

CALIFORNIA COASTAL COMMISSION

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

RECORD PACKET COPY

Filed: 5/20/02
49th Day: 7/08/02
180th Day: 11/16/02
Staff: AAV *ja*
Staff Report: 5/23/02
Hearing Date: 6/11-14/02
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 4-01-223

APPLICANT: David Traub AGENT: Terry Valente

PROJECT LOCATION: 6269 Porterdale Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a two-story, 23 ft. high, 6581 sq. ft. single-family residence with attached 4-car garage, terraces, pool, driveway, septic system, approximately 990 cu. yds. grading (495 cu. yds. cut, 495 cu. yds.) and 255 cu. yds. over-excavation under residence. In addition, the project also includes a request for after-the-fact approval for approximately 2556 cu. yds. of cut grading.

Lot area:	118,134 sq. ft. (2.71 acres)
Building coverage:	7970 sq. ft.
Pavement coverage:	9662 sq. ft.
Landscape coverage:	13,000 sq. ft.
Unimproved area:	87,502 sq. ft.
Maximum height:	23 ft.

LOCAL APPROVALS RECEIVED: City of Malibu, Approval In Concept, 10/15/01; County of Los Angeles, Fire Department, Preliminary Fuel Modification Plan Approved, 3/14/02; City of Malibu, Geology and Geotechnical Engineering Review Sheet, 5/10/00; City of Malibu, Geology Review Referral Sheet, 1/08/01; City of Malibu, Environmental Health, In Concept Approval, 8/13/99; City of Malibu, Environmental Health Review Referral Sheet, 1/11/01.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 4-95-015 (Traub), Coastal Development Permit 4-95-015-A1 (Traub); Limited Geologic and Soils Engineering Investigation, prepared by GeoConcepts, Inc., dated 5/08/98; Supplemental Report No.1, prepared by GeoConcepts, Inc., dated 10/05/99; Supplemental Report No.2, prepared by GeoConcepts, Inc., dated 11/10/99; Limited Geologic and Soils Engineering Investigation, Pool and Tennis Court, prepared by GeoConcepts, Inc., dated 2/14/00; and Addendum Report #1, prepared by GeoConcepts, Inc. 4/25/00.

4-01-223 (Traub)

Summary and Staff Recommendation:

Staff recommends that the Commission **approve** the proposed project with **8 Special Conditions** regarding 1) geologic recommendations, 2) polluted runoff control, 3) landscaping and erosion control, 4) wildfire waiver of liability, 5) future improvements, 6) design and color restriction, 7) pool drainage and monitoring, and 8) condition compliance.

The applicant is proposing the construction of a two-story, 23 ft. high, 6581 sq. ft. single-family residence with attached 4-car garage, terraces, pool, driveway, septic system, approximately 3546 cu. yds. site grading, [990 cu. yds. new grading (495 cu. yds. cut, 495 cu. yds.) and 2556 cu. yds. after-the-fact cut grading], and 255 cu. yds. over-excavation under residence (Exhibits 4-6).

The project site is located on a hillside parcel in the City of Malibu, approximately 2 miles north of Pacific Coast Highway (Exhibit 1). The area surrounding the project site is a built-out section of Malibu developed with several single family residences. The project site is intermittently visible from Pacific Coast Highway and is visible from the Coastal Slope Trail, which is located approximately 200 ft. below and south of the project site (Exhibit 2). The project site is not located in an environmentally sensitive habitat area as identified in the Draft Malibu Land Use Plan. The area surrounding the project site is predominantly vegetated with grassy-weedy, non-native type vegetation and is subject to brush clearance requirements for fire protection procedures for adjacent development. No designated environmentally sensitive habitat area is located at or near the site.

As mentioned, the proposed project includes a request for after-the-fact approval of approximately 2556 cu. yds. of cut grading for the proposed building pad area (Exhibit 3). The unpermitted grading occurred in conjunction with construction activities for a previously approved development on the adjacent lot APN 4467-004-018 (Traub) that was permitted under Coastal Development Permit 4-95-015 (Traub). Staff has reviewed the site and unpermitted building pad and has determined that the ~~existing pad is the most feasible~~ location for development of a single family residence on the site. Given the location of the existing building pad, access to the project site will be achieved by a common driveway, (previously approved pursuant to Coastal Development Permit 4-95-015), which will be shared by the proposed development and the previously approved development on the adjacent lot (parcel 18). The 2556 cu. yds. of unpermitted cut grading created a building pad directly adjacent to the existing driveway that the applicant is now proposing to utilize for the proposed residence, thus eliminating any need for excessive grading that would otherwise be necessary to construct both a building pad and driveway on a different location of the hillside parcel.

As conditioned, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

4-01-223 (Traub)

I. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-223 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit on the ground that the development, subject to conditions, 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended 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 term or condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

4-01-223 (Traub)

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

III. SPECIAL CONDITIONS

1. Plans Conforming to Geologic Recommendation

All recommendations contained in the Limited Geologic and Soils Engineering Investigation, dated 5/08/98; Supplemental Report No.1, dated 10/05/99; Supplemental Report No.2, dated 11/10/99; Limited Geologic and Soils Engineering Investigation, Pool and Tennis Court, 2/14/00; and Addendum Report #1, Inc. 4/25/00, prepared by GeoConcepts, Inc., shall be incorporated into all final design and construction including foundations, grading, drainage, 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 applicants shall submit for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

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

2. Drainage and Polluted Runoff Control Plans

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, 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 storm water leaving the developed site. The plan shall be reviewed and approved by the consulting 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.

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

4-01-223 (Traub)

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 applicants 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.

3. Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicants shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or qualified resource specialist, for review and approval by the Executive Director. The erosion control plans shall be reviewed and approved by the consulting geologist to ensure that the plans are in conformance with the consultant's recommendations. The plans 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 sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation and to screen and soften the visual impact of development, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. The plan shall specify the erosion control measures to be implemented and the materials necessary to accomplish short-term stabilization, as needed on the site;
- 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 ninety (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.

4-01-223 (Traub)

- 5) Vegetation within fifty (50) feet of the proposed house may be removed to mineral earth, vegetation within a two hundred (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 (50) 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.
- 6) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen the residence, water tank, and retaining walls to minimize potential impacts of public views from Topanga State Park.

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, and shall 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 throughout 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 of the coastal zone or within the coastal zone to a site 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 thirty (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 (5) years from the date of the receipt of the Certificate of Occupancy for the residence, the applicants 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 whether the on-site landscaping is in conformance with the landscape plan

4-01-223 (Traub)

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 applicants, 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 qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

4. Wildfire Waiver of Liability

Prior to the issuance of a Coastal Development Permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, 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 to life and property.

5. Future Improvements

This permit is only for the development described in Coastal Development Permit No. 4-01-2233. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6) and 13253 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) and (b) shall not apply to the entire parcels. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-01-223, including any fencing, grading, or clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition 3, shall require an amendment to Permit No. 4-01-223 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 applicants 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.

6. Color and Design 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

4-01-223 (Traub)

surface of all structures authorized by the approval of coastal development permit 4-01-223. 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 4-01-223 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.

7. Pool Drainage and Monitoring

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for review and approval of the Executive Director, a written plan to mitigate the potential of leakage from the proposed swimming pool. The plan shall at a minimum: 1) provide a separate water meter for the pool to allow monitoring of water levels for the pool, 2) identify the materials, such as plastic linings or specially treated cement, to be used to waterproof the underside of the pool to prevent leakage, and information regarding past success rates of these material, and 3) identify methods to control pool drainage and to control infiltration and run-off resulting from pool drainage and maintenance activities. The applicant shall comply with the mitigation plan approved by the Executive Director.

8. Condition Compliance

Within 120 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a two-story, 23 ft. high, 6581 sq. ft. single-family residence with an attached 4-car garage, terraces, pool, driveway, septic system, approximately 990 cu. yds. of grading (495 cu. yds. cut, 495 cu. yds.) and 255 cu. yds. over-excavation under residence (Exhibits 4-6). Additionally, the applicant is requesting after-the-fact approval for approximately 2556 cu. yds. of cut grading for the proposed building pad (Exhibit 3).

The project site is a 2.71 acre vacant, hillside parcel located in the City of Malibu, approximately 2 miles north of Pacific Coast Highway (Exhibits 1,2). The property consists of a nearly level pad cut into the hillside with descending slopes to the south, east and west. Slopes descend from the pad area with a general gradient of 3:1 and topographic relief over the property is approximately 130 ft.

The area surrounding the project site is a built-out section of Malibu developed with single-family residences. The project site is intermittently visible from Pacific Coast Highway and is visible from the Coastal Slope Trail, which is located along Winding Way, approximately 200 ft. below and south of the project site. The project site is not located in an environmentally sensitive habitat area as identified in the Draft Malibu Land Use Plan. The area surrounding the project site is predominantly vegetated with grassy-weedy, non-native type vegetation and is subject to brush clearance requirements for fire protection procedures for adjacent development. No designated environmentally sensitive habitat area is located at or near the site therefore the proposed project will have no significant impact on sensitive environmental resources.

As mentioned, the proposed project includes a request for after-the-fact approval of approximately 2556 cu. yds. of cut grading for the proposed building pad area (Exhibit 3). The unpermitted grading occurred in conjunction with construction activities for an approved development on the adjacent lot APN 4467-004-018 (Traub) that was permitted under Coastal Development Permit 4-95-015 (Traub). Staff has reviewed the site and has determined that the existing pad is the most feasible location for development of a single family residence on the site. Given the location of the existing building pad, access to the project site will be achieved by a common driveway, (previously approved pursuant to Coastal Development Permit 4-95-015), which will be shared by the proposed development and the previously approved development on the adjacent lot (parcel 18). The 2556 cu. yds. of unpermitted cut grading created a building pad directly adjacent to the existing driveway that the applicant is now proposing to utilize for access, thus eliminating any need for excessive grading that would otherwise be necessary to construct both a building pad and driveway on a different location of the hillside parcel.

4-01-223 (Traub)

B. Geology and Wildfire

Geology

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 lot in the Santa Monica Mountains, an area generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area 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.

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The applicant has submitted a Limited Geologic and Soils Engineering Investigation, dated 5/08/98; Supplemental Report No.1, dated 10/05/99; Supplemental Report No.2, dated 11/10/99; Limited Geologic and Soils Engineering Investigation, Pool and Tennis Court, 2/14/9800; and Addendum Report #1, Inc. 4/25/00, prepared by GeoConcepts, Inc., for the subject site evaluating the geologic stability of the site in relation to the proposed development. The Supplemental Report No. 1, dated 10/5/99, prepared by GeoConcepts, Inc. addresses the presence of a remediated landslide on the adjacent property (APN 4467-004-018), and of a slump located downslope of the proposed building site at the south west portion of the property. The Supplemental Report No. 1, dated 10/5/99 states:

The 1952 aerial photographs clearly exhibit the landslide that was repaired under the direction of GeoSystems Inc. located at 6255 Porterdale Drive. The slump in question is not clearly exhibited on the aerial photographs nor is there evidence of a larger slide, AXJ 1K-50 & 51. However, the slump in question, which is partially on the subject site was evaluated by R.S.A. within Test Pit No. 5. When considering numerous subsurface test pit explorations and borings on the cut pad relative to the distance to the slump at the bottom of the slope, it is thought that the slump could not adversely affect the building site. In addition, no evidence of an ancient landslide on the subject site was reported by the previous consultants or encountered in our subsurface investigation. Therefore, it is thought that the building site is free of an ancient landslide.

Based on their investigations and recommendations, the consulting engineering geologist and geotechnical engineer have determined that the project site is appropriate for the proposed project and state in their reports:

4-01-223 (Traub)

It is the finding of this corporation, based upon the subsurface data, that the proposed project will be safe from landslide, settlement or slippage and will not adversely affect adjacent property, provided this corporation's recommendations and those of the Los Angeles County Code are followed and maintained.

The Limited Geologic and Soils Engineering Investigation, dated 5/08/98; Supplemental Report No.1, dated 10/05/99; Supplemental Report No.2, dated 11/10/99; Limited Geologic and Soils Engineering Investigation, Pool and Tennis Court, 2/14/9800; and Addendum Report #1, Inc. 4/25/00, prepared by GeoConcepts, Inc., include several recommendations to be incorporated into the project's construction, design, and drainage to ensure stability and geologic safety of the project site. To ensure that the recommendations of the consultants are fully incorporated into all relevant project plans, **Special Condition 1** of the subject permit requires the applicant to submit project plans certified in writing by the consultants as conforming to their recommendations relative to construction, foundations, drainage and sewage disposal. Final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultants shall require an amendment to the permit or a new coastal development permit.

The Commission finds that minimizing site erosion will aid in maintaining the geologic stability of the project site, and that erosion will be minimized by incorporating adequate drainage, erosion control, and appropriate landscaping into the proposed development. To ensure that adequate drainage and erosion control is included in the proposed development the Commission requires the applicant to submit drainage and interim erosion control plans certified by the consulting geotechnical engineer, as specified in **Special Conditions 2 and 3**. **Special Condition 2** also requires the applicant to maintain a functional drainage system at the subject site to insure that run-off from the project site is diverted in a non-erosive manner to minimize erosion at the site for the life of the proposed development. Should the drainage system of the project site fail at any time, the applicant will be responsible for any repairs or restoration of eroded areas as consistent with the terms of **Special Condition 2**.

The Commission also finds that appropriate landscaping of slopes and graded or disturbed areas on the project site will minimize erosion and serve to enhance and maintain the geologic stability of the proposed development. Therefore, **Special Condition 3** requires the applicant to submit landscaping plans certified by the consulting geotechnical engineer as in conformance with their recommendations for landscaping of the project site. **Special Condition 3** also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Alternatively, native plant species tend to have a deeper root structure than non-native, invasive species and aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition 3**.

4-01-223 (Traub)

The proposed project is conditioned to incorporate the recommendations of the project's consulting geologists to assure stability of the site and adjacent properties. However, leakage or drainage of the proposed swimming pool, if not monitored and/or conducted in a controlled manner, may result in excess run-off and erosion on the subject property, which could potentially cause instability of the site. In addition, uncontrolled water loss from the proposed pool would result in excess water infiltration into the hillside lot, thereby creating a condition in which the subject site could potentially be susceptible to failure. Therefore, the Commission imposes **Special Condition 7** on the subject permit which requires the applicant to submit a written plan that includes measures to minimize potential water leakage from the pool and specific measures to be implemented during maintenance and drainage of the pool. **Special Condition 7** requires the applicant to install a separate water meter for the pool to monitor water levels and therefore identify water leakage. The plan shall also include a description of the materials to be utilized to prevent leakage of the pool shell and shall identify methods to control infiltration and uncontrolled run-off from pool drainage and maintenance.

Wild Fire

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. Typical vegetation in 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 4**, the wildfire waiver of liability, 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 4**, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act

C. Visual Resources

The Coastal Act requires scenic and visual qualities to be considered and preserved.

Section 30251 states:

4-01-223 (Traub)

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 reservation 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 the construction of a two-story, 23 ft. high, 6581 sq. ft. single-family residence with attached 4-car garage, terraces, pool, driveway, septic system, and approximately 990 cu. yds. new grading (495 cu. yds. cut, 495 cu. yds.) and 255 cu. yds. over-excavation under residence (Exhibits 4-6). In addition, the applicant is requesting after-the-fact approval for 2556 cu. yds. of cut grading for the proposed building pad.

The project site is located on a hillside parcel in the City of Malibu, approximately 2 miles north of Pacific Coast Highway. The area surrounding the project site is a built-out section of Malibu developed with single-family residences. The project site is intermittently visible from Pacific Coast Highway and is visible from the Coastal Slope Trail, which is located along Winding Way, approximately 200 ft. below and south of the project site (Exhibit 2).

Due to the presence of numerous single-family residences in the near vicinity, visual resources of the area are already impacted by existing residential development, which is also visible from Pacific Coast Highway and the Coastal Slope Trail. As previously mentioned, the proposed development includes after-the-fact grading for approximately 2556 cu. yds. of cut grading for the proposed building pad. Staff has reviewed the site and unpermitted building pad and has determined that the existing pad is the most feasible location for development of a single-family residence on the site, and, as described below, constitutes the most feasible alternative for minimizing the need for excessive grading that would result in significant landform alteration.

Given the location of the existing building pad, access to the project site will be achieved by a common driveway, (previously approved pursuant to Coastal Development Permit 4-95-015), which will be shared by the proposed development and the previously approved development on the adjacent lot (parcel 18). The 2556 cu. yds. of unpermitted cut grading created a building pad directly adjacent to the existing driveway that the applicant is now proposing to utilize for the proposed residence, thus eliminating any need for excessive grading that would otherwise be necessary to construct both a building pad and driveway on a different location of the hillside parcel. The proposed development is designed to be a maximum of 23 ft. high, and will thus be lower in height than a number of structures on adjacent properties which are 28 ft. height. However, the Commission finds that the proposed project will nevertheless intensify development of the area and create a new structure at the site which may potentially impact scenic and visual resources of the area. Due to the visible nature of the project site from public scenic viewing areas, the Commission finds it necessary to require mitigation measures to minimize visual impacts associated with development of the project site.

Visual impacts associated with proposed retaining walls, grading, and the structure itself, can be reduced by the use of appropriate and adequate landscaping. Therefore **Special Condition 3**, the landscape and fuel modification plan, requires that vertical screening elements be

4-01-223 (Traub)

incorporated into the landscape plan to soften views of the proposed residence from Pacific Coast Highway and the Coastal Slope Trail. In addition, **Special Condition 3** requires the applicant to prepare a landscape plan relying mostly on native, noninvasive plant species to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. In order to ensure that the final approved landscaping plans are successfully implemented, **Special Condition 3** also requires the applicant to revegetate all disturbed areas in a timely manner and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time. Therefore, the Commission finds that implementation of **Special Condition 3** will serve to partially screen and soften the visual impact of the development from the State Park and Coastal Slope Trail.

In addition, the Commission finds it necessary to require the applicant to record a deed restriction providing specific limitations on the materials and colors acceptable for the development on the subject site, as specified in **Special Condition 6**. These restrictions generally limit colors to natural tones that will blend with the background of the environment and require the use of non-glare glass. White and red tones are not acceptable. If fully implemented by present and future owners of the proposed residence, **Special Condition 6** will ensure that development of the site will be as visually unobtrusive to visual resources of the area as possible.

Finally, regarding future developments or improvements, certain types of development to the property, normally associated with a single family residence which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that future development or improvements normally associated with the entire property, which might otherwise be exempt, are reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the Coastal Act. **Special Condition 5**, the future improvements deed restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act.

The Commission finds that, as conditioned, the proposed project will be designed and constructed to minimize adverse impacts on scenic public views in this area of the Santa Monica Mountains, and is consistent 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, 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

4-01-223 (Traub)

effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

The project site is an undeveloped hillside parcel located on a descending slope. Use of the site for residential purposes will introduce potential sources of pollutants such as petroleum, household cleaners, and pesticides, as well as other accumulated pollutants from rooftops and other impervious surfaces, into run-off from the site which will ultimately drain to coastal streams and to the ocean.

Removal of natural vegetation and placement of impervious surfaces results in less infiltration of rainwater into soil, thereby increasing the rate and volume of runoff, causing increased erosion and sedimentation. Infiltration of precipitation into soil allows for the natural filtration of pollutants. When infiltration is prevented by impervious surfaces, pollutants in runoff are quickly conveyed to coastal streams and to the ocean. Thus, new development can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff leading to stream channel destabilization, increased flood potential, increased concentration of pollutants, and reduced groundwater levels. 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, such measures should also include vegetated filter strips, gravel filters, and other media filter devices to allow for infiltration and filtration of run-off to reduce its sediment and pollutant load before it is conveyed off site to coastal waters.

As described above, the project is conditioned 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 and sedimentation is minimized. In order to further ensure that adverse impacts to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant to incorporate filter elements that intercept and infiltrate or treat the runoff from the site. This plan is required by **Special Condition 2**. 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.

In addition, the proposed project is conditioned to also implement a pool drainage and monitoring plan to prevent leakage or uncontrolled drainage of the proposed swimming pool such that drainage of pool water does not result in excess run-off and erosion on the subject property to coastal streams and drainages. The pool drainage and monitoring plan, as detailed in **Special Condition 7**, requires the applicant to submit a written plan that includes measures to minimize potential water leakage from the pool and specific measures to be implemented during maintenance and drainage of the pool. Special Condition 7 also requires the applicant to install a separate water meter for the pool to monitor water levels and therefore identify water

4-01-223 (Traub)

leakage. The plan shall also include a description of the materials to be utilized to prevent leakage of the pool shell and shall identify methods to control infiltration and uncontrolled run-off from pool drainage and maintenance.

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 3** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site private sewage disposal system. The applicant's geologic consultants performed infiltration tests and evaluated the proposed septic system. Their report concludes that the site is suitable for the private sewage disposal system and that no adverse impact to the site or surrounding areas will result from use of the septic system. Finally, the City of Malibu Environmental Health Specialist 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. Violation

Unpermitted development has been carried out on the subject site without the required coastal development permit or amendment. The proposed project includes construction a of a two-story, 23 ft. high, 6581 sq. ft. single-family residence with attached 4-car garage, terraces, pool, driveway, septic system, and approximately 990 cu. yds. new grading (495 cu. yds. cut, 495 cu. yds.) and 255 cu. yds. over-excavation under residence. In addition, the applicant is requesting after-the-fact approval for 2556 cu. yds. of cut grading for the proposed building pad. To ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition 8** requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 120 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

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

F. Local Coastal Program

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

4-01-223 (Traub)

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed amendment will be in conformity with the provisions of Chapter 3. The proposed amendment 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 amendment, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu and 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).

G. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit Amendment application to be supported by a finding showing the application 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 effects which the activity would have on the environment.

The proposed amendment would not cause significant, adverse environmental effects. Therefore, the proposed amendment is found consistent with CEQA and with the policies of the Coastal Act.



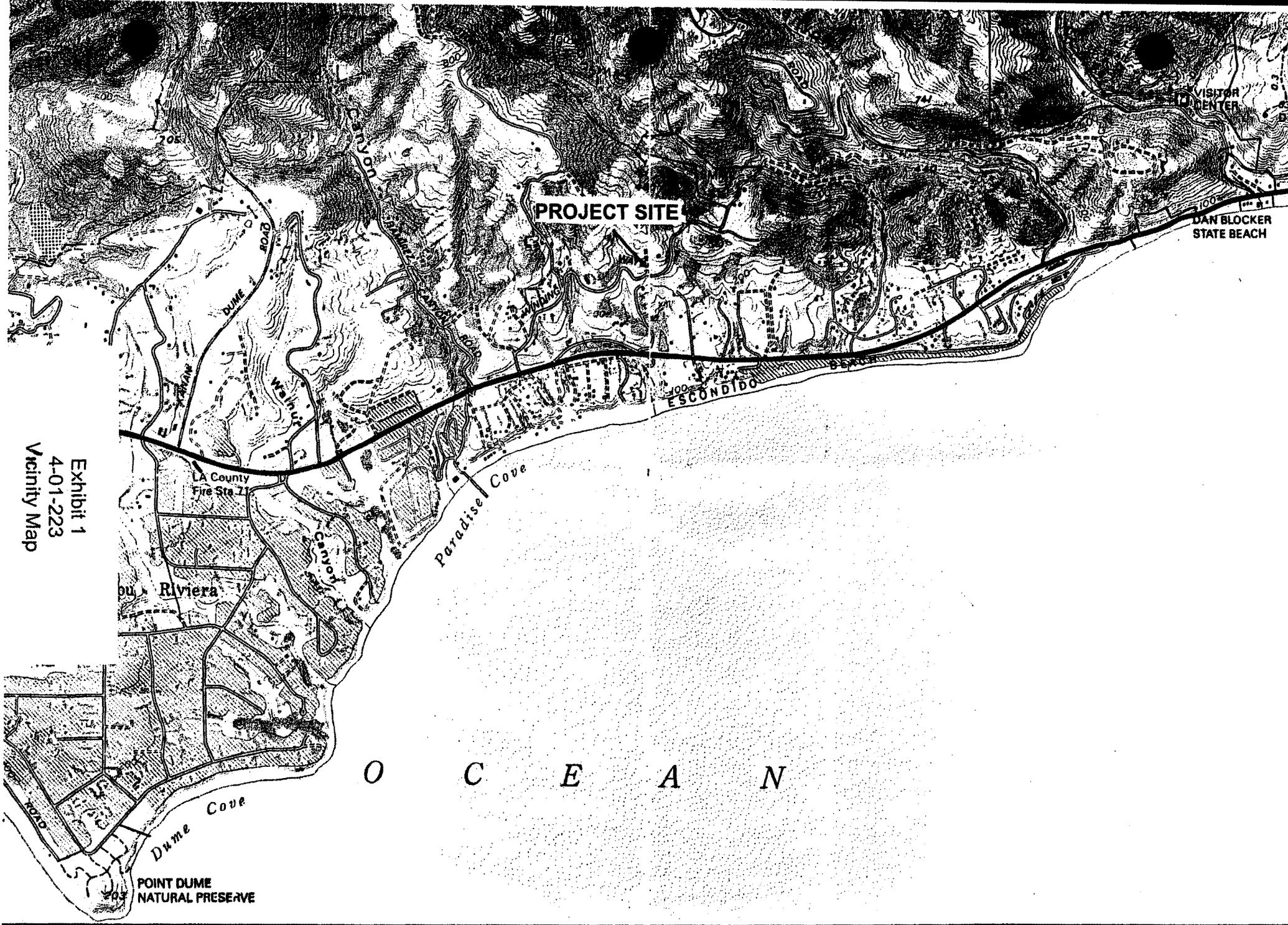
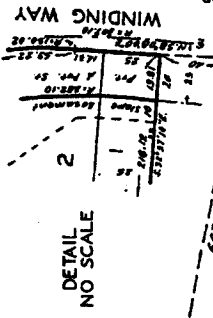


Exhibit 1
4-01-223
Vicinity Map

POINT DUME
NATURAL PRESERVE

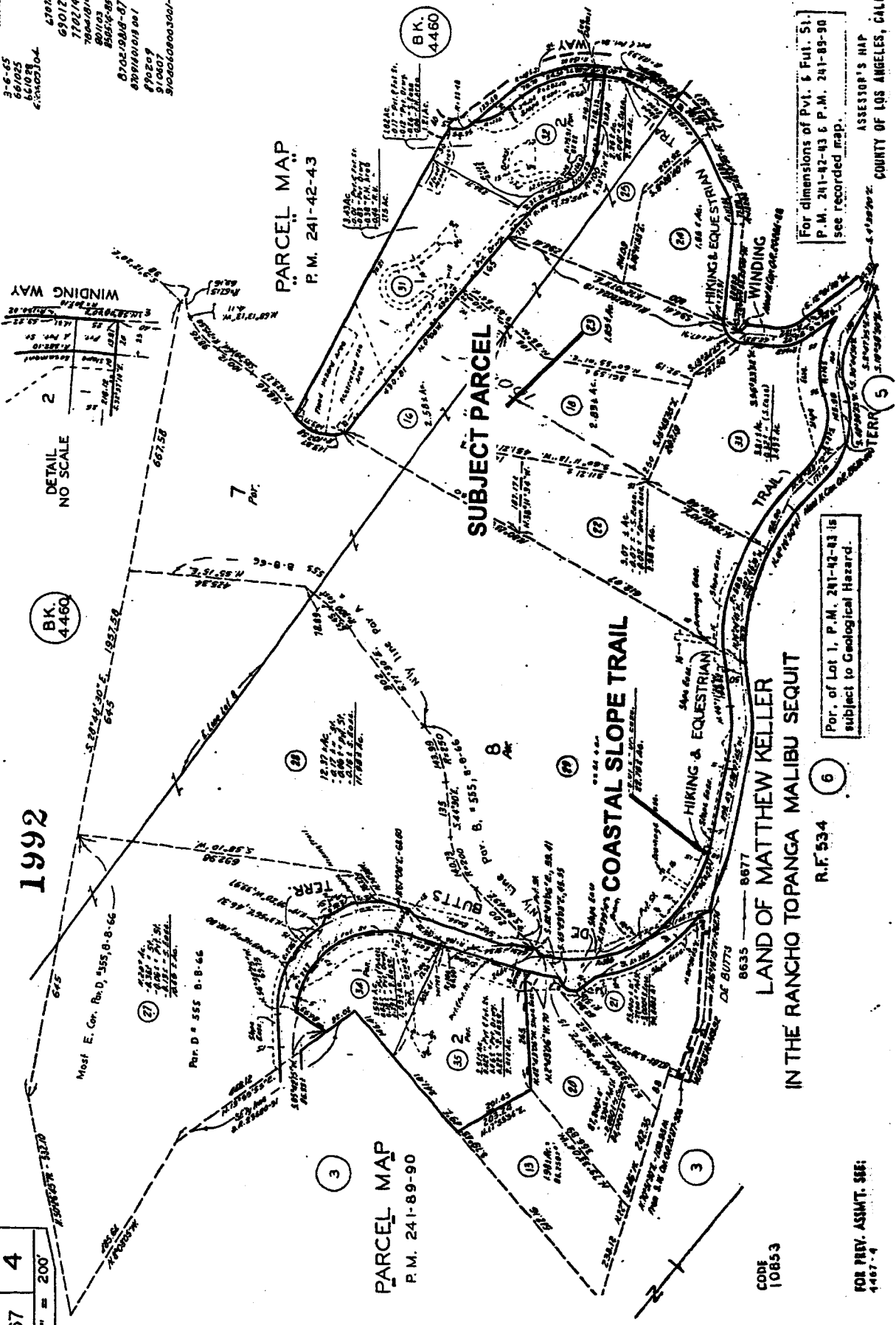
REVISE:
 3-6-65
 661025
 661035
 6600304

420216:
 690122
 710214
 70041047
 80041003
 80041061
 870210048-87
 880901019 001
 890209
 910607
 910606000 3001-07



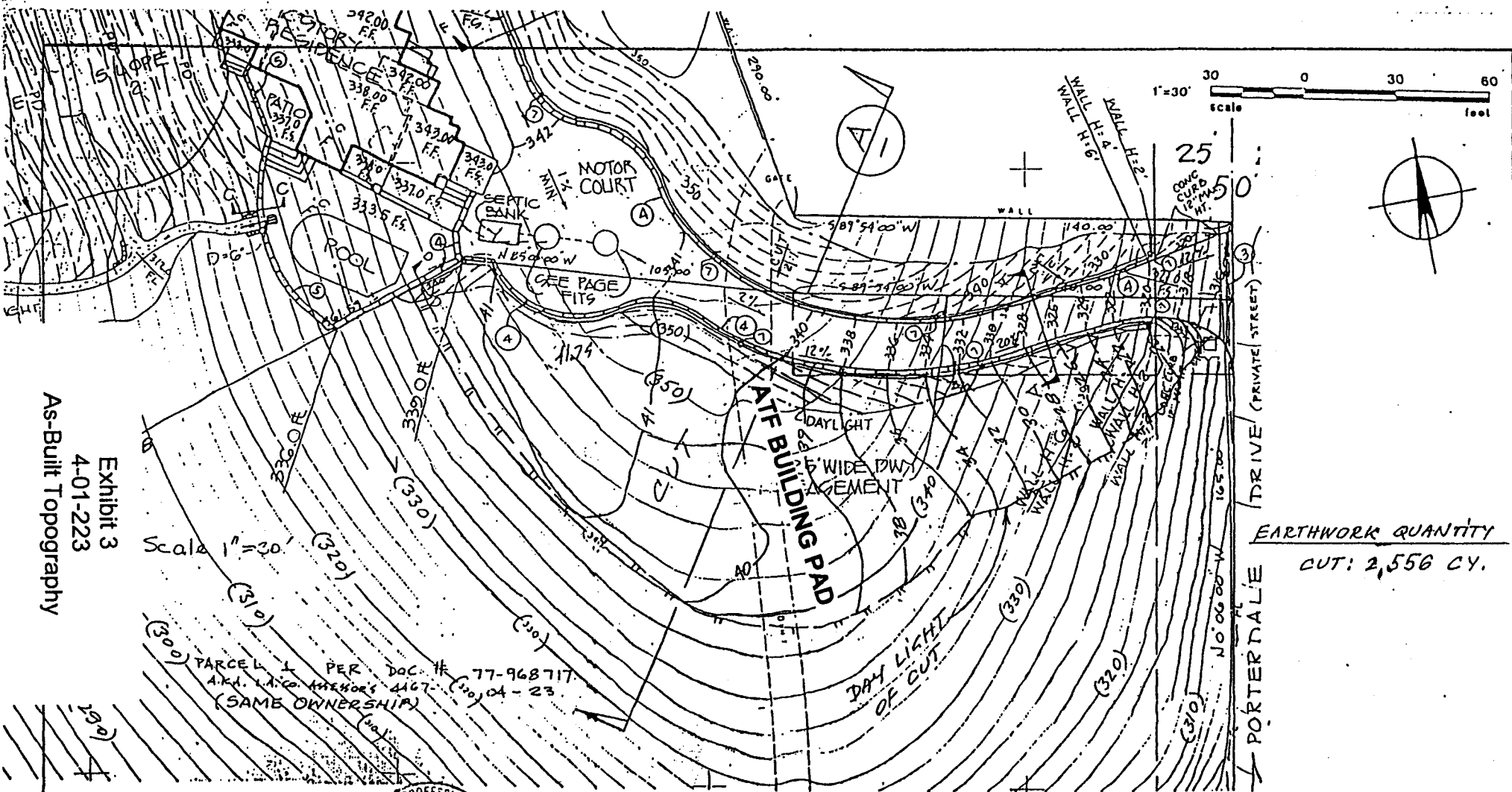
4467
SCALE 1" = 200'

1992



PARCEL MAP
P.M. 241-89-90

Exhibit 2
4-01-223
Parcel Map

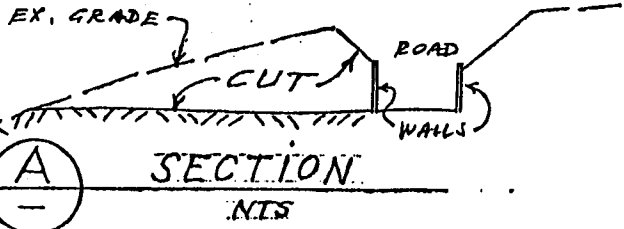
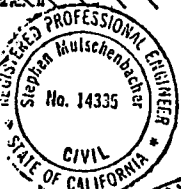


As-Built Topography
Exhibit 3
4-01-223

EARTHWORK QUANTITY
CUT: 2,556 CY.

PARCEL 1 PER DOC # 77-968717
A.K.A. L.A. CO. ANNEOR'S 4167-
(SAME OWNERSHIP) (30) 04-23

Stephen Mutschenbacher
12-14-00
STEPHEN MUTSCHENBACHER
REGISTERED CIVIL ENGINEER
RCE No: 14335 EXP: 3-31-01
3139 Dona Maria Drive
Studio City, Calif. 91604
Tel: (323) 654-6908
Fax: (323) 654-1005



GRADING PLAN		
SCALE: 1" = 30'	APPROVED BY:	DRAWN BY SGM.
DATE: 12-11-00		REVISED
6269 PORTERDALE DRIVE, MALIBU, CA		
		DRAWING NUMBER C

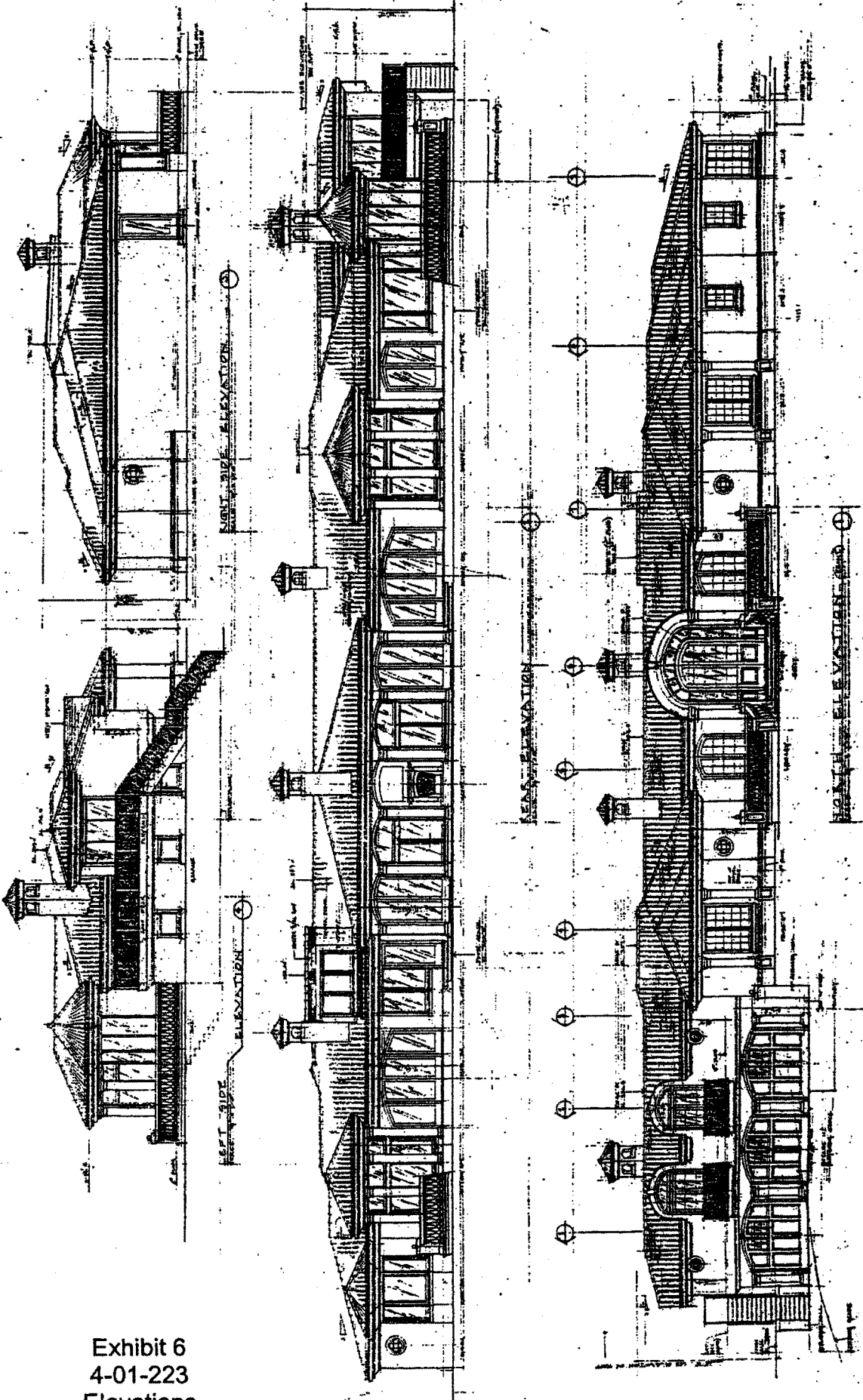


Exhibit 6
4-01-223
Elevations