

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 4-00-142

APPLICANT: Dariush Hosseini

AGENT: Jonathan Stout

PROJECT LOCATION: 5925 De Butts Terrace, Malibu, Los Angeles County

PROJECT DESCRIPTION: Demolition of an existing 1,252 square foot single family residence, 592 square foot garage, and 141 square foot shed; construction of a 7,687 square foot, 28 foot high, single family residence with an attached 751 square foot garage, swimming pool, deck, and private sewage disposal system; performance of 2,118 cubic yards of grading (785 cubic yards cut, 210 cubic yards fill, and 1,123 cubic yards removal and recompaction); and an offer to dedicate 1.1 acres as open space.

Lot Area:	87,251 square feet
Building Coverage:	5,194 square feet
Paved Area:	10,928 square feet
Height Above Existing Grade:	28 feet
Height Above Finished Grade:	28 feet

LOCAL APPROVALS RECEIVED: City of Malibu, Planning Department, Approval in Concept, October 17, 2000; City of Malibu, Archaeology Department, Waiver, May 8, 2000; City of Malibu, Geology and Geotechnical Review; Approval in Concept, June 28, 2000; City of Malibu, Biological Review, Approval in Concept, June 7, 2000; City of Malibu, Environmental Health Department, Approval in Concept, July 28, 2000; and County of Los Angeles, Fire Department, Fire Prevention Bureau, Preliminary Fuel Modification Plan Approval, July 17, 2000.

SUBSTANTIVE FILE DOCUMENTS: "Photo Documentation – 5925 DeButts Terrace, Malibu," Geo Safety, Inc., received on March 7, 2001; "5925 De Butts Terrace (CDP 4-00-142): Offer To Dedicate Open Space Easement for land north of De Butts Terrace (approximately 1.1 acre," Geo Safety, Inc, March 6, 2001; Facsimile from Geo Safety, Inc., to the California Coastal Commission staff, "4-00-142," March 6, 2001; "4-00-142," Geo Safety, Inc., March 6, 2001; "Escondido Falls Trail Viewshed Analysis in relation to

proposed development at 5925 De Butts Terrace, Malibu," Geo Safety, Inc., March 3, 2001; "Response to request for clarification By California Coastal Commission regarding proposed new construction at 5925 De Butts Terrace," Donald B. Kowalewsky, January 4, 2001; "Escondido Falls Trail Viewshed Analysis pertaining to the proposed two-story SFR at 5925 DeButts Terrace, Malibu, Geo Safety, Inc., November 7, 2000; "Geologic inspection of seepage pit boring at 5925 De Butts Terrace," Donald B. Kowalewsky, July 20, 2000; "Addendum to Engineering Geologic Report for Construction of a Single Family Residence at 5925 De Butts Terrace," Donald B. Kowalewsky, May 30, 2000; "Update to Engineering Geologic and Soils Engineering Reports for Construction of a Single Family Residence at 5925 De Butts Terrace," Donald B. Kowalewsky, February 16, 2000; "Addendum III Report of Soil Engineering Investigation," SWN Soiltech Consultants, Inc., January 20, 1991; "Addendum #2, Response to Los Angeles County Geologic Review," Donald B. Kowalewsky, July 5, 1990; "Addendum II Report of Soil Engineering Investigation," SWN Soiltech Consultants, Inc., May 23, 1990; Report by Donald B. Kowalewsky, dated March 21, 1990; "Addendum Report of Soil Engineering Investigation," SWN Soiltech Consultants, Inc., November 22, 1989; "Addendum, Response to Los Angeles County Geologic Review," Donald B. Kowalewsky, November 14, 1989; "Report of Soil Engineering Investigation," SWN Soiltech Consultants, Inc., August 25, 1989; Report by Donald B. Kowalewsky, dated August 10, 1989; "Engineering Geologic Report for Construction of a Single Family Residence at 5925 De Butts Terrace," Donald B. Kowalewsky, August 10, 1989; Coastal Development Permits 5-90-515 (Shriner), 5-90-670 (Kirsten), 5-90-673 (Shriner), 5-90-781 (Newman), 5-90-921 (Landgate), 5-90-1068 (Morton), 5-90-1149 (Thorne), 4-99-010 (McNicholas), and 4-00-044 (Blank Par E, LLC); and the certified Malibu Santa Monica Mountains Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends **approval** of the proposed project with ten (10) special conditions regarding geotechnical engineering consultants' recommendations, landscaping and erosion control, removal of vegetation assumption of risk, drainage and polluted runoff control, color restriction, future improvements, removal of excavated material, offer to dedicate open space, and lighting restrictions.

The subject parcel is bisected by De Butts Terrace, so that one portion of the parcel is located to the south and one portion is north of De Butts Terrace. Further, the project site is also located on a ridge above Escondido Canyon and just north of Winding Way, in the City of Malibu. While no streams cross the site and no environmentally sensitive habitat area has been identified upon the subject site, the Escondido Canyon and the Escondido Canyon Creek blue line stream are located directly to the west and below the ridge upon which the site is located. These areas, including Escondido Canyon and Escondido Canyon Creek, have been designated as an environmentally sensitive habitat area. Staff further notes that the site is subject not only to the risk of wildfire present throughout the Santa Monica Mountains, but is also to an unusual degree of geologic hazards (landslide, earthquake fault, and expansive soils). As a result, the geotechnical engineering consultants have made specific recommendations regarding the proposed development to ensure site stability.

In addition, the proposed development must also be evaluated for its effect upon sensitive visual resources. The project site is over one third of a mile north of the Coastal Slope Trail, which runs along Winding Way. The site is also located to the west and directly above the Escondido Falls Trail, which runs along the bottom of Escondido Canyon. Further, the Ramirez Canyon Connector Trail is located along the east side of De Butts Terrace. De Butts Terrace traverses the middle of the subject property, although the applicant is proposing all development on that portion of the parcel located to the south of De Butts Terrace and has offered to dedicate 1.1 acres of that portion of the parcel north of De Butts Terrace as open space. Due to the proximity to De Butts Terrace and the Ramirez Canyon Connector Trail, the proposed development will be visible from this trail. Public views of the structure will be very limited due to the distance and intervening topography between the subject site and the Coastal Slope Trail. Further, California Coastal Commission staff has been to the site when the ridgelines of the proposed structure were staked and flagged and these features were not visible from the Escondido Falls Trail. The visual impact on public views from the Ramirez Canyon Connector Trail, however, may be minimized through landscape and color conditions.

These special concerns and constraints associated with the proposed development are addressed in the staff report and in the special conditions set forth herein.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-00-142 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 Geotechnical Engineering Consultants' Recommendations**

All recommendations contained in the reports prepared by Donald B. Kowalewsky, including those dated January 20, 2000; February 16, 2000; May 30, 2000; July 20, 2000; and November 13, 2000 and SWN Soiltech Consultants, Inc., including those dated January 20, 1991; May 23, 1990; November 22, 1989; and August 25, 1989 shall be incorporated into all final design and construction including recommendations concerning foundation, grading, drainage, and septic system plans and must be reviewed and approved by the consultants prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director of the consultants' review and approval of all final design and construction plans.

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

2. Landscaping Plan

Prior to issuance of a coastal development permit, the applicant shall submit revised landscaping and erosion control plans, prepared by a licensed landscape architect or qualified resource specialist, for review and approval by the Executive Director. The revised landscaping and erosion control plans shall be reviewed and approved by the geotechnical engineering consultants 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 and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation and to screen and soften the visual impact of development, 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. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. The plan shall include vertical elements, such as trees and shrubs, which partially screen the appearance of the proposed structures as viewed from the Coastal Slope Trail easement along Winding Way, which is adjacent to the subject site. Where plantings are visible from the Escondido Canyon Trail, exclusively native plantings shall be used that are visually harmonious and blend with the character of the surrounding undeveloped slopes. The plan shall specify the erosion control measures to be implemented and the materials necessary to accomplish short-term stabilization, as needed on the sites.
- 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 ninety (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 fifty (50) feet of the proposed house may be removed to mineral earth, vegetation within a two hundred (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 final 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 (50) 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.

- 6) Fencing along the property boundaries of the site shall be of a design that is permeable to wildlife.

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

C) Monitoring

Five (5) years from the date of 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 revised 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 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.

3. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the fifty (50) foot zone surrounding the proposed structure 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 fifty (50) to two hundred (200) foot fuel modification zone shall not occur until commencement of construction of the structures approved pursuant to this permit.

4. Assumption of Risk, Waiver of Liability, and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from fire, landsliding, earth movement, 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.
- B. PRIOR TO 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 incorporating all of the above terms of this condition. The deed restriction shall include a legal description of both of the applicant's parcels. 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.

5. Drainage and Polluted Runoff Control Plan

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

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

6. Color Restriction

The color of the structures, 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.

- A. PRIOR TO 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, that reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances 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.

7. Future Development Deed Restriction

This permit is only for the development described in Coastal Development Permit No. 4-00-142. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the entire parcel. Accordingly, any future improvements to the permitted single family residence structures, including but not limited to clearing of vegetation or grading, other than as provided for in the approved fuel modification, landscaping, and erosion control plans prepared pursuant to Special Condition Two (2), shall require an amendment to Permit No. 4-00-142 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

- A. PRIOR TO 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, which reflects the above restrictions on development in the deed restriction and 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.

8. Removal of Excavated Material

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site, including any building or construction debris resulting from the demolition of the existing structures. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required

9. Open Space Deed Restriction

- A. In order to implement the applicant's proposal to permanently preserve 1.1 acres as open space to the north of De Butts Terrace on a portion of Assessor's Parcel Number 4467-003-040, the applicant agrees that no development as defined in Section 30106 of the Coastal Act shall occur in the open space area depicted in Exhibit 4 except for: fuel modification required by the Los Angeles County Fire

Department, removal of non-native vegetation, or public hiking and/or equestrian trails.

- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space area. The document shall provide that the deed restriction shall not be used or construed to allow anyone to interfere with any rights of public access acquired through use that may exist on the property. The document shall be recorded free of prior encumbrances except for tax liens, which the Executive Director determines may affect the interest being conveyed. The deed restriction shall run with the land, binding all successors and assignees of the applicant or landowner, and shall be irrevocable. The recorded document shall include legal descriptions of the applicant's entire parcel, the open space area, and a graphic representation prepared by a licensed surveyor showing the area identified in the legal description of the open space area.

10. Lighting Restrictions

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, which specifies that all outdoor night lighting shall be the minimum necessary, consistent with safety requirements, and shall be downward directed to minimize the nighttime intrusion of the light from the project into sensitive habitat areas. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interests being conveyed.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing the demolition of an existing 1,252 square foot single family residence, 592 square foot garage, and 141 square foot shed. In addition, the applicant is also proposing to construct a 7,687 square foot, 28 foot high, single family residence with an attached 751 square foot garage, swimming pool, deck, and private sewage disposal system with 2,118 cubic yards of grading (785 cubic yards cut, 210 cubic yards fill, and 1,123 cubic yards removal and recompaction). Lastly, the applicant is also offering to dedicate 1.1 acres of the subject site as open space.

The project site currently maintains an existing, but uninhabited and unoccupied one bedroom single family residence, garage, and small shed with access to the site provided by an existing dirt driveway. The site is located .68 miles north of Pacific Coast Highway, just north of Winding Way, in the City of Malibu (Exhibit 1). The subject site is bisected by De Butts Terrace road, which runs through the middle of the site. Topographically, the subject site is located on a ridge with slopes descending to the southwest and northeast. The ridge trends in a southeast direction and lies between Ramirez and Escondido Canyons. Slope gradient ranges from 2.5:1 (horizontal to vertical) to horizontal.

The project site is also located to the west and above the Escondido Falls Trail and approximately one third of a mile north of the Coastal Slope Trail, which runs along Winding Way. Additionally, the Ramirez Canyon Connector Trail is located along the east side of De Butts Terrace, which runs across the subject site. Through the California Coastal Commission's approval of Los Angeles County Winding Way and DeButts Terrace Water Improvement Project No. 29 (CDP P-81-7713), the County agreed to construct a hiking and equestrian trail along the entire right-of-way of Winding Way and DeButts Terrace. The County has completed the project and provided the hiking and equestrian trail along the entire right-of-way, including this portion of the Ramirez Canyon Connector Trail.

In addition, the site is also located to the west and above Escondido Canyon and Escondido Creek, which maintains environmentally sensitive habitat areas. Escondido Canyon, which includes portions of the perennial Escondido Canyon Creek, is exceptional riparian woodland flanked by a relatively undisturbed coastal sage scrub growing on the adjacent slopes, with excellent shrub diversity. Furthermore, Coastal Sage Scrub vegetation is present on the eastern portion of the site that has been offered as open space by the applicant and will not be impacted through this development.

Due to the topography, geology, and environmental and visual resources of the site, the applicant is proposing all development on that portion of the parcel located to the south of De Butts Terrace and has offered to dedicate 1.1 acres of that portion of the parcel north of De Butts Terrace as open space. The areas to the north, south, southwest, and southeast of the project site are characterized as built-out portions of Malibu consisting of similar residential development, while the area to the east consists of parkland and maintains the Escondido Falls Trail, Escondido Canyon, and Escondido Canyon Creek.

B. 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.***

The applicant has submitted a geologic report entitled, "Update to Engineering Geologic and Soils Engineering Reports," prepared by Donald B. Kowalewsky, dated February 16, 2000, which states:

Provided recommendations provided in the appended reports and this document are utilized, the proposed development will be safe from geologic hazards of landslide, settlement and slippage. In addition, proposed site development will have no adverse affect on offsite properties.

The proposed development is located in the Malibu/Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property. Furthermore, in their report entitled "Report of Soil Engineering Investigation," dated August 25, 1989, SWN Soiltech Consultants state:

Landslides are mapped to the south and southwest of the subject site. A landslide is located about 100 feet beyond the southerly property line of the subject site. Portions of the landslides are believed by Donald B. Kowalewsky to be active.

Furthermore, in his report entitled "Update to Engineering Geologic and Soils Engineering Reports," dated February 16, 2000, Donald B. Kowalewsky states:

Some areas of nearby landslides, mapped by this office and the County of Los Angeles, were investigated by other consultants who disagreed with landslides as previously mapped. Building permits have subsequently been obtained within the landslide areas to the south of this site. Other consultants work has not changed our opinion regarding the existence of those landslides because both borings and trenches were logged by the undersigned geologist within that landslide in the mid 1980's and evidence of past landslide movement was observed.

In addition, in his report entitled "Engineering Geologic Report," dated August 10, 1989, Donald B. Kowalewsky also states the following regarding faulting and seismicity on the subject site:

The closest active or potentially active fault mapped by the U.S. Geological Survey is the Malibu Coast fault located nearly 600 feet to the north of the proposed building site. A splay of the Malibu Coast fault lies nearly 500 feet south of the property. The Malibu Coast fault crosses the property in the northeast corner. Habitable structures on that section of the property is not recommended.

In his report dated November 13, 2000, Donald B. Kowalewsky goes on to state:

No restricted use areas have been recommended by this office. The setback plane recommended was not intended to restrict use. It was intended to be utilized for structural design of foundations of habitable structures. Although mathematical calculations indicate the entire property should be free of landslide risk, it has been this office's policy to set habitable structures along the DeButts Terrace ridge line behind or below a 15 projection from the base of landslides. This 15 projection establishes a plane represented by the geologic cross-sections provided in our 2-16-2000 report. The intersection of that plane with the ground surface resulted in the setback line shown on the geologic map. Northerly of that line, no specialized foundation designs are necessarily to reduce risk from the landslide. To clarify that issue for the Coastal Commission, I suggest that the setback line without the use of soldier piles be shown on the plan (as Original Setback Line) as well as a Revised Setback Line which would be coincident with the line of soldier piles.

In sum, the applicant has submitted numerous geotechnical engineering reports prepared by Donald B. Kowalewsky, including those dated January 20, 2000; February 16, 2000; May 30, 2000; July 20, 2000; and November 13, 2000 and SWN Soiltech Consultants, Inc., including those dated January 20, 1991; May 23, 1990; November 22, 1989; and August 25, 1989, which incorporate numerous specific recommendations regarding construction, foundations, grading, sewage disposal, and drainage for the subject site.

With regard to the foundation system for the proposed structures, the report prepared by Donald B. Kowalewsky, dated November 13, 2000 states:

One of our recommendations was for the use of soldier piles placed south of the residence and placement of the residence on compacted fill which would be supported by firm bedrock. It is my understanding that the proposed project will utilize this design.

His report dated January 20, 2000 also states:

Because a portion of the proposed development will extend over the setback line as shown on Plate 1, deepened foundations will be required. The setback line is based on a 15 setback plane projected up from the landslide downslope. Therefore, for each 3 1/2 feet the project is southerly of the setback line, an additional foot of foundation depth will be required. All foundations southerly of the setback line must be designed for lateral loads from rock and soils above the setback plane.

All foundations should be supported in firm bedrock, anticipated to be at a depth of eight feet. The upper eight feet of soils may be creep prone and foundations should be designed to resist creep loads.

Lastly, the Donald B. Kowalewsky report dated May 30, 2000, makes recommendations regarding the proposed swimming pool, stating:

The proposed swimming pool is located southerly of the setback line. Depth to the setback plane would be 20 to 30 feet. As a consequence, a decision must be made by the owner concerning construction of friction piles, or designing a free floating pool. Because the slope stability analyses indicate the site should be safe, it would be

significantly less costly to construct a free floating pool. Such a pool should be designed for expansive soils (with no water in the pool) and to be free standing (no earth support outside the pool). The pool should be placed entirely on firm bedrock. If firm bedrock is not exposed across the entire pool bottom. The pool excavation should be over excavated such that a minimum of 3 feet of compacted fill (which is supported by firm bedrock) supports the pool bottom. This decision can be made at the time the pool excavation is complete.

In addition, in his report dated July 20, 2000, Donald B. Kowalewsky also states that the effluent from the proposed septic system will not adversely affect slopes within and around the property.

Therefore, the Commission finds that based on the recommendations of the applicant's geotechnical engineering consultants, the proposed development is consistent with the requirements of Section 30253 of the Coastal Act, so long as the geotechnical engineering consultants' recommendations are incorporated into the final project plans and designs. Therefore, the Commission finds it necessary to require the applicant to submit final project plans that have been certified in writing by the geotechnical engineering consultants as conforming to all recommendations of the consultants, in accordance with **Special Condition One (1)**.

However, because there remains some inherent risk in building on sites in the immediate vicinity of landslides and earthquake faults and on expansive soils, such as the subject site, and due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from the associated risks, as required by **Special Condition Four (4)**. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the stability or safety of the proposed development and agrees to assume any liability for the same.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions and danger from wildfire is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist potentially hazardous geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question. The Commission has required such deed restrictions for other development throughout the Malibu/Santa Monica Mountains region.

In their report dated August 25, 1989, SWN Soiltech Consultants, Inc., state:

The slopes shall be planted with a suitable deep-rooted ground cover as soon as possible. Additional protection may be provided by the use of jute mesh or suitable geofabrics. If adequate ground cover is not established before the rainy season, sloughing and slumping of the surficial soils may occur. It is imperative that landscape watering be kept to the minimum required for normal plant growth.

Special Condition Two (2) requires the implementation of landscaping and erosion control measures designed to reduce or eliminate potential erosion that might otherwise occur pursuant to the proposed development. As such, landscaping of the disturbed and graded areas on the subject property, as required by **Special Condition Two (2)**, will serve to enhance the geological stability of the site. In addition, interim erosion control measures implemented during construction will also minimize erosion and enhance site stability. The Commission finds that the minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to revegetate all disturbed and graded areas of the site with native plants, compatible with the surrounding environment.

The landscape plan required pursuant to **Special Condition Two (2)** requires the use of primarily native plant species. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission finds that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and therefore aid in preventing erosion.

In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area. Increasing urbanization in this area has caused the loss or degradation of major portions of the native habitat and loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast growing trees that originate from other continents that have been used as landscaping in this area have invaded and seriously degraded native plant communities adjacent to development.

Therefore, the Commission finds that in order to ensure site stability, the disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition Two (2)**.

In addition, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds it necessary to impose a restriction on the removal of natural vegetation, as specified in **Special Condition Three (3)**. Through the elimination of premature natural vegetation clearance, erosion is reduced on the site and disturbance of the soils is decreased. Therefore, **Special Condition Three (3)** specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced.

Further, the Commission also notes that the amount of new cut grading proposed by the applicant is larger than the amount of fill to be placed and will result in approximately 575 cubic yards of excess excavated material. Excavated materials that are placed in stockpiles are subject to increased erosion. The Commission also notes that additional landform alteration would result if the excavated material were to be retained on site. In order to ensure

that excavated material will not be stockpiled on site and that landform alteration is minimized, **Special Condition Eight (8)** requires the applicant to remove all excavated material, including any building or construction debris from the demolition of the existing structures, from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

The Commission finds that only as conditioned to incorporate all recommendations by the applicant's consulting geotechnical engineer, landscape and erosion control plans, assumption of risk deed restriction, and removal of excavated material will the proposed project be consistent with Section 30253 of the Coastal Act.

C. Visual Impacts

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and protected:

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline 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, in past actions, the Commission has provided for protection of visual resources when reviewing development proposals in the Santa Monica Mountains. For example, the Commission has found that new development shall be sited and designed to protect public views from scenic highways, to and along the shoreline, and to scenic coastal areas, including public parklands. In addition, the Commission has found in past actions that structures shall be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment. Furthermore, in highly scenic areas and along scenic highways, the Commission has found that new development shall be sited and designed to protect views to and along the ocean and to and along other scenic features, minimize the alteration of natural land forms, conceal graded slopes, be visually compatible with and subordinate to the character of the setting, and not intrude into the skyline as seen from public viewing areas. In past actions, the Commission has also found that structures shall be sited to conform to the natural topography of the site, as is feasible.

As stated previously, the applicant is proposing to demolish an existing 1,252 square foot single family residence, 592 square foot garage, and 141 square foot shed. In addition, the applicant is also proposing to construct a 7,687 square foot, 28 foot high,

single family residence with an attached 751 square foot garage, swimming pool, deck, and private sewage disposal system with 2,118 cubic yards of grading (785 cubic yards cut, 210 cubic yards fill, and 1,123 cubic yards removal and recompaction). Furthermore, the applicant is also offering to dedicate 1.1 acres as open space, which includes steep slopes covered with Coastal Sage Scrub vegetation. The primary visual resource in the vicinity of the proposed project site are Escondido Canyon and the Escondido Falls Trail, which traverses the canyon bottom, and the Ramirez Canyon Connector Trail, running along the eastern side of De Butts Terrace.

With regard to the Escondido Falls Trail, the Commission, in hearing and voting on several permit applications, has consistently required that new development minimize and mitigate impacts to visual resources as seen from the public trail. The Commission has required the resiting of development, height, color, and future development restrictions, as well as landscaping to minimize or eliminate any view of development from the trail. Most of the projects that carried these restrictions were also located on the slopes to the west of the canyon adjacent to DeButts Terrace, including CDPs 5-90-515 (Shriner), 5-90-670 (Kirsten), 5-90-673 (Shriner), 5-90-781 (Newman), 5-90-921 (Landgate), 5-90-1068 (Morton), and 4-99-010 (McNicholas). A subdivision was also approved on the slopes above the canyon to the east under CDP 5-90-1149 (Thorne), which also had restrictions for future homes on lots visible from the canyon to minimize visual impacts.

In this case, the proposed project site is highly visible from portions of Escondido Canyon and the Escondido Falls Trail. The subject site is located to the southwest of the canyon, at the top of a ridge overlooking the canyon. As such, if the site were developed in a manner that was not sensitive to protecting visual resources from the trail, equestrians and hikers would gain a prominent view of both proposed single family residences from portions of the trail. California Coastal Commission staff has been to the site when the ridgelines of the proposed structure were staked and flagged and these features were not visible from the Escondido Falls Trail. Further, Geo Safety, Inc., submitted a report regarding "Escondido Falls Trail Viewshed Analysis in relation to proposed development at 5925 De Butts Terrace, Malibu," dated March 3, 2001. This report states:

The viewshed analysis basically corroborated the findings of my November 7, 2000 photo report: the proposed residence at 5925 De Butts Terrace is not visible from any part of the Escondido Falls Trail that terminates at the base of the bottom falls. Intervening minor ridges, setbacks, and vegetation obscure single family homes along central and upper De Butts Terrace . . .

The proposed development, however, may be visible from the Coastal Slope Trail, which follows Winding Way in this area. In addition, as the site is bisected by De Butts Terrace and therefore the Ramirez Canyon Connector Trail that runs along the eastern side of the De Butts Terrace, the development will be highly visible from this portion of the Ramirez Canyon Connector Trail.

The project site is located within a partially developed residential area consisting of similarly sized single family residences constructed on similarly sized lots. There are existing large, single family residences to the south, southwest, and southeast of the site. The proposed project, therefore, will be consistent with the character of the surrounding area. Furthermore, the design of the residence will incorporate a measures to minimize negative visual impacts on public views. However, due to the visible nature of the project as seen from Ramirez Connector Trail and Coastal Slope Trail, the Commission finds it necessary to require mitigation measures to minimize visual impacts as seen from these scenic public resources.

Additionally, requiring the residence to be adequately landscaped can also mitigate visual impacts. Graded and disturbed slopes can have visual impacts and can contribute to erosion. While the proposed project will not be visible from the Escondido Falls Trail, it will be highly visible from the Ramirez Connector Trail and may be visible from the Coastal Slope Trail. In order to ensure that potential visual impacts from the graded and disturbed areas of the project site are minimized, the Commission finds it necessary to require the applicant to prepare and implement a landscaping plan, comprised primarily of native vegetation, which provides for the revegetation of all graded and disturbed areas. The applicant must also monitor the landscaping and report to the Commission on the success of the revegetation in order to ensure that the landscaping is successful. The landscaping should consist of native, drought resistant plants and be designed to minimize and control erosion, as well as partially screen and soften the visual impact of the structures and grading, as seen from the Ramirez Canyon Connector Trail and the Coastal Slope Trail, with vertical elements such as trees and shrubs. In addition, fuel modification requirements can affect natural vegetation for up to 200 feet from the footprint of defensible structures. As a result, the fuel modification plan should be designed to reduce negative visual impacts from the Ramirez Canyon Connector Trail and the Coastal Slope Trail resulting from vegetation clearance. Therefore, the Commission finds that it is necessary to require the applicant to submit a landscape plan and to monitor the success of that plan, as specified in **Special Condition Two (2)**.

The Commission finds it necessary to require that the proposed residence be subject to the specific design restrictions set forth in **Special Condition Six (6)**. The purpose of these restrictions is to reduce the impacts of the proposed project on views from the Ramirez Canyon Connector Trail and the Coastal Slope Trail. These restrictions limit the color of the proposed residence, garage, and associated roofs to colors compatible with the surrounding environment, and require the use of non-glare glass for all windows. If fully implemented, this condition will reduce the negative impacts from the proposed development on the visual resources of the Ramirez Canyon Connector Trail and the Coastal Slope Trail.

Finally, future developments or improvements to the property have the potential to create significant adverse visual impacts as seen from the Ramirez Canyon Connector Trail, the Coastal Slope Trail, and also from the Escondido Falls Trail. It is necessary to ensure that future developments or improvements normally associated with a single

family residence, which might otherwise be exempt, be reviewed by the Commission for compliance with the visual resource protection policies of the Coastal Act. As a result, **Special Condition Seven (7)**, the future improvements deed restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act and to ensure that any proposal is designed to minimize impacts to visual resources and/or that appropriate mitigation measures are included in the project.

In summary, the proposed project, as conditioned, will not result in a significant adverse impact to the public views in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act.

D. Environmental Sensitive Habitat Area

Section 30231 of the Coastal Act states:

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

Section 30240 of the Coastal Acts states:

(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.

Sections 30230 and 30231 require that the biological productivity and quality of coastal waters and the marine environment be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, and maintaining natural buffer areas.

In addition, the Coastal Act defines environmentally sensitive habitat areas (ESHAs) as any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development. Section 30240 of the Coastal Act permits development in areas that have been designated as ESHA only

when the location of the proposed development is dependent upon those habitat resources and when such development is protected against significant reduction in value. As previously mentioned, the Malibu/Santa Monica Mountains LUP has also designated this portion of Escondido Canyon and Escondido Canyon Creek as an ESHA, specifically an inland ESHA due to the extensive undisturbed riparian vegetation (Exhibit 3).

Although no portion of the subject site has been designated as ESHA, the proposed development will be located approximately one quarter of a mile upslope from the Escondido Canyon and Escondido Canyon Creek environmentally sensitive habitat area (ESHA). Escondido Canyon Creek is a perennial blue-line stream designated by the U.S. Geological Survey and the riparian corridor is an inland ESHA, as shown on the sensitive environmental resource map of the certified Malibu/Santa Monica Mountains Land Use Plan (LUP).

The applicant is proposing the demolition of an existing 1,252 square foot single family residence, 592 square foot garage, and 141 square foot shed. In addition, the applicant is also proposing to construct a 7,687 square foot, 28 foot high, single family residence with an attached 751 square foot garage, swimming pool, deck, and private sewage disposal system with 2,118 cubic yards of grading (785 cubic yards cut, 210 cubic yards fill, and 1,123 cubic yards removal and recompaction). Lastly, the applicant is also offering to dedicate 1.1 acres of the subject site as open space. The area offered as open space includes a large portion of the site to the north of De Butts Terrace consisting largely of an area vegetated with Coastal Sage Scrub, a sensitive native plant community. This sensitive area offered as open space by the applicant consists of steep slopes and extends over 500 feet from De Butts Terrace onto a major tributary to and watershed of Escondido Canyon, averaging 120 feet in width.

As required by the Coastal Act and as the Commission has required in past permit actions, the proposed project will be adequately set back from the ESHA riparian corridor of Escondido Canyon and Escondido Canyon Creek. Furthermore, the development site will be located just south of De Butts Terrace, rather than north of De Butts Terrace, which would even closer to Escondido Canyon and Escondido Canyon Creek. Lastly, the applicant's offer to dedicate 1.1 acres of the parcel to the north of De Butts Terrace consisting largely of the sensitive Coastal Sage Scrub plant community also is beneficial in preserving the watershed, vegetation, and habitat above Escondido Canyon and Escondido Canyon Creek.

The direct impacts of the proposed project, such as vegetation removal and hardscaping of the formerly natural areas of an undeveloped site, will be mitigated through the implementation of the applicable special conditions. **Special Condition Two (2)** requires a landscape plan comprised primarily of native plant species, in conjunction with an interim erosion control plan. The landscaping of the disturbed areas of the subject site, particularly with respect to particularly steep slopes, with native plant species will assist in preventing erosion and the displacement of native plant species by non-native or invasive species.

In addition, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds it necessary to impose a restriction on the removal of natural vegetation, as specified in **Special Condition Three (3)**. This restriction specifies that natural vegetation shall not be removed until building permits have been secured and construction of the permitted structures has commenced, preventing unnecessary disturbance of the area.

Special Condition Five (5) requires a drainage and polluted runoff control plan, which will ensure that drainage will be conducted in a non-erosive manner. The Commission finds that a drainage system will serve to minimize the environmental and sensitive habitat degradation associated with erosion. In order to further ensure that adverse impacts to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant to incorporate filter elements that intercept and infiltrate or treat the runoff from the subject site, as is also required by **Special Condition Five (5)**. Such a plan will allow for the infiltration and filtration of runoff from the developed areas of the site and will capture the initial "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season, making the capture of the "first flush" flow a vital component of the drainage and polluted runoff control plan. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

Furthermore, night lighting of a high intensity has the potential to disrupt the hunting, roosting, and nesting behavior of wildlife that occupy this sensitive habitat area. Sensitive species, such as the Cooper's Hawk, a very localized and uncommon breeder in coastal Southern California, were observed in the area of the subject site and have been identified through biological surveys. As a result, **Special Condition Ten (10)** reduces the disruptive effects that night lighting can have on the wildlife occupying these sensitive habitat areas, by restricting outdoor night lighting to the minimum amount required for safety. In addition, in order to lessen impacts on the surrounding sensitive species, **Special Condition Two (2)** also requires fencing along the property boundaries of the site to be of a design that is permeable to wildlife. Additionally, **Special Condition Seven (7)** addresses future development by ensuring that all future development proposals for the site, which might otherwise be exempt from review, would require prior review so that potential impacts to this sensitive habitat area may adequately be considered. Lastly, **Special Condition Nine (9)** requires the applicant to record his offer to dedicate and therefore permanently preserve 1.1 acres as open space on the subject site to the north of De Butts Terrace, thereby maintaining the biological integrity of this portion of the subject site.

The effects of fuel modification, required on the applicant's project by the Los Angeles County Fire Department, have been reduced by siting the development in the direct vicinity of the access road (De Butts Terrace) and upslope from the Escondido Canyon and Escondido Canyon Creek ESHA areas. Fuel modification requirements can affect

natural vegetation for up to 200 feet from the footprint of defensible structures. Further, the applicant is siting development on the southern rather than the northern portion of the parcel, thereby decreasing the amount of possible fuel modification that could be required within the Escondido Canyon area or Coastal Sage Scrub native plant community. In sum, the applicant has sited and set back the proposed project from the designated ESHA, while still developing a single family residence on the subject parcel. Further, as there is existing development on either side of the proposed residence, there will not be any additional off site brushing or fuel modification required.

Therefore, the Commission finds that, through **Special Conditions Two (2), Three (3), Five (5), Seven (7), Nine (9), and Ten (10)**, and for the reasons set forth above, the proposed project is consistent with the requirements of Sections 30231 and 30240 of the Coastal Act.

E. Water Quality

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

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

As described above, the proposed project includes the demolition of an existing 1,252 square foot single family residence, 592 square foot garage, and 141 square foot shed. In addition, the project also includes the construction of a 7,687 square foot, 28 foot high, single family residence with an attached 751 square foot garage, swimming pool, deck, and private sewage disposal system with 2,118 cubic yards of grading (785 cubic yards cut, 210 cubic yards fill, and 1,123 cubic yards removal and recompaction). Lastly, the project also includes an offer to dedicate 1.1 acres as open space.

The conversion of the project site from its natural state will result in an increase in the amount of impervious surface and reduction in the naturally vegetated area. Further,

use of the site for residential purposes will introduce potential sources of pollutants such as petroleum, household cleaners, and pesticides, as well as accumulated pollutants from rooftops and other impervious surfaces and effluent from septic systems.

Furthermore, in their report dated August 10, 1989, Donald B. Kowalewsky states:

The sporadic heavy seasonal precipitation drains from the property by sheet flow downslope to Escondido Canyon and to a tributary of Ramirez Canyon. Future drainage should be controlled . . . and directed to DeButts Terrace . . .

In their report dated August 25, 1989, SWN Soiltech Consultants, Inc., also states:

Sloughing and slumping of the surface of any slope may be anticipated if the slope is left unprotected over a period of time, especially during rainy seasons. It should also be noted that excessive landscape watering, rodent burrows and uncontrolled surface runoff may cause instability of the slope surface.

The proposed development will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is

generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter, or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e., the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Five (5)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measure implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition Two (2)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the applicant proposes to construct a new 3,000 gallon septic tank and disposal system to service the new single family residence. Percolation tests have been performed on the subject site. In addition, in his report dated May 30, 2000, Donald B. Kowalewsky states:

Recommended capping depths of 15 feet for the seepage pits is shown on geologic cross-sections A-A', B-B' and C-C'. These three cross-sections illustrate all slopes around the site. Percolation rates were high (exceeding 20 gallons per square foot per day) indicating near vertical infiltration. However, for a conservative estimate of worst case, a 20 plane is illustrated down from the 15 foot capping depth on each cross-section. Those illustrations indicate that under a worst case situation the zone of saturation remains below the setback plane and will not daylight onto slope faces. Therefore, it is this office's opinion that effluent will not adversely affect slopes within and around the property.

Furthermore, the Environmental Health Department of the City of Malibu has also given in concept approval for the proposed sewage disposal system. This conceptual approval by the City of Malibu indicates that the sewage disposal system for the project in this application comply with all minimum requirements of the Uniform Plumbing Code.

The Commission has found in past permit actions that conformance with the provisions of the plumbing, health, and safety codes is protective of resources and serves to minimize any potential for wastewater discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states:

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

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

G. CEQA

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

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



SUBJECT SITE

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JUN 20 2000

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

SANTA MONICA BAY

O C E A

EXHIBIT 1
CDP 4-00-142 (Hosseini)
Location Map

Figure 1 Loc (U.S.G.S. 15' Quadrangle, Point Dume)

500 FT. RADIUS OWNERSHIP MAP

RECEIVED

JUN 20 2000

8 p.m.

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

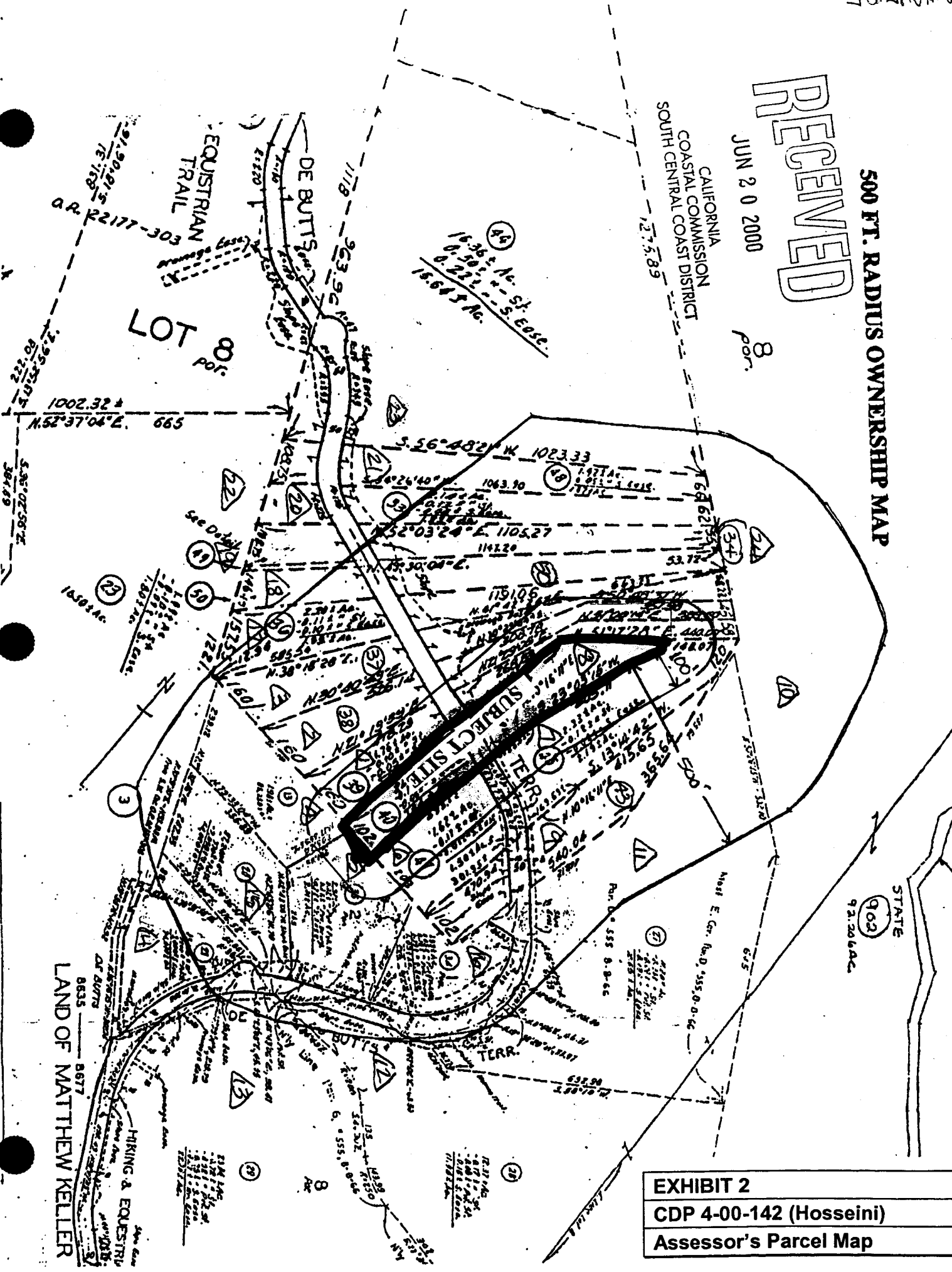
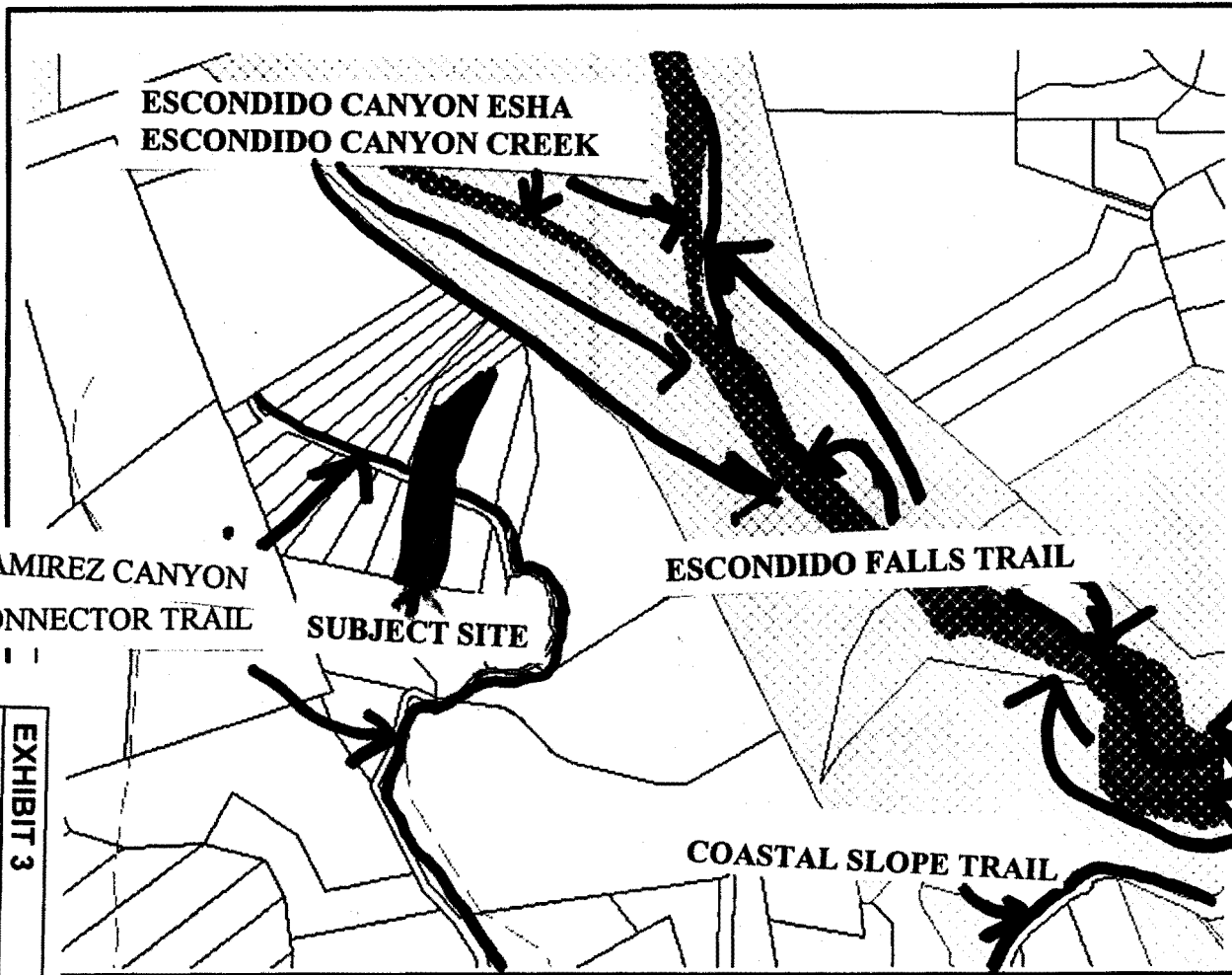


EXHIBIT 2
CDP 4-00-142 (Hosseini)
Assessor's Parcel Map

RESOURCE MAP

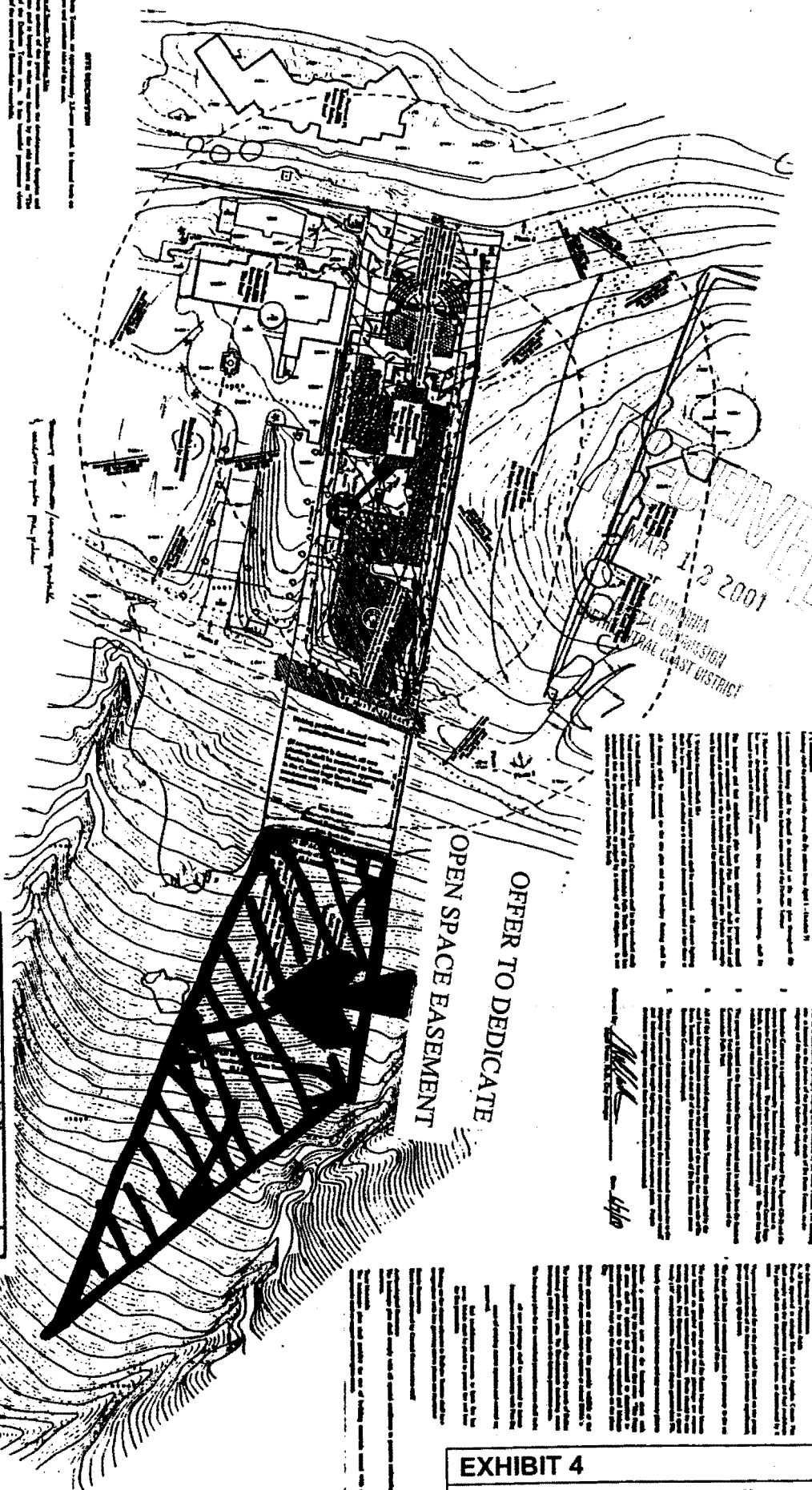


- trailotds
- StrmsCCC
- shore
- laprcls
- esha (ESHA)
 - Coldcreek management area
 - inland
 - locally disturbed resources
 - oak woodlands and savannahs
 - significant watersheds residential
 - wildlife migration corridor

EXHIBIT 3
CDP 4-00-142 (Hosseini)
Resource Map

ESCONDIDO CANYON ESHA
ESCONDIDO CANYON CREEK

THE PROPOSED OPEN SPACE DEDICATION IS A KEY ELEMENT OF THE LANDSCAPE AND FUEL MODIFICATION PLAN FOR THE 3000 CIVIC CENTER WAY PROJECT. THE DEDICATION WILL PROVIDE A SAFE AND OPEN SPACE FOR THE PROJECT AND WILL BE MAINTAINED AS SUCH. THE DEDICATION WILL BE MAINTAINED AS SUCH AND WILL BE MAINTAINED AS SUCH.

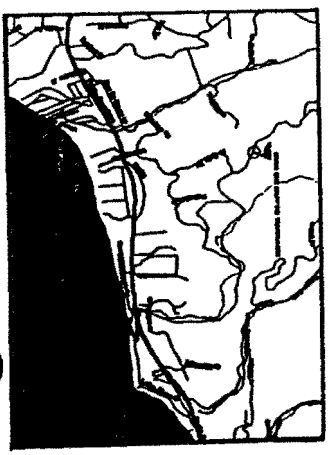


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 MAR 13 2001
 CIVIL DIVISION
 CENTRAL DISTRICT

3000 DE BUYS TERRACE
 MALIBU, CA
 LANDSCAPE
 &
 FUEL MODIFICATION PLAN

DESIGNED BY
 GEO SAFETY, INC.
 1441 LINDSEY LANE
 PUEBLO, CALIFORNIA 92121
 PH: (714) 994-4441 FAX: (714) 994-1177

DESIGNED BY
 DION BARTON, P.E.
 WILSON RESOURCES SYSTEMS
 4433-2000

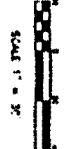


VICINITY MAP

EXHIBIT 4
 CDP 4-00-142 (Hosseini)
 Open Space Dedication

DATE DRAWN BY CHECKED BY DATE	REVISIONS	DATE BY	Jonathan Stout 3000 CIVIC CENTER WAY THIRD FLOOR MALIBU CALIFORNIA 90260 (310) 436-2000 FAX (310) 436-2007	D.A. 3000 DE BUYS TERRACE MALIBU CA 90260
--	-----------	---------	---	---

11/11/2004
 The following information is provided for your information and is not intended to be used as a substitute for the professional services of a landscape architect. The information is provided for your information only and is not intended to be used as a substitute for the professional services of a landscape architect. The information is provided for your information only and is not intended to be used as a substitute for the professional services of a landscape architect.



LANDSCAPE & FUEL MODIFICATION PLAN

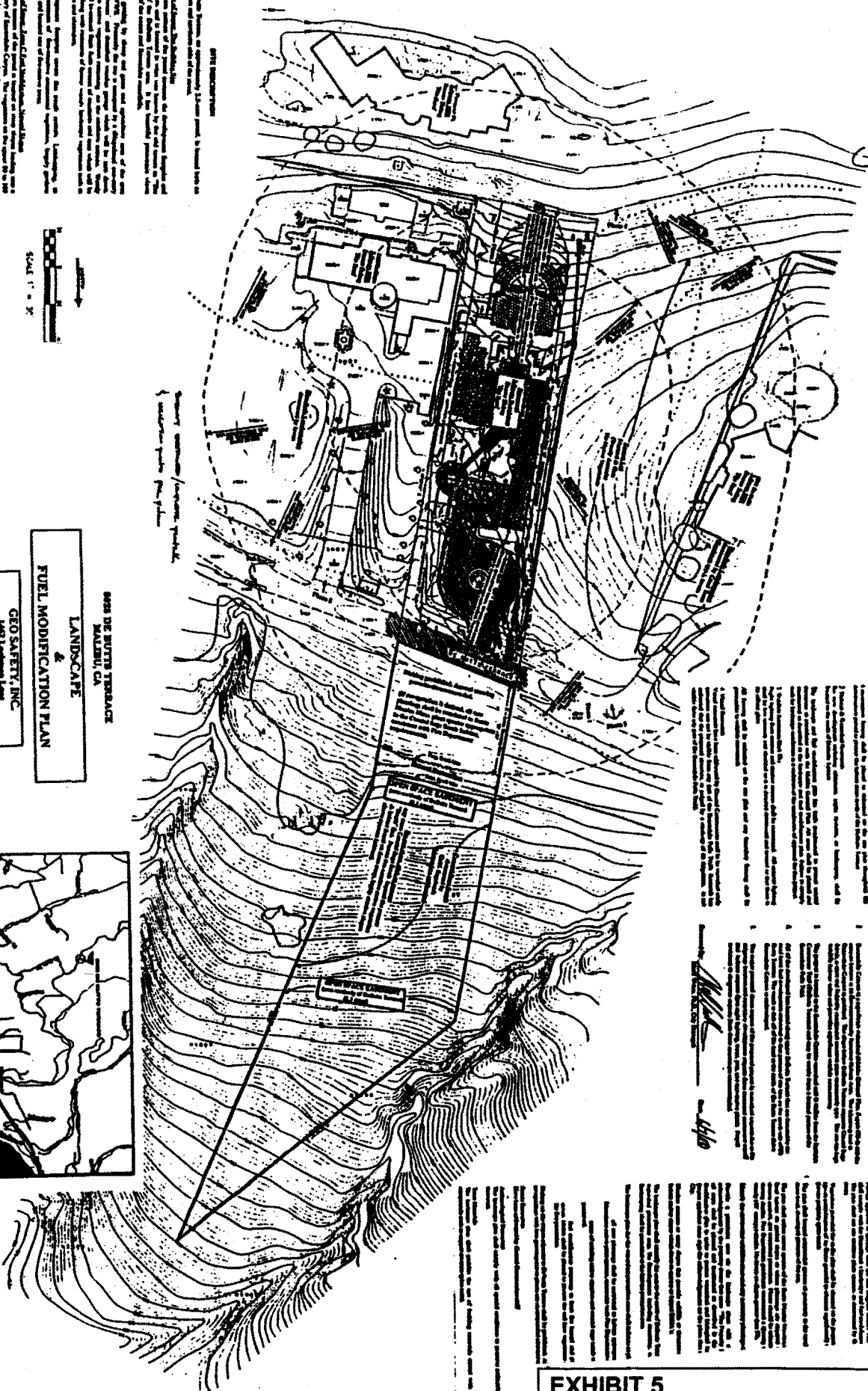
**8008 DE BUTTE TERRACE
 MALIBU, CA**

GEO SAFETY, INC.
 1442 Linderoth Lane
 Pacific Palisades, CA 90272
 Tel: (310) 499-4443 FAX: 499-4447

Prepared by:
 William R. Gaudin, P.E.
 William R. Gaudin, P.E.
 WAG-2004



VICINITY MAP



The following information is provided for your information and is not intended to be used as a substitute for the professional services of a landscape architect. The information is provided for your information only and is not intended to be used as a substitute for the professional services of a landscape architect.

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EXHIBIT 5
CDP 4-00-142 (Hosseini)
Fuel Modification Plan

DATE	BY

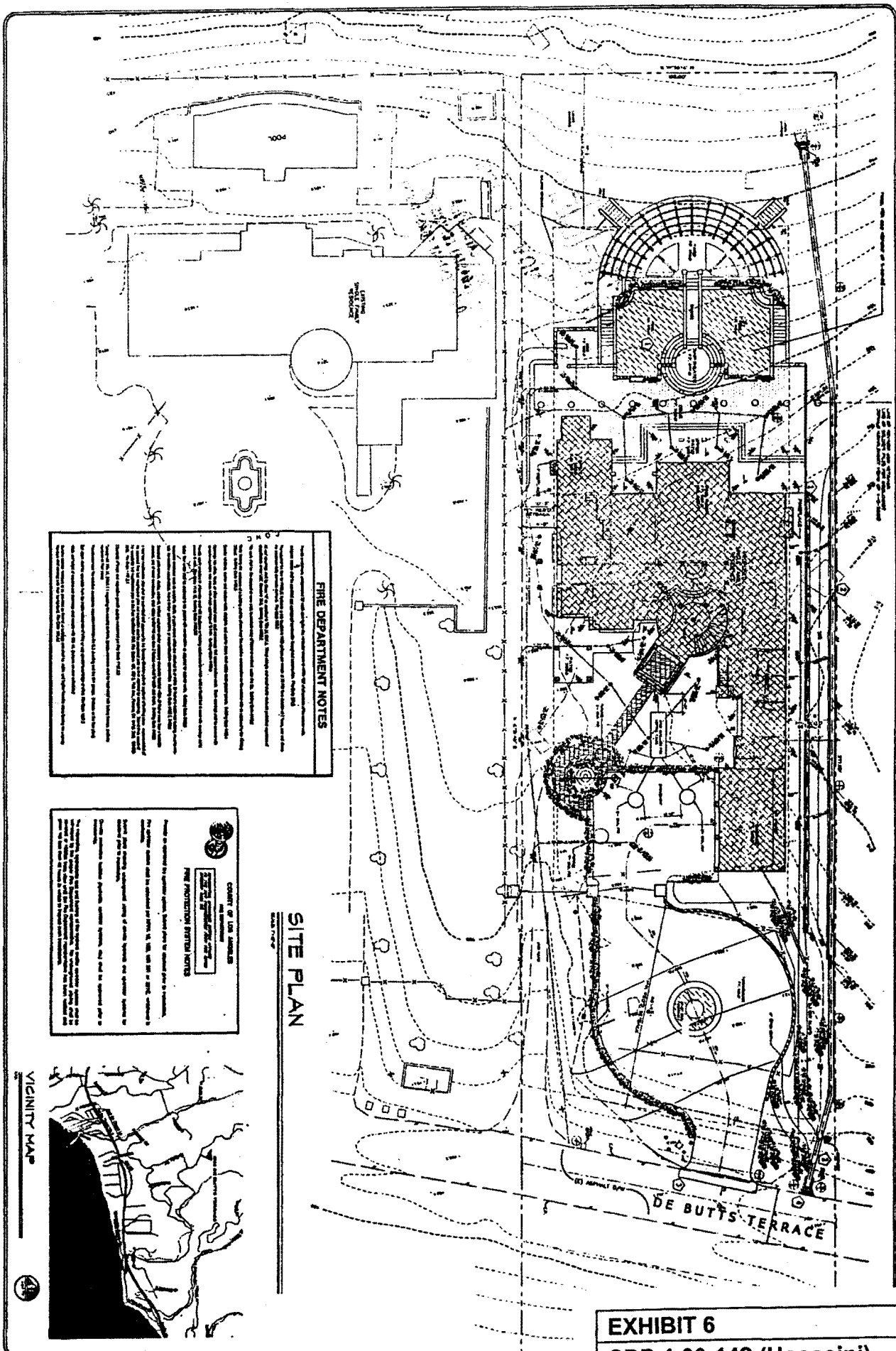


NO.	DATE	DESCRIPTION

Jonathan Stout
 2340 CIVIC CENTER WAY
 THIRD FLOOR
 MALIBU, CALIFORNIA 90262
 (310) 456-3000 FAX (310) 456-3000

D

MALIBU, CA 90262



FIRE DEPARTMENT NOTES

1. Fire Department has reviewed the site plan and has approved the fire department access and fire hydrant locations. The fire hydrant is located at the intersection of De Butts Terrace and the site boundary. The fire department access is located at the intersection of De Butts Terrace and the site boundary. The fire department access is located at the intersection of De Butts Terrace and the site boundary.

2. Fire Department has reviewed the site plan and has approved the fire department access and fire hydrant locations. The fire hydrant is located at the intersection of De Butts Terrace and the site boundary. The fire department access is located at the intersection of De Butts Terrace and the site boundary. The fire department access is located at the intersection of De Butts Terrace and the site boundary.

COUNTY OF LOS ANGELES
PLANNING AND BUILDING DEPARTMENT
FIRE DEPARTMENT NOTES

1. Fire Department has reviewed the site plan and has approved the fire department access and fire hydrant locations. The fire hydrant is located at the intersection of De Butts Terrace and the site boundary. The fire department access is located at the intersection of De Butts Terrace and the site boundary. The fire department access is located at the intersection of De Butts Terrace and the site boundary.

SITE PLAN

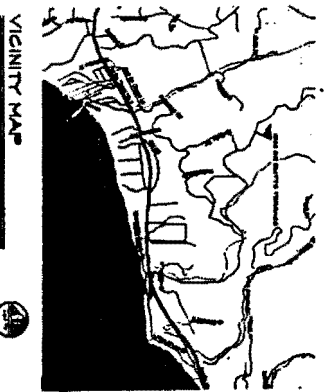
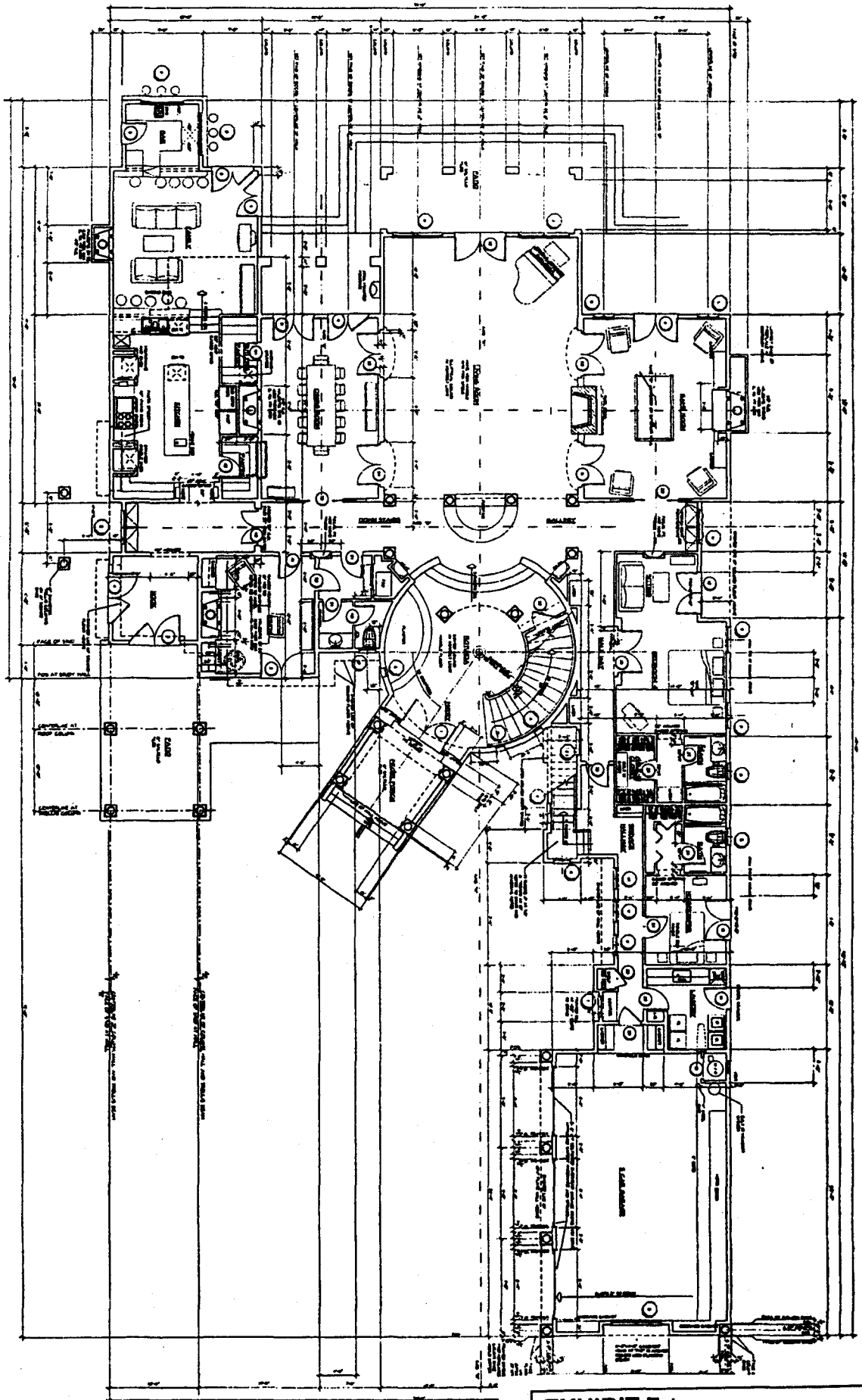


EXHIBIT 6
CDP 4-00-142 (Hosseini)
Site Plan

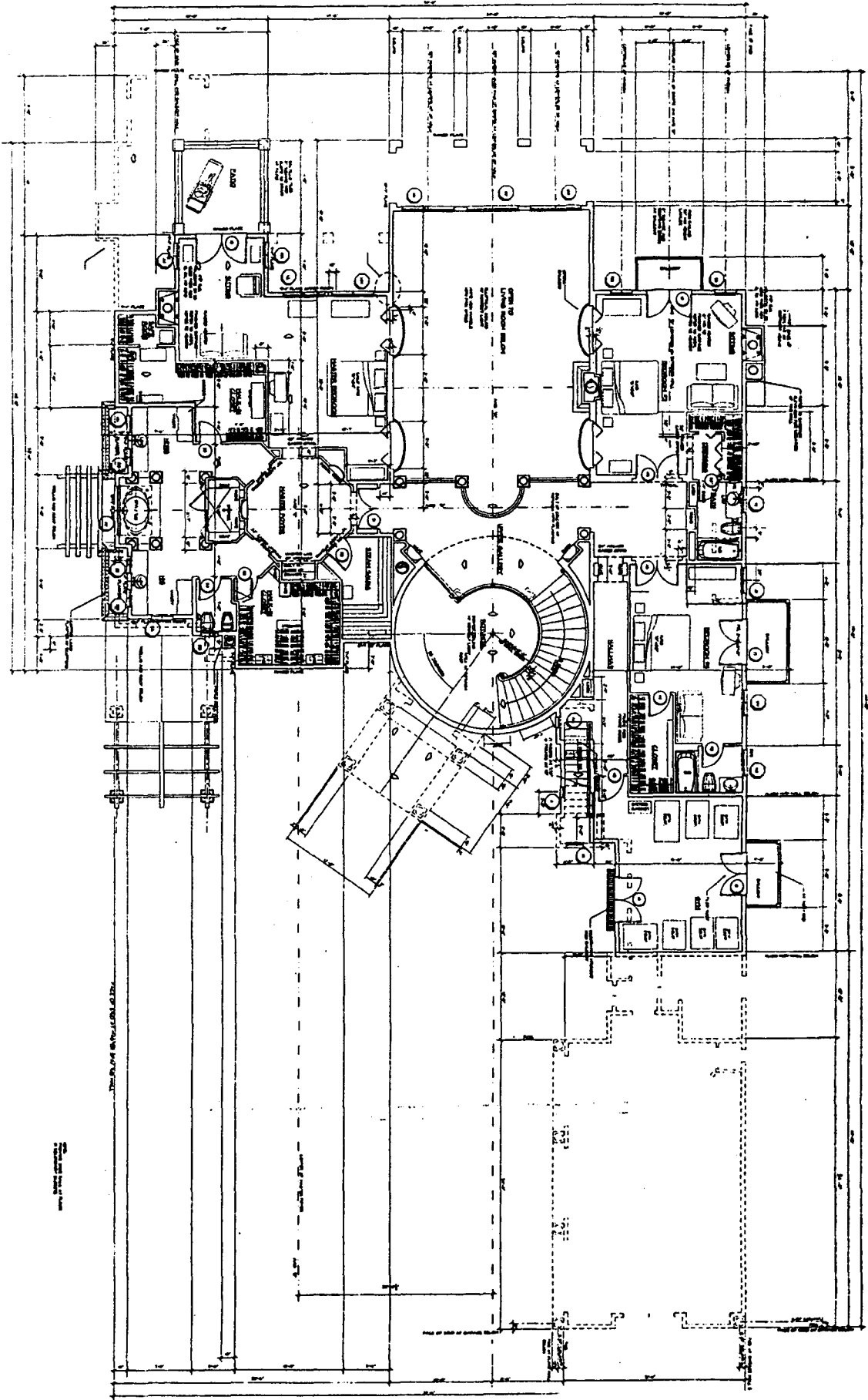
	DATE	BY	Jonathan Stout AIA ARCHITECT 13000 CIVIC CENTER WAY THIRD FLOOR MALIBU, CALIFORNIA 90265 (310) 456-2000 FAX (310) 456-2001
	REVISIONS	DATE	
	SHEET NO. 10 OF 10 SHEETS PROJECT NO. 10		DRAWN BY CHECKED BY DATE



FIRST FLOOR PLAN

EXHIBIT 7
CDP 4-00-142 (Hosseini)
First Floor Plan

DATE DRAWN BY CHECKED BY STREET NO. OF SHEETS	PROJECT NO. 1000000000	REVISIONS 1 2 3 4 5	DATE BY 10/10/00 JS	Jonathan Stout AIA 1240 CIVIC CENTER WAY THIRD FLOOR HAWAII, CALIFORNIA 90202 (310) 436-2000 FAX (310) 436-2000	L 2000
	SCALE 1/8" = 1'-0"				



SECOND FLOOR PLAN

EXHIBIT 8
CDP 4-00-142 (Hosseini)
Second Floor Plan

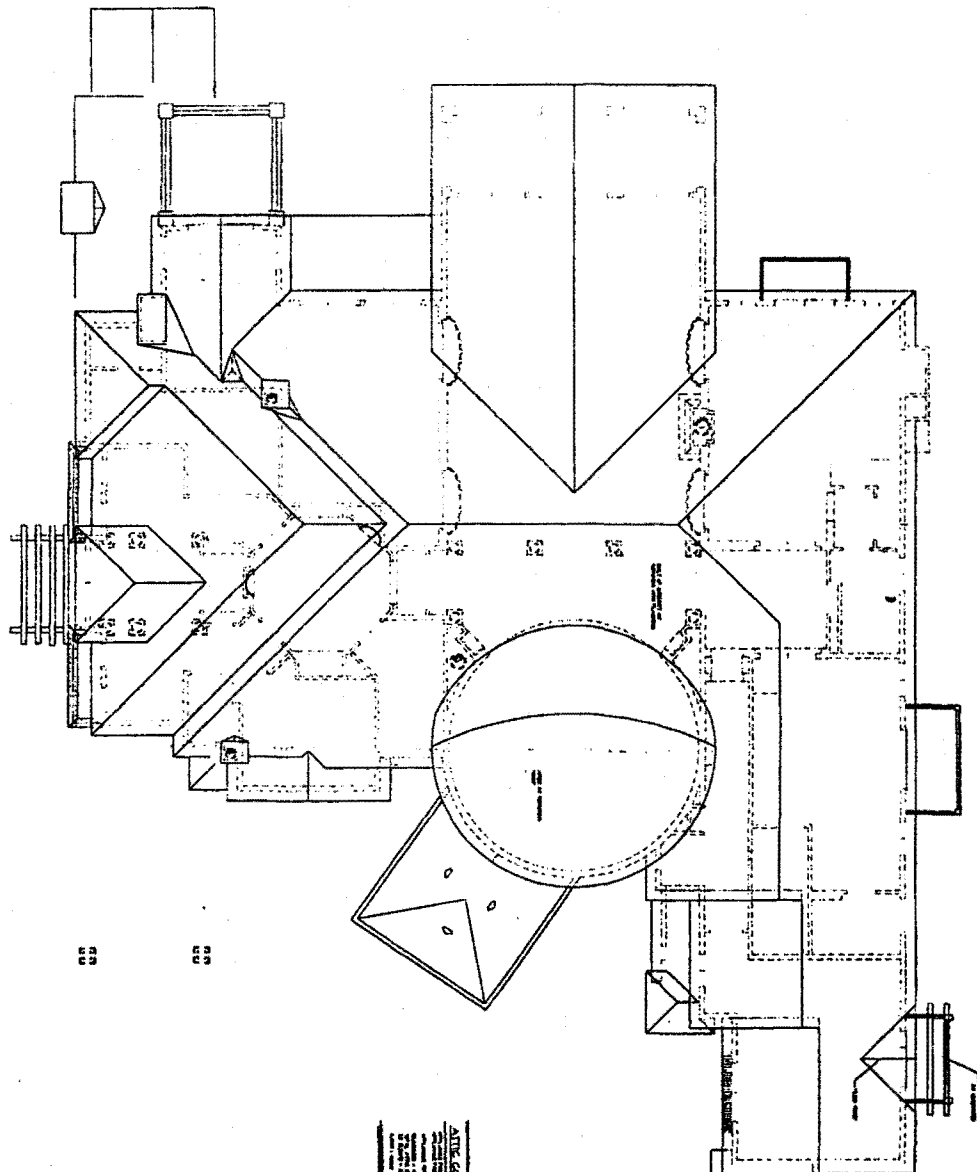
DATE	BY
DRAWN BY	
JOB NO.	
SHEET NO.	
OF SHEETS	



NO.	REVISIONS	DATE BY

Jonathan Stout
AIA
 2348 CIVIC CENTER WAY
 THIRD FLOOR
 PALM BEACH, CALIFORNIA 92061
 (714) 436-2800 FAX (714) 436-2800

As Prepared By
DAN
 3800 WEST AVE.
 CALABAS, CA



ROOF PLAN

AIRC. COMBUSTION AIR
 1. AIR CURTAIN SHALL BE PROVIDED AT ALL OPENINGS TO PREVENT AIR FROM ENTERING THE BUILDING.
 2. AIR CURTAIN SHALL BE PROVIDED AT ALL OPENINGS TO PREVENT AIR FROM ENTERING THE BUILDING.
 3. AIR CURTAIN SHALL BE PROVIDED AT ALL OPENINGS TO PREVENT AIR FROM ENTERING THE BUILDING.

AIRC. VENTILATION CALCULATIONS
 1. AIR CURTAIN SHALL BE PROVIDED AT ALL OPENINGS TO PREVENT AIR FROM ENTERING THE BUILDING.
 2. AIR CURTAIN SHALL BE PROVIDED AT ALL OPENINGS TO PREVENT AIR FROM ENTERING THE BUILDING.
 3. AIR CURTAIN SHALL BE PROVIDED AT ALL OPENINGS TO PREVENT AIR FROM ENTERING THE BUILDING.

GENERAL NOTES
 1. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.
 2. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.
 3. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.

ROOF PLAN LEGEND	
---	ROOF FINISH
---	ROOF FINISH
---	ROOF FINISH
---	ROOF FINISH
---	ROOF FINISH
---	ROOF FINISH
---	ROOF FINISH
---	ROOF FINISH
---	ROOF FINISH
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NOTES
 1. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.
 2. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.
 3. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.
 4. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.
 5. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.
 6. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.
 7. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.
 8. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.
 9. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.
 10. THE ROOF SHALL BE PROVIDED WITH A MINIMUM 2% SLOPE TO THE GUTTERS.

EXHIBIT 9
CDP 4-00-142 (Hosseini)
Roof Plan

DATE: _____
 DRAWN BY: _____
 CHECKED BY: _____
 SCALE: _____
 SHEET NO. _____
 OF _____

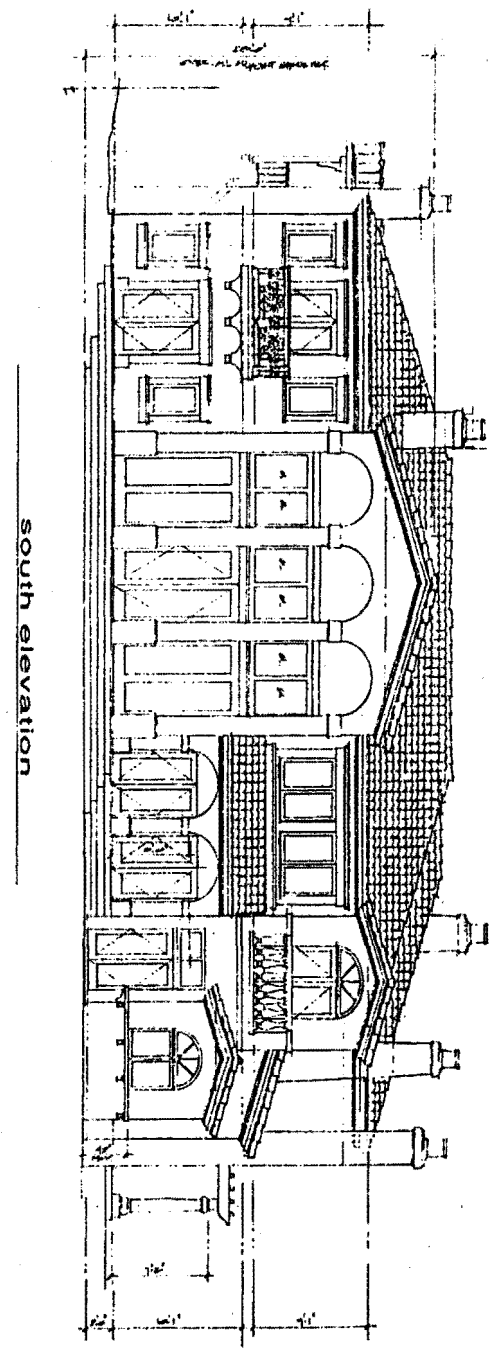
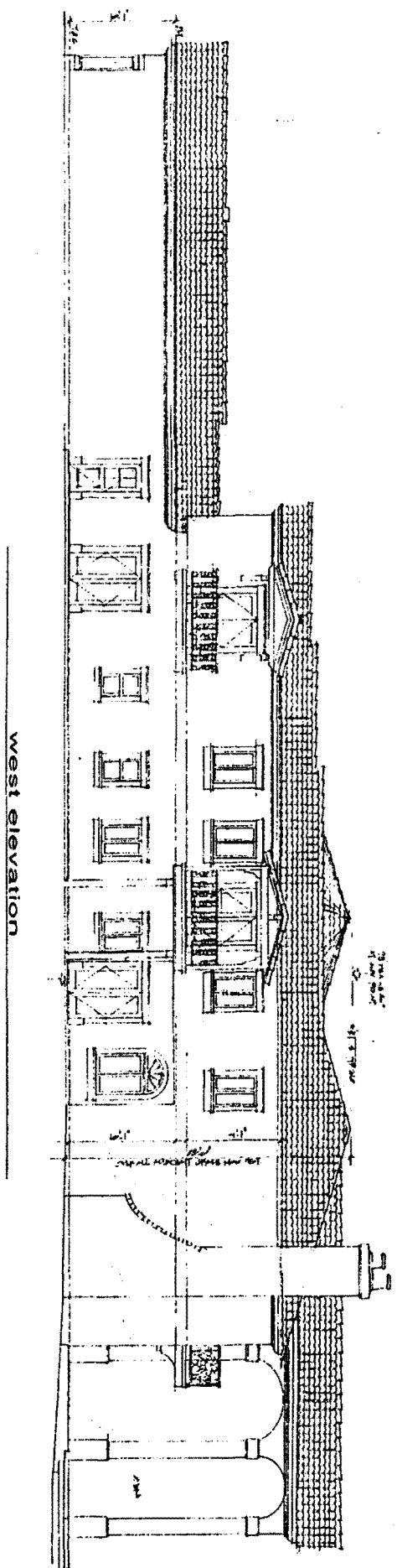


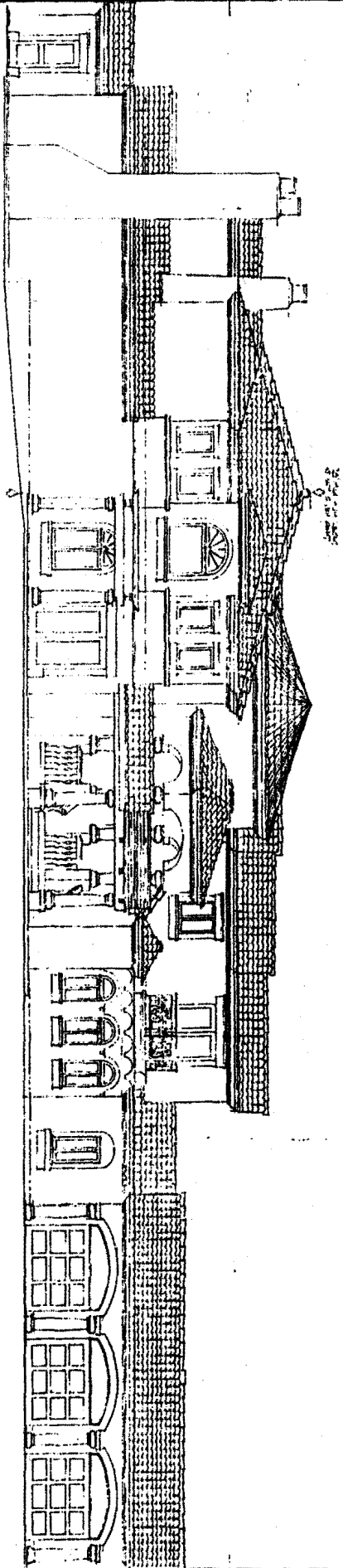
EXHIBIT 10
CDP 4-00-142 (Hosseini)
South and West Elevations

NO.	REVISIONS	DATE BY

SCALE

Architect
JONATHAN STOUT
 23440 CIVIC CENTER WAY
 THIRD FLOOR
 MALIBU, CALIFORNIA 90268
 (310) 450-2484 AIA FAX (310) 450-1822

east elevation



front of north elevation

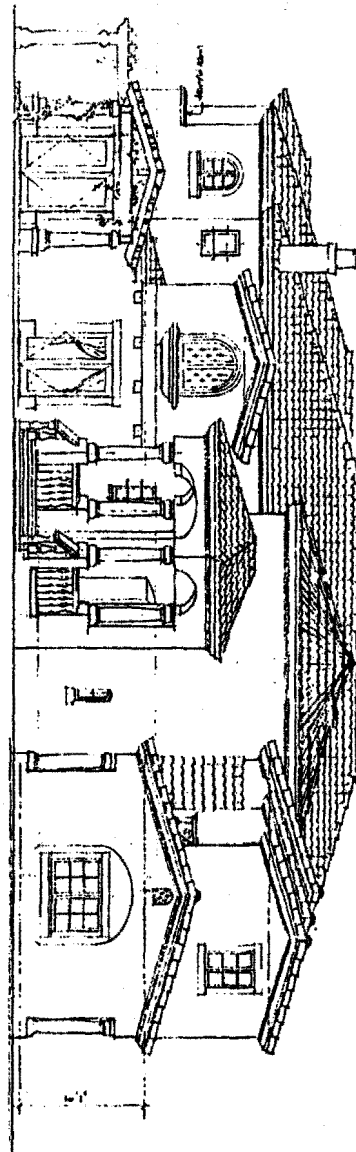


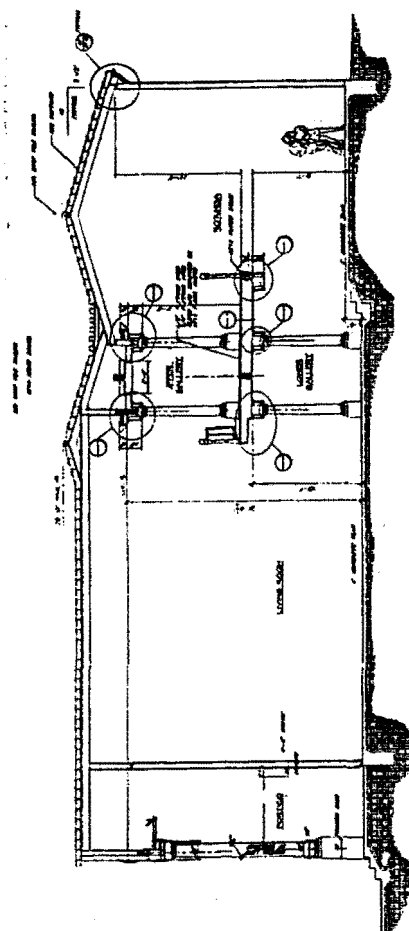
EXHIBIT 11
CDP 4-00-142 (Hosseini)
North and East Elevations

Architect
JONATHAN STOUT
 23440 CIVIC CENTER WAY
 THIRD FLOOR
 MALIBU, CALIFORNIA 90265
 (310) 550-2000 FAX (310) 550-2053

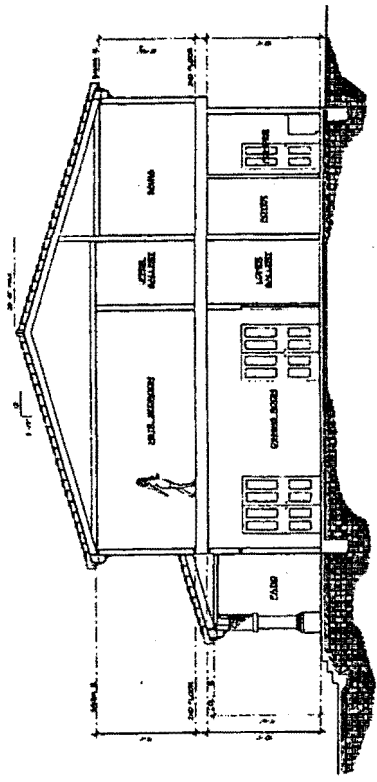
REVISIONS DATE BY

SCALE

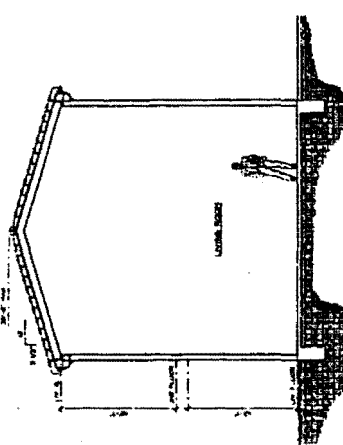
DATE
 DRAWN BY
 CHECKED BY
 PROJECT NO.
 SHEET NO.



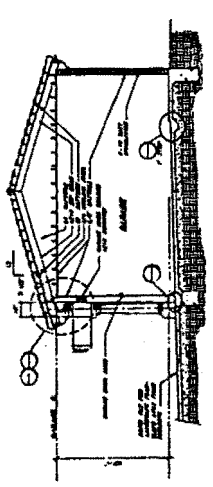
BUILDING SECTION A



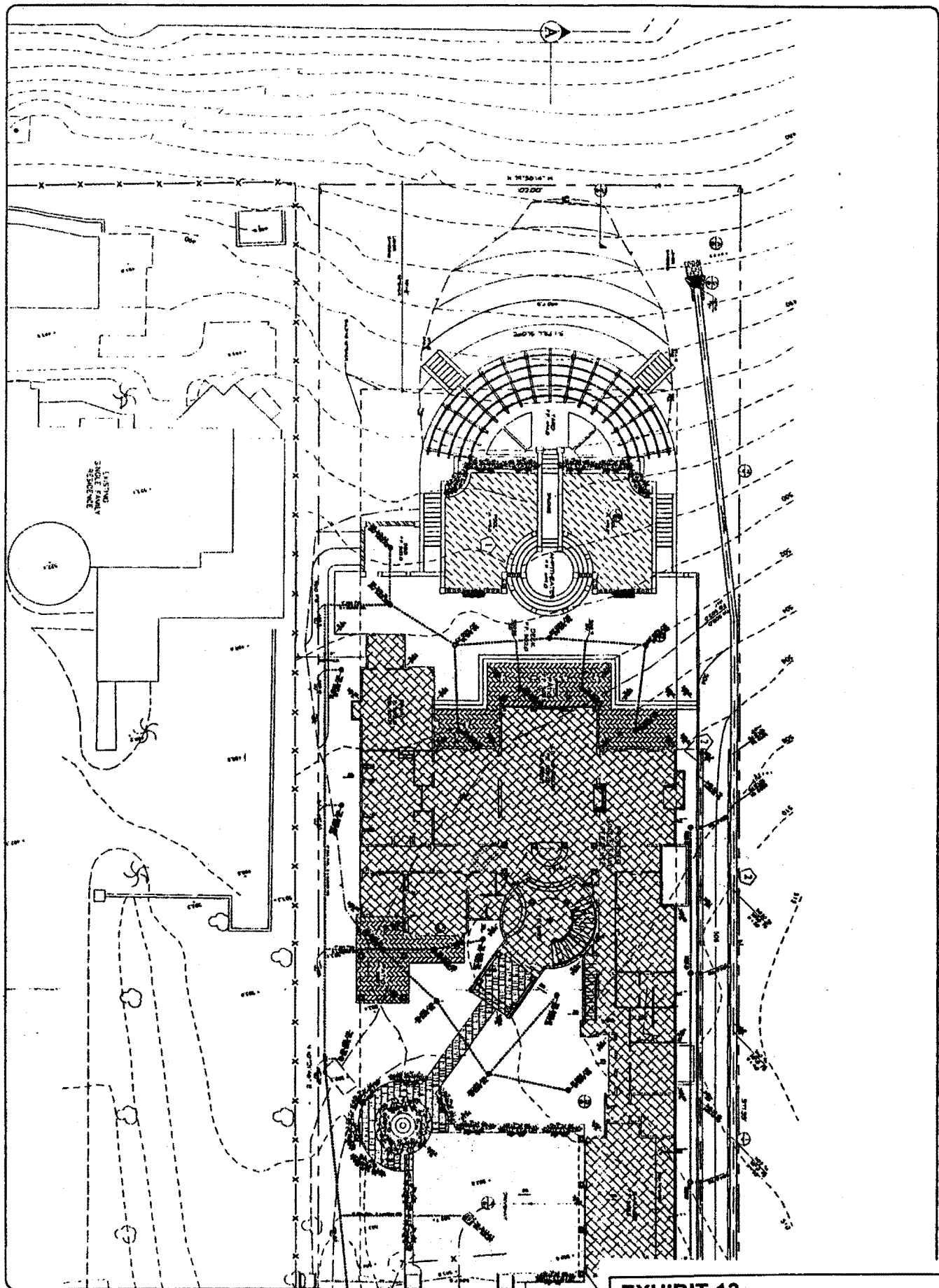
BUILDING SECTION B



BUILDING SECTION C



BUILDING SECTION D



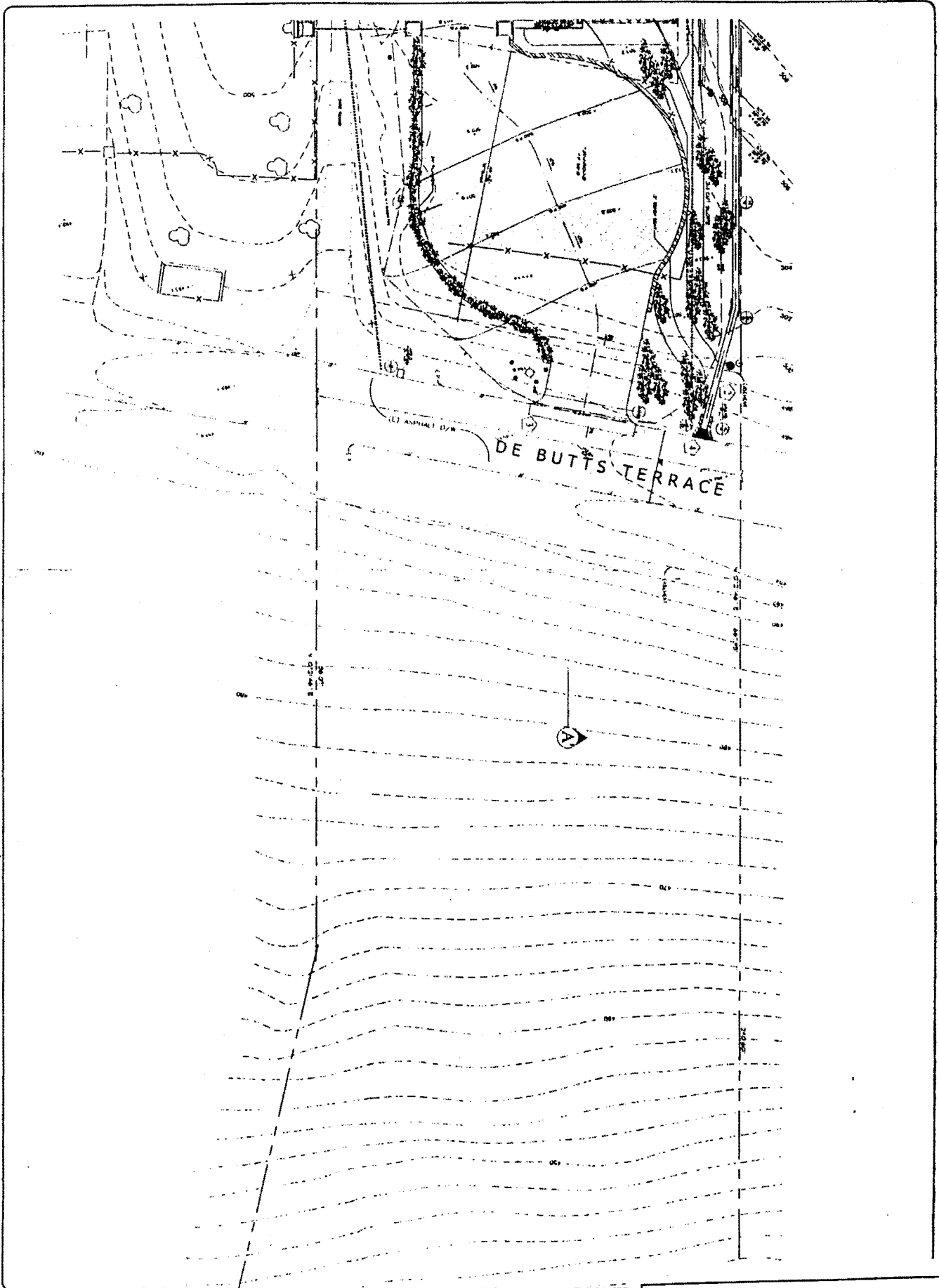
OF 10 SHEETS
3
SHEET NO.

JOB NO. 99-117
SCALE: 1" = 10'
DATE: MARCH 2000

GRADING & DRAINAGE PLAN
POR. OF LOT 2 & 3, TRACT NO. 15858
5925 DE BUTTS TERRACE
MALIBU, CA 90265

PREPARED BY
DAN F.
26500 WEST AGOUR
CALABASAS, CA 91301

EXHIBIT 13
CDP 4-00-142 (Hosseini)
Grading/Drainage Plan-Sheet 1



SHEET NO.
4
OF 10 SHEETS

JOB NO. 99-117
SCALE: 1" = 10'
DATE: MARCH 2000

GRADING & DRAINAGE PLAN
POR. OF LOT 2 & 3, TRACT NO. 15858
5925 DE BUTTS TERRACE
MALIBU, CA 90265

PREPARED FOR:
DAN HOSS
26500 WEST AGOURA RD., S
CALAHASAS, CA 91301

EXHIBIT 14
CDP 4-00-142 (Hosseini)
Grading/Drainage Plan-Sheet 2

