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CALIFORNIA COASTAL COMMISSION
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Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-237

APPLICANT: Melodie Kleiman

AGENT: Type 4, Jared Levy

PROJECT LOCATION: 3823 Paseo Hidalgo, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a 3,015 sq. ft., 28 ft. high, multi-level single family residence with a 385 sq. ft. attached garage, septic system, retaining walls, exterior stairways, and 949 cu. yards of grading (929 cu. yds. cut, 20 cu. yds. fill) to replace a 2,100 sq. ft. SFR destroyed by fire.

Lot Area:	9,613 sq. ft. (.2 acres)
Building Coverage:	2,050 sq. ft.
Pavement Coverage:	1,550 sq. ft.
Parking Spaces:	4
Height above existing grade:	28 feet

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, dated 10/20/00; City of Malibu Environmental Health Department, Approval in Concept (Septic), dated 11/8/01; City of Malibu, Geology and Geotechnical Engineering Review Sheet, Approval in Concept; County of Los Angeles, Fire Department, Approval in Concept, 2/13/02.

SUMMARY OF STAFF RECOMMENDATION: The proposed project is a single-family residence fire rebuilt on a parcel that is visible in the distance from Pacific Coast Highway. Staff recommends **approval** of the proposed project with six (6) special conditions regarding: (1) conformance to geologic recommendations for design and construction, (2) landscaping and erosion control, (3) drainage and polluted run-off control, (4) removal of excavated material, (5) removal of vegetation, and (6) assumption of risk.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan (1986); Geotechnical Update Report, 3823 Paseo Hidalgo, Malibu, California (RJR Engineering, 2/12/02); Geotechnical Update Report (RJR Engineering, 6/23/00); Addendum Letter No. 1, Response to Review Comments, 3823 Paseo Hidalgo, Malibu (RJR Engineering Group, 9/15/98); Geologic and Geotechnical Engineering Feasibility Report, Proposed Residential Fire Rebuild, 3823 Paseo Hidalgo, Malibu (RJR Engineering Group, 9/8/97)

I. STAFF RECOMMENDATION

MOTION: ***I move that the Commission approve Coastal Development Permit No. 4-01-237 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.

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

III. SPECIAL CONDITIONS

1. Plans Conforming to Geologic Recommendations

(a) All recommendations contained in the *Geotechnical Update Report, 3823 Paseo Hidalgo, Malibu, California (RJR Engineering, 2/12/02); Geotechnical Update Report (RJR Engineering, 6/23/00); Addendum Letter No. 1, Response to Review Comments, 3823 Paseo Hidalgo, Malibu (RJR Engineering Group, 9/15/98); Geologic and Geotechnical Engineering Feasibility Report, Proposed Residential Fire Rebuild, 3823 Paseo Hidalgo, Malibu (RJR Engineering Group, 9/8/97)* shall be incorporated into all final design and construction including recommendations site stability, foundations, grading and earthwork, settlement, floor slabs, excavation erosion control, excavations, drainage and maintenance, retaining walls, and reviews. All plans must be reviewed and approved by the geotechnical consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of two (2) sets of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.

(b) 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. The Executive Director shall determine whether required changes are "substantial."

2. Landscape and Erosion Control Plan and Fuel Modification

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 plans 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 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 plan species which tend to supplant native species shall not be used.

(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 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.

(5) Vegetation within 200 feet of the residence may be removed or selectively thinned in order to reduce fire hazard pursuant to an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B) Interim Erosion Control Plan

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

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

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

C) Monitoring

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

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan

must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

3. Drainage and Polluted Runoff Control Plan

Prior to the 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 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, 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) 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.

4. Removal of Excavated Material

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

5. Removal of Vegetation

Removal of vegetation for the purpose of fuel modification within the 20 foot zone surrounding the proposed structure 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 20-200 foot fuel modification zone shall not occur until commencement of construction of the structure approved pursuant to this permit.

6. Assumption of Risk

A. By acceptance of this permit, the applicant acknowledge and agree (i) that the site may be subject to hazards from fire, landsliding, earth movement, and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B. Prior to the issuance of Coastal Development Permit 4-01-237, the applicant shall execute and record an amendment to the deed restriction recorded in satisfaction of Special Condition Five (5) of Coastal Development Permit 4-99-137, in a form and content acceptable to the Executive Director, replacing all references to Coastal Development Permit 4-99-137 with references to Coastal Development Permit 4-01-237. The deed restriction as amended shall incorporate all of the above terms of this condition. The deed restriction as amended shall include a legal description of the applicant's entire parcel. The deed restriction as amended 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 as amended shall not be removed or changed without a Commission amendment to this coastal development permit.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The subject site is located at 3823 Paseo Hidalgo, approximately one-half mile north of the intersection of Rambla Vista and Pacific Coast Highway, in the City of Malibu (Exhibit 1). Access to the property is via private easement through two lots to the northeast of the property (Exhibit 2). The private drive is accessed off of Paseo Hidalgo,

a paved private road, which extends along the southern boundary of the subject parcel. The .2-acre site is located inland of Pacific Coast Highway in an area developed with single family residences. The subject site is visible from Pacific Coast Highway (see Visual Resources, Section C).

The applicant is proposing to construct a 3,015 sq. ft., 28 ft. high, multi-level single family residence with a 385 sq. ft. attached garage, septic system, retaining walls, and exterior stairways to replace a 2,100 sq. ft. SFR destroyed by fire Additionally, the applicant is proposing 949 cu. yds. of grading (929 cu. yds cut, 20 cu. yds fill) primarily to "step" the residence into the contour of the hillside. (Exhibits 3-11) Pursuant to Coastal Act Section 30610(g)(1), a coastal development permit is not required for the replacement of a structure destroyed by disaster if the structure does not exceed either floor area, height, or bulk of the destroyed structure by more than 10%. In this case, the proposed replacement single family residence and garage will exceed the previous structure by more than 25%, and therefore requires a coastal development permit.

The site is a hillside parcel that ascends from Paseo Hidalgo toward Rambla Pacifico Road at an inclination of approximately 3:1 (Horizontal:Vertical). The slope ascends steeply from Paseo Hidalgo up to the existing foundation. Maximum topographic relief on the site is approximately 80 feet. Site drainage is comprised of topographically controlled runoff of precipitation which flows to Paseo Hidalgo at the south portion of the site. The drainage flows along the paved streets to the City stormdrains located at each end of Rambla Orienta. No landslides are located on the subject site; however, the subject site is located approximately 300 ft. easterly of the active Rambla Pacifico landslide.

The previous residence was destroyed during the 1993 Malibu fires. The site contains remnant structures from the previous residence including foundation, retaining walls, and hardscapes. There are no environmentally sensitive habitat areas (ESHA) on the subject parcel. The site has been extensively disturbed as a result of the previous residence and the fire. Vegetation on-site is relatively sparse, and there has been no significant return to natural habitat. The existing vegetative cover consists of grasses, some shrubs, and *Eucalyptus* trees. The 200-foot fuel modification area surrounding the proposed residence will overlap significantly with areas already disturbed by fuel modification requirements of neighboring development and areas highly degraded with remnant debris from previous residences that burned down. The proposed development will not have an adverse impact on significant natural vegetation. Fuel modification impacts are discussed in Section B(3).

Though the subject site is in a built-out area of Malibu developed with other single-family residences, the site is bordered by adjacent parcels to the east and west comprised of remnant debris from previous residences that also burned down in the 1993 fires and have not been rebuilt. The proposed building site is generally in the same location as the previous residence, with the footprint extended further northward. In 1999, the Commission approved construction of the residence, under CDP 4-99-137 (Payne), on the subject lot subject to five special conditions: (1) conformance with

geologic recommendations; (2) landscaping and erosion control plans; (3) drainage plans; (4) removal of excavated material; and (5) assumption of risk. There was one amendment to this permit approved by the Commission in 2001, 4-99-137-A1 (Kleiman), to modify the interior layout of rooms and the building envelope to be handicap accessible, including the addition of an elevator at the center of the house, redesign of bathrooms, deletion of one bedroom, and redesign of roof. Commission records do not indicate that any extensions of the 1999 permit were applied for or granted prior the expiration of the permit, two years from the date of the Commission vote on the application (September 14, 1999), and therefore the permit expired. The current application (CDP No. 4-01-237) is a resubmittal of the identical project approved pursuant to 4-99-137, as amended.

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 in the Santa Monica Mountains, 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 applicant is proposing to construct a 3,015 sq. ft., 28 ft. high, multi-level single family residence with a 385 sq. ft. attached garage, septic system, retaining walls, exterior stairways, and 949 cu. yards of grading (929 cu. yds. cut, 20 cu. yds. fill) to replace a 2,100 sq. ft. SFR destroyed by fire.

The applicant has submitted several documents regarding the on-site geologic conditions, including: *Geotechnical Update Report, 3823 Paseo Hidalgo, Malibu, California (RJR Engineering, 2/12/02); Geotechnical Update Report (RJR Engineering, 6/23/00); Addendum Letter No. 1, Response to Review Comments, 3823 Paseo Hidalgo, Malibu (RJR Engineering Group, 9/15/98); Geologic and Geotechnical*

Engineering Feasibility Report, Proposed Residential Fire Rebuild, 3823 Paseo Hidalgo, Malibu (RJR Engineering Group, 9/8/97). These reports make numerous recommendations regarding grading, footings, sewage, foundations on bedrock, lateral loads, retaining walls, concrete flatwork, temporary excavations, drainage, seismicity and seismic design, floor slabs, supplemental consulting, engineering consultation, agency review, and limitations. 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. However, potential slope instability issues have been specifically addressed at this site.

The subject site is located in an area of Malibu generally prone to landslide activity. The *Geologic and Geotechnical Engineering Feasibility Report* by RJR Engineering Group, Inc. dated September 8, 1997 indicates that although no landslides are located on the subject site, the subject site is located approximately 300 ft. westerly of the currently active Rambla Pacifico Landslide. However, the applicant's geologic and geotechnical consultants have determined that the subject site is relatively stable. The *Geologic and Geotechnical Engineering Report* (RJR Engineering, 9/8/97) states that:

> ***Based on the subsurface exploration, previous work performed by other consultants and the results of our analysis, the descending, off-site slope has a factor of safety of approximately 1.5 under static conditions. However, it should be noted that foundation design may take into account that should the landslide activate during the lifetime (75-100 years) of the proposed structure, the proposed foundation system should protect the residence from the potential adverse effects at the site.***

A factor of safety rating of 1.5 or greater is considered an indication of a grossly stable site, and has been accepted by the Commission in past decisions. The applicant's geotechnical engineering consultant has indicated that in order to provide protection from slope deformation or surficial type slope failures, the proposed residence should be constructed with a deepened foundation system.
As discussed above, the *Geologic and Geotechnical Engineering Report* by RJR Engineering Group, Inc. dated September 8, 1997 indicates that the subject site is grossly stable; however, the consultants state the following, in reference to the potential occurrence of a landslide event:

> ***It is possible that access to the site from Pacific Coast Highway would be cutoff, thereby prohibiting lifelines or emergency vehicles from reaching the site or surrounding area in the event of an emergency. This is possible in the event of a smaller slope instability along the various access roads. It is the opinion of RJR thatshould the landslide complex activate, it would most likely behave as most larger slides in the area, and exhibit varying degrees of slow movement dependent on the seasonal volumes of rain and runoff.***

In the most recent *Geotechnical Update Report* (RJR Engineering Group, Inc, 2/12/02), the geoconsultant found that the site remains essentially unchanged since the previous study and all recommendations are still applicable. The update concludes (RJR Engineering Group, Inc. 2/12/02):

It is the opinion of RJR Engineering Group that the proposed project will be safe from the hazards of landsliding, excess settlement, soil slippage and other geologic hazards and will not adversely affect off-site property provided the recommendations presented in the previous RJR report are incorporated into the design and construction of the project.

The geologic and engineering consultants have included a number of additional geotechnical recommendations which will increase the stability and geotechnical safety of the site. Based on the conclusions of the RJR Engineering Group, Inc. 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 One (1)** requires the applicant to demonstrate to the Executive Director's satisfaction that all recommendations in the geologic reports are incorporated into all final plans and designs.

As discussed above, the Commission notes that the applicant's engineering consultants have indicated that the proposed development will serve to ensure relative geologic and structural stability on the subject site. However, the Commission recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting geotechnical engineers, 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 landsliding, earth movement, erosion, 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 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 Six (6)**, 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. As noted above, this project was previously approved by the Commission as Coastal Development Permit (CDP) 4-99-137, including a special condition requiring an Assumption of Risk Deed Restriction. The assumption of risk deed restriction was recently recorded for this parcel under Instrument Number 01-1183757 dated July 9, 2001 and a Subordination Agreement was recorded under Instrument Number 01-1183756 on July 9, 2001, in satisfaction of Special Condition Five (5) of CDP 4-99-137. Special Condition 6 requires the applicant to amend the deed restriction to replace all references to the previous Coastal Development Permit Number 4-99-137 with references to the current permit Coastal Development Permit 4-01-237. The deed restriction as amended must be in a form and content acceptable to the Executive Director and shall be recorded free of prior liens.

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. The proposed project will increase the amount of impervious surfaces on the site, increasing both the volume and velocity of storm water runoff. If not controlled and conveyed off of the site in a non-erosive manner, this runoff will result in increased erosion on and off the site.

The applicant's geotechnical consultant has recommended that drainage not be allowed to pond on the pad or against any foundation or paved area but should be collected and distributed in a non-erosive manner. In order to ensure that the risks from geologic hazard, erosion, and sedimentation are minimized, a drainage plan is required as defined by **Special Condition Three (3)**. Special Condition 3 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. This drainage plan is fundamental to reducing on-site erosion and the potential impacts to coastal streams, drainages, and site stability. 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.

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 Two (2)**.

Special Condition 2 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 2 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. Use of the materials and methods required by that special condition will stabilize the site immediately after disturbance and additionally protect against long-term site erosion. Special Condition 2 (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 2 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 949 cubic yards of grading, primarily for excavation of the site to step the residence into the hillside. Excavated materials that are placed in stockpiles are subject to increased erosion. The Commission notes that additional 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 Four (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, the smallest practical area of land should be exposed at any one time during construction and the length of exposure should be kept to the shortest practicable amount of time for grading operations on hillsides. The Commission notes that vegetation clearing and thinning for fire protection purposes that occurs prior to commencement of grading or construction of the proposed development may unduly contribute to erosion conditions. As such, the Commission finds it necessary to impose a restriction on the removal of vegetation, as specified in **Special Condition Five (5)**. Special Condition 5 requires that no removal or thinning of vegetation for fuel modification purposes shall occur until grading or building permits have been secured from the local government and construction of the permitted development has commenced. The limitation imposed avoids loss of vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and runoff control devices and implementation of the landscaping and interim erosion control plans.

For the reasons cited above, the Commission finds that the proposed project as conditioned by Special Conditions 1, 2, 3, 4, and 5 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.

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.

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. A 200-foot fuel modification zone around the proposed house site would overlap onto neighboring properties to the south, east, and west (see Exhibit 11). However, the off-site area within the fuel modification zone is disturbed and off-site fuel modification requirements in this zone would not impact significant native habitat. Fuel modification to the south and west will overlap significantly with areas already disturbed by the fuel modification requirements of neighboring development. In addition, fuel modification to the northeast would overlap areas disturbed by a previous residence on the adjacent parcels that also burned down in 1993. The subject parcel and the adjacent lots to the east, are highly disturbed areas with remnant debris from the previous residences and have not experienced a significant return to native vegetation. Therefore, the proposed development will not have an adverse impact on significant natural vegetation. However, to ensure the most minimal disturbance feasible of the surrounding environment, **Special Condition Two (2)** requires the applicant to submit an approved long-term fuel modification plan for the review and approval by the Executive Director.

The Commission finds that only as conditioned is the proposed project consistent with Section 30253 of the Coastal Act applicable to hazards from wildfire.

C. Visual

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.***

The applicant is proposing to construct a 3,015 sq. ft., 28 ft. high, multi-level single family residence with a 385 sq. ft. attached garage, septic system, retaining walls, and exterior stairways to replace a 2,100 sq. ft. SFR destroyed by fire Additionally, the applicant is proposing 949 cu. yds. of grading (929 cu. yds cut, 20 cu. yds fill) primarily to "step" the residence into the contour of the hillside.

The proposed project will be at least partially visible from a scenic highway (Pacific Coast Highway) designated in the certified Malibu / Santa Monica Mountains Land Use Plan (LUP) to the south. The proposed project is located within a built-out section of Malibu consisting of numerous single family residences. Nearby residences are of a similar massing, character, and location to be similarly visible, and the proposed plans are substantially in character with the type and scale of development in the surrounding area.

In addition, visual impacts associated with grading and the structure itself can be further reduced by the use of adequate and appropriate landscaping. A landscape plan relying principally on native, non-invasive plant species will ensure that the vegetation on-site remains visually compatible with the native flora of surrounding areas. In addition, vertical screening elements added to the landscape plan can soften views of the proposed residence from public areas such as Pacific Coast Highway. The Commission therefore finds it necessary to ensure that the final approved landscaping plans are successfully implemented to soften the visual impact of the development, as required by **Special Condition Two (2)**.

The proposed project, as conditioned, will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act.

D. Water Quality

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

As stated previously, the applicant is proposing to construct a 3,015 sq. ft., 28 ft. high, multi-level single family residence with a 385 sq. ft. attached garage, septic system, retaining walls, exterior stairways, and 949 cu. yards of grading (929 cu. yds. cut, 20 cu. yds. fill).

The proposed redevelopment 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 Three (3),** 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. 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 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 3, 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.

Furthermore, interim erosion control measure implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition Two (2)** 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 1,500 gallon tank to serve the residence. The 1,500 gallon septic tank will be located on the south side of the building pad. Effluent will be diverted to a seepage pit near the south property boundary. 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 to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

E. Local Coastal Program

Section 30604 of the Coastal Act states:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

The preceding sections provide findings that the proposed 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 project 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 the Santa Monica Mountains area which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

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

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

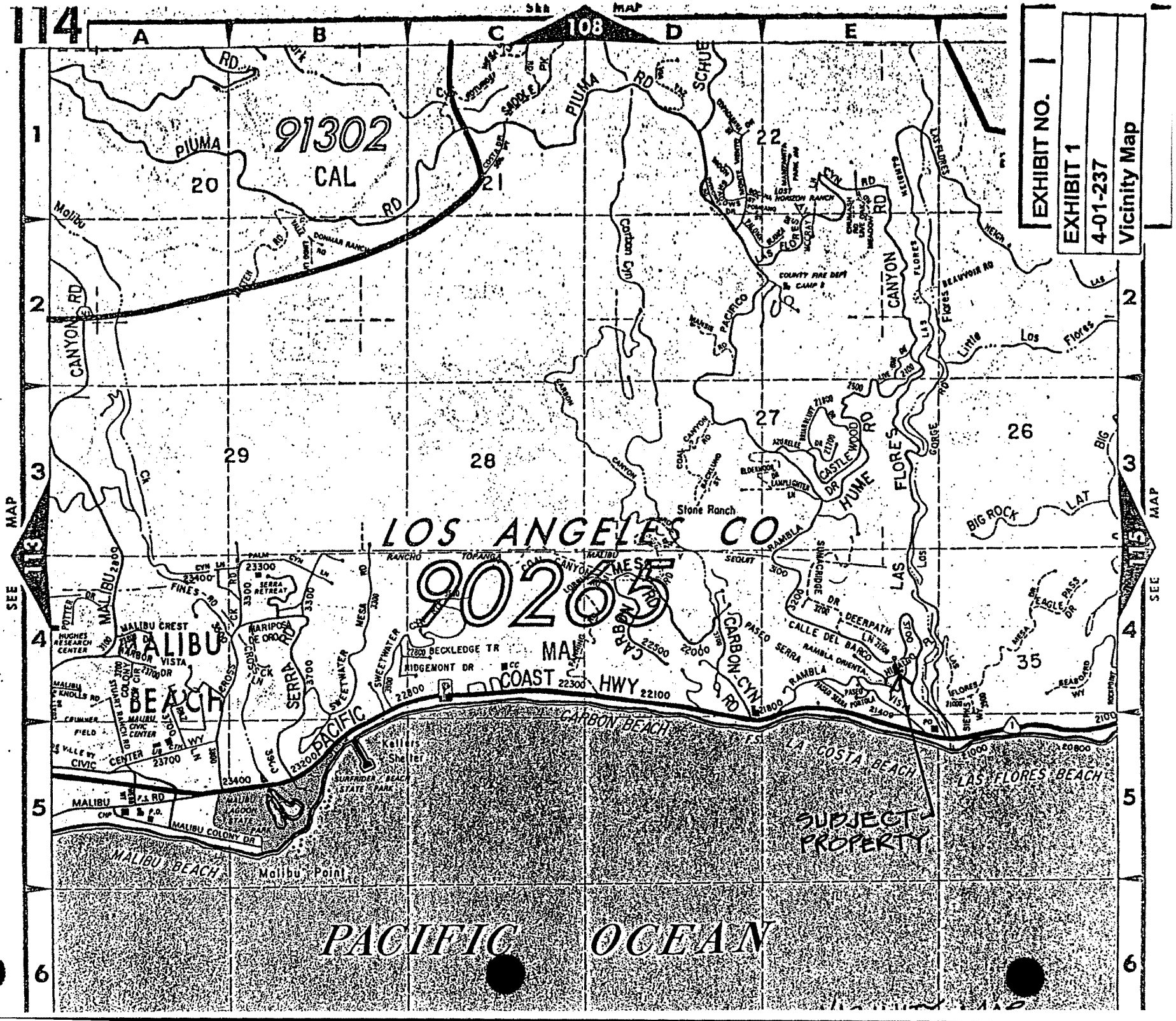


EXHIBIT NO. 1
EXHIBIT 1
4-01-237
Vicinity Map
14
A
B
C
D
E
108
91302
CAL
20
21
22
PIUMA RD
SADDLE PK
SCHUE
CANYON RD
Malibu
DONNAR RANCH
Carbon Cyn
LOST HORIZON RANCH
LAS FLORES HEIGHTS
FLORES CANYON
FLORES BEAUVOIR RD
Little Los Flores
COUNTY FIRE DEPT CAMP 8
MANDEVILLE CANYON
PACIFICO
29
28
27
26
CASTLE WOOD DR
HUME
FLORES GORGE RD
BIG ROCK LAT
Stone Ranch
LOS ANGELES CO
9026
MALIBU
MALIBU CREST
HARBOR VISTA
MALIBU COLONY
BEACH
MARIPOSA DE ORO
SERRA RETREAT
SERRA
PACIFIC
SWEETWATER MESA
RIDGEMONT DR
BECKLEDGE TR
COAST HWY
CARBON CYN RD
RAMBLA
PASEO SERRA
CALLE DEL BARCO
DEERPATH LN
SUNRIDGE DR
EAGLE PASS DR
LAS FLORES MESA
CIVIC CENTER
CARBON BEACH
LA COSTA BEACH
LAS FLORES BEACH
Kellers Shelter
SURFRIDER BEACH STATE PARK
MALIBU LAGOON STATE BEACH PARK
MALIBU COLONY DR
MALIBU BEACH
Malibu Point
SUBJECT PROPERTY
PACIFIC OCEAN
SEE MAP 113
SEE MAP 115

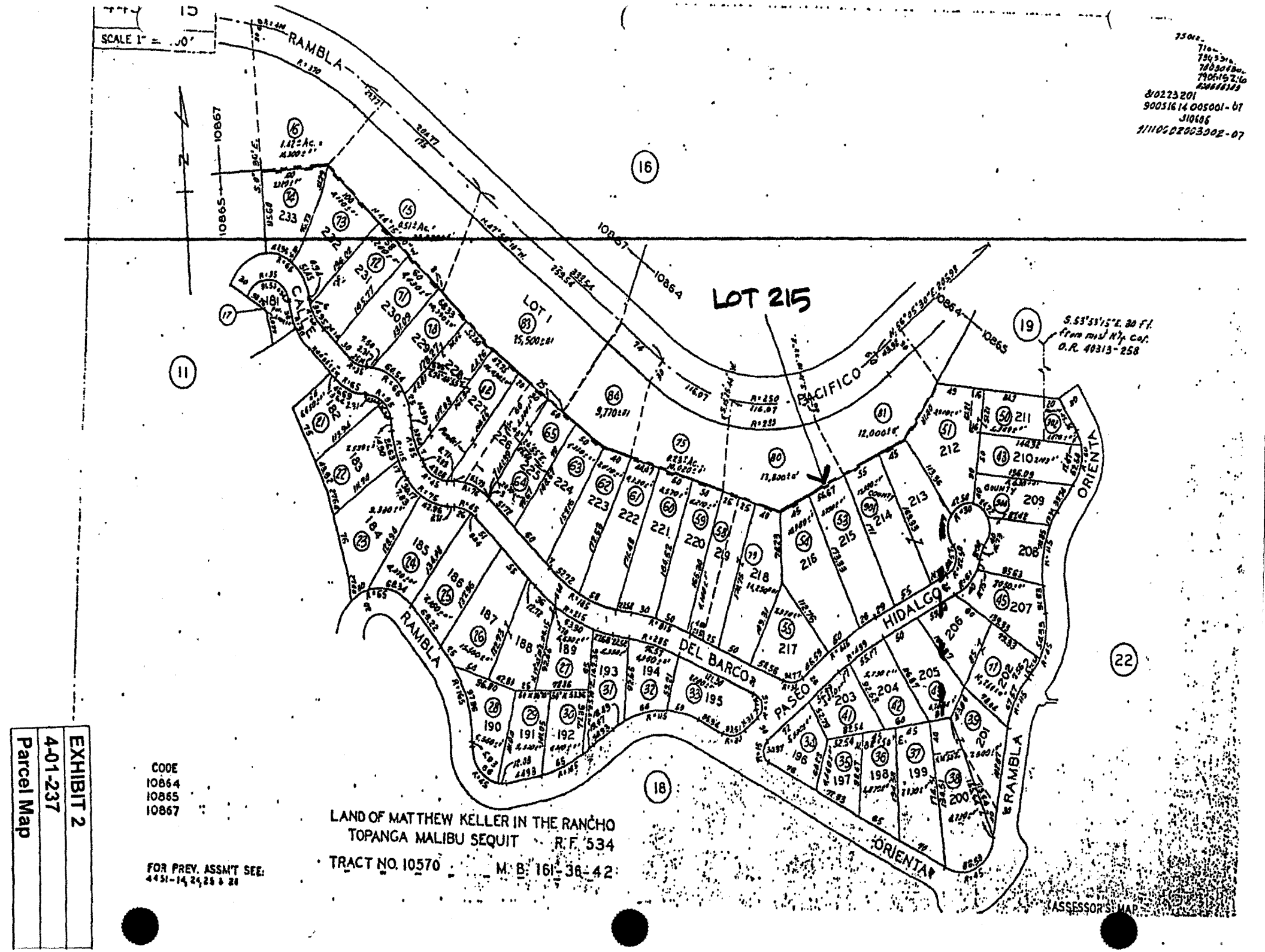
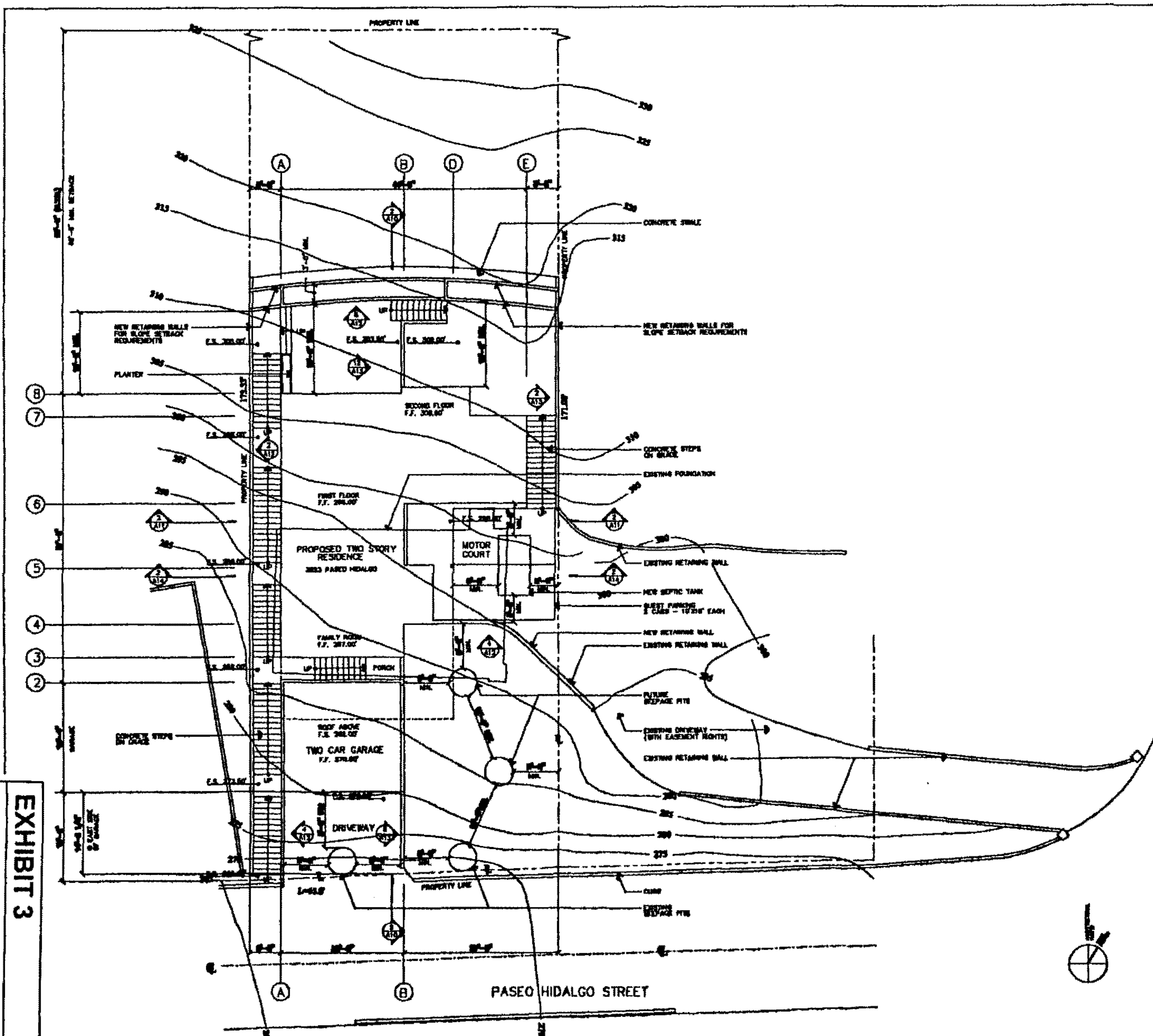


EXHIBIT 2
4-01-237
Parcel Map

EXHIBIT 3
4-01-237
Site Plan



PLAN

SCALE 1/8" = 1'-0" 4

PROJECT INFORMATION 1

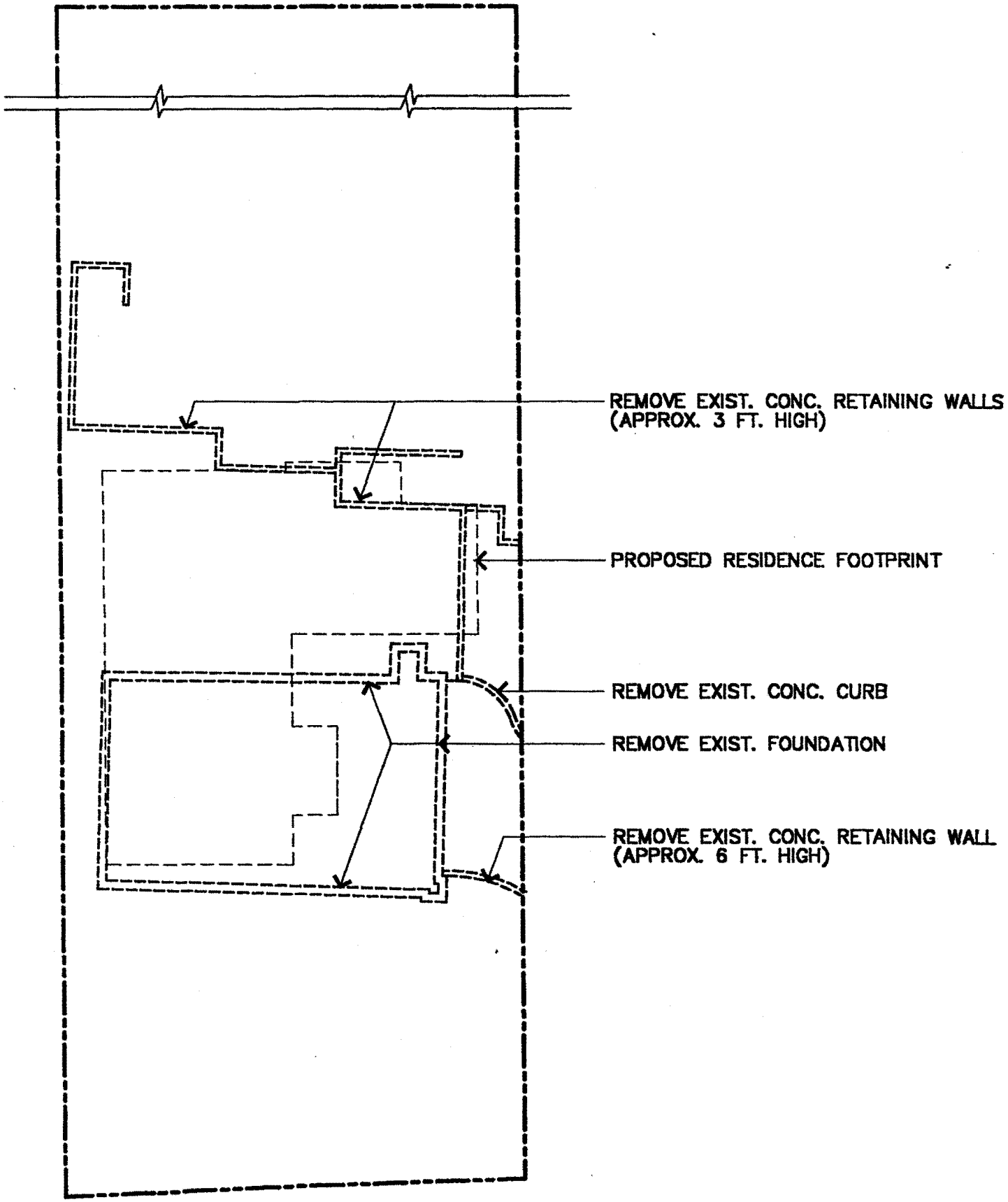
PROJECT STATISTICS 2

SHEET INDEX 3

TYPE 4

SITE PLAN / PROJECT INFORMATION

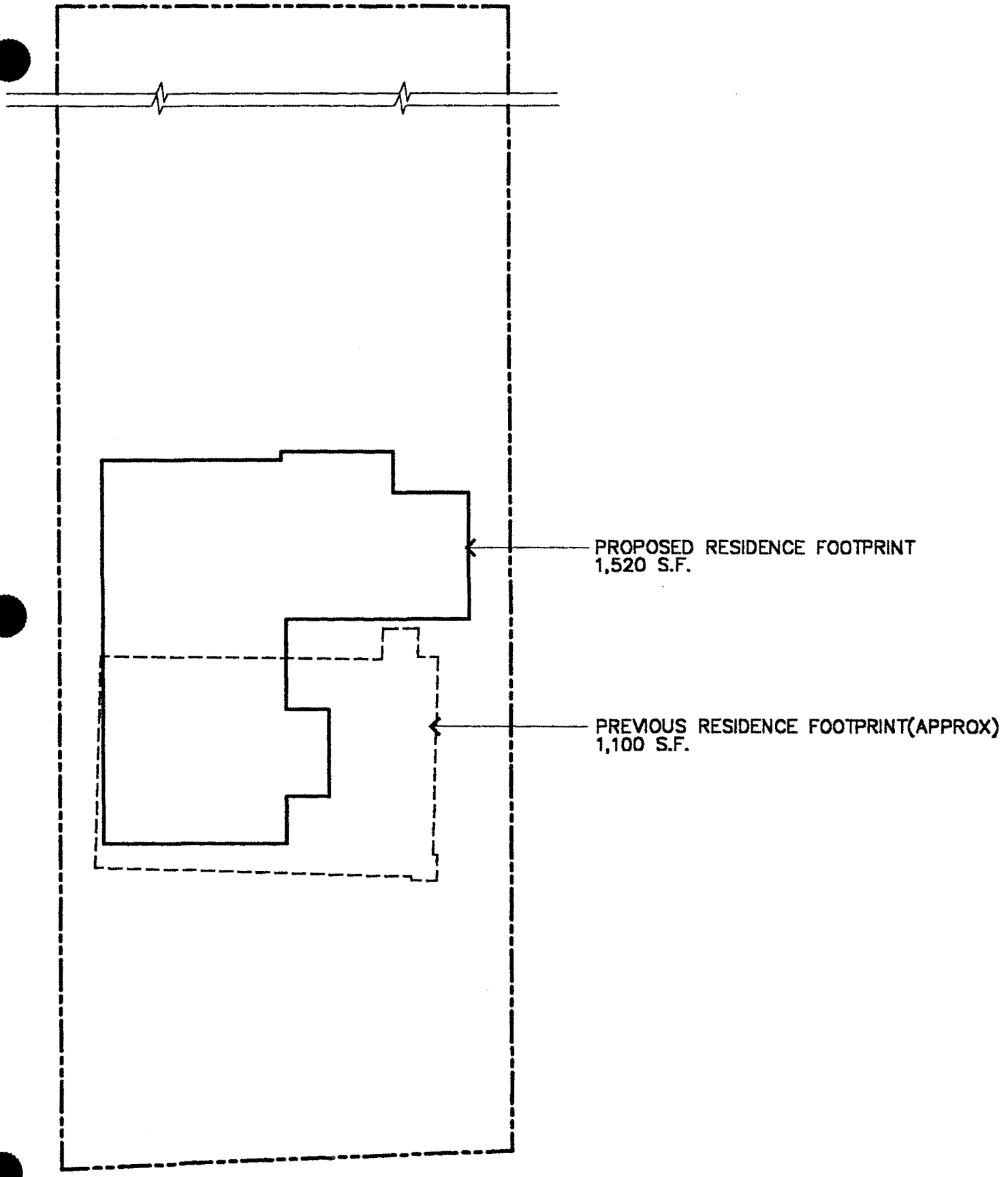
A1



SITE DEMOLITION PLAN

SCALE
1/1

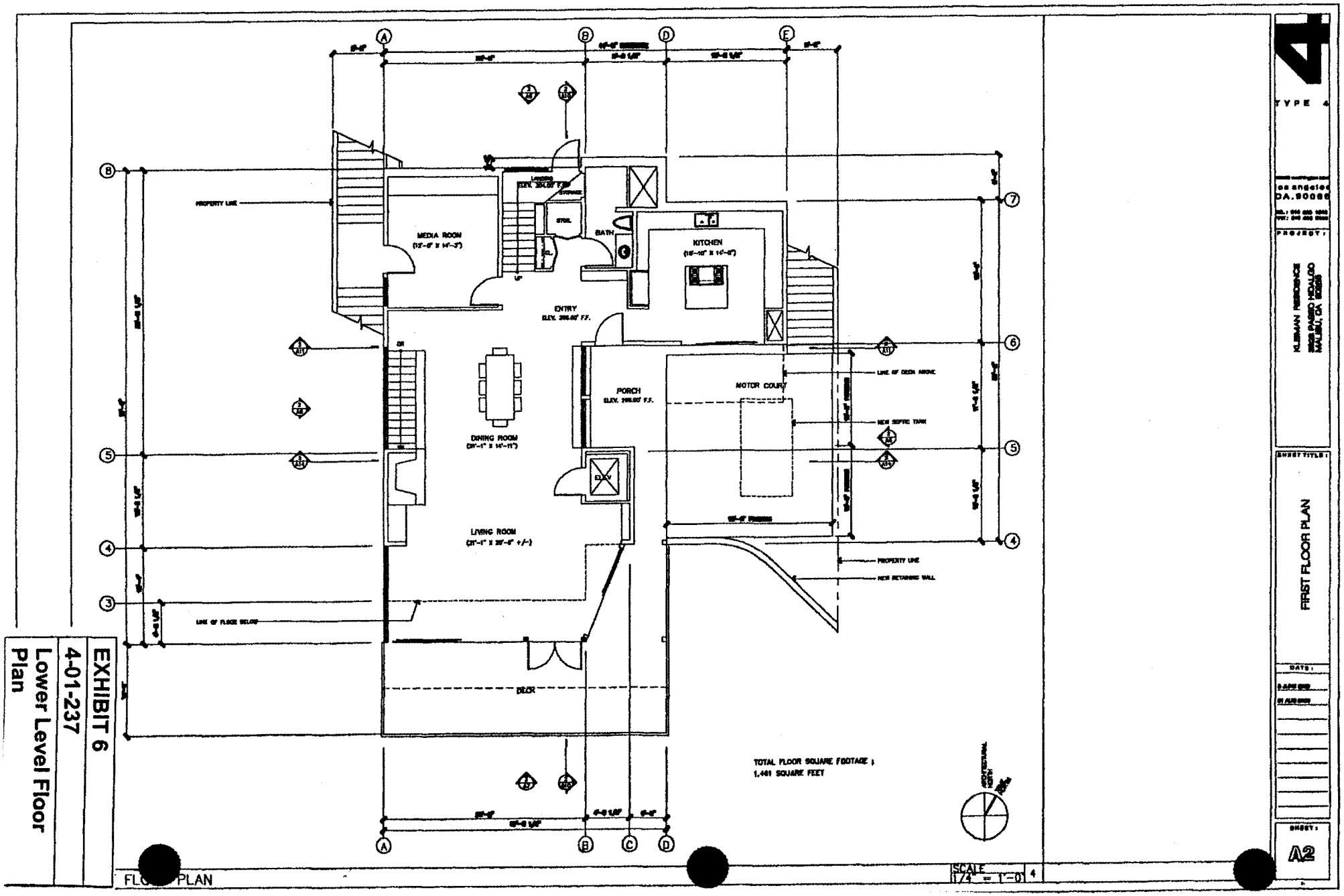
EXHIBIT 4
4-01-237
Site Demolition

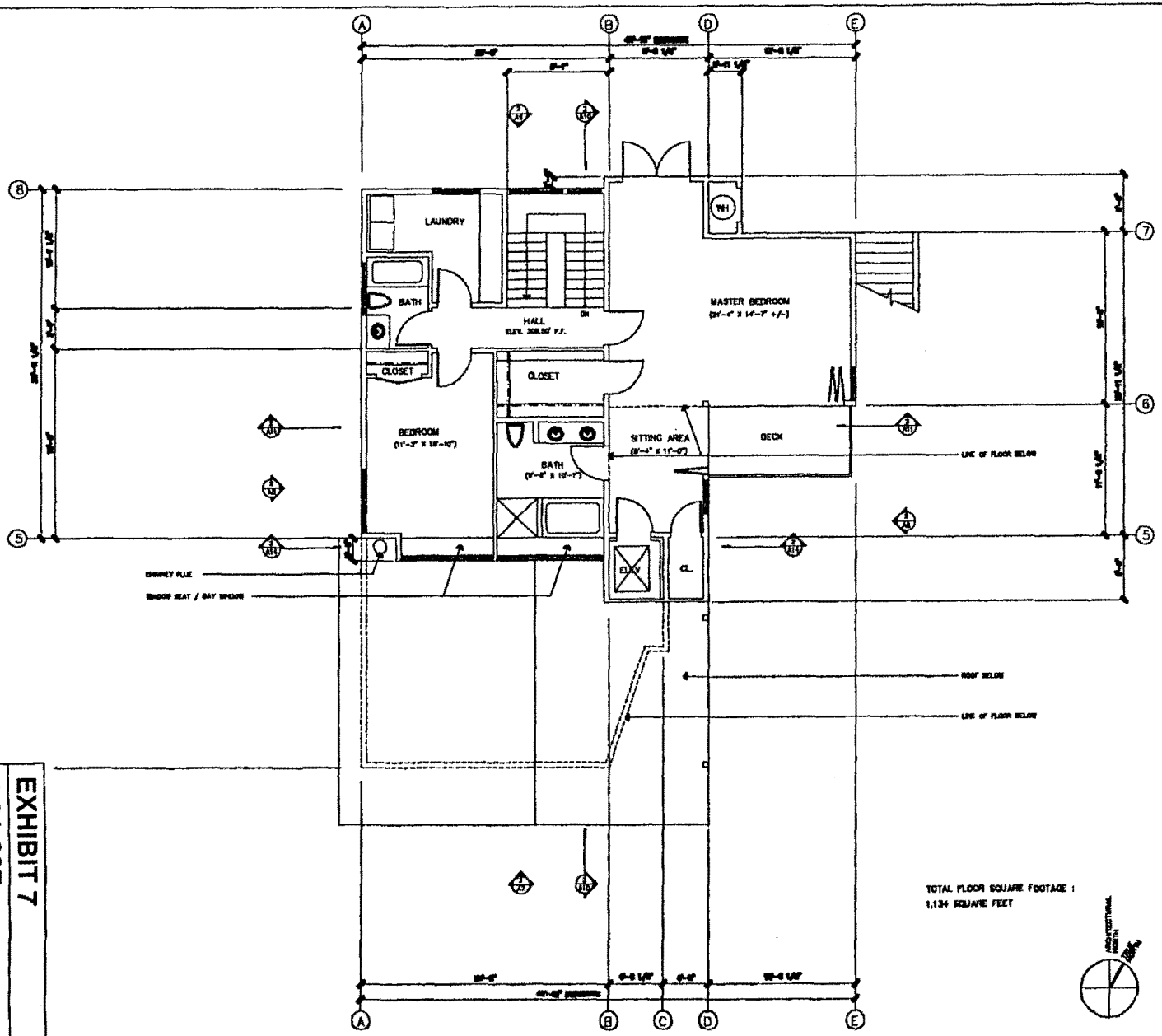


BUILDING FOOTPRINT ANALYSIS

SCALE
1/

EXHIBIT 5
4-01-237
Footprint Modification


MEDIA ROOM
KITCHEN
ENTRY
PORCH
MOTOR COURT
DINING ROOM
LIVING ROOM
DECK
PROPERTY LINE
LINE OF FLOOR BELOW
LINE OF DECK ABOVE
NEW SEPTIC TANK
NEW RETAINING WALL
TOTAL FLOOR SQUARE FOOTAGE :
1,441 SQUARE FEET
FIRST FLOOR PLAN
SCALE 1/4" = 1'-0"
A2
TYPE 4
EXHIBIT 6
4-01-237
Lower Level Floor Plan



FLOOR PLAN

SCALE 1/4" = 1'-0"

TYPE 4

KLEIMAN RESIDENCE
3828 PASEO HIDALGO
MALIBU, CA 90265

SECOND FLOOR PLAN

SHEET: A3

EXHIBIT 7
4-01-237
Upper Level Floor Plan

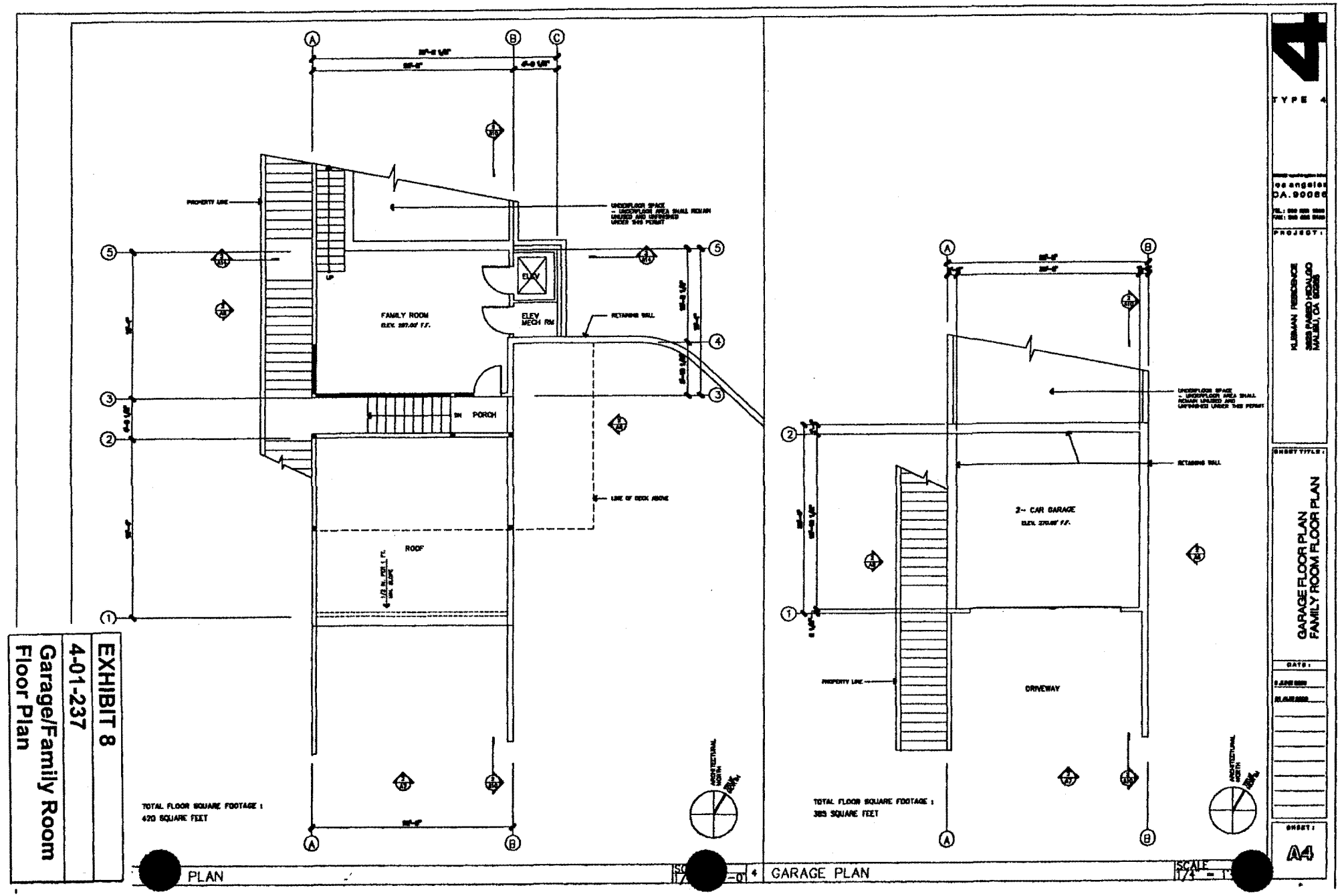


EXHIBIT 8
4-01-237
Garage/Family Room
Floor Plan

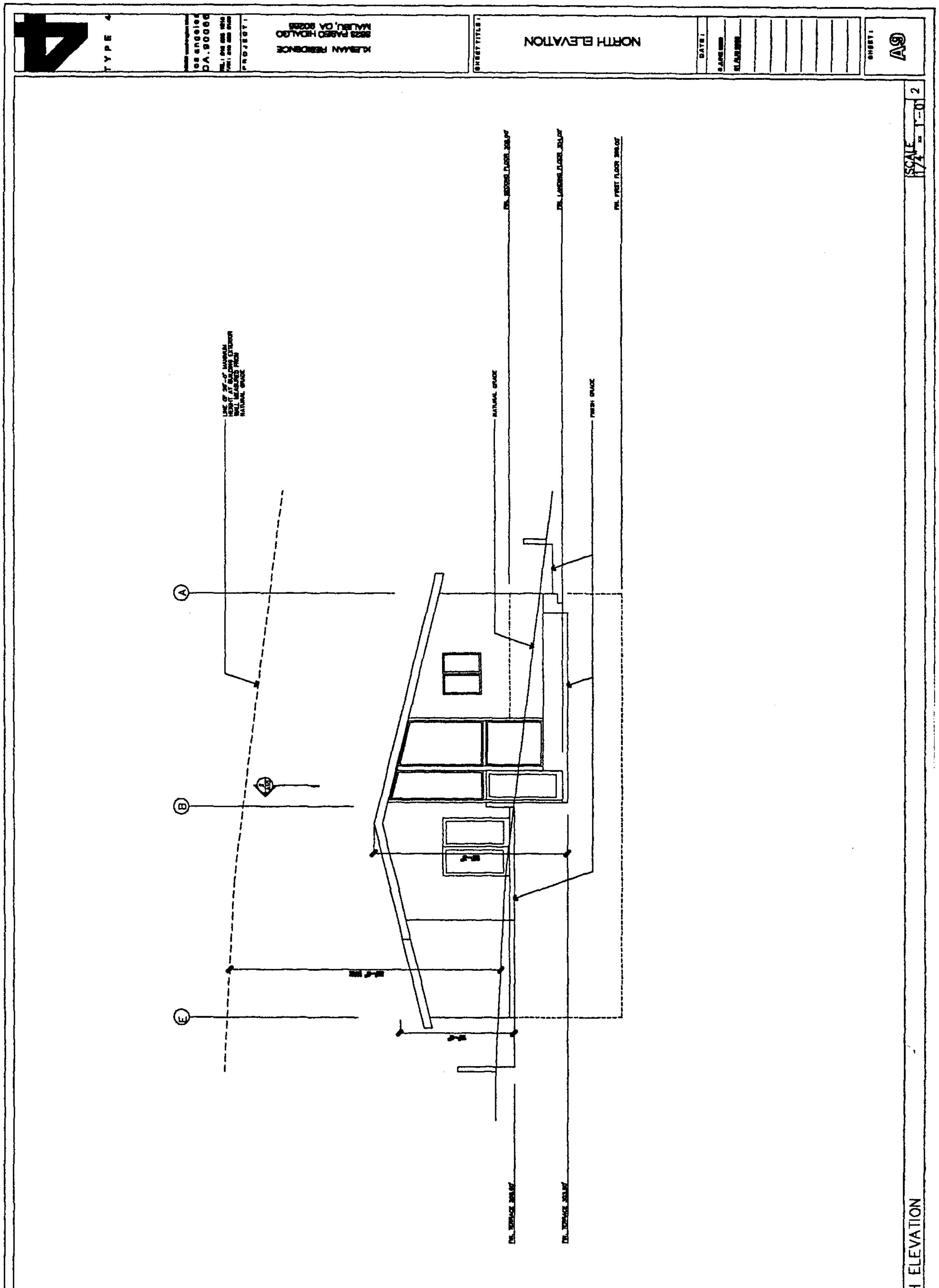
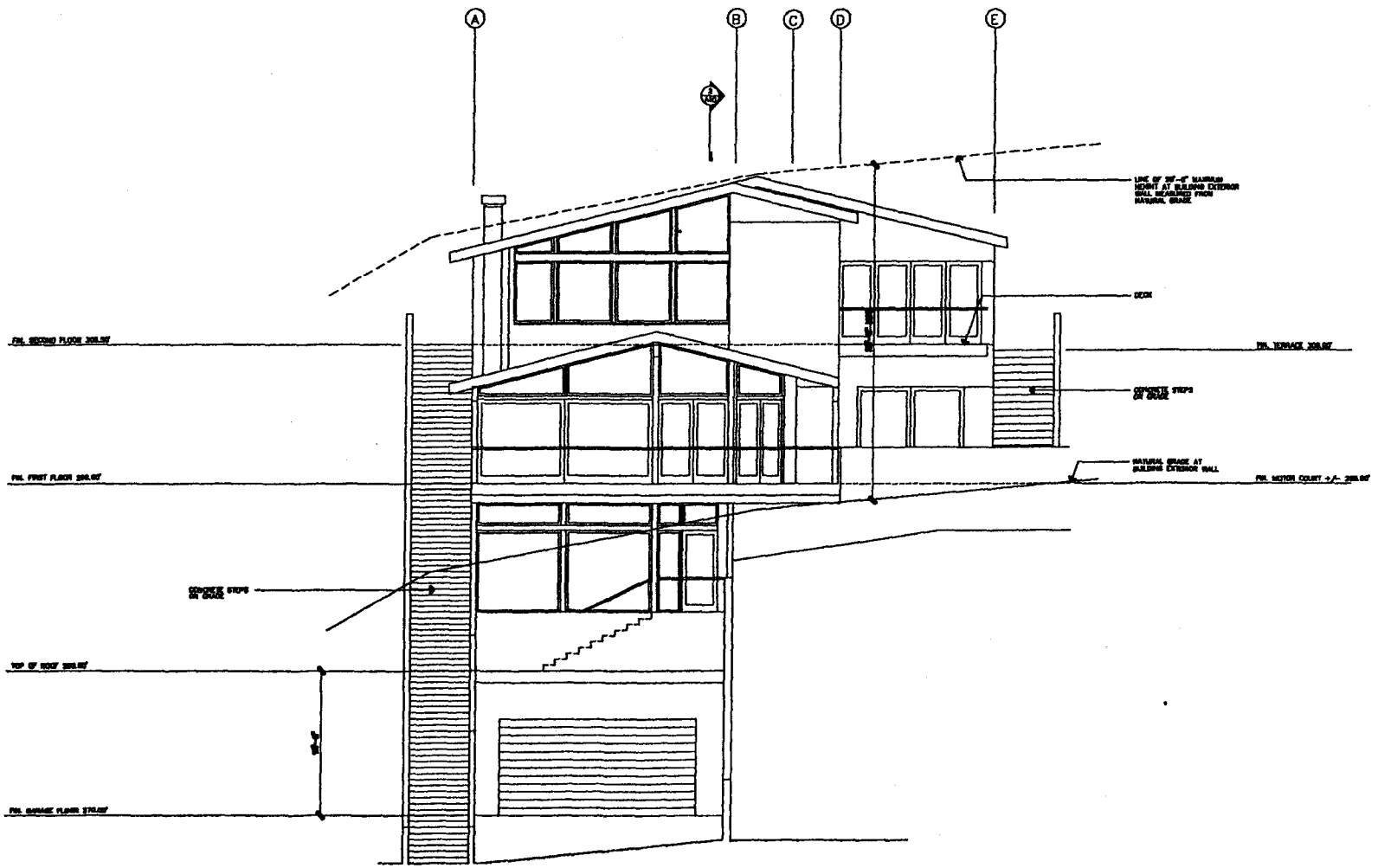


EXHIBIT 9a

4-01-237

Elevations - North



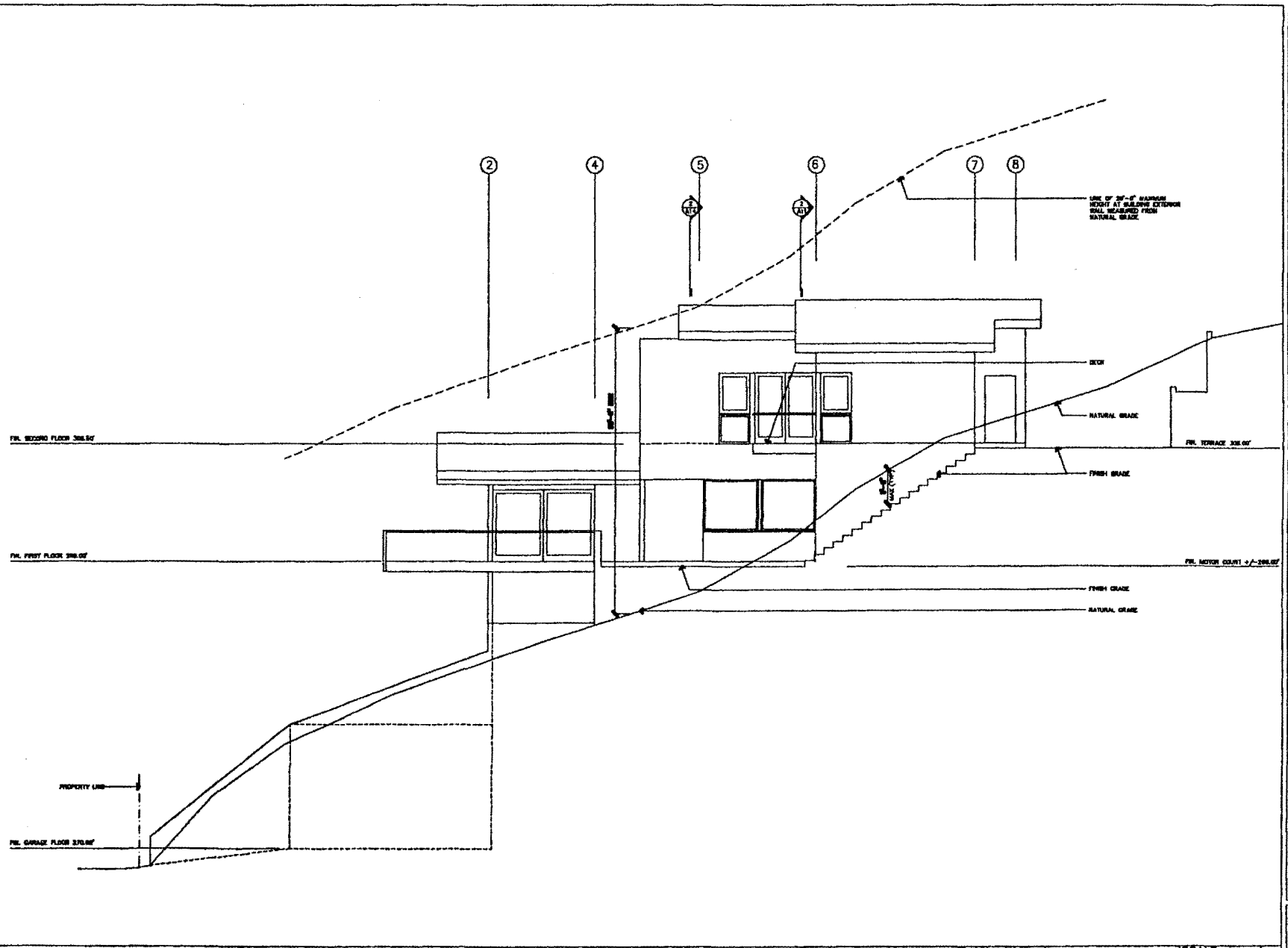
TYPE 4

SOUTH ELEVATION

SCALE 1/4" = 1'

A7

EXHIBIT 9b
4-01-237
Elevations - South



ELEVATION

SCALE 1/4" = 1'-0"

4

TYPE 4

los angeles
CA. 90068

PROJECT:

KLEIMAN RESIDENCE
3605 PASEO MIRALDO
MALIBU, CA 90265

SHEET TITLE:

EAST ELEVATION

DATE:

SHEET:

A6

EXHIBIT 9c
4-01-237
Elevations - East

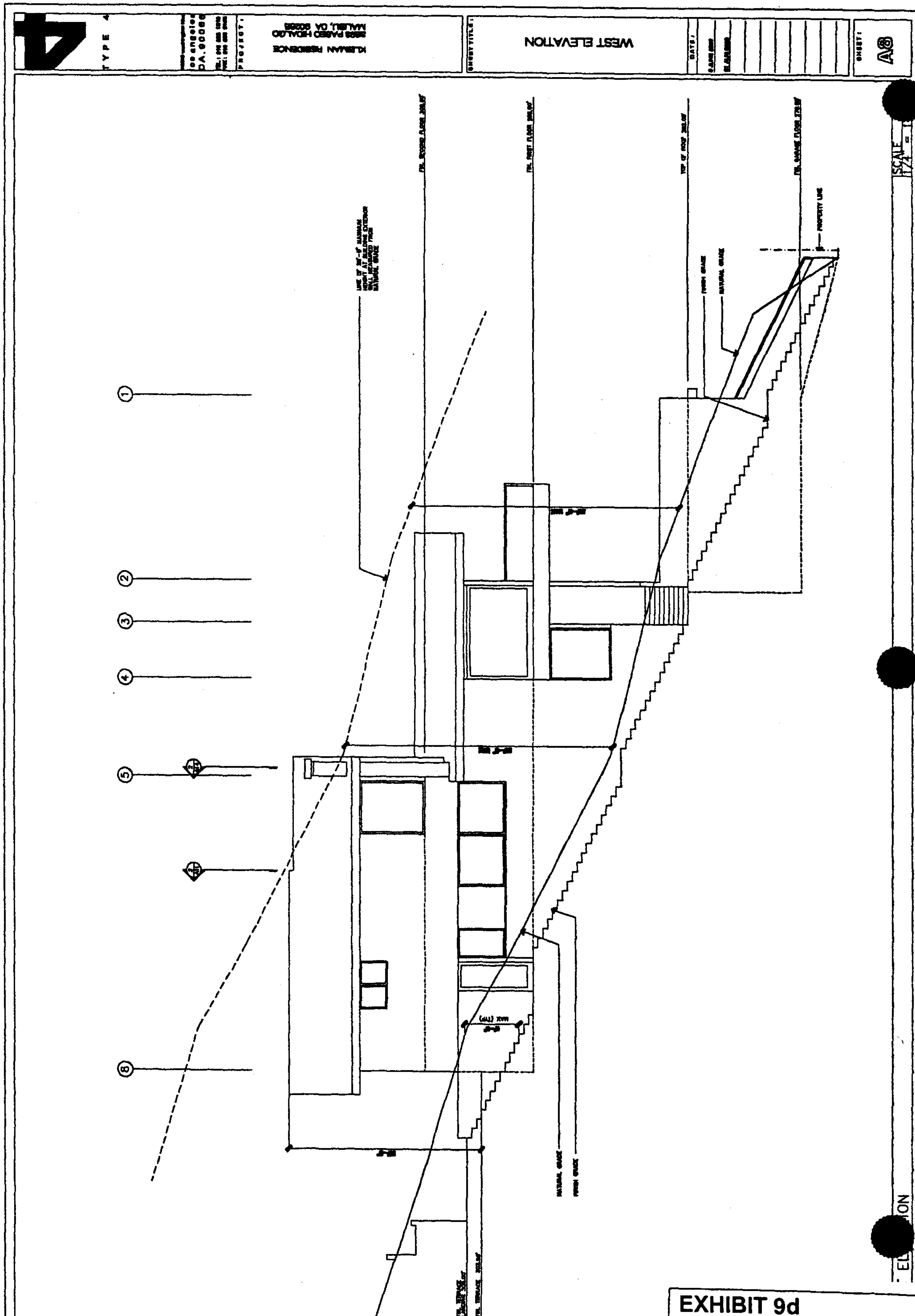
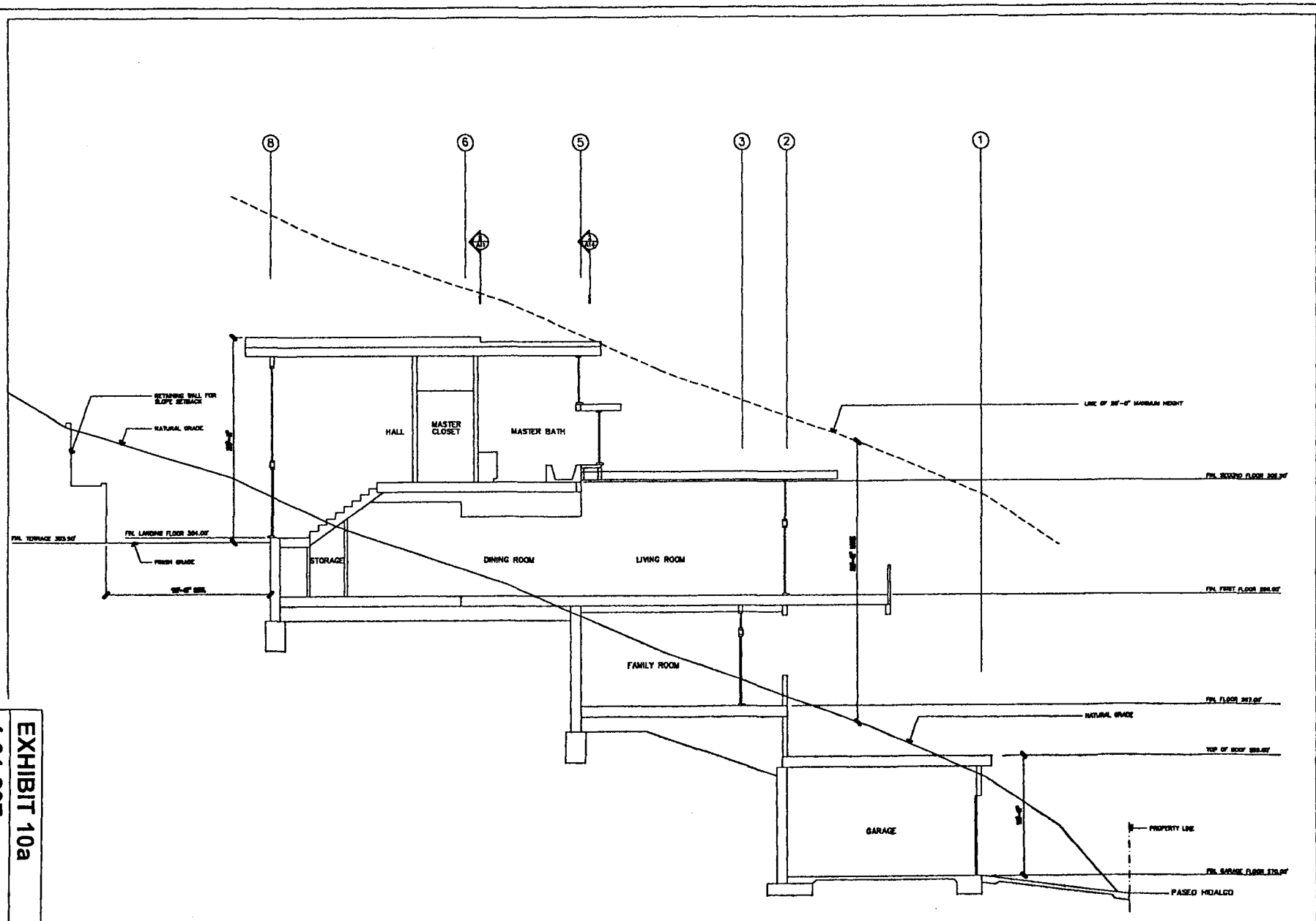


EXHIBIT 9d

4-01-237

Elevations - West



.DING SECTION

SCALE 1/4" = 1'-0" 2

TYPE 4

los angeles
CA. 90066

PROJECT:
KLEIMAN RESIDENCE
3523 PASEO HIDALGO
MALIBU, CA 90265

SHEET TITLE:
BUILDING SECTION

DATE:

SHEET:
A10

EXHIBIT 10a
4-01-237
Bldg. Section

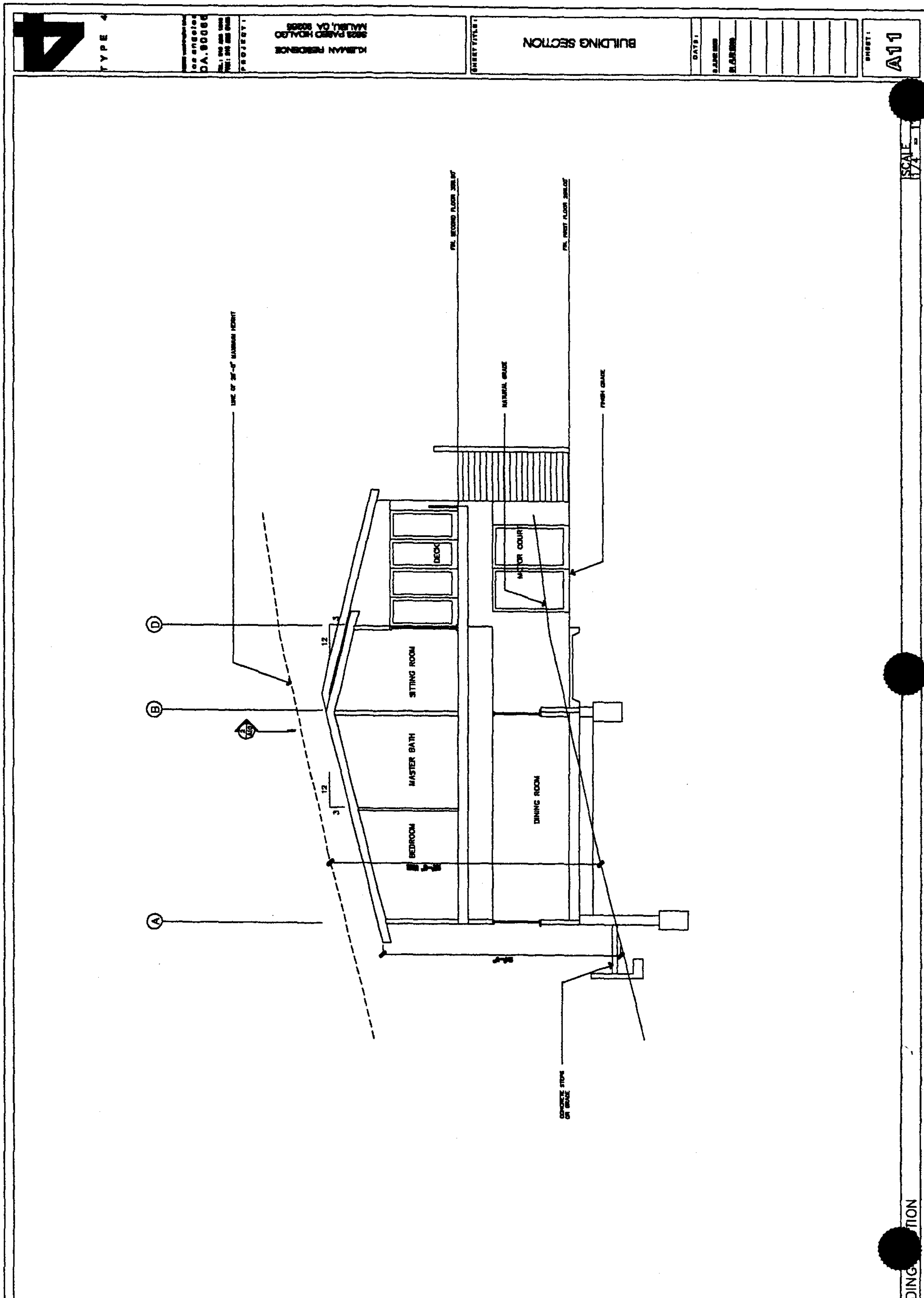
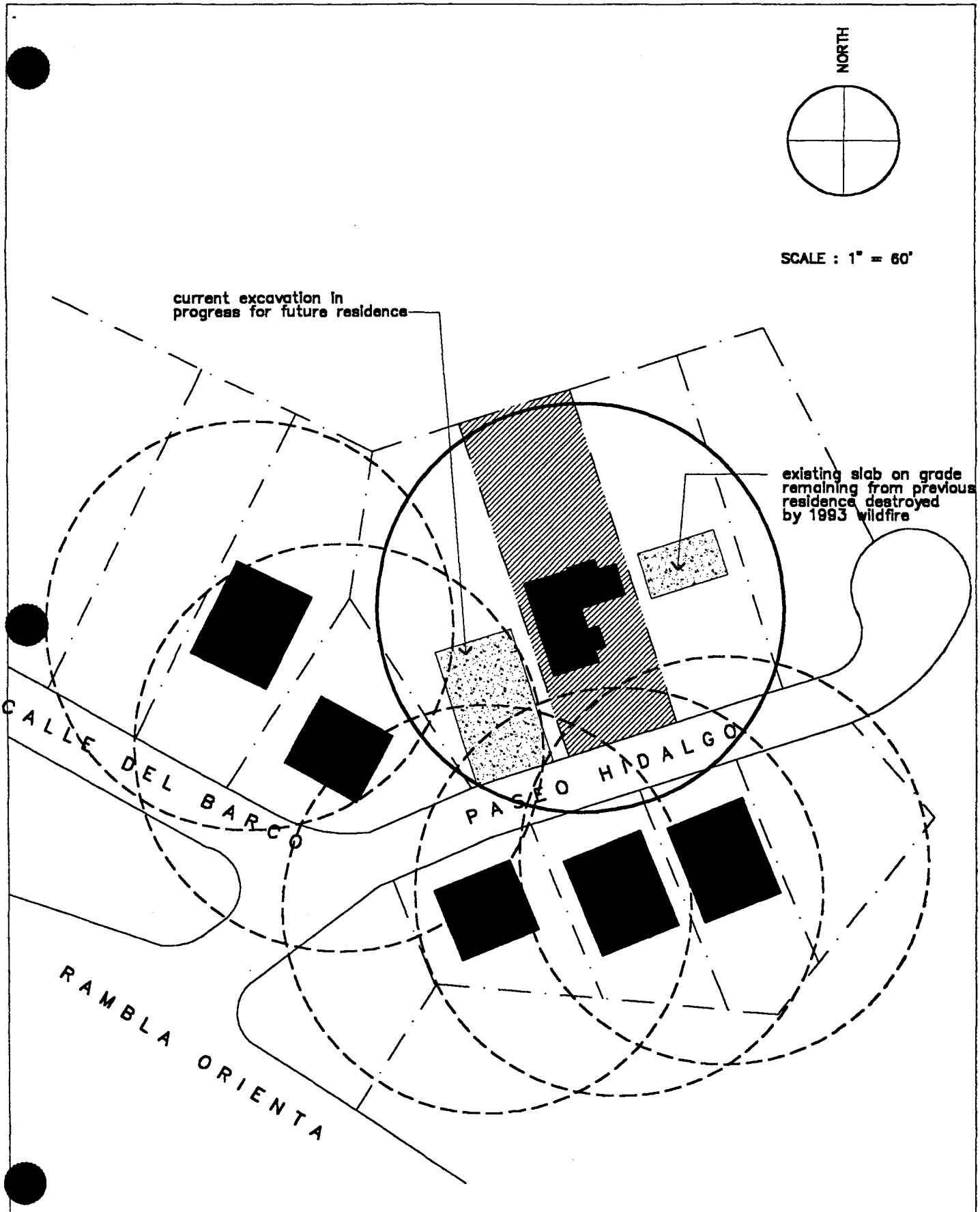


EXHIBIT 10b

4-01-237

Bldg. Section



BRUSH CLEARANCE MAP –r e v i s e d

EXHIBIT 11
4-01-237
Brush Clearance Map