

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
 SOUTH CALIFORNIA ST., SUITE 200  
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## RECORD PACKET COPY

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 Staff Report: 06/14/01  
 Hearing Date: 7/10-13/01  
 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO. 4-00-110

APPLICANT: Marc Gurvitz AGENT: Marny Randall

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

**PROJECT DESCRIPTION:** Construct an 11,181 sq. ft., 28 foot high, two story single family residence with attached 766 sq. ft. garage, 200 square foot pool cabana, 56 sq. ft. trash enclosure, 32 sq. ft. pool equipment enclosure, pool & spa, 1,000 sq. ft. horse trellis/cover and 1,000 sq. ft. horse paddock, septic system, retaining wall system and 7,998 cubic yards of grading (4,886 cu. yds. cut, 1,233 cu. yds. fill & 1,879 cu. yds. removal and recompaction) (Parcel 2, 27720 Winding Way). The project also includes a redivision of three parcels into three parcels and a deed restriction prohibiting future subdivision of the properties.

<b>Lot Area:</b>	Lot 1 - 6.00 ac. (before redivision)
	Lot 1 - 3.79 ac. (after redivision)
	Lot 2 - 8.89 ac. (before redivision)
	Lot 2 - 6.38 ac. (after redivision)
	Lot 3 - 0.36 ac. (before redivision)
	Lot 3 - 5.08 ac. (after redivision)
<b>Building coverage</b>	7,530 sq. ft.
<b>Pavement coverage</b>	16,342 sq. ft.
<b>Landscape coverage</b>	52,000 sq. ft.
<b>Plan Designation:</b>	Residential I, one du/1 acre
	Residential II, Two du/1 acre &
	Rural Land III, 1du/2 acres

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed project with nine special conditions regarding conformance with geologic recommendations, landscaping and erosion control, wild fire waiver of liability, drainage and polluted runoff control plan, color

Summary cont.  
restriction, future improvements restriction, removal of excavated material, no future subdivision restriction and assumption of risk. The proposed project, as conditioned, is consistent with the cumulative impact, visual resource, water quality and geologic and hazard policies of the Coastal Act.

**LOCAL APPROVALS RECEIVED:** Approval in Concept for Lot Line Adjustment, City of Malibu Planning Department, dated 5/11/00. Approval in Concept for Residential Development, dated 5/22/01. Approval in Concept for Septic System, City of Malibu Environmental Health, dated 3/01/01.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan (1986); Coastal Development Permits 4-90-844 (Cirlin); 5-91-047 (Bay); 5-95-015 (Traub), 4-96-028 (Harberger); 4-96-150 (Rein et.al.); 4-96-187 (Sohal); 4-96-189 (Flinkman); 4-99-010 (McNicholas); 4-99-198 (Lescher); & 4-99-029 (Cornfield et.al.). Soils and Engineering Geologic Investigation prepared by California Geosystems, dated April 7, 1997. Response to City of Malibu Geology and Geotechnical Engineering Review Sheet prepared by California Geosystems dated July 16, 1998. Response to City of Malibu Geology and Geotechnical Engineering Review Sheet prepared by California Geosystems dated August 31 1998. Preliminary Geologic and Geotechnical report, Proposed Residential Development, East Winding Way, prepared by RJR engineering Group, dated August 9, 1999. Geologic and Geotechnical Update Report Preliminary Septic System Design prepared by RJR Engineering Group dated 1/5/01. Archaeological Reconnaissance and Recommendations for Mitigation at 5941 Kanan Dume Road Malibu, California, By Chester King, dated December 27, 1998. Geologic and Geotechnical Update Report, Preliminary Septic System Design, East Winding, prepared by RJR Engineering Group, Inc., dated January 5, 2001.

## **I. STAFF RECOMMENDATION**

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

### **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and

will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS

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

## III. Special Conditions

### 1. Plans Conforming to Geologic Recommendations

- (a) All recommendations contained in the *Preliminary Geologic and Geotechnical Report, Proposed Residential Development, East Winding Way*, dated August 9, 1999, prepared by RJR Engineering Group, Inc; and *Geologic and Geotechnical Update Report, Preliminary Septic System Design, East Winding*, dated January 5, 2001, prepared by RJR Engineering Group, Inc. shall be incorporated into all final design and construction including recommendations concerning foundations, grading and drainage for the residential development on Parcel 2, 27720 Winding Way. 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 for Parcel 2, 27720 Winding Way, 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) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting 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) Fencing along the northern property boundary fronting Winding Way and the Coastal Slope Trail shall be visually permeable. Vegetation directly adjacent to the road and trail, as generally shown on Exhibit 7, shall be limited to low profile vegetation or groundcover, generally limited to two feet in height, that will not block or obscure bluewater views of the ocean as seen from the Coastal Slope Trail. Landscape vegetation over the area east of the residence shall not be clustered or of a height that will block or obscure bluewater views as seen from the coastal slope trail. Vegetation shall be maintained to ensure views of the ocean as seen from Coastal

Slope Trail are not blocked or obscured. The line of eucalyptus trees on the adjacent property to the south (APN:4460-007-016) shall be periodically trimmed and thinned to preserve and maintain bluewater views of the ocean as seen from the Coastal Slope Trail pursuant to the covenant and agreement attached as Exhibit 22.

- 4) Plantings shall include vertical elements to screen and soften the visual impact of the residence and retaining walls from the Coastal Slope Trail and Pacific Coast Highway consistent with the requirements of 2(A.3) above.
- 5) 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.
- 6) 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.

#### **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. 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.

**4. 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 for Parcel 2, 27720 Winding Way. 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 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85<sup>th</sup> 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 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.
- e. Manure stored on site shall be contained in fully enclosed bins and/or a facility with impervious flooring, which is protected from wind, rain, and nuisance flows. The plan shall specify the maximum capacity of the manure storage containment areas and shall include provisions to reduce and dispose of animal waste so as not to exceed the maximum capacity of the waste containment areas.
- f. Horse confinement areas, loafing areas, or other areas where waste solids may gather shall be scraped periodically. The plan shall include drainage devices and BMPs which will ensure that all runoff from the proposed horse stables and waste containment areas shall be collected and directed through a system of vegetated and/or gravel filter strips or other media filter devices. The filter devices shall be designed to trap sediment, particulates and other solids, and remove or mitigate contaminants through infiltration and/or biological uptake.

**5. Color Restriction**

The color of the structures, roofs, retaining walls and driveway permitted on Parcel 2, 27720 Winding Way, 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.

**6. Future Improvements**

This permit is only for the development described in coastal development permit No. 4-00-110 for Parcel 2, 27720 Winding Way. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6) & 13253 (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. 4-00-110 from the Commission or shall require an additional coastal development.

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.

**7. 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.

8. **No Future Subdivision Deed Restriction**

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

9. **Assumption of Risk**

By acceptance of this permit, the applicant acknowledges and agrees: (i) that Parcel 3 (APN – 4460-006-004) may be subject to hazards from landsliding, earth movement, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

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

**IV. Findings and Declarations.**

The Commission hereby finds and declares:

**A. Project Description and Background**

The applicant proposes to construct an 11,181 sq. ft., 28 foot high, two story single family residence with attached 766 sq. ft. garage, 200 square foot pool cabana, 56 sq. ft. trash enclosure, 32 sq. ft. pool equipment enclosure, pool & spa, 1,000 sq. ft. horse trellis and 1,000 sq. ft. paddock, septic system, retaining wall system and 7,998 cubic yards of grading (4,886 cu. yds. cut, 1,233 cu. yds fill & 1,879 cu. yds removal and recompaction)(lot 2). The applicant also proposes to redivide three existing vacant parcels (Lot 1 - 6.00 ac., Lot 2 - 8.89 ac., & Lot 3 - .36 ac.), totaling 15.25 acres, into three newly configured parcels (Lot 1 - 3.79 ac., Lot 2 - 6.38 ac. & Lot 3 - 5.08 ac) and deed restrict the properties from further subdivision.

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

A phase one archeological report, prepared by Robert Wlodarski, dated June 1999, was prepared for existing Parcel 1 because a previous archaeological survey found some "isolates" (minor isolated resources) on existing Parcel 1. The new archaeological survey found no prehistoric, and no historic archeological resources on the site. The remainder of the property does not have any recorded archeological sites and has a low potential for archaeological resources as determined by the City of Malibu Archeologist.

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

**Existing Parcel Configuration**

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

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

The proposed parcel reconfiguration was designed to create a larger Parcel 3 to provide a building site that would have adequate setbacks from the stream and a geologic hazard area. Winding Way which previously split Parcel 2 provided a logical eastern boundary for proposed Parcel 3. Proposed Parcel 2 was designed to accommodate the proposed 11,181 square foot residence and accessory structures.

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

Section 30250 (a) of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources:

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

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

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

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

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

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

The certified 1986 Malibu Land Use Plan (LUP) density designation for this site is a combination of Residential I (1 dwelling unit/acre), Residential II (2 dwelling units/acre), & Rural Land III (1 dwelling unit/2 acres). Although the Certified Malibu Land Use Plan is not longer legally effective within the City of Malibu the Commission uses the plan as guidance in their review of development projects to determine consistency with the Coastal Act. The proposed lot line adjustment will not create any non-conforming parcel sizes or create lot configurations that would increase potential density. Existing Parcel

3 at .36 acres is currently not in conformance with the density designation in the LUP. The proposed Parcel 3 at 5.08 acres will be in conformance with the LUP density designation. As discussed in detail below, the applicant has proposed building sites on the three parcels that can be developed consistent with the Chapter Three policies of the Coastal Act and there are adequate services to accommodate the newly configured parcels.

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

On parcel 2 the applicant is proposing to construct an 11,181 sq. ft., 28 foot high, two story single family residence with attached 766 sq. ft. garage, 200 square foot pool cabana, 56 sq. ft. trash enclosure, 32 sq. ft. pool equipment enclosure, pool & spa, 1,000 sq. ft. horse trellis and 1,000 sq. ft. paddock, septic system, retaining wall system and 7,998 cubic yards of grading (4,886 cu. yds. cut, 1,233 cu. yds fill & 1,879 cu. yds removal and recompaction). Although the proposed structure is quite large and there is a substantial amount of grading proposed for the residence and accessory structures the proposed single family development is less intensive and visually obtrusive and than three residences and associated accessory development. In addition, the development of one residence compared to three would reduce potential cumulative impacts associated with increased runoff from impervious surfaces, water quality impacts from polluted runoff and additional septic effluent, landform alteration and visual impacts. To ensure the subject properties will never be further subdivided the applicant has offered to deed restrict the three parcels from future subdivisions so there is no future increase in residential density on the three reconfigured parcels. The proposed deed restriction will limit residential development to one unit on three large lots which will maintain more open space between the residences. Provided the sites a adequately landscaped and maintained to preserve views of the ocean this development density and pattern will provide a more open, less cluttered and more visually appealing landscape for hikers and equestrians. In order to carry out the applicant's offer to deed restrict the subject properties from future subdivisions, the Commission finds, **Special Condition 8** is required.

The proposed project includes a 200 square foot detached pool cabana. Pursuant to Coastal Act §30250 and §30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. In this case the applicant is proposing to construct a 200 sq. ft. cabana that is not proposed to be used as a second residential unit, however, the detached structure could potentially be converted for residential use in the future.

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

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCPs have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act in this area (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

The applicant proposes to construct a detached one story, 16 foot high, 200 sq. ft. cabana. Although the applicant is not proposing to construct a second residential unit the proposed cabana could potentially be converted for residential use in the future. The Commission finds that the cabana is not proposed as habitable square footage. However, the Commission finds it necessary to ensure that no additions or improvements are made to the detached studio in the future that may enlarge or further intensify the use of this structure without due consideration of the cumulative impacts

that may result. Therefore, the Commission finds it necessary to require the applicants to record a future improvements deed restriction, as specified in **Special Condition No. six (6)**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the detached structure are proposed in the future. As conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with §30250 and §30252 of the Coastal Act.

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

C. Visual Resources

Section 30251 of the Coastal Act states that:

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

The applicant is proposing an 11,181 square foot 28 foot high residence and accessory structures on lot 2 with 7,998 cu. yds. of grading of total grading. The project also includes the redivision of three parcels into three parcels. To assess any potential visual impacts of this project to the public, the Commission reviews the publicly accessible locations from which the proposed development is visible, such as scenic highways, beaches, parks and trails. The proposed project site is located on a south facing gently to moderately sloping hillside approximately 200 feet north of Pacific Coast Highway. Pacific Coast Highway is a designated scenic roadway in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). The site is also visible from the Coastal Slope Trail that runs adjacent and parallel to Winding Way. There are bluewater views of the ocean from the public trail that traverses the northern property boundary of parcels 2 and 3. The views are somewhat obscured by a line of eucalyptus trees along the southern boundary of Parcel 2 (Exhibit 3). The Commission has, in past permit decisions, required that development that may be viewed from scenic highways, trails or other public areas to minimize impacts to visual resources. Portions of the proposed parcels are visible from Pacific Coast Highway and the Coastal Slope Trail.

The topography on the site consists of a broad ridge located on the western portion of Parcel 2 with gently sloping to moderately sloping hillsides to drainages on the eastern and western property boundaries. The drainage on the western property boundary is a USGS designated blue line stream that has minimal riparian vegetation and has been

disturbed by past vegetation clearance activities. The minor drainage on the eastern property boundary is not a USGS designated blueline stream and it has been channelized into a large concrete "V" type ditch. Vegetation on the sites consist of exotic invasive grasses that are disked on an annual basis.

The applicant has submitted detailed architectural and grading plans for the 11,181, 28 foot high residence and accessory structures proposed on parcel 2. In addition, the applicant has provided conceptual grading plans for future residential building pads and driveways on the newly configured parcels 1 and 3. The Commission has required in past permit actions on redivisions of property that the applicant specify building sites and conceptual grading amounts to ensure the proposed parcels can be developed consistent with the Chapter Three Policies of the Coastal Act. The applicant is not proposing the construction of building pads and driveways on lots 1 and 3 at this time. The Commission recognizes that the grading proposed for these residential building sites is conceptual and these grading designs may require minor modifications through future coastal development permits for residential development. However, future residential developments should reflect the general grading amounts, designs and development footprints outlined in the findings below. The proposed grading for parcel 2 and conceptual grading plans for parcels 1 & 3 total 14,281 cubic yards of grading (8,907 cu. yds. cut, 2,620 cu. yds. fill and 2,754 cu. yds. overexcavation). The table below illustrates the proposed and conceptual grading for each parcel.

Parcel #	Cut	Fill	Overexcavation	Total
Parcel 1 (Conceptual)	2,303 cu. yds.	693 cu. yds.	675 cu. yds	3,671 cu. yds.
Parcel 2 (Proposed)	4,886 cu. yds.	1,233 cu. yds.	1,879 cu. yds.	7,998 cu. yds.
Parcel 3 (Conceptual)	1,718 cu. yds	694 cu. yds.	200 cu. yds.	2,612 cu. yds.
<b>Total</b>	<b>8,907 cu. yds.</b>	<b>2,620 cu. yds.</b>	<b>2,754 cu. yds.</b>	<b>14,281 cu. yds.</b>

**Parcel 2**

The proposed building site on Parcel 2 is located on a gently sloping broad minor ridge. The proposed building site is visible from the public hiking trail that traverses the northern property boundary. The building site on parcel 2 is not visible from the portion of the trail that runs along the western property boundary due to an elevation difference between the building site and trail. As mentioned above, the applicant is proposing a large estate sized residential complex on this site that includes a 11,181 sq. ft., 28 foot high residence with a 766 sq. ft. garage, 200 sq. ft. pool cabana, 56 sq. ft. trash enclosure, 32 sq. ft. pool equipment enclosure, pool & spa, tennis court, 1,000 sq. ft. horse trellis and 1,000 sq. ft. paddock, and septic system. The applicant is also proposing a total of 7,998 cubic yards of grading (4,886 cu. yds., 1,233 cu. yds. fill & 1,879 cu. yds. overexcavation) to construct the proposed residence and accessory structures. Furthermore, an extensive retaining wall system is proposed to minimize the length and heights of cut and fill slopes. The retaining wall system includes: 417 lineal feet of 0 – 4 foot high retaining walls along the driveway, 171 lineal feet of 0 – 3 foot

high retaining walls at the pool patio, 360 lineal feet of 0 - 3 foot high walls at the terraced garden and 240 lineal feet of 0 to 6 foot high retaining walls at the tennis court.

The proposed building pad location is the logical building site on parcel 2. It is sited on a broad gently sloping ridge on the western portion of the property. The proposed building pad will be cut into the gently sloping ridge to lower the building pad to minimize the visual impact of the residence as seen from Pacific Coast Highway and the hiking trail along Winding Way. The building pad and turn around area require a total 2,439 cubic yards of grading (2,257 cu. yds. cut, 182 cu. yds. fill). The proposed grading for the pad does not result in any significant cut or fill slopes. The grading for the building pad will consist of a shallow cut to lower the building pad and will not result in any significant cut or fill slopes. The proposed basement will require 1,384 cubic yards of excavation which is all under the proposed residence. The proposed driveway will require 1,054 cubic yards of grading to construct (331 cu. yds. cut and 723 cu. yds. fill) with a maximum fill slope extending 20 feet on the downhill side of the driveway. The driveway grading plan also incorporates some minor 0 - 4 foot high retaining walls that have reduced the length of the cut and fill slopes required to support the driveway. Approximately 1,879 cubic yards of removal and recompaction will be required under the building pad for geologic stability purposes. This grading is subsurface the will not affect the finished pad elevations or alter the landform.

The proposed tennis court, swimming pool pad and paddock area do not require a significant amount of grading and will not result in a significant alteration of the landform due to the gently sloping topography in this area. The 4,000 square foot swimming pool pad will requires 134 cu. yds. cut and 324 cu. yds. fill with a maximum fill slope that runs approximately 15 feet downslope. The 7,500 square foot tennis court is proposed to be cut into the hillside just east of the swimming pool pad and will require 780 cu. yds. cut and will have a retaining wall (6 foot max.) supporting the cut slope. Approximately 218 cubic yards of fill is necessary to create a 1,000 sq. ft. level area for the horse paddock and to improve drainage from the paddock to minimize the effects from polluted runoff from this facility. The swimming pool, tennis court pad and paddock will not be visible from Pacific Coast Highway but will be visible from the hiking trail located above the property to the north. However, these structures are located well below the elevation of the trail and will not block bluewater views of the ocean. In addition, these structures can be effectively screened from the trail with landscaping which will minimize the visibility of these structures. Of the total 7,998 cubic yards of total grading proposed for the project 3,263 cubic yards is either for the basement or remedial grading which will not result in an alteration to the existing landform.

Although the applicant has worked with Commission staff to design a conceptual grading plan that minimizes the amount of landform alteration required to accommodate the proposed and accessory structures require a substantial amount of grading. However, the grading does not result in a significant amount of landform alteration. Given the gently sloping terrain the proposed cut and fill slopes on site are shallow and do not exceed 20 feet in length. The proposed retaining wall system consists of wall heights that are generally below four feet with the exception of the retaining wall

supporting the north side of the tennis court which is a maximum of 6 feet in height. However, the tennis court wall will not be visible from Pacific Coast Highway or the hiking trail. The retaining walls can be effectively screened with landscaping and the surface treatment and color of the wall can be designed to mimic the natural textures and colors of the surrounding landscape.

The proposed 11,181 square foot 28 foot high residence will be visible from Pacific Coast Highway and the public hiking trail along Winding Way. The second story of the proposed residence will be visible from Pacific Coast Highway. The applicant has reduced the visual profile of the residence as seen from Pacific Coast Highway and the public trail by excavating the building pad to a lower elevation. The proposed residence is located just below three existing residences north of Winding Way ranging in size from approximately 10,000 sq. ft. to 5,000 sq. ft. The Commission has recently approved three residential developments located just west of Parcel 1 which range in size from 4,500 sq. ft. to 6,400 sq. ft. The applicant has provided a listing and parcel map of neighboring residential developments and has identified the size on the residences on these parcels (Exhibit 19a.&b.). The Winding Way area is characterized by large estate sized residential complexes many with equestrian facilities. The view of the area surrounding the subject property as seen from Pacific Coast Highway consists of large residential developments on the hillside below a ridgeline located to the north of Winding Way. The proposed residence will be located below this existing residential development cluster and will not adversely impact views of the Santa Monica Mountains as seen from Pacific Coast highway. In addition, proposed residence can be effectively screened from view from Pacific Coast Highway through the use of vertical landscape elements on the southern portion of the site. Furthermore, the proposed residence is consistent with the residential character of the Winding Way area.

The proposed residential complex is also visible from the public hiking trail adjacent to Winding Way across the northern portion of the site (Exhibits 23 & 24). The site is not visible from the portion of the trail that runs along the western property boundary due to a difference in the elevation of the trail and building site. There are bluewater ocean views from the portion of the trail that runs along the northern property line. The elevation of the trail is approximately at the 235 foot contour elevation and the ridge of the residence is at an elevation of 236 feet. Although the applicant has minimized the visibility of the residence by lowering the building pad elevation the 80 foot long central ridgeline of the two story 28 foot high residence will obscure the bluewater view from a small portion of the trail. The view blockage is not considered significant given the small view window it impacts and that the remainder of the eastern half of the property (approximately 220 lineal feet) will retain bluewater views of the ocean. To ensure the eastern half of the lot is not developed with residential development in the future the applicant has offered to restrict the three properties from further subdivision. As mentioned above, the applicant could conceivably subdivide the three properties in question into five lots with as many as three building sites on the subject site (Exhibit 18). The proposed deed restriction will limit residential development to one unit on three large lots which will maintain more open space between the residential parcels. Provided the sites are appropriately landscaped and maintained to preserve views of

the ocean this development density and pattern will provide a more open, less cluttered and more visually appealing landscape for hikers and equestrians. In order to carry out the applicant's offer to deed restrict the subject properties from future subdivisions the Commission finds **Special Condition 8** is required.

In addition, in order of further mitigate the loss of blue water views resulting from the proposed residence and maintain the applicant's own private view of the ocean the applicant has entered into an agreement with the neighboring property owner to the south to selectively remove and thin a stand of eucalyptus trees that partially obscures views of the ocean from the trail and applicant's property. The agreement between the property owners is in the form of a recorded covenant or deed restriction on both the applicant's property and neighboring property owner which permits the applicant to trim the trees as needed to maintain views (Exhibit 22). Exhibit 24 includes two photographs showing the existing tree line and partial view obstruction and a digitally enhanced photograph showing the tree line trimmed to open up bluewater views of the ocean. **Special Condition 2** requires the applicant to periodically trim or remove trees as needed to maintain and preserve the bluewater views of the ocean pursuant to the covenant and agreement between the two properties.

In order to soften and screen the residence and accessory structures from the hiking trail and Pacific Coast Highway the Commission finds that it is necessary to require the applicant to landscape the site with primary native drought resistant plant species, as required by **Special Condition 2**. The Commission finds that landscaping with vertical elements on the southern portion of the site and surrounding the residence on the northern portion of the site will also screen and minimize the visual impact of the proposed development and retaining walls, as specified in **Special Condition 2**. To ensure landscaping does not block or obscure the bluewater views of the ocean as seen from the public hiking trail, the Commission finds it necessary to, limit fencing adjacent to the hiking trail to visually permeable designs. In addition, landscaping adjacent to the trail shall be limited to low profile plant species (not to exceed two feet in height). Landscaping over the property to the east of the proposed residence shall be distributed and limited to plant species that will not block bluewater views of the ocean as seen from the hiking trail subject to the requirements of **Special Condition 2**. The plant species on the northern portion of the property closer to the trail shall consist of low profile plant species transitioning to higher profile species moving to the southern portion of the site. The Commission finds that it is also necessary to require the applicant to maintain the landscaping at a height to maintain blue water views as seen from the hiking trail.

In order to further minimize the visual impact of the proposed development from the public hiking trail, the Commission finds, that it is necessary to require the applicant to finish the proposed residence and retaining walls in a color and or surface treatment 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 landscape as specified in **Special Condition 5**.

In addition, future developments or improvements, to the property have the potential to create significant adverse visual impacts as seen from the public trail or Pacific Coast Highway. These impacts include blocking bluewater views of the ocean as seen from the trail with additions to the residence, accessory structures, fencing or landscaping. 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 6**, the future improvements deed restriction, will ensure the Commission will have the opportunity to review future projects for compliance with the Coastal Act.

### Parcel 1

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

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

### Parcel 3

The developable area of Parcel 3 is constrained by a geologic restricted use area and an unnamed blueline stream located on the western boundary of parcel three. The applicant has sited the proposed approximate 10,000 sq. ft. building pad as close to the eastern boundary and Winding Way as is feasible to maximize the setback from the geologic restricted use area and the stream. The building pad is setback approximately 120 feet from the blueline stream. The building pad is designed to step down the hillside in three levels and incorporates a retaining wall system (6 foot max) to minimize the length of cut and fill slopes to support the pad. The pad will require 1,124 cu. yards of grading (430 cu. yds. of cut, 694 cu. yds. fill) to construct. The applicant has also

proposes 1,287 cu. yds of excavation for a basement for a future residence on the site and 200 cubic yards of overexcavation to stabilize the site. The applicant has proposed a conceptual grading plan on Parcel 3 that minimizes grading and landform alteration by stepping the pad into the hillside. The proposed pad size and grading amounts are consistent with building pads and grading the Commission has permitted for nearby residential developments.

Based on the findings cited above, the Commission finds that, as conditioned, the proposed project is consistent with the character of the area, is designed to minimize visual and landform alteration impacts and is therefore consistent with Section 30251 of the Coastal Act.

**D. Geology and Hazards**

Coastal Act Section 30253 provides that:

**Section 30253.**

***New development shall:***

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

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

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

Section 30253 of the Coastal Act requires that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area. The applicant has submitted Soils and Engineering Geologic Investigations, dated 8/9/99, 8/14/00, 9/26/00, 1/5/01 prepared by RJR Engineering Group. The applicants' consultant has analyzed the proposed building sites and has determined that future residential developments are feasible from a geologic and geotechnical standpoint. However, on Parcels 1 and 3 the consultant has performed only preliminary geologic analysis. This investigation included some subsurface analysis of previous geologic borings of the site and

identification of feasible building sites. The geologist has outlined a geologic restricted use area on Parcel 3 and percolation area for a future residence (Exhibit 5). Although the geologic analysis for parcels 1 and 3 are preliminary the geologist has indicated the parcels are suitable for residential development. When residences are proposed for these sites additional geologic review will be necessary in order specifically address foundation designs, retaining wall designs, additional remedial overexcavation and other geotechnical engineering requirements.

On Parcel 2 the consultant has prepared an engineering geologic report that indicates Parcel 2 is suitable for the proposed residential development. The geologic consultant's updated geologic and geotechnical report, dated January 5, 2001, states:

*Based upon the available data, from our review, previous subsurface investigation, the proposed residential improvements remain feasible from a geologic and geotechnical standpoint. 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 geologic and geotechnical consultant has also analyzed the proposed septic system for the residential development on parcel 2 as it related to site stability. The geologic consultant's updated geologic and geotechnical report, dated January 5, 2001, states:

*Based on this data, the proposed system will not adversely affect the stability of the site or that if (sic) the surrounding areas, if the recommendation presented in the referenced geotechnical report and this report are incorporated into the design and construction of the system.*

Based on the recommendations of the consulting geologists, the Commission finds that the proposed development on parcel 2, 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 consulting geologist has identified building sites on the proposed parcels and has determined that future residential developments are feasible on the site from a geologic and geotechnical standpoint. Additional geologic engineering analysis will be required for Parcels 1 and 2 when residences are proposed on these parcels. However, the Commission notes that consulting geologist has identified a geologic restricted use area on Parcel 3 due to a landslide located to the northwest of the proposed building site and a flood hazard area along the stream to the west (Exhibit 5). The landslide is located

approximately 80 feet west of the proposed building site. The restricted use area delineates an area that requires additional geologic and geotechnical analysis prior to construction in that area. The consulting geologist also indicates that when a residential development is proposed for this parcel additional investigations for a specific development plan will be necessary to more precisely determine the limits of the restricted use area or to develop an appropriate engineering solution for the residential development. Although the geologist has identified the proposed pad on Parcel 3 as an acceptable building location a landslide is located approximately 80 feet northwest of the building pad. The Commission finds that there is some inherent risk for future residential development located within or near potentially active landslide, such as the subject site, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by **Special Condition 9**. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same.

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

E. Water Quality

The Commission recognizes that 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 an 11,181 sq. ft., 28 foot high, two story single family residence with attached 766 sq. ft. attached garage, 200 square foot pool cabana, 56 sq. ft. trash enclosure, 32 sq. ft. pool equipment enclosure, pool &

spa, horse trellis and paddock, septic system, retaining wall system and 7,998 cubic yards of grading (4,886 cu. yds. cut, 1,233 cu. yds. fill & 1,879 cu. yds. removal and recompaction)(lot 2). 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 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 4**, and finds this will ensure the proposed development on Parcel 2 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.

The proposed development also includes an equine facility that consists of a 1,000 sq. ft. horse trellis/cover and an adjacent 1,000 sq. ft. paddock area. Pollutants commonly found in runoff associated with confined animal facilities include nitrates, 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. To ensure that the equine facility does not generate uncontrolled wastes that will adversely impact coastal waters, the Commission finds, that it is necessary to require that the drainage and polluted runoff control plan include provisions for regular periodic scraping of areas where manure collects, containment and disposal of manure, and a drainage system that collects and filters runoff through vegetative and/or gravel strips or other media filter devices, as specified in **Special Condition 4**. To ensure that no additions or improvements are made to the equine facility without due consideration of the potential adverse water quality impacts that may result the Commission finds it necessary to require the applicant to record a future development deed restriction, as specified in **Special Condition No. Six (6)**

Finally, the proposed development on parcel 2 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 residential development on parcel 2, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

The consulting geologist has also evaluated the potential for each of the proposed reconfigured parcels 1 and 3 to accommodate a private sewage system (RJR Engineering Group, Preliminary Geologic and Geotechnical Engineering Report Proposed Residential

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

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

**F. Local Coastal Program**

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

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

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

**G. California Environmental Quality Act**

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

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

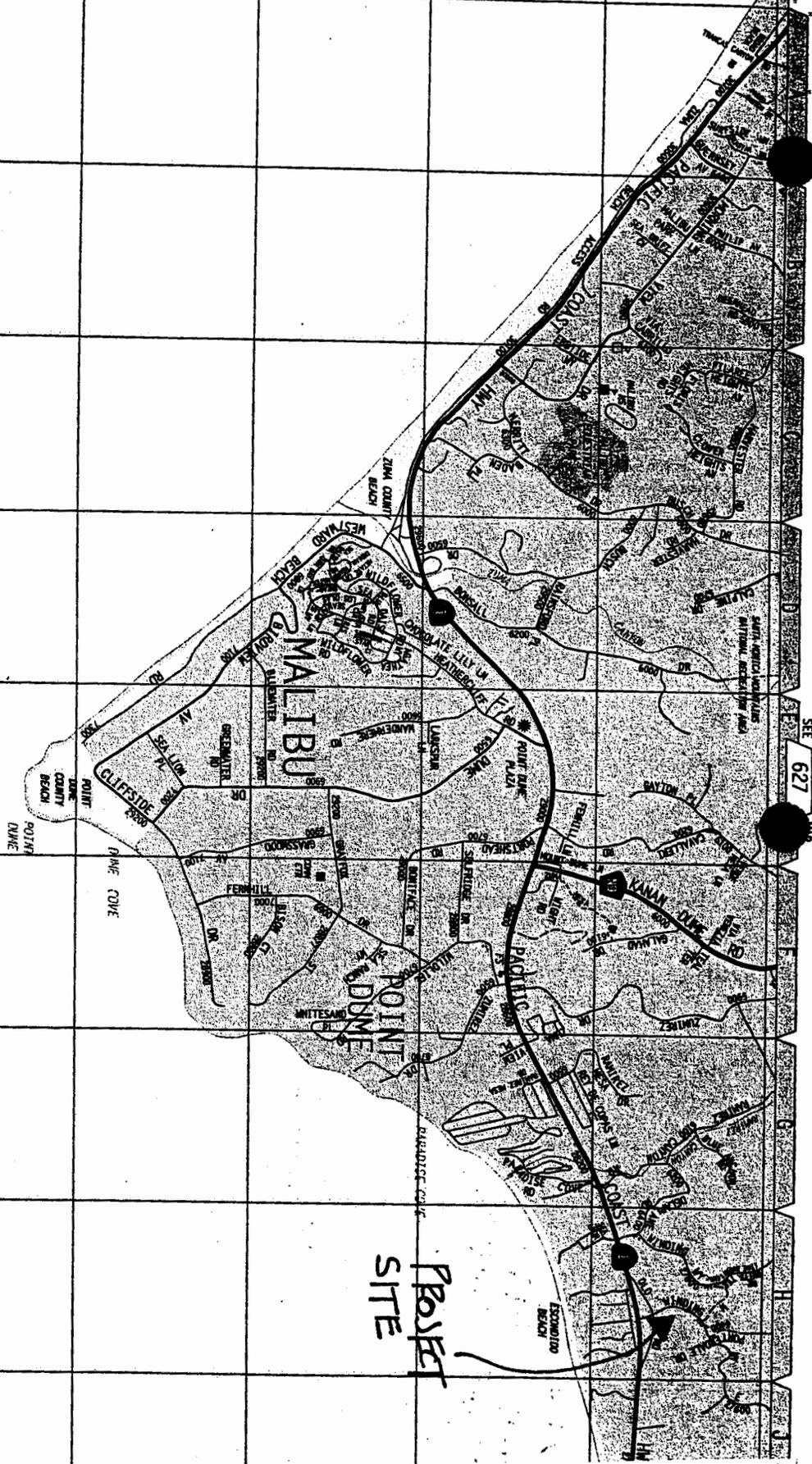
PACIFIC

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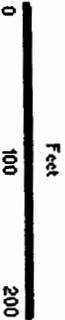
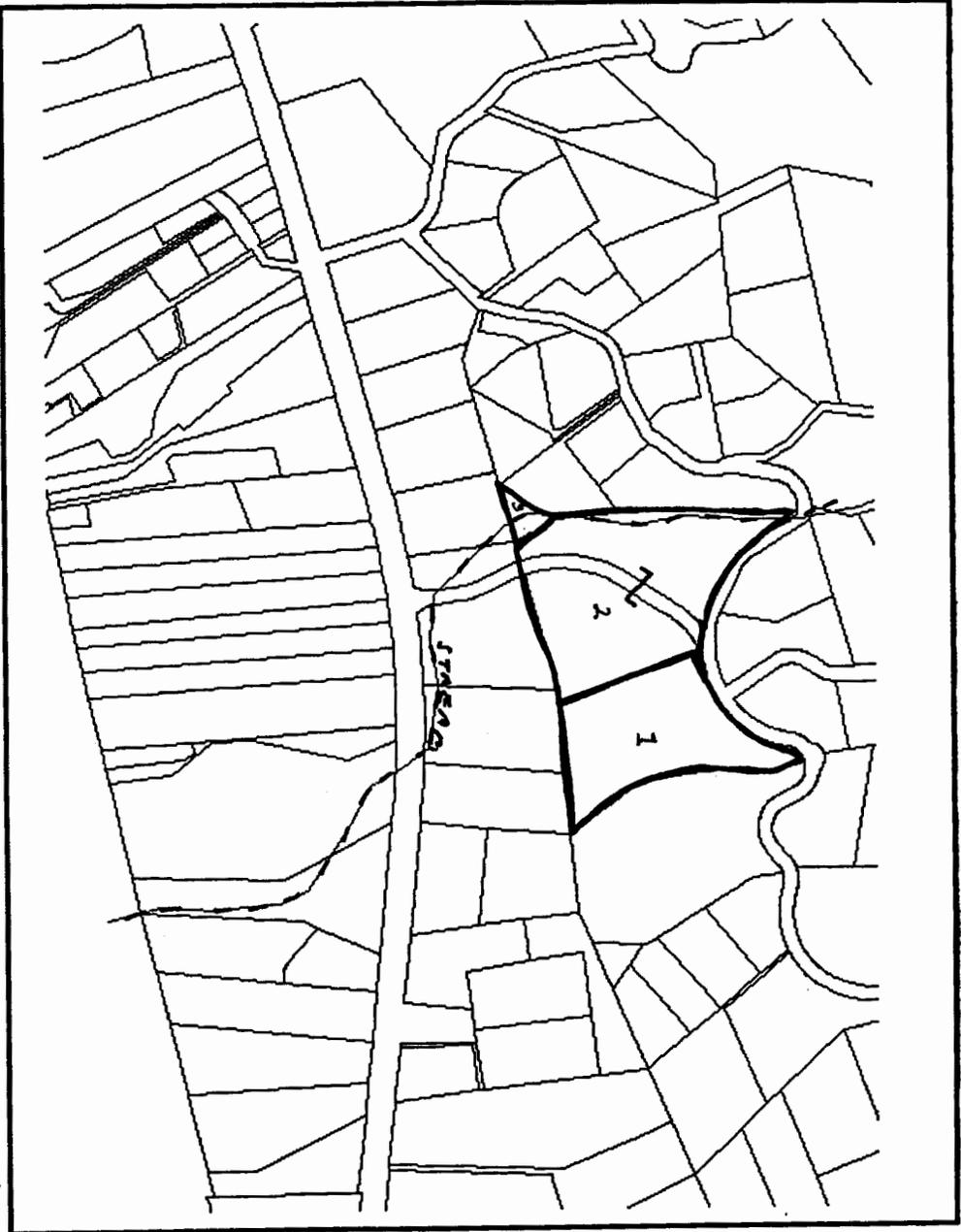
GAJEVITZ PROJECT

PROJECT SITE

Exhibit 1
CDP 4-00-110
Location Map

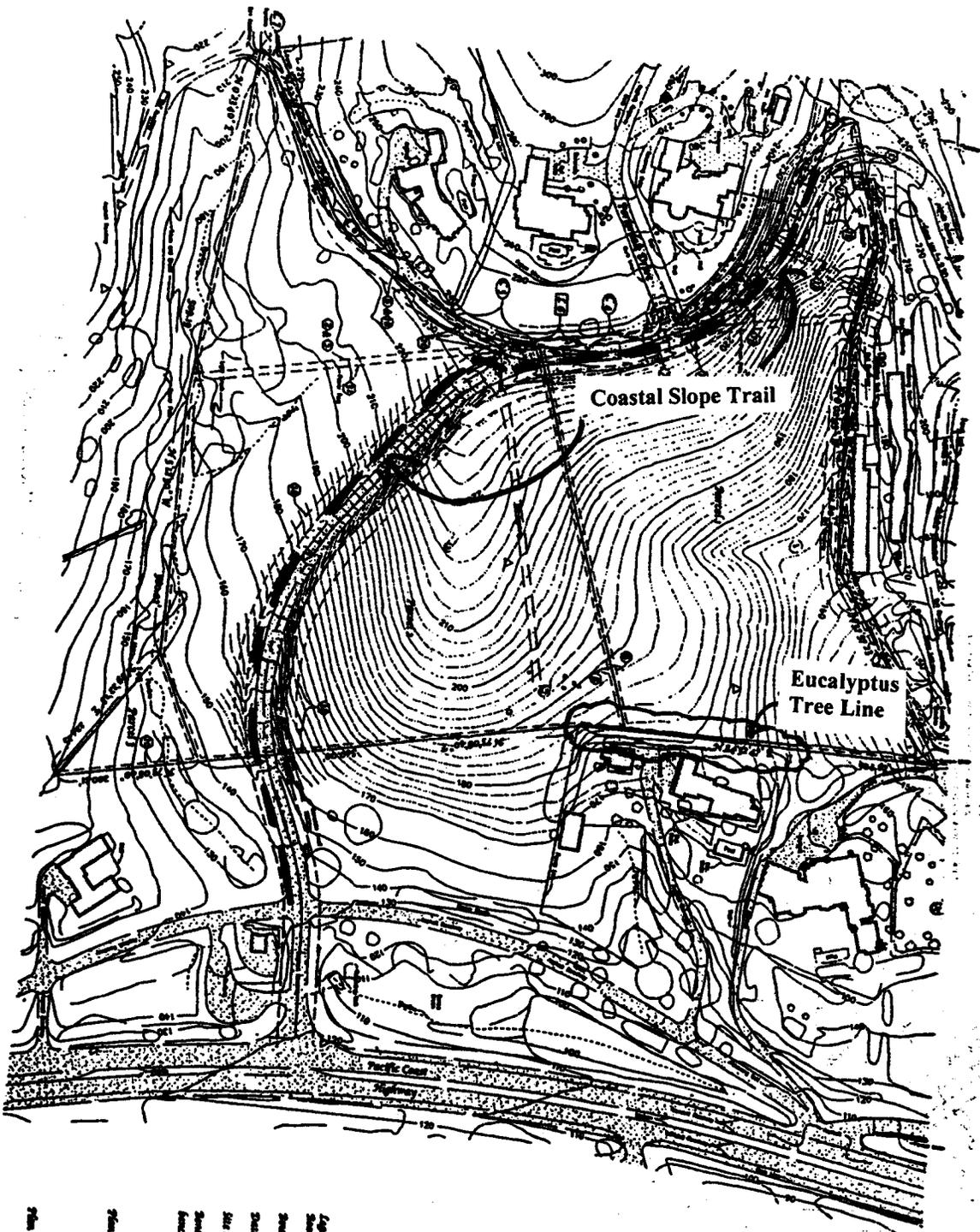


4-00-110 (27640, 27720, 27747 Winding Way)



Blue Line Streams  
parcels

Exhibit 2
CDP 4-00-110
Parcel Map



Topography Survey

Lot 1048

Lot	Area	Value
10	10,000 sq ft	100,000
11	10,000 sq ft	100,000
12	10,000 sq ft	100,000
13	10,000 sq ft	100,000
14	10,000 sq ft	100,000
15	10,000 sq ft	100,000
16	10,000 sq ft	100,000
17	10,000 sq ft	100,000

Lot	Area	Value
18	10,000 sq ft	100,000
19	10,000 sq ft	100,000
20	10,000 sq ft	100,000
21	10,000 sq ft	100,000
22	10,000 sq ft	100,000
23	10,000 sq ft	100,000
24	10,000 sq ft	100,000
25	10,000 sq ft	100,000
26	10,000 sq ft	100,000
27	10,000 sq ft	100,000

- 1. Item one: the assessment for this lot.
- 2. Item two: the assessment for adjacent lots.
- 3. Item three: a 5' assessment for utility purposes.
- 4. Item four: a 30' assessment for road & utility purposes.
- 5. Item five: a 5' assessment for utility purposes.
- 6. Item six: a 30' assessment for road & utility purposes.
- 7. Item seven: a 5' assessment for utility purposes.
- 8. Item eight: the assessment for road, utility, and other purposes.
- 9. Item nine: the assessment for utility and other purposes.
- 10. Item ten: the assessment for drainage purposes.
- 11. Item eleven: the assessment for cars and/or RVs for signs.
- 12. Item twelve: the assessment for properties with swimming & wading pools.
- 13. Item thirteen: the assessment undesignated by this report.

Legend  
 A = ...

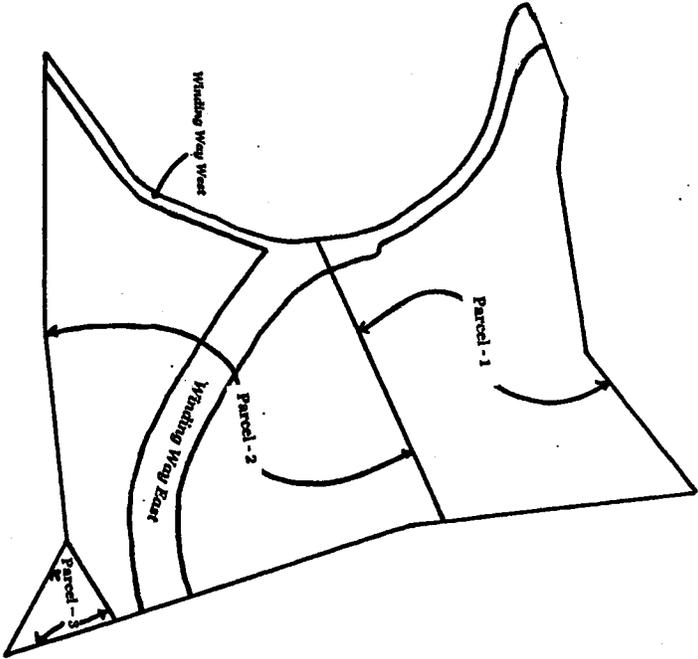
Legal Description: A portion of the Santa Fe Springs Subdivision, Santa Fe Springs, City of Los Angeles.  
 Survey: Survey information required to find survey monuments.  
 Date of Survey: November 24, 1999.  
 Map Address: 7400 17th Street.  
 Santa Fe Springs Assessor's Office, Los Angeles County Assessor's Office, 1000 North Main Street, Los Angeles, CA 90012.

Plan Prepared For: Santa Fe Springs  
 400 North Main Street  
 Santa Fe Springs, CA 90012  
 Plan No. 400-17-1000

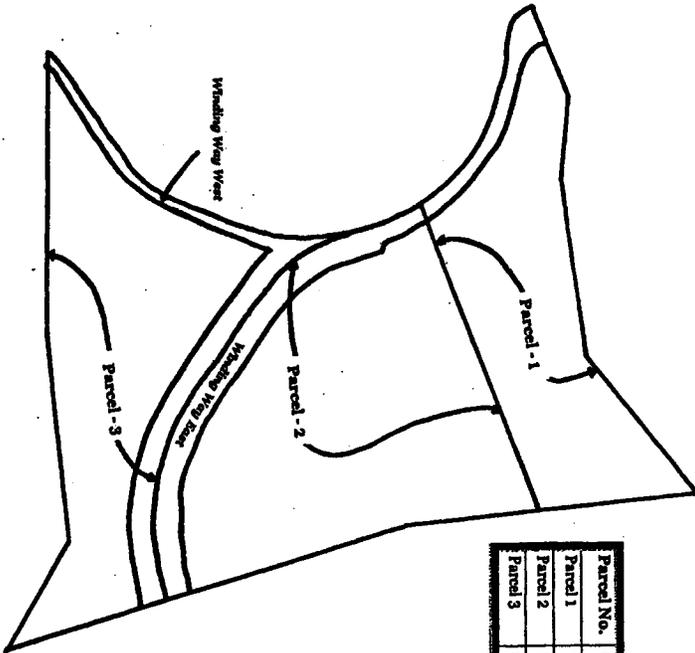


**Exhibit 3**  
**CDP 4-00-110**  
**Topographic Survey**

Existing and Proposed Parcel Configuration



Existing Parcel Configuration



Proposed Parcel Configuration

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

Not To Scale

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

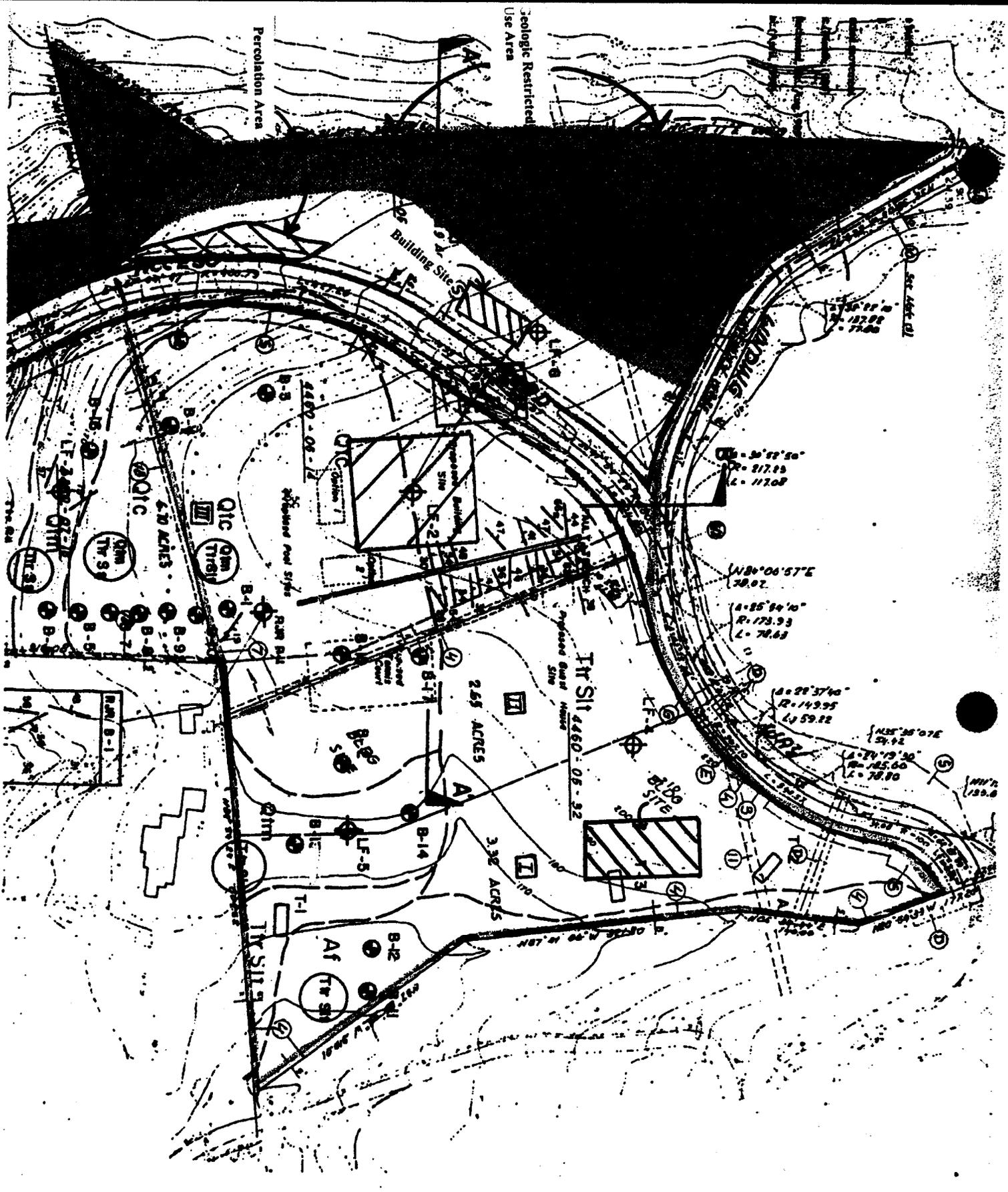
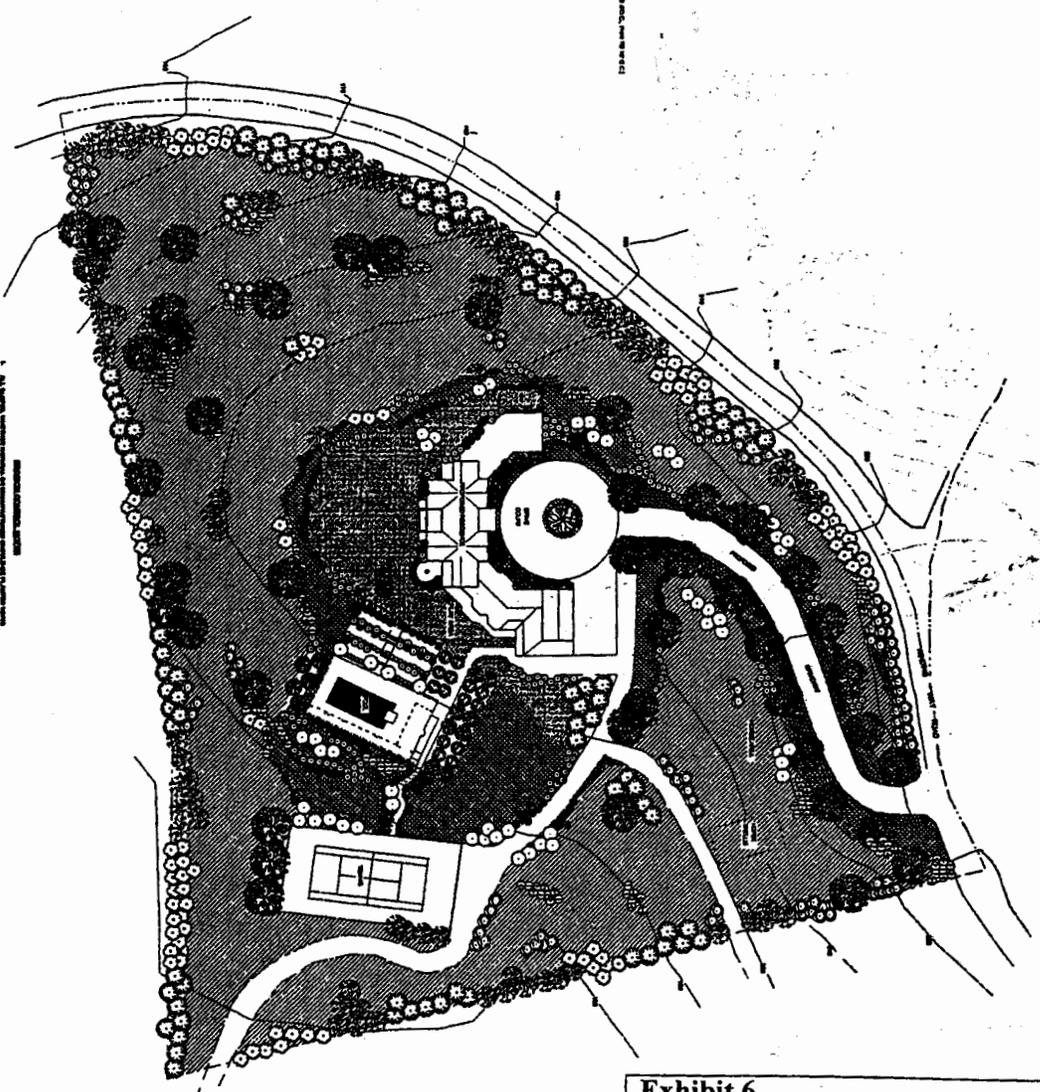


Exhibit 5
CDP 4-00-110
Building Sites & Geology

- 1. 1/4" = 1'-0" SCALE
- 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED
- 3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE CALIFORNIA BUILDING CODE (CBC)
- 4. ALL UTILITIES SHALL BE DEPTH MARKED AND PROTECTED
- 5. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED
- 6. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED
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- 20. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED

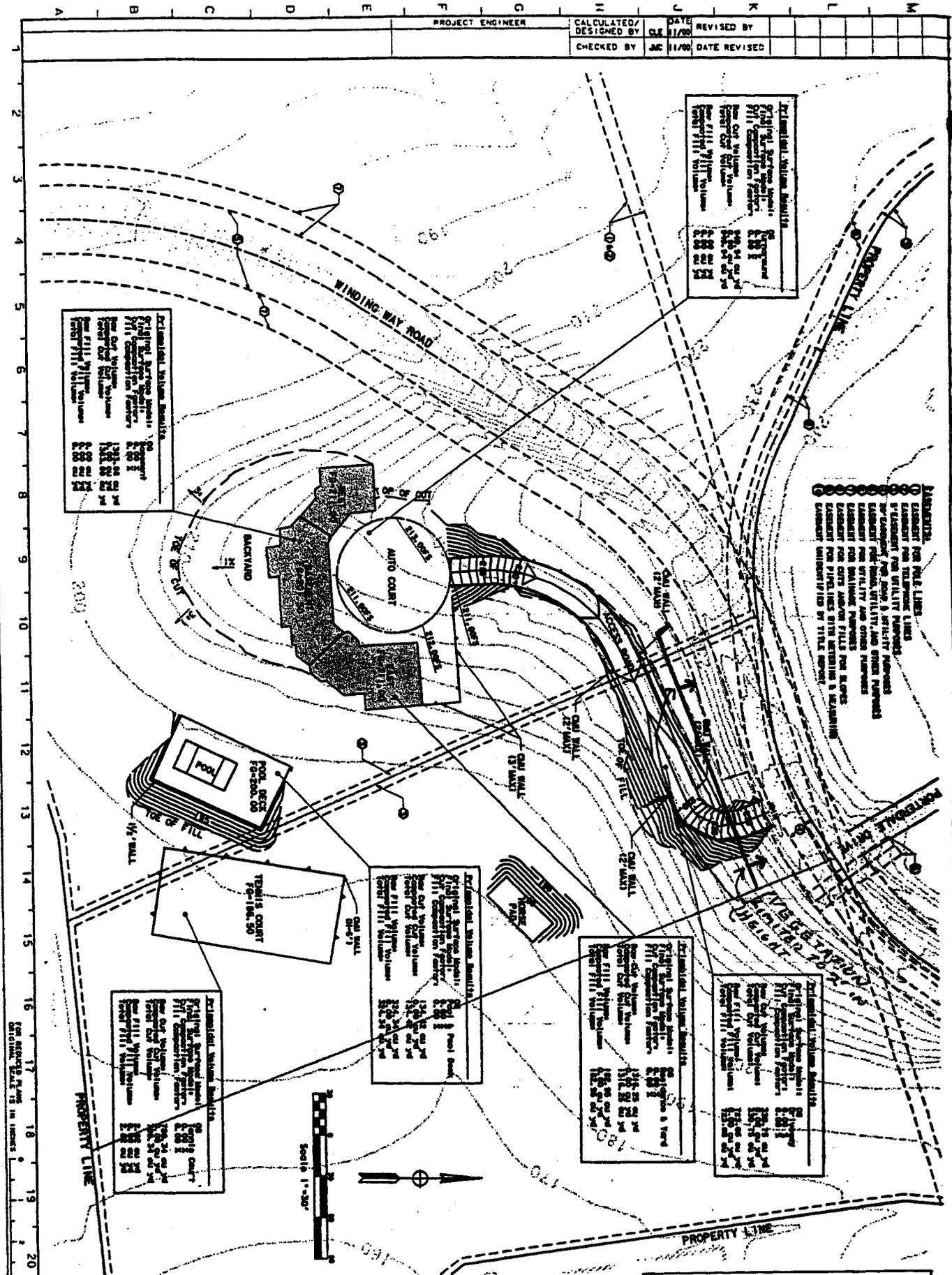
- 1. 1/4" = 1'-0" SCALE
- 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED
- 3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE CALIFORNIA BUILDING CODE (CBC)
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- 19. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED
- 20. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED



- 1. 1/4" = 1'-0" SCALE
- 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED
- 3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE CALIFORNIA BUILDING CODE (CBC)
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- 20. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED

Prepared by: [Name]  
 Date: [Date]  
 Project: [Project Name]  
 17777 7th Street, Suite 100  
 Irvine, California 92614  
 Telephone: (949) 261-1111  
 A VERIFIED DESIGN PROFESSIONAL  
 [Signature]  
 [Title]

**Exhibit 6**  
**CDP 4-00-110**  
**Site Plan for Parcel 2**



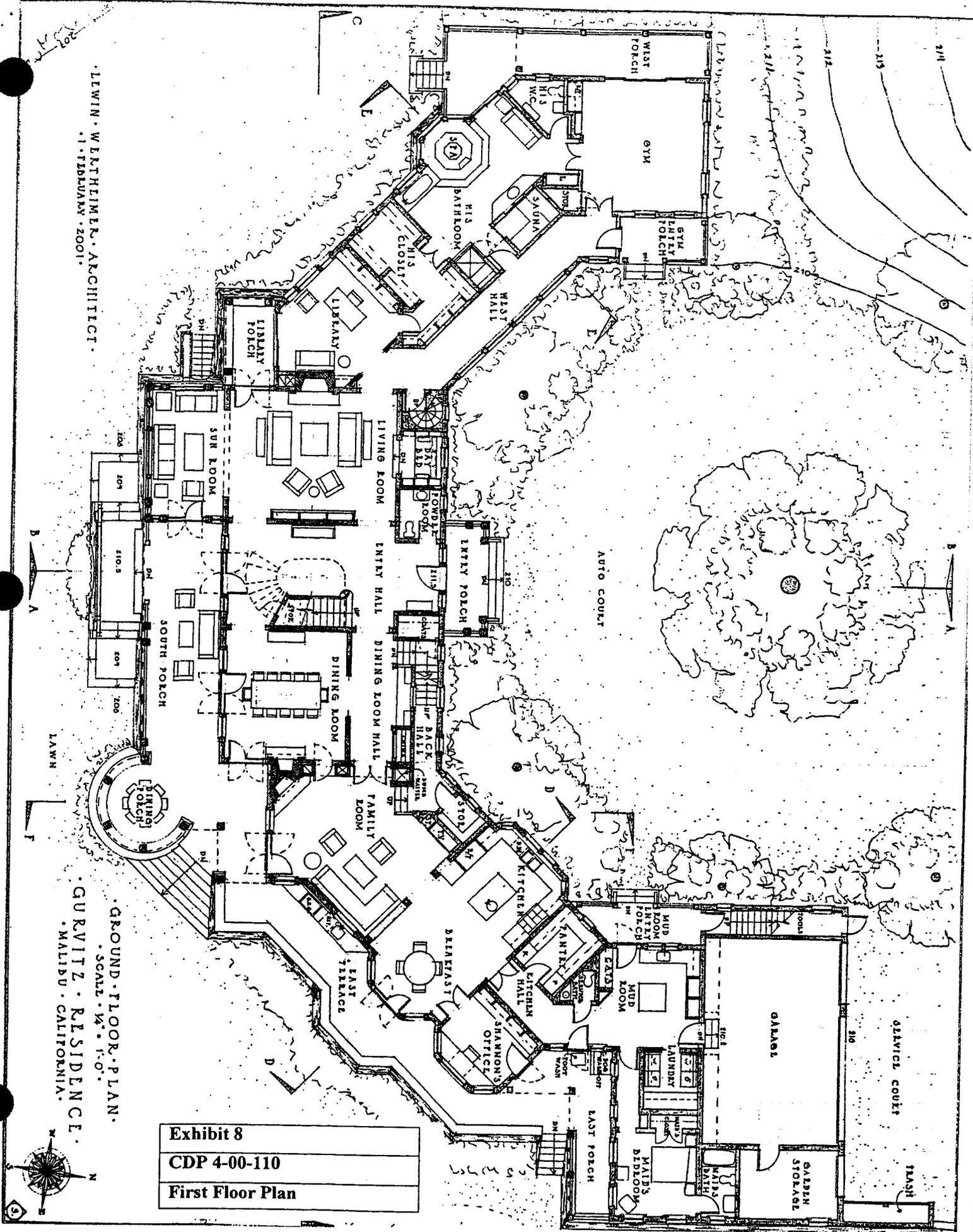
C-2	SINGLE FAMILY RESIDENCE CONSTRUCTION	CITY ENGINEER
	GRADING PLAN	CITY ENGINEER
	SURVITZ RESIDENCE (PARCEL B) 4750 WINDING WAY ROAD	CITY ENGINEER
SHEET 2 OF 2 SHEETS INDEX NUMBER		

**Exhibit 7**  
**CDP 4-00-110**  
**Grading Plan for Parcel 2**

LEWIN WEITHEIMER ARCHITECT  
 11 FEBRUARY 2001

GROUND-FLOOR-PLAN  
 SCAL. 1/4" = 1'-0"  
 GURVITZ RESIDENCE  
 MALIBU CALIFORNIA

Exhibit 8  
 CDP 4-00-110  
 First Floor Plan



LEWIN WEITHEIMER ARCHITECT  
1 FEBRUARY 2001

SECOND FLOOR PLAN  
SCALE 1/4" = 1'-0"

GU RIVITZ RESIDENCE  
MALIBU CALIFORNIA

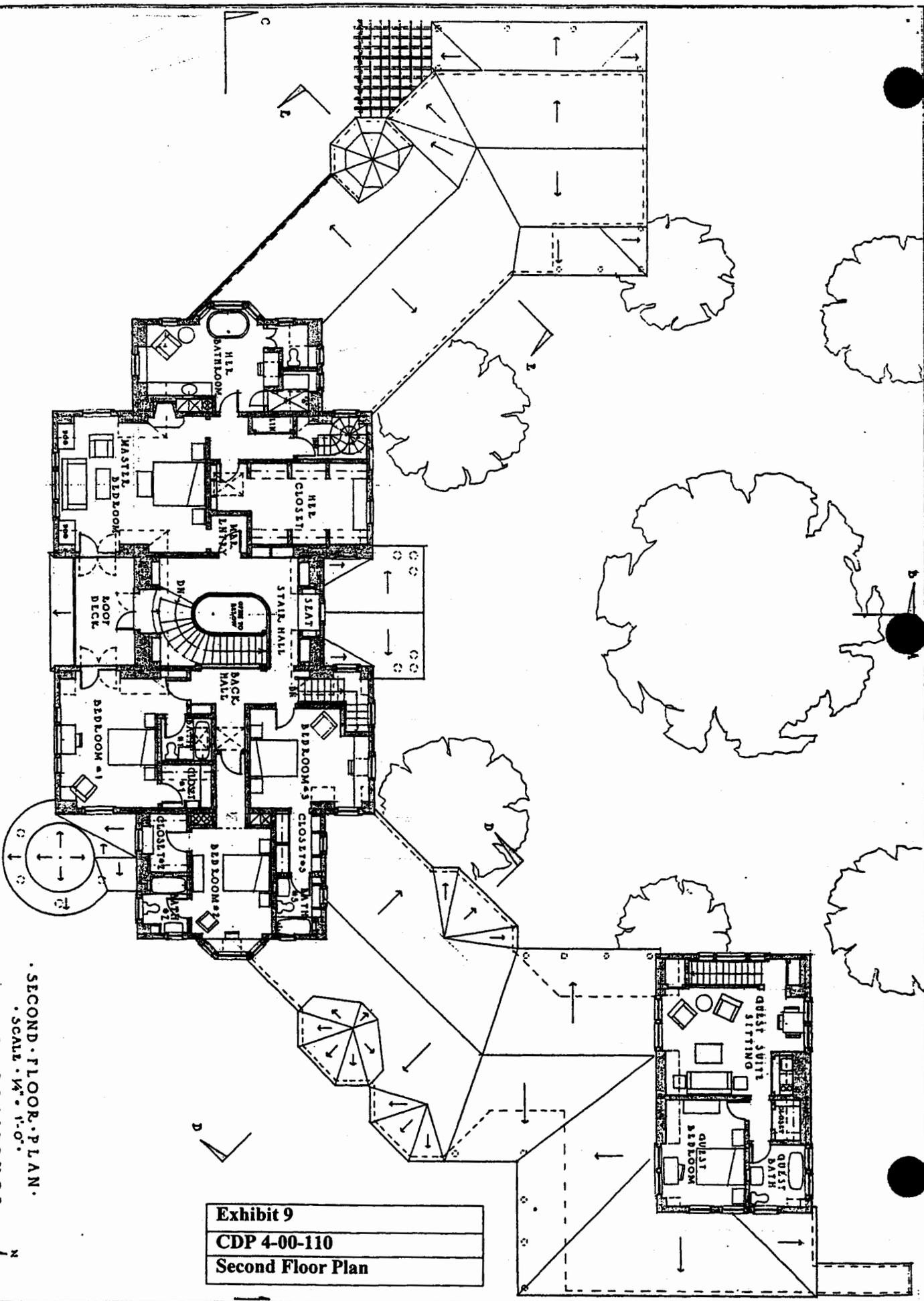


Exhibit 9  
CDP 4-00-110  
Second Floor Plan

· LILWIN · WELTHIMEL · ARCHITECT  
 · 1 · FEBRUARY · 2001 ·



· BASEMENT-FLOOR-PLAN ·  
 · SCALE · 1/4" = 1'-0" ·  
 · GURVITZ · RESIDENCE ·  
 · MALIBU · CALIFORNIA ·

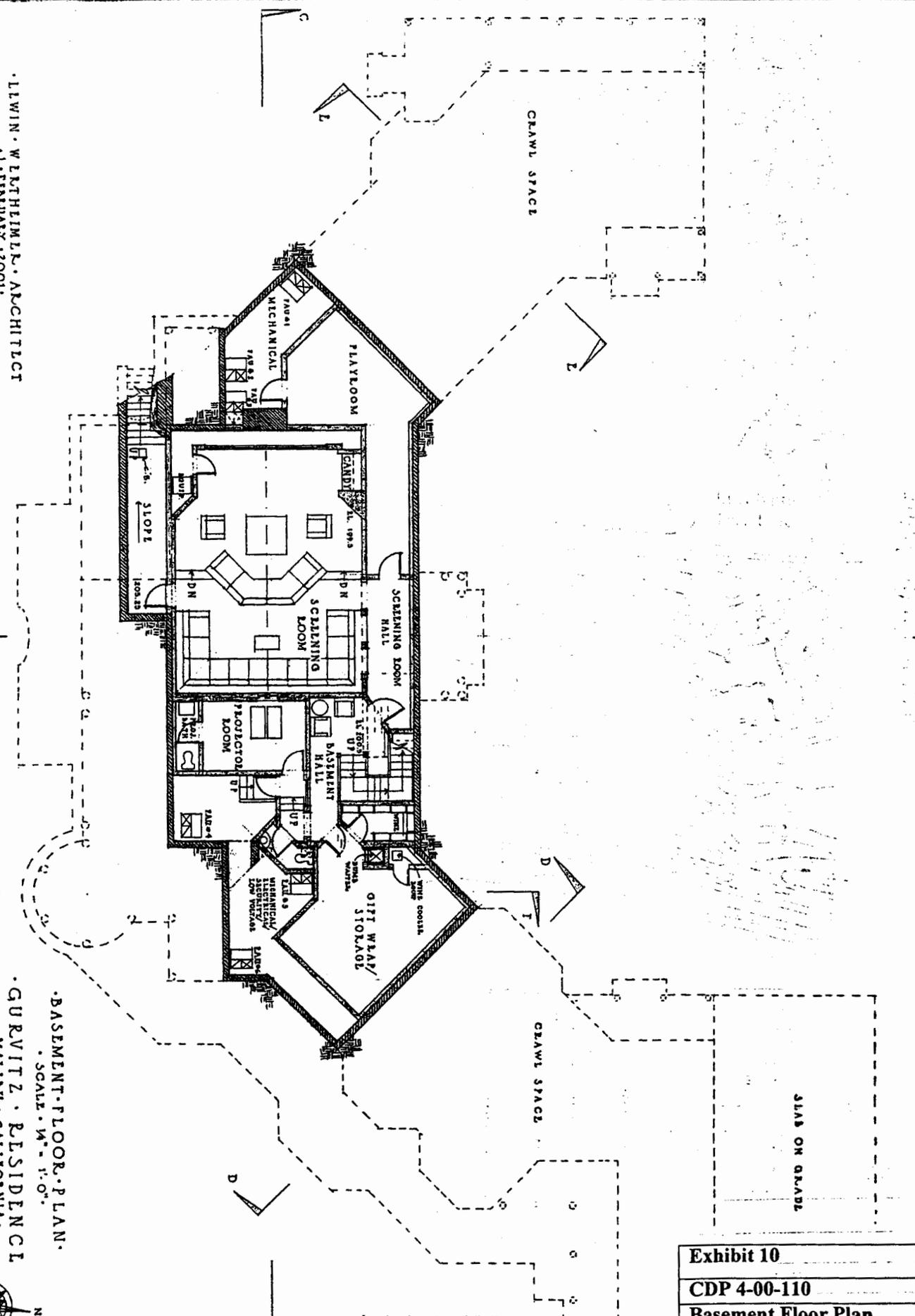
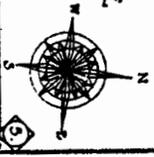


Exhibit 10
CDP 4-00-110
Basement Floor Plan

LEWIN WERTHIMER, ARCHITECT.  
FEBRUARY, 2001.

GURVITZ RESIDENCE.  
MALIBU, CALIFORNIA.

FRONT NORTH ELEVATION.  
SCALE: 1/8" = 1'-0".

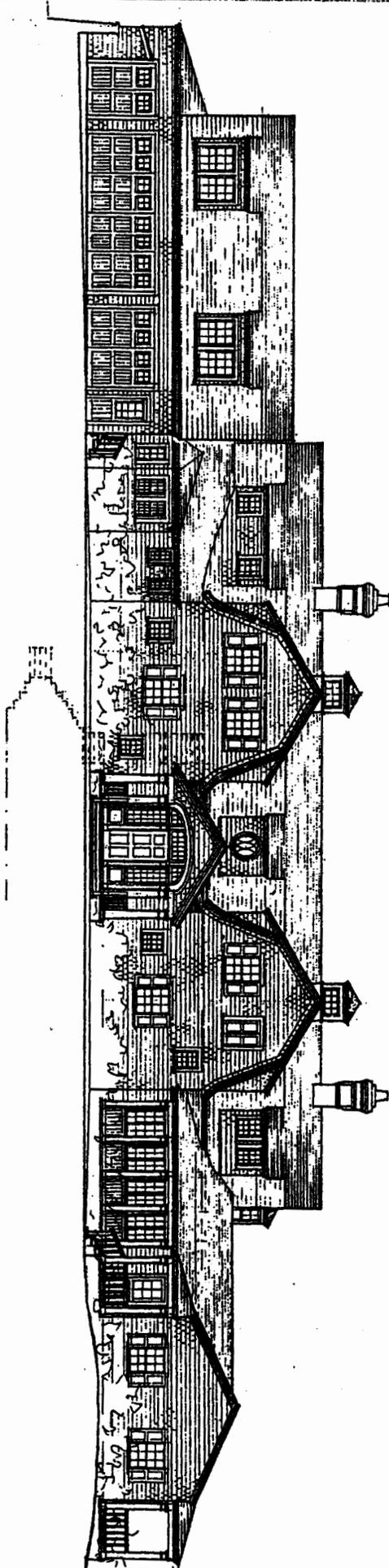
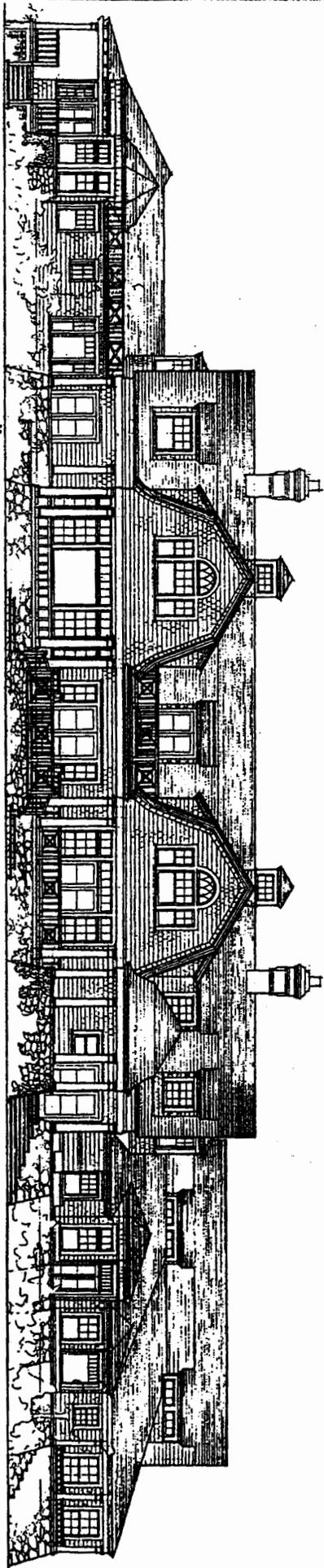


Exhibit 11
CDP 4-00-110
North Elevation



• PLAN • SOUTH • ELEVATION •  
• SCALE • W • 1'-0" •

• LEWIN • WELTHIMBLE • ARCHITECT •  
• 1 • FEBRUARY • 2001 •

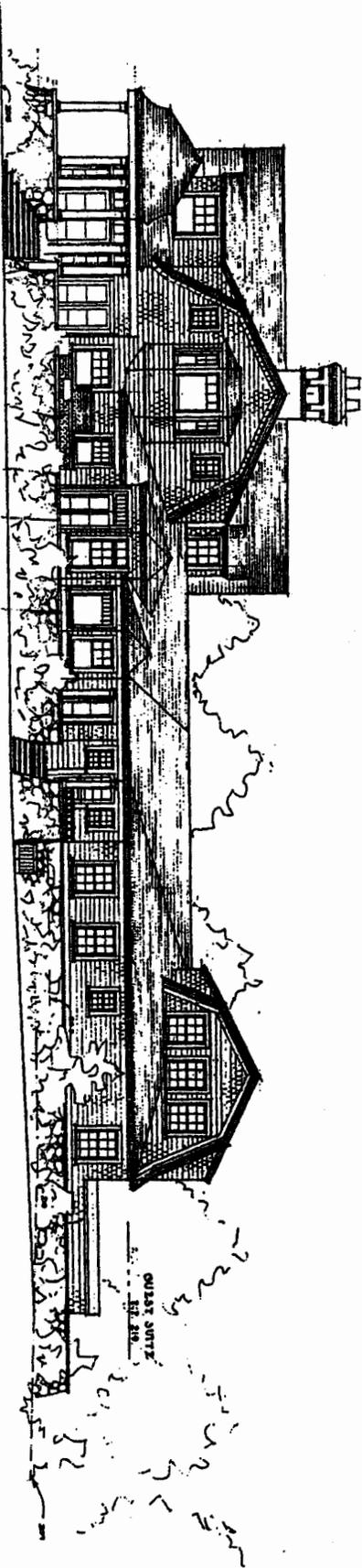
• GURVITZ • RESIDENCE •  
• MALIBU • CALIFORNIA •

Exhibit 12
CDP 4-00-110
South Elevation

LEWIN WINTHLEMB. ARCHITECT.  
1. FEBRUARY. 2001.

EAST ELEVATION.  
SCALE W. 1-0.

GURVITZ RESIDENCE.  
MALIBU CALIFORNIA.



WEST ELEVATION.  
SCALE W. 1-0.

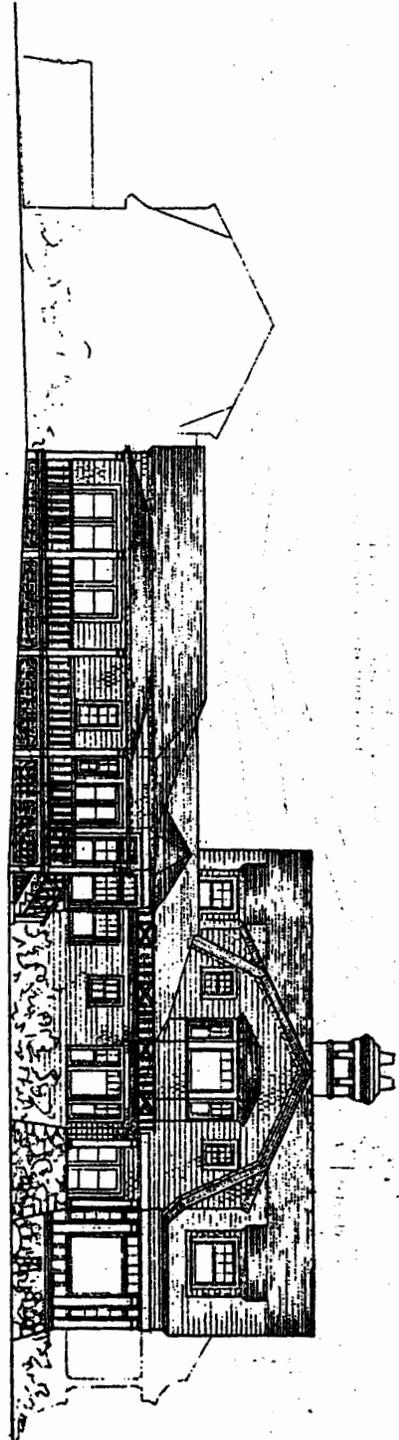
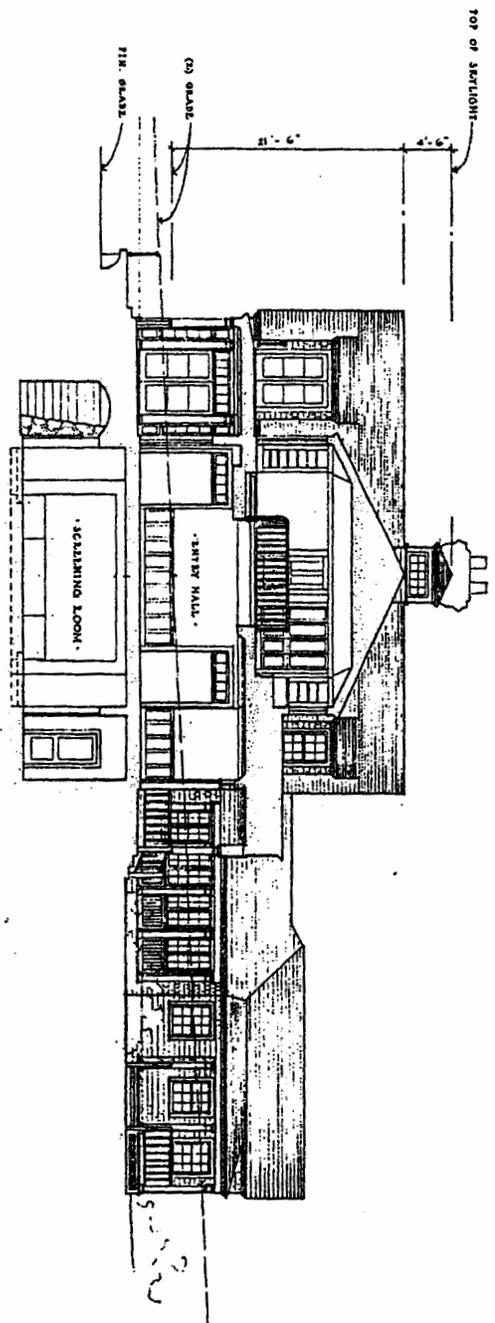
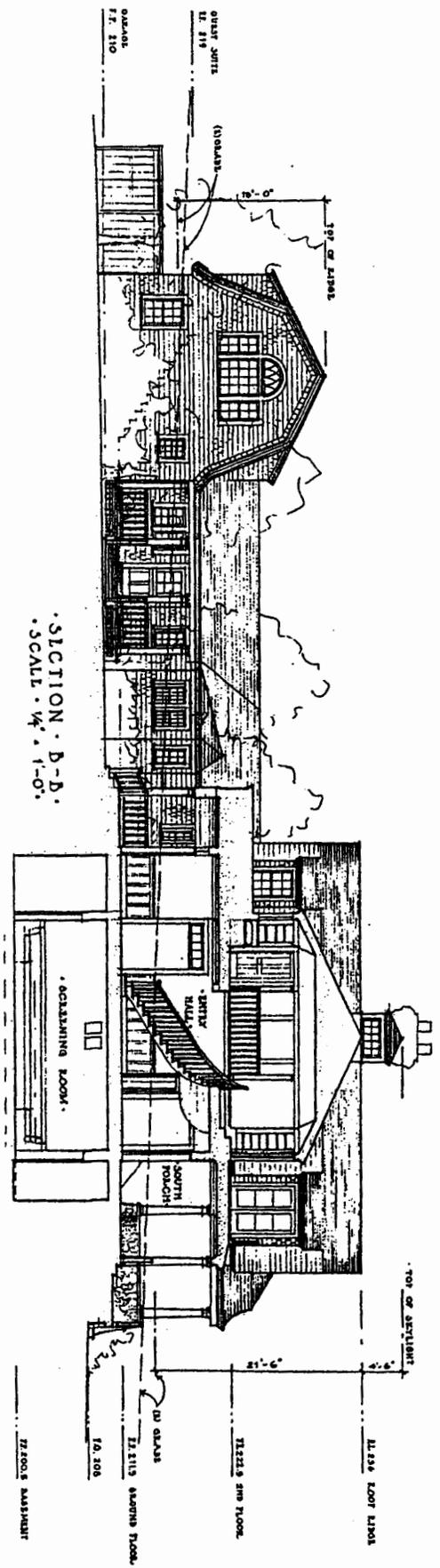


Exhibit 13
CDP 4-00-110
East & West Elevations



SECTION A-A.  
SCALE 1/4" = 1'-0"



SECTION D-D.  
SCALE 1/4" = 1'-0"

LEWIN WETHEIMLB ARCHITECT  
1125 BROADWAY 2001

GURVITZ RESIDENCE  
MALIBU CALIFORNIA

Exhibit 14
CDP 4-00-110
Section of Residence

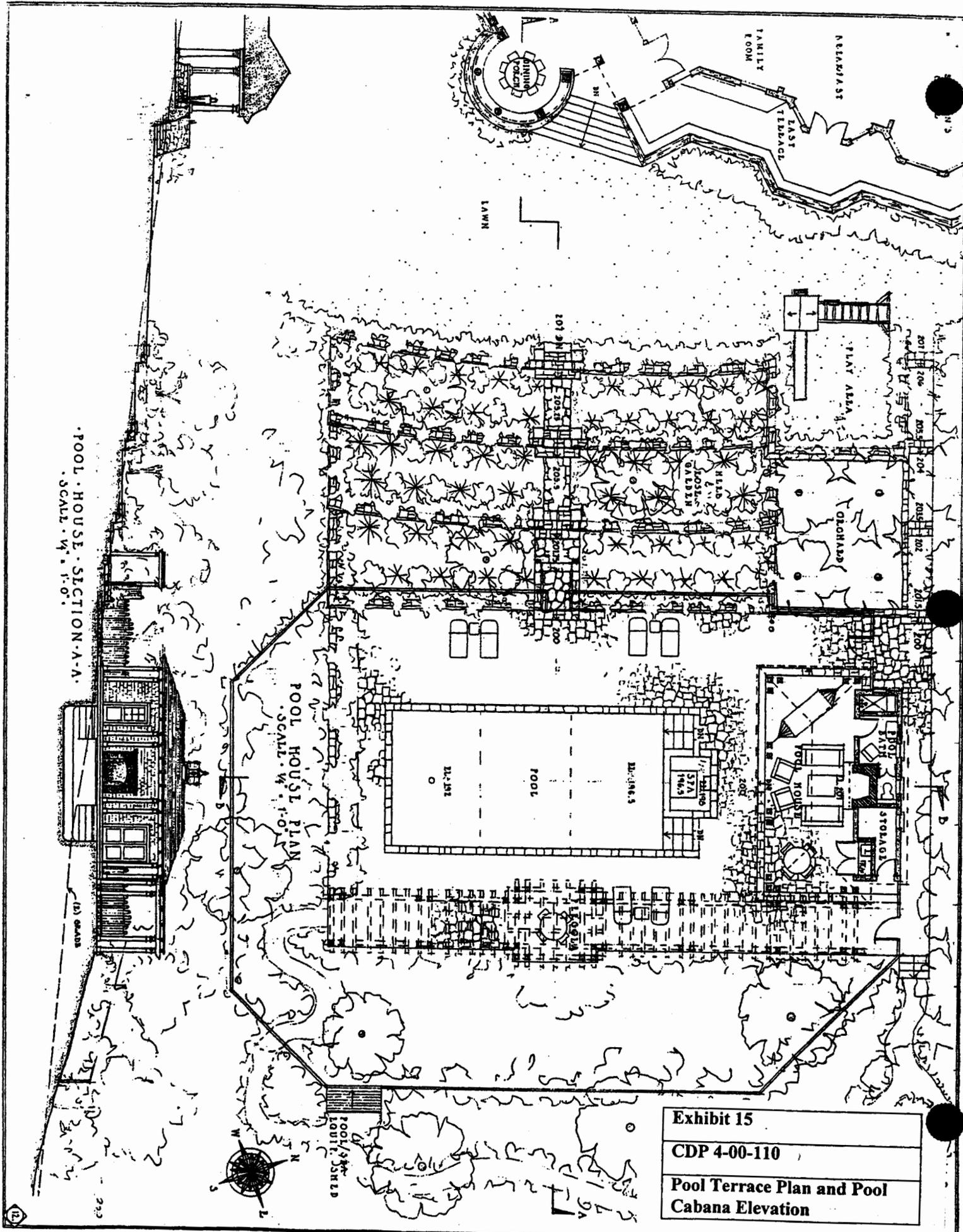
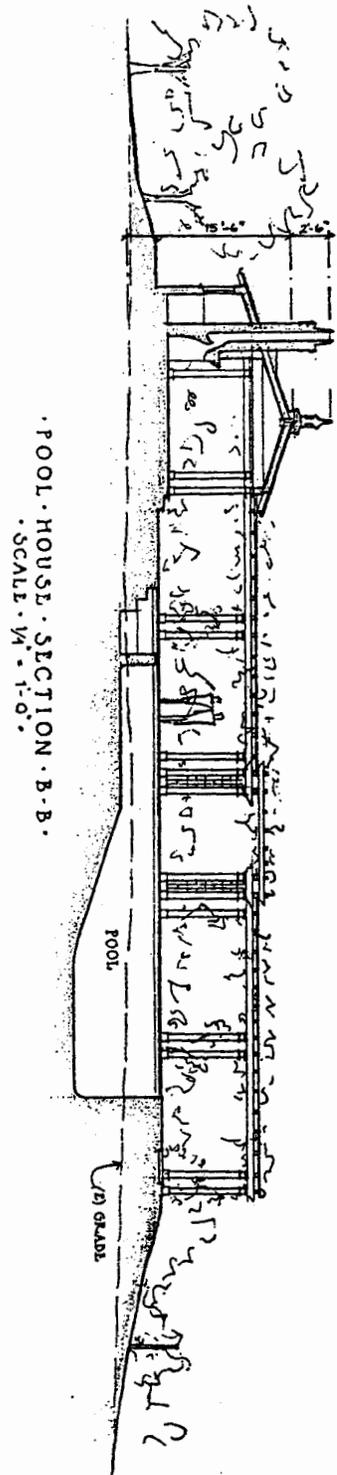
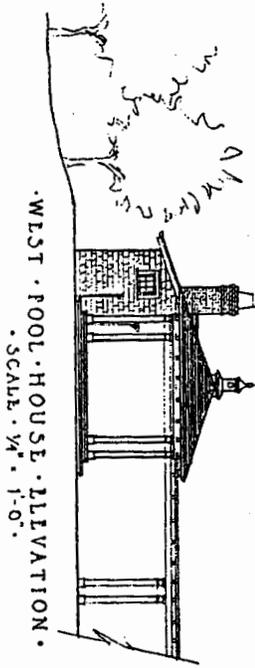


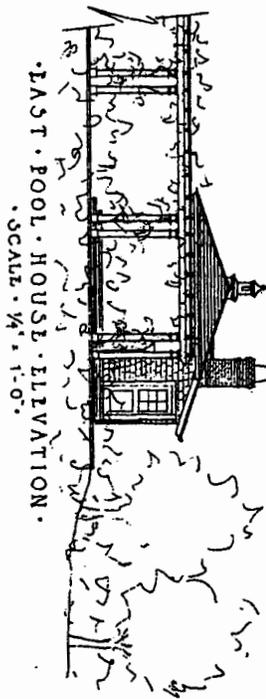
Exhibit 15  
 CDP 4-00-110  
 Pool Terrace Plan and Pool  
 Cabana Elevation



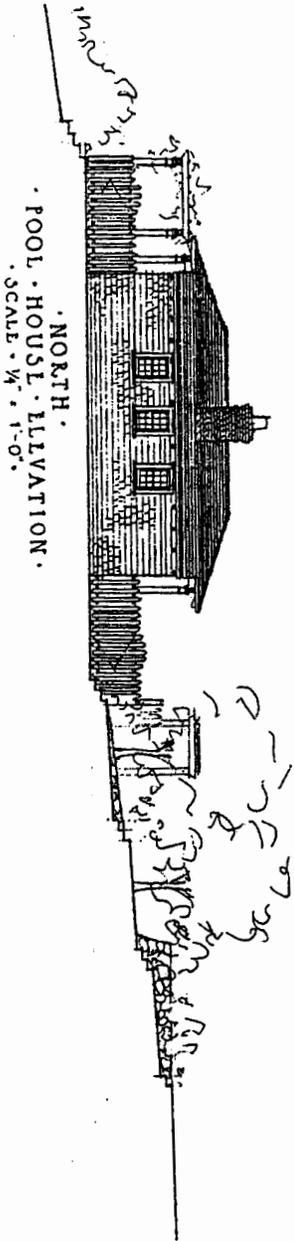
POOL HOUSE SECTION - B-B.  
SCALE - 1/4" = 1'-0"



WEST POOL HOUSE ELEVATION.  
SCALE - 1/4" = 1'-0"



EAST POOL HOUSE ELEVATION.  
SCALE - 1/4" = 1'-0"



NORTH POOL HOUSE ELEVATION.  
SCALE - 1/4" = 1'-0"

Exhibit 16
CDP 4-00-110
Cabana Elevations



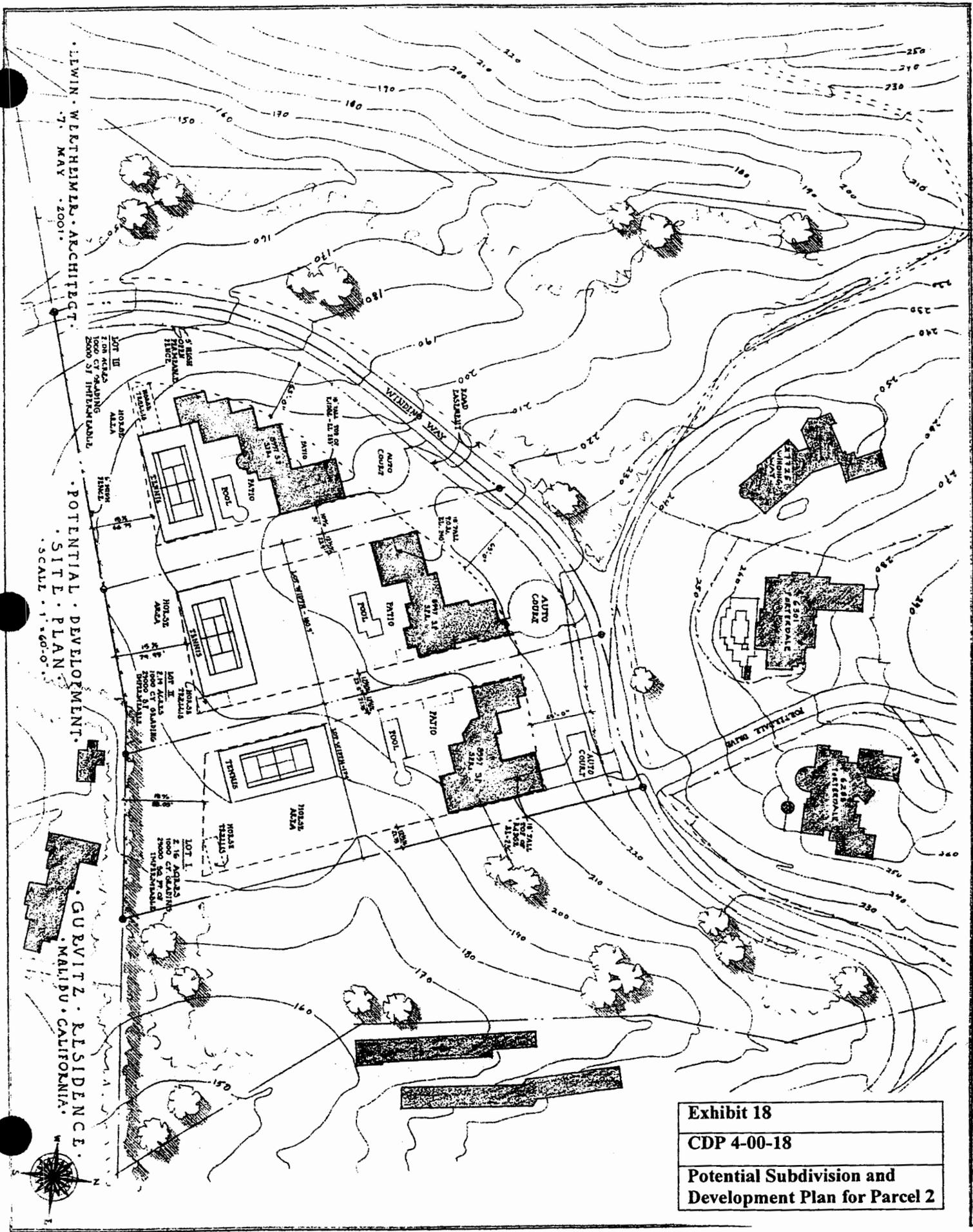


Exhibit 18  
 CDP 4-00-18  
 Potential Subdivision and  
 Development Plan for Parcel 2

**NEIGHBORHOOD DEVELOPMENT MAP - 27720 WINDING WAY, MALIBU CALIFORNIA**

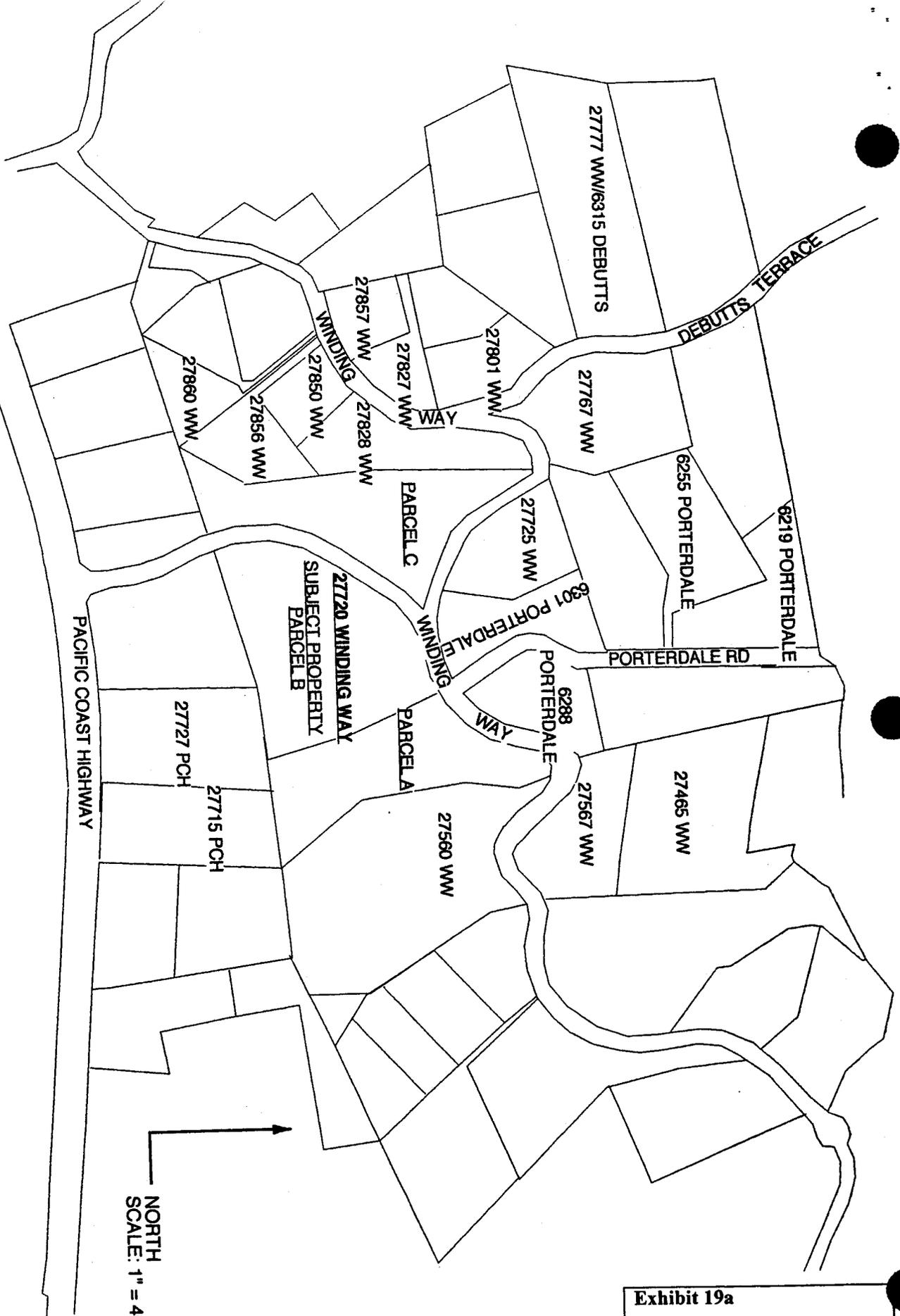


Exhibit 19a
CDP 4-00-110
Neighboring Development Map

**27720 WINDING WAY - SURROUNDING DEVELOPMENT STATISTICS**

<u>ADDRESS</u>	<u>LOT SIZE</u>	<u>RES SIZE</u>	<u>FAR</u>	<u>#OF STORIES</u>
27777 WW	104, 544	10, 935	.10	2
27801 WW	59, 241	2, 950	.05	2
27828 WW	107, 410	4, 506	.04	2
27850 WW	40, 406	5, 615	.14	2
27856 WW	49, 920	6, 400	.13	2
27860 WW	47, 916	4, 010	.08	2
27827 WW	41, 400	6, 000	.14	2
27857 WW	42, 160	3, 889	.09	2
27767 WW	152, 000	1, 510	.01	1
27725 WW	80, 586	5, 700	.07	2
6301 PORTERDALE	98, 445	7, 337	.07	2
6255 PORTERDALE	123, 274	6, 074	.05	2
6219 PORTERDALE	112, 384	3, 973	.04	2
6288 PORTERDALE	78, 200	10, 636	.14	2
27567 WW	94, 089	2, 931	.03	2
27560 WW	130, 797	4, 152	.03	1
27465 WW	196, 020	11, 008	.06	2
27727 PCH	134, 165	4, 200	.03	1
27715 PCH	108, 028	8, 593	.08	2

1. AVG. LOT SIZE OF EXISTING DEVELOPED PARCELS: 2. 18 ACRES  
 LOT SIZE OF PROPOSED DEVELOPMENT SITE: APP. 6.0 ACRES

2. AVG. STRUCTURE SIZE: 5, 811.5 SQ. FT.  
 PROPOSED STRUCTURE SIZE: 10, 886.0 SQ. FT.  
 PLEASE NOTE: THE PROPOSED STRUCTURE SIZE INCLUDES 1, 423 SQ. FT. OF COVERED PORCHES, A 56 SQ. FT. TRASH ENCLOSURE, AND A 32 SQ. FT. POOL EQUIPMENT ENCLOSURE, ONE OF WHICH WOULD HAVE BEEN COUNTED IN THE EXISTING STRUCTURE SIZE FIGURES

3. FAR AVERAGE OF EXISTING DEVELOPED PARCELS: .07 FAR  
 FAR OF PROPOSED PROJECT: .04 FAR

4. % OF EXISTING RESIDENCES SHOWN ON MAP WHICH ARE TWO STORY: 84%

Exhibit 19b
CDP 4-00-110
Surrounding Development Statistics

PROJECT ENGINEER	DESIGNED BY	DATE	REVISIONS BY
	CHECKED BY	DATE	DATE REVISED

- EASEMENTS:**
- 1. EASEMENT FOR POLE LINES
  - 2. EASEMENT FOR TELEPHONE LINES
  - 3. EASEMENT FOR UTILITY PURPOSES
  - 4. EASEMENT FOR ROAD & UTILITY PURPOSES
  - 5. EASEMENT FOR ROAD, UTILITY, AND OTHER PURPOSES
  - 6. EASEMENT FOR UTILITY AND OTHER PURPOSES
  - 7. EASEMENT FOR UTILITY AND OTHER PURPOSES
  - 8. EASEMENT FOR UTILITY AND OTHER PURPOSES
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  - 17. EASEMENT FOR UTILITY AND OTHER PURPOSES
  - 18. EASEMENT FOR UTILITY AND OTHER PURPOSES
  - 19. EASEMENT FOR UTILITY AND OTHER PURPOSES
  - 20. EASEMENT FOR UTILITY AND OTHER PURPOSES

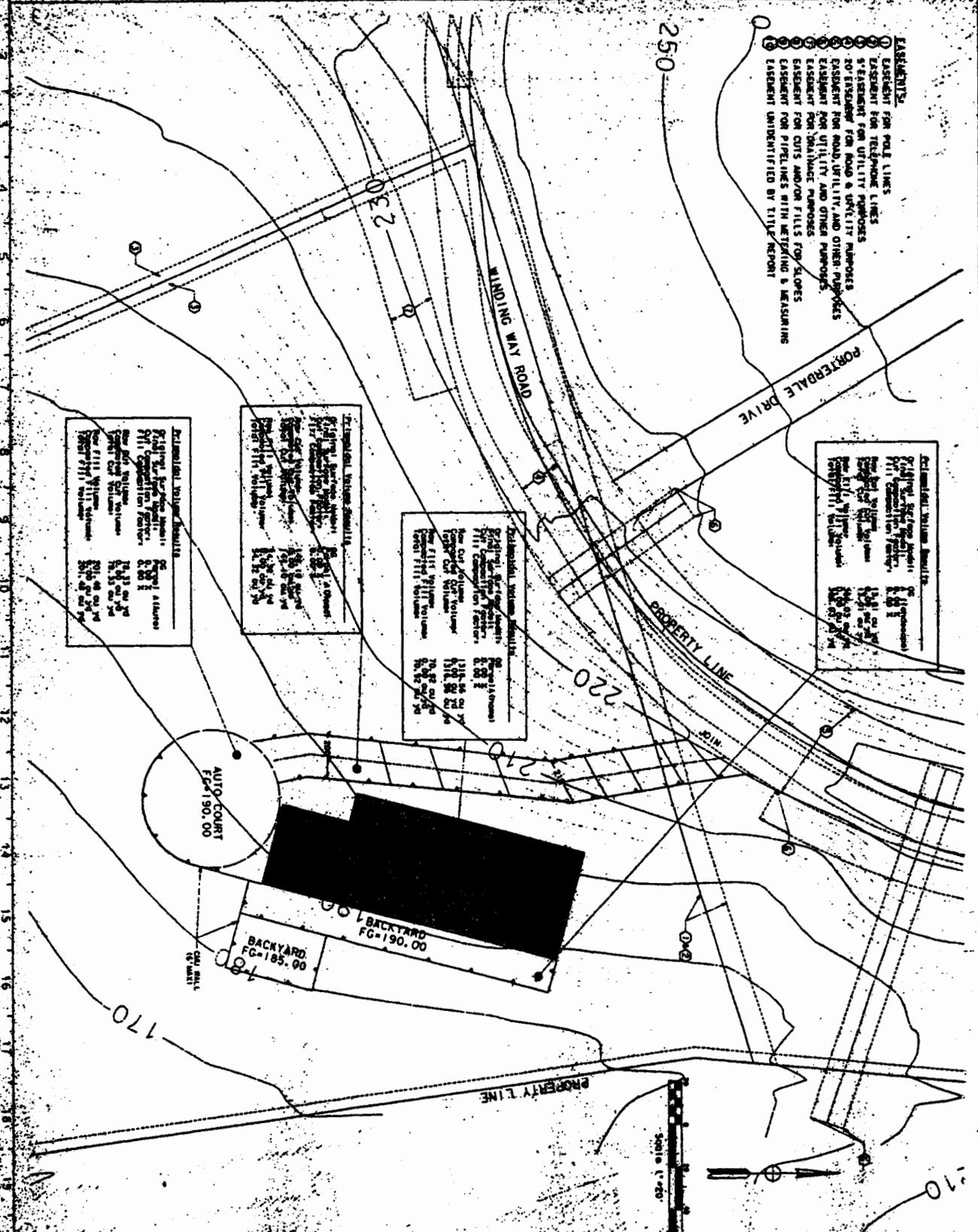
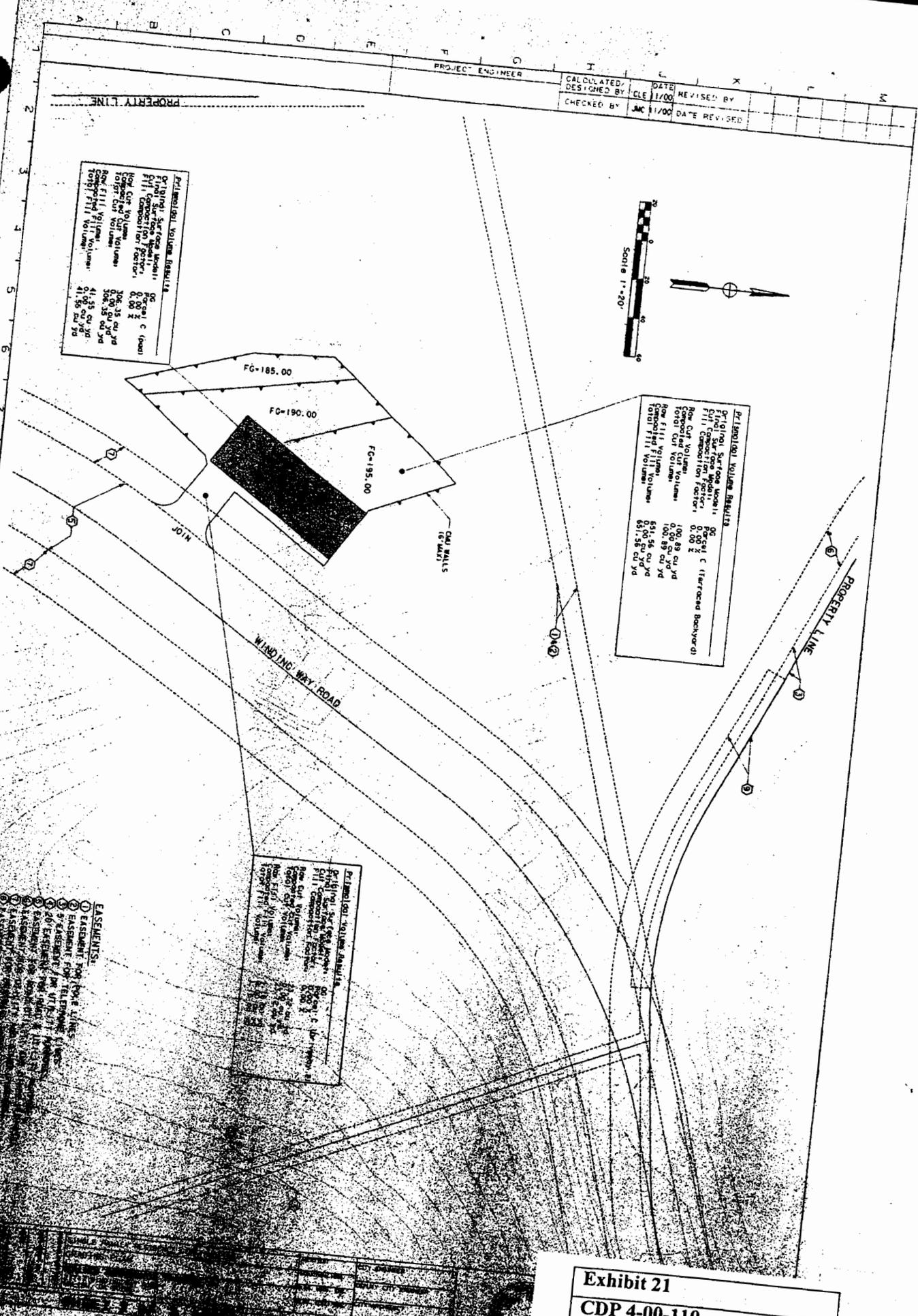


Exhibit 20  
 CDP 4-00-110  
 Grading Plan Parcel 1

SINGLE FAMILY RESIDENTIAL CONSTRUCTION		DATE	BY
GRADING PLAN		DATE	BY
PROJECT NO. 4-00-110		DATE	BY
SHEET NO. 1		DATE	BY
SHEETS INDEX NUMBER			

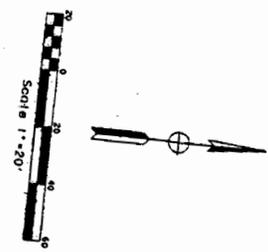


PROJECT ENGINEER

CALCULATED/DESIGNED BY	CLE	DATE	1/00	REVISED BY	
CHECKED BY	JMC	DATE REVISED	1/00		

Dr. Lemuel Volume Results

Original Surface Area:	306.35 sq. yd.
Final Surface Area:	306.35 sq. yd.
Fill Compaction Factor:	0.90
Row Cut Volume:	0.00 cu. yd.
Compacted Fill Volume:	306.35 cu. yd.
Total Fill Volume:	306.35 cu. yd.



Dr. Lemuel Volume Results

Original Surface Area:	511.58 sq. yd.
Final Surface Area:	511.58 sq. yd.
Fill Compaction Factor:	0.90
Row Cut Volume:	0.00 cu. yd.
Compacted Fill Volume:	511.58 cu. yd.
Total Fill Volume:	511.58 cu. yd.

Dr. Lemuel Volume Results

Original Surface Area:	100.89 sq. yd.
Final Surface Area:	100.89 sq. yd.
Fill Compaction Factor:	0.90
Row Cut Volume:	0.00 cu. yd.
Compacted Fill Volume:	100.89 cu. yd.
Total Fill Volume:	100.89 cu. yd.

- EASEMENTS:
- 1 EASEMENT FOR POWER LINES
  - 2 EASEMENT FOR TELEPHONE LINES
  - 3 EASEMENT FOR WINDING WAY ROAD
  - 4 EASEMENT FOR WINDING WAY ROAD
  - 5 EASEMENT FOR WINDING WAY ROAD
  - 6 EASEMENT FOR WINDING WAY ROAD
  - 7 EASEMENT FOR WINDING WAY ROAD
  - 8 EASEMENT FOR WINDING WAY ROAD
  - 9 EASEMENT FOR WINDING WAY ROAD
  - 10 EASEMENT FOR WINDING WAY ROAD
  - 11 EASEMENT FOR WINDING WAY ROAD
  - 12 EASEMENT FOR WINDING WAY ROAD
  - 13 EASEMENT FOR WINDING WAY ROAD
  - 14 EASEMENT FOR WINDING WAY ROAD
  - 15 EASEMENT FOR WINDING WAY ROAD

Exhibit 21  
CDP 4-00-110  
Grading Plan Parcel 3

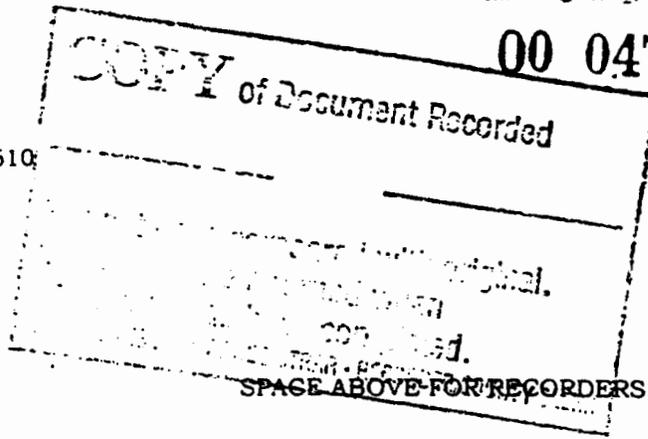
RECORDING REQUESTED BY  
OLD REPUBLIC TITLE COMPANY

MAR 30 2001

00 0473222

WHEN RECORDED RETURN TO.

Name: Alan Robert Block  
Address: 1901 Avenue of The Stars, Suite 1610  
City, St.: Los Angeles, CA  
Zip: 90067-6001



Order No.

**TITLE(s) OF DOCUMENT**

**Covenant and Agreement**

Assessors Identification Number (AIN) **4460 - 007 - 016**  
**4460 - 005 - 032**  
**4460 - 006 - 004**  
**4460 - 006 - 014**

**RECEIVED**

MAY 23 2001

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Exhibit 22
CDP 4-00-110
Covenant & Agreement to Trim Trees

RECORDING REQUESTED BY  
AND WHEN RECORDED, RETURN TO:

Alan Robert Block, Esq.  
Law Offices of Alan Robert Block  
1901 Avenue of the Stars, Suite 1610  
Los Angeles, CA 90067

COPIES of this document Recorded  
.....  
Has not been compared with original.  
Original recorded on 03/10/2000  
Processing has been completed.  
LOS ANGELES COUNTY REGISTRAR - RECORDER

**AGREEMENT TO PRESERVE VIEW**

This Agreement is made as of ~~February~~ <sup>March</sup> 10, 2000 between  
Marc Gurvitz ("Gurvitz") and Bryan Harper ("Harper").

Gurvitz is the owner of that certain real property (the  
"Gurvitz Property") containing three legal parcels located  
in the City of Malibu, County of Los Angeles, State of  
California, as described as Los Angeles County Assessor  
Parcel Nos. 4460-005-032; 4460-006-004; and 4460-006-014;  
and more commonly known as at 27640, 27720, and 27747  
Winding Way, Malibu, CA. The full legal description of the  
Gurvitz Property is attached hereto as Exhibit A and hereby  
incorporated by reference.

Harper is the owner of certain real property (the  
"Harper Property") consisting of the legal lot located  
adjacent to the Gurvitz Property and described as Los  
Angeles County Assessor Parcel No. 4460-007-016, more  
commonly known as 27727 Pacific Coast Highway, Malibu, CA.  
The full legal description of the Harper Property is  
attached hereto as Exhibit B and hereby incorporated by  
reference.

Gurvitz has recently purchased the Gurvitz Property and  
desires that all three parcels maintain a view of the  
Pacific Ocean over the Harper Property.

NOW, THEREFORE, in consideration of the payment by  
Gurvitz of valuable consideration, the receipt and adequacy  
of which is hereby acknowledged by Harper, Harper agrees  
that he will not improve any portion of the Harper Property  
by landscaping, trees, foliage or otherwise in such a manner  
as to impair the view from the viewing area of all three  
parcels on the Gurvitz Property, and will permit Gurvitz,  
his assigns, and/or successors in interest, from time to  
time as is reasonably necessary, upon such reasonable  
notice, and at their expense, to trim trees and/or other  
foliage on the Harper property in order to prevent such

trees and foliage from growing to a density that would impair a view from the viewing area of the Gurvitz Property.

Such action shall include the trimming, pruning or lacing out, as needed, trees and foliage on the Harper Property in order to prevent such trees and foliage from exceeding a density or height that would impair a view from the viewing area of the Gurvitz Property. "Viewing area" means the living area of any residence to be constructed on any of the three (3) legal parcels which comprise the Gurvitz Property (excluding hallways, garages or closets).

The terms of this Agreement shall run with the land, shall be a burden upon the Harper Property and shall be for the benefit of the Gurvitz Property. The terms of this Agreement shall be binding upon Harper and his successors and assigns as owners of the Harper Property or any interest therein, and shall be for the benefit of the Gurvitz Property and his successors and assigns as owner of the Gurvitz Property or any interest therein.

In the event of any controversy, claim or dispute relating to this Agreement, the prevailing party shall be entitled to recover from the losing party reasonable attorney's fees and costs.

This Agreement can be amended only by a written agreement signed by the current owners of the Gurvitz Property and the Harper Property.

IN WITNESS WHEREOF, Brian W Harper and Marc Gurvitz have executed this Agreement as of the date first above written.

DATED: 3/10/2000

Brian W Harper  
BRIAN HARPER

DATED: 3/10/2006

Marc Gurvitz  
MARC GURVITZ

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF CALIFORNIA )  
COUNTY OF Los Angeles )

On March 10, 2000 before me, Kathleen A. Mills Notary Public  
personally appeared marc gurwitz and Bryan W. Harper Jr.  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.  
Signature [Handwritten Signature]



This area for official notarial seal.

**OPTIONAL SECTION  
CAPACITY CLAIMED BY SIGNER**

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

- INDIVIDUAL
- CORPORATE OFFICER(S) \_\_\_\_\_ TITLE(S)
- PARTNER(S) -  LIMITED  GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER \_\_\_\_\_

**SIGNER IS REPRESENTING:**

\_\_\_\_\_  
Name of Person or Entity

\_\_\_\_\_  
Name of Person or Entity

**OPTIONAL SECTION**

Though the date requested here is not required by law, it could prevent fraudulent reattachment of this form.

**THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW**

TITLE OR TYPE OF DOCUMENT: Agreement to Preserve View  
NUMBER OF PAGES <sup>2+</sup> 6 incl. this page DATE OF DOCUMENT 3/10/00  
SIGNER(S) OTHER THAN NAMED ABOVE None

**EXHIBIT**

**“A”**

## Exhibit A

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

### PARCEL 1:

A PARCEL OF LAND BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, IN THE CITY OF MALIBU, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1 PAGE 407, ET SEQ., OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 9, BLOCK 1 TRACT 12935, AS PER MAP RECORDED IN BOOK 248 PAGES 39 AND 40 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THENCE NORTH  $37^{\circ} 57' 23''$  WEST 310.01 FEET; THENCE NORTH  $8^{\circ} 02' 43''$  WEST 321.80 FEET; THENCE NORTH  $5^{\circ} 09' 07''$  EAST 140.00 FEET; THENCE NORTH  $21^{\circ} 16' 10''$  WEST 177.20 FEET TO A POINT ON A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 55.45 FEET AND A RADIAL BEARING TO SAID LAST MENTIONED POINT OF NORTH  $18^{\circ} 26' 45''$  WEST. THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 68.70 FEET; THENCE TANGENT SOUTH  $10^{\circ} 54' 00''$  WEST 133.68 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE WESTERLY HAVING A RADIUS OF 185.60 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 78.80 FEET; THENCE TANGENT SOUTH  $35^{\circ} 13' 30''$  WEST 54.42 FEET TO THE BEGINNING OF A TANGENT CURVE NORTHWESTERLY HAVING A RADIUS OF 149.95 FEET, THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 69.22 FEET; THENCE TANGENT SOUTH  $57^{\circ} 51' 10''$  WEST 79.15 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 173.93 FEET, THENCE SOUTHWESTERLY ALONG THE ACRE OF SAID CURVE, 78.63 FEET; THENCE TANGENT SOUTH  $83^{\circ} 45' 20''$  WEST 66.07 FEET; THENCE SOUTH  $23^{\circ} 39' 55''$  EAST 550.68 FEET, MORE OR LESS, TO A POINT IN THE NORTHERLY LINE OF SAID LOT 9, BLOCK 1, TRACT 12935; THENCE NORTH  $84^{\circ} 32' 47''$  EAST 443.62 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES LYING BELOW THE SURFACE OF SAID LAND; BUT WITH NO RIGHT OF SURFACE ENTRY THERETO, AS PROVIDED IN THE DEED RECORDED IN BOOK 20193 PAGE 345, OFFICIAL RECORDS.

### PARCEL 2:

A PARCEL OF LAND BEING A PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, IN THE CITY OF MALIBU, AS CONFIRMED TO MATTHEW KELLER BY

PATENT RECORDED IN BOOK 1 PAGE 407 ET SEQ., OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 10 IN BLOCK 1 OF TRACT 12935, AS PER MAP RECORDED IN BOOK 248 PAGES 39 AND 40 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THENCE NORTH  $73^{\circ}08'40''$  EAST 540 FEET TO THE NORTHEAST CORNER OF SAID LOT 10, THENCE NORTH  $84^{\circ}32'47''$  EAST 61 FEET ALONG THE NORTHERLY LINE OF LOT 9 IN BLOCK 1 OF SAID TRACT 12935; THENCE NORTH  $23^{\circ}39'55''$  WEST 550.68 FEET; THENCE SOUTH  $83^{\circ}45'20''$  WEST 10 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHERLY HAVING A RADIUS OF 217.23 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE. 117.08 FEET, THENCE TANGENT NORTH  $65^{\circ}21'50''$  WEST 158.85 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 137.82 FEET, THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, 77.06 FEET, THENCE TANGENT NORTH  $32^{\circ}59'40''$  WEST 229.99 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 27.91 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, 19.60 FEET, THENCE SOUTH  $00^{\circ}23'40''$  WEST 509.19 FEET; THENCE SOUTH  $05^{\circ}12'50''$  EAST 360.02 FEET; THENCE SOUTH  $30^{\circ}43'00''$  EAST 159.70 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES LYING BELOW THE SURFACE OF SAID LAND; BUT WITH NO RIGHT OF SURFACE ENTRY THERETO, AS PROVIDED IN THE DEED RECORDED AUGUST 21, 1943 IN BOOK 20234 PAGE 86, OFFICIAL RECORDS.

PARCEL 3:

THAT PORTION OF THE RANCHO TOPANGA MALIBU SEQUIT, IN THE CITY OF MALIBU, AS CONFIRMED TO MATTHEW KELLER BY PATENT RECORDED IN BOOK 1 PAGE 407 ET SEQ. OF PATENTS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 10, BLOCK 1, TRACT 12935, AS PER MAP RECORDED IN BOOK 248 PAGES 39 AND 40 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, SAID POINT OF BEGINNING ALSO BEING THE SOUTHWESTERLY CORNER OF THE PARCEL OF LAND DESCRIBED IN A DEED FROM MARBLEHEAD LAND COMPANY TO ZACK J. FARMER AND WIFE, RECORDED IN BOOK 20234 PAGE 88, OFFICIAL RECORDS, THENCE FOLLOWING THE WESTERLY BOUNDARY OF SAID LAST MENTIONED PARCEL, NORTH  $30^{\circ}43'00''$  WEST 159.70 FEET; THENCE IN A DIRECT LINE TO A POINT IN THE NORTHERLY LINE OF LOT 11, 200.11 FEET, WESTERLY THEREON FROM THE POINT OF BEGINNING, THENCE NORTH  $73^{\circ}08'40''$  EAST ALONG SAID NORTHERLY LINE TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES LYING BELOW THE SURFACE OF SAID LAND; BUT WITH NO RIGHT OF SURFACE ENTRY THERETO, AS PROVIDED IN THE DEED RECORDED MAY 22, 1944 IN BOOK 20507 PAGE 233, OFFICIAL RECORDS.

PARCEL 4:

A NON-EXCLUSIVE EASEMENT OVER THAT PORTION OF WINDING WAY ROAD AS NOW OCCUPIED AND TRAVELED FOR INGRESS AND EGRESS EXTENDING FROM PARCELS 1 AND 2 ABOVE TO PACIFIC COAST HIGHWAY.

**Exhibit**  
**“B”**

## Exhibit B

Lot 9 of Block 1 of Tract 12935, in the County of Los Angeles, State of California, as per Map recorded in Book 248, Pages 39 and 40 of Maps, in the Office of the County Recorder of said County.

Except the Easterly 211.67 feet measured at right angles of said lot. Also except all minerals, oil, petroleum, asphaltum, gas, coal and other hydrocarbon substances contained in, on, within and under said land, but without the right of entry, as reserved in the Deed of Trust from Marblehead Land Co., recorded December 16, 1941, in Book 18946, Page 358, official records.

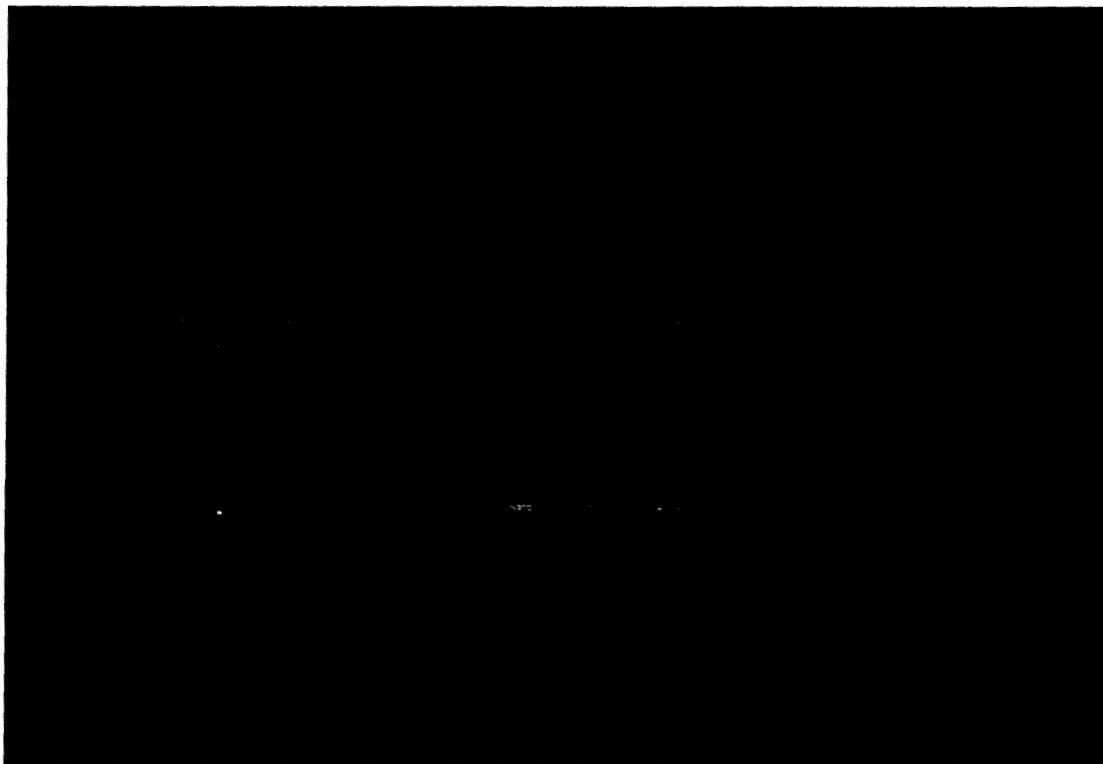
### PARCEL 2:

An easement appurtenant to said land for pedestrian travel, bathing and recreating purposes only, particularly described as follows: Beginning at a point in the Southerly line of the 80 foot strip of land described in the Deed from T.R. Cadwalader, Trustee, et al., to the State of California, recorded in Book 15228, Page 342, official records of said county; said point of beginning being Easterly 71.46 feet on the arc of a curve concave Northerly and having a radius of 4340 feet from a point opposite engineer's centerline Station 681 plus 05.48 at the Easterly extremity of that certain course described in said Deed at North 87 degree 39' 55" East 1511.31 feet; thence Easterly along the Southerly line of said 80 feet strip 100 feet along the arc of the above mentioned curve to the center of Escondido Creek Bridge; thence South 1 degree 24' 05" East to a point in the ordinary high tide of the Pacific Ocean; thence Westerly along the meanderings of said ordinary high tide line to the intersection of said tide line and that line which bears South 1 degree 24' 05" East from the point of beginning; thence North 1 degree 24' 05" West to the point of beginning.





**View of Building Site on Western Portion of Parcel 2  
from the Coastal Slope Trail**

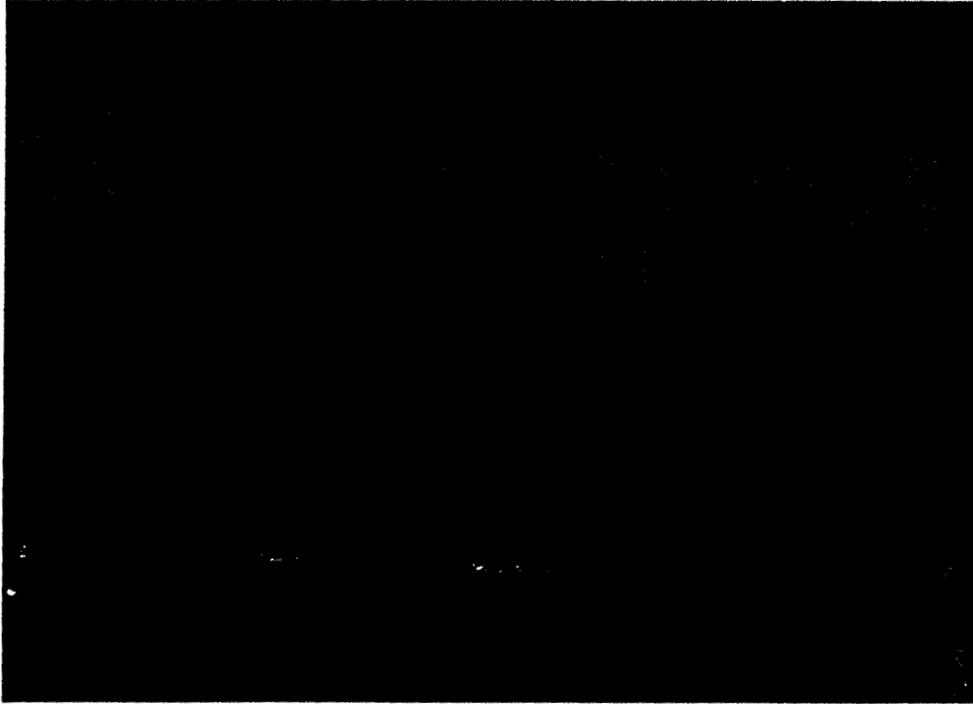


**View of Central and Eastern Portion of Parcel 2 from the  
Coastal Slope Trail.**

**Exhibit 23**  
**4-00-110**  
**View of Parcel 2 from the Public**  
**Trail.**

•  
•  
•





**View of Ocean from the Public Trail Over the Eastern Portion of the Site  
Through Existing Tree Line.**



**View of Ocean from the Public Trail over the Eastern Portion of the  
Property with some of the Trees Digitally Removed.**

**Exhibit 24**  
**4-00-110 (Gurvitz)**  
**View of Ocean before and**  
**after Trees are Removed**

