

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641-0142

Filed: 01/08/01  
49th Day: 02/26/01  
180th Day: 07/07/01  
Staff: K. Kemmler  
Staff Report: 01/24/01  
Hearing Date: 02/13-16/01  
Commission Action:



## RECORD PACKET COPY

### STAFF REPORT: CONSENT CALENDAR

**APPLICATION NO.:** 4-00-201

**APPLICANT:** David and Jennifer Kurtz

**AGENT:** Marny Randall

**PROJECT LOCATION:** 7055 Fernhill Drive, Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Proposal of new detached two-story, 748 sq. ft, 25'6" above grade music studio with no plumbing or grading proposed.

Lot area	41,500 sq. ft.
Building coverage	4,306 sq. ft.
Pavement coverage	3,342 sq. ft.
Landscape coverage	33,852 sq. ft.
Height Above Grade	25'6"
Parking spaces	2

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department, Approval-in-Concept, August 18, 2000; City of Malibu Geology Review, Approval-in-Concept, June 26, 2000; City of Malibu Environmental Health, Approval, June 19, 2000; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, August 30, 2000.

**SUBSTANTIVE FILE DOCUMENTS:** "Music Studio," Leslie Lippich Architect & Associates, April 13, 2000; "Limited Geologic and Soils Engineering Investigation," GeoConcepts, Inc., May 30, 2000.

### Summary of Staff Recommendation

Staff recommends **approval** of the proposed project with three (3) special conditions regarding geologic recommendations, wildfire waiver of liability, and future improvements.

## I. Staff Recommendation

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 4-00-201 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 term or condition will be resolved by the Executive Director or the Commission.

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

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

### **III. Special Conditions**

#### **1. Plans Conforming to Geologists' and Engineers' Recommendations**

All recommendations contained in the submitted geologic engineering report prepared by GeoConcepts, Inc. dated May 30, 2000 relating to *foundations* and *drainage* shall be incorporated into all final project plans, design and construction. All final plans must be reviewed and approved by the project's consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting engineer's and geologists' stamps and signatures to the final project plans and designs.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, foundation, and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal development permit.

#### **2. Wildfire Waiver of Liability**

Prior to the issuance of a coastal development permit, the applicant 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, and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

#### **3. Future Improvements**

This permit is only for the development described in coastal development permit No. 4-00-201. Pursuant to Title 14 California Code of Regulations §13253 (b)(6), the

exemptions otherwise provided in Public Resources Code §30610 (b) shall not apply to the music studio. Accordingly, any future improvements to the permitted music studio as approved shall require an amendment to Permit No. 4-00-201 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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 terms of this condition. The deed restriction shall include a legal description 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.

#### **IV. Findings and Declarations**

The Commission hereby finds and declares:

##### **A. Project Description and Background**

The applicant proposes to construct a new two-story, 748 square foot, 25 foot 6 inch above grade detached music studio on a lot with an existing 2,750 square foot single family residence, a pool and a 200 square foot pool cabana. No plumbing or grading is proposed.

The subject property is a rectangular parcel on Fernhill Drive in the City of Malibu (see Exhibits 1 & 2). The lot is bordered by Fernhill drive to the east and residences to the north, west and south. The subject parcel is currently developed with a single-story single family residence which is located on the east end of the property, a pool cabana slightly west of the center of the property and a pool located just west of the cabana, all constructed prior to the Coastal Act. In 1994, some improvements to the residence were made, which were determined exempt by the Commission. The property is a near-level pad with a maximum elevation differential of about ten feet. The detached studio is proposed at the north end of the existing pad, approximately 27 feet west of the existing single family residence (see Exhibit 3). The proposed site for the studio is covered with landscaped vegetation. The applicant proposes to revegetate any disturbed areas with noninvasive plant species. The geologic consultants, GeoConcepts, Inc. state that no landslides were observed on the subject property and no active faults exist beneath the property. The subject site is not visible from the Pacific Coast Highway or any nearby beaches. No environmentally sensitive habitat exists on the project site.

## B. Geology and Wildfire Hazard

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

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

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

### Geology

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 applicant has submitted a geotechnical report entitled "Limited Geologic and Soils Engineering Investigation," prepared by GeoConcepts, Inc., dated May 30, 2000 which evaluates the geologic stability of the proposed development. Based on their evaluation of the site's geology and the proposed development the consultants have found that the project site is suitable for the proposed project. The report incorporates recommendations regarding construction, foundation and drainage, and states that:

*It is the finding of this corporation, based upon the subsurface data, that the proposed project will be safe from landslide, settlement or slippage and will not adversely affect adjacent property, provided this corporation's recommendations and those of the Uniform Building Code are followed and maintained.*

Therefore the commission finds that based on the recommendations of the applicant's geotechnical consultants, the proposed development is consistent with the requirements of §30253 of the Coastal Act, so long as the consultant's recommendations are incorporated into the final plans and design. To ensure that the recommendations of the consultant have been incorporated into the proposed development the Commission, as specified in **Special Condition No. One (1)**, requires the applicant to submit project plans certified in writing by the consulting geotechnical engineer as conforming to all structural and site stability recommendations for the proposed project.

## Wildfire

The proposed project is located near the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wildfire. 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 wildfires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire 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 wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition No. Two (2)**, the wildfire waiver of liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition No. Two, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

For the reasons set forth above, the Commission finds that, only as conditioned to incorporate all geotechnical recommendations by the applicant's consultants and the wildfire waiver of liability, the proposed project is consistent with §30253 of the Coastal Act.

## C. Cumulative Impacts

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

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

Section 30252 of the Coastal Act states:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2)*

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

Pursuant to Coastal Act §30250 and §30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. The applicant is proposing to construct a detached music studio that is not proposed to be used as a second residential unit, however, the detached structure could potentially be converted for residential use in the future.

Based on the requirements of Coastal Act §30250 and §30252, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are intended only for occasional use by guests, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence or residential second units. Finally, the Commission has found in past permit decisions that a limit of 750 sq. ft. encourages the units to be used for their intended purpose –as a guest unit- rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different forms which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, or farm labor unit; and 2) a guesthouse, with or without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. Thus, conditions on coastal development permits and standards within LCPs have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal

Act in this area (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29).

The applicant proposes to construct a detached two-story, 25 ft. 6 in. high, 748 sq. ft. music studio (see Exhibits 4-6). The applicant is not proposing to construct a second residential unit as there is no proposed plumbing relative to the structure (Exhibit 4), but the studio could potentially be converted for residential use in the future. The Commission finds that the studio is not proposed as habitable square footage. However, the Commission finds it necessary to ensure that no additions or improvements are made to the detached studio in the future that may enlarge or further intensify the use of this structure without due consideration of the cumulative impacts that may result. Therefore, the Commission finds it necessary to require the applicants to record a future improvements deed restriction, as specified in **Special Condition No. Three (3)**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the detached structure are proposed in the future. As conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with §30250 and §30252 of the Coastal Act.

#### **D. Local Coastal Program**

Section 30604 (a) of the Coastal Act states:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal 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 project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

#### **E. 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



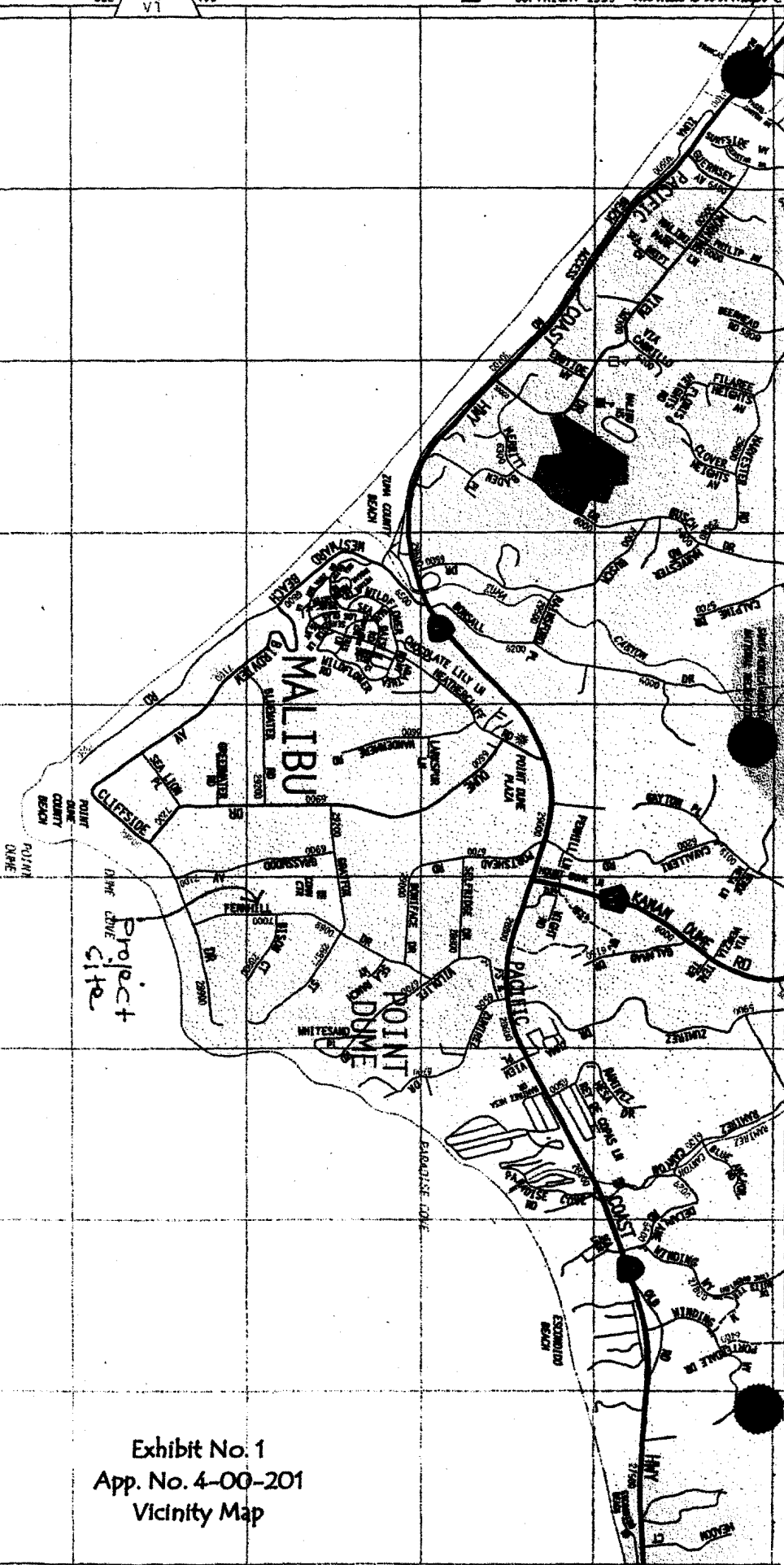
showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmentally Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible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

The Commission finds that, the proposed project, as conditioned, will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

PACIFIC

OCEAN

Exhibit No. 1  
App. No. 4-00-201  
Vicinity Map



4466 | 13  
SCALE 1" = 150'

1997

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SOUTH CENTRAL COAST DISTRICT

RECORD OF SURVEY

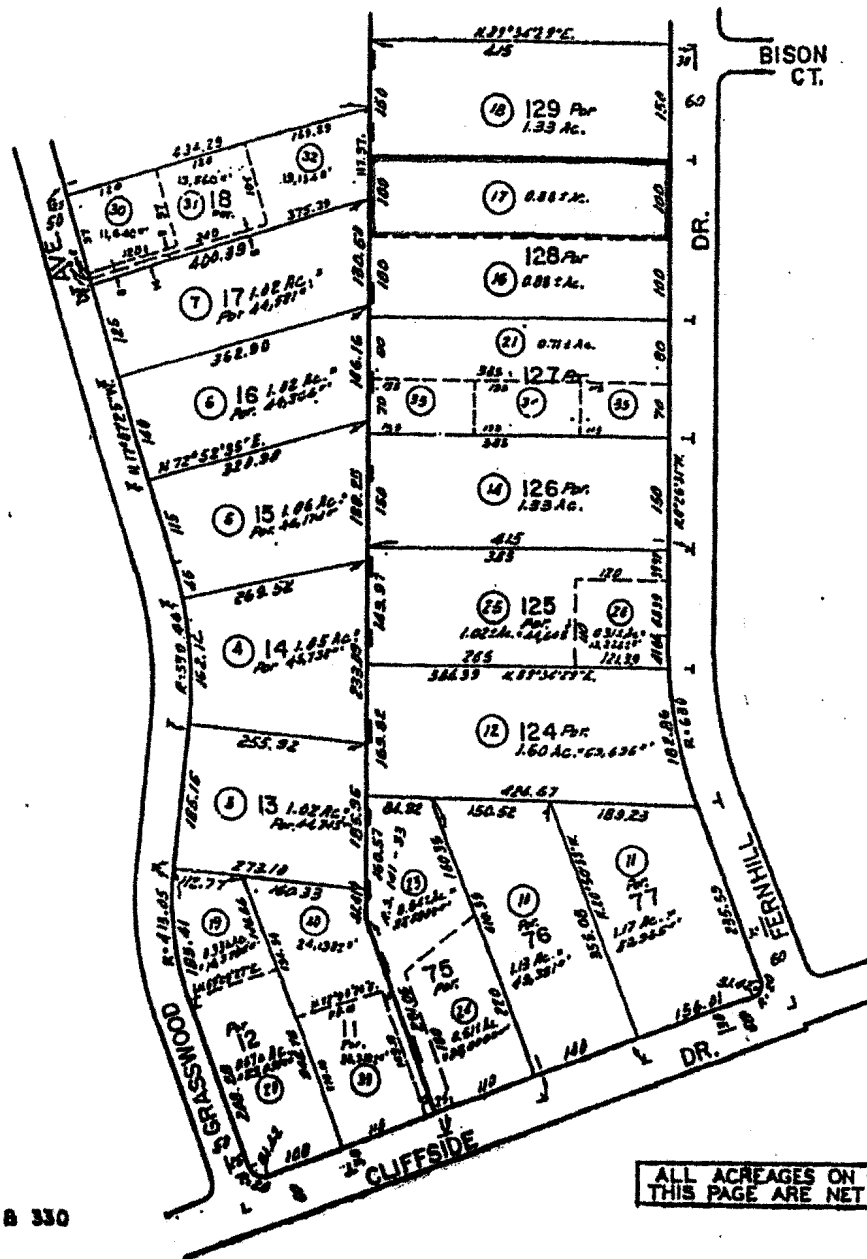
R.S. 57-47-50

RECORD OF SURVEY

R.S. 57-9-10

CODE  
10850

FOR PREV. ASSMT. SEE: 482-301,302, 329 & 330



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4-3-63  
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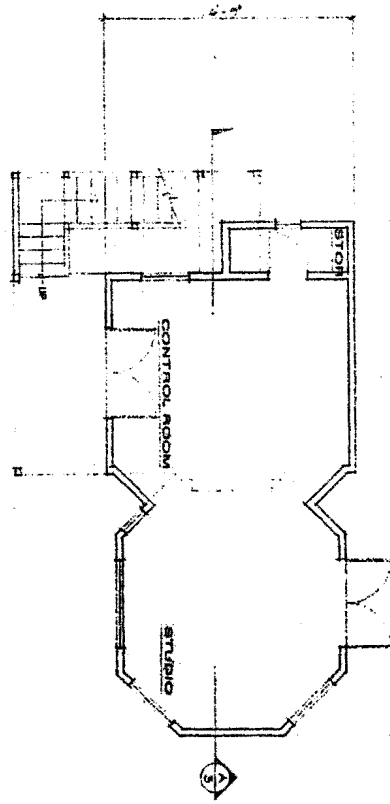
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SOUTH CENTRAL COAST DISTRICT

Exhibit No. 2  
App. No. 4-00-201  
Parcel Map

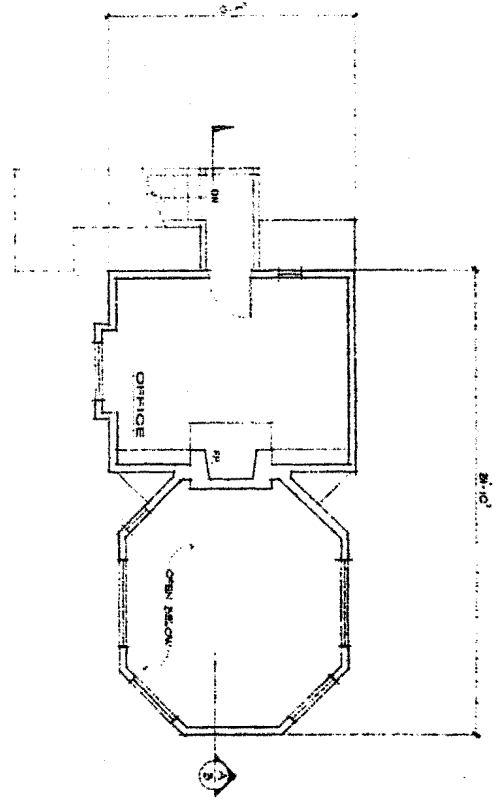
SEP 23 1996  
ASSESSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.



FIRST FLOOR PLAN  
20' 0" X 34' 0"



SECOND FLOOR PLAN  
20' 0" X 34' 0"



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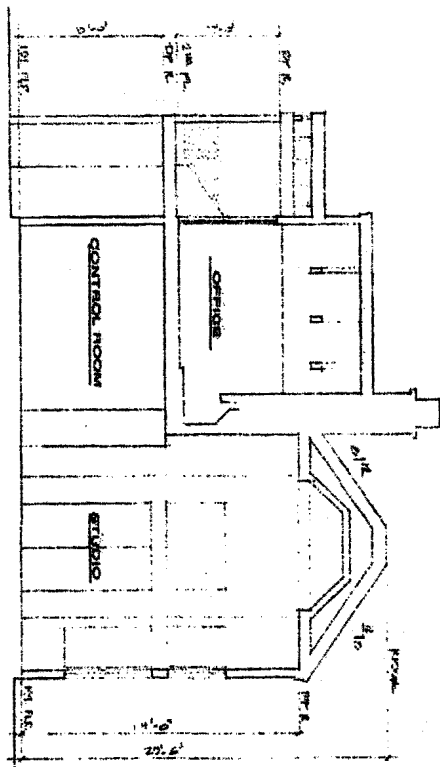
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SOUTH CENTRAL COAST DISTRICT

Exhibit No. 4  
App. No. 4-00-201  
Floor Plans

2	SHEET NO.	MUSIC STUDIO	SHEET FIRST FLOOR PLAN & SECOND FLOOR PLAN		LESLIE LIPPICH ARCHITECT & ASSOCIATES ARCHITECTURE DESIGN PLANNING PHONE (818) 591-2555 FAX (818) 591-2729 4246 PARK GRANADA, SUITE 210 CALABASAS CALIFORNIA 91302	
		FOR	TITLE	JOE NO. 2525		REVISIONS
		DAVID KURTZ	DATE 4-14-99			
		7065 FERNHILL DR. MALIBU, CA	DRAWN			

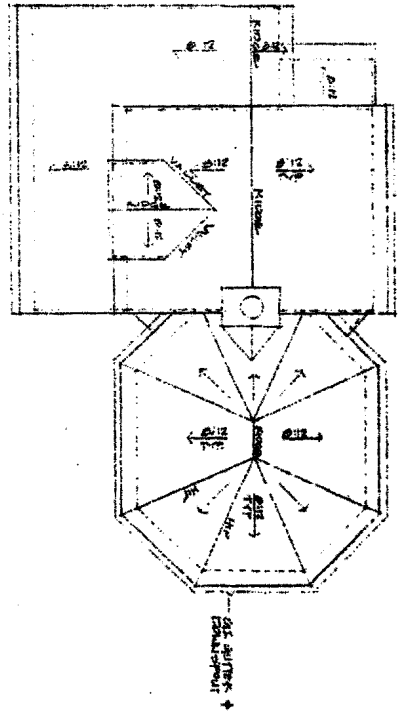
SECTION A

1/4" = 1'-0"



ROOF PLAN

1/4" = 1'-0"



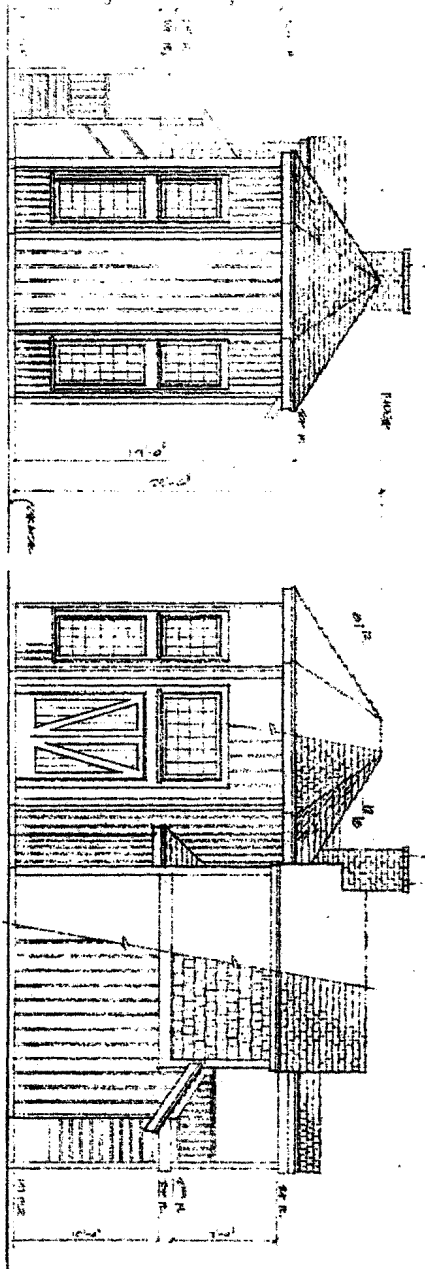
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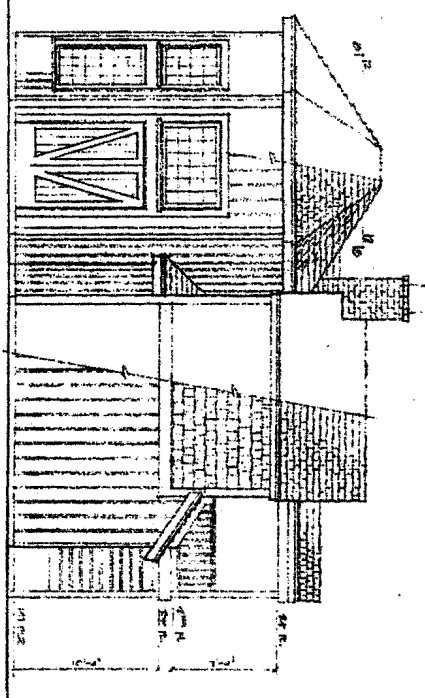
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SOUTH CENTRAL COAST DISTRICT

Exhibit No. 5  
App. No. 4-00-201  
Sections

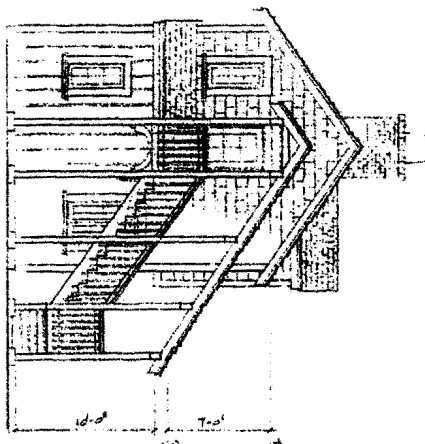
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		JOB NO: 2526	REVISIONS		
		DATE: 4-14-99			
		DRAWN			



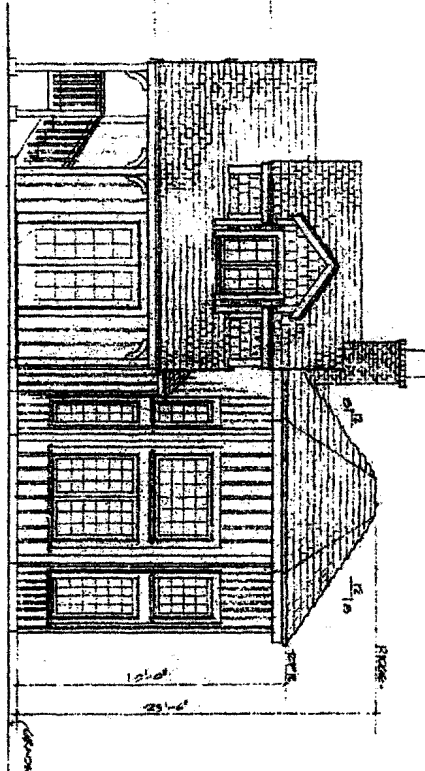
RIGHTSIDE ELEVATION



REAR ELEVATION



LEFTSIDE ELEVATION



FRONT ELEVATION

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COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Exhibit No. 6  
App. No. 4-00-201  
Elevations

4	SHEET NO.	MUSIC STUDIO FOR DAVID KURTZ 7065 FERNHILL DR. MALIBU, CA.	SHEET TITLE EXTERIOR ELEVATIONS		<b>LESLIE LIPPICH ARCHITECT &amp; ASSOCIATES</b> ARCHITECTURE DESIGN PLANNING PHONE (818) 591-1455 FAX (818) 591-2724 4768 PARK CANADA, SUITE 210 CARABASAS CALIFORNIA 91302
		JOB NO. 2322	REVISIONS		
		DATE 14 JUL 99			
		DRAWN			

