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STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, *Governor*

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
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Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-147

APPLICANT: Thomas Hennesy

PROJECT LOCATION: 32852 Pacific Coast Highway, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a two-story, 28 ft. high, 5,858 sq. ft. single family residence with attached 3-car garage, septic system, driveway, three retaining walls, turnaround, bridge, debris wall, 2790 cu. yds. of grading (960 cu. yds. cut, 1830 cu. yds. fill), removal and recompaction of 2800 cu. yds. of fill, and daylighting of a culverted stream. The proposed project also includes after-the-fact approval of a lot line adjustment between a 0.410 acre lot (Lot 1), a 1.965 acre lot (Lot 2), and a 0.314 acre lot (Lot 3, the subject lot) resulting in a 0.993 acre lot (Lot 1), a 1.035 acre lot (Lot 2), and a 0.746 acre lot (Lot 3, the subject lot).

Lot Area:	Lot 1 – 0.410 acre (before adjustment) Lot 1 – 0.993 acre (after adjustment) Lot 2 – 1.965 acre (before adjustment) Lot 2 – 1.035 acre (after adjustment) Lot 3 (subject site) – 0.314 acre (before adjustment) Lot 3 (subject site) – 0.746 acre (after adjustment)
Building Coverage:	3,930 sq. ft.
Pavement Coverage:	4,801 sq. ft.
Landscaped Area:	15,850 sq. ft.
Parking Spaces:	3 covered, 3 uncovered
Height above existing grade:	27.83 feet

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department, dated 6/18/01; In Concept Approval (Septic System), City of Malibu

Environmental Health Department, dated 6/04/01; Approval In Concept, City of Malibu Geology and Geotechnical Engineering, dated 6/15/99, and updated 12/7/00 and 5/29/01; Recommendation to forward the project to the Planning Commission, with conditions, Biological Review, City of Malibu, dated 1/16/01; In Concept Approval (Fuel Modification), County of Los Angeles Fire Department, dated 12/20/00; In Concept Approval (Access), County of Los Angeles Fire Department, dated 8/23/01.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with nine special conditions regarding (1) Conformance with Geologic Recommendations, (2) Assumption of Risk, (3) Landscaping and Erosion Control, (4) Drainage and Polluted Runoff, (5) Color Restriction, (6) Lighting Restriction, (7) Future Development, (8) Open Space Deed Restriction, and (9) No Future Bluff or Shoreline Protective Device. These conditions address the proposed development's potential impacts to coastal resources, as outlined below and on pages 5-37 of this staff report.

Visual Resources
The proposed residence will be visible from state tidelands immediately south of the subject site. Because the proposed project is visible from public viewing areas, **Special Conditions Five (5)** and **Six (6)** require the applicant to incorporate design restrictions, lighting restrictions, and vertical landscaping elements that will minimize the intrusion of the project into public views. In addition, **Special Condition Seven (7)** will assure that future development of the site is reviewed for potential impacts on coastal visual resources. Lastly, **Special Condition Seven (8)** requires the applicant to record a deed restriction prohibiting development below the 44 foot contour line, and **Special Condition Eight (9)** requires the applicant to record a deed restriction stating that no bluff or shoreline protective devices shall ever be constructed to protect the proposed development, thus ensuring that no development will occur on the highly visible bluff face or on the beach.

Geology and Hazards
The subject parcel is a bluff top lot that contains slopes subject to creep, erosion, and shallow landslide. In addition, the subject site is located approximately 2 miles from the main splay of the Malibu Coast Fault, and contains a fault that is considered inactive. It is also located in an area of significant wildfire hazard. The consulting geologists have stated that the proposed project will be safe from geologic hazards if their recommendations are implemented. Accordingly, **Special Condition One (1)** requires that all recommendations of the consulting geologists be incorporated into final project plans. **Special Condition Two (2)** requires the applicants to assume all risks from erosion, landslide, earthquake, and wildfire associated with the site. In addition, **Special Conditions Three (3)** (landscaping and erosion control), **Four (4)** (drainage and polluted runoff), **Seven (7)** (future development deed restriction), **Eight (8)** (open space deed restriction) and **Nine (9)** (no future bluff or shoreline protective device) will serve to minimize erosion and ensure site stability.

Water Quality and Sensitive Resources
The proposed project site is located on a primary coastal bluff and is bisected by a culverted blue line stream. The lot consists of a flat pad area surrounded by ascending slopes on three sides, and the bluff face and beach to the south. The ascending slopes form the walls of a coastal canyon that descends southwesterly through the property. The building pad was

constructed in the canyon bottom at an unknown date. The blue-line stream runs through a culvert beneath the building pad, and is released just past the western property line. The applicants propose to daylight the portion of the blue-line stream that flows through the property, by constructing an open channel that will be lined with armorflex mat and planted with native riparian vegetation.

The southern portion of the subject site, including the bluff face and beach areas, are designated as Environmentally Sensitive Habitat Areas (ESHAs) in the Certified Malibu/Santa Monica Mountains Land Use Plan (LUP). The beach area is immediately adjacent to a rocky point designated as a Shoreline – Rocky Areas ESHA in the LUP. The nearshore marine environment immediately south of the subject site is designated as a Kelp Bed ESHA in the LUP. In addition, Decker Beach, located approximately ¼ mile west of the subject site, is designated as a Shoreline – Sea Lion Haul Outs ESHA in the LUP.

Runoff from the area of proposed development currently travels via sheetflow, primarily to the southeast down an existing driveway to the beach. **Special Condition Four (4)** requires the applicant to implement a drainage and runoff control plan to further minimize erosion, sedimentation, and polluted runoff into coastal waters. As discussed above, **Special Conditions One (1), Three (3)**, and **Seven (7)** will also help protect sensitive resources by further minimizing erosion and by protecting and restoring native coastal and riparian vegetation on the site. In addition, **Special Condition Eight (8)** requires the applicant to record a deed restriction prohibiting development outside of the currently proposed development envelope and within the reconstructed stream channel, in order to permanently minimize development within and adjacent to sensitive habitat areas. Lastly, **Special Condition Nine (9)** requires the applicant to record a deed restriction stating that no bluff or shoreline protective device shall ever be constructed to protect the proposed development, thus further minimizing potential impacts to coastal processes and the shoreline ESHAs located adjacent to the subject site.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan (1986); Update Engineering Geologic Report, Proposed Residential Development, Parcel No. 3, A.P.N. 4473-017-018, 32852 Pacific Coast Highway, Malibu, California (Mountain Geology, Inc., 6/05/01); Addendum Engineering Geologic Report #1, Proposed Residential Development and Channel Improvements, Parcel No. 3, A.P.N. 4473-017-018, 32852 Pacific Coast Highway, Malibu, California (Mountain Geology, Inc., 1/10/02); Percolation test and site evaluation report prepared by Barton Sluske, dated 10/12/1996; Letter re: Fill Effect on Slope Stability, Proposed Residential Development, 32852 Pacific Coast Highway, Malibu, California (Coastline Geotechnical Consultants, 6/06/01); Letter re: Slope Regression, Proposed Residential Development, 32852 Pacific Coast Highway, Malibu, California (Coastline Geotechnical Consultants, 9/04/01); Hydrology and Hydraulic Calculations, Project: 32852 Pacific Coast Highway, Malibu, CA 90065 (VPL Consulting, Inc., 3/20/01); Coastal Development Permit No. 4-97-037 (Wayne); Coastal Development Permit No. 4-00-106 (Hennesy); Coastal Development Permit No. 4-94-145 (Encinal Bluff Partners); Coastal Development Permit No. 4-96-160-W (Ejabat); Coastal Development Permit No. 4-96-165 (Hennesy); Coastal Development Permit No. 5-90-1084 (Miller).

II. STAFF RECOMMENDATION

MOTION: I move that the Commission approve Coastal Development Permit No. 4-01-147 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

III. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

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

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

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

IV. SPECIAL CONDITIONS

1. Plans Conforming to Geologic Recommendations

(a) All recommendations contained in the Update Engineering Geologic Report, Proposed Residential Development, Parcel No. 3, A.P.N. 4473-017-018, 32852 Pacific Coast Highway, Malibu, California (Mountain Geology, Inc., 6/05/01); Addendum Engineering Geologic Report #1, Proposed Residential Development and Channel Improvements, Parcel No. 3, A.P.N. 4473-017-018, 32852 Pacific Coast Highway, Malibu, California (Mountain Geology, Inc., 1/10/02); Percolation test and site evaluation report prepared by Barton Sluske, dated 10/12/1996; Letter re: Fill Effect on Slope Stability, Proposed Residential Development, 32852 Pacific Coast Highway, Malibu, California (Coastline Geotechnical Consultants, 6/06/01); shall be incorporated into all final design and construction including recommendations concerning channel improvements, site preparation, bearing materials, grading, footings, retaining walls, setbacks, backfilling, temporary excavations, excavation characteristics, sewage disposal, drainage, plan review, and site observation. All plans must be reviewed and approved by the consulting geologists.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, evidence of the review and approval of all project plans by the consulting engineering geologists and civil engineers. Such evidence shall include affixation of the stamps and signatures of the consulting engineering geologists and civil engineers to the final project plans and designs. The applicant shall further submit evidence that the consulting engineering geologists and civil engineers have reviewed the landscape and erosion control plan required pursuant to **Special Condition Three (3)**, and the drainage and runoff control plan required pursuant to **Special Condition Four (4)**, and have verified that all recommendations set forth in the reports cited in subparagraph (a) relevant to the landscape, erosion control, and drainage and polluted runoff control measures have been adequately incorporated.

(b) The final plans approved by the consulting engineering geologists and civil engineers shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, drainage, and sewage disposal. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

2. 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 erosion, landslide, earthquake, 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.

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

3. Landscape and Erosion Control Plan

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit two (2) sets of landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting geologists to ensure that the plans are in conformance with the consulting geologists' recommendations. The plans shall incorporate the following criteria:

A) Landscaping Plan

(1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains

Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

(2) The reconstructed stream channel shall be planted with native riparian species 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.

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

(4) Invasive and non-native plants species on all slopes greater than 2:1 shall be removed. All slopes shall be restored and revegetated, to the maximum extent feasible, with appropriate native riparian and coastal sage scrub plant species as listed by the California Native Plant Society, Santa Monica Mountains Chapter, *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996, consistent with the Forestry Department of Los Angeles County fuel modification requirements.

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

(6) All development approved herein shall be undertaken in accordance with the final approved plans. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the said plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

(7) The landscape plan shall include a permanent irrigation plan that employs a drip irrigation system. Sprinkler systems may be used to establish turf as authorized by the Executive Director.

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

thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this Special Condition.

The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. Streamside areas shall be planted with native riparian species. 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. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County.

B) Interim Erosion Control Plan

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

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

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

C) Monitoring

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

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

4. Drainage and Polluted Runoff Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geologists to ensure the plan is in conformance with the consulting geologists' recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

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

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

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

(d) Vegetated and/or rock filter systems must be appropriately sized, properly designed, and engineered to: 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. Vegetated filter systems shall consist of native plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica*

Mountains, dated February 5, 1996. Filter elements shall be designed to intercept and infiltrate or treat the runoff volume from a 25-year, 24-hour runoff event.

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

5. Color Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of coastal development permit 4-01-147. The palette samples shall be presented in a format not to exceed 8½" X 11"X ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by coastal development permit 4-01-147 if such changes are specifically authorized by the Executive Director as complying with this special condition.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, that reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

6. Lighting Restriction

A. The only outdoor, night lighting that is allowed on the site is 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, that are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Executive Director.

2) Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.

3) The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.

No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction reflecting the above restrictions.

7. Future Development Restriction

This permit is only for the development described in coastal development permit No. 4-01-147. Pursuant to Title 14 California Code of Regulations §13250 (b)(6), the exemptions otherwise provided in Public Resources Code §30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements to the entire property, including but not limited to the permitted residence, garage, any change of use to the permitted structures, and any grading, clearing or other disturbance of vegetation other than as provided for in the approved landscape plan prepared pursuant to **Special Condition Three (3)**, and in the approved drainage and polluted runoff control plan prepared pursuant to **Special Condition Four (4)**, shall require an amendment to Permit No. 4-01-147 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition. The deed restriction shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed

without a Commission amendment to this coastal development permit.

8. Open Space Deed Restriction

A. No development, as defined in Section 30106 of the Coastal Act, shall occur in the following locations: 1) outside of the currently proposed development envelope or 2) within the reconstructed stream channel, except for:

1. Fuel modification required by the Los Angeles County Fire Department undertaken in accordance with the approved fuel modification plan provided for in **Special Condition Three (3)**;

2. Landscaping activities pursuant to **Special Condition Three (3)**;

3. Drainage and polluted runoff control activities pursuant to **Special Condition Four (4)**.

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

9. No Future Bluff or Shoreline Protective Device

A. By acceptance of the permit, the applicant agrees, on behalf of itself and all successors and assignees, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit 4-01-147 including, but not limited to, the residence, garage, accessory structure, swimming pool, spa, septic system, and any other future improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such device(s) that may exist under Public Resources Code Section 30235.

B. By acceptance of this permit, the applicant further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including but not limited to, the residence, garage, accessory structure, and septic system, if any government agency has ordered that

the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

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

V. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a two-story, 28 ft. high, 5,858 sq. ft. single family residence with attached 3-car garage, septic system, driveway, three retaining walls, turnaround, bridge, debris wall, and daylighting of a culverted stream. **(Exhibits 3-10)**. The proposed project also includes removal and recompaction of 2800 cu. yds. of uncertified fill under the building pad, and 2790 cu. yds. of grading (960 cu. yds. cut, 1830 cu. yds. fill) to level the driveway, construct the stream channel, and raise the building pad six feet for flood safety purposes. **(Exhibit 4)**. The applicant also requests after-the-fact approval for a lot line adjustment between a 0.410 acre lot (Lot 1), a 1.965 acre lot (Lot 2), and a 0.314 acre lot (Lot 3, the subject lot) resulting in a 0.993 acre lot (Lot 1), a 1.035 acre lot (Lot 2), and a 0.746 acre lot (Lot 3, the subject lot) **(Exhibit 13)**.

The subject site is located at 32852 Pacific Coast Highway, approximately 300 feet south of Pacific Coast Highway, in the City of Malibu **(Exhibit 1)**. The surrounding area is partially developed with existing single family residences of similar bulk and height. The proposed residence will be visible from public tidelands immediately south of the subject site. **(Exhibit 16)**.

The 0.75-acre undeveloped parcel is located on a primary coastal bluff and is bisected by a culverted blue line stream. The proposed residence is located on a flat pad surrounded by ascending slopes on three sides, and the bluff face and beach to the south. The ascending slopes form the walls of a coastal canyon that descends southwesterly through the property. The building pad was constructed in the canyon bottom at an unknown date. The slopes on-site are lightly vegetated with short grasses

and weeds and the canyon bottom contains both non-native and native riparian vegetation. The bluff face contains mostly native plant species **(Exhibit 16)**.

The blue-line stream runs southwesterly through a culvert beneath the building pad, and is released just past the western property line. The applicants propose to raise the building pad six feet and daylight the portion of the blue-line stream that flows through the property. The proposed reconstructed stream channel will be lined with armorflex mats and planted with native riparian vegetation. Runoff from the area of proposed development currently travels southwesterly via sheetflow, primarily down an existing driveway to the beach.

The southern portion of the subject site, including the bluff face and beach areas, is designated as an Environmentally Sensitive Habitat Area (ESHA) in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). The beach area is immediately adjacent to a rocky point designated as a Shoreline – Rocky Areas ESHA in the LUP. The nearshore marine environment immediately south of the subject site is designated as a Kelp Bed ESHA in the LUP. In addition, Decker Beach, located approximately ¼ mile west of the subject site, is designated as a Shoreline – Sea Lion Haul Outs ESHA in the LUP **(Exhibit 2)**.

The proposed project site contains an easement held by the applicant's neighbor to the west. The proposed development, including a portion of the reconstructed stream channel, is partly located within that easement. The owner of the easement was notified of the proposed project on December 27, 2001 and invited to join the application as a co-applicant, in accordance with Section 30601.5 of the Coastal Act. The owner of the easement has not joined as co-applicant, and has not submitted any comments on the proposal, as of the date of this staff report **(Exhibit 14)**.

The proposed project site has been the subject of previous Commission action. In May 1997, the Commission approved CDP 4-97-037 (Hennesy) for construction of a 5,303 sq. ft. residence with attached three car garage and septic system at the subject site. The approved project was located in approximately the same footprint as the project currently proposed, but did not include reconstruction of the culverted blue line stream channel. The permit was approved with five special conditions regarding landscaping and erosion control plans, drainage plans, plans conforming to geologic recommendations, wildfire waiver of liability, and assumption of risk. The permit was issued in November 1998; however, the permit expired in May 1999 prior to commencement of construction **(Exhibit 15)**.

B. Bluff Top Development / Geologic Stability

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

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

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

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

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

1. Geology

Section 30253 of the Coastal Act requires that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic stability, or destruction of the site or surrounding area. The subject site is a 0.75-acre undeveloped parcel located on a primary coastal bluff and bisected by a culverted blue line stream. The proposed residence is located on a flat pad surrounded by ascending slopes on three sides, and the bluff face and beach to the south. Coastal bluffs, such as the one located on the subject site, are unique geomorphic features that are characteristically unstable. By nature, coastal bluffs are subject to erosion from sheet flow across the top of the bluff and from wave action at the base of the bluff. In addition, due to their geologic structure and soil composition, these bluffs are susceptible to surficial failure, especially with excessive water infiltration.

The applicant proposes to construct a two-story, 28 ft. high, 5,858 sq. ft. single family residence with attached 3-car garage, septic system, driveway, three retaining walls, turnaround, bridge, debris wall, and daylighting of a culverted stream. The proposed project also includes removal and recompaction of 2800 cu. yds. of uncertified fill under the building pad, and 2790 cu. yds. of grading (960 cu. yds. cut, 1830 cu. yds. fill) to level the driveway, construct the stream channel, and raise the building pad six feet for flood safety purposes.

To assist in the determination of whether a project is consistent with section 30253 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) for guidance. The Malibu LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. Due to the geologic instability of bluffs and their continuing role in the ecosystem, the certified LUP contains a number of policies regarding development on or near coastal bluffs. For instance, Policy 164, in concert with the Coastal Act, provides that new development shall be set back a minimum of 25 ft. from the seaward edge of the top of the bluff or a stringline drawn between the nearest corners of the adjacent structures, *whichever distance is greater*, but in no case less than would allow for a 75-year useful life for the structure.

The Commission notes that the use of a stringline measurement in relation to the proposed development is problematic, due to the curvilinear shoreline and the project's location on a low coastal bluff distinct from the higher bluffs to either side. The applicant has submitted an aerial image indicating that the proposed development is located behind an approximate stringline drawn between the nearest adjacent properties **(Exhibit 12)**.

Due to the undulating character of the bluff adjacent to the site, the 25 foot setback from the bluff top is a more practical measure for the proposed development than the stringline analysis, as required by the Malibu/Santa Monica Mountains LUP. With the exception of the two bluff top decks, which would be removed, the existing residence and proposed additions are set back more than 25 feet from the bluff edge, which has also been required by the Commission in past permit actions. The existing and proposed residence is set back approximately 35 to 112 feet from the bluff edge. The most seaward portion of the existing and proposed residence is set back 35 feet from the edge of the bluff. Thus the proposed residence is consistent with either the stringline or 25 foot setback method of measurement.

Additionally, the applicant has submitted a letter from Coastline Geotechnical Consultants, Inc. dated September 4, 2001. The letter discusses slope regression on the subject site. It concludes that

> ***For conservative geotechnical planning, and assuming a "worst-case" scenario, it is assumed that the amount of coastal erosion and bluff retreat for the subject property is four (4) inches per year. This retreat amount over a period of 75 years totals 300 inches or 25 feet. The proposed residence is about 60 feet from the top of the approximately 30 foot high slope. Thus, the proposed development (i.e. structures and footings) will not be adversely affected by coastal erosion and bluff retreat over the economic life of the structure.***

The applicant has also submitted two reports and one letter regarding the geologic safety of the site: Update Engineering Geologic Report, Proposed Residential Development, Parcel No. 3, A.P.N. 4473-017-018, 32852 Pacific Coast Highway, Malibu, California (Mountain Geology, Inc., 6/05/01); Addendum Engineering Geologic

Report #1, Proposed Residential Development and Channel Improvements, Parcel No. 3, A.P.N. 4473-017-018, 32852 Pacific Coast Highway, Malibu, California (Mountain Geology, Inc., 1/10/02); and Letter re: Fill Effect on Slope Stability, Proposed Residential Development, 32852 Pacific Coast Highway, Malibu, California (Coastline Geotechnical Consultants, 6/06/01). The June 5, 2001 report makes numerous recommendations regarding channel improvements, site preparation, bearing materials, grading, footings, retaining walls, setbacks, backfilling, temporary excavations, excavation characteristics, sewage disposal, drainage, plan review, and site observation. The January 10, 2002 report concludes that

> ***Based upon our investigation, the proposed development and channel improvements will be free from geologic hazards such as landslides, slippage, active faults, and settlement. The proposed development, channel improvements, and installation of the private sewage disposal system will have no adverse effect upon the stability of the site or adjacent properties provided the recommendations of the Engineering Geologist and Geotechnical Engineer are complied with during construction.***

The June 5, 2001 report notes that a fault has been mapped on the southern end of the property. According to the report, the fault marks the contact between volcanic bedrock to the north and sedimentary bedrock to the south. The report notes that the fault is not active, and that the nearest active or potentially active fault is the Malibu Coast Fault, located approximately two miles to the north.

The report also gives special consideration to the stability of the slopes on site. It states that

> ***...(A) small surficial failure was mapped to the northeast of the area of the proposed residence. The failure occurred within the marine terrace deposits on the near vertical canyon wall....Fill, soil, and marine terrace deposits on slopes within the subject property are subject to downhill creep and erosion.***

The report adds that the gross stability of the site is favorable, in that the marine terrace deposits are layered horizontally and the bedrock is composed of basalt, which is structurally massive.

The report recommends that foundations for the residence be founded in either future certified compacted fill, dense marine terrace deposits, or hard bedrock. It also recommends that

> ***....(A) retaining wall be constructed at the toe of the ascending slope to the east of the proposed residence.***

The applicant proposes to use friction pile foundations and install a 70 ft. long, 3 ft. high debris fence at the toe of the eastern canyon wall, as an additional protective measure for the residence.

The applicant's proposal includes construction of an open channel for a blue-line stream currently culverted beneath the subject site. The proposed channel will be lined with armorflex, a permeable concrete mesh liner, and planted with native riparian species. The proposed reconstructed stream channel will flow into a natural stream channel that outlets at a Shoreline—Rocky Areas ESHA approximately 500 feet downstream.

The applicant has submitted hydrology and hydraulic calculations, prepared by VPL Consulting, Inc. (a civil and structural engineering firm) and dated March 20, 2001. The calculations indicate that the reconstructed stream channel is of an adequate depth to contain flows exceeding the 50-year storm volume and thus prevent flooding and erosion of the adjacent building pad. The hydrology calculations also indicate that the stream profile is sufficiently shallow (10:1) to avoid scouring of the natural channel downstream.

Based on the conclusions of the VPL Consulting, Inc. and Mountain Geology, Inc. reports, the Commission finds that the proposed development will be safe from geologic hazards if all recommendations of the consulting engineering geologists and civil engineers are incorporated into the final project plans and designs. Accordingly, **Special Condition One (1)** requires the applicant to demonstrate to the Executive Director's satisfaction that all recommendations in the Mountain Geology, Inc. reports are incorporated into the final plans and designs. **Special Condition One (1)** also requires the applicant to provide evidence of the review and approval of all project plans by both the consulting engineering geologists and the consulting civil engineers.

However, the Commission recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting geologists, may still involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of erosion, landslide, earthquake, tsunami, flooding, and wildfire, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission, its employees, and agents, for damage to life or property which may occur as a result of the permitted development. The applicant's' assumption of risk, as required by **Special Condition Two (2)**, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards associated with development of the site, and that may adversely affect the stability or safety of the proposed development.

The Commission notes that while the location of the proposed structures on the subject site may presently be feasible from a geologic point of view, in order to maintain these structures, further improvements such as concrete block walls and/or other protective structures, may eventually be necessary to ensure slope stability in the future due to instability and erosion. In the case of the proposed project, the applicant does not

propose the construction of any shoreline protective device to protect the proposed development. However, many beach areas of Malibu have experienced extreme erosion and scour during severe storm events, such as the El Nino storms. It is not possible to completely predict what conditions the proposed residence may be subject to in the future.

Although, as stated above, no shoreline protective device is proposed as part of this project, the Commission notes that the construction of a shoreline protective device on the proposed project site would result in potential adverse effects to coastal processes, shoreline sand supply, the public's beach ownership interests, and public access. First, changes in the shoreline profile, particularly changes in the slope of the profile, which result from reduced beach width, alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area of public property available for public use. The second effect on access is through a progressive loss of sand, as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore, where they are no longer available to nourish the beach. The effect of this on the public is, again, a loss of area between the mean high water line and the actual water. Third, shoreline protective devices, such as revetments and bulkheads, cumulatively affect public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline, eventually affecting the profile of a public beach. Fourth, if not sited landward in a location that insures that the revetment is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave' energy. Finally, revetments and bulkheads interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events but also potentially throughout the winter season.

In addition, Section 30235 of the Coastal Act allows for the construction of a shoreline protective device when necessary to protect existing development or to protect a coastal dependent use. Section 30235 does not, however, authorize the construction of shoreline protective devices for new development. The applicant's consultant, as previously stated, has provided evidence that the site is free of risk from bluff erosion for the life of the proposed structure. To thereby avoid the adverse impacts on coastal resources that result from the construction of shoreline protective devices, **Special Condition Nine (9)** requires the applicant to record a deed restriction that would prohibit the applicant, or future landowners, from constructing a shoreline protective device for the purpose of protecting any of the development proposed as part of this application including the residence, septic system, driveway, bridge, or any other structure on the subject site.

For the reasons cited above, the Commission finds that the proposed project as conditioned by **Special Conditions One (1)**, **Two (2)**, and **Nine (9)**, will be consistent

with the requirements of Coastal Act Section 30253 applicable to geologic safety. Further, the Commission finds that the proposed project, as conditioned by **Special Condition Nine (9)**, is consistent with Section 30235 of the Coastal Act.

2. Erosion

Section 30253 of the Coastal Act requires that new development neither create nor contribute significantly to erosion. As noted above, the proposed development is located on a site that contains slopes subject to creep, erosion, and shallow landslides. The proposed project includes 2790 cu. yds. of grading (960 cu. yds. cut, 1830 cu. yds. fill) to level the driveway, construct the stream channel, and raise the building pad six feet to accommodate the stream channel and for flood safety purposes.

The proposed project site is located on a primary coastal bluff and is bisected by a culverted blue line stream. The lot consists of a flat pad area surrounded by ascending slopes on three sides, and the bluff face and beach to the south. The ascending slopes form the walls of a coastal canyon that descends southwesterly through the property. The building pad was constructed in the canyon bottom at an unknown date. The slopes on-site are lightly vegetated with short grasses and weeds and the canyon bottom contains both non-native and native riparian vegetation. The bluff face contains mostly native plant species.

The blue-line stream runs southwesterly through a culvert beneath the building pad, and is released just past the western property line. The applicants propose to raise the building pad six feet and daylight the portion of the blue-line stream that flows through the property. The proposed reconstructed stream channel will be lined with armorflex mats and planted with native riparian vegetation. Runoff from the area of proposed development currently travels southwesterly via sheetflow, primarily down an existing driveway to the beach.

The southern portion of the subject site, including the bluff face and beach, is designated as an Environmentally Sensitive Habitat Areas (ESHAs) in the Certified Malibu/Santa Monica Mountains Land Use Plan (LUP). The beach is immediately adjacent to a rocky point designated as a Shoreline – Rocky Areas ESHA in the LUP. The nearshore marine environment immediately south of the subject site is designated as a Kelp Bed ESHA in the LUP. In addition, Decker Beach, located approximately ¼ mile west of the subject site, is designated as a Shoreline – Sea Lion Haul Outs ESHA in the LUP.

In total, the project will result in 8,731 sq. ft. of impervious surface area on the site, increasing both the volume and velocity of storm water runoff. Unless surface water is controlled and conveyed off of the site in a non-erosive manner, this runoff will result in increased erosion on and off the site.

Uncontrolled erosion leads to sediment pollution of downgradient water bodies. Surface soil erosion has been established by the United States Department of

Agriculture, Natural Resources Conservation Service, as a principal cause of downstream sedimentation known to adversely affect riparian and marine habitats. Suspended sediments have been shown to absorb nutrients and metals, in addition to other contaminants, and transport them from their source throughout a watershed and ultimately into the Pacific Ocean. The construction of single family residences in sensitive watershed areas has been established as a primary cause of erosion and resultant sediment pollution in coastal streams.

The applicant's proposal includes construction of an open channel for a blue-line stream currently culverted beneath the subject site. The proposed channel will be lined with armorflex, a permeable concrete mesh liner, and planted with native riparian species. The proposed reconstructed stream channel will flow into a natural stream channel that outlets at a Shoreline—Rocky Areas ESHA approximately 500 feet downstream. The applicant further proposes to direct all site runoff into the reconstructed stream channel.

As noted above, the applicant has submitted hydrology and hydraulic calculations, prepared by VPL Consulting and dated March 20, 2001, that indicate the reconstructed stream channel is of an adequate depth to contain flows exceeding the 50-year storm volume and thus prevent flooding and erosion of the adjacent building pad. The hydrology reports also indicate that the stream profile is sufficiently shallow (10:1) to avoid scouring of the natural channel downstream.

In order to ensure that erosion and sedimentation from site runoff are minimized, the Commission requires the applicant to submit a drainage plan, as defined by **Special Condition Four (4)**. **Special Condition Four (4)** requires the implementation and maintenance of a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. Fully implemented, the drainage plan will reduce or eliminate the resultant adverse impacts to the water quality and biota of coastal streams. This drainage plan is fundamental to reducing on-site erosion and the potential impacts to coastal streams. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

In addition, the Commission finds that temporary erosion control measures implemented during construction will also minimize erosion and enhance site stability. **Special Condition Three (3)** therefore requires the applicant to implement interim erosion control measures should grading take place during the rainy season. Such measures include stabilizing any stockpiled fill with geofabric covers or other erosion-controlling materials, installing geotextiles or mats on all cut and fill slopes, and closing and stabilizing open trenches to minimize potential erosion from wind and runoff water.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will reduce erosion and serve to enhance and maintain the geologic stability of the site, provided that minimal surface irrigation is required. Therefore, **Special Condition Three (3)** requires the applicant to submit landscaping plans, including

irrigation plans, certified by the consulting geologists as in conformance with their recommendations for landscaping of the project site. **Special Condition Three (3)** also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that the use of such vegetation may actually destabilize slopes, increase erosion, and reduce the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and therefore aid in preventing erosion.

In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area. Increasing urbanization in this area has caused the loss or degradation of major portions of the native habitat and loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast growing trees that originate from other continents that have been used as landscaping in this area have invaded and seriously degraded native plant communities adjacent to development. Such changes have resulted in the loss of native plant species and the soil retention benefits they offer. Therefore as noted the implementation of **Special Condition Three (3)** will ensure that primarily native plant species are used in the landscape plans and that potentially invasive non-native species are avoided.

Therefore, the Commission finds that in order to ensure site stability and erosion control, the disturbed and graded areas of the site shall be landscaped with appropriate native plant species, and slopes shall be revegetated with native plants, as specified in **Special Condition Three (3)**.

As noted above, the slopes of the subject site are steep and prone to creep, landslides, and erosion. Therefore, to further control erosion on the subject site, the Commission finds it necessary to require the applicants to record a deed restriction prohibiting all development, including grading or removal of vegetation, outside of the current development envelope and within the stream channel, as detailed in **Special Condition Eight (8).**

Finally, in order to ensure that any future site development is reviewed for its potential to create or contribute to erosion, the Commission finds it necessary to impose **Special Condition Seven (7)**, which requires the applicant to obtain a coastal development permit for any future development on the site, including improvements that might otherwise be exempt from permit requirements.

For the reasons cited above, the Commission finds that the proposed project as conditioned by **Special Conditions Three (3), Four (4), Seven (7)**, and **Eight (8)**, will

be consistent with the requirements of Coastal Act Section 30253 applicable to erosion control.

3. Wild Fire

Section 30253 of the Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as an individual's property rights.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

As a result of the hazardous conditions that exist for wildfires in the Santa Monica Mountains area, the Los Angeles County Fire Department requires the submittal of fuel modification plans for all new construction to reduce the threat of fires in high hazard areas. Typical fuel modification plans for development within the Santa Monica Mountains require setback, irrigation, and thinning zones that extend 200 feet from combustible structures. The applicant has submitted fuel modification plans, approved by the Los Angeles County Fire Department, that include fuel modification zones extending to the property line. The 200-foot brush clearance radius for the site encompasses the entire subject site, and parts of three adjacent developed properties. The brush clearance radius overlaps those of two adjacent existing residences, except for an approximately 3,000 sq. ft. triangle on and immediately north of the bluff face and east of the subject site **(Exhibit 11)**. Thus the proposed project will result in an additional 3,000 sq. ft. area of brush clearance adjacent to the subject site. However, the Fuel Modification Plan for the subject site states that

> ***Offsite brush clearance on the ascending slope to the east of the proposed residence....shall be limited to the removal of non-native plant species only...The native plant species of the coastal sage scrub, coastal bluff scrub and riparian plant communities shall remain.***

Therefore, approval of the project will not result in significant additional clearance of native vegetation in the vicinity of the site.

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 acknowledges the liability from these associated risks. Through **Special Condition Two (2)**, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of **Special Condition Two (2)**, the applicant agrees to indemnify the Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk.

The Commission finds that only as conditioned by **Special Condition Two (2)** is the proposed project consistent with Section 30253 of the Coastal Act applicable to hazards from wildfire.

In summary, the Commission finds that, as conditioned by **Special Conditions One (1), Two (2), Three (3), Four (4), Six (6),** and **Seven (7)**, the proposed project will be consistent with the requirements of Coastal Act Section 30253 applicable to geology, site stability, and hazards.

C. Environmentally Sensitive Habitat Areas

Section **30230** of the Coastal Act states that:

> ***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** 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.***

Section **30240** of the Coastal Acts states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through means such as minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural 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 (ESHAs) must be protected against disruption of habitat values, and that areas adjacent to ESHAs must be sited and designed to prevent significant degradation to the neighboring ESHA.

The applicant proposes to construct a two-story, 28 ft. high, 5,858 sq. ft. single family residence with attached 3-car garage, septic system, driveway, three retaining walls, turnaround, bridge, debris wall, and daylighting of a culverted stream. The proposed project also includes removal and recompaction of 2800 cu. yds. of uncertified fill under the building pad, and 2790 cu. yds. of grading (960 cu. yds. cut, 1830 cu. yds. fill) to level the driveway, construct the stream channel, and raise the building pad six feet for flood safety purposes.

The proposed project site is located on a primary coastal bluff and is bisected by a culverted blue line stream. The lot consists of a flat pad area surrounded by ascending slopes on three sides, and the bluff face and beach to the south. The ascending slopes form the walls of a coastal canyon that descends southwesterly through the property. The building pad was constructed in the canyon bottom at an unknown date. The slopes on-site are lightly vegetated with short grasses and weeds and the canyon bottom contains both non-native and native riparian vegetation. The bluff face contains mostly native plant species.

The blue-line stream runs southwesterly through a culvert beneath the building pad, and is released just past the western property line. The applicants propose to raise the building pad six feet and daylight the portion of the blue-line stream that flows through the property. The proposed reconstructed stream channel will be lined with armorflex mats and planted with native riparian vegetation. Runoff from the area of proposed development currently travels southwesterly via sheetflow, primarily down an existing driveway to the beach.

The southern portion of the subject site, including the bluff face and beach, is designated as an Environmentally Sensitive Habitat Area (ESHA) in the Certified

Malibu/Santa Monica Mountains Land Use Plan (LUP). The beach is immediately adjacent to a rocky point designated as a Shoreline – Rocky Areas ESHA in the LUP. The nearshore marine environment immediately south of the subject site is designated as a Kelp Bed ESHA in the LUP. In addition, Decker Beach, located approximately ¼ mile west of the subject site, is designated as a Shoreline – Sea Lion Haul Outs ESHA in the LUP.

The Coastal Act defines ESHAs as any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development. The ESHA designation indicates that the beach and bluff contain sensitive environmental resources that must be protected. In reviewing development in or adjacent to ESHAs, the Commission must consider all new potential adverse impacts.

To assist in the determination of whether a project is consistent with Section 30230, 30231, and 30240 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the Malibu/Santa Monica Mountains LUP for guidance. The Malibu/Santa Monica Mountains LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. For instance, in concert with Sections 30230, 30231, and 30240 of the Coastal Act, Policy 98 of the Malibu/Santa Monica Mountains LUP provides that development should have no significant adverse impacts on sensitive marine and beach habitat areas. Policy 99 provides that development in areas adjacent to sensitive beach and marine habitat areas be designed and sited to prevent impacts that could degrade the environmentally sensitive habitat areas. Policy 72 of the LUP states that where new development is proposed adjacent to ESHAs, open space or conservation easements shall be required in order to protect resources within the ESHA. The Malibu/Santa Monica Mountains LUP also recommends that residential development be set back 100 feet from ESHA areas.

In the case of the proposed project, the southern line of the proposed residence is located at distances ranging from 35 feet to 112 feet north of the bluff face. The Commission notes that the area available for development is constrained by the steep ascending slopes to the north and east, and by the footprint of the proposed reconstructed blue line stream channel. Given the constraints of the site, the proposed development can be found consistent with the ESHA protection policies of the Coastal Act provided that appropriate mitigation of impacts is provided. However, the Commission finds that any further extension of the development envelope from that proposed would result in avoidable potential impacts to the adjacent ESHAs. Such impacts could include removal of native vegetation, increase in impervious surface area, increase in runoff, erosion, and sedimentation, and the introduction of additional pollutants into adjacent ESHAs.

The Commission further notes that seasonal streams and drainages provide important habitat for sensitive plant and animal species. The applicant proposes to reconstruct an

open channel for a culverted portion of a blue-line stream on the subject site. The proposed channel will be lined with armorflex, a permeable concrete mesh liner, and planted with native riparian species. The proposed channel will connect to an existing reach of the stream just westerly of the subject site. The reconstructed stream channel will provide habitat for wildlife and native plant species, and will flow into a natural stream channel that outlets at a Shoreline—Rocky Areas ESHA approximately 500 feet downstream.

Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible through means such as: controlling runoff, preventing interference with surface water flows and alteration of natural streams, and by maintaining natural vegetation buffer areas. In past permit actions the Commission has found that new development adjacent to coastal streams and natural drainages results in potential adverse impacts to sensitive habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species, disturbance of wildlife, and loss of riparian plant and animal habitat.

Therefore, in order to permanently ensure that no further development, such as grading or removal of vegetation, occurs within ESHA, the recommended ESHA buffer zone, or the reconstructed stream channel, the Commission finds it necessary to require the applicants to record a deed restriction prohibiting all development outside of the proposed development envelope and within the reconstructed stream channel. As detailed in **Special Condition Eight (8)**, the deed restriction will run with the land, and will prohibit all development, including grading or vegetation removal. **Special Condition Eight (8)** specifically exempts fuel modification, landscaping, and drainage control activities carried out pursuant to **Special Condition Three (3)** and **Special Condition Four (4)**.

In addition, in order to ensure that any structural additions, grading, landscaping, or change in intensity of use within the proposed development envelope are reviewed by the Commission for consistency with the ESHA protection policies of the Coastal Act, the Commission requires the applicant to record a future development deed restriction, as detailed in **Special Condition Seven (7).**

In order to further minimize the impacts of increased runoff on the bluff face, beach, and marine ESHAs, the Commission requires the applicant to submit a drainage plan, as defined by **Special Condition Four (4)**. **Special Condition Four (4)** requires the implementation and maintenance of a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. Fully implemented, the drainage plan will reduce or eliminate the resultant adverse impacts to the water quality and biota of coastal streams. This drainage plan is fundamental to reducing on-site erosion and the potential impacts to coastal streams. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

In addition, the Commission finds that temporary erosion control measures implemented during construction will also minimize erosion and sedimentation of coastal waters. **Special Condition Three (3)** therefore requires the applicant to implement interim erosion control measures should grading take place during the rainy season. Such measures include stabilizing any stockpiled fill with geofabric covers or other erosion-controlling materials, installing geotextiles or mats on all cut and fill slopes, and closing and stabilizing open trenches to minimize potential erosion from wind and runoff water.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will reduce erosion and serve to enhance and the native plant communities of the site. Therefore, **Special Condition Three (3)** requires the applicant to submit landscaping plans, including irrigation plans, certified by the consulting engineering geologists as in conformance with their recommendations for landscaping of the project site. **Special Condition Three (3)** also requires the applicant to utilize and maintain appropriate coastal bluff and riparian native plant species compatible with the surrounding area, and to remove non-native and invasive plants species on all slopes to the maximum extent feasible.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that the use of such vegetation may actually destabilize slopes, increase erosion, and reduce the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and therefore aid in preventing erosion.

In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area. Increasing urbanization in this area has caused the loss or degradation of major portions of the native habitat and loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast growing trees that originate from other continents that have been used as landscaping in this area have invaded and seriously degraded native plant communities adjacent to development. Such changes have resulted in the loss of native plant species and the soil retention benefits they offer. Therefore as noted the implementation of **Special Condition Three (3)** will ensure that primarily native plant species are used in the landscape plans and that potentially invasive non-native species are avoided and, where feasible, removed.

Therefore, the Commission finds that in order to ensure site stability and erosion control, the disturbed and graded areas of the site shall be landscaped with appropriate native plant species, and slopes shall be revegetated with native plants, as specified in **Special Condition Three (3)**.

The Commission notes that the 200-foot brush clearance radius for the site encompasses the entire subject site, and parts of three adjacent developed properties.

The brush clearance radius overlaps those of two adjacent existing residences, except for an approximately 3,000 sq. ft. triangle on and immediately north of the bluff face and east of the subject site **(Exhibit 11)**. Thus the proposed project will result in an additional 3,000 sq. ft. area of brush clearance adjacent to the subject site. However, the Fuel Modification Plan for the subject site states that

> ***Offsite brush clearance on the ascending slope to the east of the proposed residence....shall be limited to the removal of non-native plant species only...The native plant species of the coastal sage scrub, coastal bluff scrub and riparian plant communities shall remain.***

Therefore, approval of the project will not result in significant additional clearance of native vegetation in the vicinity of the site.

Lastly, the Commission finds that shoreline protective devices, such as revetments and bulkheads, have been shown to contribute to accelerated erosion, beach scour, and steepening of beach profiles, thus impacting sensitive shoreline habitat areas. In order to further minimize potential impacts coastal processes and the shoreline ESHAs located adjacent to the subject site, **Special Condition Nine (9)** requires the applicant to record a deed restriction stating that no bluff or shoreline protective device shall ever be constructed to protect the proposed development.

For all of these reasons, therefore, the Commission finds that the proposed project, as conditioned by **Special Conditions Three (3)**, **Four (4)**, **Seven (7)**, and **Eight (8)**, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

D. Water Quality

The Commission recognizes that new development along the Malibu coastline has the potential to adversely impact coastal water quality and sensitive resources through the removal of native vegetation, increase in impervious surfaces, increase in runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems.

Section **30231** of the Coastal Act states 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.***

The applicant proposes to construct a two-story, 28 ft. high, 5,858 sq. ft. single family residence with attached 3-car garage, septic system, driveway, three retaining walls, turnaround, bridge, debris wall, and daylighting of a culverted stream. The proposed project also includes removal and recompaction of 2800 cu. yds. of uncertified fill under the building pad, and 2790 cu. yds. of grading (960 cu. yds. cut, 1830 cu. yds. fill) to level the driveway, construct the stream channel, and raise the building pad six feet for flood safety purposes.

The proposed project site is located on a primary coastal bluff and is bisected by a culverted blue line stream. The lot consists of a flat pad area surrounded by ascending slopes on three sides, and the bluff face and beach to the south. The ascending slopes form the walls of a coastal canyon that descends southwesterly through the property. The building pad was constructed in the canyon bottom at an unknown date. The slopes on-site are lightly vegetated with short grasses and weeds and the canyon bottom contains both non-native and native riparian vegetation. The bluff face contains mostly native plant species.

The blue-line stream runs southwesterly through a culvert beneath the building pad, and is released just past the western property line. The applicants propose to raise the building pad six feet and daylight the portion of the blue-line stream that flows through the property. The proposed reconstructed stream channel will be lined with armorflex mats and planted with native riparian vegetation. Runoff from the area of proposed development currently travels southwesterly via sheetflow, primarily down an existing driveway to the beach.

The southern portion of the subject site, including the bluff face and beach, is designated as an Environmentally Sensitive Habitat Areas (ESHAs) in the Certified Malibu/Santa Monica Mountains Land Use Plan (LUP). The beach is immediately adjacent to a rocky point designated as a Shoreline – Rocky Areas ESHA in the LUP. The nearshore marine environment immediately south of the subject site is designated as a Kelp Bed ESHA in the LUP. In addition, Decker Beach, located approximately ¼ mile west of the subject site, is designated as a Shoreline – Sea Lion Haul Outs ESHA in the LUP.

The proposed project will result in 4,801 sq. ft. of new paved surfaces, along with 3,930 sq. ft. of new building coverage. In total, the project will result in an additional 8,731 sq. ft. of impervious surface area on the site, increasing both the volume and velocity of storm water runoff. An increase in impervious surface area decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause

cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms, and have adverse impacts on human health.

The Commission notes that the southern portion of the project site, including the bluff face and beach areas, is designated an Environmental Sensitive Habitat Area (ESHA) in the certified Malibu Santa Monica Mountains Land Use Plan (Malibu LUP), and that the beach is immediately adjacent to a rocky point designated as a Shoreline – Rocky Areas ESHA. The beach is also located approximately ¼ mile east of the Decker Beach Sea Lion Hauling Ground ESHA. The ESHA designation indicates that the beach and bluff contain sensitive environmental resources that must be protected. In reviewing development in or adjacent to ESHAs, the Commission must consider all new potential adverse impacts.

The Commission must also consider potential impacts to the Offshore Kelp Bed ESHA. Kelp beds provide valuable habitat for a variety of marine life and serve as fish nurseries. Coastal streams transport sediment and polluted runoff downstream and discharge them into offshore habitats. These pollutants can damage the productivity of kelp beds and the species that depend upon them.

The Commission further notes that seasonal streams and drainages, such as the intermittent stream located within the subject site, in conjunction with primary waterways, provide important habitat for sensitive plant and animal species. Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible through means such as: controlling runoff, preventing interference with surface water flows and alteration of natural streams, and by maintaining natural vegetation buffer areas. In past permit actions the Commission has found that new development adjacent to coastal streams and natural drainages results in potential adverse impacts to sensitive habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species, disturbance of wildlife, and loss of riparian plant and animal habitat.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from the site in a non-erosive manner, drainage and water pollution control measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site is returned to the soil, overall runoff volume is

reduced. Slow surface flow of runoff allows sediment and other pollutants to settle into the soil where they can be filtered. The reduced volume of runoff takes longer to reach streams and its pollutant load is greatly reduced.

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

The project is conditioned, under **Special Condition Four (4)**, to implement and maintain a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. This drainage plan is required in order to ensure that risks from geologic hazard are minimized and that erosion, sedimentation, and polluted runoff are minimized to reduce potential impacts to coastal streams, natural drainages, and environmentally sensitive habitat areas.

Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. The use of vegetated and/or gravel filter systems can be an effective way of reducing the pollutant load of runoff and allowing infiltration into the soil. The applicant is proposing to reconstruct an open stream channel, utilizing a permeable concrete mat lining and the planting of native riparian species within the channel. The applicant further proposes to direct all surface runoff into the reconstructed stream channel. **Special Condition Four (4)** requires the applicants to submit a drainage and polluted runoff control plan, including the proposed stream channel, designed to adequately treat, filter, and infiltrate runoff. Additionally, the drainage plan must include a filtration system to further minimize pollutants prior to discharging water into the proposed stream channel. Lastly, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the

Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Four (4)**, and finds that this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine resource protection policies of the Coastal Act.

In addition, the Commission finds that slopes on subject site are particularly vulnerable to erosion, and that erosion of these slopes holds potential to impact the adjacent blue-line stream. The Mountain Geology, Inc. report dated June 5, 2001 notes that

> ***Fill, soil, and marine terrace deposits on slopes within the subject property are subject to downhill creep and erosion.***

The Commission further finds that the increased volume of runoff from proposed impermeable surfaces on site increases the potential for erosion of slopes and sedimentation of the blue-line stream. Interim erosion control measures implemented during construction and post construction landscaping will serve to control erosion on the site, thus minimizing the transport of sediments and other pollutants into coastal waters. Therefore, the Commission finds that **Special Condition Three (3)** is necessary to ensure that the proposed development shall not adversely impact water quality or coastal resources.

In order to permanently ensure that no further development, such as grading or removal of vegetation, occurs within the reconstructed blue line stream channel, or on sensitive slopes near the blue-line stream, and to mitigate for the proposed increase in impermeable surfaces and volume of runoff, the Commission finds it necessary to require the applicants to record a deed restriction prohibiting all development outside of the proposed development envelope and within the reconstructed stream channel. As detailed in **Special Condition Eight (8)**, the deed restriction will run with the land, and will prohibit all development, including grading or vegetation removal. **Special Condition Eight (8)** specifically exempts fuel modification, landscaping, and drainage control activities carried out pursuant to **Special Condition Three (3)** and **Special Condition Four (4)**.

In addition, in order to ensure that any additions, change in landscaping, or change in intensity of use within the proposed development envelope are reviewed by the Commission for consistency with the water quality protection policies of the Coastal Act, the Commission requires the applicant to record a future development deed restriction, as detailed in **Special Condition Seven (7).**

Finally, the applicant proposes to construct a new 2500-gallon "micro-fast" alternative septic tank and disposal system as shown on the plans approved "In-Concept" by the City of Malibu Department of Environmental Health on June 4, 2001. The conceptual approval by the City indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code. The Commission has found the City of Malibu's minimum health and safety standards for septic systems to be protective of coastal resources and to take into consideration the

percolation capacity of soils, the depth to groundwater, and other pertinent information. Therefore the Commission further finds that project compliance with the City's standards for septic disposal will minimize any potential for wastewater discharge that could adversely impact coastal waters.

In summary, the Commission finds that, as conditioned by **Special Conditions Three (3), Four (4), Seven (7),** and **Eight (8),** the project is consistent with Section 30231 of the Coastal Act.

E. Visual Resources

Section 30251 of the Coastal Act states that:

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

To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic highways. The Commission also examines the building site and the size of the proposed structure(s).

The applicant proposes to construct a two-story, 28 ft. high, 5,858 sq. ft. single family residence with attached 3-car garage, septic system, driveway, three retaining walls, turnaround, bridge, debris wall, and daylighting of a culverted stream. The proposed project also includes removal and recompaction of 2800 cu. yds. of uncertified fill under the building pad, and 2790 cu. yds. of grading (960 cu. yds. cut, 1830 cu. yds. fill) to level the driveway, construct the stream channel, and raise the building pad six feet for flood safety purposes.

The proposed project site is located on a primary coastal bluff, approximately 300 feet south of Pacific Coast Highway, and approximately 400 ft. west of El Pescador State Beach. The subject site is surrounded by residential development of similar or greater bulk and height. The proposed residence will be visible from state tidelands immediately south of the subject site.

Because the proposed project is visible from public viewing areas, the Commission finds it necessary to impose design restrictions to minimize the intrusion of the project into public views. Accordingly, **Special Condition Five (5)** restricts the use of colors to

a natural background palette and requires the use of non-glare glass; **Special Condition Six (6)** restricts the use of outdoor night lighting to the minimum necessary for safety purposes.

The Commission notes that visual impacts can be further minimized by the implementation of a landscape plan that employs a native plant palette. **Special Condition Three (3)** specifies that the slopes below the proposed residence be planted with native species and that non-native and invasive species be removed. The Commission also notes that visual impacts will be further mitigated by requiring the implementation of erosion control measures, as in **Special Conditions Three (3)** and **Four (4)**. Implementation of the requirements of these conditions will ensure that the adverse visual effects of obtrusive non-native landscaping, denuded slopes, and uncontrolled erosion are avoided.

In addition, **Special Condition Eight (8)** requires the applicant to record a deed restriction prohibiting all development outside the currently proposed development envelope and within the proposed reconstructed stream channel. In order to ensure that any additions, grading, landscaping, or change in intensity of use within the proposed development envelope are reviewed by the Commission, **Special Condition Seven (7)** requires the applicant to record a future development deed restriction. Similarly, **Special Condition Nine (9)** requires the applicant to record a deed restriction stating that no bluff or shoreline protective devices shall ever be constructed to protect the proposed development. **Special Conditions Seven (7)**, **Eight (8)** and **Nine (9)** will ensure that no development will occur on the highly visible bluff face or on the beach, and that future improvements within the currently proposed development envelope are reviewed for potential visual impacts to coastal resources.

For all of the reasons set forth above, the Commission finds that the proposed project, as conditioned by **Special Conditions Three (3)**, **Four (4)**, **Five (5)**, **Six (6)**, and **Seven (7)**, and **Eight (8)** is consistent with Section 30251 of the Coastal Act.

F. New Development/ Cumulative Impacts

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

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

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

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

The Coastal Act requires that new development, including land divisions, be permitted within, contiguous, or in close proximity to existing developed areas, or if outside such areas, only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. In past permit actions, the Commission has found that for Malibu and the Santa Monica Mountains, the coastal terrace area represents the existing developed area. The Commission has repeatedly emphasized, in past permit decisions, the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains coastal zone. The Commission has reviewed land division applications to ensure that newly created or reconfigured parcels (lot line adjustments) are of sufficient size, have access to roads and other utilities, are geologically stable and contain an appropriate potential building pad area where future structures can be developed consistent with the resource protection policies of the Coastal Act. In particular, the Commission has ensured that future development on new or reconfigured lots can minimize landform alteration and other visual impacts, and impacts to environmentally sensitive habitat areas. Finally, the Commission has ensured that all new or reconfigured lots will have adequate public services, including road access that meets the requirements of the Fire Department.

The applicant is requesting after-the-fact approval for a minor lot line adjustment that will realign the property boundary between three existing legal parcels. Lot 1 will increase in size from 0.41 acres to 0.993 acres, Lot 2 will decrease in size from 1.965 acres to 1.035 acres, and Lot 3 will increase in size from 0.314 acres to 0.746 acres **(Exhibit 13)**. The certified 1986 Malibu Land Use Plan density designation for this site is a combination of Residential 1 (1 dwelling unit/acre, & Rural Land III (1 dwelling unit/2 acres). The Rural Land III designation appears to apply only to the bluff face and beach areas along the southern portion of Lots 2 and 3. Although the Certified Malibu Land Use Plan is not longer legally effective within the City of Malibu the Commission uses the plan as guidance in their review of development projects to determine consistency with the Coastal Act.

The proposed lot line adjustment will not result in any additional lots or create lot configurations that could increase residential density. Lot 1 and Lot 2 are currently developed with single family residences. The adjusted Lot 3 has a residential building site that can be more easily developed, consistent with the Chapter Three policies of the Coastal Act, than in its previous configuration. In addition, the reconfigured lots will continue to have adequate public services including water, electricity and road access consistent with County Fire Department requirements. Therefore, the Commission finds that, as conditioned above, the proposed project is consistent with Section 30250(a) of the Coastal Act.

G. Local Coastal Program

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

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

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

H. California Environmental Quality Act

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

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

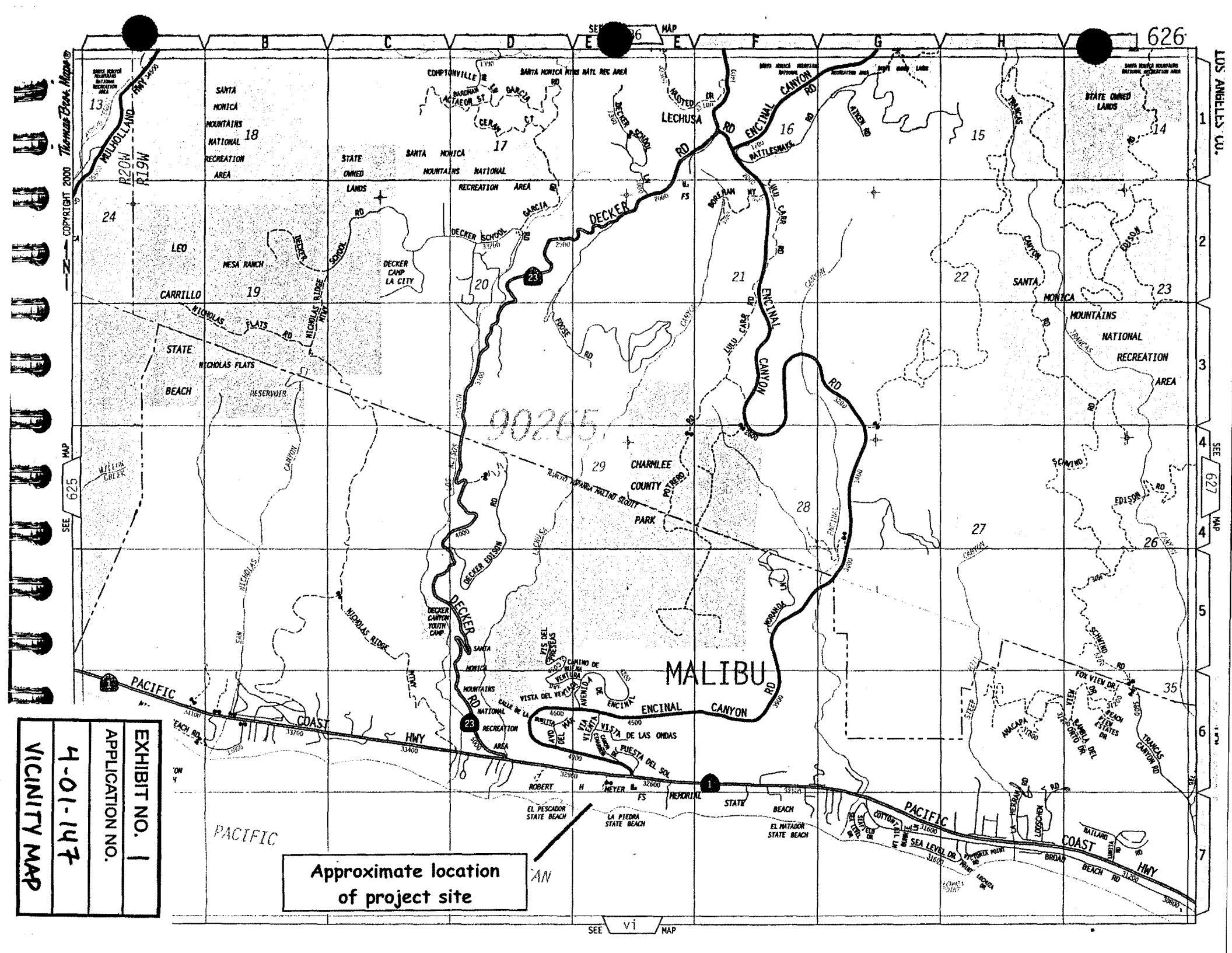


EXHIBIT NO. 1

APPLICATION NO. 4-01-147

VICINITY MAP

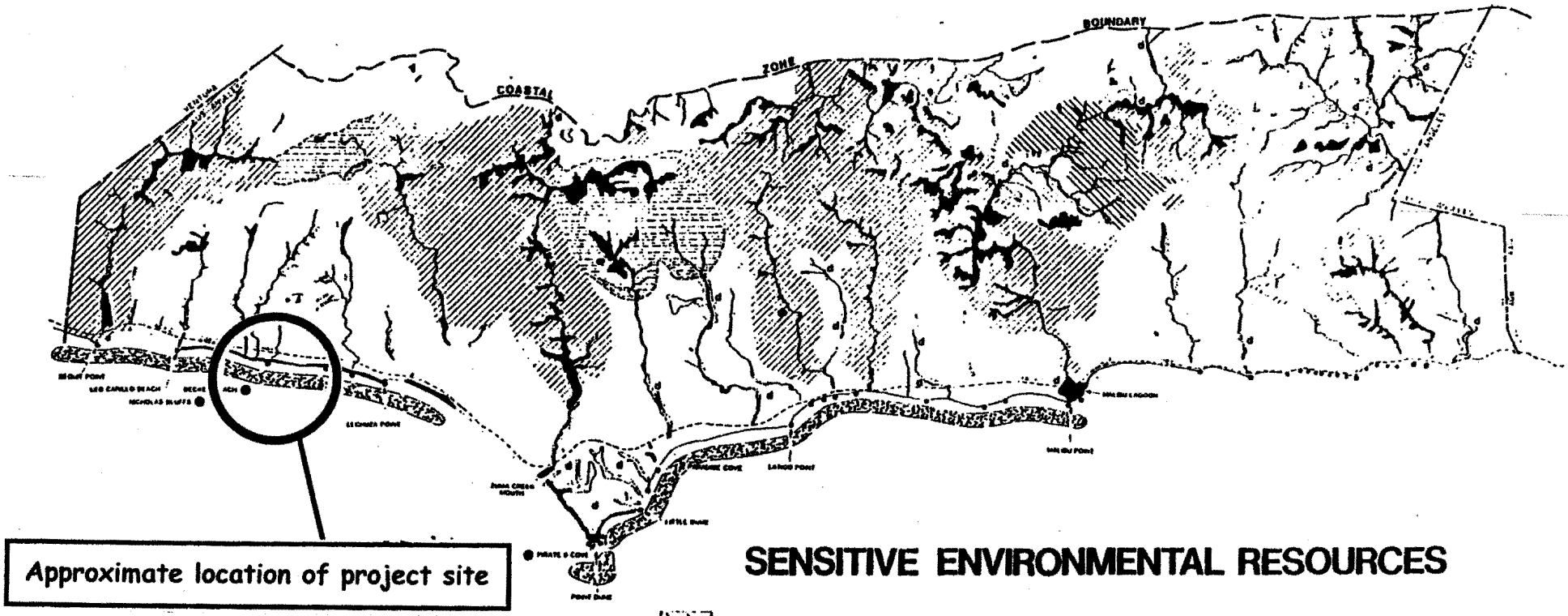


EXHIBIT NO. 2
APPLICATION NO. 4-01-147
SENSITIVE RESOURCES

Figure 6

CLIVE DAWSON A.I.A.
architecture and planning
PROPOSED SINGLE-FAMILY RESIDENCE
THOMAS HENNESSY
23852 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

SITE PLAN

EXHIBIT NO. 3
APPLICATION NO.
4-01-147
SITE PLAN

EXHIBIT NO. 4

APPLICATION NO.

4-01-147

GRADING | DRAINAGE

EXHIBIT NO. 5

APPLICATION NO.

4-01-147

FIRST FLOOR PLAN

2	**CLIVE DAWSON A.I.A.** architecture and planning 28925 Pacific Coast Highway, Malibu, California 90265 310.589.1921	PROPOSED SINGLE FAMILY RESIDENCE FOR: THOMAS HENNESY 32852 PACIFIC COAST HIGHWAY MALIBU, CA 90265

EXHIBIT NO. 6
APPLICATION NO. 4-01-142
SECOND FLOOR PLAN

SECOND FLOOR 1928 SQ.FT.

3

CLIVE DAWSON A.I.A.
architecture and planning
28928 Pacific Coast Highway, Malibu, California 90265 310.589.1821

PROPOSED SINGLE FAMILY RESIDENCE FOR:
THOMAS HENNESY
32852 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

EXHIBIT NO. 7
APPLICATION NO. 4-01-142
ROOF PLAN

ROOF PLAN

4

CLIVE DAWSON A.I.A.
architecture and planning
28938 Pacific Coast Highway, Malibu, California 90265 310.589.1921

PROPOSED SINGLE FAMILY RESIDENCE FOR:
THOMAS HENNESY
28925 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

CLIVE DAWSON A.I.A.
architecture and planning
PROPOSED SINGLE FAMILY RESIDENCE FOR:
THOMAS HENNESY
32852 PACIFIC COAST HIGHWAY
MALIBU, CA 90265
5

NORTH ELEVATION

SOUTH ELEVATION

EXHIBIT NO. 8
APPLICATION NO.
4-01-147
ELEVATIONS (1)

EXHIBIT NO. 9

APPLICATION NO.

4-01-142

ELEVATIONS (2)

9

CLIVE DAWSON A.I.A.
architecture and planning
28928 Pacific Coast Highway, Malibu, California 90265 310.589.1921

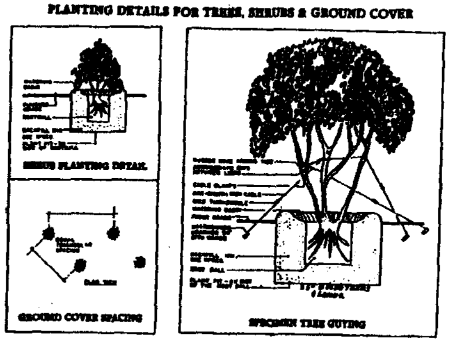
PROPOSED SINGLE FAMILY RESIDENCE FOR:
THOMAS HENNESY
28925 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

MAY 2001

GRADING NOTES

Should grading take place during the rainy season (Nov. 1 - March 31), appropriate measures shall be taken to minimize sediment runoff. All sediment shall be maintained on-site or removed to an appropriate dumping location.

PLANTING DETAILS FOR TREES, SHRUBS & GROUND COVER



SHRUB PLANTING DETAIL

GROUND COVER SPACING

SPECIMEN TREE GUYING

LANDSCAPE AND EROSION CONTROL PLANS

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

- 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, Los Angeles - Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. The plan shall include vertical elements, such as trees, which break up the appearance of the proposed parking area and building additions to partially screen the project from Pacific Coast Highway and Westward Beach Road.
- The erosion control plan shall assure that run-off from the ascending slope, roofs, patios, parking areas, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner. The erosion control plan shall include revegetation of the slopes with drought-tolerant, native species more specifically described in the landscape plan above.

Planting Notes:

Planting shall blend with the surroundings so as to soften visual impact, if necessary, from the Pacific Coast Hwy.

Drought and fire resistant ornamental and indigenous plants, trees and ground covers are to be utilized. The Santa Monica Mountains Chapter of the California Native Society's Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains shall be used to provided the main design guideline, as well as the Theodore Payne Foundation Plant List.

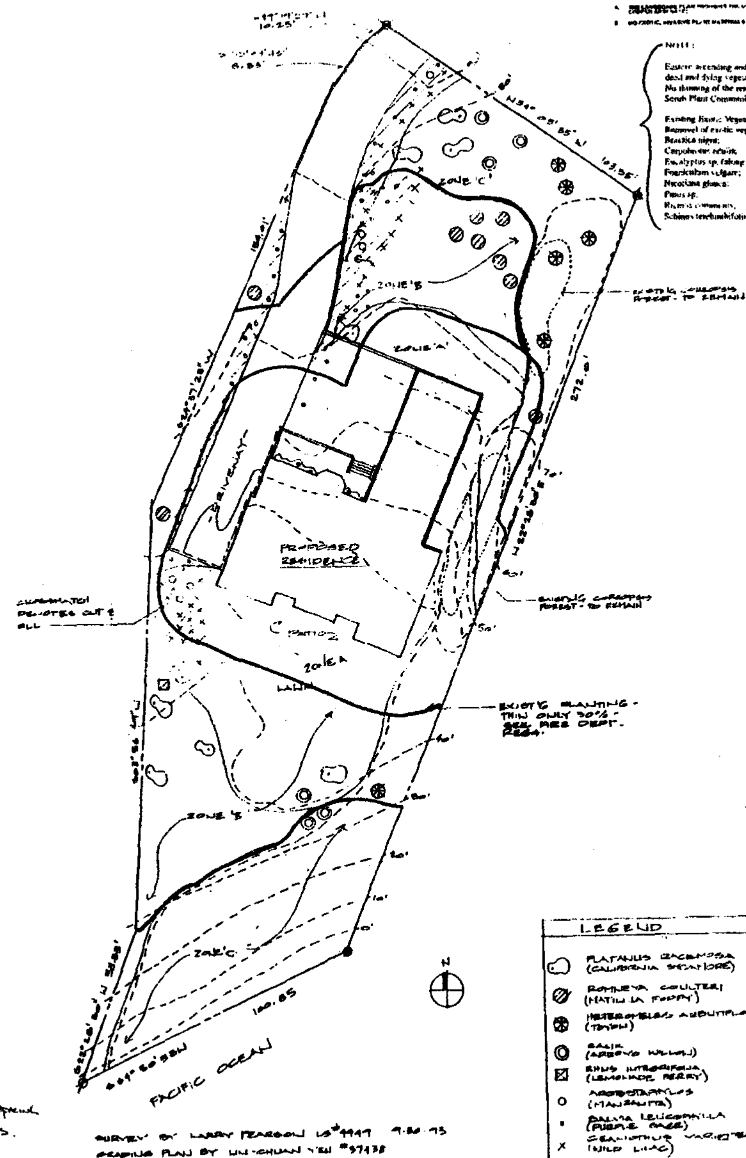
Should any grading or disturbance be necessary @ east edge of property through the course of construction corcopsis plants to be relocated to another on site undisturbed area.

ALL WITHIN SPECIAL GUIDELINES.

NOTE:

Eastern ascending and Southern descending slopes zone C removal of dead and dying vegetation (not dormant, but dead only)
No thinning of the remaining native species of plants of the Coastal Bluff Scrub Plant Community

Existing Exotic Vegetation to Be Removed
Removal of exotic vegetation including:
Brassica nigra;
Carpobrotus edulis;
Eucalyptus sp. (along driveway to be widened);
Foeniculum vulgare;
Nicotiana glauca;
Pinus sp.
Ricinus communis;
Schinus terebinthifolius



SURVEY BY LARRY PEARSON LS #4447 9-30-95
GRADING PLAN BY LIN-CHUAN YEN #37438

LEGEND

- PLATANUS RACEMOSA (CALIFORNIA SYCAMORE)
- ROMNEYA COULTERI (MATILIJA POPPY)
- HETEROMELES ARBUTIFOLIA (TOYON)
- SALIX (ARROYO WILLOW)
- RHUS INTEGRIFOLIA (LEMONADE BERRY)
- ARCTOSTAPHYLOS (MANZANITA)
- SALVIA LEUCOPHYLLA (PURPLE SAGE)
- CEANOTHUS VARIETY (WILD LILAC)

COUNTY OF LOS ANGELES
FIRE DEPARTMENT
FIRE PREVENTION BUREAU
PRELIMINARY
FUEL MODIFICATION PLAN
APPROVED

FUEL MODIFICATION PLAN

LANDSCAPE PLAN

TAM PENNEY
32852 PACIFIC COAST HWY
MALIBU - CA - 90265

MAJOR LANDSCAPE
28990 Pacific Coast Hwy.
Suite 210
Malibu, California 90265
(310) 457-4159

EXHIBIT NO. 10

APPLICATION NO.

4-01-147

FUEL MODIFICATION

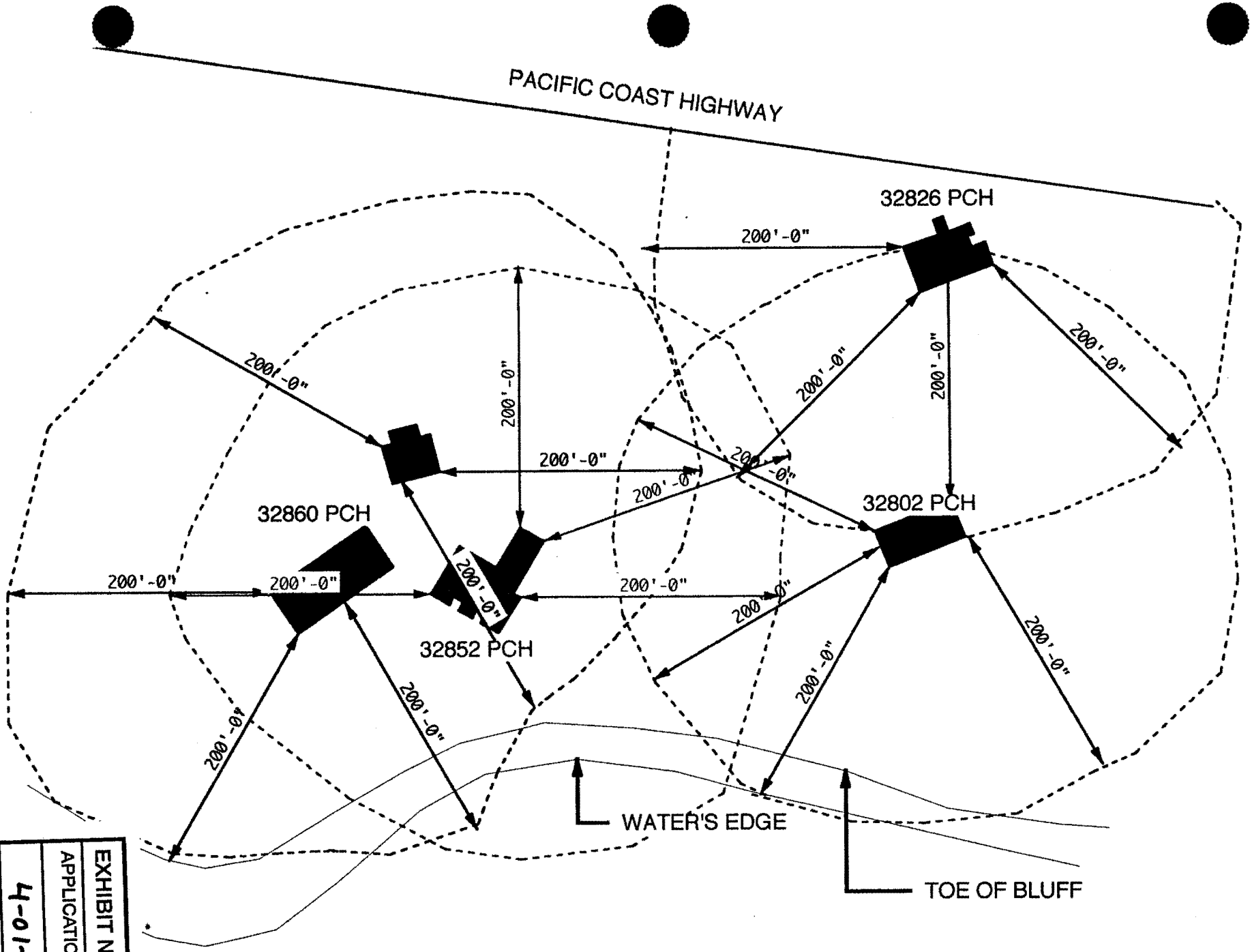


EXHIBIT NO. 11
APPLICATION NO.
4-01-147
BRUSH CLEARANCE

PROPOSED NEW RESIDENCE AT:
32852 PACIFIC COAST HIGHWAY
MALIBU, CA. 90265

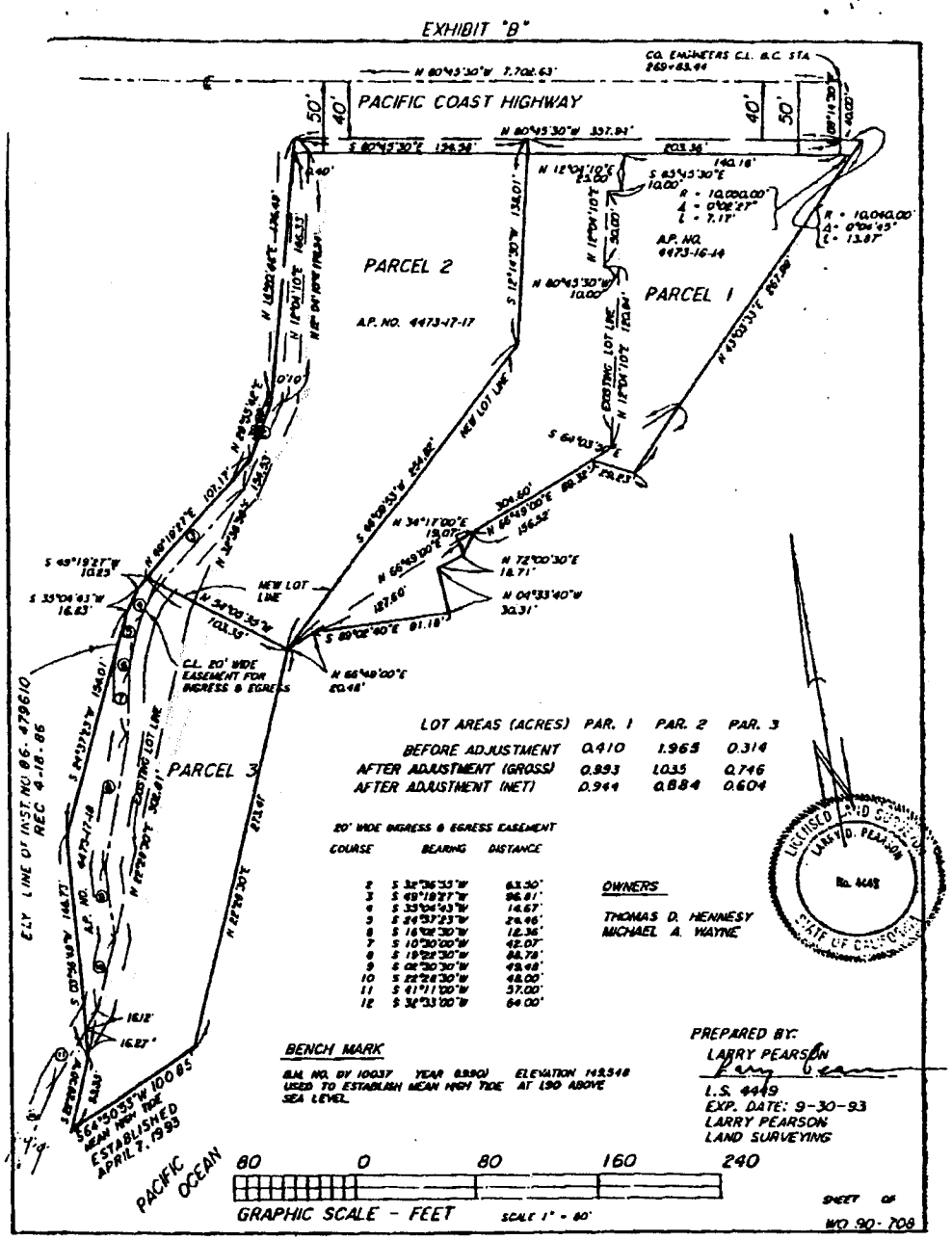
EXHIBIT NO. 12
APPLICATION NO.
4-01-147
STRINGLINE

EXHIBIT NO. 13

APPLICATION NO.

4-01-147

LOT LINE ADJUSTMENT



STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800

December 27, 2001

Mory Ejabat
Zhore Technologies
7001 Oakport St.
Oakland, CA 94621

Subject: *Coastal Development Permit application 4-01-147 for development at 32852 Pacific Coast Highway*

Dear Mr. Ejabat:

This letter to is inform you of a Coastal Development Permit application for development at 32852 Pacific Coast Highway, and to invite you to become a co-applicant for the project.

Section 30601.5 of the Coastal Act states:

> *Where the applicant for a coastal development permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the commission shall not require the holder or owner of any superior interest in the property to join the applicant as coapplicant.* ***All holders or owners of any other interest of record in the affected property shall be notified in writing of the permit application and invited to join as coapplicant.*** *In addition, prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval.* (Emphasis added.)

We have recently been informed that you are the holder of an easement on the subject property. The proposed development, including the construction of a stream channel, is partly located within that easement, as shown on the reduced project plans enclosed. The project description for the proposed development is also enclosed.

Please contact me at your earliest convenience if you have any comments or questions, or if you would like to join this application as a co-applicant. Thank you very much for your time and attention to this matter.

Sincerely,

Lillian Ford
Coastal Program Analyst

EXHIBIT NO. 14
APPLICATION NO.
4-01-147
CORRESPONDENCE

ALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
'JTH CALIFORNIA ST., SUITE 200
RA, CA 93001
(805) 641-0142

Filed: March 14, 1997
49th Day: May 2, 1997
180th Day: September 10, 1997
Staff: Betz-V
Staff Report: April 22, 1997
Hearing Date: May 13-16, 1997

Tu 4d

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-97-037

APPLICANT: Mike Wayne AGENT: Clive Dawson

PROJECT LOCATION: 32852 Pacific Coast Highway, City of Malibu, Los Angeles County.

PROJECT DESCRIPTION: Construct 2 story, 28 ft. high (above natural grade), 5,303 sq. ft. single family residence with attached 3 car garage and septic system. No grading.

Lot Area	35,680 sq. ft.
Building Coverage	3,951 sq. ft.
Pavement Coverage	4,500 sq. ft.
Landscape Coverage	none
Parking Spaces	3 covered
Plan Designation	RR 1, 1 du/ac
Project Density	1.2 du/ac
Ht abv nat grade	28 feet

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Department Approval in Concept, dated 2/25/97; Environmental Health In-concept Approval, dated 12/13/96.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Coastal Permits 4-94-145 (Encinal Bluff Partners) and 4-96-165 (Hennesy); Mountain Geology, Inc.: Engineering Geologic Memorandum, November 21, 1996; Addendum Engineering Geologic Report, July 19, 1996; Addendum Engineering Geologic Report, June 28, 1996; Update Engineering Geologic Report and Plan Review, April 25, 1996; Addendum Engineering Geologic Report, April 24, 1996; Addendum Engineering Geologic Report, February 29, 1996; Addendum Engineering Geologic Report, September 8, 1995; Addendum Engineering Geologic Report, March 7, 1995; Updated Engineering Geologic Report, revised November 9, 1994; Updated Preliminary Engineering Geologic Report, January 26, 1994; Engineering Geologic Report, January 10, 1990; Coastline Geotechnical Consultants, Inc.: Responses to Geology and Geotechnical Engineering Review Sheet, July 10, 1996; Review and Update Geotechnical Engineering Report, April 22, 1996; Review and Update Geotechnical Engineering Investigation Report, January 16, 1996; Review and Update, August 2, 1993; Miscellaneous Information [reply to Los Angeles County review sheets], February 7, 1991; Reply to Review Sheets, August 16, 1990; Proposal for Professional Services, April 17, 1990; Report Update, January 16, 1990; Baseline Consultants, Inc.: Revised Compaction Report, March 4, 1981; Soils and Geology Investigation, August 6, 1980.

EXHIBIT NO. 15
APPLICATION NO.
4-01-147
STAFF REPORT - 4-97-037

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval of the proposed project with five (4) Special Conditions addressing landscape and erosion control plans, drainage plans, plans conforming to the consulting geologist's recommendations, assumption of risk, and wild fire waiver of liability.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, 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, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies 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.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. 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 project during its development, 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.

III. Special Conditions.

1. LANDSCAPE AND EROSION CONTROL PLANS

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

a) All disturbed 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, Los Angeles - Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

b) All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes according to the approved landscape plan within thirty (30) days of final occupancy of the residence. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage.

2. DRAINAGE PLANS

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner. Site drainage shall not be accomplished by sheetflow runoff. Should the project's drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.

3. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION

Prior to the issuance of the permit the applicant shall submit, for the review and approval by the Executive Director, evidence of the geology consultant's review and approval of all project plans. All recommendations contained in (1) the Coastline Geotechnical Consultants, Inc.: Responses to Geology and Geotechnical Engineering Review Sheet, July 10, 1996; Review and Update Geotechnical Engineering Report, April 22, 1996; and Review and Update Geotechnical Engineering Investigation Report, January 16, 1996; and (2) the Mountain Geology, Inc.: Addendum Engineering Geologic Report, July 19, 1996; Addendum Engineering Geologic Report, June 28, 1996; Update Engineering

Geologic Report and Plan Review, April 25, 1996; Addendum Engineering Geologic Report, April 24, 1996; Addendum Engineering Geologic Report, February 29, 1996; Updated Engineering Geologic Report, revised November 9, 1994; Addendum Engineering Geologic Report, September 8, 1995; including issues related to site preparation, foundations, and drainage, shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic consultants.

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.

4. WILD FIRE WAIVER OF LIABILITY

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

5. APPLICANT'S ASSUMPTION OF RISK

Prior to issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from flooding and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description

The applicant proposes the construction of a 2 story, 28 ft. high (above average natural grade), 5303 sq. ft. single family residence with septic system and no grading on a .82 acre lot at 32832 Pacific Coast Highway in the City of Malibu.

The site straddles a blue line stream that was filled and diverted into a 48" culvert prior to passage of Proposition 20 and the 1976 Coastal Act. The

stream is in a natural state north and southwest of the project site, where it spills out onto the beach, although it is only designated as blue-line north of the site on the United States Geologic Survey (USGS) map. The applicant's agent indicates that the culvert was constructed in 1966 or 1967. A review of aerial photographs by staff indicates that the backfill covering the culvert existed prior to passage of Proposition 20 and the 1976 Coastal Act. The Public Works Department of the City of Malibu does not show the culvert as a public improvement.

The site is presently improved with fences and partial landscaping, with the remainder of the site remaining cleared. An unpaved private road originating on Pacific Coast Highway traverses the western edge of the property and exits off-site on the beach beyond the southwest corner of the parcel.

There are a number of apparently inoperative motor vehicles on the subject property. According to the applicant's agent, these vehicles are being gradually "parted-out" or moved off-site to Oxnard College or a high school to be used for instruction and training, or are being given to another non-profit organization.

The building site is located in the middle of the pad which consists of approximately five feet or less of fill over natural terrace deposits. The beach front of the site consists of a bluff over an inactive earthquake fault. The bluff is approximately thirty feet high above the rocky and sandy beach and approximately half the thickness of the bluff consists of introduced fill. The submittal materials show that the pad drains predominantly off-site to the southwest and hence to the ocean, rather than across the bluff face.

Surrounding development includes single family residential development, a riparian corridor, a rocky and sandy beach, coastal bluffs, and State Park land. The property is located between the first public road and the ocean, and fronts upon the beachfront. To the north of the site, a canyon contains the referenced blue-line stream as designated by the United States Geologic Survey, which terminates at approximately the inland boundary of the site according to the USGS map. The stream, bluff, beach and offshore area are recognized by the Commission as an environmentally sensitive habitat areas (ESHAs), most recently in Coastal Permits 4-94-145 (Encinal Bluff Partners) and 4-96-165 (Hennesy).

B. Environmentally Sensitive Habitat Areas.

Section 30230 of the Coastal Act states that:

> 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 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.

Section 30240 of the Coastal Act states that:

(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.

The applicant proposes the construction of a 2 story, 28 ft. high (average natural grade), 5,303 sq. ft. single family residence with septic system on a .82 acre lot with no grading.

The Commission has consistently emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. As noted above the site contains or is adjacent to several ESHAs. The site drains into the ocean and channelizes a USGS identified blue-line stream. The off shore area and beach has, in past decisions, been designated by the Commission as an environmentally sensitive habitat area (ESHA). The bluff area is also a recognized ESHA. The Commission found, in past decisions (see permit 4-94-145, Encinal Bluff Partners and 4-96-165 (Hennesy)), that the nearby stream, bluff and beach areas and any kelp beds occurring offshore are ESHA areas.

The proposed building site is not within the ESHA. The house site is located approximately 90 ft. south of the stream ESHA and is twenty-five feet inland of the bluff at its closest point. However, development on this site could adversely impact the sensitive habitat resources if not properly designed. Although the applicant proposes no grading, a minor, incidental amount of soil disturbance will result from the construction of the residence.

In addition, the impervious surfaces created will increase both the volume and velocity of storm water runoff from the site. If not controlled and conveyed off-site in a non-erosive manner this runoff would result in increased erosion on and off site. Increased erosion not only destabilizes the the site but may result in deterioration of the bluff and impacts of sedimentation on the nearby stream and ocean. The increased sediments in the water course can adversely impact riparian streams and water quality. These impacts can include:

1. Eroded soil contains nitrogen, phosphorus, and other nutrients. When carried into water bodies, these nutrients trigger algal blooms that reduce water clarity and deplete oxygen which lead to fish kills, and create odors.

2. Erosion of streambanks and adjacent areas destroys streamside vegetation that provides aquatic and wildlife habitats.

3. Excessive deposition of sediments in streams blankets the bottom fauna, "paves" stream bottoms, and destroys fish spawning areas.

4. Turbidity from sediment reduces in-stream photosynthesis, which leads to reduced food supply and habitat.

5. Suspended sediment abrades and coats aquatic organisms.

6. Erosion removes the smaller and less dense constituents of topsoil. These constituents (clay and fine silt particles and organic material) hold nutrients that plants require. The remaining subsoil is often hard, rocky, infertile, and droughty. Thus, reestablishment of vegetation is difficult and the eroded soil produces less growth.

7. Introduction of pollution, sediments, and turbidity into marine waters and the nearshore bottom has similar effects to the above on marine life. Pollutants in offshore waters, especially heavy metals, are taken up into the food chain and concentrated (bioaccumulation) to the point where they may be harmful to humans, as well as lead to decline of marine species.

To ensure that the proposed project minimizes sedimentation of coastal waters and the adjacent stream and minimize erosional impacts the Commission finds it necessary to require the applicant to submit detailed drainage plans which illustrate how runoff will be conveyed off-site in a non-erosive manner. In addition, landscaping of the areas disturbed by construction activities will also serve to minimize erosion, ensure site stability and minimize sedimentation impacts to the nearby ESHAs. Therefore, the Commission finds it necessary to require the applicant to submit a landscape and erosion control plan as a special condition of approval.

These conditions will ensure that all impacts of site disturbance and runoff from increased impervious surfaces resulting from the proposed project are mitigated to the maximum extent feasible, thereby minimizing any adverse affects on the habitat of the designated blue-line stream and offshore kelp beds. Therefore, the Commission finds that only as conditioned will the proposed project be consistent with the policies found in Sections 30230, 30231 and 30240 of the Coastal Act.

C. Geologic Stability.

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.

As previously noted, the applicant proposes the construction of a 2 story, 28 ft. high (average natural grade), 5,303 sq. ft. single family residence with septic system and no grading on a .82 acre lot at 32852 Pacific Coast Highway in the City of Malibu. The bluff seaward of the house site is located over an east-west trending inactive fault.

The applicant has submitted numerous geotechnical reports for the proposed project, as noted above under Substantive File Documents. The large number of reports relates to the history of proposed development since 1980 and geologic problems associated with the parcel and two more inland sites, including the site addressed in the permit 4-96-165 (Hennesy). These reports respond to repeated concerns of the City of Malibu Building Department in their review of proposed development as shown by their Geology and Geotechnical Engineering Review Sheets.

The geotechnical report, Mountain Geology, Inc., Updated Engineering Geologic Report, revised November 9, 1994 states that::

> ... construction of a single family residence is considered feasible from an engineering geologic standpoint provided the following recommendations are made a part of the plans and are implemented during construction.

The consultant then concludes that:

> Based upon our investigation, the proposed development is free from geologic hazards such as landslides, slippage, active faults, and undue differential settlement provided the recommendations of the Engineering Geologist and Geotechnical Engineer are complied with during construction. The proposed development and installation of the private sewerage disposal system will have no adverse effect upon the site or adjacent properties.

The engineering geology report also includes a recommendation to remove uncertified materials and to strip vegetation, debris, existing fill and soft or disturbed soils. However, removal of fill and recompaction is not proposed as part of the present application. Therefore, if additional substantial grading (in excess of ± 50 cu. yds.), is necessary to comply with the geologists recommendation, an amendment to this permit is required.

Based on the recommendations of the consulting engineer and geologist the Commission finds that the development is consistent with Section 30253 of the Coastal Act and applicable LUP policies so long as the geologic consultant's geologic recommendations are incorporated into project plans. Therefore, if the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting Engineering Geologist as conforming to their recommendations.

The landscape/erosion control plan and a drainage plan, required above, are also needed to minimize erosion from the project site and potential sedimentation onto the beach and offshore area. The Commission finds it necessary to require the applicant to submit landscape and erosion control and drainage plans to minimize erosion and to provide plantings primarily of native species.

Additionally, 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. Through the waiver of liability the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development.

Lastly, as previously noted, the project site is underlaid with a 48 " inch culvert which collects a blue-line stream and conveys it under the property. At one time there was also an earthen dam on the site to catch high level flows. This culvert drains approximately one-third square mile, including the portion of the coastal canyon inland of Pacific Coast Highway. According to the applicant's agent, this culvert was found as adequate by the City because it could convey the equivalent of 100 year storms as shown by the high rainfall in recent years without causing any adverse impact. Furthermore, the culvert has been in place for 30 years and has not been damaged or overtopped by flood water including the 1982-83 floods. Given the large size of the culvert and small drainage area of the stream, the culvert appears to be of an adequate size to convey flood flows. However, there is always the potential that the culvert could be blocked by debris and flood the building site. In order to ensure that the applicant understands that a potential flood hazard exists, the Commission can only approve the project if there is a deed restriction noting the extraordinary flood hazard and that the applicant unconditionally waives any claim of liability against the Commission.

For the above reasons, the Commission finds that the proposed development, as conditioned, is consistent with Section 30253 of the Coastal Act and applicable portions of the Malibu LUP.

D. Septic System.

The proposed development includes the installation of an on-site septic system to provide sewage disposal. The Commission has recognized, in past permit actions, that the potential build-out of lots in the Malibu area and the resultant installation of septic systems may contribute to adverse health effects. 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.

The applicant proposes the construction of a on-site septic system which consists of a septic tank and seepage pits located near Pacific Coast Highway. The system is located uphill and inland of the residence. The system will drain downhill in a subterranean manner without intersecting the stream which is within a culvert across the property as previously noted. The referenced November 21, 1996 geological memorandum found that "... the

proposed leach field will have no adverse effect upon the stability of the site or the adjacent properties."

The applicant's geology reports indicate that the percolation rate is adequate to absorb effluent for the project. The applicant has submitted a conceptual approval for the sewage disposal system from the Department of Environmental Health Services, City of Malibu. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the City of Malibu Plumbing Code.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for waste water discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed septic system is consistent with Sections 30231 and 30250 of the Coastal Act.

E. Public Access

The proposed development is between the first public road and the ocean, and is located on the beachfront. The Coastal Act requires the Coastal Commission to ensure maximum public access for every project. Applicable sections of the Coastal Act provide:

Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211: Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212: (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway. ...

Projects requiring a Coastal Development Permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. The Commission has required public access to and along the shoreline in new development projects and has required design changes in other projects to reduce interference with access to and along the shoreline. The major access issue in such permits, i.e. the occupation of sand area by a structure, in

contradiction of Coastal Act policies 30210, 30211, and 30212, is not applicable in the case of this project.

However, a conclusion that access may be mandated does not end the Commission's inquiry. As noted, Section 30210 imposes a duty on the Commission to administer the public access policies of the Coastal Act in a manner that is "consistent with ... the need to protect ... rights of private property owners..." The need to carefully review the potential impacts of a project when considering imposition of public access conditions was emphasized by the U.S. Supreme Court's decision in the case of Nollan vs. California Coastal Commission. In that case, the court ruled that the Commission may legitimately require a lateral access easement where the proposed development has either individual or cumulative impacts which impede the achievement of the State's legitimate interest in protecting access and where there is a connection, or nexus, between the impacts on access caused by the development and the easement the Commission is requiring to mitigate these impacts.

The subject site is located inland of the beach southwest of the intersection of Encinal Canyon Road and Pacific Coast Highway and between segments of Robert H. Meyer Memorial State Beach. As such, development in the project area has been reviewed on many occasions with respect to Coastal Act sections relative to access and recreation. The Commission's experience in reviewing shoreline residential projects in Malibu indicates that individual and cumulative impacts on access of such projects can include, among others: encroachment on lands subject to the public trusts thus physically excluding the public; interference with natural shoreline processes which are necessary to maintain publicly-owned tidelands and other public beach areas; overcrowding or congestion of such tideland or beach areas; and visual or psychological interference with the public's access to and the ability to use and cause adverse impacts on public access such as above.

In the case of the proposed project, however, the construction would be a single family residence located one hundred feet inland of the mean high tideline, approximately forty feet above the beach level, and twenty-five feet landward of the edge of the coastal bluff. The Commission regularly uses the stringline concept to determine the allowable seaward extent of development and the related impact on coastal access. However, the scattered development character in the area, changes in topography, and the irregular and concave nature of the shoreline make use of a stringline between existing development of limited use in evaluating new development. The project cannot be found to affect the stringline or include any shoreline protective devices. Thus, the project will have no individual or cumulative impacts on public access. In addition, the site is located within approximately 500 ft. of two State beaches which provide vertical access to the beach.

In addition, the project will not blocked any vertical accessways where the public has acquired use. Review of aerial photographs indicates that either the connector road to the beach has not existed and/or that access from the Coast Highway has been blocked by private fences since passage of Proposition 20 and the 1976 Coastal Act.

In summary, the project will have no individual or cumulative impacts on public access. Therefore, the Commission finds that the proposed project is consistent with sections 30212, 30211, and 30212 of the Coastal Act.

F. Visual Quality

Section 30251 of the Coastal Act states that:

> The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character 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 subordinate to the character of its setting.

Section 30251 of the Coastal Act requires that development 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 surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The proposed project site is located seaward of the Pacific Coast Highway (PCH), a Commission designated scenic highway. The building site is located below PCH. Although there is heavy existing landscaping, the site would not be visible from Pacific Coast Highway even without this vegetation due to the elevation difference. There is no continuity of view from Pacific Coast Highway due to the meandering of the canyon and the drop-off in topography.

The proposed residence is sited on an existing sloping pad approximately 40 feet above the beach. The design of the residence includes an approximately 28 foot high two story section set back 25 ft. from the edge of the bluff on a gently sloping portion of the site. Closer to the beach, the slope increases to the southwest or increases steeply along the bluff.

The proposed location of the residence is the preferred building site on the property by being approximately the same distance from the bluff and the stream, as previously noted. The building will only have limited visibility from the beach because of the bluff and a small knoll to the southwest. A location further inland would have the decrease in visual benefit because of distance offset by the increase in elevation. The impact of views along the coast is further mitigated because the building site is tucked into a coastal canyon opening up into a concave coastline.

There are several significant view corridors within 200 to 500 feet of this property. Immediately to the east, within 200 feet, there is a small canyon which affords a view of the ocean. In addition, within 500 feet east and west of the property there are two state beach areas (La Piedra and El Pescador) which also afford large scenic view corridors.

Therefore, the Commission finds that the proposed project as conditioned will not adversely impact visual resources and is consistent with Section 30251 of the Coastal Act.

G. Local Coastal Program.

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

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

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

H. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of 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)(i) 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 impact which the activity may have on the environment.

As conditioned, there are no negative impacts caused by the proposed development which have not been adequately mitigated. Therefore, the proposed project as conditioned is found consistent with CEQA and the policies of the Coastal Act.

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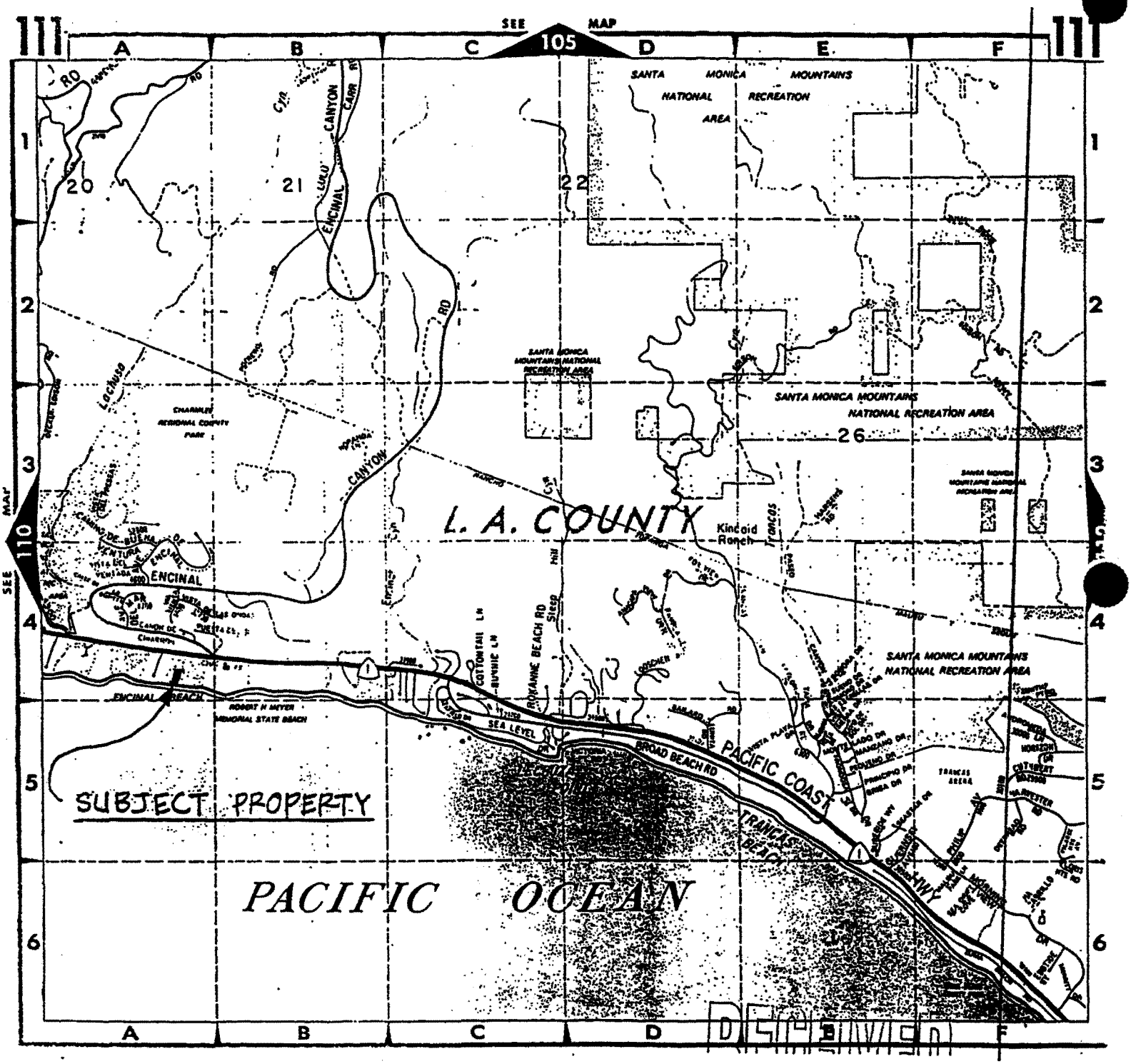

EXHIBIT NO. 1
APPLICATION NO.
4-97-037 Wayne
Project Location

32852 PACIFIC COAST HWY
MALIBU, CA 264

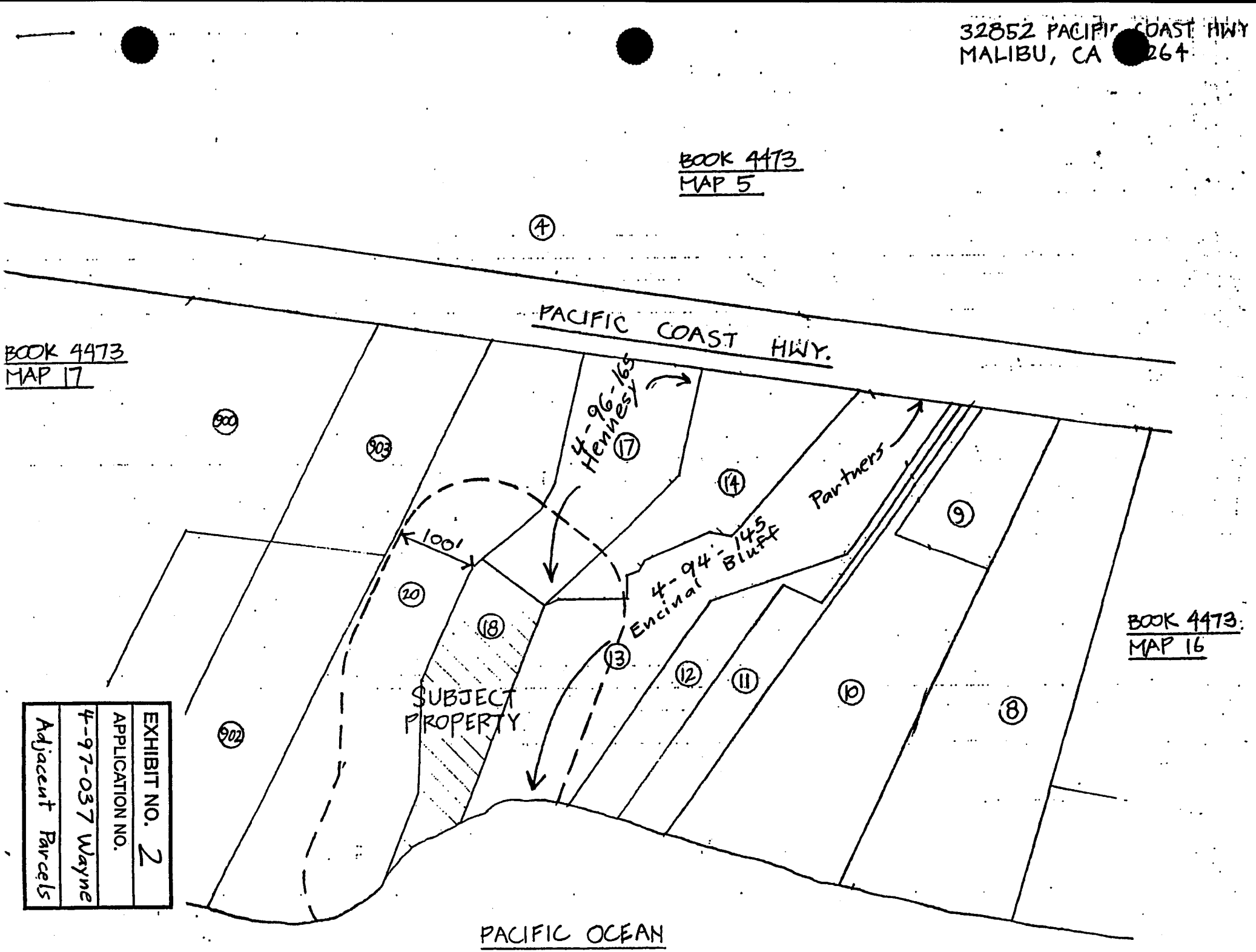

EXHIBIT NO. 2
APPLICATION NO.
4-97-037 Wayne
Adjacent Parcels

32852 PACIFIC COAST HWY.
MALIBU, CA 90265

S.F.D.:	5 Bedroom (N)
SEPTIC TANK:	1500 Gallon (N)
PRESENT:	1 - 3' X 60' Leach Trench with 2' Extra Rock (N)
FUTURE:	100%
PERC RATE:	15 minutes/inch

CITY OF MALIBU
ENVIRONMENTAL HEALTH
IN-CONCEPT APPROVAL
SIGNATURE
DEC 13 1996 LYoung
FINAL APPROVAL IS REQUIRED PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMITS.

NOTES:

1. This approval is for a new 5 bedroom single family dwelling. A new private sewage disposal system shall be installed, as shown.
2. This approval only relates to the minimum requirements of the City of Malibu Uniform Plumbing Code and does not include an evaluation of any geological, or other potential problems, which may require an alternative method of wastewater disposal.
3. This approval is valid for one year or until City of Malibu Uniform Plumbing Code and/or Administrative Policy changes render it noncomplying.

1" = 30'

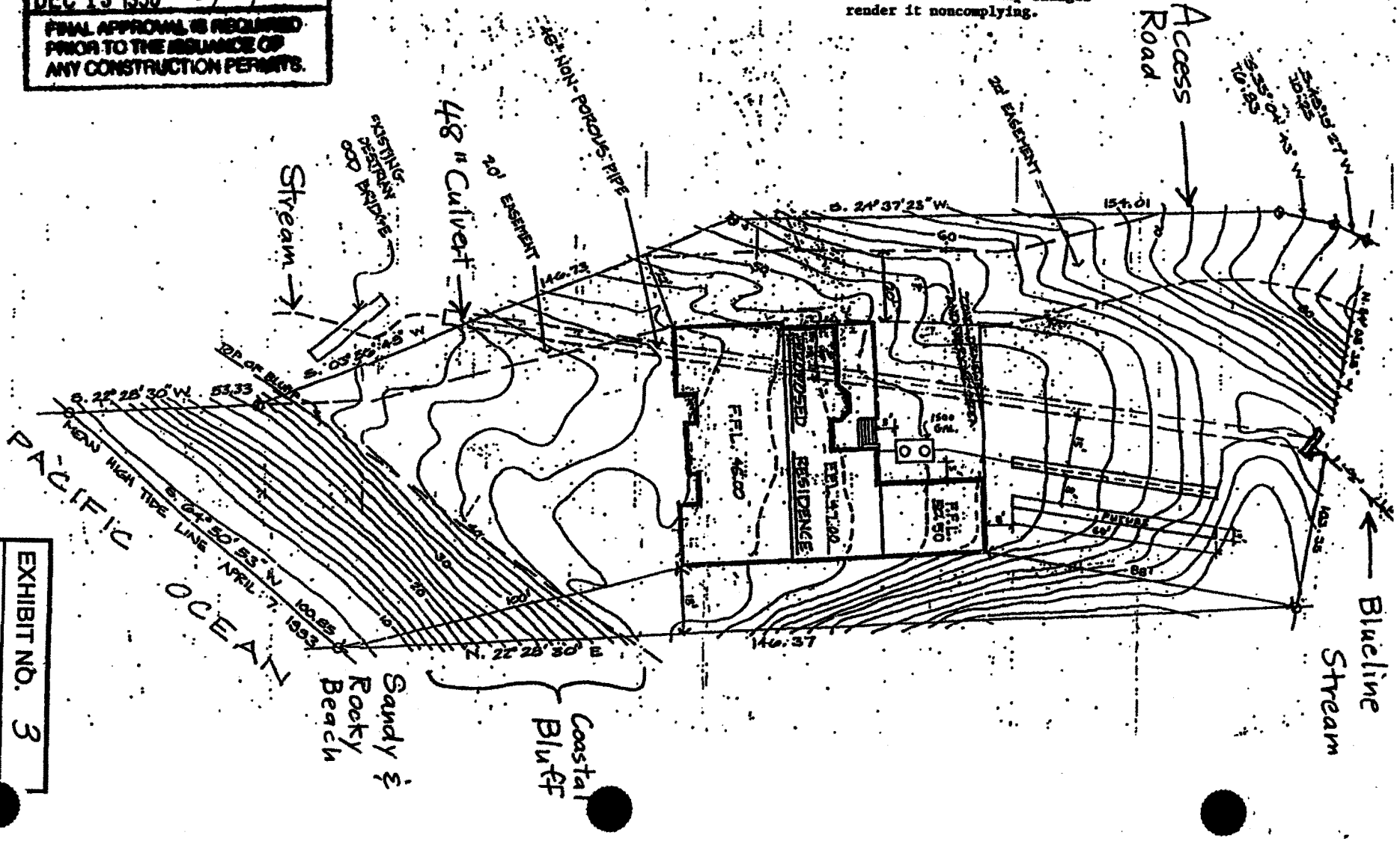

EXHIBIT NO. 3
APPLICATION NO.
4-97-037 Wayne
Site Plan

EAST ELEVATION

EXHIBIT NO. 4a
APPLICATION NO.
4-97-037 Wayne
Elevations

NORTH ELEVATION

EXHIBIT NO.	4b
APPLICATION NO.	4-97-037 Warm
Elevations	

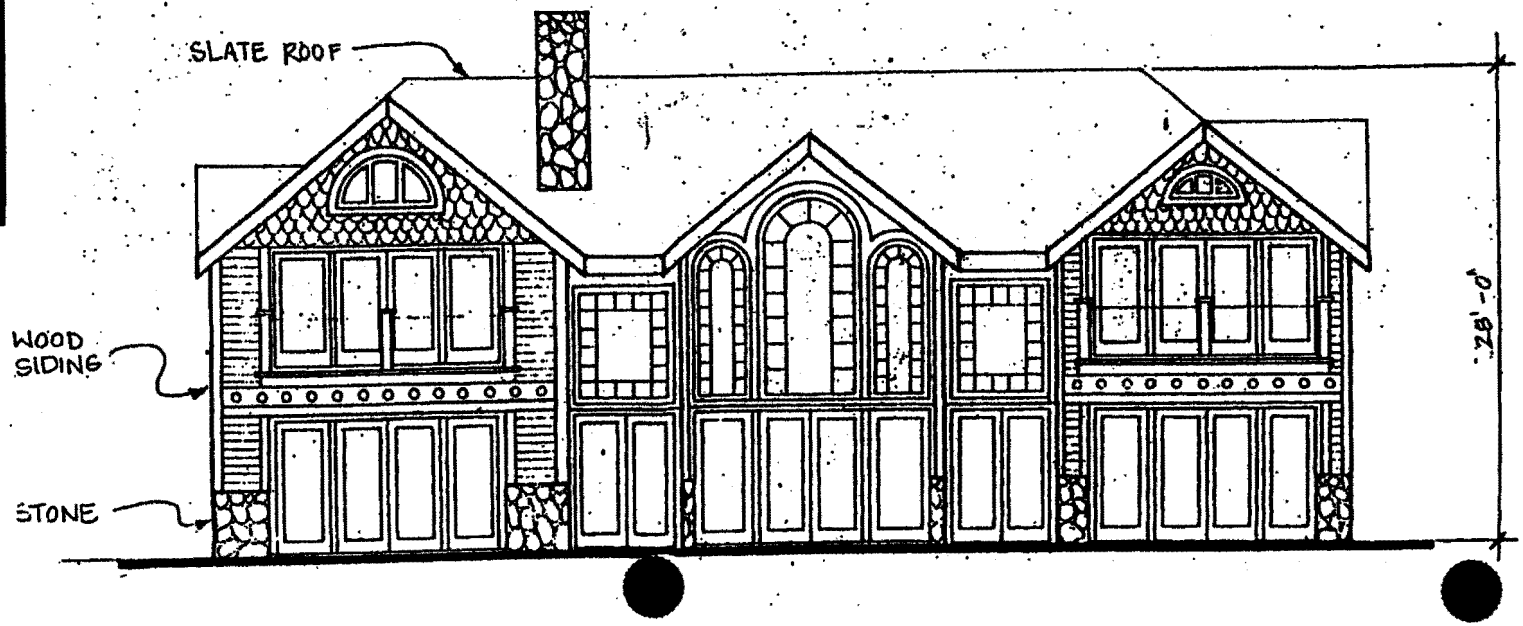

Photo 1: Proposed building pad, looking north.

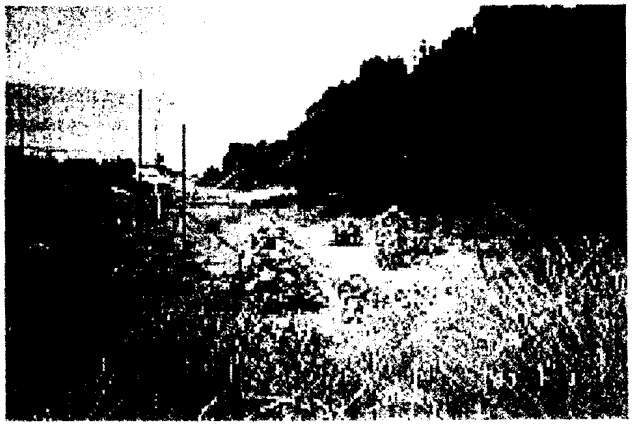

Photo 2: Proposed building pad, looking south.

Photo 3. View of proposed building site (in center) from beach below.

EXHIBIT NO. 16
APPLICATION NO.
4-01-147
PHOTOS (2 pp.)

Photo 4. Surrounding development. The subject site is in the canyon below and between the residences shown. Note bluff to east of subject site, shown center right.

Photo 5. Beach below site of proposed development.