



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning and
Development
Department No.: 053
For Agenda Of: August 18, 2009
Placement: Departmental Agenda
Estimated Tme: 15 minutes
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Dianne Black, Interim Director, 568-2086
Director(s) Planning and Development Department
Contact Info: Dave Ward, Deputy Director, 568-2520
Development Review Division - South County

SUBJECT: Supplemental Board Agenda Letter

Hearing to Consider an Appeal of the Montecito Planning Commission's Approval
of a Coastal Development Permit for the Terzian Cabana Alterations, Case
Number 09APL-00000-00017

County Counsel Concurrence

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence

As to form: N/A

Recommended Actions:

Hearing for the August 18, 2009 Departmental Agenda to consider the request of Susan Basham, attorney for Paul Colombo, to consider the appeal, Case Number 09APL-00000-00017 [appeal filed June 5, 2009], of the Montecito Planning Commission's approval of the Coastal Development Permit for the Terzian Cabana Alterations for exterior alterations to an existing cabana, Case Number 09CDH-00000-00005, in compliance with Section 35-182 of the Article II Coastal Zoning Ordinance, on property located in the 1-E-1 zone. The application involves AP No. 009-360-005, located at 1491 Edgecliff Lane in the Montecito Area, First Supervisorial District.

This Board Agenda Letter supplements and updates the Planning and Development Department's (P&D) initial Board Agenda Letter dated July 14, 2009. County Counsel held a facilitation meeting with the applicant (Nina Terzian) and appellant (Paul Colombo) on July 31, 2009. As explained below, the parties agreed that the appeal would be resolved if the seaward/southwest section of the roof of the cabana is not used as a rooftop deck. Staff has prepared revised recommendations and conditions of approval to effect this change.

Follow the procedures outlined below and deny the appeal, Case Number 09APL-00000-00017, and conditionally approve the modified project, Case Number 09CDH-00000-00005, marked "Officially Accepted, County of Santa Barbara (August 18, 2009) Board of Supervisors Exhibit 1" based upon the project's consistency with the Comprehensive Plan, including the Coastal Land Use Plan and Montecito Community Plan, and based on the ability to make the required findings.

Your motion should include the following:

1. Deny the appeal, Case Number 09APL-00000-00017;
2. Adopt the required findings for approval of the modified project, Case Number 09CDH-00000-00005, specified in the Montecito Planning Commission's action letter, including the CEQA findings (Attachment A of the initial Board Agenda Letter dated July 14, 2009);
3. Accept the CEQA exemption included as Attachment B of the staff report to the Montecito Planning Commission for Case Number 09CDH-00000-00005 (Attachment B of the initial Board Agenda Letter dated July 14, 2009); and
4. Approve the modified project, Case Number 09CDH-00000-00005, subject to the revised conditions of approval included as Attachment A of this Board Agenda Letter.

Alternatively, refer back to staff if your Board takes other than the recommended action for appropriate findings and, if necessary, conditions of approval.

Summary Text:

Summary Project Description

The applicant requested a Coastal Development Permit for exterior alterations to the existing cabana located on the 0.59-acre subject property (Attachment B of this Board Agenda Letter includes a photograph of the cabana). The project includes replacing existing railings, windows, doors, roof tiles and siding. It would not change or expand the existing size, height or footprint of the cabana. No structural alterations are proposed. Condition #1 of the revised conditions of approval contains a complete project description (Attachment A of this Board Agenda Letter).

Appeal Issues

The Montecito Planning Commission approved the proposed exterior alterations on May 27, 2009 (Attachment A of the initial Board Agenda Letter dated July 14, 2009 includes the Montecito Planning Commission's action letter). The appellant appealed this decision on June 5, 2009 (Attachment E of the initial Board Agenda Letter dated July 14, 2009 includes the appellant's appeal application).

The appellant expressed concerns regarding the impact of the cabana on his privacy. The cabana is located adjacent to the appellant's 0.97-acre property. The roof of the cabana includes two flat sections that have been used as rooftop decks (Attachment C of this Board Agenda Letter includes a roof plan). The seaward/southwest section of the roof is adjacent to the beach and the east property line of the appellant's property. The landward/northeast section of the roof adjoins a retaining wall at the rear (north) of the cabana. The appellant is primarily concerned about the seaward/southwest section of the roof. His appeal application states, ". . . [cabana] has several roof decks, one [seaward/southwest section] of which looms over the appellant's adjacent property, compromising his privacy." The

appellant also raised concerns that the cabana was expanded without required permits and that the project includes structural alterations to the cabana.

Facilitation Process

On July 31, 2009, County Counsel held a facilitation meeting with the applicant and appellant to discuss possible resolution of the appeal issues. (County Counsel will provide a separate memorandum summarizing the results of the facilitation meeting.) During the meeting the applicant agreed to (1) not use the seaward/southwest section of the roof as a rooftop deck and (2) not install any railings on this section of the roof. The appellant agreed that these changes would resolve his concerns. The landward/northeast section of the roof of the cabana would include railings and would continue to be used as a rooftop deck.

P&D staff revised the conditions of approval to effect these changes (Attachment A of this Board Agenda Letter). For example, staff added a new paragraph to the project description in Condition #1 that states the seaward/southwest section of the roof will not be used as a deck and will not include any railings. The plans for the project were revised to reflect these changes. The seaward/southwest section of the roof is now labeled "ROOF ONLY -- DECK USE AND/OR RAILING INSTALLATION NOT PERMITTED." The railings around the perimeter of the seaward/southwest section of the roof have been removed from the plans (Attachments C and D of this Board Agenda Letter include the revised plans). Staff also added a sentence to Condition #2 to reiterate that the seaward/southwest section of the roof of the cabana will not be used as a rooftop deck.

Staff Analysis and Recommendations

The modified project is nearly identical to the project that the Montecito Planning Commission approved on May 27, 2009. It would not result in additional uses or development or otherwise change or expand the size, height or footprint of the cabana. As a result, staff recommends that the modified project conforms to the applicable provisions of the Comprehensive Plan and Coastal Zoning Ordinance and the findings required for approval of a Coastal Development Permit specified in the Montecito Planning Commission's action letter, including the CEQA findings (Attachment A of the initial Board Agenda Letter dated July 14, 2009). Staff does not recommend any additional conditions of approval.

Special Instructions:

The Clerk of the Board shall publish a legal notice at least 10 days prior to the hearing on August 18, 2009. The notice shall appear in the Santa Barbara Daily Sound. The Clerk of the Board shall also fulfill the other noticing requirements. P&D will provide mailing labels for the mailed notice. The Clerk of the Board shall provide a minute order and a copy of the notice and proof of publication to P&D, attention David Villalobos.

Attachments:

- A. Revised Conditions of Approval, dated August 6, 2009
- B. Aerial Photograph of Cabana, 2004 (California Coastal Records Project, 200404898)
- C. Cabanas Floor Plans (Sheet A.3.0, James Mayo Macari, revised August 4, 2009)
- D. Cabanas Exterior Elevations (Sheet A3.1, James Mayo Macari, revised August 4, 2009)

Authored by:

Allen Bell, Senior Planner, Development Review Division, P&D (568-2033)

cc:

Dave Ward, Deputy Director, Development Review Division, P&D

Alice McCurdy, Supervising Planner, Development Review Division, P&D

Nina Terzian (applicant) (1560 Miramar Beach, Santa Barbara, CA 93108)

James Mayo Macari, AIA (applicant's architect) (519 Chiquita Road, Santa Barbara, CA 93103)

Christopher Jacobs (applicant's attorney) (Brownstein Hyatt Farber Schreck LLC (21 E. Carrillo Street,
Santa Barbara, CA 93101)

Paul Columbo (appellant) (1483 Edgecliff Lane, Santa Barbara, CA 93108)

Susan Basham, Price, Postel & Parma LLC (appellant's attorney) (200 East Carrillo Street, Suite 400,
Santa Barbara, CA 93101)

ATTACHMENT A

Revised Conditions of Approval

Terzian Cabana Alterations
Case Number 09CDH-00000-00005
1491 Edgecliff Lane, Montecito
Assessor Parcel Number 009-360-005

August 6, 2009

Shaded = Revised Text

~~Strikethrough~~ = Deleted Text

Underline = New Text

1. **Project Description.** This Coastal Development Permit is based upon and limited to compliance with the project description, plans and conditions of approval set forth below. Any deviations from the project description or conditions of approval must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

The proposed project is for non-structural exterior alterations to the nonconforming cabana located in the southwest corner of the subject parcel. The project includes the following:

- **Remove existing wood railings on the second-level deck and the roof of the cabana;**
- **Erect ~~Replace existing wood railings with~~ new wrought iron railings on the ~~roof~~ /observation deck and second-level deck and the landward/northeast section of the roof of the cabana;**
- Replace existing windows and doors;
- Replace existing concrete roof tile (“eyebrow”) with copper standing-seam roofing; and
- Replace existing wood siding with new lap wood-siding (tongue and grove, horizontal).

No structural alterations are proposed or intended to be approved as part of the proposed project. The existing cabana totals approximately 1,515 square feet. The project will not enlarge, extend, move, or structurally alter the cabana. It will not change or expand the existing size, height or footprint of the cabana. A portion of the cabana rests on an existing seawall. The project will not alter, expand or otherwise affect the seawall.

The roof of the cabana includes two flat sections. The seaward/southwest section of the roof measures approximately 22 feet x 14 feet (see Sheet A3.0, received August 3, 2009) and is adjacent to the beach and the 0.97-acre parcel to the west (Assessor Parcel Number 009-360-055). The landward/northeast section of the roof measures approximately 28 feet x 14 feet (see Sheet A3.0, received August 3, 2009) and adjoins the retaining wall at the rear (north) of the cabana. The seaward/southwest section of the roof will not be used as a deck and, therefore, the project does not include any railings on this section of the roof. (Sheet A3.0 labels the seaward/southwest section of the roof “ROOF ONLY -- DECK USE

AND/OR RAILING INSTALLATION NOT PERMITTED.”) The landward/northeast section of the roof will be used as a deck and, therefore, the project includes railings around the perimeter of this section of the roof (see Sheets A3.0 and A3.1, received August 3, 2009).

The cabana currently receives water service from the Montecito Water District and sewer service from the Montecito Sanitary District. The cabana also has existing gas and electric service. All utilities are underground. The proposed project will not affect these existing utility services and will not require any new utility services. The project will not require any grading or tree removal.

The subject parcel is approximately 25,707 square-feet (0.59 acres) in size and zoned 1-E-1. It is shown as Assessor’s Parcel Number 009-360-005 and located at 1491 Edgecliff Lane in the Montecito Area, First Supervisorial District.

This project description was based on the applicant’s permit application and the following plans:

- ~~General Notes, Location Map (Sheet, A0, James Mayo Macari, dated February 9, 2009)~~
- ~~Site Plan (Sheet A1.0, James Mayo Macari, dated January 1 revised August 4, 2009)~~
- ~~Cabanas Floor Plans (Sheet A.3.0, James Mayo Macari, no date, received February 19 August 4, 2009)~~
- ~~Existing Cabanas Exterior Elevations (Sheet A3.1, James Mayo Macari, no date, received February 19 August 4, 2009)~~
- ~~Cabanas Exterior Elevations (Sheet A.3.2, James Mayo Macari, no date, received February 19, 2009)~~

2. **Project Conformity.** The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the conditions of approval below. For example, the project does not include structural alterations to the cabana and the seaward/southwest section of the roof of the cabana will not be used as a rooftop deck. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the conditions of approval hereto. All plans (such as landscape plans) must be submitted for review and approval and shall be implemented as approved by the County.
3. **Montecito Board of Architectural Review (MBAR).** Exterior elevations, colors and materials are subject to MBAR review and approval as part of Case Number 09BAR-00000-00021. **Plan Requirements and Timing:** MBAR final approval shall be obtained *prior to issuance* of this Coastal Development Permit. Colors and materials shall be denoted on building plans. The project shall conform to final MBAR approval in all respects. The MBAR-approved color and material board shall be kept on-site throughout construction and shall be available for Permit Compliance staff. **Monitoring:** Permit Compliance staff shall ensure that the project complies with any conditions of approval required by MBAR prior to final building inspection.

4. **Exterior Lighting.** Any exterior lighting shall be of low intensity, low glare design, minimum height, and shall be hooded to direct light downward onto the subject parcel and prevent spill-over onto adjacent parcels and public lands. The applicant shall submit a lighting plan incorporating these requirements and provisions for dimming exterior lights after 10:00 p.m. The lighting plan is subject to MBAR review and approval as part of Case Number 09BAR-00000-00021. **Plan Requirements and Timing:** MBAR final approval shall be obtained *prior to issuance* of this Coastal Development Permit. The lighting plan shall depict the location, design and height of all exterior lighting fixtures and include an arrow showing the direction of light being cast by each fixture. **Monitoring:** Permit Compliance staff shall ensure that all exterior lighting complies with the approved lighting plan prior to final building inspection.
5. **Construction Hours.** Construction activities shall be limited to the hours between 7:00 a.m. and 4:30 p.m., Monday through Friday. No construction shall occur on State holidays (e.g. Thanksgiving, Labor Day). Construction equipment maintenance shall be limited to the same hours. Non-noise generating construction activities such as interior painting are not subject to these restrictions. **Plan Requirements:** Two signs stating these restrictions shall be provided by the applicant and posted on site. **Timing:** The signs shall be in place prior to the beginning of and throughout construction activities. Violations may result in suspension of permits. **Monitoring:** Permit Compliance staff shall ensure that the signs are erected and maintained.
6. **Construction Equipment Noise.** Stationary construction equipment that generates noise exceeding 65 dB(A) at the boundaries of the subject parcel shall be shielded to P&D's satisfaction and shall be located a minimum of 50 feet from occupied residences. **Plan Requirements:** The equipment area with appropriate acoustic shielding shall be designated on building plans *prior to issuance* of any building permits. **Timing:** Equipment and shielding shall remain in the designated location throughout construction and activities. **Monitoring:** Permit Compliance staff shall perform site inspections to ensure compliance.
7. **Construction Vehicle Parking, Equipment Storage and Staging Areas.** No construction parking shall occur on Eucalyptus Lane. Alternate parking may be located off-site, subject to P&D staff review and approval *prior to issuance* of any buildings permits. Equipment storage and staging areas shall be located on-site or within the easement of Edgecliff Lane. **Plan Requirements and Timing:** Building plans shall incorporate provisions for construction vehicle parking, equipment storage and staging areas *prior to issuance* of any building permits. **Monitoring:** Permit Compliance staff shall spot check and respond to complaints.
8. **Construction Wash-Out Area.** During construction, washing of concrete trucks, paint equipment or similar activities shall occur only in an area where polluted water and materials can be contained for subsequent removal from the subject parcel. Wash water shall not be discharged into storm drainages, streets or drainage ditches. The location of the washout area shall be clearly noted at the construction site with signs. **Plan Requirements:** The applicant shall designate a washout area, acceptable to the Building and Safety Division, and show this area on building plans *prior to issuance* of any building permits. **Timing:** The washout area shall be in place and maintained during construction. **Monitoring:** Permit Compliance staff shall inspect the project site throughout all construction activities to confirm proper use and maintenance of the washout area.
9. **Disposal of Construction Materials.** Demolition debris and construction waste such as paint, mortar, concrete slurry and fuels shall be stored, handled and disposed of in a manner which minimizes the potential for storm water contamination. **Plan Requirements:** Bulk storage locations for construction waste, acceptable to the Building and Safety Division, and any measures proposed to contain the materials shall be shown on building plans *prior to issuance* of any building permits. **Timing:** The bulk storage locations shall be in place and maintained

during construction. **Monitoring:** Permit Compliance staff shall inspect the project site throughout all construction activities to confirm proper use and maintenance of the bulk storage locations.

10. **Notice to Property Owner (NTPO), Cabana.** The cabana shall comply with the applicable definitions and zoning requirements for cabanas and accessory structures in the Coastal Zoning Ordinance, including, but not limited to, the following requirements:
 - a. The cabana shall be used as a cabana as defined in the Coastal Zoning Ordinance.
 - b. The cabana shall not be used as a guest house, dwelling unit or temporary sleeping quarters.
 - c. The cabana shall not contain kitchen or cooking facilities. However, a wet bar may be installed, limited to the features specified in Section 35-120.6 of the Coastal Zoning Ordinance.

Plan Requirements: The applicant shall record a Notice to Property Owners (NTPO) to notify future owners of the property that the cabana shall be used only for its permitted purposes. P&D staff will prepare the NTPO. **Timing:** The applicant shall record the NTPO with the County *prior to issuance* of this Coastal Development Permit.

11. **Print and Illustrate Conditions on Plans.** All applicable conditions of approval shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or the Building and Safety Division. These shall be graphically illustrated where feasible.
12. **Permit Acceptance.** The applicant's acceptance of this permit and/or commencement of construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the permittee.
13. **Permit Expiration.** Section 35-169.6 (Expiration) of the Coastal Zoning Ordinance specifies when a Coastal Development Permit expires. In summary, the conditional approval of this Coastal Development Permit shall be valid for one year from the date of decision-maker action. Prior to the expiration of the approval, the decision-maker who approved this Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 of the Coastal Zoning Ordinance can still be made.

This Coastal Development Permit shall expire two years from the date of issuance if the use, building or structure for which this permit was issued has not been established or commenced in conformance with this permit. Prior to the expiration of such two year period, the Director may extend such period one time for one year for good cause shown, provided that the findings for approval required in compliance with Section 35-169.5 of the Coastal Zoning Ordinance, as applicable, can still be made.

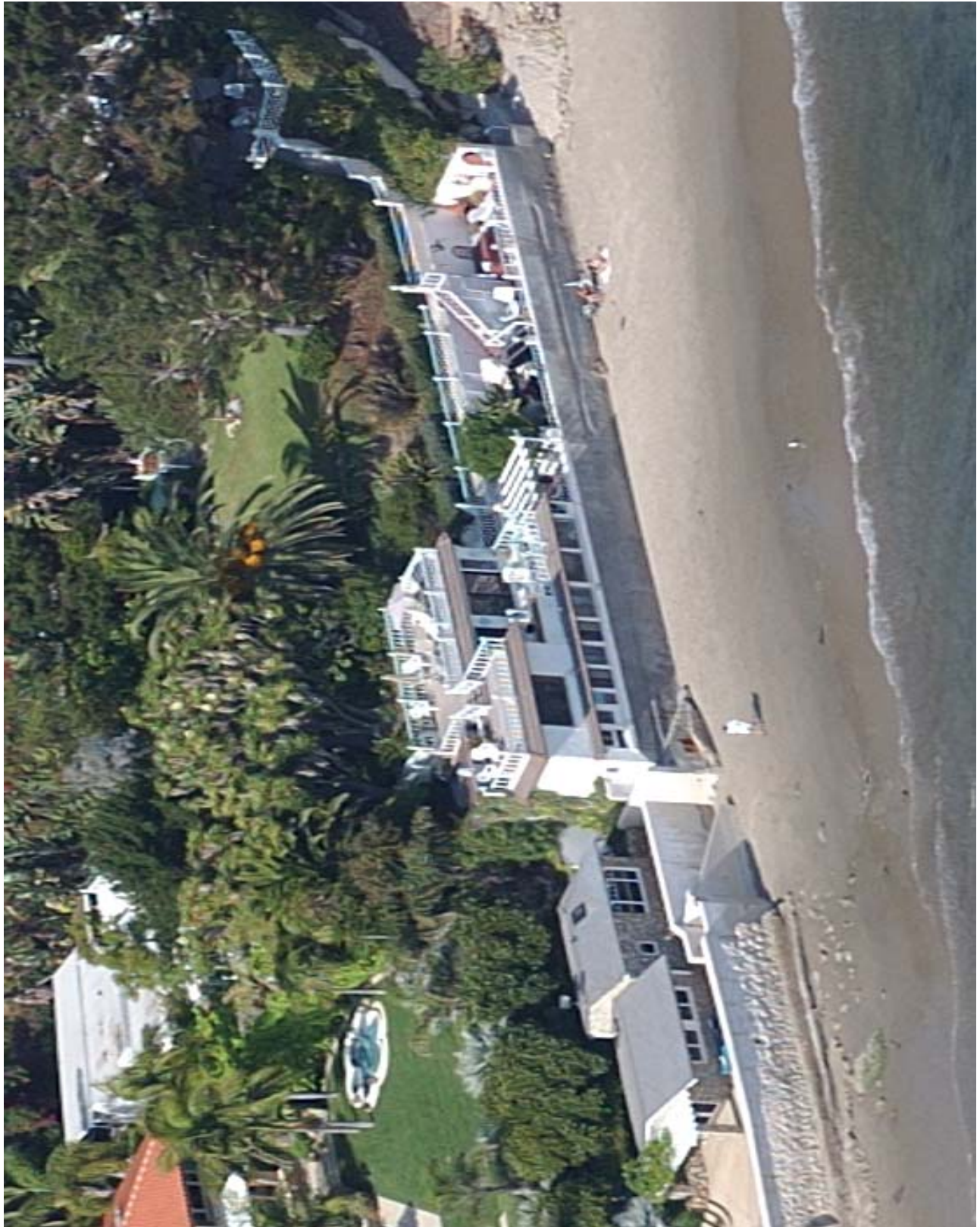
14. **Time Extension.** If the applicant requests a time extension for this Coastal Development Permit, the permit may be revised to include updated language to these conditions, as well as additional conditions which reflect changed circumstances or additional identified project impacts.
15. **Commencement of Construction.** The use and/or construction of the building or structure authorized by this approval cannot commence until this Coastal Development Permit and necessary building permits have been issued. All of the project conditions that are required to be satisfied *prior to issuance* of the Coastal Development Permit must be satisfied *prior to issuance*

of this Coastal Development Permit. Building plans accompanying this Coastal Development Permit shall contain all conditions of approval.

16. **Permit Compliance.** The applicant shall ensure that the project complies with all approved plans and conditions of approval. To accomplish this, the applicant agrees to:
 - a. Contact P&D staff as soon as possible after project approval to provide the name and phone number of the future contact person for the project and give estimated dates for future project activities.
 - b. Contact P&D staff at least two weeks prior to commencement of demolition or construction activities to schedule an on-site pre-construction meeting with the owner, compliance staff, other agency personnel and key construction personnel.
 - c. Pay a deposit fee of \$500.00 *prior to issuance* of this Coastal Development Permit as authorized under ordinance and to cover P&D's costs for monitoring the project for compliance with applicable conditions and other regulations. This may include additional costs for P&D to hire and manage outside consultants when deemed necessary by P&D staff (e.g., non-compliance situations, special monitoring needed for sensitive areas including but not limited to biologists, archaeologists) to assess damage and/or ensure compliance. In such cases, the applicant shall comply with P&D recommendations to bring the project into compliance. The decision of the Director of P&D shall be final in the event of a dispute.
 - d. In the event that staff determines that any portion of the project is not in compliance with the conditions of approval of this Coastal Development Permit, an immediate STOP WORK ORDER may be issued.
17. **Permit Processing Fees.** The applicant shall pay all applicable P&D permit processing fees in full *prior to issuance* of this Coastal Development Permit.
18. **Indemnity and Separation Clauses.** The applicant/developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this Coastal Development Permit. In the event that the County fails promptly to notify the applicant/developer of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
19. **Legal Challenge.** In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the applicant/developer in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.

ATTACHMENT B

**Aerial Photograph of Cabana (2004)
(California Coastal Records Project, 200404898)**



ATTACHMENT C

Cabanas Floor Plans (Revised August 4, 2009)

1491
EDGECLIFF LN
TERZIAN
RESIDENCE
MONTECITO, CA
APR 009-060-005

**JAMES
MAYO
MACARI**
ARCHITECT, AIA

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REVISIONS
REVISED AUGUST 4, 2009

REVISIONS
REVISED AUGUST 4, 2009

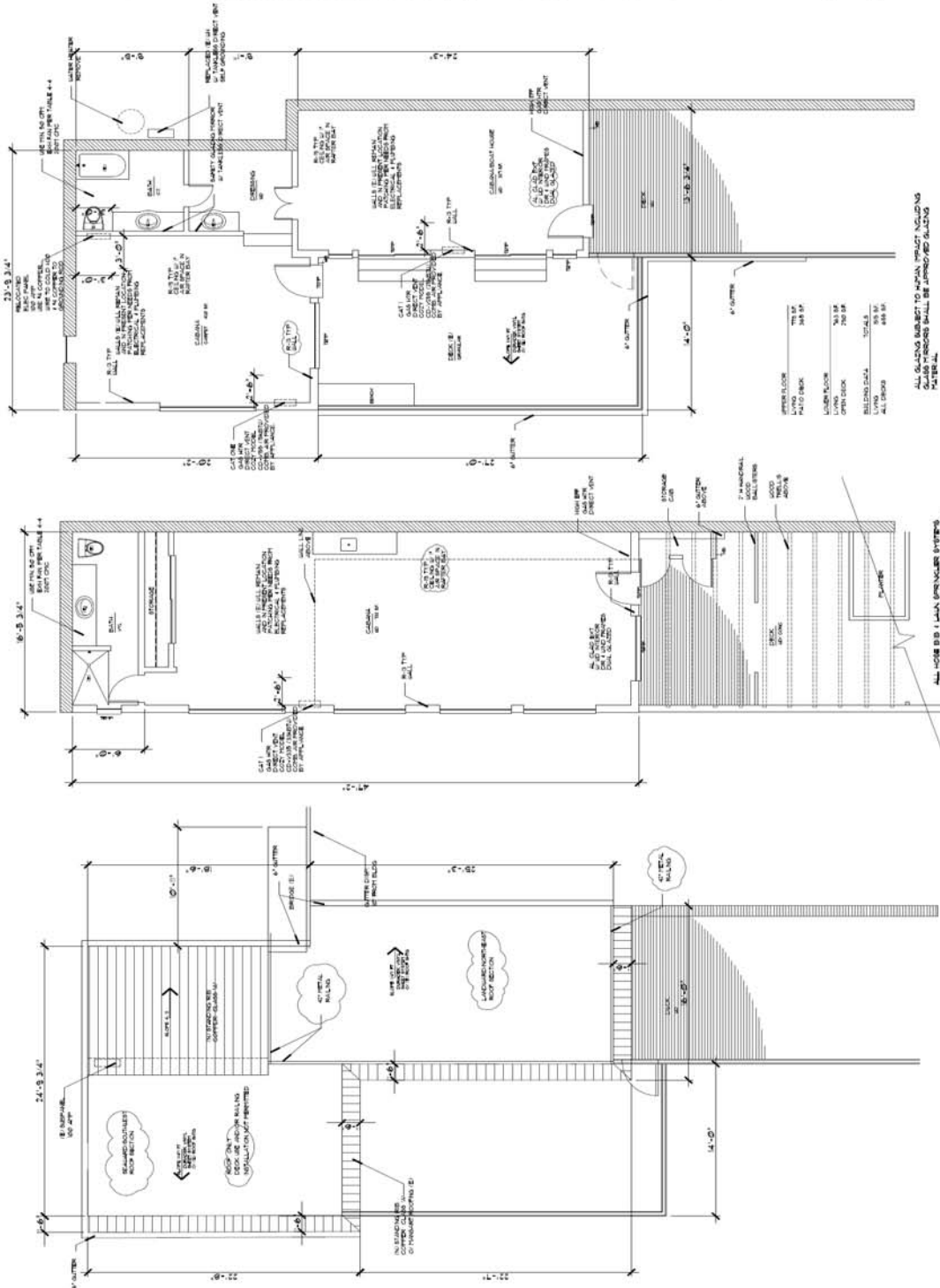


These drawings and accompanying specifications are the sole responsibility of the architect. It is the client's responsibility to ensure that all work is done in accordance with the applicable laws and regulations.

SHEET TITLE
CABANAS FLOOR
PLANS

SHEET No.
A3.0

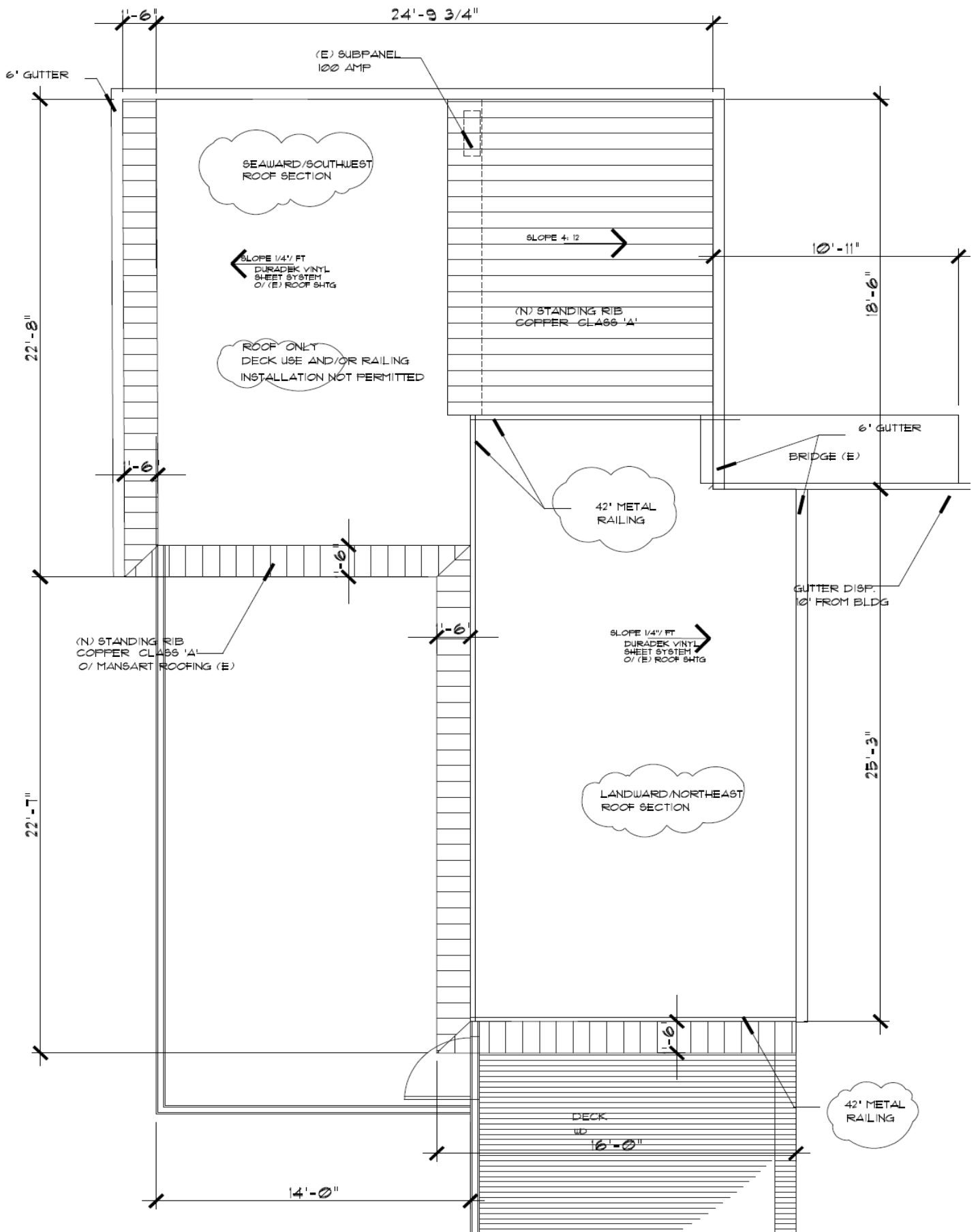
8-4-C3



1 CABANAS UPPER FLOOR PLAN SCALE 1/4" = 1'-0"

2 CABANAS LOWER FLOOR PLAN SCALE 1/4" = 1'-0"

3 ROOF PLAN SCALE 1/4" = 1'-0"



ATTACHMENT D

Cabanas Exterior Elevations (Revised August 4, 2009)

1491
EDGECLIFF LN
TERZIAN
RESIDENCE
MONTECITO, CA
 APR. 009-360-005

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REVISIONS
 NONE / RECD 8-4-09



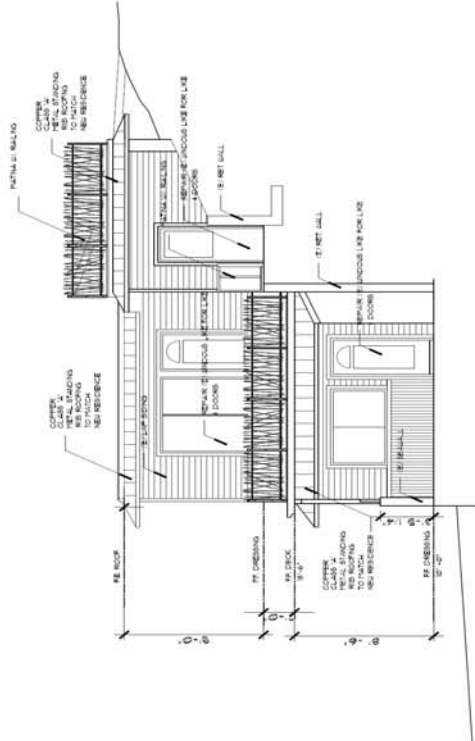
This work was prepared for the use of the client and is not to be used for any other project without the written consent of the architect. The architect shall not be held responsible for any errors or omissions on these sheets and specifications.

These drawings and accompanying specifications are the sole responsibility of the architect and shall not be used for any other project without the written consent of the architect.

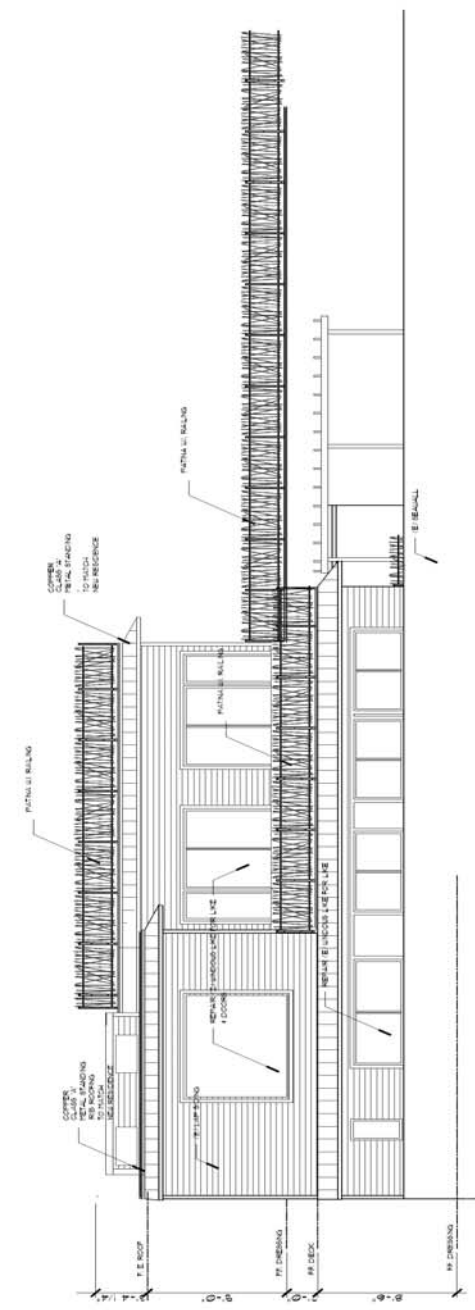
SHEET TITLE
 CABANAS EXT
 ELEVATIONS

SHEET No.
A3.1

8-6-09



2 EAST ELEVATION
 SCALE 1/4" = 1'-0"



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