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CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
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Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-00-016

APPLICANT: Michael Sitrick **AGENT:** Archwest Developments, Inc.

PROJECT LOCATION: 30962 Broad Beach Road, Malibu, Los Angeles County.

PROJECT DESCRIPTION: Demolition of an existing two-story single family residence and construction of a new two-story, 27.5 ft. high, 6,121 sq. ft. single family residence with an attached garage, new driveway, decks, spa, and alternative sewage disposal system. No grading is proposed. In addition, the project includes an offer to dedicate a lateral public access easement over the southern beachfront portion of the site as measured from the mean high tide line landward to the ambulatory seawardmost limit of dune vegetation, an open space deed restriction over the portion of the site located between the deck stringline and the ambulatory seawardmost limit of dune vegetation, and restoration of the existing dune system

Lot area:	15,903 sq. ft.
Building coverage:	3,792 sq. ft.
Paved coverage:	1,650 sq. ft.
Landscaped/unimproved:	10,461 sq. ft.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department Approval-In-Concept 1/13/00; City of Malibu Department of Environmental Health In-Concept Approval for alternative private sewage disposal system 12/27/99; City of Malibu Geology and Geotechnical Engineering Review Approval In-Concept 12/9/99; City of Malibu Coastal Engineering Review Sheet 1/7/00; City of Malibu Biological Review 12/10/99.

SUBSTANTIVE FILE DOCUMENTS: Coastal Engineering Report prepared by David C. Weiss dated 10/1/99; Soils and Engineering-Geologic Investigation prepared by GeoSystems dated 10/21/99; County of Los Angeles Malibu/Santa Monica Mountains Land Use Plan (LUP), Coastal Development Permit 4-99-153 (Ioki Partners).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with 9 Special Conditions regarding 1) Geologic Recommendations, 2) Drainage and Polluted Runoff Control, 3) Landscaping/Dune Restoration Plan, 4) Construction Responsibilities and Debris Removal, 5) Sign Restriction, 6) Offer to Dedicate Lateral Public Access, 7) Assumption of Risk, 8) Open Space Deed Restriction, and 9) No Future Shoreline Protective Device.

The applicant is proposing to demolish an existing two-story single family residence and construction of a new two-story, 27.5 ft. high, 6,121 sq. ft. single family residence with an attached garage, new driveway, decks, spa, and alternative sewage disposal system. No grading is proposed. The project also includes an offer to dedicate a lateral public access easement over the southern beachfront portion of the site as measured from the mean high tide line landward to the ambulatory seawardmost limit of dune vegetation, an offer to record an open space deed restriction over the portion of the site located between the deckstringline and the ambulatory seawardmost limit of dune vegetation, and the restoration of an existing dune system.

The project site is located on a 15,903 sq. ft. beachfront parcel of land on Broad Beach, between Broad Beach Road and the Pacific Ocean. The subject site is currently developed with a two-story single family residence, driveway, and beachfront patio extending from the residence over the sandy beach to an existing dune system. All existing development on site is to be demolished and a new two-story single family residence is to be constructed in the same general location at the site. A vegetated dune system is located along the southern beachfront portion of the subject site, which is designated as environmentally sensitive habitat area (ESHA) by the previously certified County of Los Angeles Malibu/Santa Monica Mountains Land Use Plan (LUP). The applicant is proposing an open space deed restriction over that portion of the site containing the dune system and restoration of the existing ESHA.

The proposed project will be constructed landward of the appropriate building and deck stringlines for the project site and therefore, the project will not result in seaward encroachment of development on Broad Beach. All proposed development including the residence, decks, and attached garage will be constructed on a caisson/grade beam foundation designed at an elevation above the maximum design wave profile between 14.0' M.S.L. and 14.5' M.S.L. No shoreline protective device is proposed as part of the development and the applicant's coastal engineering consultant has indicated that no such protection is required for the proposed residence or private sewage disposal system. The project site is located approximately 800 ft. east (down coast) of the nearest vertical public accessway to Broad Beach, and the applicant is offering to dedicate a lateral public access easement over the southern beachfront portion of the site as measured from the mean high tide line landward to the ambulatory seawardmost limit of dune vegetation.

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. **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 term or 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 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. Geologic Recommendations

All recommendations contained in the Soils and Engineering-Geologic Investigation Report by GeoSystems dated 10/21/99; and the Coastal Engineering Report by David C. Weiss dated 10/01/99 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 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 the 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 form 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.

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 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 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 Dune Habitat Restoration Plan

Prior to issuance of a coastal development permit, the applicant shall submit a landscaping, erosion control, and dune habitat restoration plan, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping, erosion control, and dune habitat restoration program shall be reviewed and approved by a consulting 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) The portion of the subject site that is not sandy beach (or subject to wave action) shall be planted within (60) days of receipt of the certificate of occupancy for the residence. 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. 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) All existing 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. Dune Habitat Restoration Plan

All invasive and non-native plant species shall be removed from the dune habitat restoration area as generally shown on Exhibit 5. The dune habitat restoration area shall be revegetated with native plant species appropriate to beach dune vegetation communities. The restoration plan shall also clearly delineate a foot path of no more than 3 ft. in width (sand surface only) for beach access through the dune system by the applicant in order to minimize disturbance to the dune system. The plan shall specify the preferable time of year to carry out the restoration and describe the supplemental watering requirements that will be necessary. The plan shall also specify specific performance standards to judge the success of the enhancement effort. The performance standards shall incorporate ground coverage and survival rates typical to dune vegetation habitat areas.

C. Monitoring

(1) The applicant shall submit, for the review and approval of the Executive Director, a five (5) year Landscape, Erosion Control, and Dune Habitat Restoration Monitoring Program, prepared by an environmental resource specialist, which outlines dune 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 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 sites 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 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 dune restoration program shall be processed as an amendment to this Coastal Development Permit.

4. Construction Responsibilities and Debris Removal

The applicant shall, by accepting this permit, agree: a) that no stockpiling of dirt shall occur on the beach; b) that all grading shall be properly covered and sand bags and/or ditches shall be used to prevent runoff and siltation; and, c) that measures to control erosion must be implemented at the end of each day's work. In addition, no machinery will be allowed in the intertidal zone at any time. The permittee shall remove from the beach any and all debris that result from the construction period.

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 dump site be located in the Coastal Zone, a Coastal Development Permit shall be required.

5. Sign Restriction

No signs shall be posted on the property subject to this permit which (a) explicitly or implicitly indicate that the portion of the beach on the subject site, (Assessor's Parcel Numbers 4470-014-002), located seaward of the residence and decks permitted in this application 4-00-016 is private or (b) contain similar messages that attempt to prohibit public use of this portion of the beach. Signs limiting public access within that portion of the site designated as environmentally sensitive dune habitat buffer, consistent with Special Condition 6, may be allowed if a separate coastal development permit is obtained. In no instance shall signs be posted which read "*Private Beach*" or "*Private Property.*" In order to effectuate the above prohibitions, the permittee/landowner is required to submit to the Executive Director for review and approval prior to posting the content of any proposed signs.

6. Offer to Dedicate Lateral Public Access and Declaration of Restrictions

In order to implement the applicant's proposal of an offer to dedicate an easement for lateral public access and passive recreational use along the shoreline as part of this project, the applicant agrees to complete the following prior to issuance of the permit: the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easement shall be located along the entire width of the property from the ambulatory mean high tide linelandward to the ambulatory seawardmost limit of dune vegetation on the subject site as generally illustrated on the site plan prepared by Archwest Developments, Inc (Exhibit 5). If at some time in the future, there is no dune vegetation seaward of the dripline of the deck, such easement shall be located along the entire width of the property from the ambulatory mean high tideline landward to the dripline of the deck. It is recognized that both the mean high tide line and the seaward limit of the dune system/vegetation on the subject site are ambulatory in nature and that, therefore, the area of beach subject to this offer to dedicate a lateral public access easement is also ambulatory in nature.

The document shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions and a map of both the applicant's entire parcel and the easement area. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

7. Assumption of Risk/Shoreline Protection

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, flooding, and

wildfire; (ii) 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; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) 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.

8. Open Space Deed Restriction

A. No development, as defined in section 30106 of the Coastal Act, with the exception of dune habitat restoration, shall occur within the area of the subject site located between the dripline of the deck and the ambulatory seawardmost limit of dune vegetation as generally shown on the site plan prepared by Archwest Developments, Inc. (Exhibit 5). It is recognized that the seaward limit of the dune system and dune vegetation on the subject site is ambulatory in nature and that, therefore, the seaward extent of the area subject to this deed restriction is also ambulatory in nature. This deed restriction shall in no way be interpreted to limit or restrict the area of beach available for lateral public access consistent with Special Condition 6.

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, reflecting the above restriction on development in the designated open space. The deed restriction shall include legal descriptions and a map of both the applicant's entire parcel and the open space area. 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.

9. No Future Shoreline Protective Device

A. By acceptance of the permit, the applicant agrees, on behalf of itself and all successors and assignees, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit 4-00-016 including, but not limited to, the construction of the residence, garage, driveway/patios, septic system and any other future improvements in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, 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 devices 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, driveway/patio areas, 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 Coastal Development Permit 4-00-016, 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(s). 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 is proposing the demolition of an existing two-story single family residence and construction of a new two-story, 27.5 ft. high, 6,121 sq. ft. single family residence with an attached garage, new driveway, decks, spa, and alternative sewage disposal system (Exhibit 5). No grading is proposed. In addition, the proposed project includes an offer to dedicate a lateral public access easement over the southern beachfront portion of the site as measured from the mean high tide line landward to the ambulatory seawardmost limit of dune vegetation, an offer to record an open space deed restriction over the portion of the site located between the deck stringline and the ambulatory seawardmost limit of dune vegetation, and the restoration of an existing dune system.

The project site is a 15,903 sq. ft. beachfront parcel of land located on Broad Beach, between Broad Beach Road and the Pacific Ocean (Exhibit 1,2). The project site is accessed from Broad Beach Road via a private driveway approximately 0.3 miles west of the intersection of Broad Beach Road with Pacific Coast Highway. The subject parcel is currently developed with a two-story single family residence with an attached garage, driveway, and beachfront patio, all to be demolished (Exhibit 4). The project site generally descends south from Broad Beach Road approximately 18 ft. to the Pacific Ocean, however the location for the proposed residence occurs in a local depression of the subject property between Broad Beach Road and a natural

dune system on the beach. All proposed development including the residence, decks, and garage will be constructed entirely on a caisson/grade beam foundation designed at an elevation above the maximum design wave profile between 14.0' M.S.L. and 14.5' M.S.L. and no shoreline protective device is proposed.

A vegetated dune system extending across the southern beachfront portion of the site is designated as environmentally sensitive habitat area (ESHA) by the previously certified County of Los Angeles Malibu/Santa Monica Mountains Land Use Plan (LUP). The project site is located approximately 800 ft. east (down coast) of the nearest vertical public accessway to Broad Beach (Exhibit 3) and the applicant is offering to dedicate a lateral public access easement over the southern beachfront portion of the site as measured from the mean high tide line landward to the ambulatory seawardmost limit of dune vegetation. The area surrounding the project site is characterized as a built-out portion of Malibu consisting of numerous single family residences. The proposed project will be consistent with the scale and character of neighboring development and will be constructed at an elevation approximately 55 ft. below Pacific Coast Highway. Therefore, the project will not be visible from Pacific Coast Highway nor will the project obstruct public views from any scenic viewing area.

The applicant has submitted evidence of review of the proposed project by the California State Lands Commission (CSLC) which indicates that the CSLC presently asserts no claims that the project is located on public tidelands although the CSLC reserves the right to any future assertion of state ownership or public rights should circumstances change (Exhibit 11).

B. Shoreline Processes and Seaward Encroachment

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 **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.***

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

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

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

Past Commission review of shoreline residential projects in Malibu has shown that such development results in potential individual and cumulative adverse effects to coastal processes, shoreline sand supply, and public access. Shoreline development, if not properly designed to minimize such adverse effects, may result in encroachment on lands subject to the public trust (thus physically excluding the public); interference with the natural shoreline processes necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and the ability to use public tideland areas. In order to accurately determine what adverse effects to coastal processes will result from the proposed project, it is necessary to analyze the proposed project in relation to characteristics of the project site shoreline, location of the development on the beach, and wave action.

Site Shoreline Characteristics

The proposed project site is located on Broad Beach in the City of Malibu. Broad Beach is characterized as a relatively wide beach which has been developed with numerous single family residences. A well developed, but disturbed, dune system is located along Broad Beach seaward of existing residential development. The Malibu/Los Angeles County Coastline Reconnaissance Study by the United States Army Corp of Engineers dated April 1994 indicates that residential development on Broad Beach is generally protected by the wide nature of the beach and the presence of the existing dune field. However, the report also states that Broad Beach is subject to periodic episodes of beach recession and recovery that expose development along Broad Beach to potential storm damage and flooding from severe storm events. The applicant's coastal engineering consultant has also indicated that Broad Beach is an oscillating (equilibrium) beach which experiences seasonal erosion and recovery. The Coastal Engineering Report prepared by David C. Weiss dated 10/1/99 further indicates that the width of the beach changes seasonally and that the subject beach experiences a seasonal foreshore slope movement (oscillation) by as much as 40 ft. landward from the most landward mean high tide line measured in August of 1951.

Stringline

As a means of controlling seaward encroachment of residential structures on a beach to ensure maximum public access and minimize wave hazards, as well as minimize adverse effects to coastal processes, shoreline sand supply, and public views, the Commission has, in past permit actions, developed the "stringline" policy. As applied to beachfront development, the stringline limits the seaward extension of a structure to a line drawn between the nearest corners of adjacent structures and limits decks to a similar line drawn between the nearest corners of the adjacent decks. The Commission has applied this policy to numerous past permits involving infill development on sandy beaches and has found it to be an effective policy tool in preventing further encroachments onto sandy beaches.

In the case of this project, the proposed development will be located landward of the appropriate stringline and will not result in the seaward encroachment of residential

development on Broad Beach (Exhibit 5). Therefore, the Commission finds that the proposed project will not result in the seaward encroachment of development on Broad Beach and will serve to minimize adverse effects to coastal processes.

Wave Uprush and Mean High Tide Line

The applicant's coastal engineering consultant has previously submitted information regarding the location of the mean high tide line on the subject site as measured during several different summer and winter months between 1951 and 1999. The applicant's coastal engineering consultant has further asserted that the most landward measurement of the ambulatory mean high tide line on the project site occurred in August 1951 when the mean high tide line on site was located approximately 354 ft. seaward of the Broad Beach Road right-of way line. The seaward most extension of the proposed development (the dripline of the proposed deck) will be located 135 ft. seaward of the Broad Beach right-of-way line (approximately 219 ft. landward of the August 1951 mean high tide line). Based on the above information, the Commission notes that the proposed development will be located landward of the August 1951 mean high tide line and should not extend onto public tidelands under normal conditions.

Although the proposed structure will be located landward of the August 1951 mean high tide line, the Coastal Engineering Report prepared by David C. Weiss dated 10/1/99 indicates that the maximum wave uprush at the subject site is expected to occur approximately 175 ft. seaward of the Broad Beach right-of-way line (approximately 40 ft. seaward of the proposed deck stringline). The Commission notes that though the proposed residence will be located approximately 40 ft. landward of the wave uprush limit and will not be subject to wave uprush under normal tidal conditions, recent winter storms, including the El Nino Event of 1998 resulted in severe erosion of the beach and caused damage to several residences located in the Broad Beach area. The applicant's coastal engineering consultant has indicated that the proposed residence will be constructed on a friction pile foundation, and if constructed in compliance with the recommendations contained in the Coastal Engineering Report dated 10/1/99, no overtopping of the residence floors by ocean wave action will occur in the event that the proposed development is exposed to wave action during storm events. As such, no shoreline protection device is required or proposed to protect any portion of the proposed residence. The seaward extent of the alternative septic system and leach field will be located approximately 92 ft. from the Broad Beach Road right-of-way line (approximately 83 ft. landward of the maximum wave uprush limit). The applicant's coastal engineering consultant has concluded that because the proposed septic system will be located landward of the maximum wave uprush limit, no shoreline protection device is required to protect any portion of the proposed system. The Coastal Engineering Report dated 10/1/99 states:

> ***If the onsite sewage disposal system is located 200 ft. or less from the Broad Beach Road right of way line, no wall will be needed to protect the system from ocean wave damage.***

The applicant's coastal and geologic engineering consultants have made several other recommendations regarding the foundations of the residence, floor slab elevation, and the location of the septic system in order to minimize adverse effects to shoreline sand supply and to ensure the structural stability of the proposed development. To ensure that all recommendations of the engineering consultants have been incorporated into the proposed development, **Special Condition 1** requires the applicant to submit project plans certified by the

consulting coastal engineer and geotechnical engineer as conforming to all recommendations contained in the Coastal Engineering Report by David C. Weiss dated 10/1/99 and the Soils and Engineering-Geologic Investigation Report by GeoSystems dated 10/21/99, to ensure structural and site stability, and to ensure the proposed development will not result in adverse effects to shoreline processes. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. 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.

Future Shoreline Protective Devices

In the case of the proposed project, the applicant does not propose the construction of any shoreline protective device to protect the proposed development. However, as discussed above, areas of Broad Beach 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 the construction of a shoreline protective device on the proposed project site would result in potential adverse effects to coastal processes, shoreline sand supply, and public access.

Interference by shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile which results from a reduced beach berm width, alter 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 in which the public can pass on their own property. The second effect on access is through a progressive loss of sand as shore material is not available to nourish the 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 effects public access again through a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and 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 and they reach a public beach. As set forth in earlier discussion, Broad Beach is currently characterized as a wide oscillating beach. However, the applicant's consultant has also indicated that seasonal foreshore slope movement on the subject site can be as much as 40 ft. landward of the most landward mean high tide line measured in August of 1951. The Commission notes that if a seasonal eroded beach condition occurs with greater frequency due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists. Fourth, if not sited landward in a location that ensures that the seawall 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, bulkheads, and seawalls 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.

The adverse effects of shoreline protective devices are greater the more frequently that they are subject to wave action. In order to minimize adverse effects from shoreline protective devices, when such devices are found to be necessary to protect existing development, the Commission has required applicants to locate such structures as far landward as is feasible. In addition, since shoreline protective devices are most often required to protect existing septic systems, the Commission has also required applicants to locate septic systems as far landward as feasible [4-97-191 (Kim)]. The Commission has also required the utilization of alternative technologies for sewage disposal such as bottomless sand filter systems because they are able to be designed to occupy less area on the beach and, therefore, be located further landward than a standard system. In the case of the proposed project, the proposed septic system will be of a bottomless sand filter design and will be located well landward (83 ft.) of the maximum wave uprush limit at the project site. The applicant's coastal engineering consultant has confirmed that no shoreline protective device is required to protect the proposed development (the residence and garage will be constructed entirely on an engineered caisson/grade beam foundation able to withstand wave action) or to protect the septic system (which will be located 83 ft. landward of the maximum wave uprush limit).

In addition, the Commission notes that Section 30235 of the Coastal Act allows for the construction of a shoreline protective device 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 required by Section 30235 of the Coastal Act. The construction of a shoreline protective device to protect a new residential development would 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. In addition, the 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. To ensure that the proposed project is consistent with Sections 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 9** requires the applicant to record a deed restriction that would prohibit the applicant, or future land owner, 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, etc.

Sea Level Rise

Sea level has been rising slightly for many years. In the Santa Monica Bay area, the historic rate of sea level rise has been 1.8 mm/yr. or about 7 inches per century[1]. Sea level rise is expected to increase by 8 to 12 inches in the 21st century.[2] There is a growing body of evidence that there has been a slight increase in global temperature and that an accelerated rate of sea level rise can be expected to accompany this increase in temperature. Mean water level affects shoreline erosion in several ways and an increase in the average sea level will exacerbate all these conditions.

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[1] Lyles, S.D., L.E. Hickman and H.A. Debaugh (1988) Sea Level Variations for the United States 1855 – 1986. Rockville, MD: National Ocean Service.

[2] Field et. al., Union of Concerned Scientists and the Ecological Society of America (November 1999) Confronting Climate Change in California, www.ucsusa.org.

On the California coast the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore. On a relatively flat beach, with a slope of 40:1, every inch of sea level rise will result in a 40-inch landward movement of the ocean/beach interface. For fixed structures on the shoreline, such as a single family residence, pilings, or seawalls, an increase in sea level will increase the inundation of the structure. More of the structure will be inundated or underwater than are inundated now and the portions of the structure that are now underwater part of the time will be underwater more frequently.

Accompanying this rise in sea level will be increased wave heights and wave energy. Along much of the California coast, the bottom depth controls the nearshore wave heights, with bigger waves occurring in deeper water. Since wave energy increases with the square of the wave height, a small increase in wave height can cause a significant increase in wave energy and wave damage. So, combined with the physical increase in water elevation, a small rise in sea level can expose previously protected back shore development to both inundation and wave attack, and those areas that are already exposed to wave attack will be exposed to more frequent wave attack with higher wave forces. Structures that are adequate for current storm conditions may not provide as much protection in the future.

A second concern with global warming and sea level rise is that the climatic changes could cause changes to the storm patterns and wave climate for the entire coast. As water elevations change, the transformation of waves from deep water will be altered and points of energy convergence and divergence could shift. The new locations of energy convergence would become the new erosion "hot spots" while the divergence points may experience accretion or stability. It is highly likely that portions of the coast will experience more frequent storms and the historic "100-year storm" may occur every 10 to 25 years. For most of California the 1982/83 El Niño event has been considered the "100-year storm." Certain areas may be exposed to storms comparable to the 1982/83 El Niño storms every few decades. In an attempt to ensure stability under such conditions, the Commission has required that all new shoreline structures be designed to withstand either a 100-year storm event, or a storm event comparable to the 1982/83 El Niño. Also, since it is possible that storm conditions may worsen in the future, the Commission has required that structures be inspected and maintained on a regular basis. The coast can be altered significantly during a major storm and coastal structures need to be inspected on a regular basis to make sure they continue to function as designed. If storm conditions worsen in future years, the structures may require changes or modifications to remain effective. In some rare situations, storm conditions may change so dramatically that existing protective structures may no longer be able to provide any significant protection, even with routine maintenance.

Therefore, if new development along the shoreline is to be found consistent with the Coastal Act, the most landward location must be explored to minimize wave attack with higher wave forces as the level of the sea rises over time. Shoreline protective devices must also be located as far landward as feasible to protect public access along the beach as discussed further below. In the case of this project, the proposed development will be located as landward as feasible and will not require the construction of a shoreline protection device.

Conclusion

The proposed residence will be located landward of the August 1951 mean high tide line and wave uprush limit line and will be designed to eliminate the necessity for a shoreline protective device. The septic system for the proposed residence will also be located landward of the wave uprush limit line, and therefore, will not be subject to wave uprush, or require the construction of a shoreline protective device. Further, the proposed development will be located landward of the appropriate stringline and will not result in the seaward encroachment of residential development on Broad Beach.

In addition, no shoreline protective device is proposed as part of the development. The applicant's coastal engineering consultant has confirmed that no shoreline protective device is required to protect either the proposed residence or the septic system. However, as previously discussed, areas of Broad Beach 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. As discussed in detail above, the construction of a shoreline protective device to protect new residential development would result in potential adverse effects to coastal processes, shoreline sand supply, and public access and would not be consistent with Sections 30235, 30251, or 30253 of the Coastal Act. 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 9 requires the applicant to record a deed restriction that would prohibit the applicant, or future land owner, 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, etc. Further, to ensure structural and site stability, Special Condition 1 requires the applicant to submit project plans certified by the consulting coastal engineer and geotechnical engineer as conforming to all recommendations contained in the Coastal Engineering Report by David C. Weiss dated 10/1/99 and the Soils and Engineering-Geologic Investigation Report by GeoSystems dated 10/21/99.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30235, 30251, and 30253.

C. Hazards and Geologic Stability

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, 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.

The proposed development will be located 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 coastline include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Even beachfront properties have been subject to wildfires. Finally, beachfront sites are specifically subject to flooding and erosion from storm waves.

The applicant has submitted a Coastal Engineering Report prepared by David C. Weis dated 10/1/99 and a Soils and Engineering-Geologic Investigation Report prepared by GeoSystems dated 10/21/99 which evaluate the safety and stability of the project site in relation to the proposed development. The consultants have determined that the proposed development will serve to ensure geologic and structural stability on the subject site. The Soils and Engineering-Geologic Investigation Report by GeoSystems dated 10/21/99 concludes that:

> ***It is the finding of this firm that the proposed structures will be safe and that the site will not be affected by any hazard from landslide, settlement or slippage and the completed work will not adversely affect adjacent property...provided our recommendations are followed.***

The Coastal Engineering Report prepared by David C. Weis dated 10/1/99 and a Soils and Engineering-Geologic Investigation Report prepared by GeoSystems dated 10/21/99 include a number of geotechnical and engineering recommendations to ensure the stability and geotechnical safety of the site. To ensure that the recommendations of the geotechnical and coastal engineering consultants have been incorporated into all proposed development, Special Condition 1 requires the applicant to submit project plans certified by both the consulting geotechnical engineer and the coastal engineering consultant as conforming to all their recommendations to ensure structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. 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.

As discussed above, the Commission notes that the applicant's engineering consultants have indicated that the proposed development will serve to ensure relative geologic and structural stability on the subject site. However, the Commission also notes that the proposed development is located on a beachfront lot in the City of Malibu and will be subject to some inherent potential hazards. The Commission notes that the Malibu coast has historically been subject to substantial damage as the result of storm and flood occurrences--most recently, and perhaps most dramatically, during the 1998 severe El Nino winter storm season. The subject site is clearly susceptible to flooding and/or wave damage from storm waves, storm surges and high tides. Past occurrences have caused property damage resulting in public costs through emergency responses and low-interest, publicly-subsidized reconstruction loans in the millions of dollars in Malibu area alone from last year's storms.

In the winter of 1977-1978, storm-triggered mudslides and landslides caused extensive damage along the Malibu coast. According to the National Research Council, damage to Malibu beaches, seawalls, and other structures during that season caused damages of as much as almost $5 million to private property alone.

The El Nino storms recorded in 1982-1983 caused high tides of over 7 feet, which were combined with storm waves of up to 15 feet. These storms caused over $12.8 million to structures in Los Angeles County, many located in Malibu. The severity of the 1982-1983 El Nino storm events are often used to illustrate the extreme storm event potential of the California, and in particular, Malibu coast. The 1998 El Nino storms also resulted in widespread damage to residences, public facilities and infrastructure along the Malibu Coast.

Thus, ample evidence exists that all beachfront development in the Malibu area is subject to an unusually high degree of risk due to storm waves and surges, high surf conditions, erosion, and flooding. The proposed development will continue to be subject to the high degree of risk posed by the hazards of oceanfront development in the future. The Coastal Act recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting coastal and geotechnical engineers, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of liquefaction, storm waves, surges, erosion, flooding, and wildfire, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, as required by **Special Condition 7**, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

In addition, the Commission notes that construction activity on a sandy beach, such as the proposed project, will result in the potential generation of debris and or presence of equipment and materials that could be subject to tidal action. The presence of construction equipment, building materials, and excavated materials on the subject site could pose hazards to beachgoers or swimmers if construction site materials were discharged into the marine environment or left inappropriately/unsafely exposed on the project site. In addition, such discharge to the marine environment would result in adverse effects to offshore habitat from increased turbidity caused by erosion and siltation of coastal waters. To ensure that adverse effects to the marine environment are minimized, **Special Condition 4** requires the applicant to ensure that stockpiling of construction materials shall not occur on the beach, that no machinery will be allowed in the intertidal zone at any time, all debris resulting from the construction period is promptly removed from the sandy beach area, all grading shall be properly covered, and that sand bags and/or ditches shall be used to prevent runoff and siltation.

The Commission finds, for the reasons set forth above, that the proposed development, as conditioned, is consistent with Section 30253 of the Coastal Act.

D. Public Access

The Coastal Act mandates the provision of maximum public access and recreational opportunities along the coast. The Coastal Act contains several policies which address the issues of public access and recreation along the coast.

Coastal Act Section **30210** states that:

> ***In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.***

Coastal Act Section **30211** states:

> ***Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.***

Coastal Act Section **30212(a)** provides that in new shoreline development projects, access to the shoreline and along the coast shall be provided except in specified circumstances, where:

> ***(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources.***
>
> ***(2) adequate access exists nearby, or,***
>
> ***(3) agriculture would be adversely affected. Dedicated access shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.***

Section **30220** of the Coastal Act states that:

> ***Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such use.***

Coastal Act sections 30210 and 30211 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise, section 30212 of the Coastal Act requires that adequate public access to the sea be provided to allow use of dry sand and rocky coastal beaches.

All projects requiring a coastal development permit must be reviewed for compliance with the public access and recreation provisions of Chapter 3 of the Coastal Act. Based on the access, recreation and development sections of the Coastal Act, the Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline.

The major access issue in this permit application is the occupation of sandy beach area by a structure and potential effects on shoreline sand supply and public access in contradiction of

Coastal Act policies 30211 and 30221. The subject site is located on Broad Beach, approximately 800 ft. east of an existing public vertical accessway to Broad Beach. The Commission notes that many beachgoers who access the beach via the public vertical accessways from Broad Beach Road often walk along the shoreline, including the southern beachfront portion of the subject site, up and down the coast from the project site between Lechuza Point, and public recreation areas such as Zuma Beach County Park and Point Dume (Exhibit 1).

The State owns tidelands, which are those lands located seaward of the mean high tide line as it exists from time to time. By virtue of its admission into the Union, California became the owner of all tidelands and all lands lying beneath inland navigable waters. These lands are held in the State's sovereign capacity and are subject to the common law public trust. The public trust doctrine restricts uses of sovereign lands to public trust purposes, such as navigation, fisheries, commerce, public access, water oriented recreation, open space, and environmental protection. The public trust doctrine also severely limits the ability of the State to alienate these sovereign lands into private ownership and use free of the public trust. Consequently, the Commission must avoid decisions that improperly compromise public ownership and use of sovereign tidelands.

Where development is proposed that may impair public use and ownership of tidelands, the Commission must consider where the development will be located in relation to tidelands. The legal boundary between public tidelands and private uplands is relative to the ordinary high water mark. In California, where the shoreline has not been affected by fill or artificial accretion, the ordinary high water mark of tidelands is determined by locating the existing "mean high tide line." The mean high tide line is the intersection of the elevation of mean high tide with the shore profile. Where the shore is composed of sandy beach with profile changes resulting from wave action, the location at which the elevation of mean high tide line intersects the shore is subject to change. The result is that the mean high tide line (and therefore the boundary) is an "ambulatory" or moving line that moves seaward through the process known as accretion and landward through the process known as erosion.

Consequently, the position of the mean high tide line fluctuates seasonally as high wave energy (usually but not necessarily) in the winter months causes the mean high tide line to move landward through erosion, and as milder wave conditions (generally associated with the summer) cause the mean high tide line to move seaward through accretion. In addition to ordinary seasonal changes, the location of the mean high tide line is affected by long term changes such as sea level rise and diminution of sand supply.

The Commission must consider a project's direct and indirect effect on public tidelands. To protect public tidelands when beachfront development is proposed, the Commission must consider (1) whether the development or some portion of it will encroach on public tidelands (i.e., will the development be located below the mean high tide line as it may exist at some point throughout the year) and (2) if not located on tidelands, whether the development will indirectly affect tidelands by causing physical impacts to tidelands. In the case of the proposed project, the State Lands Commission presently does not assert a claim that the project intrudes onto sovereign lands.

Even structures located above the mean high tide line, however, may have an adverse effect on shoreline processes as wave energy reflected by those structures contributes to erosion and

steepening of the shore profile, and ultimately to the extent and availability of tidelands. That is why the Commission also must consider whether a project will have indirect effects on public ownership and public use of shorelands. The applicants seek Commission approval of a new beachfront residence supported on a friction pile foundation. As previously discussed in detail, although the proposed project will not include the construction of any shoreline protection device, the direct occupation of sandy beach area by the proposed residence, will result in potential adverse effects to public access along the sandy beach.

Although no shoreline protective device is proposed as part of this project, the Commission notes that interference by a shoreline protective device has a number of adverse effects on the dynamic shoreline system and the public's beach ownership interests. First, changes in the shoreline profile, particularly changes in the slope of the profile, which results from reduced beach width, alter 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. The second effect on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. The effect of this on the public is again a loss of area between the mean high water line and the actual water. Third, shoreline protective devices such as revetments and bulkheads 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 and they eventually affect the profile of a public beach. Fourth, if not sited landward in a location that insures that the revetment 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' 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.

As previously discussed in detail, the applicant's coastal engineering consultant has indicated that no shoreline protective device is required to protect either the proposed residence (which will be constructed on a caisson/grade beam foundation) or the septic system (which will be located landward of the maximum wave uprush limit). Therefore, to ensure that the proposed project does not result in future adverse effects to public access, **Special Condition 9** requires the applicant to record a deed restriction that would prohibit the applicant, or future land owner, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application including the residence, garage, septic system, driveway, etc.

In addition, the Commission must also consider whether a project affects any public right to use shorelands that exist independently of the public's ownership of tidelands. In addition to a new development's effects on tidelands and on public rights protected by the common law public trust doctrine, the Commission must consider whether the project will affect a public right to use beachfront property, independent of who owns the underlying land on which the public use takes place. Generally, there are three additional types of public uses identified as: (1) the public's recreational rights in navigable waters guaranteed to the public under the California Constitution and state common law, (2) any rights that the public might have acquired under the doctrine of implied dedication based on continuous public use over a five-year period; and (3) any

additional rights that the public might have acquired through public purchase or offers to dedicate.

These use rights are implicated as the public walks the wet or dry sandy beach below the mean high tide plane. This area of use, in turn moves across the face of the beach as the beach changes in depth on a daily basis. The free movement of sand on the beach is an integral part of this process, and it is here that the effects of structures are of concern.

The beaches of Malibu are extensively used by visitors of both local and regional origin and most planning studies indicate that attendance of recreational sites will continue to increase significantly over the coming years. The public has a right to use the shoreline under the public trust doctrine, the California Constitution and California common law. The Commission must protect those public rights by assuring that any proposed shoreline development does not interfere with or will only minimally interfere with those rights. In the case of the proposed project, the potential for the permanent loss of sandy beach as a result of the change in the beach profile or steepening from potential scour effects, as well as the presence of a residential structure out over the sandy beach does exist.

In past permit actions, the Commission has required that all new development on a beach, including new single family residences, provide for lateral public access along the beach in order to minimize any adverse effects to public access. In order to conclude with absolute certainty what adverse effects would result from the proposed project in relation to shoreline processes, a historical shoreline analysis based on site-specific studies would be necessary. Although this level of analysis has not been submitted by the applicant, the Commission notes that because the applicant has proposed, as part of the project, an offer to dedicate a lateral public access easement along the southern portion of the lot, as measured from the mean high tide line landward to the ambulatory seawardmost limit of dune vegetation, it has not been necessary for Commission staff to engage in an extensive analysis as to whether the imposition of an offer to dedicate would be required here absent the applicant's proposal. As such, **Special Condition 6** has been required in order to ensure that the applicant's offer to dedicate a lateral public access easement is transmitted prior to the issuance of the coastal development permit.

In addition, the Commission notes that chronic unauthorized postings of signs illegally attempting to limit, or erroneously noticing restrictions on, public access have occurred on beachfront private properties in the Malibu area. These signs have an adverse effect on the ability of the public to access public trust lands. In fact, staff notes that more conflicts between private property owners and public beachgoers have been documented along Broad Beach than along any other beach in the Malibu area and that a "Private Beach Patrol" has been used by the Broad Beach Homeowner's Association in past years to patrol Broad Beach and enforce a "No Trespassing" policy. Staff have received numerous complaints, particularly during summer months, from beachgoers who have stated that private residents, or the Beach Patrol, have inhibited public access along Broad Beach. The Commission has determined, therefore, that to ensure that the applicants clearly understand that such postings are not permitted without a separate coastal development permit, it is necessary to impose **Special Condition 5** to ensure that similar signs are not posted on or near the proposed project site. Signs limiting public access within that portion of the site designated as environmentally sensitive dune habitat buffer, consistent with Special Condition 6, may be allowed if a separate coastal development permit or

amendment is obtained. The Commission finds that if implemented, Special Condition 5 will protect the public's right of access to the sandy beach below the MHTL.

For the reasons set forth above, the Commission finds that as conditioned, the proposed project is consistent with Sections 30210, 30211, 30212, and 30220 of the Coastal Act.

E. Environmentally Sensitive Resources

Section **30240** states:

> ***(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.***

Section 30240 of the Coastal Act states that environmentally sensitive habitat areas (ESHAs) must be protected against disruption of habitat values. To assist in the determination of whether a project is consistent with section 30240 of the Coastal Act, the Commission has, in past coastal development permit actions for new development in the Malibu area, looked to the previously certified County of Los Angeles Malibu/Santa Monica Mountains Land Use Plan (LUP) for guidance. The 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 72 of the LUP provides that when new development is proposed adjacent to an environmentally sensitive habitat area, open space or conservation easements shall be required in order to protect resources within the ESHA. In addition, Policy 104 of the LUP provides that restoration of damaged sensitive habitat(s) shall be required as a condition of permit approval. Further, Policy 109 of the LUP provides that for all new development on Broad Beach, vegetation disturbance, including recreation or foot traffic on vegetated dunes, should be minimized and where access through the dunes is necessary, well-defined footpaths shall be developed and used.

A vegetated dune system, designated as environmentally sensitive habitat area (ESHA) by the LUP, is located along the southern beachfront portion of the subject site. Although the dune system on the subject site has been highly disturbed from past residential development, the Commission has found in past permit actions that Broad Beach is unique in that it is the only area along the Malibu coastline where a system of vegetated sand dunes is found. Native plant species found on the dune system which are characteristic of dune habitat include: Silver beach bur (*Ambrosia chamssonis*), Pink sand verbena (*Abronia umbellata*), Beach salt bush (*Atriplex leucophylla*), and Beach evening primrose (*Camissonia cheiranthifolia*). The Commission further notes that the Broad Beach dunes have been classified as "Southern Foredunes" in the Holland community classification system by the California Department of Fish and Game and that such dune communities are listed as "very threatened" by the State of California.

The Commission notes that the existing dune system on the subject site is highly degraded and has been partially colonized by invasive plant species as a result of past residential development along Broad Beach. The proposed development will be located immediately landward of the existing dune vegetation habitat and will not result in the direct removal of dune vegetation. However, in past permit actions, the Commission has found that new development located immediately adjacent to environmentally sensitive habitat areas, such as the dune system located along Broad Beach, results in potential adverse effects to those habitat areas. Specifically, the Commission has found that residential development on Broad Beach results in adverse effects to the existing dune system from increased erosion resulting from foot traffic to the beach through the dune system by homeowners, septic effluent, and introduction of non-native and invasive plant species used for landscaping. The adverse effects to the existing dune system further cause loss of plant and animal habitat and disturbance to wildlife. In order to mitigate any potential adverse impacts to the dune vegetation habitat that result from the proposed development, **Special Condition 2** requires, in part, that the applicant submit a dune habitat restoration program that would provide for the removal of all invasive and non-native plant species from the existing dune system on site and revegetation of the system with native plant species appropriate for dune habitat. Special Condition 2 also requires the applicant to submit, on an annual basis for a period of five years (no later than December 31st each year), a written report, for the review and approval of the Executive Director, prepared by an environmental resource specialist, indicating the success or failure of the restoration project. 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 dune restoration program shall be processed as an amendment to this Coastal Development Permit.

In addition, 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 plants species indigenous to the Malibu/Santa Monica Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant community habitat by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant species 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 and the adjacent environmentally sensitive dune habitat, Special Condition Number 2 also requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used. Special Condition 2 also requires that the existing invasive plant species located on the project site be removed.

Further, in order to ensure that adverse effects to the dune habitat on the project site from new development are minimized, **Special Condition 8** requires that the applicant's proposal to record an open space deed restriction over the portion of the subject site between the deck dripline and the ambulatory seawardmost limit of dune vegetation is implemented. It is recognized that the seaward limit of the dune system and dune vegetation on the subject site is

ambulatory in nature and that, therefore, the seaward extent of the area subject to this deed restriction is also ambulatory in nature. Specifically, the Commission notes that the landward limit of the lateral public access easement required by Special Condition 6 and the seaward limit of the open space easement required by Special Condition 8 are both ambulatory and contiguous lines which will move in unison either seaward or landward of their current location in response to changing tidal or geomorphic conditions. This deed restriction shall in no way be interpreted to limit or restrict the area of beach available for lateral public access consistent with Special Condition 6.

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

F. Visual Resources

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 subordinated 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 two-story single family residence and construction of a new two-story, 27 ½ ft. high, single family residence. As previously mentioned, the proposed project is located on Broad Beach between Broad Beach Road and the ocean. The proposed project will be constructed at an elevation approximately 55 ft. below Pacific Coast Highway, therefore, the project will not obstruct scenic views from Pacific Coast Highway to and along the coastline. Additionally, the proposed project will be consistent with the character and scale of existing development around the project site and all proposed development will be constructed landward of the appropriate building and deck stringlines established at the project site so as not to obstruct visual resources along the shoreline. Therefore, the Commission finds that the project, as proposed, will not significantly impact public views to or along the beach and is consistent with Section 30251 of the Coastal Act.

G. Water Quality

The Commission recognizes that development of beachfront lots in Malibu 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 the demolition of an existing residence and construction of a new single family residence and a new alternative sewage disposal system. Additionally, the development will include impervious structures such as a new driveway and decks. Use of the site for residential purposes will introduce potential sources of pollutants such as petroleum, household cleaners and pesticides, as well as other accumulated pollutants from rooftops and other impervious surfaces.

The placement of impervious surfaces allows for less infiltration of rainwater into the soil and sand of the site, thereby increasing the rate and volume of runoff, causing increased erosion and sedimentation. Additionally, the infiltration of precipitation into the soil and sand of the site allows for the natural filtration of pollutants. When infiltration is prevented by impervious surfaces, pollutants in runoff are quickly conveyed to coastal streams and directly to the ocean. Thus, new development can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff, leading to stream channel destabilization, increased flood potential, increased concentration of pollutants, and reduced groundwater levels.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from the site in a non-erosive manner, such measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site would be allowed to return to the soil and beach, overall runoff volume is reduced and more water is available to replenish groundwater and maintain stream flow. The slow flow of runoff allows sediment and other pollutants to settle into the ground where they can be filtered. The reduced volume of runoff takes longer to reach coastal streams and the ocean and its pollutant load will be greatly reduced.

As described above, the project is conditioned to implement and maintain a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. This drainage plan is required in order to ensure that risks from geologic hazard, erosion and sedimentation, and polluted runoff to coastal waters is minimized. In order to further ensure that adverse impacts to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant to incorporate filter elements that intercept and infiltrate or treat the runoff from the site. This plan is required by **Special Condition 2**, the Drainage and Polluted Runoff Control Plan. The plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial, "first flush" flows that occur as

a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

Finally, the proposed development includes installation of a new alternative septic system utilizing a 2,500 gallon septic tank. In order to reduce the size of the required leachfield for the proposed septic system the applicant is proposing to install a bottomless sand filter septic system which is designed to produce treated effluent with reduced levels of organics, biochemical oxygen demand (BOD) and total suspended solids (TSS) while occupying only 50 percent of the area required for a conventional septic system and leachfield. As proposed, the septic system will be located 83 ft. landward of the wave uprush limit line. The applicants' geologic consultants have performed percolation tests and evaluated the proposed septic system. The report concludes that the site is suitable for the alternative septic system and there will be no adverse impact to the site or surrounding areas from the use of a septic system. Finally, the City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources. Therefore, the Commission finds that 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.

H. 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).

I. 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.

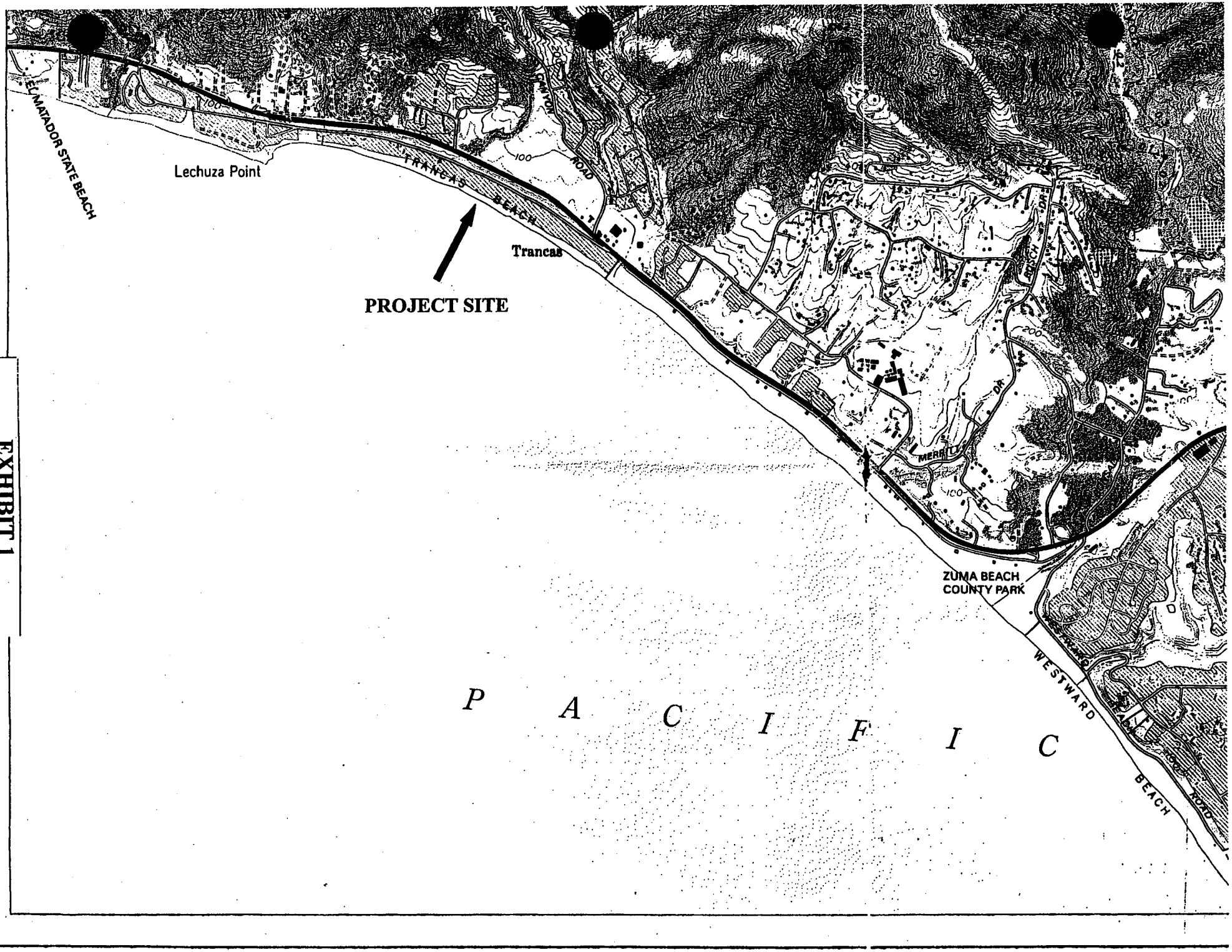
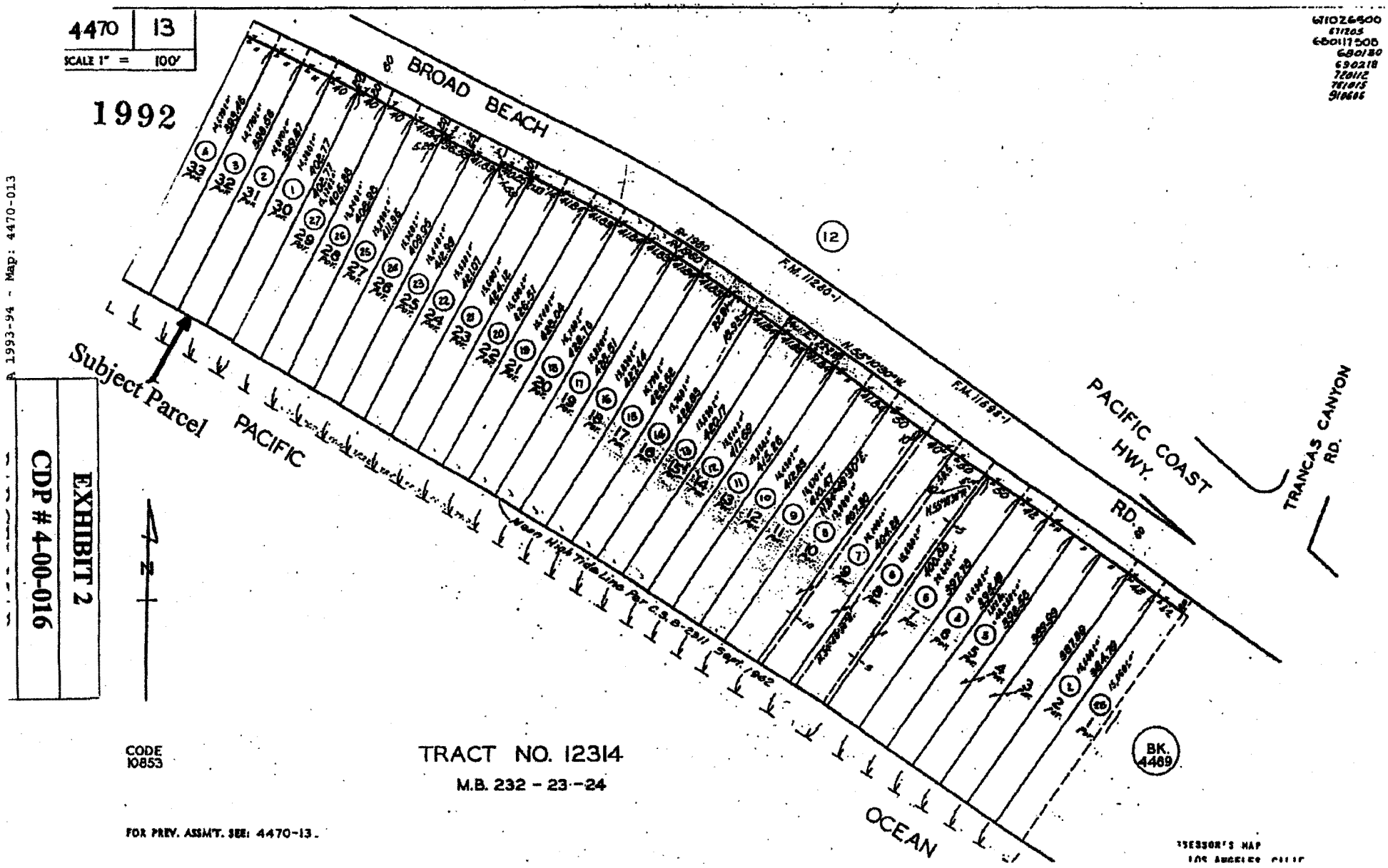


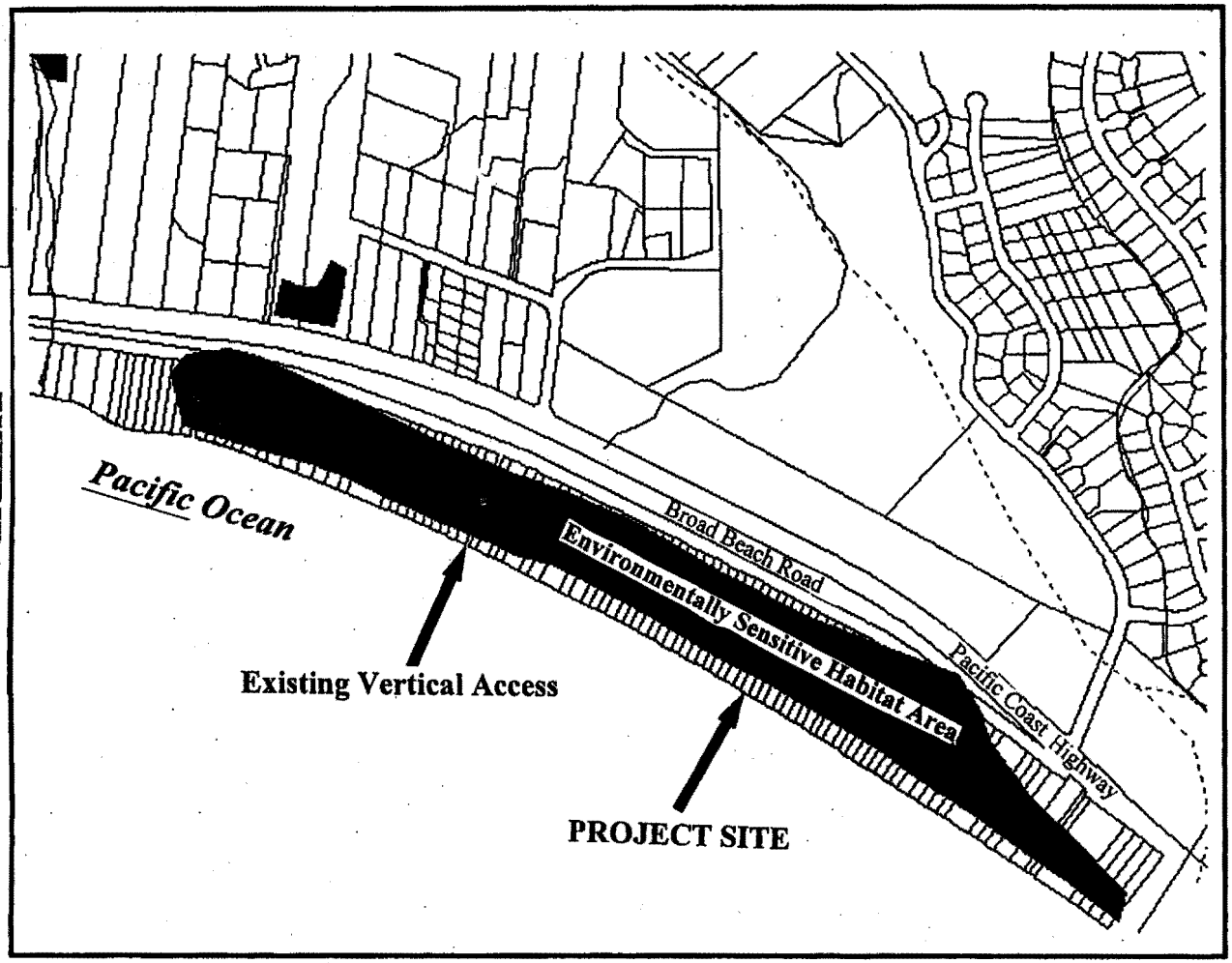
EXHIBIT 1

CDP #4-00-016


4470 | 13
SCALE 1" = 100'
1992
BROAD BEACH
PACIFIC COAST HWY.
TRANCAS CANYON RD.
RD.
Subject Parcel
PACIFIC
OCEAN
Mean High Tide Line Per C.S.D. 2911 Sept. 1962
TRACT NO. 12314
M.B. 232 - 23 - 24
CODE 10853
BK. 4489
FOR PREV. ASSM'T. SEE: 4470-13.
ASSESSOR'S MAP
EXHIBIT 2
CDP # 4-00-016
1993-94 - Map: 4470-013

ESRI ArcExplorer 1.1

4-00-016 (Sitrick)

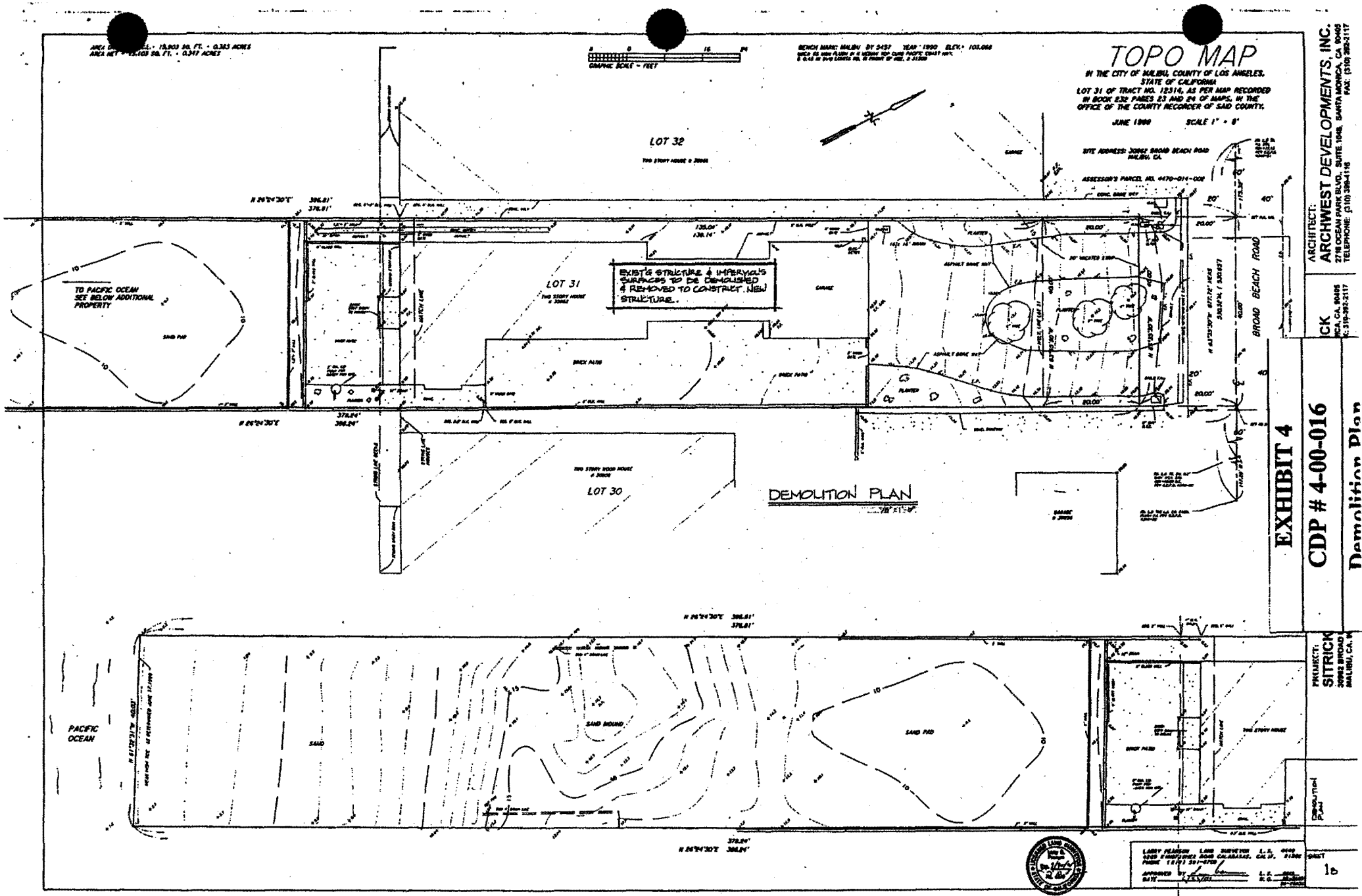


vertaccessexisting
trailslacoplan
StrmsCCC
laprcls
esha (ESHA)
Coldcreek management area
inland
locally disturbed resources
oak woodlands and savannahs
significant watersheds residential
wildlife migration corridor
czbdy

N

Tuesday, May 23 2000

EXHIBIT 3
CDP # 4-00-016


TOPO MAP
IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA
LOT 31 OF TRACT NO. 12314, AS PER MAP RECORDED IN BOOK 232 PAGES 83 AND 84 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.
JUNE 1999
SCALE 1" = 8'
SITE ADDRESS: 30982 BROAD BEACH ROAD MALIBU, CA.
ASSESSOR'S PARCEL NO. 4470-014-002
LOT 32
LOT 31
LOT 30
EXIST'G STRUCTURE & IMPERVIOUS SURFACES TO BE DEMOLISHED & REMOVED TO CONSTRUCT NEW STRUCTURE.
TO PACIFIC OCEAN SEE BELOW ADDITIONAL PROPERTY
BROAD BEACH ROAD
DEMOLITION PLAN
PACIFIC OCEAN
SAND
SAND MOUND
SAND PAD
ARCHITECT:
ARCHWEST DEVELOPMENTS, INC.
2798 OCEAN PARK BLVD., SUITE 1048, SANTA MONICA, CA 90405
TELEPHONE: (310) 396-4116
FAX: (310) 392-2117
EXHIBIT 4
CDP # 4-00-016
Demolition Plan
PROJECT:
SITRICK
30982 BROAD BEACH ROAD
MALIBU, CA.
LARRY PEARSON LAND SURVEYOR L.S. 4478
1020 E WALNUT AVE CORONA, CA 92879
PHONE (909) 371-4700
APPROVED BY
DATE
SHEET
1b

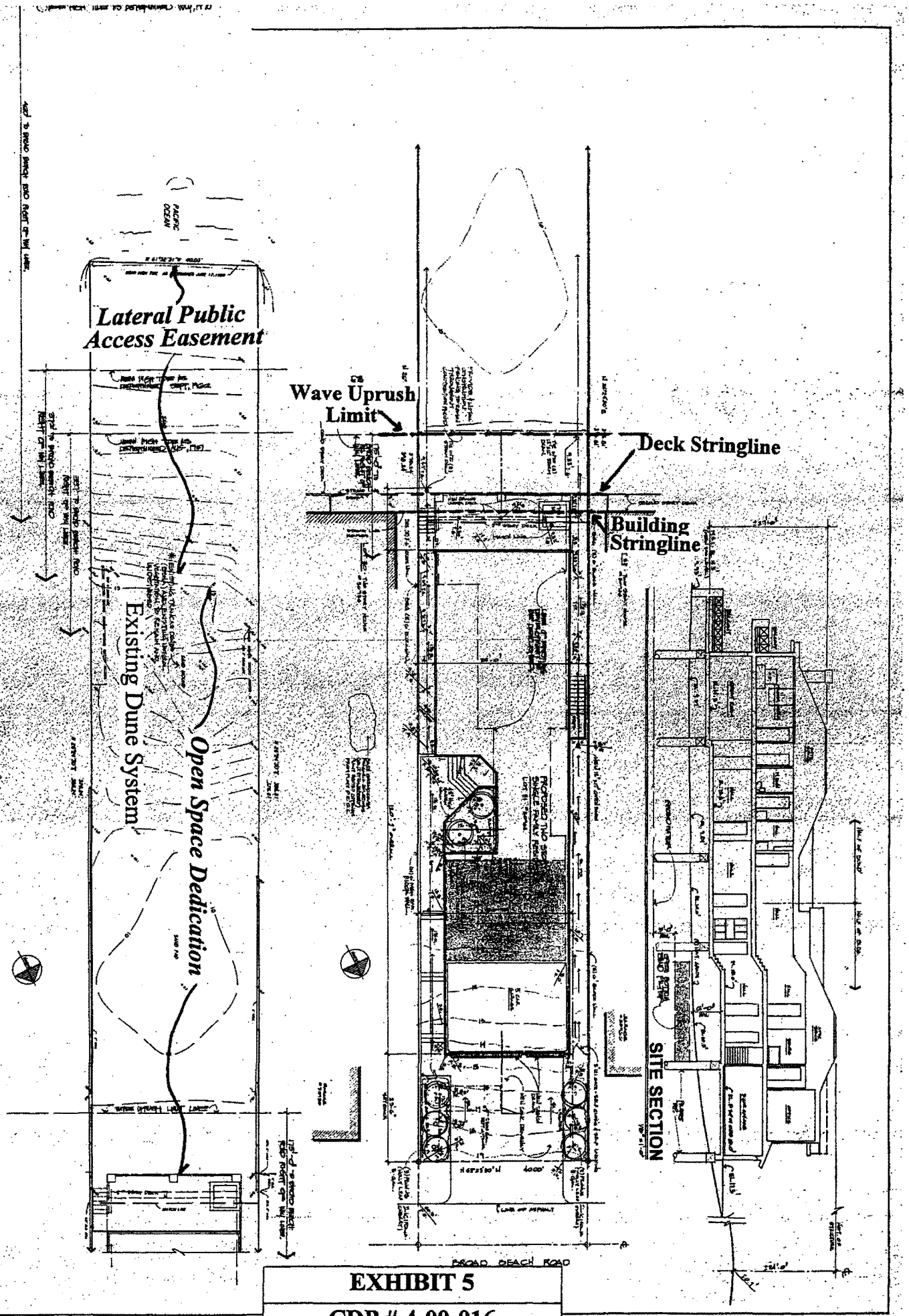


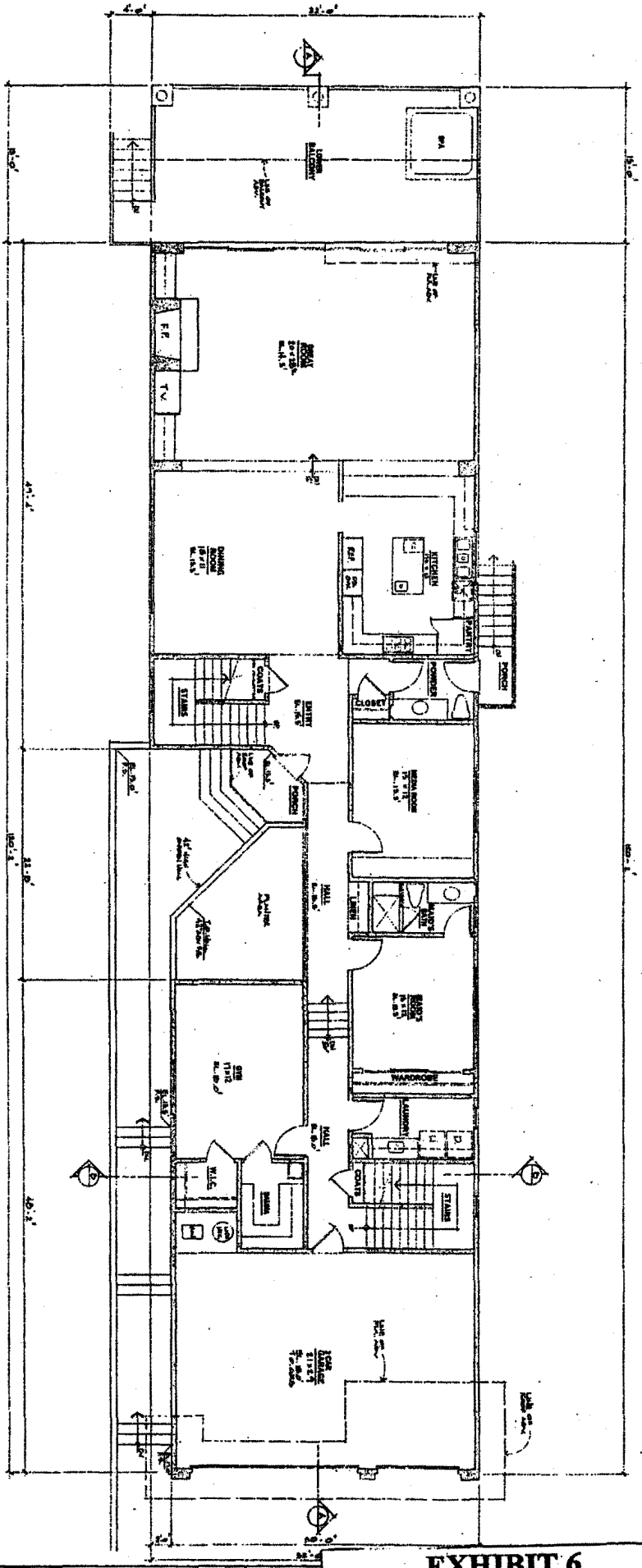
EXHIBIT 5

CDP # 4-00-016

Site Plan

PROJECT:
SITRICK RESIDENCE
30963 BROAD BEACH ROAD
MALIBU, CA. 90465

ARCHITECT:
ARCHWEST DEVELOPMENTS, INC.
2716 OCEAN PARK BLVD., SUITE 1048, SANTA MONICA, CA. 90405
TELEPHONE: (310) 399-4118 FAX: (310) 392-2117



FIRST FLOOR PLAN

FIRST FLOOR PLAN

PROJECT:
SITRICK RESIDENCE
30902 BROAD BEACH ROAD,
MALIBU, CA. 90465

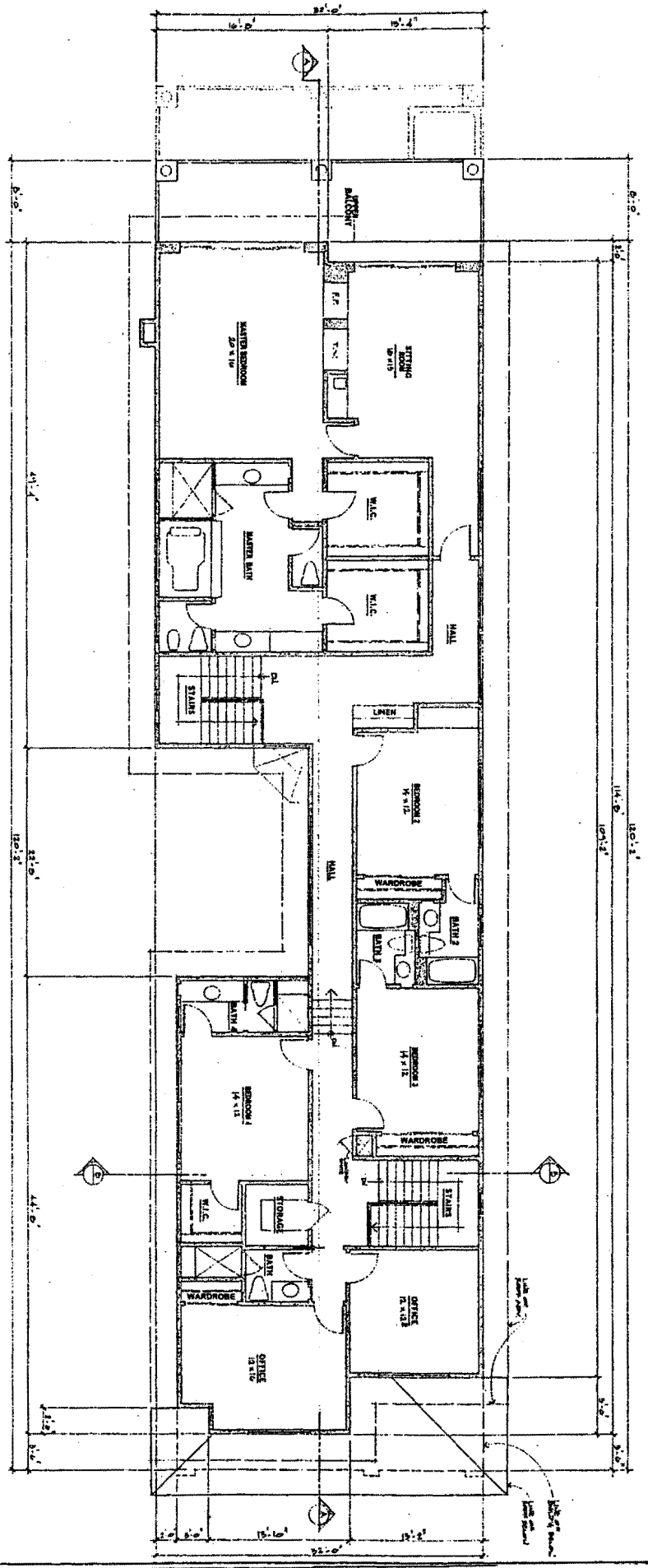
EXHIBIT 6

CDP # 4-00-016

ARCHITECT:
ARCHWEST *DEVELOPMENTS*, INC.
2716 OCEAN PARK BLVD., SUITE 1040, SANTA MONICA, CA 90405
TELEPHONE: (310) 399-4116 FAX: (310) 392-2117

REVISIONS

1st Floor Plan



SECOND FLOOR PLAN

SECOND FLOOR PLAN

PROJECT:
SITRICK RESIDEN
30992 BROAD BEACH ROAD,
MALIBU, CA. 90405

EXHIBIT 7

CDP # 4-00-016

ARCHITECT:
ARCHWEST *DEVELOPMENTS*, INC.
2710 OCEAN PARK BLVD., SUITE 1046, SANTA MONICA, CA 90405
TELEPHONE: (310) 399-4116 FAX: (310) 392-2117

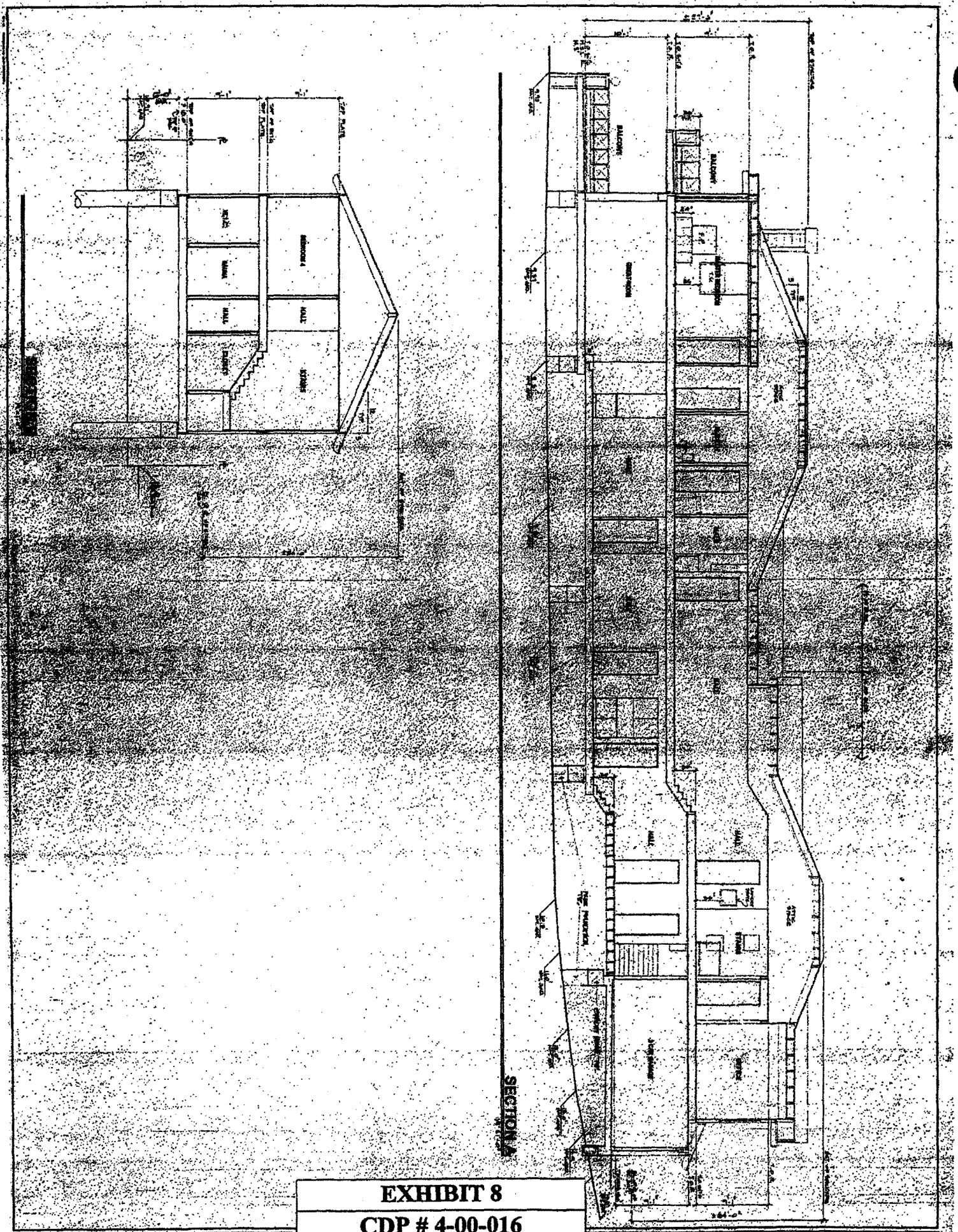
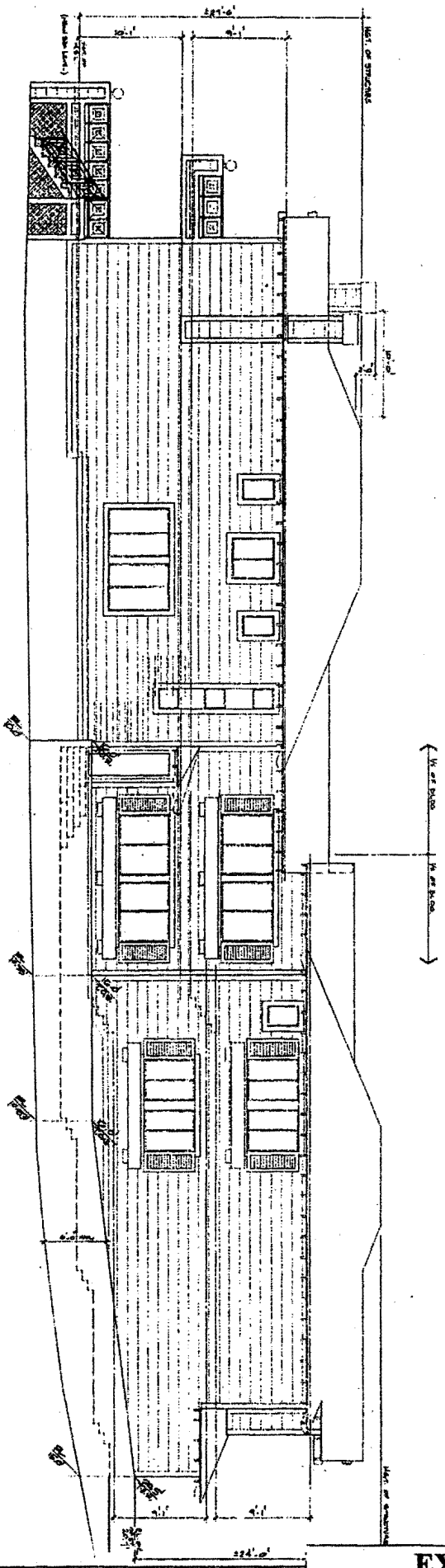


EXHIBIT 8

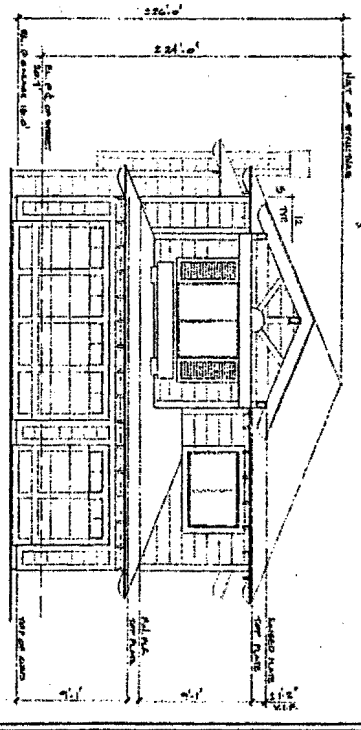
CDP # 4-00-016

Sections



LEFT ELEVATION

FRONT ELEVATION



EXTERIOR ELEVATIONS

PROJECT:
SITRICK RESIDEN
30962 BROAD BEACH ROAD.
MALIBU, CA. 90265

ARCHITECT:
ARCHWEST *DEVELOPMENTS*, INC.
2716 OCEAN PARK BLVD., SUITE 1046, SANTA MONICA, CA. 90405
TELEPHONE: (310) 399-4116 FAX: (310) 392-2117

EXHIBIT 9

CDP # 4-00-016

Elevations

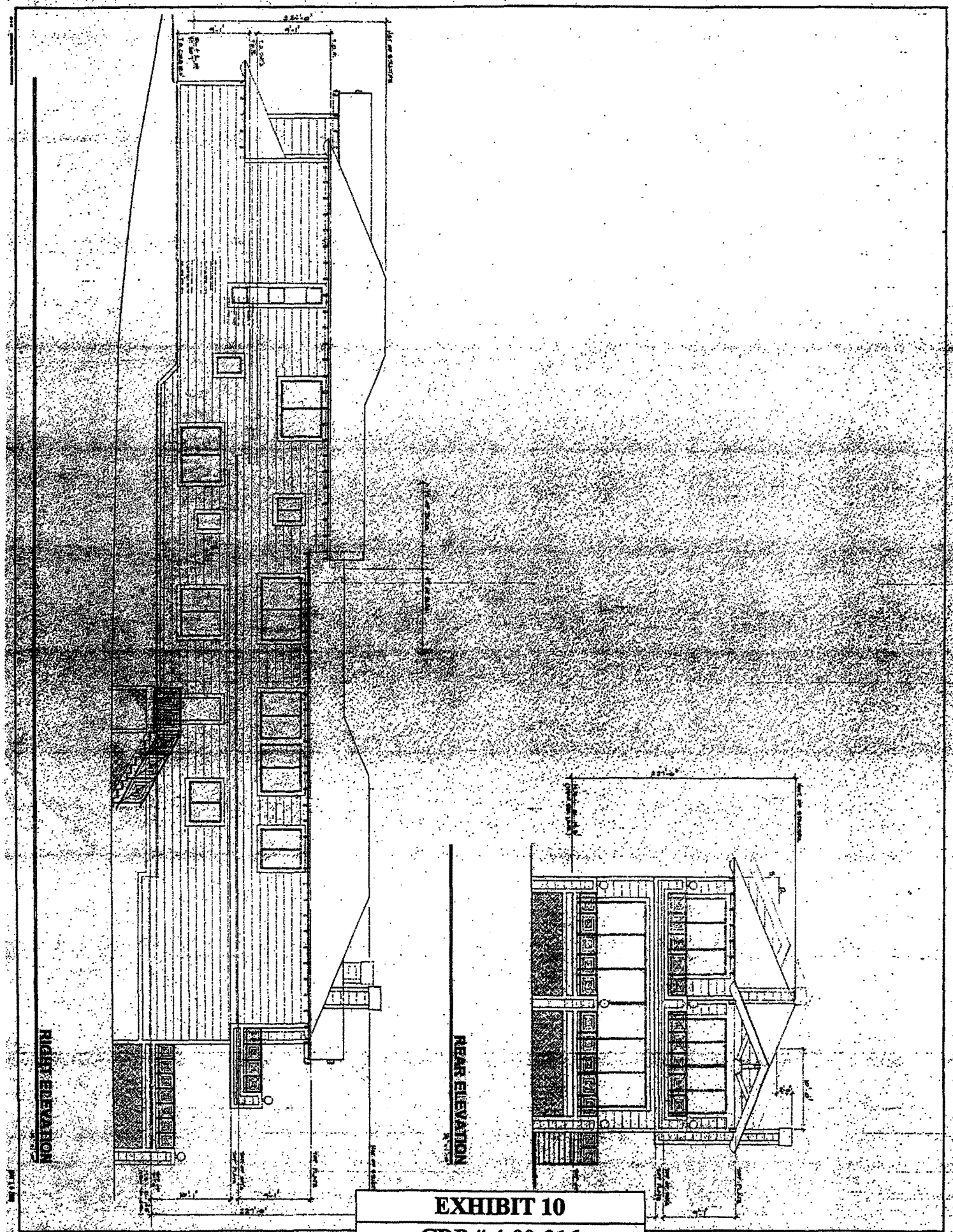


EXHIBIT 10

CDP # 4-00-016

Elevations

STATE OF CALIFORNIA GRAY DAVIS, *Governor*

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

PAUL D. THAYER, *Executive Officer*
California Relay Service From TDD Phone **1-800-735-2922**
from Voice Phone **1-800-735-2929**

Contact Phone: (916) 574-1892
Contact FAX: (916) 574-1925

April 6, 2000

File Ref: SD 00-02-29.8

Bill Crawford
Archwest Developments, Inc.
2716 Ocean Park Blvd., #1048
Santa Monica CA 90405

Dear Mr. Crawford:

SUBJECT: Coastal Development Project Review for Demolition of Existing Single Family Residence and Construction of a New Residence at 30962 Broad Beach Road, Malibu

This is in response to your request on behalf of your clients, Michael and Nancy Sitrick for a determination by the California State Lands Commission (CSLC) whether it asserts a sovereign title interest in the property that the subject project will occupy and whether it asserts that the project will intrude into an area that is subject to the public easement in navigable waters.

The facts pertaining to your clients' project, as we understand them, are these:

Your clients propose to demolish an existing single family residence and construct a new two-story single family residence/patio with second story deck at 30962 Broad Beach Road in Malibu. Based on the June 23, 1999 site survey you have submitted, the proposed residence/patio appear to be in conformance with the string lines established by the residences/patios on either side. This is a wide beach characterized by dune vegetation and well-developed with numerous residences both up and down coast.

We do not at this time have sufficient information to determine whether this project will intrude upon state sovereign lands. Development of information sufficient to make such a determination would be expensive and time-consuming. We do not think such an expenditure of time, effort and money is warranted in this situation, given the limited resources of this agency and the circumstances set forth above. This conclusion is based on the location of the property, the character and history of the adjacent development, and the minimal potential benefit to the public, even if such an inquiry

EXHIBIT 11
CDP # 4-00-016
State Lands Commission

were to reveal the basis for the assertion of public claims and those claims were to be pursued to an ultimate resolution in the state's favor through litigation or otherwise.

Accordingly, the CSLC presently asserts no claims that the project intrudes onto sovereign lands or that it would lit in an area that is subject to the public easement in navigable waters. This conclusion is without prejudice to any future assertion of state ownership or public rights, should circumstances change, or should additional information come to our attention.

If you have any questions, please contact Jane E. Smith, Public Land Management Specialist, at (916) 574-1892.

Sincerely,

Robert L. Lynch, Chief
Division of Land Management

cc: Craig Ewing, City of Malibu