CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-05-154

APPLICANT: Ralph Page

PROJECT LOCATION: 33383 Mulholland Highway, Malibu, Los Angeles County

(Assessor's Parcel Number 4472-008-041)

PROJECT DESCRIPTION: Construct a one-story, 27.5 ft. high, 3,400 sq. ft. single family residence, a 1,250 sq. ft., 23 ft. high detached accessory structure with a 500 sq. ft., 1st story garage and an attached two story 750 sq. ft. guest house with a 350 sq. ft. deck, driveway, septic system, retaining walls, temporary construction trailer, and 896 cu. yds. of new grading (448 cu. yds. of cut and 448 cu. yds. of fill). In addition, the project includes the request for after-the-fact approval of approximately 100 cu. yds. of as-built grading (50 cu. yds. of cut and 50 cu. yds. of fill).

Lot area: 1.95 acres
Building coverage: 4,400 sq. ft.
Pavement coverage: 6,405 sq. ft.
Building Pad Area: 9,202 sq. ft.
Landscape coverage: 1,500 sq. ft.
Max. Height: 27.5 ft.

LOCAL APPROVALS RECEIVED: County of Los Angeles Regional Planning Approval in Concept, 3/12/2007; County of Los Angeles Fire Department Preliminary Fuel Modification Plan Approval, 3/31/06; County of Los Angeles Fire Department Access Requirements Approval, dated 6/08/06; Los Angeles County Department of Health Services, Sewage Disposal System Design Approval, 7/13/06.

SUBSTANTIVE FILE DOCUMENTS: "Updated Engineering Geologic and Soils Engineering Report for 33383 Mulholland Highway, Malibu California" by Donald Kowalewsky, Environmental & Engineering Geology, dated April 7, 2006; "Report of Soil Engineering Investigation Proposed Single Family Residence" by .SWN Soiltech Consultants, Inc. dated June 20, 1989; "Biological Resource Evaluation; 33383 Mulholland Highway, Malibu, California" by Holly Hill, Biologist, dated August 30, 2005; Coastal Permit No. 4-07-144, Dominguez; Coastal Permit No. 4-07-025, Kinslow.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the proposed project with **Eleven (11) Conditions** addressing: (1) plans conforming to geotechnical engineer's recommendations; (2) landscaping and erosion control plans; (3) drainage and polluted runoff control plans; (4) removal of natural vegetation; (5) structural appearance; (6) lighting restriction; (7) future development restriction;

(8) deed restriction; (9) assumption of risk, waiver of liability; (10) removal of temporary trailer, and (11) condition compliance.

The applicant proposes to construct a one-story, 27.5 ft. high, 3,400 sq. ft. single family residence, a 1,250 sq. ft., 23 ft. high detached accessory structure with a 500 sq. ft., 1st story garage and a two story attached 750 sq. ft. guest house with a 350 sq. ft. deck, driveway, septic system, retaining walls, temporary construction trailer, and 896 cu. yds. of new grading (448 cu. yds. of cut and 448 cu. yds. of fill). In addition, the project includes the request for after-the-fact approval of approximately 100 cu. yds. of as-built grading (50 cu. yds. of cut and 50 cu. yds. of fill).

The project site is a vacant 1.95-acre lot (APN 4472-008-041) located at 33383 Mulholland Highway along a private driveway known as Davis Road. The building site is located about 300 feet west of the intersection of Mulholland Highway and Decker Canyon Road and about 500 feet north of Mulholland Highway, in the Santa Monica Mountains and unincorporated Los Angeles County. The subject lot is accessed by Davis Road at the southeast corner of the lot at the 1,600 foot elevation above sea level. An existing roadway leads from this southeast corner to the northeast portion of the lot where an existing building pad is located. Commission staff has reviewed historic aerial photographs, including an aerial photograph submitted by the applicant dated 4-7-1976, and confirmed that the driveway and building pad existed prior to the Coastal Act's 1977 effective date. However, in 2006, the applicant widened the driveway from about 14 ft. to 16 ft. in width and leveled the eroded building pad with about 50 cubic yards of cut and 50 cubic yards of fill, without the required coastal development permit. The applicant is requesting after-the-fact approval of this grading as part of this application. An additional 448 cubic yards of cut grading and 448 cubic yards of fill grading is now proposed in this application for a coastal permit.

The subject lot is located within the Arroyo Sequit watershed. The site drains to the south and west into a drainage area along Mulholland Highway and then to a blue line tributary leading to Arroyo Sequit Creek. The site is located about 2,000 feet east of this tributary. The proposed building pad is 9,202 sq. ft. in size, excluding the minimum size of a hammerhead turnaround area of 2,000 sq. ft. The building pad is barren with some non-native grasses. The remaining portion of the lot is also vegetated with non-native grasses and coastal sage scrub. The site has been cleared on an annual basis as a result of overlapping fuel modification required for residences on adjoining lots located to the northeast and south. Existing residential development is located to the northeast, west and northwest of the subject lot (Exhibits 2 & 12). Although there is some scattered coastal sage scrub on site, it is isolated and does not extend onto the adjacent lots due to the existing, surrounding residential development and is, therefore, not part of a larger, contiguous habitat area. As a result of the vegetation clearance that has previously occurred on site and the surrounding vicinity as a result of fuel modification for existing residential development on adjoining lots, the subject lot does not constitute an environmentally sensitive habitat area (ESHA) pursuant to Section 30107.5 of the Coastal Act.

The proposed residence would be readily visible from the nearby Mulholland Highway to the south, a public roadway. The site is also visible from the Backbone Trail, which is located approximately 2,500 feet to the northeast, which is located at an elevation about 300 feet above the proposed building site. The site will also be visible from Santa Monica Mountains Recreation Area lands, which are located approximately 300 feet to the south and on the opposite side of Mulholland Highway. The standard of review for the project is the Chapter 3 policies of the Coastal Act. In addition, the policies of the certified Malibu–Santa Monica Mountains Land Use Plan (LUP) serve as guidance. As conditioned, the proposed project will be consistent with the applicable policies of the Coastal Act and the LUP.

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EXHIBITS

Exhibit 1:	Vicinity Map
Exhibit 2:	Neighborhood Map
Exhibit 3:	Site Plan
Exhibit 4:	Residence Floor Plan
Exhibit 5:	Residence Elevations
Exhibit 6:	Garage/Guest House Floor Plans
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Exhibit 8:	Grading Plan
Exhibit 9:	Drainage and Erosion Control Plan
Exhibit 10:	Fuel Modification Plan
Exhibit 11:	Lot Perspectives
Exhibit 12:	Aerial Photograph 2007

I. STAFF RECOMMENDATION

MOTION: I move that the Commission approve Coastal

Development Permit No. 4-05-154 pursuant to the staff

recommendation.

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. STANDARD CONDITIONS

- 1. <u>Notice of Receipt and Acknowledgment</u>. These permits are not valid and development shall not commence until copies of the permits, signed by the permitee or authorized agent, acknowledging receipt of the permits and acceptance of the terms and conditions, are returned to the Commission office.
- **2.** <u>Expiration</u>. If development has not commenced, the permits will expire two years from the date on which the Commission voted on the de novo appeal of the permits. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application(s) for extension of the permit(s) must be made prior to the expiration date.
- **3.** <u>Interpretation</u>. Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
- **4.** <u>Assignment.</u> The permits may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permits.

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 permitee to bind all future owners and possessors of the subject properties 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 reports titled "Updated Engineering Geologic and Soils Engineering Report for 33383 Mulholland Highway, Malibu California" by Donald Kowalewsky, Environmental & Engineering Geology, dated April 7, 2006; "Report of Soil Engineering Investigation Proposed Single Family Residence" by .SWN Soiltech Consultants, Inc. dated June 20, 1989. These recommendations shall be incorporated into all final design and construction plans, including recommendations concerning existing fill soils, cut slopes, fill slopes, slope surface stability, site preparation, foundations, allowable bearing capacity, frictional resistance, settlement, setback, lateral design, downhill creep, earth pressure on retaining walls, backdrain and waterproofing, wall backfill, slab, excavation, and inspection.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to the recommendations listed above. 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 and Erosion Control Plans

Prior to issuance of a 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 plans shall incorporate the criteria set forth below. All development shall conform to the approved landscaping and erosion control plans:

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 Native Plants for Landscaping in the Santa Monica Mountains, updated August 2007. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or 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 or maintained within the property.

- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Within 90 days of the applicant's receipt of the single family residence or guest house certificate of occupancy, the applicant shall remove the temporary construction trailer and plant the trailer site with native plants. Planting shall be primarily of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. 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) Vegetation within 20 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 the approved final approved fuel modification plan. Irrigated lawn, turf and ground cover planted within the first 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.
- 5) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- 6) Fencing of the entire property is prohibited. Fencing shall extend no further than Zone B shown on the approved long-term fuel modification plan dated 3/31/2006 submitted for this project. A gate may be placed at the southeast entrance of the driveway at Davis Road. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in Special Condition Five (5) below.

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.

B) Interim Erosion Control Plan

 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 grading shall take place only during the dry season (April 1 October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicants shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall 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 control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout 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 of the coastal zone or within the coastal zone to a site 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

- (1) Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicants 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 whether 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.
- (2) 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 applicants, 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.

3. Drainage and Polluted Runoff Control Plan

A. Prior to issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff

control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the 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.
- **B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 20 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 20-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

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 No. 4-05-154. 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 roofs, trims, exterior surfaces, driveways, retaining walls, and 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 No. 4-05-154 if such changes are specifically authorized by the Executive Director as complying with this special condition.

6. <u>Lighting Restriction</u>

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

7. Future Development Restriction

This permit is only for the development described in Coastal Development Permit No. 4-05-154. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) and 13253(b) the exemptions otherwise provided in Public Resources Code Section

30610(a) and 30610(b) shall not apply to any future development on any portion of the parcel. Accordingly, any future improvements to any portion of the property, including but not limited to the residence, guest house/garage, including any new interior stairways or door openings connecting the first floor and second floor guest house with the first floor garage, septic system, landscaping, and removal of vegetation or grading other than as provided for in the approved fuel modification/landscape plan prepared pursuant to **Special Condition Two (2)**, shall require an amendment to Coastal Development Permit No. 4-05-154 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

8. <u>Deed Restriction</u>

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

9. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be 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 Commission's 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.

10. Removal of Temporary Construction Trailer

The applicant shall remove the temporary construction trailer from the site within sixty (60) days of the applicant's receipt of the Certificate of Occupancy for the single family

residence or guest house from the County of Los Angeles. The Executive Director may grant additional time for good cause.

11. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is 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.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant proposes to construct a one-story, 27.5 ft. high, 3,400 sq. ft. single family residence, a 1,250 sq. ft., 23 ft. high detached accessory structure with a 500 sq. ft., 1st story garage and a two story attached 750 sq. ft. guest house with a 350 sq. ft. deck, driveway, septic system, retaining walls, temporary construction trailer, and 896 cu. yds. of new grading (448 cu. yds. of cut and 448 cu. yds. of fill). In addition, the project includes the request for after-the-fact approval of approximately 100 cu. yds. of as-built grading (50 cu. yds. of cut and 50 cu. yds. of fill). (**Exhibits 1 - 12**).

The project site is a vacant 1.95-acre lot (APN 4472-008-041) located at 33383 Mulholland Highway along a private driveway known as Davis Road. The building site is located about 300 feet west of the intersection of Mulholland Highway and Decker Canyon Road and about 500 feet north of Mulholland Highway, in the Santa Monica Mountains and unincorporated Los Angeles County. The subject lot is accessed by Davis Road at the southeast corner of the lot at the 1,600 foot elevation above sea level. An existing roadway leads from this southeast corner to the northeast portion of the lot where an existing building pad is located. Commission staff has reviewed historic aerial photographs, including an aerial photograph submitted by the applicant dated 4-7-1976, and confirmed that the driveway and building pad existed prior to the Coastal Act's 1977 effective date. However, in 2006, the applicant widened the driveway from about 14 ft. to 16 ft. in width and leveled the eroded building pad with about 50 cubic yards of cut and 50 cubic yards of fill, without the required coastal development permit. The applicant is requesting after-the-fact approval of this grading as part of this application. An additional 448 cubic yards of cut grading and 448 cubic yards of fill grading is proposed in this application for a coastal permit.

The subject lot is located within the Arroyo Sequit watershed. The site drains to the south and west into a drainage area along Mulholland Highway and then to a blue line tributary leading to Arroyo Sequit Creek. The site is located about 2,000 feet east of this tributary. The proposed building pad is 9,202 sq. ft. in size.

The building pad and is barren with some non-native grasses. The remaining portion of the lot is also vegetated with non-native grasses and coastal sage scrub. The site has been cleared on an annual basis as a result of overlapping fuel modification required for residences located on adjoining lots to the northeast and south. Existing residential development is located to the northeast, west and northwest of the subject lot (Exhibits 2 & 12). Although there is some scattered coastal sage scrub on site, it is isolated and does not extend onto the adjacent lots due to the existing, surrounding residential development and is, therefore, not part of a larger, contiguous habitat area. As a result of the vegetation clearance that has previously occurred on site and the surrounding vicinity as a result of fuel modification for existing residential development on adjoining lots, the subject lot does not constitute an environmentally sensitive habitat area (ESHA) pursuant to Section 30107.5 of the Coastal Act.

B. HAZARDS AND GEOLOGIC STABILITY

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.

The proposed development is located in the Malibu/Santa Monica Mountains area, an area historically subject to significant natural hazards including, but not limited to, landslides, erosion, flooding and wild fire. The submitted geology report referenced in the Substantive File Documents conclude that the project site is suitable for the proposed project based on the evaluation of the site's geology in relation to the proposed development. The reports contain recommendations to be incorporated into the project plans to ensure the stability and geologic safety of the proposed project, the project site, and the adjacent properties. To ensure stability and structural integrity and to protect the site and the surrounding sites, the Commission requires the applicant to comply with the recommendations contained in the applicable reports, to incorporate those recommendations into all final design and construction plans, and to obtain the geotechnical consultant's approval of those plans prior to the commencement of construction.

Additionally, to minimize erosion and ensure stability of the project site, the project must include adequate drainage and erosion control measures. In order to achieve these goals, the Commission requires the applicant to submit drainage and interim erosion control plans certified by the consulting geologist and engineer.

Further, the Commission finds that, for the project to ensure stability and avoid contributing significantly to erosion, all slopes and disturbed areas of the subject site

must be landscaped, primarily with native plants, to stabilize disturbed soils and reduce erosion resulting from the development.

Although the conditions described above render the project sufficiently stable to satisfy the requirements of Section 30253, no project is wholly without risks. Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from natural hazards, including wildfire, those risks remain substantial here. If the applicant nevertheless chooses to proceed with the project, the Commission requires the applicant to assume the liability from these associated risks. Through the assumption of risk condition, the applicant acknowledges the nature of the fire and/or geologic hazard that exists on the site and that may affect the safety of the proposed development.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30253 of the Coastal Act and as a response to the risks associated with the project:

Special Condition 1: Plans Conforming to Geotechnical Engineer's

Recommendations

Special Condition 2: Landscaping and Erosion Control Plans
Special Condition 3: Drainage and Polluted Runoff Control Plan

Special Condition 4: Removal of Native Vegetation

Special Condition 9: Assumption of Risk, Waiver of Liability and Indemnity

Special Condition 10: Removal of Temporary Construction Trailer

C. Water Quality

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

The proposed development will result in an increase in impervious surfaces, which leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site and eventually be discharged to coastal waters, including streams, wetlands, and estuaries. The pollutants commonly found in runoff associated with residential use can reduce the biological productivity and the quality of such waters

and thereby reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to minimize the potential for such adverse impacts to water quality resulting from drainage runoff both during construction and in the post-development stage, the Commission requires the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site, including: 1) sizing post-construction structural BMPs to accommodate (infiltrate, filter, or otherwise treat) the runoff from all storms up to and including the 85th percentile storm runoff event; 2) implementing erosion control measures during construction and post construction; and 3) revegetating all graded and disturbed areas with primarily native landscaping.

Additionally, the applicant's geologic consultants have concluded that the site is suitable for the proposed septic system and that there would be no adverse impact to the site or surrounding areas from the use of a septic system. The County of Los Angeles Environmental Health Department has given in-concept approval of the proposed septic system, indicating that it meets the plumbing code requirements. The Commission has found that conformance with the provisions of the plumbing code is protective of water resources.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30231 of the Coastal Act:

Special Condition 2: Landscaping and Erosion Control Plans

Special Condition 3: Drainage and Polluted Runoff Control Plans

Special Condition 4: Removal of Natural Vegetation Special Condition 7: Future Development Restriction

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

D. 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.

In addition, the Malibu/Santa Monica Mountains LUP provides policy guidance regarding the protection of visual resources. The Coastal Commission, as guidance in

the review of development proposals in the Santa Monica Mountains, has applied these policies.

- P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.
- P125 New development shall be sited and designed to protect public views from LCP- designated highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on a sloped terrain should be set below road grade.
- P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.
- P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:
 - Be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LUP.
 - Minimize the alteration of natural landforms
 - Be landscaped to conceal raw cut slopes
 - Be visually compatible with and subordinate to the character of its setting.
 - Be sited so as to not significantly intrude into the skyline as seen from public viewing places.
- P131 Where feasible, prohibit placement of structures that will break the ridgeline views, as seen from public places
- P134 Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.
- P142 New development along scenic roadways shall be set below the road grade on the down hill side wherever feasible, to protect designated scenic canyon and ocean views.

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. In the review of this project, Commission staff analyzed the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. Staff examined the building site, the size of the proposed structure, and alternatives to the size, bulk and scale of the structures. The development of the residence and guest house/garage raises the issue of whether or not views from public roadways or public viewing areas will be adversely affected.

The subject site is adjacent to, and surrounded by, existing residential development located to the south, southwest, west, northeast and the northwest. The proposed one-story 27.5 foot high residence would be readily visible from Mulholland Highway to the south, a public roadway. The site is also visible from the Backbone Trail which is located as close as 2,500 feet to the northeast at an elevation about 300 feet above the proposed building site and from Santa Monica Mountains Recreation Area lands located as close as 300 feet on the south side of Mulholland Highway. The Backbone Trail runs northwest to southeast at an elevation of about 300 feet above the proposed building pad. The proposed two-story, 23 foot high guest house/garage would not be visible from Mulholland Highway and portions of the Santa Monica Mountains Recreation Area lands located to the south of the building pad. However, the guest house/garage will be visible from the northwest portions of the Santa Monica Mountains Recreation Area lands and from the Backbone Trail located above and north and east of the building pad.

Within areas of the Santa Monica Mountains that contain ESHA, the Commission has required, through past permit actions, that development be clustered and the development area, including all building pads, graded slopes, and parking areas, not exceed 10,000 square feet in order to minimize impacts on visual resources, sensitive habitat and the surrounding watershed. In this case, although the subject site does not contain ESHA, the proposed residence and guest house/garage is still clustered on the existing building pad within an area of 9,202 sq. ft. (excluding the hammerhead turnaround for fire department access) which is less than the maximum 10,000 sq. ft. area typically allowed by the Commission to minimize visual impacts resulting from landform alteration.

The applicant has responded to the Staff's request to consider an alternative driveway access to the building pad directly from Davis Road located along the eastern property boundary. The applicant's engineer conducted a site plan, grading and visual analysis to widen Davis Road to meet the Los Angeles County Fire Department access standards. To access the building pad from Davis Road, there are 4 turns in the road, two of which are sharp "hairpin" turns. These two sharp turns would be required to be expanded to provide for a 32 foot turn radius and the road widened to 20 feet wide to meet the Fire Department standards. A total of 4,387 cubic yards of material would need to be excavated and 14,859 sq. ft. of slopes would be created to improve Davis Road to provide direct access to the existing building site. By comparison, the applicants proposed expansion of the existing driveway requires 86 cubic yards of cut and fill and the creation of an additional 1,168 sq. ft. of slope. Clearly, the applicant's proposed use of the existing 290 foot long driveway is the environmentally preferred alterative. As a result, the Commission finds that the project, as proposed, will minimize alteration of natural landforms.

In the case of the proposed project, the Commission finds that the subject site is located within an area that is already developed with existing residential development and that the proposed development will be visually compatible in scale size, bulk and scale with the neighboring structures. However, because the proposed development will be visible from several public viewing areas, including Mulholland Highway, the Backbone Trail, and nearby park land, the project, as proposed, would still result in unavoidable

cumulative adverse impacts to public views. Therefore, the visual impact of the proposed structures can be minimized by requiring these structures to be finished in a color consistent with the surrounding natural landscape and, further, by requiring that windows on the proposed residence be made of non-reflective glass. To ensure visual impacts associated with the colors of the structures and the potential glare of the window glass are minimized, the Commission requires the applicants to use colors compatible with the surrounding environment and non-glare glass, as detailed in **Special Condition Five (5)**.

Visual impacts can be further reduced by the use of appropriate and adequate landscaping. Therefore, **Special Condition Two (2)** requires the applicants to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. Implementation of **Special Condition 2** will soften the visual impact of the development from public view areas. To ensure that the final approved landscaping plans are successfully implemented, **Special Condition 2** also requires the applicants 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.

Additionally, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains creates a visual impact to nearby scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, **Special Condition Six (6)** limits night lighting of the site in general; limits lighting to the developed area of the site; and specifies that lighting be shielded downward. The restriction on night lighting is necessary to protect the night time rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area. Additionally, the lighting restrictions will attenuate the impacts of unnatural light sources and reduce impacts to sensitive wildlife species that may move across the project site.

Finally, regarding future developments or improvements, certain types of development on the property, normally associated with a single-family residence, which might otherwise be exempt, have the potential to impact visual resources in this area. Thus, it is necessary to ensure that any future development or improvements normally associated with the entire property and structures, including but not limited to the residence, guest house/garage, such as any new stairways or door openings connecting the first floor and second floor of the guest house with the garage, which might otherwise be exempt, is reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the Coastal Act. Therefore, Special Condition Seven (7), the Future Development Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Further, Special Condition Eight (8) requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the subject property.

Therefore, the Commission finds that the project, as conditioned, minimizes adverse effects to visual resources by protecting public views to and along the coast, minimizing

the alteration of natural landforms, and by being visually compatible with the character of the surrounding area. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

E. VIOLATION

Development has occurred on the subject site without the required coastal development permits including, but not limited to, approximately 100 cu. yds. of grading (50 cu. yds. of cut and 50 cu. yds. of fill).

In order to ensure that the components of this application involving unpermitted development are resolved in a timely manner, **Special Condition Eleven (11)** requires that the applicant 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 taken place prior to the submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit application does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

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 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).

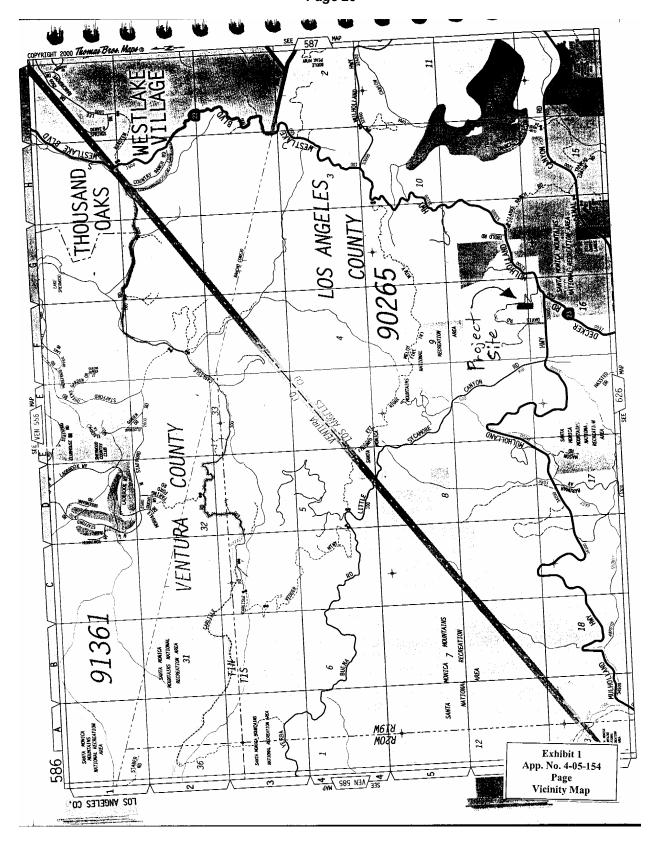
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding 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 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).

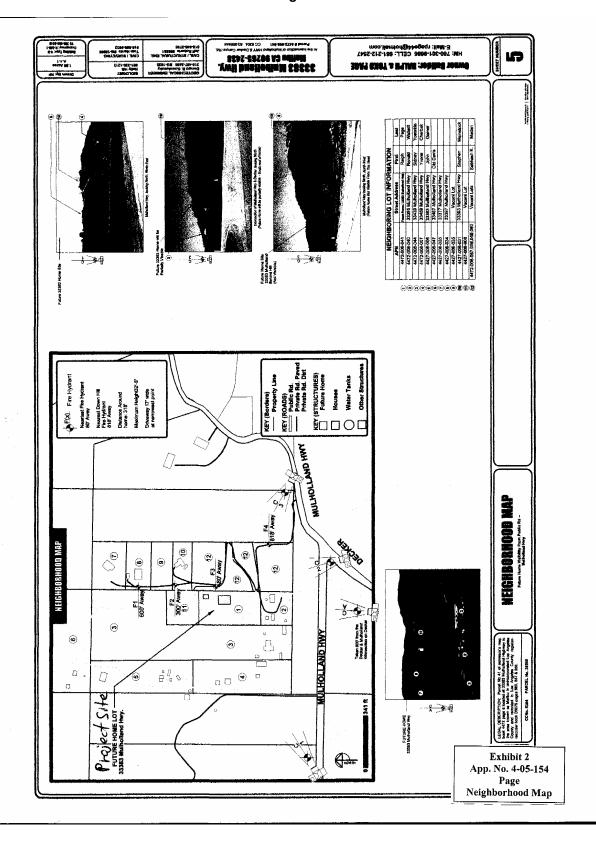
G. CEQA

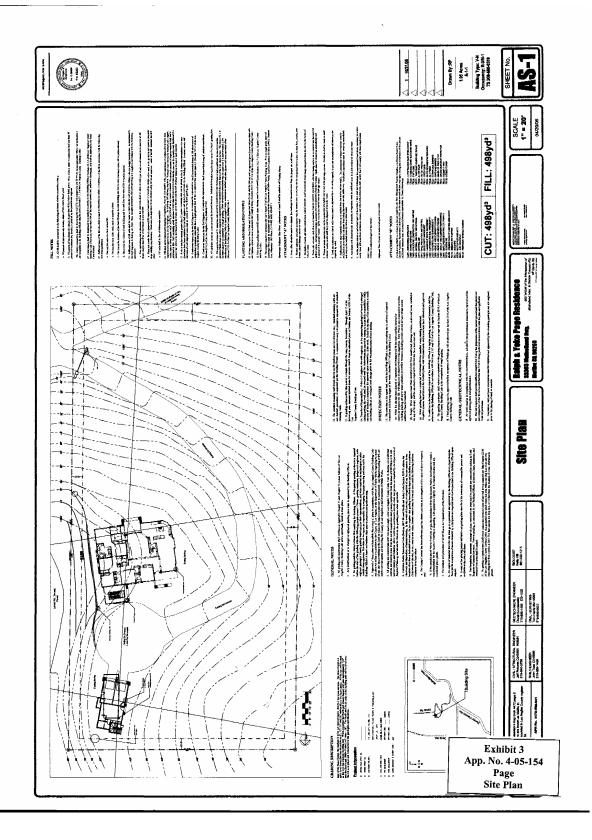
Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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.

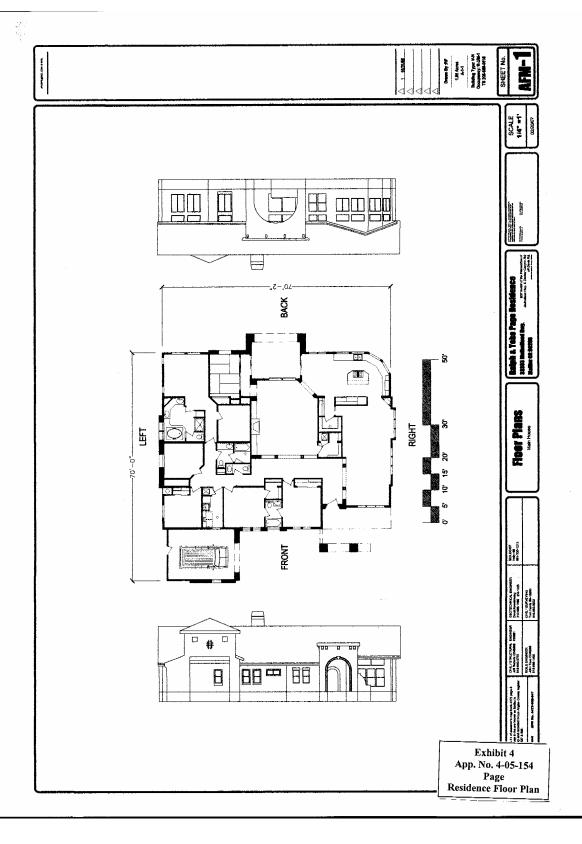
The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental effects have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

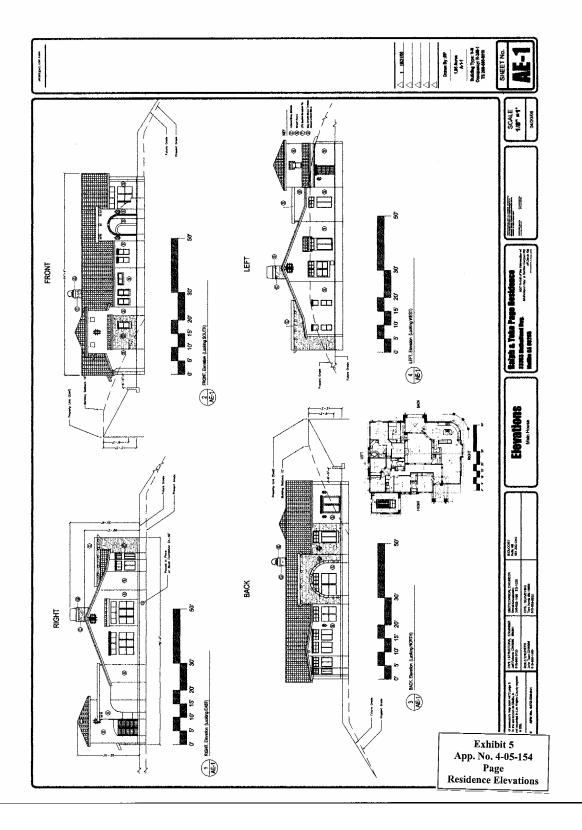
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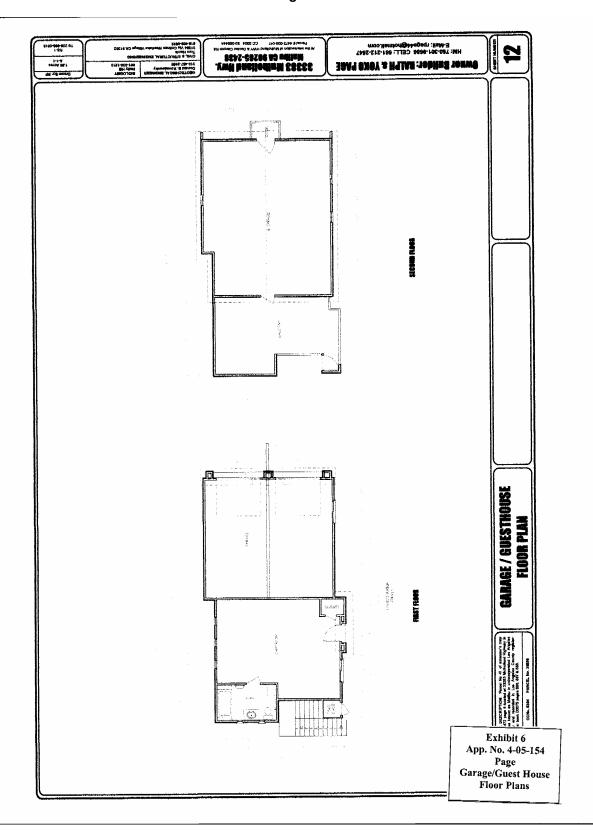


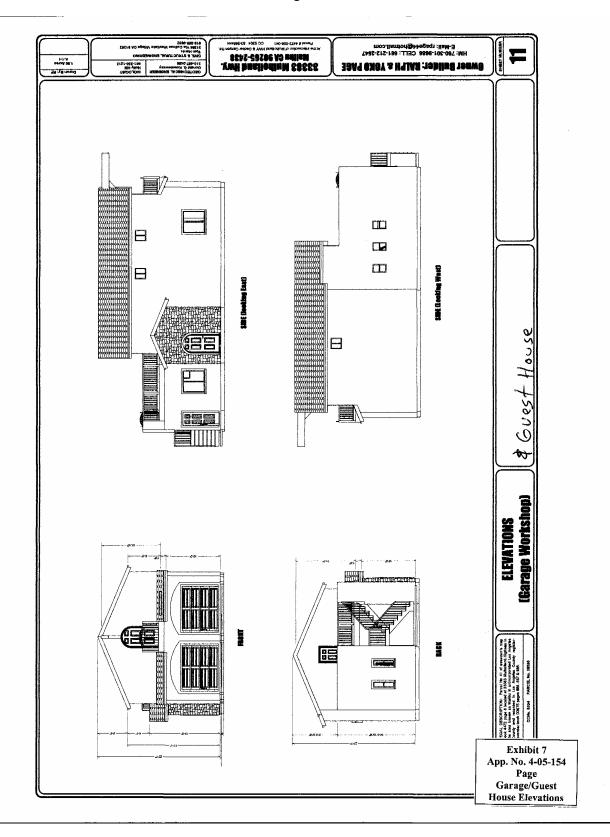


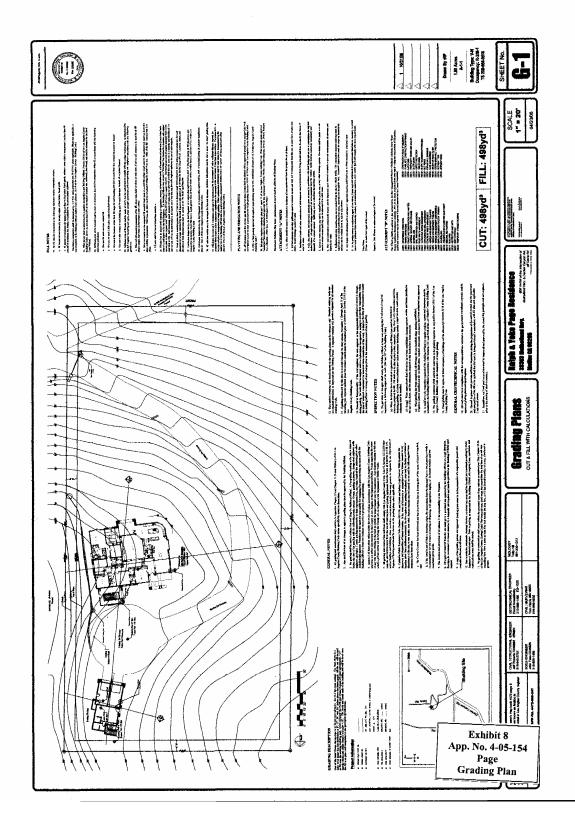


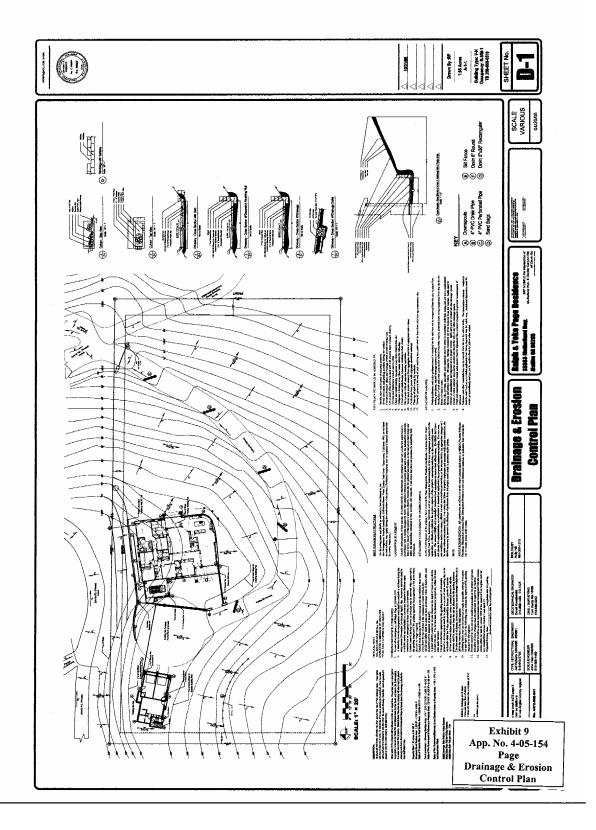


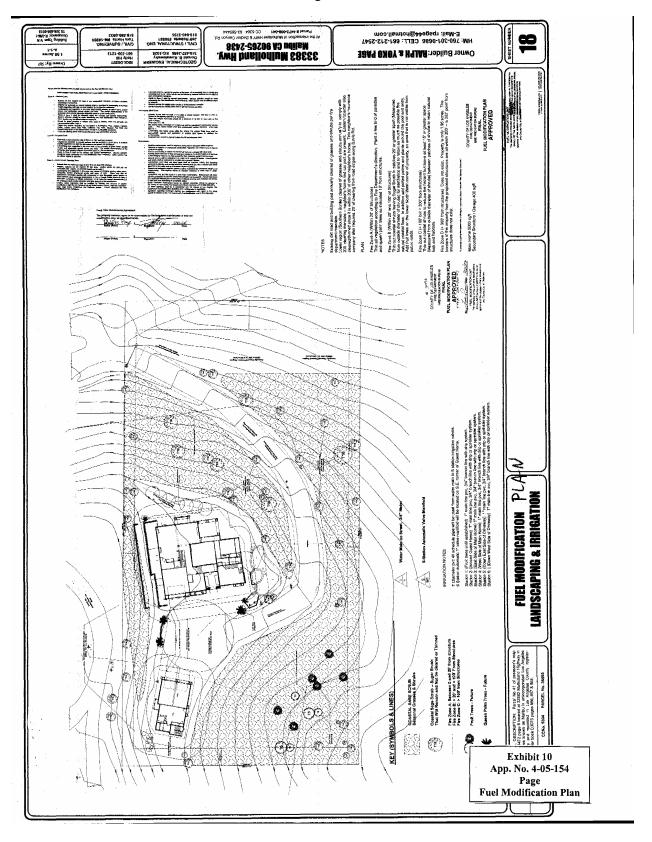












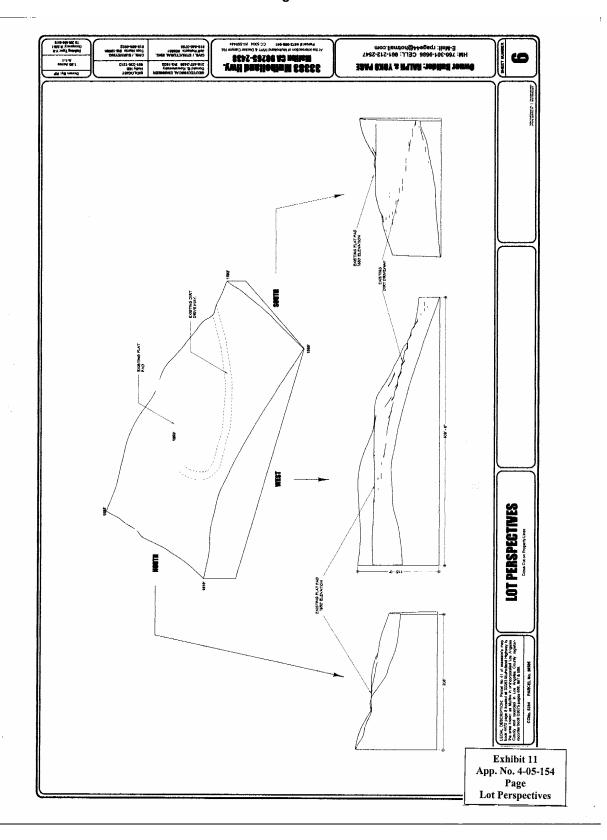




Exhibit 12 App. No. 4-05-154 Page Aerial Photo 2007