

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Commission Action:



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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-123

APPLICANT: Stan Kaplan **AGENT:** Rich Ryley

PROJECT LOCATION: 3044 Sequit Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a three-story, 27 ft. high, 2,590 sq. ft. single family residence with attached 952 sq. ft. garage, terraces, pool, driveway, septic system, approximately 3,089 cu. yds. grading (3,089 cu. yds. cut, 9 cu. yds. fill, 3,080 cu. yds. export), approximately 5,390 cu. yds. over-excavation to remediate a slide plane underlying the site, and lot line adjustment in the El Nido small lot subdivision.

Lot area:	14,947 sq. ft.
Building coverage:	1,800 sq. ft.
Pavement coverage:	7,816 sq. ft.
Landscape coverage:	5,231 sq. ft.
Unimproved area:	0 sq. ft.
Maximum height:	27 ft.

LOCAL APPROVALS RECEIVED: Los Angeles County, Department of Regional Planning, Approval in Concept 2/29/00; County of Los Angeles, Fire Department, Preliminary and Final Fuel Modification Plan Approved 9/27/00; County of Los Angeles, Department of Public Works, Land Development Division, Soils Engineering Review Sheet, Recommendation for Approval, 6/24/01; County of Los Angeles, Geologic Review Sheet, Recommendation for Approval, 6/25/01

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 4-95-136-A, 4-5-136-E-E3 (Kaplan); Coastal Development Permit 4-92-074 (Kaplan); Certified Malibu/Santa Monica Mountains Land Use Plan; Prepared by West Coast Geotechnical: Geotechnical Engineering Report dated 2/8/91, Update Geotechnical Report and Onsite Private Sewage Disposal System Design dated 12/6/93, Update Geotechnical Engineering Report dated 5/31/95, Update Geotechnical Engineering Report dated 4/3/00, and Addendum Geotechnical Engineering Report dated 1/25/01.

Summary and Staff Recommendation:

Staff recommends that the Commission approve the proposed amendment with **10 Special Conditions** regarding 1) geologic recommendations, 2) polluted runoff control, 3) landscaping and erosion control, 4) export of excess grading material, 5) removal of natural vegetation, 6) assumption of risk, 7) future improvements, 8) design and color restriction, 9) revised plans, and 10) condition compliance.

The subject site and proposed development were previously reviewed and approved by the Commission pursuant to Coastal Development Permit 4-95-136. On May 9, 1996 the Commission approved Coastal Development Permit 4-95-136 for: Construction of a 2,507 sq. ft., 18 ft. high from existing grade, single family residence, 816 sq. ft. garage, 3,435 sq. ft. of terrace area, a pool, septic system, 1,820 cu. yds. of grading (1,700 cu. yds. cut and 120 cu. yds. fill) and a lot line adjustment in the El Nido small lot subdivision. The project was approved by the Commission subject to special conditions regarding 1) revised plans, 2) future improvements, 3) structure and roof color restriction, 4) geologic recommendations, 5) assumption of risk, 6) wildfire waiver of liability, and 7) condition compliance. Special Condition 1, revised plans, included a conditional approval to allow an increase of the maximum allowable Gross Structural Area (GSA) for the proposed residence to a total of 2,590 sq. ft. provided the applicant permanently extinguished development rights on three nearby lots specifically identified in the staff recommendation. Without retirement of development rights on nearby lots, as detailed in Special Condition 1, the applicant would only be entitled to a 1,490 sq. ft. residence pursuant to the GSA formula utilized by the Commission in numerous past permit decisions to mitigate cumulative impacts of development in small lot subdivisions. Coastal Development Permit 4-95-136 was extended by the applicant on June 6, 1998, May 26, 1999 and June 26, 2000.

Subsequent to the Commission's approval of Coastal Development Permit 4-95-136 and the above referenced extension dates granted by the Commission, the County of Los Angeles Fire Department required the applicant to revise the proposed project to comply with new Fire Department standards for a driveway and a turn-around area at the site. The new requirements caused the applicant to reconfigure the proposed development, provide a driveway at a grade that meets Fire Department standards, and incorporate a turn-around area into the proposed development. As such, the applicant requested to amend Coastal Development Permit 4-95-136 for the revised project plans, as well as the increase of grading required to construct the revised project. Additionally, the applicant submitted revised grading and drainage plans to comply with Special Condition 4 of Coastal Development Permit 4-95-136 (geologic recommendations), certified by the project's consulting geotechnical engineer, which incorporated the above referenced changes to the approved development and the resulting increase of grading from 1,820 cu. yds. (1,700 cu. yds. cut, 120 cu. yds. fill) to a total of 3,089 cu. yds. (3,089 cu. yds. cut, 9 cu. yds. fill, 3,080 cu. yds. export), as well as recommendations of the geotechnical consultant to over-excavate 5,390 cu. yds. for remediation of a slide plane underlying the site that was not addressed on the previous grading plan. Additionally, pursuant to the special conditions of Coastal Development Permit 4-95-136, in compliance with Special Condition 1 of the permit, the applicant submitted revised structural plans which illustrated an 83 sq. ft. increase of the proposed single family residence to a total of 2,590 sq. ft., consistent with the allowable GSA conditionally approved under permit 4-95-136, a 136 sq. ft. increase of the garage to a total of 952 sq. ft. The revised structural plans also included an overall 9 ft. increase in height of the

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residence up to 27 ft. above existing grade. The revised project was approved by the Commission pursuant to the amended Coastal Development Permit 4-95-136-A1. Coastal Development Permit 4-95-136-A1 was approved with additional special conditions relative to revised assumption of risk, drainage and polluted runoff control, landscaping and erosion control, removal of natural vegetation, and export of excess grading material. Despite the applicant's attempt to meet all special conditions imposed on Coastal Development Permit 4-95-136-A1, the conditions were not met and construction of the proposed project did not commence prior to the extended expiration date of the permit. The applicant inadvertently failed to submit a fourth application for extension of Coastal Development Permit 4-95-136-A1 prior to the extended expiration date for the permit. As such, Coastal Development Permit 4-95-136 expired on May 9, 2001.

The applicant is proposing to construct the same exact project as the development previously proposed and conditionally approved under Coastal Development Permit 4-95-136-A1, consisting of: construction of a three-story, 27 ft. high, 2,590 sq. ft. single family residence with attached 952 sq. ft. garage, terraces, pool, driveway, septic system, approximately 3,089 cu. yds. grading (3,089 cu. yds. cut, 9 cu. yds. fill, 3,080 cu. yds. export), approximately 5,390 cu. yds. over-excavation to remediate a slide plane underlying the site, and lot line adjustment in the El Nido small lot subdivision.

The project site is located on a small hillside lot in the City of Malibu within the El Nido small lot subdivision, north of Pacific Coast Highway and west of Corral Canyon Road. The area surrounding the project site is a built-out section of Malibu developed with several single family residences. The El Nido area overlooks the Coastal Slope Trail, a designated trail in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP), as well as Solstice Canyon State Park located in the canyons below and south of the project site. The area surrounding the project site is intensely developed and vegetation over the entire site is highly disturbed and subject to brush clearance requirements for fire protection procedures for adjacent development. No designated environmentally sensitive habitat areas are located on the site.

As conditioned, the proposed project is consistent with all applicable policies of the Coastal Act.

I. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-01-123 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE A PERMIT AMENDMENT:

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

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 term or 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 Geotechnical Engineering Report dated 2/8/91, Update Geotechnical Report and Onsite Private Sewage Disposal System Design dated 12/6/93, Update Geotechnical Engineering Report dated 5/31/95, Update Geotechnical Engineering Report dated 4/3/00, and Addendum Geotechnical Engineering Report dated 1/25/01, 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. Prior to the issuance of the coastal development permit the applicants shall submit for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant 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 for the review and approval of the Executive Director, 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 storm water leaving the developed site. The plan shall be reviewed and approved by the consulting geologist to ensure the plan is in conformance with geologist's 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, infiltrate 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.

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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 applicants 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 applicants shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or qualified resource specialist, for review and approval by the Executive Director. The erosion control plans shall be reviewed and approved by the consulting geologist to ensure that the plans are in conformance with the consultant's recommendations. The plans 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 sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation and to screen and soften the visual impact of development, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. The plan shall specify the erosion control measures to be implemented and the materials necessary to accomplish short-term stabilization, as needed on the site;
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide ninety (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;

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- 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 fifty (50) feet of the proposed house may be removed to mineral earth, vegetation within a two hundred (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 (50) 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.
- 6) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen the residence, water tank, and retaining walls to minimize potential impacts of public views from Topanga State Park.

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, and shall 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 throughout 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 of the coastal zone or within the coastal zone to a site permitted to receive fill.

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- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (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.
- 4) In addition to other fencing/flagging requirements, as set forth in subparagraph B 1) above, the plan shall require the placement of temporary fencing along the outermost limits of the driplines of the oak canopies within or adjacent to the construction area. No construction, grading, staging, or materials storage shall be allowed within the fenced exclusion areas.

C. Monitoring

Five (5) years from the date of the receipt of the Certificate of Occupancy for the residence, the applicants 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 applicants, 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 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 50-200 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. Assumption of Risk

- A. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from fire, landsliding, earth movement, and erosion; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. *Prior to issuance of the coastal development permit, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicants' 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.*

7. Future Developments

This permit is only for the development described in Coastal Development Permit No. 4-01-123. 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 parcels. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-01-123, including any fencing, grading, or 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. 4-01-123 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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Prior to the issuance of the coastal development permit the applicants 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 parcels. 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. Color and Design Restriction

The color of the structures, roofs, retaining walls and driveway permitted hereby shall be restricted to a color compatible with the surrounding environment (white and red tones shall not be acceptable). All windows shall be comprised of non-glare glass.

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

9. Revised Plans

Prior to issuance of permit, the applicant shall submit, for the review and approval of the Executive Director, revised project plans which indicate that the proposed dwelling does not exceed the maximum allowable gross structural area (GSA) of 1,490 sq. ft. as determined by the Slope Intensity Formula pursuant to Policy 271 (b)(2) of the Malibu/Santa Monica Mountains Land Use Plan. This total GSA may be increased by an additional 500 sq. ft. granted in conjunction with the extinguishment of the development rights of Lot 91. The applicant shall submit, for the review and approval of the Executive Director, evidence that all potential for future development has been permanently extinguished for Lot 91 of tract 9456 on Sequit Drive in the El Nido small lot subdivision.

Additionally, pursuant to Policy 271 (b)(2), the maximum allowable GSA may be further increased by 500 sq. ft. by extinguishing development rights on lots contiguous to the building site or by 300 sq. ft. for each lot not contiguous to the building site but within the El Nido, Malibu Bowl, or Mar Vista Small Lot Subdivision. *Prior to issuance of the permit*, the applicant may submit, for the review and approval of the Executive Director, evidence that the development rights have been extinguished on any combination of

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contiguous or non-contiguous lots which would bring the development into conformance with Policy 271 (b)(2) of the Malibu/Santa Monica Mountains LUP.

10. Condition Compliance

Within 120 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background.

The applicant proposes to construct a three-story, 27 ft. high, 2,590 sq. ft. single family residence with attached 952 sq. ft. garage, terraces, pool, driveway, septic system, approximately 3,089 cu. yds. grading (3,089 cu. yds. cut, 9 cu. yds. fill, 3,080 cu. yds. export), approximately 5,390 cu. yds. over-excavation to remediate a slide plane underlying the site, and lot line adjustment in the El Nido small lot subdivision (Exhibits 3-10).

The subject site has been subject to several past Commission actions. Past Commission actions regarding development at the site relative to the pending permit application include Coastal Development Permit 4-92-074 (Kaplan) and 4-95-136-A1 (Kaplan). Coastal Development Permit 4-92-074 was previously approved for the subject site to permit construction of a single family residence, terraces, pool, septic system and 700 cu. yds. of grading, lot line adjustment, and permitting a total GSA of 1,990 sq. ft. for the subject lot. Coastal Development Permit 4-92-074 was never activated, however, and the permit expired.

Later, the project site and proposed development, which are currently the subject of this permit application, were subject to past Commission action under Coastal Development Permit 4-95-136. On May 9, 1996 the Commission approved Coastal Development Permit 4-95-136 for: Construction of a 2,507 sq. ft., 18 ft. high from existing grade single family residence, 816 sq. ft. garage, 3,435 sq. ft. of terrace area, pool, septic system, 1,820 cu. yds. of grading (1,700 cu. yds. cut and 120 cu. yds. fill) and a lot line adjustment in the El Nido small lot subdivision (Exhibit 6,7). The project was approved by the Commission subject to special conditions regarding 1) revised plans, 2) future

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improvements, 3) structure and roof color restriction, 4) geologic recommendations, 5) assumption of risk, 6) wildfire waiver of liability, and 7) condition compliance (Exhibit 1). Special Condition 1 of Coastal Development Permit 495-136 included a conditional approval to allow an increase of the maximum allowable Gross Structural Area (GSA) for the proposed residence to a maximum of 2,590 sq. ft., providing the applicant permanently extinguished development rights on three nearby lots specifically identified in the staff recommendation, and further required the applicant to submit revised plans consistent with the adjusted GSA as approved and determined by compliance with Special Condition 1. As conditioned, the Commission found that the project proposed under Coastal Development Permit 4-95-136 was consistent with Coastal Act policies relative to cumulative impacts, visual resources, geologic stability, and water quality (septic system). The applicant complied with special conditions 2) future improvements, 3) structure and roof color restriction, 5) assumption of risk, and 6) wildfire waiver of liability of Coastal Development Permit 4-95-136, and, consistent with Special Condition 1 of the permit, the applicant permanently extinguished development rights on three lots, as identified and approved by the Commission under permit 4-95-136, to allow the proposed residence to be constructed with a maximum Gross Structural Area of 2,590 sq. ft. Final issuance of the Coastal Development Permit 4-95-136 was pending on the applicants total compliance with special condition 1) revised plans and special condition 4) geologic recommendations.

The project site is located in the City of Malibu within the El Nido small lot subdivision, north of Pacific Coast Highway and west of Corral Canyon Road (Exhibit 1). The subject site is a 14,947 sq. ft. combine parcel which ascends approximately 44 ft. north of Sequit Drive with an average gradient of 3:1 (Exhibits 2,11). The certified Malibu/Santa Monica Mountains Land Use Plan requires that all development in small lot subdivisions comply with the with the Slope-Intensity formula for calculating the allowable Gross Structural Area (GSA) for a proposed single family residence. This formula requires that the suitability of development on small hillside lots such as the subject site be determined by the physical characteristics a project site taking into consideration the small size and steep slopes of these lots. Under Coastal Development Permit 4-95-136, staff's analysis of the subject site concluded that the maximum allowable GSA for the site is 1,490 sq. ft. Staff recommended that the applicant be granted an additional 500 sq. ft. addition to the maximum allowable GSA for extinguishing the development rights on a nearby lot in the same subdivision and that the applicant be granted a further 600 sq. ft. for extinguishing the development rights on two non-contiguous lots in one of four small lot subdivisions in the near vicinity, resulting in an allowable GSA of 2,590 sq. ft.

Special Condition 1 of the Coastal Development Permit 4-95-136, revised plans, required the applicant to submit plans consistent with the maximum allowable GSA approved for the project site, or plans consistent with the adjusted GSA providing the applicant submitted evidence to the Executive Director confirming that development rights were permanently extinguished on the appropriate lots to allow for an increase of the approved GSA to a total of 2,590 sq. ft. The applicant submitted such evidence, confirming that the appropriate development rights have been extinguished to allow for

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an increase of the GSA to a total of 2,590 sq. ft. In July of 2000 the applicant proposed to amend the Coastal Development Permit 4-95-136 to reconfigure the previously approved single-family residence, pool, and driveway and construct an additional 83 sq. ft. for the residence and 136 sq. ft. for the garage, and increase the proposed residence from a two-story to three-story structure resulting in a height of 27 ft. above existing grade. The amended permit 4-95-136-A1 permitted construction of a 2,590 sq. ft. single family residence and 952 sq. ft. garage, consistent with the maximum allowable GSA conditionally approved by the Commission.

In addition, subsequent to the Commission's approval of the original project under Coastal Development Permit 4-95-136 the applicant informed Commission staff that the Los Angeles County Fire Department required the applicant to revise the proposed project to comply with new Fire Department standards for the driveway and a turn-around area. The new requirements caused the applicant to reconfigure the proposed development and incorporate a new driveway, to be constructed at a grade consistent with Fire Department standards, and a turn-around area. As such, the amended coastal permit application 495-136-A1 also included construction of the revised/reconfigured development as described in the previous paragraph, and additional grading in the amount of 1,269 cu. yds. necessary to accommodate the reconfigured development, and the new driveway and turn-around requirements imposed by the Fire Department. The additional grading proposed under this permit amendment resulted in a total grading amount of 3,089 cu. yds. (3,089 cu. yds. cut, 9 cu. yds. fill, and 3,080 cu. yds. export). Along with revised structural plans the applicant submitted grading and drainage plans for the proposed project which reflected the revised grading requirements for the amended project, and also included the consulting geotechnical engineer's recommendation for 5,390 cu. yds. of over-excavation to remediate an identified shear plane underlying the site. Consistent with Special Condition 4 of the original Coastal Development Permit 4-95-136, the applicant submitted plans certified in writing by the project's consulting geotechnical engineer indicating that the plans were in conformance with the consultants recommendations for geologic stability of the project site. Coastal Development Permit 4-95-136-A1 was approved with additional special conditions relative to revised assumption of risk, drainage and polluted runoff control, landscaping and erosion control, removal of natural vegetation, and export of excess grading material.

Despite the applicants attempt to meet all special conditions imposed on Coastal Development Permit 4-95-136-A1, the conditions were not met and construction of the proposed project did not commence prior to the extended expiration date of the permit. The applicant inadvertently failed to submit a forth application for extension of Coastal Development Permit 4-95-136-A1, prior to the extended expiration date for the permit, as such, Coastal Development Permit 4-95-136 expired on May 9, 2001. The subject coastal permit application is for the same development proposed under Coastal Development Permit 4-95-136-A1. There have been no changes made to any portion of the proposed development. The special conditions imposed on Coastal Development Permit 4-95-136-A1, which has expired, are again imposed on the subject coastal

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permit, regardless of the applicant's previous compliance with the special conditions, to ensure consistency with all applicable policies of the Coastal Act. However staff notes that the recorded special conditions of Coastal Development Permit 4-95-136-A1 may, upon approval of the subject coastal permit application, be complied with by way of amending the recorded documents to reference the new permit number 4-01-123.

The project site is located in the El Nido small lot subdivision, which is located on a hillside west of Corral Canyon Road in the City of Malibu. The area is a built out section of Malibu developed with several single family residences. The El Nido area over looks Solstice Canyon State Park, located in the canyons below and south of the project site, as well as the Coastal Slope Trail, a designated trail in the certified Malibu/Santa Monica Mountains Land Use Plan (Exhibit 12). As such, the proposed project will be visible from both the State Park and portions of the Coastal Slope Trail. The project site is not located in any designated environmentally sensitive habitat areas therefore the proposed project will have no significant impact on sensitive environmental resources.

B. Geology and Wildfire

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.***

The proposed development is located on a steep hillside lot in the Santa Monica Mountains, an area 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 mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. Due to new Fire Department standards for the proposed driveway and turn-around area imposed on the project site, the applicant is proposing a significant amount of grading to accommodate the required driveway and turn-around area. In addition, the applicant is requesting

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approval to over-excavate 5,390 cu. yds. of earth material to comply with recommendations of the project geotechnical consultant for site remediation. The proposed project plans and recommendations of the project's consulting geotechnical engineer have been reviewed and recommended for approval by the County of Los Angeles Department of Public Works, Land Development Division. The applicant has submitted a Geotechnical Engineering Report dated 2/8/91, an Update Geotechnical Report and Onsite Private Sewage Disposal System Design dated 12/6/93, Update Geotechnical Engineering Report dated 5/31/95, and an Update Geotechnical Engineering Report dated 4/3/00, all prepared by West Coast Geotechnical for the subject site evaluating the geologic stability of the site in relation to the proposed development.

The West Coast Geotechnical Engineering reports address a shear dip plane on the project site along the contact between the Calabasas Formation and the underlying Conejo Volcanics Formation. The Update Geotechnical Engineering Report prepared by West Coast dated 4/3/00 was prepared in conjunction with the revised project plans for the proposed amendment and recommends that all foundations and retaining walls for the proposed residence be founded into certified compacted fill or bedrock underlying the site. The report further states that *"All surficial material, including the Calabasas Formation, located above the shear-dip plane should be removed and replaced as certified compacted fill, benched into the underlying Conejo Volcanics bedrock,..."*

Based on their investigations and recommendations the geotechnical engineering consultants determined that the project site is appropriate for the proposed project and state in their reports :

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

To ensure that the recommendations of the geotechnical consultant are fully incorporated into all relevant project plans, **Special Condition 1** of the subject permit requires the applicant to submit project plans certified in writing by the geotechnical consultant as conforming to their recommendations. The certified project plans shall illustrate all grading required to construct the residence, garage, pool, and Fire Department upgrades for the proposed driveway and turn-around area. Additionally, the certified project plans must indicate the 5,390 cu. yds. of over-excavation that will be required, as recommended by the geotechnical consultant, to remediate the shear plane underlying the site to provide geologic stability for the proposed project. Total compliance with **Special Condition 1** of the subject permit will require that the applicant submit final project plans, certified by the geotechnical consultant, as in conformance with their recommendations regarding the foundation design of the proposed residence. Based on the findings and conclusions of the project's consulting geotechnical engineer,

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and as conditioned to ensure those recommendations are incorporated into all project plans, the Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

The proposed project will require a total of 3,089 cu. yds of grading (3,080 cu. yds. cut, 9 cu. yds. fill, and 3,080 cu. yds. export) and 5,390 cu. yds. of over-excavation. Construction of the proposed project will require a large amount of landform alteration and the Commission notes that the project site will be significantly disturbed by the extent of grading activities required for the proposed development. The Commission finds that minimizing site erosion will reduce disturbance of the project site and aid in maintaining the geologic stability of the 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 interim erosion control plans certified by the consulting geotechnical engineer, as specified in **Special Conditions 2 and 3**. **Special Condition 2** requires the applicant to maintain a functional drainage system at the subject site to ensure that run-off from the project site is diverted in a non-erosive manner to minimize erosion at the site for the life of the proposed development. Should the drainage system of the project site fail at any time, the applicant will be responsible for any repairs or restoration of eroded areas as consistent with the terms of **Special Condition 2**. Additionally, **Special Condition 3B**, the interim erosion control plan, includes a number of erosion control measures to be carried out during construction activities, and also requires the applicant to minimize erosion during the rainy season (November 1 – March 31) by constructing temporary sediment basins, drains and swales, sand bag barriers, silt fencing, and/or by stabilizing any stockpiled fill, trenches, cut and fill slopes, with geofabric covers or other appropriate cover, geotextiles or mats, which would otherwise be exposed to increased erosion from run-off of rain water.

A significant amount of grading and over-excavation is required to remediate the site and prepare it for construction of the proposed residence. 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 3,080 cu. yds. of graded earth material. The Commission finds that stockpiling of graded and excavated material may result in excess erosion and sedimentation 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 finds that appropriate landscaping of slopes and graded or disturbed areas on the project site will serve to enhance and maintain the geologic stability of the proposed development. Therefore, **Special Condition 3** requires the applicant to submit landscaping plans which utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site. Invasive

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and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds 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. Alternatively, native plant species tend to have a deeper root structure than non-native, invasive species and 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. However, the Commission finds that there remains an inherent risk in building on the subject site with the geologic conditions and constraints described in this section, and due to the fact that the project site is located in an area subject to an extraordinary potential for damage or destruction from wildfire. Typical vegetation in the Santa Monica Mountains consists predominantly 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. Additionally, 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.

Therefore, the Commission can only approve the project if the applicant assumes the responsibility and liability from the risks associated with developing the project as amended, required by **Special Condition 6**. This responsibility is carried out through the recordation of a revised deed restriction. The revised assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site that may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same. Moreover, through acceptance of **Special Condition 6**, the applicants agree to indemnify the Commission, its officers, agents, and employees

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against any and all claims, demands, damages, costs, expenses, or 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 from geologic and wildfire hazard exists as an inherent risk.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions and danger from wildfire is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist potentially hazardous wildfire and geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question.

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. Visual Resources

The Coastal Act requires scenic and visual qualities to be considered and preserved.

Section 30251 states:

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 reservation 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 LUP contains numerous policies regarding the protection of visual resources. The Coastal Commission has utilized these policies as guidance in past permit decisions. LUP policies particularly applicable to the proposed project include:

P 91 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.

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- 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 should 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 (including buildings, fences, paved areas, signs, and landscaping) shall:*
- Be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.*
 - Minimize the alteration of natural landforms.*
 - Be landscaped to conceal raw-cut slopes.*
 - Be visually compatible with and subordinate to the character of its setting.*
 - Be sited so as to not significantly 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 project site is located in the El Nido small lot subdivision, which is located on a hillside lot west of Corral Canyon Road in the City of Malibu. The project location is in an area that is a built out subdivision developed with several single family residences. The El Nido area over looks Solstice Canyon State Park, located in the canyons below and south of the project site, as well as the Coastal Slope Trail, a designated trail in the certified Malibu/Santa Monica Mountains Land Use Plan (Exhibit 12). As such, the proposed project will be visible from both the State Park and portions of the Coastal Slope Trail.

The Commission has previously addressed potential visual impacts on scenic public views resulting from development at the project site. In approving CDP # 4-95-136 with conditions, the Commission found that potential visual impacts resulting from the development would be adequately mitigated by imposing a color restriction on the residence and a future developments deed restriction.

The applicant is proposing to construct the same development approved pursuant to Coastal development Permit 4-95-136-A1 consisting of a three-story, 27 ft. high, 2,590 sq. ft. single family residence with attached 952 sq. ft. garage, terraces, pool, driveway, septic system, approximately 3,089 cu. yds. grading (3,089 cu. yds. cut, 9 cu. yds. fill, 3,080 cu. yds. export), approximately 5,390 cu. yds. over-excavation to remediate a slide plane underlying the site, and lot line adjustment in the El Nido small lot subdivision.

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The El Nido small lot subdivision is a built-out area of Malibu and the proposed project constitutes infill development in this area of the Santa Monica Mountains. As such, visual resources of the area are already impacted by extensive existing residential development, which is also visible from the State Park and Coastal Slope Trail. The proposed development is designed to "step-down" and tuck into the natural topography of the project site. However, the Commission finds that the proposed project will nevertheless intensify development of the area and create a new structure at the site which may potentially impact scenic and visual resources of the area. Additionally, the Commission finds that the significant amount of grading and landform alteration required for the proposed development may create new adverse impacts on visual resources. Due to the visible nature of the project site from public scenic viewing areas, the Commission finds it necessary to require mitigation measures to minimize visual impacts associated with development of the project site.

Visual impacts associated with proposed retaining walls, grading, and the structure itself, can be reduced by the use of appropriate and adequate landscaping. Therefore **Special Condition 3**, the landscape and fuel modification plan, requires that vertical screening elements be incorporated into the landscape plan to soften views of the proposed residence from the State Park and Coastal Slope Trail. In addition, **Special Condition 3** requires the applicant to prepare a landscape plan relying mostly on native, noninvasive plant species to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. In order to ensure that the final approved landscaping plans are successfully implemented, **Special Condition 3** also requires the applicant to revegetate all disturbed areas in a timely manner and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time. Therefore, the Commission finds that implementation of **Special Condition 3** will serve to partially screen and soften the visual impact of the development from the State Park and Coastal Slope Trail.

In addition, the Commission finds it necessary to require the applicant to record a deed restriction providing specific limitations on the materials and colors acceptable for the development on the subject site, as specified in **Special Condition 8**. These restrictions generally limit colors to natural tones that will blend with the background of the environment and require the use of non-glare glass. White and red tones are not acceptable. If fully implemented by present and future owners of the proposed residence, **Special Condition 8** will ensure that development of the site will be as visually unobtrusive to visual resources of the area as possible.

Finally, regarding future developments or improvements, certain types of development to the property, normally associated with a single family residence which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that future development or improvements normally associated with the entire property, which might otherwise be exempt, are reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the

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Coastal Act. **Special Condition 7**, the Future Development Deed Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act.

The Commission finds that, as conditioned, the proposed project will be designed and constructed to minimize adverse impacts on scenic public views in this area of the Santa Monica Mountains, and is consistent with section 30251 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.

The proposed project includes construction a three-story, 27 ft. above existing grade, 2,590 sq. ft. single family residence with an attached 952 sq. ft. garage, new driveway and turn-around area, pool, and a private sewage disposal system. The proposed project also includes a total of 3,089 cu. yds. of grading and 5,390 cu. yds. of over-excavation. The project site is an undeveloped hillside parcel located on a steeply ascending slope on the north side of Sequit Drive in the El Nido small lot subdivision. Use of the site for residential purposes will introduce potential sources of pollutants such as petroleum, household cleaners, and pesticides, as well as other accumulated pollutants from rooftops and other impervious surfaces, into run-off from the site which will ultimately drain to coastal streams and to the ocean.

Removal of natural vegetation and placement of impervious surfaces results in less infiltration of rainwater into soil, thereby increasing the rate and volume of runoff, causing increased erosion and sedimentation. Infiltration of precipitation into soil allows for the natural filtration of pollutants. When infiltration is prevented by impervious

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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. Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from the site in a non-erosive manner, such measures should also include vegetated filter strips, gravel filters, and other media filter devices to allow for infiltration and filtration of run-off to reduce it's sediment and pollutant load before it is conveyed off site to coastal waters.

As described above, the project is conditioned to implement and maintain a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. This drainage plan is required in order to ensure that risks from geologic hazard are minimized and that erosion and sedimentation is minimized. In order to further ensure that adverse impacts to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant to incorporate filter elements that intercept and infiltrate or treat the runoff from the site. This plan is required by **Special Condition 2**. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial, "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

Finally, the proposed development includes the installation of an on-site private sewage disposal system. The applicant's geologic consultants performed infiltration tests and evaluated the proposed septic system. Their report concludes that the site is suitable for the private sewage disposal system and that no adverse impact to the site or surrounding areas will result from use of the septic system. Finally, the County of Los Angeles Department of Health Services 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. Cumulative Impacts

Section 30250(a) of the Coastal Act states:

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(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30105.5 of the Coastal Act defines the term "cumulatively," as used in Section 30250(a) as:

"...the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

A number of areas in the coastal zone in the Malibu/Santa Monica Mountains area were divided into small "urban" scale lots in the 1920s and 1930s, often resulting in lots as small as 4,000 to 5,000 square feet in area. The El Nido subdivision, within which the proposed project is located, is among these so-called "small-lot subdivisions." The Commission has recognized that build-out of these small-lot subdivisions would result in a number of adverse cumulative effects upon coastal resources. Among these potential adverse effects are geologic and fire hazards, limited road access, septic and water quality problems, and disruption of rural community character.

As a means of controlling the amount and size of development that may occur in small-lot subdivisions, and thus by extension to limit the potential cumulative effects that associated development may have upon coastal resources, the Commission developed the Slope Intensity Formula. The formula was incorporated into the Malibu/Santa Monica Mountains Land Use Plan, which was approved by the Los Angeles County Board of Supervisors and certified by the Commission in 1986. The Commission has since relied on the application of this formula as guidance in reviewing proposed development within small-lot subdivisions, thereby addressing the cumulative effects of such development in accordance with the requirements of Coastal Act Section 30250(a) set forth above.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan requires that new development in small-lot subdivisions comply with the Slope Intensity Formula for calculating the maximum Gross Structural Area (GSA) that may be allowed for a residential unit. The basic concept of the formula assumes that the suitability of the development of small hillside lots should be determined by the physical characteristics

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of the building site, recognizing, for example, that development on steep slopes has a high potential for adverse effects upon coastal resources.

Slope-Intensity Formula:

$$\text{GSA} = (A/5) \times ((50-S)/35) + 500$$

GSA = The allowable gross structural area of the permitted development in square feet. The GSA includes all substantially enclosed residential and storage areas, but does not include garages or carports designed for storage of autos.

A = The area of the building site in square feet. The building site is defined by the applicant and may consist of all or a designated portion of the one or more lots comprising the project location. All permitted structures must be located within the designated building site.

S = The average slope of the building site in percent as calculated by the formula:

$$\text{S} = I \times L/A \times 100$$

I = Contour interval in feet, at not greater than 25-foot intervals, resulting in at least 5 contour lines.

L = Total accumulated length of all contours of interval "I" in feet.

A = The area being considered in square feet.

The applicant is proposing to construct a new three-story, 27 ft. high, 2,590 sq. ft. single family residence with attached 952 sq. ft. garage, terraces, pool, driveway, septic system, approximately 3,089 cu. yds. grading (3,089 cu. yds. cut, 9 cu. yds. fill, 3,080 cu. yds. export), approximately 5,390 cu. yds. over-excavation to remediate a slide plane underlying the site, and lot line adjustment in the El Nido small lot subdivision. The proposed 14,437 sq. ft. project site consists of two adjacent parcels (Lots 94 and 95 of Tract 9456) as well as a 20 ft. wide portion of another adjacent parcel (Lot 93) to the west of the project site (Exhibit 11). The 20 ft. wide strip of land is to be added to the proposed project site by a lot line adjustment. The lot line adjustment involves 1) a lot line shift between Lot 93 and Lot 94 20 ft. to the west, resulting in an additional 1,458 sq. ft. to the project site and combining Lots 94 and 95 into one lot, and 2) a lot line shift between Lot 92 and Lot 91 20 ft. to the west, resulting in an addition of lot area to Lot 92 and combining Lots 90 and 91 into one lot, and combining Lots 92, 93, and the 20 ft. wide strip into one parcel.

The lot line adjustment was originally proposed by the applicant and approved and recorded by the County of Los Angeles without a coastal development permit. The lot line adjustment was later approved under Coastal Development Permits 4-92-074 (Kaplan) and 4-95-136 (Kaplan). However, these previously approved permits were not activated and have since expired. As such, the lot line adjustment has not been legalized by an approved and activated coastal permit. The applicant is requesting after-

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the-fact approval of the lot line adjustment described as a portion of the proposed development.

Based upon the existing square footage of the site and additional square footage allotted to the site from the lot line adjustment, the applicable GSA formula indicates the parcel upon which the applicant proposes the development qualifies for a maximum of 1,490 sq. ft. Therefore, the applicant requires an additional 1,100 square foot of credit to achieve the 2,590 sq. ft. residence proposed pursuant to the project description. In past permit decisions, the Commission has increased the maximum allowable GSA for projects when the development rights of additional lots were permanently extinguished.

As mentioned, the subject development was previously reviewed and conditionally approved by the Commission to permit a total of 2,590 sq. ft. for the residence proposed. Final permitting for the maximum allowable GSA of 2,590 sq. ft. was subject to the extinguishment of the development rights of Lot 91 of tract 9456 on Sequit Drive in the El Nido small lot subdivision. Additionally, pursuant to Policy 271 (b)(2), the maximum allowable GSA could possibly be further increased by 300 sq. ft. by extinguishing development rights on each lot not contiguous to the building site but within the El Nido, Malibu Bowl, or Mar Vista Small Lot Subdivision.

In complying with Special Condition 1 imposed by the Commission on Coastal Development Permit 4-95-136-A1, the applicant submitted evidence to the Executive Director evidence confirming that the appropriate development rights have been extinguished on Lot 91 and on two non-contiguous lots in the Mar Vista Small Lot Subdivision (APN 4461-009-901,902) to allow for an increase of the GSA to a total of 2,590 sq. ft. The applicant has extinguished all future development rights on the additional parcels described, to minimize potential cumulative impacts associated with the build-out of small lot subdivisions, and to achieve the 2,590 square feet proposed for the residence. Though the applicant has completed the necessary measures to achieve a maximum allowable GSA of 2,590 sq. ft. for the proposed residence, consistent with minimizing a number of potential adverse cumulative effects upon coastal resources as required by Section 30250(a) of the Coastal Act and Policy 271(b)(2) of the certified Malibu/Santa Monica Mountains Land Use Plan, the Commission requires **Special Condition 9**, which states that the applicant shall submit evidence, prior to the issuance of this coastal development permit, that all potential for future development has been permanently extinguished on the three additional parcels described. **Special Condition 9** in effect requires the applicant to record an amendment to the documents previously submitted to the Executive Director as evidence of satisfying the requirements for permitting an increase in the maximum allowable GSA to 2,590 sq. ft., to reference the new Coastal Development Permit number 4-01-123. Additionally, **Special Condition 9** states that the applicant shall submit project plans clearly illustrating that the proposed residence does not exceed the maximum allowable GSA of 2,590 sq. ft.

To ensure that future additions do not exceed the restriction of total allowable development of the site set forth above, which the applicant proposes to exhaust with

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the construction of a 2,590 sq. ft. single family residence, and that the proposed development conforms with the guidelines of Policy 271(b)(2) of the certified Malibu/Santa Monica Mountains Land Use Plan relative to the maximum size of residential structures in small-lot subdivisions, and is consistent with the requirements of Coastal Act Policy 30250 (a), the Commission finds it necessary to impose **Special Condition 7** relating to future improvements. **Special Condition 7** requires Commission review and approval of proposals for future improvements of the site.

For the reasons set forth above, the Commission finds that, as conditioned, the proposed development is consistent with Section 30250(a) of the Coastal Act.

F. Violation

The proposed project includes construction of a new three-story, 27 ft. high, 2,590 sq. ft. single family residence with attached 952 sq. ft. garage, terraces, pool, driveway, septic system, approximately 3,089 cu. yds. grading (3,089 cu. yds. cut, 9 cu. yds. fill, 3,080 cu. yds. export), approximately 5,390 cu. yds. over-excavation to remediate a slide plane underlying the site, and lot line adjustment in the El Nido small lot subdivision. As mentioned, the lot line adjustment proposed was approved by the County and carried out by the applicant prior to approval by the Commission and issuance of a coastal development permit. The lot line adjustment was then reviewed and approved pursuant to Coastal Development Permits 4-92-074 and 4-95-136-A1, however these coastal permits were not activated and have since expired. As such, the lot line adjustment constitutes unpermitted development. The applicant is requesting after-the-fact approval of the lot line adjustment as part of this coastal application. To ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition 10** requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 120 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

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

G. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the

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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 Development 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 amendment will be in conformity with the provisions of Chapter 3. The proposed amendment will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3.

Therefore, the Commission finds that approval of the proposed amendment, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for the Santa Monica Mountains area, which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

H. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit Amendment application to be supported by a finding showing the application 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 effects which the activity would have on the environment.

The proposed amendment would not cause significant, adverse environmental effects. Therefore, the proposed amendment is found consistent with CEQA and with the policies of the Coastal Act.

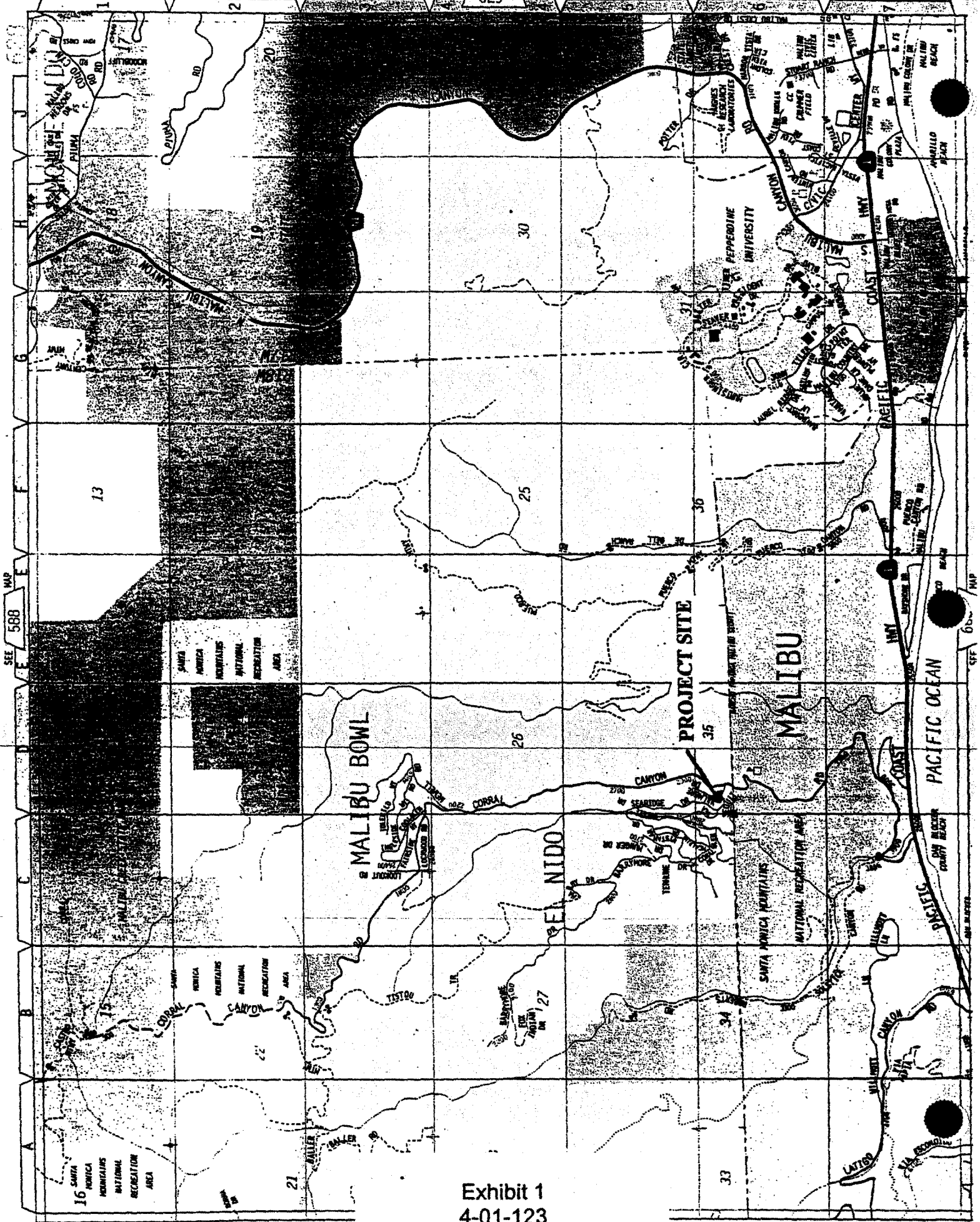
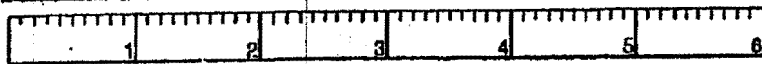


Exhibit 1
 4-01-123
 Vicinity Map



SCALE IN 1/10 OF AN INCH

1997

10-4-05 REVISED
3-6-61
2-25-65
11-30-63
JAN 1991
0180206013001
9101485608001-07
9101405008002-07

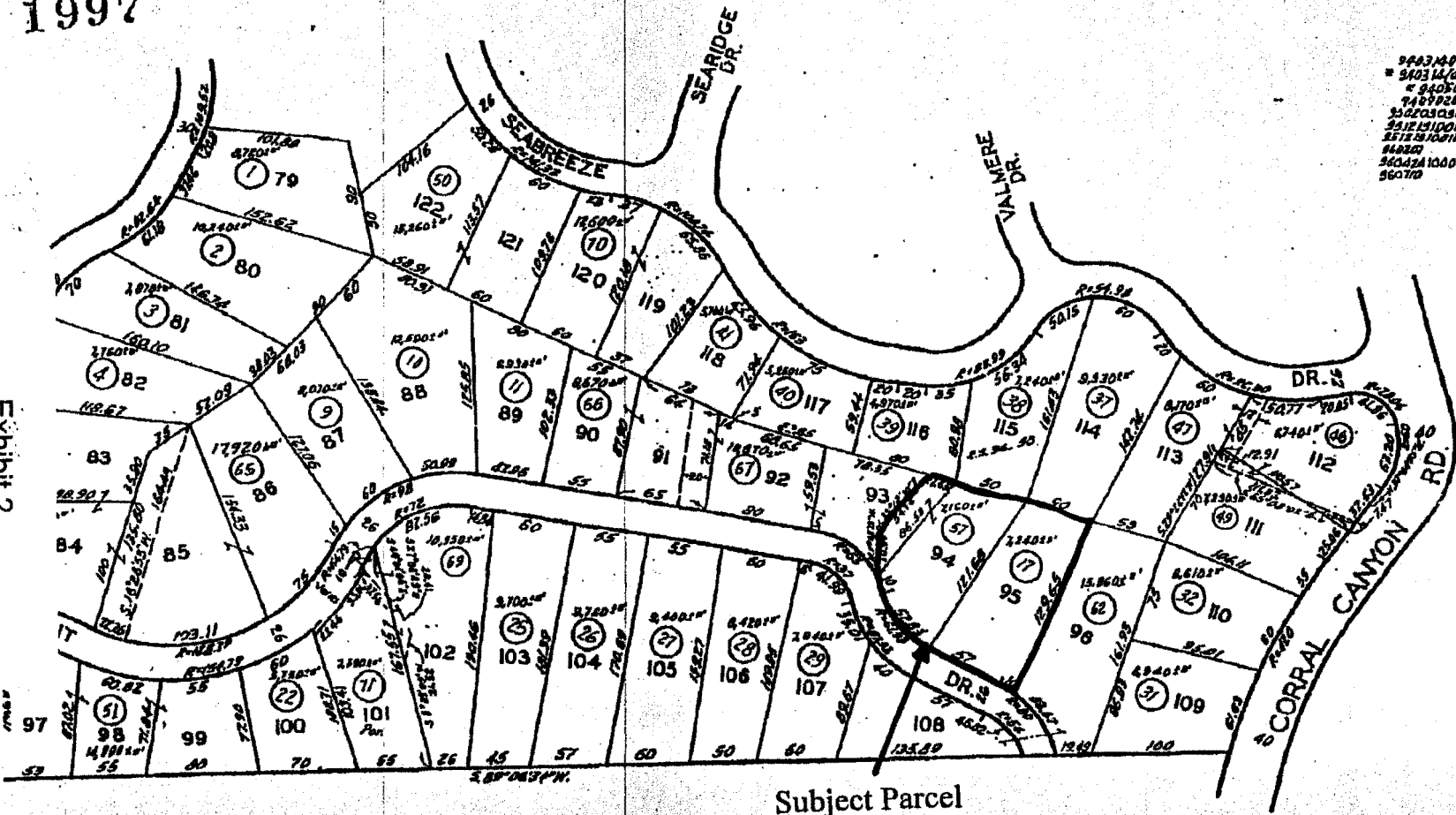
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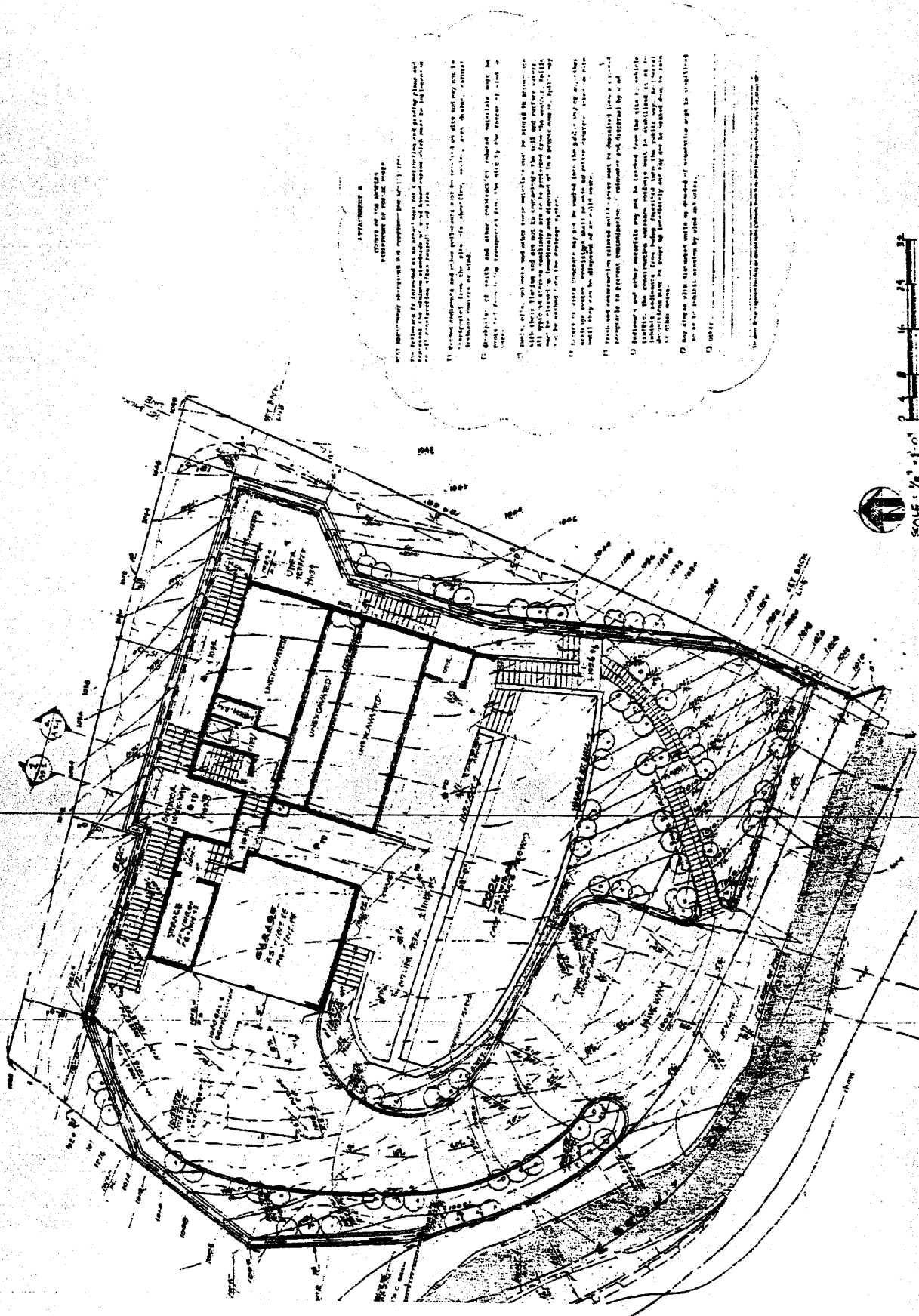
Map: 4457-016

Parcel Map

Exhibit 2
4-01-123

1 TRM





1. The site is to be developed in accordance with the following conditions:
 a. The site is to be developed in accordance with the following conditions:
 b. The site is to be developed in accordance with the following conditions:
 c. The site is to be developed in accordance with the following conditions:
 d. The site is to be developed in accordance with the following conditions:
 e. The site is to be developed in accordance with the following conditions:
 f. The site is to be developed in accordance with the following conditions:
 g. The site is to be developed in accordance with the following conditions:
 h. The site is to be developed in accordance with the following conditions:
 i. The site is to be developed in accordance with the following conditions:
 j. The site is to be developed in accordance with the following conditions:
 k. The site is to be developed in accordance with the following conditions:
 l. The site is to be developed in accordance with the following conditions:
 m. The site is to be developed in accordance with the following conditions:
 n. The site is to be developed in accordance with the following conditions:
 o. The site is to be developed in accordance with the following conditions:
 p. The site is to be developed in accordance with the following conditions:
 q. The site is to be developed in accordance with the following conditions:
 r. The site is to be developed in accordance with the following conditions:
 s. The site is to be developed in accordance with the following conditions:
 t. The site is to be developed in accordance with the following conditions:
 u. The site is to be developed in accordance with the following conditions:
 v. The site is to be developed in accordance with the following conditions:
 w. The site is to be developed in accordance with the following conditions:
 x. The site is to be developed in accordance with the following conditions:
 y. The site is to be developed in accordance with the following conditions:
 z. The site is to be developed in accordance with the following conditions:



Exhibit 3
 4-01-123
 Site Plan

KAPLAN RESIDENCE
 3044 SEQUIT DRIVE
 MALIBU, CALIFORNIA

DESIGN & BUILD:
 RICHARD RYLEY DBA
 RYLEY CONSTRUCTION
 322 S. NORFOLK AVE
 LOS ANGELES, CA 90010
 (213) 877-1926

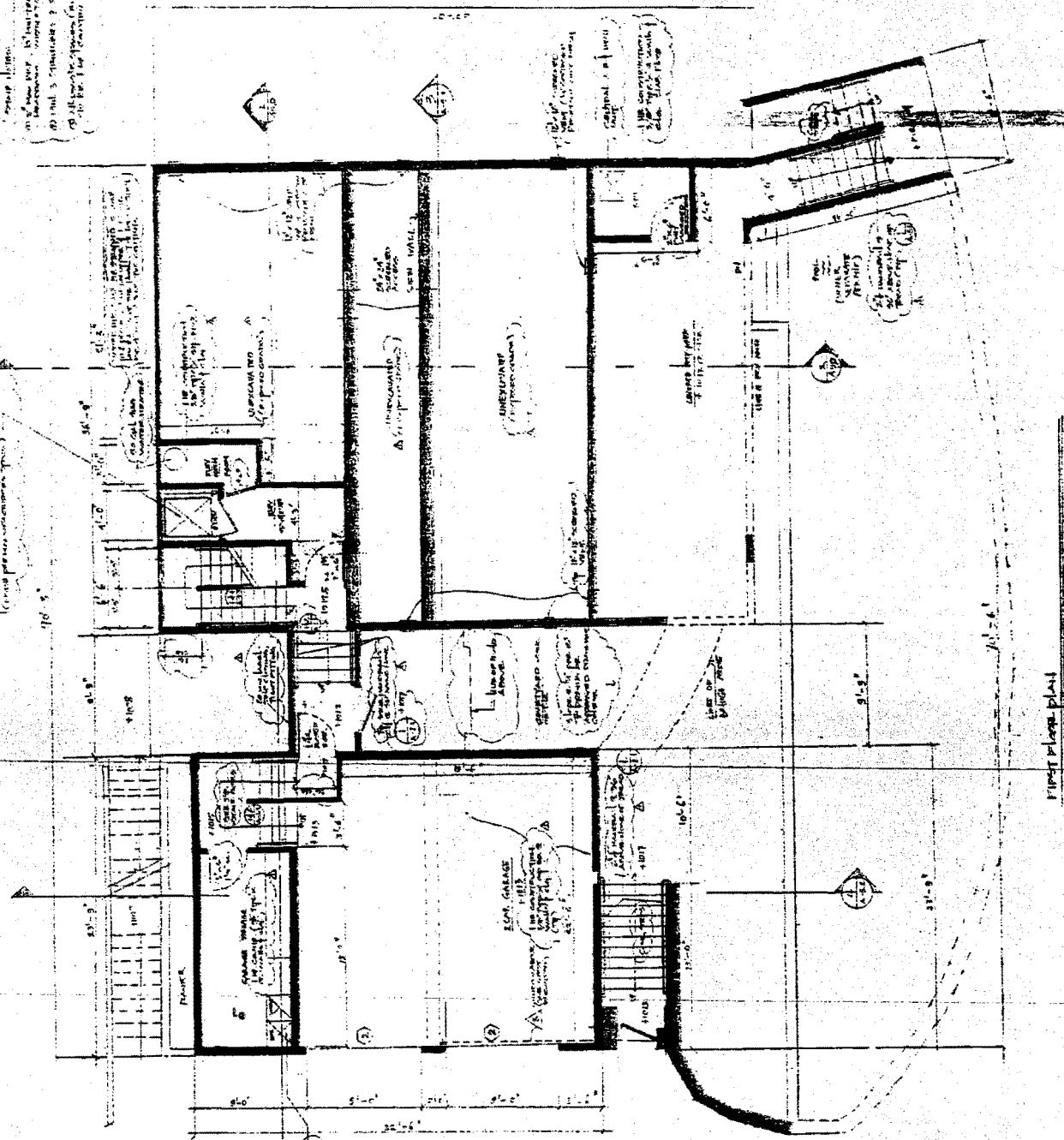
SHEET TITLE:
 FIRST FLOOR PLAN

SCALE:
 1/4" = 1'-0"

DATE:
 12/20/99

SHEET NO.:
 A-2.0

Notes:
 1. Refer to drawings for details of construction and materials.
 2. All dimensions are in feet and inches unless otherwise noted.
 3. All work to be in accordance with the California Building Code and all applicable local ordinances.
 4. All work to be in accordance with the California Mechanical Code and all applicable local ordinances.
 5. All work to be in accordance with the California Electrical Code and all applicable local ordinances.
 6. All work to be in accordance with the California Plumbing Code and all applicable local ordinances.
 7. All work to be in accordance with the California Fire Code and all applicable local ordinances.
 8. All work to be in accordance with the California Safety Code and all applicable local ordinances.
 9. All work to be in accordance with the California Health Code and all applicable local ordinances.
 10. All work to be in accordance with the California Environmental Code and all applicable local ordinances.



FIRST FLOOR PLAN

Exhibit 4
 4-01-123
 First Floor Plan

KAPLAN RESIDENCE
 3044 SEQUOIA DRIVE
 MALIBU, CALIFORNIA

DESIGN & BUILD:
 RICHARD RYLEY DBA
 RYLEY CONSTRUCTION
 335 S. NORTON AVE.
 LOS ANGELES, CA 90010
 (213) 387-3926

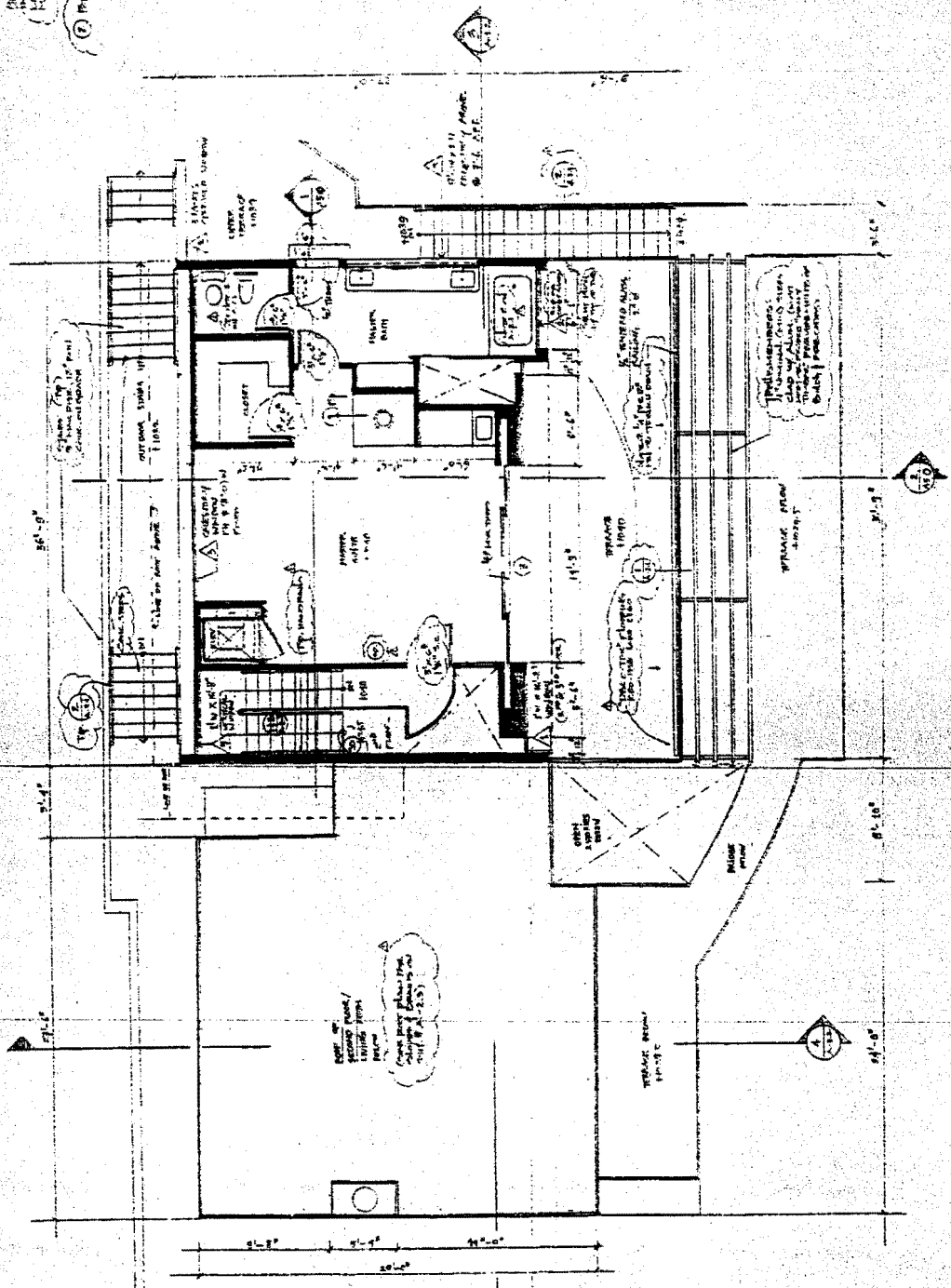
SHEET TITLE:
 THIRD FLOOR PLAN

SCALE:
 1/4" = 1'-0"

DATE:
 11/28/99

SHEET NO.
 A-22

- NOTES
1. PREPARED WITH THE PLAN WITH MARKS BEING BACK MARK. ALL MARKS SHOULD BE PLACED WITH THE PLAN, NOT ON THE ARCHITECT'S COPY. (SEE COMMENTS) ALL MARKS SHOULD BE PLACED WITH THE PLAN, NOT ON THE ARCHITECT'S COPY. (SEE COMMENTS)
 2. THIS SHEET IS INTENDED TO BE USED AS A 2-D.



Third Floor Plan

Exhibit 6
 4-01-123
 Third Floor Plan

KAPLAN RESIDENCE
 3044 SEQUIT DRIVE
 MALIBU, CALIFORNIA

DESIGNER: RICHARD RYAN DBA
 RYAN CONSTRUCTION
 433 S NORTON AVE
 LOS ANGELES, CA 90010
 (213) 387-2974

SHEET TITLE:
 NORTH ELEVATION & SCHEDULES

SHEET NO:
 A-3-21

SCALE:
 1/8" = 1'-0"

DATE:
 10-89

- 1. All work shall be in accordance with the approved plans and specifications.
- 2. All materials shall be of the highest quality and shall be approved by the architect.
- 3. All work shall be completed within the specified time frame.
- 4. All work shall be done in accordance with the applicable building codes and regulations.
- 5. All work shall be done in accordance with the applicable safety regulations.
- 6. All work shall be done in accordance with the applicable environmental regulations.
- 7. All work shall be done in accordance with the applicable fire safety regulations.
- 8. All work shall be done in accordance with the applicable electrical safety regulations.
- 9. All work shall be done in accordance with the applicable plumbing safety regulations.
- 10. All work shall be done in accordance with the applicable mechanical safety regulations.

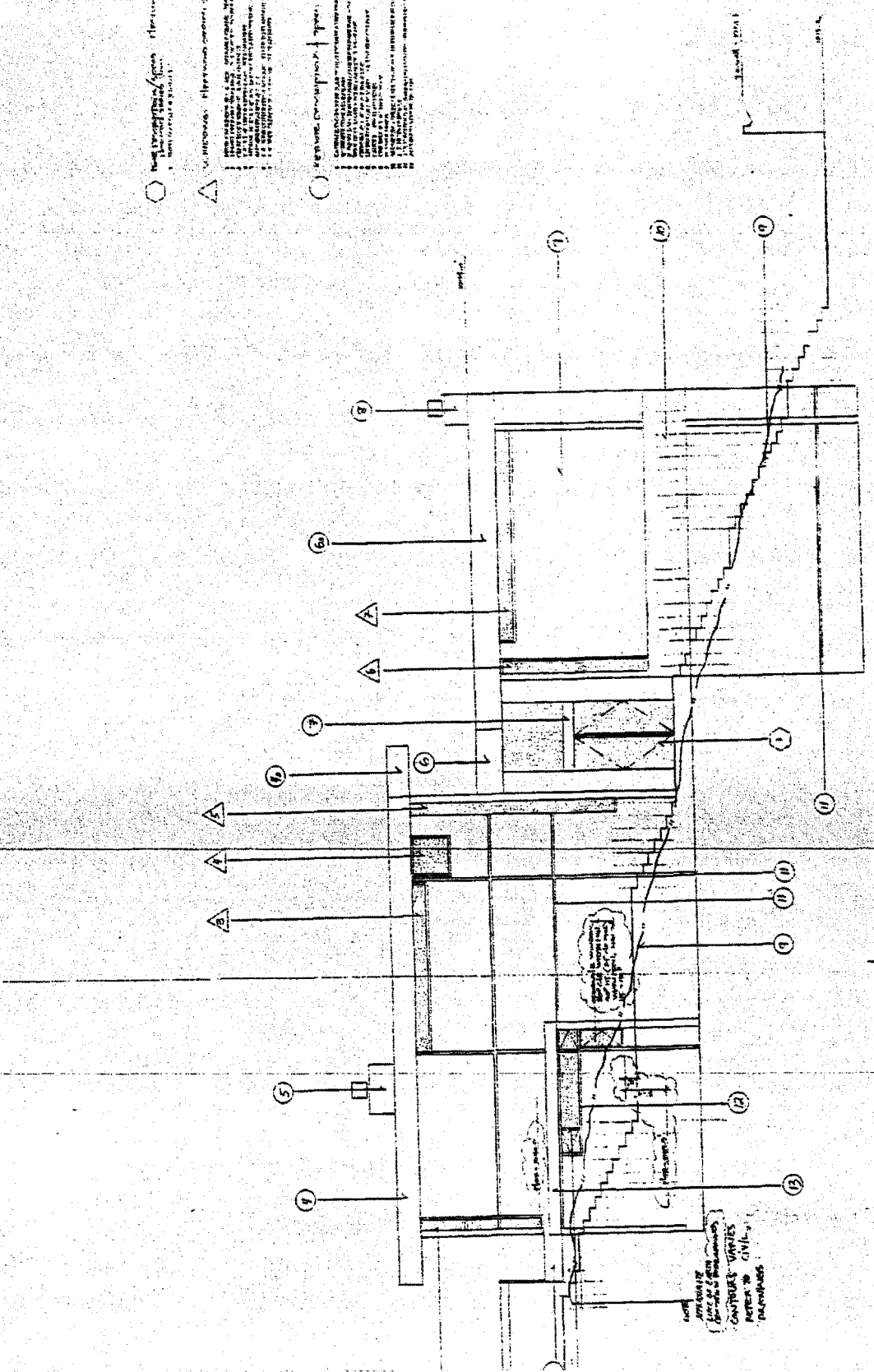


Exhibit 7
 4-01-123
 North Elevation

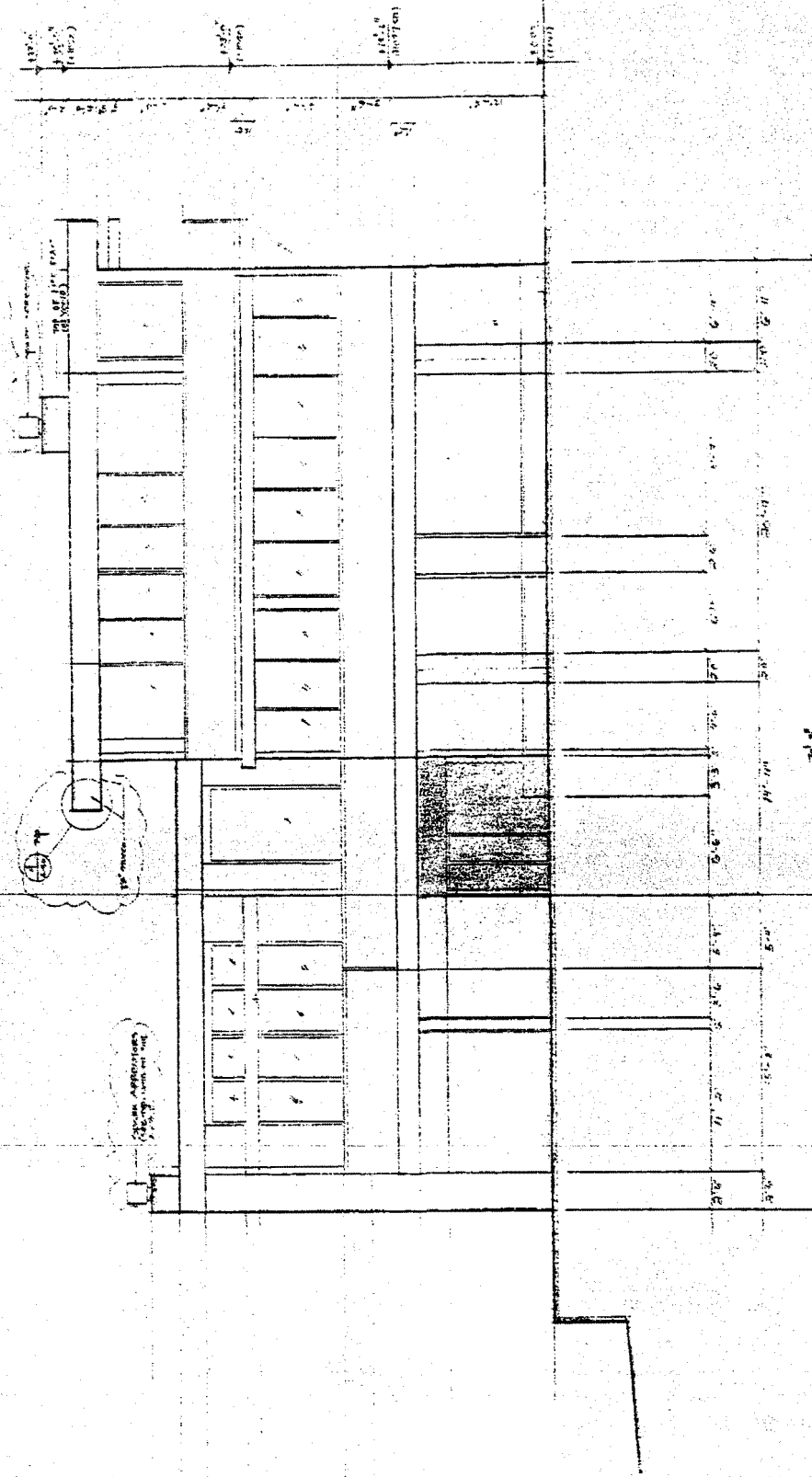
KAPLAN RESIDENCE
3044 SEQUIT DRIVE
MALIBU, CALIFORNIA

DESIGN & BUILD:
RICHARD RILEY DBA
RILEY CONSTRUCTION
133 S. NORFOLK AVE.
LOS ANGELES, CA 90010
(213) 587-3926

SHEET TITLE:
SOUTH ELEVATION

SCALE:
1/4" = 1'-0"

SHEET NO.:
A-3.0



SOUTH ELEVATION

Exhibit 8
4-01-123
South Elevation

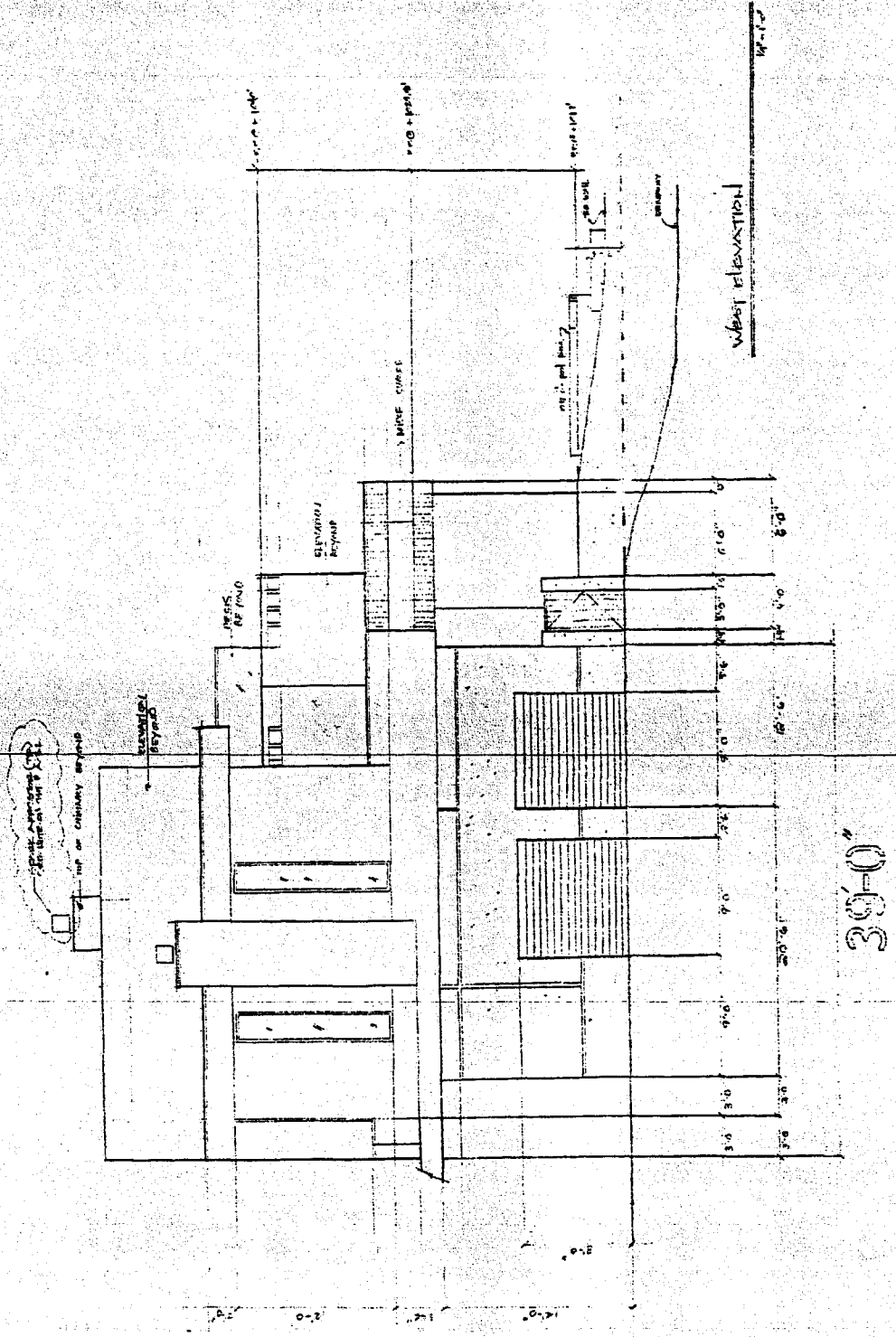
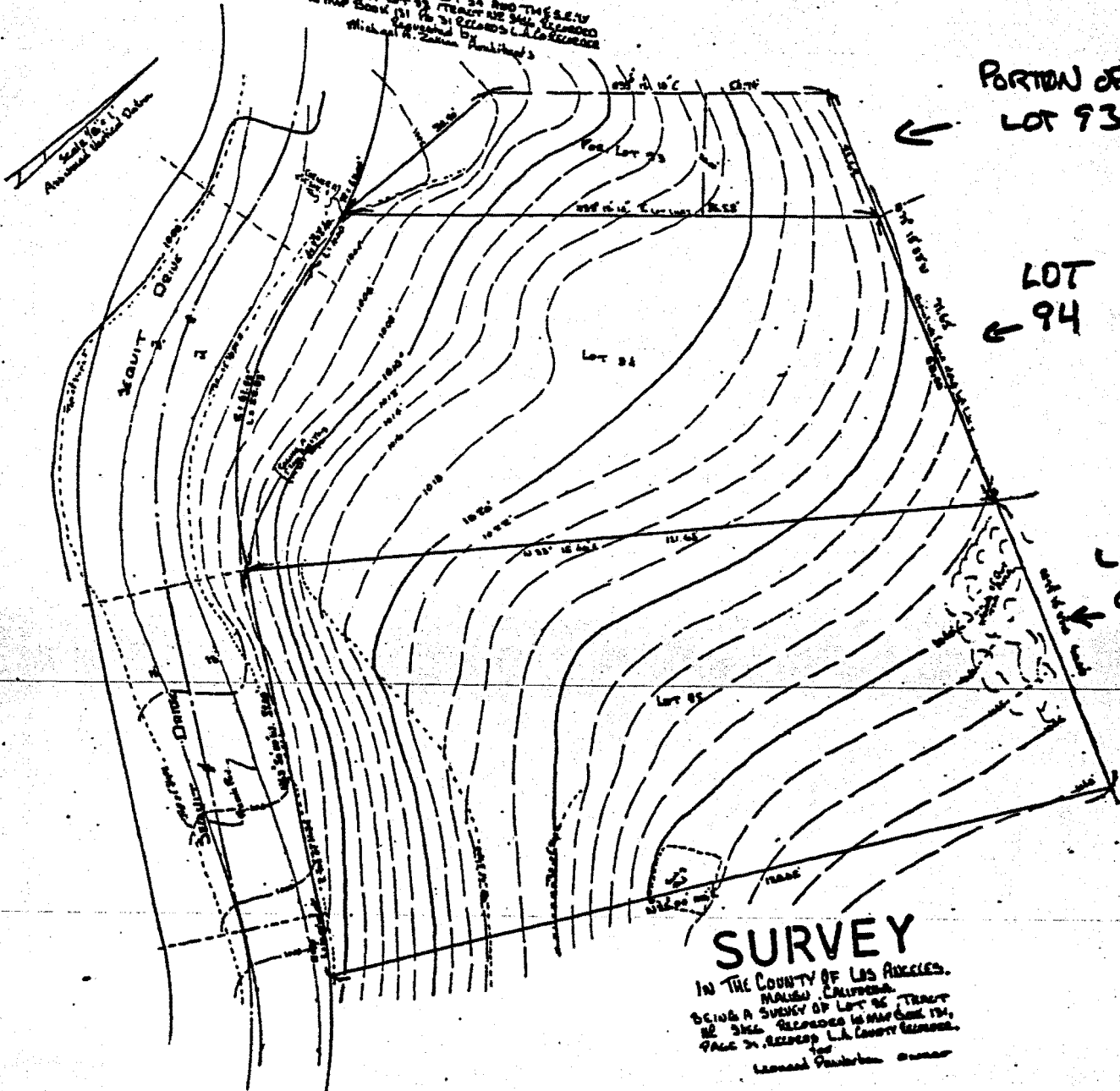


Exhibit 10
4-01-123
West Elevation

SURVEY

IN THE COUNTY OF LOS ANGELES,
 MALIBU, CALIFORNIA.

BEING A SURVEY OF LOT 34 AND THE S.E. 1/4
 20 FEET OF LOT 93, TRACT 222, RECORD 14, L.A. COUNTY RECORDS,
 IN MAP BOOK 31 OF THE 31 RECORDS L.A. COUNTY RECORDS,
 PREPARED BY
 Michael A. Zukin, Registered



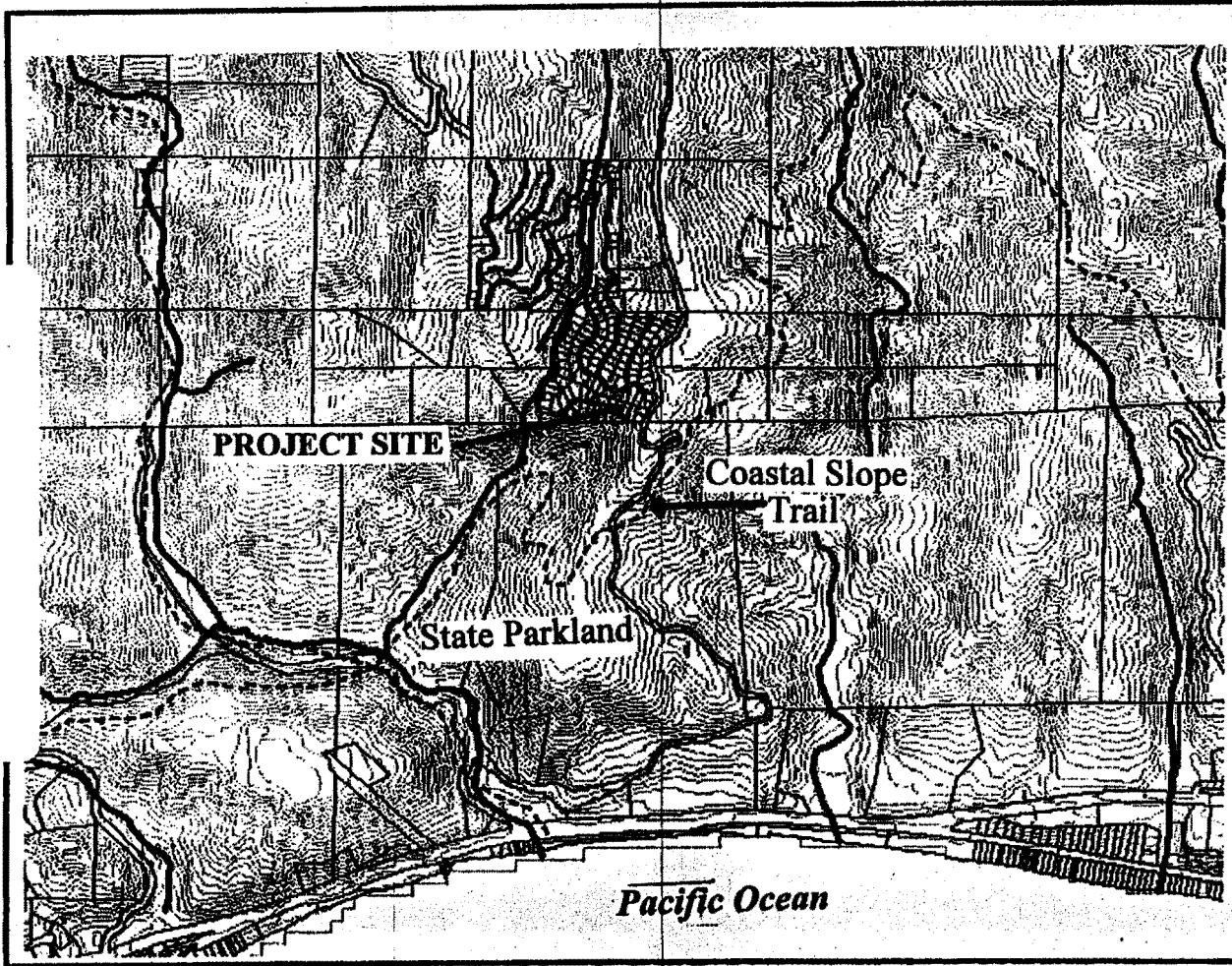
SURVEY

IN THE COUNTY OF LOS ANGELES,
 MALIBU, CALIFORNIA.
 BEING A SURVEY OF LOT 95, TRACT
 222, RECORD 14, L.A. COUNTY RECORDS,
 PAGE 24, RECORD 14, L.A. COUNTY RECORDS,
 PREPARED BY
 Leonard P. ...

<p>9</p>	<p>JUN 1914</p>	<p>SURVEY</p>	<p>KAPLAN</p>
	<p>SCALE: 1/4" = 100'</p>	<p>DATE: 1914</p>	<p>3044 SOUTH CORRAL CANY LOTS 34-95 S. M. D. S. B.</p>

Exhibit 11
 4-01-123
 Topography Map

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-  trailslacoplan
-  StrmsCCC
-  laprcis
-  czbdy
-  contours20ft

Exhibit 12
4-01-123
Coastal Resources Exhibit