STATE OF CALIFORNIA -- THE RESOURCES AGENCY

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Commission Action:	

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-91-046-A2

APPLICANT: Malibu Porterdale Development, L.L.C.

PROJECT LOCATION: 6254 Porterdale Drive, Malibu, Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of an 8,488 sq. ft., 35 ft. high from existing grade single family residence with 4-car garage, septic system and no grading.

AMENDED FOR: Reduction of square footage of residence to 6,994 sq. ft. and reduction of maximum height to 28 feet.

DESCRIPTION OF AMENDMENT: Relocate previously approved single family residence to accommodate a geologic fault setback area, modify project plans to construct a two-story, 28 ft. high, 6,042 sq. ft. single family residence with attached three-car garage and 563 sq. ft. basement, detached 2-car garage and 747 sq. ft. guest unit, new driveway, septic system, pool, retaining walls, and approximately 2,730 cu. yds. grading (1,530 cu. yds. cut, 1,200 cu. yds. fill, 330 cu. yds. export).

LOCAL APPROVALS RECEIVED: City of Malibu, Planning Department, Approval In Concept, 2/8/00; City of Malibu, Geology Referral Sheet, noted Project Approved In Concept, 11/27/00.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 5-88-501 (Sheldon Bay), Coastal Development Permit 5-91-046 (Sheldon Bay), Coastal Development Permit 5-91-046-A1 (Sheldon Bay), Coastal Development Permit 5-91-046-T1 (Assignment to Malibu Porterdale L.L.C.); Prepared by Donald B. Kowalewski: Update to Preliminary Engineering Geology and Soils Engineering Investigation dated 9/20/00, Response to Geology and Geotechnical Engineering Review Sheet dated 4/13/98, Report on percolation rate testing dated 12/30/96, Preliminary Engineering Geology and Soils Engineering Investigation dated 10/20/96, Summary of Phase I and Phase II Findings dated 6/12/96; Prepared by Geo Systems: Update Geotechnical Report dated 2/18/93, Second Response to County Review Sheet 10/19/90; and Prepared by Alpine

Geotechnical: Update Letter, Percolation Investigation dated 6/12/00, and Percolation Investigation dated 11/19/98.

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

1) ***The Executive Director determines that the proposed amendment is a material change,***

2) ***Objection is made to the Executive Director's determination of immateriality, or***

3) ***The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.***

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Code of Regulations Section 13166. In this case, the Executive Director has determined that the proposed amendment is a material change to the project and has the potential to affect conditions required for the purpose of protecting a coastal resource.

Summary and Staff Recommendation:

Staff recommends **approval** of the proposed amendment with **Seven (7) Special Conditions** regarding 1) revised geologic recommendations, 2) drainage and polluted run-off control plans, 3) landscaping and erosion control plans, 4) removal of natural vegetation, 5) export of excess grading material, 6) revised assumption of risk, and 7) future improvements.

I. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

MOTION: ***I move that the Commission approve the proposed amendment to Coastal Development Permit No. 5-91-046-A2 pursuant to the staff recommendation.***

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment

II. STANDARD AND SPECIAL CONDITIONS

Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit 5-91-046-A1 continue to apply. In addition, the following special conditions are hereby imposed as a condition upon the proposed project as amended pursuant to CDP 5-91-046-A2.

SPECIAL CONDITIONS

1. Plans Conforming to Geologic Recommendation

All recommendations contained in the Response to Geology and Geotechnical Engineering Review Sheet dated 4/13/98, Report on percolation rate testing dated 12/30/96, Preliminary Engineering Geology and Soils Engineering Investigation dated 10/20/96, Summary of Phase I and Phase II Findings dated 6/12/96 by Donald B. Kowalewsky, and the Percolation Investigation dated 11/19/98 by Alpine Geotechnical shall be incorporated into all final design and construction including foundations, grading, drainage, and sewage disposal. Final plans must be reviewed and approved by the project's consulting geotechnical engineer and engineering geologist. Prior to the issuance of the coastal development permit, the applicant shall submit, for review

and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

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

2. Drainage and Polluted Runoff Control Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geotechnical engineer and engineering geologist to ensure the plan is in conformance with consultants' recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

(a) Selected BMPs (or suites of BMPs) shall be designed to treat or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.

(b) Runoff shall be conveyed off site in a non-erosive manner.

(c) Energy dissipating measures shall be installed at the terminus of outflow drains.

The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

3. Fuel Modification, Landscaping, and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The erosion control plans shall be reviewed and approved by the geotechnical engineer and engineering geologist consultants to ensure that the plans are in conformance with the consultants' recommendations for erosion control and slope stability. The landscaping plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

A. Fuel Modification and Landscaping Plan

(1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence.

(2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Plantings should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.

(3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.

(4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

(6) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in

accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B. Interim Erosion Control Plan

(1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.

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

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

C. **Monitoring**

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

4. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

5. Removal of Excavated Material

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

6. Revised Assumption of Risk

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from fire, 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.

B. **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. 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. Future Development

This permit is only for the development described in Coastal Development Permit No. 5-91-046-A2. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6) and 13253 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) and (b) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 5-91-046-A2, including the detached garage and 747 sq. ft. guest unit, and any grading, landscaping, clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition 3, shall require an amendment to Permit No. 5-91-046-A2 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

Prior to the issuance of the coastal development permit the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include 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.

III. FINDINGS AND DECLARATION

The Commission hereby finds and declares:

A. Project Description and Background.

The applicant is proposing to relocate a previously approved single family residence slightly north of the original building site to accommodate a geologic fault setback area established on the site by the project's consulting geologist (Exhibits 3,11). The applicant is also proposing to modify project plans to construct a 6,042 sq. ft. single family residence with an attached three-car garage and 563 sq. ft. basement, and to include a detached 2-car garage and 747 sq. ft. guest unit, new driveway, septic system, pool, and retaining walls (Exhibits 3-8). The proposed project also includes approximately 2,730 cu. yds. grading [1,530 cu. yds. cut, 1,200 cu. yds. fill, 330 cu. yds. export (Exhibit 9)].

On September 23, 1988 the Commission approved Coastal Development Permit 5-88-501 for the subdivision of a 5.2 acre site into two lots, for improvements of Porterdale Drive, and the construction of two building pads including 12,000 cu. yds. of grading (6,000 cu. yds. cut and 6,000 cu. yds. fill). The project was approved by the Commission subject to special conditions regarding 1) cumulative impact mitigation, 2) revised parcel map, 3) geology, 4) septic system, 5) flood hazard mitigation, 6) assumption of risk, and 7) no future subdivisions. The subject parcel is the northernmost lot created by the subdivision approved under Coastal Development Permit 5-88-501 (Exhibit 2). Based on observations by staff of the project site and project plans, and on information submitted by the applicant, though a significant amount of grading for building pad locations on the site and adjacent parcel were approved pursuant to Coastal Development Permit 5-88-501, only a minor amount of grading has been conducted on the subject site in relation to road improvements for Porterdale Drive. Staff notes that a small, elongated and relatively level pad area exists along western property boundary. The adjacent parcel directly south of the site, also created by the original subdivision permit, has been developed with a single family residence.

On April 16, 1991 an Administrative Coastal Development Permit 5-91-046 was granted by the Commission for construction of an 8,488 sq. ft., 35 ft. high, single family residence with an attached 4-car garage and septic system (Exhibit 11). The issuance of the Administrative Permit was subject to one special condition regarding geologic recommendations. Coastal Development Permit 5-91-046 was later amended on June 17, 1993 to reduce the size of the previously approved residence to 6,994 sq. ft. and to reduce the height of the residence to 28 ft. In October of 1996, the subject Coastal Permit was transferred to the current applicant, Malibu Porterdale Development L.L.C.

The project site is a 3.43 acre hillside parcel (Exhibit 2), located inland of Pacific Coast Highway and directly west of Porterdale Drive in the City of Malibu (Exhibit 1). The subject parcel encompasses an east-facing slope that descends approximately 156 ft. with an average slope gradient of 2 ½:1. The site descends to a natural ravine that originates within the property and parallels the east property boundary. Restricted Use areas have been established along portions of the bottom of the ravine due to potential hazards associated with flooding. The subject ravine is not a blueline stream and does not contain designated environmentally sensitive habitat.

Vegetation at the project site consists predominantly of natural chaparral and grasses within the ravine and on the steeper slopes of the property, while vegetation on portions of the site along Porterdale Drive is heavily disturbed by yearly brush clearance requirements associated with adjacent development. Disturbed areas on the site are vegetated with several invasive, non-native species including mustard, fennel, and castor bean. Fuel modification requirements for the proposed development will extend into the ravine and onto adjacent properties approximately 43 ft. south, 74-90 ft. east, and 100 ft. west of the site (Exhibit 10). The applicant has submitted a Preliminary Fuel Modification Plan illustrating that a Watershed Protection Area has been established along the ravine which contains measures to maintain native plant coverage and to incorporate additional native plant species, consistent with fuel modification requirements.

Subsequent to the Commission's approval of the proposed development, the project's geology consultant observed a fault zone containing two faults at the southerly end of the subject site. The geology consultant has recommended that all habitable structures be located a minimum of 10 ft. north of the identified fault zone. As such, the applicant is requesting an amendment to the previously approved residence location to accommodate the recommended 10 ft. setback from the fault zone. Also subsequent to the Commissions prior approval of the proposed development, the County of Los Angeles Fire Department required the applicant to revise the proposed project to comply with new Fire Department standards for a driveway and turn-around area at the site. The new requirements caused the applicant to slightly reconfigure the proposed development, provide a driveway with a width and grade that meets Fire Department standards, and incorporate a turn-around area into the proposed development. As such, the applicant is requesting to amend the subject coastal permit for the revised project plans, as well as additional grading required to construct the revised project. Grading for the new driveway and fire department turn-around will include 2,067 cu. yds. (972 cu. yds. cut, 1,095 cu. yds. fill), which will also include the placement of engineered fill beneath the northerly portion of the driveway to remediate an ancient landslide which underlies that portion of the site.

The area surrounding the project site is a moderately developed area of Malibu and a majority of the lots adjacent to the project site are developed with single family

residences (Exhibit 10). The proposed project will be consistent with existing development in the area and will not be visible from Pacific Coast Highway or any other designated scenic viewing area. As previously mentioned, no designated environmentally sensitive habitat areas exist on the site and the Preliminary Fuel Modification Plan indicates that native plant species will be maintained on the site, consistent with Fire Department requirements. Therefore, the proposed project will have no significant adverse impacts on scenic coastal views or environmentally sensitive habitat areas.

B. Geology and Wildfire

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

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

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

The proposed development is located on a hillside lot in the Santa Monica Mountains, an area generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property. Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The applicant submitted a Response to Geology and Geotechnical Engineering Review Sheet dated 4/13/98, Report on percolation rate testing dated 12/30/96, Preliminary Engineering Geology and Soils Engineering Investigation dated 10/20/96, Summary of Phase I and Phase II Findings dated 6/12/96 by Donald B. Kowalewsky, and the Percolation Investigation dated 11/19/98 by Alpine Geotechnical prepared for the subject site evaluating the geologic stability of the site in relation to the proposed development. The Preliminary Engineering Geology and Soils Engineering Investigation dated 10/20/96 by Donald B. Kowalewsky identifies a fault zone containing two faults at the southerly portion of the subject site, landslide debris on the eastern embankment of the ravine along the east property boundary, and landslide debris near the northern portion of the property.

The applicant is proposing to amend the subject permit to relocate the previously approved building site location to accommodate recommendations of the project's consulting engineering geologist with respect setback requirements for an identified fault zone. With respect to the identified fault zone on site, the Preliminary Engineering Geology and Soils Engineering Investigation dated 10/20/96 by Donald B. Kowalewsky finds:

> *At the southerly end, a fault with probable offset in the overlying soil was observed. A sliver of soil continued down along that fault. A second fault zone was encountered approximately 100 ft. from the south end of the trench. That fault consisted of a nearly 10 foot wide zone of multiple shears which formed the contact between sedimentary rocks to the south and volcanic rocks to the north…Although the second fault zone had no evidence of rupture into the overlying soil horizon…the similar orientation of highly fractured rock makes it prudent to recommend that no habitable structures be located over either fault or the area between the faults.*
>
> *As a consequence of the faults observed during subsurface exploration, it is recommended that all habitable structures be located in the volcanic rock area a minimum of 10 feet north of the northerly fault zone.*

Additionally, the Preliminary Engineering Geology and Soils Engineering Investigation dated 10/20/96 by Donald B. Kowalewsky addresses the presence of landslide debris at the east embankment of the ravine on the subject site and states:

> *A landslide was mapped in the USGS Geologic Map, in the easterly embankment of the ravine….However, the toe of the landslide is approximately along the ravine bottom, therefore, it encroaches on a portion of this site. In our opinion, the proposed development will not be affected by this landslide. If the landslide does exist and reactivates, the landslide debris will be confined by the westerly embankment of the ravine and the movement of the landslide debris will be deflected to the south along the ravine bottom.*

Furthermore, the Response to Geology and Geotechnical Engineering Review Sheet dated 4/13/98 by Donald B. Kowalewsky addresses the presence of landslide debris at the north portion of the property and concludes:

> *As currently designed, the northerly portion of the driveway, and fill that is proposed to be placed for construction of that driveway, overlies an ancient landslide…that portion of the landslide that that underlies the fill and driveway should be removed and replaced as compacted fill.*

Based on the investigations and recommendations contained in the referenced reports, the engineering geology consultant has determined that the project site is appropriate for the proposed project. The Preliminary Engineering Geology and Soils Engineering Investigation dated 10/20/96 by Donald B. Kowalewsky states that:

> *Based on this investigation including data research and testing conducted as described in this report, the proposed building site will be safe from geologic hazards including landslide, settlement, and slippage and development will not adversely affect geologic stability of adjacent properties provided the recommendations in this report are followed.*

In addition, the Percolation Investigation dated 11/19/98 by Alpine Geotechnical states:

> *It is the opinion of the undersigned that the proposed seepage pits and septic tank will be safe against hazards from landslide, settlement or slippage, and that the proposed seepage pits will not have an adverse effect on geologic stability of the property outside the building site provided our recommendations are followed during construction*

The geology consultants conclude that the proposed development is feasible and will be free from geologic hazards provided their recommendations are incorporated into the proposed development. The Response to Geology and Geotechnical Engineering Review Sheet dated 4/13/98, Report on percolation rate testing dated 12/30/96, Preliminary Engineering Geology and Soils Engineering Investigation dated 10/20/96, Summary of Phase I and Phase II Findings dated 6/12/96 by Donald B. Kowalewsky, and the Percolation Investigation dated 11/19/98 by Alpine Geotechnical contain several recommendations to be incorporated into project construction, design, drainage, and sewage disposal to ensure the stability and geologic safety of the proposed project. Based on the findings, conclusions, and recommendations of the project's consulting engineering geologist and geotechnical engineer the Commission finds that the proposed project amendment, as conditioned, is consistent with Section 30253 of the Coastal Act. To ensure that the recommendations of the consultants have been incorporated into all proposed development the Commission, as specified in **Special Condition 1,** requires the applicant to submit project plans certified by the consulting engineering geologist and geotechnical engineer as conforming to all structural and site stability recommendations for the proposed project. Final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultants shall require an amendment to the permit or a new coastal development permit.

Though the proposed project is conditioned to incorporate all recommendations of the geology consultants for site stability and safety, the Commission finds that minimizing site erosion will add to the geologic stability of the project site, and that erosion will be

minimized by incorporating adequate drainage, erosion control, and appropriate landscaping into the proposed development. To ensure that adequate drainage and erosion control is included in the proposed development the Commission requires the applicant to submit drainage and erosion control plans certified by the consulting geologists, as specified in **Special Conditions 2 and 3**.

The applicant is also requesting to amend the subject permit to allow for reconfiguring the proposed driveway to meet Fire Department requirements for access and turn-around, and for additional grading in the amount of 2,067 cu. yds. (972 cu. yds. cut, 1,095 cu. yds. fill), including removal and recompaction of landslide debris beneath the northerly portion of the driveway to remediate an ancient landslide which underlies that portion of the site. In addition, 663 cu. yds. of grading (558 cu. yds. cut, 105 cu. yds. fill) is proposed for the relocated and redesigned residence and detached garage and guest unit. The proposed project, as amended, will require a total of approximately 2,730 cu. yds. grading [1,530 cu. yds. cut, 1,200 cu. yds. fill, 330 cu. yds. export (Exhibit 9)]. The Commission notes that the quantity of cut grading required for construction of the proposed residence is more than the quantity of fill required for construction resulting in an excess of 330 cu. yds. of graded earth material. Stockpiles of dirt are subject to increased erosion and, if retained onsite, may lead to additional landform alteration. Therefore, **Special Condition 5** requires the applicant to export all excess grading material from the project site to an appropriate site for disposal and provide evidence to the Executive Director of the location of the disposal site prior to issuance of a coastal development permit.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will reduce erosion and serve to enhance and maintain the geologic stability of the site. Therefore, **Special Condition 3** requires the applicant to submit landscaping plans and requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, consistent with fuel modification requirements, as specified in Special Condition 3.

In addition, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the

removal of natural vegetation as specified in **Special Condition 4**. This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The limitation imposed by Special Condition 4 avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

The Commission finds that the proposed project, as conditioned, will serve to minimize potential geologic hazards of the project site and adjacent properties. However, the Commission finds that there remains an inherent risk in building on the subject site with the geologic conditions and constraints described in this section, and due to the fact that the project site is located in an area subject to an extraordinary potential for damage or destruction from wildfire. Typical vegetation in the Santa Monica Mountains consists predominantly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. Additionally, the typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Therefore, the Commission can only approve the project if the applicant assumes the responsibility and liability from the risks associated with developing the project as amended, required by **Special Condition 6**. This responsibility is carried out through the recordation of a revised deed restriction. The revised 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 that may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same. Moreover, through acceptance of Special Condition 5, the applicants agree to indemnify the Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses, or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage from geologic and wildfire hazard exists as an inherent risk.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions and danger from wildfire is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist potentially hazardous wildfire and geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question.

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

C. Cumulative Impacts

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

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

Section 30252 of the Coastal Act states:

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

Pursuant to Coastal Act Sections 30250 and 30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. Construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. The applicant is proposing to construct a new single family residence and a detached garage and 747 sq. ft. guest unit. The proposed guest unit is not proposed to be used as second residential units, however, the detached structure could potentially be converted for residential use in the future.

Based on the requirements of Coastal Act Section 30250 and 30252, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas to 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/Santa Monica Mountains Land Use Plan (LUP). In its review and action on the LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one, or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence. (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1). 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 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 LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act in this area (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

The Commission has many past precedents on similar project proposals that have established a 750 sq. ft. maximum of habitable square footage for development of detached units which may be a secondary dwelling. The applicant is proposing the construction of a 747 sq. ft. guest unit consisting of one bedroom and bath, and a living room with no kitchen facilities (Exhibit 5).

The proposed 747 sq. ft. guest unit conforms with the Commission's past actions in allowing a maximum of 750 sq. ft. for development of detached guest units. However, future unauthorized improvements to the proposed guest unit that might otherwise be exempt from Commission review, could easily convert the proposed guest unit into a secondary dwelling, and additions to the structure could exceed the 750 sq. ft. standard and further intensify the use of the subject parcel. As such, the Commission finds it

necessary to ensure that no additions or improvements are made to the proposed guest unit in the future that may enlarge or further intensify the use of the structures without due consideration of the cumulative impacts that may result. Therefore, the Commission finds it necessary to require the applicant to record a future development deed restriction, as specified in **Special Condition 7**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the structure is 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 Section 30250 and 30252 of the Coastal Act.

D. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of 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 described, the proposed project includes construction of a 6,042 sq. ft. single family residence with an attached three-car garage and 563 sq. ft. basement, a detached 2-car garage and 747 sq. ft. guest unit, new driveway, septic system, pool, retaining walls, and approximately 2,730 cu. yds. grading (1,530 cu. yds. cut, 1,200 cu. yds. fill, 330 cu. yds. export). The project site is a large undeveloped parcel located on relatively level to steeply sloped terrain which descends to a natural ravine located at the east property boundary. The site is considered a "hillside" development, as it involves steeply to moderately sloping terrain with soils that are susceptible to erosion.

The proposed development will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum

hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

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

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition 2**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition 3** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site private sewage disposal system with a 3,250 gallon tank to serve the residence. The septic system will be located adjacent to the proposed driveway along the west property boundary. The applicant's geologic consultants performed infiltration tests and evaluated the proposed septic system. The report concludes that the site is suitable for the septic system and that no adverse impact to the site or surrounding areas will result from the use of the alternative septic system.

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

E. Local Coastal Program

Section 30604(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 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 amendment will be in conformity with the provisions of Chapter 3. The proposed amendment 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 amendment, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for the Santa Monica Mountains/Malibu area, which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit Amendment application to be supported by a finding showing the application 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 effects which the activity would have on the environment.

The proposed amendment would not cause significant, adverse environmental effects. Therefore, the proposed amendment is found consistent with CEQA and with the policies of the Coastal Act.

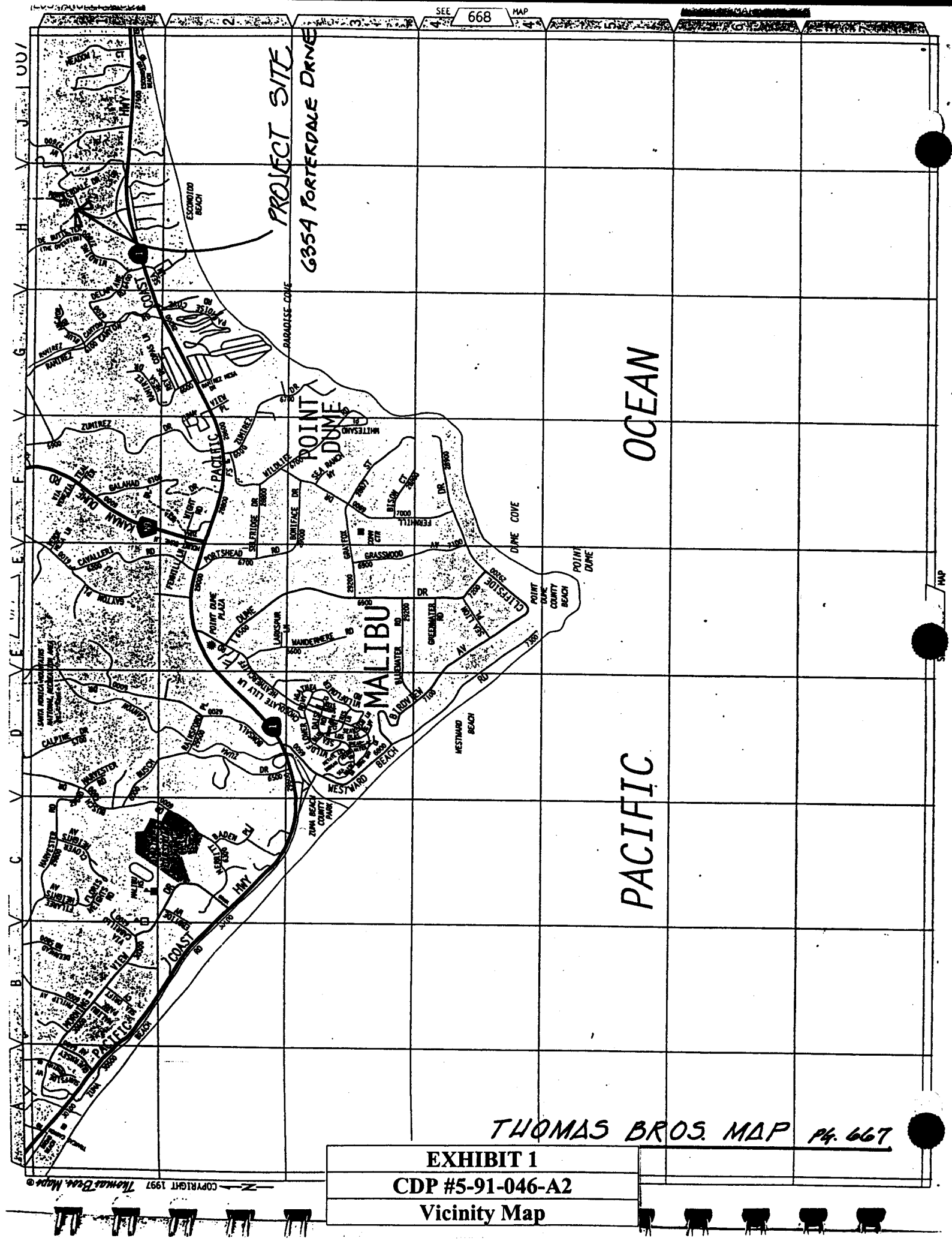


EXHIBIT 1
CDP #5-91-046-A2
Vicinity Map

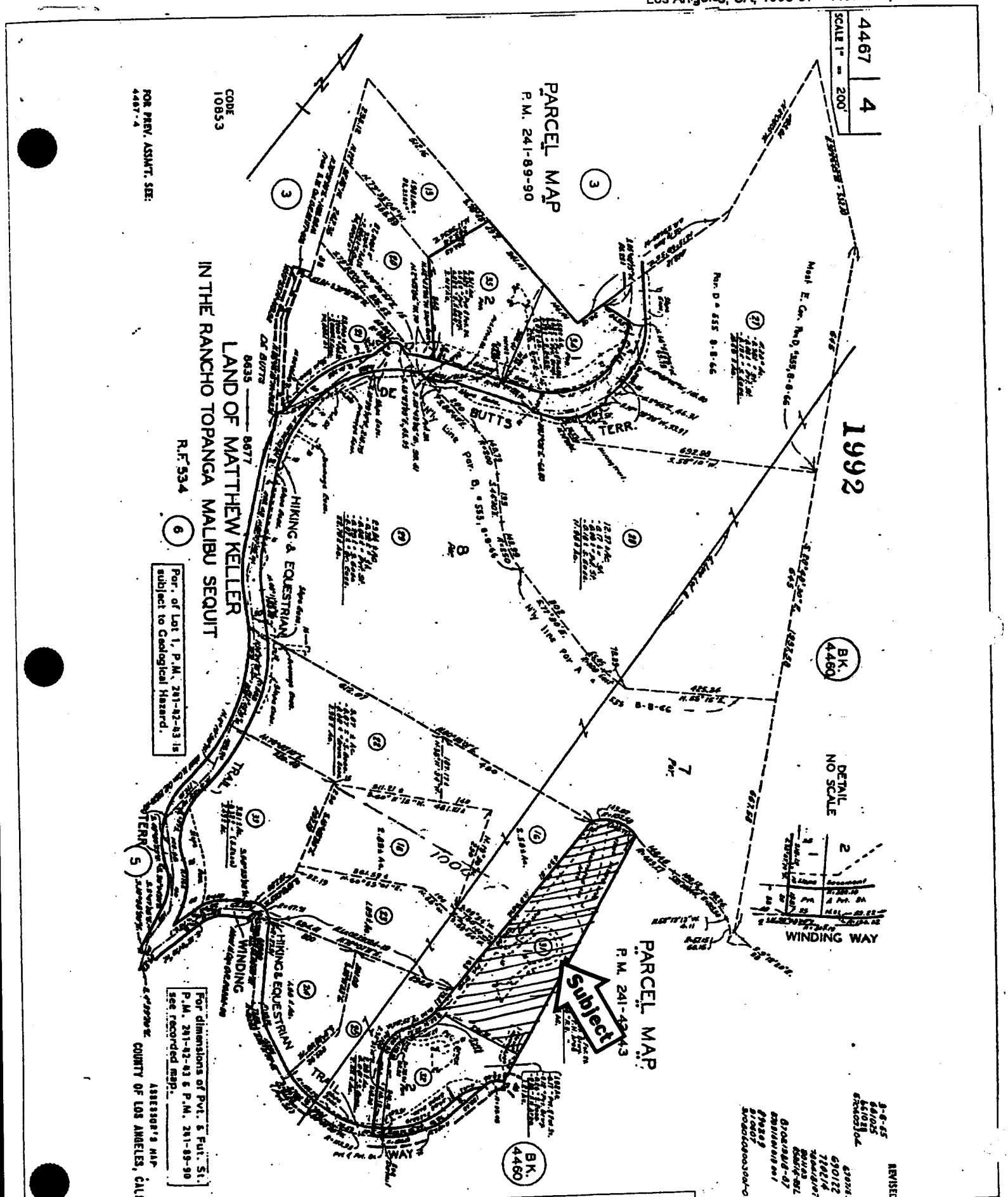


EXHIBIT 2
CDP # 5-91-046-A2
Parcel Map

ORS PARCEL MAP

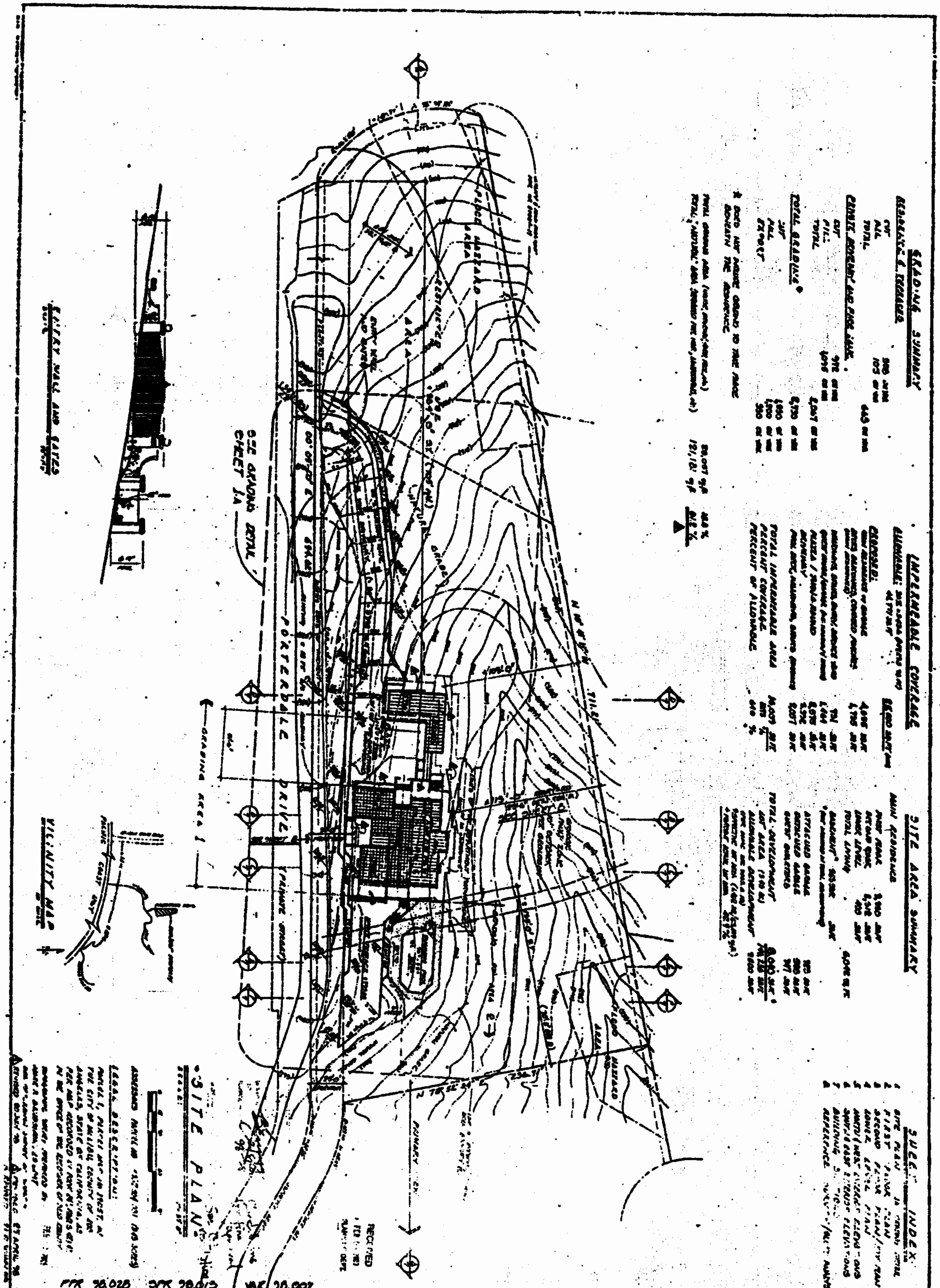


EXHIBIT 3

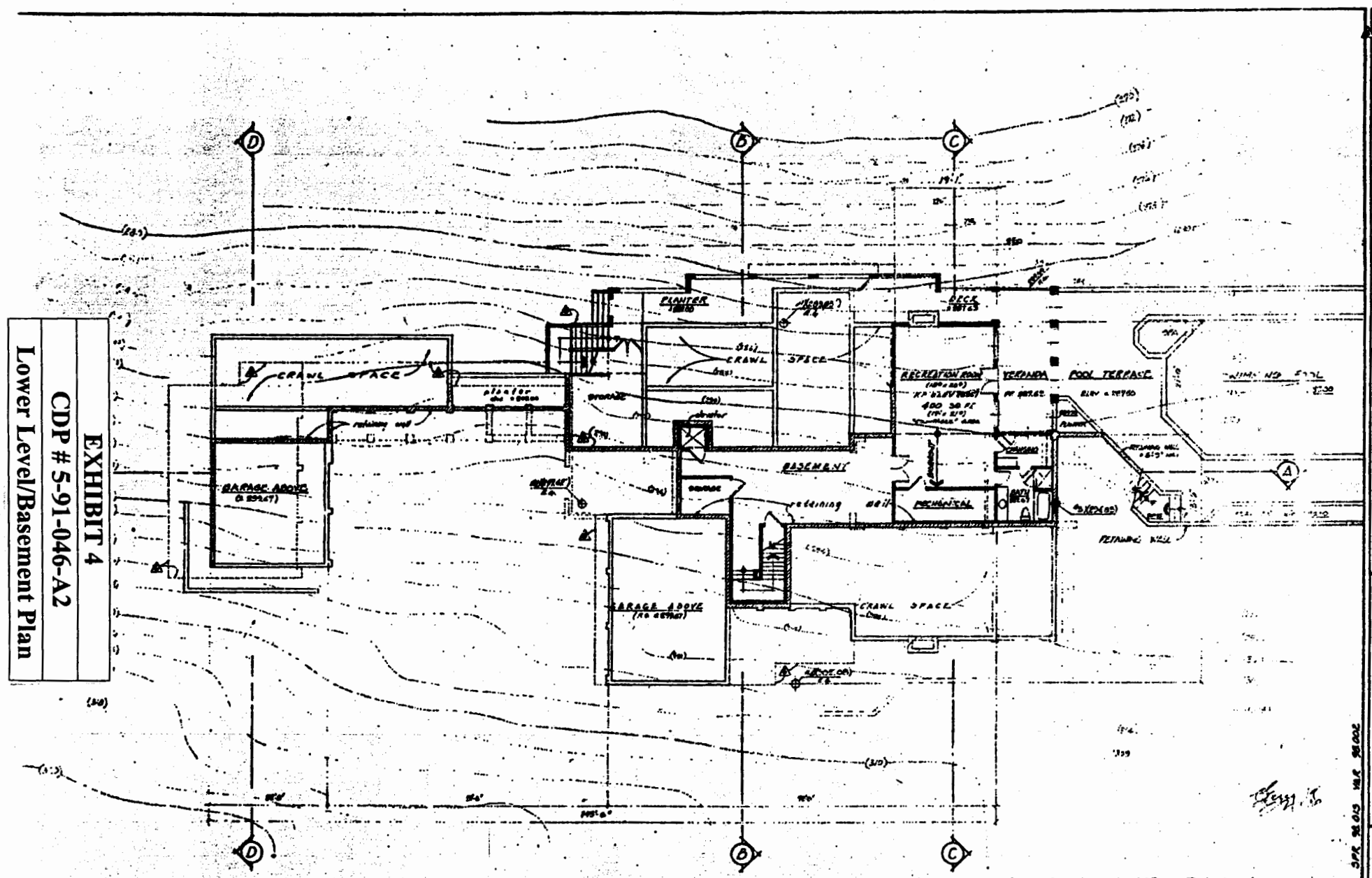
CDP # 5-91-046-A2

Site Plan

EXHIBIT 4

CDP # 5-91-046-A2

Lower Level/Basement Plan



AVERAGE GRADE CALCULATION

#1	EAST (EXISTING NATURAL GRADE)	883.85
#2	NORTH	877.62
#3	SOUTH	874.85
#4	WEST	905.08
AVERAGE ELEVATION		4,181.36 ÷ 4 = 895.34
MAXIMUM 10' ROOF ELEVATION		895.34 + 10' = 905.34'

LOWER LEVEL / BASEMENT PLAN

SCALE: 1/8"=1'-0"

LOWER LEVEL 1,000 SQ FT
BASEMENT 1,939 SQ FT

REVISED 21 FEB 99 REVISED 20 '98

TERRY McNAMARA
TIM McNAMARA
18711 PACIFIC COAST HIGHWAY, #29
MALIBU, CALIFORNIA 90265-5907
310-454-8579

Owner Builders
for
MALIBU PORTERDALE DEVELOPMENT, LLC
6334 PORTERDALE DRIVE
MALIBU CALIFORNIA 90265-3152

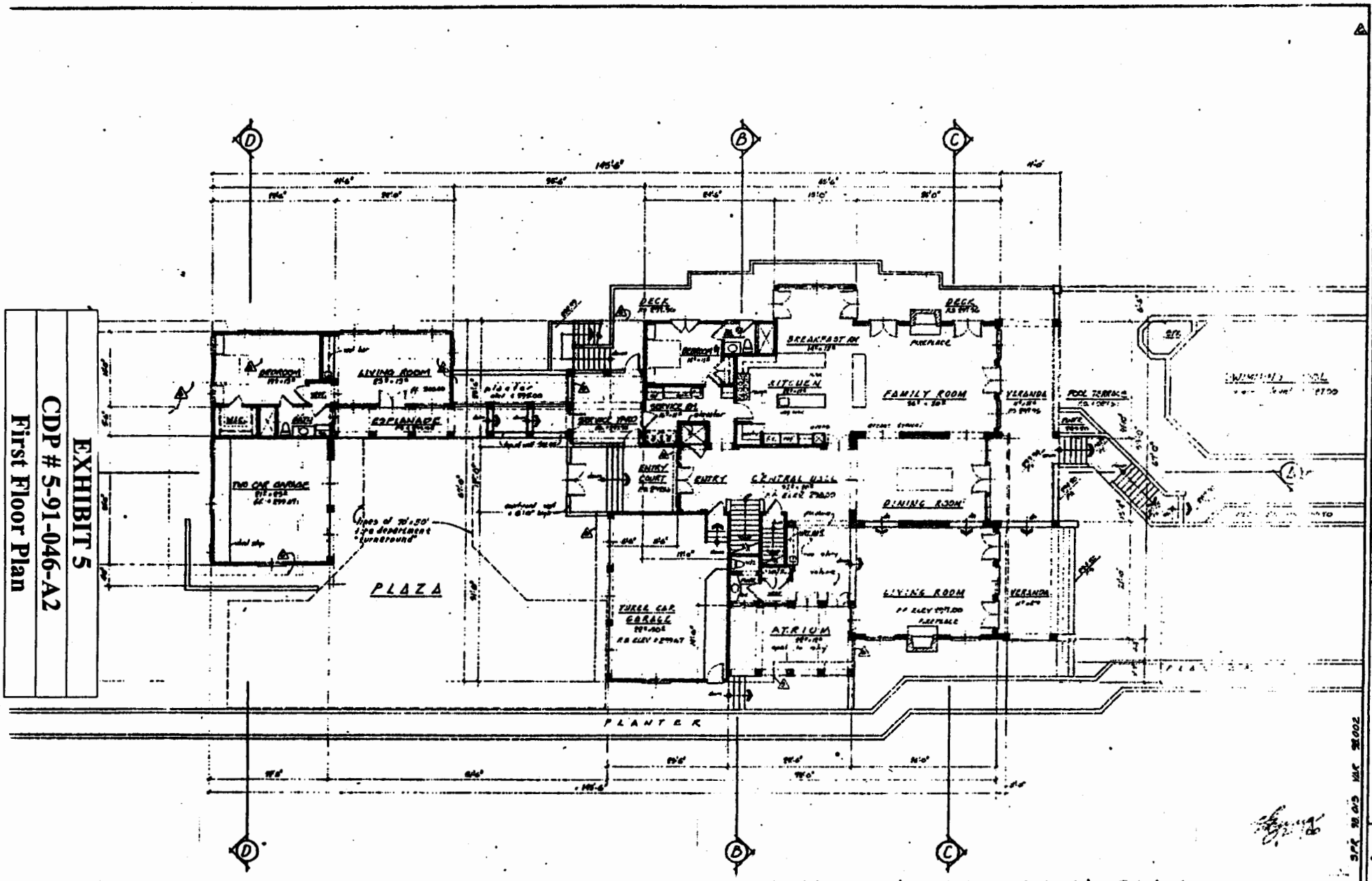
APR 98-003 MLR 98-002

Date 7 JAN 98
Scale 1/8"=1'-0"
Drawn LMB
Job
Sheet 4

EXHIBIT 5

CDP # 5-91-046-A2

First Floor Plan



FIRST FLOOR (PLAZA LEVEL) PLAN

SCALE: 1/8"=1'-0"

RESIDENCE (W/O)	5,390 SQ.FT.
GARAGE (ATT)	785 SQ.FT.
GARAGE (DET)	613 SQ.FT.
GUEST HOUSE	747 SQ.FT.
TOTAL DEVELOPMENT	5,588 SQ.FT.

REVISED TO FCO 93 AS NOTED

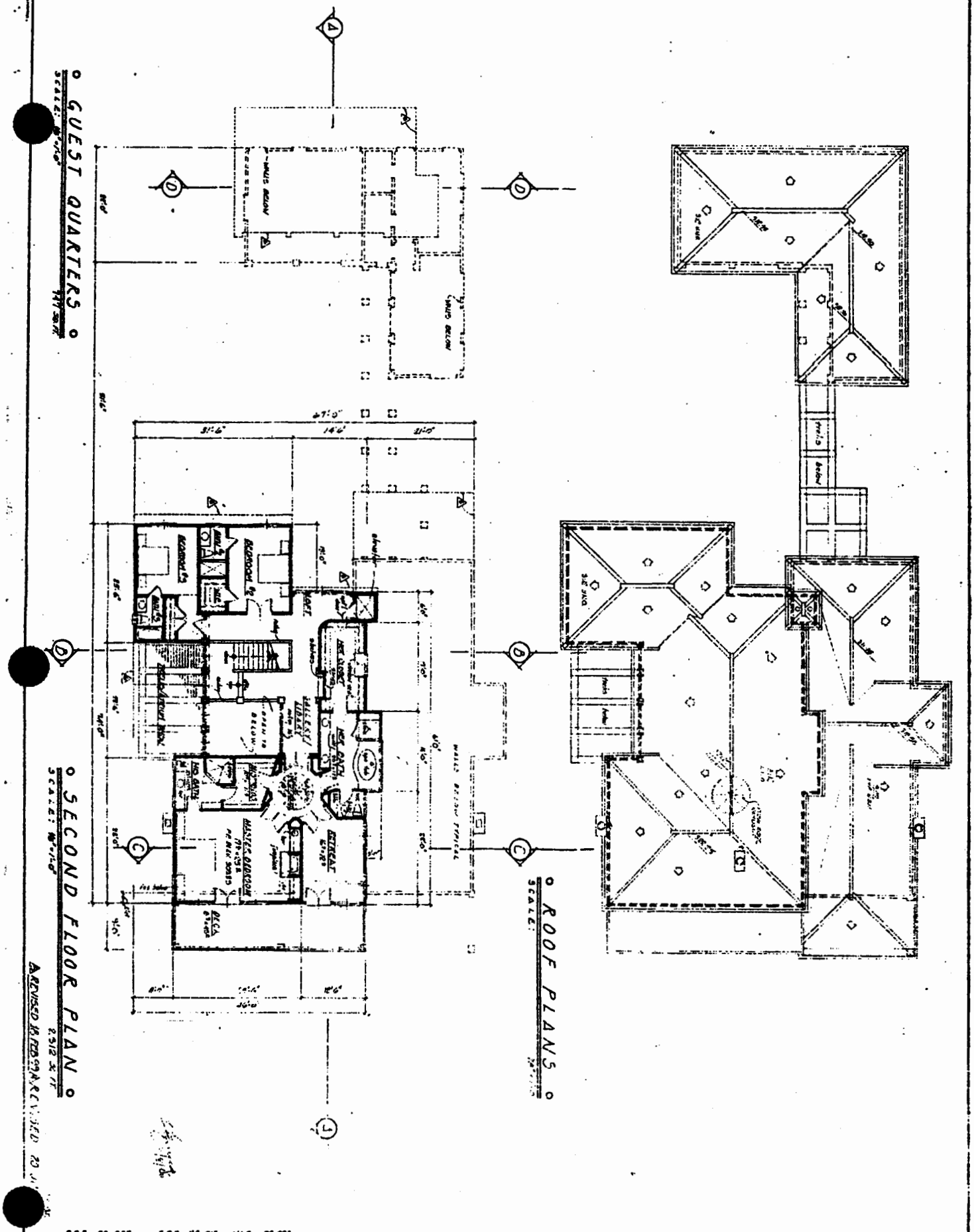
REVISIONS

TERRY McNAMARA
TIM McNAMARA
18711 PACIFIC COAST HIGHWAY, #24
MALIBU, CALIFORNIA 90265-5507

Custom Residence for MALIBU PORTERDALE DEVELOPMENT, LLC
6354 PORTERDALE DRIVE
MALIBU CALIFORNIA 90265.4152

PPR 18.018 SPR 18.013 VAR 18.002

2


GUEST QUARTERS
SECOND FLOOR PLAN
ROOF PLANS
REVISED PLANS RECEIVED
PPR 98.028 SPR 98.013 VAR 98.002
3
Custom Residence for
MALIBU PORTERDALE DEVI
6354 PORTERDALE
MALIBU CALIFORNIA
EXHIBIT 6
CDP # 5-91-046-A2
Second Floor Plans

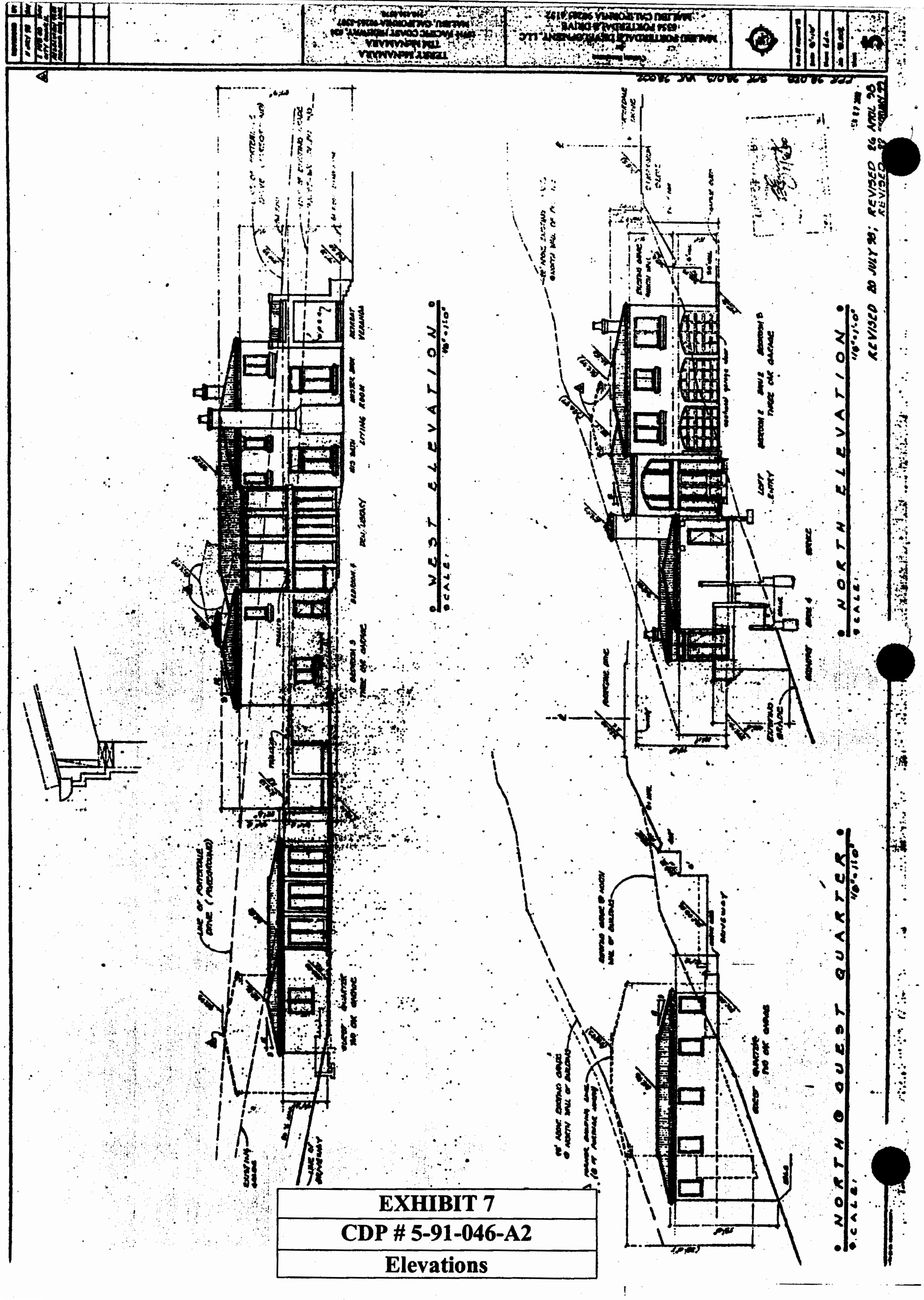


EXHIBIT 7

CDP # 5-91-046-A2

Elevations

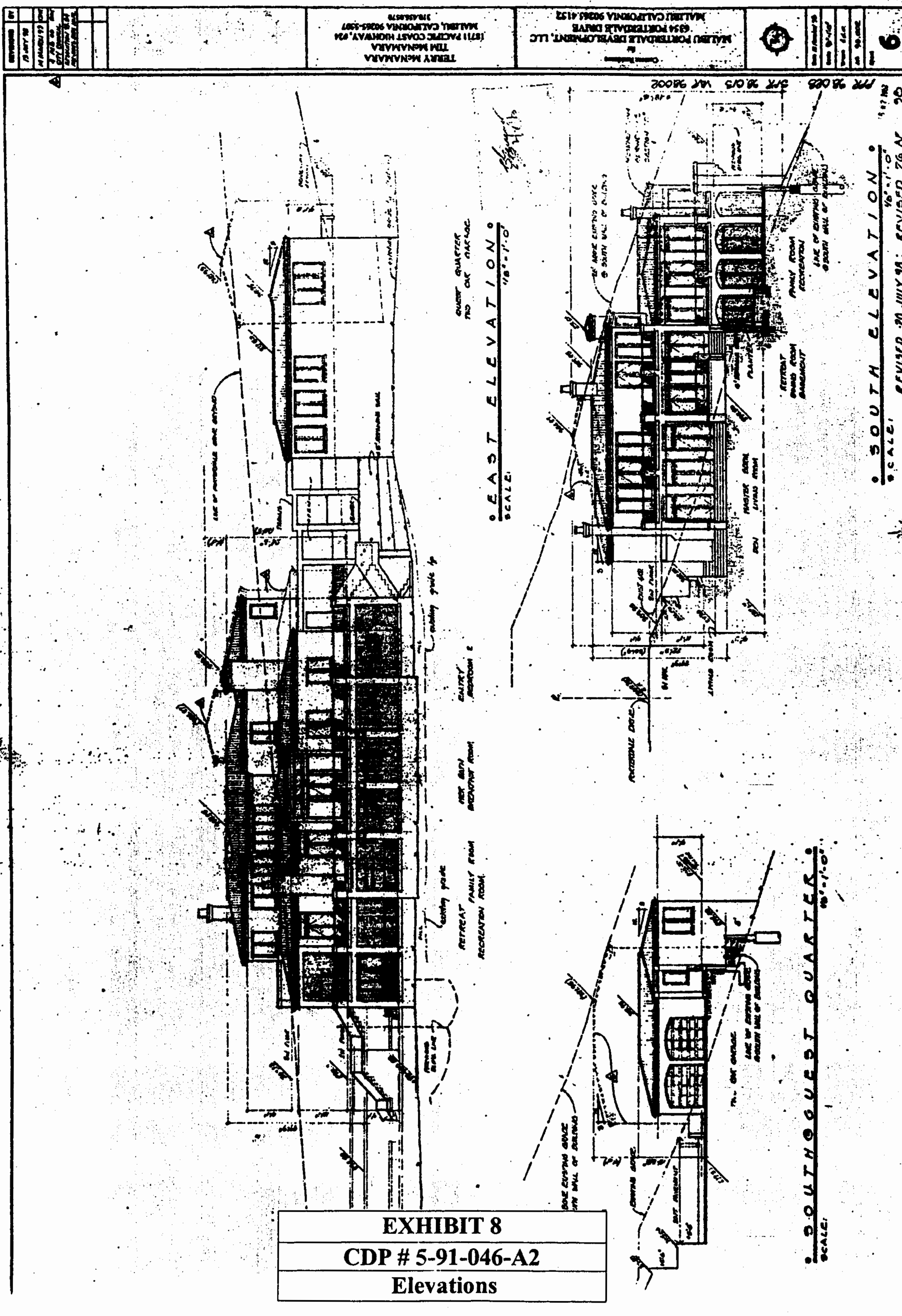


EXHIBIT 8

CDP # 5-91-046-A2

Elevations

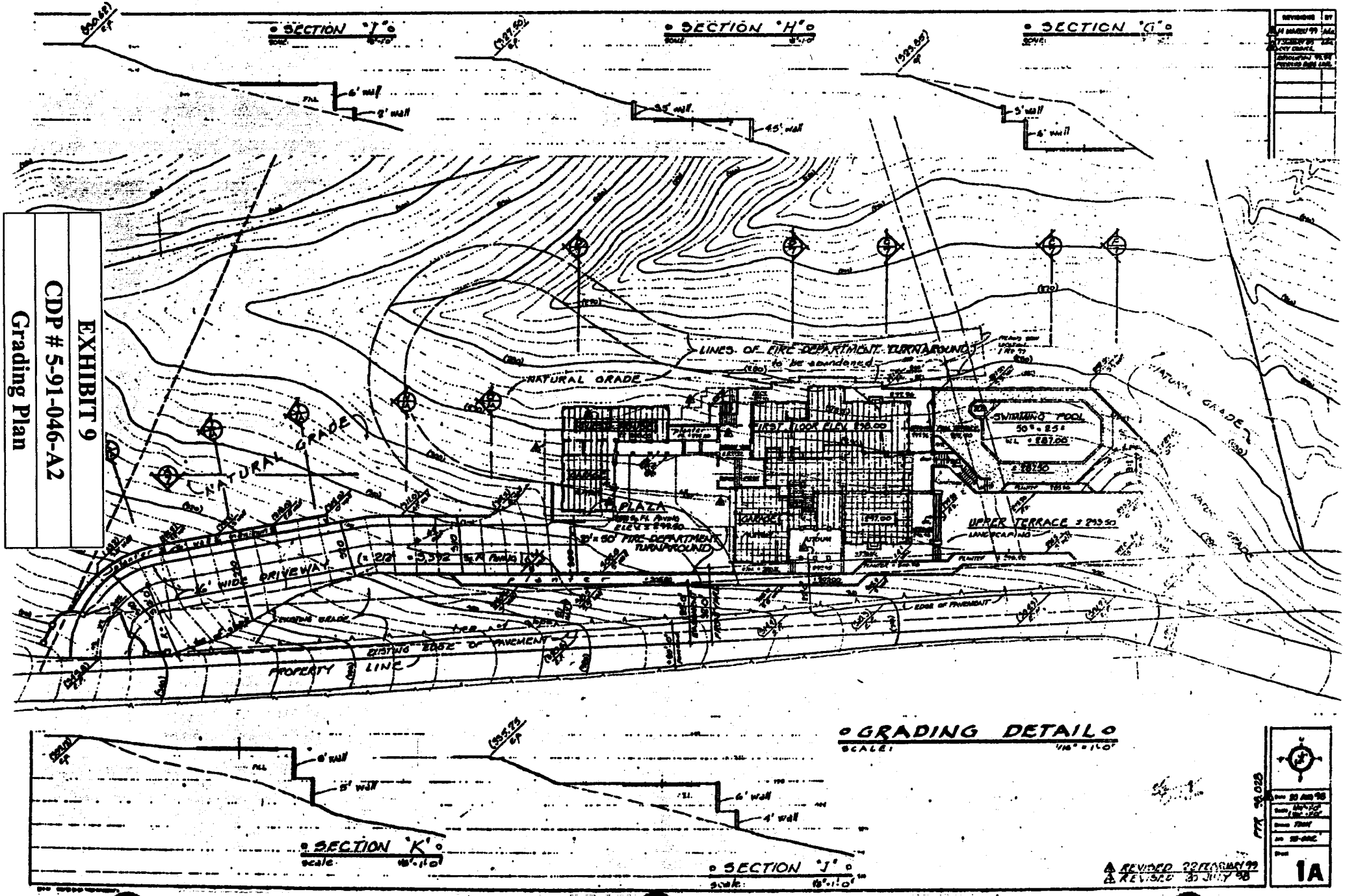


EXHIBIT 9
CDP # 5-91-046-A2
Grading Plan
SECTION "I"
SECTION "H"
SECTION "G"
6' wall
8' wall
35' wall
45' wall
5' wall
4' wall
LINES OF FIRE DEPARTMENT TURNAROUND to be abandoned
NATURAL GRADE
FIRST FLOOR ELEV. 278.00
SWIMMING POOL
50'-0" x 25'-0"
W.L. = 287.00
PLAZA
ELEV. = 279.50
25'-50' FIRE DEPARTMENT TURNAROUND
GARAGE
UPPER TERRACE = 293.50
LANDSCAPING
PLANTER
EDGE OF PAVEMENT
26' WIDE DRIVEWAY
EXISTING GRADE
EXISTING EDGE OF PAVEMENT
PROPERTY LINE
SECTION "K"
SECTION "J"
GRADING DETAIL
SCALE: 1/16" = 1'-0"
REVISED 22 FEBRUARY 99
REVISED 30 JULY 98
1A

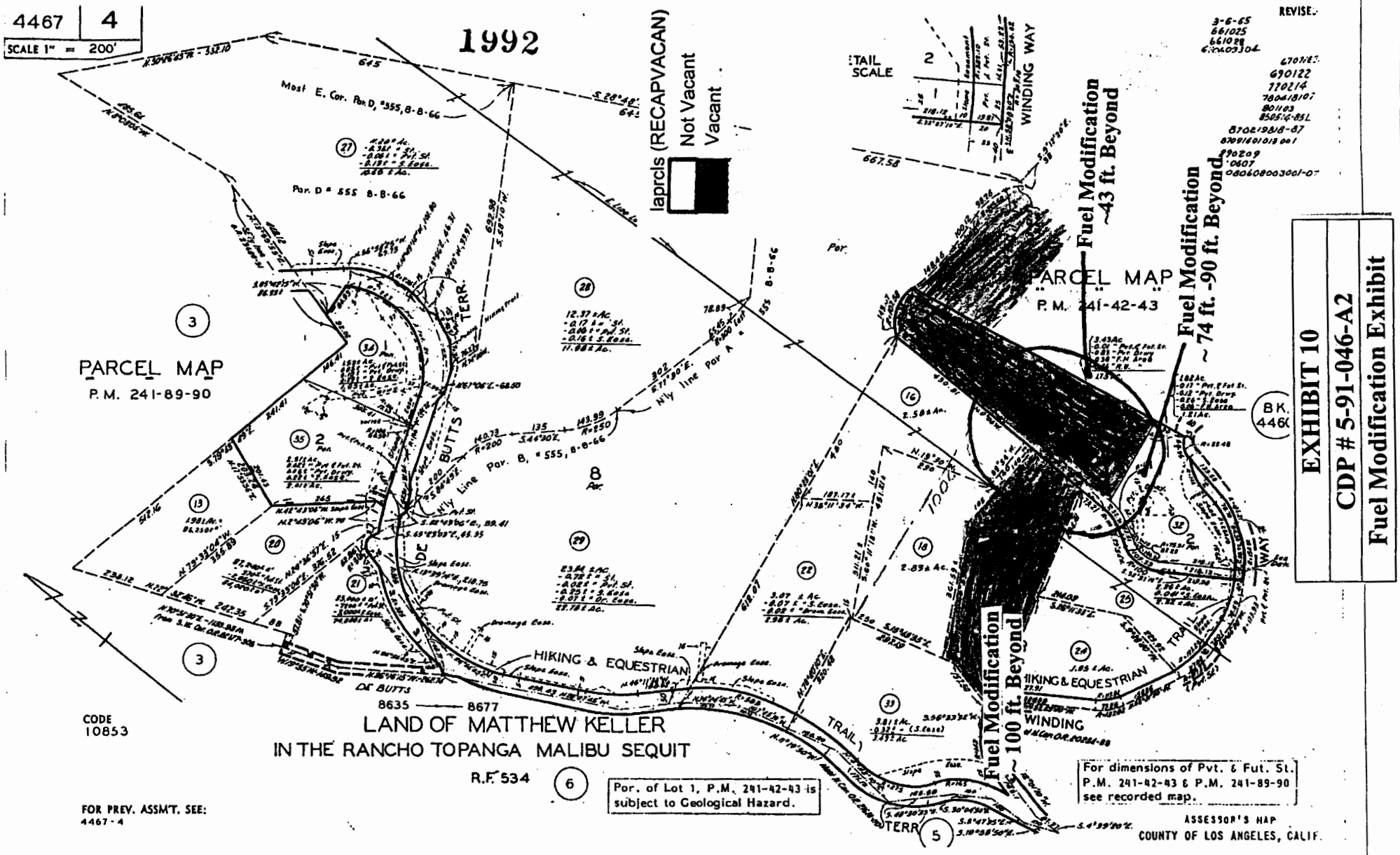

4467 | 4
SCALE 1" = 200'
1992
laprcls (RECAPVACAN)
Not Vacant
Vacant
PARCEL MAP
P.M. 241-89-90
PARCEL MAP
P.M. 241-42-43
Fuel Modification ~43 ft. Beyond
Fuel Modification ~74 ft. -90 ft. Beyond
Fuel Modification ~100 ft. Beyond
EXHIBIT 10
CDP # 5-91-046-A2
Fuel Modification Exhibit
DE BUTTS TERR.
HIKING & EQUESTRIAN TRAIL
WINDING WAY
CODE 10853
8635 —— 8677
LAND OF MATTHEW KELLER
IN THE RANCHO TOPANGA MALIBU SEQUIT
R.F. 534
Por. of Lot 1, P.M. 241-42-43 is subject to Geological Hazard.
For dimensions of Pvt. & Fut. St. P.M. 241-42-43 & P.M. 241-89-90 see recorded map.
FOR PREV. ASSM'T. SEE: 4467 - 4
ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

EXHIBIT 11

CDP # 5-91-046-A2

Previously Approved Residence and Driveway (5-91-046)