

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

Filed: 7/18/00
49th Day: 9/5/00
180th Day: 1/14/01
Staff: S. Hudson
Staff Report: 7/20/00
Hearing Date: 8/8/00
Commission Action:

**RECORD PACKET COPY****STAFF REPORT: PERMIT AMENDMENT**

APPLICATION NO.: 4-98-212-A3

APPLICANT: Stephen Enkeboll

AGENT: Klaus Radtke

PROJECT LOCATION: 3655 Noranda Lane, Malibu (Los Angeles County)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 2,750 sq. ft., one-story, single family residence with an 1,100 sq. ft. attached garage, a driveway, a 120 sq. ft. greenhouse, a stone stairway, a 150 ft. long, 6 ft. high non-retaining privacy wall, 250 cu. yds. of grading (200 cu. yds. of excavation for the residence and 50 cu. yds. of fill for restoration of a small graded pad) and the recordation of an offer to dedicate a public hiking and equestrian trail easement. The project also includes after-the-fact approval for the construction of a horse stall, a corral, a garden area, one stone stairway, a water tank, six stone garden walls not to exceed 4.6 ft. in height, and 1,000 cu. yds. of grading (600 cu. yds. of cut for hiking and equestrian trail improvements, 200 cu. yds. of cut for a garden area, and 150 cu. yds. of cut for the garden area access path).

DESCRIPTION OF AMENDMENT: Modify previously approved plans to allow for the additional construction of a 576 sq. ft. concrete slab enclosed with 6 ft. high concrete walls and gate (no roof) for equipment storage (including a water filtration system; a propane tank; and a generator), and revise the location of an existing water tank approximately 10 ft. to the south west from previously identified location. In addition, the proposed amendment also includes the request for after-the fact approval of a 58 ft. long 2 ft. high concrete block retaining wall along the east side of the driveway; a 190 sq. ft. concrete planter box approximately 2.5 ft. in height; a 32 sq. ft. concrete slab adjacent to residence for equipment; and enlargement of a previously approved 120 sq. ft. concrete patio by an additional 120 sq. ft.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission determine that the proposed amendment, subject to five (5) special conditions regarding submittal of a revised habitat restoration plan and monitoring program, implementation and completion of the habitat restoration plan, construction monitoring, design color restriction, and condition compliance, **is consistent** with the requirements of the Coastal Act.

The subject site is designated by the previously certified Los Angeles County Malibu/Santa Monica Mountains Land Use Plan (LUP) as disturbed oak woodland. The majority of the proposed development will not be located within the driplines of any oak trees. However, the proposed amendment also includes the after-the-fact request to expand the size of a previously approved patio. The patio expansion resulted in the removal of a low-hanging 2"-3" diameter oak tree branch. In order to adequately mitigate adverse effects to oak tree habitat, Special Condition One (1) requires that the previously approved habitat restoration plan and monitoring program be revised to provide for the planting of an additional 10 new oak trees on site.

LOCAL APPROVALS RECEIVED: City of Malibu Approval in Concept.

SUBSTANTIVE FILE DOCUMENTS: Oak Tree Report Addendum by Geo Safety, Inc. dated 7/17/00; Oak Tree Report Addendum by Geo Safety, Inc. dated 7/12/00; Oak Tree Evaluation and Management Report by Geo Safety, Inc. dated 10/5/98; and Resource Evaluation Report prepared by Geo Safety, Inc. dated 10/23/98; and CDP 4-98-212 (Enekeboll).

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) *The Executive Director determines that the proposed amendment is a material change,*
- 2) *Objection is made to the Executive Director's determination of immateriality, or*
- 3) *The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.*

In this case, the Executive Director has determined that the proposed amendment is a material change. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

I. STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-98-212 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

NOTE: *All standard and special conditions attached to the previously approved permit remain in effect to the extent not otherwise modified herein.*

II. Special Conditions

1. Revised Habitat Restoration, Landscape, and Oak Tree Monitoring Program

Prior to the issuance of the amendment, the applicant shall submit for the review and approval of the Executive Director, a Revised Habitat Restoration, Landscape, and Oak Tree Monitoring Program which provides for the planting of 10 new additional oak trees on the subject site in addition to the planting of the 20 new oak trees originally required pursuant to Special Condition Three (Habitat Restoration, Landscape, and Oak Tree Monitoring Program) of the underlying permit. In total, the program shall provide for the planting of no less than 30 new oak trees on site. The restoration and monitoring program shall include, but not be limited to the following:

a. Habitat Restoration Plan

The plan shall identify the species, extent, and location of all plant materials to be used. 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 restoration effort. The performance standards shall incorporate ground and canopy coverage and survival rates typical to oak woodland areas in the Santa Monica Mountains. All recommendations contained in the Oak Tree Report Addendum dated 7/17/00; Oak Tree Report Addendum dated 7/12/00; Oak Tree Evaluation and Management Report dated 10/5/98 by Geo Safety, Inc.; and Resource Evaluation Report prepared by Geo Safety dated 10/23/98 shall be incorporated into the Habitat Restoration Plan.

b. Restoration Monitoring Program

A monitoring program shall be implemented to monitor the project for compliance with the guidelines and performance standards outlined in the Revised Habitat Restoration and Oak Tree Monitoring Program. The applicant shall submit, on an annual basis, a written report prepared by an environmental resource specialist indicating the success or failure of the restoration project. This report shall include further recommendations and requirements for additional restoration activities in order for the project to meet the criteria and performance standards listed 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.

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 restoration program shall be processed as an amendment to this Coastal Development Permit.

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 two 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.

2. Implementation and Completion of the Revised Habitat Restoration Plan

The applicant shall implement and complete the Habitat Restoration Plan required by Special Condition One, Part a, within 90 days of the issuance of this permit. The Executive Director may grant additional time for good cause.

3. Construction Monitoring

The applicant shall retain the services of an independent biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during construction of the 576 sq. ft. concrete slab/enclosure for equipment storage. Protective fencing shall be used around the dripline of all oak trees which may be disturbed during construction activities. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if habitat is removed or impacted beyond the scope of the work allowed by Coastal Development Permit Amendment 4-98-212-A3. This monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to any oak trees on site beyond the scope of work allowed for by this permit, the applicant shall be required to submit a revised, or supplemental, restoration program to adequately mitigate such impacts at 10:1 oak tree replacement ratio. The revised, or supplemental, restoration program shall be processed as an amendment to the underlying coastal development permit.

4. Design Color Restriction

Prior to issuance of a coastal development permit, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which restricts the color of all structures on site (including, but not limited to, the residence, concrete equipment storage enclosure, and all roofs) to natural earth tones, compatible with the surrounding earth colors (white tones shall not be acceptable). All windows shall be of non-glare glass. The document 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 Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Condition Compliance

Within 90 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. Findings and Declarations.

A. Project Description and Background

The applicant is requesting an amendment to Coastal Development Permit 4-94-178 to modify the previously approved plans for a new single family residence to allow for the additional construction of a 576 sq. ft. concrete slab enclosed with 6 ft. high concrete walls and gate (no roof) for equipment storage (including a water filtration system; a propane tank; and a generator) and revise the location of an existing water tank approximately 10 ft. to the south west from the previously identified location. In addition, the proposed amendment also includes the request for after-the-fact approval of a 58 ft. long 2 ft. high concrete block retaining wall along the east side of the driveway; a 190 sq. ft. concrete planter box approximately 2.5 ft. in height; a 32 sq. ft. concrete slab adjacent to residence for equipment; and enlargement of a previously approved 120 sq. ft. concrete patio by an additional 120 sq. ft.

The subject site is an irregularly shaped 5.03 acre parcel located upslope and west of Encinal Canyon Road approximately one mile north of Pacific Coast Highway in the City of Malibu (Exhibit 1). Slopes generally descend from the northwest corner of the property to the southeast with slope gradients varying from nearly horizontal to as steep as 1:1 (45°). The proposed development is located on a relatively flat existing pad area in the northwest portion of the subject site which is designated by the previously certified Los Angeles County Malibu/Santa Monica Mountains Land Use Plan (LUP) as disturbed oak woodland. In addition, the subject site is located approximately 1,000 ft. upslope and to the west of Encinal Canyon Creek. Charmlee Park, held by the City of Malibu as a "natural area" available for passive recreational use by the public including hiking and equestrian use, is located approximately 400 ft. to the west of the subject site.

The certified LUP indicates that a planned future segment of the Coastal Slope Trail is located on the project site which is necessary to link Charmlee Park to the Coastal Slope Trail. Pursuant to a previous offer by the applicant and implemented by Special Condition Nine (9) of underlying Coastal Development Permit (CDP) 4-98-212, an offer to dedicate a public hiking and equestrian trail easement has been recorded on the subject site immediately south of the proposed development. In addition, more than three acres of the southern portion of the subject site has been previously deed-restricted as non-developable open space area pursuant to a previous offer by the applicant and implemented by Special Condition Five (5) of CDP 4-94-064. The proposed development will not be located within either the previously recorded trail easement or open space area on site and will not result in any adverse effects to public access or recreation.

The project site has been subject to past Commission action. The underlying CDP 4-98-212 was approved by the Commission in 1998 for the construction of a new single

family residence and related development on site pursuant to 12 special conditions including implementation of an oak tree habitat restoration program, presence of a biological monitor on site during all grading activity, a future development deed restriction, an offer to dedicate a public hiking and equestrian trail easement, a deed restriction limiting the color of the approved residence to earth tones, and assumption of risk by the applicant. CDP 4-98-212 has been subject to one previous amendment (CDP 4-98-212-A1) which was approved by the Commission for modifications to the previously approved driveway retaining wall and the placement of a temporary construction office trailer. A second amendment to the underlying permit (CDP 4-98-212-A2) for the placement of a temporary trailer was withdrawn by the applicant prior to being heard by the Commission. In addition, CDP 4-94-064 was also approved by the Commission in 1994 to restore oak tree habitat area which had been disturbed by unpermitted development on site, including the planting and operation of a small vineyard which has since been removed and restored.

B. Environmentally Sensitive Habitat Area

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 states:

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, and minimizing alteration of natural streams.

In addition, 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.

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values:

The proposed development and previously approved single family residence is located in a portion of the subject site designated by the previously certified Los Angeles County Malibu/Santa Monica Mountains Land Use Plan (LUP) as disturbed significant oak woodland. In addition, the subject site is located approximately 1,000 ft. upslope and to the west of Encinal Canyon Creek. Although not designated as a significant watershed area by the Malibu/Santa Monica Mountains LUP, the subject site has been designated as a significant watershed area for Encinal Canyon Creek in the Malibu General Plan.

To assist in the determination of whether a project is consistent with Section 30230, 30231, and 30240 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the certified Malibu/Santa Monica Mountains LUP for guidance. The Malibu 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, in concert with Sections 30230, 30231, and 30240 of the Coastal Act, Policy 60 of the LUP provides that oak woodlands (Non-riparian) shall be considered as significant resources. In addition, Policy 63 provides that development shall be permitted in ESHAs, DSRs, significant watersheds, and significant oak woodlands, and wildlife corridors in accordance with Table 1 and all other policies of the LUP. Table 1 of the LUP states, in part, that:

- *Encroachment of structures within an oak woodland shall be limited such that at least 90% of the entire woodland is retained.*
- *Clustering of structures shall be required to minimize the impacts on natural vegetation.*
- *Land alteration and vegetation removal shall be minimized.*

The proposed amendment is for the construction of a 576 sq. ft. concrete enclosure for equipment storage and to revise the project plans to clarify the actual location of an existing water tank approximately 10 ft. to the south west from its previously identified location. In addition, the proposed amendment also includes the request for after-the-fact approval of a 58 ft. long, 2 ft. high concrete block retaining wall along the east side of the driveway; a 190 sq. ft. concrete planter box approximately 2.5 ft. in height; a 32

sq. ft. concrete slab adjacent to the residence for equipment; and expansion of a previously approved 120 sq. ft. patio by an additional 120 sq. ft.

The majority of the proposed development (the concrete enclosure for equipment storage, the water tank, the retaining wall, and the concrete planter box) will not be located within the driplines of any oak trees or require grading or earth preparation activities outside the footprint of the proposed development and will; therefore, not result in any adverse effects to oak tree habitat on site. However, the proposed amendment also includes the after-the-fact request for the expansion of a previously approved 120 sq. ft. concrete patio on the west side of the residence by an additional 120 sq. ft. The proposed patio expansion will partially extend into the dripline of a nearby oak tree by approximately 6 ft. Construction of the patio expansion has already been completed. In addition, a low-hanging 2"-3" diameter branch which overhung the project area was removed after the patio had been constructed. The removed branch constituted the extent of the dripline/crown of the oak tree in the location where the patio expansion occurred.

The applicant has submitted an Oak Tree Report Addendum by Geo Safety, Inc. dated 7/12/00 to assess the adverse effects to the oak tree habitat on site resulting from the construction of the patio expansion and removal of the oak branch/crown. The report indicates that the proposed project did result in some minor impacts to the oak tree habitat on site. However, the report further indicates that construction of the patio expansion and removal of the 2"-3" diameter branch/crown is not expected to result in any significant long-term impacts to the oak habitat on site. In addition, the report also indicates that the 2"-3" diameter oak tree branch was growing at a downward angle and had become top-heavy and that; therefore, it would have eventually been necessary to either support the branch using a brace or remove the branch for safety reasons regardless of whether a larger patio had been constructed. The Oak Tree Report Addendum by Geo Safety, Inc. dated 7/12/00 states:

The slab [120 sq. ft. concrete patio addition] was extended for 6 feet under the canopy of a very long lateral branch extending from a small Coast Live Oak towards the house. This approximately 2"-3" dia. branch formed the canopy of the oak along this side of the house and would have had to be supported by a brace as it was leaning towards the ground and could not support its own weight. The extension of the deck slab was done by the architect with the apparent of the on-site City of Malibu Building Inspector but unbeknown to the environmental monitor/biologist.

It was the intention of the monitor/biologist to either cut the long lateral branch for safety reasons or support it. After it was discovered that the slab had been extended, the branch/crown was cut back by the monitor/biologist for safety reasons.

In addition, the applicant's environmental consultant has indicated that since the branch above the patio has already been removed, removal of the small unpermitted portion of the patio constructed within the previously existing dripline would have no benefit to the health of the impacted oak. The Oak Tree Report Addendum by Geo Safety, Inc. dated 7/17/00 states:

Removing the small extension of the small concrete deck would have basically no benefit to the oak tree. As the plans indicate, the deck extends under the oak canopy only along one small corner where a small diameter horizontally extending branch was cut that would have had to be either braced or cut because it was thin and leaning towards the ground. The area of the small deck extension is characterized by surface rocks (did not require tamping or soil compaction) and therefore does not deprive the tree of any soil surface for water infiltration and soil moisture recharge. Furthermore, runoff from the small deck is designed to sheet onto the oak woodland, thereby not depriving the woodland of any runoff due to any impervious surface.

The Commission notes that the subject patio, as originally approved, would have been located outside the dripline of the oak tree. However, the deck, as constructed with an expanded footprint, extends approximately 6 ft. under the dripline of an oak tree (approximately 8 ft. from the trunk) and necessitated the removal of a portion of the oak tree's crown (a single low-hanging 2"-3" diameter branch). As such, the Commission notes that adverse effects to the oak tree habitat on site have resulted from the unpermitted expansion of the patio within the dripline of oak tree and the subsequent removal of a portion of the crown of the oak tree. However, the Commission also notes that removal of the small portion of the patio located within the previously existing dripline of the oak tree would not result in any significant benefits to health of the impacted oak tree or serve to restore oak tree habitat.

A Habitat Restoration Plan and Oak Tree Monitoring Program for the subject site was previously prepared for the project site and approved by the Executive Director pursuant to Special Condition Three (3) of underlying CDP 4-98-212. The previously approved restoration plan and monitoring program provides for the planting of 20 new oak trees on the subject site to mitigate adverse effects to oak tree habitat resulting from construction of the project as originally approved. In order to mitigate the new adverse effects to oak tree habitat on site resulting from encroachment into the dripline of the impacted oak tree by the patio expansion, the applicant has offered to plant three additional oak trees (15-gallon container size) on the subject site. However, the Commission notes that Special Conditions Three (Habitat Restoration and Oak Tree Monitoring Program) and Four (Construction Monitoring) of underlying CDP 4-98-212 require that any damage to the oak trees on site, not otherwise approved by CDP 4-98-212, be mitigated at a 10:1 replacement ratio; therefore, the applicant's offer to plant only three new oak trees on site would not be consistent with the intent of the special conditions of the underlying permit or serve to adequately mitigate adverse effects from the proposed development to oak tree habitat on site. As such, in order to ensure that adverse effects to the oak tree habitat are adequately mitigated and to ensure that the proposed amendment is consistent with all conditions of the underlying permit, Special Condition One (1) requires that adverse effects which have occurred from the proposed development be mitigated at a 10:1 replacement ratio. Prior to the issuance of the amendment, the applicant shall submit for the review and approval of the Executive Director, a Revised Habitat Restoration, Landscape, and Oak Tree Monitoring Program which provides for the planting of 10 new additional oak trees on the subject site in

addition to the planting of the 20 new oak trees originally required pursuant to Special Condition Three (Habitat Restoration and Oak Tree Monitoring Program) of the underlying permit. In total, the program shall provide for the planting of no less than 30 new oak trees on site. Special Condition One (1) also requires the applicant to submit annual reports indicating the success or failure of the restoration effort for a period of five years. If the restoration effort is in part, or in whole, unsuccessful, the applicant shall be required to submit a revised or supplemental restoration program. In addition, Special Condition Two (2) has been required to ensure that the revised Habitat Restoration Plan required by Special Condition One, Part a, is implemented and completed within 90 days of the issuance of this permit. The Executive Director may grant additional time for good cause.

In addition, the proposed concrete pad for the 576 sq. ft. concrete slab/enclosure for equipment storage will be located in close proximity to several oak trees and may result in potential adverse effects to those oak trees from construction activity. In order to ensure that any potential adverse effects to the oak trees on the project site are minimized, Special Condition Three (3) requires the applicant to retain the services of an independent biological consultant or arborist to be present on site during construction of the 576 sq. ft. concrete slab/enclosure for equipment storage. In addition, Special Condition Three (3) also requires the use of protective fencing around the driplines of all oak trees which may be disturbed during construction activity.

Therefore, the Commission finds that the proposed amendment, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

C. 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 that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. The previously certified Los Angeles County Malibu/Santa Monica Mountains LUP indicates that a planned segment of the Coastal Slope Trail is located on the project site in order to link Charmlee Park to the Coastal Slope Trail. Pursuant to a previous offer by the applicant and implemented by Special Condition Nine (9) of underlying Coastal Development Permit (CDP) 4-98-212,

an offer to dedicate a public hiking and equestrian trail easement has been recorded on the subject site immediately south of the proposed development. Although the proposed development will not be visible from Pacific Coast Highway and will not be easily visible to passing motorists on Encinal Canyon Road, the proposed development will be visible from the Coastal Slope Trail.

In order to ensure that the previously approved residence would not result in adverse effects to public views from the Coastal Slope Trail, Special Condition Ten (10) of underlying CDP 4-98-212 required the recordation of a deed restriction limiting the color of the structure to earth tones compatible with the surrounding environment. In this case, the proposed amendment involves the construction of a new 576 sq. ft. equipment storage area with 6 ft. high concrete walls. The equipment storage enclosure will be visible from the Coastal Slope Trail. The Commission notes that the previously recorded deed restriction regarding structural design/color limitations pertained only to the approved residence and does not apply to new development, such as the proposed equipment storage enclosure. Therefore, to ensure that any adverse effects to public views from all structures on site, including the new equipment storage enclosure, are minimized, and to ensure that the proposed amendment is consistent with the intent of the conditions of the underlying permit, Special Condition Four (4) requires the recordation of a new deed restriction which restricts the color of all structures on site (including the new proposed 576 sq. ft. concrete enclosure) to natural earth tones, compatible with the surrounding earth colors (white tones shall not be acceptable).

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

D. Violations

This application includes the after-the-fact request for the construction of a 58 ft. long 2 ft. high concrete block retaining wall along the east side of the driveway; a 190 sq. ft. concrete planter box approximately 2.5 ft. in height; a 32 sq. ft. concrete slab adjacent to residence for equipment; and enlargement of a previously approved 120 sq. ft. deck by an additional 120 sq. ft.

To ensure that the violation aspect of this application is resolved in a timely manner, Special Condition Five (5) requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action. In addition, Special Condition Two (2) has been required to ensure that the Habitat Restoration Plan required by Special Condition One, Part a, is implemented and completed within 90 days of the issuance of this permit. The Executive Director may grant additional time for good cause.

Although construction has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

E. 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 Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with 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 amendment, as conditioned, will not prejudice the City of Malibu's ability to prepare a Local Coastal Program for this area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that would substantially lessen any significant adverse effects that the activity may have on the environment.

The proposed amendment, 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 amendment, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

SMH-VNT

File: smh/material amendments/4-98-212-A3 enkeboll

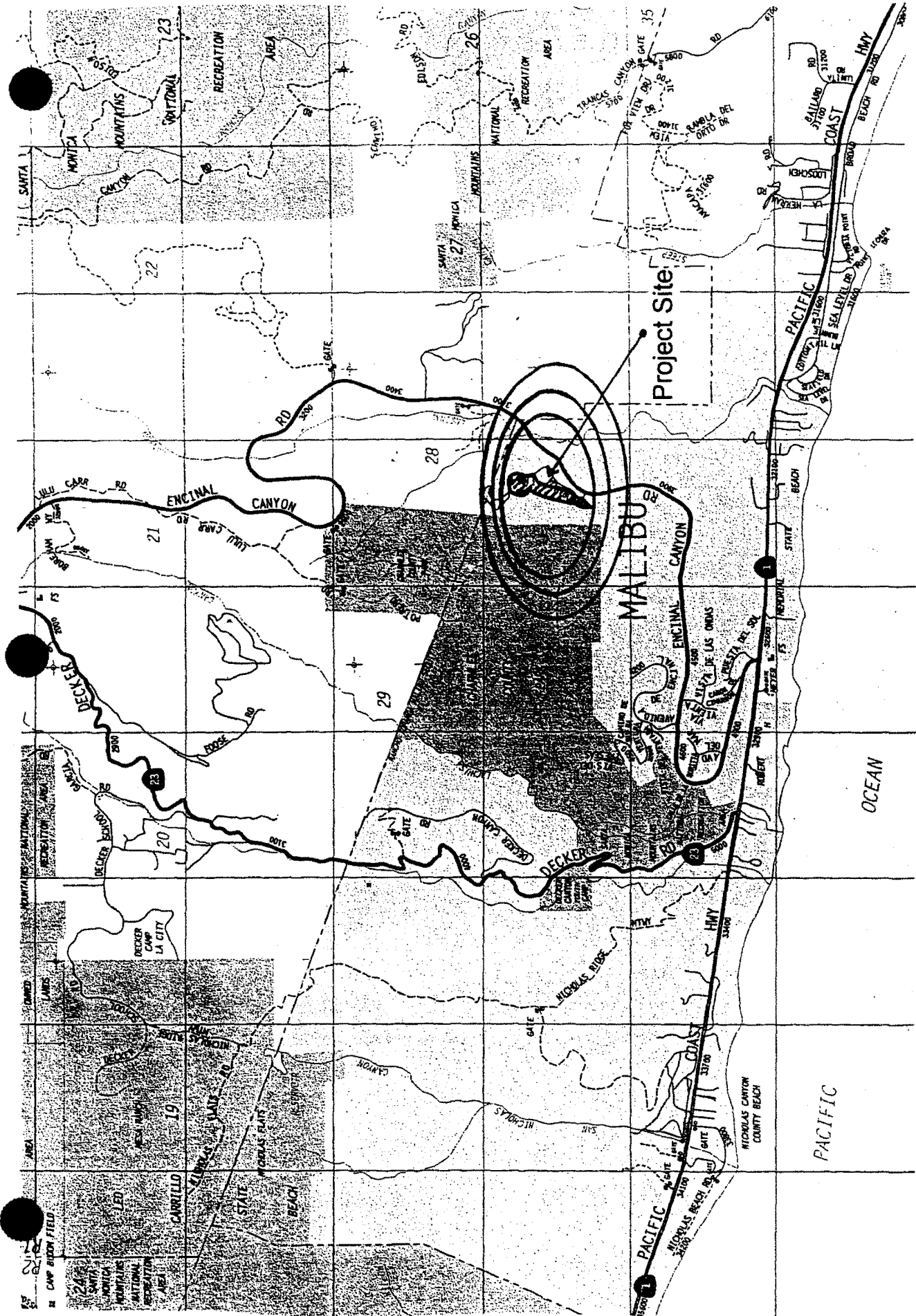


EXHIBIT 1
 CDP 4-98-212-A3 (Enkeboil)
 Location Map

4473 26
SCALE" = 200'

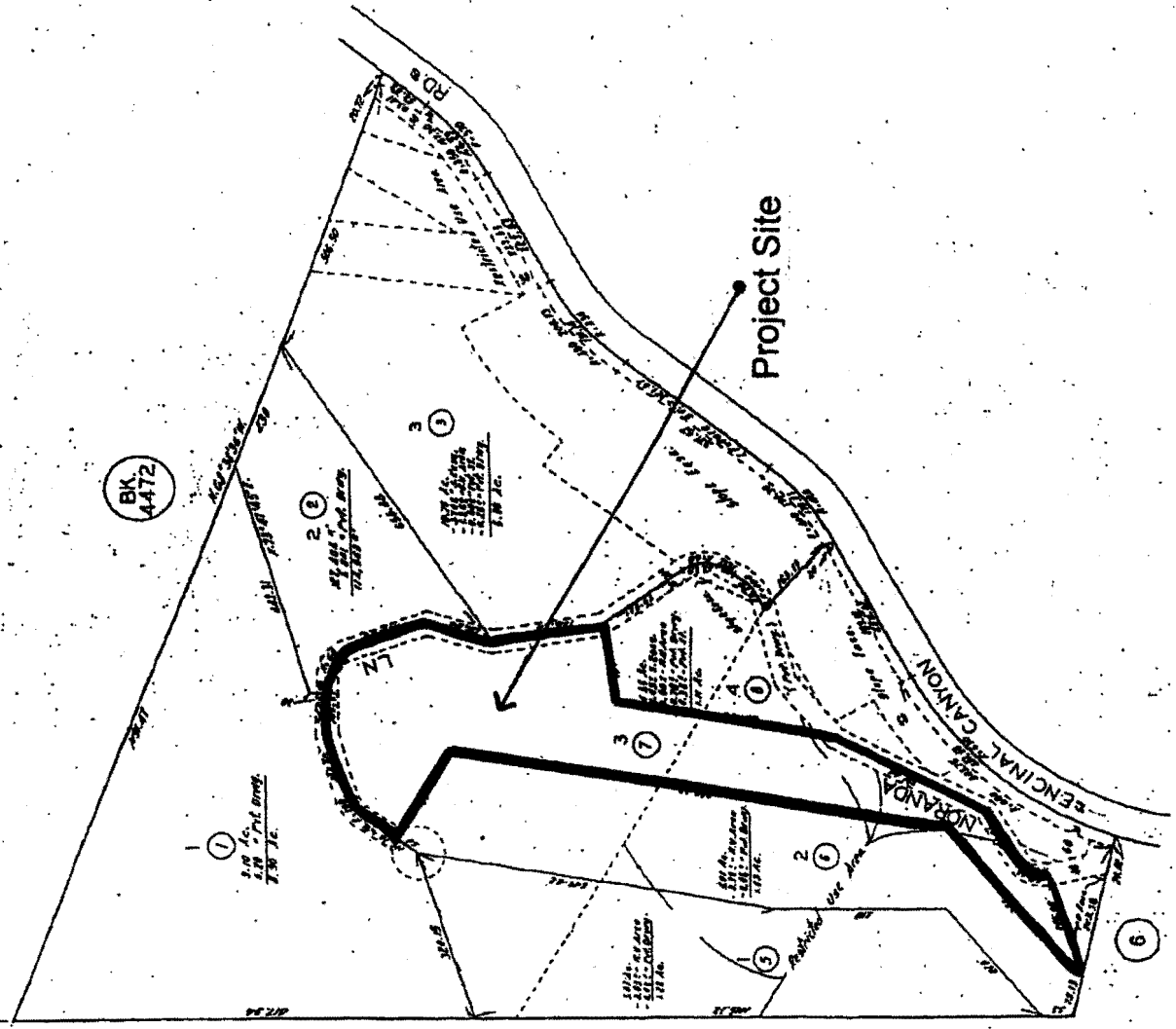
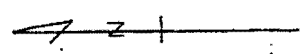


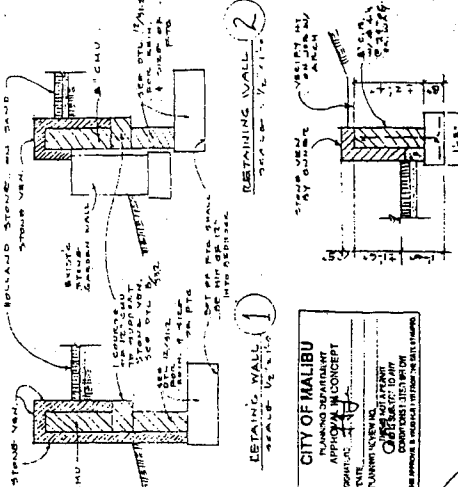
EXHIBIT 2
CDP 4-98-212-A3 (Enkeboll)
Parcel Map

REVISIONS BY	DATE
6/11/11	
8/15/11	
1/7/03	
1/16/00	
5/10/00	

MR. STEVE ENKEBOLL
ARCHITECT

DATE: 1/17/16
SHEET: 1
PROJECT: 4-98-212-A3
SCALE: AS SHOWN

- GENERAL NOTES**
1. ALL EXT. DECK SHALL HAVE A LANDING (MIN. 3'x3') FLOOR LEVEL @ LANDING SHALL BE 1" MAY.
 2. GUARD RAILS ARE READ @ ALL LANDING OVER 30" HIGH & @ OPENINGS OR STAIRS OVER 30" HIGH. SEE DETAIL FOR SPECIFICATIONS & DETAILS FOR STAIRS.
 3. A subdivision approved by the City of Malibu is included in this plan. It is the responsibility of the applicant to verify the accuracy of the City plan. The applicant shall be responsible for all existing boundaries, easements, and encroachments. The applicant shall be responsible for all existing boundaries, easements, and encroachments. The applicant shall be responsible for all existing boundaries, easements, and encroachments.



CITY OF MALIBU
PLANNING DEPARTMENT
APPROVAL IN CONCEPT
DATE: 1/17/16
PROJECT: 4-98-212-A3
SCALE: AS SHOWN

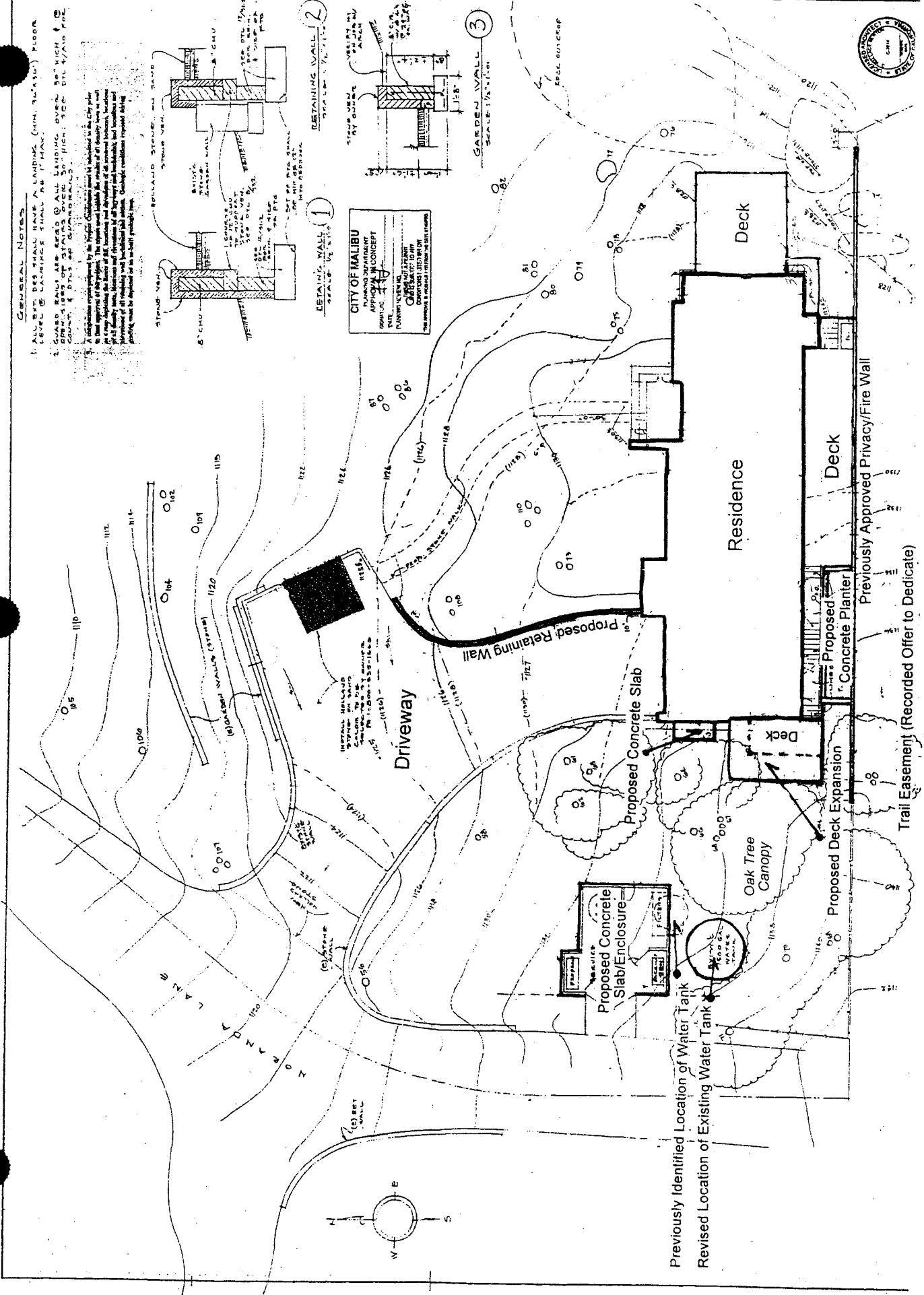


EXHIBIT 3
CDP 4-98-212-A3 (Enkeboll)
Site Plan

