


**CALIFORNIA COASTAL COMMISSION**

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Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-00-229

**APPLICANTS:** Fred and Mary Purucker

**PROJECT LOCATION:** 6636 Wandermere Road, Malibu, Los Angeles County

**PROJECT DESCRIPTION:** Demolition of approximately 406 sq. ft. of three detached storage sheds, construction of a new 528 sq. ft. detached garage and 750 sq. ft. detached secondary dwelling with an additional 94 sq. ft. storage area, 836 sq. ft. basement, and attic, new septic system, conversion of an existing 633 sq. ft. secondary dwelling to a non-inhabitable structure, and approximately 247 cu. yds. excavation.

<b>Lot area:</b>	53,750 sq. ft.
<b>Impermeable coverage (existing):</b>	5,002 sq. ft.
<b>Impermeable coverage (proposed):</b>	1,372 sq. ft.
<b>Structural area to be demolished:</b>	406 sq. ft.
<b>Unimproved:</b>	47,782 sq. ft.

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department Approval-In-Concept 8/22/00, City of Malibu Department of Environmental Health In-Concept Approval for private sewage disposal system 1/6/00, City of Malibu Geology and Geotechnical Engineering Review Approval In-Concept 4/4/00.

**SUBSTANTIVE FILE DOCUMENTS:** Soils and Geologic Engineering Investigation prepared by SubSurface Designs Inc., dated 8/27/99; Addendum I: Response to the City of Malibu Review Letter by SubSurface Design Inc., dated 3/21/00; City of Malibu Biology Review Referral Sheet, dated 12/16/99; County of Los Angeles, Fire Department, Fire Prevention Bureau, Preliminary Fuel Modification Plan Approved, 10/19/00.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed project with **9 Special Conditions** regarding (1) conformance to geologic recommendations for design and construction, (2) landscaping and erosion control, (3) removal of excavated material, (4) future improvements, (5) revised plans, (6) wildfire waiver of liability, (7) conversion of existing habitable development, (8) drainage and polluted run-off, and (9) condition compliance.

## **I. STAFF RECOMMENDATION**

**MOTION:**        *I move that the Commission approve Coastal Development Permit No. 4-00-229 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 Soils and Geologic Engineering Investigation prepared by SubSurface Designs Inc., dated 8/27/99 and the Addendum I: Response to the City of Malibu Review Letter by SubSurface Design Inc., dated 3/21/00 shall be incorporated into all final design and construction including foundations, drainage, and sewage disposal. Final plans must be reviewed and approved by the consulting engineering geologist and geotechnical engineer. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

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

#### 2. **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 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 resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. 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.

### **3. Removal of Excavated Material**

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

### **4. Future Improvements**

This permit is only for the development described in Coastal Development Permit No. 4-00-229. 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 additions, improvements, or change of use to the permitted structures, including the proposed detached secondary dwelling and the detached 633 sq. ft. non-habitable structure, approved under Coastal Development Permit No. 4-00-229, and any clearing of vegetation or grading, other than as provided for in the approved fuel modification, landscape and erosion control plan prepared pursuant to Special Condition 2, shall require an amendment to Permit No. 4-00-229 from the Commission or shall require an additional Coastal Development Permit from the Commission or from the applicable certified local government.

Prior to the issuance of the Coastal Development Permit the applicant shall Execute and record a deed restriction in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include 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.

#### **5. Revised Project Plans**

Prior to issuance of Coastal Development Permit 4-00-229, the applicant shall submit, for the review and approval of the Executive Director, a full set of revised project plans including a site plan, floor plans, and elevations, which illustrate that the proposed secondary dwelling will have a maximum of 750 sq. ft. of interior habitable square footage. The applicants shall submit, for review and approval of the Executive Director, revised project plans which indicate that any additional interior storage, basement, and/or attic habitable square footage beyond the 750 sq. ft. maximum is either deleted from the project plans or modified to represent non-habitable area, such that the proposed structure is consistent with Coastal Act policies.

#### **6. Wildfire Waiver of Liability**

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

## **7. Conversion of Existing Habitable Development**

The applicant shall convert the existing 633 sq. ft. unpermitted secondary dwelling into a non-habitable structure and remove all plumbing extensions currently serving the second unit within 60 days of the applicants' receipt of the Certificate of Occupancy for the new proposed secondary dwelling. The Executive Director may grant additional time for good cause.

## **8. 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 85<sup>th</sup> 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 30<sup>th</sup> 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.

## **9. Condition Compliance**

Within 90 days of Commission action on this Coastal Development Permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all the requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action with respect to the development approved in this permit under the provisions of Chapter 9 of the Coastal Act.

## **IV. Findings and Declarations**

The Commission hereby finds and declares:

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

The applicants are proposing the demolition of approximately 406 sq. ft. of three detached storage sheds and construction of a new 528 sq. ft. detached garage, 750 sq. ft. detached secondary dwelling with an additional 94 sq. ft. storage area, 836 sq. ft. basement, and attic, installation of a new conventional septic system, and conversion of an existing 633 sq. ft. secondary dwelling to a non-habitable structure (Exhibits 3-8). Construction of the proposed garage and secondary dwelling will require approximately 247 cu. yds. of excavation, no grading is proposed.

The subject site is a 53,750 sq. ft. parcel located on Wandermere Road in the Point Dume area of the City of Malibu (Exhibits 1,2). The property consists of a relatively level pad area adjacent to Wandermere Road and a moderately descending slope on the east portion of the site. The subject parcel gently descends from Wandermere Road easterly to a ravine, which is not a blueline stream, located along the east property boundary. Slopes of the subject parcel have an average gradient of 3:1 and total physical relief over the property is approximately 50 ft.

The subject site is currently developed with a single family residence with an attached garage and driveway located on the westernmost portion of the site adjacent to Wandermere Road. A second driveway extends along the north property boundary and provides access from Wandermere Road to the eastern portions of the site. The project site also contains 4 shed/shop structures varying from 24 sq. ft. to 286 sq. ft. in size, and a trailer. In addition, a 633 sq. ft. structure, currently utilized as a secondary dwelling, is located at the easternmost portion of the site at the toe of the descending slope, partially within and cantilevered over the ravine located at the east property boundary (Exhibit 3).

Review of a historic aerial photograph provided by the applicants indicates that a minor shed-type structure was constructed near the ravine in the location of the existing 633



sq. ft. secondary dwelling prior to March 11, 1976, thus predating the permit requirements of the California Coastal Act of 1976. However, the applicants have indicated that additions to the subject structure have also been constructed. Additions to the subject structure are exempt from coastal permit requirements under Section 30610(a) of the Coastal Act and Section 13250(a)(2) of 14 Cal. Admin. Code., as additions to a structure normally associated with an existing single family residence, such as garages, swimming pools, fences, and storage sheds. No information has been received for the subject application to quantify with certainty how much square footage has been added to the structure since its original construction, however, the applicant's have indicated that the structure is currently 633 sq. ft. in size and serving as a second residential unit. However, construction of new residential units and/or conversion of existing structures to residential units on a parcel already developed with a single family residence is not exempt from coastal permit requirements under any section of the Coastal Act. Therefore, conversion of the 633 sq. ft. structure to a second residential unit constitutes unpermitted development.

In addressing potential cumulative impacts on coastal resources associated with construction of a second unit on a site where a primary residence exists, thereby intensifying the use of that parcel, the Commission has, in past permit actions, limited the development of second units on residential parcels in the Malibu and Santa Monica Mountains area to one second unit with a maximum of 750 sq. ft. In the case of the propose project an unpermitted secondary dwelling currently exists at the subject site. In order to maintain consistency with the Commission's precedence established in past permit action allowing only one secondary unit per parcel, the applicants are proposing to convert the existing 633 sq. ft. dwelling into a non-habitable structure, and to construct a new secondary dwelling.

The proposed second unit and garage will be located in a relatively level area on the subject parcel. As such, grading for the proposed project will only consist of excavation for the proposed basement below the new secondary dwelling. Vegetation at the project site consists primarily of moderately sized non-native shrubs and trees and no designated environmentally sensitive habitat or species are known to exist at or near the subject site. Vegetation associated with the ravine located at the east property boundary is highly disturbed due to the presence of non-native invasive plant species, and due to fill and rock material placed along the banks of the drainage course. The applicants are not proposing new construction within the ravine. The area surrounding the project site is a built-out portion of Malibu intensely developed with single family homes and residential landscaping, therefore, fuel modification requirements for the proposed structures will not result in thinning or removal of natural vegetation on site or adjacent property. The proposed project will not be visible from any public viewing area. For these reasons, the Commission finds that the proposed project will have no new significant adverse impacts on native vegetation, designated environmentally sensitive habitat areas, or scenic coastal 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.***

### **Geology**

Section 30253 of the Coastal Act mandates that new development shall be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The applicant has submitted a Soils and Geologic Engineering Investigation report prepared by Subsurface Designs, Inc. dated August 27, 1999, and an Addendum I: Response to the City of Malibu Review Letter by SubSurface Design Inc., dated 3/21/00, which evaluate the geologic stability of the subject site in relation to the proposed development. The project's consultants have determined that the project site is appropriate for the proposed development. The proposed secondary dwelling will be located on a relatively flat portion of the subject site eliminating the need for excessive grading. The Soils and Geologic Engineering Investigation report prepared by Subsurface Designs dated August 27, 1999 states:

*The proposed area for disposal of on-site effluent is considered appropriate in terms of precluding the possibility of effluent daylighting either downslope. The on-site effluent disposal system will not adversely affect the stability of the site, or off-site properties, providing the recommendations contained in this report are followed.*

*It is the finding of this firm, based upon the subsurface data, that the subject building site will not be affected by settlement, landsliding, or slippage. Further, based upon the proposed location, development will not have an adverse affect on off-site property.*

The Soils and Geologic Engineering Investigation report prepared by Subsurface Designs, Inc. dated August 27, 1999 and Addendum I: Response to the City of Malibu Review Letter by SubSurface Design Inc., dated 3/21/00 include several recommendations to be incorporated into project construction, design, and drainage to ensure the stability and geologic safety of the project site. The Commission finds that, based on the findings and recommendations of the proposed project's geology and geotechnical engineering consultants, the proposed project is consistent with the requirements of Section 30253 of the Coastal Act. To ensure the recommendations of the consultants are incorporated into all proposed development the Commission, as specified in **Special Condition 1**, requires the applicant to submit project plans certified by the consulting geology and geotechnical engineering consultants 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 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 aid in maintaining the geologic stability of the project site, and that erosion will best be minimized by incorporating adequate drainage, interim erosion control measures, and appropriate landscaping into the proposed development. To ensure that adequate drainage, erosion control measures, and appropriate landscaping are included in the proposed development the Commission requires the applicant to submit drainage, landscaping and interim erosion control plans certified by the consulting engineering geologist and geotechnical engineer, as specified in **Special Conditions 2 and 8**. The Commission further finds that native and non-invasive landscaping of slopes and graded or disturbed areas on the project site will serve to maintain the geologic stability of the proposed development. Therefore, Special Condition 2 also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Alternatively, native plant species tend to have a deeper root structure than non-native, invasive species and aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability and minimize erosion, all disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in Special Condition 2.

Additionally, the Commission notes that the proposed project includes 247 cu. yds. of excavation. Stockpiles of dirt are subject to increased erosion, therefore, **Special Condition 3** 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.

## **Wild Fire**

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

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition 5**, the wildfire waiver of liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition 6, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

The Commission finds that, as conditioned to incorporate all recommendations defined by the project's geotechnical engineer and geologic engineering consultants for construction, design, drainage, erosion control, and landscaping, and inclusion of the wildfire waiver of liability, the proposed project is consistent with Section 30253 of the Coastal Act.

## **C. 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 (1) 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. 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.

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 one second unit per parcel with a maximum of 750 sq. ft. habitable interior square footage. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu/Santa Monica Mountains Land Use Plan (LUP). In its review and action on the 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 likely to be occupied by one, or at most two people, 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. (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

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 (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

The applicants are proposing to demolish approximately 406 sq. ft. of three detached storage sheds, construct a new 528 sq. ft. detached garage and 750 sq. ft. detached secondary dwelling consisting of one bedroom and bath, a dining room, kitchen, and living room, with an additional 94 sq. ft. storage area, 836 sq. ft. basement, and approximate 836 sq. ft. attic, and a new septic system. The proposed second unit will be approximately 2,516 sq. ft. in size including the storage area, attic, and basement.

The Commission notes that the additional 94 sq. ft. storage area and 836 sq. ft. basement do not have interior access points with the proposed 750 sq. ft. secondary dwelling, and that the attic has a common access interior point with the second unit. However, the Commission also notes that these additional areas incorporated into the proposed structure contain several windows, and that the proposed basement and attic are on average 8 ft. in height, thus representing additional habitable square footage of the proposed structure exceeding the maximum 750 sq. ft. habitable interior area established for second units. As proposed, the second unit contains an approximate total of 2,516 habitable interior square footage, resulting in 1,766 sq. ft. of habitable area beyond the 750 sq. ft. limit established for second units. As noted above, the Commission has consistently found that in approving relatively small second units (750 sq. ft.), allowing such units would minimize cumulative adverse impacts on coastal resources. Commission staff has informed the applicants that the additional 1,766 sq. ft. of storage, basement, and attic space is considered habitable square footage and would be included in the overall total of habitable area for the secondary dwelling, therefore making the proposed unit a total of 2,516 sq. ft., which would be inconsistent with the 750 sq. ft. limit imposed on second units. Staff also informed the applicants that minor modifications of the project plans such as deleting the 94 sq. ft. storage area or changing the storage area to an outside porch or veranda, deleting the windows and modifying the roof height of the proposed basement and attic to represent non-habitable square footage, would bring the proposed structure into compliance with the 750 sq. ft. limitation regularly required by the Commission for secondary dwellings. Staff has also notified the applicants that additional storage space could be added to the existing main residence and proposed garage, as these structures are not subject to the 750 sq. ft. limitation place on second units. The applicants have not modified the project proposal in response to staff's comments, as such, the Commission notes that the proposed second unit exceeds the 750 sq. ft. habitable square footage limitation. In order to ensure the proposed secondary dwelling's conformity with the Commission's past actions in allowing a maximum of 750 sq. ft. for second units, the Commission finds it necessary to require the applicants to submit revised project plans, as specified

in **Special Condition 5**, for review and approval of the Executive Director, which clearly illustrate that proposed secondary dwelling has no more than 750 sq. ft. of interior habitable square footage. The Commission finds that if revised to contain no more than the maximum 750 sq. ft. of habitable interior area, the proposed second unit will be consistent with Coastal Act policies.

The applicant is also proposing to convert an existing 633 sq. ft. secondary dwelling, previously converted from a shed-type structure to a residential unit, into a 633 sq. ft. non-habitable structure. The applicant's have not specifically indicated what the proposed use of the structure is intended to be and no project plans have been submitted for the structure. Staff has determined, however, that the subject structure is served by both electric utilities and plumbing facilities, a product of the unpermitted conversion of the subject structure to a second residential unit. As described above, the Commission has consistently found in past permit actions that development of secondary units intensifies the use of residential parcels, creating additional demands on public services, such as water, sewage, electricity, and roads. The Commission notes that the applicants are proposing a new secondary dwelling pursuant to this permit application, and are proposing to convert the existing 633 sq. ft. secondary dwelling to a non-habitable structure, which will meet the Commission's requirement that only one second unit be developed at the subject site. As such, in conjunction with the applicants' proposal to convert the existing 633 sq. ft. secondary dwelling back into a non-habitable structure, **Special Condition 7** of the subject permit also requires the applicant to convert the subject structure to a non-habitable structure in a timely manner, and requires the applicant to remove the plumbing extensions serving the existing second unit, within 90 days of the applicants' receipt of the Certificate of Occupancy for the new proposed second residential unit. The Commission finds that the subject structure, once converted to a non-habitable structure, will not be used as an additional guest unit or second residential unit, and the proposed project will therefore be consistent with the Commission's limitation established on the number of permitted secondary units for the subject site.

The Commission has many past precedents on similar project proposals that have established a limitation on the number and size of significant detached units which may be considered as a secondary dwelling. As conditioned, the proposed development will be consistent with the Commission's past permit actions limiting the size and number of second units on developed parcel to ensure consistency with Chapter 3 policies of the Coastal Act. However, future unauthorized improvements to the proposed secondary dwelling and/or the existing 633 sq. ft. structure, that might otherwise be exempt from Commission review, could easily re-convert the existing 633 sq. ft. structure into a secondary dwelling, and that additions to both structures could exceed the 750 sq. ft. standard and further intensify the use of the subject parcel. As such, the Commission finds it necessary to ensure that no additions or improvements are made to the proposed secondary dwelling and 633 sq. ft. structure in the future that may enlarge or further intensify the use of the structures 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 4**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the structures 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 will be consistent with Sections 30250 and 30252 of the Coastal Act.

#### **D. Water Quality**

The Commission recognizes that the potential build-out of lots in Malibu and the Santa Monica Mountains, resulting in installation of private septic systems and increased septic effluent, has the potential to adversely impact coastal water quality, human health, and geologic stability. 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 new detached secondary dwelling and detached garage, installation a private sewage disposal system, and includes 247 cu. yds. of excavation. The project site is a 53,750 sq. ft. parcel developed with a single family residence, two driveways, storage sheds, and an existing 633 sq. ft. secondary dwelling located on relatively level to moderately sloped terrain which descends directly to a ravine along the east property boundary. The site is considered a "hillside" development, as it involves sloped terrain with soils that are susceptible to erosion.

The proposed development will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration



of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

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

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85<sup>th</sup> 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 8**, 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 and excessive sedimentation during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition 2** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

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

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

## **E. Violations**

Unpermitted development has taken place prior to submission of this permit application, including conversion of an existing 633 sq. ft. structure into a second residential unit. The applicants are proposing to convert the existing unpermitted secondary dwelling into a non-habitable structure and to construct a new secondary dwelling and septic system. In order to ensure that the unpermitted development is resolved in a timely manner, **Special Condition 9** requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

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

## **F. 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).***

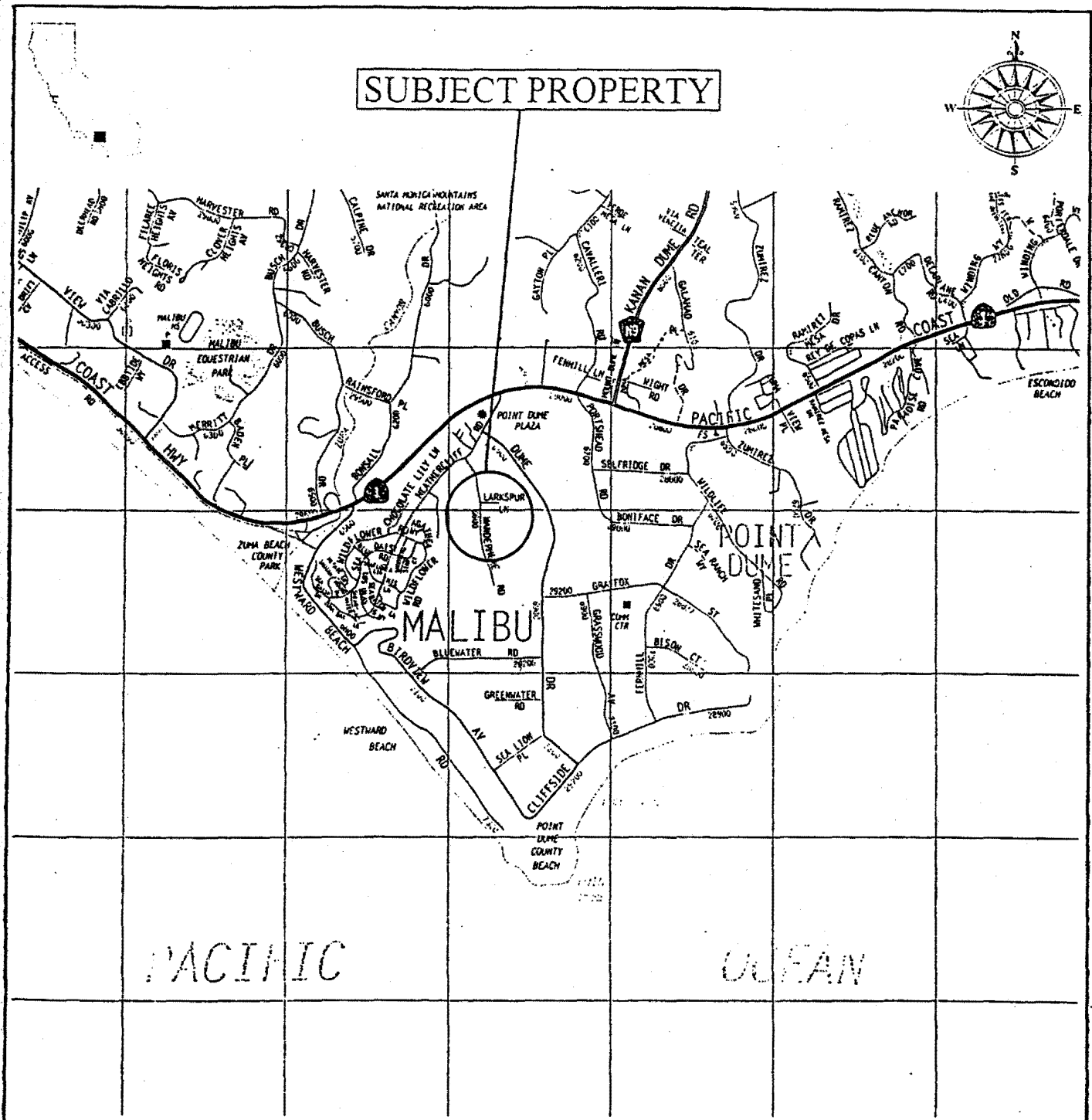
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections 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 City of Malibu area and Santa Monica Mountains 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 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.



SubSurface Designs, Inc.  
Geotechnical Engineers  
Engineering Geologists

Client: Purucker

PIN# 3654

Subject: Vicinity Map

Ref: Thomas Bros. Maps L.A. County, Page 667

Scale: 1"=2400'

A-I-1

<b>EXHIBIT 1</b>
<b>CDP #4-00-229</b>
<b>Location Map</b>

468 8  
1" = 150'

LIMIT  
OF  
ORIGINAL  
COASTAL  
ZONE

TRACT NO. 17808

M.B. 438-43-45

RECORD OF SURVEY

R.S. 57-9-10

CODE  
8635

FOR PREV. ASSMT. SEE: 482-327, 351 & 352

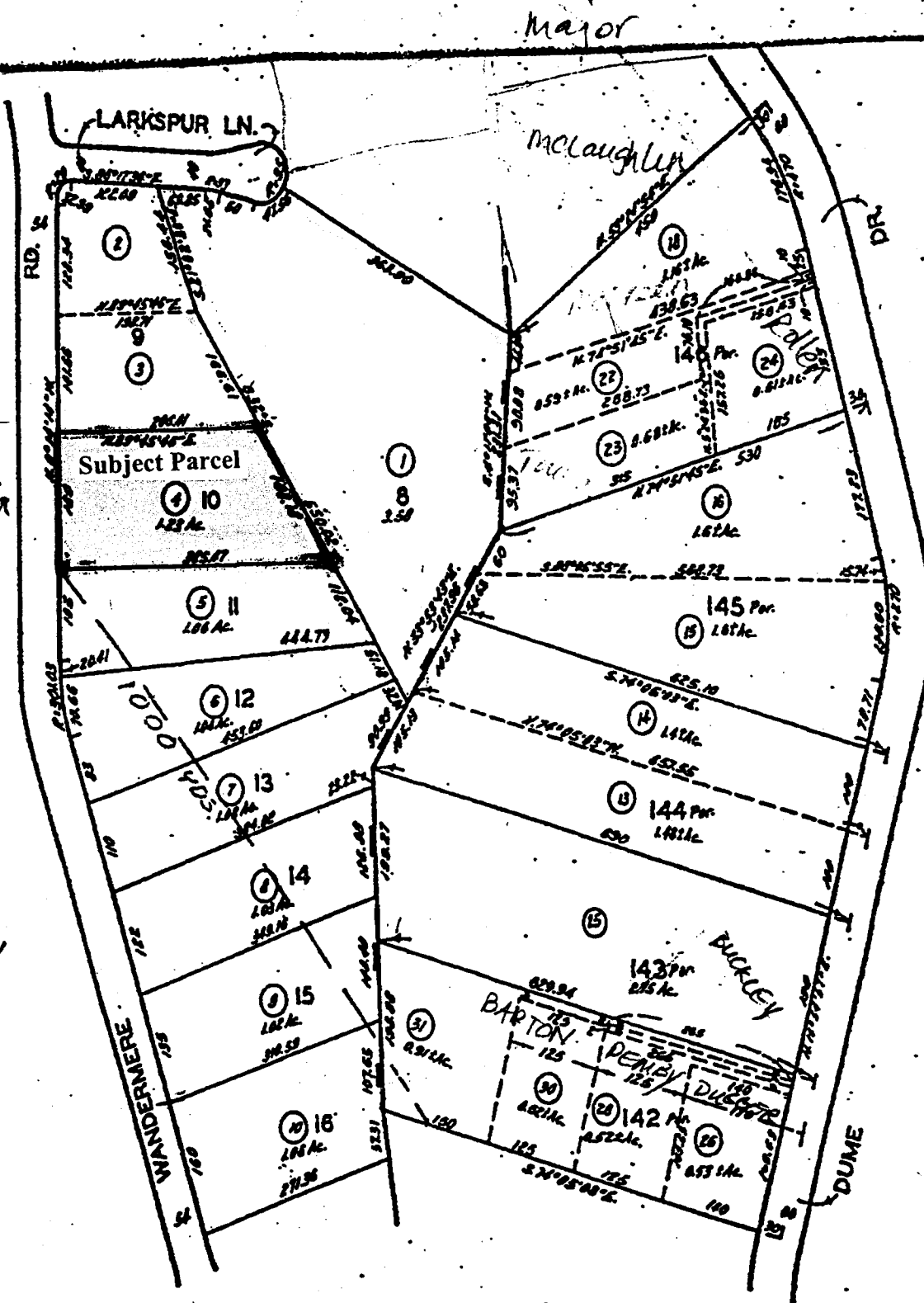


EXHIBIT 2

CDP # 4-00-229

Parcel Map

6630 VANDEBEEK RD.  
MILPITAS, CA 95025

6630 VANDEBEEK RD  
MILPITAS, CA 95025

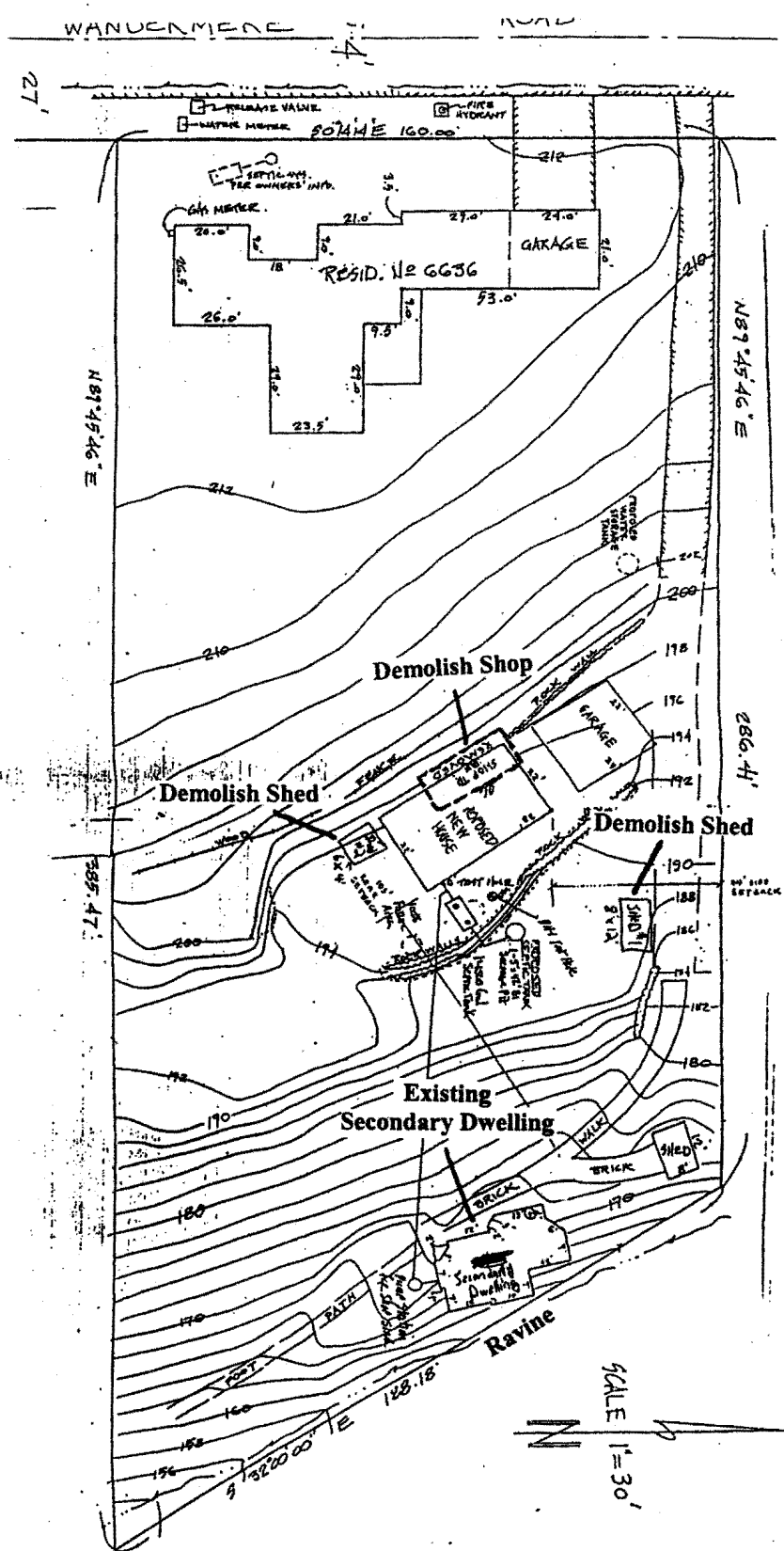
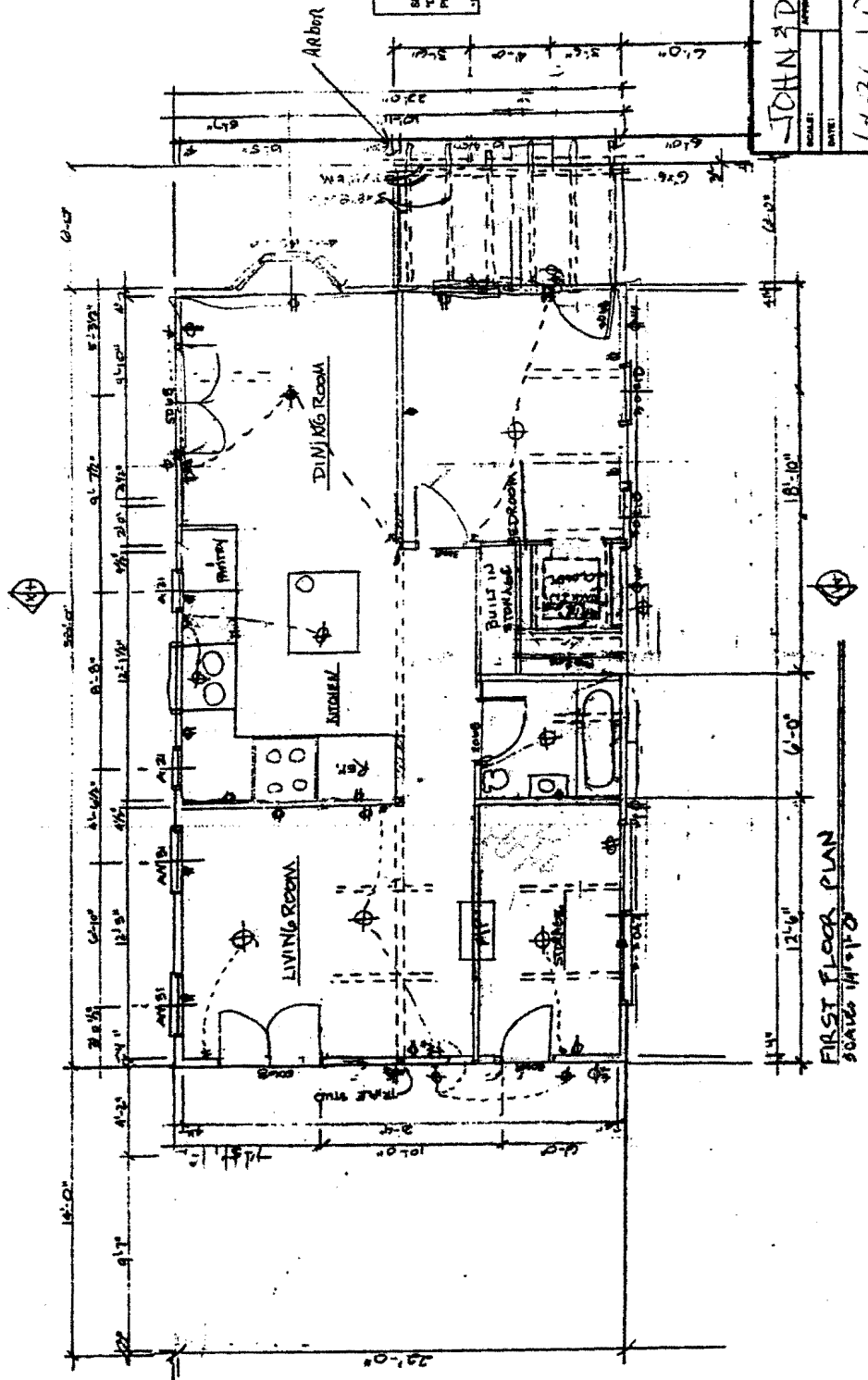


EXHIBIT 3
CDP # 4-00-229
Site Plan

EXHIBIT 4
CDP # 4-00-229
Proposed 1 <sup>st</sup> Floor Plan



CITY OF MALIBU  
Planning Department  
APPROVAL IN CONCEPT

Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

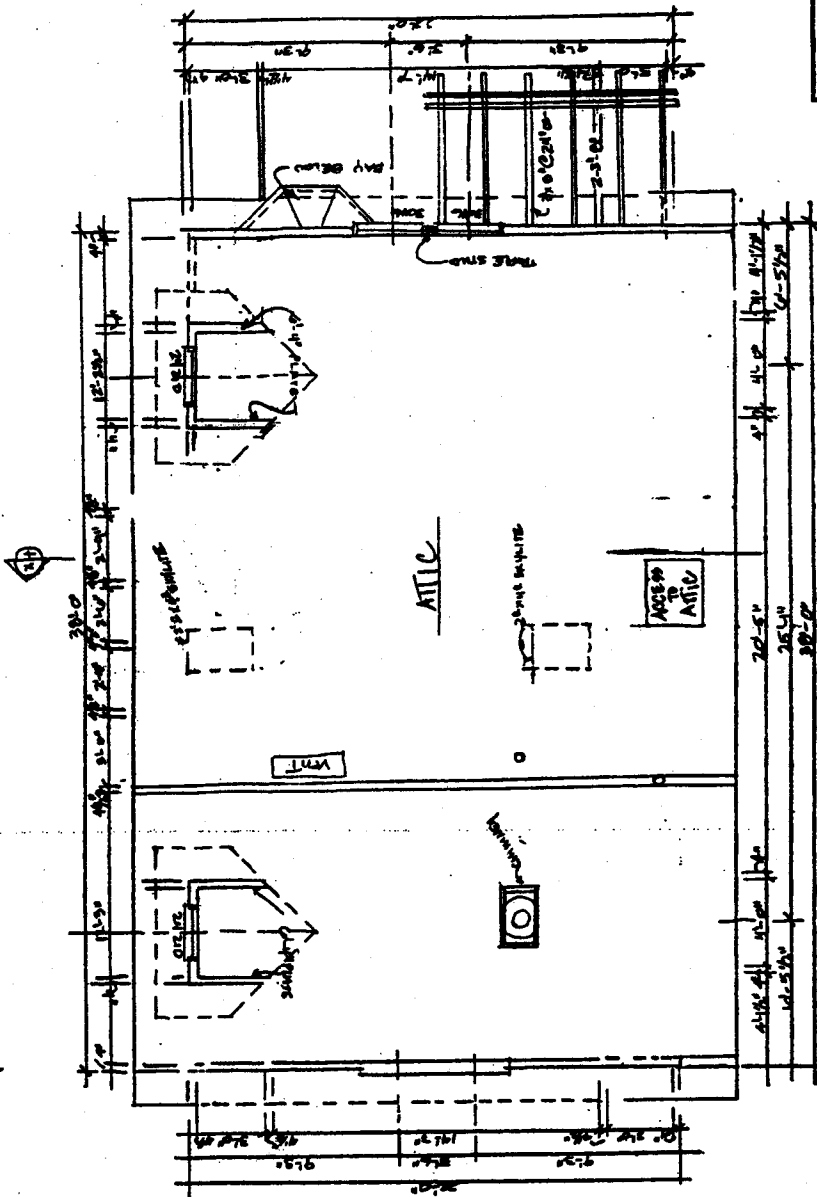
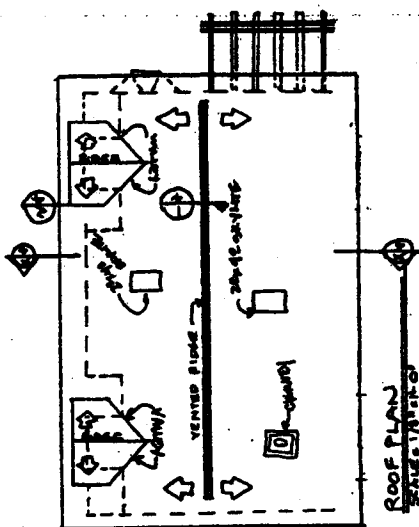
Planning Review No.: \_\_\_\_\_  
This plan was reviewed and approved on 10/2/2000.  
THIS APPROVAL IS VALID FOR 12 MONTHS FROM DATE ISSUED.

**RECEIVED**  
OCT 2 2 2000  
CITY OF MALIBU  
PLANNING DEPARTMENT

JOHN & DEBBIE PLUCKER  
APPROVED BY: \_\_\_\_\_  
DATE: \_\_\_\_\_

66036 LONDERMERE  
MALIBU

DATE: 12/1/99  
SHEET # 2



CITY OF MALIBU  
APPROVAL BY CONSENT

Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Planning Number No. \_\_\_\_\_  
This is NOT A PERMIT AND DOES NOT CONSTITUTE A GUARANTEE, IN EITHER THE CITY OR THE STATE.

RECEIVED  
OCT 23 2000  
CITY OF MALIBU  
PLANNING DEPARTMENT

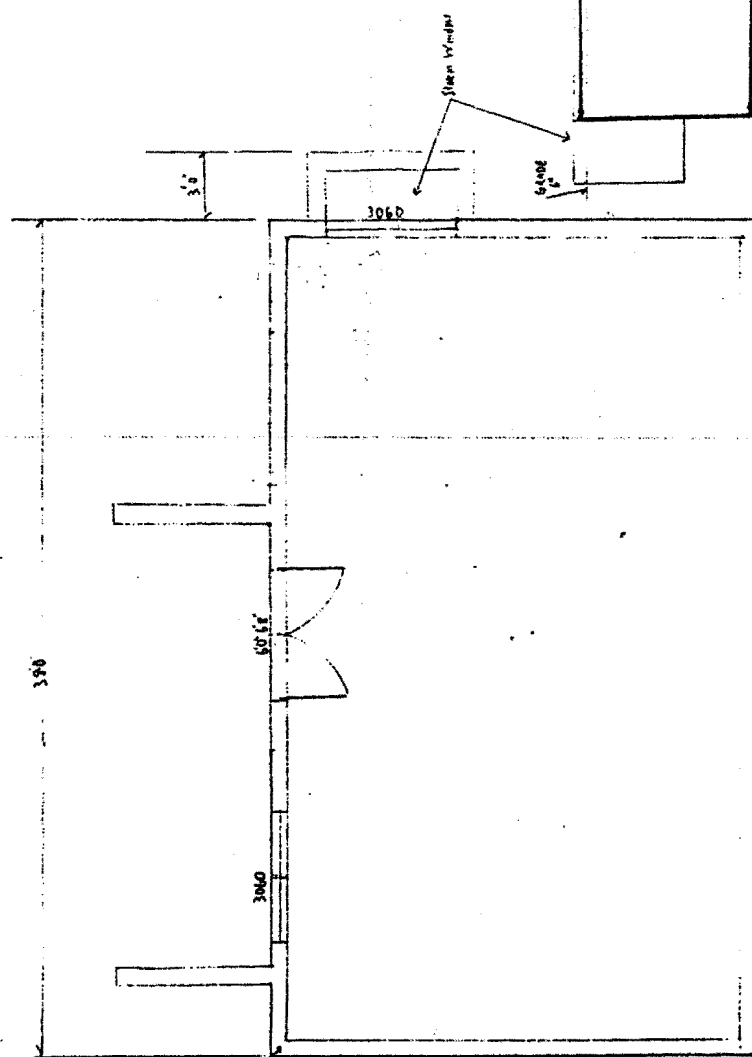
APPROVED BY:		DATE:
APPROVED BY:		DATE:
APPROVED BY:		DATE:
APPROVED BY:		DATE:

EXHIBIT 5  
CDP # 4-00-229  
Proposed Attic Floor Plan



**BASMENT CALCULATIONS**  
 TOTAL SQ. FTG. OF BASEMENT WALL:  
 231'  
 331'  
 381'  
 120' L x 8' H = 960 sq. ft.  
 EXPOSED AREA AROUND DOOR & WINDOW:  
 20' L x 8' H = 160 sq. ft.  
 6" SH. P. EXPOSED EXTERIOR PERIMETER:  
 100' x .5' = 50 sq. ft. + 160'  
 210'  
 TOTAL WALL AREA OF BASEMENT 960 sq. ft.  
 TOTAL EXPOSED AREA OF BASEMENT 210 sq. ft.  
 TOTAL EXPOSED AREA 210 sq. ft.

**CITY OF MALIBU**  
 Planning Department  
 APPROVING RESOLUTION  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Planning Review No. \_\_\_\_\_  
 THIS IS NOT A FINAL PLAN AND IS SUBJECT TO THE CITY OF MALIBU'S REVIEW AND APPROVAL.



**RECEIVED**  
 OCT 23 2000  
 PLANNING DEPT  
 1000 GATEWAY BLVD  
 MALIBU, CA 90263

SCALE: 1/4" = 1'-0"	APPROVED BY:	REVIEWED BY:
DATE:		DATE: 2.2.00

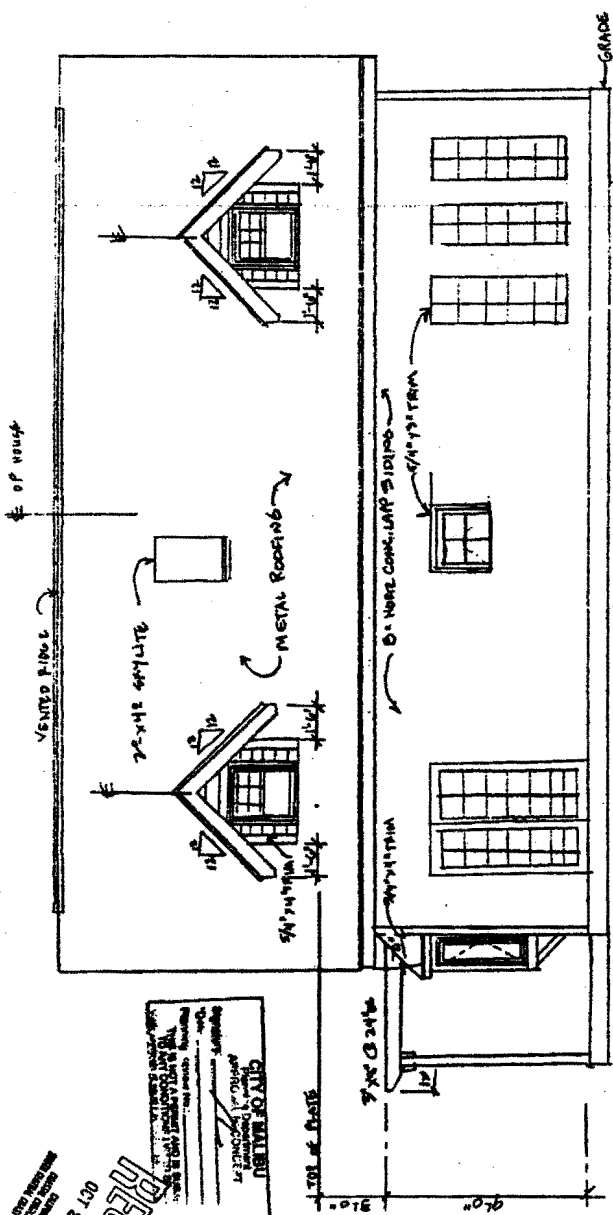
**RECEIVED**  
 FEB 03 2000  
 PLANNING DEPT

**BASMENT FLOOR PLAN**  
 SCALE = 1/4" = 1'-0"

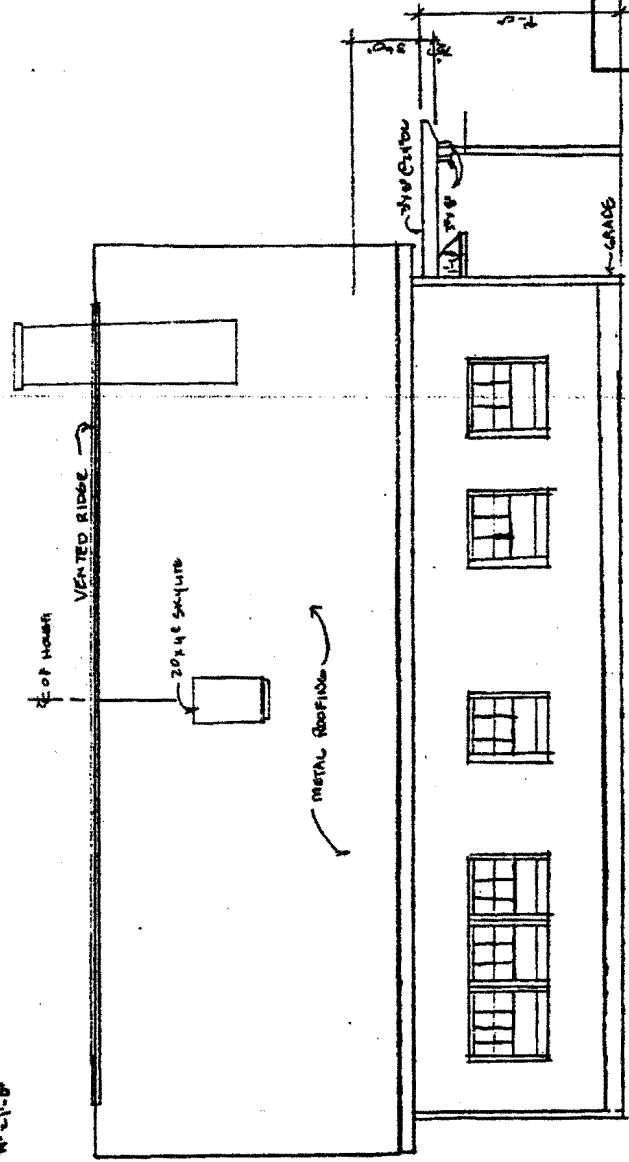
**EXHIBIT 6**  
**CDP # 4-00-229**  
**Proposed Basement Floor Plan**



**RECEIVED**  
 OCT 2 2 1992  
 DEPT. OF PUBLIC WORKS  
 1000 N. 1ST AVE.  
 ANCHORAGE, ALASKA 99501



**LEFT ELEVATION**  
 1/2" = 1'-0"



**RIGHT ELEVATION**  
 1/2" = 1'-0"

