

CALIFORNIA COASTAL COMMISSION

4TH CENTRAL COAST AREA
SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585 - 1800

Filed: 9/13/02
180th Day: 3/12/03
End of 90 Day Extension: 6/1/03
Staff: K. Kemmler
Staff Report: 4/21/03
Hearing Date: 5/6-9/03
Commission Action:



RECORD PACKET COPY

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-234

APPLICANT: Serra Canyon Property Owners Association, Attn: Geoff Gee

AGENTS: Fred Gaines

PROJECT LOCATION: 3900 Serra Road, City of Malibu (Los Angeles County)

PROJECT DESCRIPTION: Request for after-the-fact approval for construction of an existing 105 sq. ft. gate house to provide shelter for security guard and approx. 3,800 sq. ft. area of paving to widen the existing road.

Easement Area	30,000 sq. ft.
Building Coverage	105 sq. ft.
Pavement Coverage	3,800 sq. ft. new
Height Above Finished Grade	18 ft.
Parking Spaces	0

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department, Approval in Concept, December 3, 2001; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, April 18, 2002.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu Local Coastal Program; CDP App. File No. 5-91-622 (Serra Retreat Homeowners Association); CDP App. File No. 4-96-076 (Serra Canyon Property Owners Association); CDP No. 4-96-060 (Serra Canyon Property Owners Association); CDP No. 5-86-293, -A1, -A2, -A3, -A4, -A5 (Topanga Pacific Land Co., Rancho Topanga Development Land Co., RTMS Land Co., Rancho Coast Land Co.); CDP No. 5-89-145 (De Joria); CDP No. 5-88-443 (O'Connor); Settlement Agreement and Mutual Release, Serra Canyon Property Owners Association and California Department of Parks and Recreation, November 16, 2001; Resolution No. 02-97, Santa Monica Mountains Conservancy, August 26, 2002; Resolution No. 02-110, Mountains Recreation and Conservation Authority, August 26, 2002.

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

Summary of Staff Recommendation

Staff recommends **APPROVAL** of the proposed project with **FIVE (5) SPECIAL CONDITIONS** regarding (1) sign removal, (2) public access signage, (3) visitor information, (4) Serra Canyon Property Owners Requirements, and (5) condition compliance.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-234 for the development proposed by the applicant.*

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. *Sign Removal*

Within 14 days of the issuance of Coastal Development Permit No. 4-01-234, the existing large private property/no trespassing sign along the east side of Serra Road, as shown on Exhibit 7 and all smaller no trespassing signs located along Serra Road south of the gatehouse shall be removed.

No parking and /or no vehicular access signs may be allowed in the road easement, if they could not be mistaken to prohibit pedestrian and equestrian use of Serra Road to access trails beyond the gatehouse. Private property signs may only be allowed in the road easement north of the gatehouse, if they could not be mistaken to prohibit pedestrian and equestrian use of Serra Road to access trails beyond the gatehouse. Prior to issuance of the coastal development permit the applicant shall submit, for review and approval of the Executive Director, a plan illustrating the number, content and location of all existing signs located in the road easement and identifying which will be removed or replaced and which will remain. The plan shall also provide the content, size and location of any replacement signs and new signs to be installed, including the exact location where they will be installed.

The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan, including the posting of additional signs or modification to the language or location of approved signs, shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. *Public Access Signage*

Within 60 days of issuance of Coastal Development Permit No. 4-01-234, the applicant shall install informative public access signage at highly visible locations to welcome hikers and equestrian visitors into the area. Signs shall be placed adjacent to and visible from the PCH **and** at or on the gatehouse that notify the public that pedestrian and equestrian use of Serra Road to access trails beyond the gatehouse is allowed. Hours of access may be restricted to daylight hours. Sign language, design and size specifications shall ensure that all signs will be clearly visible to the public from PCH and at the gatehouse and that pedestrian and equestrian access to trails in the area is allowed (at least during daylight hours). Prior to issuance of the coastal development permit the applicant shall submit a plan, for review and approval of the Executive Director, that includes language, size and design specifications for the public access signage and the exact location in which the signage is to be installed. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. Any changes to the

approved sign language shall be reviewed and approved by the Executive Director. No other changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. Visitor Information

Written information shall be provided at the gatehouse directing the public to parking locations along PCH or at publicly owned lots on the seaward side of PCH and in the area. Information shall also be provided which directs the public to points of access to the trails located beyond the gatehouse. At the request of the Coastal Commission, the information about parking and trails shall be revised to reflect new parking areas or trails that are opened.

4. Serra Canyon Property owners Association (SCOPA) Requirements

The SCPOA must comply with the following:

- (a) the SCPOA shall provide training and instruction to any person employed to man the gatehouse in order to effectively carry out Special Condition No. Three and to insure that such employees accurately inform people about the public access that is authorized and required by (c) of this Special Condition;
- (b) the SCPOA shall be responsible for the maintenance, and replacement if necessary, of all public access signs required by Special Condition No. Two;
- (c) pedestrian and equestrian use of Serra Road to access trails beyond the gatehouse during daylight hours shall be allowed until and unless an amendment to this permit modifies the special conditions.

Prior to issuance of Coastal Development Permit 4-01-234, the applicant must submit a written document acceptable to the E.D. stating that it agrees to comply with the above requirements of this Special Condition.

5. Condition Compliance

If the applicant has not satisfied all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit within 120 days of Commission approval of the permit application, or such additional time as the Executive Director may grant for good cause, the Commission may institute any enforcement action that is authorized 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 Serra Canyon Property Owners Association (SCPOA), which represents 105 property owners in the Serra Canyon community, is requesting after-the-fact approval to construct an existing 105 sq. ft. gatehouse at the entrance to Serra Road approximately 140 feet north of

Pacific Coast Highway in order to restrict vehicular traffic into the area (Exhibits 3-8). In addition, the proposal includes a request for after-the-fact approval for construction of an existing 3,800 sq. ft. area of paving to widen the existing road in order to create two ingress lanes on the east side of the gatehouse and one egress lane on the west side of the gatehouse. Serra Road is a private road, maintained by the SCPOA.

Construction of the existing gatehouse and road improvements occurred in 1991 without the benefit of a coastal development permit (CDP). The applicant had obtained a building permit from the County of Los Angeles for said activities, however, a coastal development permit from the Coastal Commission was neither sought, nor obtained, by the applicant prior to construction. The Coastal Commission informed the applicant that a CDP was required for such development after construction had begun in August 1991. SCPOA continued to construct the existing improvements and subsequently submitted a coastal permit application in October 1991. SCPOA has applied for two prior coastal permits for the identical project, which the Commission has twice denied based on adverse impacts to public access and recreation (CDP Application Nos. 5-91-622 and 4-96-076). The California Department of Parks and Recreation (State Parks) opposed both permit applications based on concerns relative to public access to State Parks' lands located to the west and north of the project site, past the proposed gatehouse. In November 1998, after denial of the second permit application, SCPOA filed litigation against State Parks and the California Coastal Commission. The Coastal Commission was dismissed from the suit based on an agreement to reconsider the application if/when the dispute was resolved between SCPOA and State Parks. In November 2001, State Parks and SCPOA entered into a Settlement Agreement. SCPOA agreed to prescribed access to State Parks property over Serra Road by State Parks personnel and also agreed that if State Parks builds a parking lot adjacent to Serra Road, the public will be allowed to drive past the gatehouse to enter the parking lot for a limited number of special events. The Settlement Agreement states that State Parks shall notify the Coastal Commission that said Agreement meets State Parks' public access needs for the inland portion of Malibu Lagoon State Park, a 24-acre parcel acquired by State Parks in 1977 that abuts the project site, and that the Agreement satisfies State Parks' concerns that led it to oppose earlier applications by SCPOA to construct a gatehouse in the proposed location.

The gatehouse is presently manned only during the summer months, but is proposed to be manned 24 hours a day, year-round. The applicant has stated that the gatehouse will not interfere with pedestrian and equestrian access to State Parks' property and will assist State Parks in protecting sensitive habitat within the area from unrestricted vehicular access. In addition, the applicant has also stated that the purpose of the gatehouse is "to turn away unauthorized persons wishing to enter Serra Road beyond the State Parks property." No public parking currently exists in Serra Canyon. The applicant is not proposing any public parking within or near the entrance to the area. The applicant has stated that pedestrians who access State Parks' property presently, presumably use State Parks' parking lots across PCH or park on PCH itself and this is proposed to remain unchanged. Finally, there are existing private property signs near the entrance to Serra Road (Exhibit 7).

The subject site is located at the entrance of Serra Road immediately north of Pacific Coast Highway (PCH) in Serra Canyon in the City of Malibu (Exhibit 1). SCPOA members have a 50 ft. wide easement for ingress and egress, the western 25 ft. of which are located on State Parks' property, and the eastern 25 ft. of which are located on private property, owned by O'Connor (Exhibit 3). The proposed development lies entirely within the portion of the easement that crosses the O'Connor property, which specifically allows for the construction of a gatehouse. The character of the project site's surrounding area is varied, with residential

development, commercial development, a scenic highway and a network of publicly owned lands imparting wide open spaces and vistas. Serra Canyon lies adjacent to and to the east of the Civic Center area and Malibu Creek and across PCH from Surfrider State Beach, the Malibu Pier and Malibu Lagoon State Park (Exhibits 1 & 2). State Park lands are located to the south, west and north of Serra Canyon. The western portion of Serra Road lies within Malibu Lagoon State Park.

Two private roads branch off Serra Road, beyond the proposed gatehouse: Sweetwater Mesa Road to the east and Palm Canyon Lane to the west. There is an existing link to the Malibu Creek Trail clearly marked by posted signs identifying the entrance to California State Parks Property at the western terminus of Palm Canyon Lane. To reach this trailhead, visitors must walk down Serra Road to Palm Canyon Lane. Visitors can also reach State Parks property beyond a gate along the western side of Serra Road. This entrance is less noticeable, but once beyond the gate, one can wind their way onto a connector to the Malibu Creek Trail. This gate is located approximately 600 feet north of the gatehouse. In addition, there is an existing trail known as the Sweetwater Mesa Trail, which connects Serra Road to the Saddle Peak Trail. This trail begins approximately 40 feet north of the gatehouse and traverses the O'Connor property from Serra Road to Sweetwater Mesa Road. The CDP 5-88-443 (O'Connor) staff report dated September 26, 1988 states:

The subject parcel has a high potential for passive recreational use and public viewing of the shoreline and the many natural, historic and cultural features of the area. The subject site is currently heavily used by local residents and visitors as an informal scenic overlook as evidenced by litter and reports by local residents. The property provides a unique opportunity for surfers to judge the height, direction and form of waves at Surfrider State Beach and Malibu Lagoon State Park. Archeological reports indicate that it is likely that Native Americans used the site for similar purposes thousands of years ago.

In 5-82-66, one of the earlier permits on this property, the Commission required the applicant to make available the entire slope area for trail and viewing purposes. The agency which would accept the public easement was to select its precise location and design. The Commission's findings included an illustration of a trail that would connect to an existing State Park self-guided nature trail and lead to a spot on the upper seaward projection of the knoll where views east and west along the coast were available. The purpose of the trail would be to afford visitors sweeping views to and along the coastline nearly as dramatic in quality as those that are presently available from the top of the property where the residence is to be built.

The Mountains Restoration Trust and the Santa Monica Mountains Trails Council have in the past indicated that a trail connecting the State Park picnic area with Sweetwater Mesa Road at the property's northern boundary line would provide a connection for State Parks visitors using the parking lot to an eventual loop trail around the ridges surrounding the Serra Retreat. This loop connects to the adopted Malibu Creek Trail, Coastal Slope Trail and Saddle Peak Trail, thus affording access from public parking areas on the coast to the expanding network of trails in the Santa Monica Mountains. In addition, Staff has received a letter stating that a trail connecting Malibu Lagoon State Park and the Sycamore Farms horse stable crosses the property and has been used for upwards of fifty years.

In connection with residential development along Sweetwater Mesa Road, multiple trail easements have been dedicated to formalize the location of this trail [CDP No. 5-86-293-A (Topanga Pacific Land Co., Rancho Topanga Development Land Co., RTMS Land Co., Rancho Coast Land Co.), CDP No. 5-89-145 (De Joria), CDP No. 5-88-443 (O'Connor), 5-85-362 (Tunney)] (see Exhibit 2). The Santa Monica Mountains Trail Council has assisted applicants

and the Coastal Commission in coordinating the best alignments for these easements. Thus, Serra Road provides public pedestrian and equestrian access to the trailhead at the end of Palm Canyon Lane and the Sweetwater Mesa Trail. Serra Road has historically been used by hikers and equestrians to access these trails.

All of the roads within the Serra Canyon area, including Serra Road, Palm Canyon Lane and Sweetwater Mesa Road, dead end within the canyon, with the exception of Cross Creek Road. Cross Creek Road is roughly parallel to Serra Road and intersects Palm Canyon Lane. Cross Creek Road traverses Malibu Creek via an Arizona Crossing toward the Civic Center area. A mechanized security gate permitted under CDP No. 4-96-060 (Serra Canyon Property Owners Association) spans this road along the Creek, preventing public vehicular and pedestrian access into the area via this route.

The Santa Monica Mountains form the western backdrop for the metropolitan area of Los Angeles and the heavily urbanized San Fernando and Conejo Valleys. Los Angeles County is populated by well over nine million people, most of whom are within an hour's drive of the Santa Monica Mountains.¹ The Santa Monica Mountains create rugged open spaces, jagged rock outcroppings, and primitive wilderness areas, in addition to homes, ranches, and communities. The Santa Monica Mountains area, including the City of Malibu, provides the public and local residents with outdoor recreational opportunities and an escape from urban settings and experiences.

The gatehouse will be located setback from Pacific Coast Highway on the inland side and the surrounding lots are developed with large single family homes to the east and the Civic Center commercial area to the west. Therefore, the proposed project will not be significantly-visible from Pacific Coast Highway and will not result in an adverse impact to scenic coastal views.

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. PUBLIC ACCESS AND RECREATION

One of the basic mandates of the Coastal Act is to maximize public access and recreational opportunities within coastal areas and to reserve lands suitable for coastal recreation for that purpose. The Coastal Act has several policies which address the issues of public access and recreation within coastal areas.

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

Section 30210 of the Coastal Act, which is incorporated as part of the Malibu LCP, states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to

¹ Santa Monica Mountains Area Recreational Trails Coordination Project, Final Report, September 1997, page 34.

protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30253 of the Coastal Act, which is incorporated as part of the Malibu LCP, states in pertinent part:

New development shall:

(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

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

- 2.1 The shoreline, parklands, beaches, and trails located within the City provide a large range of recreational opportunities in natural settings which include hiking, equestrian activities, bicycling, camping, educational study, picnicking, and coastal access. These recreational opportunities shall be protected and, where feasible, expanded or enhanced as a resource of regional, state, and national importance.**
- 2.2 New development shall minimize impacts to public access to and along the shoreline and inland trails....**
- 2.5 New development shall be sited and designed to minimize impacts to public access and recreation to the shoreline and trails. If there is no feasible alternative that can eliminate or avoid all access impacts, then the alternative that would result in the least significant adverse impact shall be required. Impacts may be mitigated through the dedication of an access or trail easement where the project site encompasses an LCP mapped access or trail alignment, where the City, County, State, or other public agency has identified a trail used by the public, or where there is substantial evidence that prescriptive rights exist. Mitigation measures required for impacts to public access and recreational opportunities shall be implemented prior to or concurrent with construction of the approved development.**
- 2.6 Mitigation shall not substitute for implementation of a feasible project alternative that would avoid impacts to public access.**
- 2.11 Public land, including rights-of-way, easements, and dedications, shall be utilized for public recreation or access purposes, where appropriate and consistent with public safety and protection of environmentally sensitive habitat areas.**
- 2.12 For any new development adjacent to or within 100 feet of a public park, beach, trail or recreation area, notice of proposed developments shall be provided, as applicable, to Los Angeles and Ventura Counties, the National Park Service, the California Department of Parks and Recreation and the Santa Monica Mountains Conservancy for their review with regard to potential impacts to public access, recreation, environmentally sensitive habitat and any other sensitive environmental resources.**
- 2.17 Recreation and access opportunities at existing public beaches and parks shall be protected, and where feasible, enhanced as an important coastal resource. Public**

beaches and parks shall maintain lower-cost user fees and parking fees and maximize public access and recreation opportunities. Limitations on time of use or increases in use fees or parking fees, which affect the intensity of use, shall be subject to a coastal development permit.

- 2.28 Gates, guardhouses, barriers or other structures designed to regulate or restrict access shall not be permitted within private street easements where they have the potential to limit, deter, or prevent public access to the shoreline, inland trails, or parklands where there is substantial evidence that prescriptive rights exist.**

The applicant is requesting after-the-fact approval to construct an existing 105 sq. ft. gatehouse at the entrance to Serra Road approximately 140 feet north of Pacific Coast Highway in order to restrict vehicular traffic into the area. In addition, the proposal includes a request for after-the-fact approval for construction of an existing 3,800 sq. ft. area of paving to widen the existing road in order to create two ingress lanes on the east side of the gatehouse and one egress lane on the west side of the gatehouse. No public parking currently exists in Serra Canyon, either on Serra Road, or the other roads that branch off it. The applicant is not proposing any public parking at or near the entrance to Serra Road. The applicant has stated that pedestrians who access State Parks' property presently from Serra Road, presumably use State Parks' parking lots across PCH or park on PCH itself and this is proposed to remain unchanged.

The Santa Monica Mountains area constitutes a unique and special wilderness and recreational area and, as a result, is a popular visitor destination point for active and passive recreational use. Available data indicate that existing recreational facilities in the region are currently experiencing sustained demand that is often over capacity. According to the State Department of Parks and Recreation, total visitation at state-managed parks and beaches alone was estimated at 2,747,000 from 1986 to 1987. The County of Los Angeles estimated that user activity days for hiking and backpacking would rise from 12,786,471 in 1980 to 16,106,428 in 2000; camping from 8,906,122 to 10,622,744; and horseback riding from 6,561,103 to 7,511,873. As the population in California, and in the Los Angeles metropolitan area in particular, continues to increase, the demand on the parks within the Santa Monica Mountains area can be expected to grow. The preservation of the unique rural character of the parks and communities within the Santa Monica Mountains area is, thus, of the utmost importance for continued quality coastal recreational opportunities.

The relatively recent phenomenon of gated communities has become increasingly present in inner city and suburban areas since the late 1980s, often in response to security concerns. The spread of gated communities helps to create a "fortress mentality."² As Edward J. Blakely, Dean and of the School of Urban and Regional Planning at the University of Southern California, and Mary Gail Snyder, Professor in the Department of City and Regional Planning at the University of California at Berkeley, describe the phenomenon of gated communities:

Millions of Americans have chosen to live in walled and fenced communal residential space that was previously integrated with the larger shared civic space. . . . In this era of dramatic demographic, economic and social change, there is a growing fear about the future in America. Many feel vulnerable, unsure of their place and the stability of their neighborhoods in the face of rapid change. This is reflected in an increasing fear of crime that is unrelated to actual crime trends or locations, and in the growing number of methods used to control the physical environment for physical and economic security.

² Fortress America, Gated Communities in the United States, Edward J. Blakely and Mary Gail Snyder, the Brookings Institution, 1997.

The phenomenon of walled cities and gated communities is a dramatic manifestation of a new fortress mentality growing in America. Gates, fences, and private security guards, like exclusionary land use policies, development regulations, and an assortment of other planning tools, are means of control, used to restrict or limit access to residential, commercial, and public spaces. Americans are electing to live behind walls with active security mechanisms to prevent intrusion into their private domains. Americans of all classes are fortifying up, attempting to secure the value of their houses, reduce or escape from the impact of crime, and find neighbors who share their sense of the good life. ³

Furthermore, it is estimated that at least three to four million and potentially many more Americans have already sought out this new form of refuge from the problems of urbanization.⁴ One study estimates that one million Californians are seeking a gated refuge.⁵ In fact, a 1991 poll of the Los Angeles metropolitan area found 16 percent of respondents living in some form of "secured-access" environment.⁶

Serra Canyon and the surrounding area provide numerous trails with sweeping vistas of the Santa Monica Mountains and of the Pacific Ocean to the south. Presently, the only entrance accessible to the public into Serra Canyon is Serra Road, off of Pacific Coast Highway. As described above, Palm Canyon Lane and Sweetwater Mesa Road, roads within the community that branch off of Serra Road, provide access to existing trails that connect to other mapped trails in the Los Angeles County trails system. The route through Serra Canyon along Serra Road has historically been used by hikers and equestrians to access the existing public trails. The proposed manned gatehouse will convey to visitors the message: keep out, visitors are not welcome. This impact is inconsistent with the fact that the site is located adjacent to State Park lands, an area devoted to providing visitors with recreational opportunities and protecting natural habitats and is the only entry point at which the public can access existing trails in Serra Canyon that connect to other inland hiking trails.

A letter received in the Commission office on May 17, 2002 with photos attached from a resident of the Serra Canyon community, where the gatehouse is proposed, also discusses the trail route from Palm Canyon Lane and states:

...at the western end of Palm Canyon Road (Retreat Court) there exists a marked trail head into the Santa Monica Mountains and the Backbone Trail. This trail head has been here for at least the last 24 years I have lived here...The only access to this trail head is via Serra Road...Accordingly, I strongly urge the Commissioners to deny this request for a guarded gate entrance to Serra Road in Malibu.

Several letters have also been received in the past by Commission staff from recreational organizations and members of the public in relation to previous coastal permit applications regarding the existing Sweetwater Mesa Trail, which connects to the Saddle Peak Trail. For example, a letter from Linda Palmer, President of the Santa Monica Mountains Trails Council dated October 11, 1988 submitted in support of a trail easement dedication, which was a part of CDP No. 5-88-443 (O'Connor) states:

³ *Id.* at 1 and 2.

⁴ *Id.* at 2 and 3.

⁵ "Am I My Brother's Gatekeeper? The Fortressing of Private Communities Contributes to the Increasing Fragmentation of American Society," Edward J. Blakely, The Daily News of Los Angeles, March 1, 1998, page V1.

⁶ *Id.*

We support the trail condition in your staff recommendation to require dedication of an easement for the Sweetwater Mesa Trail. This trail is part of a very popular 4-5 mile loop, utilizing parts of the Coastal Slope Trail and the Malibu Canyon Trail. It connects State Park land at Malibu Lagoon to State Park land up in Malibu Canyon to the north. This loop contains fantastic diversity.

We know that the Sweetwater Mesa Trail has been used by the public for many, many years, and I am acquainted with quite a few who have used it, including my husband and myself.

Further, another letter from the Santa Monica Mountains Trails Council dated June 15, 1989 was submitted regarding CDP No. 5-89-145 (De Joria), which expresses the Council's support of the easement stating that the trail is existing and heavily used by the public and goes on to list prior coastal permits that required trail easement dedications over the subject trail.

In addition, Commission staff has also reviewed aerial photographs of the area, from the 1970's and 1986. The aerial photographs clearly illustrate a trail in what appears to be the same location as the existing Sweetwater Mesa Trail, which continues on into the network of LA County trails. In addition, when Commission staff visited the site of the proposed development and hiked the trail from the gate on the western side of Serra Road and from the trail head at the end of Palm Canyon Lane that connect to the Malibu Creek Trail, staff noted that the trail and links were well established, easy to navigate, and were not overgrown. As a result, it is apparent from the aerial photographs, site visit, and letters submitted from the Santa Monica Trails Council and residents, that there has been public use of these inland trails from Serra Road, at least as early as the 1970's and continuing on into the present. Thus, there is substantial evidence of prescriptive rights to use Serra Road to access the inland hiking trails. Further there are easement rights on record with respect to properties along Sweetwater Mesa Road. The public trail easement on the property subject to CDP No. 5-86-293, -A1, -A2, -A3, -A4, -A5 (Topanga Pacific Land Co., Rancho Topanga Development Land Co., RTMS Land Co., Rancho Coast Land Co.) is in the process of being accepted by the Santa Monica Mountains Conservancy and Mountains Recreation and Conservation Authority.

The applicant asserts that there is an access point directly from PCH onto State Parks property on the western side of Serra Road, from which hikers (and horses) could access a path that connects to the Malibu Creek Trail similar to the ones mentioned above. Thus, it would be unnecessary for the public to walk along Serra Road at all to access the Malibu Creek Trail and State Parks property. Staff notes that upon attempting to access a trail at this point, Staff found that the path, in fact, does not exist on the ground. Staff was unable to squeeze through the overgrown vegetation after approximately ten feet and so it follows that hikers and horses would not be able to navigate the area.

In past Commission actions, the Commission has found that gates may deter the public from using trails that exist nearby across particular sites. Although the Commission has approved security gates in past actions, the Commission has also denied similar proposals on the basis that a security gate would deter or inhibit public access. In the appeal 4-VNT-98-225 (Breakers Way Property Owners Association), the Commission denied a permit for a security gate, that provided for a pedestrian gate, at the entrance to the Mussel Shoals Community in Ventura County, due to a determination that public access would be discouraged. In that appeal, the Commission was concerned the security gate would inhibit public access.

As with the applications by Breakers Way Property Owners Association, SCPOA has stated that they would allow members of the public to enjoy continued hiking and equestrian use of Serra Road to access State Parks property and trails. Commission experience, however, indicates that pedestrian use can easily be discouraged or closed off. Likewise, the proposed manned gatehouse could serve to inhibit public pedestrian and equestrian use in the future due to security concerns or a desire at some future date to keep the public from passing over the private streets to access State Park lands and public trails. In addition, research indicates that a major deterrent to public use of recreational trails and similar public recreation areas and facilities is a perception by the public that an area is private property. Gates create physical barriers to access and privatize community space, not merely individual space.⁷

As Blakely and Snyder write:

Gated communities physically restrict access so that normally public spaces are privatized. They differ from apartment buildings with guards or doormen, which exclude public access to the private space of lobbies and hallways. Instead, gated communities exclude people from traditionally public areas like sidewalks and streets.⁸

Further, in Fortress America, Gated Communities in the United States, Blakely and Snyder state the intent of controlled entrances: "to prevent penetration by nonresidents."⁹ Blakely and Snyder also list one potential consequence of gates, which is a critical consideration in an area such as the subject site, located adjacent to State Parks. They state:

Gates can make access to shorelines, beaches, and parks so difficult that those public resources become essentially private preserves.¹⁰

In addition, one element of the theory supporting street closures, "crime prevention through environmental design" (CPTED), which uses psychological inducements and deterrents, recommends natural access controls (such as the proposed gatehouse) for the physical guidance of people coming and going from a space.¹¹ Another principle of CPTED includes the use of territorial reinforcement (such as the proposed manned gatehouse), so that defensible space or clear physical boundaries are created.

In the case of the current permit application, the manned gatehouse would clearly delineate a boundary between public and private property and foster a sense of privatization. The gatehouse would deter entry by members of the public who wish to access trails through this route that has traditionally been used to reach public trails and parklands. As a result, the manned gatehouse would decrease the public's perception that they may pass through Serra Canyon to those trails.

Although the applicant is proposing to allow continued public pedestrian and equestrian access along Serra Road, this is not sufficient to override the public perception that visitors are not

⁷ "Am I My Brother's Gatekeeper? The Fortressing of Private Communities Contributes to the Increasing Fragmentation of American Society," Edward J. Blakely, The Daily News of Los Angeles, March 1, 1998, page V1.

⁸ "Putting Up the Gates," Edward J. Blakely and Mary Gail Snyder, National Housing Institute, May/June 1997.

⁹ Fortress America, Gated Communities in the United States, Edward J. Blakely and Mary Gail Snyder, the Brookings Institution, 1997, page 2.

¹⁰ Id. at 154.

¹¹ Id. at 122.

welcome into this area with a security guard and gatehouse. As a result, the proposed development would create a chilling effect on public access and recreation. However, with the placement of welcoming signage informing the public that pedestrian and equestrian access to trails is allowed and the removal of ominous private property/no trespassing signs in combination with information given to the public as to where one may park in order to access the trails via foot in the area, the Commission finds that the gatehouse would not interfere with public access and recreation opportunities. Therefore, the Commission requires **Special Condition No. One (1)**, which requires the applicant to remove the existing large private property/no trespassing sign along the east side of Serra Road along with the smaller no trespassing signs located south of the gatehouse. These signs could discourage access to the trails within the area. This condition requires the applicant to submit a site plan prepared by a licensed engineer or architect illustrating the number and location of existing signs and identifying which will be removed or replaced and which will remain. In order to protect private property rights, no parking and/or no vehicular access signs may be allowed if they could not be mistaken to prohibit pedestrian and equestrian use of Serra Road to access trails located beyond the gatehouse. Private property signs may only be allowed north of the gatehouse, if they could not be mistaken to prohibit pedestrian and equestrian use of Serra Road to access trails located beyond the gatehouse. The language and location of all such signs are subject to the review and approval of the Executive Director.

In addition the Commission finds that the installation of public access signage will serve to avoid adverse impacts to public access and recreation that might otherwise result from the presence of a manned gatehouse. Thus, **Special Condition No. Two (2)** requires the applicant to install informative public access signage adjacent to and visible from the PCH and at or on the gatehouse that notify the public that pedestrian and equestrian use of Serra Road to access trails beyond the gatehouse is allowed. Hours of access may be restricted to daylight hours. Sign language, design and size specifications shall ensure that all signs will be clearly visible to the public from PCH and at the gatehouse and that pedestrian and equestrian access to trails in the area is allowed. In order to insure that the content of the public access signage is appropriate to meet the intent of the condition, and that the signage is installed in a location readily visible by the public, Special Condition No. Two (2) also requires the applicant to submit the content of the public access signage and the exact location in which the signage is to be installed to the Executive Director for review and approval prior to issuance of the coastal development permit.

Furthermore, **Special Condition No. Three (3)** will ensure that information is provided at the gatehouse directing the public to parking locations along PCH or at publicly owned lots on the seaward side of PCH and in the area. Information shall also be provided which directs the public to points of access to the trails. Finally **Special Condition No. Four (4)** requires the applicant to maintain the required public access signs; train employees who work in the gatehouse to provide information about nearby public parking areas, trail locations beyond the gatehouse, and accurate information about allowance of pedestrian and equestrian use of Serra Road to access trails beyond the gatehouse. In addition, Special Condition Four (4) expressly requires the applicant to allow pedestrian and equestrian use of Serra Road to access trails beyond the gatehouse.

Policy 2.28 of the LCP clearly states that no gates, guardhouses, barriers or other structures designed to regulate or restrict access shall be permitted within private street easements where they have the potential to limit, deter, or prevent public access to the shoreline, inland trails, or parklands where there is substantial evidence that prescriptive rights exist. The Commission

notes that construction of gatehouses, guardhouses and other such structures which serve to privatize and limit public access may deter members of the public from utilizing public lands acquired through offers to dedicate in those areas. Gatehouses, guard houses and similar structures serving to privatize coastal areas and create physical barriers to public access within coastal areas may create a perception that even publicly owned lands and trail easements acquired through offers to dedicate are private. The Commission finds that construction of the proposed gatehouse may cause members of the public seeking access to the trails, of which several trail easements have been dedicated for public use, to assume that all portions of the area are private and not available for public recreational use. Therefore, Special Conditions No. One-Four (1-4) of the subject permit are required to ensure that public pedestrian and equestrian use of the trails is not inhibited by the proposed development. The Commission would note that Staff met with the applicants and discussed the measures outlined in the special conditions, which would allow unimpeded public pedestrian and equestrian access to the trails north of the gatehouse and the applicant expressed that they were in agreement with the conceptual conditions to be placed on the project. The Commission finds that the proposed development, only as conditioned, would eliminate the potential to prevent public access and therefore, complies with Policy 2.28 and other public access and recreation policies of the Malibu LCP.

C. VIOLATIONS

Development has occurred on the subject site without the required coastal development permits, including the construction of a 105 sq. ft. gate house and approximately 3,800 sq. ft. area of paving to widen the existing road. The current application requests after-the-fact approval for the construction of the 105 sq. ft. gate house, and approx. 3,800 sq. ft. area of paving. In order to ensure that the violation aspects of the project are resolved in a timely manner, **Special Condition No. Five (5)** 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 policies of the certified Malibu LCP. 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.

D. 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.

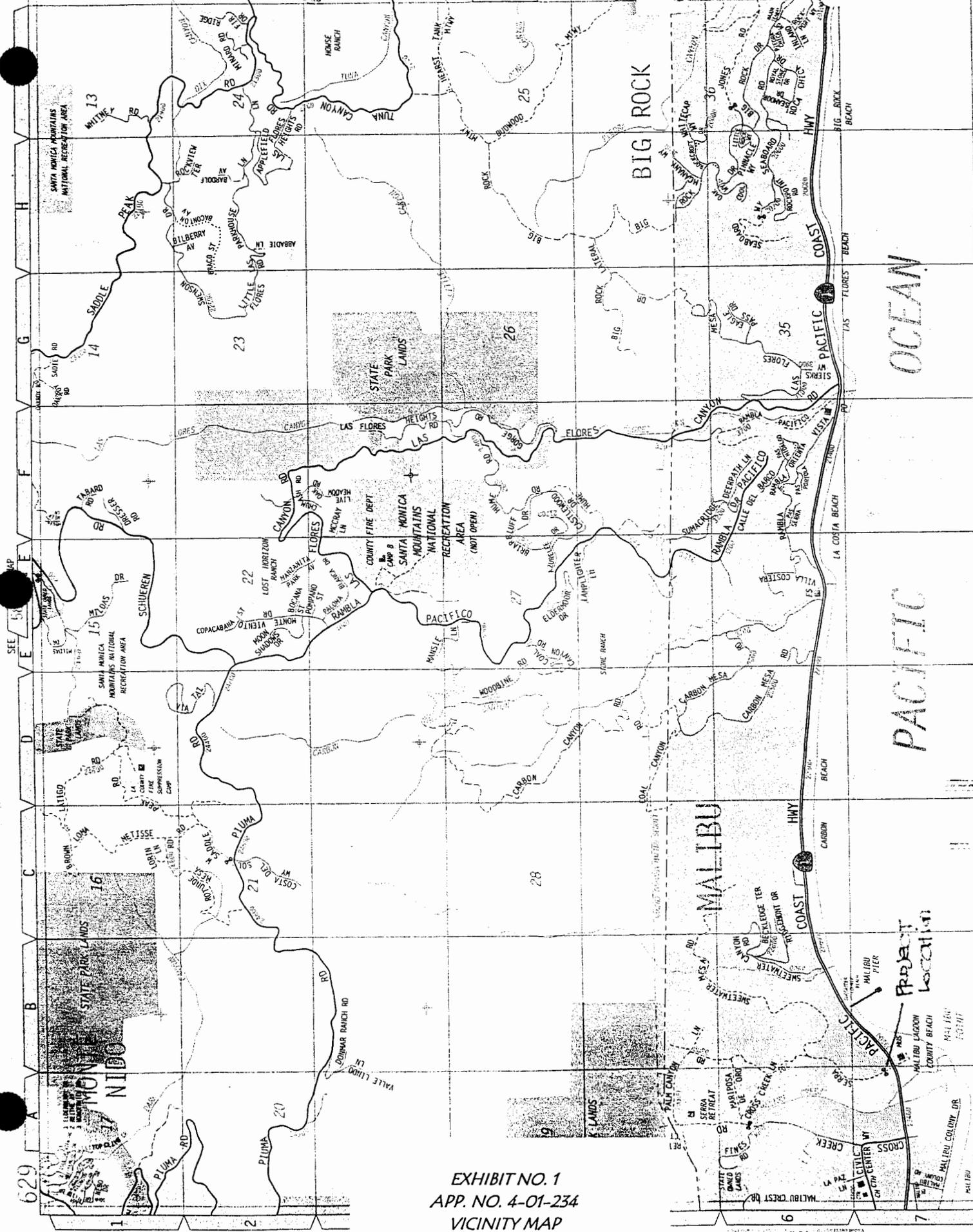
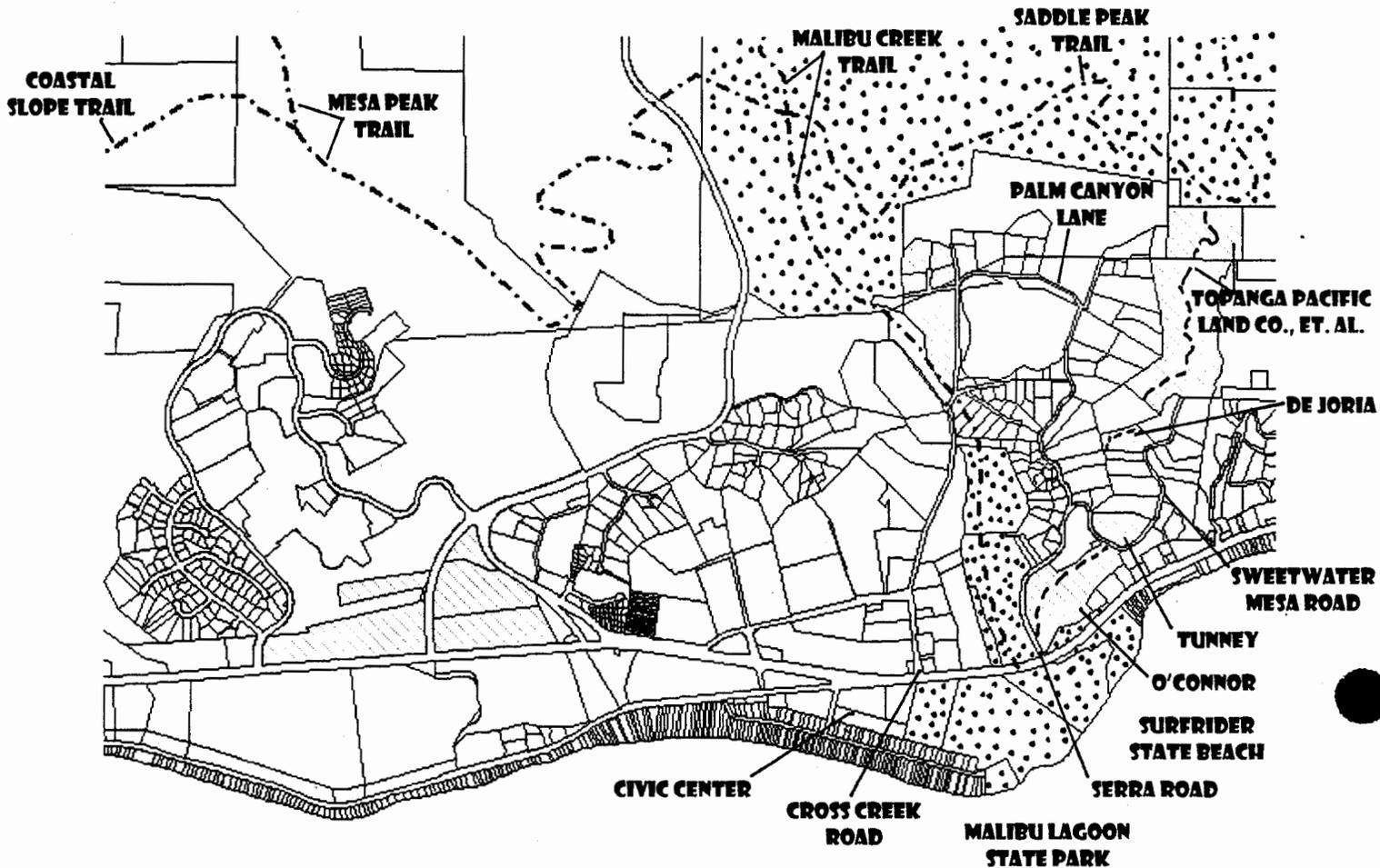


EXHIBIT NO. 1
 APP. NO. 4-01-234
 VICINITY MAP

629

LOS ANGELES CO.

MAP



TRAIL EASEMENT DEDICATIONS

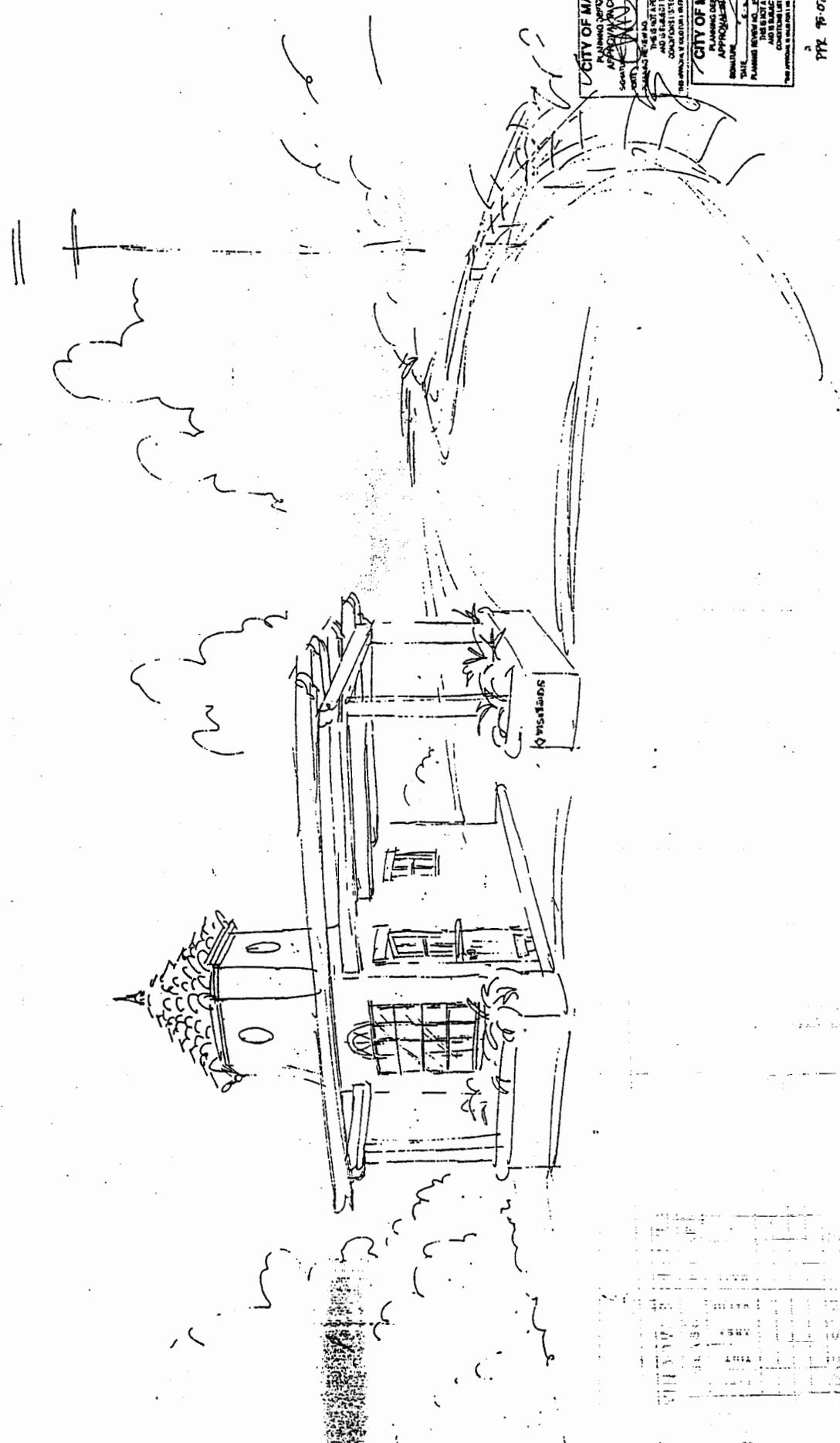


TRAILS



STATE PARKS/PUBLICLY OWNED LAND

EXHIBIT NO. 2
 APP. NO. 4-01-234
 ACCESS AND RECREATION MAP

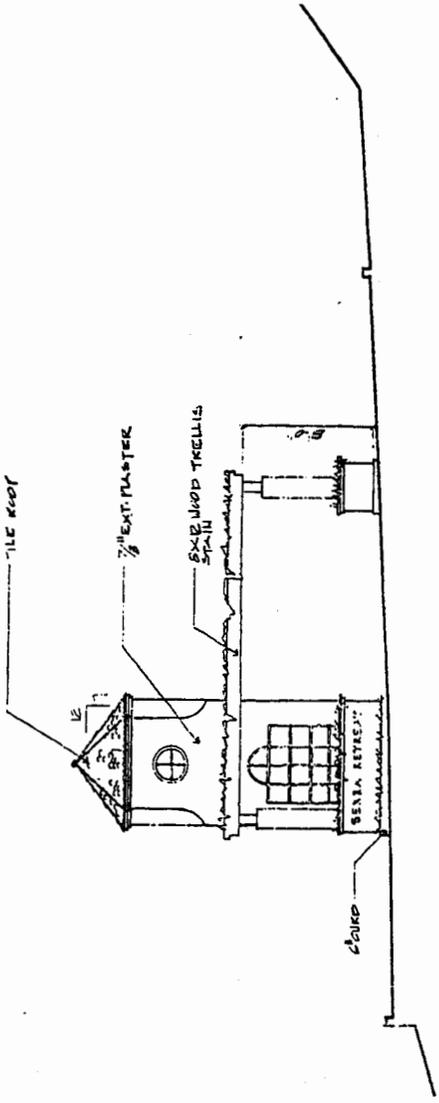


CITY OF MARIETTA
 PLANNING DEPARTMENT
 APPROVED FOR THE CITY
 DATE: 1/11/01
 THE CITY ENGINEER
 AND PLANNING DEPARTMENT
 APPROVED FOR THE CITY
 DATE: 1/11/01
 THE CITY ENGINEER

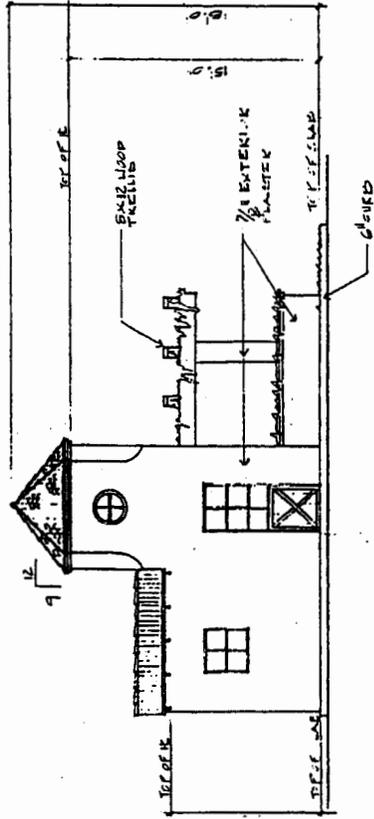
2
 PPL 95-01

The Serra Canyon Property Owner's Association hereby indemnifies, and holds harmless from any and all claims, damages, losses, and expenses, including reasonable attorney's fees, arising from the City's approval of a Property Owner's Association. The Property Owner's Association will be responsible for all other conditions and terms, including easements, and will be required to provide a copy of the same to the City.

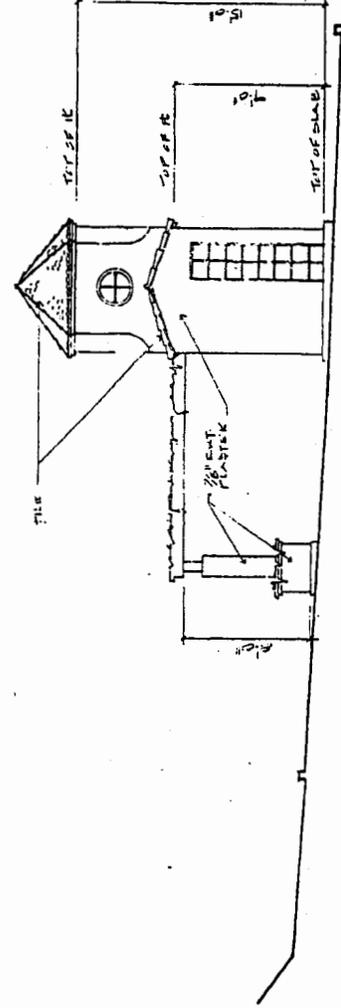
EXHIBIT NO. 4
 APP. NO. 4-01-234
 GATEHOUSE DRAWING



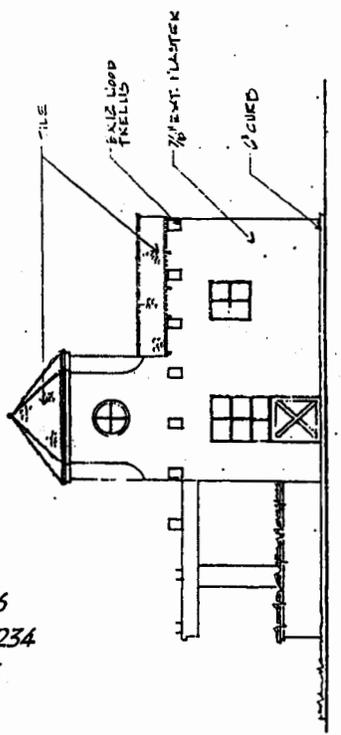
SOUTH ELEVATION
1/8" = 1'-0"



WEST ELEVATION
1/8" = 1'-0"



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



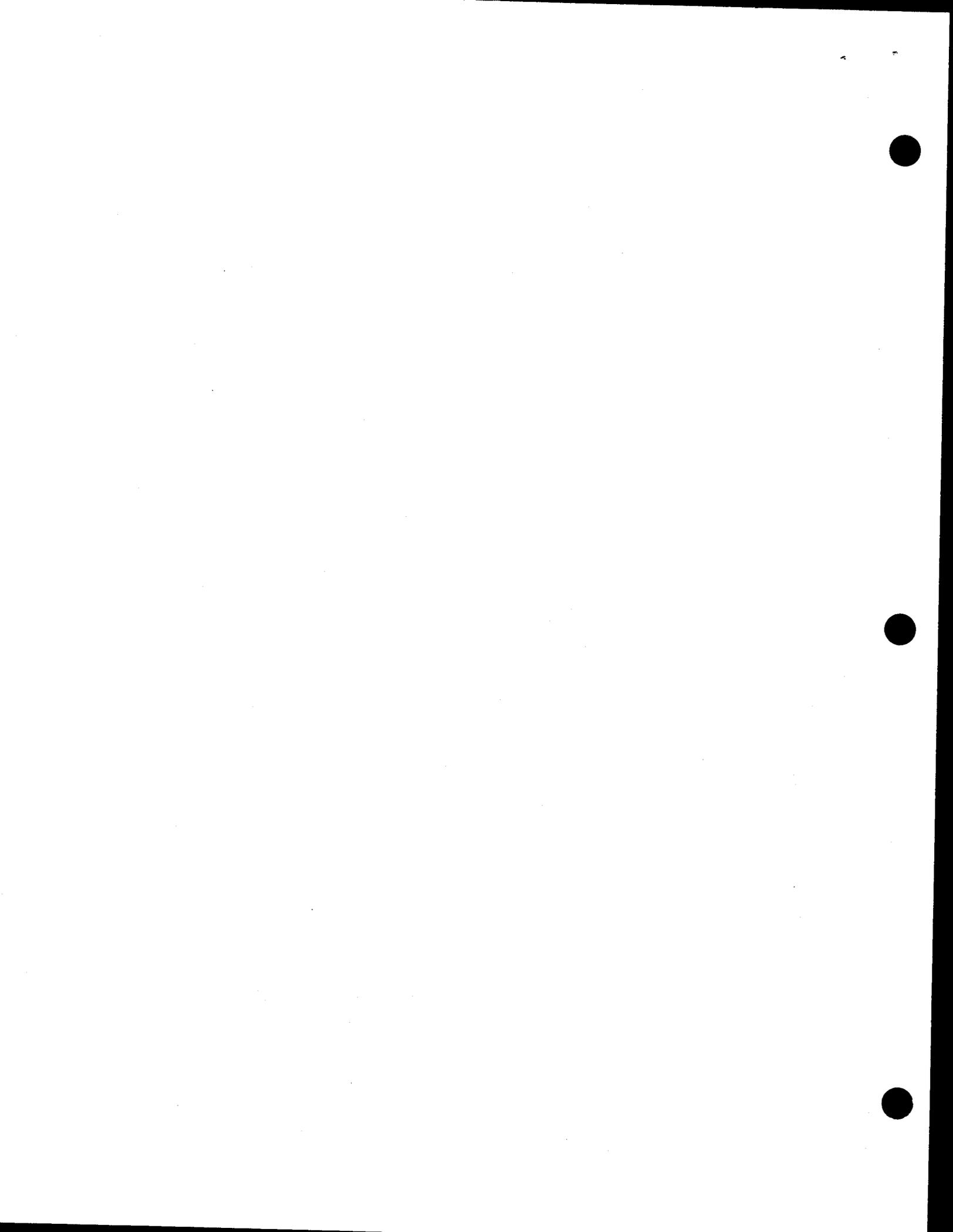
EAST ELEVATION
1/8" = 1'-0"

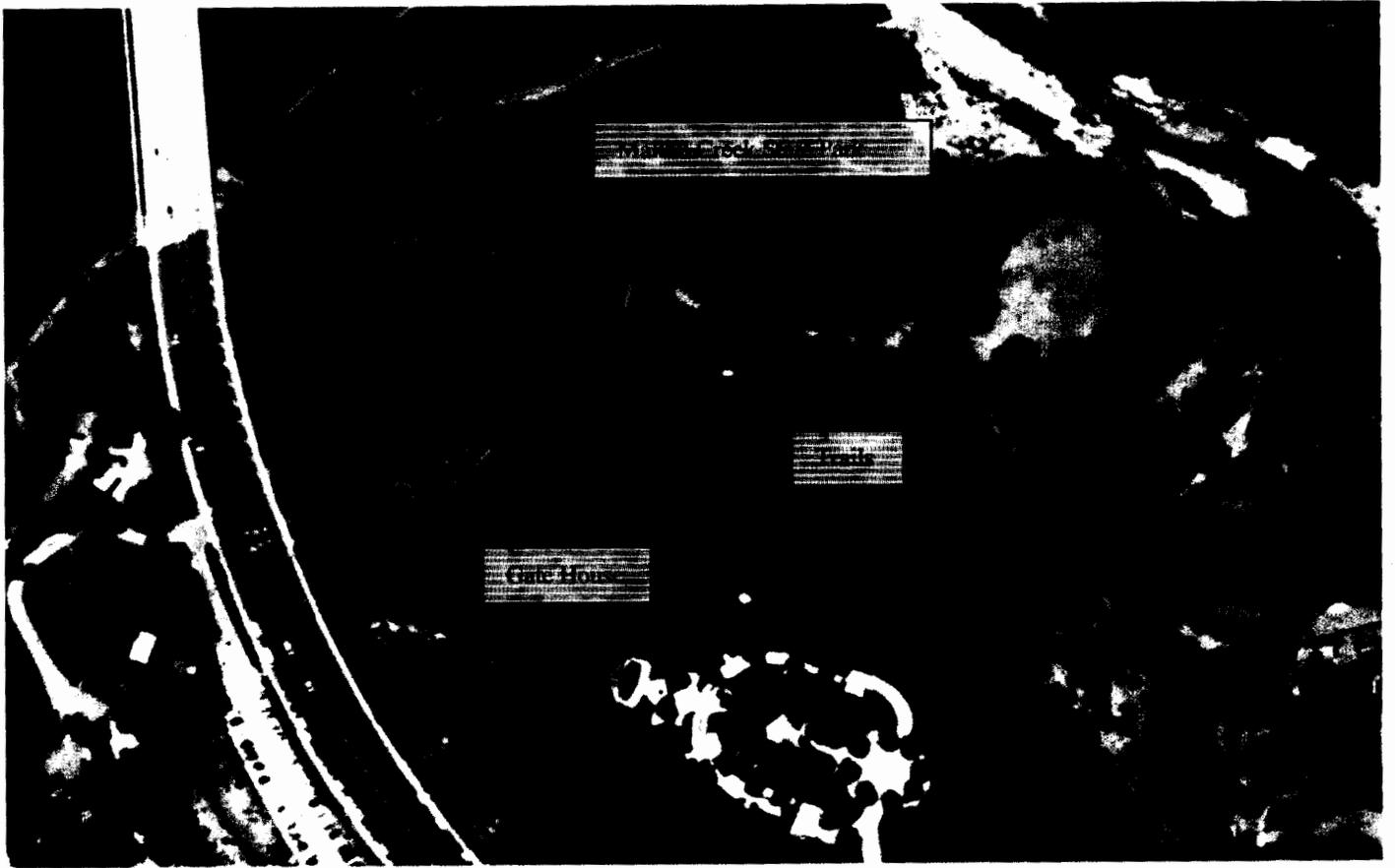
EXHIBIT NO. 6
APP. NO. 4-01-234
ELEVATIONS

CITY OF MALIBU
PLANNING DEPARTMENT
APPROVAL IN CONCEPT
DATE: 11/11/01
DRAWN BY: J. J. WILKINSON
CHECKED BY: J. J. WILKINSON
APPROVED BY: J. J. WILKINSON
CITY OF MALIBU
PLANNING DEPARTMENT
APPROVAL IN CONCEPT
DATE: 11/11/01
DRAWN BY: J. J. WILKINSON
CHECKED BY: J. J. WILKINSON
APPROVED BY: J. J. WILKINSON



*EXHIBIT NO. 7
APP. NO. 4-01-234
EXISTING GATEHOUSE AT SERRA ROAD ENTRANCE*





*EXHIBIT NO. 8
APP. NO. 4-01-234
2001 Aerial Photograph of Gate House*

