

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
SANTA MONICA, CA 93001  
(805) 641 - 0142

Filed: 3/9/01  
49th Day: 4/27/01  
180th Day: 9/5/01  
Staff: A.A.V. *MAA*  
Staff Report: 5/24/01  
Hearing Date: 6/15/01  
Commission Action:



## RECORD PACKET COPY

### STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO.:** 4-00-234

**APPLICANT:** Rochester Fund LLC

**Agent:** Nazy Efraim

**PROJECT LOCATION:** 18233 Coastline Drive, Malibu, Los Angeles County

**PROJECT DESCRIPTION:** Subdivision of a 9,950 sq. ft. parcel to create two new parcels totaling 4,685 sq. ft. and 4,865 sq. ft., and construction of a four-story, 35 ft. high, 4,000 sq. ft. condominium unit with two-car garage on each parcel, and 1,700 cu. yds. of grading for entire project (1,500 cu. yds. cut, 200 cu. yds. fill, 1,300 cu. yds. export). The proposed project will utilize existing water, sewer, and electric utilities.

<b>Lot area:</b>	9,950 sq. ft.
<b>Impermeable coverage:</b>	8,550 sq. ft.
<b>Landscaped area:</b>	1,400 sq. ft.
<b>Unimproved:</b>	0 sq. ft.
<b>Height Above Finished Grade</b>	35 ft.

**LOCAL APPROVALS RECEIVED:** Los Angeles County Department of Regional Planning Tentative Parcel Map Approval 8/15/00; Los Angeles County Department of Regional Planning, Approval In-Concept, 2/12/01; County of Los Angeles Department of Public Works, Geology Review Sheet, Recommendation for Approval, 4/6/00; County of Los Angeles Department of Public Works, Soils Engineering Review Sheet, Recommendation for Approval, 4/25/00; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approved, 12/20/00.

**SUBSTANTIVE FILE DOCUMENTS:** Preliminary Geotechnical Engineering Investigation of Proposed Townhomes, AGI Geotechnical, Inc., 9/23/98; Update Geotechnical Engineering Report, AGI Geotechnical, Inc. 3/17/00; Los Angeles County Department of Regional Planning, Findings for the Hearing Officer for Tentative Parcel Map No. 25785; and certified Malibu/Santa Monica Mountains Land Use Plan.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed project with **7 Special Conditions** regarding (1) conformance to geologic recommendations for design and construction, (2) drainage and polluted run-off control, (3) landscaping and erosion control, (4) removal of excavated material, (5) removal of natural vegetation, (6) cumulative impact mitigation, and (7) wildfire waiver of liability.

**I. STAFF RECOMMENDATION**

**MOTION:**        *I move that the Commission approve Coastal Development Permit No. 4-00-234 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 Preliminary Geotechnical Engineering Investigation of Proposed Townhomes, AGI Geotechnical, Inc., dated 9/23/98 and Update Geotechnical Engineering Report, AGI Geotechnical, Inc. dated 3/17/00 shall be incorporated into all final design and construction including foundations, grading, and drainage. 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. **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.

### **3. Landscaping and Erosion Control Plans**

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The 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 February 6, 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.

### **4. 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.

### **5. Removal of Natural Vegetation**

Removal of natural vegetation for the purpose of fuel modification within the fifty (50) foot zone surrounding the proposed structure 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 fifty (50) to two hundred (200) foot fuel modification zone shall not occur until commencement of construction of the structures approved pursuant to this permit.

#### **6. Cumulative Impact Mitigation**

Prior to the issuance of the Coastal Development Permit, the applicant shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject development with respect to build-out of the Santa Monica Mountains are adequately mitigated. Prior to the issuance of this permit, the applicant shall provide evidence to the Executive Director that development rights for residential use have been extinguished on one (1) building site in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

- (a) A transfer development credit (TDC)-type transaction, consistent with past Commission actions; or
- (b) Participation along with a public agency or private non-profit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

#### **7. 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.

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

The Commission hereby finds and declares:

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

The applicant is proposing to subdivide a 9,950 sq. ft. parcel to create two new parcels totaling 4,685 sq. ft. and 4,865 sq. ft., and construction of a four-story, 35 ft. high, 4,000

sq. ft. condominium unit with a two-car garage on each parcel (Exhibits 3-8). The proposed project will require 1,700 cu. yds. of grading for the entire project (1,500 cu. yds. cut, 200 cu. yds. fill, 1,300 cu. yds. export) and the proposed residential units will utilize existing water, sewer, and electric utilities.

The subject site is a 9,950 net sq. ft. parcel located on the north side of Coastline Drive in the City of Malibu, Los Angeles County (Exhibits 1,2). The property consists of a steeply sloped hillside which descends approximately 55 ft. to Coastline Drive with an average gradient of 2:1. The project site is presently developed with a private paved driveway that parallels Coastline Drive and provides access to the subject parcel and adjacent lots. In addition, a concrete walkway and retaining wall exist on the site, which will be demolished prior to construction of the proposed development. The subject site is vegetated predominantly with grasses, pampas grass, and a few shrubs.

The area surrounding the project site is intensely developed with single-family homes and multi-residential structures. The subject site is one of two vacant, multi-residential zoned lots located adjacent to one another along Coastline Drive. All other parcels located east of the two vacant parcels on Coastline are developed with multi-residential units ranging 2-12 units per lot. The parcel immediately adjacent to and west of the subject site is also developed with an 8 unit multi-residential structure, while the remainder of parcels west of this lot consist of single family residences (Exhibit 9).

Land use designations for parcels in the Malibu/Santa Monica Mountains area as detailed in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) are instructive on the level of density that the Commission has previously found allowable consistent with the policies of the Coastal Act. In this case, the certified LUP parcel map illustrates that the subject site is within the Residential IIIB Category but directly on the boundary of two land use designations, Residential IIIB (4-6 units/acre) and Residential IVB (8-10 units/acre) (Exhibit 9). According to the Residential IIIB Category density calculation for the project site, which allows 4-6 dwelling units per acre, the parcel would be restricted to one dwelling unit for the entire site. As described, the proposed project includes construction of two dwelling units for the subject site, which would be inconsistent with the Residential IIIB LUP map designation. However, the County of Los Angeles Department of Regional Planning has identified a discrepancy between the certified land use map and the layout of existing development in the area. As illustrated on Exhibit 9, the subject site is situated within an existing pattern of development consisting wholly of multi-residential structures. The County concluded that the Residential IVB Category boundary should in fact extend two parcels west to encompass both the subject site and an existing multi-residential structure adjacent to and west of the site, to be consistent with the existing pattern and intensity of development along Coastline (Exhibit 9). As such, the County assigned the project site a Residential IVB land use designation permitting a maximum of two units at the site, thus accommodating the applicant's project proposal to construct 2 units.

The Commission notes that the subject parcel exists in a unique location just within the easternmost boundary of the Residential IIIB land use designation and within a stretch



of developed area consisting entirely of multi-residential structures. Given the fact that the subject property is located just on the boundary for the Residential IVB Category, and that the property is one of two vacant infill parcels located within this built-out multi-residential area, the Commission finds that a Residential IVB land use designation allowing construction of 2 units is an appropriate designation for the project site and will conform with the pattern of existing development. In accordance with the Residential IVB Category density calculation for the project site, which allows 8-10 dwelling units per acre, the site may be developed with a maximum of 2 units. As such, the applicant's proposal is consistent with the adjusted Residential IVB land use designation allowing a maximum of 2 units to be constructed at the site. Construction of 2 units at the project site will be consistent with the pattern, scale, and intensity of development existing in the near vicinity.

Vegetation at the project site consists primarily of non-native grasses, pampas grass, and a few shrubs. No environmentally sensitive habitat areas or significant coastal resources are known to occur on the site. The area surrounding the project site is a built-out portion of Malibu intensely developed with single-family homes, multi-residential structures, and residential landscaping, therefore, fuel modification requirements for the proposed structure will not result in thinning or removal of natural vegetation on site or adjacent property. The proposed project will not be visible from Pacific Coast Highway or any other public viewing area. Therefore, the proposed project will have no new significant adverse impacts on significant 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 Preliminary Geotechnical Engineering Investigation of Proposed Townhomes, AGI Geotechnical, Inc. dated 9/23/98 and an Update Geotechnical Engineering Report, AGI Geotechnical, Inc. dated 3/17/00, which evaluate the geologic stability of the subject site in relation to the proposed development. The geotechnical consultants indicate that the subject property is in close proximity to several large landslides but conclude that the site is setback an adequate distance such that the property will not be affected by landsliding. The Preliminary Geotechnical Engineering Investigation of Proposed Townhomes, AGI Geotechnical, Inc. dated 9/23/98 states:

*Generally speaking, the landslides are occurring in the coastal bluffs which are located above Pacific Coast Highway. In our opinion, the site is setback a safe distance from the sliding which is occurring along Pacific Coast Highway. There were no indications on air photos or regional geologic maps which would indicate the site is underlain by a landslide or in close proximity to landslides which might have an affect on the stability of the site.*

The consultants have conclude that the project site is appropriate for the proposed development. The Preliminary Geotechnical Engineering Investigation of Proposed Townhomes, AGI Geotechnical, Inc. dated 9/23/98 states:

*It is our finding that the planned development of the subject site can be completed safely free of landsliding, settlement or slippage. Recommendations contained in this report must be followed during site development. The planned development will not adversely affect the stability of off-site properties.*

The Preliminary Geotechnical Engineering Investigation of Proposed Townhomes, AGI Geotechnical, Inc. dated 9/23/98 and the Update Geotechnical Engineering Report, AGI Geotechnical, Inc. dated 3/17/00 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 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 further finds that controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad will also add to the geologic stability of the project site. Therefore, in order to minimize erosion and ensure stability of the project site, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicant to submit drainage and erosion control plans certified by the geology and geotechnical engineering consultants, as specified in **Special Conditions 2 and 3**.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition 3** requires the applicant to submit landscaping plans certified by the consulting geotechnical engineer as in conformance with their recommendations for landscaping of the project site. Special Condition 3 also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission notes 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. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in Special Condition 3.

In addition, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition 5**. This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The limitation imposed by Special Condition 5 avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

Additionally, the Commission notes that the proposed project includes 1,500 cu. yds. of cut grading and 200 cu. yds. of fill, resulting in 1,300 cu. yds. of excess graded earth material. Stockpiles of dirt are subject to increased erosion, therefore, **Special Condition 4** 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 7**, 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**

The Commission has consistently emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area. Section 30250(a) of the Coastal Act states:

***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 used in Section 30250(a) to mean:

***[T]he incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.***

As described previously, the proposed project includes the subdivision of a 9,950 net sq. ft. parcel to create two new parcels totaling 4,685 sq. ft. and 4,865 sq. ft., and construction of a four-story, 35 ft. high, 4,000 sq. ft. condominium unit with a two-car garage on each parcel. The project will also require 1,700 cu. yds. of grading (1,500 cu. yds. cut, 200 cu. yds. fill, 1,300 cu. yds. export). The proposed condominiums will utilize existing water and electric utilities and will connect to an existing sewer system for sewage disposal.

The Coastal Act requires that new development, including subdivisions and multi-residential projects, be permitted 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 looked to the land use designations of the Malibu/Santa Monica Mountains Land Use Plan for guidance on the maximum density and intensity of land use that may be permitted in any particular area.

The proposed development is located at the eastern end of Malibu on the coastal terrace at the base of the Santa Monica Mountains where the most extensive infrastructure and services are found. The project site is one of only two parcels remaining undeveloped along Coastline Drive in this area and is readily serviced by existing water, electric, and sewer utilities. As described previously, the certified LUP parcel map illustrates that the subject site is within the Residential IIIB Category but directly on the boundary of two land use designations, Residential IIIB (4-6 units/acre) and Residential IVB (8-10 units/acre) (Exhibit 9). According to the Residential IIIB Category density calculation for the project site, which allows 4-6 dwelling units per acre, the site would be restricted to one dwelling unit for the entire site. However, the County of Los Angeles Department of Regional Planning has identified a discrepancy between the land use map and layout of existing development. As illustrated on Exhibit 9, the subject site is situated within an existing pattern of development consisting wholly of multi-residential structures. The County concluded that the Residential IVB Category boundary should in fact extend two parcels west to encompass both the subject site and an existing multi-residential structure adjacent to and west of the site, to be consistent with the existing pattern and intensity of development along Coastline (Exhibit 9). As such, the County assigned the project site a Residential IVB land use

designation permitting a maximum of two units at the site, thus accommodating the applicant's project proposal to construct 2 units.

The Commission notes that the subject parcel exists in a unique location just within the easternmost boundary of the Residential III B land use designation, and within a stretch of developed area consisting entirely of multi-residential structures. Given the fact that the subject property is located just on the boundary for the Residential IV B Category, and that the property is one of two vacant infill parcels located within this built-out multi-residential area, the Commission finds that a Residential IV B land use designation allowing construction of 2 units is an appropriate designation for the project site that will conform with the pattern of existing development. In accordance with the Residential IV B Category density calculation for the project site, which allows 8-10 dwelling units per acre, the site may be developed with a maximum of 2 units. As such, the applicant's proposal is consistent with the adjusted Residential IV B land use designation allowing a maximum of 2 units to be constructed at the site. Construction of 2 units at the project site will be consistent with the pattern, scale, and intensity of development existing in the near vicinity.

In addition, the criteria outlined in Section 30250 regarding 50 percent development of usable parcels in the area and minimum lot size are also imposed for land divisions outside existing developed areas. In this case, the proposed project site is located on the coastal terrace, an area which the Commission has, in past decisions, recognized as an existing developed area. Furthermore, the Commission notes that the project site is one of only two vacant parcels on Coastline Drive and the area in which the project site is located is intensely developed predominantly with multi-residential structures and single-family homes

In addition to assuring that newly created parcels are consistent with the maximum allowable density and intensity for each area, the Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impact problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects. Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, future build-out of many lots located in environmentally sensitive areas would create adverse cumulative impacts on coastal resources.

As a means of addressing the cumulative impact problem in past actions, the Commission has consistently required, as a special condition to development permits for land divisions and multi-unit projects, participation in the Transfer Development Credit (TDC) program as mitigation, such as been done in past actions including CDPs P-78-155 (Zal), P-78-158 (Eide), P-81-182 (Malibu Deville), P-86-196 (Malibu Pacifica), 5-83-43 (Heathercliff), 5-83-591 (Sunset-Regan), 5-85-748 (Ehrman & Coombs), 4-98-281 (Cariker), and 4-00-028 (Layman). The TDC program has resulted in the

retirement from development of existing, poorly-sited, and non-conforming parcels at the same time new parcels or units are created. The intent of the program is to ensure that no net increase in residential units results from the approval of land divisions or multi-family projects while allowing development to proceed consistent with the requirements of Section 30250(a). In summary, the Commission has found that the TDC program, or a similar technique to retire development rights on selected lots, remains a valid means of mitigating cumulative impacts. Without some means of mitigation, the Commission would have no alternative but to deny such projects, based on the provisions of Section 30250(a) of the Coastal Act.

The applicant is proposing to subdivide one parcel of land into two parcels and to construct a condominium unit on each parcel. The proposed number of residential units is consistent with the character of the area and the subject parcel is an existing legal parcel. Therefore, no cumulative impact mitigation requirements shall be imposed as a condition of approval of this permit regarding the legality of the existing parcel.

However, as discussed above, the Commission has approved new subdivisions, but has continued to require purchase of TDC's as one of the alternative mitigation strategies. Staff's review indicates that the incremental contribution to cumulative impacts would be the creation of one additional buildable lot. Potential cumulative impacts on road capacity, utility services, recreational facilities, and beaches are associated with the development of an additional parcel in this area. Therefore, the Commission finds that it is necessary to impose a TDC requirement on the applicant, in order to ensure that the cumulative impacts associated with creation of an additional legal, buildable lot is adequately mitigated.

Therefore, **Special Condition 6** requires the applicant to mitigate the cumulative impacts of the subdivision of this property, either through purchase of one (1) TDC or participation along with a public agency or private nonprofit corporation in retiring habitat or watershed land in amounts that the Executive Director determines will retire the equivalent potential building site. The Commission finds that, as conditioned, the proposed project is consistent with Section 30250 of the Coastal Act.

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

The Commission recognizes that the potential build-out of lots in Malibu and the Santa Monica Mountains 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 a subdivision of an existing parcel to create two new parcels totaling 4,685 sq. ft. and 4,865 sq. ft., and construction of a four-story, 35 ft. high, 4,000 sq. ft. condominium unit with a two-car garage on each parcel. The proposed project will require 1,700 cu. yds. of grading for the entire project (1,500 cu. yds. cut, 200 cu. yds. fill, 1,300 cu. yds. export). The proposed project will utilize existing water, sewer, and electric utilities. The project site is a 9,950 net sq. ft. parcel located on steeply sloped terrain which descends directly to Coastline Drive. 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 2**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff 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.

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. 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).***

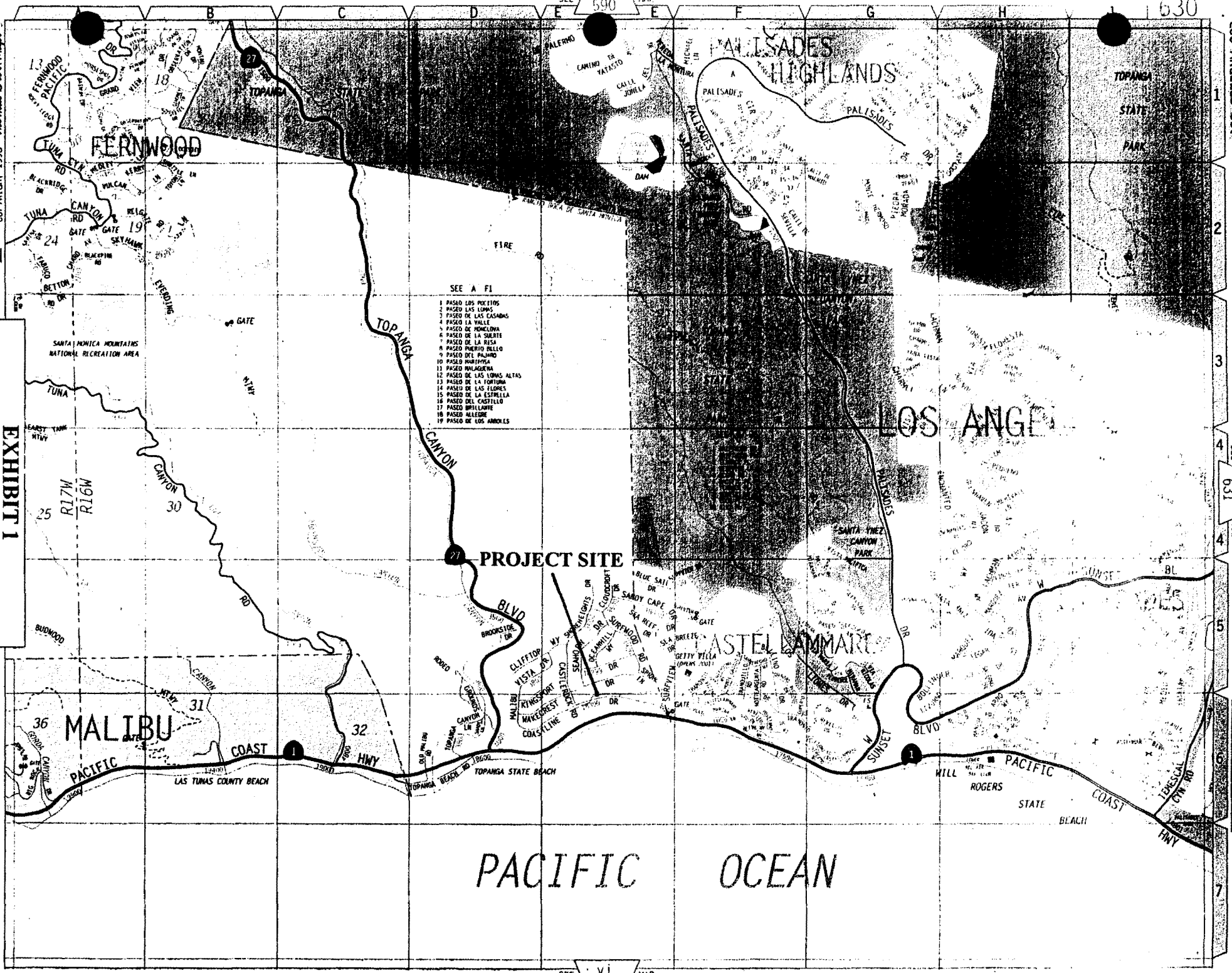
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections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

## **F. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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

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

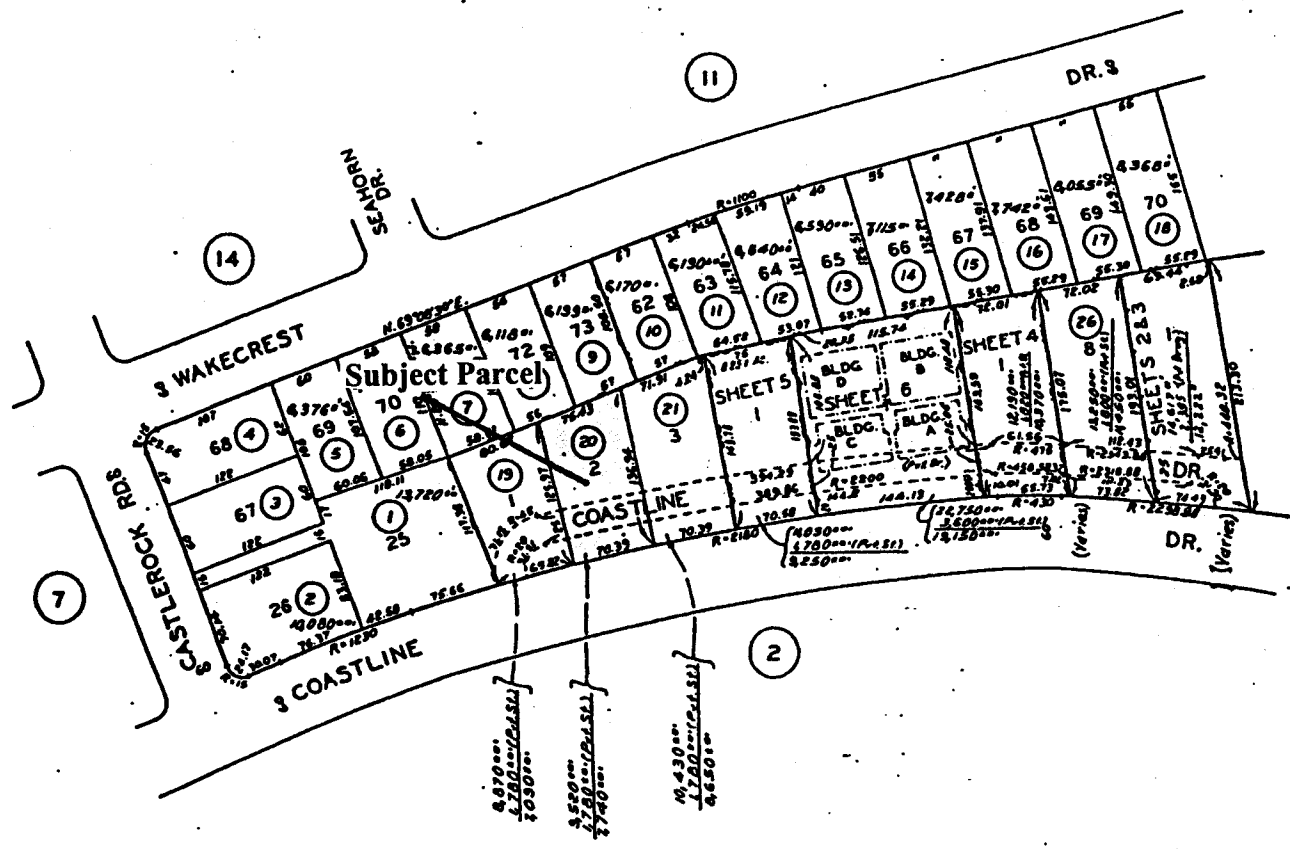
CDP #4-00-234  
EXHIBIT 1  
Location Map



4443 | 8  
 SHEET 1  
 SCALE 1" = 100'

100 100 251 150 8  
 00112421118  
 6810704  
 4100704  
 200 08801  
 83001  
 10107104

EXHIBIT 2  
 CDP # 4-00-234  
 Parcel Map



- |                   |                     |                             |                     |
|-------------------|---------------------|-----------------------------|---------------------|
| TRACT NO. 26458   | M.B. 674 - 51 - 56  | CONDOMINIUM TRACT NO. 30325 | M. B. 818 - 41 - 43 |
| TRACT NO. 26459   | M. B. 676 - 15 - 17 | CONDOMINIUM TRACT NO. 27669 | M. B. 824 - 38 - 40 |
| ✓ TRACT NO. 26732 | M. B. 680 - 3 - 5   | CONDOMINIUM TRACT NO. 31832 | M. B. 840 - 7 - 9   |
|                   |                     | CONDOMINIUM PARCEL MAP      | P. M. 212 - 85      |

CODE  
8645

FOR PREV. ASSMT SEE:  
4448 - 37

ASSESSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.

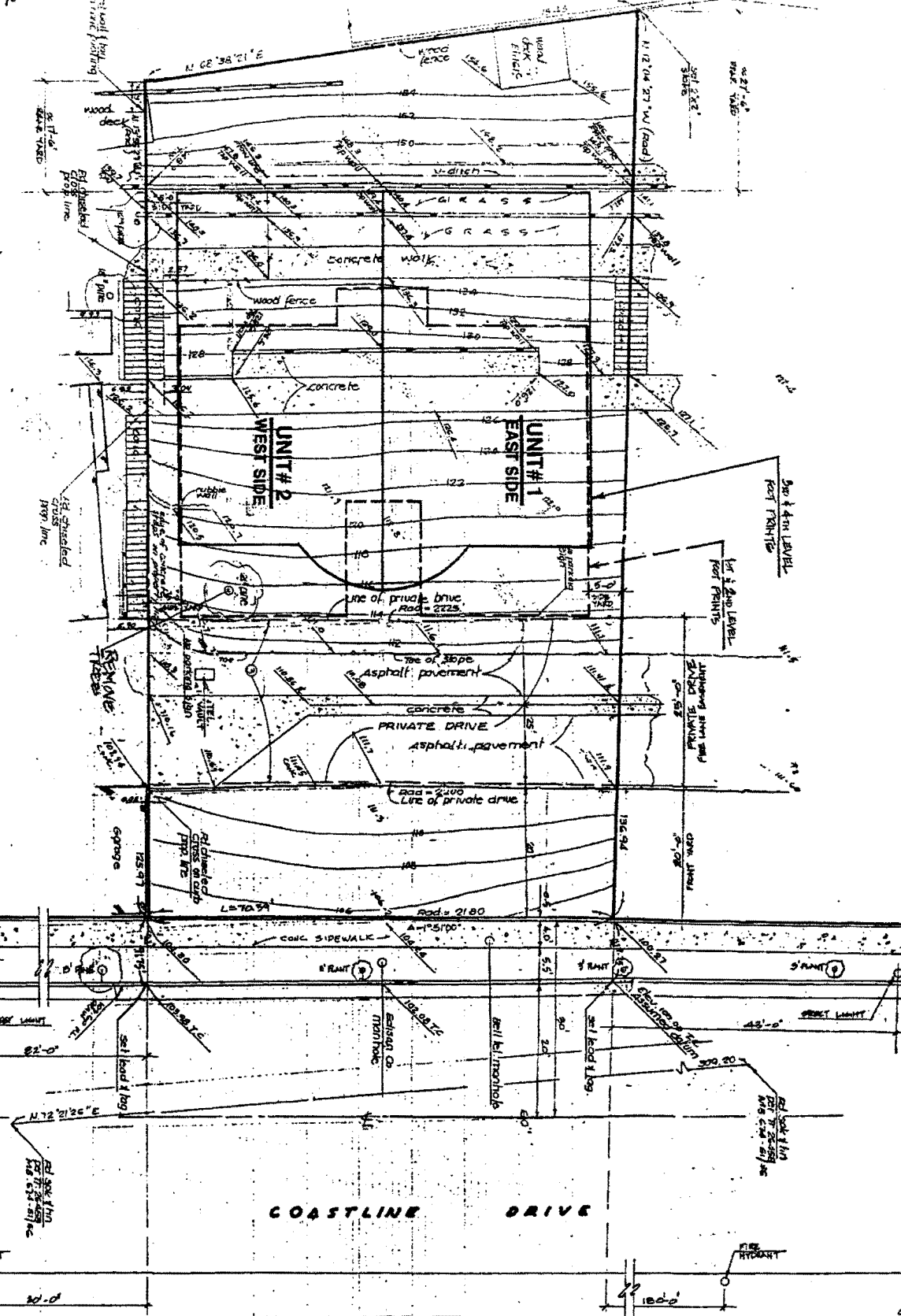
Order: 0000000045 TCF: 0045 LA Bk-Pg 4443 - 8 Sht 1 of 6

ST AMERICAN TILE COMPANY - 1921-22-23-24

**EASEMENTS OF RECORD:**

ST AMERICAN TILE COMPANY - 1921-22-23-24

GENERAL THIS SURVEY WAS MADE UNDER THE SUPERVISION OF THE ENGINEER IN CHARGE OF THE SURVEY AND THE RESULTS ARE HEREBY CERTIFIED TO BE CORRECT AND ACCURATE AND THAT THE DIMENSIONS AND ANGLES OF SAID BUILDINGS ARE TRUE AND THAT THERE ARE NO CHANGES OF ADJACENT BUILDINGS OR STRUCTURES SINCE THE DATE OF THE SURVEY OR SINCE THE TIME THE SAME WERE FIRST PLACED ON THE GROUND OR SINCE THE TIME THE SAME WERE FIRST PLACED ON THE GROUND OR SINCE THE TIME THE SAME WERE FIRST PLACED ON THE GROUND.



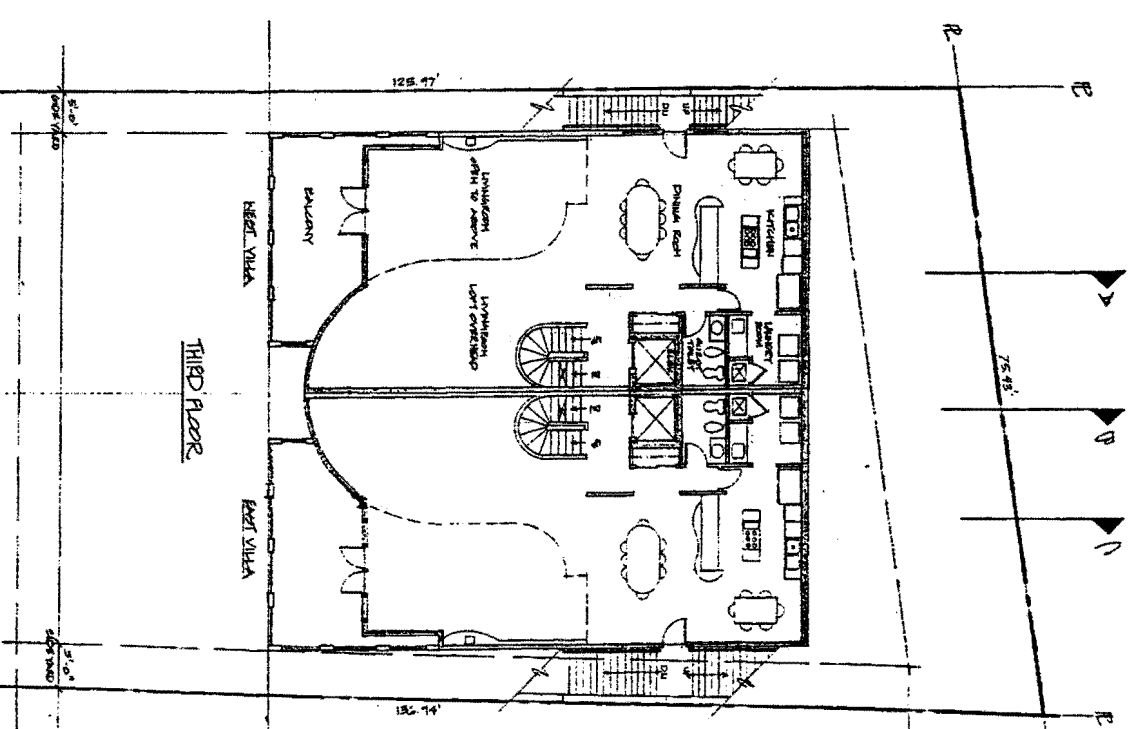
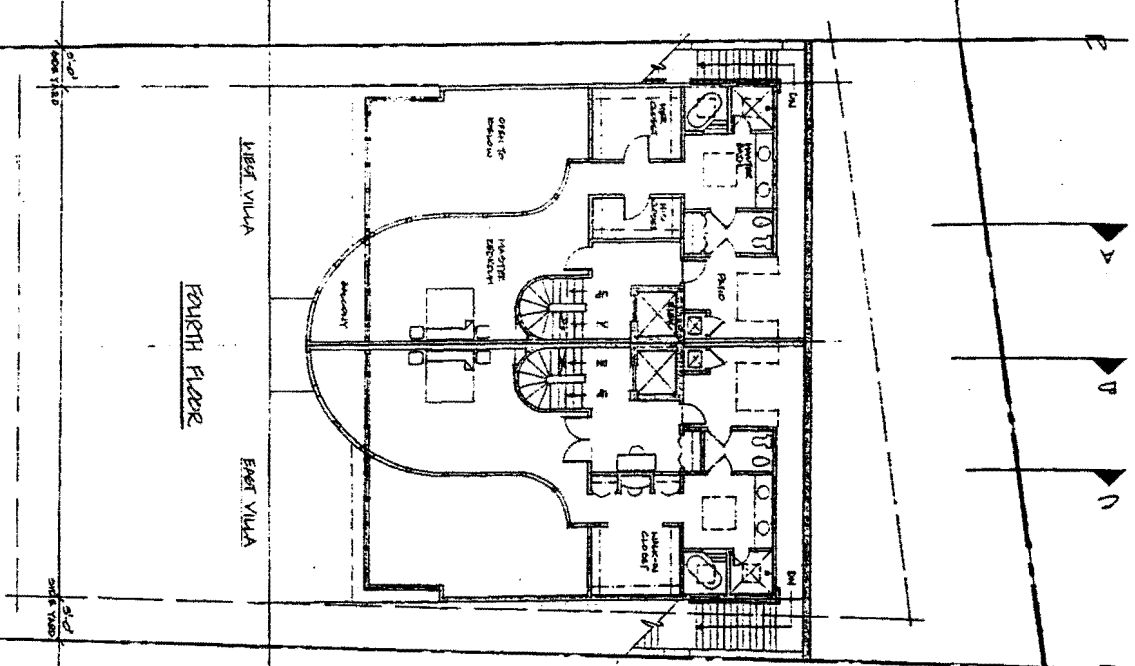
- 1. ALL INTERESTS AND RIGHTS IN THE PROPERTY ARE HEREBY RELEASED TO THE SURVEYOR AND HIS SUCCESSORS AND TO THE STATE OF CALIFORNIA AND TO THE PUBLIC.
- 2. ALL INTERESTS AND RIGHTS IN THE PROPERTY ARE HEREBY RELEASED TO THE SURVEYOR AND HIS SUCCESSORS AND TO THE STATE OF CALIFORNIA AND TO THE PUBLIC.
- 3. ALL INTERESTS AND RIGHTS IN THE PROPERTY ARE HEREBY RELEASED TO THE SURVEYOR AND HIS SUCCESSORS AND TO THE STATE OF CALIFORNIA AND TO THE PUBLIC.

**RECEIVED**  
OCT 31 2000

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

**EXHIBIT 3  
CDP # 4-00-234  
Site Plan**





25'-0" 15'-0" 25'-0" 15'-0"

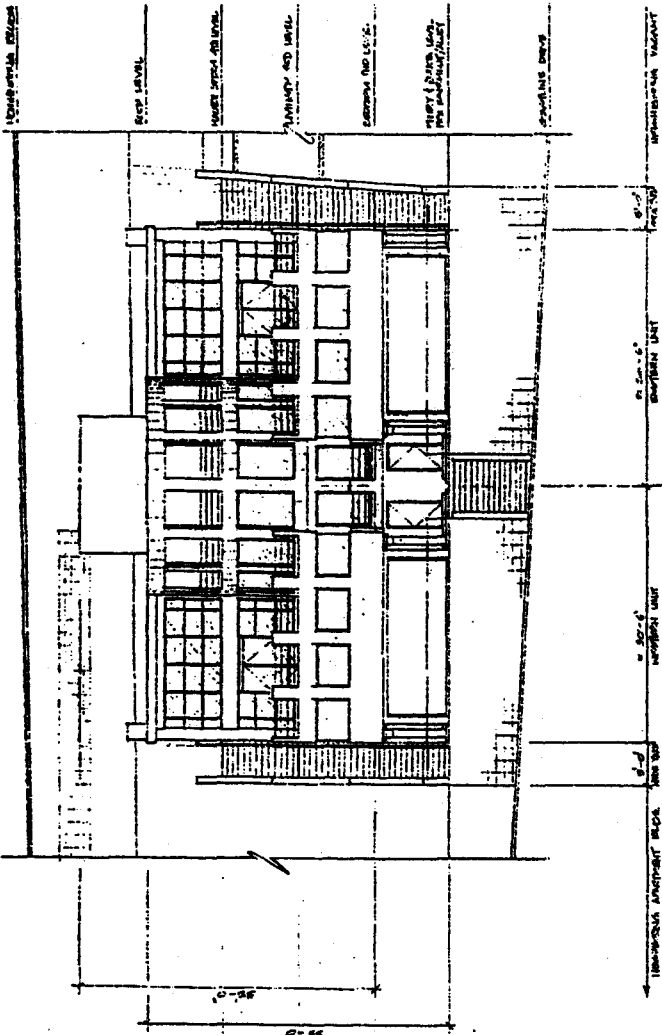
SPOTLANS DRIVE SIDEWALK HEAVY TRAIL LANE FIRE LANE SARGENT ALLEY REAR YARD SETBACK

3rd Floor Livingroom Plans  
and  
4th Floor Master Bedrm Plans

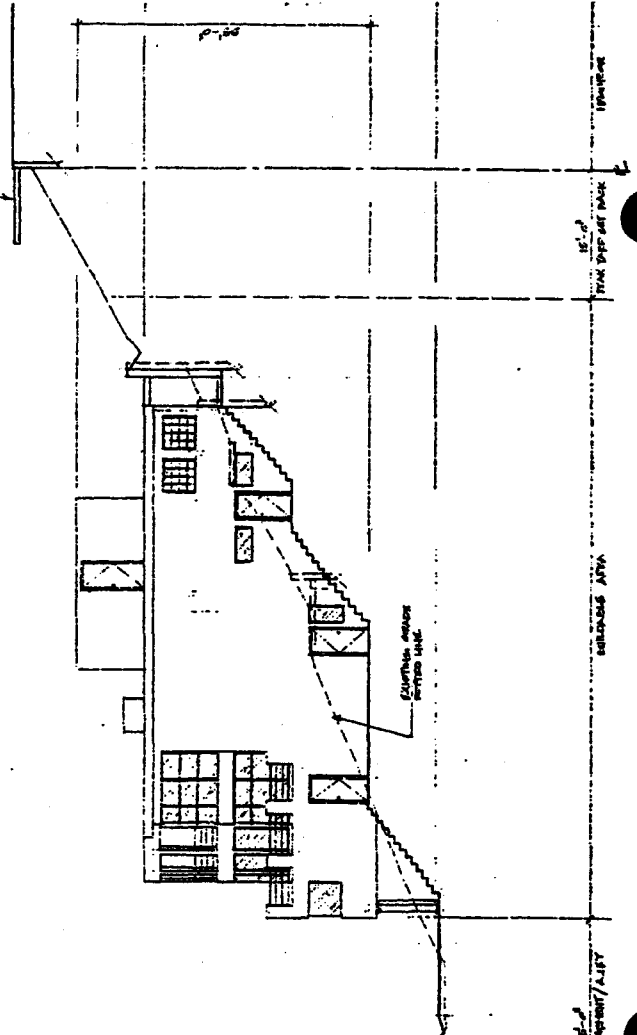
182  
Map  
Lot  
Block

**EXHIBIT 5**  
**CDP # 4-00-234**  
**Floor Plans**

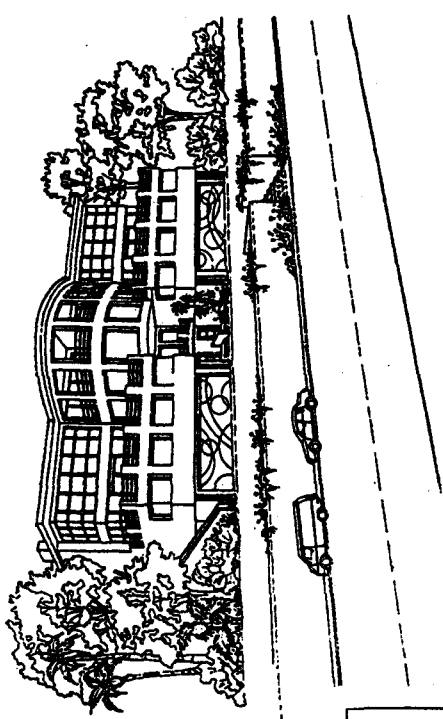
PARCEL MAP# 25785



SOUTH ELEVATION

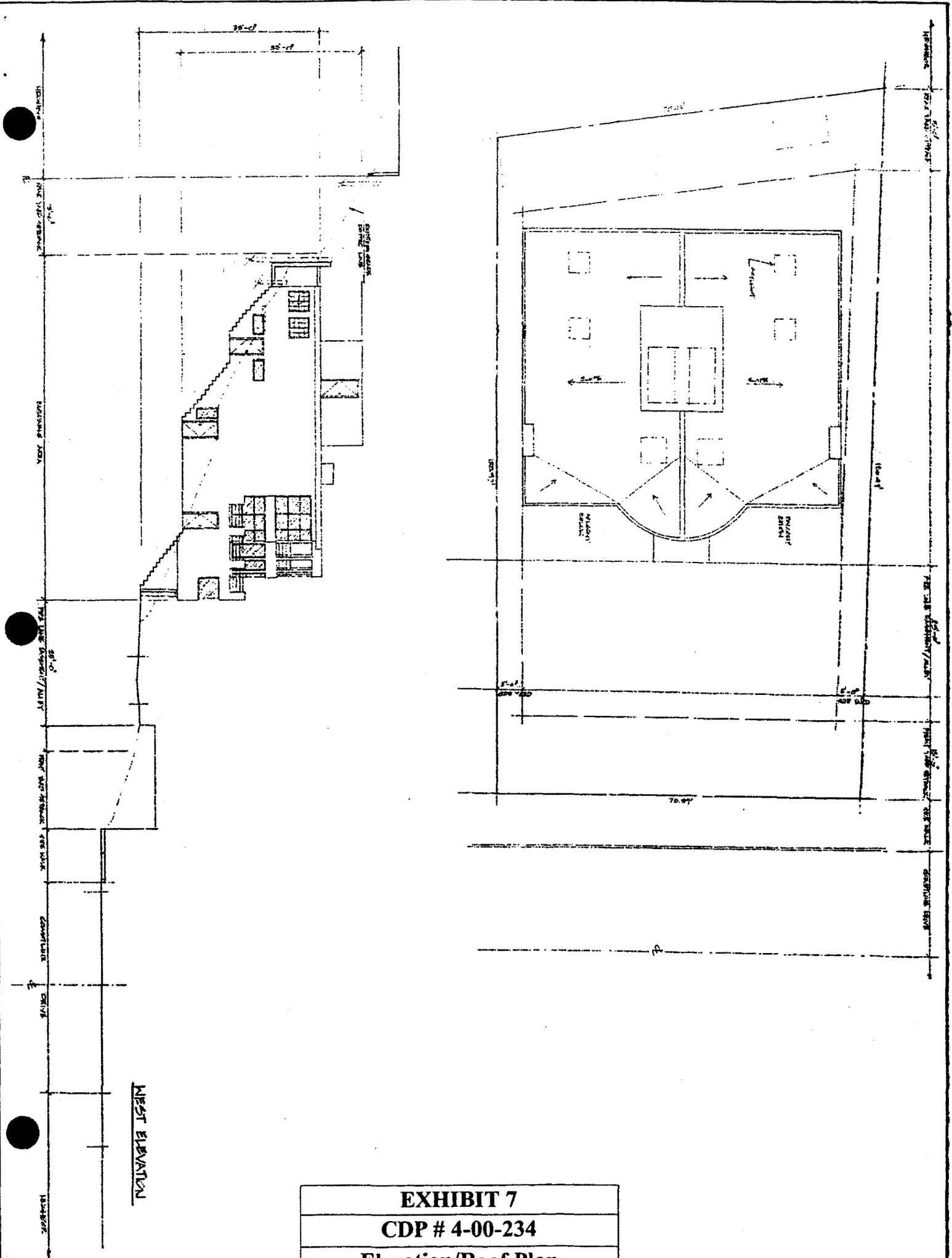


EAST ELEVATION



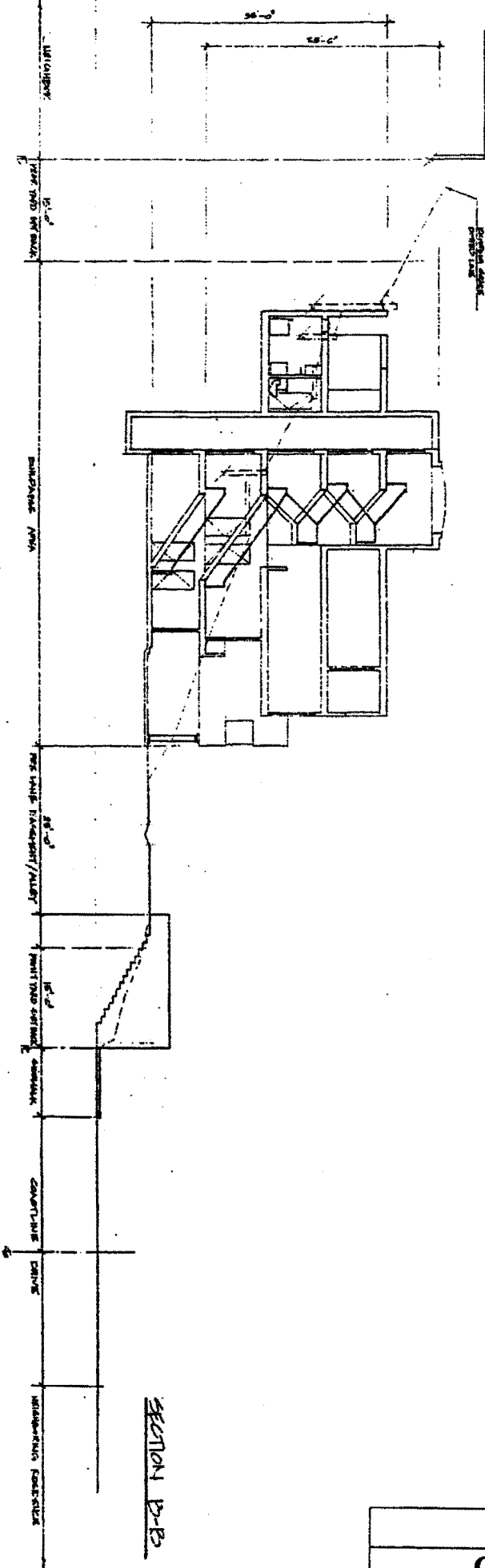
**EXHIBIT 6**  
**CDP # 4-00-234**  
**Elevations**



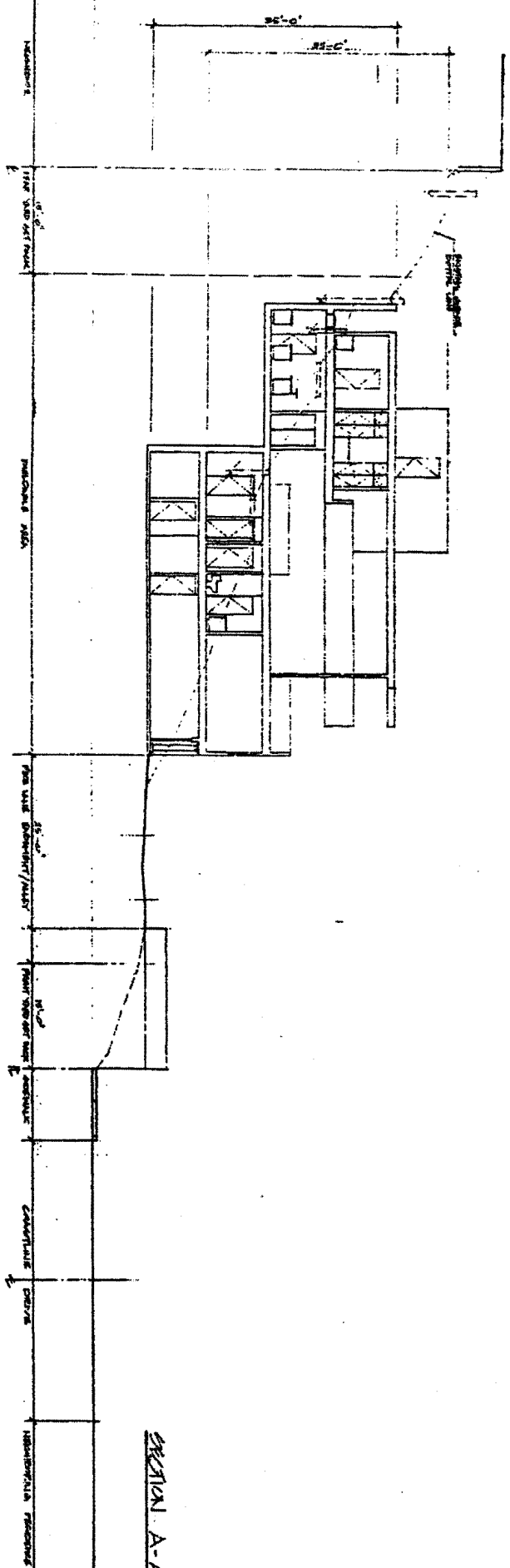


WEST ELEVATION

EXHIBIT 7
CDP # 4-00-234
Elevation/Roof Plan

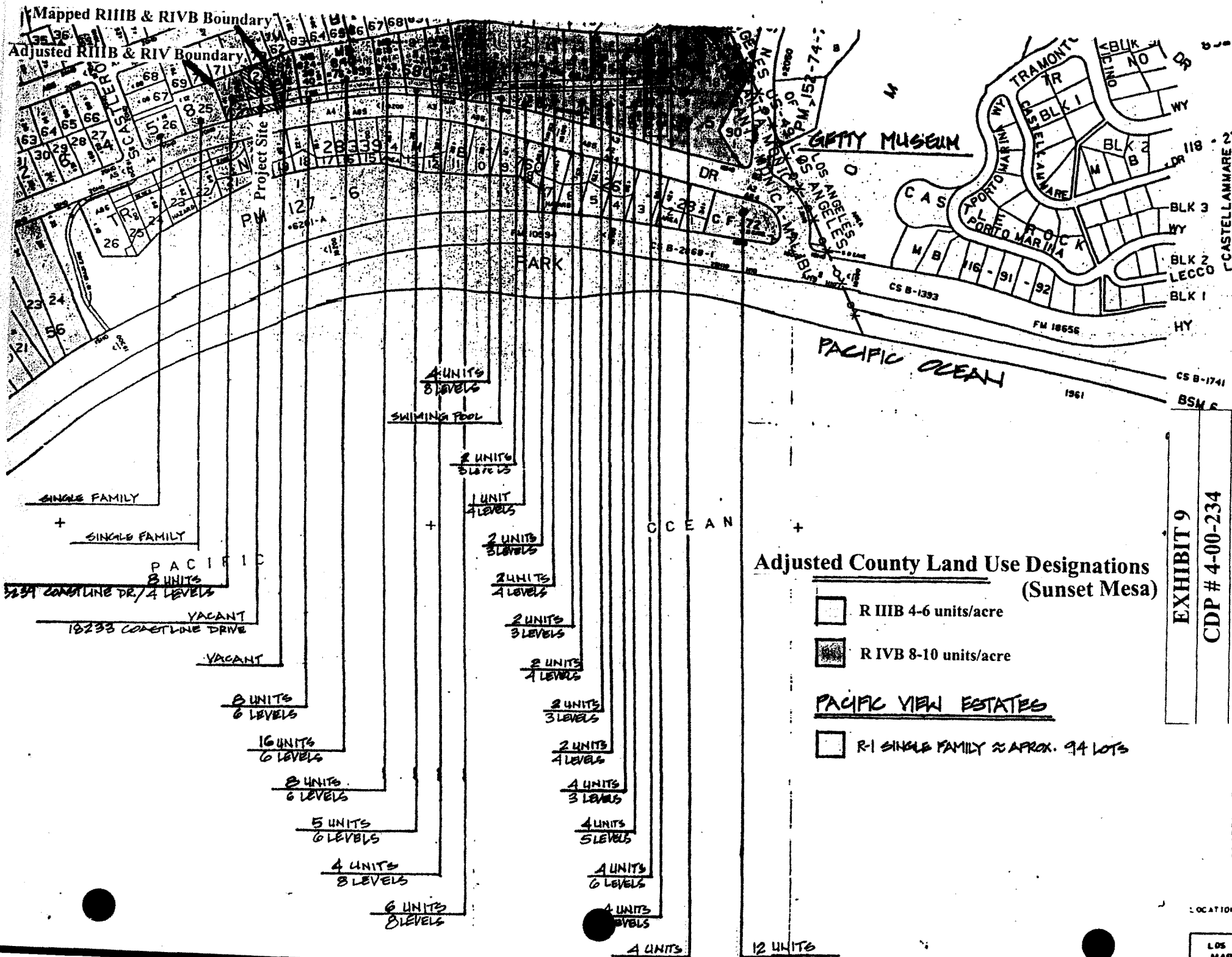


SECTION B-B



SECTION A-A

EXHIBIT 8
CDP # 4-00-234
Sections



**Adjusted County Land Use Designations  
(Sunset Mesa)**

- R IIB 4-6 units/acre
  - R IVB 8-10 units/acre
- PACIFIC VIEW ESTATES**
- R-1 SINGLE FAMILY ≈ APPROX. 94 LOTS

**EXHIBIT 9**  
**CDP # 4-00-234**  
**Build Out Densities**

