

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-1242

Filed: 08/18/00
49th Day: 10/06/00
180th Day: 02/14/01
Staff: BCM-V *CD*
Staff Report: 08/24/00
Hearing Date: 9/12-15/00
Commission Action:



RECORD PACKET COPY

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-00-124

APPLICANT: Scott & Joanne Mednick

AGENT: Clive Dawson

LOCATION: 32537 Pacific Coast Hwy., City of Malibu (Los Angeles County)

DESCRIPTION: Construct a new 4,500 sq. ft. sports area (1,500 sq. ft. paved court) with retaining walls. The project also includes after-the-fact approval of an existing pergola, the addition of a trellis to the pergola, changing the surface of the parking and turning area in front of the lower garage to a semi-permeable "grass-crete" material, and after-the-fact approval of 800 cu. yds. of grading (600 cut, 200 fill).

Lot area	178,649	sq. ft. (4.10 ac.)
Building coverage:	7,327	sq. ft.
Pavement coverage:	25,512	sq. ft.
Landscape coverage:	145,810	sq. ft.

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

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit (CDP) Nos. 5-89-976 (Javid), 5-90-159 (Trancas Beach Estates), 5-90-160 (Trancas Beach Estates), 4-99-150 (Kickerillo), 4-00-037 (Mednick); *Report of Soil Engineering Investigation -- Proposed Residential Development -- Easterly Portion of 5-acre Parcel (APN # 4473-25-20) Pacific Coast Highway, East of Encinal Canyon Road, Malibu, California*, by SWN Soiltech Consultants, Inc., dated October 13, 1989; *Engineering Geologic Report for Proposed Development of a Single Family Residence on an Approximately 5 Acre Parcel (APN 4473-25-20) Located on Pacific Coast Highway, East of Encinal Canyon Road, Malibu, Los Angeles County, California*, by Donald B. Kowalewsky Environmental & Engineering Geology, dated October 16, 1989; *Update Engineering Geologic Report -- Proposed Sports Court, Retaining Wall, and Associated Grading -- 32537 Pacific Coast Highway, Malibu, California*, by Mountain Geology, Inc., dated January 10, 2000; *Supplemental Geotechnical Engineering Investigation Report -- Proposed Basketball Court, Retaining Wall and Grading -- 32537 Pacific Coast Highway, Malibu, California*, by Coastline Geotechnical Consultants, Inc., dated January 20, 2000; City of Malibu Geology and Geotechnical Engineering Review Sheet for Site Address -- 32537 Pacific Coast Highway, dated February 29, 2000.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **denial** of the proposed project. The property is located on the inland side of Pacific Coast Highway, a scenic highway in Malibu, and is highly visible from the road. The applicant is seeking after-the-fact approval for 800 cu. yds. of grading on a property which has already been modified with some 5,000+ cu. yds. of permitted and unpermitted grading. This 5,000 cu. yds. figure includes grading for the sports court, but does not include the unknown quantities of earthwork required to construct the existing pool, associated decking, and the pergola. The Commission recently approved an addition to the residence increasing its total size to 9,596 sq. ft., with an additional 1,083 sq. ft. basement, two attached garages for nine cars, a pool / spa, concrete decking, and an approximately 600 foot long driveway. The proposed pergola and 4,500 sq. ft. graded sport area (1,500 sq. ft. sports court) would require additional cut and fill slopes, retaining walls, and grading which is inconsistent with Section 30251 of the Coastal Act, which requires new development to minimize alteration of natural landforms.

I. STAFF RECOMMENDATION

1. **Motion:** *I move that the Commission approve Coastal Development Permit No. 4-00-124 for the development proposed by the applicant.*

2. **Staff Recommendation of Denial:**

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit 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 Deny the Permit:**

The Commission hereby denies a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development would not be in conformity with the policies of Chapter 3 of the Coastal Act and would 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. Denial of the permit will comply with the California Environmental Quality Act because either: 1) feasible mitigation measures and/or alternatives have not been incorporated to substantially lessen any significant adverse effects of the development on the environment; or 2) there are further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is proposing construction of a new 4,500 sq. ft. sports court area with retaining walls and after-the-fact approval of an existing pergola. The project also includes the addition of a trellis to the pergola and after-the-fact approval of 800 cu. yds. of grading (600 cut, 200 fill). The applicant proposes changing the surface of the parking and turning area in front of the lower garage to a semi-permeable "grass-crete" material in order to mitigate the impact of increasing on-site impervious area. The subject site is a 4.1 acre parcel located in the western end of the City of Malibu near La Piedra State Beach. There is limited natural vegetation on-site consisting of grasses, scattered trees, shrubs, and brush.

The project site is located on Pacific Coast Highway, an LUP-designated scenic highway which passes immediately south of the property. The site is bordered by existing single-family residences to the west, north, and south (across Pacific Coast Highway). A new residence is currently under construction to the immediate east of the subject property. A previous coastal development permit (CDP No. 5-90-159) was obtained in September 1990 for construction of the existing 7,955 sq. ft. residence, 6-car garage, approximately 600 foot long driveway, and septic system on-site. In order to prevent excessive landform alteration and potential visual impact, the original permit had conditions to provide screening vegetation, to restrict painting to visually compatible earth-tone colors, and to restrict future development. A subsequent permit amendment (CDP No. 5-90-159-A1), approved in August 1993, added the pool, spa, and associated concrete decking.

Another permit (CDP 4-00-037) was approved in May 2000 for a 1,641 sq. ft. addition to the residence, a 1,083 sq. ft. basement, a 3-car garage, a septic system upgrade, and 325 cu. yds. of grading. This permit also included repainting of the existing residence and walls on-site from white to an appropriate earth-tone color as well as conversion of the 600 foot long driveway from concrete to a semi-permeable "grass-crete" material in order to mitigate the effects of the increased impervious area. The application for the development that was approved in May 2000 originally included the proposed sport court area that is part of the subject permit application. After staff expressed concern about the additional landform alteration required for the sport court, the applicant deleted the sport court area from their prior application. After the Commission approved that application in May 2000, the applicant submitted the subject application, again seeking approval of the sport court.

The project site is situated on the southern flanks of the western portion of the Santa Monica Mountains. The property consists of several near-level pad areas with ascending slopes to the north and descending slopes to Pacific Coast Highway to the immediate south. Elevations on-site range from 326 feet above sea-level in the north to 188 feet near the road for a maximum topographic relief on-site of approximately 138 feet. The existing residence, driveway turnaround areas, pool decking, pergola, and proposed sport court area sit on the near-level graded pad areas, but significantly steeper slopes to the north and south approach a gradient of 2:1 (horizontal to vertical). Drainage from the property flows overland across contours and along the driveway in a southerly direction to Pacific Coast Highway where it collects in storm drains eventually

outletting at the beach. The various county beaches and offshore kelp beds in this area are designated as Environmentally Sensitive Habitat Area (ESHA) in the Malibu / Santa Monica Mountains Land Use Plan (LUP).

B. Visual Resources / Landform Alteration

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 landform alteration and the 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:

P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized; P90 Grading plans in upland areas of the Santa Monica Mountains should minimize cut and fill operations in accordance with the requirements of the County Engineers; P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible; 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; P134 Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged; P135 Ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.

The proposed project involves the construction of a new thirty foot by one hundred fifty foot (30' X 150' = 4,500 sq. ft.) sports court area with retaining walls and after-the-fact approval of an existing pergola. The proposed development is located behind an existing 7,955 sq. ft. single family residence which has been recently approved to expand by 1,641 sq. ft. to 9,596 sq. ft. with an additional 1,083 sq. ft. basement. The project also includes the addition of a trellis to the pergola and after-the-fact approval of 800 cu. yds. of grading (600 cut, 200 fill). In addition, in order to mitigate the impacts of the sport court, the applicant proposes changing the surface of the parking and turning area in front of the lower garage to a semi-permeable "grass-crete" material. The subject site and existing residence are highly visible from an LUP-designated scenic

highway (Pacific Coast Highway) to the south. For this reason, special conditions for landscaping, color, and restriction of future development were placed on the parcel in association with Coastal Development Permit No. 5-90-159 and subsequent coastal permits.

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 development. Although, the existing single family residence on-site is highly visible from Pacific Coast Highway, due to a small ridge which exists between the driveway and PCH, and due to the fact that it would be screened by the existing residence, the proposed development would not be visible from the highway. The site is not visible from any LUP-designated trails. However, when reviewed in a collective manner, the cumulative development on-site involves significant landform alteration through cut and fill operations resulting in significant alteration of the natural landscape.

For this project, the applicant is proposing approval of 800 cu. yds. of grading consisting of 600 cu. yds. of cut and 200 cu. yds. of fill. Portions of the 3:1 cut slope would be approximately 36 ft. long and 12 ft. high, even with a retaining wall, in order to daylight. The proposed 3:1 fill slope would be approximately 45 ft. long and 15 ft. high in one area. This extensive grading is required in order to notch the sport court area into the existing slope and has already occurred, although, according to the geological consultants, it will need to be redone. Based on the permit history, it is clear that significant landform alteration has occurred on this property over the last decade. The original plans for coastal permit CDP 5-90-159 included a 16,975 sq. ft. residence and 10,702 cu. yds. of grading (5,351 cut, 5,351 fill). Subsequent discussions with Commission staff and plan revisions dropped the size of the proposed home to 12,000 sq. ft. with 4,470 cu. yds. of grading (2,235 cut, 2,235 fill) in order to reduce excessive landform alteration and potential visual impact. After further discussion and analysis, including review of nearby development, coastal permit CDP 5-90-159 was ultimately approved limiting the development to an 8,019 sq. ft. residence, a 6-car garage, and 3,066 cu. yds. of grading (1,533 cut, 1,533 fill).

As it was approved in 1990, the residence on the subject property was comparable in size and scale to surrounding development. At the same time, the neighboring house to the west was approved at 8,528 sq. ft. with 2,200 cu. yds. of grading (CDP 5-90-160 Trancas Beach Estates); and a 5,800 sq. ft. home was approved to the north with 1,800 cu. yds. of grading (CDP 5-89-976 Javid). More recently, development on the property to the immediate east was approved for a 10,215 sq. ft. residence (CDP 4-99-150 Kickerillo). Although the Kickerillo house is large, grading was reduced to incidental removal and recompaction by changing the foundation to a caisson and grade beam design.

Since its initial permit approval in 1990, however, the subject property has continued to be developed with additional improvements increasing its size, scale, and the amount of landform alteration. In 1993, the original permit was amended (CDP No. 5-90-159-A1) to add a swimming pool, spa, and approximately 1,400 sq. ft. of concrete decking above and behind the approved residence. The permit included no grading except for pool excavation, and it is not known how the flat pad area for the pool and decking was created. This question has never been answered satisfactorily, and it is likely that a significant amount of unpermitted grading occurred at that time. The plans for the original house show a 2:1 slope and a retaining wall behind the residence and the

driveway. The applicant has not submitted information about the amount of grading which was required to construct the pool, decking, and the unpermitted pergola because these developments were constructed prior to the applicant's purchase of the property.

Recently, in May 2000, the Commission granted a permit (CDP 4-00-037) for construction of a 1,641 sq. ft. addition, plus a new 1,082 sq. ft. basement, an additional attached garage, and a new septic tank with 325 cu. yds. of grading (300 cut, 25 fill). At some time, unpermitted grading for the proposed sport court and pergola area, and construction of the pergola occurred. Thus, in sum, the subject property has been approved for a 9,596 sq. ft. residence, an additional 1,083 sq. ft. basement, two attached garages for 9-cars total, a pool / spa with some 1,400 sq. ft. of concrete decking, and a 600 ft. long driveway with approximately 5,000 cu. yds. of grading. This amount of earthwork does not include the additional unpermitted grading which occurred for the pool / spa, associated decking, and the pergola.

As explained previously, the proposed size of the home and the amount of grading for the original residence was reduced in order to minimize potential visual affects on the property as seen from Pacific Coast Highway, to be compatible with surrounding development, and to minimize landform alteration. However, additions approved through subsequent amendments and coastal permit actions have resulted in a cumulative effect now approaching the scale of the originally proposed development. At some point, the continued development on a site begins to produce a detrimental effect to the surrounding scenic character of the area. The Coastal Act requires development to minimize alteration of natural landforms in scenic coastal areas. By requiring more grading on-site, the proposed project would not minimize landform alteration and would adversely impact the character of the surrounding area in this portion of the Santa Monica Mountains.

The Commission finds that, as an alternative to the applicants' proposal, it is feasible to place a sport court on the existing flat, driveway turnaround area located behind the residence. This alternate location is large enough (approximately 1,300 sq. ft.) to accommodate a sport court and would not require any grading, landform alteration, or additional impervious surface to the site. Therefore, this alternative would eliminate the impacts to coastal resources which make the applicants' proposal inconsistent with the Coastal Act. The Commission therefore finds that there are preferred alternatives which would reduce the landform alteration and visual impact of the proposed development. Thus, the Commission finds that the proposed project is inconsistent, as proposed, with Section 30251 of the Coastal Act and the policy guidance contained in the certified Malibu / Santa Monica Mountains LUP.

C. Water Quality

The Commission recognizes that 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 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 sports court area with retaining walls and after-the-fact approval of an existing pergola. The project also includes the addition of a trellis to the pergola and after-the-fact approval of 800 cu. yds. of grading (600 cut, 200 fill). In addition, in order to mitigate the impacts of the sport court, the applicant proposes changing the surface of the parking and turning area in front of the lower garage to a semi-permeable "grass-crete" material. However, the continued 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, continued 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 property consists of near-level pad areas separated by retaining walls with significant elevation change from the northern property boundary down towards Pacific Coast Highway in the south. Surface drainage on-site is accomplished by overland sheetflow and surface flow along the driveway toward Pacific Coast Highway to the south. The water collects in various public drainage conveyances, eventually passing under Pacific Coast Highway and outletting at the beach. The kelp beds offshore of this coastal area are designated as Environmentally Sensitive Habitat Area (ESHA) in the Malibu / Santa Monica Mountains Land Use Plan (LUP). Because of the slopes on-site and the increase in impervious coverage, there is a resultant potential for significant water velocities, soil erosion, and pollutant transport.

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

The applicant is proposing to mitigate the increase in impervious area from the proposed sport court and pergola by changing the turnaround area in front of the lower garage from concrete to a "grass-pave" material. However, the amount of impervious area proposed to be created by the new sport court / pergola area is significantly greater than the decrease in impervious area associated with the lower driveway turnaround. The applicant has offered to leave the entire sports court area unpaved in order to prevent excessive associated runoff, but Commission staff has not received site plans corresponding to this alternative, and therefore the application has not been amended to incorporate this change.

In addition, the applicant has estimated that 800 cu. yds. of grading consisting of 600 cu. yds. of cut and 200 cu. yds. of fill is necessary for the proposed sport court area. The Commission has found that minimization of grading and exposed earth on-site where there is no vegetation can reduce the potential impacts of sedimentation in nearby creeks, stormwater conveyances, and the ocean. There has already been approximately 5,000 cu. yds. of grading on-site plus additional unpermitted earthwork which was necessary to create the level pad area for the approved swimming pool and decking. Such a large amount of grading significantly alters landforms, removes vegetation from large areas, and disturbs natural drainage patterns which may adversely impact the water cycle and water quality in an area, especially when considering development in a cumulative manner.

Historically, Commission staff has found that cumulative landform alteration through grading and placement of impervious surfaces such as roofs, driveways, and concrete decking effectively "hardens" the natural surroundings thereby increasing the rate and volume of runoff, potentially causing increased erosion and sedimentation. When runoff is channeled or deflected by impervious surfaces, pollutants are not allowed to settle out and are quickly conveyed downslope. Thus, changes to the topography and soil surface can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff, leading to soils and slope destabilization, increased flood potential, increased concentration of pollutants, and reduced groundwater levels. The proposed placement of a sport court and a pergola over the natural terrain along with the associated grading potentially creates a cumulative "hardening" effect. A smaller development or no construction is preferred as a way of preventing further "hardening" of the site. As described above, there is an alternative location for the proposed sport court, on the flat driveway turnaround area between the residence and the pool, that would not require any additional grading, vegetation removal, or placement of impervious area. Such an alternative would lessen potential impacts to local water quality. The Commission therefore finds that the project, as proposed, is not consistent with Section 30231 of the Coastal Act.

D. Hazards / Geology

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...*

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 can denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides.

The prominent geomorphic features in the area are the ridgelines of the Santa Monica Mountains to the north, the Pacific Ocean and various beaches to the south, Lechusa Canyon to the west, and Encinal Canyon to the east. The property contains ascending slopes to the north and descending slopes down to Pacific Coast Highway on the southern side. Surface drainage on-site is accomplished by overland sheetflow and along the driveway downhill to the south. Grading for this project is proposed to create a flat pad area for the sport court and pergola and has already occurred in this area. This activity, however, was not performed under the observation and approval of an engineering geologist and/or geotechnical engineer. Therefore, the geologic consultants are recommending that, if approved, the grading be redone.

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 addressing the specific geotechnical conditions related to the site. The *Engineering Geologic Report for Proposed Development of a Single Family Residence on an approximately 5 Acre Parcel (APN 4473-25-20) Located on Pacific Coast Highway, East of Encinal Canyon Road, Malibu, Los Angeles County, California*, by Donald B. Kowalewsky Environmental & Engineering Geology, dated October 16, 1989, delineated a restricted use area on-site where the Malibu Coast Fault crosses the property. The proposed sport court and pergola are located within the restricted use area. The Kowalewsky report states:

No habitable structures should be planned within this restricted use area. Development of structures other than habitable structures may be constructed within this zone. Specific recommendations for those structures will be made if development of this zone is desirable.

The *Update Engineering Geologic Report -- Proposed Sports Court, Retaining Wall, and Associated Grading -- 32537 Pacific Coast Highway, Malibu, California*, by Mountain Geology, Inc., dated January 10, 2000, in evaluating the various engineering geologic factors affecting site stability and the existing site conditions, refers to this restricted use area, stating:

MGI concurs with the findings, conclusions, and recommendations of Mr. Kowalewsky with respect to site faulting. Based on the findings of our update engineering geologic investigation, the construction of the proposed sports court, retaining wall, and associated grading within the established Restricted Use Area is considered acceptable from an engineering geologic standpoint as the proposed structures are not habitable.

The 2000 Mountain Geology Inc. report concludes:

Based upon our exploration and experience with similar projects, construction of the proposed sports court, retaining wall, and associated grading is considered feasible from an engineering geologic standpoint provided the following recommendations are made a part of the plans and are implemented during construction. ... Based upon our investigation, the proposed site improvements will be free from geologic hazards such as landslides, slippage, active faults, and settlement. The proposed site improvements will have no adverse effect upon the stability of the site or adjacent properties provided the recommendations of the Engineering Geologist and Geotechnical Engineer are complied with during construction.

However, 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 safe manner, this runoff may result in increased erosion affecting

site stability. The applicant has proposed to change the composition of the driveway turnaround area in front of the lower garage from concrete to a semi-permeable "grass-crete" design in order to offset the effect of increasing on-site impervious area. However, the applicant has proposed retaining walls and an estimated 800 cu. yds. of grading to notch the development into the existing slope. The Coastal Act requires new development to minimize the alteration of natural landforms and the construction of protective devices such as retaining walls.

The subject property has already been subject to approximately 5,000 cu. yds. of permitted and unpermitted grading along with the construction of retaining walls to support the existing pool and associated decking. Possible alternatives for the proposed sport court / pergola include no action, reduction in size of the proposed development, or use of an existing paved area such as the upper driveway turnaround area. The applicant has offered to leave the entire graded sports court area unpaved and reduce its size, however Commission staff has not received plans showing these changes. Even so, retaining walls and grading would still be necessary for a reduced size grassed area, and the 800 cu. yds. of unpermitted grading for the sport court area has already occurred, in addition to the unknown amount of grading for the pergola. The Commission therefore finds that the proposed development does not minimize landform alteration and the use of protective devices (i.e.: retaining walls). The Commission therefore finds that the project, as proposed, is not consistent with Section 30253 of the Coastal Act.

E. Violation

Development in the form of the pergola and the graded pad proposed for the sport court area has already occurred on the subject site without the required coastal development permits. The applicant is proposing to retain this unpermitted development and, in addition, add to the development by regrading the flat pad area, creating a sports court, and adding a trellis to the pergola. This application includes the after-the-fact request for a pergola and 800 cu. yds. of grading (600 cut, 200 fill). The project also includes the addition of a trellis to the pergola, changing the surface of the parking and turning area in front of the lower garage to a semi-permeable "grass-crete" material, and a new sports court on the flat, graded pad area. Although some 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. Action on 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.

F. Local Coastal Program

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

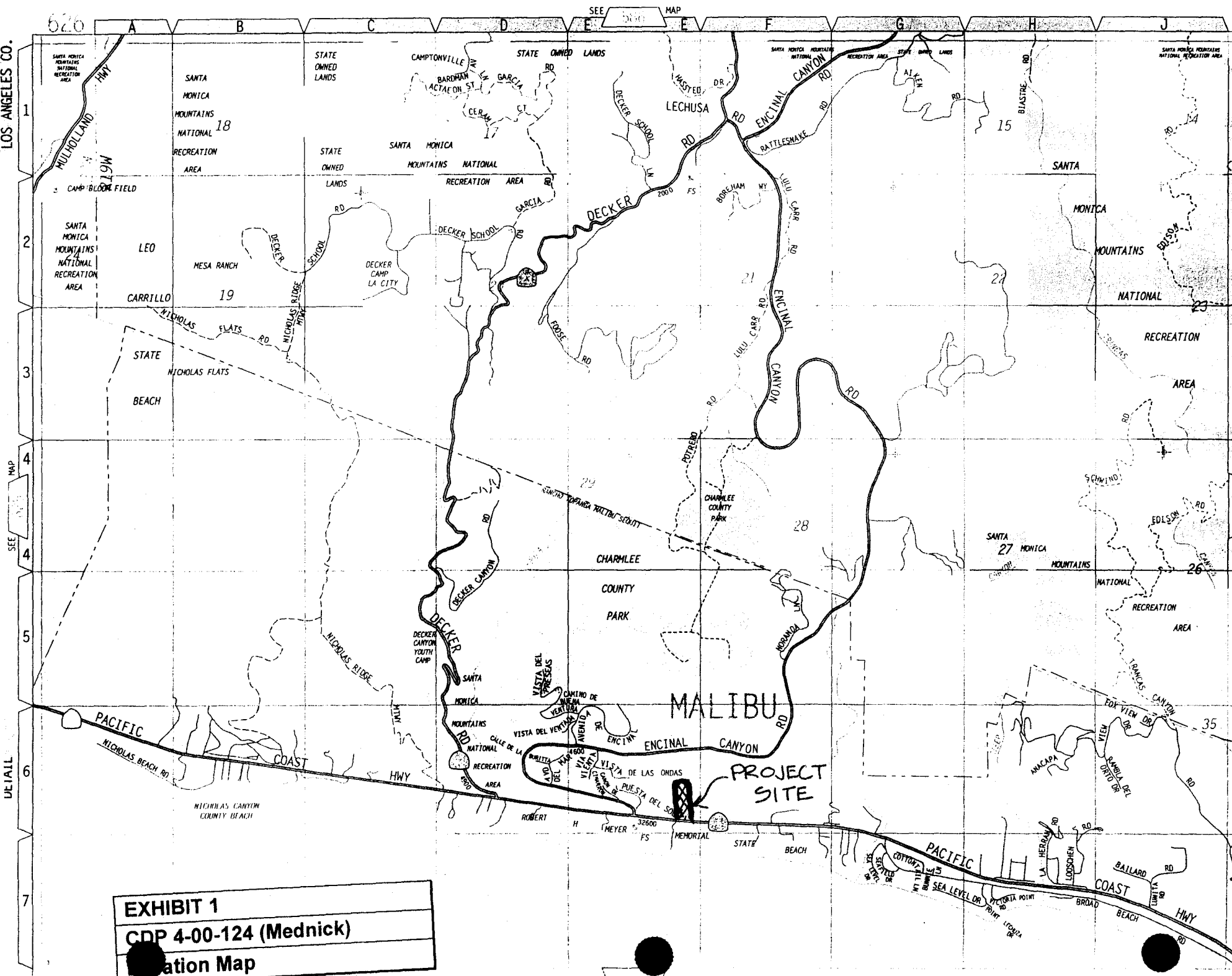
a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice 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 would not be in conformity with the provisions of Chapter 3 of the Coastal Act. The proposed development would create significant adverse impacts and is found to be inconsistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development would 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)

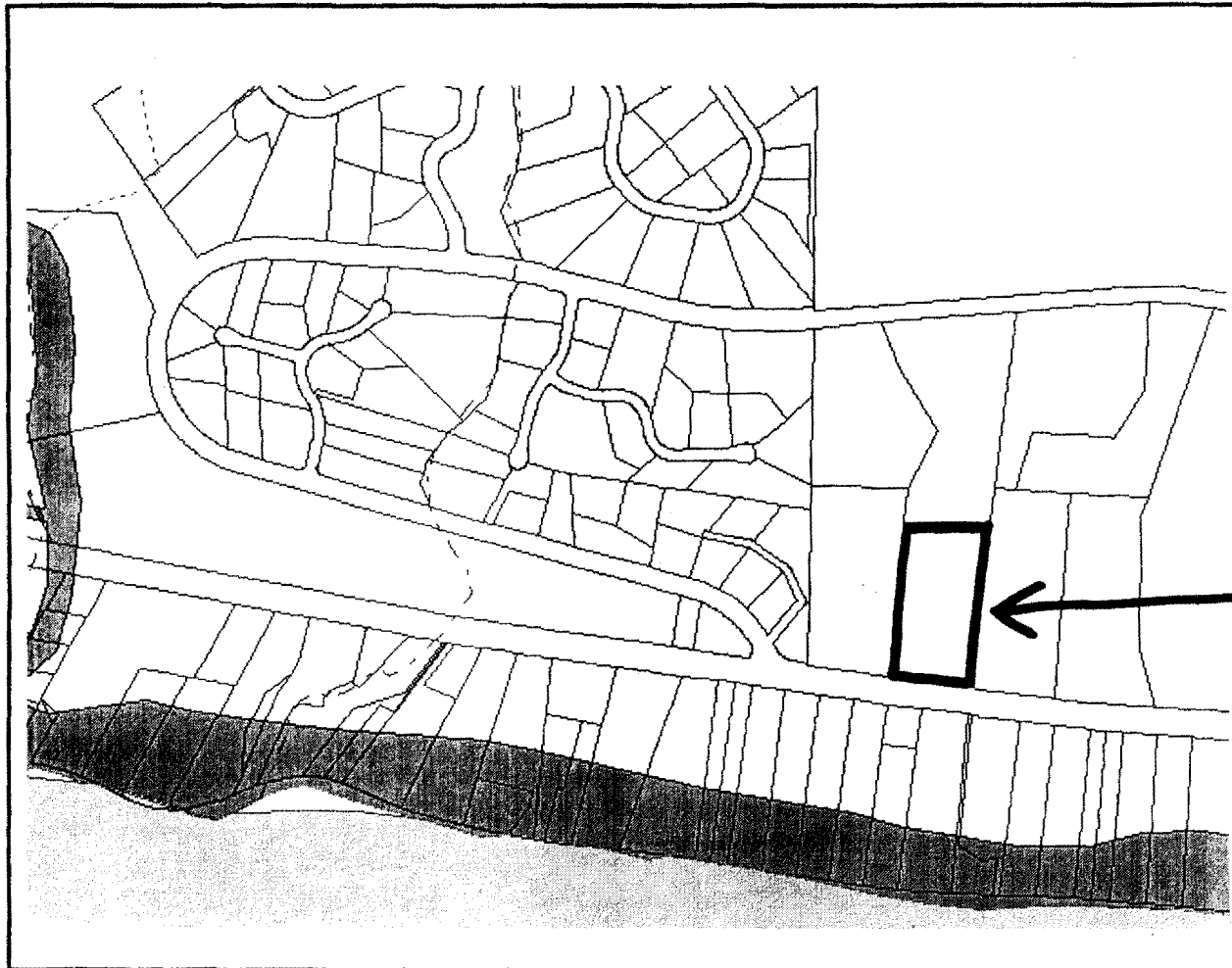
Section 13096(a) of the Coastal Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the 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 would have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. These effects include excessive landform alteration, removal of native vegetation, and potential water quality impacts as discussed in previous sections of this report. The Commission notes that there are feasible alternatives, such as not constructing the pergola or the sport court, reducing the size of the development, or relocating the sport court to an existing, flat improved area, which would significantly reduce or eliminate these adverse impacts. The existing motor court / driveway turnaround area is a large, flat, paved area which could function as a smaller sports court area in lieu of constructing a separate graded pad. Thus, preferred alternatives exist which would lessen adverse impacts to the environment. Therefore, the proposed project is determined to be inconsistent with CEQA and the policies of the Coastal Act.



ESRI ArcExplorer 1.1

4-00-124 Mednick (32537 Pacific Coast Hwy.)



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

SITE

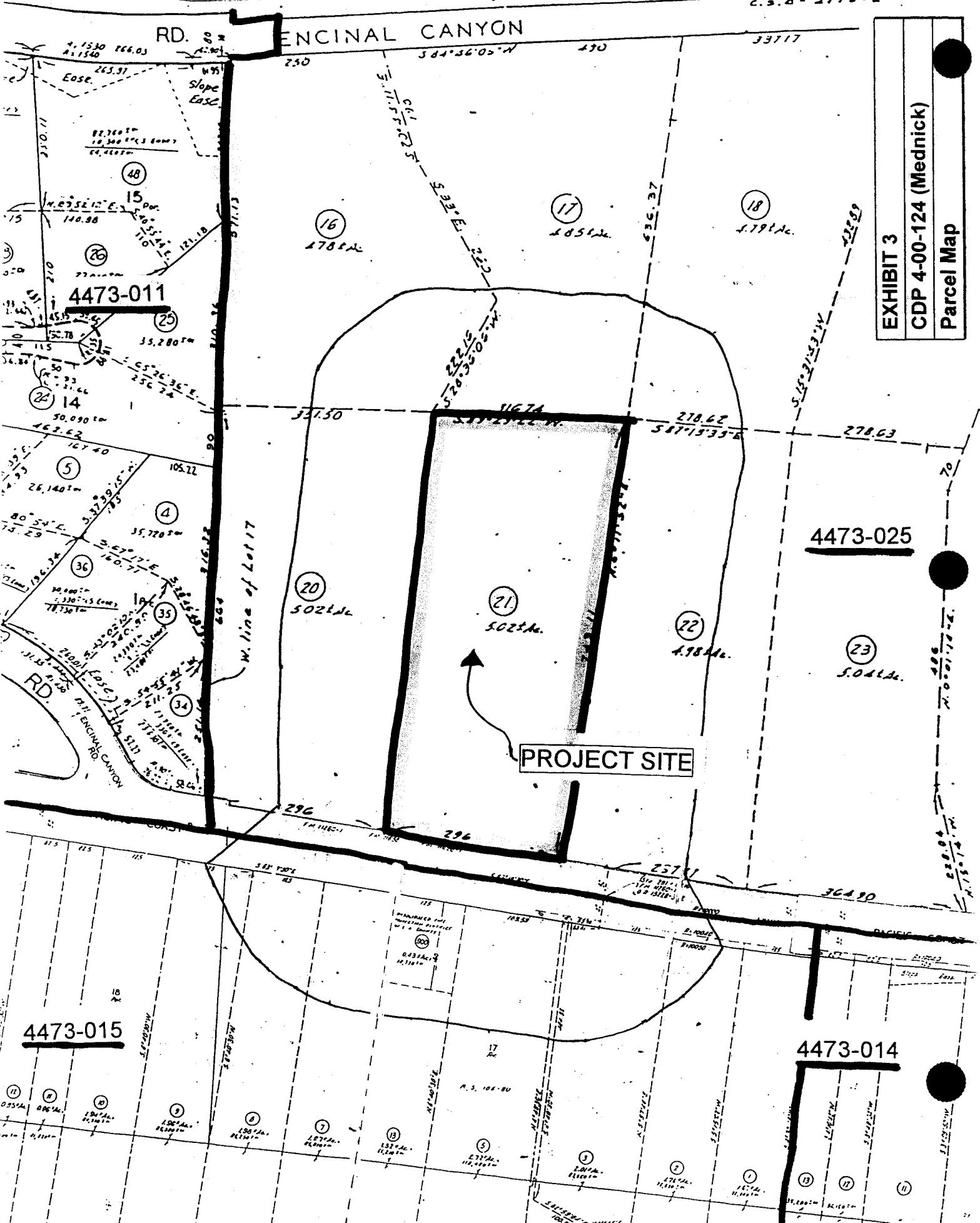
EXHIBIT 2
CDP 4-00-124 (Mednick)
Location Map

100 FT. RADIUS MAP
SCALE: 1" = 200'

C.S.D. - 2178-2

RD. ENCINAL CANYON

EXHIBIT 3
CDP 4-00-124 (Mednick)
Parcel Map



4473-011

4473-025

4473-015

4473-014

PROJECT SITE

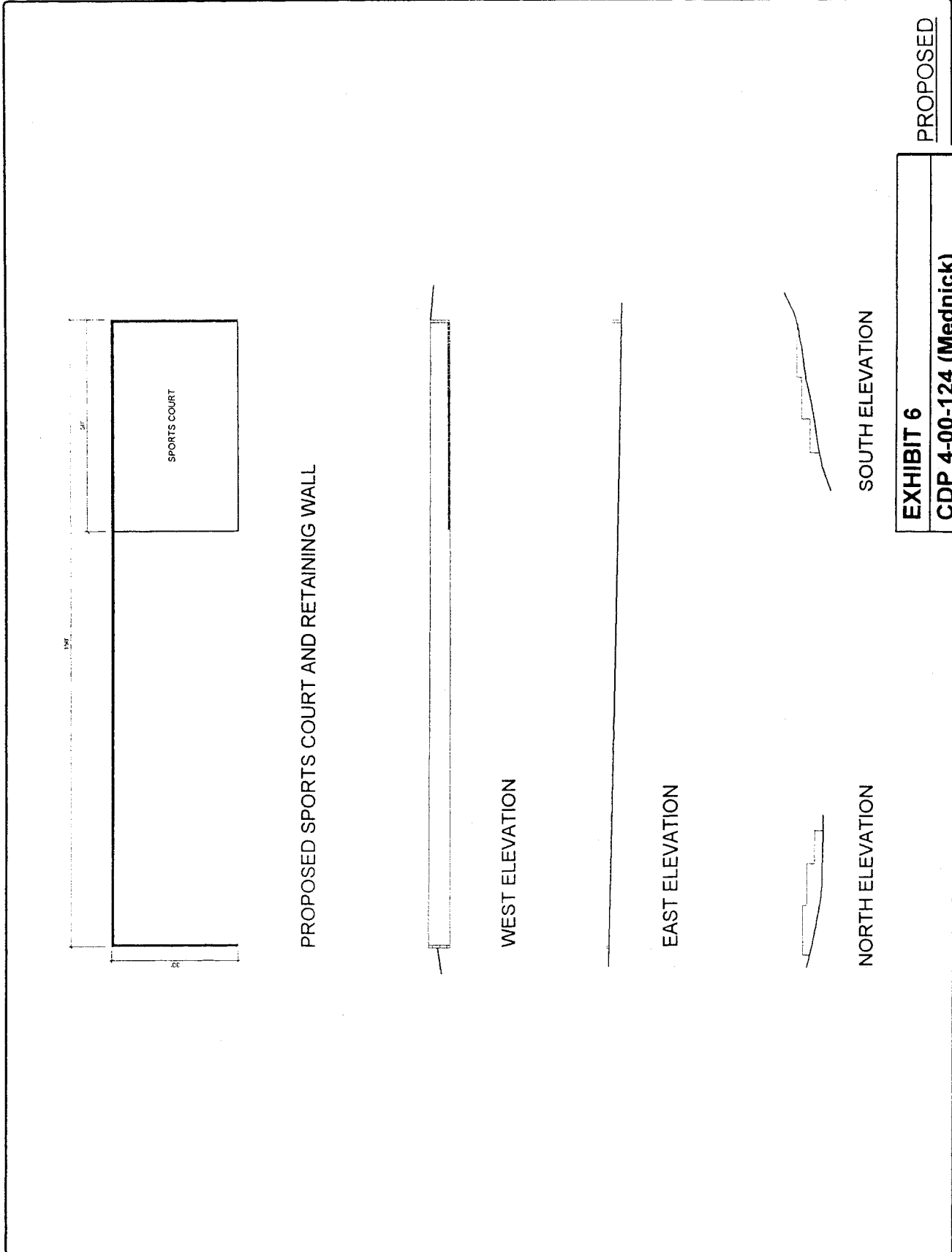
02

DATE	
BY	
CHECKED	
DESIGNED	
NOTED	
SCALE	
PROJECT	
DATE	

PROPOSED SPORTS COURT FOR
SCOTT AND JOANNE MEDNICK
32537 PACIFIC COAST HIGHWAY
MALIBU, CALIFORNIA 90265

CLIVE DAWSON A.I.A.
architecture and planning
38925 Pacific Coast Highway, Malibu, California 90265 310.589.1923

2



PROPOSED

EXHIBIT 6
CDP 4-00-124 (Mednick)
Proposed Elevations

SOUTH ELEVATION

NORTH ELEVATION

WEST ELEVATION

EAST ELEVATION

HIGH SCHOOL
LIFE STORY
HEREON

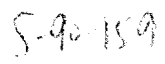


EXHIBIT 8
CDP 4-00-124 (Mednick)
Site Plan - CDP # 5-90-159

[illegible]

Site Plan - CDP # 5-90-159-A1