

CALIFORNIA COASTAL COMMISSION

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



W21a

A-4-MAL-20-0026 (Perrin)

August 12, 2020

EXHIBITS

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Exhibit 8 – Final Local Action Notice & City Resolution



Exhibit 1
Vicinity Map
Appeal No. A-4-MAL-20-0026



Project Location

Paseo Portola St

Pacific Coast Highway

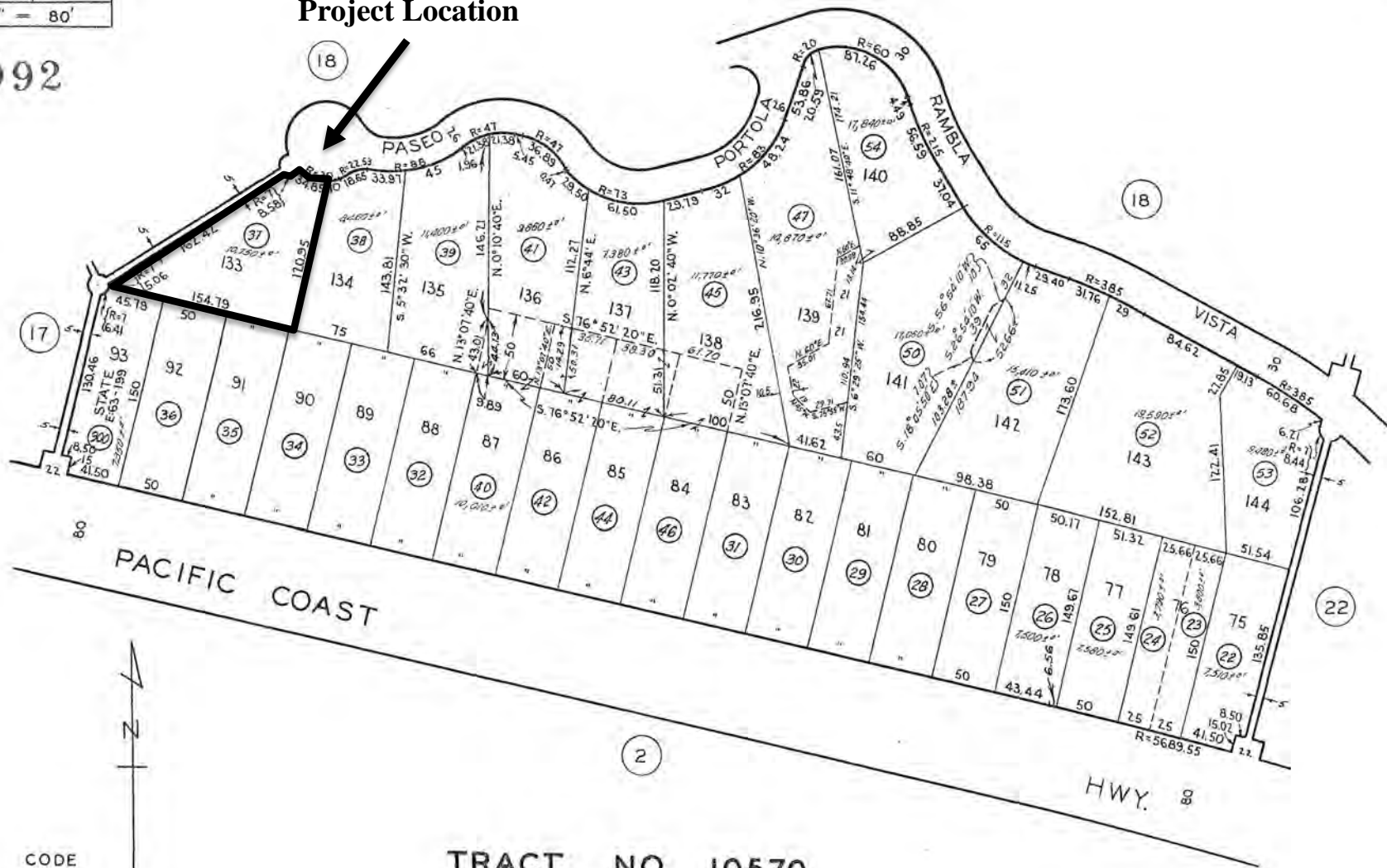
Exhibit 2
Aerial Photo
Appeal No. A-4-MAL-20-0026

© 2020 Google

4451 | 23
SCALE 1" = 80'

1992

Project Location



CODE
10865

TRACT NO 10570
M.B. 161-36-42

FOR PREV. ASSM'T. SEE:
4451-32

ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

Exhibit 3
Parcel Map
Appeal No. A-4-MAL-20-0026

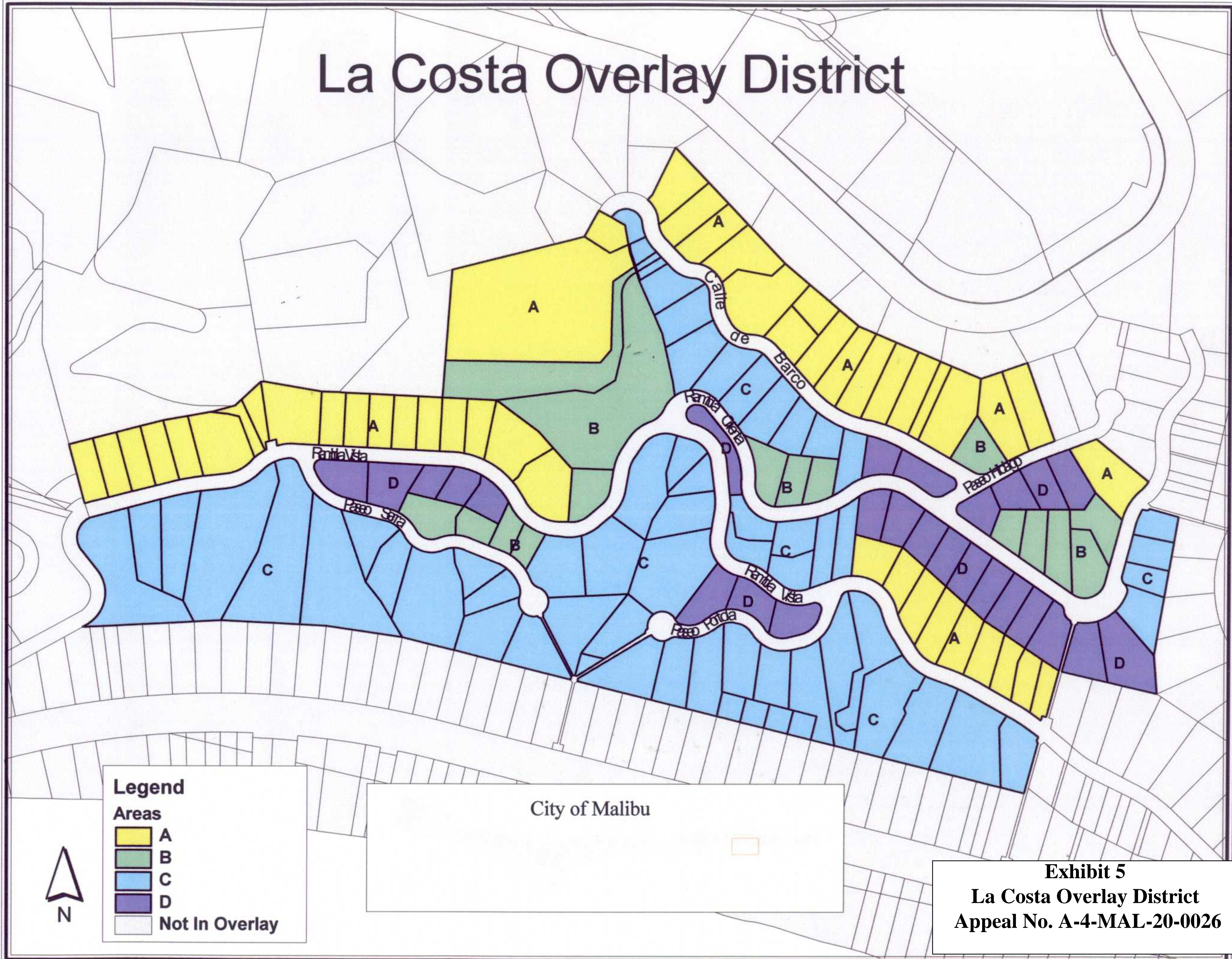


Vicinity of 21490 Paseo Portola, Malibu

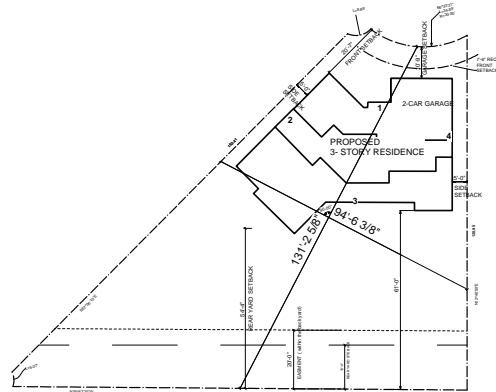
CCC Appeal Jurisdiction

Exhibit 4
CCC Appeals Jurisdiction
Appeal No. A-4-MAL-20-0026

La Costa Overlay District



PASEO PORTOLA



SITE PLAN
scale 1"=20'-0"

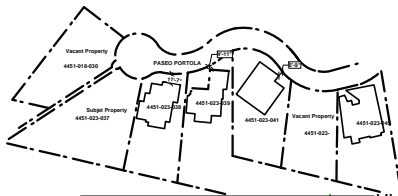
AVERAGE HEIGHT

- 1- 14.0'
- 2- 18.0'
- 3- 14.5'
- 4- 17.0'

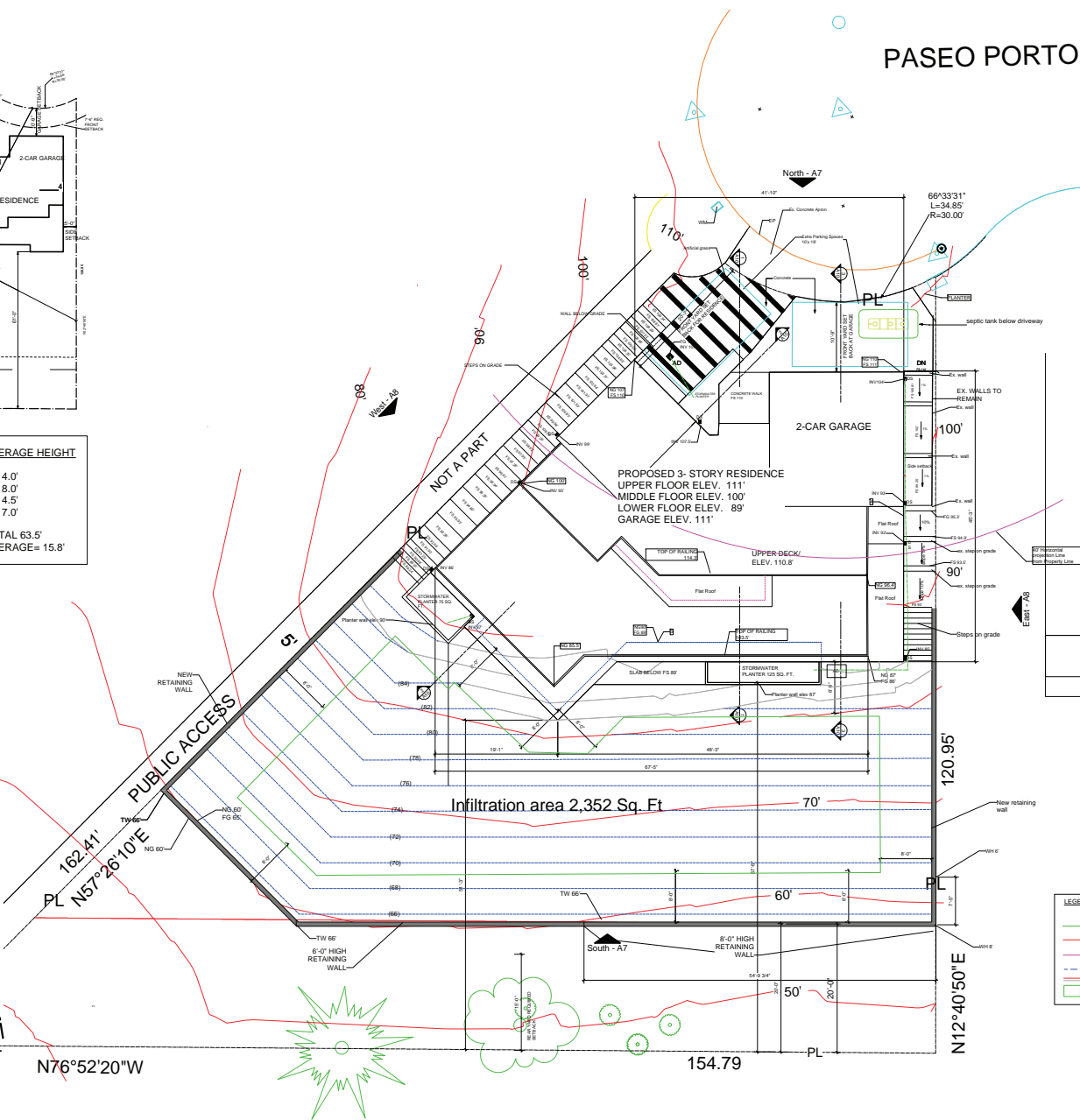
TOTAL 63.5'
AVERAGE= 15.8'

PROJECT SETBACKS (per la Costa 17.42.020- B- 3)		
PLACE	REQUIRED	PROPOSED
FRONT YARD	7'-6"	20'-7"
FRONT YARD GARAGE	7'-6"	10'-9"
SIDE YARD(b)	3'-6"	5'-0"
10 % of lot width for lots narrow than 50' measured at street. lot width at street 34.85'		
REAR YARD (c)	15'-0"	54'-4"

PREVAILING FRONT SETBACK CALCULATION



AVERAGE FRONT SETBACK OF CONTIGUOUS PROPERTIES:
11'-7" + 4'-11" + 6'-9" = 22'-8" / 3 = 7'-6"
Provided 10'-9" for Garage and 20'-7" for Residence



LEGEND	
—	Upper Floor
—	Middle Floor
—	Lower Floor
—	New Control Line
—	Existing Control
—	Infiltration System Area

Site Plan

Exhibit 6
Project Plans
Appeal No. A-4-MAL-20-0026

owner:
Richard Perrin
711 N Redwood Dr.
Lincoln, NE
818-344-7565

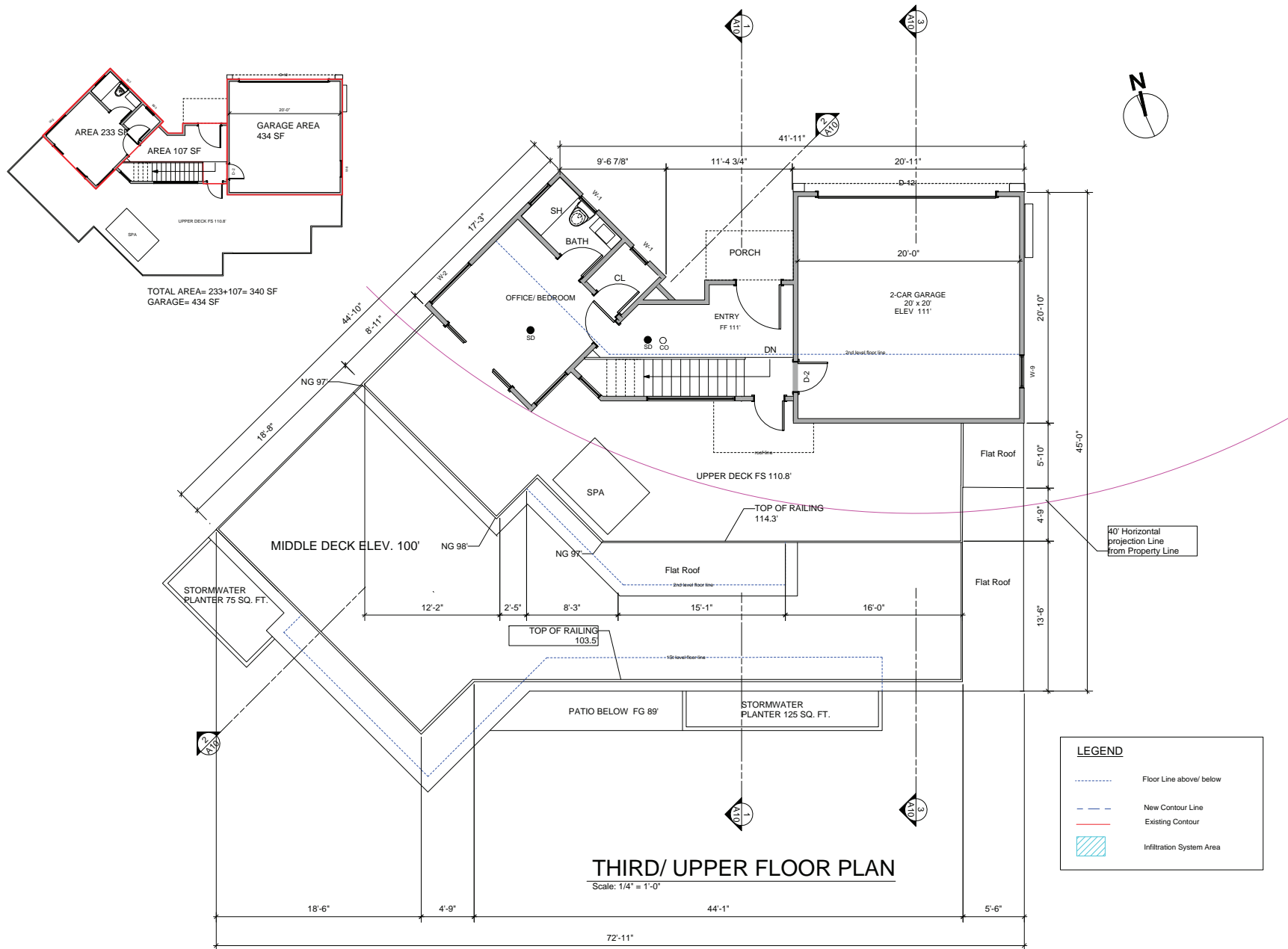


Project Name
Paseo Portola
Project ID
Revision
2-26-20
Drawn By
Checked By
Sealed By

Project Name
Aude-Mar Inc
18034 Ventura Blvd Ste 512
Encino CA 91316
PH # 818-344-7565

Project Name
21490 PASEO PORTOLA
2-story 4-bedrooms new Residence
with attached 2-car garage and basement
Project No.
Scale
Sheet No.
A-2
of

SITE PLAN



OWNER:

Richard Perrin

711 N Redwood Dr.

Lincoln, NE

818-344-7565

REGISTERED ARCHITECT

STATE OF CALIFORNIA

C 20518

Plan Date

02/07/2020

Client Name

Paseo Portfolio

Project ID

2-26-20

Revision

2-26-20

Date

2-26-20

Reviewed By

Checked By

Drawn By

Design Firm

Aude-Mar Inc

18034 Ventura Blvd Ste 512

Encino CA 91316

PH # 818-344-7565

Project Name

21490 PASEO PORTOLA

2-story -bedrooms new Residence

with attached 2-car garage and basement

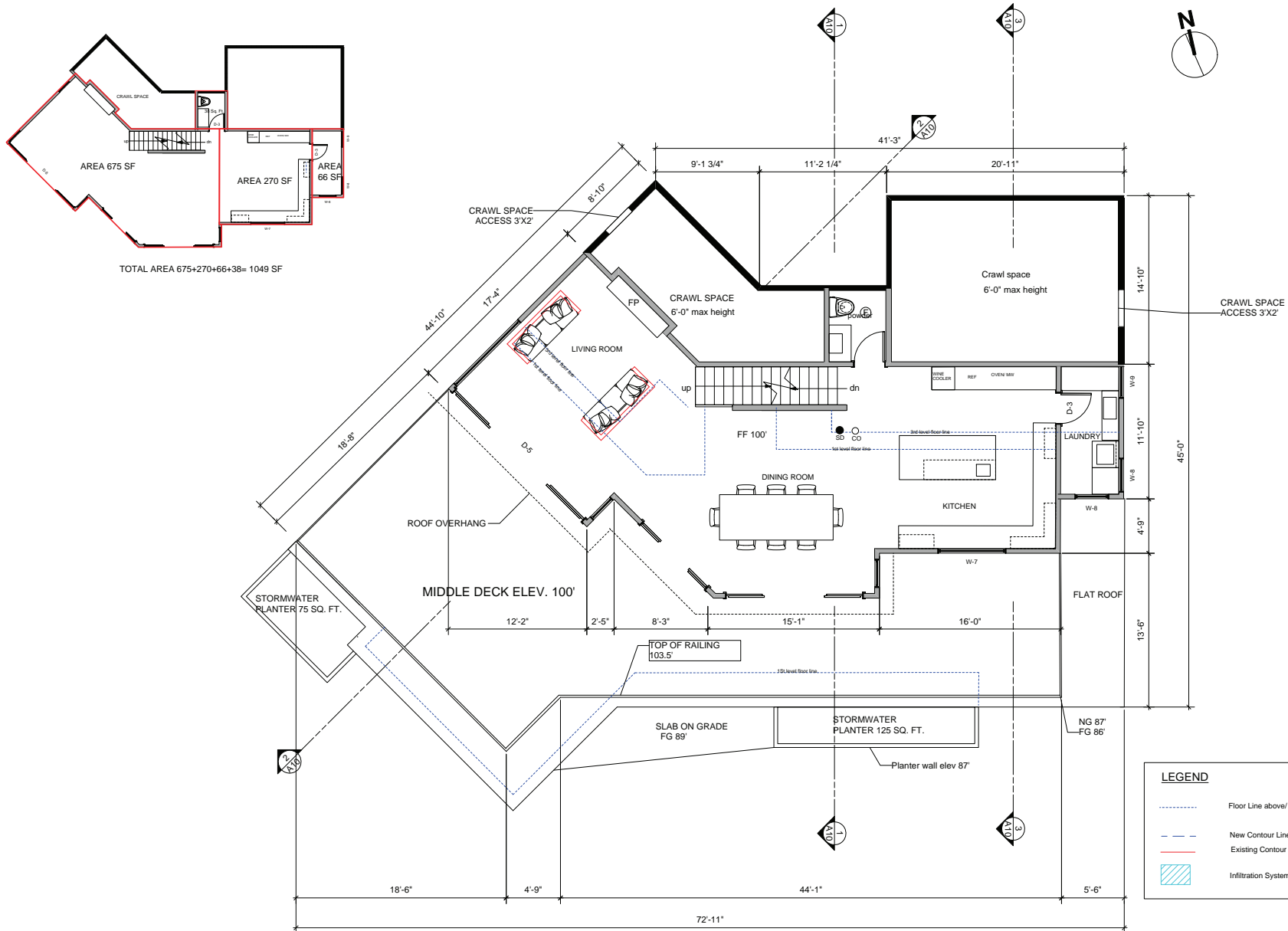
THIRD FLOOR PLAN

Sheet No.

A-3

of

51

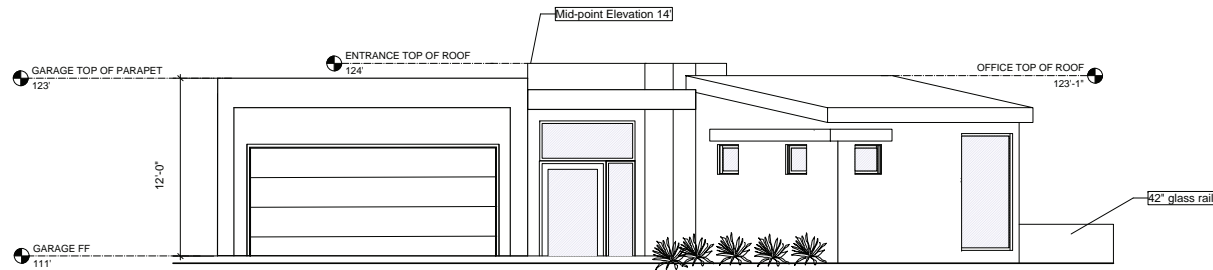


SECOND/ MIDDLE FLOOR PLAN

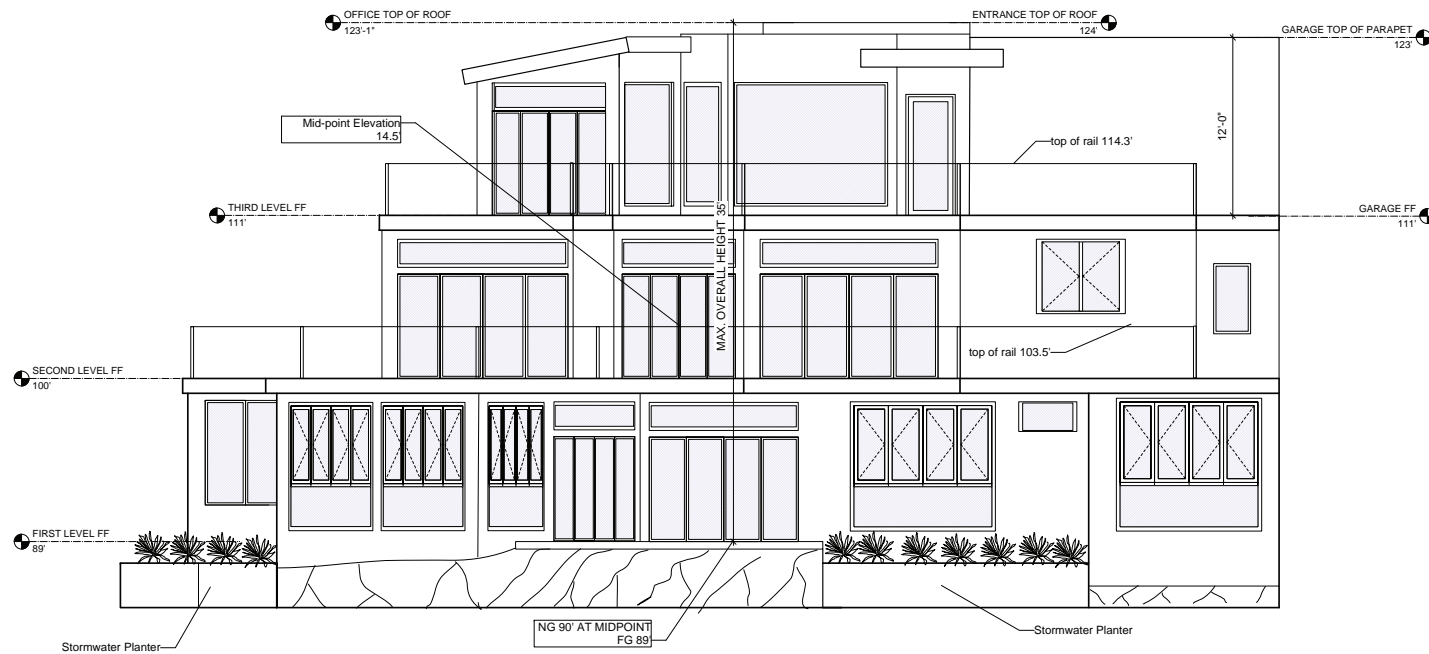
Scale: 1/4" = 1'-0"

OWNER: Richard Perrin 711 N Redwood Dr. Lincoln, NE 818-344-7565	
PROJECT: 21490 PASEO PORTOLA 2-story, 3-bedrooms new Residence with attached 2-car garage and basement	
DESIGNER: Aude-Mar Inc 18034 Ventura Blvd Ste 512 Encino CA 91316 PH # 818-344-7565	
SECOND FLOOR PLAN	
Sheet No. A-4 of 1	





NORTH ELEVATION
scale 1/4" = 1'-0"



SOUTH ELEVATION
scale 1/4" = 1'-0"

owner:
Richard Perrin
711 N Redwood Dr.
Lincoln, NE
818-344-7565



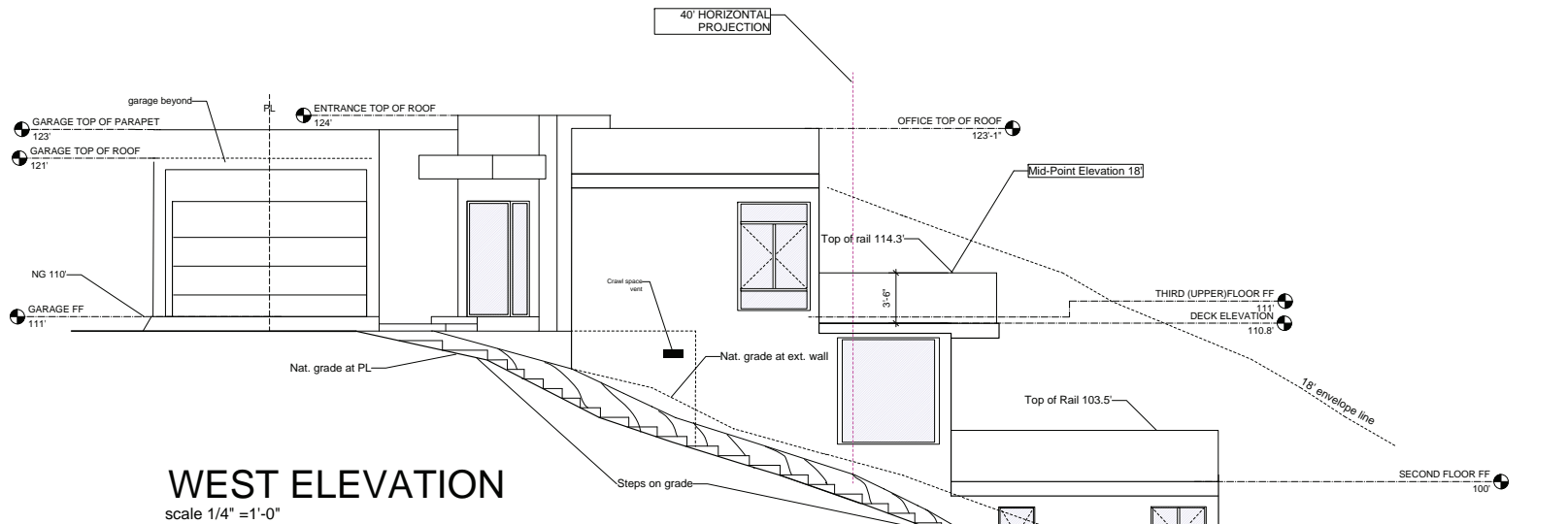
Plot Date	
Client/Name	
Project Portfolio	
Project ID	
Revision	
2-26-20	Draw
Revised By	
Checked By	
Drawn By	

Owner/Title
Aude-Mar Inc
18034 Ventura Blvd Ste 512
Encino CA 91316
PH # 818-344-7565

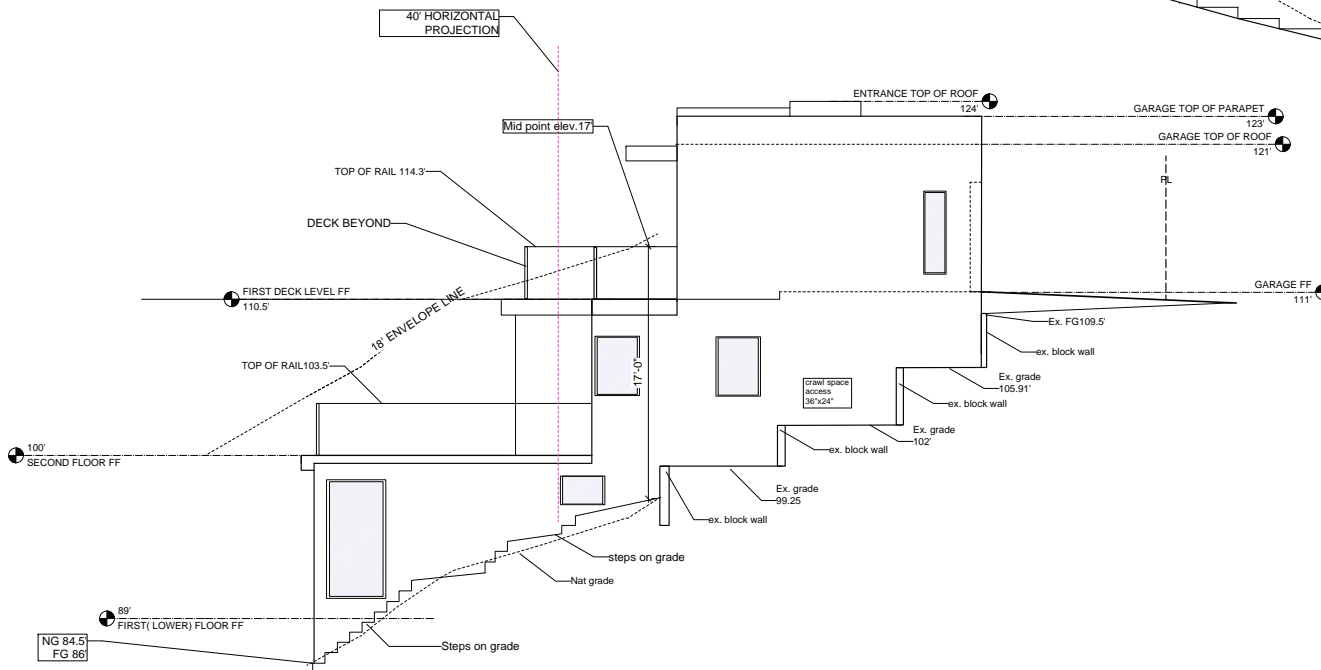
Project Title
71490 PASEO PORTOLA
2-story 3-bedrooms new Residence
with attached 2-car garage and basement

Elevations1

Sheet No.
A-7
of



WEST ELEVATION
scale 1/4" = 1'-0"



EAST ELEVATION
scale 1/4" = 1'-0"

OWNER:
Richard Perrin
711 N Redwood Dr.
Lincoln, NE
818-344-7565

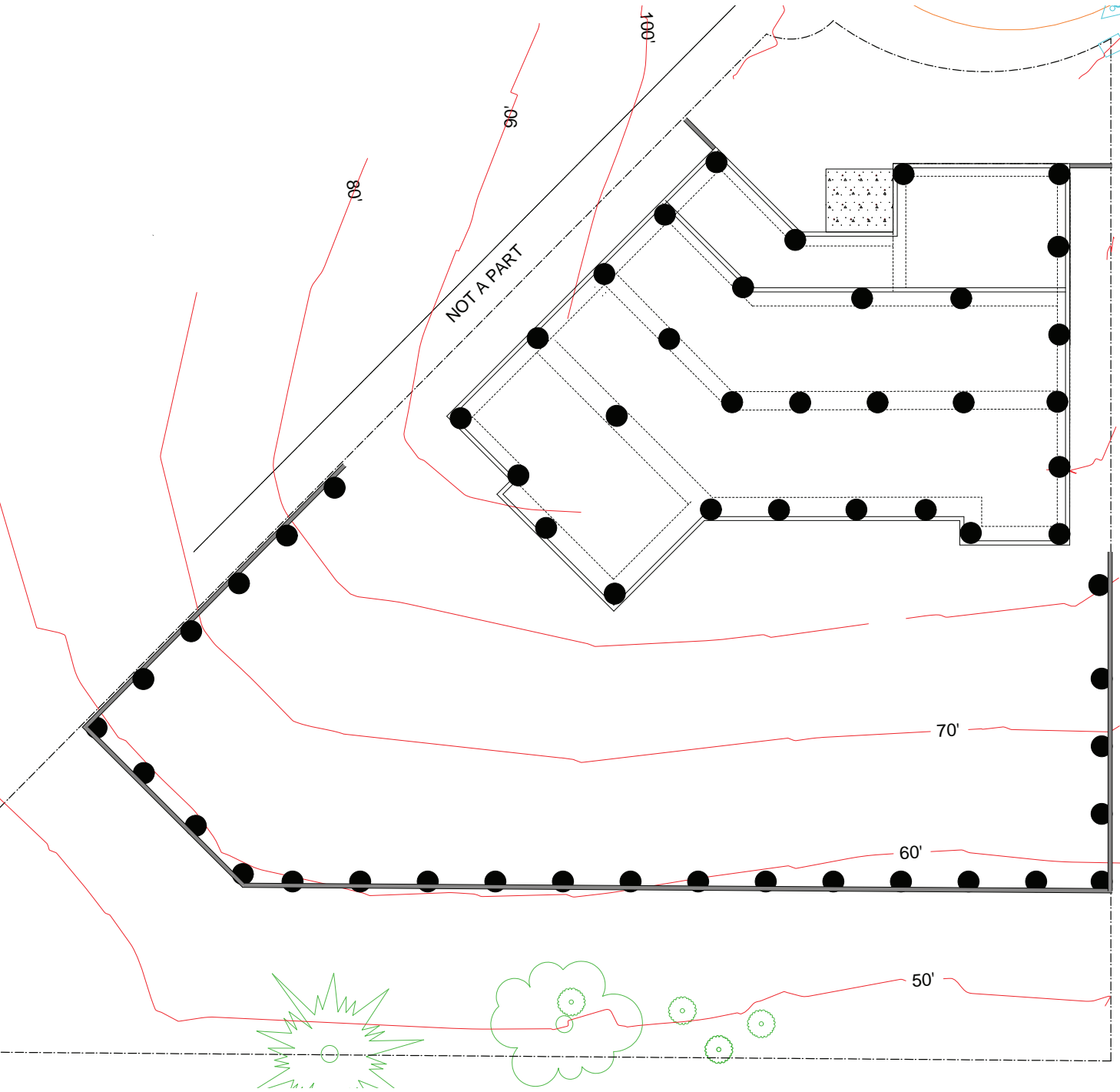


Plot Date
Cadd/Name
Paseo Portola
Project ID
Revision
2-26-20
Date
Reviewed By
Checked By
Drawn By

Owner/Arch
Aude-Mar Inc
18034 Ventura Blvd Ste 512
Encino CA 91316
PH # 818-344-7565

Project Name
71490 PASEO PORTOLA
2-story 3-bedrooms new Residence
with attached 2-car garage and basement
Elevations-2

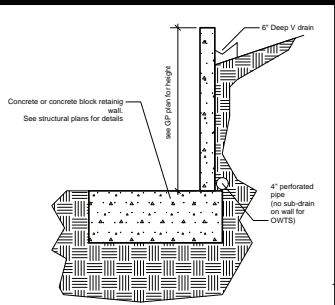
Sheet No.
A-8
of



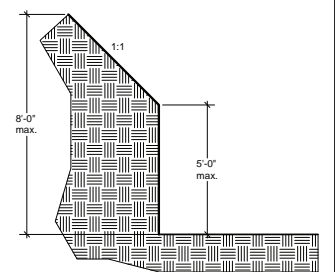
LEGEND	
	GRADE BEAMS
	RETAINING WALL
	30" CONCRETE CAISSON
	CONCRETE SLAB

PRELIMINARY FOUNDATION PLAN
 Scale: 1/4" = 1'-0"

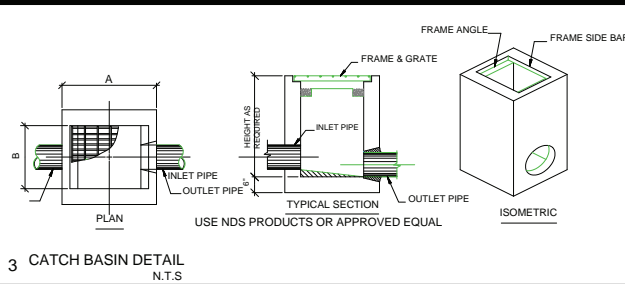
owner: Richard Perrin 711 N Redwood Dr. Lincoln, NE 818-344-7565	
Date: 2-26-20	Project ID: 21480 PASEO PORTOLA
Revision: 2-26-20	Checked By: Drawn By:
Design Firm: Aude-Mar Inc 18034 Ventura Blvd Ste 512 Encino CA 91316 PH # 818-344-7565	
21480 PASEO PORTOLA 2-story 3-bedrooms new Residence with attached 2-car garage and basement	Preliminary Foundation Plan FP of



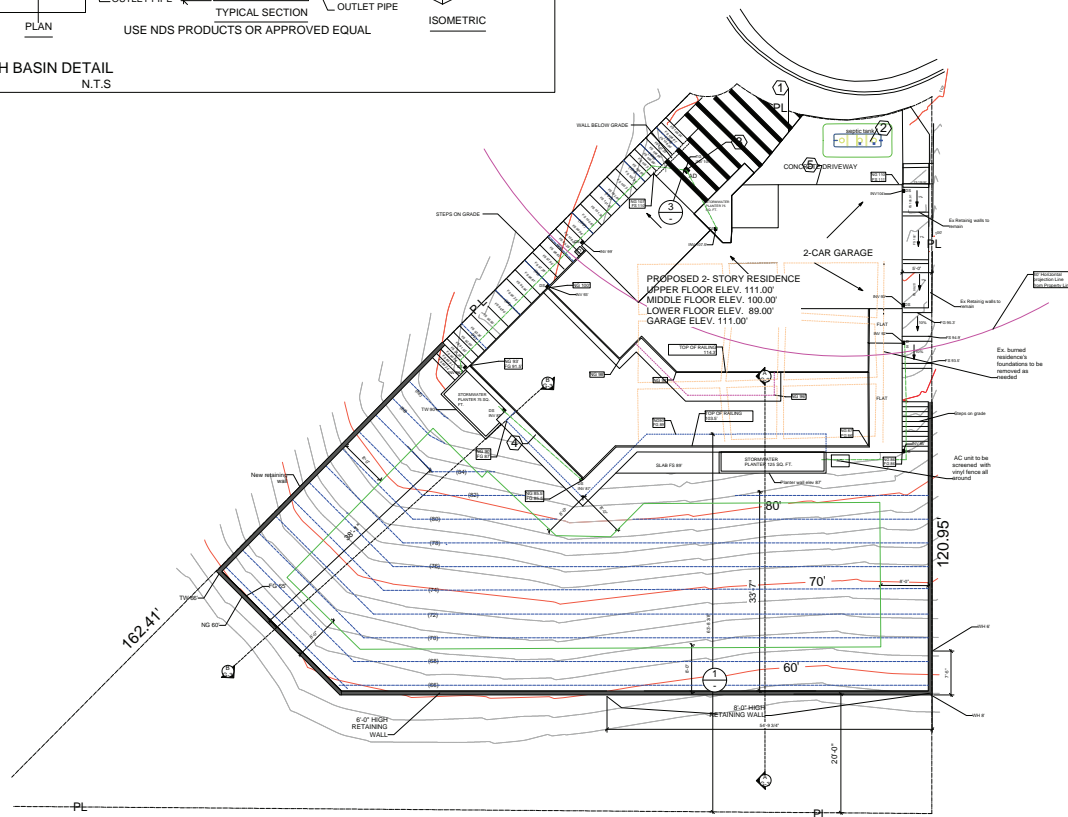
1- Retaining wall Detail
NTS



2 Temporary excavation detail
NTS



3 CATCH BASIN DETAIL
N.T.S



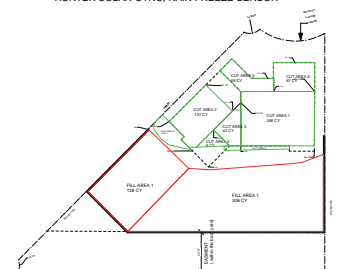
GRADING AND DRAINAGE PLAN
Scale 1"=10'-0"

LEGEND

GRADED SLOPE	
EXISTING CONTOUR	
PROPOSED CONTOUR	
PROPOSED ELEVATION	
EXISTING ELEVATION	
SLOPE DIRECTION/ RATE	
PROPERTY LINE	
RETAINING WALL	
FS.	FINISH SURFACE
FG.	FINISH GRADE
FL.	FLOW LINE
NG.	NATURAL GRADE
TW.	TOP OF WALL
DRAIN PIPE TO PLANTERS	
DAYLIGHT LINE	

CONSTRUCTION NOTES:

- CONSTRUCT NEW CONCRETE DRIVEWAY.
 - INSTALL SEPTIC TANK UNDER DRIVEWAY. SEE OWTS PLANS
 - CONSTRUCT NEW 12" SQ. CATCH BASIN w/ FOSSIL FILTER PER DETAIL# 3 SHOWN ON PG G-4.
 - INSTALL NEW 3"Ø SCHED. 40 PVC LINE, MIN. 1% SLOPE
 - CONSTRUCT NEW FRENCH DRAIN AT GARAGE.
- C HUNTER SMART PCC-1500 ELECTROMECHANICAL CONTROLLER, 15 STATIONS, OUTDOOR MODEL WITH PLASTIC CABINET WITH HUNTER SOLAR-SYNC, RAIN FREEZE SENSOR



cut and fill areas

cut area #	area	avg height	cu ft	yards
1	1026	7	7182	266.00
2	510	7	3570	132.22
3	166	7	1162	43.04
4	70	2	140	5.11
5	218	7.25	1580.5	58.54
6	304	6	1824	67.56
total exempted cuts				504.38
7	140	2	280	10.35
8	100	1	100	3.75
total non exempted cuts				14.10
fill area #	area	avg height	cu ft	yards
1	1245	3	3735	138.15
2	2761	3	8283	306.78
total fill				444.93

IMPORTANT NOTICE
Section 6216/6217 of the Government Code requires a Digital Identification Number be issued before a "Permit to Excavate" will be valid. For your Digital ID Number Call Underground Service Alert
TOLL FREE 1-800-422-4133
Two working days before you dig



CALL BEFORE YOU DIG
CALL: TOLL FREE
1-800-422-4133
TWO WORKING DAYS
BEFORE DIGGING

OWNER:

MR. Richard Perrin
711 N REDWOOD DR.
LINCOLN, NEBRASKA
818-344-7565

JOB ADDRESS:

21490 PASEO PORTOLA
MALIBU CA 90265

CIVIL ENGINEER

JOSE FULGINITI, P.E.
C-52284 exp 12/31/20
ADDRESS:
18034 Ventura blvd. Ste. 512
Encino, CA 91316
Office: 818-344-7565
Cell: 818-621-8075

GEOLOGIST/ SOIL ENGINEER:

Calwest Geotechnical
Leonard Liston
889 Pierce Court, Ste 101
Thousand Oaks, CA 91360
PH 818-991-7148

SURVEYOR

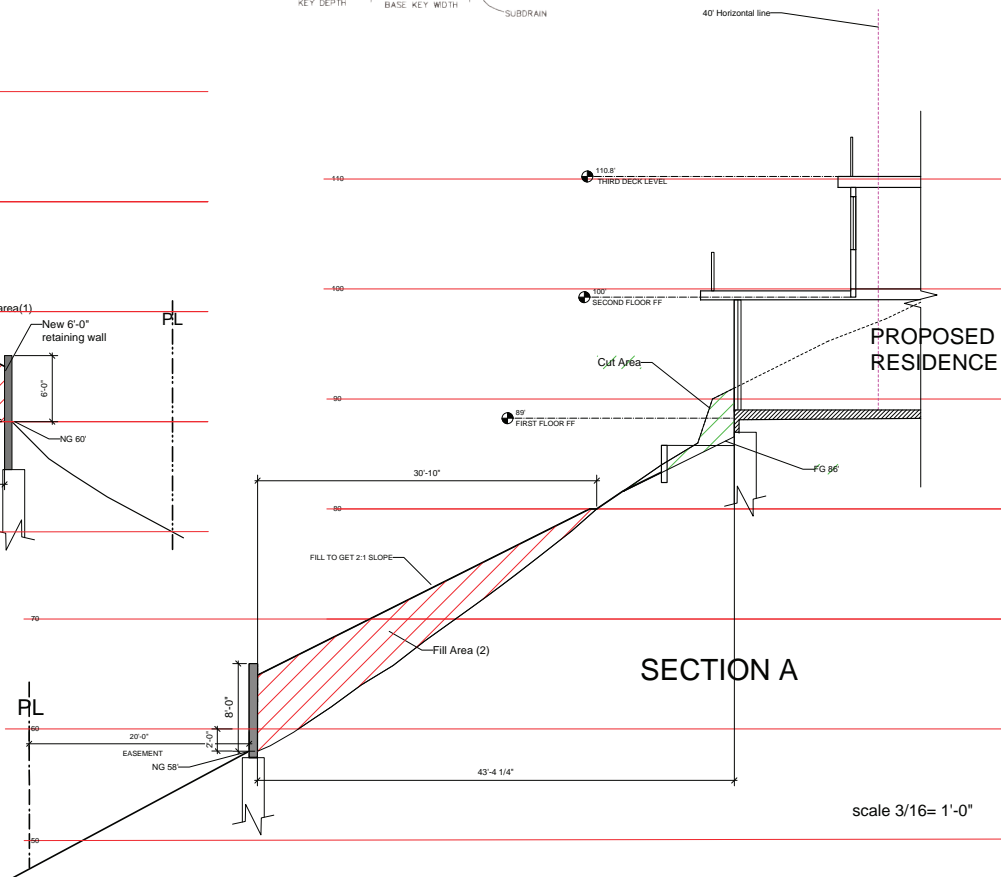
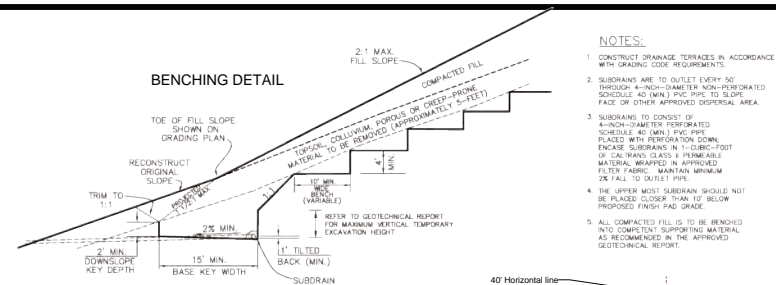
Land and Air Surveying
22741 Pacific Coast Hwy, ste 400A
Malibu, CA 90265
310-456-9381

O.W.T.S. ENGINEER:

Enstu Engineering Inc.
685 Main Street Ste. A
Morro Bay, CA 93442
Tel. (805) 772-0150

G-2

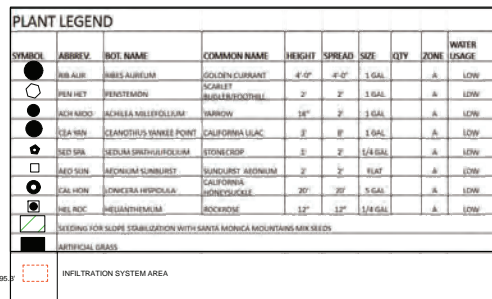
2 OF 4

[illegible]

3 OF 4

- 1- The contractor shall verify all plant material quantities prior to plant installation. Plant material quantities are listed for the convenience of the contractor. Actual number of plants may change during installation.
- 2- All plant materials shall be subject to approval by the Architect and/or owner prior to installation. No substitutions allowed without approval.
- 3- Final layout of all plant materials shall be subject to approval by Architect and / or owner.
- 4- Groundcover planting shall be triangular spaced and continuous under all trees and shrub materials.
- 5- All landscape areas shall be finish graded to remove rocks and to insure surface drainage away from buildings.
- 6- All finish grades in planted areas shall be 1" below adjacent paving unless noted.
- 7- The following amendments shall be uniformly broadcast and thoroughly incorporated by means of a rototiller to a depth of 6":
 - 3 Cu. Yds. Nitrogen stabilized sawdust
 - 20 Lbs. 12-12-12 fertilizer
- 8- Fertilizer tablets shall be Agriform, 21 Gram table (20-10-5) in quantities as follows:

- | | |
|----------------|---|
| 1 gallon shrub | 2 |
| 5 gallon shrub | 3 |
- Place tablet at half the depth of the rootball



Note: The proposed plants are drought tolerant plants. Use only draught tolerant plant types. All plant areas will be covered with mulch.

TOTAL LANDSCAPE AREA: 110 Sq. Ft.
TOTAL IRRIGATED AREA: 3,510 Sq. Ft.
HARDSCAPE AREA: 362 Sq. Ft.

WATER SUPPLY: PUBLIC

war:

Richard Perrin
711 N Redwood Dr.
Lincoln, NE
818-344-7565



	Plot Date
	CAD File Name
Paseo Portola	Project ID
Revision	Revision
2-26-20	Date
	Reviewed by
	Checked by
	Drawn by

Aude-Mar Inc
18034 Ventura Blvd Ste 512
Encino CA 91316
PH # 818-344-7565

21490 PASEO PORTOLA
2-story -bedrooms new Residence
with attached 2-car garage and basement

LANDSCAPE PLAN

L-1

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 S. CALIFORNIA ST., SUITE 200
VENTURA, CA 93001-4508
(805) 585-1800
SOUTHCENTRALCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: South Central Coast

Appeal Number: A-4-MAL-20-0026Date Filed: June 25, 2020Appellant Name(s): James & Tracy Moore**Received**

JUN 25 2020

California Coastal Commission
South Central Coast District**APPELLANTS**

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted **ONLY** at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the North Coast district office, the email address is SouthCentralCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at <https://coastal.ca.gov/contact/#/>.

Exhibit 7

Appeal by James E. Moore, Tracy E.
Moore & Rody Castroll
Appeal No. A-4-MAL-20-0026

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: James E. Moore (additional Appellant sheets attached)

Mailing address: 21484 Paseo Portola Street, Malibu, CA 90265-5110

Phone number: 310-403-3433

Email address: jemnet8@gmail.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☐ Other

Describe: I submitted comments and testified at the following hearings:

Malibu Planning Commission hearing on April 1, 2019,

Malibu Planning Commission hearing on September 3, 2019,

Malibu City Council hearing on June 8, 2020

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: We went through two Planning Commission hearings, and then the final

Malibu City Council hearing for which the City charged a fee of \$500.00.

Also, we disagree with the decision of the Malibu City Council.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision
Page 2

1. Appellant information¹

Name: Tracy E. Moore
Mailing address: 21484 Paseo Portola Street, Malibu, CA 90265-5110
Phone number: 310-403-3433
Email address: jemmisc@gmail.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☐ Submitted comment ☐ Testified at hearing ☒ Other

Describe: I attended the following hearings, and my husband James E. Moore represented me.

Malibu Planning Commission hearing on April 1, 2019,

Malibu Planning Commission hearing on September 3, 2019,

Malibu City Council hearing on June 8, 2020

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: We went through two Planning Commission hearings, and then the final
Malibu City Council hearing for which the City charged a fee of \$500.00.
Also, we disagree with the decision of the Malibu City Council.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: Rody Castroll

Mailing address: P.O. Box 1189, Studio City, CA 91614

Phone number: 310-779-9779

Email address: rosetrader@aol.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☐ Submitted comment ☒ Testified at hearing ☐ Other

Describe: I attended and testified at the following hearings:

Malibu Planning Commission hearing on September 3, 2019,

Malibu City Council hearing on June 8, 2020.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: I went through the second Planning Commission hearing, and then the final

Malibu City Council hearing for which the City charged a fee of \$500.00.

Also, we disagree with the decision of the Malibu City Council.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision

Page 3

2. Local CDP decision being appealed²

Local government name: City of Malibu

Local government approval body: Malibu City Council

Local government CDP application number: CDP Permit No. 16-038

Local government CDP decision: ☒ CDP approval ☐ CDP denial³

Date of local government CDP decision: June 8, 2020

Please identify the location and description of the development that was approved or denied by the local government.

Describe: 21490 Paseo Portola Street, Malibu, CA 90265

Coastal Development Permit No. 16-038, Appeal No. 19-007,

Variance No. 16-017, and Variance No. 18-045 - An application

to construct a new 2,954 square foot, two-story single-family

residence plus a 434 square foot attached two-car garage, spa

and associated equipment, decks, pile-supported retaining wall,

landscaping, hardscaping, grading, and construction of a new

alternative onsite wastewater treatment system, including

Variance No. 16-017 for construction on slopes steeper than

1.5 to 1 and Variance No. 18-045 for height of retaining wall in

excess of six feet for up to nine feet.

Please see the attached ADDENDUM.

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the appeal information sheet for more information.

Page 4

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

[illegible]

4 Attach additional sheets as necessary to fully describe the grounds for appeal.

Appeal of local CDP decision
Page 5

5. Appellant certification⁵

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name James E. Moore



Signature _____

Date of Signature June 24, 2020

5. Representative authorization⁶

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

Appeal of local CDP decision

Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Tracy E. Moore



Signature

Date of Signature June 24, 2020

5. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☐ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

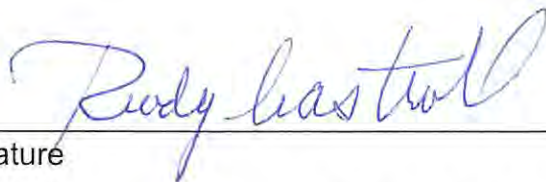
Appeal of local CDP decision

Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Rody Castroll

Signature 

Date of Signature June 24, 2020

5. Representative authorization⁵

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

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⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name _____

CDP Application or Appeal Number _____

Lead Representative

Name _____

Title _____

Street Address. _____

City _____

State, Zip _____

Email Address _____

Daytime Phone _____

Your Signature _____

Date of Signature _____

Additional Representatives (as necessary)

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature _____

Date of Signature _____

APPEAL OF LOCAL CDP DECISION

PAGE 4, ITEM NUMBER 3 – IDENTIFICATION OF INTERESTED PERSONS

To our knowledge and recollection, the following are what contact information we have for interested persons, some of which may be old:

Applicant

The Applicant is Jose Fulginiti, Aude-Mar, Inc. Richard K. Perrin is the owner of the property. We are not sure how current is the following information, but it is what we have:

Jose Fulginiti
818 621-8075 – Mobile (last mobile number we have for him)
818-825-1520 – Mobile (may be old?)
818-219-4164 – Mobile (may be old?)
Aude-Mar, Inc. Work Tel.: 818-621-8075
Email: audemarinc@gmail.com
www.audemarinc.com

Richard K. Perrin
University of Nebraska
Email: rperrin@unl.edu
402-472-9818 – Work
402-730-3765 – Mobile

Other Interested Persons

Alan Block, Esq.
1880 Century Park East
Los Angeles, CA 90067
alan@blocklaw.net
310-741-1005

James E. Moore
21484 Paseo Portola Street
Malibu, CA 90265-5110
jemnet8@gmail.com
310-403-3433

Tracy E. Moore
21484 Paseo Portola Street
Malibu, CA 90265-5110
jemmisc@gmail.com
310-403-3433

Ms. Rody Castroll
P.O. Box 1189
Studio City, CA 91614
rosetrader@aol.com
310-779-9779 (mobile)

Kraig Hill
kraig.malibu@gmail.com
310-456-8229

Duane King
dk90265@yahoo.com
310-713-3464

ADDENDUM TO APPEAL TO THE CALIFORNIA COASTAL COMMISSION

ITEM NUMBERS 2 AND 4

**COASTAL DEVELOPMENT PERMIT NO. 16-038
21490 PASEO PORTOLA STREET, MALIBU, CA 90265**

June 24, 2020

Dear Commissioners,

Thank you for the opportunity to present our appeal to you regarding the above referenced development. We believe that this development is not sensitive to the arena it is in, and not within the standards of the Malibu Municipal Code, the Malibu La Costa Overlay District, the Malibu Local Coastal Program, and the Malibu Local Implementation Plan (the "LIP"). Our primary concerns are as follows:

1. **The massive size and height of a proposed u-shaped retaining wall** (the "**Retaining Wall**" or "**Wall**") required for a micro-dosing system to maximize the square footage of the proposed house. The Retaining Wall would be highly visible and cause an adverse view from the Pacific Coast Highway ("PCH") view corridor. **It is also out of character for our neighborhood, and out of compliance with the language, meaning, intent, and spirit of the Malibu Local Implementation Plan - LIP** (discussed further below).
2. **The proposed development is on a lot that has very challenging geology** including slopes greater than 1:1 in parts, a prehistoric landslide, and a descending area into an arroyo coming from another landslide (Calle de Barco landslide). The micro-dosing system is proposed over the prehistoric landslide.

Please see **Exhibit 9**. Although we are the Appellants, **many neighbors have signed the sheets in this Exhibit 9 expressing their concerns regarding this project** (the "Project"). **Neighbors directly below the proposed Retaining Wall are particularly concerned as this Wall will tower over them.**

RETAINING WALL

The Retaining Wall requires **Variance 18-045** for a retaining wall in excess of 6 feet and up to 9 feet in height.

1. Please see **Exhibits 1 and 2** for the **renderings of this proposed Retaining Wall as viewed from the PCH view corridor**. Please note that we had these renderings **developed by a professional architect** based on very limited information from the developer, however, we believe they provide a reasonable approximation of the Wall (measured in the renderings by a red flag on a pole 9 feet at its peak from our contiguous property). **You can see the massive size of this Wall with no relief.**
2. Please note that to our knowledge and research of the public records, **the Retaining Wall was never shown in a rendering by the developer** (see **Exhibit 3**), other than what appeared to be an old and inaccurate rendering presented for the first time at the City Council hearing on June 8, 2020.

In fact, in City of Malibu Planning Department Staff Reports dated March 21, 2019, August 21, 2019, and May 20, 2020 – when discussing **Section 6 of the Malibu Local Implementation Plan – LIP** regarding Development Siting and Design (see Section 6.5 (A and B) from the LIP further below) - **there is no mention whatsoever in these reports of the 9-foot free-standing Retaining Wall and its affects on the PCH view corridor.**

Additionally, **there were never any Story Poles placed for the Wall so that our neighborhood could have a visual assessment of the Wall, be adequately alerted to it, and allowed to engage in it.**

3. To our knowledge, the developer has **never explored nor submitted plans for multiple retaining walls** with at least 3 feet of separation such that no one wall would exceed 6 feet in height. This is possible as stated in **Section 17.40.040(A)(9)(b) of the Malibu Municipal Code** as follows, **“Maximum height cut or fill: six feet in height for any one wall, or twelve (12) feet for any combination of walls, where a minimum three foot separation exists between walls.”**

The developer has argued that two 6-foot retaining walls would not significantly improve visual impacts, and that there would be a substantial increase in construction cost as each wall would be required to be pile-supported embedded into bedrock.

We disagree that the two shorter Retaining Wall would not significantly improve the visual impacts especially from PCH, but also relative to the homes on PCH below the Wall over which the Wall will tower and may appear like a freeway offramp.

Additionally, the developer knew going in that this lot was a difficult one from a geological and other standpoint, so it is not the fault of the neighbors that this is a very difficult lot to develop – and why should neighbors inherit the problems that the developer freely chose to accept? Why should the developer be afforded a special privilege of reducing costs when the neighbors are so affected?

4. Please see **Exhibit 4**. This is a letter to the Malibu City Council from **Kraig Hill** dated June 5, 2020, who was a **Planning Commissioner for both hearings**, expressing his concerns

regarding this Project. We believe this is a particularly important letter to review. Although Mr. Hill expresses a number of concerns in this letter, one concern regarding **lack of relief in the Wall** comes from Malibu La Costa Overlay District as follows, *“Flat wall facades along south/ocean-facing elevations shall not extend more than twenty-five (25) feet horizontally nor twenty (20) feet vertically (excluding gable ends) without a minimum four-foot offset...”*

5. Please note that the original house on this lot that burned down in the 1993 fire, which did not require a retaining wall, was only **2,000 square feet** which included a garage, and **we believe the original house was relatively small due to the geological challenges of the lot**. The developer is now proposing a structure with **3,397 square feet, 70% larger**.
6. **WE ALSO BELIEVE THAT THE PROPOSED RETAINING WALL IS OUT OF COMPLIANCE WITH THE LANGUAGE, MEANING, INTENT, AND SPIRIT OF THE LIP. DOES THE COASTAL COMMISSION WANT TO SET A PRECEDENT FOR OTHER DEVELOPERS TO FOLLOW FOR RETAINING WALLS OUT OF COMPLIANCE WITH THE LIP?**

The following is **Section 6.5(A and B) from the LIP**, bolded and underlined in parts for ease of reference and emphasis. **Please note that we believe the developer is seeking to maximize square footage in lieu of minimizing adverse impacts on scenic areas:**

A. Development Siting

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

4. New development, including a building pad, if provided, shall be sited on the flattest area of the project site, except where there is an alternative location that would be more protective of visual resources or ESHA.

B. Development Design

1. The height of structures shall be limited to minimize impacts to visual resources. The maximum allowable height, except for beachfront lots, shall be 18 feet above existing or finished grade, whichever is lower. On beachfront lots, or where found appropriate through Site Plan Review, pursuant to Section 13.27 of the Malibu LIP the maximum height shall be 24 feet (flat roofs) or 28 feet (pitched roofs) above existing or finished grade, whichever is lower. Chimneys and rooftop antennas may be permitted to extend above the permitted height of the structure.
2. The length of on-site roads or driveways shall be minimized, except where a longer road or driveway would allow for an alternative building site location that would be more protective of visual resources or ESHA. Driveway slopes shall be designed to City of Malibu LCP Local Implementation Plan Adopted by the California Coastal Commission on September 13, 2002 Page 146 follow the natural topography. Driveways that are visible from a scenic highway, a beach, a public viewing area, or public hiking trail shall be a neutral color that blends with the surrounding landforms and vegetation.
3. **Retaining walls visible from scenic highways, public viewing areas, trails, parks, and beaches should incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape.**
4. **Fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public view areas.**
5. **New development in scenic areas visible from scenic roads or public viewing areas shall incorporate colors and exterior materials that are compatible with the surrounding landscape.** a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible. c. All windows shall be comprised of non-glare glass.
6. New water tanks in scenic areas visible from scenic roads or public viewing areas shall be designed to be partially below grade, where feasible. Water tanks shall incorporate colors that are compatible with the surrounding landscape and landscape screening to minimize visual impacts.
7. An argument has been made by the developer that there is a tree on PCH that would mask the higher part of the Wall, but that is only partially true. The Wall would still be seen from many angles along PCH. Additionally, the tree may not always be there; it could be removed by the owner, it could die, it could be trimmed significantly, and construction of the Wall could damage the tree.

8. Another argument has been made by the developer that there is a “**Mature Tree**” on the property line further masking the Retaining Wall. What the developer shows as a Mature Tree is actually a series of sumac trees that we believe were planted by the developer after we asked him not to do so due to fire danger – and he agreed to take care of it (see **EXHIBIT 5** which shows virtually no sumac trees on the property line, and also **EXHIBIT 6** for correspondence with the developer). **We also believe that planting these sumac trees was done without proper prior approval.** We have a witness who is willing to testify under oath that she saw workmen measuring and planting the sumac trees.
9. As part of the hearing before the Malibu City Council on June 8, 2020, the **western side of the Retaining Wall was eliminated** for the first time, when the Project plans had consistently stated that the **entire Wall would be needed**. **We do not understand why the western side of the Retaining Wall is no longer needed?** As part of eliminating this part of the Wall, a 5-foot walkway for the Fire Department was added. We do not understand **how the required walkway got to the Malibu Planning Commission and Malibu City Council without Fire Department approval?**
10. We believe an **Administrative Plan Review** should have been done that would have included the Retaining Wall. We do not understand why this was not done when it appears to have been required evidenced as follows:
 - According to the Malibu Municipal Code, Section 17.40.040, number 12, Site of Construction. “Structures may be constructed on slopes greater than 3:1 but less than 2 1/2:1 subject to the provisions for Section **17.62.030.**”
 - From Section 17.62.030 (A), “An administrative plan review shall be required for the following development projects... Item number 2: “Structures constructed on slopes greater than 3:1 but less than 2 1/2:1, not located in the Malibu Country Estates Overlay District.”

CHALLENGING GEOLOGY

The Project requires **Variance 16-017** for construction on slopes steeper than 1.5:1.

1. Please note that this Project is on a **highly geologically sensitive lot that many prior to the current developer have had an interest in developing, but aborted largely due to its inherent difficulties**. Also, and as noted above, the original house on this lot that burned down in the 1993 fire was **only 2,000 square feet** including a garage and the developer is asking for **3,397 square feet**, or **70% more in square footage!** Additionally, it is **unusual to have a micro-dosing system on slopes steeper than 3:1.**

2. The developer has argued that, due to landslide conditions, a house of any size on this property will require a septic system that would expand beyond the existing building pad onto slopes equal to or steeper than 1.5:1 because of the micro-dosing drainfield needed. A further argument has been made that a smaller residence would not eliminate the need for variances for construction on steep slopes and for a retaining wall over six feet in height.

To represent a house of “any size” does not seem reasonable. **The developer has never presented a smaller structure size**, such as the original house of **2,000 square feet** (that did not require a retaining wall), that would likely not require the variances. We believe that a smaller structure, or one with fewer bedrooms or fixtures, would reduce the size of the drainfield reducing the height of the Retaining Wall.

3. The developer has argued that the proposed structure would be virtually within the footprint of the original structure, however, this is simply **not true** evidenced by looking at the Story Poles. **The proposed structure extends well beyond the footprint of the original structure.**

Our neighbors and we are concerned that the structure seems very close to the arroyo descending from the Calle del Barco landslide and what geological issues this may raise. Please see **Exhibit 4** for Kraig Hill’s comments regarding this concern. **Mr. Hill commented at the last Planning Commission meeting that he observed movement in the caissons in the west area where the proposed Retaining Wall has now been eliminated.** Also, please note in Mr. Hill’s letter that what we believe was a similar retaining wall on **Hume Road** to this Project’s Retaining Wall **collapsed in 2018** (see **EXHIBIT 7**).

4. The developer has argued that a smaller residence would deprive the property owner of privileges enjoyed by others. Virtually all those who rebuilt after the 1993 fire did so well before the turn of the Millennium. Rules and restrictions were quite different back then, and it is unreasonable for the developer to suggest that this new Project should be approved under rules and restrictions well over 20 years ago and not under current rules and restrictions.
5. The developer has argued that the micro-dosing drip field serves as an advanced system that “substantially eliminates” effluent from percolating into the ground. However, “substantially eliminates” is considerably different from the Landphases, Inc report dated November 25, 2014 as it states on page 23, **“However, it is acknowledged that a minor amount of effluent may move vertically downward into the subsurface during various periods of limited sunlight, cold temperatures, and during periods of precipitation. The minor amount of effluent which does not evaporate, or is not transpired by the overlying vegetation, is anticipated to move vertically downward through the subsurface to the groundwater interface.”**

Our neighbors are also concerned about any odor that could come from this drip field. Additionally, there seems to be significant risks to our neighborhood should there be erosion and surface creep, for instance, from offshore breezes or a settling of the slide.

6. A concern raised by the Planning Commission at the first hearing was that, if the pilings go too deep which they are expected to do, they can bend like straws adversely affecting the integrity of the Retaining Wall. We do not recall that concern ever being addressed other than in the Staff Report to the City Council which stated, "City geotechnical staff, the City's experts, and project geotechnical engineers are satisfied that the recommended depth of proposed friction piles will meet all requirements and no additional conditions are required." Without knowing the exact depth of the pilings, and the collapse of what we believe was a similar retaining wall on Hume Road (see Exhibit 7), we remain suspect of this opinion.
7. The developer graded the lot in 2014 without a permit. The City of Malibu had to stop the grading and issued a "Stop All Work Notice" (see Exhibit 8). We remain concerned that this grading in fact changed the natural grade of the lot.

Respectfully submitted,



Jim Moore
310-403-3433
jemnet8@gmail.com



Tracy Moore
310-403-3433
jemmisc@gmail.com



Rody Castroll
310-779-9779
rosetrader@aol.com

EXHIBITS

1. Our Rendering of Retaining Wall – Bushes in Front of Wall
2. Our Rendering of Retaining Wall – Bushes in Back of Wall
3. Developer Rendering from April 1, 2019 Developer Submittal
4. Letter from Commissioner Kraig Hill to the Malibu City Council dated June 5, 2020
5. Developer Photo of Lot from April 1, 2019 Developer Report
6. Email String Between Moore and Fulginiti dated July 2, 2015 Regarding Sumac Trees
7. Article Regarding Landslide and Collapse of Retaining Wall on Hume Road
8. Stop All Work Notice
9. Neighborhood Concurrence Sheets Signed by Neighbors Concerned About this Project

EXHIBIT 1

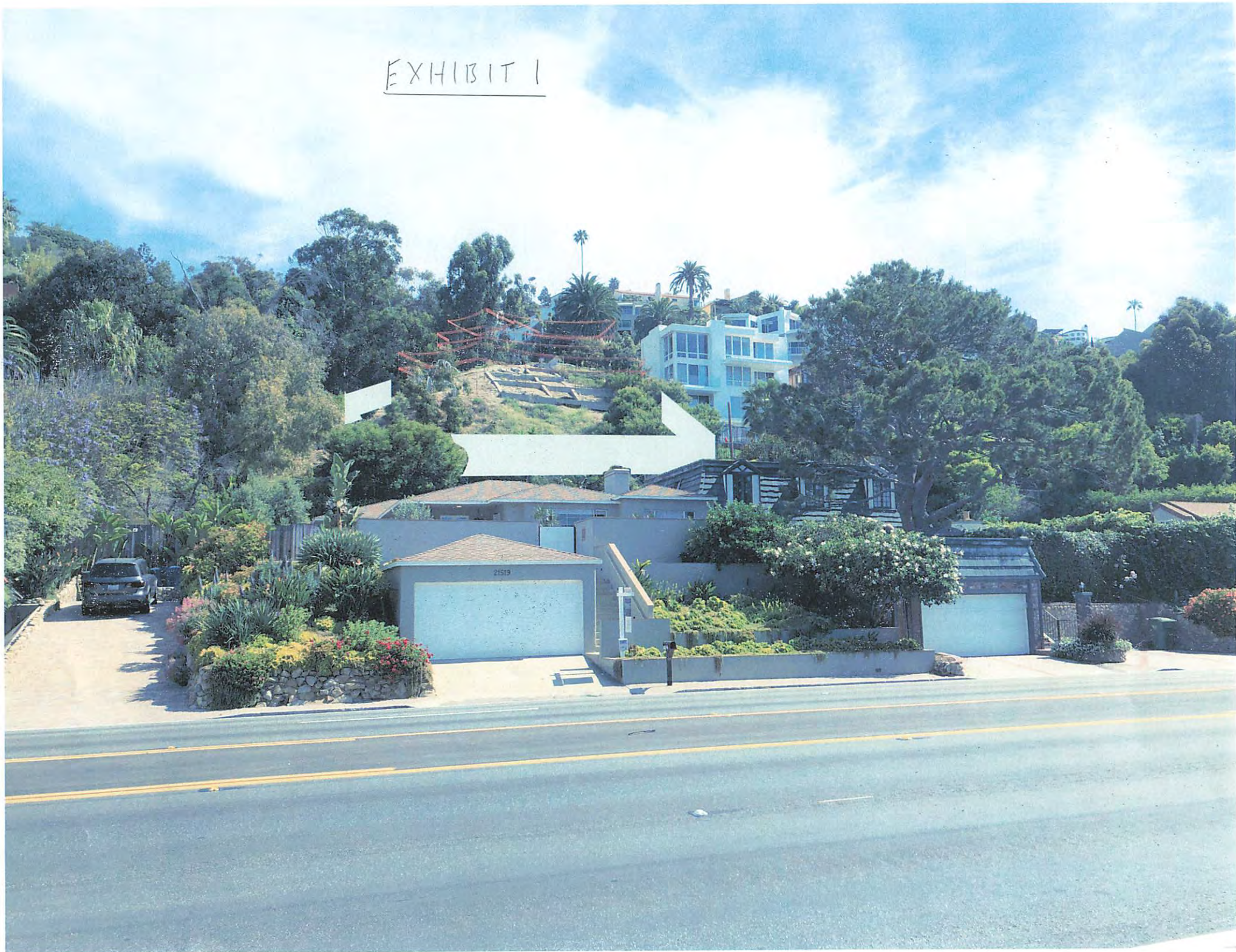


EXHIBIT 2



Proposed Residence



Proposed Size: 2,825 sf. Garage: 439 sf. Basement: 999 sf.

Lot Size: 12,681 sf. Lot Ratio: 0.26 No.Stories: 2 + Basement

Lateral Projection: 53 ft. (13 ft. > than allowed)

June 5, 2020

BY EMAIL ONLY

City Council
City of Malibu
23825 Stuart Ranch Road
Malibu, California 90265

Re Item 4A – Appeal No. 19-007, of PC Resolution No. 19-20 21490 Paseo Portola Street

Dear Council Members:

I was a member of the Planning Commission when the proposed project at 21490 Paseo Portola Street was heard, on both April 1, 2019 and September 3, 2019. Having cast the sole dissenting vote on this item, I believe you might appreciate having a summary of my observations, as they are not articulated in either the staff report or the minutes.

I personally visited and inspected the Project site on three occasions, two of which were prior to the Commission's decision. I spoke with several of the numerous neighbors opposed.

The site is geologically unstable. This is supported by both direct observation and inference from circumstantial evidence. The proposed project is located adjacent to a slope of approximately 1:1, without any setback, on the West side. That slope is adjacent to the known-active Calle de Barco landslide. The site has moved, and might still be moving, as evidenced by the fact that caissons from the previous house on the site now tilt in the direction of the slope.

That slope movement is not surprising. The topography of the greater area suggests that the *cul de sac* adjacent to which the parcel is sited was substantially graded to achieve its wide, turn-around area, and that the "cut" from that grading was bulldozed downslope over the subject parcel. In other words, the parcel has moved because, at least in part, it appears to be comprised of uncompacted fill from the *cul de sac* cut.

In that evidently unstable context, the project includes a leach field on a slope exceeding 1.5:1, retained by a 9-ft. high wall (variance required) on the downslope side. That field-and-wall-on-a-slope configuration is comparable to the house on Hume Drive that lost about half its lot three years ago, reportedly when a garden hose was left running and the whole leach field retained by the wall area filled up like a moat and subsequently collapsed down the slope. If something similar were to happen on the project site, it could destroy a house or two below it, possibly taking lives in the process. The house on Hume is just outside the City boundary, so the planning staff was not aware of it when I brought it up in the hearing. The comparison remains unaddressed.

A variance for the proposed nine ft. retaining wall was not justified. No evidence was offered that other houses in the neighborhood have one – meaning that granting it would constitute a special privilege, against code. (One reason others don't have one might be because of the potential "Hume scenario.") Note that the code re retaining walls in the La Costa Overlay District incorporates the general MMC code re retaining walls, given at MMC 17.40.040 (9.b): "Maximum height cut or fill: six feet in height for any one wall...." Not nine feet.

Further, the La Costa Overlay district provides that "Flat wall facades along south/ocean-facing elevations shall not extend more than twenty-five (25) feet horizontally nor twenty (20) feet vertically (excluding gable ends) without a minimum four-foot offset." (17.40.042.B.2) Logically, a retaining wall can be among the class of walls that have flat facades, as the proposed one is. In this case, the wall is too long without that required offset. Staff didn't provide a clear reason as to why it would be exempt from the flat wall requirements, except to say that there wouldn't be enough room on site to accommodate the wall with the required "minimum four-foot offset." However, it appears that the offset could be accommodated if the house were designed to be marginally smaller. The desired size of a house is not a basis to justify a variance.

The wall may also negatively impact views from PCH, contrary to the LIP. This could be a bad precedent in La Costa in particular, because, with the density of housing there, if more owners decided that they too wanted to build large retaining wall "moats" below their houses, the whole neighborhood would start to appear from PCH as a giant concrete amphitheater. To cover the wall with vines would also be to contribute to fire hazard in this dense neighborhood (and may be contrary to the new landscape ordinance).

Two of the problems that seemed most significant to me – the lack of setback on the steep, erosive Western slope and the size/height of the retaining wall – could likely be resolved if the proposed house were smaller, as I noted. The original house that burned was 2,000 sq.ft. TDSF. The proposed one is 3,397, sq.ft. TDSF, and extends significantly beyond the footprint of the original house. Weighing all of the factors, it appeared to me, and still does, that a house of about 2,500 sq.ft. might be the maximum that would realistically fit on this lot, allowing for a sufficient setback – provided that the geological issues can be sorted out to be able to allow *any* house to be built here. A house of 2,500 sq.ft. would be even bigger than the "like for like plus 10%" formula (which would be 2,200 sq.ft. for this lot) that many La Costans used in rebuilding after the fire, so the owner could still be considered as having come out ahead, or at least no worse off than the rest of the neighborhood.

Respectfully,

Kraig Hill

21490 Paseo Portola Upper Floor Footprint

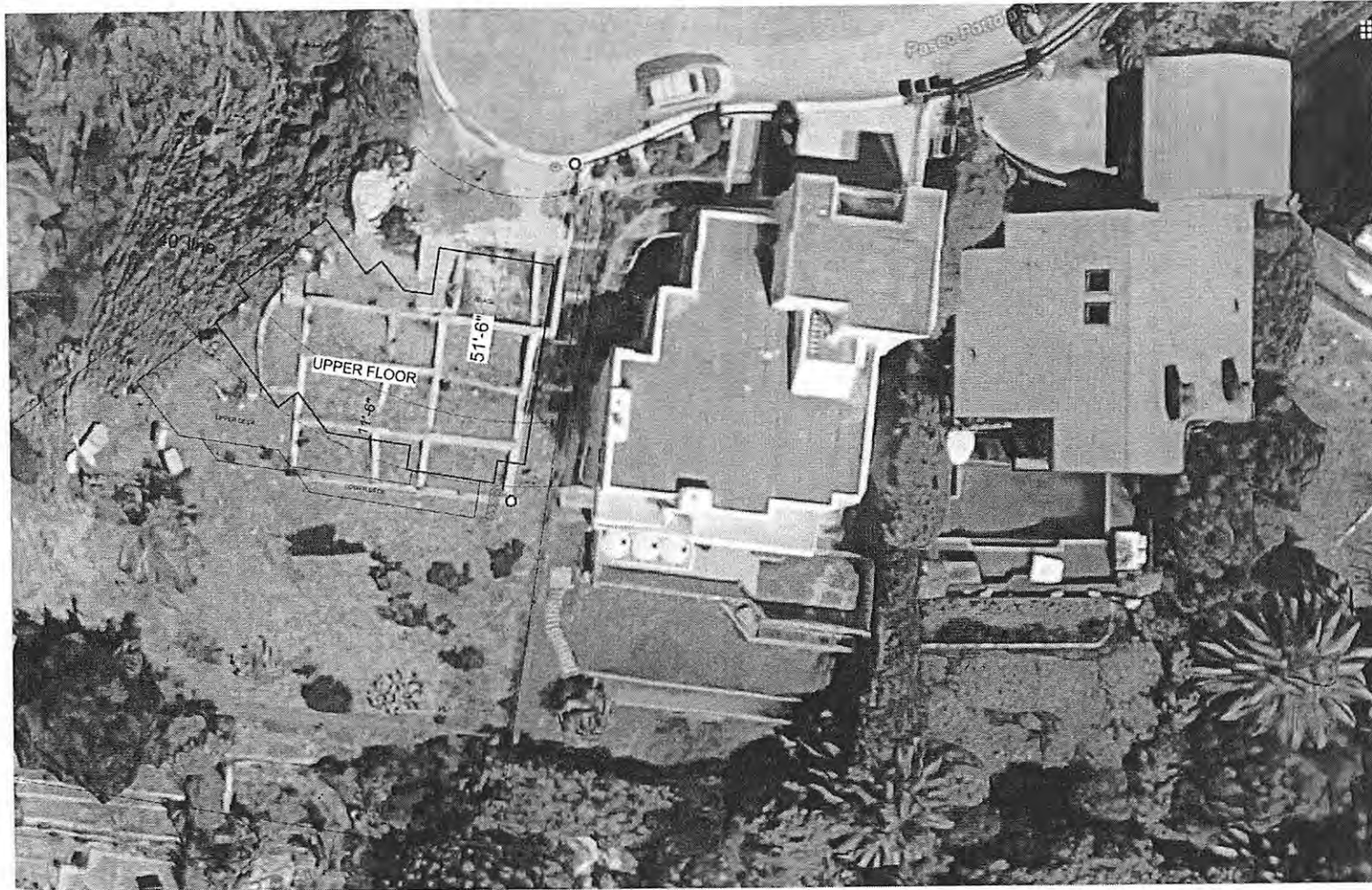


EXHIBIT 6

jemnet8@gmail.com

From: James E. Moore <jemnet8@gmail.com>
Sent: Thursday, July 2, 2015 5:50 PM
To: 'Aude-Mar'
Subject: RE: 21490 Paseo Portola

Thanks Jose, and good travels!

Jim

From: Aude-Mar [mailto:audemarinc@gmail.com]
Sent: Thursday, July 02, 2015 4:50 PM
To: James E. Moore
Subject: Re: 21490 Paseo Portola

Hi Jim, how are you, I'm out of town until August, as soon as I'm back I will take care of those issues.
Thank you and have a great Holidays.

Jose

Enviado desde mi iPhone

El 02/07/2015, a las 20:21, "James E. Moore" <jemnet8@gmail.com> escribió:

Hi Jose,

I hope all is well and happy July 4th. I tried calling you a couple times, but not sure you got my messages.

Any updates on progress with your property next to us?

Also, the fire department has been coming around. I suspect they will require you to clear your lot as they have in prior years. The sumac trees, in particular, are very dangerous in fires. Those trees are required to be at least 10 feet away from structures. If you can clear those, it would be great especially now that we are in the height of fire season.

Thanks, and have a great 4th.

Jim

James E. Moore
21484 Paseo Portola
Malibu, CA 90265-5110
310-403-3433 – Mobile
jemnet8@gmail.com

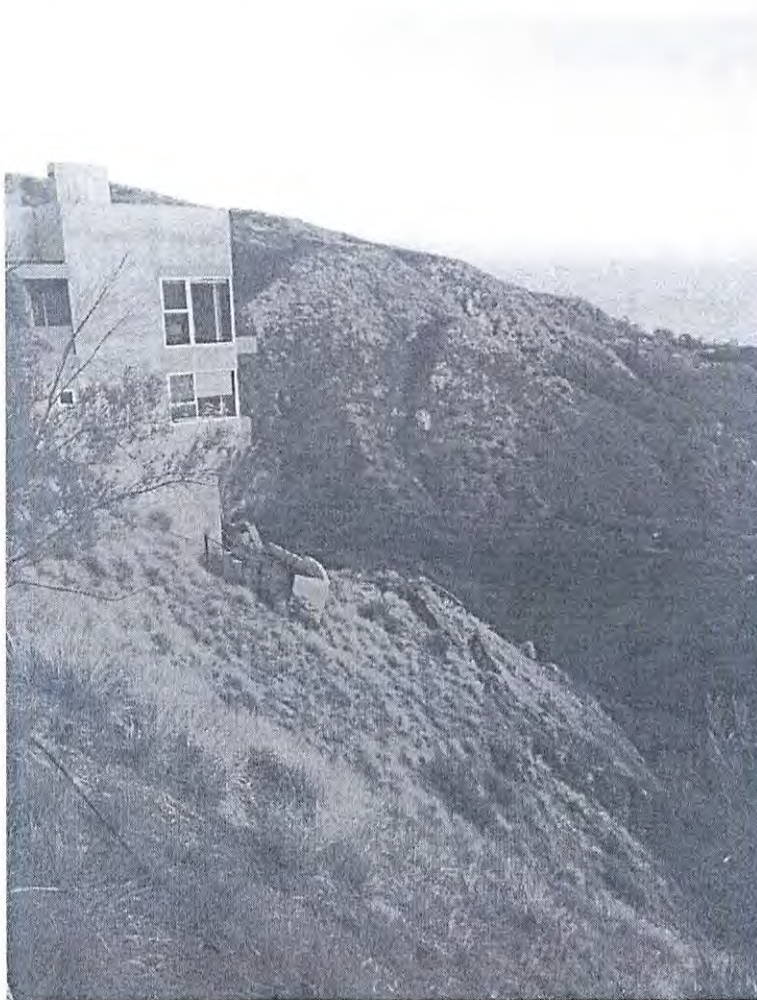


http://www.malibutimes.com/news/article_90e03448-fbf0-11e7-baae-172f3ff250ea.html

EXHIBIT 7

Landslide Threatens Three Story Home on Hume Road

By Judy Abel and Shivani Patel / The Malibu Times Jan 17, 2018



The three-story home, located on lower Hume Road is threatened by an active landslide.

Judy Abel / TMT

[Update: 6:10 p.m.]: A spokesperson from Lost Hills/Malibu Sheriff's Station said "only one home is being affected" by the landslide. No major road closures have taken effect so far; any resulting road closures will be handled by California Highway Patrol.

At this time, evacuations are not being ordered for the area.

[Update: 5:30 p.m.]: A home on the 2800 block of Hume Road in Malibu has been red tagged after its retaining wall gave way this afternoon.

Inspector Gustavo Medina from the Los Angeles County Fire Department said, "[City of Los Angeles] Building and Safety is on scene," and that they were working with fire personnel.

Just before 4:00 p.m., reports were called into the fire department that the home's back retaining wall had cracked and a small landslide had occurred dangerously close to the home on lower Hume Road. No one was in the home, which is now off limits.

Sheriff's officials have blocked the road at lower Rambla Pacifico and were barring residents from driving through this afternoon while they assessed the damage.

Fire officials on the scene said it's possible the home's foundation could be compromised.

Dirt from the landslide fell into a canyon below with no homes threatened. A neighbor trying to access the street said he believed the home's owners may have been out of town and could have left their sprinklers on. That coupled with the monster rain storm from last week may have been too much moisture for the land to hold, according to an official on the scene.

A landslide has threatened a three-story home on Hume Road in Malibu, according to the Los Angeles County Fire Department social media.

As of 5 p.m., City of Malibu Public Safety Manager Susan Dueñas confirmed the location of the landslide.

"We haven't been alerted to any road closures or impact [to] other locations," she said, in a phone call with The Malibu Times. "We're still waiting. We have a couple of our folks on their way out there."

A spokesperson for the Lost Hills/Malibu Sheriff's Station confirmed that it was "sending a deputy out there" at 5:03 p.m.

This story will be updated as more information becomes available.

judyabel

Shivani Patel



CITY OF MALIBU
ENVIRONMENTAL SUSTAINABILITY DEPARTMENT
23825 STUART RANCH RD. • MALIBU, CA 90265-4861
INSPECTION REQUEST (310) 456-2489 • EXT. 312
www.malibucity.org

EXHIBIT 8

NOTICE

Address / Location: 21490 PASEO
PORTOLA

Owner: JASE [REDACTED]

NOTICE IS HEREBY GIVEN THAT THE FOLLOWING VIOLATION(S)
OF THE MALIBU MUNICIPAL CODE HAVE BEEN IDENTIFIED ON
THE REFERENCED PROPERTY.

☒ **STOP ALL WORK!** (BUILDING CODE SECTION 104.3)

☐ **PERMITS REQUIRED**

Malibu Building Code Section 106.1, 106.4.1

☐ Building ☐ Plumbing ☐ Electrical
☐ Mechanical ☒ Grading ☐ Septic

☐ Malibu Building Code Chapter 99
SUBSTANDARD BUILDING /CONDITIONS/PROPERTY

☐ Malibu Plumbing Code Section 303.0
DISPOSAL OF LIQUID WASTE

☐ Malibu Municipal Code Section 17.62.020
DEVELOPMENT WITHOUT PERMITS

GRADING OUTSIDE
WORK SCOPE OF
"DIG" PERMIT

Failure to comply with this Notice is a misdemeanor and is punishable
by a fine, or imprisonment, or both and is a separate offense for
each day in violation. (MMC Section 1.16.010).

3-13-15
DATE
1055
TIME

[Signature]
INSPECTOR / OFFICER
[Signature]
Signature

EXHIBIT 9

NEIGHBORS AFFECTED BY THE DEVELOPMENT PROJECT

21490 PASEO PORTOLA ST., MALIBU, CA 90265

June 8, 2020



TO:

City of Malibu
City Council
23825 Stuart Ranch Road
Malibu, CA 90265-4861

Members: Karen Farrer, Mayor; Mikke Pierson, Mayor Pro Tem; Rick Mullen; Skylar Peak;
and Jefferson Wagner

Regarding the Development Project at: 21490 Paseo Portola Street, Malibu, CA 90265-5110.
APN 4451-023-037 (the "Development Project")

The following neighborhood owners wish to express our concerns by signing below regarding the Development Project approved by the Planning Commission in a split decision on September 3, 2019. We concur with the concerns expressed by our neighbors in their Coastal Development Permit Appeal filed with the Malibu City Planning Department on September 12, 2019. In particular, we wish to express our concerns regarding the size and scope of the Development Project, the two (2) variances involved which include the large u-shaped retaining wall highly visible from PCH, and the special privileges we believe have been given to the applicant. Thank you for your consideration.

NAME	ADDRESS	DATE	SIGNATURE
DAVID GOLDBERGER	21421 RAMBLA VISTA	5/18/20	
DOROTHY LUCY	21421 RAMBLA VISTA	5/18/20	

NEIGHBORS AFFECTED BY THE DEVELOPMENT PROJECT

21490 PASEO PORTOLA ST., MALIBU, CA 90265

June 8, 2020

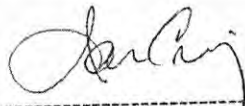
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NAME	ADDRESS	DATE	SIGNATURE
JEAN CRAIG	21446 Ramblin Vis 21460 Dasco Dornan	5/27/20	

NEIGHBORS AFFECTED BY THE DEVELOPMENT PROJECT

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June 8, 2020


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NAME	ADDRESS	DATE	SIGNATURE
RODY CASTRO	21513 PCH MALIBU	6-3-20	

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21490 PASEO PORTOLA ST., MALIBU, CA 90265

June 8, 2020

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NAME	ADDRESS	DATE	SIGNATURE
Quade C. King	21224 REVERA Malibu, CA	5/6/2020	[Signature]
Haitlin Moore	21490 Paseo Portola Malibu, CA	6/4/2020	[Signature]

NEIGHBORS AFFECTED BY THE DEVELOPMENT PROJECT

21490 PASEO PORTOLA ST., MALIBU, CA 90265

June 8, 2020

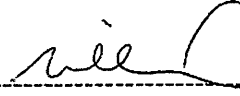
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NAME	ADDRESS	DATE	SIGNATURE
Mark Mikhael	3936 Rambla Oriento	5/26/20	

NEIGHBORS AFFECTED BY THE DEVELOPMENT PROJECT

21490 PASEO PORTOLA ST., MALIBU, CA 90265

June 8, 2020


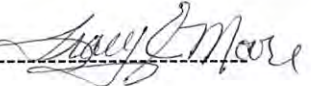
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NAME	ADDRESS	DATE	SIGNATURE
Jim Moore	21484 Paseo Portola	5/26/20	
MARILYN S. KROPPACH	21484 PASEO PORTOLA	5/26/20	Marilyn S. Kroppach
Tracy E Moore	21484 Paseo Portola	5-26-20	

NEIGHBORS AFFECTED BY THE DEVELOPMENT PROJECT

21490 PASEO PORTOLA ST., MALIBU, CA 90265

June 8, 2020

TO:

City of Malibu
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23825 Stuart Ranch Road
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Members: Karen Farrer, Mayor; Mikke Pierson, Mayor Pro Tem; Rick Mullen; Skylar Peak;
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NAME	ADDRESS	DATE	SIGNATURE
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Renee E. LaBassiere	21476 Paseo Portola	5-31-20	
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NEIGHBORS AFFECTED BY THE REVISED PROPOSED PROJECT

21490 PASAEO PORTOLA STREET, MALIBU, CA 90265

August 19, 2019

TO:

City of Malibu
Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265-4861

Members: Steve Uhring, Chair; Jeffrey Jennings, Vice Chair; Kraig Hill; Chris Marx; and John Mazza

Regarding the Revised Proposed Development Project at: 21490 Paseo Portola Street, Malibu, CA 90265-5110. APN 4451-023-037 (the "Revised Project")

The following residents wish to express their concerns by signing below regarding the Revised Project, including the two (2) variances being requested and the special privileges being considered for the applicant.

NAME	ADDRESS	DATE	SIGNATURE
DAVID WEST	21547 Rambla Vista	8/15/19	[Signature]
Kellene West	31547 Rambla Vista	8/15/19	[Signature]
David King	21224 The City	8/17/19	[Signature]
DAVID KING	21224 The City	8/17/19	[Signature]
DAVID GLOSTEIN	21421 Rambla Vista	8/17/19	[Signature]

NEIGHBORS AFFECTED BY THE REVISED PROPOSED PROJECT

21490 PASAEO PORTOLA STREET, MALIBU, CA 90265

August 19, 2019

TO:

City of Malibu
Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265-4861

Members: Steve Uhring, Chair; Jeffrey Jennings, Vice Chair; Kraig Hill; Chris Marx; and John Mazza

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The following residents wish to express their concerns by signing below regarding the Revised Project, including the two (2) variances being requested and the special privileges being considered for the applicant.

NAME	ADDRESS	DATE	SIGNATURE
Mark Michael	3936 Rancho Orinda	8/17/19	[Signature]

NEIGHBORS AFFECTED BY THE REVISED PROPOSED PROJECT

21490 PASAEO PORTOLA STREET, MALIBU, CA 90265

August 19, 2019

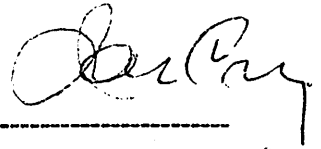

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NAME	ADDRESS	DATE	SIGNATURE
JEAN CRAIG	21446 RAMBLA Vista	8-18-19	
Tracy E Moore	21484 Paseo Portola	8-18-19	
MARILYN S. KRAPPACH	21484 Paseo Portola	8/18/19	Marilyn S. Krappach

NEIGHBORS WITHIN THE MALIBU LAS COAST OVERLAY DISTRICT

TO:

City of Malibu
Planning Commission
23825 Stuart Ranch Road
Malibu, CA 90265-4861

Members: Steve Uhring, Chair; Jeffrey Jennings, Vice Chair; Kraig Hill; Chris Marx; and John Mazza

Regarding the Proposed Development Project at: 21490 Paseo Portola Street, Malibu, CA 90265-5110. APN 4451-023-037

The following residents of the Malibu La Costa Overlay District, concur with the concerns expressed by James E. Moore (of 21484 Paseo Portola, Malibu, CA 90265) – in his letter to the City of Malibu Planning Commission dated March 28, 2019.

NAME	ADDRESS	DATE	SIGNATURE
Donna King	21224 P.C.H.	3/30/19	[Signature]
Tom O'Donoghue	21501 P.C.H.		
DAVID GOLDBSTEIN	21421 RAMBLA VISTA	3/30/19	[Signature]
Dorothy Lutz	21421 Rambla	3/30/19	D Lutz
Marilyn J. Kreppach	21484 Rambla Vista	3/31/19	Marilyn J. Kreppach
Dwight C. West	21541 Rambla Vista	3/31/19	D West

Leanne West	21549 Rambla Vista	3/31/19	Leanne West
JEAN CRAIG	21446 Rambla Vista 21460 Paseo Portola	"	Jean Craig

Solomon Aguero	21476 Paseo Portola	3/31/19	Signature
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DIANE MAROE	21476 Paseo Portola	3-3-19	Diane Maroe
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RENEE LABOSIERE	21476 Paseo Portola	3-3-19	Renee Labosiere
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Susan Tyler	21452 Paseo Portola	90265	Susan Tyler
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DAVID BRADY	21525 PCH	4/1/19	David Brady
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JEFFREY ROBERTS	21507 PCH	4/1/2019	Jeffrey Roberts
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Leo R. Sandoval	21519 PCH	4/1/19	Leo R. Sandoval
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4-MAL-20-0450

NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT**Received****Date of Notice: June 8, 2020****Notice Sent to (US. Certified Priority Mail):**

California Coastal Commission
South Central Coast District Office
89 South California Street, Suite 200
Ventura, CA 93001

JUN 15 2020

California Coastal Commission
South Central Coast District

Contact:

Adrian Fernandez, Principal Planner
City of Malibu
23825 Stuart Ranch Road
Malibu, CA 90265
(310) 456-2489

Please note the following **Final City of Malibu Action** on a coastal development permit application (all local appeals have been expired for this matter):

Project Information

COASTAL DEVELOPMENT PERMIT NO. 16-038, APPEAL NO. 19-007, VARIANCE NO. 16-017, AND VARIANCE NO. 18-045— An application to construct a new 2,954 square foot, two-story single-family residence plus a 434 square foot attached two-car garage, spa and associated equipment, decks, pile-supported retaining wall, landscaping, hardscaping, grading, and construction of a new alternative onsite wastewater treatment system, including Variance No. 16-017 for construction on slopes steeper than 1.5 to 1 and Variance No. 18-045 for height of retaining wall in excess of six feet for up to nine feet

Application Date: June 21, 2016
Issue Date: June 8, 2020
Applicant: Jose Fulginiti, Aude-Mar Inc., 18034 Ventura Blvd #512, Encino, CA 91316
Owner: Richard K. Perrin
Location: 21490 Paseo Portola Street
APN: 4451-023-037

Final Action Information

Final Local Action: ☐ Approved ☒ Approved with Conditions ☐ Denied
Final Action Body: Approved by the City Council on June 8, 2020

Required Materials Supporting the Final Action	Enclosed	Previously Sent (date)
Adopted Staff Report: June 8, 2020 City Council Meeting		5/28/2020
Adopted Findings and Conditions: City Council Resolution No. 20-23	X	
Site Plans and Elevations		5/28/2020

California Coastal Commission Appeal Information

This Final Action is:

- ☐ **NOT appealable** to the California Coastal Commission (CCC). The Final City of Malibu Action is now effective.
- ☒ **Appealable** to the California Coastal Commission. The Coastal Commission's 10-working day appeal period begins the first working day after the Coastal Commission receives adequate notice of this final action. The final action is not effective until after the Coastal Commission's appeal period has expired and no appeal has been filed. Any such appeal must be made directly to the California Coastal Commission South Central Coast District Office in Ventura, California; there is no fee for such an appeal. Should you have any questions regarding the California Coastal Commission appeal period or process, please contact the CCC South Central Coast District Office at 89 South California Street, Suite 200, Ventura, California, 93001 or by calling (805) 585-1800.

Copies of this notice have also been sent to:

- Property Owner/Applicant

Prepared by: Kathleen Stecko, A

Exhibit 8
Final Local Action Notice & City
Resolution
Appeal No. A-4-MAL-20-0026

RESOLUTION NO. 20-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU, DETERMINING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, DENYING APPEAL NO. 19-007 AND APPROVING COASTAL DEVELOPMENT PERMIT NO. 16-038 FOR THE CONSTRUCTION OF A NEW 2,963 SQUARE FOOT, TWO-STORY SINGLE-FAMILY RESIDENCE WITH A 434 SQUARE FOOT ATTACHED TWO-CAR GARAGE, SPA AND ASSOCIATED EQUIPMENT, DECKS, PILE-SUPPORTED RETAINING WALL, LANDSCAPING, HARDSCAPING, GRADING, AND CONSTRUCTION OF A NEW ALTERNATIVE ONSITE WASTEWATER TREATMENT SYSTEM, INCLUDING VARIANCE NO. 16-017 FOR CONSTRUCTION ON SLOPES STEEPER THAN 1.5 TO 1 AND VARIANCE NO. 18-045 FOR HEIGHT OF A RETAINING WALL IN EXCESS OF SIX FEET FOR UP TO NINE FEET LOCATED IN THE SINGLE-FAMILY MEDIUM ZONING DISTRICT WITHIN THE LA COSTA OVERLAY DISTRICT AT 21490 PASEO PORTOLA STREET (PERRIN)

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On June 21, 2016, an application for Coastal Development Permit (CDP) No. 16-038 was submitted to the Planning Department by Jose Fulginiti on behalf of property owner, Richard K. Perrin. The application was routed to the City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, Los Angeles County Waterworks District No. 29 (WD29), and the Los Angeles County Fire Department (LACFD) for review.

B. On July 21, 2017, Planning Department staff conducted a site visit to document site conditions and surrounding area.

C. On June 8, 2018, a Notice of Coastal Development Permit Application was posted on the subject property.

D. On January 15, 2019, the CDP application was deemed complete for processing.

E. On February 5, 2019, an updated Notice of Coastal Development Permit Application was re-posted on the subject property.

F. On February 19, 2019, Planning Department staff conducted a site visit to document story pole installation, site conditions, and surrounding area.

G. On March 7, 2019, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

H. On April 1, 2019, the Planning Commission held a public hearing on the subject item and continued the item to a date uncertain to permit the applicant additional time to revise the plans to avoid a variance to exceed the required 40-foot lateral project with portions of the residence over 18 feet in height.

I. On July 12, 2019, staff conducted a story pole inspection after story poles reflecting the revised project plans were erected.

J. On July 25, 2019, a Notice of Planning Commission Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a 500-foot radius of the subject property.

K. On August 19, 2019, the Planning Commission continued the item to the September 3, 2019 Planning Commission meeting.

L. On September 3, 2019, the Planning Commission held a duly noticed public hearing on the subject application, reviewed and considered the staff report, reviewed and considered written reports, public testimony, and other information in the record. The Commission adopted Planning Commission Resolution No. 19-20 to approve the project, subject to conditions.

M. On September 24, 2019, Mr. James E. Moore, Mrs. Tracy E. Moore and Ms. Rody Castroll, the appellants, filed an appeal to Planning Commission's decision.

N. On May 14, 2020, a Notice of City Council Public Hearing was published in a newspaper of general circulation within the City of Malibu and was mailed to all property owners and occupants within a radius of 500 feet from the subject property and all interested parties.

O. On June 8, 2020, the City Council held a duly noticed public hearing on the subject appeal, reviewed and considered the agenda report, reviewed and considered written reports, public testimony, and other information in the record.

SECTION 2. Appeal of Action.

The appeal filed by the appellants contends that the findings or conditions are not supported by the evidence, or decision is not supported by the findings, there was a lack of fair or impartial hearing and the decision was contrary to law. In the associated Council agenda report, Planning Department staff analyzed and addressed appellants' contentions.

SECTION 3. Findings for Denying the Appeal.

Based on evidence in the record and in the Council agenda report for the subject project, the City Council hereby makes the following findings of fact denying the appeal and finds that substantial evidence in the record supports the required findings for approval of the project, and the findings support the decision. In addition, the analysis, findings of fact, and conclusions set forth by staff in the agenda report and Planning Commission staff report, as well as the testimony and materials considered by the Planning Commission and City Council are incorporated herein as though fully set forth.

In regard to the specific grounds for appeal, the appellants contend that the findings or conditions are not supported by the evidence, the Planning Commission decision was not supported by the findings, there was a lack of fair or impartial hearing and the decision was contrary to law. The Council hereby adopts staff's analysis and conclusions from the staff report regarding each of the asserted grounds for appeal and the reasons the appeal is denied. In summary:

- (1) The appellants contend the applicant should have been required to indemnify neighboring property owners does not provide a ground for denial of the project, and would not be appropriate for the City to impose. In addition, evidence in the record shows that with the implementation of the geotechnical engineer's recommendations the proposed project will not increase instability of the site or decrease the site's structural integrity.
- (2) The appellants contend that the two variances are necessary due to the size of the proposed residence and a smaller residence would eliminate the need for variances. Evidence in the record demonstrates that the variances are related to the siting and design of the septic system's micro-dosed subsurface drip field to achieve the minimum required factors of safety for slope stability, which are not related to the size of the proposed residence.
- (3) The appellants contend that the proposed development expands near the westerly ravine. The proposed footprint expands toward the west compared to the original residence destroyed by fire. However, evidence in the record demonstrates that the proposed footprint is located within slopes flatter than 1.5 to 1, which is consistent with the applicable La Costa Overlay District standards.
- (4) The appellants contend that the proposed project does not comply with the Los Angeles County Fire Department (LACFD) five-foot wide walkway requirement. The applicant revised the walkway along the west to place the steps on grade thereby eliminating the need for a retaining wall. The applicant also provided a site plan showing the five-foot wide access around the residence in compliance with the LACFD. The applicant has also provided an LACFD Review Sheet approved by the LACFD.
- (5) The appellants contend that the drip field does not comply with the standard requirement for subsurface drip dispersal in areas with slopes between 30 and 45 percent. The proposed onsite wastewater treatment system is an alternative system, which permits deviations from a standard system. Alternative systems are used on parcels where site and soil conditions will not support a standard system and are characterized as having increased (i.e., more stringent) design and performance criteria. Evidence in the record demonstrates the proposed drip field meets the standards for an alternative system.
- (6) The appellants contend that the portion over six feet in height of the south-facing retaining wall results in an adverse visual impact from PCH. The segment of the retaining wall in excess of six feet in height is located behind an existing mature tree which helps visually obstruct this portion of the wall. Even though the retaining wall will be visible from other angles along PCH and the existing tree may be removed or trimmed in the future, the wall is compatible with the surrounding built environment and a condition of approval was added by the Planning Commission to plant and maintain a vertical living wall or other similar landscaping along the south face of the retaining wall to help visually screen the wall from PCH.
- (7) The appellants contend that the depth of pilings supporting the retaining wall was not determined in advance and pilings that are too long may fail. City geotechnical staff, the City's experts, and project geotechnical engineers are satisfied that the recommended depth of proposed friction piles will meet all requirements and no additional conditions are required.
- (8) The appellants contend that the after-the-fact approved grading was not restored to pre-existing condition. Evidence in the record demonstrates the slope was restored to match pre-existing conditions. The restored grading is located entirely within the proposed development and drip area. If the proposed project is approved, the restored area will be regraded and recompacted to meet the specifications of the project geotechnical engineer.

(9) The appellants contend that the onsite posting sign was outdated. Evidence in the record demonstrates the posting sign was proper and the neighbors were lawfully notified of the project and hearings.

(10) The appellants contend that the proposed project is an unfair burden on surrounding properties due to the site's geotechnical conditions. The project geotechnical engineer determined that the project, as designed and with the incorporation of the geotechnical recommendations, will not adversely affect neighboring properties. The underlying ancient landslide encompasses a larger area than the subject property and City LCP standards as well as building code standards require that projects be designed to ensure no adverse impacts to surrounding properties occur from the development. The project has been designed and conditioned in accordance with these requirements. In fact, the substantial stabilizing piles and engineering to be installed on the site will likely improve the stability of the neighborhood rather than negatively impact it.

(11) The appellants contend that there was a lack of a fair or impartial hearing based on conversations with a member of the Planning Commission. Evidence in the record demonstrates the appellants have not provided substantial evidence that would show a lack of a fair or impartial hearing.

In summary, potential issues related to construction are resolved civilly by the affected parties and the City is not responsible or liable for enforcing private property damages. As discussed in the City Council agenda report, a variance for construction on steep slopes cannot be avoided and a smaller house does not necessarily mean a shorter retaining wall. Furthermore, the drip field is designed to have a reduced setback to the retaining wall and the house is designed to comply with all applicable development standards and is similar in size to many other homes on the same street. The house is sited outside of slopes equal to or steeper than 1.5 to 1 and the plans have been revised to remove a retaining wall along the westerly property line and instead placed the Fire Department-compliant walkway steps on grade.

The proposed septic system is an alternative system, which permits deviations from a standard system when the applicant demonstrates to the City Environmental Health Administrator that the system can produce continuous and long-range result based on extensive field and test data. The increase in the steepness of slope for the proposed drip field area was acceptable to the project geotechnical engineer and approved by City staff as its micro-dosing capability minimizes the amount of effluent into a landslide area. The proposed retaining wall has been conditioned to be landscaped and a two-tier retaining wall is not expected to be a significant visual improvement over the proposed design. The project geotechnical engineer recommends that the depth of the friction piles to reach a minimum of 10 feet into the sedimentary bedrock, or deeper if specified by the project civil/structure engineer. As recommended, the project geotechnical engineer determined that the project will not adversely affect neighboring properties.

The after-the-fact approved grading has been resolved with restorative grading inspected and signed off by City of Malibu Building inspection staff. Soil compaction will be addressed as the area will be recompacted to accommodate the drip field area above it.

The posting sign was updated and replaced prior to the final Planning Commission meeting and the neighbors were properly notified as a public hearing notice was mailed to all property owners and occupants within 500 feet of the subject parcel. The underlying ancient landslide encompasses a larger area than the subject property and City LCP standards as well as building code standards require that projects be designed to ensure no adverse impacts to surrounding properties occur from

the development. The project has been designed and conditioned in accordance with these requirements. The Planning Commission hearing was properly noticed and the appellants did not provide any substantial evidence demonstrating a bias or unfair hearing.

In conclusion, the appellants have not provided evidence that the findings or conditions are not supported by the evidence, or decision is not supported by the findings, there was a lack of fair or impartial hearing and the decision was contrary to law. As discussed in this resolution, the Planning Commission resolution, the agenda reports and the record, the decision is consistent with the Malibu Municipal Code (MMC) and LCP standards and is not contrary to law. Further, evidence in the record supports the findings required for the project, as discussed below.

SECTION 4. Environmental Review.

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the City Council has analyzed the proposed project. The City Council found that this project is listed among the classes of projects that have been determined not to have a significant adverse effect on the environment. Therefore, the project is categorically exempt from the provisions of CEQA pursuant to Sections 15303(a) and (e) - New Construction. The City Council has further determined that none of the six exceptions to the use of a categorical exemption applies to this project (CEQA Guidelines Section 15300.2).

SECTION 5. Coastal Development Permit Findings.

Based on substantial evidence contained within the record and pursuant to Local Coastal Program (LCP) Local Implementation Plan (LIP) Sections 13.7(B) and 13.9, the City Council adopts the analysis in the agenda reports, incorporated herein, the findings of fact below, and approves CDP No. 16-038 to construct a new 2,963 square foot, two-story single-family residence, with a 434 square foot attached two-car garage, spa and associated equipment, decks, pile-supported retaining wall, landscaping, hardscaping, grading, and construction of a new alternative onsite wastewater treatment system (AOWTS), including Variance (VAR) No. 16-017 for construction on slopes steeper than 1.5 to 1 and VAR No. 18-045 for height of a retaining wall in excess of six feet for up to nine feet located within the Single-Family Medium Density (SFM) zoning district within the La Costa Overlay District at 21490 Paseo Portola Street.

The project is consistent with the LCP zoning, grading, cultural resources, water quality, and wastewater treatment system standards requirements. The project, as conditioned, has been determined to be consistent with all applicable LCP codes, standards, goals, and policies. The required findings are made herein.

A. General Coastal Development Permit (LIP Chapter 13)

1. The project is located in the SFM residential zoning district within the La Costa Overlay District, which is an area designated for residential uses. The project has been reviewed and approved for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City Public Works Department, City geotechnical staff, WD29, and the LACFD. As discussed herein, based on submitted reports, project plans, visual analysis, and detailed site investigation, the proposed project with the inclusion of the variances, as conditioned, conforms to the LCP and MMC in that it meets all applicable residential development standards.

2. Evidence in the record demonstrates that, as conditioned, the project will not result in adverse environmental impacts. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on the environment. Therefore, the project will not result in potentially significant adverse impacts on the physical environment and is the least environmentally damage alternative.

B. Variance Findings for Construction on Steep Slopes (LIP Section 13.26)

VAR No. 16-017 from the development standards contained in LIP Section 3.4.1(B)(6) will allow for construction of pile-supported retaining wall and Fire Department-compliant walkway steps on slopes steeper than 1.5 to 1.

1. Exceptional characteristics exist on the subject property that limit the size and location of the proposed development on the subject property. The site contains steep descending slopes and a prehistoric landslide has been mapped on the site. The proposed construction on steep slopes includes only those improvements associated with the slope stability, including the pile-supported retaining wall designed by the consulting geotechnical engineer to protect against erosion and slope failure, and steps to comply with Fire Department requirements. Development on steep slopes are unavoidable in that the subject site and nearby residence are characterized by steep slopes and adjacent properties exhibit development on slopes steeper than 1.5 to 1. Therefore, strict application of the code would deprive the property owner of the ability to develop the property in a manner similar to neighboring properties.

2. The proposed variance will allow for the installation of a pile-supported retaining wall and on-grade steps on slopes steeper than 1.5 to 1. The granting of the proposed variance will substantially improve the safety and welfare by protecting the subject property and neighboring properties from potential slope failure and Fire Department access. The project, as designed and conditioned, will not be detrimental to the public interest safety, health or welfare, nor detrimental or injurious to the property.

3. The proposed project consists of a single-family residence and associated development similar to development on neighboring properties. Approval of the variance will grant relief from a technical development standard, which if strictly applied, would limit single-family development on the subject property and be detrimental to the safety of those on the subject property and surrounding properties. Therefore, the granting of the variance will not constitute a special privilege to the applicant or the property owner.

4. As previously stated, granting the requested variance will allow the necessary improvements to stabilize the hillside on the subject site and prevent slope failure, which is necessary to protect the proposed residence and surrounding residences. The variance will also permit on-grade steps along the westerly side yard to comply with Fire Department access around the proposed residence. Granting the variance would therefore not be contrary to or in conflict with the general purposes and intent of LIP Chapter 13, nor the goals, objectives, and policies of the LCP.

5. The variance request is for development on slopes steeper than 1.5 to 1 to protect against slope failure and to provide a Fire Department-compliant walkway for the construction of a new residence in the SFM zoning district. Further, the proposed single-family residence is consistent with the property's residential zoning designation. The variance request does not authorize a use or activity that is not expressly authorized by the zoning regulations for the subject property.

6. The subject site is physically suitable for the proposed variance in that the proposed project was specifically designed to prevent slope failure and to provide the proper safety measures to stabilize the hillside as recommended by the project's consultant geotechnical engineer. The proposed project has been reviewed and approved by the City geotechnical staff and City Public Works Department as being physically suitable for the proposed variance because a home could not be developed on the site without the pile-supported retaining wall, which improve slope stability.

7. The variance complies with all requirements of state and local laws.

C. Variance for Height of Retaining Wall in Excess of Six Feet (LIP Section LIP Section 13.26)

VAR No. 18-045 from the development standards contained in LIP Section 3.4.1(B)(9) will allow for construction of a retaining wall taller than six feet in height.

1. The subject parcel has exceptional physical constraints such as steep slopes and subsurface landslide debris that limit the type of septic system that can be used and placement of development. Without the proposed variance for a nine-foot in height retaining wall, the septic system's drip field for the proposed single-family residence would not be feasible. Therefore, the strict application of the zoning ordinance would deprive the property of a single-family residence, which is a privilege enjoyed by other properties in the vicinity and under the identical zoning classification.

2. The proposed variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zones. The proposed retaining wall will help achieve the minimum required factors of safety for slope stability. Therefore, it is expected to improve site's stability and would be less detrimental or injurious to the property and proposed improvements.

3. The proposed variance will not constitute a special privilege to the applicant or property owner in that the proposed retaining wall is necessary to protect the septic system's micro-dosed subsurface drip field for the proposed single-family residence.

4. The primary goal of the retaining wall height is to provide an area large enough for a micro-dosed subsurface drip field necessary with a maximum slope of 2 to 1 for the proposed residence. The proposed variance will not be contrary to or in conflict with the LCP and no visual impacts are anticipated as a result of the proposed nine-foot in height retaining wall. Instead, the proposed wall will minimize impacts on slopes stability consistent with LCP policies.

5. The variance complies with all requirements of state and local laws.

D. Scenic, Visual and Hillside Resource Protection (LIP Chapter 6)

1. Based on an analysis of the project's visual impacts, it was determined that the proposed development is not expected to have significant adverse scenic or visual impacts. While visible from PCH, the proposed structure will be partially obscured because the structure will be notched into the hillside, is surrounded by existing two-story residences, and screened by mature landscaping. Furthermore, the proposed development is similar to past and current development along this stretch of Pacific Coast Highway and, as designed, will not encroach into blue water

views. Therefore, the project as conditioned, will not have significant adverse scenic or visual impacts due to project design, location or other reasons.

2. The project has been designed and conditioned to not have significant adverse scenic or visual impacts. The project has been conditioned to include limitations on lighting and colors of the materials used to prevent any visual impacts to scenic areas and primary views.

3. As previously discussed in Section A, the project is the least environmentally damaging feasible alternative. The proposed new single-family residence is sited on the property to limit landform alteration and potential impacts to steep slopes within the southern portion of the property.

4. The project, as designed and conditioned, is not expected to adversely affect scenic and visual resources and no feasible alternatives would avoid or substantially lessen any significant adverse impacts on scenic and visual resources.

5. The proposed project will have less than significant visual impacts to public views from Pacific Coast Highway and will not impact sensitive resources. The proposed development is sited to eliminate, minimize or otherwise contribute to conformance to sensitive resource protection policies.

E. Hazards (LIP Chapter 9)

1. Geotechnical reports geotechnical reports and addenda prepared by CalWest Geotechnical Engineers indicate that a prehistoric landslide has been mapped on the site and subsurface landslide debris exist on the subject site. The pile-supported retaining wall is designed to stabilize the site and prevent slope failure. The proposed development is suitable for the intended use provided that the certified engineering geologist and/or geotechnical engineer's recommendations and governing agency's building codes are followed. Thus, the project will not serve to increase the instability or integrity of the site due to geologic, flood, fire, project design or location.

2. Based on substantial evidence contained within the record and subject to the incorporation of all recommendations and/or conditions, the proposed project will be safe, the site of the grading will not be affected by any hazard from landslide and the completed work will not adversely affect adjacent properties. As such, there are no alternatives to development that would avoid or substantially lessen impacts on site stability or structural integrity. Any special conditions from City geotechnical staff and City Public Works Department must be met prior to issuance of a building permit.

3. The project, as conditioned, is the least environmentally damaging alternative.

4. The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, and LACFD. These specialists and agency determined that the proposed project does not impact site stability or structural integrity. There are no feasible alternatives to the proposed development that would result in less site disturbance.

5. The proposed project, as designed and conditioned, will not have adverse impacts on sensitive resources.

SECTION 6. Action.

Based on the foregoing findings and evidence contained within the record, the City Council hereby approves CDP No. 16-038 and VAR Nos. 16-017 and 18-045, subject to the following conditions.

SECTION 7. Conditions of Approval.

1. The property owners, and their successors in interest, shall indemnify and defend the City of Malibu and its officers, employees and agents from and against all liability and costs relating to the City's actions concerning this project, including (without limitation) any award of litigation expenses in favor of any person or entity who seeks to challenge the validity of any of the City's actions or decisions in connection with this project. The City shall have the sole right to choose its counsel and property owners shall reimburse the City's expenses incurred in its defense of any lawsuit challenging the City's actions concerning this project.

2. Approval of this application is to allow for the project described herein. The scope of work approved includes:

Construction

- a. Construction of a 2,963 square foot, two-story single-family residence, plus a 434 square foot attached two-car garage;
- b. Total Development Square Footage (TDSF) 3,397 square feet;
- c. Installation of a new AOWTS;
- d. Construction of a spa, and associated equipment;
- e. Construction of a pile-supported retaining wall (nine-foot in height maximum);
- f. Construction of first floor and second floor decks;
- g. Installation of new landscaping and hardscaping; and
- h. Grading.

Additional Discretionary Requests

- i. VAR No. 16-017 for construction on slopes steeper than 1.5 to 1; and
 - j. VAR No. 18-045 for a retaining wall in excess of six feet for up to nine feet.
3. Except as specifically changed by conditions of approval, the proposed development shall be constructed in substantial conformance with the approved scope of work, as described in Condition No. 2 and depicted on plans on file with the Planning Department date stamped **February 14, 2020**. The proposed development shall further comply with all conditions of approval stipulated in this resolution and Department Review Sheets attached hereto. In the event project plans conflict with any condition of approval, the condition shall take precedence.
 4. Pursuant to LIP Section 13.18.2, this permit and rights conferred in this approval shall not be effective until the property owner signs, notarizes and returns the Acceptance of Conditions Affidavit accepting the conditions of approval set forth herein. The applicant shall file this form with the Planning Department prior to the issuance of any development permits.

5. The applicant shall submit three (3) complete sets of plans, including the items required in Condition No. 6 to the Planning Department for consistency review and approval prior to plan check and again prior to the issuance of any building or development permits.
6. This resolution, signed and notarized Acceptance of Conditions Affidavit and all Department Review Sheets attached to the agenda report for this project shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans submitted to the City of Malibu Environmental Sustainability Department for plan check, and the City of Malibu Public Works Department for an encroachment permit (as applicable).
7. The CDP shall expire if the project has not commenced within three (3) years after issuance of the permit, unless a time extension has been granted. Extension of the permit may be granted by the approving authority for due cause. Extensions shall be requested in writing by the applicant or authorized agent prior to expiration of the three-year period and shall set forth the reasons for the request. In the event of an appeal, the CDP shall expire if the project has not commenced within three years from the date the appeal is decided by the decision-making body or withdrawn by the appellant.
8. Any questions of intent or interpretation of any condition of approval will be resolved by the Planning Director upon written request of such interpretation.
9. All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Biologist, City Coastal Engineer, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, WD29, and LACFD, as applicable. Notwithstanding this review, all required permits shall be secured.
10. Minor changes to the approved plans or the conditions of approval may be approved by the Planning Director, provided such changes achieve substantially the same results and the project is still in compliance with the Malibu Municipal Code and the Local Coastal Program. Revised plans reflecting the minor changes and additional fees shall be required.
11. Pursuant to LIP Section 13.20, development pursuant to an approved CDP shall not commence until the CDP is effective. The CDP is not effective until all appeals, including those to the California Coastal Commission (CCC), have been exhausted. In the event that the CCC denies the permit or issues the permit on appeal, the coastal development permit approved by the City is void.
12. The property owner must submit payment for all outstanding fees payable to the City prior to issuance of any building permit, including grading or demolition.
13. The property owner shall comply with all provisions of the MMC and LIP.

Cultural Resources

14. In the event that potentially important cultural resources are found in the course of geologic testing or during construction, work shall immediately cease until a qualified archaeologist can provide an evaluation of the nature and significance of the resources and until the

Planning Director can review this information. Thereafter, the procedures contained in LIP Chapter 11 and those in MMC Section 17.54.040(D)(4)(b) shall be followed.

15. If human bone is discovered during geologic testing or during construction, work shall immediately cease and the procedures described in Section 7050.5 of the California Health and Safety Code shall be followed. Section 7050.5 requires notification of the coroner. If the coroner determines that the remains are those of a Native American, the applicant shall notify the Native American Heritage Commission by phone within 24 hours. Following notification of the Native American Heritage Commission, the procedures described in Section 5097.94 and Section 5097.98 of the California Public Resources Code shall be followed.

Site-Specific Conditions

16. Shrubs proposed in the north portions of the property shall be maintained at a height not to exceed six feet, as described in the Landscape Plans.
17. This project proposes to construct improvements within the public right-of-way. The applicant shall obtain encroachment permits from the Public Works Department prior to the commencement of any work within the public right-of-way.
18. The property owner / applicant is required to install and maintain a vertical living wall or other similar landscape along the south-facing retaining wall, and staggered planting in front the wall to help visually screen the wall from Pacific Coast Highway.

Lighting

19. Exterior lighting must comply with the Dark Sky Ordinance and shall be minimized, shielded, or concealed and restricted to low intensity features, so that no light source is directly visible from public view. Permitted lighting shall conform to the following standards:
 - a. Lighting for walkways shall be limited to fixtures that do not exceed two feet in height and are directed downward, and limited to 850 lumens (equivalent to a 60 watt incandescent bulb);
 - b. Security lighting controlled by motion detectors may be attached to the residence provided it is directed downward and is limited to 850 lumens;
 - c. Driveway lighting shall be limited to the minimum lighting necessary for safe vehicular use. The lighting shall be limited to 850 lumens;
 - d. Lights at entrances as required by the Building Code shall be permitted provided that such lighting does not exceed 850 lumens;
 - e. Site perimeter lighting shall be prohibited; and
 - f. Outdoor decorative lighting for aesthetic purposes is prohibited.
20. Night lighting for sports courts or other private recreational facilities shall be prohibited.
21. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. Lighting levels on any nearby property from artificial light sources on the subject property(ies) shall not produce an illumination level greater than one foot candle.

22. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded directed downward and inward so there is no offsite glare or lighting of natural habitat areas. High intensity lighting of the shore is prohibited.
23. String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.
24. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
25. Three sequential violations of the conditions by the same property owner will result in a requirement to permanently remove the outdoor light fixture(s) from the site.

Fencing and Walls

26. The height of fences and walls shall comply with LIP Section 3.5.3(A), except for the rear pile-supported retaining wall which is allowed a maximum height of nine feet, pursuant to Variance No. 18-045.
27. Gates and any proposed fencing along the front property line shall comply with the regulations set forth in LIP Section 3.5.

Construction / Framing.

28. A construction staging plan shall be reviewed and approved by the Planning Director prior to plan check submittal.
29. Construction hours shall be limited to Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturdays from 8:00 a.m. to 5:00 p.m. No construction activities shall be permitted on Sundays or City-designated holidays.
30. Construction management techniques, including minimizing the amount of equipment used simultaneously and increasing the distance between emission sources, shall be employed as feasible and appropriate. All trucks leaving the construction site shall adhere to the California Vehicle Code. In addition, construction vehicles shall be covered when necessary; and their tires rinsed prior to leaving the property.
31. All new development, including construction, grading, and landscaping shall be designed to incorporate drainage and erosion control measures prepared by a licensed engineer that incorporate structural and non-structural Best Management Practices (BMPs) to control the volume, velocity and pollutant load of storm water runoff in compliance with all requirements contained in LIP Chapter 17, including:
 - a. Construction shall be phased to the extent feasible and practical to limit the amount of disturbed areas present at a given time.
 - b. Grading activities shall be planned during the southern California dry season (April through October).
 - c. During construction, contractors shall be required to utilize sandbags and berms to control runoff during on-site watering and periods of rain in order to minimize surface water contamination.

- d. Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the project site.
32. When framing is complete, a site survey shall be prepared by a licensed civil engineer or architect that states the finished ground level elevation and the highest roof member elevation. Prior to the commencement of further construction activities, said document shall be submitted to the assigned Building Inspector and Planning Department for review and sign off on framing.

Colors and Materials.

33. The project is visible from scenic roads or public viewing areas, therefore, shall incorporate colors and exterior materials that are compatible with the surrounding landscape.
- a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray, with no white or light shades and no bright tones. Colors shall be reviewed and approved by the Planning Director and clearly indicated on the building plans.
 - b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells, which shall be placed to minimize significant adverse impacts to public views to the maximum extent feasible.
 - c. All windows shall be comprised of non-glare glass.
34. All driveways shall be a neutral color that blends with the surrounding landforms and vegetation. Retaining walls shall incorporate veneers, texturing and/or colors that blend with the surrounding earth materials or landscape. The color of driveways and retaining walls shall be reviewed and approved by the Planning Director and clearly indicated on all grading, improvement and/or building plans.

Biology/Landscaping

35. Prior to final Planning inspection or other final project sign off (as applicable), the applicant shall submit to the Planning Director for review and approval a certificate of completion in accordance with the Landscape Water Conservation Ordinance (MMC Chapter 9.22). The certificate shall include the property owner's signed acceptance of responsibility for maintaining the landscaping and irrigation in accordance with the approved plans and MMC Chapter 9.22.
36. Invasive plant species, as determined by the City of Malibu, are prohibited.
37. The landscape plan shall prohibit the use of building materials treated with toxic compounds such as creosote or copper arsenate.
38. Earthmoving shall be scheduled only during the dry season from April 1 through October 31. If it becomes necessary to conduct earthmoving activities from November 1 through March 31, a comprehensive erosion control plan shall be submitted to the City Biologist for approval prior to the issuance of a grading permit and implemented prior to initiation of vegetation removal and/or earthmoving activities.

39. Any site preparation activities, including removal of vegetation, between February 1 and September 15 will require nesting bird surveys by a qualified biologist at least five days prior to initiation of site preparation activities. Should active nests be identified, a buffer area no less than 150 feet (300 feet for raptors) shall be fenced off until it is determined by a qualified biologist that the nest is no longer active. A report discussing the results of nesting bird surveys shall be submitted to the City within two business days of completing the surveys.
40. Vegetation shall be situated on the property so as not to significantly obstruct the primary view from private property at any given time (given consideration of its future growth).
41. Prior to installation of any landscaping, the applicant shall obtain a plumbing permit for the proposed irrigation system from the Building Safety Division.
42. Vegetation forming a view impermeable condition serving the same function as a fence or wall (also known as a hedge) located within the side or rear yard setback shall be maintained at or below a height of six feet. A hedge located within the front yard setback shall be maintained at or below a height of 42 inches. Three sequential violations of this condition will result in a requirement to permanently remove the vegetation from the site.
43. Native species of the Santa Monica Mountains, characteristic of the local habitat, shall be used on graded slopes or where slope plantings are required for slope stabilization, erosion control, and watershed protection. Plants should be selected to have a variety of rooting depths. A spacing of 15 feet between large woody (≥ 10 -foot canopy) shrubs is recommended by the LACFD. Lawns are prohibited on slopes > 5 percent.
44. No non-native plant species are allowed greater than 50 feet from the residential structure.

Public Works

45. The applicant shall obtain encroachment permits from the Public Works Department prior to the commencement of any work within the public right-of-way. The driveway shall be constructed of either six inches of concrete over four inches of aggregate base, or four inches of asphalt concrete over six inches of aggregate base. The driveway shall be flush with the existing grades with no curbs.
46. A digital drawing (AutoCAD) of the project's private storm drain system, public storm drain system within 250 feet of the property limits, and post-construction BMPs shall be submitted to the Public Works Department prior to the issuance of grading or building permits. The digital drawing shall adequately show all storm drain lines, inlets, outlets, post-construction BMPs and other applicable facilities. The digital drawing shall also show the subject property, public or private street, and any drainage easements.

Grading/Drainage/Hydrology (Geology/ Public Works)

47. The non-exempt grading for the project shall not exceed a total of 1,000 cubic yards, cut and fill.

48. The total grading yardage verification certificate shall be copied onto the coversheet of the Grading Plan. No alternative formats or substitutes will be accepted.
49. A grading and drainage plan containing the following information shall be approved, and submitted to the Public Works Department, prior to the issuance of grading permits for the project:
- Public Works Department general notes;
 - The existing and proposed square footage of impervious coverage on the property shall be shown on the grading plan (including separate areas for buildings, driveways, walkways, parking, tennis courts and pool decks);
 - The limits of land to be disturbed during project development shall be delineated and a total area shall be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading, areas disturbed for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated;
 - The limits to land to be disturbed during project development shall be delineated and a total area of disturbance should be shown on this plan. Areas disturbed by grading equipment beyond the limits of grading shall be included within the area delineated;
 - If the property contains rare, endangered or special status species as identified in the Biological Assessment, this plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on this plan is required by the City Biologist;
 - The grading limits shall include the temporary cuts made for retaining walls, buttresses and over excavations for fill slopes; and
 - Private storm drain systems shall be shown on this plan. Systems greater than 12 inch in diameter shall also have a plan and profile for the system included with this plan.
50. A Local Storm Water Pollution Prevention Plan (LSWPPP) shall be provided prior to issuance of grading/building permits. This plan shall include and Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

Erosion Controls Scheduling	Erosion Controls Scheduling
	Preservation of Existing Vegetation
Sediment Controls Silt Fence	Sediment Controls Silt Fence
	Sand Bag Barrier
	Stabilized Construction Entrance
Non-Storm Water Management	Water Conservation Practices
	Dewatering Operations
Waste Management	Material Delivery and Storage
	Stockpile Management
	Spill Prevention and Control
	Solid Waste Management
	Concrete Waste Management
	Sanitary/Septic Waste Management

All Best Management Practices (BMP) shall be in accordance to the latest version of the California Stormwater Quality Association (CASQA) BMP Handbook. Designated areas for

the storage of construction materials, solid waste management, and portable toilets must not disrupt drainage patterns or subject the material to erosion by site runoff.

51. A Storm Water Management Plan (SWMP) shall be submitted for review and approval of the Public Works Director. The SWMP shall be prepared in accordance with the LIP Section 17.3.2 and all other applicable ordinances and regulations. The SWMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the pre-development and post-development drainage of the site. The SWMP shall identify the site design and source control BMPs that have been implemented in the design of the project. The SWMP shall be reviewed and approved by the Public Works Department prior to the issuance of the grading or building permit for this project.
52. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
 - a. Is located within or adjacent to ESHA, or
 - b. Includes grading on slopes greater than 4 to 1.

Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4 to 1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.

53. Exported soil from a site shall be taken to the Los Angeles County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with LIP Section 8.3.
54. A Water Quality Mitigation Plan (WQMP) shall be submitted for review and approval of the Public Works Director. The WQMP shall be prepared in accordance with the LIP Section 17.3.3 and all other applicable ordinances and regulations. The WQMP shall be supported by a hydrology and hydraulic study that identifies all areas contributory to the property and an analysis of the predevelopment and post development drainage on the site. The following elements shall be included within the WQMP:
 - a. Site Design Best Management Practices (BMPs);
 - b. Source Control BMPs;
 - c. Treatment Control BMPs;
 - d. Drainage improvements;
 - e. Methods for onsite percolation, site re-vegetation and an analysis for off-site project impacts;
 - f. Measures to treat and infiltrate runoff from impervious areas;
 - g. A plan for the maintenance and monitoring of the proposed treatment BMPs for the expected life of the structure;
 - h. A copy of the WQMP shall be filed against the property to provide constructive notice to future property owners of their obligation to maintain the water quality measures installed during construction prior to the issuance of grading or building permits; and
 - i. The WQMP shall be submitted to the Building Safety Division and the fee applicable at the time of submittal for review of the WQMP shall be paid prior to the start of the

technical review. Once the plan is approved and stamped by the Public Works Department, the original signed and notarized document shall be recorded with the County Recorder. A certified copy of the WQMP shall be submitted prior to the Public Works Department approval of building plans for the project.

55. The developer's consulting engineer shall sign the final plans prior to the issuance of permits.

Geology

56. All recommendations of the consulting certified engineering geologist or geotechnical engineer and/or the City geotechnical staff shall be incorporated into all final design and construction including foundations, grading, sewage disposal, and drainage. Final plans shall be reviewed and approved by the City geotechnical staff prior to the issuance of a grading permit.
57. Final plans approved by the City geotechnical staff shall be in substantial conformance with the approved CDP relative to construction, grading, sewage disposal and drainage. Any substantial changes may require a CDP amendment or a new CDP.

Spa

58. Onsite noise, including that which emanates from swimming pool/spa and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
59. Pool/spa and air conditioning equipment that will be installed shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall comply with LIP Section 3.5.3(A).
60. All swimming pools shall contain double walled construction with drains and leak detection systems capable of sensing a leak of the inner wall.
61. Pursuant to the Clean Water Act and the Malibu Water Quality Ordinance, discharge of water from a pool / spa is prohibited. Provide information on the plans regarding the type of sanitation proposed for pool.
- a. Ozonization systems are an acceptable alternative to chlorine. The discharge of clear water from ozonization systems is not permitted to the street;
 - b. Salt water sanitation is an acceptable alternative to chlorine. The discharge of salt water is not permitted to the street; and
 - c. Chlorinated water from pools or spas shall be trucked to a publicly-owned treatment works facility for discharge.
62. The discharge of chlorinated and non-chlorinated pool / spa water into streets, storm drains, creeks, canyons, drainage channels, or other locations where it could enter receiving waters is prohibited.
63. A sign stating "It is illegal to discharge pool, spa, or water feature waters to a street, drainage course, or storm drain per MMC Section 13.04.060(D)(5)" shall be posted in the filtration and/or pumping equipment area for the property.

Onsite Wastewater Treatment System

64. Prior to the issuance of a building permit the applicant shall demonstrate, to the satisfaction of the Building Official, compliance with the City of Malibu's onsite wastewater treatment regulations including provisions of MMC Chapters 15.40, 15.42, 15.44, and LIP Chapter 18 related to continued operation, maintenance and monitoring of the OWTS.
65. Prior to final Environmental Health approval, a final OWTS plot plan shall be submitted showing an OWTS design meeting the minimum requirements of the MMC and the LCP, including necessary construction details, the proposed drainage plan for the developed property and the proposed landscape plan for the developed property. The OWTS plot plan shall show essential features of the OWTS and must fit onto an 11 inch by 17 inch sheet leaving a five inch margin clear to provide space for a City applied legend. If the scale of the plans is such that more space is needed to clearly show construction details and/or all necessary setbacks, larger sheets may also be provided (up to a maximum size of 18 inches by 22 inches).
66. A final design and system specifications shall be submitted as to all components (i.e., alarm system, pumps, timers, flow equalization devices, backflow devices, etc.) proposed for use in the construction of the proposed OWTS. For all OWTS, final design drawings and calculations must be signed by a California registered civil engineer, a registered environmental health specialist or a professional geologist who is responsible for the design. The final OWTS design drawings shall be submitted to the City Environmental Health Administrator with the designer's wet signature, professional registration number and stamp (if applicable).
67. Any above-ground equipment associated with the installation of the OWTS shall be screened from view by a solid wall or fence on all four sides. The fence or walls shall not be higher than 42 inches tall.
68. The final design report shall contain the following information (in addition to the items listed above).
 - a. Required treatment capacity for wastewater treatment and disinfection systems. The treatment capacity shall be specified in terms of flow rate, gallons per day, and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing fixture equivalents, and/or the subsurface effluent dispersal system acceptance rate. The fixture unit count must be clearly identified in association with the design treatment capacity, even if the design is based on the number of bedrooms. Average and peak rates of hydraulic loading to the treatment system shall be specified in the final design;
 - b. Description of proposed wastewater treatment and/or disinfection system equipment. State the proposed type of treatment system(s) (e.g., aerobic treatment, textile filter ultraviolet disinfection, etc.); major components, manufacturers, and model numbers for "package" systems; and conceptual design for custom engineered systems;
 - c. Specifications, supporting geology information, and percolation test results for the subsurface effluent dispersal portion of the onsite wastewater disposal system. This must include the proposed type of effluent dispersal system (drainfield, trench, seepage pit subsurface drip, etc.) as well as the system's geometric dimensions and basic construction features. Supporting calculations shall be presented that relate the

results of soils analysis or percolation/infiltration tests to the projected subsurface effluent acceptance rate, including any unit conversions or safety factors. Average and peak rates of hydraulic loading to the effluent dispersal system shall be specified in the final design. The projected subsurface effluent acceptance rate shall be reported in units of total gallons per day and gallons per square foot per day. Specifications for the subsurface effluent dispersal system shall be shown to accommodate the design hydraulic loading rate (i.e., average and peak OWTS effluent flow, reported in units of gallons per day). The subsurface effluent dispersal system design must take into account the number of bedrooms, fixture units and building occupancy characteristics;

- d. All final design drawings shall be submitted with the wet signature and typed name of the OWTS designer. If the scale of the plan is such that more space is needed to clearly show construction details, larger sheets may also be provided (up to a maximum size of 18 inch by 22 inch, for review by Environmental Health). Note: For OWTS final designs, full-size plans are required for review by the Building Safety Division and/or the Planning Department; and
 - e. H2O Traffic Rated Slab: Submit plans and structural calculations for review and approval by the Building Safety Division prior to Environmental Health final approval.
69. Prior to final Environmental Health approval, the construction plans for all structures and/or buildings with reduced setbacks must be approved by the City Building Safety Division. The architectural and/or structural plans submitted to Building and Safety plan check must detail methods of construction that will compensate for the reduction in setback (e.g., waterproofing, concrete additives, etc.). For complex waterproofing installations, submittal of a separate waterproofing plan may be required. The architectural/structural/ waterproofing plans must show the location of OWTS components in relation to those structures from which the setback is reduced, and the plans must be signed and stamped by the architect, structural engineer, and geotechnical consultants (as applicable).
70. Prior to final Environmental Health approval, the applicant shall provide engineer's certification for reduction in setbacks to buildings or structures: All proposed reductions in setback from the OWTS to structures (i.e., setbacks less than those shown in MMC Table 15.42.030(E)) must be supported by a letter from the project structural engineer and a letter from the project soils engineer (i.e., a geotechnical engineer or civil engineer practicing in the area of soils engineering). Both engineers must certify unequivocally that the proposed reduction in setbacks from the treatment tank and effluent dispersal area will not adversely affect the structural integrity of the OWTS, and will not adversely affect the structural integrity of the structures for which the Table 15.42.030(E) setback is reduced. Construction drawings submitted for plan check must show OWTS components in relation to those structures from which the setback is reduced. All proposed reductions in setback from the OWTS to buildings (i.e., setbacks less than those shown in Table 15.42.030(E)) also must be supported by a letter from the project architect, who must certify unequivocally that the proposed reduction in setbacks will not produce a moisture intrusion problem for the proposed building(s). If the building designer is not a California-licensed architect, then the required architect's certification may be supplied by an engineer who is responsible for the building design with respect to mitigation of potential moisture intrusion from reduced setbacks to the wastewater system. In this case, the engineer must include in his/her letter an explicit statement of responsibility for mitigation of potential moisture intrusion. If any

specific construction features are proposed as part of a moisture intrusion mitigation system in connection with the reduced setback, then the architect or engineer must provide associated construction documents for review and approval during Building Safety Division plan check. The wastewater plans and the construction plans must be specifically referenced in all certification letters.

71. The following note shall be added to the plan drawings included with the OWTS final design: "Prior to commencing work to abandon, remove, or replace the existing Onsite Wastewater Treatment System (OWTS) components, an 'OWTS Abandonment Permit' shall be obtained from the City of Malibu. All work performed in the OWTS abandonment, removal or replacement area shall be performed in strict accordance with all applicable federal, state, and local environmental and occupational safety and health regulatory requirements. The obtainment of any such required permits or approvals for this scope of work shall be the responsibility of the applicant and their agents."
72. Final plans shall clearly show the locations of all existing OWTS components (serving pre-existing development) to be abandoned and provide procedures for the OWTS' proper abandonment in conformance with the MMC.
73. All project architectural plans and grading/drainage plans shall be submitted for Environmental Health review and approval. These plans must be approved by the Building Safety Division prior to receiving Environmental Health final approval.
74. Proof of ownership of subject property shall be submitted to the City Environmental Health Administrator.
75. An operations and maintenance manual specified by the OWTS designer shall be submitted to the property owner and maintenance provider of the proposed advanced OWTS.
76. Prior to final Environmental Health approval, a maintenance contract executed between the owner of the subject property and an entity qualified in the opinion of the City of Malibu to maintain the proposed OWTS after construction shall be submitted. Only original wet signature documents are acceptable and shall be submitted to the City Environmental Health Administrator.
77. Prior to final Environmental Health approval, a covenant running with the land shall be executed between the City of Malibu and the holder of the fee simple absolute as to subject real property and recorded with the City of Malibu Recorder's Office. Said covenant shall serve as constructive notice to any future purchaser for value that the onsite wastewater treatment system serving subject property is an advanced method of sewage disposal pursuant to the City of MMC. Said covenant shall be provided by the City of Malibu Environmental Health Administrator.
78. A covenant running with the land shall be executed by the property owner and recorded with the Los Angeles County Recorder's Office. Said covenant shall serve as constructive notice to any successors in interest that: 1) the private sewage disposal system serving the development on the property does not have a 100 percent expansion effluent dispersal area (i.e., replacement disposal field(s) or seepage pit(s)), and 2) if the primary effluent dispersal area fails to drain adequately, the City of Malibu may require remedial measures including,

but not limited to, limitations on water use enforced through operating permit and/or repairs, upgrades or modifications to the private sewage disposal system. The recorded covenant shall state and acknowledge that future maintenance and/or repair of the private sewage disposal system may necessitate interruption in the use of the private sewage disposal system and, therefore, any building(s) served by the private sewage disposal system may become non-habitable during any required future maintenance and/or repair. Said covenant shall be in a form acceptable to the City Attorney and approved by the City Environmental Sustainability Department.

79. The City geotechnical staff final approval shall be submitted to the City Environmental Health Administrator.
80. In accordance with MMC Chapter 15.44, prior to Environmental Health approval, an application shall be made to the Environmental Sustainability Department for an OWTS operating permit.

Water Quality/ Water Service

81. Prior to the issuance of a building permit, the applicant shall submit an updated Will Serve Letter from WD29 to the Planning Department indicating the ability of the property to receive adequate water service.
82. Prior to final inspection (or project sign off, as applicable) by the Planning Department, the applicant shall demonstrate that all requirements of WD29 have been met, including installation of a meter, if applicable.

Deed Restrictions

83. The property owner is required to execute and record a deed restriction which shall indemnify and hold harmless the City, 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. The property owner shall provide a copy of the recorded document to Planning department staff prior to final planning approval.
84. Prior to final Planning Department approval, the applicant shall be required to execute and record a deed restriction reflecting lighting requirements set forth in Condition Nos. 18-24. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

Prior to Occupancy

85. Prior to, or at the time of a Planning final inspection, the property owner / applicant shall submit to the Planning Department the plumbing permit for the irrigation system installation signed off by the Building Safety Division.

86. Prior to final inspection (or project sign off, as applicable) by the Planning Department, the City Biologist shall inspect the project site and determine that all Planning Department conditions to protect natural resources are in compliance with the approved plans.
87. Prior to a final Building inspection, the applicant shall provide a Recycling Summary Report (Summary Report) and obtain the approval from the Environmental Sustainability Department. Applicant must provide haul tickets and diversion information. The final Summary Report shall designate the specific materials that were land filled or recycled, and state the facilities where all materials were taken.
88. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Building Safety Division. A Certificate of Occupancy shall not be issued until the Planning Department has determined that the project complies with this coastal development permit. A temporary Certificate of Occupancy may be granted at the discretion of the Planning Director, provided adequate security has been deposited with the City to ensure compliance should the final work not be completed in accordance with this permit.
89. Any construction trailer, storage equipment or similar temporary equipment not permitted as part of the approved scope of work shall be removed prior to final inspection and approval, and if applicable, the issuance of the certificate of occupancy.

Fixed Conditions

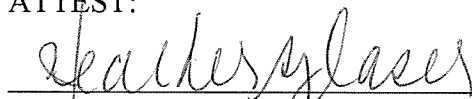
90. This coastal development permit shall run with the land and bind all future owners of the property.
91. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted there under.

SECTION 8. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

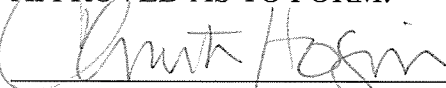
PASSED, APPROVED AND ADOPTED this 8th day of June 2020.


KAREN FARRER, Mayor

ATTEST:


HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:


CHRISTI HOGIN, City Attorney

COASTAL COMMISSION APPEAL – An aggrieved person may appeal the City Council's approval to the Coastal Commission within 10 working days of the issuance of the City's Notice of Final Action. Appeal forms may be found online at www.coastal.ca.gov or in person at the Coastal Commission South Central Coast District office located at 89 South California Street in Ventura, or by calling (805) 585-1800. Such an appeal must be filed with the Coastal Commission, not the City.

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the MMC and Code of Civil Procedure. Any person wishing to challenge the above action in Superior Court may be limited to raising only those issues they or someone else raised at the public hearing, or in written correspondence delivered to the City of Malibu at or prior to the public hearing.

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 20-23 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 8th day of June 2020 by the following vote:

AYES:	5	Councilmembers:	Mullen, Peak, Wagner, Pierson, Farrer
NOES:	0		
ABSTAIN:	0		
ABSENT:	0		


HEATHER GLASER, City Clerk
(seal)