRIPTION:
Parcel 4 of an unrecorded survey
Block 51, Page 40

OCCUPANCY: R10

CONSTRUCTION: TYPE V

DEVELOPMENT STANDARDS

SITE AREA: 6.72 ACRES

MAXIMUM SIZE: 4,312 SQ. FT.

MAXIMUM HEIGHT: 75' 0"

MAXIMUM SETBACK: 1,000' 0"

MAXIMUM DISTANCE TO ADJACENT PROPERTY: 1,000' 0"

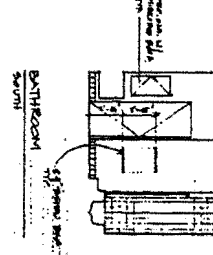
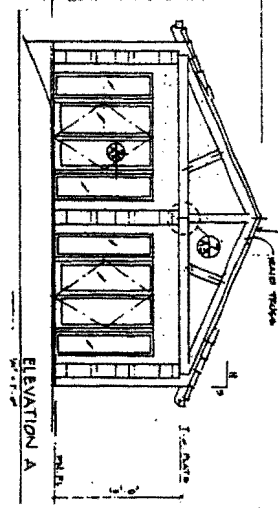
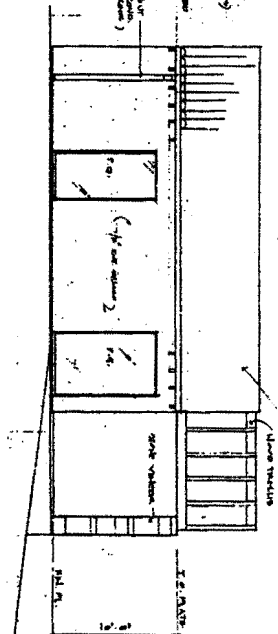
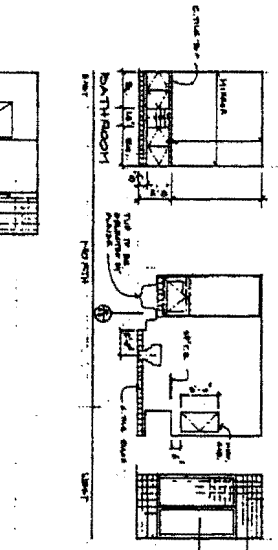
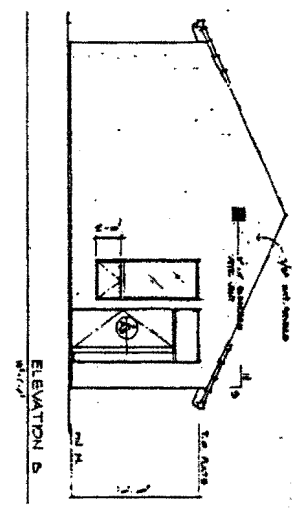
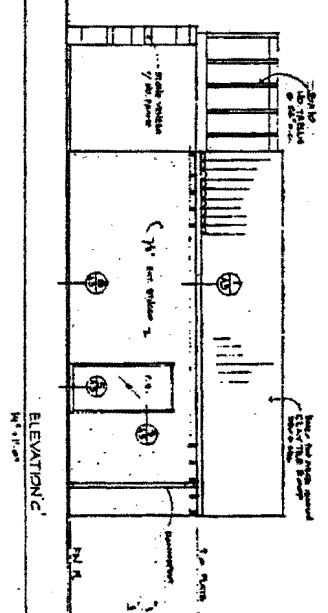
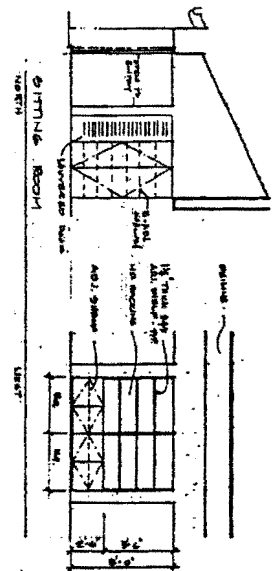
MAXIMUM DISTANCE TO HIGHWAY: 1,000' 0"

MAXIMUM DISTANCE TO WATER: 1,000' 0"

MAXIMUM DISTANCE TO AIRPORT: 1,000' 0"

VICINITY MAP

NO.	DESCRIPTION	DATE	BY
1	SITE PLAN, GENERAL INFO.		
2	SCHMITZ GUEST HOUSE		
3	SITE 51751 PACIFIC COAST HWY MALIBU		

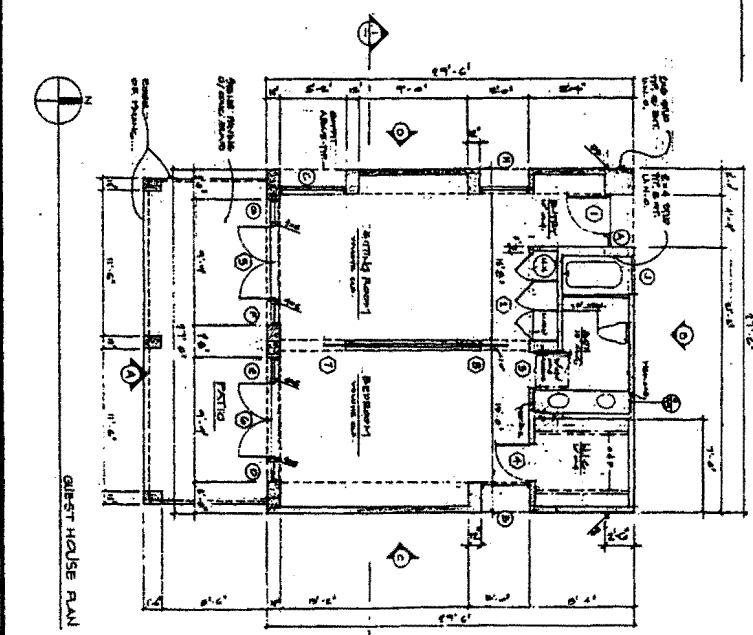
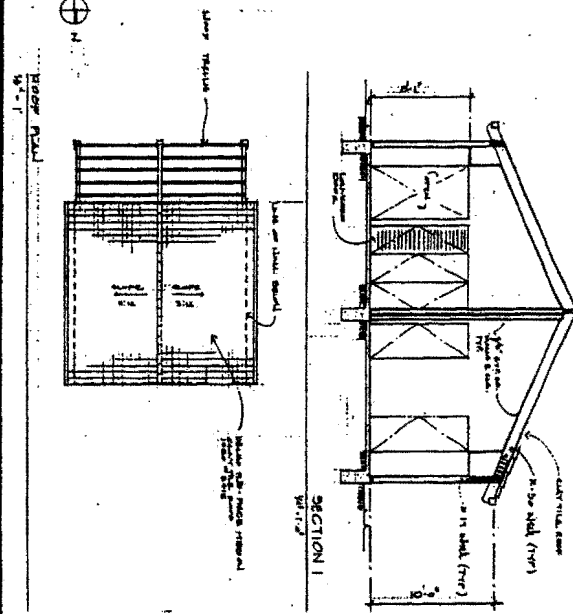


DOOR SCHEDULE

NO.	DESCRIPTION	FINISH	REMARKS
1	1/2\"	WOOD	
2	1/2\"	WOOD	
3	1/2\"	WOOD	
4	1/2\"	WOOD	
5	1/2\"	WOOD	
6	1/2\"	WOOD	
7	1/2\"	WOOD	
8	1/2\"	WOOD	
9	1/2\"	WOOD	
10	1/2\"	WOOD	
11	1/2\"	WOOD	
12	1/2\"	WOOD	
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14	1/2\"	WOOD	
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25	1/2\"	WOOD	
26	1/2\"	WOOD	
27	1/2\"	WOOD	
28	1/2\"	WOOD	
29	1/2\"	WOOD	
30	1/2\"	WOOD	

WINDOW SCHEDULE

NO.	DESCRIPTION	FINISH	REMARKS
1	1/2\"	WOOD	
2	1/2\"	WOOD	
3	1/2\"	WOOD	
4	1/2\"	WOOD	
5	1/2\"	WOOD	
6	1/2\"	WOOD	
7	1/2\"	WOOD	
8	1/2\"	WOOD	
9	1/2\"	WOOD	
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29	1/2\"	WOOD	
30	1/2\"	WOOD	

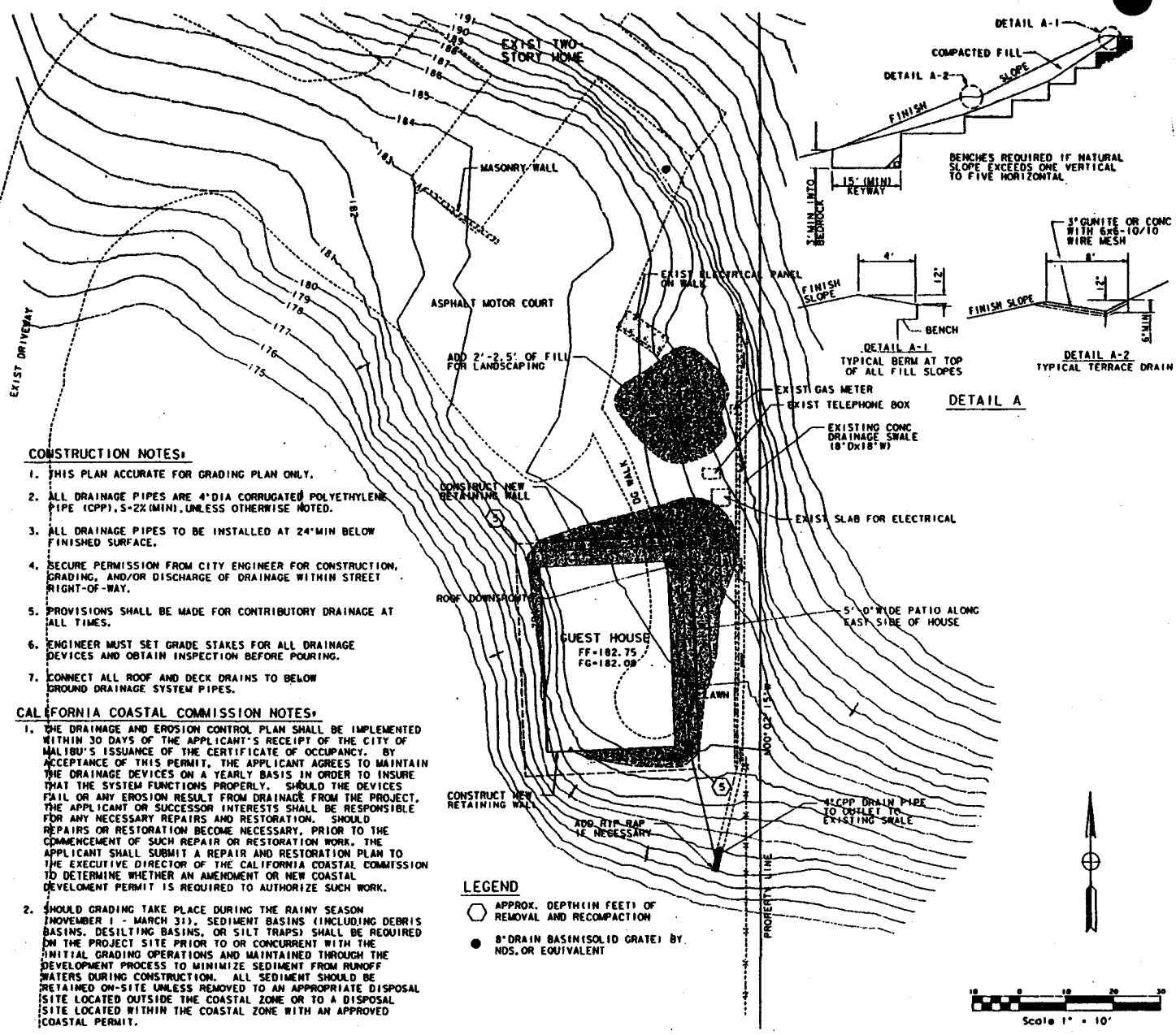


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CALCULATED BY: DATE REVISIONS BY: MC 11/98
 CHECKED BY: GDR 11/98 DATE REVISIONS

PROJECT ENGINEER

PROPERTY LINE N00°02'04"W



CONSTRUCTION NOTES:

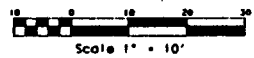
1. THIS PLAN ACCURATE FOR GRADING PLAN ONLY.
2. ALL DRAINAGE PIPES ARE 4" DIA CORRUGATED POLYETHYLENE PIPE (CPP), 5'-2X(MIN), UNLESS OTHERWISE NOTED.
3. ALL DRAINAGE PIPES TO BE INSTALLED AT 24" MIN BELOW FINISHED SURFACE.
4. SECURE PERMISSION FROM CITY ENGINEER FOR CONSTRUCTION, GRADING, AND/OR DISCHARGE OF DRAINAGE WITHIN STREET RIGHT-OF-WAY.
5. PROVISIONS SHALL BE MADE FOR CONTRIBUTORY DRAINAGE AT ALL TIMES.
6. ENGINEER MUST SET GRADE STAKES FOR ALL DRAINAGE DEVICES AND OBTAIN INSPECTION BEFORE POURING.
7. CONNECT ALL ROOF AND DECK DRAINS TO BELOW GROUND DRAINAGE SYSTEM PIPES.

CALIFORNIA COASTAL COMMISSION NOTES:

1. THE DRAINAGE AND EROSION CONTROL PLAN SHALL BE IMPLEMENTED WITHIN 30 DAYS OF THE APPLICANT'S RECEIPT OF THE CITY OF MALIBU'S ISSUANCE OF THE CERTIFICATE OF OCCUPANCY. BY ACCEPTANCE OF THIS PERMIT, THE APPLICANT AGREES TO MAINTAIN THE DRAINAGE DEVICES ON A YEARLY BASIS IN ORDER TO INSURE THAT THE SYSTEM FUNCTIONS PROPERLY. SHOULD THE DEVICES FAIL OR ANY EROSION RESULT FROM DRAINAGE FROM THE PROJECT, THE APPLICANT OR SUCCESSOR INTERESTS SHALL BE RESPONSIBLE FOR ANY NECESSARY REPAIRS AND RESTORATION. 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 OF THE CALIFORNIA COASTAL COMMISSION TO DETERMINE WHETHER AN AMENDMENT OR NEW COASTAL DEVELOPMENT PERMIT IS REQUIRED TO AUTHORIZE SUCH WORK.
2. SHOULD GRADING TAKE PLACE DURING THE RAINY SEASON (NOVEMBER 1 - MARCH 31), SEDIMENT BASINS (INCLUDING DEBRIS BASINS, DESILTING BASINS, OR SILT TRAPS) SHALL BE REQUIRED ON THE PROJECT SITE PRIOR TO OR CONCURRENT WITH THE INITIAL GRADING OPERATIONS AND MAINTAINED THROUGH THE DEVELOPMENT PROCESS TO MINIMIZE SEDIMENT FROM RUNOFF WATERS DURING CONSTRUCTION. ALL SEDIMENT SHOULD BE RETAINED ON-SITE UNLESS REMOVED TO AN APPROPRIATE DISPOSAL SITE LOCATED OUTSIDE THE COASTAL ZONE OR TO A DISPOSAL SITE LOCATED WITHIN THE COASTAL ZONE WITH AN APPROVED COASTAL PERMIT.

LEGEND

- APPROX. DEPTH (IN FEET) OF REMOVAL AND RECOMPACTION
- 8" DRAIN BASIN (SOLID GRATE) BY NDS, OR EQUIVALENT



PLANS PREPARED BY



PROJECT: GUEST HOUSE CONSTRUCTION	CITY ENGINEER
DATE: 11/2/98	CITY ENGINEER
DRAWN BY: GDR	CITY ARCHITECT
CHECKED BY: GDR	CITY ARCHITECT
SHEET NO. C-2	

EXHIBIT 4

CDP 4-99-274 (Schmitz)

Grading Plan

GUEST HOUSE SHEET 2 OF 2 SHEETS PLAN CHECK

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20

FOR REDUCED PLANS ORIGINAL SCALE 1/8" = 1"