

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: 7/2/03
49th Day: 8/20/03
180th Day: 12/29/03
Staff: K. Kemmler
Staff Report: 10/16/03
Hearing Date: 11/6/03
Commission Action:



STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 4-00-022-A1
APPLICANT: Alex and Jordan Frisch
PROJECT LOCATION: 1055 Cold Canyon Road, Calabasas (Los Angeles County)
APN NO.: 4456-039-010

DESCRIPTION OF PREVIOUSLY APPROVED PROJECT: Construction of a new 2,400 sq. ft., one story, 17 ft. high single family residence with detached carport, pool, septic system, and temporary construction trailer. No grading proposed.

DESCRIPTION OF PROPOSED AMENDMENT: Revised site design: single story, 2,600 sq. ft., 15 ft. high max. single family residence; detached 1,250 sq. ft. structure including 4-car garage and rec. room; decks and patios; koi pond; 6 ft. high fence; swimming pool and spa; septic system; and new fuel modification plan.

Lot area 3 acres
Building coverage 4,700 sq. ft.
Pavement coverage 1,400 sq. ft.
Height Above Finished Grade 15 ft.
Parking spaces 4

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, January 22, 2003; County of Los Angeles Environmental Health Services, Sewage Disposal System Design Approval, February 14, 2003; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, May 7, 2003; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, January 30, 2003.

SUBSTANTIVE FILE DOCUMENTS: "Engineering Geologic Update Letter," Mountain Geology, Inc., June 14, 2002; "Update Geotechnical Engineering Report," West Coast Geotechnical, June 25, 2002.

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

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

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

Summary of Staff Recommendation

Staff recommends **APPROVAL** of the proposed amendment with **EIGHT (8) SPECIAL CONDITIONS** regarding (1) geologic recommendations, (2) drainage and polluted runoff, (3) landscaping and erosion control, (4) removal of natural vegetation, (5) wildfire waiver, (6) color restriction, (7) future improvements, (8) deed restriction.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit Amendment No. 4-00-022-A1 pursuant to the staff recommendation.*

Staff Recommendation of Approval:

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

Resolution to Approve the Permit Amendment:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. SPECIAL CONDITIONS

Note: Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit 4-00-022 continue to apply. The special conditions are reiterated below (1-7). Special Conditions 1, 2, 3, 6 and 7 are revised pursuant to the proposed amendment. In addition, 1 new special condition (8) is hereby imposed as a condition upon the proposed project as amended pursuant to CDP 4-00-022-A1.

Deleted language is ~~stricken through~~ while added or revised language is underlined.

1. **Plans Conforming to Geologist's and Engineer's Recommendations (Revised)**

Prior to the Issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval by the Executive Director, evidence of the Geologist and Geotechnical Engineer consultants' review and approval of all project plans. All recommendations contained in the Limited Engineering Geologic Report dated July 27, 1999 and Engineering Geologic Update Letter dated June 14, 2002 prepared by Mountain Geology, Inc., and the Update Geotechnical Engineering Report dated June 25, 2002 prepared by West Coast Geotechnical including recommendations related to grading, foundations, and setbacks shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic consultants.

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

2. **Drainage and Polluted Runoff (Revised)**

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, two sets of drainage and polluted runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geotechnical engineer and engineering geologist to ensure the plan is in conformance with the consultants' recommendations. The plan shall include but not be limited to the following criteria:

- (a) Selected 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 runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff 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) 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. Landscaping and Erosion Control Plans (Revised)

Prior to issuance of a coastal development permit, the applicant shall submit two sets of landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall 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.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- (3) ~~No clearing, thinning, or other disturbance of vegetation shall be permitted within the areas designated as riparian canopy and/or significant oak woodland as illustrated on the Fuel Modification Plan revised on 2/23/00 and approved by the County of Los Angeles Fire Department Fuel Modification Unit on 3/06/00.~~ Vegetation may be removed or thinned only in accordance with the final fuel modification plan dated May 7, 2003 submitted by the applicant, and shall include details regarding the types, sizes and

location of plant materials to be removed, and how often thinning is to occur. In addition, as noted on the final fuel modification plan, no riparian plant species shall be removed or disturbed; only thinning or removal of dead plant material within the riparian corridor shall be allowed for fuel modification purposes. Irrigated lawn, turf and ground cover planted within fuel modification zone A shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

- (4) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen the development from public views from the Cold Creek Trail located west of the project site, and of the dedicated hiking and equestrian trail easement located along the west property boundary.
- (5) 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.
- (6) 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.
- (7) Fencing of the entire property is prohibited. Fencing shall extend no further than the building pad area as generally shown on the site plan: Exhibit 1. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in Special Condition No. Six (6) 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.

4. Removal of Natural Vegetation (Unchanged)

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.

5. Wildfire Waiver of Liability (Unchanged)

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

6. Color Restriction (Revised)

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 the approval of coastal development permit 4-00-022-A1. The palette samples shall be presented in a format not to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, 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 4-00-022-A1 if such changes are specifically authorized by the Executive Director as complying with this special condition.

~~Prior to issuance of the coastal development permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.~~

7. Future Development (Revised)

This permit is only for the development described in coastal development permit No. 4-00-022-A1. Pursuant to Title 14 California Code of Regulations Sections 13250(b)(6) and 13253 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) and (b) shall not apply to the entire parcel. Accordingly, any future structures, change of use to the permitted structures, or future improvements to the permitted structures, including but not limited to clearing of vegetation or grading, other than as provided for in the approved fuel modification, landscape and erosion control plan prepared pursuant to Special Condition 3, shall require an amendment to Permit No. 4-00-022-A1 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

~~Prior to the issuance of the coastal development permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the restricted area. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.~~

8. Deed Restriction (New)

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the

event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant is proposing an amendment to the previously approved project involving a site redesign to: construct a new single story, 2,600 sq. ft., 15 ft. high max. single family residence; detached 1,250 sq. ft. structure including 4-car garage and rec. room; decks and patios; koi pond; 6 ft. high fence; swimming pool and spa; driveway; and install a septic system on an existing building pad (see Exhibits 1-3).

On May 9, 2000 the Commission approved with special conditions Coastal Development Permit (CDP) 4-00-022 to: construct a new 2,400 sq. ft., one story, 17 ft. high single family residence with detached carport, pool, septic system, and temporary construction trailer with no grading proposed on an existing building pad. The underlying CDP 4-00-022 permitted the aforementioned development with special conditions regarding geologic recommendations, drainage and polluted runoff control plans, landscaping and erosion control plans, removal of natural vegetation, wildfire waiver of liability, color restriction, and future improvements.

The subject parcel is a 3 acre (approx.) parcel, which is Lot 9 of a ten lot, 85 acre subdivision approved by the Commission in 1981 via Coastal Development Permit P-81-7701, which included construction of roads, building pads and septic systems and a trail easement. The existing building pad was constructed as part of this underlying coastal permit and the property is accessed by way of an existing driveway off an existing shared paved access road off Cold Canyon Road constructed under the same coastal permit. Cold Creek, which is a designated blue line stream within an environmentally sensitive habitat area, runs along the western border of the property. In addition, the property entire parcel is located within the Cold Creek Resource Management Area, as well as portions of other designated environmentally sensitive habitat areas associated with the Cold Creek riparian corridor and a significant oak woodland habitat within the natural drainage course west of the building pad. Offsite to the west beyond Cold Creek, lies a hiking and equestrian trail, Stunt High Trail. A portion of the trail is visible from the building pad on a minor, low ridge within the canyon bottom approximately 400 ft. to the west. A link of this trail was provided by the same underlying subdivision permit.

The proposed development is located on a previously approved (P-81-7701), presently existing building pad in roughly the same footprint of the previously approved project (4-00-022), however, the development has been substantially altered from the previous proposal, including the redesign of the site and a new detached accessory structure. Therefore, in order to ensure that all of the special conditions imposed on the previous project are still applicable, some of the conditions have been revised to reflect the proposed development as amended. The Special Conditions have been revised as follows: the geologic recommendations, Special Condition No. One (1), has been updated to include the most recent reports from the consulting geologist/geotechnical engineer; Special Condition No. Six (6), the color restriction has been

revised to require the applicant to submit a color palette for the new proposed structures in accordance with the previous requirements; and Special Conditions No. Six (6) and Seven (7) have been revised and Special Condition No. Eight (8) has been added as a new condition to reflect current Commission practice with respect to the processing of deed restrictions.

The proposed amendment will not have additional adverse affects to the sensitive habitat areas or adversely impact public views beyond the previously approved project, however, the new site design requires new plans be submitted that reflect conformance to the intent of the previous conditions. The proposed amendment includes a new fuel modification plan that lessens the impact within the designated environmentally sensitive habitat area and a new detached accessory structure that houses a 4-car garage and recreation room, which poses potential cumulative adverse impacts in the event of future improvements. Further, the previously installed drainage devices that exist on the site are deteriorated and require replacement, therefore, Special Condition No. Two has been revised to reflect current standards for drainage and polluted runoff control plans in order to protect the water quality in Cold Creek. Therefore, Special Conditions No. Two, Three and Seven have been substantially revised in order to incorporate aspects of the development pursuant to the proposed amendment and are discussed in Sections B. and C. below.

B. SENSITIVE RESOURCES

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 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, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

As previously mentioned, the site is located in overlapping designated environmentally sensitive habitat areas including Cold Creek Resource Management Area, however, the proposed development is located on an existing building pad previously approved under a coastal development permit in 1981 (P-81-7701). Further, CDP 4-00-022 approved a similar development in the same location. Thus, the proposed amendment would not result in new adverse impacts on the designated ESHA. However, the applicant has submitted a revised fuel modification plan, which lessens the adverse impacts due to vegetation removal and brush clearance on the sensitive resources on and adjacent to the site.

Fuel modification is the removal or modification of combustible native or ornamental vegetation. It may include replacement with drought tolerant, fire resistant plants. The amount and location of required fuel modification would vary according to the fire history of the area, the amount and type of plant species on the site, topography, weather patterns, construction design, and siting of structures. There are typically three fuel modification zones applied by the Fire Department:

Zone A (Setback Zone) is required to be a minimum of 20 feet beyond the edge of protected structures. In this area native vegetation is cleared and only ground cover, green lawn, and a limited number of ornamental plant species are allowed. This zone must be irrigated to maintain a high moisture content.

Zone B (Irrigated Zone) is required to extend from the outermost edge of Zone A to a maximum of 80 feet. In this area ground covers may not extend over 18 inches in height. Some native vegetation may remain in this zone if they are adequately spaced, maintained free of dead wood and individual plants are thinned. This zone must be irrigated to maintain a high moisture content.

Zone C (Thinning Zone) is required to extend from the outermost edge of Zone B up to 100 feet. This zone would primarily retain existing native vegetation, with the exception of high fuel species such as chamise, red shank, California sagebrush, common buckwheat and sage. Dead or dying vegetation must be removed and the fuel in existing vegetation reduced by thinning individual plants.

Thus, the combined required fuel modification area around structures can extend up to a maximum of 200 feet. If there is not adequate area on the project site to provide the required fuel modification for structures, then brush clearance may also be required on adjacent parcels. In this case, the required fuel modification zone would extend into the stream corridor bordering Cold Creek. However, the applicant submitted a fuel modification plan approved by LA Co. Fire Dept. dated May 7, 2003, which specifically notes that the fuel modification extends to the property lines only and shall not encroach into riparian habitat. The fuel modification zones extend from the approved structures as generally shown on Exhibit 4. The Commission finds it necessary to incorporate the new fuel modification plan approved by the Fire Department on May 7, 2003 into the landscaping plan, as specified in Special Condition No. Three (3), in order

to ensure that the landscaping and vegetation removal are protective of the sensitive habitat area pursuant to Section 30240.

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 No. Three (3) requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

Further, fencing of the site would adversely impact the movement of wildlife through the ESHA and along the stream corridor on this 5 acre parcel. Therefore, the Commission finds it is necessary to limit fencing to the building pad area, as proposed and shown on Exhibit 1, through Special Condition No. Three (3).

The Commission notes that streams and drainages, such as Cold Creek located downslope of the building pad, 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. Cold Creek, which is a designated blueline stream bordered by mapped ESHA is located downslope of the building pad area. The drainage devices that exist on the property are deteriorated and need to be replaced. In addition, the proposed site redesign would require a revised drainage plan. 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 plans, which will ensure that erosion is minimized and polluted runoff from the site is controlled and filtered before it reaches natural drainage courses within the watershed. Therefore, the Commission requires Special Condition No. Two (2) as revised, which requires the applicant to incorporate appropriate drainage devices and Best Management Practices (BMPs) to ensure that runoff from the proposed structures, impervious surfaces and building pad area is conveyed offsite in a non-erosive manner and is treated/filtered to reduce pollutant load before it reaches coastal waterways.

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 No. Seven as revised, the future development restriction, has been required. Finally, Special Condition No. Eight (8) 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. 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.

Based on the requirements of Coastal Act §30250 and §30252, the Commission has limited the development of second units on residential parcels in the Malibu and Santa Monica Mountain areas 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 Malibu Land Use

Plan (LUP). In its review and action on the Malibu LUP, the Commission found that placing an upper limit on the size of second units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are 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.

The applicant is proposing to construct a new detached 1,250 sq. ft. garage with a 380 sq. ft. recreation room adjoined (Exhibits 1-2). The proposed accessory structure consists of a four-car garage and a recreation room and half-bath with an interior connection between the two uses. The Commission notes that the proposed rec room itself conforms with the Commission's past actions in allowing a maximum of 750 sq. ft. for second dwellings in the Malibu area. However, the Commission notes that additions or improvements, such as a conversion of all or a portion of the garage, to the structures could easily convert to additional habitable square footage, beyond that approved by the Commission, therefore increasing the potential to use the proposed structure as a second residential unit.

The Commission has many past precedents on similar project proposals that have established a 750 sq. ft. maximum of habitable square footage for development of detached units which may be considered a secondary dwelling. The Commission finds that the proposed rec room conforms to the 750 sq. ft. allowed by the Commission in past permit action. The Commission also notes that the applicants are not proposing to utilize the detached structure as a guest unit or secondary dwelling, therefore the structures may be reviewed as accessory buildings to the proposed single family residence, non-habitable, and therefore not subject to the 750 sq. ft. limitation for detached units. However, the Commission finds it necessary to ensure that no additions or improvements are made to the detached garage/rec room in the future that may enlarge or further intensify the use of those structures without due consideration of the cumulative impacts that may result. Thus, the Commission finds it necessary to require the applicant to impose a restriction on future improvements, as specified in Special Condition No. Seven (7) as revised, which will require the applicant to obtain an amended or new coastal permit for any new structures, additions or improvements to the proposed structures or change in intensity of use to the structures proposed in the future. Special Condition No. Eight (8) 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.

As conditioned to minimize the potential for cumulative impacts resulting from the proposed development, the Commission finds that the proposed project is consistent with §30250 and §30252 of the Coastal Act.

D. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act states:

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with 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 amendment will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed amendment, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for the Malibu/Santa Monica Mountains area which is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

E. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

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

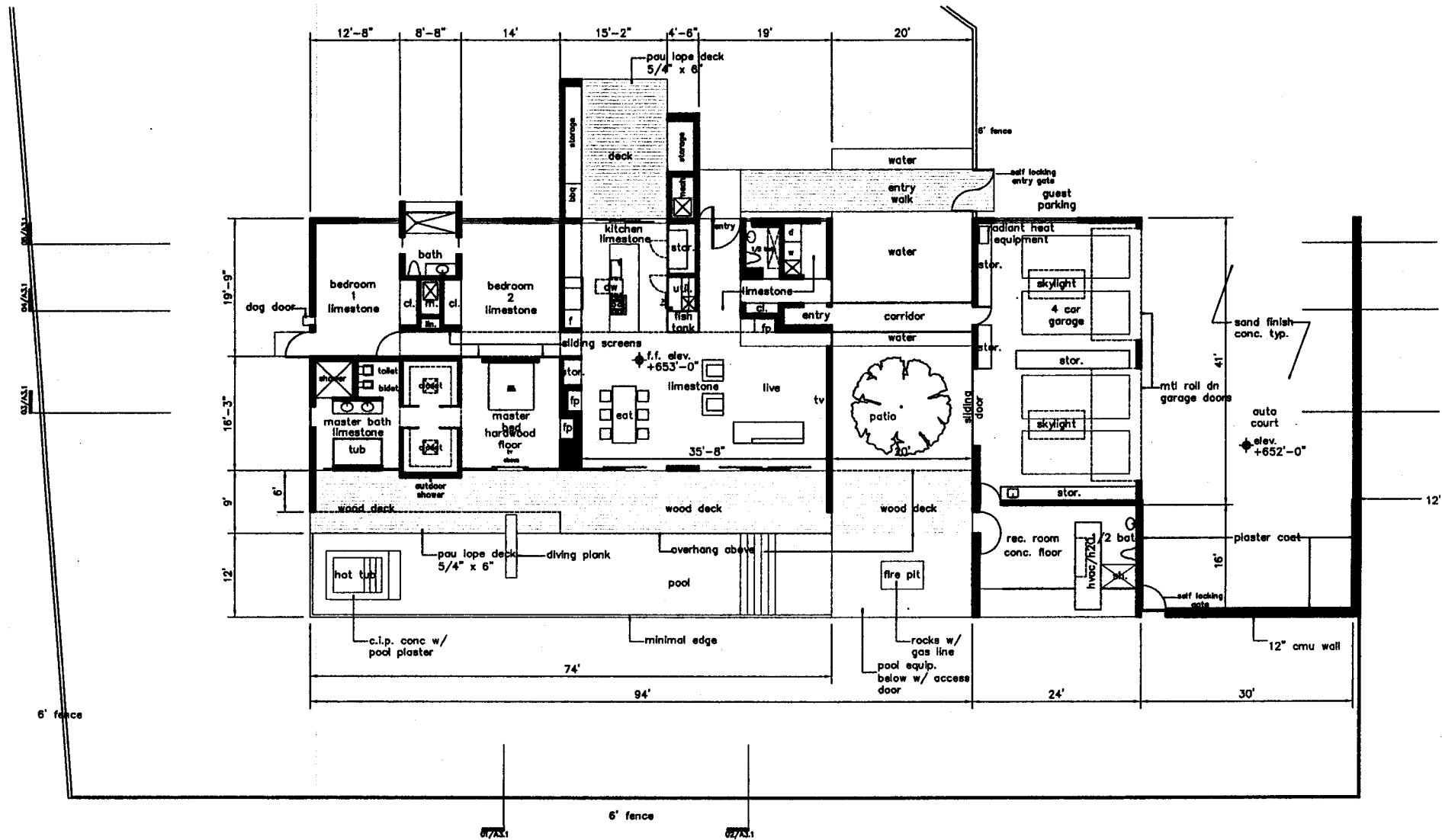


EXHIBIT NO. 2
 APP. NO. 4-00-022-A1
 FLOOR PLAN

SQ. FOOTAGE

main house = 2,890 sq/ft
 garage/bedroom = 1,284 sq/ft

