

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 4-98-304

APPLICANT: Albert and Jill Thorne **AGENT:** Alan Block

PROJECT LOCATION: 33310 Hassted Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a 14 foot high, one story 2,595 sq. ft. single family residence with attached 600 sq. ft. garage, driveway, septic system, water well and tank, pool, deck and after-the-fact approval of 8,246 cu. yds. of grading (4,123 cu. yds. cut and 4,123 cu. yds. fill).

Lot area:	10 acres
Building coverage:	3,195 sq. ft.
Landscape coverage:	.75 acres.
Parking spaces:	2 covered

LOCAL APPROVALS RECEIVED: Los Angeles County Regional Planning: Approval-in-Concept, dated 10/26/98 and Plot Plan Approval in Concept, undated; Los Angeles County Environmental Review Board determination of consistency with applicable policies, dated September 21, 1998; Fire Department Approval-in-concept dated 1/6/99; County Health Department Septic Approval, dated 3/11/99.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; AGS Advanced Geotechnical Services, Compaction Testing and Grading Observations, April 27, 1995 and Geotechnical Update Letter, August 13, 1998; Geoplan, Inc., Engineering Geologic Memorandum/Update, October 21, 1998; Strata-Tech, Preliminary Geotechnical Investigation, January 22, 1989; Coastal Development Permit 4-99-015 (Goebels).

SUMMARY OF STAFF RECOMMENDATION

The proposed project is located within a wildlife corridor designated in the certified Malibu/Santa Monica Mountains Land Use Plan and approximately 800 feet southwest of a USGS designated blue line stream. The application includes grading which took place without a coastal development permit. The proposed grading was completed in 1995. The proposed location is the only feasible pad location on steep terrain. Staff recommends approval of the proposed project with special conditions regarding color restrictions and lighting, future development restrictions, drainage plan, landscape and erosion control, removal of natural vegetation, fencing, geologic recommendations, wildfire waiver of liability, and condition compliance.

I. STAFF RECOMMENDATION

MOTION: I move that the Commission approve Coastal Development Permit Amendment No. 4-98-304 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 an affirmative vote of the majority of the Commissioners present.

RESOLUTION TO APPROVE THE AMENDMENT:

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 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. **Compliance.** All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. **Inspections.** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. **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.
7. **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. **Color Restrictions and Lighting**

- a. The color of the water tank, residence, roofs, and driveway permitted hereby shall be restricted to a color compatible with the surrounding environment (white tones shall not be acceptable). All windows shall be comprised of non-glare glass. Outdoor night lighting shall be the minimum necessary for safety requirements and shall be directed downward and shielded to limit visibility from off the site to the maximum extent feasible.
- b. Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

2. **Future Development Deed Restriction**

- a. This permit is only for the development described in coastal development permit No. 4-99-304. Pursuant to Title 14 California Code of Regulations Sections 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 permitted structures, including but not limited to clearing of vegetation or grading, other than as provided for in the approved fuel modification, landscape and erosion control plan prepared pursuant to Special Condition number one (4), shall require an amendment to Permit No. 4-99-304 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

- b. Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3. Drainage Plan

Prior to issuance of a coastal development permit, the applicant shall submit a drainage plan for review and approval by the Executive Director, a drainage plan, designed by a licensed engineer, which assures that run-off from the proposed residence is collected and discharged in a manner which avoids ponding on the pad area. Site drainage shall not be accomplished by sheetflow runoff down the slope. Should the project's drainage structures fail or result in erosion, the applicant/ landowner or successor interests shall be responsible for any necessary repairs and restoration. The permittee shall undertake development in accordance with the final approved plan. Any changes to the final approved 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.

4. Landscaping and Erosion Control Plan

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

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 October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. The native/drought resistant plants shall include vertical elements to screen structures from the Mulholland Corridor.

- 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. 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) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B) Interim Erosion Control Plan

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

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

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

C) Monitoring

Five 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.

5. 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.

6. Fence Type

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, plans indicating the type of fencing to be used in the subject development. The applicant agrees that the fencing on site must be of a type that will not restrict wildlife movement or cause injury to wildlife. Barbed wire, mesh or chain link fencing shall not be permitted. Fencing of the entire parcel shall not be permitted.

7. **Plans Conforming to Geologic Recommendations**

- (a) All recommendations contained in the Geoplan, Inc., Engineering Geologic Memorandum/Update, October 21, 1998 and Strata-Tech, Preliminary Geotechnical Investigation, January 22, 1989 shall be incorporated into all final project designs and plans. All plans must be reviewed and approved by the geotechnical consultant. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultant's review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.
- (b) The final plans approved by the geotechnical 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 which may be required by the geotechnical consultant shall require an amendment to the permit or a new coastal permit. The Executive Director shall determine whether required changes are "substantial."

8. **Wild Fire Waiver of Liability**

Prior to the issuance of the coastal development permit, the applicants shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

9. **Condition Compliance**

Within 90 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a 14 foot high, one story 2,595 sq. ft. single family residence with attached 600 sq. ft. garage, driveway, septic system, water well and tank, pool, deck and after-the-fact approval of 8,246 cu. yds. of grading (4,123 cu. yds. cut and 4,123 cu. yds. fill). The application includes a request for approval of grading which took place without a coastal development permit. The proposed grading was completed in 1995.

The proposed project is located in a wildlife corridor designated in the certified Malibu/Santa Monica Mountains Land Use Plan and approximately 800 feet southwest of a USGS designated blue line stream. The proposed project site contains *Brickellia nevenii*, or Nevin's Brickelbush, which is a desert shrub which is designated as uncommon throughout the State and is of special concern in the Santa Monica Mountains. It has been found to be "locally rare" (Marti Witter, City of Malibu).

Surrounding development is vacant land and single family residential development. The project site is presently developed with the previously noted grading.

B. Visual Resources and Landform Alteration

Section 30251 of the Coastal Act 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 subordinate to the character of its setting.

In addition, the certified Malibu/Santa Monica Mountains LUP policies protect visual resources, used as guidance by the Commission in reviewing development proposals in the Santa Monica Mountains which are applicable to the proposal:

P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.

- P125** *New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public park lands. Where physically and economically feasible, development on sloped terrain should be set below road grade.*
- P130** *In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:*
- *be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP;*
 - *minimize the alteration of natural land forms;*
 - *be landscaped to conceal raw-cut slopes;*
 - *be visually compatible with and subordinate to the character of its setting;*
 - *be sited so as not to significantly intrude into the skyline as seen from public viewing places.*
- P134** *Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.*

The applicant proposes to construct a 14 foot high, one story 2,595 sq. ft. single family residence with attached 600 sq. ft. garage, driveway, septic system, well, water tank, pool, deck and after-the-fact approval of 8,246 cu. yds. of grading (4,123 cu. yds. cut and 4,123 cu. yds. fill). The application includes a request for approval of grading which took place without a coastal development permit and the proposed grading was completed in 1995, as noted previously.

To evaluate potential visual impacts of this project to the public, the Commission reviews the publicly accessible locations where the proposed development is visible, such as parks and trails. The proposed development has a number of impacts relative to scenic and visual quality because of its exposure to surrounding viewpoints as noted in the certified LUP. The site is located in the Mulholland Scenic Corridor and is visible from the Backbone trail, significant ridgelines to the northwest and east, National Recreation Area park lands to the north northwest and west, and a vista point along the north on Mulholland Highway.

The Commission typically examines the building site, any proposed grading, and the size of the structure. Staff conducted a site visit of the subject property and found the proposed building pad location and alteration of landform to be appropriate for the following reasons. The project requires after-the-fact approval of 8,246 cu. yds. of grading (4,123 cu. yds. cut and 4,123 cu. yds. fill). Of this quantity, the applicant

indicates that 5,328 cu. yds. is for the driveway and and 2,918 cu. yds. is for the building pad. The majority of grading is for access to the building pad.

Although this grading will result in an alteration of natural landform, development of the parcel requires access to the site from the existing road. The steepness of the lot results in no other feasible safe project location for the proposed single family residence. The proposed amount of grading is a large amount, but is the smallest amount practicable given the need for access to the site, steepness of the lot and lack of alternative building sites. The applicant has minimized grading to the extent that the proposed pad is only large enough to accommodate the drainage and erosion control system, the residence, driveway, and a small yard area on an 6,000 sq. ft. pad.

The cut behind the residence is on the order of thirty feet, immediately in back of the residence in a location partially blocked visibility from the surrounding area. There is a very large fill slope approximately north of the building pad supporting the driveway. This slope extends into a minor drainage. However, this slope is only partially visible from Mulholland Highway and will not result in a significant adverse visual impact. In addition, the proposed residence at a height of 14 feet presents a low profile that minimizes the visibility of the structure from Mulholland Highway. The proposed residence and garage and the proposed water tank, near a road upslope of the property, will not adversely impact visual resources in this area if conditioned as recommended below.

As noted above, the structure will be visible from Mulholland Highway, a designated scenic highway nearby, and is located within the Mulholland scenic corridor where potential visual impacts are considered based on this designation in the certified Land Use Plan for the Santa Monica Mountains. The project, also, is visible from the Backbone Trail on the ridgeline to the northwest. In addition, the proposed design sets the project on a minor secondary ridge across from the Mulholland Highway, further increasing the visual impact on the surrounding area. Since the site will be visible from the locations described, the conditions of approval recommended below are necessary to ensure consistency with PRC Section 30251.

As recommended in *special condition 1*, there is a need to avoid visually intrusive colors in the residence of driveway, including white tones and bright colors. The use of earth tones for buildings, roofs and driveways minimizes the visual impact of structures and helps blend in with the natural setting.

While the proposed residence is located in a manner which is consistent, as conditioned, with past Commission actions regarding visual quality, there is the potential that future development, which would otherwise be exempt from Commission review, would create additional visual impact. Therefore, *special condition 2* is required to ensure that such development is reviewed by the Commission for conformity with the visual resource policies of the Coastal Act.

Use of native plant material with vertical elements will soften and/or screen the visual impact of the project, in addition to reducing the adverse effects of erosion, as recommended in *special condition 4*. Landscaping is discussed in greater detail in the following sections.

In summary, the Commission finds that only as conditioned, will the project not adversely impact the natural landform, scenic public views and visual character in this area of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act.

B. Biological Resources

Sections 30231 and 30240 of the Coastal Act require that development in and adjacent to Environmentally Sensitive Habitat Areas shall be sited and designed to prevent impacts which significantly degrade those areas. Section 30231 requires the protection of coastal waters and aquatic ecosystems, through, among other means, controlling runoff (drainage management and erosion control, for example) and limiting the removal of natural vegetation that serves to buffer adverse impacts upon these resources.

Section 30230.

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

Section 30231:

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

Section 30240.

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

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

The project is located in an area designated by the Malibu/Santa Monica Mountains Land Use Plan (LUP) as a Wildlife Corridor between the Arroyo Sequit Significant Watershed and the Trancas Canyon Significant Watershed. The LUP designates areas between several of the Significant Watersheds as Wildlife Corridors to ensure that wildlife populations which live in the relatively undisturbed habitat areas of the significant watersheds are able to freely pass between the watersheds. There are policies, which provide for the protection of wildlife corridor areas in Table 1 of the LUP. Table 1 specifies that the same standards be applied to Wildlife Corridors as those applied to Significant Watersheds with the exception of density policies.

The LUP policies addressing protection of Significant Watersheds (and by reference Wildlife Corridors) are among the strictest and most comprehensive in addressing new development. In its findings regarding the LUP, the Commission emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. The Commission found in its action certifying the Land Use Plan in December, 1986 that:

Coastal canyons in the Santa Monica Mountains require protection against significant disruption of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.

The LUP contains several relevant policies designated to protect Environmentally Sensitive Habitat Areas: ***P 71 development clustered in Significant Watersheds*** [includes Wildlife Corridors]; ***P72 protect undisturbed watershed cover and riparian areas***; ***P 74 new development close as feasible to existing roadways, services and development.***

Further, the LUP provides that Watersheds, and ESHA's contained within, be protected from both the individual and cumulative impacts of development, and makes these policies equally applicable to Wildlife Corridors. The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots which already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped

and poorly sited parcels in these mountains would create cumulative impacts on coastal resources and public access over time. Because of the larger number of existing undeveloped parcels and potential future development, the demands on road capacity, public services, recreational facilities, and beaches is expected to grow tremendously.

The following examines the LUP and Table 1 policies in greater detail.

P63: Uses shall be permitted in ESHAs, DSRs, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with the Table 1 and all other policies of this LCP.

The subject parcel is ten acres in size. Table 1 states that for "existing parcels smaller than 20 acres in proximity to existing development and/or services, and/or on the periphery of the significant watershed, residential uses are permitted: "at existing parcel cuts (buildout of parcels of legal record) in accordance with specified standards and policies..."

The Table 1 policies applicable to Significant Watersheds, and therefore, Wildlife Corridors, are as follows:

- **...Allowable structures shall be located in proximity to existing roadways, services and other development to minimize the impact on the habitat.**

The applicant has concentrated the development on a pad accessible from existing roadways. The subject property is very steep, with a total elevation change of approximately 300 feet across the site. Staff has reviewed the subject site and alternative potential sites in the field and has found that there are no feasible alternative sites on subject property closer to roadways, services, and other development, without substantial additional disturbance of steep terrain. Therefore, the project is consistent with this policy and Land Use Plan policies **P 71, 72, and 74**.

- **Grading and vegetation removal shall be limited to that necessary to accommodate the residential unit, garage, and one other structure, one access road and brush clearance required by the Los Angeles County Fire Department. The standard for a graded pad shall be a maximum of 10,000 sq. ft.**

The proposed development is consistent with this requirement because the pad is of a size only necessary to accommodate the residential unit and garage. In addition, the project conforms to the standard for a graded pad because the proposed the graded pad is 6,000 sq. ft., which is below the 10,000 sq. ft. standard. The implementation of the final approved plan will result in the replacement of invasive, non-native species with locally native species, thus improving the wildlife corridor habitat overall. Therefore, the project is consistent with this policy and Land Use Plan policy **P 72**.

- **...New on site roads shall be limited to a maximum of 300 feet or one third of the parcel depth, whichever is smaller.**

The proposed driveway is approximately 300 feet long, which is consistent with this standard.

- **...Site grading shall be accomplished in accordance with the stream protection and erosion control policies.**

Grading for the proposed project is the proposed after-the-fact approval of 8,246 cu. yds. of grading (4,123 cu. yds. cut and 4,123 cu. yds. fill). Of this quantity, the applicant indicates that 5,328 cu. yds. is for the driveway and and 2,918 cu. yds. is for the building pad. As noted previously, the proposed building site is the only feasible location.

As discussed in the following section on Geologic Stability, the Strata-Tech report notes that drainage shall be directed away from structures via non-erodable conduits to suitable disposal areas. The Commission finds that the implementation of the geologic recommendations, as required by *Special Condition 7*, avoids the adverse impacts of runoff and erosion. The implementation of specific erosion management measures that must be implemented should grading be undertaken during the rainy season, pursuant to *Special Condition 4*, will ensure that erosion is controlled consistent with the Table 1 policies. Therefore, the project is consistent with this policy and Land Use Plan policy **P 72**.

The LUP contains an additional provision applicable to Wildlife Corridors:

- **...The fencing of entire parcels shall be prohibited in order to allow free passage of wildlife.**

Special condition 6 ensures further that no fencing is installed that will interfere with the free passage of wildlife. In addition, *Special Condition 2* restricts future development, and requires that the applicant seek a new permit or an amendment to this permit should additional development, such as a fence, be proposed. Such development would be evaluated to ensure that the perimeter of the property is not fenced, thereby inhibiting the free passage of wildlife in the Wildlife Corridor, and that any limited amount of fencing that is otherwise consistent with the applicable policies of the Coastal Act would be designed and constructed of materials that are safe for wildlife to pass through (chain link or barbed wire, for example, would not be acceptable anywhere on the site).

The project will significantly increase the amount of impervious surfaces on the site, increasing both the volume and velocity of storm water runoff. If not controlled and conveyed off the site in a non-erosive manner, this runoff will result in increased erosion on and off the site. Increased erosion may also result in sedimentation of the nearby stream and cause sedimentation intruding into the surrounding native vegetation. These concerns are addressed by the requirement for a detailed drainage control plan to

protect stability of the site and surrounding area, as discussed in greater detail below relative to geologic hazards. Therefore, the Commission finds it necessary to require the applicant to submit a drainage control plan for the proposed development as specified by *Special condition 3*.

Further, *special condition 4* ensures that grading and revegetation minimize the disturbance to the surrounding coastal sage scrub habitat in a manner consistent with preservation of the uncommon bickelbush found on the subject property. Relative to grading and brush clearance, *special condition 4* requires the applicant to prepare and submit a landscape plan for the entire parcel that relies primarily upon the use of drought tolerant, native plants. Although this application is for grading that has already taken place, previously disturbed slopes have not been landscaped. In addition, there will be further site disturbance due to additional construction activities, as well as development outside of the previously graded pad and access road, such as the proposed well and water tank. Erosion and sedimentation from such activities can impact upon nearby native plant communities and the riparian area. Therefore, the interim erosion control measures are necessary as required by *special condition 4*.

In addition, the Commission notes that *Special condition 5* is necessary to ensure that the submitted landscaping plans provide that removal of natural vegetation for the purpose of fuel modification does not take place without the proposed development being implemented. This will avoid unnecessary fuel modification without an underlying permitted development. Such fuel modification would be inconsistent with PRC Section 30253 provisions to ensure site stability and avoid potentially adverse impacts of erosion and sedimentation.

The special conditions recognize that the proposed project site contains *Brickellia nevenii*, or Nevin's Brickelbush, a desert shrub which is designated as generally uncommon throughout the State and is of special concern in the Santa Monica Mountains. This ensures protection of the brickelbush in a manner consistent with Sections 30231 and 30240 and the resource protection policies of the LCP noted above, including Table 1 policies.

In summary, the Commission finds that the proposed project, as conditioned by Special Conditions 2, 3, 4, 5, and 7, is consistent with the policies of Sections 30230, 30231 and 30240 of the Coastal Act. As noted above, the Commission has determined that the proposed project is also consistent with the applicable guidelines comprised by the policies of the certified Malibu/Santa Monica Mountains Land Use Plan, upon which the Commission has relied as a reference and guideline in reviewing previous coastal development permit applications.

C. Geologic Stability

Section 30253 of the Coastal Act states in pertinent part that:

Section 30253.

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, geologic 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.

The proposed development is located in the Santa Monica Mountains, an area which is subject to a number of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains.

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. The typical vegetation in the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through *Special Condition 8*, the wild fire waiver of liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of *Special Condition 8* the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

Section 30253 of the Coastal Act requires that new development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic stability, or destruction of the site or surrounding area. The applicant proposes to construct a 14 foot high, one story 2,595 sq. ft. single family residence with attached 600 sq. ft. garage, driveway, septic system, water well and tank, pool, deck and after-the-fact approval of 8,246 cu. yds. of grading (4,123 cu. yds. cut and 4,123 cu. yds. fill).

The applicant has submitted a Geoplan, Inc., Engineering Geologic Memorandum/Update, October 21, 1998 reexamining the geotechnical recommendations of the Strata-Tech, Preliminary Geotechnical Investigation, January 22, 1989. The 1989 report makes recommendations regarding building grading, foundations, floor slabs, etc. The update report concludes that the subject property is considered a suitable site for the proposed development from a geologic and soils engineering standpoint. The update report found that:

... the building pad and the adjacent graded and natural slopes are free from hazard of landslide, settlement or slippage. Accordingly, residential development implemented in conformance with applicable elements of the Uniform Building Code (UBC) and the recommendations of the project consultants will not affect neighboring property adversely.

The above geotechnical investigation recommends that the project include mechanisms to control surface water to direct water away from footings and not allow water to flow over natural slopes, pond on the pads, under the building, against any foundations, or behind retaining walls. These concerns need to be addressed by a detailed drainage plan to protect stability of the site and surrounding area. The project will significantly increase the amount of impervious surfaces on the site, increasing both the volume and velocity of storm water runoff. If not controlled and conveyed off the site in a non-erosive manner, this runoff will result in increased erosion on and off the site. Increased erosion may also result in sedimentation of the nearby stream. Therefore, the Commission finds it necessary to require the applicant to submit a drainage control plan for the proposed development as specified by Special condition number three (3).

The Commission finds, further, that it is necessary to in *Special Condition 4* to require geotechnical review of landscape plans to ensure that all of the geotechnical consultant's recommendations are incorporated into the final project plans and designs.

For all of these reasons, therefore, the Commission finds that as conditioned, the proposed is consistent with the geologic stability requirements of Coastal Act Section 30253.

E. Violation

The grading for the pad and road has been completed. Therefore, the grading is considered unpermitted development. To ensure the project site is landscaped and erosion control measures are installed, *special condition 9* requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within ninety (90) days of Commission action.

Although construction 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.

F. Septic Disposal

The Commission recognizes that the potential build-out of lots in Malibu and the Santa Monica Mountains, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area.

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 applicant proposes to construct a new, 1,200 gallon septic tank and disposal system as shown on the plans approved by the Los Angeles County Health Department, dated March 11, 1999. The conceptual approval by the County indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. In addition, the applicant has submitted a percolation report prepared by a registered residential wastewater disposal system consultant indicating that the percolation tests performed on the site prove the property's percolation capacity is consistent with the requirements of the Uniform Plumbing Code.

For all of these reasons, therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

G. Local Coastal Program

Section 30604 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 Chapter 3 (commencing with

Section 30200) 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 Chapter 3 (commencing with Section 30200).

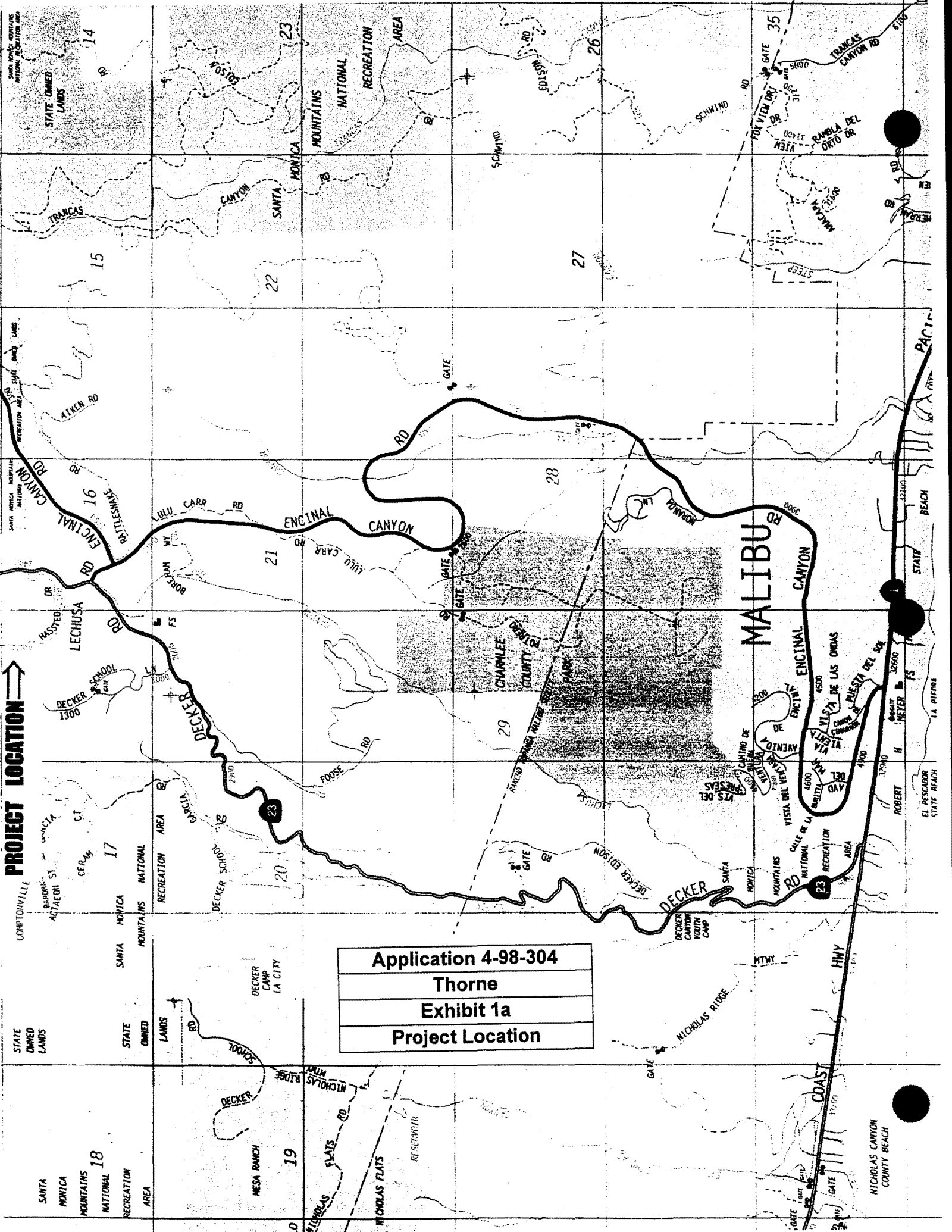
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections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

H. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that would substantially lessen any significant adverse effects that the activity may have on the environment.

The proposed development, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.

PROJECT LOCATION



Application 4-98-304
Thorne
Exhibit 1a
Project Location

SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA

STATE OWNED LANDS

DECKER

MESA RANCH

NICHOLAS FLATS

NICHOLAS FLATS

NICHOLAS RIDGE

RE-RESERVOIR

DECKER

NICHOLAS FLATS

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STATE OWNED LANDS

SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA

DECKER

MESA RANCH

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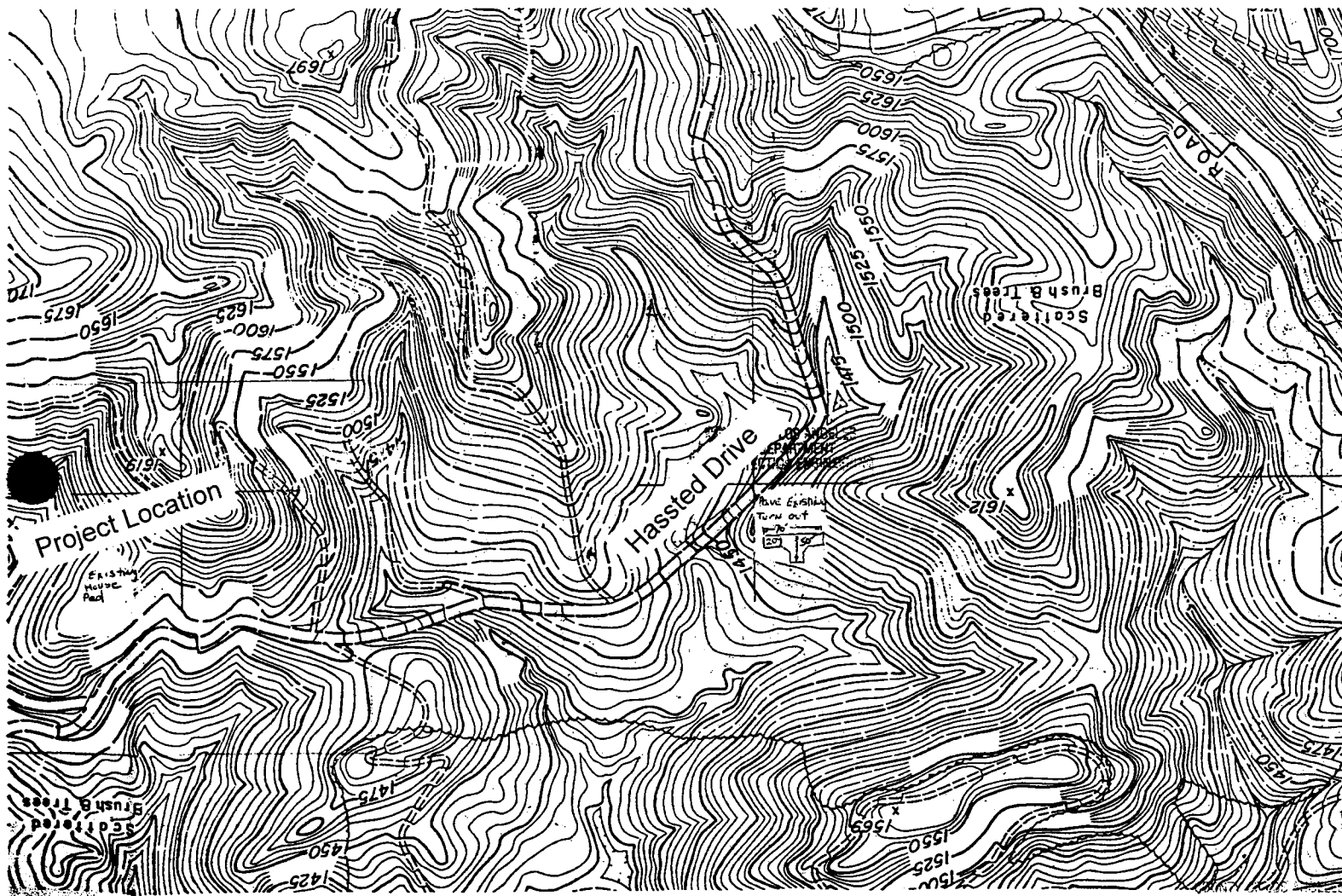
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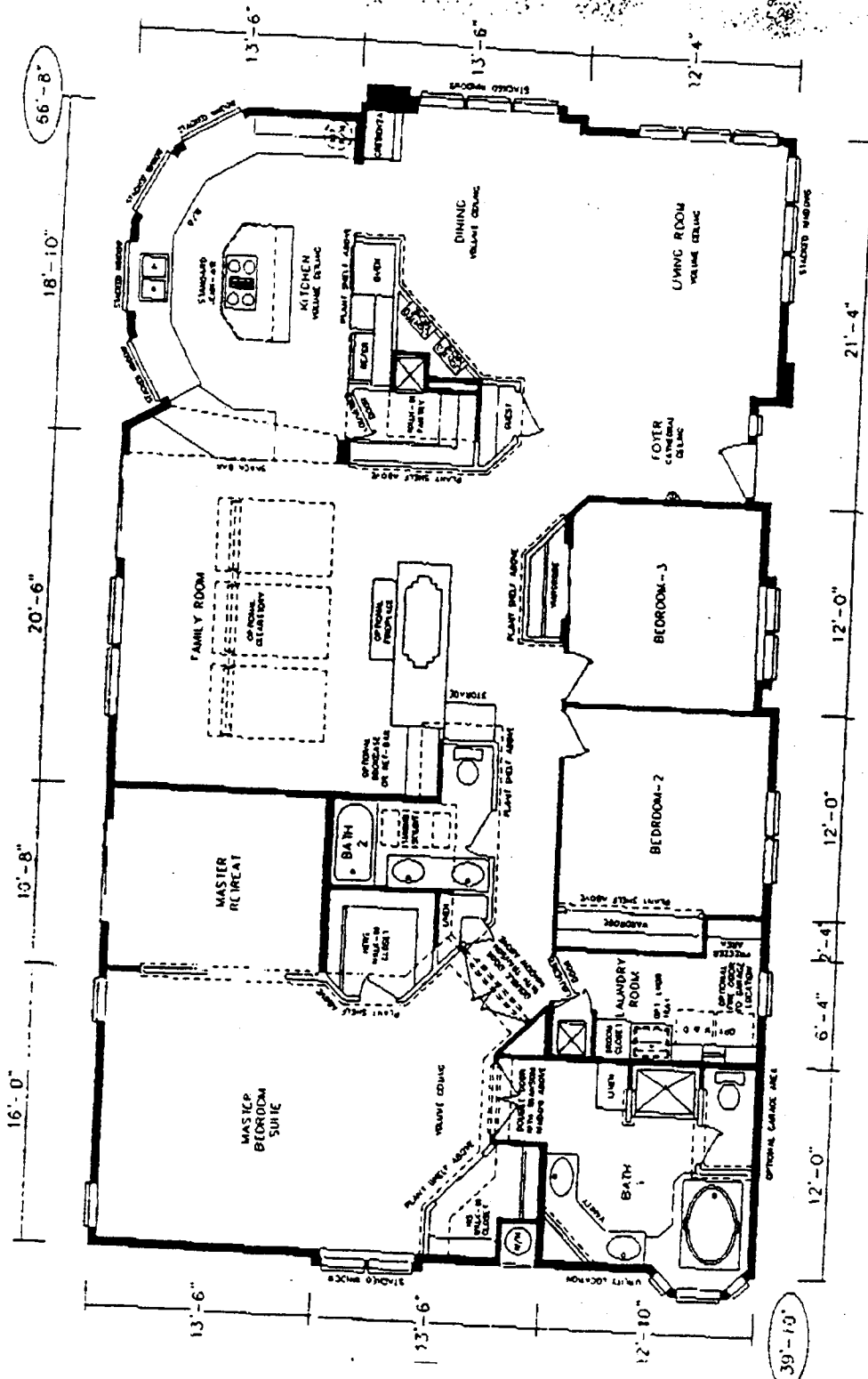
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ALBERT & SIL THORNE

FIRE DEPARTMENT
FIRE PROTECTION ENGINEER
10/3/99 7/24/99

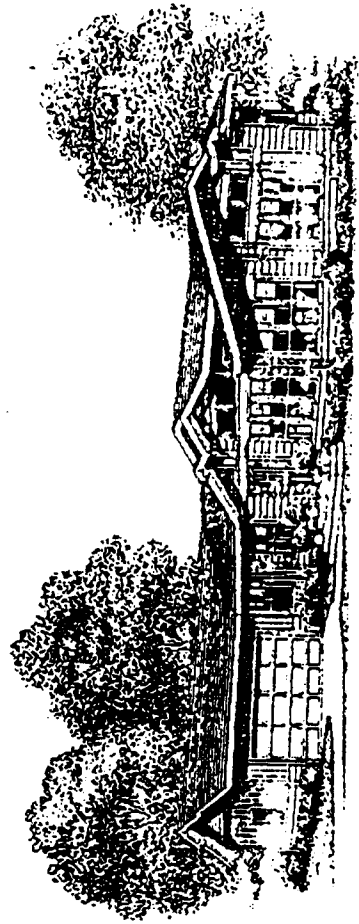
Application 4-98-304
Thorne
Exhibit 1b
Project Location

Ke: THORNE

FLOOR PLAN



Application 4-98-304
 Thorne
 Exhibit 3
 Floor Plan



Plan M-07
 Three or Four Bedroom Option
 Two Bathrooms
 2,595 sq. ft.

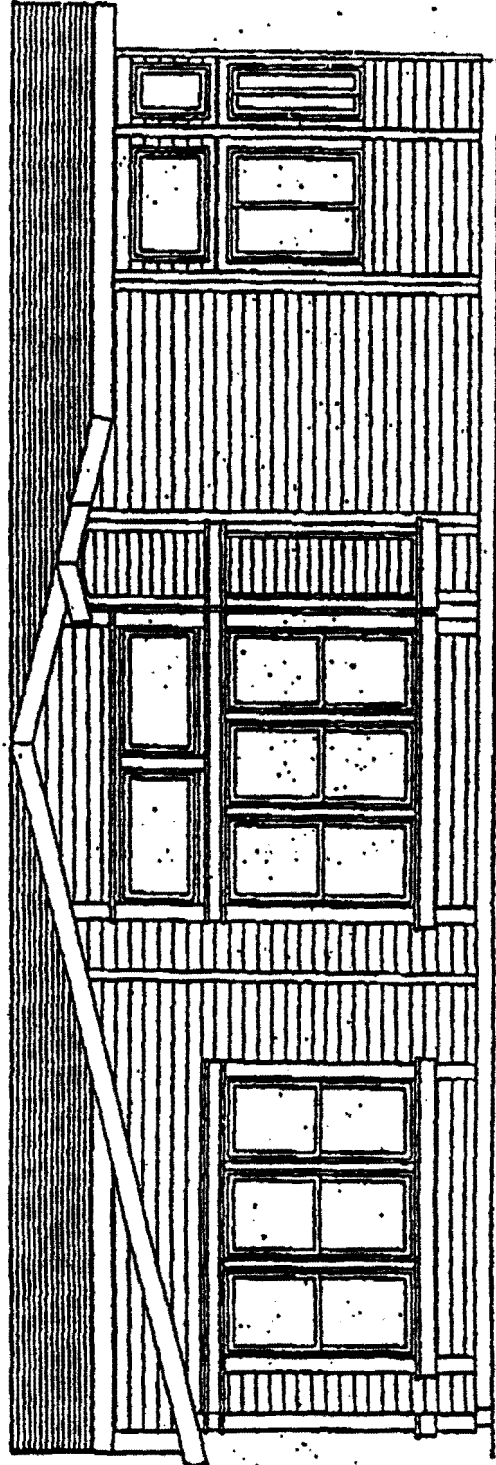
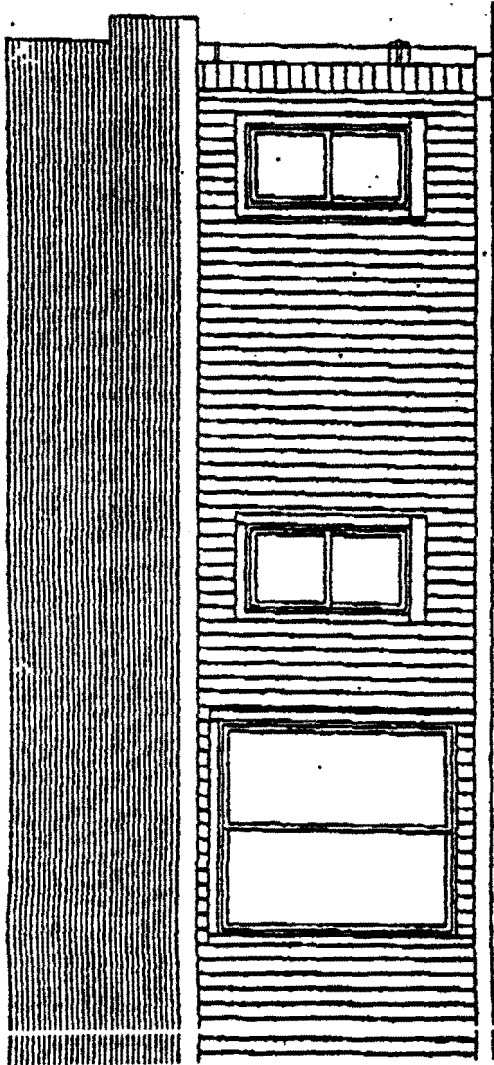
ELEVATIONS

R. D. BROWN

NOV 05 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Application 4-98-304
Thorne
Exhibit 4 b
Elevations



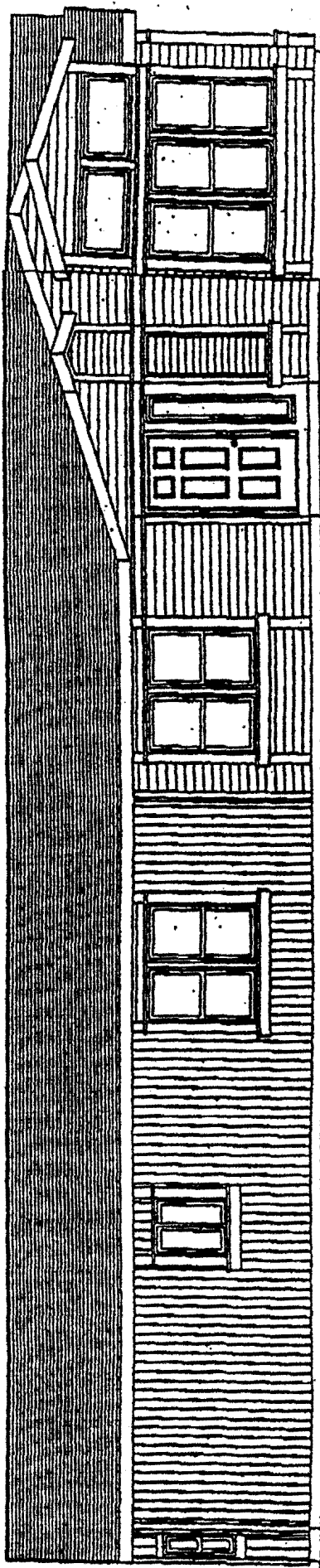
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NOV 15 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

ELEVATIONS

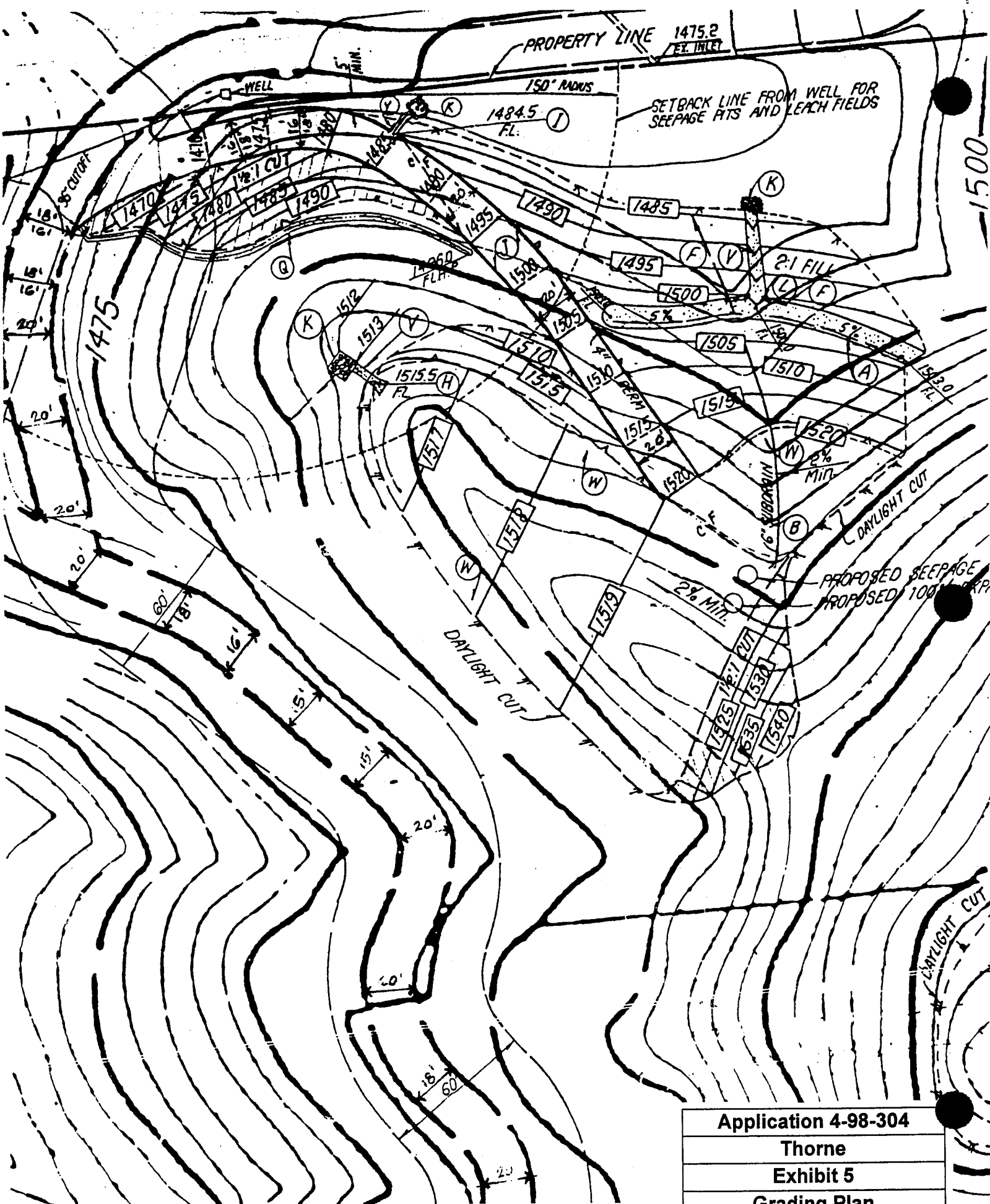
Re: Thorne



Application 4-98-304
Thorne
Exhibit 4 a
Elevations

PLAN No.	MODEL
	MO-7
TITLE	EXTERIOR ELE
DATE	SCALE
DRAWN BY	
CHECKED BY	
APPROVED BY	

NUMBER OF REVISIONS



Application 4-98-304
Thorne
Exhibit 5
Grading Plan