

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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# W23c

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 Staff: Denise Venegas  
 Staff Report: 4/19/12  
 Hearing Date: 5/09/12

## **STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-12-018  
**APPLICANT:** Sarbojit Mukherjee  
**AGENT:** N/A  
**PROJECT LOCATION:** 2515 Hawks Nest Trail, Topanga, Los Angeles County  
**APN:** 4448-011-036

**PROJECT DESCRIPTION:** Construct a 2,002 sq. ft., 24 ft. high, two-story single family residence; a detached 324 sq. ft. two-car carport; retaining wall; driveway; stairway; septic system; temporary construction trailer; hammerhead turnaround; new fire hydrant; minor road improvements to Skyhawk Lane; a new water line; and 741 cubic yards of grading (520 cubic yards of cut and 221 cubic yards of fill). The project also includes the export of all excess cut earth materials (approximately 299 cubic yards of material) to a disposal site located outside the coastal zone and removal of an existing shed.

### **MOTION & RESOLUTION: Pages 3**

**SUMMARY OF STAFF RECOMMENDATION:** Staff recommends **approval** of the proposed development with **thirteen (13) special conditions** regarding (1) plans conforming to Geotechnical Engineer's recommendation, (2) assumption of risk, waiver of liability and indemnity, (3) drainage and polluted runoff control plan, (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) site inspection, (11) removal of excavated material, (12) removal of natural vegetation, and (13) removal of temporary trailer.

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. Following are the main issues raised by the project and how they are resolved by the staff recommendation:

- **VISUAL RESOURCES.** The proposed structure will be visible from public viewing areas and will adversely impact visual resources. There are design alternatives that would avoid or reduce visual impacts. The project is conditioned to minimize the visual impact by requiring the structure to be finished in a color consistent with the surrounding landscape, by requiring

windows be made of non-reflective glass, by the use of native landscaping, and by limiting night lighting.

- **CUMULATIVE IMPACTS.** The project includes the placement of a temporary construction trailer on the subject site. It is appropriate to approve the temporary construction trailer with a condition to avoid the potential conversion to a second dwelling unit and potential cumulative impacts on public services such as road capacity, sewage disposal, water, and electricity. As conditioned, the project will minimize the cumulative impacts of additional residential development.
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## APPENDICES

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Appendix 1	Substantive File Documents
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## EXHIBITS

Exhibit 1.	Vicinity Map
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Exhibit 4.	Site Plan
Exhibit 5.	Main Floor Plan
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Exhibit 7.	Elevations
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Exhibit 9.	Fuel Modification Plan

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**LOCAL APPROVALS RECEIVED:** County of Los Angeles Department of Regional Planning, Approval in Concept, dated 3/15/11; County of Los Angeles Environmental Health

Services, Sewage Disposal System Conceptual Approval, dated 3/13/12; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, dated 1/04/12; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, dated 1/31/11.

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## **I. STAFF RECOMMENDATION**

The staff recommends that the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 4-12-018 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. 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 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, 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 Permit*, the applicant shall submit to the Executive Director, two (2) copies of a final Drainage and Runoff Control Plan for the post-construction project site, prepared by a licensed civil engineer or qualified licensed professional. The Plan shall include detailed drainage and runoff control plans with supporting calculations. The plans shall incorporate Best Management Practices (BMPs) including site design, source control and treatment control measures designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather runoff leaving the developed site. The consulting licensed 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) The plan shall demonstrate the use of distributed small-scale controls or integrated Best Management Practices (BMPs) that serve to minimize alterations to the natural pre-development hydrologic characteristics and conditions of the site, and effectively address pollutants of concern.
- (2) Post-development peak runoff rate and average volume from the site shall be maintained at levels similar to pre-development conditions.
- (3) Selected BMPs shall consist, or primarily consist, of site design elements and/or landscape based systems or features 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, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns.
- (4) 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 shall be utilized for any landscaping requiring water application.

- (5) All slopes shall be stabilized in accordance with provisions contained in the Landscaping and/or Interim Erosion and Sediment Control Condition for this Coastal Development Permit.
- (6) Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of outflow drains where necessary. The consulting engineer shall provide plan details and cross sections for any rock rip-rap and/or other energy dissipating devices or structures associated with the drainage system. The drainage plans shall specify, the location, dimensions, cubic yards of rock, etc. for the any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The engineer shall certify that the design of the device minimizes the amount of rock and/or other hardscape necessary to meet the sizing requirements.
- (7) Post-construction structural 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 storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- (8) All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15th each year) and at regular intervals as necessary between October 15<sup>th</sup> and April 15<sup>th</sup> of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- (9) For projects located on a hillside, slope, or which may otherwise be prone to instability, final drainage plans shall be approved by the project consulting geotechnical engineer.
- (10) 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.

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 Permit*, 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. Landscaping and Fuel Modification Plans**

*Prior to issuance of the Coastal Development Permit*, 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.
- (5) Fencing of the entire property is prohibited. Fencing shall extend no further than the approved development area. 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 6, Structural Appearance**, below.

### **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*, 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. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to 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, any grading, clearing or other disturbance of vegetation other than as provided for in the approved landscape plan prepared pursuant to **Special Condition 5, 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 the Coastal Development Permit*, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the

Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### **10. Site Inspection**

By acceptance of this permit, the applicant irrevocably authorizes, on behalf of the applicant and all 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.

*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.

#### **11. Removal of Excavated Material**

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

#### **12. Removal of Natural Vegetation**

Removal of natural vegetation for the purpose of fuel modification within the 50-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 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

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

With the acceptance of this coastal permit, the applicant agrees that the temporary trailer 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 trailers.

## **III. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **A. PROJECT DESCRIPTION AND BACKGROUND**

The applicant proposes to construct a 2,002 sq. ft., 24 ft. high, two-story single family residence; a detached 324 sq. ft. two-car carport; 64-ft. long retaining wall ranging from 2-ft. to 6-ft. high; driveway; stairway from the driveway to the residence; septic system; temporary construction trailer; hammerhead turnaround; new fire hydrant; minor road improvements to Skyhawk Lane which involves the repair and widening of portions to meet fire department requirements; construction of a 2 inch water line; and 741 cubic yards of grading (520 cubic yards of cut and 221 cubic yards of fill). The project also includes the export of all excess cut earth materials (approximately 299 cubic yards of materials) to a disposal site located outside the coastal zone and removal of an existing shed. (Exhibits 1-9)

The project site is located on a vacant 2.34-acre property at 2515 Hawks Nest Trail, within the unincorporated area of the Santa Monica Mountains in Los Angeles County (APN 4448-011-036). The subject property abuts Tuna Canyon Road along its northern boundary, Skyhawk Lane along its eastern boundary, and Hawks Nest Trail, a private road along its southern boundary. An existing flat pad is located above the natural slopes that descend to the base of an existing dirt access driveway and streets (Hawks Nest Trail and Skyhawk Lane). The slopes on the lot range from about 4:1 (horizontal to vertical) to 2:1 at its steepest locations on the northern portion of the lot beyond the proposed building site. The lot elevation ranges 1700 to 1790 feet above sea level within the Tuna Canyon Watershed. The detached carport would be located at the 1,722 foot elevation below the 1,742 foot elevation of the residence and approximately 60 feet from Hawks Nest Trail, a private road leading from Skyhawk Lane and Tuna Canyon Road.

The existing pad, shed, and dirt access driveway on site were constructed prior to the effective date of the Coastal Act (January 1, 1977), based on a review of the Commission's historical aerial photographs. The proposed residence will be located within the existing disturbed areas. In addition, existing residential development is located on the surrounding properties to the north, south, west, and east of the subject site. Although the northern portion of the site contains a small, approximately 1.4 acre, area of native chaparral vegetation, the majority of this vegetation is located within the existing 200 ft. fuel modification zones for the neighboring residences to the east, west, and south of the subject site. Moreover, because the subject site is surrounded by existing development on all four sides, the portion of the site currently vegetated with native chaparral is isolated and is not part of a larger contiguous area of chaparral habitat and does not, therefore, constitute an environmentally sensitive habitat area (ESHA). Thus, the subject site does not contain ESHA. In addition, because the proposed residence is surrounded by existing

residential development on neighboring properties with overlapping fuel modification zones, the fuel modification requirements for the new proposed residence and detached carport will not result in any new vegetation clearance in offsite areas and will not result in any loss of ESHA. Lastly, there are no existing or mapped public trails on or adjacent to the subject property. The proposed building site is visible from Tuna Canyon Road and Public Parklands as discussed below in Section III. E. Visual Resources.

## **B. PAST COMMISSION ACTION ON THE SUBJECT SITE**

In 1989, the Commission approved Coastal Development Permit (CDP) No. 5-89-580 for construction of a 3,050 sq. ft. single family residence with a detached garage, septic system, swimming pool and 750 sq. ft. guest unit over garage (the subject site had the former address of 2515 Chard Drive at that time). The permit expired in 1991 as the conditions were never completed and the site was not developed. Furthermore, the Commission approved coastal development permit 4-09-008 (Mukherjee) on January 14, 2010 for construction of a 24 ft. high two-story, 2,002 sq. ft. single family residence, a detached 484 sq. ft. two-car garage with a 484 sq. ft. guest house on second floor, two retaining walls, two stairways, driveway, septic system, and 562 cu. yds. of grading (341 cu. yds. of cut and 221 cu. yds. of fill). The project also included the export of all excess cut earth materials (approximately 120 cu. yds. of material) to a disposal site located outside the Coastal Zone and removal of an existing shed. The permit expired on January 14, 2012 as the conditions were never met, the site was not developed, and the applicant did not request extension of the CDP prior to expiration. The application that is the subject of this staff report represents the applicant's resubmittal of the expired permit noted above with some changes to the proposed development which include: the deletion of the detached 484 sq. ft. two-car garage with a 484 sq. ft. guest house on second floor, one retaining wall and one stairway; the relocation of the driveway and remaining retaining wall; addition of a 324 sq. ft. two-car carport, temporary trailer, minor road improvements to Skyhawk Lane, new fire hydrant, 2 inch water line; and an increase of 179 cubic yards of grading.

## **C. HAZARDS AND GEOLOGIC STABILITY**

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

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

The proposed development is located in the Malibu/Santa Monica Mountains area, an area historically subject to significant natural hazards including, but not limited to, landslides, erosion, flooding and wild fire. The submitted geology, geotechnical, and/or soils reports referenced as Substantive File Documents conclude that the project site is suitable for the proposed project based on the evaluation of the site's geology in relation to the proposed development. The reports contain recommendations to be incorporated into the project plans to ensure the stability and geologic safety of the proposed project, the project site, and the adjacent

properties. To ensure stability and structural integrity and to protect the site and the surrounding sites, the Commission requires the applicant to comply with the recommendations contained in the applicable reports, to incorporate those recommendations into all final design and construction plans, and to obtain the geotechnical consultant's approval of those plans prior to the commencement of construction.

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

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

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 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.

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 5:** Landscaping and Erosion Control Plans
- Special Condition 11:** Removal of Excavated Material

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

## **D. 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 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 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.

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:

- Special Condition 3:** Permanent Drainage and Polluted Runoff Control Plans
- Special Condition 4:** Interim Erosion Control Plans and Construction Responsibilities
- Special Condition 5:** Landscaping and Erosion Control Plans
- Special Condition 11:** Removal of Excavated Material
- Special Condition 12:** Removal of Native Vegetation

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 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.

The proposed project site is located on a vacant 2.34-acre property within a low density rural area characterized by expansive, naturally vegetated mountains and hillsides. Site elevations range from approximately 1700 to 1790 feet above sea level. The site is accessed from Hawks Nest Trail, an existing road that extends west from Skyhawk Lane along the southern boundary of the subject property. There is an existing flat pad on the property which was graded prior to the effective date of the Coastal Act (January 1, 1977). The project site is visible from Tuna Canyon Road, a public road, located approximately 250 feet to the north. Additionally, the development will be visible from public park land to the south; however, the proposed site is surrounded by existing residential development. Development of the proposed residence raises two issues regarding the siting and design: (1) whether or not public views from public roadways will be adversely affected; or, (2) whether or not public views from public lands and trails will be affected.

The applicant proposes to construct a 2,002 sq. ft., 24 foot high two-story single family residence with a detached carport, and perform 520 cu. yds. of grading (cut). The proposed development will have a maximum height of 24 feet above finished grade. The residence is designed to be located on the existing pad, which is the most flat area of the lot. The proposed carport will be located on the northern end of the proposed driveway. The proposed building site and design minimizes the amount of grading and landform alteration necessary for the project and there are no siting alternatives where the building would not be visible from public viewing areas. Although the residence and carport are not clustered on the same pad area, the carport is sited on the lowest portion of the slope to minimize driveway grading. The proposed structures are sited and designed to minimize impacts to visual resources to the extent feasible.

The proposed structure is compatible with the character of other residential development in the area. The proposed structure height 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 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. There is no feasible alternative whereby the structure 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 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:** 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 project, as conditioned, is consistent with Section 30251 of the Coastal Act.

## **F. 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:

[T]he 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 guest house 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, guest houses and second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development.

The applicant is not proposing to construct a guest house or a second residential unit. However, the applicant is proposing to place a temporary trailer adjacent to the proposed development area for use during construction of the proposed residence. The Commission finds it necessary to require the removal of the trailer to an appropriate disposal or relocation site within two years of the issuance of this coastal development permit or within thirty (30) days of the applicant's receipt of the Certificate of Occupancy for the proposed residence from Los Angeles County, whichever is less. The removal of the trailer is necessary to avoid the potential conversion to a second dwelling unit and potential cumulative impacts on public services such as road capacity, sewage disposal, water, and electricity.

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

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 9.** Deed Restriction
- Special Condition 10.** Site Inspection
- Special Condition 13.** Removal of Temporary Trailer

The Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

## **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 only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed projects will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the projects and are accepted by the applicant. As conditioned, the proposed development will 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 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 above, the proposed development, 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 conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

# **APPENDIX 1**

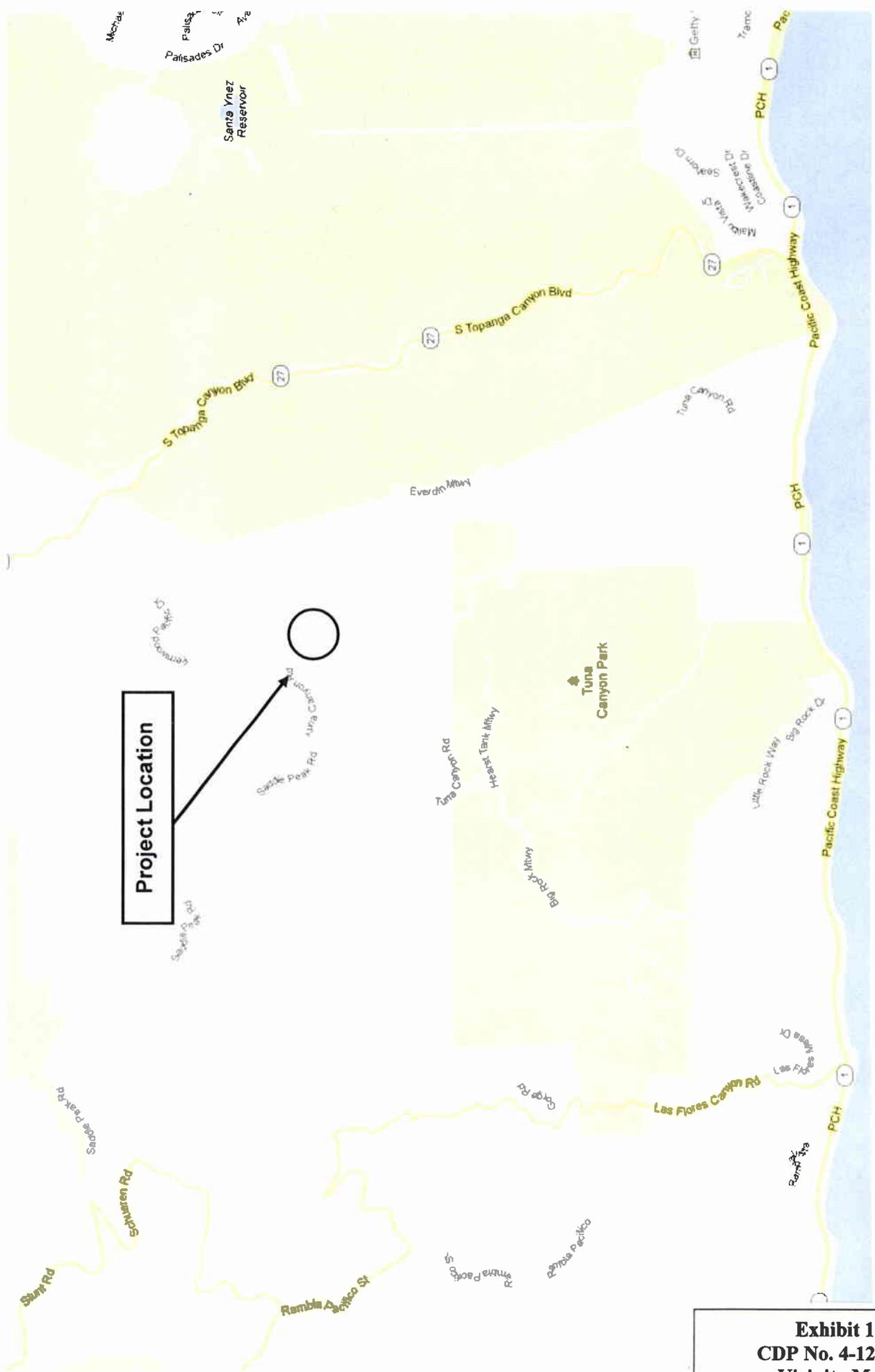
## **Substantive File Documents**

Certified Malibu/Santa Monica Mountains Land Use Plan; The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D; “Biological Resource Evaluation”, 2515 Hawks Nest Trail, Topanga, Los Angeles County, California, prepared by Compliance Biology, dated May 9, 2009; Geotechnical Update Report, prepared by Feffer Geological Consulting, dated December 14, 2007; Geotechnical Update Memo, prepared by Feffer Geological Consulting, dated March 13, 2012; and Coastal Development Permit 4-09-008 (Mukherjee).

## APPENDIX 2

### 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.



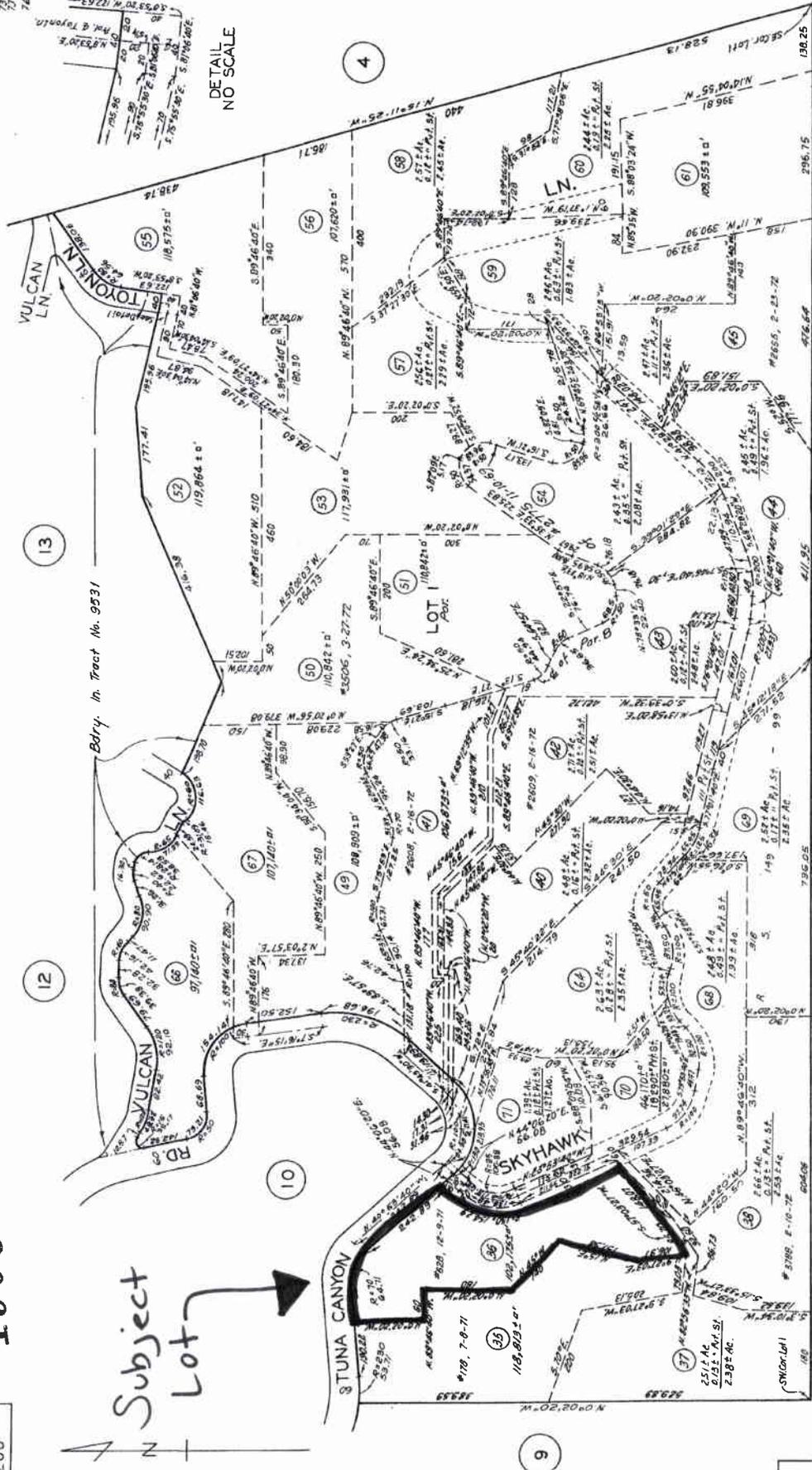
**Exhibit 1**  
**CDP No. 4-12-018**  
**Vicinity Map**

4448 11

SCALE 1" = 200'

1998

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700317  
720401008  
720427  
730008222  
730113  
74010504  
740124011  
74016004  
740161902  
74016113



CODE 1683

6

4

Exhibit 2  
CDP No. 4-12-018  
Parcel Map

TRACT NO. 9492 M.B. 133-63-64

FOR PREV. ASSMT SEE: 1448-9

ASSESSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.











LOTFI & ASSOCIATES

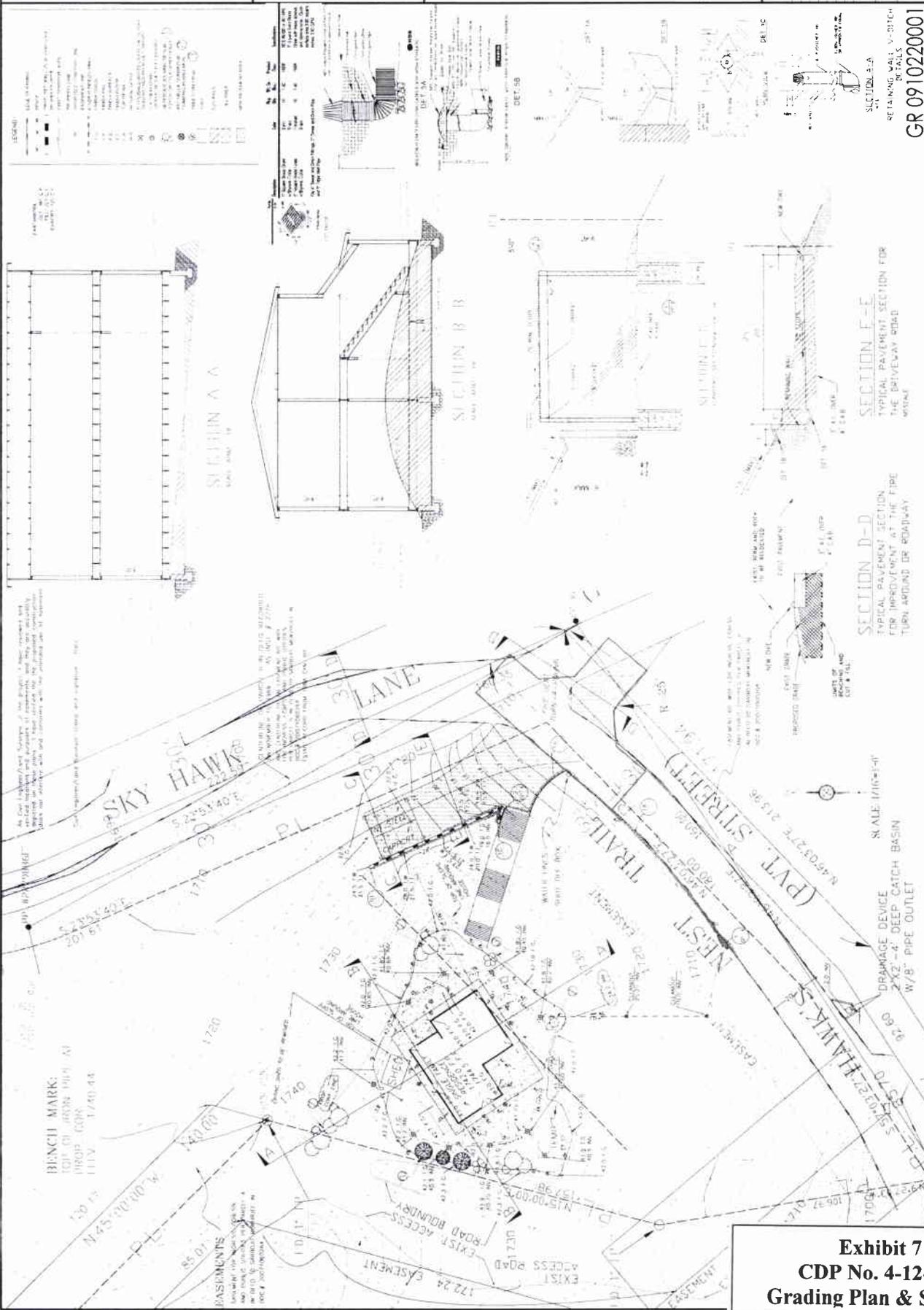
Professional Seal and Registration Information



PROJECT INFORMATION

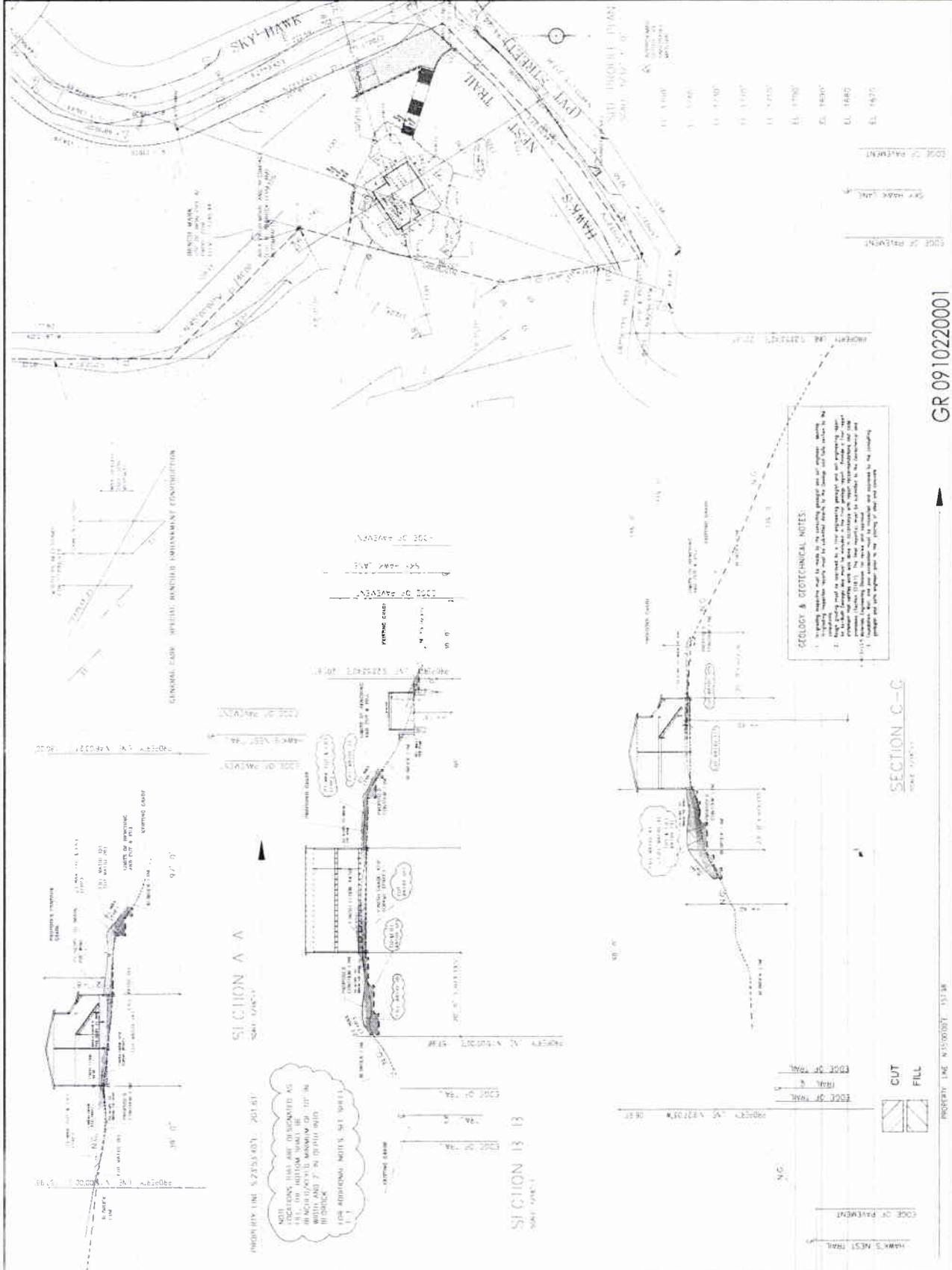
MUKHERJEE RESIDENCE  
22521 DEL VALLE ST., #203  
WOODLAND HILLS, CA 91324  
TOPANGA, CALIFORNIA 90290  
PHONE: 805-338-6580

Table with project details: SHEET NO. 01, DATE, PROJECT NO., CLIENT, etc.



GR 0910220001

Exhibit 7  
CDP No. 4-12-018  
Grading Plan & Sections



GR 0910220001

PROPERTY LINE W/5000007 1513W

REVISIONS	BY
10-24-08	
11-24-08	
5-10-11	
11-11-11	



**PHIL MAY  
LANDSCAPE  
ARCHITECT**  
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Fax 909 373 1668  
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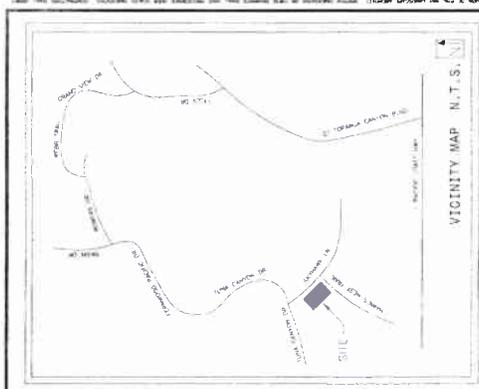
**FUEL MODIFICATION PLAN**

MURKHEE RESERVE  
2018 HAWK'S NEST TRAIL  
TOPANGA, CA 90230

DATE	10/24/08
PROJECT	2018 HAWK'S NEST TRAIL
CLIENT	MURKHEE RESERVE
SCALE	AS SHOWN
BY	PHIL MAY
CHECKED	PHIL MAY

**L-1**

3



**OWNER**  
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**STRUCTURAL ENGINEER**  
MARK WEGENER, P.E.  
WEGENER ENGINEERING GROUP  
6402 SKYWAY  
PARADISE, CA 95969  
(530) 871-4049

SHEET No.	DESCRIPTION
L-1	FUEL MODIFICATION PLAN
L-2	PLANTING PLAN
L-3	IRRIGATION PLAN

**PROJECT INFORMATION**

2018 HAWK'S NEST TRAIL  
TOPANGA, CA 90230

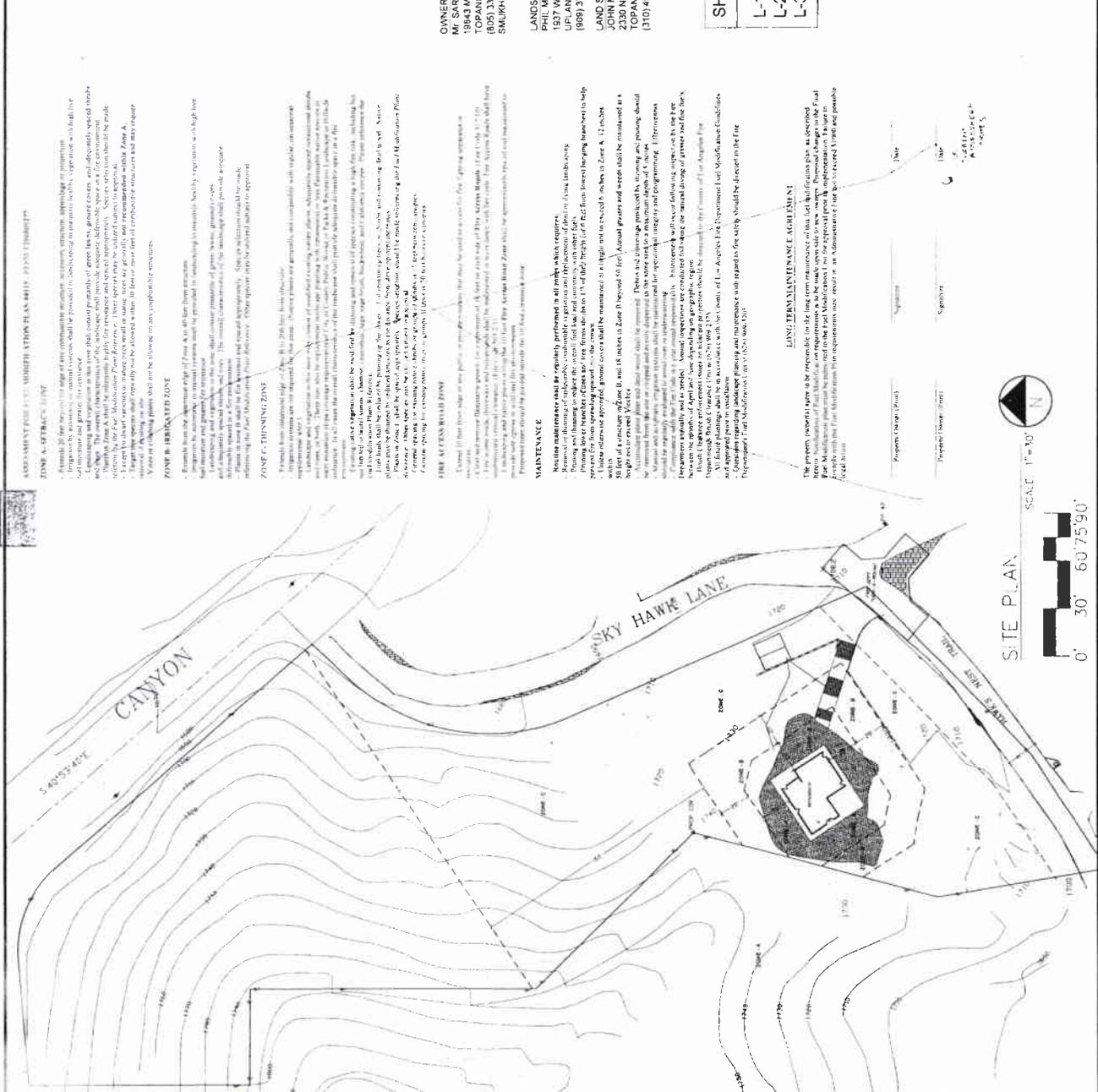
**PROJECT MANAGER**  
PHIL MAY

**DATE**  
10/24/08

**SCALE**  
AS SHOWN

**BY**  
PHIL MAY

**CHECKED**  
PHIL MAY



**ADDITIONAL NOTES:**

**ZONE A - DEFLECTED DRIVE**

- All plants shall be installed on the edge of the deflected drive, adjacent to the curb, and shall be installed in a manner that will not interfere with the operation of the deflected drive.
- All plants shall be installed in a manner that will not interfere with the operation of the deflected drive.
- All plants shall be installed in a manner that will not interfere with the operation of the deflected drive.

**ZONE B - IRRIGATED ZONE**

Plants shall be installed in a manner that will not interfere with the operation of the irrigation system. All plants shall be installed in a manner that will not interfere with the operation of the irrigation system.

**ZONE C - THINNING ZONE**

Plants shall be installed in a manner that will not interfere with the operation of the thinning zone. All plants shall be installed in a manner that will not interfere with the operation of the thinning zone.

**ZONE D - MAINTENANCE**

Plants shall be installed in a manner that will not interfere with the operation of the maintenance zone. All plants shall be installed in a manner that will not interfere with the operation of the maintenance zone.

**ZONE E - LIVING TREE MAINTENANCE AGREEMENT**

Plants shall be installed in a manner that will not interfere with the operation of the living tree maintenance agreement. All plants shall be installed in a manner that will not interfere with the operation of the living tree maintenance agreement.

**GENERAL NOTES:**

1. All plants shall be installed in a manner that will not interfere with the operation of the site plan.

2. All plants shall be installed in a manner that will not interfere with the operation of the site plan.

3. All plants shall be installed in a manner that will not interfere with the operation of the site plan.

**Exhibit 9  
CDP No. 4-12-018  
Fuel Modification Plan**