

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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 VENTURA, CA 93001
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Filed: 06/18/00
 49th Day: 08/06/00
 180th Day: 02/15/01
 Staff: BCM-V/r
 Staff Report: 06/22/00
 Hearing Date: July 11-14, 2000
 Commission Action:



STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-00-116

APPLICANT: Steve & Irinka Schwimer AGENT: Luba Tomalevska

PROJECT LOCATION: 6655 Wildlife Road, City of Malibu (Los Angeles County)

PROJECT DESCRIPTION: Construction of a new, unlighted 120' by 60'; tennis court for an existing single family residence (SFR) located on a 1.1 acre lot. The project also includes a ten foot (10') high fence around the court and 540 cu. yds. of grading (330 cut, 210 fill).

Lot area	46,609	sq. ft.	(1.07 ac.)
Building coverage:	6,254	sq. ft.	
Pavement coverage:	9,940	sq. ft.	
Landscape coverage:	27,366	sq. ft.	
Ht abv fin grade:	10'0"	(tennis court fence)	

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

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit No. 5-88-264 (Schwimer); Coastal Development Permit Exemption No. 4-99-134-X (Schwimer); *Geotechnical Engineering Study -- Proposed Addition to Single-Family Residence, Tennis Court and Pavilion -- 6655 Wildlife Road, Malibu, California*, by Advanced Geotechnical Services, Inc., dated November 24, 1999; *City of Malibu Geology and Geotechnical Engineering Review Sheet for Site Address -- 6655 Wildlife Road*, dated November 16, 1998 (updated May 18, 2000).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with three (3) special conditions regarding plans conforming to geologic recommendations, removal of excavated material, and tennis court lighting restriction.

I. STAFF RECOMMENDATION

1. Motion: *I move that the Commission approve Coastal Development Permit No. 4-00-116 pursuant to the staff recommendation.*

2. Staff Recommendation of Approval:

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

3. Resolution to Approve the Permit:

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

II. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

III. SPECIAL CONDITIONS

1. Plans Conforming to Geologic Recommendations

All recommendations contained in the *Geotechnical Engineering Study -- Proposed Addition to Single-Family Residence, Tennis Court and Pavilion -- 6655 Wildlife Road, Malibu, California*, by Advanced Geotechnical Services, Inc., dated November 24, 1999, shall be incorporated into final design and construction including foundations, grading, and drainage. All plans must be reviewed and approved by the geologic / geotechnical consultant.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval by the Executive Director, evidence of the geologic / geotechnical consultant's review and approval of all project plans. The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes to the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

2. Removal of Excavated Material

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

3. Tennis Court Lighting Restriction

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 the following condition: *All lighting for the tennis court, whether temporary or permanent, shall be prohibited.* 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.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is proposing the construction of a new, unlighted 120' by 60'; tennis court for an existing single family residence (SFR) located on a 1.1 acre lot. The project also includes a ten foot (10') high fence around the court and 540 cu. yds. of grading (330 cut, 210 fill). The subject property is a roughly rectangular site located at the intersection of Wildlife Road and Selfridge Drive, approximately 1000 feet south of Pacific Coast Highway in the Point Dume area of Malibu, northwest and inland from Paradise Cove. The Point Dume (Malibu Riviera) area of Malibu is built out with residential development; and the Schwimer property is surrounded by existing homes on all sides. Access to the property is from Pacific Coast Highway to Wildlife Road, a public street which passes immediately northeast of the subject property.

There are existing structures on-site including a single family residence, an attached garage, a circular driveway, a deck, and a detached guesthouse. There has been one previous coastal permit on the subject property (CDP No. 5-88-264) for the guesthouse; and a coastal permit exemption (CDP No. 4-99-134-X) was recently granted for an open wooden 400 sq. ft. trellis / pavilion along with maintenance, repairs, and a 382 sq. ft. addition to the existing residence.

Topographically, the property is located on a near-level pad on a ridge between coastal canyons which characterize the Point Dume peninsula. The property descends from Wildlife Road towards the rear property line and a unnamed canyon to the south. Drainage from the property flows overland towards Boniface Drive and the canyon. Some runoff also drains towards Wildlife Road where it travels downslope via curb-and-gutter conveyances. Stormwater runoff eventually enters one of the local canyons which contain United States Geological Survey (USGS) designated blue-line (intermittent) streams and outlet at Paradise Cove on the eastern side of Point Dume. These local canyons contains riparian corridors designated as disturbed sensitive resource areas (DSR) in the Malibu / Santa Monica Mountains Land Use Plan (LUP).

B. 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 subordinate to the character of its setting.

To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic highways. The Commission also examines the building site and the size of the proposed structure(s). Staff visited the subject site and found the proposed development to be appropriate and feasible, given the terrain and the neighboring residential development. There is significant natural vegetation on-site which will screen the proposed development from nearby private residences. The proposed construction is substantially in character with the type and scale of development in the surrounding area.

The Commission has found that night lighting of areas in the Malibu / Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. In order to mitigate the potential visual and environmental impact of the proposed development and to protect the nearby scenic areas from avoidable disturbance that would otherwise be associated with nighttime use of the tennis court, the Commission finds that it is necessary to require the applicant to submit a deed restriction prohibiting all tennis court lighting, whether temporary or permanent, as specified in **Special Condition Three**. The proposed project, as conditioned, will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act and the policy guidance contained in the certified Malibu / Santa Monica Mountains LUP.

C. Hazards

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

New development shall:

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

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

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

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

The prominent geomorphic features in the area are the ridgelines of the Santa Monica Mountains to the north, the Pacific Ocean to the south, Walnut Canyon to the east, and an unnamed canyon to the west. The site is located on a gently sloping, previously graded pad area, and some grading is proposed to level the ground for the tennis court. The entire site area has an elevation change from 101 to 91 feet. Surface drainage on-site is currently accomplished naturally by sheetflow towards the southern property line. Runoff is eventually collected in the streets and drains to coastal canyons which eventually flow to the Pacific Ocean (Santa Monica Bay) at Paradise Cove. These nearby coastal canyons are designated as Disturbed Sensitive Resource (DSR) areas on the LUP Sensitive Environmental Resources Map.

The property's continued development will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. Erosion and sedimentation can be minimized by requiring the applicant to remove all excess dirt from cut / fill / excavation activities. The applicant has estimated 540 cu. yds. of grading including 330 cu. yds. of cut and 210 cu. yds. of fill which equates to a net export of 120 cu. yds. of dirt. The Commission has found that minimization of grading and exposed earth on-site can reduce the potential impacts of sedimentation in nearby creeks, streams, rivers, and the ocean. Therefore, **Special Condition Two** has been required to ensure that all excavated or cut material in excess of material proposed to be used for fill on the project site and roadways be removed from the site and properly disposed of. The applicant has proposed to revegetate the surrounding ground surface with grass and/or native plantings in order to minimize erosion. This adjoining disturbed ground will be so minimal that a landscaping condition is not warranted.

The applicant has submitted reports indicating that the geologic stability of the site is favorable for the project and that no potentially active faults, adversely oriented geologic structures, or other hazards were observed by the consultants on the subject property. Based on site observations, slope stability analysis, evaluation of previous research, analysis and mapping of geologic data, and limited subsurface exploration of the site, the engineering geologists have provided reports addressing the specific geotechnical conditions related to the site. The *Geotechnical Engineering Study -- Proposed Addition to Single-Family Residence, Tennis Court and Pavilion -- 6655 Wildlife Road, Malibu, California*, by Advanced Geotechnical Services, Inc., dated November 24, 1999, states:

Based on the findings of our data review, subsurface exploration, laboratory testing, field testing, and engineering analysis, and within the scope of this study, the proposed development is feasible from a geotechnical engineering standpoint.

The 1999 Advanced Geotechnical Services report concludes:

[I]t is our opinion, within the scope of this study and the state-of-the-practice as of this date, that (1) the building site for the proposed improvements will be geologically safe from landslides, settlement, or slippage and (2) the proposed building and grading will not negatively impact the geologic stability of adjacent property surrounding the project site, provided all recommendations in the geotechnical reports for this site are followed and the site is properly maintained.

The Commission notes that the geologic and engineering consultants have included a number of recommendations which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans,

the Commission finds it necessary to require the applicant, through **Special Condition One**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations. The Commission finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

D. Local Coastal Program

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

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

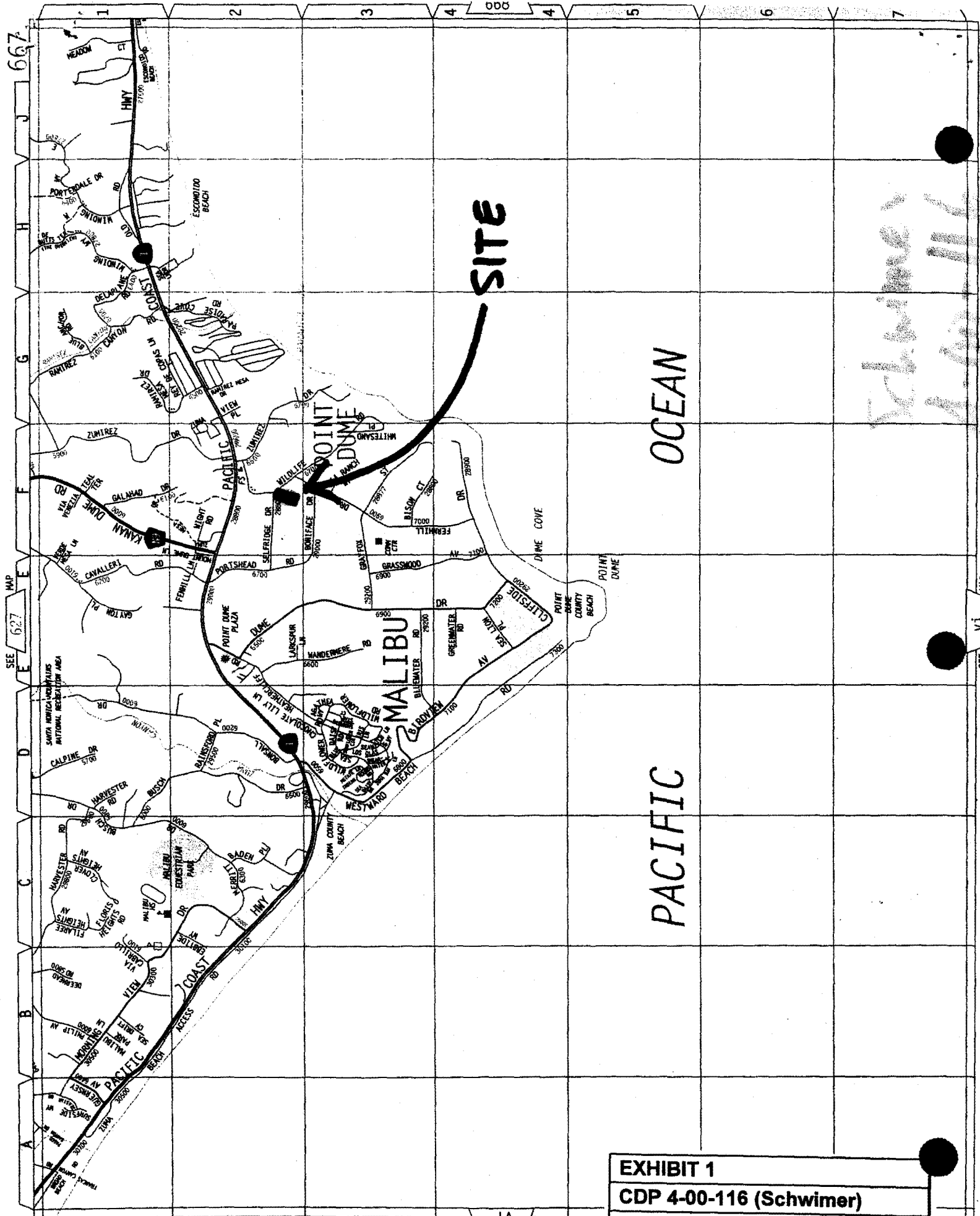
Section 30604(a) of the Coastal Act stipulates that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections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

E. California Environmental Quality Act (CEQA)

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

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

BCM/bcm



SITE

OCEAN

PACIFIC

Schwimer





EXHIBIT 1
CDP 4-00-116 (Schwimer)
Location Map 1

SEE 627 MAP

SEE V1 MAP

4-00-016 Schwimer (6655 Wildlife Road)



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


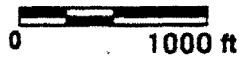
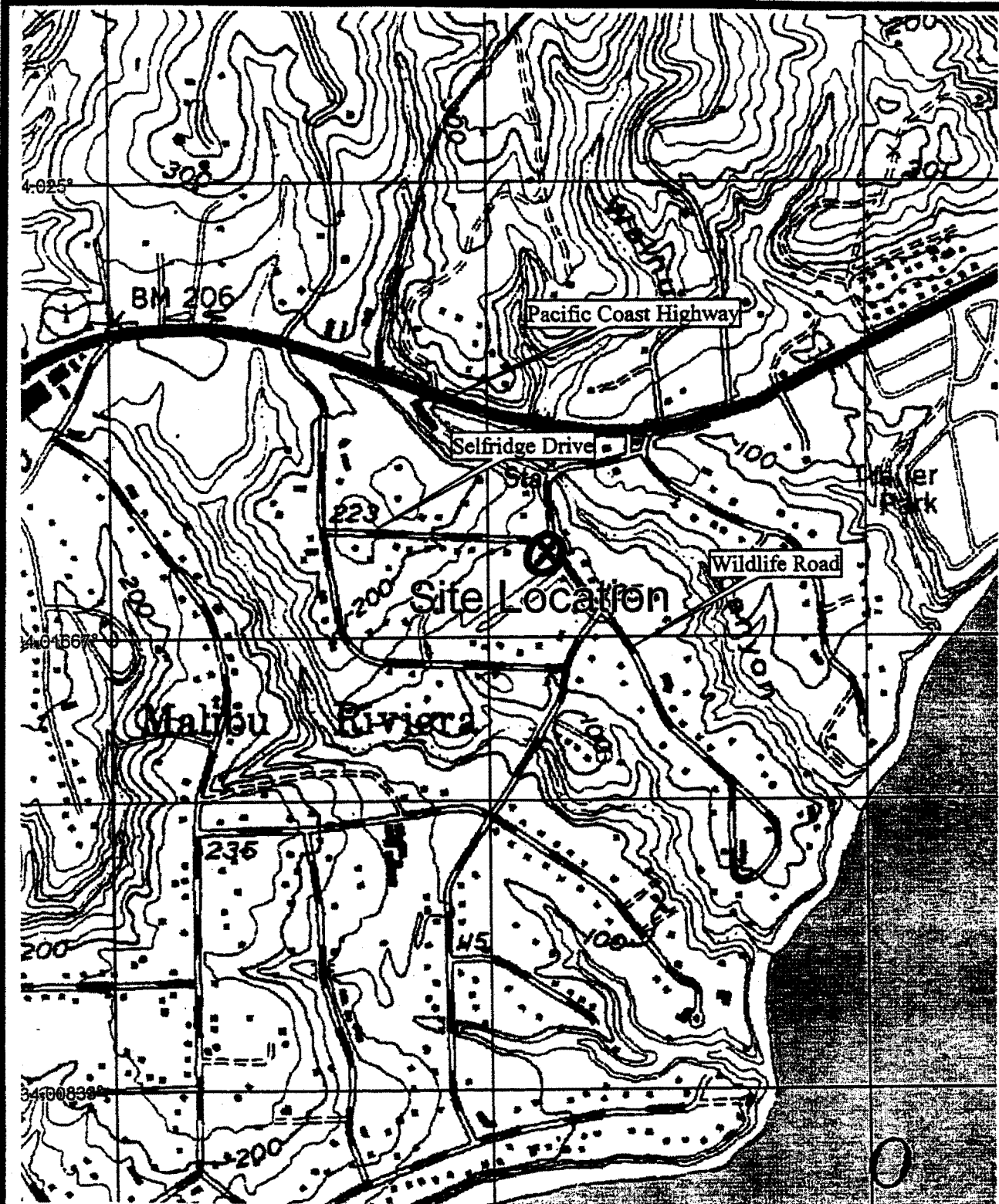
 = SITE

EXHIBIT 2
CDP 4-00-116 (Schwimer)
Location Map 2





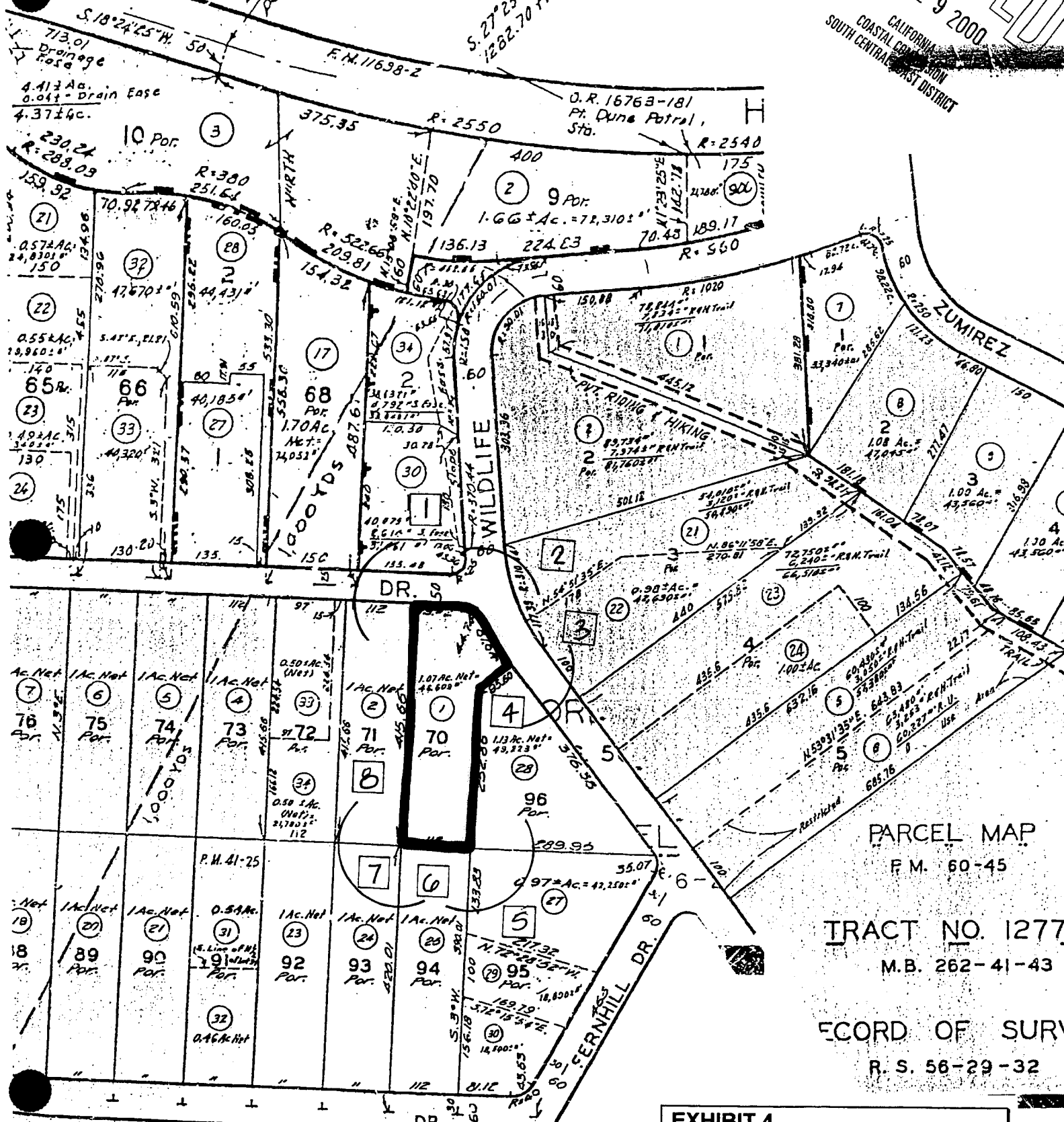
Site Location Map

EXHIBIT 3
CDP 4-00-116 (Schwimer)
Topographic Map

RECEIVED
MAY 19 2000

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL DISTRICT

Eng. Sta. 575r
Per. D.R. 15228-
S. 18°24'45" W. 50'
E.M. 11698-2
S. 27°25'50" E. 50 ft. & W.
1282.70 ft. from Eng. Sta.



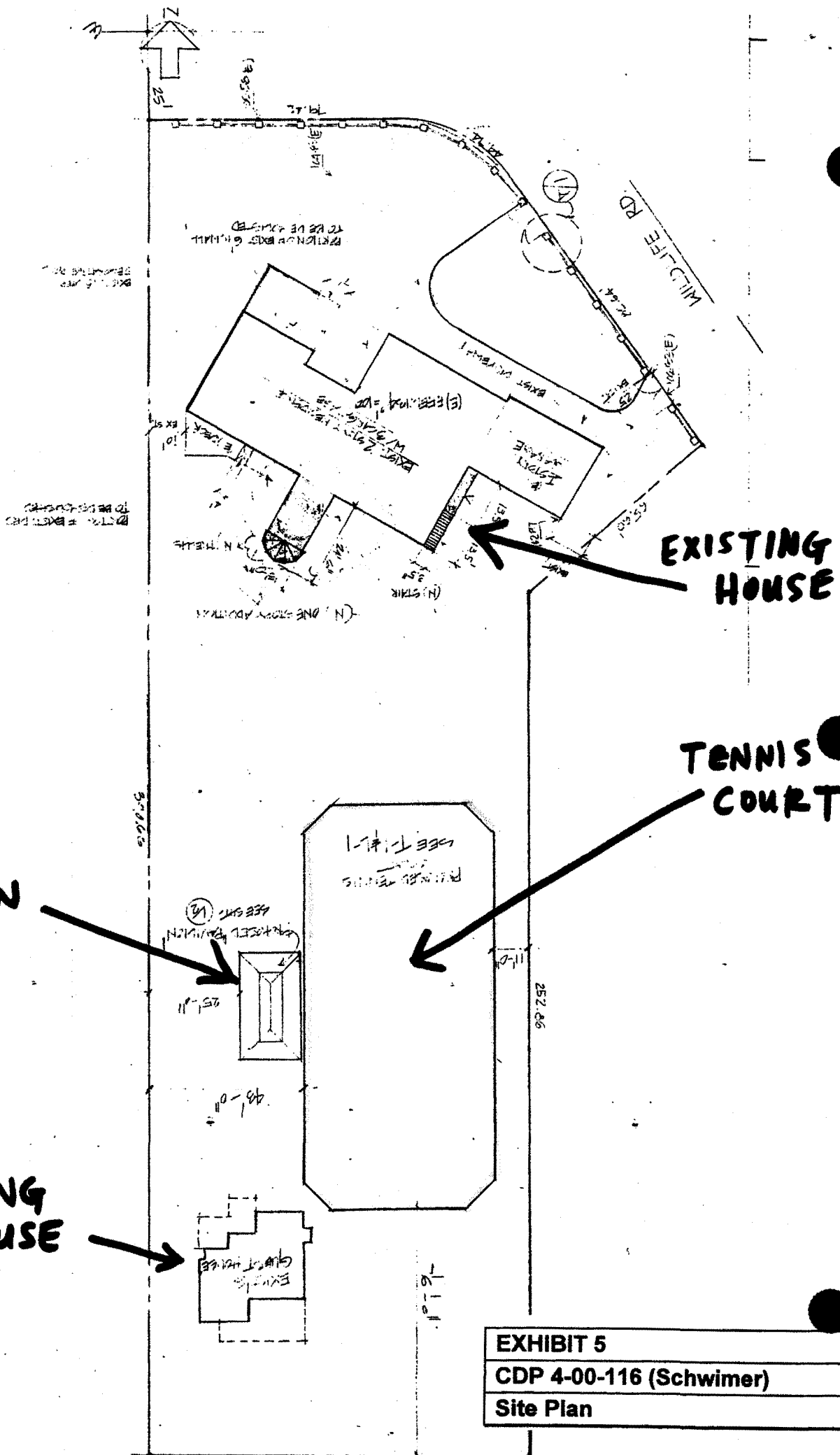
PARCEL MAP
F.M. 60-45

TRACT NO. 1277
M.B. 262-41-43

RECORD OF SURVEY
R. S. 56-29-32

EXHIBIT 4
CDP 4-00-116 (Schwimer)
Parcel Map

REDUCED SITE PLAN



EXISTING HOUSE

TENNIS COURT

PAVILION

EXISTING GUESTHOUSE

EXHIBIT 5
CDP 4-00-116 (Schwimer)
Site Plan