

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST AREA  
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Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.:** 4-02-124**APPLICANTS:** George Shakiban**AGENT:** Gabriel Baron**PROJECT LOCATION:** 6255 Zumirez Drive, Malibu, Los Angeles County**PROJECT DESCRIPTION:** Construction of a two-story, 28 foot high, 8,010 sq. ft. single family residence, with attached three-car garage, septic system, swimming pool and spa, fence, entry gate, driveway, and no grading.

<b>Lot area:</b>	83,641 square feet
<b>Building coverage:</b>	5,152 square feet
<b>Pavement coverage:</b>	8,487 square feet
<b>Landscape coverage:</b>	23,461 square feet
<b>Unimproved:</b>	46,541 square feet

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department, Approval in Concept, May 28, 2002; County of Los Angeles Fire Department (Access), Approval in Concept, July 3, 2002; City of Malibu Environmental Health, Approval in Concept, January 24, 2002; City of Malibu Biology Review, Approval in Concept, November 29, 2001; City of Malibu Geology Review, Approval in Concept, December 13, 2001; County of Los Angeles Fire Department, Fuel Modification Plan, Preliminary Approval, June 4, 2002.**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu Local Coastal Program; "Initial Archaeological Evaluation of Tentative Parcel Map No. 20470 (6225, 6255, and 6275 Zumirez Drive) in the City of Malibu, Los Angeles County, California," by Pacific Archaeological Sciences Team, February 2002; "Geologic and Geotechnical Engineering Report Update, Proposed Single Family Residences, Lots 1-3, Tract 20470, 6225, 6255, and 6275 Zumirez Drive, Malibu, California," by C.Y. Geotech, Inc., July 10, 2001; "Rough Grading Geologic Report for Lots 1-3 of Parcel Map 20470 (6225, 6255, and 6275 Zumirez Road) and Response to Geology and Geotechnical Engineering Review Sheet Dated 8-15-01 for Proposed Residence at 6225 Zumirez Road, Malibu, California," by Donald B. Kowalewsky, November 15, 2001.

## **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed project with ten (10) special conditions regarding conformance with geologic recommendations; erosion control, drainage and polluted runoff control plans; landscaping plans; pool drainage and maintenance; on-site wastewater treatment system requirements; assumption of risk; future development restriction; structural appearance; lighting restrictions; and deed restriction.

### **I. STAFF RECOMMENDATION**

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 4-02-124 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 permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall

be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

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

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

### III. **SPECIAL CONDITIONS**

#### 1. **Plans Conforming to Geologic Recommendations**

All recommendations contained in the submitted geologic reports ("Geologic and Geotechnical Engineering Report Update, Proposed Single Family Residences, Lots 1-3, Tract 20470, 6225, 6255, and 6275 Zumirez Drive, Malibu, California," by C.Y. Geotech, Inc., July 10, 2001; "Rough Grading Geologic Report for Lots 1-3 of Parcel Map 20470 (6225, 6255, and 6275 Zumirez Road) and Response to Geology and Geotechnical Engineering Review Sheet Dated 8-15-01 for Proposed Residence at 6225 Zumirez Road, Malibu, California," by Donald B. Kowalewsky, November 15, 2001) shall be incorporated into all final design and construction including foundations, grading, and drainage. Final plans must be reviewed and approved by the project's consulting geotechnical engineer. Prior to the issuance of the Coastal Development Permit, the applicants shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require an amendment to the permit or a new Coastal Development 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, gulying 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 85<sup>th</sup> percentile, 24-hour storm event for volume-based BMPs and/or the 85<sup>th</sup> 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**

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. 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, at a minimum prohibit discharge of chlorinated or 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.

#### **5. 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.

#### **6. 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 liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire; (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.

#### **7. Future Development Restriction**

This permit is only for the development described in coastal development permit 4-02-124. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by coastal development permit 4-02-124. Accordingly, any future improvements to the single family house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit 4-02-124 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

#### **8. Lighting Restrictions**

- A. The only outdoor night lighting allowed on the subject parcel is limited to the following:
1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
  2. Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
  3. The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60-watt incandescent bulb.
- B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

#### **9. Structural Appearance**

The color of the structure and roof permitted hereby shall be restricted to a color compatible with the surrounding environment (California tones shall not be acceptable). All windows shall be comprised of non-glare glass.



## 10. Deed Restriction

PRIOR TO 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 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 (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and 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 applicant's entire parcel or parcels. 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 applicants are proposing to construct a two-story, 28 foot high, 8,010 sq. ft. single family residence, with attached three-car garage, septic system, swimming pool and spa, fence, entry gate, driveway, and no grading. (**Exhibits 3-6**).

The approximately 1.9 acre project site is located on the eastern slope of Walnut Canyon adjacent to Zumirez Drive in the City of Malibu, Los Angeles County. The site consists of a level building pad adjacent to and approximately 8 feet below Zumirez Drive, and slopes that descend southwesterly, at gradients up to 1.5:1, to Walnut Creek. Walnut Creek has been designated a blueline stream by the U.S. Geological Survey.

Vegetation on the descending slopes consists primarily of native coastal sage scrub, vegetation, as well as exotic and native annual grasses and shrubs. Commission staff biologists and the City of Malibu biologist visited Walnut Canyon during preparation of the City of Malibu Local Coastal Program and determined that the disturbed riparian

habitat in the canyon bottom did not warrant an environmentally sensitive habitat area (ESHA) determination.

The building pad was created as part of a three-lot subdivision approved under Coastal Development Permit No. 5-89-1064 (Assael). The as-built building pad differs from the pad approved under CDP 5-89-1064 (**Exhibit 7**). Specifically, the as-built pad is larger and extends further west (towards Walnut Creek) than the approved pad.

The proposed project will be visible from Pacific Coast Highway, a designated scenic highway in the City of Malibu LCP (**Exhibit 9**). An Initial Evaluation of cultural resources was done for the subject site and proposed development, which indicated that no prehistoric or historic archaeological resources were encountered within the project area.

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 and Geologic Stability**

The proposed development is located in Malibu, an area generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to 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.**
- 4.6. Grading and/or development-related vegetation clearance shall be prohibited where the slope exceeds 40 percent (2.5:1), except that driveways and/or utilities may be located on such slopes, where there is no less environmentally damaging feasible alternative means of providing access to a building site, provided that the building site is determined to be the preferred alternative and consistent with all other policies of the LCP.**
- 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.**
- 4.49. 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 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 C.Y. Geotech, Inc. report dated July 10, 2001 concludes:

*Provided the recommendations in this report are properly incorporated into design and implemented during construction, the proposed single family residences will be safe from geologic hazards including landslide, settlement, slippage and liquefaction and the development of the proposed single family residences will not adversely affect the geologic stability of adjacent properties.*

In addition, the report by Donald B. Kowalewsky dated November 15, 2001, states:

*It is this opinion of the undersigned engineering geologist and civil engineer that the grading that has been performed has not adversely affected offsite properties. In addition, proposed minor grading and development of each of the three lots with residential structures, retaining walls, swimming pools and onsite septic systems in accordance with the recommendations provided in this document and the report by C.Y. Geotech, Inc. (7-10-01) will be safe from risks from landslide, damaging settlement, or slippage. Site construction will not adversely affect geologic stability of offsite properties.*

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 reports ["Geologic and Geotechnical Engineering Report Update, Proposed Single Family Residences, Lots 1-3, Tract 20470, 6225, 6255, and 6275 Zumirez Drive, Malibu, California," by C.Y. Geotech, Inc., July 10, 2001; "Rough Grading Geologic Report for Lots 1-3 of Parcel Map 20470 (6225, 6255, and 6275 Zumirez Road) and Response to Geology and Geotechnical Engineering Review Sheet Dated 8-15-01 for Proposed Residence at 6225 Zumirez Road, Malibu, California," by Donald B. Kowalewsky, November 15, 2001] include 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 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 November 15, 2001 report by Donald Kowalewsky notes that a landslide scar and geologic "Restricted Use Area" are located approximately 200 feet northwest of the proposed building site. The Commission further notes that because there remains some inherent risk in building on hillside sites, such as the subject site, that are adjacent to historic landslides, 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 Six (6)**. 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/foliage 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/foliage weight and shallow root structures do not serve to stabilize slopes 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

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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 Zone A, as designated on the fuel modification plan, non-invasive ornamental plants are acceptable. Typically, Zone A is a small 20 –30 foot irrigated zone immediately surrounding the structure. Therefore, in order to ensure the stability and geotechnical safety of the site, **Special Condition 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 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 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.

Finally, **Special Condition Ten (10)** 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. Stream and Habitat Protection

The proposed development is located on a previously approved building pad cut into the eastern slope of Walnut Canyon, which contains a USGS mapped blueline stream. The building pad is sparsely vegetated; however, the canyon slopes contain coastal sage scrub habitat as well as exotic and native annual grasses and shrubs. Commission staff biologists and the City of Malibu biologist visited Walnut Canyon during preparation of the City of Malibu Local Coastal Program and determined that the disturbed riparian habitat in the canyon bottom did not warrant an environmentally sensitive habitat area (ESHA) determination. Runoff from the site travels down the

canyon slopes toward Walnut Creek. Walnut Creek flows into the ocean approximately one mile southeast of the subject site.

The Malibu Local Coastal Program (LCP) contains the following development policies related to protection of streams and habitat that are applicable to the proposed development:

Section 30231 of the Coastal Act, which is incorporated as part of the Malibu LCP, states:

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

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


**3.45** *All new development shall be sited and designed so as to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation, reduced water percolation, increased runoff, and adverse impacts on plant and animal life and prevent net increases in baseline flows for any receiving waterbody.*

**3.59** *All new development shall be sited and designed to minimize required fuel modification and brushing to the maximum extent feasible in order to minimize habitat disturbance or destruction, removal or modification of natural vegetation, and irrigation of natural areas, while providing for fire safety, as required by Policies 4.45 through 4.54. Development shall utilize fire resistant materials and incorporate alternative fuel modification measures, such as firewalls (except where this would have impacts on visual resources), and landscaping techniques, where feasible, to minimize the total area modified. All development shall be subject to applicable federal, state and county fire protection requirements.*

**3.63** *New development shall be sited and designed to preserve oak, walnut, sycamore, alder, toyon, or other native trees that are not otherwise protected as ESHA. Removal of native trees shall be prohibited except where no other feasible alternative exists. Structures, including roads or driveways, shall be sited to prevent any encroachment into the root zone of individual native trees in order to allow for future growth.*

The Malibu LCP requires new development to be sited and designed to minimize grading, alteration of physical features, vegetation clearance and habitat disturbance in order to prevent impacts to coastal waters and plant and animal life. The project site is located on the eastern slope of Walnut Canyon, which contains coastal sage scrub vegetation, as well as exotic and native annual grasses and shrubs. Commission staff biologists and the City of Malibu biologist visited Walnut Canyon during preparation of

the City of Malibu Local Coastal Program and determined that the disturbed riparian habitat in the canyon bottom did not warrant an environmentally sensitive habitat area (ESHA) determination. Runoff from the site travels down the canyon slopes toward Walnut Creek, a USGS designated blue line stream. Walnut Creek is a U.S. Geological Survey designated blueline stream.

As noted above, the proposed development is located on an existing building pad previously approved by the Commission (5-89-1064, Assael). Although the as-built pad is larger than that approved under CDP 5-89-1064, the additional pad area is located adjacent to an existing building pad on the lot immediately north of the subject site, and does not extend the development envelope down the hillside. The proposed development on the additional pad area will be limited to a swimming pool, spa and patio area, which will not require the extension of fuel modification or brush clearance requirements. Furthermore, the required 200-foot brush clearance radius overlaps almost entirely with brush clearance radii for proposed development on adjacent properties (Exhibit ).

The siting of the development on the existing building pad, adjacent to Zumirez Drive, minimizes grading and alteration of physical features, and clusters development adjacent to existing approved building pads in a way that will cumulatively minimize the impacts of brush clearance and fuel modification.

The proposed development will be set back approximately 300 feet from the blue line stream and the associated riparian area, and approximately 10 feet from the top of the canyon slope. The proposed location of the residence will establish a 200-foot brush clearance radius that will extend down the canyon slopes, but will avoid the riparian area (**Exhibit 2**). The brush clearance radius largely overlaps with radii established by proposed and existing structures to the south and east, and will not result in significant additional clearance of native vegetation. The siting of the proposed development on the existing building pad, while minimizing grading and landform alteration, also serves to cluster development in a way that will cumulatively minimize the impacts of brush clearance and fuel modification.

The applicants have submitted a preliminary fuel modification plan that has been approved in concept by the County of Los Angeles Fire Department. The plan indicates that Fuel Modification Zone A will extend 20 feet from the structure; Zone B will extend an additional approximately 50 feet down the canyon slope; and Zone C will extend approximately 80 feet further. To ensure the most minimal disturbance feasible of the surrounding native vegetation, **Special Condition Three (3)** requires the applicants to submit a final long-term fuel modification plan for the review and approval of the Executive Director.

To ensure that the site is planted with native vegetation, **Special Condition Three (3)** requires a landscape plan comprised primarily of native plant species. The landscaping of the disturbed areas of the subject site, particularly with respect to particularly steep slopes, with native plant species will assist in preventing erosion and the displacement



of native plant species by non-native or invasive species. The landscape and fuel modification plan required under **Special Condition Three (3)** will also mitigate adverse impacts to native vegetation, surrounding resources, and water quality.

In addition, **Special Condition Two (2)** requires the applicant to submit erosion, drainage and polluted runoff control plans for the proposed development, as discussed in Section D. below. Implementation of **Special Condition Two (2)** will serve to minimize impacts to the water quality of the blue line stream below the project site, both during and after construction, consistent with the coastal waters protection policies of the Malibu LCP. The Commission finds that **Special Conditions Two (2)** and **Three (3)** are necessary to ensure the proposed development will minimize impacts to water quality and native vegetation.

Stream corridors and dense native cover, such as found on the project site, serve as habitat and migration corridors for wildlife. The Commission has found that 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 Eight (8)**.

In addition, **Special Condition Seven (7)** addresses future development by ensuring that all future development proposals for the site, which might otherwise be exempt from review, would require prior review so that potential impacts to this sensitive habitat area may adequately be considered. Finally, **Special Condition Nine (9)** 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 habitat and streams and is consistent with 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 30231 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:

**3.2 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.***

**3.3 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.**

**3.4 Development must be designed to minimize, to the maximum extent feasible, the introduction of pollutants of concern<sup>1</sup> 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.**

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<sup>1</sup> 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".

- 3.5 **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.**
- 3.6 **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.**
- 3.7 **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 85<sup>th</sup> percentile, 24-hour storm event for volume-based BMPs and/or the 85<sup>th</sup> 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.**
- 3.8 **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.**
- 3.9 **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.**
- 3.10 **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.**
- 3.11 **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 needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, should be carried out prior to the next rainy season.**
- 3.12 **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.**
- 3.13 **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.**

- 3.14 ***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.***
- 3.15 ***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.***
- 3.16 ***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.***
- 3.17 ***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.***
- 3.18 ***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.***
- 3.19 ***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.***
- 3.20 ***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.***
- 3.21 ***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.***
- 3.22 ***New development may include a separate greywater dispersal system where approved by the Building Safety Department.***
- 3.23 ***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.***
- 3.24 ***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.***
- 3.25 ***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.**

- 3.26 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.**
- 3.27 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 construction of a two-story, 28 foot high, 8,010 sq. ft. single family residence, with attached three-car garage, septic system, swimming pool and spa, fence, entry gate, driveway, and no grading.

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 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 install 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 Five (5)**.

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 Five (5)**.

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 Four (4)**.

Finally, **Special Condition Ten (10)** 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. 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 **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.**
- 6.20 **New development on properties visible from and inland of Pacific Coast Highway shall be sited and designed to protect public views of the ridgelines and natural features of the Santa Monica Mountains through measures including, but no limited to, restricting the building maximum size, reducing maximum height limits, clustering development, and restricting the height and bulk of structures.**
- 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 landward of Pacific Coast Highway in Malibu just north of Point Dume. 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. 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 be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. The proposed development is located less than ½ mile inland of Pacific Coast Highway. Intervening topography and existing residential development block most views of the proposed development from the highway; however, story poles erected on the site were briefly visible from the eastbound lane of Pacific Coast Highway just west of Zumirez Drive.

As noted above, the height of the proposed two-story residence is 28 feet. The Malibu LCP allows structures with pitched roofs to be up to 28 feet high, if found appropriate through Site Plan Review. Policy 13.27.5 of the Malibu LIP requires the following findings for approval through Site Plan Review:

1. That the project is consistent with policies and provisions of the Malibu LCP;
2. That the project does not adversely affect neighborhood character;
3. That the project provides maximum feasible protection to significant public views as required by Chapter 6 of the Malibu LIP.

As detailed in this report, the proposed project as conditioned is consistent with policies and provisions of the Malibu LCP. The proposed project is located within a substantially developed neighborhood with residences of similar bulk and size. The proposed project does not obstruct significant public views, such as the ridgeline or natural features of the Santa Monica Mountains, and is located in a largely developed inland area on the coastal terrace, which, under Policy 6.4, is not considered a Scenic Area. Reduction in the height of the residence would not significantly reduce the visibility of the project.

However, several measures can be employed to minimize the visibility of the project. The use of non-glare glass and colors compatible with the natural background, as well as minimal use of outdoor night lighting, will help to ensure that the proposed project blends with its surroundings to the maximum extent feasible. 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 6.23 of the Malibu LCP specifically requires exterior lighting to be minimized, and Policy 6.24 of the Malibu LCP requires new development in areas visible from scenic roads to incorporate colors and materials that are compatible with the surrounding landscape. Therefore, **Special Condition Seven (7)** restricts the use of colors to a natural background palette and requires the use of non-glare glass on the site. **Special Condition Eight (8)** restricts the use of outdoor night lighting to the minimum necessary for safety purposes.

In addition, 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 Seven (7)**. Finally, **Special Condition Ten (10)** 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.

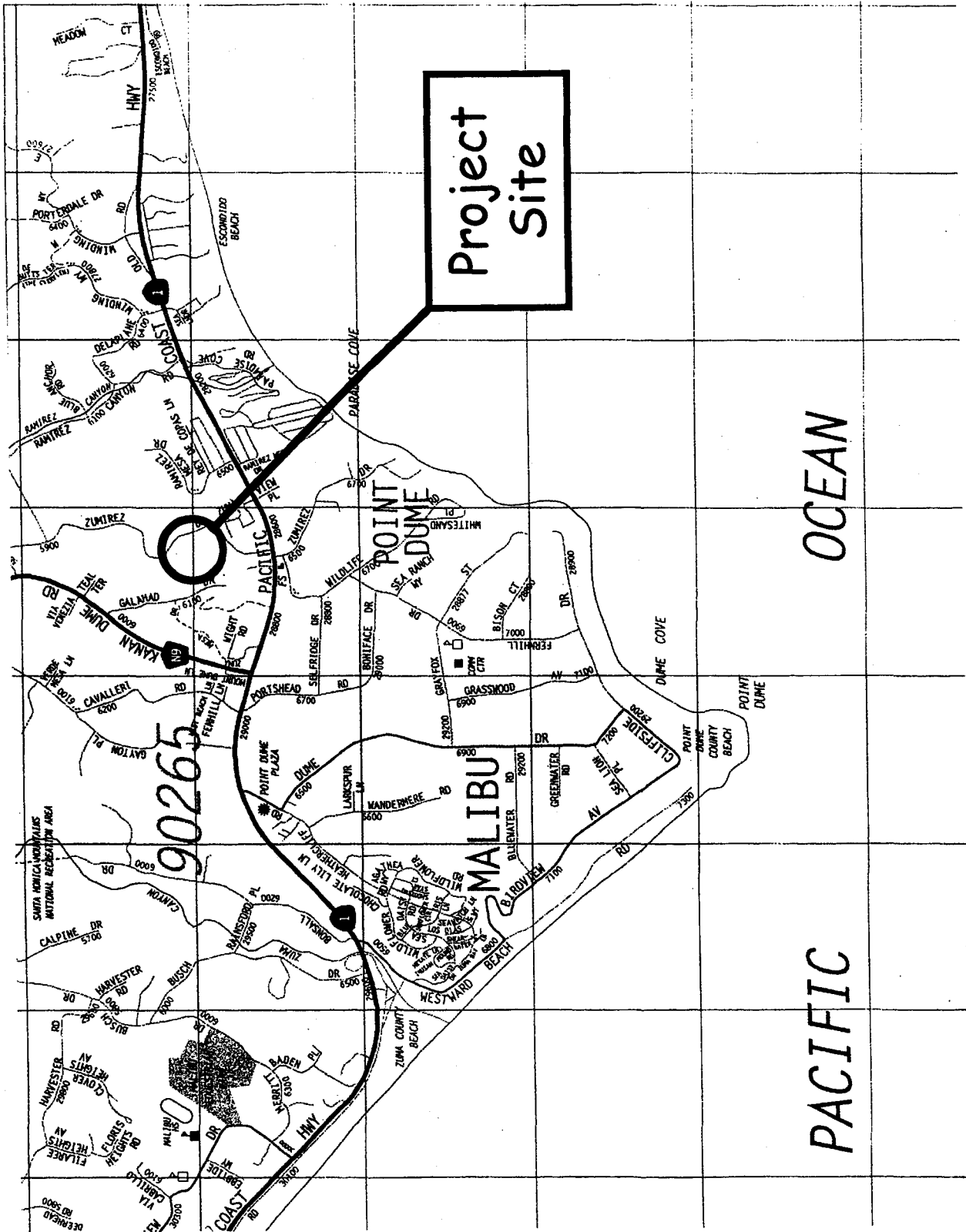
In summary, the proposed project, as conditioned, will not result in a significant adverse impact to the scenic public views or the character of the surrounding area in this portion of Malibu. In addition, the project, as conditioned is the least environmentally damaging alternative and there are no 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.

#### **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 Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that the proposed project, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned,

has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.



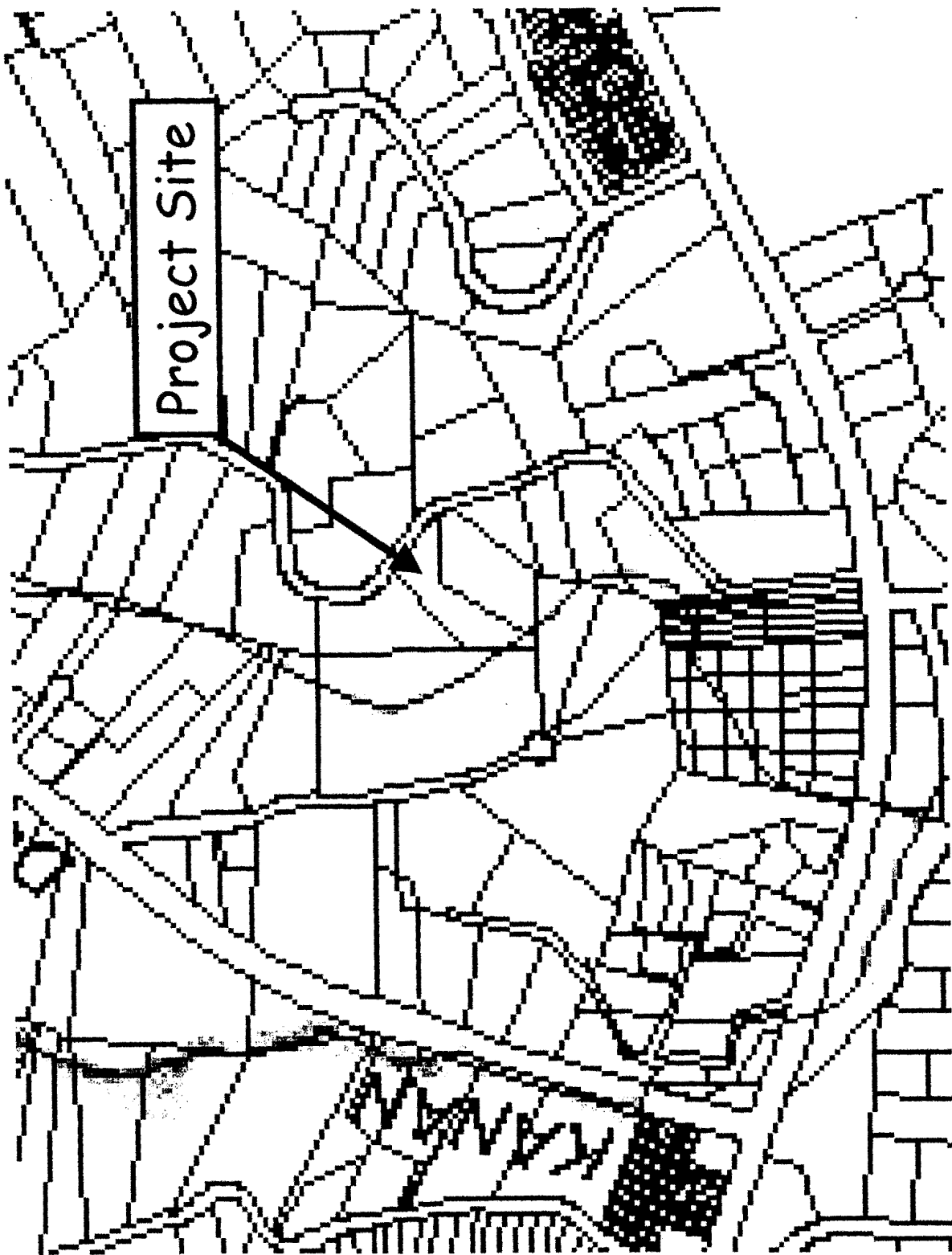
Project Site

90265

OCEAN

PACIFIC

EXHIBIT NO. 1
APPLICATION NO.
4-02-124
VICINITY MAP



Project Site

EXHIBIT NO. 2

APPLICATION NO.

4-02-124

COASTAL RESOURCE

**SITE PLAN NOTES**

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCES AND THE CALIFORNIA BUILDING CODE (CBC).

2. THE PROPOSED STRUCTURE SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCES AND THE CALIFORNIA BUILDING CODE (CBC).

3. THE PROPOSED STRUCTURE SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCES AND THE CALIFORNIA BUILDING CODE (CBC).

4. THE PROPOSED STRUCTURE SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCES AND THE CALIFORNIA BUILDING CODE (CBC).

5. THE PROPOSED STRUCTURE SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCES AND THE CALIFORNIA BUILDING CODE (CBC).

**FIRE DEPARTMENT NOTES**

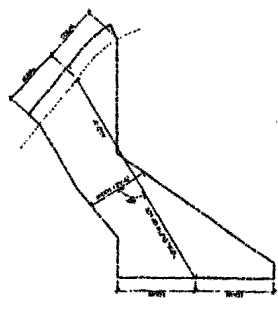
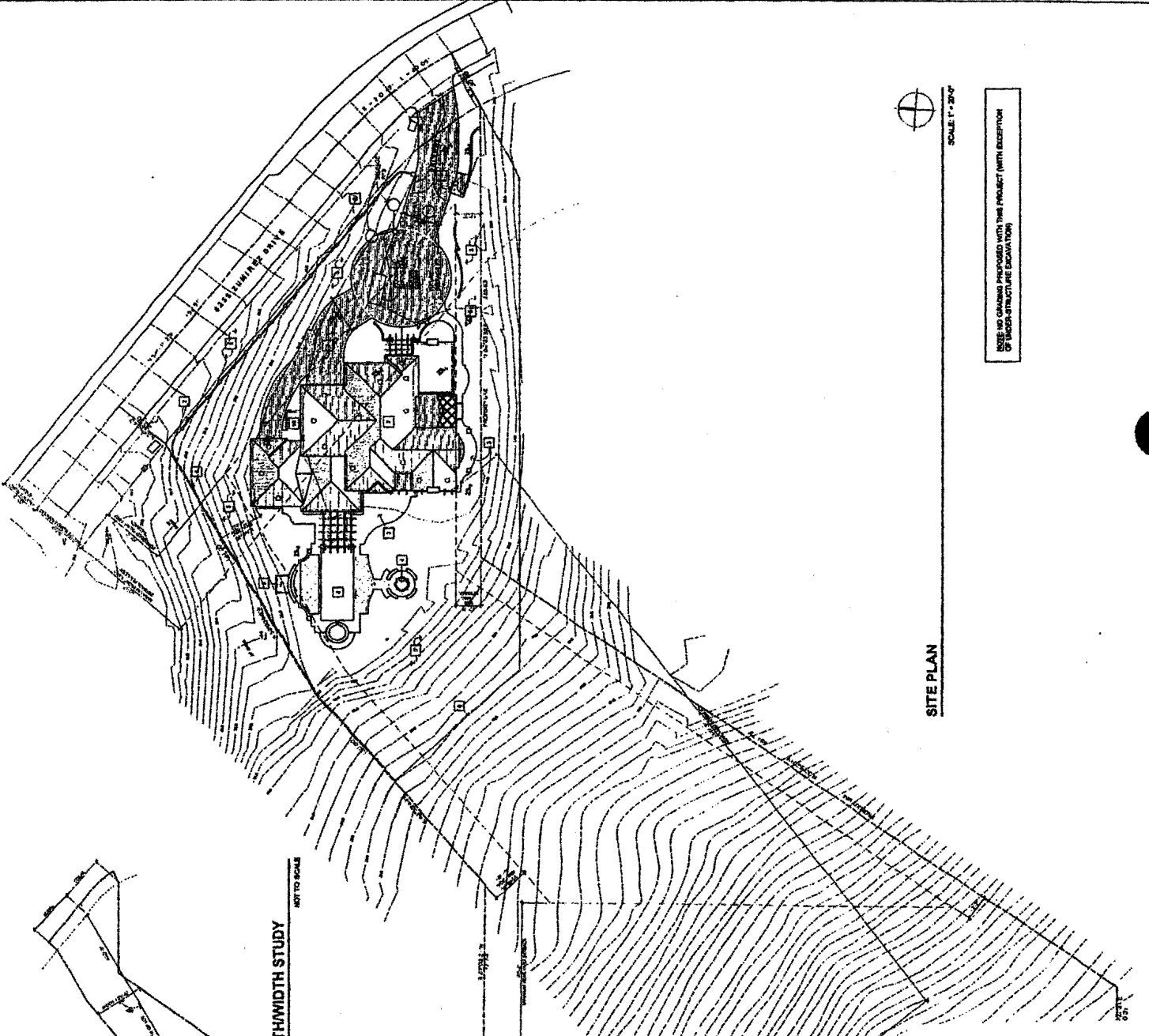
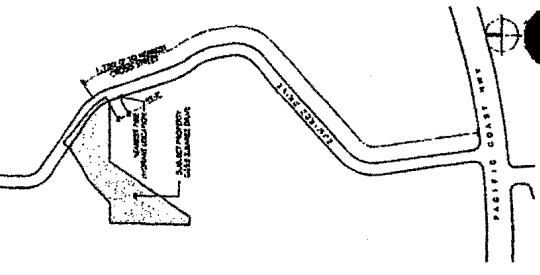
1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF MALIBU ORDINANCES AND THE CALIFORNIA BUILDING CODE (CBC).

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**LOT DEPTH STUDY**  
NOT TO SCALE



SCALE 1" = 20'-0"

**NOTE: NO CHANGES PROPOSED WITH THIS PROJECT (WITH EXCEPTION OF UNDER-STRUCTURE EXCAVATION)**

**SITE PLAN**

**EXHIBIT NO. 3**

APPLICATION NO.

4-02-124

SITE PLAN



**NO**  
**NO**  
**NO**

ENCL. STRUCTURAL CONSULTANT INC  
 818.223.9070  
 818.223.9071

1. All work shall be in accordance with the applicable building codes and standards.  
 2. The contractor shall be responsible for obtaining all necessary permits.  
 3. The contractor shall be responsible for the accuracy of the field measurements.  
 4. The contractor shall be responsible for the accuracy of the field measurements.  
 5. The contractor shall be responsible for the accuracy of the field measurements.  
 6. The contractor shall be responsible for the accuracy of the field measurements.  
 7. The contractor shall be responsible for the accuracy of the field measurements.  
 8. The contractor shall be responsible for the accuracy of the field measurements.  
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 10. The contractor shall be responsible for the accuracy of the field measurements.

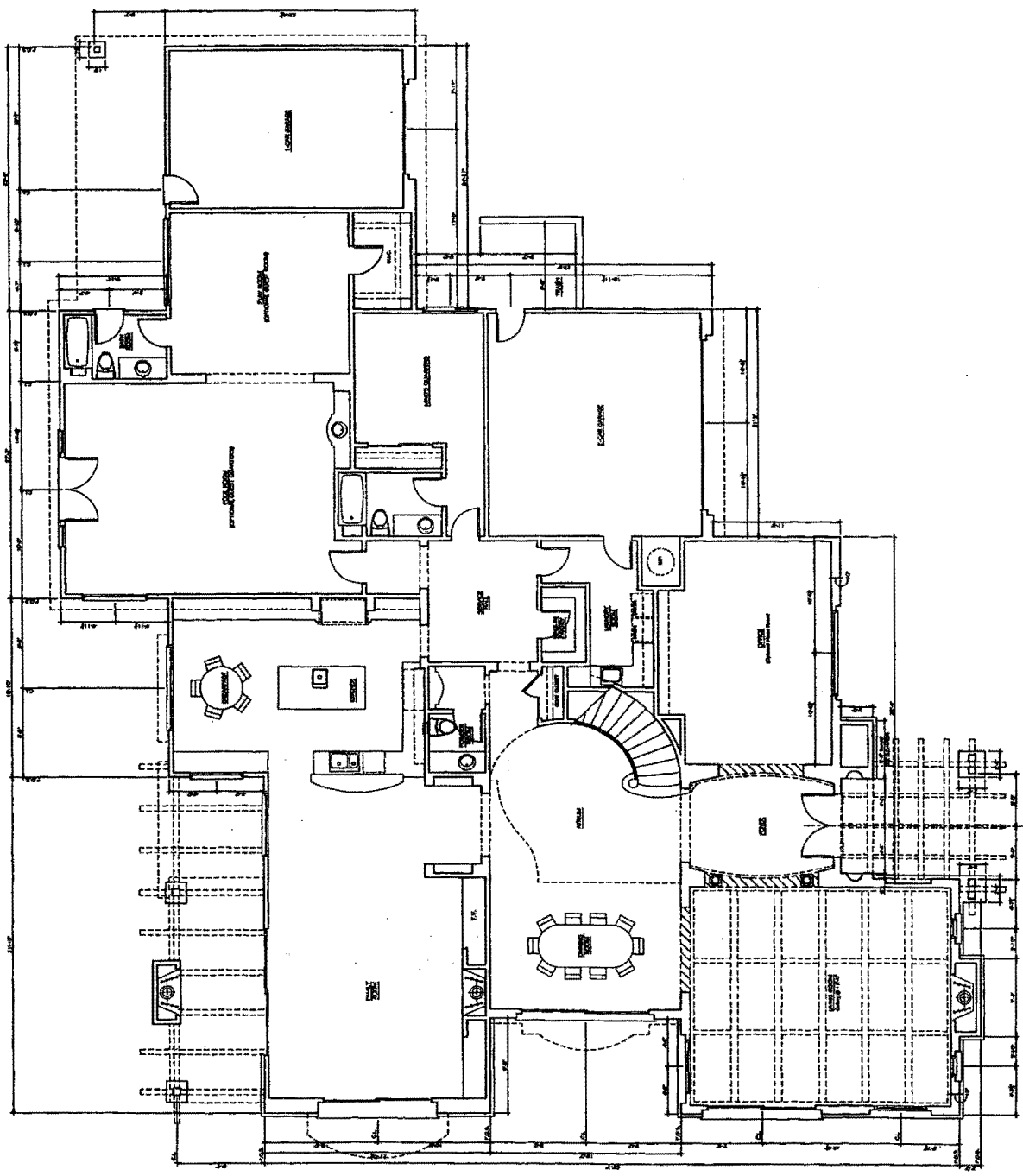
Shakban Residence  
 New Single Family Dwelling  
 8255 Zanker Drive  
 Malibu, California 90263-4007

PROJECT PLAN  
 FIRST FLOOR PLAN



DATE: 03 MAR 02  
 PROJECT NO.: 11002  
 SHEET NO.: 11002\_A31  
 DRAWN BY: [Signature]

A-3.1



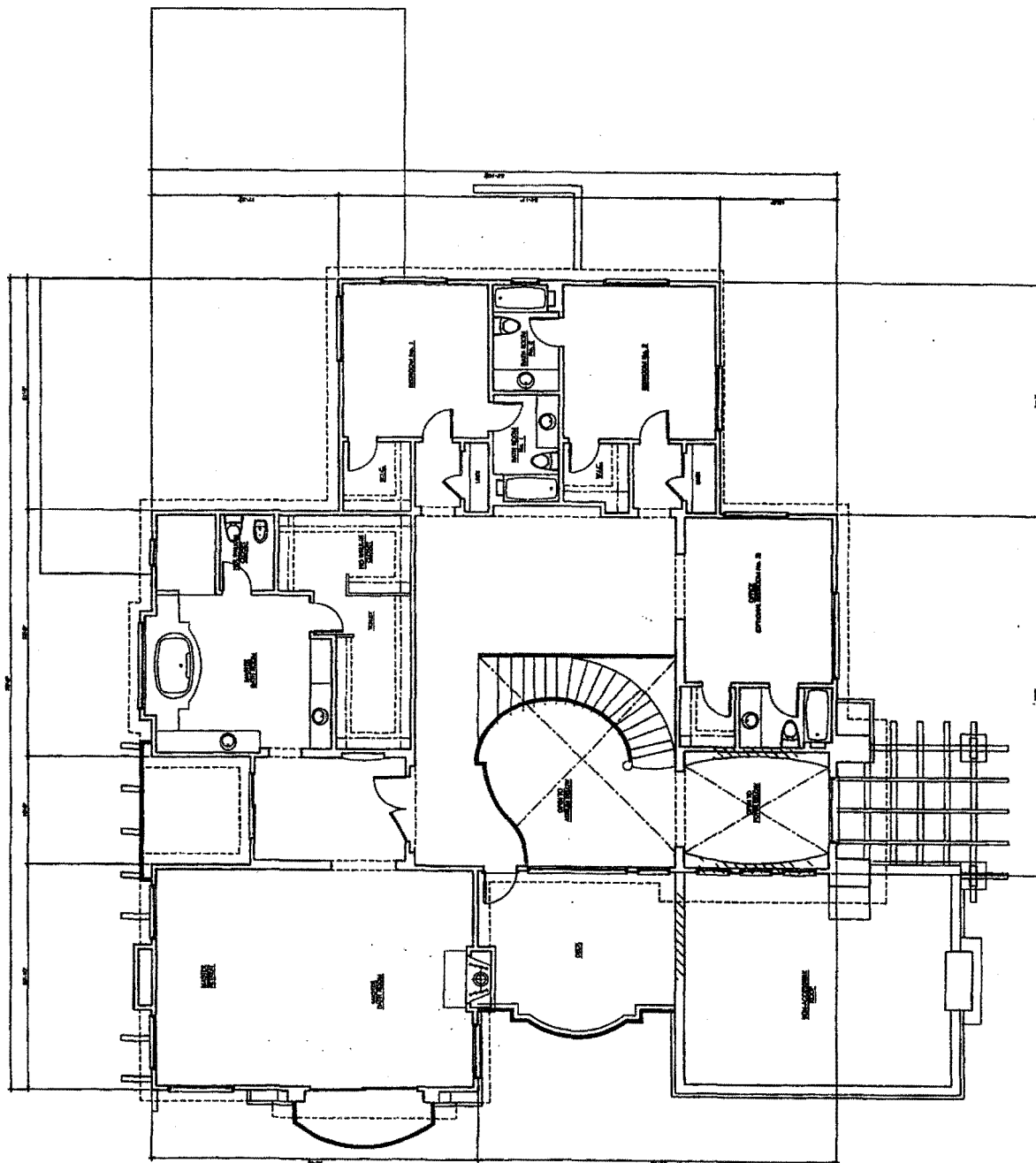
FIRST FLOOR PLAN

EXHIBIT NO. 4  
 APPLICATION NO.  
 4-02-124  
 FIRST FLOOR PLAN



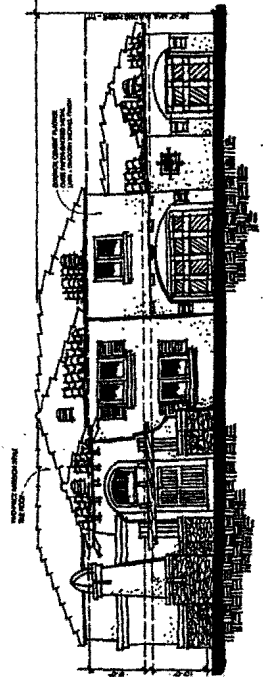
DATE	12/14/12
BY	1/22/13
PROJECT	11041/12/13/14
REVISION	

**A-3.2**



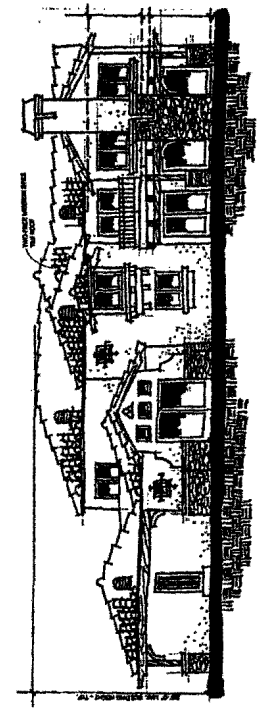
**SECOND FLOOR PLAN**  
 SCALE: 1/8" = 1'-0"

**EXHIBIT NO. 5**  
**APPLICATION NO.**  
 4-02-124  
**SECOND FLOOR PLAN**



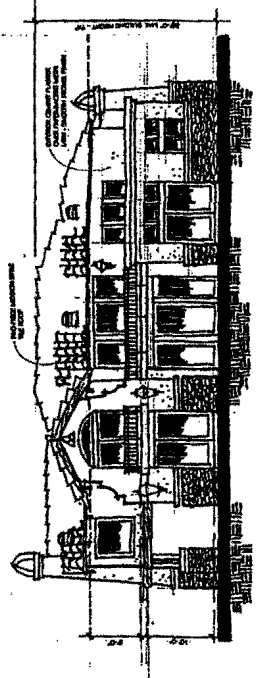
EXTERIOR ELEVATION (East)

SCALE: 1/4" = 1'-0"



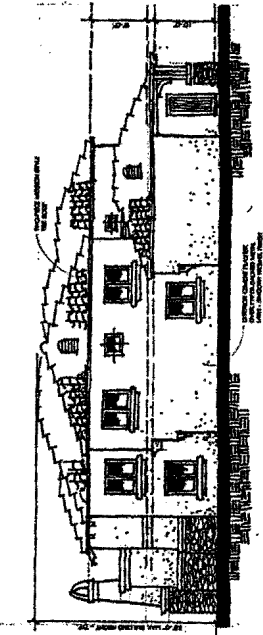
EXTERIOR ELEVATION (West)

SCALE: 1/4" = 1'-0"



EXTERIOR ELEVATION (South)

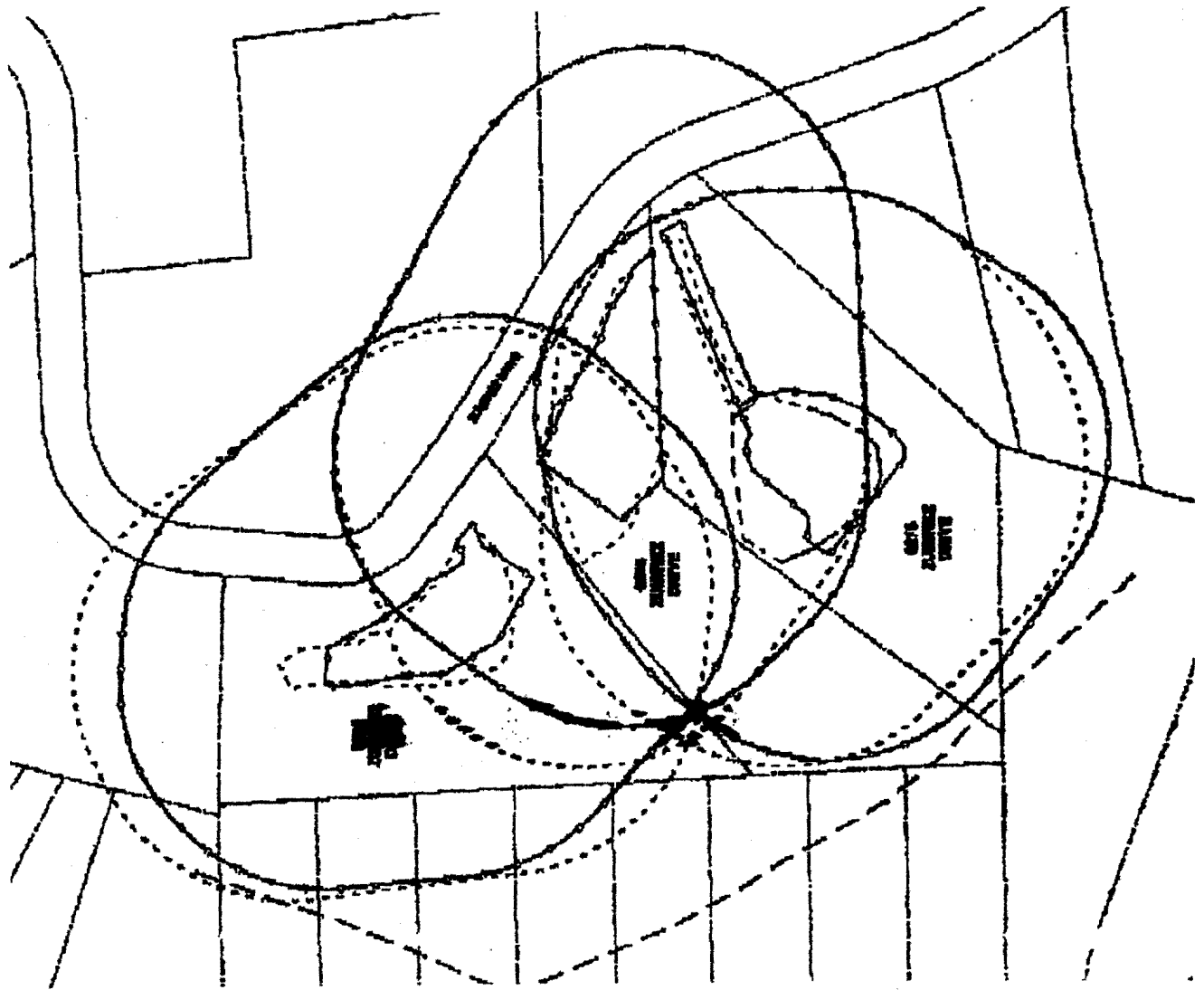
SCALE: 1/4" = 1'-0"



EXTERIOR ELEVATION (North)

SCALE: 1/4" = 1'-0"

EXHIBIT NO. 6
APPLICATION NO.
4-02-124
ELEVATIONS



Comparison of approved pads (solid line) and as-built pads (dashed line), with brush clearance radii.

EXHIBIT NO. 7

APPLICATION NO.

4-02-124

BUILDING PADS



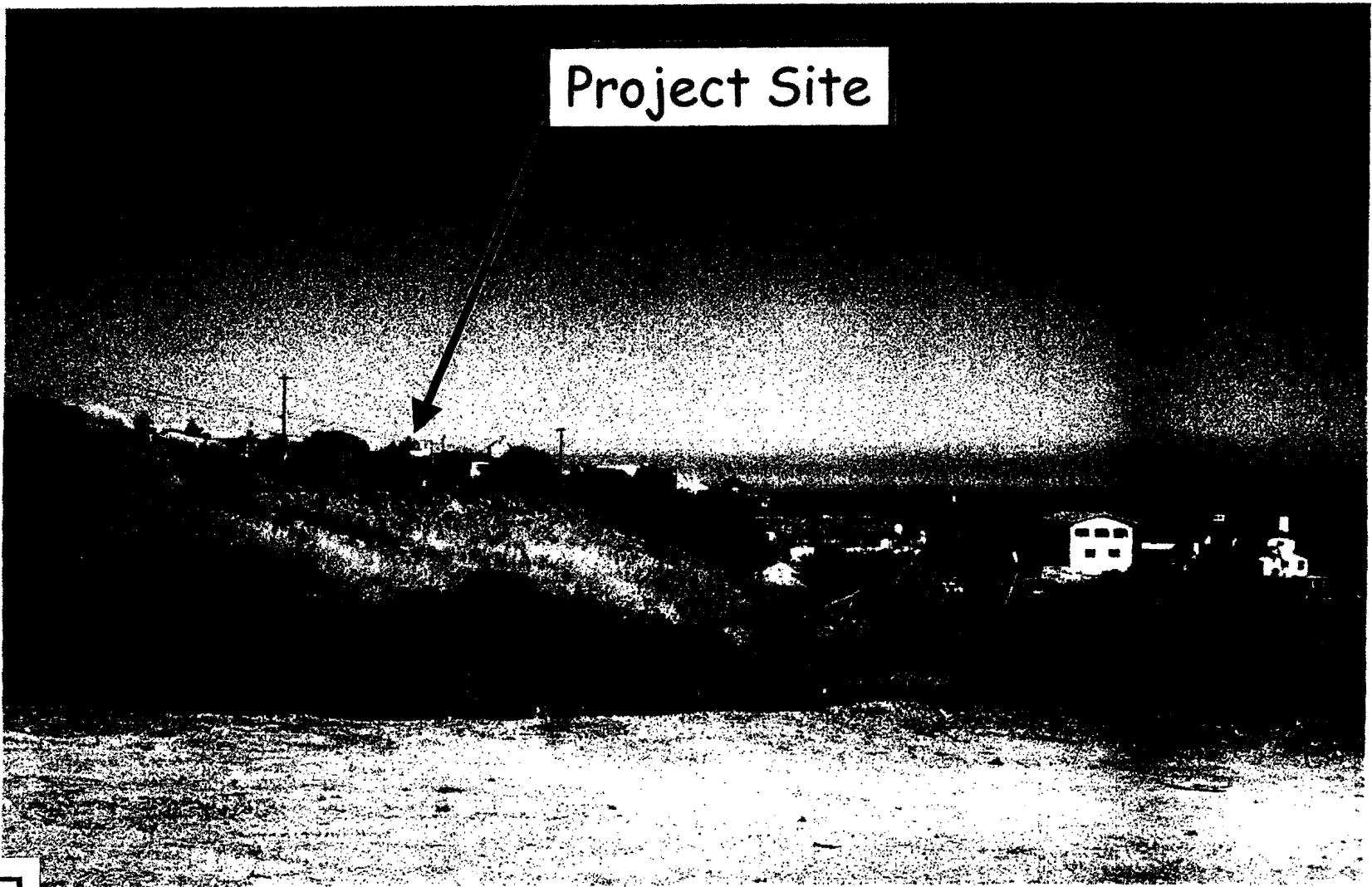
Approximate brush clearance radii of subject site and neighboring development.

EXHIBIT NO. 8

APPLICATION NO.

4-02-124

BRUSH CLEARANCE



Project Site

Photo 1. View of project site from Galahad Drive. View is to the west.

EXHIBIT NO. 9

APPLICATION NO.

4-02-124

PHOTOS (2pp.)

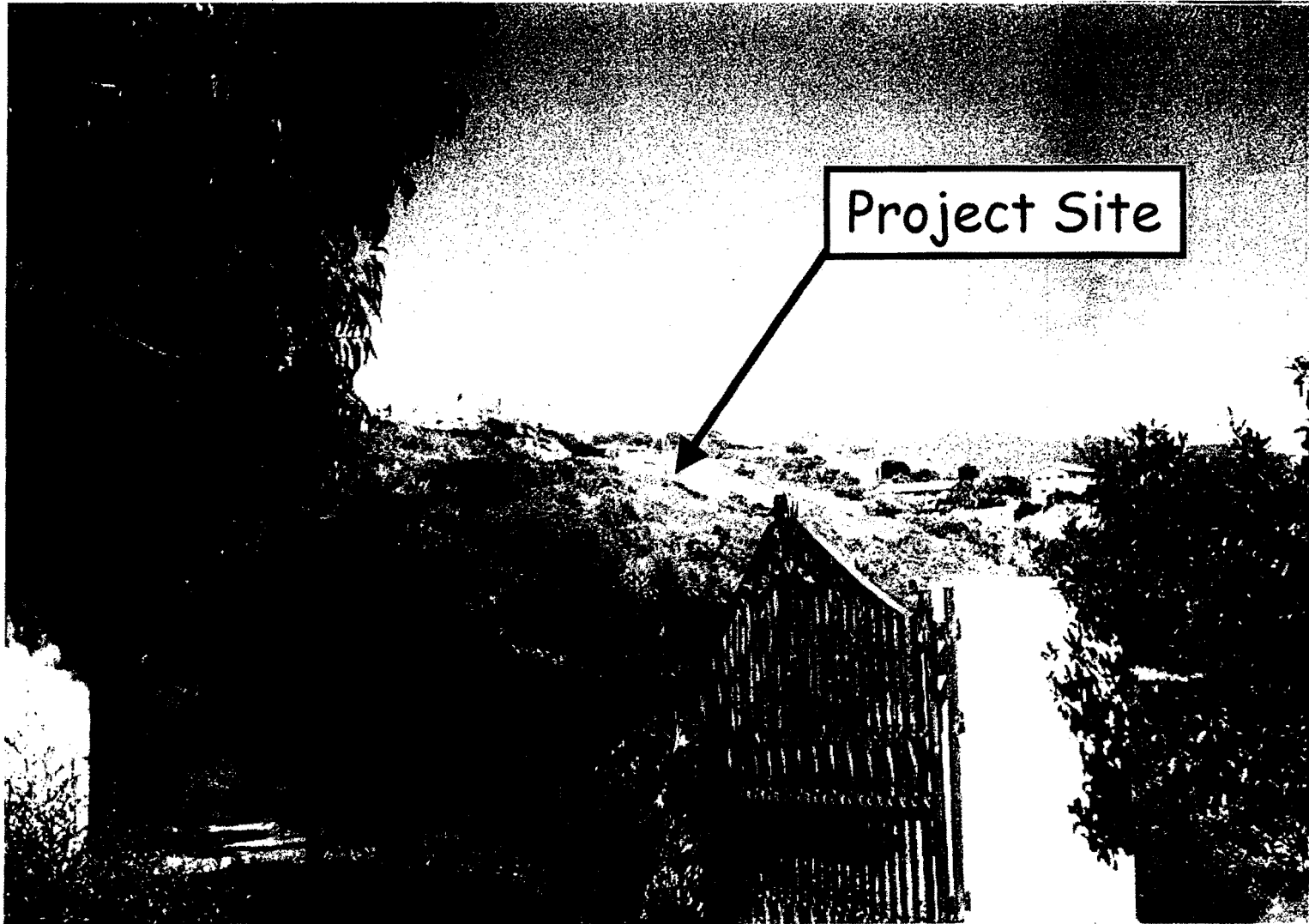


Photo 1. View of project site from Pacific Coast Highway

## CALIFORNIA COASTAL COMMISSION

SOUTH GARDEN

245 WEST BROADWAY, SUITE 380

LONG BEACH, CALIFORNIA 90801

(213) 590-5071

 Approved as Recommended Denied as Recommended Approved with Changes Denied Other

Filed: 12/29/89

49th Day: 2/16/90

180th Day: 5/27/90

Staff: A. Padilla

Staff Report: 1/29/90

Hearing Date:

Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-89-1064

APPLICANT: Jeffrey &amp; Danny Assael

AGENT: L. Peter Petrovsky

PROJECT LOCATION: 6275 Zumirez Drive, Malibu

PROJECT DESCRIPTION: Subdivision of a 6.05 gross acres (5.12 net acres) parcel into 3 single-family residential lots, a 2.06 acre (net) lot, a 1.13 acre (net) lot and a 1.93 acre lot. In addition, the applicant proposes 14,000 cu. yds. of grading for three building pads and driveways consisting of 6,820 cu. yds. of cut and 7,180 cu. yds. fill.

Lot area: 6.05 gross acre (5.12 net acre)

Zoning: R1-1

Plan designation: Rural Land II (1du/5ac); Rural Land III (1du/2ac); Residential I (1/ac)

LOCAL APPROVALS RECEIVED: Parcel Map 20470; CUP 88-256

## SUBSTANTIVE FILE DOCUMENTS:

1. Malibu/Santa Monica Mountains Land Use Plan, County of Los Angeles, December 11, 1986.
2. Coastal Development Permits: 5-89-216; 79-5496, 81-7823, 5-89-187, 5-88-770, 158-78, 182-81, 196-86, 5-83-43, 5-83-591, and 5-85-748

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with special conditions relating to mitigating the cumulative impacts of development, landscaping and erosion control and grading.

EXHIBIT NO. 10

APPLICATION NO.

4-02-124

5-89-1064 (ASSAEL)



STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

I. Standard Conditions. See Attachment X

III. Special Conditions.

1. Cumulative Impact Mitigation.

Prior to the issuance of the Coastal Development Permit, the applicants shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject development with respect to build-out of the Santa Monica Mountains are adequately mitigated. Prior to issuance of this permit, the applicants shall provide evidence to the Executive Director that development rights for residential use have been extinguished on two (2) building sites in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

- a) one of the five lot retirement or lot purchase programs contained in the Malibu/Santa Monica Mountains Land Use Plan (Policy 272, 2-6);
- b) a TDC-type transaction, consistent with past Commission actions;
- c) participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

2. Landscaping and Erosion Control Plan

Prior to issuance of permit, the applicant shall submit landscaping and erosion control plans prepared by a licensed architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All graded areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant

Society, Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated November 23, 1988. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

- (b) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within 90 days and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils including all existing graded roads and pads;
- (c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

### 3. Plans Conforming to Geologic Recommendation

All recommendations contained in the Engineering Geologic Report prepared by Donald B. Kowalewsky (11/14/88) and the Report of Soil Engineering Investigation by SWN SoilTech Consultants, Inc. (12/06/88) regarding the proposed development shall be incorporated into all final design and construction including grading and drainage. All plans must be reviewed and approved by the consultants. Prior to transmittal of the permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

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

## IV. Findings and Declarations.

### A. Project Description

The applicants propose to subdivide a 6.05 gross acre parcel (5.12 net acres) into three lots

with 14,000 cubic yards of total grading (6,820 cu. yds. of cut & 7,180 cu. yds. of fill). The size of the three new lots will be 2.06 net ac., 1.13 net ac., and 1.93 net ac. No other development is proposed.

As originally submitted, the project plans indicated that 20,376 cubic yards of grading was proposed, however, due to staff concerns over the amount of grading the applicant submitted revised grading plans which reduced the total grading by 6,376 cu. yds. to 14,000 cu. yds.

The subject parcel is located inland, approximately 1/2 mile, from Pacific Coast Highway in Malibu. The site is along the southwestern facing slope of Walnut Canyon. Slope gradients range from steeper than 1.5:1 to flatter than 5:1. Total relief is 167 feet.

The Malibu/Santa Monica Mountains Land Use Plan (LUP) designates the parcel as Residential I (1 du/ac) and Rural Land II (1 du/5 ac) and Rural Land III (1 du/2ac). The Residential I land use designation contains approximately 2.45 acres, Rural Land II contains approximately .36 acre and Rural Land III contains approximately 3.24 acres. The proposed subdivision density conforms to the LUP density limit (based on net acreage). Furthermore, according to the County the lot is a legal lot, therefore, cumulative mitigation will not be required for the existing 6.05-acre (gross) parcel, however, since the proposed subdivision will create two new lots, cumulative mitigation will be required as a condition of approval of this permit.

#### B. Cumulative Impacts of New Development.

Section 30250(a) of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted 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 the surrounding parcels.

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

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

The Malibu/Santa Monica Mountains Land Use Plan states in Policy 273d that:

In all other instances, land divisions shall be permitted consistent with the density designated by the Land Use Plan Map only if all parcels to be created contain sufficient area to site a dwelling or other principal structure consistent with the LCP. All land divisions shall be considered to be a conditional use.

Given the fact that the LUP is the most recent policy action taken by the Commission on development (including subdivisions) in the Santa Monica Mountains, the applicant must comply with Policy 273d of the LUP which the Commission found consistent with Section 30250(a) of the Coastal Act.

The Coastal Act requires that new development, including subdivisions and multi-family projects, be permitted only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impact problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects. Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, future build-out of many lots located in environmentally sensitive areas would create adverse cumulative impacts on coastal resources.

As a means of addressing the cumulative impact problem in past actions, the Commission has consistently required, as a special condition to development permits for land divisions and multi-unit projects, participation in the Transfer of Development Credit (TDC) program as mitigation (155-78, Zal; 158-78, Eide; 182-81, Malibu Deville; 196-86, Malibu Pacifica; 5-83-43, Heathercliff; 5-83-591, Sunset-Regan; and 5-85-748, Ehrman & Coombs). The TDC program resulted in the retirement from development of existing, poorly sited, and non-conforming parcels at the same time new parcels or units were created. The intent was to insure that no net increase in residential units resulted from the approval of land divisions or multi-family projects while allowing development to proceed consistent with the requirements of Section 30250(a).

The certified Malibu/Santa Monica Mountains Land Use Plan (LUP) does not contain the TDC Program as a means of mitigating the cumulative impacts of the potential build-out of existing non-conforming lots. Instead the LUP contains in Policy 272, six alternative mitigation techniques to prevent both the build-out of existing small lots and the development of lots of less than 20 acres in designated Significant Watersheds in order to insure that land divisions and multiple-unit projects are consistent with the requirements of Section 30250(a). The six basic components of Policy 272 are as follows:

1. Application of a residential building cap of 6582 new units, of which no more than 1200 units shall be in designated small lot subdivisions;
2. Acquisition, by outright public purchase, non-conforming lots and lots in designated Significant Watersheds through the continuing acquisition programs of several agencies;

3. Offering tax delinquent lots to adjoining lot owners, under attractive terms which would provide incentives for acquisition and consolidation into larger conforming parcels;
4. Offering incentives to owners of contiguous legally divided lots to voluntarily consolidate the lots into larger single holdings;
5. Empowering the County Community Redevelopment Agency to redevelop areas in order to achieve more appropriate lot and subdivision configurations and development sites;
6. Providing opportunities to owners of non-conforming lots to exchange their property for surplus governmental properties in more suitable development areas inside and outside the Coastal Zone.

The County currently does not have the mechanisms in place to implement any of these six programs. In several recent permit actions subsequent to certification of the LUP (5-86-592, Central Diagnostic Labs; 5-86-951, Ehrman and Coombs; 5-85-459A2, Ohanian; and 5-86-299A2 and A3, Young and Golling), the Commission found that until the County has the means to implement these programs, it is appropriate for the Commission to continue to require purchase of TDC's as a way to mitigate the cumulative impacts of new subdivisions and multi-residential development. In approving these permit requests, the Commission found that none of the County's six mitigation programs were "self-implementing" and that mitigation was still required to offset the cumulative impacts created by land divisions and multi-unit projects. The Commission found that the TDC program, or a similar technique to retire development rights on selected lots, remained a valid means of mitigating cumulative impacts in the interim period during which the County prepares its implementation program. Without some means of mitigation, the Commission would have no alternative but denial of such projects based on the provisions of Section 30250(a) of the Coastal Act.

As discussed above, the LUP contains six potential techniques to mitigate cumulative impacts, none of which are easily implemented at the present time. In the interim, the Commission has approved new subdivisions, but has continued to require purchase of TDC's as one of the alternative mitigation strategies. The Commission finds that it is necessary to impose a similar requirement on the applicant, in order to insure that the cumulative impacts of the creation of two (2) additional legal buildable lots are adequately mitigated. This permit has therefore been conditioned to require the applicant to mitigate the cumulative impacts of the subdivision of this property, either through purchase of two (2) TDCs or by participation in one of the County's alternative programs. The Commission finds that as conditioned, the permit is consistent with Section 30250(a) of the Coastal Act, and the land division policies of the Malibu/Santa Monica Mountains Land Use Plan.

### C. Grading and Geology

Section 30251 of the Coastal Act requires that visual resources be protected by minimizing alteration of natural land forms and states:

Section 30251

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 area 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 subordinate to the character of its setting.

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

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

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction

of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed land division includes 14,000 cubic yards of grading (6,820 cu. yds. of fill & 7,180 cu. yds. of cut) for the construction of three building pads, driveways and improvement to the Frontage road, Zumirez Drive. As previously stated, the proposed development originally required a total of 20,376 cubic yards of grading (6,690 cu. yds. of fill and 13,686 cu. yds. of cut), however, in response to staff concerns over excessive grading on the site the applicant submitted revised grading plans which reduced the total amount of grading to 14,000 cubic yards. The applicant reduced the amount of grading from the initial grading amount by reducing the height of the fill slopes from 25 feet to 15 feet, lowering the pad elevations, and using small retaining walls. The graded pad area for Lot 1 is approximately 13,880 sq. ft., Lot 2 is 14,088 sq. ft. and Lot 3 is 14,496 sq. ft. The grading and building pads are typical in size of the surrounding development along Zumirez Canyon. The parcel to the north was recently approved for a two lot subdivision with 5,246 cu. yds. of grading with a fill slope of approximately 50 feet. In the proposed project the maximum height of the fill slopes will be 15 feet and will for the most part conform to the existing contours, thus blending in with the existing terrain. The retaining walls, which will not exceed three feet in height, will not be significantly visible from the surrounding area since the walls will be located behind the single-family residences. Furthermore, the lots are not visible from Pacific Coast Highway or Kanan Dume Road.

To ensure that the visual impact of the proposed project is minimized and the potential for erosion due to the proposed grading is mitigated the applicant shall submit landscaping and erosion control plans that indicate that all cut and fill slopes will be landscaped to stabilize the slopes and to minimize erosion, and that all sediment from runoff during construction is retained on

site. The Commission finds, therefore, as conditioned the project will be consistent with past Commission permit decisions for the area and with applicable policies of the IUP and Section 30251 of the Coastal Act.

#### D. Environmentally Sensitive Habitat Areas

Sections 30230 and 30231 of the Coastal Act are designed to protect and enhance, or restore where feasible, marine resources and the biological productivity and quality of coastal waters, including streams:

##### Section 30230:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

##### Section 30231:

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

In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values:

##### Section 30240:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

In addition, the Malibu/Santa Monica IUP contains several policies for stream protection and erosion control:

P81 To control runoff into coastal waters, wetlands and riparian areas, as required by Section 30231 of the Coastal Act, the maximum rate of storm water runoff into such areas from new development should not exceed the peak level that existed prior to development.

- P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.
- P86 A drainage control system, including on-site retention or detention where appropriate, shall be incorporated into the site design of new developments to minimize the effects of runoff and erosion. Runoff control systems shall be designed to prevent any increase in site runoff over pre-existing peak flows. Impacts on downstream sensitive riparian habitats must be mitigated.
- P87 Require as a condition of new development approval abatement of any grading or drainage condition on the property which gives rise to existing erosion problems.

The proposed development is located at the top of a moderately steep slope which forms the eastern wall of Walnut Canyon. The canyon is vegetated with native chapparel. A U.S.G.S designated blue line stream, Walnut Creek, runs through the bottom of the canyon. Both the canyon and the creek continue southward beyond the subject property across Pacific Coast Highway to Point Dume, where they are mapped as a disturbed environmentally sensitive habitat area in the certified LUP. More specifically, an Oak Woodland and Savannah. All proposed development on all three lots will be 100 to 170 feet from the blue line stream. Grading on the third lot or eastern most building pad will be approximately 100 feet upslope from the creek. Increased runoff and erosion of the slope and sedimentation into the blue line stream caused by the grading of the building pad, could interfere with natural site drainage and adversely affect downstream sensitive habitat areas. In order to protect the creek and downstream environmentally sensitive habitat areas, the Commission determines that a special condition for drainage and erosion control is necessary. The Commission finds that, only as conditioned, is the proposed development consistent with Section 30230, 30231 and 30240 of the Coastal Act and with the applicable policies of the LUP.

#### E. Geology

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

(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 Section 30253 states in part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of



protective devices that would substantially alter natural landforms along bluffs and cliffs.

The geologic report prepared by Donald B. Kowalewsky, on January 27, 1989, and the soils engineering report prepared by SWN Soiltech Consultants, INC. (12/6/88) state that the site is free from geologic hazards such as landslides, slippage active faults, and undue differential settlement. The report concludes that the construction of a single-family residence is considered feasible from an engineering geologic standpoint provided the recommendations in the report are made a part of the plans and are implemented during construction. The recommendations include grading, foundations, and drainage. The Commission, therefore, finds that only as conditioned to incorporate all recommendations by the consulting Geologist and Soils Engineer will the proposed project be consistent with Section 30253 of the Coastal Act.

#### F. Water Quality

Section 30231 of the Coastal Act 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, and minimizing alteration of natural streams.

A favorable percolation test was performed on the subject property which indicates that the percolation rate is sufficient to serve a future single-family dwelling on each site. The consulting geologist states that each site is suitable for the septic system and there should be no adverse influence on the site and surrounding areas downslope. The Commission, therefore, finds that the project as proposed is consistent with Section 30231 of the Coastal Act and all relevant policies of the LUP.

#### G. Local Coastal Program.

On December 11, 1986, the Commission certified the Land Use Plan portion of the Malibu/Santa Monica Mountains LCP. The Certified LUP contains policies to guide the types, locations and intensity of future development in the Malibu/Santa Monica Mountains area. Among these policies are those specified in the preceding sections regarding landform alteration, environmentally Sensitive habitat areas, geology, and water quality. As conditioned the development will be consistent with the policies contained in the LUP. Therefore, the Commission finds that approval of the proposed development will not prejudice the County's ability to prepare a Local Coastal Program implementation program for Malibu and the Santa Monica Mountains consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

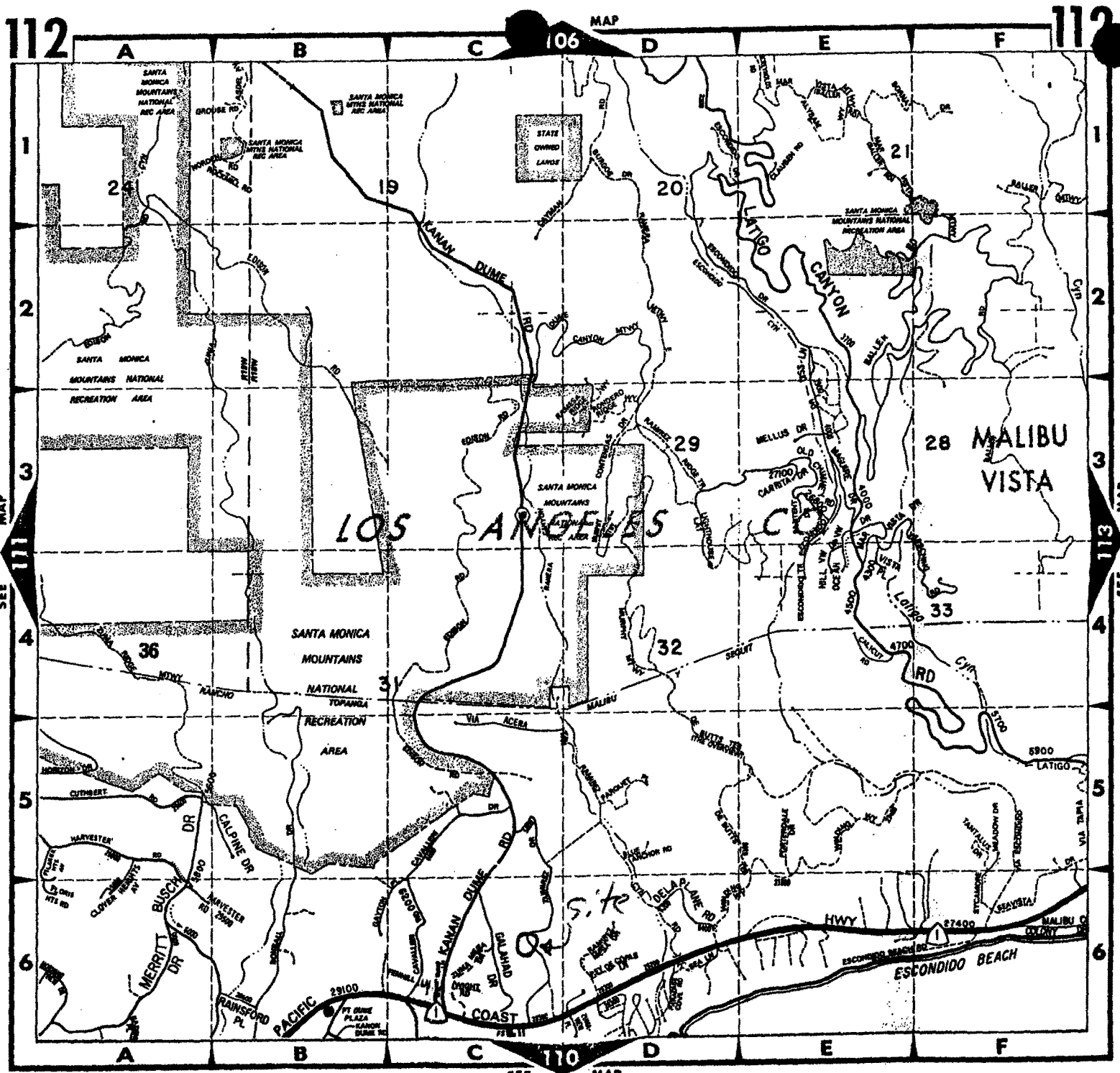
Attachment X

To: Permit Applicants  
From: California Coastal Commission  
Subject: Standard Conditions

The following standard conditions are imposed on all permits issued by the California Coastal Commission.

I. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. 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. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

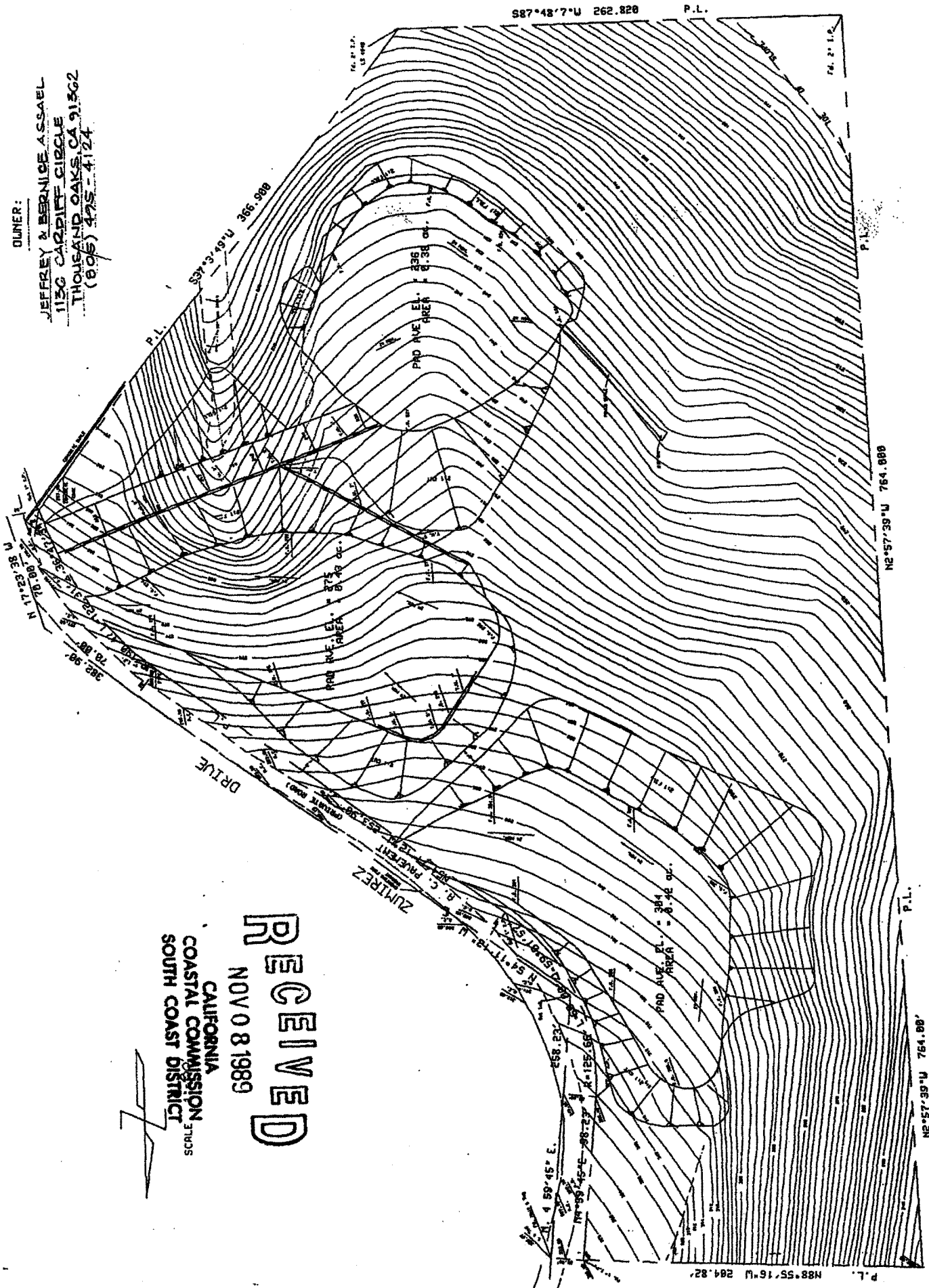


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 MAP  
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Vicinity Map 5-89-1064

NO.	DESCRIPTION	DATE
1	PRELIMINARY	11/11/88
2	REVISED	11/11/88
3	REVISED	11/11/88
4	REVISED	11/11/88
5	REVISED	11/11/88
6	REVISED	11/11/88
7	REVISED	11/11/88
8	REVISED	11/11/88
9	REVISED	11/11/88
10	REVISED	11/11/88

OWNER:  
 JEFFREY & BERNICE ASSAAR  
 1130 CARLIFE CIRCLE  
 THOUSAND OAKS, CA 91322  
 (805) 425-4124



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SCALE

5-88-404

P.L. N88°55'16"U 284.82'

P.L. N2°57'39"U 764.889

P.L.

587°48'7"U 262.820

P.L.

N 2° 1' 1" U

ZUMBEZ DRIVE

DRIVE

B. C. PAVEMENT

53.30' (ORIENTE ROAD)

54.11' U

58.23'

114°59'45" E

114°59'45" E

114°59'45" E

114°59'45" E

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