

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641 - 0142

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Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NO.:** 4-99-083

**APPLICANT:** John and Julie Heeney

**PROJECT LOCATION:** 936 Cold Canyon Road, Calabasas, Los Angeles County

**PROJECT DESCRIPTION:** Construct 1000 sq. ft., one story, 21 ft. high single family residence with attached 400 sq. ft. garage, detached 400 sq. ft. garage, driveway and replacement of septic tank with 2500 gallon system. Incidental grading (i.e. excavation and fill for foundation work and septic system installation).

<b>Lot area:</b>	3.43 acres.
<b>Building coverage:</b>	1,600 sq. ft.
<b>Pavement coverage:</b>	5,000 sq. ft.
<b>Parking spaces:</b>	4 covered
<b>Height above existing grade:</b>	21 ft.

**LOCAL APPROVALS RECEIVED:** County of Los Angeles: Environmental Review Board, Plot Plan 46035, February 22, 1999; Approval in Concept, dated 3/31/99.

**SUMMARY OF STAFF RECOMMENDATION**

The proposed development is to be used as a primary residence pending later application for a main residence on the pad constructed under a previous coastal development permit. Staff recommends approval of the proposed project with five (5) special conditions regarding future improvements, geologic recommendations, landscaping and erosion control, removal of natural vegetation, and wildfire waiver of liability.

**SUBSTANTIVE FILE DOCUMENTS:** Gorian Associates, Inc., Addendum to Geotechnical Site Update, Onsite Sewage Disposal, March 30, 1998 and

Geotechnical Site Update, March 11, 1998; Coastal Development Permits 4-94-157 (Teherani), 4-96-211 (Felder), and 4-98-073 (Ballard).

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**I. Approval with Conditions.**

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

**II. Standard Conditions.**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

6. 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.

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

### III. Special Conditions.

#### 1. Future Development Deed Restriction

- a. This permit is only for the development described in coastal development permit No. 4-99-083. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements to the permitted structures, including but not limited to clearing of vegetation or grading, other than as provided for in the approved fuel modification, landscape and erosion control plan prepared pursuant to Special Condition number four (4), shall require an amendment to Permit No. 4-99-083 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- b. Any proposal for development of a new single family residence on the property shall require conversion of the single family residence described in coastal development permit No. 4-99-083 to a guest house through reduction of the living area to a maximum of 750 square feet.
- c. Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development. The deed restriction shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**2. Plans Conforming to Geologist's and Engineer's Recommendations**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval by the Executive Director, evidence of the Geologist and Geotechnical Engineer consultant's review and approval of all project plans. All recommendations contained in the Gorian Associates, Inc., Geotechnical Site Update, March 11, 1998 including recommendations related to grading, foundations, and setbacks shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic consultants.

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 which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

**3. Landscaping and Erosion Control Plans**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

**A) Landscaping Plan**

- 1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- 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. 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) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- 5) Vegetation within 50 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 fifty 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.

**B) Interim Erosion Control Plan**

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on

the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

**C) Monitoring.**

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

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

**4. Removal of Natural Vegetation**

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surroundings 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.

**5. Wild Fire Waiver of Liability**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

**IV. Findings and Declarations.**

The Commission hereby finds and declares:

**A. Project Description and Background**

The applicant proposes to construct a 1000 sq. ft., one story, 21 ft. high single family residence with attached 400 sq. ft. garage, detached 400 sq. ft. garage, security gate and fencing, driveway and replacement of an existing septic tank with 2500 gallon system. No grading is proposed except for incidental work typical of residential development (i.e. excavation and fill for foundation work and septic system installation).

The original project proposal by the applicants included a two story, 4,600 sq. ft. single family residence with septic system on the existing building pad and a corral, riding area, and shelter on the lower level of the parcel adjacent to Cold Creek. The building pad was constructed under a previous coastal development permit. In addition, a second smaller residential unit was proposed adjacent to Cold Creek Road to be used as a primary residence until the main residence was completed. Staff expressed concerns with the proposed equestrian facilities next to the creek because of issues related to protection of environmentally sensitive habitat areas and coastal waters. The equestrian facilities and principal unit were eliminated from the project proposal.

The applicants propose to now only construct the smaller unit with use of one of the three garage parking spaces as part of the living floor area of the residence, on a temporary basis. The applicants have stated their intent to convert the parking space to garage area at the time a new principal residence is constructed on the existing pad below the residence. The subject garage space is 250 sq. ft. in area. The remaining residential living area is 750 sq. ft.. The applicants propose to use the garage area as living area, raising the total living area of the unit to 1000 sq. ft., with a total building coverage of 1450 sq. ft. when the garage

is included. The applicant proposes to discontinue this use of the garage at the time the main residence is constructed. Construction of a new principal residence and conversion of the presently proposed residence to a guest house requires application to the Coastal Commission.

The site is presently developed with a building pad, unpaved driveway, and 1500 gallon septic system. The pad was constructed as part of an earlier coastal development permit for a subdivision, as discussed below. The entrance to the site is at the approximate 700 ft. elevation where the residence and attached garage is proposed adjacent to Cold Canyon Road. An undeveloped building pad on a separate parcel under another ownership is found to the southeast and has an adjacent entrance off Cold Canyon Road. The driveway descends to the main building pad at the approximate 670 ft. elevation. Grade then descends to the approximate 575 elevation adjacent to Cold Creek which is offsite. Cold Creek is a designated blue line stream bordered by an Environmentally Sensitive Habitat Area. The project site is also within the Malibu/Cold Creek Resource Management Area.

Development to the north, west and south consists of single family development and equestrian facilities or undeveloped pads suitable for single family residences. The land to the east of the proposed development is steep undeveloped land. An equestrian and hiking trail (Stunt High Trail), and an adjacent private road easement and an adjacent public utility easement pass through the site west and downhill of the building pad.

The subject property is lot no. 5 of a ten lot, 85 acre subdivision approved by the Commission in 1981 (Coastal development permit P-81-7701), including construction of roads, building pads and septic systems and a trail easement. For the subject site, the Commission previously approved coastal development permit 4-94-157 (Teherani) for construction of a two story single family residence with swimming pool, corral, septic system, and 120 cu. yds. of grading. The permit was subject to conditions relative to wild fire waiver of liability, conformance to geologic recommendations, future development deed restriction, landscaping and grading plan, and drainage and erosion control plans. The permit was issued, but the project was not constructed, and the permit has expired.

## **B. Cumulative Impacts**

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

- (a) 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 only 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 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.

New development raises coastal issues related to cumulative impacts on coastal resources. The construction of a potential secondary unit or additions to the detached garage on a site, where a larger, primary residence may be proposed, would intensify the use of a parcel, resulting in potential impacts on public services, such as water, sewage, electricity and roads. New development also raises issues regarding the location and amount of new development relative to maintaining and enhancing public access to the coast by increasing demand for such facilities or impeding their use.

Based on these policies, the Commission has limited the development of second dwelling units on residential parcels in the Malibu and Santa Monica Mountain areas. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action and in certifying the Malibu Land Use Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu 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, electricity) than an ordinary single family residence. (certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29 and P.C.H. (ACR), 12/83 page V-1 - VI-1).

The second unit issue has also been raised by the Commission with respect to statewide consistency of both coastal development permits and Local Coastal Programs (LCPs). Statewide, additional dwelling units on single family parcels take on a variety of different functions which in large part consist of: 1) a second unit with kitchen facilities including a granny unit, caretaker's unit, and farm labor unit; and 2) a guesthouse, without separate kitchen facilities. Past Commission action has consistently found that both second units and guest houses inherently have the potential to cumulatively impact coastal resources. As such, conditions on coastal development permits and standards within LCP's have been required to limit the size and number of such units to ensure consistency with Chapter 3 policies of the Coastal Act (Certified Malibu Santa Monica Mountains Land Use Plan 1986, page 29). Therefore as a result, the Commission has found that guest houses, pool cabanas, or second units can intensify the use of a site and impact public services, such as water, sewage, electricity, and roads.

The applicants propose to construct a detached one story 1000 sq. ft. residence on the site, consisting of a living room, two bedrooms, and bath, and three car garage with one additional space used as living area. At 1000 sq. ft. of living area the residence would not comply with the Commission's size limit of 750 sq. ft. of habitable space for guest houses in the event that a new, larger primary residence was later added to the site unless the third parking space used as living area were converted to garage area. The Commission has many past precedents on similar projects that have established a maximum size of 750 sq. ft. habitable space for development which may be considered a secondary dwelling unit.

The Commission finds it necessary to ensure that no additions or improvements are made to the residence or both the attached and detached garages which will further intensify the use, without due consideration of the potential cumulative impacts. Consequently, it is necessary to require the applicant to record a future development deed restriction that the applicant obtain an amended or new coastal permit if additions or improvements to the development and convert the proposed residence to a guest house with construction of a new primary residence as required by *special condition number one (1)*. For these reasons, the Commission finds that, as conditioned, the proposed project is consistent with Section 30250 and 30252 of the Coastal Act.

### C. Geologic Stability and Hazards

Section 30253 of the Coastal Act states in 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 Santa Monica Mountains, an area considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The prominent geomorphic features in the area are Cold Creek to the west and a LUP-designated Significant Ridgeline to the east. Topography on the site ranges from 710 ft. at Cold Canyon Road to 575 ft. adjacent to Cold Creek. Slope drainage is by sheet flow to the north or west or through drains to the north and west off the existing building pads.

A natural swale is found along the northern property line, draining into Cold Creek. Most of the previously graded area of the site, including the pad and driveway, drains directly toward Cold Creek.

#### 1. Geology

The applicant has submitted a Gorian Associates, Inc., Addendum to Geotechnical Site Update, Onsite Sewage Disposal, March 30, 1998 and Geotechnical Site Update, March 11, 1998. The Geotechnical Site Update states that:

*It is the opinion of the undersigned, a duly registered geotechnical engineer, based upon tests conducted as outlined in this report, copies of test results being available for review, that if constructed in accordance with our recommendations and properly maintained, (1) the proposed structure(s) will be safe against hazard from landslide, settlement, or slippage, and that (2)*

*the proposed building or grading construction will have no adverse effect on the geologic stability or property outside of the building site.*

Given the findings and recommendations of the consulting engineering geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting engineering geologists as conforming to their recommendations, as noted in *special condition number two (2)* for the final project plans for the proposed project.

## 2. Erosion

Surface drainage on site, as noted above, is predominately toward the north and west, toward Cold Creek which is approximately 500 feet to the west of the proposed residential structure. The creek is designated as an environmentally sensitive habitat area and the Creek and project site are within the Malibu/Cold Creek Resource Management Area. Both designations are found in the land use component of the Malibu/Santa Monica Mountains LUP. The consulting geologist is concerned about the drainage associated with the proposal and recommended that drainage should be dispersed in a non-erosive manner to preclude concentration of runoff and erosion. The project plans for the proposed residence show a swale and a drain on the driveway conveying flow to a rip rap apron.

The project will significantly increase the amount of impervious surfaces on the site, increasing both the volume and velocity of storm water runoff. If not controlled and conveyed off the site in a non-erosive manner, this runoff will result in increased erosion on and off the site. Increased erosion may also result in sedimentation of the nearby stream on an interim basis and after construction. Therefore, the Commission finds it necessary to require the applicant to submit a detailed landscape and erosion control plan for the proposed development as proposed by *special condition three (3)*. Landscaping is a necessary part of this plan to minimize the potential for erosion of grading and disturbed soils and thereby ensure site stability. It is also necessary to ensure that the landscape and erosion control plan is reviewed and approved by the consulting engineering geologist and includes measures for replanting, soil stabilization, maintenance, sedimentation control, and monitoring. Such a plan ensures site stability and avoidance of the potentially adverse impacts of erosion and sedimentation in a manner consistent with PRC Section 30253.

In addition, *special condition number four (4)* is necessary to ensure that removal of natural vegetation for fuel modification purposes does not take place without implementation of the proposed single family residence. Unnecessary fuel modification

should be avoided as it is contrary to the provisions of PRC Section 30253 including ensuring site stability and avoiding adverse impacts of erosion and sedimentation.

### 3. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by *special condition number five (5)*. The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 of the Coastal Act.

### C. Environmentally Sensitive Habitat Areas

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, and minimizing alteration of natural streams.

As noted previously, the blueline stream which traverses just northwest of the site is located within the Malibu/Cold Creek Resource Management Area. Both designations are found in the land use component of the Malibu/Santa Monica Mountains LUP. Riparian vegetation is present up and downstream from where the project site drains into Cold Creek. The proposed project and replacement of the septic tank with a larger 2500 gallon tank on the main building pad are set back from the centerline of the creek by an approximate 500 ft..

Existing residential developments and their appurtenant structures and landscaping adjacent to the Creek have resulted in some disturbance of the riparian corridor through the Monte Nido community commencing just downstream of the project site. Regardless, Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. The Commission finds that the minimization of non-point source pollutants from new development will help to maintain and enhance the quality of coastal waters, streams, wetlands, estuaries and lakes. Non-point source pollution is the pollution of coastal waters (including streams and underground water systems) which enters the waterway from numerous sources which are difficult to identify on an individual basis. Non-point source pollutants include suspended solids, coliform bacteria and nutrients. These pollutants can originate from many different sources such as overflow septic systems, storm drains, runoff from roadways, driveways, rooftops and horse facilities

Therefore, in order to ensure that the proposed project is consistent with Section 30231 of the Coastal Act, the landscape and erosion control plan mentioned in the previous section, and required by *special condition three (3)* is necessary to reduce the non-point source pollution impacts of the proposed development and ensure consistency with PRC Section 30231.

#### E. Visual Resources

Section 30251 of the Coastal Act states that:

***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 addition, the certified Malibu/Santa Monica Mountains LUP provides policies regarding protection of visual resources, which are used as guidance and are applicable to the proposed development. These policies have been applied by the Commission as guidance, in the review of development proposals in the Santa Monica Mountains and include: *P129 designed and located for attractive appearance and harmonious relationship with the surroundings; P 125 sited and designed relative to LCP-designated scenic highways, views to and along the shoreline, and scenic coastal areas; P130 In highly scenic areas and along scenic highways, sited and designed to protect views to and along the ocean and to and along other scenic features, minimize the alteration of natural land forms, conceal raw-cut slopes, compatible with and subordinate to the character the setting, and not intrude into the skyline as seen from public viewing places; P134 sited to conform to the natural topography.*

The applicant proposes to construct a 1000 sq. ft., one story, 21 ft. high single family residence with attached 400 sq. ft. garage, detached 400 sq. ft. garage, security gate and fencing, driveway and replacement of an existing septic tank with 2500 gallon system. No grading is proposed except for incidental work typical of residential development (i.e. excavation and fill for foundation work and septic system installation).

To assess any potential visual impacts of this project to the public, the Commission reviews the publicly accessible locations from which the proposed development is visible, such as beaches, parks and trails. The Commission typically also examines the building site and the size of the structure.

The proposed development will be set back twenty feet from Cold Canyon Road. Visibility from Cold Canyon Road is partly blocked by the raised elevation along the shoulder. The shoulder is approximately ten feet above the ground level of the proposed residence. This will substantially mitigate the visibility of the single story residence and is similar to other development to the south along Cold Canyon Road. For these reasons, the proposal does not conflict with neighborhood character or views relative to visual protection under Section 30251 of the Coastal Act.

In summary, the proposed project will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act and the policy guidance contained in the certified Malibu/Santa Monica Mountains LUP.

**F. Septic System**

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards. The Coastal Act includes policies to provide for adequate infrastructure including waste disposal systems. 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, and minimizing alteration of natural streams.

Section 30250(a) of the Coastal Act states in part that:

New residential, ... development, ... shall be located within, ... existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed development includes constructing a replacement septic system for the new residence to provide for adequate sewage disposal. The installation of a private sewage disposal system was review by the consulting geologist, and found not to create or cause adverse conditions to the site or adjacent properties. A percolation test was performed on the subject property indicating that the percolation rate meets Uniform Plumbing Code requirements and is sufficient to serve the proposed single family residence.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could



adversely impact coastal waters. Therefore, the Commission finds that the proposed septic system is consistent with Section 30231 of the Coastal Act.

**G. Local Coastal Program**

Section 30604 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 Chapter 3 (commencing with Section 30200) 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 Chapter 3 (commencing with Section 30200).

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

**G. California Environmental Quality Act**

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that would substantially lessen any significant adverse effects that the activity may have on the environment.

The proposed development, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project,

as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.

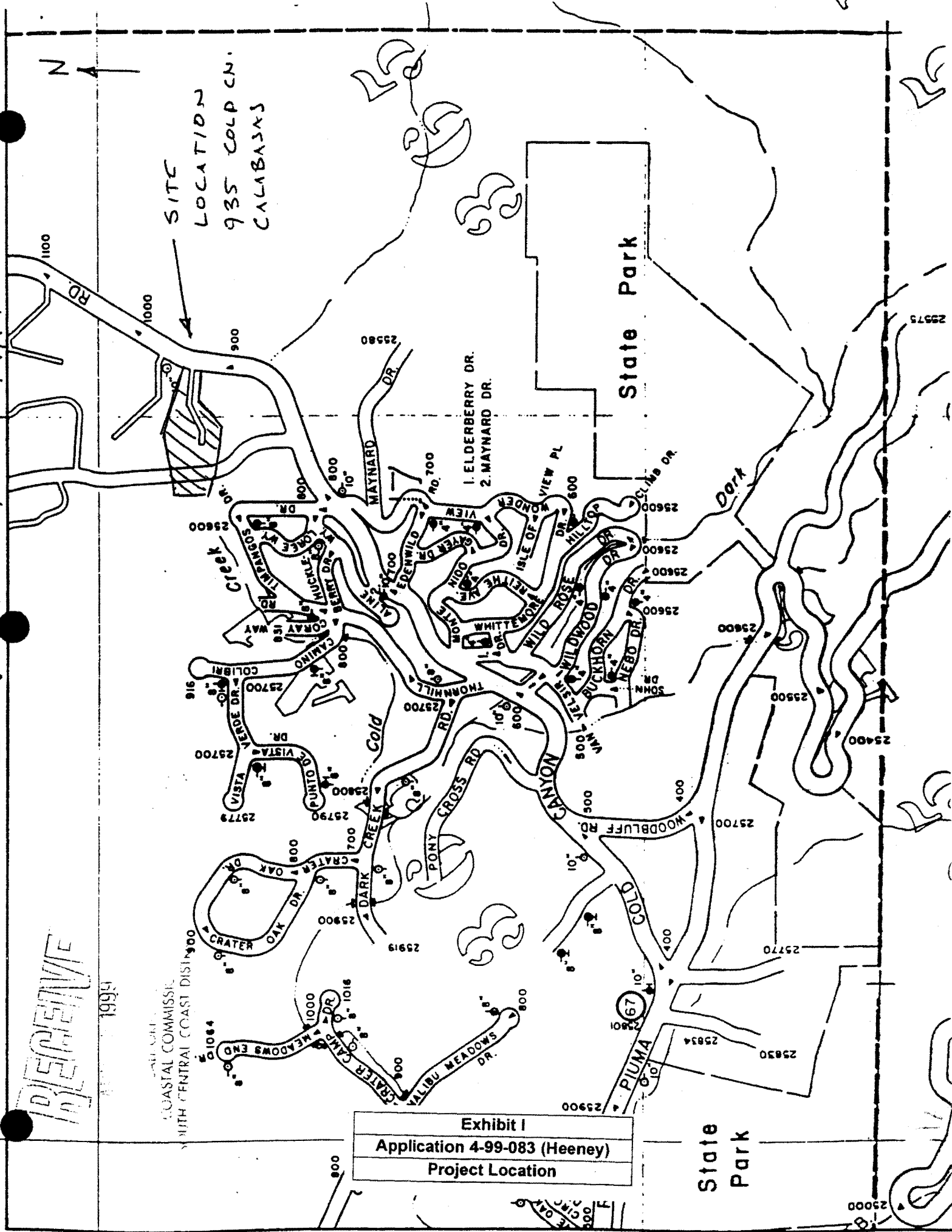
RECEIVED

1994

COASTAL COMMISSION  
WITH CENTRAL COAST DISTRICT

SITE  
LOCATION  
935 COLD CN.  
CALABASAS

Exhibit I  
Application 4-99-083 (Heeny)  
Project Location



**PROJECT LOCATION** →

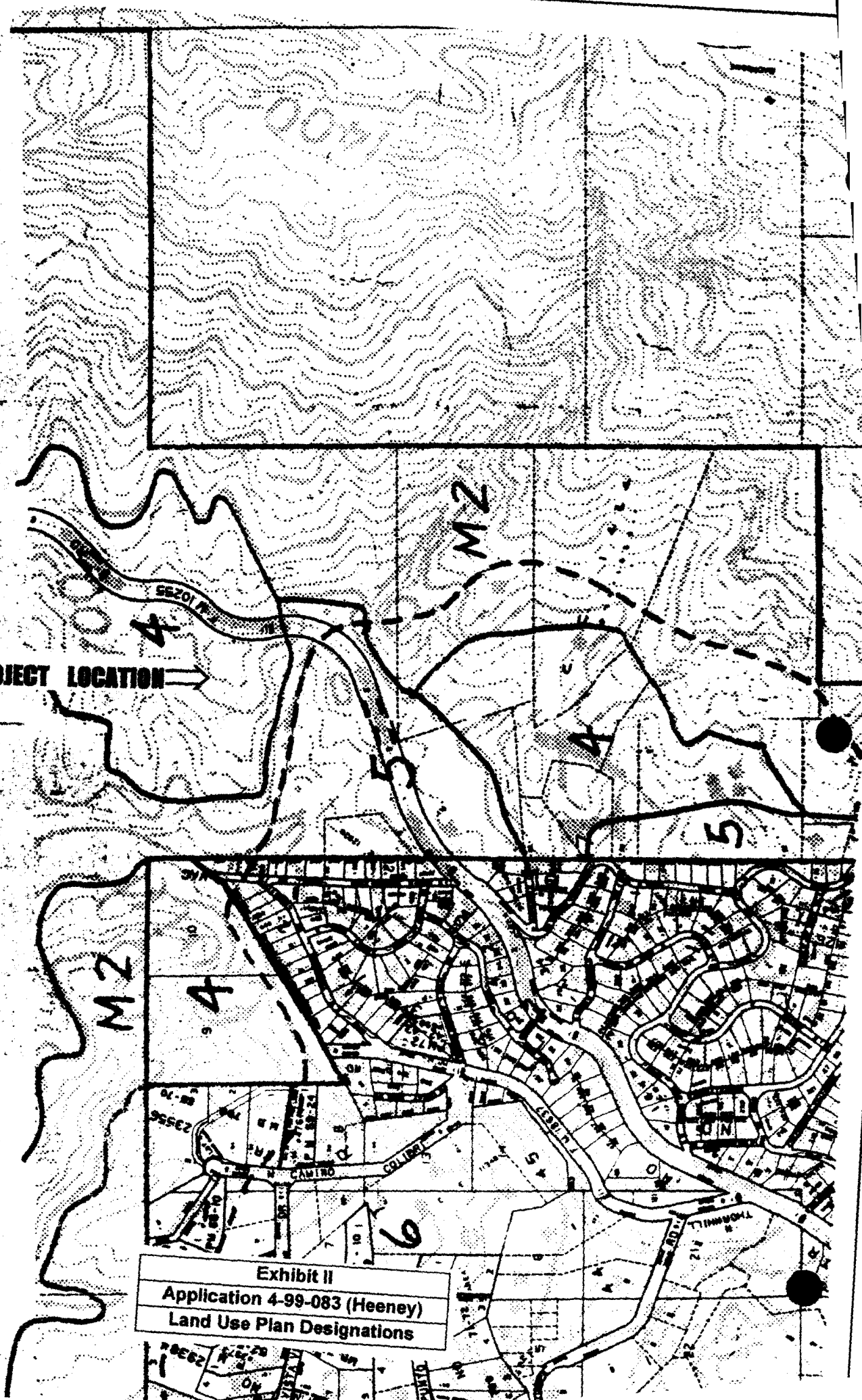
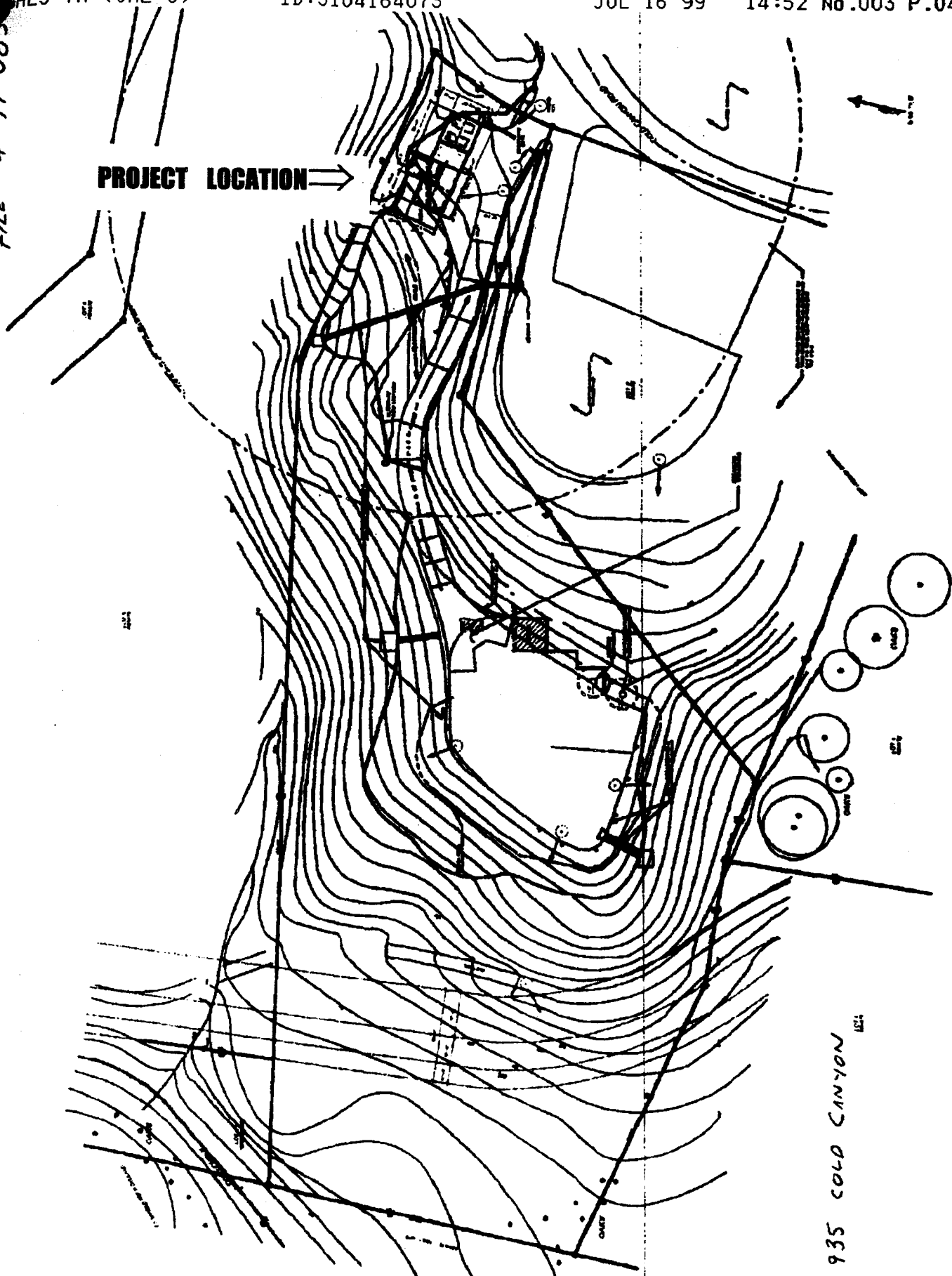


Exhibit II  
Application 4-99-083 (Heeney)  
Land Use Plan Designations

935 CO  
FILE 4-99-083

**PROJECT LOCATION** →

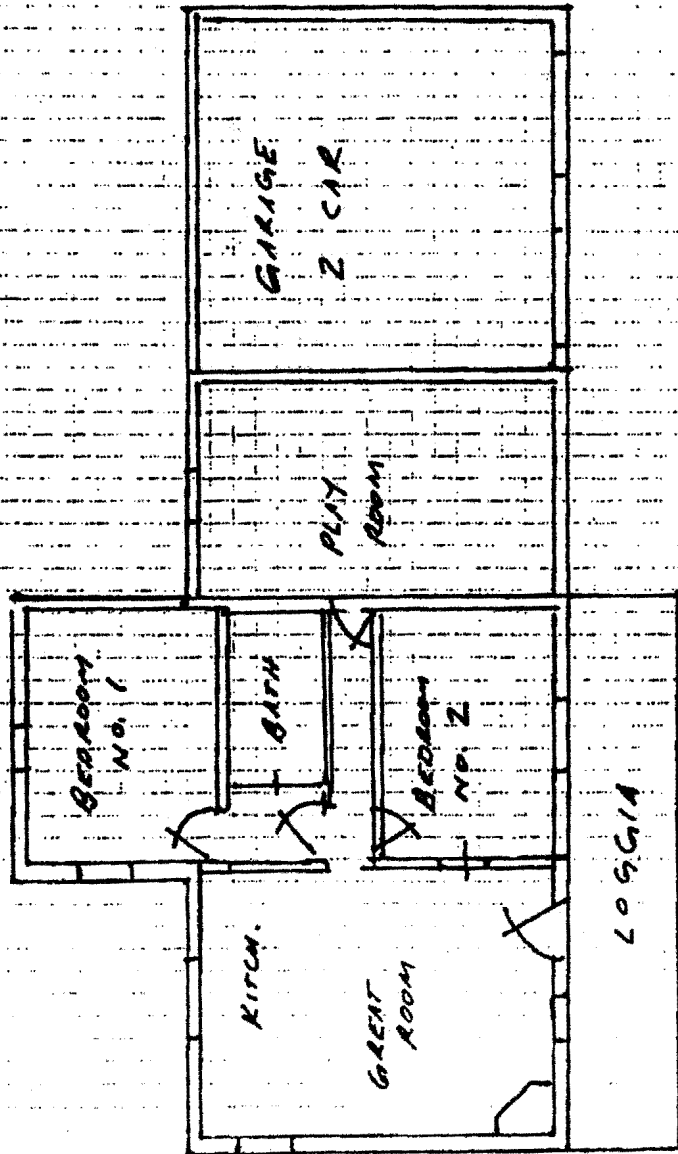
SCALE: 1"=40'



935 COLD CANYON

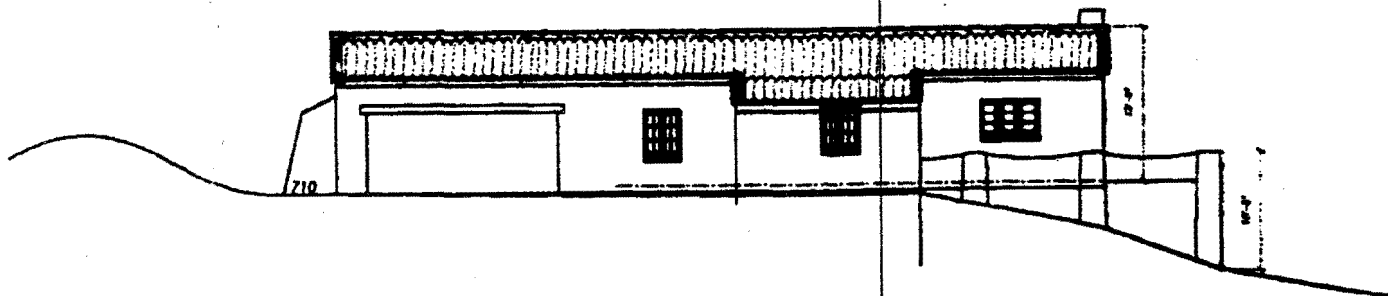
Exhibit III
Application 4-99-083 (Heeney)
Site Plan and Topography

FLOOR PLAN, 1"=10'  
1000 SQ FT S.F.F.R  
APP. 4-99-083  
935 COLO CANYON RD.  
CAMBASAS, CA

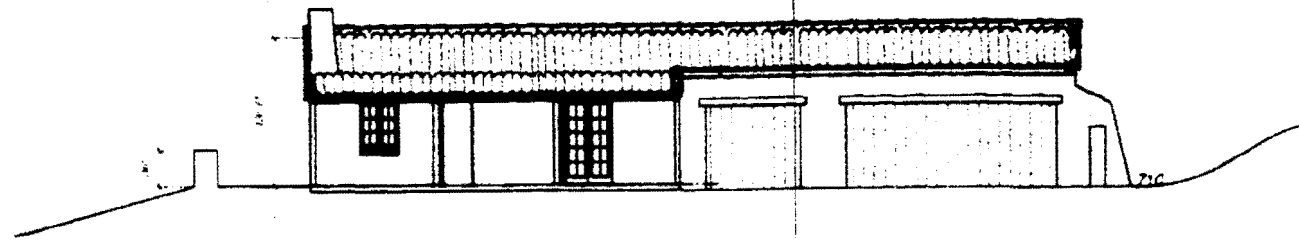


ATTN: MERLE BETZ

Exhibit IV
Application 4-99-083 (Heeney)
Floor Plan



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



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

Exhibit V
Application 4-99-083 (Heeny)
Elevations

