

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 4-99-016-A2

APPLICANTS: Bob and Kelly Persson

AGENT: Terry Valente

PROJECT LOCATION: 801 Crater Camp Drive, Calabasas (Los Angeles County)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construct two story, 30 ft. high, 4,598 sq. ft. single family residence with attached 965 sq. ft. garage, 628 ft. long retaining wall, pool, septic system, and grading of 1600 cu. yds. (800 cu. yds. cut, 800 cu. yds. fill).

PREVIOUSLY AMENDED FOR (A1): Increase size of proposed residence from 4,598 to 5,067 sq. ft. and increase size of garage from 965 sq. ft. to 1,070 sq. ft. with remainder of project remaining unchanged.

DESCRIPTION OF AMENDMENT (A2): Construction of a 234 sq. ft. pool cabana, and request for after-the-fact approval for construction of a water slide, spa, approximately 400 sq. ft. of additional patio area, an approximately 260 ft. long six foot high split rail/chain link fence, and an approximately 50 sq. ft. pool equipment pad.

LOCAL APPROVALS RECEIVED: Approval in Concept, County of Los Angeles Regional Planning Department, February 11, 2004; County of Los Angeles Fire Department, Final Fuel Modification Plan, Approval of Revision #420, October 27, 2004.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit No. 4-99-016; Coastal Development Permit No. 4-99-016-A1; Malibu/Santa Monica Mountains certified Land Use Plan; "Update Letter - Proposed Swimming Pool and Pool Cabana," by Subsurface Designs, Inc., dated September 18, 2002; "Addendum I: Response to County of Los Angeles Review Letter," by Subsurface Designs, Inc., dated February 11, 2003; "Addendum II: Response to Coastal Review Comments," by Subsurface Designs, Inc., dated April 22, 2004.

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 applicants 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 adversely affect previously imposed special conditions required for the purpose of protecting coastal resources.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the applicants' proposal with **eight (8) additional special conditions** regarding updated plans conforming to geologic recommendations, drainage and polluted runoff control plans, pool and spa drainage and maintenance, updated future development restriction, deed restriction, revised plans, removal of excavated material, and condition compliance.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-99-016-A2 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the 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 A 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. STANDARD AND SPECIAL CONDITIONS

Note: Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit (CDP) 4-99-016 continue to apply. The approved coastal development permit includes six (6) special conditions. In addition, the following additional special conditions (numbered 7 through 14) are hereby imposed as a condition upon the proposed project as amended pursuant to CDP 4-99-016-A2.

SPECIAL CONDITIONS

7. Updated Plans Conforming to Geologic Recommendations

By acceptance of this permit, the applicants agree to comply with the recommendations contained in the submitted geologic reports ("Update Letter – Proposed Swimming Pool and Pool Cabana," by Subsurface Designs, Inc., dated September 18, 2002; "Addendum I: Response to County of Los Angeles Review Letter," by Subsurface Designs, Inc., dated February 11, 2003; "Addendum II: Response to Coastal Review Comments," by Subsurface Designs, Inc., dated April 22, 2004). These recommendations, including those concerning construction, grading, foundations, and drainage, shall be incorporated into all final design and construction, and must be reviewed and approved by the consultant prior to commencement of development.

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

8. Drainage and Polluted Runoff Control Plans

Prior to the issuance of the Coastal Development Permit, the applicants 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 applicants/landowners 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 applicants 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.

9. Pool and Spa Drainage and Maintenance

By acceptance of this permit, the applicants agree 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 applicants agree 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. Updated Future Development Restriction

This permit is only for the development described in Coastal Development Permit No.4-99-016-A2. 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 property. Accordingly, any future improvements to the entire property, including but not limited to the residence, garage, swimming pool, water slide, spa, pool equipment pad, patio areas, fence, septic system, cabana, and clearing of vegetation, or grading other than as provided for in the approved fuel modification plan dated October 27, 2004 shall require an amendment to Permit No. 4-99-016-A2 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

11. Deed Restriction

Prior to issuance of the coastal development permit amendment, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, 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 amendment 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 amendment. 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 amendment or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

12. Revised Plans

Prior to issuance of the coastal development permit, the applicants shall submit, for the review and approval of the Executive Director, revised project plans that relocate the proposed pool fencing to within five feet of the proposed and existing pool area, as defined by the outside edges of structural development including the proposed water slide, patio areas, pool equipment pad, and cabana and the existing drainage swale and swimming pool, as shown in Exhibit 6.

13. Removal of Excavated Material

The applicants shall remove all excavated material to an appropriate disposal site located outside of the Coastal Zone. Prior to the issuance of the coastal development permit, the applicants shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

14. Condition Compliance

Within 90 days of Commission action on this coastal development permit amendment application, or within such time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicants propose to construct a 234 sq. ft. pool cabana, and request after-the-fact approval for construction of a water slide, spa, approximately 400 sq. ft. of additional patio area, an approximately 260 ft. long six foot high split rail/chain link fence, and an approximately 50 sq. ft. pool equipment pad. No grading is proposed, however, approximately 36 cu. yds. of excavation for the proposed as-built water slide and spa has occurred. With the exception of the fence, all development is located within the irrigated fuel modification zones of the property (**Exhibits 5 - 9**).

The project site is an approximately three-acre lot located within an area of rural residential development southwest of the Monte Nido subdivision (**Exhibits 2 and 4**). The project site is located within the Malibu/Cold Creek Resource Management area, and a minor tributary to Cold Creek, which is a designated perennial USGS blue line stream, crosses the subject site immediately south of the proposed development. The lower portion of the property contains a stand of mature oak trees, and is located at the northern extent of an area designated as a significant oak woodland and savannah in the certified 1986 Malibu Santa Monica Mountains Land Use Plan (LUP). The upper portion of the lot contains chamise chaparral habitat and has been determined by Commission staff to be an Environmentally Sensitive Habitat Area (ESHA) (**Exhibits 3 and 4**).

The project site is located approximately one mile south of the Stunt High Trail and one-half mile north of the Backbone Trail. Because the project is located in an area of low hills and oak trees, and adjacent to existing development of similar character, it will not significantly impact public views from either trail.

On October 12, 1999, the Commission approved CDP No. 4-99-016 for construction of a two-story, 30 ft. high, 4,598 sq. ft. single family residence with attached 965 sq. ft. garage, 628 ft. long retaining wall, pool, septic system, and 1600 cu. yds. of grading (800 cu. yds. cut, 800 cu. yds. fill). CDP No. 4-99-016 was approved with six special conditions regarding future improvements, plans conforming to geologist's and engineer's recommendations, landscaping and erosion control plans, removal of natural vegetation, protection of oak trees during construction, and wildfire waiver of liability (**Exhibit 1**). An immaterial amendment to the permit (CDP No. 4-99-016-A1) that increased the size of the residence to 5,067 sq. ft. and the size of the garage to 1,070 sq. ft. was approved on March 21, 2000.

The proposed water slide, spa, fence, pool equipment pad, and approximately 400 sq. ft. of patio area were constructed without the benefit of a coastal development permit. Approximately 36 cu. yds. of excavation for the proposed as-built water slide and spa has also occurred. Staff noted in July 2004 that a significant quantity of loose soil was piled between the pool area and the drainage corridor on the site, most likely from the proposed after-the-fact excavation. In addition, the applicants have constructed a horse corral within the oak woodland and drainage corridor on the subject property without the benefit of a coastal development permit. The applicants do not seek approval for the unpermitted horse corral at this time. The Commission's enforcement division will evaluate further actions to address this matter.

B. GEOLOGIC STABILITY AND HAZARDS

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.***

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 proposed development is located on a hillside lot and involves construction of a 234 sq. ft. pool cabana and after-the-fact construction of a water slide, spa, patio areas, pool equipment pad, and fencing.

The applicants have submitted two updates geologic reports with this application ("Update Letter – Proposed Swimming Pool and Pool Cabana," by Subsurface Designs, Inc., dated September 18, 2002; "Addendum I: Response to County of Los Angeles Review Letter," by Subsurface Designs, Inc., dated February 11, 2003; "Addendum II: Response to Coastal Review Comments," by Subsurface Designs, Inc., dated April 22, 2004). These reports make several recommendations regarding foundations, excavation, erosion control, drainage and maintenance, and plan and construction review. The project as originally proposed was found consistent with Section 30253 provided the geologic consultants' recommendations were incorporated into final plans.

The Subsurface Designs, Inc. report dated February 11, 2003 states:

It is the finding of this firm, based upon the subsurface data, that the proposed swimming pool and pool cabana will not be affected by settlement, landsliding, or slippage. Further, the aforementioned development and grading will not have an adverse effect on off-site property.

Therefore, based on the recommendations of the applicants' geologic consultants, the proposed development is consistent with the requirements of Section 30253 of the Coastal Act, so long as the geologic consultants' recommendations are incorporated into the amended project plans and designs. To ensure that the recommendations of the consultant have been incorporated into all proposed development, **Special Condition Seven (7)** requires the applicants to incorporate the recommendations cited in the geotechnical 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 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 polluted runoff control plans certified by the geotechnical engineer, as specified in **Special Condition Eight (8)**.

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

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.

As previously mentioned, the subject site is located within the Malibu/Cold Creek Resource Management area, and a natural drainage swale that is tributary to Cold Creek, the latter of which is a designated perennial USGS blue line stream, crosses the subject site approximately 15 feet south of the proposed development. 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 (BMPs) 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 Eight (8)** 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.

As stated previously, the proposed project includes a water slide and spa. There is the potential for swimming pools, spas, and other recreational water features 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 water slide 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 Nine (9)** which requires the applicants 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.

As noted above, the excavation of the proposed as-built water slide and spa resulted in approximately 36 cu. yds. of excess excavated material. Staff noted in July 2004 that a significant quantity of loose soil, most likely from the excavation, was piled between the pool area and the drainage corridor on the site. Stockpiles of dirt are subject to increased erosion and, if retained onsite, could lead to sedimentation of the adjacent drainage course and downstream surface waters. Thus, in order to find the proposed project consistent with the water quality protection policies of Section 30231, it is necessary to require the applicants to remove the stockpiled material generated by the proposed development. Therefore, **Special Condition Thirteen (13)** requires the applicants to export all excess excavation material from construction of the proposed water slide and spa to an appropriate site for disposal and provide

evidence to the Executive Director of the location of the disposal site prior to issuance of a coastal development permit.

Therefore, for all the reasons stated above, the Commission finds that the proposed project, as conditioned, is consistent with Section 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 within the Malibu/Cold Creek Resource Management area, and a minor drainage course that is tributary to Cold Creek, the latter of which is a designated perennial USGS blue line stream, crosses the subject site approximately 15 feet south of the proposed development. The lower portion of the property contains a stand of mature oak trees, and is located at the northern extent of an area designated as a significant

oak woodland and savannah in the certified 1986 Malibu Santa Monica Mountains Land Use Plan (LUP). The upper portion of the lot contains chamise chaparral habitat and has been determined by Commission staff to be an Environmentally Sensitive Habitat Area (ESHA).

The proposed development is located on the north side of the existing residence, outside of the oak woodland. With the exception of the fence, all development is located within the irrigated fuel modification zones of the property, within or immediately adjacent to areas approved for pool and patio development under CDP No. 4-99-016. The applicants have submitted a revised Final Fuel Modification Plan, approved by the County of Los Angeles Fire Department on October 27, 2004, indicating that additional clearance for the proposed structures will not significantly increase clearance or thinning of chamise chaparral ESHA on the adjacent hillside (**Exhibit 9**).

The proposed fence is located, in part, on the hillside above the pool area, in an area of native vegetation subject to selective thinning (Zone C of the approved fuel modification plan). The fence is mostly constructed of chain link mesh attached to a six foot high split rail frame, although a section of the fence along the western property line is constructed of five-foot high wood pickets. The fence is not wildlife permeable. The applicants have stated that construction of the fence is necessary to meet the requirements of the County of Los Angeles pool fencing ordinance, which requires that all swimming pools, spas and other artificially created pools be surrounded by a protective barrier. However, the proposed as-built fence, much of which is located on steep, undeveloped hillside approximately 50 feet north and 25 feet above the proposed water slide and spa, has little physical relationship to the pool area and does not function as a safety barrier for those approaching the pool from the developed portions of the site (**Exhibit 10**).

As noted above, the proposed fence is located in Zone C of the approved fuel modification plan. Because Zone C vegetation is subject to thinning and trimming, it is an area of diminished habitat value; however, it still provides important features for wildlife, including open space, cover, and native plant resources. In addition, Zone C of the subject site is located between chamise chaparral ESHA on the upper hillside, and a minor drainage course and oak woodland on the lower developed portion of the property. The proposed as-built fence is thus located within a corridor for wildlife moving from chaparral ESHA to oak woodland and riparian areas and utilizing the multiple habitat values on the subject site.

Therefore, the proposed fence, which is not wildlife permeable, could adversely impact the movement of wildlife on this parcel. In order to minimize impacts to wildlife movement on the property, **Special Condition Twelve (12)** requires the applicants to submit revised plans relocating the proposed fencing to within five feet of the proposed and existing pool area.

The Commission notes that streams and drainages 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. As previously mentioned, the site is located within the Malibu/Cold Creek Resource Management area, and a

minor drainage course that is tributary to Cold Creek, the latter of which is a designated perennial USGS blue line stream, crosses the subject site approximately 15 feet south of the proposed development. 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 Eight (8)**, which requires the applicants 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 Ten (10)**, the future development restriction, has been required. Finally, **Special Condition Eleven (11)** requires the applicants 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. 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 Sections 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 Sections 30250 and 30252, the Commission has limited the development of second units on residential parcels in the 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 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 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 applicants are proposing to construct a 234 sq. ft. pool cabana. The proposed cabana consists of a main room, water heater closet, and bathroom with shower. The Commission notes that the proposed 234 sq. ft. cabana conforms with the Commission's past actions in allowing a maximum of 750 sq. ft. for second units in the Santa Monica Mountains area. However, the Commission notes that additions to the structure could create 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 cabana conforms to the 750 sq. ft. allowed by the Commission in past permit action. However, the

Commission finds it necessary to ensure that no additions or improvements are made to the cabana in the future that may enlarge or further intensify the use of that structure without due consideration of the cumulative impacts that may result. Thus, the Commission finds it necessary to impose the future development restriction, as specified in **Special Condition Ten (10)**, which will require the applicants to obtain an amended or new coastal permit if additions or improvements to the structures are proposed in the future. In addition, **Special Condition Eleven (11)** requires the applicants 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 Sections 30250 and 30252 of the Coastal Act.

F. VIOLATIONS

Unpermitted development has occurred on the subject parcel prior to submission of this permit application, including construction of a water slide, spa, approximately 400 sq. ft. of additional patio area, an approximately 260 ft. long six foot high split rail/chain link fence, an approximately 50 sq. ft. pool equipment pad, and an approximately 14,000 sq. ft. horse corral. The applicants request after-the-fact approval for the development described above. The applicants do not seek approval for the unpermitted horse corral at this time. The Commission's enforcement division will evaluate further actions to address this matter. The subject permit application addresses the unpermitted development, as well as the new development, proposed in the subject application. In order to ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition Fourteen (14)** requires that the applicants satisfy all conditions of this permit that are prerequisite to the issuance of this permit within 90 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

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

G. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act states that:

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 that 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 applicants. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3.

Therefore, the Commission finds that approval of the proposed amendment, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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, 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 effects which the activity would have on the environment.

The proposed amendment would not cause significant, adverse environmental effects that would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
300 SOUTH CALIFORNIA ST., SUITE 200
SANTA ANA, CA 92701
(805) 841-0142

Filed: 5/21/99
49th Day: 7/9/99
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Staff: MB-V
Staff Report: 9/17/99
Hearing Date: 8/12-15/99
Commission Action:



STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-99-016

APPLICANT: Bob and Kelley Persson **AGENT:** Terrey Valente

PROJECT LOCATION: 801 Crater Camp Drive, Monte Nido (Los Angeles County)

PROJECT DESCRIPTION: Construct two story, 30 ft. high, 4,598 sq. ft. single family residence with attached 965 sq. ft. garage, 628 ft. long retaining wall, pool, septic system, and grading of 1600 cu. yds. (800 cu. yds. cut and 800 cu. yds. fill)

Lot area:	2.83 acres
Building coverage:	3,118 sq. ft.
Pavement coverage:	1,280 sq. ft.
Landscape coverage:	20,000 sq. ft.
Parking spaces:	4 covered

LOCAL APPROVALS RECEIVED: County of Los Angeles: Fire Department approval in concept, dated 1/21/99; Department of Regional Planning, Approval in Concept, dated 2/12/99.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains certified Land Use Plan; Parmelee-Schick and Associates, Inc., Geologic and Soils Engineering Exploration, October 25, 1996 and addendum letter report, November 11, 1998; Pacific Geology Consultants, Inc., Engineering Geologic Memorandum, Evaluation of Percolation Test Hole, March 1, 1999.

SUMMARY OF STAFF RECOMMENDATION

The development is proposed on a lot in a rural residential area southwest of the Monte Nido small lot subdivision. Although the parcel is outside of the LCP-designated disturbed significant oak woodland, it contains a stand of mature oak trees along a natural swale. The proposed development is set back from the canopy and will not disturb the oak trees. Staff recommends approval of the project with special conditions relating to: *future improvements restriction, conformance to geologic recommendations, landscape and erosion control, removal of natural vegetation, protection of oak trees during construction, and wild fire waiver of liability.*

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

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

bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Future Development Deed Restriction

- a. This permit is only for the development described in coastal development permit No. 4-99-016. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements to the permitted structures, including but not limited to clearing of vegetation or grading, other than as provided for in the approved fuel modification, landscape and erosion control plan prepared pursuant to Special Condition number three (3), shall require an amendment to Permit No. 4-99-016 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- b. 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, 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.

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

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval by the Executive Director, evidence of the Geologist and Geotechnical Engineer consultant's review and approval of all project plans. All recommendations contained in the Parmelee-Schick and Associates, Inc., Geologic and Soils Engineering Exploration, October 25, 1996 and addendum letter report, November 11, 1998 including issues related to grading, retaining walls, foundations, waterproofing, floor slabs, decking, paving, sewage disposal, and drainage shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic consultants.

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

3. Revised Landscaping and Erosion Control Plans

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

A) Landscaping Plan

- 1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plan species which tend to supplant native species shall not be used.
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- 3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal

development permit, unless the Executive Director determines that no amendment is required.

- 5) Vegetation, with exception of oak trees, within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall not be within the oak canopy and shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B) Interim Erosion Control Plan

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

include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) Monitoring.

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

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

4. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone 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. Protection of Oak Trees During Construction

During construction, all oak trees shall be protected by temporary fencing five feet minimum from the drip line. No grading, construction, access, or storage of construction materials and debris shall be allowed in this area.

6. Wild Fire Waiver of Liability

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the

acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The applicant proposes to construct a two story, 30 ft. high, 4,598 sq. ft. single family residence with attached 965 sq. ft. attached garage, 628 ft. long retaining wall, pool, septic system, and grading of 1600 cu. yds. (800 cu. yds. cut and 800 cu. yds. fill). The project is located southwest of the Monte Nido small lot subdivision in an area of rural residential development and equestrian facilities interspersed with a number of stands of California live oaks (*Quercus* sp.). The project site was previously subject to a coastal development permit (5-85-315 (Glatt)) for construction of a two story single family residence with septic system which was approved as an administrative permit with no conditions. The permit was issued but not activated i.e. construction was not initiated.

The subject building site is located in the vicinity of other single family residences set back from Crater Camp Road. The driveway parallels a driveway serving residential development to the east. Although the parcel is outside of the LCP-designated disturbed significant oak woodland, it contains a stand of mature oak trees along a natural swale. The proposed development is set back from the canopy and will not disturb the oak trees. The relation of the project to the oak trees is discussed in greater detail below.

The project location is approximately one mile south of the Stunt High Trail and one-half mile north of the Backbone Trail. Because the project is located in an area of low hills and oak trees, protected under Coastal Act policies, and similar in character to adjacent development, it will not impact upon coastal views or views from public lands and trails.

B. Environmentally 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.

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through 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.

To assist in the determination of whether a project is consistent with Section 30230, 30231, and 30240 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the certified Malibu/Santa Monica Mountains LUP for guidance. The Malibu LUP has been found to be consistent

with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. For instance, in concert with Sections 30230, 30231, and 30240 of the Coastal Act, Policy 60 of the LUP provides that oak woodlands (Non-riparian) shall be considered as significant resources. In addition, Policy 63 provides that development shall be permitted in ESHAs, DSRs, significant watersheds, and significant oak woodlands, and wildlife corridors in accordance with Table 1 and all other policies of the LUP.

The subject site is not located within either the nearby disturbed significant oak woodland or the Malibu/Cold Creek Resource Management Area as designated in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). However, the southwest corner of the parcel adjacent to the project site contains a stand of mature oak trees located in a natural swale. The swale is not designated as a blue line stream. The nearest blue line stream is Cold Creek which is approximately one-eighth mile south and downstream of the project site. The area surrounding Cold Creek is the previously noted disturbed significant oak woodland.

The proposed development is in the vicinity of the drip line of the oak trees i.e. the most further extent of the canopy which represents the root pattern which should not be disturbed by development in order to preserve the oak trees' natural viability. Development is proposed at 30 ft. away from the drip line for the swimming pool and 30 to 40 ft. for the single family residence. Grading is proposed to within ten feet of the drip line.

Although the oaks on the site are not designated as either a disturbed significant oak woodland along a creek or in other locations by policies P59 and P60 of the Malibu/Santa Monica Mountains LUP, they are protected under LUP (policy P57) and Coastal Act policies. LUP policies have been used as guidance in past Commission decisions in the unincorporated, Los Angeles County portion of the Santa Monica Mountains.

The applicant has submitted plans for the septic system which show the septic system and leach field as far as practicable away from the oak trees. The septic tank is located under the driveway and west of the garage. The leach fields are located in the southeast corner of the property approximately twenty feet from the center of the natural swale running through the oak grove.

In order to determine whether the effects on the habitat value of the subject site could be further minimized or eliminated, staff has analyzed the project and alternative building sites. Due to the location of the existing road and the presence of undisturbed natural vegetation further to the north, and the oak tree location, and the need for a septic system, the proposed building site and septic system is the most feasible and least environmentally damaging alternative. Therefore, the Commission finds that the proposed building site and septic system

is the preferred location for the construction of a residence on the subject property.

The Commission notes that although the proposed project site will be located near several oak trees, the applicant has submitted a Fuel Modification Plan approved by the Los Angeles County Fire Department which will minimize any clearance of undisturbed habitat located on site. Vegetation clearance will primarily consist of "deadwooding" the oak trees and clearing underbrush beneath the tree canopies.

Regarding future developments or improvements, the type of development to the property normally associated with a single family residence which might otherwise be exempt may have the potential to impact the oak woodland resources in this area. It is necessary to ensure that future development or improvements normally associated with the residence, which might otherwise be exempt, are reviewed by the Commission for compliance with the coastal resource protection policies including the scenic resources addressed by Section 30251 of the Coastal Act. Special Condition number one (1), the Future Development Deed Restriction, will ensure the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Further, special condition five (5) is necessary to ensure that the oak trees are protected during construction including access through the oak tree area, storage of materials, grading and other construction processes.

The Commission also notes that increased erosion on site would subsequently result in a potential increase in the sedimentation of the downslope Cold Canyon Creek. . The Commission has found that uncontrolled storm water runoff associated with projects such as proposed could create significant erosion and sedimentation impacts offsite, unless controlled and conveyed in a non-erosive manner, increases the volume and velocity of storm water runoff. In turn, this runoff will increase erosion on and off the site, which may increase the erosion and sedimentation of the nearby streams. The Commission has found that this can result in degradation to riparian systems in the following manner:

- Eroded soil contains nitrogen, phosphorous, and other nutrients which, when carried into water bodies, trigger algal blooms that reduce water clarity and deplete oxygen which leads to fish kills and creates odors.
- Excessive deposition of sediments in streams blankets the bottom fauna, paves stream bottoms, and destroys fish spawning areas.
- Turbidity from sediment reduces in-stream photosynthesis, which leads to reduced food supply and habitats.
- Suspended sediment abrades and coats aquatic organisms.

- Erosion removes the smaller and less dense constituents of topsoil. These constituents, clay and fine silt particles and organic material hold nutrients that plants require. The remaining subsoil is often hard, rocky, infertile, and droughty. Thus, reestablishment of vegetation is difficult and the eroded soil produces less growth.
- Introduction of pollution, sediments, and turbidity into marine waters and the nearshore bottom has similar effects to the above on marine life. Pollutants in offshore waters, especially heavy metals, are taken up into the food chain and concentrated (bioaccumulated) to the point where they may be harmful to humans, as well as lead to the decline of marine species.

The proposal includes a drainage plan including swales, berms, and an energy (flow) dissipator. The applicant has also submitted a Fuel Modification, Landscape, Vegetation Management and Oak Tree Plan. As typically required by the Commission, no non-native or invasive plant species will be used for landscaping on the subject site. These measures avoid or mitigate potential runoff and sedimentation problems.

In addition, although the applicant has submitted a landscaping and fuel modification plan, further landscaping and erosion control measures are necessary. Special condition two (2), as discussed in greater detail in the following section, is necessary to protect the stability of the site and ensure that adverse impacts on the habitat area downstream will not result from implementation of the recommended measures. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment and oak tree habitat. These measures both minimize site erosion and the project's potential individual and cumulative contribution to sedimentation of Cold Canyon Creek.

In summary, the disturbance to the natural terrain and creation of additional impermeable surfaces increases water velocity and sedimentation. Therefore, approval with the recommended special conditions will protect and enhance the biological productivity of the oak trees on the site and downslope environmentally sensitive habitat stream corridors, consistent with the requirements of the Coastal Act. For the reasons stated above, the Commission finds that only as conditioned is the proposed project consistent with the habitat and coastal resource protection policies of Sections 30231 and 30240 of the Coastal Act.

C. Geologic Stability and Hazards

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

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.**

- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.**

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

The prominent geomorphic features in the area are Malibu Creek to the west and the crest of the Santa Monica Mountains to the south. The project is located in the southwest to northeast trending Cold Canyon. The site is located on a moderately descending natural slope becoming steeper to the rear (north) of the building site. Slope drainage is by sheet flow runoff directed toward the south via the existing contours.

1. Geology

The applicant has submitted a Parmelee-Schick and Associates, Inc., Geologic and Soils Engineering Exploration, October 25, 1996 and addendum letter report, November 11, 1998.

The geologic stability of the site is favorable to the project, according to these reports, and no potentially active and/or active faults, adversely oriented geologic structure, or other hazards were observed by the consultants. The geotechnical consultant's and engineering geologists have provided recommendations to address the specific geotechnical conditions on the site as incorporated into the condition recommended below. In conclusion, the engineering geologic investigation states that:

Based upon the exploration and review of the referenced preliminary development plan, it is the finding of PSA that construction of the proposed project is feasible from a geologic and soils engineering standpoint provided the advice and recommendations contained in this report are included in the plans and are implemented during construction. ... Providing the recommendations contained in this report are properly implemented, the site will be safe from landslide hazard, differential settlement and slippage. The proposed construction will not adversely affect any of the offsite properties. All specific elements of the Los Angeles

County Department of Building and Safety Code shall be followed in conjunction with design and future construction work.

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

2. Erosion

Surface drainage on site is by sheet flow to the noted natural swale and oak stand and then to Cold Canyon Creek, a USGS designated blue line stream. The Creek and the surrounding disturbed oak woodland are LCP-designated Environmentally Sensitive Habitat Areas. The consulting geologist has stated that drainage should be dispersed in a non-erosive manner and preclude concentration of runoff and erosion.

The Commission finds that the project will significantly increase the amount of impervious surfaces on the site, which increases both the volume and velocity of storm water runoff. If not controlled and conveyed off the site in a non-erosive manner, this runoff will result in increased erosion on and off the site and affect site stability. Increased erosion may also result in sedimentation and degradation of riparian systems.

In the case of this project, the submittal has been amended to include a drainage plan with the previously described erosion control measures. These convey runoff to an energy control device upstream of the stand of oaks. Although the applicant has submitted a drainage plan for permanent drainage control, the Commission finds it necessary to require the applicant to submit an interim erosion control and landscaping plan for several reasons. A landscaping component, review and approval by the consulting engineering geologist, measures for replanting, soil stabilization, maintenance, sedimentation control, and monitoring are all necessary parts of this plan to minimize the potential for erosion and disturbed soils and thereby ensure site stability and stream protection. Approval with Special Condition Number three (3) is necessary, therefore, to ensure site stability and avoidance of the potentially adverse impacts of erosion and sedimentation on the blue line stream in a manner consistent with PRC Section 30253, as well as Sections 30240 and 30231, relative to protection of ESHAs and the biological productivity and quality of coastal waters and streams, previously discussed above.

In addition, Special Condition Number four (4) is necessary to ensure that removal of natural vegetation for fuel modification purposes does not take place prior to construction of the proposed single family residence. Unnecessary fuel modification should be avoided as it is contrary to the provisions of PRC Section 30253 including ensuring site stability and avoiding adverse impacts of erosion and sedimentation.

3. Fire

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

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

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

The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 of the Coastal Act.

D. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects

and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

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

The proposal includes an evaluation of the potential for the lot to adequately accommodate a private sewage system (Pacific Geology Consultants, Inc., Engineering Geologic Memorandum, Evaluation of Percolation Test Hole, March 1, 1999). The evaluation confirmed that an on-site effluent disposal system was feasible and will not adversely affect the stability of the site, or off-site properties, provided the recommendations of the report were followed.

Based upon the above assessment, the Commission finds that the installation of septic systems on the proposed lots will not contribute to adverse health effects and geologic hazards in the local area. The Commission has found in past permit actions that favorable percolation test results, in conjunction with adequate setbacks from streams and other water resources, and/or review by local health departments ensures that the discharge of septic effluent from the proposed project will not have adverse effects upon coastal resources. Therefore, the Commission finds that with regard to septic systems, the proposed project is consistent with PRC Section 30231.

The proposed septic system includes a 1,000 gallon septic tank with seepage pits. The installation of a private sewage disposal system was review by the consulting geologist, and found not to create or cause adverse conditions to the site or adjacent properties. A percolation test was performed on the subject property indicating that the percolation rate meets Uniform Plumbing Code requirements and is sufficient to serve the proposed single family residence.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for wastewater discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed septic system is consistent with Section 30231 of the Coastal Act.

E. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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 development will not create adverse effects and is found to be consistent with the applicable policies contained in Chapter 3.

Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. 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, 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 effects which the activity would have on the environment.

The proposed development would not cause significant, adverse environmental effects which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.

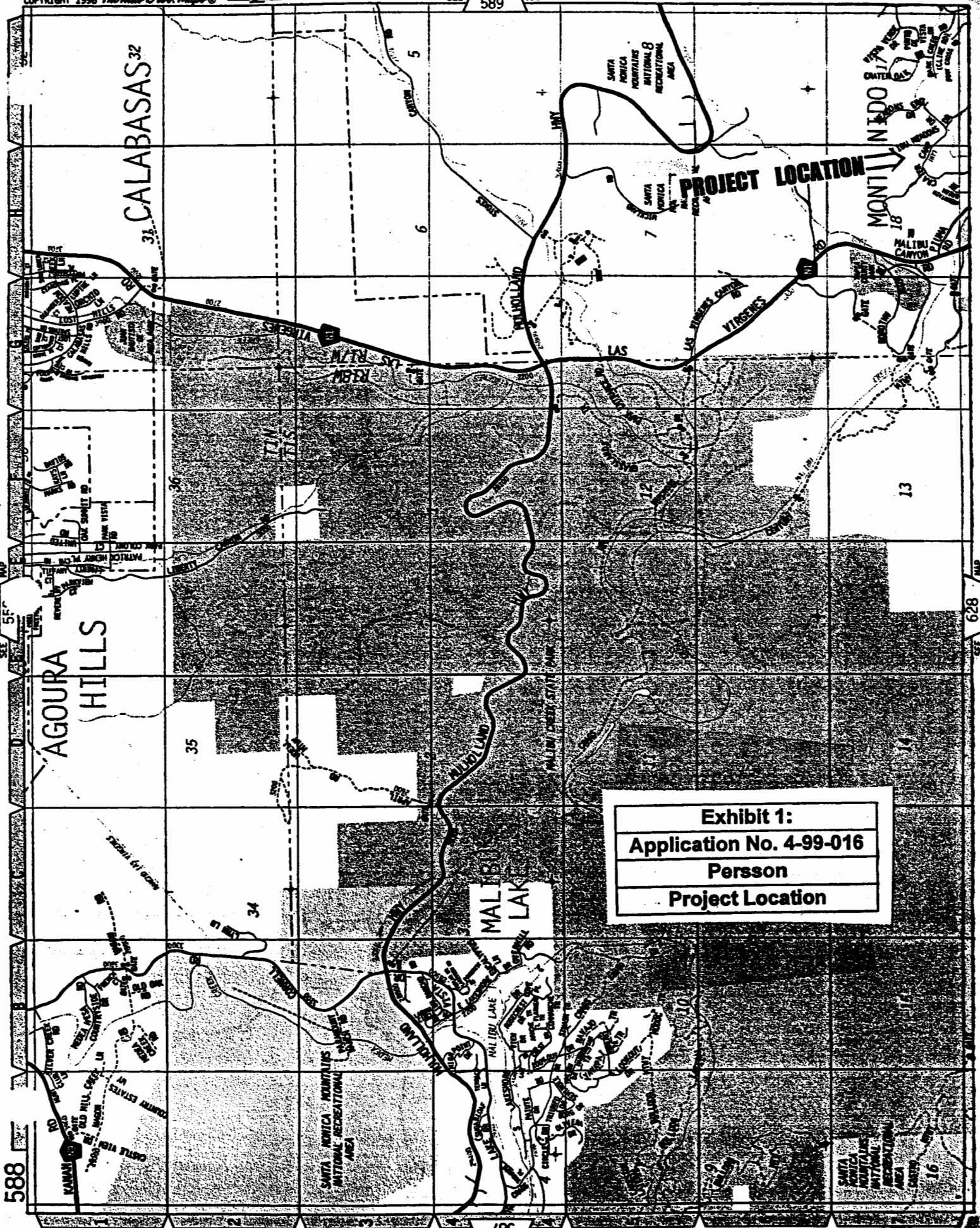
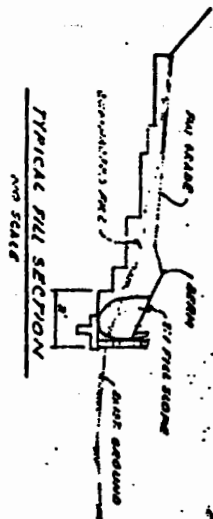
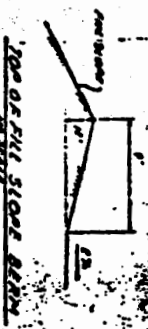


Exhibit 1:
Application No. 4-99-016
Persson
Project Location



LEGEND	SYMBOL	DESCRIPTION
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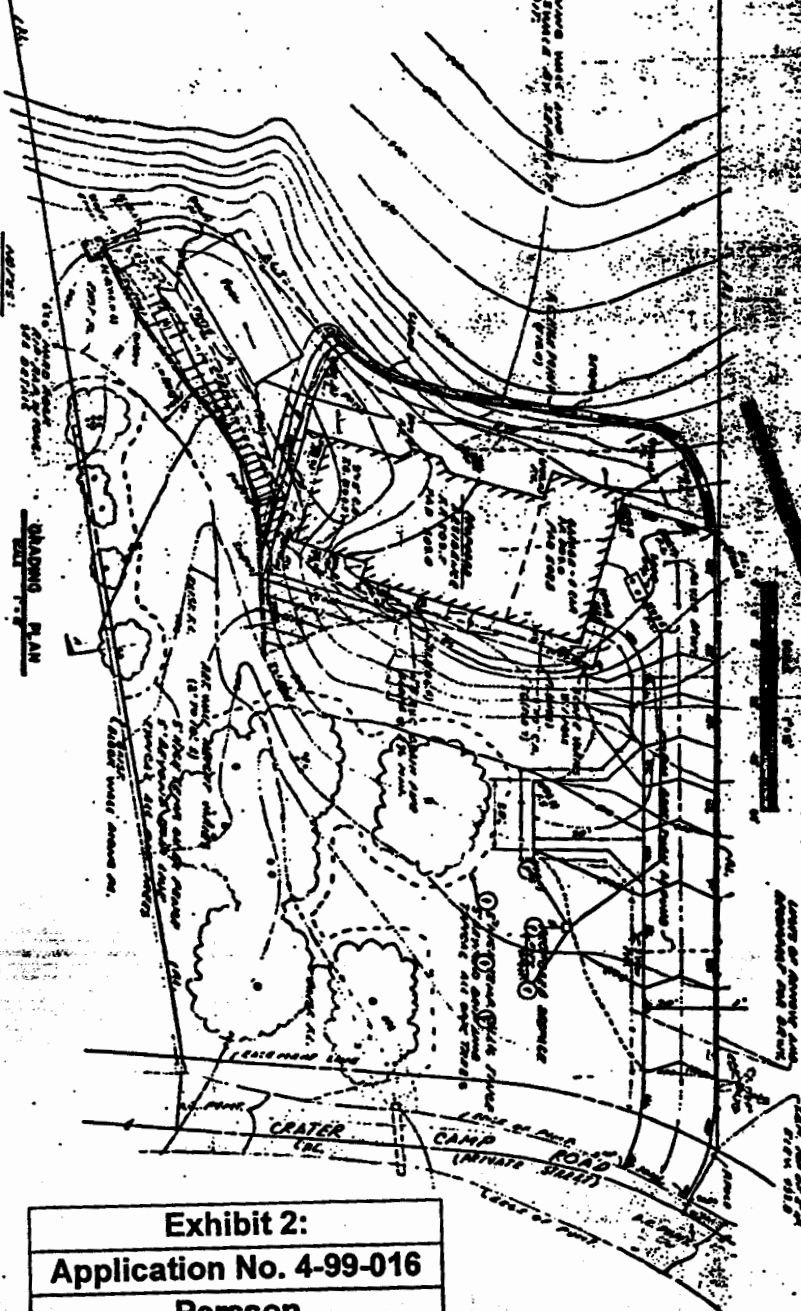
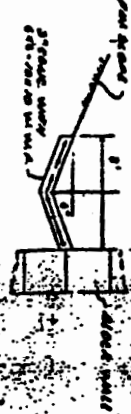
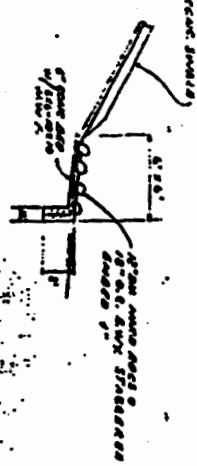


Exhibit 2:
Application No. 4-99-016
Persson
Site Plan

1. HILLTOP DETAIL TO BE DONE AT 1/4" = 1' SCALE.
2. HILLTOP DETAIL TO BE DONE AT 1/4" = 1' SCALE.
3. HILLTOP DETAIL TO BE DONE AT 1/4" = 1' SCALE.
4. HILLTOP DETAIL TO BE DONE AT 1/4" = 1' SCALE.
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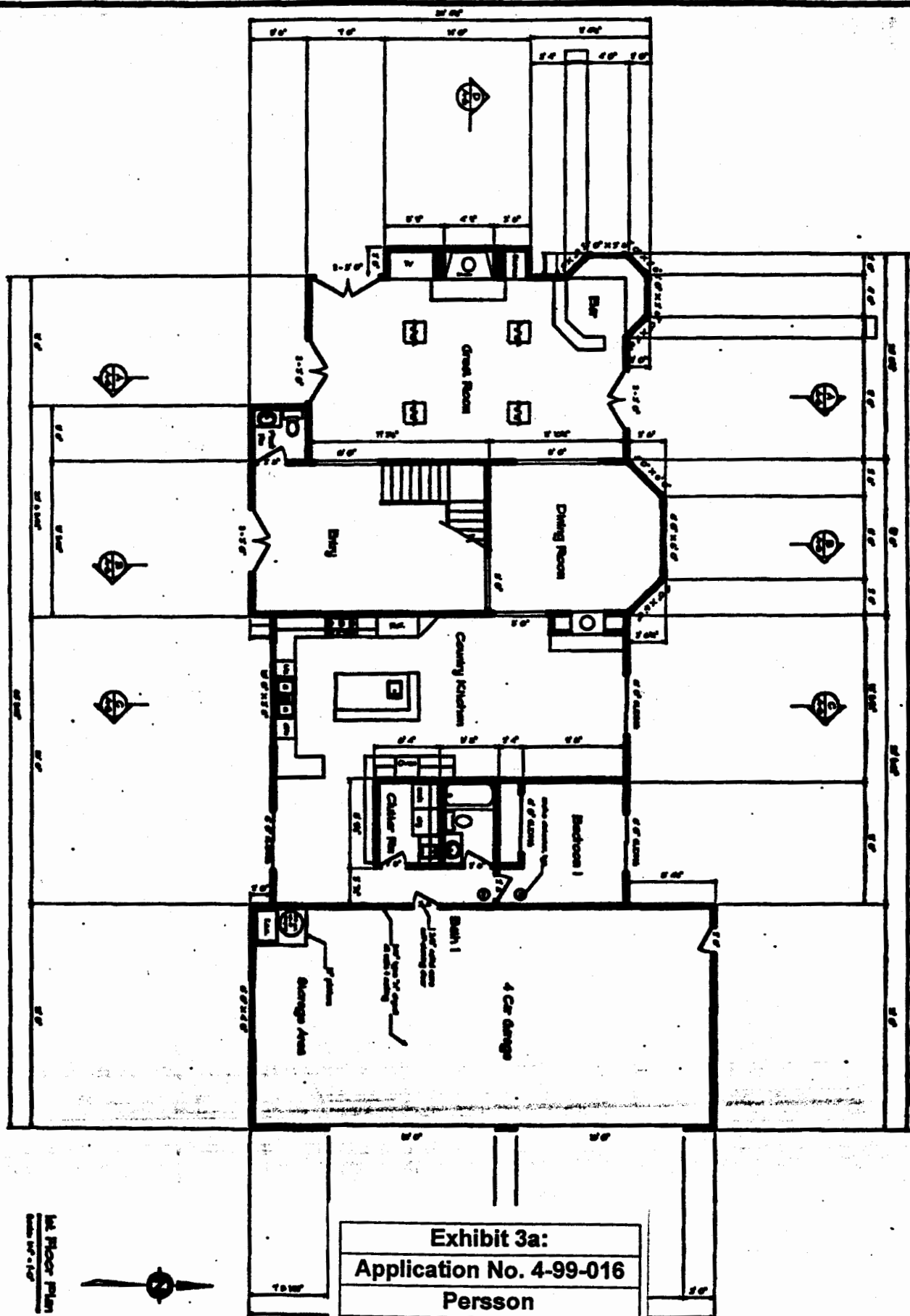


Exhibit 3a:
Application No. 4-99-016
Persson
Floor plan

New Reside
BOB & KELLY PERSSON
801 Center Camp Drive
Monte Nido, CA 91302

Caribbean Builders
22309 Delarosa St. - Woodland Hills, CA 91367
818/887-3035 Fax 818/888-8256

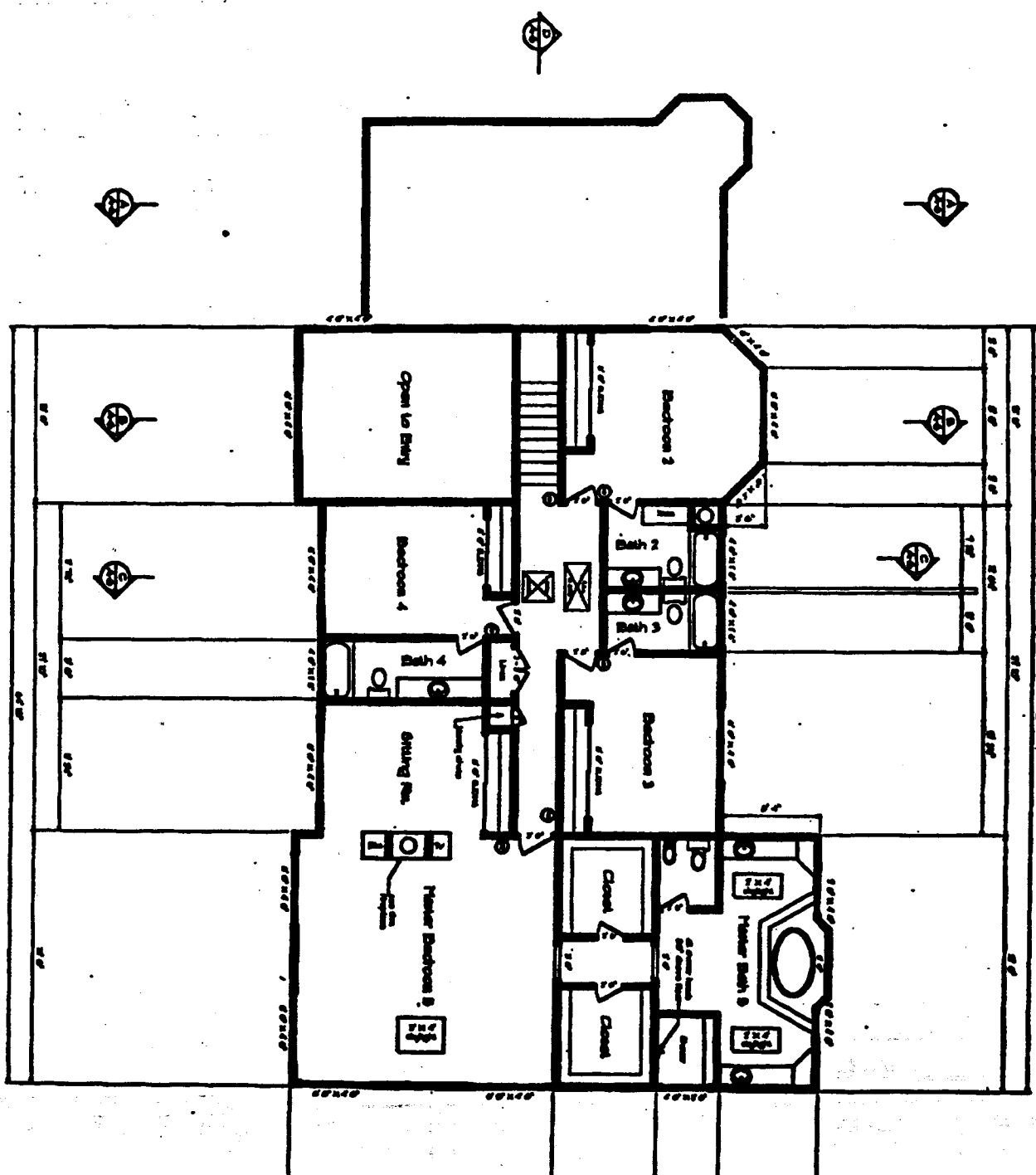


Exhibit 3b:
Application No. 4-99-016
Persson
Floor plan

2nd Floor Plan
Scale 1/8" = 1'-0"

A-3

New Residence For
BOB & KELLY PERSSON
801 Creston Camp Drive
Monte Nido, CA 91302

Calabasas Builders
22309 Delores St. - Woodland Hills, CA 91367
818/887-3035 Fax 818/888-8256

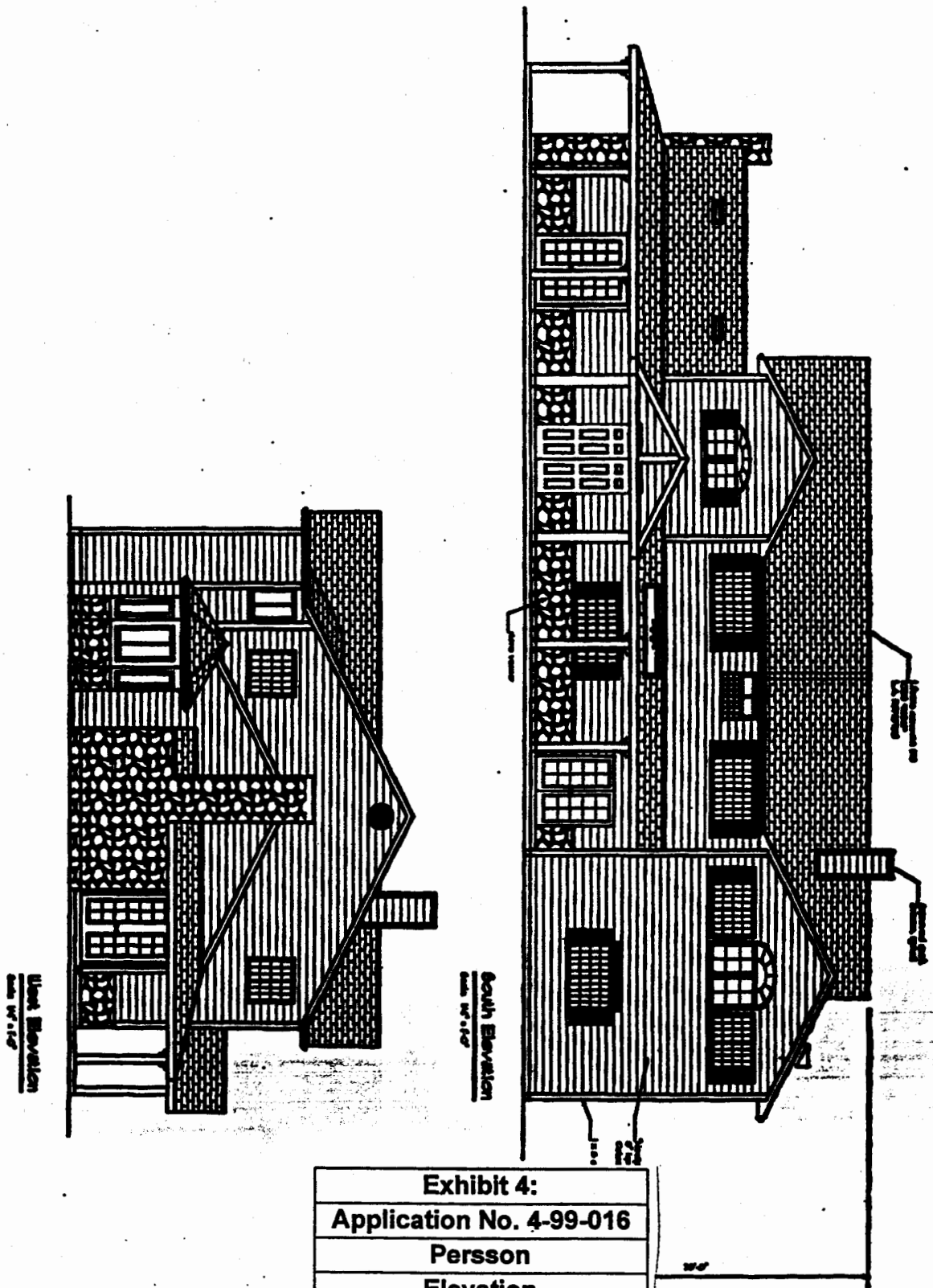
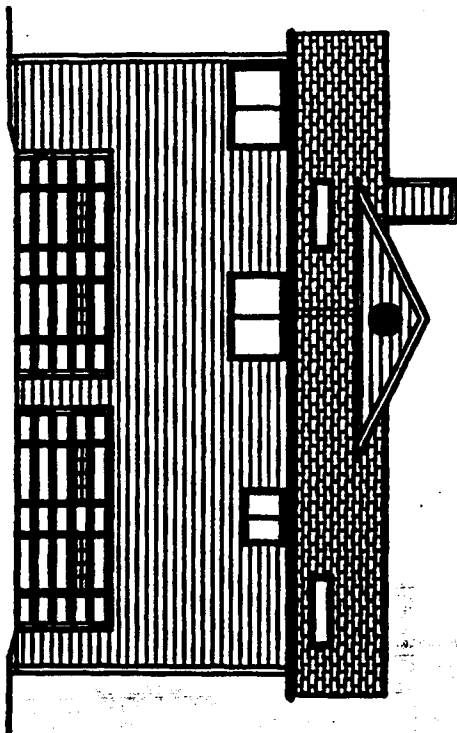
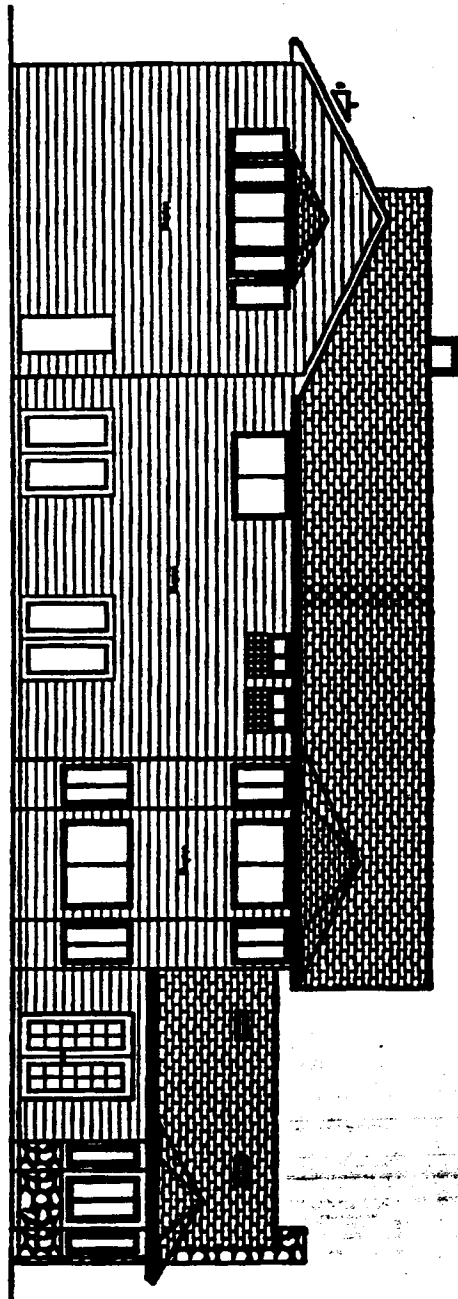


Exhibit 4:
Application No. 4-99-016
Persson
Elevation



East Elevation
Scale 1/8" = 1'-0"



North Elevation
Scale 1/8" = 1'-0"

Elevations

A-5 1/4" = 1'-0"	<p>New Residence For BOB & KELLY PERSSON 901 Center Camp Drive Monte Nido, CA 91302</p>	<p>Calabasas Builders 22309 Dolores St. - Woodland Hills, CA 91367 818/887-3035 Fax 818/888-8256</p>
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CALIFORNIA COASTAL COMMISSION

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

**AMENDMENT TO COASTAL DEVELOPMENT PERMIT**

DATE: March 21, 2000

Permit No: 4-99-016-A1

issued to: Bob & Kelly Persson

for Construct two story, 30 ft. high, 4,598 sq. ft. single family residence with attached 965 sq. ft. garage, 628 ft. long retaining wall, pool, septic system, and grading of 1600 cu. yds. (800 cu. yds. cut and 800 cu. yds. fill)

at 801 Crater Camp Drive, Monte Nido (Los Angeles County)

has been amended to include the following changes:

Increase size of proposed residence from 4,598 to 5,067 sq. ft. and increase size of garage from 965 sq. ft. to 1,070 sq. ft. with remainder of project remaining unchanged.

This amendment was determined by the Executive Director to be immaterial, was duly noticed, and no objections were received or the Commission concurred with the Executive Director's determination of immateriality (Sec. 13166 (b)(2)).

This amendment will become effective upon return of a signed copy of this form to the South Central Coast Area office. Please note that the original permit conditions are still in effect.

Sincerely,
PETER M. DOUGLAS
Executive Director

By: MERLE BETZ
Coastal Program Analyst

ACKNOWLEDGMENT:

I have read and understand the above amendment and agree to be bound by its conditions and the remaining conditions of Permit No: 4-99-016-A1.

Date: 3.30Signature: [Signature]
[Signature]

SOUTH CENTRAL COAST DISTRICT
CALIFORNIA
COASTAL COMMISSION

APR 11 2000

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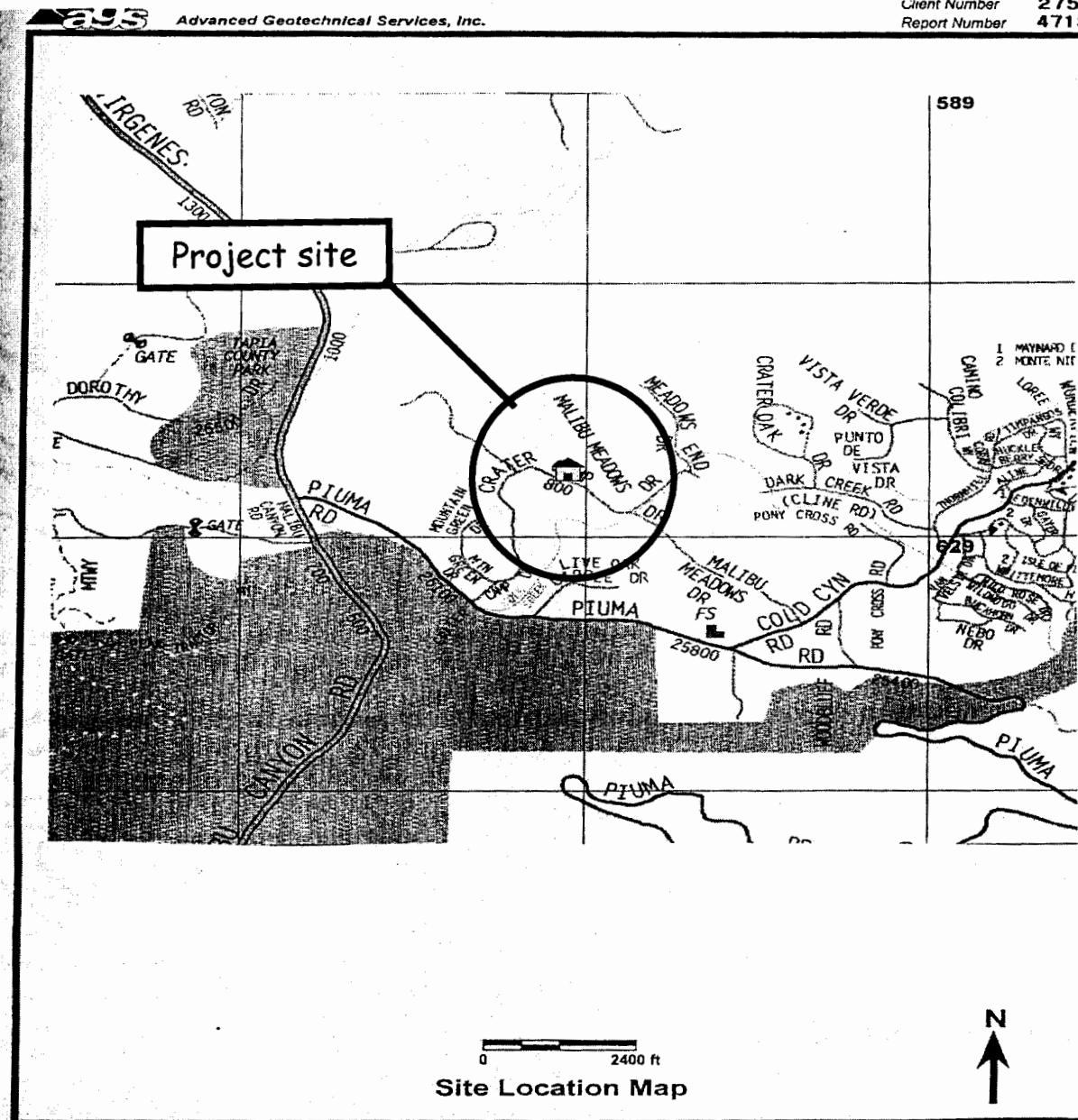
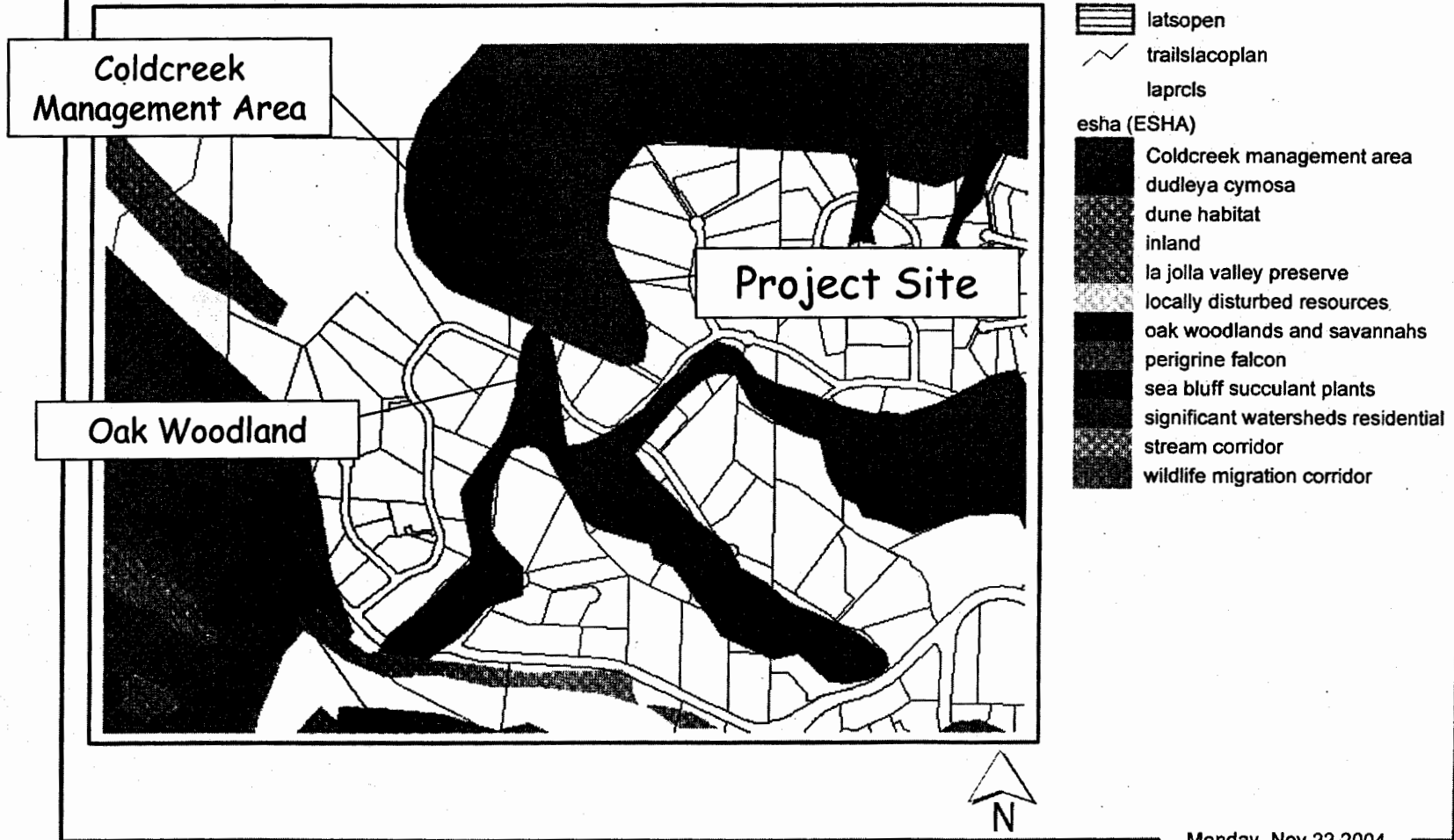


Figure 1

ESRI ArcExplorer 2.0

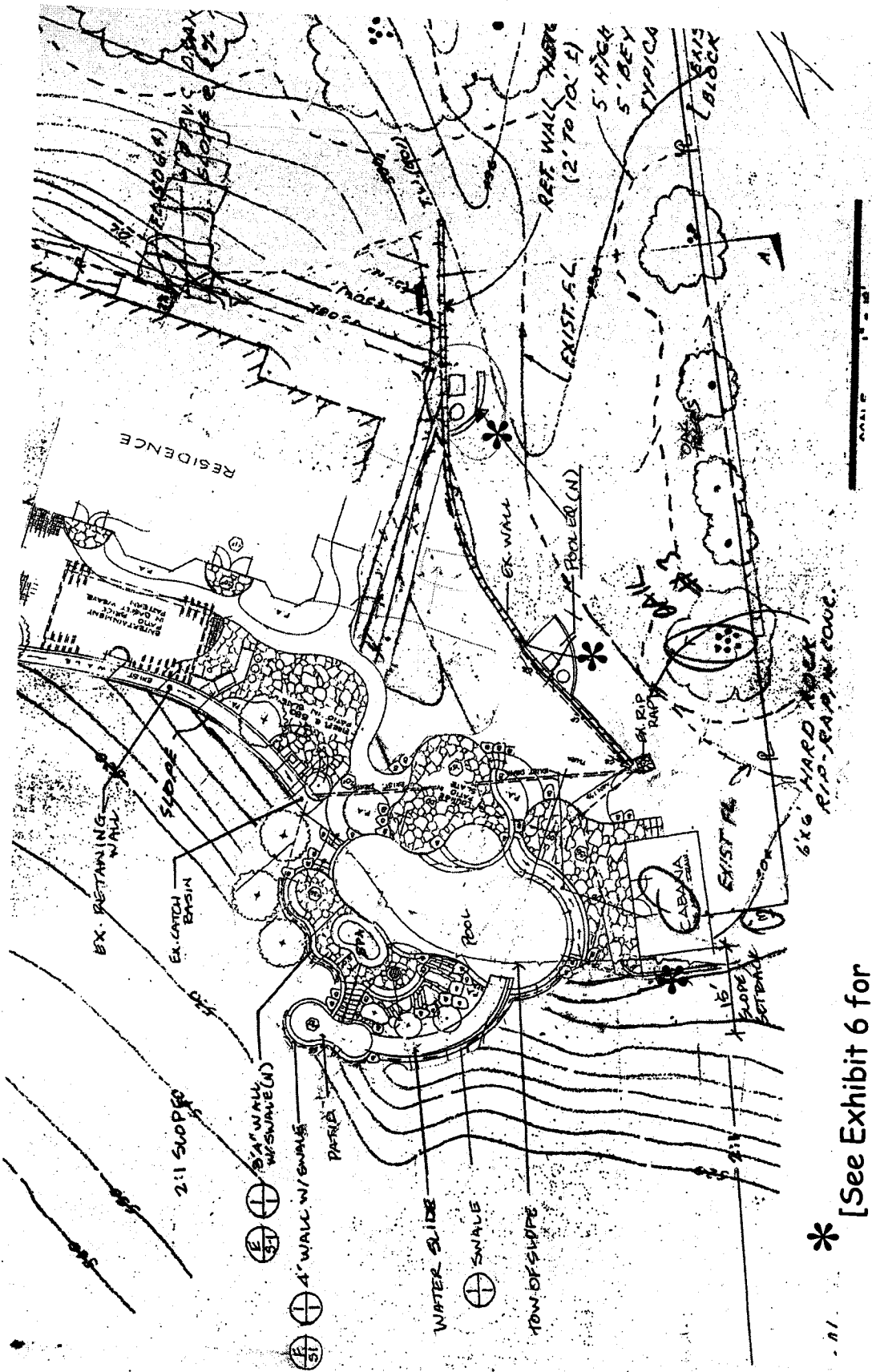
4-99-016-A2 (Persson)



Monday, Nov 22 2004



Exhibit 4
CDP 4-99-016-A2
Aerial Photo



* [See Exhibit 6 for revised cabana and pool equipment pad locations]

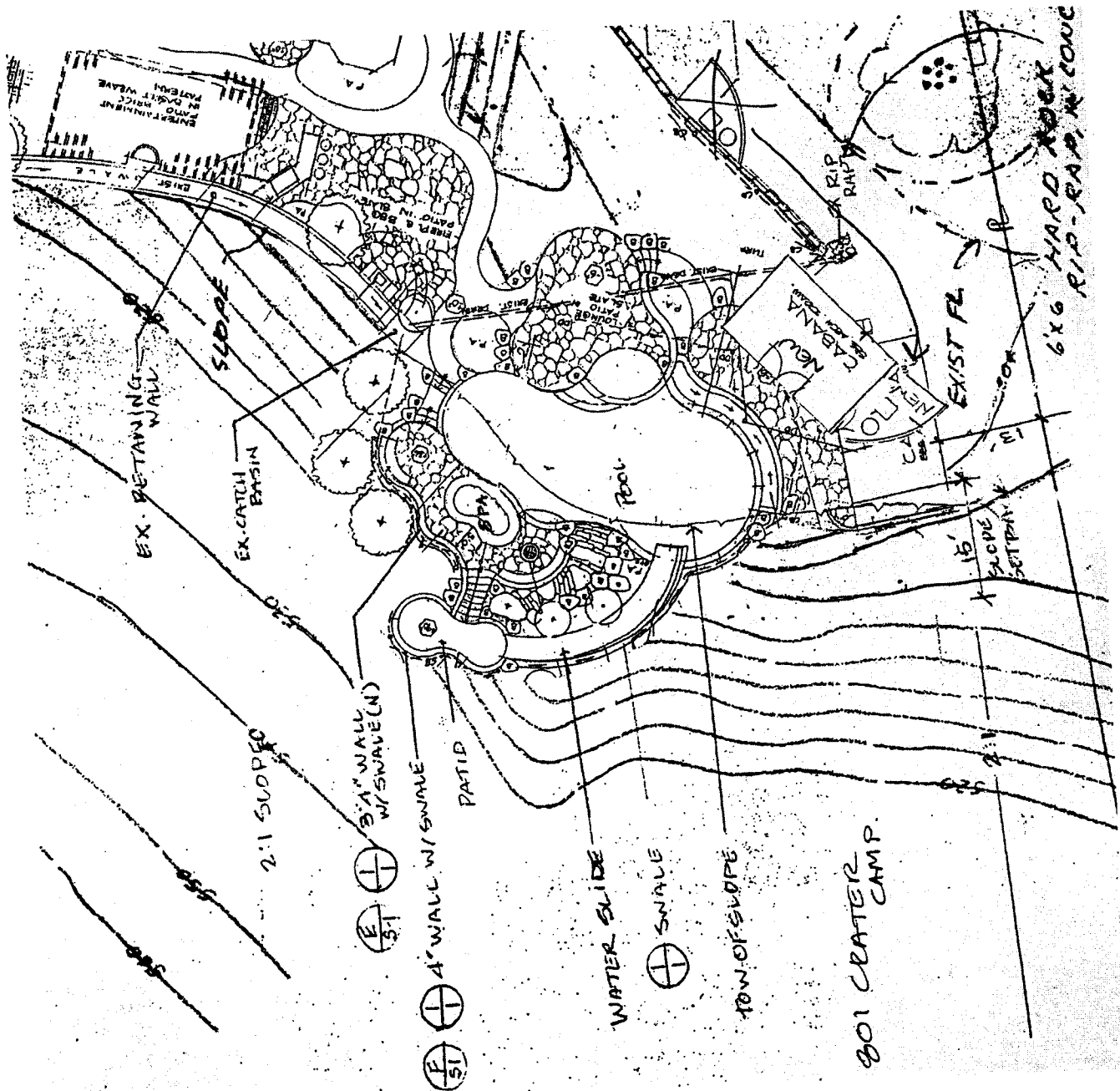
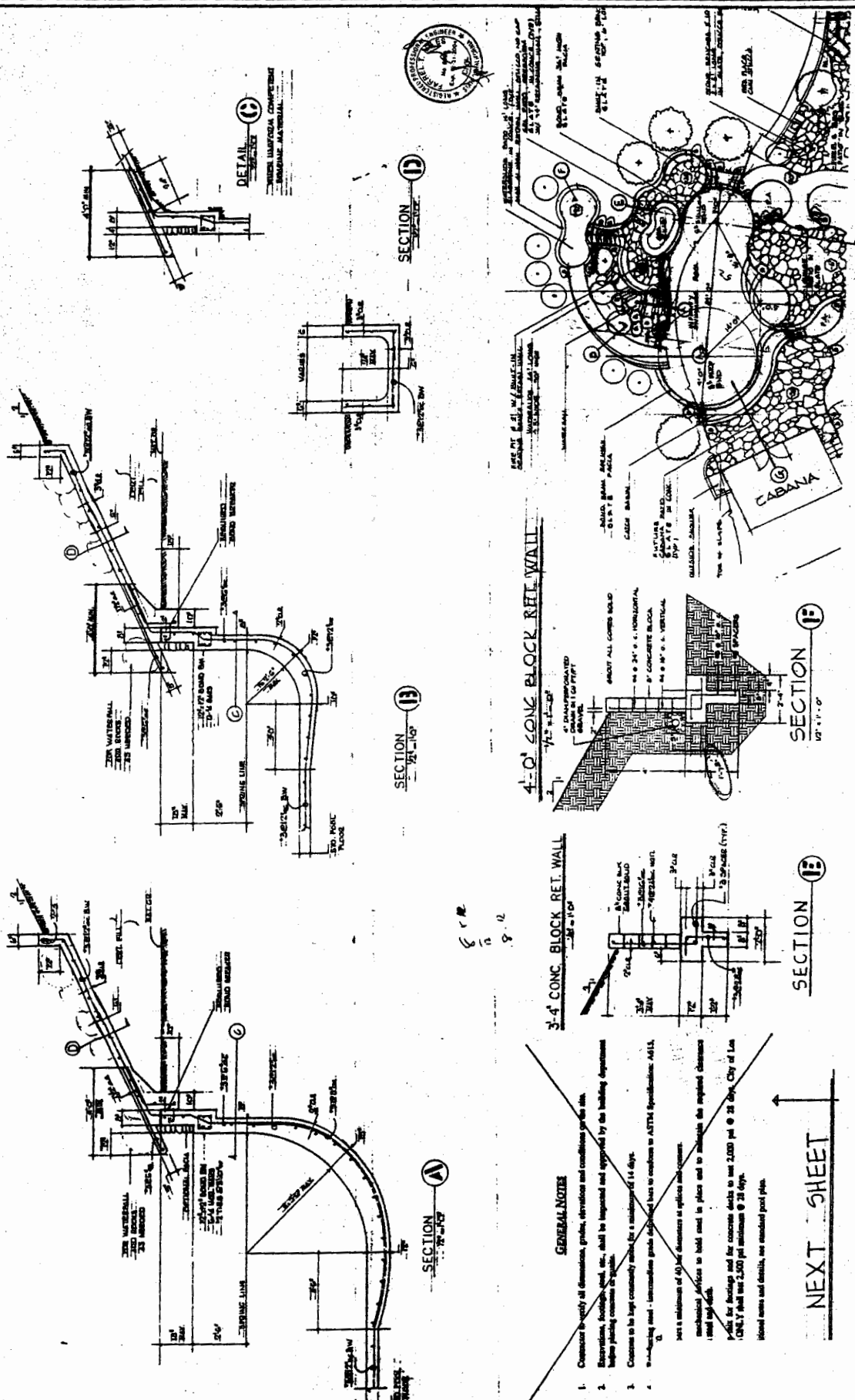


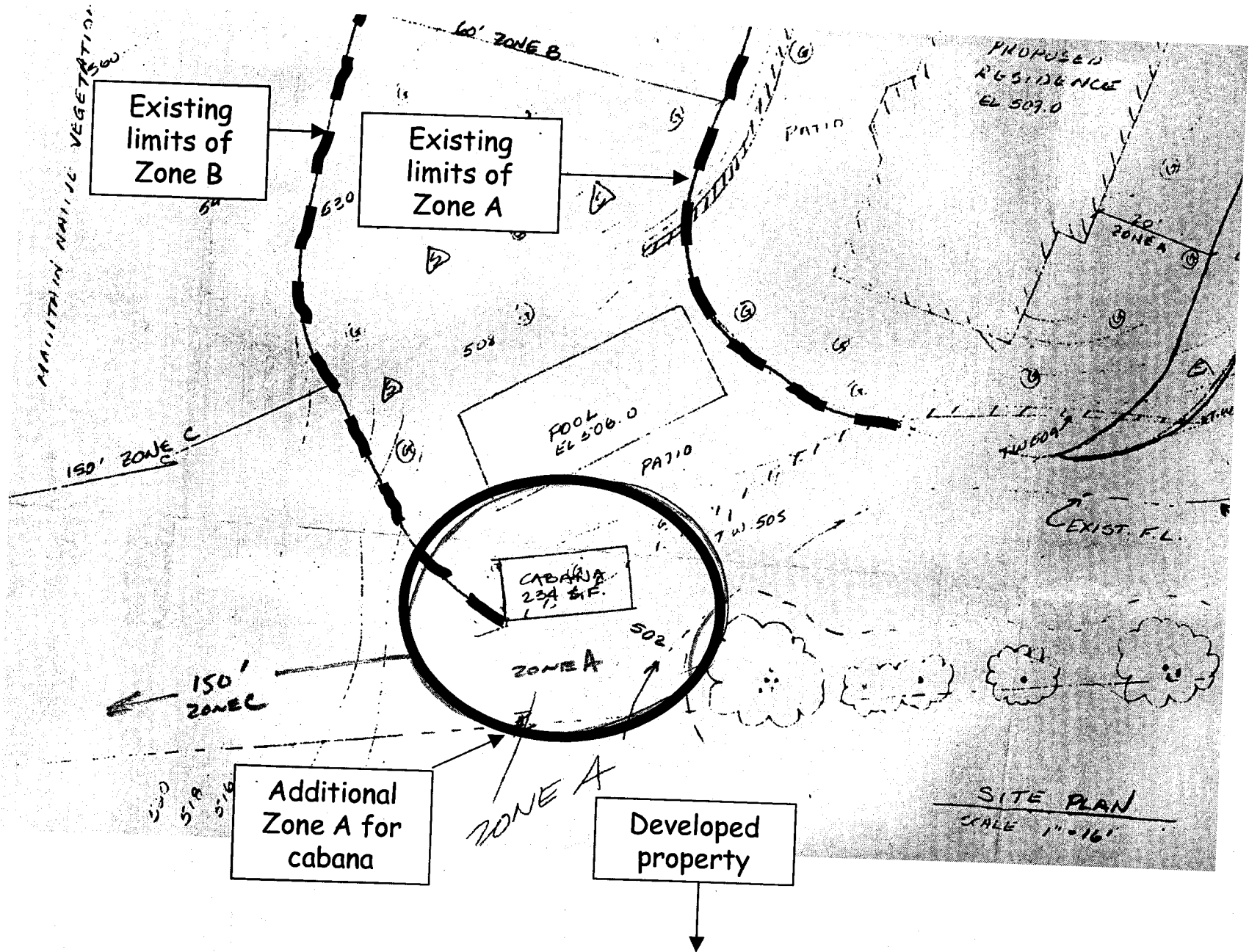
Exhibit 6
CDP 4-99-016-A2
Revised Cabana Location

POOL LAYOUT



- GENERAL NOTES**
1. Contractor to verify all dimensions, grades, elevations and conditions on the site.
 2. Elevation, location, etc., shall be improved and approved by the building department before pouring concrete.
 3. Concrete to be kept continuously moist for a minimum of 14 days.
 4. Reinforcing steel - intermediate grade steel bars to conform to ASTM Specifications. ALL bars a minimum of #4 for dimensions as given on drawings.
 5. Mechanical joints to be held in place and to maintain the required clearance until set.
 6. #4s for footings and for concrete decks to not 2,000 psi @ 28 days. City of Los Angeles shall not 2,500 psi minimum @ 28 days.
 7. All notes and details, see standard pool plan.

NEXT SHEET



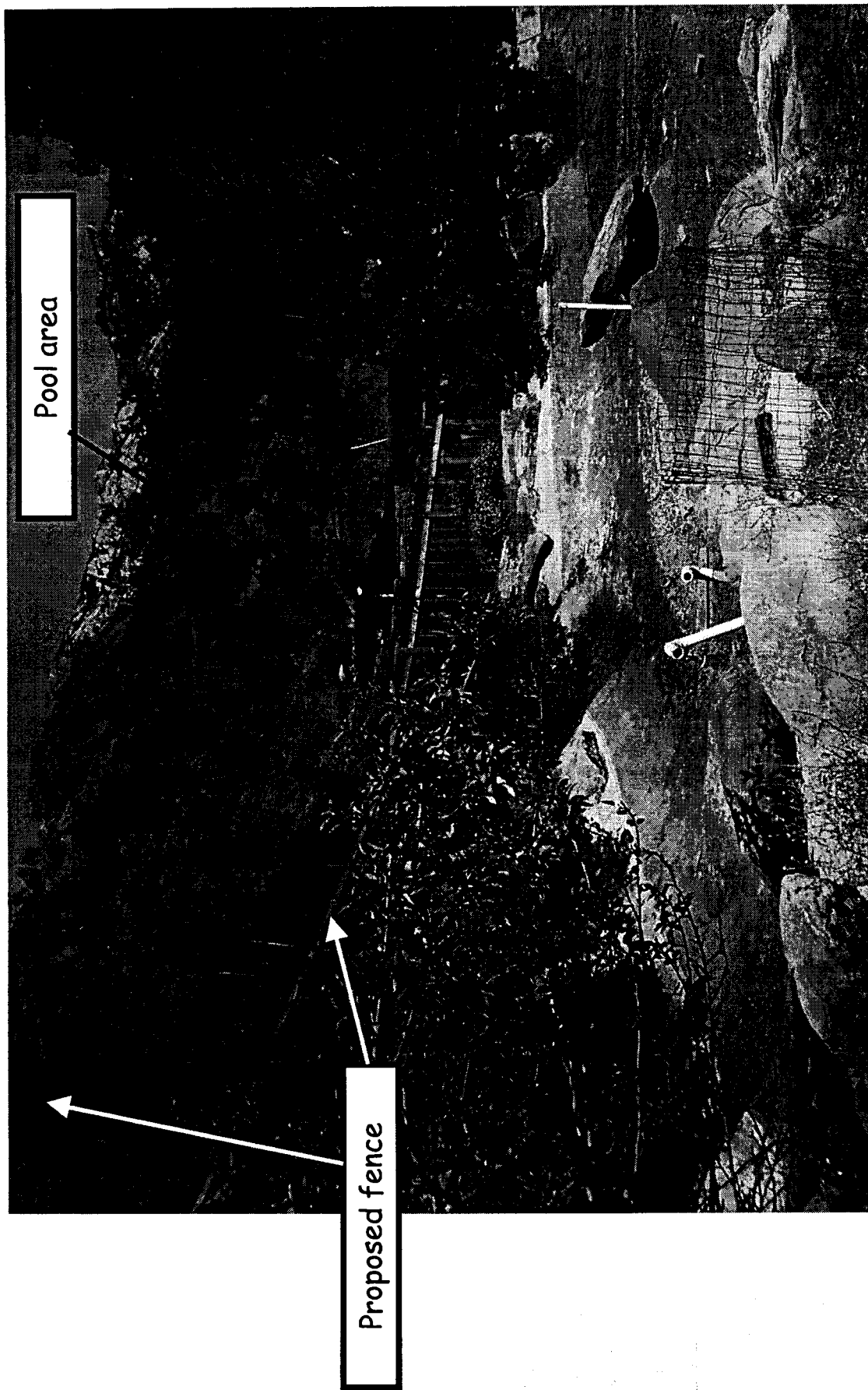


Exhibit 10
CDP 4-99-016-A2
Photo - Proposed Fencing

