

Item Fr 11e

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: 7/15/04
49th Day: 9/2/04
180th Day: 1/11/05
Staff: Carey
Staff Report: 10/28/04
Hearing Date: 11/19/04



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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-04-048
APPLICANT: Helen and Marc Ausubel
AGENT: Dvoretzky Bardovi Bunnell Architects
PROJECT LOCATION: 935 Cold Canyon Road, Santa Monica Mountains

PROJECT DESCRIPTION: Construction of a 3,437 sq. ft., 24 foot, 2 inch high from existing grade single family residence with 2-car garage, swimming pool and spa, septic system, placement of a temporary mobile home during construction, and no grading.

Lot area 3.47 acres
Building coverage 2,743 sq. ft.
Pavement coverage 9,000 sq. ft.
Landscape coverage 7,675 sq. ft.

LOCAL APPROVALS RECEIVED: Los Angeles County Approval in Concept; Environmental Review Board review, Los Angeles County Fire Department review of fuel modification plan and access road.

SUBSTANTIVE FILE DOCUMENTS: Geotechnical Update and Plan Review, dated June 9, 2004, prepared by Gorian & Associates, Inc., Coastal Development Permit Applications P-81-7701; 5-91-409 (Teherani), 4-94-157 (Teherani); 4-99-083 (Heeney)

Summary of Staff Recommendation

Staff recommends **APPROVAL** of the proposed project with **SPECIAL CONDITIONS** regarding (1) geologic recommendations, (2) drainage and polluted runoff control, (3) landscaping and erosion control plans, (4) wildfire waiver, (5) structural appearance, (6) future development, (7) lighting restriction, (8) deed restriction, (9) pool and spa maintenance, (10) removal of natural vegetation, and (11) removal of temporary mobile home.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-04-048 pursuant to the staff recommendation.*

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

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

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Plans Conforming to Geologic Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the Geotechnical Update and Plan Review, dated June 9, 2004, prepared by Gorian & Associates, Inc. These recommendations to be incorporated into all final design and construction plans include recommendations concerning site preparation, grading, foundations, retaining walls, and drainage.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

2. Drainage and Polluted Runoff Control Plans

Prior to the Issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director for review and written approval, two sets of 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) 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

Prior to issuance of a coastal development permit, the applicants 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 geotechnical engineering and geologic consultant to ensure that the plans are in conformance with the consultant's recommendations. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

A. Landscaping Plan

- (1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996. 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. Plantings should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- (3) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen the residence to minimize impacts of the development on public views from the trail located to the west/southwest of the site.
- (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) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition the fuel modification plan shall specify that 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. The applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
- (7) Fencing of the entire property is prohibited. Fencing shall extend no further than the building pad area. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in Special Condition No. 5 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 (5) years from the date of completion of the proposed development, 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 assesses the on-site landscaping and certifies whether it 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 these permits, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The supplemental landscaping plan must be prepared by a licensed landscape architect or 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. The permittee shall implement the remedial measures specified in the approved supplemental landscape plan.

4. Wildfire Waiver of Liability

By acceptance of this permit, the applicant agrees to indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

5. 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 the approval of coastal development permit 4-04-048. 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 4-04-048 if such changes are specifically authorized by the Executive Director as complying with this special condition.

6. Future Development

This permit is only for the development described in coastal development permit No. 4-04-048. Pursuant to Title 14 California Code of Regulations §13250(b)(6), the exemptions otherwise provided in Public Resources Code §30610(a) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-04-048, and any grading, clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition No. 3, shall require an amendment to Permit No. 4-04-048 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

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. Deed Restriction

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

9. Pool and Spa Maintenance

By acceptance of this permit, the applicant agrees to install a no chlorine or low chlorine purification system and agrees to maintain proper pool water pH, calcium and alkalinity balance to ensure 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 areas. In addition, the applicant agrees not to discharge chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

10. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification for the development approved pursuant to these permits shall not commence until the local government has issued a building or grading permit(s) for the development approved pursuant to this Coastal Development Permit.

11. Removal of Temporary Mobile Home

The applicant shall remove the temporary mobile home within sixty (60) days of the applicant's receipt of the Certificate of Occupancy for the proposed residence from the County of Los Angeles. The Executive Director may grant additional time for good cause.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicants propose the construction of a 3,437 sq. ft., 24 foot, 2 inch high from existing grade single family residence with 2-car garage, swimming pool and spa, septic system, placement of a temporary mobile home during construction, and no grading.

The subject parcel is a 3.47-acre parcel, which is Lot 5 of a ten lot, 85 acre subdivision approved by the Commission in 1981 in Coastal Development Permit P-81-7701, which included construction of roads, building pads, drainage facilities, and septic systems, and included a 59 acre open space parcel dedicated for recreational use and dedication of 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 Cold Canyon Road constructed under the same coastal permit.

The Commission previously approved several coastal development permits on the subject project site. Permit 5-91-409 (Teherani) was approved for the construction of a 6,070 sq. ft. single family residence with garage, and pool. The project was never built and the permit expired. Subsequently, Permit 4-94-157 (Teherani) was approved for the construction of a two story, 4,900 sq. ft. single family residence with swimming pool, corral, septic system, and 120 cu. yds. of additional grading. The permit was subject to conditions relative to wild fire waiver of liability, conformance to geologic recommendations, future development deed restriction, landscaping and grading plan, and drainage and erosion control plans. The permit was issued, but the project was not constructed, and the permit expired. More recently, Permit 4-99-083 (Heeney) was approved for the construction of a 1000 sq. ft., one story, 21 ft. high single family residence with attached 400 sq. ft. garage, detached 400 sq. ft. garage, security gate and fencing, driveway and replacement of an existing septic tank with 2500 gallon system. This project was approved as a first phase of a multi-phase project. The applicants proposed, in that case, to later construct a much larger residence on the main area of the site and utilize the 1,000 sq. ft. residence as a guest house. This project was never constructed and the permit expired.

Cold Creek, a designated blue line stream runs just offsite, west of the project site. Additionally, a blue line stream that is tributary to Cold Creek is located to the south, just offsite. Both of these streams, with their associated riparian habitat areas and surrounding oak woodlands are designated as environmentally sensitive habitat area. In addition, the entire parcel is located within the Cold Creek Resource Management Area. Onsite to the west of and downslope of the building pad, lies a hiking and equestrian trail, Stunt High Trail which branches off into Calabasitas-Cold Creek Trail, a link of which was provided by the same underlying subdivision permit. Thus, the site will be visible from public recreation and scenic areas.

B. GEOLOGY AND WILDFIRE HAZARD

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

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

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

Geology

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The Commission notes that the proposed development is sited on the existing graded pad and designed to minimize the need for any additional grading and excessive vegetation removal on the slopes of the property, as well as avoid direct development on sloped terrain, and therefore will reduce the potential for erosion and geologic instability.

Furthermore, the applicant has submitted the Geotechnical Update and Plan Review, dated June 9, 2004, prepared by Gorian & Associates, Inc., which evaluates the geologic stability of the subject site in relation to the proposed development. Based on their evaluation of the site's geology and the proposed development the consultants have found that the project site is suitable for the proposed project. The project's geotechnical consultant states that:

It is the opinion of this office that if the project is constructed in accordance with our recommendations and properly maintained, (1) the proposed structure will be safe against hazard from landslide, settlement, or slippage, and that (2) the proposed building or grading construction will have no adverse effect on the geologic stability of property outside of the building site. The nature and extent of tests conducted for purposes of this declaration are, in the opinion of the undersigned, in conformance with generally accepted practice in the area.

The geotechnical consultants conclude that the proposed developments are feasible and will be free from geologic hazard provided their recommendations are incorporated

into the proposed development. The Geotechnical Report contains several recommendations to be incorporated into project grading, construction, 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 No. 1**, requires the applicant to incorporate the recommendations cited in the Geology Report into all final design and construction plans. Final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed developments, as approved by the Commission, which may be recommended by the consultant shall require an amendment to the permit or a new coastal development permit.

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

Furthermore, the Commission finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition No. 3** requires the applicant to submit landscaping plans certified by the consulting geotechnical engineer as in conformance with their recommendations for landscaping of the project site. Special Condition No. 3 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/foilage weight. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in Special Condition No. Three.

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 No. 10**. This restriction specifies that natural vegetation shall not be removed until grading or building permits

have been secured and construction of the permitted structures has commenced. The limitation imposed by Special Condition No. 10 avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

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

Wildfire

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

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition No. 4**, the wildfire waiver of liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of Special Condition No. 4, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

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

C. 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.

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

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

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the

Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition No. 2**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control 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 No. 3** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

As stated previously, the proposed project includes a swimming pool and spa. There is the potential for swimming pools and spas to have deleterious effects on aquatic habitat if not properly maintained and drained. In addition, chlorine and other chemicals are commonly added to pools and spas to maintain water clarity, quality, and pH levels. Further, both leakage and periodic maintenance of the proposed pool and spa, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing instability of the site and adjacent properties and may result in the transport of chemicals, such as chlorine, into coastal waters, adversely impacting intertidal and marine habitats. Therefore, the Commission finds it necessary to require **Special Condition No. 9** which requires the applicant to use a non-chemical or low chemical water purification system to maintain proper pH, calcium and alkalinity balance in a manner that any runoff or drainage from the pool/spa will not include excessive chemicals that may adversely affect water quality or Environmentally Sensitive Habitat Areas.

The Commission finds that, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, to control erosion during construction to landscape all disturbed soils, and to minimize potential impacts of the proposed pool and spa, the project is consistent with Sections 30231 of the Coastal Act.

D. 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 the Cold Creek Resource Management Area, as well as portions of other designated environmentally sensitive habitat areas associated with the Cold Creek stream corridor and a significant oak woodland habitat north and west of the building pad. However, the proposed development is located on an existing building pad previously approved under a coastal development permit in 1981 (P-81-7701). As such, the proposed development is located on the existing building pad entirely within a previously disturbed area and all proposed structures are located over 100 ft. from the edge of the stream corridor. However, the fuel modification required to protect the proposed development will extend beyond the building pad to the slopes leading into riparian and oak woodland ESHA areas. The proposed structure will be located well within the existing graded pad and no accessory structures are proposed. As such, the proposed project is sited to minimize the impacts resulting from required fuel modification.

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. 3** requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

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, and an un-named tributary stream which are designated blueline streams bordered by mapped ESHA, are located downslope of the building pad area. 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. 2**, 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.

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 No. 7**, the 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 lighting restrictions will attenuate the impacts of unnatural light sources and reduce impacts to sensitive wildlife species.

Further, fencing of the site would adversely impact the movement of wildlife through the ESHA and along the stream corridor on this parcel. Therefore, the Commission finds it is necessary to limit fencing to the existing flat, graded building pad area, through Special Condition No. 3.

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. 6**, the future development restriction, has been required. Finally, **Special Condition No. 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.

E. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline 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, naturally vegetated mountains and hillsides.

The site is located near a 59 acre open space parcel dedicated for recreational use which affords scenic vistas of the relatively undisturbed canyon area and is also visible from a hiking and equestrian trail, Stunt High Trail, which branches into Calabasas-Cold Creek Trail, located to the west of the building pad. The applicants propose the construction of a 3,437 sq. ft., 24 foot, 2 inch high from existing grade single family residence with 2-car garage, swimming pool and spa, septic system, placement of a temporary mobile home during construction, with no grading on a building pad previously graded as part of an approved 10-lot subdivision. The proposed project does not require grading other than the excavation for the swimming pool. The proposed

development is compatible with the character of the surrounding area. However, the proposed development will be unavoidably visible from scenic viewing areas and as such, 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 No. 5**.

Visual impacts associated with proposed development, can be further reduced by the use of appropriate and adequate landscaping. **Special Condition No. 3** incorporates the requirement that vertical screening elements be added to the landscape plan to soften views of the proposed residence from public scenic viewing areas to the west. In addition, Special Condition No. 3 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 No. 3 will partially screen the proposed structure and soften the visual impact of the development from public views. To ensure that the final approved landscaping plans are successfully implemented, Special Condition No. 3 also requires the applicant to revegetate all disturbed areas in a timely manner and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time.

Finally, regarding future developments or improvements, certain types of development to the property, normally associated with a single family residence, which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that any future development or improvements normally associated with the entire property, which might otherwise be exempt, are reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the Coastal Act. **Special Condition No. 6**, 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 No. 8** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on the 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.

F. 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 project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for the Malibu/Santa Monica Mountains area which is consistent with the policies of Chapter 3 of the Coastal Act as required by §30604(a).

G. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

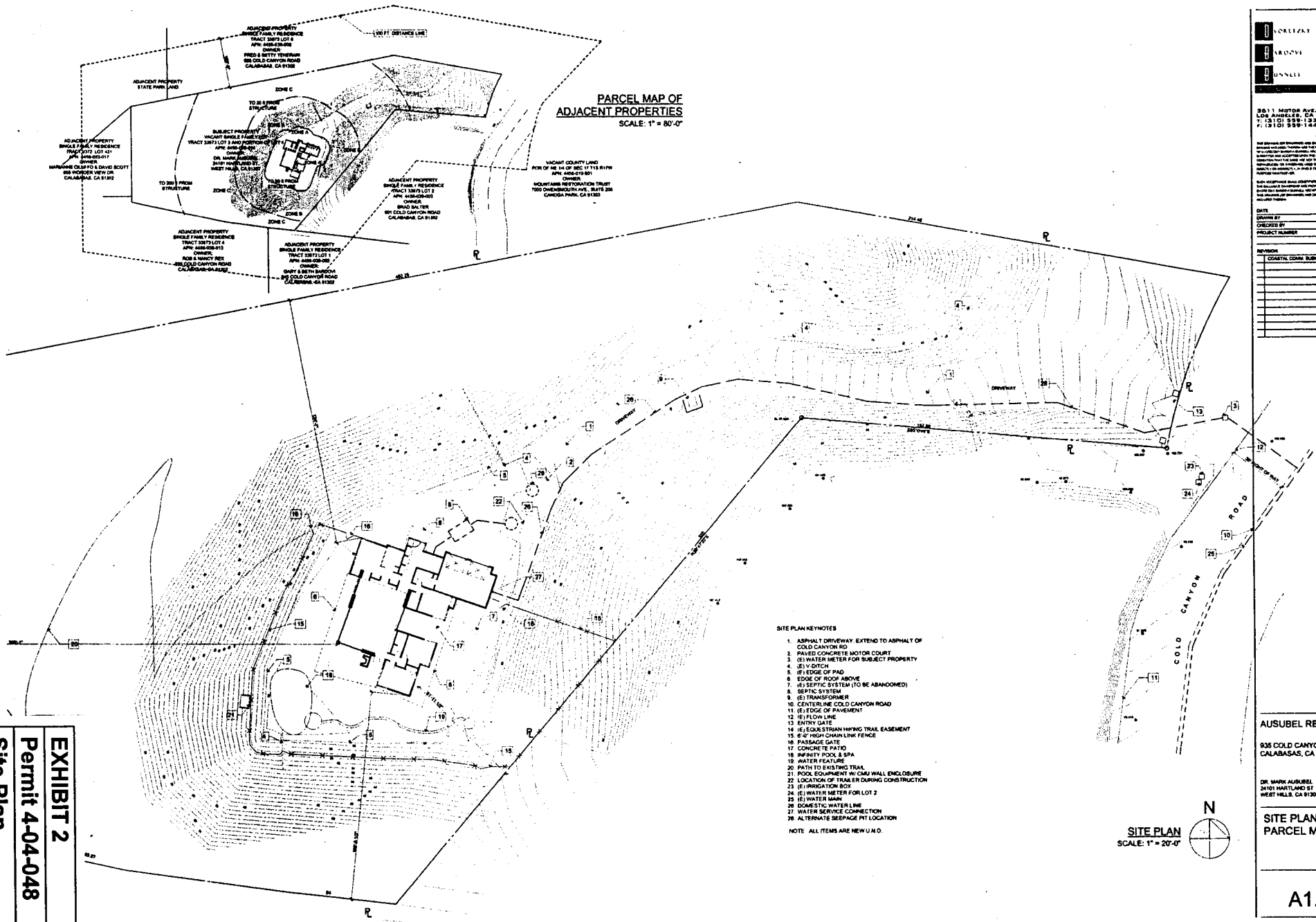
The Commission finds that, the proposed project, as conditioned, will not have any significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to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



SITE

EXHIBIT 1
Permit 4-04-048
Vicinity Map

EXHIBIT 2
Permit 4-04-048
Site Plan



**PARCEL MAP OF
 ADJACENT PROPERTIES**
 SCALE: 1" = 80'-0"

- SITE PLAN KEYNOTES**
- 1 ASPHALT DRIVEWAY, EXTEND TO ASPHALT OF COLD CANYON RD.
 - 2 PAVED CONCRETE MOTOR COURT
 - 3 (E) WATER METER FOR SUBJECT PROPERTY
 - 4 (E) V-DITCH
 - 5 (E) EDGE OF PAD
 - 6 EDGE OF ROOF ABOVE
 - 7 (E) SEPTIC SYSTEM (TO BE ABANDONED)
 - 8 SEPTIC SYSTEM
 - 9 (E) TRANSFORMER
 - 10 CENTERLINE COLD CANYON ROAD
 - 11 (E) EDGE OF PAVEMENT
 - 12 (E) FELLOW LINE
 - 13 ENTRY GATE
 - 14 (E) EDGE STRAIN WIRING TRAIL EASEMENT
 - 15 6'-0" HIGH CHAIN LINK FENCE
 - 16 PASSAGE GATE
 - 17 CONCRETE PATIO
 - 18 INFANTRY POOL & SPA
 - 19 WATER FEATURE
 - 20 PATH TO EXISTING TRAIL
 - 21 POOL EQUIPMENT IN CMU WALL ENCLOSURE
 - 22 LOCATION OF TRAILER DURING CONSTRUCTION
 - 23 (E) IRRIGATION BOX
 - 24 (E) WATER METER FOR LOT 2
 - 25 (E) WATER MAIN
 - 26 DOMESTIC WATER LINE
 - 27 WATER SERVICE CONNECTION
 - 28 ALTERNATE SEWAGE PIT LOCATION
- NOTE: ALL ITEMS ARE NEW U.A.D.

SITE PLAN
 SCALE: 1" = 20'-0"



- 1 CONSULT
- 2 DESIGN
- 3 PERMIT

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DATE: 02/20/08
 DRAWN BY: JED/ML
 CHECKED BY: JED/ML
 PROJECT NUMBER: 1081

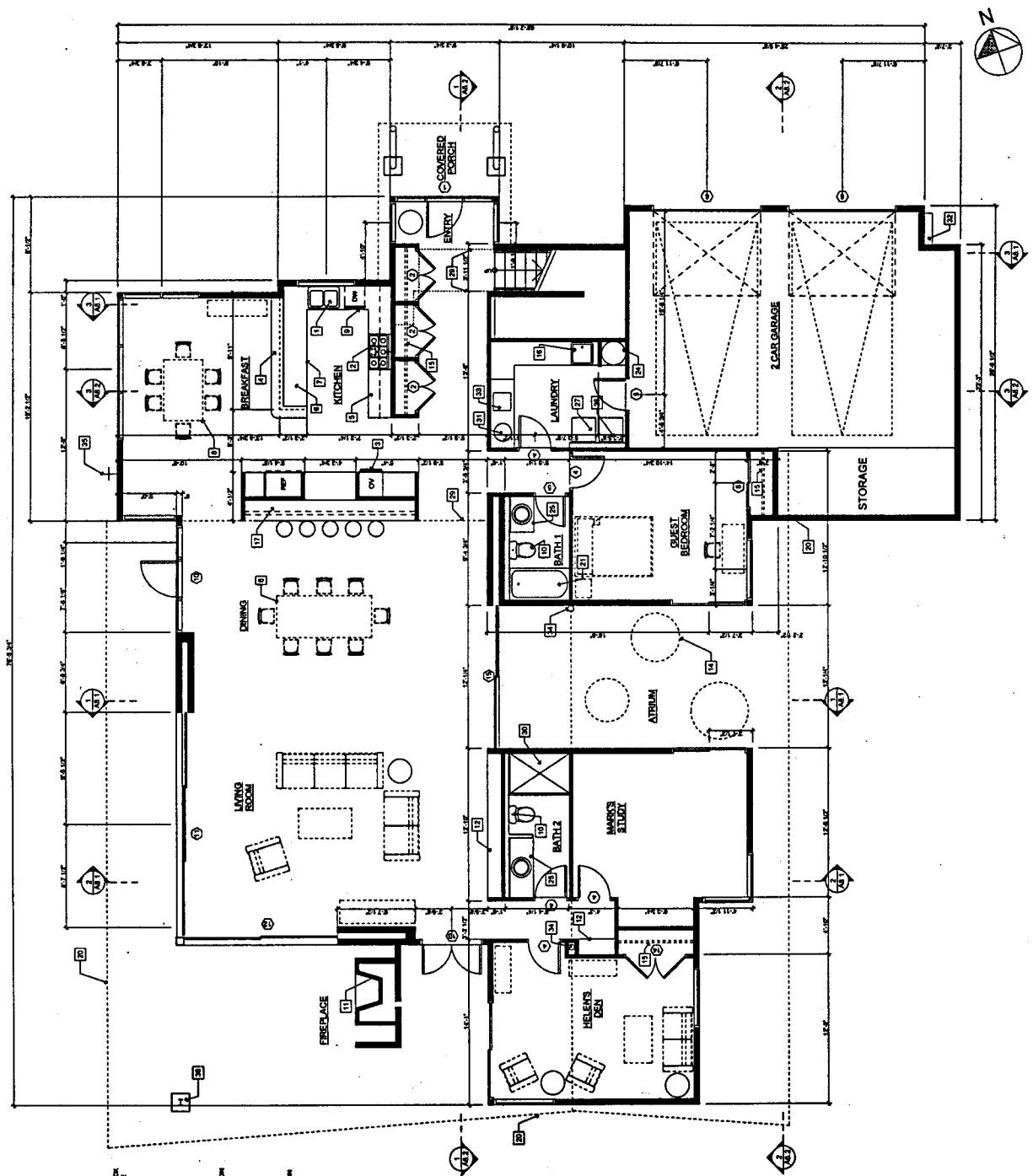
REVISION	DATE	BY

AUSUBEL RESIDENCE
 935 COLD CANYON RD.
 CALABASAS, CA 91302

DR. MARK AUSUBEL
 24101 HARTLAND ST.
 WEST HILLS, CA 91307

**SITE PLAN AND
 PARCEL MAP**

A1.1



- FLOOR PLAN NOTES**
1. DOUBLE SINK W/ GARAGE DISPOSER
 2. SINGLE ELECTRIC OVEN
 3. REFRIGERATOR
 4. COUNTER TOP WITH BASE CABINETS
 5. COUNTER TOP WITH BASE CABINETS
 6. COUNTER TOP WITH BASE CABINETS
 7. COUNTER TOP WITH BASE CABINETS
 8. COUNTER TOP WITH BASE CABINETS
 9. WATER CLOSET, LOW COMPRESSION (M.C. IS ON PLUMB)
 10. WATER CLOSET, LOW COMPRESSION (M.C. IS ON PLUMB)
 11. WATER CLOSET, LOW COMPRESSION (M.C. IS ON PLUMB)
 12. SHELVE
 13. SHELVE
 14. SHELVE
 15. SHELVE
 16. SHELVE
 17. SHELVE
 18. SHELVE
 19. SHELVE
 20. SHELVE
 21. SHELVE
 22. WALL ENCLOSURE FOR FIREPLACE FULL IN WOOD FRAME CONSTRUCTION
 23. LAUNDRY CHUTE
 24. WALKER
 25. WALKER
 26. WALKER
 27. WALKER
 28. WALKER
 29. WALKER
 30. WALKER

EXHIBIT 3
Permit 4-04-048
Floor Plans (2 sheets)

