

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO. 4-00-183

APPLICANT: Paul & Ivana Sekerka, William West & Brenda Lee

AGENT: A.C. Nickolson

PROJECT LOCATION: 5945 Ramirez Canyon Road, City of Malibu

PROJECT DESCRIPTION: Construct a two story 28 foot high 5,305 square foot single family residence with an attached 618 sq. ft. two car garage, septic system, swimming pool, driveway, retaining wall system and 1,835 cubic yards of grading (1,355 cu. yds. cut, 470 cu. yds. fill). The applicant is also requesting after-the-fact approval for a lot line adjustment between a 2.33 acre lot (lot 1) and a .51 acre lot (lot 2) resulting in a 1.32 acre lot (lot 1) and a 1.52 acre lot (lot 2).

Lot Area:	Lot 1 - 2.33 ac. (before adjustment)
	Lot 1 - 1.32 ac. (after adjustment)
	Lot 2 - 0.51 ac. (before adjustment);
	Lot 2 - 1.52 ac. (after adjustment)
Building Coverage:	3,190 sq. ft.
Pavement Coverage:	4,000 sq. ft.
Landscaped Area:	1,000 sq. ft.
Parking Spaces:	4
Plan Designation:	Residential 1, 1 du/acre & Rural Land 1, 1du/10 acres
Height above existing grade:	28 feet

Staff Note: Due to Permit Streamlining Act requirements the Commission must act on this permit application at the June Commission meeting.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with special conditions regarding plans conforming to geologic recommendations, landscape and erosion control plans,

Summary of Staff Recommendation continued:

removal of natural vegetation, wild fire waiver of liability, drainage and polluted runoff control plan, color restriction, future improvements restriction and removal of excavated material. As condition, the proposed project is consistent with the Chapter Three Policies of the Coastal Act.

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department, dated 1/3/00; Approval in Concept (Septic System), City of Malibu Department of Environmental Health dated 10/12/99; Approval in Concept, County of Los Angeles Fire Department.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan (1986); Coastal Development Permits 5-90-754 (Sekerka); 4-00-122 (Bell). Geologic and Geotechnical Engineering Update Study and Fault Study 5945 Ramirez Canyon Road Malibu, California prepared by RJR Engineering Group, Inc. dated April 9, 1998; Addendum Letter No. 2 Response to Review Comments 5945 Ramirez Canyon Road Malibu, California prepared by RJR Engineering Group, Inc. dated November 11, 1999.

I. STAFF RECOMMENDATION

MOTION: I move that the Commission approve Coastal Development Permit No. 4-00-183 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 Recommendations

- (a) All recommendations contained in the Geologic and Geotechnical Engineer Study, dated April 9, 1998, prepared by RJR Engineering Group, Inc. and Response to Review Comments, dated 11/11/99 shall be incorporated into all final design and construction including recommendations concerning foundations, grading and drainage. All plans must be reviewed and approved by the geotechnical consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.
- (b) 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. The Executive Director shall determine whether required changes are "substantial."

2. Landscape and Erosion Control Plan and Fuel Modification

A) Landscaping

Prior to the issuance of the coastal development permit, the applicant shall submit landscaping and fuel modification plans prepared by a licensed landscape architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

1. All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes within sixty (60) days of receipt of the Certificate of Occupancy from City of Malibu. To minimize the need for irrigation and to screen or soften the visual impact of development, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years, shall be repeated, if necessary, to provide the required coverage.
2. Plantings shall include vertical elements to screen and soften the visual impact of the residence and retaining walls from the Coastal Slope Trail.
3. All plantings shall 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. Vegetation within fifty feet (50') of the proposed house may be removed, and vegetation within a two-hundred foot (200') radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such removal and 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 Fire Department of Los Angeles County. Irrigated lawn, turf, or groundcover planted within a fifty foot (50') radius (fuel modification zone) of the proposed residence shall be selected from the most drought tolerant species, subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
5. Fencing on the property (lot 1) shall be of a design that is permeable to wildlife.

B) Erosion Control

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.

The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.

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

The plan shall require the placement of temporary protective fencing around the outermost limits of the protective zone of the oak tree on site. No construction, grading, staging, or materials storage shall be allowed within the fenced exclusion area.

C) Monitoring

Five (5) 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 revised 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 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 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.

4. Wild Fire Waiver of Liability

Prior to the issuance of the 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.

5. Drainage and Polluted Runoff Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, 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 engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- b) Runoff shall be conveyed off site in a non-erosive manner.
- c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- d) 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.

6. Color Restriction

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

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

7. Future Improvements

This permit is only for the development described in coastal development permit No. 4-00-183. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements to the permitted structures, including but not limited to 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. 4-00-183 from the Commission or shall require an additional coastal development permit.

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, reflecting the above restrictions on development in the restricted area. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

8. 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 excess excavated material from the site. Should the disposal site be located in the Coastal Zone, a coastal development permit shall be required.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a two story 28 foot high 5,305 square foot single family residence with an attached 618 sq. ft. two car garage, septic system, swimming pool, driveway, retaining wall system and 1,835 cubic yards of grading (1,355 cu. yds. cut, 470 cu. yds. fill). The applicants are also requesting after-the-fact approval for a lot line adjustment between a 2.33 acre lot (lot 1) and a .51 acre lot (lot 2) resulting in a 1.32 acre lot (lot 1) and a 1.52 acre lot (lot 2) (Exhibits 3 &4).

Lot 2 fronts Ramirez Canyon Road and contains an existing single family residence. The proposed building site on lot 1 is located approximately 400 feet from Ramirez Canyon Road on the western slope of Ramirez Canyon. Access to the site is provided via an unimproved road easement located on the adjacent lot to the south connecting to an improved private road that outlets on Ramirez Canyon Road (Exhibit 4). The applicant is proposing to construct a 15 foot wide 186 foot long paved driveway over the unimproved easement to provide access to the building site to the existing paved access road. The property is bordered on the south and east by existing residential development and vacant land to the west and north. The slope gradient in the vicinity of the building site is approximately 4:1. Vegetation on the site consists of primarily non-native grasses in the area of the proposed building site and native chaparral vegetation located on the canyon slope west and north of the proposed building site. It appears that the native vegetation in the building site area has been previously disked or cleared for the fuel modification for the residential development located to the south and east of the subject site.

There are no environmentally sensitive habitat areas on the subject site. However, the subject site drains to Ramirez Creek which is located approximately 230 feet east of the subject site. The existing single family residence on lot 2 is located approximately 25 feet east of the creek. The riparian corridor of Ramirez Creek in this location is designated in the Certified Malibu/Santa Monica Mountains Land Use plan as a disturbed sensitive resource area (DSR). This portion of Ramirez Creek has been severely disturbed by residential development. The disturbed riparian canopy does not extend on to the newly configured lot 2 and the proposed building site is setback approximately 150 feet from the riparian canopy. There is one oak tree in the vicinity of

the building site but no construction activity, grading or structures will encroach within the protected zone of this tree. The applicant is proposing protective fencing around this oak tree during construction.

The Coastal Slope Trail traverses from an east to west direction through Ramirez Canyon in close proximity to the subject properties. The trail winds down the eastern slope of the canyon directly in front of lot 2 and then traverses the western slope of the canyon over neighboring properties just south of the subject site. The proposed residence will be visible from portions of the Coastal Slope Trail.

On November 14, 1990, the Commission approved coastal development permit 5-90-754 for a two story 32 foot high 6,647 square foot single family residence with septic system and 300 cubic yards of grading on the lot 1 in approximately the same location as the proposed residence. The permit was conditioned to submit final plans stamped by the consulting geologist indicating the plans are in conformance with the geologic recommendations outlined in the consultants' report. The coastal development permit was never exercised and subsequently expired.

This permit application was postponed from the May 2001 Commission meeting in order to resolve a discrepancy regarding the acreage of the parcels before and after the proposed lot line adjustment. The error regarding the parcel sizes before and after the lot line adjustment has been corrected and is reflected above in the project description and on Exhibits 3 and 4.

Staff has received two letters from neighboring property owners and one letter from an agent representing one of these property owners regarding the proposed project (Exhibit 10). The correspondence express concerns regarding a discrepancy in the lot sizes before and after the lot line adjustment, the zoning designation cited in the staff report is not consistent with the City's zoning designation, the local "Approval in Concept" for the proposed project has expired, geologic problems on the project site, and failure to demonstrate ability to comply with the Fire Code requirements for access to the site.

The discrepancy regarding the lot sizes before and after the lot adjustment has been corrected in the project description and illustrated on Exhibits 3 and 4. An agent for one of the neighboring property owners questioned the "zoning" designation cited in the staff report. He indicates that the project description in the staff report cites an R-1 designation (1 du./acre) and the City zoning map clearly shows this property to be in a RR5 district. The plan designations cited in the staff report refer to the 1986 County Certified Land Use Plan density designations which are used by the Commission as guidance in reviewing development projects in the City of Malibu and in Los Angeles County. The RR5 zoning designation referred to above is a City's "zoning" designation that has not been certified by the Commission as part of a Local Coastal Program. The Commission does not use the city's zoning designations as guidance in their review of development projects within the City of Malibu.

The applicant did submit valid local approvals for the proposed project at the time the permit application was submitted to the Commission pursuant to the Commission's regulations. In analyzing this permit application commission staff discovered that an unpermitted lot line adjustment involving the subject property and an adjacent parcel had occurred in 1983. In order to resolve the unpermitted lot line adjustment additional information and analysis was required which delayed the scheduling of this permit application for a Commission hearing. Although the local "Approval in Concept" may have lapsed during the permit application review process the applicant did submit a valid local approval at the time the permit application was submitted to the Commission.

As discussed below in the Geologic section of this report, starting on page 12, there are no identified geologic hazards or conditions on or adjacent to the site that would preclude development of this site. The neighboring property owners have not provided evidence of any geologic hazards or conditions that may effect the subject site.

With regard to fire department access to the subject site the applicant did submit an access plan that was reviewed and approved by the County of Los Angeles Fire Department, Fire Protection Engineering, dated 7/26/99. Therefore, the applicant has demonstrated adequate access to the site for the purpose of fire protection pursuant to the County Fire Code.

B. Visual Resources

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. ...

The applicant proposes to construct a 28 foot high two story 5,305 square foot single family residence with a 618 square foot attached two car garage, septic system, swimming pool, driveway and 1,825 cubic yards of grading (1,355 cu. yds. cut, 470 cu. yds. fill.) To assess any potential visual impacts of this project to the public, the Commission reviews the publicly accessible locations from which the proposed development is visible, such as scenic highways, beaches, parks and trails. The Commission typically also examines the building site, building design and size of the structure.

The subject lot is located on the western slope of Ramirez Canyon and is not visible from any scenic highways or roadways. However, the proposed residence will be visible from the Coastal Slope Trail that traverses through Ramirez in an east/west direction. The trail winds down the eastern slope of the canyon directly in front of lot 2 and then traverses the western slope of the canyon over neighboring properties just

south of the subject site. The proposed residence will be visible from portions of the Coastal Slope Trail.

The building site is located on the western slope of Ramirez Canyon on an approximate slope gradient of 4:1. Vegetation on the site consists of primarily non-native grass in the area of the proposed building site and native chaparral vegetation located on the canyon slope above the proposed building site. It appears that the native vegetation in the building site area has been cleared and thinned for the fuel modification for the residences located on the adjacent lots to the east and south.

The proposed building pad is a stepped design that consists of an upper terrace area above the residence, a split level pad for the residence and another lower terrace where the pool is located. The proposed terraces will be supported by a retaining wall system with maximum wall heights not to exceed six feet. The proposed building pad and driveway improvements require 1,825 cubic yards of total grading (1,355 cu. yds. cut, 470 cu. yds. fill). Approximately 720 cubic yards (all cut) is required to excavate the proposed residence into the slope. The proposed terraces and fire turn around area requires 915 cubic yards of grading. The proposed 186 foot long driveway requires 190 cubic yards of fill to construct.

The applicant has minimized the potential visual impact of the proposed residence by excavating the residence into the hillside in a split level design. The applicant has also minimized grading through the use of a stepped building pad design for the proposed terrace areas. The orientation of the residence and terraces in relationship to the viewshed of the Coastal Slope Trail minimizes the visual profile of the residence from the trail. The Commission finds that the applicant has sited and designed the proposed residence to minimize grading and landform alteration and minimize the visual impact of the structure as seen from public view areas.

In order to further minimize the visual impact of the proposed development from the Coastal Slope Trail, the Commission finds, that it is necessary to require the applicant to finish the proposed residence and retaining walls in a color consistent with the surrounding natural landscape; the windows of the proposed structure be of a non-reflective nature; and the driveway be colored in a manner that blends into the surrounding area as specified in **Special Condition 6**.

Landscaping with vertical elements on the eastern slopes of the property facing the trail will also minimize the visual impact of the proposed development and retaining walls. Therefore, the Commission finds it necessary to require a landscape plan that utilizes native, drought resistant plants to screen and soften the visual impact of the structures, as required by **Special Condition 2**.

In addition, future developments or improvements to the property have the potential to create significant adverse visual impacts as seen from the public trail. Therefore, it is necessary to ensure that future developments or improvements normally associated with a single family residence, which might otherwise be exempt, be reviewed by the

Commission for compliance with the visual resource protection policies of the Coastal Act. **Special Condition 7**, the future improvements deed restriction, will ensure the Commission will have the opportunity to review future projects for compliance with the Coastal Act.

In summary, the proposed project as conditioned, will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act.

C. Geology and Fire Hazards

Coastal Act Section 30253 provides that:

Section 30253.

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. ...

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

1. Geology

Section 30253 of the Coastal Act requires that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The applicant has submitted a Geologic and Geotechnical Engineering Study, dated 4/9/98, prepared by RJR Engineering Group, Inc. and a Response to Review Comments, dated 11/11/99. The applicants' consultant has determined that the proposed project site is stable and therefore suitable for the proposed development. The applicant's geologist states:

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

Based on the recommendations of the consulting geologists, the Commission finds that the proposed development, as conditioned herein, minimizes risks to life and property from geologic hazards and assures stability and structural integrity, as required by Section 30253 of the Coastal Act, so long as the recommendations set forth in the Geosystems report are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting geologist and soils engineer as conforming to their recommendations as specified in **Special Condition 1**.

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 erosion control measures during construction and appropriate landscaping into the proposed development. To ensure that adequate erosion control and appropriate landscaping is included in the proposed development the Commission requires the applicant to submit landscaping and interim erosion control plans certified by the consulting geology and geotechnical engineer, as specified in **Special Condition 2**. 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/foilage weight. The Commission finds that non-native and invasive plant species with high surface/foilage 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. In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area. Increasing urbanization in this area has also caused the loss or degradation of major portions of the native habitat and the loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast-growing trees that originate from other continents, often used as landscaping in this area, invade and seriously degraded native plant communities adjacent to development. 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 2**.

The geotechnical consultants have also recommended that adequate drainage be provided to minimize erosion to the site which could contribute to instability. The report states that:

Pad areas of the site should be finished graded to direct drainage away from all buildings and slopes. Drainage should not be allowed to pond anywhere on the pad, nor on or adjacent to foundations or pavements and should be directed towards suitable collection and discharge facilities. Pipes discharging water should be constructed with energy dissipaters to minimize potential erosion.

In order to ensure site stability and minimize erosion the Commission finds that it is necessary to require the applicant to submit a drainage and erosion control plan designed to collect runoff from the site and conduct it offsite in a non-erosive manner as required by **Special Condition 5**.

Additionally, 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 1,075 cu. yds. of graded earth material. Stockpiles of dirt are subject to increased erosion and, if retained onsite, may lead to additional landform alteration. Therefore, **Special Condition 8** 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.

Therefore, for all of the reasons cited above, the Commission finds that the proposed project as conditioned by above, will be consistent with the requirements of Coastal Act Section 30253.

2. Wild Fire

Section 30253 of the Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in

Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

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 4**, the wild fire 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 4, the applicant agrees to indemnify the Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk. The Commission finds that only as conditioned by Special Condition 4 is the proposed project consistent with Section 30253 of the Coastal Act applicable to hazards from wildfire.

To comply with Los Angeles County Fire Department requirements vegetation within 200 feet of the proposed residence will have to be modified to minimize fire hazard. The fuel modification/brushing zones for the proposed residence will extend onto four adjacent properties. The parcel to the east is developed with a single family residential development and the fuel modification/brushing zone for this residence extends onto the proposed building site. The adjacent parcels to the south as been cleared of the native vegetation and landscaped with exotic vegetation. The adjacent parcel to the west of the subject lot is vacant and contains native chaparral. The fuel modification/brushing zone for the proposed residence will extend approximately 150 feet onto this parcel. The parcel to the north is developed with a single family residence that is located near Ramirez Canyon Road and the creek. However, the western portion of this lot is not developed and contains chaparral vegetation. As a result of the construction of the proposed residence there will be some minor thinning of vegetation on the adjacent parcel to the north.

The existing vegetation on this parcel consists of primarily a mix of exotic grass species and chaparral. In order to ensure that vegetation removal for the purpose of fuel modification does not occur prior to the construction of the residences the Commission finds that **Special Condition 3** is necessary. This will avoid unnecessary fuel modification without an underlying permitted development. Such fuel modification would be inconsistent with PRC Section 30253 provisions to ensure site stability and avoid potentially adverse impacts of erosion and sedimentation.

Therefore, the Commission finds that as condition above, the proposed development is consistent with the Section 30253 of the Coastal Act

D. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, 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 stated previously, the applicant proposes to construct a 28 foot high two story 5,305 sq. ft. single family residence with a 618 sq. ft two car garage, septic system, pool, driveway and 1,635 cubic yards of grading. The proposed building site is considered "hillside" development, as it involves moderately sloping 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 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition 5**, 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 measure 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 installation of an on-site septic system. The applicants' engineering geologic consultants have evaluated the site relative to a potential septic system and conclude that the site is suitable for the septic system and that there will be no adverse impact to the site or surrounding area from use of the proposed septic system. Finally, the City of Malibu Environmental Health Department has approved the design of the proposed sewage disposal 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. New Development/ Cumulative Impacts

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

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

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

Section 30105.5 of the Coastal Act defines the term "cumulatively", as it is applied in Section 30250(a) to mean that:

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

The Coastal Act requires that new development, including land divisions, be permitted within, contiguous, or in close proximity to existing developed areas, or if outside such areas, only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. In past permit actions, the Commission has found that for Malibu and the Santa Monica Mountains, the coastal/terrace area represents the existing developed area. The Commission has repeatedly emphasized, in past permit decisions, the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains coastal zone. The Commission has reviewed land division applications to ensure that newly created or reconfigured parcels (lot line adjustments) are of sufficient size, have access to roads and other utilities, are geologically stable and contain an appropriate potential building pad area where future structures can be developed consistent with the resource protection policies of the Coastal Act. In particular, the Commission has ensured that future development on new or reconfigured lots can minimize landform alteration and other visual impacts, and impacts to environmentally sensitive habitat areas. Finally, the Commission has ensured that all new or reconfigured lots will have adequate public services, including road access that meets the requirements of the Fire Department.

The applicants are requesting after-the-fact approval for a minor lot line adjustment that will realign the property boundary between two existing legal parcels. Lot 1 will decrease in size from 2.33 acres to 1.32 acres and Lot 2 will be increase in size from .51 acres to 1.52 acres (Exhibits 3 & 4). The certified 1986 Malibu Land Use Plan density designation for this site is a combination of Residential 1 (1 dwelling unit/acre, & Rural Land I (1 dwelling unit/10 acres). Although the Certified Malibu Land Use Plan is not longer legally effective within the City of Malibu the Commission uses the plan as guidance in their review of development projects to determine consistency with the

Coastal Act. The proposed lot line adjustment will not result in any additional lots or create lot configurations that could increase residential density. Lot 2 is currently developed with a single family residence. Lot 1 has a residential building site that is adequately setback from Ramirez Creek and can be developed consistent with the Chapter three Policies of the Coastal Act. In addition, the reconfigured lots will continue to have adequate public services including water, electricity and road access consistent with County Fire Department requirements. Therefore, the Commission finds that, as conditioned above, the proposed project is consistent with Section 30250(a) of the Coastal Act.

F. Environmentally Sensitive Resources

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states that:

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

Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The proposed residence , as previously noted, is located within approximately 230 feet of a Ramirez Creek which is a blueline stream that drains south to the ocean at

Paradise Cove. The existing single family residence on lot 2 is located approximately 25 feet east of the creek. The riparian corridor of Ramirez Creek in this location is designated in the Certified Malibu Santa Monica Mountains Land Use plan as a disturbed Sensitive Resource Area (DSR). This portion of Ramirez Creek riparian corridor has been severely disturbed by residential development. However, the disturbed riparian corridor continues to provide a valuable habitat and corridor for a variety of animals and supports unique riparian plant species of limited range.

In past permit actions regarding new development adjacent to riparian habitat, the Commission has required that new development be set back a adequate distance to ensure that vegetation removal required by the Fire Department does not encroach into the riparian corridor. This distance can vary depending on the vegetation type and topography but generally the setback distance is between 150 to 200 feet. In this case, the proposed building site is setback approximately 150 feet from the riparian canopy. As noted above, an existing residence is located on lot 2 adjacent to the stream and has resulted in significant disturbance to the riparian corridor in this location. The proposed residence will not require any additional fuel modification within the riparian corridor over and above what is already required for the existing residence on lot 2. In addition, the proposed residence is setback as far as is feasible from the creek and riparian canopy. Therefore, the Commission finds that the proposed residence is adequately setback from the stream which will ensure the project will not adversely impact the remnant riparian habitat.

Although the proposed project is well outside of the riparian canopy of Ramirez Creek there is one oak tree in the vicinity of the building site. The proposed structure, construction activity and grading will not encroach within the protected zone of this oak tree. In addition, the applicant is proposing protective fencing around this oak tree during construction. In order to implement the applicants' proposal to fence off the protected zone of the oak tree, **Special Condition 2** (Landscape and Erosion Control), contains a provision for fencing the protective zone of the oak.

The Commission further finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, **Special Condition 2** requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

The Commission notes that seasonal streams and drainages, such as Ramirez Creek, provide important habitat for riparian plant and animal species. Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored

whenever feasible through means such as: controlling runoff, preventing interference with surface water flows and alteration of natural streams, and by maintaining natural vegetation buffer areas. In past permit actions the Commission has found that new development adjacent to coastal streams and natural drainages results in potential adverse impacts to riparian habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species, disturbance of wildlife, and loss of riparian plant and animal habitat.

The Commission finds that minimizing erosion and polluted runoff from the site will ensure the project will not result in any significant adverse individual or cumulative impacts on the stream, as well as sensitive resources located downstream of the project. Polluted runoff and erosion can best be minimized by requiring the applicant to implement a drainage and polluted runoff control plan as required by **Special Condition 5**. In addition, erosion during construction can be minimized by incorporating interim erosion control methods during construction, and by landscaping disturbed areas of the site with native plants compatible with the surrounding environment as required by **Special Condition 2**.

Finally, as mentioned above, the blueline stream and its associated riparian corridor is located just east of the proposed project site and provides a corridor for the movement of wildlife. To ensure the free movement of wildlife within and adjacent to the stream corridor the Commission finds that it is necessary to require that any fencing on the property be permeable to wildlife as specified in **Special Condition 2**.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

G. Local Coastal Program

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

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

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

of the proposed development, as conditioned, will not prejudice the City of Malibu's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

H. California Environmental Quality Act

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

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

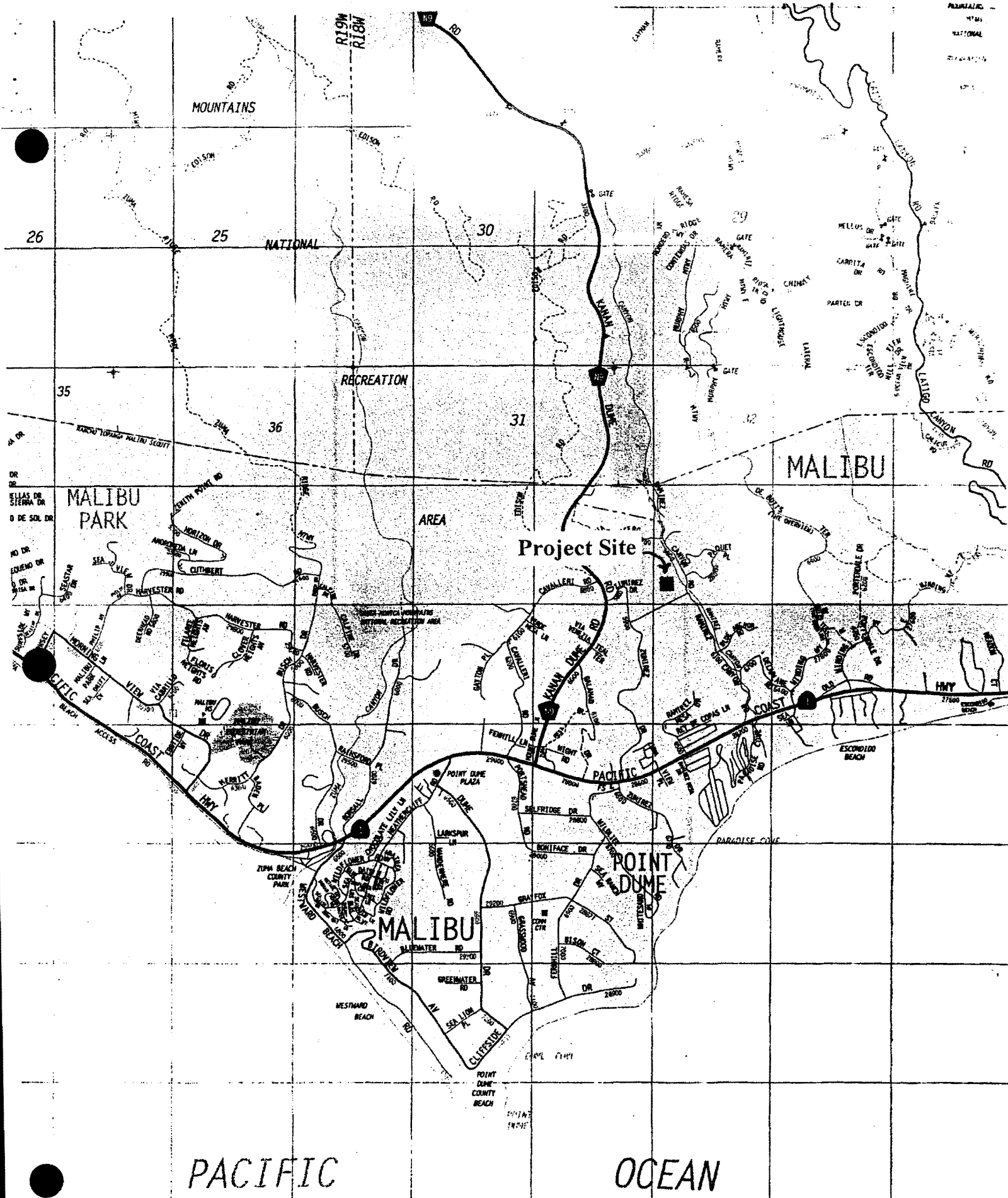
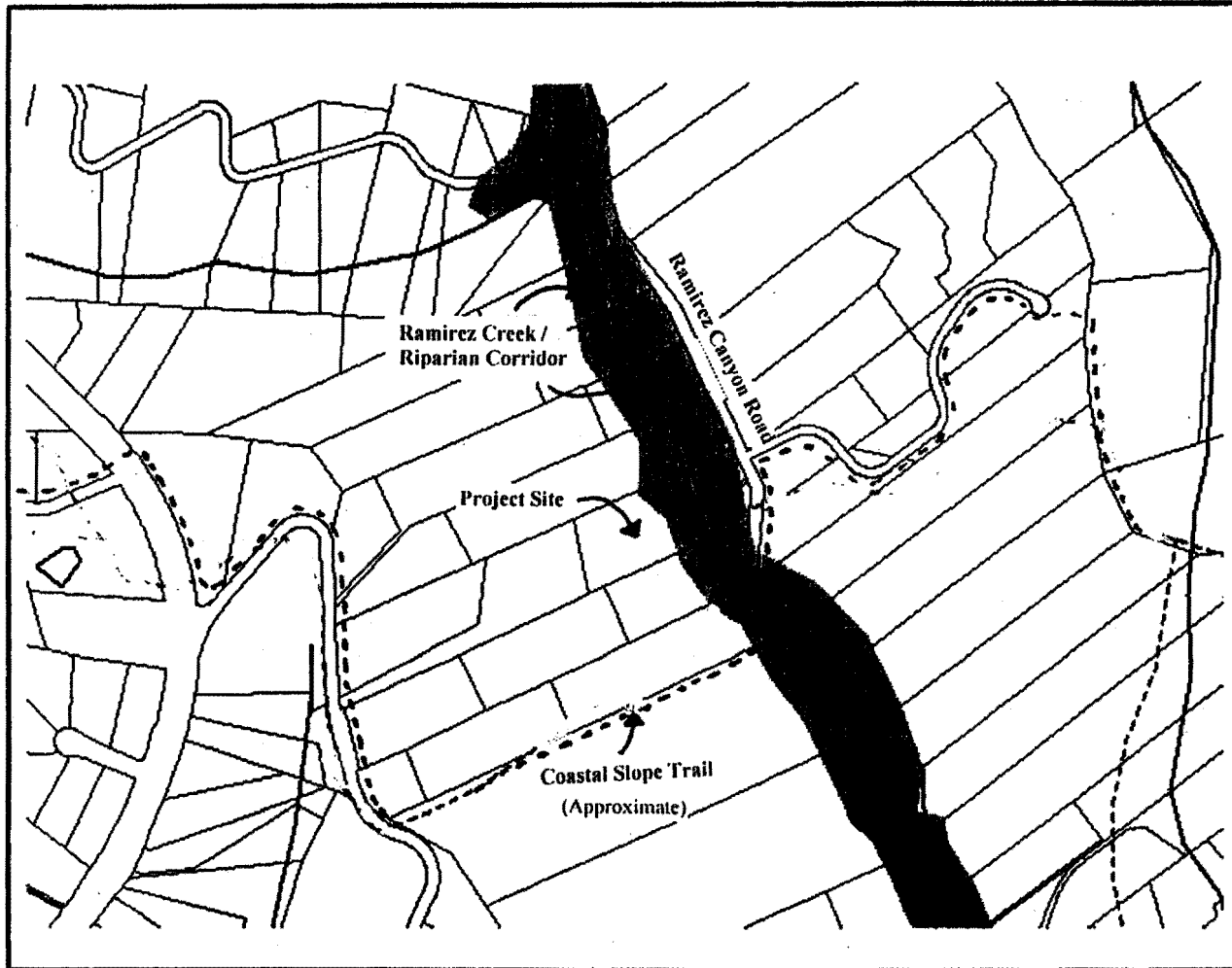


Exhibit I
CDP 4-00-183
Location Map

4-00-183 (Sekerka)






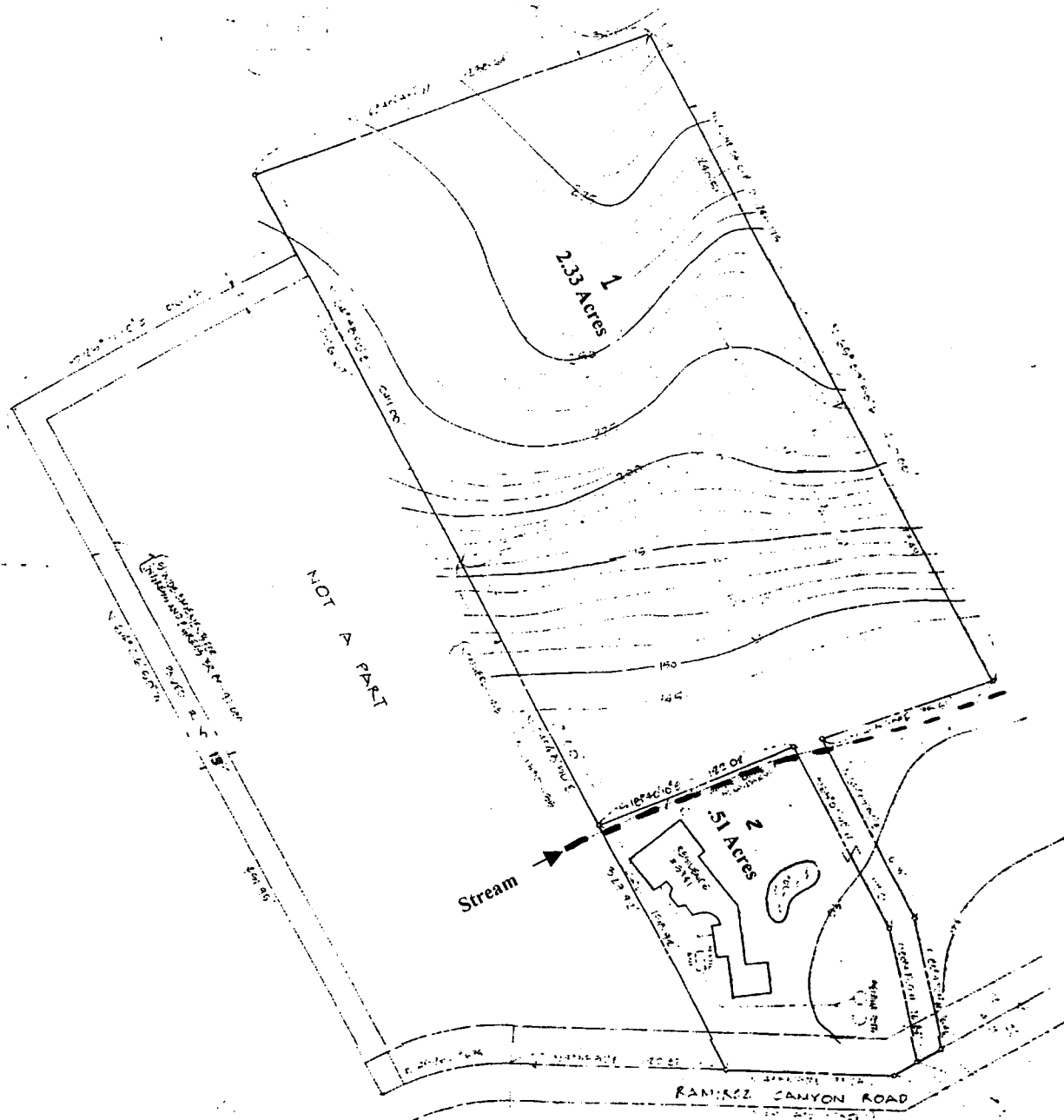
-  Trails - LA County LUP
-  Blue Line Streams
-  Iaprcis

Exhibit 2

CDP 4-00-183

Parcel Map





LOT LINE ADJUSTMENT
 MAP NUMBER 100126

ZONE - RA-1
 CERTIFICATE OF EXCISE ON NO. 18701 (M)



SCALE: 1" = 4'

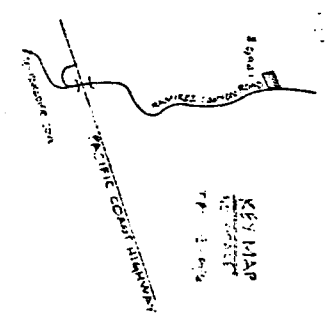
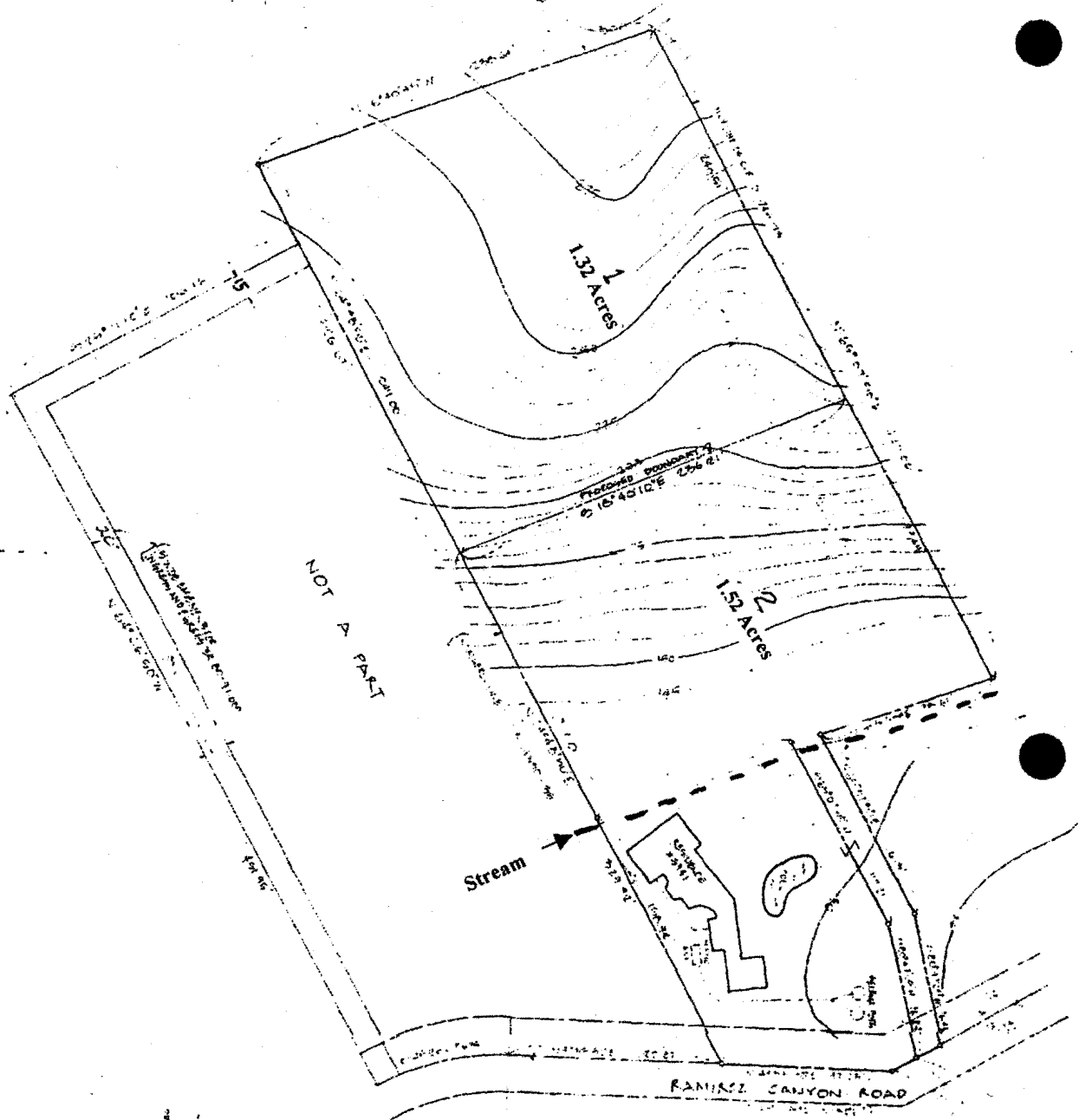


Exhibit 3
CDP 4-00-183
Existing Lot Configuration

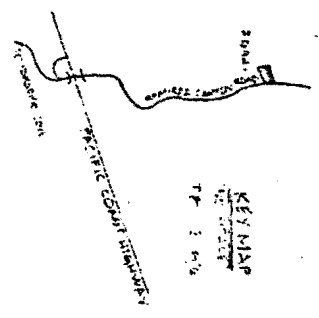


LOT LINE ADJUSTMENT
 MAP NUMBER 100126
 PREPARED BY: [illegible]
 DATE: [illegible]
 [illegible]

ZONE: RA-1
 CERTIFICATE OF PRESENTATION NO. 19701014

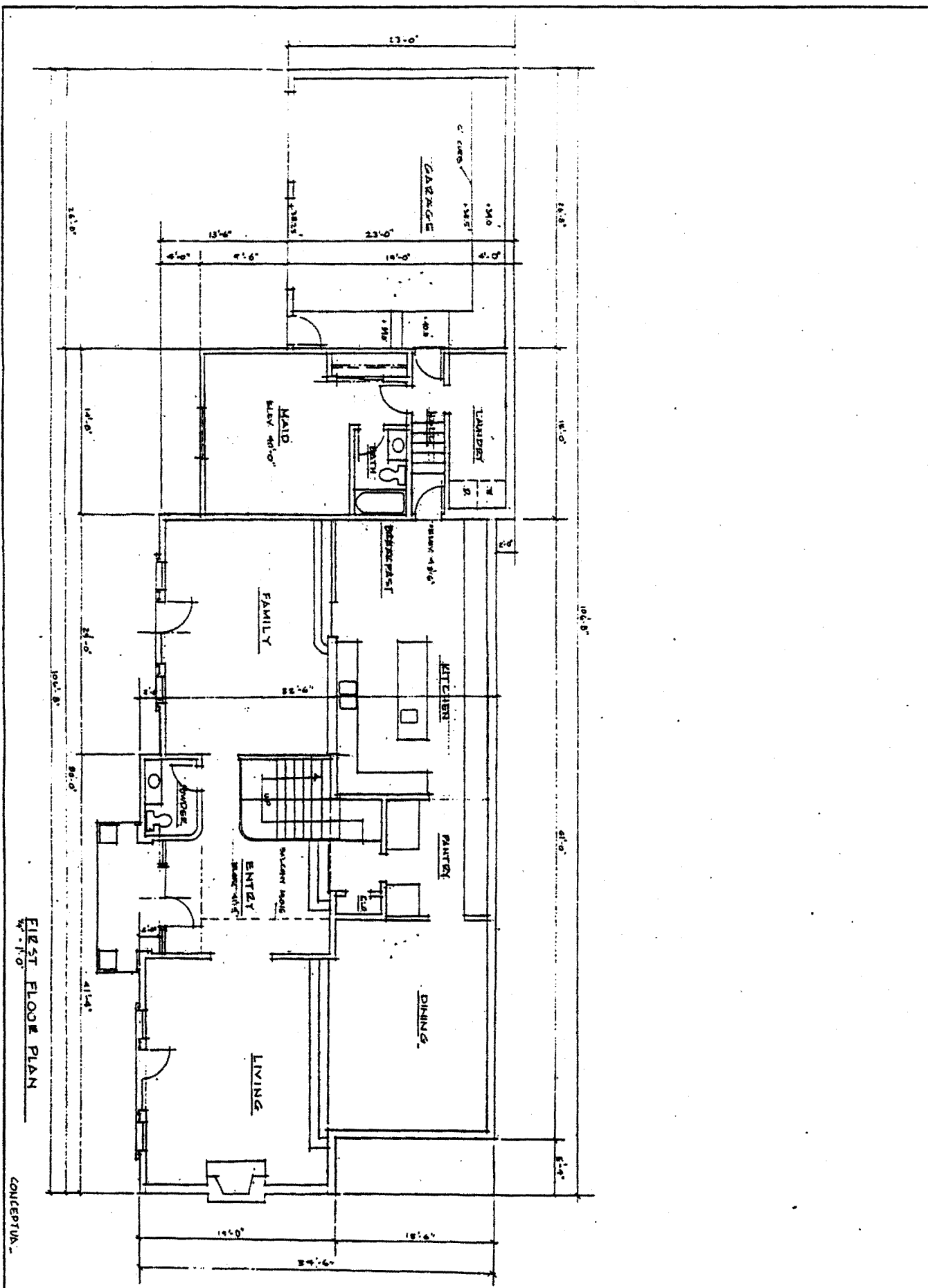


SCALE: 1" = 4'



KEY MAP
 [illegible]

Exhibit 4
CDP 4-00-183
Proposed Lot Configuration



FIRST FLOOR PLAN

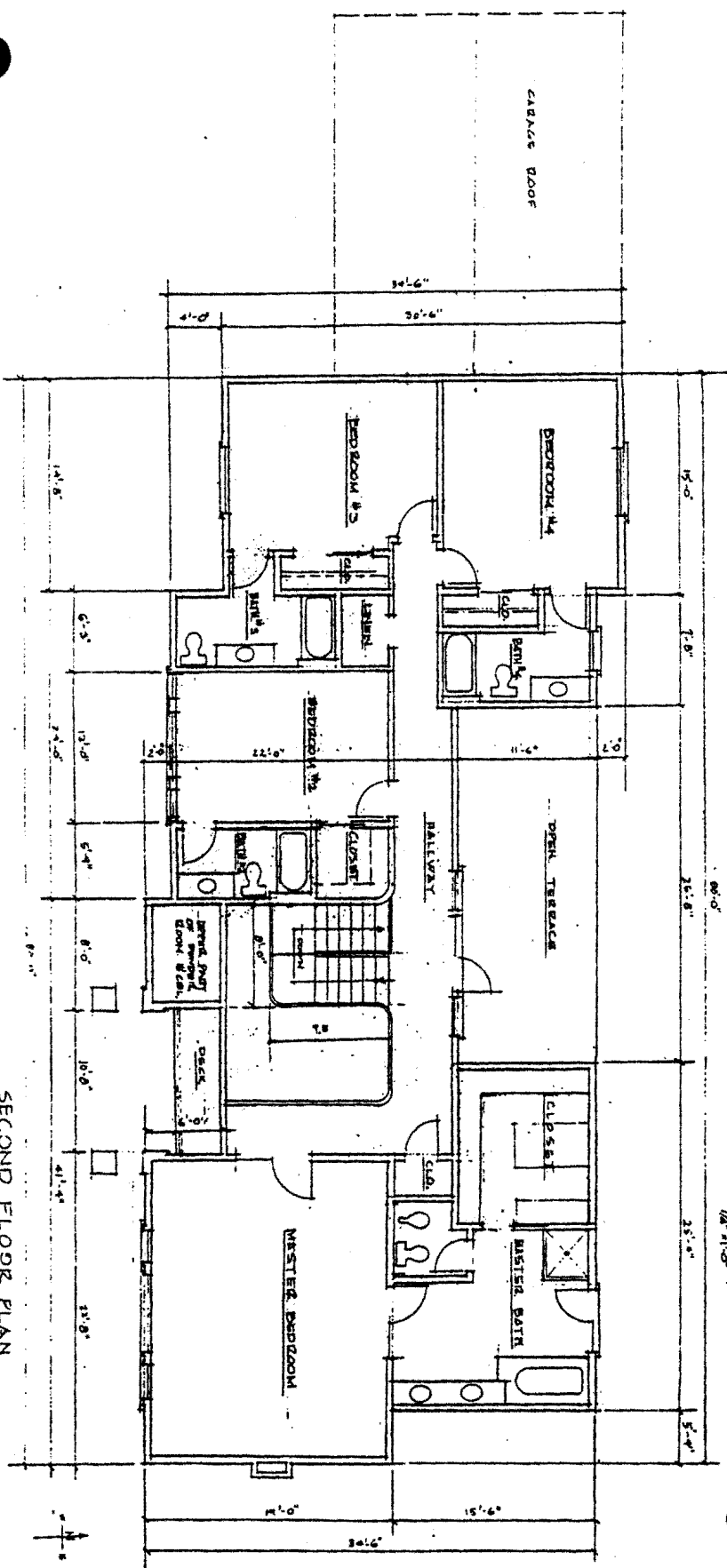
CONCEPTUAL

2	CONCEPTUAL FIRST FLOOR PLAN	RESIDENCE FOR: MR. & MRS. PAUL SEKERKA JOB ADDRESS: 5945 RAMIREZ CANYON RD. MALIBU, CA 90265	A. C. NICHOLSON C-3766
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Exhibit 6
CDP 4-00-183
First Floor Plan

SECOND FLOOR PLAN

CONCEPTUAL



REAR (NORTH) ELEVATION (B)

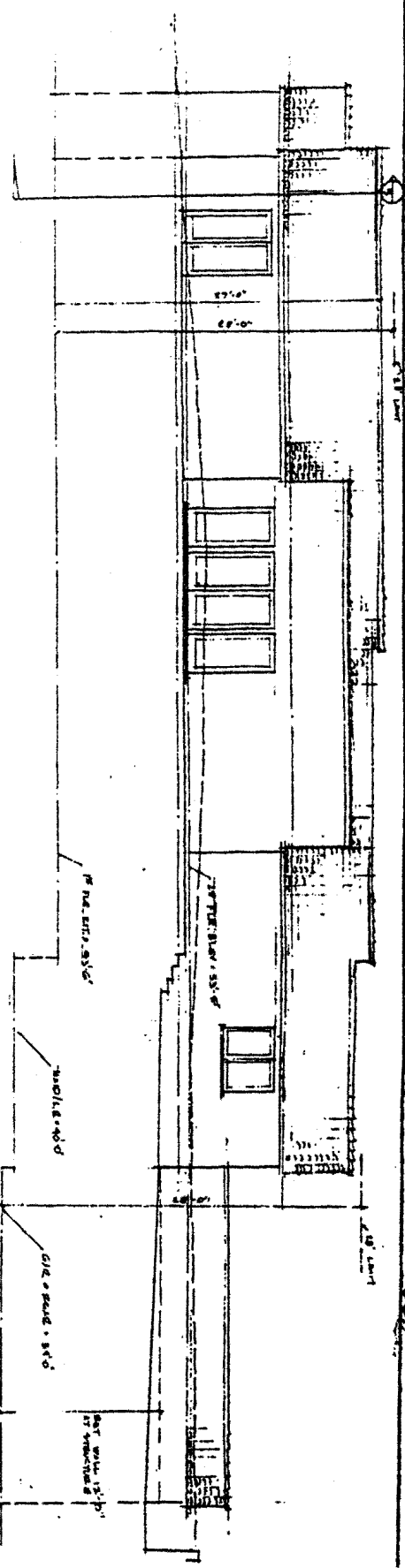


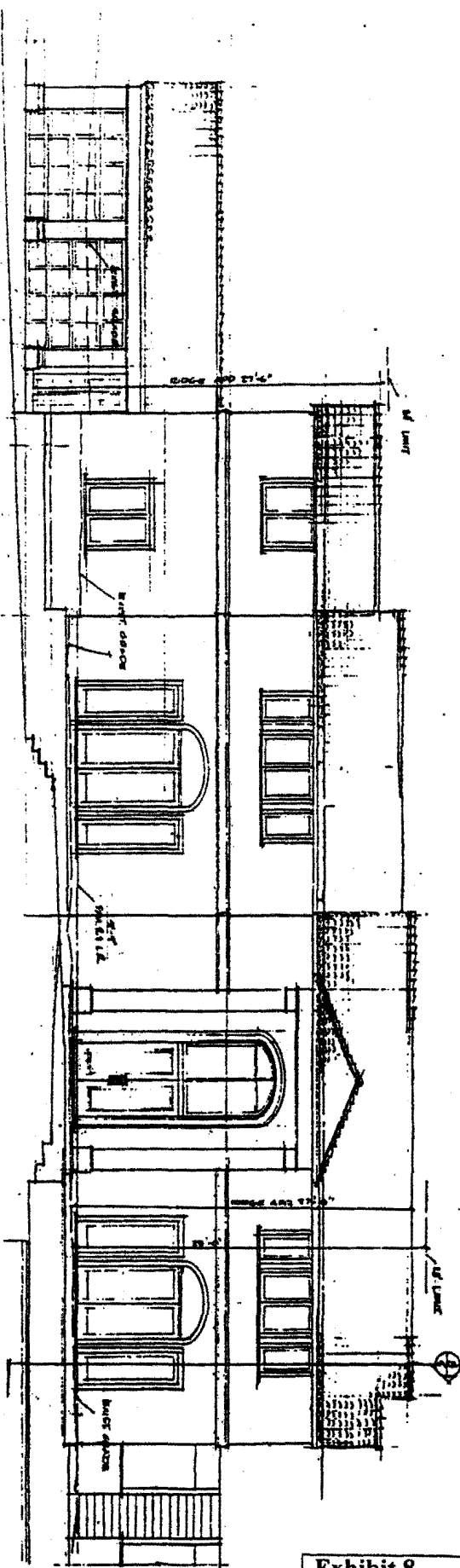
Exhibit 7
CDP 4-00-183
Second Floor Plan/North Elevation

2ND FLOOR PLAN - REAR ELEVATION

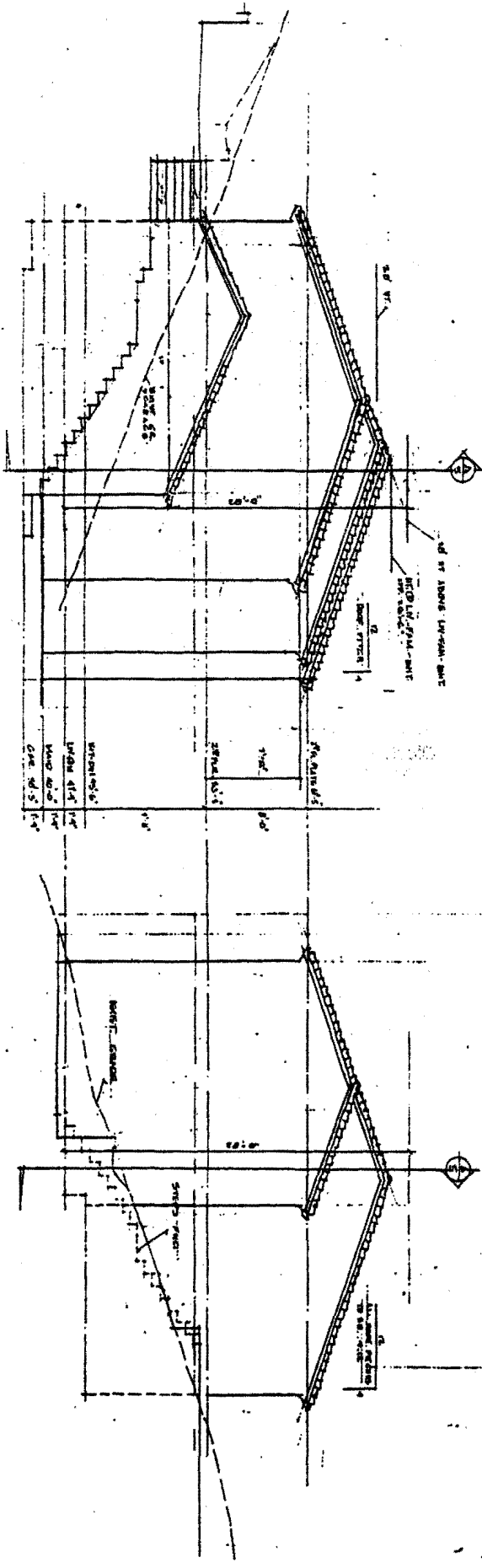
RESIDENCE FOR:
MR. & MRS. PAUL SEKERKA
106 ADDRESS: 5945 RAMIREZ CANYON RD.
MALIBU, CA 90265

A. C. NICHOLSC
C-3796

3



NORTH (FRONT) ELEVATION (A)



WEST ELEVATION (C)

EAST ELEVATION (B)

CONCEPT PLAN

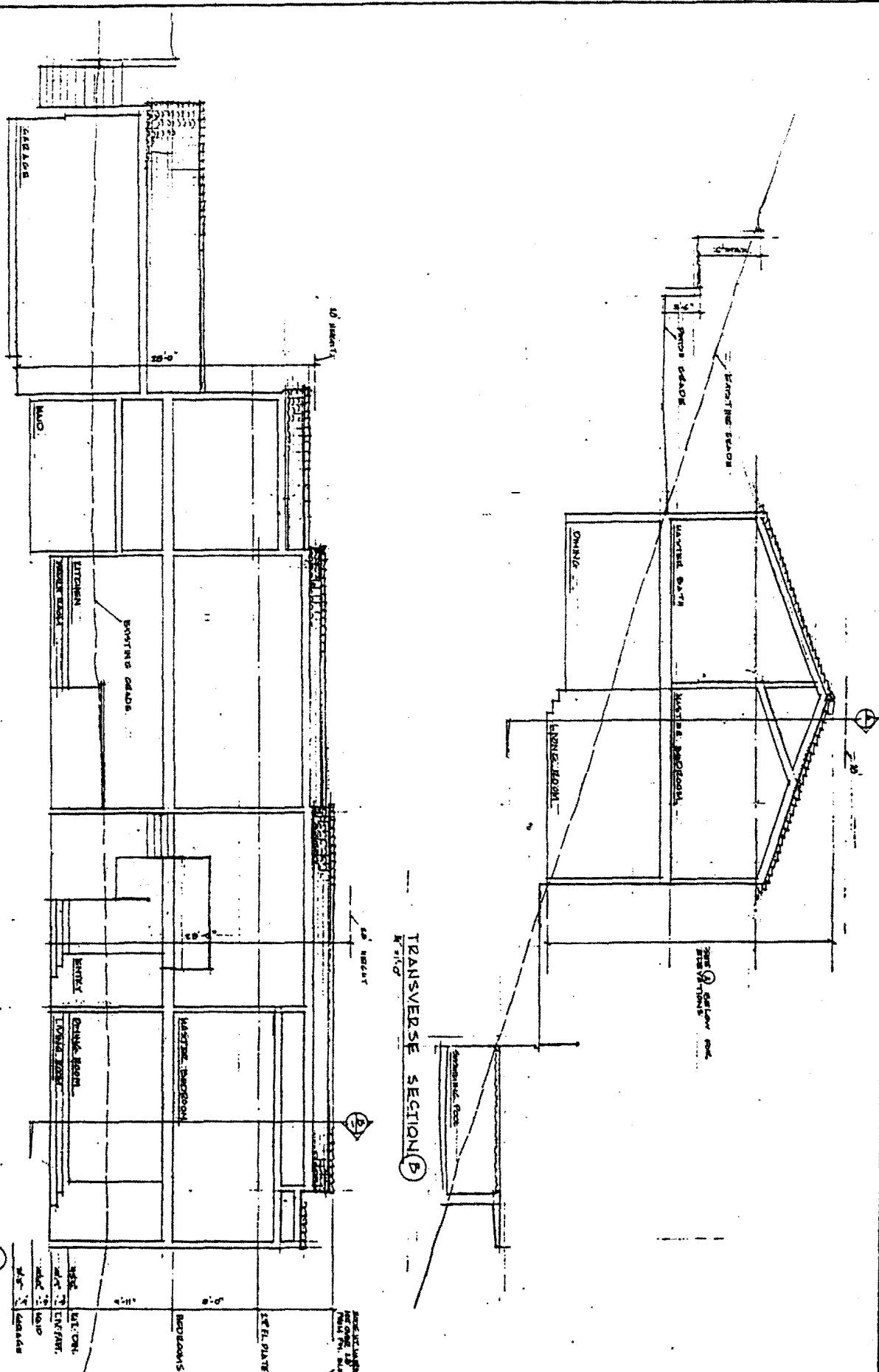
Exhibit 8
 CDP 4-00-183
 East, West and North Elevations

NORTH (FRONT), EAST, WEST ELEVATIONS

RESIDENCE FOR:
 MR. & MRS. PAUL SEKERKA
 JOB ADDRESS: 5945 RAMIREZ CANYON RD
 MALIBU, CA 90265

A. C. NICHOLSON
 C-3756

NO. 4	DATE	BY	SCALE



LONGITUDINAL SECTION (A)

TRANSVERSE SECTION (B)

CONCEPTUAL

BUILDING SECTIONS

NO. 5	DATE	SCALE

Thom and Mindy Panunzio
5967 Ramirez Canyon Road
Malibu, California 90265

PHONE (310) 589-9284
FAX (310) 457-2342

May 7, 2001

California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001
Attention: Jack Ainsworth

Re: **Applicants: Paul & Ivana Sekerka & William West**
Permit Number 4-00-183

Dear Mr. Ainsworth:

We are the owners of property directly southwest and adjacent to the subject project location. We have asked David Sawyer to address the Commission and explain our position on Item No. Tu 14e. As Mr. Sawyer will more fully explain, the hearing for the above-referenced coastal permit application should be continued due to lack of proper notice. We also ask that the hearing be postponed, in accordance with Coastal Commission policies, as we have been advised that the City of Malibu's approval-in-concept expired on January 3, 2001.

As you are aware, as adjacent property owners, we are entitled to receive reasonable advance notice of the Coastal Commission hearing on this matter. However, we only received first notice of this May 8th meeting in Monterey on **May 4, 2001**, even though the letter purporting to give notice was dated April 30, 2001. The notice does not meet the requirements of the Coastal Act and is therefore invalid.

We also oppose consideration of this matter by the Coastal Commission because there is no valid 'approval in concept,' by the City of Malibu. Please be advised that the Applicant's City of Malibu planning approval expired on January 3, 2001. Further, on our behalf, our consultant, David Sawyer, spoke with the Malibu Planning Department in January 2001, and was advised that the Applicant's approvals, if any, had so expired. Therefore we believe that the Applicant must make a new application to the City of Malibu and we have reason to believe that when the City's planning department reexamines this Project, the Planning Director will disapprove the project due to significant geological problems at the site, as well as the Applicant's failure to demonstrate an ability to comply with City's fire code with respect to access to the site

Exhibit 10
CDP 4-00-183
Letters of Opposition

For the reasons stated above, we respectfully request that the Application for a Coastal Development Permit be denied. We thank you for your consideration of this matter

Sincerely,

Thom Panunzio

Mindy Panunzio

cc Mr. David Sawyer

TU14e

CORIN L. KAHN

ATTORNEY AT LAW

WRITER'S E-MAIL:
CLKESQ@MINDSPRING.COM

15060 VENTURA BOULEVARD, SUITE 450
SHERMAN OAKS, CALIFORNIA 91403-2426

TELEPHONE
(818) 907-8986
FAX (818) 907-9896

OUR FILE NUMBER:

May 7, 2001

VIA HAND DELIVERY

Honorable Members
California Coastal Commission
c/o Mr. Peter Douglas, Executive Director
Monterey Hyatt
1 Old Golf Course Drive
Monterey, CA

RE: Application No. 4-00-183;
Sekerka/West;
5945 Swenson Drive, Ramirez Canyon, Malibu

Dear Honorable Members:

This office represents Mr. and Mrs. Panunzio, immediate neighbors of the proposed project. While we have raised several concerns in the past, particularly regarding fire safety, that we believe have not adequately been addressed, we note a significant problem in the staff report which requires additional or revised information from the Applicant. On page one of the staff report, regarding the Lot Area analysis, the area of the two lots combined before the lot line adjustment [3.302ac.], is significantly greater in area than the area of the two lots combined after the proposed lot line adjustment [2.812ac.] This discrepancy cannot be explained from the data provided and appears to be a survey error which must be corrected by the Applicant prior to the Commission's consideration of this matter.

We therefore request a postponement of the hearing on this matter until this disparity can be resolved. We also respectfully request adequate opportunity to review the amended file and to comment on the project.

Very truly yours,

CORIN L. KAHN

David Sawyer Corporation
2164 Wilton Drive
Cambria, CA 93428
805-927-3837 dscorp@thegrid.net

Facsimile Transmittal

URGENT

TO: Mr. Peter Douglas, Executive Director
California Coastal Commission
DATE: May 7, 2001
VIA FAX #: 831-375-3960
RE: Tu 14e, Application # 4-00-183
PAGES (Incl. this page): 1

REQUEST FOR POSTPONEMENT

Dear Mr. Douglas,

I am an architectural consultant representing several neighbors of the above-referenced Project and we respectfully request a postponement of the hearing on this matter for the following reasons, including but not limited to:

1. We question whether or not the lot upon which the proposed development is intended to be built is a legal lot.
Further, the Lot Area numbers do not add up; the before and after calculations are roughly ½ acre askew;
2. There is a concern about the zoning designation. Whereas the Project Description indicates R1, the map clearly shows this property to be in a RR5 district;
3. Certain neighbors have expressed to the City of Malibu in writing concerns about slope stability, biological impacts, and inadequate Fire Department access, which have yet to be sufficiently addressed by the City;
4. As notices for this hearing were not mailed out until April 30, 2001, and were not received by the addressees until Thursday, May 3rd, we have had inadequate opportunity to review the file and make substantive comments.

For these reasons, and perhaps others, we respectfully request this matter be put forward to a meeting at some future date, preferably in Los Angeles or Ventura, where it will be less of a hardship for concerned neighbors to appear.

Respectfully yours,

David Sawyer

cc: John Ainsworth, Ventura Office
Corin L. Kahn, Esq.

