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STATE OF CALIFORNIA -- THE RESOURCES AGENCY

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA  
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Filed: 7/13/01  
180th Day: 1/09/02  
Staff: SLG-V  
Hearing Date: 2/05/02  
Previous Hearing: 11/16/01 (Approved with  
Conditions)  
Commission Action: Approved/Vote 6--5



### ADOPTED REVISED FINDINGS

Adopted by the Commission on February 5, 2002

APPLICATION NO.: 4-01-034

RECORD PACKET COPY

APPLICANT: B.A.S.E. 22, LLC

AGENT: Goldman and Firth Architects

PROJECT LOCATION: 32640 Pacific Coast Highway, Malibu (Los Angeles County)

COMMISSION DECISION: Approved with Seven (7) Special Conditions

DATE OF COMMISSION ACTION: November 16, 2001 in Los Angeles

COMMISSIONERS ON PREVAILING SIDE: Commissioners Estolano, Hart, Kruer, Lee, McCoy, Potter

**PROCEDURAL NOTE:** Adoption of the revised findings requires a majority vote of the members from the prevailing side present at the November 16, 2001 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings. The associated motion and resolution are located on Page 2 of this report.

**PROJECT DESCRIPTION:** Construct new two-story, 28 ft. high, 8,129 sq. ft. single family residence with 675 sq. ft. attached garage, 660 sq. ft. basement, 202 sq. ft. sunset pavilion, swimming pool, spa, driveway, retaining walls, septic system, and 2,192 cu. yds. of grading (1665 cu.yds cut, 8.2 cu. yds fill, 518.5 cu. yds. overexcavation).

Lot Area:	127,208 sq. ft. (2.92 acres)
Building Coverage:	6,079 sq. ft.
Pavement Coverage:	6,511 sq. ft.
Landscaped Area:	32,000 sq. ft.
Parking Spaces:	5
Height above existing grade:	28 feet

**LOCAL APPROVALS RECEIVED:** ; County of Los Angeles, Fire Department, Approval in Concept, 2/8/01; City of Malibu, Planning Department, Approval in Concept, 1/12/01; City of Malibu, Geology and Geotechnical Approval in Concept, 9/26/00; City of Malibu,

Environmental Health Approval in Concept, 7/20/00; County of Los Angeles, Fire Department, Preliminary Fuel Modification Plan Approval, 5/31/00.

**SUBSTANTIVE FILE DOCUMENTS:** Supplemental Letter: 75 year setback Line, 32640 Pacific Coast Highway (SubSurface Designs, Inc. 7/10/01); Addendum III: Response to City of Malibu Review Sheet, 32640 Pacific Coast Highway (SubSurface Designs, Inc. 9/7/00); Addendum II: Response to City of Malibu Review Sheet, 32640 Pacific Coast Highway (SubSurface Designs, Inc. 8/16/00); Addendum I: Response to City of Malibu Review Sheet (SubSurface Designs, Inc. 6/29/00); Geologic and Soils Engineering Investigation (SubSurface Designs, Inc., 3/23/00); Phase I Archaeological Study (Wlodarski, December 1999); Coastal Development Permits (CDPs) 4-98-142, 143, & 163 (Duggan & Levinson), CDP 4-97-031 (Anvil), CDP 5-90-020 (Young), CDP 4-99-169 (Trento).

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends that the Commission adopt the following revised findings in support of the Commission's decision on November 16, 2001, to approve the proposed project subject to seven (7) special conditions. The Commission found that the proposed project is consistent with the applicable Chapter Three policies of the Coastal Act.

## I. STAFF RECOMMENDATION

**MOTION:** *I move that the Commission adopt the revised findings in support of the Commission's action on November 16, 2001, concerning approval of Coastal Development Permit 4-01-034.*

### **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings, as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the November 16, 2001, hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

### **RESOLUTION TO ADOPT REVISED FINDINGS:**

The Commission hereby adopts the findings set forth below for approval of Coastal Development Permit 4-01-034 on the ground that the findings support the Commission's decision made on November 16, 2001 and accurately reflect the reasons for that decision.

## II. STANDARD CONDITIONS

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

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

#### 1. **Landscape and Erosion Control Plans**

Prior to issuance of a 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 plan shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

#### A) **Landscaping Plan**

- 1) All disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. Vegetation on the seaward side of the residence and beyond zone A, as identified in the fuel modification plan, shall be limited to native plants endemic to coastal bluffs of the local area.
- 2) 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;

- 3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 4) The eucalyptus trees on the site shall be removed.
- 5) Permanent irrigation improvements shall be designed to minimize groundwater infiltration and shall be primarily limited to drip irrigation systems.
- 6) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- 7) Vegetation on the subject site shall be limited to low-lying species that will not block or adversely impact public views of the ocean from the Pacific Coast Highway or La Piedra State Beach. Landscaping adjacent to Pacific Coast Highway shall be limited to no more than two (2) feet in height. Landscaping over the remainder of the site shall consist of plant species that upon maturity shall not block or significantly obscure the blue water views of the ocean as seen from Pacific Coast Highway or La Piedra State Beach. Landscaping shall be maintained so as not to block or significantly obscure blue water views of the ocean as seen from Pacific Coast Highway or La Piedra State Beach.
- 8) Fencing adjacent to Pacific Coast Highway shall be setback from the highway such that the fencing shall not extend above the highway elevation or road surface. Fencing over the remainder of the site shall not exceed 6 feet in height. All bars, beams, or other non-visually permeable materials used in the construction of the proposed fence shall be no more than 1 inch in thickness/width and shall be placed no less than 8 inches in distance apart. Alternative designs may be allowed only if the Executive Director determines that such designs are consistent with the intent of this condition and serve to minimize adverse effects to public views.
- 9) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

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

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

**C) Monitoring**

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the

landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

## **2. Future Development Deed Restriction**

- A. This permit is only for the development described in coastal development permit No. 4-01-034. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the proposed residence or the entire subject parcel. Accordingly, any new development on the subject parcel or future improvements to the permitted structures, including but not limited to landscaping or repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit 4-01-034 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- 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, which reflects the above restrictions on development in the deed restriction and 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.

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

All recommendations contained in the *Supplemental Letter: 75 Year Setback Line (Subsurface Designs, Inc., 7/10/01); Addendum III: Response to City of Malibu Review Sheet (Subsurface Designs, Inc. 9/7/00); Addendum II: Response to City of Malibu Review Sheet (Subsurface Designs, Inc. 8/16/00); Addendum I: Response to City of Malibu Review Sheet, 32640 Pacific Coast Highway (Subsurface Designs, Inc. 6/29/00); Supplemental I: Slope Setback and Irrigation, Proposed Residence 32640 Pacific Coast Highway (Subsurface Designs, Inc., 6/19/00); Geologic and Soils Engineering Investigation, Two Proposed Single Family Residences, APN 4473-016-001 and 4473-015-012, 32700 Pacific Coast Highway (Subsurface Designs Inc., 3/23/00)* shall be incorporated into all final design and construction including recommendations

concerning foundation, drainage, and septic system plans and must be reviewed and approved by the consultants prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director of the consultants' review and approval of two (2) sets of all design and construction plans.

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

#### **4. Drainage and Polluted Runoff Control Plan**

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, 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 engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat or filter stormwater from each runoff event, up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85<sup>th</sup> 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) 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 30<sup>th</sup> 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**

- A. Prior to the 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 4-01-034. 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 4-01-034 if such changes are specifically authorized by the Executive Director as complying with this special condition.

- B. Prior to the issuance 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 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. Assumption of Risk/Shoreline Protection**

- A. By acceptance of this permit, the applicant acknowledges and agrees to the following:
1. The applicant acknowledges and agrees that the site may be subject to hazards from erosion, landslide, flooding, and wildfire.
  2. The applicant acknowledges and agrees 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.
  3. The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
  4. The applicant agrees 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.

5. No shoreline protective device shall be constructed, now or in the future, for the purpose of protecting the residential development approved pursuant to coastal development permit 4-01-034 including, but not limited to, the residence, foundations, decks, driveways, or the septic system in the event that these structures are threatened with imminent damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future and by acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. Prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

#### **7. Revised Project Plans**

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 revised project plans. The revised final project plans shall show the:

- (a) Lowered rooflines by 3 and 5 feet;
- (b) Relocation of sunset pavilion room 27 feet inland;
- (c) Lowered chimney to one story in height;
- (d) Redesign and removal of a portion of the roof overhang; and
- (e) Undergrounding of utility lines.

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

The Commission hereby finds and declares:

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

The subject site is a 2.92-acre vacant bluff top lot located on the south (seaward) side of Pacific Coast Highway, immediately west of the intersection of Encinal Canyon Road and Pacific Coast Highway, in the City of Malibu (Exhibit 1). The bluff top area south of Pacific Coast Highway in the vicinity of the subject site is characterized by scattered residential development, vacant parcels, and parkland. The subject property is situated between La Piedra State Beach to the west and a narrow vacant parcel to the east (Exhibits 1 and 2). Access to the site is directly from Pacific Coast Highway.

The applicant is proposing the construction of a 8,129 sq. ft., 28 ft. high, two-story single family residence with 675 sq. ft. attached garage, 660 sq. ft. basement, 202 sq. ft. sunset pavilion, swimming pool, spa, driveway, retaining walls, septic system, and 2,192 cu. yds. of grading (1665 cu. yds cut, 8.2 cu. yds fill, 518.5 cu. yds overexcavation). (See Exhibits 3 through 8)

Slopes on site descend gently to the south, with approximately a 40-foot change in elevation from Pacific Coast Highway to the top seawardmost edge of the bluff. A nearly vertical coastal bluff descends from the southern margin of the bluff top terrace approximately 125 feet to the beach area below. In addition, a steep ravine aligns the western property boundary adjacent to La Piedra State Beach. This drainage is not a United States Geological Survey designated "blueline" drainage course. Slopes descend steeply into this north-south trending ravine, with the descending bluff nearly vertical and ranging in height from 50 to 100 feet. All proposed development would be located on the relatively gently sloping bluff top portion of the site (Exhibit 3). The residence is proposed in the northeast portion of the property, set back from the coastal bluff to the south and the ravine to the west.

Vegetation at the project site is heavily disturbed along the entire bluff top. The applicant asserts that the disturbance is due to fuel modification requirements associated with Pacific Coast Highway and existing development on neighboring properties to the east. Vegetation on the site is relatively sparse consisting primarily of weedy vegetation with the exception of a mature stand of *Eucalyptus* trees along the eastern property boundary.

Pacific Coast Highway is designated as a scenic highway for coastal views in the previously certified County of Los Angeles Malibu/Santa Monica Mountains Land Use Plan (LUP). Views from Pacific Coast Highway along the property are partially impaired by the existing stand of eucalyptus trees; however, bluewater views also exist. The site is adjacent to La Piedra State Beach and the proposed development would be visible from the entrance, parking lot, and other locations along the bluff top at the state park. Project impacts to public views are discussed in further detail in Section D, Visual Resources, below.

A Phase I archaeological study was conducted on the subject site. The results of the study indicated that no prehistoric and no historic archaeological resources were within the project area, and that the proposed improvements will have no adverse impact on known cultural resources.

## **B. Geologic Stability and Hazards**

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

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

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

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 instability, or destruction of the site or surrounding area. 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 28 ft. high, 8,129 sq. ft. two-story single family residence with 675 sq. ft. attached garage, 660 sq. ft. basement, 202 sq. ft. sunset pavilion, swimming pool, spa, driveway, retaining walls, septic system, and 2,192 cu. yds. of grading (1665 cu. yds. cut, 8.2 cu. yds fill, 518.5 cu. yds. overexcavation).

The applicant has submitted several documents regarding the site's geologic conditions, including: *Supplemental Letter: 75 Year Setback Line (Subsurface Designs, Inc., 7/10/01)*; *Addendum III: Response to City of Malibu Review Sheet (Subsurface Designs, Inc. 9/7/00)*; *Addendum II: Response to City of Malibu Review Sheet (Subsurface Designs, Inc. 8/16/00)*; *Addendum I: Response to City of Malibu Review Sheet, 32640 Pacific Coast Highway (Subsurface Designs, Inc. 6/29/00)*; *Supplemental I: Slope Setback and Irrigation, Proposed Residence 32640 Pacific Coast Highway (Subsurface Designs, Inc., 6/19/00)*; *Geologic and Soils Engineering Investigation, Two Proposed Single Family Residences, APN 4473-016-001 and 4473-015-012, 32700 Pacific Coast Highway (Subsurface Designs Inc., 3/23/00)*. These reports make numerous recommendations regarding setbacks, site stability, foundations, grading and earthwork, settlement, floor slabs, excavation erosion control, excavations, drainage and maintenance, retaining walls, and reviews. The reports conclude that the site is suitable for the intended use provided that the recommendations of the geotechnical consultant are incorporated into the design and subsequent construction of the project.

Based on the conclusions of the geologic and soils reports, the Commission finds that the proposed development will be safe from geologic hazards if all recommendations of the geotechnical consultants are incorporated into the final project plans and designs. Accordingly, **Special Condition Three (3)** requires the applicant to demonstrate to the Executive Director's satisfaction that all recommendations in the geologic reports are incorporated into the final plans and designs.

As discussed above, the applicant's engineering consultants have indicated that the subject site exhibits geologic and structural stability that is safe for the development of the proposed project. However, the Commission recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting coastal and geotechnical engineers, may still involve the taking of some risk. Bluff top development, such as this, is inherently subject to risk due to the geologic instability of bluffs over time. 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 proposed residence is set back approximately 125 feet from the bluff edge and the swimming pool setback approximately 100 feet from the edge of the bluff. In their correspondence dated July 10, 2001, SubSurface Designs, Inc. plotted the 75-year structural setback line (Exhibit 6). The residence and all structures are within the identified bluff setback line. The subject site is also bounded on the west by a steep ravine. The residence is proposed approximately 45 feet to 55 feet from the top of the west-facing slope. In their correspondence dated July 10, 2001, SubSurface Designs, Inc. plotted the 75-year structural setback line for the west-facing slope (Exhibit 6). The residence is within the identified bluff setback line.

Notwithstanding the project's consistency with the geoconsultant's 75-year setback, the Commission nevertheless finds that coastal bluff erosion is a dynamic, long-term process and that no structure situated on a coastal bluff, particularly a bluff exposed to wave attack at the beach elevation, can be completely free of hazard. Therefore, the Commission finds it necessary to impose **Special Condition Six (6)**, assumption of risk, to ensure that the applicant understands the hazards involved in undertaking additional development on a parcel located adjacent to a bluff above a beach, and that the applicant agrees to assume the risk from such development and to indemnify the Commission, its employees, and agents from all liability associated with proceeding with such development despite such unmitigable hazards.

Though 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. In fact, in their Addendum report dated June 29, 2000, SubSurface Designs, Inc. states that, given their retreat rate, it would take "90 to 110 years for the west facing slope to retreat back to the residence, and 250 years for the south facing slope to retreat back to the residence." SubSurface Designs, Inc. also states in this report that "photographs do tend to indicate that the south facing coastal bluff and the west facing near vertical bluff have been relatively stable over the past 70+ years." 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.

Though, 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, the Commission notes that 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. The Commission further notes that the approval of a shoreline protective device to protect new residential development, such as the proposed project, would not be required by Section 30235 of the Coastal Act. The construction of a shoreline protective device to protect a new residential development would conflict with Section 30253 of the Coastal Act which states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. In addition, the construction of a shoreline protective device to protect new residential development would also conflict with Section 30251 of the Coastal Act, which states that permitted development shall minimize the alteration of natural land forms, including sandy beach areas which would be subject to increased erosion from such a device. To ensure that the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act, and to ensure that the proposed project does not result in future adverse effects to coastal processes, **Special Condition Six (6)** 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, or any other structure on the subject site.

## 2. Erosion

Section 30253 of the Coastal Act states that new development shall not create or contribute significantly to erosion, in addition to other site stability issues addressed above. Drainage within the site comprises essentially of sheet flow runoff of precipitation derived primarily within property boundaries.

The applicant's geotechnical consultants have made recommendations pertaining to drainage on the subject site. SubSurface Designs, Inc. report, dated March 23, 2000, states the following:

***Positive pad drainage shall be incorporated into the final plans. All drainage from the roof and pad shall be directed so that water does not pond adjacent to the foundations or flow toward them. All drainage from the site shall be collected and directed via non-erosive devices...***

The report further states that:

***A comprehensive drainage system must be designed and incorporated into the final plans.***

In past permit actions, the Commission has found that development on bluffs has been found to have the potential to significantly exacerbate the natural processes of erosion. The proposed project will increase the amount of impervious surfaces on the site, increasing both the volume and velocity of storm water runoff. Uncontrolled runoff over the bluff face will contribute to headward erosion and lead to destabilization of the bluff slopes and eventually the building site. Additionally, the loss of vegetation through the altering of the natural landforms would increase the erosion potential. The Commission finds that a drainage system will serve to minimize hazards associated with erosion. In order to ensure that the final drainage system will be in substantial conformance with the consulting geotechnical engineers' recommendations, including those pertaining to drainage, **Special Condition Four (4)** requires that the applicant submit drainage plans certified by the consulting geotechnical engineers as being in conformance with their recommendations. Special Condition 4 requires the implementation and maintenance of a drainage plan designed to ensure that drainage is conveyed in a non-erosive manner. This drainage plan is fundamental to reducing on-site erosion and the potential impacts to coastal waters, natural drainages, and environmentally sensitive habitat areas. 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, **Special Condition One (1)** requires the implementation of landscaping and erosion control measures designed to reduce or eliminate potential erosion that might otherwise occur pursuant to the proposed development. Among the measures available to avoid erosion during and after construction are the implementation of rainy season controls such as the use of sediment basins (including debris basins, desilting basins, or silt traps) and the timely planting of appropriate, locally native landscape materials. These measures are among the requirements set forth in Special Condition 1. Special Condition 1 requires the use of interim erosion control measures during the rainy

season to minimize erosion and enhance site stability. The Commission finds that the minimization of site erosion will add to the stability of the site.

Erosion can best be minimized by requiring the applicant to revegetate all disturbed areas of the site with native, drought resistant plant species, compatible with the surrounding environment. **Special Condition One (1)** requires the applicant to submit for the Executive Director's approval landscape and fuel modification plans that address on-site landscape and erosion control measures. Special Condition 1 requires the use of locally native plant species, which have been shown to provide superior erosion control when compared to the use of non-native species in the Santa Monica Mountains, for landscaping and erosion control. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission finds that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and 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 also caused the loss or degradation of major portions of the native habitat and the loss of native plant seed banks through grading and removal of topsoil. The Commission finds that in order to ensure the stability of the subject site following construction activities, the disturbed areas on the site shall be landscaped with appropriate native, drought resistant plant species, as specified in **Special Condition One (1)**. Use of the materials and methods required by Special Condition 1 will stabilize the site immediately after disturbance and additionally protect against long-term site erosion.

**Special Condition 1 (C)** further requires the applicant to submit a monitoring report to demonstrate that the required landscaping and erosion control measures in the approved landscape plan have been successfully implemented. If fully implemented, Special Condition 1 will provide significant erosion control on the subject site, both during construction and during the life of the proposed development.

The proposed project will entail 2,192 cu. yds. of grading (1665 cu. yds. cut, 8.2 cu. yds. fill, 518.5 cu. yds. overexcavation). Excavated materials that are placed in stockpiles are subject to increased erosion. Furthermore, landform alteration would result if the excavated material were to be retained on site. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, **Special Condition One (1)(B)(4)** requires the applicant to remove all excavated material, including any debris resulting from demolition of existing development, from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit.

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

natural vegetation, as specified in **Special Condition One (1)(A)(10)**. Through the elimination of premature natural vegetation clearance, erosion is reduced on the site and disturbance of the soils is decreased. Therefore, Special Condition 1 specifies that vegetation shall not be removed until grading or building permits have been secured and construction of the permitted development has commenced.

For the reasons cited above, the Commission finds that the proposed project as conditioned will be consistent with the requirements of Coastal Act Section 30253 applicable to geology and site stability.

### 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 the individual's right to use his property.

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. Off-site fuel modification is generally not recommended due to problems inherent with enforcement of regulations on adjacent property and the potential for confusion regarding responsibility for fuel modifications outside legal ownership.

The 200-foot fuel modification (brush clearance) zone around the proposed house site overlaps onto the neighboring properties to the east and west, including the State Park property (Exhibit 7). However, the off-site area within the fuel modification zone to the east is already disturbed as a result of the fuel modification requirements for existing residences and the highway. Therefore, there would be no cumulative impacts to native habitat as a result of off-site fuel modification requirements in this area.



Additionally, the applicant has submitted a landscape, fuel modification, and vegetation management plan for the site, stamped with the preliminary approval of the L.A. County Fuel Modification Unit. The plan states that there will be no brush clearance on the adjacent State Parks property. The Fuel Modification Unit of the Los Angeles County Fire Department has determined that no off-site brush clearance (or other fuel modification) will be required on the adjoining State Park property, in order to accommodate concerns for removal of native vegetation. Final Fuel Modification Plans are recorded as a covenant on the deed to the property, and implemented through local inspections and enforcement. The Los Angeles County Fire Department has recently updated its procedure to ensure that the fire department standards are implemented and enforced consistent with the Fuel Modification Plans. In addition, the applicant notified the State Department of Parks and Recreation of the scope, location, and fuel modification requirements of the project. The State Parks Department reviewed the project and were satisfied that the project would not infringe on native habitat as a result of fuel modification (Exhibit 8).

For the above reasons, cumulative impacts to native vegetation on state parklands have been avoided since off-site fuel modification is not required, as indicated by the fuel modification plan approved by the Los Angeles County Fire Department. However, to ensure that the State Parkland disclaimer is recorded on the deed, and to ensure the most minimal disturbance feasible of the native habitat in the other areas, **Special Condition Two (2)** requires the applicant to submit an approved final long-term fuel modification plan for the review and approval by the Executive Director.

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 these associated risks. Through **Special Condition Six (6)**, assumption of risk, 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 6 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 is the proposed project consistent with Section 30253 of the Coastal Act applicable to hazards from wildfire. Additionally, the Commission finds that there will be no cumulative brush clearance impacts as a result of fuel modification requirements.

### **C. Water Quality**

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, 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, minimizing alteration of natural streams.***

The applicant proposes to construct a new 28 ft. high, 8,129 sq. ft. two-story single family residence with 675 sq. ft. attached garage, 660 sq. ft. basement, 202 sq. ft. sunset pavilion, swimming pool, spa, driveway, retaining walls, septic system, and 2,192 cu. yds. of grading (1665 cu. yds. cut, 8.2 cu. yds. fill, 518.5 cu. yds. overexcavation). Drainage within the site comprises essentially of sheet flow runoff of precipitation derived primarily within the subject property and property to the east.

The proposed development of the site will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

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.

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 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. 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.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85<sup>th</sup> 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 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.

Additionally, due to the siting of the project on a coastal bluff, there is potential for residential pollutants to enter the nearby coastal drainage or flow directly to the Pacific Ocean. Therefore, it is important to adequately control site drainage to allow velocity reduction, filtration, and/or other best management practices (BMPs). The Commission finds that there are potential adverse effects to the value and quality of coastal waters as a result of erosion and sedimentation. To minimize erosion, sedimentation, and resultant impacts to water quality, **Special Condition One (1)** requires that all disturbed areas be stabilized and vegetated with appropriate native plant species. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission finds that non-

native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes or riparian areas, and therefore do not prevent erosion in such areas. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and aid in preventing erosion.

**Special Condition One (1)** further requires that an interim erosion control plan be prepared and submitted with proof of review by the project's consulting geotechnical and geologic engineer, as conforming to their recommendations to reduce excess erosion from the project site during construction activities. The Commission finds that Special Condition 1 is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes installation of an on-site septic system with a 4,000 gallon tank to serve the residence. The septic tank will be located near the southeast corner of the proposed building, and effluent will be pumped up to two seepage pits located at the north end of the property, toward Pacific Coast Highway. The applicant's consultants performed percolation tests and evaluated the proposed septic system. The City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

#### **D. 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 subordinated to the character of its setting.***

Coastal Act Section 30251 requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. In addition, the certified County of Los Angeles Malibu/Santa Monica Mountains Land Use Plan (LUP) has been used as guidance by the Commission to protect specific visual resources in the Malibu/Santa Monica Mountains area. In this particular case, the LUP recognizes adjacent Pacific Coast Highway as a scenic highway, and specifically provides for protection of the panoramic bluewater view of the Pacific Ocean from the highway. To assess any potential visual impacts of this project to the public, the Commission also reviews the publicly accessible locations where the proposed development is visible, such as parks

and trails. The proposed project would be visible from La Piedra State Beach property, which adjoins the subject parcel's westernmost property boundary.

The applicant is proposing to construct a new single family residence on a 2.92-acre, vacant bluff top lot. The parcel extends approximately 130 feet in width at Pacific Coast Highway and widens to approximately 246 feet at the base of the bluff. Development is proposed in the northeast portion of the property, near Pacific Coast Highway. The project includes construction of a 8,129 sq. ft., 28 ft. high, two-story residence with 675 sq. ft. attached garage, 660 sq. ft. basement, 202 sq. ft. sunset pavilion, swimming pool, spa, driveway, retaining walls, septic system. In addition, the applicant proposes 2,192 cu. yds. of grading (1665 cu. yds cut, 8.2 cu. yds fill, 518.5 cu. yds overexcavation) at the site (Exhibit 3).

The project site is a vacant bluff top lot on the seaward side of Pacific Coast Highway in a partially built-out area of Malibu, primarily consisting of residential development. Vegetation at the project site is heavily disturbed, consisting primarily of low-lying grasses and weeds with the exception of a mature stand of eucalyptus trees that aligns the eastern property boundary. The eucalyptus trees and several large shrubs along Pacific Coast Highway partially block bluewater ocean views from Pacific Coast Highway along the site. Additionally, views are somewhat hindered by above-ground utility structures.

Pacific Coast Highway is designated as a scenic highway for coastal views by the LUP. Pacific Coast Highway is also a major coastal access route, not only utilized by local residents, but also heavily used by tourists and visitors to access several public beaches located in the surrounding area which are only accessible from Pacific Coast Highway. Construction of single family residences, privacy walls, fencing, landscaping, and other residential related development between Pacific Coast Highway and the ocean may block public views of the beach and water from Pacific Coast Highway. As a result, the construction of individual beachfront or bluff top residences, when viewed on a regional basis, has the potential to result in significant cumulative adverse effects to public views and to the visual quality of coastal areas.

In past permit actions, the Commission has required that new development located on the seaward side of Pacific Coast Highway be sited and designed to protect public bluewater views of the ocean and, where feasible, to restore and enhance visual quality in visually degraded areas. Specifically, in regard to new development located on beachfront lots the Commission has required that new development occupy no more than 80% of the lineal frontage of Pacific Coast Highway in order to maintain a public view corridor over the lot for ocean views [Saban (4-99-146), Broad (4-99-185), 4-99-154 (Montanaro)]. In addition, in past permit actions regarding development on bluff top sites where slopes descend seaward from the highway, such as the proposed project site, the Commission has limited the height of new structures and landscaping to an elevation adequate to ensure that public views of the ocean are retained over the entire project site [CDPs 4-98-142, -143, & -163 (Duggan & Levinson), CDP 4-97-031 (Anvil), CDP 5-90-020 (Young)]. Coastal Development Permits 4-98-142, -143 and -163 were approved by the Commission in 1998 for the construction of three new single family residences on the three separate vacant bluff top lots. The approved single family

residences on the bluff top lots were limited to a single story of no more than 18 ft. in height in order to ensure that ocean views were retained above the rooflines of the residences. Similarly, under Coastal Development Permit 4-99-169, the Commission found that the proposed 28-foot high single-family residence would adversely impact public bluewater views of the ocean from the highway by extending at or near the horizon line. The Commission required revisions to the plans to lower the height to preserve public views of the ocean.

In the subject application, the proposed 28 ft. high, two-story residence is designed at a height equal to the elevation of Pacific Coast Highway at its centerline. Although the development is proposed downslope and below the centerline elevation of Pacific Coast Highway, the development will be visible from public ocean view.

Due to the project's location and visibility, the Commission finds it necessary to require mitigation measures to minimize visual impacts as seen from nearby scenic areas. To address the impact to views, the applicant has proposed several alterations to the project, including lowering the rooflines 3 and 5 feet, relocating the sunset pavilion room by 27 feet, lowering a chimney to one story in height, and redesigning and removing a portion of the seaward roof overhang. This would effectively lower the height of the proposed structure to a maximum of 25 feet above existing grade, thereby reducing the residual impact of the development on public views.

To ensure that adverse effects to public views are minimized, the Commission finds that that the applicant shall implement the proposed project modifications, pursuant to **Special Condition Seven (7)** which requires the applicant to submit revised project plans which illustrate the lowered roofline, location of the sunset pavilion room, and modification to the chimney and roof overhang as discussed above. In this case, no development will exceed the 178 ft. elevation line in height (approximate elevation of Pacific Coast Highway). 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 revised project plans. Any substantial changes to the footprint of the proposed structures will require an amendment to this permit.

The applicant has proposed further mitigation of view impacts by removing the eucalyptus trees and by undergrounding of the above-ground utility lines, both of which partially block views through the site. The removal of existing vegetation at the site, including the large stand of eucalyptus trees along the west property line, would open up the public views toward the ocean from the site. Additionally, the undergrounding of the existing above-ground utilities may serve to enhance the visual quality of the site. To ensure that these mitigation measures are incorporated into the proposed project, **Special Condition One (1)** requires that the mature eucalyptus grove be removed, and **Special Condition Seven (7)** requires revised plans which specify that all utility lines crossing the property shall be relocated underground.

The proposed project's impact on public views can be further mitigated by requiring the residence and retaining walls to be finished in a non-obtrusive manner (i.e.: in a color compatible with the surrounding natural landscape and with non-reflective windows). The Commission therefore finds it necessary to minimize the visual impact of the project

by requiring the applicant to use colors compatible with the surrounding environment and non-glare glass, as required by **Special Condition Five (5)**. In addition, future development on the subject site (such as a new structure, a second-story addition, changes to the roofline, or landscaping) would result in potential adverse effects to visual resources on the subject site. Therefore, **Special Condition Two (2)** requires the applicant to record a future improvements deed restriction to ensure that any future structures, additions, or landscaping that would otherwise be exempt from coastal permit requirements are reviewed by the Commission.

Public views of the ocean from Pacific Coast Highway have been significantly reduced or completely blocked by landscaping and appurtenant structures associated with residential development. The proposed project includes the construction of a masonry wall with a wooden gate at the front of the residence, downslope of Pacific Coast Highway. The wall is proposed at a height equal to the centerline elevation of Pacific Coast Highway. However, privacy walls, gates, landscaping, and other features associated with the residence may also intrude into the view horizon, effectively impairing views from Pacific Coast Highway. In past permit actions, the Commission has required use of low-lying plant species and visually permeable gates and fences at heights that would not block or adversely impact public views of the ocean from the highway. In this case, any associated structural or landscaping features on the bluff top must be designed in a manner consistent with the protection of public views.

Currently, the ocean is visible from Pacific Coast Highway through the parcel. However, the Commission notes that new landscaping on the subject site will result in a potential reduction in the public's ability to view the ocean from the highway. Therefore, **Special Condition One (1)** has been required to ensure that vegetation on the subject site shall be limited to low-lying species that will not block or adversely impact public views of the ocean from the Pacific Coast Highway or La Piedra State Beach. Vegetation adjacent to Pacific Coast Highway shall be limited to no more than 2 ft. in height. Landscaping over the remainder of the site shall consist of plant species that upon maturity shall not block or significantly obscure the blue water views of the ocean. In no case shall any vegetation on the subject site exceed the 178 ft. elevation line in height (approximate elevation of Pacific Coast Highway). The use of any vegetation of greater height than otherwise provided for above may be allowed only if the Executive Director determines that such landscaping is consistent with the intent of this condition and will serve to minimize adverse effects to public views.

**Special Condition One (1)** further requires that fencing adjacent to Pacific Coast Highway shall be setback from the highway such that the fencing shall not extend above the highway elevation or road surface. Fencing over the remainder of the site shall not exceed 6 feet in height. All bars, beams, or other non-visually permeable materials used in the construction of the proposed fence shall be no more than 1 inch in thickness/width and shall be placed no less than 8 inches in distance apart. Alternative designs may be allowed only if the Executive Director determines that such designs are consistent with the intent of this condition and serve to minimize adverse effects to public views.

The proposed project also includes a large amount of grading that will result in landform alteration of the subject site (approximately 1665 cu. yds cut, 8.2 cu. yds fill, 518.5 cu. yds overexcavation). However, in the case of the this project, the majority of the proposed grading is for excavation that will allow the proposed structures and driveway to be "set" lower into the hillside, thereby reducing the amount of structural surface visible from upslope public viewing areas such as Pacific Coast Highway. As such, the Commission finds that the proposed grading plan will serve to minimize adverse effects to public views on the subject site. However, excavated materials that are placed in stockpiles are subject to increased erosion and additional landform alteration would result if the excavated material were to be permanently retained on site. Therefore, in order to ensure adverse to public views resulting from landform alteration and increased erosion on site are minimized **Special Condition One (1)** requires the applicant to submit evidence of the location of the disposal site for all excess excavated material.

Therefore, for the reasons discussed above, the Commission finds that the proposed development as conditioned is consistent with Section 30251 of the Coastal Act.

### **E. Local Coastal Program**

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

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal 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).

### **F. CEQA**

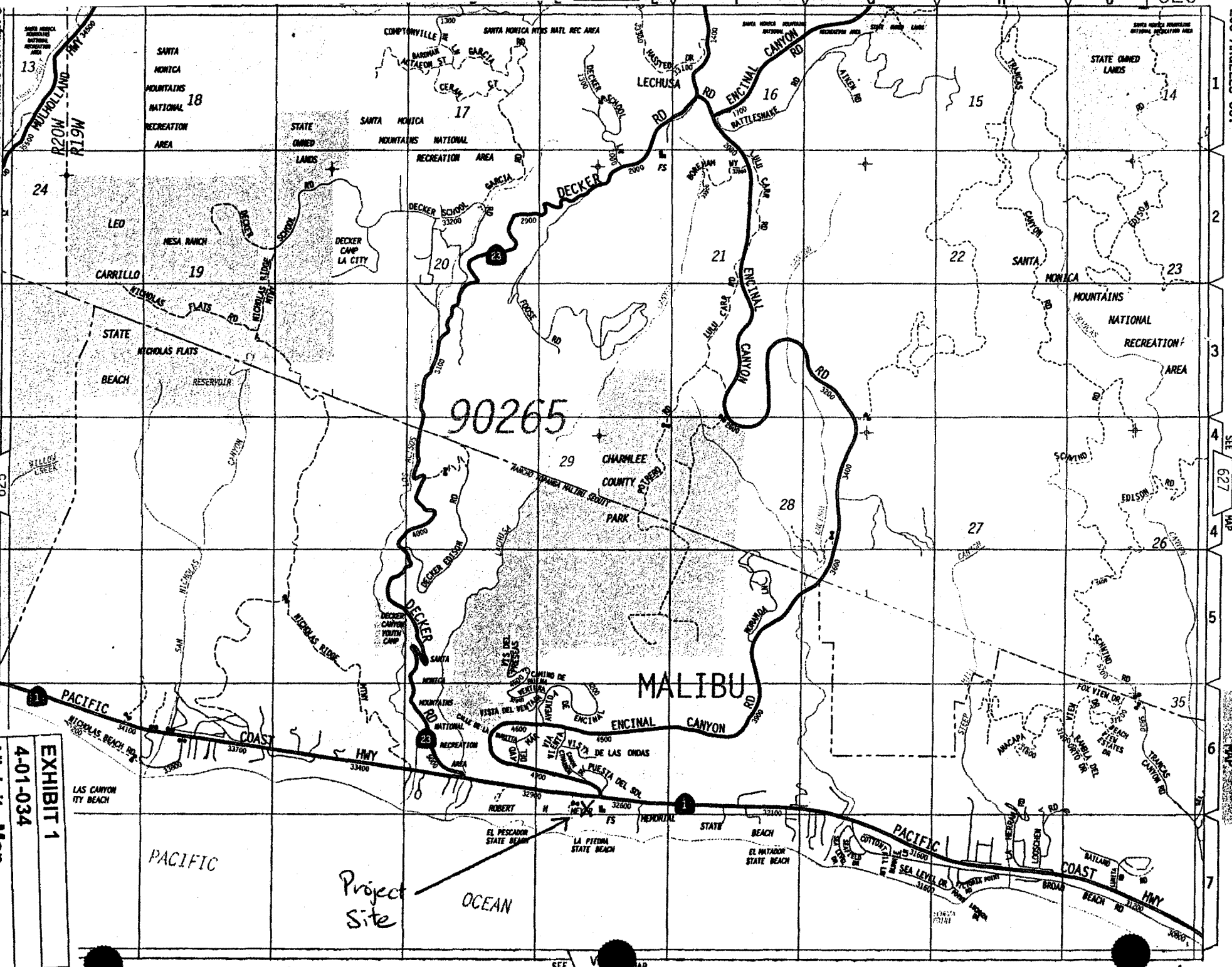
Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (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 1  
 4-01-034  
 Vicinity Map



1-800-345-7334

SCALE IN 1/10 OF AN INCH

4473 16  
SCALE 1" = 100'

1999

690206  
720218  
740801  
761029  
781016207  
7904915  
910006  
19990224/000003-07

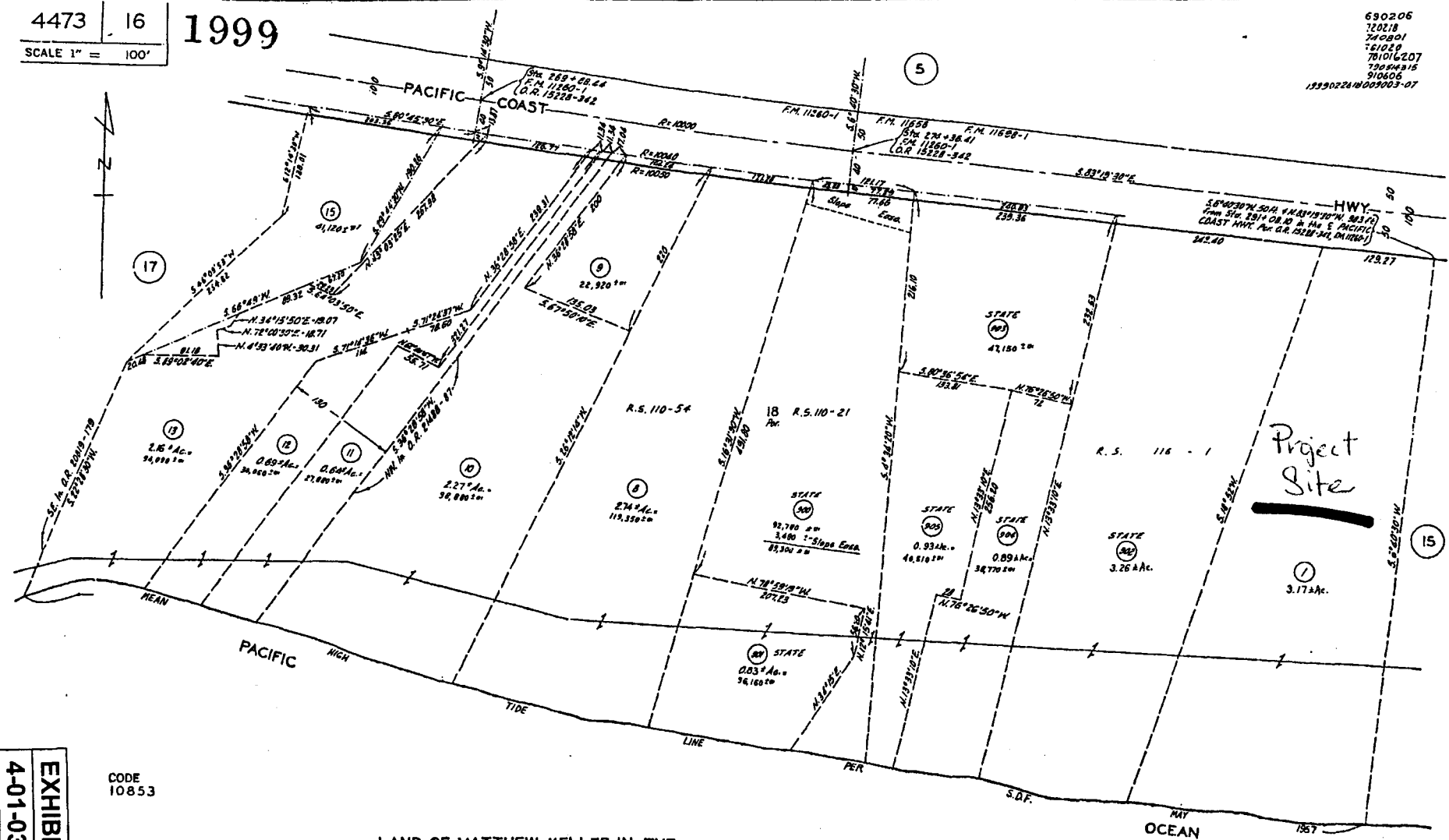


EXHIBIT 2  
4-01-034  
Parcel Map

CODE 10853

FOR PREV. ASSMT SEE:  
4470-17, 32, 33

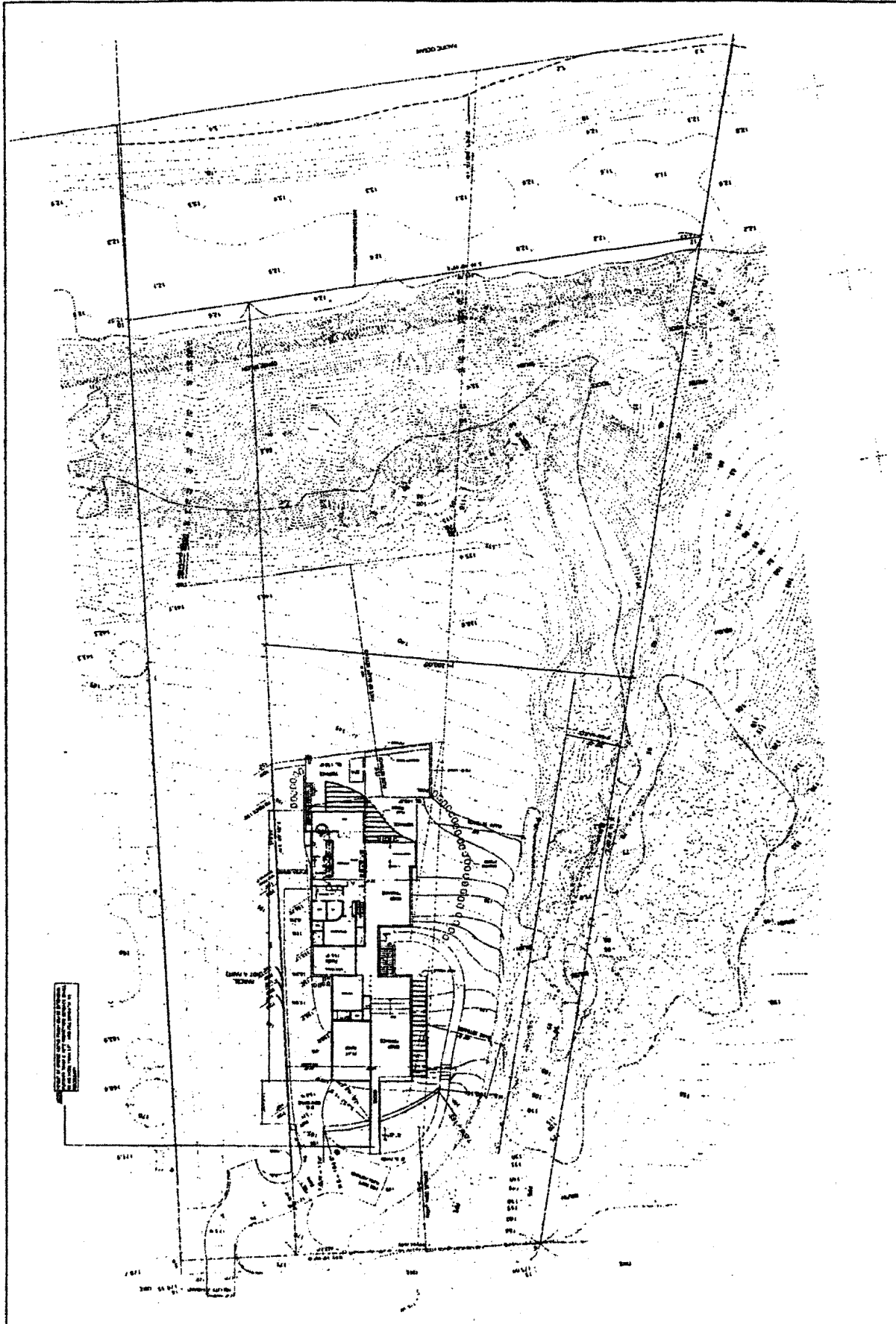
LAND OF MATTHEW KELLER IN THE  
RANCHO TOPANGA MALIBU SEQUIT

R.F. 534

ALL ACRESAGES ON  
THIS PAGE ARE NET

ASSESSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.

MAR 15 1999



**SITE PLAN**  
 1"=20'

----- EXIST GRADES  
 - - - - - NEW GRADES

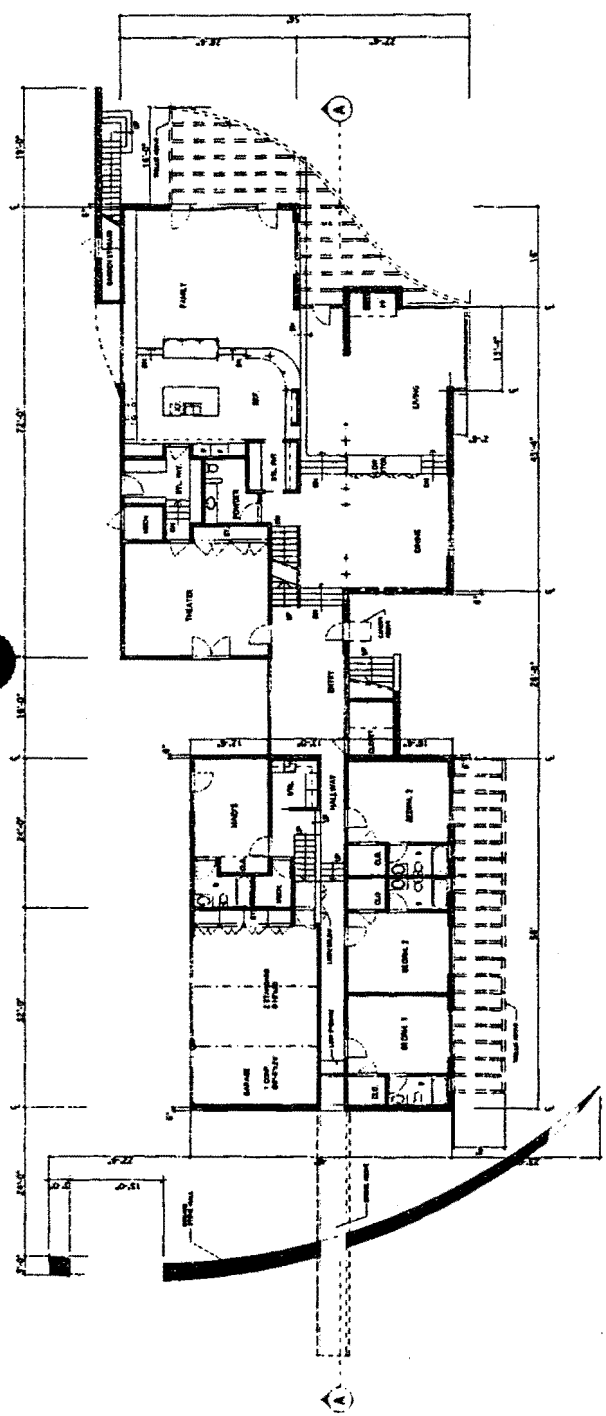
SEE GRADING PLAN FOR CUT/FILL AMOUNTS

<p><b>PROJECT DATA</b>                  PROJECT DATA / ALL PLANNING CONDITIONS                  A1 SITE PLAN - PROJECT DATA / ALL PLANNING CONDITIONS                  A2 FIRST AND SECOND FLOOR PLANS                  A3 3D/4D PLAN BARRIERY PLANNING SECTION                  A4 EXTERIOR ELEVATIONS                  C1 GRADING AMTS                  C2 GRADING PLAN</p>		<p><b>PROJECT DATA</b>                  APN: 4473-016-001                  OWNER: BASE 22                  MALIBU HILLS, CA 91967                  TEL: (818) 688-8789                  OCCUPANT: R-100                  CONSTRUCTION TYPE: VM                  MEASURABLE SURFACE: 12,800 SF.                  3,728 SF.</p>	
<p><b>PROJECT DATA</b>                  GROSS LOT AREA: 177,200 SF.                  ALLOWABLE DEVELOPMENT AREA: 8,872 SF.                  PROJECT DESCRIPTION: NEW 28'-0" WIDE S.F.L.                  PROPOSED DEVELOPMENT AREA:                  GARAGE: 3,728 SF.                  DRIVE: 1,108 SF.                  SECOND FLOOR: 3,108 SF.                  ROOF PATIO: 321 SF.                  MASTER DECK: 50 SF.                  GUEST DECK: 50 SF.                  BARRY/PATIO: 100 SF.</p>			

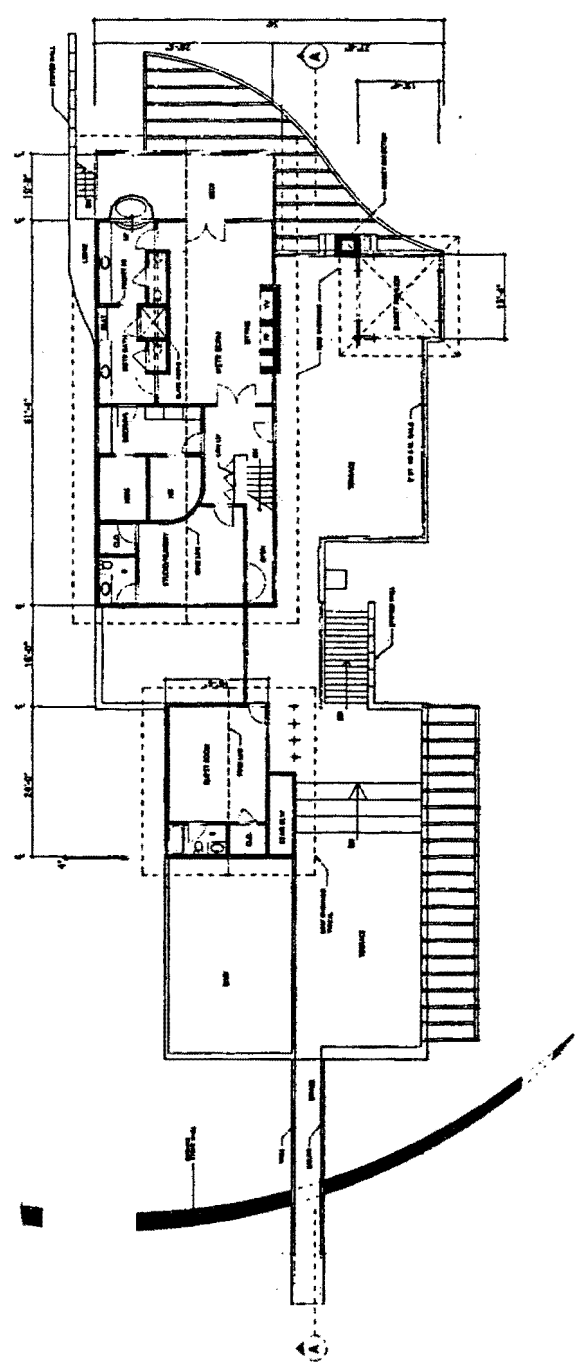
**EXHIBIT 3**  
 4-01-034  
 Site Plan

PACIFIC COAST HIGHWAY, MALIBU, CA 90265  
ENONAL SINGLE FAMILY RESIDENCE  
FIRST & SECOND FLOOR PLANS

GOLDMAN - FIRTH  
ARCHITECTS  
24935 PACIFIC COAST HIGHWAY, SUITE 4202, MALIBU, CA 90265



First Floor Plan  
6,079 S.F.



Second Floor Plan  
2,725 S.F.

EXHIBIT 4a  
4-01-034  
Floor Plans

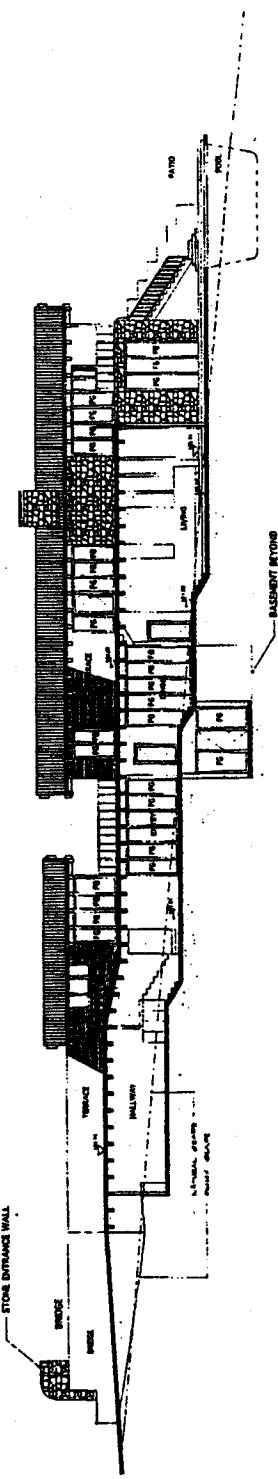
2455 Pacific Coast Highway, Suite 402, Malibu, CA 90265  
 ARCHITECTS  
**GOLDMAN - FIRTH**

NO.	DATE	DESCRIPTION
1	1-10-82	PLANNING SHEETS
2	1-11-82	CONTRACT DOCUMENTS
3	1-11-82	CONTRACT DOCUMENTS
4	1-11-82	CONTRACT DOCUMENTS
5	1-11-82	CONTRACT DOCUMENTS
6	1-11-82	CONTRACT DOCUMENTS
7	1-11-82	CONTRACT DOCUMENTS
8	1-11-82	CONTRACT DOCUMENTS
9	1-11-82	CONTRACT DOCUMENTS
10	1-11-82	CONTRACT DOCUMENTS

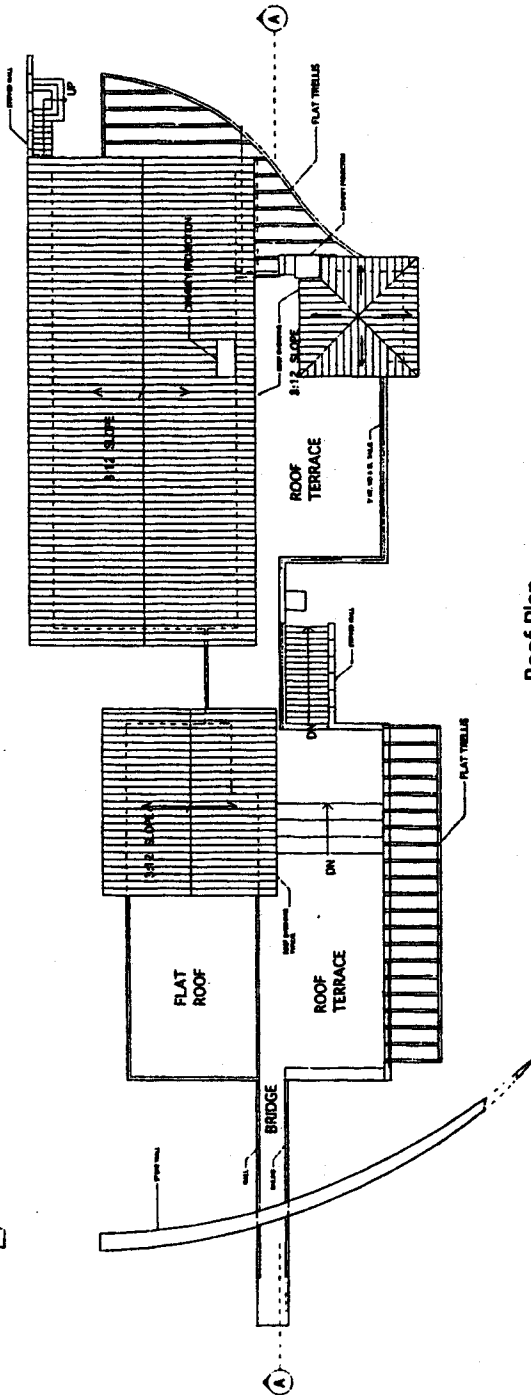
NO.	DATE	DESCRIPTION
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2	1-11-82	CONTRACT DOCUMENTS
3	1-11-82	CONTRACT DOCUMENTS
4	1-11-82	CONTRACT DOCUMENTS
5	1-11-82	CONTRACT DOCUMENTS
6	1-11-82	CONTRACT DOCUMENTS
7	1-11-82	CONTRACT DOCUMENTS
8	1-11-82	CONTRACT DOCUMENTS
9	1-11-82	CONTRACT DOCUMENTS
10	1-11-82	CONTRACT DOCUMENTS

ROOF PLAN-BASEMENT PLAN & SECTION  
 ENIGMAI-SINGLE FAMILY RESIDENCE  
 2455 PACIFIC COAST HIGHWAY MALIBU CA 90265

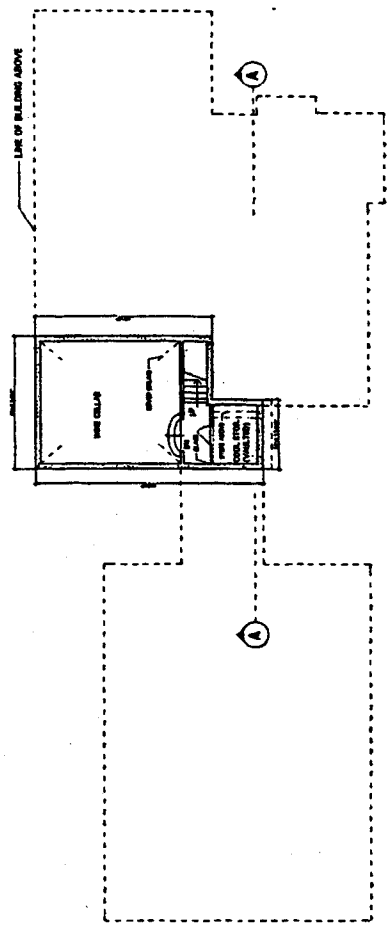
3



Section A



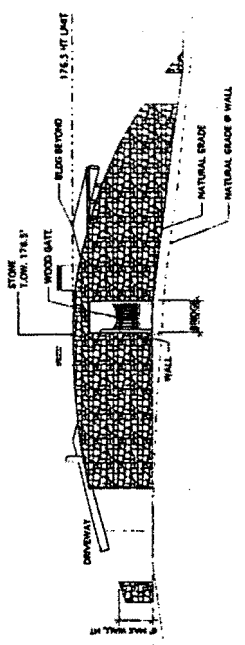
Roof Plan



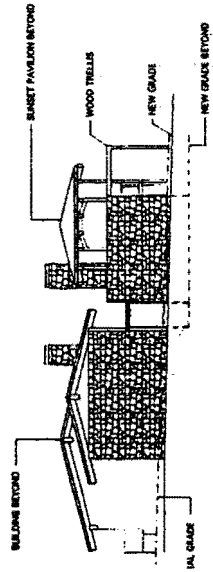
Basement Plan  
 660 S.F.

EXHIBIT 4b  
 4-01-034  
 Floor Plans

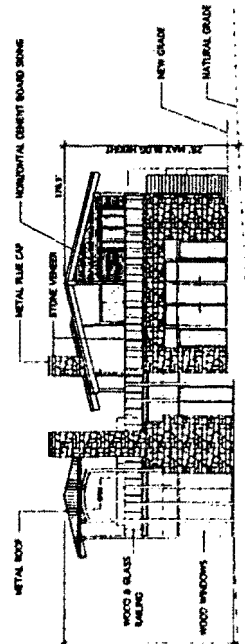
These elevations are based on the information provided to the architect by the client. The architect does not assume any responsibility for the accuracy or completeness of the information provided. The client is responsible for the accuracy and completeness of the information provided.



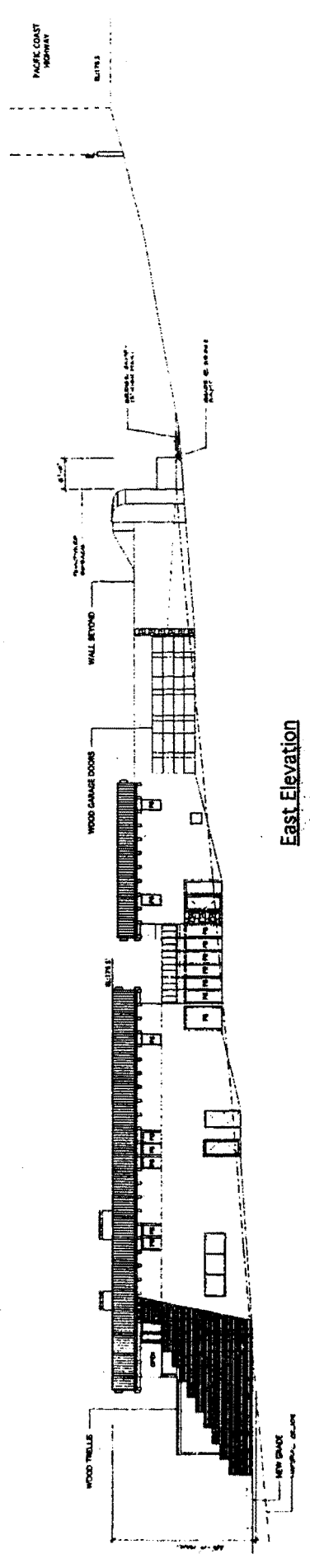
Entrance Wall North Elevation



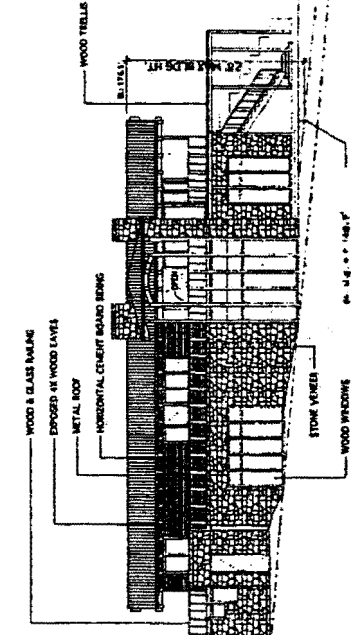
North Elevation



South Elevation



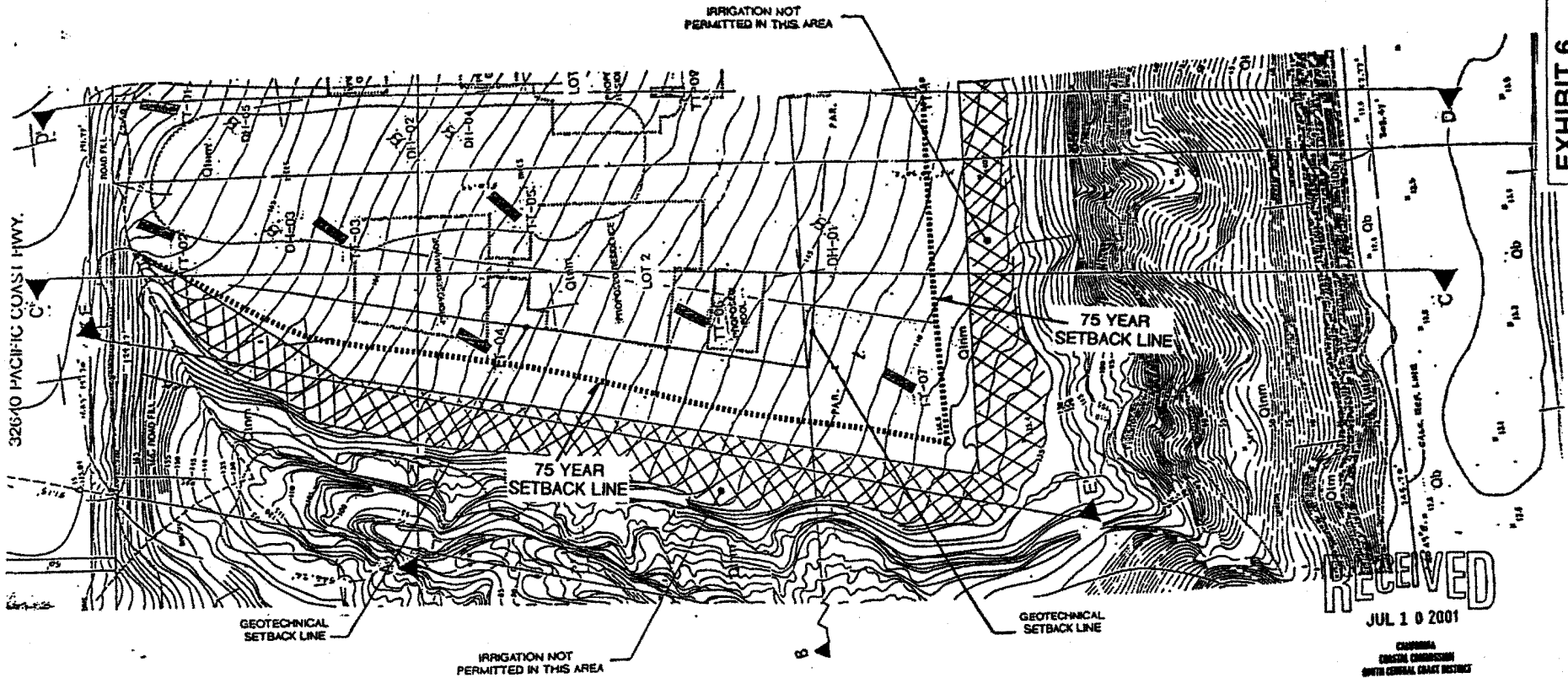
East Elevation



West Elevation

EXHIBIT 5	
4-01-034	
Elevations	

PACIFIC COAST HIGHWAY  
S. 176.5



**EXHIBIT 6**  
**4-01-034**  
**75 Year Bluff Setback**

32640 PACIFIC COAST HWY.

**EXPLANATION**

- Qb BEACH SAND
- Qtnm NON-MARINE TERRACE DEPOSITS
- Qtm MARINE TERRACE DEPOSITS
- Ttub BLUESCHIST BAECCAL UPPER TOPANGA FORMATION, MIOCENE GEOLOGIC AGE

**SYMBOLS**

- EXPLORATORY DRILL HOLE
- EXPLORATORY TEST TRENCH
- APPROXIMATE GEOLOGIC CONTACT
- GEOLOGIC CROSS SECTION

IRRIGATION NOT PERMITTED IN THIS AREA

SCALE 1" = 40'

**RECEIVED**  
 JUL 10 2001

CALIFORNIA  
 FEDERAL COMMISSION  
 SOUTH CENTRAL GRADE DISTRICT

**SubSurface Designs Inc.** 12872 Foothill Boulevard • Sylmar, California 91342  
 (818) 898-1595 • (Fax) 898-4003

**Base 22**  
 32640 Pacific Coast Highway, Malibu

Ref # 3736B.05L  
**75 Year Setback Line**

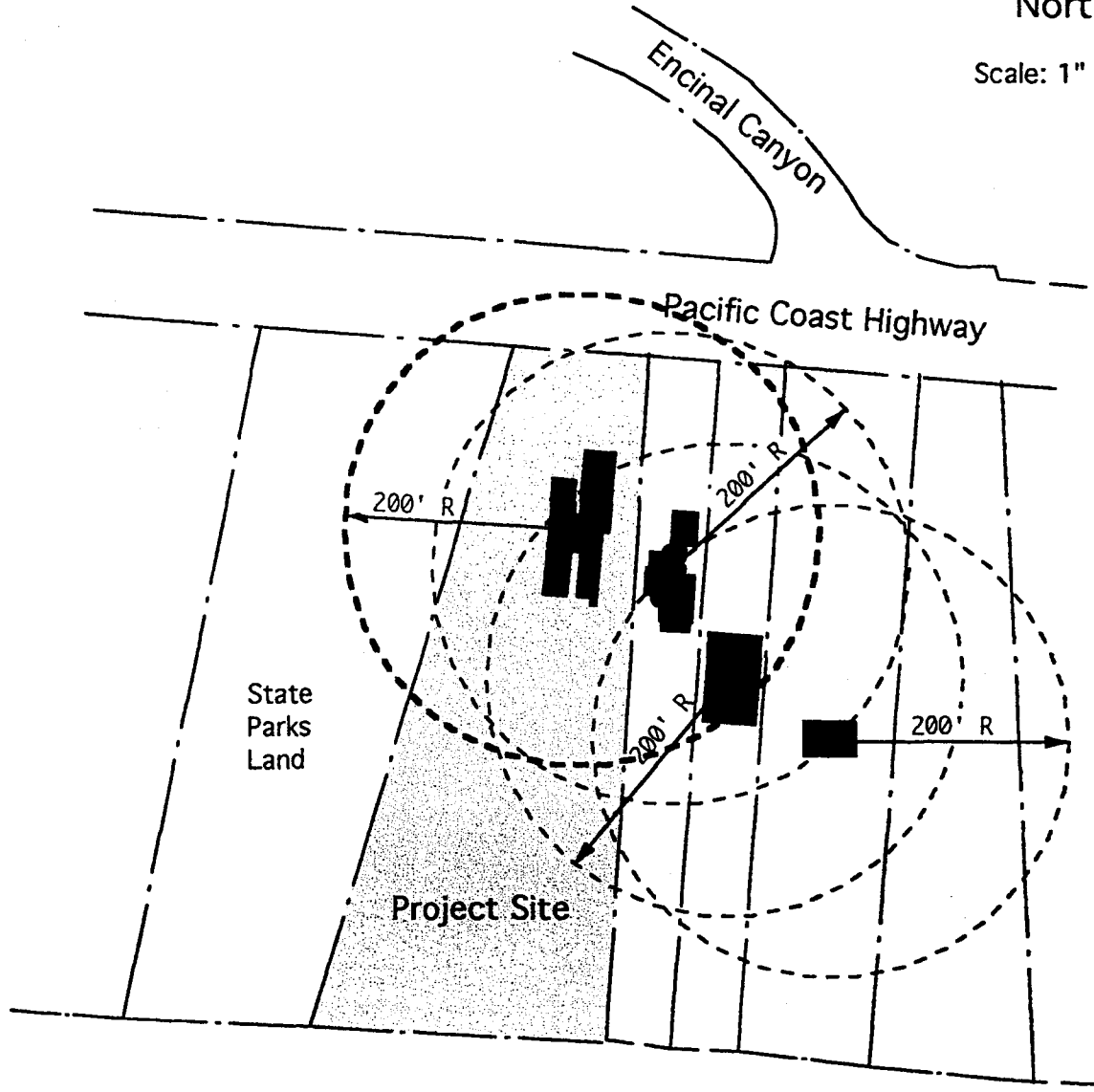
July 10, 2001 Plate A





North

Scale: 1" = 175'



## Brush Clearance Map

32640 Pacific Coast Highway  
Malibu, California

Coastal Application 4-01-034

EXHIBIT 7

4-01-034

Brush Clearance Map

RECEIVED

State of California • The Resources Agency

Gray Davis, Governor

DEPARTMENT OF PARKS AND RECREATION

JUN 14 2001

Rusty Areias, Director

Malibu Sector Office  
39996 Pacific Coast Highway  
Malibu, CA 90365

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission  
South Central Area  
89 South California St  
Ventura, Ca. 93001

June 11, 2001

Attn: Shana Gray, Coastal Program Analyst

RE: Proposed Single family Residence Located at 32640 Pacific Coast Highway  
Coastal Development Permit Application 4-01-034

The following is in response to a letter from the California Coastal Commission to Goldman Firth Architects dated May 9<sup>th</sup>, 2001 as discussed at my office on June 6, 2001 with Karl Schoenbaum of Base22, LLC.

A fuel modification plan was submitted to our office showing that there will be no brush clearance required on State Park property. This plan was stamped and approved by the County of Los Angeles Fuel Modification Unit. As agreed upon, there will be a recorded covenant and agreement by the owner to comply with the Fuel Modification Plan showing no required brush clearance on State lands. This is acceptable to the State Parks.

Furthermore, plans of the proposed project and photographs showing what the approximate massing of the house would look like from the entry of the State Park were submitted and reviewed. The following are concerns of the State Parks with regards to the overall project.

- 1.) Use vegetative screening to the West of the building in order to minimize the visual impact of the building to the State Park.
- 2.) Utilize a paint palette compatible with the area.
- 3.) Through the use of appropriate drainage design, minimize the impact to the State Park with regards to erosion of soils and sediment buildup.

Thank you,



Hayden W. Sohm  
Malibu Sector Superintendent  
Malibu, Sector Office

cc: Karl Schoenbaum

EXHIBIT 8

4-01-034

State Park Review