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CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
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49th Day:	11/1/02
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Staff:	K. Kemmler
Staff Report:	2/19/03
Hearing Date:	3/4-7/03
Commission Action:	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-02-108

APPLICANT: Marco & Jill Beltrami

AGENTS: Gary Williamson

PROJECT LOCATION: 3096 Sumac Ridge Road, City of Malibu (Los Angeles County)

APN NO.: 4451-016-034

PROJECT DESCRIPTION: Construction of a 5,905 sq. ft., two story single family residence with a 4,535 sq. ft. basement including a 2 garages, a rec room, exercise room, wine cellar and storage, a 1,110 sq. ft. attached music studio, stone terraces, an outdoor fireplace, a pool and spa with waterfall, a driveway and parking area, 6 ft. high max. retaining walls, an entry gate, a septic system and performance of 4,200 cu. yds. of grading (2,200 cu. yds. cut and 2,000 cu. yds. fill, 200 cu. yds. export). Proposal also includes a request for after-the-fact approval of a temporary 144 sq. ft. covered viewing platform to be removed upon completion of the music studio.

Lot Area	14 acres
Building Coverage	6,426 sq. ft.
Impermeable Coverage	11,090 sq. ft.
Landscape Coverage	1.5 acres
Height Above Finished Grade	28 ft.
Parking Spaces	5

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, May 6, 2002; City of Malibu Biology Review, Approval in Concept, February 25, 2002; City of Malibu Geology Review, Approval in Concept, February 6, 2002; City of Malibu Environmental Health, Approval in Concept, January 30, 2002; County of Los Angeles Fire Department, Final Fuel Modification Plan Approval, January 28, 2003; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, May 6, 2002.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu Local Coastal Program; "Preliminary Geologic and Soils Engineering Investigation," SubSurface Designs, Inc., April 4, 2001; "Addendum I: Response to City of Malibu Review Sheet," SubSurface Designs, Inc., December 3, 2001; "A Phase I Archeological Study", Historical, Environmental, Archeological, Research, Team, February, 2001; Los Angeles County, (Unconditional) Certificate of Compliance No. 4068 (recorded as document no. 81-1125182).

STAFF NOTE: DUE TO PERMIT STREAMLINING ACT REQUIREMENTS THE COMMISSION MUST ACT ON THIS PERMIT APPLICATION AT THE MARCH 2003 COMMISSION HEARING.

Summary of Staff Recommendation

Staff recommends ***APPROVAL*** of the proposed project with ***TWELVE (12) SPECIAL CONDITIONS*** regarding (1) geologic recommendations, (2) erosion control, drainage and polluted runoff control, (3) landscaping plans, (4) wildfire waiver, (5) onsite wastewater treatment system requirements, (6) future development, (7) lighting restriction, (8) deed restriction, (9) habitat impact mitigation, (10) removal of excess excavated material, (11) removal of temporary structure and (12) condition compliance.

I. STAFF RECOMMENDATION

MOTION: ***I move that the Commission approve Coastal Development Permit No. 4-02-108 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 Malibu Local Coastal Program. 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 term or condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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 Preliminary Geologic and Soils Engineering Investigation dated April 4, 2001 prepared by SubSurface Designs, Inc. shall be incorporated into all final design and construction including *foundations, grading, sewage disposal* and *drainage.* Final plans must be reviewed and approved by the project's consulting geotechnical engineer and 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 consultant's 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, sewage disposal 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.

2. 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) a ***Local Storm Water Pollution Prevention Plan (SWPPP)*** to control erosion and contain polluted runoff during the construction phase of the project; and b) a ***Water Quality Mitigation Plan (WQMP)*** for the management *and* treatment of post-construction storm water and polluted runoff. The plans shall be certified by a California Registered Civil Engineer or Licensed Architect and approved by the City's Department of Public Works, and include the information and measures outlined below.

a) ***Local Storm Water Pollution Prevention Plan***, for the construction phase of the project shall include at a minimum the following:

- Property limits, prior-to-grading contours, and details of terrain and area drainage
- Locations of any buildings or structures on the property where the work is to be performed and the location of any building or structures of adjacent owners that are within 15 ft of the property or that may be affected by the proposed grading operations

- Locations and cross sections of all proposed temporary and permanent cut-and-fill slopes, retaining structures, buttresses, etc., that will result in an alteration to existing site topography (identify benches, surface/subsurface drainage, etc.)
- Area (square feet) and volume (cubic yards) of all grading (identify cut, fill, import, export volumes separately), and the locations where sediment will be stockpiled or disposed
- Elevation of finished contours to be achieved by the grading, proposed drainage channels, and related construction
- Details pertaining to the protection of existing vegetation from damage from construction equipment, for example: (a) grading areas should be minimized to protect vegetation; (b) areas with sensitive or endangered species should be demarcated and fenced off; and (c) native trees that are located close to the construction site should be protected by wrapping trunks with protective materials, avoiding placing fill of any type against the base of trunks, and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees
- Information on potential flow paths where erosion may occur during construction
- Proposed erosion and sediment prevention and control BMPs, both structural and non-structural, for implementation during construction, such as:
  - Stabilize disturbed areas with vegetation, mulch, geotextiles, or similar method.
  - Trap sediment on site using fiber rolls, silt fencing, sediment basin, or similar method.
  - Ensure vehicles on site are parked on areas free from mud; monitor site entrance for mud tracked off-site.
  - Prevent blowing dust from exposed soils.
- Proposed BMPs to provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials, such as:
  - Control the storage, application and disposal of pesticides, petroleum and other construction and chemical materials.
  - Site washout areas more than fifty feet from a storm drain, open ditch or surface water and ensure that runoff flows from such activities do not enter receiving water bodies.
  - Provide sanitary facilities for construction workers.
  - Provide adequate disposal facilities for solid waste produced during construction and recycle where possible.

b) ***Water Quality Management Plan***, for the management and treatment of post construction storm water and polluted runoff shall at a minimum include the following:

- Site design, source control and treatment control BMPs that will be implemented to minimize or prevent post-construction polluted runoff (see 17.5.1 of the Malibu LIP)
- Pre-development peak runoff rate and average volume
- Drainage improvements (e.g., locations of diversions/conveyances for upstream runoff)
- Potential flow paths where erosion may occur after construction
- Expected post-development peak runoff rate and average volume from the site with all proposed non-structural and structural BMPs
- Methods to accommodate onsite percolation, revegetation of disturbed portions of the site, address onsite and/or offsite impacts and construction of any necessary improvements
- Measures to treat, infiltrate, or filter runoff from impervious surfaces (e.g., roads, driveways, parking structures, building pads, roofs, patios, etc.) on the subject parcel(s)

and to discharge the runoff in a manner that avoids erosion, gullying on or downslope of the subject parcel, ponding on building pads, discharge of pollutants (e.g., oil, heavy metals, toxics) to coastal waters, or other potentially adverse impacts. Such measures may include, but are not limited to, the use of structures (alone or in combination) such as on-site desilting basins, detention ponds, dry wells, biofilters, etc.

- A long-term plan and schedule for the monitoring and maintenance of all drainage-control devices. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior to September 30th of each year. Owners of these devices will be responsible for insuring that they continue to function properly and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, should be carried out prior to the next rainy season
- Post-construction Treatment Control 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.

3. Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicants shall submit two sets of landscaping, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping shall be reviewed and approved by the geotechnical engineering and geologic consultant to ensure that the plans are in conformance with the consultant's recommendations. Cut and fill slopes and other areas disturbed by construction activities (including areas disturbed by fuel modification or brush clearance) shall be landscaped or revegetated. The plans shall incorporate the following criteria:

A. Plant Species

1. Plantings shall be native, drought-tolerant plant species, and shall blend with the existing natural vegetation and natural habitats on the site, except as noted in (A)(3) below. The native plant species shall be chosen from those 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.

2. Invasive plant species, as identified 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 and identified in the City of Malibu's Invasive Exotic Plant Species of the Santa Monica Mountains, dated March 17, 1998, that tend to supplant native species and natural habitats shall be prohibited.

3. Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone (Zone A) required for fuel modification nearest approved residential structures. Irrigated lawn, turf and ground cover shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

4. Limited crop, orchard or vineyard use may be allowed within the irrigated fuel modification area (Zones A and/or B) for the approved structures only if such use is not located on slopes greater than 3:1, does not result in any expansion to the required fuel modification area, and does not increase the possibility of in-stream siltation or pollution from herbicides or pesticides.

B. Timing of Landscaping

1. All cut and fill slopes shall be stabilized with landscaping at the completion of final grading.

2. The building pad and all other graded or disturbed areas on the subject site shall be planted within sixty (60) days of receipt of the certificate of occupancy for the residence.

C. Landscaping Coverage Standards.

Landscaping or revegetation shall provide 90 percent coverage within five years, or that percentage of ground cover demonstrated locally appropriate for a healthy stand of the particular native vegetation type chosen for restoration. Landscaping or revegetation that is located within any required fuel modification thinning zone (Zone C, if required by the Los Angeles County Fire Department) shall provide 60 percent coverage within five years.

4. Wildfire Waiver of Liability

Prior to the issuance of a coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, and 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 wildfire exists as an inherent risk to life and property.

5. Onsite Wastewater Treatment System Requirements

Prior to the Issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director a report and plans verifying that the proposed OSTS complies with the policies and provisions in the Malibu LCP pertaining to the siting, design, installation, operation and maintenance requirements for OSTSs. The report and plans shall be prepared by a qualified professional and approved by the City's Environmental Health Department, and comply with sections 18.4, 18.7 and 18.9 of the Malibu LIP.

Prior to the receipt of the certificate of occupancy for the residence and recreation room, the applicant shall submit for the review and approval of the Executive Director verification that they have obtained a valid Standard Operating Permit from the City for the proposed OSTS. This permit shall comply with all of the operation, maintenance and monitoring provisions applicable to OSTSs contained in policies 18.4 and 18.9 of the Malibu LIP.

6. Future Development Restriction

This permit is only for the development described in coastal development permit No. 4-02-089. Pursuant to Title 14 California Code of Regulations §13250(b)(6), the exemptions otherwise

provided in Public Resources Code §30610(a) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-02-089, and any grading, clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition No. Three (3), shall require an amendment to Permit No. 4-02-089 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

7. Lighting Restriction

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.

2. Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

3. The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

8. Deed Restriction

Prior to 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 against the parcel(s) governed by this permit 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; and (2) imposing the 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 entire parcel or parcels governed by this permit. 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.

9. Habitat Impact Mitigation

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a map delineating all areas of coastal sage scrub habitat that are "environmentally sensitive habitat area" (ESHA), that will be disturbed by the

proposed development, including by fuel modification and brush clearance requirements on the project site and adjacent property. The coastal sage scrub ESHA areas on the site and adjacent property shall be delineated on a detailed map, to scale, illustrating the subject parcel boundaries and adjacent parcel boundaries if the fuel modification/brush clearance zones extend onto adjacent property. The delineation map shall indicate the total acreage for all coastal sage scrub ESHA both on and offsite, that will be impacted by the proposed development, including the fuel modification/brush clearance areas. The delineation shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains.

Mitigation shall be provided for impacts to the coastal sage scrub ESHA from the proposed development and fuel modification requirements by one of the three following habitat mitigation methods:

A. Habitat Restoration

1) Habitat Restoration Plan

Prior to the issuance of the coastal development permit, the applicant shall submit a habitat restoration plan, for the review and approval of the Executive Director, for an area of degraded coastal sage scrub habitat equivalent to the area of coastal sage scrub ESHA impacted by the proposed development and fuel modification area. The habitat restoration area may either be onsite or offsite within the coastal zone in the City of Malibu or in the Santa Monica Mountains. The habitat restoration area shall be delineated on a detailed site plan, to scale, that illustrates the parcel boundaries and topographic contours of the site. The habitat restoration plan shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains, and shall be designed to restore the area in question for habitat function, species diversity and vegetation cover. The restoration plan shall include a statement of goals and performance standards, revegetation and restoration methodology, and maintenance and monitoring provisions. If the restoration site is offsite the applicant shall submit written evidence to the Executive Director that the property owner agrees to the restoration work, maintenance and monitoring required by this condition and agrees not to disturb any native vegetation in the restoration area.

The applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating compliance with the performance standards outlined in the restoration plan and describing the revegetation, maintenance and monitoring that was conducted during the prior year. The annual report shall include recommendations for mid-course corrective measures. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If this report indicates that the restoration project has been in part, or in whole, unsuccessful, based on the approved goals and performance standards, the applicant shall submit a revised or supplemental restoration plan with maintenance and monitoring provisions, for the review and approval of the Executive Director, to compensate for those portions of the original restoration plan that were not successful. A report shall be submitted evaluating whether the supplemental restoration plan has achieved compliance with the goals and performance standards for the restoration area. If the goals and performance standards are not met within 10 years, the applicant shall submit an amendment to the coastal development permit for an alternative mitigation program.

The habitat restoration plan shall be implemented prior to occupancy of the residence.

2) Open Space Deed Restriction

No development, as defined in section 30106 of the Coastal Act shall occur in the habitat restoration area, as shown on the habitat restoration site plan, required pursuant to (A)(1) above.

Prior to the issuance of the coastal development permit, the owner of the habitat restoration area shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development and designating the habitat restoration area as open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of both the parcel and the open space area/habitat restoration area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3) Performance Bond

Prior to the issuance of the permit, the applicant shall post performance bonds to guarantee implementation of the restoration plan as follows: a) one equal to the value of the labor and materials; and b) one equal to the value of the maintenance and monitoring for a period of 5 years. Each performance bond shall be released upon satisfactory completion of items (a) and (b) above. If the applicant fails to either restore or maintain and monitor according to the approved plans, the Coastal Commission may collect the security and complete the work on the property.

B. Habitat Conservation

Prior to issuance of the coastal development permit, the applicant shall execute and record an open space deed restriction in a form and content acceptable to the Executive Director, over a parcel or parcels containing coastal sage scrub ESHA. The coastal sage scrub ESHA located on the mitigation parcel or parcels must be of equal or greater area than the ESHA area impacted by the proposed development, including the fuel modification/brush clearance areas. No development, as defined in section 30106 of the Coastal Act, shall occur on the mitigation parcel(s) and the parcel(s) shall be preserved as permanent open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of the parcel or parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

Prior to occupancy of the residence the applicant shall submit evidence, for the review and approval of the Executive Director, that the recorded documents have been reflected in the Los Angeles County Tax Assessor Records.

If the mitigation parcel is larger in size than the impacted habitat area, the excess acreage may be used to provide habitat impact mitigation for other development projects that impact like ESHA.

C. Habitat Impact Mitigation Fund

Prior to the issuance of the coastal development permit, the applicant the applicant shall submit evidence, for the review and approval of the Executive Director, that compensatory mitigation, in the form of an in-lieu fee, has been paid to the Santa Monica Mountains Conservancy to mitigate adverse impacts to coastal sage scrub habitat. The fee shall be based on the cost per acre to restore or create comparable habitat type, and the acreage of habitat affected. The fee shall be used for the acquisition or permanent preservation of coastal sage scrub habitat in the Santa Monica Mountains coastal zone.

10. Removal of Excess Excavated Material

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of the material.

11. Removal of Temporary Structure

With the acceptance of this coastal permit, the applicant agrees that the temporary viewing platform on the site shall be removed within two years of the issuance of this Coastal Development Permit or within thirty (30) days of the applicant's receipt of the Certificate of Occupancy for the proposed residence from the City of Malibu, whichever is less.

12. 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 applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant is proposing construction of a 5,905 sq. ft., two story single family residence with a 4,535 sq. ft. basement including a 2 garages, a rec room, exercise room, wine cellar and storage, a 1,110 sq. ft. attached music studio, stone terraces, an outdoor fireplace, a pool and spa with waterfall, a driveway and parking area, 6 ft. high max. retaining walls, an entry gate, a septic system and performance of 4,200 cu. yds. of grading (2,200 cu. yds. cut and 2,000 cu. yds. fill, 200 cu. yds. export) (Exhibits 3-11). Proposal also includes a request for after-the-fact approval of a temporary 144 sq. ft. covered viewing platform to be removed upon completion of the music studio.

The subject property is an irregularly shaped parcel, approximately 14 acres in size (Exhibit 2). The project site is currently vacant and is located on the east side of Tantalus Drive in the City of Malibu (Exhibit 1). There is environmentally sensitive habitat area (ESHA) onsite, which is mapped as such in the Malibu LCP. The entire site supports sensitive habitat with the exception of an existing disturbed area that was previously graded, which includes a road that leads to a pad and a path leading away from the pad on the opposite side. Staff determined from Commission aerial photographs that the grading and vegetation removal in this area occurred prior to 1977. In addition, the applicant submitted multiple historical and current USGS maps and topography surveys to support this conclusion. The proposed development overlies this graded area, excepting the path, which will be restored and planted with native vegetation in order to partially mitigate for adverse impacts to ESHA onsite (see further discussion in Section C. below). Given the existing building pad and previous disturbance in that area, the residence is proposed in the most appropriate location. The areas to the west and south of the project site consist of similar residential development and the site is not visible from any public viewing areas. The submitted archeological study states that no archeological resources were encountered in the project area and no adverse impacts to cultural resources will result from the proposed project.

On September 13, 2002, the Commission adopted the Malibu Local Coastal Program (LCP). The subject permit application was filed prior to the date the LCP was adopted and therefore remains under the jurisdiction of the Commission. Prior to the adoption of the LCP the standard of review for permit applications in Malibu were the chapter three policies Coastal Act. After the adoption of the LCP the standard of review for permit applications is the LCP.

B. HAZARDS

The proposed development is located on a vacant lot in Malibu, an area generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Malibu 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.

The Malibu Local Coastal Program (LCP) contains the following development policies related to hazards and new development that are applicable to the proposed development:

Section 30253 of the Coastal Act, which is incorporated as part of the Malibu LCP, 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.***

In addition, the following LCP policies are applicable in this case:

> ***3.119 New development that requires a grading permit or Local SWPPP shall include landscaping and re-vegetation of graded or disturbed areas, consistent with Policy 3.50. Any landscaping that is required to control erosion shall use native or drought-tolerant***

non-invasive plants to minimize the need for fertilizer, pesticides, herbicides, and excessive irrigation. Where irrigation is necessary, efficient irrigation practices shall be required.

4.2 All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.

4.5 Applications for new development, where applicable, shall include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such reports shall be signed by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) and subject to review and approval by the City Geologist.

4.10 New development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams.

4.45 New development shall minimize risks to life and property from fire hazard through:

- *Assessing site-specific characteristics such as topography, slope, vegetation type, wind patterns etc.;*
- *Siting and designing development to avoid hazardous locations;*
- *Incorporation of fuel modification and brush clearance techniques in accordance with applicable fire safety requirements and carried out in a manner which reduces impacts to environmentally sensitive habitat to the maximum feasible extent;*
- *Use of appropriate building materials and design features to insure the minimum amount of required fuel modification;*
- *Use of fire-retardant, native plant species in landscaping.*

4.49 Applications for new development, which require fuel modification, shall include a fuel modification plan for the project, prepared by a landscape architect or resource specialist that incorporates measures to minimize removal of native vegetation and to minimize impacts to ESHA, while providing for fire safety, consistent with the requirements of the applicable fire safety regulations. Such plans shall be reviewed and approved by the Forestry Division.

6.29 *Cut and fill slopes and other areas disturbed by construction activities shall be landscaped or revegetated at the completion of grading. Landscape plans shall provide that:*

- *Plantings shall be of native, drought-tolerant plant species, and blend with the existing natural vegetation and natural habitats on the site, except as noted below.*
- *Invasive plant species that tend to supplant native species and natural habitats shall be prohibited.*
- *Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone(s) required for fuel modification nearest approved residential structures.*
- *Lawn shall not be located on any geologically sensitive area such as coastal blufftop.*
- *Landscaping or revegetation shall provide 90 percent coverage within five years. Landscaping or revegetation that is located within any required fuel modification thinning zone (Zone C, if required by the Los Angeles County Fire Department) shall provide 60 percent coverage within five years.*

The project site is a vacant hillside parcel. The Malibu LCP requires that new development be sited and designed to minimize risks to life and property from geologic, flood, and fire hazard. In addition, the LCP requires a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. The Preliminary Geologic and Soils Engineering Investigation dated April 4, 2001 prepared by SubSurface Designs, Inc. states:

> ***It is the finding of this firm, based upon the subsurface data, that the proposed residence and swimming pool will not be affected by settlement, landsliding or slippage. Further, based upon the proposed location, development will not have an adverse affect on offsite property.***

As such, the Commission notes that the proposed project will serve to ensure general geologic and structural integrity on site. However, the Commission also notes that the submitted Preliminary Geologic and Soils Engineering Investigation dated April 4, 2001 prepared by SubSurface Designs, Inc. includes a number of recommendations to ensure the geologic stability and geotechnical safety of the site. To ensure that the recommendations of the geologic and geotechnical engineering consultants are incorporated into all new development, **Special Condition No. One (1)** requires the applicant to submit project plans certified by the consulting geologist and geotechnical engineer as conforming to all geologic and geotechnical recommendations, as well as any new or additional recommendations by the consulting geologist and geotechnical engineer to ensure 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, foundations, grading, sewage disposal and drainage. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

In addition, the proposed project is located in the Malibu/Santa Monica Mountains area, 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 No. Four (4)**, the wildfire waiver of liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition No. Four, 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 also finds that the minimization of site erosion will add to the stability of the site. In addition, the Malibu LCP requires that graded and disturbed areas be revegetated to

minimize erosion. Erosion can best be minimized by requiring the applicant to landscape all disturbed and graded areas of the site with native plants compatible with the surrounding environment. In past permit actions, the Commission has found that invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foliage weight and/or require a greater amount of irrigation and maintenance than native vegetation. The Commission notes 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 geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foliage weight but also by their low irrigation and maintenance requirements. Within the Zone A, as designated on the fuel modification plan, non-invasive ornamental plants are acceptable. Typically, Zone A is a 20 –30 foot irrigated zone immediately surrounding the structure. Therefore, in order to ensure the stability and geotechnical safety of the site, **Special Condition No. Three (3)** requires that all proposed disturbed and graded areas on subject site are stabilized with native and limited non-invasive ornamental vegetation.

The project will increase the amount of impervious coverage onsite which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. The applicant's geologic/geotechnical consultant has recommended that site drainage be collected and distributed in a non-erosive manner. In addition, the Malibu LCP policy 4.10 requires that "new development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams". Therefore, to ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as required by **Special Condition No. Two (2)**, to submit drainage and polluted runoff management plans for the construction and post-construction phases of development that are prepared by the consulting engineer. To ensure that the project's drainage structures will not contribute to further destabilization of the project site or surrounding area and that the project's drainage structures shall be repaired should the structures fail in the future, Special Condition No. Two (2) also requires that the applicant agree to be responsible for any repairs or restoration of eroded areas should the drainage structures fail or result in erosion.

Finally, to ensure excess excavated material is moved off site so as not to contribute to unnecessary landform alteration and to minimize erosion and sedimentation from stockpiled excavated soil, the Commission finds it necessary to require the applicant to dispose of the material at an appropriate disposal site or to a site that has been approved to accept fill material, as specified in **Special Condition No. Ten (10).**

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with the applicable policies of the Malibu LCP.

C. ESHA

The Malibu Local Coastal Program (LCP) contains the following development policies related to protection of ESHA that are applicable to the proposed development:

Section 30230 of the Coastal Act, which is incorporated as part of the Malibu LCP, states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act, which is incorporated as part of the Malibu LCP, 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, and minimizing alteration of natural streams.

Section 30240 of the Coastal Act, which is incorporated as part of the Malibu LCP, states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

In addition, the following LCP policies are applicable in this case:

3.1 Areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily be disturbed or degraded by human activities and developments are Environmentally Sensitive Habitat Areas (ESHAs) and are generally shown on the LUP ESHA Map The ESHAs in the City of Malibu are riparian areas, streams, native woodlands, native grasslands/savannas, chaparral, coastal sage scrub, dunes, bluffs, and wetlands, unless there is site-specific evidence that establishes that a habitat area is not especially valuable because of its special nature or role in an ecosystem....

3.4 Any area not designated on the LUP ESHA Map that meets the ESHA criteria is ESHA and shall be accorded all the protection provided for ESHA in the LCP...

3.8 Environmentally Sensitive Habitat Areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

3.10 If the application of the policies and standards contained in this LCP regarding use of property designated as Environmentally Sensitive Habitat Area, including the restriction of ESHA to only resource-dependent use, would likely constitute a taking of private property, then a use that is not consistent with the Environmentally Sensitive Habitat Area provisions of the LCP shall be allowed on the property, provided such use is

consistent with all other applicable policies and is the minimum amount of development necessary to avoid a taking.

3.11 Applications for development of a non-resource dependent use within ESHA or for development that is not consistent with all ESHA policies and standards of the LCP shall demonstrate the extent of ESHA on the property.

3.14 New development shall be sited and designed to avoid impacts to ESHA. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be selected. Impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective in the context of a Natural Community Conservation Plan that is certified by the Commission as an amendment to the LCP. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.

3.15 Mitigation measures for impacts to ESHA that cannot be avoided through the implementation of siting and design alternatives, including habitat restoration and/or enhancement shall be monitored for a period of no less than five years following completion. Specific mitigation objectives and performance standards shall be designed to measure the success of the restoration and/or enhancement. Mid-course corrections shall be implemented if necessary. Monitoring reports shall be provided to the City annually and at the conclusion of the five-year monitoring period that document the success or failure of the mitigation. If performance standards are not met by the end of five years, the monitoring period shall be extended until the standards are met. However, if after ten years, performance standards have still not been met, the applicant shall submit an amendment proposing alternative mitigation measures.

3.18 The use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade Environmentally Sensitive Habitat Areas, shall be prohibited within and adjacent to ESHAs, where application of such substances would impact the ESHA, except where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration. Application of such chemical substances shall not take place during the winter season or when rain is predicted within a week of application.

3.23 Development adjacent to ESHAs shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation buffer areas shall be provided around ESHAs to serve as transitional habitat and provide distance and physical barriers to human intrusion. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. All buffers shall be a minimum of 100 feet in width, except for the case addressed in Policy 3.27.

3.25 New development, including, but not limited to, vegetation removal, vegetation thinning, or planting of non-native or invasive vegetation shall not be permitted in required ESHA or park buffer areas, except for that case addressed in Policy 3.27. Habitat restoration and invasive plant eradication may be permitted within required buffer areas if designed to protect and enhance habitat values.

3.26 Required buffer areas shall extend from the following points:

- ***The outer edge of the canopy of riparian vegetation for riparian ESHA.***
- ***The outer edge of the tree canopy for oak or other native woodland ESHA.***

- *The top of bluff for coastal bluff ESHA*

3.27 Buffers shall be provided from coastal sage scrub and chaparral ESHA that are of sufficient width to ensure that no required fuel modification (Zones A, B, or C, if required) will extend into the ESHA and that no structures will be within 100 feet of the outer edge of the plants that comprise the habitat.

3.28 Variances or modifications to buffers or other ESHA protection standards shall not be granted, except where there is no other feasible alternative for siting the development and it does not exceed the limits on allowable development pursuant to Policies 3.10-3.13.

3.42 New development shall be sited and designed to minimize impacts to ESHA by:

- *Minimizing grading and landform alteration, consistent with Policy 6.8*
- *Minimizing the removal of natural vegetation, both that required for the building pad and road, as well as the required fuel modification around structures.*
- *Limiting the maximum number of structures to one main residence, one second residential structure, and accessory structures such as, stable, corral, pasture, workshop, gym, studio, pool cabana, office, or tennis court, provided that such accessory structures are located within the approved development area and structures are clustered to minimize required fuel modification.*
- *Minimizing the length of the access road or driveway, except where a longer roadway can be demonstrated to avoid or be more protective of resources.*
- *Grading for access roads and driveways should be minimized; the standard for new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the City Planning Commission, upon recommendation of the Environmental Review Board and the determination that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use to be processed consistent with the LIP provisions.*
- *Prohibiting earthmoving operations during the rainy season, consistent with Policy 3.47.*
- *Minimizing impacts to water quality, consistent with Policies 3.94-3.155*

3.43 New septic systems shall be sited and designed to ensure that impacts to ESHA are minimized, including those impacts from grading and site disturbance as well as the introduction of increased amounts of water. Adequate setbacks and/or buffers shall be required to protect ESHA and to prevent lateral seepage from the leachfield(s) or seepage pit(s) into stream waters or the ocean.

3.45 All new development shall be sited and designed so as to minimize grading, alteration of physical features, and vegetation clearance in order to prevent soil erosion, stream siltation, reduced water percolation, increased runoff, and adverse impacts on plant and animal life and prevent net increases in baseline flows for any receiving water body.

3.46 Grading or earthmoving exceeding 50 cubic yards shall require a grading permit. Grading plans shall meet the requirements of the local implementation plan with respect to maximum quantities, maximum cuts and fills, remedial grading, grading for safety

purposes, and maximum heights of cut or fill. Grading proposed in or adjacent to an ESHA shall be minimized to the maximum extent feasible.

3.47 Earthmoving during the rainy season (extending from November 1 to March 1) shall be prohibited for development that is 1) located within or adjacent to ESHA, or 2) that includes grading on slopes greater than 4:1. In such cases, approved grading shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 1, unless the City determines that completion of grading would be more protective of resources.

3.50 Cut and fill slopes and other areas disturbed by construction activities (including areas disturbed by fuel modification or brush clearance) shall be landscaped or revegetated at the completion of grading. Landscape plans shall provide that:

- *Plantings shall be native, drought-tolerant plant species, and blend with the existing natural vegetation and natural habitats on the site, except as noted below.*
- *Invasive plant species that tend to supplant native species and natural habitats shall be prohibited.*
- *Non-invasive ornamental plants and lawn may be permitted in combination with native, drought-tolerant species within the irrigated zone(s) required for fuel modification nearest approved residential structures.*
- *Landscaping or revegetation shall provide 90 percent coverage within five years, or that percentage of ground cover demonstrated locally appropriate for a healthy stand of the particular native vegetation type chosen for restoration. Landscaping or revegetation that is located within any required fuel modification thinning zone (Zone C, if required by the Los Angeles County Fire Department) shall provide 60 percent coverage within five years.*
- *Any landscaping, or revegetation shall be monitored for a period of at least five years following the completion of planting. Performance criteria shall be designed to measure the success of the plantings. Mid-course corrections shall be implemented if necessary. If performance standards are not met by the end of five years, the monitoring period shall be extended until the standards are met.*

3.51 Disturbed areas ESHAs shall not be further degraded, and if feasible, restored. If new development removes or adversely impacts native vegetation, measures to restore any disturbed or degraded habitat on the property shall be included as mitigation.

3.54 Development permitted pursuant to Policy 3.10 within coastal sage scrub or chaparral ESHA may include fencing, if necessary for security, that is limited to the area around the clustered development area. Any such fencing shall be sited and designed to be wildlife permeable.

3.55 Fencing adjacent to ESHA shall be sited and designed to be wildlife permeable, enabling wildlife to pass through.

3.56 Exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESHA in order to minimize impacts on wildlife. High intensity perimeter lighting and lighting for sports courts or other private recreational facilities in

ESHA, ESHA buffer, or where night lighting would increase illumination in ESHA is prohibited.

3.59 ***All new development shall be sited and designed to minimize required fuel modification and brushing to the maximum extent feasible in order to minimize habitat disturbance or destruction, removal or modification of natural vegetation, and irrigation of natural areas, while providing for fire safety, as required by Policies 4.45 through 4.54. Development shall utilize fire resistant materials and incorporate alternative fuel modification measures, such as firewalls (except where this would have impacts on visual resources), and landscaping techniques, where feasible, to minimize the total area modified. All development shall be subject to applicable federal, state and county fire protection requirements.***

3.62 ***All new development shall include mitigation for unavoidable impacts to ESHA from the removal, conversion, or modification of natural habitat for new development, including required fuel modification and brush clearance***

3.68 ***New agricultural uses shall be prohibited within or adjacent to ESHA, except that development permitted pursuant to Policy 3.10 within coastal sage scrub or chaparral ESHA may include limited crop, orchard or vineyard use within the irrigated fuel modification area (Zones A and/or B if required) for the approved structure(s) only if such use is not located on slopes greater than 3:1, does not result in any expansion to the required fuel modification area, and does not increase the possibility of in-stream siltation or pollution from herbicides or pesticides.***

As noted above, the project site encompasses environmentally sensitive habitat area (ESHA) mapped in the Malibu LCP, which contains southern mixed chaparral, coastal sage scrub and 2 Coast Live Oaks. The entire site supports sensitive habitat with the exception of an existing disturbed area that was previously graded, which includes a road that leads to a pad and a path leading away from the pad on the opposite side. Staff determined from Commission aerial photographs that the grading and vegetation removal in this area occurred prior to 1977. In addition, the applicant submitted multiple historical and current USGS maps and topography surveys to support this conclusion. The proposed development overlies this graded area, excepting the path, which will be restored and planted with native vegetation in order to partially mitigate for adverse impacts to ESHA onsite. Given the existing building pad and previous disturbance in that area, the residence is proposed in the most appropriate location. In addition, the proposed driveway lies approximately in the same location as the existing graded road to the pad. The existing building pad is approximately 17,650 sq. ft. The applicant revised the original development proposal to address Staff's concerns in relation to adverse impacts to sensitive habitat area onsite. The proposed development, as currently proposed, lies entirely within the existing pad area and all structures requiring fuel modification are clustered within an approx. 7,930 sq. ft. area. The revised design and resulting fuel modification plan allow for lessened impacts on sensitive habitat area on and offsite (see Exhibit 11).

The Malibu LCP provides for the protection of ESHA by limiting the scope of development in and adjacent to ESHA. For instance, the Malibu LCP requires the use of buffers between ESHA and adjacent new development. The LIP prohibits all development in these ESHA buffers, including vegetation removal or thinning, or planting of non-native invasive vegetation.

Policy 3.28 prohibits modifications to ESHA buffers except where there is no other feasible alternative for siting the development, and where the proposed project does not exceed the limits on allowable development provided in Policies 3.10 to 3.13. These limits restrict the

maximum allowable development area to 10,000 sq. ft. on parcels of 40 acres or less. They also require findings that demonstrate that the amount of development represents the minimum necessary to provide the applicant with an economically viable use of the property.

As noted earlier, the proposed building site is the most appropriate location due to existing disturbed area. In addition, no alternative site exists on the property that would allow conformity with the ESHA buffers required by the Malibu LCP as the remainder of the site contains native chaparral and coastal sage scrub vegetation. In summary, no feasible siting or design alternatives exist for the proposed development. The proposed building site is near the road and an area onsite previously disturbed. Further, the proposed area of development requiring fuel modification is approximately 7,930 sq. ft., and is therefore consistent with the limits on maximum allowable development area in ESHA buffers provided in Policy 3.12. In addition, all other development is proposed on the existing graded pad.

The applicant purchased the property in February, 2001 for $675,000. Although the Malibu LCP had not been drafted at that time, the certified 1986 Malibu Santa Monica Mountains Land Use Plan, which the Commission used for guidance prior to the Malibu LCP, designated the property for residential use. In addition, similar residential development exists in the surrounding area. Based on these facts, the applicant had reason to believe that he had purchased a parcel on which he would be able to build a residence.

The Commission finds that in this particular case, other allowable uses for the subject site, such as a recreational park or a nature preserve, are not feasible and would not provide the owner an economic return on the investment. The parcel is 14 acres, and is surrounded by other residentially-zoned, developed parcels. There is no indication that a public agency would consider it a priority to purchase a small parcel such as the project site. The Commission thus concludes that in this particular case there is no viable alternative use for the site other than residential development. The Commission finds, therefore, that outright denial of all residential use on the property would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.

Given that there exists no alternative reasonable economic use of the property and no feasible siting or design alternatives for the proposed development, and given that the proposed project meets the maximum allowable development area standards provided when no feasible alternative to development in ESHA buffers exists, the proposed siting of the project within the ESHA buffers is allowable under the ESHA protection policies of the Malibu LCP. However, additional measures must be taken to minimize the proposed project's impacts on adjacent ESHA, as discussed below.

As discussed above, the proposed development will be approved within ESHA in order to provide an economically viable use. Siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to ESHA to the greatest extent feasible, as required by the LCP. However, given the location of ESHA on the project site, there will still be significant impacts to ESHA resulting from the clearance of sensitive habitat due to required fuel modification around the approved structures. The following discussion of ESHA impacts from new development and fuel modification is based on the findings and policies of the Malibu LCP adopted on September 13, 2002.

Fuel modification is the removal or modification of combustible native or ornamental vegetation. It may include replacement with drought tolerant, fire resistant plants. The amount and location

of required fuel modification would vary according to the fire history of the area, the amount and type of plant species on the site, topography, weather patterns, construction design, and siting of structures. There are typically three fuel modification zones applied by the Fire Department:

> Zone A (Setback Zone) is required to be a minimum of 20 feet beyond the edge of protected structures. In this area native vegetation is cleared and only ground cover, green lawn, and a limited number of ornamental plant species are allowed. This zone must be irrigated to maintain a high moisture content.
>
> Zone B (Irrigated Zone) is required to extend from the outermost edge of Zone A to a maximum of 80 feet. In this area ground covers may not extend over 18 inches in height. Some native vegetation may remain in this zone if they are adequately spaced, maintained free of dead wood and individual plants are thinned. This zone must be irrigated to maintain a high moisture content.
>
> Zone C (Thinning Zone) is required to extend from the outermost edge of Zone B up to 100 feet. This zone would primarily retain existing native vegetation, with the exception of high fuel species such as chamise, red shank, California sagebrush, common buckwheat and sage. Dead or dying vegetation must be removed and the fuel in existing vegetation reduced by thinning individual plants.

Thus, the combined required fuel modification area around structures can extend up to a maximum of 200 feet. If there is not adequate area on the project site to provide the required fuel modification for structures, then brush clearance may also be required on adjacent parcels. In this case, required fuel modification will extend 200 feet from the approved structures.

Notwithstanding the need to protect structures from the risk of wildfire, fuel modification results in significant adverse impacts that are in excess of those directly related to the development itself. Within the area next to approved structures (Zone A), all native vegetation must be removed and ornamental, low-fuel plants substituted. In Zone B, most native vegetation will be removed or widely spaced. Finally, in Zone C, native vegetation may be retained if thinned, although particular high-fuel plant species must be removed (Several of the high fuel species are important components of the coastal sage scrub community). In this way, for a large area around any permitted structures, native vegetation will be cleared, selectively removed to provide wider spacing, and thinned.

Obviously, native vegetation that is cleared and replaced with ornamental species, or substantially removed and widely spaced will be lost as habitat and watershed cover. Additionally, thinned areas will be greatly reduced in habitat value. Even where complete clearance of vegetation is not required, the natural habitat can be significantly impacted, and ultimately lost. For instance, in coastal sage scrub habitat, the natural soil coverage of the canopies of individual plants provides shading and reduced soil temperatures. When these plants are thinned, the microclimate of the area will be affected, increasing soil temperatures, which can lead to loss of individual plants and the eventual conversion of the area to a dominance of different non-native plant species. The areas created by thinning between shrubs can be invaded by non-native grasses that will over time out-compete native species.

For example, undisturbed coastal sage scrub vegetation typical of coastal canyon slopes, and the downslope riparian corridors of the canyon bottoms, ordinarily contains a variety of tree and shrub species with established root systems. Depending on the canopy coverage, these

species may be accompanied by understory species of lower profile. The established vegetative cover, including the leaf detritus and other mulch contributed by the native plants, slows rainfall runoff from canyon slopes and staunches silt flows that result from ordinary erosional processes. The native vegetation thereby limits the intrusion of sediments into downslope creeks. Accordingly, disturbed slopes where vegetation is either cleared or thinned are more directly exposed to rainfall runoff that can therefore wash canyon soils into down-gradient creeks. The resultant erosion reduces topsoil and steepens slopes, making revegetation increasingly difficult or creating ideal conditions for colonization by invasive, non-native species that supplant the native populations.

The cumulative loss of habitat cover also reduces the value of the sensitive resource areas as a refuge for birds and animals, for example by making them—or their nests and burrows—more readily apparent to predators. The impacts of fuel clearance on bird communities was studied by Stralberg who identified three ecological categories of birds in the Santa Monica Mountains: 1) local and long distance migrators (ash-throated flycatcher, Pacific-slope flycatcher, phainopepla, black-headed grosbeak), 2) chaparral-associated species (Bewick's wren, wrentit, blue-gray gnatcatcher, California thrasher, orange-crowned warbler, rufous-crowned sparrow, spotted towhee, California towhee) and 3) urban-associated species (mourning dove, American crow, Western scrub-jay, Northern mockingbird)[1]. It was found in this study that the number of migrators and chaparral-associated species decreased due to habitat fragmentation while the abundance of urban-associated species increased. The impact of fuel clearance is to greatly increase this edge-effect of fragmentation by expanding the amount of cleared area and "edge" many-fold. Similar results of decreases in fragmentation-sensitive bird species are reported from the work of Bolger et al. in southern California chaparral[2].

Fuel clearance and habitat modification may also disrupt native arthropod communities, and this can have surprising effects far beyond the cleared area on species seemingly unrelated to the direct impacts. A particularly interesting and well-documented example with ants and lizards illustrates this point. When non-native landscaping with intensive irrigation is introduced, the area becomes favorable for the invasive and non-native Argentine ant. This ant forms "super colonies" that can forage more than 650 feet out into the surrounding native chaparral or coastal sage scrub around the landscaped area[3]. The Argentine ant competes with native harvester ants and carpenter ants displacing them from the habitat[4]. These native ants are the primary food resource for the native coast horned lizard, a California "Species of Special Concern." As a result of Argentine ant invasion, the coast horned lizard and its native ant food resources are diminished in areas near landscaped and irrigated developments[5]. In addition to

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[1] Stralberg, D. 2000. Landscape-level urbanization effects on chaparral birds: a Santa Monica Mountains case study. Pp. 125–136 *in* Keeley, J.E., M. Baer-Keeley, and C.J. Fotheringham (eds.). *2nd interface between ecology and land development in California.* U.S. Geological Survey, Sacramento, California.

[2] Bolger, D. T., T. A. Scott and J. T. Rotenberry. 1997. Breeding bird abundance in an urbanizing landscape in coastal Southern California. Conserv. Biol. 11:406-421.

[3] Suarez, A.V., D.T. Bolger and T.J. Case. 1998. Effects of fragmentation and invasion on native ant communities in coastal southern California. Ecology 79(6):2041-2056.

[4] Holway, D.A. 1995. The distribution of the Argentine ant (*Linepithema humile*) in central California: a twenty-year record of invasion. Conservation Biology 9:1634-1637. Human, K.G. and D.M. Gordon. 1996. Exploitation and interference competition between the invasive Argentine ant, (*Linepithema humile*), and native ant species. Oecologia 105:405-412.

[5] Fisher, R.N., A.V. Suarez and T.J. Case. 2002. Spatial patterns in the abundance of the coastal horned lizard. Conservation Biology 16(1):205-215. Suarez, A.V. J.Q. Richmond and T.J. Case. 2000. Prey selection in horned lizards following the invasion of Argentine ants in southern California. Ecological Applications 10(3):711-725.

specific effects on the coast horned lizard, there are other Mediterranean habitat ecosystem processes that are impacted by Argentine ant invasion through impacts on long-evolved native ant-plant mutualisms[6]. The composition of the whole arthropod community changes and biodiversity decreases when habitats are subjected to fuel modification. In coastal sage scrub disturbed by fuel modification, fewer arthropod predator species are seen and more exotic arthropod species are present than in undisturbed habitats[7].

Studies in the Mediterranean vegetation of South Africa (equivalent to California shrubland with similar plant species) have shown how the invasive Argentine ant can disrupt the whole ecosystem.[8] In South Africa the Argentine ant displaces native ants as they do in California. Because the native ants are no longer present to collect and bury seeds, the seeds of the native plants are exposed to predation, and consumed by seed eating insects, birds and mammals. When this habitat burns after Argentine ant invasion the large-seeded plants that were protected by the native ants all but disappear. So the invasion of a non-native ant species drives out native ants, and this can cause a dramatic change in the species composition of the plant community by disrupting long-established seed dispersal mutualisms. In California, some insect eggs are adapted to being buried by native ants in a manner similar to plant seeds[9].

While these impacts resulting from fuel modification can be reduced through siting and designing alternatives for new development, they cannot be completely avoided, given the high fire risk and the location of ESHA on the project site. Policy 3.62 of the Malibu LUP requires that impacts to ESHA from the removal, conversion, or modification of natural habitat for new development including fuel modification and brush clearance must be mitigated.

Additionally, the ESHA Overlay Ordinance (Chapter 4) of the LIP requires that all new development include mitigation for impacts to ESHA from the removal, conversion, or modification of natural habitat that cannot be avoided through the implementation of siting or design alternatives. The acreage of habitat that is impacted must be determined based on the size of the approved development area, road/driveway area, required fuel modification on the project site and required brush clearance, if any, on adjacent properties. In this case the ESHA area affected by the proposed development including the areas impacted by fuel modification or brushing has not been calculated. Therefore, the Commission finds that it is necessary to require the applicant to delineate the ESHA both on and offsite that will be impacted by the proposed development including the areas affected by fuel modification and brushing activities, as required by **Special Condition No. Nine (9)**.

Section 4.8.1 of the Malibu LIP sets forth three methods for providing mitigation of habitat impacts, including habitat restoration, habitat conservation, and an in-lieu fee for habitat conservation. These three mitigation methods are provided as three available options for compliance with Special Condition No. Nine (9). The first method is to provide mitigation

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[6] Suarez, A.V., D.T. Bolger and T.J. Case. 1998. Effects of fragmentation and invasion on native ant communities in coastal southern California. Ecology 79(6):2041-2056. Bond, W. and P. Slingsby. Collapse of an Ant-Plant Mutualism: The Argentine Ant (*Iridomyrmex humilis*) and Myrmecochorous Proteaceae. Ecology 65(4):1031-1037.

[7] Longcore, T.R. 1999. Terrestrial arthropods as indicators of restoration success in coastal sage scrub. Ph.D. Dissertation, University of California, Los Angeles.

[8] Christian, C. 2001. Consequences of a biological invasion reveal the importance of mutualism for plant communities. Nature 413:635-639.

[9] Hughes, L. and M. Westoby. 1992. Capitula on stick insect eggs and elaiosomes on seeds: convergent adaptations for burial by ants. Functional Ecology 6:642-648.

through the restoration of an area of degraded habitat (either on the project site, or at an off-site location) that is equivalent in size to the area of habitat impacted by the development. A restoration plan must be prepared by a biologist or qualified resource specialist and must provide performance standards, and provisions for maintenance and monitoring. The restored habitat must be permanently preserved through the recordation of an open space easement. This mitigation method is provided for in Special Condition No. Nine (9), subpart A.

The second habitat impact mitigation method is habitat conservation. This includes the conservation of an area of intact habitat equivalent to the area of the impacted habitat. The parcel containing the habitat conservation area must be restricted from future development and permanently preserved. If the mitigation parcel is larger in size than the impacted habitat area, the excess acreage could be used to provide habitat impact mitigation for other development projects that impact ESHA. This mitigation method is provided for in Special Condition No. Nine (9), subpart B.

The third habitat impact mitigation option is an in-lieu fee for habitat conservation. The fee will be based on the habitat type(s) in question, the cost per acre to restore or create the comparable habitat type, and the acreage of habitat affected by the project. The fee shall be provided to the Santa Monica Mountains Conservancy for the acquisition or permanent preservation of natural habitat areas within the coastal zone. This mitigation method is provided for in Special Condition No. Nine (9), subpart C.

The applicants have submitted a final fuel modification plan that has been approved in concept by the Los Angeles County Fire Department. The plan reflects the revised project proposal to based on impacts to sensitive habitat area. The fuel modification zones were altered to minimize impacts to onsite ESHA as much as possible while providing protection from wildfire.

To ensure that areas of the site that are disturbed by the proposed development are planted with native vegetation, Special Condition No. Three (3) requires a landscape plan comprised primarily of native plant species. Landscaping the disturbed areas of the hillside site with native plant species, particularly on steep slopes, will assist in preventing erosion and the displacement of native plant species by non-native or invasive species. The landscape and fuel modification plan required under Special Condition Three (3) will mitigate adverse impacts to existing native vegetation, surrounding resources, and water quality. The applicant has submitted a landscaping plan, which illustrates a small vineyard and small orchard area adjacent to the building pad. Special Condition No. Three (3) specifically states that limited crop, orchard or vineyard use may be allowed within the irrigated fuel modification area (Zones A and/or B) for the approved structures only if such use is not located on slopes greater than 3:1, does not result in any expansion to the required fuel modification area, and does not increase the possibility of in-stream siltation or pollution from herbicides or pesticides, in accordance with Policy 3.68.

In addition, Special Condition No. Two (2) requires the applicant to submit erosion, drainage and polluted runoff control plans for the proposed development, as discussed in Section E. below. Implementation of Special Condition No. Two (2) will serve to minimize impacts to the water quality consistent with the coastal waters protection policies of the Malibu LCP. The Commission finds that Special Conditions Nos. Two (2) and Three (3) are necessary to ensure the proposed development will minimize impacts to water quality and native vegetation.

Moreover, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. The subject site contains sensitive habitat area. Therefore, the Commission limits the nighttime lighting of the property and residence to that necessary for safety as outlined in **Special Condition No. Seven (7)**, which restricts night lighting of the site in general; limits lighting to the developed area of the site; and specifies that lighting be shielded downward. In addition, low intensity security lighting will assist in minimizing the disruption of wildlife traversing this area at night. Thus, the lighting restrictions will attenuate the impacts of unnatural light sources, hence, reducing impacts to sensitive wildlife species.

Additionally, the Commission finds that the amount and location of any new development that may be proposed in the future on the subject site is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, to ensure that any future structures, additions, change in landscaping or intensity of use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed for consistency with the resource protection policies of the LCP, **Special Condition No. Six (6)**, the future development restriction, has been required.

Finally, **Special Condition No. Eight (8)** 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 property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The Commission finds that based on the above findings the proposed project, as conditioned, will not result in adverse impacts to sensitive habitat and is consistent with the Malibu LCP.

D. WATER QUALITY

The Malibu LCP provides for the protection of water quality. The policies require that new development protects, and where feasible, enhances and restores wetlands, streams, and groundwater recharge areas. The policies promote the elimination of pollutant discharge, including non-point source pollution, into the City's waters through new construction and development regulation, including site planning, environmental review and mitigation, and project and permit conditions of approval. Additionally, the policies require the implementation of Best Management Practices to limit water quality impacts from existing development, including septic system maintenance and City services.

Section 30231 of the Coastal Act, which is incorporated as a policy of the Malibu LCP, states that:

> ***The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.***

In addition, the following water quality LCP policies are applicable in this case:

3.120 New development shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating measures designed to ensure the following:

- ***Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss.***
- ***Limiting increases of impervious surfaces.***
- ***Limiting land disturbance activities such as clearing and grading, and cut-and-fill to reduce erosion and sediment loss.***
- ***Limiting disturbance of natural drainage features and vegetation.***

3.121 New development shall not result in the degradation of the water quality of groundwater basins or coastal surface waters including the ocean, coastal streams, or wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely impact groundwater, the ocean, coastal streams, or wetlands, consistent with the requirements of the Los Angeles Regional Quality Control Board's municipal stormwater permit and the California Ocean Plan.

3.122 Development must be designed to minimize, to the maximum extent feasible, the introduction of pollutants of concern[10] that may result in significant impacts from site runoff from impervious areas. To meet the requirement to minimize "pollutants of concern," new development shall incorporate a Best Management Practice (BMP) or a combination of BMPs best suited to reduce pollutant loading to the maximum extent feasible.

3.99 Post-development peak stormwater runoff discharge rates shall not exceed the estimated pre-development rate. Dry weather runoff from new development must not exceed the pre-development baseline flow rate to receiving water bodies.

3.100 New development shall be sited and designed to minimize impacts to water quality from increased runoff volumes and nonpoint source pollution. All new development shall meet the requirements of the Los Angeles Regional Water Quality Control Board (RWQCB) in its the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County (March 2000) (LA SUSMP) or subsequent versions of this plan.

3.102 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. This standard shall be consistent with the most recent Los Angeles Regional Water Quality Control Board municipal stormwater permit for the Malibu region or the most recent California Coastal Commission Plan for Controlling Polluted Runoff, whichever is more stringent.

3.110 New development shall include construction phase erosion control and polluted runoff control plans. These plans shall specify BMPs that will be implemented to minimize

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[10] Pollutants of concern are defined in the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County as consisting " of any pollutants that exhibit one or more of the following characteristics: current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water , elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bioaccumulate in organisms therein, or the detectable inputs of the pollutant are at a concentrations or loads considered potentially toxic to humans and/or flora or fauna".

erosion and sedimentation, provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials.

3.111 New development shall include post-development phase drainage and polluted runoff control plans. These plans shall specify site design, source control and treatment control BMPs that will be implemented to minimize post-construction polluted runoff, and shall include the monitoring and maintenance plans for these BMPs.

3.115 Permits for new development shall be conditioned to require ongoing maintenance where maintenance is necessary for effective operation of required BMPS. Verification of maintenance shall include the permittee's signed statement accepting responsibility for all structural and treatment control BMP maintenance until such time as the property is transferred and another party takes responsibility.

3.116 The City, property owners, or homeowners associations, as applicable, shall be required to maintain any drainage device to insure it functions as designed and intended. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior to September 30th of each year. Owners of these devices will be responsible for insuring that they continue to function properly and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, should be carried out prior to the next rainy season.

3.118 Some BMPs for reducing the impacts of non-point source pollution may not be appropriate for development on steep slopes, on sites with low permeability soil conditions, or areas where saturated soils can lead to geologic instability. New development in these areas should incorporate BMPs that do not increase the degree of geologic instability.

3.119 New development that requires a grading permit or Local SWPPP shall include landscaping and re-vegetation of graded or disturbed areas, consistent with Policy 3.50. Any landscaping that is required to control erosion shall use native or drought-tolerant non-invasive plants to minimize the need for fertilizer, pesticides, herbicides, and excessive irrigation. Where irrigation is necessary, efficient irrigation practices shall be required.

3.120 New development shall protect the absorption, purifying, and retentive functions of natural systems that exist on the site. Where feasible, drainage plans shall be designed to complement and utilize existing drainage patterns and systems, conveying drainage from the developed area of the site in a non-erosive manner. Disturbed or degraded natural drainage systems shall be restored, where feasible, except where there are geologic or public safety concerns.

3.125 Development involving onsite wastewater discharges shall be consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements, revised waivers and other regulations that apply.

3.126 Wastewater discharges shall minimize adverse impacts to the biological productivity and quality of coastal streams, wetlands, estuaries, and the ocean. On-site treatment systems (OSTSs) shall be sited, designed, installed, operated, and maintained to avoid contributing nutrients and pathogens to groundwater and/or surface waters.

3.127 OSTSs shall be sited away from areas that have poorly or excessively drained soils, shallow water tables or high seasonal water tables that are within floodplains or where effluent cannot be adequately treated before it reaches streams or the ocean.

3.128 New development shall be sited and designed to provide an area for a backup soil absorption field in the event of failure of the first field.

3.129 Soils should not be compacted in the soil absorption field areas during construction. No vehicles should be parked over the soil absorption field or driven over the inlet and outlet pipes to the septic tank.

3.130 Subsurface sewage effluent dispersal fields shall be designed, sited, installed, operated, and maintained in soils having acceptable absorption characteristics determined either by percolation testing, or by soils analysis, or by both. No subsurface sewage effluent disposal fields shall be allowed beneath nonporous paving or surface covering.

3.131 New development shall include the installation of low-flow plumbing fixtures, including but not limited to flow-restricted showers and ultra-low flush toilets, and should avoid the use of garbage disposals to minimize hydraulic and/or organic overloading of the OSTS.

3.132 New development may include a separate greywater dispersal system where approved by the Building Safety Department.

3.133 New development shall include protective setbacks from surface waters, wetlands and floodplains for conventional or alternative OSTSs, as well as separation distances between OSTS system components, building components, property lines, and groundwater. Under no conditions shall the bottom of the effluent dispersal system be within five feet of groundwater.

3.134 The construction of private sewage treatment systems shall be permitted only in full compliance with the building and plumbing codes and the requirements of the LA RWQCB. A coastal development permit shall not be approved unless the private sewage treatment system for the project is sized and designed to serve the proposed development and will not result in adverse individual or cumulative impacts to water quality for the life of the project.

3.138 Applications for new development relying on an OSTS shall include a soils analysis and or percolation test report. Soils analysis shall be conducted by a California Registered Geotechnical Engineer or a California Registered Civil Engineer in the environmental/geotechnical field and the results expressed in United States Department of Agriculture classification terminology. Percolation tests shall be conducted by a California Registered Geologist, a California registered Geotechnical Engineer, a California Registered Civil Engineer, or a California Registered Environmental Health Specialist. The OSTS shall be designed, sited, installed, operated, and maintained in full compliance with the building and plumbing codes and the requirements of the LA RWQCB.

3.141 Applications for a coastal development permit for OSTS installation and expansion, where groundwater, nearby surface drainages and slope stability are likely to be adversely impacted as a result of the projected effluent input to the subsurface, shall include a study prepared by a California Certified Engineering Geologist or Registered Geotechnical Engineer that analyzes the cumulative impact of the proposed OSTS on groundwater level, quality of nearby surface drainages, and slope stability. Where it is shown that the OSTS will negatively impact groundwater, nearby surface waters, or slope stability, the OSTS shall not be allowed.

The proposed project will result in an increase of impervious surface on site, which in turn decreases the infiltrative function and capacity of existing permeable land on project sites. The Commission notes that this reduction in permeable surface leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation events. Changes in the stream flow result in modification to stream morphology. Additionally, grading, excavations and disturbance of the site from construction activities and runoff from impervious surfaces can result in increased erosion of disturbed soils and in sedimentation of nearby coastal stream and waters.

In addition, pollutants commonly found in runoff associated with new development 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 and organic matter; fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use; nutrients from wastewater discharge, animal waste and crop residue; and bacteria and pathogens from wastewater discharge and 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 provides food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and human diseases such as hepatitis and dysentery. 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.

The LCP water quality policies cited above are designed to protect water quality and prevent pollution of surface, ground, and ocean waters. The Malibu LCP requires the preparation of a Storm Water Management Plan (SWMP) for all projects that require a coastal development permit or a Water Quality Mitigation Plan (WQMP) for new residential developments that, for example, involve one acre or more of disturbance or redevelopment projects that result in the creation or addition or replacement of 5,000 sq. ft. or more of impervious surface. A SWMP illustrates how the project will use appropriate site design and source control best management practices (BMPs) to minimize or prevent adverse effects of the project on water quality. A WQMP requires treatment control (or structural) BMPs, in addition to site design and source control BMPs that are required for a SWMP, to minimize or prevent the discharge of polluted runoff from a project site. In this case, pursuant to the requirements of the Malibu LCP, and to ensure the proposed project will not adversely impact water quality or coastal resources, the Commission finds it necessary to require the preparation of a WQMP for the subject site, as specified in Special Condition No. Two (2).

Furthermore, erosion control and storm water pollution prevention measures implemented during construction will serve to minimize the potential for adverse impacts to water quality resulting from runoff during construction. The Malibu LCP requires that a Local Storm Water Pollution Prevention Plan (SWPPP) be prepared for all development that requires a Coastal Development Permit and a grading or building permit, and it shall apply to the construction phase of the project. The SWPPP includes measures and BMPs to prevent erosion, sedimentation and pollution of surface and ocean waters from construction and grading

activities. In this case, the proposed project does involve grading and construction that requires grading and building permits. Therefore, pursuant to the Malibu LCP and to ensure the proposed development does not adversely impact water quality or coastal resources during the construction phase of the project, the Commission finds it necessary to require the applicant to submit a Local SWPPP for the subject site, consistent with the requirements specified in Special Condition No. Two (2).

Finally, the proposed development includes the installation of an onsite wastewater treatment system (OSTS) to serve the residence. The Malibu LCP includes a number of policies and standards relative to the design, siting, installation, operation and maintenance of OSTSs to ensure these systems do not adversely impact coastal waters. The proposed upgrades to the existing OSTS were previously reviewed and approved in concept by the City of Malibu Environmental Health Department, determining that the system meets the requirements of the plumbing code. However, with the recent adoption of the Malibu LUP, new more stringent standards regarding the siting, design, installation, operation and maintenance of OSTSs have been established. Therefore, the Commission finds that it is necessary to require the applicant to submit a report and plans prepared by a qualified professional, that have been reviewed and approved by the City of Malibu Environmental Health Department, verifying the proposed septic system complies with the siting, design, installation, operation and maintenance requirements specified in **Special Condition No. Five (5).**

In addition, in order to ensure the OSTS is maintained and monitored in the future to prevent system failures or inadequate system performance, the Malibu LCP includes policies and standards requiring the regular maintenance and monitoring of the OSTS. Therefore, the Commission finds that it is necessary to require the applicant to submit verification that they have obtained a monitoring, operation and maintenance permit from the City, as outlined in Special Condition No. Five (5).

The Commission finds that based on the above findings the proposed project, as conditioned, will not result in adverse impacts to water quality and is consistent with the Malibu LCP.

E. VIOLATIONS

The site contains a temporary covered viewing platform, which was constructed without the benefit of a coastal development permit. The current application requests after-the-fact approval for the construction of the temporary covered viewing platform and proposes to remove the structure upon completion of the proposed music studio in order to resolve any violation of the Coastal Act.

Special Condition No. Eleven (11) requires that the applicant remove the temporary viewing platform on the site within two years of the issuance of this Coastal Development Permit or within thirty (30) days of the applicant's receipt of the Certificate of Occupancy for the proposed residence from the City of Malibu, whichever is less. In addition, in order to ensure that the violation aspects of the project are resolved in a timely manner, **Special Condition No. Twelve (12)** 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.

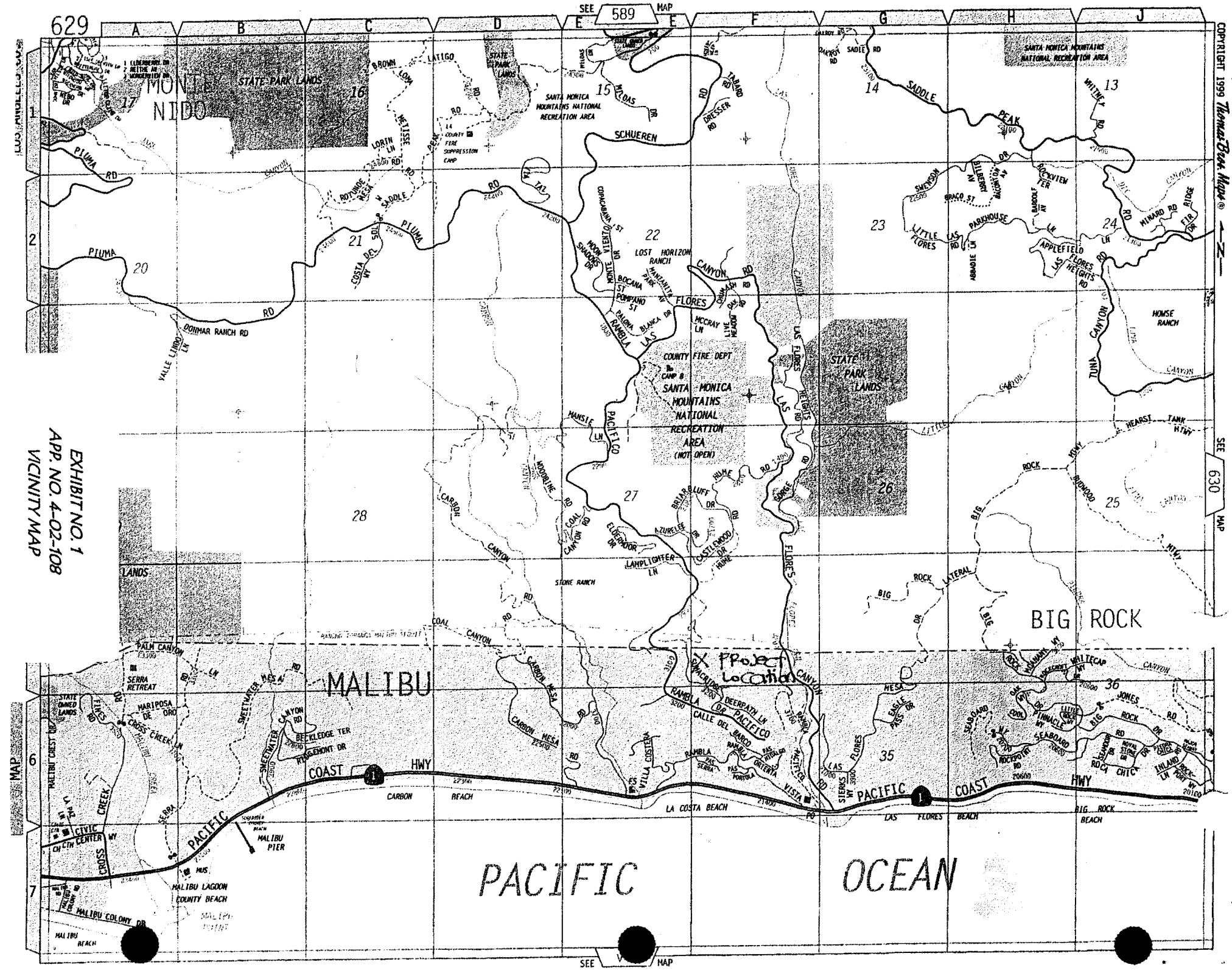
Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal

action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

F. 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 that the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned, will not have any 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.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LOS ANGELES COUNTY
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STATE PARK LANDS
SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA
SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA (NOT OPEN)
LOST HORIZON RANCH
STONE RANCH
HOUSE RANCH
COUNTY FIRE DEPT CAMP 8
LA COUNTY FIRE SUPPRESSION CAMP
PIUMA RD
SCHUEREN
SADDLE PEAK
LATIGO CANYON RD
DONMAR RANCH RD
VALLE LINDO LN
ROCKY OAKS
LAS FLORES CANYON RD
LAS FLORES HEIGHTS RD
PACIFICO
HUMEDA
CARBON CANYON RD
COAL CANYON RD
BIG ROCK
BIG ROCK LATERAL DR
MALIBU
PALM CANYON
SERRA RETREAT
SWEETWATER MESA RD
CARBON MESA RD
CROSS CREEK
MALIBU CREST DR
CIVIC CTR WY
MALIBU LAGOON COUNTY BEACH
MALIBU PIER
MALIBU COLONY DR
MALIBU BEACH
CARBON BEACH
LA COSTA BEACH
LAS FLORES BEACH
BIG ROCK BEACH
COAST HWY
PACIFIC OCEAN
Project Location
SEE 630 MAP
SEE MAP
MAP
EXHIBIT NO. 1
APP. NO. 4-02-108
VICINITY MAP

View Enlarged Map | View Printing Instructions

County of Los Angeles: Rick Auerbach, Assessor

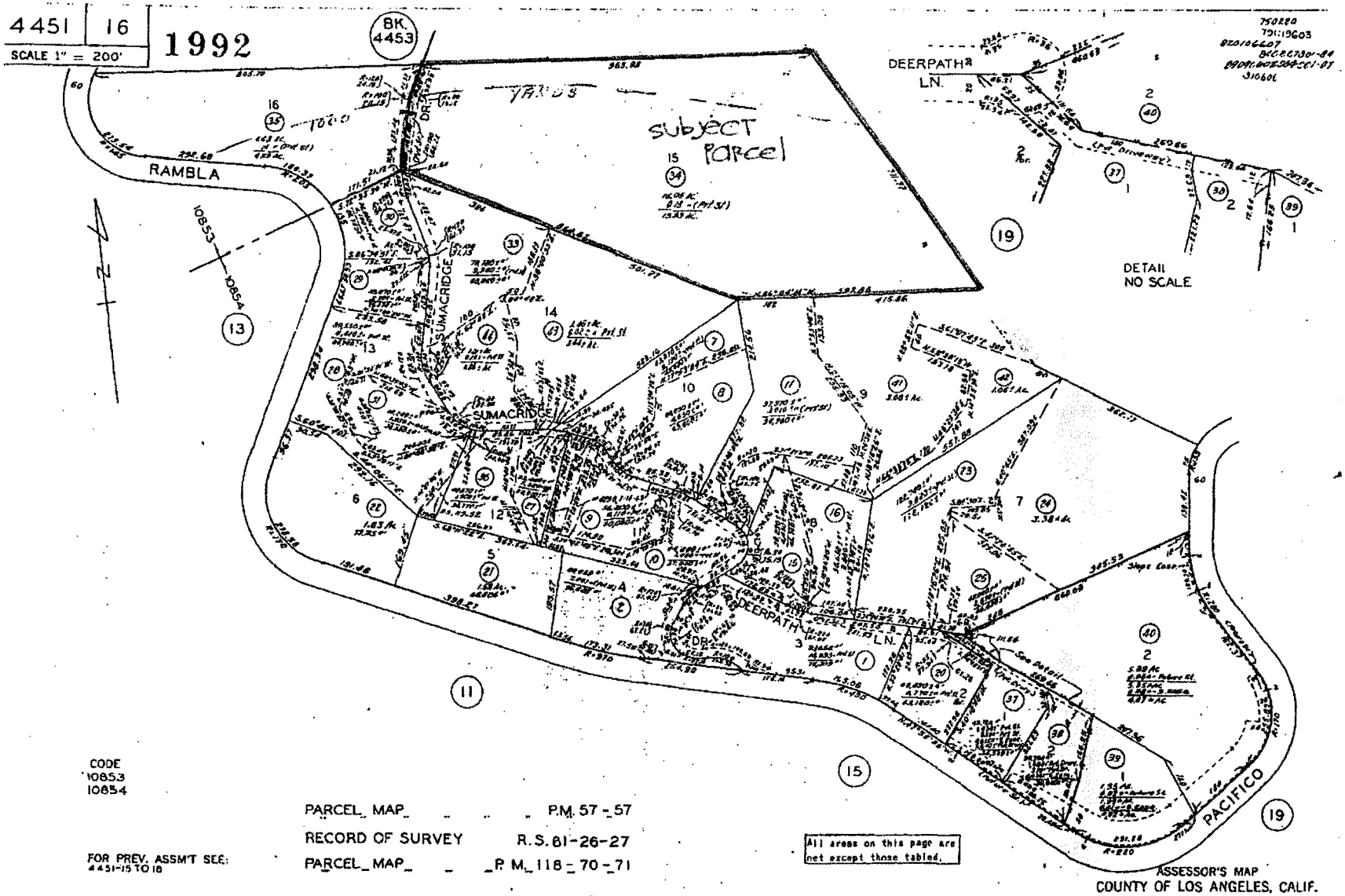

EXHIBIT NO. 2
APP. NO. 4-02-108
PARCEL MAP

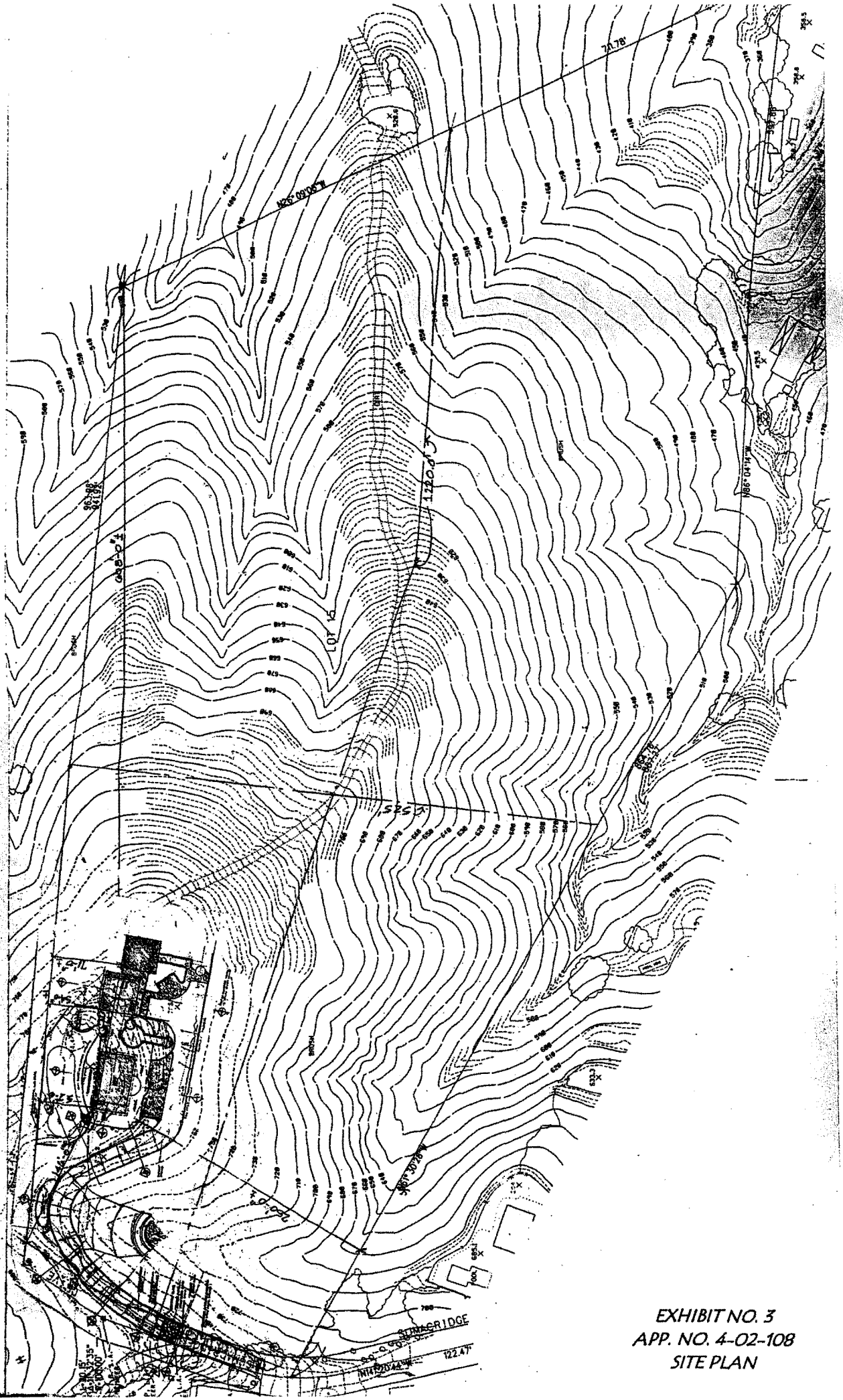

EXHIBIT NO. 3
APP. NO. 4-02-108
SITE PLAN

EXHIBIT NO. 4
APP. NO. 4-02-108
DETAIL SITE PLAN

EXHIBIT NO. 5
APP. NO. 4-02-108
BASEMENT AND STUDIO FLOOR PLAN

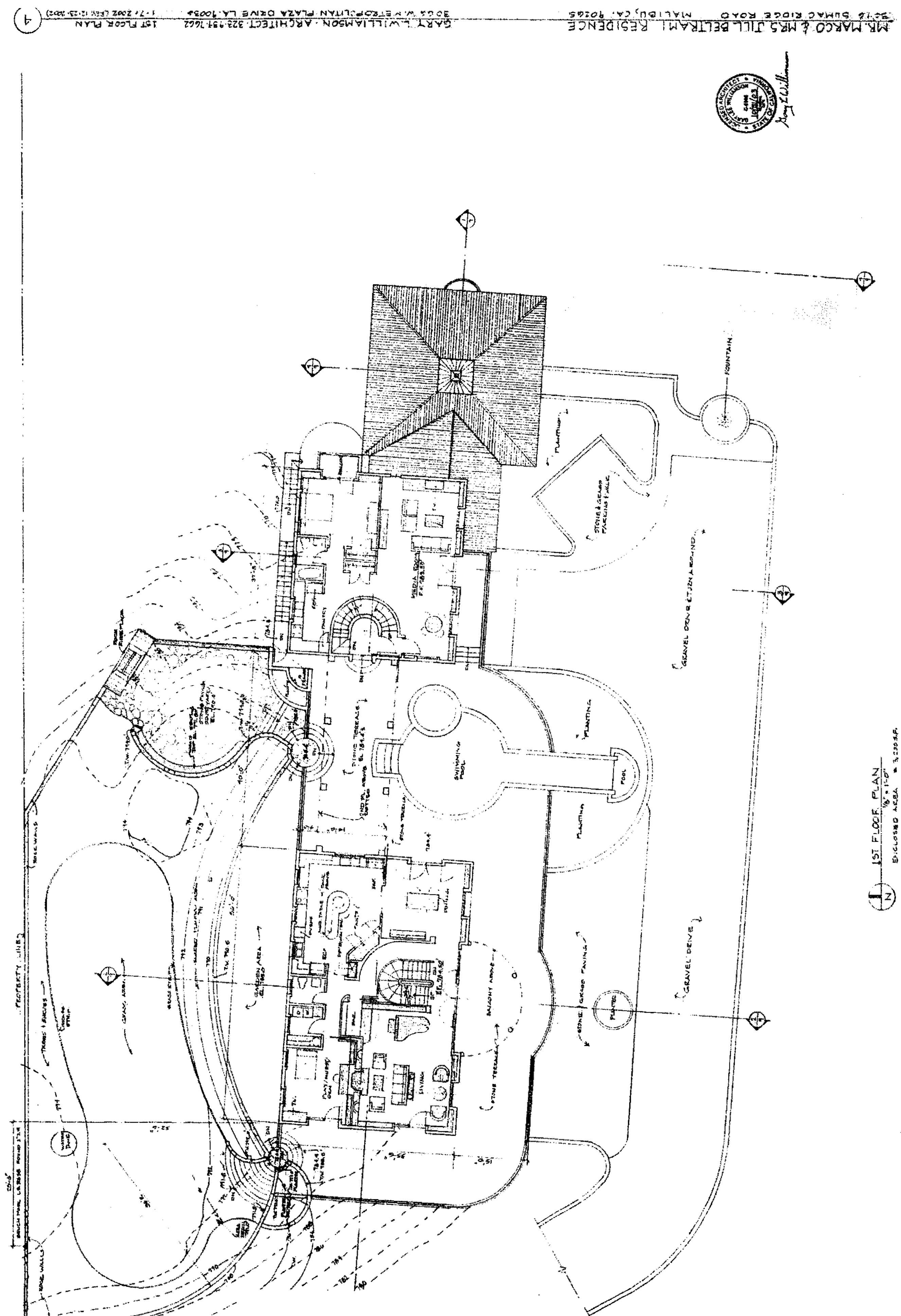

EXHIBIT NO. 6
APP. NO. 4-02-108
FIRST FLOOR PLAN

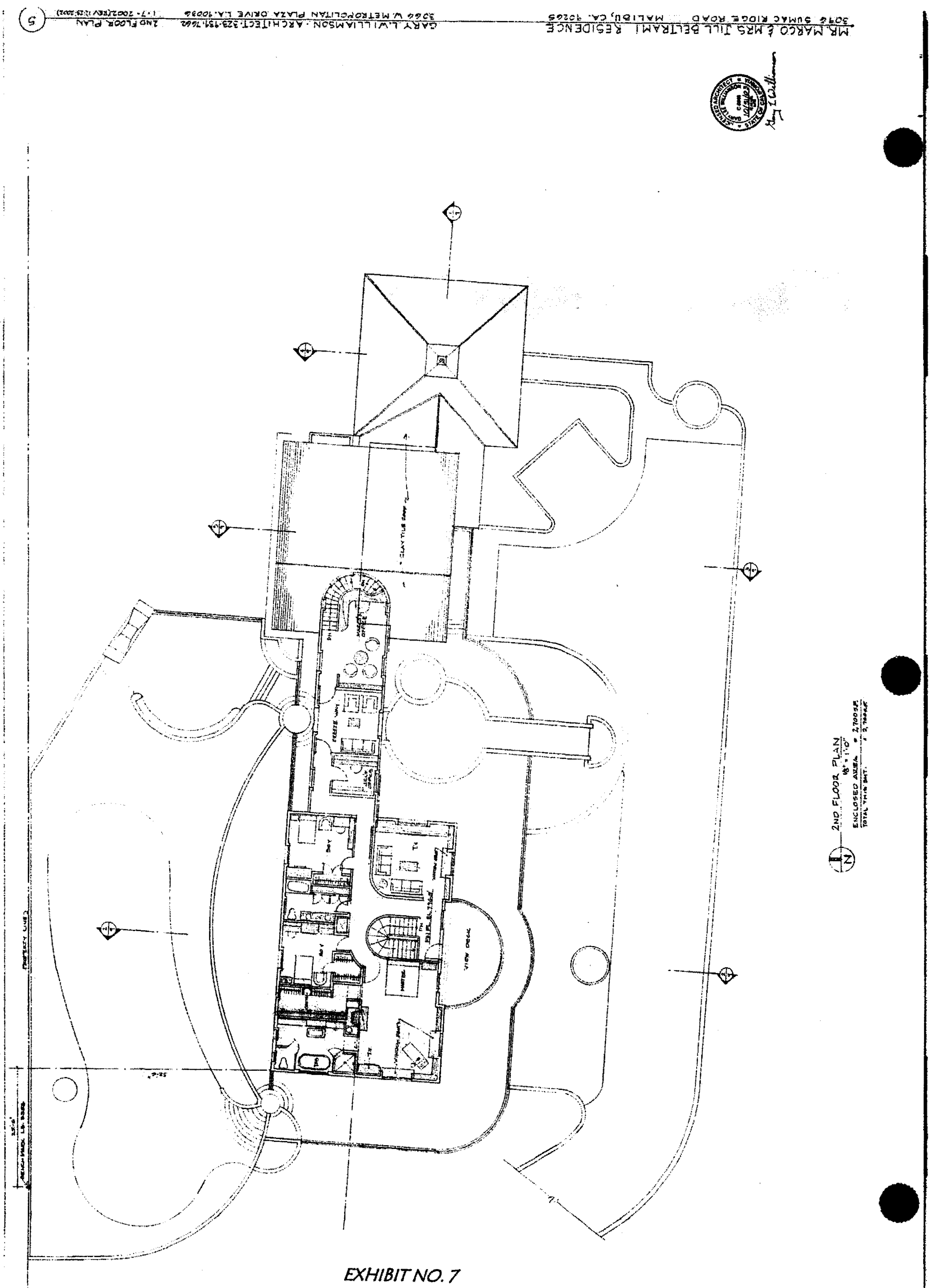

EXHIBIT NO. 7
APP. NO. 4-02-108
SECOND FLOOR PLAN

EXHIBIT NO. 8
APP. NO. 4-02-108
SOUTH AND NORTH ELEVATIONS

MR. MARCO & MRS. JILL BELTRAMI RESIDENCE
3040 ALMAR RIDGE ROAD MALIBU, CA 90265

GARY L. WILLIAMSON · ARCHITECT · 328-131-1662
9744 W. METROPOLITAN PLAZA DRIVE L.A. 90034

E&W ELEVATIONS
(8)

EXHIBIT NO. 9
APP. NO. 4-02-108
EAST AND WEST ELEVATIONS

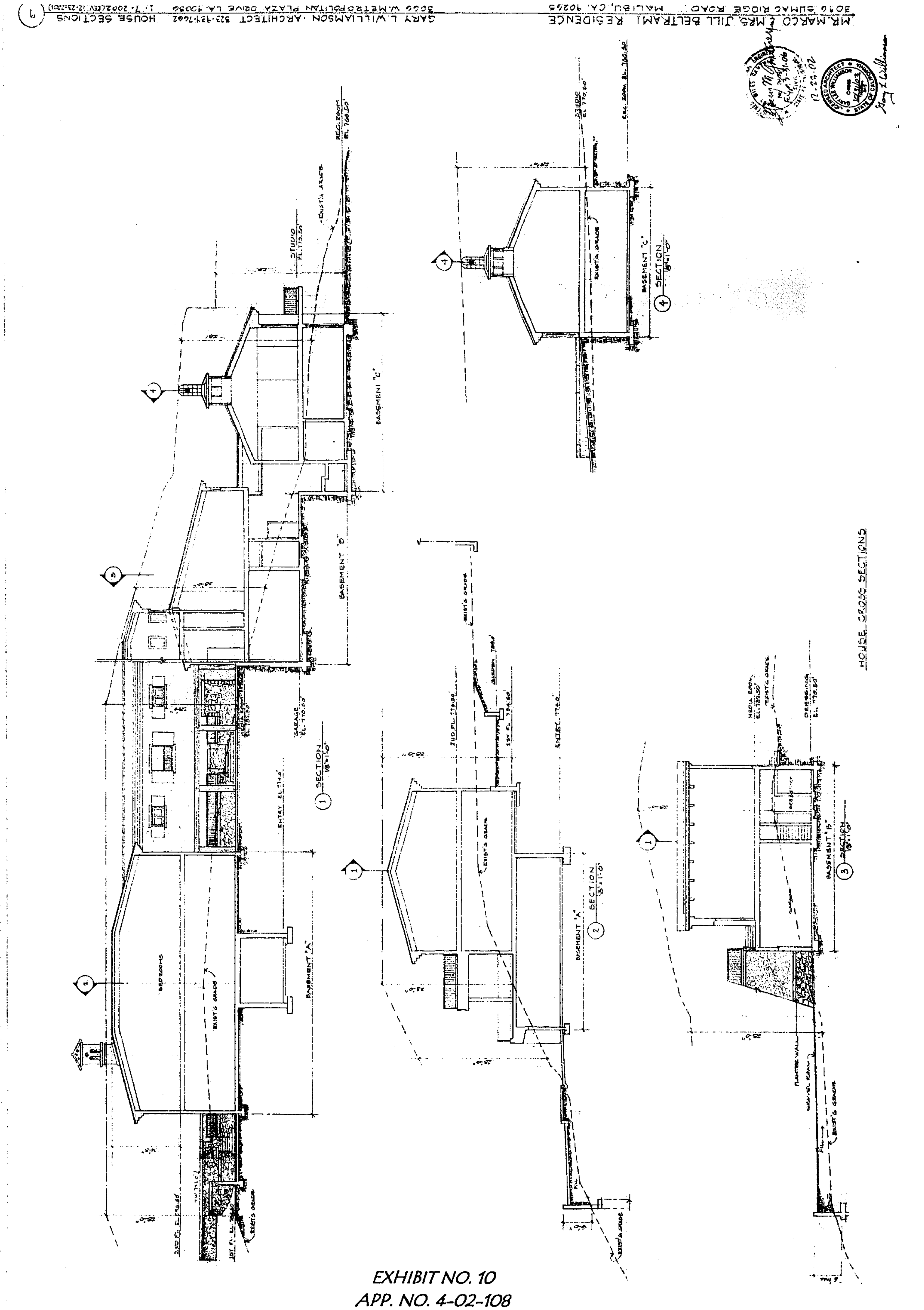

EXHIBIT NO. 10
APP. NO. 4-02-108
SECTIONS

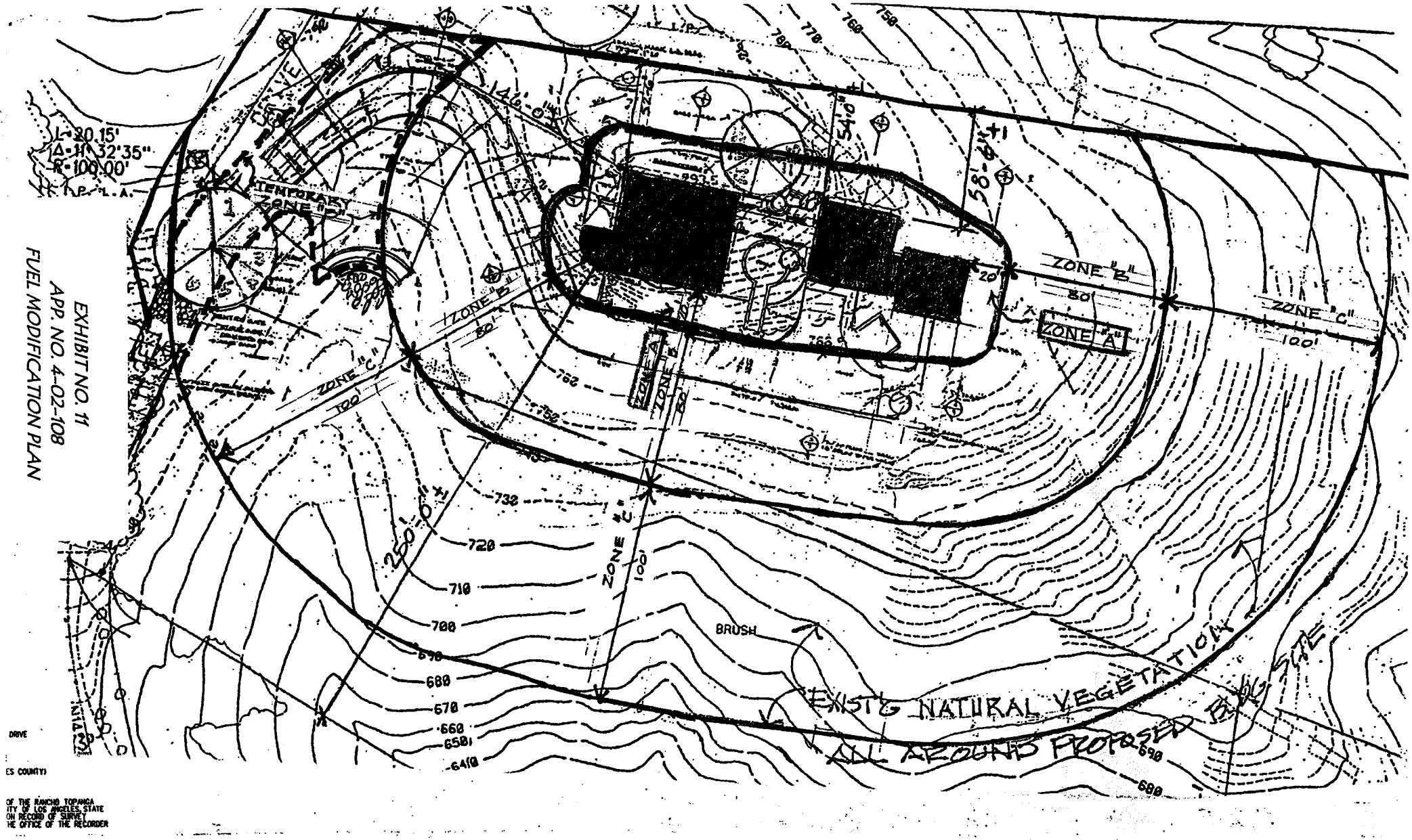

EXHIBIT NO. 11
APP. NO. 4-02-108
FUEL MODIFICATION PLAN

DRIVE

ES COUNTY)

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ITY OF LOS ANGELES, STATE
ON RECORD OF SURVEY
HE OFFICE OF THE RECORDER

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PLOT PLAN
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