

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
 SOUTH CALIFORNIA ST., SUITE 200  
 TORRANCE, CA 93001  
 (562) 641-0142

Filed: 06/04/01  
 49th Day: 07/23/01  
 180th Day: 12/01/01  
 Staff: BL  
 Staff Report: 06/12/01  
 Hearing Date: 07/10-13/01  
 Commission Action:

**RECORD PACKET COPY****STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-01-062  
**APPLICANT:** Douglas W. Burdge  
**AGENT:** Jose Lujvidin: Burdge and Associates  
**PROJECT LOCATION:** 30100 Harvester Road, City of Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Construction of a 367 sq. ft., one-story pool cabaña / secondary accessory structure. No grading is proposed for this project.

Lot area	33,128	sq. ft.
Proposed Cabana	367	sq. ft.
Total Proposed Building coverage:	2,773	sq. ft.
Ht above fin grade:	12'0"	

**LOCAL APPROVALS RECEIVED:** Approval in Concept, City of Malibu Planning Department, dated 3/13/2001; Approval in Concept, City of Malibu, Geology and Geotechnical Engineering Review Sheet, dated 1/29/2001

**SUBSTANTIVE FILE DOCUMENTS:** *Geologic and Soils Engineering Investigation*, 30100 Harvester Road, by Subsurface Designs Inc., dated 12/7/2000; Limited Engineering Geologic Report, by Pacific Geology Inc., dated 2/17/2001; Residential Waste Water Disposal System Evaluation, dated 2/21/2001; Coastal Development Permits 4-01-023-X (Burdge), and 4-01-061 (Burdge); Malibu/Santa Monica Mountains certified Land Use Plan.

<b><u>SUMMARY OF STAFF RECOMMENDATION</u></b>
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Staff recommends <b>approval</b> of the proposed project with four (4) special conditions regarding Conformance with Geologic Recommendations, Wildfire Waiver of Liability, Future Improvements, and Landscaping and Revegetation of Disturbed Areas.
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**I. STAFF RECOMMENDATION**

1. **Motion:** *I move that the Commission approve Coastal Development Permit No. 4-01-062 pursuant to the staff recommendation.*

2. **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.

3. **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 term or condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. **SPECIAL CONDITIONS**

1. **Plans Conforming to Geologic Recommendations**

a) All recommendations contained in the *Geologic and Soils Engineering Investigation, 30100 Harvester Road*, by Subsurface Designs, Inc., dated 12/7/2000, shall be incorporated into all final design and construction including **site preparation**,

**drainage, and foundations.** All plans must be reviewed and approved by the geologic / geotechnical consultant. The plans shall contain provisions for erosion control and drainage management. Prior to 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 consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes to 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. Wildfire Waiver of Liability**

Prior to 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, and liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

**3. Future Development Deed Restriction**

This permit is only for the development described in Coastal Development Permit No. 4-01-062. Pursuant to Title 14 California Code of Regulations Section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the structure. Accordingly, any future structures, additions, or improvements related to the unit approved under Coastal Development Permit No. 4-01-062 will require a permit from the California Coastal Commission or its successor agency.

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

**4. Landscaping and Revegetation of Disturbed Areas**

- (1) All disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of certificate of occupancy for the pool cabana/study;

- (2) Planting should be primarily of native plant species indigenous to the Santa Monica Mountains, using accepted planting procedures, and 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. Invasive, non-indigenous plant species which tend to supplant native species shall not be used;
- (3) 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 compliance with the applicable landscape requirements.

#### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares as follows:

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

The applicant is proposing construction of a 367 sq. ft., one-story pool cabana / study as an accessory structure to the property's existing single family residence. The cabana / study will be located on the southern portion of the site, and will not appreciably impact public views.

The subject site is a 33,128 sq. ft. parcel located along the southern flank of the Santa Monica Mountains in the Malibu Park area of the City of Malibu. Access to the site is from Harvester road, which borders the property to the north. Neighboring development is typically residential in nature, however the site directly adjacent to the west is currently vacant. The site is presently developed with a 2,489 sq. ft., one-story single-family residence, wooden deck, 2-car detached garage and extensive landscaping. The portion of the property fronting Harvester Road is precluded from public view by a masonry wall.

The proposed site for the cabana/study is covered with landscaped vegetation, however, the footprint of development is minimal, and no native species of plants will be affected. The applicant proposes to relocate the existing vegetation elsewhere on-site, and to re-landscape the disturbed areas. The subject site is not visible from the Pacific Coast Highway or any nearby beaches. No environmentally sensitive habitat exists on the project site.

Previous Coastal Commission actions on the site consist of approval of a permit exemption request (4-01-023-X) for the additions of a swimming pool, deck, and 83 sq. ft. addition to the existing residence in March of 2001. Permit requirements for the installation of a new septic system and 3,000-gallon septic tank to replace a failing unit were waived by the Executive Director under waiver #4-01-061 (April 2001). The new septic system has been designed to accommodate the future addition of an accessory unit, so no further expansion of the system is proposed for the project.

### C. Geologic Stability and Hazards

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

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, 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...*

Section 30250(a) of the Coastal Act states (in part):

*New residential, ... development, ... shall be located within, contiguous with, or in close proximity to existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.*

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

The *Geologic and Soils Engineering Investigation*, 30100 Harvester Road, Malibu, by Subsurface Designs, Inc., dated 12/7/2000, in evaluating the various engineering geologic factors affecting site stability and the existing site conditions, states:

*It is the professional opinion of this office that the proposed construction is feasible provided that the recommendations contained herein are followed. ...The site displayed no evidence of geologic instability during reconnaissance and mapping of the subject property. Review of the referenced geologic maps indicate no known landslide structures within or immediately adjacent to the subject property. ...examination of the referenced aerial photographs indicates no topographic anomalies suggesting the site has been affected by landslide activity.*

The Commission notes that the geologic and engineering consultants have included a number of recommendations concerning **foundations**, **site preparation**, and **drainage**, which will increase the stability, and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition One**, to submit project plans certified by the geologic/geotechnical engineering consultant as conforming to their recommendations.

Additionally, revegetation of the disturbed areas of the project will enhance the stability of the site. Long-term erosion can be minimized by requiring the applicant to revegetate the disturbed areas of the site with primarily native plants compatible with the surrounding environment. Therefore, the Commission finds that in order to ensure site stability, all disturbed areas on-site shall be revegetated as specified in **Special Condition Four**.

Finally, the Commission requires that new development minimize the risk to life and property in areas of high fire hazard while recognizing that new development may involve the taking of some risk. Vegetation in the coastal areas of the Santa Monica

Mountains consists mostly of coastal sage scrub and chaparral, communities which have evolved in concert with, and continue to produce the potential for frequent wildfires. The warm, dry summer conditions of the local Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated. When development is proposed in areas of identified hazards, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the property.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the wildfire waiver of liability, as incorporated in **Special Condition Three**, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

### **C. Septic System**

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality from septic system effluent. 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, and minimizing alteration of natural streams.*

The proposed development proposes the extension of the septic system to service the cabana/secondary accessory structure. As stated above, the replacement and upgrade of the septic system was waived (CDP# 4-01-061) by the Executive Director in April 2001. The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains and the resultant installation of septic systems may contribute to adverse health effects and geologic hazards in the local area. Permit Application #4-01-061 included a geotechnical analysis of the percolation characteristics of the site and an evaluation of the proposed septic system. The consultant's report concluded that the site was suitable for the septic system and there would be no adverse impact to the site or surrounding areas from the use of a septic system. The applicant also submitted in-concept approval from the City of Malibu Environmental Health Department stating that the proposed septic system would be in conformance with the minimum requirements of the Uniform Plumbing Code, and that it would be satisfactory to service the currently proposed pool cabana/secondary accessory structure. The City of Malibu minimum health code standards for septic systems take into account the percolation capacity of soils, the depth to groundwater, and other considerations, and have generally been found to be protective of coastal resources. The Commission therefore finds that the proposed project is consistent with Section 30231 of the Coastal Act.

## D. Cumulative Impacts

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

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

Section 30252 of the Coastal Act states:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

Pursuant to Coastal Act §30250 and §30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. The applicant is proposing to construct a pool cabana/study; the 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 guesthouses 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, 12 ft. high, 367 sq. ft. pool cabana/study (see Exhibits 3-5). The unit is comprised of two living/open areas, and a bathroom. The structure is proposed livable square footage, and could potentially be converted for residential use in the future. Therefore, the Commission finds it necessary to ensure that no additions or improvements are made to the pool cabana/study 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 Three**, 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.

### **C. Local Coastal Program**

Section 30604(a) of the Coastal Act states (in part):

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

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

Los Angeles County which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

**D. California Environmental Quality Act (CEQA)**

Section 13096(a) of the Coastal Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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 the activity may have on the environment.

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

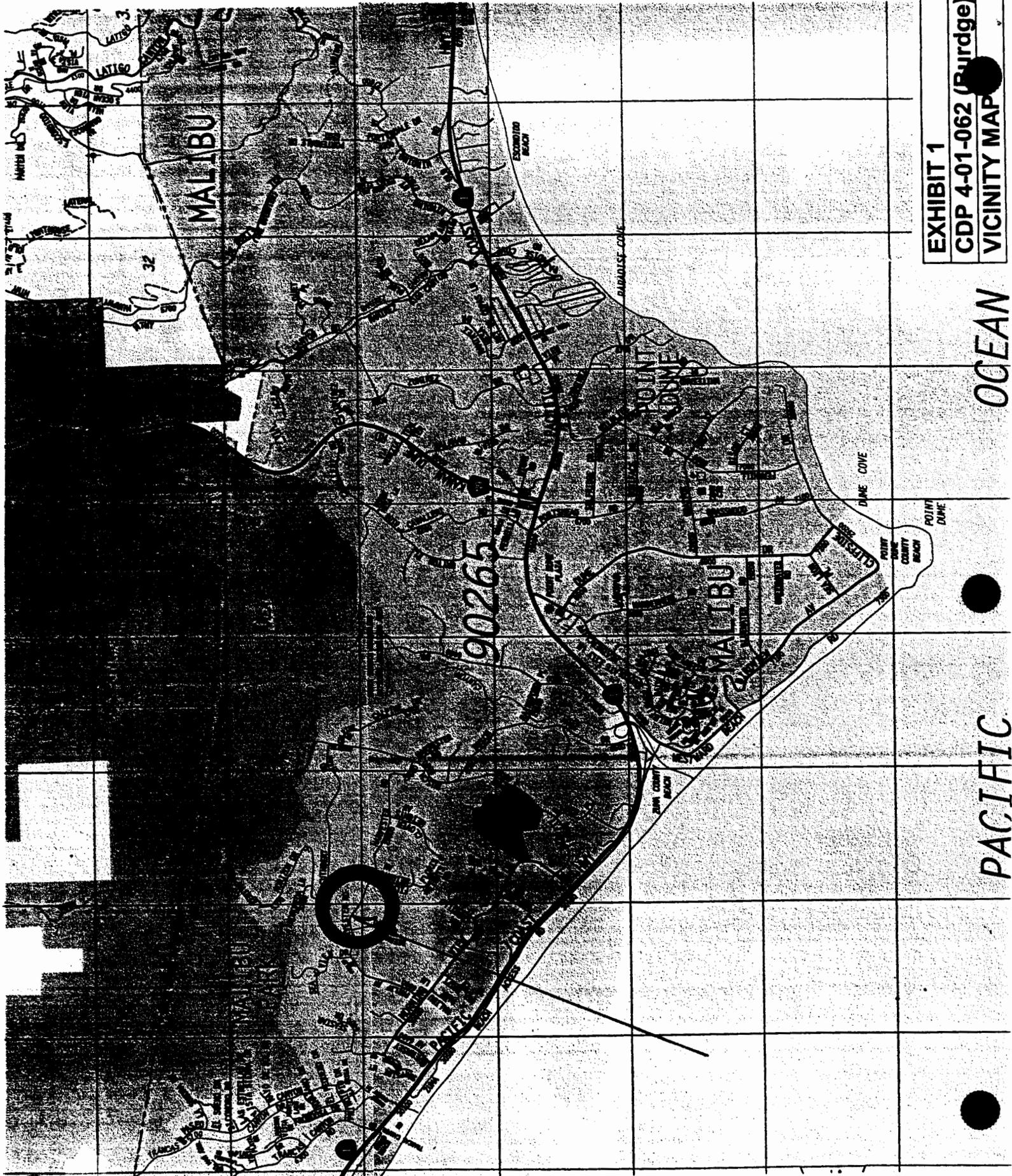


EXHIBIT 1  
CDP 4-01-062 (Burdge)  
VICINITY MAP

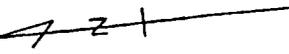
OCEAN

PACIFIC

90265

4469 14  
SCALE 1" = 150'

1992



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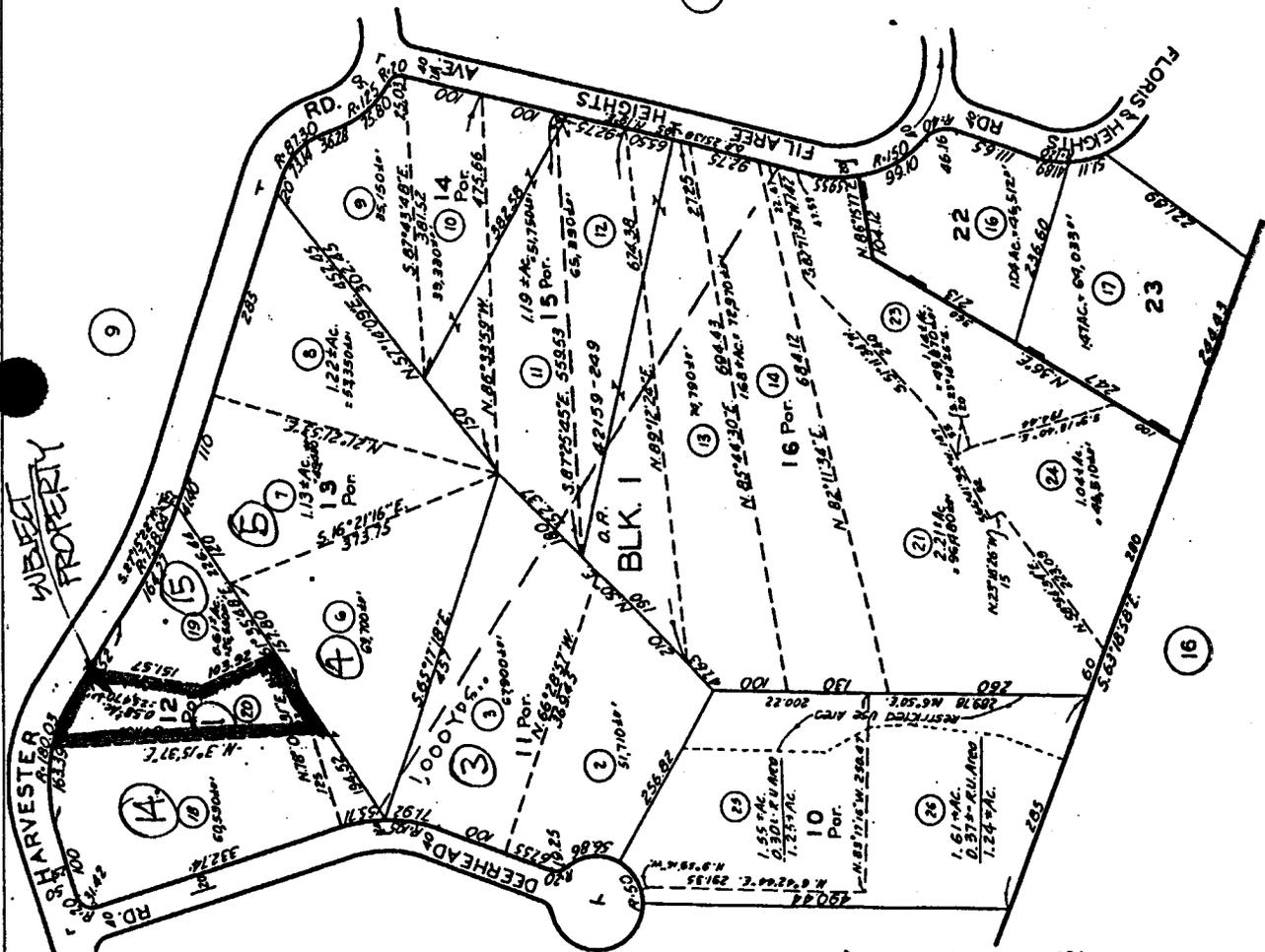
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CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

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ASSESSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.

EXHIBIT 2  
CDP 4-01-062 (Burdge)  
PARCEL MAP

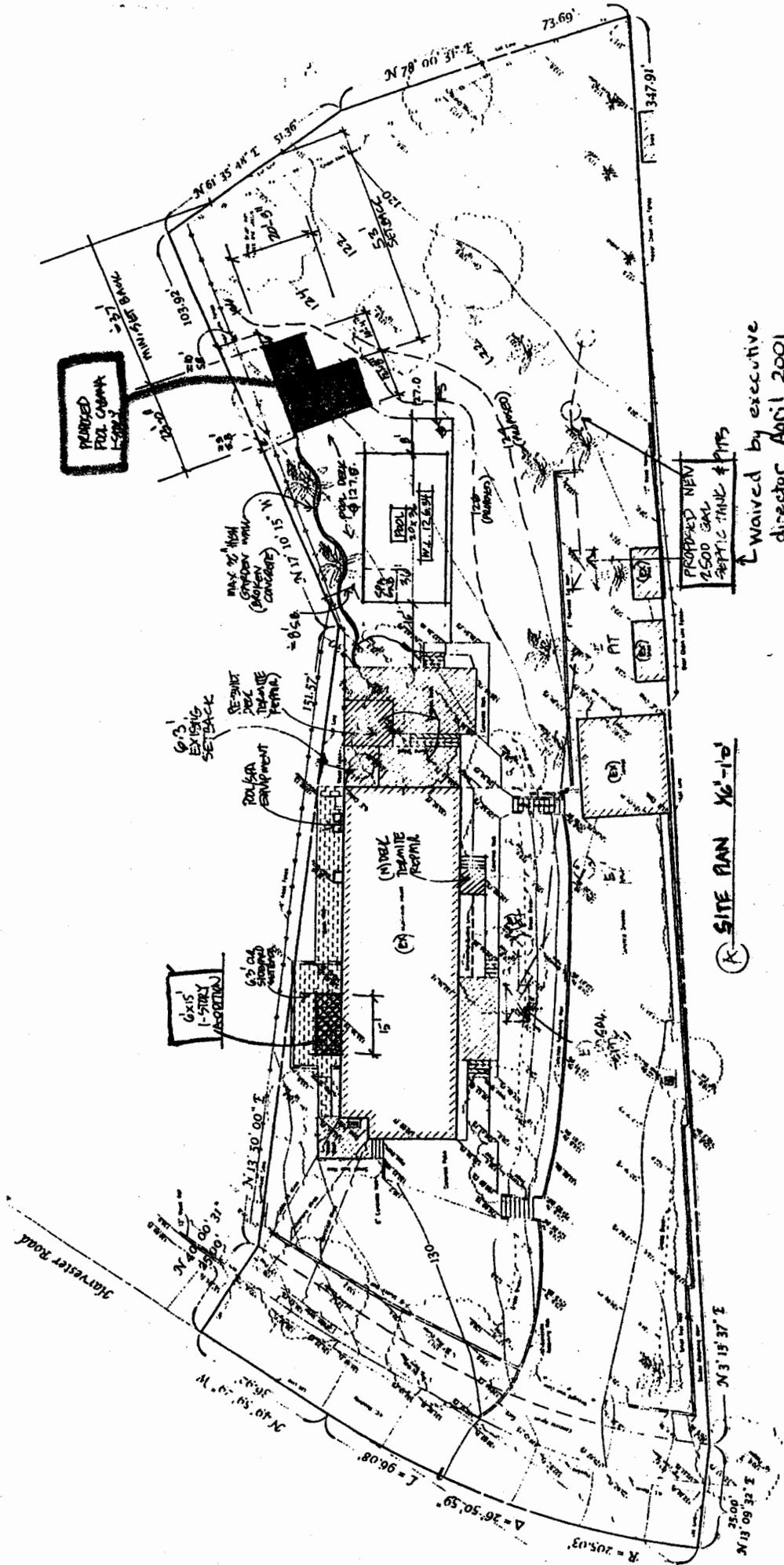


RECORD OF SURVEY  
R.S. 58-28-29

TRACT NO. 15858  
M.B. 408-28

CODE  
10853

FOR PREV. ASSMT. SEE:  
4469-14



Waived by executive director April 2001

K SITE PLAN NO-110

EXHIBIT 3  
 CDP 4-01-062 (Burdge)  
 SITE PLAN

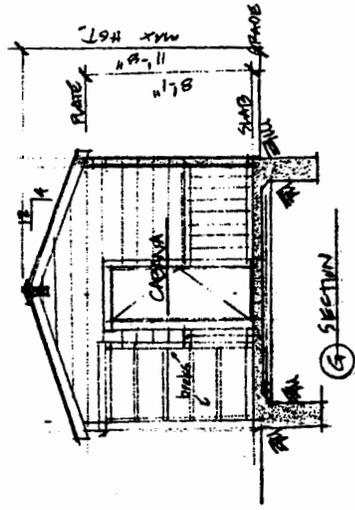
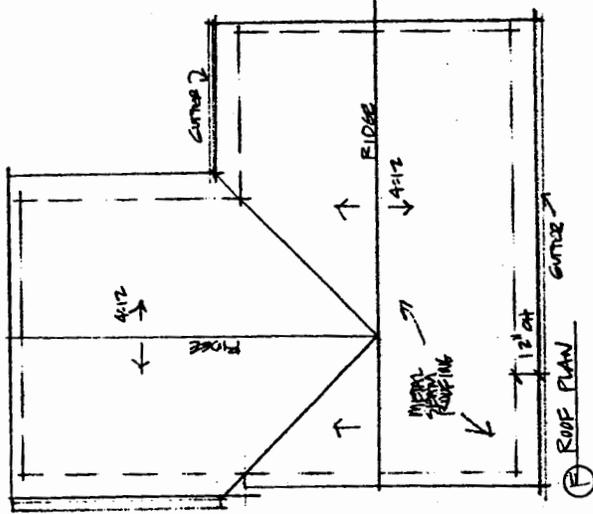
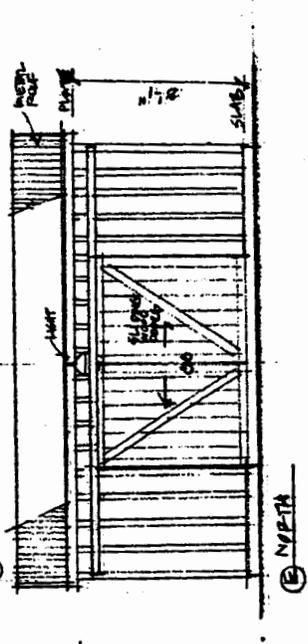
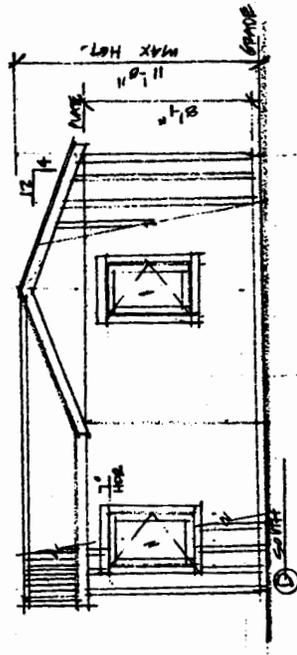
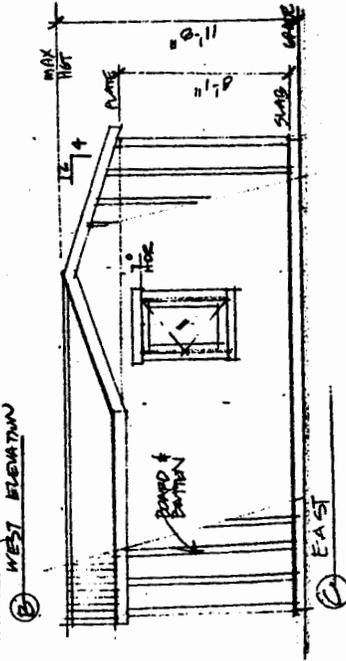
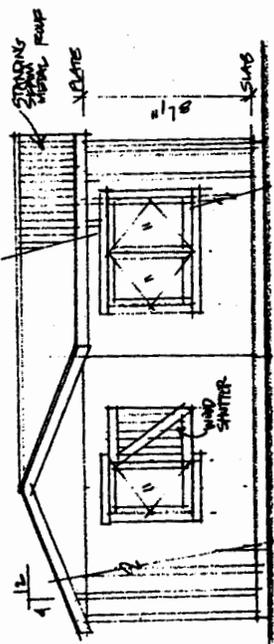
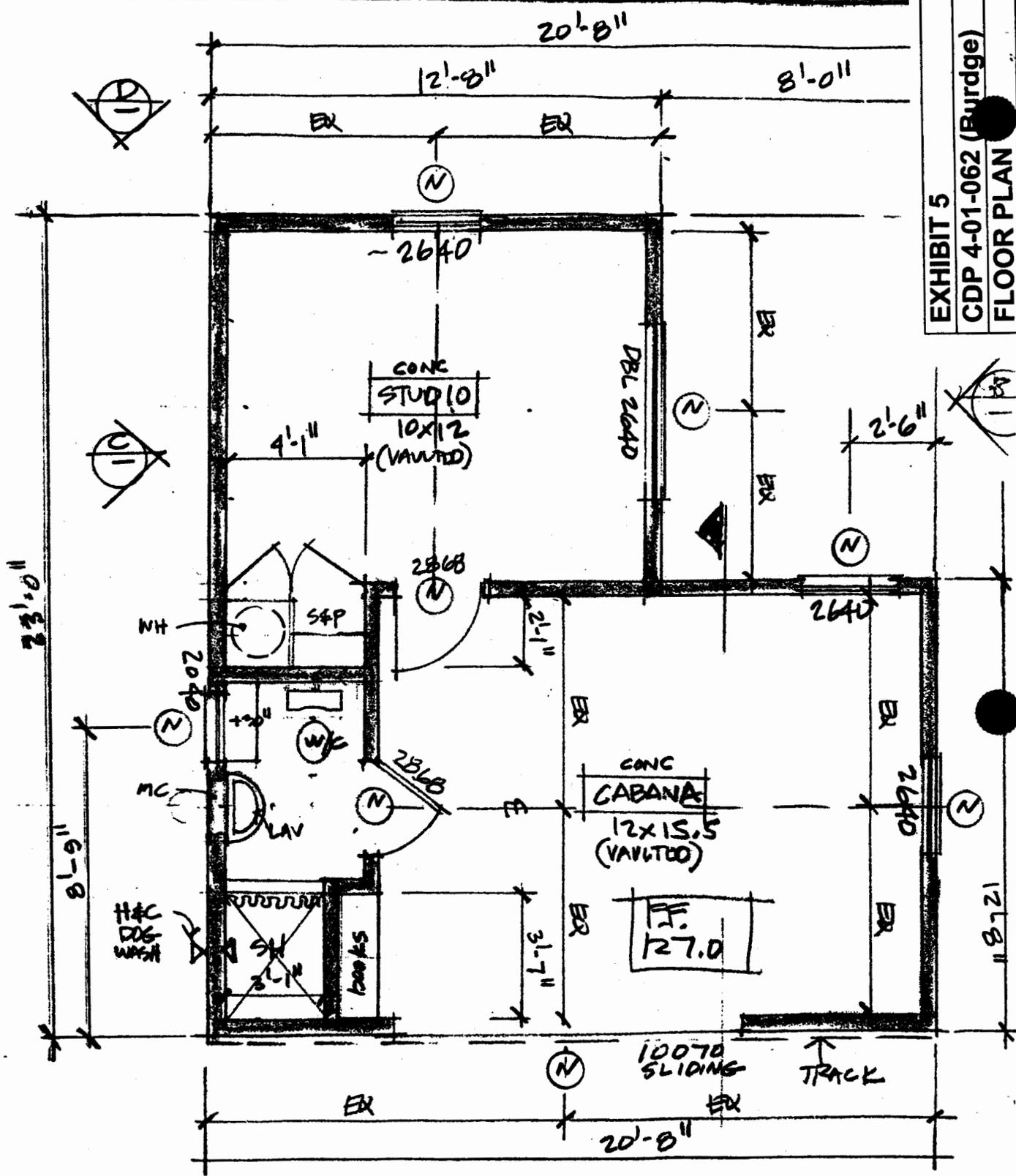


EXHIBIT 4  
CDP 4-01-062 (Burdge)  
ELEVATIONS



PLAN @ CABANA

