

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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Staff Report: 01/25/01  
Hearing Date: 2/13-16/00  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.** 4-00-110

**APPLICANT:** Marc Gurvitz

**AGENT:** Marny Randal

**PROJECT LOCATION:** 27640, 27720 & 27747 Winding Way, City of Malibu

**PROJECT DESCRIPTION:** Redivision of three parcels lots into three parcels. The applicant also proposes a deed restriction over the three redivided parcels prohibiting any future subdivision of the properties.

**Lot Area:**

Lot 1 - 6.00 ac. (before redivision)  
Lot 1 - 3.79 ac. (after redivision)  
Lot 2 - 8.89 ac. (before redivision)  
Lot 2 - 6.38 ac. (after redivision)  
Lot 3 - 0.36 ac. (before redivision)  
Lot 3 - 5.08 ac. (after redivision)

**Plan Designation:**

Residential I, one du/1 acre  
Residential II, Two du/1 acre &  
Rural Land III, 1du/2 acres

**LOCAL APPROVALS RECEIVED:** Approval in Concept, City of Malibu Planning Department, dated 5/11/00.

**SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends approval of the proposed project with special conditions regarding restriction on future subdivisions and assumption of risk. The proposed project, as conditioned, is consistent with the cumulative impact, visual resource, water quality and geologic and hazard policies of the Coastal Act.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan (1986); Coastal Development Permits 4-90-844 (Cirlin); 5-91-047 (Bay); 5-95-015 (Traub), 4-96-028 (Harberger); 4-96-150 (Rein et.al.); 4-96-187 (Sohal); 4-96-189 (Flinkman); 4-99-010 (McNicholas); 4-99-198 (Lescher); & 4-99-029 (Cornfield et.al.). Soils and Engineering Geologic Investigation prepared by California Geosystems dated April 7, 1997; Response to City of Malibu Geology and Geotechnical Engineering Review Sheet prepared by California Geosystems dated July 16, 1998; Response to City of Malibu Geology and Geotechnical Engineering Review Sheet prepared by California Geosystems dated August 31 1998. Archaeological Reconnaissance and Recommendations for Mitigation at 5941 Kanan Dume Road Malibu, California, By Chester King, dated December 27, 1998.

## **I. STAFF RECOMMENDATION**

**MOTION:** I move that the Commission approve Coastal Development Permit No. 4-00-110 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.

## **II. STANDARD CONDITIONS**

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

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. Special Conditions

#### 1. No Future Subdivision Deed Restriction

- A. The owners of parcels APN 4460-005-032, 4460-006-004 and 4460-006-014 agree, on behalf of themselves and all successors and assigns, that after the resubdivision of the above parcels into three lots as approved in Coastal Development Permit No. 4-99-110, no further subdivision of any of the three resulting lots shall occur, unless such further subdivision is solely for the express purpose of transferring property as open space to a public agency or nonprofit organization acceptable to the Executive Director.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall execute and record deed restrictions, in a form and content acceptable to the Executive Director, which reflect the above restriction regarding no future subdivision of the subject parcels and shall include legal descriptions of the applicants' resultant parcels. The deed restrictions 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 restrictions. These deed restrictions shall not be removed or changed without a Commission amendment to this coastal development permit.

#### 2. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees: (i) that Parcel 3 (APN – 4460-006-004) may be subject to hazards from landsliding, earth movement, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the

Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel, shall run with the land binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

#### **IV. Findings and Declarations.**

The Commission hereby finds and declares:

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

The applicant proposes to redivide three existing vacant parcels (Lot 1 - 6.00 ac., Lot 2 - 8.89 ac., & Lot 3 - .36 ac.), totaling 15.25 acres, into three newly configured parcels (Lot 1 - 3.79 ac., Lot 2 - 6.38 ac. & Lot 3 - 5.08ac). The applicant also proposes a deed restriction over the three redivided parcels prohibiting any further subdivision of the properties.

The three parcels are located just north of Pacific Coast Highway off of Winding Way East, a private road (Exhibits 1-3). An unimproved portion of Winding Way West connects with Winding Way East at the northern property boundary of existing Parcel 2. Porterdale Drive proceeds north from Winding Way north of existing Parcel 1. An unnamed United States Geologic Survey (USGS) blueline stream borders the western boundary of proposed Parcel 3 and contains only minimal riparian vegetation. The stream is not a designated environmental sensitive habitat area (ESHA) in the certified Malibu/Santa Monica Mountains Land Use Plan. A minor drainage that has been channelized is located just outside of the eastern property boundary of proposed Parcel 1. The vegetation over the three parcels consists of exotic invasive grasses that have been historically disked for fire prevention. The surrounding area is developed with large scale single family developments.

A phase one archeological report, prepared by Robert Wlodarski, dated June 1999, was prepared for existing Parcel 1 because a previous archaeological survey found some "isolates" (minor isolated resources) on existing Parcel 1. The new archaeological survey found no prehistoric, and no historic archeological resources on the site. The

remainder of the property does not have any recorded archeological sites and has a low potential for archaeological resources as determined by the City of Malibu Archeologist.

The Coastal Slope Trail is located directly south and adjacent to Winding Way East and West through the properties. Through the California Coastal Commission's approval of Los Angeles County Winding Way and DeButts Terrace Water Improvement Project No. 29 (CDP P-81-7713) the County agreed to dedicate an easement and construct a hiking and equestrian trail along the entire right-of-way of Winding Way and DeButts Terrace. The County completed the project and constructed the hiking and equestrian trail within an utility/hiking trail easement adjacent to Winding Way. The proposed redivision and grading will not block or result in any physical changes to the trail.

### **Existing Parcel Configuration**

As illustrated on Exhibit 4, the existing parcel configuration consists of two large parcels (Parcel 1 - 6 acres & Parcel 2 - 8.89 acres) and third small triangular parcel (Parcel 3 - .36 acres). The unnamed blue line stream runs through the middle of parcel three. The future development of this parcel in the existing parcel configuration would be difficult and would most likely require significant modifications of the blue line stream. The proposed reconfiguration would also result in the line separating existing parcels 1 and 2 to be moved to the west approximately 180 feet creating a smaller Parcel 1 (3.79 Ac.). The centerline of Winding Way will become the parcel boundary between Parcels 2 and 3 which would result in a slightly smaller Parcel 2 (6.38 ac.) and a significantly larger Parcel 3 (5.08 ac.). The following table sets forth the sizes of the existing and the redivided parcels.

<b>Parcel No.</b>	<b>Existing Parcel Size</b>	<b>Proposed Parcel Size</b>
Parcel 1	6.00 acres	3.79 acres
Parcel 2	8.89 acres	6.38 acres
Parcel 3	0.36 acres	5.08 acres

The proposed parcel reconfiguration was designed to create a larger Parcel 3 to provide a building site that would have adequate setbacks from the stream and a geologic hazard area. Winding Way which previously split Parcel 2 provided a logical eastern boundary for proposed Parcel 3. Proposed Parcel 2 was designed to accommodate a future 13,000 square foot residence with a tennis court and swimming pool.

### **B. New Development/Land Use Densities and Cumulative Impacts**

Section 30250 (a) of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public

services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources:

*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 it is applied in Section 30250(a) to mean that:

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

In past permit actions, the Commission has found that for Malibu and the Santa Monica Mountains, the coastal terrace area represents the existing developed area. The Commission has repeatedly emphasized, in past permit decisions, the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains coastal zone. The Commission has reviewed land division applications to ensure that newly created or reconfigured parcels are of sufficient size, have access to roads and other utilities, are geologically stable and contain an appropriate potential building pad area where future structures can be developed consistent with the resource protection policies of the Coastal Act. In particular, the Commission has ensured that future development on new or reconfigured lots can minimize ~~landform~~ alteration and other visual impacts, and impacts to environmentally sensitive habitat areas. Finally, the Commission has required that all new or reconfigured lots have adequate public services, including road, bridge, and driveway access that meets the requirements of the Fire Department.

The Commission has considered several projects which the applicants and the County treated as "lot line adjustments" which actually resulted in major reconfiguration of lot lines amongst several lots [4-96-28 (Harberger, et. al.) 4-96-150 (Rein, et. al.), 4-96-189 (Flinkman), 4-96-187 (Sohal)]. In these cases, the Commission has considered the proposed projects to actually be "redivisions" whereby existing property boundary lines are significantly modified to redivide the project site into the same number or fewer wholly reconfigured lots. The Commission has analyzed these proposals just as it analyzes a new subdivision of lots. The Commission has only permitted such redivisions where adequate fire access and other public services are available and where the resultant lots could be developed minimizing impacts to coastal resources.

As noted in the project description, the proposed project involves the redivision of three existing lots into three reconfigured lots. Therefore, the project does not increase the number of lots so there is no increase in density. The proposed project is located on the coastal terrace area of Malibu which is the area the Commission has previously found constitutes the existing developed area for the Malibu/Santa Monica Mountains. The area has adequate public services and is able to accommodate new development consistent with the requirements of Section 30250 of the Coastal Act

The certified 1986 Malibu Land Use Plan (LUP) density designation for this site is a combination of Residential I (1 dwelling unit/acre), Residential II (2 dwelling units/acre), & Rural Land III (1 dwelling unit/2 acres). Although the Certified Malibu Land Use Plan is not longer legally effective within the City of Malibu the Commission uses the plan as guidance in their review of development projects to determine consistency with the Coastal Act. The proposed lot line adjustment will not create any non-conforming parcel sizes or create lot configurations that would increase potential density. Existing Parcel 3 at .36 acres is currently not in conformance with the density designation in the LUP. The proposed Parcel 3 at 5.08 acres will be in conformance with the LUP density designation. As discussed in detail below, the applicant has proposed building sites on the three parcels that can be developed consistent with the Chapter Three policies of the Coastal Act and there are adequate services to accommodate the newly configured parcels.

Under the LUP density designations a maximum of 18 lots are allowed on the combined acreage of the three lots (15.25 acres) provided the new parcels could be developed consistent with the Chapter Three policies of the Coastal Act. Given the sloping hillside topography, geologic restricted use areas on the site, stream setback requirements, visual resource issues and water quality concerns an 18 lot subdivision could not be found consistent with the Chapter Three policies of the Coastal Act. The City of Malibu's interim Land Use Plan (LUP) designates the entire site at 1 dwelling unit/ 2 acres which would allow a maximum residential density of 7 lots. Although it is not likely a 7-18 lot subdivision could be approved on these parcels consistent with the Chapter Three policies of the Coastal Act it is likely that one additional lot that included grading plans designed to minimize landform alteration and visual impacts and water quality impacts could be found consistent with Chapter Three policies of the Coastal Act.

The applicant has a conceptual design for a future 13,000 square foot residence, with a tennis court, swimming pool complex and approximately 8,000 cubic yards of grading on Parcel 2. The substantial amount of grading for this future residence and accessory structures is equivalent to the grading required for two modest sized residences (4,000 – 6,000 sq. ft.) in the same topographic setting. The Commission has approved a number of residences in the Winding Way area in the range of 4,000 to 10,000 sq. ft. with grading amounts that typically did not exceed 5,000 cubic yards. Given that the grading and estate sized residential complex planned for Parcel 2 is equivalent to two single family residences the creation of additional residential lots on the three subject parcels would not be consistent with the Chapter Three policies of the Coastal Act. The applicant has proposed to deed restrict the three parcels from future subdivisions to

ensure there is no future increase in residential density on these parcels. In order to carry out the applicant's offer to deed restrict the subject properties from future subdivisions, the Commission finds, **Special Condition 1** is required.

Therefore, for the reasons set forth above, the Commission finds, that the proposed project, as conditioned, will not result in any significant individual or cumulative adverse impacts on coastal resources and consistent with Section 30250 of the Coastal Act.

C. 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. ...***

The applicant has submitted conceptual grading plans for future residential building pads and driveways on the three newly configured lots that include a total 14,283 cubic yards of grading (8,908 cu. yds. cut, 2,620 cu. yds. fill and 2,754 cu. yds. overexcavation). The Commission has required in past permit actions on redivisions of property that the applicant specify building sites and conceptual grading amounts to ensure the proposed parcels can be developed consistent with the Chapter Three Policies of the Coastal Act. The applicant is not proposing the construction of building pads and driveways at this time. The Commission recognizes that the grading proposed for the residential building sites on the three reconfigured parcels is conceptual and these grading designs may require minor modifications through future coastal development permits when residences are proposed on these lots. However, future residential developments should reflect the basic grading designs and development footprints outlined in the findings below.

To assess any potential visual impacts of this project to the public, the Commission reviews the publicly accessible locations from which the proposed development is visible, such as scenic highways, beaches, parks and trails. The proposed project site is located on a south facing gently to moderately sloping hillside approximately 200 feet north of Pacific Coast Highway. Pacific Coast Highway is a designated scenic roadway in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). The Commission has, in past decisions, required that development that may be viewed from scenic highways or other public areas to minimize impacts to visual resources. Portions of the proposed parcels are visible from Pacific Coast Highway.

The topography on the site consists of a broad ridge located in the central portion of Parcel 2 with gently sloping to moderately sloping hillsides to drainages on the eastern



and western property boundaries. The drainage on the western property boundary is a USGS designated blueline stream with minimal riparian vegetation. The minor drainage on the eastern property boundary is not a USGS designated blueline stream and it has been channelized into a large concrete "V" type ditch.

In their review of subdivisions of property or significant redivisions of existing parcels the Commission has required applicants to identify building sites and prepare grading plans to ensure the new parcels can be developed consistent with the Chapter Three policies of the Coastal Act. The conceptual grading plans propose a total of 14, 283 cubic yards of grading (8,908 cu. yds. cut, 2,620 cu. yds. fill and 2,754 cu. yds. overexcavation) to create driveways and building pads. The table below illustrates the grading proposed for each parcel.

Parcel #	Cut	Fill	Overexcavation	Total
Parcel 1	2,303 cu. yds.	693 cu. yds.	675 cu. yds.	3,671 cu. yds.
Parcel 2	4,887 cu. yds.	1,233 cu. yds.	1,879 cu. yds.	7,999 cu. yds.
Parcel 3	1,718 cu. yds.	694 cu. yds.	200 cu. yds.	2,613 cu. yds.

On Parcel 1 the applicant is proposing an approximately 10,000 sq. ft. pad cut into the hillside in a stepped design. A total of 1,387 cu. yds. of grading (1,316 cu. yds. cut, 71 cu. yds. fill) is required to construct the proposed building pad. The plan utilizes a retaining wall system (maximum 6 feet) to minimize the amount of landform alteration. The proposed building site is located in close proximity to Winding Way which minimizes the length driveway to the building pad. The proposed driveway will require 379 cu. yds of grading (366 cu. yds. cut, 13 cu. yds. fill). The applicant has also utilized retaining walls in the design of driveway to minimize the amount of landform alteration that is required to construct the driveway. The applicant has also factored in 712 cu. yds. of excavation for a basement for a future residence.

There is a 30 foot elevation difference between the road and the building pad on Parcel 1. Therefore, a future residence at 28 feet in height (maximum height allowed by the City of Malibu) will not block views of the ocean from the trail along Winding Way. The applicant has designed a building pad and driveway that minimize the alteration of the landform on Parcel 1. The proposed grading and building pad size is consistent with grading and building pads the Commission has permitted in the surrounding area. The grading required for the construction of the building pad and driveway for Parcel 1 will not significantly alter the existing landform and will not result in any adverse visual impacts as seen from Pacific Coast Highway or the Coastal Slope Trail adjacent to Winding Way.

The proposed building site on Parcel 2 is located on a gently sloping broad minor ridge. The proposed building site is visible from the public trail along Winding Way. As mentioned above, the applicant is planning to develop a large estate sized residential complex on this site that includes a 13,000 sq. ft. residence, with a 900 sq. foot garage, tennis court and swimming pool and 650 sq. ft. pool cabana. To accommodate the

future residence and accessory structures the applicant is proposing a total;7,999 cubic yards of grading (4,887 cu. yds., 1,233 cu. yds. fill & 1,879 cu. yds. overexcavation.). The proposed building pad will be cut into the gently sloping ridge to lower the building pad to minimize the visible impact of a future residence as seen from Pacific Coast Highway and the Coastal Slope Trail. The planned pad elevation will ensure a future residence at 28 feet in height will not adversely impact views of the coast and ocean as seen from the Coastal Slope Trail. The building pad and turn around area require a total 2,438 cubic yards of grading (2,256 cu. yds. cut, 182 cu. yds fill). The applicant has also included the amount of excavation required for a future basement for the proposed residence (1,384 cu. yds.). The proposed tennis court and swimming pool pad do not require a significant amount of grading and will not result in a significant alteration of the landform. The 4,000 square foot swimming pool pad will requires 134 cu. yds. cut and 324 cu. yds. fill with a maximum fill slope that runs approximately 15 feet downslope. The 7,500 square foot tennis court is proposed to be cut into the hillside just east of the swimming pool pad and will require 780 cu. yds. cut and will have a retaining wall (6 foot max.) supporting the cut slope. The swimming pool and tennis court pad will not be visible from Pacific Coast Highway but will be visible from the Coastal Slope Trail. The proposed driveway will require 1,385 cubic yards of grading to construct (331 cu. yds. cut and 723 cu. yds. fill) with a maximum fill slope extending 20 feet on the downhill side of the driveway. The driveway grading plan also incorporates some minor 2 foot high retaining walls that reduced the length of the cut and fill slopes required to support the driveway.

Although the applicant has worked with Commission staff to design a conceptual grading plan that minimizes the amount of landform alteration required to accommodate the future residence and accessory structures require a substantial amount of grading and landform alteration. As mentioned above, the grading and planned residential development for Parcel 2 is the equivalent of two more modest residential developments. In addition, the certified Malibu/Santa Monica Mountains LUP density designation for these sites would allow for a future subdivision for this property. Given the topography of the site, geologic and stream setback requirements, visual resource issues and potential water quality impacts associated with increased residential density it is not likely creation of more than one additional lot could be found consistent with Chapter Three policies of the Coastal Act. The applicant has proposed to deed restrict the three parcels from future subdivisions to ensure there is no future increase in residential density. In order to carry out the applicant's offer to deed restrict the subject properties from future subdivisions the Commission finds **Special Condition 1** is required.

The developable area of Parcel 3 is constrained by a geologic restricted use area and a unnamed blueline stream located on the western boundary of parcel three. The applicant has sited the proposed approximate 10,000 sq. ft. building pad as close to the eastern boundary and Winding Way as is feasible to maximize the setback from the geologic restricted use area and the stream. The proposed building pad is setback approximately 120 feet from the blueline stream. The building pad is designed to step down the hillside in three levels and incorporates a retaining wall system (6 foot max) to

minimize the length of cut and fill slopes to support the pad. The proposed pad will require 1,124 cu. yards of grading (430 cu. yds. of cut, 694 cu. yds. fill) to construct. The applicant has also proposes 1,287 cu. yds of excavation for a basement for a future residence on the site and 200 cubic yards of overexcavation to stabilize the site. The applicant has proposed a conceptual grading plan on Parcel 3 that minimizes grading and landform alteration by stepping the pad into the hillside. The proposed pad size and grading amounts are consistent with building pads and grading the Commission has permitted for nearby residential developments.

The applicant has designed conceptual building pads and driveways for the three reconfigured parcels that minimize grading and landform alteration and are consistent with the character of the residential development in the Winding Way area. Therefore, the Commission finds that, as conditioned, the proposed project is consistent with Section 30251 of the Coastal Act.

**D. Geology and Hazards**

Coastal Act Section 30253 provides that:

**Section 30253.**

***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.

Section 30253 of the Coastal Act requires that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The applicant has submitted Soils and Engineering Geologic Investigations, dated 8/9/99, 8/14/00, 9/26/ 00, 1/5/01 prepared by RJR Engineering Group. The applicants' consultant has analyzed the proposed building sites and has determined that future residential developments are

feasible from a geologic and geotechnical standpoint. However, on Parcels 1 and 3 the consultant has performed only preliminary geologic analysis. This investigation included some subsurface analysis of previous geologic borings of the site and identification of feasible building sites. The geologist has outlined a geologic restricted use area on Parcel 3 and percolation area for a future residence (Exhibit 5). Although the geologic analysis for parcels 1 and 3 are preliminary the geologist has indicated the parcels are suitable for residential development. When residences are proposed for these sites additional geologic review will be necessary in order specifically address foundation designs, retaining wall designs, additional remedial overexcavation and other geotechnical engineering requirements. On Parcel 2 the consultant has prepared an engineering geologic report that indicates Parcel 2 is suitable for residential development. The applicant's geologist states:

Based upon the available data, from our review, investigations and analysis, the subject residential improvements are feasible from a geologic and geotechnical standpoint and the site will be free of any geologic or geotechnical hazards, as long as the recommendations of this report are incorporated into the design and construction of the project. The site will be free of landslides, slippage and excess settlement within the guidelines described in this report, provided our recommendations are incorporated into the design and construction of the project.

The consulting geologist has identified building sites on the proposed parcels and has determined that future residential developments are feasible on the site from a geologic and geotechnical standpoint. Additional geologic engineering analysis will be required for Parcels 1 and 2 when residences are proposed on these parcels. However, the Commission notes that consulting geologist has identified a geologic restricted use area on Parcel 3 due to a landslide located to the northwest of the proposed building site and a flood hazard area along the stream to the west (Exhibit 5). The landslide is located approximately 80 feet west of the proposed building site. The restricted use area delineates an area that requires additional geologic and geotechnical analysis prior to construction in that area. The consulting geologist also indicates that when a residential development is proposed for this parcel additional investigations for a specific development plan will be necessary to more precisely determine the limits of the restricted use area or to develop an appropriate engineering solution for the residential development. Although the geologist has identified the proposed pad on Parcel 3 as an acceptable building location a landslide is located approximately 80 feet northwest of the building pad. The Commission finds that there is some inherent risk for future residential development located within or near potentially active landslide, such as the subject site, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by **Special Condition 2**. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same.

Based on the findings of the consulting geologist, the Commission finds that the proposed development, as conditioned herein, minimizes risks to life and property from geologic hazards and assures stability and structural integrity, as required by Section 30253 of the Coastal Act.,

**E. Water Quality**

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area.

PRC Section 30231 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, minimizing alteration of natural streams.***

The consulting geologist has evaluated the potential for each of the proposed lots to accommodate a private sewage system (RJR Engineering Group, Preliminary Geologic and Geotechnical Engineering Report Proposed Residential Development East Winding Way, August 9, 1999; and RJR Engineering Group, California Coastal Commission Comments proposed Lot Line Adjustment Winding Way City of Malibu, August 14, 2000). Percolation tests for each lot confirm that private sewage disposal systems are feasible on the subject parcels. The consulting geologist indicates that the use of an on-site sewage disposal system will not adversely affect the stability of the site or offsite properties.

Based upon the consultant's evaluation, the Commission finds that the installation of future septic systems on the proposed lots will not contribute to adverse health effects and geologic hazards in the local area. In addition, the proposed percolation area for Parcel 3 is setback 100 feet from the stream channel. The Commission has found through past permit actions that septic percolation pits or fields should be setback a minimum of 100 feet from stream channels to ensure there is adequate groundwater filtration of the effluent before it enters a creek. The Commission has also found that favorable percolation test results, in conjunction with adequate setbacks from streams and other water resources, and/or review by local health departments ensures that the discharge of septic effluent from the proposed project will not have adverse effects upon coastal resources. Therefore, the Commission finds that with regard to the feasibility of future septic systems, the proposed project is consistent with PRC Section 30231.

**F. 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 of Malibu's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

**G. California Environmental Quality Act**

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.

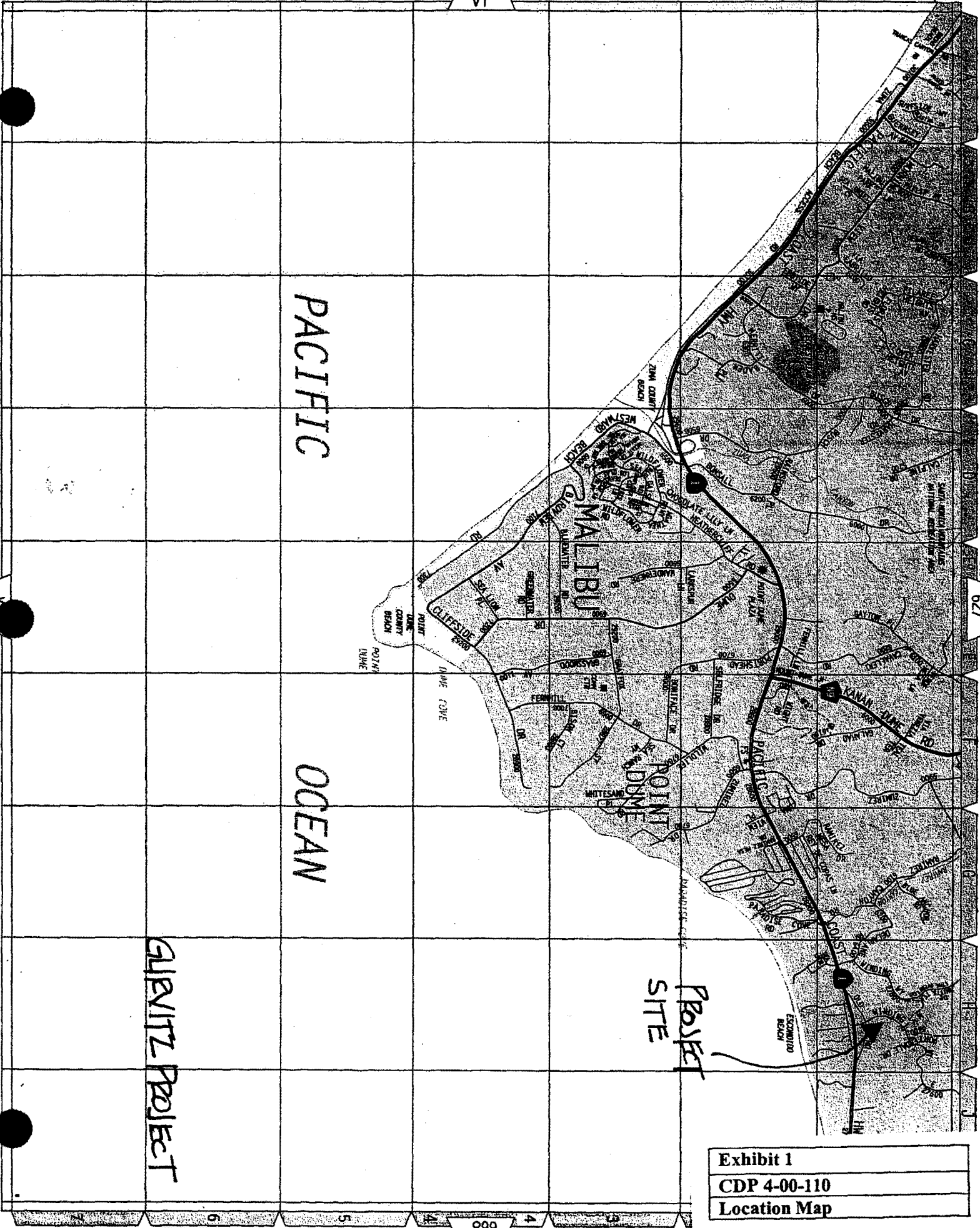
PACIFIC

OCEAN

GUERITZ PROJECT

PROJECT SITE

Exhibit 1  
CDP 4-00-110  
Location Map



ESRI ArcExplorer 1.1

4-00-110 (27640, 27720, 27747 Winding Way)



Blue Line Streams  
laprcis

Exhibit 2  
CDP 4-00-110  
Parcel Map

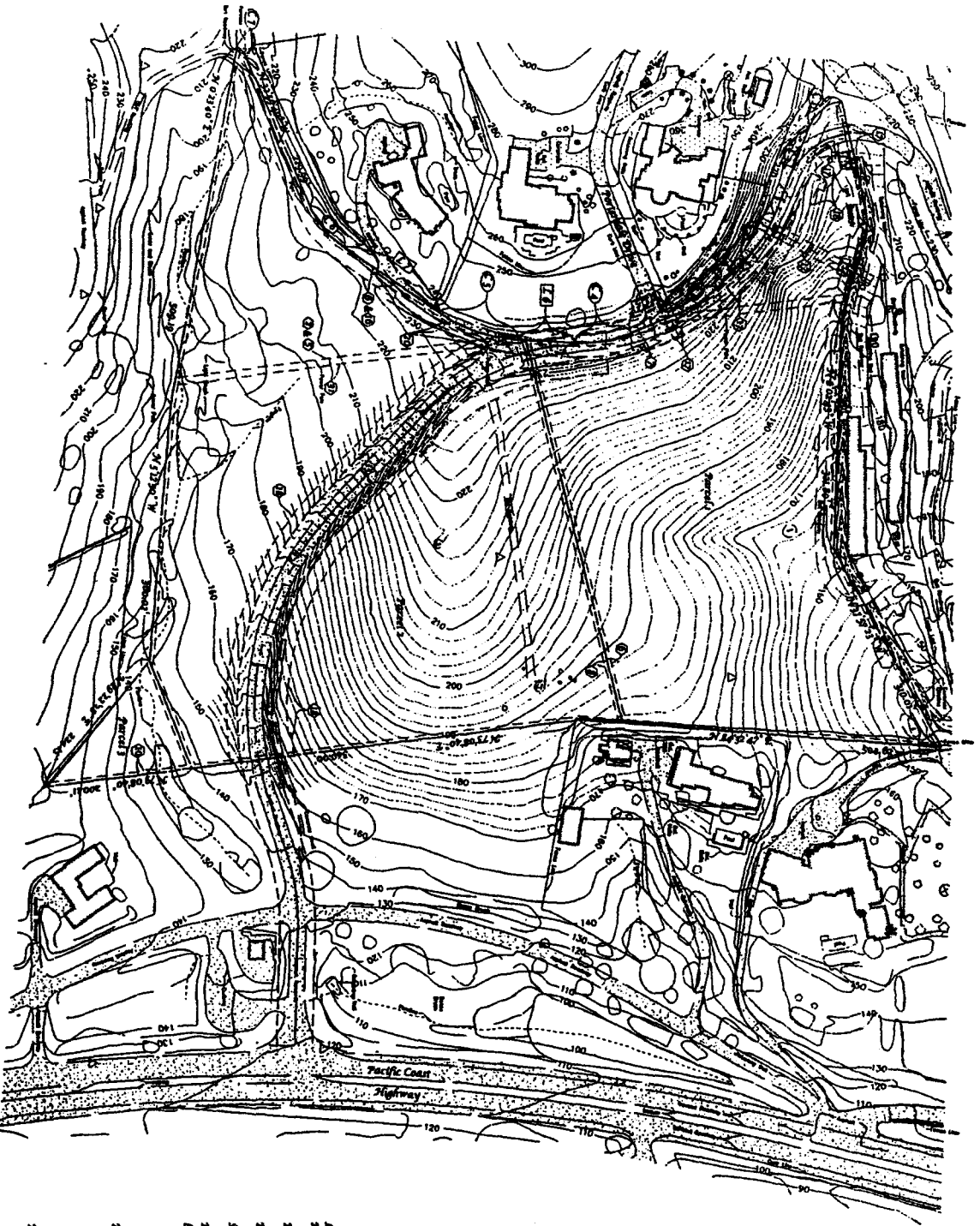
Feet  
0 100 200



Wednesday, Jan 24 2001



# Topography Survey



Scale: 1" = 60'

N

Line Table		Area	
Line	Bearing	Length	Area
1	N 89° 07' E	140.00	1.40
2	N 21° 18' W	177.25	1.13
3	N 10° 24' 00" E	133.66	0.87
4	N 33° 13' W	54.42	0.31
5	N 57° 10' E	78.15	0.48
6	N 84° 30' E	78.07	0.48
7	N 63° 13' W	138.25	0.87

**Exhibit 3**  
**CDP 4-00-110**  
**Topographic Survey**

- ① Item 1: The statement for this line.
- ② Item 2: The statement for this line.
- ③ Item 3: The statement for this line.
- ④ Item 4: The statement for this line.
- ⑤ Item 5: The statement for this line.
- ⑥ Item 6: The statement for this line.
- ⑦ Item 7: The statement for this line.
- ⑧ Item 8: The statement for this line.
- ⑨ Item 9: The statement for this line.
- ⑩ Item 10: The statement for this line.
- ⑪ Item 11: The statement for this line.
- ⑫ Item 12: The statement for this line.
- ⑬ Item 13: The statement for this line.
- ⑭ Item 14: The statement for this line.
- ⑮ Item 15: The statement for this line.
- ⑯ Item 16: The statement for this line.
- ⑰ Item 17: The statement for this line.
- ⑱ Item 18: The statement for this line.
- ⑲ Item 19: The statement for this line.
- ⑳ Item 20: The statement for this line.

Legend:  
 Δ = 100'

**Legal Description:** A portion of the Rancho Topanga Malibu Segue  
 Block 1, Page 407 et seq. of public records.

**Boundary:** Record information adjusted to final survey monuments.

**Date of Survey:** November 28, 1999

**Site Address:** Windy Way, Malibu

**Survey Point:** Assumed to be on Los Angeles County Road Department  
 bench mark & by public job adjustment.

**Plan Prepared For:** Mark Gervais  
 40 Lerma Boulevard  
 Van Nuys, CA 91411  
 (818) 709-4333

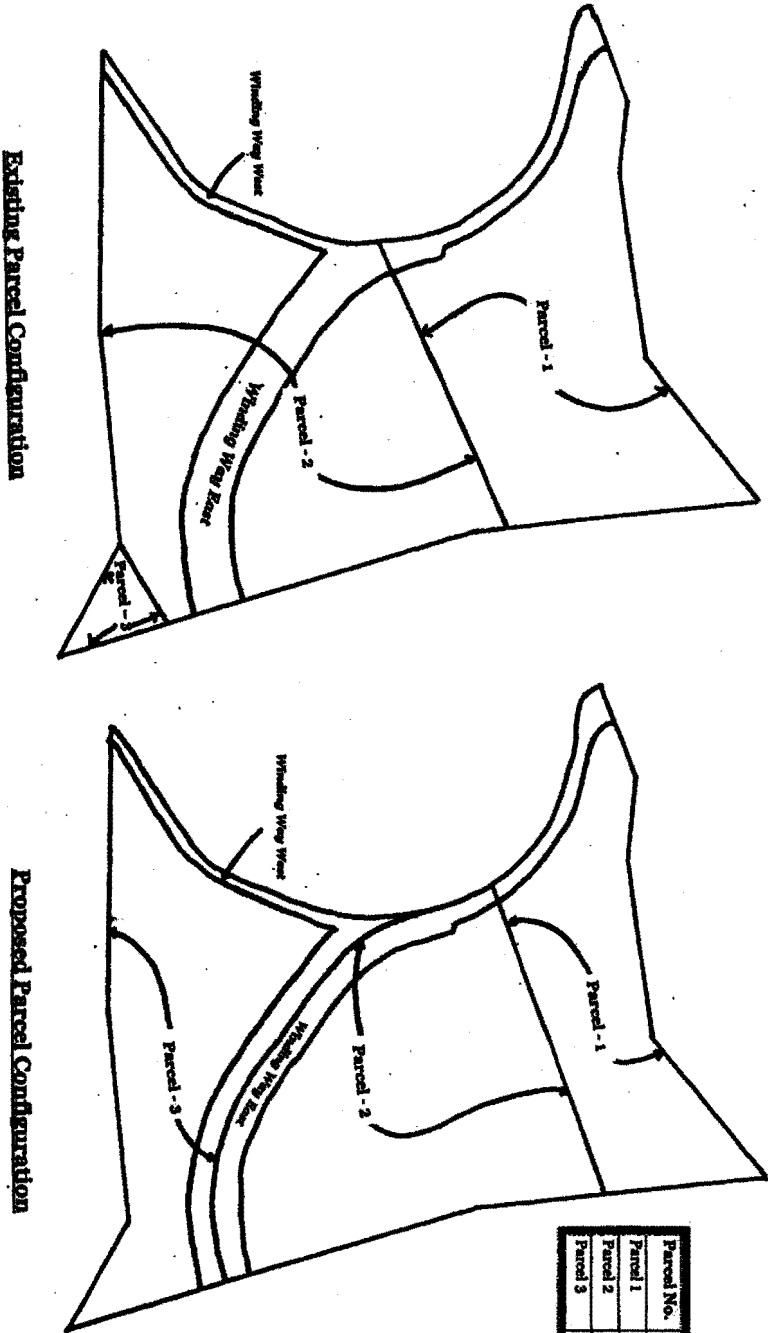
**Plan Prepared By:** M & S & Company  
 8447 Pacific Avenue  
 Northridge, CA 91321  
 (818) 869-1100  
 Michael J. Simonson, L.S. 5307



Existing and Proposed Parcel Configuration

Exhibit 4
CDP 4-00-110
Existing & Proposed Parcels

Parcel No.	Existing Parcel Size	Proposed Parcel Size
Parcel 1	6.00 acres	3.79 acres
Parcel 2	6.89 acres	6.58 acres
Parcel 3	0.36 acres	5.08 acres



Not To Scale

Geologic Restricted  
Use Area

Percolation Area

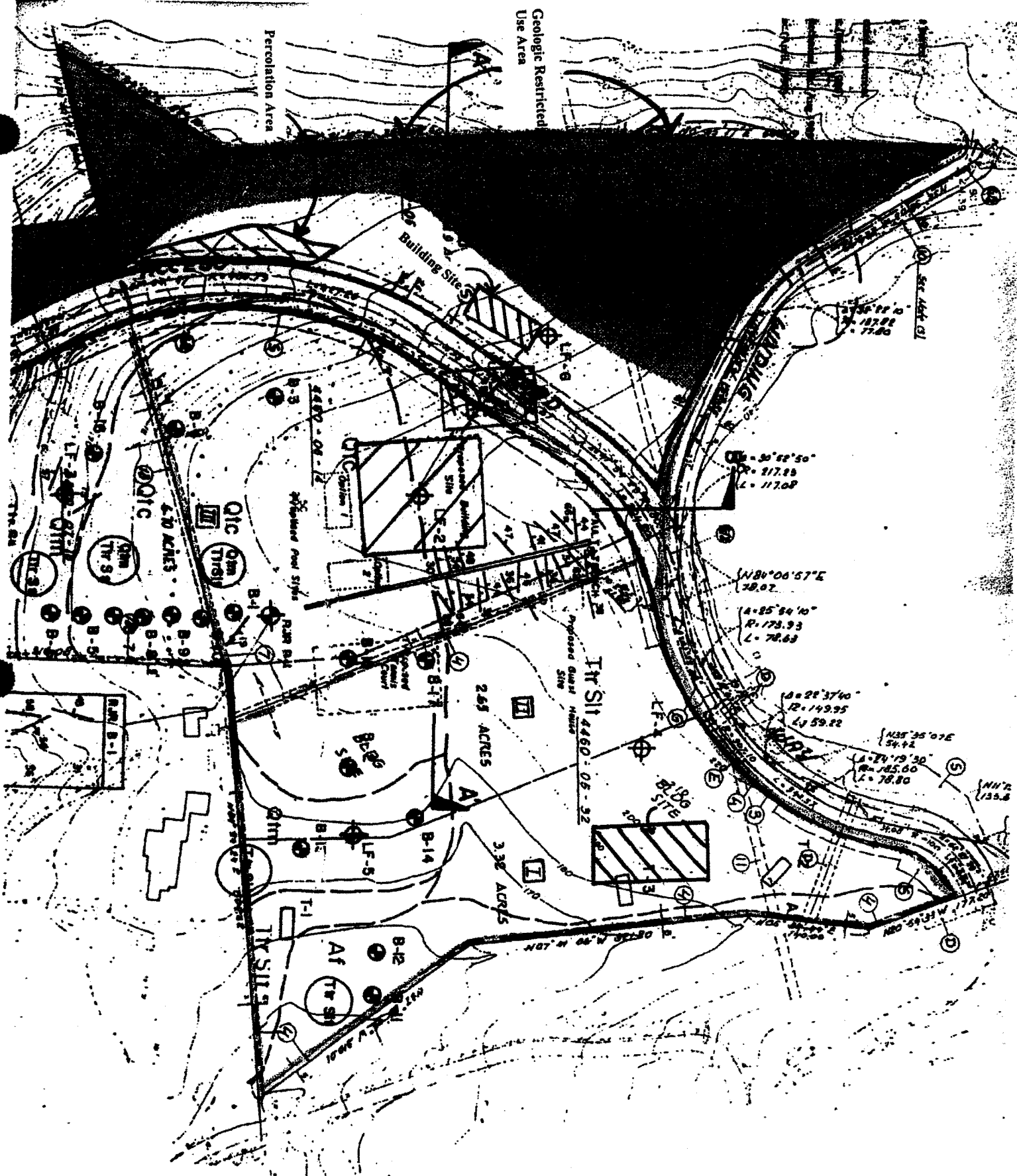
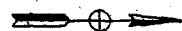


Exhibit 5
CDP 4-00-110
Building Sites & Geology





CALCULATED/ DESIGNED BY	CLE	DATE 11/00	REVISED BY
CHECKED BY	JMC	DATE 11/00	DATE REVISED

[illegible][illegible]

Dr. James (Doc) McQuinn, Sheriff's  
Deputy, for 1968, because  
of his "unimpaired ability  
to perform his duties."  
McQuinn was 42 years old  
and had been married for  
12 years. He had two  
children, a son and a  
daughter, both of whom  
were in college. He was  
a member of the American  
Society of Civil Engineers  
and the American Society  
of Mechanical Engineers.  
He was also a member of  
the local chapter of the  
United Brotherhood of Car-  
penters and Joiners of  
America.

### EASEMENTS:

① EASEMENT FOR AFORE SAID

③ EASTMAN, ROY VELLEMAN

# STRENGTH OF THE UNITED STATES

金 融 學

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1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 26

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### Grading Plan Parcel 3