

CALIFORNIA COASTAL COMMISSION

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

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 Hearing Date: 03/13-16/01
 Commission Action:

**RECORD PACKET COPY****STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 4-00-013

APPLICANT: Gary & Jeannine Isbell **AGENT:** Nick Kazemi

PROJECT LOCATION: 26046 Mulholland Highway, Calabasas (Los Angeles County)

PROJECT DESCRIPTION: Proposal of a new 2,571 sq. ft, two-story, 24 ft. above grade single family residence with attached 420 sq. ft. garage, new septic system, 700 cubic yards overexcavation, 1,041 cu. yds. grading (588 cu. yds. cut and 453 cu. yds. fill), gravel driveway, and patios including an Offer To Dedicate Public Trail Easement. Also included is the request for approval of Conditional Certificate of Compliance No. 9092 to legalize the 10 acre subject parcel.

Lot area	10 acres
Building coverage	1,866 sq. ft.
Pavement coverage	6,500 sq. ft.
Landscape coverage	12,000 sq. ft.
Height Above Finished Grade	24 ft.
Parking spaces	2

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, December 20, 1999; County of Los Angeles Environmental Health Services, Sewage Disposal System Design Approval, August 29, 2000; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, June 15, 2000; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, August 24, 2000.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; "Report of Preliminary Geotechnical Investigation," Applied Earth Sciences, April 12, 1999; Coastal Development Permit Nos. 5-87-588 (Plesko), P-78-3444 (Perkins), 5-86-393 (Kerslake), 5-87-409 (Maren) & 4-95-189 (Klipp); Conditional Certificate of Compliance No. 9092 (recorded as document no. 87-212146).

Summary of Staff Recommendation

Staff recommends **approval** of the proposed project with **eleven (11) special conditions** regarding (1) geologic recommendations, (2) drainage and polluted runoff control, (3) landscaping and erosion control, (4) color restriction, (5) wildfire waiver of liability, (6) future improvements, (7) removal of natural vegetation, (8) cumulative impact mitigation, (9) offer to dedicate public hiking and equestrian trail easement, (10) condition compliance and (11) oak tree restoration and monitoring.

I. Staff Recommendation

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-00-013 pursuant to the staff recommendation.*

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

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

II. Standard Conditions

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

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall

be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

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

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

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

III. Special Conditions

1. Plans Conforming to Geologic Recommendations

All recommendations contained in the Report of Preliminary Geotechnical Investigation dated April 12, 1999 prepared by Applied Earth Sciences shall be incorporated into all final design and construction including *foundations, grading, drainage and sewage disposal*. Final plans must be reviewed and approved by the project's consulting geotechnical engineer and geologist. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, drainage and sewage disposal. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

2. Drainage and Polluted Runoff Control Plans

Prior to the Issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director for review and written approval, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geotechnical engineer and geologist to ensure the plan is in conformance with consultant's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

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3. Landscaping and Erosion Control Plans

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 geotechnical engineering and geologic consultant to ensure that the plans are in conformance with the consultant's recommendations. The plans shall identify the species, extent, and location of all plant materials and 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 February 5, 1996, and shall be compatible with the surrounding environment and oak tree habitat. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Plantings 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) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen the residence to minimize impacts of the development on public views from the dedicated hiking and equestrian trail located west and south of the site (Exhibit 3).
- (4) 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.
- (5) 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.
- (6) The disturbed area within the flood hazard zone, as shown on Exhibit 9, shall be revegetated with native riparian plant and tree species.
- (7) 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.
- (4) In addition to other fencing/flagging requirements, as set forth in subparagraph 1) above, the plan shall require the placement of temporary protective fencing around the protected zones of the oak canopies within or adjacent to the construction area that may be disturbed during construction or grading activities (Exhibit 4). No construction, grading, staging, or materials storage shall be allowed within the fenced exclusion areas or within the protected zones of any on site oak trees.

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. Color Restriction

The color of the structures, roofs, patios and driveway permitted hereby shall be restricted to a color compatible with the surrounding environment (white and red tones shall not be acceptable). All windows shall be comprised of non-glare glass.

Prior to the issuance the coastal development permit the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances 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.

5. Wildfire Waiver of Liability

Prior to the issuance of a 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, and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

6. Future Improvements

This permit is only for the development described in coastal development permit No. 4-00-013. Pursuant to Title 14 California Code of Regulations §13250 (b)(6), the exemptions otherwise provided in Public Resources Code §30610 (a) shall not apply to

the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-00-013, and any grading, clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to **Special Condition No. Three (3)**, shall require an amendment to Permit No. 4-00-013 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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, incorporating all of the above terms of this condition. 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.

7. 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.

8. Cumulative Impact Mitigation

Prior to the issuance of the Coastal Development Permit, the applicant shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject development with respect to build-out of the Santa Monica Mountains are adequately mitigated. Prior to issuance of this permit, the applicant shall provide evidence to the Executive Director that development rights for residential use have been extinguished on one (1) building site in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

- a) a Transfer of Development Credit (TDC)-type transaction, consistent with past Commission actions;
- b) participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

9. Offer to Dedicate Public Hiking and Equestrian Trail Easement

In order to implement the applicant's proposal of an offer to dedicate a ten foot (10') wide public access hiking and equestrian trail easement for passive recreational use as part of this project, the applicant as landowner agrees to complete the following prior to issuance of the permit: the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director a ten foot (10') wide easement for public hiking and equestrian access and passive recreational use in the general location and configuration depicted in Exhibit 4 and coterminus with the roadway along the western boundary of the property consistent with the Los Angeles County Trail Map. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use that may exist on the property. The document shall also provide that there shall be no gate(s) at the entrance to or exit from the easement.

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

10. Condition Compliance

Within 120 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

11. Oak Tree Restoration and Monitoring

The applicant shall retain the services of an independent biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during construction of the driveway and during all grading and construction activity. Protective fencing shall be used around the outermost limits of the driplines of the oak canopies within or adjacent to the construction area that may be disturbed during construction or grading activities. The consultant shall immediately notify the Executive Director if unpermitted activities

occur or if habitat is removed or impacted beyond the scope of the work allowed by Coastal Development Permits 4-00-013. This monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

For the oak tree just east of the building pad that will most likely be lost (Exhibit 9) and any other oak trees on site that may be lost or suffer worsened health or vigor due to activities approved under Coastal Development Permit 4-00-013, replacement seedlings, less than one year old, grown from acorns collected in the area shall be planted at a ratio of at least 10:1. The applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications, and a monitoring program to ensure that the replacement planting program is successful. An annual monitoring report on the oak tree restoration and preservation shall be submitted for the review and approval of the Executive Director for each of the 10 years. Should any oak trees be lost or suffer worsened health or vigor as a result of the proposed development, the applicant shall plant seedlings, less than one year old, grown from acorns collected in the area, at a ratio of at least 10:1.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to construct a 2,571 sq. ft. two-story, 24 ft. above grade single family residence with an attached 420 sq. ft. garage, new septic system, gravel driveway, and patios (Exhibit 4). Approximately 700 cu. yds. of overexcavation, 1,041 cu. yds. of grading (588 cu. yds. cut and 453 cu. yds. fill) is proposed for the new development in addition to approximately 270 cu. yds. of after-the-fact grading which created the existing building pad on the site.

The project site is a square 10 acre parcel located just south of Mulholland Highway and east of Las Virgenes Road (Exhibit 1 & 2). The lot consists of a west-trending ridge with canyons on the north and south. Slope gradients within the subject parcel range from relatively flat in the area of the existing building pad to 2:1 on slopes between the ridge top and canyon bottom, with a maximum relief of approximately 310 ft. The parcel is bounded on the north by residences, on the east by an undeveloped forty acre parcel, on the south by an undeveloped ten acre parcel and on the west by a subdivision of one ten acre lot into four 2 ½ acre lots approved under Coastal Development Permit No. P-78-3444 (Perkins) including two lots with residences (Exhibit 3). The subject parcel is accessed at the northwest corner via an existing sixty ft. wide road easement from Mulholland Hwy. A nearly level building pad exists near the northwest corner of the site which is the proposed location for the residence. The

proposed driveway runs along the northern edge of the property upslope to the existing building pad. The northern portion of the parcel is a natural drainage course which is not designated as a blueline stream by the United States Geological Survey (USGS), but does drain to an intermittent unnamed stream designated as a blueline stream that subsequently drains to Sleeper Canyon Creek which is another designated blueline stream and flows into Malibu Creek, also a blueline stream. There are no riparian species within the drainage course on the subject property, thus construction of the driveway will not impact sensitive habitat. There are eleven oak trees present on the subject parcel, one oak tree will be impacted by the proposed development which is discussed further in section **E. Sensitive Resources**. The southern portion of the property is traversed by an existing public hiking and equestrian trail (Calabasas Cold Creek Trail) and will remain unaltered. The southeastern corner of the parcel extends out to the edge of the Cold Creek Management Area designated as environmentally sensitive habitat area just south and east of the parcel (Exhibit 3). The proposed development will be located on an existing building pad which is adjacent to the roadway along the western boundary of the property which is a portion of Calabasas Cold Creek Trail as identified in the Los Angeles County Trail Map (Exhibit 4). Because the proposed project site is located adjacent to a portion of Calabasas Cold Creek Trail, the proposed project will be visible from the trail.

The subject 10 acre parcel was created in 1975 as a result of an unpermitted four lot subdivision of a 40 acre parcel. Four ten acre lots were created through this subdivision. The subdivision was not properly permitted pursuant to the requirements of the Subdivision Map Act of 1972 and Los Angeles County Planning and Zoning codes. In 1987 the County of Los Angeles issued a Conditional Certificate of Compliance to "legalize" the lot pursuant to the Subdivision Map Act. Although the subdivision occurred prior to the effective date of the Coastal Act (January 1, 1977) the subdivision was not properly permitted at the local level as is required by the Subdivision Map Act. The 1987 conditional Certificate of Compliance which "legalized" this lot pursuant to the Subdivision Map Act is considered a form of subdivision and therefore requires a Coastal Development Permit. However, the landowner at the time failed to secure a coastal development permit for the conditional Certificate of Compliance. The applicant is proposing to "legalize" the 1987 Conditional Certificate of Compliance through this coastal development permit which is discussed in detail below.

In 1978 the Coastal Commission approved a four lot subdivision of one of the 10 acre parcels created as a result of the subdivision of the forty acre parcel (P-78-344 (Perkins)). This 10 acre parcel located in the northwestern quarter of the underlying 40 acre parcel was divided into four 2 ½ acre lots. Under this permit application the Commission did not address the legality of the underlying 10 acre parcel. A single family residence existed on this lot prior to the subdivision and the Commission has subsequently approved CDP Nos. 5-86-393 (Kerslake), 5-87-409 (Maren) & 4-95-189 (Klipp) on the other three newly created lots.

Coastal development permit 5-87-588 (Plesko) was approved for the construction of a 2,121 sq. ft. residence on the subject parcel in 1988. Under this permit application the

Commission recognized that the subject parcel was created as a result of an unpermitted Certificate of Compliance and required, as a special condition of approval, the purchase of a Transfer of Development Credit. The Commission also required the dedication of a public hiking and equestrian trail easement over the Cold Creek Trail that traverses the parcel. The applicant did not satisfy the conditions of the permit and the permit expired.

The existing building pad was constructed sometime between 1977 and 1987, also without the benefit of a coastal development permit. As stated previously, an estimated 270 cu. yds. of fill was required to create this pad. The applicant has included this unpermitted grading as part of the grading plan for the proposed building pad.

B. Geology and Wildfire Hazard

The proposed development is located in the Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area 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.

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.*

Geology

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The project site is a parcel comprised of an existing building pad surrounded by moderately descending and steeply ascending slopes. As previously described, the proposed development will be located in the northwestern portion of the subject property and will utilize the existing building pad for a building location. No development is proposed on the steeply sloping terrain of the site and the proposed project will require minimal grading (588 cu. yds. cut and 453 cu. yds. fill) and approximately 700 cu. yds. overexcavation to prepare the pad and driveway for the proposed development. As such, the Commission notes that the proposed development is designed to minimize the need for grading and excessive vegetation removal on the slopes of the property, as well as avoid direct development

on sloped terrain, and therefore will reduce the potential for erosion and geologic instability.

Furthermore, the applicant has submitted a Report of Preliminary Geotechnical Investigation dated April 12, 1999 prepared by Applied Earth Sciences which evaluates the geologic stability of the subject site in relation to the proposed development. Based on their evaluation of the site's geology and the proposed development the consultants have found that the project site is suitable for the proposed project. The project's consulting geotechnical engineer states in the Report of Preliminary Geotechnical Investigation dated April 12, 1999 prepared by Applied Earth Sciences:

It is our opinion that when the proposed construction and grading are made, following the recommendations in this report the site will be safe for the proposed structures against the hazard of landslide, settlement, or slippage. The proposed grading will have no adverse influence on the geologic stability of properties outside of the project site.

The geotechnical engineering consultant concludes that the proposed development is feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The Report of Preliminary Geotechnical Investigation dated April 12, 1999 prepared by Applied Earth Sciences contain several recommendations to be incorporated into project construction, design, drainage and sewage disposal to ensure the stability and geologic safety of the proposed project site and adjacent property. To ensure that the recommendations of the consultant have been incorporated into all proposed development the Commission, as specified in **Special Condition No. One (1)**, requires the applicant to submit project plans certified by the consulting geotechnical engineer as conforming to all structural and site stability recommendations for the proposed project. Final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultant shall require an amendment to the permit or a new coastal development permit.

The Commission finds that controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad will also add to the geologic stability of the project site. Therefore, in order to minimize erosion and ensure stability of the project site, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicant to submit drainage and erosion control plans certified by the geotechnical engineer, as specified in **Special Conditions No. Two and Three (2 & 3)**.

Furthermore, the Commission finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition No. Three (3)** requires the applicant to submit landscaping plans certified by the consulting geotechnical engineer as in conformance with their recommendations for landscaping of the project site. Special Condition No. Three also requires the applicant to utilize and

maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition No. Three (3)**.

In addition, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition No. Seven (7)**. This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The limitation imposed by Special Condition No. Seven avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

The Commission finds that the proposed project, as conditioned, will serve to minimize potential geologic hazards of the project site and adjacent properties.

Wildfire

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. Typical vegetation in 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 **Special Condition No. Five (5)**, the wildfire waiver of liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which

may affect the safety of the proposed development. Moreover, through acceptance of Special Condition No. Five, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

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

C. Cumulative Impacts

The Commission has consistently emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area. 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 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 30105.5 of the Coastal Act defines the term "cumulatively" as it is used in Section 30250(a) to mean:

[T]he incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The certified Santa Monica Mountains Land Use Plan provides guidance to the Commission with a policy relative to conditional certificates of compliance. P273f states that:

Issuance of a conditional certificate of compliance pursuant to Government Code section 66499.35(b) shall be subject to a coastal development permit which shall be approved, but shall be subject to conditions to implement all applicable policies of this LUP, including land division policies.

LUP policy P273d also requires that:

In all other instances, land divisions shall be permitted consistent with the density designated by the Land Use Plan Map only if all parcels to be created contain sufficient area to site a dwelling or other principal structure consistent with the LCP.

As described previously, the applicant is requesting approval of a certificate of compliance to legalize the subject 10 acre parcel which was derived from an

unpermitted subdivision of a forty acre parcel into four ten acre parcels. In 1987 the County of Los Angeles issued a Conditional Certificate of Compliance to "legalize" the lot pursuant to the Subdivision Map Act and County planning and zoning codes. Although the subdivision occurred prior to the effective date of the Coastal Act (January 1, 1977) the subdivision was not properly permitted at the local level as is required by the Subdivision Map Act. The 1987 conditional Certificate of Compliance which "legalized" this lot pursuant to the Subdivision Map Act is considered a form of subdivision and therefore requires a Coastal Development Permit. However, the landowner at the time failed to secure a coastal development permit for the conditional Certificate of Compliance. Therefore, the applicant is proposing to "legalize" the 1987 Conditional Certificate of Compliance through this coastal development permit.

The Commission typically reviews the creation of lots through a subdivision of land in a comprehensive manner and not on a piecemeal basis. The Commission review typically entails an analysis of the individual and cumulative impacts of the subdivision on coastal resources. To accomplish this the Commission reviews the proposed lot sizes and lot configurations to ensure consistency with minimum lot size requirements of the LUP, surrounding lot sizes, and to ensure each lot can be developed consistent with Chapter Three Policies of the Coastal Act. To adequately analyze the environmental impacts of a subdivision and determine consistency with Chapter Three Policies of the Coastal Act the applicant is required to submit detailed grading plans, geology reports, percolation tests, biological studies, viewshed analysis and other studies that encompass the entire subdivision.

In this case, a comprehensive analysis of the land division which created the four 10 acres parcels is not possible because the lots have been sold to multiple owners and the Commission permitted the further subdivision of one of the four 10 acre parcels. Under Coastal Development permit P-78-344 (Perkins) the Commission approved the subdivision of the 10 acre northwestern quarter into four 2 ½ acre lots. The underlying 10 acre lot included an existing residence on the lot. The Commission subsequently approved the construction of three residential developments on the remaining three lots under CDP Nos. 5-86-393 (Kerslake), 5-87-409 (Maren) & 4-95-189 (Klipp). Two residences have been constructed on two of the lots and a building pad has been graded on the third. Therefore, the Commission review in this case is limited to the subject 10 acre parcel.

Coastal Development Permit No. 5-87-588 (Plesko) was previously approved on the subject site for the construction of a 2,121 sq. ft. residence with septic system in 1988. Under this permit application the Commission recognized that the subject parcel was created as a result of an unpermitted Certificate of Compliance and required, as a special condition of approval, the purchase of a Transfer of Development Credit. The Commission also required the dedication of a public hiking and equestrian trail easement over the Cold Creek Trail that traverses the parcel. The applicant did not satisfy the conditions of the permit and the permit expired.

The Coastal Act requires that new development, including subdivisions and multi-family

projects, be permitted only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. In past permit actions, the Commission has looked to the land use designations of the Malibu/Santa Monica Mountains Land Use Plan for guidance on the maximum density and intensity of land use that may be permitted in any particular area.

In this case, we must apply land division policies since the creation of the subject parcel occurred without the benefit of a permit. The criteria outlined in §30250 regarding 50 percent development of usable parcels in the area and minimum lot size are imposed for land divisions outside existing developed areas. The project site is located just south of Mulholland Hwy where approximately 58% of the usable parcels in the area have been developed, as such the proposed project is in conformance with the 50 percent criterion. The average size of surrounding parcels is approximately nine (9) acres, thus the ten (10) acre subject parcel conforms to this criterion also.

The land use designations from the certified Los Angeles County LUP are instructive on the level of density that the Commission has previously found allowable consistent with the policies of the Coastal Act. In this case, the certified LUP designates the proposed project site a mosaic of Rural Land I (10%) and II (70%) and Mountain Land (20%) Categories, which allow one dwelling unit per ten acres, five acres and twenty acres, respectively. As such, the zoning set forth by the County of Los Angeles for the property would allow for a maximum density of approximately one residence per six acres. The proposed project would result in a density of one dwelling per ten acres on the lot which conforms to the density category. As such, the proposed project is consistent with the lot size requirements of the certified LUP.

In addition to assuring that newly created parcels are consistent with the maximum allowable density and intensity for each area, the Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impact problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects. Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, future build-out of many lots located in environmentally sensitive areas would create adverse cumulative impacts on coastal resources.

As a means of addressing the cumulative impact problem in past actions, the Commission has consistently required, as a special condition to development permits for land divisions and multi-unit projects, participation in the Transfer Development Credit (TDC) program as mitigation, such as has been done in past actions including CDPs P-78-155 (Zal), P-78-158 (Eide), P-81-182 (Malibu Deville), P-86-196 (Malibu Pacifica), 5-83-43 (Heathercliff), 5-83-591 (Sunset-Regan), 5-85-748 (Ehrman & Coombs), 4-98-281 (Cariker), 4-00-028 (Layman), 4-00-044 (Blank Par-E, LLC) and 4-00-097 (Rollins). The TDC program has resulted in the retirement from development of existing, poorly-sited, and non-conforming parcels at the same time new parcels or

units were created. The intent of the program is to insure that no net increase in residential units results from the approval of land divisions or multi-family projects while allowing development to proceed consistent with the requirements of §30250(a). In summary, the Commission has found that the TDC program, or a similar technique to retire development rights on selected lots, remains a valid means of mitigating cumulative impacts. Without some means of mitigation, the Commission would have no alternative but to deny such projects, based on the provisions of §30250(a) of the Coastal Act.

The applicant is requesting approval to legalize the ten acre subject parcel which was created through the unpermitted division of a forty acre parcel. Staff's review indicates that the incremental contribution to cumulative impacts would be the creation, in this case, of one additional lot. Impacts such as traffic, sewage disposal, recreational uses, visual scenic quality, and resource degradation are associated with the development of an additional parcel in this area. Therefore, the Commission finds it necessary to impose cumulative impact mitigation requirements as a condition of approval of this permit in order to address the legality of the existing parcel and insure that the cumulative impacts of the creation of an additional buildable lot is adequately mitigated.

Therefore, **Special Condition No. Eight (8)** requires the applicant to mitigate the cumulative impacts of the development of this property, either through purchase of one (1) TDC or participation along with a public agency or private nonprofit corporation in retiring habitat or watershed land in amounts that the Executive Director determines will retire the equivalent potential building site. The Commission finds that, as conditioned, the proposed project is consistent with §30250 of the Coastal Act.

D. Violations

Grading in order to create a level building pad occurred on the subject site without the benefit of the required coastal development permit. From Coastal Commission owned aerial photos it appears that this building pad was created sometime between 1977 and 1987. The applicant's consulting engineer has estimated the grading amount to be approximately 270 cu. yds. of fill. The applicant's are including this grading as part of their project description to address the violation and attain after-the-fact approval.

Around 1975 the subject parcel was created per a subdivision carried out without the benefit of a coastal development permit. As discussed previously, one forty acre parcel was divided into four ten acre parcels. The subject parcel constitutes the northeast quarter of that division. Although the division occurred prior to the Coastal Act, the property owner at that time did not comply with local government policies regarding land division, therefore the subsequent property owner (Plesko) sought to legalize the parcel with regards to compliance to the Subdivision Map Act. A conditional certificate of compliance was issued for the parcel in 1987. Also in 1987, the property owner submitted an coastal development permit application to develop a single family residence on the subject parcel. Applicants who have met the conditions of a Conditional C of C still must comply with the land division policies of the LUP. CDP No.

5-87-588 (Plesko) was approved by the commission in 1988 with the TDC as condition of approval, however, the applicant did not fulfill the condition required to legalize the certificate of compliance, thus the creation of this additional lot has not been authorized under the Coastal Act.

In order to ensure that the cumulative impacts from the creation of the subject parcel are mitigated, as proposed by the applicant, in a timely manner, **Special Condition No. Eight (8)** requires the applicant to acquire a TDC prior to the issuance of the coastal development permit. To further ensure that the violation portion of this development project is resolved in a timely manner, **Special Condition No. Ten (10)** requires that the applicant satisfy all conditions of this permit, which are prerequisites to the issuance of this permit, within 120 days of Commission action.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

E. Sensitive Resources

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

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

Section 30240 of the Coastal Acts states:

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

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would

significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through means such as 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. In addition, §30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

To assist in the determination of whether a project is consistent with Section 30230, 30231, and 30240 of the Coastal Act, the Commission has relied in past permit decisions on the certified LUP, which contains numerous policies designated to protect sensitive resource areas from the individual and cumulative impacts of development. The certified LUP has been found to be consistent with the Coastal Act and provides specific standards for development in Malibu and the Santa Monica Mountains. In its findings regarding the certification of the Malibu/Santa Monica Mountains LUP, the Commission emphasized the importance placed by the Coastal Act on protection of sensitive environmental resources and found that:

Coastal canyons in the Santa Monica Mountains require protection against significant disruption of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.

No designated environmentally sensitive habitat area exists at the project site, but there are eleven individual oak trees and a natural drainage course that flows into a designated blueline stream by the USGS and ultimately leads to Malibu Creek, also a designated blueline stream. In addition, the subject parcel lies at the periphery of the Cold Creek Resource Management Area. The area proposed for construction of a new residence is an existing building pad that is located upslope from the natural drainage course and oak trees on the project site. As such, development of the proposed single family residence will occur within an area previously disturbed by past grading and vegetation removal, however, construction activities will result in removal of one individual oak tree at the project site.

Policy 80 of the LUP requires that leachfields for new septic systems shall be located at least 50 ft. from the outer edge of riparian or oak tree canopies. The leachfield for the proposed septic system is located only 5 ft. from the outer edge of the nearest oak canopy. In addition, the proposed grading to modify the building pad extends into the protected zone of the same oak tree. As a result, the proposed development will include the removal of one oak tree to install the septic system leachfield and grade the building pad out further so as to lower the elevation of the house, thereby minimizing visual impacts on public views from the trail. The oak tree to be removed is small in size with a trunk diameter of 12 inches at 4.5 feet in height. **Special Condition No.**

Eleven (11) requires the applicant to replace this tree at a ratio of at least 10:1. Since it often takes many years for oak trees to display signs of damage and may be difficult to determine the precise cause of death or worsened health, also through **Special Condition No. Eleven (11)**, if any other oak trees are lost or suffer worsened health or vigor, as a result of the proposed development, the applicant shall plant replacement trees on the site at a rate of at least 10:1. Furthermore, under **Special Condition No. Eleven (11)**, the applicant must also submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications, and a monitoring program to ensure that the replacement planting program is successful.

As such, with the exception of the removal of one oak, all development proposed on site has been set back outside of the protected zones of on site oak trees. To ensure that the protected zones will not be violated due to development activities, **Special Condition No. Three (3)** requires that protective fencing be placed around the protected zones of the oak canopies within or adjacent to the construction area that may be disturbed during construction or grading activities.

The applicant submitted a fuel modification plan for the proposed development which indicates that minimal impacts will occur on the site due to extensive thinning that has already occurred on the subject parcel to protect existing structures on the adjacent property to the west. Also, the area fifty ft. out from the structure does not support any native species as the previous grading has disturbed the area and only exotic grasses grow on the pad. Fuel modifications will have impacts in the zone 130 ft. away from the residence involving healthy chaparral. Healthy chaparral also exists within the 200 ft. radius of the proposed structure, however, the plan indicates that this zone will be left natural except for any dead brush. The Commission notes that no fuel modification will occur within the natural drainage course and as noted on the plan, the irrigated zone will not require overwatering around the root zones of oak trees. Therefore, the Commission finds that the proposed project is adequately located and designed, through minimum setback/buffer requirements and an accommodating fuel modification plan, to minimize significant disruption of sensitive oak habitat existing at the site.

The Commission further finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, **Special Condition No. Three (3)** requires that all landscaping

consist primarily of native plant species and that invasive plant species shall not be used.

The Commission notes that seasonal streams and drainages, such as the natural tributary which ultimately drains to Malibu Creek located within the subject site, in conjunction with primary waterways, provide important habitat for riparian plant and animal species. Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible through means such as: controlling runoff, preventing interference with surface water flows and alteration of natural streams, and by maintaining natural vegetation buffer areas. In past permit actions the Commission has found that new development adjacent to coastal streams and natural drainages results in potential adverse impacts to riparian habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species, disturbance of wildlife, and loss of riparian plant and animal habitat. As discussed in detail above, the Commission notes that the proposed development will be located as far as feasible from the oak tree habitat due to the natural slopes and the location of the existing building pad and the proposed development will not encroach into the oak tree protected zones. However, the Commission finds that potential adverse effects to the value and quality of the natural tributary, and of the oak tree habitat on the subject site, may be further minimized through the implementation of an appropriate landscaping plan utilizing native plant species, and implementation of a drainage and polluted runoff control plan, **Special Condition No. Two (2) and Three (3)**.

The proposed project includes approximately 700 cu. yds. of overexcavation and minimal grading. Grading for the proposed project is limited to preparing the existing building pad for construction of the new residence and no significant landform alteration is proposed. However, all grading activities at the project site have the potential to increase erosion on site and increase sedimentation into the natural drainage course and ultimately, Malibu Creek and downstream areas. The Commission finds that minimizing site erosion will reduce the project's individual and cumulative potential to adversely affect sensitive resources located downstream of the project site.

As such, the Commission finds that potential adverse effects of the proposed development on downstream areas may be further minimized through the implementation of a drainage and polluted runoff control plan, which will ensure that erosion is minimized and polluted run-off from the site is controlled and filtered before it reaches natural drainage courses within the watershed. Therefore, the Commission requires **Special Condition No. Two (2)**, the Drainage and Polluted Run-off Control Plan, which requires the applicants to incorporate appropriate drainage devices and Best Management Practices (BMPs) to ensure that run-off from the proposed structures, impervious surfaces, and building pad area is conveyed off-site in a non-erosive manner and is treated/filtered to reduce pollutant load before it reaches coastal waterways. (See Section F. **Water Quality** for a more detailed discussion of coastal water quality).

In addition, the Commission notes that natural habitat areas have been disturbed by past unpermitted actions and finds that it is necessary to enhance and restore graded and disturbed areas in order to prevent adverse effects on downstream areas through increased runoff and erosion. Therefore, per **Special Condition No. Three (3)**, the disturbed area within the flood hazard zone, as shown on Exhibit 9, shall be revegetated with native riparian plant and tree species.

Finally, the Commission finds that the amount and location of any new development that may be proposed in the future on the subject site is significantly limited by the unique nature of the site and the above mentioned environmental constraints. Therefore, in order to ensure that any future structures, additions, change in landscaping or intensity of use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition No. Six (6)**, the future development deed restriction, has been required.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned by Special Condition No. Two (2), Three (3), Six (6), and Eleven (11), is consistent with §30230, §30231 and §30240 of the Coastal Act.

F. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states:

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

As described, the proposed project includes construction of a two-story, 24 ft. high, 2,571 sq. ft. single family residence with an attached 420 sq. ft. garage, new septic system, gravel driveway, and patios. The proposed project also involves 700 cubic yards of overexcavation and 1,041 cu. yds. grading (588 cu. yds. cut and 453 cu. yds. fill). The proposed building location is located upslope from a natural drainage course that ultimately drains to Malibu Creek, a blueline stream as designated by the USGS. The site is considered a "hillside" development, as it involves steeply to moderately sloping terrain with soils that are susceptible to erosion.

The proposed development will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition No. Two (2)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measure implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-

development stage. Therefore, the Commission finds that **Special Condition No. Three (3)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site private sewage disposal system to serve the residence. The applicant's environmental health specialist performed infiltration tests. The County of Los Angeles Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources. Therefore, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

G. Public Access and Recreation

One of the basic mandates of the Coastal Act is to maximize public access and recreational opportunities within coastal areas and to reserve lands suitable for coastal recreation for that purpose. The Coastal Act has several policies which address the issues of public access and recreation within coastal areas.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212.5 of the Coastal Act states:

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

Section 30213 of the Coastal Act states:

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

Section 30223 of the Coastal Act states:

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

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by...(6) assuring that the recreational needs of new residents will

not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Coastal Act sections 30210, 30212.5, 30223, and 30252 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise Section 30213 mandates that lower cost visitor and recreational facilities, such as public hiking and equestrian trails, shall be protected, encouraged, and provided, where feasible. In the Malibu/Santa Monica Mountains area, the existing system of heavily used historic trails located on private property has been adversely impacted by the conversion of open lands to housing. In order to preserve and formalize the public's right to use these trails, a trail system map has been included as part of the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). The trail system is composed of the Backbone and Coastal Slope Trails in addition to numerous connector trails.

The proposed project site is traversed by a segment of Calabasas Cold Creek Trail which is indicated as a lateral connector trail on the Malibu/Santa Monica Mountains Trail System Map used for recreational access. The Calabasas Cold Creek Trail is an integral part of a significant trail system that serves to provide access between the growing urban areas on and above the coastal terrace and the Santa Monica Mountain park system. The trail network, when completed, will provide hikers and equestrians with a large number of varied destinations including such highly scenic locations as Tapia Park, McCoy Canyon, Palo Comado Significant Ecological Area, and Calabasas Peak. Significant coastal views from the public trail system include panoramic views of the coastline, the Channel Islands, and mountain views. The trail easement that the applicant is proposing to record represents a segment of a historical connector trail used for hiking and equestrian activities. The low elevation connection of this trail to the Backbone Trail provides a link between Malibu Creek State Park and state owned Stunt Ranch.

In order to avoid any cumulative and site specific adverse effects to public access resulting from the proposed development and to enhance the Santa Monica Mountains Trail System, the applicant has offered to dedicate an improved ten foot (10') wide public hiking and equestrian trail easement to preserve the Calabasas Cold Creek Trail (see Exhibit 3). **Special Condition No. Nine (9)** has been included in order to implement the applicant's offer to dedicate this public hiking and equestrian trail easement prior to the issuance of the coastal development permit. The Commission therefore finds that the proposed project, as conditioned, is consistent with Sections 30210, 30212.5, 30213, 30223, and 30252 of the Coastal Act.

H. Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to

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

In addition, the certified Malibu/Santa Monica Mountains LUP contains numerous policies regarding the protection of visual resources. The Coastal Commission has utilized these policies as guidance in past permit decisions. LUP policies particularly applicable to the proposed project include:

- P 91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.
- P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands.
- P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.
- P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:
 - ◆ Be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.
 - ◆ Minimize the alteration of natural landforms.
 - ◆ Be landscaped to conceal raw-cut slopes.
 - ◆ Be visually compatible with and subordinate to the character of its setting.
 - ◆ Be sited so as to not significantly intrude into the skyline as seen from public viewing places.
- P134 Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.
- P135 Ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. The subject site is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides, which are traversed by scenic, public trails. The site is not visible from any designated scenic highways, however, the project site is visible from Calabasas Cold Creek Trail, a hiking and equestrian trail identified in the Malibu/Santa Monica Mountains LUP located to the west and south of the property.

As stated previously, the applicant proposes to construct a two-story, 24 ft. high, 2,571 sq. ft. single family residence with attached 2-car garage, new septic system, driveway, and patios. The project site is located on a sparsely developed hillside on a north-

facing slope highly visible from the trail mentioned above. Minimal grading is proposed for the project and is only within the immediate area of the existing building pad to prepare the driveway and pad for construction of the new residence, therefore no significant landform alteration of the site will result from the proposed grading. The grading that will occur around the building pad area will serve to lower the elevation of the residence in order to reduce visual impacts along the trail. The residence is a moderately sized two-story structure at 24 ft. high above grade, well below the allowable structure height of 35 ft. above grade, which will also serve to minimize the visibility from the trail. Although the proposed development will be consistent with development existing in surrounding areas of the project site, the proposed residence will be visible from some locations along Calabasas Cold Creek Trail. Due to the highly visible nature of the project site from public viewing areas, the Commission finds it necessary to require mitigation measures to minimize visual impacts associated with development of the project site.

The Commission finds it necessary to require the applicant to record a deed restriction providing specific limitations on the materials and colors acceptable for the development on the subject site, as specified in **Special Condition No. Four (4)**. These restrictions generally limit colors to natural tones that will blend with the background of the environment and require the use of non-glare glass. White and red tones are not acceptable. If fully implemented by present and future owners of the proposed residence, Special Condition No. Four will ensure that development of the site will be as visually unobtrusive to visual resources of the area as possible.

Visual impacts associated with proposed structures, can be further reduced by the use of appropriate and adequate landscaping. **Special Condition No. Three (3)**, the landscaping plan, requires that vertical screening elements be incorporated into the landscape plan to soften views of the proposed residence from Calabasas Cold Creek Trail. In addition, Special Condition No. Three requires the applicant to prepare a landscape plan relying mostly on native, noninvasive plant species to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. The implementation of Special Condition No. Three, therefore, will help to partially screen and soften the visual impact of the development as seen from recreational use areas near the subject site. In order to ensure that the final approved landscaping plans are successfully implemented, Special Condition No. Three also requires the applicant to revegetate all disturbed areas in a timely manner, and includes a monitoring component, to ensure the successful establishment of all newly planted and landscaped areas over time.

Finally, regarding future developments or improvements, certain types of development to the property, normally associated with a single family residence which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that future development or improvements normally associated with the entire property, which might otherwise be exempt, are reviewed by the Commission for compliance with the scenic resource policy, §30251 of the Coastal Act. **Special Condition No. Six (6)** the future development deed restriction, will ensure

that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Therefore the Commission finds that, as conditioned, the proposed development will minimize adverse impacts to scenic public views in this area of the Santa Monica Mountains, and is consistent with §30251 of the Coastal Act.

I. Local Coastal Program

Section 30604(a) of the Coastal Act states:

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 §30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with §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 project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. 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 the Malibu/Santa Monica Mountains area which is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

J. 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 finds that, the proposed project, as conditioned, will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

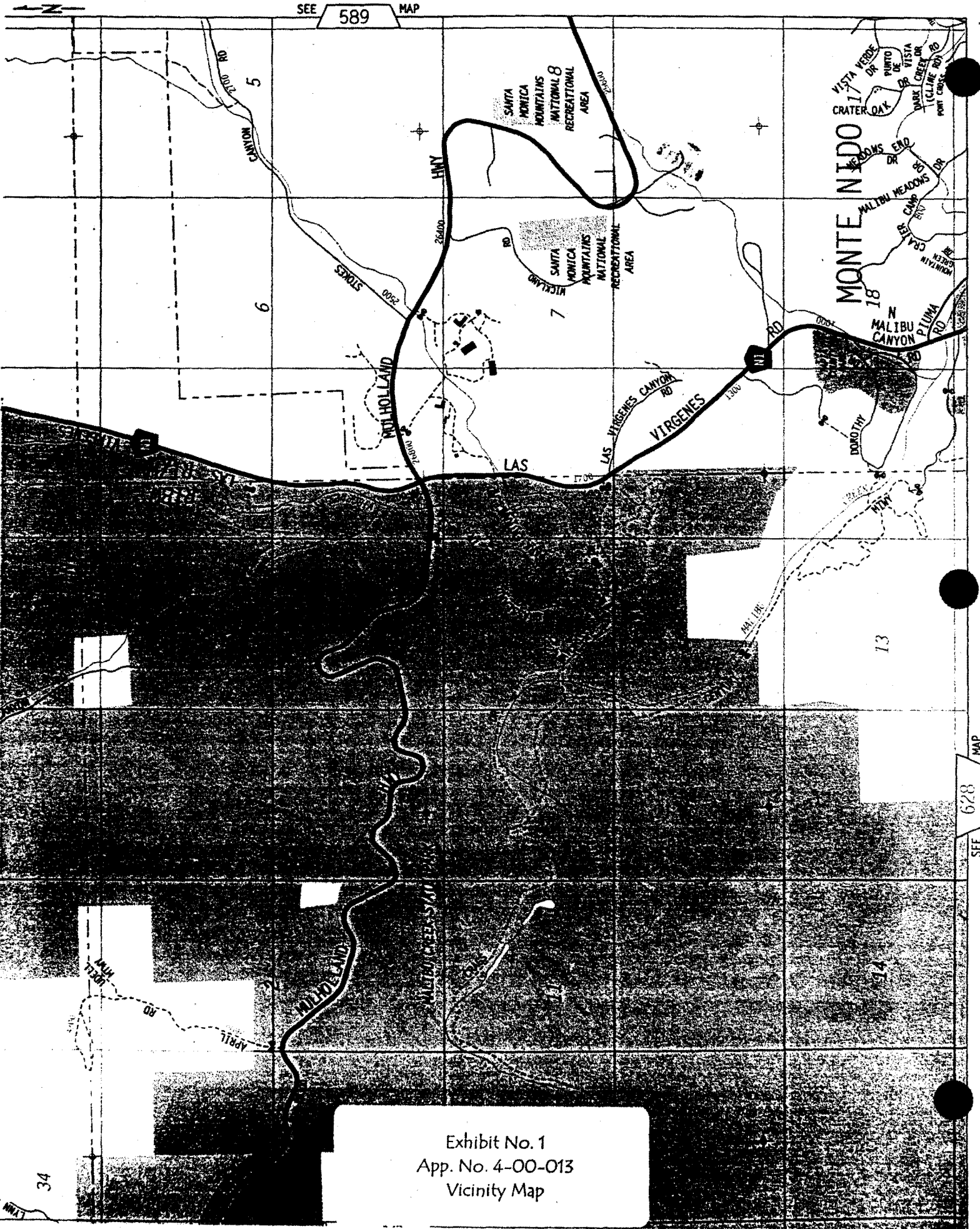


Exhibit No. 1
App. No. 4-00-013
Vicinity Map

ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

26046 Mulholland Hwy, Isbell



- Cold Creek Management Area
- Blue Line Streams
- - Trails

IN AND CAL. RELEVANCE NOT & L&E
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PORTING
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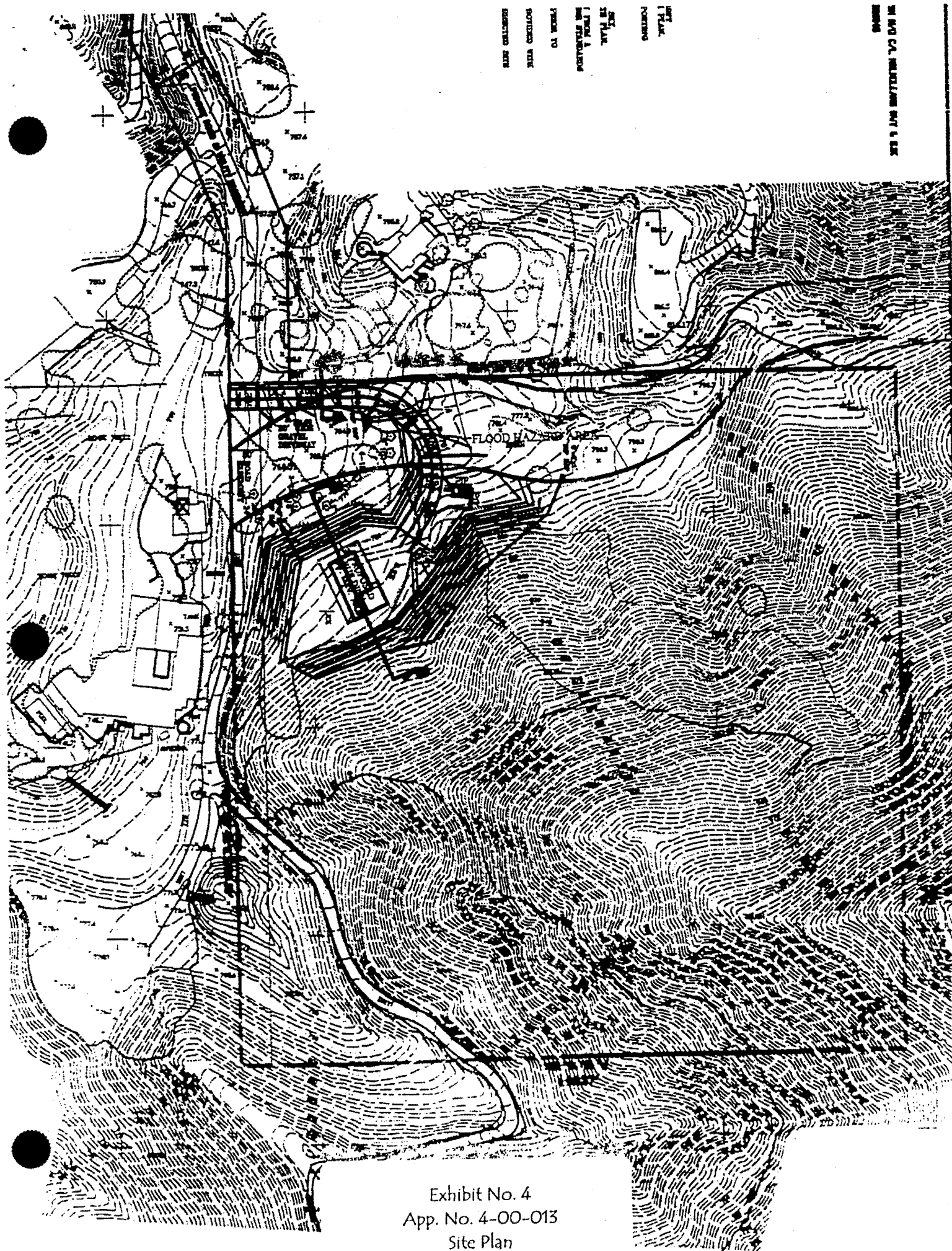
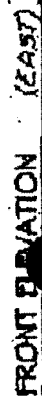


Exhibit No. 4
App. No. 4-00-013
Site Plan



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NATIONAL ASSOCIATION
 OF FIRE INSURANCE COMPANIES
 1000 MARKET STREET
 PHILADELPHIA, PA. 19107
 (215) 597-1000

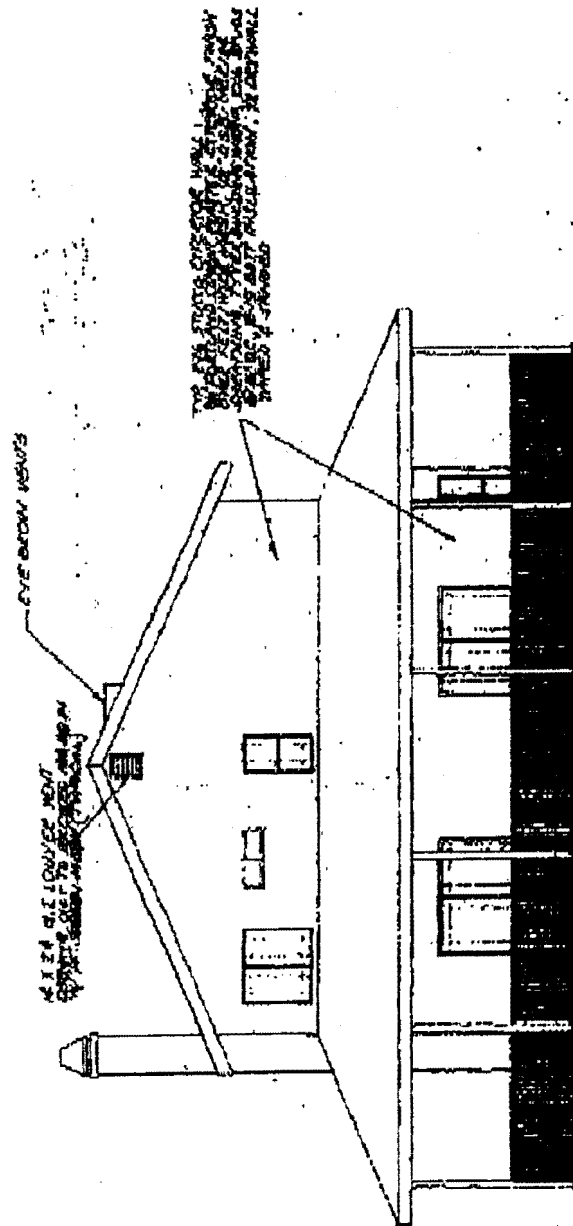
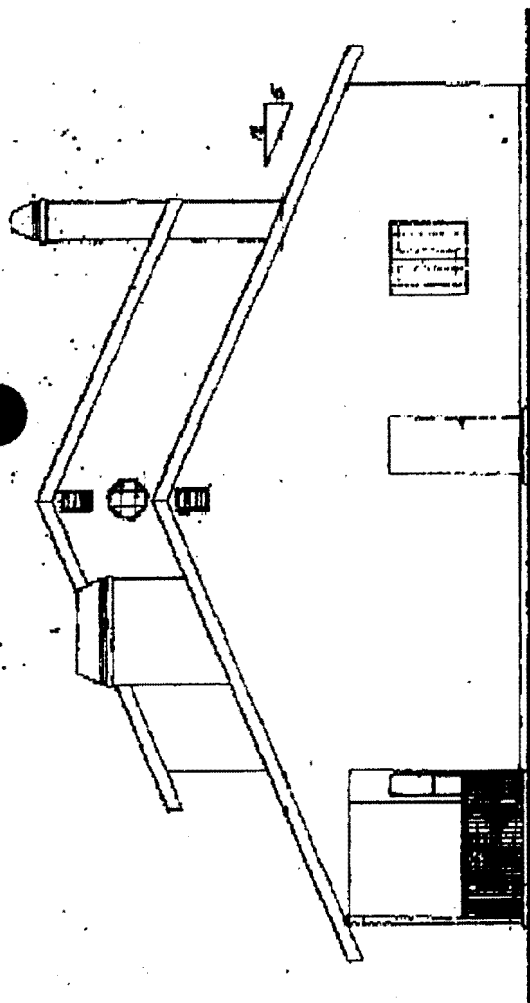


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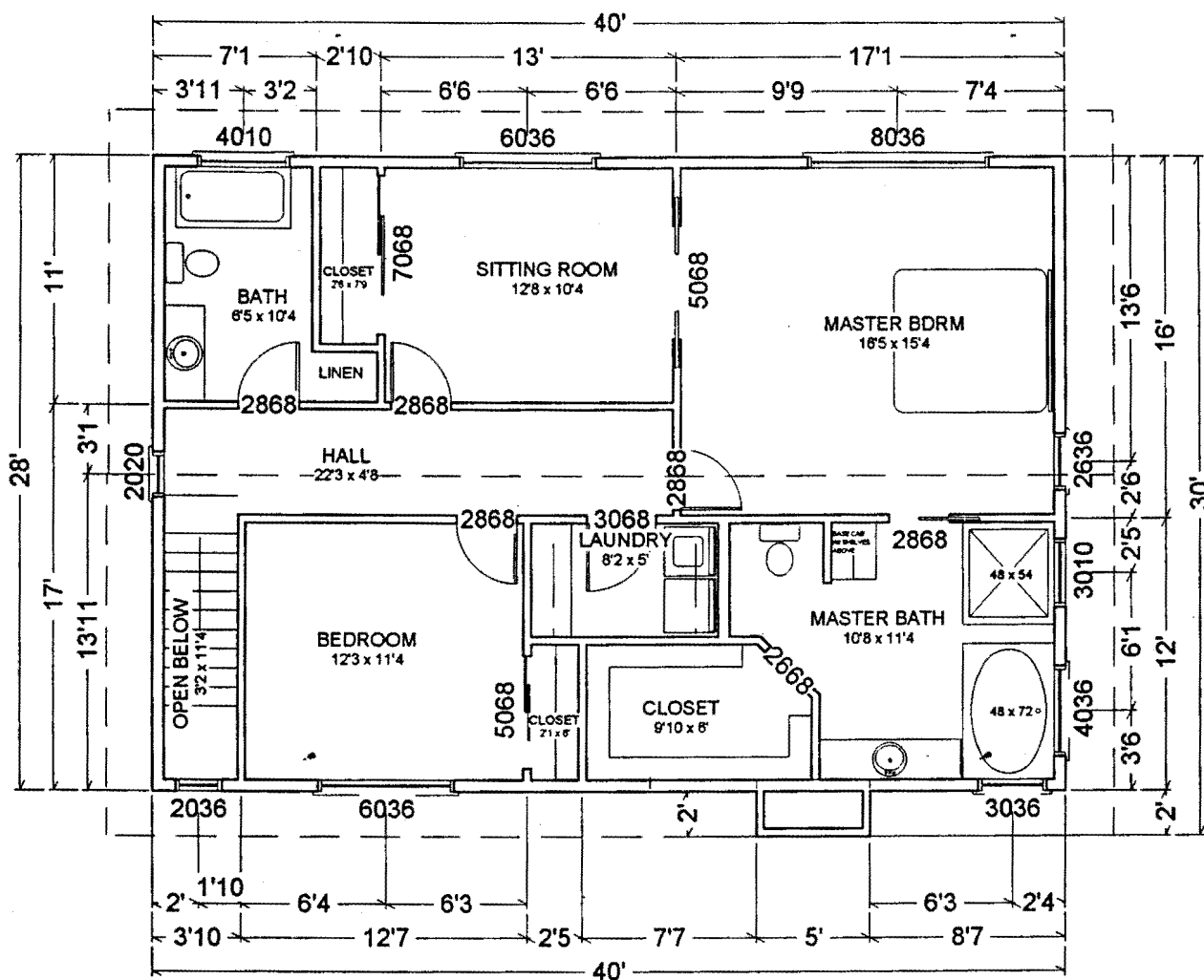
• 8-AM TO 12-PM

Exhibit No. 5
App. No. 4-00-013
East & West Elevations

LEFT ELEVATION (SOUTH)



RIGHT ELEVATION (NORTH)



2ND FLOOR LIVING AREA

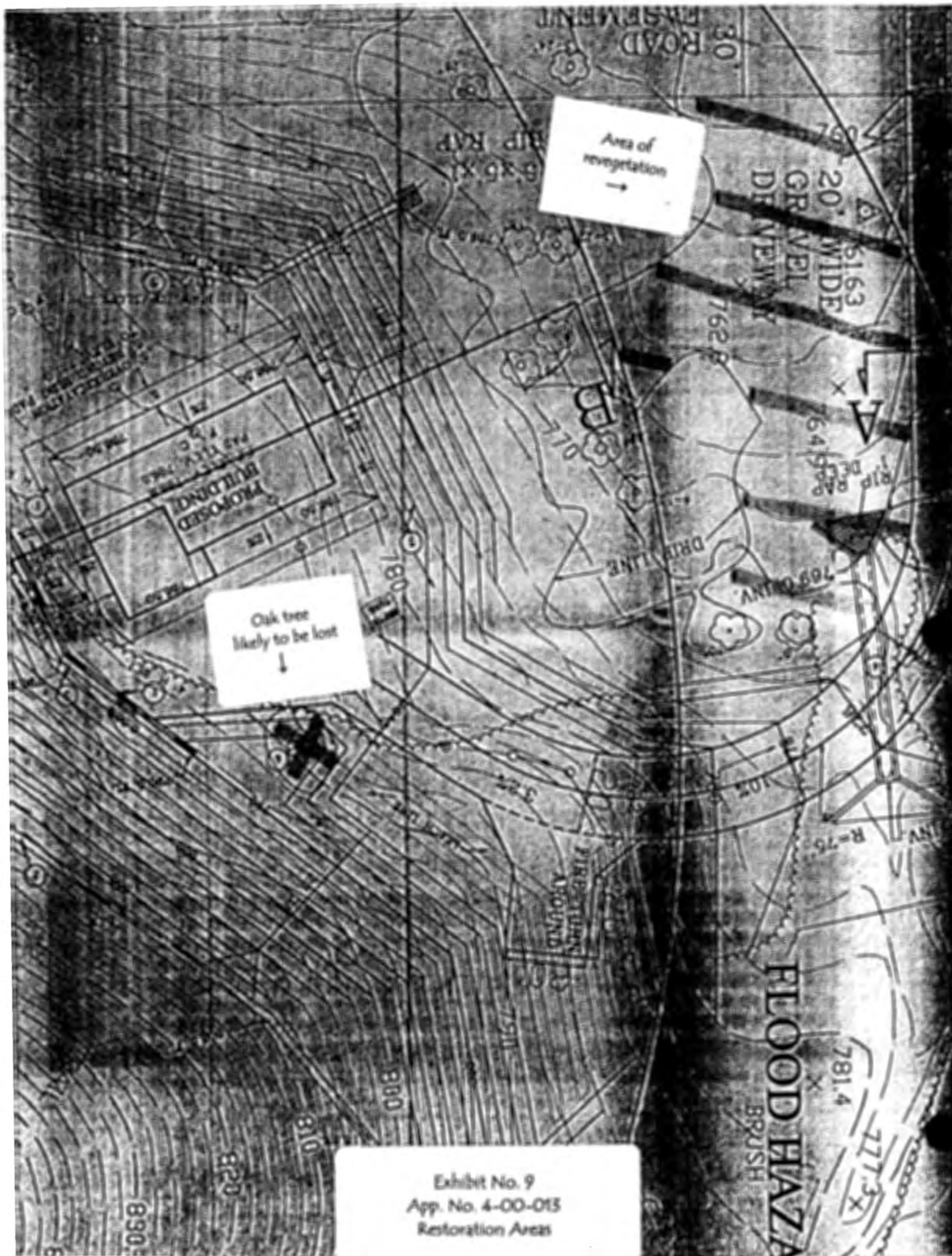


Exhibit No. 9
App. No. 4-00-015
Restoration Areas

RECORDING REQUESTED BY
Department of Regional Planning
320 West Temple Street
Room 1381, Hall of Records
Los Angeles, California 90012

AND WHEN RECORDED MAIL TO

Name: Kathrine Plesko
Street: 11414 Segrell Way
City: Culver City, Ca. 90230

COPY of Document Recorded
FEB 1 2 1987

87 212146
Has not been compared with original.
Original will be returned when
processing has been completed. N
LOS ANGELES COUNTY REGISTRAR - RECORDER

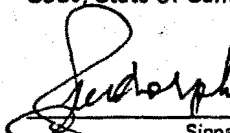
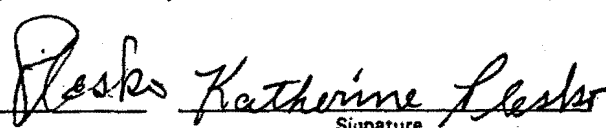
SPACE ABOVE THIS LINE FOR RECORDER'S USE

CERTIFICATE OF COMPLIANCE

9092

REQUEST FOR CERTIFICATE OF COMPLIANCE

I/We the undersigned owner(s) of record (and/or vendee(s)) in the following described property within the unincorporated territory of the County of Los Angeles, hereby REQUEST the County of Los Angeles to determine if said property described below complies with the provisions of the Subdivision Map Act (Sec. 66410 et seq., Government Code, State of California) and the County Subdivision Ordinance (Ord. 4478, County of Los Angeles).

 Signature	 Signature	 Signature
<u>Rudolph Plesko</u> Name (typed)	<u>Katherine Plesko</u> Name (typed)	 Name (typed)
<u>10-7-1986</u> Date	<u>10-7-1986</u> Date	 Date

LEGAL DESCRIPTION (TYPED)

*NE 1/4 OF SE 1/4 OF SE 1/4 OF SEC 7 T 1 S R 17 W

RECORDING REQUESTED BY

Department of Regional Planning
320 West Temple Street
Room 1381, Hall of Records
Los Angeles, California 90012

AND WHEN RECORDED MAIL TO

Name: KATHERINE PLESKO

Street: 11414 Segrell Way

City: Culver City, CA 90230

COPY of Document Recorded

88-923257

Has not been compared with original.
Original will be returned when
processing has been completed. N
LOS ANGELES COUNTY REGISTRAR - RECORDER

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CERTIFICATE OF COMPLIANCE CC 9092

CLEARANCE OF CONDITIONS

The owner(s) and/or holder(s) of a title interest in the real property within the unincorporated territory of the County of Los Angeles, having satisfied the conditions as enumerated in the CONDITIONAL CERTIFICATE OF COMPLIANCE, Recorded as document No. 87-212146, on February 12, 1987; Complies with the provisions of the Subdivision Map Act (Sec. 66410 et seq., Government Code, State of California) and the County Subdivision Ordinance (Ord. 4478 County of Los Angeles.)

OWNER(S):

RUDOLPH PLESKO
KATHERINE PLESKO

NOTE:

Fire Department water and access requirements will be determined at time of Building Permit.

DETERMINATION OF COMPLIANCE

I hereby certify that the subject parcel complies with the applicable provisions of the Subdivision Map Act and of the County Subdivision Ordinance and may be developed and/or sold, financed, leased or transferred in full compliance with all applicable provisions of the Subdivision Map Act and of the County Subdivision Ordinance.

AMB: 4455:48(8)

DEPARTMENT OF REGIONAL PLANNING
County of Los Angeles, State of California
Norman Murdoch, Planning Director

DEPARTMENT OF REGIONAL PLANNING

By:

Title: Administrator, Subdivision
Adm. Div.

Date: _____

CONDITIONAL CERTIFICATE OF COMPLIANCE

9092

CONTINUATION

DETERMINATION OF CONDITIONAL COMPLIANCE

The above described parcel was not created in compliance with State and County Subdivision regulations. Under current State law, THE PROPERTY MAY BE SOLD, LEASED, FINANCED OR OTHERWISE CONVEYED WITHOUT RESTRICTION. HOWEVER, THE CONDITIONS LISTED BELOW MUST BE FULFILLED BEFORE ISSUANCE OF A BUILDING PERMIT OR OTHER DEVELOPMENT APPROVAL. These conditions are in addition to any permit requirements which may be imposed.

CONDITION(S):

1. SUBMIT a Topographic Plan to indicate feasible All-Weather Vehicular Access with a minimum width of 20 feet, APPROVED by County Fire and Public Works Officials, to coincide with a Legal-Vehicular-Access to a Public-Street SATISFACTORY to the Planning Director.
2. OFFER for Road-Right-of-Way any portion of the subject property within 30 feet of the Center-line for the roads shown on the above TOPOGRAPHIC PLAN, As approved, and Slope-Easements adjacent thereto, to the SATISFACTION of County Public Works Officials.
3. OFFER said Rights-of-Way as Easements to other property owners in Section 7.
4. DEDICATE to the County the Right-to-Restrict Erection of buildings and/or other structures, because the property and/or its access is within a Flood-Prone and/or other High-Hazard area.
5. OFFER Right-of-Way for a Drainage Channel or Conduit to the SATISFACTION of County Public Works officials.

NOTES:

Prospective purchasers should check site conditions and applicable development codes to determine whether the property is suitable for their intended use.

Water requirements will be imposed as a CONDITION of Permit Approval pursuant to the Fire Code.

Geologic, soil and /or drainage conditions on the subject property may limit development or necessitate that remedial measures be taken in order to obtain a Building Permit.

Projects which may affect an endangered species, wetlands, a stream bed or any other waters of the United States, will require a permit from the Department of the Army, Corps of Engineers.

A.M.B. 4455:48(8)



DEPARTMENT OF REGIONAL PLANNING
County of Los Angeles, State of California
Norman Murdoch, Planning Director

DEPARTMENT OF REGIONAL PLANNING

By: 

Title: Administrator, Subdivision Admin. Div.

FEB 12 1987

Date:

