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CALIFORNIA COASTAL COMMISSION
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Commission Action:	

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-99-283

APPLICANT: Jamie Gumins

PROJECT LOCATION: 22560 Carbon Mesa Road, Malibu, Los Angeles County.

PROJECT DESCRIPTION: Construction of a one-story, 18 ft. high, 5,200 sq. ft. single family residence with attached 3-car garage, detached 430 sq. ft. guest unit, new driveway, pool, septic system, dewatering well, and approximately 685 cu. yds. grading (590 cu. yds. cut, 95 cu. yds. fill, 495 cu. yds. export).

Lot area:	64,819 sq. ft.
Building coverage:	5,960 sq. ft.
Pavement coverage:	2,690 sq. ft.
Landscape coverage:	34,563 sq. ft.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department Approval-In-Concept 11/17/99; City of Malibu Department of Environmental Health In-Concept Approval for sewage disposal system and dewatering well 2/25/00; City of Malibu Geology and Geotechnical Engineering Review Referral Sheet 8/26/99; County of Los Angeles, Fire Department, Final Fuel Modification Plan Approved 1/5/00.

SUBSTANTIVE FILE DOCUMENTS: Update Geotechnical Engineering Report, Geotechnical Engineering Responsibility, Response to the City of Malibu, by West Coast Geotechnical, dated 1/4/99; Addendum to Geotechnical Report, dated May 27,1997, and Response to City of Malibu Geology and Geotechnical Review Sheet, by Gorian & Associates, dated 2/6/98; Supplemental Geotechnical Investigation by Gorian & Associates, dated 5/27/97; Report of Soil Engineering Investigation, by SWN Soiltech Consultants, Inc., dated 7/10/90; Engineering Geologic and Geotechnical Investigation, by Donald B. Kowalewsky, dated 6/30/90; Addendum Geologic Engineering Report #4, Clarification of Proposed Dewatering Well and Private Sewage Disposal System, by Mountain Geology Inc., dated 12/6/00; Engineering Geologic Update Letter and Addendum Engineering Geologic Report #3, by Mountain Geology Inc., dated 10/31/00; Addendum Geologic Report #2, Clarification of Established Geologic Setback Line and Restricted Use Area, by Mountain Geology Inc., dated 6/29/00; Supplemental

Engineering Geologic Report, by Mountain Geology Inc., dated 7/20/99; Addendum Engineering Geologic Report #1, by Mountain Geology, dated 11/11/98; Update Engineering Geologic Report, by Mountain Geology Inc., dated 9/25/98.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with **7 Special Conditions** regarding (1) conformance to geologic recommendations for design and construction, (2) drainage and polluted runoff control, (3) landscaping and erosion control, (4) removal of natural vegetation, (5) removal of excess grading material, (6) assumption of risk, and (7) future improvements.

The applicant is proposing to construct a one-story, 18 ft. high, 5,200 sq. ft. single family residence with attached 3-car garage, detached 430 sq. ft. guest unit, new driveway, pool, dewatering well, and private sewage disposal system. The proposed project also includes 685 cu. yds. of grading (590 cu. yds. cut, 95 cu. yds. fill, 495 cu. yds. export). Due to geological constraints at the project site a portion of the proposed residence and the pool are to be constructed on a deepened foundation consistent with the recommendations of the consulting engineering geologist. As conditioned the proposed project will be consistent with all applicable policies of the Coastal Act.

I. STAFF RECOMMENDATION

MOTION: ***I move that the Commission approve Coastal Development Permit No. 4-99-283 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. Plans Conforming to Geologic Recommendation

All recommendations contained in the Update Geotechnical Engineering Report, Geotechnical Engineering Responsibility, Response to the City of Malibu, by West Coast Geotechnical, dated 1/4/99, the Supplemental Engineering Geologic Report, by Mountain Geology Inc., dated 7/20/99, and the Update Engineering Geologic Report, by Mountain Geology Inc., dated 9/25/98 shall be incorporated into all final design and construction including foundations, grading, drainage, and sewage disposal. Final plans must be reviewed and approved by the engineering geologist and geotechnical engineering consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, 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.

2. Drainage and Polluted Runoff Control Plans

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

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

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

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

The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

3. Landscaping and Erosion Control Plans

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

A. Landscaping Plan

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

(2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Plantings should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.

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

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

(5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B. Interim Erosion Control Plan

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

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

site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

(3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C. Monitoring

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

4. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

5. Removal of Excess Grading Material

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

6. Assumption of Risk

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from fire, 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.

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 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 Commission amendment to this coastal development permit.

7. Future Improvements

This permit is only for the development described in Coastal Development Permit No. 4-99-283. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6) and 13253 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) and (b) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-99-283, including the detached 430 sq. ft. guest unit, and any fencing, grading, landscaping, clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition 3, shall require an amendment to Permit No. 4-99-283 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

Prior to the issuance of the coastal development permit the applicants shall Execute and record a deed restriction in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include legal description of the applicant's entire 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.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to construct a one-story, 18 ft. high, 5,200 sq. ft. single family residence with attached 3-car garage, detached 430 sq. ft. guest unit, new driveway, pool, septic system, and dewatering well (Exhibits 4-8). The proposed project also includes approximately 685 cu. yds. grading (590 cu. yds. cut, 95 cu. yds. fill, 495 cu. yds. export). Due to geological constraints at the project site (discussed in detail under Section B.), a portion of the proposed residence and the pool are to be constructed on a deepened foundation system founded into bedrock located below the geologic setback plane established at the project site.

The project site is a 64,819 sq. ft. parcel located north of Pacific Coast Highway at the northeasterly end of Carbon Mesa Road in the City of Malibu (Exhibits 1,2). The project site is comprised of a level building pad area containing remnants of a residence destroyed by fire at the south-west portion of the site, and sloping terrain which descends northeasterly from the building pad area to a natural ravine that traverses the north-east corner of the property (Exhibit 3). Total relief within the subject site is approximately 100 ft. and topography at the site ranges from relatively level at the building pad to approximately 1:1 in steepness at the site's canyon slopes.

No designated environmentally sensitive habitat area exists at the subject site, however, the northwest-southeast trending ravine at the site is vegetated with extensive natural vegetation. In addition, the canyon slopes at the project site also contain natural vegetative cover consisting of a variety of native plant species including coyote brush (*baccharis pilularis),* sugar bush *(rhus ovata),* California coffeeberry *(rhamnus californica),* laurel sumac *(malosma laurina),* and toyon *(heteromeles arbutifolia*). The applicant has submitted a Final Fuel Modification Plan Approved by the County of Los Angeles Fire Department, Fuel Modification Unit, dated 1/5/00 which indicates that the fuel modification zone requirements for the proposed residence will extend over a 200 ft. radius from the proposed structure covering the entire subject parcel as well as some portions of adjacent properties. However, fuel modification associated with the proposed project will not extend further than that already required for adjacent development (Exhibit 9). The fuel modification radius of 200 ft. from the proposed project will extend onto the slopes descending toward the natural ravine, however, the affected area is already within the fuel modification zone of adjacent structures. Some thinning and trimming of native shrubs on the canyon slope will be required, however, the amount and extent of these impacts will not exceed what is already required. Further setbacks of the proposed development from the canyon slope would not reduce fuel modification impacts on the subject site or adjacent properties. As such, the proposed project and required fuel modification measures will not result in significant

adverse impacts to previously undisturbed natural vegetation on the project site or properties adjacent to the site.

The project site is located north of Pacific Coast Highway within a hillside area developed with several single family residences. Due to the natural topography of the area the proposed project will not be visible from Pacific Coast Highway or any public viewing area. The proposed project will be compatible with the scale and character of existing development in the surrounding area, therefore the proposed project will not have an adverse impact on visual resources.

B. Geology and Fire Hazard

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

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

> ***(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.***
>
> ***(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and to minimize risks to life and property in areas of high geologic, flood, and fire hazard. The applicant has submitted an Update Geotechnical Engineering Report, Geotechnical Engineering Responsibility, Response to the City of Malibu, by West Coast Geotechnical, dated 1/4/99, a Supplemental Engineering Geologic Report, by Mountain Geology Inc., dated 7/20/99, and an Update Engineering Geologic Report, by Mountain Geology Inc., dated 9/25/98 which evaluate the geologic stability of the subject site in relation to the proposed development. Additionally, the applicant has submitted four Addendum Reports prepared by Mountain Geology Inc., dated 11/11/98, 6/29/00, 10/31/00, and 12/6/00 responding to the City of Malibu's geology and geotechnical review and Coastal Commission staff questions regarding the proposed project. The consultants have stated that the subject site is suitable for the proposed development, however, the consultants have also indicated that they concur with the previous findings of

engineering geologic and geotechnical engineering studies prepared by Donald Kowalewsky (6/30/90), which concluded that potentially unstable bedrock underlies the eastern portion of the subject property. The Update Engineering Geologic Report prepared by Mountain Geology Inc., dated 9/25/98 states in part:

> *As previously discussed, Donald Kowalewsky concluded that "incipient" landslide debris (i.e. potentially unstable bedrock) underlies the eastern portion of the subject property (Kowalewsky, June 30, 1990).*
>
> *The "incipient landslide debris is described as severely fractured and sheared siltstone which overlies a clay shear plane. Kowalewsky concluded that this association is indicative of an incipient landslide failure.*
>
> *...for conservative geologic planning and construction practice, Mountain Geology, Inc. (like that of Kowalewsky) has established a Geologic Setback Plane located 20 feet (horizontal) to the west of the mapped shear plane.*
>
> *The recommended bearing material is the underlying* ***bedrock.*** *It is recommended that habitable structures (or portions of) located east of the Geologic Setback Line be founded into bedrock located below the established Geologic Setback Plane. This material can be reached with a combination of conventional and deepened foundation systems following site preparation.*

The Update Engineering Geologic Report prepared by Mountain Geology Inc., dated 9/25/98 further states:

> *Consistent with recommendations of Kowalewsky and Gorian, it is recommended that a dewatering well be installed in the eastern portion of the subject property. The dewatering well shall be installed to a depth of 100 feet...The installation of a dewatering well is intended to prevent a rise in the underlying level of groundwater due to irrigation, natural water infiltration, and discharge of sewage effluents so as to insure slope stability.*

Due to the potential for elevated groundwater at the subject site to affect slope stability, Commission staff requested that the applicant provide additional analysis on the feasibility of installing an alternative sewage disposal system for the proposed development which could minimize effluent percolation into groundwater underlying the site. Mountain Geology, Inc. has evaluated the proposed conventional private sewage disposal system utilizing a septic tank and seepage pits and determined that the system is feasible for the site. The Supplemental Engineering Geologic Report prepared by Mountain geology, Inc., dated 7/20/99 states in part:

> *The underlying bedrock should provide adequate absorption of effluent, however, more than one pit may be required. The use of a private sewage disposal system on the subject property should not adversely affect the stability of the site or adjoining properties.*

Based upon the findings of our supplemental engineering geologic investigation of the subject property, ponding, mounding, or daylighting of sewage effluent is NOT anticipated to occur.

Anticipated paths of future effluent are vertically downward through fractures and along steeply dipping bedding planes of the underlying bedrock.

The installation of a private sewage disposal system and the discharge of effluents on the site will not create or cause adverse conditions to the site or adjacent properties due to the favorable geologic structure, favorable nature of the earth materials with respect to percolation rates, and the favorable effect of the recommended capping depth.

Furthermore, the Clarification of Proposed Dewatering Well and Private Sewage Disposal System report prepared by Mountain Geology, Inc., dated 12/6/00 states:

With respect to the proposed private disposal system (i.e. conventional septic tank and seepage pits) planned for the southwest portion of the site, MGI has concluded that the discharge of effluents within the southwest portion of the site will not raise the underlying level of groundwater beneath <u>any</u> portion of the site.

Thus, MGI has concluded that the installation and use of an "alternative" or evapotranspiration private sewage system is not necessary as part of the proposed development.

The project engineering geologist and geotechnical engineering consultants have identified and discussed geologic constraints of the subject property potentially affecting development of the site and have made specific recommendations for the design and construction of the proposed residence and sewage disposal system to minimize potential geological hazards. Based on their evaluation of the project site in relation to the proposed project the consultants have determined that the project site is appropriate for the proposed development. Mountain Geology, Inc. concludes in their Update Engineering Geologic Report dated 9/25/98:

Based upon our investigation, the proposed development will be free from geologic hazards such as landslides, slippage, active faults, and settlement. The proposed development and installation of the private sewage disposal system will have no adverse effect upon the stability of the site or adjacent properties provided the recommendations of the Engineering Geologist and Geotechnical Engineer are complied with during construction.

In addition, the Update Geotechnical Engineering Report, Geotechnical Engineering Responsibility, Response to the City of Malibu, by West Coast Geotechnical, dated 1/4/99 states:

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

The Update Geotechnical Engineering Report, Geotechnical Engineering Responsibility, Response to the City of Malibu, by West Coast Geotechnical, dated 1/4/99, Supplemental Engineering Geologic Report, by Mountain Geology Inc., dated 7/20/99, the Update Engineering Geologic Report, by Mountain Geology Inc., dated 9/25/98, and subsequent Addendum Reports prepared by Mountain Geology, Inc. include several recommendations to be incorporated into project construction, design, drainage, and sewage disposal to ensure the stability and geologic safety of the proposed development. To ensure that the recommendations of the consultants have been incorporated into all proposed development the Commission, as specified in **Special Condition 1,** requires the applicant to submit project plans certified by the consulting engineering geologist and geotechnical engineer as conforming to all structural and site stability recommendations for the proposed project. Final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultants shall require an amendment to the permit or a new coastal development permit.

The Commission finds that minimizing site erosion will add to the geologic stability of the project site and that erosion will be minimized by incorporating adequate drainage, erosion control, and appropriate landscaping into the proposed development. To ensure that adequate drainage and erosion control is included in the proposed development the Commission requires the applicant to submit drainage and erosion control plans certified by the consulting engineering geologist and geotechnical engineer, as specified in **Special Conditions 2 and 3**.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will reduce run-off and erosion and serve to enhance and maintain the geologic stability of the site. Therefore, **Special Condition 3** requires the applicant to submit landscaping plans certified by the consulting engineering geologist and geotechnical engineer as in conformance with their recommendations for landscaping and irrigation of the project site. Special Condition 3 also requires the applicant to utilize and maintain drought tolerant native and noninvasive plant species compatible with the surrounding area for landscaping the project site, thereby minimizing the amount of irrigation water that must be applied to the site. Limiting irrigation reduces potential erosion that may occur due to excess water run-off.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. Non-native and invasive plant species with high surface/foliage weight and shallow root structures may destabilize canyon slopes such as those located on the subject property, and thereby increase erosion. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. In addition, native shrubs require little, if any, artificial irrigation once established. Therefore, the Commission finds that in order to ensure site stability, all slopes and

disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in Special Condition 3.

In addition, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition 4**. This restriction specifies that natural vegetation shall not be removed within Zone A (up to 50 ft. from applicable pad areas) until grading or building permits have been secured and fuel modification from 50-200 ft. from the final structures shall not occur until construction of the permitted structures has commenced. The limitation imposed by Special Condition 4 avoids the premature and unnecessary loss of natural vegetative cover which may result in unnecessary erosion in the absence of final drainage and run-off control devices and the full implementation of the landscape and interim erosion control plans.

The Commission notes that the quantity of cut grading required for construction of the proposed residence is more than the quantity of fill required for construction resulting in an excess of 634 cu. yds. of graded earth material. Stockpiles of dirt are subject to increased erosion. Therefore, **Special Condition 5** requires the applicant to export all excess grading material from the project site to an appropriate site for disposal and provide evidence to the Executive Director of the location of the disposal site prior to issuance of a coastal development permit.

The Commission finds that the proposed project, as conditioned, will serve to minimize potential geologic hazards of the project site and adjacent properties. However, the Commission finds that there remains an inherent risk in building on the subject site with the geologic conditions and constraints described in this section, and due to the fact that the project site is located in an area subject to an extraordinary potential for damage or destruction from wildfire. Typical vegetation in the Santa Monica Mountains consists predominantly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. Additionally, the typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Therefore, the Commission can only approve the project if the applicant assumes the responsibility and liability from the risks associated with developing the project as required by **Special Condition 6**. 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 that may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same. Moreover, through acceptance of Special Condition 6, the applicants agree to indemnify

the Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage from geologic and wildfire hazard exists as an inherent risk.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions and danger from wildfire is often required for new development in the Malibu/Santa Monica Mountains, particularly where past or potential landslide conditions are identified on or adjacent to the site in question. The Commission has required such deed restrictions for other development with similar risks throughout the Malibu/Santa Monica Mountains region.

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

C. Water Quality

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

Section **30231** of the Coastal Act states:

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

As described, the proposed project includes construction of a 5,200 sq. ft. single family residence with an attached 3-car garage, detached 430 sq. ft. guest unit, new driveway, pool, septic system, dewatering well, and approximately 685 cu. yds. grading (590 cu. yds. cut, 95 cu. yds. fill, 495 cu. yds. export). The project site is a 64,819 sq. ft. parcel located on relatively level to steeply sloping terrain which descends at the rear of the parcel to a natural ravine traversing the north-east corner of the property. Therefore, site conditions, including the steeply sloping terrain, combine to create significant potential for run-off and erosion, and the associated impacts to down gradient water quality.

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

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

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85^{th} percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition 2**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

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

Finally, the proposed development includes the installation of an on-site private sewage disposal system with a 2,500 gallon tank and seepage pits to serve the residence. The applicant's engineering geologic consultant has performed infiltration tests and evaluated the proposed septic system. The report concludes that the site is suitable for the septic system and that no adverse impact to the site or surrounding areas will result from the use of the proposed septic system. The City of Malibu Environmental Health Department has additionally given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

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

D. Cumulative Impacts

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

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

Section 30252 of the Coastal Act states:

> ***The location and amount of new development should maintain and enhance public access to the coast by (l) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute***

means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Pursuant to Coastal Act Sections 30250 and 30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. The applicant is proposing to construct a detached 430 sq. ft. guest unit that is not proposed to be used as a second residential unit, however, the detached structure that could potentially be converted for residential use in the future.

Based on the requirements of Coastal Act Section 30250 and 30252, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are intended only for occasional use by guests, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence or residential second units. Finally, the Commission has found in past permit decisions that a limit of 750 sq. ft. encourages the units to be used for their intended purpose –as a guest unit- rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act in this area.

The applicant proposes to construct a one-story, 18 ft. high 5,200 sq. ft. single family residence with an attached three-car garage, and a detached 430 sq. ft. guest unit. The applicant is not proposing to construct a second residential unit, but is proposing to construct a significant detached structure with 430 sq. ft. of habitable square footage that could potentially be converted for residential use in the future. The Commission finds that the proposed 430 sq. ft. guest unit meets the 750 sq. ft. limitations for maximum habitable square footage for second units which may be considered a secondary dwelling.

The Commission finds it necessary to ensure that no additions or improvements are made to the detached guest unit in the future that may enlarge or further intensify the use of this structure without due consideration of the cumulative impacts that may result. Therefore, the Commission finds it necessary to require the applicant to record a future development deed restriction, as specified in **Special Condition 7**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the detached structure are proposed in the future. As conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with Section 30250 and 30252 of the Coastal Act.

E. Local Coastal Program

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

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

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

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmentally Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

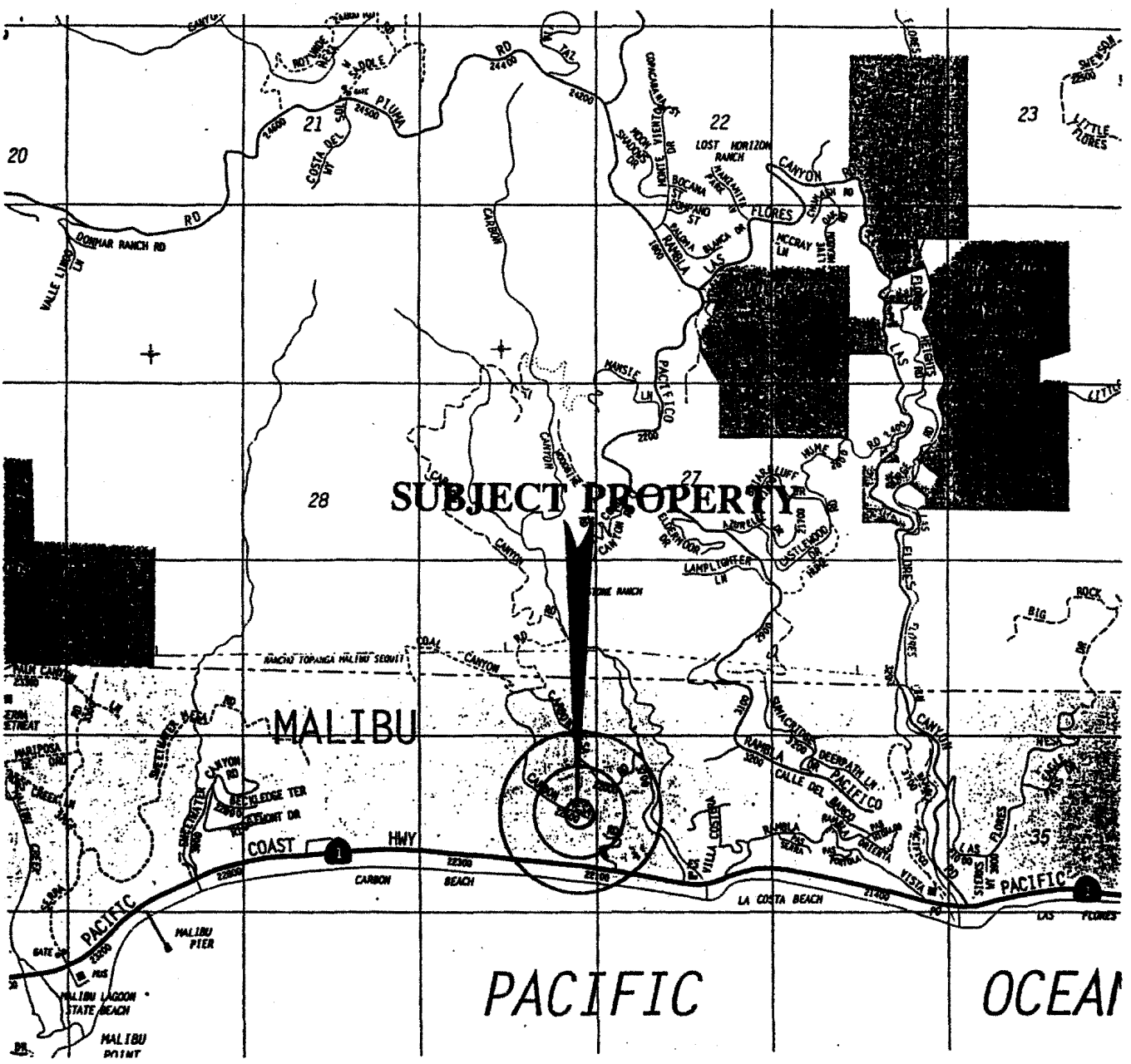
The Commission finds that, the proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be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

Mountain Geology, Inc.

CONSULTING ENGINEERING GEOLOGISTS

VICINITY MAP

REFERENCE: THOMAS BROTHERS MAP GUIDE, PAGE 629



NORTH

SCALE

0 FT 2800 5600 8400 11200

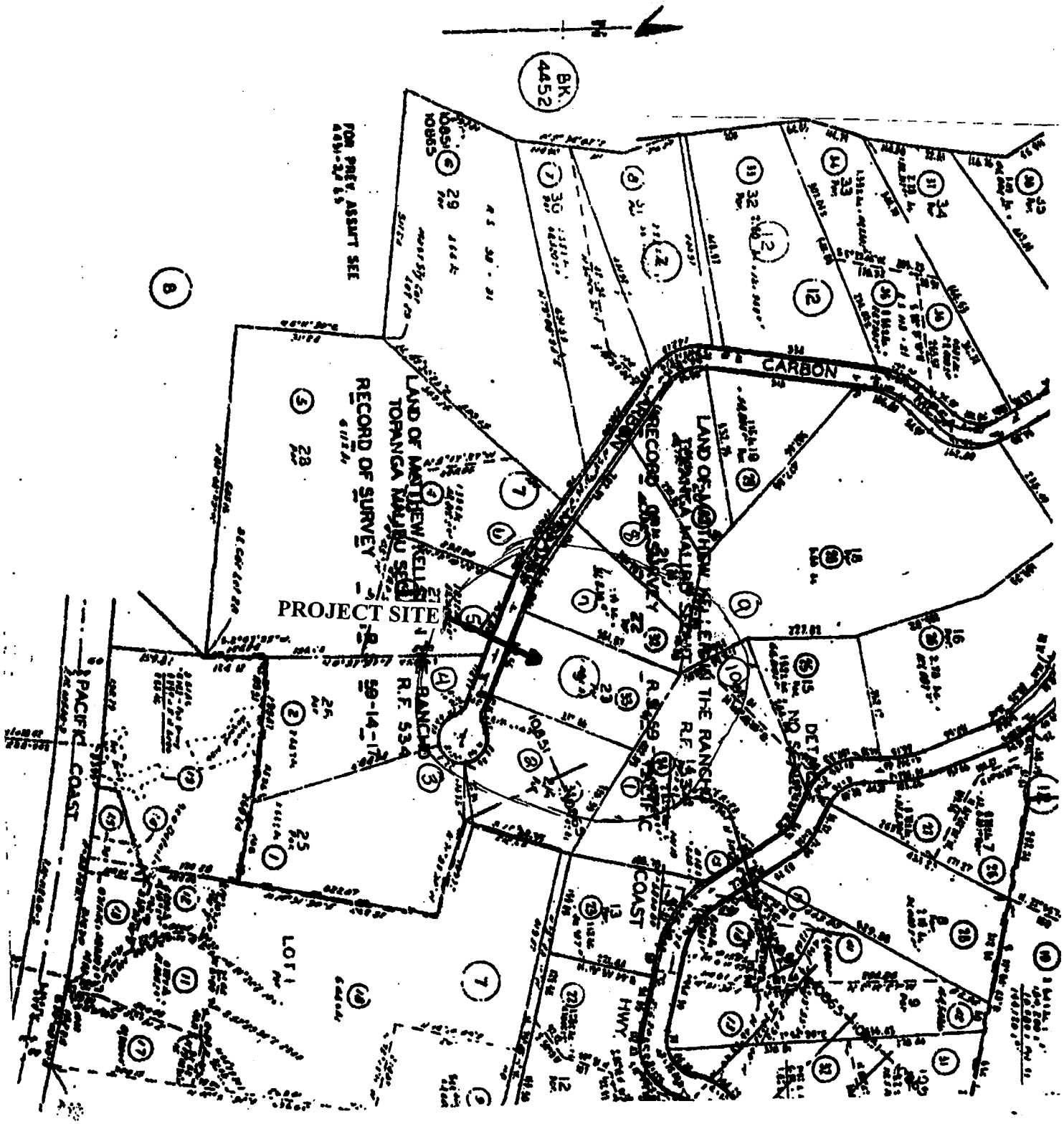
PLATE 1

GUMINS

JH 3722

5158 COCHRAN ST. • SI 5174 • FAX (805) 582-1228

EXHIBIT 1
CDP #4-99-283
Location Map



100' Radius
22560 Carbon Mesa Rd
Malibu, CA. 90265
4451-009-033

EXHIBIT 2
CDP # 4-99-283
Parcel Map

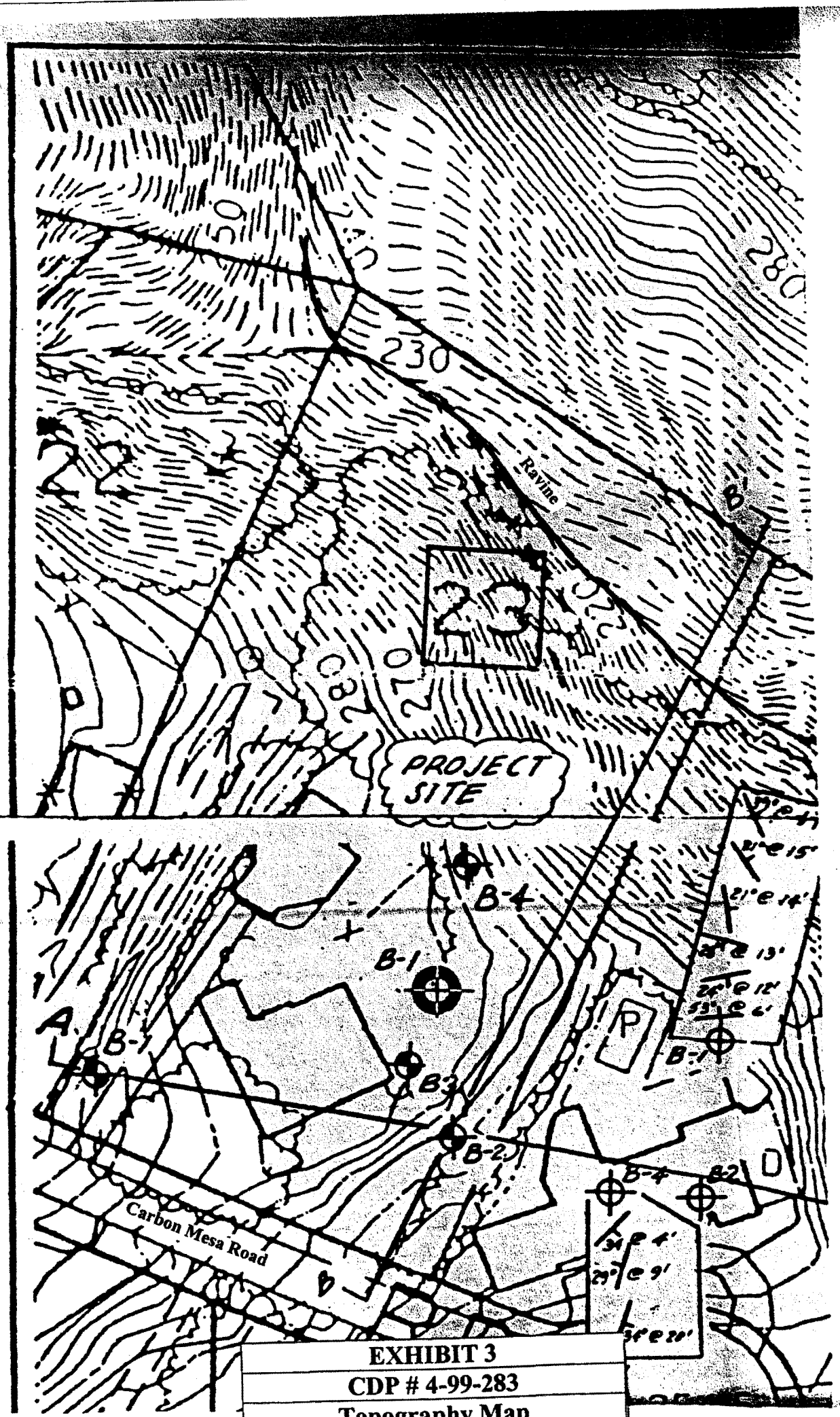


EXHIBIT 3

CDP # 4-99-283

Topography Map

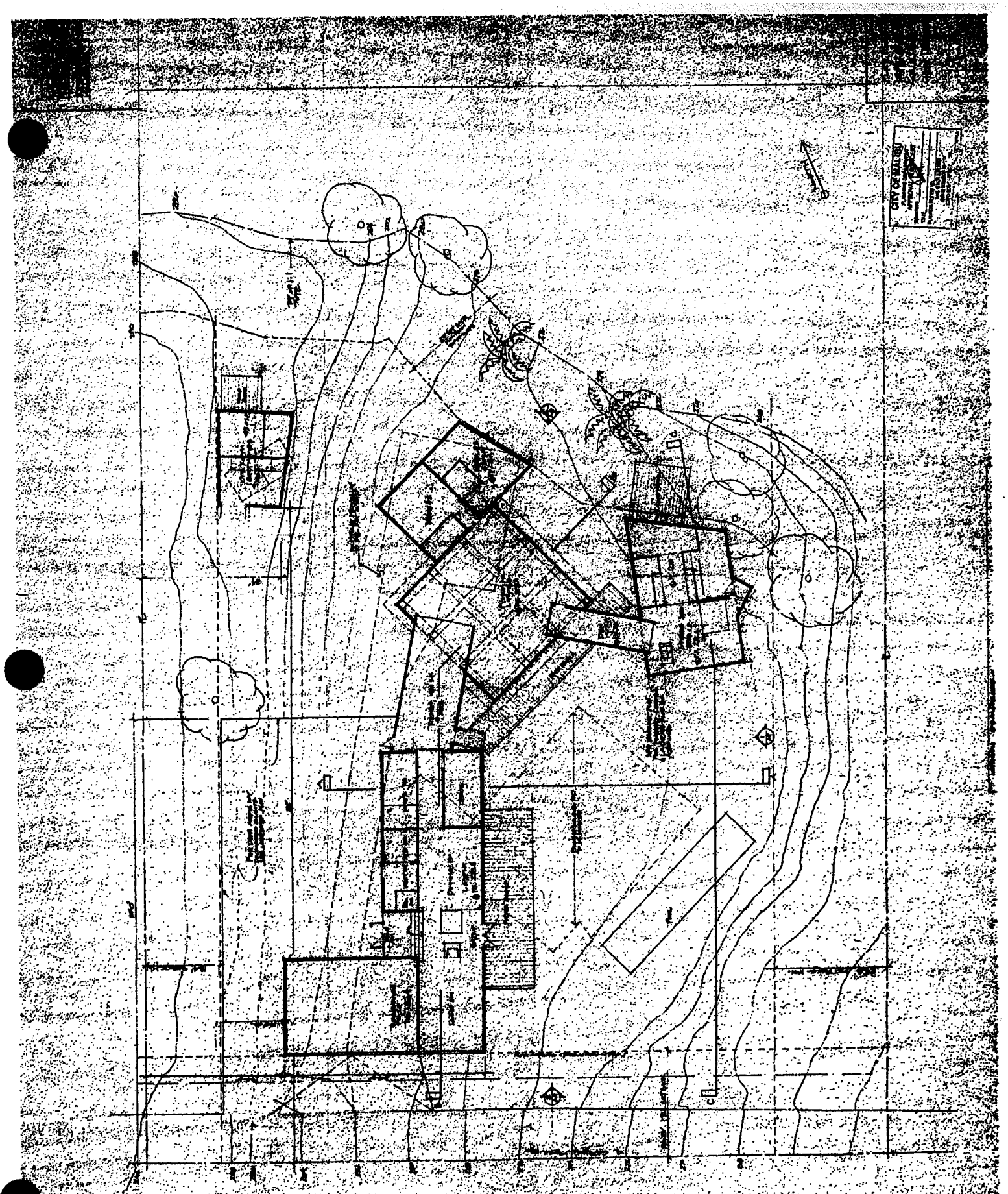


EXHIBIT 4
CDP # 4-99-283
Site Plan

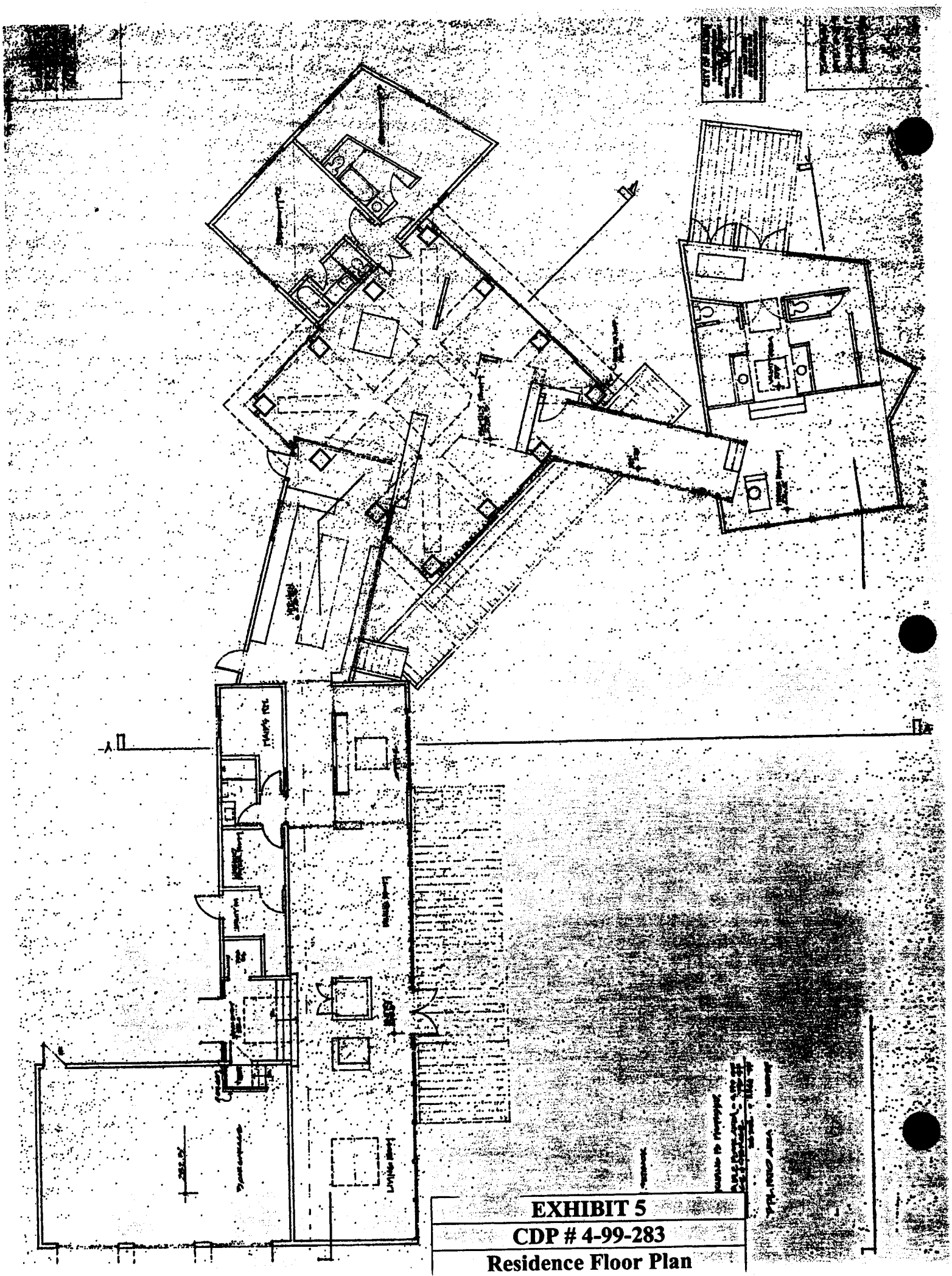


EXHIBIT 5
CDP # 4-99-283
Residence Floor Plan

EXHIBIT 6
CDP # 4-99-283
Guest Unit Floor Plan & Elevation

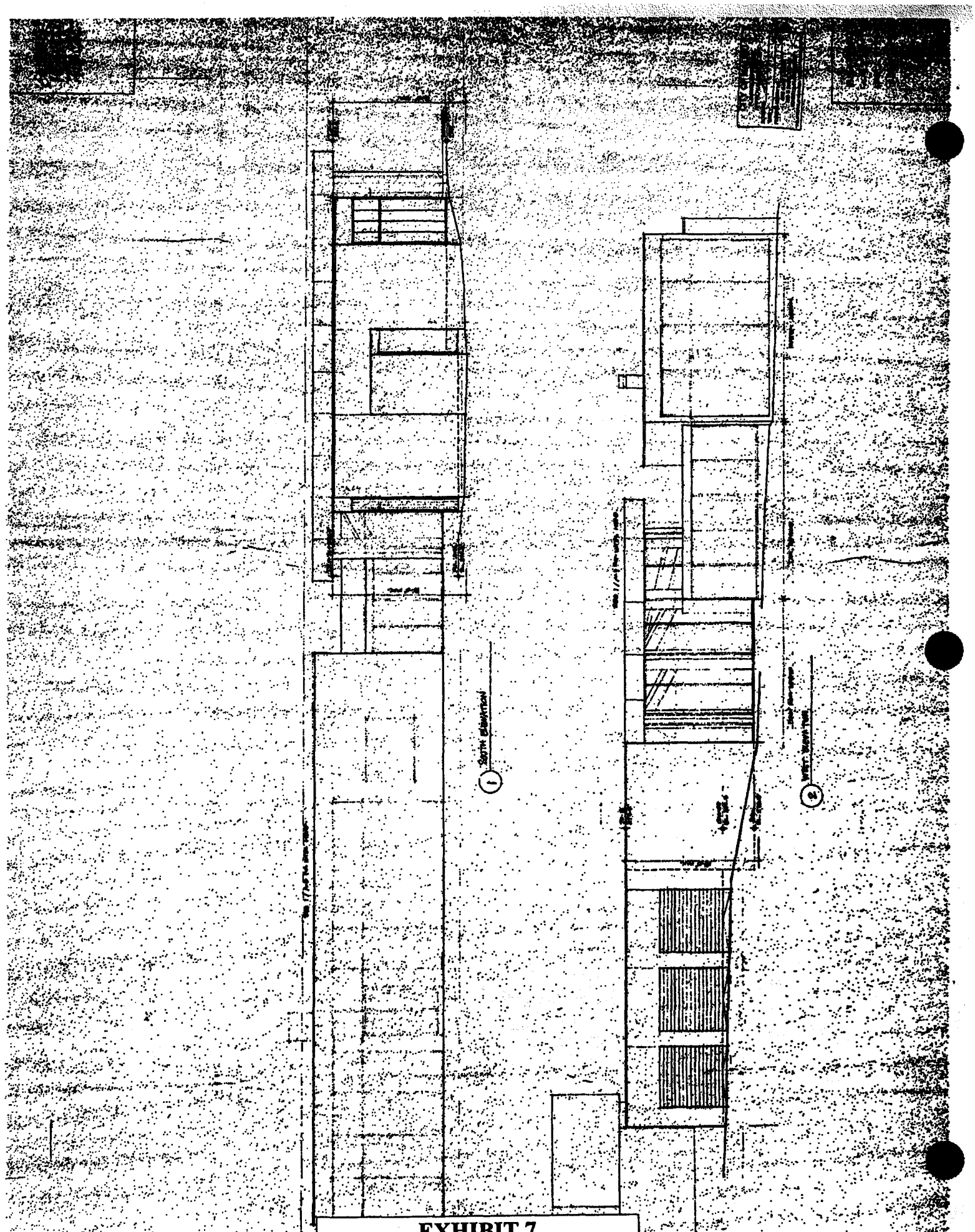


EXHIBIT 7

CDP # 4-99-283

Elevations

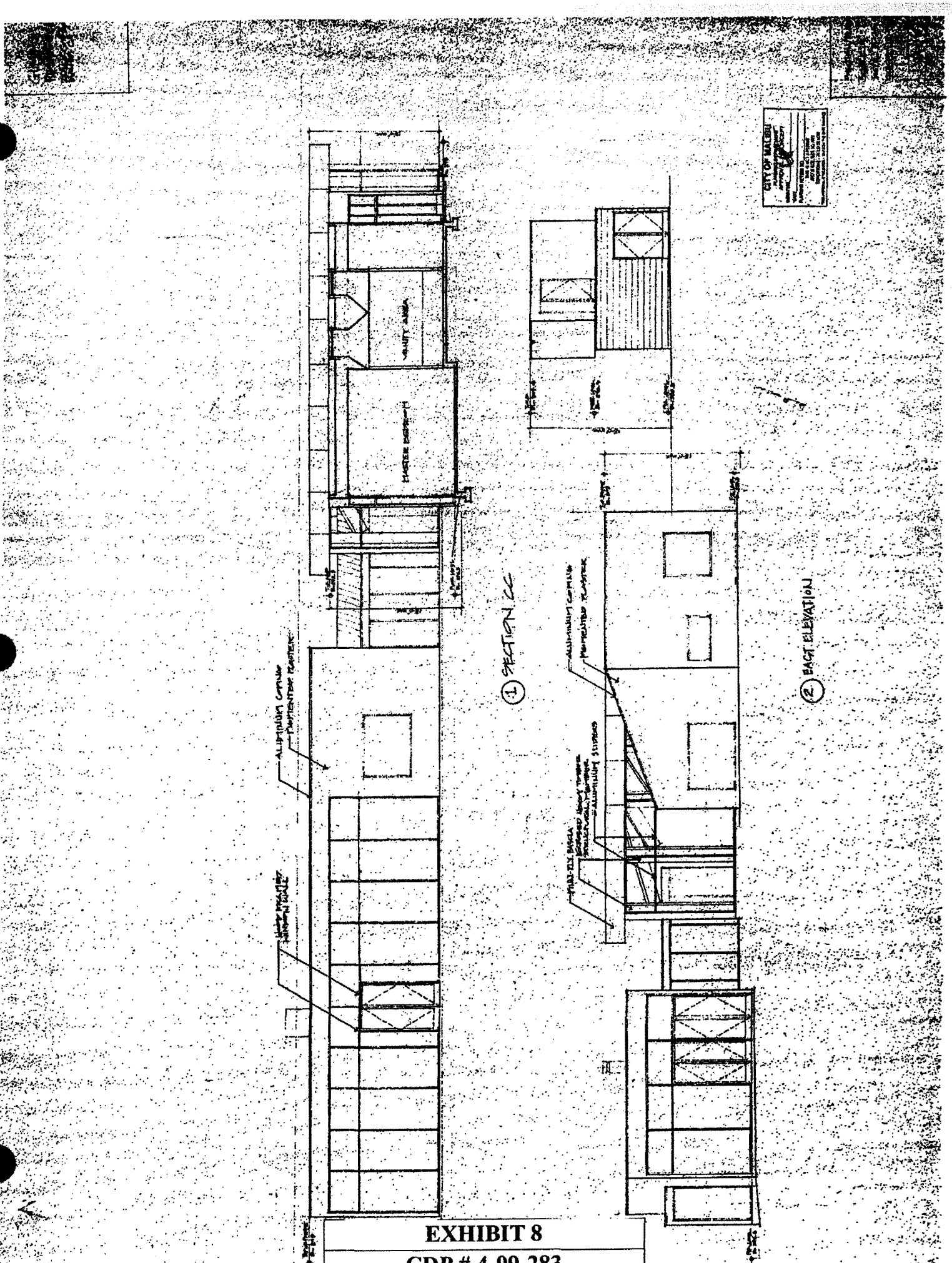
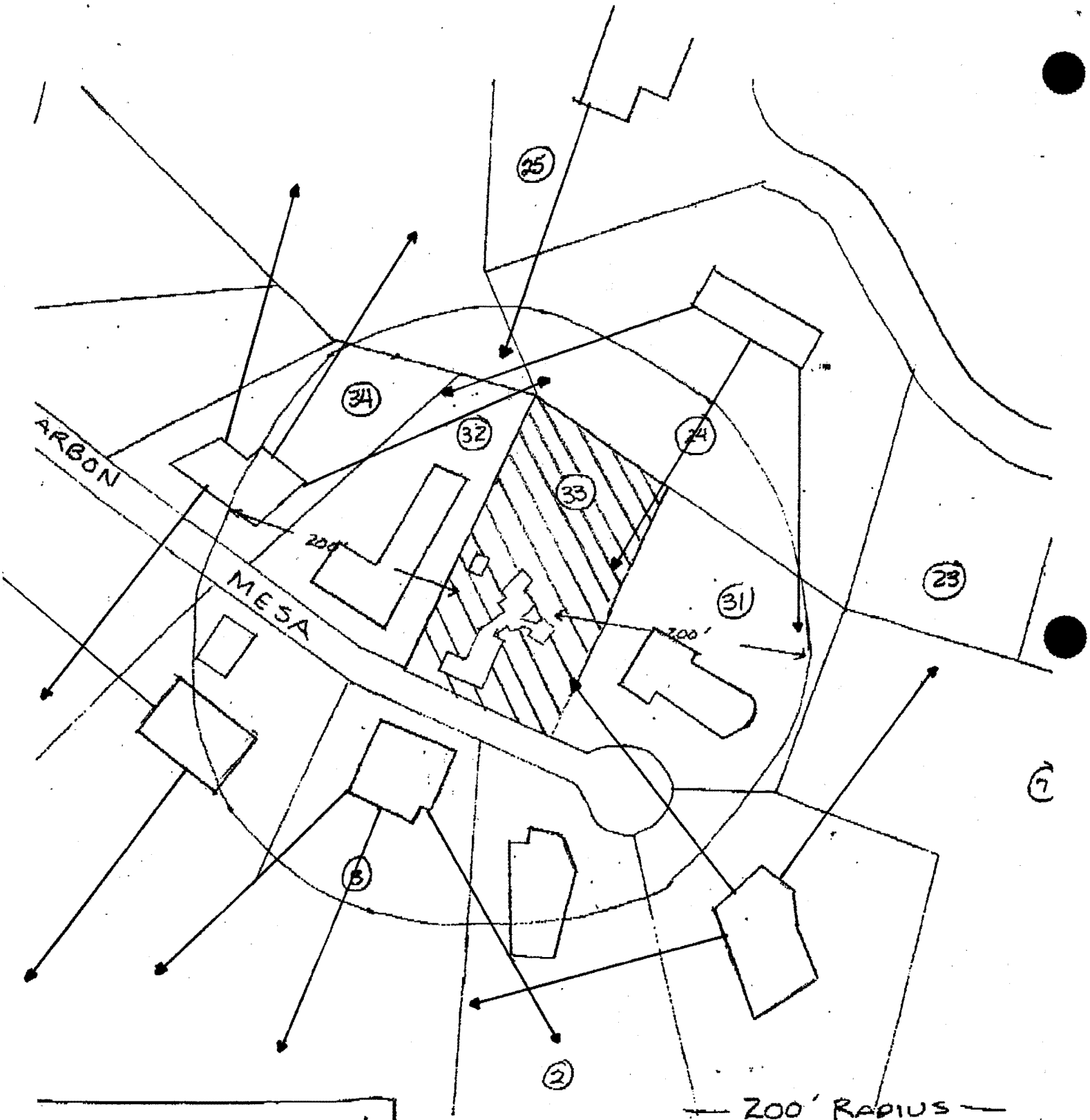


EXHIBIT 8

CDP # 4-99-283

Elevations



200' RADIUS

22560 CARBON MESA RD.
OWNER FUEL MOD.

FUEL MODIFICATION
OVERLAY MAP
1" = 100'

EXHIBIT 9

CDP # 4-99-283

Fuel Modification Exhibit

Adjacent Development