

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

89 SOUTH CALIFORNIA ST., SUITE 200

VENTURA, CA 93001

(805) 585-1800



STATE OF CALIFORNIA -- THE RESOURCES AGENCY

Arnold Schwarzenegger, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

89 SOUTH CALIFORNIA ST., SUITE 200

VENTURA, CA 93001

(805) 585-1800

**Th 21e****ADDENDUM**

November 10, 2008

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

RE: Agenda Item Th 21e; Thursday, November 13, 2008; **Coastal Development Permit Application No. 4-08-011 (Chelberg)**

The attached letter was received in objection to the project from Randy Peters on November 7, 2008 who asserts that houses built in small lot subdivision are often expanded in square footage after the permit process is complete (ie., the garage is converted to living space and cars are parked on the street). The staff report already addresses this issue by requiring a new Coastal Permit or Amendment (Special Condition # 11) for any future improvement to the garage including the conversion of a non-habitable garage square footage to habitable square footage. The habitable square footage is limited to 2,020 sq. ft. within the maximum allowable 2,024 sq. ft. on these two lots which are required to be merged through a lot combination (Special Condition # 8). These conditions will be recorded as a deed restriction on this property to inform the current and any future owners of the property of the Commission's restrictions.

Attachment

408011 chelberg report addendum final

RANDY PETERS
26573 Ocean View Drive
Malibu, California 90265

November 5th, 2008

RECEIVED
NOV - 7 2008

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Permit #: 4-08-011
Item #: Th 21e
Randy Peters
Opposition

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

Re: Coastal Permit Application #4-08-011

To Whom It May Concern,

My objection to the build located at 26540 Ocean View Drive, Santa Monica Mountains (Los Angeles County) (APN(s) 4461-011-11, 4461-011-12) is that houses built with this square footage in this type of small lot subdivision are always expanded in square-footage after the permit process is complete. The 755-sq ft 3-car garage of this house will probably enlarge the living quarters of the house creating no garage space, in turn adding more parked cars on an already small & narrow street as well as creating inaccessibility for the fire department during fire season. Case in point, this past year two homes built on Ocean View Drive (ID #4461011006 & ID #4461011007) were permitted for 780-square feet each. They are each currently being advertised by their respective realtors as 1600-square foot residences with a total build out of 2200-square feet.

Please reevaluate the square footage plans for the whole build located at 26540 Ocean View Drive so that this type of situation does not occur again.

Sincerely,

Signature On File

Randy Peters

Filed: 5/30/08
270th Day: 2/24/09
Staff: J. Johnson
Staff Report: 10/28/08
Hearing Date: 11/13/08

Th 21e

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO: 4-08-011

APPLICANT: Kimberly Chelberg **AGENTS:** Mehrdad Sahafi & James Devitt

PROJECT LOCATION: 26540 Ocean View Drive, Malibu Vista Small Lot Subdivision, Santa Monica Mountains, Los Angeles County (APN 4461-011-011 & 012)

PROJECT DESCRIPTION: Construct a 2-story, 35-ft. high, 2,020 sq.ft. single family home with attached 755 sq.ft. 3-car garage, septic system, 30-ft. long driveway, temporary construction trailer, 190 cu.yds. of cut, 77 cu.yds. of fill with remainder exported offsite.

Lot area:	10,300 sq. ft.
Building coverage:	2,358 sq. ft.
Pavement coverage:	3,511 sq. ft.
Ht. abv. fin. grade:	35 ft.

LOCAL APPROVALS RECEIVED: Los Angeles County Regional Planning Department Approval-in-Concept, dated 12/06/07; Los Angeles County Fire Department, Fire Protection Engineering approval, dated 2/28/08; Los Angeles County Fire Department, Preliminary Fuel Modification Plan, dated 3/6/2008.

SUBSTANTIVE FILE DOCUMENTS: "Preliminary Geotechnical Engineering Report" by Earth Systems, dated October 31, 2006; "Supplemental Geologic Report for On-Site Sewage Disposal System Report" by Earth Systems, dated December 17, 2007.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of CDP 4-08-011 with **fourteen (14) special conditions** relating to: plans conforming to geotechnical engineer's recommendations, assumption of risk, drainage and polluted runoff control, septic system approval, landscaping and erosion control, pool and spa drainage and maintenance, oak tree protection, lot

combination, structural appearance, lighting restriction, future development restriction, deed restriction removal of excess excavated material, and removal of temporary construction trailer. The standard of review for the project is the Chapter 3 policies of the Coastal Act. In addition, the policies of the certified Malibu–Santa Monica Mountains Land Use Plan (LUP) serve as guidance. As conditioned, the proposed project will be consistent with the applicable policies of the Coastal Act.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-08-011 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves Coastal Development Permit No. 4-08-011 for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

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

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

III. SPECIAL CONDITIONS

1. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the: "Preliminary Geotechnical Engineering Report" by Earth Systems, dated October 31, 2006; "Supplemental Geologic Report for On-Site Sewage Disposal System Report" by Earth Systems, dated December 17, 2007. These recommendations, including recommendations concerning foundations, grading, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultants prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

2. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

3. Drainage and Polluted Runoff Control Plans

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's

recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
- (e) The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Septic System Approval

Prior to issuance of the coastal development permit, the applicant shall submit for review and approval by the Executive Director an "Approval in Concept" by Los Angeles County Department of Environmental Health confirming the revised project design and proposed septic system meets the County's requirements for the proposed on-site sewage disposal system.

5. Landscaping and Erosion Control Plans

Prior to issuance of the coastal development permit, the applicant shall submit landscaping, erosion control, and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plans shall incorporate the criteria set forth below. All development shall conform to the approved landscaping, erosion control, and fuel modification plans:

A) Landscaping Plan

1. All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
2. All cut and fill slopes shall be stabilized with planting at the completion of final grading. Within 90 days of the applicant's receipt of the single family residence or guest house certificate of occupancy, the applicant shall remove the temporary construction trailer and plant the trailer site with native plants. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
3. Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
4. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
5. No permanent irrigation is permitted within the protected zone (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of the on-site oak trees and landscaping within the oak tree protected zones shall be limited to native oak tree understory plant species.
6. The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

B) Interim Erosion Control Plan

1. The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
2. The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
2. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) Fuel Modification Plans

Vegetation within 20 feet of the proposed house may be removed to mineral earth, vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the twenty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

D) Monitoring

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified

Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

6. Pool and Spa Drainage and Maintenance

By acceptance of this permit, the applicant agrees to install a no chlorine or low chlorine purification system and agrees to maintain proper pool water pH, calcium and alkalinity balance to ensure any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat areas. In addition, the applicant agrees not to discharge chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

7. Oak Tree Protection

To ensure that the one on-site oak tree is protected during grading and construction activities, protective barrier fencing shall be installed around the drip line of the oak tree during construction operations. In addition, no permanent irrigation is permitted within the protected zone (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of any on-site oak trees and landscaping within the oak tree protected zones shall be limited to native oak tree understory plant species.

8. Lot Combination

By acceptance of this permit, the applicant agrees, on behalf of themselves and all successors and assigns with respect to the subject property, that: (1) All portions of the subject two lots [Tract 9289, Lots Nos. 11 and 12] that are now referred to as parcel, APN 4461-011-011 & 012, shall be recombined and unified, and shall henceforth be considered and treated as a single parcel of land for all purposes, including but not limited to sale, conveyance, lease, development, taxation or encumbrance; and (2) the single parcel created thereby shall not be divided, and none of the parcels existing at the time of this permit approval shall be alienated from each other or from any portion of the combined and unified parcel hereby created.

- A. ***Prior to issuance of the coastal development permit***, the applicant shall execute and record a deed restriction, in a form acceptable to the Executive Director, reflecting the restrictions set forth above. The deed restriction shall include a legal

description and graphic depiction of the subject two parcels being recombined and unified. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

9. Structural Appearance

Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of Coastal Development Permit No. 4-08-011. The palette samples shall be presented in a format not to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roofs, trims, exterior surfaces, driveways, retaining walls, and other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by Coastal Development Permit No. 4-08-011 if such changes are specifically authorized by the Executive Director as complying with this special condition.

10. Lighting Restriction

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
2. Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
3. The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

- B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

11. Future Development Restriction

This permit is only for the development described in Coastal Development Permit No. 4-08-011. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to any future development on any portion of the parcel. Accordingly, any future improvements to any portion of the property, including but not limited to the residence, garage, landscaping, grading, or removal of vegetation other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition 4, shall require an amendment to Coastal Development Permit No. 4-08-011 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

12. Deed Restriction

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

13. Removal of Excess Excavated Material

Prior to the issuance of the Coastal Development Permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

14. Removal of Temporary Construction Trailer

The applicant shall remove the temporary construction trailer from the site within sixty (60) days of the applicant's receipt of the Certificate of Occupancy for the single family

residence from the County of Los Angeles. The Executive Director may grant additional time for good cause.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a 2-story, 35-ft. high, 2,020 sq.ft. single family home with attached 755 sq.ft. 3-car garage, septic system, 30-ft. long driveway, temporary construction trailer, remove temporary storage shed, 190 cu.yds. of cut, 77 cu.yds. of fill with remainder exported offsite to a disposal site located outside the coastal zone. The project site is located at 26530 Ocean View Drive, within the Malibu Vista small lot subdivision in the Santa Monica Mountains (Exhibits 1-13). The subject property consisting of two adjacent lots is 10,300 sq. ft. in size and accessed from Ocean View Drive to the east. Access to the structure is proposed to be provided by a short 28 foot long (from Ocean View Drive to the garage) circular driveway off Ocean View Drive. The driveway encircles an existing 18 inch diameter oak tree located on the eastern property boundary along Ocean View Drive. Site elevations range from approximately 896 to 924 feet above mean sea level, for a total relief of 28 feet.

The subject property consists of two (2) contiguous lots that were combined in 2007 to be held as one parcel, through a covenant and agreement between the owner and Los Angeles County recorded as Document No. 20072384234 (Exhibit 2). The northern lot includes an existing concrete driveway pad constructed as a result of the Commission's 1986 approval of Coastal Permit No. 5-86-717 for a single family residence which was not constructed. A portion of this driveway extends from the edge of the canopy of the existing 18 inch diameter oak tree to 7 feet beyond the edge of the tree canopy. This portion of the driveway will be removed and replaced with decomposed granite located no closer to the oak tree than the edge of the tree canopy. A temporary storage shed is proposed to be removed.

The Malibu Vista small lot subdivision is within an oak woodland that has been highly disturbed by dense residential development. Existing single family residences are situated on adjacent properties to the north, south, west, northeast, and southeast of the property. The project site is not visible from any public parkland or from Latigo Canyon Road. The project site is visible from Ocean View Drive located along the eastern boundary of the property. A small drainage conveys water across the subject site's western boundary towards Latigo Canyon Creek, a U.S.G.S. designated blue-line stream, which is situated approximately 1,100 feet downslope to the southeast of the

property. The drainage on site is not designated as a blue-line stream & is devoid of vegetation with the exception of non-native grasses.

Due to the partial completion of development approved pursuant to Coastal Permit 5-86-717 and due to the proximity of the site to adjacent residences and the access road, the entire property has been disturbed and is substantially devoid of vegetation, except for one mature oak tree located on the eastern property boundary along Ocean View Drive. In addition, the majority of the property is regularly cleared as a result of fuel modification for the immediately adjoining residential development including the drainage area on the western portion of the property. Thus, with the exception of the one oak tree, existing vegetation onsite consists of non-native grasses. This existing oak tree will be retained and no development is proposed within the protected canopy zone of this tree.

B. Cumulative Impacts

The proposed project involves the construction of a new single-family residence, which is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new development.

Section 30250(a) of the Coastal Act states:

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

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal

recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Throughout the Malibu/Santa Monica Mountains coastal zone there are a number of areas which were subdivided in the 1920's and 30's into very small "urban" scale lots. These subdivisions, known as "small lot subdivisions" are comprised of parcels of less than one acre but more typically range in size from 4,000 to 5,000 square feet. The total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources. Cumulative development constraints common to small lot subdivisions were documented by the Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled: "Cumulative Impacts of Small Lot Subdivision Development in the Santa Monica Mountains Coastal Zone".

The study acknowledged that the existing small lot subdivisions can only accommodate a limited amount of additional new development due to major constraints to buildout of these areas that include: geologic, road access, water quality, disruption of rural community character, creation of unreasonable fire hazards and others. Following an intensive one year planning effort regarding impacts on coastal resources by Coastal Commission staff, including five months of public review and input, new development standards relating to residential development on small lots in hillsides, including the Slope-Intensity/Gross Structural Area Formula (GSA) were incorporated into the Malibu District Interpretive Guidelines in June 1979. A nearly identical Slope Intensity Formula was incorporated into the 1986 certified Malibu/Santa Monica Mountains Land Use Plan under policy 271(b)(2) to reduce the potential effects of buildout as discussed below.

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots that already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains creates cumulative impacts on coastal resources and public access over time. Because of this, the demands on road capacity, public services, recreational facilities, and beaches could be expected to grow tremendously.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP, which has been used as guidance by the Coastal Commission, requires that new development in small lot subdivisions comply with the Slope Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit. Past Commission action certifying the LUP

indicates that the Commission considers the use of the Slope Intensity Formula appropriate for determining the maximum level of development that may be permitted in small lot subdivision areas consistent with the policies of the Coastal Act. The basic concept of the formula assumes the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse impacts on resources. Following is the formula and description of each factor used in its calculation:

Slope Intensity Formula

$$\text{GSA} = (A/5) \times ((50-S)/35) + 500$$

GSA = the allowable gross structural area of the permitted development in square feet. The GSA includes all substantially enclosed residential and storage areas, but does not include garages or carports designed for storage of autos.

A = the area of the building site in square feet. The building site is defined by the applicant and may consist of all or a designated portion of the one or more lots comprising the project location. All permitted structures must be located within the designated building site.

S = the average slope of the building site in percent as calculated by the formula:

$$S = I \times L/A \times 100$$

I = contour interval in feet, at not greater than 25-foot intervals, resulting in at least 5 contour lines

L = total accumulated length of all contours of interval "I" in feet

A = the area being considered in square feet

In addition, pursuant to Policy 271 of the Malibu/Santa Monica Mountains LUP, the maximum allowable gross structural area (GSA) as calculated above, may be increased as follows:

- (1) Add 500 square feet for each lot which is contiguous to the designated building site provided that such lot(s) is (are) combined with the building site and all potential for residential development on such lot(s) is permanently extinguished.
- (2) Add 300 square feet for each lot in the vicinity of (e.g. in the same small lot subdivision) but not contiguous with the designated building site provided that such lot(s) is (are) combined with other developed or developable building sites, or dedicated in fee title to

a public agency, and all potential for residential development on such lot(s) is permanently extinguished.

The proposed project site is located in the Malibu Vista small lot subdivision, an area subject to the provisions of the slope intensity formula. As stated previously, the subject parcel consists of two (2) contiguous lots that were combined in 2007 to be held as one parcel, through a covenant and agreement with Los Angeles County. However, this agreement is only between the County and the landowner and could be revoked in the future if both parties agree. As explained below, **Special Condition Eight (8)**, lot combination, will assure that these two lots remain combined in perpetuity. These two lots are contiguous and the applicant is proposing constructing a new two-story, 2,020 sq. ft. single-family residence with attached garage across these two buildable lots.

The applicant submitted a maximum GSA calculation of 2,024 square feet, based on the area and slope of the project site (the two buildable lots). Staff has confirmed that this GSA calculation is accurate. The applicant has revised and reduced the size of the original proposed project at the request of staff by reducing the square footage of the non-habitable garage from 1,086 sq. ft. to 755 sq. ft. and relocating a portion of this space as habitable square footage into the residence by increasing the residence's habitable square footage from 1,876 sq. ft. to 2,020 sq. ft. As a result of the project's redesign, the total habitable 2,020 square footage for the residence will remain below the maximum allowable 2,024 square foot gross structural area with a three car non-habitable garage. Therefore, the proposed 2,020 sq. ft. of habitable space will be consistent with the GSA requirements for the subject site provided that the two separate subject lots are combined into a single lot as required by **Special Condition Eight (8)**.

As previously stated, the purpose of the GSA requirements is to reduce the impacts of development within small lot subdivisions and to maintain the rural character of these "rural villages". When a lot is retired within the same small lot subdivision, there is a reduced potential buildout and thus there is a reduction in the development pressures related to water usage, septic capacity, traffic, geologic hazards, and habitat loss. In addition, some additions and improvements to residences on small steep lots within these small lot subdivisions have been found to adversely impact the area. Many of the lots in these areas are so steep or narrow that they cannot support a large residence without increasing or exacerbating the geologic hazards on and/or off site. Additional buildout of small lot subdivisions affects water usage and has the potential to impact water quality of coastal streams in the area. Other impacts to these areas from the buildout of small lot subdivisions include increases in traffic along mountain road corridors and greater fire hazards.

For all these reasons, and as this lot is within a small lot subdivision, further structures, additions or improvements on the subject property, including the conversion of all or a portion of the garage to habitable space, could cause adverse cumulative impacts on the limited resources of the subdivision. The Commission, therefore, finds it necessary for the applicant to record a future development restriction and deed restriction on the subject property, as noted in **Special Conditions Eleven and Twelve (11 & 12)**, which would require that any future structures, additions or improvements to the property,

beyond those approved in this permit, be reviewed by the Commission to ensure compliance with the policies of the Coastal Act regarding cumulative impacts and be recorded on the property. At that time, the Commission can ensure that the new project complies with the guidance of the GSA formula and is consistent with the policies of the Coastal Act.

In addition, the Commission notes that the proposed 2,020 sq. ft. residence is proposed to be built across two of the applicant's separate lots, although the assessor's map refers to this property as currently one parcel for tax purposes. The maximum allowable gross structural area of the proposed two buildable lots is 2,024 sq. ft. The Commission has long required that lots in small lot subdivisions, aggregated for purposes of the GSA formula, as noted above, be tied together and treated as a single parcel. Such a combination was required in earlier permit decisions authorizing development of a residence on two or more lots in a small lot subdivision CDP No. 4-07-035, (Love), [CDP No. 4-07-037 (Snyder), CDP No. 4-06-131 (Martin), CDP No. 4-05-167 (Gepner), CDP No. 4-03-059 (Abshier & Nguyen), CDP No. 4-02-247 (McCain), CDP No. 4-00-092 (Worrel), 4-00-252 (Arrand), 4-00-263 (Bolander)]. Although the applicant has recorded an agreement with Los Angeles County to hold this property as one parcel, such agreements are only between the County and the landowner and could be revoked in the future, if both parties agree. Therefore, to ensure that each of the lots are permanently combined as required in conjunction with the use of the GSA formula, **Special Condition Eight (8)** is necessary to ensure that the two subject lots are combined and held as such in the future.

Finally, **Special Condition Twelve (12)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The Commission therefore finds that the proposed project, only as conditioned, is consistent with Sections 30250(a) and 30252 of the Coastal Act.

C. Hazards and Geologic Stability

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

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

The proposed development is located in the Malibu/Santa Monica Mountains area, an area historically subject to significant natural hazards including, but not limited to,

landslides, erosion, flooding and wild fire. The submitted geology, geotechnical, and/or soils reports referenced as Substantive File Documents conclude that the project site is suitable for the proposed project based on the evaluation of the site's geology in relation to the proposed development. The reports contain recommendations to be incorporated into the project plans to ensure the stability and geologic safety of the proposed project, the project site, and the adjacent properties. To ensure stability and structural integrity and to protect the site and the surrounding sites, the Commission requires the applicant to comply with the recommendations contained in the applicable reports, to incorporate those recommendations into all final design and construction plans, and to obtain the geotechnical consultant's approval of those plans prior to the commencement of construction.

Additionally, to minimize erosion and ensure stability of the project site, the project must include adequate drainage and erosion control measures. In order to achieve these goals, the Commission requires the applicant to submit drainage and interim erosion control plans certified by the geotechnical engineer.

Further, the Commission finds that, for the project to ensure stability and avoid contributing significantly to erosion, all slopes and disturbed areas of the subject site must be landscaped, primarily with native plants, to stabilize disturbed soils and reduce erosion resulting from the development.

In addition, to ensure that excess excavated material is moved off site so as not to contribute to unnecessary landform alternation and to minimize erosion and sedimentation from stockpiled excavated soil, the Commission finds it necessary to require the applicant to dispose of the material at an appropriate disposal site outside the Coastal Zone or to a site within the Coastal Zone that has been approved to accept fill material, as specified in **Special Condition Thirteen (13)**.

Although the conditions described above render the project sufficiently stable to satisfy the requirements of Section 30253, no project is wholly without risks. Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from natural hazards, including wildfire, those risks remain substantial here. If the applicant nevertheless chooses to proceed with the project, the Commission requires the applicant to assume the liability from these associated risks. Through the assumption of risk condition, the applicant acknowledges the nature of the fire and/or geologic hazard that exists on the site and that may affect the safety of the proposed development.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30253 of the Coastal Act and as a response to the risks associated with the project:

- Special Condition 1: Plans Conforming to Geotechnical Engineer Recommendations
- Special Condition 2: Assumption of Risk, Waiver of Liability and Indemnity
- Special Condition 3: Drainage and Polluted Runoff Control Plan

Special Condition 5: Landscaping, Interim Erosion Control, and Fuel Modification Plans

Special Condition 13: Removal of Excess Excavated Material

Special Condition 14: Removal of Temporary Construction Trailer

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

D. Environmentally Sensitive Habitat

Section 30240 of the Coastal Act protects environmentally sensitive habitat areas (ESHA) by restricting development in and adjacent to ESHA. Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Section 30107.5 of the Coastal Act, defines an environmentally sensitive area as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

In addition, the Malibu/Santa Monica Mountains LUP provides policy guidance regarding the protection of environmentally sensitive habitats. The Coastal Commission has applied the following relevant policies as guidance in the review of development proposals in the Santa Monica Mountains.

P68 *Environmentally sensitive habitat areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Residential use shall not be considered a resource dependent use.*

P69 *Development in areas adjacent to environmentally sensitive habitat areas (ESHAs) shall be subject to the review of the Environmental Review Board, shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

P74 *New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources.*

P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.

P84 In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low-growing ground covers to reduce heat output may be used. Within ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.

1. Project Description and Biological Resource Information

The proposed project is located at 26540 Ocean View Drive, within the Malibu Vista Small Lot Subdivision of the Santa Monica Mountains. The subject property consisting of two adjacent lots is 10,300 sq. ft. in size and accessed from Ocean View Drive to the east. Access to the structure is provided by a short existing 28 foot (from Ocean View Drive to the garage) semi-circular concrete driveway off Ocean View Drive. The driveway encircles an existing 18 inch diameter oak tree located on the eastern property boundary along Ocean View Drive. The driveway was originally constructed pursuant to Coastal Permit 5-86-717. Site elevations range from approximately 896 to 924 feet above mean sea level, for a total relief of 28 feet.

The Malibu Vista small lot subdivision is within an oak woodland that has been highly disturbed by dense residential development. Existing single family residences are situated on adjacent properties to the north, south, west, northeast, and southeast of the property. The project site is not visible from any public parkland or from Latigo Canyon Road. The project site is visible from Ocean View Drive located along the eastern boundary of the property. A small drainage conveys water across the subject site's western boundary towards Latigo Canyon Creek, a U.S.G.S. designated blue-line stream, which is situated approximately 1100 feet downslope to the southeast of the property. The drainage on site is not a blue line stream and is devoid of vegetation.

Due to the previous development that has occurred on site pursuant to Coastal Permit 5-86-717 and the site's proximity to the adjacent access road and surrounding residences, the entire subject property has been highly disturbed and does not contain oak woodland habitat, except for one mature oak tree located on the eastern property boundary along Ocean View Drive. The majority of the property has been cleared as a result of fuel modification for the immediately adjoining residential development in all directions including the drainage area on the western portion of the property. With the exception of this one oak tree, the existing vegetation on site consists of non-native grasses. The existing oak tree will be retained and no development is proposed within the protected canopy zone of this tree. A portion of the existing concrete driveway extends beyond the edge of the canopy of the existing 18 inch diameter oak tree to 7 feet beyond the edge of the tree canopy. This portion of the driveway will be removed and replaced with decomposed granite located no closer to the oak tree than the edge of the tree canopy. Due to existing fuel modification completed on the subject property

there is no environmentally sensitive habitat as defined by Section 30240 of the Coastal Act on the site.

However, although there is no ESHA located on site, the proposed development may still result in potential adverse impacts to ESHA located offsite. Specifically, the Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plant species indigenous to the Malibu/Santa Monica Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping, and mitigation for that effect was discussed in the previous section. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area that are not directly and immediately affected by the proposed development, **Special Condition Five (5)** requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

In addition, the Commission has found that night lighting of ESHA areas in the Malibu/Santa Monica Mountains may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, **Special Condition Ten (10)**, Lighting Restriction, limits night lighting of the site in general; limits lighting to the developed area of the site; and requires that lighting be shielded downward. Limiting security lighting to low intensity lighting will assist in minimizing the disruption of wildlife that is commonly found in this rural area and that traverses the area at night.

The Commission notes that the use of rodenticides containing anticoagulant compounds have been linked to the death of sensitive predator species, including mountain lions and raptors, in the Santa Monica Mountains. These species are a key component of chaparral and coastal sage scrub communities in the Santa Monica Mountains considered ESHA. Therefore, in order to avoid adverse impacts to sensitive predator species, **Special Condition Five (5)**, disallows the use of rodenticides containing any anticoagulant compounds on the subject property.

Further, as discussed above, there is one oak tree near the proposed development area along the proposed driveway. Through past permit actions on residential development in the Santa Monica Mountains the Commission has found that native trees are an important coastal resource. Native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, contribute nutrients to watersheds, and are important scenic elements in the landscape. The oak trees on the site do provide some habitat for a wide variety of wildlife species and are considered to be an important part of the character and scenic quality of the

area. The applicant has submitted plans that map the drip line of on-site oak trees in relation to the proposed development. The proposed project has been designed to not require removal or encroachment of the oak trees. However, to ensure the oak trees are not adversely affected by irrigation or inappropriate landscaping, **Special Condition Five (5)** includes a provision that prohibits permanent irrigation within the dripline or within the five-foot protected zone of oak trees and limits landscaping within the dripline and protected zone to native oak tree understory plant species. To ensure that the oak tree is protected during grading and construction activities, **Special Condition Seven (7)** requires the applicant to install protective barrier fencing around the dripline of on-site oak trees during construction operations. In addition, no permanent irrigation is permitted within the protected zone (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of any on-site oak trees and landscaping within the oak tree protected zones shall be limited to native oak tree understory plant species

In addition, the proposed project is conditioned to also implement a pool and spa drainage and maintenance plan to prevent uncontrolled drainage of the proposed swimming pool and spa such that drainage of water does not result in discharge of chemically treated water to coastal streams and drainages. The pool and spa drainage and maintenance plan, as detailed in **Special Condition No. Six (6)** requires the applicant to submit a written pool and spa maintenance plan that contains an agreement to install and use a no chlorine or low chlorine purification system and a program to maintain proper pH, calcium and alkalinity balance in a manner such that any runoff or drainage from the pool will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area. In addition, **Special Condition No. Six (6)** prohibits discharge of pool and spa water into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters.

Finally, given the relatively small size of the property, the requirement of an open space easement or restriction is not appropriate in this case. The maximum size of the residence is restricted to the maximum allowable gross structural area, as discussed above. Further, the Commission finds that the amount and location of any new development that could be built in the future on the subject site consistent with the resource protection policies of the Coastal Act is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, the permitting exemptions that apply by default under the Coastal Act for, among other things, improvements to existing single family homes and repair and maintenance activities may be inappropriate here. In recognition of that fact, and to ensure that any future structures, additions, change in landscaping or intensity of use at the project site that may otherwise be exempt from coastal permit requirements are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition Eleven (11)**, the future development restriction, has been required.

Lastly, **Special Condition Twelve (12)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use

and enjoyment of the property and thereby provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30240 of the Coastal Act.

E. Water Quality

Section 30231 of the Coastal Act states that:

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

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality because changes such as the removal of native vegetation, the increase in impervious surfaces, and the introduction of new residential uses cause increases in runoff, erosion, and sedimentation and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutants, as well as effluent from septic systems.

The proposed development will result in an increase in impervious surfaces, which leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site and eventually be discharged to coastal waters, including streams, wetlands, and estuaries. The pollutants commonly found in runoff associated with residential use can reduce the biological productivity and the quality of such waters and thereby reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to minimize the potential for such adverse impacts to water quality resulting from drainage runoff both during construction and in the post-development stage, the Commission requires the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site, including: 1) sizing post-construction structural BMPs to accommodate (infiltrate, filter, or otherwise treat) the runoff from all storms up to and including the 85th percentile storm runoff event; 2) implementing erosion control measures during construction and post construction; and 3) revegetating all graded and disturbed areas with primarily native landscaping.

Additionally, in the applicant's Supplemental Geological Report noted in the substantive document file above, the engineering geologist and geotechnical engineer consultants

confirmed that their review conformed with the requirements of the Los Angeles County Department of Health Services. These consultants have concluded based on stratigraphic and structural observations that the site is suitable for the proposed septic system and that there would be no adverse impact to the site or surrounding areas from the use of a septic system. The applicant has revised the proposed project at the request of staff by reducing the square footage of the non-habitable garage and its former habitable portions and relocating those habitable portions into the residence while maintaining a total habitable 2,020 square footage for the residence below the maximum allowable 2,024 square foot gross structural area. **Special Condition Four (4)** is required in order to confirm that the Los Angeles County Department of Health Services will grant in-concept approval for the proposed revised septic system, indicating that it will meet the plumbing code requirements. The Commission has found that conformance with the provisions of the plumbing code is protective of water resources.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30231 of the Coastal Act:

Special Condition 3: Drainage and Polluted Runoff Control Plan

Special Condition 4: Septic System Approval

Special Condition 5: Landscaping, Interim Erosion Control, and Fuel Modification Plans

Special Condition 6: Pool and Spa Drainage and Maintenance

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

F. Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. Section 30251 also requires that development be sited and designed to protect views of scenic areas, minimize alteration of landforms, and be visually compatible with the surrounding area.

The Malibu Vista small lot subdivision was formerly an oak woodland that has been highly disturbed by dense residential development. Existing single family residences are situated on adjacent properties to the north, south, west, northeast, and southeast of the property. The project site is not visible from any public parkland or from Latigo Canyon Road. The project site is visible from Ocean View Drive located along the eastern boundary of the property. A small drainage conveys water across the subject site's western boundary towards Latigo Canyon Creek, a U.S.G.S. designated blue-line stream, which is situated approximately 1100 feet downslope to the southeast of the property.

The proposed project site is located on two lots consisting of 10,300 sq. ft. within the Malibu Vista small lot subdivision in the Santa Monica Mountains. To assess potential visual impacts of projects to the public, the Commission typically investigates publicly accessible locations from which the proposed development is visible, such as beaches, parks, trails, and scenic highways. The proposed 2,020 sq. ft. residence and attached 755 sq.ft. 3-car garage will be located on a flat pad and a hillside slope surrounded by existing residential development. The proposed development has been sited and designed to minimize visual impacts by cutting the lower floor into the slope to be consistent with existing development in the area. There are no public parklands in the vicinity of the property. However, the site and proposed development will be visible from Ocean View Drive, a public road. The Commission has, in past decisions, required that development visible from public roads or other public areas minimize impacts to visual resources. Due to the visible nature of the proposed development from a public viewing area, the Commission finds it necessary to require mitigation measures to minimize visual impacts associated with development of the project site.

The visual impact of the proposed structure can be minimized by requiring the structure to be finished in a color consistent with the surrounding natural landscape and, further, by requiring that windows on the proposed residence be made of non-reflective glass. To ensure visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as detailed in **Special Condition Nine (9)**.

Visual impacts associated with the proposed structure can be further reduced by the use of appropriate and adequate landscaping. **Special Condition Five (5)** requires the applicant to prepare a landscape plan relying mostly on native, non-invasive plant species to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. In order to ensure that the final approved landscaping plans are successfully implemented, **Special Condition Five (5)** also requires the applicant to revegetate all disturbed areas in a timely manner including the location of the temporary construction trailer, and includes a monitoring component, to ensure the successful establishment of all newly planted and landscaped areas over time.

In addition, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area creates a visual impact to nearby scenic roads and trails. Therefore, **Special Condition Ten (10)** limits night lighting of the site in general; limits

lighting to the developed area of the site; and specifies that lighting be shielded downward. The restriction on night lighting is necessary to protect the nighttime rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area.

Therefore, the Commission finds that the proposed project, as conditioned, minimizes adverse effects to public views to and along the coast and minimizes the alteration of natural landforms. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

G. Local Coastal Program

Section 30604 of the Coastal Act states:

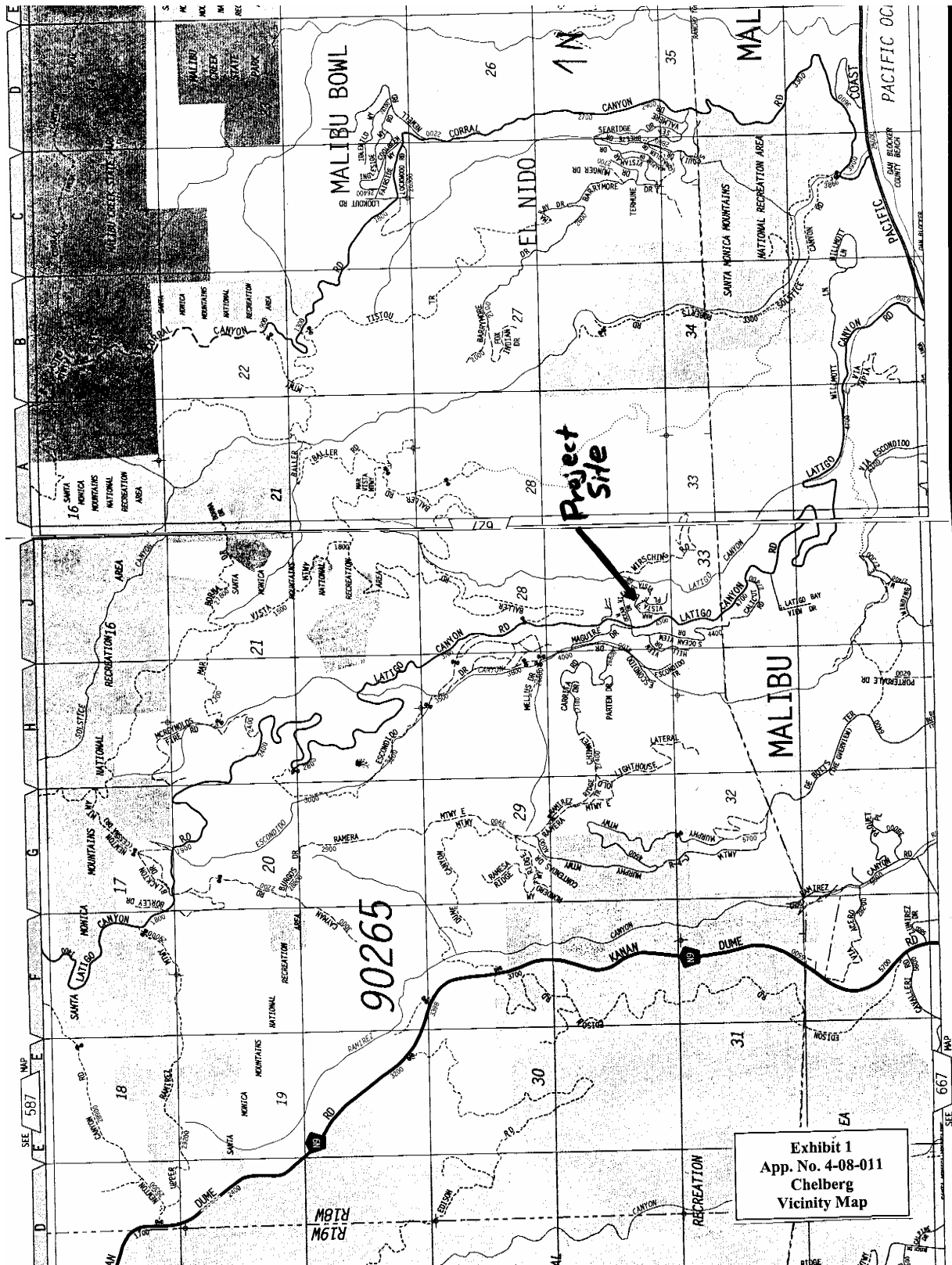
a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the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

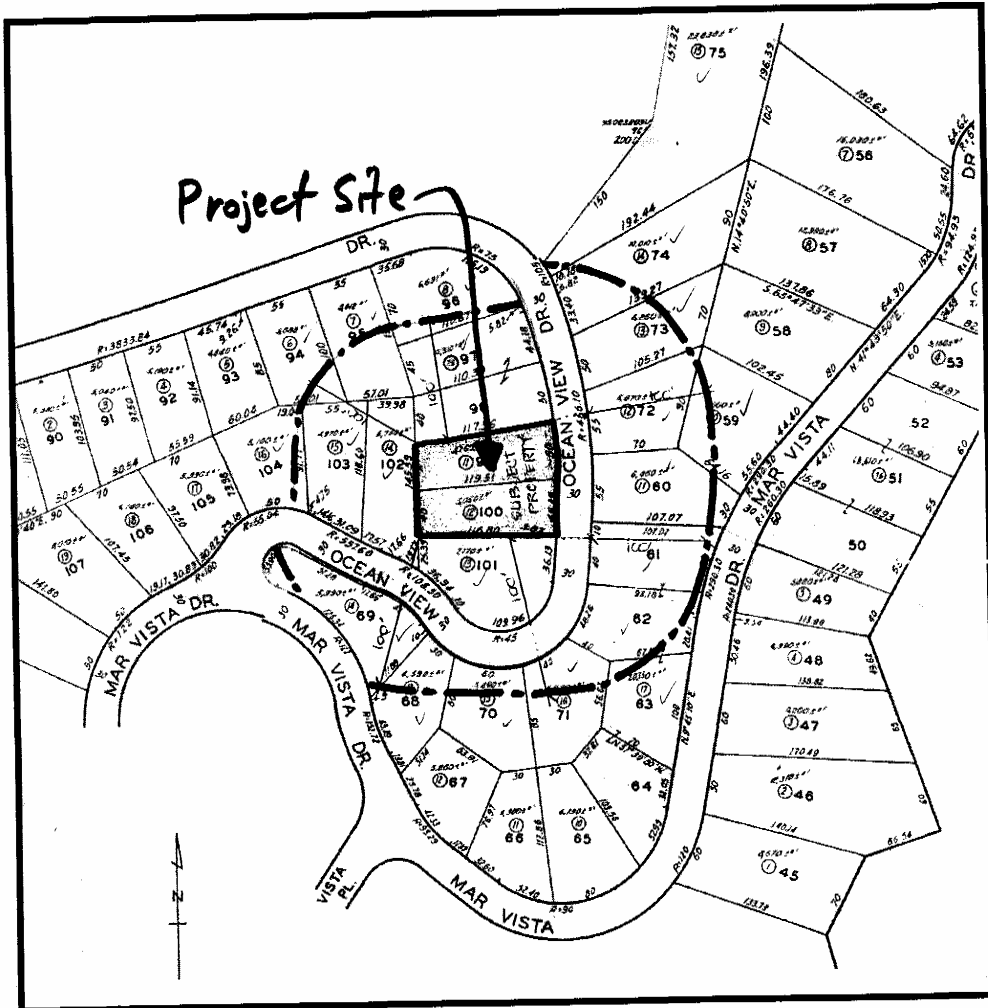
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed projects will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the projects and are accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

H. California Environmental Quality Act

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, project alternatives and mitigation measures have been considered and incorporated into the proposed project. The applicant has revised and reduced the size of the original proposed project at the request of staff by reducing the square footage of the non-habitable garage from 1,086 sq. ft. to 755 sq. ft. and relocating a portion of this space as habitable square footage into the residence by increasing the residence's habitable square footage from 1,876 sq. ft. to 2,020 sq. ft. As a result of the project's redesign, the total habitable 2,020 square footage for the residence will remain below the maximum allowable 2,024 square foot gross structural area with a three car non-habitable garage. Five types of mitigation actions include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures required as part of this coastal development permit include the avoidance of impacts to an oak tree through siting and clustering development. Mitigation measures required to minimize impacts include requiring drainage best management practices (water quality), pool and spa drainage and maintenance, interim erosion control (water quality and ESHA), limiting lighting, requiring future improvements to be considered through a CDP, and employing construction best management practices (water quality). As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.





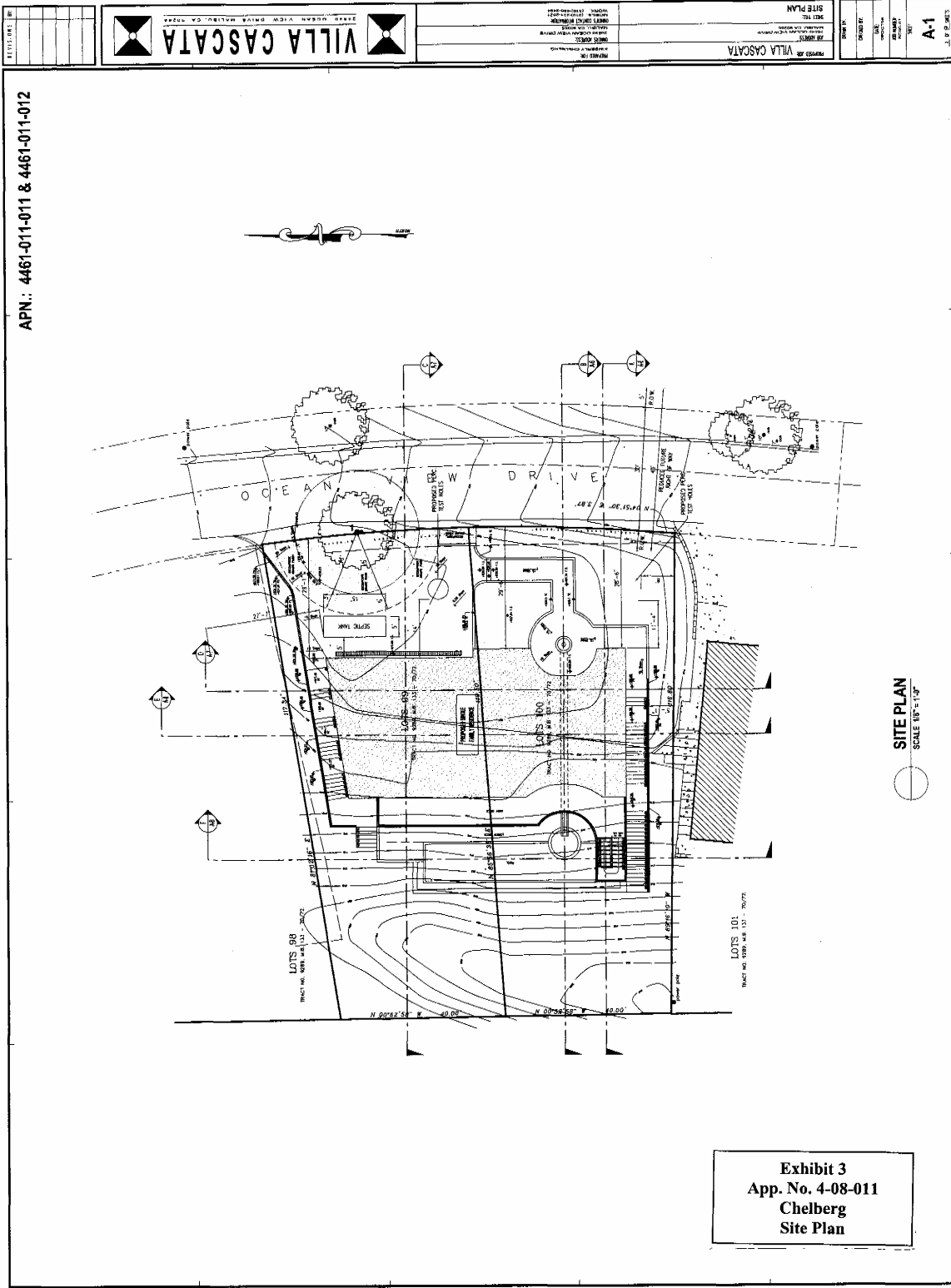
RADIUS MAP for APN 4461-011-011 & 012
Address: 26540 Ocean View Drive, Malibu, CA
n.t.s.

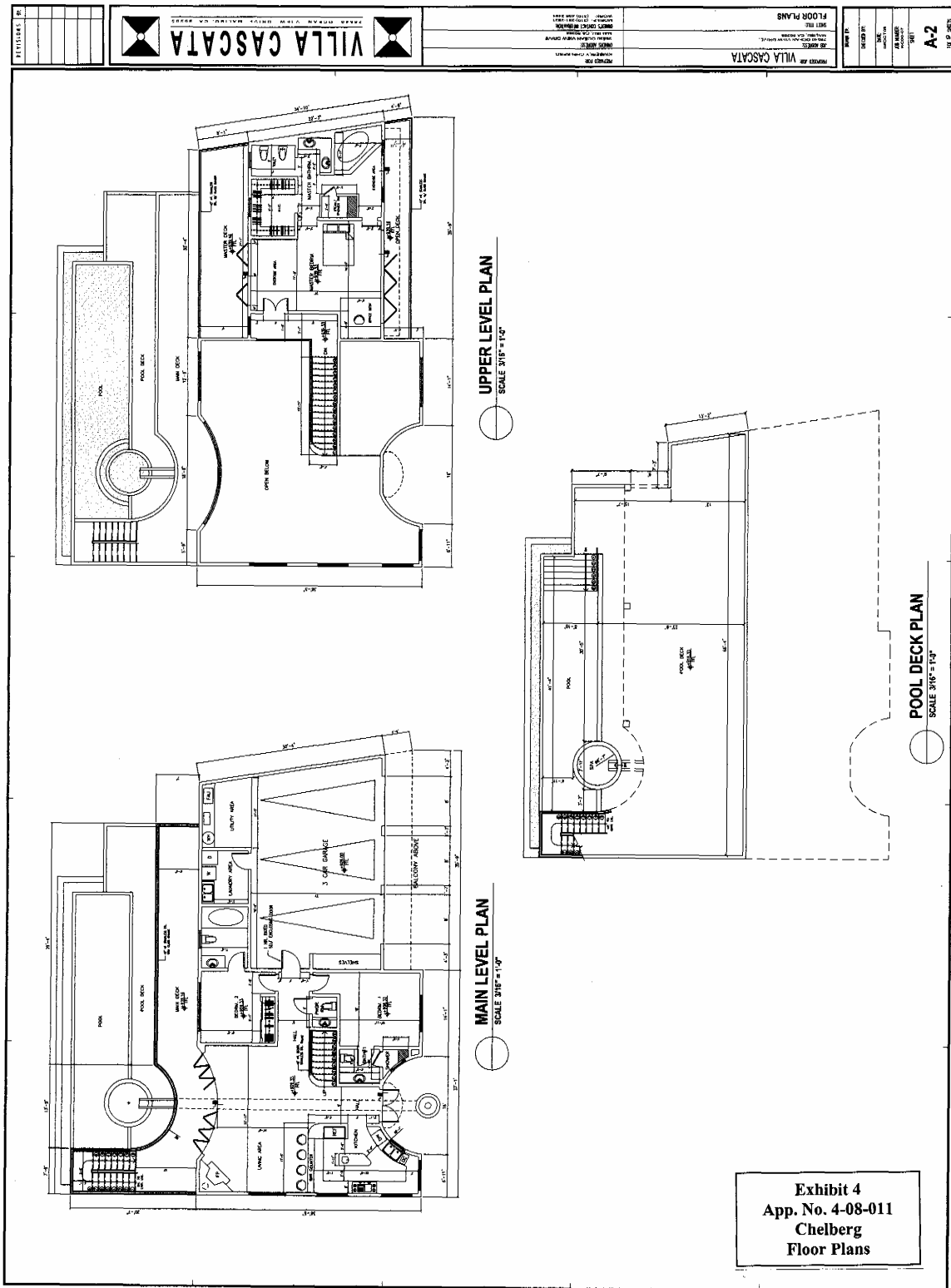
Exhibit 2
App. No. 4-08-011
Chelberg
APN Map

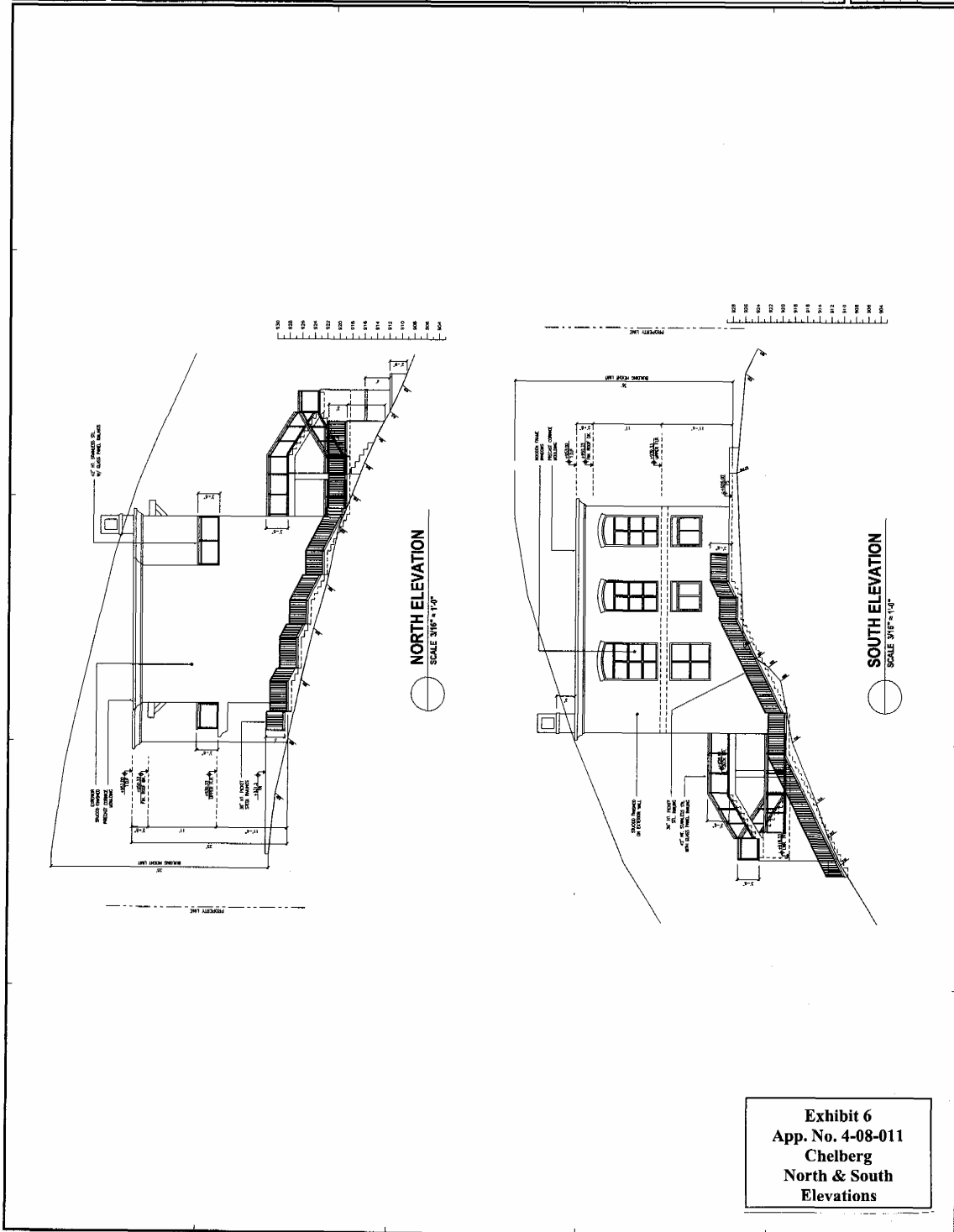
REC

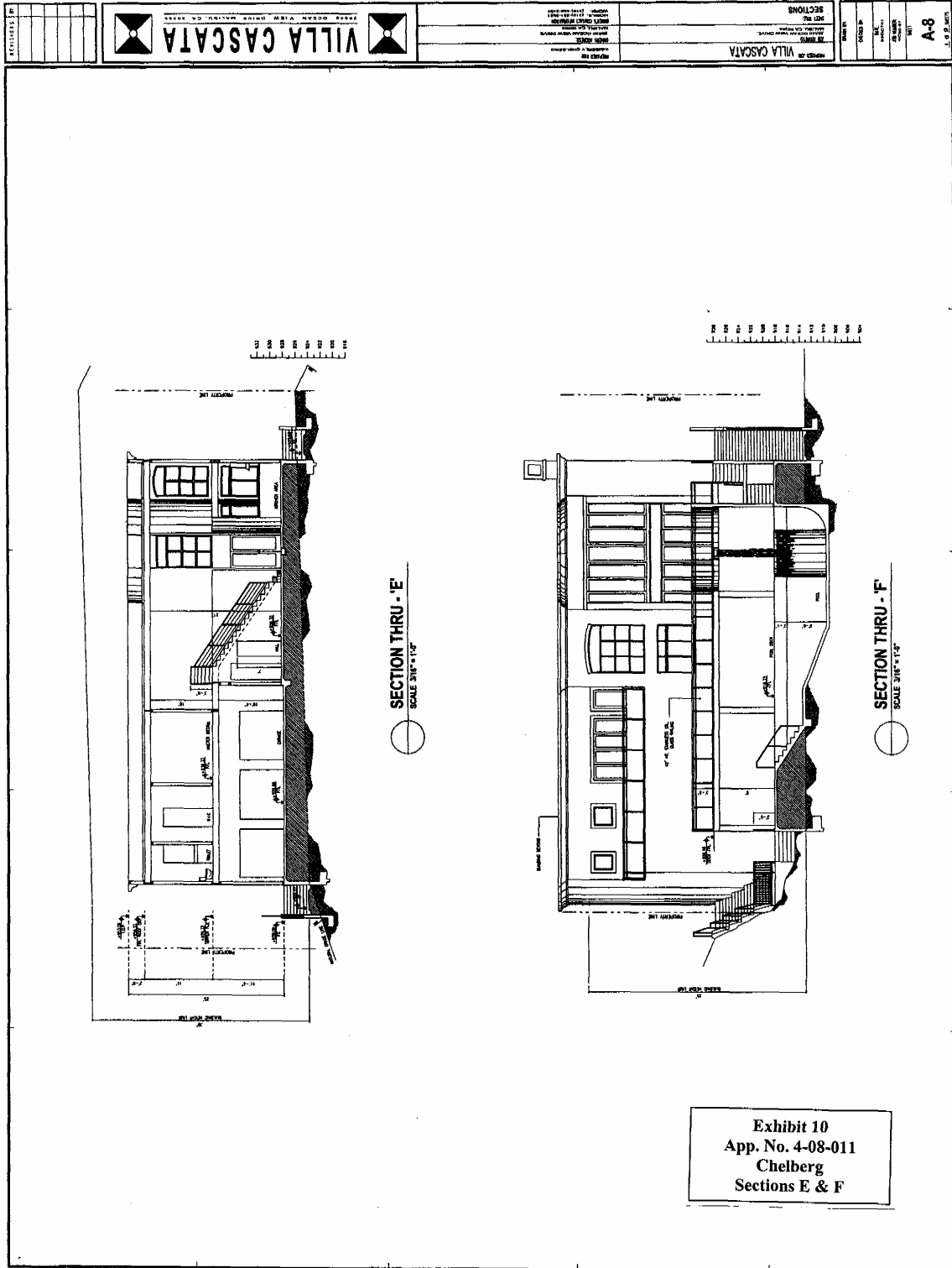
FEB 29 2008

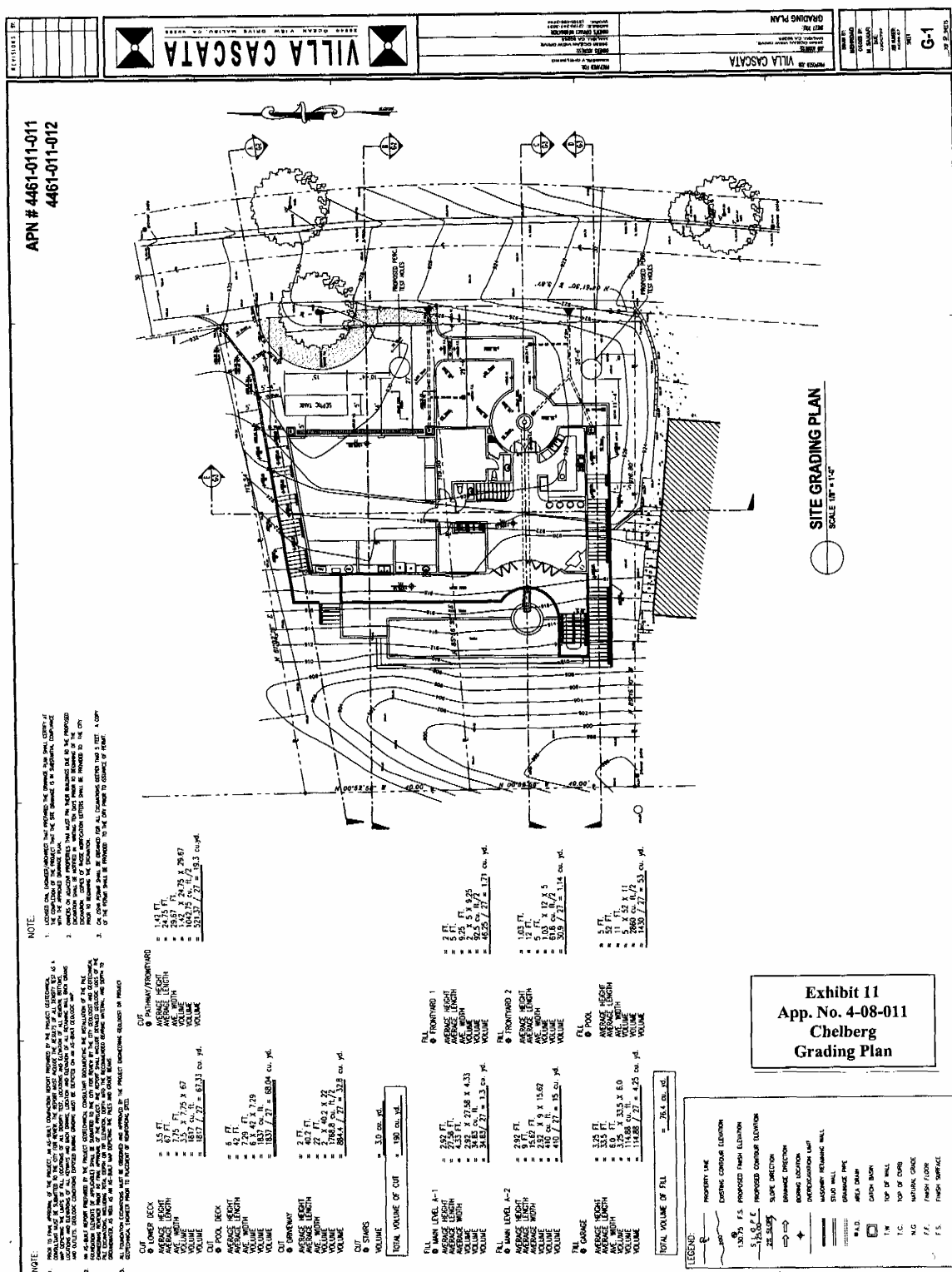
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT





[illegible]







Property Boundaries (Approximate)
North

Exhibit 13
Appl. No. 4-08-011
Chelberg
2008 Aerial Photo