

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
SOUTH CALIFORNIA ST., SUITE 200
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Commission Action:



RECORD PACKET COPY

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-200
APPLICANT: Eytan Levin
AGENT: Max Henonin
PROJECT LOCATION: 21511 Deerpath Lane, Malibu, Los Angeles County
APN 4451-016-025

PROJECT DESCRIPTION:

Construction of a two-story, 28 ft. above existing grade, 4,547 sq. ft. single-family residence; attached 576 sq. ft. garage; driveway; septic system; pool; spa; and 231 sq. ft. covered gazebo. No grading is proposed.

Lot area: 43,251 sq. ft. (.99 acres)
Building coverage: 5,122 sq. ft.
Pavement coverage: 3,366 sq. ft.
Landscape coverage: 947 sq. ft.
Unimproved area: 35,333 sq. ft.
Maximum height: 28 ft. from existing grade

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, dated 9/21/01; City of Malibu Environmental Health Department, Approval in Concept (Septic), dated 6/6/01; City of Malibu, Geology Review Sheet, Approval in Concept, dated 5/8/01; Approval in Concept, Los Angeles County Fire Department, Preliminary Fuel Modification Plan Approval, dated 1/24/02.

SUBSTANTIVE FILE DOCUMENTS: *Geotechnical and Geologic Engineering Investigation and Report for Proposed Fire Restoration Residence and Pool Foundation Design*, by Ralph Stone and Co., Inc., dated 1/30/01; *Engineering Geology Report for Fire Restoration*, by E.D. Michael, consulting geologist, dated 1/8/01; and *Response to City of Malibu Review Sheet*, by E.D. Michaels and Co., Inc., dated 3/15/02.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed project with 7 Special Conditions regarding (1) color restriction, (2) conformance to geologic recommendations, (3) drainage and polluted run-off control, (4) landscaping and erosion control, (4) removal of natural vegetation, (5) future improvements, (6) assumption of risk, and (7) lighting restriction.

The applicant is proposing to construct a two-story, 28 ft. above existing grade, 4,547 sq. ft. single-family residence; attached 576 sq. ft. garage; driveway; septic system; pool; spa; and 231 sq. ft. covered gazebo at 21511 Deerpath Lane (Exhibits 3-9). No grading is proposed.

The subject site is a partially graded 43,251 sq. ft. vacant hillside parcel situated north of Pacific Coast Highway in the neighborhood known as La Costa. This is a highly developed residential area located between Las Flores Canyon and Carbon Canyon in the City of Malibu (Exhibits 1-2). Topography of the subject parcel consists of an existing level building pad on the southwest portion of the site and descending northern and eastern facing slopes. Total gradient change over the subject site is on the order of approximately 50 ft. The site was previously developed with a 2,865 sq. ft. residence built in 1967, which was lost to fire in 1993. There are several dirt road cuts on the eastern portion of the property in association with an existing road easement which traverses the property.

Vegetation on the site consists mostly of non-native grasses, and several trees, including one Black Walnut and one Coastal oak (Exhibit 3). These are located outside the development footprint and will not be adversely affected by the development, consistent with the approved fuel modification plan. No designated environmentally sensitive habitat area exists at the site. The finished project will be visible from portions of Pacific Coast Highway. The proposed project, as conditioned, is consistent with all applicable policies of the Coastal Act.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-200 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.

SPECIAL CONDITIONS

1. Color Restriction

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 4-01-200. 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 4-01-200 if such ~~changes are specifically authorized by the Executive Director as complying with this special condition.~~

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.

2. Plans Conforming to Geologic Recommendation

All recommendations contained in the *Geotechnical and Geologic Engineering Investigation and Report for Proposed Fire Restoration Residence and Pool Foundation Design*, by Ralph Stone and Co., Inc., dated 1/30/01; and *Engineering Geology Report for Fire Restoration*, by E.D. Michael, consulting geologist, dated 1/8/01; shall be incorporated into all final design and construction including foundations, setbacks, drainage, retaining walls, and sewage disposal. Final plans must be reviewed and approved by the project's consulting geotechnical engineer. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

The final plans approved by the 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.

3. Drainage and Polluted Runoff Control Plans

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

(1) The plan shall be configured and designed to generally conform with the conceptual drainage plan shown on Exhibit 4.

(2) Selected BMPs (or suites of BMPs) shall be designed to treat 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.

- (3) Runoff shall be conveyed off site in a non-erosive manner.
- (4) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (5) 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. Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit 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 geotechnical consultants 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 graded and 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. All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Plantings 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) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to soften the views of the finished residence Pacific Coast Highway.

(5) 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.

(6) 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.

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.

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.

5. Removal of Natural Vegetation

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.

6. Future Improvements

This permit is only for the development described in Coastal Development Permit No. 4-01-200. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) & 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a)&(b) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-01-200, including any fencing, grading, clearing, or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to **Special Condition 4**, shall require an amendment to Permit No. 4-01-200 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include legal description of the applicant's entire parcels. 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. Assumption of Risk

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

- A. By acceptance of this permit, the applicants acknowledge and agree to the following:
- (1) The applicants acknowledge and agree that the site may be subject to hazards from ***erosion, earth movement, landslide, and wildfire.***
 - (2) The applicants acknowledge and agree to assume the risks to the applicants 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 applicants unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
 - (4) The applicants agree 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 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 subsection (A) 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.*

8. Lighting Restriction

- A. The only outdoor, night lighting allowed on the site shall be the following:
- (1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that do not exceed two feet in height, that are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Executive Director.
 - (2) Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.
 - (3) The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.
 - (4) No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

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.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to construct a two-story, Construction of a two-story, 28 ft. above existing grade, 4,547 sq. ft. single-family residence; attached 576 sq. ft. garage; driveway; septic system; pool; spa; and 231 sq. ft. covered gazebo at 21511 Deerpath Lane. (Exhibits 3-9). No grading is proposed.

The subject site is a partially graded 43,251 sq. ft. (.99 acre) vacant hillside parcel situated north of Pacific Coast Highway in the neighborhood known as La Costa. This is a highly developed residential area located between Las Flores Canyon and Carbon Canyon in the City of Malibu (Exhibits 1-2). At 28' high from existing grade, the finished project will be visible from Pacific Coast Highway, designated as a scenic highway in past Commission permit actions. Topography of the subject parcel consists of an existing level building pad on the southwestern portion of the site and descending northern and eastern facing slopes. Total gradient change over the subject lot is on the order of approximately 50 ft. An existing ingress/egress easement exists over the eastern portion of the site. Access to the project site is provided from Rambla Pacifico to Deerpath Lane, a public road.

The site was originally developed with a 2,865 sq. ft., one-story residence constructed in 1967. This residence was destroyed by fire in 1993. The applicant proposes to construct a substantially larger residence in the same location utilizing a combination of spread footings and friction piles, and replacement of the existing septic tank and system from the previous fire damaged residence.

Grading has occurred on the eastern portion of the site in the general vicinity of an access easement, which traverses this part of the property (Exhibit 3). This grading is ongoing, has resulted in the creation and expansion of several road cuts across the property, and may be occurring without the benefit of a coastal development permit. This grading is not related to the currently proposed development, and is being investigated independent of the proposed development by the Commission's enforcement division (See **Violations** section).

The applicant has submitted Fuel Modification Plans with Preliminary Approval by the County of Los Angeles Fire Department, Fuel Modification Unit, dated 1/24/02, for the proposed residence which indicates the extent of vegetation removal and/or thinning requirements required to reduce fire hazard for the proposed residence. The area identified will overlap significantly with areas previously disturbed by yearly fuel modification completed for adjacent developments (Exhibit 2). Vegetation on the site consists mostly of non-native grasses, and several trees, including one Black Walnut and one Coastal oak (Exhibit 3). These are located outside the development footprint and will not be adversely affected by the development, consistent with the approved fuel modification plan. As such, the proposed development will not have additional adverse impacts on designated sensitive habitat areas or significant natural vegetation.

B. Visual Resources

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The subject site is not visible from Pacific Coast Highway, however, the finished project, at 28' high from existing grade, will be visible. Pacific Coast has been designated a scenic highway through past Commission permit actions and is located to the south of the site. To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic roads. The Commission also examines the building site and the size of the proposed structure. Staff visited the subject site and found the proposed building location to be appropriate and feasible, given the terrain and the surrounding existing development.

The building site is located on an existing level pad located to the north of Pacific Coast Highway. The site itself is not visible from the highway; however, the finished project, at 28 ft. high from existing grade, will be visible from the surrounding area including Pacific Coast Highway, thereby requiring mitigation of visual impacts as discussed below. Nearby residences are of a similar massing, character, and location to be similarly visible, and the proposed building plans are substantially in character with the type and scale of development in the surrounding area.

The Commission has found that the use of native plant materials in landscaping plans can soften the visual impact of construction in the Santa Monica Mountains. The use of native plant materials to revegetate graded and disturbed areas reduces the adverse effects of erosion, which can degrade visual resources in addition to causing siltation pollution in nearby watercourses, and can serve to soften the appearance of development within areas of high scenic quality. Therefore, the applicant is required to submit a Landscape and Fuel Modification Plan, pursuant to **Special Condition 4**, that uses native species compatible with the vegetation associated with the project site for landscaping and erosion control purposes. The landscape plan will be designed with vertical elements to partially screen and soften the visual impact of the proposed structures with trees and shrubs as viewed from the Pacific Coast Highway (Exhibit 1).

Furthermore, the Plan will indicate that only those materials designated by the County Fire Department as being a "high fire hazard" are to be removed as a part of this project and that native materials that are located within a 200' radius of the residential structure are to be "thinned" rather than "cleared" for wildland fire protection. The vegetation located within 20 feet of the structure and the driveway may be cleared and replaced with native plant species that are less flammable, and all disturbed areas of the site replanted with native plants.

The proposed project's impact on public views can be additionally minimized 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 requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as required by **Special Condition 1**. In addition, future construction on the property has the potential to negatively affect the visual character of the area as seen from Pacific Coast Highway. To insure that no additions or improvements are made to the property that may affect visual resources on-site without due consideration of the potential cumulative impacts, the Commission finds it necessary to require the applicant to record a future development deed restriction, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as required by **Special Condition 5**.

The Commission has found that night lighting of areas in the Malibu / Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, in order to protect the night time rural character of this portion of the Santa Monica Mountains, consistent with the scenic and visual qualities of this coastal area, the Commission limits the nighttime lighting of the property and residence to that necessary for safety as outlined in **Special Condition 8**.

Therefore, 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.

C. Geology and Fire Hazard

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, 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 on a hillside in Malibu, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu / Santa Monica Mountains area include landslides, erosion, flooding, and earth movement. In addition, fire is a persistent threat due to the indigenous chaparral community of the coastal mountains. Wildfires can denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides.

The prominent geomorphic features in the area are the Santa Monica Mountains to the north, Las Flores Canyon to the east, Carbon Canyon to the west, and La Costa Beach to the south.

The building site is located on a level pad, which drains by sheet flow runoff to the north and east via descending slopes to a highly modified natural drainage which, ~~in turn,~~ drains to Las Flores Creek. Maximum topographic relief on-site is approximately 50 feet.

The site is currently vacant, but contains remnants of the previous one-story residence which was destroyed by fire in 1993. The applicant proposes to construct a new residence in the same location as the previously existing residence, utilizing a combination of spread footings and friction pile foundation to support the structures; and replacement of the existing septic tank and system. The site also contains an existing ingress/egress easement across the eastern portion of the property, downslope from the building site. Improvements in the form of grading within, and outside, of this easement have taken place without a coastal development permit. This grading is not associated with the proposed single-family residence, and is further discussed under the **Violations** section of this report.

The applicant's geologic and engineering consultant has determined that the project site is suitable from a soils and engineering standpoint for construction of the proposed project. The *Geotechnical and Geologic Engineering Investigation and Report for Proposed Fire Restoration Residence and Pool Foundation Design, 21511 Deerpath Lane*, by Ralph Stone and Company, Inc., dated 1/30/2001, in evaluating the various engineering geologic factors affecting site stability and the existing site conditions, states:

It is the opinion of the undersigned, based upon data obtained as outlined in this geotechnical engineering report, that if constructed in accordance with our recommendations and the recommendations of the other project consultants, and properly maintained the proposed structures will be safe against hazard from landslide, settlement, or slippage, and that the proposed building or grading construction will have no adverse effect on the geotechnical stability of property outside of the building site.

The engineering geology reports submitted additionally recognize the presence of several significant geologic factors affecting the site: (1) the Rambla Pacifico landslide, an active landslide, is located approximately 250 ft to the east of the subject site; (2) fill on slopes is prone to downhill creep, and is not suitable for structural support; and (3) a large thrust fault is located approximately 500 feet northwest of the site (See Exhibit 4).

The Commission notes that the geologic and engineering consultants have included a number of recommendations which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition 2**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The project will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. Interim erosion control measures implemented during construction will minimize short-term erosion and enhance site stability. However, long-term erosion and site stability must be addressed through adequate landscaping and erosion control plans. To ensure that runoff is conveyed off-site, in a non-erosive manner, the Commission finds it necessary to require the applicant, through **Special Conditions 3 and 4**, to submit landscape and erosion control plans, and drainage plans conforming to the recommendations of the consulting geotechnical engineer for review and approval by the

Executive Director, to adequately control erosion during and after construction of the proposed project.

In addition to controlling erosion during construction operations, landscaping of the disturbed areas of the project will enhance the stability of the site. Long-term erosion can be minimized by requiring the applicant to revegetate the site with native plants compatible with the surrounding environment. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface / foliage weight. The Commission has found that such plant species do not serve to stabilize slopes and may adversely affect the overall stability of a project site. Native species, alternatively, tend to have a deeper root structure and aid in preventing erosion. Invasive, non-indigenous plant species tend to supplant species that are native to the Malibu / Santa Monica Mountains area. Increasing urbanization in this area has already caused the loss or degradation of major portions of native habitat and native plant seed banks through grading and removal of topsoil. Moreover, invasive and fast-growing trees and groundcovers originating from other continents, which have been used for landscaping in this area have seriously degraded native plant communities adjacent to development. Therefore, the Commission finds that in order to ensure site stability, all disturbed areas on-site shall be landscaped with appropriate native plant species, as specified in **Special Condition 4**.

The Commission requires that new development minimize the risk to life and property in areas of high fire hazard while recognizing that new development may involve the taking of some risk. Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral, communities which have evolved in concert with, and continue to produce the potential for frequent wildfires. The warm, dry summer conditions of the local Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated. When development is proposed in areas of identified hazards, 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 property.

As stated previously, the engineering geology reports submitted for the project recognize the presence of several significant geologic factors (See Exhibit 4) which have the potential to affect development on the site: (1) the Rambla Pacifico landslide, an active landslide, is located approximately 250 ft to the east of the subject site, and lobes of older landslide debris have been mapped closer to the site; (2) fill on slopes is prone to downhill creep, and is not considered suitable for structural support; and (3) a large thrust fault is located approximately 500 feet northwest of the site. While the consulting geologists determined that the proposed development would be safe from slippage, settlement, and landslide if built according to their recommendations, they allowed that there were inherent risks in developing hillside properties in Malibu, and provided specific recommendations within their reports to minimize the potential effects of these existing hazards on the proposed development. Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, and the nature of the geologic issues of landslide, creep, erosion, and earth movement potentially affecting the site, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the assumption of risk deed restriction, as incorporated in **Special Condition 6**, the applicant acknowledges and appreciates the nature of the risks which exist on the site and which may affect the safety of the proposed development.

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 that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition 4**. This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The limitation imposed by **Special Condition 4** avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 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, runoff, erosion, and sedimentation, and 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:

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 described, the proposed project includes construction of a two-story, 28 ft. above existing grade, 4,547 sq. ft. single-family residence with attached 576 sq. ft. garage, 231 sq. ft. covered gazebo, pool, driveway, septic system, and landscaping.

The proposed development will result in an increase in the amount of impervious surface on site, 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.

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

The 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 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 policies of the Coastal Act.

Furthermore, interim erosion control measures 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 3** is necessary to ensure the proposed development will not adversely impact water quality of downstream coastal resources.

Finally, the proposed development includes the installation of an on-site septic system with a 3,000-gallon septic tank to serve the residence. The applicant's geologic consultants performed percolation tests and evaluated the proposed septic system. Their report concludes that the site is suitable for the septic system and there would be no adverse impact to the site or surrounding areas from the use of 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 to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

E. Cumulative Impacts

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act ~~states:~~

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

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Pursuant to Coastal Act §30250 and §30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development.

Based on the requirements of Coastal Act §30250 and §30252, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are intended only for occasional use by guests, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence or residential second units. Finally, the Commission has found in past permit decisions that a limit of 750 sq. ft. encourages the units to be used for their intended purpose—as a guest unit—rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit,

caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guesthouses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCPs have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act in this area (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

The applicant proposes to construct a 231 sq. ft. covered gazebo (see Exhibits 3 & 9). This structure is not intended for residential use; however the structure could potentially be converted for residential use in the future. Therefore, the Commission finds it necessary to ensure that no additions or improvements are made to the gazebo in the future that may enlarge or further intensify the use of this structure without due consideration of the cumulative impacts that may result. Therefore, the Commission finds it necessary to require the applicants to record a future improvements deed restriction, as specified in **Special Condition 5**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the 231 sq. ft. covered gazebo are proposed in the future. As conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with §30250 and §30252 of the Coastal Act.

F. Violations

Development has occurred on the subject site without the required coastal development permits. As stated previously, grading has taken place on the eastern portion of the site in the area of the "existing cut-out road", and "dirt roads" shown on Exhibit 3. During staff's April 2002 site visit, staff witnessed additional grading being performed on these portions of the property. The unpermitted dirt road is located within an existing ingress/egress easement located across the eastern portion of the property for access to an adjacent parcel; however, no coastal development permit has ever been issued for improvements to this easement. The graded road is not associated with the development of the single-family residence that is the subject of this permit application, and no improvements to the easement are proposed in this application. As such, this application for the residence is being analyzed independently of consideration of the existing dirt road on site. The status of the existing road on site is subject to investigation by Commission Enforcement Staff and will be addressed through a separate enforcement action.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

G. Local Coastal Program

Section 30604 of the Coastal Act states:

- A) *Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted***

development will not prejudice the ability of the local government to prepare a local 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 the 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 of Malibu's ability to prepare a Local Coastal Program, which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

H. California Environmental Quality Act

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

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

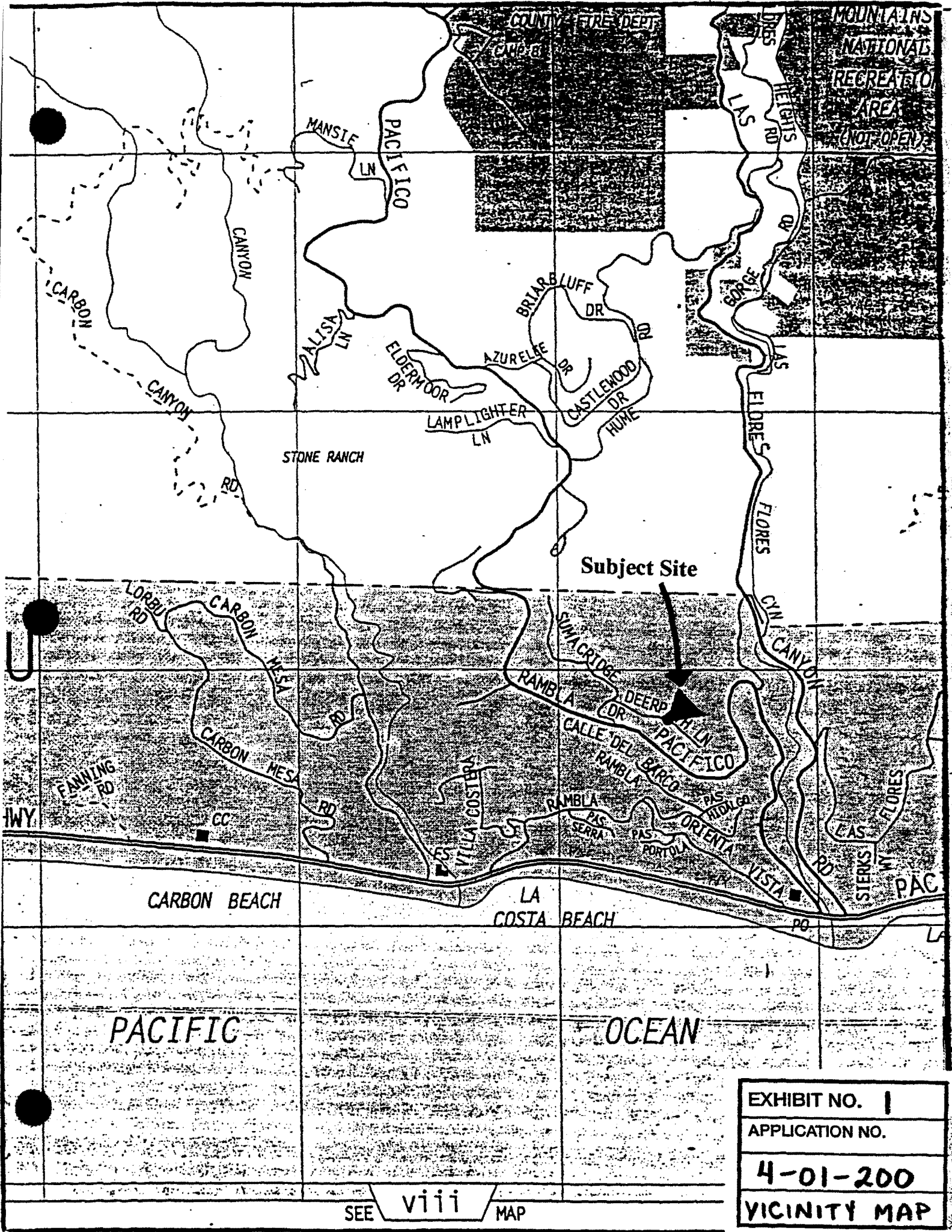


EXHIBIT NO. 1
APPLICATION NO.
4-01-200
VICINITY MAP



Plat
Maps

1 Assessor's Parcel Map for the parcel number 4451-016-025 was found

21511 DEERPATH LN MALIBU, CA 90265-5105

Map 1 of 1

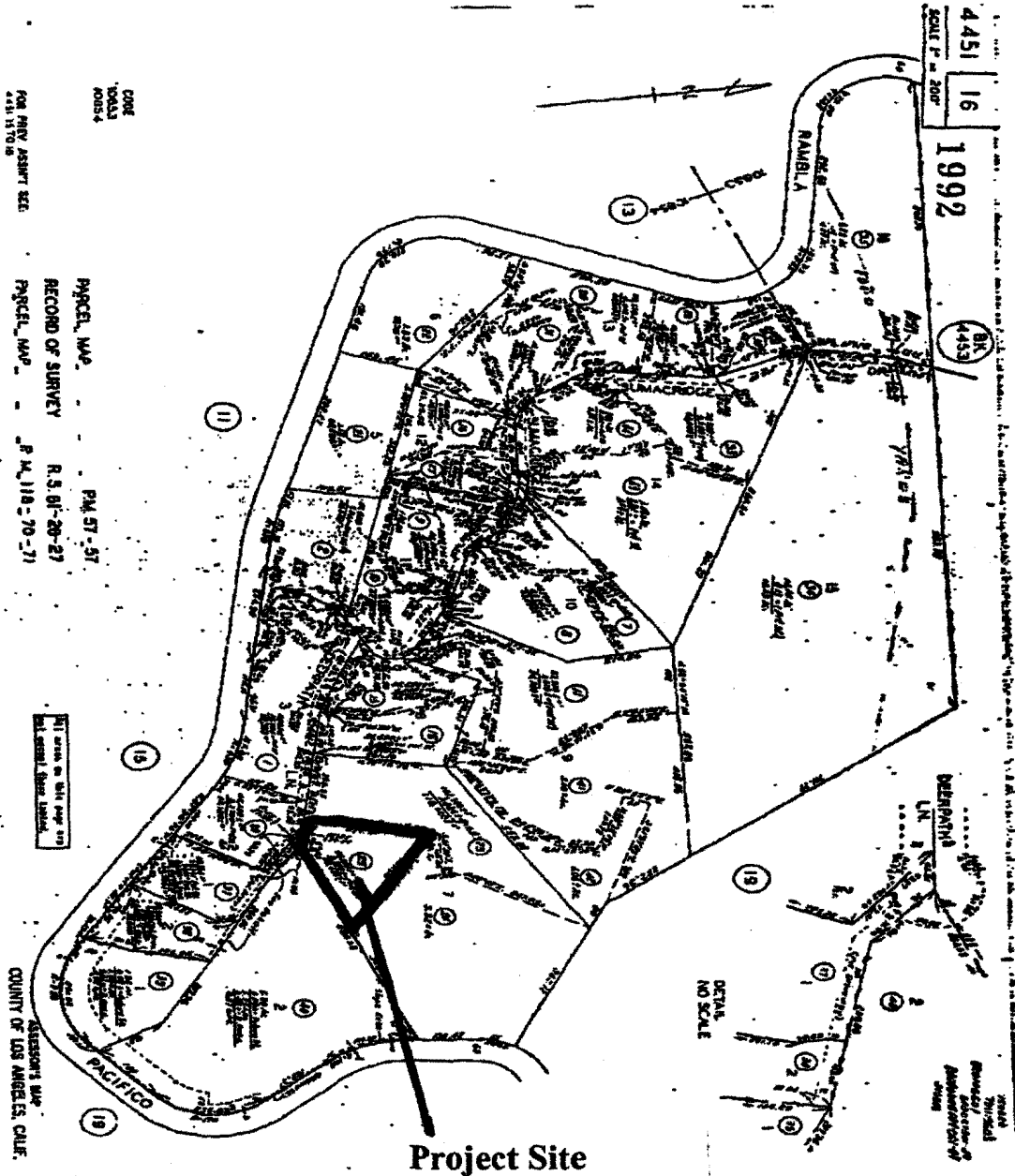


EXHIBIT NO. 2
APPLICATION NO.
4-01-200
PARCEL MAP

RECEIVED

NOV 13 2001

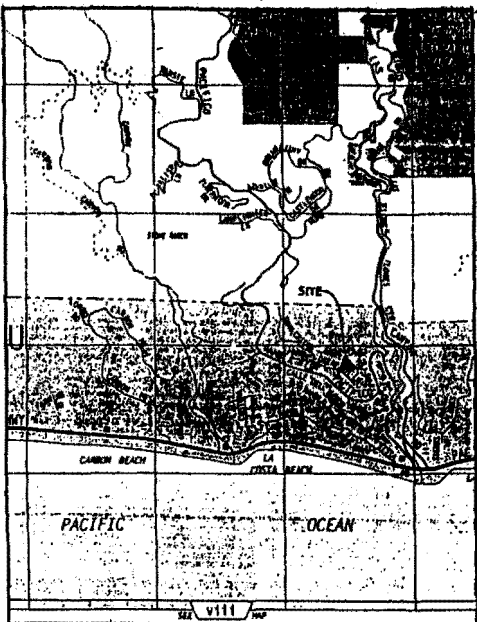
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

EXHIBIT NO. 3

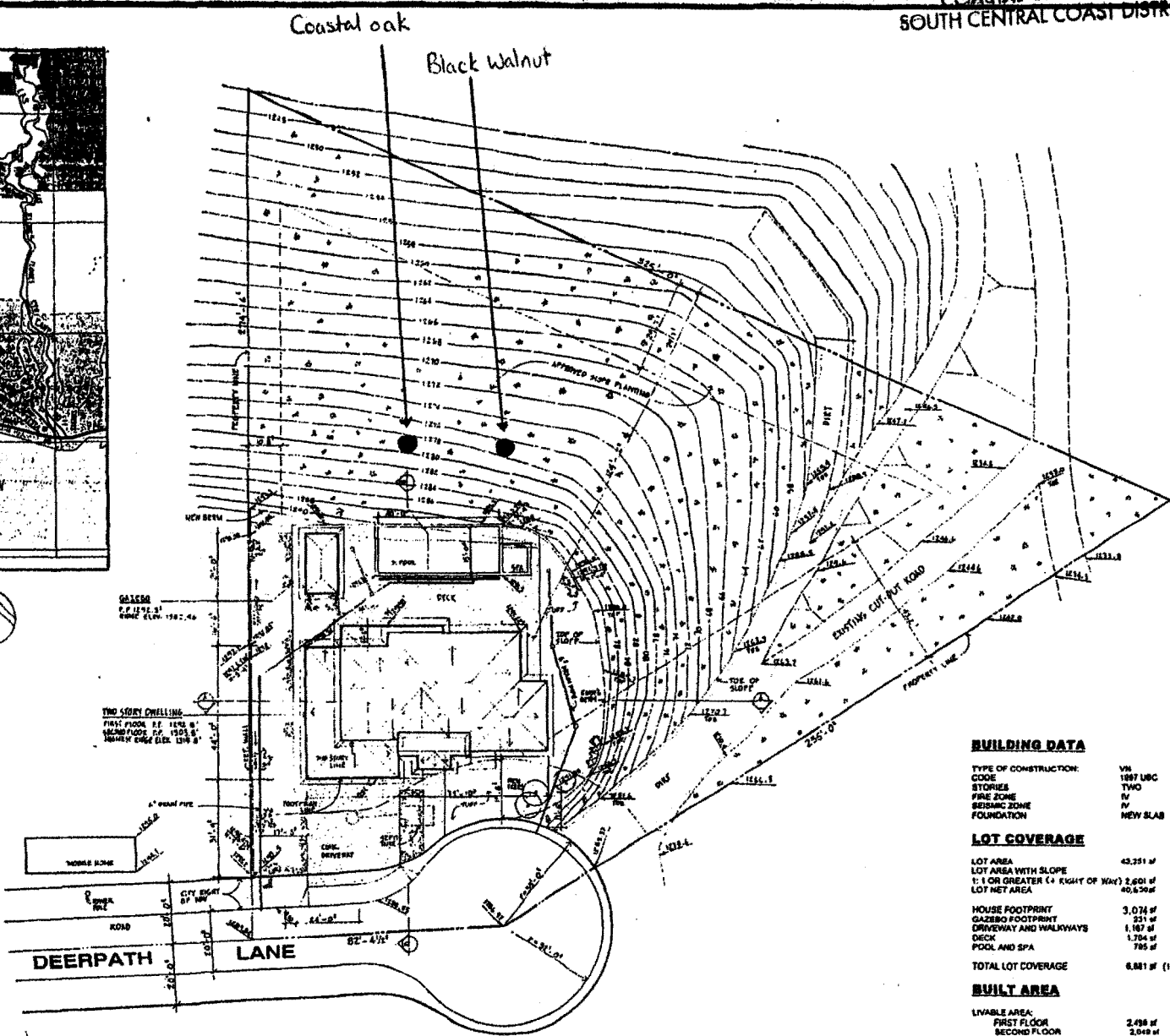
APPLICATION NO.

4-01-200

SITE PLAN



VICINITY MAP
N.T.S.



TWO STORY DWELLING
FIRST FLOOR FF 1294.8'
SECOND FLOOR FF 1304.8'
MINIMUM EDGE ELEV. 1294.8'

DEERPETH LANE

BASED ON A TOPOGRAPHIC SURVEY MAP
PREPARED BY 'HOLMES & WELLS'
DATED NOVEMBER 17, 1999

BUILDING DATA

TYPE OF CONSTRUCTION:	VN
CODE:	1887 LBC
STORIES:	TWO
FIRE ZONE:	IV
SEISMIC ZONE:	IV
FOUNDATION:	NEW SLAB

LOT COVERAGE

LOT AREA:	43,251 sf
LOT AREA WITH SLOPE 1:1 OR GREATER (+/- EIGHT OF 100):	2,601 sf
LOT NET AREA:	40,650 sf
HOUSE FOOTPRINT:	3,074 sf
GAZEBO FOOTPRINT:	251 sf
DRIVEWAY AND WALKWAYS:	1,167 sf
DECK:	1,704 sf
POOL AND SPA:	795 sf
TOTAL LOT COVERAGE:	6,891 sf (16.9%)

BUILT AREA

LIVABLE AREA:	
FIRST FLOOR:	2,498 sf
SECOND FLOOR:	2,049 sf
TOTAL:	4,547 sf
GARAGE, STORAGE AND UTILITY:	676 sf
TOTAL BUILT AREA:	5,223 sf (12.3%)

SITE PLAN

SCALE 1" = 40'



MAX HENONIN
PLANNING AND DESIGN

NEW RESIDENCE PROJECT FOR
MR. LEYTAN LEVIN
21511 DEERPETH LN
MALIBU, CALIFORNIA 90265

DATE: DEC 7 2000
AS NOTED
M.A. 05

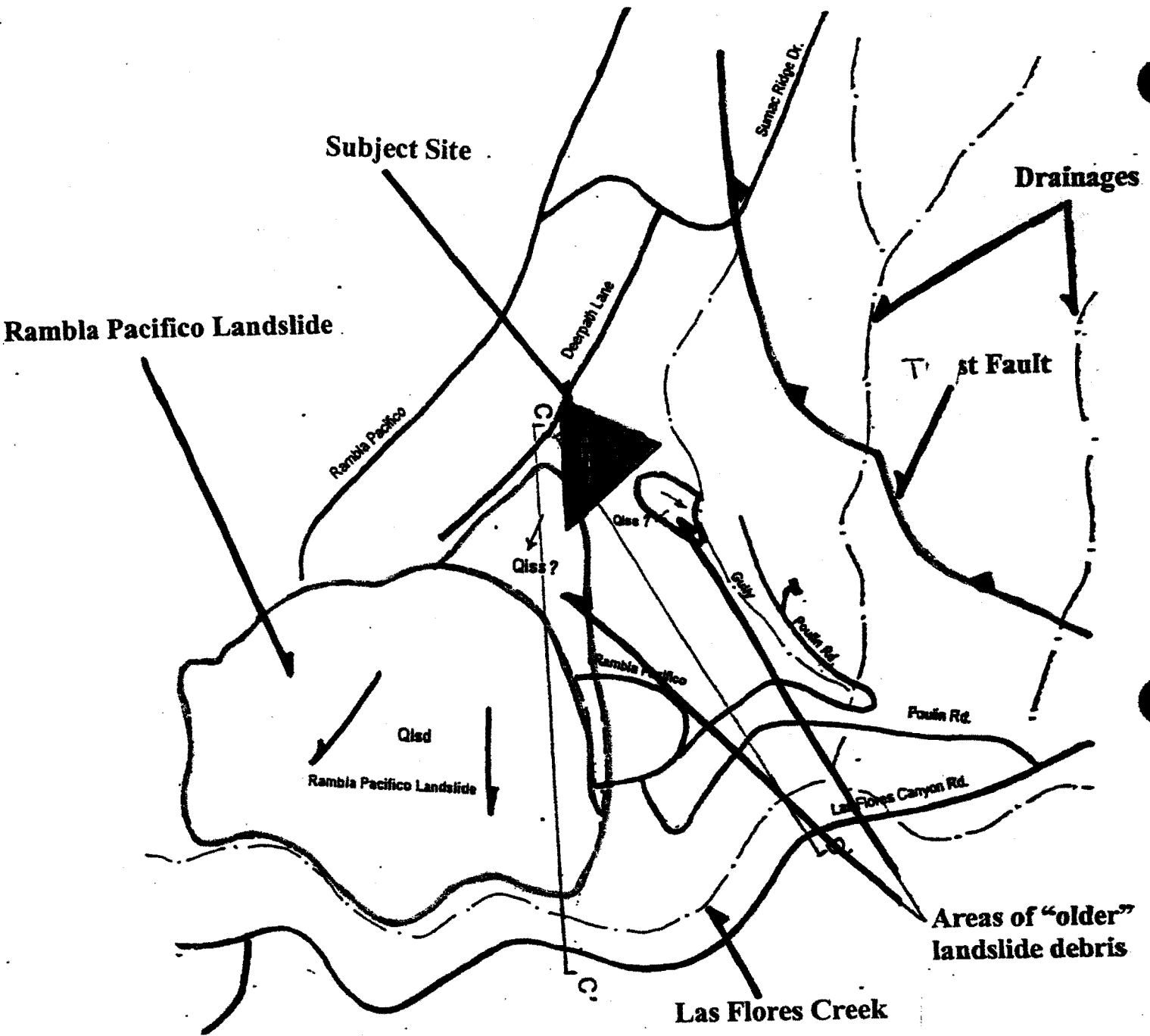


Figure 1. Physiographic Features, Vicinity of 21511 Deerpath Lane

This sketch shows the general relationships of the property at 21511 Deerpath Lane with respect to the gully that drains the nearby eastern slope of Las Flores Canyon, and the general area of the Rambla Pacifico landslide. The line with barbs indicates the approximate location of a large thrust fault (see Sec. 2.3). Also shown are two areas of questionable older landslide debris. Section C-C' and D-D' refer to geologic cross-sections prepared by Tofani and Poland (2000, Pls. 4 and 5), reproduced here as Plates 3 and 4. Section D-D' is aligned along the northeast ridge. Approximate scale: 1inch = 400 feet; north to the right side of the page.

EXHIBIT NO.	4
APPLICATION NO.	
	4-01-200
	HAZARDS MAP

FIRST FLOOR PLAN

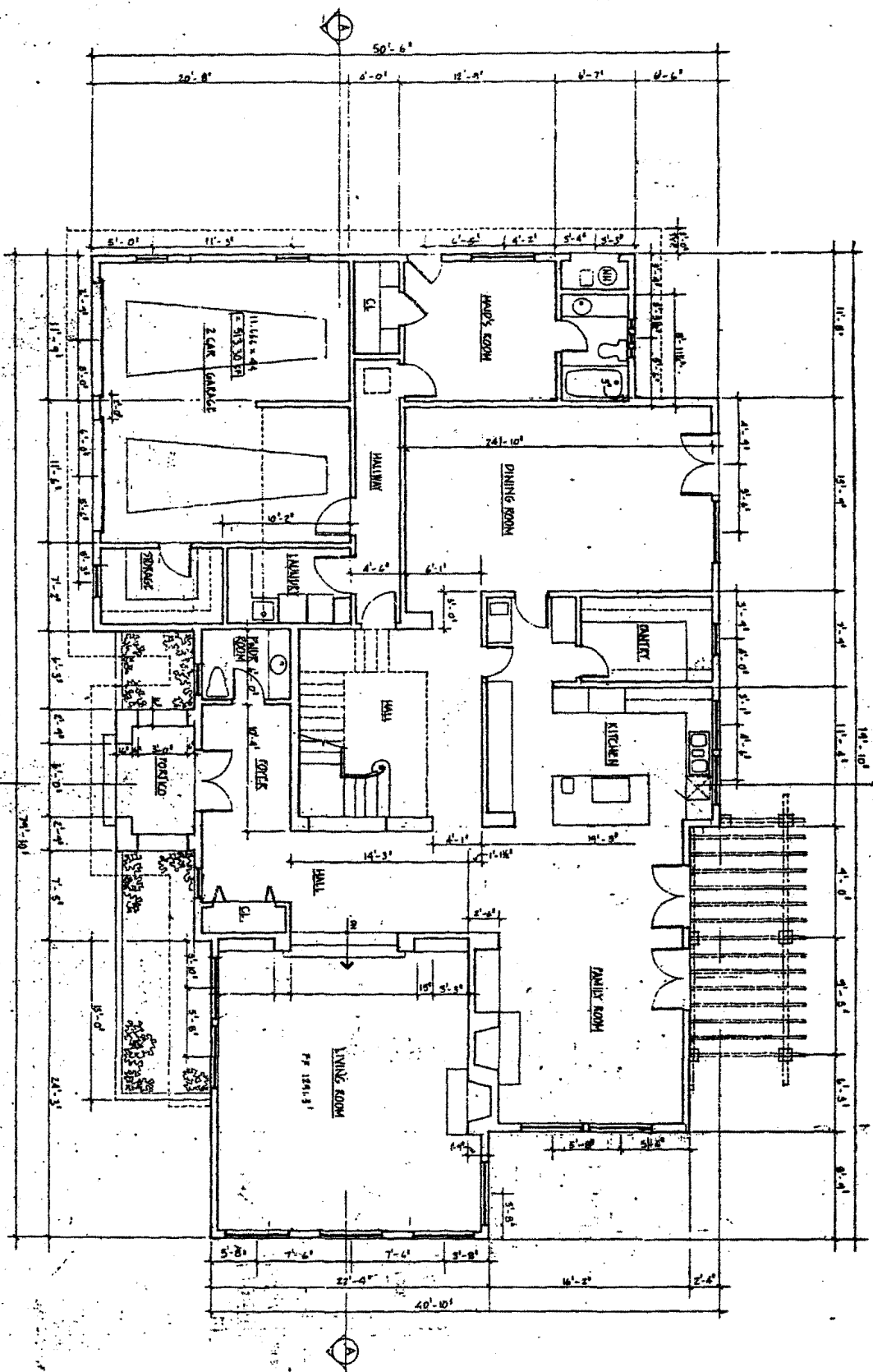


EXHIBIT NO. 5
 APPLICATION NO.
 4-01-200
 FLOOR PLAN I

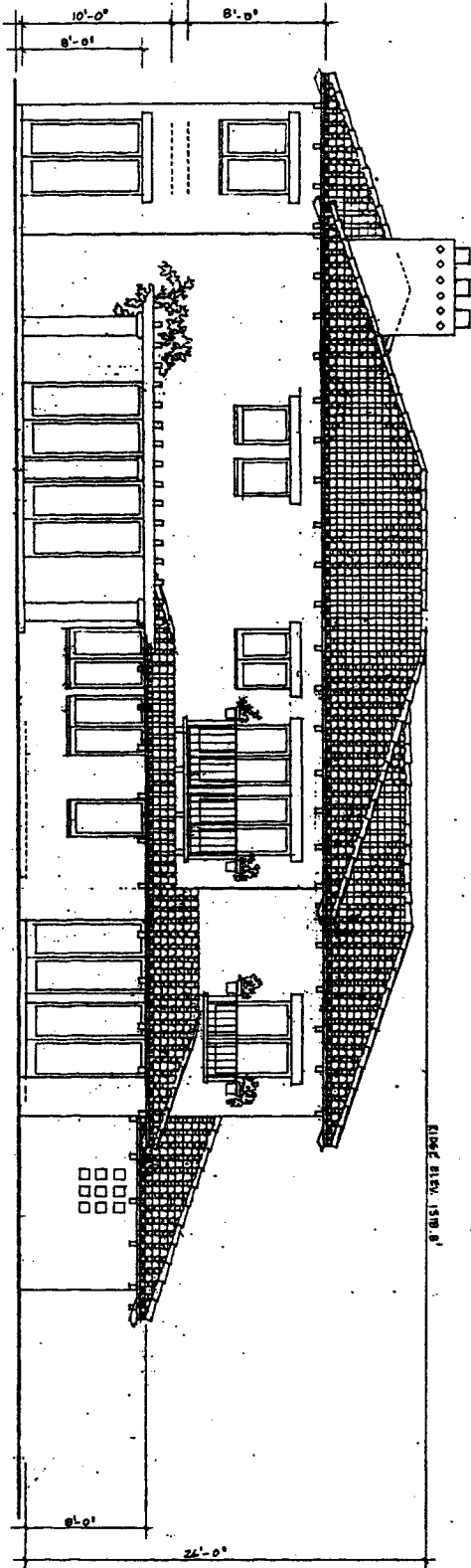
2
 202 / 5 / 2002
 1/4" = 1'-0"

NEW RESIDENCE PROJECT FOR
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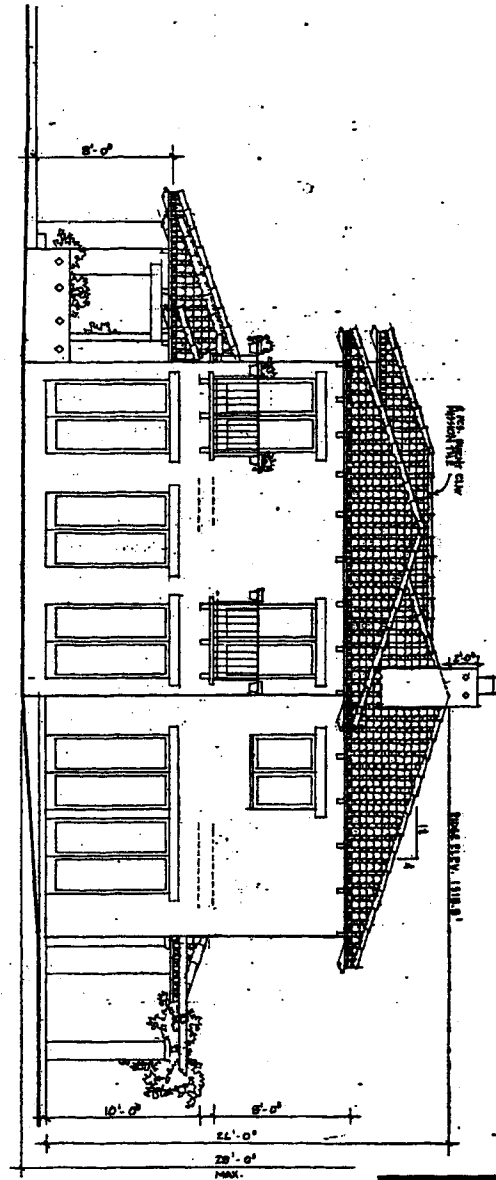
MAX PLAN
 [Illegible text]

ELEVATIONS

NORTH ELEVATION
SCALE 1/8" = 1'-0"



EAST ELEVATION
SCALE 1/8" = 1'-0"



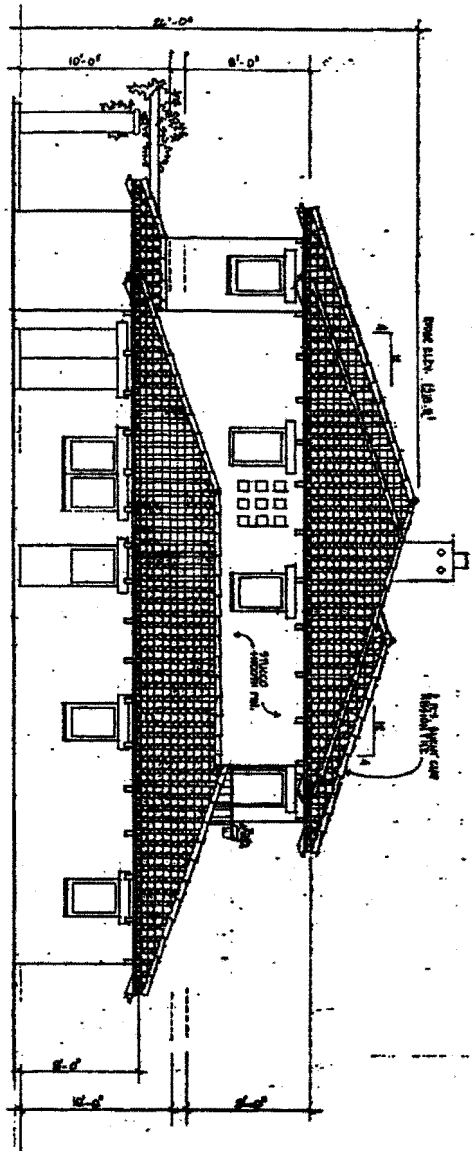
DATE	NOV 13 2000
BY	M.H.
CHECKED	
SCALE	1/8" = 1'-0"
PROJECT	NEW RESIDENCE PROJECT FOR MR. EYTAN LEVIN

NEW RESIDENCE PROJECT FOR
MR. EYTAN LEVIN
21511 DEERPATH LN
MALIBU, CALIFORNIA 90265

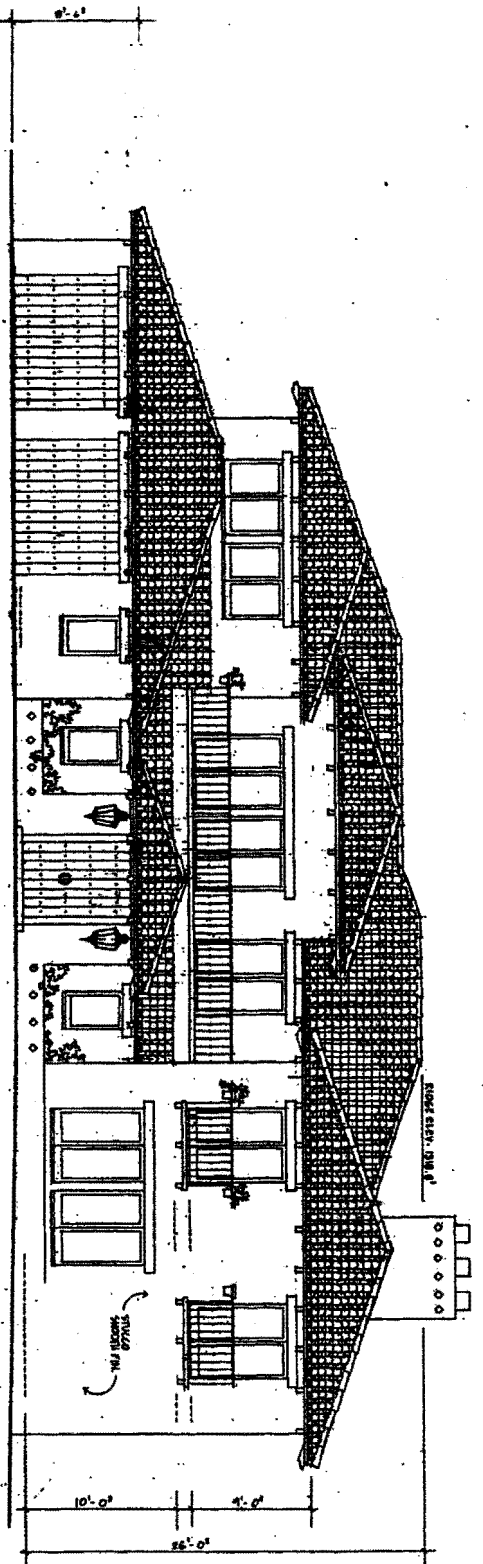
MAX HENO
DRAWING AND DESIGN
200 S. HENRY ST. #100
MALIBU, CA 90265

EXHIBIT NO. 7
APPLICATION NO.
4-01-200
ELEVATIONS I

ELEVATIONS



WEST ELEVATION
SCALE 1/4" = 1'-0"



SOUTH ELEVATION
SCALE 1/4" = 1'-0"

EXHIBIT NO. 8
APPLICATION NO.
4-01-200
ELEVATIONS II

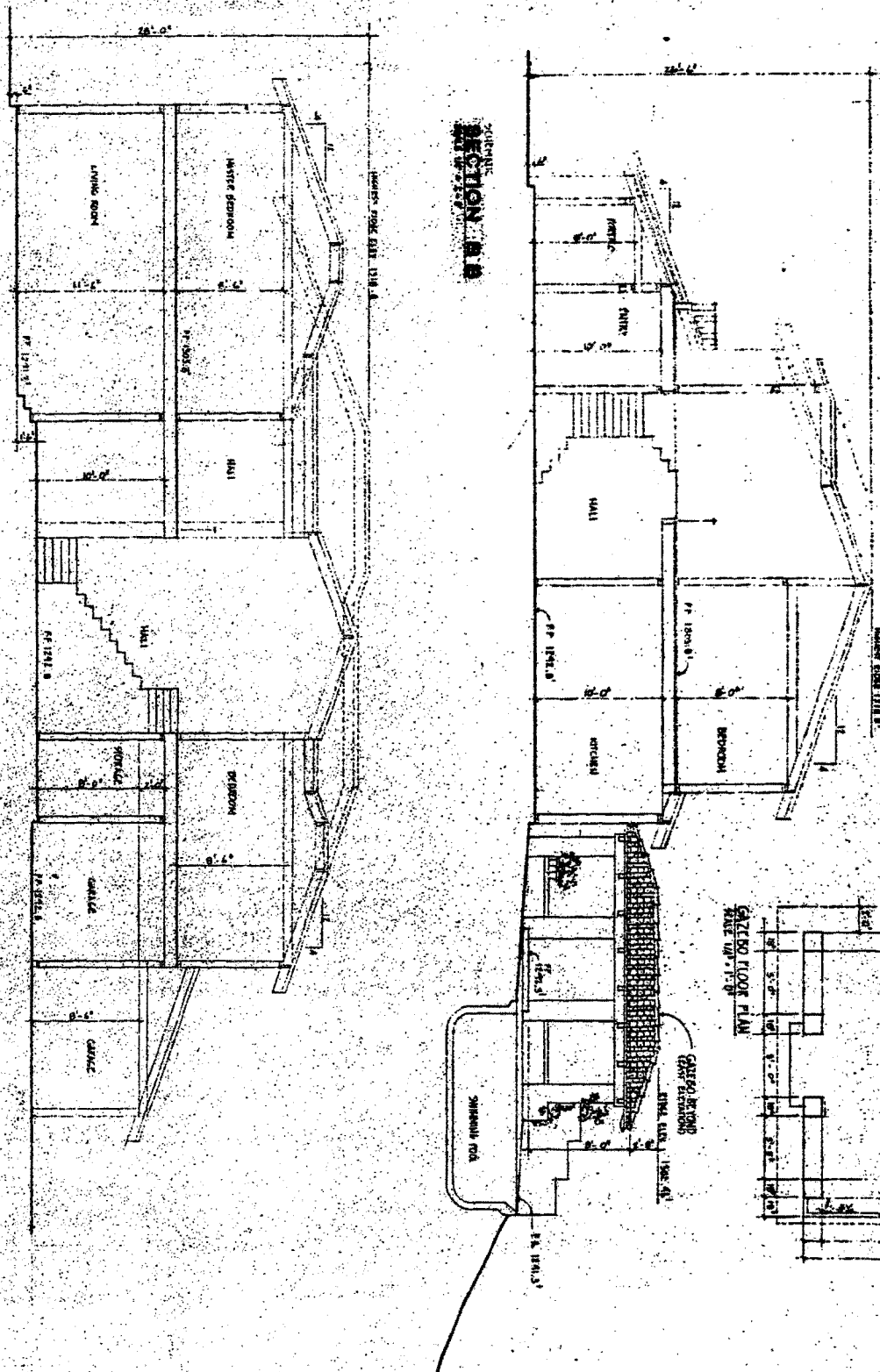
DATE	NO.	DESCRIPTION
JUL 7 1998	1	ISSUED FOR PERMITS
MAY 28 1998	2	REVISED PER COMMENTS
4		

NEW RESIDENCE PROJECT FOR
MR. EYTAN LEVIN
 21511 DEERPATH LN
 MALIBU, CALIFORNIA 90265

MAX HENO
 PLANNING AND DESIGN
 22500 VAN DYKE AVE #200
 MALIBU, CA 90265

SECTIONS

SUBMIT SECTION B.B.



SECTION A.A.

EXHIBIT NO. 9
APPLICATION NO.
4-01-200
GAZEBO & CROSS SECTIONS

DATE: 1/18/05
 SCALE: 1/8" = 1'-0"
 SHEET: 1 OF 1

NEW RESIDENCE PROJECT FOR
MR. EYTAN LEVIN
 21511 DEERPATH LN
 MALIBU, CALIFORNIA 90265

