


CALIFORNIA COASTAL COMMISSION

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

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Appeal Filed:	8/4/06	
49 th Day:	9/22/06	
49 th Day Waived:	8/29/06	
Substantial Issue:	11/16/06	
Staff:	Deanna Christensen	
Staff Report:	1/25/07	
Hearing Date:	2/14/07	

STAFF REPORT: APPEAL
DE NOVO REVIEW

APPEAL NO.: A-4-MAL-06-096

APPLICANT: Arthur and Kimberly Silver

APPELLANTS: Ron Goldman; Patt Healy and Malibu Coalition for Slow Growth

LOCAL GOVERNMENT/ LOCAL DECISION: City of Malibu, Approval with Conditions

PROJECT LOCATION: 24950 Pacific Coast Highway, Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of an 11,158 sq. ft. single-family residence, with a 5,550 sq. ft. basement/garage, alternative onsite wastewater treatment system, and 3,124 cu. yds. of grading (2,132 cu. yds. cut and 992 cu. yds. fill) on a blufftop lot located at 24950 Pacific Coast Highway in the City of Malibu.

SUBSTANTIVE FILE DOCUMENTS: City of Malibu Administrative CDP No. 05-144; "Hydrology, Control Structure, Detention System and Conveyance Study", dated September 25, 1999, prepared by Servtec Consultants Inc.; "Preliminary Geotechnical Engineering and Hydrogeologic Report", dated May 2, 2003, prepared by Earth Systems; "Update Geotechnical Engineering Report", dated July 27, 2005, prepared by Earth Systems; "Response to City of Malibu Review Letter Dated October 19, 2005" by Earth Systems, dated November 30, 2005; Court-approved Settlement Agreement between Kimberly and Arthur Silver and City of Malibu, dated January 20, 2005; Coastal Commission CDP No. 4-98-163 (Duggan & Levenson); Landscape Planting Plan, dated January 8, 2007, prepared by Lane Goodkind.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **Approval** of the proposed project with **Eleven (11) Special Conditions** regarding geologic and engineering recommendations, assumption of risk, future improvements restriction, deed restriction, landscape plan, erosion control, drainage and polluted runoff control plans, disposal of excess excavated material, removal of natural vegetation, on-site wastewater treatment system, structural appearance, and lighting restriction. As conditioned, the proposed development will be consistent with all applicable policies and standards of the certified City of Malibu Local Coastal Program (LCP) and the access and recreation policies of the Coastal Act.

(Continued on Next Page)

The Commission previously found that this appeal raised substantial issue with respect to the project's consistency with the applicable visual resources policies and standards of the LCP. The standard of review for the de novo review of the project is whether the proposed development is in conformity with the certified City of Malibu Local Coastal Program. During the De Novo hearing, testimony may be taken from all interested persons.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. A-4-MAL-06-096 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development on the ground that the development is located within the appeal jurisdiction that extends 300 feet inland from the beach and will conform with the policies of the certified Local Coastal Program for the City of Malibu and the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act since feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** These permits are not valid and development shall not commence until copies of the permits, signed by the permittee or authorized agent, acknowledging receipt of the permits and acceptance of the terms and conditions, are returned to the Commission office.
2. **Expiration.** If development has not commenced, the permits will expire two years from the date on which the Commission voted on the de novo appeal of the permits. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application(s) for extension of the permit(s) 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 permits may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permits.
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 properties to the terms and conditions.

III. SPECIAL CONDITIONS

1. Plans Conforming to Geotechnical Engineer's Recommendations

All recommendations contained in the submitted geotechnical reports ("Preliminary Geotechnical Engineering and Hydrogeologic Report", dated May 2, 2003, prepared by Earth Systems; "Update Geotechnical Engineering Report", dated July 27, 2005, prepared by Earth Systems; "Response to City of Malibu Review Letter Dated October 19, 2005" by Earth Systems, dated November 30, 2005) shall be incorporated into all final design and construction, including recommendations concerning foundations, grading, and drainage, and must be reviewed and approved by the consultant prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director of the consultant's review and approval of all final design and construction plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. No substantial changes to the proposed development approved by the Commission may occur without approval of an amendment(s) to this permit or a new Coastal Development Permit(s).

2. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslide, erosion, bluff retreat, and wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement.

3. Future Development Restriction

This permit is only for the development described in Coastal Development Permit No. A-4-MAL-06-096. 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 entire parcel. Accordingly, any future improvements to the entire property, including but not limited to the single family residence, garage (including conversion of the structure to habitable space), driveway, turnaround, new or replacement landscaping, hardscape, and removal of vegetation or grading other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition Five (5), shall require an amendment to Coastal Development Permit No. A-4-MAL-06-096 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

4. Deed Restriction

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

5. Landscaping Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit two sets of final landscaping plan, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plan shall identify the species, extent, and location of all plant materials and shall incorporate the criteria set forth below. The landscaping plan shall also identify proposed fencing and walls, and all necessary irrigation improvements. All development shall conform to the approved landscaping plan.

A) Landscaping Plan

- 1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
- 2) 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 using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- 3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.

- 4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- 5) Permanent irrigation improvements shall be designed to minimize groundwater infiltration and shall be primarily limited to drip irrigation systems. No permanent irrigation shall be allowed within 50 ft. of the landward edge of the top of the bluff or on the bluff slope itself.
- 6) Vegetation on the subject site shall be limited to low-lying species that will not block or adversely impact public views of the ocean from the highway. In no case shall vegetation on the subject site exceed the 147.5 ft. elevation line in height (approximate elevation of maximum height of the proposed residence). All vegetation must have a natural growth height range that does not exceed the specified maximum elevation, at maturity.
- 7) Other landscape elements, such as fencing and walls, shall not block or adversely impact public views of the ocean from the highway. Fencing and walls shall not exceed 6 feet in height or the 147.5 ft. elevation line in height (approximate elevation of maximum height of the proposed residence), whichever is less.
- 8) Vegetation within 20 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 twenty 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. In no case shall lawn or turf be planted within the required 100-foot bluff setback area.
- 9) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

B) Monitoring

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

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved

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

6. Erosion Control, Drainage and Polluted Runoff Control Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director; a) a **Local Storm Water Pollution Prevention (SWPPP) Plan** to control erosion and contain polluted runoff during the construction phase of the project; and b) a **Stormwater Management Plan (SWMP)** for the management and treatment of post-construction storm water and polluted runoff. The plans shall be certified by a California Registered Civil Engineer or Licensed Architect and approved by the City's Department of Public Works, and include the information and measures outlined below.

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

- Property limits, prior-to-grading contours, and details of terrain and area drainage
- Locations of any buildings or structures on the property where the work is to be performed and the location of any building or structures of adjacent owners that are within 15 ft of the property or that may be affected by the proposed grading operations
- Locations and cross sections of all proposed temporary and permanent cut-and-fill slopes, retaining structures, buttresses, etc., that will result in an alteration to existing site topography (identify benches, surface/subsurface drainage, etc.)
- Area (square feet) and volume (cubic yards) of all grading (identify cut, fill, import, export volumes separately), and the locations where sediment will be stockpiled or disposed
- Elevation of finished contours to be achieved by the grading, proposed drainage channels, and related construction.
- Details pertaining to the protection of existing vegetation from damage from construction equipment, for example: (a) grading areas should be minimized to protect vegetation; (b) areas with sensitive or endangered species should be demarcated and fenced off; and (c) native trees that are located close to the construction site should be protected by wrapping trunks with protective materials, avoiding placing fill of any type against the base of trunks, and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees.
- Information on potential flow paths where erosion may occur during construction
- Proposed erosion and sediment prevention and control BMPs, both structural and non-structural, for implementation during construction, such as:
 - Stabilize disturbed areas with vegetation, mulch, geotextiles, or similar method.
 - Trap sediment on site using fiber rolls, silt fencing, sediment basin, or similar method.

- Ensure vehicles on site are parked on areas free from mud; monitor site entrance for mud tracked off-site.
- Prevent blowing dust from exposed soils.
- Proposed BMPs to provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials, such as:
 - Control the storage, application and disposal of pesticides, petroleum and other construction and chemical materials.
 - Site washout areas more than fifty feet from a storm drain, open ditch or surface water and ensure that runoff flows from such activities do not enter receiving water bodies.
 - Provide sanitary facilities for construction workers.
 - Provide adequate disposal facilities for solid waste produced during construction and recycle where possible.

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

- Site design and source control BMPs that will be implemented to minimize or prevent post-construction polluted runoff (see 17.5.1 of the Malibu LIP)
- Drainage improvements (e.g., locations of diversions/conveyances for upstream runoff)
- Potential flow paths where erosion may occur after construction
- Methods to accommodate onsite percolation, revegetation of disturbed portions of the site, address onsite and/or offsite impacts and construction of any necessary improvements
- Storm drainage improvement measures to mitigate any offsite/downstream negative impacts due the proposed development, including, but not limited to:
 - Mitigating increased runoff rate due to new impervious surfaces through on-site detention such that peak runoff rate after development does not exceed the peak runoff of the site before development for the 100 year clear flow storm event (note; Q/100 is calculated using the Caltrans Nomograph for converting to any frequency, from the Caltrans "Hydraulic Design and Procedures Manual"). The detention basin/facility is to be designed to provide attenuation and released in stages through orifices for 2-year, 10-year and 100-year flow rates, and the required storage volume of the basin/facility is to be based upon 1-inch of rainfall over the proposed impervious surfaces plus 1/2-inch of rainfall over the permeable surfaces. All on-site drainage devices, including pipe, channel, and/or street & gutter, shall be sized to cumulatively convey a 100 year clear flow storm event to the detention facility, or;
 - Demonstrating by submission of hydrology/hydraulic report by a California Registered Civil Engineer that determines entire downstream storm drain conveyance devices (from project site to the ocean outlet) are adequate for 25-year storm event, or;

- Constructing necessary off-site storm drain improvements to satisfy b. above, or;
- Other measures accomplishing the goal of mitigating all offsite/downstream impacts

7. *Disposal of Excess Excavated Material*

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

8. *Removal of Natural Vegetation*

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

9. *On-site Wastewater Treatment System*

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

10. *Structural Appearance*

PRIOR TO 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 No. A-4-MAL-06-096. 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 No. A-4-MAL-06-096 if such changes are specifically authorized by the Executive Director as complying with this special condition.

11. Lighting Restriction

By acceptance of this permit, the applicant acknowledges and agrees that the only exterior, night lighting that is allowed on the site is 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 are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Executive Director.
- 2) Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.
- 3) The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.

No light source will be directly visible from public viewing areas such as Pacific Coast Highway or the beach and ocean area and that no lighting around the perimeter of the site, the beach area or for aesthetic purposes shall be allowed.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to construct an 11,158 sq. ft., partial two-story, 18 to 22-foot high single-family residence, with a 5,550 sq. ft. basement/garage, alternative onsite wastewater treatment system, and 3,124 cu. yds. of grading (2,132 cu. yds. cut and 992 cu. yds. fill) on a bluff-top parcel at 24950 Pacific Coast Highway (**Exhibits 2-9**).

B. Background

1. Local Government Action and Filing of Appeal

On January 5, 2006, the City of Malibu Planning Manager approved Administrative Coastal Development Permit No. 05-144 for the proposed project. On January 17, 2006 the City Planning Manager reported the administrative CDP decision to the Planning Commission. At this time, the project was determined to be non-appealable to the Coastal Commission. Ron Goldman filed a local appeal (Appeal 06-001) of the Planning Manager's action on January 17, 2006, within the City's appeal period. The City of Malibu Planning Commission denied Appeal 06-001 on March 20, 2006, upholding the Planning Manager's action. On March 29, 2006, Ron Goldman and Mark Zucker filed a local appeal (Appeal 06-007) of the Planning Commission's action. After submittal of this appeal to the Malibu City Council, and before the City Council's appeal hearing, City staff consulted with Coastal Commission staff to clarify the beginning point at which to measure the appeal jurisdiction line (300 feet from the inland extent of the beach) in this case. Coastal Commission staff identified the seaward edge of Malibu Road, which was more conservative than the line the City had originally determined. Therefore, City staff found

that proposed drainage devices would fall within the revised appeal jurisdiction boundary and the project would be appealable to the Coastal Commission. The appeal hearing public notices indicated that the project was appealable to the Coastal Commission. The City Council denied Appeal 06-007 on July 10, 2006.

The Notice of Final Action for the project was received by Commission staff on July 21, 2006. A ten working day appeal period was set and notice provided beginning July 24, 2006, and extending to August 4, 2006. The Notice of Final Action identified the project as appealable to the Coastal Commission, since portions of the project (drainage features) are located within the Commission's appeal jurisdiction. Appeals of the City's action were filed by Ron Goldman and Mark Zucker (August 4, 2006), and Patt Healy and Malibu Coalition for Slow Growth (July 31, 2006), all during the appeal period. Commission staff notified the City, the applicant, and all interested parties that were listed on the appeals and requested that the City provide its administrative record for the permit. The administrative record was received on August 8, 2006.

The appeal was scheduled for a substantial issue determination at the Commission's November 2006 hearing. On November 16, 2006, the Commission found that Appeal No. A-4-MAL-06-096 presented a substantial issue with respect to the grounds on which the appeals were filed under §30603 of the Coastal Act regarding consistency with the scenic/visual resource policies of the certified Local Coastal Plan. The appeal was continued for the de novo review of the project.

2. Project Site

The proposed project site is located on a 5.24-acre vacant blufftop lot located on the ocean side of Pacific Coast Highway in the City of Malibu (**Exhibit 1**). The site is comprised of a gentle slope extending south from the highway to a bluff face that descends, at a gradient of approximately 1.5:1 to 2:1, down to Malibu Road and a row of beachfronting parcels that are developed with single family residences. No trails or access ways are located on or adjacent to the property. As such, the proposed project has no impact on public access, and is thus consistent with the public access and recreation policies of the Malibu LCP.

In 1998 the Commission approved CDP No. 4-98-163 (Duggan & Levenson) for construction of a 9,398 sq. ft., 18-foot high, one-story single family residence with attached garage, tennis court, pool, spa, septic system, and grading on the subject parcel. Slope remediation work on the site's bluff face, consisting of drainage improvements and 1,800 cu. yds. of grading to remove landslide debris, cut benches in the underlying bedrock, and import fill material to be recompacted at a slope of 1.5:1, was also proposed on the subject property as the winter storms of 1998 resulted in a landslide on the bluff portion of the lot. Special conditions of CDP approval related to assumption of risk, conformance with geologic recommendations, landscape, erosion control and drainage plans, view corridor, future improvements, and archaeology. The permit was issued in December 1998, and the proposed slope remediation and slope drainage work was completed thereafter. However, the residence was never built and the property transferred ownership.

In 2000, the new property owner (the applicant) requested Site Plan Review approval from the City of Malibu for a new development plan on the site. The local level permit and appeal process continued for several years, and in December 2002, the Malibu City Council adopted Resolution No. 02-38 conditionally approving the construction of a new, two-story residence on the property. The project then went into litigation and resulted in a Settlement Agreement between the City of Malibu and the applicants, dated January 20, 2005. The court-approved Settlement

Agreement resulted in a revision of the landscaping and structure height conditions of Site Plan Review approval contained in the City's Resolution No. 02-38. Therefore, the City's 2002 approval, as amended by the terms of the court-approved Settlement Agreement, resulted in the revised development design that was considered and approved by the City of Malibu on July 10, 2006.

C. Hazards / Blufftop Development

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

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

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

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

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

- 3.119 New development that requires a grading permit or Local SWPPP shall include landscaping and re-vegetation of graded or disturbed areas, consistent with Policy 3.50. Any landscaping that is required to control erosion shall use native or drought-tolerant non-invasive plants to minimize the need for fertilizer, pesticides, herbicides, and excessive irrigation. Where irrigation is necessary, efficient irrigation practices shall be required.***
- 4.2 All new development shall be sized, designed and sited to minimize risks to life and property from geologic, flood, and fire hazard.***
- 4.4 On ancient landslides, unstable slopes and other geologic hazard areas, new development shall only be permitted where an adequate factor of safety can be provided, consistent with the applicable provisions of Chapter 9 of the certified Local Implementation Plan.***
- 4.5 Applications for new development, where applicable, shall include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such reports shall be signed by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE) and subject to review and approval by the City Geologist.***

- 4.10 *New development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams.*
- 4.27 *All new development located on a blufftop shall be setback from the bluff edge a sufficient distance to ensure that it will not be endangered by erosion for a projected 100 year economic life of the structure plus an added geologic stability factor of 1.5. In no case shall the setback be less than 100 feet which may be reduced to 50 feet if recommended by the City geologist and the 100 year economic life with the geologic safety factor can be met. This requirement shall apply to the principle structure and accessory or ancillary structures such as guesthouses, pools, tennis courts, cabanas, and septic systems etc. Ancillary structures such as decks, patios and walkways that do not require structural foundations may extend into the setback area to a minimum distance of 15 feet from the bluff edge. Ancillary structures shall be removed or relocated landward when threatened by erosion. Slope stability analyses and erosion rate estimates shall be performed by a licensed Certified Engineering Geologist or Geotechnical Engineer.*
- 4.37 *Shoreline and bluff protection structures shall not be permitted to protect new development, except when necessary to protect a new septic system and there is no feasible alternative that would allow residential development on the parcel. Septic systems shall be located as far landward as feasible. Shoreline and bluff protection structures may be permitted to protect existing structures that were legally constructed prior to the effective date of the Coastal Act, or that were permitted prior to certification of the LCP provided that the CDP did not contain a waiver of the right to a future shoreline or bluff protection structure and only when it can be demonstrated that said existing structures are at risk from identified hazards, that the proposed protective device is the least environmentally damaging alternative and is designed to eliminate or mitigate adverse impacts to local shoreline sand supply. Alternatives analysis shall include the relocation of existing development landward as well as the removal of portions of existing development. "Existing development" for purposes of this policy shall consist only of a principle structure, e.g. residential dwelling, required garage, or second residential unit, and shall not include accessory or ancillary structures such as decks, patios, pools, tennis courts, cabanas, stairs, landscaping etc.*
- 4.42 *As a condition of approval of development on a beach or shoreline which is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff, the property owner shall be required to execute and record a deed restriction which acknowledges and assumes said risks and waives any future claims of damage or liability against the permitting agency and agrees to indemnify the permitting agency against any liability, claims, damages or expenses arising from any injury or damage due to such hazards.*
- 4.44 *As a condition of approval of new development on a vacant beachfront or blufftop lot, or where demolition and rebuilding is proposed, where geologic or engineering evaluations conclude that the development can be sited and designed to not require a shoreline protection structure as part of the proposed development or at any time during the life of the development, the property*

owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235.

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

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

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

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

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

The LCP requires a 100 ft. setback from the bluff edge unless the geologist recommends a lesser setback with the assurance of a safety factor of 1.5 over an economic life of the structure for 100 years, in which case the required setback may be reduced to 50 feet. The bluff development policies and provisions of the LCP require setbacks from the bluff edge to assure stability and structural integrity of new development for the anticipated life of the structures, as well as to prevent the future need for shoreline protective devices.

The proposed project site is located on a 5.24-acre bluff top lot located on the ocean side of Pacific Coast Highway. The site is comprised of a gentle slope extending south from the highway to a bluff face that descends, at a gradient of approximately 1.5:1 to 2:1, down to Malibu Road and a row of beachfronting parcels that are developed with single family residences.

The bluff face in the immediate area and surrounding vicinity of the subject parcel has experienced failures in the past. These failures have resulted in excessive material sloughing off onto Malibu Road and have required remedial action. In 1997, the Commission approved a coastal development permit (CDP No. 4-97-031) on the parcel adjacent to the subject property to the west that involved slope remediation work as a result of a failure. In 2000, the Commission approved CDP No. 4-98-142 on the parcel to the east that involved landslide slope remediation work as well. The winter storms of 1998 also resulted in a slope failure on the bluff portion of the subject property. Slope remediation and associated drainage, erosion control, and landscape plans were reviewed, approved, and implemented pursuant to CDP No. 4-98-163 (Duggan & Levenson), issued by the Commission in December 1998. Slope remediation work consisted of grading to remove the landslide debris, cutting benches in the underlying bedrock, and importing fill material for recompaction at a slope of 1.5:1. CDP No. 4-98-163 also authorized the construction of a residence on the property that adhered to a recommended geotechnical setback and was greater than 100 feet from the top of the bluff slope (the approved residence was never constructed).

The proposed project includes a residential structure and an ancillary structure (deck) that extend 180 feet and 140 feet, respectively, from the edge of the coastal bluff. This is consistent with the bluff development provisions of the LCP. The proposed residence is in essentially the same footprint as the previous Commission-approved residence and maintains the same bluff setback, which is in excess of 100 feet. The project does not involve any modification to the site's existing slope remediation or drainage features that were previously approved, constructed, and vested pursuant to CDP No. 4-98-163. Commission staff has reviewed the project's geotechnical reports to confirm the results of the slope stability and recommended geologic setback analyses for the proposed project. The proposed development is adequately setback from the minimum required factor of safety lines for static and seismic conditions as determined by the project geotechnical consultant. The reports also provide comprehensive recommendations regarding stormwater detention and drainage for the site. Given the past failure of the bluff in the vicinity of the subject property, a state-of-the-art stormwater conveyance system has been recommended to collect, store, and control drainage flows from PCH and the development site in order to protect the bluff face and development below. In August 2005, groundwater levels were measured by the project geotechnical consultants from the 13 active groundwater monitoring wells on the site. When compared to the levels measured in January 2003 as part of the project's Preliminary Geotechnical Engineering Report, the groundwater data indicated that groundwater elevations have risen by an average of approximately 4 feet in most of the wells since 2003. Stability analyses were subsequently updated by the geotechnical consultant using the more recent groundwater levels and found to result in little or no change, as the increased groundwater levels are not large compared to the height of the slope.

The Malibu LCP requires that new development be sited and designed to minimize risks to life and property from geologic, flood, and fire hazard. In addition, the LCP requires a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains a statement that the project site

is suitable for the proposed development and that the development will be safe from geologic hazard. As described above, the project will provide a bluff setback adequate to ensure that the development will not be damaged by bluff erosion during the life of the project. As such, the Commission notes that the proposed project will serve to ensure general geologic and structural integrity on site. However, the Commission also notes that the submitted geotechnical and hydrogeologic reports ("Preliminary Geotechnical Engineering and Hydrogeologic Report" by Earth Systems, dated May 2, 2003; "Update Geotechnical Engineering Report" by Earth Systems, dated July 27, 2005; "Response to City of Malibu Review Letter dated 10/19/05" by Earth Systems, dated November 30, 2005) include a number of recommendations to ensure the geologic stability and geotechnical safety of the site. To ensure that the recommendations of the geologic and geotechnical engineering consultants are incorporated into all new development, **Special Condition One (1)** requires the applicant to incorporate all geologic, hydrogeologic, and geotechnical recommendations of the consulting geologist and geotechnical engineer into the final project plans to ensure structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, foundations, grading, and drainage. Any substantial changes to the proposed development approved by the Commission that may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

As discussed above, the applicant's engineering consultants have indicated that the proposed development will serve to ensure relative geologic and structural stability on the subject site. However, the proposed development is located on a bluff top parcel. The Commission finds that because there remains some inherent risk in building on sites adjacent to a coastal bluff, such as the subject site, and 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 the associated risks as required by **Special Condition Two (2)**. The assumption of risk will show that the applicant is aware of and appreciates the nature of the hazards that exist on the site and that may adversely affect the stability or safety of the proposed development. In addition, **Special Condition Four (4)** 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 also finds that the minimization of site erosion will add to the stability of the site. In addition, the Malibu LCP requires that graded and disturbed areas be revegetated to minimize erosion. Erosion can best be minimized by requiring the applicant to landscape all disturbed and graded areas of the site with native plants compatible with the surrounding environment. Invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foilage weight and/or require a greater amount of irrigation and maintenance than native vegetation. The Commission finds that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize bluff slopes and bluff top areas and that instead such vegetation adversely affects the geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foilage weight, which helps to stabilize the soils, but also by their low irrigation and maintenance requirements. Malibu LCP policy 3.119 requires that landscaping for erosion control purposes consist entirely of native or drought-tolerant non-invasive plants. Within Zone A, as designated on the fuel modification plan, non-invasive ornamental plants are acceptable. Typically, Zone A is a 20 foot irrigated

zone immediately surrounding the structure. Therefore, in order to ensure the stability and geotechnical safety of the site, **Special Condition Five (5)** requires that all proposed disturbed and graded areas on subject site are stabilized with native and limited non-invasive ornamental vegetation. However, the Commission also notes that landscaping improvements which require intensive watering requirements, such as many lawn and turf species, will result in potential adverse effects to the stability of the bluff slope due to increased groundwater infiltration on the subject site. Therefore, in order to ensure stability of the bluff slope, Special Condition Five (5) also requires that permanent irrigation improvements, included as part of the landscaping plan for the subject site, shall be designed to minimize groundwater infiltration and shall be primarily limited to drip irrigation systems. No permanent irrigation shall be allowed within 50 ft. of the landward edge of the top of the bluff or on the bluff slope itself.

The project will increase the amount of impervious coverage on-site, which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff will result in increased erosion, adversely affect site stability, and degrade downslope water quality. The applicant's geologic / geotechnical consultant has recommended that site drainage be collected and distributed in a non-erosive manner. In addition, the Malibu LCP Policy 4.10 requires that "new development shall provide adequate drainage and erosion control facilities that convey site drainage in a non-erosive manner in order to minimize hazards resulting from increased runoff, erosion and other hydrologic impacts to streams". Therefore, to ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as required by **Special Condition Six (6)**, to submit drainage and polluted runoff management plans for the construction and post-construction phases of development that are prepared by the consulting engineer.

Furthermore, to ensure that excess excavated material is moved off site so as not to contribute to unnecessary landform alteration and to minimize erosion and sedimentation from stockpiled excavated soil, the Commission finds it necessary to require the applicant to dispose of the material at an appropriate disposal site or to a site that has been approved to accept fill material, as specified in **Special Condition Seven (7)**. 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 Eight (8)**. 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 Eight (8) avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

In addition, in order to ensure that no additions or improvements are made to the property without due consideration of potential hazards, the Commission finds it necessary to require a future development restriction, which requires the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as detailed in **Special Condition Three (3)**.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the applicable policies of Chapter 4 (Hazards and Shoreline/Bluff Development) of the Malibu LUP, including Section 30253 of the Coastal Act, which is incorporated as part of the LUP, and applicable standards of Chapter 9 (Hazards) and Chapter 10 (Shoreline and Bluff Development) of the Malibu LIP.

D. Visual Resources

The Malibu LCP provides for the protection of scenic and visual resources, including views of the beach and ocean, views of mountains and canyons, and views of natural habitat areas. The LCP identifies Scenic Roads, which are those roads within the City that traverse or provide views of areas with outstanding scenic quality, that contain striking views of natural vegetation, geology, and other unique natural features, including the beach and ocean. The LCP policies require that new development not be visible from scenic roads or public viewing areas. Where this is not feasible, new development must minimize impacts through siting and design measures. In addition, development is required to preserve bluewater ocean views by limiting the overall height and siting of structures where feasible to maintain ocean views over the structures. Where it is not feasible to maintain views over the structure through siting and design alternatives, view corridors must be provided in order to maintain an ocean view through the project site.

Section 30251 of the Coastal Act requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. Section 30251 of the Coastal Act, which is incorporated as part of the Malibu LCP, states that:

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

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

- 6.1 ***The Santa Monica Mountains, including the City, contain scenic areas of regional and national importance. The scenic and visual qualities of these areas shall be protected and, where feasible, enhanced.***
- 6.2 ***Places on and along public roads, trails, parklands, and beaches that offer scenic vistas are considered public viewing areas. Existing public roads where there are views of the ocean and other scenic areas are considered Scenic Roads. Public parklands and riding and hiking trails which contain public viewing areas are shown on the LUP Park Map. The LUP Public Access Map shows public beach parks and other beach areas accessible to the public that serve as public viewing areas.***
- 6.3 ***Roadways traversing or providing views of areas of outstanding scenic quality, containing striking views of natural vegetation, geology, and other unique natural features, including the ocean shall be considered Scenic Roads. The following roads within the City are considered Scenic Roads:***
 - ***Pacific Coast Highway***
 - ***Decker Canyon Road***

- *Encinal Canyon Road*
 - *Kanan Dume Road*
 - *Latigo Canyon Road*
 - *Corral Canyon Road*
 - *Malibu Canyon Road*
 - *Tuna Canyon Road*
- 6.4 *Places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features are considered Scenic Areas. Scenic Areas do not include inland areas that are largely developed or built out such as residential subdivisions along the coastal terrace, residential development inland of Birdview Avenue and Cliffside Drive on Point Dume, or existing commercial development within the Civic Center and along Pacific Coast Highway east of Malibu Canyon Road.*
- 6.5 *New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.*
- 6.6 *Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.*
- 6.7 *The height of structures shall be limited to minimize impacts to visual resources. The maximum allowable height, except for beachfront lots, shall be 18 feet above existing or finished grade, whichever is lower. On beachfront lots, or where found appropriate through Site Plan Review, the maximum height shall be 24 feet (flat roofs) or 28 feet (pitched roofs) above existing or finished grade, whichever is lower. Chimneys and rooftop antennas may be permitted to extend above the permitted height of the structure.*
- 6.15 *Fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public viewing areas.*
- 6.18 *For parcels on the ocean side of and fronting Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, or Cliffside Drive where it is not feasible to design a structure located below road grade, new development shall provide a view corridor on the project site, that meets the following criteria:*
- *Buildings shall not occupy more than 80 percent maximum of the lineal frontage of the site.*
 - *The remaining 20 percent of lineal frontage shall be maintained as one contiguous view corridor.*
 - *No portion of any structure shall extend into the view corridor.*

- *Any fencing across the view corridor shall be visually permeable and any landscaping in this area shall include only low-growing species that will not obscure or block bluewater views.*
- *In the case of development that is proposed to include two or more parcels, a structure may occupy up to 100 percent of the lineal frontage of any parcel(s) provided that the development does not occupy more than 70 percent maximum of the total lineal frontage of the overall project site and that the remaining 30 percent is maintained as one contiguous view corridor.*

6.23 *Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, shielded, and concealed to the maximum feasible extent so that no light source is directly visible from public viewing areas. Night lighting for sports courts or other private recreational facilities in scenic areas designated for residential use shall be prohibited.*

In addition, the Malibu LIP contains several provisions regarding scenic and visual resources:

6.5 (A) Development Siting

- 1.** *New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.*
- 2.** *Where there is no feasible alternative that is not visible from scenic highways or public viewing areas, the development area shall be restricted to minimize adverse impacts on views from scenic highways or public viewing areas.*
- 3.** *Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.*
- 4.** *New development, including a building pad, if provided, shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA.*

6.5 (B) Development Design

- 1.** *The height of structures shall be limited to minimize impacts to visual resources. The maximum allowable height, except for beachfront lots, shall be 18 feet above existing or finished grade, whichever is lower. On beachfront lots, or where found appropriate through Site Plan Review, pursuant to Section 13.27 of the Malibu LIP the maximum height shall be 24 feet (flat roofs) or 28 feet (pitched roofs) above existing or finished grade, whichever is lower. Chimneys and rooftop antennas may be permitted to extend above the permitted height of the structure.*

- 2. The length of on-site roads or driveways shall be minimized, except where a longer road or driveway would allow for an alternative building site location that would be more protective of visual resources or ESHA. Driveway slopes shall be designed to follow the natural topography. Driveways that are visible from a scenic highway, a beach, a public viewing area, or public hiking trail shall be a neutral color that blends with the surrounding landforms and vegetation.**
- 3. Retaining walls visible from scenic highways, public viewing areas, trails, parks, and beaches should incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape.**
- 4. Fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public view areas.**
- 5. New development in scenic areas visible from scenic roads or public viewing areas shall incorporate colors and exterior materials that are compatible with the surrounding landscape.**

6.5 (E) Ocean Views

New development on parcels located on the ocean side of public roads, including but not limited to, Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, Cliffside Drive shall protect public ocean views.

- 1. Where the topography of the project site descends from the roadway, new development shall be sited and designed to preserve bluewater ocean views over the approved structures by incorporating the following measures.**
 - a. Structures shall extend no higher than the road grade adjacent to the project site, where feasible.**
 - b. Structures shall not exceed one story in height, as necessary, to ensure bluewater views are maintained over the entire site.**
 - c. Fences shall be located away from the road edge and fences or walls shall be no higher than adjacent road grade, with the exception of fences that are composed of visually permeable design and materials.**
 - d. The project site shall be landscaped with native vegetation types that have a maximum growth height at maturity and are located such that landscaping will not extend above road grade.**

In this case, Pacific Coast Highway (PCH) lies adjacent to the subject bluff top lot and is recognized as a “scenic highway” in the Malibu LCP. Pacific Coast Highway is a major coastal access route, not only utilized by local residents, but also heavily used by tourists and visitors to access several public beaches located in the surrounding area which are only accessible from Pacific Coast Highway. Public views of the ocean and water from Pacific Coast Highway have been substantially reduced, or completely blocked, in many areas by the construction of single-family residences, privacy walls, fencing, landscaping, and other residential related development between Pacific Coast Highway and the ocean.

Given the topography and location of the project site, there is a potential for impact to public views from PCH across the project site to the ocean. Section 6.5(B)(1) of the LIP specifies that the maximum allowable height of structures shall be 18 feet above existing or finished grade, whichever is lower. However, where found appropriate through Site Plan Review, the maximum height may be increased to 24 feet (flat roofs) or 28 feet (pitched roofs) above existing or

finished grade, whichever is lower. Site Plan Review (pursuant to Section 13.27 of the LIP), provides for the consideration of one of seven specific deviations from development standards required by the LCP, so long as certain findings can be made. As in this case, an increase in height over 18 feet may be approved through the Site Plan Review process, where considered concurrently with a coastal development permit application. Section 6.5(E)(1)(b) of the LIP specifies that where a project site on the ocean side of a public road such as PCH descends from the roadway, new structures shall not exceed one story in height, as necessary, to ensure bluewater views are maintained over the entire site.

The proposed residence is primarily one-story and 18 feet in height, however a portion of the residence is two-story and 22 feet in height (flat roof). Approximately 72 percent is one-story and approximately 28 percent is two-story in height. The residence is situated about 320 feet away from PCH on a gently descending slope. The elevation of PCH at the development area is approximately 163 feet above sea level. The one-story portion of the structure is 18 feet above finished grade and at an elevation that ranges between 142 and 146 feet. The highest roof elevation of the proposed residence (which is 22 feet above finished grade for the eastern, two-story portion of the structure) is at an elevation of approximately 147.5 feet. Therefore, the one-story portion of the proposed residence is 17 to 21 feet below road grade and the two-story portion is 16 feet below the road grade of PCH (**Exhibits 8-10**).

Commission staff reviewed the project plans as well as story poles placed on the property to depict the height and location of the structure. Staff's review indicates that given that the top of the proposed development will be significantly below road grade, bluewater ocean views would be maintained over the entire site. Further, the proposed development has been clustered in the center of the property, leaving corridors along both sides of the property that maximize bluewater views across the site. While a portion of the proposed residence exceeds one-story and 18 feet in height, this 22-foot high second story portion of the residence will be 16 feet below the road grade and will not significantly reduce or obstruct bluewater views as seen from PCH. The proposed wooden trellis attached to the west side of the residence is 18 feet high and 15 feet wide. The trellis does not exceed the height or elevation of the residence, nor pose a bluewater view obstruction. Additionally, review of Commission-approved residences on adjacent parcels indicate that the proposed residential project is similar in scale and height and conforms to the character of the neighborhood. Therefore, the residential structure has been sited and designed to avoid impacts to bluewater views to the maximum extent feasible.

Section 6.5 (B) (5) of the Malibu LIP requires new development in scenic areas visible from scenic roads or public viewing areas to incorporate colors and exterior materials that are compatible with the surrounding landscape. The proposed project is located in a scenic area and will be visible from a scenic highway. Therefore, in order to ensure that the proposed project is consistent with the requirements of the Malibu LCP, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, consistent with Section 6.5 (B) (5) of the Malibu LIP, as detailed by **Special Condition Ten (10)**.

Section 13.6.4(D)(4) of the LIP requires that a coastal development permit application shall be accompanied by a site plan that shows major natural and man-made landscape features, including location, type, size, and quantification of acreage of any trees or other vegetation to be planted or removed by the proposed project. Section 6.5(B)(4) of the LIP specifies that fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public view areas. Additionally, Section 6.5(E)(1) of the LIP requires that the project

site shall be landscaped with native vegetation types that have a maximum growth height at maturity and are located such that landscaping will not extend above road grade.

As discussed previously, a court-approved Settlement Agreement exists between the City of Malibu and the applicant that contains a specific landscaping condition for development on the subject property. The landscaping condition per the Settlement Agreement relied upon the landscape plan approved by the Coastal Commission in 1998 per CDP No. 4-98-163 as a basis for the approved tree configuration on the site and the assigned height limits for the individual trees, as well as height parameters for all other landscape vegetation. The landscaping condition per the Settlement Agreement reads as follows:

All landscaped areas shall be planted and maintained in accordance with Exhibit A, attached hereto and made a part hereof. Applicants are allowed to eliminate or reduce the size of the landscaping but not plant additional landscaping or trees in excess of specified heights. No landscaping which blocks bluewater ocean views shall be maintained in the view corridors depicted on Exhibit A, except for those 10-foot-high trees depicted in pink on Exhibit A. Consistent with CDP 4-98-163, except as otherwise provided herein, all landscaping outside the view corridors on site shall be limited to 18 feet in height or the centerline elevation of Pacific Coast Highway (elevation 163.28' by survey), whichever is lower. Vegetation within 15 feet of Pacific Coast Highway shall be limited to no more than 2 feet in height. Prior to the issuance of a building permit, final landscape plans shall be submitted for review and approval by the Planning Manager and/or City Biologist. Failure to comply with the landscaping conditions is a violation of these Conditions of Approval. Landscaping shall be used to soften views of the structure as seen from Pacific Coast Highway and surrounding properties. Plant species shall be approved by the City Biologist in advance and shall be ones that will not grow higher than the maximum height allowed in accordance with Exhibit A and the approved landscaping plan.

Exhibit A referenced above is a plan view of the site that shows the trees that are allowed, their exact location, and the maximum height allowed for each. This exhibit, indicated on the lower portion of Exhibit 11, had served as the applicant's landscape plan that was reviewed and conditionally approved by the City of Malibu on July 6, 2006. The Commission found at the substantial issue determination hearing on the subject appeal in November 2006 that project landscaping, as approved by the City and restricted per the Settlement Agreement, raised substantial issue regarding conformance with the scenic/visual resource policies of the Malibu LCP.

On January 8, 2007, the applicant submitted to Commission staff a detailed landscape planting plan for the proposed project site, prepared by a licensed landscape architect (**Exhibit 11**). The plan specifies plant species, location, and maximum mature size for all landscaping proposed on the project site, consistent with the provisions of the City's Settlement Agreement landscape condition. Several of the tree species proposed by the applicant have a maximum growth height at maturity that will exceed the maximum height allowed under the Settlement Agreement and will exceed the road grade at Pacific Coast Highway. For the selected tree species that have the potential to naturally exceed their restricted height per the Settlement Agreement, the applicant's landscape architect has indicated on the landscape plan that those trees are to be containerized to maintain their restricted maximum height (10-feet or 18-feet in height, as applicable). The location and maximum mature heights of all other proposed vegetation (shrubs, groundcover, and grasses) are also indicated on the plan, all of which are 6 feet in height or less at maturity. The closest 18-foot tall tree to PCH identified on the landscape plan is

approximately 170 feet seaward from the centerline of PCH. Only two trees are allowed nearer (approximately 120 feet seaward from centerline of PCH), and those are restricted to no more than 10 feet in height. Select trees in the view corridors on either side of the residence are 10 feet in height to maximize public views. The landscape plan also specifies that landscape vegetation within 15 feet of PCH be no more than two feet in height.

Commission staff reviewed the landscaping planting plan and analyzed how the proposed landscaping would impact bluewater views across the site. The site descends seaward from PCH and review of cross-section drawings indicate that while all landscape plan trees are situated below road grade (by 3 feet at the closest point) at their maximum height allowed by the Settlement Agreement, the majority of the proposed trees would exceed the maximum elevation of the residence by up to 13 feet (**Exhibit 9**). As proposed, project landscaping would significantly reduce public views of the ocean from PCH. Section 6.5 (E) of the Malibu LIP requires that new development, including landscaping, be sited and designed to preserve bluewater ocean views. The design standard for landscaping that is included in this LIP section specifies that landscaping shall not extend above road grade at maximum growth height. It is important to note that this is maximum standard, and in this case, that standard does not serve to preserve bluewater ocean views or minimize impacts to scenic resources. In order to preserve bluewater views from PCH to the maximum extent feasible, all site landscaping, including trees, shall not exceed the maximum elevation of the proposed residence, which is 147.5 feet above sea level, as detailed in **Special Condition Five (5)**. Special Condition Five (5) requires the applicant to submit a revised detailed landscaping plan, for the review and approval by the Executive Director, that identifies the species, extent, and location of all plant materials and that incorporates the above-mentioned height criteria.

The applicant proposes to in-ground containerize certain proposed tree species to ensure that they do not exceed the maximum heights required by the City's Settlement Agreement. While containerization may be suitable for species that have a natural height range that does not exceed the maximum allowable height, containerization can be problematic for species that naturally exceed the maximum height. Roots can either break free from the container and continue to grow in-ground, or encircle the soil ball when they reach the confines of the container, leading to eventual strangulation of the tree. For example, Coast Live Oak (*Quercus agrifolia*) is indicated on the landscape plan as one of several proposed tree species that will be containerized to not exceed 18 feet in height. Coast Live Oak trees typically reach 20 to 40 feet in height, and sometimes up to as much as 80 feet. As such, containerization of trees such as this may not be an appropriate choice in terms of survivability and visual resource protection. Therefore, to ensure that landscape plant materials proposed for the subject property can adequately maintain their allowable height in order to preserve bluewater views, Special Condition Five (5) also specifies that all vegetation must have a natural growth height range that does not exceed the maximum allowable elevation. To ensure that other landscape elements, such as fencing and walls, do not obstruct additional bluewater views, Special Condition 5 requires that fencing and walls be indicated on the landscape plan and shall not exceed six feet in height, or 147.5 feet above sea level (the maximum elevation of the proposed residence) in height, whichever is less.

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. Policy 6.23 of the Malibu LCP specifically restricts exterior lighting to be minimized and restricted to low intensity fixtures, shielded, and concealed to the maximum

extent feasible so that no light source is directly visible from public viewing areas such as Pacific Coast Highway or the beach and ocean area in order to eliminate the adverse individual and cumulative visual impacts associated with the lighting of such areas visible from public areas. In order to mitigate any potential future visual and environmental impacts of the proposed project, and to be consistent with Malibu LCP Policy 6.23, the Commission finds it necessary to require that exterior lighting to be minimized and restricted to low intensity fixtures, shielded, and concealed to the maximum extent feasible so that no light source is directly visible from public viewing areas such as Pacific Coast Highway or the beach and ocean area, as specified in **Special Condition Eleven (11)**.

In addition, future construction on the property has the potential to negatively affect the visual character of the area as seen both from the beach and from Pacific Coast Highway. In order to ensure that no additions or improvements are made to the property without due consideration of the visual impacts, the Commission finds it necessary to require a future development restriction, which requires the applicant to obtain an amended or new coastal permit if additions or improvements to the site are proposed in the future, as detailed in **Special Condition Three (3)**. Finally, **Special Condition Four (4)** 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.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the applicable policies of Chapter 6 (Scenic and Visual Resources) of the Malibu LUP, including Section 30251 of the Coastal Act, which is incorporated as part of the LUP, and applicable standards of Chapter 6 (Scenic, Visual, and Hillside Resources) of the Malibu LUP.

E. Water Quality

The Commission recognizes that new development in Malibu and 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, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems.

The Malibu LCP incorporates Section 30231 of the Coastal Act, which 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.

Further, the following LUP water quality policies are applicable:

3.100 ***New development shall be sited and designed to minimize impacts to water quality from increased runoff volumes and nonpoint source pollution. All new development shall meet the requirements of the Los Angeles Regional Water***

Quality Control Board (RWQCB) in its the Standard Urban Storm Water Mitigation Plan For Los Angeles County And Cities In Los Angeles County (March 2000) (LA SUSMP) or subsequent versions of this plan.

- 3.102 Post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs and/or the 85th percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs. This standard shall be consistent with the most recent Los Angeles Regional Water Quality Control Board municipal stormwater permit for the Malibu region or the most recent California Coastal Commission Plan for Controlling Polluted Runoff, whichever is more stringent.**
- 3.110 New development shall include construction phase erosion control and polluted runoff control plans. These plans shall specify BMPs that will be implemented to minimize erosion and sedimentation, provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials.**
- 3.111 New development shall include post-development phase drainage and polluted runoff control plans. These plans shall specify site design, source control and treatment control BMPs that will be implemented to minimize post-construction polluted runoff, and shall include the monitoring and maintenance plans for these BMPs.**
- 3.125 Development involving onsite wastewater discharges shall be consistent with the rules and regulations of the L.A. Regional Water Quality Control Board, including Waste Discharge Requirements, revised waivers and other regulations that apply.**
- 3.126 Wastewater discharges shall minimize adverse impacts to the biological productivity and quality of coastal streams, wetlands, estuaries, and the ocean. On-site treatment systems (OSTSs) shall be sited, designed, installed, operated, and maintained to avoid contributing nutrients and pathogens to groundwater and/or surface waters.**
- 3.127 OSTs shall be sited away from areas that have poorly or excessively drained soils, shallow water tables or high seasonal water tables that are within floodplains or where effluent cannot be adequately treated before it reaches streams or the ocean.**
- 3.128 New development shall be sited and designed to provide an area for a backup soil absorption field in the event of failure of the first field.**
- 3.130 Subsurface sewage effluent dispersal fields shall be designed, sited, installed, operated, and maintained in soils having acceptable absorption characteristics determined either by percolation testing, or by soils analysis, or by both. No subsurface sewage effluent disposal fields shall be allowed beneath nonporous paving or surface covering.**
- 3.131 New development shall include the installation of low-flow plumbing fixtures, including but not limited to flow-restricted showers and ultra-low flush toilets,**

and should avoid the use of garbage disposals to minimize hydraulic and/or organic overloading of the OSTs.

- 3.132** *New development may include a separate greywater dispersal system where approved by the Building Safety Department.*
- 3.133** *The construction of private sewage treatment systems shall be permitted only in full compliance with the building and plumbing codes and the requirements of the LA RWQCB. A coastal development permit shall not be approved unless the private sewage treatment system for the project is sized and designed to serve the proposed development and will not result in adverse individual or cumulative impacts to water quality for the life of the project.*
- 3.138** *New septic systems shall be sited and designed to ensure that impacts to ESHA, including those impacts from grading and site disturbance and the introduction of increased amounts of groundwater, are minimized. Adequate setbacks and/or buffers shall be required to protect ESHA and other surface waters from lateral seepage from the sewage effluent dispersal systems.*
- 3.141** *Applications for a coastal development permit for OSTs installation and expansion, where groundwater, nearby surface drainages and slope stability are likely to be adversely impacted as a result of the projected effluent input to the subsurface, shall include a study prepared by a California Certified Engineering Geologist or Registered Geotechnical Engineer that analyzes the cumulative impact of the proposed OSTs on groundwater level, quality of nearby surface drainages, and slope stability. Where it is shown that the OSTs will negatively impact groundwater, nearby surface waters, or slope stability, the OSTs shall not be allowed.*

The project site is a vacant bluff top parcel located between Pacific Coast Highway and the Pacific Ocean. The proposed development will result in an increase in impervious surfaces, which in turn decreases the infiltrative function and capacity of existing permeable land on the project site. The reduction in permeable surface area therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak water discharge is increased and the peak occurs much sooner after precipitation events. Additionally, grading, excavation and disturbance of the site from construction activities and runoff from impervious surfaces can result in increased erosion.

In addition, pollutants commonly found in runoff associated with new development include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter and organic matter; fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use; nutrients from wastewater discharge, animal waste and crop residue; and bacteria and pathogens from wastewater discharge and animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation which provides food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; acute and sublethal toxicity in marine organisms leading to adverse changes in

reproduction and feeding behavior; and human diseases such as hepatitis and dysentery. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

The LCP water quality policies cited above are designed to protect water quality and prevent pollution of surface, ground, and ocean waters. The Malibu LCP requires the preparation of a Storm Water Management Plan (SWMP) for all projects that require a coastal development permit. A SWMP illustrates how the project will use appropriate site design and source control best management practices (BMPs) to minimize or prevent adverse effects of the project on water quality. Therefore, pursuant to the requirements of the Malibu LCP, and to ensure the proposed project will not adversely impact water quality or coastal resources, the Commission finds it necessary to require the preparation of a SWMP for the subject site, that utilizes site design, source control and treatment control BMPs, as specified in **Special Condition Six (6)**.

Furthermore, erosion control and storm water pollution prevention measures implemented during construction will serve to minimize the potential for adverse impacts to water quality resulting from runoff during construction. The Malibu LCP requires that a Local Storm Water Pollution Prevention Plan (SWPPP) be prepared for all development that requires a Coastal Development Permit and a grading or building permit, and it be applied to the construction phase of the project. The SWPPP includes measures and BMPs to prevent erosion, sedimentation and pollution of surface and ocean waters from construction and grading activities. In this case, the proposed project does involve grading and construction that requires grading and building permits. Therefore, pursuant to the Malibu LCP and to ensure the proposed development does not adversely impact water quality or coastal resources during the construction phase of the project, the Commission finds it necessary to require the applicant to submit a Local SWPPP for the subject site, consistent with the requirements specified in **Special Condition Six (6)**.

Finally, the proposed development includes the construction of a new alternative on-site wastewater treatment system (OSTS) to serve the residence. The Malibu LCP includes a number of policies and standards relative to the design, siting, installation, operation and maintenance of OSTs to ensure these systems do not adversely impact coastal waters. The proposed OSTs was previously reviewed and approved in concept by the City of Malibu Environmental Health Department, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

In addition, in order to ensure the OSTs is maintained and monitored in the future to prevent system failures or inadequate system performance, the Malibu LCP includes policies and standards requiring the regular maintenance and monitoring of the OSTs. Therefore, the Commission finds that it is necessary to require the applicant to submit verification that they have obtained a monitoring, operation and maintenance permit from the City, as outlined in **Special Condition Nine (9)**.

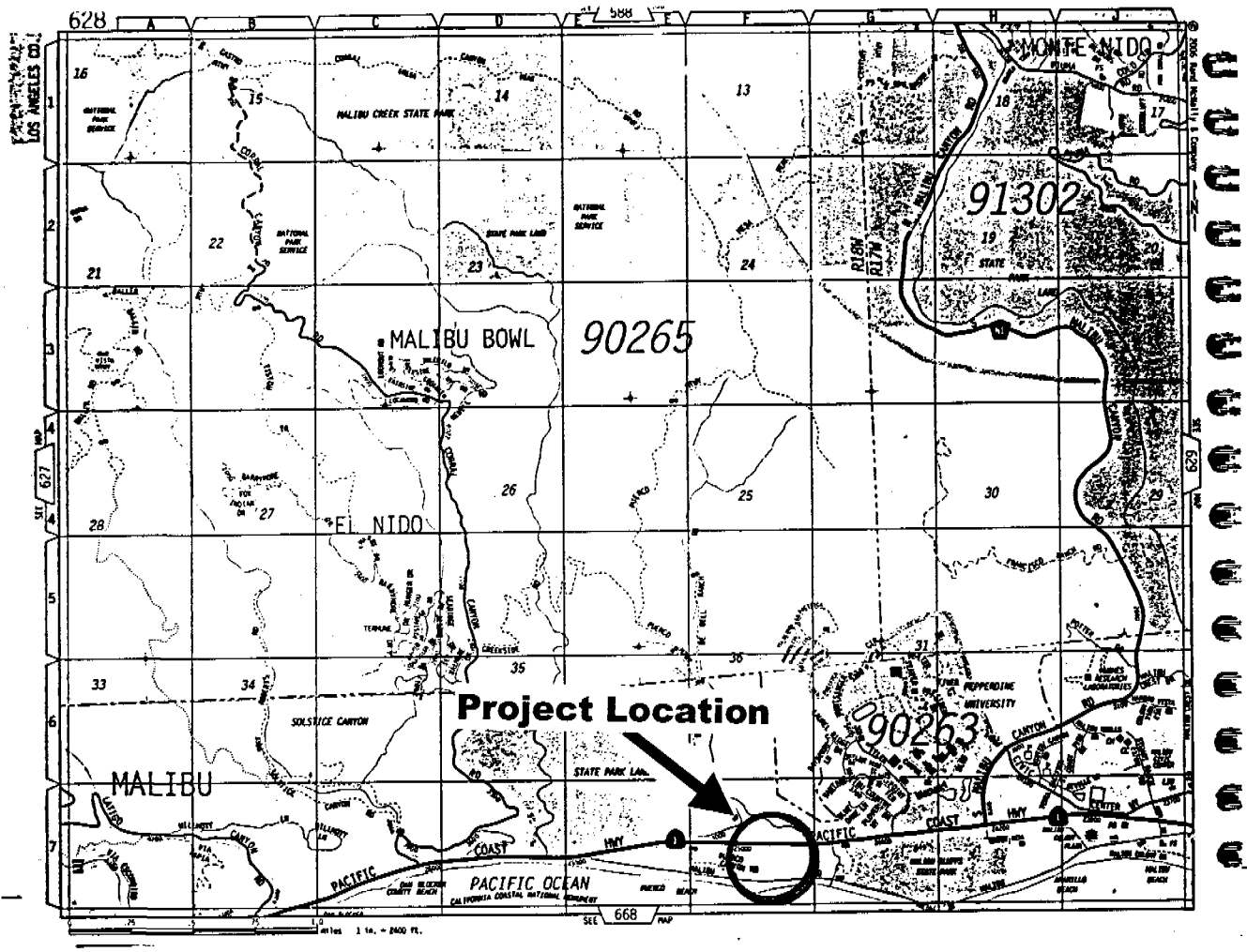
Finally, the City of Malibu Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

The Commission finds that based on the above findings, the proposed project, as conditioned, will not result in adverse impacts to water quality and is consistent with the applicable policies of the Malibu LCP. The Commission has found in past permit actions that conformance with the provisions of the plumbing, health, and safety codes is protective of resources and serves to minimize any potential for wastewater discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with the applicable policies of Chapter 3 (Marine and Land Resources) of the Malibu LUP, including Section 30231 of the Coastal Act, which is incorporated as part of the LUP, and applicable standards of Chapter 17 (Water Quality Protection) and Chapter 18 (Onsite Wastewater Disposal System Standards) of the Malibu LIP.

F. California Environmental Quality Act

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

The Commission incorporates its findings on Local Coastal Program consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Certified Local Coastal Program. Feasible mitigation measures which will minimize all adverse environmental effects have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.



4458 15
SCALE 1" = 200'

1992

Subject Parcel

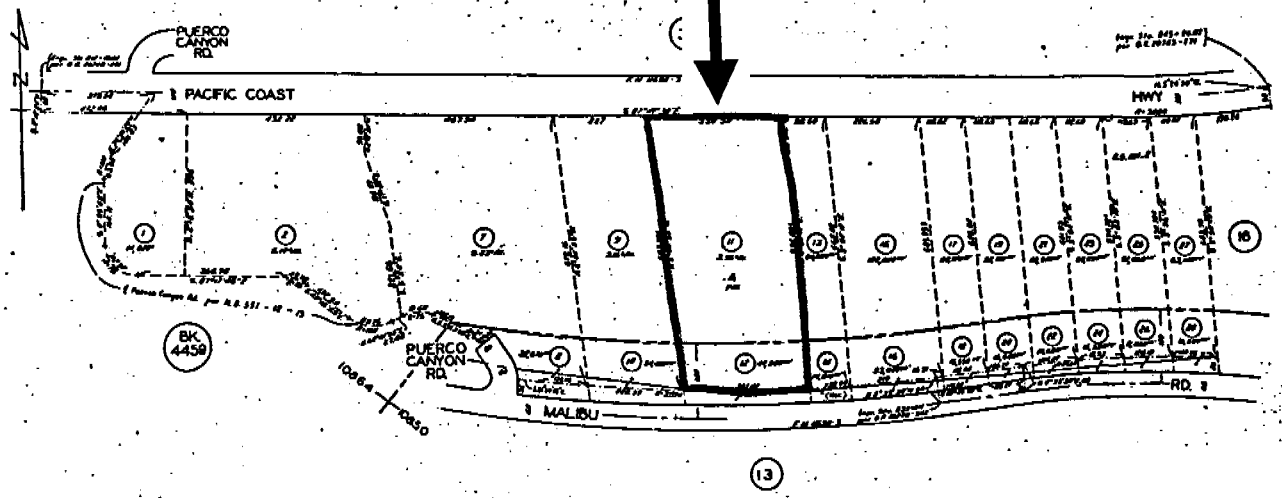


Exhibit 1
A-4-MAL-06-096
Vicinity and Parcel
Map

CODE
10630
40664

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

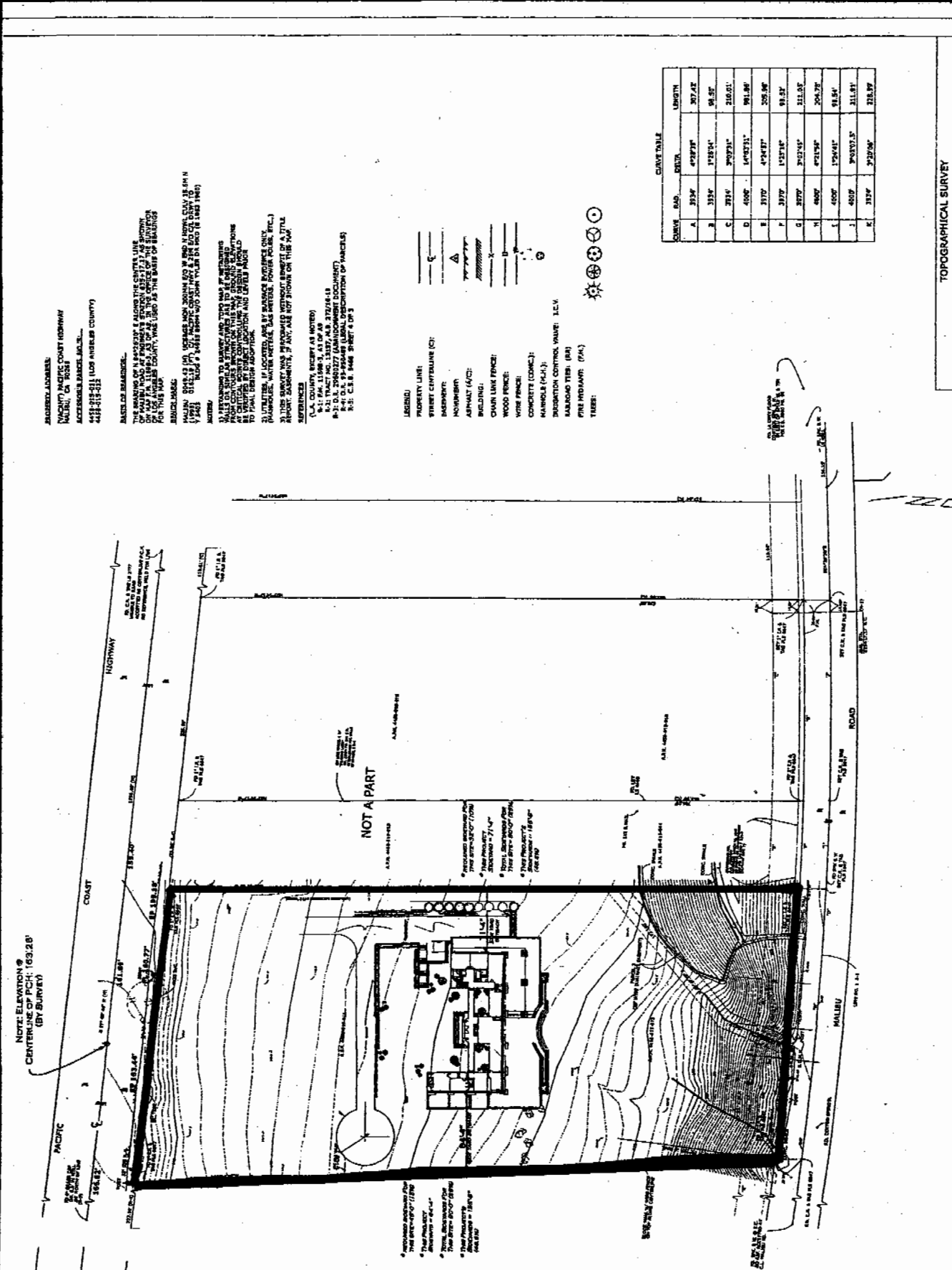
FOR PREV. ASSMT SEE:
4458-15

DATE	11/11/06
BY	W. J. BROWN
SCALE	1" = 40'
PROJECT	24950 PACIFIC COAST HWY
CLIENT	LITCHMAN, LLC
ADDRESS	MALIBU, CA 90265

Scale: 1" = 40'-0"

Litchman, LLC
24950 Pacific Coast Hwy.
Malibu, CA 90265

A.1.1
DATE: 11/11/06
BY: W. J. BROWN
SCALE: 1" = 40'



NOTE: ELEVATION @
CENTERLINE OF PCH: 163.28'
(BY SURVEY)

NOT A PART

- * PROPERTY BOUNDARY PER THE SURVEY OF 11/11/06
- * THE PROPERTY BOUNDARY IS SHOWN AS A DASHED LINE
- * THE PROPERTY BOUNDARY IS SHOWN AS A DASHED LINE
- * THE PROPERTY BOUNDARY IS SHOWN AS A DASHED LINE
- * THE PROPERTY BOUNDARY IS SHOWN AS A DASHED LINE

PROJECT ADDRESS:
PACIFIC COAST HIGHWAY
MALIBU, CA 90265
ACCESSIBLE EASEL ONLY
441-215-2111 (LOS ANGELES COUNTY)
441-215-2112

DATE OF SURVEY:
THE SURVEY WAS CONDUCTED ON 11/11/06 AT 10:00 AM. THE SURVEY WAS CONDUCTED BY W. J. BROWN, LICENSED SURVEYOR NO. 11111. THE SURVEY WAS CONDUCTED IN MALIBU, CALIFORNIA, LOS ANGELES COUNTY. THE SURVEY WAS CONDUCTED FOR THE PROJECT.

REMARKS:
MALIBU, CALIFORNIA (CA) VERTICAL CURVE DATA IS SHOWN IN THE SURVEY REPORT. THE VERTICAL CURVE DATA IS SHOWN IN THE SURVEY REPORT. THE VERTICAL CURVE DATA IS SHOWN IN THE SURVEY REPORT.

1. REFERENCE TO SURVEY AND THIS MAP IS BY REFERENCE TO THE SURVEY REPORT AND THIS MAP IS BY REFERENCE TO THE SURVEY REPORT. THE SURVEY REPORT IS SHOWN IN THE SURVEY REPORT. THE SURVEY REPORT IS SHOWN IN THE SURVEY REPORT.

2. UTILITIES, IF LOCATED, ARE BY SURVEY EVIDENCE ONLY. PLUMBING, WATER METER, GAS METER, POWER POLE, ETC., SHALL BE SHOWN AS NOTED. UTILITIES NOT SHOWN ON THIS MAP SHALL BE SHOWN AS NOTED. UTILITIES NOT SHOWN ON THIS MAP SHALL BE SHOWN AS NOTED.

3. U.S. COUNTY, RECEIPT AS NOTED:
S.1: PAC. 115883.3, 41 OF 48
S.2: TRACT NO. 13327, A.B. 270246-11
S.3: D.E. 89-22248 (LEGAL DESCRIPTION OF PARCELS)
S.4: C.S. 1446 2487 4 OF 3

- LEGEND
- PROPERTY LINE
- STREET CENTERLINE (C/L)
- BASEMENT
- NUMBER
- ASPHALT (A/C)
- BUILDING
- CHAIN LINK FENCE
- WOOD FENCE
- WIRE FENCE
- CONCRETE (CONC)
- MATERIAL (M/L)
- DISCONTINUITY CONTROL VALVE (C.V.)
- RAILROAD TIE (RT)
- FIRE HYDRANT (FH)
- TREE

CURVE	DATA	LENGTH
A	4297.7'	307.42'
B	1728.4'	98.97'
C	2097.3'	216.01'
D	4448.7'	91.84'
E	4448.7'	205.96'
F	1123.4'	91.84'
G	2024.5'	211.97'
H	4212.9'	204.73'
I	1728.4'	91.84'
J	2097.3'	211.97'
K	4448.7'	218.59'

TOPOGRAPHICAL SURVEY

DATE: 11/11/06
BY: W. J. BROWN
SCALE: 1" = 40'

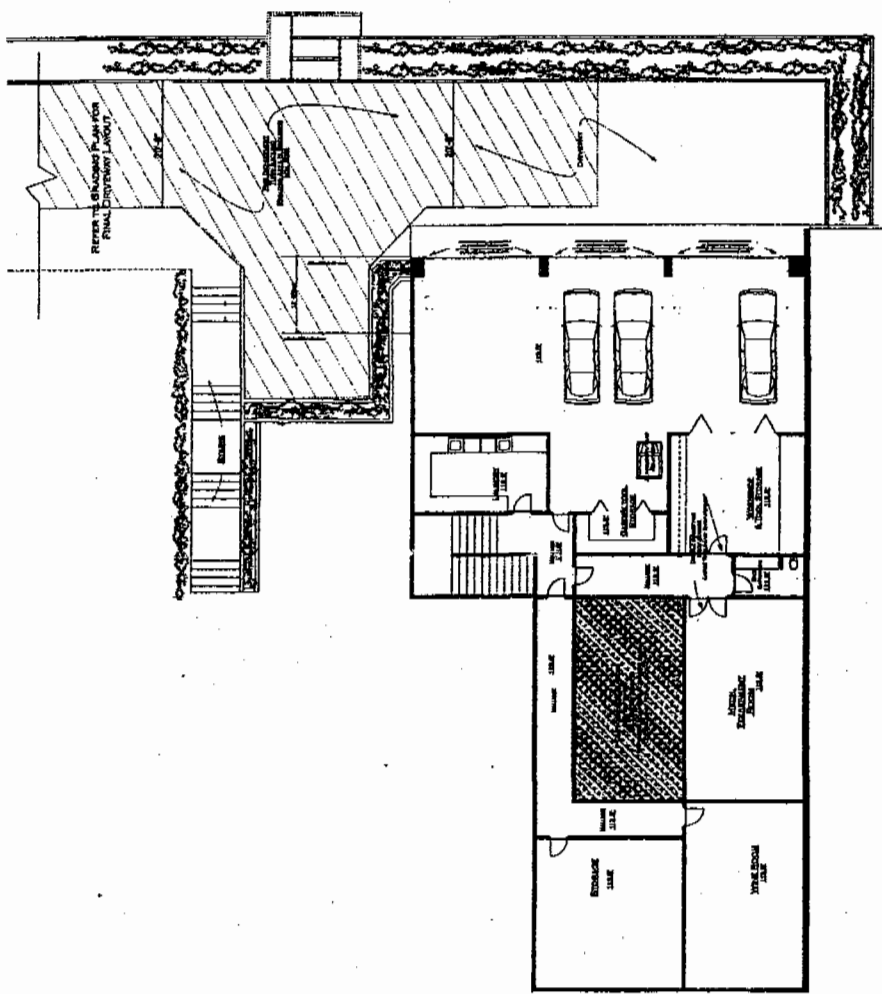
PROJECT: 24950 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

CLIENT: LITCHMAN, LLC

ADDRESS: 24950 PACIFIC COAST HIGHWAY
MALIBU, CA 90265

DATE: 11/11/06
BY: W. J. BROWN
SCALE: 1" = 40'

Exhibit 2
A-4-MAL-06-096
Site Plan



Basement Level Plan

Scale: 1/8" = 1'-0"

Exhibit 3
A-4-MAL-06-096
Basement Floor Plan

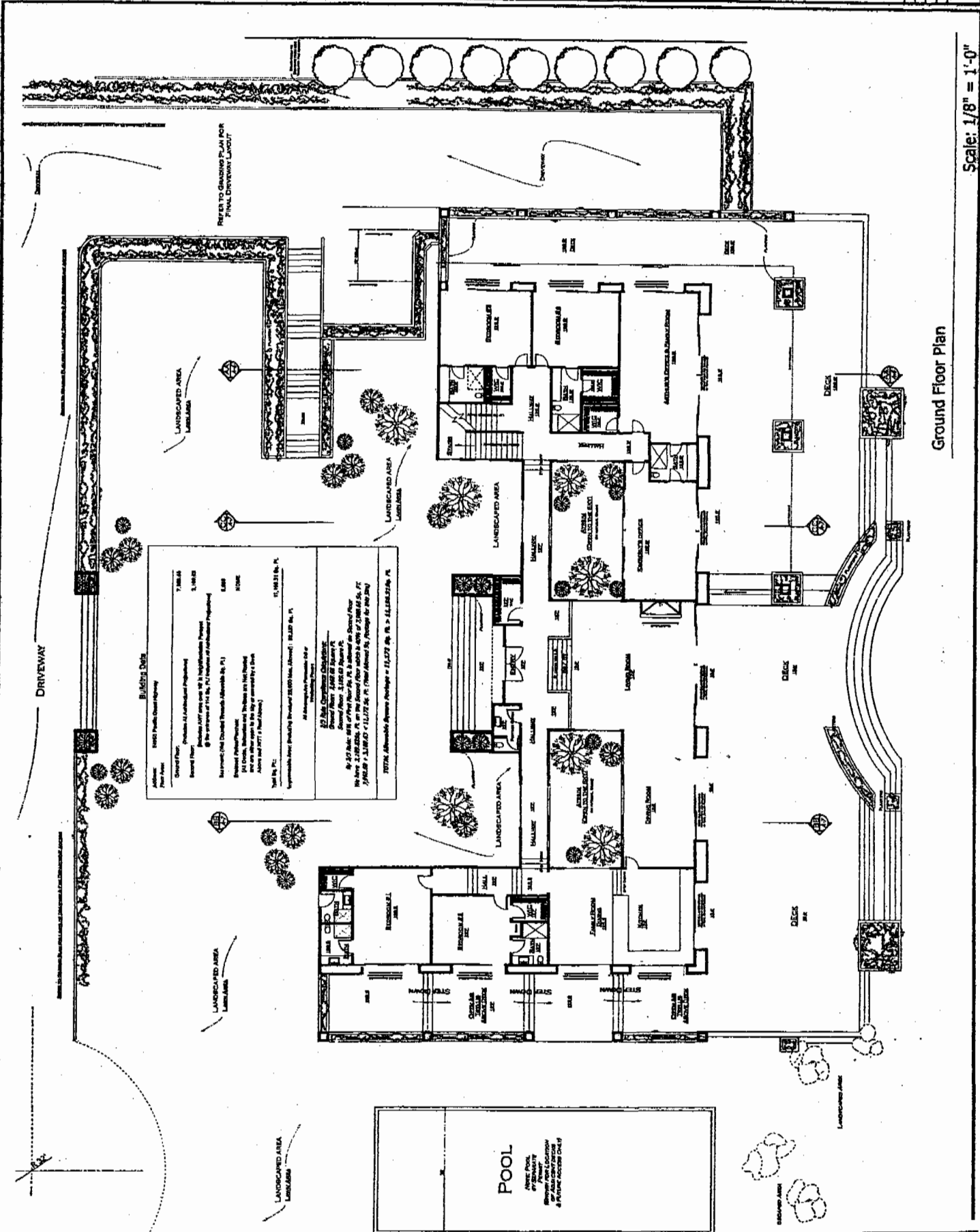
DATE	DESCRIPTION
2/18/03	PRELIMINARY
11/12/03	REVISED
4/28/06	REVISED

Litchman, LLC
 24950 Pacific Coast Highway
 Malibu, CA 90265

Ground Floor Plan
 Scale: 1/8" = 1'-0"
 A.2

Scale: 1/8" = 1'-0"

Ground Floor Plan



Building Data

Address: 10000 Pacific Coast Highway
 City: Malibu, CA
 County: Los Angeles
 State: CA
 Zip: 90265

Project Name: 10000 Pacific Coast Highway
 Project No: 10000-001
 Architect: Litchman, LLC
 Designer: Litchman, LLC
 Date: 4/28/06

10000 Pacific Coast Highway
 Malibu, CA 90265
 10000 Pacific Coast Highway
 Malibu, CA 90265
 10000 Pacific Coast Highway
 Malibu, CA 90265

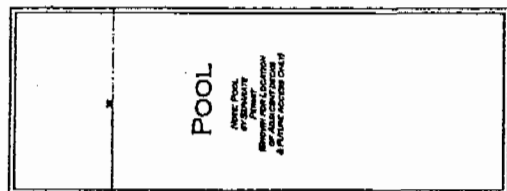


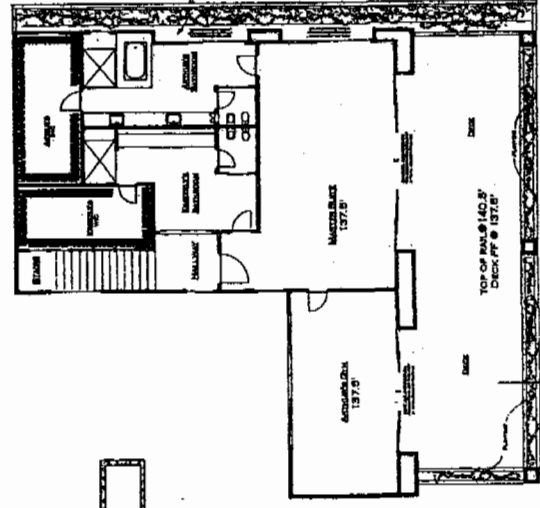
Exhibit 4
A-4-MAL-06-096
1st Floor Plan

DATE	DESCRIPTION
11/15/06	REVISED
11/15/06	REVISED
11/15/06	REVISED

Litchman, LLC
 24950 Pacific Coast Highway
 Malibu, CA 90265

Second Floor Plan
 A.3.1

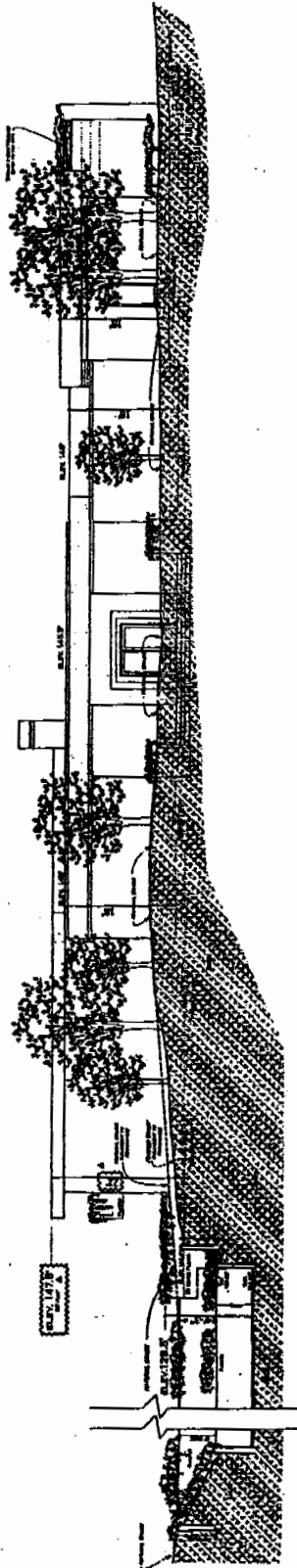
Building Data	
Address:	24950 Pacific Coast Highway
Project Name:	24950 Pacific Coast Highway
Client:	24950 Pacific Coast Highway
Contract Price:	2,000,000
Second Floor Price:	1,100,000
Third Floor Price:	1,100,000
Fourth Floor Price:	1,100,000
Basement Price:	1,100,000
Site Work Price:	1,100,000
Professional Fees:	1,100,000
Permit Fees:	1,100,000
Other Fees:	1,100,000
Total Price:	11,100,000



Second Floor Plan

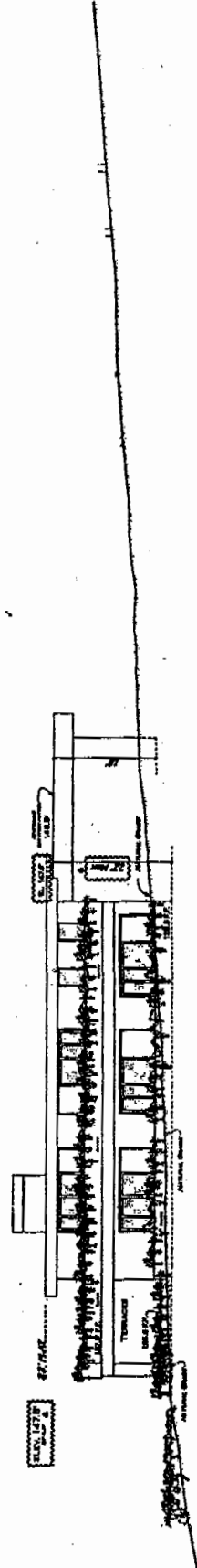
Scale: 1/8" = 1'-0"

Exhibit 5
A-4-MAL-06-096
2nd Floor Plan



North Elevation

Scale: 1/8" = 1'-0"



East Elevation

Scale: 1/8" = 1'-0"

Exhibit 6
A-4-MAL-06-096
North and East Elevations

DATE	1/15/06
BY	JLH
CHECKED	JLH
SCALE	AS SHOWN
PROJECT	24950 Pacific Coast Highway
SHEET	A.6

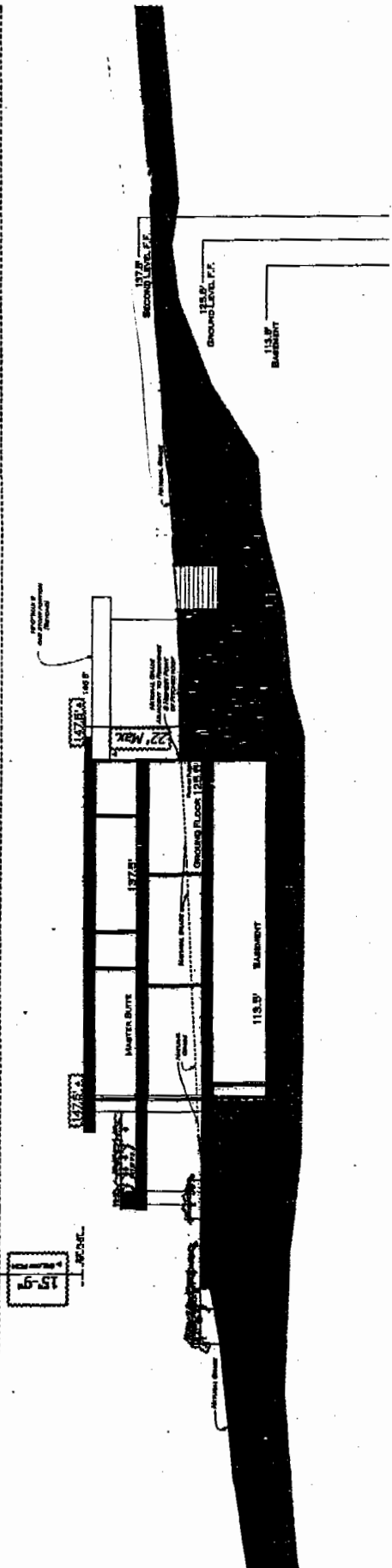
Litchman, LL
 24950 Pacific Coast Highway
 Malibu, CA 90265

Section AA

A.6

ELEVATION 163.28' BY SURVEY @ CENTERLINE OF PCH

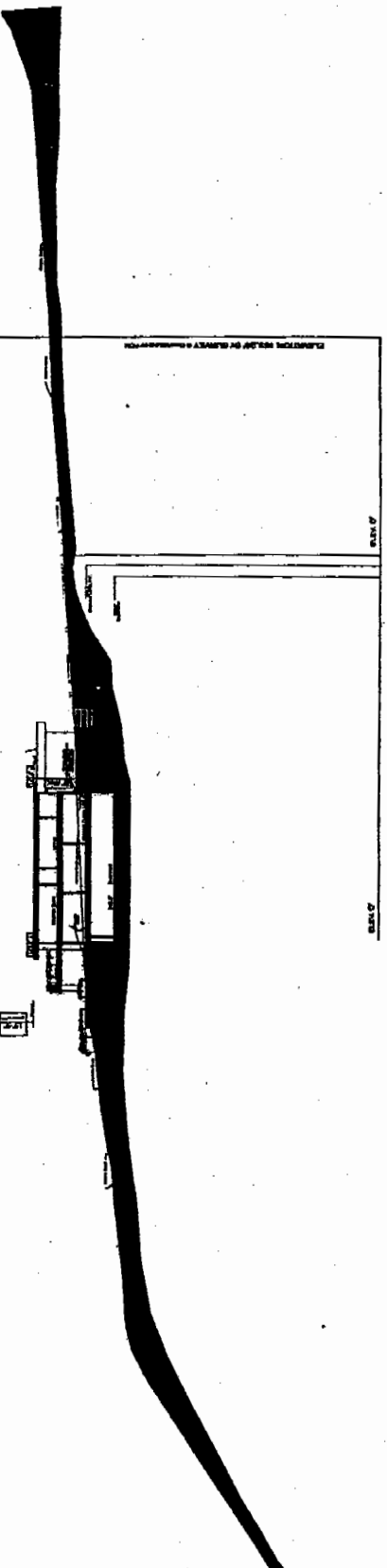
ELEVATION 163.28' BY SURVEY @ CENTERLINE OF PCH



Section AA (thru East Side of Residence)

Scale: 1/8" = 1'-0"

ELEVATION 163.28' BY SURVEY @ CENTERLINE OF PCH

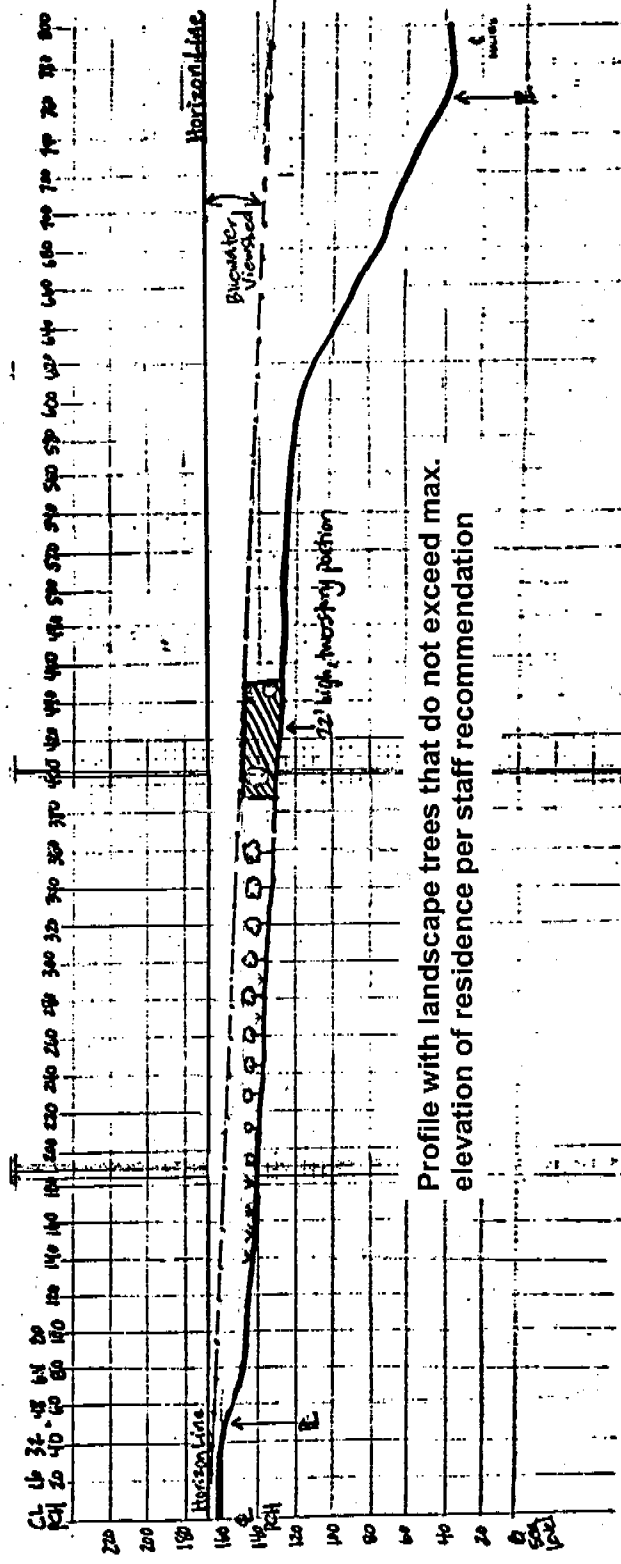
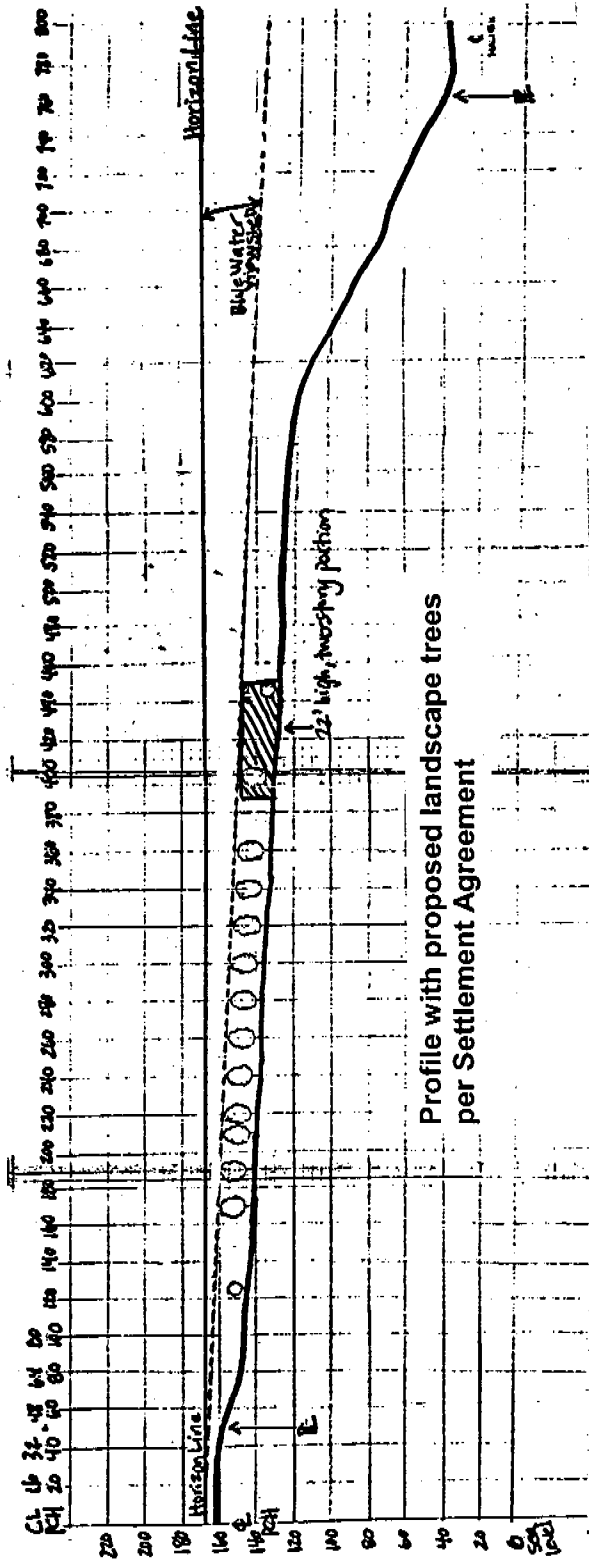


Section AA (thru East Side of Residence)

Scale: 1" = 20'-0"

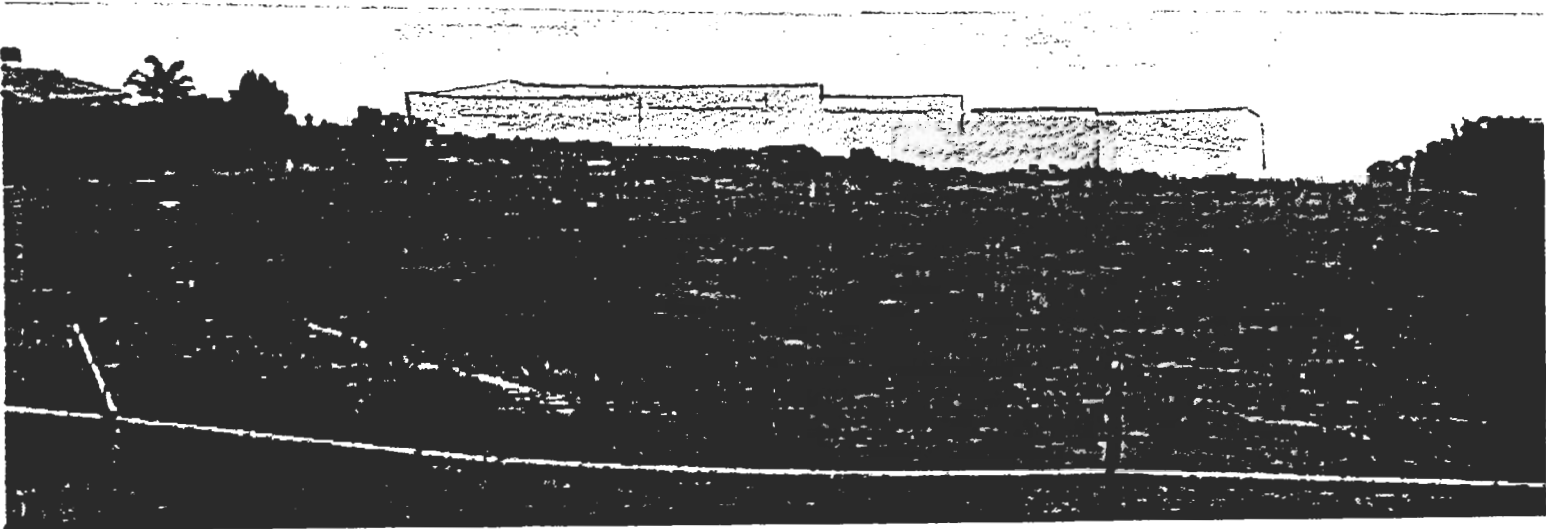
Exhibit 8
A-4-MAL-06-096
Cross-sections 1 of 2

Profile A (Eastside of Property)



Note: Horizon line appx. 4 feet above road grade.

horizonline



note: shading added for emphasis

Exhibit 10
A-4-MAL-06-096
Story Poles (as seen from PCH)

