

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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Filed: 5/19/11  
180<sup>th</sup> Day: 11/15/11  
270<sup>th</sup> Day: 2/13/12  
Staff: A. Tysor  
Staff Report: 11/17/11  
Hearing Date: 12/8/11

## **STAFF REPORT: PERMIT AMENDMENT**

**APPLICATION NO.:** 4-05-154-A1

**APPLICANT:** W.F.Trust

**AGENT:** Pete Weeger

**PROJECT LOCATION:** 33383 Mulholland Highway, Malibu, Los Angeles County

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Construct a one-story, 27.5 ft. high, 3,400 sq. ft. single family residence, a 1,250 sq. ft., 23 ft. high detached accessory structure with a 500 sq. ft., 1<sup>st</sup> story garage and an attached two story 750 sq. ft. guest house with a 350 sq. ft. deck, driveway, septic system, retaining walls, temporary construction trailer, and 896 cu. yds. of new grading (448 cu. yds. of cut and 448 cu. yds. of fill). In addition, the project includes the request for after-the-fact approval of approximately 100 cu. yds. of as-built grading (50 cu. yds. of cut and 50 cu. yds. of fill).

**DESCRIPTION OF AMENDMENT:** Request by WF Trust to increase square footage of previously approved residence by 1,189 sq. ft. in order to construct a 4,589 sq. ft. residence; reduce height by 2.5 ft. to construct a 25 ft. tall residence; increase size of detached accessory structure by 100 sq. ft. for a total 1,350 sq. ft. detached accessory structure (600 sq. ft. non-habitable garage and 750 sq. ft. guest house); add 80 linear ft. to previously approved 200 linear ft, 8 ft. high retaining wall; add new pool and spa; add new ground-mounted solar panels; temporary 8 ft. x 30 ft. construction trailer; 5,000 gallon water tank; propane tank; 10,876 sq. ft. corral; and revise grading plan to reduce previously approved grading amount by 24 cu. yds. to 872 cu. yds. grading (436 cu. yds. cut and 436 cu. yds. fill) in order to reconfigure the building pad and fire department turnaround. In addition, the amendment includes the request for after-the-fact authorization of 5,778 cu yds. grading (3,064 cu. yds cut and 2,714 cu. yds. fill).

**MOTION & RESOLUTION:** Pages 5 and 6

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends **approval** of the proposed development with Thirteen Special Conditions regarding: 1) Conformance with Geotechnical Engineer's Recommendations, 2) Assumption of Risk, Waiver of Liability and Indemnity, 3) Drainage and Polluted Runoff Control, 4) Interim Erosion Control Plans and Construction Responsibilities, 5) Landscaping and Fuel Modification

Plans, 6) Structural Appearance, 7) Lighting Restriction, 8) Future Development Restriction, 9) Deed Restriction, 10) Removal of Natural Vegetation, 11) Condition Compliance, 12) Pool and Spa Drainage and Maintenance, and 13) Removal of Temporary Construction Trailer.

The project site is a 1.95-acre property (APN 4472-008-041) located at 33383 Mulholland Highway in the Santa Monica Mountains in unincorporated Los Angeles County. The subject lot does not constitute an environmentally sensitive habitat area (ESHA) pursuant to Section 30107.5 of the Coastal Act and is surrounded by residential development with overlapping fuel modification zones. The applicant proposes an amendment to re-design and increase the square footage and reduce the height of a previously approved residence, to increase the size of the accessory structure, to revise grading amounts, and to revise other minor project design components, as described below.

In 2008, the Commission approved CDP No. 4-05-154 authorizing the previous property owner, Ralph Page, to construct a one-story, 27.5 ft. high, 3,400 sq. ft. single family residence, a 1,250 sq. ft., 23 ft. high detached accessory structure with a 500 sq. ft., 1<sup>st</sup> story garage and an attached two-story 750 sq. ft. guest house with a 350 sq. ft. deck, driveway, septic system, retaining walls, temporary construction trailer, and 896 cu. yds. of new grading (448 cu. yds. of cut and 448 cu. yds. of fill). In addition, the approval included after-the-fact authorization of approximately 100 cu. yds. of as-built grading (50 cu. yds. of cut and 50 cu. yds. of fill). CDP No. 4-05-154 has been issued and all grading on the site and construction of the retaining wall has been completed.

In this amendment application, the applicant requests to increase the size of the previously approved residence by 1,189 sq. ft. in order to construct a 4,589 sq. ft. residence; reduce the approved height by 2.5 ft. to construct a 25 ft. tall residence; increase size of detached accessory structure by 100 sq. ft. for a total 1,350 sq. ft. detached accessory structure (600 sq. ft. non-habitable garage and 750 sq. ft. guest house); add 80 linear ft. to the previously approved 200 linear ft., 8 ft. high retaining wall; add a new pool and spa, relocate the septic system, and add new ground-mounted solar panels; temporary 8 ft. x 30 ft. construction trailer; 5,000 gallon water tank, and approx. 3 ft. x 6 ft. propane tank.

Additionally, the applicant requests after-the-fact authorization for three different as-built components of development. First, the applicant requests after-the-fact approval for minor changes to the grading plan that was previously approved pursuant to CDP 4-05-154 to modify the cut and fill slopes associated with the eastern portion of the building pad area and for reconfiguration of the fire department turnaround. The as-built changes resulted in a reduction of 24 cu. yds. grading than previously approved pursuant to CDP 4-05-154, for a total of 872 cu. yds. grading (436 cu. yds. cut and 436 cu. yds. fill). Second, the applicant requests after the fact approval of an existing 10,876 sq. ft. corral. The corral is located within overlapping fuel modifications zones and will not result in any adverse impacts to sensitive habitat. The applicant has indicated that the as-built fenced area is not currently used as a corral for animal or horse-keeping although the applicant is seeking authorization of the as-built corral area to allow for potential future horse-keeping purposes.

Finally, the applicant also requests after-the-fact approval for past historic grading that occurred on the site, including an approximate total of 5,778 cu. yds. grading (3,064 cu. yds. cut and 2,714 cu. yds. fill) with 350 cubic yards of shrinkage due to compaction. The applicant purchased the subject property in 2009 from the previous property owner after the Commission approved the underlying coastal permit in 2008. The applicant has submitted a new, more accurate topographic survey of the site which indicates that historic grading had occurred on site which was not fully evaluated in the Commission's previous analysis of the underlying permit, including the grading for the building pad. In addition, the applicant's engineering consultant has estimated, based on this new information, that the quantities of grading necessary to implement the approved grading plan pursuant to CDP 4-05-154 were inaccurate based on the new updated survey of the site.

Based on staff's review of historical aerial photographs, the graded pad area and driveway on the site appears to have occurred prior to the 1977 effective date of the Coastal Act. Although the historic grading the applicant is requesting after-the-fact approval for appears to have been primarily completed prior to the effective date of the Coastal Act, in this case, the applicant is still requesting authorization of prior historic grading on site. The prior historic grading on the site includes the creation of the flat pad where the residence will be located. The applicant is unable to confirm whether this historic grading on site, including for the pad area itself, had received the necessary County approvals at the time the work occurred, and would thus be considered legally vested development. Therefore, in order to clarify that all grading that has occurred on-site is authorized pursuant to all necessary permit requirements, the applicant is requesting after-the-fact approval of the historic grading conducted on the northwest portion of the site. (Exhibit 8)

In this case, although a substantial amount of historic grading occurred on site to create the as-built flat pad area on site, given the location of the site within an existing developed residential area, this grading did not result in any loss of environmentally sensitive habitat area or significant impacts to visual resources. Thus, staff is recommending approval of this amendment with thirteen special conditions listed on pages 7-15 of the staff report.

The standard of review for the proposed project is the Chapter Three 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 is consistent with all applicable Chapter Three policies of the Coastal Act.

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## EXHIBITS

- Exhibit 1. Vicinity Map
  - Exhibit 2. Site Plan
  - Exhibit 3. House Footprint Overlay
  - Exhibit 4. Floor Plan
  - Exhibit 5. Accessory Structure Floor Plan
  - Exhibit 6. Previous and New Elevation Overlay
  - Exhibit 7. Proposed Elevations
  - Exhibit 8. Historic compared with existing topography
  - Exhibit 9. Grading Plans
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**LOCAL APPROVALS RECEIVED:** County of Los Angeles Department of Regional Planning, Approval in Concept, dated 4/18/11; County of Los Angeles Environmental Health Services, Sewage Disposal System Conceptual Approval, dated 7/13/06; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, dated 4/14/11; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, dated 6/8/06.

**SUBSTANTIVE FILE DOCUMENTS:** Grading Inspection Card prepared by County of Los Angeles Department of Public Works, dated 10/19/10; "Updated Engineering Geologic and Soils Engineering Report for 33383 Mulholland Highway, Malibu California" prepared by Donald Kowalewsky, Environmental & Engineering Geology, dated April 7, 2006; "Report of Soil Engineering Investigation Proposed Single Family Residence," prepared by SWN Soiltech Consultants, Inc. dated June 20, 1989; "Biological Resource Evaluation; 33383 Mulholland Highway, Malibu, California" prepared by Holly Hill, Biologist, dated August 30, 2005; Coastal Permit No. 4-05-154 (Page).

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**PROCEDURAL NOTE:** The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,***
- 2) Objection is made to the Executive Director's determination of immateriality, or***
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.***

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Code of Regulations Section 13166. In this case, the Executive Director has determined that the proposed amendment is a material change to the project and has the potential to affect conditions required for the purpose of protecting a coastal resource.

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## **I. STAFF RECOMMENDATION**

The staff recommends that the Commission adopt the following resolution:

**MOTION:**        ***I move that the Commission approve the proposed amendment to Coastal Development Permit No 4-05-154 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 amendment 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 amendment 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**

<p><b><i>NOTE: All standard conditions of Coastal Development Permit 4-05-154 are replaced and superseded by the following standard conditions.</i></b></p>
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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

<p><b>NOTE:</b> <i>All special conditions of Coastal Development Permit 4-05-154 are replaced and superseded by the following special conditions.</i></p>
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#### 1. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this permit, as amended, the applicant agrees to comply with the recommendations contained in all of the geology, geotechnical, and/or soils reports referenced as Substantive File Documents. These recommendations, including recommendations concerning foundations, sewage disposal, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

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

#### 2. Assumption of Risk, Waiver of Liability and Indemnity

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

#### 3. Drainage and Polluted Runoff Control Plan

A. ***Prior to issuance of the Coastal Development Amendment***, the applicant shall submit for the review and approval of the Executive Director, two (2) copies of a final Drainage and Runoff Control Plan, including supporting calculations. The plan shall be prepared by a licensed civil engineer or qualified licensed professional and shall incorporate Best Management Practices (BMPs) including site design and source control measures designed to control pollutants and minimize the volume and velocity of stormwater and dry weather runoff leaving the developed site. In addition to the specifications above, the consulting civil engineer or qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

- (1) BMPs should consist of site design elements and/or landscape based features or systems that serve to maintain site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas on site, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns.
- (2) Landscaping materials shall consist primarily of native or other low-maintenance plant selections which have low water and chemical treatment demands consistent with **Special Condition 5, Landscaping and Fuel Modification Plans**. An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design should be utilized for any landscaping requiring water application.
- (3) All slopes should be stabilized in accordance with provisions contained in the Landscaping and/or Erosion and Sediment Control Conditions for this Coastal Development Permit.
- (4) Runoff shall be conveyed off site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of outflow drains.
- (5) For projects located on a hillside, slope, or which may otherwise be prone to instability, final drainage plans should be approved by the project consulting geotechnical engineer.
- (6) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
- (7) 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.

B. The final Drainage and Runoff Control Plan shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans required by the consulting civil engineer, or qualified licensed professional, or engineering geologist shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

#### **4. Interim Erosion Control Plans and Construction Responsibilities**

A. ***Prior to the issuance of the Coastal Development Amendment***, the applicant shall submit to the Executive Director an Interim Erosion Control and Construction Best Management Practices plan, prepared by licensed civil engineer or qualified water quality professional. The consulting civil engineer/water quality professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan is in conformance with the following requirements:

##### **1. Erosion Control Plan**

- (a) 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 plan and on-site with fencing or survey flags.
- (b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
- (c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.
- (d) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps); temporary drains and swales; sand bag barriers; silt fencing; stabilize any stockpiled fill with geofabric covers or other appropriate cover; install geotextiles or mats on all cut or fill slopes; and close and stabilize open trenches as soon as possible.
- (e) The 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.

- (f) 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.

## 2. Construction Best Management Practices

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials.

Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.

- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. The final Interim Erosion Control and Construction Best Management Practices plan, shall be in conformance with the site/ development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans required by the consulting civil engineer/water quality professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

## **5. Updated Landscaping and Fuel Modification Plans**

***Prior to issuance of the Coastal Development Permit Amendment***, the applicant shall submit two sets of landscaping and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist. The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscape and Fuel Modification plans are in conformance with the following requirements:

### **A) Landscaping Plan**

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time 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 within the property.

- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

## **B) Fuel Modification Plans**

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

## **C) Conformance with Coastal Commission Approved Site/Development Plans**

The Permittee shall undertake development in accordance with the final Landscape and Fuel Modification Plans. The final Landscape and Fuel Modification Plans shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

## **D) Monitoring**

Three years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit to the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the requirements specified in this condition, the applicant, or successors in interest, shall submit, within 30 days of the date of the monitoring report, a revised or supplemental landscape plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental landscaping measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This remedial landscaping plan shall be implemented within 30 days of the date of the final supplemental landscaping plan and remedial measures shall be repeated as necessary to meet the requirements of this condition.

## **6. Structural Appearance**

***Prior to issuance of the Coastal Development Permit Amendment***, 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 this Coastal Development Permit. The palette samples shall be presented in a format not to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roofs, trims, exterior surfaces, driveways, retaining walls, and other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by this Coastal Development Permit 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 and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60-watt incandescent bulb.
- (3) The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60-watt incandescent bulb.

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

#### **8. Future Development Restriction**

This permit is only for the development described in this Coastal Development Permit, as amended. 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 the development governed by this Coastal Development Permit. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to, guest house/garage (including any new interior stairways or door openings connecting the guest house portion of the structure with the garage or storage portions of the structure) any grading, clearing or other disturbance of vegetation other than as provided for in the approved landscape plan prepared pursuant to **Special Condition 5, Updated Landscaping and Fuel Modification Plans**, shall require an amendment to this Coastal Development Permit from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

#### **9. Deed Restriction**

***Prior to issuance of this Coastal Development Permit Amendment (4-05-154-A1), the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, 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 amendment, 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 governed by this permit amendment. 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 amendment, 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. This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition No. 8 of Coastal Development Permit No. 4-05-154, approved on September 10, 2008, which deed restriction is recorded as Instrument No. 20090765333 in the official records of Los Angeles County.***

#### **10. Removal of Natural Vegetation**

Removal of natural vegetation for the purpose of fuel modification within the 50-foot zone surrounding the proposed structures shall not commence until the local government has issued a building or grading permit for the development approved

pursuant to this permit, as amended. Vegetation thinning within the 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

#### **11. Condition Compliance**

Within 180 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the expiration of this coastal permit approval and the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

#### **12. Pool and Spa Drainage and Maintenance**

By acceptance of this permit, as amended, 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.

#### **13. Removal of Temporary Construction Trailer**

The applicant shall remove the temporary construction trailer from the site within sixty (60) days of the applicant's receipt of the Certificate of Occupancy for the single family residence or guest house from the County of Los Angeles. The Executive Director may grant additional time for good cause.

### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

#### **A. AMENDMENT DESCRIPTION AND BACKGROUND**

The applicant is requesting an amendment to Coastal Development Permit (CDP) 4-05-154 to re-design and increase the square footage and reduce the height of a previously approved residence, to increase the size of the accessory structure, to revise grading amounts, and to revise other minor project design components, as described below. In 2008, the Commission approved CDP No. 4-05-154 for construction of a one-story, 27.5 ft. high, 3,400 sq. ft. single family residence, a 1,250 sq. ft., 23 ft. high detached accessory structure with a 500 sq. ft., 1<sup>st</sup> story garage and an attached two-story 750 sq. ft. guest house with a 350 sq. ft. deck, driveway, septic system, retaining walls, temporary construction trailer, and 896 cu. yds. of new grading (448 cu. yds. of cut and 448 cu. yds. of fill). In addition, the approval included after-the-fact authorization of approximately 100 cu. yds. of as-built grading (50 cu. yds. of cut and 50 cu. yds. of fill). CDP No. 4-05-154 has been issued and vested and all grading on the site and

construction of the retaining wall has been completed. The applicant now requests to increase the size of the previously approved residence by 1,189 sq. ft. in order to construct a 4,589 sq. ft. residence; reduce the approved height by 2.5 ft. to construct a 25 ft. tall residence; increase size of detached accessory structure by 100 sq. ft. for a total 1,350 sq. ft. detached accessory structure (600 sq. ft. non-habitable garage and 750 sq. ft. guest house); add 80 linear ft. to the previously approved 200 linear ft., 8 ft. high retaining wall; add a new pool and spa, relocate the septic system, and add new ground-mounted solar panels; temporary 8 ft. x 30 ft. construction trailer; 5,000 gallon water tank, and approx. 3 ft. x 6 ft. propane tank. (**Exhibits 2-9**)

Additionally, as part of this amendment application, the applicant requests after-the-fact authorization for three different components of development. First, the applicant requests after-the-fact approval for minor changes to the grading plan that was previously approved pursuant to CDP 4-05-154 to modify the cut and fill slopes associated with the eastern portion of the building pad area and for reconfiguration of the fire department turnaround. The as-built changes resulted in a reduction of 24 cu. yds. grading than previously approved pursuant to CDP 4-05-154, for a total of 872 cu. yds. grading (436 cu. yds. cut and 436 cu. yds. fill). Second, the applicant requests after the fact approval of an existing 10,876 sq. ft. corral. The corral is located within overlapping fuel modifications zones, will not result in any adverse impacts to sensitive habitat. The applicant has indicated that the as-built fenced area is not currently used as a corral for animal or horse-keeping although they are seeking authorization of the as-built corral area to allow for potential future horse-keeping proposes.

Finally, the applicant also requests after-the-fact approval for past historic grading that occurred on the site, including an approximate total of 5,778 cu. yds. grading (3,064 cu. yds. cut and 2,714 cu. yds. fill) with 350 cubic yards of shrinkage due to compaction. The applicant purchased the subject property in 2009 from the previous property owner after the Commission approved the underlying coastal permit in 2008. The applicant has submitted a new, more accurate topographic survey of the site which indicates that historic grading had occurred on site which was not fully evaluated in the Commission's previous analysis of the underlying permit, including the grading for the building pad. In addition, the applicant's engineering consultant has estimated that, based on this new information, that the quantities of grading necessary to implement the approved grading plan pursuant to CDP 4-05-154 were inaccurate based on the new updated survey of the site. (**Exhibit 8**)

Based on staff's review of historical aerial photographs, the graded pad area and driveway on the site appears to have occurred prior to the 1977 effective date of the Coastal Act. Although the historic grading the applicant is requesting after-the-fact approval for appears to have been primarily completed prior to the effective date of the Coastal Act, in this case, the applicant is still requesting authorization of prior historic grading on site. The prior historic grading on the site includes the creation of the flat pad where the residence will be located. The applicant is unable to confirm whether this historic grading on site, including for the pad area itself, had received the necessary County approvals at the time the work occurred, and would thus be considered legally vested development. Therefore, in order to clarify that all grading that has occurred on



the site is authorized pursuant to all necessary permit requirements, the applicant is requesting after-the-fact approval of the historic grading conducted on the northwest portion of the site. (**Exhibit 8**)

The project site is a 1.95-acre property (APN 4472-008-041) located at 33383 Mulholland Highway. in the Santa Monica Mountains and unincorporated Los Angeles County. The subject lot is accessed at the southeast corner of the lot at the 1,600 foot elevation above sea level. An existing roadway leads from this southeast corner to the northeast portion of the lot where the existing building pad is located. (**Exhibit 1**)

The subject lot is located within the Arroyo Sequit watershed. The site drains to the south and west into a drainage area along Mulholland Highway and then to a blue line tributary leading to Arroyo Sequit Creek. The site is located approximately 2,000 feet east of this tributary. Existing residential development is located to the northeast, west and northwest of the subject lot and the site has been cleared on an annual basis as a result of overlapping fuel modification required for these adjacent residences. Therefore fuel modification/brush clearance required for the proposed project will not result in impacts to environmentally sensitive habitat areas. Further, although there is some scattered coastal sage scrub on site, it is isolated and does not extend onto the adjacent lots due to the existing, surrounding residential development and is, therefore, not part of a larger, contiguous habitat area. As a result of the vegetation clearance that has previously occurred on site and the surrounding vicinity as a result of fuel modification for existing residential development on adjoining lots, the subject lot does not constitute an environmentally sensitive habitat area (ESHA) pursuant to Section 30107.5 of the Coastal Act.

The standard of review for the amendment 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 amendment to CDP 4-05-154 will be consistent with the applicable policies of the Coastal Act and the LUP.

## **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 changes proposed to the previously approved project will ensure the stability and geologic safety of the proposed project and that the project site, is suitable for the proposed development based on the evaluation of the site's geology in relation to the proposed

development. The reports contain recommendations to be incorporated into the amended 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, although all grading proposed by this amendment has already been completed, revegetation of the disturbed areas on site has not yet occurred. Therefore, in order 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 updated 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 landscaping and drainage plans were previously submitted pursuant to the conditions of approval for the underlying permit, the changes proposed by this amendment include modification of the development footprint, topography, and areas of the site to be landscaped; therefore, the Commission requires the applicant to submit updated plans to reflect these changes.

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, as amended, is located in an area subject to an extraordinary potential for damage or destruction from natural hazards, including wildfire and erosion, 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.

Although the applicant has completed the grading on the site associated with the subject amendment application, the following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30253 of the Coastal Act and as a response to the risks associated with the project:

**Special Condition 1:** Plans Conforming to Geotechnical Engineer's Recommendations

**Special Condition 2:** Assumption of Risk, Waiver of Liability and Indemnity

**Special Condition 3:** Drainage and Polluted Runoff Control Plans

**Special Condition 4:** Interim Erosion Control Plan & Construction Responsibilities

**Special Condition 5:** Updated Landscaping and Fuel Modification Plans

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

## C. WATER QUALITY

Section **30231** of the Coastal Act states that:

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

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality and aquatic resources 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, reductions in groundwater recharge, and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutants, as well as effluent from septic systems.

The proposed development, as modified by this amendment, 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. Additionally, both leakage and periodic maintenance drainage of the proposed swimming pool, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing the instability of the site and adjacent properties and potential impacts from pool chemicals (i.e. pool water algaecides, chemical pH balancing, and other water conditioning chemicals).

Therefore, in order to minimize the potential for such adverse impacts to water quality and aquatic resources resulting from 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 and dry weather flows leaving the developed site, including: 1) site design, source control and/or treatment control measures; 2) implementing erosion sediment control measures during construction and post construction; and 3) revegetating all graded and disturbed areas with primarily native landscaping. Although landscaping, erosion control, and drainage plans were previously submitted pursuant to the conditions of approval for the underlying permit, the changes proposed by this amendment include modification of the development footprint, topography, and areas of the site to be landscaped; therefore,

the Commission requires the applicant to submit updated plans to reflect these changes.

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.

Further, the applicant requests after-the-fact approval of an existing 10,876 sq. ft. corral. Although no horse-keeping currently takes place on the site, the applicant has proposed to retain the corral fencing for any future horse-keeping on the site. As explained below, **Special Condition 3** requires the applicant to submit a horse-manure management program for any future animal or horse-keeping on the property.

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

**Special Condition 3:** Drainage and Polluted Runoff Control Plans

**Special Condition 4:** Interim Erosion Control Plans & Construction Responsibilities

**Special Condition 5:** Updated Landscaping and Fuel Modification Plans

**Special Condition 10:** Removal of Natural Vegetation

**Special Condition 12:** Pool Drainage and Maintenance

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

## D. CUMULATIVE IMPACTS

Section **30250(a)** of the Coastal Act states:

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

Section **30252** of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access

roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

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

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

The Commission has consistently emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area, particularly those of subdivisions, multi-family residential development, and second residential units, all of which result in increased density. It is particularly critical to evaluate the potential cumulative impacts of increased density given the existence of thousands of undeveloped and poorly sited parcels in the mountains that were created decades ago in antiquated subdivisions. Construction of a guesthouse unit or second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, guesthouses and second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development.

In past actions, the Commission has limited the development of guesthouse units and second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In its review and action on the Malibu/Santa Monica Mountains Land Use Plan (LUP), the Commission found that placing an upper limit on the size of these units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu/Santa Monica Mountains area and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one, or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence.

A 1,250 sq. ft. detached accessory structure (500 sq. ft. non-habitable garage with a 750 sq. ft. guest unit) was previously approved as part of CDP No. 4-05-154. The proposed amendment includes an increase in the size of the previously approved detached accessory structure by 100 sq. ft. for a total 1,350 sq. ft. detached accessory structure (600 sq. ft. non-habitable garage with a 750 sq. ft. guest house). (**Exhibit 5**) Although the configuration of the detached accessory structure/guest unit is proposed to change, the size of the habitable portion of the structure will remain the same as previously approved. This conforms to the Commission's past actions, allowing a maximum of 750 square feet for a guest unit or second dwelling unit in the Santa Monica Mountains area.

However, future improvements to the proposed unit such as additional square footage could raise issues with regard to individual or cumulative impacts to coastal resources. To ensure that any additions or improvements that could further intensify the use of the unit (including, but not limited to, any new interior stairways or door openings connecting the habitable guest house portion of the structure with the non-habitable garage or storage portions of the structure) will be reviewed by the Commission and to ensure that the unit conforms with the maximum 750 sq. ft. guidance, the Commission requires that any additions or improvements related to the unit, that may otherwise be exempt from coastal permit requirements, shall be reviewed by the Commission for consistency with the resource protection policies of the Coastal Act.

Additionally, the Commission requires the applicant to record a deed restriction that imposes the terms and conditions of this permit, as amended, as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property. As part of this amendment application, **Special Condition 9** requires the applicant to record a new deed restriction to incorporate the new special conditions recommended as part of this amendment application.

The following special conditions are required to assure the project's consistency with Sections 30250 and 30252 of the Coastal Act, as well as the Los Angeles County LUP:

**Special Condition 8:** Future Development Restriction

**Special Condition 9:** Deed Restriction

**Special Condition 13:** Removal of Temporary Construction Trailer

The Commission finds that, as conditioned, the proposed amendment is consistent with Sections 30250 and 30252 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 Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In its approval of the underlying CDP 4-05-154, the Commission found that the proposed residence would be visible from the nearby Mulholland Highway to the south, a public roadway. The site is also visible from the Backbone Trail, which is located approximately 2,500 feet to the northeast and visible from Santa Monica Mountains Recreation Area lands, which are located approximately 300 feet to the south and on the opposite side of Mulholland Highway. As part of the subject amendment application,

the applicant has proposed to reduce the height of the proposed residence by 2.5 ft. to construct a 25 ft. tall residence.

The proposed reduction in height to 25 ft. will not result in any new adverse visual impacts and is compatible with the character of other residential development in the area. The proposed structure height of 25 ft. is consistent with the maximum height (35 feet above existing grade) that the Commission has permitted in past decisions in the Santa Monica Mountains and with the maximum height (35 feet) allowed under the guidance policies of the Malibu/Santa Monica Mountains LUP. In addition, the development would be partially screened by vegetation.

Even with vegetative screening, the proposed residence, as amended, will be unavoidably visible from public viewing areas. The Commission has considered siting and design alternatives that would avoid or reduce any impacts to visual resources. The amended project will reduce the height from the previously approved 27.5 ft. to 25 ft. There is no feasible alternative whereby the residential structures would not be visible from public viewing areas. To minimize the visual impacts associated with development of the project site, the Commission requires: that the structure be finished in a color consistent with the surrounding natural landscape; that windows on the development be made of non-reflective glass; use of appropriate, adequate, and timely planting of native landscaping to soften the visual impact of the development from public view areas; and a limit on night lighting of the site to protect the nighttime rural character of this portion of the Santa Monica Mountains.

In recognition that future development normally associated with a single-family residence, that might otherwise be exempt, has the potential to impact scenic and visual resources of the area, the Commission requires that any future improvements on the subject property shall be reviewed by the Commission for consistency with the resource protection policies of the Coastal Act through a coastal development permit.

Additionally, the Commission requires the applicant to record a deed restriction that imposes the terms and conditions of this permit amendment as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The following special conditions are required to assure the project's consistency with Section 30251 of the Coastal Act:

**Special Condition 5:** Updated Landscaping and Fuel Modification Plans

**Special Condition 6:** Structural Appearance

**Special Condition 7:** Lighting Restriction

**Special Condition 8:** Future Development Restriction

**Special Condition 9:** Deed Restriction

For the reasons set forth above, the Commission finds that the proposed amendment, as conditioned, is consistent with Section 30251 of the Coastal Act.

## F. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without the required coastal development permit including unpermitted grading, construction of a corral, and changes to the previously approved plans. The applicant requests after-the-fact authorization for the above referenced unpermitted development on site, specifically including the following three components. First, the applicant requests after-the-fact approval for minor changes to the grading plan that was previously approved pursuant to CDP 4-05-154 to modify the cut and fill slopes associated with the eastern portion of the building pad area and for reconfiguration of the fire department turnaround. The as-built changes resulted in a reduction of 24 cu. yds. grading than previously approved pursuant to CDP 4-05-154, for a total of 872 cu. yds. grading (436 cu. yds. cut and 436 cu. yds. fill).

Second, the applicant requests after the fact approval of an existing 10,876 sq. ft. corral. The corral is located within overlapping fuel modifications zones, will not result in any adverse impacts to sensitive habitat. The applicant has indicated that the as-built fenced area is not currently used as a corral for animal or horse-keeping although they are seeking authorization of the as-built corral area to allow for potential future horse-keeping proposes.

Finally, the applicant also requests after-the-fact approval for past historic grading that occurred on the site, including an approximate total of 5,778 cu. yds. grading (3,064 cu. yds. cut and 2,714 cu. yds. fill) with 350 cubic yards of shrinkage due to compaction. The applicant purchased the subject property in 2009 from the previous property owner after the Commission approved the underlying coastal permit in 2008. The applicant has submitted a new, more accurate topographic survey of the site which indicates that historic grading had occurred on site which was not fully evaluated in the Commission's previous analysis of the underlying permit, including the grading for the building pad. In addition, the applicant's engineering consultant has estimated that, based on this new information, that the quantities of grading necessary to implement the approved grading plan pursuant to CDP 4-05-154 were inaccurate based on the new updated survey of the site. (**Exhibits 8 & 9**)

Based on staff's review of historical aerial photographs, the graded pad area and driveway on the site appears to have occurred prior to the 1977 effective date of the Coastal Act. Although the historic grading the applicant is requesting after-the-fact approval for appears to have been primarily completed prior to the effective date of the Coastal Act, in this case, the applicant is still requesting authorization of prior historic grading on site. The prior historic grading on the site includes the creation of the flat pad where the residence will be located. The applicant is unable to confirm whether this historic grading on site, including for the pad area itself, had received the necessary County approvals at the time the work occurred, and would thus be considered legally vested development. Therefore, in order to clarify that all grading that has occurred on-site is authorized pursuant to all necessary permit requirements, the applicant is requesting after-the-fact approval of the historic grading conducted on the northwest portion of the site. (**Exhibit 8**)

In order to ensure that the unpermitted development component of this application is resolved in a timely manner, the Commission finds it necessary to require the applicant



to fulfill all of the Special Conditions that are a prerequisite to the issuance of this amendment, within 180 days of Commission action. The following special condition is required to assure the project's consistency with all applicable Chapter 3 policies of the Coastal Act:

**Special Condition 11. Condition Compliance**

Although development has taken place prior to submission of this amendment application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this amendment does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit. The Commission's enforcement division will evaluate further actions to address this matter.

**G. LOCAL COASTAL PROGRAM (LCP) PREPARATION**

Section **30604(a)** of the Coastal Act states that:

- 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 coastal 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, or permit amendment, only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed projects will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the projects and are accepted by the applicant. As conditioned, the proposed amendment will avoid or minimize adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. The following special conditions are required to assure the project's consistency with Section 30604 of the Coastal Act:

**Special Conditions 1 through 13**

Therefore, the Commission finds that approval of the proposed amendment, 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 or permit amendment 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 above, the proposed development, as modified by this amendment and as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

### **Special Conditions 1 through 13**

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 modified by this amendment and as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

91361

VENTURA COUNTY

90265  
LOS ANGELES COUNTY

THOUSAND OAKS

WESTLAKE VILLAGE

NATIONAL PARK SERVICE

PROJECT LOCATION

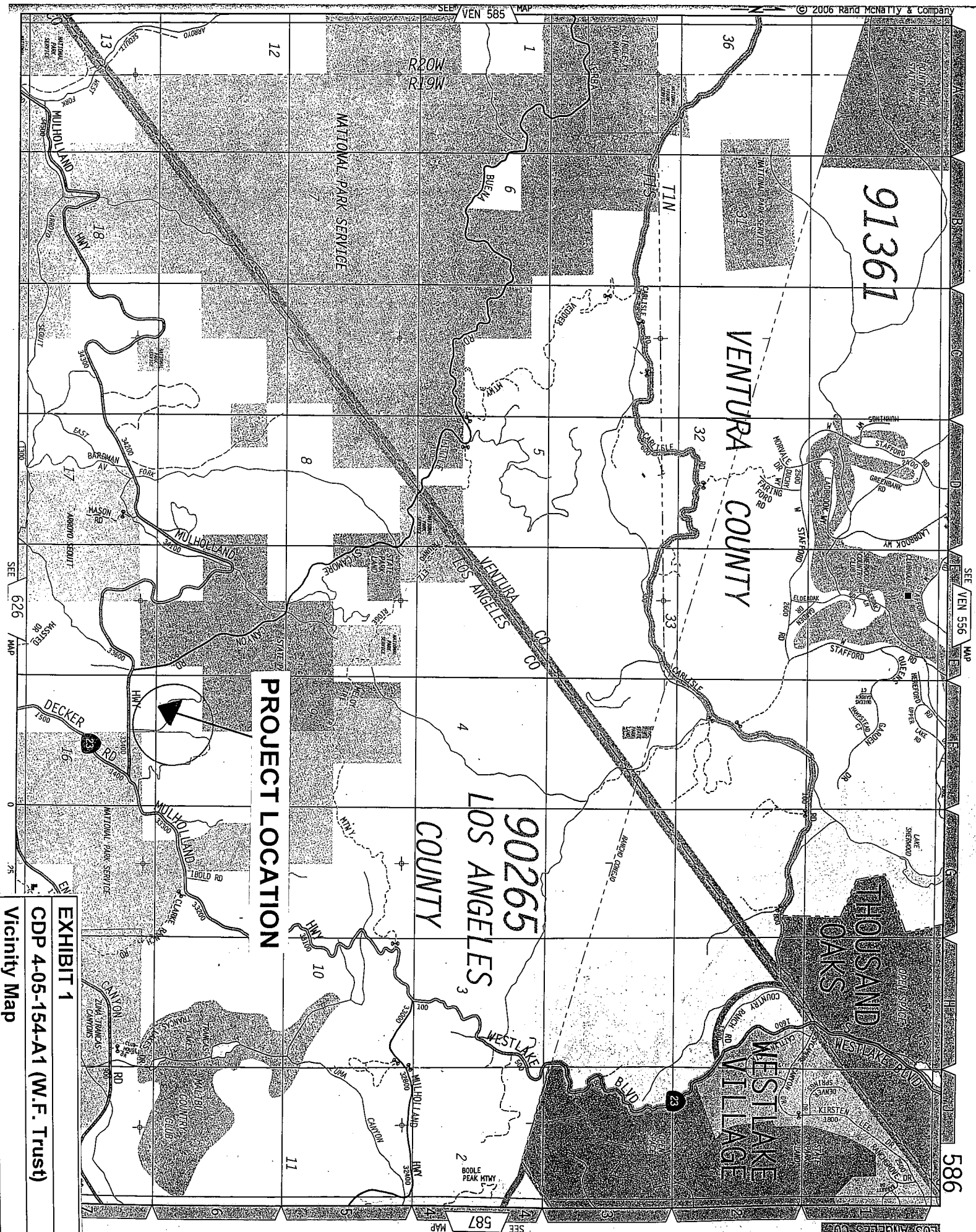
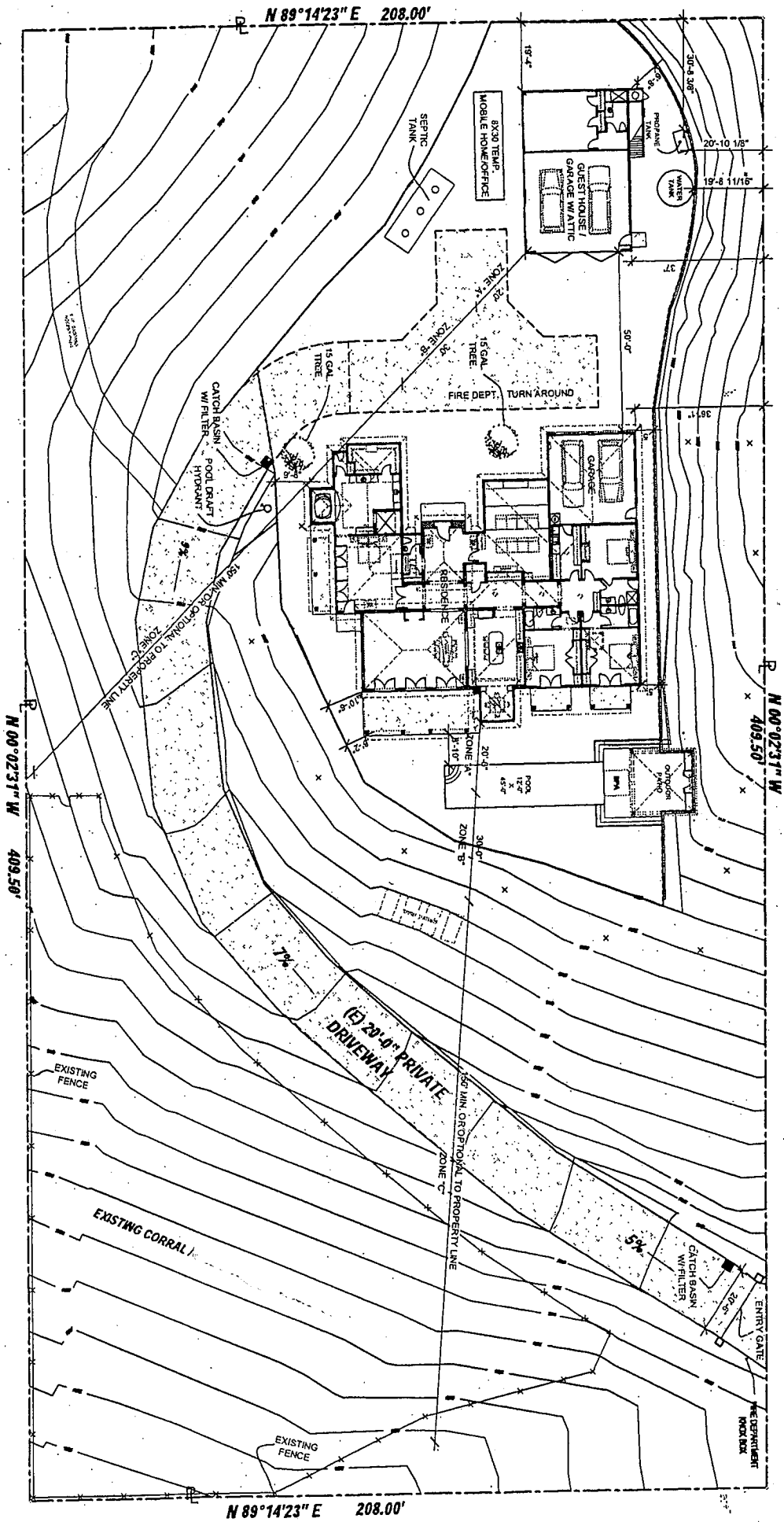
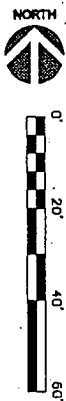


EXHIBIT 1  
CDP 4-05-154-A1 (W.F. Trust)  
Vicinity Map



## EXHIBIT 2

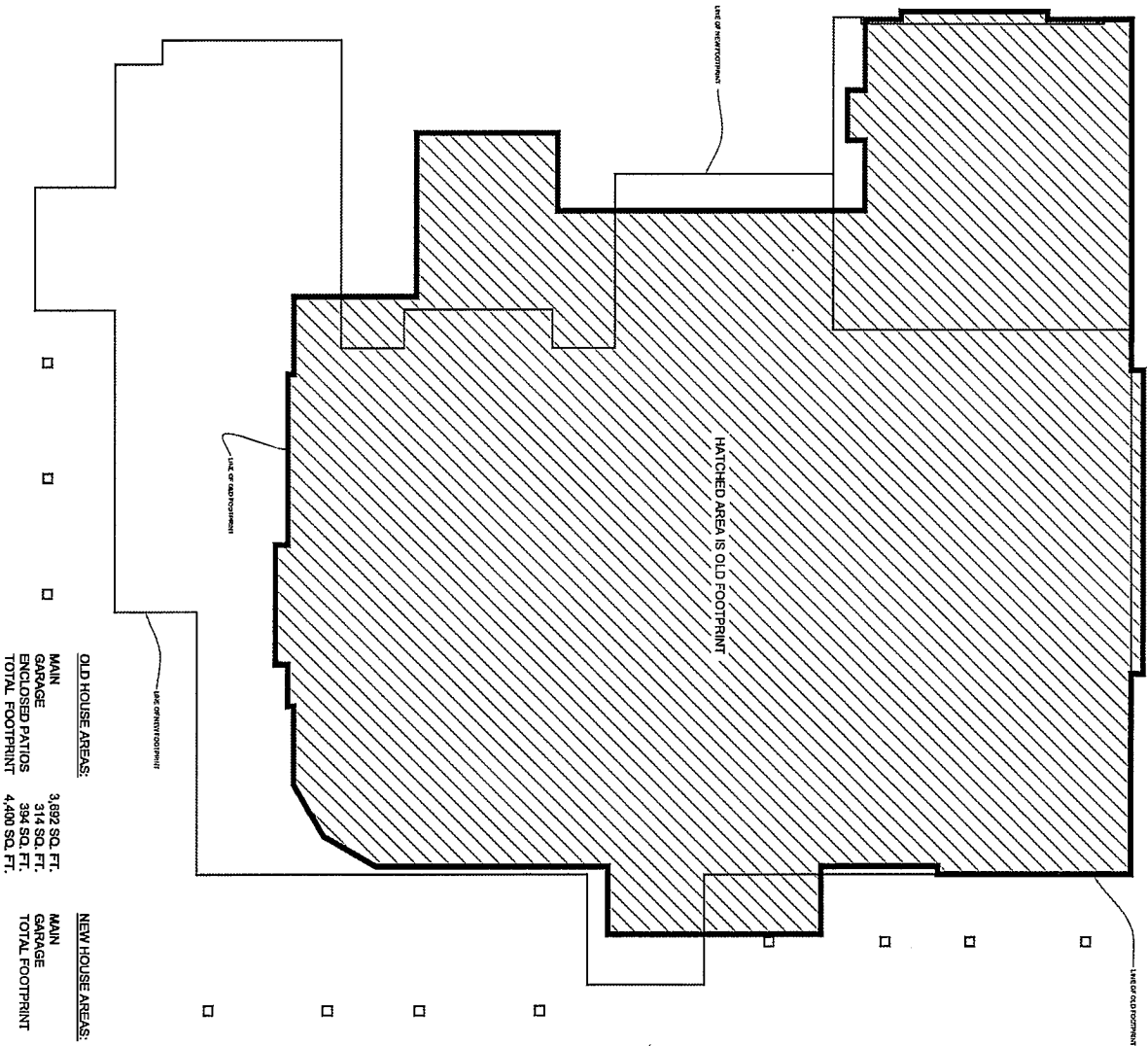
CDP 4-05-154-A1 (W.F. Trust)

Site Plan

**EXHIBIT 3**

**CDP 4-05-154-A1 (W.F. Trust)**

**House Footprint Overlay**



**OLD HOUSE AREAS:**

MAIN 3,692 SQ. FT.  
 GARAGE 314 SQ. FT.  
 ENCLOSED PATIOS 394 SQ. FT.  
 TOTAL FOOTPRINT 4,400 SQ. FT.

**NEW HOUSE AREAS:**

MAIN 4,899 SQ. FT.  
 GARAGE 838 SQ. FT.  
 TOTAL FOOTPRINT 5,727 SQ. FT.

PROPOSED FLOOR PLAN

PROPOSED FLOOR PLAN OVERLAY

OWNER:  
**WF TRUST**  
 33363 MULHOLLAND HWY.  
 MALIBU, CALIFORNIA 90265

Andrew David Bratz

**D** **GRAPHICS**

400 Rosewood Ave. Camarillo, CA 91010  
 andy@andysgraphics.com (805) 288-0073 www.andys.com

3-D PRESENTATION — DRAFTING — DESIGN

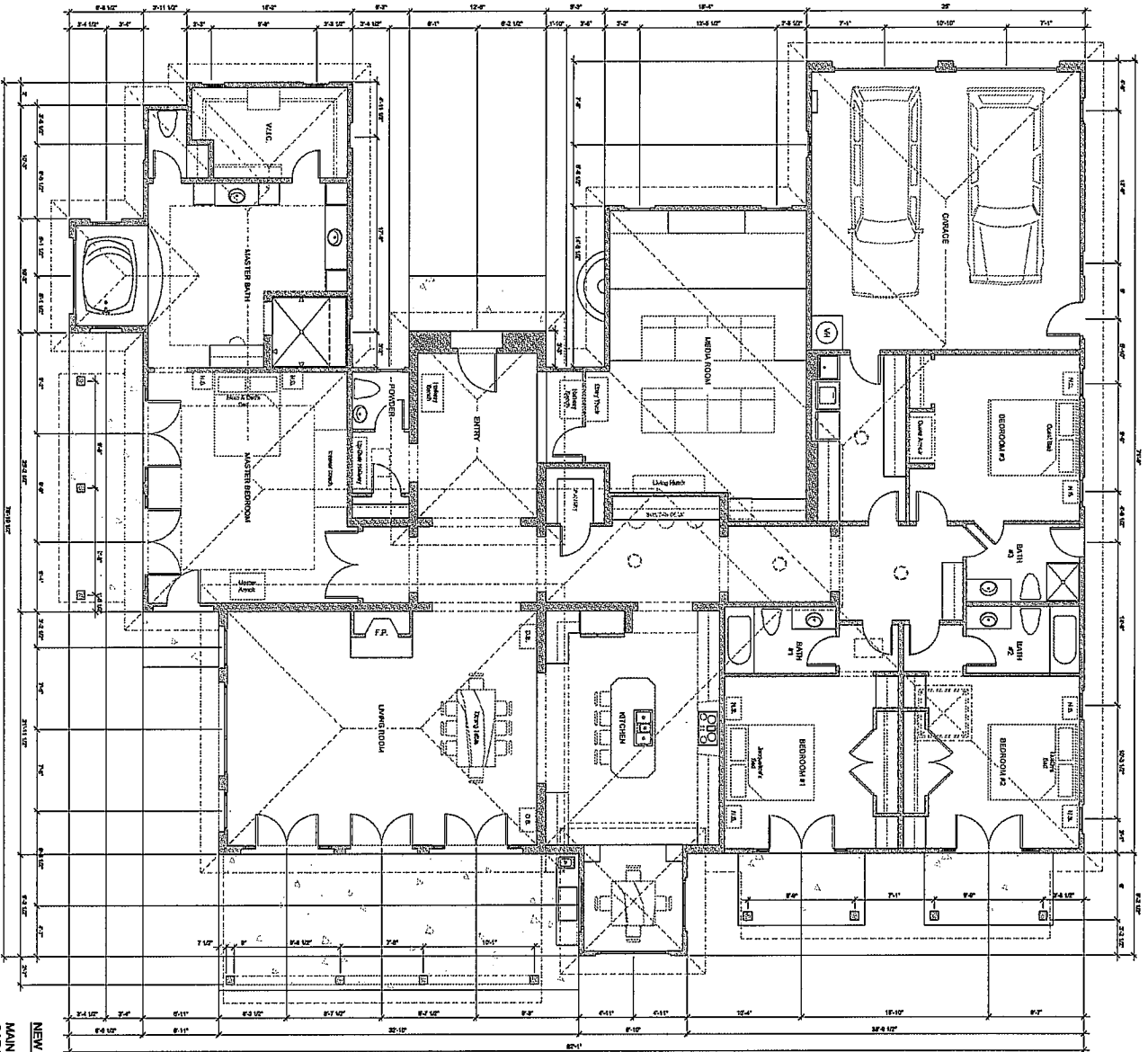
PP # 2005 - 00915  
 APN # 4472-008-041  
 33363 MULHOLLAND HWY.  
 MALIBU, CALIFORNIA 90265

REVISION

DATE

APPROVED

DATE



**EXHIBIT 4**

**CDP 4-05-154-A1 (W.F. Trust)**

**Floor Plan**

1. ALL PILING/WALL SHALL BE MIN. 200 STEELS TO RESIST EXCESSIVE MOISTURE ON BOTTOM.
2. A SPECIALTY PERMIT SHALL BE OBTAINED FOR INSTALLATION OF AUTOMATIC PERIMETER STEERING SYSTEM AND OTHER SERVICES PROVIDED (IF REQUIRED).
3. PROVIDE CORROSION RESISTANT WEEP SCREEDS BELOW BOTTOM OF WALL ABOVE GRADE. SEE I.D.1.

THE SOILS DIVISION OF RECORD SHALL INSPECT AND APPROVE THE FOUNDATION EXCAVATIONS BEFORE STEEL AND CONCRETE IS PLACED.

④ WINDOW SCHEDULE					
KEY	SIZE	MATERIAL	DOOR TYPE	DOOR DESCRIPTION	NOTE
1	2'0" x 2'0"	WOOD	WOOD	DOOR	NEW
2	2'0" x 2'0"	WOOD	WOOD	DOOR	NEW
3	2'0" x 2'0"	WOOD	WOOD	DOOR	NEW
4	2'0" x 2'0"	WOOD	WOOD	DOOR	NEW
5	2'0" x 2'0"	WOOD	WOOD	DOOR	NEW

⑤ DOOR SCHEDULE					
KEY	SIZE	MATERIAL	DOOR TYPE	DOOR DESCRIPTION	NOTE
1	2'0" x 2'0"	WOOD	WOOD	DOOR	NEW
2	2'0" x 2'0"	WOOD	WOOD	DOOR	NEW
3	2'0" x 2'0"	WOOD	WOOD	DOOR	NEW
4	2'0" x 2'0"	WOOD	WOOD	DOOR	NEW
5	2'0" x 2'0"	WOOD	WOOD	DOOR	NEW

~~CONFIDENTIAL~~

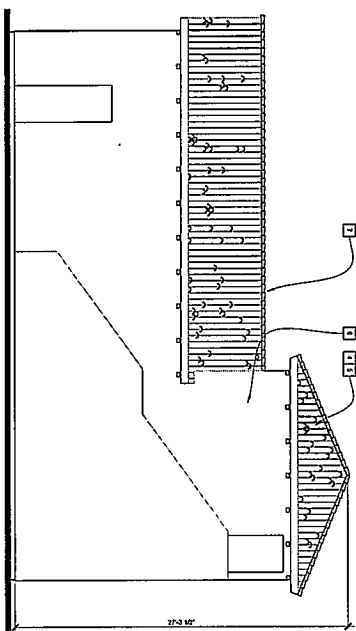
NEW 1/2" x 6" ALUMINUM STUDS @ 16" O.C. 1/4" DIAGONAL LATH, 1/2" AND 1/4" SHEOSD OVER 1/2" GYPSUM BOARD.

1" TYPICAL @ 16" O.C. 1/4" TYPE "F" FINISH BOTH SIDES.

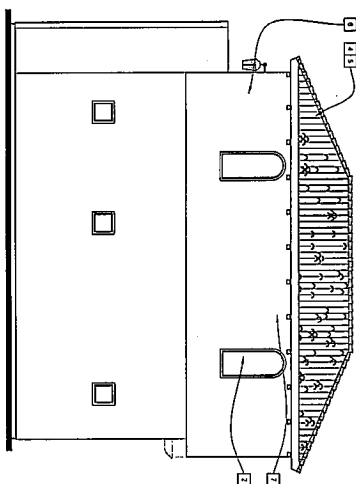
DOOR NOTES:

1. GLASSING DOORS SHALL BE TYPICAL GLASSING WITHIN 36" AND 60" MAXIMUM GLASSING WITHIN 18" OF FLOOR.

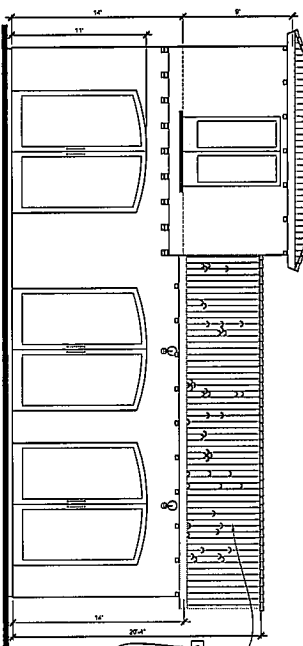
2. DOORS TO BE NON-COMBUSTIBLE ON FIRE RESISTANT WOOD OR STEEL FRAME.

[illegible]

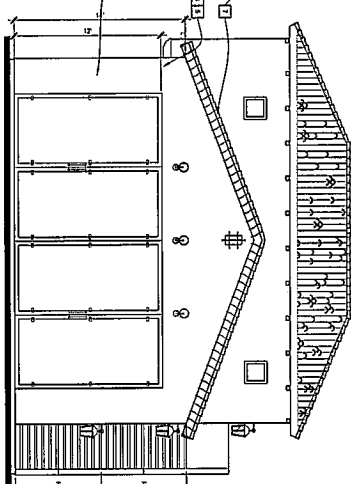
**NORTH ELEVATION**



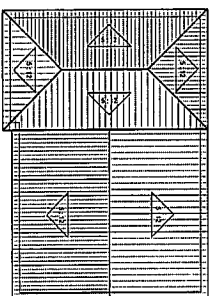
**WEST ELEVATION**  
SCALE: 1/4" = 1'-0"



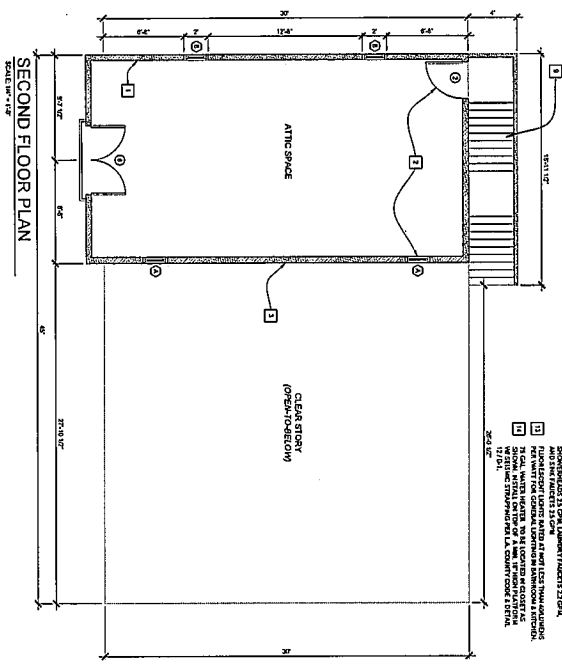
**SOUTH ELEVATION**  
SCALE: 1/4" = 1'-0"



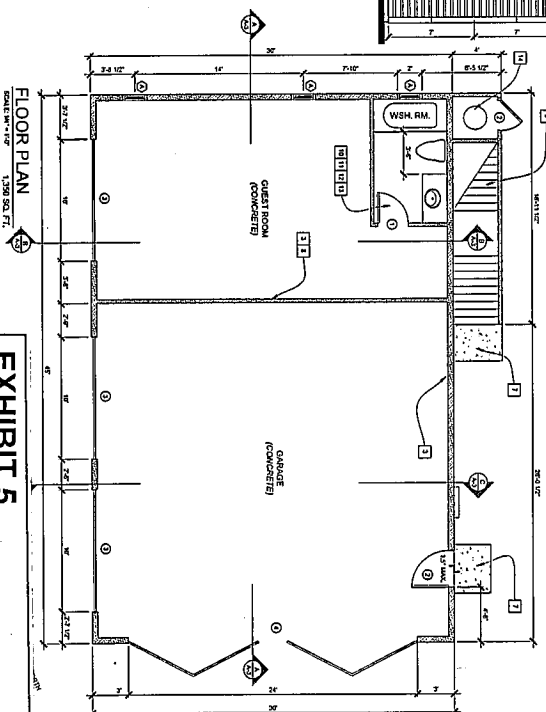
**EAST ELEVATION**  
SCALE: 1/8" = 1'-0"

[illegible]

ROOF PLAN

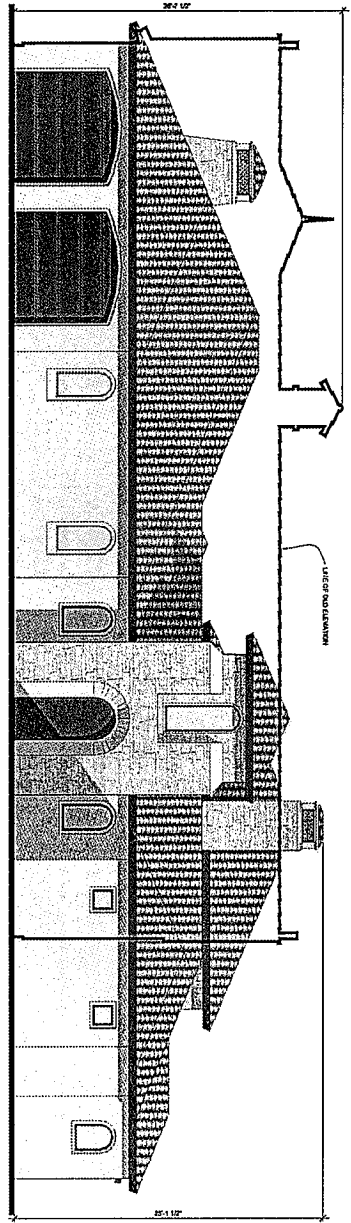


## SECOND FLOOR PLAN

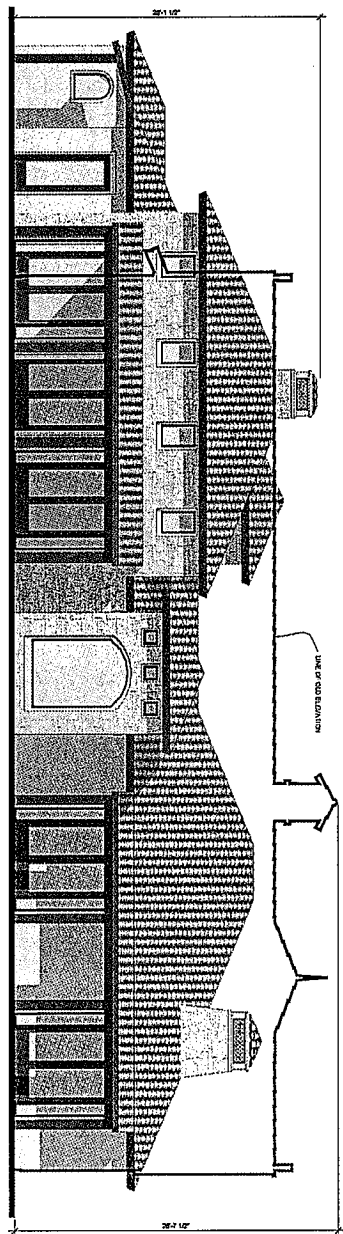


**FLOOR PLAN**  
SCALE: 1/4" = 1'-0"  
1,350 SQ. FT.

**EXHIBIT 5**  
**CDP 4-05-154-A1 (W.F. Trust)**  
**Accessory Structure Floor Plan**



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

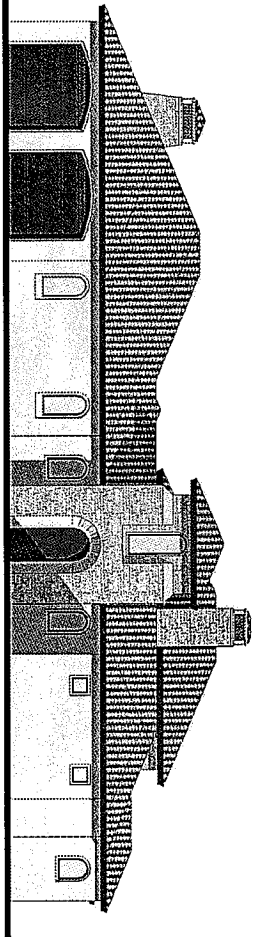


PROPOSED SOUTH ELEVATION  
SCALE 1/8" = 1'-0"

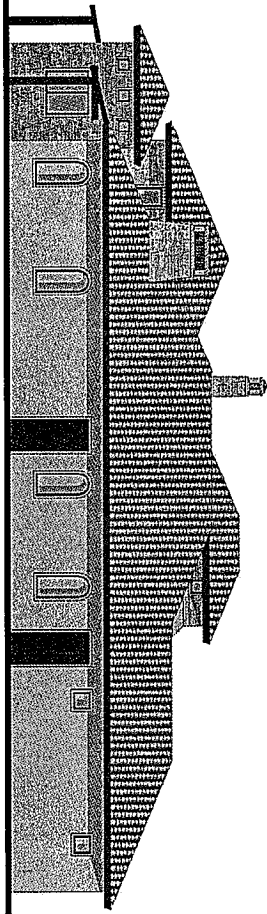
**EXHIBIT 6**  
**CDP 4-05-154-A1 (W.F. Trust)**  
**Old and New Elevation Overlay**

<b>PROF. NORTH &amp; SOUTH OVERLAY ELEV.</b> OWNER : <b>WF TRUST</b> 33363 MULHOLLAND HWY. MALIBU, CALIFORNIA 90265	 <b>ANDREW DAVID BROTZ DRAFTING</b> 408 Encampment Ave Carmel, CA 95010 andy@adbrotz.com (805) 318-0073 www.adbrotz.com	PP # 2005 - 00915 APN # 4472-009-041 33363 MULHOLLAND HWY. MALIBU, CALIFORNIA 90265	SHEET 1 OF 1 DATE 02/20/11 DRAWN BY ANDREW DAVID BROTZ CHECKED BY ANDREW DAVID BROTZ

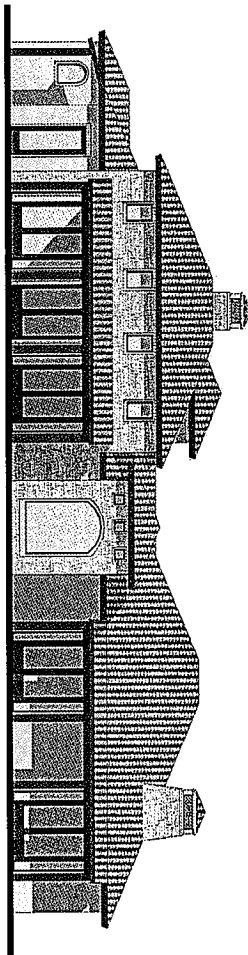




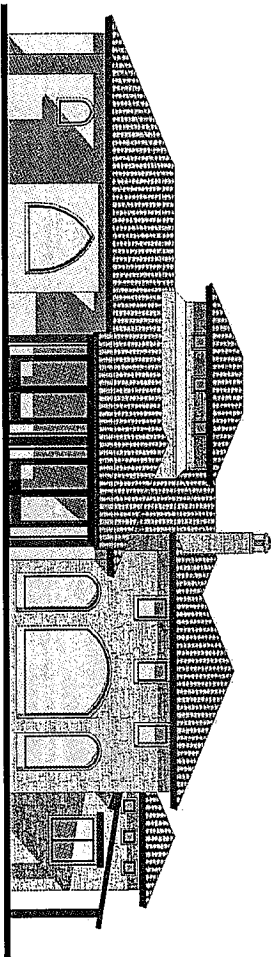
PROPOSED FRONT ELEVATION  
SCALE: 1/4" = 1'-0"



PROPOSED FRONT ELEVATION  
SCALE: 1/4" = 1'-0"



PROPOSED REAR ELEVATION  
SCALE: 1/4" = 1'-0"



PROPOSED REAR ELEVATION  
SCALE: 1/4" = 1'-0"

REVISION	DATE
1. APPROVED FOR PERMIT	08/01/15
2. APPROVED FOR PERMIT	08/01/15

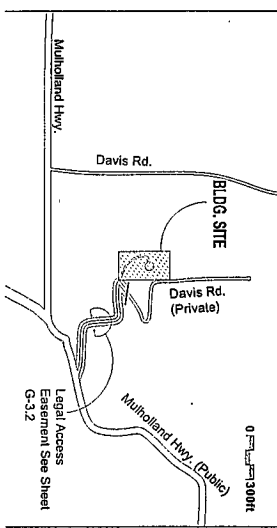
PP # 2005 - 08015  
APN # 4472-000-041  
33363 MULHOLLAND HWY.  
MALIBU, CALIFORNIA 90265

Andrew David Bratz  
**D R A P H I C S**  
430 Rosewood Ave Costa Mesa, CA 92626  
andy@dgraphics.com (714) 533-0073 www.dgraphics.com  
3-D PRESENTATION — DRAFTING — DESIGN

**PROPOSED ELEVATIONS**  
OWNER:  
**WF TRUST**  
33363 MULHOLLAND HWY.  
MALIBU, CALIFORNIA 90265

A-3

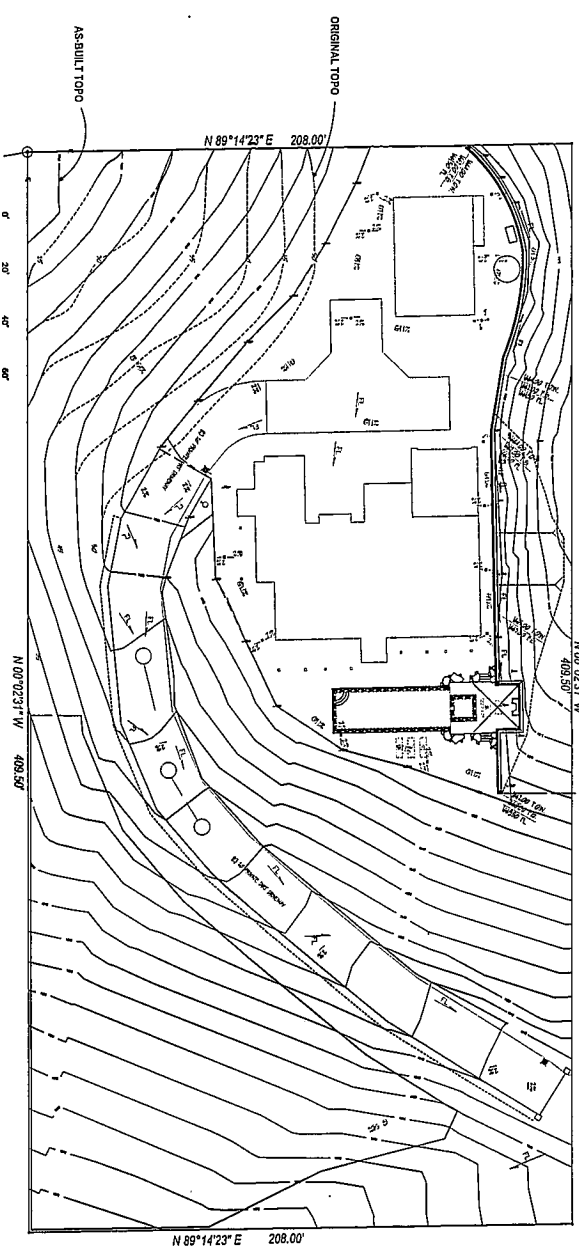
**EXHIBIT 7**  
**CDP 4-05-154-A1 (W.F. Trust)**  
**Proposed Elevations**



NOTE:  
AS THE CREATION AND DELETION OF THE PROJECT HAVE BEEN LIMITED AND MOST OF THE LOCATIONS ARE  
A MIXTURE OF OLD AND NEW, WE HAVE ACCIDENTALLY LOCATED SOME OF THE PLACES THAT WOULD BE  
PROPOSED CONSTRUCTION BUT NOT MILLING THE WITH AND OUR OWN WITH THE MILLING OF THE  
CUSTOMERS



**& ASSOCIATES, INC.**  
Engineering Consulting Services  
59 S. Delaney Ave., Suite 100  
Palo Alto, CA 94110  
(650) 485-1822 Office  
(650) 484-4003 Facsimile  
JPDHPE@AOL.COM E-MAIL



## GRADING PLAN

B FLOW LINE FROM OFF-  
 II CATCHMENT (CZ)  
 (D) AFTER DOWNCUT  
 (A) = DRAINAGE  
 (F) = FRODOG  
 MP = HIGH POINT  
 WMA = WATER METER  
 TO A TOP OF CURVE  
 NW = FINEST OUTLET

**\* ELEVATION DATA**  
FF = FINISHED FLOOR  
TOS = TOP OF SLAB  
TOW = TOP OF WALL  
FC = FINISHED GRADE  
EG = EXISTING GRADE  
FL = FLOWLINE  
(X) = EXISTING  
(F) = FINISHED

**(F) RETAINING WALL**

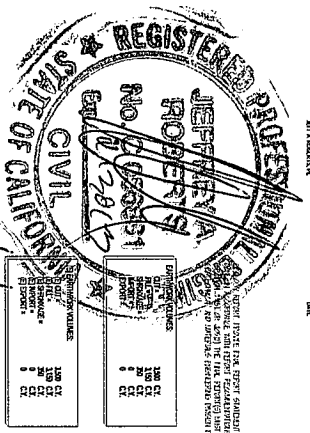
**CORRELATION TABLES:**  
CU-50N CU-6T BIPOLARS  
CX-60T 70, 80N, 90A/CX-6M  
CORRELATIONS, ETC. 1n 3193-91  
E 1n. 041668 7100, MTL 7. 2008

**EXISTING SEPTIC PUMP ROOM HOLES**

PROPERTY LIST  
SET BACKS  
ORIGINAL TOP  
AS-BUILT 1000  
- EXAMINER

CONSTRUCTION NOTES:

- [illegible]



# Grading Plans

## SOIL ENGINEER NOTES & INSPECTION REQUIREMENTS

**WFT TRUST**  
33383 Mulholland Hwy  
Malibu CA 90265

600' N. 1/4 W. of the intersection of  
Masonland Hwy. & Decker Canyon Rd.,  
off Davis Rd.,  
Bismarck's Camp Ground

**SHEET No.**

**GET**

**EXHIBIT 8**

CDP 4-05-154-A1 (W.F. Trust)

### Historic and New Topography/ Grading Area

