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STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION

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Filed: 7/31/02
180th Day: 1/27/03
Staff: JLA
Staff Report: 12/12/02
Hearing Date: 1/7-10/02
Commission Action:



RECORD PACKET COPY

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-00-036

APPLICANT: Jeff & Gena Barney

PROJECT LOCATION: 2171 S. Encinal Canyon, Unincorporated Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a one story, 21 ft. high, 3,675 sq. ft. single-family residence with attached 735 sq. ft. 3-car garage; 22 ft. high, 749 sq. ft. guest unit over a 749 sq. ft. garage; 15 ft. high, 800 sq. ft. barn; access road improvements; water well; septic system; swimming pool; 2,820 cubic yards of grading (2,100 cu. yds. cut, 720 cu. yds. fill), 2,200 cubic yards of removal and recompaction; construct a 5 foot wide public hiking and equestrian trail and offer to dedicate a 20 foot wide public hiking and equestrian trail easement.

Lot area:	19.5 acres
Building coverage:	5,973 sq. ft.
Pavement coverage:	5,400 sq. ft.
Landscape coverage:	2,400 sq. ft.
Unimproved:	19.2 acres

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval In Concept, 1/26/00; County of Los Angeles, Department of Health Services, Approval In Concept for Sewage Disposal System Design 8/7/01. Department of Health Services, Water Well permit, 4/3/02; County of Los Angeles Department of Parks and Recreation, Approval in Concept for Trail Realignment, 3/14/02.

SUBSTANTIVE FILE DOCUMENTS: Geologic and Soils Engineering Investigation, dated January 17, 2000 prepared by Subsurface Designs Inc.; and Archaeological resource Survey and Impact Evaluation, dated 2/24/01 prepared by Brandon Lewis. Coastal Development Permit 4-02-043 (Munroe)

Staff Note

Due to Permit Streamlining Act Requirements the Commission must act on this permit application at the January 2003 Commission meeting.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with 13 Special Conditions regarding 1) Conformance with Geologic Recommendations, 2) Drainage and Polluted Run-Off Control, 3) Pool and Spa Drainage and Monitoring, 4) Landscaping and Erosion Control, 5) Removal of Natural Vegetation, 6) Wildfire Waiver of Liability, 7) Lighting Restriction, 8) Structural Appearance, 9) Future Development Restriction, 10) Construction of the Public Trail, 11) Removal of Excavated Material, 12) Deed Restriction and 13) Public Trail Offer to Dedicate.

The project site is a vacant, 19.5-acre parcel located in the Santa Monica Mountains. The subject site is located on a highly visible minor ridgeline just west of Encinal Canyon Road approximately 2 miles north of Pacific Coast Highway. The subject site contains undisturbed environmentally sensitive chaparral habitat and two areas of environmentally sensitive oak woodland habitat. Therefore, the entire site except for the existing access road is considered environmentally sensitive habitat (ESHA) pursuant to Section 30107.5 of the Coastal Act. Standing alone, Section 30240 would require denial of the proposed development to prevent adverse impacts to ESHA on the site. However, Section 30010 provides that the Commission cannot construe the Coastal Act as authorizing the Commission to deny a permit in a manner that will take private property for public use. To avoid a "taking" of private property, the Commission must allow a reasonable residential development on the applicant's parcel.

The area surrounding the project site is characterized by natural hillside terrain and relatively undeveloped. The proposed development area is located on the crest of a minor ridge and is the logical building site on the property. The applicant has worked with Commission staff to reduce and cluster the proposed development. The proposed development area is 10,000 square foot in size which is consistent with the maximum allowable development area the Commission has permitted in ESHA through past permit actions. The proposed 21 foot high, 3,675 sq. ft. residence and accessory structures are not excessive in size or scale and do not result in a significant adverse impact to visual resources or result excessive landform alteration. However, the proposed development is highly visible from an adjacent County Park, public trail and scenic roadway. Therefore, visual impact mitigation is necessary in the form of a color restriction and landscape requirements to screen the proposed structures.

The proposed development is site on the existing access road which is also a designated public trail in the 1986 Malibu/Santa Monica Mountains Land Use Plan. The trail is currently used by hikers and equestrians. The applicant is proposing to relocate and construct a new 5 foot wide public equestrian and hiking trial. The applicant is also proposing to dedicate a 20 foot wide public trail easement over the trail route. The realigned trail route has been reviewed and approved by Los Angeles County Department of Parks and Recreation.

As conditioned below, the proposed project is consistent with all applicable Chapter Three policies of the Coastal Act.

STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-00-036 pursuant to the staff recommendation.*

I. STAFF RECOMMENDATION OF APPROVAL

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. Standard Conditions

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

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

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Plans Conforming to Geologic Recommendations

All recommendations contained in the Geologic & Soils Engineering Investigation, dated January 17, 2001, prepared by SubSurface Designs Inc 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.

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

- a. For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the

85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

- 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. Manure stored on site shall be contained in fully enclosed bins and/or a facility with impervious flooring, which is protected from wind, rain, and nuisance flows. The plan shall specify the maximum capacity of the manure storage containment areas and shall include provisions to reduce and dispose of animal waste so as not to exceed the maximum capacity of the waste containment areas.
- e. Confinement areas, loafing areas, or other areas where waste solids may gather shall be scraped periodically. The plan shall include drainage devices and BMPs which will ensure that all runoff from the proposed horse stables and waste containment areas shall be collected and directed through a system of vegetated and/or gravel filter strips or other media filter devices. The filter devices shall be designed to trap sediment, particulates and other solids, and remove or mitigate contaminants through infiltration and/or biological uptake.

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.

3. Pool and Spa Drainage and Maintenance

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for review and approval of the Executive Director, a written pool and spa maintenance plan, that contains an agreement to install and use a no chlorine or low chlorine purification system and a program to maintain proper pH, calcium and alkalinity balance in a manner that any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area. In addition, the plan shall, at a minimum: 1) prohibit discharge of chlorinated pool water and 2) prohibit discharge of chlorinated or non-chlorinated pool

water into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters. The Permittees shall undertake development and maintenance in compliance with this pool and spa maintenance agreement and program approved by the Executive Director. No changes shall be made to the agreement or plan unless they are approved by the Executive Director.

4. 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 erosion control plan shall be reviewed and approved by the geotechnical 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. 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 and accessory structures to minimize potential impacts of public views as seen from Encinal Canyon Road, Charmlee Park and the Three Park Lateral Trail that traverses the property.
- (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) A revised final fuel modification plan approved by Los Angeles County Department of Forestry that illustrates no fuel modification within the oak woodland, as shown on Exhibit 5. 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. 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.
- (7) Fencing of the entire property is prohibited. Fencing shall extend no further than the area identified as zone B (irrigated zone) on the final fuel modification plan. The fencing type and location shall be illustrated on the landscape plan. The fencing shall also be subject to the color requirements outline in condition 8 below.

B. Interim Erosion Control Plan

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- (3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary

drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C. Monitoring

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

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

5. 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.

6. Wildfire Waiver of Liability

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

7. **Lighting Restriction**

- A. The only outdoor night lighting allowed on the subject parcel is limited to the following:
- (1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
 - (2) Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
 - (3) The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
- B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

8. **Structural Appearance**

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by approval of Coastal Development Permit 4-00-036. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, fencing or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by Coastal Development Permit 4-00-036 if such changes are specifically authorized by the Executive Director as complying with this special condition.

9. **Future Development Restriction**

This permit is only for the development described in Coastal Development Permit 4-00-036. Pursuant to Title 14 California Code of Regulations section 13250(b)(6) & 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) & b shall not apply to the development governed by Coastal Development Permit 4-00-036. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to, any grading, clearing or other disturbance of vegetation and fencing, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition 4 shall require an amendment to Coastal Development Permit 4-00-036 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

10. Construction of The Public Trail

Prior to the receipt of the Certificate of Occupancy for the residence the applicant shall construct the public hiking and equestrian trail (Three Park Lateral Trail) in compliance with the requirements of Los Angeles County Department of Parks and Recreation.

11. REMOVAL OF EXCAVATED MATERIAL

The applicant is authorized to remove excess excavated cut material consisting of approximately 1,300 cubic yards of material. This material shall be transported to an appropriate disposal site located outside the Coastal Zone, or an approved site located in the Coastal Zone with a valid Coastal Development Permit for disposal of fill material.

12. Deed Restriction

Prior to issuance of the coastal development permit the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

13. Offer to Dedicate a Public Trail Easement

In order to implement the applicant's proposal of an offer to dedicate a 20 foot wide public access hiking and equestrian trail easement over that portion of the subject property shown on Exhibit 3, as part of this project description, the applicant as landowner agrees to complete the following prior to issuance of the permit: the landowner shall execute and record a document, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for a twenty foot wide hiking and equestrian trail use on the subject property (APN 4472-027-004) in the location and configuration depicted in Exhibit 3. The dedicated trail easement shall not be open for public hiking and equestrian usage until a public agency or private association approved by the Executive Director agrees to accept responsibility for maintenance and liability associated with the trail easement. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, including the applicant, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use that may exist on the property. The irrevocable offer shall be of a form and content approved by the Executive Director, free of prior encumbrances except for tax liens, providing the public the right to pass and repass over the noted route limited to hiking and equestrian uses only. The offer shall run with the land in favor of the State of California binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of the recording. The recording document shall include legal descriptions of both the applicant's entire parcel and the easement area.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing to construct a one story, 21 ft. high, 3,675 sq. ft. single-family residence with attached 735 sq. ft. 3-car garage; 22 ft. high, 749 sq. ft. guest unit over a 749 sq. ft. garage; 15 ft. high, 800 sq. ft. barn; access road improvements; water well; septic system; swimming pool; 2,820 cubic yards of grading (2,100 cu. yds. cut, 720 cu. yds. fill), 2,200 cubic yards of removal and recompaction; and realign and construct a 5 foot wide public hiking and equestrian trail and offer to dedicate 20 foot wide public trail easement (Exhibits 1-10).

The project site is a vacant 19.5 acre parcel located west of Encinal Canyon Road approximately two miles north of Pacific Coast Highway (Exhibit 1). The property is considered a "legal" parcel that was created prior to the Coastal Act in compliance with the subdivision laws at the time. Access to the property from Encinal Canyon Road is over Lulu Carr Road which is a private roadway serving several parcels. The applicant is proposing to widen Lulu Carr Road to 20 feet from Encinal Canyon Road to the

subject property to comply with Los Angeles County Fire Department requirements. The applicant has submitted evidence of an easement over the neighboring property that authorizes improvements to the road. This roadway also serves as the Three Park Lateral Trail which is a designated trail on the Los Angeles County Master Plan Trail Map that was incorporated into the 1986 certified Malibu/Santa Monica Mountains Land Use Plan. Although trail easement dedications have not been secured for the segment of the trail over Lulu Car Road, nor is the trail maintained by any public agency or private organization, the trail is currently used by hikers and equestrians. The trail provides direct access to Charmlee County Park located just south of the subject property.

The property is located on a crest of a minor northeast-southwest trending ridge with steeply descending slopes to Encinal Canyon Road to the east and Lachusa Canyon to the west. The proposed building site is located on the crest of the ridge over the existing roadway/trail. The slopes descending from the road and crest of the ridge are covered with a dense growth of native undisturbed chaparral that is considered ESHA. The descending drainages the west of the building site supports an oak woodland habitat that is also considered ESHA. The oak woodland complex begins approximately 200 feet west of the building site.

The proposed development area on the crest of ridge is highly visible from several public scenic viewing areas including Charmlee County Park to the south, Encinal Canyon Road to the east and the Three Park Lateral Trail. The proposed development is sited directly over the Three Park Lateral Trail. Therefore, the applicant is proposing to relocate and construct a 5 foot wide trail located west and downslope of the existing trail/road. In addition, the applicant is offering to dedicate a 20 foot wide public hiking and equestrian trail easement over the proposed trail route (Exhibit 3). The applicant has worked closely with Los Angeles County Department of Parks and Recreation on the proposed trail realignment and has received the County's approval in concept for the trail realignment.

The applicant has submitted an archaeological report prepared by Dr. Bandon Lewis that indicates there are no significant cultural resources on the site.

B. Environmentally Sensitive Habitat

Section 30230 of the Coastal Act states that:

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 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 states:

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

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Section 30107.5 of the Coastal Act, defines an environmentally sensitive area as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 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 among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Sections 30107.5 and 30240 of the Coastal Act state that environmentally sensitive habitat areas must be protected against disruption of habitat values. Therefore, when considering any area, such as the Santa Monica Mountains, with regard to an ESHA determination one must focus on three main questions:

- 1) Is a habitat or species rare or especially valuable?
- 2) Does the habitat or species have a special nature or role in the ecosystem?
- 3) Is the habitat or species easily disturbed or degraded by human activities and developments?

In making ESHA determinations, scale is important. Both temporal and spatial scales must be considered in determining ecologically sensitive habitat, and at different scales the conclusions may vary. Whereas on a local scale a small patch of degraded habitat

might not be called ESHA, on a landscape scale its status might be different. For example, on a landscape scale it may form a vital stepping stone for dispersal of a listed species between larger habitat patches. At this scale it is valuable, performing an important role in the ecosystem and is easily degraded by human activities and developments, and so it fits the Coastal Act definition of ESHA. Similarly, habitats in a largely undeveloped region far from urban influences may not be perceived as rare or providing a special function, whereas a large area of such habitats surrounded by a dense urban area may be exceedingly rare and each constituent habitat within it an important functional component of the whole. Therefore, in order to appropriately assess sensitivity of habitats, it is important to consider all applicable ecological scales and contexts. In addition to spatial and temporal scales, there are species scales. For example, one can focus on single species (e. g., mountain lions, flycatchers or tarplants), or one can focus on whole communities of organisms (e.g., coastal sage scrub or chaparral) or interconnected habitats in a geographic region (e. g., the Santa Monica Mountains and its habitats). On a world-wide scale, in terms of numbers of rare endemic species, endangered species and habitat loss, the Malibu/Santa Monica Mountains area is part of a local hot-spot of endangerment and extinction and is in need of special protection (Myers 1990, Dobson et al. 1997, Myers et al. 2000).

In the case of the Santa Monica Mountains, its geographic location and role in the ecosystem at the landscape scale is critically important in determining the significance of its native habitats. Areas such as the project site form a significant connecting links between the coast and large, undisturbed habitat areas in the Santa Monica Mountains such as the area of the project site. These areas are in turn connected by narrow corridors to the Sierra Madre, San Gabriel and San Bernardino Mountains to the north. Much of the ecological significance of the habitat at the site is the proximity to riparian corridors that connect large inland watersheds with the coast. These corridors are home to many listed species and are easily disturbed by development, and in fact some have already been subject to considerable development near the coast, e.g. Las Flores Canyon, Malibu Creek & Lagoon, Ramirez Canyon and Trancas Canyon. Proceeding inland from the coast, however, the quality of the habitat improves rapidly and soon approaches a relatively undisturbed environment consisting of steep canyons containing riparian oak-sycamore bottoms, with coastal sage scrub and chaparral ascending the canyon walls.

As previously mentioned, the project site is located in a relatively undeveloped portion of the Santa Monica Mountains. The subject site includes two main habitat types characterized as chaparral and oak woodland habitats. There are two oak woodland areas located on the property that area limited to two drainages that descend into Lachusa Canyon (Exhibit 3). Oak woodland habitat in the Santa Monica Mountains is even a more limited and rare habitat than chaparral habitat. The remainder of the site with the exception of the existing access road/trail is covered with undisturbed chaparral. The access road was created prior to the implementation of the Coastal Act. The majority of the development area is sited directly over the existing road with portions of the building pad extending into the chaparral habitat. The proposed building site located on the disturbed relatively level ridge is the logical development site on the

parcel. Alternative development sites to the west of the ridge would result in significantly more grading and would require additional removal of chaparral vegetation due to fuel modification requirements. In addition, any alternative development sites to the west of the ridge would push the fuel modification zones into the sensitive oak woodland habitats. Development on the slope to the east of the ridge would also result in more grading and loss of additional chaparral habitat due to fuel modification. Furthermore, development on the slope east of the ridge would result in a development that is more visible from Encinal Canyon Road.

As explained above, the majority of the parcel, except for the existing access, contains vegetation that constitutes an environmentally sensitive habitat area (ESHA) pursuant to Section 30107.5. Section 30240 requires that "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." As the entire parcel constitutes an environmentally sensitive habitat area, Section 30240 restricts development on the parcel to only those uses that are dependent on the resource. The applicant proposes to construct a single family residence and other appurtenant structures on the parcel. As single family residences do not have to be located within ESHAs to function, the Commission does not consider single-family residences to be a use dependent on ESHA resources. Application of Section 30240, by itself, would require denial of the project, because the project would result in significant disruption of habitat values and is not a use dependent on those sensitive habitat resources.

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

The Commission interprets Section 30010, together with the *Lucas* decision, to mean that if Commission denial of the project would deprive an applicant's property of all reasonable economic use, the Commission may be required to allow some development even where a Coastal Act policy would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, Section

30240 of the Coastal Act cannot be read to deny all economically beneficial or productive use of land because Section 30240 cannot be interpreted to require the Commission to act in an unconstitutional manner.

In the subject case, the applicant purchased the property in March 17, 1999 for \$205,632. The parcel was designated in the County's certified Land Use Plan in 1986 for residential use. Residential development has previously been approved by the Commission on other parcels in the vicinity (Encinal Canyon area), that generally contained the same type of habitat as the applicant's parcel. At the time the applicant purchased the parcel, the County's certified Land Use Plan did not designate the vegetation on the site as ESHA. Based on this fact, along with the presence of existing and approved residential development on nearby parcels, the applicant had reason to believe that they had purchased a parcel on which they would be able to build a residence.

The Commission finds that in this particular case, other allowable uses for the subject site, such as a recreational park or a nature preserve, are not feasible and would not provide the owner an economic return on the investment. The parcel is 19.5 acres, and is surrounded by other residentially-zoned undeveloped parcels, however, as noted above there are existing parcels developed or approved with residential development located in the Encinal Canyon area. Public parkland has been acquired in this general vicinity, the Santa Monica Mountains National Recreation Area is located approximately 1.5 miles north of the site and Charmlee County Park is located immediately south of the subject property. However, there is currently not an offer to purchase the property from any public park agency. The Commission thus concludes that in this particular case there is no viable alternative use for the site other than residential development. The Commission finds, therefore, that outright denial of all residential use on the property would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.

Next the Commission turns to the question of nuisance. There is no evidence that construction of a residence on the subject property would create a nuisance under California law. Other houses have been constructed in similar situations in coastal sage scrub and/or chaparral habitat in Los Angeles County, apparently without the creation of nuisances. The County's Health Department has not reported evidence of septic system failures. In addition, the County has reviewed and approved the applicant's proposed septic system, ensuring that the system will not create public health problems. Furthermore, the use that is proposed is residential, rather than, for example, industrial, which might create noise or odors or otherwise create a public nuisance. In conclusion, the Commission finds that a residential project can be allowed to permit the applicant a reasonable economic use of their property consistent with Section 30010 of the Coastal Act.

While the applicant is entitled under Section 30010 to an assurance that the Commission will not act in such a way as to take their property, this section does not authorize the Commission to avoid application of the policies of the Coastal Act,

including Section 30240, altogether. Instead, the Commission is only directed to avoid construing these policies in a way that would take property. Aside from this instruction, the Commission is still otherwise directed to enforce the requirements of the Act. Therefore, in this situation, the Commission must still comply with Section 30240 by avoiding impacts that would disrupt and/or degrade environmentally sensitive habitat, to the extent this can be done without taking the property.

Commission staff has worked extensively with the applicant to reduce the footprint of development; amount of grading and landform alteration; and visibility of the proposed structure. Originally, the applicant was proposing a very large development area that included the residential structure, a sports court, equestrian riding and training area, large pool and deck area, large retaining walls supporting the building pad and 7,000 cu. yds of grading (4,000 cu. yds. cut, 3,000 cu. ys. fill). Through past permit actions, the Commission has limited the development area for residential development in ESHA to a maximum development area of 10,000 square feet in order to cluster development and minimize the adverse impacts to ESHA from fuel modification requirements.

In response to staff concerns regarding the size of the development area, amount of landform alteration and visibility of the residence the applicant revised the proposed development to reduce the development footprint, cluster development and reduce the height of the residence. The applicant has revised the development plan as follows:

Reduced the development area to 10,000 square feet.

Eliminated 90 feet of retaining wall along east and west facing slopes.

Reduced width of residence by 25 feet on the east west axis and five feet on the north/south axis.

Reduced the height of the ridge of the residence by 10 feet by excavating the residence into the ridge.

Reduced size of pool and deck area.

Deleted a equestrian riding and training area.

Deleted a sports court.

Relocated an 800 sq. ft barn onto the 10,000 sq. ft. development area.

Overall grading for the project has been reduced from 7,000 cubic yards to 2,820 cubic yards.

The revised development plan with the reduction of the development area to 9,971 sq. ft. complies with the 10,000 sq. ft. maximum development area the Commission has established through past permit actions in the Santa Monica Mountains. The fuel modification zone required for the residence and guest unit will not encroach into the sensitive oak woodland areas locate to the west of the building pad. However, the proposed barn is setback 192 feet from the northern most oak woodland area on the property. Therefore, a 200 foot fuel modification zone would result in some minor thinning within the sensitive oak woodland habitat. The Los Angeles County Department of Forestry has reduced the fuel modification zones for non-habitable structures such as barns and storage units if they are constructed out of non-combustible materials. Although the fuel modification thinning zone encroaches only 8

feet into the oak woodland and Los Angeles County does not require the removal of oak trees the avoidance of any vegetation clearance in the sensitive oak woodland would clearly be a preferred alternative in this case. Ensuring that no vegetation clearance occurs within the oak woodland will provide the maximum protection of this rare ESHA. Therefore, the Commission finds that **Special Condition 4(A)(6)** is necessary to require a revised of fuel modification plan, approved by Los Angeles County Department of Forestry, that illustrates no fuel modification within the mapped oak woodland area.

The Commission must also consider whether alternative proposals for residential development on the subject parcel would minimize adverse impacts to ESHA. The proposed development is sited to take advantage of the most feasible building location on the site. The building site is adjacent to the access road on the most level portion of the property which minimizes grading, landform alteration and impacts to visual resources. In addition, siting the development on the previously disturbed roadway minimizes the removal of sensitive chaparral habitat. Any other location on this parcel would require substantially more grading or excavation for construction of the residence and driveway. As proposed, the project requires a moderate amount of grading, of 1,300 cubic yards cut and 700 cubic yards fill. An additional 800 cubic yards of grading is required to widen the access road to Fire Department standards. The proposed grading does not result in large cut or fill slopes and does minimize the alteration of natural landforms. Therefore, there is no alternative location for the residence on the parcel that would reduce the impacts to surrounding ESHA. The Commission finds that the proposed project, as conditioned, is adequately located and designed, through setback/buffer requirements and a revised fuel modification plan, to minimize significant disruption of sensitive vegetation and habitat existing at the project site.

The Commission has determined that in conjunction with siting new development to minimize impacts to ESHA, additional actions can be taken to minimize adverse impacts to ESHA. The Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. 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 4** 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 tributaries located on the subject site, in conjunction with primary waterways, provide

important habitat for wetland and 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.

In the case of the proposed project, as conditioned, no removal of vegetation in the sensitive drainage areas or oak woodland areas will occur. However, the Commission finds that the value and quality of the sensitive chaparral and oak woodland areas on the subject site are directly related to the water quality of the Lachusa Creek which is fed by these drainages. Lachusa creek is located approximately ½ mile west of the subject property. As such, the Commission finds that potential adverse effects of the proposed development on riparian habitat of this stream 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 2**, the Drainage and Polluted Run-off Control Plan, which requires the applicant to incorporate appropriate drainage devices and Best Management Practices (BMPs) to ensure that run-off from the proposed structures, impervious surfaces, building pad area, and barn is conveyed off-site in a non-erosive manner and is treated/filtered to reduce pollutant load before it reaches coastal waterways. (See Section E. Water Quality for a more detailed discussion of coastal water quality).

In addition, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. The subject site contains environmentally sensitive habitat. Therefore, **Special Condition 7**, Lighting Restriction, limits night lighting of the site in general; limits lighting to the developed area of the site; and specifies that lighting be shielded downward. The restriction on night lighting is necessary to protect the night time rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area. In addition, low intensity security lighting will assist in minimizing the disruption of wildlife traversing this area at night that are commonly found in this rural and relatively undisturbed area. Thus, the proposed setback from the sensitive habitat area and natural topography in concert with the lighting restrictions will attenuate the impacts of unnatural light sources and will not impact sensitive wildlife species.

Furthermore, fencing of the entire property would adversely impact the movement of wildlife through the chaparral and oak woodland ESHA on this 19.5 acre parcel. Therefore, the Commission finds it is necessary to limit fencing to the perimeter of Zone

B (irrigated zone) of the fuel modification Plan as required in **Special Condition 4 (A)(7)**.

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 environmental constraints discussed above. Therefore, to ensure that any future structures, additions, change in landscaping or intensity of use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition 9**, the future development restriction, has been required. Finally, **Special Condition 12** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

C. 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.

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, undeveloped, naturally vegetated mountains and hillsides. The proposed development area is sited on a minor ridgeline and is highly visible from Charmlee County Park, the Three Park Lateral Trail and Encinal Canyon Road, a designated scenic roadway in the Santa Monica Mountains LUP.

The applicant proposes to construct a one story, 21 foot high, 3,675 sq. ft. single-family residence with attached 735 sq. ft. 3-car garage; a 22 ft. high, 749 sq. ft. guest unit over a 749 sq. ft. garage; 15 ft. high, 800 sq. ft. barn; access road improvements; water well; septic system; swimming pool; 2,820 cubic yards of grading (2,100 cu. yds. cut, 720 cu. yds. fill). The proposed building site is the logical development site on the property as it

is located directly adjacent to the existing access road to the property on a relatively level portion of a minor ridgeline. Alternative building sites off the level ridge top would involve development on moderate to steeply sloping hillsides that would require significant grading or excavation into the hillside. In addition, alternative building sites to the west of the ridgeline would push development closer to the sensitive oak woodland areas resulting in vegetation clearance for fuel modification purposes in the woodland. Siting the residential development on the hillside to the east of the ridge would create a significant adverse impact to views from Encinal Canyon Road as the structure would be built into the hillside directly adjacent to and above the roadway.

As previously mentioned above, the project as originally proposed included a larger pad area for a wider residential structure that included fill areas supported by large retaining walls on the east and west slopes. In addition, the project included a barn and equestrian training and riding area graded into the slope west of the residence; a sports court south west of the residence; and a large pool and deck area south of the residence. Total grading for this proposal was approximately 7,000 cubic yards (4,000 cu. yds. cut, 3000 cu. yds. fill)

In response to staff concerns regarding the size and scale of the development and the associated grading the applicant revised the project. The applicant reduced the size of the development footprint to 10,000 square feet which includes some minor fill slopes on the slope east and west of the ridgeline. The residence itself was excavated further into the ridge which resulted in the residence being lowered 10 feet overall. The residential structure was reduced in width by 25 feet (east/west axis) and 5 feet (north/south) in order to minimize grading and eliminated large retaining walls on the east and west slopes of the ridge. The applicant eliminated the sports court and equestrian riding area; and relocated the barn and swimming pool onto the 10,000 sq. ft. building pad.

The proposed residential structure is one story and varies in height from 16 feet to a maximum height of 21 feet for a central architectural element that is designed to facilitate passive heating and cooling of the residence. To minimize the visibility of the residence the applicant revised the grading plan to lower the pad for the residence which resulted in the residence being lower in elevation by 10 feet from what was originally proposed. The grading plan for the building pad was revised to limit the total development area to 10,000 sq. ft. including some minor fill slopes. Total grading for the building pad is 2,020 cubic yards (1,300 cu. yds. cut and 720 cu. yds. fill). The proposed revision to the grading plan minimizes the visibility of the residence and graded slopes from Encinal Canyon road and the proposed trail to the west of the residence. In addition, the proposed grading will not result in a significant alteration of the ridgeline landform. The proposed residential structure is not excessive in height or scale and will not result in a significant visual impact as seen from public view areas. The applicant is also proposing a 15 foot high, 800 sq. ft. barn and a 22 ft. high, 749 sq. ft. guest unit over a 749 sq. ft. garage. These structures are both clustered on the 10,000 sq. ft. building pad. The guest unit structure is a 22 foot high two story structure with the guest unit over a first floor garage. The guest unit structure

and barn are compatible with the maximum height and architectural design of the residential structure. The proposed accessory structures will not result in a significant adverse visual impact as seen from the public view areas and will not result in a significant alteration of existing landforms.

The applicant is also proposing improvements to the access road to the property that will require approximately 800 cubic yards of grading (all cut) to increase the width of the road to 20 feet to comply with Los Angeles County Fire Department regulations. The grading for the road will require some shallow cut slopes that will not result in significant alterations to the existing hillside or ridgetop landforms both on and off site. Therefore, the grading for the road will not result in any significant adverse visual impacts or significant alteration of landforms.

In addition, the proposed development is consistent with the size and scale of other development in the Encinal Canyon area. However, the proposed residence will be visible from several public view areas including Charmlee County Park, the Three Park Lateral Trail and Encinal Canyon Road, a designated scenic highway in the Santa Monica Mountains LUP. Due to the highly visible nature of the project site from public scenic view sheds points, the Commission finds it necessary to require mitigation measures to minimize visual impacts associated with development of the project site.

Requiring the residence to be finished in a color consistent with the surrounding natural landscape and, further, by requiring that windows of the proposed structure be of a non-reflective glass type, can minimize impacts on public views. To ensure visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as detailed by **Special Condition 8**.

Visual impacts associated with proposed grading, and the structure itself, can be further reduced by the use of appropriate and adequate landscaping. As such, **Special Condition 4** incorporates the requirement that vertical screening elements be added to the landscape plan to soften views of the proposed residence from Charmlee Park, Three Park Lateral Trail and Encinal Canyon Road. In addition, Special Condition 4 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. Implementation of Special Condition 4 will partially screen the proposed structures and soften the visual impact of the development from Charmlee Park, the hiking and equestrian trail, and Encinal Canyon Road. To ensure that the final approved landscaping plans are successfully implemented, Special Condition 4 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.

In addition, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting,

and roosting activities of native wildlife species. The subject site contains environmentally sensitive habitat. Therefore, **Special Condition 7**, Lighting Restriction, limits night lighting of the site in general; limits lighting to the developed area of the site; and specifies that lighting be shielded downward. The restriction on night lighting is necessary to protect the night time rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area.

Finally, regarding future developments or improvements, certain types of development 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 any future development or improvements normally associated with the entire property, which might otherwise be exempt, is reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the Coastal Act. **Special Condition 9**, the Future Development Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Finally, **Special Condition 12** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the subject property.

The proposed project, as conditioned, will not result in a significant adverse impact to scenic public views or character of the surrounding area. Therefore the Commission finds that, as conditioned, the proposed development is consistent with section 30251 of the Coastal Act.

D. 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 ridgeline with moderate to steeply descending slopes to the east and west. The proposed development is sited on a relatively level portion of the ridge and requires 2,020 cubic yards cut of grading to create a 10,000 sq. ft. building pad and 800 cubic yards of grading to widen the access road. The applicant has submitted a Geologic & Soils Engineering investigation, dated January 17, 2000, prepared by Subsurface Designs Inc. which evaluates the proposed development in relation to the geologic stability of the subject site. 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 engineering geologic and geotechnical consultant state in the Geologic & Soils Engineering investigation:

It is the finding of this firm, based upon the subsurface data, that the subject building site will not be affected by settlement, landsliding, or slippage. Further, based upon the proposed location, development will not have an adverse affect on off-site property.

The engineering geologic and geotechnical consultant conclude that the proposed development is feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The Geologic & Soils Engineering Study, contain several recommendations to be incorporated into project construction, design, drainage, foundations 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 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 minimize erosion and add to the geologic stability of the project site. To ensure that adequate drainage and erosion control is included in the proposed development the Commission requires the applicant to submit drainage and interim erosion control plans certified by the consultants, as specified in **Special Conditions 2 and 4**. Special Conditions 2 requires the applicant to maintain a functional drainage system at the subject site to insure that run-off from the project site is diverted in a non-erosive manner to minimize erosion at the site for the life of the proposed development. Should the drainage system

of the project site fail at any time, the applicant will be responsible for any repairs or restoration of eroded areas as consistent with the terms of Special Condition 2.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will serve stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition 4** 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 4 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.

In addition, to ensure excess excavated material is moved off site so as not to contribute to unnecessary landform alteration and to minimize erosion and sedimentation from stockpiled excavated soil, the Commission finds it necessary to require the applicant to dispose of the material at a appropriate disposal site or to a site that has been approved to accept fill material, as specified in **Special Condition 11**.

Furthermore, 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 5**. 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 5 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.

Wild Fire

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 6**, 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 6, 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 Section 30253 of the Coastal Act.

E. 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 in detail in the previous sections, the applicant is proposing to develop the subject site with a new single-family residence and other appurtenant structures. The proposed building location is located upslope from a stream that contains sensitive riparian habitat. 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 at the subject site, which in turn decreases the infiltrative function and capacity of existing permeable land on site. 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.

For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. 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 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.

In addition, the proposed project is conditioned to also implement a pool and spa drainage and maintenance plan to prevent uncontrolled drainage of the proposed swimming pool and spa such that drainage of pool water does not result in discharge of chemically treated water to coastal streams and drainages. The pool and spa drainage and maintenance plan, as detailed in **Special Condition 3**, requires the applicant to submit a written pool and spa maintenance plan that contains an agreement to install and use a no chlorine or low chlorine purification system and a program to maintain proper pH, calcium and alkalinity balance in a manner such that any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area. In addition, Special Condition 3 prohibits discharge of pool water into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters.

Furthermore, interim erosion control measures 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 4** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Moreover, the proposed development includes a barn for horses. Runoff from confined animal facilities nitrates, 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, the Commission finds that provisions d. and e. of Special Condition 4 are necessary to ensure confined animal wastes do not adversely impact coastal waters. These measures include the following:

Manure stored on site shall be contained in fully enclosed bins and/or a facility with impervious flooring, which is protected from wind, rain, and nuisance flows; confinement areas, loafing areas, or other areas where waste solids may gather shall be scraped periodically; and drainage devices and BMPs which will ensure that all runoff from the proposed horse stables and waste containment areas shall be collected and directed through a system of vegetated and/or gravel filter strips or other media filter devices.

Finally, the proposed development includes the installation of an on-site private sewage disposal system to serve the residence. The County of Los Angeles, Department of Health Services, 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 coastal resource.

For the reasons set forth above, 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.

F. Public Access Trail

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

Coastal Act Section 30210 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.

Coastal Act Section 30212 states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,***
- (2) adequate access exists nearby, or,***
- (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.***

Coastal Act Section 30212.5 states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the

impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Coastal Act Section 30213 states:

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

Coastal Act Section 30223 states:

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

Coastal Act Section 30252 states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development. (emphasis added)

Coastal Act Section 30254 states:

... Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

Coastal Act Section 30530 states:

It is the intent of the Legislature, consistent with the provisions of Chapter 9 (commencing with Section 31400) of Division 21, that a program to maximize public access to and along the coastline be prepared and implemented in a manner that ensures coordination among and the most efficient use of limited fiscal resources by federal, state, and local agencies responsible for acquisition, development, and maintenance of public coastal accessways. There is a need to coordinate public access programs so as to minimize costly duplication and conflicts and to assure that, to the extent practicable, different access programs complement one another and are incorporated within an integrated system of public accessways to and along

the state's coastline. The Legislature recognizes that different public agencies are currently implementing public access programs and encourages such agencies to strengthen those programs in order to provide yet greater public benefits.

In the Santa Monica Mountains, a portion of an existing system of heavily used historic trails located on private property has been jeopardized by the conversion of open lands to residential development. In an effort to preserve and formalize the public's right to use these trails, Los Angeles County adopted the Riding and Hiking Trails Master Plan for the Santa Monica Mountains, which is adopted by ordinance into the highway element of the County's 1982 General Management Plan for the Santa Monica Mountains National Recreation Area as updated in 1984 as the Land Protection Plan. The trail system is mapped as part of the 1986 certified Land Use Plan for the Malibu/Santa Monica Mountains Area, a component of the County's Local Coastal Program. The trail system includes the Backbone Trail, a main access route along the coast leading from the metropolitan Los Angeles area on the east past Leo Carrillo State Beach at the Los Angeles County - Ventura County border to Point Mugu State Park in Ventura County on the west. Numerous cross mountain lateral trails link the major population center of the San Fernando Valley on the north with numerous Federal, State, and County mountain and beach park lands within the Mountains and to the south on the beach. These lateral trails provide these links between downtown Santa Monica on the east to Point Mugu State Park on the west. There are two designated regional connector trails linking the Malibu/Santa Monica Mountains trail system with a larger regional system which connects the beach and mountain areas with trails in the Simi Valley, San Gabriel Mountains and other inland areas. The trail network will make a very large number of destinations available to hikers and equestrians. These destinations are quite varied in nature and therefore have the potential of holding interest for many different persons. The choice includes highly scenic locations, such as Escondido Falls and Castro Crags area; historic sites, including motion picture locations; and active group campsites. Dramatic coastal views, including almost unmatched views of the Channel Islands, are available from vista points along the Backbone Trail, to which the Coastal Slope Trail connects. These extraordinary coastal views are central to the coastal mountain recreation experience and together with the fauna, flora, and climate specific to this area, are among the coastal resource values protected by the public access and recreation policies of the Coastal Act.

One of the trails identified in the adopted trail system is the Three Park Lateral Trail, which connects the Backbone Trail with Encinal Canyon Road and Charmlee Park and continues down to the coast. Portions of this trail run along unimproved and private dirt roads, including Lulu Carr Road that bisects the subject property in a north-south manner. These trails have become important and commonly used recreational assets and a means of providing access to and links between natural, scenic, and recreational areas in the mountains. The proposed development in this application is on a parcel that includes a segment of the Three Park Lateral Trail, a designated segment of this major trail system.

In permitting residential areas in the Santa Monica Mountains to build out, planning agencies have found that to assure continued availability of the recreational resources of the mountains by the general public, compatible recreational facilities to serve both residents of the new development and existing recreational visitors must be provided. A comprehensive recreation plan for the Santa Monica Mountains has been adopted, as cited above, that includes acquisition by the National Park Service and the California Department of Parks and Recreation of extensive tracts of land for recreation. Careful review of development near such areas to ensure that it is sited and designed to be compatible with recreational uses, and development of a system of scenic highways and hiking and equestrian trails to link the larger units together while retaining access to views, provide recreational opportunities, and provide an alternative mode of access to all areas of the mountains and adjacent coastal areas.

Los Angeles County incorporated the Riding and Hiking Trails Master Plan into the Land Use Plan certified by the Coastal Commission in 1986. In order to preserve and formalize the public's right to use these trails, this trail system map was included as part of the certified Malibu/Santa Monica Land Use Plan (LUP). Policy 44 of the LUP requires that trails identified in the Riding and Hiking Trails Master Plan be dedicated at the time of development of the property on which the trails are located:

P44 A trail dedication requirement shall be a condition of approval for new development as defined in Coastal Act Section 30212(b) where the property encompasses a mapped trail alignment, as indicated in Figure 3 of the LUP, or where the Coastal Commission has previously required trail easements. Nothing in this policy shall preclude relocating a trail that has historically been used by the public as a trail so long as the new trail is equivalent for purposes of public use. Both new development and the trail alignment shall be sited to provide maximum privacy for residents and maximum safety for trail users. Property owners and residents shall not be permitted to grade or develop the trail area in such a way as to render the trail unsafe or unusable. Where a trail is proposed prior to development occurring in an area, credit shall be given to the landowner that will run with the land by formal agreement if a donation is involved. The dedication of a trail right-of-way shall give the landowner the right to request the County to deduct that area from the assessed area of that parcel for tax purposes. It is expressly understood that the public agency shall accept the public liability for operation of the trail.

The Three Park Lateral Trail segment bisecting the subject property is commonly used by equestrians and hikers, and has been for a long period of time. Although there is an indication that prescriptive rights have been established, the increased demands caused by residential buildout make it necessary to condition such development to formalize the public's right to continued use of these trails. As previously stated, the proposed development is sited directly over the existing trail/roadway. The applicant has worked with Los Angeles County Department of Parks and Recreation to relocate the trail to an acceptable location that can accommodate equestrians and hikers and provide a connection to the existing trail segments north and south of the property. In addition, the applicant is offering to dedicate a 20 foot wide public trail easement over the new trail

route and construct a 5 foot wide trail. The relocated trail is located just downslope of the residence and the existing trail roughly running parallel to the contours of the slope. The trail will require only minimal excavation to construct and will not adversely impact or alter the slope.

As noted previously, the application includes a voluntary offer to dedicate a public hiking and equestrian trail over a portion of the subject site as shown on Exhibit 3. This offer to dedicate the easement on this site represents an important link that will further complete this trail. Such an offer to dedicate an easement requires formalization through a recorded document, i.e., an irrevocable offer to dedicate a route which is agreed to by the Executive Director and concerned agencies, and provides for acceptance by a public agency or private association. Therefore, **Special Condition 13** has been included, consistent with the applicant's proposal in order to implement the applicant's offer to dedicate a public hiking and equestrian trail, a twenty feet wide easement, prior to the issuance of the coastal development permit. Furthermore, to insure the trail is constructed in a timely manner **Special Condition 10** requires that the trail be constructed prior to the receipt of the Certificate of Occupancy for the residence in compliance with the requirements of Los Angeles County Department of Parks and Recreation.

a. Conclusion

For the reasons discussed above, the Commission finds that the trails to a substantial extent will serve existing and future residents of the area, and will help meet the increased recreational demands that the increased numbers of residents, including this applicant, will place on the recreational resources of the mountains and seashore. The trails will connect with park lands that serve people from the region and from outside the area, and will provide recreational opportunities that are an alternative to the beaches and will also provide an alternative mode of access to the mountain and beach areas, helping mitigate the increased traffic congestion caused by new development. In all of these ways, approval of the application with the recommended condition will also ensure that the applicant's offer to dedicate a trail easement is proposed in a location and design consistent with the pattern of trail routes and design parameters found in the certified LUP. Therefore, the Commission finds that the proposed project, as conditioned, to provide for the dedication of the trail easement is consistent with Sections 30210, 30212(a), 30212.5, 30213, 30223, 30252, 30254, and 30530 of the Coastal Act.

G. Cumulative Impacts

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

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate

public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Pursuant to Coastal Act §30250 and §30252 cited above, new development raises issues relative to cumulative impacts on coastal resources. The construction of a second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. The applicant is proposing to construct a 748 sq. ft. detached guesthouse over a 748 sq. ft. garage.

Based on the requirements of Coastal Act Sections 30250 and 30252, the Commission has limited the development of second units on residential parcels in the Santa Monica Mountain area to a maximum of 750 sq. ft. In addition, the issue of second units on lots with primary residences has been the subject of past Commission action in certifying the 1986 Malibu/Santa Monica Mountains Land Use Plan (LUP). In its review and action on the LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are intended only for occasional use by guests, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence or residential second units. Finally, the Commission has found in past permit decisions that a limit of 750 sq. ft. encourages the units to be used for their intended purpose –as a guest unit- rather than as second residential units with the attendant intensified demands on coastal resources and community infrastructure.

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

The applicant proposes to construct a detached, 748 sq. ft. guesthouse over a 748 sq. ft. garage (Exhibits 9). The 748 sq. ft. guest unit conforms with past commission permit actions in allowing a maximum of 750 sq. ft. for second units in the Malibu area. The Commission finds it necessary to ensure that no additions or improvements are made to the guesthouse in the future that may enlarge or further intensify the use of this structure without due consideration of the cumulative impacts that may result. Therefore, the Commission finds it necessary to require the applicant to record a future improvements deed restriction, as specified in **Special Condition 9**, which will require the applicant to obtain an amended or new coastal permit if additions or improvements to the detached structure are proposed in the future. As conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with Sections 30250 and 30252 of the Coastal Act.

H. Local Coastal Plan

Section 30604 of the Coastal Act states:

- A) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).***

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal 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. 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 Santa Monica Mountains area, which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

I. 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 Environmentally 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 which the activity may have on the environment.

The Commission finds that, the proposed project, as conditioned will not have 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.

LOS ANGELES CO

MAP 625

DETAIL

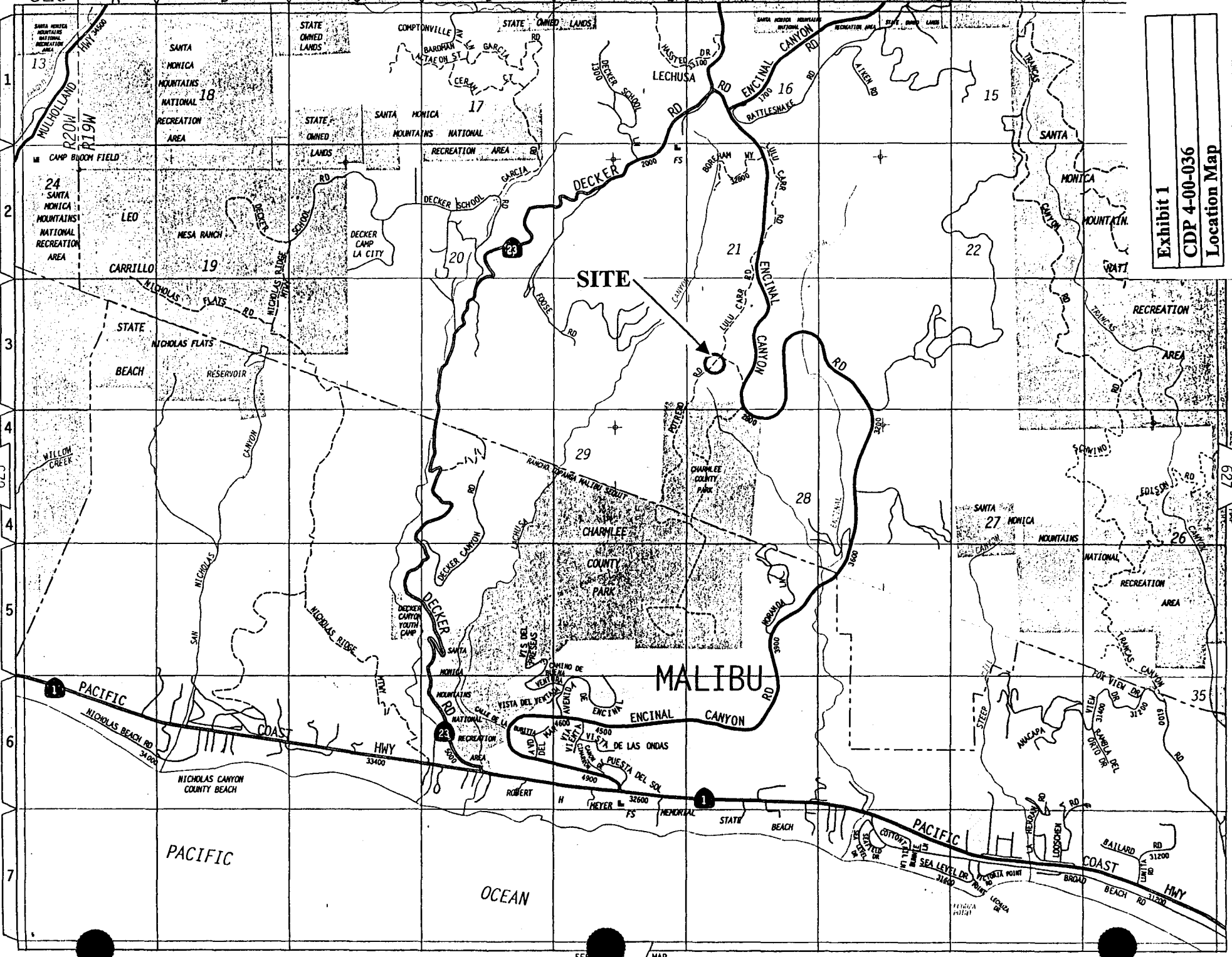


Exhibit 1

CDP 4-00-036

Location Map

UNIVERSITY MICROFILMS
SERIALS ACQUISITION
300 N. ZEEB RD.
ANN ARBOR MI 48106

[illegible]

T. MOONE
RETIRED AND LANCING DESIGN
 21985 LINDSEY PARK ROAD
 TOWNSEND, CA 95568-0166
 (916) 485-7384
 fax (916) 488-7512
 email: tmr1@compuserve.com



Barney's Residences
2171 S. Euclid Canyon
Malibu, CA 90265

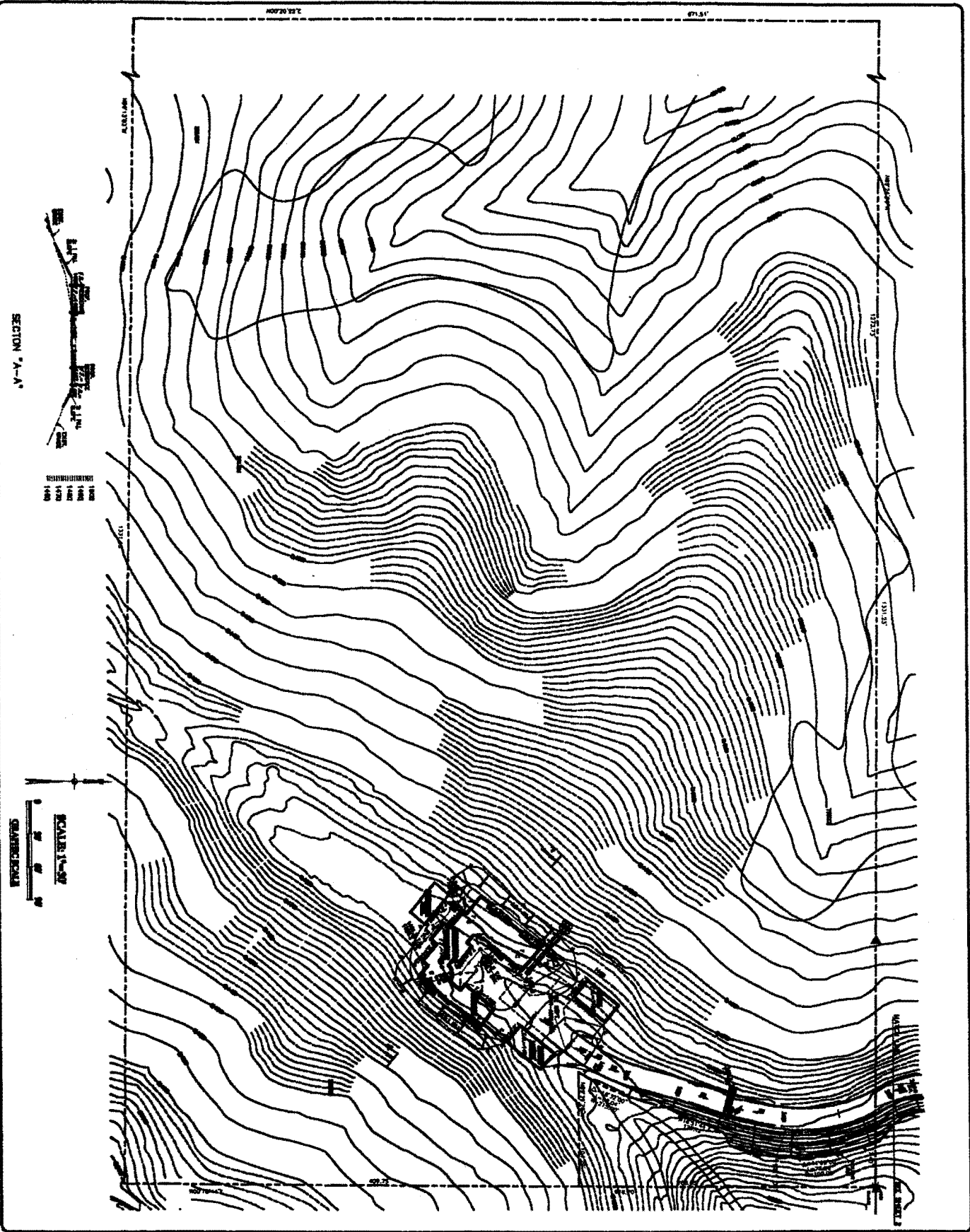
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KEY SITE PLAN
GATE ELEVATION

Sheet Number:

AI





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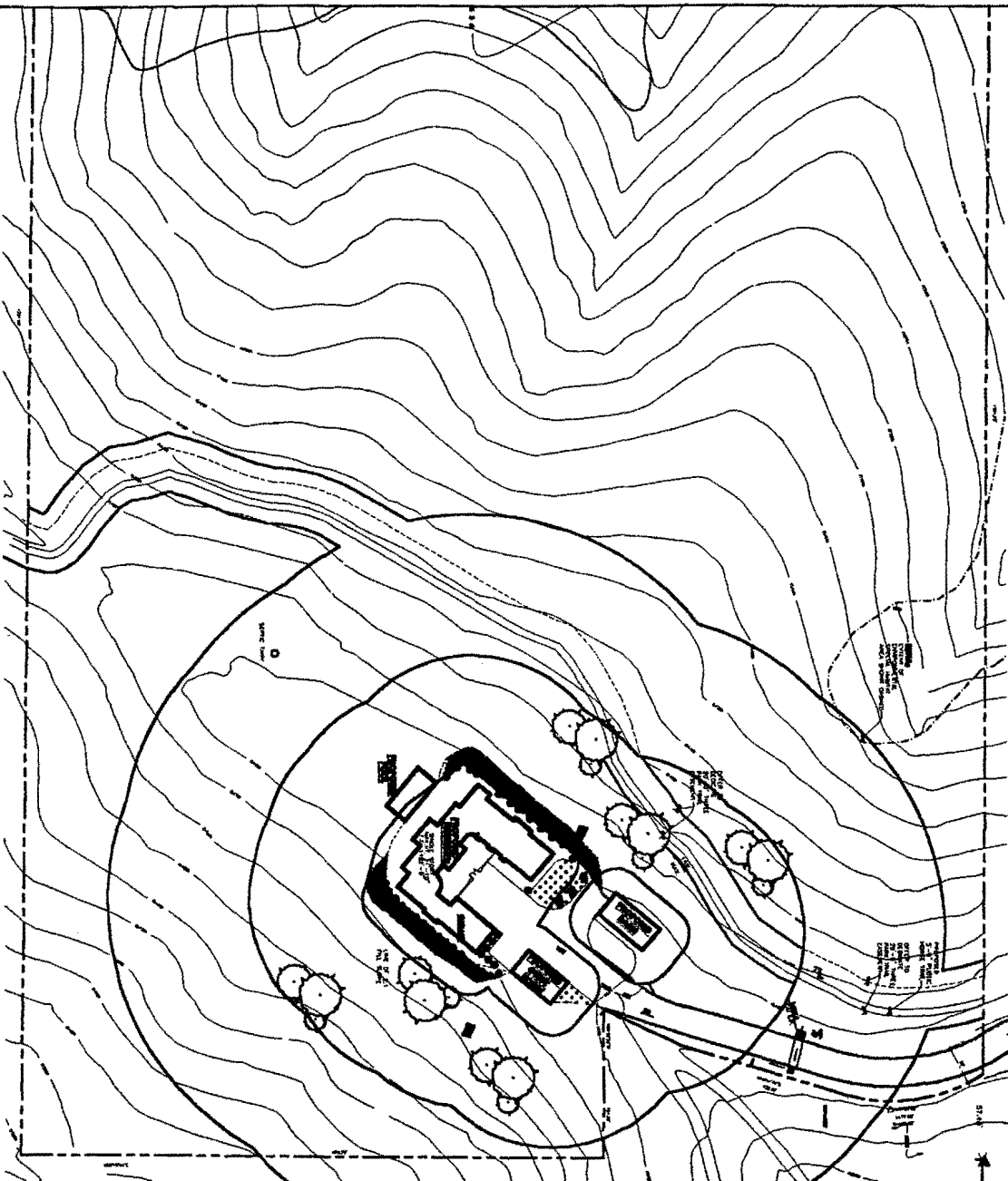
PEG
PROJECT ENGINEERING GROUP
Civil and Structural Engineering

formerly
VPL CONSULTING, INC.
2000 WOODBURN BLVD. SUITE 200, GARDEN GATE, CA 90247

GRADING & DRAINAGE PLAN
ADDRESS: LULU CARR ROAD
LOS ANGELES COUNTY
OWNER: JEFF BARNEY

1	2	3	4	5	6	7	8	9	10
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Exhibit 4
CDP 4-00-036
Proposed Grading Plan



LANDSCAPE PLAN

PLANTING PLAN

ZONE A	1. SHRUBS: CAMPESTRIS, PACHYRHOZIS, LARIX, JUNIPER, ARISAEMA, YUCCA
ZONE B	1. TREES: QUERCUS BUREAU (4x 10' max)
ZONE C	1. WOODLAND: PRUNUS, PISTIA, PISTIA
ZONE D	1. WOODLAND

T. MOORE
 LANDSCAPE ARCHITECT
 3175 LICKLEY PARK ROAD
 TAYLOR, CA 95131
 Tel: 415 484-7812
 email: tmoore@earthlink.net

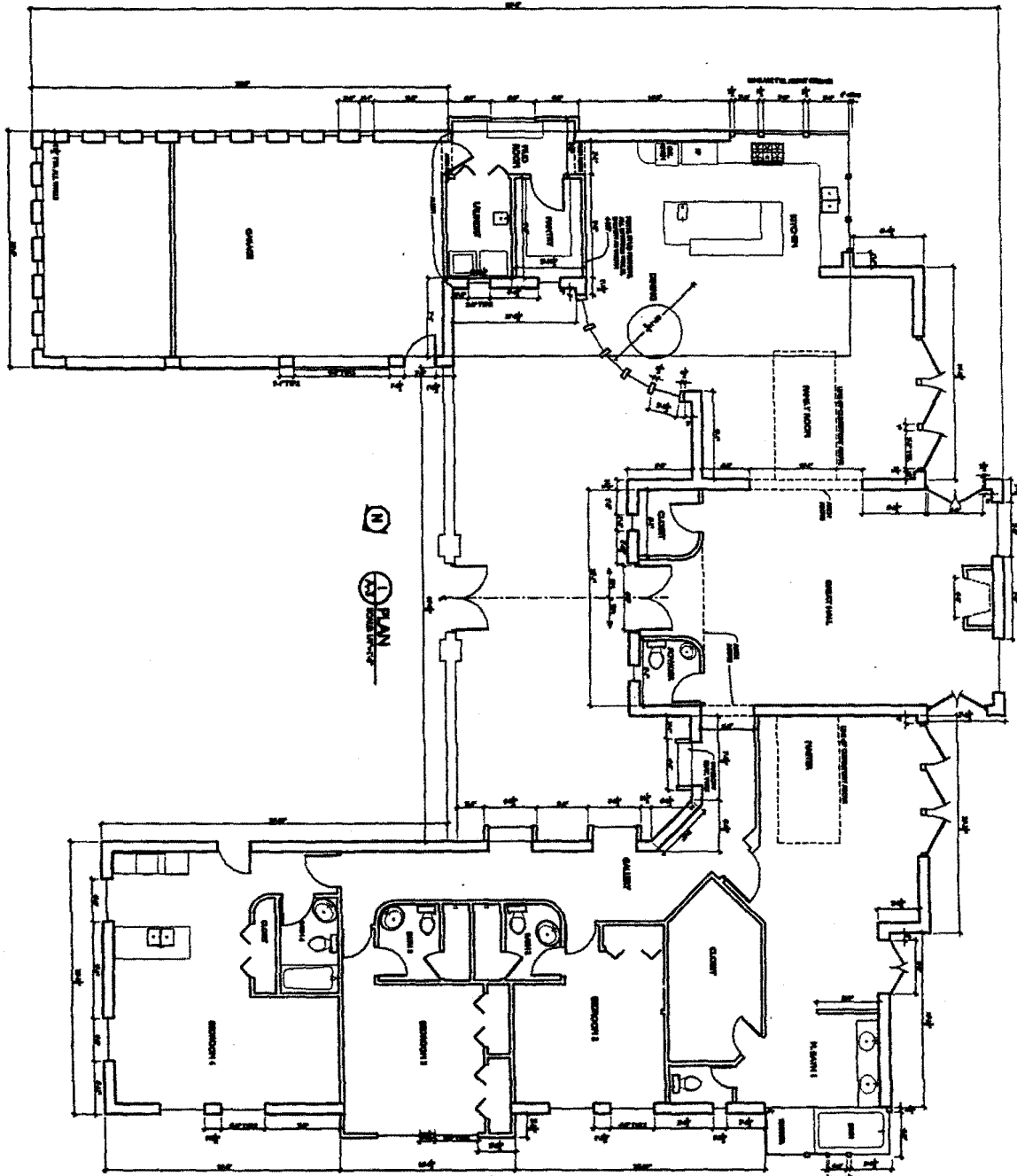
Barny Reside
 2171 S. Eucalyptus
 Napa, CA 94555

REVISIONS AND REVISIONS

NO.	DATE	REVISION
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3	10/10/00	3. PLANTING PLAN
4	10/10/00	4. PLANTING PLAN
5	10/10/00	5. PLANTING PLAN
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9	10/10/00	9. PLANTING PLAN
10	10/10/00	10. PLANTING PLAN

TITLE
 PLANTING PLAN

L3



Barney Resili
 2011 S. Emerald C
 Modesto, CA 95202

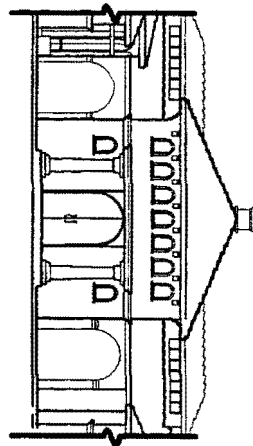
T. MOORE
 BUILDING AND LANDSCAPE DESIGN
 11111 LUGER PARK ROAD
 TAYLOR, CA 95240-0404
 (916) 482-7841
 Fax: (916) 482-7812
 email: tmoore@earthlink.net

Exhibit 6
CDP 4-00-036
Residence Floor Plan

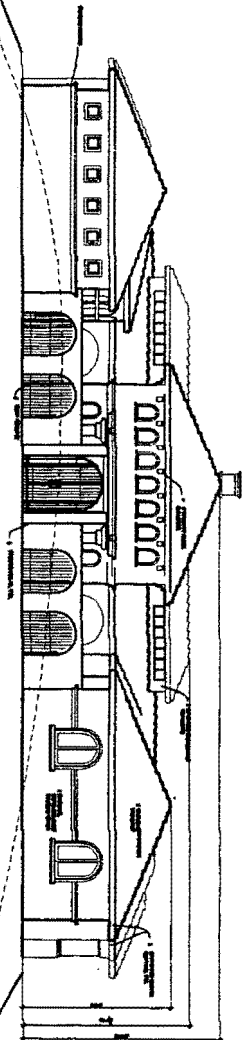
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3	CONSTRUCTION
4	FINAL

TITLE
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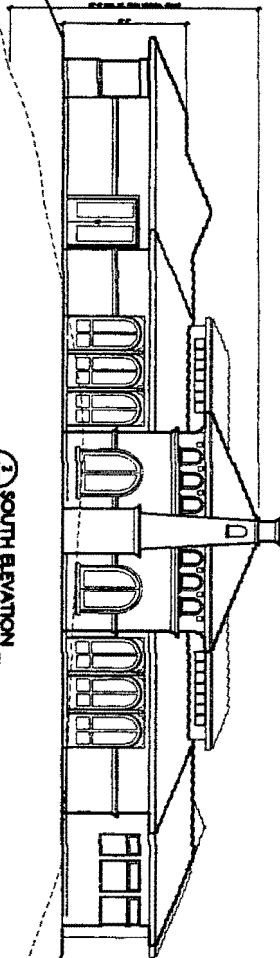
A3



15 COURTYARD ELEVATION



16 NORTH ELEVATION



17 SOUTH ELEVATION

Barney R.
2111 S. Elmer
Madera, CA

T. MOORE
BLAIR AND LARSON DESIGN
11881 SACRED HEART ROAD
THERESA, CA 95754-0404
Tel: (916) 483-7344
Fax: (916) 483-7315
email: tmoore@blairandlarson.com

Exhibit 7
CDP 4-00-036
Residence Elevations

SHEETS AND REVISIONS	
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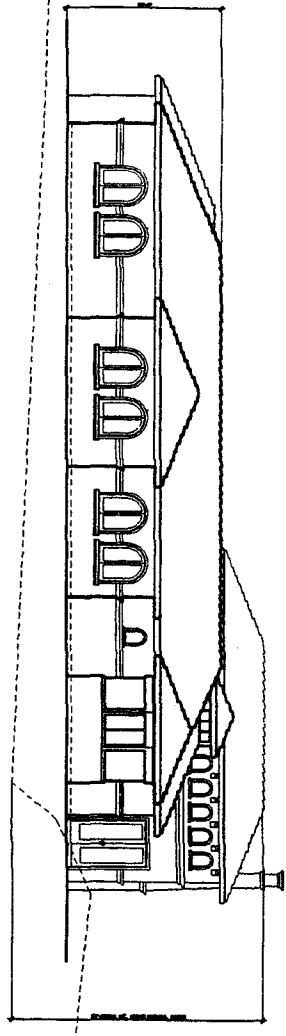
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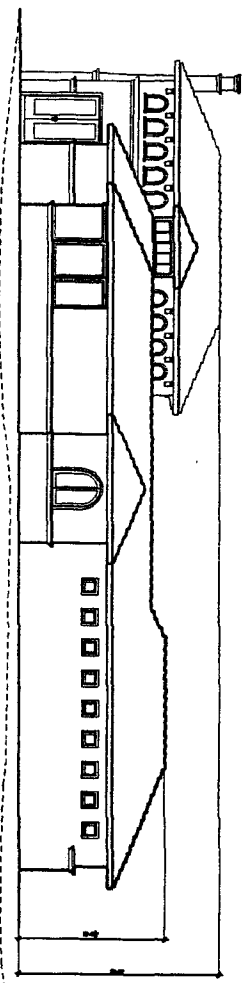
Barney Res
 2171 S. Bedford C
 Modesto, CA 95301

T. MOORE
 ARCHITECT AND LANDSCAPE DESIGN
 3185 MARCEA PARK ROAD
 TOWNSEND, CA 95562-0402
 (916) 684-7264
 fax (916) 684-7212
 email tom@tmooredesign.com

Exhibit 8
CDP 4-00-036
Residence Elevations



⊕ WEST ELEVATION



⊕ EAST ELEVATION

SHEETS AND REVISIONS			
NO.	DATE	DESCRIPTION	BY
1		ISSUED FOR PERMIT	TM
2		ISSUED FOR PERMIT	TM
3		ISSUED FOR PERMIT	TM
4		ISSUED FOR PERMIT	TM
5		ISSUED FOR PERMIT	TM
6		ISSUED FOR PERMIT	TM
7		ISSUED FOR PERMIT	TM
8		ISSUED FOR PERMIT	TM
9		ISSUED FOR PERMIT	TM
10		ISSUED FOR PERMIT	TM

TITLE
ELEVATIONS

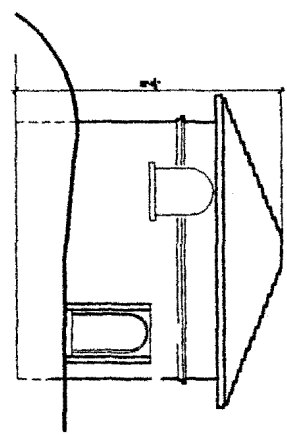
SHEET NUMBER

A6

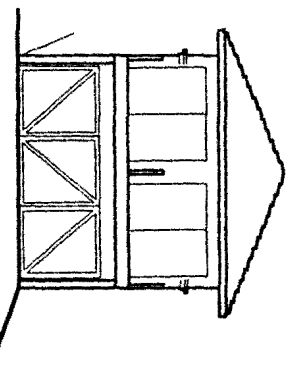
Barney Resid
 2771 S. Bascom Ave
 Palo Alto, CA 94304

Exhibit 9
 CDP 4-00-036
 Guest Unit Floor Plan &
 Elevations

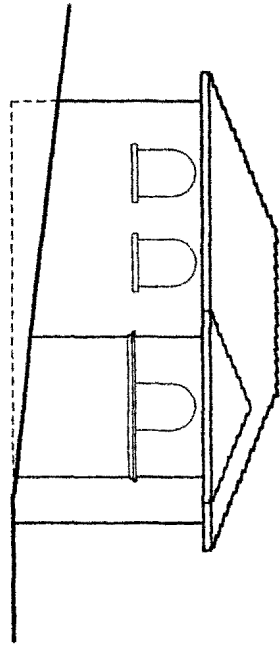
T. MOORE
 3110 LADDY PARK ROAD
 TOWSON, MD 21204-6046
 Tel: (410) 451-3711
 e-mail: tmoore@tmooredesign.com



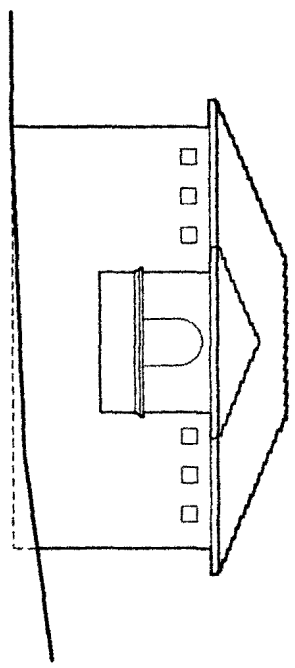
1/27 GUEST HOUSE NORTH ELEVATION



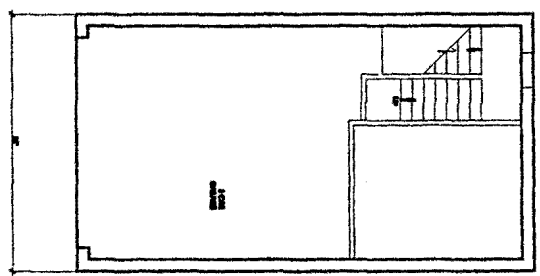
1/27 GUEST HOUSE SOUTH ELEVATION



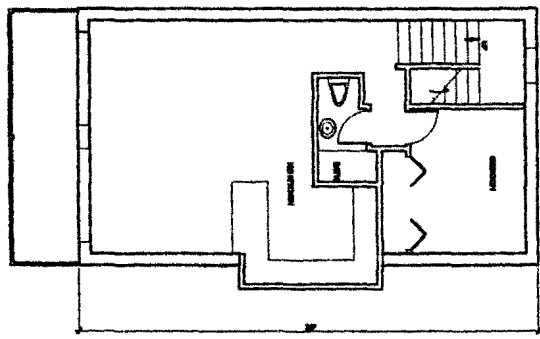
1/27 GUEST HOUSE WEST ELEVATION



1/27 GUEST HOUSE EAST ELEVATION



1/27 BASEMENT PLAN

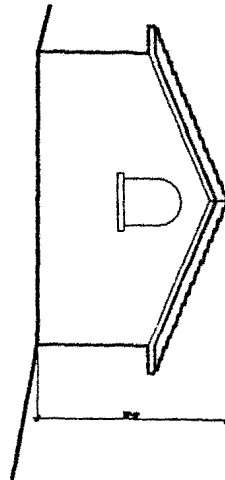


1/27 FIRST FLOOR PLAN

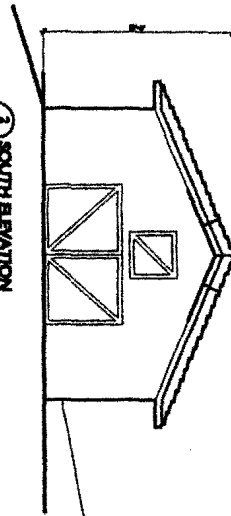
REVISIONS	
NO.	DESCRIPTION
1	REVISION
2	REVISION
3	REVISION
4	REVISION
5	REVISION
6	REVISION
7	REVISION
8	REVISION
9	REVISION
10	REVISION

TITLE
 GUEST HOUSE
 ELEVATIONS

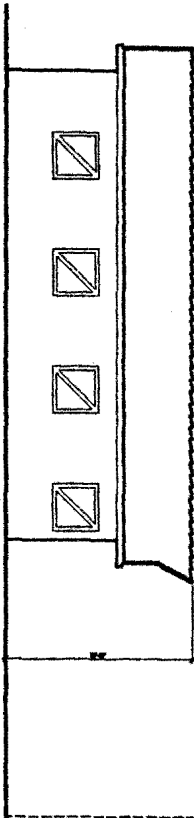
SHEET NUMBER
A8



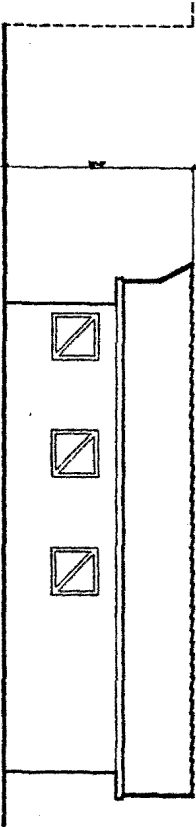
1 MAIN NORTH ELEVATION



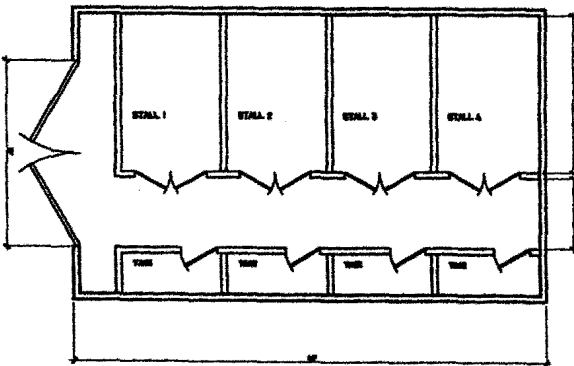
2 MAIN SOUTH ELEVATION



3 WEST ELEVATION



4 EAST ELEVATION



5 BARN FLOOR PLAN

Barney R.
2771 S. Bascom
Mills, CA

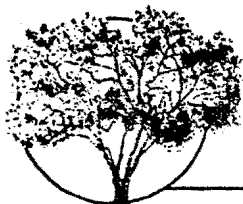
T. HOOVER
BARN AND LANDSCAPE DESIGN
3100 JACOB FARM ROAD
TOLAND, CA 95560-0946
TEL: 916/363-3111
and on the internet

Exhibit 10
CDP 4-00-036
Barn Floor Plan and Elevations

DATE	REVISIONS
1	1.000
2	2.000
3	3.000
4	4.000
5	5.000
6	6.000
7	7.000
8	8.000
9	9.000
10	10.000

TITLE
BARN
ELEVATIONS
PLAN

A7



COUNTY OF LOS ANGELES
DEPARTMENT OF PARKS AND RECREATION



March 14, 2002

Mr. Jeff Barney
c/o Terry Valente
21928 Altaridge Drive
Topanga, CA 90290

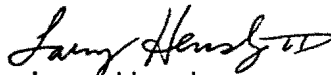
Dear Mr. Barney:

TRAIL REALIGNMENT AT 2171 S. ENCINAL CANYON RD. - MALIBU

This letter confirms the Department of Parks and Recreation's approval-in-concept of the realignment of the Three Park Lateral Trail on your property in Malibu as shown on the plan originally submitted to the Department on February 8, 2001 and faxed on December 12, 2001. The only requirement the Department has regarding realignment of this trail is that the gradient on the new trail can be held to no more than a 15% slope (or 5:1 for distances up to 50 feet). This information should be noted on your site grading plan, prepared by a civil engineer as required by Building & Safety plan check.

An easement document with the easement description of the trail and a plan illustrating the trail easement must be recorded with the County Recorder. The Department's receipt of this recorded document will finalize the County's approval of the realignment of the trail on your property.

Sincerely,


Larry Hensley
Acting Chief of Planning

C: Tonda Lay, Trails

RECEIVED

MAY 28 2002

CALIFORNIA
COAST
SOUTH CENTRAL

Exhibit 11

CDP 4-00-036

Public Trail Realignment
Approval Letter

