

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
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Commission Action:



## RECORD PACKET COPY

## STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-00-093

APPLICANT: Louis & Katherine Furgurson

PROJECT LOCATION: 27828 W. Winding Way, City of Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Construction of a new, 4,045 sq. ft., 28 ft. high, two-story single family residence (SFR) with a 462 sq. ft. attached 2-car garage, a driveway, retaining walls, a septic system, and landscaping. The project also includes 232 cu. yds. of grading (232 cut) and an offer to dedicate a public access trail easement along West Winding Way.

Lot area	104,544 sq. ft. (2.4 ac.)
Building coverage:	3,634 sq. ft.
Pavement coverage:	2,928 sq. ft.
Landscape coverage:	10,426 sq. ft.
Unimproved area:	87,556 sq. ft.
Parking spaces:	14 (2 covered)
Ht abv fin grade:	28'0"

**LOCAL APPROVALS RECEIVED:** Approval in Concept -- City of Malibu Planning Department; Approval in Concept -- City of Malibu Environmental Health Department (Septic System); Approval in Concept -- City of Malibu Geology and Geotechnical Engineering.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permit (CDP) Nos. 4-99-147 (Kaiser), 4-99-188 (Lescher); *Memorandum, Updated Engineering Geologic and Geotechnical Engineering Evaluation, Proposed Single Family Residence, Lot 1, LAPM 19961, 27828 Winding Way, Malibu, Los Angeles County, California*, by Robertson Geotechnical Group, dated August 24, 1999; *Addendum Report -- Response to City of Malibu Geotechnical Review Sheet -- Preliminary Plan Review, Proposed Single Family Residence, Lot 1, LAPM 19961, 27828 Winding Way, Malibu, Los Angeles County, California*, by Robertson Geotechnical Group, dated November 22, 1999; *City of Malibu Geology and Geotechnical Engineering Review Sheet for Site Address -- 27828 Winding Way*, dated December 20, 1999; *Memorandum on Additional Exploration, Proposed Seepage Pits for Proposed Single Family Residence, Lot 1, LAPM 19961, 27828 Winding Way, Malibu, Los Angeles County, California*, by Robertson Geotechnical Group, dated January 14, 2000; *Site Evaluation for Subject Property 27828 Winding Way, Malibu Tract 4460-006-016*, by Barton Slutske, Residential Waste Water Disposal System Specialist, dated January 19, 2000.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed project with eight (8) special conditions regarding landscape and erosion control plans, drainage and polluted runoff control plans, plans conforming to geologic recommendations, removal of excavated material, assumption of risk, color restriction, future improvements, and offer to dedicate trail access.

## **I. STAFF RECOMMENDATION**

1. **Motion:** *I move that the Commission approve Coastal Development Permit No. 4-00-093 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. Landscaping and Erosion Control Plans

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

##### a) Landscaping

All graded and disturbed areas and appropriate visual screening areas on the subject site shall be planted and maintained within sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation and to screen or soften the visual impact of development, all landscaping shall consist primarily of native / drought-resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996. The plan shall include vertical elements, such as trees and shrubs, which partially screen the appearance of the proposed structure(s) as viewed from Pacific Coast Highway and the nearby trails. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide ninety percent (90%) coverage within two (2) years, and this requirement shall apply to all disturbed soils. Planting shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the applicable landscape requirements.

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

##### b) Erosion Control

The landscaping / erosion control plans shall delineate areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas,

and/or stockpile areas. Natural areas to be left undisturbed such as native trees and vegetation shall be clearly delineated on the project site with fencing or survey flags.

The plans shall specify that should grading take place during the rainy season (November 1 – March 31), the applicant shall construct or install temporary sediment basins (including debris basins, desilting basins, and/or silt traps), temporary swales, sandbag barriers, silt fencing, and geofabric or other appropriate cover (including stabilizing any stockpiled fill cover and installing geotextiles or mats on all cut or fill slopes) on the project site. The applicant shall also close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and shall be maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment shall be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

The plans shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to stabilization of all stockpiled fill, access roads, disturbed soils, and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing, temporary swales, and sediment basins. The plans shall also specify that all disturbed areas be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

### **c) Monitoring**

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

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

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

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a drainage and polluted runoff control plan designed by a licensed engineer to minimize the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in

conformance with the geologists' recommendations. The plan shall be subject to the following requirements and shall, at a minimum, include the following components:

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

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

(c) The plan shall include provisions for BMP maintenance. All structural and non-structural BMPs shall be maintained in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) all traps, separators, and/or filters shall be inspected, cleaned, and repaired prior to the onset of the storm season -- no later than September 30<sup>th</sup> each year; and (2) should any of the project's surface or subsurface drainage / filtration structures or other BMPs fail or result in increased erosion, the applicant / landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage / filtration system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

### **3. Plans Conforming to Geologic Recommendations**

All recommendations contained in the *Addendum Report -- Response to City of Malibu Geotechnical Review Sheet -- Preliminary Plan Review, Proposed Single Family Residence, Lot 1, LAPM 19961, 27828 Winding Way, Malibu, Los Angeles County, California*, by Robertson Geotechnical Group, dated November 22, 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.

### **4. 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.

**5. Assumption of Risk**

By acceptance of this permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from fire, landsliding, earth movement, flooding, and erosion; (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.

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, 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.

**6. Color Restriction**

The color of the structure(s), roofs, walls, and driveways permitted hereby shall be restricted to a color compatible with the surrounding environment, such as earth tones which mimic the natural ground / vegetation colors (white tones shall not be acceptable for walls, nor will red tones be acceptable for tile roofs).

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

**7. Future Development Deed Restriction**

This permit is only for the development described in Coastal Development Permit No. 4-00-093. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the residence. Accordingly, any future structures, additions, or improvements

related to the residence approved under Coastal Development Permit No. 4-00-093 will require a permit from the California Coastal Commission or its successor agency.

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. Offer to Dedicate Public Hiking and Equestrian Trail Easement**

In order to implement the applicant's proposal of an offer to dedicate a six foot (6') wide public access hiking and equestrian trail easement for passive recreational use as part of this project, the applicant as landowner 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 public access and passive recreational use in the general location and configuration depicted in Exhibit 12. 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 that may exist on the property.

The offer shall provide the public the right to pass and re-pass over the dedicated route. The document shall be recorded free of prior encumbrances, except for tax liens, that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees of the applicant or landowner, 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 of the applicant's entire parcel and the trail easement area.

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

The Commission hereby finds and declares as follows:

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

The applicant is proposing construction of a new, 4,045 sq. ft., 28 ft. high, two-story single family residence (SFR) with a 462 sq. ft. attached 2-car garage, a driveway, retaining walls, a septic system, and landscaping. The project also includes 232 cu. yds. of grading (232 cut) and an offer to dedicate a public access trail easement along West Winding Way. Although a swimming pool is shown on the project plans, the applicant sent a letter dated August 22, 2000 which requests that the swimming pool be removed from this application; thus, the pool is not included in this coastal permit. The property is located in the Ramirez / Escondido Canyon area of the City of Malibu, north

and inland from Escondido Beach and Paradise Cove. Access to the project site is from Pacific Coast Highway via West Winding Way, a publicly accessible street which passes immediately west of the subject property. The site is visible from PCH and also from the Coastal Slope Trail which passes to the north and the east of the property.

The subject property is located on a sloping, southeast facing ridge in the Santa Monica Mountains. The proposed site for the residence lies on a gently sloping upper pad area located on the west side of the property adjoining Winding Way. The eastern portion of the property descends to an unnamed canyon containing a U.S. Geological Survey (USGS) designated blue-line intermittent stream. Drainage on the property is by overland sheetflow over the existing contours in a southeasterly direction towards the canyon. The runoff then travels south, passes under Pacific Coast Highway, and outlets at Escondido Beach. There have been no previous coastal permits obtained for the subject property, and there is no existing development on-site.

## **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.*

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

*P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways, to and along the shoreline, and to scenic coastal areas, including public parklands; P129 Structures shall be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment; P130 In highly scenic areas and along scenic highways, new development ... shall be sited and designed to protect views to and along the ocean and to and along other scenic features, ... minimize the alteration of natural land forms, ... conceal raw-cut slopes, be visually compatible with and subordinate to the character of its setting, [and not] intrude into the skyline as seen from public viewing places; P 131 Where feasible, prohibit placement of structures that will break the ridgeline view, as seen from public places; P134 Structures shall be sited to conform to the natural topography, as feasible.*

The subject site is located in the developing Winding Way area of Malibu and is bordered by other residential parcels to the north, south, east, and west. The site is visible from an LUP-designated scenic highway (Pacific Coast Highway) to the south and from the Coastal Slope Trail which passes north and east of the property. In



addition, there is an unnamed trail providing access from the Paradise Cove / Escondido Beach area to the Coastal Slope Trail which traverses along Winding Way on the west side of the subject property. 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 roads. The Commission also examines the building site and the size of the proposed structure. Staff visited the subject site and found the proposed building location to be appropriate and feasible, given the terrain and the existing and approved neighboring residential development. No alternative building site is available on the parcel which would significantly reduce the project's visibility from the noted public viewing locations.

For this project, the applicant is proposing 232 cu. yds. of grading consisting of 232 cu. yds. of cut. This amount of grading is proposed in order to notch the structure and driveway into the sloping ground. Furthermore, the plans were designed so that the residence will "step down" the existing slope thereby conforming to the topography of the site and reducing visual impacts from the development. The building plans are substantially in character with the type and scale of development in the surrounding area, but the proposed single family residence will still be visible from Pacific Coast Highway and the nearby trails, thereby requiring mitigation of visual impacts.

Visual impacts associated with grading and the structure itself can be reduced by the use of adequate and appropriate landscaping. A landscape plan relying principally on native, non-invasive plant species will ensure that the vegetation on-site remains visually compatible with the native flora of surrounding areas. In addition, vertical screening elements added to the landscape plan can soften views of the proposed residence from public areas such as Pacific Coast Highway and the nearby trails. The Commission therefore finds it necessary to ensure that the final approved landscaping plans are successfully implemented to partially screen and soften the visual impact of the development, as required by **Special Condition One**.

In addition to reducing landform alteration and planting screening native vegetation, the project's impact on public views can be further mitigated by requiring the residence and retaining walls to be finished in a non-obtrusive manner (i.e.: in an earth tone color compatible with the surrounding natural landscape and with non-reflective windows). The Commission therefore finds it necessary to minimize the visual impact of the project by requiring the applicant to use colors compatible with the surrounding environment and non-glare glass, as required by **Special Condition Six**.

Future construction on the property has the potential to negatively affect the visual character of the area as seen from the scenic highway. To insure that no additions or improvements are made to the proposed addition that may affect visual resources on-site without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as required by **Special Condition Seven**. 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. Geology / 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, Point Dume to the southwest, Escondido Beach and Santa Monica Bay to the south, Ramirez Canyon to the west, and Escondido Canyon to the east.

The building site is located on a gently sloping area with steeper slopes descending east to the unnamed, USGS-designated blue-line intermittent creek below. A FEMA flood hazard area has been designated immediately adjacent to the creek, and a geological Restricted Use Area was established in the northern portion of the property, but the proposed development is well setback from these areas (see Exhibit 11). Some grading is proposed to create a pad area to notch the residence and the driveway into the sloping ground. The upper site area where construction is planned consists of a gently sloping area adjacent to Winding Way. To the east and northeast, the slope becomes steeper as it drops down to the lower portion of the property. Overall elevation change from west to east across the site is approximately sixty-five feet (65').

The applicant has submitted reports indicating that the geologic stability of the site is favorable for the project. 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 prepared reports and provided recommendations to address the specific geotechnical conditions related to the site. The Addendum Report -- Response to City of Malibu Geotechnical Review Sheet -- Preliminary Plan Review, Proposed Single Family Residence, Lot 1, LAPM 19961, 27828 Winding Way, Malibu, Los Angeles County, California, by Robertson Geotechnical Group, dated November 22, 1999, discusses a nearby landslide, stating:

*An active landslide exists off the east side of the property ascending above the east flank of the canyon [but] slope stability calculations suggest the subject property is grossly stable. ... Topographic features indicative of landslide was observed offsite and across the canyon to the east. The offsite landslide does not present an obvious hazard to the proposed residence at this time.*

The 1999 Robertson Geotechnical Group report also discusses faulting in the area:

*Treiman (1994) maps the Escondido Thrust fault, a splay of the Malibu Canyon fault, in the northern portion of the subject property and extending down the canyon which exists off site and roughly parallel to the eastern portion of the property. This fault was previously mapped on the property by this office. Treiman ... concludes the Escondido Thrust is poorly defined and shows no evidence of Holocene displacement and thus is not sufficiently active to warrant including in an Alquist Priolo Earthquake Fault Zone.*

Because of this potential faulting on-site, a geologic Restricted Use Area has been mapped in the northern portion of the subject property:

*The northern portion of the property ... is considered a Restricted Use Area. Development is not planned in this area and should not be planned until further subsurface exploration and analysis can be performed.*

The subject permit application does not propose any development in the Restricted Use Area. The 1999 Robertson Geotechnical Group report concludes:

*[B]ased on the findings of the engineering geologic and geotechnical engineering explorations discussed in this report and the referenced reports, that provided our recommendations are followed, the proposed residence utilizing a private sewage disposal system will be safe against hazards from landslide, settlement or slippage and the proposed residence utilizing a private sewage disposal system will have no adverse affect on the geologic stability of the property outside the building site. ... Based on the previous exploration, the recent site visit and experience on similar projects, constructing a single family, hillside residence founded on a friction pile and grade beam foundation system and utilizing a private sewage disposal system is considered feasible from an engineering geologic and geotechnical engineering standpoint provided our advice and recommendations are made a part of the plan and are implemented during construction.*

The Commission notes that the geologic and engineering consultants have included a number of recommendations which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition Three**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

As noted previously, the applicant's geologic consultants have identified a flood hazard area and a geological Restricted Use Area on the subject site. The proposed design addresses these hazards by locating development away from these areas and using a specialized friction pile and grade beam foundation system. Despite these measures, because there remains some inherent risk in building on sites located within or near potentially active landslides, faults, flood hazard areas, and/or geologic Restricted Use Areas, such as the subject site, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by **Special Condition Five**. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property,

will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same.

The project 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. The applicant's geologic / geotechnical consultant has recommended that site drainage be collected and distributed in a non-erosive manner. The building pad area is gently sloping but is bordered by steeper descending slopes down to the blue-line intermittent stream to the east. Because of these slopes on-site and the resultant potential for significant water velocities, soil erosion, and sedimentation of the drainage course, it is important to adequately control site drainage through velocity reduction and/or other best management practices (BMPs). To ensure that runoff is conveyed off-site in a non-erosive manner, the Commission finds it necessary to require the applicant, through **Special Condition Two**, to submit a drainage and polluted runoff control plan and to assume responsibility for the maintenance of all drainage devices on-site.

In addition, erosion and sedimentation can also be minimized by requiring the applicant to remove all excess dirt from cut / fill / excavation activities. The applicant has estimated 232 cu. yds. of grading including 232 cu. yds. of cut which equates to a net export of 232 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 Four** 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.

Furthermore, **Special Condition One** requires landscaping of the graded and disturbed areas of the project in order to enhance the geological stability of the site. Interim erosion control measures required by the condition and implemented during construction will minimize short-term erosion and enhance site stability. Long-term erosion can also be minimized by requiring the applicant to revegetate all disturbed areas of the site with native plants, compatible with the surrounding environment, in accordance with the requirements of the special condition. Should grading take place during the rainy season the applicant is required to construct or install temporary sediment basins, swales, sandbag barriers, silt fencing, and geofabric or other appropriate cover on the project site. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and shall be maintained throughout the development process to minimize erosion and sediment from runoff waters during construction.

In contrast to the use of native plants as required by Special Condition One, invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface / foliage weight. The Commission has found that the use of non-native and invasive plant species combined with the excessive, artificial irrigation these species often require, often results in adverse effects to the stability of a project site. Native species, alternatively, tend to have a deeper root structure and, once established, aid in preventing erosion. Also, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu / Santa Monica Mountains area. Increasing urbanization in this area has caused the loss

or degradation of major portions of native habitat and native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast-growing trees originating from other continents which have been used for landscaping in this area have already seriously degraded native plant communities adjacent to development. Therefore, the Commission finds that in order to ensure site stability, all disturbed, graded, and sloped areas on-site shall be landscaped with appropriate native plant species, as specified in **Special Condition One**.

Finally, the Commission requires that new development minimize the risk to life and property in areas of high fire hazard while recognizing that new development may involve the taking of some risk. Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral, communities which have evolved in concert with, and continue to produce the potential for frequent wildfires. The warm, dry summer conditions of the local Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated. When development is proposed in areas of identified hazards, 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 property. Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through an assumption of risk deed restriction, as incorporated in **Special Condition Five**, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of the condition, the applicant agrees to indemnify the Commission, its officers, agents, and employees against any and all liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project. The Commission therefore finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

#### **D. Water Quality**

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, construction 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 additional effluent from septic systems. Section 30231 of the Coastal Act 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.*

As described previously, the proposed project includes the construction of a new, 4,045 sq. ft., 28 ft. high, two-story single family residence (SFR) with a 462 sq. ft. attached 2-

car garage, a driveway, retaining walls, a septic system, and landscaping. The project also includes 232 cu. yds. of grading (232 cut). The conversion of the project site from its natural state will increase the amount of impervious coverage and reduce the naturally vegetated area 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. Further, use of the site for residential purposes may 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 swimming pool has been deleted from the permit application at the request of the applicant. However, if a pool (or any other additional development) is proposed in the future, the applicant will need to apply for a new permit, as required by **Special Condition Seven**, in order to allow Commission staff to evaluate potential water quality impacts.

Surface drainage on-site is currently accomplished naturally by sheetflow towards the unnamed USGS-designated blue-line intermittent stream, located approximately 125 feet east of the proposed building pad. Runoff is then transported south in the creek, flows under Pacific Coast Highway, and outlets at Escondido Beach. The subject property is sloping and encompasses significant elevation change from the western to the eastern property boundaries. Because of these slopes on-site, the increase in impervious coverage, and the resultant potential for significant water velocities, soil erosion, and pollutant transport, it is important to adequately control site drainage through velocity reduction and/or other best management practices (BMPs). 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. Methods such as vegetated filter strips, gravel filters, and other media filter devices decrease water velocity and provide some treatment of stormwater. The slower flow of runoff allows sediment and other pollutants to be filtered. The reduced volume of runoff takes longer to reach streams and its pollutant load is greatly reduced.

The project is conditioned to implement and maintain a drainage plan designed to ensure that runoff is conveyed in a non-erosive manner. This drainage plan is required in order to make certain that risks from geologic hazard are minimized and that erosion and sedimentation is minimized. In order to further ensure that runoff is conveyed off-site in a non-erosive manner and to minimize the volume, velocity, and pollutant load of stormwater leaving the developed site thereby ensuring that adverse impacts to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant, through **Special Condition Two**, to submit a drainage and polluted runoff control plan, designed by a licensed engineer, for review and approval by the Executive Director, which incorporates filter elements that intercept and/or treat the runoff from the site and to assume responsibility for the maintenance of all drainage devices on-site. Such a plan will allow for the 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. These flows carry 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 the installation of an on-site septic system to serve the residence. The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains and the resultant installation of septic systems may contribute to adverse health effects and geologic hazards in the local area. The applicants' geologic and wastewater system consultants performed percolation tests and evaluated the proposed septic system. The reports conclude that the site is suitable for the septic system and there would be no adverse impact to the site or surrounding areas from the use of a septic system. The applicant has submitted in-concept approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance with the minimum requirements of the Uniform Plumbing Code. The City of Malibu minimum health code standards for septic systems take into account the percolation capacity of soils, the depth to groundwater, and other considerations, and have generally been found to be protective of coastal resources. The Commission therefore finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

## **E. Public Access**

One of the basic mandates of the Coastal Act is to maximize public access and recreational opportunities within coastal areas and to reserve lands suitable for coastal recreation for that purpose. The Coastal Act has several policies which address the issues of public access and recreation within coastal areas. Section 30210 of the Coastal Act states:

*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.*

Section 30212.5 of the Coastal Act states:

*Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

Section 30213 of the Coastal Act states:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30223 of the Coastal Act states:

*Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Section 30252 of the Coastal Act states:

*The location and amount of new development should maintain and enhance public access to the coast by...(6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of*



*development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

Coastal Act sections 30210, 30212.5, 30223, and 30252 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 30213 mandates that lower cost visitor and recreational facilities, such as public hiking and equestrian trails, shall be protected, encouraged, and where feasible, provided. In the Malibu / Santa Monica Mountains area, the existing system of heavily used historic trails located on private property has been adversely impacted by the conversion of open lands to housing. In order to preserve and formalize the public's right to use these trails, a trail system map has been included as part of the certified Malibu / Santa Monica Land Use Plan (LUP). The trail system is composed of the Backbone and Coastal Slope Trails in addition to numerous connector trails.

The proposed project site is located approximately one thousand feet (1000') south of the Coastal Slope Trail which is a designated linear area available for passive recreational use by the public including hiking and equestrian activity. The Coastal Slope Trail is an integral part of a significant trail system that serves to provide access between the growing urban areas on and above the coastal terrace and the Santa Monica Mountain park system. The trail network, when completed, will provide hikers and equestrians with a large number of varied destinations including such highly scenic locations as Solstice Canyon Park, Charmlee Regional Park, Leo Carrillo State Park, and Point Mugu State Park. Significant coastal views from the public trail system include panoramic views of the coastline, the Channel Islands, and mountain views. Adjoining the applicant's property, the Winding Way right-of-way has been historically used for public access as a link from the Point Dume / Paradise Cove area to the hiking and equestrian trails located higher in the Santa Monica Mountains.

In order to avoid any cumulative and site specific adverse effects to public access resulting from the proposed development and to enhance the Santa Monica Mountains Trail System, the applicant has offered to dedicate an improved six foot (6') wide public hiking and equestrian trail easement that will serve to connect the Point Dume / Paradise Cove / Escondido Beach area to the Coastal Slope Trail (see Exhibit 12). **Special Condition Eight** has been included in order to implement the applicant's offer to dedicate a this public hiking and equestrian trail easement prior to the issuance of the coastal development permit. The Commission therefore finds that the proposed project, as conditioned, is consistent with Sections 30210, 30212.5, 30213, 30223, and 30252 of the Coastal Act.

## **F. Local Coastal Program**

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

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



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

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

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

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

**BCM/bcm**

File: BCM/permits/4-00-093 Furgurson

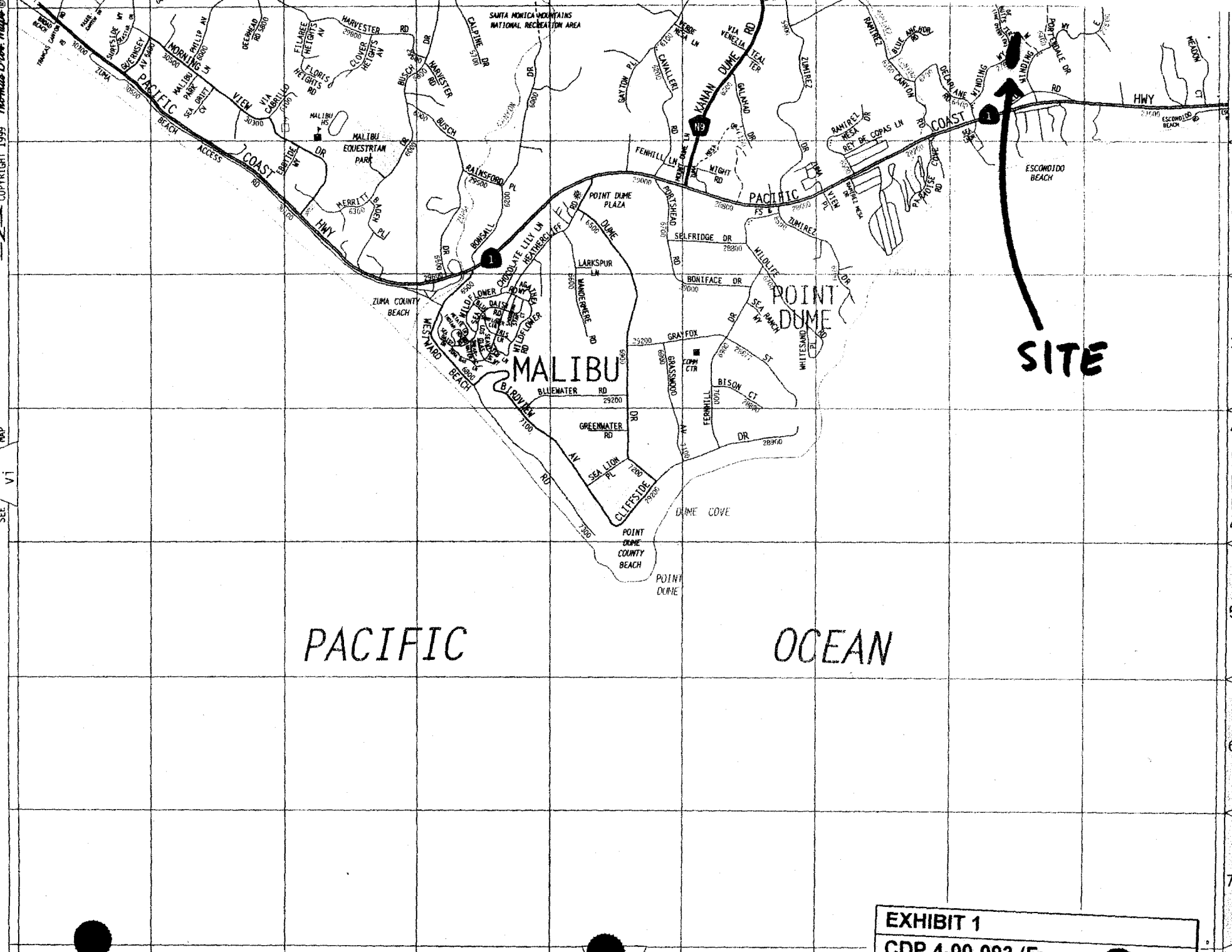


EXHIBIT 1  
CDP 4-00-093 (Furgurs  
Location Map 1

ESRI ArcExplorer 1.1

# 4-00-093 Furgurson (27828 Winding Way West)



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

**SITE**

EXHIBIT 2
CDP 4-00-093 (Furgurson)
Location Map 2

6

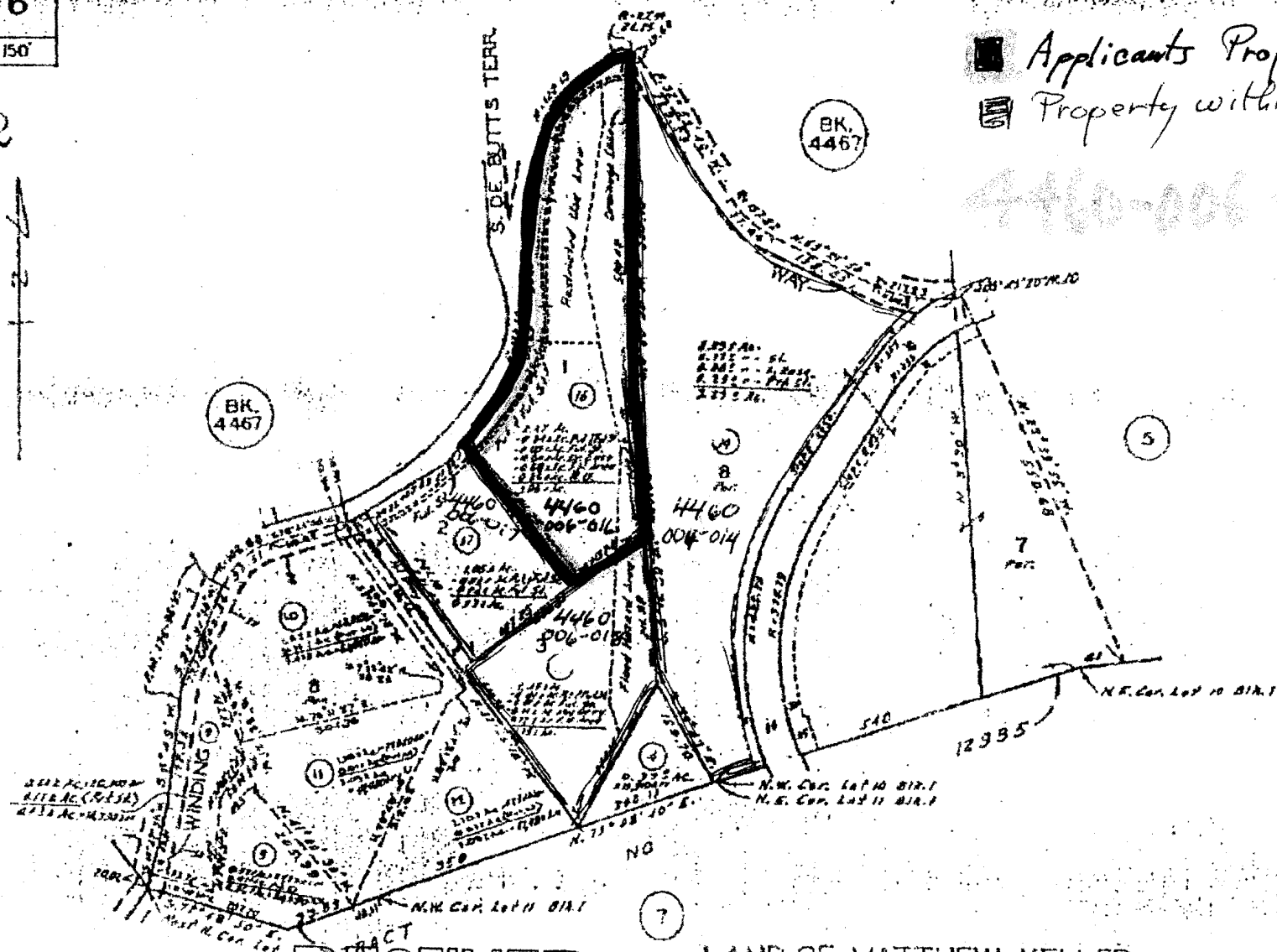
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■ Applicants Property  
■ Property within 100

06/04/97 14:02 FAX 818 349 9275

COMMUNWEALTH

7005



Por. 101 P.  
subject to Geo

For dimension  
S.L. P.M. 201  
Map.

LAND OF MATTHEW KELLER  
IN THE RANCHO TOPANGO MALIBU SEQUIT  
R.F. 534.

PARCEL 1  
P.M. 241-02

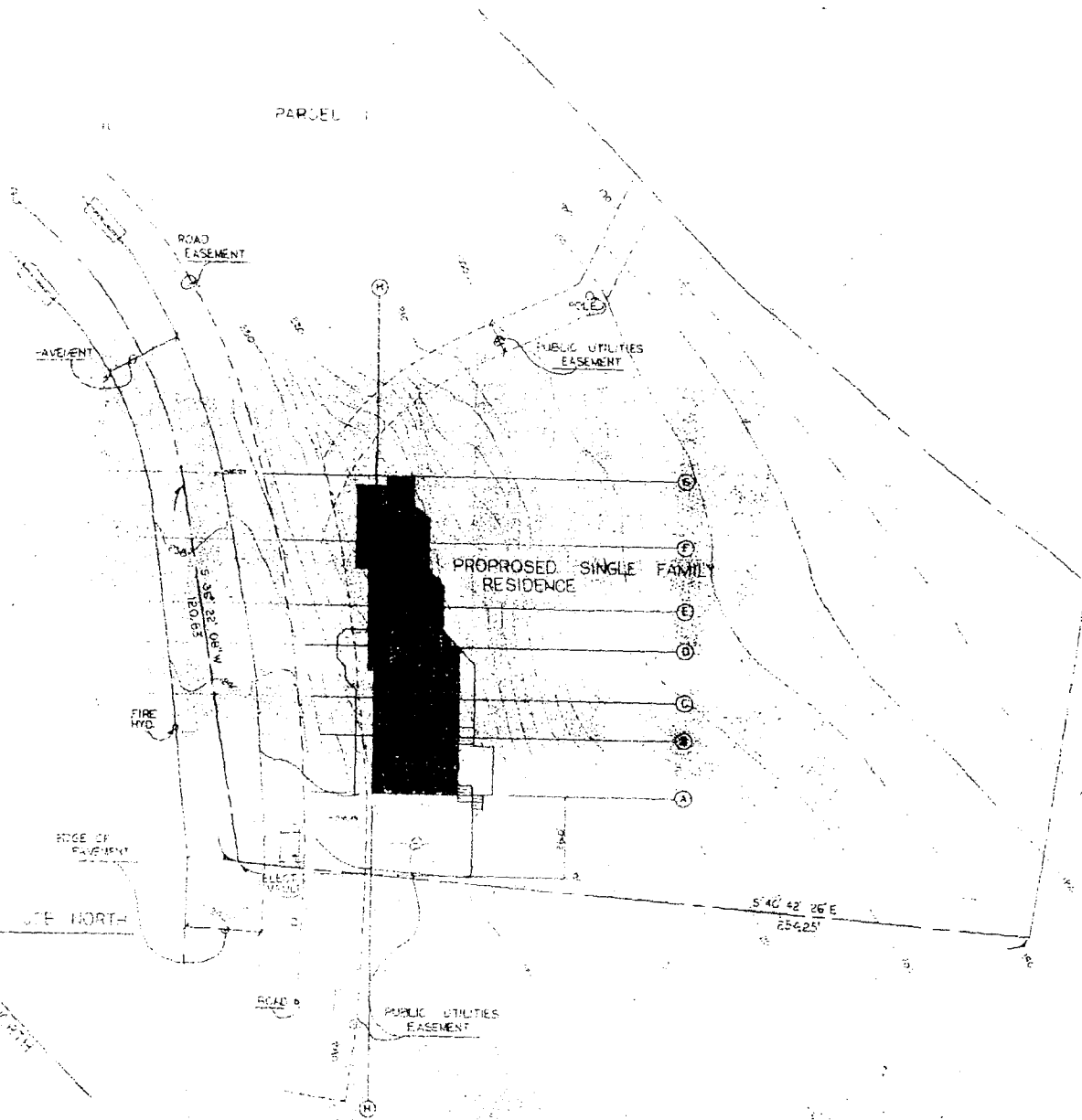
<b>EXHIBIT 3</b>
<b>CDP 4-00-093 (Furgurson)</b>
<b>Parcel Map</b>

RECEIVED  
APR 26 2000

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

CODE  
10857

FOR PREV. ASSM'T. SEE:  
1140 - 5



# TABLE OF CONTENTS

- ① SITE PLAN
- ② SITE SECTIONS
- ③ FIRST FLOOR PLAN
- ④ LOWER FLOOR PLAN
- ⑤ ELEVATIONS
- ⑥ ELEVATION AND SECTIONS
- ⑦ ROOF PLAN

RECEIVED

EXHIBIT 4  
CDP 4-00-093 (Furgurson)  
Site Plan

## SITE PLAN

SCALE 1"=20'

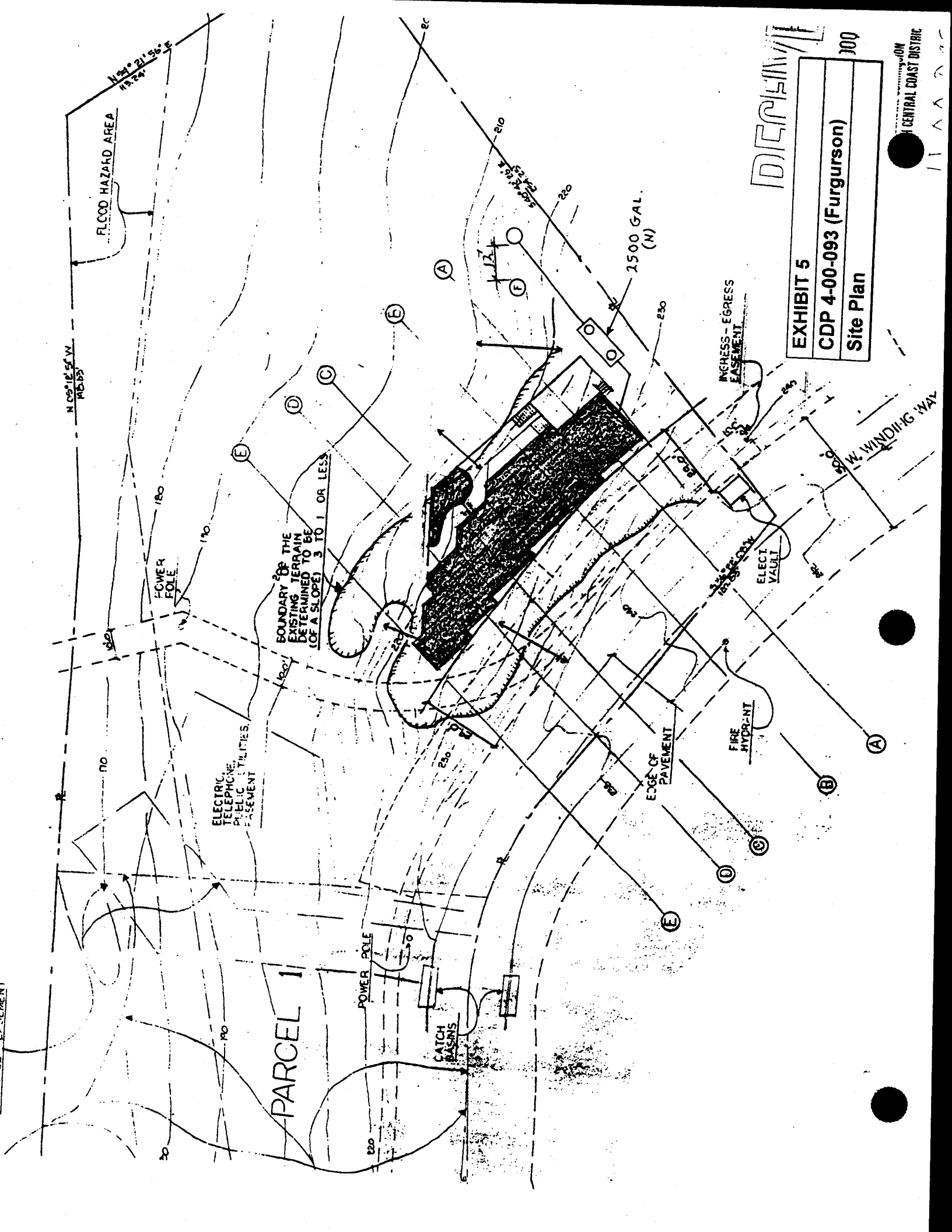
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PARCEL 1 OF PARCEL MAP NO. 10461  
BLOCK 241, PAGE 11, 12A

REVISIONS	BY

Drawn by: [illegible]  
Checked by: [illegible]  
Date: 08/01/94

CLIFF AND KAY FURGURSON  
10461 WEST LINCOLN WAY  
TAMULEX

Date	4-25-99
Scale	1"=20'
Drawn	GFC
Job	
Sheet	1



DEC 11/11

EXHIBIT 5
CDP 4-00-093 (Furgurson)
Site Plan

CENTRAL COAST DISTRICT

480-093

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APR 28 2000

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

UNITS: 1' = 100' (VERTICAL), 1" = 100' (HORIZONTAL)

DATE: 10/1/99

PROJECT: 480-093

LOCATION: 27828 WEST WINDING WAY

OWNER: [Name Redacted]

DESIGNER: [Name Redacted]

DATE: 10/1/99

PROJECT: 480-093

LOCATION: 27828 WEST WINDING WAY

OWNER: [Name Redacted]

DESIGNER: [Name Redacted]

DATE: 10/1/99

PROJECT: 480-093

LOCATION: 27828 WEST WINDING WAY

OWNER: [Name Redacted]

DESIGNER: [Name Redacted]

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LOCATION: 27828 WEST WINDING WAY

OWNER: [Name Redacted]

DESIGNER: [Name Redacted]

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LOCATION: 27828 WEST WINDING WAY

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LOCATION: 27828 WEST WINDING WAY

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LOCATION: 27828 WEST WINDING WAY

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DESIGNER: [Name Redacted]

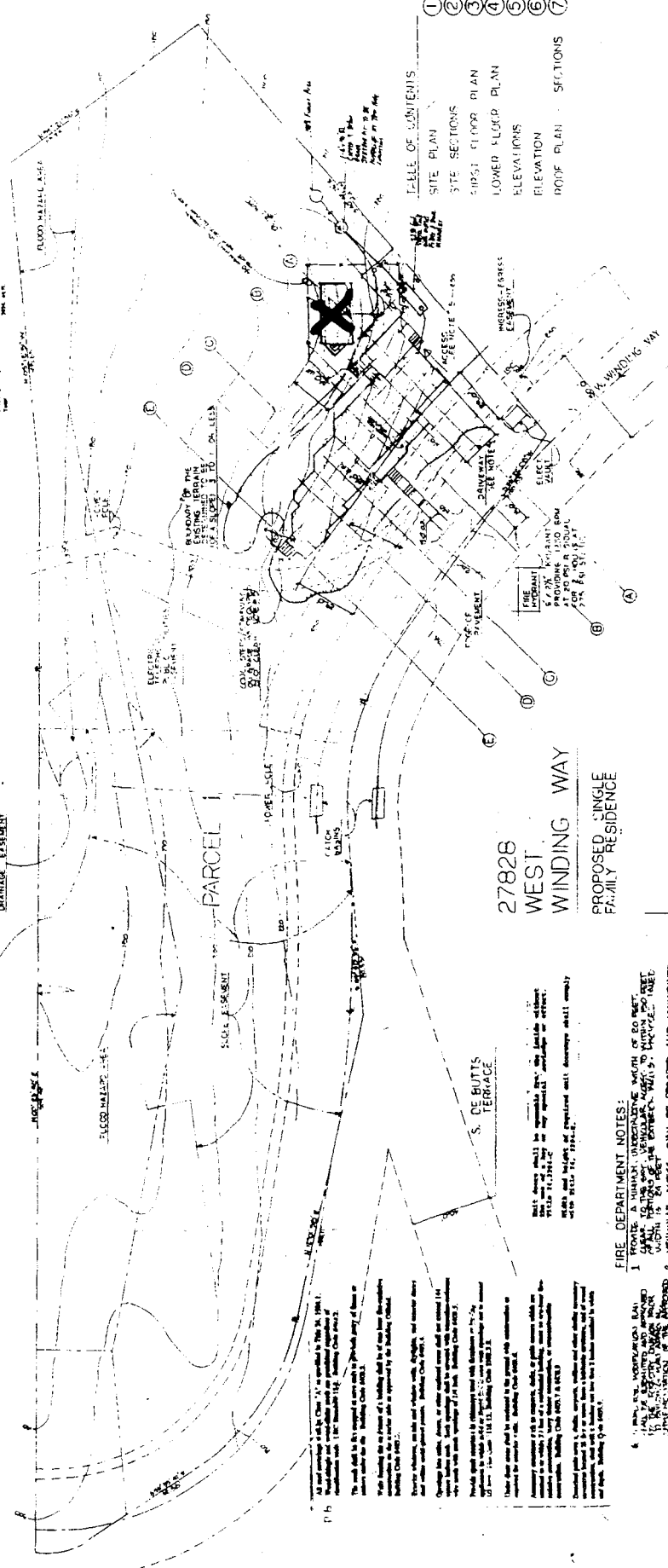
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PROJECT: 480-093

LOCATION: 27828 WEST WINDING WAY

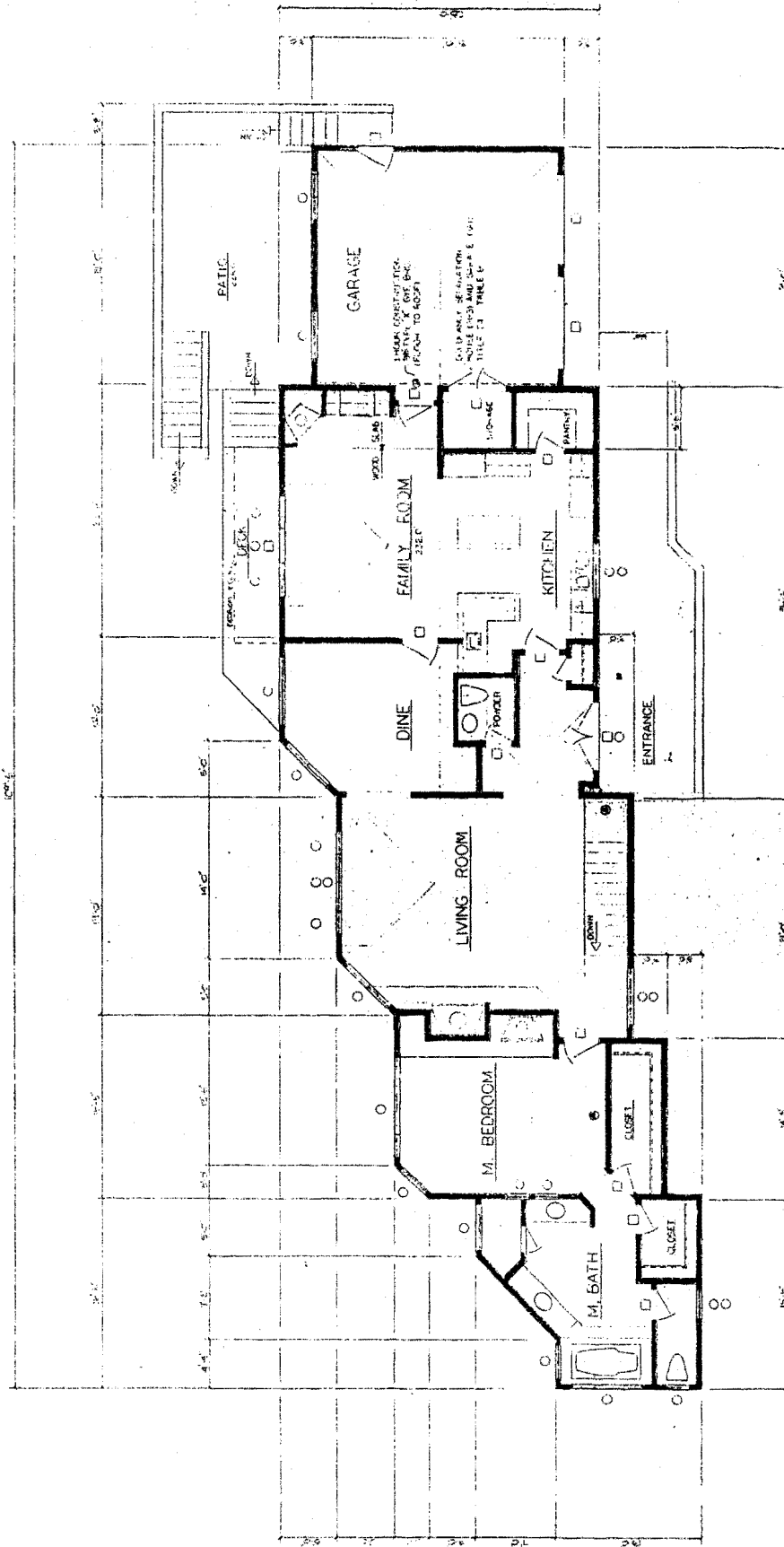
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ITEM	DESCRIPTION	QUANTITY	UNIT
1	Site Plan	1	Sheet
2	First Floor Plan	1	Sheet
3	Second Floor Plan	1	Sheet
4	Elevation	1	Sheet
5	Roof Plan	1	Sheet
6	Section	1	Sheet
7	Detail	1	Sheet
8	Detail	1	Sheet
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**FIRE DEPARTMENT NOTES:**

1. PROVIDE A MINIMUM VERTICAL CLEARANCE OF 20 FEET OVER ALL OBSTACLES IN THE PATH OF THE FIRE ENGINE APPROACH. THIS SHALL BE MAINTAINED AND KEPT OPEN AT ALL TIMES.
2. MAINTAIN A MINIMUM VERTICAL CLEARANCE OF 10 FEET OVER ALL OBSTACLES IN THE PATH OF THE FIRE ENGINE APPROACH. THIS SHALL BE MAINTAINED AND KEPT OPEN AT ALL TIMES.
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# FIRST FLOOR PLAN

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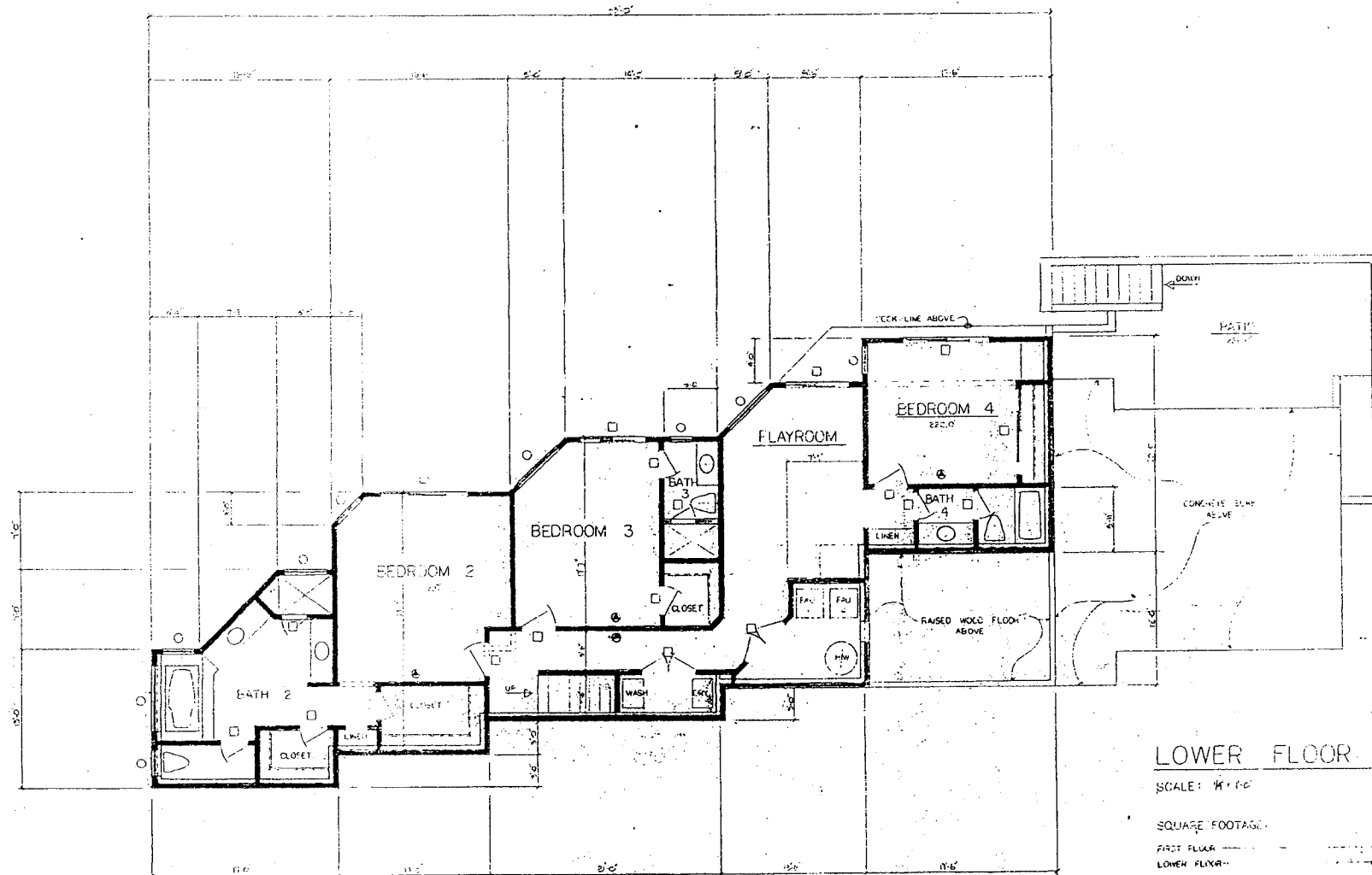
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EXHIBIT 7

CDP 4-00-093 (Furgurson)

First Floor Plan





**EXHIBIT 8**  
**CDP 4-00-093 (Furgurson)**  
**Lower Floor Plan**

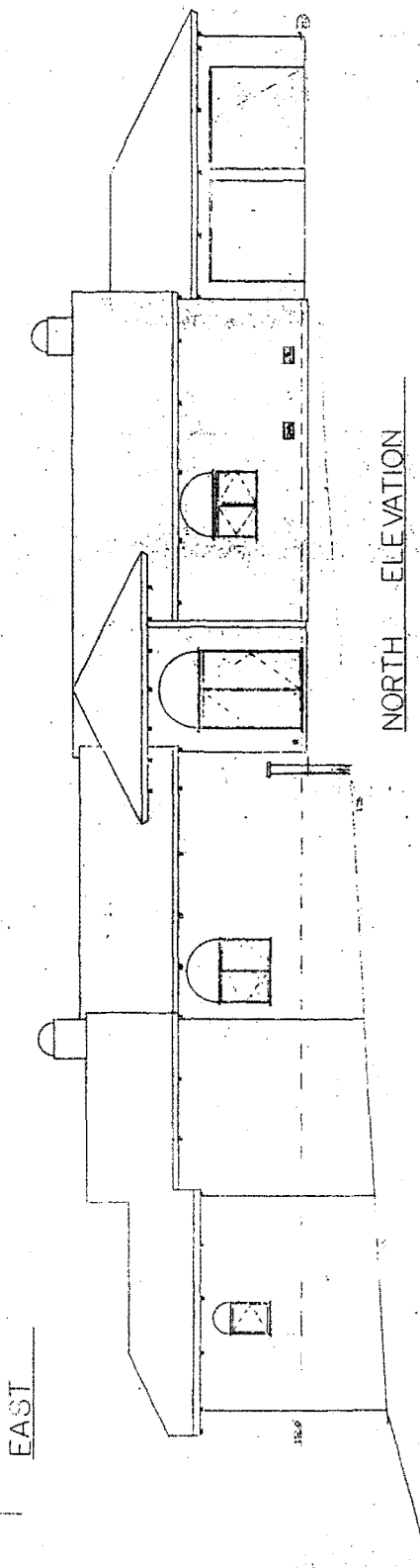
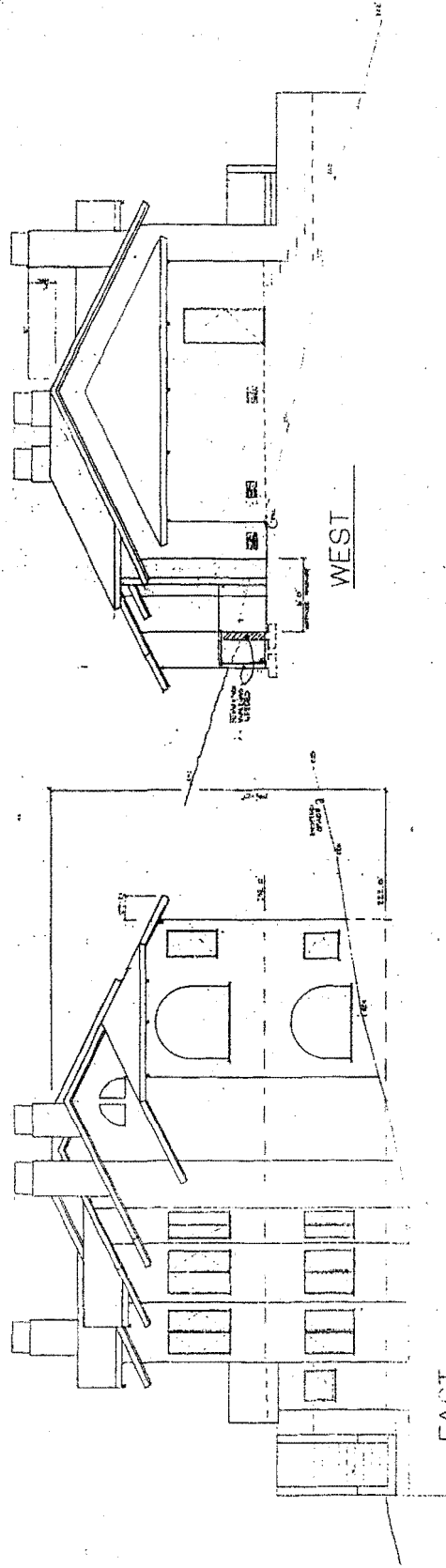


EXHIBIT 9  
 CDP 4-00-093 (Furgurson)  
 N / E / W Elevations





Robertson  
Geotechnical  
Inc.

PLATE NO. **VICINITY MAP**

CLIENT **FURGURSON**

JOB NO. **2232FELA.667**

**VICINITY MAP**  
**STATE OF CALIFORNIA**  
**DIVISION OF HIGHWAYS**  
**ASC NO. 7101-173**

9/30/71

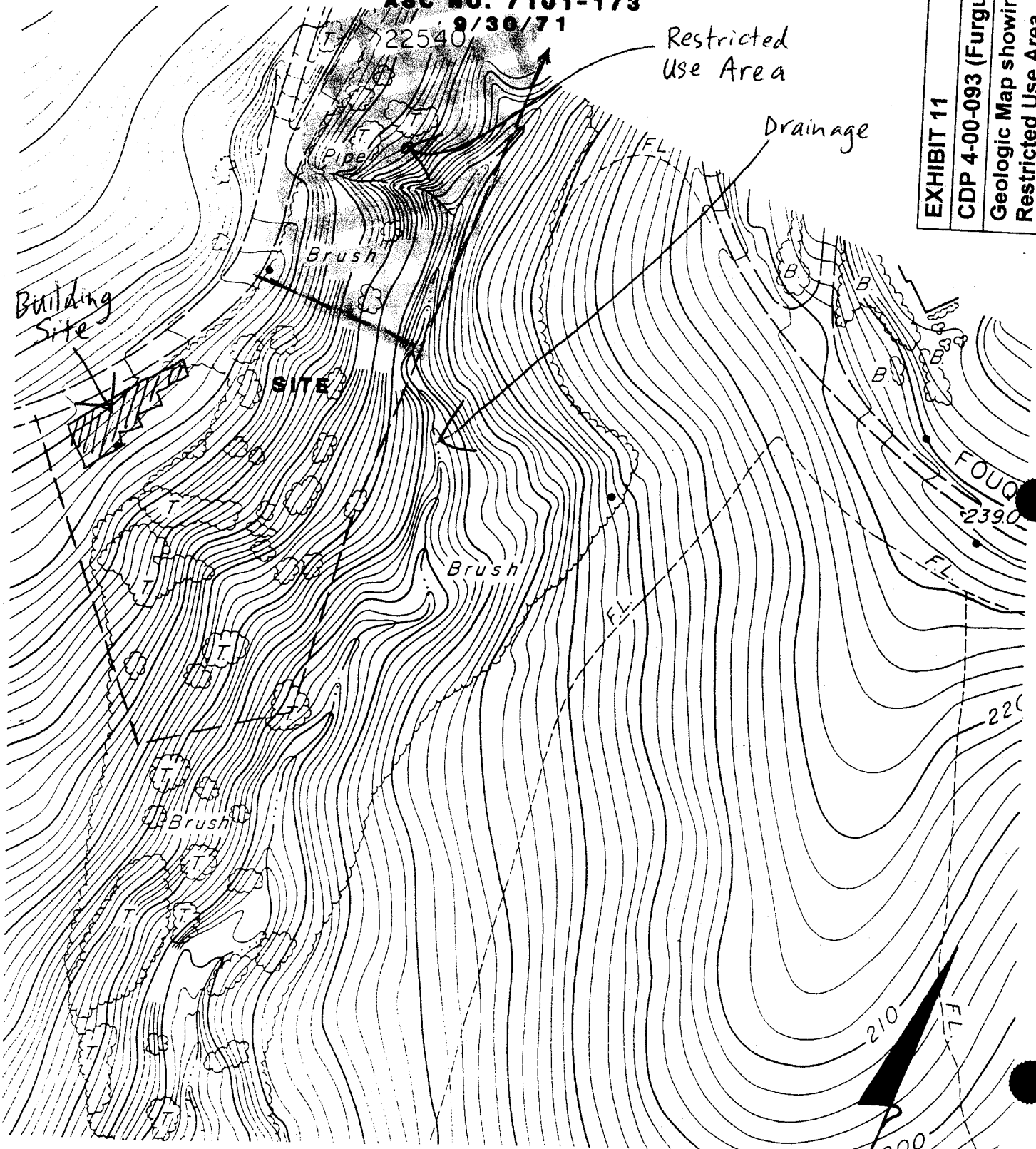
Restricted  
Use Area

Drainage

EXHIBIT 11

CDP 4-00-093 (Furgurson)

Geologic Map showing  
Restricted Use Area



**Site Plan showing Trail**

