CALIFORNIA COASTAL COMMISSION

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



W12a

A-4-MAL-21-0034 (Cuthbert Surf LLC)

July 7, 2021

Exhibits

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Exhibit 7 - Correspondence from Applicant dated June 10, 2021

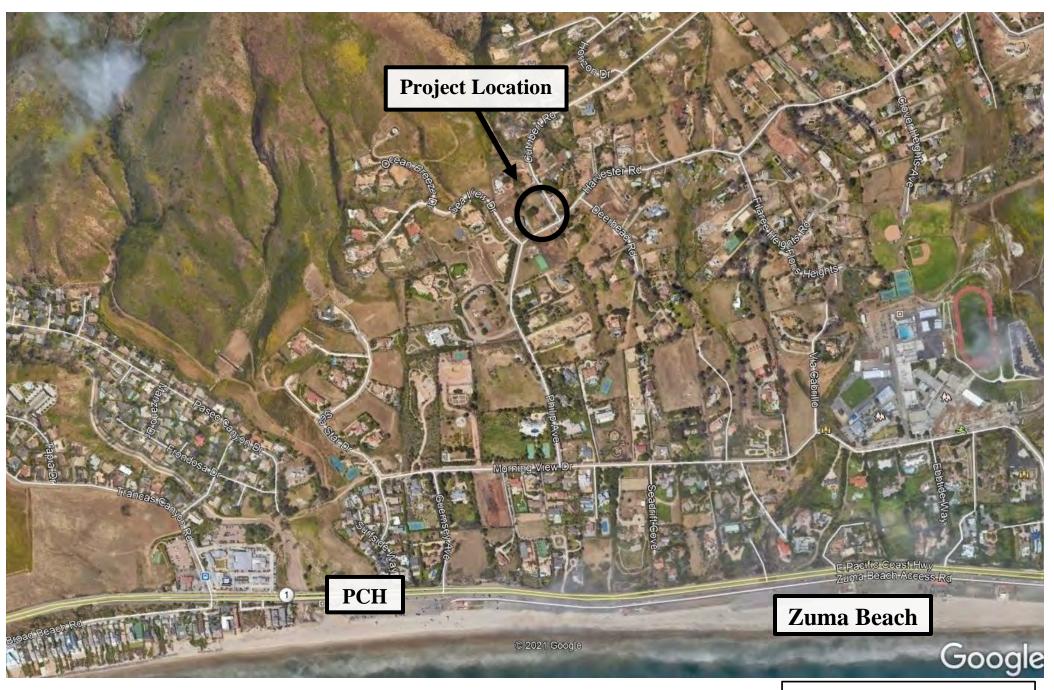
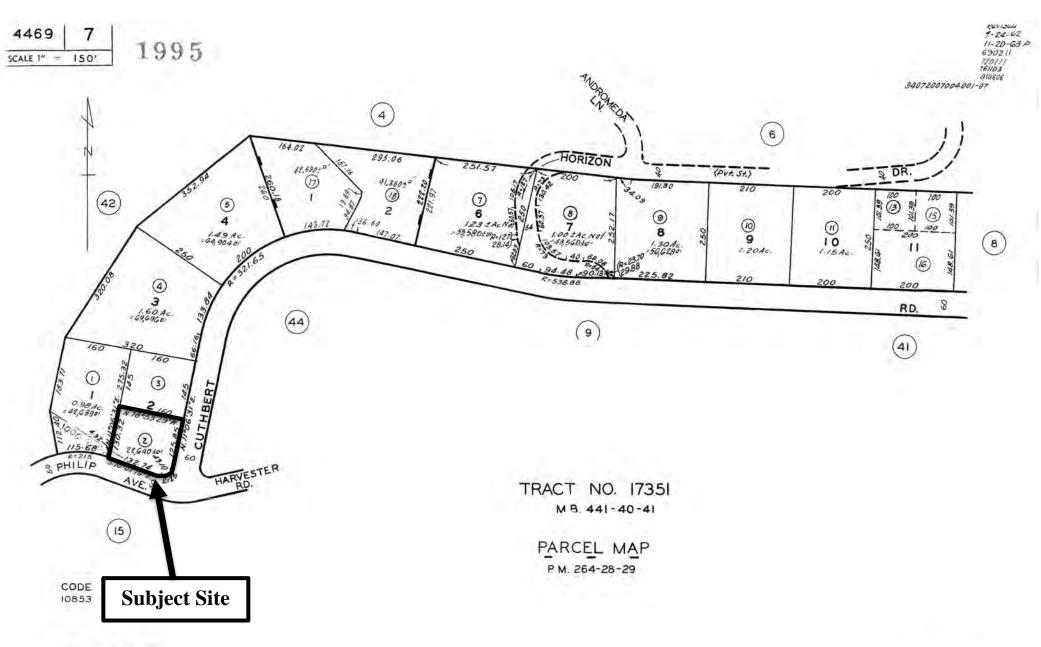


Exhibit 1 Vicinity Map Appeal No. A-4-MAL-21-0034





FOR PREV. ASSM'T. SEE:

ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

Exhibit 3 Parcel Map Appeal No. A-4-MAL-21-0034 **PROJECT DESIGNER:** VITUS MATARE VITUS MATARE'& ASSOCIATES, INC. P.O. BOX 1204 MALIBU, CA. 90265 v: 310-317-0700 f: 310-317-0721

SURVEYOR: JOHN JAHANPOUR-BURKE HJ BURKE, INC., SURVEYORS 830 S. DURANGO DR., SUITE 100 LAS VEGAS, NV. 89154 v: 310-633-1213 f: 702-562-9876

GEOTECHNICAL ENGINEER: DEAN LEDGERWOOD SALEM ENGINEERING 4729 W. JACQUELYN AVENUE FRESNO, CA. 93722 v:559-271-9700

SEPTIC SYSTEM DESIGN: KEVIN POFFENBARGER EPD CONSULTANTS 20722 S. MAIN STREET **CARSON, CA. 90745** v: 310-241-6565 f: 310-241-6566

ENERGY ANALYSIS: DAVID MCCLAIN TITLE 24 DATA, INC. 633 MONTEREY TRAIL (P.O. BOX 2199) FRAZIER PARK, CA. 93225 v: 800-237-8824

FIRE SUPPRESSION: TYLER RYDER CENTER LINE FIRE SUPPRESSION, INC. 23720 SHASTA WAY SIMI VALLEY, CA. 93065 v: 805-915-7786

BIOLOGIST: MARCUS C. ENGLAND BARGAS ENVIRONMENT COSULTING 1100 TOWN & COUNTRY ROAD, SUITE 1250 ORANGE, CA. 92869 v: 657.235.5019



CUTHBERT SURF RESIDENCE 30181 CUTHBERT ROAD

MALIBU, CA 90265 - CITY OF MALIBU APN 4469-007-002

TRACT # 17351 LOT COM AT SW COR OF LOT 2 TH S 70¢07'19" E 132.74 FT TH NE ON A CURVE CONCAVE TO NW RADIUS EQUALS 25 FT 43.10 FT TH N 11¢06'31" E 125.85 FT TH N ... SEE MAPBOOK FOR MISSING PORTION ... LOT 2

PROJECT DESCRIPTION:

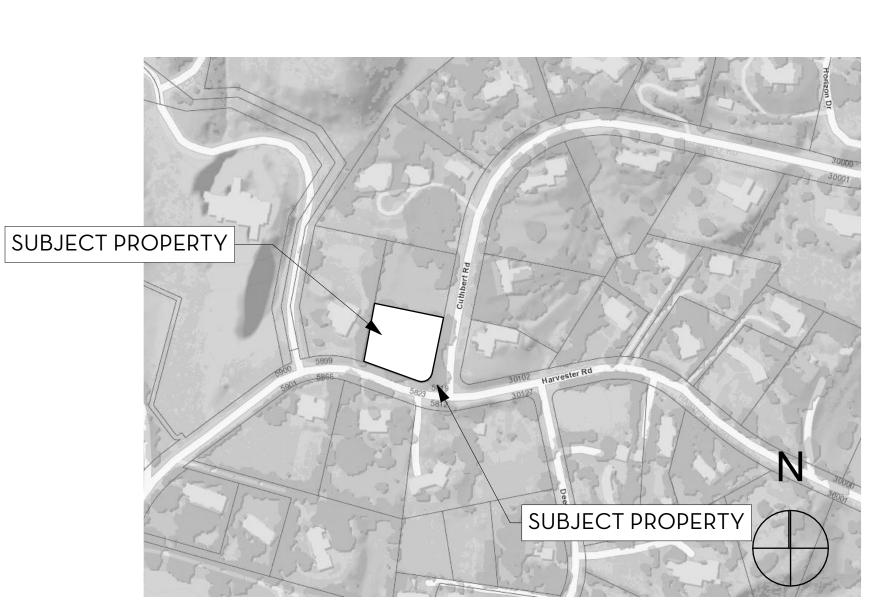
1,314 SQ. FT. ADDITION TO WOOLSEY FIRE LOSS (PVWF 20-022) SINGLE FAMILY RESIDENCE. ALSO PROPOSED IS A REPLACEMENT OF THE PRIOR SEPTIC SYSTEM AND CONSTRUCTION OF A NEW SWIMMING POOL AND SPA.

SUBSEQUENT TO THE WOOLSEY FIRE THIS PROPERTY WAS SUBJECT TO THE DEBRIS FLOW EVENTS OF DECEMBER 2018 AND MEASURES TO REPAIR UPHILL RETAINING WALLS AND DRAINAGE PROVISIONS ARE INCLUDED IN THIS RECONSTRUCTION.

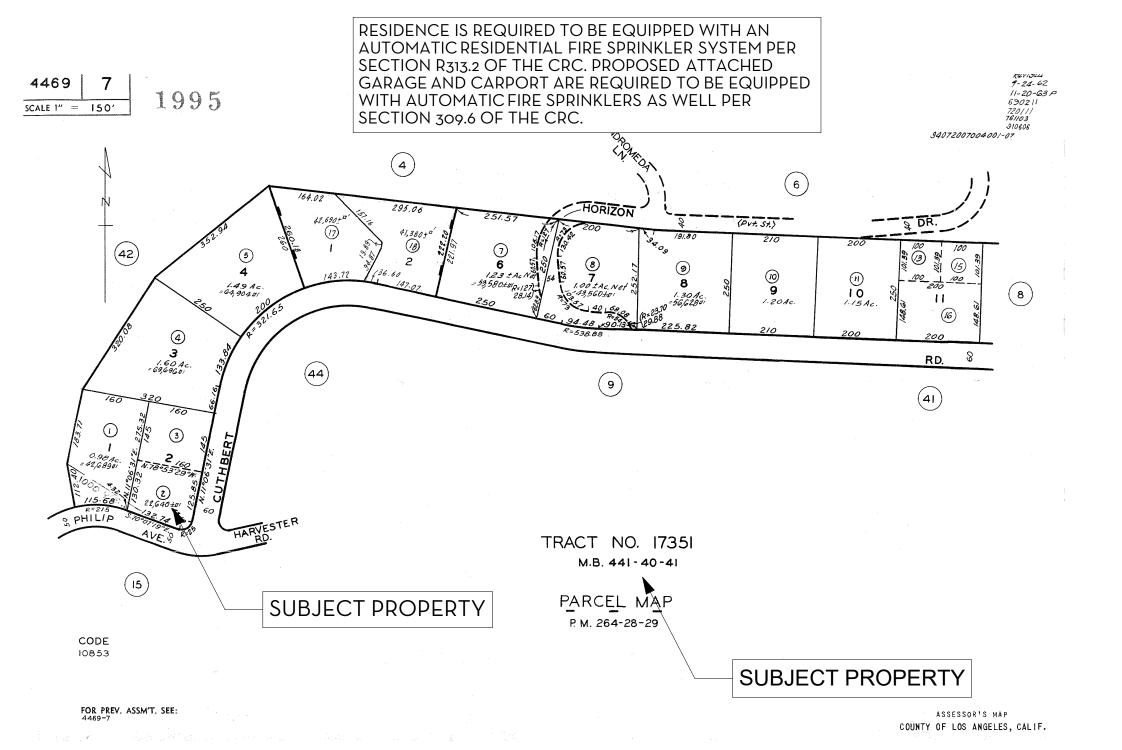
LOT SIZE: 22,684 SQ. FT. PROPOSED NEW BUILDING AREA TOTAL: -4,490 SQ. FT.

PLANNING SET

NOT FOR CONSTRUCTION







ASSESSOR MAP NOT TO SCALE

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A-1.1c PRIOR FLOOR PLAN

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A-1.1d PERMIT HISTORY A-1.1e DEBRIS REMOVAL CERT.

A-1.1f PRIOR SITE PLAN

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A-3.2 EAST ELEVATION & SECTION

A-3.3 SOUTH ELEVATION & SECTION A-3.4 WEST ELEVATION & SECTION

A-3.5 EAST SECTION DETAIL

A-3.6 PRELIMINARY ARCHITECTURAL RENDERINGS

A-3.7 WINDOWS & DOORS SCHELDULE

FM-1 FUEL MODIFICATION PLAN

FM-2 LANDSCAPE PLAN

FM-3 WATER CONSERVATION PLAN

C-1 TITLE SHEET /NOTES

C-2 GRADING PLAN

C-3 DETAIL SHEET

C-4 ESCP - SWPPP

PROJECT STATISTICS 30181 CUTHBERT ROAD, MALIBU CA. 90265

ASSESSORS PARCEL NUMBER: 4469-007-002 **ZONING: RURAL RESIDENTIAL (RR1)**

GROSS LOT AREA: 0.52 ACRES (22,684 SQ. FT.) NET LOT AREA: 0.52 ACRES (22,684 SQ. FT.) LOT DEPTH: 160'-9" / LOT WIDTH: 142'-4" MAX BUILDING HEIGHT: PRIOR 16'-3" / PROPOSED: 18'-0" MAX. ALLOWABLE TDSF: 4,945 SQ. FT.

PRIOR SQUARE FOOTAGE: PRIOR HABITABLE AREA: **OVERSIZE TWO CAR GARAGE:** ATTACHED WORKSHOP:

2,291 SQ. FT. 660 SQ. FT. 225 SQ. FT. 3,176 SQ. FT.

720 SQ. FT.

4,490SQ. FT

(REQUIRED: 32-2")

PROPOSED SQUARE FOOTAGE (WITH ADDITION) MAIN FLOOR AREA: 3,510 SQ. FT. LOFT FLOOR AREA: 260 SQ. FT. TOTAL HABITABLE: 3,770 SQ. FT.

THREE CAR GARAGE: TOTAL ENCLOSED AREA:

PRIOR: 14'-0" ADDITION: 36'-0"

PRIOR ENCLOSED AREA:

PROPERTY LINE SETBACKS: FRONT YARD SETBACK:

SIDE YARD SETBACKS: NORTH: PROPOSED: 28'-0" (REQUIRED: 14'-1") SOUTH: PROPOSED: 32'-6" (REQUIRED: 21'-4") (TOTAL REQUIRED: 35'-5")

REAR YARD SETBACK:

PRIOR: 67'-2" PROPOSED: 26'-6" (REQUIRED: 24'-0") IMPERMEABLE GROUND COVERAGE:

MAX. ALLOWABLE: 6,805 SQ. FT. TOTAL PROPOSED IMPERMEABLE COVERAGE: 6,783 SQ. FT. NOTE: EXISTING ASPHALT TO BE REMOVED. / (N) DRIVEWAY AND PARKING

GRADING EARTHWORK QUANTITIES

CUT: 658 CU. YRDS. FILL: 76 CU. YRDS. TOTAL: 703 CU. Y IMPORT: ZERO CU EXPORT: 582 CU.

FUEL MOD

FFFM # 20

SHALL BE PERMEABLE DG.

Project Plans Appeal No. A-4-MAL-21-0034

Exhibit 4

ATTACHMENT 2 SHEET 1

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Received

AUG 28 2020

Planning Dept.

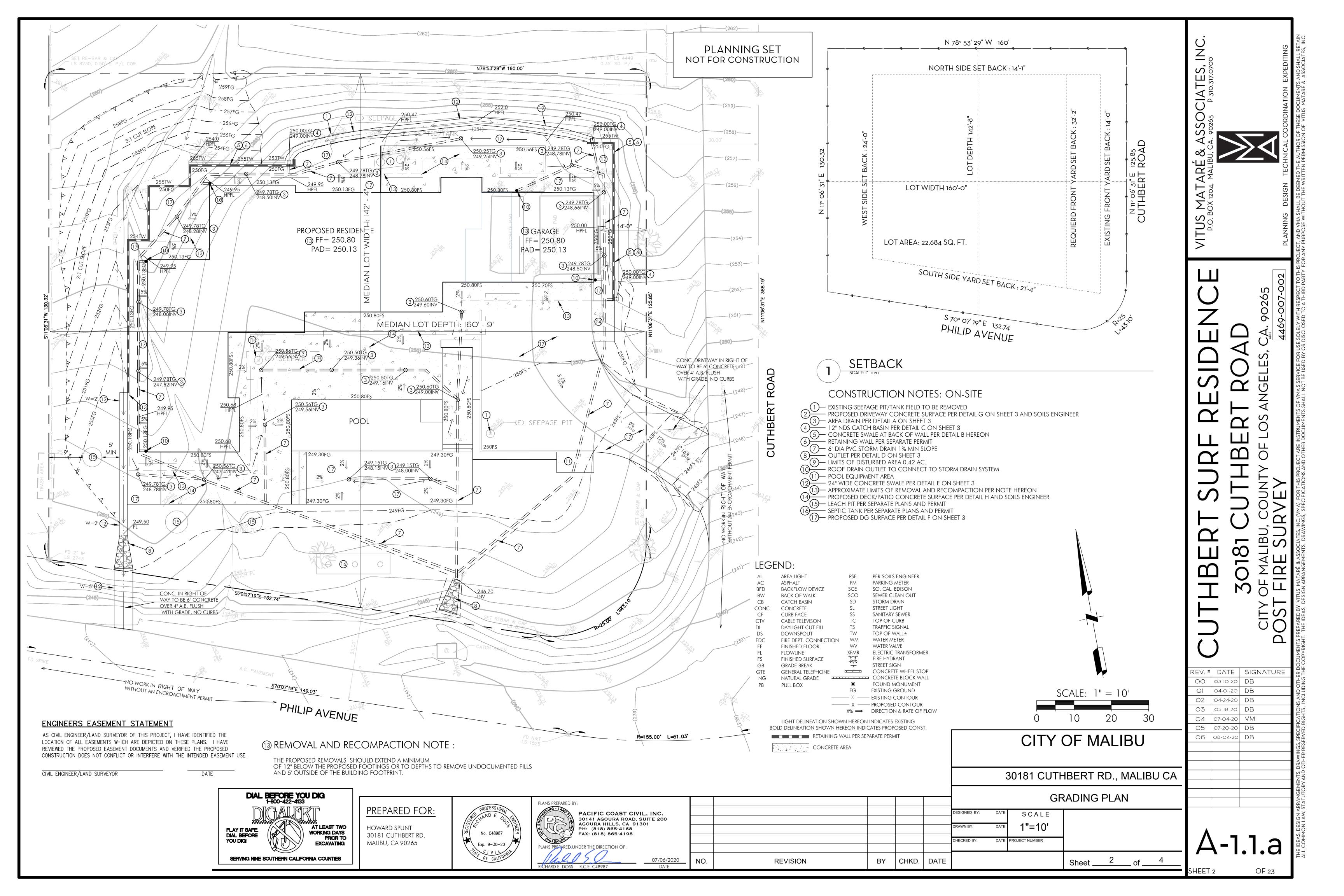
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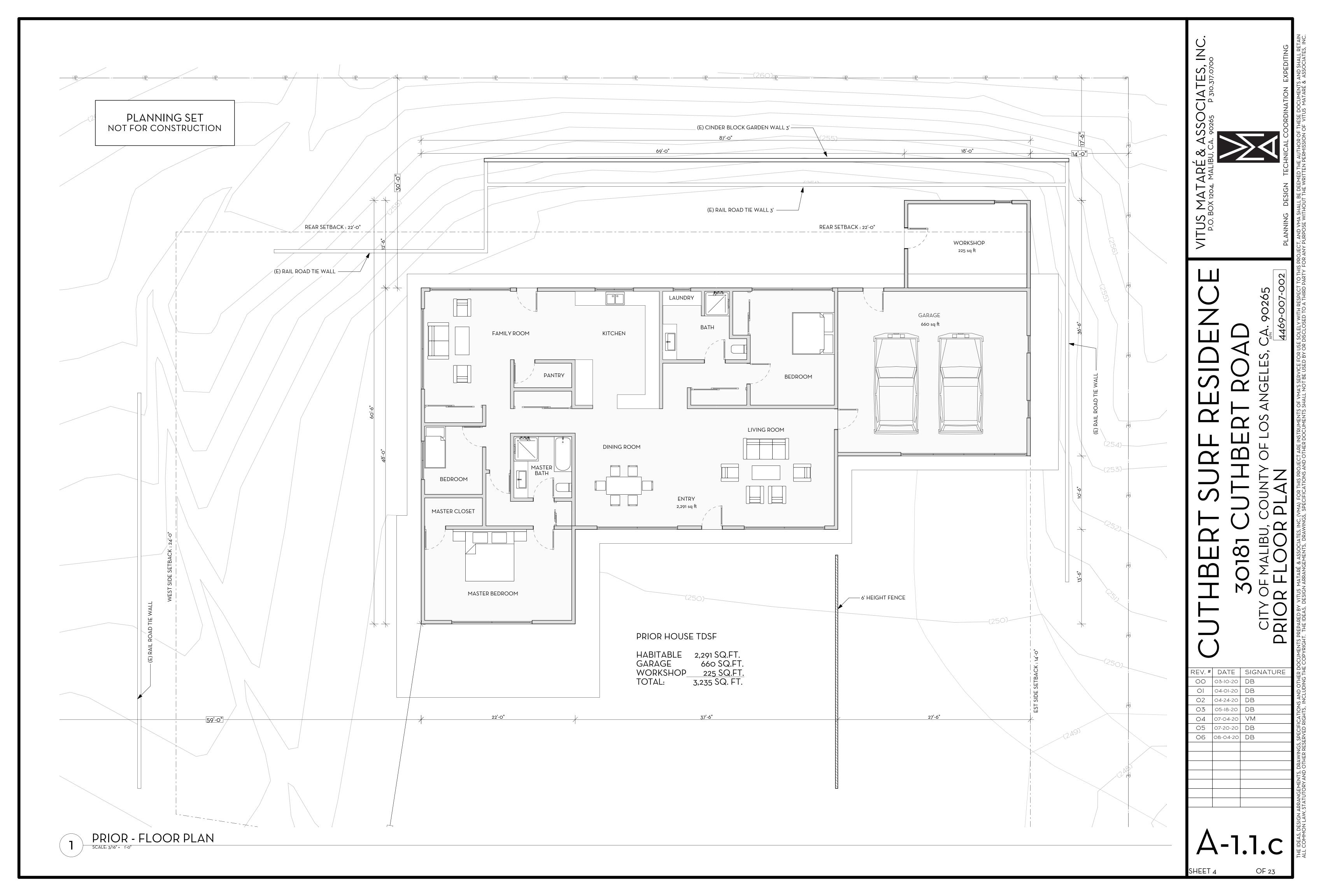
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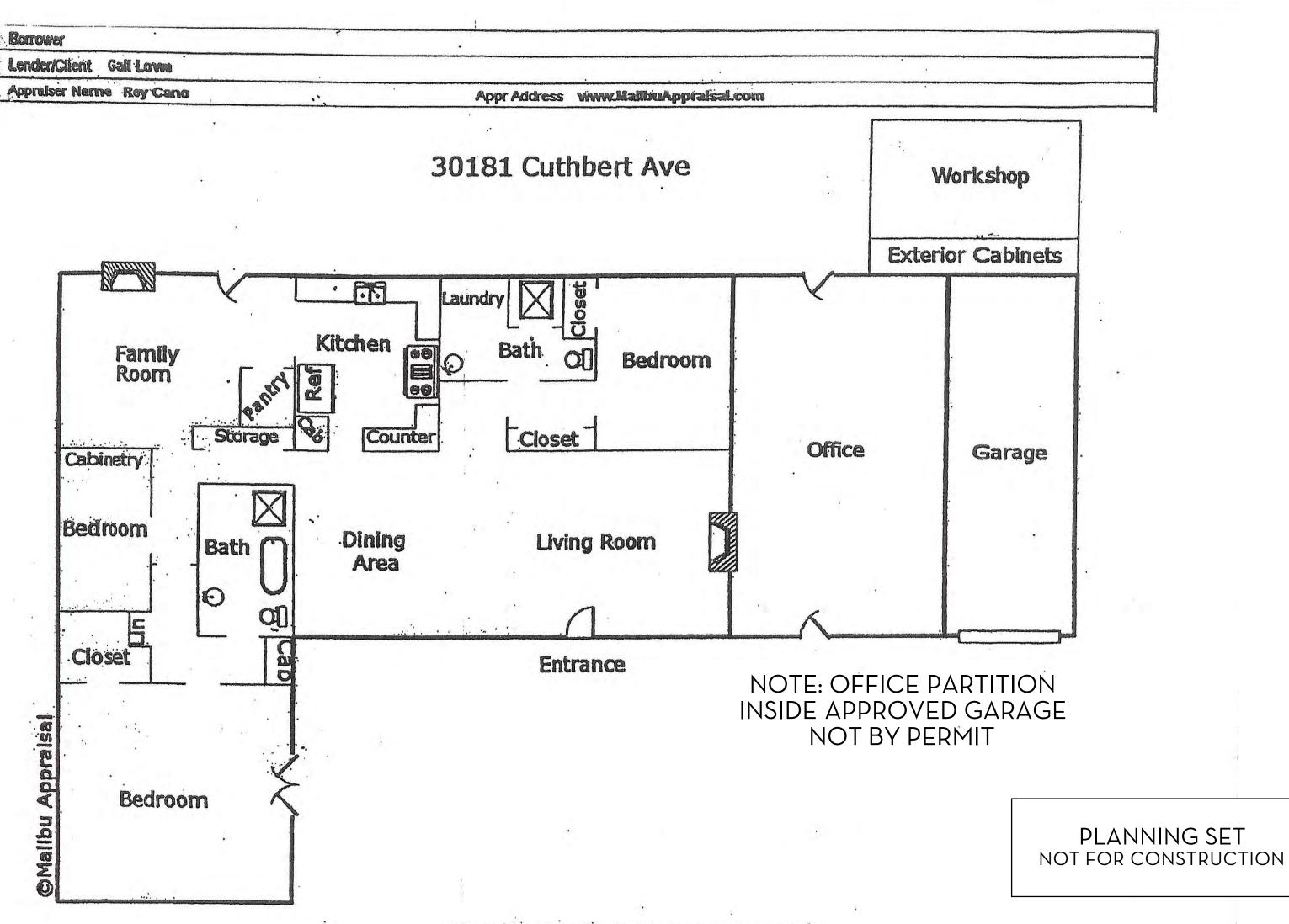
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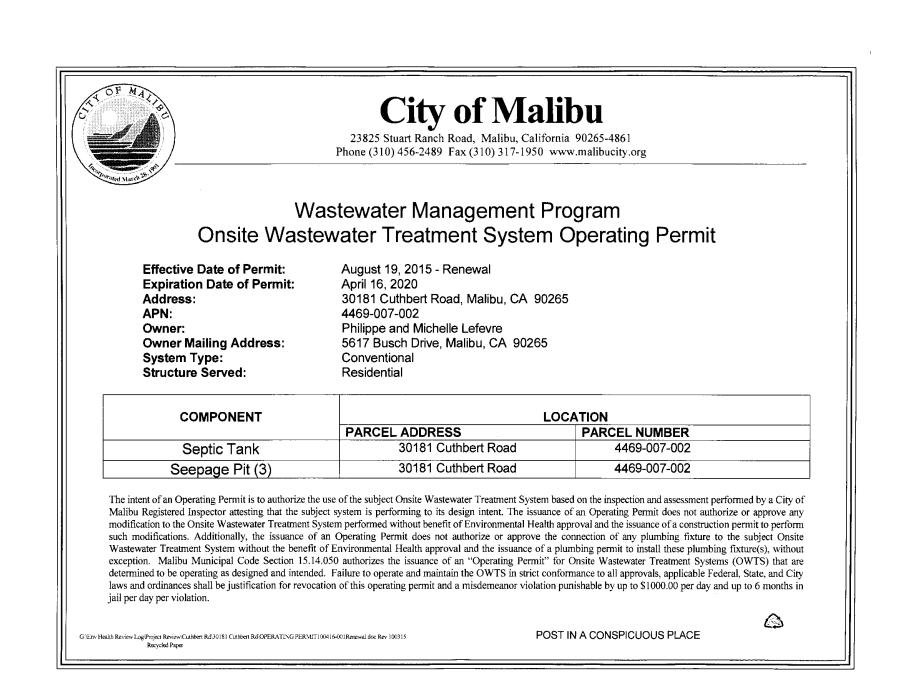


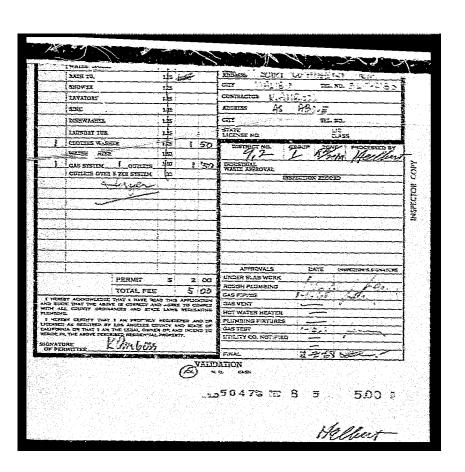




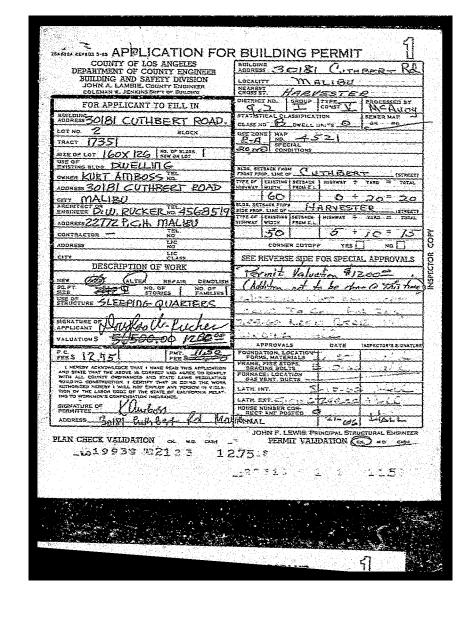
Sketch is for illustrative purposes only. Walls & dimensions are not necessarily to scale.

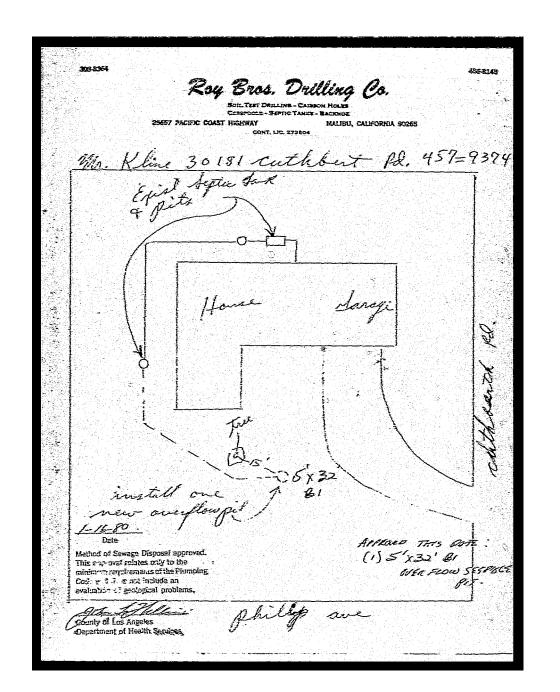
TOTAL HABITABLE AREA: 2,291 SQ. FT. PLUS 660 SQ. FT. GARAGE AND 225 SQ. FT. WORKSHOP

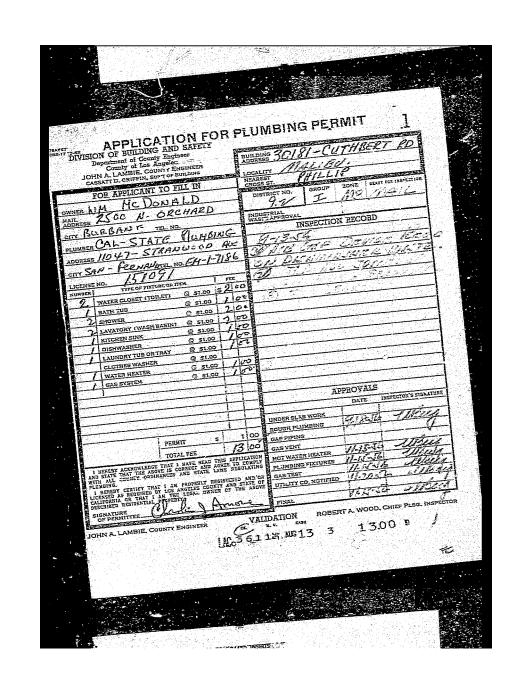


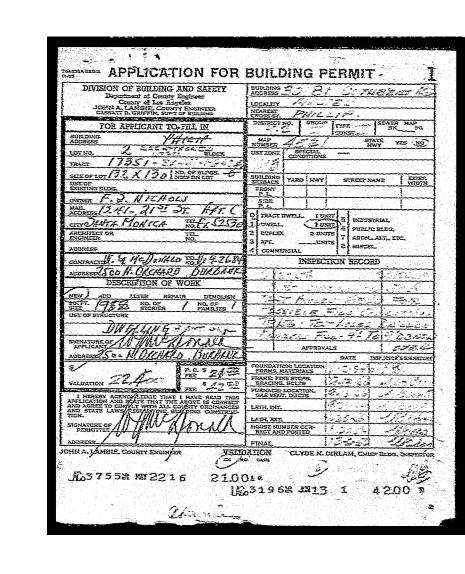


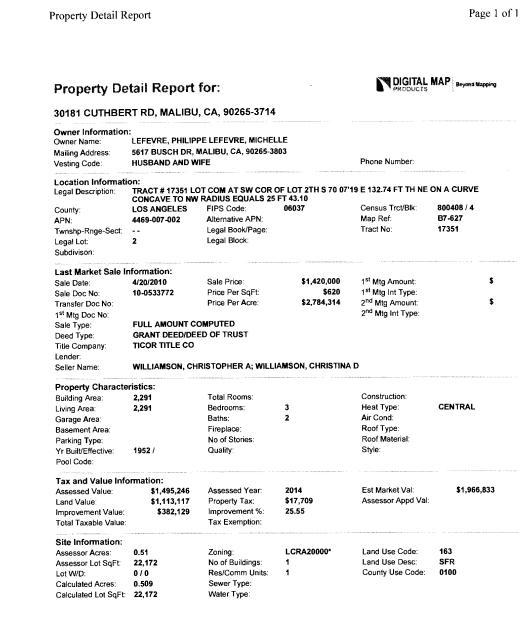
| THOM-LOS ANGELES COUNTY HEALTH DEPARTMENT | DATE Manual Color Commencer |
|--|---|
| Madiha OFFICE | NAME Kurt Anchoss |
| This Dept has no objection | ADDRESS 30181 Cuffbert Rd |
| the addition will be 8 him | The requirements of Los Angules County Ordinam No. 2269 can be multiy a properly installed dispus system including the following: |
| from the existing seepage | SECTIC TANK SECTION |
| piral | CESSPOOL One of more sampling plits depair |
| | GREASE THAP foil uncountered. |
| | ☐ DRAINITELD |
| gymorks) IF ANY DOMESTIC WATER LINES ARE ENCOUNTERED THE LOCATION OF THE | Longilt Width Dopth |
| RUMDING IF ANY DOMESTIC WATER LINES ARE ENCOUNTERED THE LOCATION OF THE SEWAGE DISPOSAL MUST BE REVISED. | BUILDING DEPT. |

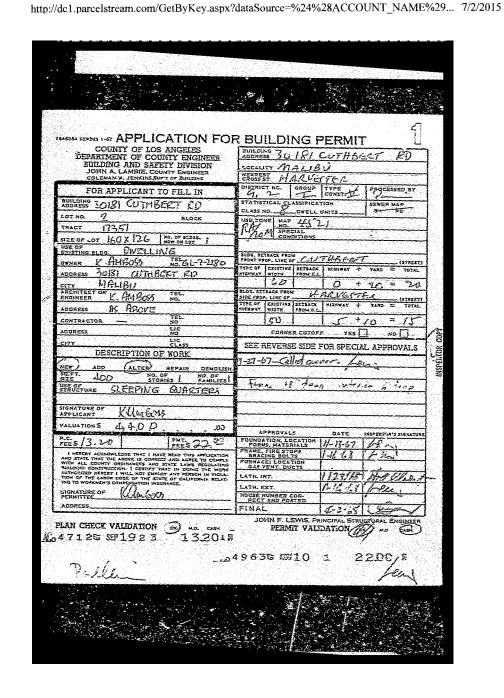












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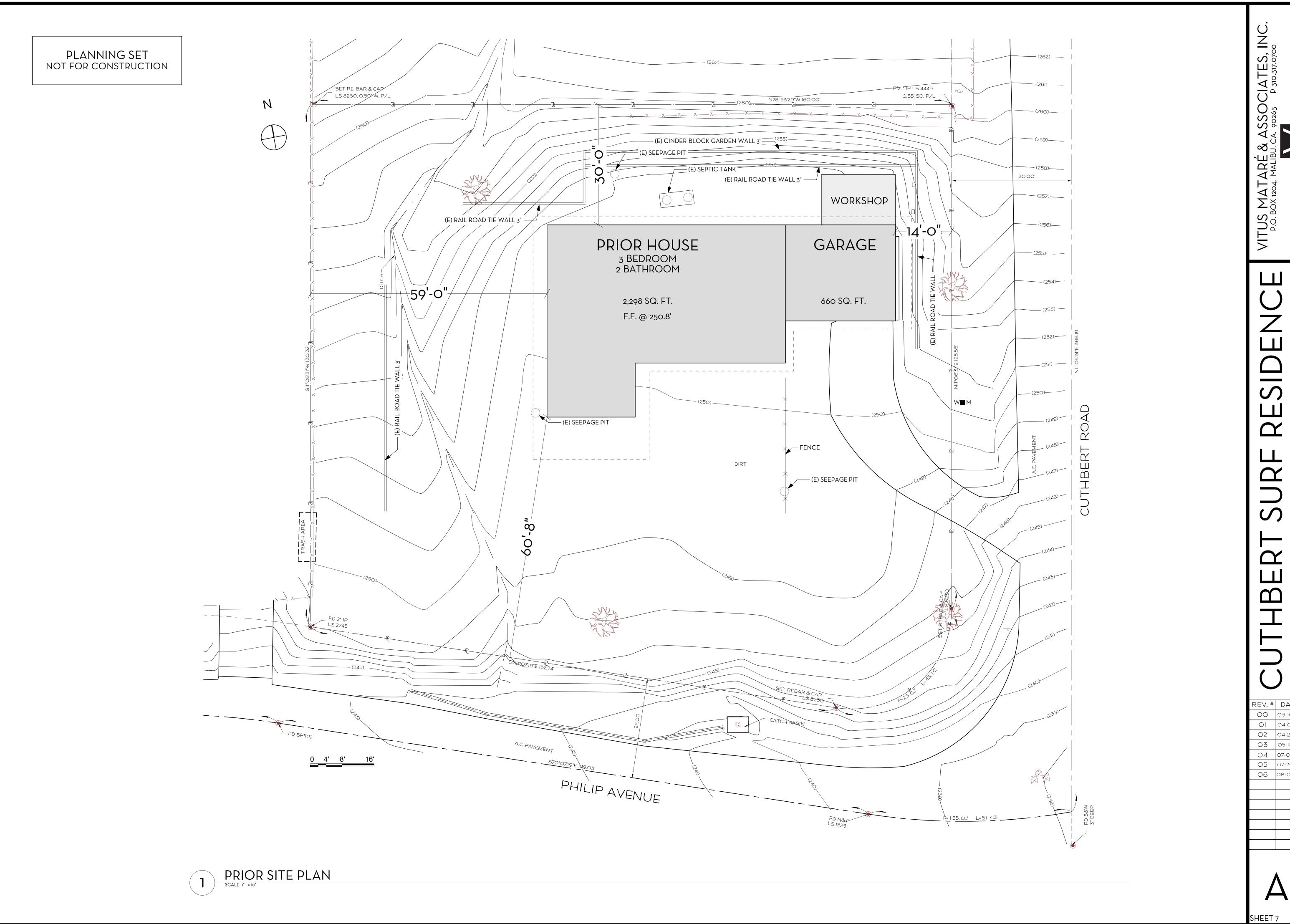
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04 | 07-04-20 | VM

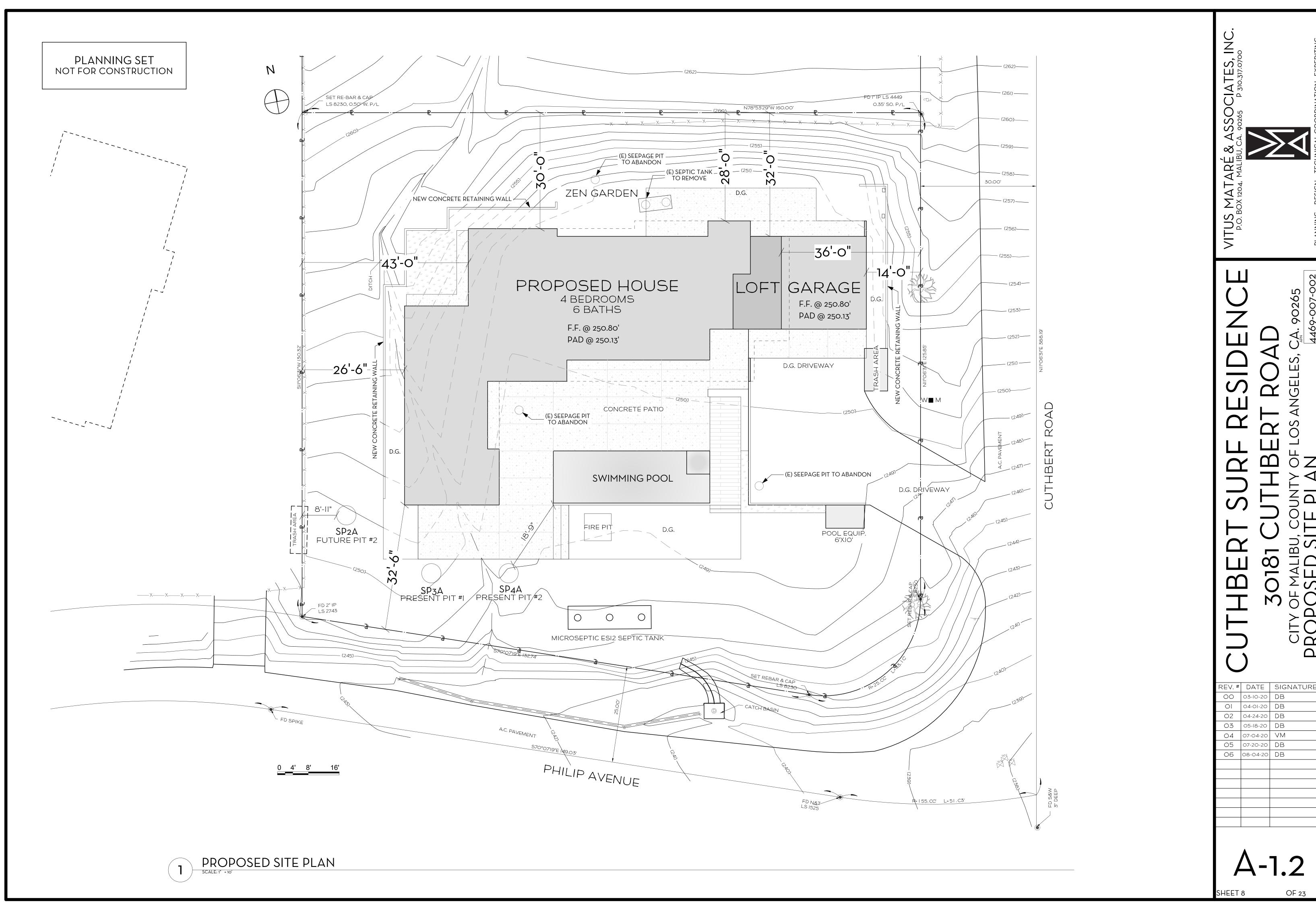
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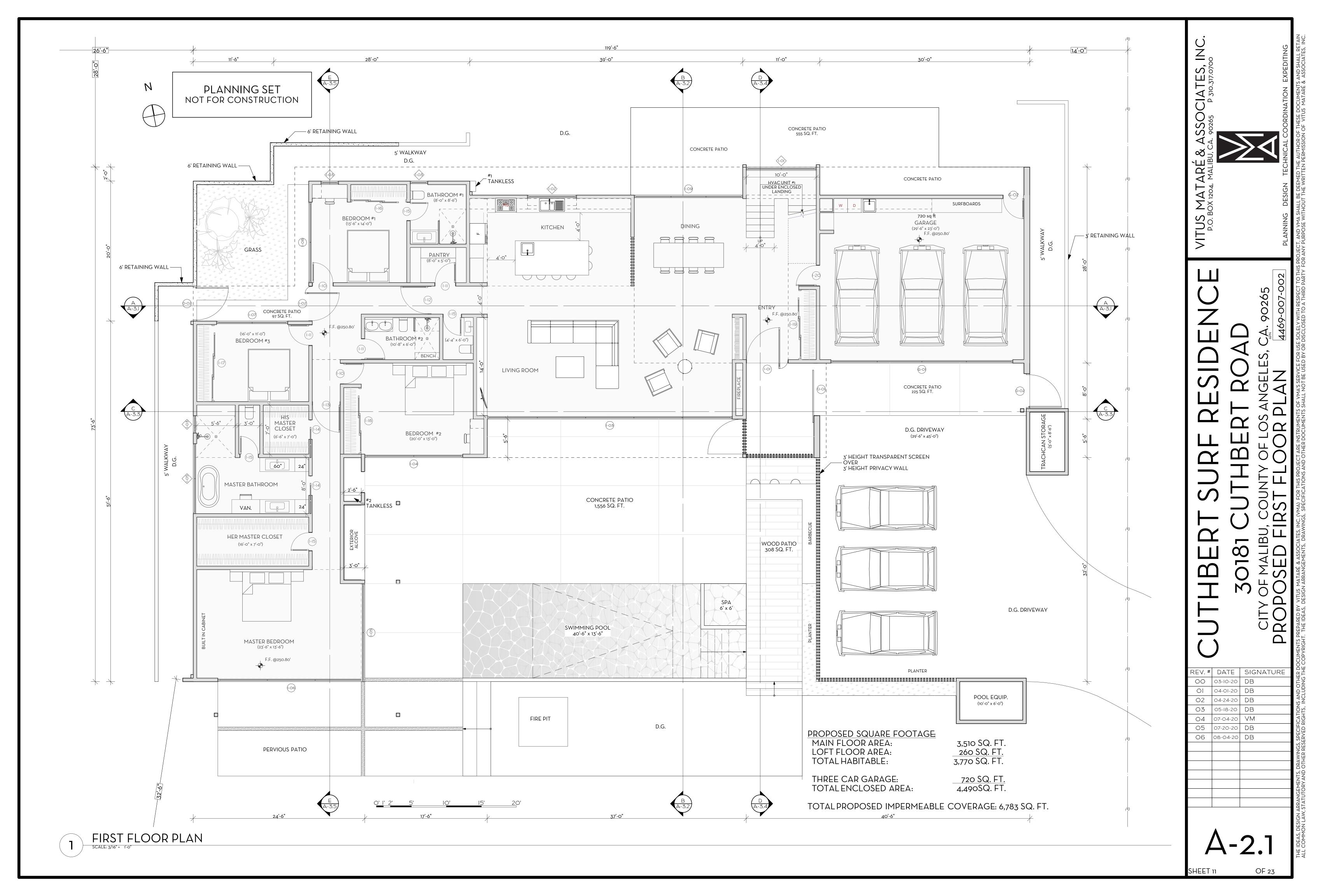


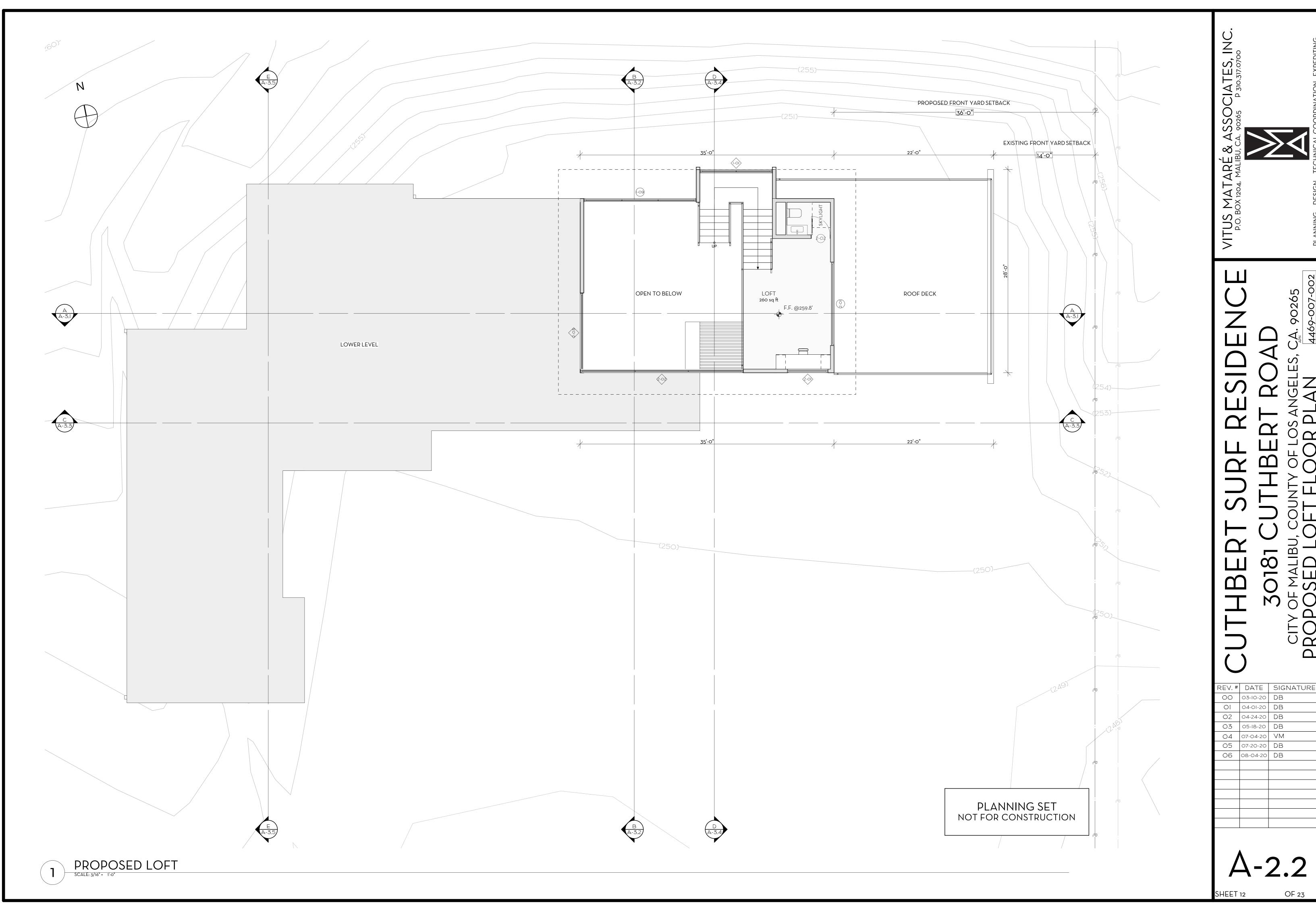
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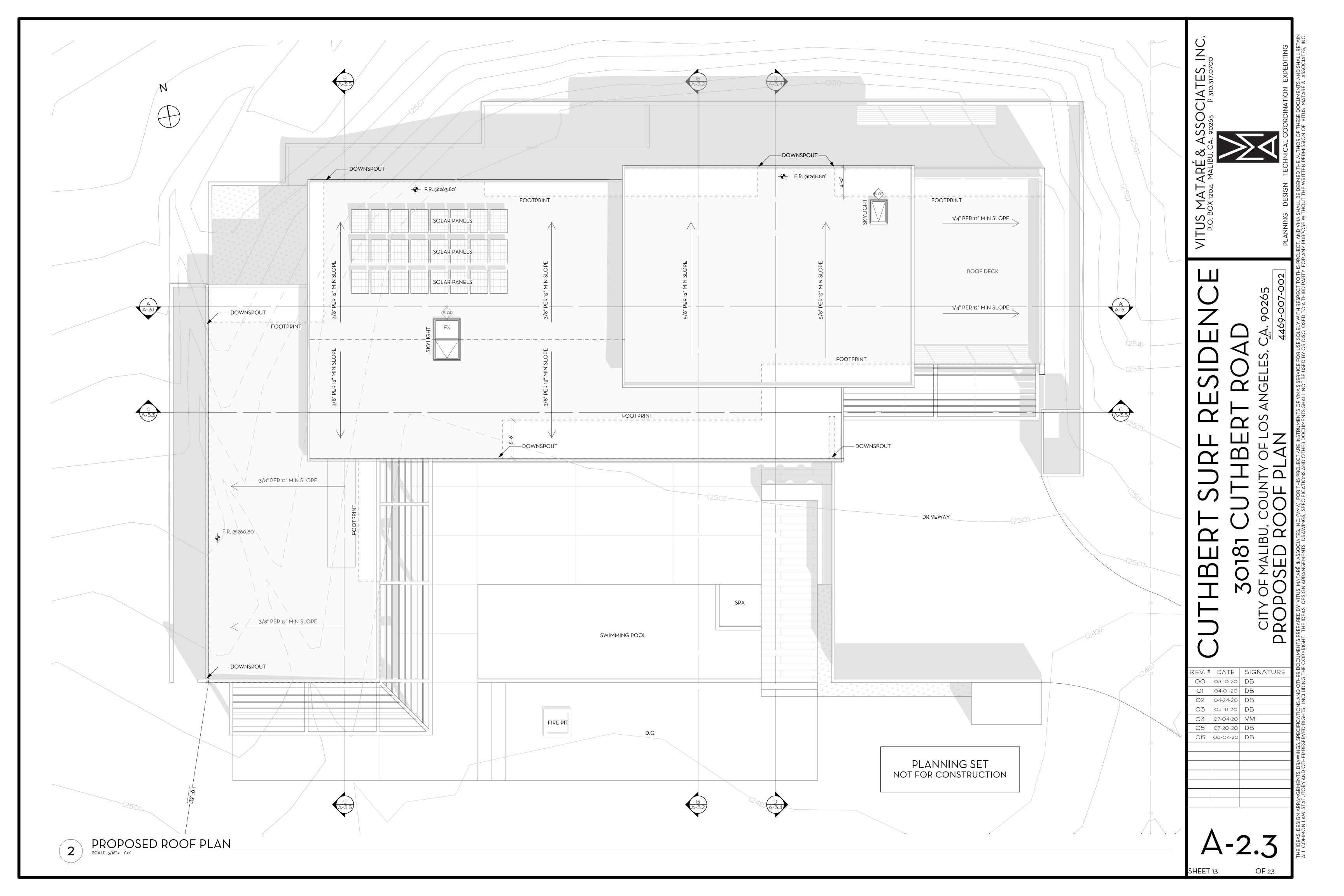


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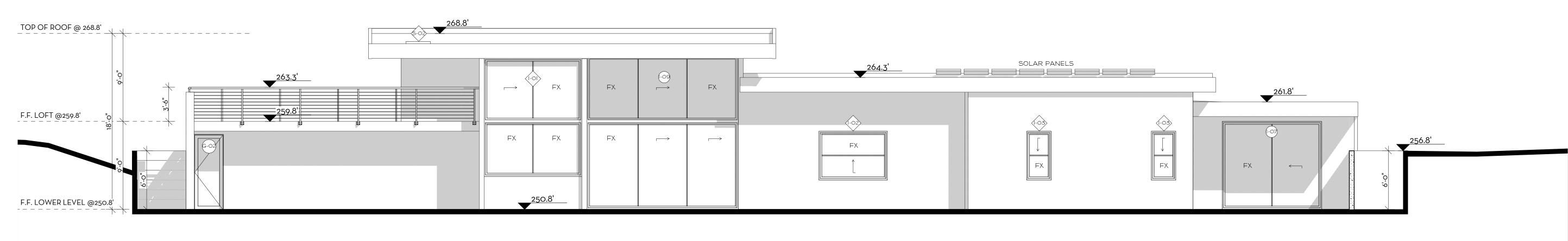




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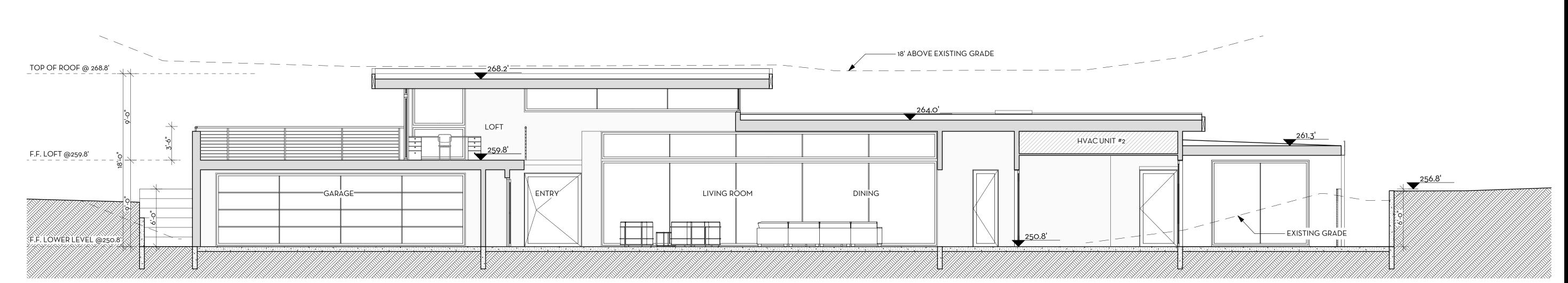


PLANNING SET NOT FOR CONSTRUCTION



PROPOSED NORTH ELEVATION

SCALE: 3/16" = 1'-0"



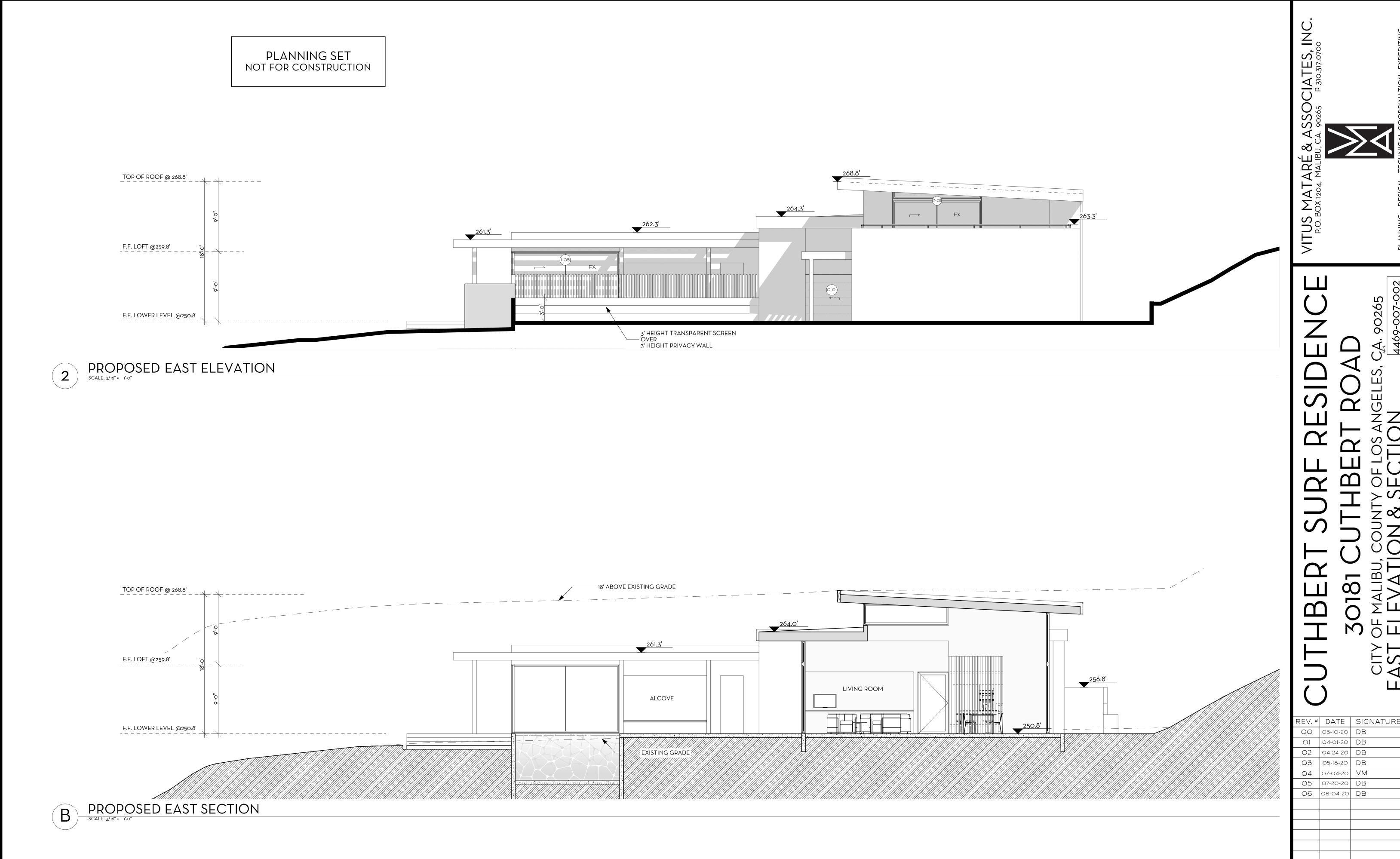
PROPOSED NORTH SECTION

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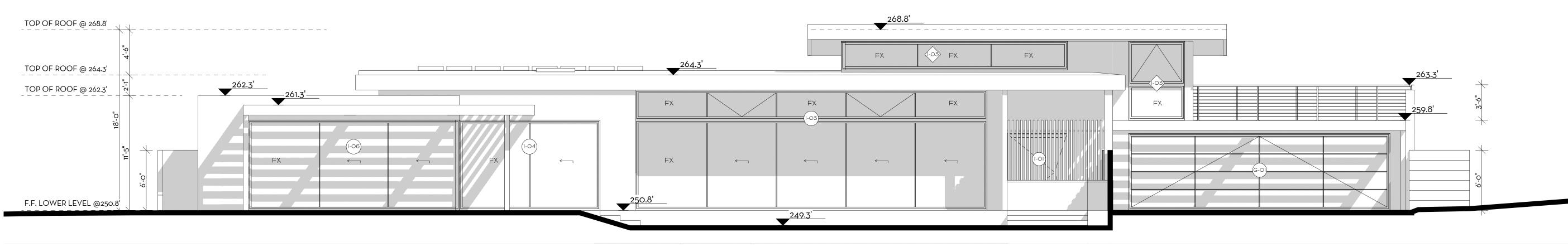
VITUS MATARÉ P.O. BOX 1204, MALIB

SSOCIATES, INC

REV. # DATE SIGNATURE 00 03-10-20 DB OI 04-01-20 DB O2 04-24-20 DB O3 05-18-20 DB O4 07-04-20 VM O5 07-20-20 DB O6 08-04-20 DB

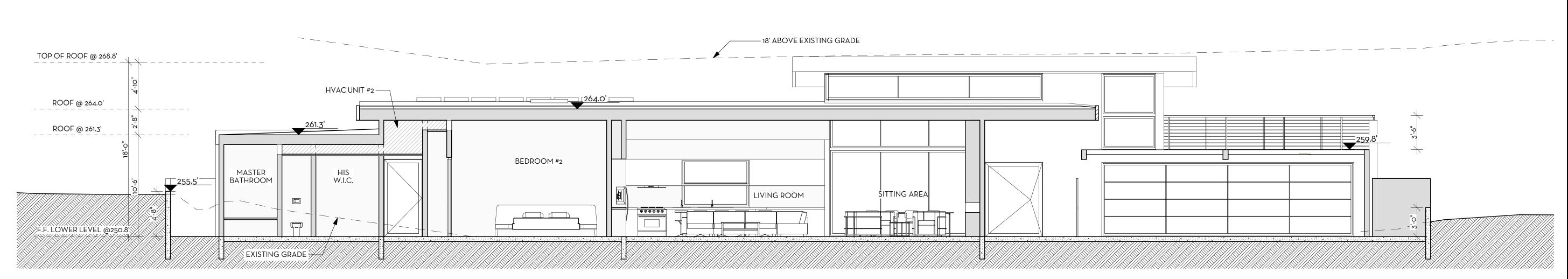


PLANNING SET NOT FOR CONSTRUCTION



3 PROPOSED SOUTH ELEVATION

SCALE: 3/16" = 1'-0"



PROPOSED SOUTH SECTION

SCALE: 3/16" = 1'-0"

CUTHBERT SURF RESIDENCE

CIATES, INC. P 310.317.0700

VITUS MATARÉ P.O. BOX 1204, MALIB

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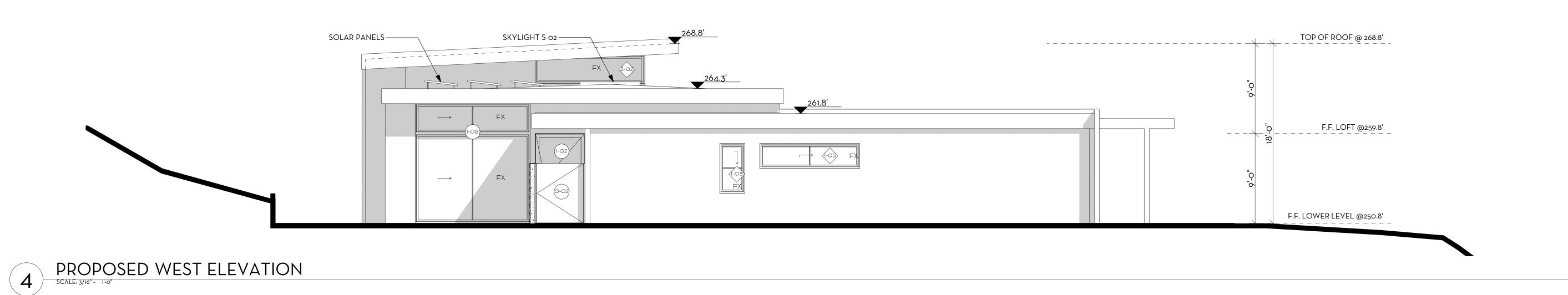
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O6 08-04-20 DB

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OF 23

PLANNING SET NOT FOR CONSTRUCTION



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16 ABOVE ENSTING CRADE

TOP OF ROOF #2 26.5

TOP OF ROOF #2 26.5

TOP OF ROOF #2 26.5

FELOFF @ 59.5

FELOFF

PROPOSED WEST SECTION

SCALE: 3/16" = 1'-0"

VITUS MATARÉ P.O. BOX 1204, MALIB

SSOCIATES, INC

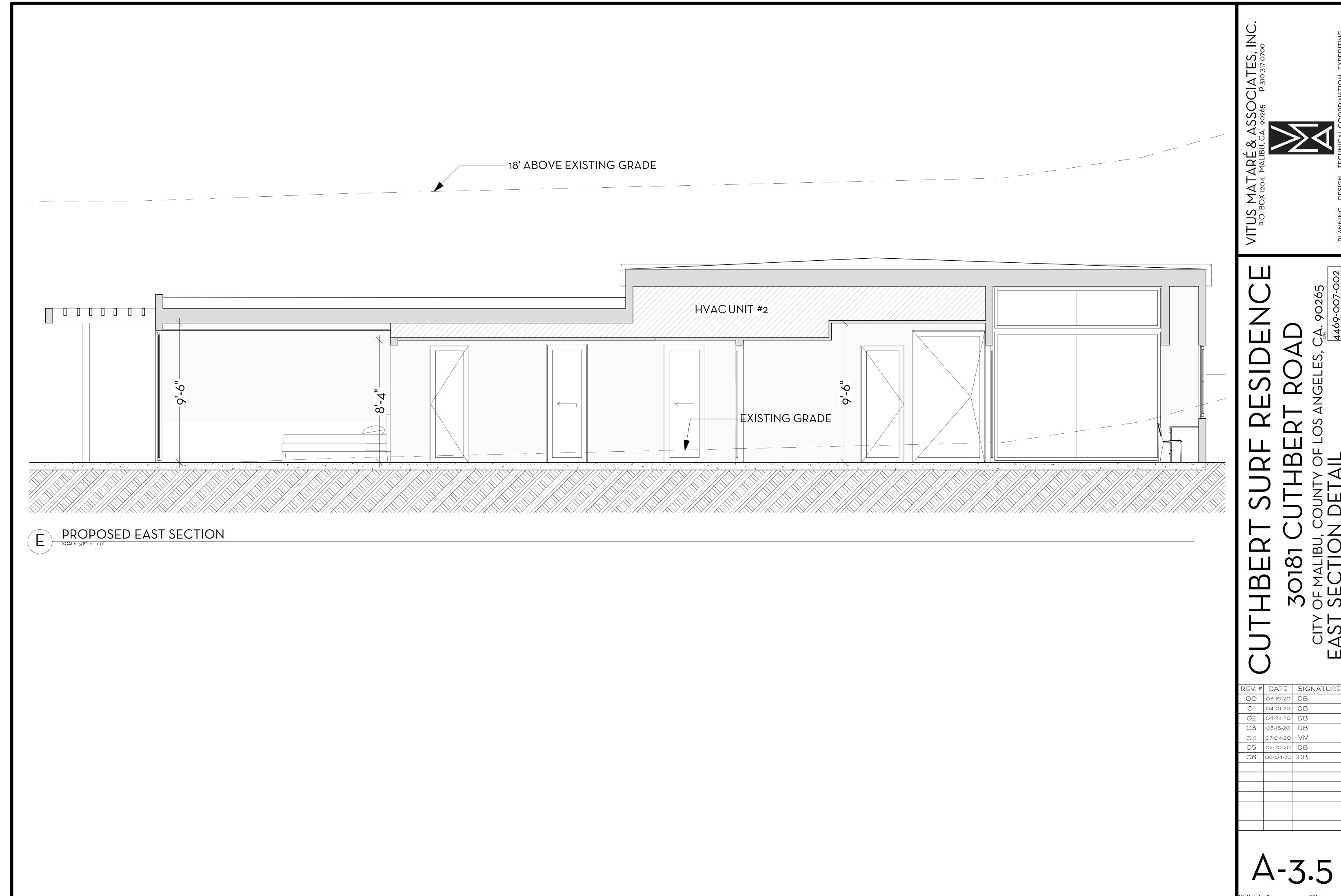
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WEST VIEW
NOT TO SCALE

TOP VIEW

NOT TO SCALE

EAST VIEW
NOT TO SCALE







SOUTH WEST VIEW



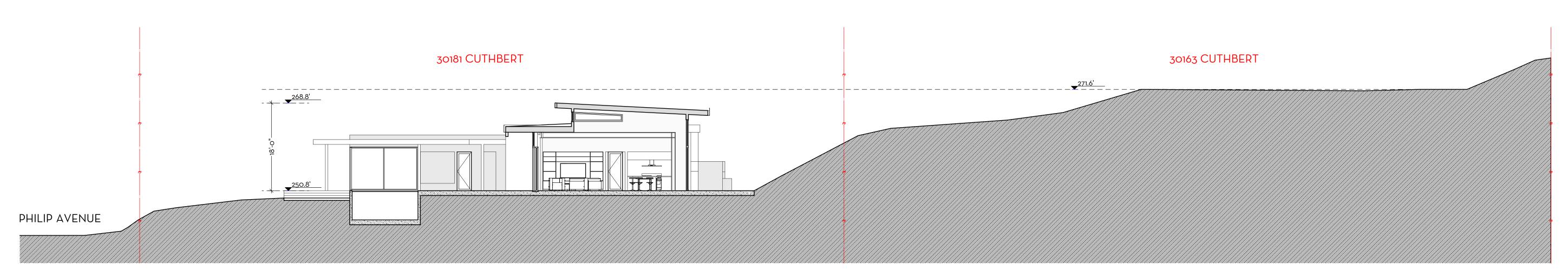
SOUTH EAST VIEW

O6 08-04-20 DB



1 L.A. COUNTY MAP

NOT TO SCALE



3 EAST CROSS SECTION

SCALE: 3/32" = 1'-0"

CUTHBERT SURF RESIDENCE

REV.# DATE SIGNATURE

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OI 04-01-20 DB
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O3 05-18-20 DB

O4 07-04-20 VM O5 07-20-20 DB

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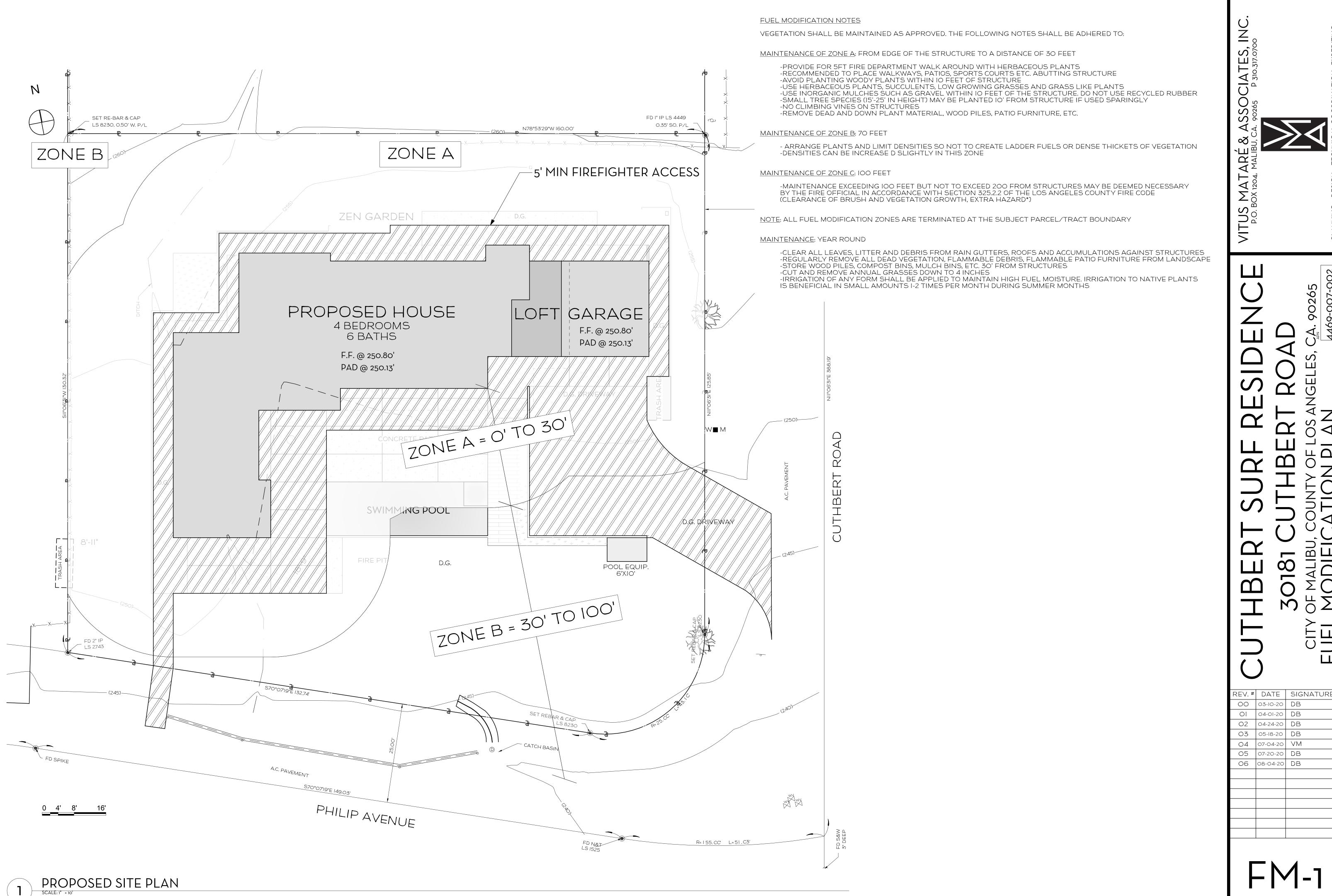
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7.O. BOX 1204, MALIBU, CA. 90265 P 510

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PLANNING DESIGN TECHI
TH RESPECT TO THIS PROJECT, AND VMA SHALL BE DEEMED THE



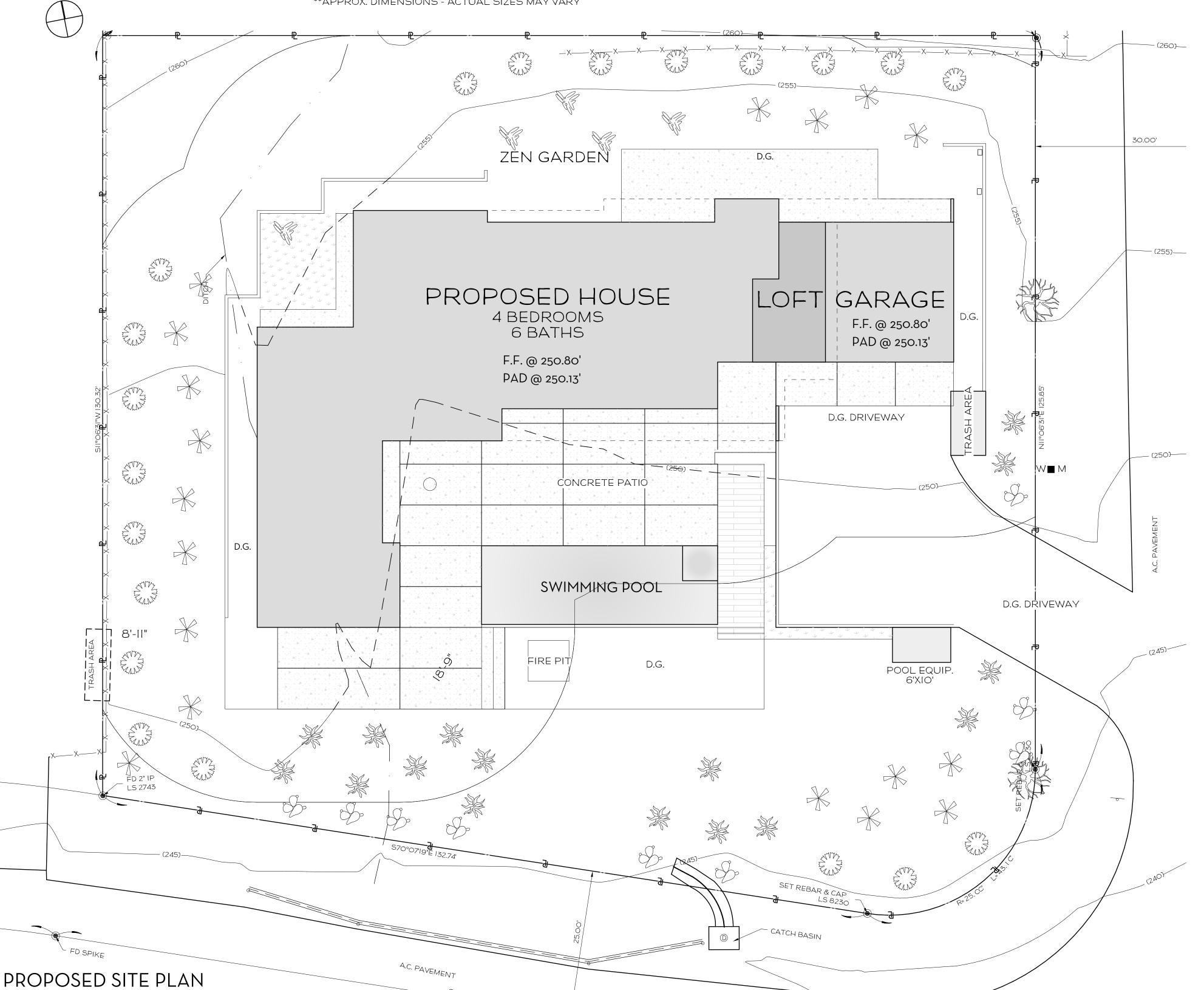
ARÉ MAI B MAT, OX 1204, VITUS P.O. B

| ZONE | SYMBOL | QUANTITY | BOTANICAL / COMMON NAME | HEIGHT | DIAMETER | SIZE | WUCOLS AREA / RATING* |
|------|-----------------|----------|---|--------|----------|----------|-----------------------|
| | | | | | | | |
| | | 16 | AGAVE ATTENUATA 'NOVA' | 4' | 4' | 2 GAL | REG.3 - VL |
| | S | 9 | OPUNTIA LITTORALIS - COASTAL PRICKLY PEAR | 3' | 9' | CUTTINGS | REG.3 - VL |
| | 547724 54127 | 20 | PHOTINIA FRASERI - PHOTINIA | 6' | 5' | 5 GAL | REG.3 - L |
| | | 5 | STRELITZIA NICOLAI - GIANT BIRD OF PARADISE | 5' | 5' | I5 GAL | REG.3 - M |
| | | 18 | TRICHOSTEMA LANATUM - WOOLLY BLUE CURLS | 4' | 5' | I GAL | REG.3 - L |

*IN CASES OF OFFERED ALTERNATIVES THE HIGHER WUCOLS RATING IS INDICATED

**APPROX. DIMENSIONS - ACTUAL SIZES MAY VARY

68



LANDSCAPE PLAN NOTES

A. PROPOSED LANDSCAPING ON SITE IS MINIMAL AND DOES NOT REACH THE AREA THRESHOLD FOR REVIEW UNDER THE LANDSCAPE WATER CONSERVANCY ORDINANCE (LWCO) THE PROPOSED NEW OR ALTERED LANDSCAPE AREA IS LESS THAN 2,500 SQUARE FEET.

ANY CHANGES TO PLANTING AREAS OR OTHER LANDSCAPE DESIGN MAY EXCEED THE LWCO AREA THRESHOLD. THEREFORE, ANY CHANGES TO THE FINAL APPROVED LANDSCAPE PLANS SHALL BE SUBMITTED FOR REVIEW AND APPROVAL PRIOR TO ANY PLANTING.

B. INVASIVE PLANT SPECIES, AS DETERMINED BY THE CITY OF MALIBU, ARE PROHIBITED.

C. 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).

D. NATIVE SPECIES OF THE SANTA MONICA MOUNTAINS, CHARACTERISTIC OF TH LOCAL HABITAT, SHALL BE USED ON GRADED SLOPES OR WHERE SLOPE PLANTING 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 (GREATER THAN OR EQUAL TO 10-FOOT CANOPY) SHRUBS IS RECOMMENDED BY THE FIRE DEPARTMENT. LAWNS ARE PROHIBITED ON SLOPES GREATER THAN 5%.

E. THE USE OF BUILDING MATERIALS TREATED WITH TOXIC COMPOUNDS SUCH AS COPPER ARSENATE AND CREOSOTE ARE PROHIBITED.

F. GRADING SHALL BE SCHEDULED ONLY DURING THE DRY SEASON FROM APRIL - OCTOBER 31. IF IT BECOMES NECESSARY TO CONDUCT GRADING ACTIVITIES FROM NOVEMBER I - MARCH 3I, A COMPREHENSIVE EROSION CONTROL PLAN SHALL BE SUBMITTED FOR APPROVAL PRIOR TO ISSUANCE OF A GRADING PERMIT AND IMPLEMENTED PRIOR TO INITIATION OF VEGETATION REMOVAL AND/OR GRADING ACTIVITIES.

G. GRADING, EXCAVATION, DEMOLITION, OR OTHER SITE PREPARATION ACTIVITIES SHALL BE SCHEDULED OUTSIDE THE MAIN BREEDING SEASON OF BIRDS (FEBRUARY I TO SEPTEMBER I5) IF AT ALL POSSIBLE. REGARDLESS OF TIMING, NESTING / BIRD NEST SURVEY WILL BE CONDUCTED BY A QUALIFIED BIOLOGIST SURVEYS WILL BE COMPLETED WITHIN FIVE (5) DAYS OF INITIATION OF ANY SIT PREPARATION ACTIVITIES. SHOULD ACTIVE NEST BE IDENTIFIED, A BUFFER AREA OF NO LESS THAN 100 FEET (300 FEET FOR RAPTORS) SHALL BE CLEARL' DELINEATED IN THE FIELD UNTIL IT IS DETERMINED BY A QUALIFIED BIOLOGIS THAT THE NEST IS NO LONGER ACTIVE. A REPORT DISCUSSING THE RESULTS NESTING BIRD SURVEYS SHALL BE SUBMITTED TO THE CITY BIOLOGIST PRIOR TO ANY VEGETATION REMOVAL ON SITE. FAILURE TO ABIDE THIS CONDITION MAY RESULT IN REVOCATION OF THE PERMIT AND PENALTIES ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME.

H. NIGHT LIGHTING FROM EXTERIOR AND INTERIOR SOURCES SHALL BI MINIMIZED. ALL EXTERIOR LIGHTING SHALL BE LOW INTENSITY AND SHIELDED SC IT IS DIRECTED DOWNWARD AND INWARD SO THAT THERE IS NO OFFSITE GLARE.

I. UP-LIGHTING OF LANDSCAPING IS PROHIBITED.

J. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY THE CITY BIOLOGIS' SHALL INSPECT THE PROJECT SITE AND DETERMINE THAT ALL PLANTING CONDITIONS THAT PROTECT NATURAL RESOURCES ARE IN COMPLIANCE WITH THE APPROVED PLANS.

K. SEE ADDITIONAL NOTES IN BIOLOGICAL ASSESSMENT REPORT PREPARED BY FORDE BIOLOGICAL SERVICES.

EROSION CONTROL NOTES

I. ALL SLOPES WHETHER NATURAL OR MANUFACTURED SHOULD BE PLANTED USING THE CONTOUR PLANTING METHOD, WITH ALTERNATING ROWS OF PLANTS ALONG THE PROPERTY CONTOURS. THIS METHOD SHALL BE USED FOR AL CONTAINER PLANTS.

2. LARGE PLANTING AREAS SHALL BE TERRACED SLIGHTLY TO CONTROL

3. IRRIGATION OF PLANTS ON SLOPES SHALL CONSIST PRIMARILY OF BUBBLER OF DRIP IRRIGATION. SMALL ARC ROTARY HEADS (15' ARCS) MAY BE USED FOR LARGE OPEN AREAS OF GROUND COVERS. HOWEVER, THE HEADS MUST BE LAID OUT TO CONFORM WITH THE EARTH TERRACE TO AVOID RUN-OFF.

WEED ERADICATION

I. THREE MONTHS PRIOR TO PLANTING, THE PLANTING AREAS SHALL BE IRRIGATED EVERY OTHER DAY FOR THREE WEEKS. AND THE WEEDS WHICH EMERGE SHALL BE REMOVED. THIS PROCESS SHAL BE REPEATED TWICE PRIOR TO PLANTING OF THE PLANT MATERIALS SELECTED FOR THE PROJECT LANDSCAPE.

PLANTING PROCEDURES FOR NATIVE PLANTS

I. PLANTING TIPS SHOULD BE THE SAME DEPTH AS THE SOIL IN THE PLANT CONTAINER AND ONE AND ONE-HALF TIMEAS AS WIDE AS THE CONTAINER.

2. DO NOT USE SOIL AMENDMENTS,

3. BACKFILL PLANTING PITS WITH NATIVE SOIL ONLY. WHEN PLANTING NATIVE PLANTS ON CUT OR FILL SLOPES, IMPORT NATIVE TOPSOIL FROM UNDISTURBED PORTIONS OF THE SITE FOR BACKFILL MIX. MIX ONE HALF IMPORTED NATIVE SOIL WITH ON HALF CUT OR FILL MATERIAL FOR BACKFILL MIX.

4. CREATE A BASIN AROUND THE ROOTBALL EDGES OF EACH PLANT TO CATCH AND DIRECT WATER TO THE PLANT ROOR MASS.

5. DO NOT DISTURB THE PLANT ROOTBALL DURING PLANTING.

6. ADD TWO OR THREE INCHES OF MULCH IN THE PLANT BASIN.

7. DO NOT PLACE SOIL OR MULCH ON TOP OF THE CROWN OF THE ROOTBALL (PLANT STEM OF TRUNK).

8. PLANTING OF NATIVE PLANTS SHOULD TAKE PLACE FROM LATE NOVEMBER THROUGH LATE MARCH ONLY. THE PLANTS MUST BE IRRIGATED THROUGH THE FIRST YEAR. GREAT CARE MUST BE TAKEN NOT TO OVERWATER THE NATIVE PLANTS AND TO REDUCE THE IRRIGATION FREQUENCY AND VOLUMES TO A MINIMUM REQUIRED FOR PLANT HEALTH AS SOON AS POSSIBLE AFTER PLANTING.

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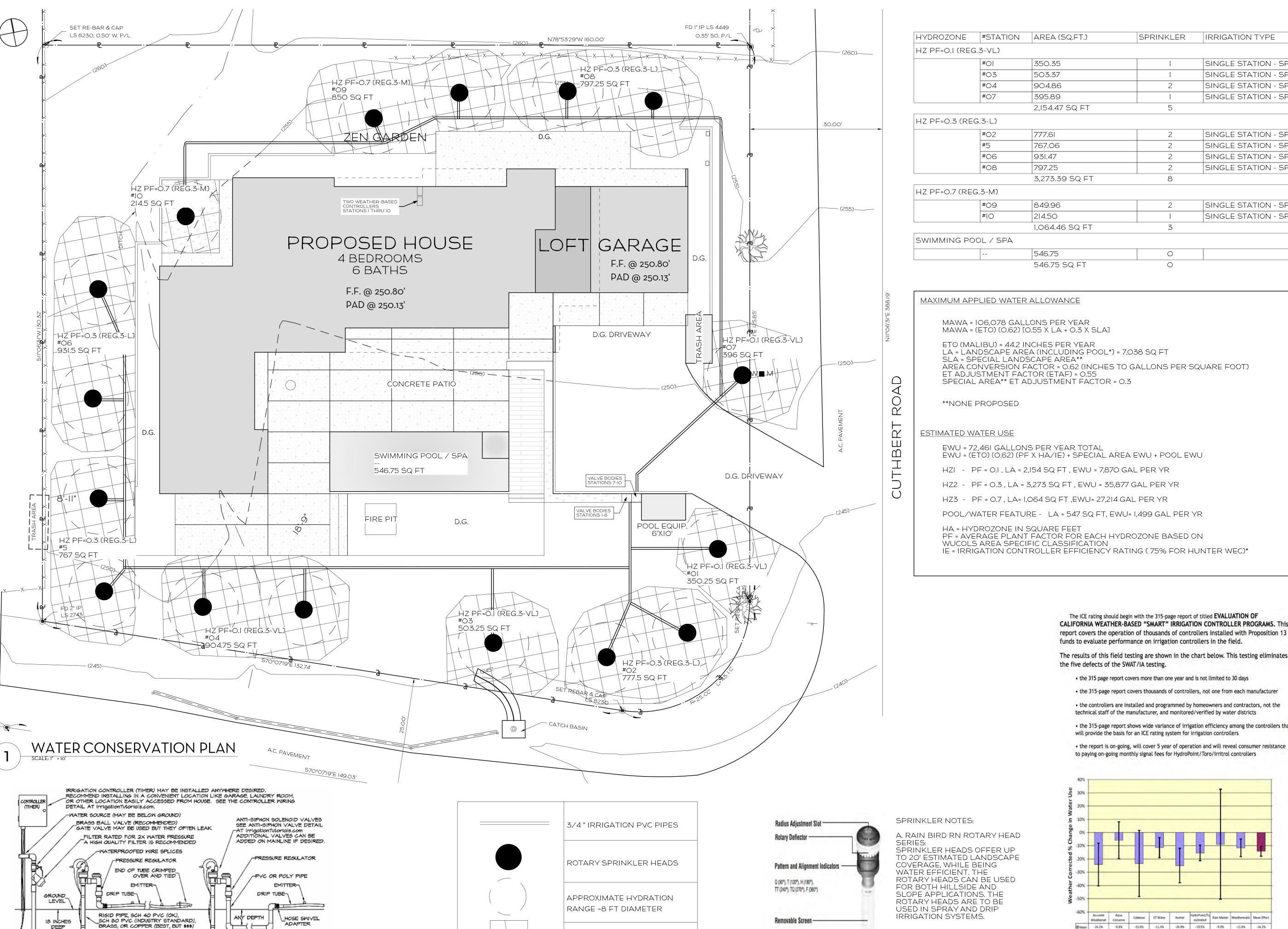
OI | 04-01-20 | DB

O2 | 04-24-20 | DB

O3 | O5-18-20 | DB 04 | 07-04-20 | VM

O5 | 07-20-20 | DB

06 | 08-04-20 | DB



DESIGNATED HYDRATION ZONES

DO NOT USE STEEL PIPE

DRIP IRRIGATION COMPONENTS

DIRECT BURIAL IRRIGATION WIRE (TYPE AWG-UF)

BUGGEST CONDUIT FOR WIRE THAT IS NOT BURIED

LATERAL PIPE:

MAINLINE: SCH 40 PVC OR PEX (BEST)

PVC OR POLY PIPE

SPRINKLER IRRIGATION TYPE SINGLE STATION - SPRAY SINGLE STATION - SPRAY

AREA CONVERSION FACTOR = 0.62 (INCHES TO GALLONS PER SQUARE FOOT)

POOL/WATER FEATURE - LA = 547 SQ FT, EWU= 1,499 GAL PER YR

PF = AVERAGE PLANT FACTOR FOR EACH HYDROZONE BASED ON

IE = IRRIGATION CONTROLLER EFFICIENCY RATING (75% FOR HUNTER WEC)*

The ICE rating should begin with the 315-page report of titled EVALUATION OF CALIFORNIA WEATHER-BASED "SMART" IRRIGATION CONTROLLER PROGRAMS. This report covers the operation of thousands of controllers installed with Proposition 13 funds to evaluate performance on irrigation controllers in the field.

The results of this field testing are shown in the chart below. This testing eliminates

- the 315 page report covers more than one year and is not limited to 30 days
- the 315-page report covers thousands of controllers, not one from each manufacturer
- the controllers are installed and programmed by homeowners and contractors, not the technical staff of the manufacturer, and monitored/verified by water districts
- the 315-page report shows wide variance of irrigation efficiency among the controllers that will provide the basis for an ICE rating system for irrigation controllers

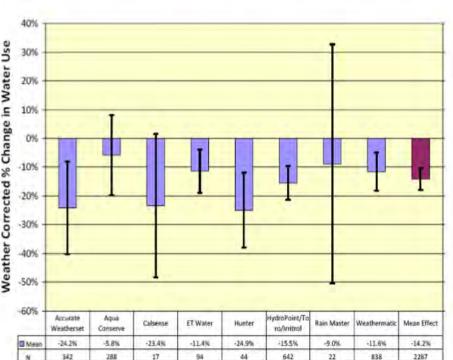


Figure ES.1: Weather-normalized % change in water use by controller manufacturer/brand with 95% confidence error bars

rev. #| date | signature

00 | 03-10-20 | DB

OI | 04-01-20 | DB

O2 | 04-24-20 | DB

O3 | 05-18-20 | DB

04 | 07-04-20 | VM

O5 | 07-20-20 | DB

06 | 08-04-20 | DB

SHEET 23

CIATES,

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US P.O. E

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE 89 S. CALIFORNIA ST., SUITE 200 VENTURA, CA 93001-4508 (605) 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: 4-4-MAL-2- 2034

Date Filed: YY\QV 14 . 2021

Appellant Name(s): <u>Saled & Charlton Anne Sade appour</u>

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 South Central 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 5
Appeal by Saeed and
Charlton Anne Sadeghpour
Appeal No. A-4-MAL-21-0034

| 1. Appellant inform | mation ₁ |
|---|---|
| Name: | Saced and Charlton Anne Sadeghpour |
| Mailing address: | 1818 20th St. Santa Monica CA 90404 |
| Phone number: | 310-430-1919 |
| Email address: | Saeedsadeghpour 19@gmail.com |
| How did you participa | te in the local CDP application and decision-making process? |
| Did not participate | Submitted comment Testified at hearing Other |
| Describe: Appeale | and to the malibu City Council as decision made oning Dept. and Planning Commission in three |
| by Plan | oning Dept. and Planning Commission in three |
| differe | nt occasions. |
| | |
| please identify why yo | ate in the local CDP application and decision-making process, bu should be allowed to appeal anyway (e.g., if you did not ou were not properly noticed). DNA (does not apply) |
| why you should be all CDP notice and heari processes). We exposeribe: by me partice on 12 and a (Item | ou exhausted all LCP CDP appeal processes or otherwise identify owed to appeal (e.g., if the local government did not follow propering procedures, or it charges a fee for local appellate CDP chausted the LCP and CDP appeal processes eting withe Planning Dept director on 3/18/21, ipated in two Planning Commission Meetings 107/20 (Item 4C) and on 2/01/21 (Item 5A) ppealed to the City Council on 4/26/21 (AD). Malibu Charged a fee of \$1750.00 for the local appeal |

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

| 2. Local C | DP decision being appealed | 2 | |
|--------------|---|--|------|
| Local gover | nment name: | City of Malibu | |
| Local gover | nment approval body: | City Council | |
| Local gover | nment CDP application number: | 20-023 | |
| Local gover | nment CDP decision: | CDP approval CDP denial3 | |
| Date of loca | al government CDP decision: | 04/28/2021 (date of not | rica |
| | tify the location and description one local government. | f the development that was approved or | |
| Describe: | Address: | | _ |
| | 30181 Cuthb | pert Road, Malibu, CA | _ |
| | | 90265 | |
| | APN 4469. | -007-002 | |
| | Empty lot: | burned in woolsey fire | |
| | · | | |
| | For details see | AHachment #1 | _ |
| | | | _ |
| | | | _ |
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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 <u>appeal information sheet</u> for more information.

3. Identification of interested persons

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.

Interested persons identified and provided on a separate attached sheet

See attachment # 2

4. Grounds for this appeal4

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.

| Describe: | See attachment #3 with details regarding |
|-----------|--|
| | 1. Ownership as defined by LCP |
| | 2. Abuse of LCP permit process |
| | 3. Disregard for Planning Commission decision of 12/07/2020 |
| | decision of 12/07/2020 |
| | |
| | Also see: |
| | Also see: attachment #4 (two pages) "terms defined" |
| | attachment #5 "Evidences of unfairness" |
| | |
| | |

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

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 SAEED AND CHARLTON ANNE SADEGHPOUR

Many Signature July July And Sadeghpour July Anne Sadeghpour July And Signature

Date of Signature 5/14/2021

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.

to identify others who represent them. Please attach additional sheets as necessary.

Appellant: Sadeghpour

5/14/2021

Appeal of local CDP decision Page 3

Item 2

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

Describe:

Address: 30181 Cuthbert Road, Malibu, CA 90265 (APN: 4469-007-002)

Empty lot; small home built in 1950's burned by the Woolsey fire. The Applicant, Cuthbert Surf LLC, hereinafter called "LLC" purchased lot in February 2020 and received an over-the-counter PV (Planning Verification) for a much larger, new home based on inflated and misrepresented figures of the burned structure as acknowledged by the Planning Department after our appeal to the Planning Commission (see additional attachment). The Applicant then immediately applied for an extra 1314 square ft. under a partial CDP, on the basis of the same erroneously granted PV permit. The original house had 2291 square ft. and an existing garage of 427 square ft. only, and NO workshop, as per evidence. The Applicant claimed that the garage had 660 square ft.; and, in addition, the Applicant claimed a 225 square ft. workshop (which did not exist) as part of the original square footage, claiming a total of an inflated, misrepresented 3235 square ft. The highest point of the burned roof was 11.5 ft. yet the Applicant claimed that the roof was 16.25 ft. The original house of a total 2718 square ft. will now be "rebuilt" to 4490 square ft. and the original height of the burned house - 11.5 ft. - is now going to be built to 19 ft. This represents over 200% increase in volume and 64% increase in height, which abuses Woolsey fire criteria and is "serial development" with the cooperation of the Malibu Planning Department. This all happened approximately within a year after the LLC purchased the property. The intention of applying for a PV permit in this way was to blatantly BYPASS the correct procedure of applying for a brand-new building of 4490 square ft. with updated setbacks. The burned house had a front setback of 14 ft., an old code being used and approved by the Planning Department, even though the proposed structure is completely new.

The visual presentation attached that were presented at the City Council meeting of 4/26/2021 confirm the aforementioned.

Attachment #2

Appellant: Sadeghpour

5/14/2021

Appeal of local CDP decision Page 4

4) Identification of interested persons

1. Saeed and Anne Sadeghpour email: saeedsadeghpour19@gmail.com

1818 20th St., Santa Monica, CA 90404

Cell: 310/403-3403

Cuthbert Surf LLC
 Mr. Howard Spunt, Manager email: howiestock@gmail.com

29160 Heathercliff Road # 6894, Malibu, CA 90264 0-310 457-0619 C-818 974-6811 Attachment #3

Appellant: Sadeghpour

5/14/2021

Appeal of local CDP decision Page 4

4) Grounds for this appeal

Describe:

- 1. Ownership as defined by LCP: The Malibu local government disregarded our property rights as defined by the LCP with bias, and assigned those rights to the LLC. The LCP rights of ownership as defined on section 13.6.2 have been violated with NO court order. There is no reason for the City or the LLC to confiscate our rights [see five attachments including letter from our attorney Ms. Katherine Hofmann]. The Applicant LLC brought a lawsuit against us in December 2020 and is actively pursuing a declaratory relief through the courts, seeking to eliminate our rights. In addition, the LLC has recorded a Lis Pendens against our property. We answered the lawsuit and filed a cross-complaint against the LLC. The legal process is ongoing and is not resolved yet. [see lawsuit/Lis Pendens with LLC as plaintiff in attached visual presentation]. Since the local government is not a judicial entity, we respectfully request that our appeal be upheld, OR that any permit allowing the LLC to build be postponed until the court makes its decision.
- 2. Abuse of LCP permit process by the LLC/Planning Department: The LCP's construction permit process and spirit of the Woolsey Fire rebuild codes was ignored by knowingly bypassing the requirements of a full CDP as "Option #5" in the rebuild flowchart [see attached visual presentation] and allowing a PV and a partial CDP, and issuing a permit for an 18' high new structure (64% more than the original) over-the-counter, accepting all of the misrepresented and invented measurements of the LLC, without verifying ANY of the misrepresented square footage and specifically the height. This process, in which the Planning Director has unquestioned authority, was done without our knowledge and without any opportunity to protest the confiscation of our property rights and the permit for an exaggerated, inflated final construction.
- 3. <u>Disregard and disrespect for Planning Commission initial decision on 12/07/2020:</u> The Planning Commission on 12/07/2020 directed the LLC to redesign its project according to code and to resubmit it. [see Minutes, pp. 4-5: *motion to continue the item to a date uncertain to allow the applicant to redesign the project was carried unanimously*]. The Planning Department knowingly permitted the LLC to resubmit its <u>unchanged</u> design to the Planning Commission on 02/01/2021 (Item 5A), disregarding the LCP permitting procedure apparently because Commission membership had changed and the parties were confident that an unchanged design would now be approved.

Attachment #4 (2 pages)

Appellant: Sadeghpour

5/14/2021

Terms defined by the LCP & their Significance to City Council Appeal #21-003 30181 Cuthbert Road, Malibu

Malibu LCP Section 2.1

A) **Easement:** a grant of <u>one or more of the property rights</u> by the property owner to and/or for the use by the public, a corporation or <u>another person</u> or entity.

We are the holders of a legally-recorded view easement (height restriction) recorded fifty years ago [see attached]. No legal authority has yet negated this easement. The LLC has recently sued us and the matter will be considered in the Los Angeles court under case #20STCV44283 [see lawsuit first page in the attached visual presentation]. The LLC is attempting to get a court order to eliminate our view right. The LLC has not been able to get this court order yet.

B) **Development height:** Height; the vertical distance between the top of the structure and finished or natural grade, whichever results in a <u>lower</u> building height.

The issue between the LLC and us is the above easement regarding the height of the LLC's proposed construction.

C) New development (a) definition regarding structures destroyed by natural disasters.

The new owner of the lot, the LLC, wants to build an 19' foot high, 4500 square ft. house in place of the 2718 square ft., 11.5' high modest home destroyed by the Woolsey fire. In this process, the LLC, with the assistance and approval of the Planning Department, used a serial development strategy, taking advantage of a PV with old codes (e.g. setbacks and an over-the-counter permit) and submitting incorrect information regarding its <u>true intention</u> in order to utilize LCP "Option #2" (PV) of the rebuild flowchart [see attached visual presentation] rather than "Option #5" which requires a <u>full</u> CDP.

D) **Planning verification**: A ministerial <u>verification</u> by the Building or Planning Department to determine for purposes of reconstruction the physical specifications of a structure destroyed or damaged by fire, earthquake, act of war or other calamity (page 23 of LCP).

The Planning Department did <u>NOT</u> verify any information provided by the LLC in March 2020 to validate its authenticity before issuing an over-the-counter PV permit to the LLC (unbeknownst to us) barely one month after the LLC's purchase of the lot. The 10% over the actual height/square footage/bulk volume was not considered important to the Planning Department who simply turned a blind eye to the actual facts without verifying any of them.

E) **Proof of ownership or owner's consent** (Section 13.6.2 of LCP) explains that "...applicants must prove that they own the property which is the subject of the application or provide the City with written consent from the owner for the proposed development..."

In this case we are the "owners" of a particular right: the right of a height restriction which favors our lot. That right is part of the "bundle of rights" that make up property ownership. A declaration to the

Appellant: Sadeghpour 5/14/2021 City Council Appeal #21-003 p. 2 of 2

contrary has not yet been made by the courts, and we are asking for our appeal to be upheld OR for postponement of the Applicant's right to build *if and until the declaration that the applicant requested,* is made by the court. We have not provided the required *written consent* to release our rights and therefore our ownership.

AHachment #5

Evidences of Unfairness and Abuse of Proper Procedure Malibu City Appeal #21-003 30181 Cuthbert Road

Appellant: Saeed and Charlton Anne Sadeghpour

5/14/2021

Reference: City of Malibu LCP Land Use Plan page 4

CHAPTER 1—INTRODUCTION
(D) General Goals and Objectives state that:

"a goal of the LCP is to promote the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies."

We believe the process has not been fair to us, landowners and property taxpayers for seventeen years in the City of Malibu, at 30163 Cuthbert Road, northern neighbor to the Applicant (the "LLC") who is NOT a "victim" of the Woolsey fire and who purchased the subject property in 2020. The process has unduly and unfairly favored the Applicant.

- The Planning Department was aware of the <u>intent</u> of the LLC to bypass the spirit of the LCP ordinances and permit procedures and unfairly bypassed a full CDP by breaking the process into a) an over-the-counter PV and b) small addition within weeks (constituting serial development). This is explained in our "visual presentation" to the City Council on 4/26/2021 showing that Option #2 instead of the proper Option #5 of the rebuild flowchart was implemented.
- 2. The Planning Department on page 2 of its report dated 4/15/2021 and presented to the City Council at its meeting of 4/26/2021 admits and acknowledges that the height and square footage submitted by the LLC for its *original* PV was exaggerated and "in error" as confirmed by the City Attorney during that meeting. Nevertheless, the Planning Department upholds its PV permit of March 2020 and still recommends that a partial CDP be issued.
- 3. The Planning Department rejects our recorded ownership right to the view as per LCP ownership definition with the excuse that these matters are "complicated, disputed, and currently being litigated" and that the Applicant has provided satisfactory "evidence" and states that it is the Title Company that is pursuing us, not the Applicant (page 3 of the same 4/15/2021 staff report). The fact that it IS being litigated by the LLC, NOT the Title Company, and that a judgement has not yet been handed down by the court, is part of our Appeal. To allow the LLC to proceed, regardless, is unfair. The LLC has NOT provided any recorded evidence that the view is "owned" by the LLC. We have provided the evidence, which is why the LLC sued us in order to obtain "declaratory relief."
- 4. The Planning Department did not include the referenced 1997 plans received by the City in its staff report. We had to specifically *ask* for a copy in order to refer to it regarding the original home's height and square footage. Omitting such information is not in the spirit of the LCP.

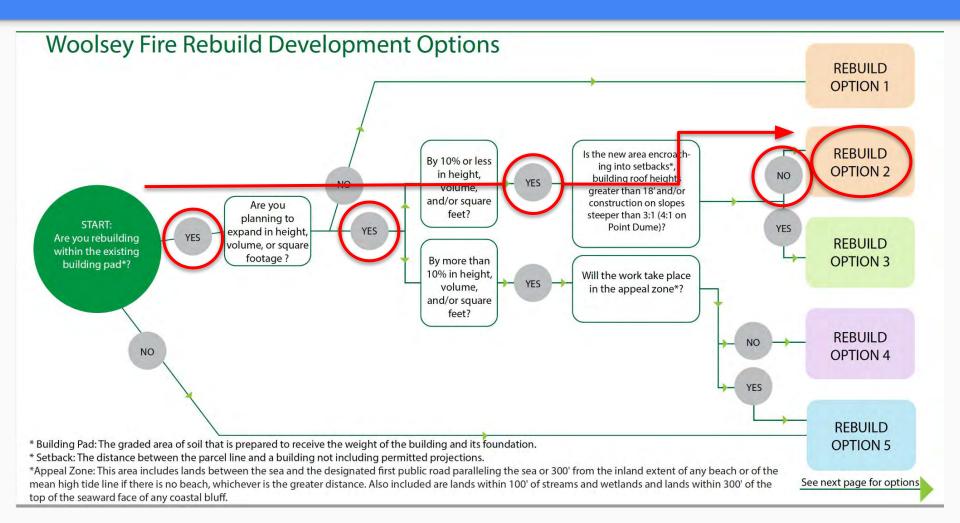
Appeal No. 21-003

CDPWF No. 20-023: 30181 Cuthbert Road

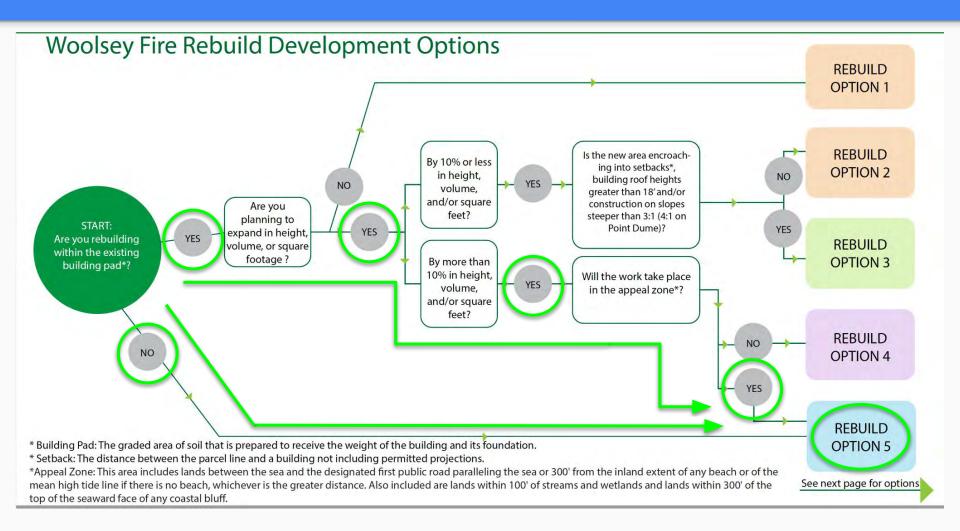
Applicants: Cuthbert Surf, LLC

Appellants: Saeed and Anne Sadeghpour

Malibu City Council Hearing April 26, 2021



CORRECT - BASED ON PLANS - REBUILD OPTION #5



MALIBU REBUILDS

| | REBUILD OPTION 1 | REBUILD OPTION 2 | REBUILD OPTION 3 | REBUILD OPTION 4 | REBUILD OPTION 5 |
|------------------------|--|--|--|--|--|
| APPLICATION: | Planning Verification (PV) | Planning Verification (PV) | Administrative Plan Review (APR) with Site Plan Review (SPR) | Option 1 + Option 3 | Coastal Development Permit (CDP) |
| PLANNING DEPT FEES: | \$175 | \$175 | APR: \$1,349 SPR: \$2,968 (height) AND/OR \$2,529 (steep slopes or setbacks) | See Option 1 + Option 3 | \$9,822 base, fees for *discretionary requests may be required |
| TIMELINE: | Same day, pre-design meetings encouraged | Same day, pre-design meetings encouraged | ± 3-6 months, depending on the project | ± 3-6 months, depending on the project | \pm 12-18 months, depending on the project |
| USE IF: | Rebuilding same location, same size | Rebuilding same location + up to 10% more square footage and/or height increase (conforming) | Rebuilding same place + up to 10% more square footage or height and new area is greater than 18 feet in height, within a required yard setback, and/or built on slopes between 3:1 and 2.5:1 | Rebuilding same place + over 10% more square footage or height (must be outside appeal zone). If new area is greater than 18 feet in height, within a required yard setback, and/or built on slopes between 3:1 and 2.5:1, an SPR is required. | Rebuilding outside the building pad OR Option 4 and are inside the *appeal zone |
| DECISION: | Decision Making Body: Planning Director | Decision Making Body: Planning Director | Decision Making Body: Planning Director | Decision Making Body: Planning Director | Decision Making Body: Planning Commission |
| NOTICE: | None | None | APR: None SPR: 21-Day notice required | PV: None APR: None SPR: 21-Day notice required | 10-Day notice 21-Day notice required for discretionary requests (VAR, MM, SPR) |
| APPEALABILITY: | Not appealable | Not appealable | APR: Not appealable SPR: Appealable to Planning Commission | PV: Not appealable APR: Not appealable SPR: Appealable to Planning Commission | Appealable to City Council. If project is within the appeal zone, project is appealable to California Coastal Commission |

^{*}Appeal Zone: This area includes lands between the sea and the designated first public road paralleling the sea, or 300' from the inland extent of any beach or from the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of any coastal bluff.

^{*}Discretionary Request: A request to exceed development standards (e.g. height over 18 feet; encroachments into setbacks; grading that exceeds permitted quantities; development on steep slopes; or new development or fuel modification clearance into environmentally sensitive habitat area).

Planning Department - Discrepancies

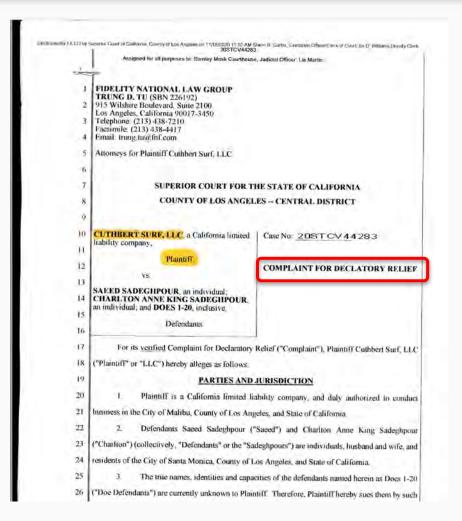
<u>Proposed Total Development Square Footage (TDSF)</u>

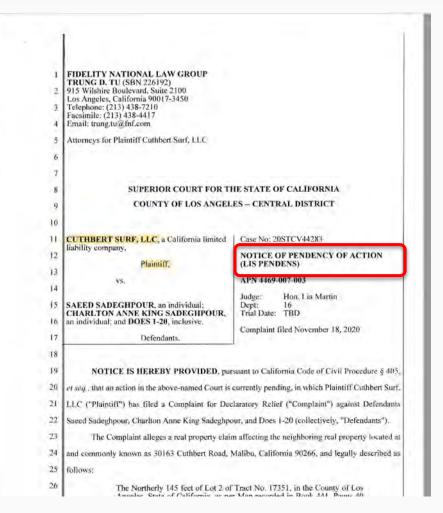
Main Residence (Approved under PVWF No. 20-022)
 Main Residence Addition including loft
 Total:
 3,176 sq. ft.
 1,314 sq. ft.
 4,490 sq. ft

PVWF No. 20-022 was approved to allow for a 3,176-square foot replacement structure that was up to 18 feet in height. However, during the review of the subject application, it was determined that the information provided in the PVWF application was inaccurate. PVWF No. 20-022 had indicated that the height of the previous home was 16 feet and three inches. However, it was discovered that the actual height of the existing residence did not exceed 14 feet in height. In addition, the previously existing square footage was found to be in excess of the amount shown on a set of plans that were submitted to the City in 1996. CDPWF No. 20-023 was amended to include the additional square footage and the additional height beyond 10 percent of the previously existing structure. Approval of the subject CDP will correct the discrepancies in height and square footage that were proposed as part of the Planning Verification application. CDPWF No. 20-023 was approved at the February 1st, 2021, Planning Commission meeting to allow for an addition that would result in a 4,490 square foot residence that is 18 feet.

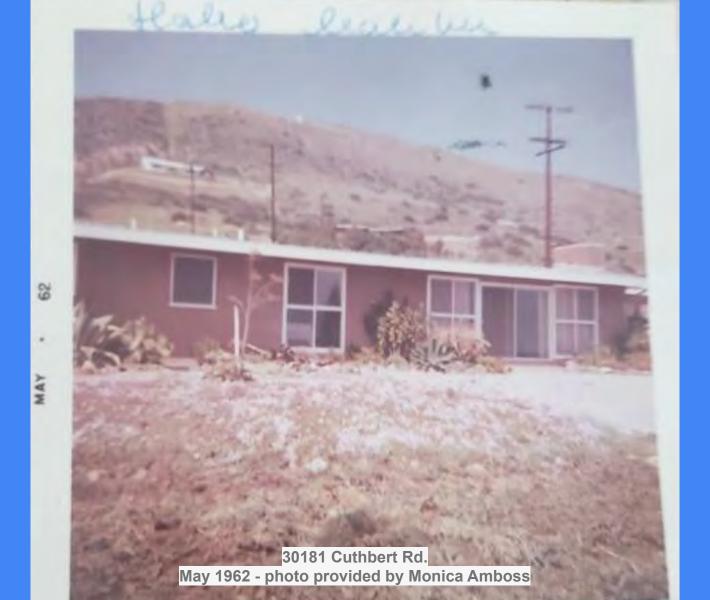
The project plans are included as Attachment 2 in Attachment C. The full description of the project site and surrounding land uses can be found in the February 1, 2021, Commission Agenda Report (Attachment C). The analysis and findings in the Planning Commission agenda report demonstrates that the project complies with the LCP and Malibu Municipal Code (MMC).

Lawsuit & Lis Pendens







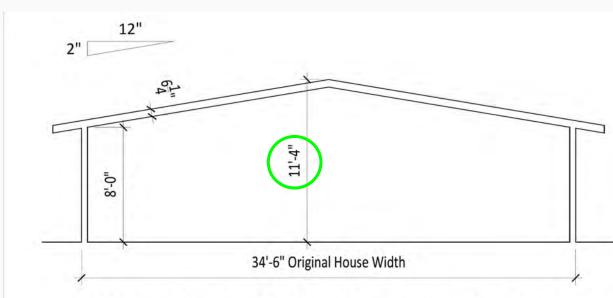






ESTIMATED HEIGHT - From Photo Analysis - 30181 Cuthbert Rd.



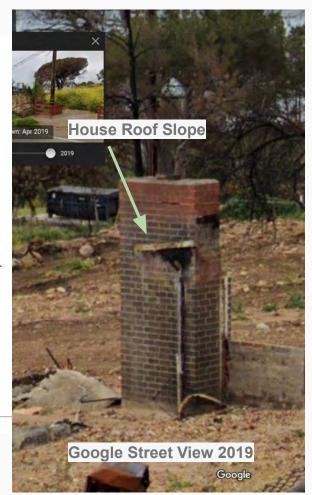


ROOF & HEIGHT ESTIMATE FROM PHOTO ANALYSIS

Original Roof was Mineral-Surfaced Roll Roofing, Min Slope per Code 1:12 2:12 = Lowest Code Allowed Slope for Shingles

Original House Section

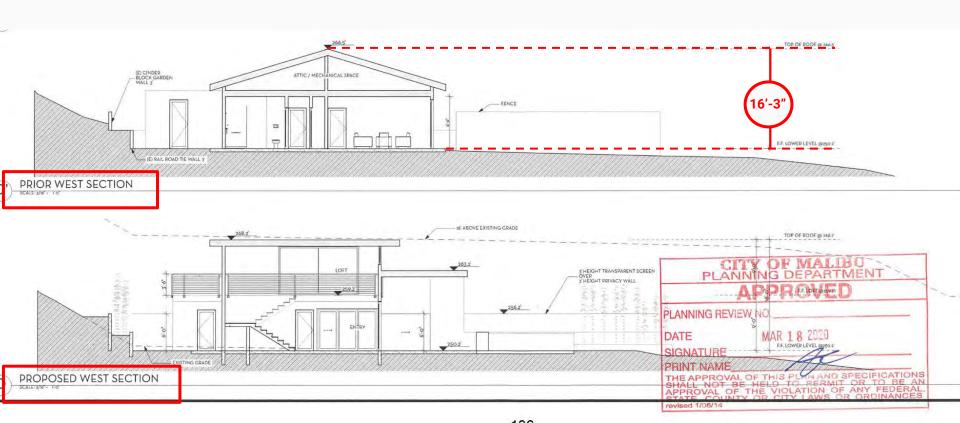




CLAIMED HEIGHT - 30181 Cuthbert Rd.

Original home incorrectly estimated to be 16'-3"

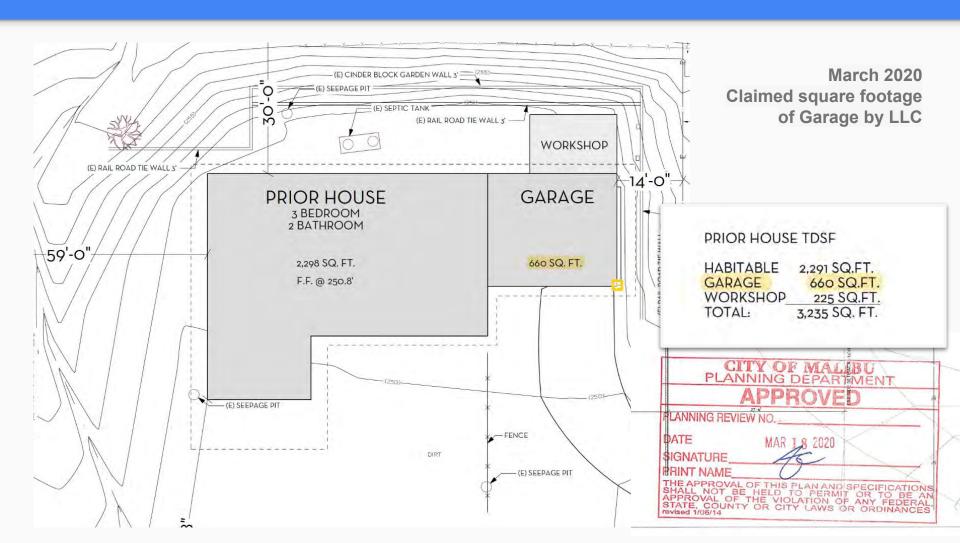
On the basis of these figures a PV for **18' height** was APPROVED by the Planning Department.



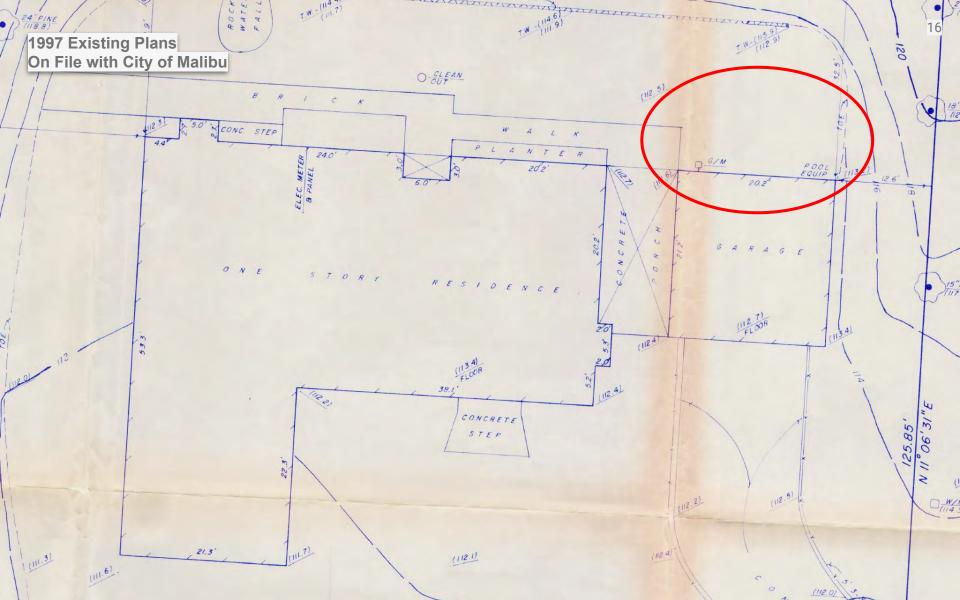
ACTUAL SQUARE FOOTAGE - Garage - 30181 Cuthbert Rd.

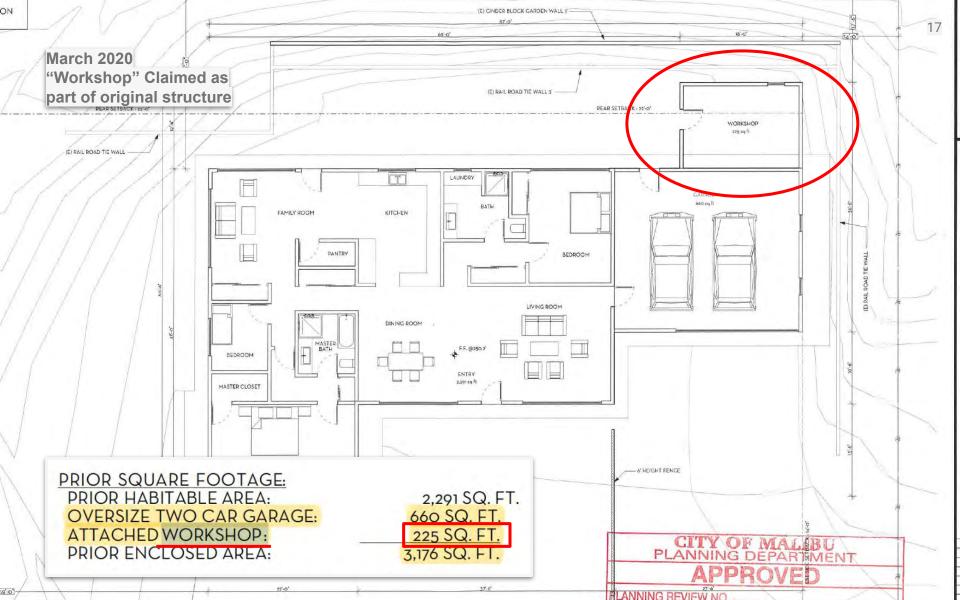


CLAIMED SQUARE FOOTAGE - 30181 Cuthbert Rd.









Conclusion

- PV permit application does not follow spirit of the Woolsey Fire Rebuild codes as intended, and takes improper advantage of the process by LLC.
- Submitted plans will be a new house and not a fire rebuild with 64% increase in height and over 200% volume.
- Abuse of process and misrepresented figures should be closely examined and permit denied based on a falsified PV, and the appeal upheld.

H. MICHAEL SOROY

TELEPHONE (310) 444-7750 FACSIMILE (310) 312-1034

11766 WILSHIRE BOULEVARD, SUITE 270 LOS ANGELES, CALIFORNIA 90025-6538

EMAIL WEB office@soroylaw.com www.soroy.com

Via Electronic Mail Attachment and USPS

April 22, 2021

City Council
CITY OF MALIBU
23825 Stuart Ranch Road
Malibu, CA 90265
Email: citycouncil@malibucity.org

Re: APPEAL NO. 21-003

- → 30181 Cuthbert Road, Malibu, CA 90265, APN 4469-007-002 ("the Property")
- → Cuthbert Surf, LLC v Saeed Sadeghpour, et al., LASC Case No. 20STCV44283

Dear Malibu City Council,

This firm represents Mr. Saeed Sadeghpour and Mrs. Charlton Anne King Sadeghpour who are the title owners to the property located at 30163 Cuthbert Road, Malibu, CA 90265, bearing APN 4469-007-003 (the "Neighboring Property") with respect to ongoing litigation regarding the Neighboring Property and the Property. The Property is the subject of the public hearing set for Monday, April 26, 2021. We write regarding that hearing and the application submitted on behalf of the Property for development on the Property. We request a copy of this letter be provided to the Planning Commission and request that its contents and enclosures be considered. We also request that the application submitted on behalf of the Property for development be denied as the height of the requested structure exceeds that allowed by a restriction in recorded deeds.

I. The Height Restriction on the Property

The Property and the Neighboring Property are directly next-door to each other. Our clients, via title to their property, the Neighboring Property, hold the right of a restrictive covenant which restricts the height of a structure on the next-door Property. The restrictive covenant is recorded in Joint Tenancy Grant Deed on August 19, 1971 in recording number 1612, and provides in relevant part the following:

"It is agreed between buyer and seller that no permanent obstructions be placed on Lot 2 of Tract No, 17351, EXCEPT THEREFROM the northerly 145 feet thereof, which measured from the common line adjoining said property and the property described as the northerly 145 feet of Lot 2 of the Tract No. 17351 will exceed 6 ½ feet in height. Said restriction shall be recorded on said property i.e., Lot 2 of Tract No. 17351 EXCEPT THEREFROM the northerly 145 feet thereof **for the benefit of the <u>lot</u>** consisting of the northerly 145 feet of the Lot 2 of Tract No. 17351 retained by the seller Kurt Amboss."

("Restrictive Covenant")(emphasis added). A true and correct copy of the Deed enclosed herewith.

The recorded Deed which includes the Restrictive Covenant creates a covenant which runs with the land per Civil Code § 1468, meaning that it is binding on subsequent purchasers including Cuthbert Surf, LLC. as it meets all the requirements of § 1468 as follows:

- (1) Written and Recorded. The covenant must be contained in a written instrument and recorded in the office of the recorder of each county in which the land, or some part thereof is situated. *See* Id. Here, the covenant is in a written instrument and it is additionally recorded on the property with the applicable County Recorder's Office. *See* Deed.
- (2) Describes the Land. The land of the covenantor which is to be affected by the covenant, and the land of the covenantee to be benefited, must be described in the instrument containing the covenant. Without a description of the land to be benefited, the statute is not satisfied and the covenant is merely personal to the covenantor. *See* Id. Here, the written and recorded instrument does describe the land, the parcels and the covenant. *See* Deed.
- Successive Owners Bound. The instrument must expressly provide that all successive owners of the land of the covenantor are to be bound by the covenant for the benefit of the land owned by, granted by, or granted to the covenantee. *See* Id. Here, the Restrictive Covenant describes that the covenant impacts the **lot** not only the person. *See* Deed. Specifically, the Restrictive Covenant states: "for the benefit of the **lot**..." See Deed. (emphasis added). By this, there is a clear and unequivocal intent that the covenant runs with the land.

Even more, the intent that the Restrictive Covenant run with the land is further established by the following:

1. The Restrictive Covenant language was recorded again two different times in 2004, evidencing ratification thereof that the Restrictive Covenant does run with the land. The first additional deed, an

"Individual Quitclaim Deed," was recorded with the Los Angeles County Recorder's Office in document number 04 0608952 on March 15, 2004. The second additional deed, an "Individual Quitclaim Deed," was recorded with the Los Angeles County Recorder's Office in document number 04 1302986 on May 21, 2004. True and correct copies of the additional recordations are enclosed herewith. The additional recordations were recorded to further notice and confirm that the Restrictive Covenant runs with the land.

- 2. Even more, **Ms. Monica Amboss has signed a declaration** which is enclosed herewith. Her declaration (1) sets the grounds to establish that the plans for the property are not based on the proper measurements of the previously existing structure; and (2) confirms that the intent is that the Restrictive Covenant runs with the land.
- 3. Title Insurance for the property has recorded and respected the height restriction detailed in the Restrictive Covenant. The Preliminary Title Report prepared by Chicago Title and sent to Plaintiff on 1/10/2020 during Plaintiff's escrow period to purchase the property (Lot 2) describes the height restriction and its validity. Thus the title company itself acknowledged the Restrictive Covenant which runs with the land.
- 4. All owners since the recordation of the Deed with the Restrictive Covenant have abided by the Restrictive Covenant, confirming understanding of the restrictive covenant, that it is appurtenant to the land and/or the intent.
- 5. Chicago Title Company on behalf of Defendants has recorded and prepared documents referring to the height restriction of the Restrictive Covenant.
- 6. A Preliminary Title Report from October 2020 by an independent title company reflects the height restriction.
- (4) Relates to the Use, Improvement of the Land. Each act required by the covenant must relate to the use, repair, maintenance, or improvement of, or payment of taxes and assessments on, such land or some part thereof, or if the land owned or granted to each consists of undivided interests in the same parcel or parcels, the suspension of the right of partition or sale in lieu of

partition for a period which is reasonable in relation to the purpose of the covenant. See Id. Here, written and recorded instrument describes the height limitations for a structure on the parcel at issue; as such, the written and recorded instrument relates to the use, repair, maintenance, improvement of and new developments or upkeep or additions, to the parcel.

The Restrictive Covenant is entirely related to the Property – as even stated – "to the lot" and it so "touches and concerns the land" that its benefit or burden passes with the ownership irrespective of the consent of subsequent assignees or purchasers. *Southern Cal. Law Review 343, 355 (1931); Clark, The American Law Institute's Law of Real Covenants*, 52 Yale L.J. 699, 731 (1931).

The Restrictive Covenant has been recorded since 1971, for almost 50 years. Through change of ownership of both the Property and the Neighboring Property, the Restrictive Covenant has remained binding and undisturbed. Yet, in 2020, the Property was purchased by Cuthbert Surf, LLC which became the first titleholder to try to disregard and violate the Restrictive Covenant. Cuthbert Surf, LLC has no right to do so. The Property is bound by the restrictive covenant, i.e. any permanent structure on the Property shall not exceed 6 ½ feet in height from the Deed's referenced measuring point.

II. Bundle of Rights

The Sadeghpour's ownership of the Neighboring Property is a "bundle of rights" including the right to protect their interest in the Restrictive Covenant. Their right to this Restrictive Covenant is a clear and valuable "property which is the subject of the application" within the meaning of the Malibu Municipal Code. Malibu Municipal Code on this point requires applicants "prove that they own the property which is the subject of the application or provide the City with written consent from the owner for the City to process the application." (Section 17.04.150). Here, the Sadeghpours have not consented to waive their right. If the permit is approved, the City is violating the bundle of rights which the Sadeghpours hold and have not consented to waive.

III. Ongoing Litigation

An action regarding the Property and the Neighboring Property is pending in Los Angeles Superior Court Case Number 20STCV44283. The Sadeghpours filed a Cross-Complaint against Cuthbert Surf, LLC to protect their right to the Restrictive Covenant and its existence. In sum, they seek that the Court issue an Order declaring in part that (i) the Restrictive Covenant contained in the 1971 Grant Deed is binding on subsequent purchasers and runs with the land; and (ii) that Cuthbert Surf, LLC, the owner of the Property, shall not erect a permanent structure that does not comply with the Restrictive Covenant.

The permit shall be denied as it violates the Restrictive Covenant. In the alternative, a decision regarding the permit should wait to be issued until after an Order by the court issues.

Please contact this office should you have any questions or wish to discuss. Thank you.

Very truly yours,

LAW OFFICES OF H. MICHAEL SOROY

<u>Katherine Hofmann</u>

By: Katherine Hofmann, Esq.

Encls.: As stated.

Cc: Client.

Richard Mollica, Planning Director, CITY OF MALIBU, 23825 Stuart Ranch Road, Malibu, CA 90265-4861, Email: rmollica@malibucity.org

Kathleen Stecko, Administrative Assistant to Planning Commission, CITY OF MALIBU, 23825 Stuart Ranch Road, Malibu, CA 90265-4861, Email: kstecko@malibucity.org



RECORDED/FILED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA

12:01 PM MAY 21 2004

TITLE(S):

DEED





FEE

FEE \$10 G

CODE

20

CODE

19

CODE

9_

Assessor's Identification Number (AIN)
To be completed by Examiner OR Title Company in black ink.

D.T.T

DIFFEATION SENT-54(C

Number of AIN's Shown



RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO: Saeed Sadeghpour Charlton Anne King Sadeghpour 531 N. 18th Street Montebello, Ca. 90640

Space Above This Line for Recorder's Use Only

INDIVIDUAL QUITCLAIM DEED

| THE UNDERSIGNED GRANTOR(s) DECLARE(s) DOCUMENTARY TRANSFER TAX | \$NONE |
|---|--------|
| this Deed transfers any right to a deed restriction only | |
| computed on full value of property conveyed, or | |
| computed on full value less value of liens or encumbrances remaining at time of sale, | |
| unincorporated area; [] City of Malibu, and | |

FOR A VALUABLE CONSIDERATION, Receipt of which is hereby acknowledged, Kurt Amboss and Phyllis Evelyn Amboss, husband and wife

hereby remise, release and forever quitclaim to Saeed Sadeghpour and Charlton Anne King Sadeghpour, husband and wife as joint tenants

any and all rights, title, and/or interest in and to that certain height restriction recorded against Lot 2 of Tract No. 17351 as more fully set forth in the Grant Deed recorded August 19, 1971 as Instrument No. 1612.

The transfer of rights, title and interest in and to this height restriction is being done in connection with and as part of the sale of property between the Grantors and Grantees herein for property known as the Northerly 145 feet of Lot 2 of Tract No. 17351, in the County of Los Angeles, State of California as per map recorded in Book 441 Page 40 and 41 of Maps, in the office of the County Recorder of said County.

QUITCLAIM DEED CONTINUED ON NEXT PAGE

Mail Tax Statements to: SAME AS ABOVE or Address Noted Below

A.P.N: 4469-007-003

QUITCLAIM DEED - CONTINUED

| Kurt Ambon | Phyllis Exelyn Andress Phylis Evelyn Amboss |
|---|---|
| Kurt Amboss | Phyfis Evelyn Amboss |
| Document Date: May 17, 2004 | |
| persenally known to me (or proved to me on the basis of | of satisfactory evidence) to be the person whose name so ever subscribed to the executed the same in his/her/their authorized capacitylies) and that by or the entity upon behalf of which the person acted, executed the instrument. |
| | This prop for official notarial seal |

NICOLE NORDGREEN NICOLE NORDGREEN
Commission # 1408313
Notary Public - California
Los Angeles County
My Comm. Expires Mar 30, 2007



RECORDED/FILED IN OFFICIAL RECORDS RECORDER'S OFFICE LOS ANGELES COUNTY **CALIFORNIA** 03/15/04 AT 08:00am

DEED

TITLE(S):



FEE \$27 A.F.N.F. 94 D.T.T

CODE 20

CODE 19

CODE

Assessor's Identification Number (AIN) To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

4469-007-063

THIS FORM NOT TO BE DUPLICATED



RECORDING REQUESTED BY

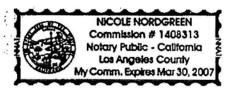
AND WHEN RECORDED MAIL TO: Saeed Sadeghpour Charlton Anne King Sadeghpour 531 N. 18th Street Montebello, Ca. 90640 04 0608952

_Space Above This Line for Recorder's Use Only _____

INDIVIDUAL QUITCLAIM DEED

| [] computed on full value of property conveyed, or computed on full value less value of liens or encumbrances remaining at time of sale, unincorporated area; [] City of Malibu, and |
|---|
| FOR A VALUABLE CONSIDERATION, Receipt of which is hereby acknowledged, Kurt Amboss and Phyllis Evelyn Amboss, husband and wife |
| hereby remise, release and forever quitclaim to Saeed Sadeghpour and Charlton Anne King Sadeghpour, husband and wife as joint tenants |
| any and all rights, title, and/or interest in and to that certain height restriction recorded against Lot 2 of Tract No. 17351 as more fully set forth in the Grant Deed recorded August 19, 1971 as Instrument No. 1612. |
| Kurt Amboss Kurt Amboss Phylis Evelyn Amboss |
| Document Date: March 10, 2004 |
| STATE OF CALIFORNIA)SS COUNTY OF LOS Angeles) |
| on March 12, 2004 before me, NIWE Nordween, notary public |
| personally appeared Kurt Amboss and Phylis Evelyn Amboss |
| personally known to me (or proved to me on the basis of satisfactory evidence) to be the personal whose named is a subscribed to the |
| within instrument and acknowledged to me that he/sho(the) executed the same in his/hor/thei) authorized capacity(ies) and that by his/hor/thei) signature(s) on the instrument the perso(s) or the entity upon behalf of which the perso(s) acted, executed the instrument. |
| WITNESS my hand and official seal. |
| Signature W. W. Signature |
| |

This area for official notarial seal.



Mail Tax Statements to: SAME AS ABOVE or Address Noted Below

DECLARATION OF MONICA E. AMBOSS

I, MONICA E. AMBOSS declare as follows:

- 1. I am an attorney licensed to practice law in the great State of California. I make this declaration based upon my own personal knowledge and, if called upon to testify, could and would testify competently as set forth herein.
- 2. I previously resided in the property located at 30181 Cuthbert Road, Malibu, CA 90265/APN 4469-007-002 from 1961 to 1970, ("Residence") approximately.
- 3. I resided in the residence located at said address which residence was present on the land from the time I resided there until it burned down in the Wolsey Fire in 2018.
- 4. I am intimately familiar with the residence as a previous occupant.
- 5. The residence was a single story.
- 6. The photo attached hereto as **Exhibit A** is a true and correct representation of the residence located at 30181 Cuthbert Road, Malibu, CA 90265 until it burned down in the Wolsey Fire in 2018. This photo depicts the residence's garage and my uncle standing in front of the garage.
- 7. The photo attached hereto as **Exhibit B** is a true and correct representation of the residence located at 30181 Cuthbert Road, Malibu, CA 90265 until it burned down in the Wolsey Fire in 2018. This photo depicts the residence's garage and in front of the garage, a car with myself inside that car and my mother standing outside the car.
- 8. The photo attached hereto as **Exhibit C** is a true and correct representation of the residence located at 30181 Cuthbert Road, Malibu, CA 90265 until it burned down in the Wolsey Fire in 2018. This photo depicts the front of the residence before the addition of two bedrooms for my sister and I were added on.
- 9. Based on my personal knowledge and as known through public records, Mr. Kurt Amboss and Carin Amboss ("Amboss') purchased the real property located directly behind 30181 Cuthbert Road, Malibu, CA 90265, which is commonly known as 30163 Cuthbert Road, Malibu, CA 90265/ APN 4469-007-003. Attached hereto as **Exhibit D** is an accurate picture of the properties discussed after the 2018 Wolsey fire.
- 10. The real property located at 5814 Phillips Avenue/APN 446-015-007("Phillip Ave") was directly accord the street from 30181 Cuthbert Road. At the time Amboss'

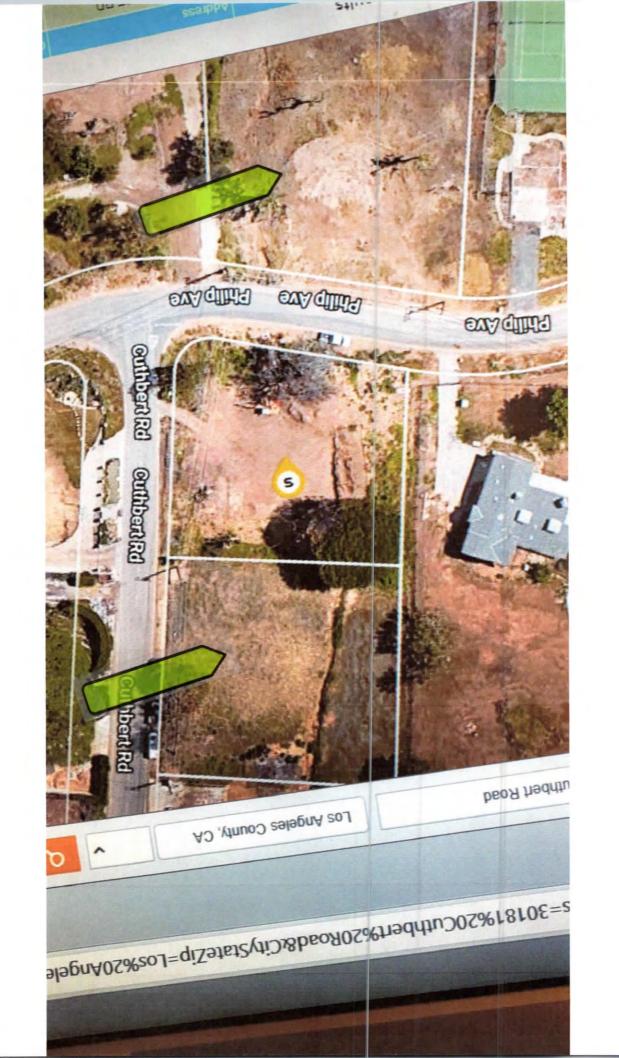
EXHIBIT A



EXHIBIT B



EXHIBIT C



MAIL TAX STATEMENTS AS DIRECTED ABOVE

Escrow or Loan No.

(This area for official notarial seal)

Name (Typed ox Printed)

Title Order No.

57284-5

LY FYND 80

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Characteristics

Re: City of Malibu Appeal 21-003 on 4-26-2021 (Agenda item 4D) – opening comments by Anne [about 4 minutes including putting up six slides]

[slide #1: intro page]

Dear members of the council,

This is a case of abuse of process by the LLC and acceptance of this abuse by the Planning Department. Our appeal is also a complaint to you, the highest administrative authority in the City of Malibu. Details are as follows: [slide #2 "Incorrect": flowchart option No. 2]

- After purchasing the lot in February 2020, the LLC misrepresented the facts in order to get a PV permit directly from the Planning Director over the counter in March 2020, and therefore with no notification to the public, including us. This objective was achieved by wrongfully employing Option #2 (in red) of the "rebuild flowchart" which permits the Planning Director to give applicants a Planning Verification Permit over the counter.
- The Planning Department did NOT verify the grossly exaggerated burned-house measurements in March 2020 and approved the LLC's inflated figures, based solely on the signature of the architect.
- 3. The Planning Department for some reason is still recommending the approval of the LLC's project disregarding their own rules and guidelines specified in the "Rebuild Flow Chart and Options" offered for rebuild. [slide #3 "Correct": flowchart option No. 5]

If the LLC had given its <u>true</u> intention which was to build considerably more than 10% addition in height and/or square footage, the "Rebuild Flow Chart" would have directed the LLC to Rebuild Option #5 (in **green**) which does <u>not</u> permit the Planning Director to issue a PV and requires <u>"full CDP."</u> [slide #4 – flowchart "Rebuilds"]

The criteria difference between Option #2, in **red**, and Option #5, in **green**, are specified in this visual. Option #2 allows the Planning Director to issue a PV. In contrast, option #5 does NOT allow for a PV. A full CDP is required to follow option #5.

The facts have now come to light as acknowledged by the Planning Department and specified on the Appeal Report on page 2, 3rd paragraph. [slide #5 - PD statement] which states: [Anne reads highlighted portion(s)].

As per this acknowledgement, the City of Malibu's <u>own rules</u> will be violated if the City Council approves this project. The LLC should therefore be required to *restart* the permit process, applying for a new, full CDP, including respect for current setbacks, as per Option #5 of the referenced flowchart.

[slide #6 - first page of lawsuit & Lis Pendens, together on one slide]

In addition, the LLC initiated a lawsuit against us, asking the court to eliminate a certain legally and duly recorded height restriction which has favored our northern lot for the last fifty years, and which has been honored by all owners of 30181 Cuthbert until now. The LLC has not yet received such a court order. It stands to reason that having initiated this process, the LLC must now wait for the court order that it requested.

We do not think the City Council, as the administrative authority, should be put in a position of transferring specific ownership rights from one property owner to another. This judicial right is up to the court system. We respectfully request that the abuse of process which we have demonstrated be closely examined and that our appeal be upheld. My husband Saeed will now offer supporting evidence of the aforementioned. Thank you very much.

4-MAL-21-0411



NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT

Received

Date of Notice: April 28, 2021

APR 30 2021-DG

Notice Sent to (US. Certified Priority Mail):

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

Ventura, CA 93001

Contact:

Philip Coronel, Assistant Planner astal Commision South Central Coast District 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-WOOLSEY FIRE NO. 20-023 AND APPEAL NO. 21-003- An application for a 1,314 square foot addition, to a previously approved Planning Verification application to allow for a total development square footage of 4,490 square feet; 6,783 square feet of new impermeable coverage, view permeable front yard fence (not to exceed six feet in height), rear yard and side yard retaining walls (not to exceed six feet in height), a new pool and spa, associated equipment, and a new onsite wastewater treatment system to replace a home destroyed in the 2018 Woolsey Fire

Application Date:

September 10, 2020

Issue Date:

April 26, 2021

Applicant:

Vitus Matare, P.O. Box 1204, Malibu, CA 90265

Owner:

Howard Spunt, Cuthbert Surf LLC

Location:

30181 Cuthbert Road

APN:

4469-007-002

Final Action Information

| Final Local Action: | □ Approved | ☑ Approved with Conditions | □ Denied |
|---------------------|---------------|-----------------------------------|----------|
| Final Action Body: | Approved by t | he City Council on April 26, 2021 | |

| Required Materials Supporting the Final Action | Enclosed | Previously Sent (date) | |
|--|----------|---------------------------|--|
| Adopted Staff Report: | | | |
| April 26, 2021 City Council Meeting | | 4/15/2021 | |
| Adopted Findings and Conditions: | | | |
| City Council Resolution No. 21-23 | X | | |
| Site Plans and Elevations | | 4/15/2021 | |

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. X 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

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, 9300

> Final Local Action Notice and City Resolution

Property Owner/Applicant

Copies of this notice have also been sent to:

Prepared by: Kathleen S

Office in Ventura, California; there is no fee for such an appeal. Should you have any questions regarding the

Appeal No. A-4-MAL-21-0034

Exhibit 6

RESOLUTION NO. 21-23

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. 21-003 AND APPROVING COASTAL DEVELOPMENT PERMIT – WOOLSEY FIRE NO. 20-023 TO ALLOW FOR THE CONSTRUCTION OF A 1,365 SQUARE FOOT ADDITION, A BUILDING HEIGHT INCREASE FROM 14 FEET TO 18 FEET, 6,783 SQUARE FEET OF NEW IMPERMEABLE COVERAGE, VIEW PERMEABLE FRONT YARD FENCE (NOT TO EXCEED SIX FEET IN HEIGHT), REAR AND SIDE YARD RETAINING WALLS (NOT TO EXCEED SIX FEET IN HEIGHT), A NEW POOL AND SPA WITH ASSOCIATED EQUIPMENT, AND THE INSTALLATION OF A NEW ONSITE WASTEWATER TREATMENT SYSTEM (OWTS), AS AN ADDITION TO A HOME DESTROYED IN THE 2018 WOOLSEY FIRE, LOCATED IN THE RURAL RESIDENTIAL—TWO ACRE ZONING DISTRICT AT 30181 CUTHBERT ROAD (CUTHBERT SURF, LLC)

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

SECTION 1. Recitals.

- A. On September 10, 2020, an application for Coastal Development Permit Woolsey Fire (CDPWF) No. 20-023 was submitted to the Planning Department by applicant, Vitus Matare on behalf of the property owner, Cuthbert Surf, LLC. 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 November 3, 2020, a Notice of Coastal Development Permit Application was posted on the subject property and the project was deemed complete.
- C. On November 5, 2020, 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.
- D. On November 16, 2020, the property owner requested that the Planning Commission continue the hearing to the next regularly scheduled hearing.
- E. On December 7, 2020, 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 project applicant requested to continue the subject item to a date uncertain to allow for a redesign in the project to meet current Coastal Development Permit guidelines.
- F. On January 21, 2021, 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.
- G. On February 1, 2021, 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 and adopted Resolution No. 20-33 approving the project.

- H. On February 10, 2021 the applicant, Saeed and Charlton Anne Sadeghpour filed an appeal of the Planning Commission's decision.
- I. On March 29, 2021, 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.
- J. On April 26, 2021, 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 appellant contends that the Planning Commission should have acknowledged an alleged deed restriction on the property that purports to limit the height of the structure to 15 feet 5 inches. The appellants further argue that the proposed structure at 18 feet violates this restriction in the deed restriction and blocks their ocean view.

SECTION 3. Findings for Denying the Appeal.

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

- 1. The Council finds that the applicant has provided evidence that shows it has a right to develop the parcel as proposed, including a title report that does not include the alleged height restriction, and evidence that the applicant's title company is pursuing litigation to obtain a judgment confirming the alleged restriction is invalid. The City does not enforce private height or view restrictions other than as provided in the City's municipal code and LIP. Appellant has not demonstrated that the height of the project violates any of the City's rules or regulations, or is inconsistent with the City's LCP and MMC.
- 2. While the replacement structure is larger than the structure destroyed by the Woolsey Fire, the proposed replacement structure complies with the size, height, location, grading and residential development standards of the LCP and MMC, consistent with the RR-2 zoning designation. The proposed replacement structure does not exceed 18 feet in height which is consistent with the height allowed under the LCP and MMC and does not require a Site Plan Review. Appellants also have not constructed a house on their property and have not established a "primary view determination" pursuant to MMC chapter 17.45. Appellants do not cite to any authority that would require the City to postpone consideration of the instant application, and waiting for a final judgment in the ongoing litigation could result in significant delay.
- 3. Appellants have not demonstrated that the applicant does not "own" the area of the property above 15.5 feet of height. Even if the alleged restrictive covenant were to be found valid by a court, it does not remove ownership from the property owner.

The Council hereby adopts staff's analysis and conclusions from the staff report regarding each of the asserted grounds for appeal and for these reasons the appeal is denied and the project is approved. In summary, the Council finds that the evidence in the record demonstrates the project is consistent with the residential development standards in the LCP and MMC. The proposed replacement structure complies with the size, height, location, grading and residential development standards of the LCP and MMC, consistent with the RR-2 zoning designation.

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 finds 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 Section 15303(e) New Construction or Conversion of Small Structures. The City Council further determines that none of the six exceptions to the use of a categorical exemption apply 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 LIP including Sections 13.7(B) and 13.9, the City Council adopts the analysis in the agenda report, incorporated herein, the findings of fact below, and approves CDPWF No. 20-023 to allow for the construction of a 1,365 square foot addition; a building height increase from 14 feet to 18 feet; 6,738 square feet of new impermeable coverage; view permeable front yard fence (not to exceed six feet in height); rear and side yard retaining walls (not to exceed six feet in height); a new pool and spa with associated equipment; and installation of a new onsite wastewater treatment system (OWTS), in addition to a home destroyed in the 2018 Woolsey Fire, located in the Rural Residential—Two Acre (RR-2) zoning district at 30181 Cuthbert Road (Cuthbert Surf, LLC).

The project is consistent with the Local Coastal Program's (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 RR-2 residential zoning district, an area designated for residential uses. The project replaces a residence and accessory development that were destroyed in the Woolsey Fire. The project has been reviewed for conformance with the LCP by the Planning Department, City Biologist, City Environmental Health Administrator, City geotechnical staff, LACFD, City Public Works Department, and WD29. As discussed herein, based on submitted reports, project plans, visual analysis and site investigation, the proposed project, as conditioned, conforms to the LCP and Malibu Municipal Code (MMC) in that it meets all applicable residential development standards.
- 2. Evidence in the record demonstrates that alternative siting and configuration of the project would not result in an environmentally superior alternative as greater site disturbance and visual impacts would result. As conditioned, the project will not result in adverse biological or visual impacts and has been designed to minimize grading. There is no evidence that an alternative project would substantially lessen any potential significant adverse impacts of the development on

the environment.

B. Hazards (LIP Chapter 9)

1. The applicant submitted geotechnical and soils engineering reports prepared on July 14, 2020, by Salem Engineering Group. These reports are on file at City Hall or available online at MalibuCity.org/OnBase. The reports evaluate site-specific conditions and recommendations are provided to address any pertinent issues. Based on review of the project plans and associated geotechnical reports by City geotechnical staff, LACFD, City Public Works Department, and the City Environmental Health Administrator, these specialists determined that adverse impacts to the project site related to the proposed development are not expected. It has been determined that the project is not located in a hazard zone, except that the project site is located within an extreme fire hazard area and earthquake-induced landslide zone.

The entire City of Malibu is designated as a Very High Fire Hazard Severity Zone, a zone defined by a more destructive behavior of fire and a greater probability of flames and embers threatening buildings. The scope of work proposed as part of this application is not expected to have an impact on wildfire hazards. The property is currently subject to wildfire, however, redevelopment of a residence on the subject property will not increase the site's susceptibility to wildfire. Nonetheless, the applicant will be required to record a deed restriction acknowledging and assuming the hazard risk of fires at the site. The deed restriction shall indemnify and hold the City and City staff harmless against any liability of the permitted project as the entire parcel is in a high-risk wildfire zone area.

Analysis for potential hazards included review of the submitted geotechnical reports prepared by Salem Engineering Group dated July 14, 2020. The geotechnical report submitted in 2020 states that the property is in proximity of active faults however is not within an Alquist-Priolo Special Studies Zone which will not require special site investigations. However, neither ancient nor recent landslides were observed on the property, and based on the stability analysis conducted, no risk of earthquake-induced landslide hazard is low. As such, 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.

- The proposed project, as designed, conditioned and approved by the applicable departments and agencies, will not have any significant adverse impacts on the site stability or structural integrity from geologic or flood hazards due to project modifications, landscaping or other conditions.
- 3. As previously stated in Section A, the proposed project, as designed and conditioned, is the least environmentally damaging alternative. The proposed residence will take advantage of the previously disturbed building pad to minimize site disturbance.
- 4. The proposed development has been analyzed for the hazards listed in LIP Chapter 9 by the 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. As such, there are no feasible alternatives to the proposed development that would avoid or substantially lessen impacts on site stability or structural integrity.
- 5. As previously discussed in Section A, the proposed project, as designed and conditioned, will not have adverse impacts on sensitive resources.

SECTION 6. City Council Action.

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Based on the foregoing findings and evidence contained within the record, the City Council hereby approves CDPWF No. 20-023 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 following:
 - 1. Construction of:
 - a. 1,365 square foot (sq. ft.), maximum 18-feet tall, addition;
 - b. Building height increase from 14 feet to 18 feet maximum;
 - 6,783 sq. ft. new impermeable surface including concrete pool deck and patios, and hardscaping;
 - View permeable front yard fence (view permeable above 42 inches, not to exceed six feet in height);
 - e. New rear yard and side yard concrete retaining walls (not to exceed six feet in height);
 - f. 546.75-square foot pool and spa with associated equipment (to be fully screened);
 - 2. 734 cubic yard of non-exempt grading; and
 - 3. Installation of a new OWTS.
- Subsequent submittals for this project shall be in substantial compliance with plans on-file
 with the Planning Department, dated August 28, 2020. In the event the 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 set forth herein. The applicant shall file this form with the Planning Department within 10 working days of this decision and/or prior to issuance of any development permit.
- The applicant shall submit a digital set of plans to the Planning Department for consistency review and approval prior to prior to plan check and again prior to the issuance of any building or development permits.
- 6. This resolution, signed Acceptance of Conditions Affidavit and all Department Review Sheets attached to this 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.
- 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.
- All development shall conform to requirements of the City of Malibu Environmental Sustainability Department, City Biologist, City Environmental Health Administrator, City geotechnical staff, City Public Works Department, Los Angeles County Waterworks District No. 29 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 MMC and the LCP. An application with all required materials and fees may 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) if applicable, have been exhausted.
- 12. The applicant must submit payment for any outstanding fees payable to the City prior to issuance of any building or grading permit.

Cultural Resources

- 13. 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.
 - 14. 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.

Lighting

- 15. 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.
- 16. Night lighting for sports courts or other private recreational facilities shall be prohibited.
- 17. 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.
- 18. 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.
- String lights are allowed in occupied dining and entertainment areas only and must not exceed 3,000 Kelvin.
- 20. Motion sensor lights shall be programmed to extinguish ten minutes after activation.
- 21. Three 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

22. The height of fences and walls shall comply with LIP Section 3.5.3(A). No retaining wall shall exceed six feet in height or 12 feet in height for a combination of two or more walls.

Construction / Framing

- 23. Prior to the commencement of work, the applicant shall submit a copy of their Construction Management Plan. The Construction Management Plan shall include a dedicated parking location for construction workers, not within the public right of way.
- 24. 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.
- 25. 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.

- 26. 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 will be rinsed off prior to leaving the property.
- 27. 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 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.
 - 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.

Biology

- 28. No new landscaping is proposed with this project. Therefore, none is approved. Should the applicant intend to plant any new vegetation with a potential to exceed six feet in height, or change 2,500 square feet or more of the existing landscape area, a detailed landscape plan shall be submitted for review and approval prior to any planting.
- 29. Grading/excavation/vegetation removal scheduled between February 1 September 15 will require nesting bird surveys by a qualified biologist prior to initiation of such activities. Surveys shall be completed no more than five days from proposed 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 the surveys shall be turned in to the City within two business days of completion of surveys.
- 30. 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 violations of this condition will result in a requirement to permanently remove the vegetation from the site.
- 31. Invasive plant species, as determined by the City of Malibu, are prohibited.
- 32. 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).
- 33. The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources shall be prohibited throughout the City of Malibu. The eradication of invasive plant species or habitat restoration shall consider first the use of non-chemical methods for prevention and

management such as physical, mechanical, cultural, and biological controls. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and use for a limited time.

34. Night lighting from exterior and interior sources shall be minimized. All exterior lighting shall be low intensity and shielded so it is directed downward and inward so that there is no offsite glare or lighting of natural habitat areas.

Environmental Health

35. OWTS on Architectural and Grading Plans: The final Architectural Site Plan (Sheet A-1.2) and Grading Plans must show the proposed OWTS, including the treatment tank, present/future seepage pits, and all lines of connection to the residence.

The plans must also show the <u>existing OWTS</u>, including the septic tank, seepage pits, and all lines of connection to the residence. <u>The existing OWTS components must be clearly</u> labeled "to be abandoned".

- 36. Final Onsite Wastewater Treatment System (OWTS) Plot Plan: A final plot plan prepared by a City Registered OWTS Designer shall be submitted showing an OWTS design meeting the minimum requirements of the Malibu Municipal Code (MMC) and the Local Coastal Program (LCP)/Local Implementation Plan (LIP). The plans must include all 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, existing improvements, and proposed/new improvements. The plot plan must fit on an 11" x 17" sheet leaving a 5" left margin clear to provide space for a City-applied legend. All minimum required setbacks from the residence, deck, and exterior stairs to the OWTS components must be maintained and clearly demonstrated on the final OWTS plans.
- 37. Final OWTS Design Report, Plans, and System Specifications: If the OWTS design and/or bedroom/drainage fixture unit counts are modified in any way subsequent to the Planning-stage review, then a final OWTS design report and large set of construction drawings with system specifications (four sets) shall be submitted to describe the OWTs design basis and all components proposed for use in the construction of the OWTS. All plans and reports must be signed by a City Registered OWTS Designer and the plans stamped by the project Geologist, Coastal Engineer, and Structural Engineer as applicable. The final OWTS design report and construction drawings shall be submitted with the designer's signature, professional registration number, and stamp (if applicable).
- 38. 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 (gpd), and shall be supported by calculations relating the treatment capacity to the number of bedroom equivalents, plumbing drainage fixture equivalents, and the subsurface effluent dispersal system acceptance rate. The drainage 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. Sewage and effluent pump design calculations (as applicable).
- c. 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.
- d. 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.
- e. All OWTS 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" x 22" for review by Environmental Health). [Note: For OWTS final designs, full-size plans are required for review by the Building & Safety and Planning.]
- 39. Existing OWTS to be Abandoned: 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.
- 40. Worker Safety Note and Abandonment of Existing OWTS: 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."
- 41. Reference Plans: Reference architectural and grading/drainage plans shall be submitted to Environmental Health during building plan check review of the proposed OWTS.
- 42. Proof of Ownership: Proof of ownership of the subject property shall be submitted.

- 43. Operations & Maintenance Manual: An operations and maintenance manual specified by the OWTS designer shall be submitted to the owner and maintenance provider of the proposed advanced OWTS.
- 44. Maintenance Contract: 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 advanced onsite wastewater treatment system shall be submitted prior to Environmental Health approval. Please note only original "wet signature" documents are acceptable.
- 45. Advanced Onsite Wastewater Treatment System (OWTS) Covenant: 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 OWTS serving subject property is an advanced method of sewage disposal pursuant to the City of Malibu Municipal Code. Said covenant shall be provided by the City of Malibu Environmental Health Administrator. Please submit a certified copy issued by the City of Malibu Recorder.
- 46. Project Geologist/Geotechnical Consult Approval: Project Geologist/Geotechnical Consultant final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.
- 47. City of Malibu Geologist/Geotechnical Approval: City of Malibu geotechnical staff final approval of the OWTS plan shall be submitted to the Environmental Health Administrator.
- 48. City of Malibu Public Works Approval: City of Malibu Public Works final approval of the OWTS plan shall be obtained.
- City of Malibu Planning Approval: City of Malibu Planning Department final approval of the OWTS plan shall be obtained.
- 50. Environmental Health final Review Fee: A final fee in accordance with the adopted fee schedule at the time of final approval shall be paid to the City of Malibu for Environmental Health review of the OWTS design and system specifications.
- Operating Permit Application and Fee: In accordance with the MMC, an application shall be made to the Environmental Health office for an OWTS operating permit. An operating permit fee in accordance with the adopted fee schedule at the time of final approval shall be submitted with the application.
- 52. 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.
- 53. The final onsite wastewater treatment system plans shall include the Notice of Decision (NOD) from the Planning Department.

Geology

- 54. Final plans shall clearly show the location so fall existing OWTS components (Serving preexisting development) to be abandoned and provide procedures for the OWTS' proper abandonment in conformance with the Malibu Municipal Code.
- 55. Provide pool grading and drainage details in the Grading plans, as appropriate.
- 56. Prior to final approval of site grading, an as built compaction report prepared by the Project Geotechnical Consultant must be submitted to the City for review. The report must include the results of all density tests as well as a map depicting the limit of fill, locations of all density tests, locations and elevation of all removal bottoms, locations and elevation of all keyways and back drains, and locations and elevations of all retaining wall back drains and outlets. Geologic conditions exposed during grading must be depicted on an as0built geologic map. This comment must be included as a note on the Grading plans.
- 57. Three sets of final swimming pool/spa plans (APPROVED BY BUILDING AND SAFETY) incorporating the Project Geotechnical Consultant's recommendations and items in this review sheet must be reviewed and wet stamped and manually signed by the Project Engineering Geologist and Project Geotechnical Engineer. City geotechnical staff will review the plans for conformance with the Project Geotechnical Consultants' recommendations and items in this review sheet over the counter at City Hall. Appointments for final review and approval of the plans may be made by calling or emailing City Geotechnical staff.
- 58. 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.

Public Works

Street Improvements

- 59. This project proposes to construct improvements within the city's right-of-way. Prior to the Public Works Department's approval of the grading or building permit, the applicant shall obtain encroachment permits from the Public Works Department for the proposed work within the City's right-of-way.
- 60. This project proposes to construct a new driveway within the City's right-of-way. Prior to the Public Works Department's approval of the grading or building permit, the applicant shall obtain encroachment permits from the Public Works Department for the proposed driveway. The driveway shall be constructed of either 6-inches of concrete over 4-inch of aggregate base, or 4-inches of asphalt concrete over 6-iches of aggregate base. The driveway shall be flush with the existing grades with no curbs.

Grading and Drainage

- 61. Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development LIP section 17.3.1 that:
 - a. Is located within or adjacent to ESHA, or
 - b. Includes grading on slopes greater than 4:1
 - c. Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4:1 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.

- 62. Exported soil from a site shall be taken to the County Landfill or to a site with an active grading permit and the ability to accept the material in compliance with the City's LIP, Section 8.3. The applicant shall place a note on the plans that addresses this condition.
- 63. A Grading and Drainage plan shall be approved containing the following information prior to the Issuance of grading permits for the project:
 - a. Public Works Department General Notes.
 - b. 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).
 - c. The limits of land to be disturbed during project development shall be delineated on the Grading plan and a total area shall be shown on the plan. Areas disturbed by grading equipment beyond the limits of grading, Areas disturb for the installation of the septic system, and areas disturbed for the installation of the detention system shall be included within the area delineated.
 - d. The grading limits shall include the temporary cuts made for retaining walls, buttresses, and over excavations for fill slopes and shall be shown on the grading plan.
 - e. If the property contains trees that are to be protected, they shall be highlighted on the grading plan.
 - f. If the property contains rare and endangered species as identified in the Resources study the grading plan shall contain a prominent note identifying the areas to be protected (to be left undisturbed). Fencing of these areas shall be delineated on the grading plan if required by the City Biologist.
 - g. Private storm drain systems shall be shown on the Grading plan. Systems greater than 12-inch diameter shall also have a plan and profile for the system included with the grading plan.
 - h. Public Storm drain modifications shown on the Grading plan shall be approved by the Public Works Department prior to the issuance of the Grading permit.
- 64. The applicant shall label all City/County storm drain inlets within 250 feet from each property line per the City of Malibu's standard label template. A note shall be placed on the project plans that address this condition.

Stormwater

65. The ocean between Latigo Point and the West City limits has been established by the State Water Resources Control Board as an Area of Special Biological Significance (ASBS) as part of the California Ocean Plan. This designation allows discharge of storm water only where it is essential for flood control or slope stability, including roof, landscape, road and parking lot drainage, to prevent soil erosion, only occurs during wet weather, and is

composed of only storm water runoff. The applicant shall provide a drainage system that accomplishes the following:

- a. Installation of permanent BMPs that are designed to treat the potential pollutants in the storm water runoff so that it does not alter the natural ocean water quality. These pollutants include trash, oil and grease, metals, bacteria, nutrients, pesticides, herbicides and sediment.
- b. Prohibits the discharge of trash.
- c. Only discharges from existing storm drain outfalls are allowed. No new outfalls will be allowed. Any proposed or new storm water discharged shall be routed to existing storm drain outfalls and shall not result in any new contribution of waste to the ASBS (i.e. no additional pollutant loading).
- d. Elimination of non-storm water discharges.
- 66. A Local Storm Water Pollution Prevention Plan shall be provided prior to the issuance of the grading/building permits for the project. This plan shall include an Erosion and Sediment Control Plan (ESCP) that includes, but not limited to:

| Erosion Controls | Scheduling |
|-------------------|-------------------------------------|
| | Preservation of Existing Vegetation |
| Sediment Controls | Silt Fence |
| | Sandbag Barrier |
| | Stabilized Construction Entrance |
| Non-Storm Water | Water Conservation Practices |
| Management | 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 BMPs 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.

- The developer's consulting engineer shall sign the final plans prior to the issuance of permits.
- 68. The discharge of swimming pool, spa and decorative fountain water and filter backwash, including water containing bacteria, detergents, wastes, alagecides or other chemicals is prohibited. Swimming pool, spa, and decorative fountain water may be used as landscape irrigation only if the following items are met:
 - a. The discharge water is decholirnated, debrominated or if the water is disinfected using ozonation;
 - b. There are sufficient BMPs in place to prevent soil erosion; and
 - c. The Discharge does not reach into the MS4 or to the ASBS (including tributaries)

Discharges not meeting the above-mentioned methods must be trucked to a Publicly Owned Wastewater Treatment Works.

The applicant shall also provide a construction note on the plans that directs the contractor to install a new sign stating "It is illegal to discharge pool, spa or water feature waters to a street, drainage course or storm drain per MMC 13.04.060(D)(5)." The new sign shall be posted in the filtration and/or pumping equipment area for the property. Prior to the issuance of any permits, the applicant shall indicate the method of disinfection and the method of discharging.

Swimming Pool and Spa

- 69. On-site noise, including that which emanates from swimming pool and air conditioning equipment, shall be limited as described in MMC Chapter 8.24 (Noise).
- Pool 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.

Prior to Final Inspection

- 71. Prior to or at the time of a Planning final inspection, the property owner/applicant shall submit to the case planner a copy of the plumbing permit for the irrigation system installation that has been signed off by the Building Safety Division.
- 72. The applicant shall request a final Planning Department inspection prior to final inspection by the City of Malibu Environmental and Building Safety Division. A final approval 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.
- 73. 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.

Deed Restrictions

- 74. 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.
- 75. 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. 15-21. The property owner shall provide a copy of the recorded document to the Planning Department prior to final Planning Department approval.

Colors and Materials

76. The residence shall have an exterior siding of brick, wood, stucco, metal, concrete or other similar material. Reflective glossy, polished and/or roll-formed type metal siding is prohibited.

Fixed Conditions

- 77. This CDP runs with the land and binds all future owners of the property.
- 78. Violation of any of the conditions of this approval may be cause for revocation of this permit and termination of all rights granted thereunder.

SECTION 8. The City Clerk shall certify the adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 26th day of April 2021.

| MIKE | PIERSON, | Mayor | |
|------|----------|-------|--|
|------|----------|-------|--|

ATTEST:

KELSEY PETTIJOHN, Acting City Clerk (seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED BY THE CITY ATTORNEY'S OFFICE

JOHN COTTI, Interim City Attorney

<u>COASTAL COMMISSION APPEAL</u> – 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 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.

Howard Spunt Cuthbert Surf, LLC 29160 Heathercliff #6894 Malibu, Ca 90265 310.457.0619

June 10th, 2021

Re: Appeal (No. A-4-MAL-21-0034) of City of Malibu CDP No. 20-023

Members of the Coastal Commission,

I am in receipt of the appeal that was filed by my neighbor to the North who has been trying to stop our project because they believe the own a private easement that limits our building height.

The title company who insured our project rejected my neighbors claim and is standing behind the title policy in which they originally issued to us.

The Sadeghpour's motivation to try and stop this project solely based on their contention that they own an easement that limits our building height. Their claim that our project is inconsistent or violates the City of Malibu Local Coastal Program (LCP) is without merit.

We have worked very closely with the city of Malibu to obtain all necessary approvals for this project. My project team has designed a project that complies with the Fire Rebuild Ordinance, zoning codes and as conditioned, has been found to be consistent with all applicable LCP codes, standards, goals, and policies.

Furthermore, my neighbors' lot has never been developed and does not have a protected view by any zoning or legal definition and their building pad sits approx 20' above ours, and as you can see by the attached exhibit, our proposed project doesn't have any impact on their view.

I am asking the Coastal Commission to deny their appeal and allow the City of Malibu's approvals to stand.

I appreciate the Coastal Commissions time on this matter.

Sincerely,

Howard Spunt

Manager

Exhibit 7
Correspondence from Applicant dated June 10, 2021
Appeal No. A-4-MAL-21-0034

