

CALIFORNIA COASTAL COMMISSION

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



Th 22d

ADDENDUM

DATE: August 5, 2008
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item Th 22d, Application No. 4-06-171 (Connolly) Topanga, Los Angeles County, Thursday, August 7, 2008

The purpose of this addendum is correct inadvertent errors and to attach a letter submitted by a neighboring property owner.

Note: ~~Strikethrough~~ indicates text to be deleted from the July 23, 2008 staff report and underline indicates text to be added to the July 23, 2008 staff report.

1.) The Project Description shall be modified as follows:

-Page 1:

Construction of a 2-story, 7,306 sq. ft. single family home, with detached 3,737 sq. ft. garage, attached 308 sq. ft. garage, driveway, septic system, 7,500 gallon water tank, water well, retaining walls, pool, 70' x 55' metal corral, 600 sq. ft., 25 ft. tall barn, 2,096 cu. yds. of grading (1,048 cu. yds. cut and 1,048 cu. yds. fill), and storage of a temporary 1,200 ft. construction trailer and temporary ~~160~~800 sq. ft. construction storage container.

2.) A Letter is attached from neighboring property owner to Commission staff, dated August 2, 2008, received on August 5, 2008. Commission staff is unable to contact the neighbor because they did not provide contact information. The notice of possible violations will be reported to enforcement staff.

Please Note:

The August 2, 2008 letter referenced in this addendum is available for review in the file for CDP 4-06-171 in the Commission's Ventura office.

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Th 22d

Filed: 11/26/07
180th Day: 5/24/08
270th Day: 8/22/08
Staff: A. Tysor
Staff Report: 7/23/08
Hearing Date: 8/7/08



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO: 4-06-171

APPLICANT: Richard and Kimberly Connolly

PROJECT LOCATION: 2195 Little Las Flores Road, Topanga, Los Angeles County

PROJECT DESCRIPTION: Construction of a 2-story, 7,306 sq. ft. single family home, with detached 3,737 sq. ft. garage, attached 308 sq. ft. garage, driveway, septic system, 7,500 gallon water tank, retaining walls, pool, 70' x 55' metal corral, 600 sq. ft., 25 ft. tall barn, 2,096 cu. yds. of grading (1,048 cu. yds. cut and 1,048 cu. yds. fill), and storage of a temporary 1,200 sq. ft. construction trailer and temporary 160 sq. ft. construction storage container. The proposal also includes construction of a public trail and offer-to-dedicate a public trail easement.

Lot area:	435,600 sq. ft. (10 acres)
Building coverage:	2,753 sq. ft.
Ht. above finished grade:	35 ft.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with **eighteen (18) special conditions** relating to (1) plans conforming to geotechnical engineer's recommendations, (2) landscaping and erosion control, (3) assumption of risk, (4) drainage and polluted runoff control, (5) removal of natural vegetation, (6) structural appearance, (7) lighting restriction, (8) habitat impact mitigation, (9) future development restriction, (10) deed restriction, (11) open space conservation easement, (12) site inspection, (13) final approved fuel modification plans, (14) pool and spa drainage and maintenance, (15) construction of public trail, (16) offer-to-dedicate public trail easement, (17) removal of temporary construction trailer and storage container, and (18) revised plans. 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 and the LUP.

LOCAL APPROVALS RECEIVED: Los Angeles County Department of Regional Planning Approval-in-Concept, dated December 21, 2006; Los Angeles County Department of Health Services Approval-in-Concept for septic system, dated March 13, 2007; Los Angeles County Fire Department Preliminary Fuel Modification Plan

Approval, dated May 1, 2005; Los Angeles County Fire Department Access Approval-in-concept, dated December 14, 2006.

SUBSTANTIVE FILE DOCUMENTS: "Preliminary Soils and Engineering Geologic Investigation," prepared by GeoSystems, Inc., dated September 12, 1990; "Geologic & Geotechnical Update Letter," prepared by Brian A. Robinson & Associates, dated November 20, 2006; "Geological and Percolation Report for 2195 Little Las Flores Road," prepared by Brian A. Robinson & Associates, dated December 15, 2006; "Botanical Inventory Report," prepared by Jay Osborne, dated July 26, 2007.

I. Approval with Conditions

A. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No 4-06-171 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. Standard Conditions

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

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

3. **Interpretation.** Any questions of intent or interpretation of any 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 reports prepared for the site, including the "Preliminary Soils and Engineering Geologic Investigation," prepared by GeoSystems, Inc., dated September 12, 1990; the "Geologic & Geotechnical Update Letter," prepared by Brian A. Robinson & Associates, dated November 20, 2006; and the "Geological and Percolation Report for 2195 Little Las Flores Road," prepared by Brian A. Robinson & Associates, dated December 15, 2006. These recommendations shall be incorporated into all final design and construction plans, including recommendations concerning grading, foundation, retaining walls, sewage disposal, and drainage.

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

2. Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit final landscaping and erosion control 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 and erosion control 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 Native Plants for Landscaping in the Santa Monica Mountains, updated August 2007. 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. Planting shall be primarily 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) 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 the approved final approved fuel modification plan. Irrigated lawn, turf and ground cover planted within the first 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.
- 5) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- 6) Fencing of the entire property is prohibited. Fencing shall extend no further than Zone B shown on the final approved fuel modification plan. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in Special Condition Six (6) below. Fencing for the proposed corral and along one side of a portion of the approved trail, as generally shown on Exhibit 8 and as depicted on the final approved site plans, is allowed and must be wildlife permeable and constructed of non-flammable materials.

- 7) 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 grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicants shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) Monitoring

- (1) Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicants 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 whether 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.

- (2) 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 applicants, 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.

3. Assumption of Risk, Waiver of Liability and Indemnity

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.

4. Drainage and Polluted Runoff Control Plan

A. *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 recommended management measures for horsekeeping facilities designed to protect water quality and resources, and shall specifically:
- (i) Include a Manure Management Plan which shall identify an area for animal waste containment and shall include provisions for the collection, storage, and disposal of stable wastes, including manure and bedding, and for the prevention of off-site migration of animal waste due to wind, rain, or run-off. Manure stored on site shall be contained in fully enclosed bins and/or a facility with impervious flooring that is protected from wind, rain and nuisance flows. The plan shall specify the maximum capacity of the manure storage and containment areas and shall include provisions to reduce and dispose of animal waste so as not to exceed the maximum capacity of the waste containment areas. All animal bedding and wastes shall be collected and disposed of off site in a manner and location prescribed in the approved final plan.
 - (ii) Incorporate site design, source control and treatment control measures designed to 1) control erosion, 2) prevent surface flow from entering equestrian facilities from upslope areas and 3) ensure that runoff draining from or through, any and all horse facilities shall be collected and treated in accordance with the other provisions of this Special Condition.
- (e) 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 applicants 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.

B. 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.

5. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 100 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 100-200 foot fuel modification

zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

6. Structural Appearance

Prior to the 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. 4-06-171. 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 proposed barn, corral, and trail fencing shall be constructed of non-combustible materials.

The approved structures shall be colored and constructed 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. 4-06-171 if such changes are specifically authorized by the Executive Director as complying with this special condition.

7. 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, garage, and barn 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.

8. Habitat Impact Mitigation

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, a map delineating all areas of chaparral habitat (ESHA) that will be disturbed by the proposed development, including fuel modification on the project site and brush clearance requirements on adjacent property. The chaparral ESHA areas on the site and adjacent property shall be delineated on a detailed map, to scale, illustrating the subject parcel boundaries and, if the fuel modification/brush clearance zones extend onto adjacent property, adjacent parcel boundaries. The delineation map shall indicate the total acreage for all chaparral ESHA, both on and offsite that will be impacted by the proposed development, including the fuel modification/brush clearance areas. The location and acreage of on-site fuel modification shall be based on the Final Fuel Modification Plans required by Special Condition Thirteen (13). A 200-foot clearance zone from the proposed structures shall be used to determine the extent of off-site brush clearance for fire protection purposes. The delineation shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains.

Mitigation pursuant to this special condition shall be provided for impacts to the chaparral ESHA on the subject lot from the proposed development and fuel modification/brush clearance requirements by one of the three following habitat mitigation methods:

A. Habitat Restoration

1) Habitat Restoration Plan

Prior to the issuance of the coastal development permit, the applicant shall submit a habitat restoration plan, for the review and approval of the Executive Director, for an area of degraded chaparral habitat equivalent to the area of chaparral ESHA impacted by the proposed development and fuel modification/brush clearance area. The habitat restoration area may either be onsite or offsite within the coastal zone either in the City of Malibu or elsewhere in the Santa Monica Mountains. The habitat restoration area shall be delineated on a detailed site plan, to scale, that illustrates the parcel boundaries and topographic contours of the site. The habitat restoration plan shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains and shall be designed to restore the area in question for habitat function, species diversity and vegetation cover. The restoration plan shall include a statement of goals and performance standards, revegetation and restoration methodology, and maintenance and monitoring provisions. If the restoration site is offsite, the applicants shall submit written evidence to the Executive Director that the property

owner has irrevocably agreed to allow the restoration work, maintenance and monitoring required by this condition and not to disturb any native vegetation in the restoration area.

The applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating compliance with the performance standards outlined in the restoration plan and describing the revegetation, maintenance and monitoring that was conducted during the prior year. The annual report shall include recommendations for mid-course corrective measures. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If this report indicates that the restoration project has been, in part or in whole, unsuccessful, based on the approved goals and performance standards, the applicants shall submit a revised or supplemental restoration plan with maintenance and monitoring provisions, for the review and approval of the Executive Director, to compensate for those portions of the original restoration plan that were not successful. Should supplemental restoration be required, the applicants shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating the supplemental restoration areas. At the end of the five-year period, a final report shall be submitted evaluating whether the supplemental restoration plan has achieved compliance with the goals and performance standards for the restoration area. If the goals and performance standards are not met within 10 years, the applicants shall submit an application for an amendment to the coastal development permit for an alternative mitigation program and shall implement whatever alternative mitigation program the Commission approves, as approved.

The habitat restoration work approved in the restoration plan shall be carried out prior to occupancy of the residence.

2) Open Space Deed Restriction

No development, as defined in section 30106 of the Coastal Act, shall occur in the habitat restoration area, as shown on the habitat restoration site plan required pursuant to (A)(1) above.

Prior to the issuance of the coastal development permit, the applicant shall submit evidence that the applicants have executed and recorded a deed restriction (if the applicants are not the owners, then the applicants shall submit evidence that the owner has executed and recorded the deed restriction), in a form and content acceptable to the Executive Director, reflecting the above restriction on development and designating the habitat restoration area as open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of both the parcel on which the restoration area lies and the open space

area/habitat restoration area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3) Performance Bond

Prior to the issuance of the permit, the applicant shall post performance bonds to guarantee implementation of the restoration plan as follows: a) one equal to the value of the labor and materials; and b) one equal to the value of the maintenance and monitoring for a period of 5 years. Each performance bond shall be released upon satisfactory completion of items (a) and (b) above. If the applicants fail to either restore or maintain and monitor according to the approved plans, the Coastal Commission may collect the security and complete the work on the property.

B. Habitat Conservation

Prior to the issuance of the coastal development permit, the applicants shall (or, if the applicants are not the owner of the habitat conservation site, then the owners of the habitat conservation site shall) execute and record an open space deed restriction in a form and content acceptable to the Executive Director, over the entirety of a legal parcel or parcels containing chaparral ESHA. The chaparral ESHA located on the mitigation parcel or parcels must be of equal or greater area than the ESHA area impacted by the proposed development, including the fuel modification/brush clearance areas. No development, as defined in section 30106 of the Coastal Act, shall occur on the mitigation parcel(s) and the parcel(s) shall be preserved as permanent open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of the parcel or parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

Prior to occupancy of the residence, the applicants shall submit evidence, for the review and approval of the Executive Director, that the recorded documents have been reflected in the Los Angeles County Tax Assessor Records.

If the mitigation parcel(s) is/are larger in size than the impacted habitat area, the excess acreage may be used to provide habitat impact mitigation for other development projects that impact like ESHA.

C. Habitat Impact Mitigation Fund

Prior to the issuance of the coastal development permit, the applicant shall submit evidence, for the review and approval of the Executive Director, that compensatory mitigation, in the form of an in-lieu fee, has been paid to the Mountains Recreation and Conservation Authority to mitigate adverse impacts to chaparral habitat ESHA. The fee shall be calculated as follows:

1. Development Area, Irrigated Fuel Modification Zones, Off-site Brush Clearance

The in-lieu fee for these areas shall be \$12,000 per acre within the development area and any required irrigated fuel modification zones. The total acreage shall be based on the map delineating these areas required by this condition.

2. Non-irrigated Fuel Modification Zones

The in-lieu fee for non-irrigated fuel modification areas shall be \$3,000 per acre. The total acreage shall be based on the map delineating these areas required by this condition.

Prior to the payment of any in-lieu fee to the Mountains Recreation and Conservation Authority, the applicant shall submit, for the review and approval of the Executive Director, the calculation of the in-lieu fee required to mitigate adverse impacts to chaparral habitat ESHA, in accordance with this condition. After review and approval of the fee calculation, the fee shall be paid to the Mountains Recreation and Conservation Authority's Coastal Habitat Impact Mitigation Fund for the acquisition, or permanent preservation of chaparral habitat in the Santa Monica Mountains coastal zone.

9. Future Development Restriction

This permit is only for the development described in Coastal Development Permit No. 4-06-171. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) and (b) 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, barn, corral, pool, septic system, landscaping, and removal of vegetation or grading other than as provided for in the approved landscape plan prepared pursuant to Special Condition Two (2) and the fuel modification plan required by Special Condition Thirteen (13), shall require an amendment to Coastal Development Permit No. 4-06-171 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

10. 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 applicants have 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.

11. Open Space Conservation Easement

A. No development, as defined in Section 30106 of the Coastal Act, grazing, or agricultural activities shall occur outside of the approved development area, within the portion of the property identified as the “open space conservation easement area”, as shown in **Exhibit 9** except for:

1. Fuel modification required by the Los Angeles County Fire Department undertaken in accordance with the final approved fuel modification plan required by Special Condition Thirteen (13) or other fuel modification plans approved by the Commission pursuant to a different CDP(s) issued by the Commission;
2. Drainage and polluted runoff control activities and landscaping and erosion control-related activities required and approved pursuant to:
 - a. The drainage and runoff control plans approved pursuant to Special Condition Four (4) of this permit; and
 - b. The landscaping and erosion control plans approved pursuant to Special Condition Two (2);
3. Construction, maintenance, and use of the public hiking and equestrian trail approved pursuant to Special Conditions Fifteen (15) and Sixteen (16) of this permit;
4. If approved by the Commission as an amendment to this coastal development permit or a new coastal development permit,
 - a. construction and maintenance of public hiking trails, and
 - b. construction and maintenance of roads, trails, and utilities consistent with existing easements.

B. Prior to issuance of the Coastal Development Permit, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, granting to the Mountains Recreation and Conservation Authority (“MRCA”) on behalf of the people of the State of California an open space conservation easement over the “open space conservation easement area” described above, for the purpose of habitat protection. The recorded easement document shall include a formal legal description of the entire property; and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the open space conservation easement area, as generally shown on **Exhibit 9**. The recorded easement document shall reflect that no development shall occur within the open space conservation easement area except as otherwise set forth in this permit condition. The grant of easement shall be recorded free of prior liens and encumbrances (other than existing easements for roads, trails, and utilities) that the Executive Director determines may affect the interest being conveyed, and shall run with the land in favor of the MRCA on behalf of the people of the State of California, binding all successors and assigns.

12. Site Inspection

- A. By acceptance of this permit, the applicant irrevocably authorizes, on behalf of himself and his successors-in-interest with respect to the subject property, Coastal Commission staff and its designated agents to enter onto the property to undertake site inspections for the purpose of monitoring compliance with the permit, including the special conditions set forth herein, and to document their findings (including, but not limited to, by taking notes, photographs, or video), subject to Commission staff providing 24 hours advanced notice to the contact person indicated pursuant to paragraph B prior to entering the property, unless there is an imminent threat to coastal resources, in which case such notice is not required. If two attempts to reach the contact person by telephone are unsuccessful, the requirement to provide 24 hour notice can be satisfied by voicemail, email, or facsimile sent 24 hours in advance or by a letter mailed three business days prior to the inspection. Consistent with this authorization, the applicant and his successors: (1) shall not interfere with such inspection/monitoring activities and (2) shall provide any documents requested by the Commission staff or its designated agents that are relevant to the determination of compliance with the terms of this permit.
- B. ***Prior to issuance of the coastal development permit***, the applicant shall submit to Commission staff the email address and fax number, if available, and the address and phone number of a contact person authorized to receive the Commission’s notice of the site inspections allowed by this special condition. The applicant is responsible for updating this contact information, and the Commission is entitled to rely on the last contact information provided to it by the applicant.

13. Final Approved Fuel Modification Plans

A. ***Prior to issuance of the Coastal Development Permit***, the applicant shall submit, for the review and approval of the Executive Director, Fuel Modification Plans for the approved development (in conformance with the fuel modification plans that have been given Preliminary Approval by the Los Angeles County Fire Department and the final revised plans required by Special Condition Eighteen (18)) that have been granted Final Approval by the Los Angeles County Fire Department.

B. The Permittee shall undertake development in accordance with the final approved site plan(s) and elevations, grading plan(s), and fuel modification plan(s). 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 Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required

14. 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.

15. Construction of Public Trail

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a site plan and grading plans with cross-sections prepared by a registered engineer showing the proposed five foot (5') wide public hiking and equestrian trail within the trail easement described below in **Special Condition Sixteen (16)**.

In order to implement the applicant's proposal to construct a public hiking and equestrian trail, the applicant agrees to construct the five foot wide public trail, as shown generally in **Exhibit 8** (and on the final revised plans that will be submitted pursuant to Special Condition Eighteen (18)), and consistent with the plans approved pursuant to the prior paragraph, concurrent with the construction of the residence. The trail shall be completed no later than the issuance of the certificate of occupancy for the approved residence. The existing Tuna Canyon Trail that crosses the ridgeline on the site may not be altered or obstructed until such time as this coastal development permit and all required local government approvals have been issued and construction of the approved development has commenced. After completion of the re-aligned trail segment to connect with the trail from the neighboring property, no encroachments or

obstructions, such as gates, fences, planters, vegetation, or other structures or obstacles that would affect the public's ability to use the entire trail area shall be constructed or placed within the trail easement described below in **Special Condition Sixteen (16)**.

16. Offer-to-dedicate Public Hiking and Equestrian Trail Easement

In order to implement the applicant's proposal of an offer to dedicate a ten foot (10') wide trail easement for public hiking and equestrian access as part of this project, the applicant as landowner agrees to complete the following prior to issuance of the permit: the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director a ten foot (10') wide public access hiking and equestrian trail easement in the general location and configuration depicted in **Exhibit 8**. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use that may exist on the property. The document shall also provide that there shall be no gate(s) at the entrance to or exit from the easement.

The offer shall provide the public the right to pass and re-pass over the dedicated route, limited to hiking and equestrian uses only. The document shall be recorded free of prior encumbrances except for tax liens, which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees of the applicant or landowner, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions of both the applicant's entire parcel and the trail easement area and a graphic representation prepared by a licensed surveyor showing the area identified in the legal description of the easement area.

17. Removal of Temporary Construction Trailer and Storage Container

With the acceptance of this coastal permit, the applicant agrees that the temporary travel trailer and storage container on the site shall be removed within two years of the issuance of this coastal development permit or within thirty (30) days of the applicants receipt of the Certificate of Occupancy for the proposed residence from the County of Los Angeles, whichever is less, to a site located outside the Coastal Zone or a site with a valid coastal development permit for the installation of temporary trailers and storage containers.

18. Revised Plans

A. Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, two sets of revised site plans. The residence, detached garage, and pool shall be in the location shown on the July 2008

site plans; however, the revised site plans shall show the location of the proposed trail (as generally shown in **Exhibit 8**). The revised site plans shall also show that the proposed barn has been relocated to the area inside the corral as depicted on the July 2008 site plans. Prior to issuance of the coastal development permit, the applicant shall also provide revised floor plans and cross sections for the barn showing that the barn has a footprint of no greater than 600 sq. ft and a height of no more than 25 ft.

B. The Permittee shall undertake development in accordance with the final approved site 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 Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

1. Project Description

The applicant proposes to construct a 2-story, 7,306 sq. ft. single family home, with detached 3,737 sq. ft. garage, attached 308 sq. ft. garage, driveway, septic system, 7,500 gallon water tank, retaining walls, pool, 70' x 55' metal corral, 600 sq. ft. 25 ft tall barn, 2,096 cu. yds. of grading (1,048 cu. yds. cut and 1,048 cu. yds. fill), and placement of a temporary 1,200 sq. ft. construction trailer and temporary 160 sq. ft. construction storage container. (**Exhibits 2-7**). The proposal also includes construction of a public trail and offer-to-dedicate a public trail easement. **Special Condition Eighteen (18)** requires the applicant to submit revised site plans depicting the trail so that it is relocated around the proposed residence. The proposed trail will connect the approved trail on the adjacent property at 2155 Little Las Flores Road with the existing trail on the southern portion of the applicant's property because the residence, as proposed, will be constructed over the existing trail. Special Condition Eighteen (18) also requires the applicant to show that the proposed barn has been relocated to the more level area within the corral area.

The project site is a vacant 10 acre parcel (Assessor's Parcel Number (4448-023-009) on Little Las Flores Road in the Santa Monica Mountains. (**Exhibit 1**) The project site is situated on a south-trending ridge in the southwestern portion of the Santa Monica Mountains, approximately two miles inland from the coast and a half-mile south of the intersection of Saddle Peak Road and Swenson Drive (**Exhibit 1**). The Malibu/Santa Monica Mountains LUP designates the subject parcel as a combination of Rural Land II and Mountain Land, allowing one dwelling unit per five acres and twenty acres, respectively. The proposed building site is located at an elevation of approximately

1,860 feet above sea level. Slopes west of the building site descend toward Las Flores Canyon Creek, a U.S. Geological Survey (USGS) designated blue-line stream that is approximately 1,400 feet away from the proposed development site. A vast area of public park land, owned by the Santa Monica Mountains Conservancy, lies west of the subject parcel. Existing residences are located to the east and southeast of the subject site.

The subject parcel contains a trail segment of a public recreational trail that aligns with the planned Tuna Canyon Trail (**Exhibit 7**). From the south, this trail runs along a ridge west of Tuna Canyon Road, across Little Las Flores Canyon, up to the subject site. The trail crosses roughly the middle of the subject site, the southeastern corner of the neighboring property to the north, and then joins Little Las Flores Road. The trail continues along this road to Swenson Road, where it continues north to the top of the Saddle Peak area where the Backbone Trail is located. The planned Tuna Canyon Trail traverses north to south connecting the Backbone Trail to Tuna Canyon and Pacific Coast Highway. Since the current trail alignment falls within the proposed development footprint, the applicant proposes a realignment of the trail around the proposed development. The applicant proposes to construct a trail in this new location as well as dedicate a public trail easement. The trail will connect with the realigned trail approved for the neighboring property to the north at 2155 Little Las Flores Canyon Road (CDP 4-05-085 Montoya/Kessler). **Special Condition Sixteen (16)** and **Special Condition Eighteen (18)** require the applicant to submit revised plans showing that the trail alignment has been located around the development to connect the trail on the adjacent property at 2155 Little Las Flores Canyon Road with the trail on the southern portion of the applicant's property. This trail realignment is generally shown on **Exhibit 8**.

B. Hazards and Geologic Stability

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

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

The 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.

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:

1. Plans Conforming to Geotechnical Engineer's Recommendations
2. Landscaping and Erosion Control Plan
3. Assumption of Risk
4. Drainage and Polluted Runoff Control Plan
13. Final Approved Fuel Modification Plans

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

C. Environmentally Sensitive Resources

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.

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.

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.

P57 Designate the following areas as Environmentally Sensitive Habitat Areas (ESHAs): (a) those shown on the Sensitive Environmental Resources Map (Figure 6), and (b) any undesignated areas which meet the criteria and which are identified through the biotic review process or other means, including those oak woodlands and other areas identified by the Department of Fish and Game as being appropriate for ESHA designation.

P63 Uses shall be permitted in ESHAs, DSRs, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with Table I and all other policies of this LCP.

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.*
- P72** *Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. Where new development is proposed adjacent to Environmentally Sensitive Habitat Areas, open space or conservation easements shall be required in order to protect resources within the ESHA.*
- 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 Site Specific Biological Resource Information

The project site is a vacant 10 acre parcel on Little Las Flores Road in the Santa Monica Mountains. The project site is situated on a south-trending ridge in the southwestern portion of the Santa Monica Mountains, approximately two miles inland from the coast and a half-mile south of the intersection of Saddle Peak Road and Swenson Drive. The proposed building site is located at an elevation of approximately 1,860 feet above sea level. Slopes west of the building site descend toward Las Flores Canyon Creek, a U.S. Geological Survey (USGS) designated blue-line stream that is approximately 1,400 feet away from the proposed development area. A vast area of public park land, owned by the Santa Monica Mountains Conservancy, lies west of the subject parcel. Existing residences are located to the east and southeast of the subject site.

According to the biological assessment for the site, (listed in the Substantive File Documents) submitted by the applicant, the primary vegetation community present on the site and adjacent to the site is classified as chaparral and coastal sage scrub. More

specifically, according to the biological inventory report, the dominant plants present within the native chaparral and scrub communities include large shrubs including laurel sumac (*Malosma laurina*), bigpod and greenbark ceanothus (*Ceanothus megacarpus*, *C. spinosus*), chamise (*Adenostema fasciculata*), toyon (*Heteromeles arbutifolia*) and sugar bush (*Rhus ovata*). Lower shrubs present on the property include California buckwheat (*Eriogonum fasciculatum*, *E. cinerium*), black sage (*Salvia mellifera*), and yucca (*Yucca whipplei*). Additionally, according to the biological report, three small coast live oak trees (*Quercus agrifolia*) are present on the site approximately 260 feet to the southeast along the eastern property line and are located outside of the proposed development area.

According to public information, the applicant purchased the subject parcel in 2002 for \$250,000. The parcel was designated in the Los Angeles County Land Use Plan for residential use. The Malibu/Santa Monica Mountains LUP designates the subject parcel as a combination of Rural Land II and Mountain Land, allowing one dwelling unit per five acres and twenty acres, respectively.

The project has been designed to cluster all development near the northern portion of the site. The applicant originally proposed a development area greater than 10,000 sq. ft. but subsequently revised plans to eliminate a proposed tennis court. The applicant has also proposed to cluster development by relocating the proposed pool and the proposed detached garage closer to the residence. The applicant also proposes a 600 sq. ft., 25 ft. tall barn structure and a 70 ft. x 55 ft. corral located to the eastern side of the residence. **Special Condition Eighteen (18)** requires the applicant to submit revised plans showing that the proposed barn has been relocated within the proposed corral area. Any alternative location for development on the site would include the removal of more native vegetation and require more earth disturbance. Not including the area of the driveway or turnaround, the proposed development area is estimated by the applicant to measure less than 10,000 sq. ft. The applicant's fuel modification plan (preliminarily approved by the Los Angeles County Fire Department) shows the use of the standard three zones of vegetation modification. Zones "A" (setback zone) and "B" (irrigation zone) are shown extending in a radius of approximately 100 feet from the proposed structures. A "C" Zone (thinning zone) is provided for a distance of 100 feet beyond the "A" and "B" zones. The proposed barn and corral will be located within fuel modification Zone C and will be constructed out of non-combustible materials. Therefore, the fuel modification zone will not have to be enlarged to accommodate the barn and corral structures.

2. ESHA Designation on the Project Site.

Pursuant to Section 30107.5, in order to determine whether an area constitutes an ESHA, and is therefore subject to the protections of Section 30240, the Commission must answer three questions:

- 1) Is there a rare species or habitat in the subject area?

- 2) Is there an especially valuable species or habitat in the area, which is determined based on:
 - a) whether any species or habitat that is present has a special nature, OR
 - b) whether any species or habitat that is present has a special role in the ecosystem;
- 3) Is any habitat or species that has met either test 1 or test 2 (i.e., that is rare or especially valuable) easily disturbed or degraded by human activities and developments?

If the answers to questions one or two and question three are “yes”, the area is ESHA.

The project site is located within the Mediterranean Ecosystem of the Santa Monica Mountains. The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Mountains is rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodland have many special roles in the Mediterranean Ecosystem, including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of essential habitat for local endemics, the support of rare species, and the reduction of erosion, thereby protecting the water quality of coastal streams. Additional discussion of the special roles of these habitats in the Santa Monica Mountains ecosystem are discussed in the March 25, 2003 memorandum prepared by the Commission’s Ecologist, Dr. John Dixon¹ (hereinafter “Dr. Dixon Memorandum”), which is incorporated as if set forth in full herein.

Unfortunately, coastal sage scrub, chaparral, oak woodland and riparian habitats are easily disturbed by human activities. As discussed in the Dr. Dixon Memorandum, development has many well-documented deleterious effects on natural communities of this sort. These environmental impacts may be both direct and indirect and include, but certainly are not limited to, the effects of increased fire frequency, of fuel modification, including vegetation clearance, of introduction of exotic species, and of night lighting. Increased fire frequency alters plant communities by creating conditions that select for some species over others. The removal of native vegetation for fire protection results in the direct removal or thinning of habitat area. Artificial night lighting of development affects plants, aquatic and terrestrial invertebrates, amphibians, fish, birds and mammals. Thus, large, contiguous, relatively pristine stands of coastal sage scrub, chaparral, oak woodland, and riparian habitats are especially valuable because of their special roles in the Santa Monica Mountains ecosystem and are easily disturbed by human activity. Accordingly, these habitat types meet the definition of ESHA. This is

¹ The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D, is available on the California Coastal Commission website at <http://www.coastal.ca.gov/ventura/smm-asha-memo.pdf>

consistent with the Commission's past findings in support of its actions on many permit applications and in adopting the Malibu LCP².

As described above, the project site contains pristine chaparral and coastal sage scrub habitat that is part of a large, contiguous block of pristine native vegetation. As discussed above and in the Dr. Dixon Memorandum, this habitat is especially valuable because of its special role in the ecosystem of the Santa Monica Mountains and it is easily disturbed by human activity. Accordingly, the Commission finds that the chaparral and coastal sage scrub habitat on the project site meets the definition of ESHA in the Coastal Act.

3. Resource Dependent Use.

The Commission finds that the project site and the surrounding area constitute an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act restricts development within ESHA to only those uses that are dependent on the resource. The applicant proposes to construct a single family residence on the parcel. As single-family residences do not have to be located within ESHA to function, single-family residences are not a use dependent on ESHA resources. Section 30240 also requires that ESHA be protected against significant disruption of habitat values. As the construction of a residence on the site will require both the complete removal of ESHA from the home site and fuel modification for fire protection purposes around it, the proposed project would also significantly disrupt the habitat value in those locations. Application of Section 30240, by itself, would therefore require denial of the project, because the project would result in significant disruption of habitat values and is not a use dependent on those sensitive habitat resources.

However, the Commission must also consider Section 30010, and the United States Supreme Court's decision in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S.Ct. 2886. Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner that will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what sort of government action results in a "taking" was addressed by the Court in the *Lucas* case. In *Lucas*, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. For instance, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project denial would deprive his or her property of all economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the proposed project would constitute a nuisance under State law. Other Supreme Court precedent establishes that another factor that

² Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.

should be considered is the extent to which a project denial would interfere with reasonable investment-backed expectations.

The Commission interprets Section 30010, together with the *Lucas* decision, to mean that if Commission denial of the project would deprive an applicant's property of all reasonable economic use, the Commission may be required to allow some development even if a Coastal Act policy would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, Section 30240 of the Coastal Act cannot be read to deny all economically beneficial or productive use of land because Section 30240 cannot be interpreted to require the Commission to act in an unconstitutional manner.

As described above, the subject parcel was designated in the Los Angeles County Land Use Plan for residential use. Residential development has previously been approved by the Commission on sites in the immediate area. At the time the applicant purchased the parcel, the County's certified Land Use Plan did not designate the vegetation on the site as ESHA. Based on these facts, along with the presence of existing and approved residential development in the area, the applicant had reason to believe that it had purchased a parcel on which it would be possible to build a residence.

The Commission finds that in this particular case, other allowable uses for the subject site, such as a recreational park or a nature preserve, are not feasible and would not provide the owner an economic return on the investment. There is currently no offer to purchase the property from any public park agency. The Commission thus concludes that in this particular case there is no viable alternative use for the site other than residential development. The Commission finds, therefore, that outright denial of all residential use on the project site would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.

Next the Commission turns to the question of nuisance. There is no evidence that construction of a residence on the project site would create a nuisance under California law. Other houses have been constructed in similar situations in similar habitat areas in Los Angeles County, apparently without the creation of nuisances. The County's Health Department has not reported evidence of septic system failures. In addition, the County has reviewed and approved the applicant's proposed septic system, ensuring that the system will not create public health problems. Furthermore, the use that is proposed is residential, rather than, for example, industrial, which might create noise or odors or otherwise create a public nuisance.

In conclusion, the Commission finds that, notwithstanding Section 30240, a residential project on the subject property must be allowed to permit the applicant a reasonable economic use of their property consistent with Section 30010 of the Coastal Act.

4. Siting and Design Alternatives to Minimize Significant Disruption of Habitat Values

While the applicant is entitled under Section 30010 to an assurance that the Commission will not act in such a way as to “take” the property, this section does not authorize the Commission to avoid application of the policies of the Coastal Act, including Section 30240, altogether. Instead, the Commission is only directed to avoid construing these policies in a way that would take property. Aside from this instruction, the Commission is still otherwise directed to enforce the requirements of the Act. Therefore, in this situation, the Commission must still assure compliance with Section 30240 by avoiding impacts that would significantly disrupt and/or degrade environmentally sensitive habitat, to the extent this can be done without taking the property.

Obviously, the construction of residential development, including vegetation removal for both the development area as well as required fuel modification, grading, construction of a residence and accessory structures, and the use of the development by residents will result in unavoidable loss of ESHA. The development can be sited and designed to minimize ESHA impacts by measures that include but are not limited to: limiting the size of structures, limiting the number of accessory structures and uses, clustering structures, siting development in any existing disturbed habitat areas rather than undisturbed habitat areas, locating development as close to existing roads and public services as feasible, and locating structures near other residences in order to minimize additional fuel modification.

In this case, siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to ESHA to the greatest extent feasible. In past permit actions, the Commission has allowed up to 10,000 sq. ft. of development area for a residence on a parcel zoned for residential development in this area of the Santa Monica Mountains to avoid a taking of property. As detailed above, the proposed development area conforms to the maximum development area of 10,000 sq. ft. All proposed structures are located within this development area except a corral and barn constructed of non-flammable materials. Although a smaller development area would reduce the ESHA loss somewhat, the reduction would not be significant. Nor are there other resources such as streams, riparian areas, or visual resources that would be protected by a smaller development area. As such, the Commission concludes that the proposed siting and design of the project will minimize impacts to ESHA to the extent feasible. The Commission also finds that the proposed development area provides a reasonable economic use.

5. Open Space Conservation.

This project is inconsistent with Section 30240 of the Coastal Act, and is only being allowed to avoid a taking of private property for public use. The Commission finds that for the project to be consistent with Section 30240 to the maximum extent feasible, while providing a reasonable economic use, this project must constitute the maximum amount of ESHA destruction on the site and the remaining ESHA on the property must be preserved in perpetuity.

The Commission finds that the most effective way to assure ESHA preservation on the site is the granting of an open space conservation easement to the Mountains Recreation and Conservation Authority (a joint powers authority) that prohibits development on the remainder of the site now and in the future. The Mountains Recreation and Conservation Authority (MRCA) is a public agency that represents a partnership between the Santa Monica Mountains Conservancy, the Conejo Recreation and Park District, and the Rancho Simi Recreation and Park District. The MRCA is dedicated to the preservation and management of open space, parkland, watershed lands, trails, and wildlife habitat. The MRCA manages and provides ranger services for almost 50,000 acres of public lands and parks that it owns or that are owned by the Santa Monica Mountains Conservancy. In the course of its normal duties, the MRCA park rangers and other staff are better able to monitor open space areas to ensure that the restrictions are followed than Commission staff. Further, an easement will be recorded against the title to the property and thus provide notice to future owners of the limitations that apply to the open space conservation area, reducing the risk of a future irreparable violation of the restriction. The governing board of the MRCA has agreed to accept all open space easements required by the Commission for properties within the Santa Monica Mountains National Recreation Area.

It is important that the property owner grant an easement to MRCA rather than simply record an open space deed restriction. Although a deed restriction should notify future owners of the restriction in the same manner that a recorded easement would, it would not be as effective in preserving the remaining ESHA for the following two reasons. First, a deed restriction is not as reliable because a property owner can record another document purporting to rescind the deed restriction. Although any attempt to rescind a deed restriction required by a coastal development permit (“CDP”) without an amendment to that CDP authorizing such a rescission would constitute a violation of the CDP and the Coastal Act, the County Recorder’s office is likely to allow recordation of a rescission without the required Coastal Commission authorization. Indeed, the Commission has experienced the phenomenon of property owners recording documents purporting to modify deed restrictions recorded pursuant to CDP requirements. See, e.g., Commission findings for CDP Amendment F7453-A2 (Stephenson), approved March 2005, and Violation File V-6-04-010 (Del Mar Estates). On the other hand, because an easement necessarily involves more than one person, the County Recorder would not likely record a document purporting to rescind an easement unless the easement holder was also to sign the document. Thus, a condition requiring a deed restriction is much easier to violate, and therefore much less protective, than a condition requiring an easement.

Second, the Legislature has recently adopted new provisions to the Government Code specifically sanctioning the use of conservation easements for this purpose and changing procedures to ensure that they are prominent in searching title to property. In 2001, the Legislature adopted a new requirement that County Recorders keep a separate and “comprehensive index of conservation easements.” See Cal. Gov’t Code

§ 27255(a). As such, the Commission finds that the requirement of an open space and conservation easement is the most effective method of ensuring that the remaining ESHA on the project site will be conserved in the future. Finally, the Commission concludes that an open space easement that allows only the easement holder and no other entity to enter the property for inspection purposes does not interfere with the fee title owner's right to exclude the general public. It therefore does not constitute a significant invasion of the fee title owner's property interest.

In conclusion, the Commission finds that it is necessary to require the applicant to grant an open space easement to the MRCA over the open space area on the project site in order to insure that the remaining ESHA will be preserved, as detailed in **Special Condition Eleven (11)**. Only as conditioned will the proposed project minimize impacts to ESHA, pursuant to Section 30240 of the Coastal Act.

6. Habitat Impact Mitigation

While impacts resulting from development within ESHA can be reduced through siting and design alternatives for new development and by ensuring that the remaining ESHA on the site is permanently protected, they cannot be completely avoided, given the location of ESHA on and around the project site, the high fire risk in the Santa Monica Mountains, and the need to modify fuel sources to protect life and property from wildfire.

Fuel modification is the removal or modification of combustible native or ornamental vegetation. It may include replacement with drought tolerant, fire resistant plants. The amount and location of required fuel modification will vary according to the fire history of the area, the amount and type of plant species on the site, topography, weather patterns, construction design, and siting of structures. There are typically three fuel modification zones applied by the Los Angeles County Fire Department, which include a setback zone immediately adjacent to the structure (Zone A) where all native vegetation must be removed, an irrigated zone adjacent to Zone A (Zone B) where most native vegetation must be removed or widely spaced, and a thinning zone (Zone C) where native vegetation may be retained if thinned or widely spaced although particular high-fuel plant species must be removed. The combined required fuel modification area around structures can extend up to a maximum of 200 feet. If there is not adequate area on the project site to provide the required fuel modification for structures, then brush clearance may also be required on adjacent parcels. In this way, for a large area around any permitted structures, native vegetation will be cleared, selectively removed to provide wider spacing, and thinned. The Commission has found in past permit actions, that a new residential development (with a 10,000 sq. ft. development area) within ESHA with a full 200 foot fuel modification radius will result in impact (either complete removal, irrigation, or thinning) to ESHA habitat of four to five acres.

Obviously, native vegetation that is cleared and replaced with ornamental species or substantially removed and widely spaced will be lost as habitat and watershed cover. As

discussed in the Dr. Dixon Memorandum³, the cumulative loss of habitat cover also reduces the value of the sensitive resource areas as a refuge for birds and animals, for example by making them—or their nests and burrows—more readily apparent to predators. Further, fuel modification can result in changes to the composition of native plant and wildlife communities, thereby reducing their habitat value. Although the impacts from habitat removal cannot be avoided, the Commission finds that the loss of ESHA resulting from the removal, conversion, or modification of natural habitat for new development including the building site area, and fuel modification can be mitigated in order to ensure that ESHA impacts are minimized to the extent feasible.

The Commission has identified three appropriate methods for providing mitigation for the unavoidable loss of ESHA resulting from development; namely, habitat restoration, habitat conservation, and the payment of an in-lieu fee for habitat conservation. The Commission finds that any of these measures is appropriate in this case to mitigate the loss of ESHA on the project site. The first method is to provide mitigation through the restoration of an area of degraded habitat (either on the project site, or at an off-site location) that is equivalent in size to the area of habitat impacted by the development. A restoration plan must be prepared by a biologist or qualified resource specialist and must provide performance standards, and provisions for maintenance and monitoring. The restored habitat must be permanently preserved through the recordation of an open space easement.

The second habitat impact mitigation method is habitat conservation. This includes the conservation of an area of intact habitat of a similar type as that impacted equivalent to the area of the impacted habitat. The parcel containing the habitat conservation area must be restricted from future development and permanently preserved. If the mitigation parcel is larger in size than the impacted habitat area, the excess acreage could be used to provide habitat impact mitigation for other development projects that impact ESHA.

The third habitat impact mitigation option is the payment of an in-lieu fee for habitat conservation. The fee is based on the habitat types in question, the cost per acre to restore or create comparable habitat types, and the acreage of habitat affected by the project. The Commission has, in past permit decisions, determined the appropriate fee for the restoration or creation of chaparral and coastal sage scrub habitat, based on research carried out by the Commission's biologist. A range of cost estimates was obtained that reflected differences in restoration site characteristics including topography (steeper is harder), proximity to the coast (minimal or no irrigation required at coastal sites), types of plants (some plants are rare or difficult to cultivate), density of planting, severity of weed problem, condition of soil, etc.

³ The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D, is available on the California Coastal Commission website at <http://www.coastal.ca.gov/ventura/smm-asha-memo.pdf>

The Commission has determined that the appropriate mitigation for loss of coastal sage scrub or chaparral ESHA should be based on the actual installation of replacement plantings on a disturbed site, including the cost of acquiring the plants (seed mix and container stock) and installing them on the site (hydroseeding and planting). The in-lieu fee found by the Commission to be appropriate to provide mitigation for the habitat impacts to ESHA areas where all native vegetation will be removed (building site, the "A" zone required for fuel modification, and off-site brush clearance areas), and where vegetation will be significantly removed and any remaining vegetation will be subjected to supplemental irrigation (the "B" zone or any other irrigated zone required for fuel modification) is \$12,000 per acre. Further, the Commission has required a fee of \$3,000 per acre for areas where the vegetation will be thinned, but not irrigated ("C" zone or other non-irrigated fuel modification zone).

The acreage of ESHA that is impacted must be determined based on the size of the development area, required fuel modification (as identified on the final fuel modification plan approved by the Los Angeles County Fire Department) on the site, and required brush clearance off-site. The Commission finds that it is necessary to require the applicant to delineate the total acreage of ESHA on the site (and offsite brush clearance areas, if applicable) that will be impacted by the proposed development, and provide mitigation to compensate for this loss of habitat, through one of the three methods described above, and required by **Special Condition 8**. Only as conditioned will the proposed project minimize impacts to ESHA, pursuant to Section 30240 of the Coastal Act.

7. Additional Mitigation Measures to Address Additional ESHA Impacts

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 plants 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. This sort of impact was not addressed in the prior section. 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 2** 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 7**, 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 security lighting will assist in minimizing the disruption of wildlife that is commonly found in this rural and relatively undisturbed area and that traverses the area at night.

Furthermore, fencing of the property would adversely impact the movement of wildlife through the ESHA and wildlife migration corridor on this parcel. Therefore, the Commission finds it is necessary to limit fencing to this perimeter of the development area (building pad), turnaround and driveway. Additionally, the applicant proposes to construct a corral within the "C" zone of the fuel modification area required around the residence. Further, the applicant proposes to construct a low, split-rail type fence along one side of a portion of the proposed trail, where the trail is in proximity to the development area. Such limited fencing can be approved so long as it is designed to be wildlife permeable and limited to the portion of the trail generally shown on Exhibit 8. This is required to be shown on the landscaping plan, required in **Special Condition 2**.

Additionally, 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 9** the future development restriction, has been required.

Further, **Special Condition 10** 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. Finally, in order to ensure that the terms and conditions of this permit are adequately implemented, **Special Condition 12** authorizes Commission staff to enter onto the property (subject to 24 hour notice to the property owner) to undertake site inspections for the purpose of monitoring compliance with the permit.

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

D. Water Quality

Section 30231 of the Coastal Act states:

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

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.

Further, in order to minimize potential adverse impacts to water quality resulting from horsekeeping facilities, a Manure Management Plan is required by **Special Condition Four (4)**. The Manure Management Plan is required to identify an area for animal waste containment and include provisions for the collection, storage, and disposal of stable wastes, including manure and bedding, and for the prevention of off-site migration of animal waste due to wind, rain, or run-off. Manure stored on site is required to be contained in fully enclosed bins and/or a facility with impervious flooring that is protected from wind, rain and nuisance flows. The plan is required to specify the maximum capacity of the manure storage and containment areas and include provisions to reduce and dispose of animal waste so as not to exceed the maximum capacity of the waste

containment areas. All animal bedding and wastes are required to be collected and disposed of off-site in a manner and location prescribed in the approved final plan. The Plan is also required to incorporate site design, source control and treatment control measures designed to control erosion, prevent surface flow from entering equestrian facilities from upslope areas and ensure that runoff draining from or through, any and all horse facilities shall be collected and treated in accordance with the other provisions of Special Condition Four (4).

Additionally, the applicant's geologic consultants have concluded 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 County of Los Angeles Environmental Health Department has given in-concept approval of the proposed septic system, indicating that it meets 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:

2. Landscaping and Erosion Control Plan
4. Drainage and Polluted Runoff Control Plan
13. Final Approved Fuel Modification Plans

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

E. 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 reservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In addition, the Malibu/Santa Monica Mountains LUP provides policy guidance regarding the protection of visual resources. The Coastal Commission, as guidance in the review of development proposals in the Santa Monica Mountains, has applied these policies.

- P91** *All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.*
- P125** *New development shall be sited and designed to protect public views from LCP- designated highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on a sloped terrain should be set below road grade.*
- P129** *Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.*
- P130** *In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:*
- *Be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LUP.*
 - *Minimize the alteration of natural landforms*
 - *Be landscaped to conceal raw cut slopes*
 - *Be visually compatible with and subordinate to the character of its setting.*
 - *Be sited so as to not significantly intrude into the skyline as seen from public viewing places.*
- P131** *Where feasible, prohibit placement of structures that will break the ridgeline views, as seen from public places*
- P134** *Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.*
- P142** *New development along scenic roadways shall be set below the road grade on the down hill side wherever feasible, to protect designated scenic canyon and ocean views.*

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. In the review of this project, Commission staff analyzed the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. Staff examined the building site, the size of the proposed structure, and alternatives to the size, bulk and scale of the structure. The development of the residence raises the issue of whether or not views from public viewing areas will be adversely affected.

The subject site is located in a residential enclave south of Saddle Peak Road and east of Las Flores Canyon Road in the Malibu/Santa Monica Mountains. The applicant proposes construct a 2-story, 7,306 sq. ft. single family home, with detached 3,737 sq. ft. garage, attached 308 sq. ft. garage, driveway, septic system, 7,500 gallon water tank, retaining walls, pool, 70' x 55' metal corral, 600 sq. ft. 25 ft. tall barn, 2,096 cu. yds. of grading, and storage of a temporary 1,200 sq. ft. construction trailer and temporary 160 sq. ft. construction storage container. The proposal also includes construction of a public trail and offer-to-dedicate a public trail easement.

The proposed building site is located at an elevation of approximately 1,860 feet above sea level. Slopes west of the building site descend toward Las Flores Canyon Creek, a U.S. Geological Survey (USGS) designated blue-line stream that is approximately 1,400 feet away from the proposed development site. A vast area of public park land, owned by the Santa Monica Mountains Conservancy, lies west of the subject parcel. The Tuna Canyon Trail bisects a portion of the subject property. The proposed development will be visible from both on-site and off-site portions of the Tuna Canyon Trail and there are no siting alternatives where the residence would not be visible from the trail. The residence, however, will be sited as close as possible to other existing and proposed residential development. The proposed residence will be built towards the northern property boundary of the 10 acre parcel, adjacent to a 1 acre parcel to the north at 2155 Little Las Flores Road, where a CDP was approved and recently issued for a single-family residence (CDP 4-05-185 Montoya/Kessler). The proposed residence and the recently approved residence to the north will have overlapping fuel-modification zones. Further, the size and design of the proposed residence is compatible with other existing residences of similar character and size located on the adjacent properties to the east/southeast of the subject site.

Additionally, the structure has been clustered on one existing pad area with a development area of less than 10,000 sq. ft. in size, and designed to reduce landform alteration and removal of native vegetation that is considered environmentally sensitive habitat. Alternative siting locations would require more landform alteration and additional removal of environmentally sensitive habitat area, and would not reduce view impacts. As such, the proposed structures will be sited and designed to minimize impacts to visual resources to the extent feasible.

Since the project site will be unavoidably visible from public viewing areas, including the Tuna Canyon Trail, mitigation to address potential visual impacts is needed for the proposed residence. The visual impact of the proposed structures can be minimized by requiring these structures 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 structures and the potential glare of the window glass are minimized, the Commission requires the applicants to use colors compatible with the surrounding environment and non-glare glass, as detailed in **Special Condition Six (6)**.

Visual impacts can be further reduced by the use of appropriate and adequate landscaping. Therefore, **Special Condition Two (2)** requires the applicants to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. Implementation of Special Condition 2 will soften the visual impact of the development from public view areas. To ensure that the final approved landscaping plans are successfully implemented, Special Condition 2 also requires the applicants to revegetate all disturbed areas in a timely manner 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. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. The subject site contains environmentally sensitive habitat. Therefore, **Special Condition Seven (7)** 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.

Finally, regarding future developments or improvements, certain types of development on the property, normally associated with a single-family residence, which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that any future development or improvements normally associated with the entire property, which might otherwise be exempt, is reviewed by the Commission for compliance with the visual resource policies contained in Section 30251 of the Coastal Act. **Special Condition Nine (9)**, the Future Development Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Further, **Special Condition Ten (10)** requires the applicants to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the property.

Therefore, the Commission finds that the 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.

F. Public Access

The Coastal Act requires that maximum public access to and along the coast be provided in new development projects. The Coastal Act also requires new development to provide adequate lands suitable for recreation to serve the needs of new residents.

Coastal Act Section 30212.5 states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Coastal Act Section 30213 states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Coastal Act Section 30223 states:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Coastal Act Section 30252 states:

The location and amount of new development should maintain and enhance public access to the coast 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.

Coastal Act Sections 30212.5, 30223, and 30252 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise Section 30213 mandates that lower cost visitor and recreational facilities, such as public hiking and equestrian trails, shall be protected, encouraged, and provided, where feasible. In the Malibu/Santa Monica Mountains area, the existing system of heavily used historic trails located on private property has been adversely impacted by the conversion of open lands to housing. In an effort to preserve and formalize the public's right to use these trails, Los Angeles County adopted the Riding and Hiking Trails Master Plan for the Santa Monica Mountains, which is adopted by ordinance into the highway element of the County's 1982 General Management Plan for the Santa Monica Mountains National Recreation Area as updated in 1984 as the Land Protection Plan. The trail system is mapped as part of the 1986 certified Land Use Plan (LUP) for the Malibu/Santa Monica Mountains Area, a component of the County's Local Coastal Program. One of the trails identified in the adopted trail system is the Tuna Canyon Trail, which provides access from the coastal area at Las Tunas Beach to the Backbone Trail between Monte Nido on the west and Topanga Canyon on the east. These trails have become important and

commonly used recreational assets and a means of providing access to and links between natural, scenic, and recreational areas in the mountains.

The project area is situated on a south-trending ridge about a half-mile south of Saddle Peak Road, and on the south west side of Little Las Flores Road. Existing residences are located southeast of the subject parcel and a single-family residence was recently approved on the adjacent property to the north of the subject property at 2155 Little Las Flores Canyon Road (CDP 4-05-185). However, adjacent land to the south and west is vacant and contains relatively undisturbed native chaparral and coastal sage scrub vegetation. According to Malibu LUP trail system maps, the Tuna Canyon Trail is mapped in the vicinity of the subject parcel (**Exhibit 8**). From the south, the Tuna Canyon Trail runs along a ridge west of Tuna Canyon Road, across Little Las Flores Canyon up to the subject site and the neighboring property to the north, upon which it emerges onto and follows Little Las Flores Road up to Swenson Road, where it continues north to the top of the Saddle Peak area where the Backbone Trail is located. Review of historic aerial photographs and maps indicate that an existing trail on the property follows the alignment of the mapped Tuna Canyon Trail. The trail crosses the subject parcel roughly through the center and then crosses the eastern portion of the neighboring property to the north. (**Exhibit 8**). It is clear that the trail has been used and maintained in this area since at least 1977. There are potential public prescriptive rights to use this trail, though the Commission's action does not rely on any conclusion in that regard. Additionally, the increased demands caused by residential buildout in this area make it necessary to ensure that new development does not interfere with the public's right to continued use of the trail.

In this case, the proposed residence and driveway will be located in the same area of the site as the existing trail. In fact, as shown on **Exhibit 2**, both the residence and driveway are proposed to be constructed over the existing trail alignment. Given the topography of the site, the location of Little Las Flores Road just to the northeast of the development area, and the presence of chaparral ESHA on the site, the Commission has concluded that the proposed development area is the alternative that would minimize landform alteration as well as impacts to ESHA, water quality, and other coastal resources. Re-siting the trail alignment around the proposed residence would allow the development to be sited to minimize these impacts, while providing continued access to the site for use of trail.

In order avoid any cumulative and site specific adverse effects to public access resulting from the proposed development, the applicants propose, as part of the project, to realign the trail around the proposed development and to construct a five foot (5') wide public hiking and equestrian trail, within a ten foot (10') wide trail easement (**Exhibit 8**). Staff had numerous meetings with the applicant and confirmed that the proposed trail location around the proposed residence would be feasible for a riding and hiking trail and would provide an equivalent recreational experience to that of the existing alignment.

The proposed trail alignment will result in shifting the existing trail alignment from the current location roughly through the middle of the property and moving it to the eastern side of the property. The proposed trail will connect the trail on the neighboring property to the north through the applicant's property to the existing trail southern portion of the subject property. In addition, the applicant proposes to dedicate a ten foot (10') wide public trail easement to a public agency, so that the public will continue to have riding and hiking access along the Tuna Canyon Trail, albeit in a modified alignment. **(Exhibit 8). Special Condition Fifteen (15)** serves to implement the applicant's voluntary offer to construct the trail and requires the applicant to submit final plans for the trail prior to issuance of the permit, to construct the trail concurrently with construction of the project, and to complete the new trail no later than the issuance of the certificate of occupancy for the residence. Further, **Special Condition Sixteen (16)** has been included in order to implement the applicant's voluntary offer-to-dedicate this public hiking and equestrian trail easement that is ten feet (10') wide prior to the issuance of the coastal development permit.

The Commission therefore finds that the proposed project, as conditioned, is consistent with Sections 30212.5, 30213, 30223, and 30252 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 project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project 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 project. 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 amendment include the avoidance of impacts to ESHA through clustering structures, prohibiting development outside of the approved development area as required by the open space easement, and prohibiting the removal of native vegetation prior to commencement of construction. Mitigation measures required to minimize impacts include, drainage best management practices (water quality), interim erosion control (water quality and ESHA), limiting lighting (ESHA and visual), restricting structure color (visual resources), trail easement and trail construction (public access), and requiring future improvements to be considered through a CDP. Finally, the habitat impact mitigation condition is a measure required to compensate for impacts to ESHA. 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.

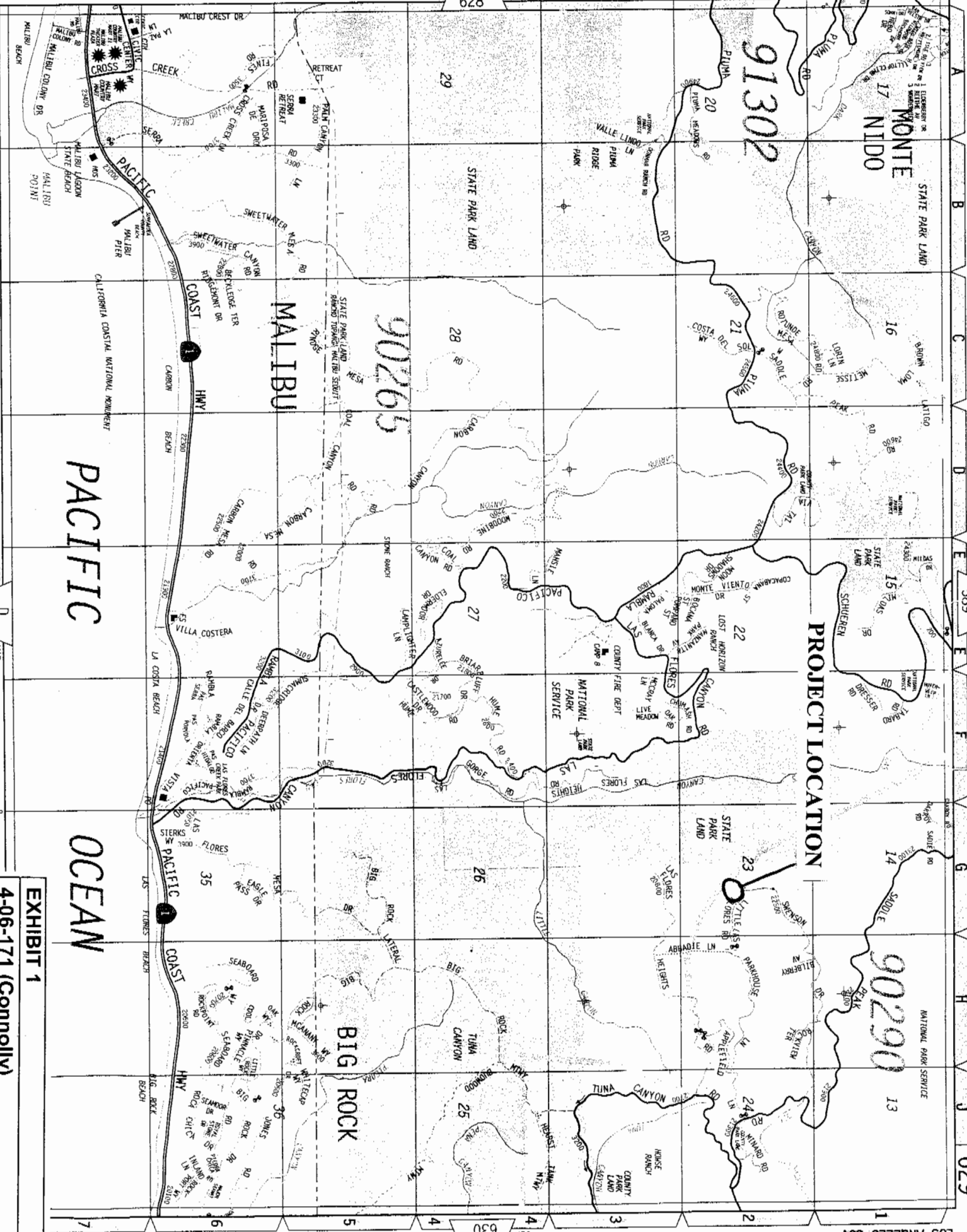
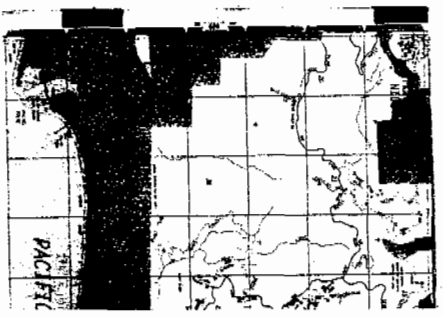
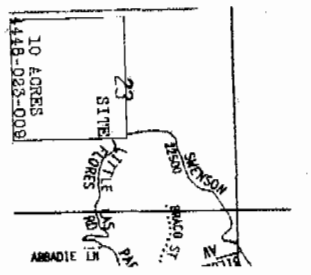
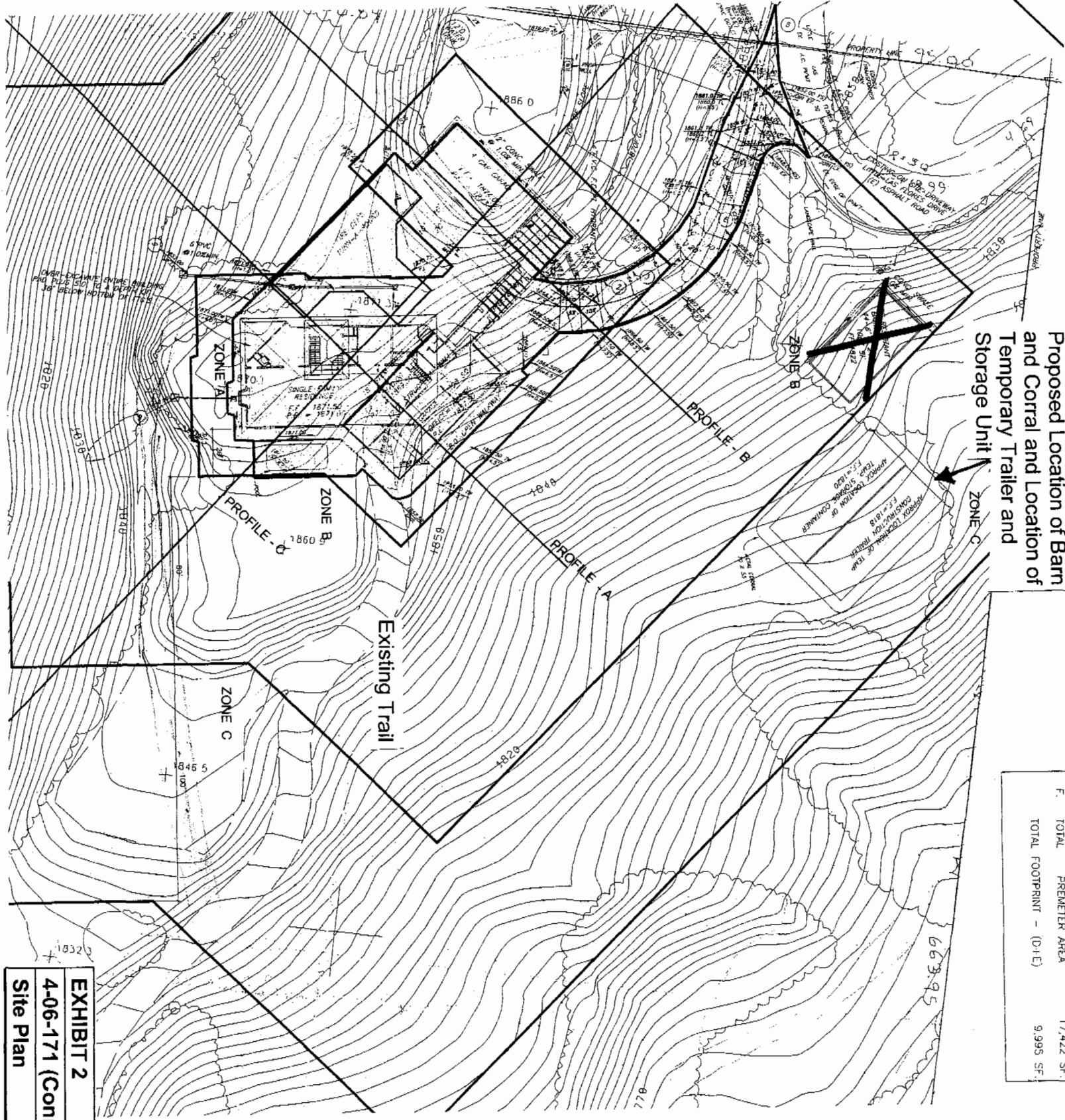


EXHIBIT 1
 4-06-171 (Connolly)
 Vicinity Map

Proposed Location of Barn and Corral and Location of Temporary Trailer and Storage Unit

F. TOTAL PERIMETER AREA	17,422 SF.
TOTAL FOOTPRINT - (D+E)	9,995 SF.



Existing Trail

VICINITY MAP (THOM)
TBG: 629 G-1

GENERAL NOTES
COASTAL COMMISSION PERM
4497227

ZONE A-1 (AGRICULTURAL)
TOTAL LOT AREA - 10 ACRES

ARCHITECTURAL SHI

A-1 SITE PLAN
A-2 FLOOR PLANS / BUILDUP
A-3 GARAGE & BARN PLAN
A-4 BUILDING INTERIOR CR
A-5 SITE PROFILES ABC

EXHIBIT 2
4-06-171 (Connolly)
Site Plan

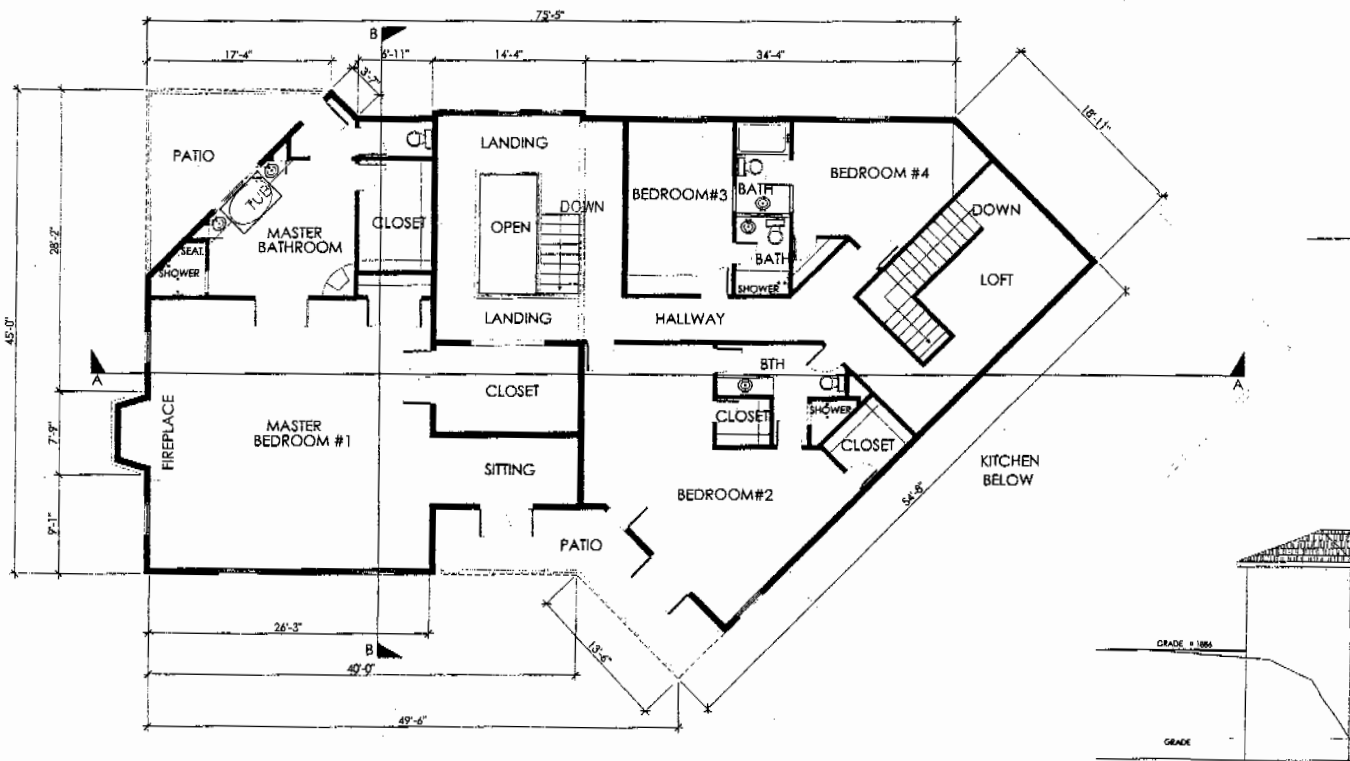
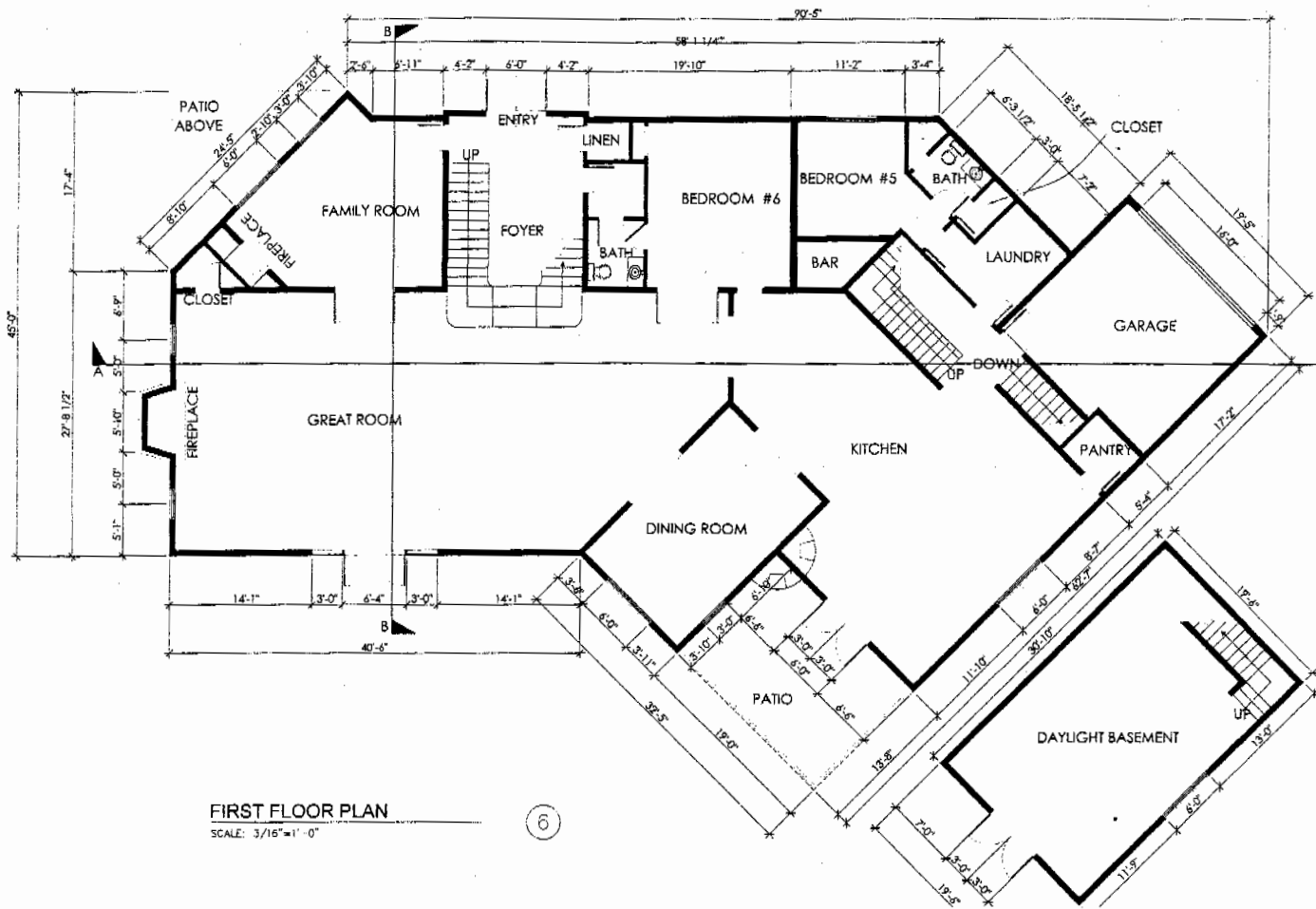
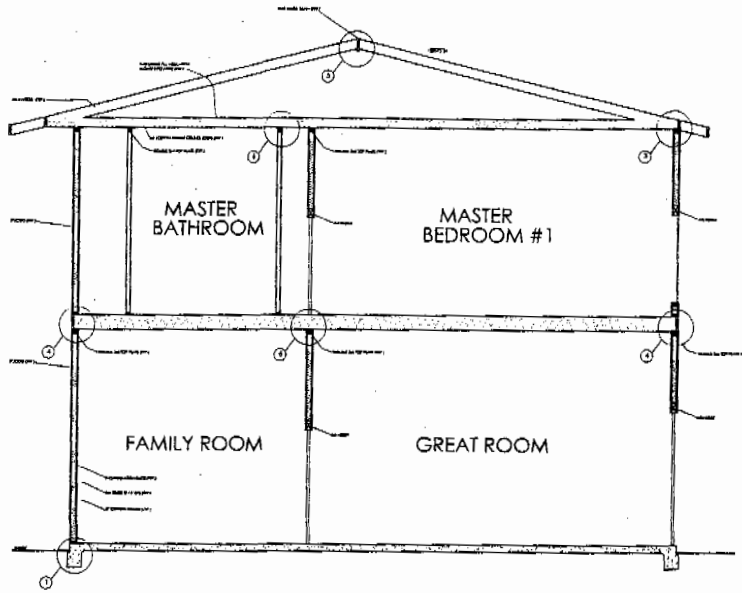
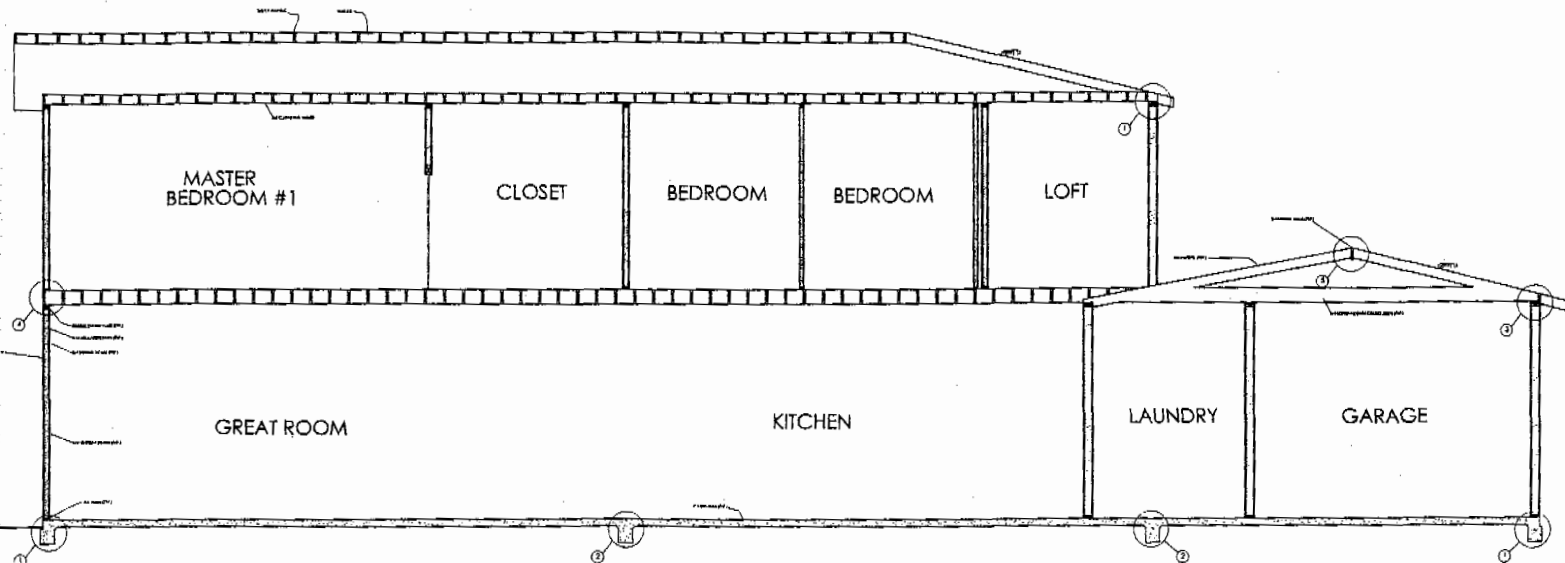


EXHIBIT 3
4-06-171 (Connolly)
Floor Plans

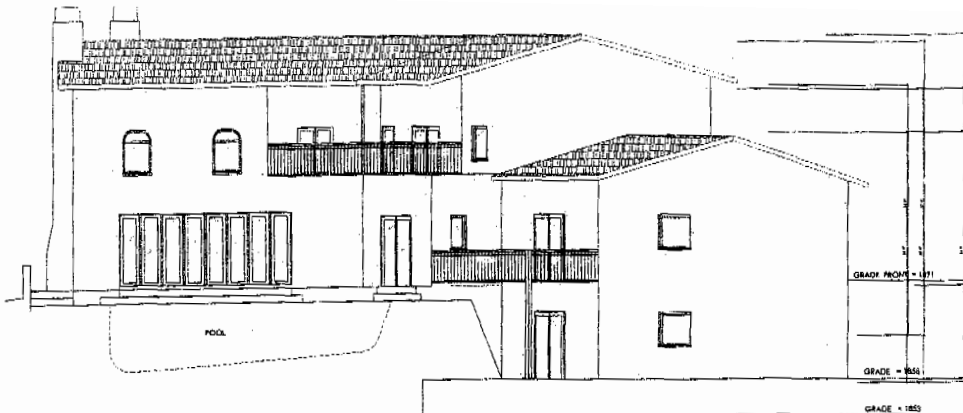


SECTION B-B RESIDENCE ①
SCALE: 1/4"=1'-0"

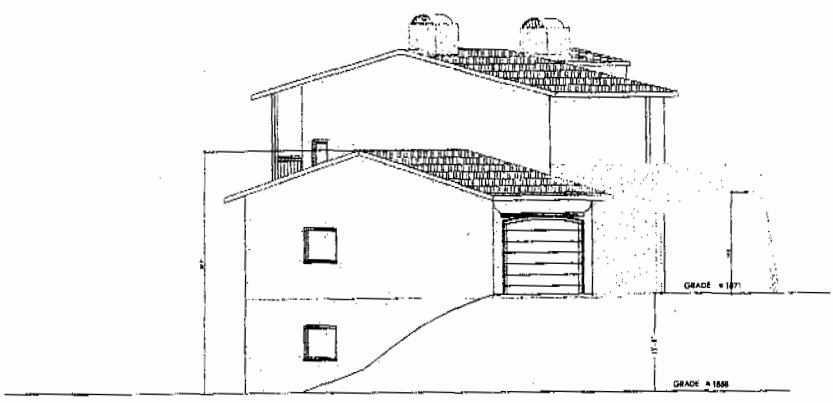


SECTION A-A RESIDENCE ②
SCALE: 1/4"=1'-0"

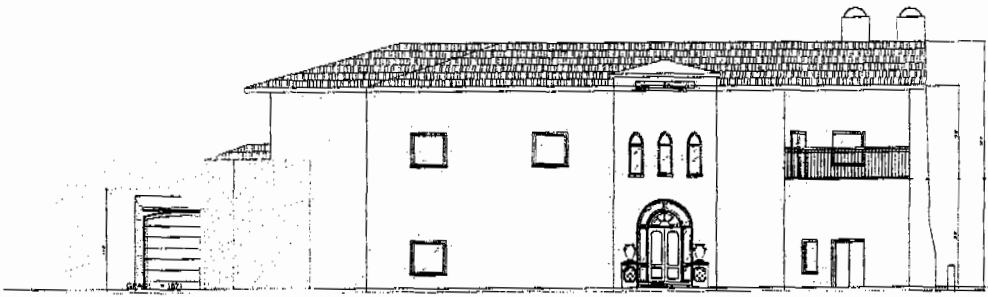
EXHIBIT 4
4-06-171 (Connolly)
Cross Sections



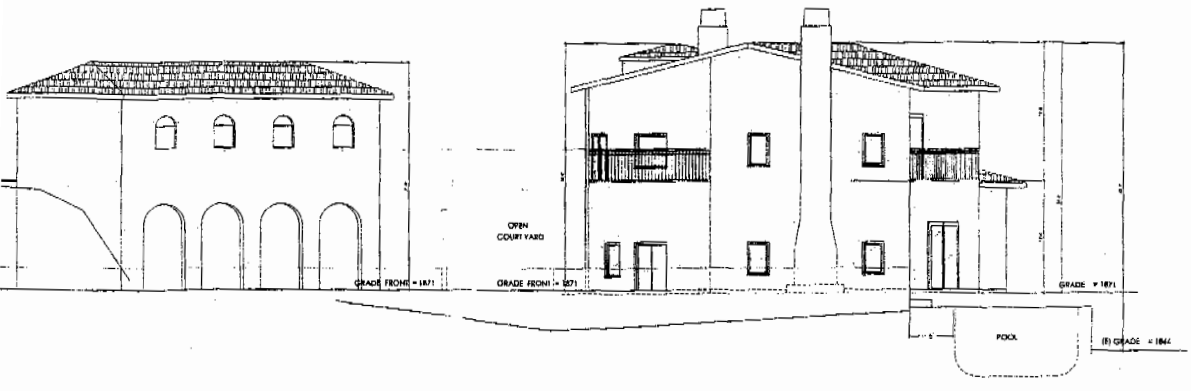
NORTH ELEVATION
SCALE: 1/8"=1'-0"
8



EAST ELEVATION
SCALE: 1/8"=1'-0"
9



SOUTH ELEVATION
SCALE: 1/8"=1'-0"
10



WEST ELEVATION
SCALE: 1/8"=1'-0"
11

OWNER: RICHARD CONNOLLY
22766 SHOOKPEAK RD
TOPANGA, CA
TEL: 310-455-3651
CEL: 310-920-4433

CONNOLLY RESIDENCE
2196 LITTLE LAS FLORES
TOPANGA, CA
C.O.C. 26440 ISSUED JULY 31 1985
DOC. #65-802928

PARCEL INFORMATION
A.P.N. #: 4448-023-009
T.B. PG 620-G2

CONSULTANTS
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BLVD. TOPANGA, CA 90280
(310) 455-2013

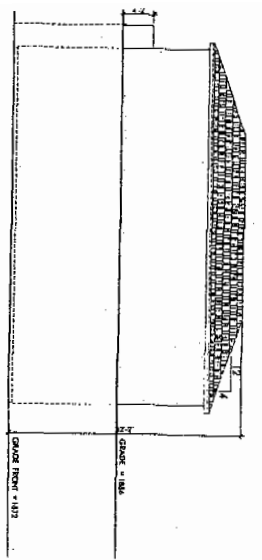
WAYNE ERICKSON
MIDWEST WATER WELL
954 BOWER WAY
THOUSAND OAKS, CA 91360
(310) 457-1432

BRIAN ROBINSON & ASSOCIATES
4932 CASA DR.
TARZANA, CA 91356
(818) 782-8282

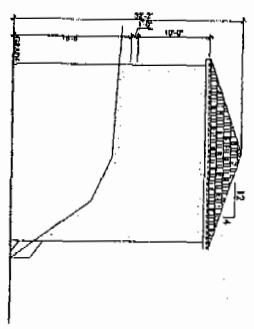
DEPT. OF REGIONAL PLANNING
CASE #: R2004-03715/PP/200402281
APPROVED: 12-21-2004
LOS ANGELES COUNTY FIRE DEPT
APPROVAL IN CONCEPT FOR CONCEPT
APPROVED: 12-14-2004

COUNTY OF L.A. PUBLIC HEALTH
CASE #:
APPROVED: 03-13-2007

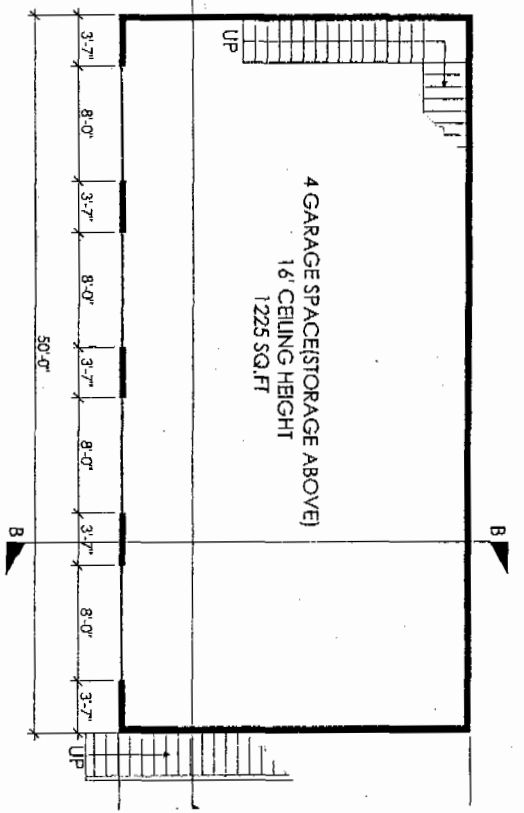
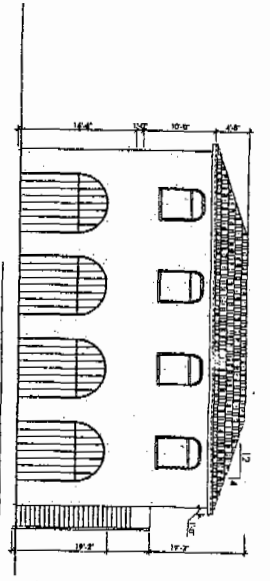
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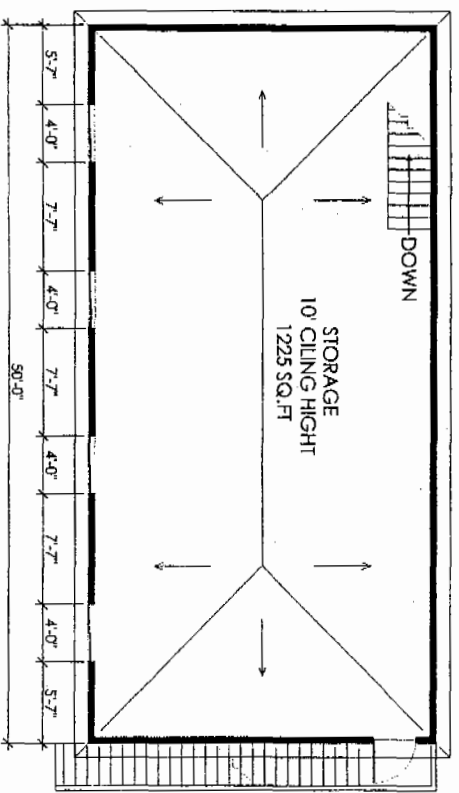
NORTH ELEVATION
SCALE: 1/8"=1'-0"
14



SOUTH ELEVATION
SCALE: 1/8"=1'-0"
8



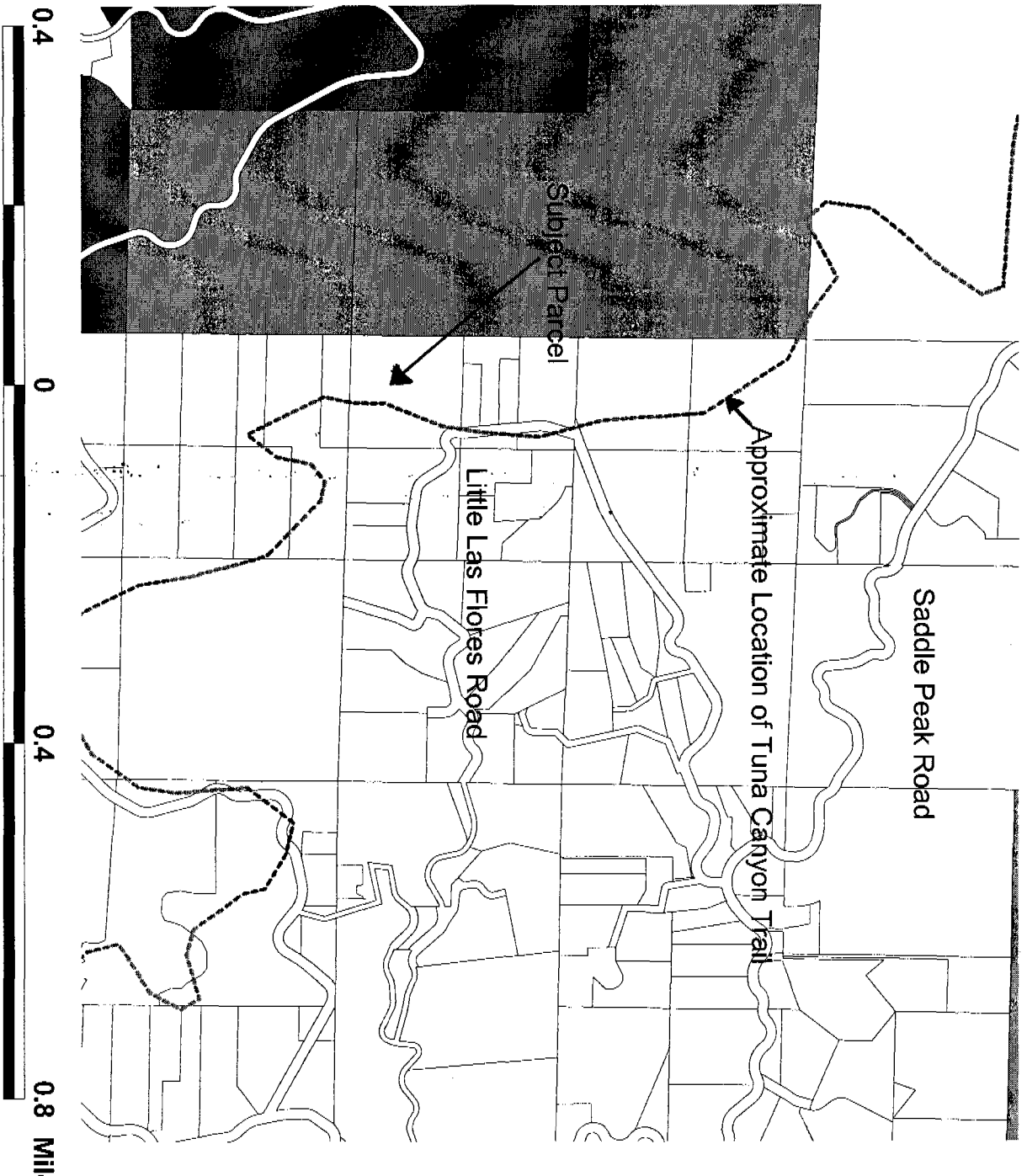
FIRST FLOOR PLAN (GARAGE)
SCALE: 3/16"=1'-0"
17



SECOND FLOOR PLAN (GARAGE)
SCALE: 3/16"=1'-0"
16

EXHIBIT 6
CDP 4-06-171 (Connolly)
Garage Plans

CDP 4-06-171 Connolly



- Trails - LA County LUP
- Coastal Zone Boundary
- Malibu City Boundary
- LA - Ventura County Boundary
- Parcels
- Park Lands
- Mnts Rec & Conserv
- Mtns Restor Trust
- NPS Park Land
- Other Public Land
- State/Other Parkland
- Ocean

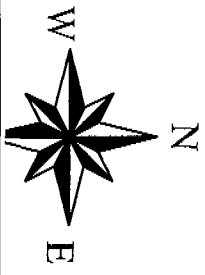
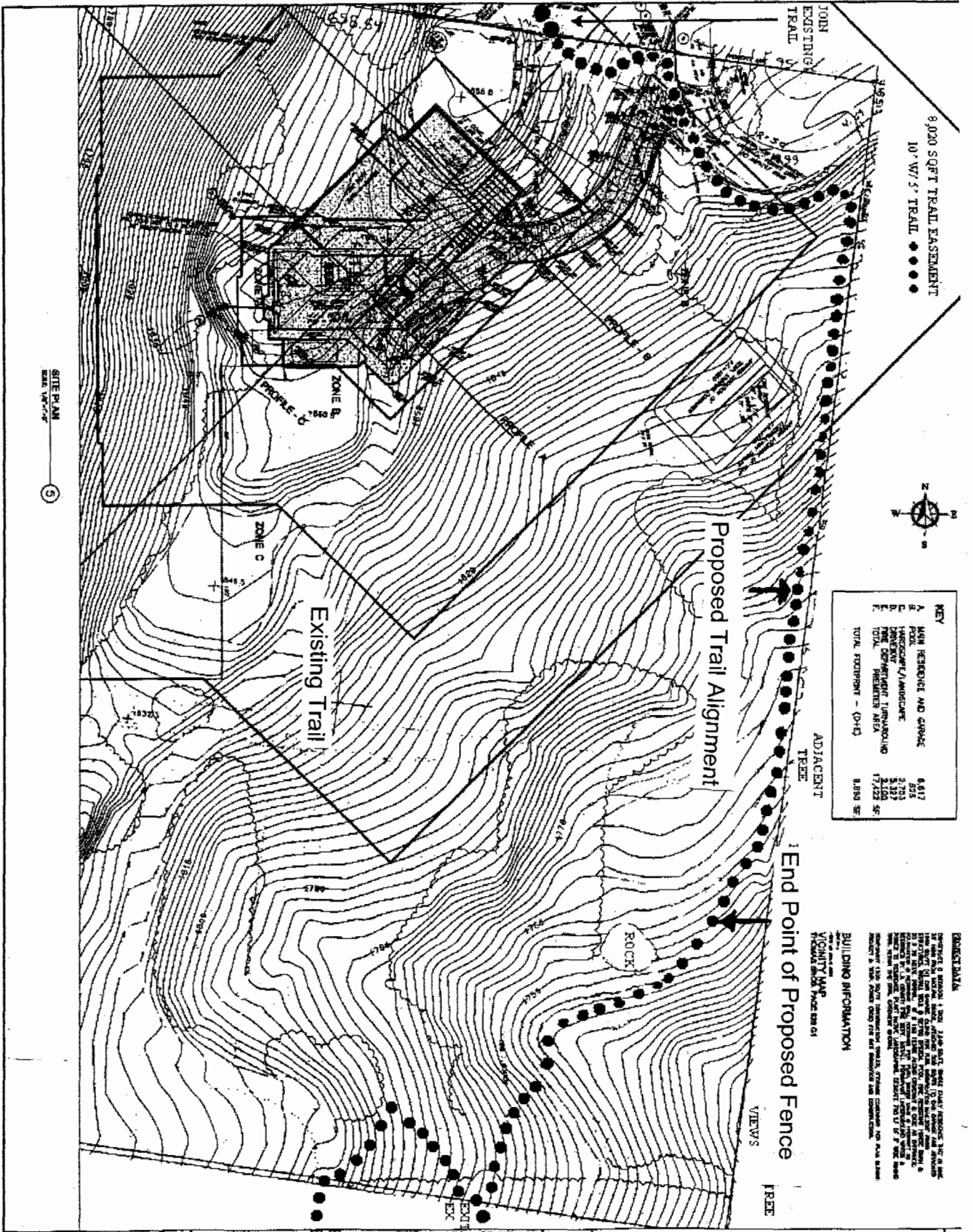


EXHIBIT 7
 CDP 4-06-171 (Connolly)
 Malibu LUP-mapped Tuna Canyon Trail



8,000 SQ FT TRAIL EASEMENT
10' W/ 5' TRAIL



KEY

A.	MAIN RESOURCE AND CARVE	6,617
B.	FROCK	625
C.	PERCENTAGE/AMBIGUOUS	2,773
D.	PERCENTAGE/AMBIGUOUS	2,100
E.	TOTAL DISTURBED AREA	17,252 SF
F.	TOTAL FOOTPRINT - (D+E)	8,893 SF

ADJACENT TREE

End Point of Proposed Fence

VIEWS FREE

EXHIBIT 8

CDP 4-06-171 (Connolly)

Proposed Trail Alignment

BUILDING INFORMATION

PROPERTY MAP
Project 004 01

PROJECT 4, 100% 1/2" = 1' PLAN AND 1/8" = 1' PROFILE. THIS PLAN AND PROFILE SHOW THE PROPOSED TRAIL ALIGNMENT AND THE EXISTING TRAIL ALIGNMENT. THE TRAIL ALIGNMENT IS SHOWN WITH A DOTTED LINE. THE EXISTING TRAIL ALIGNMENT IS SHOWN WITH A SOLID LINE. THE TRAIL ALIGNMENT IS SHOWN WITH A DOTTED LINE. THE EXISTING TRAIL ALIGNMENT IS SHOWN WITH A SOLID LINE. THE TRAIL ALIGNMENT IS SHOWN WITH A DOTTED LINE. THE EXISTING TRAIL ALIGNMENT IS SHOWN WITH A SOLID LINE. THE TRAIL ALIGNMENT IS SHOWN WITH A DOTTED LINE. THE EXISTING TRAIL ALIGNMENT IS SHOWN WITH A SOLID LINE.

SITE PLAN
DATE: 04-27-07

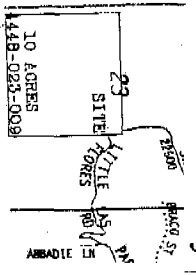
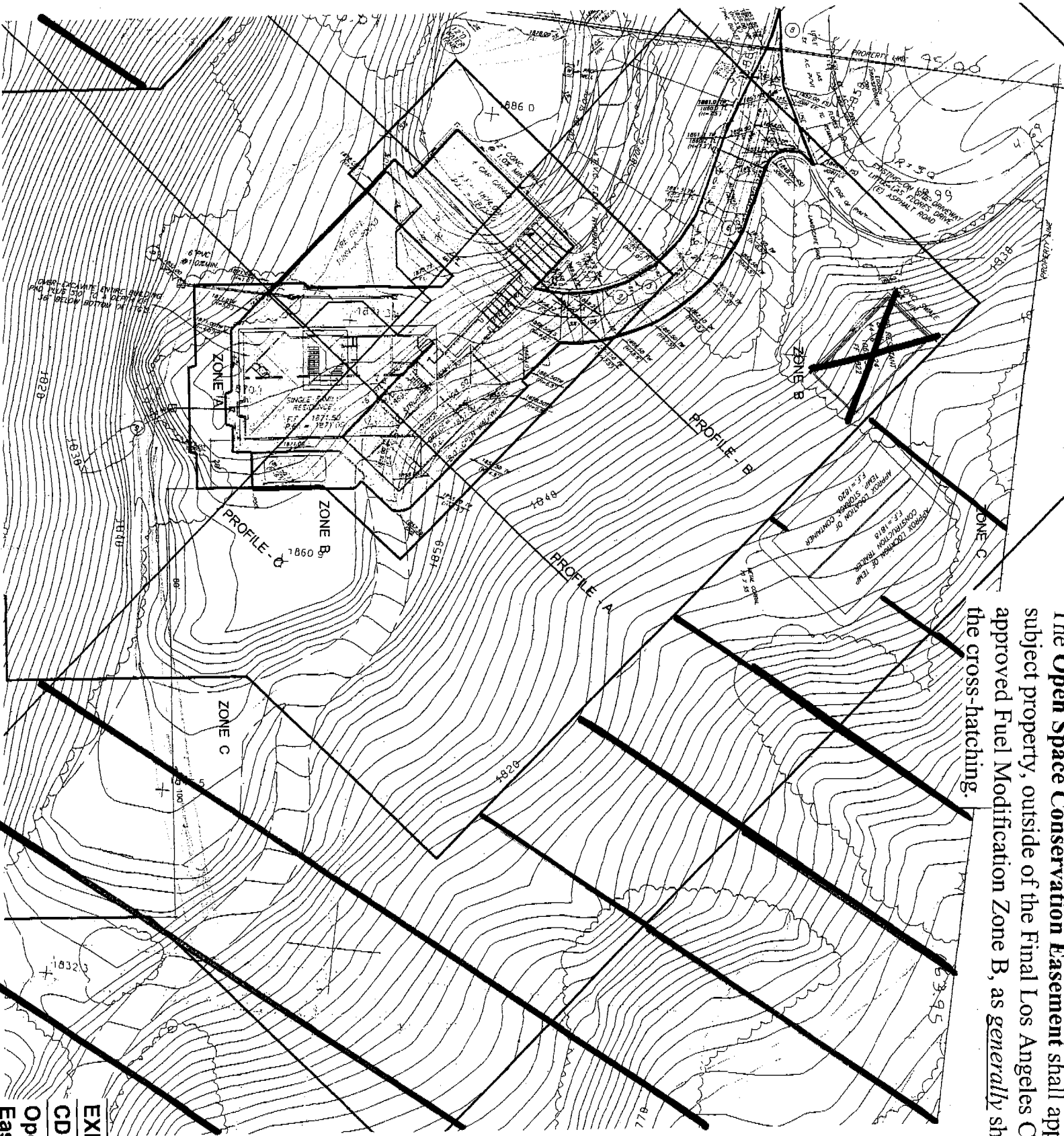
EXHIBIT 8

CDP 4-06-171 (Connolly)

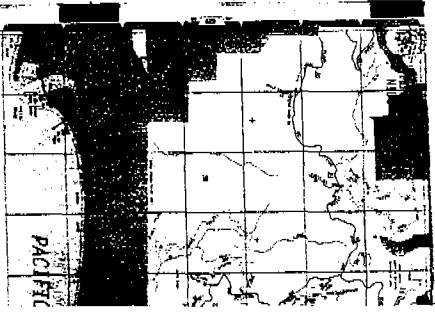
Proposed Trail Alignment

91-43 48205 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

The **Open Space Conservation Easement** shall apply to *all areas* on the subject property, outside of the Final Los Angeles County Fire Department approved Fuel Modification Zone B, as *generally* shown on this exhibit by the cross-hatching.



SITE PLAN



VICINITY MAP (THOM)
TBG: 629 G-1

GENERAL NOTES
COASTAL COMMISSION PERM
4-97-227
ZONE A1-1 (AGRICULTURAL)
TOTAL LOT AREA - 10 ACRES

ARCHITECTURAL SHI
A-1 SITE PLAN
A-2 FLOOR PLANS / BUILDING
A-3 GARAGE & BRN PLAN
A-4 BUILDING INTERIOR CR
A-5 SITE PROFILES A,B,C

EXHIBIT 9
CDP 4-06-171 (Connolly)
Open Space Conservation
Easement Area