

Item Fr 11b

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO: 4-04-021

APPLICANT: Carlos Dell'Acqua **AGENT:** Tuna Studio, Thomas Egidi

PROJECT LOCATION: 3005 Sequit Drive, El Nido Small Lot Subdivision, Santa Monica Mountains, Los Angeles County

PROJECT DESCRIPTION: Construction of a 1,619 sq. ft., 35 foot high from existing grade single-family residence, with 2-car garage, lap pool and spa, septic system, and 280 cu. yds. of grading (180 cu. yds. cut and 100 cu. yds. fill) on two steeply sloping lots.

Lot area:	19,460 sq. ft.
Building coverage:	1,587 sq. ft.
Pavement coverage:	1,408 sq. ft.
Ht above ext grade:	35 ft.

LOCAL APPROVALS RECEIVED: Los Angeles County approval in concept, conceptual septic system approval, preliminary fuel modification plan approval, preliminary road access approval

SUBSTANTIVE FILE DOCUMENTS: Preliminary Geologic and Soils Engineering Report, dated February 26, 2004, and Percolation Testing, dated November 11, 2003, both prepared by Southwest Geotechnical, Inc.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with special conditions relating to incorporation of geologic recommendations, landscaping and erosion control, drainage and polluted runoff control, wildfire waiver, future development, cumulative impact mitigation, revised plans, and recordation of the approved permit. The proposed project is located within the El Nido Small Lot Subdivision, an area where the Commission has consistently applied the Slope Intensity Formula to establish a maximum gross structural area (GSA) for projects, based on the area and slope of the building site. As conditioned, the proposed project will be consistent with the applicable policies of the Coastal Act.

I. Approval with Conditions

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No 4-04-048 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

II. Standard Conditions

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

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

III. Special Conditions

1. Plans Conforming to Geotechnical Engineer's Recommendations.

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the Preliminary Geologic and Soils Engineering Report, dated February 26, 2004, and Percolation Testing, dated November 11, 2003, both prepared by Southwest Geotechnical, Inc. These recommendations to be incorporated into all final design and construction plans include recommendations concerning site preparation, grading, foundations, retaining walls, and drainage.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

2. Landscaping and Erosion Control Plans

Prior to the issuance of the coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or qualified resource specialist, for review and approval by the Executive Director. The plans shall incorporate the following criteria:

A) Landscaping Plan

- 1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of completion of the proposed development. To minimize the need for irrigation and to screen and soften the visual impact of development, landscaping shall consist of primarily native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996, and shall be compatible with the character of the surrounding native environment. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. The plan shall specify the erosion control measures to be implemented and the materials necessary to accomplish short-term stabilization, as needed on the site.

All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains, compatible with the surrounding environment, using accepted planting

procedures, and consistent with fire safety requirements. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years, and this requirement shall apply to all disturbed and graded soils:

- 2) Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 3) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment(s) to the Coastal Development Permit(s), unless the Executive Director determines that no amendment is required.
- 4) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B) Interim Erosion Control Plan

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas, and stockpile areas. The natural areas on the sites shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping

location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils, and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C. Monitoring

Five (5) years from the date of completion of the proposed development, the applicant shall submit for the review and approval of the Executive Director a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that assesses the on-site landscaping and certifies whether it is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

3. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification for the development approved pursuant to these permits shall not commence until the local government has issued a building or grading permit(s) for the development approved pursuant to this Coastal Development Permit.

4. Wildfire Waiver of Liability

By acceptance of this permit, the applicant agrees to 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. Drainage and Polluted Runoff Control Plan

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

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if amendment(s) or new Coastal Development Permit(s) are required to authorize such work.

6. Structural Appearance

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of coastal development permit 4-04-021. The palette samples shall be presented in a format not

to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by coastal development permit 4-04-021 if such changes are specifically authorized by the Executive Director as complying with this special condition.

7. Future Development Restriction

This permit is only for the development described in Coastal Development Permit 4-04-021. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by Coastal Development Permit 4-04-021. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to, any grading, clearing or other disturbance of vegetation and fencing, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition No. 2 shall require an amendment to Coastal Development Permit 4-04-021 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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

9. Cumulative Impact Mitigation

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, evidence that all potential for future development has been permanently extinguished on any combination of lots within the El Nido small lot subdivision, or within the Malibu Bowl small lot subdivision to comply with the requirements of the slope intensity formula in accordance with Policy 271(b)(2) of the previously certified 1986 Malibu/Santa Monica Mountains Land Use Plan provided such lots are legally combined with other developed or developable building sites within the same small lot subdivision or watershed. The maximum allowable gross structural area of 1,000 sq. ft. may be increased by 500 sq. ft. by extinguishing development rights on a lot contiguous to the building site or by 300 sq. ft. for each lot which is not contiguous but which is within the El Nido small lot subdivision or within the Malibu Bowl small lot subdivision.

10. Revised Plans.

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, revised plans that demonstrate that all substantially enclosed residential and storage areas, excluding garages or carports designed for storage of autos, shall not exceed the maximum allowable gross structural area of 1,000 sq. ft. The plans may reflect an increase in square footage for lots that have been retired in accordance with Special Condition No. 9 above (500 sq. ft. for extinguishing development rights on each lot contiguous to the building site or 300 sq. ft. for each lot which is not contiguous to the building site but which is within the El Nido small lot subdivision or within the Malibu Bowl small lot subdivision).

11. 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.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant proposes the construction of a 1,619 sq. ft., 35 foot high from existing grade single-family residence, with 2-car garage, lap pool and spa, septic system, and 280 cu. yds. of grading (180 cu. yds. cut and 100 cu. yds. fill) on two steeply sloping lots.

The proposed project site is located within the El Nido small lot subdivision (Exhibit 1). Many of the parcels surrounding the subject site in the El Nido small lot subdivision are developed with single-family residences. The proposed project site is located on Sequit Drive off of Corral Canyon Road. Solstice Canyon Park is located to the south of the proposed project site, and the proposed project would be visible from Solstice Canyon Park. Due to the level of disturbance this area is not considered to be an environmentally sensitive habitat area (ESHA). However, the area surrounding this subdivision is considered to be ESHA as it contains undisturbed contiguous chaparral and coastal sage scrub habitat.

B. Hazards and Geologic Stability

The proposed development is located in the Malibu/Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

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

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

Geology

The applicant has submitted the Preliminary Geologic and Soils Engineering Report, dated February 26, 2004, and Percolation Testing, dated November 11, 2003, both prepared by Southwest Geotechnical, Inc., which address the geologic conditions on the site.

The geologic consultants have found the geology of the proposed project site to be suitable for the construction of the proposed residence. They have identified no landslides or other geologic hazards on the site. The report states that: "Based upon our field reconnaissance and mapping program, results of laboratory testing and engineering analyses, review of the reference reports and past professional experience, it is the opinion of SGI that, from a combined geologic and geotechnical engineering viewpoint, the site is suitable for the proposed single family residential construction as outlined within this Preliminary Geologic and Soils Engineering report. The geologic and geotechnical engineering consultants conclude that:

Based upon the findings summarized in this report, it is our professional opinion that the proposed grading and building site will not be subject to hazard from settlement, slippage, or landsliding. It is also our opinion that the proposed site improvements will not adversely affect the geologic stability of the site or adjacent properties. This is provided the recommendations contained within this report are incorporated into site development. Test findings and statements of professional opinion do not constitute a guarantee or warranty, expressed or implied.

The geotechnical consultants conclude that the proposed developments are feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The Geotechnical Report contains several recommendations to be incorporated into project grading, construction, drainage, foundations and sewage disposal to ensure the stability and geologic safety of the proposed project site and adjacent property. To ensure that the recommendations of the consultant have been incorporated into all proposed development, the Commission, as specified in **Special Condition No. 1**, requires the applicant to incorporate the recommendations cited in the Geology Report into all final design and construction plans. Final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed developments, as approved by the Commission, which may be recommended by the consultant shall require an amendment to the permit or a new coastal development permit.

The Commission finds that controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad will minimize erosion and add to the geologic stability of the project sites. To ensure that adequate drainage and erosion control are included in the proposed developments, the Commission requires the applicant to submit drainage and interim erosion control plans,

as specified in **Special Conditions 2 and 5**. Special Condition 5 requires the applicants to maintain a functional drainage system at the subject site to insure that run-off from the project site is diverted in a non-erosive manner to minimize erosion at the site for the life of the proposed development. Should the drainage system of the project site fail at any time, the applicant will be responsible for any repairs or restoration of eroded areas as consistent with the terms of Special Condition 5.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition 2** requires the applicant to submit and implement landscaping plans. Special Condition 2 also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project sites.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion.

Furthermore, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition 3**. This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The limitation imposed by Special Condition 3 avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

The Commission finds that the proposed project, as conditioned, will minimize potential geologic hazards of the project site and adjacent properties.

Wild Fire

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. Typical vegetation in the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. The typical warm, dry

summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition 4**, the wildfire waiver of liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition 4, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

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

C. Visual Resources

Section 30251 of the Coastal Act states:

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

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. The subject site is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides.

The applicants propose the construction of a 1,619 sq. ft., 35 foot high from existing grade single-family residence, with 2-car garage, lap pool and spa, septic system, and 280 cu. yds. of grading (180 cu. yds. cut and 100 cu. yds. fill) on two steeply sloping lots. This proposed development is in the El Nido subdivision, where many residences have been approved and built on small parcels throughout the subdivision. The proposed project site is located south and downslope of Sequit Drive that overlooks Solstice Canyon State Park. Solstice Canyon Park is located to the south of the proposed project site. The park consists of one large canyon, Solstice Canyon, and a few secondary canyons that branch off the main canyon. One of the secondary canyons, Dry Canyon, extends up towards the El Nido subdivision. A trail within this canyon follows the canyon to just below the subdivision. Some of the development in

this subdivision, especially the development located in the southern portion of the subdivision, is visible from the trail. The proposed project, given its location downslope of Sequit Drive will be very visible from the park.

Because of the topography of the area, with the southern portion of the subdivision sloping towards the parklands, development along and near the southern edge of the subdivision is visible from the park. Due to its location, the proposed development will be visible from the park, in the area of the National Park Service offices, and from various trails. Nonetheless, the development will be sited as close to the road as feasible, and there is no alternative building location that would significantly reduce visual impacts. The proposed development is located in a developed area and will be visually compatible with the character of the surrounding area. In addition, the applicant has minimized the proposed grading for the project, which is proposed only within the immediate area of the building pad and driveway to prepare the site for construction of the new development. The proposed access road/driveway is designed to meet the minimum standards required for Fire Department access. Therefore, the Commission finds, in consideration of the character of the area, that the proposed development is sited and designed to fit in with the character and scale of the surrounding area.

The Commission finds that it is necessary to require mitigation measures to minimize visual impacts associated with development of the project site that include finishing the structure in a color consistent with the surrounding natural landscape and, by incorporating windows of a non-reflective glass type to minimize impacts on public views. To ensure visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as detailed by **Special Condition No. 6**.

Visual impacts associated with proposed grading, and the structure itself, can be further reduced by the use of appropriate and adequate landscaping. As such, **Special Condition No. 2** requires the applicant to prepare a landscape plan relying mostly on native, noninvasive plant species to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. Implementation of Special Condition No. 2 will partially screen the proposed structures and soften the visual impact of the development from public views. To ensure that the final approved landscaping plans are successfully implemented, Special Condition No. 2 also requires the applicant to revegetate all disturbed areas in a timely manner and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time.

In addition, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. There is environmentally sensitive habitat downslope of the project site. Additionally, as described above, the project site is

located at the periphery of the developed area of the El Nido small lot subdivision and just upslope of the natural Solstice Canyon Park. Therefore, **Special Condition No. 11**, the Lighting Restriction, limits night lighting of the site in general; limits lighting to the developed area of the site; and specifies that lighting be shielded downward. The restriction on night lighting is necessary to protect the night time rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area. In addition, low intensity security lighting will assist in minimizing the disruption of wildlife traversing this area at night that are commonly found in this rural and relatively undisturbed area. Thus, the lighting restrictions will attenuate the impacts of unnatural light sources and reduce impacts to sensitive wildlife species.

Finally, regarding future developments or improvements, certain types of development to the property, normally associated with a single-family residence, which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that any future development or improvements normally associated with the entire property, which might otherwise be exempt, are reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the Coastal Act. **Special Condition No. 7**, the Future Development Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Finally, **Special Condition No. 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 subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the subject property.

The proposed project, as conditioned, will not result in a significant adverse impact to scenic public views or character of the surrounding area. Therefore the Commission finds that, as conditioned, the proposed development is consistent with section 30251 of the Coastal Act.

D. Cumulative Impacts

The proposed project involves the construction of a new single-family residence which is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new development.

Section 30250(a) of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of the surrounding parcels.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Throughout the Malibu/Santa Monica Mountains coastal zone there are a number of areas, which were subdivided in the 1920's and 30's into very small "urban" scale lots. These subdivisions, known as "small lot subdivisions" are comprised of parcels of less than one acre but more typically range in size from 4,000 to 5,000 square feet. The total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources. Cumulative development constraints common to small lot subdivisions were documented by the Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled: "Cumulative Impacts of Small Lot Subdivision Development In the Santa Monica Mountains Coastal Zone".

The study acknowledged that the existing small lot subdivisions can only accommodate a limited amount of additional new development due to major constraints to buildout of these areas that include: Geologic, road access, water quality, disruption of rural community character, creation of unreasonable fire hazards and others. Following an intensive one year planning effort regarding impacts on coastal resources by Coastal Commission staff, including five months of public review and input, new development standards relating to residential development on small lots in hillsides, including the Slope-Intensity/Gross Structural Area Formula (GSA) were incorporated into the Malibu District Interpretive Guidelines in June 1979. A nearly identical Slope Intensity Formula was incorporated into the 1986 certified Malibu/Santa Monica Mountains Land Use Plan under policy 271(b)(2) to reduce the potential effects of buildout as discussed below.

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots which already exist, many in remote, rugged mountain and canyon

areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains creates cumulative impacts on coastal resources and public access over time. Because of this, the demands on road capacity, public services, recreational facilities, and beaches could be expected to grow tremendously.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP, which has been used as guidance by the Coastal Commission, requires that new development in small lot subdivisions comply with the Slope Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit. Past Commission action certifying the LUP indicates that the Commission considers the use of the Slope Intensity Formula appropriate for determining the maximum level of development which may be permitted in small lot subdivision areas consistent with the policies of the Coastal Act. The basic concept of the formula assumes the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse impacts on resources. Following is the formula and description of each factor used in its calculation:

Slope Intensity Formula:

$$GSA = (A/5) \times ((50-S)/35) + 500$$

GSA = the allowable gross structural area of the permitted development in square feet. The GSA includes all substantially enclosed residential and storage areas, but does not include garages or carports designed for storage of autos.

A = the area of the building site in square feet. The building site is defined by the applicant and may consist of all or a designated portion of the one or more lots comprising the project location. All permitted structures must be located within the designated building site.

S = the average slope of the building site in percent as calculated by the formula:

$$S = I \times L/A \times 100$$

I = contour interval in feet, at not greater than 25-foot intervals, resulting in at least 5 contour lines

L = total accumulated length of all contours of interval "I" in feet

A = the area being considered in square feet

All slope calculations should be based on natural (not graded) conditions. Maps of a scale generally not less than 1" = 10', showing the building site and existing topographic contours and noting appropriate areas and slopes, prepared by a Licensed Surveyor or Registered Professional Civil Engineer, should be submitted with the application.

In addition, pursuant to Policy 271 of the Malibu/Santa Monica Mountains LUP, the maximum allowable gross structural area (GSA) as calculated above, may be increased as follows:

- (1) Add 500 square feet for each lot which is contiguous to the designated building site provided that such lot(s) is (are) combined with the building site and all potential for residential development on such lot(s) is permanently extinguished.
- (2) Add 300 square feet for each lot in the vicinity of (e.g. in the same small lot subdivision) but not contiguous with the designated building site provided that such lot(s) is (are) combined with other developed or developable building sites and all potential for residential development on such lot(s) is permanently extinguished.

The proposed project is located in the small lot subdivision of El Nido and involves the construction of a new 1,619 sq. ft., single-family residence with a 2-car garage and driveway beneath on two contiguous lots. The applicant has submitted a GSA calculation (undated) prepared by a third party (Malibu Design Associates) for the project site. This calculation arrived at a maximum GSA of 1,334 sq. ft. of habitable space, considering the total area of both lots as one.

However, staff's review of the GSA calculation has shown that it is not in conformance to Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP. The GSA calculation was provided on a topographic survey map of the site prepared by a licensed land surveyor. The map has a scale of 1 inch to 10 feet and depicts a contour interval of 5 feet (each contour line shows the area of the site that is at a given elevation and a line is provided for each five feet in elevation). However, the GSA calculation was not based on the contour lines provided on the surveyed map. Rather, five contour lines were added to the map (apparently extrapolating from the surveyed lines) and used for the calculation. This GSA calculation arrived at a slope of 42.5 percent, which underestimates the average slope of the building site. Staff also calculated the slope, using the surveyed contour lines, to be 54 percent. Based on a slope of 54 percent, the slope intensity formula calculation would arrive at a maximum GSA of 500 sq. ft. for the proposed project site. However, in past permit decisions, the Commission has found that the maximum GSA is at least 500 sq. ft. per each legal parcel, regardless of the steepness or size of the parcel. Additionally, the Commission has found that in the case of a building site comprised of more than one legal parcel, the maximum GSA is at least 500 sq. ft. for each parcel making up the building site, even if the structure will be constructed across property lines. So, in this case, the appropriate maximum GSA based on the slope intensity formula and past Commission actions is 1,000 sq. ft. (500 sq. ft. for each of the two parcels making up the building site).

Thus, the GSA would allow for the construction of a residence of up to 1,000 sq. ft. However, the applicant is proposing a 1,619 sq. ft. single-family residence, which is 619 sq. ft. greater in size than that allowed by the calculated GSA. In order to comply with

Policy 271(b)(2) of the certified LUP, the applicant proposes to extinguish the development rights on one small lot subdivision parcel that is not contiguous with the project site, but that is within the El Nido small lot subdivision. The applicant has provided evidence that he owns the property and intends to retire its development rights. As proposed to extinguish the development rights on this small lot subdivision parcel, the maximum GSA can be increased by 300 sq. ft. for a total of 1,300 sq. ft. As such, the size of the proposed residence is still in excess of the maximum GSA by 319 sq. ft. The applicant has the option to either retire an additional parcel to increase the maximum GSA or to revise the project to reduce the enclosed residential and storage areas to no more than 1,300 sq. ft.

Special Condition No. 9 provides a means to increase the total allowable GSA in conjunction with extinguishing development rights on contiguous lots or non-contiguous lots within the El Nido small lot subdivision, or within the Malibu Bowl small lot subdivision (the Commission has previously found it appropriate to allow lots to be retired within other small lot subdivisions that are located in the same watershed). The Commission finds it necessary to require **Special Condition No. 9** to ensure that the development rights are extinguished on the applicant's small lot subdivision parcel. Additionally, this condition provides for the applicant to retire an additional parcel to increase the GSA further, if he so chooses. Alternatively, **Special Condition No. 10** requires the applicant to submit revised plans that demonstrate that the enclosed residential and storage areas of the project conform to the maximum GSA of 1,000 sq. ft., with such increase in square footage for lots retired in conformance with **Special Condition No. 9**. This will bring the development into conformance with Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP, as used as guidance in past Commission decisions.

Some additions and improvements to residences on small steep lots within these small lot subdivisions have been found to adversely impact the area. Many of the lots in these areas are so steep or narrow that they cannot support a large residence without increasing or exacerbating the geologic hazards on and/or off site. Additional buildout of small lot subdivisions affects water usage and has the potential to impact water quality of coastal streams in the area. Other impacts to these areas from the buildout of small lot subdivisions include increases in traffic along mountain road corridors and greater fire hazards.

For all these reasons, and as this lot is within a small lot subdivision, further structures, additions or improvements, including the conversion of garage or understory area to habitable space, on the subject property could cause adverse cumulative impacts on the limited resources of the subdivision. The Commission, therefore, finds it necessary for the applicant to record a future improvements deed restriction on this lot, as noted in **Special Condition No. 7**, which would require that any future structures, additions or improvements to the property, beyond those approved in this permit, would require review by the Commission to ensure compliance with the policies of the Coastal Act regarding cumulative impacts and geologic hazards. At that time, the Commission can

ensure that the new project complies with the guidance of the GSA formula and is consistent with the policies of the Coastal Act.

Finally, **Special Condition No. 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 therefore finds that the proposed project, only as conditioned, consistent with Sections 30250(a) and 30252 of the Coastal Act.

E. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems.

Section 30231 of the Coastal Act states:

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

As described in detail in the previous sections, the applicant proposes the construction of a 1,619 sq. ft., 35 foot high from existing grade single-family residence, with 2-car garage, lap pool and spa, septic system, and 280 cu. yds. of grading (180 cu. yds. cut and 100 cu. yds. fill) on two steeply sloping lots.

The proposed development will result in an increase in impervious surface at the subject site, which in turn decreases the infiltrative function and capacity of existing permeable land on site. Reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing

algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

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

For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The American Society of Civil Engineers (ASCE) and the Water Environment Federation (WEF) have recommended a numerical BMP design standard for storm water that is derived from a mathematical equation to maximize treatment of runoff volume for water quality based on rainfall/runoff statistics and which is economically sound.¹ The maximized treatment volume is cut-off at the point of diminishing returns for rainfall/runoff frequency. On the basis of this formula and rainfall/runoff statistics, the point of diminishing returns for treatment control is the 85th percentile storm event. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition No. 5**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to

¹ *Urban Runoff Quality Management, WEF Manual of Practice No. 23, ASCE manual and Report on Engineering Practice No. 87.* WEF, Alexandria, VA; ASCE, Reston, VA. 259 pp (1998); Urbonas, Guo, and Tucker, "Optimization of Stormwater Quality Capture Volume," in *Urban Stormwater Quality Enhancement - Source Control, Retrofitting, and Combined Sewere Technology, Proceedings of an Engineering Foundation Conference*, Harry C. Tomo, ed. October 1989. New York: ASCE, pp. 94-110.

water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition No. 2** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site private sewage disposal system to serve the residence. The Commission has found that conformance with the provisions of the plumbing code, as demonstrated by evidence of the local government's review and approval of the septic system design is protective of coastal resources.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan and to provide evidence of County approval of the septic system, is consistent with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the projects and are accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

G. CEQA

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 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.

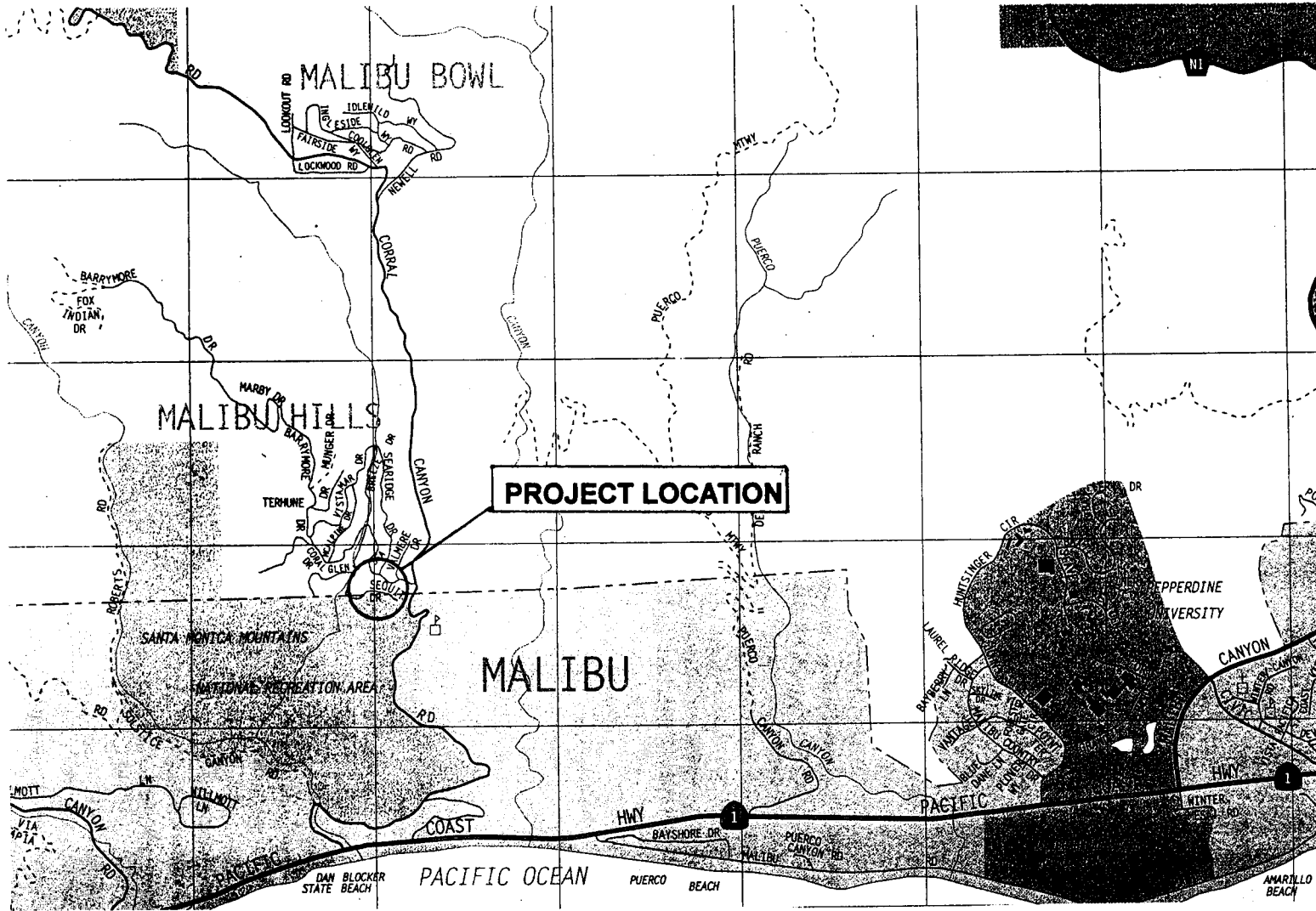
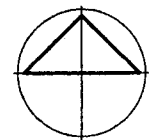
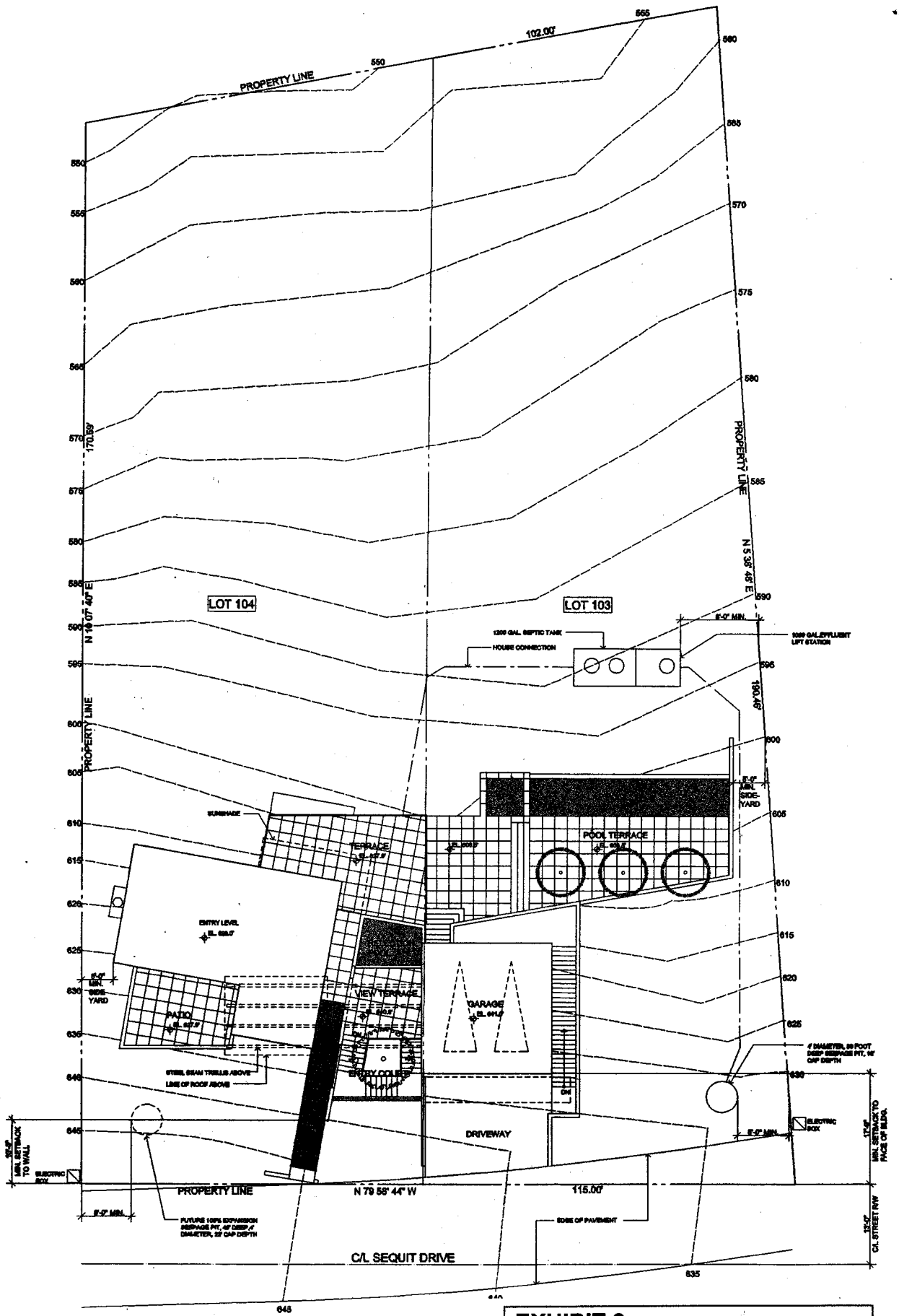


EXHIBIT 1
 Permit 4-04-021
 Vicinity Map

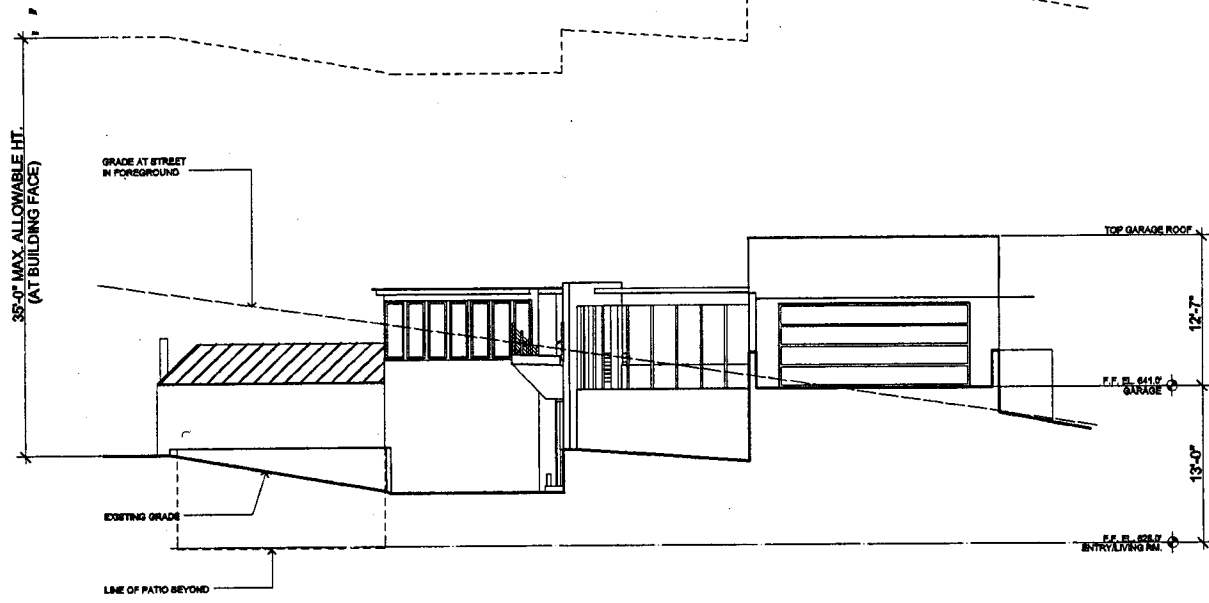
Vicinity Map
 3005 Sequit Drive
 Malibu, CA 90265





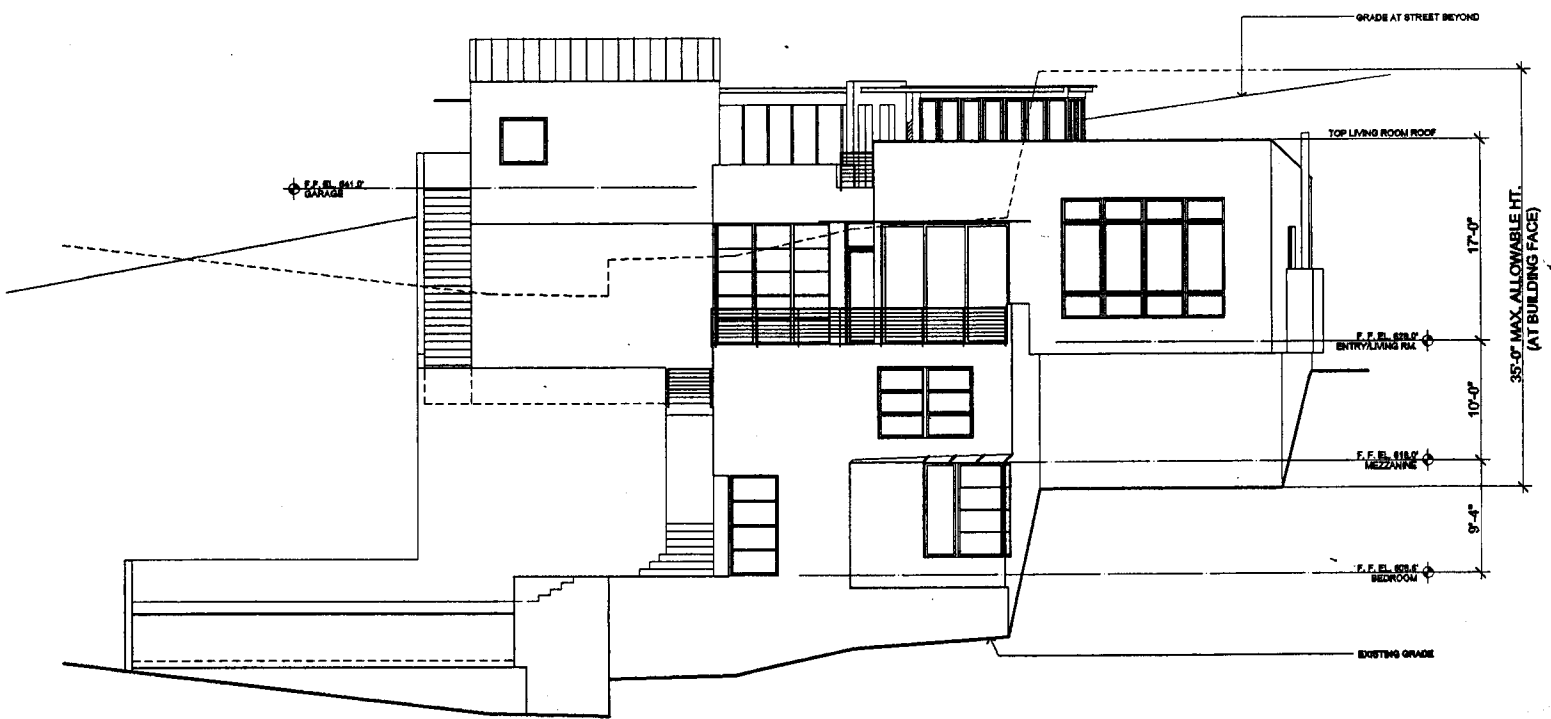
SITE PLAN
 1" = 30'-0"

EXHIBIT 2
Permit 4-04-021
Site Plan

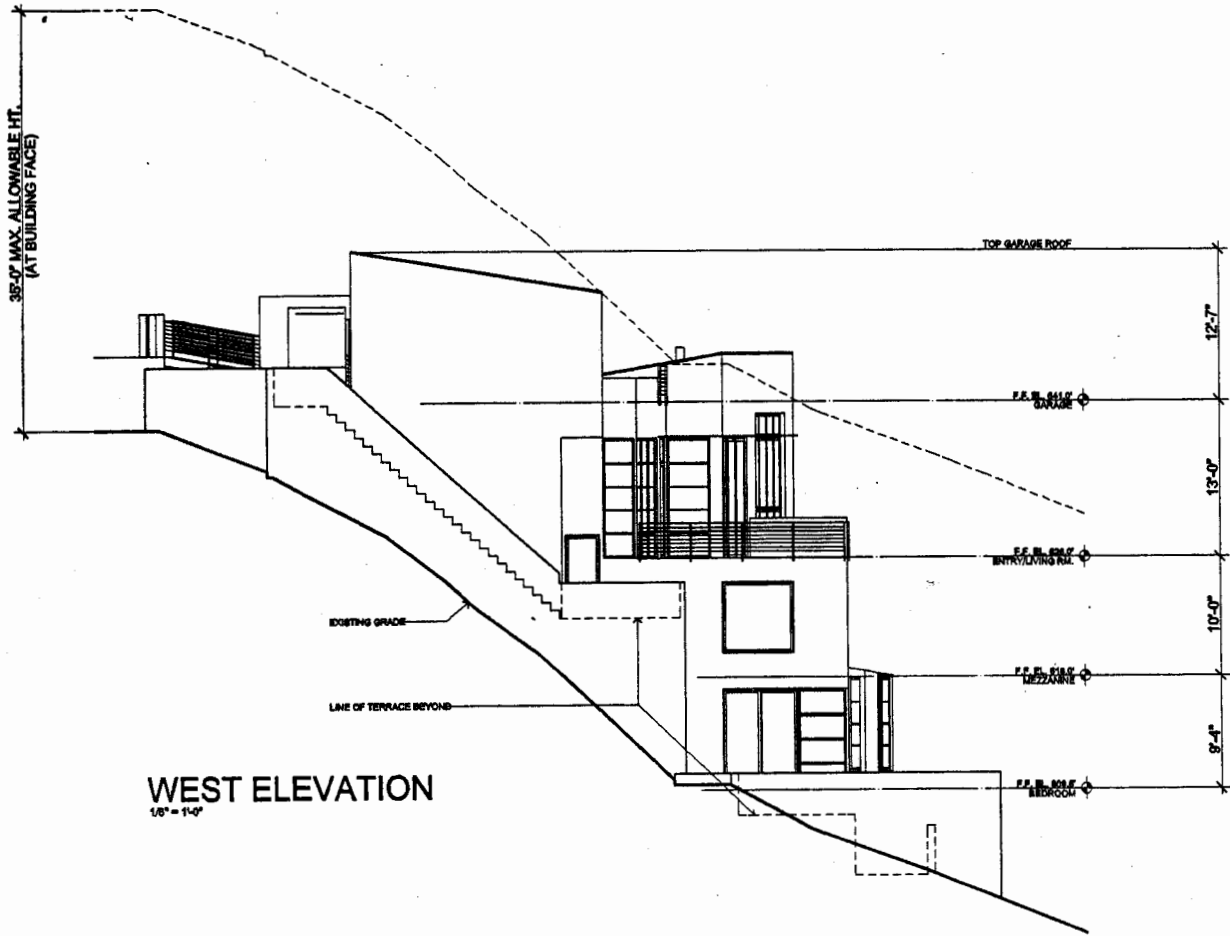


NORTH (STREET) ELEVATION
1/8" = 1'-0"

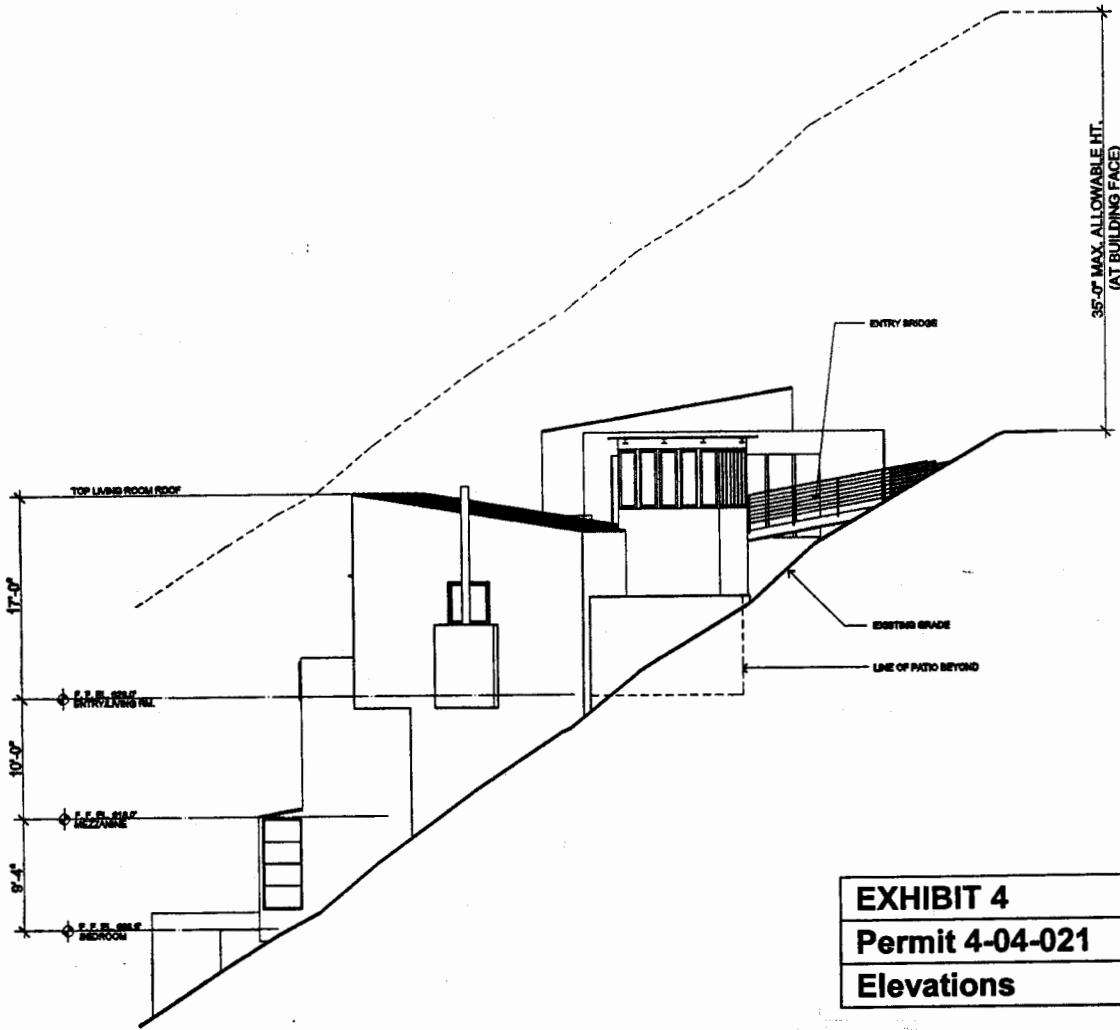
EXHIBIT 3
Permit 4-04-021
Elevations



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



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



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

EXHIBIT 4
Permit 4-04-021
Elevations