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

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
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Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-103

APPLICANT: Frans & Barbara Bigelow

PROJECT LOCATION: 6252 Cavalleri Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a one-story, 18 ft. high, 4,775 sq. ft. single family residence with attached 3-car garage, driveway, turnaround, retaining wall, septic system, and 990 cu. yds. of grading (513 cu. yds. cut, 477 cu. yds. fill).

Lot Area:	3.29 acres
Building Coverage:	4,775 sq. ft.
Pavement Coverage:	4,787 sq. ft.
Landscaped Area:	7,000 sq. ft.
Parking Spaces:	3 covered, 4 uncovered
Height above existing grade:	18 feet

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department, dated 5/17/01; In Concept Approval (Septic System), City of Malibu Environmental Health Department, dated 12/22/00; Approval In Concept, City of Malibu Geology and Geotechnical Engineering, dated 2/02/01; Approval In Concept, Biological Review, City of Malibu, dated 11/29/00; In Concept Approval (Fuel Modification), County of Los Angeles Fire Department, dated 2/01/01; In Concept Approval (Access), County of Los Angeles Fire Department, dated 8/01/01.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with eight special conditions regarding (1) Conformance with Geologic Recommendations, (2) Assumption of Risk, (3) Landscaping and Erosion Control, (4) Drainage and Polluted Runoff, (5) Removal of Excess Graded Material, (6) Color Restriction, (7) Future Development, and (8) Open Space Deed Restriction. These conditions address the proposed development's potential impacts to coastal resources, as outlined below and on pages 4-23 of this staff report.

Visual Resources

The proposed residence will be visible from Kanan Dume Road, a scenic highway. Because the proposed project is visible from public viewing areas, **Special Conditions Three (3)** and **Six (6)** require the applicant to incorporate design restrictions and vertical landscaping elements that will minimize the intrusion of the project into public views. In addition, **Special Condition Seven (7)** will assure that future development of the site is reviewed for potential impacts on coastal visual resources.

Geology and Hazards

The subject parcel contains slopes subject to creep, slump, and shallow landslide and is located approximately ½ mile from the main splay of the Malibu Coast Fault. It is also located in an area of significant wildfire hazard. The consulting geologists have stated that the proposed project will be safe from geologic hazards if their recommendations are implemented. Accordingly, **Special Condition One (1)** requires that all recommendations of the consulting geologists be incorporated into final project plans. **Special Condition Two (2)** requires the applicants to assume all risks from erosion, landslide, earthquake, and wildfire associated with the site. In addition, **Special Conditions Three (3)** (landscaping and erosion control), **Four (4)** (drainage and polluted runoff), **Five (5)** (removal of excess graded material), **Seven (7)** (future development deed restriction) and **Eight (8)** (open space deed restriction) will serve to minimize erosion and ensure site stability.

Water Quality and Sensitive Resources

The proposed project site is located on and below the crest of a north south trending ridge that descends easterly to a tributary to Walnut Canyon. Runoff from the area of proposed development travels via a minor drainage course toward the tributary, an intermittent blue line stream, approximately 400 feet downslope. The tributary stream flows southeast past Pacific Coast Highway and enters Walnut Canyon, which is designated as a Disturbed Sensitive Resource area (DSR) in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). Walnut Creek empties into the Pacific Ocean at Paradise Cove, approximately 1¼ mile downstream. The nearshore marine environment off Paradise Cove contains kelp beds designated as Environmentally Sensitive Habitat Areas (ESHAs) in the Certified Malibu/Santa Monica Mountains LUP. **Special Condition Four (4)** requires the applicant to implement a drainage and runoff control plan to further minimize erosion, sedimentation, and polluted runoff into coastal waters. As discussed above, **Special Conditions One (1)**, **Three (3)**, **Five (5)**, and **Seven (7)** will also help protect sensitive resources by further minimizing erosion and by restoring native vegetation on the canyon slopes. In addition, **Special Condition Eight (8)** requires the applicant to record a deed restriction prohibiting development below the 275 foot contour line, in order to permanently protect the slopes nearest to the blue-line stream. This deed restriction would replace an offer to dedicate recorded in 1990 under a previously approved (but non-vested) permit for the site.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan (1986); Preliminary Geotechnical Investigation, Proposed Single Family Residence, 6252 Cavalleri Road, City of Malibu, California (Geolabs – Westlake Village, dated 9/22/00); Geotechnical Suitability of Proposed Seepage Pit, Proposed Residence, 6252 Cavalleri Road, City of Malibu, California (Geolabs – Westlake Village, dated 11/30/00); Percolation test and site evaluation report prepared by Barton Sluske, dated 3/4/2000; Coastal Development Permit No. 5-88-582 (Newman); Coastal Development Permit No. SF-79-6209 (Sagati); Coastal Development Permit No. P-9-7-78-4018; Coastal Development Permit No. P-1-27-78-2682.

II. STAFF RECOMMENDATION

MOTION: I move that the Commission approve Coastal Development Permit No. 4-01-103 pursuant to the staff recommendation.

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.

III. 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.

IV. SPECIAL CONDITIONS

1. Plans Conforming to Geologic Recommendations

(a) All recommendations contained in the Preliminary Geotechnical Investigation, Proposed Single Family Residence, 6252 Cavalleri Road, City of Malibu, California prepared by Geolabs – Westlake Village and dated 9/22/00; and the report on the Geotechnical Suitability of Proposed Seepage Pit, Proposed Residence, 6252 Cavalleri Road, City of Malibu, California prepared by Geolabs – Westlake Village and dated 11/30/00 shall be incorporated into all final design and construction including recommendations concerning site preparation, grading, foundation systems, retaining walls, drainage, seepage pits, and utility trench backfilling. All plans must be reviewed and approved by the consulting geologists.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, evidence of the geotechnical consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs. The applicant shall further submit evidence that the geotechnical consultant has reviewed the landscape and erosion control plan required pursuant to **Special Condition Three (3)**, and the drainage and runoff control plan required pursuant to **Special Condition Four (4)**, and has verified that all recommendations set forth in the reports cited in subparagraph (a) relevant to the landscape, erosion control, and drainage and polluted runoff control measures have been adequately incorporated.

(b) The final plans approved by the consulting geologists shall be in substantial conformance with the plans approved by the Commission relative to construction,

grading, drainage, and sewage disposal. 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. The Executive Director shall determine whether required changes are "substantial."

2. Assumption of Risk, Waiver of Liability, and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from erosion, landslide, earthquake, and wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's' entire parcel. 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 Coastal Commission approved amendment to this coastal development permit.

3. Landscape and Erosion Control Plan

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit two (2) sets of 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 consulting geologists to ensure that the plans are in conformance with the consulting geologists' recommendations. The plans shall incorporate the following criteria:

A) Landscaping Plan

(1) 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. 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.

(2) The property shall be planted with native species of sufficient height and density to screen the project from public viewing areas along Kanan Dume Road.

(3) 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 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.

(4) Invasive and non-native plants species on the canyon slopes of the property shall be removed. The canyon slopes at the subject property shall be restored and revegetated, to the maximum extent feasible, with appropriate native riparian and coastal sage scrub plant species as listed by the California Native Plant Society, Santa Monica Mountains Chapter, *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996, consistent with the Forestry Department of Los Angeles County fuel modification requirements.

(5) 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.

(6) All development approved herein shall be undertaken in accordance with the final approved plans. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the said plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

(7) The landscape plan shall include a permanent irrigation plan that employs a drip irrigation system. Sprinkler systems may be used to establish turf as authorized by the Executive Director.

(8) 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. Slopes below the 275 foot contour line shall be planted with native plants selected from the following list of species, included in Appendix II -- Desirable Plant List of the Los Angeles County Fire Department's "Fuel Modification Plan Guidelines for Projects Located in Fire Zone 4 or Very High Fire Hazard Security Zones," adopted January 1998: *Heteromeles arbutifolia* (Toyon); *Juglans californica* (Southern California Black Walnut); *Quercus agrifolia* (Coast Live Oak); *Quercus chrysolepis* (Canyon Live Oak); *Quercus Douglasii* (Blue Oak); *Quercus lobata* (Valley Oak); *Rhus integrifolia* (Lemonade Berry). The Executive Director may also authorize the planting of other locally native species acceptable to the Fire Department. Irrigated lawn, turf and ground cover shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains. 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.

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

(1) 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 that 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.

(2) 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. Drainage and Polluted Runoff Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of 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 geologists to ensure the plan is in conformance with the consulting geologists' 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.

(d) Vegetated and/or rock filter systems must be appropriately sized, properly designed, and engineered to: 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. Vegetated filter systems shall consist of native 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. Filter elements shall be designed to intercept and infiltrate or treat the runoff volume from a 25-year, 24-hour runoff event. The plan shall include a filter system utilizing native vegetation and velocity-reducing rock within the existing drainage channel.

(e) The plan shall include provisions for maintaining that portion of the drainage course that will be interrupted by the proposed 3:1 fill slope north of the proposed residence. These provisions may include culverting or redirecting the channel, and shall be designed to rejoin the existing drainage course at a point located above the 290 foot contour line.

(f) 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.

5. Removal of Excess Graded Material

The applicant shall remove all excess graded material, consisting of approximately 36 cu. yds. of cut, to an appropriate disposal site locate outside of the Coastal Zone. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

6. Color Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of coastal development permit 4-01-103. The palette samples shall be presented in a

format not to exceed 8½" X 11"X ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by coastal development permit 4-01-103 if such changes are specifically authorized by the Executive Director as complying with this special condition.

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

7. Future Development Restriction

This permit is only for the development described in coastal development permit No. 4-01-103. Pursuant to Title 14 California Code of Regulations §13250 (b)(6), the exemptions otherwise provided in Public Resources Code §30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements to the entire property, including but not limited to the permitted residence, garage, any change of use to the permitted structures, and any grading, clearing or other disturbance of vegetation other than as provided for in the approved landscape plan prepared pursuant to **Special Condition Three (3)**, and in the approved drainage and polluted runoff control plan prepared pursuant to **Special Condition Four (4)**, shall require an amendment to Permit No. 4-01-103 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include legal descriptions 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. Open Space Deed Restriction

A. No development, as defined in Section 30106 of the Coastal Act, shall occur below the 275 foot contour line as shown in **Exhibit 3** except for:

1. Fuel modification required by the Los Angeles County Fire Department undertaken in accordance with the approved fuel modification plan provided for in **Special Condition Three (3)**;

2. Landscaping activities pursuant to **Special Condition Three (3)**;

3. Drainage and polluted runoff control activities pursuant to **Special Condition Four (4)**.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the open space area. 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.

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a one-story, 18 ft. high, 4,775 sq. ft. single family residence with attached 3-car garage, driveway, turnaround, retaining wall, and septic system **(Exhibits 4-10)**. The proposed project also includes 990 cu. yds. of grading (513 cu. yds. cut, 477 cu. yds. fill) to construct a turnaround and to contour areas adjacent to the house **(Exhibit 5)**.

The subject site is located at 6252 Cavalleri Road, approximately 1/3 mile north of Pacific Coast Highway, in the City of Malibu **(Exhibit 1)**. The surrounding area is partially developed with existing single family residences of similar or greater bulk and height. The proposed residence will be visible from Kanan Dume Road, a scenic highway **(Exhibits 2** and **12)**.

The 3.29-acre undeveloped parcel begins on the crest of a north-south trending minor ridge, descends easterly to a blue-line tributary to Walnut Canyon, and ascends part way up the opposite slope. The proposed residence is located on the crest and the upper portions of the easterly descending slope. The slopes on-site are lightly vegetated with short grasses and weeds and the canyon bottom contains both non-native and native riparian vegetation **(Exhibit 12)**. Runoff from the area of proposed development travels easterly via a minor drainage course toward the intermittent blue line stream, approximately 400 feet downslope. The tributary stream flows southeast past Pacific Coast Highway and enters Walnut Canyon, which is designated as a Disturbed Sensitive Resource area (DSR) in the Malibu/Santa Monica Mountains Land Use Plan (LUP). Walnut Canyon Creek empties into the Pacific Ocean at Paradise Cove, approximately 1¼ mile downstream from the subject site **(Exhibit 2)**. The nearshore marine environment off Paradise Cove contains kelp beds designated as Environmentally Sensitive Habitat Areas (ESHAs) in the Certified Malibu/Santa Monica Mountains LUP.

The subject parcel is one of three lots created by a subdivision approved by the Commission in 1978 (CDP No. P-1-27-78-2682). Three subsequent permits for single family residences (CDP No. P-9-7-78-4018, CDP No. SF-79-6209, and CDP No. 5-88-582) were approved for this parcel, but not exercised. Two deed restrictions were recorded as a condition of CDP No. SF-79-6209, one prohibiting any development or removal of riparian vegetation within 50 feet of the bank of the blue-line stream, and the other attaching the geology report as a part of the chain of title to the property. As a condition of CDP 5-88-582, an offer to dedicate an open space easement was recorded to include all portions of the subject property below the 275 foot contour line. The offer, valid for 21 years from the date of recording, has yet to be accepted. The easement prohibits all development, including landscaping, except in accordance with fuel modification and landscaping plans approved pursuant to conditions of the permit, which allow for vegetation to be "selectively thinned." However, portions of the slope located within the brush clearance radii of adjacent homes appear to have been mowed for fire safety purposes **(Exhibit 11)**.

B. Geologic Stability and Hazards

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, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*** ...

The proposed development is located in the Santa Monica Mountains, 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 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.

1. Geology

Section 30253 of the Coastal Act requires that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic stability, or destruction of the site or surrounding area. The site of the proposed project is an approximately 3.29 acre parcel that begins on the crest of a north-south trending minor ridge, descends easterly to a blue-line tributary to Walnut Canyon, and ascends part way up the opposite slope. The proposed residence is located on the crest and the upper portions of the easterly descending slope.

The applicant proposes to construct a one-story, 18 ft. high, 4,775 sq. ft. single family residence with attached 3-car garage, driveway, turnaround, retaining wall, and septic system. The proposed project also includes 990 cu. yds. of grading (513 cu. yds. cut, 477 cu. yds. fill) to construct the turnaround, as per Los Angeles County Fire Department requirements, and to contour areas adjacent to the house.

The proposed turnaround is located to the north of the proposed residence, adjacent to a minor drainage course that runs from the northwest corner of the property to the blue-line stream. The applicant proposes to construct an approximately 6 ft. high and 68 ft. long concrete retaining wall and an approximately 2000 sq. ft. 3:1 fill slope to buttress the turnaround. The 3:1 slope would fill the drainage course for a distance of approximately 100 feet. The applicant also proposes modest amounts of cut and fill to contour slopes adjacent to the house.

The applicant has submitted two reports: Preliminary Geotechnical Investigation, Proposed Single Family Residence, 6252 Cavalleri Road, City of Malibu, California prepared by Geolabs – Westlake Village, and dated September 22, 2000; and Geotechnical Suitability of Proposed Seepage Pit, Proposed Residence, 6252 Cavalleri Road, City of Malibu, California prepared by Geolabs – Westlake Village and dated November 30, 2000. The reports makes numerous recommendations regarding site preparation, grading, foundation systems, retaining walls, drainage, seepage pits, and utility trench backfilling. The November 30, 2000 report concludes that

> ***Based upon tests conducted as outlined in this and applicable referenced reports, and if constructed with our recommendations and properly maintained, it is the opinion of the undersigned, duly registered professional engineer and engineering geologist, that (1) the grading and proposed structure(s) will be safe against hazard from landslide, settlement or slippage,***

> ***that (2) the proposed building or grading construction will have no adverse effect on the geologic stability of the property outside of the building site, and that (3) to the best of the undersigned's knowledge, the work within the undersigned's area of responsibility is in accordance with the approved engineering geology reports and applicable provisions of the grading Code.***

The September 22, 2000 report gives special consideration to the stability of the slopes on site. It states that

> ***A portion of a large landslide occurs east of the canyon on the eastern part of the property. Its location is across the canyon and well below the proposed building site such that it will not affect the stability of the proposed residence. Minor slumping of topsoil and weathered bedrock has also occurred on local steep slopes adjacent to the swale crossing the site, again this is well below the proposed building site and should have no effect on the project.***

The September 22, 2000 report references an earlier report, "Engineering Geologic Report for Lot 2, Parcel Map 11426, 6252 Cavalleri Road, Malibu, Los Angeles County," prepared by Donald Kowalewsky and dated June 20, 1988. That report states that

> ***Both soil creep and shallow landsliding have occurred within the site in the past and, unless appropriate measures are taken, will continue. Creep, or the slow migration of loosely consolidated earth materials downslope, exists on all of the steeper slope areas underlain by topsoil.***

The September 22, 2000 report also notes that the Malibu Coast fault is located ½ mile away from the subject site.

Based on the conclusions of the Geolabs – Westlake Village reports, the Commission finds that the proposed development will be safe from geologic hazards if all recommendations of the consulting geologists are incorporated into the final project plans and designs. Accordingly, **Special Condition One (1)** requires the applicant to demonstrate to the Executive Director's satisfaction that all recommendations in the Geolabs – Westlake Village reports are incorporated into the final plans and designs.

However, the Commission recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting geologists, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of erosion, landslide, earthquake, and wildfire, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's' assumption of risk, as required by **Special Condition Two (2)**, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the

hazards associated with development of the site, and that may adversely affect the stability or safety of the proposed development.

2. Erosion

Section 30253 of the Coastal Act requires that new development neither create nor contribute significantly to erosion. As noted above, the proposed development is located on a site that contains slopes subject to creep, slump, and shallow landslides. The proposed project includes 990 cu. yds. of grading (513 cu. yds. cut and 477 cu. yds. fill) to construct a turnaround, as per Los Angeles County Fire Department requirements, and to contour areas adjacent to the house.

The proposed turnaround is located to the north of the proposed residence, adjacent to a minor drainage course that runs from the northwest corner of the property to the blue-line stream. The applicant proposes to construct an approximately 6 ft. high and 68 ft. long concrete retaining wall and an approximately 2000 sq. ft. 3:1 fill slope to buttress the turnaround. The 3:1 slope would fill the drainage course for a distance of approximately 100 feet.

The site currently drains by sheet flow runoff. Runoff from the area of proposed development travels easterly via the minor drainage course toward an intermittent blue line stream, approximately 400 feet downslope. The tributary stream flows southeast past Pacific Coast Highway and enters Walnut Canyon, which is designated as a Disturbed Sensitive Resource area (DSR) in the certified Malibu/Santa Monica Mountains LUP. Walnut Canyon Creek empties into the Pacific Ocean at Paradise Cove, approximately 1¼ mile downstream from the subject site. The nearshore marine environment off Paradise Cove contains kelp beds designated as Environmentally Sensitive Habitat Areas (ESHAs) in the certified Malibu/Santa Monica Mountains LUP.

In total, the project will result in 9,562 sq. ft. of impervious surface area on the site, increasing both the volume and velocity of storm water runoff. Unless surface water is controlled and conveyed off of the site in a non-erosive manner, this runoff will result in increased erosion on and off the site.

Uncontrolled erosion leads to sediment pollution of downgradient water bodies. Surface soil erosion has been established by the United States Department of Agriculture, Natural Resources Conservation Service, as a principal cause of downstream sedimentation known to adversely affect riparian and marine habitats. Suspended sediments have been shown to absorb nutrients and metals, in addition to other contaminants, and transport them from their source throughout a watershed and ultimately into the Pacific Ocean. The construction of single family residences in sensitive watershed areas has been established as a primary cause of erosion and resultant sediment pollution in coastal streams.

In order to ensure that erosion and sedimentation from site runoff are minimized, the Commission requires the applicant to submit a drainage plan, as defined by **Special**

Condition Four (4). Special Condition Four (4) requires the implementation and maintenance of 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. Fully implemented, the drainage plan will reduce or eliminate the resultant adverse impacts to the water quality and biota of coastal streams. This drainage plan is fundamental to reducing on-site erosion and the potential impacts to coastal streams. 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.

In addition, the Commission finds that temporary erosion control measures implemented during construction will also minimize erosion and enhance site stability. **Special Condition Three (3)** therefore requires the applicant to implement interim erosion control measures should grading take place during the rainy season. Such measures include stabilizing any stockpiled fill with geofabric covers or other erosion-controlling materials, installing geotextiles or mats on all cut and fill slopes, and closing and stabilizing open trenches to minimize potential erosion from wind and runoff water.

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, provided that minimal surface irrigation is required. Therefore, **Special Condition Three (3)** requires the applicant to submit landscaping plans, including irrigation plans, certified by the consulting geologists as in conformance with their recommendations for landscaping of the project site. **Special Condition Three (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 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 the use of such vegetation may actually destabilize slopes, increase erosion, and reduce the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and therefore aid in preventing erosion.

In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area. Increasing urbanization in this area has caused the loss or degradation of major portions of the native habitat and loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast growing trees that originate from other continents that have been used as landscaping in this area have invaded and seriously degraded native plant communities adjacent to development. Such changes have resulted in the loss of native plant species and the soil retention benefits they offer. Therefore as noted the implementation of **Special Condition Three (3)** will ensure that primarily native plant species are used in the landscape plans and that potentially invasive non-native species are avoided.

Therefore, the Commission finds that in order to ensure site stability and erosion control, the disturbed and graded areas of the site shall be landscaped with appropriate native plant species, and canyon slopes shall be revegetated with native plants, as specified in **Special Condition Three (3)**.

The lower slopes of the subject site are steep and show evidence of erosion, due in part to previous vegetation clearance. The soils on these slopes have been shown to be particularly prone to erosion. Therefore, to further control erosion on the lower slopes adjacent to the blue-line stream, the Commission finds it necessary to require the applicants to record a deed restriction prohibiting all development, including grading or removal of vegetation, below the 275 foot contour line, as detailed in **Special Condition Eight (8).** In addition, brush clearance radii from the proposed residence and two adjacent residences extend onto the lower slopes of the subject site **(Exhibit 11)**. In order to minimize future brush clearance, and restore erosion-controlling vegetation to slopes below the 275 foot contour line, **Special Condition Three (3)** requires these slopes to be planted with locally native plant species recognized by the Los Angeles County Fire Department as requiring minimal modification for fire safety purposes.

In addition, the applicant proposes to cut 513 cu. yds. of earth on the site and use 477 cu. yds. of this material for fill, thus producing 36 cu. yds. of excess graded material. The Commission finds that stockpiling excavated material may contribute to increased erosion at the site. Furthermore, the Commission notes that additional landform alteration would result if the excavated material were to be collected and retained on site. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, **Special Condition Five (5)** requires the applicant to remove all excess graded material from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit.

Finally, in order to ensure that any future site development is reviewed for its potential to create or contribute to erosion, the Commission finds it necessary to impose **Special Condition Seven (7)**, which requires the applicant to obtain a coastal development permit for any future development on the site, including improvements that might otherwise be exempt from permit requirements.

For the reasons cited above, the Commission finds that the proposed project as conditioned by **Special Conditions Three (3), Four (4), Five (5), Seven (7),** and **Eight (8)**, will be consistent with the requirements of Coastal Act Section 30253 applicable to geology and site stability.

3. Wild Fire

Section 30253 of the Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new

development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as an individual's property rights.

Vegetation in the coastal areas of 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.

As a result of the hazardous conditions that exist for wildfires in the Santa Monica Mountains area, the Los Angeles County Fire Department requires the submittal of fuel modification plans for all new construction to reduce the threat of fires in high hazard areas. Typical fuel modification plans for development within the Santa Monica Mountains require setback, irrigation, and thinning zones that extend 200 feet from combustible structures. The applicant has submitted fuel modification plans, approved by the Los Angeles County Fire Department, that include fuel modification zones extending to the property line. The 200-foot brush clearance radius for the site encompasses parts of four adjacent developed properties. Approval of the project will not result in significant additional brush clearance in the vicinity of the site.

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 acknowledges the liability from these associated risks. Through **Special Condition Two (2)**, 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 Two (2)**, the applicant agrees to indemnify the Commission, its officers, agents and employees 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 or destruction from wild fire exists as an inherent risk.

The Commission finds that only as conditioned by **Special Condition Two (2)** is the proposed project consistent with Section 30253 of the Coastal Act applicable to hazards from wildfire.

In summary, the Commission finds that, as conditioned by **Special Conditions One (1), Two (2), Three (3), Four (4), Five (5), Seven (7)**, and **Eight (8)**, the proposed project

will be consistent with the requirements of Coastal Act Section 30253 applicable to geology, site stability, and hazards.

C. Water Quality / Sensitive Resources

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality and sensitive resources through the removal of native vegetation, increase in impervious surfaces, increase in runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems.

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

> ***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** of the Coastal Acts states:

> ***(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation 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 3.29-acre undeveloped subject site begins on the crest of a north-south trending minor ridge, descends easterly to a blue-line tributary to Walnut Canyon, and ascends part way up the opposite slope. The slopes are lightly vegetated with short grasses and weeds and the canyon bottom contains both non-native and native riparian vegetation. Runoff from the area of proposed development travels easterly via a minor drainage course toward the intermittent blue line stream, approximately 400 feet downslope. The tributary stream flows southeast past Pacific Coast Highway and enters Walnut Canyon, which is designated as a Disturbed Sensitive Resource area (DSR) in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). Walnut Canyon Creek empties into the Pacific Ocean at Paradise Cove, approximately 1¼ mile downstream from the subject site. The nearshore marine environment off Paradise Cove contains kelp beds designated as Environmentally Sensitive Habitat Areas (ESHAs) in the certified Malibu/Santa Monica Mountains Land Use Plan.

The applicant proposes to construct a one-story, 18 ft. high, 4,775 sq. ft. single family residence with attached 3-car garage, driveway, turnaround, retaining wall, and septic system. The proposed project also includes 990 cu. yds. of grading (513 cu. yds. cut, 477 cu. yds. fill) to construct the turnaround and contour areas adjacent to the proposed residence.

The proposed turnaround is located immediately north of the proposed residence, adjacent to a minor drainage course that runs from the northwest corner of the property to the blue-line stream. The applicant proposes to construct an approximately 6 ft. high and 68 ft. long concrete retaining wall and an approximately 2000 sq. ft. 3:1 fill slope to buttress the turnaround. The 3:1 slope would fill the drainage course for a distance of approximately 100 feet.

The proposed project will also result in 4,787 sq. ft. of new paved surfaces, along with 4,775 sq. ft. of new building coverage. In total, the project will result in an additional 9,562 sq. ft. of impervious surface area on the site, increasing both the volume and velocity of storm water runoff. An increase in impervious surface area 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, reduce optimum populations of marine organisms, and have adverse impacts on human health.

The Commission notes that the proposed project is located upstream of Walnut Canyon, a designated DSR area, and a designated kelp bed ESHA (certified Malibu/Santa Monica Mountains LUP). The DSR designation indicates that Walnut Canyon is an Environmentally Sensitive Habitat Area (ESHA) that has been disturbed by the encroachment of development, and therefore no longer retains the seamless habitat value and diversity of more remote and less disturbed habitat areas. DSR areas are subject to increased volume and velocity of runoff and resultant erosion from an increase in impervious surfaces upslope and upstream. In order to protect what remains of these disturbed canyon habitats, the Commission must consider all new potential adverse impacts to the sensitive habitat areas of these riparian corridors. The Commission must also consider potential impacts to the Offshore Kelp Bed ESHA. Kelp beds provide valuable habitat for a variety of marine life and serve as fish nurseries. Coastal streams transport sediment and polluted runoff downstream and discharge them into offshore habitats. These pollutants can damage the productivity of kelp beds and the species that depend upon them.

The Commission further notes that seasonal streams and drainages, such as the intermittent stream located within 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.

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, drainage and water pollution control measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site is returned to the soil, overall runoff volume is

reduced. Slow surface flow of runoff allows sediment and other pollutants to settle into the soil where they can be filtered. The reduced volume of runoff takes longer to reach streams and its pollutant load is greatly reduced.

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 project is conditioned, under **Special Condition Four (4)**, 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, sedimentation, and polluted runoff are minimized to reduce potential impacts to coastal streams, natural drainages, and environmentally sensitive habitat areas.

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. The use of vegetated and/or gravel filter systems can be an effective way of reducing the pollutant load of runoff and allowing infiltration into the soil. **Special Condition Four (4)** requires the applicants to construct a filter system utilizing native vegetation and velocity-reducing rock within the existing drainage channel. 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.

To prevent erosion of a proposed compacted fill slope, and maintain the course of an existing drainage channel on site, **Special Condition Four (4)** also requires provisions for maintaining that portion of the drainage course that will be interrupted by the proposed 3:1 fill slope north of the proposed residence. These provisions may include culverting or redirecting the channel, such that it rejoins the existing drainage course at a point located above the 290 foot contour line. Implementation of these measures will ensure the hydrologic continuity of the drainage channel while controlling the velocity of runoff where the channelized portion rejoins the natural drainage course downslope.

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 Four (4)**, and finds that 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 resource protection policies of the Coastal Act.

In addition, interim erosion control measures implemented during construction and post construction landscaping will serve to control erosion on the site, thus minimizing the transport of sediments and other pollutants into coastal waters. Therefore, the Commission finds that **Special Condition Three (3)** is necessary to ensure that the proposed development will not adversely impact water quality or coastal resources. Similarly, the removal of all excess graded material, as detailed in **Special Condition Five (5)**, will serve to minimize the potential for sedimentation of the downslope blue-line stream.

In addition, the Commission finds that the lower slopes of the site are particularly vulnerable to erosion, and that erosion of these slopes holds greater potential to impact the adjacent blue-line stream. The Geolabs – Westlake Village report dated September 22, 2000 notes that

> ***Minor slumping of topsoil and weathered bedrock has also occurred on local steep slopes adjacent to the swale crossing the site...well below the proposed building site.***

The Commission further finds that the increased volume of runoff from proposed impermeable surfaces on site increases the potential for erosion of the lower slopes and sedimentation of the blue-line stream.

The Commission notes that the slopes on the proposed project site below the 275 foot contour line are the subject of an irrevocable offer-to-dedicate an open space easement. The offer was recorded in 1990 as a condition of CDP 5-88-582. In granting CDP 5-88-582, the Commission found that this condition was necessary

> ***to protect the undisturbed watershed cover on the canyon slope and the downstream ESHA, as required by Section 30231 of the Coastal Act and the resource protection policies of the certified LUP.***

The latter policies, found in the certified Malibu/Santa Monica Mountains LUP, include the following:

> ***P72, which states that open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development;***

P81, which requires that runoff into riparian areas from development should not exceed pre-development peak flows;

P86, which requires incorporation of a drainage control system to minimize effects of runoff and erosion, and mitigation of impacts on downstream sensitive riparian habitats.

To assist in the determination of whether a project is consistent with Section 30230, 30231, and 30240 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the Malibu/Santa Monica Mountains LUP for guidance.

The Commission further notes that the offer-to-dedicate has not been accepted by a public agency, and that acceptance of the offer may not be readily forthcoming, given its location within a developed residential area. The Commission further notes that should the offer not be accepted within 21 years of its recording (within the next 10 years), it will expire and the associated protection of the sensitive area will be removed. The Commission also notes that although the open space easement prohibited removal of vegetation, except for selective thinning for fuel modification purposes, portions of the slope located within the brush clearance radii of adjacent homes appear to have been mowed.

In order to permanently ensure that no further development, such as grading or removal of vegetation, occurs on sensitive slopes near the blue-line stream, and to mitigate for the proposed increase in impermeable surfaces and volume of runoff, the Commission finds it necessary to require the applicants to record a deed restriction prohibiting all development below the 275 foot contour line. As detailed in **Special Condition Eight (8)**, the deed restriction will run with the land, and will prohibit all development, including grading or vegetation removal. **Special Condition Eight (8)** specifically exempts fuel modification, landscaping, and drainage control activities carried out pursuant to **Special Condition Three (3)** and **Special Condition Four (4)**. These include restoring native vegetation to the canyon slopes and the drainage swale crossing the property.

The Commission also notes that brush clearance radii from the proposed residence and two adjacent residences extend onto the lower slopes of the subject site. In order to minimize future brush clearance, and restore erosion-controlling vegetation to slopes below the 275 foot contour line, **Special Condition Three (3)** requires these slopes to be planted with species recognized by the Los Angeles County Fire Department as requiring minimal modification for fire safety purposes.

Finally, the applicant proposes to construct a new 2500-gallon septic tank and disposal system as shown on the plans approved "In-Concept" by the City of Malibu Department of Environmental Health on December 22, 2000. The conceptual approval by the City indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code. The Commission has found the City of Malibu's minimum health and safety standards for septic systems to be protective of coastal resources and to take into consideration the percolation capacity of soils, the depth to groundwater, and other pertinent information. Therefore the

Commission further finds that project compliance with the City's standards for septic disposal will minimize any potential for wastewater discharge that could adversely impact coastal waters.

For all of these reasons, therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

D. Visual Resources

Section 30251 of the Coastal Act states that:

> ***The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.***

To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic highways. The Commission also examines the building site and the size of the proposed structure(s).

The applicant proposes to construct a one-story, 18 ft. high, 4,775 sq. ft. single family residence with attached 3-car garage, driveway, turnaround, retaining wall, and septic system. The proposed project includes 990 cu. yds. of grading (513 cu. yds. cut, 477 cu. yds. fill) to construct the turnaround and to contour areas adjacent to the proposed residence.

The proposed project site is located on Cavalleri Road, approximately 1/3 mile north of Pacific Coast Highway, and approximately 1500 ft. west of Kanan Dume Road. The subject site is surrounded by residential development of similar or greater bulk and height.

The proposed residence is located on the crest and upper portions of an easterly descending slope that faces Kanan Dume Road, a designated scenic highway in the certified Malibu/Santa Monica Mountains LUP. The Commission notes that nearly the full length of the slope is visible from Kanan Dume Road, and that the unseen portion is located within the flood hazard area of a blue-line stream, or on steep slopes adjacent to the riparian area. The Commission further notes that siting the residence on the more level areas at the top of the slope minimizes grading and landform alteration.

However, because the proposed project is visible from public viewing areas, the Commission finds it necessary to impose design restrictions to minimize the intrusion of the project into public views. Accordingly, **Special Condition Six (6)** restricts the use of colors to a natural background palette and requires the use of non-glare glass.

In addition, to ensure that future development of the site is reviewed for potentially adverse effects on coastal visual resources, the Commission finds it necessary to impose **Special Condition Seven (7)**, which requires the applicant to obtain a coastal development permit for any future development of the site, including improvements that might otherwise be exempt from coastal permit requirements.

The Commission notes that visual impacts can be further minimized by the implementation of a landscape plan that employs a native plant palette and vertical elements. **Special Condition Three (3)** specifies that the slopes below the proposed residence be planted with native species of sufficient height and density to screen the project from public viewing areas along Kanan Dume Road. The Commission also notes that visual impacts will be further mitigated by requiring by the implementation of erosion control measures, as in **Special Conditions Three (3), Four (4), Five (5),** and **Eight (8)**. Implementation of the requirements of these conditions will ensure that the adverse visual effects of obtrusive non-native landscaping, denuded slopes, and uncontrolled erosion are avoided.

For all of the reasons set forth above, the Commission finds that the proposed project, as conditioned by **Special Conditions Three (3), Four (4), Five (5), Six (6), Seven (7),** and **Eight (8)** is consistent with Section 30251 of the Coastal Act.

E. 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 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).***

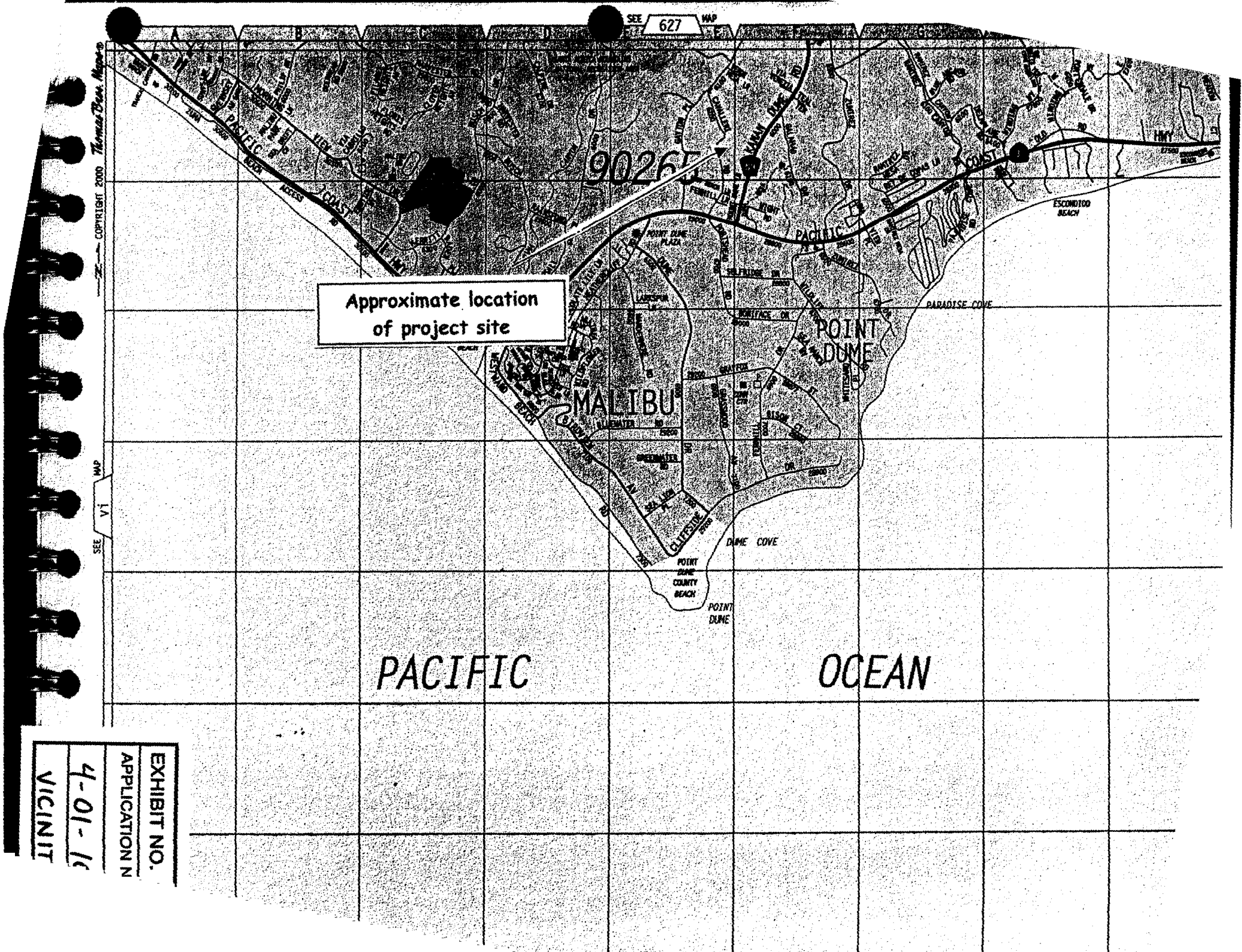
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding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

Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu 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, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity would 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 Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.



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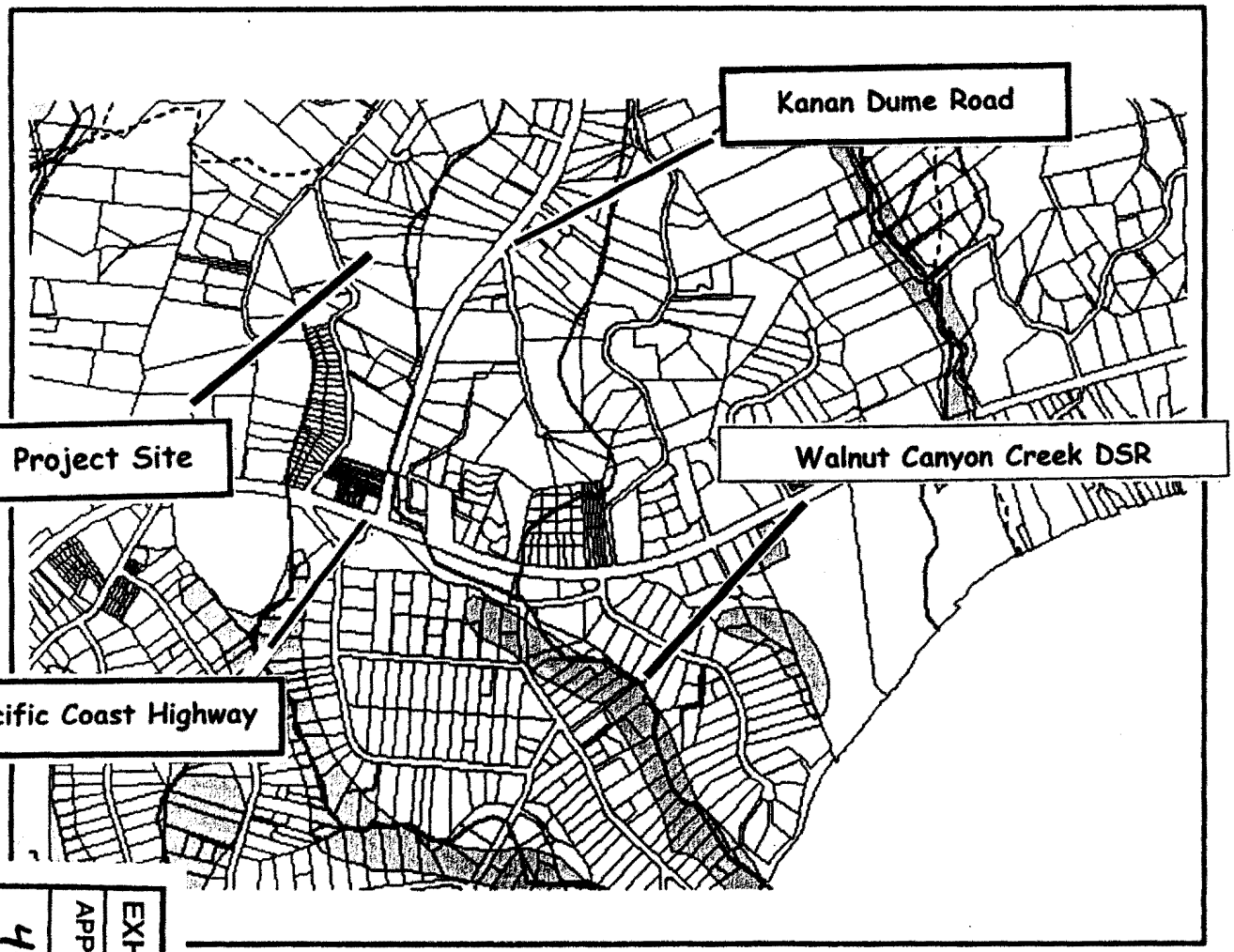

Trails - LA County LUP
Blue Line Streams
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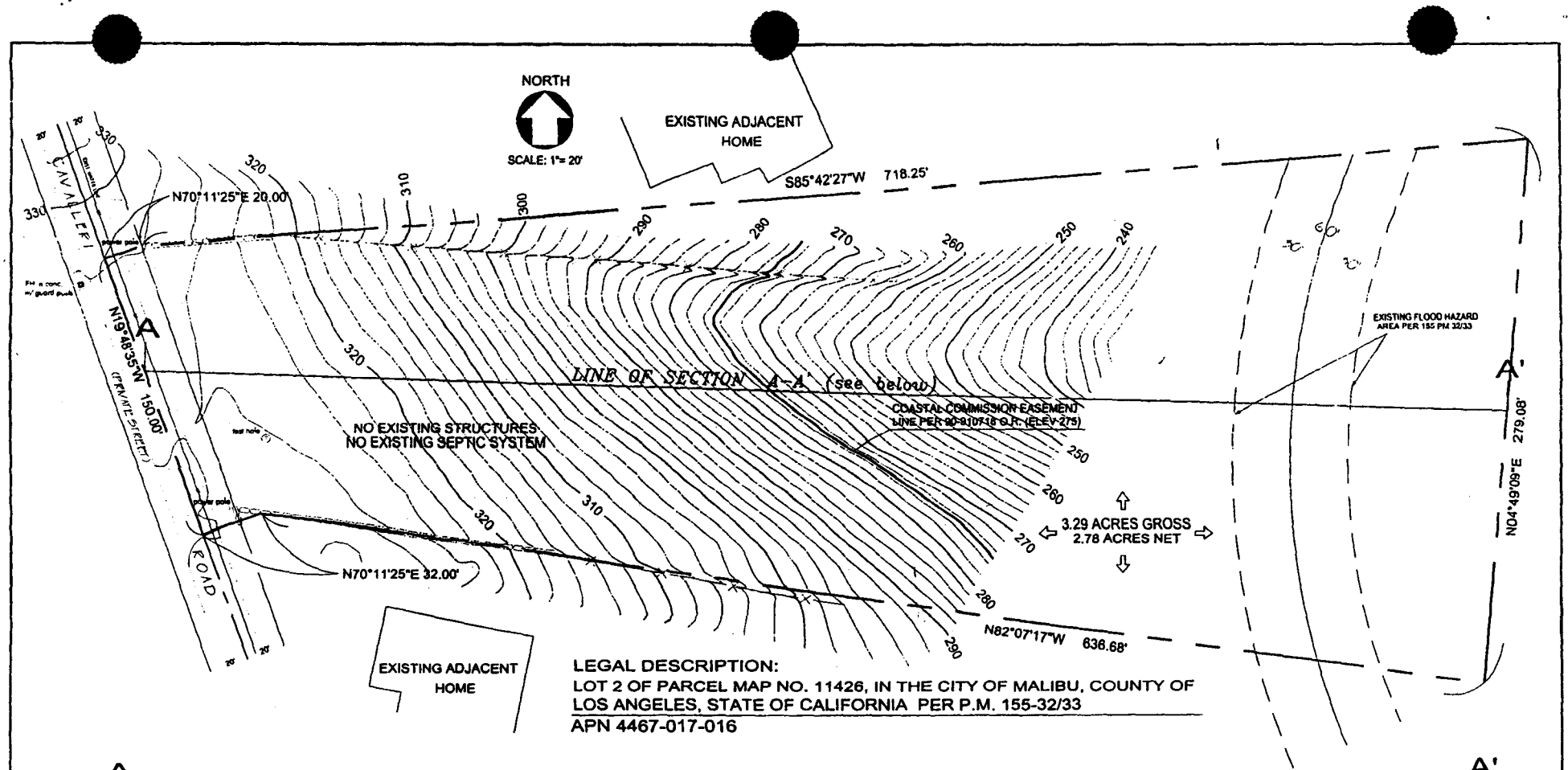
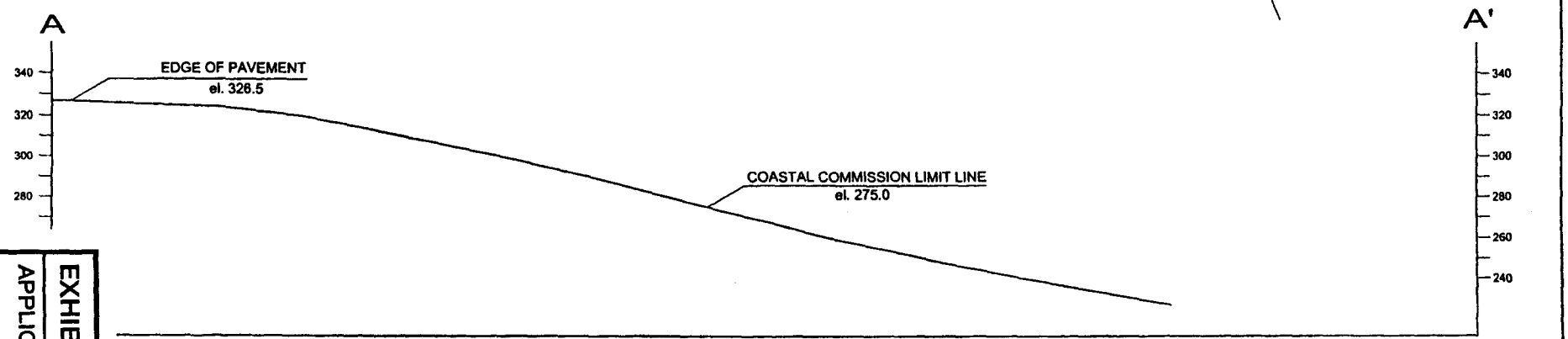
Monday, Oct 22 2001

EXHIBIT NO. 2
APPLICATION NO.
4-01-103
COASTAL RESOURCES



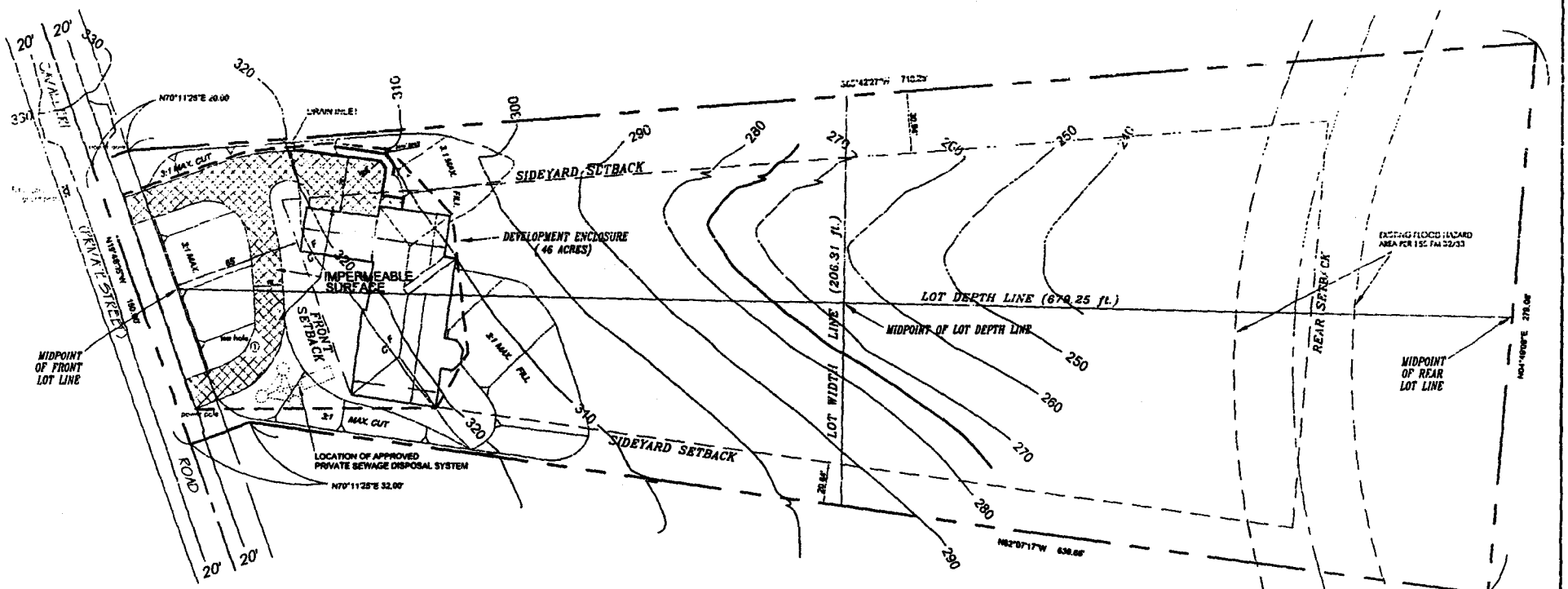
LEGAL DESCRIPTION:
LOT 2 OF PARCEL MAP NO. 11426, IN THE CITY OF MALIBU, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA PER P.M. 155-32/33
APN 4467-017-016



SECTION A-A'
SCALE: 1"= 20'

PREPARED BY: PACIFIC COAST CIVIL, INC.
CITY OF MALIBU
SITE SURVEY
FRANS & BARBARA BIGELOW RESIDENCE
6252 CAVALLERI ROAD

EXHIBIT NO. 3
APPLICATION NO. 4-01-103
SITE SURVEY



IMPERMEABLE COVERAGE

House+Driveway=9681.82 sq. ft.
Allowable = 25,000 sq. ft. max.
(less than 30% of net area)

SETBACK CALCULATIONS

Lot depth = 679.25'
101.88' rear setback = 15% of 679.25'
Lot width = 206.31'
51.56' = cumulative sideyard setback
20.64' = south setback (min. 20.63')
30.94' = remaining sideyard setback (north side)
Front yard setback = 85' (minimum)

REQUIRED PLAN NOTES

1) Structures are located a minimum of 100 feet from the top of a primary ridgeline.
2) No structure is located on a secondary ridgeline.
3) Cohesive development area=1.46 acres.

OWNER: Frans and Barbara Bigelow
ARCHITECT: Wayne Chevalier
914 Fourth St., #202
Santa Monica, California

STRUCTURE SIZE

House = 4778.2 sq. ft.
Allowable = 9,237 sq. ft.

LOT AREA

3.79 acres gross
2.78 acres net

LOT DESCRIPTION

LOT 2
P.M. 166-32-33
APN 4467-017-018

APPROXIMATE LOT LOCATION

INITY MAP
T TO SCALE

NORTH

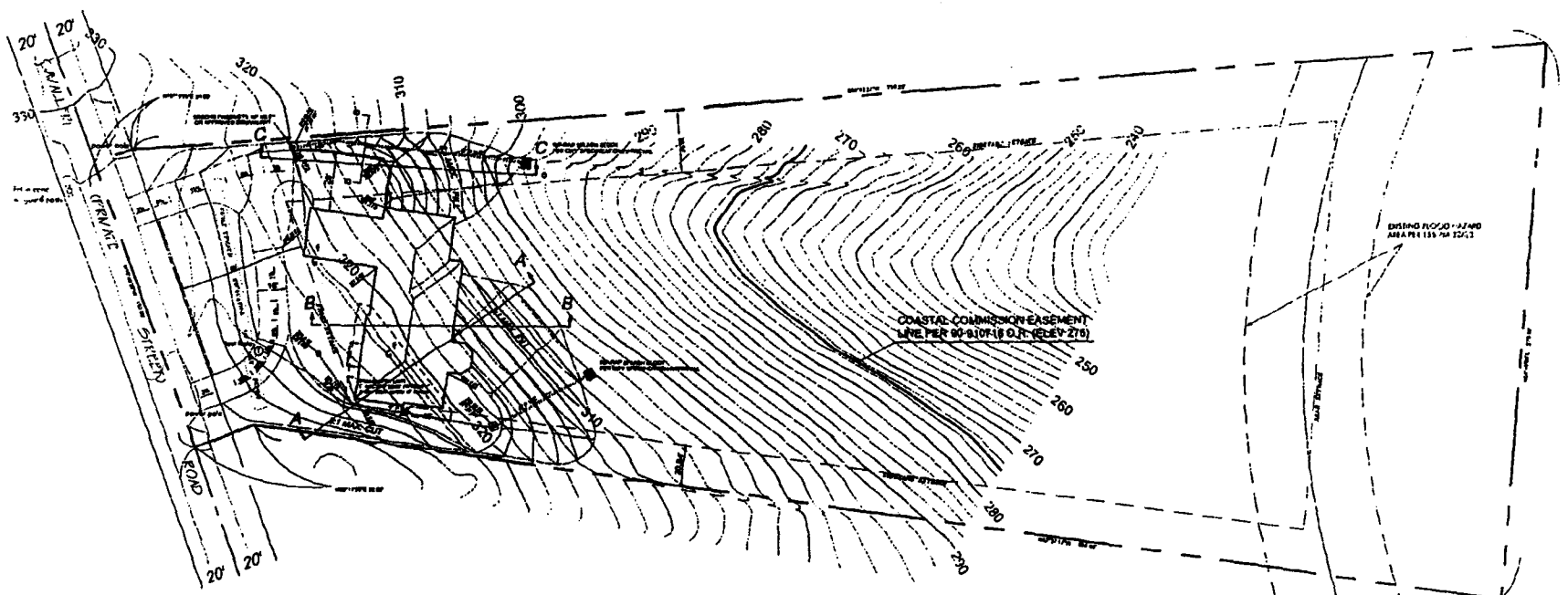
SCALE: 1"=20'

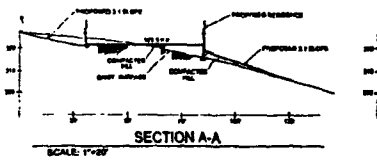
EXHIBIT NO. 4
APPLICATION NO.
4-01-103
SITE PLAN

PREPARED BY:
PACIFIC COAST CIVIL, INC.
Arroyo Hills, CA. 91301
PHONE: (818) 889-0108
FAX: (818) 889-6196

CITY OF MALIBU

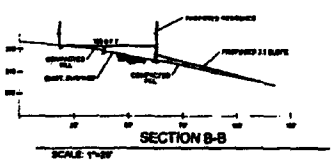
SITE PLAN
FRANS & BARBARA BIGELOW RESIDENCE
6252 CAVALLERI ROAD





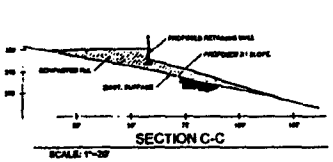
SECTION A-A

SCALE: 1"=20'



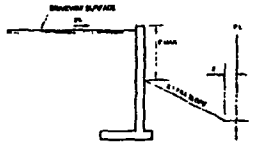
SECTION B-B

SCALE: 1"=20'



SECTION C-C

SCALE: 1"=20'



RETAINING WALL TYPICAL SECTION D-D

N.T.S.

SEE STRUCTURAL ENGINEER'S PLANS FOR CONSTRUCTION DETAILS

NORTH

SCALE: 1"=20'

0 10 20 30 40 60 100

GEOTECHNICAL CONSULTANT

GEOLABS-WESTLAKE VILLAGE
31110 Via Colinas, Suite 202, Westlake Village, CA 91362
(818) 889-3563

STRUCTURAL ENGINEER

HARRIS ENGINEERING
1099 Business Center Circle, Thousand Oaks, CA 91320
(805) 499-4484

GRADING QUANTITIES (CUBIC YARDS)

Gross earthwork
Cut 600 Fill 477

Undercut/over-ex
Cut 63 Fill –

Non Undercut/over-ex
Cut 513 Fill 477

Safety Purposes
Cut n/a Fill n/a

Remedial
Cut n/a Fill n/a

TOTAL
Cut 513 Fill 477 IMPORT – EXPORT –

LOT AREA

3.29 acres gross
2.76 acres net

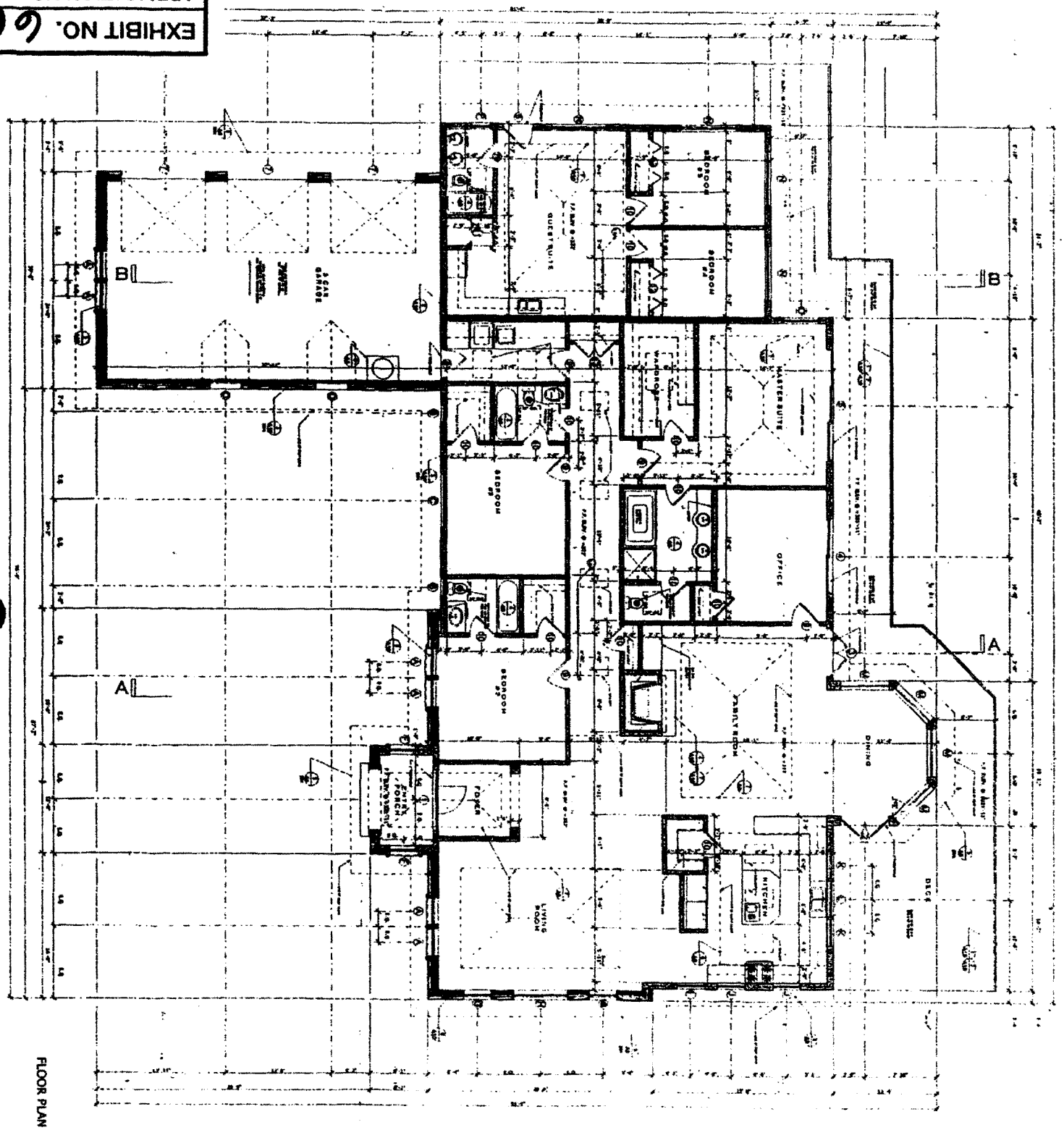
LOT DESCRIPTION

LOT 7
P.M. 155 32 33
APN 4467-017-016

	PREPARED BY: PACIFIC COAST CIVIL, INC.	CITY OF MALIBU	GRADING AND DRAINAGE PLAN FRANS & BARBARA BIGELOW RESIDENCE 6252 CAVALLERI ROAD

EXHIBIT NO. 5
APPLICATION NO.
4-01-103
GRADING + DRAINAGE

EXHIBIT NO. 6
APPLICATION NO. 4-01-103
FLOOR PLAN



FLOOR PLAN

1/4"=1'-0"

A-3

FLOOR PLAN

NEW RESIDENCE FOR: FRANS & BARBARA BIGELOW
6252 Cavalleri Rd.
Malibu, CA 90265

WAYNE T. CHEVALIER
914 4TH. ST. NO 202
SANTA MONICA, CA 90403
310 393 9953

WAYNE T. CHEVALIER
914 4TH ST. NO 202
SANTA MONICA, CA 90401

EXHIBIT NO. 7
APPLICATION NO.
4-01-103
ELEVATIONS (1)

WAYNE T. CHEVALIER
914 4TH. ST. NO. 202
SANTA MONICA, CA 90403
310 393 9943

NEW RESIDENCE FOR: FRANS & BARBARA BIGELOW
6252 Cavalleri R.d.
Malibu, CA 90265

ELEVATIONS

A-6

EXHIBIT NO. 8

APPLICATION NO.

4-01-103

ELEVATIONS (2)

1/4"=1'-0"

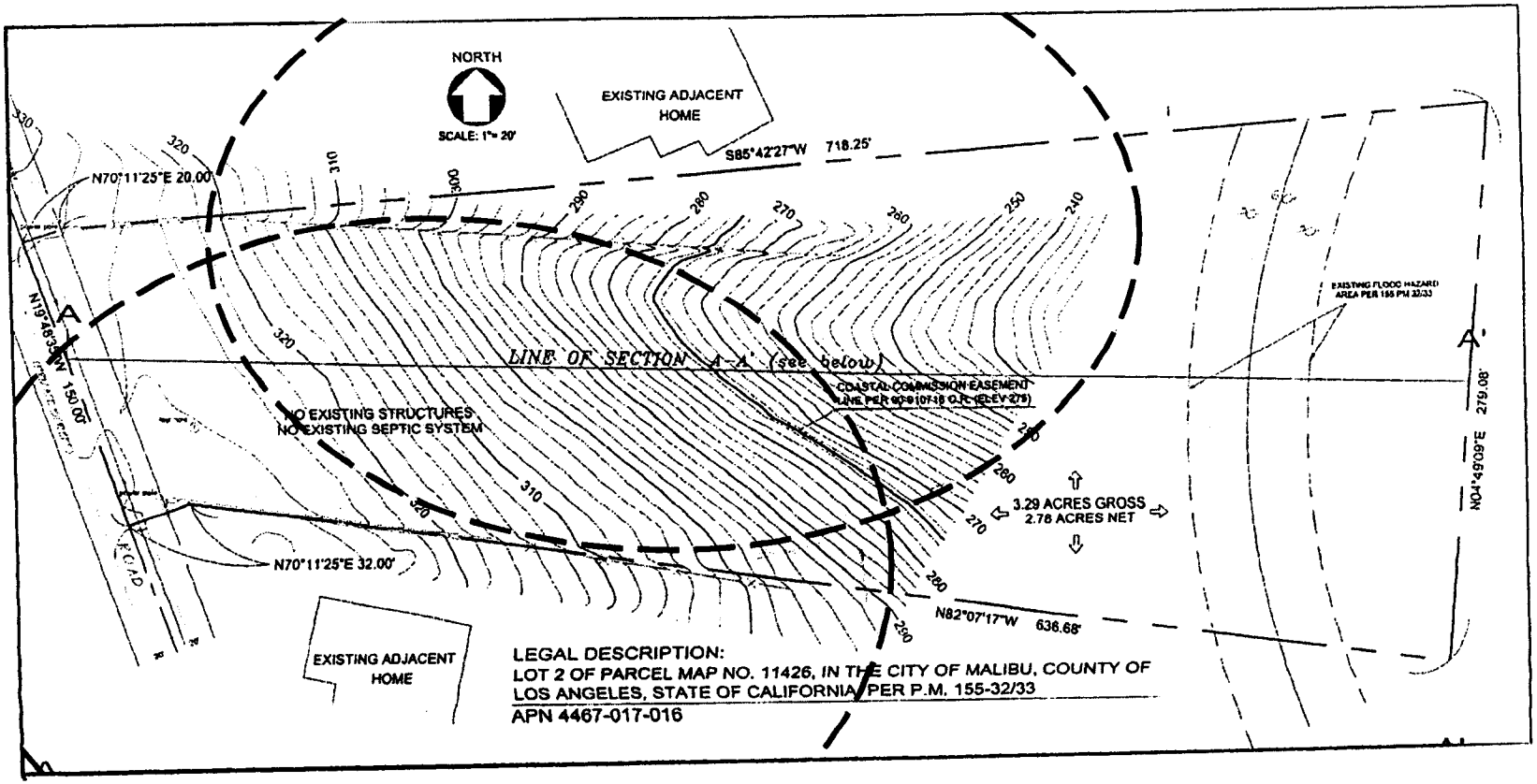
SECTION A-A

1/4"=1'-0"

SECTION B-B

EXHIBIT NO. 9
APPLICATION NO.
4-01-103
SECTIONS

EXHIBIT NO. 10
APPLICATION NO.
4-01-103
LANDSCAPE PLAN



Brush Clearance Radii of Adjacent Homes

EXHIBIT NO. 11
APPLICATION NO.
4-01-103
BRUSH CLEARANCE

Photo 1. Subject site from Cavalleri Road. Note building stakes and Kanan Dume Road in background.

EXHIBIT NO. 12
APPLICATION NO.
4-01-103
PHOTOS (4 pp.)

Photo 2. Subject site from Kanan Dume Road.

Photo 3. Upper portion of drainage swale on north side of subject site.

Photos 4 and 5. Lower slopes and riparian area at the subject site.