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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff Report: 7/18/02
Hearing Date: 8/6-9/02
Commission Action:

**RECORD PACKET COPY****STAFF REPORT: CONSENT CALENDAR**

APPLICATION NO.: 4-02-100

APPLICANT: Agnes Itzhaki

AGENT: Marny Randall

PROJECT LOCATION: 5900 Zumirez Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of a split-level, 3-story, 28 ft. high, 4098 sq. ft. single-family residence with attached 2-car garage, new driveway, pool, sewage disposal system, retaining walls, and approximately 1150 cu. yds. grading (1100 cu. yds. cut, 50 cu. yds. fill, 1050 cu. yds. export),

Lot area:	62,475 sq. ft.
Building coverage:	3700 sq. ft.
Pavement coverage:	980 sq. ft.
Landscape coverage:	26,630 sq. ft.
Unimproved:	31,165 sq. ft.

LOCAL APPROVALS RECEIVED: City of Malibu, Planning Department, Approval In-Concept 4/25/02; City of Malibu, Geology and Geotechnical Engineering Review Sheet, Approved In-Concept 8/15/00; City of Malibu, Geology Referral Sheet 5/31/01; City of Malibu, Environmental Health, In-Concept Approval 7/13/01; City of Malibu, Biological Review Sheet, Approved In-Concept 4/18/02; County of Los Angeles, Fire Department, Fire Prevention Bureau, Preliminary Fuel Modification Plan Approval 4/01/01.

SUBSTANTIVE FILE DOCUMENTS: Updated Soils and Engineering-Geologic Investigation For Proposed Single Family Residence, prepared by GeoSystems, dated 8/27/97; Response to Geology and Geotechnical Engineering Review Sheet Proposed Single Family Residence, prepared by GeoSystems, dated 6/3/98; Seepage Pit Percolation Investigation, prepared Alpine Geotechnical, dated 11/06/99.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with ten (10) special conditions relative to 1) Conformance with Geologic Recommendations, 2) Drainage and Polluted Run-Off Control, 3) Pool and Spa Drainage and Monitoring, 4) Landscaping and Erosion Control, 5) Removal of Natural Vegetation, 6) Disposal of Excess Grading Material, 7) Wildfire Waiver of Liability, 8) Structural Appearance, 9) Future Development Restriction, and 10) Deed Restriction.

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

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-02-100 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

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

III. SPECIAL CONDITIONS

1. Plans Conforming to Geologic Recommendations

All recommendations contained in the Updated Soils and Engineering-Geologic Investigation For Proposed Single Family Residence, prepared by GeoSystems, dated 8/27/97; Response to Geology and Geotechnical Engineering Review Sheet Proposed Single Family Residence, prepared by GeoSystems, dated 6/3/98; Seepage Pit Percolation Investigation, prepared Alpine Geotechnical, dated 11/06/99, shall be incorporated into all final design and construction including foundations, drainage, and sewage disposal. Final plans must be reviewed and approved by the project's consulting geotechnical engineer and engineering geologist.

Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, two sets of plans with evidence of the consultants' review and approval of all project plans. Final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, drainage, and sewage disposal. 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.

2. Drainage and Polluted Runoff Control Plans

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geotechnical engineer and engineering geologist to ensure the plan is in conformance with consultants' recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), 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 when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

3. Pool and Spa Drainage and Maintenance

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for review and approval of the Executive Director, a written pool and spa maintenance plan, that contains an agreement to install and use a no chlorine or low chlorine purification system and a program to maintain proper pH, calcium and alkalinity balance in a manner that any runoff or drainage from the pool or spa will not include excessive

amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area. In addition, the plan shall, at a minimum: 1) prohibit discharge of chlorinated pool water and 2) prohibit discharge of chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters. The Permittees shall undertake development and maintenance in compliance with this pool and spa maintenance agreement and program approved by the Executive Director. No changes shall be made to the agreement or plan unless they are approved by the Executive Director.

4. Landscaping and Erosion Control Plans

Prior to issuance of the coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the geotechnical consultants to ensure that the plans are in conformance with the consultants' recommendations. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

A. Landscaping Plan

- (1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Plantings should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- (4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the

Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

- (5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
- (6) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen the proposed structures to minimize potential impacts of public views from Kanan Dume, Walnut Canyon, and the public hiking/equestrian trail that is located along Cavalleri Road.

B. Interim Erosion Control Plan

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- (3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary

drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C. Monitoring

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

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

5. Removal of Natural Vegetation

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

6. Disposal of Excess Grading Material

Prior to issuance of the Coastal Development Permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site, including any building or construction debris. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required

7. 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.

8. Structural Appearance

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by approval of Coastal Development Permit 4-02-100. 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 4-02-100 if such changes are specifically authorized by the Executive Director as complying with this special condition

9. Future Development Restriction

This permit is only for the development described in Coastal Development Permit 4-02-100. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by Coastal Development Permit 4-02-100. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), and 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 4 shall require an amendment to Coastal Development Permit 4-02-100 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

10. Deed Restriction

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to construct a split-level, 3-story, 28 ft. high, 4098 sq. ft. single-family residence with an attached 2-car garage, new driveway, pool, sewage disposal system, retaining walls, and approximately 1150 cu. yds. grading (1100 cu. yds. cut, 50 cu. yds. fill, 1050 cu. yds. export), Exhibits 3-8.

The project site is a vacant, approximate 1 ½ -acre parcel accessed via a private access road from Zumirez Drive on the inland side of Pacific Coast Highway in the City of Malibu (Exhibits 1,2). The subject site consists of a relatively level building pad adjacent to the private access road at the north property boundary, and of sloped hillside terrain that descends from the pad approximately 100 ft. toward the southern portion of the property. The proposed project will be sited such that the most level portions of the site along the north property boundary adjacent to the private access road will be utilized as the primary building location.

Vegetation at the subject site is substantially degraded over the relatively level portions of the site adjacent to the north property boundary and on the building pad due to the private access road improvements and brush clearance procedures associated with adjacent development and the access road. However, the subject site contains coastal sage scrub on the sloped portion of the parcel as the site descends from the building

pad. Additionally, the subject site also contains a stand of *Calochortus plummerae*, which is a California Native Plant Society designated as a 1B rare plant species. In response to the sensitive and rare native vegetation that exists on the hillside portion of the property downslope of the proposed building site the applicant has submitted a fuel modification plan with modified fuel modification zones that will eliminate the requirement for extensive irrigation and thinning of the naturally vegetated slopes on the site, thereby minimizing potential impacts to the native habitat area. The fuel modification plan implements a habitat protection area on the sloped portions of the site and indicates that no removal, thinning, and irrigation of the *Calochortus plummerae* will be required, and that this plant species will remain in its undisturbed natural condition.

In addition, the applicant has submitted a fuel modification/brush clearance exhibit that illustrates offsite brush clearance requirements that are likely to be imposed on adjacent property for fire protection measures for the proposed residence (Exhibit 9). As the exhibit indicates, because the proposed project is sited directly adjacent to an existing access road and in close vicinity to other developed parcels, offsite brush clearance requirements likely to be imposed for the proposed project will overlap with areas presently affected by such requirements enforced for existing adjacent development. However, the fuel modification/brush clearance exhibit indicates that the normally required 200 ft. fuel modification/brush clearance zone for the proposed residence will extend onto areas that are presently not subject to brush clearance requirements beyond the south and east property boundaries of the subject site. However, the offsite area that may potentially be affected by brush clearance requirements is on the order of 0.38 acres, therefore, impacts to existing natural vegetation on offsite, adjacent parcels will be minimal.

The area surrounding the project site is moderately developed with custom single family residences. The proposed project will be consistent with the scale and character of existing development in the project area. The proposed project will not be visible from any designated scenic roadways, however, a hiking and equestrian trail easement traverses the easternmost property boundary of the site along Zumirez Drive from which the proposed development will be visible (Exhibit 3).

B. Geology and Fire Hazard

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

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.**
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.**

Geology

Section 30253 of the Coastal Act mandates that new development shall 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 an Updated Soils and Engineering-Geologic Investigation For Proposed Single Family Residence, prepared by GeoSystems, dated 8/27/97; Response to Geology and Geotechnical Engineering Review Sheet Proposed Single Family Residence, prepared by GeoSystems, dated 6/3/98; and Seepage Pit Percolation Investigation, prepared Alpine Geotechnical, dated 11/06/99, which evaluate the proposed development in relation to the geologic stability of the site. Based on their evaluation of the site's geology and the proposed development the consultants have found that the project site is suitable for the proposed project. The Updated Soils and Engineering-Geologic Investigation For Proposed Single Family Residence, prepared by GeoSystems, dated 8/27/97, states:

It is the finding of this firm that the proposed building and or grading will be safe and that the site will not be affected by any hazard from landslide, settlement or slippage and the completed work will not adversely affect adjacent property in compliance with the County code, provided our recommendations are followed.

The consulting geotechnical engineer and engineering geologist conclude that the proposed development is feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The Updated Soils and Engineering-Geologic Investigation For Proposed Single Family Residence, prepared by GeoSystems, dated 8/27/97; Response to Geology and Geotechnical Engineering Review Sheet Proposed Single Family Residence, prepared by GeoSystems, dated 6/3/98; and Seepage Pit Percolation Investigation, prepared Alpine Geotechnical, dated 11/06/99 contain several recommendations to be incorporated into project construction, design, sewage disposal and drainage to ensure the stability and geologic safety of the proposed project site and adjacent property. To ensure that the recommendations of the consultants have been incorporated into all proposed development the Commission, as specified in **Special Condition 1**, requires the applicant to submit project plans certified by the consulting geotechnical engineer and engineering geologist as conforming to all structural and site stability recommendations for the proposed project. 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 4. 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 4** 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 4 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/foilage weight. The Commission finds that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. 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 4.

Furthermore, to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition 5**. This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The limitation imposed by Special Condition 5 avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

In addition, 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 1050 cu. yds. of graded earth material. The Commission finds that stockpiling of graded and excavated material may result in excess erosion and sedimentation and, if retained onsite, may lead to additional landform alteration. Therefore, **Special Condition 6** 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.

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 7**, 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 6, 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.

The Commission finds that, as conditioned to incorporate all recommendations defined by the project's geotechnical and geologic engineering consultant for construction, design, drainage, erosion control, and landscaping, and inclusion of the wildfire waiver of liability, the proposed project is consistent with Section 30253 of the Coastal Act.

C. VISUAL IMPACTS

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and protected and states:

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

The project site is located in an area of the City of Malibu moderately developed with single-family residences. The proposed project will be consistent with the character of surrounding development and will not be visible from any designated scenic roadways. The proposed project will not exceed 28 ft. in height and is designed to step-down with the natural contours of the project site so that it will not block or interfere with any significant view shed. The step-down design of the residence will also eliminate the need for excessive grading and landform alteration. Despite these measures to reduce the overall visual impact of the proposed development, however, the proposed project will be visible from a hiking and equestrian trail easement that exists along Zumirez Drive at the eastern property boundary (Exhibit 9). Thus, the Commission finds it necessary to require mitigation measures to minimize visual impacts of the proposed project on public views.

Requiring the residence to be finished in a color consistent with the surrounding natural landscape and, further, by requiring that windows of the proposed structure be of a non-reflective glass type, can minimize impacts on public views. To ensure visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as detailed by **Special Condition 8**.

Visual impacts associated with proposed grading, and the structure itself, can be further reduced by the use of appropriate and adequate landscaping. **Special Condition 4**, the landscape and fuel modification plan, incorporates the requirement that vertical screening elements be added to the landscape plan to soften views of the proposed residence from the hiking and equestrian trail. In addition, Special Condition 4 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. Implementation of Special Condition 4 will partially screen the proposed structures and soften the visual impact of the development from the hiking and equestrian trail. To ensure that the final approved landscaping plans are successfully implemented, Special Condition 4 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.

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 any future development or improvements normally associated with the entire property, which might otherwise be exempt, is reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the Coastal Act. **Special Condition 9**, the Future Development Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Finally, **Special Condition 10** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the subject property.

The proposed project, as conditioned, will not result in a significant adverse impact to scenic public views or character of the surrounding area. Therefore the Commission finds that, as conditioned, the proposed development 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 effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

As described in detail in the previous sections, the applicant is proposing to develop the subject site with a new single-family residence and other appurtenant structures on a vacant parcel that consists of hillside terrain.

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

coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

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

For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition 2**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

In addition, the proposed project is conditioned to also implement a pool and spa drainage and monitoring plan to prevent uncontrolled drainage of chemically treated pool water to coastal streams and drainages. The pool and spa drainage and monitoring plan, as detailed in **Special Condition 3**, requires the applicant to submit a written pool and spa maintenance plan, that contains an agreement to monitor and maintain pool and spa water and drainage such that the waters will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area. Special condition 3 further prohibits discharge of pool water directly into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter and receiving waters.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition 4** 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 to serve the residence. The City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

Therefore, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

E. Local Coastal Program

Section 30604 of the Coastal Act states:

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

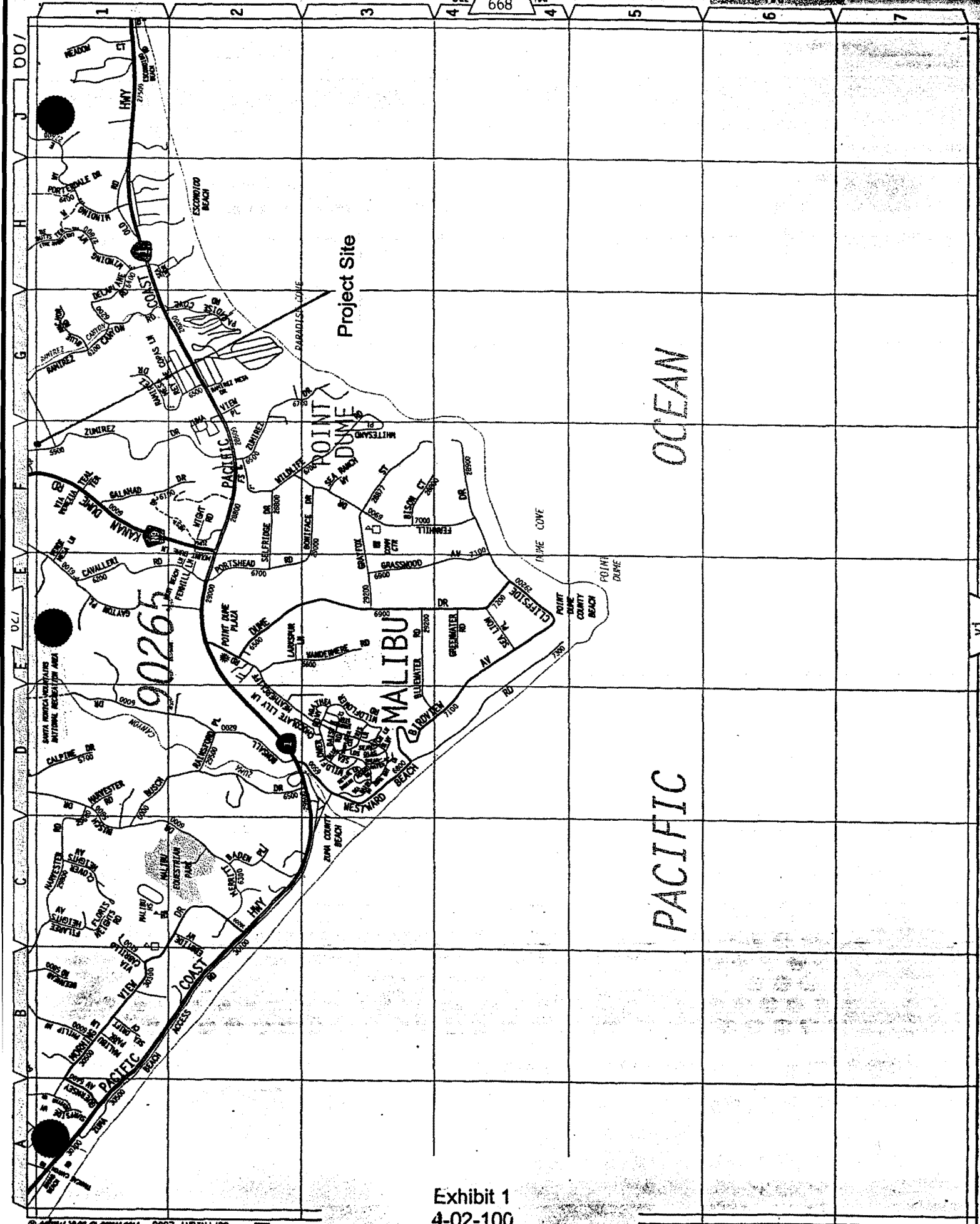
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act.

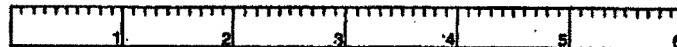
The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for the Santa Monica Mountains area which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. California Environmental Quality Act

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

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





SCALE IN 1/16 OF AN INCH

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ALL 1" = 200'

1997

DETAIL
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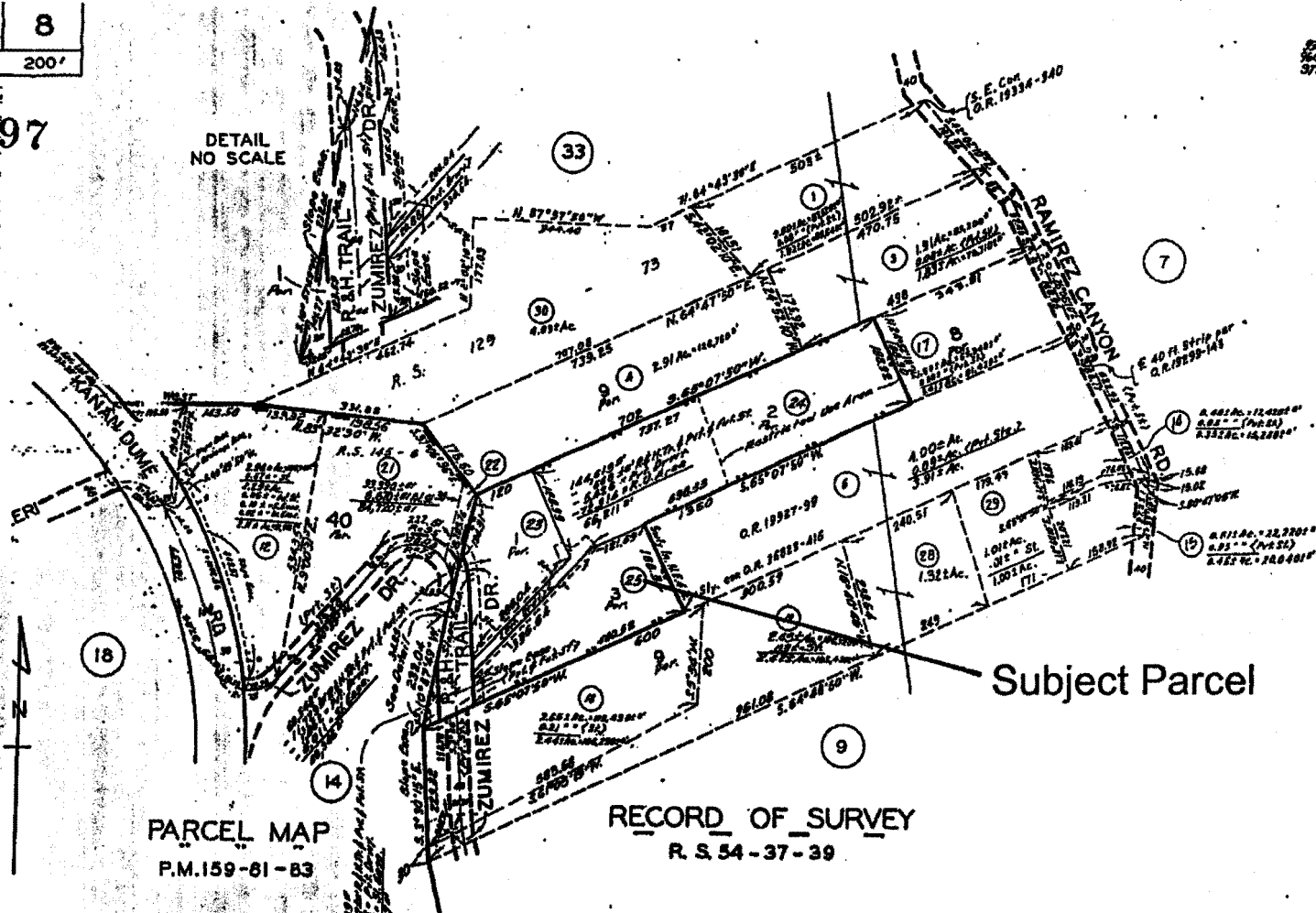
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REVISIT
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10-22-05

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Exhibit 2
4-02-100
Parcel Map



Subject Parcel

PARCEL MAP
P.M. 159-81-83

RECORD OF SURVEY
R. S. 54 - 37 - 39

LAND OF MATTHEW KELLER
IN THE RANCHO TOPANGA MALIBU SEQUIT
R. F. 534

FEB 07 1997

ASSESSOR'S MAP

CODE
10853

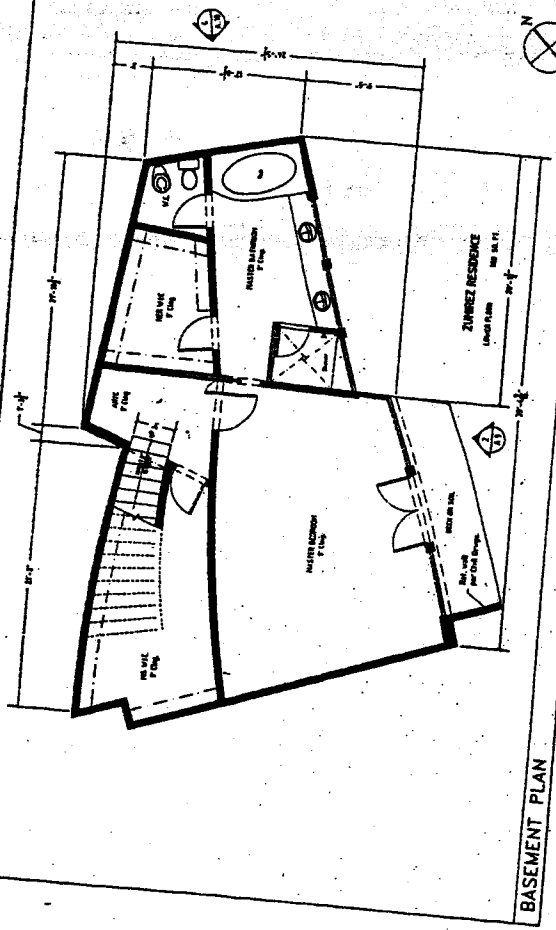
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4467-8,33

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 Malibu, CA 90265

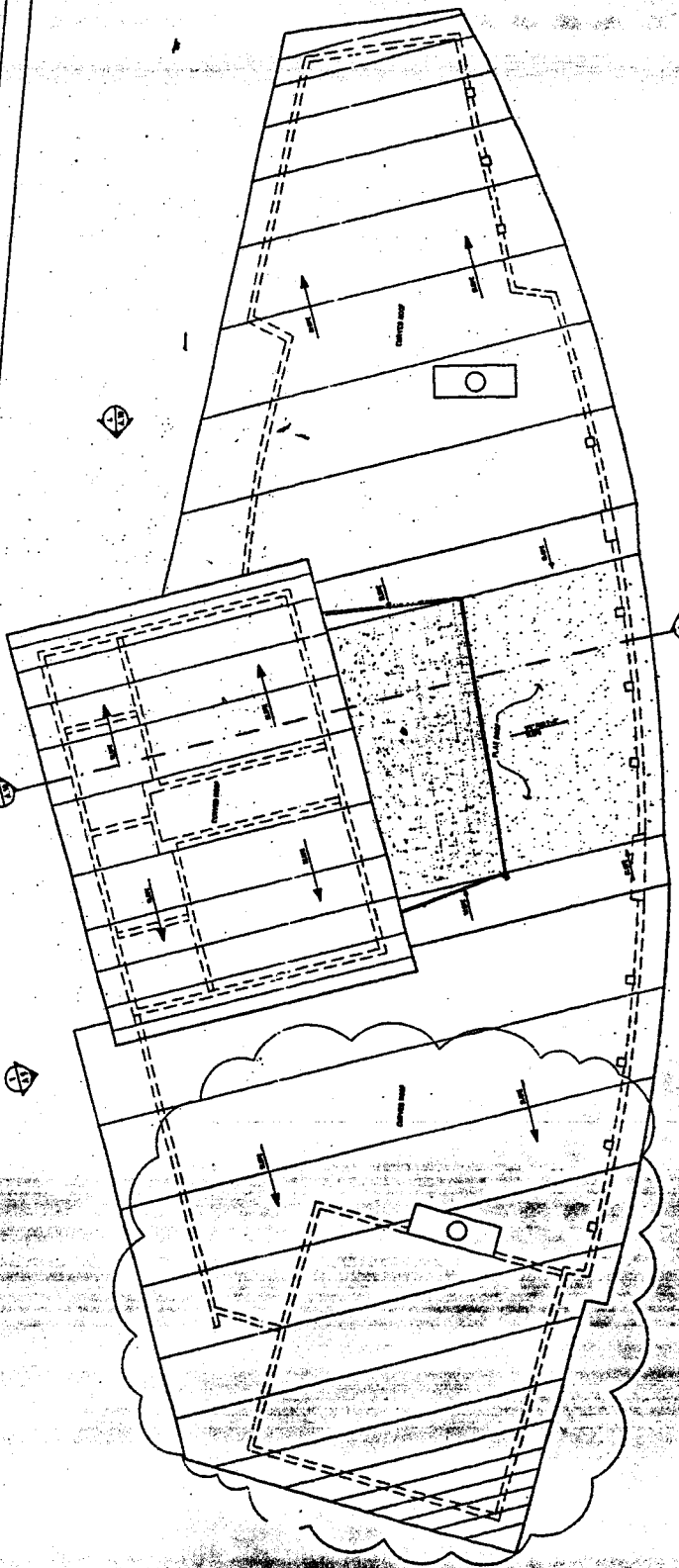
DIRECTIONS
 STUDIO
 5863 Malibu Canyon Road
 Malibu, CA 90265
 310.589.5093

BASEMENT & ROOF PLAN	
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Date	10/1/88
Drawn	W.P.
Check	W.P.
Rev	1

A.6



BASMENT PLAN



ROOF PLAN

Exhibit 4
4-02-100
Lower Level Floor Plan



MAIN FLOOR PLAN

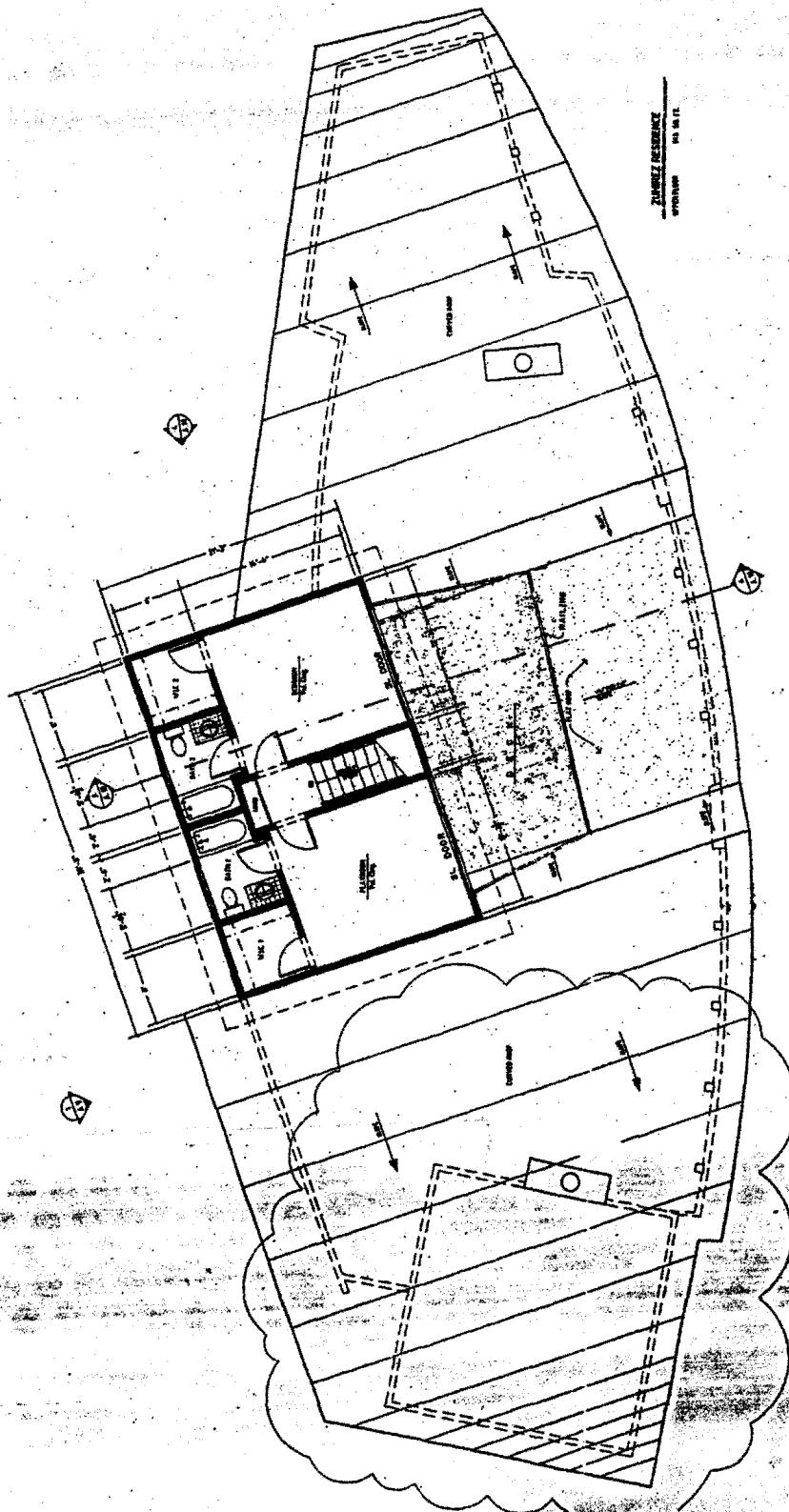
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2		
3		
4		
5		

DIRECTIONS
 STUDIO
 5863 Ramirez Canyon Road
 Malibu, CA 90265
 310.589.5093

ZUMIREZ RESIDENCE
 5900 Zumirez Drive
 Malibu, CA, 90265

UPPER FLOOR PLAN
 Date: Jan 15, 2002
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 Scale: 1/8" = 1'-0"

A-5



UPPER FLOOR PLAN

Exhibit 6
 4-02-100
 Upper Level Floor Plan

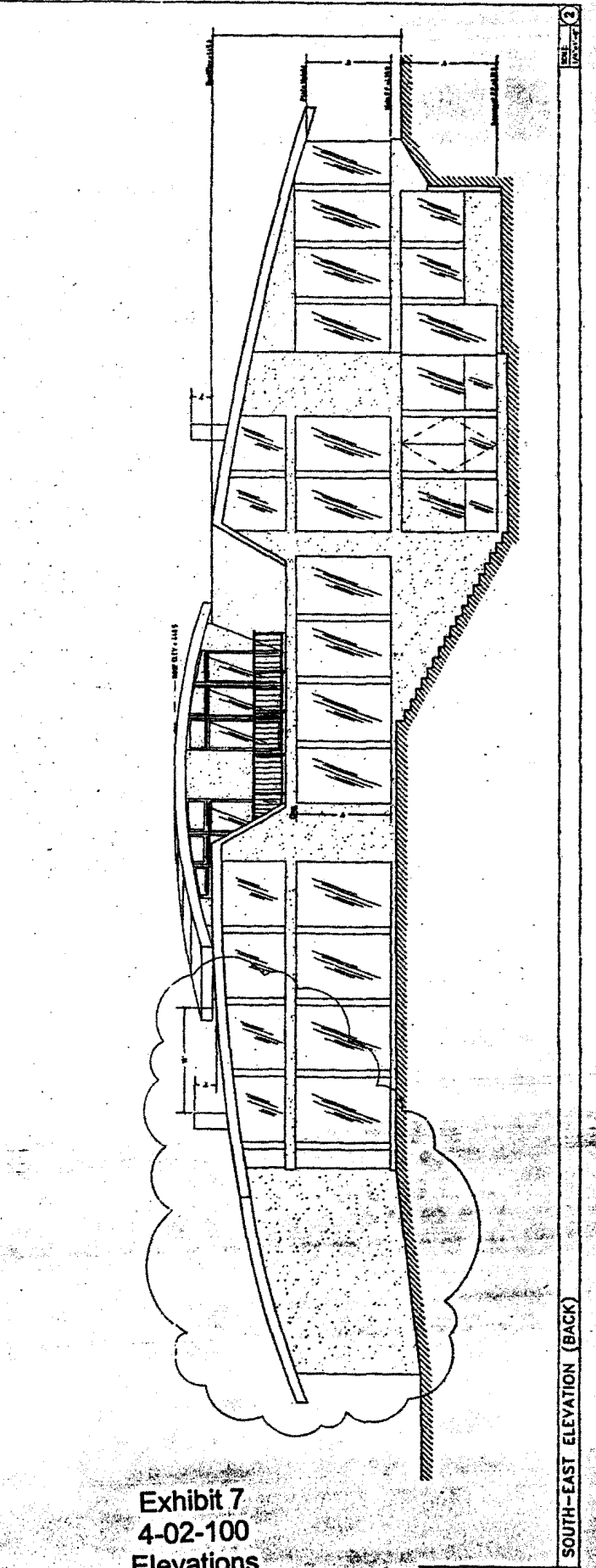
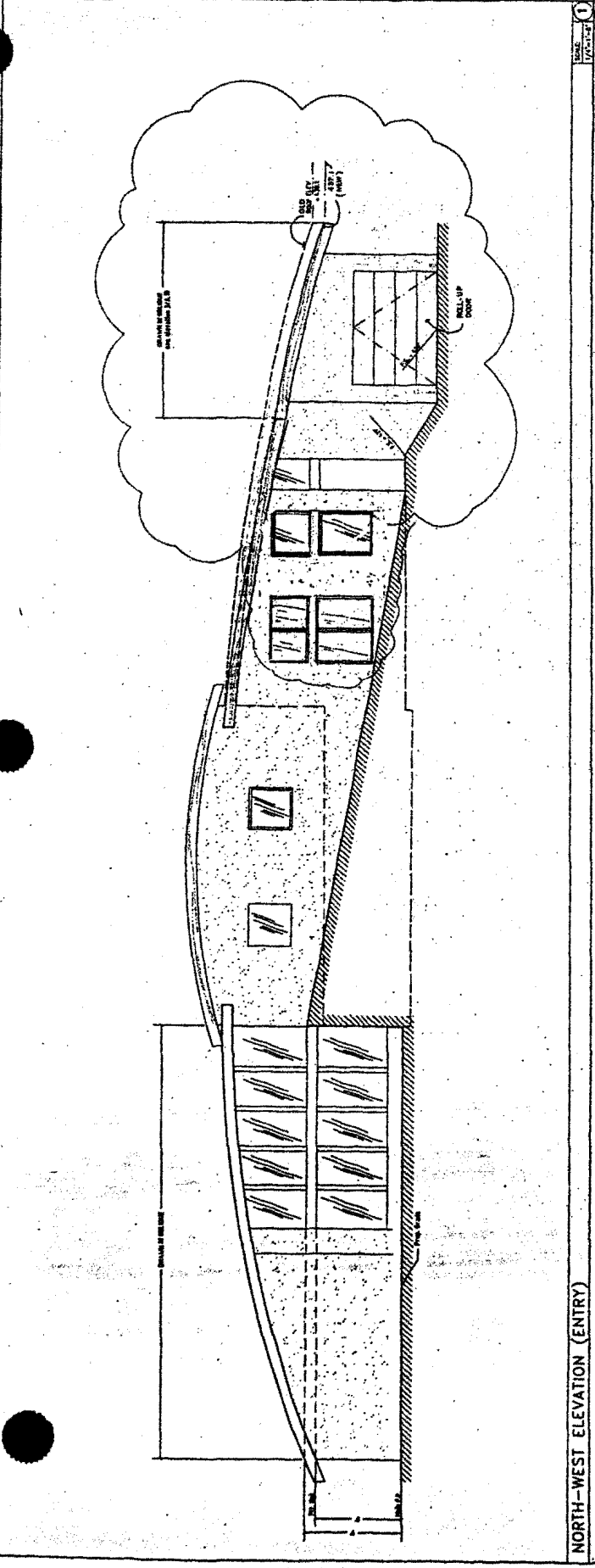


Exhibit 7
4-02-100
Elevations

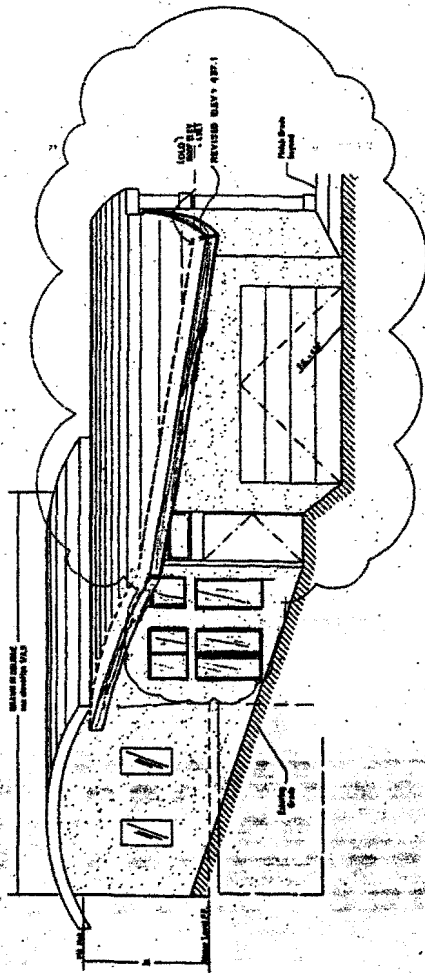
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APPROVED	

DEJECTIONS
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Malibu, CA 90265
310.589.5093

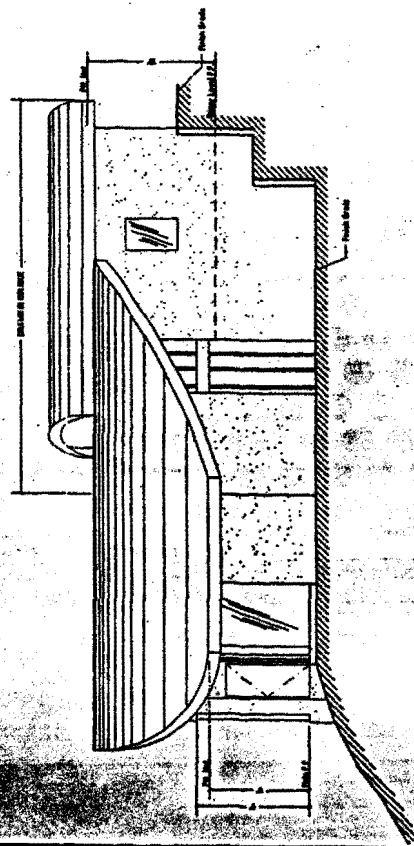
• ZUMIREZ RESIDENCE •
5900 Zumirez Drive
Malibu, CA, 90265

ELEVATIONS & SECTION	
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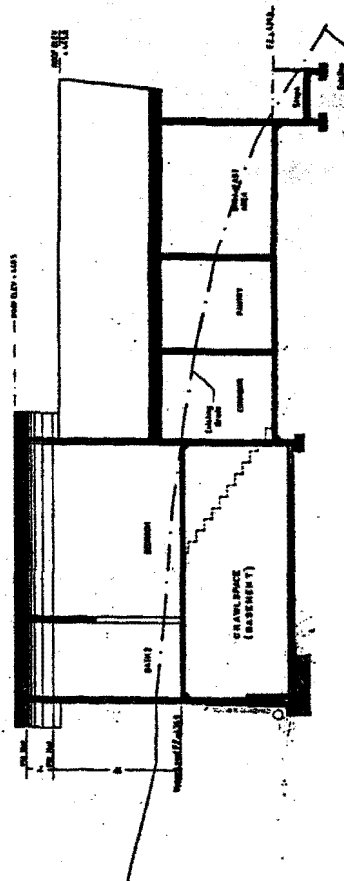
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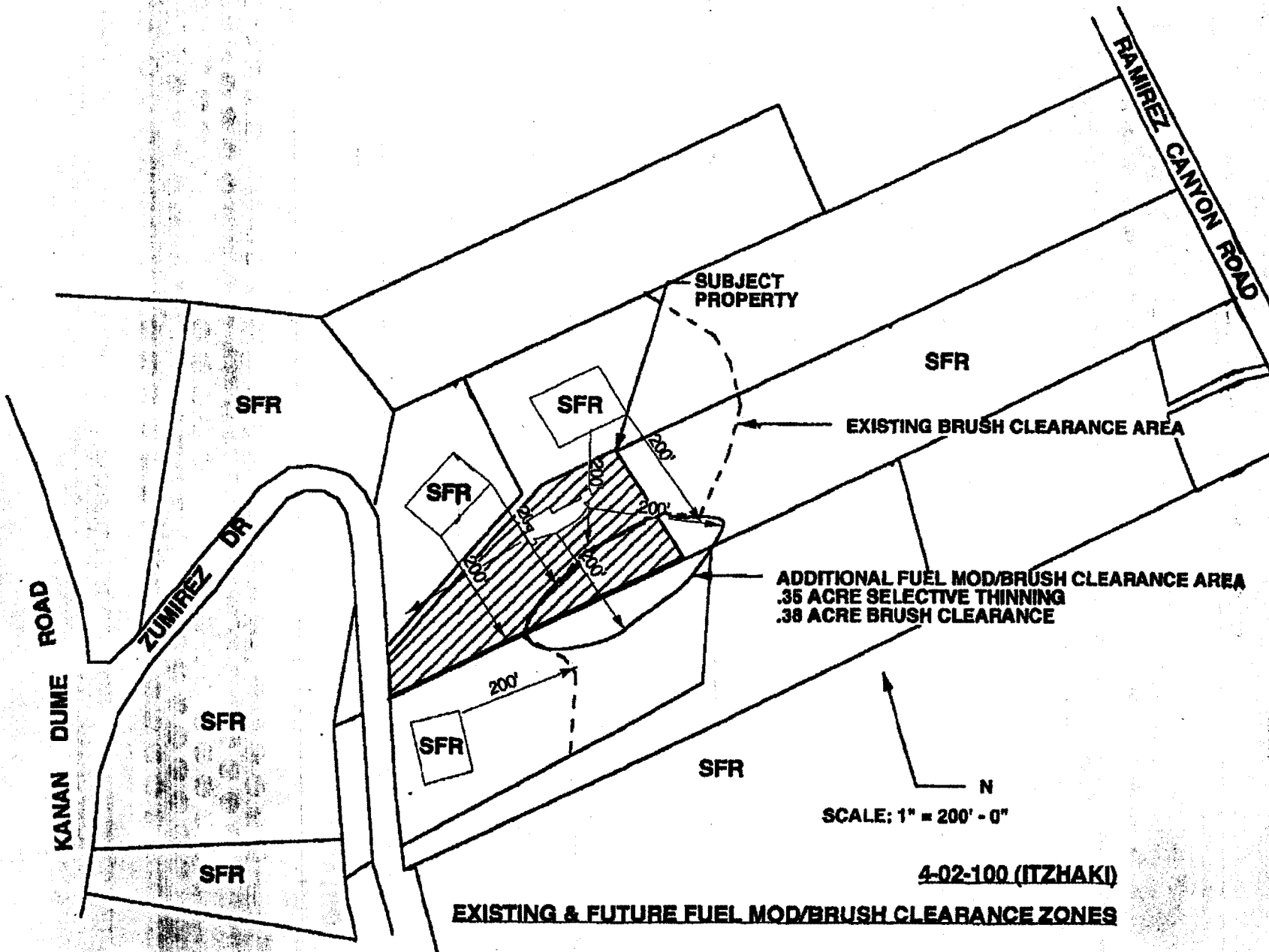
SOUTH-WEST ELEVATION



NORTH-EAST ELEVATION



A-A SECTION



4-02-100 (ITZHAKI)
EXISTING & FUTURE FUEL MOD/BRUSH CLEARANCE ZONES

