

CALIFORNIA COASTAL COMMISSION

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Commission Action:

**STAFF REPORT: PERMIT AMENDMENT**

APPLICATION NO.: 4-95-015-A1

APPLICANT: David Traub

PROJECT LOCATION: 6255 Porterdale Road, Malibu, Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a two-story, 5092 sq. ft. 32 ft. high single-family residence with 660 sq. ft. garage, 340 ft. long access road, pool, septic system, and 3356 cu. yds. of grading (cut) for the driveway and 1169 cu. yds. grading (cut) for the building pad and 5992 cu. yds. of total grading for slope remediation.

DESCRIPTION OF AMENDMENT: 78 sq. ft. addition to single-family residence and change in location of swimming pool/spa requiring 210 cu. yds. grading (160 cu. yds. cut, 50 cu. yds. fill, 110 cu. yds. export), and after-the-fact approval for and additional 1235 cu. yds. grading for driveway and house, construction of temporary access road at the subject site, and export and disposal of approximately 1900 cu. yds. excavated material and construction of temporary access road at APN 4467-004-029 (Traub).

LOCAL APPROVALS RECEIVED: City of Malibu, Planning Department Approval In Concept, 07/03/96; City of Malibu, Geology and Geotechnical Engineering Review Sheet, Approved In Concept, 01/18/95; City of Malibu, Planning Department Approval In Concept (for addition and change in pool location), 01/25/00.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 4-95-136 (Traub), Coastal Development Permit 4-94-178-A4 (Skene); City of Malibu, Environmental and Building Safety Services, Letter addressed to David Traub, dated 10/01/96; City of Malibu Notice of Violation and Stop Work Order, APN 4467-004-018, 4467-004-023 and 4467-004-029, 10/01/96; City of Malibu Release of Notice of Violation APN 4467-004-018 & 4467-004-029, 05/12/99; Update Soils and Engineering Geologic Investigation Report, prepared by GeoSystems Inc., 12/16/90; Update Soils and Engineering Geologic Investigation Report, prepared by GeoSystems Inc., 09/28/94; Addendum to Update Soils and Engineering Geologic Investigation Report, prepared by GeoSystems Inc., 01/05/95; Onsite Fill Report (APN 4467-004-029), prepared by GeoConcepts, Inc., dated 04/26/99; Final Compaction Report and Final As-Built Report for Fill Slope Grading, prepared by GeoSystems, dated 4/11/97; Limited Geologic and Soils Engineering Investigation, Proposed Swimming Pool, prepared by GeoConcepts, Inc., dated 11/22/99; Biological Assessment, prepared by Jack M. Farrell, Environmental Consultant, undated; Restoration and Monitoring Proposal, prepared by Marny Randall, dated 05/28/97; Biological Field Survey, prepared by Rachel Tierney Consulting, dated 01/26/00.

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) *The Executive Director determines that the proposed amendment is a material change,*
- 2) *Objection is made to the Executive Director's determination of immateriality, or*
- 3) *The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.*

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Code of Regulations Section 13166. In this case, the Executive Director has determined that the proposed amendment is a material change to the project and has the potential to affect conditions required for the purpose of protecting a coastal resource.

Summary and Staff Recommendation:

Staff recommends that the Commission approve the proposed amendment with **Six Special Conditions** regarding Plans Conforming to Geologic Recommendations, Drainage and Polluted Run-Off Control Plans, Landscaping and Erosion Control Plans, Pool Drainage and Monitoring, Export of Excess Grading Material, and Condition Compliance.

On June 15, 1995 the Commission approved Coastal Development Permit 4-95-015 (Traub) for construction of a two-story, 5092 sq. ft. 32 ft., high single-family residence with 660 sq. ft. garage, 340 ft. long access road, pool, septic system, and 3356 cu. yds. of grading (cut) for the driveway and 1169 cu. yds. grading (cut) for the building pad, and 5992 cu. yds. of total grading for slope remediation. The coastal permit was approved by the Commission subject to 10 Special Conditions regarding 1) geologic recommendations, 2) drainage and erosion control plans, 3) removal of excavated material, 4) assumption of risk, 5) landscape and irrigation plan, 6) revised retaining wall plans, 7) future development, 8) City of Malibu geologic review, 9) color restriction, and 10) wildfire waiver of liability.

The proposed project amendment is for a 78 sq. ft. addition to the 5092 sq. ft. single family residence and for a change in the location of the swimming pool/spa requiring 210 cu. yds. of new grading (160 cu. yds. cut, 50 cu. yds. fill, 110 cu. yds. export). In addition, the applicant is requesting after-the-fact approval for excess grading of approximately 1235 cu. yds. of earth material for the driveway and house and construction of a temporary access road at the project site (APN 4467-004-018, parcel 18), and export and disposal of approximately 1900 cu. yds. of excavated material and construction of a second temporary access road at a nearby parcel APN 4467-004-029, parcel 29 (Traub).

Summary of Staff Recommendation Continued:

Staff notes that the City of Malibu described the initial violation as approximately 6000 cu. yds. of excavated material originally deposited at parcel 29. Of this amount, approximately 2556 cu. yds. of cut grading occurred on the parcel directly adjacent to the subject site, APN 4467-004-023, parcel 23 (Traub), and approximately 1235 cu. yds. of excess cut grading for the driveway and building pad occurred at the project site, parcel 18, as described above. The 2556 cu. yds. of excavated material that was removed from the adjacent parcel (parcel 23) is the subject of a pending Coastal Development Permit application 4-01-223 (Traub) for construction of a new single family residence and a request for after-the-fact approval of the unpermitted 2556 cu. yds. of cut grading. All of the unpermitted grading described occurred in conjunction with the construction of development previously approved at parcel 18 under Coastal Development Permit 4-95-015 (Traub). The proposed 78 sq. ft. addition and pool/spa relocation, however, is a pending amendment proposal and is not after-the-fact development.

The applicant has completed additional work at the subject sites subsequent to the applicant's submittal of this amendment application to resolve the grading violations, which have included re-grading and contouring of the subject site and construction of drainage devices to match grading and drainage plans originally approved by the City and the Commission, removal of some deposited fill from parcel 29, and restoration of areas at the subject site and disposal location disturbed by unpermitted access roads. Final grading and drainage plans for the subject site, for which the City has issued a Release of Notice of Violation, indicate that the site grading and drainage is now in substantial conformance with previously approved plans (with 3825 cu. yds. total grading completed for the building pad and driveway on parcel 18).

In addition, subsequent to the applicant's submittal of the subject amendment application the Commission approved Coastal Development Permit 4-94-178-A4 (Skene) on August 24, 1998 for the export and disposal of approximately 2000 cu. yds. of excavated material from parcel 29 to a location at 27975 Winding Way. The applicant has submitted information indicating that approximately 1900 cu. yds. of fill material is currently present at the disposal site on parcel 29, and has further stated that the remaining fill material on parcel 29 has been exported to an appropriate disposal site. Staff notes, however, that the ultimate disposal location of the unaccounted for fill has not been provided for the record. Information submitted by the applicant indicates that the remaining 1900 cu. yds. of fill material on parcel 29 is spread out over an approximate 20,000 sq. ft. area with a fill thickness of generally less than one foot. The applicant has provided an Onsite Fill Report of the disposal site, prepared by GeoConcepts, Inc., dated 4/26/99, which concludes that the area of fill does not present a geologic hazard to offsite properties. Finally, the applicant has provided a number of biological reports and surveys of the area disturbed by the unapproved fill disposal, discussed further in the findings below, which conclude that no significant adverse impacts have occurred to any natural vegetation or habitat area in conjunction with the unpermitted fill disposal. As such, the applicant is requesting approval to retain the 1900 cu. yds. of fill material in its present condition at the disposal location on parcel 29.

As conditioned, the proposed project is consistent with applicable Chapter 3 policies of the Coastal Act

I. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-95-015-A1 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 amendment on the ground that the development as amended and 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 amendment 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 AND SPECIAL CONDITIONS

Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit 4-95-015 continue to apply. In addition to the ten previously applied special conditions, the following special conditions are hereby imposed as a condition upon the proposed project as amended pursuant to CDP 4-95-015-A1.

Special Conditions

11. Plans Conforming To Geologic Recommendations

The applicant shall submit, for the review and approval by the Executive Director, all final and as-built grading plans for the project site, with evidence that the plans have been reviewed and approved by the project's consulting geotechnical engineer. In addition, all recommendations contained in the Limited Geologic and Soils Engineering Investigation-Proposed Swimming Pool, dated 11/22/99, prepared by GeoConcepts, Inc. shall be incorporated into all final design

and construction including foundations, grading, and drainage. Final plans must be reviewed and approved by the project's consulting geotechnical engineer and engineering geologist. 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.

12. Drainage and Polluted Runoff Control Plans

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a drainage and polluted runoff control plan designed by a licensed engineer to minimize the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with the geologists' recommendations. The plan shall be subject to the following requirements, and shall at a minimum, include the following components:

- (a) Structural and/or non-structural Best Management Practices (BMPs) designed to capture, infiltrate or treat runoff from all roofs, parking areas, driveways and other impervious surfaces shall be identified and incorporated into final plans.
- (b) Selected BMPs shall, when implemented ensure that post-development peak runoff rate and average volume from the site, will be maintained at levels similar to pre-development conditions. The drainage system shall also be designed to convey and discharge runoff from the building site in non-erosive manner.

The plan shall include provisions for BMP maintenance. All structural and non-structural BMPs shall be maintained in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) all traps/separators and/or filters shall be inspected, cleaned and repaired 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 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.

13. 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 project geotechnical consultant 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 & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of final construction. 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.

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 grading shall not take place during the rainy season (November 1 – March 31). During grading activities the applicant 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 through out the development process to minimize erosion and sediment from wind erosion and runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- (3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed

areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C. Monitoring

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether 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.

14. 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.

15. Export of Excess Grading Material

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the intended location of the disposal site for all material that will be excavated from the site in the future. Should the disposal site be located in the Coastal Zone, a coastal development permit shall be required.

16. 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.

III. FINDINGS AND DECLARATION

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to amend Coastal Development Permit 4-95-015 (Traub) for a 78 sq. ft. addition to a 5092 sq. ft. single family residence and for a change in the location of the swimming pool/spa requiring 210 cu. yds. of new grading (160 cu. yds. cut, 50 cu. yds. fill, 110 cu. yds. export) Exhibits 5,6. In addition, the applicant is requesting after-the-fact approval for excess grading of approximately 1235 cu. yds. of earth material for the driveway and house and construction of a temporary access road at the project site, and export and disposal of approximately 1900 cu. yds. of excavated material and construction of a temporary access road at an unapproved disposal location at a nearby parcel APN 4467-004-029, parcel 29 (Traub), Exhibits 2-4).

Staff notes that the request for after-the-fact approval for the unpermitted grading and disposal activities detailed in this permit amendment involve an initial violation of the underlying permit which, and as reported by the City of Malibu, included approximately 6000 cu. yds. of excavated material originally deposited on parcel 29. Of this amount, approximately 2556 cu. yds. of cut grading occurred on the parcel directly adjacent to the subject site, parcel 23 (Traub), and approximately 1235 cu. yds. of excess cut grading for the driveway and building pad occurred at the project site, parcel 18, as described above (Exhibit 2). Thus, the applicant has accounted for approximately 3800 cu. yds of unpermitted cut grading. It appears that this material was entirely disposed of on the applicant's nearby parcel identified as parcel 29. However, the applicant states that he cannot verify the exact amount of cut and disposal because the contractor who completed the grading and disposal has passed away. Although the applicant has identified approximately 3800 cu. yds. of excess fill that was disposed of on parcel 29, the City of Malibu estimated in 1996 that approximately 6000 cu. yds. of fill was originally deposited. Staff does not know if this estimate was accurate. The applicant (also the owner of parcel 29) has not identified any additional amounts or other sources of fill that was deposited on parcel 29. The 2556 cu. yds. of excavated material that was removed from the adjacent parcel (parcel 23) is the subject of a pending Coastal Development Permit application 4-01-223 (Traub) for construction of a new single family residence and a request for after-the-fact approval of the unpermitted 2556 cu. yds. of cut grading.

All of the unpermitted grading described occurred in conjunction with the construction of development previously approved on parcel 18 under Coastal Development Permit 4-95-015 (Traub). The proposed 78 sq. ft. addition and pool/spa relocation, however, is a pending amendment proposal and is not after-the-fact development. On June 15, 1995 the Commission approved Coastal Development Permit 4-95-015 (Traub) for construction of a two-story, 5092 sq. ft. 32 ft. high single-family residence with 660 sq. ft. garage, 340 ft. long access road, pool, septic system, and 3356 cu. yds. of grading (cut) for the driveway and 1169 cu. yds. grading (cut) for the building pad and 5992 cu. yds. of total grading for slope remediation (Exhibit 3). The coastal permit was approved by the Commission subject to 10 Special Conditions regarding 1) geologic recommendations, 2) drainage and erosion control plans, 3) removal of excavated material, 4) assumption of risk, 5) landscape and irrigation plan, 6) revised retaining wall plans, 7) future development, 8) City of Malibu geologic review, 9) color restriction, and 10) wildfire waiver of liability.

The project site is located approximately 2 miles north of Pacific Coast Highway (Exhibit 1). Access to the subject site is achieved by a private driveway that extends to the site from Porterdale Road. The site is topographically situated on a west-trending slope that descends westerly at a 27% grade with a total relief of approximately 140 feet. The site is located between Escondido and Ramirez Canyons. The Coastal Slope trail is located 200 ft. downhill and south of the subject site along Winding Way (Exhibit 2). Upon approving Coastal Development Permit 4-95-015 for a new single family residence, the Commission imposed special conditions requiring recordation of a future development deed restriction and color restriction, and required landscape screening of the structures, to mitigate potential adverse impacts of the proposed development on scenic coastal views from the trail.

Additionally, during the initial review of the original coastal permit application, the Commission noted that two areas of the subject site contained surficial landslide debris. The applicant proposed to remediate one of the landslide features, located 20 ft. east of the proposed residence, with approximately 5992 cu. yds. removal and recompaction. The Commission approved the proposed landslide remediation project and imposed a future development deed restriction to ensure that any development that may be proposed in the future is reviewed for potential modification of the sites geologic condition. The Commission also required recordation of an assumption of risk deed restriction.

The applicant fulfilled all the special conditions required and Coastal Development Permit 4-95-015 was issued on July 8, 1996. In response to reports of possible grading violations occurring on the subject property (parcel 18) and nearby parcels (parcels 23 and 29), the City of Malibu issued a Stop Work Order for all construction occurring at the subject sites on August 30, 1996, and on November 5, 1996 Coastal Commission staff issued a Notice of Violation to the applicant for excess grading, stockpiling of fill material and construction of a road in violation of the conditions of Coastal Development Permit 4-95-015. On December 31, 1996 the applicant submitted the subject amendment application 4-95-015-A1 to resolve the issue of unpermitted development which had occurred in conjunction with the construction activities for development approved by Coastal Development Permit 4-95-015, however the application was incompleated for requests of additional information until this time. The amendment application includes a request for after-the-fact approval for an additional 1235 cu. yds. of cut grading for the driveway and house and construction of a temporary access road at the subject site (parcel 18), and export of approximately 1900 cu. yds. excavated material and construction of a temporary access road at a disposal location on parcel 29 (Traub).

The applicant has completed additional work at the subject sites subsequent to the applicant's submittal of this amendment application to resolve the grading violations, which included re-grading and contouring of the subject sites and construction of drainage devices to match grading and drainage plans originally approved by the City and the Commission for parcel 18, removal of some deposited fill from parcel 29, and restoration of areas at the subject site and disposal location disturbed by unpermitted access roads. Final grading and drainage plans for parcel 18 (Exhibit 4), for which the City has issued a Release of Notice of Violation, indicate that the site grading and drainage is now in substantial conformance with previously approved plans (with 3825 cu. yds. total grading completed for the building pad and driveway).

In addition, subsequent to the applicant's submittal of the subject amendment application the Commission approved Coastal Development Permit 4-94-178-A4 (Skene) on August 24, 1998 for the export and disposal of approximately 2000 cu. yds. of excavated material from parcel 29

to a location at 27975 Winding Way. The applicant has submitted information indicating that approximately 1900 cu. yds. of fill material is currently present at the disposal site on parcel 29, and has further stated that the remaining fill material from parcel 29 has been exported to an appropriate disposal site. Staff notes, however, that the ultimate disposal location of the unaccounted for fill has not been provided for the record. The applicant has not identified any other disposal location for additional amounts or other sources of fill that was deposited on parcel 29, despite requests for this information.

Information submitted by the applicant indicates that the remaining 1900 cu. yds. of fill material on parcel 29 is spread out over an approximate 20,000 sq. ft. area with a fill thickness of generally less than one foot. The fill area constitutes a minimal landform alteration that is not visible. In addition, the applicant has provided an Onsite Fill Report of the disposal site, prepared by GeoConcepts, Inc., dated 4/26/99, which concludes that the area of fill does not present a geologic hazard to offsite properties. Finally, the applicant has submitted a Biological Assessment, prepared by Jack M. Farrell, M.S., Environmental Consultant, a Restoration and Monitoring Proposal, prepared by Marny Randall, dated 5/28/97, and a Biological Field Survey, prepared by Rachel Tierney Consulting, dated 1/26/00, which indicate that the export and disposal of approximately 1900 cu. yds. of fill material retained on parcel 29 has not resulted in adverse impacts to any significant natural vegetation or habitat area at or near the site. The above referenced biological reports conclude that the area where the unpermitted fill was deposited is an area historically disturbed by livestock grazing and disking for weed abatement. Following deposition of the fill material, the area has revegetated with a combination of native and grassy-weedy plant species, a consistent vegetation pattern observed on the adjacent landscape and at the site prior to the project's disturbance. As such, fill disposal on parcel 29 has not resulted in adverse impacts on native vegetation.

B. 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 subject site contains two areas of surficial landslide

debris identified upon initial review of the underlying permit. One of these landslide features located approximately 20 ft. east of the structure has been remediated in compliance with the project's geotechnical consultant's (GeoSystems) recommendations and involved the removal and recompaction of approximately 5992 cu. yds. of earth material. The other landslide feature has not been recommended for remediation due to its removed location from the structures at the central portion of the site. However, based on the statements and recommendations of the project's geologic consultants the Commission, in its action on Coastal Development Permit 4-95-015, found that future development of the site could potentially modify the conditions of the site's stability. Thus, the Commission imposed a future development deed restriction on the project requiring any change in grading and/or new development of the site to be reviewed by the Commission.

As described previously, the proposed project amendment includes a request for after-the-fact approval for excess grading of approximately 1235 cu. yds. of earth material for the driveway and house and construction of a temporary access road at the project site, and export and disposal of approximately 1900 cu. yds. of excavated material and construction of a temporary access road on the applicant's nearby parcel 29. With respect to issue of unpermitted grading, the applicant has completed additional work at the project site to remediate the unapproved site grading and to bring the graded contours and site drainage in substantial conformance with the previously approved plans for parcel 18, prior to the applicant's completion of the subject amendment application. Nevertheless, the applicant has submitted project plans which indicate that existing site conditions, grading and drainage, and construction of the previously approved residence and driveway, are now in substantial conformance with plans approved by the Commission in the original coastal permit. Additionally, the areas previously disturbed by construction of temporary access roads has been restored to a natural state. Furthermore, the applicant has submitted a Final Compaction Report and Final As-Built Report prepared GeoSystems, dated 4/11/97, which states:

Geotechnical conditions encountered during the grading operations for the compacted fill slope were essentially as anticipated in the updated investigation report. Based on field observations and compaction tests results, the grading procedures were conducted in substantial compliance with recommendations contained in the updated investigation report and current code standards with the City of Malibu.

Approval

Based on geotechnical field observations and compaction test results, the compacted 2½:1 ratio fill slope is approved from a geotechnical standpoint. The recommendations for grading and retaining wall or other related appurtenant for the project development remain applicable

Based on their field investigation, the project's geotechnical consultants conclude that grading for site remediation to ensure geologic stability of the proposed development has been conducted appropriately and is in conformance with the consultant's recommendations.

With respect to the remaining 1900 cu. yds. of fill at the disposal site on parcel 29, the applicant has submitted an Onsite Fill Report, prepared by GeoConcepts, Inc., dated 4/26/99, which addresses the remaining 1900 cu. yds. of fill material at the disposal site located on a nearby parcel at 29. The Onsite Fill reports states:

Three test pits were excavated and geologically logged within the area of the previous stockpile of non-compacted fill. The excavations exhibited a maximum fill thickness of less than one foot thick. The stockpile of fill was essentially removed leaving a minor amount of fill generally less than one foot thick. Based on the above information, the existing fill on the subject site does not appear to be a geologic hazard to offsite properties.

Based on their investigations the geotechnical engineering consultants have determined that the grading operations which have occurred at the project site have not adversely effected the geologic stability of the site and do not create a geologic hazard to offsite properties.

Finally, the applicant has submitted a Limited Geologic and Soils Engineering Investigation, Proposed Swimming Pool, prepared by GeoConcepts, Inc., dated 11/22/99, which evaluates the applicant's proposal to relocate the previously approved swimming pool/spa requiring 210 cu. yds. of new grading (160 cu. yds. cut, 50 cu. yds. fill, 110 cu. yds. export). The Limited Geologic and Soils Engineering Investigation, Proposed Swimming Pool report states:

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.

Based on the findings and conclusions of the project's consulting geotechnical engineers the Commission finds that the proposed project amendment, as conditioned, will not adversely affect geologic stability of the project site and approved development, and is consistent with Section 30253 of the Coastal Act. The project's consulting geotechnical engineers include a number of findings and recommendations in the their reports referenced above to ensure the stability and safety of the site. Therefore, to ensure that all final grading conditions have been reviewed and approved by the geotechnical consultants as in conformance with their recommendations, **Special Condition 11** requires the applicant to submit Final and As-Built grading and drainage plans certified by the consulting geotechnical engineers as conforming to all recommendations regarding structural and site stability. In addition, to ensure that construction of the proposed swimming pool/spa and the new grading operation required for such construction is completed in a manner consistent with the recommendations of the consulting geotechnical engineer **Special Condition 11** also requires the applicant to submit project plans for the proposed pool/spa and grading certified by the consulting geotechnical engineers as conforming to all recommendations regarding structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, design, and drainage. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an additional amendment to the permit or a new coastal permit.

The proposed project, as amended, will include 210 cu. yds. of new grading (160 cu. yds. cut, 50 cu. yds. fill, 110 cu. yds. export). The Commission finds that minimizing site erosion will reduce disturbance of the project site and aid in maintaining the geologic stability of the 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 12 and 13**. Special Condition 12 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 12. Additionally, **Special Condition 13**, the interim erosion control plan, includes a number of erosion control measures to be carried out during construction activities, and also requires the applicant to minimize erosion during the rainy season (November 1 – March 31) by constructing temporary sediment basins, drains and swales, sand bag barriers, silt fencing, and/or by stabilizing any stockpiled fill, trenches, cut and fill slopes, with geofabric covers or other appropriate cover, geotextiles or mats, which would otherwise be exposed to increased erosion from run-off of rain water.

The Commission also finds that appropriate landscaping of slopes and graded or disturbed areas on the project site will serve to enhance and maintain the geologic stability of the proposed development. Therefore, **Special Condition 13** requires the applicant to submit landscaping plans for the landscaping all areas disturbed by grading activities in a timely manner thus ensuring stabilization of the project site. Special Condition 13 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 13.

Additionally, the Commission notes that the quantity of cut grading required for construction of the proposed residence is more than the quantity of fill required for construction resulting in an excess of 110 cu. yds. of graded earth material. Stockpiles of dirt are subject to increased erosion and, if retained onsite, may lead to additional landform alteration. Therefore, **Special Condition 15** requires the applicant to export all excess grading material from the project site to an appropriate site for disposal and provide evidence to the Executive Director of the location of the disposal site prior to issuance of a coastal development permit.

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 14** 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 14 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.

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. 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 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 proposed project as amended will include construction of a 78 sq. ft. addition to a 5092 sq. single-family residence with a 660 sq. ft. garage, 340 ft. long access road, pool, and septic system. The proposed project will also include a change in location of the previously approved swimming pool/spa requiring 210 cu. yds. grading (160 cu. yds. cut, 50 cu. yds. fill, 110 cu. yds. export). Additionally, the proposed project amendment includes after-the-fact approval for significant grading operations which have taken place at the site without the benefit of a coastal development permit (See discussion under Section B. Geology above). The project site is a hillside parcel located on a descending slope approximately 2 miles north of Pacific Coast Highway. Use of the site for residential purposes introduces potential sources of pollutants such as petroleum, household cleaners, and pesticides, as well as other accumulated pollutants from pools, rooftops and other impervious surfaces, into run-off from the site which will ultimately drain to coastal streams and to the ocean.

In addition, 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 system 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 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 12**. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial, "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. The applicant shall 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 14**, 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 14 also 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.

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.

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

D. Violation

Unpermitted development has been carried out on the subject site without the required coastal development permit or amendment. The proposed project amendment includes a new 78 sq. ft. addition to a 5092 sq. ft. single family residence and a change in the location of the swimming

pool/spa requiring 210 cu. yds. of new grading (160 cu. yds. cut, 50 cu. yds. fill, 110 cu. yds. export). In addition, the applicant is requesting after-the-fact approval for excess grading of approximately 1235 cu. yds. of earth material for the driveway and house and construction of a temporary access road at the project site, export and disposal of approximately 1900 cu. yds. of excavated material and construction of a temporary access road at an unapproved disposal location at a nearby parcel APN 4467-004-029 (Traub). The excess grading of approximately 1235 cu. yds. of earth material for the driveway and house and construction of a temporary access road at the project site, export and disposal of approximately 1900 cu. yds. of excavated material and construction of a temporary access road at an unapproved disposal location, and subsequent restoration measures, have been carried out by the applicant prior to approval by the Commission and issuance of a coastal development permit. The applicant is requesting after-the-fact approval for the unpermitted development as part of this coastal application. To ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition 16** 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.

E. Local Coastal Program

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

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal 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 the Malibu and Santa Monica Mountains area, which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit 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.

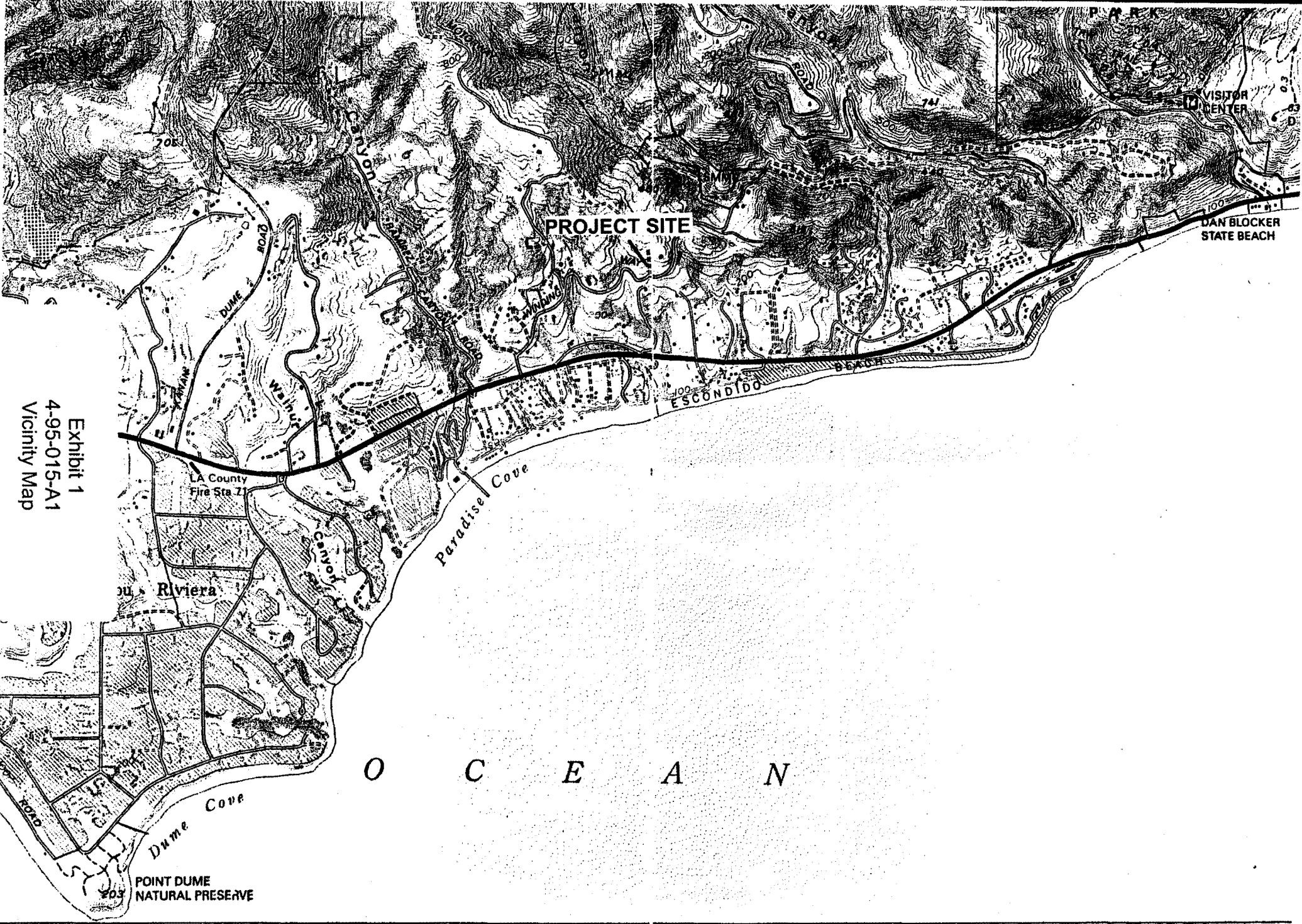


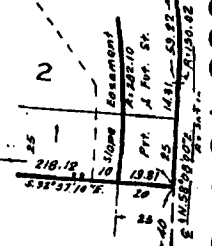
Exhibit 1
4-95-015-A1
Vicinity Map

Los Angeles, CA 2001-2002 - 4467-004-018, 6255 PORTERDALE DR. MALIBU CA 90265-4404 C118, Sheet: 1 of 1

1992

BK. 4460

DET: NO SK



3-6
661
6616
4706C

67
89
91
91C

PARCEL MAP
M. 241-89-90

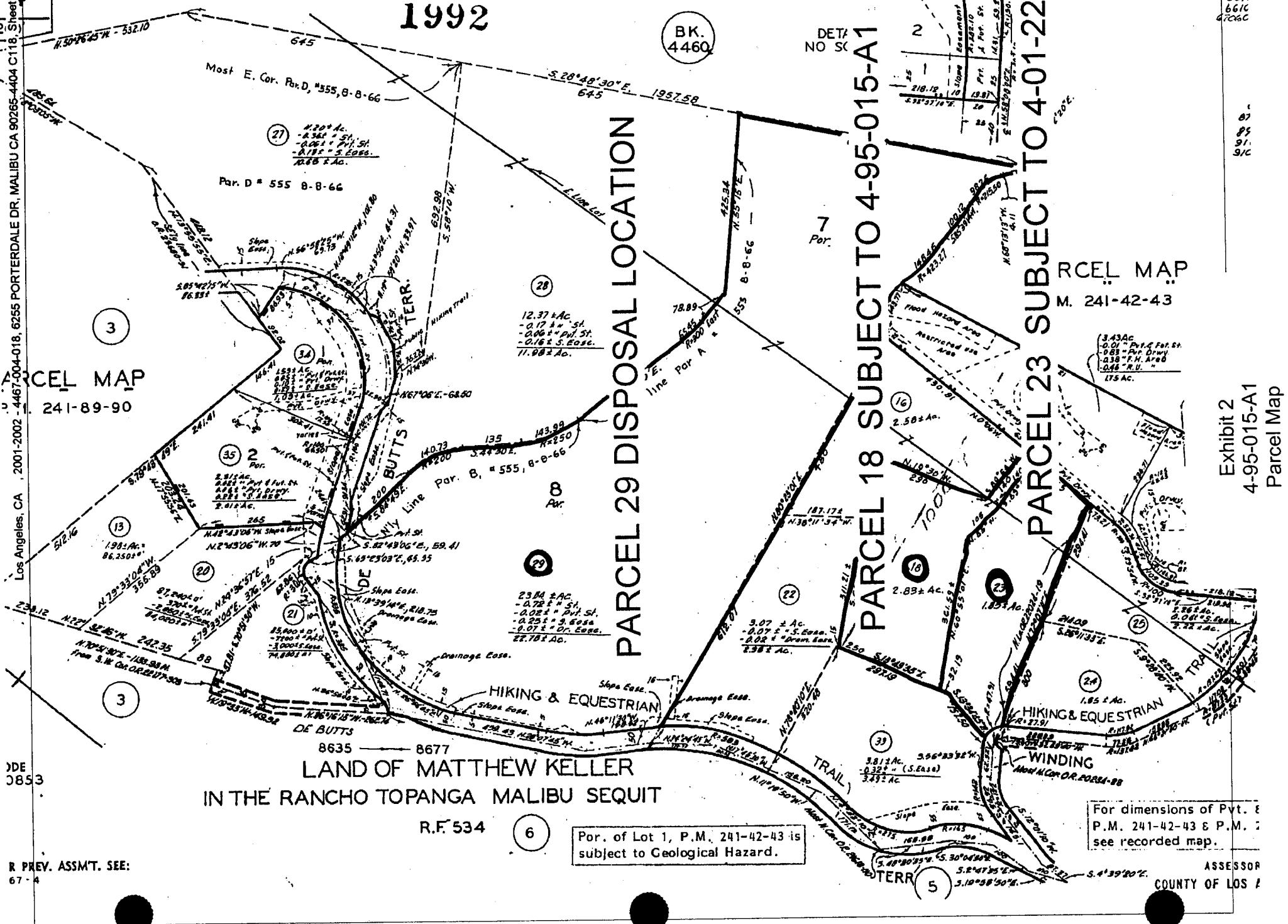
PARCEL MAP
M. 241-42-43

Exhibit 2
4-95-015-A1
Parcel Map

PARCEL 29 DISPOSAL LOCATION

PARCEL 18 SUBJECT TO 4-95-015-A1

PARCEL 23 SUBJECT TO 4-01-223



LAND OF MATTHEW KELLER
IN THE RANCHO TOPANGA MALIBU SEQUIT

R.F. 534

Por. of Lot 1, P.M. 241-42-43 is
subject to Geological Hazard.

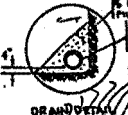
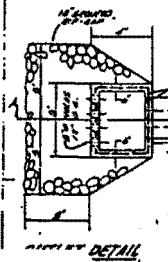
For dimensions of Pvt. &
P.M. 241-42-43 & P.M. 2
see recorded map.

ASSESSOR
COUNTY OF LOS ANGELES

R PREV. ASSMT. SEE:
67-4

CONSTRUCTION NOTES-

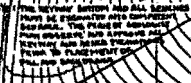
- 1. CONSTRUCT CONCRETE CURB PER DETAIL ON SHEET 1.
- 2. CONSTRUCT PAVEMENT PER DETAIL ON SHEET 1.
- 3. CONSTRUCT CONCRETE CURB PER DETAIL ON SHEET 1.
- 4. CONSTRUCT RETAINING WALL PER DETAIL ON SHEET 1.
- 5. CONSTRUCT RETAINING WALL PER DETAIL ON SHEET 1.
- 6. CONSTRUCT LONGITUDINAL DRAIN PER DETAIL ON SHEET 1.
- 7. CONSTRUCT GUTTER DRAIN PER DETAIL ON SHEET 1.



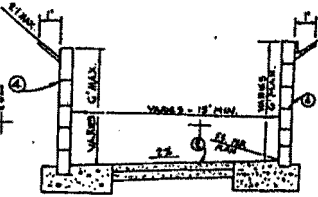
DRAIN DETAIL

SECTION X-Y

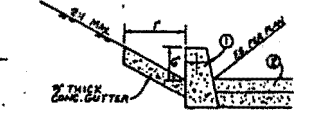
SECTION A-A



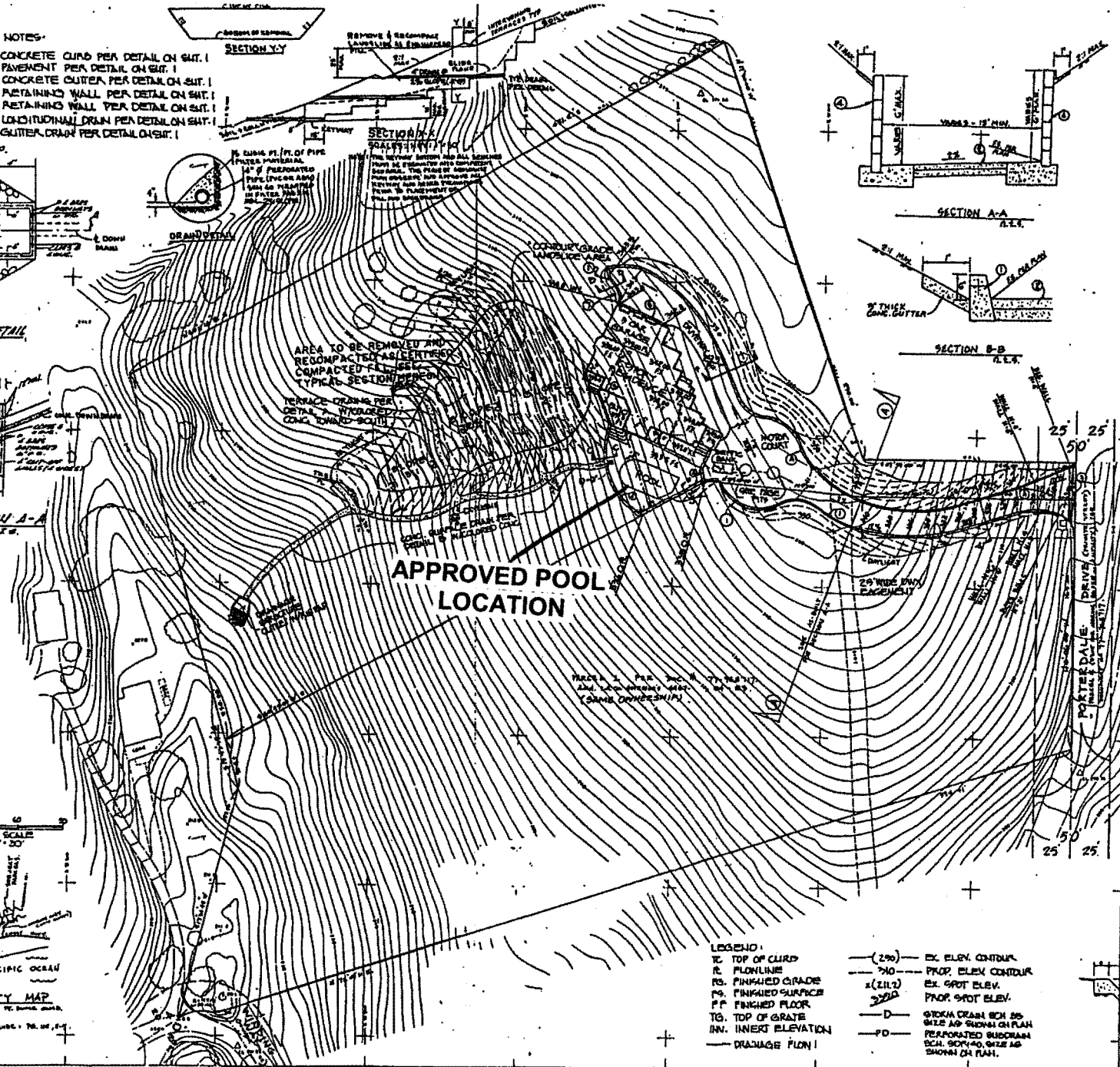
SECTION A-A A.E.



SECTION B-B A.E.



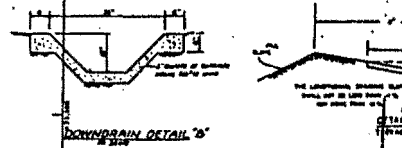
SECTION B-B A.E.



APPROVED POOL LOCATION

- LEGEND:**
- TC TOP OF CURB
 - R FLOWLINE
 - RS FINISHED GRADE
 - PS FINISHED SURFACE
 - PF FINISHED FLOOR
 - TG TOP OF GRATE
 - INV. INVERT ELEVATION
 - DRAINAGE PLAN

- (2.90) EX. ELEV. CONTOUR
- 740 PROP. ELEV. CONTOUR
- (2.11.2) EX. SPOT ELEV.
- 2.00 PROP. SPOT ELEV.
- D STORM DRAIN 24" DIA. 48" DEPTH ON PLAN
- PD PERFORATED SUBDRAIN 24" DIA. 48" DEPTH AS SHOWN ON PLAN.



STORM DRAIN DETAIL 'D'

RECEIVED

OCT 14 1997

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

EXHIBIT "A"
APPROVED
GRADING PLAN

Approved Grading Plans
(4-95-015)

Exhibit 3
4-95-015-A1

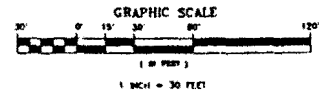
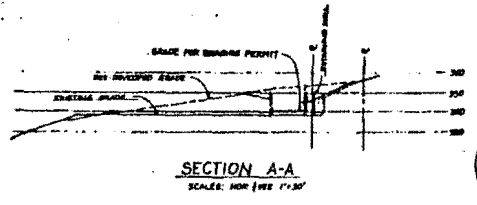
GRAPHIC SCALE
PLAN 1" = 20'



VICINITY MAP

AS-BUILT TOPOGRAPHIC SURVEY

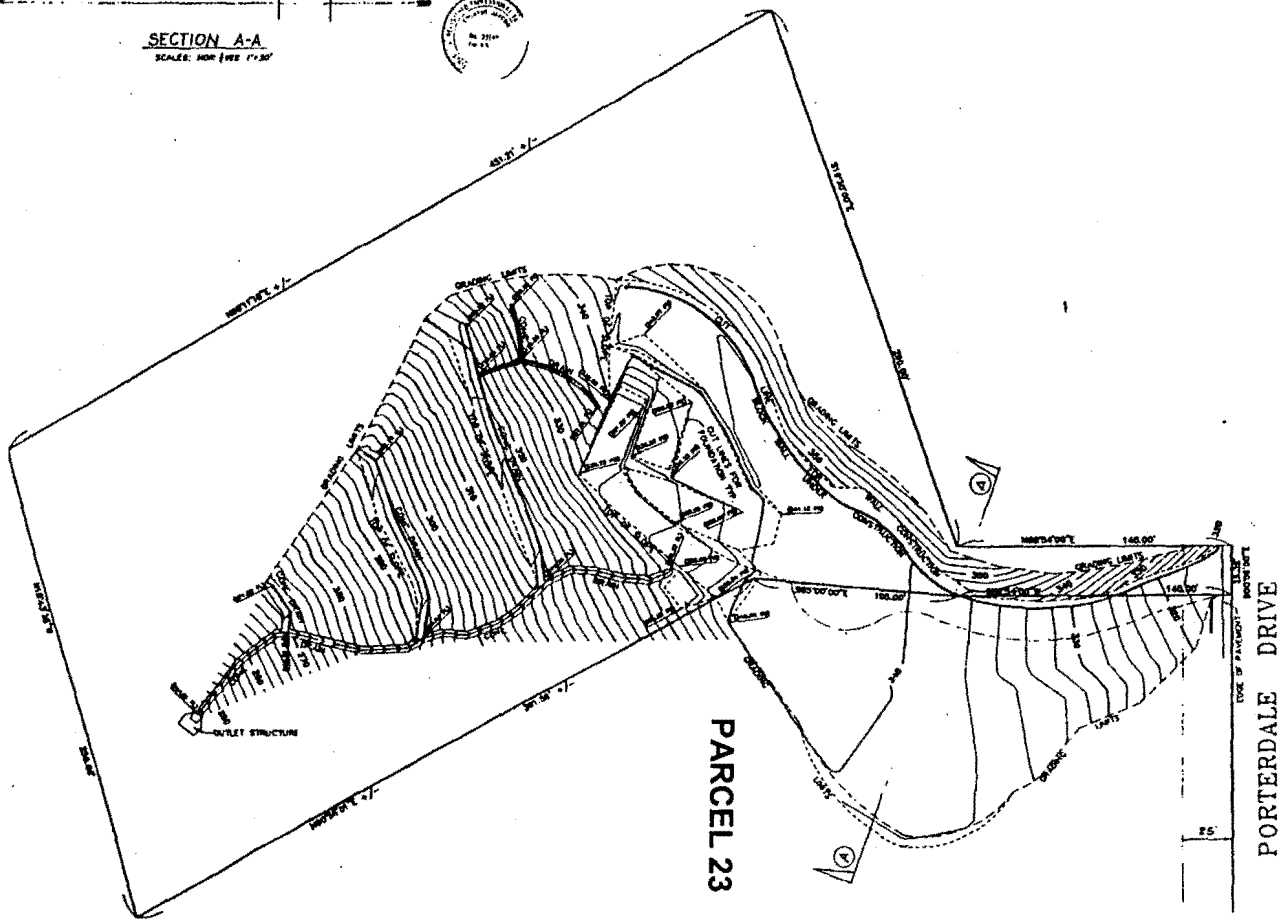
6255 PORTERDALE DRIVE, MALIBU CA



- LEGEND
- CA = CENTERLINE FINISH SURFACE
 - F/L = FLOWLINE
 - TC = TOP OF CURB
 - B/W = BACK OF WALK
 - FS = FINISH SURFACE
 - FG = FINISH GRADE

- SURVEYOR'S NOTES
1. BOUNDARY INFORMATION SHOWN HEREON IS PER SITE GRADING PLAN BY ROBERT KAMELHA ENGINEER
 2. ELEVATION INFORMATION SHOWN HEREON IS BASED ON SITE GRADING PLAN BY ROBERT KAMELHA ENGINEER
 3. DATE OF SURVEY: 3-23-87

PREPARED FOR:
DAVID TRAUER
MADE MASTERS, INC.
3624 W. PARKWAY CALABASAS, CA 91302



PARCEL 23

PORTERDALE DRIVE

GRADING QUANTITY:
CUT: 2907 CY

GENTRY SURVEYING CO.

2500 BRYANT AVE. SUITE A • IRVINE VALLEY • CA • 92606 • (949) 667-6886

JOB NO.	95-120	SHEET	1
REF.	951366.DWG	OF	1
DATE	6-3-87		
SCALE	1" = 30'		

Exhibit 4
 4-95-015-A1
 As-Built Topography Survey

PROPOSED POOL RELOCATION

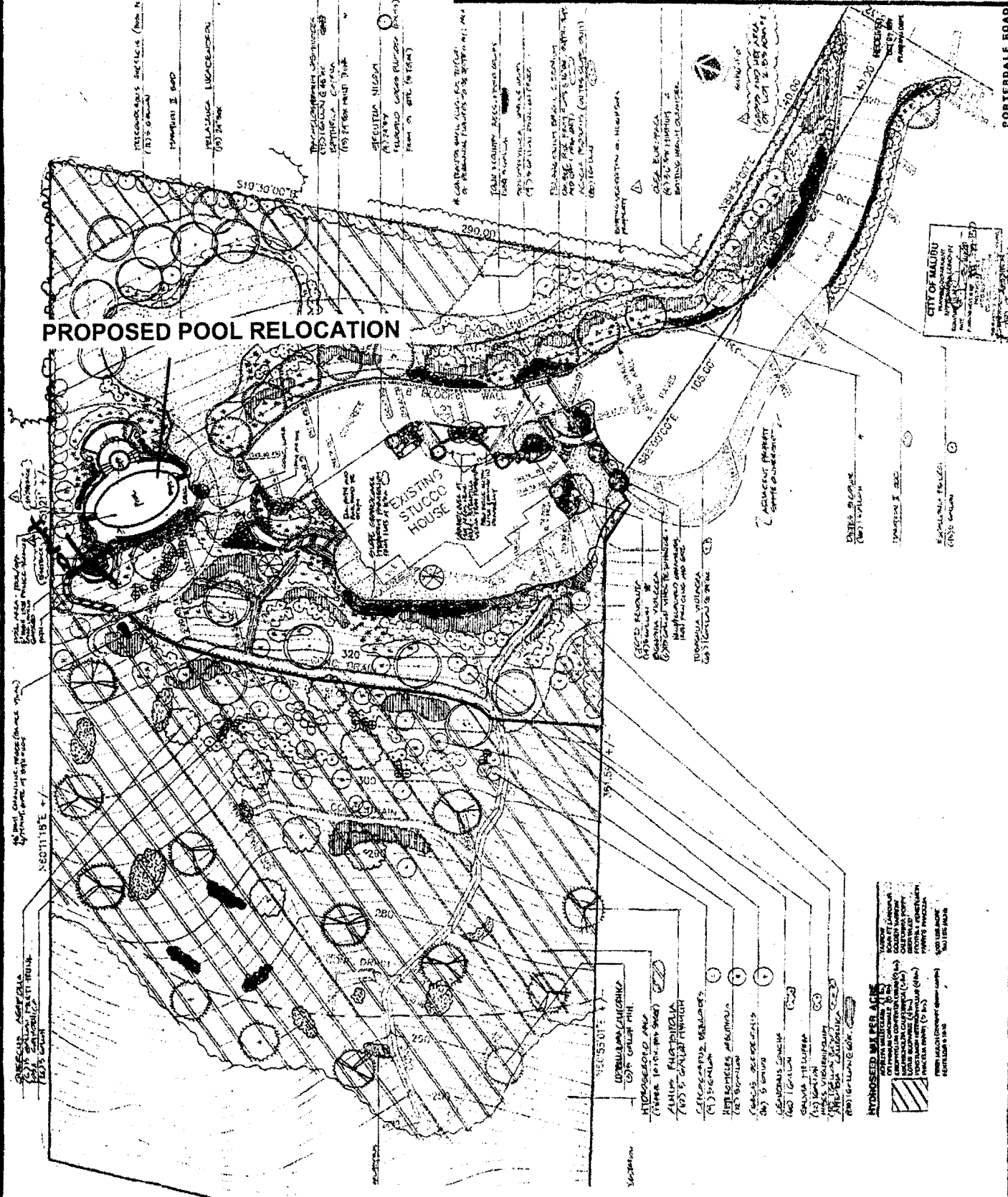


Exhibit 6
 4-95-015-A1

Proposed Pool Relocation

L. Newman Design Group, Inc.
 3100 W. Century Blvd. #100
 Malibu, CA 90265
 (818) 306-1111

MR. DAVID TRAUB
 6285 PORTERDALE RD
 MALIBU, CA. 90265

RESIDENCE-MALIBU

LANDSCAPE PLAN

Sheet 1 of 3
 OCT 14 1999

