

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
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# Item Tu 23 e

Filed: 2/1/06  
180th Day: 7/31/06  
Staff: James Johnson  
Staff Report: 5/23/06  
Hearing Date: 6/13/06



## STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO:** 4-05-167

**APPLICANT:** Cary and Katharine Lucas Gepner      **AGENT:** Cary Gepner

**PROJECT LOCATION:** 1375 Fernwood Pacifica Drive, Topanga, Los Angeles County

**PROJECT DESCRIPTION:** Construct a 24 foot high, two story accessory building consisting of lower level, partially underground, 3-car, 600 sq. ft. garage, and 600 sq. ft. upper level recreation room, a swimming pool with thermal solar panels, repave 2,190 sq. ft. of driveway and 361 cubic yards of cut grading to be exported to a disposal site located outside the coastal zone.

<b>Lot area:</b>	<b>32,430 sq. ft.</b>
<b>Building coverage:</b>	<b>2,600 sq. ft.</b>
<b>Existing Residence:</b>	<b>2,573 sq. ft.</b>
<b>Pavement coverage:</b>	<b>4,900 sq. ft.</b>
<b>Ht above fin grade:</b>	<b>24 ft. 2 in.</b>

**LOCAL APPROVALS RECEIVED:** Los Angeles County approval in concept, Los Angeles County Fire Department preliminary road access approval and preliminary fuel modification plans.

**SUBSTANTIVE FILE DOCUMENTS:** Limited Engineering Geologic and Geotechnical Engineering Exploration, dated February 18, 2004, prepared by Robertson Geotechnical Inc.

### SUMMARY OF STAFF RECOMMENDATION

Staff recommends **Approval** of the proposed project with nine special conditions relating to plans conforming to geotechnical engineer's recommendations, landscaping and erosion control fuel modification plans, wildfire waiver of liability, drainage and polluted runoff control, structural appearance, future development restriction, deed restriction, pool drainage and maintenance, and lot merger requirement. The proposed project is located within the Fernwood Small Lot Subdivision, an area where the Commission has consistently applied the Slope Intensity Formula to establish a maximum gross structural area (GSA) for projects, based on the area and slope of the building site. As conditioned, the proposed project will be consistent with the applicable policies of the Coastal Act.

**STAFF NOTE**

**DUE TO PERMIT STREAMLINING ACT REQUIREMENTS THE COMMISSION MUST ACT ON THIS PERMIT APPLICATION AT THE JULY 2006 COMMISSION HEARING UNLESS EXTENDED BY THE APPLICANT FOR UP TO AN ADDITIONAL 90 DAYS.**

**I. Approval with Conditions**

**I. STAFF RECOMMENDATION**

**MOTION:**     *I move that the Commission approve Coastal Development Permit No 4-05-167 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

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

**RESOLUTION TO APPROVE THE PERMIT:**

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

**II. Standard Conditions**

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

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

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

### **III. Special Conditions**

#### **1. Plans Conforming to Geotechnical Engineer's Recommendations.**

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the Limited Engineering Geologic and Geotechnical Engineering Exploration, dated February 18, 2004, prepared by Robertson Geotechnical Inc. These recommendations to be incorporated into all final design and construction plans include recommendations concerning UBC Structural Design Criteria, foundations, foundation settlement, excavation characteristics, retaining walls, temporary cut slope stability, floor slabs, waterproofing, drainage control, monitoring, plan review, and construction site maintenance.

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

#### **2. Landscaping, Erosion Control, and Fuel Modification Plans**

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit final landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The final 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 final plans shall incorporate the criteria set forth below. All development shall conform to the approved landscaping and erosion control plans:

##### A) Landscaping and Erosion Control Plans

- 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 recreation room or certificate of completion for the garage. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U. S. Federal Government shall be utilized within the property.

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). The landscape plan shall be designed in a manner that minimizes impacts to canyon views from the public road, Fernwood Pacifica Road.

4) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.

5) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

6) Vegetation within 20 feet of the proposed structure may be removed to mineral earth, vegetation within a 200-foot radius of the 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 Final 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 twenty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

7) Rodenticides containing any anticoagulant compounds (including, but not limited to, Bromadiolone or Diphacinone) shall not be used.

**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, de-silting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geo-fabric covers or other appropriate cover, install geo-textiles 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 geo-textiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

**C) Monitoring**

Five (5) years from the date of the receipt of the Certificate of Occupancy for the recreation room or certificate of completion for the garage, the applicant shall submit for the review and approval of the Executive Director a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that assesses the on-site landscaping and certifies whether it is in conformance with the landscape plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to these permits, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The supplemental landscaping plan must be prepared by a licensed landscape architect or qualified resource specialist and shall specify measures to

remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The permittee shall implement the remedial measures specified in the approved supplemental landscape plan.

### **3. Wildfire Waiver of Liability**

By acceptance of this permit; the applicant acknowledges and agrees (i) That the site maybe subject to hazards from wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commissions approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

### **4 Drainage and Polluted Runoff Control Plan**

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

become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if amendment(s) or new Coastal Development Permit(s) are required to authorize such work.

## **5. Structural Appearance**

**Prior to the issuance of the coastal development permit**, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of coastal development permit 4-05-167. The palette samples shall be presented in a format not to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveway, retaining walls, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by coastal development permit 4-05-167 if such changes are specifically authorized by the Executive Director as complying with this special condition.

## **6. Future Development Restriction**

This permit is only for the development described in Coastal Development Permit 4-05-167. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(b) shall not apply to the development governed by Coastal Development Permit 4-05-167. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to, the conversion of garage to habitable space or the addition of an interior stairway from the first floor garage to the second floor recreation room, any grading, shall require an amendment to Coastal Development Permit 4-05-167 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

## **7. Deed Restriction**

**Prior to issuance of the coastal development permit**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property

(hereinafter referred to as the “Standard and Special Conditions”); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant’s entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### **8. Pool Drainage and Maintenance**

**Prior to issuance of the Coastal Development Permit**, the applicant shall submit, for review and approval of the Executive Director, a written pool maintenance plan, that contains an agreement to install and use a no chlorine or low chlorine purification system and a program to maintain proper pH, calcium and alkalinity balance in a manner that any runoff or drainage from the pool and spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area. In addition, the plan shall, at a minimum: 1) prohibit discharge of chlorinated pool or spa and 2) prohibit discharge of chlorinated or non-chlorinated pool or spa water into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters. The Permittee shall undertake development and maintenance in compliance with this pool and spa maintenance agreement and program approved by the Executive Director. No changes shall be made to the agreement or plan unless they are approved by the Executive Director.

#### **9. Lot Merger**

**Prior to issuance of the coastal development permit**, the applicant shall provide evidence, for the review and approval of the Executive Director, that the properties identified as assessor’s parcel numbers 4447-014-011, 012, 013, 014 (also known as lots 23 – 27, Block 2, Tract 8859) have been legally merged into one parcel pursuant to applicable State and Local statutes. The merged lot shall be held as one parcel of land for all purposes including, but not limited to, sale, conveyance, development, taxation, or encumbrance.



#### **IV. Findings and Declarations**

The Commission hereby finds and declares:

##### **A. Project Description**

The applicant proposes to construct a 24 foot high, two story accessory building consisting of lower level, partially underground, 3-car, 600 sq. ft. garage, and 600 sq. ft. recreation room on upper level, a swimming pool with thermal solar panels, repave 2,190 sq. ft. of driveway, and 361 cubic yards of cut grading to be exported to a disposal site located outside the coastal zone. The subject property consists of five lots with an existing two-story 2,573 sq. ft. residence originally constructed in 1926. (Exhibits 1 – 7).

The proposed project site is located within the Fernwood Pacifica Small Lot Subdivision (Exhibits 1 and 2). All of the parcels surrounding the subject site, which consists of five lots (two lots are merged together into one lot as identified on the Los Angeles County Assessors Parcel Map where the existing residence is located), are developed with residences. There are no lots in the immediate vicinity that are deed restricted as open space/transfer of development credit lots in order to extinguish their development potential, according to the Commission's records. The proposed project site is located on Fernwood Pacifica Road. The residence originally constructed in 1925 on the subject site and surrounding properties includes substantial gardens with native and non-native vegetation that is not considered environmentally sensitive habitat (ESHA).

##### **B. Hazards and Geologic Stability**

The proposed development is located in the Malibu/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. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

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

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

## Geology

The applicant has submitted the Limited Engineering Geologic and Geotechnical Engineering Exploration, dated February 18, 2004, prepared by Robertson Geotechnical Inc. which addresses the geologic conditions on the site.

The geologic consultants have found the geology of the proposed project site to be suitable for the construction of the proposed garage and recreation room. They have identified no landslides or other geologic hazards on the site. The report states that:

Based upon our exploration and experience with similar projects, construction of the proposed garage with recreation room above in the proposed location along the motor court is considered feasible from an engineering geologic and soils engineering standpoint provided our advice and recommendations are made a part of the plans and are implemented during construction.

The geologic and geotechnical engineering consultants conclude that the proposed developments are feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The Geotechnical Report contains several recommendations to be incorporated into the project including UBC Structural Design Criteria, foundations, foundation settlement, excavation characteristics, retaining walls, temporary cut slope stability, floor slabs, waterproofing, drainage control, monitoring, plan review, site observations, and construction site maintenance. To ensure that the recommendations of the consultant have been incorporated into all proposed development, the Commission, as specified in **Special Condition No. 1**, requires the applicant to incorporate the recommendations cited in the 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 structure, impervious surfaces, and building pad will minimize erosion and add to the geologic stability of the project sites. To ensure that adequate drainage and erosion control are included in the proposed development, the Commission requires the applicant to submit drainage and interim erosion control plans, as specified in **Special Conditions Nos. 2 and 4**. **Special Condition No. 4** requires the applicants to maintain a functional drainage system at the subject site to insure that run-off from the project site is diverted in a non-erosive manner to minimize erosion at the site for the life of the proposed development. Should the drainage system of the project site fail at any time, the applicant will be responsible for any repairs or restoration of eroded areas as consistent with the terms of **Special Condition No. 4**.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and

maintain the geologic stability of the site. Therefore, **Special Condition No. 2** requires the applicant to submit and implement landscaping plans. **Special Condition No. 2** also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project sites.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion.

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

### **Wild Fire**

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

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition No. 3**, the wildfire waiver of liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of **Special Condition No. 3**, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

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

### **C. Visual Resources**

Section 30251 of the Coastal Act states:

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

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. The subject site is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides.

The applicant proposes to construct a 24 foot high, two story accessory building consisting of lower level, partially underground, 3-car, 600 sq. ft. garage, and 600 sq. ft. recreation room on upper level, a swimming pool with thermal solar panels, repave 2,190 sq. ft. of driveway, and 361 cubic yards of cut grading to be exported to a disposal site located outside the coastal zone. The subject property consists of five lots with an existing 2,573 sq. ft. residence. (Exhibits 1 – 7).

This proposed development is in the Fernwood Pacifica Subdivision, where some residences have been approved and built on small parcels joined with other small parcels throughout the subdivision. The proposed project site is located on the northwest side of Fernwood Pacifica Road in an area where the road consists of numerous sharp turns. The project site is located near one of these turns. The subject development will be visible from a portion of Fernwood Pacifica Road across an existing driveway where the paving is proposed to be replaced. The majority of the project site includes mature tree and shrubbery vegetation screening the existing residential development and subject property from Fernwood Pacifica Road. Given that this proposed structure is located across an existing driveway and no closer than 32 feet from the public road, the public visibility of the proposed structure's two story elevation will be limited. Due to the location and angle of the proposed structure's roof, the proposed solar energy panels located on the south facing roof will not be visible from Fernwood Pacifica Road located to the south.

Fernwood Pacific Road is designated a priority three scenic highway in the Malibu/Santa Monica Mountains Land Use Plan with views of highly scenic hillsides. The Land Use Plan states:

Fernwood Pacifica Drive – A windy (sp), narrow road, located between Tuna Canyon Road and Topanga Canyon Boulevard. The area which Fernwood

Pacifica runs through is generally developed, however, natural and introduced vegetation screen many of the residences.

Because of the topography of the area, and the location of the proposed development including the garage as close as 32 feet from Fernwood Pacifica Road, the development will be visible from Fernwood Pacifica Road along the existing driveway. There are no feasible alternative building locations on these subject parcels that would significantly reduce visual impacts. In addition, the applicant has minimized the proposed grading for the project, which is proposed only within the immediate area of the building pad to prepare the site for construction of the partially underground two-story garage and recreation room above. Therefore, the Commission finds, in consideration of the landscaped character of the area, that the proposed development is sited and designed to fit in with the character and scale of the surrounding area.

Although the project is designed in a manner consistent with the character of the surrounding area, the project will still result in unavoidable adverse impacts to visual resources due to its partial visibility from the public roadway along Fernwood Pacifica Road as discussed above. Therefore, the Commission finds that it is necessary to require mitigation measures to minimize visual impacts associated with development of the project site that include finishing the exterior of the structure with a color consistent with the surrounding environment and, by incorporating windows of a non-reflective glass type to minimize impacts on public views. To ensure visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as detailed by **Special Condition No. 5**.

Visual impacts associated with proposed grading, and the structure itself, can be further reduced by the use of appropriate and adequate landscaping. As such, **Special Condition No. 2** requires the applicant to prepare a landscape plan relying mostly on native, non-invasive plant species to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. Implementation of **Special Condition No. 2** will partially screen the proposed structure and soften the visual impact of the development from public views within the canyon from Fernwood Pacifica Road located to the south. To ensure that the final approved landscaping plans are successfully implemented, **Special Condition No. 2** also requires the applicant to revegetate all disturbed areas in a timely manner and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time.

Finally, regarding future developments or improvements, certain types of development to the property, normally associated with a single-family residence, which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that any future development or improvements normally associated with the entire property, which might otherwise be exempt, are reviewed by the Commission for compliance with the scenic resource policy, Section 30251 and

cumulative impact policy, Section 30250 of the Coastal Act. **Special Condition No. 6**, the Future Development Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Finally, **Special Condition No. 7** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the subject property.

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

#### **D. Cumulative Impacts**

The proposed project involves the construction of a new single-family residence which is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new development.

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 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 the 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.*

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

***the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.***

Throughout the Malibu/Santa Monica Mountains coastal zone there are a number of areas, which were subdivided in the 1920's and 30's into very small "urban" scale lots. These subdivisions, known as "small lot subdivisions" are comprised of parcels of less than one acre but more typically range in size from 4,000 to 5,000 square feet. The total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources. Cumulative development constraints common to small lot subdivisions were documented by the Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled: "Cumulative Impacts of Small Lot Subdivision Development In the Santa Monica Mountains Coastal Zone".

The study acknowledged that the existing small lot subdivisions can only accommodate a limited amount of additional new development due to major constraints to buildout of these areas that include: Geologic, road access, water quality, disruption of rural community character, creation of unreasonable fire hazards and others. Following an intensive one year planning effort regarding impacts on coastal resources by Coastal Commission staff, including five months of public review and input, new development standards relating to residential development on small lots in hillsides, including the Slope-Intensity/Gross Structural Area Formula (GSA) were incorporated into the Malibu District Interpretive Guidelines in June 1979. A nearly identical Slope Intensity Formula was incorporated into the 1986 certified Malibu/Santa Monica Mountains Land Use Plan under policy 271(b)(2) to reduce the potential effects of buildout as discussed below.

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots which already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains creates cumulative impacts on coastal resources and public access over time. Because of this, the demands on road capacity, public services, recreational facilities, and beaches could be expected to grow tremendously.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP, which has been used as guidance by the Coastal Commission, requires that new development in small lot subdivisions comply with the Slope Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit. Past Commission action certifying the LUP indicates that the Commission considers the use of the Slope Intensity Formula appropriate for determining the maximum level of development which may be permitted in small lot subdivision areas consistent with the policies of the Coastal Act. The basic concept of the formula assumes the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing

that development on steep slopes has a high potential for adverse impacts on resources. Following is the formula and description of each factor used in its calculation:

***Slope Intensity Formula:***

$$\text{GSA} = (A/5) \times ((50-S)/35) + 500$$

GSA = the allowable gross structural area of the permitted development in square feet. The GSA includes all substantially enclosed residential and storage areas, but does not include garages or carports designed for storage of autos.

A = the area of the building site in square feet. The building site is defined by the applicant and may consist of all or a designated portion of the one or more lots comprising the project location. All permitted structures must be located within the designated building site.

S = the average slope of the building site in percent as calculated by the formula:

$$S = I \times L/A \times 100$$

I = contour interval in feet, at not greater than 25-foot intervals, resulting in at least 5 contour lines

L = total accumulated length of all contours of interval "I" in feet

A = the area being considered in square feet

All slope calculations should be based on natural (not graded) conditions. Maps of a scale generally not less than 1" = 10', showing the building site and existing topographic contours and noting appropriate areas and slopes, prepared by a Licensed Surveyor or Registered Professional Civil Engineer, should be submitted with the application.

In addition, pursuant to Policy 271 of the Malibu/Santa Monica Mountains LUP, the maximum allowable gross structural area (GSA) as calculated above, may be increased as follows:

- (1) Add 500 square feet for each lot which is contiguous to the designated building site provided that such lot(s) is (are) combined with the building site and all potential for residential development on such lot(s) is permanently extinguished.
- (2) Add 300 square feet for each lot in the vicinity of (e.g. in the same small lot subdivision) but not contiguous with the designated building site provided that such lot(s) is (are) combined with other developed or developable building sites and all potential for residential development on such lot(s) is permanently extinguished.



The proposed project is located in the Fernwood Pacifica Small Lot Subdivision (Exhibits 1 and 2). The applicant proposes to construct a 24 foot high, two story accessory building consisting of lower level, partially underground, 3-car, 600 sq. ft. garage, and 600 sq. ft. upper level recreation room, a swimming pool with thermal solar panels, repave 2,190 sq. ft. of the existing driveway, and 361 cubic yards of cut grading to be exported to a disposal site located outside the coastal zone. The subject property consists of five lots with an existing 2,573 sq. ft. residence. (Exhibits 1 – 7).

Based on staff's calculation of the GSA (using the surveyed information submitted by the applicant) for all five contiguous subject lots combined, the GSA for a single family residence on the subject site is 3,200 sq. ft. The existing residence is 2,573 sq. ft. in size added to the proposed 600 sq. ft. of habitable square footage proposed with the second story recreation room, the Commission finds that the proposed total of 3,173 sq. ft. of habitable structural area on the subject property is less than the maximum 3,200 sq. ft. allowable GSA. Therefore, this calculation confirms that the applicant's calculation is in conformance to Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP. The applicant's GSA calculation was provided on a topographic survey map of the site prepared by a licensed land surveyor as required.

However, because the existing five lots are required to be deed restricted as one lot through a lot combination pursuant to **Special Condition No. 9** the appropriate maximum GSA based on the slope intensity formula and past Commission actions for one lot would allow for a larger maximum total of 3,200 square feet for residential development.

Some additions and improvements to residences on small steep lots within these small lot subdivisions have been found to adversely impact the area. Many of the lots in these areas are so steep or narrow that they cannot support a large residence without increasing or exacerbating the geologic hazards on and/or off site. Additional buildout of small lot subdivisions affects water usage and has the potential to impact water quality of coastal streams in the area. Other impacts to these areas from the buildout of small lot subdivisions include increases in traffic along mountain road corridors and greater fire hazards.

For all these reasons, and as this lot is within a small lot subdivision, further structures, additions or improvements, including the conversion of garage to habitable space or the addition of an interior stairway from the first floor garage to the second floor recreation room, on the subject property could cause adverse cumulative impacts on the limited resources of the subdivision. The Commission, therefore, finds it necessary for the applicant to record a future improvements deed restriction on this lot, as noted in **Special Condition No. 6**, which would require that any future structures, additions or improvements to the property, beyond those approved in this permit, including the conversion of garage to habitable space or the addition of an interior stairway from the first floor garage to the second floor recreation room, would require review by the Commission to ensure compliance with the policies of the Coastal Act regarding

cumulative impacts and geologic hazards. At that time, the Commission can ensure that the new project complies with the guidance of the GSA formula and is consistent with the policies of the Coastal Act.

In addition, the Commission notes that the proposed garage and second floor recreation room is proposed to be built on one lot, Lot 24, Block 2, of Tract 8859 (APN 4447-014-013), with the addition of four adjoining lots, Lots 23, 25, 26, and 27, Block 2, of Tract No. 8859 and that the maximum allowable gross structural area was calculated considering the total area of the five lots as one. The Commission has long required that lots in small lot subdivisions using the GSA formula, as noted above, be required to be merged. Such a combination was required in earlier permit decisions for development of a residence on two-lots in a small lot subdivision [CDP No. 4-03-059 (Abshier & Nguyen), CDP No. 4-02-247 (McCain), CDP No. 4-00-092 (Worrel), 4-00-252 (Arrand), 4-00-263 (Bolander)]. For these reasons, **Special Condition No. 9** is necessary to ensure that the lots are combined and held as such in the future.

Finally, **Special Condition No. 7** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The Commission therefore finds that the proposed project, only as conditioned, consistent with Sections 30250(a) and 30252 of the Coastal Act.

#### **E. Water Quality**

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

Section **30231** of the Coastal Act states:

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

As described in detail in the previous sections, the applicant proposes to construct a 24 foot high, two story accessory building consisting of lower level, partially underground, 3-car, 600 sq. ft. garage, and 600 sq. ft. upper level recreation room , a swimming pool

with thermal solar panels, repave 2,190 sq. ft. of driveway and 361 cubic yards of cut grading to be exported to a disposal site located outside the coastal zone.

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

Therefore, in order to find the proposed project consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed sites. 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 to accommodate (infiltrate, filter or treat) the runoff from the more frequent storms, rather than for the largest infrequent storms, results in improved BMP performance at lower cost.

For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The American Society of Civil Engineers (ASCE) and the Water Environment Federation (WEF) have recommended a numerical BMP design standard for storm water that is derived from a mathematical equation to maximize treatment of runoff volume for water

quality based on rainfall/runoff statistics and which is economically sound.<sup>1</sup> The maximized treatment volume is cut-off at the point of diminishing returns for rainfall/runoff frequency. On the basis of this formula and rainfall/runoff statistics, the point of diminishing returns for treatment control is the 85th percentile storm event. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition No. 4**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

In addition, the proposed project is conditioned to also implement a pool drainage and maintenance plan to prevent uncontrolled drainage of the proposed swimming pool such that drainage of water does not result in discharge of chemically treated water to coastal streams and drainages. The pool drainage and maintenance plan, as detailed in **Special Condition No. 8** requires the applicant to submit a written pool maintenance plan that contains an agreement to install and use a no chlorine or low chlorine purification system and a program to maintain proper pH, calcium and alkalinity balance in a manner such that any runoff or drainage from the pool will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area. In addition, **Special Condition No. 8** prohibits discharge of pool water into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition No. 2** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan is consistent with Section 30231 of the Coastal Act.

#### **F. Local Coastal Program**

Section 30604 of the Coastal Act states:

***a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with***

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<sup>1</sup> *Urban Runoff Quality Management, WEF Manual of Practice No. 23, ASCE manual and Report on Engineering Practice No. 87.* WEF, Alexandria, VA; ASCE, Reston, VA. 259 pp (1998); Urbonas, Guo, and Tucker, "Optimization of Stormwater Quality Capture Volume," in *Urban Stormwater Quality Enhancement - Source Control, Retrofitting, and Combined Sewere Technology, Proceedings of an Engineering Foundation Conference*, Harry C. Torno, ed. October 1989. New York: ASCE, pp. 94-110.

*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 Development 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 projects and are accepted by the applicant. 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 development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

#### **G. 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 by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

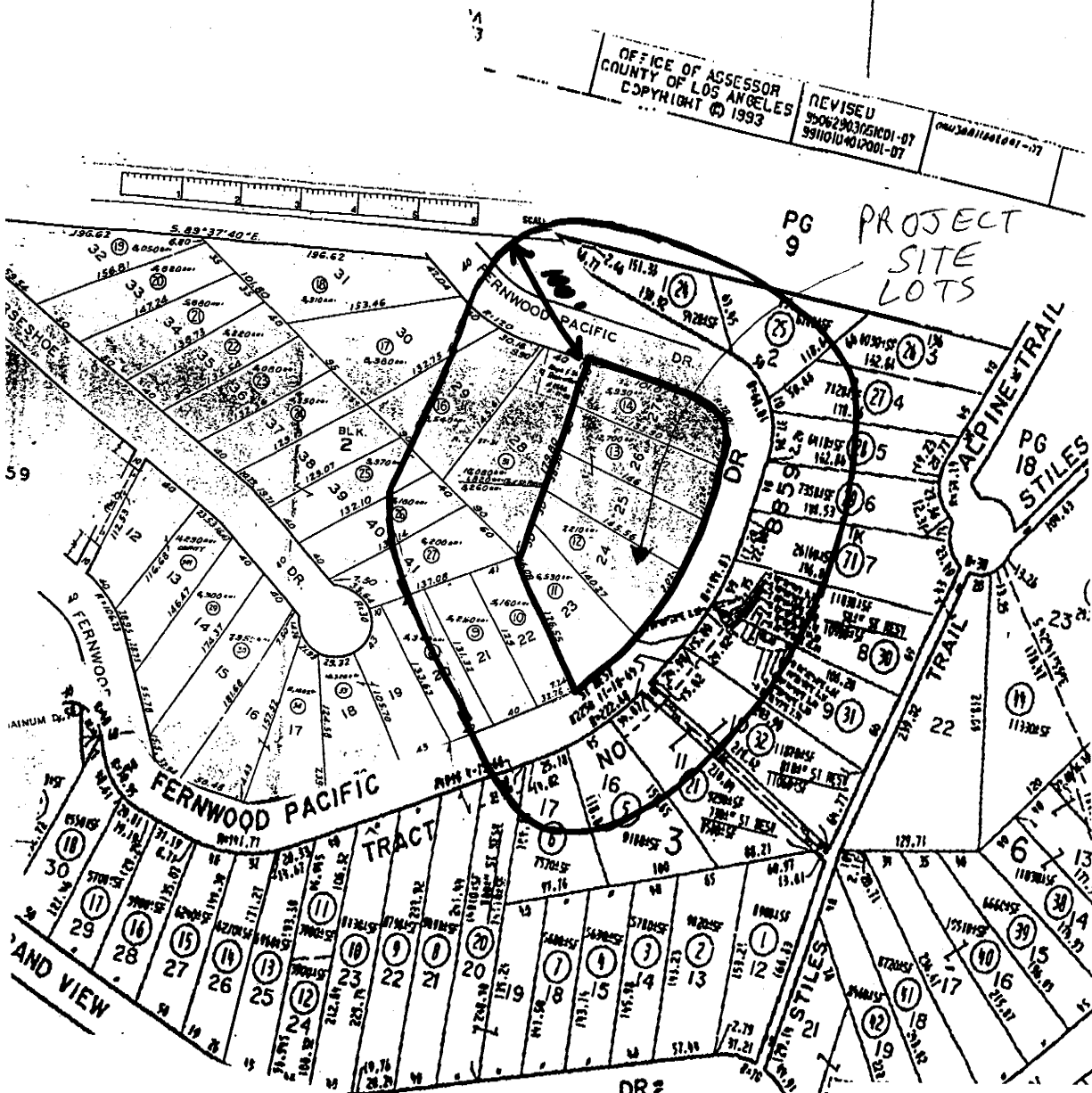
The Commission finds that the proposed project, as conditioned, will not have significant adverse effects on the environment within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent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



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COUNTY OF LOS ANGELES  
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PG 9  
PROJECT  
SITE  
LOTS

PG 18  
STILES

EXHIBIT NO. 2
APPLICATION NO. 4-05-167
PROJECT
SITE LOTS



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Architects  
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Culver City, CA 90232  
(818) 910-7122 • (818) 453-2745  
FAX (818) 910-7179

Sheet Title  
**PLOT  
PLAN  
STATISTICS**

Job Name  
GEPNER  
ACCESSORY BUILDING  
19'S FERNWOOD  
PACIFIC PK  
TOPANGA, CA

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Date-Plots  
GEPNER PLAN

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<p><b>PROJECT DATA</b></p>	<p>OWNER: GUY W. GEPNER &amp; ASSOCIATES ADDRESS: 1735 FERNWOOD PACIFIC DRIVE TOPANGA, CALIFORNIA 90708 LEGAL DESC: LOT 5, TRACT 1000 APN: 4447-08-001 BLDG TYPE: V. OCCUPANCY RES-I ZONE: R1</p>	<p><b>PROJECT NOTES</b></p> <p>SCALE OF WORK: 1"=10' (SEE GARAGE (A) &amp; BOTT.) 1"=10' (SEE FLOOR (A) &amp; BOTT.) NO SHADING PROVIDED NO DIMENSIONS SHOWN</p>	<p><b>VICINITY MAP</b></p>	<p><b>SHEET INDEX</b></p> <p>A-1 PLOT PLAN DATA A-2 SITE PLAN A-3 FLOOR PLANS A-4 ELEVATIONS A-5 SECTIONS</p>			
<table border="1"> <tr> <td>EXHIBIT NO. 3</td> </tr> <tr> <td>APPLICATION NO. 4-05-167</td> </tr> <tr> <td>Site Plan</td> </tr> </table>					EXHIBIT NO. 3	APPLICATION NO. 4-05-167	Site Plan
EXHIBIT NO. 3							
APPLICATION NO. 4-05-167							
Site Plan							





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Sheet Title  
**PLOT  
PLAN  
STATISTICS**

Job Name  
GEPNER  
ASSOCIATES  
1275 FERNWOOD  
PACIFIC DR.  
ESPANOLA, CA

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Date-Revis.  
DATE REVISIONS

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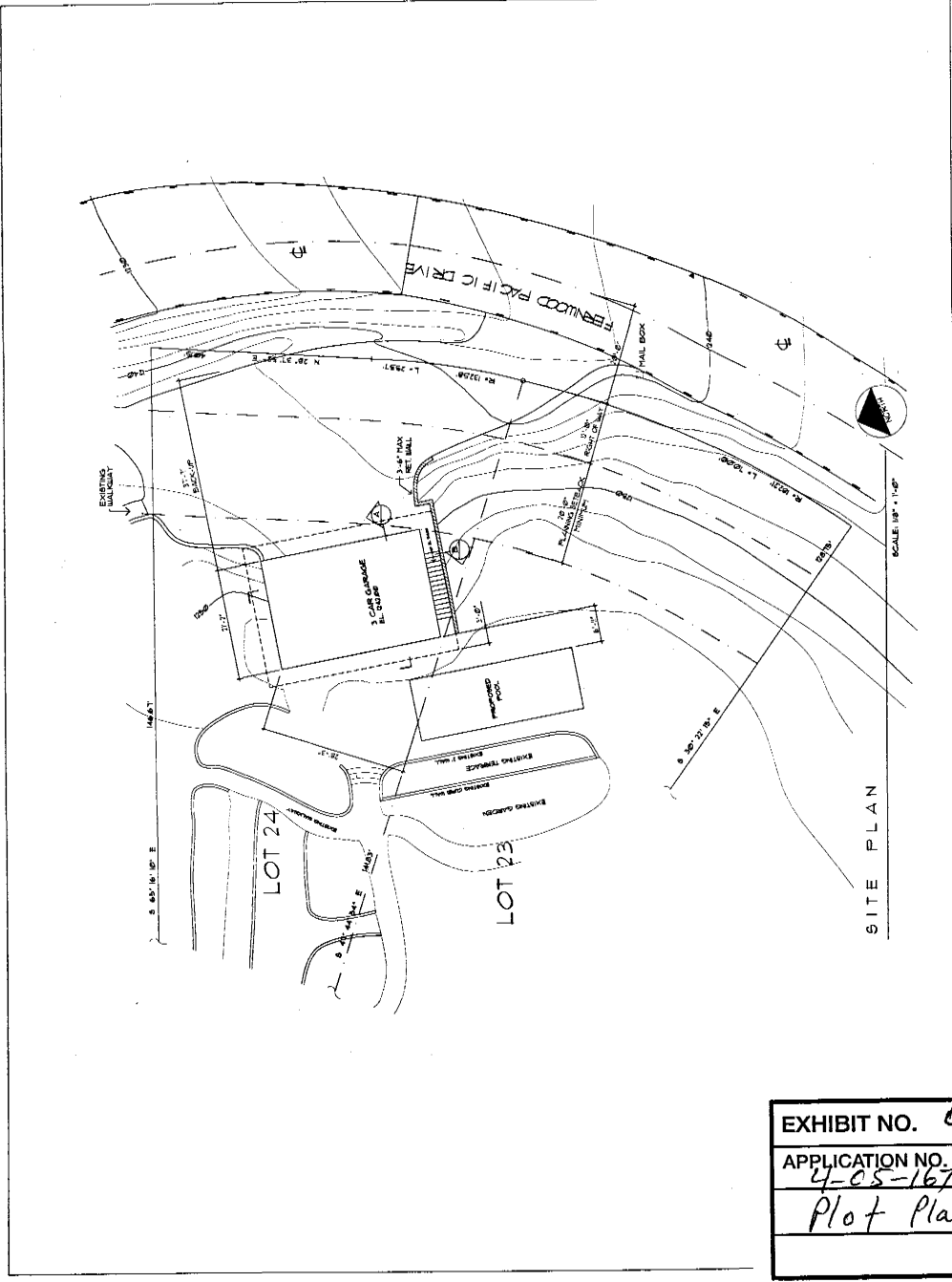


EXHIBIT NO. 4
APPLICATION NO. 4-05-167
Plot Plan





City of Gepp & Associates  
 Architects  
 2231 Mendocino Avenue, Suite 113  
 Geppner, CA 95526-7262  
 (415) 321-1717  
 FAX (415) 321-1717

Sheet Title  
**ELEVATIONS**

Job Name  
 GEPPER  
 4555 FERNWOOD  
 PACIFIC DR  
 TIBURONA, CA

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 05/16/05

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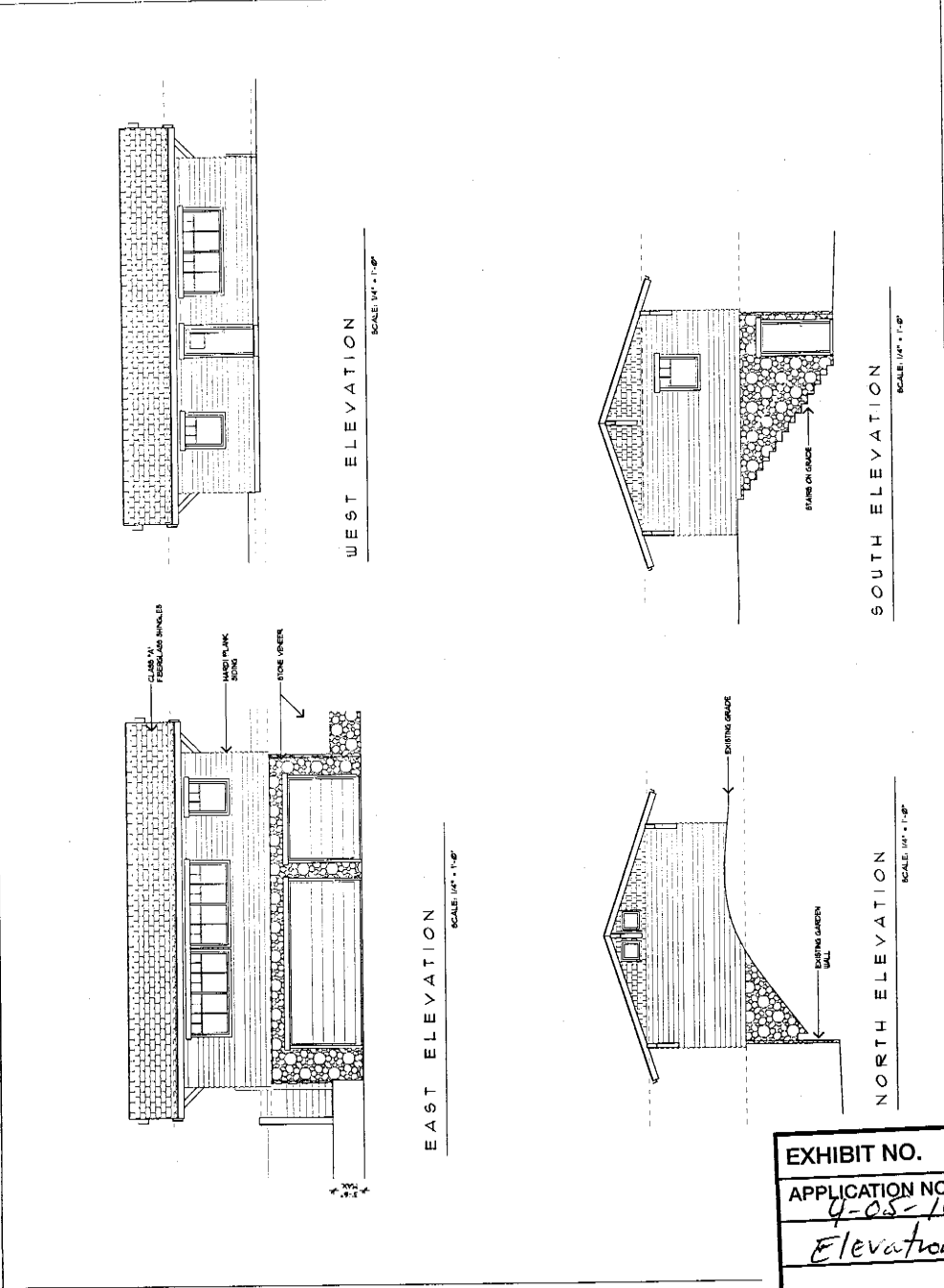


EXHIBIT NO.	6
APPLICATION NO.	4-05-167
Elevations	



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Sheet Title  
**SECTIONS**

Job Name  
GEPNER  
ACCESSORY  
BUILDING  
1515 FERNWOOD  
PACIFIC DR.  
FOLSOM, CA

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08/11/04 PPM/JAN

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**A-5**

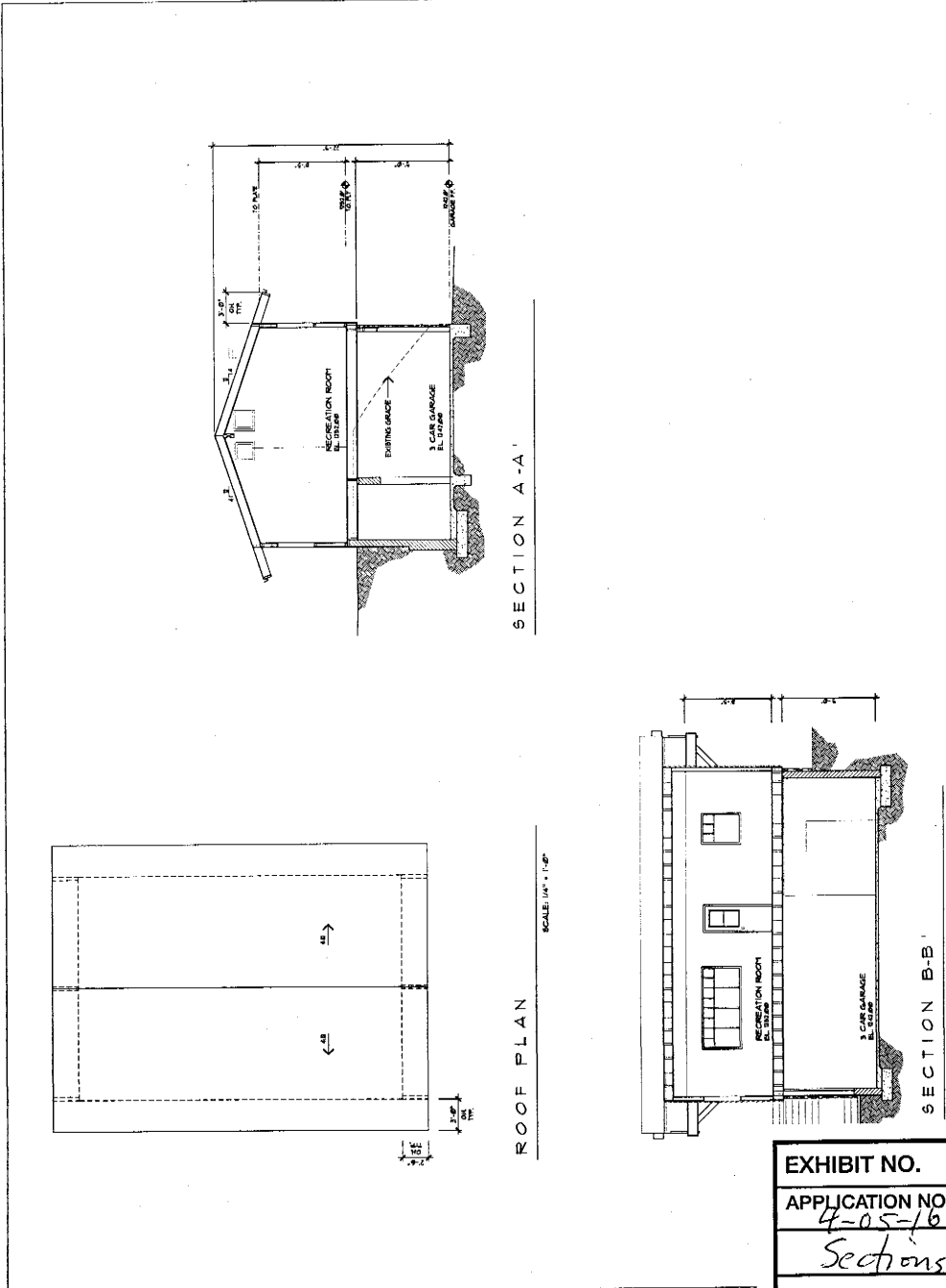


EXHIBIT NO. 7
APPLICATION NO. 4-05-167
Sections