

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Item W21a

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Staff: A.T.
Staff Report: 8/25/10
Hearing Date: 9/15/10

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-09-066

APPLICANT: Joan Borsten

AGENT: Marissa Coughlan

PROJECT LOCATION: 1752 Corral Canyon Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Slope repair including the removal and recompaction of approximately 1,792 cu. yds. of slide debris (896 cu. yds. of cut, 893 cu. yds. fill, and 3 cu. yds. export), construction of a keyway, installation of 206 linear feet of 4" diameter PVC drain pipe, 301 linear feet of 6" diameter PVC drain pipe, drainage dissipation device (15 sq. ft. rock rip rap and 12" x 12" concrete catch basin and grate), removal of existing septic system near the slope failure, after-the-fact approval of a septic system, and after-the-fact approval of the installation of a temporary access road for geologic testing and construction. The project includes the removal/revegetation of the road after completion of the construction.

MOTION & RESOLUTION: Page 3

SUMMARY OF STAFF RECOMMENDATION: Staff recommends **approval** of the proposed development with conditions.

The standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified Malibu – Santa Monica Mountains Land Use Plan (LUP) serve as guidance. Following is a summary of the main issues raised by the project and how they are resolved by staff's recommendation:

- **GEOLOGIC STABILITY.** The project site contains a landslide that must be repaired in order to stabilize the slope directly adjacent to the existing residence. The recommended special conditions will assure that any further geologic hazards and any potential impacts to coastal resources are minimized.

Table of Contents

I.	STAFF RECOMMENDATION.....	3
II.	STANDARD CONDITIONS.....	3
III.	SPECIAL CONDITIONS	4
1.	Plans Conforming to Geotechnical Engineer's Recommendations	4
2.	Assumption of Risk, Waiver of Liability and Indemnity	4
3.	Interim Erosion Control Plans and Construction Responsibilities	4
4.	Landscaping and Fuel Modification Plans.....	7
5.	Removal of Excavated Material.....	9
6.	Drainage System Maintenance	9
7.	Deed Restriction.....	9
8.	Condition Compliance	10
IV.	FINDINGS AND DECLARATIONS.....	10
A.	PROJECT DESCRIPTION AND BACKGROUND	10
B.	PAST COMMISSION ACTION	11
C.	HAZARDS AND GEOLOGIC STABILITY.....	11
D.	WATER QUALITY	14
E.	UNPERMITTED DEVELOPMENT	15
F.	LOCAL COASTAL PROGRAM (LCP) PREPARATION	16
G.	CALIFORNIA ENVIRONMENTAL QUALITY ACT	16

EXHIBITS

- Exhibit 1. Vicinity Map
 - Exhibit 2. Parcel Map
 - Exhibit 3. Site Plan/Grading Plan
 - Exhibit 4. Site Plan showing new septic
 - Exhibit 5. Temporary Access Road Plan
 - Exhibit 6. Cross-section
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LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, dated 8/14/07; County of Los Angeles Environmental Health Services, Sewage Disposal System Conceptual Approval, dated 5/29/07.; County of Los Angeles Department of Public Works, Geotechnical and Materials Engineering Division, Geologic Review Sheet, dated 2/18/09.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; "Report of Update Engineering Geologic Study: Proposed Slope Repair/Restoration," prepared by Mountain Geology, Inc., dated February 11, 2008; "Engineering Geologic Memorandum: Proposed Slope Repair/Restoration," prepared by

Mountain Geology, Inc., dated January 15, 2009; Coastal Development Permit No. 5-90-097 (Naylor).

I. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-09-066 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. STANDARD CONDITIONS

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

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

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

III. SPECIAL CONDITIONS

1. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in all of the geology, geotechnical, and/or soils reports referenced as Substantive File Documents. These recommendations, including recommendations concerning foundations, sewage disposal, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

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. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

2. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildfire and erosion; (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 arising from any injury or damage due to such hazards.

3. Interim Erosion Control Plans and Construction Responsibilities

A. ***Prior to the issuance of the Coastal Development Permit***, the applicant shall submit to the Executive Director an Interim Erosion Control and Construction Best Management Practices plan, prepared by licensed civil engineer or qualified water quality professional. The consulting civil engineer/water quality professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan is in conformance with the following requirements:

1. Erosion Control Plan

- (a) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags.
- (b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
- (c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.
- (d) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible.
- (e) The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
- (f) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

2. Construction Best Management Practices

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.

- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. The final Interim Erosion Control and Construction Best Management Practices plan shall be in conformance with the site/ development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans required by the consulting civil engineer/water quality professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

4. Landscaping and Fuel Modification Plans

Prior to issuance of the Coastal Development Permit, the applicant shall submit two sets of landscaping and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscape and Fuel Modification plans are in conformance with the following requirements:

A) Landscaping Plan

- (1) All graded & disturbed areas on the subject site, including the temporary access road, shall be planted and maintained for erosion control purposes within thirty (30) days after the completion of the approved slope repair. 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, revised 2007. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by 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 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) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

B) Fuel Modification Plans

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.

C) Conformance with Coastal Commission Approved Site/Development Plans

The Permittee shall undertake development in accordance with the final Landscape and Fuel Modification Plans. The final Landscape and Fuel Modification Plans shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

D) Monitoring

Three years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit to 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 requirements specified in this condition, the applicant, or successors in interest, shall submit, within 30 days of the date of the monitoring report, a revised or supplemental landscape plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental landscaping measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This remedial landscaping plan shall be implemented within 30 days of the date of the final supplemental landscaping plan and remedial measures shall be repeated as necessary to meet the requirements of this condition.

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 this Coastal Development Permit if such changes are specifically authorized by the Executive Director as complying with this special condition.

5. Removal of 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 material.

6. Drainage System Maintenance

Prior to the issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director for review and written approval, a final drainage system maintenance plan. The plan shall be reviewed and approved by the consulting engineering geologist to ensure that the plan is in conformance with the geologist's recommendations.

The plan shall include provisions for maintaining the drainage system in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) the system shall be cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th of each year and (2) should any of the project's drainage structures fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. 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.

8. Condition Compliance

Within 180 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the expiration of this coastal permit approval and the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant proposes to repair a slope failure adjacent to an existing single-family residence by removing and recompacting approximately 1,792 cu. yds. of slide debris, including 896 cu. yds. of cut, 893 cu. yds. of fill, and 3 cu. yds. of material to be exported. The project also includes the installation of 206 linear feet of 4" diameter PVC drain pipe and 301 linear feet of 6" diameter PVC drain pipe, and a drainage dissipation device (15 sq. ft. rock rip rap and 12" x 12" concrete catch basin and grate). The existing septic system, including the tank and seepage pits, were located within the landslide area. The existing tank and seepage pits have already been abandoned and the applicant is proposing to remove them as part of this project. The applicant is requesting after-the-fact approval for installation of the replacement septic system. This septic system was installed in 2007 after the slope failure occurred and is located upslope adjacent to the residence and Corral Canyon Road. The applicant also requests after-the-fact approval of a 200 ft. long, 10 ft. wide temporary access road from Corral Canyon Road to allow for geologic testing and construction of the slope repair. The project includes the removal/revegetation of the road after completion of the construction. (Exhibits 1-6)

The proposed project site is located at 1752 Corral Canyon Road in Malibu in the Santa Monica Mountains, unincorporated Los Angeles County (APN 4461-004-018) (Exhibits 1-2). The subject property is 80,586 sq. ft. (approx. 1.85 acres) in size and is located directly northwest of the Malibu Bowl small lot subdivision. Solstice Canyon is located to the west and Corral Canyon is located to the east. The proposed project site is located at an elevation of approximately 1,500 feet above sea level. The property is situated on the crest and northeast flank of a northwest/southeast-trending ridge. The slope gradients within the site vary from nearly horizontal to as steep as 2:1, descending away

from Corral Canyon Road. The recent slide area exists northwest of the existing residence.

There are no existing or mapped public trails on or adjacent to the subject property. The project site is partially visible from Corral Canyon Road and potentially from Malibu Creek State Park to the north. However, the slope repair will be conducted adjacent to the existing residence in an area previously disturbed for fuel modification. Any adverse visual impacts would be temporary in nature. Further, no alternative siting or design options exist which would require less earth disturbance or grading for the repairs and the site will be re-vegetated subsequent to remediation.

This area is not considered to be an environmentally sensitive habitat area (ESHA) due to the fact that the site has been previously disturbed by the development of a single-family residence, as well as the presence of roads and other development, including the Malibu Bowl small lot subdivision less than 1,000 ft. to the east of the site. Although several oak trees exist on the site, the proposed development will not be located in proximity to any oak tree protected areas. No additional fuel modification is required for the project because the development proposed is a slope repair resulting in no additional flammable materials.

B. PAST COMMISSION ACTION

In 1990, the Commission approved Coastal Development Permit (CDP) No. 5-90-097 to Douglas and Alexandria Naylor for the construction of a 6,765 sq. ft., 35 ft. tall single-family residence, with three car garage, pool, septic system, and 1,200 cubic yards of grading on the subject site. Conditions of approval included a future development restriction and conformance with geotechnical engineering recommendations. The permit was issued and the residence has been constructed.

C. HAZARDS AND GEOLOGIC STABILITY

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

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

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The proposed development is located in the Malibu/Santa Monica Mountains area, an area historically subject to significant natural hazards including, but not limited to, landslides, erosion, flooding and wild fire. The applicant has submitted an Engineering Geologic Study prepared by Mountain Geology, Inc., dated February 11, 2008, and an Engineering Geologic Memorandum prepared by Mountain Geology, Inc., dated January 15, 2009.

The reports evaluate the nature of the landslide debris, the limits of the slide area, the cause of the slide, and present alternative methods of slope repair.

According to the geology reports, slope drainage within the site is by sheet flow runoff directed toward the northeast and offsite via the existing contours. Roof drainage is controlled via rain gutters and downspouts which are connected to the pad drainage system on site. Driveway and yard drainage is collected via area drains which collect and transfer runoff to the north-east facing slope located below the building pad and residence. Based on site observations by Mountain Geology, Inc., it appears that the pad area, located in the existing headscarp area of the landslide, was a topographic low point of the pad and lacked area drain inlets. The reports conclude that the mapped landslide involved the downslope failure of a portion of the underlying fill which was placed during the original construction of the building pad for the existing single-family residence. The fill present in the landslide area most likely became saturated due to prolonged and above-average rainfall in early 2005 due to poor drainage conditions on the site.

The geologic consultants have determined that it is necessary to repair the slope failure in order to protect the structural integrity of the existing residence which is immediately upslope of the failure area. The geologic consultants have evaluated several alternatives for remedial slope repair and drainage systems, including the option currently proposed to restore the pre-existing grade of the hillside with a compacted stabilization fill slope extended across the entire slope impacted by sliding and directing drainage away from the top of the slope. The project includes the removal of the slide debris, construction of a key way at the bottom of the slope, keying the reconstructed slope into competent material below the slide plane, and placement of compacted fill to rebuild the slope profile. The geologic and geotechnical engineering consultants have recommended the drainage devices proposed as part of the remedial slope repair. The proposed slope repair project includes the installation of 206 linear feet of 4" diameter PVC drain pipe, 301 linear feet of 6" diameter PVC drain pipe, and a drainage dissipation device (15 sq. ft. rock rip rap and 12" x 12" concrete catch basin and grate). (Exhibit 4)

The geologic and geotechnical report contains several recommendations to be incorporated into project construction, including grading and earthwork, settlement, excavation, erosion control, drainage and maintenance, and reviews to ensure the stability and geologic safety of the proposed project site. To ensure that the recommendations of the consultants have been incorporated into all proposed development the Commission, as specified in **Special Condition One (1)**, requires the applicant to comply with and incorporate the recommendations contained in the submitted geologic report into all final design and construction, and to obtain the approval of the geotechnical consultants prior to commencement of construction. Final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultant, shall require an amendment to the permit or a new coastal development permit.

The Commission finds that controlling and diverting run-off in a non-erosive manner away from the existing slope will also add to the geologic stability of the project site. The applicant is proposing to install drainage pipes as part of the slope repair. However, the applicant has not submitted plans for maintenance and repair of the proposed drainage devices. Therefore, in order to minimize erosion and ensure stability of the project site, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicant to submit drainage system maintenance plans, as specified in **Special Condition Seven (7)**. Finally, in order to ensure that erosion is minimized during construction of the slope repair and installation of the drainage system, the Commission finds it necessary to require the applicants to prepare and implement erosion control plans and comply with construction responsibilities, as detailed in **Special Condition Three (3)**.

Further, the Commission finds that landscaping and vegetation of graded and disturbed areas on the subject site, including the reconstructed slope and the temporary road, will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition Four (4)** requires the applicant to submit and implement landscaping plans for the portions of the project site that are disturbed as a result of this project. **Special Condition Four (4)** also requires the applicant to utilize and maintain native and non-invasive plant species compatible with the surrounding area for landscaping of the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition Four (4)**.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from erosion and landslides, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition Two (2)**, assumption of risk, the applicants acknowledge the nature of the landslide and erosion hazard which may exist on the site and which may affect the safety of the proposed development. Moreover, through acceptance of **Special Condition Two (2)**, the applicants also agree to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project. Finally, the Commission requires the applicant to record a deed restriction **Special Condition Seven (7)** 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.

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

D. WATER QUALITY

Section **30231** of the Coastal Act states that:

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

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality and aquatic resources because changes such as the removal of native vegetation, the increase in impervious surfaces, and the introduction of new residential uses cause increases in runoff, erosion, and sedimentation, reductions in groundwater recharge, and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutants, as well as effluent from septic systems.

The proposed slope repair may temporarily result in impacts to water quality due to erosion during the removal and recompaction phase. Additionally, the temporary road would result in increased erosion if it is not revegetated at the completion of construction. Therefore, in order to minimize the potential for such adverse impacts to water quality and aquatic resources resulting from runoff both during construction and in the post-development stage, the Commission requires the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site, including: 1) site design, source control and/or treatment control measures; 2) implementing erosion sediment control measures during construction and post construction; and 3) revegetating all graded and disturbed areas with primarily native landscaping. The applicant is proposing to install drainage pipes as part of the slope repair. However, the applicant has not submitted plans for maintenance and repair of the proposed drainage devices. Therefore, in order to minimize erosion, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicant to submit drainage system maintenance plans

Additionally, the applicant's geologic consultants have concluded that the site is suitable for the septic system and that there would be no adverse impact to the site or surrounding areas from the use of a septic system. The County of Los Angeles Environmental Health Department has given approval of the replacement septic system, indicating that it meets the plumbing code requirements. The Commission has found that conformance with the provisions of the plumbing code is protective of water

resources.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30231 of the Coastal Act:

Special Condition 3: Interim Erosion Control Plans and Construction Responsibilities

Special Condition 4: Landscaping and Fuel Modification Plans

Special Condition 6: Drainage System Maintenance

Special Condition 7: Deed Restriction

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

E. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without the required coastal development permit. The unpermitted development includes (1) the construction of a 200 ft. long, 10 ft. wide temporary access roadway around the existing single-family residence and (2) installation of a replacement septic system. (Exhibits 3-5) This application includes the request for after-the-fact approval for the above referenced unpermitted development in association with the proposed slope repair application. No evidence could be found that the access road or new septic system received a coastal permit from this Commission.

In order to ensure that the unpermitted development component of this application is resolved in a timely manner, the Commission finds it necessary to require the applicant to fulfill all of the Special Conditions that are a prerequisite to the issuance of this permit, within 180 days of Commission action. The following special condition is required to assure the project's consistency with all applicable Chapter 3 policies of the Coastal Act:

Special Condition 8. Condition Compliance

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit. The Commission's enforcement division may evaluate further actions to address this matter.

F. LOCAL COASTAL PROGRAM (LCP) PREPARATION

Section **30604(a)** of the Coastal Act states that:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed projects will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the projects and are accepted by the applicant. As conditioned, the proposed development will avoid or minimize adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. The following special conditions are required to assure the project's consistency with Section 30604 of the Coastal Act:

Special Conditions 1 through 8

Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

G. 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 Coastal Act 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 Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

Special Conditions 1 through 8

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.

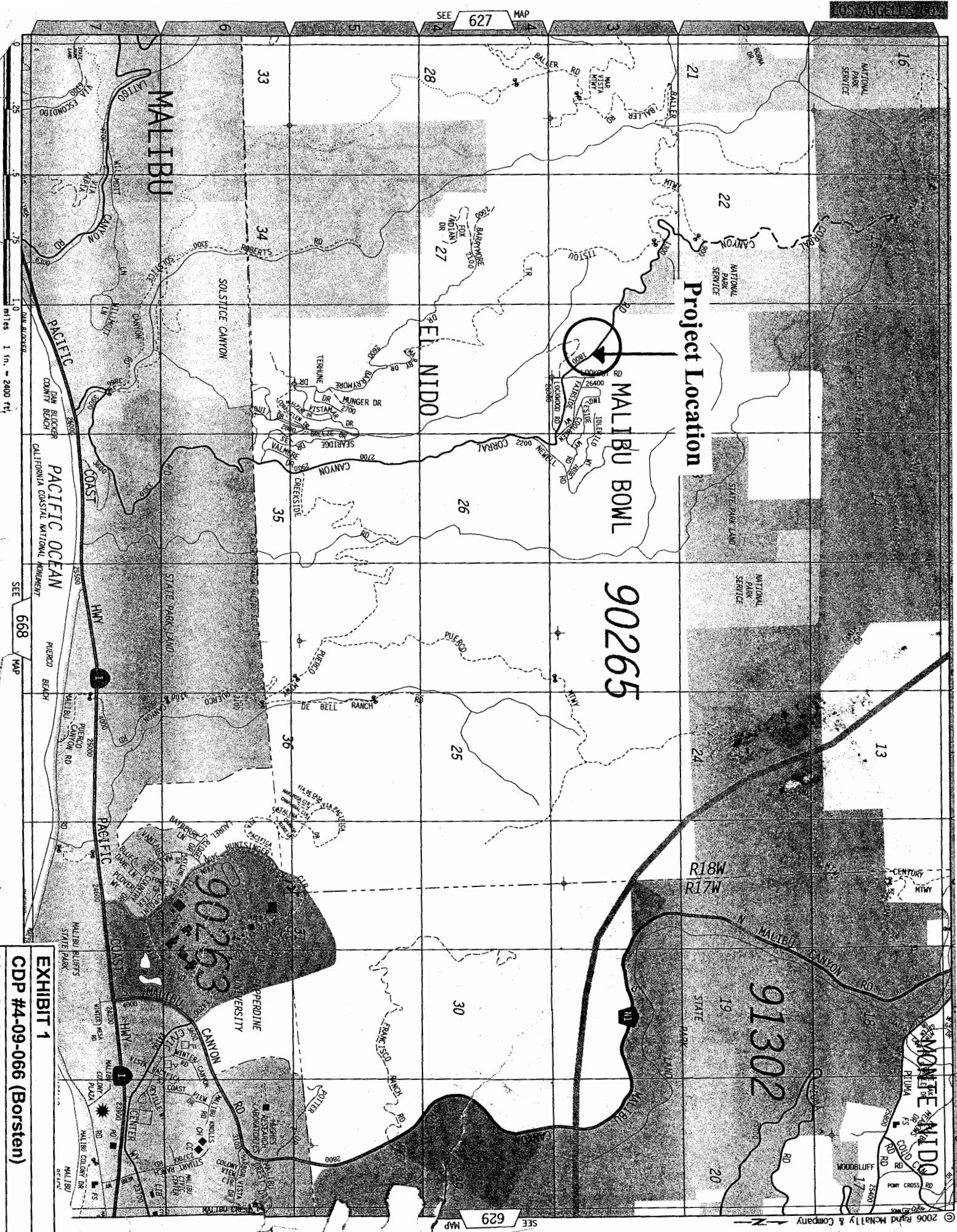


EXHIBIT 1

CDP #4-09-01

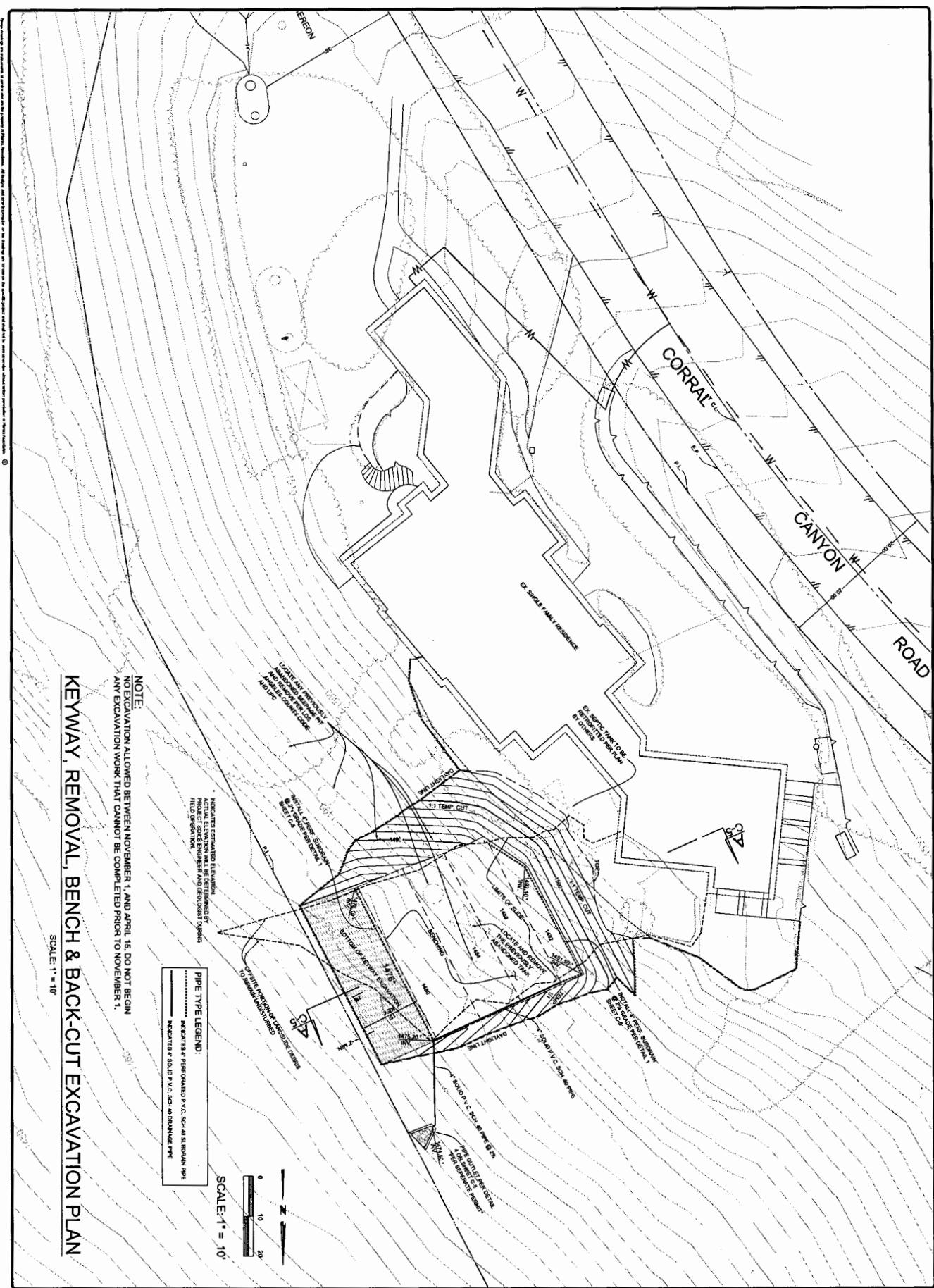


EXHIBIT 3
CDP #4-09-066 (Borsten)
Site Plan/Grading Plan

C - 2

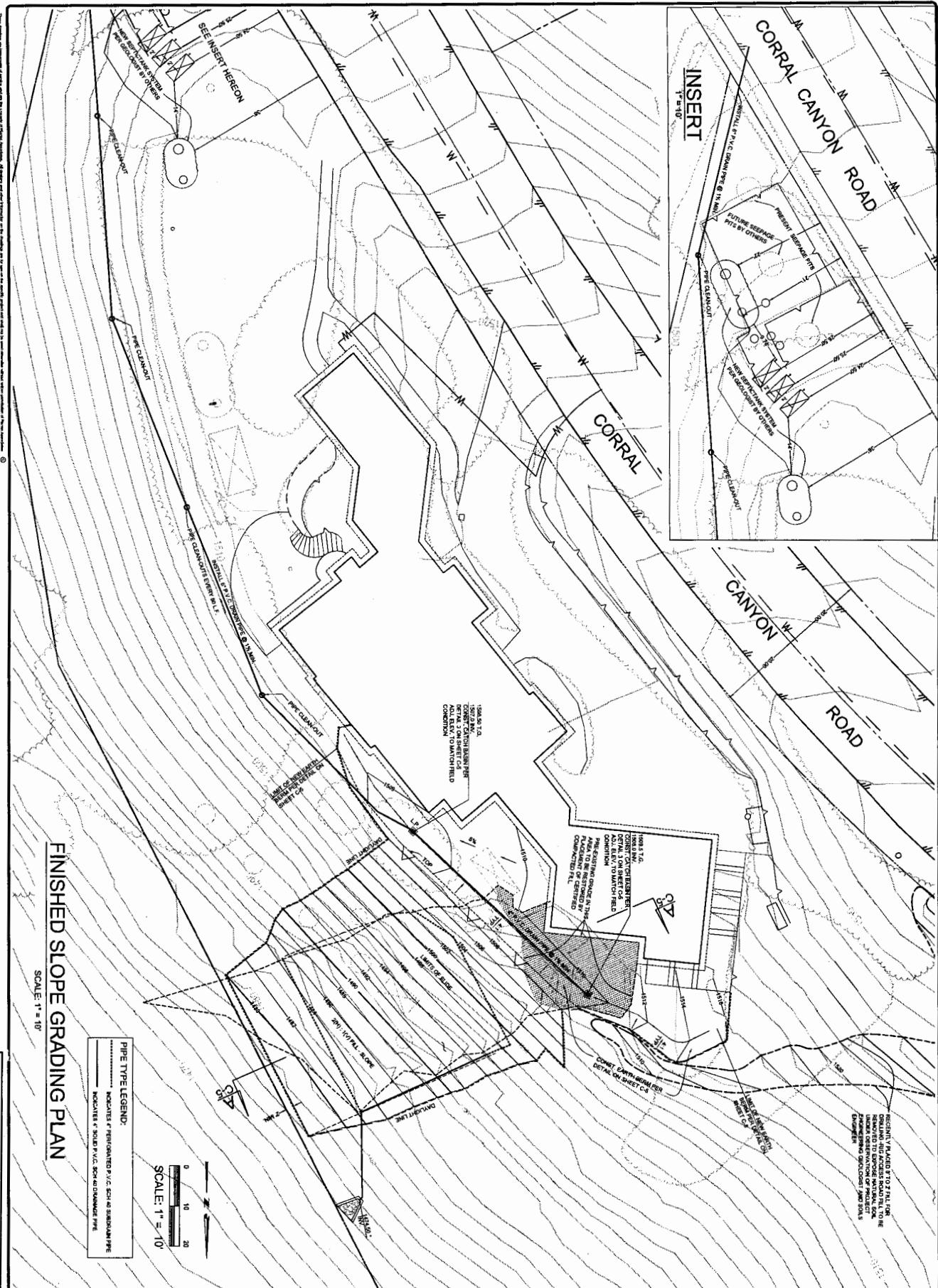
REMEDIAL SLOPE REPAIR GRADING PLAN
1752 CORRAL CANYON, MALIBU

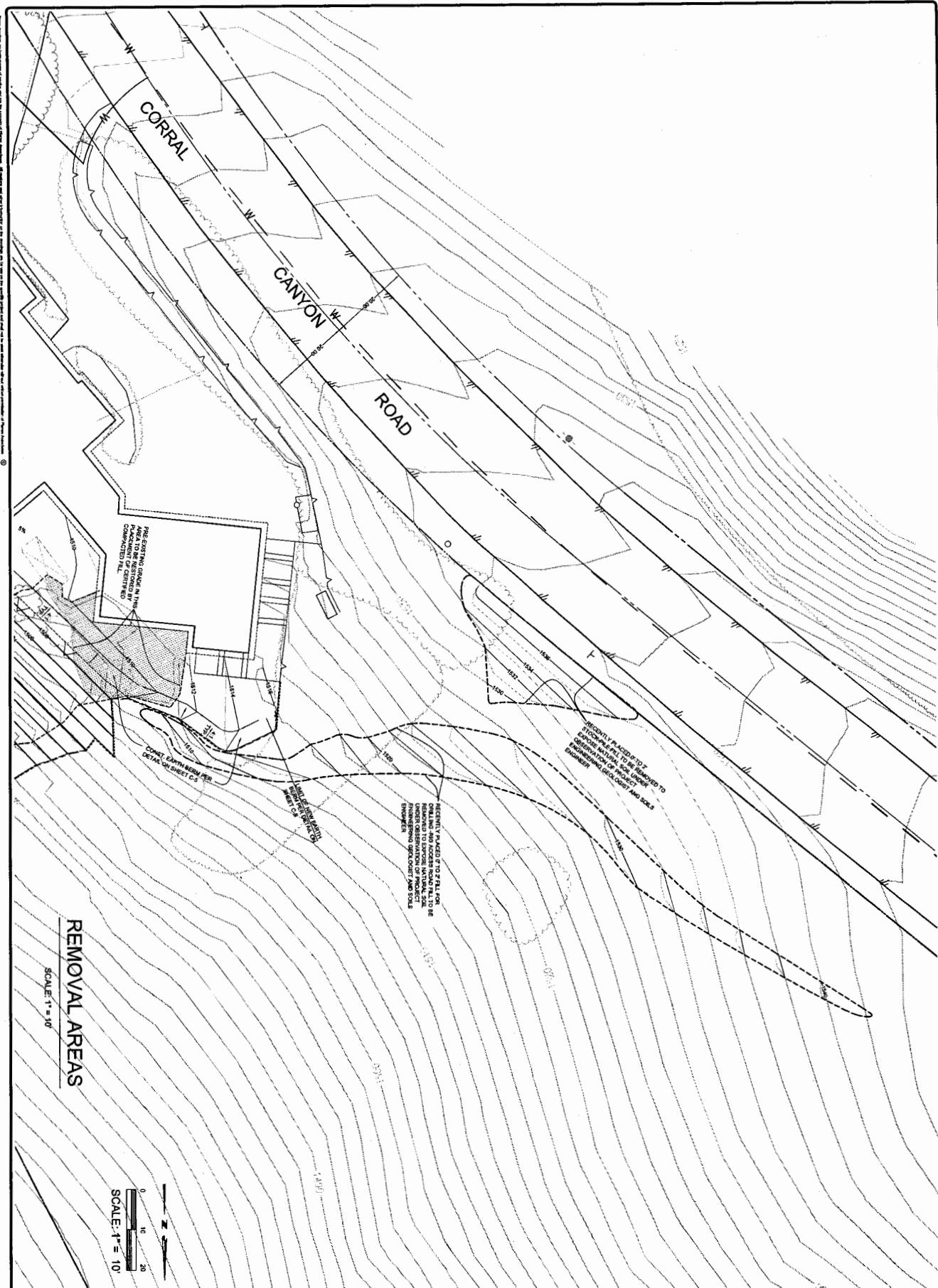
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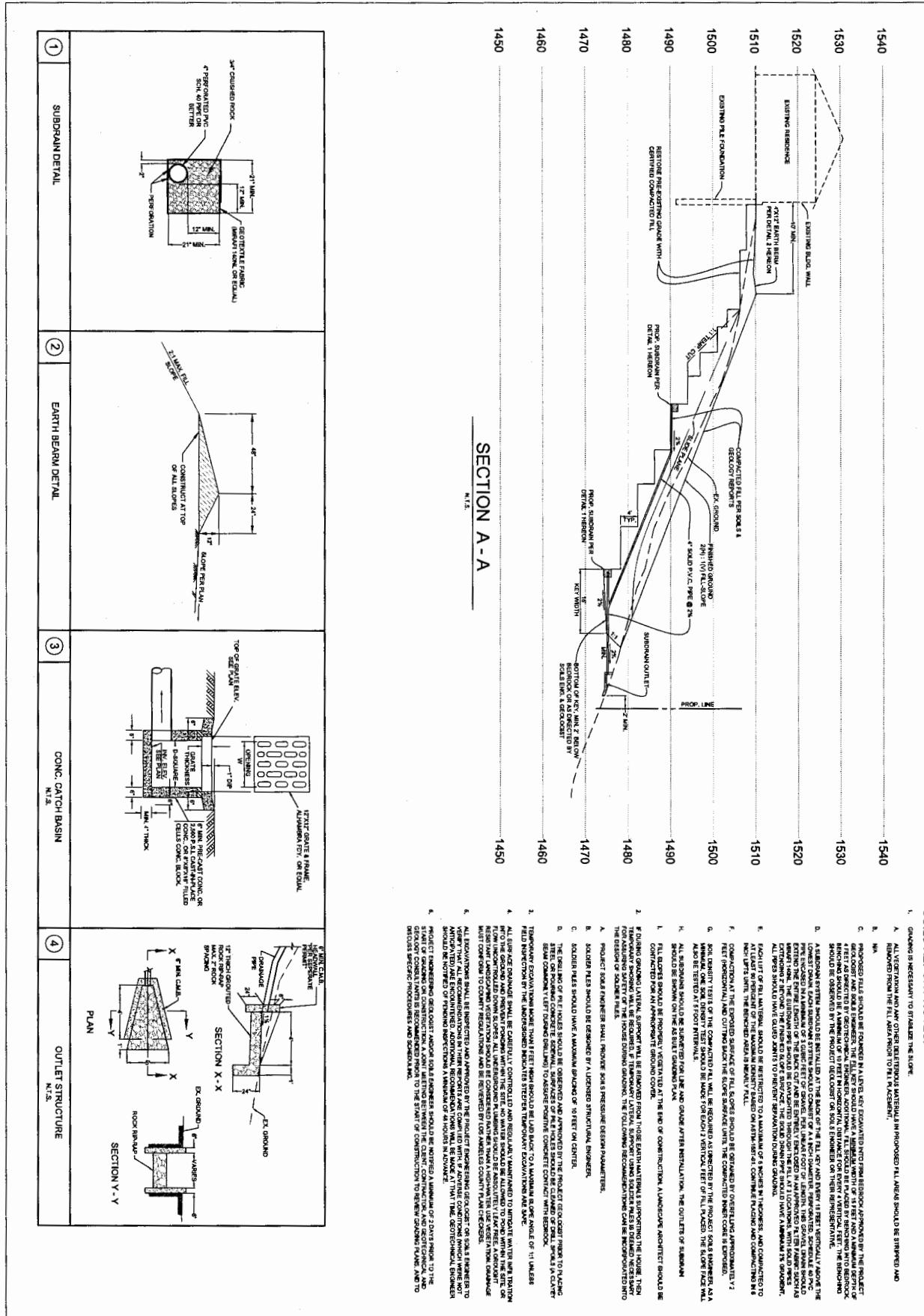
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DATE: 6/9/2010

EXHIBIT 5
CDP #4-09-066 (Borsten)
Temporary Access Road Plan

SOILS REPORT NOTES



REMEDIAL SLOPE REPAIR GRADING PLAN
1752 CORRAL CANYON, MALIBU

1752 CORRAL CANYOUN, MALIBU

Associates

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EXHIBIT 6

CDP #4-09-066

CDP #4-09-066