Tu3a

STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, *Governor*

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

RECORD PACKET COPY

Filed:	12/18/00
49th Day:	2/5/01
180th Day:	6/16/01
Staff:	AAV
Staff Report:	12/21/00
Hearing Date:	1/11-14/01
Commission Action:	

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-99-247

APPLICANT: Jim Palmer **AGENT:** Lester Tobias

PROJECT LOCATION: 6725 Portshead Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a two-story, 26 ft. high, 3,072 sq. ft. single family residence with 342 sq. ft. basement and attached 2-car garage, new driveway, septic system, pool, 3 ½ ft. front yard wall, and 555 cu. yds. grading (525 cu. yds. cut, 30 cu. yds. fill, 495 cu. yds export)

Lot area:	38,105 sq. ft.
Building coverage:	2,664 sq. ft.
Pavement coverage:	1,050 sq. ft.
Landscape coverage:	2,500 sq. ft.
Parking spaces:	4

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval In Concept 10/6/99; City of Malibu Geology and Geotechnical Engineering Review Sheet, Approved In-Concept, 7/23/99; City of Malibu Environmental Health In-Concept Approval, 9/2/99; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval 2/3/00.

SUBSTANTIVE FILE DOCUMENTS: City of Malibu Biological Review 9/23/98; Engineering Geologic Memorandum, Mountain Geology, Inc., 10/19/00; Addendum Engineering Geologic and seismic report #1, Mountain Geology, Inc., 6/3/99; Engineering and Geologic Seismic Report, Mountain Geology, Inc., 7/31/98; Addendum Geotechnical Engineering Report, West Coast Geotechnical, 6/23/99; Geotechnical Engineering Report, West Coast Geotechnical, 12/11/98.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with seven (7) Special Conditions regarding 1) Geologic Recommendations, 2) Drainage and Polluted Run-off Control, 3) Landscaping and Erosion Control, 4) Removal of Natural Vegetation, 5) Removal of Excavated Material, 6) Wildfire Waiver of Liability, 7) Future Development, and 8) Final Fuel Modification Plans.

STAFF RECOMMENDATION:

MOTION: ***I move that the Commission approve Coastal Development Permit No. 4-99-247 pursuant to the staff recommendation.***

I. STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

III. Special Conditions

1. Plans Conforming to Geologic Recommendation

All recommendations contained in the Engineering Geologic and Seismic Report dated 7/31/98 and Addendum Engineering Geologic and Seismic Report dated 6/3/99 prepared by Mountain Geology, Inc., the Geotechnical Engineering Report dated 12/11/98 and Addendum Geotechnical Engineering Report dated 6/23/99 prepared by West Coast Geotechnical shall be incorporated into all final design and construction including foundations, grading, drainage, and sewage disposal. Final plans must be reviewed and approved by the project's consulting geotechnical engineer and engineering geologist. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

2. Drainage and Polluted Runoff Control Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geotechnical engineer and engineering geologist to ensure the plan is in conformance with consultants' recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

(a) Selected BMPs (or suites of BMPs) shall be designed to treat or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.

(b) Runoff shall be conveyed off site in a non-erosive manner.

(c) Energy dissipating measures shall be installed at the terminus of outflow drains.

The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs 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. Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the geotechnical engineer and engineering geologist consultants to ensure that the plans are in conformance with the consultants' recommendations. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

A. Landscaping Plan

(1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence.

(2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Plantings 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 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.

(3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.

(4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

(5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such 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 Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B. Interim Erosion Control Plan

(1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.

(2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should 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.

(3) The plan 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 drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall 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 years from the date of the 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 plan 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 plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

4. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-150 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

5. Removal of Excavated Material

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site. Should the disposal site be located in the Coastal Zone, a coastal development permit shall be required.

6. Wildfire Waiver of Liability

Prior to the issuance of a Coastal Development Permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

7. Future Development

This permit is only for the development described in Coastal Development Permit No. 4-99-247. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6) and 13253 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) and (b) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-99-247, including the residence and any fencing, grading, landscaping, clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition 3, shall require an amendment to Permit No. 4-99-247 from the Commission or shall

require an additional coastal development permit from the Commission or from the applicable certified local government.

Prior to the 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 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. Final Fuel Modification Plans

Prior to issuance of the coastal development permit, the applicant shall submit evidence to the satisfaction of the Executive Director that the Final Approved Fuel Modification Plan is substantially the same as the Preliminary Fuel Modification Plan approved by the County of Los Angeles Fire department Forestry Division on 2/3/00. The total distance of fuel modification shall not exceed 150 feet from any residential structure.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to construct a two-story, 26 ft. high, 3,072 sq. ft. single family residence with 342 sq. ft. basement and attached 2-car garage, new driveway, septic system, pool, and a 3 ½ ft. front yard wall (Exhibits 3-7). The proposed project also includes 555 cu. yds. of grading (525 cu. yds. cut, 30 cu. yds. fill, and 495 cu. yds export).

The project site is a vacant 38,105 sq. ft. parcel located on the west side of Portshead Road in the Point Dume Area of the City of Malibu (Exhibits 1,2). The subject site is a partially graded hillside parcel which descends westerly from Portshead Road to a blueline stream located at the bottom of Malibu Riviera Canyon. Previous grading at the subject site occurred with construction of Portshead Road and has resulted in a moderately level building pad area on the eastern portion of the property. Overall the subject site descends approximately 100 ft. to the canyon bottom at the west property boundary with a natural average slope gradient of 2 ½:1, however, some portions of the subject site are as steep as 1 ½:1. A storm drain outlet pipe located at the east property boundary currently drains run-off from Portshead Road over the subject property and has resulted in a steeply eroded channel which bisects the east portion of the project site diagonally from the north-east property corner toward the south-west. The proposed development is designed to maintain and control the drainage from Portshead Road over the subject property without significantly altering the drainage course (Exhibit 8). The proposed development will be supported on a deepened foundation and will utilize the most moderately level portions on the easternmost portion of the property as the building location and designed to step-down with the natural topography of the project site to minimize grading.

As mentioned, the project site is a hillside parcel that descends westerly to a blueline stream contained within Malibu Riviera Canyon. The blue line stream runs parallel to and just outside the west property boundary of the subject site. Malibu Riviera Canyon is designated as a disturbed sensitive resource area supporting extensive stands of sensitive native vegetation which occupies the slopes of the project site as well as the canyon bottom (Exhibit 11). The applicant has submitted a Fuel Modification Plan with Preliminary Approval by the County of Los Angeles Fire Department, Fuel Modification Unit, dated 2/3/00, which indicates that the fuel modification zone required for the proposed residence will not extend into the sensitive habitat area along the canyon bottom. The Fuel Modification Plan also indicates that vegetation removal and/or thinning requirements to reduce fire hazard will be limited to an area previously disturbed by yearly fuel modification completed for adjacent development, and that the fuel modification requirements for the proposed residence will be limited to a 150 ft. radius around the proposed structure (Exhibit 9). The reduced 150 ft. fuel modification radius from the standard 200 ft. requirement will minimize impacts to natural vegetation existing on the steeply descending slope of the site. Additionally, the proposed development is located on the easternmost portion of the subject property, adjacent to Portshead Road, and is setback so as not to extend any further distance down the hillside into Malibu Riviera Canyon than the existing development north of the project site. The location of the proposed residence at the extreme east portion of the subject site, upslope and beyond development existing north of the site, will reduce the extent of new potential impacts on the sensitive habitat area associated with the new development and subsequent fuel modification requirements. As such, the proposed project will minimize potential adverse impacts to sensitive native vegetation of the canyon slopes at the project site and will not result in vegetation disturbance along the coastal canyon bottom. Therefore, the proposed project will not result in significant adverse impacts to sensitive habitat areas.

In addition, parcels located adjacent to the project site are presently developed with single family residences. The brush clearance requirement applicable to these existing residences extends up to 200 ft. from the subject structures. This brush clearance radius completely overlaps the 150 ft. fuel modification radius required for the proposed development (See Cumulative Fuel Modification Plan Exhibit 10). As such, the required fuel modification measures for the proposed project will not result in adverse impacts to previously undisturbed vegetation on properties adjacent to the project site.

The area surrounding the project site is developed with numerous single family residences and the proposed project site is not visible from any designated scenic highway or scenic public viewing area. The proposed project is designed to step-down with the natural contours of the project site therefore minimizing the need for extensive grading and landform alteration. Therefore, the proposed project will not result in a significant adverse impact on scenic resources.

B. Geology and Wildfire Hazard

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

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

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

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

Geology

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and to minimize risks to life and property in areas of high geologic, flood, and fire hazard. The project site is a hillside parcel composed of a moderately to steeply descending slope. As previously described, the proposed development will be located at the easternmost portion of the subject property and will utilize the most moderately sloped terrain of the site for a building location. The proposed project is designed to step-down with the natural topography of the site to minimize the need for excess grading and landform alteration and will be supported on a deepened foundation system to eliminate the need for extensive removal and recompaction of the site's soil. The proposed project has also been designed so as not to alter the course of the existing drainage channel that diverts run-off from Portshead Road. Project plans submitted for the proposed project incorporate drainage devices to control and disperse the run-off from Portshead Road in a non-erosive manner at the project site. As such, the Commission notes that the proposed development is designed to minimize alterations of the site's natural topography and existing drainage patterns, and therefore will reduce the potential for erosion and geologic instability.

Furthermore, the applicant has submitted an Engineering Geologic and Seismic Report dated 7/31/98 and Addendum Engineering Geologic and Seismic Report dated 6/3/99 prepared by Mountain Geology, Inc., a Geotechnical Engineering Report dated 12/11/98 and Addendum Geotechnical Engineering Report dated 6/23/99 prepared by West Coast Geotechnical which evaluate the geologic stability of the subject site in relation to the proposed development. Based on their evaluation of the site's geology and the proposed development the consultants have found that the project site is suitable for the proposed project. The project's consulting engineering geologist Mountain Geology states in the Engineering Geologic and Seismic Report dated 7/31/98:

> *Based upon our investigation, the proposed development will be free from geologic hazards such as landslides, slippage, active faults, and settlement. The proposed development and installation of the private sewage disposal system 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.*

Additionally, the consulting geotechnical engineer for the propose project West Coast Geotechnical states in the Geotechnical Engineering Report dated 12/11/98:

> *It is the opinion of West Coast Geotechnical that the proposed development will be safe against hazard from landslide, settlement or slippage, and that the proposed development will not have an adverse affect on the stability of the subject site or immediate vicinity, provided our recommendations are made part of the development plans and implemented during construction.*

The geology consultants conclude that the proposed development is feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The Engineering Geologic and Seismic Report dated 7/31/98 and Addendum Engineering Geologic and Seismic Report dated 6/3/99 prepared by Mountain Geology, Inc., the Geotechnical Engineering Report dated 12/11/98 and Addendum Geotechnical Engineering Report dated 6/23/99 prepared by West Coast Geotechnical contain several recommendations to be incorporated into project construction, design, drainage, and sewage disposal to ensure the stability and geologic safety of the proposed project. To ensure that the recommendations of the consultants have been incorporated into all proposed development the Commission, as specified in **Special Condition 1,** requires the applicant to submit project plans certified by the consulting engineering geologist and geotechnical engineer as conforming to all structural and site stability recommendations for the proposed project. Final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultants shall require an amendment to the permit or a new coastal development permit.

Though the proposed project is conditioned to incorporate all recommendations of the geology consultants for site stability and safety, the Commission notes that minimization of site erosion will add to the geologic stability of the project site and that erosion will be minimized by incorporating adequate drainage, erosion control, and appropriate landscaping into the proposed development. To ensure that adequate drainage and erosion control is included in the proposed development the Commission requires the applicant to submit drainage and erosion control plans certified by the consulting engineering geologist and geotechnical engineer, as specified in **Special Conditions 2 and 3**.

Additionally, the Commission notes that the quantity of cut grading required for construction of the proposed residence is more than the quantity of fill required for construction resulting in an excess of 495 cu. yds. of graded earth material. Stockpiles of dirt are subject to increased erosion and, if retained onsite, may lead to additional landform alteration. Therefore, **Special Condition 5** requires the applicant to export all excess grading material from the project site to an appropriate site for disposal and provide evidence to the Executive Director of the location of the disposal site prior to issuance of a coastal development permit.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will reduce erosion and serve to enhance and maintain the geologic stability of the site. Therefore, **Special Condition 3** requires the applicant to submit landscaping plans certified by the consulting engineering geologist and geotechnical engineer as in conformance with their recommendations for landscaping of the project site. Special Condition 3 also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

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 notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in Special Condition 3.

In addition, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition 4**. This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The limitation imposed by Special Condition 4 avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

The Commission finds that the proposed project, as conditioned, will serve to minimize potential geologic hazards of the project site and adjacent properties.

Wild Fire

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. Typical vegetation in the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition 6**, the wildfire waiver of liability, the applicant acknowledges 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 Special Condition 6, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

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

C. Sensitive Resources

Section **30230** of the Coastal Act states that:

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

Section **30231** states:

> ***The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.***

Section **30240** states:

> ***(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.***
>
> ***(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.***

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

The project site is a vacant hillside parcel that descends westerly to a blueline stream contained within Malibu Riviera Canyon. The blueline stream runs parallel to and just outside the west property boundary of the subject site. Malibu Riviera Canyon is designated as a disturbed sensitive resource area supporting extensive native vegetation established on the lower slopes of the project site and along the canyon corridor (Exhibit 11). In past permit actions involving new development adjacent to sensitive habitat and blueline streams, the Commission has required that new development be sited to protect such sensitive habitats, and has required that new structures be located 100 ft. or more from the centerline of blueline streams and from the outer limit of sensitive habitat areas to provide adequate natural buffers areas from development. In addition, the Commission has regularly required that grading be minimized to ensure that the potential negative effects of run-off and erosion on watersheds, streams, and sensitive habitat areas is minimized.

The area proposed for construction of the new development is the easternmost portion of the site adjacent to Portshead Road, located upslope from the identified sensitive habitat area at the project site. The furthest extent of the proposed development within the coastal canyon (the edge of the proposed swimming pool) is approximately 190 ft. upslope from the blueline stream and the furthest extent of the required fuel modification radius into the canyon is approximately 140 ft. from the canyon bottom. The proposed development will be located on the most moderately sloped portion of the subject site which has been previously graded upon construction of Portshead Road, and

previously disturbed for fuel modification purposes for adjacent development. As such, development of the proposed single family residence will provide an adequate natural buffer area for the sensitive habitat area on the lower slopes and canyon bottom, will be located within an area previously disturbed by past grading and vegetation removal, and therefore will not result in significant removal of undisturbed natural vegetation within the sensitive habitat.

In addition, the applicant has submitted a Fuel Modification Plan with Preliminary Approval by the County of Los Angeles Fire Department, Fuel Modification Unit, dated 2/3/00, which indicates that the fuel modification zone required for the proposed residence will not extend into the sensitive habitat area along the canyon bottom. The Fuel Modification Plan indicates that the existing setback of the proposed residence from the sensitive habitat area in the canyon bottom will be adequate for vegetation thinning/clearance requirements for fire safety, and all existing vegetation in the sensitive habitat area will be preserved in a natural state. The Fuel Modification Plan also indicates that vegetation removal and/or thinning requirements to reduce fire hazard will be limited to an area previously disturbed by yearly fuel modification completed for adjacent development, and that the fuel modification requirements for the proposed residence will be limited to a 150 ft. radius around the proposed structure (Exhibit 9). The reduced 150 ft. fuel modification radius from the standard 200 ft. requirement will minimize impacts to natural vegetation existing on the steeply descending slope of the site. Moreover, the 200 ft. brush clearance radius applied to adjacent development overlaps the subject 150 ft. radius approved for the subject project. Therefore no new fuel modification on site, or brush clearance off site, will impact undisturbed natural vegetation as a result of the approved project. Therefore, **Special Condition 8** ensures that the Preliminary Fuel Modification limit of 150 ft. is retained in the Final Fuel Modification Plan. Additionally, the proposed development is located on the easternmost portion of the subject property, adjacent to Portshead Road, and is setback so as not to extend any further distance down the hillside into Malibu Riviera Canyon than the existing development north of the project site. The location of the proposed residence at the extreme east portion of the subject site, upslope and beyond development existing north of the site, will reduce the extent of new potential impacts on the sensitive habitat area associated with the new development and subsequent fuel modification requirements. As such, the Commission finds that the proposed project will minimize potential adverse impacts to sensitive native vegetation of the canyon slopes at the project site and will not result in vegetation disturbance along the coastal canyon bottom.

The Commission further finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, **Special Condition 3** requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

The Commission notes that seasonal streams and drainages, such as the blueline stream located directly adjacent to the subject site, in conjunction with primary waterways, provide important habitat for sensitive plant and animal species. Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible through means such as: controlling runoff, preventing interference with surface water flows and alteration of natural

streams, and by maintaining natural vegetation buffer areas. In past permit actions the Commission has found that new development adjacent to coastal streams and natural drainages results in potential adverse impacts to sensitive habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species, disturbance of wildlife, and loss of riparian plant and animal habitat.

In the case of the proposed project, no removal of vegetation in the sensitive habitat area identified on site is proposed and the Commission notes that the proposed development and fuel modification requirements will be located more than 100 ft. from the blueline stream and associated sensitive habitat, providing an adequate natural buffer area for protection of the sensitive resource. However, the Commission finds that the value and quality of the sensitive habitat at the subject site is directly related to the water quality of the coastal stream that sustains the habitat. As such, The Commission finds that potential adverse effects of the proposed development on sensitive habitat at the site may be further minimized be maintaining good water quality through the implementation of a drainage and polluted runoff control plan, which will ensure that erosion is minimized and polluted run-off from the site is control and filtered before it reaches the natural drainage. Therefore, the Commission requires **Special Condition 2**, the Drainage and Polluted Run-off Control Plan, which requires the applicants to incorporate appropriate drainage devices and Best Management Practices (BMPs) to ensure that run-off from the proposed structures and impervious surfaces is conveyed off-site in a non-erosive manner and is treated/filtered to reduce pollutant load before it reaches coastal waterways. (See Section D. Water Quality for a more detailed discussion of coastal water quality). The Commission finds that controlling and treating run-off from the site as described will reduce potential adverse impacts on water quality and will therefore prevent impacts that would significantly degrade the identified sensitive habitat, as well as sensitive resources located downstream of the project site.

Finally, the Commission finds that the amount and location of any new development that may be proposed in the future on the subject site is significantly limited by the unique nature of the site and the above mentioned environmental constraints. Therefore, in order to ensure that any future structures, additions, change in landscaping or intensity of use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition 7**, the future development deed restriction, has been required.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 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, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and 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, minimizing alteration of natural streams.

As described, the proposed project includes construction of a two-story, 26 ft. high, 3,072 sq. ft. single family residence with 342 sq. ft. basement and attached 2-car garage, new driveway, septic system, pool, 3.5 ft. front yard wall, and 555 cu. yds. grading (525 cu. yds. cut, 30 cu. yds. fill, 495 cu. yds export). The project site is an undeveloped 38,105 sq. ft. parcel located on a moderate to steep slope which descends to a sensitive habitat area and blueline stream collecting draining run-off within Malibu Riviera Canyon in the Santa Monica Mountains. The site is considered a "hillside" development, as it involves steeply to moderately sloping terrain with soils that are susceptible to erosion.

The proposed development will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the

additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition 2**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition 2** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site private sewage disposal system with a 1,500 gallon tank to serve the residence. The applicants' geologic consultants performed infiltration tests and evaluated the proposed septic system. The report concludes that the site is suitable for the septic system and that no adverse impact to the site or surrounding areas will result from the use of the alternative septic system. Finally, the City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

Therefore, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

E. LOCAL COASTAL PROGRAM

Section **30604** of the Coastal Act states:

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

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

F. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the 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 Environmentally Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

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

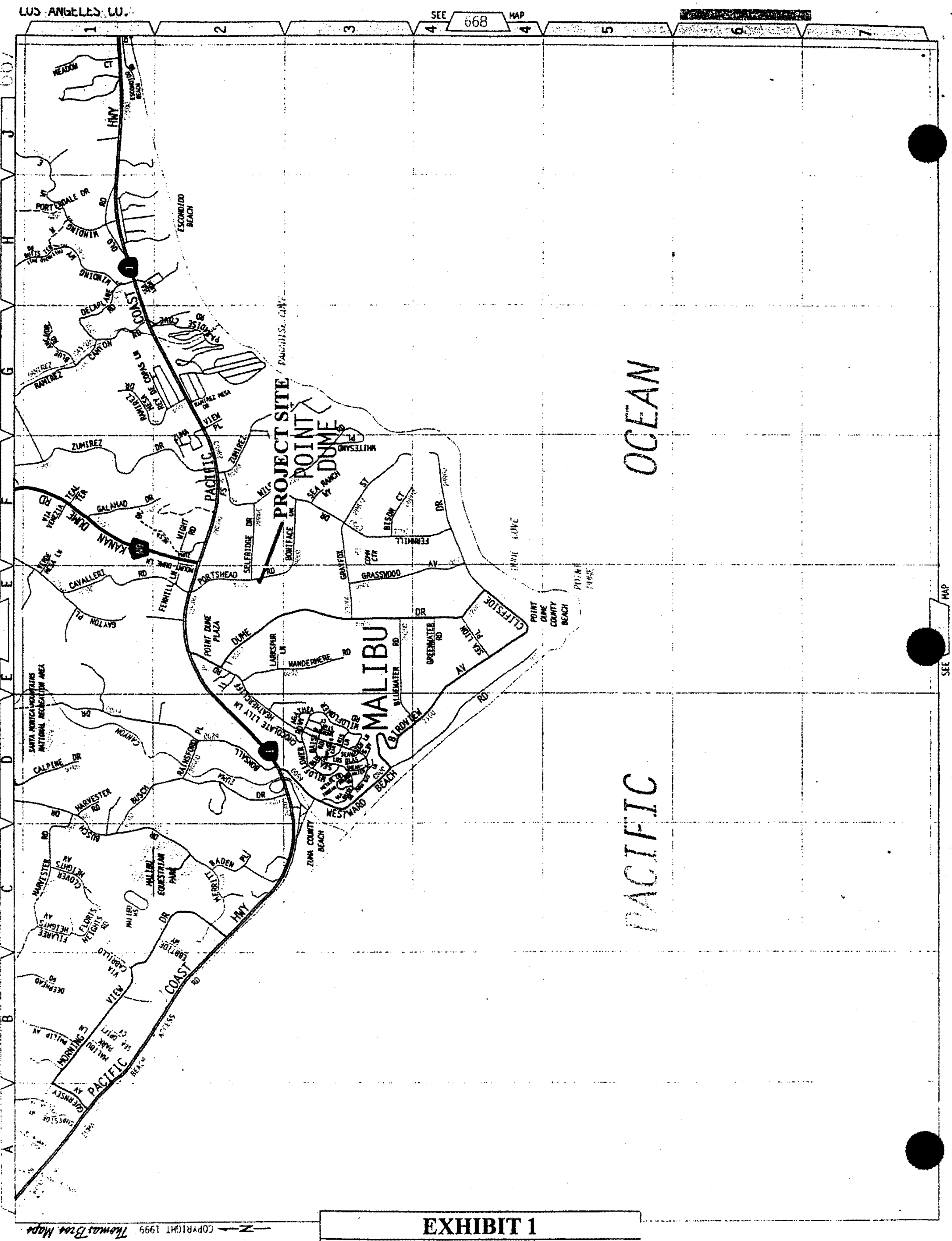


EXHIBIT 1

CDP #4-99-247

Location Map

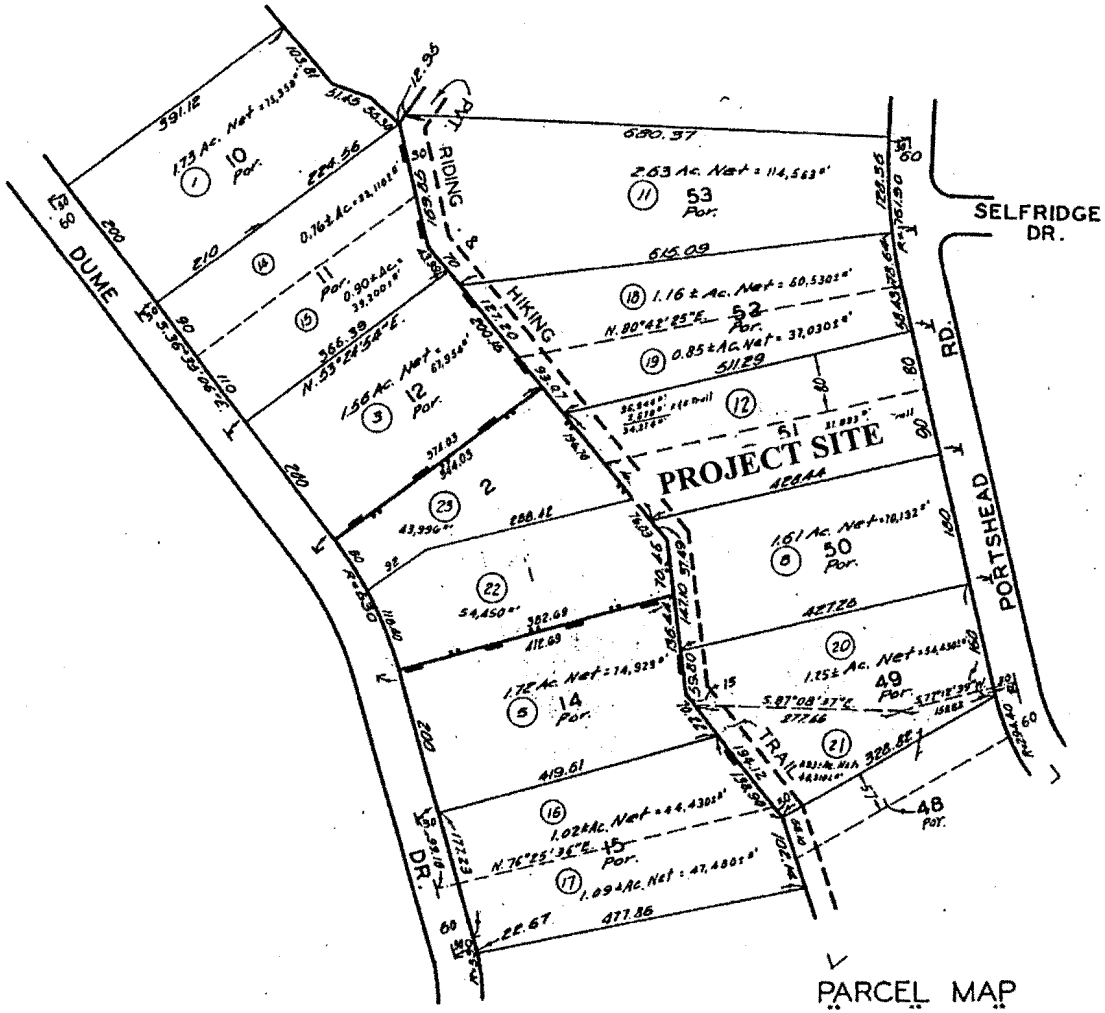
EXHIBIT 2
CDP # 4-99-247
Parcel Map

4466 | 20

SCALE 1" = 150'

1992

REVISED
2-16-65
3-15-65
1-13-66
7-11-66
9-26-66
12-6-66
681204
720209
BC1201402
850920-26
910606



CODE
10860

PARCEL MAP
P. M. 157 - 21

FOR PREV. ASSM'T. SEE: 482 - 322, 323 & 327
4466 - 16

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

RECORD OF SURVEY
R.S. 57 - 9 - 10

ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

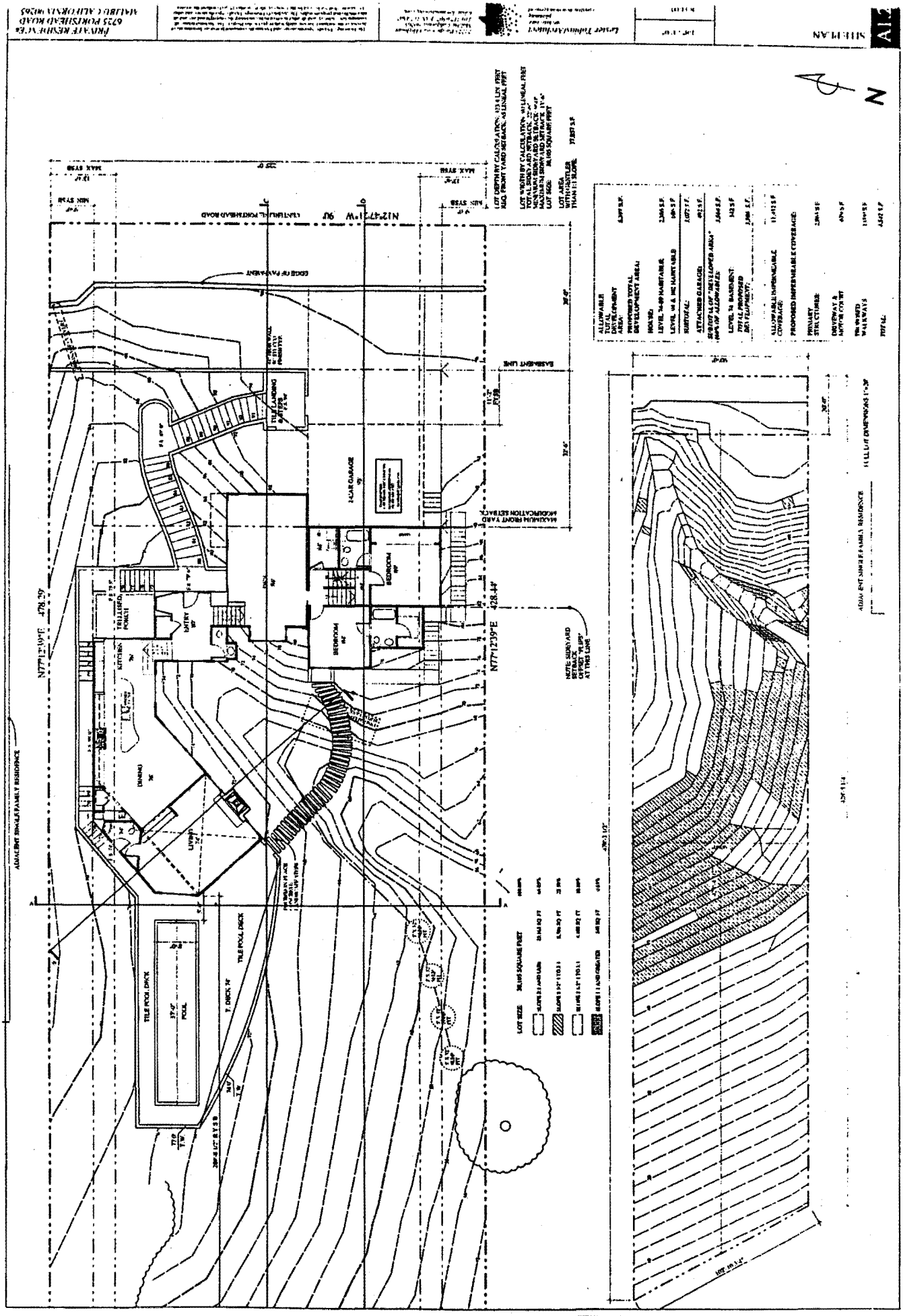


EXHIBIT 3
CDP # 4-99-247
Site Plan

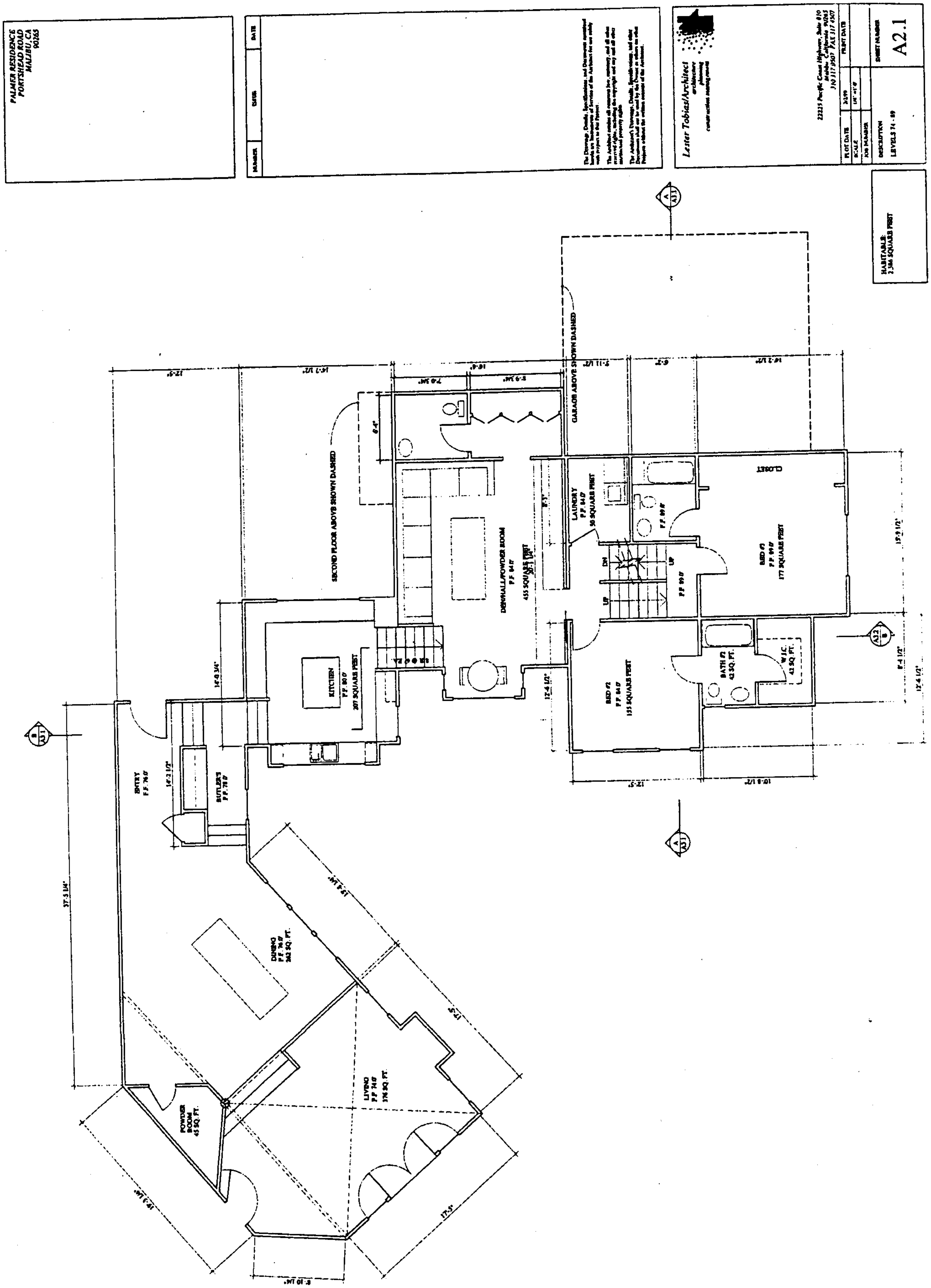


EXHIBIT 4

CDP # 4-99-247

Residence 1st Floor Plan

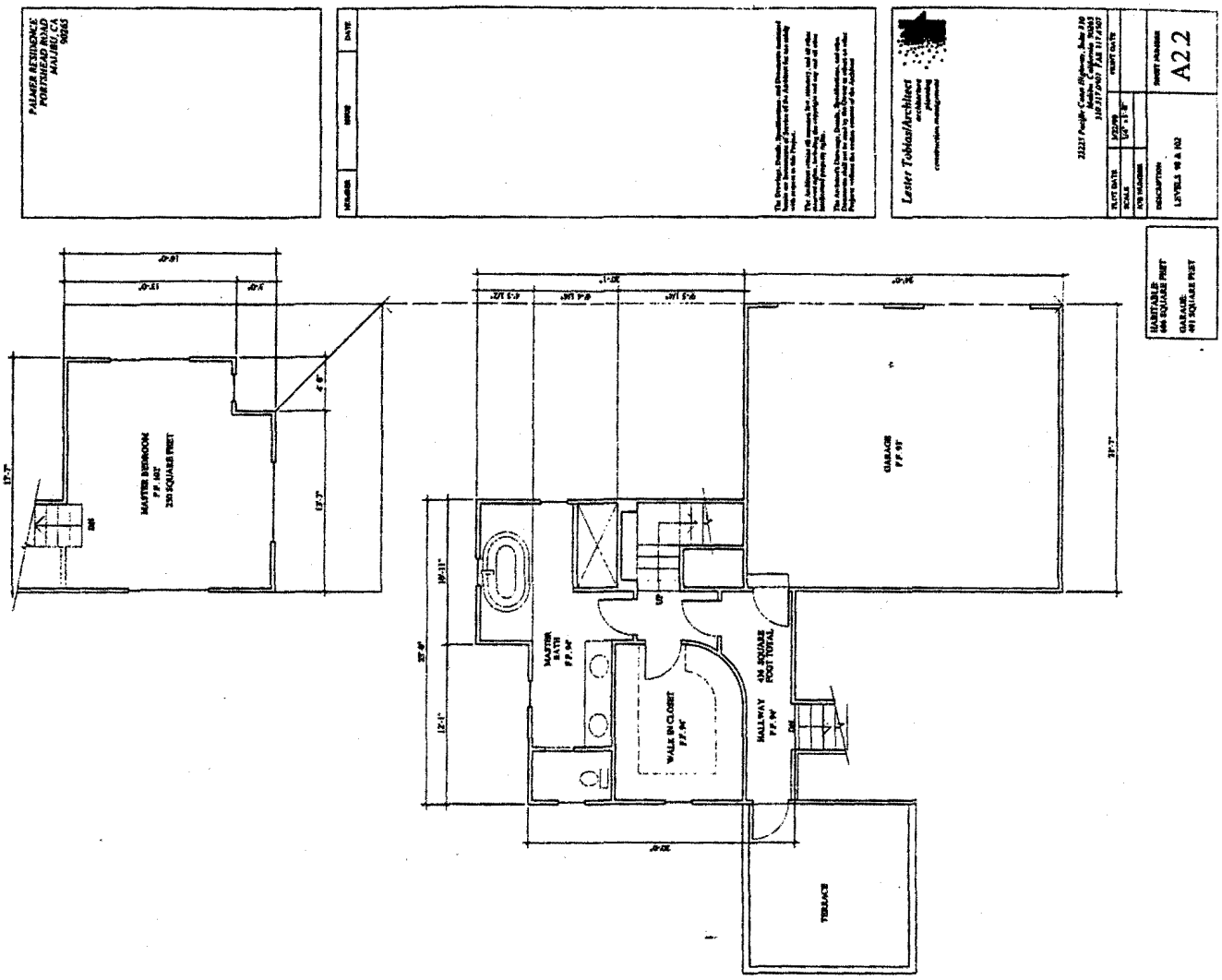
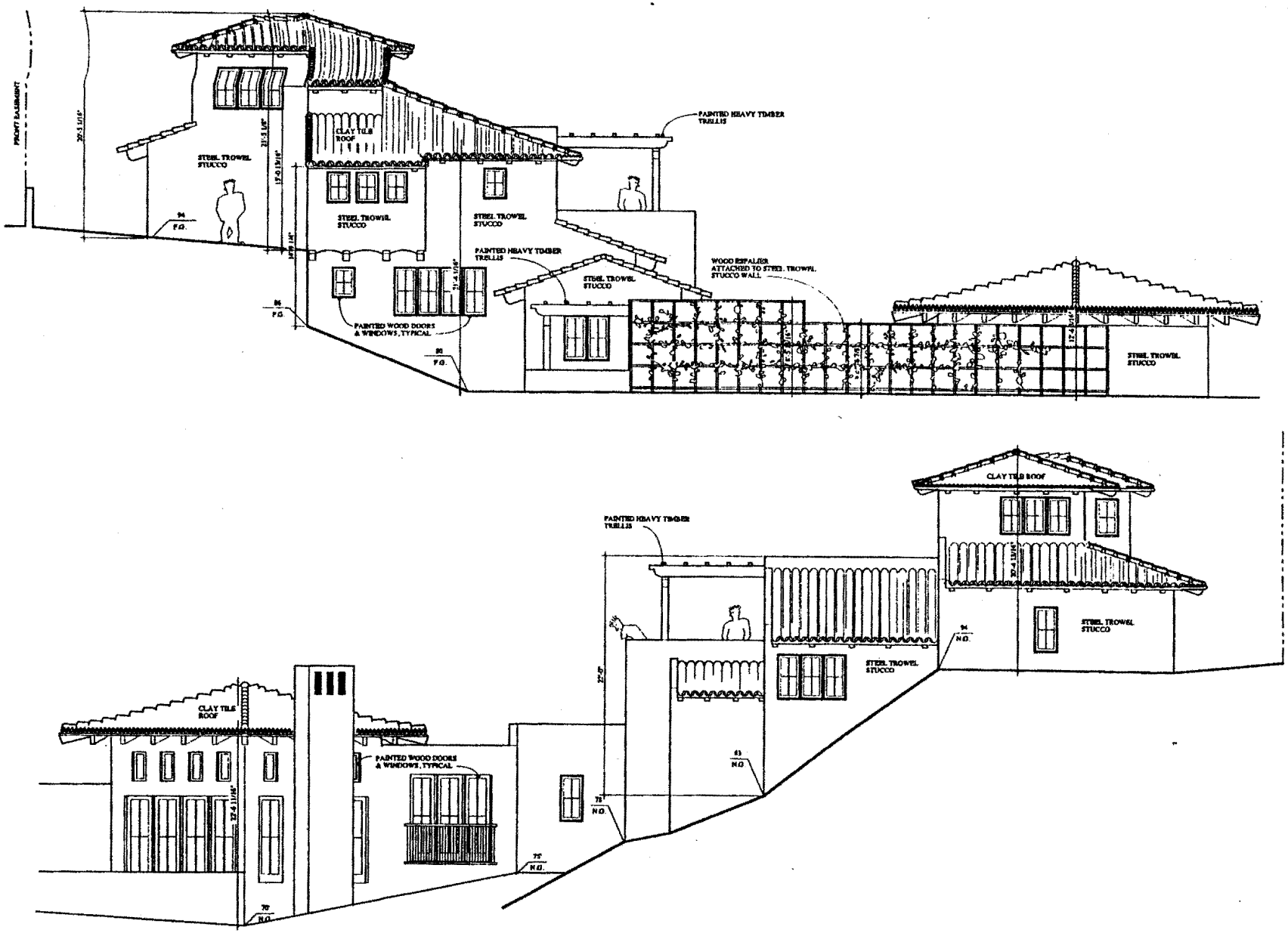


EXHIBIT 5
CDP # 4-99-247
Residence 2nd Floor Plan

EXHIBIT 6
CDP # 4-99-247
Elevations



PALMER RESIDENCE
PORTSHEAD ROAD
MALIBU, CA
90265

NUMBER	ISSUE	DATE

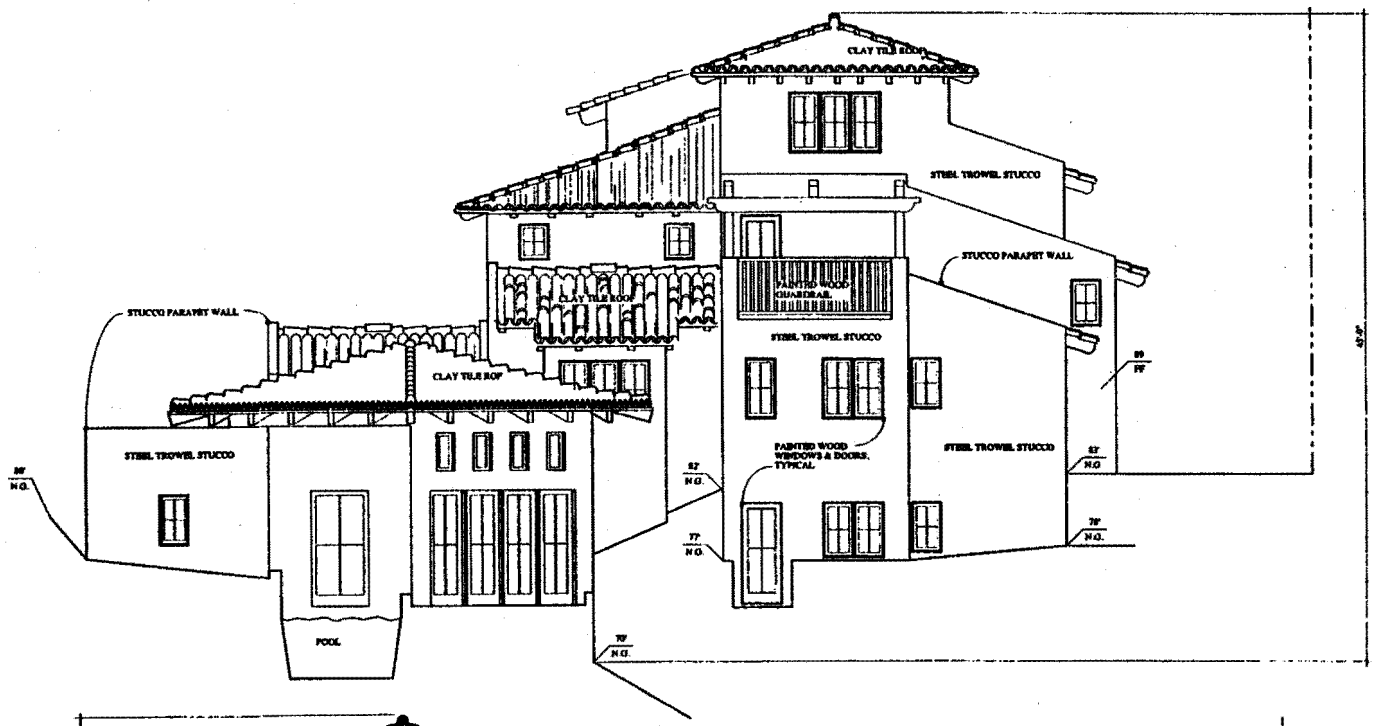
Laster Tobias/Architect
architecture
planning
construction management

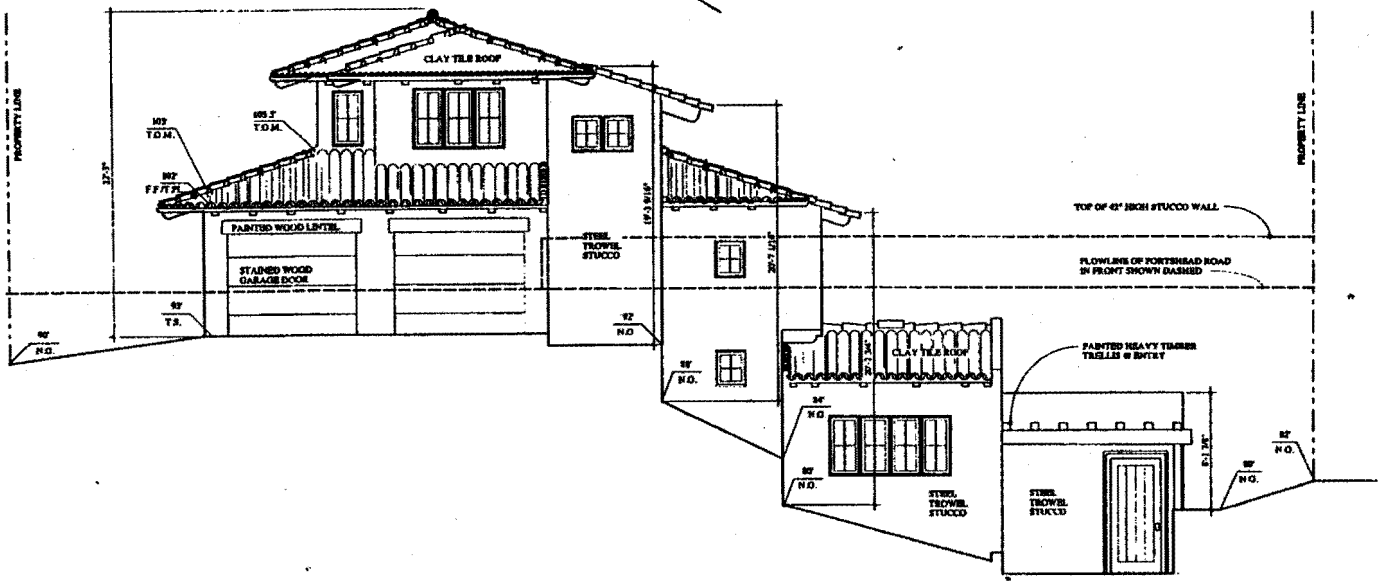
22225 Pacific Coast Highway, Suite 210
Malibu, California 90265
310.317.8007 FAX 317.4507

PLOT DATE	5/24/99	PRINT DATE
SCALE	1/4" = 1'-0"	
JOB NUMBER		

DESCRIPTION	SHEET NUMBER
NORTH ELEVATION SOUTH ELEVATION	A4.2

EXHIBIT 7
CDP # 4-99-247
Elevations





PALMER RESIDENCE
PORTSHEAD ROAD
MALIBU, CA
90265

NUMBER	ISSUE	DATE

Lester Tobias/Architect
architecture
planning
construction management

22321 Pacific Coast Highway, Suite 310
Malibu, California 90265
310 317 0502 FAX 317 0507

PLOT DATE	3/24/99	PRINT DATE
SCALE	1/4"=1'-0"	
JOB NUMBER		

DESCRIPTION
WEST ELEVATION
EAST ELEVATION

SHEET NUMBER
A4.1

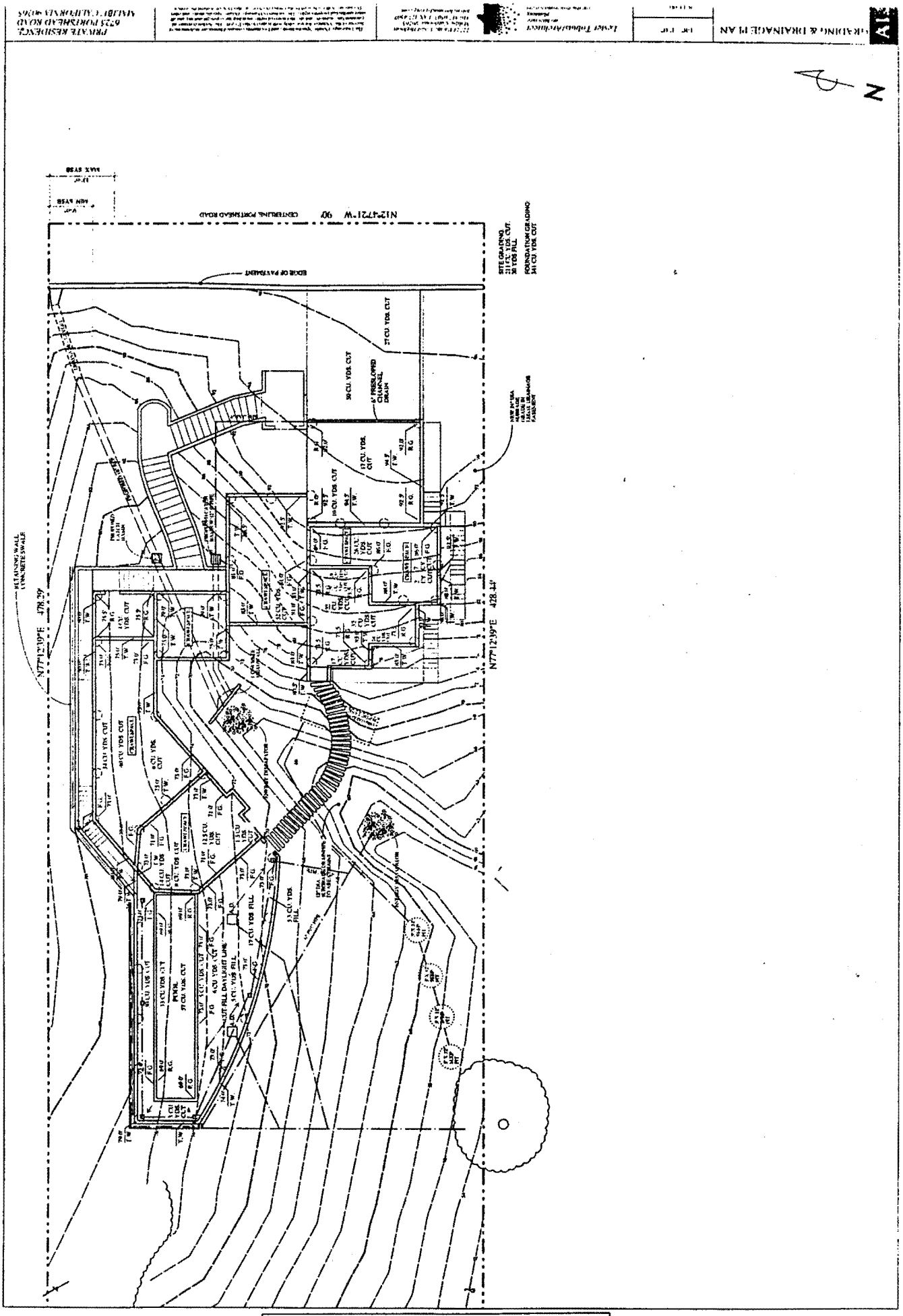


EXHIBIT 8

CDP # 4-99-247

Drainage Plan

EXHIBIT 9

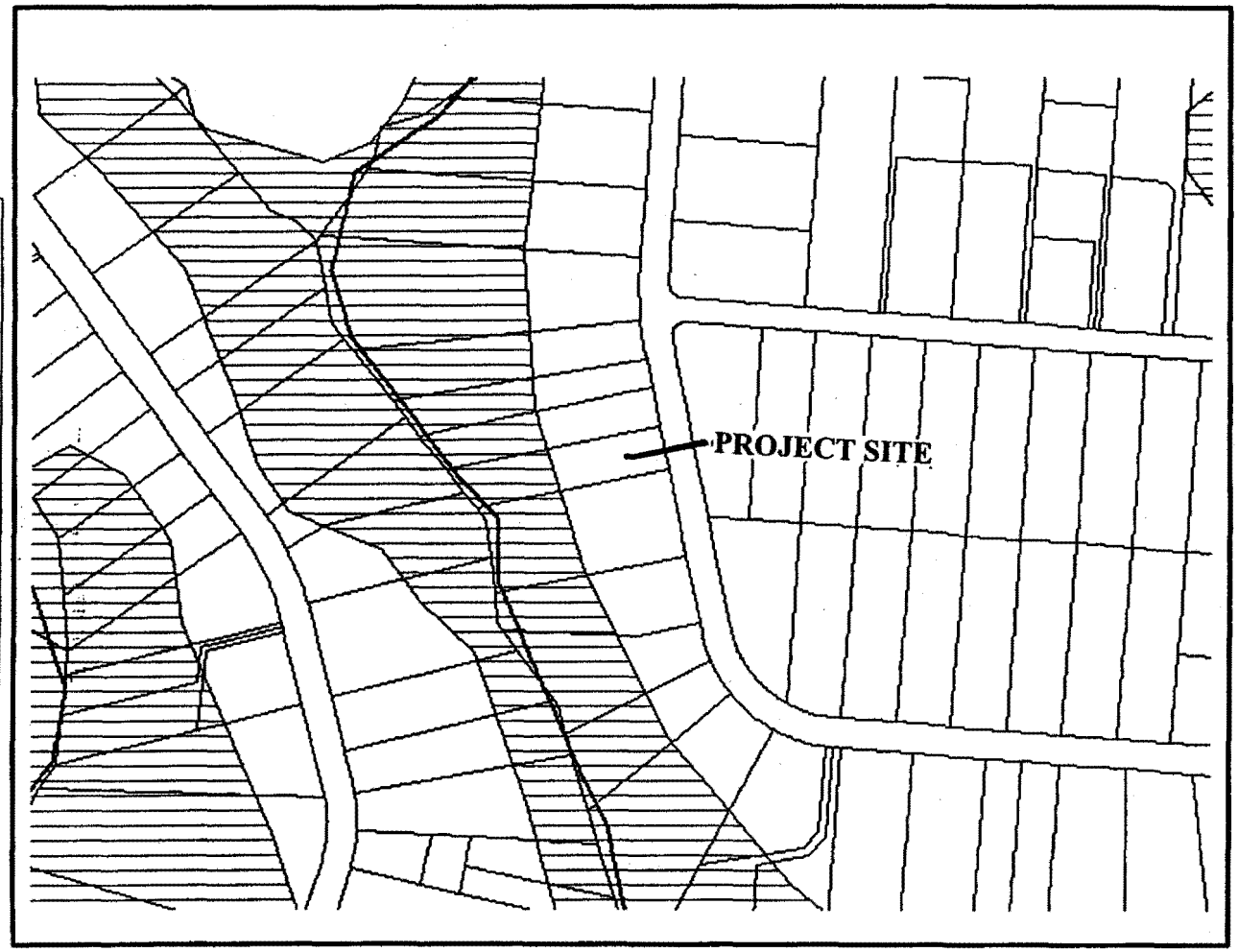
CDP # 4-99-247

Fuel Modification Plan

EXHIBIT 10
CDP # 4-00-247
Cumulative Fuel Modification

ESRI ArcExplorer 1.1

6725 Portshead



StrmsCCC

laprcls

esha (ESHA)

Coldcreek management area

inland

locally disturbed resources

oak woodlands and savannahs

Thursday, Dec 21 2000

EXHIBIT 11

CDP # 4-99-247

Sensitive Habitat