

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Commission Action:



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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-02-118
APPLICANT: Michael & Mari Johnson
AGENT: Jamie Harnish
PROJECT LOCATION: 24840 Pacific Coast Highway, City of Malibu

PROJECT DESCRIPTION: Proposal to remodel an existing residence; convert an existing 364 sq. ft. accessory structure to a pool cabana; construct a detached 884 sq. ft. detached garage with a 988 sq. ft. basement/recreation room (732 sq. ft. rec. room, 256 sq. ft. mechanical room); 7,200 sq. ft. sports court with 400 sq. ft. viewing deck; new septic system; pool and spa; and 1,105 cubic yards of grading (546 cu. yds. excavation, 260 cu. yds. cut and 389 cu. yds. fill). The remaining 417 cu. yds. of excess fill shall be exported to a landfill outside the coastal zone.

Lot area	68,151 sq. ft.
Building coverage	6,570 sq. ft.
Pavement coverage	11,874 sq. ft.
Landscape coverage	39,707sq. ft.
Height Above Finished Grade	18 ft.
Parking spaces	3

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, May 8, 2002; City of Malibu Environmental Health, Approval in Concept, November 30, 2001; City of Malibu Geology and Geotechnical Engineering Review, Approval in Concept, December 4, 2001; City of Malibu Biology Review, Approval in Concept, January 17, 2002.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu Local Coastal Program; "Limited Geologic and Soils Engineering Investigation" GeoConcepts, Inc., September 26, 2001. Coastal Development Permit 4-92-176 (Sasco Pacific).

Staff Note

Due to Permit Streamlining Act Requirements the Commission must act on this permit application at the November 2002 Commission meeting.

Summary of Staff Recommendation

Staff recommends *approval* of the proposed project with **Eleven (11) special conditions** regarding (1) geologic recommendations, (2) erosion control, drainage and polluted runoff, (3) landscaping plans, (4) future improvements, (5) assumption of risk, (6) sports court lighting restriction, (7) on-site wastewater treatment requirements, (8) pool drainage and maintenance, (9) revised swimming pool plans, (10) removal of excavated material, and (11) deed restriction.

I. Staff Recommendation

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-02-118 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 Malibu Local Coastal Program. 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 and Engineering Consultants' Recommendations

All recommendations contained in the Limited Geologic and Soils Engineering Investigation dated September 26, 2001 prepared by GeoConcepts, Inc. shall be incorporated into all final design and construction including *foundations, grading, sewage disposal and drainage*. Final plans must be reviewed and approved by the project's consulting geotechnical engineer and geologist. *Prior to issuance of the coastal development permit*, the applicant shall submit, for review and approval by the Executive Director, two sets of plans with evidence of the consultant's 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, sewage disposal 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. Erosion Control, Drainage and Polluted Runoff Control Plans

Prior to the Issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director; a) a **Local Storm Water Pollution Prevention (SWPPP) Plan** to control erosion and contain polluted runoff during the construction phase of the project; and b) a **Water Quality Mitigation Plan (WQMP)** for the management and treatment of post-construction storm water and polluted runoff. The plans shall be certified by a California Registered Civil Engineer or Licensed Architect and approved by the City's Department of Public Works, and include the information and measures outlined below.

- a) **Local Storm Water Pollution Prevention Plan**, for the construction phase of the project shall include at a minimum the following:
 - Property limits, prior-to-grading contours, and details of terrain and area drainage
 - Locations of any buildings or structures on the property where the work is to be performed and the location of any building or structures of adjacent owners that are within 15 ft of the property or that may be affected by the proposed grading operations
 - Locations and cross sections of all proposed temporary and permanent cut-and-fill slopes, retaining structures, buttresses, etc., that will result in an alteration to existing site topography (identify benches, surface/subsurface drainage, etc.)

- Area (square feet) and volume (cubic yards) of all grading (identify cut, fill, import, export volumes separately), and the locations where sediment will be stockpiled or disposed
- Elevation of finished contours to be achieved by the grading, proposed drainage channels, and related construction.
- Details pertaining to the protection of existing vegetation from damage from construction equipment, for example: (a) grading areas should be minimized to protect vegetation; (b) areas with sensitive or endangered species should be demarcated and fenced off; and (c) native trees that are located close to the construction site should be protected by wrapping trunks with protective materials, avoiding placing fill of any type against the base of trunks, and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees.
- Information on potential flow paths where erosion may occur during construction
- Proposed erosion and sediment prevention and control BMPs, both structural and non-structural, for implementation during construction, such as:
 - Stabilize disturbed areas with vegetation, mulch, geotextiles, or similar method.
 - Trap sediment on site using fiber rolls, silt fencing, sediment basin, or similar method.
 - Ensure vehicles on site are parked on areas free from mud; monitor site entrance for mud tracked off-site.
 - Prevent blowing dust from exposed soils.
- Proposed BMPs to provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials, such as:
 - Control the storage, application and disposal of pesticides, petroleum and other construction and chemical materials.
 - Site washout areas more than fifty feet from a storm drain, open ditch or surface water and ensure that runoff flows from such activities do not enter receiving water bodies.
 - Provide sanitary facilities for construction workers.
 - Provide adequate disposal facilities for solid waste produced during construction and recycle where possible.

b) ***Water Quality Management Plan***, for the management and treatment of post construction storm water and polluted runoff shall at a minimum include the following:

- Site design, source control and treatment control BMPs that will be implemented to minimize or prevent post-construction polluted runoff (see 17.5.1 of the Malibu LIP)
- Pre-development peak runoff rate and average volume
- Drainage improvements (e.g., locations of diversions/conveyances for upstream runoff)
- Potential flow paths where erosion may occur after construction
- Expected post-development peak runoff rate and average volume from the site with all proposed non-structural and structural BMPs
- Methods to accommodate onsite percolation, revegetation of disturbed portions of the site, address onsite and/or offsite impacts and construction of any necessary improvements

- Measures to treat, infiltrate, or filter runoff from impervious surfaces (e.g., roads, driveways, parking structures, building pads, roofs, patios, etc.) on the subject parcel(s) and to discharge the runoff in a manner that avoids erosion, gullyng on or downslope of the subject parcel, ponding on building pads, discharge of pollutants (e.g., oil, heavy metals, toxics) to coastal waters, or other potentially adverse impacts. Such measures may include, but are not limited to, the use of structures (alone or in combination) such as on-site desilting basins, detention ponds, dry wells, biofilters, etc.
- A long-term plan and schedule for the monitoring and maintenance of all drainage-control devices. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior to September 30th of each year. Owners of these devices will be responsible for insuring that they continue to function properly and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, should be carried out prior to the next rainy season.
- Post-construction Treatment Control BMPs (or suites of BMPs) shall be designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs.

3. Landscaping and Fuel Modification Plans

Prior to issuance of a coastal development permit, the applicants shall submit two sets of landscaping and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping shall be reviewed and approved by the geotechnical engineering and geologic consultant to ensure that the plans are in conformance with the consultant's recommendations. Cut and fill slopes and other areas disturbed by construction activities (including areas disturbed by fuel modification or brush clearance) shall be landscaped or revegetated. The plans shall incorporate the following criteria:

A. Plant Species

1. Plantings shall be native, drought-tolerant plant species, and shall blend with the existing natural vegetation and natural habitats on the site, except as noted in (A)(3) below. The native plant species shall be chosen from those 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.
2. Invasive plant species, as identified 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 and identified in the City of Malibu's Invasive Exotic Plant Species of the Santa Monica Mountains, dated March 17, 1998, that tend to supplant native species and natural habitats shall be prohibited.

3. Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone (Zone A) required for fuel modification nearest approved residential structures. Irrigated lawn, turf and ground cover shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B. Timing of Landscaping

1. All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.
2. The building pad and all other graded or disturbed areas on the subject site shall be planted within sixty (60) days of receipt of the certificate of occupancy for the residence.

C. Landscaping Coverage Standards.

Landscaping or revegetation shall provide 90 percent coverage within five years, or that percentage of ground cover demonstrated locally appropriate for a healthy stand of the particular native vegetation type chosen for restoration. Landscaping or revegetation that is located within any required fuel modification thinning zone (Zone C, if required by the Los Angeles County Fire Department) shall provide 60 percent coverage within five years.

D. Fuel Modification Plan

The final landscaping and fuel modification plan shall minimize the removal of native vegetation while providing for fire safety and shall be reviewed and approved by the Forestry Division of the County of Los Angeles Fire Department.

4. Future Improvements Deed Restriction

This permit is only for the development described in coastal development permit No. 4-02-118. Pursuant to Title 14 California Code of Regulations §13250(b)(6) & 13253(b)(6), the exemptions otherwise provided in Public Resources Code §30610(a) 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. 4-02-118, and any grading, clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition No. Three (3), shall require an amendment to Permit No. 4-02-118 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

5. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from **landslide, bluff retreat, erosion, and earth movement and fire**; (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.

6. Sports Court Lighting Restriction

By acceptance of this permit, the applicant acknowledges and agrees that lighting for the sports court whether temporary or permanent is prohibited.

7. On-Site Wastewater Treatment System Requirements

Prior to the Issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director a report and plans verifying that the proposed OSTs complies with the policies and provisions in the Malibu LCP pertaining to the siting, design, installation, operation and maintenance requirements for OSTs. The report and plans shall be prepared by a qualified professional and approved by the City's Environmental Health Department, and comply with sections 18.4, 18.7 and 18.9 of the Malibu LIP.

Prior to the receipt of the certificate of occupancy for the residence and recreation room, the applicant shall submit for the review and approval of the Executive Director verification that they have obtained a valid Standard Operating Permit from the City for the proposed OSTs. This permit shall comply with all of the operation, maintenance and monitoring provisions applicable to OSTs contained in the Malibu LCP.

8. Pool and Spa Drainage and Maintenance

Prior to issuance of the Coastal Development Permit, the applicants shall submit, for review and approval of the Executive Director, a written pool and spa maintenance plan, that contains an agreement to install and use a no chlorine or low chlorine purification system. The plan shall identify methods of pool and spa maintenance that will ensure that any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area. In addition, the plan shall, prohibit the discharge of any chlorinated water or prohibit the discharge of non-chlorinated pool water into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters. The Permittees shall undertake development and maintenance in compliance with this pool and spa maintenance agreement and program approved by the Executive Director. No changes shall be made to the agreement or plan unless they are approved by the Executive Director.

9. Revised Swimming Pool Plans

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, revised plans for the swimming pool that illustrate a double wall pool shell design with drains and a leak detection system.

10. Disposal 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. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of the material.

11. Deed Restriction Condition

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to remodel an existing single family residence consisting of interior upgrades and exterior wall treatments. The applicant is also proposing to construct a detached 884 sq. ft. detached garage with a 988 sq. ft. basement/recreation room (732 sq. ft. rec. room, 256 sq. ft. mechanical room); convert an existing 364 sq. ft. accessory structure to a pool cabana; 7,200 sq. ft. sports court with 400 sq. ft. at grade viewing deck; new septic system; pool and spa; and 1,105 cubic yards of grading (546 cu. yds. excavation, 260 cu. yds. cut and 389 cu. yds. fill) (Exhibits 3-6). The remaining 417 cu. yds. of excess fill shall be exported to a landfill outside the coastal zone.

The subject site is a 1.56 acre bluff top parcel located on the seaward side Pacific Coast Highway between Puerco Canyon Road and John Tyler Drive in the City of Malibu (Exhibits 1-2). Slopes on site gently descend to the south at a general gradient of 1.5:1 or less to the top of the bluff that descends at a steep approximate 2:1 slope to Malibu Road. The site is not visible from Pacific Coast Highway due to a knoll or large berm along Pacific Coast Highway.

On October 14, 1992 coastal development permit 4-99-176 was approved for the remediation of a landslide on the bluff that was threatening the existing residence on the subject property and a residence on a neighboring property. The project involved grading 42,400 cubic yards of excavation, removal and recompaction of the bluff slope; construction of a buttress fill; and

installation of subdrains, hydroaugers and surface drains. A permit amendment was approved by the Commission on September 14, 1994 to increase the amount of grading from 42,400 cubic yards to 44,530 cubic yards. The permit was issued on November 11, 1994 and the remedial grading work has been completed.

On September 13, 2002, the Commission adopted the Malibu Local Coastal Program (LCP). The subject permit application was filed prior to the date the LCP was adopted and therefore remains under the jurisdiction of the Commission. Prior to the adoption of the LCP the standard of review for permit applications in Malibu were the chapter three policies Coastal Act. After the adoption of the LCP the standard of review for permit applications is the LCP.

B. Hazards

The proposed development is located on a bluff top lot in Malibu, an area generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu 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.

The Malibu Local Coastal Program (LCP) contains the following development policies related to hazards and bluff top development that are applicable to the proposed development:

Section 30253 of the Coastal Act, which is incorporated as part of the Malibu LCP, 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.*

In addition, the following LCP policies are applicable in this case:

- 3.1 New development that requires a grading permit or Local SWPPP shall include landscaping and re-vegetation of graded or disturbed areas, consistent with Policy 3.50. Any landscaping that is required to control erosion shall use native or drought-tolerant non-invasive plants to minimize the need for fertilizer, pesticides, herbicides, and excessive irrigation. Where irrigation is necessary, efficient irrigation practices shall be required.*
- 4.2. All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.*
- 4.4. On ancient landslides, unstable slopes and other geologic hazard areas, new development shall only be permitted where an adequate factor of safety can be provided, consistent with the applicable provisions of Chapter 9 of the certified Local Implementation Plan.*

- 4.5. Applications for new development, where applicable, shall include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such reports shall be signed by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) and subject to review and approval by the City Geologist.
- 4.10. New development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams.
- 4.15. Existing, lawfully established structures, which do not conform to the provisions of the LCP, may be maintained and/or repaired provided that such repair and maintenance do not increase the extent of nonconformity of the structure. Except as provided below, additions and improvements to such structures may be permitted provided that such additions or improvements comply with the current standards and policies of the LCP and do not increase the extent of nonconformity of the structure. Substantial additions, demolition and reconstruction, that result in demolition and/or replacement of more than 50% of the exterior walls shall not be permitted unless such structures are brought into conformance with the policies and standards of the LCP.
- 4.27. All new development located on a blufftop shall be setback from the bluff edge a sufficient distance to ensure that it will not be endangered by erosion for a projected 100 year economic life of the structure plus an added geologic stability factor of 1.5. In no case shall the setback be less than 100 feet which may be reduced to 50 feet if recommended by the City geologist and the 100 year economic life with the geologic safety factor can be met. This requirement shall apply to the principle structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems etc. Ancillary structures such as decks, patios and walkways that do not require structural foundations may extend into the setback area to a minimum distance of 15 feet from the bluff edge. Ancillary structures shall be removed or relocated landward when threatened by erosion. Slope stability analyses and erosion rate estimates shall be performed by a licensed Certified Engineering Geologist or Geotechnical Engineer.
- 4.28. In addition to the bluff edge setback requirements all swimming pools shall contain double wall construction with drains and leak detection systems.
- 4.42. As a condition of approval of development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.
- 4.45 New development shall minimize risks to life and property from fire hazard through:
- Assessing site-specific characteristics such as topography, slope, vegetation type, wind patterns etc.;
 - Siting and designing development to avoid hazardous locations;

- *Incorporation of fuel modification and brush clearance techniques in accordance with applicable fire safety requirements and carried out in a manner which reduces impacts to environmentally sensitive habitat to the maximum feasible extent;*
- *Use of appropriate building materials and design features to insure the minimum amount of required fuel modification;*
- *Use of fire-retardant, native plant species in landscaping.*

4.49. *Applications for new development, which require fuel modification, shall include a fuel modification plan for the project, prepared by a landscape architect or resource specialist that incorporates measures to minimize removal of native vegetation and to minimize impacts to ESHA, while providing for fire safety, consistent with the requirements of the applicable fire safety regulations. Such plans shall be reviewed and approved by the Forestry Division.*

6.29 *Cut and fill slopes and other areas disturbed by construction activities shall be landscaped or revegetated at the completion of grading. Landscape plans shall provide that:*

- *Plantings shall be of native, drought-tolerant plant species, and blend with the existing natural vegetation and natural habitats on the site, except as noted below.*
- *Invasive plant species that tend to supplant native species and natural habitats shall be prohibited.*
- *Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone(s) required for fuel modification nearest approved residential structures.*
- *Lawn shall not be located on any geologically sensitive area such as coastal blufftop.*
- *Landscaping or revegetation shall provide 90 percent coverage within five years. Landscaping or revegetation that is located within any required fuel modification thinning zone (Zone C, if required by the Los Angeles County Fire Department) shall provide 60 percent coverage within five years.*

The project site is a rectangular bluff top parcel that contains an existing residence and a one story accessory structure. By nature, coastal bluffs are subject to erosion from sheet flow across the top of the bluff and from wave action at the base of the bluff. The bluffs along this section of the coast are not subject to erosion from wave action due to the presence of Malibu Road and beachfront residences with shoreline protective structures seaward of the Malibu Road. However, these bluffs are subject to erosion from runoff at the top of the slope. Further, due to geologic structure and soil composition, these bluffs are susceptible to surficial failure, especially with excessive water infiltration. As previously mentioned above, a landslide on the bluff threatened to damage the existing residence on this property and required extensive remedial grading to stabilize the bluff slope. The existing residence is located within 20 feet of the top of the reconstructed bluff. The improvements proposed for the residence consist of interior remodel and exterior wall treatments. No portion of the exterior walls of the residence are proposed to be demolished and no additions to the residence are proposed. The proposed garage/recreation room, pool and sports court are located landward side of the residence more than 100 feet from the top of the bluff.

The Malibu LCP requires that new development be sited and designed to minimize risks to life and property from geologic, flood, and fire hazard. In addition, the LCP requires a

geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. The Geologic and Soils Engineering Investigation, for the subject site, by GeoConcepts, Inc dated September 26, 2001 states:

It is the finding of this corporation, based upon the subsurface data that the proposed project will be safe from landslide settlement or slippage and will not adversely affect adjacent property, provided this corporation's recommendations and those of the City of Malibu and Uniform Building Code are followed and maintained.

As such, the Commission notes that the proposed project will serve to ensure general geologic and structural integrity on site. However, the Commission also notes that the submitted Geologic and Soils Engineering Investigation dated September 26, 2001, prepared by GeoConcepts, Inc. includes a number of recommendations to ensure the geologic stability and geotechnical safety of the site. To ensure that the recommendations of the geologic and geotechnical engineering consultants are incorporated into all new development, **Special Condition No. One (1)** requires the applicant to submit project plans certified by the consulting geologist and geotechnical engineer as conforming to all geologic and geotechnical recommendations, as well as any new or additional recommendations by the consulting geologist and geotechnical engineer to ensure structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, foundations, grading, sewage disposal and drainage. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

In addition, the Commission notes that the applicant's engineering consultants have indicated that the proposed development will serve to ensure relative geologic and structural stability on the subject site. However, the Commission also notes that the existing remodeled residence and proposed development are located on a bluff top parcel that has previously experienced landslide activity that required extensive remedial grading. The Commission further notes that because there remains some inherent risk in building on sites adjacent to a coastal bluff, such as the subject site, and due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by **Special Condition No. Five (5)**. 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. In addition, the Malibu LCP specifically requires that land owners of bluff properties subject to landsliding and erosion shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.

It should be noted that an assumption of risk 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

geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question. The Commission has required such restrictions for other development throughout the Malibu/Santa Monica Mountains region.

The Commission also finds that the minimization of site erosion will add to the stability of the site. In addition, the Malibu LCP requires that graded and disturbed areas be revegetated to minimize erosion. Erosion can best be minimized by requiring the applicant to landscape all disturbed and graded areas of the site with native plants compatible with the surrounding environment. In past permit actions, the Commission has found that invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foilage weight and/or require a greater amount of irrigation and maintenance than native vegetation. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize bluff slopes and bluff top areas and that such vegetation results in potential adverse effects to the geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foilage weight but also by their low irrigation and maintenance requirements. Within the Zone A, as designated on the fuel modification plan, non-invasive ornamental plants are acceptable. Typically, Zone A is a 20 -30 foot irrigated zone immediately surrounding the structure. Therefore, in order to ensure the stability and geotechnical safety of the site, **Special Condition No. Three (3)** requires that all proposed disturbed and graded areas on subject site are stabilized with native and limited non-invasive ornamental vegetation.

The project will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. The applicant's geologic / geotechnical consultant has recommended that site drainage be collected and distributed in a non-erosive manner. In addition, the Malibu LCP policy 4.10 requires that "new development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams". Therefore, to ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as required by **Special Condition No. Two (2)**, to submit drainage and polluted runoff management plans for the construction and post-construction phases of development that are prepared by the consulting engineer. To ensure that the project's drainage structures will not contribute to further destabilization of the project site or surrounding area and that the project's drainage structures shall be repaired should the structures fail in the future, **Special Condition No. Two (2)** also requires that the applicant agree to be responsible for any repairs or restoration of eroded areas should the drainage structures fail or result in erosion.

In addition, policy 4.28 of the Malibu LCP requires that in addition to setback requirements all swimming pools shall contain double wall construction with drains and leak detection systems. A double wall pool shell with drains and a leak detection system minimizes the potential that a swimming pool leak will go undetected which could result in a slope failure or landsliding of the bluff. The double wall pool shell design will ensure any leaks in the primary pool shell will be captured by the second shell and properly drained away from the bluff. Therefore, the Commission finds that it is necessary to require the applicant to submit revised plans for the swimming pool that incorporate a double wall shell design, with drains and a leak detection system as specified in **Special Condition No. Nine (9)**

Furthermore, to ensure excess excavated material is moved off site so as not to contribute to unnecessary landform alteration and to minimize erosion and sedimentation from stockpiled excavated soil, the Commission finds it necessary to require the applicant to dispose of the material at a appropriate disposal site or to a site that has been approved to accept fill material, as specified in **Special Condition No. Ten (10)**.

Finally, **Special Condition No. Eleven (11)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with the applicable policies of the Malibu LCP.

C. Visual Resources

The Malibu LCP provides for the protection of scenic and visual resources, including views of the beach and ocean, views of mountains and canyons, and views of natural habitat areas. The LCP identifies Scenic Roads, which are those roads within the City that traverse or provide views of areas with outstanding scenic quality, that contain striking views of natural vegetation, geology, and other unique natural features, including the beach and ocean. The LCP policies require that new development not be visible from scenic roads or public viewing areas. Where this is not feasible, new development must minimize impacts through siting and design measures. In addition, development is required to preserve bluewater ocean views by limiting the overall height and siting of structures where feasible to maintain ocean views over the structures. Where it is not feasible to maintain views over the structure through siting and design alternatives, view corridors must be provided in order to maintain an ocean view through the project site.

Section 30251 of the Coastal Act, which is incorporated as a policy of the Malibu LCP, 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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.

In addition, the following LCP policies are applicable in this case:

- 6.1 *The Santa Monica Mountains, including the City, contain scenic areas of regional and national importance. The scenic and visual qualities of these areas shall be protected and, where feasible, enhanced.*
- 6.2 *Places on and along public roads, trails, parklands, and beaches that offer scenic vistas are considered public viewing areas. Existing public roads where there are views of the ocean and other scenic areas are considered Scenic Roads. Public parklands and riding and hiking trails which contain public viewing areas are*

shown on the LUP Park Map. The LUP Public Access Map shows public beach parks and other beach areas accessible to the public that serve as public viewing areas.

- 6.3** *Roadways traversing or providing views of areas of outstanding scenic quality, containing striking views of natural vegetation, geology, and other unique natural features, including the ocean shall be considered Scenic Roads. The following roads within the City are considered Scenic Roads:*
- *Pacific Coast Highway*
 - *Decker Canyon Road*
 - *Encinal Canyon Road*
 - *Kanan Dume Road*
 - *Latigo Canyon Road*
 - *Corral Canyon Road*
 - *Malibu Canyon Road*
 - *Tuna Canyon Road*
- 6.4** *Places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features are considered Scenic Areas. Scenic Areas do not include inland areas that are largely developed or built out such as residential subdivisions along the coastal terrace, residential development inland of Birdview Avenue and Cliffside Drive on Point Dume, or existing commercial development within the Civic Center and along Pacific Coast Highway east of Malibu Canyon Road.*
- 6.5** *New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.*
- 6.6** *Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.*
- 6.7** *The height of structures shall be limited to minimize impacts to visual resources. The maximum allowable height, except for beachfront lots, shall be 18 feet above existing or finished grade, whichever is lower. On beachfront lots, or where found appropriate through Site Plan Review, the maximum height shall be 24 feet (flat roofs) or 28 feet (pitched roofs) above existing or finished grade, whichever is*

lower. Chimneys and rooftop antennas may be permitted to extend above the permitted height of the structure.

6.9 *All new development shall be sited and designed to minimize alteration of natural landforms by:*

- *Conforming to the natural topography.*
- *Preventing substantial grading or reconfiguration of the project site.*
- *Eliminating flat building pads on slopes. Building pads on sloping sites shall utilize split level or stepped-pad designs.*
- *Requiring that man-made contours mimic the natural contours.*
- *Ensuring that graded slopes blend with the existing terrain of the site and surrounding area.*
- *Minimizing grading permitted outside of the building footprint.*
- *Clustering structures to minimize site disturbance and to minimize development area.*
- *Minimizing height and length of cut and fill slopes.*
- *Minimizing the height and length of retaining walls.*
- *Cut and fill operations may be balanced on-site, where the grading does not substantially alter the existing topography and blends with the surrounding area. Export of cut material may be required to preserve the natural topography.*

6.10 *New development, including a building pad, if provided, shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA.*

6.12 *All new structures shall be sited and designed to minimize impacts to visual resources by:*

- *Ensuring visual compatibility with the character of surrounding areas.*
- *Avoiding large cantilevers or understories.*
- *Setting back higher elements of the structure toward the center or uphill portion of the building.*

6.13 *New development in areas visible from scenic roads or public viewing areas, shall incorporate colors and exterior materials that are compatible with the surrounding landscape. The use of highly reflective materials shall be prohibited.*

6.14 *The height of permitted retaining walls shall not exceed six feet. Stepped or terraced retaining walls up to twelve feet in height, with planting in between, may be permitted. Where feasible, long continuous walls shall be broken into sections or shall include undulations to provide visual relief. Where feasible, retaining walls supporting a structure should be incorporated into the foundation system in a stepped or split level design. Retaining walls visible from scenic highways, trails, parks, and beaches should incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape.*

6.15 *Fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public viewing areas.*

- 6.16 *Blufftop development shall incorporate a setback from the edge of the bluff that avoids and minimizes visual impacts from the beach and ocean below. The blufftop setback necessary to protect visual resources may be in excess of the setback necessary to ensure that risk from geologic hazards are minimized for the life of the structure, as detailed in Policy 4.27.*
- 6.17 *Where parcels on the ocean side of and fronting Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, or Cliffside Drive descend from the roadway, new development shall be sited and designed to preserve bluewater ocean views by:*
- *Allowing structures to extend no higher than the road grade adjacent to the project site, where feasible.*
 - *Limiting structures to one story in height, if necessary, to ensure bluewater views are maintained over the entire site.*
 - *Setting fences away from the road edge and limiting the height of fences or walls to no higher than adjacent road grade, with the exception of fences that are composed of visually permeable design and materials.*
 - *Using native vegetation types with a maximum growth height and located such that landscaping will not extend above road grade.*
- 6.23 *Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas. Night lighting for sports courts or other private recreational facilities in scenic areas designated for residential use shall be prohibited.*
- 6.29 *Cut and fill slopes and other areas disturbed by construction activities shall be landscaped or revegetated at the completion of grading. Landscape plans shall provide that:*
- *Plantings shall be of native, drought-tolerant plant species, and blend with the existing natural vegetation and natural habitats on the site, except as noted below.*
 - *Invasive plant species that tend to supplant native species and natural habitats shall be prohibited.*
 - *Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone(s) required for fuel modification nearest approved residential structures.*
 - *Lawn shall not be located on any geologically sensitive area such as coastal blufftop.*
 - *Landscaping or revegetation shall provide 90 percent coverage within five years. Landscaping or revegetation that is located within any required fuel modification thinning zone (Zone C, if required by the Los Angeles County Fire Department) shall provide 60 percent coverage within five years.*

The project site is located seaward of Pacific Coast Highway in central Malibu just west of Pepperdine University (Exhibit 1). Pacific Coast Highway is a major coastal access route, not only utilized by local residents, but also heavily used by tourists and visitors to access several public beaches located in the surrounding area which are only accessible from Pacific Coast Highway. In addition, Pacific Coast Highway is an LCP designated scenic roadway. Public views of the ocean and water from Pacific Coast Highway have been substantially reduced, or

completely blocked, in many areas by the construction of single family residences, privacy walls, fencing, landscaping, and other residential related development between Pacific Coast Highway and the ocean. Specifically, the Commission notes that when residential structures are located immediately adjacent to each other, or there is continuous large scale landscaping, such development creates a wall-like effect when viewed from Pacific Coast Highway. As such, the Commission notes that such development, when viewed on a regional basis, will result in potential cumulative adverse effects to public views and to the visual quality of coastal areas.

The Malibu LCP requires that new residential development on vacant bluff lots, where feasible, be sited and designed so as not to block views of the ocean as seen from Pacific Coast Highway. In this case, there is an existing single family development on the site and there is an existing knoll or large berm fronting the property along Pacific Coast Highway that currently blocks views across the property as seen from the highway. The proposed structures will not be visible from the highway as they are sited well below the elevation of Pacific Coast Highway and the knoll that fronts the property.

The proposed sports court requires 649 cubic yards of grading (260 cu. yds. cut, 389 cu. yds. fill) and a 235 foot long 3 foot high retaining wall to support cut slopes on the north, west and east sides of the sports court. The proposed grading and retaining wall for the sports court does not result in a significant alteration of the gently sloping landform on the site. A 10 foot high (max.) mesh fence is proposed around the sports court. This fence will not be visible from the Pacific Coast Highway. The proposed viewing platform adjacent to the sports court is at grade and not visible from Pacific Coast Highway. There are three other minor 3 foot high (max.) retaining walls totaling approximately 100 feet in length proposed for a parking area near the residence and a court yard just north or landward of the existing residence. These minor retaining walls will not significantly alter the landforms on the site and are not visible from Pacific Coast Highway. The proposed 18 foot high garage is located just landward of the residence and will not be visible from Pacific Coast Highway and therefore will adversely impact views from Pacific Coast Highway. The proposed project is consistent with the LCP policies cited above relative to landform alteration and grading, retaining wall heights and height of structures above natural grade.

The Commission has found that night lighting of areas in the Malibu / Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Policy 6.16 of the Malibu LCP specifically prohibits lighting of sports courts in order to eliminate the adverse individual and cumulative visual impacts associated with the lighting of such facilities. Although the applicant has not proposed any lights at the tennis court at this time, in order to mitigate any potential future visual and environmental impacts of the tennis court, the Commission finds it necessary to prohibit prohibiting lighting for the tennis court, whether temporary or permanent, as specified in **Special Condition No. Six (6)**. Finally, future construction on the property has the potential to negatively affect the visual character of the area as seen from the Pacific Coast Highway. To insure that no additions or improvements are made to the property that may affect visual resources on-site without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as required by **Special Condition No. Four (4)**.

Finally, **Special Condition No. Eleven (11)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

In summary, the proposed project, as conditioned, will not result in a significant adverse impact to scenic public views or the character of the surrounding area in this portion of Malibu. In addition, the project, as conditioned is the least environmentally damaging alternative and there are no alternatives that would lessen any significant adverse impact on scenic and visual resources. Thus, the Commission finds that the proposed project is consistent, as conditioned, with applicable policies of the Malibu LCP.

D. Water Quality

The Malibu LCP provides for the protection of water quality. The policies require that new development protects, and where feasible, enhances and restores wetlands, streams, and groundwater recharge areas. The policies promote the elimination of pollutant discharge, including nonpoint source pollution, into the City's waters through new construction and development regulation, including site planning, environmental review and mitigation, and project and permit conditions of approval. Additionally, the policies require the implementation of Best Management Practices to limit water quality impacts from existing development, including septic system maintenance and City services.

Section 30251 of the Coastal Act, which is incorporated as a policy of the Malibu LCP, states that:

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

In addition, the following water quality LCP policies are applicable in this case:

- 3.95** *New development shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating measures designed to ensure the following:*
- *Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss.*
 - *Limiting increases of impervious surfaces.*
 - *Limiting land disturbance activities such as clearing and grading, and cut-and-fill to reduce erosion and sediment loss.*
 - *Limiting disturbance of natural drainage features and vegetation.*
- 3.96** *New development shall not result in the degradation of the water quality of groundwater basins or coastal surface waters including the ocean, coastal streams, or wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely impact groundwater, the ocean, coastal streams, or wetlands, consistent with the requirements of*

the Los Angeles Regional Quality Control Board's municipal stormwater permit and the California Ocean Plan.

- 3.97 Development must be designed to minimize, to the maximum extent feasible, the introduction of pollutants of concern¹ that may result in significant impacts from site runoff from impervious areas. To meet the requirement to minimize "pollutants of concern," new development shall incorporate a Best Management Practice (BMP) or a combination of BMPs best suited to reduce pollutant loading to the maximum extent feasible.**
- 3.99 Post-development peak stormwater runoff discharge rates shall not exceed the estimated pre-development rate. Dry weather runoff from new development must not exceed the pre-development baseline flow rate to receiving waterbodies.**
- 3.100 New development shall be sited and designed to minimize impacts to water quality from increased runoff volumes and nonpoint source pollution. All new development shall meet the requirements of the Los Angeles Regional Water Quality Control Board (RWQCB) in its the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County (March 2000) (LA SUSMP) or subsequent versions of this plan.**
- 3.102 Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs. This standard shall be consistent with the most recent Los Angeles Regional Water Quality Control Board municipal stormwater permit for the Malibu region or the most recent California Coastal Commission Plan for Controlling Polluted Runoff, whichever is more stringent.**
- 3.110 New development shall include construction phase erosion control and polluted runoff control plans. These plans shall specify BMPs that will be implemented to minimize erosion and sedimentation, provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials.**
- 3.111 New development shall include post-development phase drainage and polluted runoff control plans. These plans shall specify site design, source control and treatment control BMPs that will be implemented to minimize post-construction polluted runoff, and shall include the monitoring and maintenance plans for these BMPs.**
- 3.115 Permits for new development shall be conditioned to require ongoing maintenance where maintenance is necessary for effective operation of required BMPS. Verification of maintenance shall include the permittee's signed statement accepting responsibility for all structural and treatment control BMP maintenance until such time as the property is transferred and another party takes responsibility.**
- 3.116 The City, property owners, or homeowners associations, as applicable, shall be required to maintain any drainage device to insure it functions as designed and intended. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior to September 30th of each year. Owners of these devices will be responsible for insuring that they continue to function properly and additional inspections should occur after storms as**

¹ Pollutants of concern are defined in the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County as consisting " of any pollutants that exhibit one or more of the following characteristics: current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water , elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bioaccumulate in organisms therein, or the detectable inputs of the pollutant are at a concentrations or loads considered potentially toxic to humans and/or flora or fauna".

needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, should be carried out prior to the next rainy season.

- 3.118** *Some BMPs for reducing the impacts of non-point source pollution may not be appropriate for development on steep slopes, on sites with low permeability soil conditions, or areas where saturated soils can lead to geologic instability. New development in these areas should incorporate BMPs that do not increase the degree of geologic instability.*
- 3.119** *New development that requires a grading permit or Local SWPPP shall include landscaping and re-vegetation of graded or disturbed areas, consistent with Policy 3.50. Any landscaping that is required to control erosion shall use native or drought-tolerant non-invasive plants to minimize the need for fertilizer, pesticides, herbicides, and excessive irrigation. Where irrigation is necessary, efficient irrigation practices shall be required.*
- 3.120** *New development shall protect the absorption, purifying, and retentive functions of natural systems that exist on the site. Where feasible, drainage plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner. Disturbed or degraded natural drainage systems shall be restored, where feasible, except where there are geologic or public safety concerns.*
- 3.125** *Development involving onsite wastewater discharges shall be consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements, revised waivers and other regulations that apply.*
- 3.126** *Wastewater discharges shall minimize adverse impacts to the biological productivity and quality of coastal streams, wetlands, estuaries, and the ocean. On-site treatment systems (OSTSs) shall be sited, designed, installed, operated, and maintained to avoid contributing nutrients and pathogens to groundwater and/or surface waters.*
- 3.127** *OSTSs shall be sited away from areas that have poorly or excessively drained soils, shallow water tables or high seasonal water tables that are within floodplains or where effluent cannot be adequately treated before it reaches streams or the ocean.*
- 1.128** *New development shall be sited and designed to provide an area for a backup soil absorption field in the event of failure of the first field.*
- 1.129** *Soils should not be compacted in the soil absorption field areas during construction. No vehicles should be parked over the soil absorption field or driven over the inlet and outlet pipes to the septic tank.*
- 3.130** *Subsurface sewage effluent dispersal fields shall be designed, sited, installed, operated, and maintained in soils having acceptable absorption characteristics determined either by percolation testing, or by soils analysis, or by both. No subsurface sewage effluent disposal fields shall be allowed beneath nonporous paving or surface covering.*
- 3.131** *New development shall include the installation of low-flow plumbing fixtures, including but not limited to flow-restricted showers and ultra-low flush toilets, and should avoid the use of garbage disposals to minimize hydraulic and/or organic overloading of the OSTS.*
- 3.132** *New development may include a separate greywater dispersal system where approved by the Building Safety Department.*

- 3.133** *New development shall include protective setbacks from surface waters, wetlands and floodplains for conventional or alternative OSTSS, as well as separation distances between OSTS system components, building components, property lines, and groundwater. Under no conditions shall the bottom of the effluent dispersal system be within five feet of groundwater.*
- 3.134** *The construction of private sewage treatment systems shall be permitted only in full compliance with the building and plumbing codes and the requirements of the LA RWQCB. A coastal development permit shall not be approved unless the private sewage treatment system for the project is sized and designed to serve the proposed development and will not result in adverse individual or cumulative impacts to water quality for the life of the project.*
- 3.138** *Applications for new development relying on an OSTS shall include a soils analysis and or percolation test report. Soils analysis shall be conducted by a California Registered Geotechnical Engineer or a California Registered Civil Engineer in the environmental/geotechnical field and the results expressed in United States Department of Agriculture classification terminology. Percolation tests shall be conducted by a California Registered Geologist, a California registered Geotechnical Engineer, a California Registered Civil Engineer, or a California Registered Environmental Health Specialist. The OSTS shall be designed, sited, installed, operated, and maintained in full compliance with the building and plumbing codes and the requirements of the LA RWQCB.*
- 3.139** *New septic systems shall be sited and designed to ensure that impacts to ESHA, including those impacts from grading and site disturbance and the introduction of increased amounts of groundwater, are minimized. Adequate setbacks and/or buffers shall be required to protect ESHA and other surface waters from lateral seepage from the sewage effluent dispersal systems.*
- 3.141** *Applications for a coastal development permit for OSTS installation and expansion, where groundwater, nearby surface drainages and slope stability are likely to be adversely impacted as a result of the projected effluent input to the subsurface, shall include a study prepared by a California Certified Engineering Geologist or Registered Geotechnical Engineer that analyzes the cumulative impact of the proposed OSTS on groundwater level, quality of nearby surface drainages, and slope stability. Where it is shown that the OSTS will negatively impact groundwater, nearby surface waters, or slope stability, the OSTS shall not be allowed.*

As described in detail above, the proposed project includes the remodel an existing single family residence consisting of primarily interior upgrades and exterior wall treatments. The applicant is also proposing to construct a detached 884 sq. ft. detached garage with a 988 sq. ft. basement/recreation room (732 sq. ft. rec. room, 256 sq. ft. mechanical room); convert an existing 364 sq. ft. accessory structure to a pool cabana; 7,200 sq. ft. sports court with 400 sq. ft. viewing deck; new septic system; pool and spa; and 1,105 cubic yards of grading (546 cu. yds. excavation, 260 cu. yds. cut and 389 cu. yds. fill).

As such, the proposed project will result in an increase of impervious surface on site, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. The Commission notes that this reduction in permeable surface leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation events. Changes in the stream flow result in modification to stream morphology. Additionally, grading, excavations and disturbance of the site from construction activities and runoff from impervious surfaces can

result in increased erosion of disturbed soils and in sedimentation of nearby coastal stream and waters.

In addition, pollutants commonly found in runoff associated with new development 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 and organic matter; fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use; nutrients from wastewater discharge, animal waste and crop residue; and bacteria and pathogens from wastewater discharge and 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 provides food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and human diseases such as hepatitis and dysentery. 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.

The LCP water quality policies cited above are designed to protect water quality and prevent pollution of surface, ground, and ocean waters. The Malibu LCP requires the preparation of a Storm Water Management Plan (SWMP) for all projects that require a coastal development permit or a Water Quality Mitigation Plan (WQMP) for new residential developments that involve one acre or more of disturbance or redevelopment projects that result in the creation or addition or replacement of 5,000 sq. ft. or more of impervious surface. A SWMP illustrates how the project will use appropriate site design and source control best management practices (BMPs) to minimize or prevent adverse effects of the project on water quality. A WQMP requires treatment control (or structural) BMPs, in addition to site design and source control BMPs that are required for a SWMP, to minimize or prevent the discharge of polluted runoff from a project site. . In this case, the project involves the creation or addition of more than 5,000 sq. ft. of impervious surface area on an already developed site. Therefore, pursuant to the requirements of the Malibu LCP, and to ensure the proposed project will not adversely impact water quality or coastal resources, the Commission finds it necessary to require the preparation of a WQMP for the subject site, that utilizes site design, source control and treatment control BMPs, as specified in **Special Condition No. Two (2)**.

Furthermore, erosion control and storm water pollution prevention measures implemented during construction will serve to minimize the potential for adverse impacts to water quality resulting from runoff during construction. The Malibu LCP requires that a Local Storm Water Pollution Prevention Plan (SWPPP) be prepared for all development that requires a Coastal Development Permit and a grading or building permit, and it shall apply to the construction phase of the project. The SWPPP includes measures and BMPs to prevent erosion, sedimentation and pollution of surface and ocean waters from construction and grading activities. In this case, the proposed project does involve grading and construction that requires grading and building permits. Therefore, pursuant to the Malibu LCP and to ensure the proposed development does not adversely impact water quality or coastal resources during the construction phase of the project, the Commission finds it necessary to require the applicant to

submit a Local SWPPP for the subject site, consistent with the requirements specified in **Special Condition No. Two (2)**.

Finally, the proposed development includes the upgrade of an on site wastewater treatment system (OSTS) to serve the residence. The applicant is proposing to replace an existing 1,200 gallon septic tank with a new 3,000 gallon tank with a effluent filter. The Malibu LCP includes a number of policies and standards relative to the design, siting, installation, operation and maintenance of OSTs to ensure these systems do not adversely impact coastal waters. The proposed upgrades to the existing OSTs were previously reviewed and approved in concept by the City of Malibu Environmental Health Department, determining that the system meets the requirements of the plumbing code. However, with the recent adoption of the Malibu LUP, new more stringent standards regarding the siting, design, installation, operation and maintenance of OSTs have been established. Therefore, the Commission finds that it is necessary to require the applicant to submit a report and plans prepared by a qualified professional, that have been reviewed and approved by the City of Malibu Environmental Health Department, verifying the proposed septic system complies with the siting, design, installation, operation and maintenance requirements specified in **Special Condition No. Seven (7)**.

In addition, in order to ensure the OSTs is maintained and monitored in the future to prevent system failures or inadequate system performance, the Malibu LCP includes policies and standards requiring the regular maintenance and monitoring of the OSTs. Therefore, the Commission finds that it is necessary to require the applicant to submit verification that they have obtained a monitoring, operation and maintenance permit from the City, as outlined in **Special Condition No. Seven (7)**.

As stated previously, the proposed project includes a swimming pool. Malibu LUP policies 3.95 and 3.96 require that new development shall be sited and designed to protect water quality and not result in the degradation of surface waters, including the ocean, coastal streams or wetlands. There is the potential for swimming pools to have deleterious effects on aquatic habitat if not properly maintained and drained. In addition, chlorine and other chemicals are commonly added to pools and spas to maintain water clarity, quality, and pH levels. Further, both leakage and periodic maintenance of the proposed pool, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing instability of the site and adjacent properties and may result in the transport of chemicals, such as chlorine, into coastal waters, adversely impacting sensitive riparian, wetland and marine habitats. Therefore, in order to minimize potential adverse impacts from the proposed swimming pool, the Commission finds it is necessary to require the applicant to submit a pool drainage and maintenance plan, as detailed in **Special Condition Eight (8)**.

Finally, **Special Condition No. Eleven (11)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The Commission finds that based on the above findings the proposed project, as conditioned, will not result in adverse impacts to water quality and is consistent with the Malibu LCP.

E. Cumulative Impacts

The Malibu LCP policies address new residential development. The maximum number of structures allowed in a residential development is one main residence, one second residential structure, and additional accessory structures provided that all such structures are located within the approved development area and clustered to minimize required fuel modification, landform alteration, and removal of native vegetation. In addition, the LCP limits the size of second residential units to 900 square feet.

Sections 3025) and 30252 of the Coastal Act, which are incorporated as a policies of the Malibu LCP, state:

Section 30250 (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:

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.

In addition, the following LCP policies are applicable in his case:

- 5.21 *The maximum number of structures permitted in a residential development shall be limited to one main residence, one second residential structure, and accessory structures such as stable, workshop, gym, studio, pool cabana, office, or tennis court provided that all such structures are located within the approved development area and structures are clustered to minimize required fuel modification.*
- 5.22 *Second residential units (guesthouses, granny units, etc.) shall be limited in size to a maximum of 900 square feet. The maximum square footage shall include the total floor area of all enclosed space, including lofts, mezzanines, and storage areas. Detached garages, including garages provided as part of a second residential unit, shall not exceed 400 square feet (2-car) maximum. The area of a garage provided as part of a second residential unit shall not be included in the 900 square foot limit.*

5.24 New development of a second residential unit or other accessory structure that includes plumbing facilities shall demonstrate that adequate private sewage disposal can be provided on the project site consistent with all of the policies of the LCP.

Pursuant to LCP policies cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of additional detached residential units and accessory structures on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates potential additional demands on public services, such as water, sewage, electricity, and roads. Thus, second residential units and accessory structures pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. The applicant is proposing to construct a new remodel an existing 364 sq. ft. accessory building into a pool cabana; construct a new 988 sq. ft. basement recreation/mechanical room (732 sq. ft. rec. room, 256 sq. ft. mechanical room) under the garage and install a new 7,200 sq. ft. sports court.

The adopted Malibu LCP limits the size of second residential units to 900 sq. ft. In its review and action on the Malibu LCP, the Commission found that placing an upper limit on the size of second units (900 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 (900 sq. ft.) and the fact that they are intended for limited residential use, 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.

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.

The proposed pool cabana and basement recreation room are not intended to be second residential units. However, the Commission notes that in the event that any of the proposed structures were to be converted to residential use in the future, such conversion would significantly intensify the use of this property and result in significant adverse cumulative impacts to coastal resources. Furthermore, additions or improvements to the detached structures could easily convert to additional residential square footage, beyond the allowable 900 sq. ft. square footage limit in the Malibu LCP. Therefore, in order to ensure that any modifications or additions to the proposed accessory structure are reviewed by the Commission, **Special Condition No. Four (4)** has been imposed. Special Condition Four requires the applicant to obtain an amended or new coastal permit if any additions or improvements to the proposed non-habitable accessory structures on the property are proposed in the future.

In addition, the proposed detached garage, pool cabana and sports court are sport court accessory structures do not result in the expansion of the fuel modification zones in this case because of overlapping fuel modification zones from adjacent development and the intensely developed nature of the this stretch of Pacific Coast Highway.

Finally, **Special Condition No. Eleven (11)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

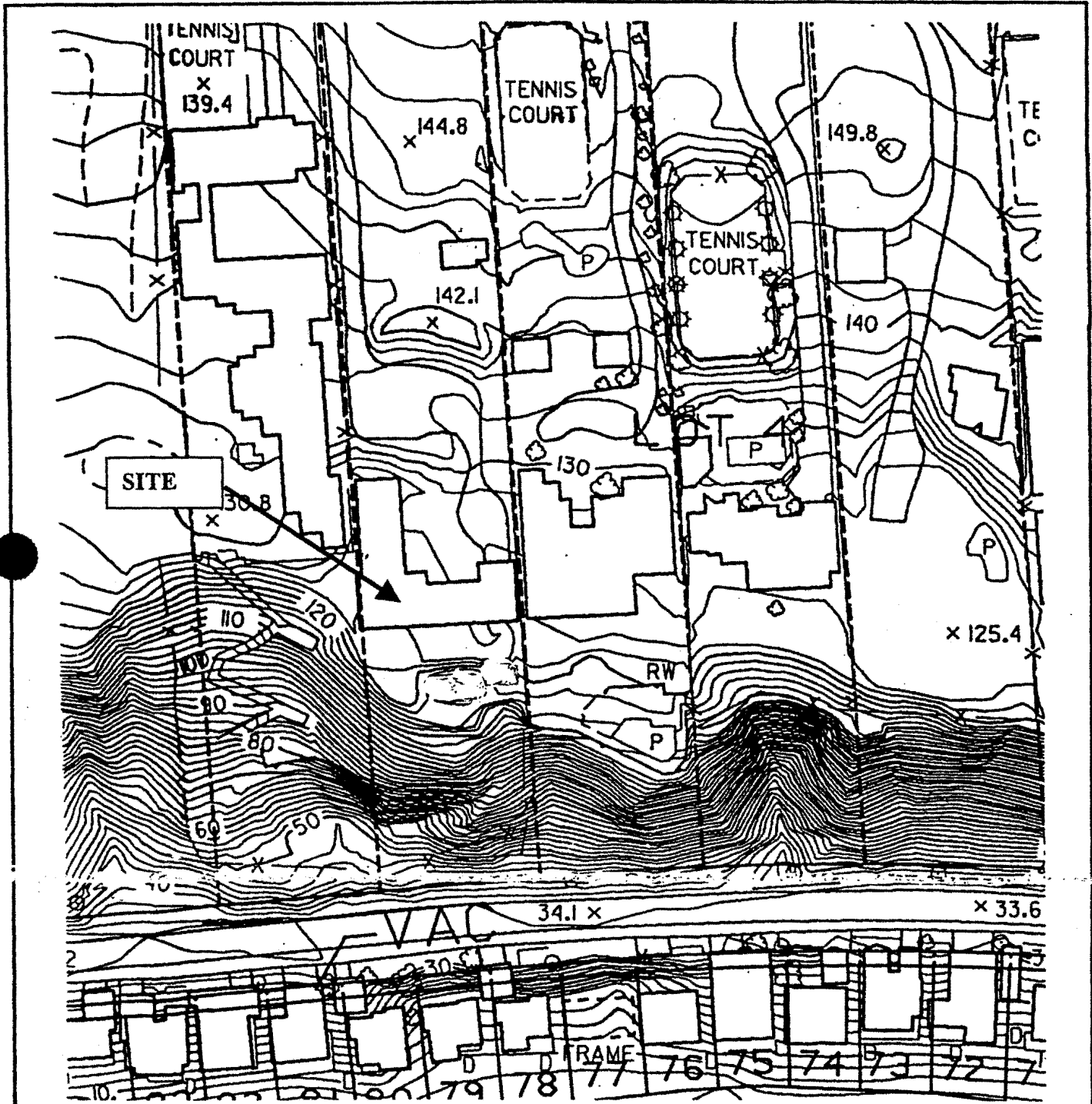
Therefore, as conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with applicable policies of the Malibu LCP.

F. California Environmental Quality Act

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

The Commission finds that, the proposed project, as conditioned, will not have any 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.

LOCATION



Reference:	Montgomery Topographic Map Sheet No. 40	Scale: 1" = 100'
Project Address:	24840 Pacific Coast Highway Malibu, California	

PREPARED BY:
DAVID R. GRAY, INC.
 2510-G LAS POSAS ROAD PMB 455
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 805-987-3945 805-987-1655 FAX

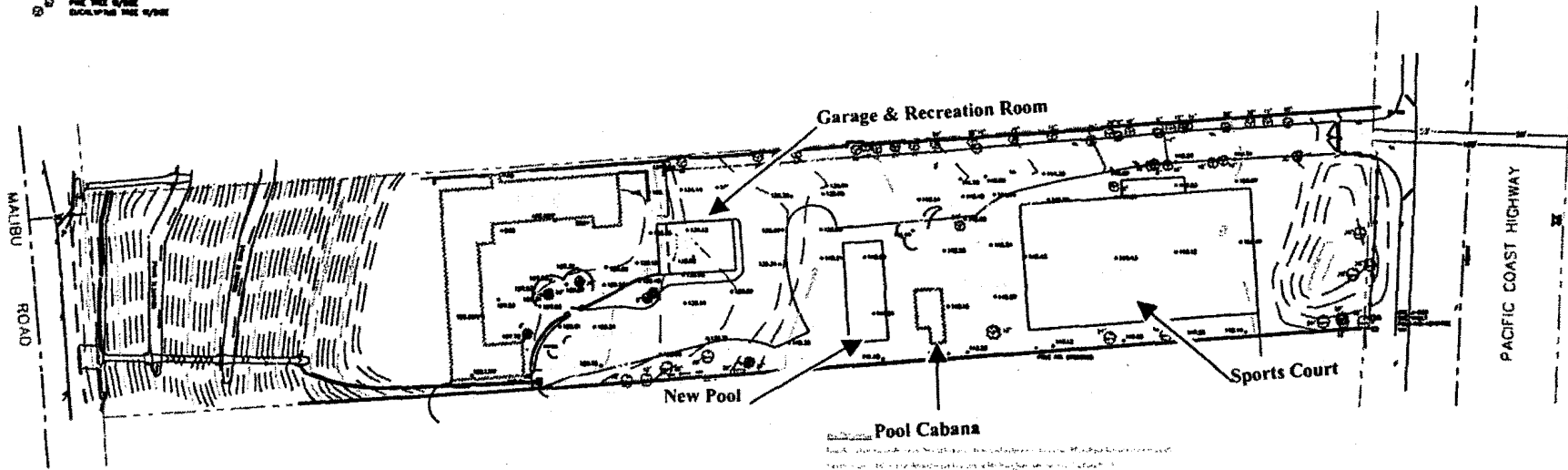
PREPARED FOR:
ERIC T. FISHBURN, INC.
 11264 LA GRANGE AVENUE
 LOS ANGELES, CALIFORNIA 90025

Site Plan
JOHNSON RESIDENCE
 24840 PACIFIC COAST HIGHWAY
 MALIBU, CALIFORNIA 90265



LEGEND:

- ADAPTAL
- CONCRETE
- TOP OF WALL
- ASPH PAV
- STREET LIGHT
- MAIL BOX
- OVERHEAD
- UNDERGROUND
- SEWER CLEAN OUT
- AREA LIGHT
- CABLE TELEVISION
- CATCH BASIN
- EDGE OF WALL
- PARKED FLOOR
- TOP OF CURB
- FLOORING
- WATER METEOR
- SEWER METER
- GAS METER
- ELECTRIC
- SOUTHERN CALIFORNIA Edison
- FIRE HYDRANT
- STREET SIGN
- CONCRETE BLOCK WALL
- CHAIN LINK OR WOOD FENCE
- PROPERTY LINE
- CONCRETE
- CONCRETE LINE
- EDGE OF ASPHALT PAVEMENT
- DIRECTION OF FLOW
- IRREG. SURFACE
- PAVE TREE SURFACE
- EXPOSED TREE SURFACE



SURVEYOR'S NOTES:

1. DATE OF SURVEY: 10-10-2000
2. INSTRUMENTS: SURVEYING TOTAL STATION & GPS RECEIVER
3. PROPERTY BOUNDARY SURVEY OF SITE REPORT
4. SEE EXHIBIT 1 FOR SURVEY NOTES
5. ALL DISTANCES SHOWN ARE IN FEET
6. ALL EXISTING UTILITIES SHOWN ARE AS LOCATED TO THE AREA WITHIN THE SPATIAL DATUM SYSTEM. ALL EXISTING UTILITIES AND FEATURES SHOWN HEREON ARE BASED ON THE SPATIAL DATUM SYSTEM. THE SPATIAL DATUM SYSTEM IS THE NAD 83 DATUM SYSTEM. THE SPATIAL DATUM SYSTEM IS THE NAD 83 DATUM SYSTEM. THE SPATIAL DATUM SYSTEM IS THE NAD 83 DATUM SYSTEM.

Pool Cabana

1. The Pool Cabana is located on the south side of the New Pool. It is a rectangular structure with a flat roof and a concrete base. The Pool Cabana is situated on a paved area. The Pool Cabana is situated on a paved area. The Pool Cabana is situated on a paved area.

2. The Pool Cabana is located on the south side of the New Pool. It is a rectangular structure with a flat roof and a concrete base. The Pool Cabana is situated on a paved area. The Pool Cabana is situated on a paved area. The Pool Cabana is situated on a paved area.

3. The Pool Cabana is located on the south side of the New Pool. It is a rectangular structure with a flat roof and a concrete base. The Pool Cabana is situated on a paved area. The Pool Cabana is situated on a paved area. The Pool Cabana is situated on a paved area.

4. The Pool Cabana is located on the south side of the New Pool. It is a rectangular structure with a flat roof and a concrete base. The Pool Cabana is situated on a paved area. The Pool Cabana is situated on a paved area. The Pool Cabana is situated on a paved area.

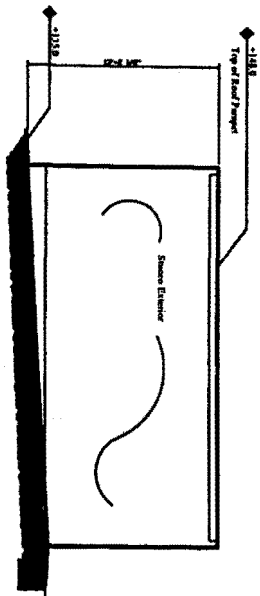
5. The Pool Cabana is located on the south side of the New Pool. It is a rectangular structure with a flat roof and a concrete base. The Pool Cabana is situated on a paved area. The Pool Cabana is situated on a paved area. The Pool Cabana is situated on a paved area.

Exhibit 3
 CDP 4-02-118
 Site Plan

SITE PLAN / NOTES

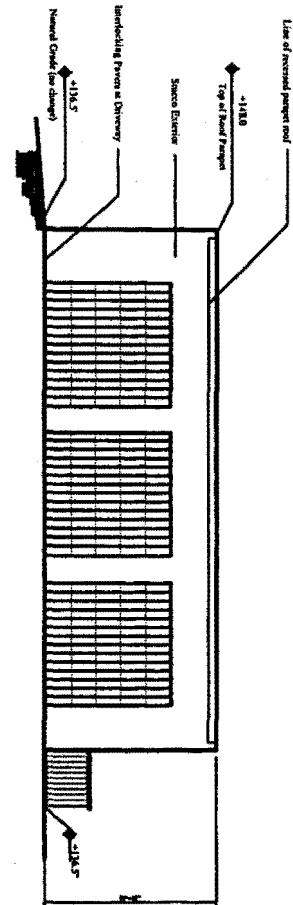
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 CALIFORNIA

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NO.	DATE



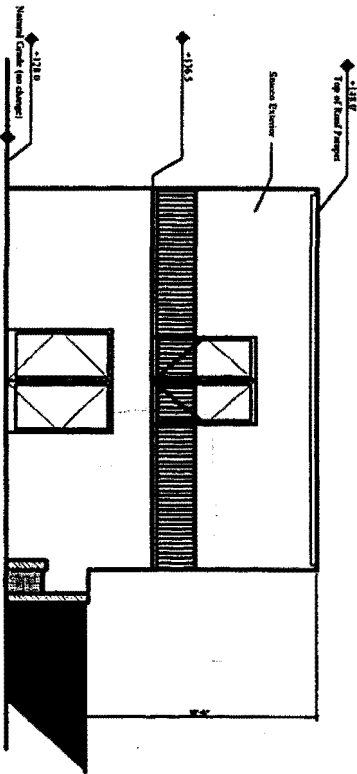
North Elevation

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



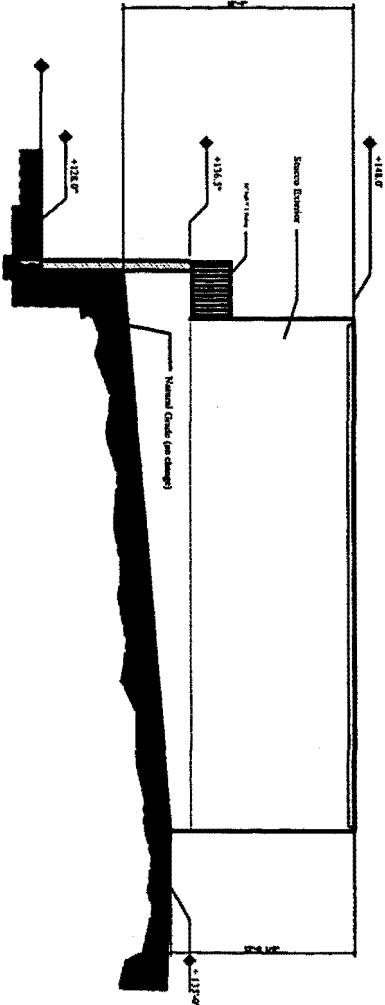
East Elevation

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



South Elevation

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



West Elevation

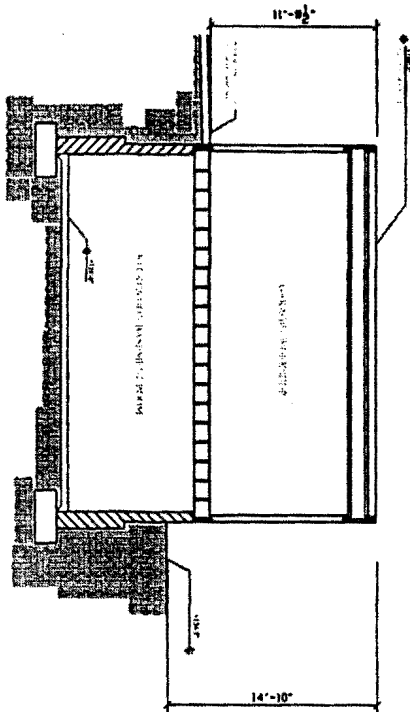
Scale: 1/8" = 1'-0"

Exhibit 5
CDP 4-02-118
Elevations of Garage and Recreation Room.

ELEVATIONS

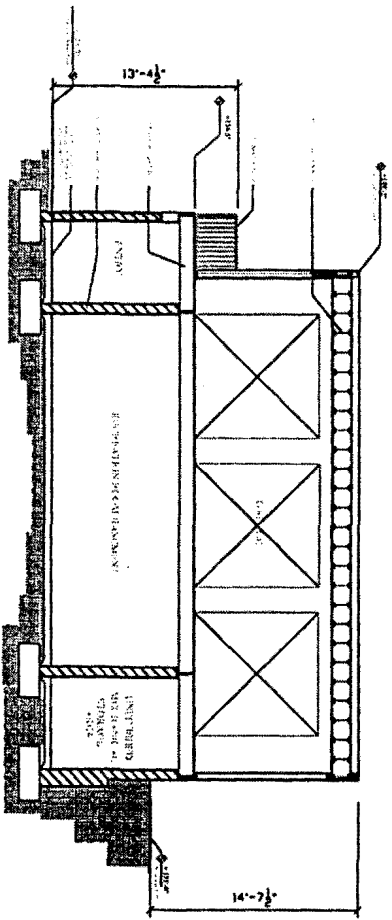
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 MALIBU
 CALIFORNIA

DATE: 01/11/11
 TIME: 10:00 AM
 DRAWN BY: [illegible]
 CHECKED BY: [illegible]



Building Section X

Scale 1/4" = 1'-0"



Building Section Y

Scale 1/4" = 1'-0"

Exhibit 6
CDP 4-99-086-A1
Cross Section of Garage Recreation Room

BUILDING SECTIONS	
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CITY OF KALIBUR CALIFORNIA	
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DATE	BY	CHECKED	DATE

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