

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1800



## ADDENDUM

**DATE:** March 9, 2009  
**TO:** Commissioners and Interested Parties  
**FROM:** South Central Coast District Staff  
**SUBJECT:** Agenda Item 9c, Wednesday, March 11, 2009, CDP No. 4-08-061 (April's Trust)

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The purpose of this addendum is to:

1. Attach correspondence received from several property owners in the project vicinity (Exhibit 8). Two letters express support for the proposed project and staff recommendation, and several letters express opposition to the proposed project and staff recommendation. The letters in opposition convey concern with regard to potential buildout of the southernmost 13 vacant small lots (which the subject lot is a part) of the Upper Latigo small lot subdivision situated along the coastal zone boundary, without application of the slope-intensity formula/gross structural area requirements.
2. Add the following new section at the end of Page 31 of the staff report:

#### H. CUMULATIVE IMPACTS

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.***

## **Small Lot Subdivisions**

The proposed project involves residential development of the property located within the Upper Latigo small lot subdivision. Small lot subdivisions in the Santa Monica Mountains are designated areas generally comprised of residentially-zoned parcels of less than one acre, but more typically ranging in size from 4,000 to 5,000 square feet. The Commission has found that the total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources, particularly given the small size and steepness of most of the parcels. The future development of the existing undeveloped small lot subdivision parcels will result in tremendous increases in demands on road capacity, services, recreational facilities, beaches, water supply, and associated impacts to water quality, geologic stability and hazards, rural community character, and contribution to fire hazards.

In order to minimize the cumulative impacts associated with developing these parcels, Policy 271(b)(2) of the certified Malibu/Santa Monica Mountains LUP, which has been used as guidance by the Commission in past permit actions, 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 that may be permitted in small lot subdivision areas, to minimize the cumulative impacts of such development, consistent with the policies of the Coastal Act. Additionally, the Commission has, through coastal development permit actions, consistently applied the Slope Intensity Formula to new development in small lot subdivisions. 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**

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

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

## **Project Consistency**

The project site is a small lot, 5,390 sq. ft. in size, which is part of an antiquated subdivision called "Upper Latigo". The majority of the approximately 116-lot Upper Latigo small lot subdivision is located to the north of Latigo Canyon Road and completely outside of the coastal zone. According to County Assessor records, there are approximately 32 existing homes in this northern portion of the subdivision. The square footage of these residences range from 1,200 sq. ft. to 4,500 sq. ft., with the majority of the homes having over 2,500 sq. ft. It appears that most of these homes have been constructed across two or more of the original small lots. There are fourteen lots that are situated on the south side of Latigo Canyon Road: one of which is the subject site that is the only parcel within this subdivision that is wholly within the coastal zone, and the thirteen others are bisected by the coastal zone boundary. Of the thirteen lots, only one is developed (with a 3,200 sq. ft. residence) on the portion of the property that is outside of the coastal zone. Eleven of the remaining twelve lots on the south side of Latigo Canyon Road are currently vacant and bisected, essentially in half, by the coastal zone boundary. These lots are comprised of very steep sloping hillside terrain that descends in a southwest direction from Latigo Canyon Road. Given the topography of these lots in relation to Latigo Canyon Road and the proximity of the coastal zone boundary, the potential future development area for each of these lots would be located outside the coastal zone and immediately adjacent to Latigo Canyon Road. The last of the twelve vacant parcels south of Latigo Canyon Road is directly adjacent to the subject site. Although there is a portion of that parcel that is outside the coastal zone, it appears that any future development on the site would likely be located partially within and partially outside the coastal zone.

Los Angeles County does not have regulations in place that require that new development in most small lot subdivisions, including the Upper Latigo small lot subdivision, to comply with the Slope Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit (the only exceptions are the Malibu Lake and Topanga Canyon small lot subdivisions). As such, if the Commission were to apply the Slope Intensity Formula in the subject case, it is the only lot, or one of only two lots, within this subdivision that would be restricted in this way. Therefore, the intent of the requirement, which is to minimize the cumulative impacts posed by future buildout within the small lot subdivision, would not be met in this case as one residence on only one or two parcels out of approximately 116 lots would be restricted by the slope-intensity formula.

The Commission notes that although the slope intensity formula and the maximum gross structural area calculation has been applied in most of the many small lot subdivisions in the Santa Monica Mountains in order to minimize the cumulative impacts of development on coastal resources, there have been unique circumstances where the GSA restrictions have not been applied. Most notably, the GSA was not required within small lot subdivisions that are on the "coastal terrace" area of the Santa Monica Mountains (now within the incorporated City of Malibu), given the near build-out of these subdivisions. Given the unique circumstances in this subject case, the Commission finds that applying the GSA restrictions for such a small percentage of the total number of parcels within the Upper Latigo small lot subdivision is not appropriate.

For the reasons stated above, the Commission finds that it is not appropriate in this case to apply the size restrictions that the Commission usually applies in small lot subdivisions (slope-intensity formula and maximum gross structural area). The Commission therefore finds that the proposed project is consistent with Sections 30250(a) and 30252 of the Coastal Act, as well as the guidance policies of the Malibu/Santa Monica Mountains Land Use Plan.

**CALIFORNIA COASTAL COMMISSION**  
C/o Jack Ainsworth  
South Central Coast Area  
89 So. California St., Suite #200  
Ventura, CA 93001

**VIA FACSIMILE  
REGULAR MAIL  
CERTIFIED MAIL**

March 02,2009

RE: **APPLICATION # 4-08-061**  
799 Latigo Cyn. Rd., Malibu, CA 90265

**Dear Mr. Ainsworth,**

I, Mehruz Sahafi, the legal owner of 3 lots 4464-010-010,011,013 which are **immediately next door to the subject development do hereby declare my opposition to Application # 4-08 – 061** scheduled for Coastal Hearing on March 11, 2009.

In addition, I respectfully request this hearing to be postponed from Monterey California Hearing and be re-scheduled in Southern California area so that I could attend the hearing and have opportunity to declare my opposition in person. Given this current economic crisis not very many people can attend this hearing due to financial hardships.

Furthermore what confuses me is that the above project is not abided by the customary rules and regulation reserved for the small lot subdivisions. This is in complete contradiction to what I was told when I first purchased these properties. I was told that I need at least two legal lots to develop one small house.

According to my study the Rules and Regulations that California Coastal Commissions have established in the Coastal Act of 1976 regarding GSA calculations where completely ignored by staff in giving green light for this development.

All of the homes in our small rural community that includes this Tract of 13 lots, involve multiple lots. I am extremely disappointed about California Coastal Commission's decision to arbitrarily ignore the GSA Calculation rules and regulations. **The approval of this project will be setting legal precedent and open the flood gates of development for 12 other homes side by side next to this development.** These narrow slopped lots do not adequately support one home per site and this is extremely out of character for this small rural community.

Respectfully yours,

  
Mehruz Sahafi

EXHIBIT NO. 8
4-08-061
Correspondence

**CALIFORNIA COASTAL COMMISSION  
C/O COASTAL COMMISSIONERS  
SOUTH CENTRAL COAST AREA  
89 So. CALIFORNIA ST., SUITE #200  
VENTURA, CA 93001**

**RE: APPLICATION # 4-08-061  
799 LATIGO CYN. RD.,  
MALIBU, CA 90265**

**MARCH 02, 2009**

**DEAR COMMISSIONERS,**

**MY NAME IS MEHRDAD SAHAFI. I LIVE AT 723 LATIGO CANYON ROAD WHICH IS DOWN SLOPE FROM THIS DEVELOPMENT AND IMMEDIATELY NEXT TO IT. TOGETHER WITH MY WIFE AND TWO CHILDREN WE HAVE LIVED IN MALIBU FOR OVER 23 YEARS. WE DO HEREBY DECLARE OUR OPPOSITION TO THE COASTAL APPLICATION # 4-08-061 SCHEDULED FOR COASTAL HEARING ON MARCH 11, 2009.**

**I AM THE PRINCIPAL OF MALIBU DESIGN ASSOCIATES AND MALIBU GENERAL CONTRACTORS, INC. FOR OVER 21 YEARS. IN THE PAST 21 YEARS I HAVE DESIGNED AND BUILT NUMEROUS HOMES IN MALIBU FOR CLIENTS AND MYSELF. I HAVE NUMEROUSLY APPEARED IN FRONT OF YOU IN THE HEARINGS REPRESENTING CLIENTS WITH SMALL LOT SUBDIVISIONS AND I AM VERY FAMILIAR WITH THE GUIDELINES.**

**I AM PERPLEXED AS TO WHY THE ABOVE PROJECT IS NOT ABIDED BY THE CUSTOMARY GSA CALCULATION RULES AND REGULATION RESERVED FOR THE SMALL LOT SUBDIVISIONS. THIS IS IN COMPLETE CONTRADICTION TO WHAT I HAVE EXPERIENCED AND SEEN IN THE PAST 21 YEARS OF MY PROFESSIONAL LIFE WITH COASTAL COMMISSIONS.**

**AS AN EXPLANATION, I WAS TOLD BY COASTAL STAFF THAT THIS IS BECAUSE THIS LOT IS THE ONLY SMALL LOT IN THE COASTAL JURISDICTION. I RESPECTFULLY DISAGREE WITH THIS ANALOGY. THIS SINCE THE COASTAL BOUNDARY ACCORDING TO YOUR OWN LEGAL DEPARTMENT'S MAP (COPY IN YOUR OWN STAFF REPORT) DIVIDES ALL THE 12 LOTS NEXT DOOR IN THE SAME TRACT BY HALF. THE APPLICANT CAN EASILY PURCHASE NUMBER OF THESE LOTS NEXT**

DOOR AT A VERY REASONABLE PRICE (CURRENTLY LISTED AND AVAILABLE FOR SALE) AND ACCOMPLISH WHAT COASTAL COMMISSIONS GSA RULES AND REGULATIONS WERE MEANT TO FOR THESE INSTANCES.

ACCORDING TO MY OWN STUDY (SINCE I HAVE THE ORIGINAL TOPOGRAPHY MAP OF THE TRACT), IF THE RULES AND REGULATIONS OF COASTAL ACT OF 1976 REGARDING GSA CALCULATIONS WERE APPLIED TO THIS DEVELOPMENT, THE SMALL 5,390 SQ. FT. LOT (SUBJECT OF THIS HEARING) WOULD HAVE YIELDED ONLY APPROXIMATELY 570 SQ. FT. OF DEVELOPMENT VS. THE 1,960 SQ. FT. THE COMMISSION IS ALLOWING.

THE STAFF FOR THE REASONS BEYOND ME, HAVE COMPLETELY IGNORED THE GSA CALCULATION RULES IN GIVING GREEN LIGHT FOR THIS DEVELOPMENT. ALL OF THE HOMES IN THE SMALL SUBDIVISION COMMUNITY THAT INCLUDES THIS TRACT OF 13 LOTS, INVOLVE MULTIPLE LOTS. MY FAMILY AND I ARE EXTREMELY DISAPPOINTED ABOUT CALIFORNIA COASTAL COMMISSION'S DECISION TO ARBITRARILY IGNORE THE GSA CALCULATION RULES AND REGULATIONS.

FINALLY PLEASE REALIZE THE APPROVAL OF THIS PROJECT WILL SET A LEGAL PRECEDENT AND OPEN THE DOOR FOR DEVELOPMENT OF THE OTHER 12 LOTS FOR SIMILAR OR LARGER HOMES (THOSE LOTS ARE LARGER IN SIZE) SIDE BY SIDE AND NEXT TO THIS DEVELOPMENT EVEN THOUGH THEY ARE 50-75% IN COASTAL JURISDICTION. THESE NARROW SLOPPED LOTS DO NOT ADEQUATELY SUPPORT ONE HOME PER SITE AND THIS IS EXTREMELY OUT OF CHARACTER FOR THIS SMALL LOT SUBDIVISION COMMUNITY.

SINCERELY YOURS.

A handwritten signature in cursive script, appearing to read 'M. Sahafi & Flocerfina Sahafi', written in black ink.

MEHRDAD & FLOCERFINA SAHAFI



MALIBU COASTAL ZONE

SANTA MONICA MOUNTAINS NORTH AREA

SUBJECT  
CCC# 4-08-061

A-1.10

A-1.5

A-1.5

A-1.5

A-1.10

A-1.10

A-1.5

A-1.5

A-1.5

THREFT RD

HIRSHLITZ RD

MALIBU CANYON RD

# MALIBU HIGHLAND HOME OWNERS ASSOCIATION

CALIFORNIA COASTAL COMMISSIONS  
 C/O JACK AINSWORTH  
 SOUTH CENTRAL COAST AREA  
 89 SOUTH CALIFORNIA STREET, SUITE #200  
 VENTURA, CA. 93001

**RECEIVED** VIA FACSIMILE,  
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CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH CENTRAL COAST DISTRICT  
 ROAD, MALIBU CA. 90265

RE: APPLICATION # 4-08-061 (799 LATIGO CYN. ROAD, MALIBU CA. 90265)

MARCH 2ND, 2009

DEAR JACK AINSWORTH:

WE THE UNDERSIGNED ARE DECLARING **OUR OPPOSITION** TO THE APPLICATION **4-08-061** SCHEDULED FOR COASTAL HEARING CALENDARED FOR MARCH 11, 2009 IN MONTEREY CA. IN ADDITION WE ARE RESPECTFULLY REQUESTING THIS HEARING TO BE POSTPONED AND CALENDARED TO SOUTH COAST AREA SO THAT WE COULD ATTEND THE HEARING AND HAVE OUR SAY IN PERSON.

THE ABOVE PROJECT IS BEING CALENDARED (WITH STAFF RECOMMENDATION APPROVAL) IN **CONTRARY TO THE RULES AND REGULATIONS CALIFORNIA COASTAL COMMISSIONS HAVE ESTABLISHED IN THE COASTAL ACT OF 1976 REGARDING GSA CALCULATIONS.** ALL OF OUR HOMES IN OUR SMALL RURAL COMMUNITY THAT INCLUDES THIS TRACT INVOLVE MULTIPLE LOTS AND WE ARE EXTREMELY UPSET ABOUT CALIFORNIA COASTAL COMMISSIONS ARBITRARILY IGNORING THE GSA CALCULATION RULES AND REGULATION. THIS APPROVAL OF THIS PROJECT WILL BE OPENING THE FLOOD GATES OF DEVELOPMENT FOR 12 OTHER HOMES SIDE BY SIDE NEXT TO THIS DEVELOPMENT. THESE NARROW SLOPED LOTS DO NOT ADEQUATELY SUPPORT ONE HOME PER SITE.

NO.	NAME	ADDRESS	SIGNATURE
1	Max L. Leonard	784 Latigo Cyn. Rd, Malibu, 90265	Max Leonard
2	Susan Aards	411 Thrift Rd Malibu, CA 90265	Susan Aards
3	Inga Muriel	505 Thrift Rd, Malibu (A) 90265	Inga Muriel
4	Diana Brown	602 Thrift Rd.	Diana Brown
5	Manuela Parker	599 Thrift Rd. Malibu 90265	Manuela Parker
6	Steve Husch	615 Thrift Road Malibu 90265	Steve Husch
7	Howard Leese	593 THRIFT RD 90265	Howard Leese
8	David Stalkard	31425 BIRDHELLA RD 90265	David Stalkard
9	Dale Lauer	31422 Birdella Road 90265	Dale Lauer
10	Steve Berna	31307 Birdella Rd MALIBU CA.	Steve Berna
11	LARRY BARTUZIK	31337 BIRDELLA malibu, CA	Larry Bartuzik

CALIFORNIA COASTAL COMMISSIONS  
 C/O JACK AINSWORTH  
 SOUTH CENTRAL COAST AREA  
 89 SOUTH CALIFORNIA STREET, SUITE #200  
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VIA FACSIMILE,  
 REGULAR MAIL &  
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NO.	NAME	ADDRESS	SIGNATURE
1.	MARK WESTCOTT	31342 BIRDELLA ROAD, MALIBU 90265 (310)457-5624	
2.	CAROL WESTCOTT	31342 BIRDELLA ROAD, MALIBU. 90265	
3.	SOFIA ROMERO-MERISER	717 LATIGO CYN RD MALIBU 90265	
4.	GARY HELMS	1200 LATIGO CANYON RD MALIBU CA 90265	
5.	Jimmy Nyland	950 Latigo Cyn Rd., Malibu, CA 90265	
6.	Debbie Helms	1200 Latigo Cyn Rd Malibu ca 90265	
7.	Jennifer Gonzalez	645 Latigo Canyon Rd Malibu CA 90265	
8.	John Gonzalez	645 Latigo Cyn Rd Malibu CA 90265	
9.	Tom Krawczyk	515 Latigo Cyn Rd Malibu CA 90265	
10.	MEHROOD SAHAF	723 LATIGO, CYN. ROAD, MALIBU, CA. 90265	
11.	FLORENTINA SAHAF	723 LATIGO CYN. ROAD, MALIBU, CA 90265	

**CALIFORNIA COASTAL COMMISSIONS**  
 C/O JACK AINSWORTH  
 SOUTH CENTRAL COAST AREA  
 89 SOUTH CALIFORNIA STREET, SUITE #200  
 VENTURA, CA. 93001

VIA FACSIMILE,  
 REGULAR MAIL &  
 CERTIFIED MAIL

RE: APPLICATION # 4-08-061 (799 LATIGO CYN. ROAD, MALIBU CA. 90265)

MARCH 2ND, 2009

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NO.	NAME	ADDRESS	SIGNATURE
12	Mehrroz Sahafi	4464-010-013 NEXT DOOR LOT TO SUBJECT	<i>[Signature]</i>
13	MEHRDAD SAHAFI	4464-010-002 & 003 (same tract)	M. Sahafi
14	FLORENINA SAHAFI	4464-010-005 (same tract)	<i>[Signature]</i>
15	Ron Ormerod	650 Latigo cyn rd	<i>[Signature]</i>
16	DONALD SANDS	411 THRIFT Rd MALIBU, CA	<i>[Signature]</i>
17	Michael Kamen	31418 Birdella Road, Malibu, CA	<i>[Signature]</i>
18	Aida Cacamise	31415 Birdella Rd, Malibu, CA	<i>[Signature]</i>
19	Sean Finn	31341 Birdella Rd, Malibu CA	<i>[Signature]</i>
20	Jeanie Masin-Leonardo	784 Latigo Cyn Rd Malibu	<i>[Signature]</i>
21	MARIE JORDAN	31420 BIRDELLA ROAD MALIBU 90265	<i>[Signature]</i>
22			

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MAR 9 2009

**LAW OFFICE OF  
MARK J. LEONARDO  
784 Latigo Canyon Road  
Malibu, California 90265**

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Telephone: (310) 456-7373

mjl4law@earthlink.net

Facsimile: (310) 317-7261

March 4, 2009

California Coastal Commission  
South Central Coast District  
89 South California Street, Suite 200  
Ventura, CA 93001

Re: Permit No.: 4-08-061  
Applicant: April's Trust, Attn: Paula Oehlberg, Trustee  
Location: 799 Latigo Canyon Road, Malibu  
APN: 4464-010-14  
ITEM: W 9c

Dear Commission Members:

I own the home located several hundred feet down the street from the above-referenced parcel. I am sending this letter on behalf of my wife and I to object to the approval by the California Coastal Commission (CCC) for this project.

The primary basis for my objection is that the CCC staff report for this project has indicated that applying the size restrictions the CCC usually applies for small lot subdivisions should be overlooked in this instance. As a consequence, the CCC is not applying the slope-intensity formula and maximum gross structural area formula for this property. The reason given has no basis in the law.

The report refers to the fact that the subject parcel is one of 14 contiguous parcels and is the only one among those 14 parcels that is wholly within the coastal zone subject to the CCC rules. The report then concludes *without any analysis or legal basis* that I am aware of as follows: "As such, it is not appropriate in this case to apply the size restrictions that the Commission usually applies in small lot subdivisions..." Although the other 13 parcels are bisected by the edge of the coastal zone boundary, the report states in conclusory fashion that "it *appears* that each of these lots contain a potential development area that would be located outside the coastal zone." Again, there is no analysis or legal reasoning set forth to support this conclusion. Even if true, there is no rationale to circumvent the small subdivision formulas for the subject property above. This lot is on a severe slope and applying the formulas would restrict the size of the home that the applicant seeks to build. If approval is provided for this lot without applying such formulas, litigation is likely to ensue to enjoin this project.

I request that the hearing be continued to another date at a Southern California location where live testimony can be provided by those affected by this decision and

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MAR 9 2009

California Coastal Commission  
March 4, 2009  
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CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

with more information so that the CCC can be better informed before voting on this project.

Should you have any comments or questions regarding any of the foregoing, please do not hesitate to contact me.

Very truly yours,

LAW OFFICE OF MARK J. LEONARDO



Mark J. Leonardo

MJL/

February 28, 2009

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MAR 5 2009

Permit No.4-08-061

Applicant: Aprils Trust; Trustee: Paula Oehlberg

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission  
South Central Coast District  
89 South California Street, Suite 200  
Ventura, CA 93001

Dear Sir or Madam,

I would like to express our support for the above permit approval. Any consideration the California Coastal Commission, CCC, would give to this permit approval would be greatly appreciated.

An approval would contribute to the tax structure of the area. This is a lot that was originally outside the coastal zone on a map adopted by the CCC, dated December 11, 1986. The map stated that the coastal zone was the seaward side of the coastal boundry line, see enclosed map.

On October 15, 1997 we received a letter from Sue Brooker, Staff Analyst of the CCC stating that the APN 4464-010-002 through -015 were partially in the CCC zone, see attached letter.

Based on the fact that the 2 acre lot on Latigo Canyon, Tract 10343, lot 15, which is totally in the Coastal Zone, was approved and built on,, we give our full support for the above mentioned permit approval.

Yours sincerely,



Phil Hart and Betty Hart

8448 Hillhead Circle

Huntington Beach, CA 92646

FRED GAINES  
SHERMAN L. STACEY  
LISA A. WEINBERG  
REBECCA A. THOMPSON  
NANCI S. STACEY  
KIMBERLY RIBLE

LAW OFFICES OF  
**GAINES & STACEY**  
1111 BAYSIDE DRIVE, SUITE 150  
CORONA DEL MAR, CALIFORNIA 92625

TELEPHONE  
(949)219-2000  
FAX  
(949)219-9908

**W9c**

March 5, 2009

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MAR 9 2009

Commissioners  
California Coastal Commission  
45 Fremont Street, #2000  
San Francisco, CA 94105

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Re: Application for Permit No. 4-08-061  
April's Trust  
799 Latigo Canyon Road, Santa Monica Mountains

Dear Commissioners:

On Wednesday, March 11, 2009, I will appear before you on behalf of the Applicant, April's Trust, with regard to Application No. 4-08-061 for the construction of a 1,960 square foot single family dwelling at 799 Latigo Canyon Road in the Santa Monica Mountains area of Los Angeles County. The Staff has recommended that the Commission **GRANT** the Permit subject to Special Conditions. The Applicant agrees with the Special Conditions that are recommended and asks the Commissioners to cast a **YES** vote as recommended by Staff.

The Applicant's Property is located at the boundary of the Coastal Zone within the Upper Latigo Canyon Subdivision, a long standing subdivision which is 98% outside of the Coastal Zone. The Applicant's Property is the only lot in the subdivision that is entirely within the Coastal Zone.

I have been advised by Jack Ainsworth that neighboring owners, Mehrdad and Mehruz Sahafi, object to the Applicant's single family dwelling. The objection is based on the neighbor's belief that a square footage limitation should be applied to the Applicant because the Applicant's Property is within a "small lot subdivision". The application of area limitations would permit only a 500 square foot structure on the Applicant's Property. Sahafi constructed a 3,941 square foot residence on the adjoining property under CDP 4-03-040.

The Staff Recommendation explains clearly why the area limitation applied in some small lot subdivisions should not be applied to the Applicant's Property. In short, the Applicant's Property is the only lot within the Coastal Zone in the Upper Latigo Canyon Subdivision. Every other property in the Upper Latigo Canyon Subdivision (with one possible exception) can be developed without a Coastal Permit. As the Staff Report details, there are no significant impacts from the Applicant's proposed residence. There are also no cumulative impacts on the Coastal Zone because no more than one other residence in the Upper Latigo Canyon Subdivision will be within the Coastal Zone. Public Resources Code §30604(d) prohibits the Commission from denying a permit because of impacts outside of the Coastal Zone. Any possible cumulative impacts from development in the Upper Latigo Canyon Subdivision (the only basis on which area limitations have been and can be imposed) lie outside the Coastal Zone.

There are additional reasons not set forth in the recommended findings as to why the limitation cannot be applied to the Applicant's Property. When the Commission adopted written guidelines concerning small lot subdivisions and transfers of development credit, not every small lot subdivision was subject to the area limitations. The Commission's 1981 Regional Guidelines specified which small lot subdivisions would be subject to area limitations. Twelve subdivisions were identified as being the "only" subdivisions which posed major concerns for cumulative impacts. Upper Latigo Canyon is not one of the twelve identified subdivisions.

Further, when the Commission certified the Santa Monica Mountains Land Use Plan in 1986, the area limitations policy (Policy P271) was limited to defined "rural villages". These "rural villages" included many small lot subdivisions but did not include Upper Latigo Canyon. In fact, the Certified LUP shows the entire Upper Latigo Canyon Subdivision, including the Applicant's Property, to be outside of the Coastal Zone. This has been on the Coastal Commission certified County LUP maps for more than 20 years. Even today, on the County website, the relevant map shows the Applicant's Property outside the Coastal Zone. Copies of the relevant maps will be presented at the hearing. Rather than debate the difficult and often confusing maps of the Coastal Zone boundary, and without waiving any claim that the Applicant's Property was and is outside the Coastal Zone, the Applicant chose to make the Permit Application and will agree to the Special Conditions.

Sahafi claims that approval of the Applicant's Permit will "open the floodgates" for 12 other homes along the same side of Latigo Canyon Road as the Applicant. However, the Sahafis need not fear this result as their family already owns 9 of the remaining 13 lots. The driveway to Mehrdad Sahafi's home crosses six of those lots. The Sahafis themselves have the complete power to control and avoid the result that

Commissioners  
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Page 3

they claim will arise. Finally, even if the Sahafis did not own the property, as stated above and in the Staff Report, the homesite on each and every one of these other lots is located outside of the Coastal Zone and a home can be built without a Coastal Permit. A letter from Registered Professional Engineer Victor Beck and the map attached to the Staff Report as Exhibit 2 support this finding (copies attached).

The Sahafi's are simply wrong when they assert that the area limitations contained in the Coastal Commission's Regional Guidelines or in the County LUP apply to Upper Latigo Canyon Subdivision. There is no basis on individual or cumulative impacts on the resources of the Coastal Zone to deny the residence proposed by the Applicant.

Additional arguments have been made and documented to the Staff and are a part of the administrative record on this matter. Although I have not spelled out each of those arguments and facts in this letter, the Applicant relies upon each and every written argument and evidence that has been produced.

Please vote as recommended by Staff and vote **YES** on the motion to **GRANT** Permit No. 4-08-61 with Special Conditions.

Sincerely,

  
SHERMAN L. STACEY

cc: All Commissioners and Alternates  
Commission Office - Ventura  
Paula Oehlberg

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
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**W 9c**

Filed: 9/16/08  
49<sup>th</sup> Day: 11/4/08  
180<sup>th</sup> Day: 3/15/09  
Staff: D. Christensen  
Staff Report: 2/18/09  
Hearing Date: 3/11/09



**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION:** 4-08-061

**APPLICANT:** April's Trust (Paula Oehlberg, Trustee)

**PROJECT LOCATION:** 799 Latigo Canyon Road, Santa Monica Mountains, Los Angeles County (APN 4464-010-014)

**PROJECT DESCRIPTION:** Construction of a 28-ft. high, 1,960 sq. ft. single-family residence, 420 sq. ft. attached garage, deck, driveway, septic system, and Fire-Department access stairs.

**Lot Area:** 5,390 sq. ft.  
**Building Coverage:** 1,542 sq. ft.  
**Paved Area:** 1,108 sq. ft.  
**Landscaped Area:** 2,740 sq. ft.  
**Ht. Abv. Ex. Grade:** 28 ft.

**MOTION & RESOLUTION:** Page 3

**STAFF NOTE: DUE TO PERMIT STREAMLINING ACT REQUIREMENTS, THE COMMISSION MUST ACT ON THIS PERMIT APPLICATION AT THE MARCH 2009 COMMISSION HEARING.**

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed project with twelve (12) special conditions relating to plans conforming to (1) geotechnical engineer's recommendations, (2) assumption of risk, (3) drainage and polluted runoff control, (4) interim erosion control and construction responsibilities, (5) landscaping and fuel modification plans, (6) structural appearance, (7) lighting restriction, (8) future development restriction, (9) deed restriction, (10) habitat impact mitigation, (11) site inspection, and (12) removal of natural vegetation.

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.

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**LOCAL APPROVALS RECEIVED:** County of Los Angeles Department of Regional Planning Approval-in-Concept, June 17, 2008; County of Los Angeles Environmental Health Services, Sewage Disposal System Design Approval, August 12, 2008; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, July 28, 2008; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, July 9, 2008.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan; The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D; “Preliminary Engineering Geologic Report,” Mountain Geology Inc., July 20, 1992; “Update Engineering Geologic Report,” Mountain Geology Inc., October 11, 1998; “Update Soils Engineering Investigation Report,” Mountain Geology Inc., December 7, 1998; “Geology and Soils Engineering Investigation,” Professional Geotechnical Consultants Inc., February 12, 2008; “Addendum to Geology and Soils Engineering Investigation,” Professional Geotechnical Consultants Inc., May 29, 2008; “Percolation Test Report,” EPD

Consultants Inc., March 31, 2008; "Biological Resources Assessment," by Steven Nelson, Consulting Biologist, dated July 18, 2008.

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## I. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No 4-08-061 pursuant to the staff recommendation.*

### **STAFF RECOMMENDATION OF APPROVAL:**

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

### **RESOLUTION TO APPROVE THE PERMIT:**

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

## II. STANDARD CONDITIONS

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

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

3. **Interpretation.** Any questions of intent or interpretation of any 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 all of the geology, geotechnical, and/or soils reports referenced as Substantive File Documents. These recommendations, including recommendations concerning foundations, sewage disposal, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

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

#### **2. 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 and erosion; (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.

#### **3. Permanent Drainage and Polluted Runoff Control Plan**

A. ***Prior to issuance of the Coastal Development Permit***, the permittee shall submit to the Executive Director, two (2) copies of a final Permanent Drainage and Runoff Control Plan for the post-construction project site, prepared by a licensed civil engineer or qualified water quality professional. The Plan shall include detailed drainage and runoff control plans with supporting calculations. The plans shall incorporate Best Management Practices (BMPs) including site design, source control and treatment

control measures designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. The consulting civil engineer or water quality professional shall certify in writing that the final Permanent Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

- (1) The plan shall demonstrate the use of distributed small-scale controls or integrated Best Management Practices (BMPs) that serve to minimize alterations to the natural pre-development hydrologic characteristics and conditions of the site, and effectively address pollutants of concern.
- (2) Post-development peak runoff rate and average volume from the site shall be maintained at levels similar to pre-development conditions.
- (3) Selected BMPs shall consist, or primarily consist, of site design elements and/or landscape based systems or features that serve to maximize site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns.
- (4) Landscaping materials shall consist primarily of native or other low-maintenance plant selections which have low water and chemical treatment demands, consistent with **Special Condition 5, Landscaping and Fuel Modification Plans**. An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design shall be utilized for any landscaping requiring water application.
- (5) All slopes shall be stabilized in accordance with provisions contained in the Landscaping and/or Interim Erosion and Sediment Control Condition for this Coastal Development Permit.
- (6) Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of outflow drains where necessary. The consulting engineer shall provide plan details and cross sections for any rock rip-rap and/or other energy dissipating devices or structures associated with the drainage system. The drainage plans shall specify, the location, dimensions, cubic yards of rock, etc. for the any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The engineer shall certify that the design of the device minimizes the amount of rock and/or other hardscape necessary to meet the sizing requirements.
- (7) Post-construction structural 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 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.
- (8) All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the

project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15<sup>th</sup> each year) and at regular intervals as necessary between October 15<sup>th</sup> and April 15<sup>th</sup> of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.

- (9) For projects located on a hillside, slope, or which may otherwise be prone to instability, final drainage plans shall be approved by the project consulting geotechnical engineer.
- (10) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

B. The final Permanent Drainage and Runoff Control Plan shall be in conformance with the site/ development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans required by the consulting civil engineer/water quality professional or engineering geologist shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

#### **4. Interim Erosion Control Plans and Construction Responsibilities**

A. ***Prior to the issuance of the Coastal Development Permit***, the applicant shall submit to the Executive Director an Interim Erosion Control and Construction Best Management Practices plan, prepared by licensed civil engineer or qualified water quality professional. The consulting civil engineer/water quality professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan is in conformance with the following requirements:

##### 1. Erosion Control Plan

- (a) 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 plan and on-site with fencing or survey flags.
- (b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
- (c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.

- (d) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps); temporary drains and swales; sand bag barriers; silt fencing; stabilize any stockpiled fill with geofabric covers or other appropriate cover; install geotextiles or mats on all cut or fill slopes; and close and stabilize open trenches as soon as possible.
- (e) The 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.
- (f) 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.

## 2. Construction Best Management Practices

- (a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- (b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
- (c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- (d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- (e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- (f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- (g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take

place unless the Executive Director determines that no amendment or new permit is legally required.

- (h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- (i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- (j) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- (k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- (l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- (m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. The final Interim Erosion Control and Construction Best Management Practices plan, shall be in conformance with the site/ development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans required by the consulting civil engineer/water quality professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

## **5. Landscaping and Fuel Modification Plans**

***Prior to issuance of the Coastal Development Permit***, the applicant shall submit two sets of landscaping and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist. The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscape and Fuel Modification plans are in conformance with the following requirements:

### **A) Landscaping Plan**

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping

shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. 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 (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), 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. 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) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

## **B) Fuel Modification Plans**

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 an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the 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.

## **C) Conformance with Commission Approved Site/Development Plans**

The Permittee shall undertake development in accordance with the final Landscape and Fuel Modification Plans. The final Landscape and Fuel Modification Plans shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal

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

#### **D) Monitoring**

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

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the requirements specified in this condition, the applicant, or successors in interest, shall submit, within 30 days of the date of the monitoring report, a revised or supplemental landscape plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental landscaping measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This remedial landscaping plan shall be implemented within 30 days of the date of the final supplemental landscaping plan and remedial measures shall be repeated as necessary to meet the requirements of this condition.

#### **6. Structural Appearance**

***Prior to 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 this Coastal Development Permit. 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 this Coastal Development Permit if such changes are specifically authorized by the Executive Director as complying with this special condition.

#### **7. Lighting Restriction**

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

- (1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to

fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.

- (2) Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
- (3) The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

## **8. Future Development Restriction**

This permit is only for the development described in this Coastal Development Permit. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by this Coastal Development Permit. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to, any grading, clearing or other disturbance of vegetation other than as provided for in the approved landscape plan prepared pursuant to **Special Condition 5, Landscaping and Fuel Modification Plans**, shall require an amendment to this Coastal Development Permit from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

## **9. Deed Restriction**

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

## 10. Habitat Impact Mitigation

***Prior to issuance of the Coastal Development Permit***, the applicant shall submit, for the review and approval of the Executive Director, a map delineating all areas of chaparral and coastal sage scrub habitat (ESHA) that will be disturbed by the proposed development, including fuel modification and brush clearance requirements on the project site and adjacent property. The chaparral and coastal sage scrub ESHA areas on the site and adjacent property shall be delineated on a detailed map, to scale, illustrating the subject parcel boundaries and, if the fuel modification/brush clearance zones extend onto adjacent property, adjacent parcel boundaries. The delineation map shall indicate the total acreage for all chaparral and coastal sage scrub ESHA, both on and offsite, that will be impacted by the proposed development, including the fuel modification/brush clearance areas. A 200-foot clearance zone from the proposed structures shall be used to determine the extent of off-site brush clearance for fire protection purposes. The delineation shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains.

Mitigation shall be provided for impacts to the chaparral ESHA from the proposed development and fuel modification/brush clearance requirements by one of the three following habitat mitigation methods:

### A. Habitat Restoration

#### 1) Habitat Restoration Plan

***Prior to issuance of the Coastal Development Permit***, the applicant shall submit a habitat restoration plan, for the review and approval of the Executive Director, for an area of degraded chaparral habitat equivalent to the area of chaparral ESHA impacted by the proposed development and fuel modification/brush clearance area. The habitat restoration area may either be onsite or offsite within the coastal zone either in the City of Malibu or elsewhere in the Santa Monica Mountains. The habitat restoration area shall be delineated on a detailed site plan, to scale, that illustrates the parcel boundaries and topographic contours of the site. The habitat restoration plan shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains and shall be designed to restore the area in question for habitat function, species diversity and vegetation cover. The restoration plan shall include a statement of goals and performance standards, revegetation and restoration methodology, and maintenance and monitoring provisions. If the restoration site is offsite, the applicant shall submit written evidence to the Executive Director that the property owner has irrevocably agreed to allow the restoration work, maintenance and monitoring required by this condition and not to disturb any native vegetation in the restoration area.

The applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating compliance with the performance standards outlined in the restoration plan and describing the revegetation, maintenance and monitoring that was conducted during the prior year. The annual report shall include

recommendations for mid-course corrective measures. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If this report indicates that the restoration project has been, in part or in whole, unsuccessful, based on the approved goals and performance standards, the applicant shall submit a revised or supplemental restoration plan with maintenance and monitoring provisions, for the review and approval of the Executive Director, to compensate for those portions of the original restoration plan that were not successful. Should supplemental restoration be required, the applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating the supplemental restoration areas. At the end of the five-year period, a final report shall be submitted evaluating whether the supplemental restoration plan has achieved compliance with the goals and performance standards for the restoration area. If the goals and performance standards are not met within 10 years, the applicant shall submit an application for an amendment to the coastal development permit for an alternative mitigation program and shall implement whatever alternative mitigation program the Commission approves, as approved.

The habitat restoration work approved in the restoration plan shall be carried out prior to occupancy of the residence.

## 2) Open Space Deed Restriction

No development, as defined in section 30106 of the Coastal Act, shall occur in the habitat restoration area, as shown on the habitat restoration site plan required pursuant to (A)(1) above.

Prior to the issuance of the coastal development permit, the applicant shall submit evidence that the applicant has executed and recorded a deed restriction (if the applicant is not the owner, then the applicant shall submit evidence that the owner has executed and recorded the deed restriction), in a form and content acceptable to the Executive Director, reflecting the above restriction on development and designating the habitat restoration area as open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of both the parcel on which the restoration area lies and the open space area/habitat restoration area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

## 3) Performance Bond

***Prior to issuance of the Coastal Development Permit***, the applicant shall post performance bonds to guarantee implementation of the restoration plan as follows: a) one equal to the value of the labor and materials; and b) one equal to the value of the maintenance and monitoring for a period of 5 years. Each performance

bond shall be released upon satisfactory completion of items (a) and (b) above. If the applicant fails to either restore or maintain and monitor according to the approved plans, the Coastal Commission may collect the security and complete the work on the property.

## **B. Habitat Conservation**

***Prior to issuance of the Coastal Development Permit***, the applicant shall (or, if the applicant is not the owner of the habitat conservation site, then the owner of the habitat conservation site shall) execute and record an open space deed restriction in a form and content acceptable to the Executive Director, over the entirety of a legal parcel or parcels containing chaparral ESHA. The chaparral ESHA located on the mitigation parcel or parcels must be of equal or greater area than the ESHA area impacted by the proposed development, including the fuel modification/brush clearance areas. No development, as defined in section 30106 of the Coastal Act, shall occur on the mitigation parcel(s) and the parcel(s) shall be preserved as permanent open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of the parcel or parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

Prior to occupancy of the residence, the applicant shall submit evidence, for the review and approval of the Executive Director, that the recorded documents have been reflected in the Los Angeles County Tax Assessor Records.

If the mitigation parcel(s) is/are larger in size than the impacted habitat area, the excess acreage may be used to provide habitat impact mitigation for other development projects that impact like ESHA.

## **C. Habitat Impact Mitigation Fund**

***Prior to issuance of the Coastal Development Permit***, the applicant shall submit evidence, for the review and approval of the Executive Director, that compensatory mitigation, in the form of an in-lieu fee, has been paid to the Mountains Recreation and Conservation Authority to mitigate adverse impacts to chaparral and coastal sage scrub habitat ESHA. The fee shall be calculated as follows:

### **1. Development Area, Irrigated Fuel Modification Zones, Off-site Brush Clearance**

The in-lieu fee for these areas shall be \$12,000 per acre within the development area, any required irrigated fuel modification zones, and required off-site brush clearance areas (assuming a 200-foot radius from all structures). The total acreage shall be based on the map delineating these areas required by this condition.

### **2. Non-irrigated Fuel Modification Zones**

The in-lieu fee for non-irrigated fuel modification areas shall be \$3,000 per acre. The total acreage shall be based on the map delineating these areas required by this condition.

Prior to the payment of any in-lieu fee to the Mountains Recreation and Conservation Authority, the applicant shall submit, for the review and approval of the Executive Director, the calculation of the in-lieu fee required to mitigate adverse impacts to chaparral and/or coastal sage scrub habitat ESHA, in accordance with this condition. After review and approval of the fee calculation, the fee shall be paid to the Mountains Recreation and Conservation Authority's Coastal Habitat Impact Mitigation Fund for the acquisition, permanent preservation or restoration of habitat in the Santa Monica Mountains coastal zone, with priority given to the acquisition of or extinguishment of all development potential on properties containing environmentally sensitive habitat areas and properties adjacent to public parklands. The fee may not be used to restore areas where development occurred in violation of the Coastal Act's permit requirements.

#### **11. Site Inspection**

By acceptance of this permit, the applicant irrevocably authorizes, on behalf of the applicant and all successors-in-interest with respect to the subject property, Coastal Commission staff and its designated agents to enter onto the property to undertake site inspections for the purpose of monitoring compliance with the permit, including the special conditions set forth herein, and to document their findings (including, but not limited to, by taking notes, photographs, or video), subject to Commission staff providing 24 hours advanced notice to the contact person indicated pursuant to paragraph B prior to entering the property, unless there is an imminent threat to coastal resources, in which case such notice is not required. If two attempts to reach the contact person by telephone are unsuccessful, the requirement to provide 24 hour notice can be satisfied by voicemail, email, or facsimile sent 24 hours in advance or by a letter mailed three business days prior to the inspection. Consistent with this authorization, the applicant and his successors: (1) shall not interfere with such inspection/monitoring activities and (2) shall provide any documents requested by the Commission staff or its designated agents that are relevant to the determination of compliance with the terms of this permit.

***Prior to issuance of the Coastal Development Permit***, the applicant shall submit to Commission staff the email address and fax number, if available, and the address and phone number of a contact person authorized to receive the Commission's notice of the site inspections allowed by this special condition. The applicant is responsible for updating this contact information, and the Commission is entitled to rely on the last contact information provided to it by the applicant.

#### **12. Removal of Natural Vegetation**

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-200 foot fuel modification

zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

## IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

### A. PROJECT DESCRIPTION AND BACKGROUND

The applicant proposes to construct a new 28-ft. high, 1,960 sq. ft. single-family residence, 420 sq. ft. attached garage, deck, driveway, septic system, and Fire-Department access stairs at 799 Latigo Canyon Road (APN 4464-010-014) in the Santa Monica Mountains area of unincorporated Los Angeles County (**Exhibits 3-7**). The proposed residence will be constructed on a friction pile foundation and no grading is required or proposed. The subject 5,390 sq. ft. property is located along the southwest, downhill side of Latigo Canyon Road, near the northern edge of the coastal zone in the Santa Monica Mountains area (**Exhibit 1**). The project site is a small lot that is part of an antiquated subdivision called "Upper Latigo". Such small lot subdivisions in the Santa Monica Mountains are designated areas generally comprised of residentially-zoned parcels of less than one acre, but more typically ranging in size from 4,000 to 5,000 square feet. The Commission has typically required restrictions on the maximum size of development in small lot subdivisions to minimize cumulative impacts on coastal resources. However, in this case, the majority of the Upper Latigo small lot subdivision is located to the north of Latigo Canyon Road, outside of the coastal zone. The subject site is the only parcel that is wholly within the coastal zone. Several adjacent parcels (south of Latigo Canyon Road) are bisected by the coastal zone boundary and it appears that each of these lots contain a potential development area that would be located outside the coastal zone (**Exhibit 2**). As such, it is not appropriate in this case to apply the size restrictions that the Commission usually applies in small lot subdivisions (slope-intensity formula and maximum gross structural area).

The subject property is comprised of very steep sloping hillside terrain that descends in a southwest direction approximately 150 feet from Latigo Canyon Road, within the Zuma Canyon watershed. Site elevations range from approximately 2,010 feet to 1,950 feet above mean sea level, for a total relief of 60 feet and average slope of 50%. Downslope of the subject parcel is a mapped blue-line stream that is a tributary of Zuma Canyon Creek. The entire property supports extensive native chaparral vegetation that is part of a large contiguous area of native chaparral and riparian habitat to the south and southwest. Between Latigo Canyon Road and the subject parcel is a flat, 20 foot wide strip of disturbed roadside edge consisting of bare soil that the applicant is proposing a short driveway on. An adjacent parcel to the west of the subject property contains a single-family residence that was built in 2007. However, the 200-ft. fuel modification radius of that residence reaches but does not encroach upon the subject parcel. There are also several single-family residences on the north side of Latigo Canyon Road, approximately 200 feet away to the northwest of the property (**Exhibit 7**).

The subject site is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides. The project site is located within a designated

viewshed area and will be visible from Latigo Canyon Road which affords scenic vistas of the relatively undisturbed canyon area. There are no existing or mapped public trails on or adjacent to the subject property.

## **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, geotechnical, and/or soils reports referenced as 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 geotechnical 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 and erosion, 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:** Assumption of Risk, Waiver of Liability and Indemnity

**Special Condition 3:** Permanent Drainage and Polluted Runoff Control Plans

**Special Condition 5:** Landscaping and Erosion Control Plans

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. 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 and aquatic resources 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, reductions in groundwater recharge 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 and aquatic resources resulting from 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 and dry weather flows leaving the developed site, including: 1) site design, source control

and/or treatment control measures; 2) implementing erosion sediment 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 3:** Permanent Drainage and Polluted Runoff Control Plans
- Special Condition 4:** Interim Erosion Control Plans and Construction Responsibilities
- Special Condition 5:** Landscaping Plans
- Special Condition 12:** Removal of Native Vegetation

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

## **D. ENVIRONMENTALLY SENSITIVE HABITAT**

Section **30240** of the Coastal Act protects environmentally sensitive habitat areas (ESHA) by restricting development in and adjacent to ESHA. Section **30240** states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Section **30107.5** of the Coastal Act, defines an environmentally sensitive area as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

In addition, the Malibu/Santa Monica Mountains LUP provides policy guidance regarding the protection of environmentally sensitive habitats. The Coastal Commission has applied the following relevant policies as guidance in the review of development proposals in the Santa Monica Mountains.

P57 Designate the following areas as Environmentally Sensitive Habitat Areas (ESHAs): (a) those shown on the Sensitive Environmental Resources Map (Figure 6), and (b) any undesignated areas which meet the criteria and which are identified through the biotic review process or other means, including those oak woodlands and other areas identified by the Department of Fish and Game as being appropriate for ESHA designation.

P63 Uses shall be permitted in ESHAs, DSRs, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with Table I and all other policies of this LCP.

P68 Environmentally sensitive habitat areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Residential use shall not be considered a resource dependent use.

P69 Development in areas adjacent to environmentally sensitive habitat areas (ESHAs) shall be subject to the review of the Environmental Review Board, shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

P72 Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. Where new development is proposed adjacent to Environmentally Sensitive Habitat Areas, open space or conservation easements shall be required in order to protect resources within the ESHA.

P74 New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources.

P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.

P84 In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low-growing ground covers to reduce heat output may be used. Within ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.

## **1. Project Description and Site Specific Biological Resource Information**

The subject property is comprised of very steep sloping hillside terrain that descends in a southwest direction approximately 150 feet from Latigo Canyon Road, within the Zuma Canyon watershed. Site elevations range from approximately 2,010 feet to 1,950 feet above mean sea level, for a total relief of 60 feet and average slope of 50%. Downslope of the subject parcel is a mapped blue-line stream that is a tributary of Zuma Canyon Creek.

The applicant submitted a Biological Assessment (July, 2008), listed in the Substantive File Documents, which addresses the habitats present on the project site. The report identifies the subject parcel as currently consisting entirely of non-native ruderal

vegetation due to recent site clearing for geotechnical testing and fuel modification for adjacent properties. The report also notes that historically the subject property supported chaparral vegetation over its entire extent. However, after staff visited the site in October 2008 and reviewed aerial photographs with parcel boundary overlay, staff found that the applicant's consulting biologist had not accurately represented the subject parcel. Site photographs included in the Biological Assessment appear to be that of adjacent properties rather than the subject property. The Biological Resources Map also included in the Biological Assessment consists only of a topographical map of the parcel with a "non-native ruderal vegetation" notation. After visiting the site and researching aerial photographs, staff found that the entire property, with the exception of a 20 foot wide strip of disturbed roadside edge, supports extensive native chaparral vegetation that is part of a large contiguous area of native habitat to the south and southwest. An adjacent parcel to the west of the subject property contains a single-family residence that was built in 2007, however, the 200-ft. fuel modification radius of that residence reaches but does not encroach upon the subject parcel. There are also several single-family residences on the north side of Latigo Canyon Road, to the northwest of the property, however it appears the 200-ft. fuel modification radius for those residences catch only a roadside corner of the subject property. Exhibit 7 is a 2007 aerial photograph of the immediate area around the project site.

According to public information, the applicant purchased the subject parcel in 2007 for \$45,000. The parcel was designated in the Los Angeles County Land Use Plan for residential use. The property's land use designation is Rural Land II, which allows 1 dwelling unit per 5 acres. The parcel is 5,390 sq. ft. in size, and there are other scattered, residential developments in the same area. There is no parkland or public open space directly adjacent to the project site. There is currently no offer to purchase the property from any public park agency.

The project has been designed to place the development directly adjacent to Latigo Canyon Road. Any alternative location on the site would likely include the removal of more native vegetation. Not including the area of the driveway, the proposed development area is estimated by the applicant to measure approximately 1,500 sq. ft. The applicant's approved fuel modification plan (approved by the Los Angeles County Fire Department) shows the use of the standard three zones of vegetation modification. Zones "A" (setback zone) and "B" (irrigation zone) are shown extending in a radius of approximately 100 feet from the proposed structures. A "C" Zone (thinning zone) is provided for a distance of 100 feet beyond the "A" and "B" zones.

## **2. ESHA Designation on the Project Site**

Pursuant to Section **30107.5**, in order to determine whether an area constitutes an ESHA, and is therefore subject to the protections of Section 30240, the Commission must answer three questions:

- 1) Is there a rare species or habitat in the subject area?
- 2) Is there an especially valuable species or habitat in the area, which is determined based on:

- a) whether any species or habitat that is present has a special nature, OR
  - b) whether any species or habitat that is present has a special role in the ecosystem;
- 3) Is any habitat or species that has met either test 1 or test 2 (i.e., that is rare or especially valuable) easily disturbed or degraded by human activities and developments?

If the answers to questions one or two and question three are “yes”, the area is ESHA.

The project site is located within the Mediterranean Ecosystem of the Santa Monica Mountains. The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Mountains is rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodland have many special roles in the Mediterranean Ecosystem, including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of essential habitat for local endemics, the support of rare species, and the reduction of erosion, thereby protecting the water quality of coastal streams. Additional discussion of the special roles of these habitats in the Santa Monica Mountains ecosystem are discussed in the March 25, 2003 memorandum prepared by the Commission’s Ecologist, Dr. John Dixon<sup>1</sup> (hereinafter “Dr. Dixon Memorandum”), which is incorporated as if set forth in full herein.

Unfortunately, the native habitats of the Santa Monica Mountains, such as coastal sage scrub, chaparral, oak woodland and riparian woodlands are easily disturbed by human activities. As discussed in the Dr. Dixon Memorandum, development has many well-documented deleterious effects on natural communities of this sort. These environmental impacts may be both direct and indirect and include, but certainly are not limited to, the effects of increased fire frequency, of fuel modification, including vegetation clearance, of introduction of exotic species, and of night lighting. Increased fire frequency alters plant communities by creating conditions that select for some species over others. The removal of native vegetation for fire protection results in the direct removal or thinning of habitat area. Artificial night lighting of development affects plants, aquatic and terrestrial invertebrates, amphibians, fish, birds and mammals. Thus, large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodlands are especially valuable because of their special roles in the Santa Monica Mountains ecosystem and are easily disturbed by human activity. Accordingly, these habitat types meet the definition of

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<sup>1</sup> The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D, is available on the California Coastal Commission website at <http://www.coastal.ca.gov/ventura/smm-asha-memo.pdf>

ESHA. This is consistent with the Commission's past findings in support of its actions on many permit applications and in adopting the Malibu LCP<sup>2</sup>.

As described above, the project site contains pristine chaparral habitat that is part of a large, contiguous block of pristine native vegetation. As discussed above and in the Dr. Dixon Memorandum, this habitat is especially valuable because of its special role in the ecosystem of the Santa Monica Mountains and it is easily disturbed by human activity. Accordingly, the Commission finds that the chaparral habitat on the project site meets the definition of ESHA in the Coastal Act.

### 3. Resource Dependent Use

The Commission finds that the project site and the surrounding area constitutes an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act restricts development within ESHA to only those uses that are dependent on the resource. The applicant proposes to construct a single family residence on the parcel. As single-family residences do not have to be located within ESHA to function, single-family residences are not a use dependent on ESHA resources. Section 30240 also requires that ESHA be protected against significant disruption of habitat values. As the construction of a residence on the site will require both the complete removal of ESHA from the home site and fuel modification for fire protection purposes around it, the proposed project would also significantly disrupt the habitat value in those locations. Application of Section 30240, by itself, would therefore require denial of the project, because the project would result in significant disruption of habitat values and is not a use dependent on those sensitive habitat resources.

However, the Commission must also consider Section 30010, and the United States Supreme Court's decision in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S.Ct. 2886. Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner that will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what sort of government action results in a "taking" was addressed by the Court in the *Lucas* case. In *Lucas*, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. For instance, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project denial would deprive his or her property of all economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the proposed project would constitute a nuisance under State law. Other Supreme Court precedent establishes that another factor that should be considered is the extent to which a project denial would interfere with reasonable investment-backed expectations.

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<sup>2</sup> Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.

The Commission interprets Section 30010, together with the *Lucas* decision, to mean that if Commission denial of the project would deprive an applicant's property of all reasonable economic use, the Commission may be required to allow some development even if a Coastal Act policy would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, Section 30240 of the Coastal Act cannot be read to deny all economically beneficial or productive use of land because Section 30240 cannot be interpreted to require the Commission to act in an unconstitutional manner.

As described above, the subject parcel was designated in the Los Angeles County Land Use Plan for residential use. Residential development has previously been approved by the Commission on sites in the immediate area. At the time the applicant purchased the parcel, the County's certified Land Use Plan did not designate the vegetation on the site as ESHA. Based on these facts, along with the presence of existing and approved residential development in the area, the applicant had reason to believe that it had purchased a parcel on which it would be possible to build a residence.

The Commission finds that in this particular case, other allowable uses for the subject site, such as a recreational park or a nature preserve, are not feasible and would not provide the owner an economic return on the investment. There is currently no offer to purchase the property from any public park agency. The Commission thus concludes that in this particular case there is no viable alternative use for the site other than residential development. The Commission finds, therefore, that outright denial of all residential use on the project site would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.

Next the Commission turns to the question of nuisance. There is no evidence that construction of a residence on the project site would create a nuisance under California law. Other houses have been constructed in similar situations in similar habitat areas in Los Angeles County, apparently without the creation of nuisances. The County's Health Department has not reported evidence of septic system failures. In addition, the County has reviewed and approved the applicant's proposed septic system, ensuring that the system will not create public health problems. Furthermore, the use that is proposed is residential, rather than, for example, industrial, which might create noise or odors or otherwise create a public nuisance.

In conclusion, the Commission finds that, notwithstanding Section 30240, a residential project on the subject property must be allowed to permit the applicant a reasonable economic use of their property consistent with Section 30010 of the Coastal Act.

#### **4. Siting and Design Alternatives to Minimize Significant Disruption of Habitat Values**

While the applicant is entitled under Section 30010 to an assurance that the Commission will not act in such a way as to "take" the property, this section does not authorize the Commission to avoid application of the policies of the Coastal Act, including Section 30240, altogether. Instead, the Commission is only directed to avoid construing these policies in a way that would take property. Aside from this instruction,

the Commission is still otherwise directed to enforce the requirements of the Act. Therefore, in this situation, the Commission must still assure compliance with Section 30240 by avoiding impacts that would significantly disrupt and/or degrade environmentally sensitive habitat, to the extent this can be done without taking the property.

Obviously, the construction of residential development, including vegetation removal for both the development area as well as required fuel modification, and the use of the development by residents will result in unavoidable loss of ESHA. The development can be sited and designed to minimize ESHA impacts by measures that include but are not limited to: limiting the size of structures, limiting the number of accessory structures and uses, clustering structures, siting development in any existing disturbed habitat areas rather than undisturbed habitat areas, locating development as close to existing roads and public services as feasible, and locating structures near other residences in order to minimize additional fuel modification.

In this case, siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to ESHA to the greatest extent feasible. As such, the Commission concludes that the proposed siting and design of the project will minimize impacts to ESHA to the extent feasible. The Commission also finds that the proposed development area provides a reasonable economic use.

## **5. Habitat Impact Mitigation**

While impacts resulting from development within ESHA can be reduced through siting and design alternatives for new development, they cannot be completely avoided, given the location of ESHA on and around the project site, the high fire risk in the Santa Monica Mountains, and the need to modify fuel sources to protect life and property from wildfire.

Fuel modification is the removal or modification of combustible native or ornamental vegetation. It may include replacement with drought tolerant, fire resistant plants. The amount and location of required fuel modification will vary according to the fire history of the area, the amount and type of plant species on the site, topography, weather patterns, construction design, and siting of structures. There are typically three fuel modification zones applied by the Los Angeles County Fire Department, which include a setback zone immediately adjacent to the structure (Zone A) where all native vegetation must be removed, an irrigated zone adjacent to Zone A (Zone B) where most native vegetation must be removed or widely spaced, and a thinning zone (Zone C) where native vegetation may be retained if thinned or widely spaced although particular high-fuel plant species must be removed. The combined required fuel modification area around structures can extend up to a maximum of 200 feet. If there is not adequate area on the project site to provide the required fuel modification for structures, then brush clearance may also be required on adjacent parcels. In this way, for a large area around any permitted structure, native vegetation will be cleared, selectively removed to provide wider spacing, and thinned. The Commission has found in past permit actions, that a new residential development within ESHA with a full 200 foot fuel modification radius

will result in impact (either complete removal, irrigation, or thinning) to ESHA habitat of four to five acres.

Obviously, native vegetation that is cleared and replaced with ornamental species or substantially removed and widely spaced will be lost as habitat and watershed cover. As discussed in the Dr. Dixon Memorandum<sup>3</sup>, the cumulative loss of habitat cover also reduces the value of the sensitive resource areas as a refuge for birds and animals, for example by making them—or their nests and burrows—more readily apparent to predators. Further, fuel modification can result in changes to the composition of native plant and wildlife communities, thereby reducing their habitat value. Although the impacts from habitat removal cannot be avoided, the Commission finds that the loss of ESHA resulting from the removal, conversion, or modification of natural habitat for new development including the building site area, and fuel modification can be mitigated in order to ensure that ESHA impacts are minimized to the extent feasible.

The Commission has identified three appropriate methods for providing mitigation for the unavoidable loss of ESHA resulting from development; namely, habitat restoration, habitat conservation, and the payment of an in-lieu fee for habitat conservation. The Commission finds that any of these measures is appropriate in this case to mitigate the loss of ESHA on the project site. The first method is to provide mitigation through the restoration of an area of degraded habitat (either on the project site, or at an off-site location) that is equivalent in size to the area of habitat impacted by the development. A restoration plan must be prepared by a biologist or qualified resource specialist and must provide performance standards, and provisions for maintenance and monitoring. The restored habitat must be permanently preserved through the recordation of an open space easement.

The second habitat impact mitigation method is habitat conservation. This includes the conservation of an area of intact habitat of a similar type as that impacted equivalent to the area of the impacted habitat. The parcel containing the habitat conservation area must be restricted from future development and permanently preserved. If the mitigation parcel is larger in size than the impacted habitat area, the excess acreage could be used to provide habitat impact mitigation for other development projects that impact ESHA.

The third habitat impact mitigation option is the payment of an in-lieu fee for habitat conservation. The fee is based on the habitat types in question, the cost per acre to restore or create comparable habitat types, and the acreage of habitat affected by the project. The Commission has, in past permit decisions, determined the appropriate fee for the restoration or creation of chaparral and coastal sage scrub habitat, based on research carried out by the Commission's biologist. A range of cost estimates was obtained that reflected differences in restoration site characteristics including topography (steeper is harder), proximity to the coast (minimal or no irrigation required

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<sup>3</sup> The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D, is available on the California Coastal Commission website at <http://www.coastal.ca.gov/ventura/smm-asha-memo.pdf>

at coastal sites), types of plants (some plants are rare or difficult to cultivate), density of planting, severity of weed problem, condition of soil, etc.

The Commission has determined that the appropriate mitigation for loss of coastal sage scrub or chaparral ESHA should be based on the actual installation of replacement plantings on a disturbed site, including the cost of acquiring the plants (seed mix and container stock) and installing them on the site (hydroseeding and planting). The in-lieu fee found by the Commission to be appropriate to provide mitigation for the habitat impacts to ESHA areas where all native vegetation will be removed (building site, the "A" zone required for fuel modification, and off-site brush clearance areas), and where vegetation will be significantly removed and any remaining vegetation will be subjected to supplemental irrigation (the "B" zone or any other irrigated zone required for fuel modification) is \$12,000 per acre. Further, the Commission has required a fee of \$3,000 per acre for areas where the vegetation will be thinned, but not irrigated ("C" zone or other non-irrigated fuel modification zone).

The acreage of ESHA that is impacted must be determined based on the size of the development area, required fuel modification (as identified on the fuel modification plan approved by the Los Angeles County Fire Department) on the site, and required brush clearance off-site. The Commission finds that it is necessary to condition the applicant to delineate the total acreage of ESHA on the site (and offsite brush clearance areas, if applicable) that will be impacted by the proposed development, and provide mitigation to compensate for this loss of habitat, through one of the three methods described above. Only as conditioned will the proposed project minimize impacts to ESHA, pursuant to Section 30240 of the Coastal Act.

## **6. Additional Mitigation Measures to Address Additional ESHA Impacts**

This project is inconsistent with Section 30240 of the Coastal Act, and is only being allowed to avoid a taking of private property for public use. The Commission finds that for the project to be consistent with Section 30240 to the maximum extent feasible, while providing a reasonable economic use, this project must constitute the maximum amount of ESHA destruction on the site. The Commission has found in similar cases that any remaining ESHA on the property must be preserved in perpetuity, through the recordation of either an open space easement or an open space deed restriction that preserves all ESHA outside of the irrigated fuel modification area (Zone B). However, in the subject case, given the small size of the parcel, no ESHA outside of the irrigated fuel modification will remain on the site. As such, the Commission finds that an open space easement or deed restriction is not appropriate.

The Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping, and mitigation for that effect was discussed in the previous section. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development.

The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. This sort of impact was not addressed in the prior section. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area that are not directly and immediately affected by the proposed development, the Commission requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

In addition, the Commission has found that night lighting of ESHA areas in the Malibu/Santa Monica Mountains may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, the Lighting Restriction condition limits night lighting of the site in general; limits lighting to the developed area of the site; and requires that lighting be shielded downward. Limiting security lighting to low intensity security lighting will assist in minimizing the disruption of wildlife that is commonly found in this rural and relatively undisturbed area and that traverses the area at night.

Additionally, in order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to require that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. This limitation avoids loss of natural vegetation coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

The Commission also finds that the amount and location of any new development that could be built in the future on the subject site consistent with the resource protection policies of the Coastal Act is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, the permitting exemptions that apply by default under the Coastal Act for, among other things, improvements to existing single family homes and repair and maintenance activities may be inappropriate here. In recognition of that fact, and to ensure that any future structures, additions, change in landscaping or intensity of use at the project site that may otherwise be exempt from coastal permit requirements are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, the future development restriction is required.

Further, the Commission 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 thereby provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property. Finally, in order to ensure that the terms and conditions of this permit are adequately implemented, the Commission conditions the applicant to allow staff to enter onto the property (subject to 24 hour notice to the property owner) to undertake site inspections for the purpose of monitoring compliance with the permit.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30240 of the Coastal Act:

- Special Condition 5.** Landscaping and Fuel Modification Plans
- Special Condition 7.** Lighting Restriction
- Special Condition 8.** Future Development Restriction
- Special Condition 9.** Deed Restriction
- Special Condition 10.** Habitat Impact Mitigation
- Special Condition 11.** Site Inspection
- Special Condition 12.** Removal of Natural Vegetation

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30240 of the Coastal Act.

## **E. VISUAL RESOURCES**

Section **30251** of the Coastal Act states:

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

The subject site is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides. The project site is located within a designated viewshed area and will be visible from Latigo Canyon Road which affords scenic vistas of the relatively undisturbed canyon area. There are no existing or mapped public trails on or adjacent to the subject property. Development of the proposed residence raises two issues regarding the siting and design: (1) whether or not public views from public roadways will be adversely affected; or, (2) whether or not public views from public lands and trails will be affected.

The applicant proposes to construct a 28-ft. high, 1,960 sq. ft. single-family residence with 420 sq. ft. attached garage on a friction pile foundation. No grading is required. The residence/garage is designed to be stepped down the hillside. The proposed building site and design minimizes the amount of grading and landform alteration necessary for the project and there are no siting alternatives where the building would not be visible from public viewing areas. The proposed structure is compatible with the character of other residential development in the area. The proposed structure height is consistent with the maximum height (28 feet above existing grade) that the Commission has permitted in past decisions in the Santa Monica Mountains and with the maximum height (35 feet) allowed under the guidance policies of the Malibu/Santa Monica Mountains LUP.

However, the proposed development will be unavoidably visible from public viewing areas. The Commission has considered siting and design alternatives that would avoid or reduce any impacts to visual resources. There is no feasible alternative whereby the structure would not be visible from public viewing areas. To minimize the visual impacts associated with development of the project site, the Commission requires: that the structure be finished in a color consistent with the surrounding natural landscape; that windows on the development be made of non-reflective glass; use of appropriate, adequate, and timely planting of native landscaping to soften the visual impact of the development from public view areas; and a limit on night lighting of the site to protect the nighttime rural character of this portion of the Santa Monica Mountains.

In recognition that future development normally associated with a single-family residence, that might otherwise be exempt, has the potential to impact scenic and visual resources of the area, the Commission requires that any future improvements on the subject property shall be reviewed by the Commission for consistency with the resource protection policies of the Coastal Act through a coastal development permit.

Additionally, the Commission 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 following special conditions are required to assure the project's consistency with Section 30251 of the Coastal Act:

- Special Condition 5.** Landscaping and Fuel Modification Plans
- Special Condition 6.** Structural Appearance
- Special Condition 7.** Lighting Restriction
- Special Condition 8.** Future Development Restriction
- Special Condition 9.** Deed Restriction

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

## **F. LOCAL COASTAL PROGRAM PREPARATION**

Section **30604(a)** 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 coastal 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 projects 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 avoid or minimize adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. The following special conditions are required to assure the project's consistency with Section 30604 of the Coastal Act:

### **Special Conditions 1 through 12**

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).

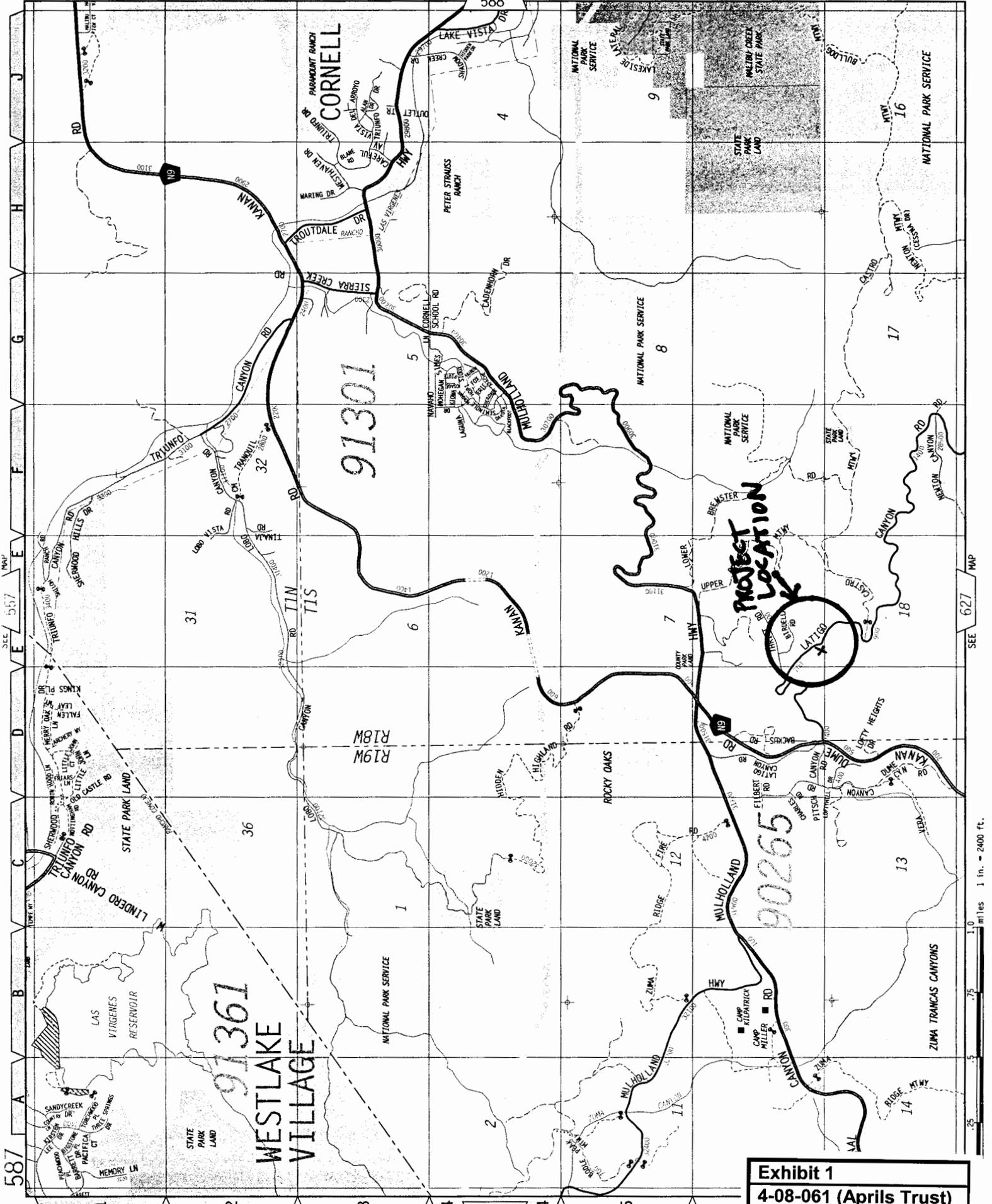
## **G. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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

The Commission 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 in detail above, project alternatives and mitigation measures have been considered and incorporated into the project. Five types of mitigation actions include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures required to minimize impacts include requiring drainage best management practices (water quality), interim erosion control (water quality and ESHA), limiting lighting (ESHA), restricting structure color (visual resources), and requiring future improvements to be considered through a CDP. Finally, the habitat impact mitigation condition is a measure required to compensate for impacts to ESHA. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

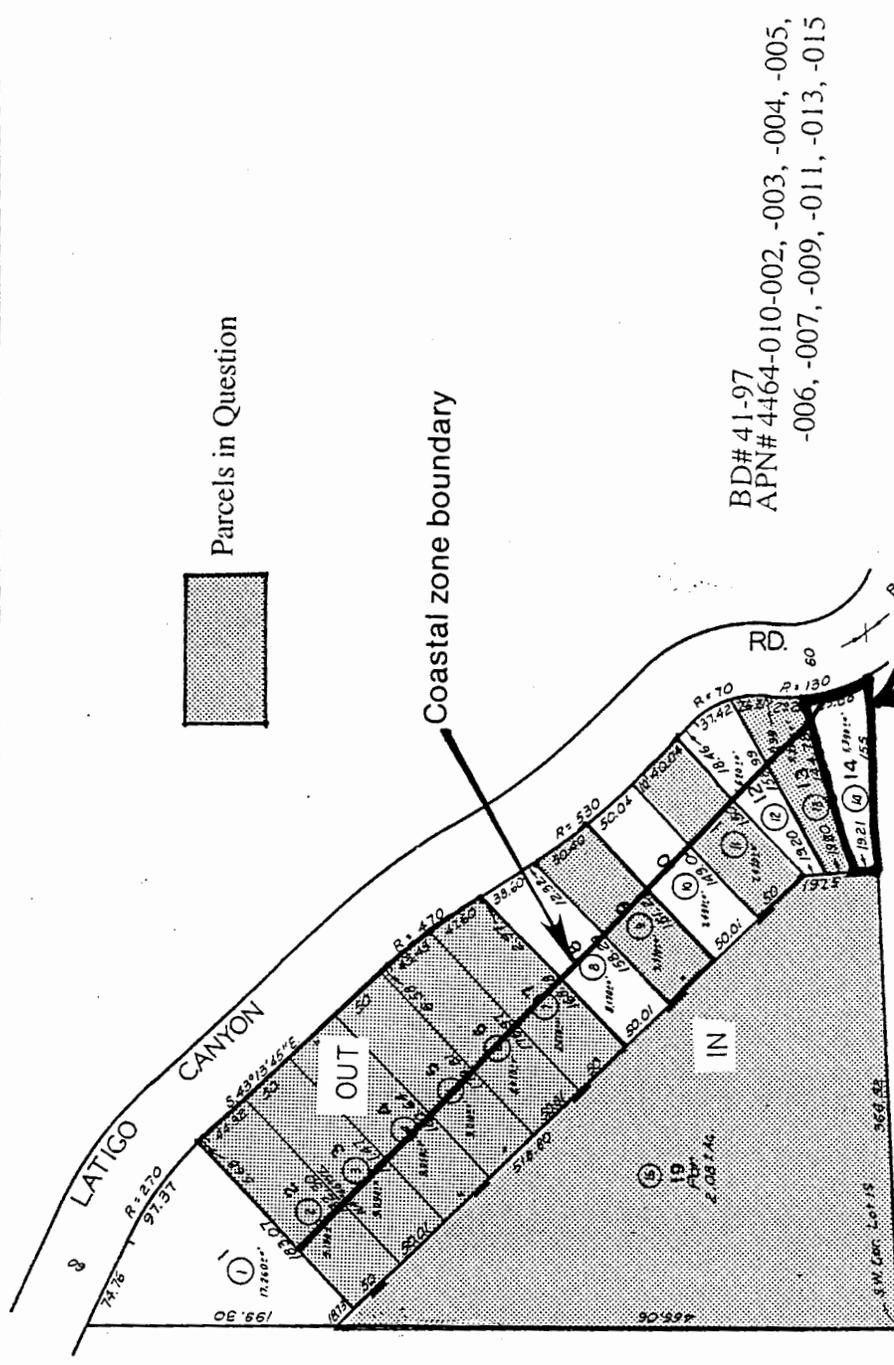
### **Special Conditions 1 through 12**

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.



**Exhibit 1**  
**4-08-061 (Aprils Trust)**  
**Vicinity Map**

4464 10

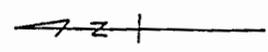


BD# 41-97  
 APN# 4464-010-002, -003, -004, -005,  
 -006, -007, -009, -011, -013, -015

TRACT NO. 10544 TRACT NO. 1034  
 M.B. 157-5-6 M.B. 151-45-47

*subject parcel*

ASSESSOR'S MAP  
 COUNTY OF LOS ANGELES, CALIF.



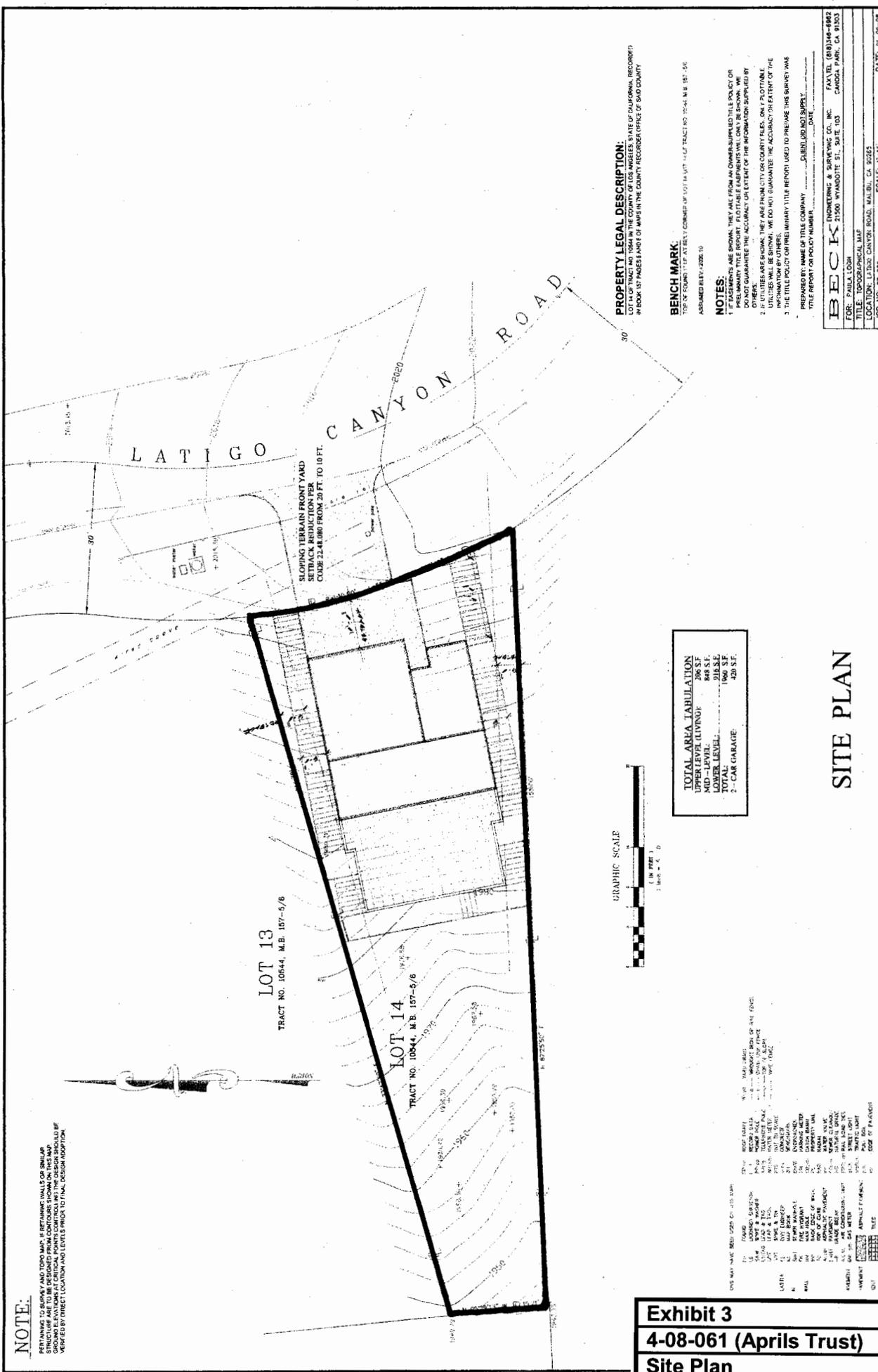
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FOR PREV. ASSMT. SEE: 800-38 & 49

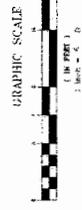
**Exhibit 2**  
**4-08-061 (Aprils Trust)**  
**Coastal Zone**  
**Boundary Map**

**NOTE:**

PERTAINING TO SURVEY AND TOPOG MAP, IF RETAINING WALLS OR SLOPES ARE SHOWN ON THIS MAP, THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE EXISTING CONDITIONS AND LEVELS PRIOR TO FINAL DESIGN ADOPTION.



<b>TOTAL AREA TABULATION</b>	
UPPER LEVEL (LIVING):	296 SF
LOWER LEVEL:	918 SF
<b>TOTAL:</b>	<b>1214 SF</b>
2 - CAR GARAGE:	420 S.F.



**PROPERTY LEGAL DESCRIPTION:**

LOT 13 TRACT NO. 10544, M.B. 157-5/6, LOT 14 TRACT NO. 10544, M.B. 157-5/6, BECK ENGINEERING & SURVEYING CO., INC. (918) 344-6822, 21500 WYANDOTTIE ST., SUITE 103, CAROLLA PARK, CA 91503

**BENCH MARK:**

TYPE OF BENCH MARK: AT BENCH CORNER OF LOT 14, 14' 11" N, 14' 11" W OF TRACT NO. 10544, M.B. 157-5/6  
 ASSUMED ELEVATION: 4202.10

**NOTES:**

1. THIS SURVEY AND REPORT ARE FOR THE USE OF THE CLIENT AND ARE NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF BECK ENGINEERING & SURVEYING CO., INC. WE DO NOT GUARANTEE THE ACCURACY OR EXTENT OF THE INFORMATION SUPPLIED BY OTHERS.
2. ALL DIMENSIONS ARE SHOWN. THE AREAS FROM CITY OR COUNTY FILES, ONLY, PLOTTABLE UTILITIES WILL BE SHOWN. WE DO NOT GUARANTEE THE ACCURACY OR EXTENT OF THE INFORMATION BY OTHERS.
3. THE TITLE POLICY OF THE CLIENT'S TITLE INSURANCE COMPANY IS TO BE USED TO PREPARE THE SURVEY. WE DO NOT GUARANTEE THE ACCURACY OR EXTENT OF THE INFORMATION BY OTHERS.

PREPARED BY: NAME OF TITLE COMPANY \_\_\_\_\_ DATE \_\_\_\_\_  
 TITLE REPORT OR POLICY NUMBER \_\_\_\_\_

FOR: PAULA LOON  
 BECK ENGINEERING & SURVEYING CO., INC.  
 21500 WYANDOTTIE ST., SUITE 103  
 CAROLLA PARK, CA 91503

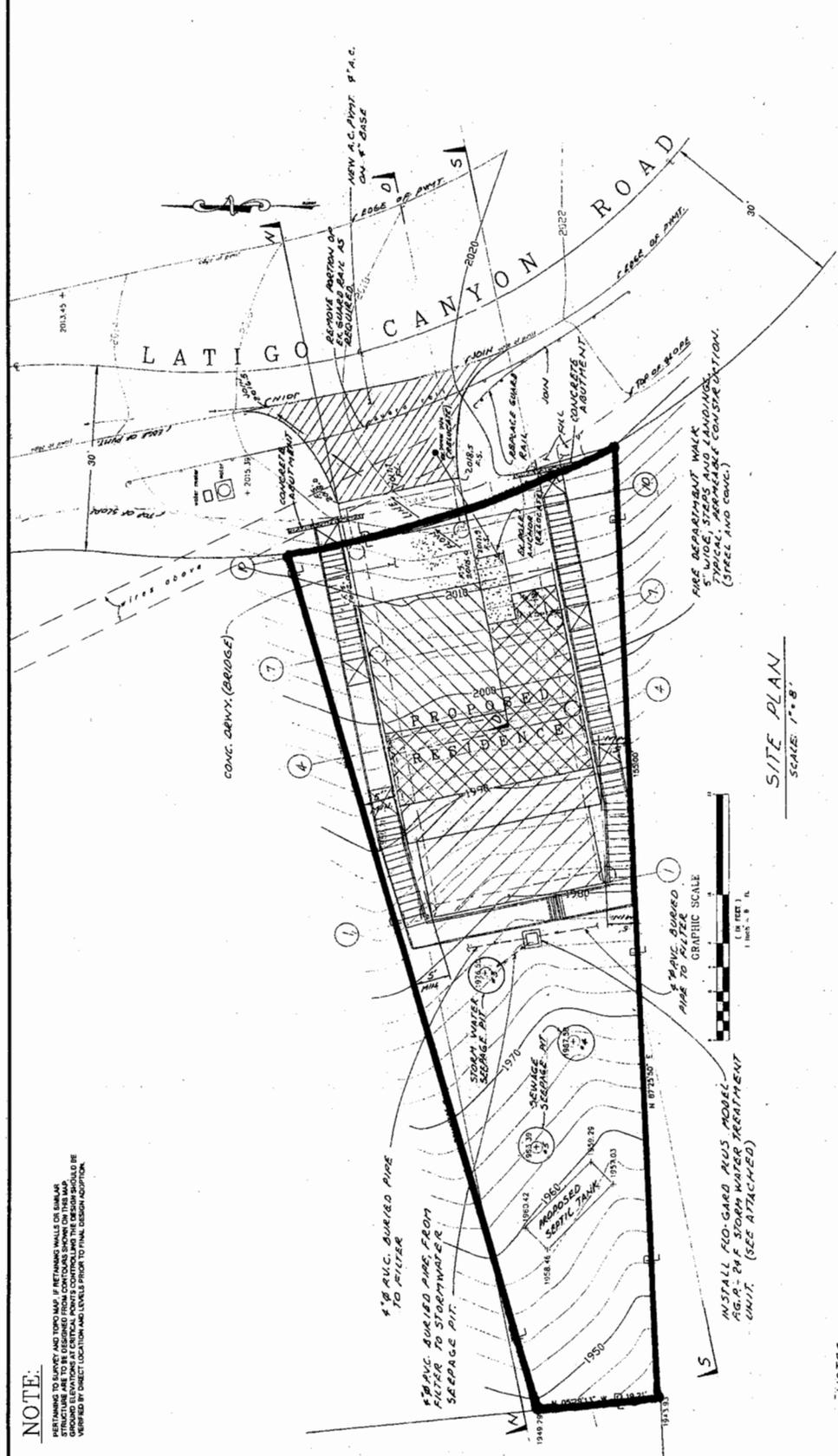
TITLE: TOPOGRAPHICAL MAP  
 LOCATION: LOT 13-14 CANYON ROAD, MALIBU, CA 90265  
 JOB NO. 07-605 SCALE: 1"=15'

**SITE PLAN**

**Exhibit 3**  
**4-08-061 (Aprils Trust)**  
**Site Plan**

**NOTE:**

PERTAINING TO SURVEY AND TOPO MAP. IF NETWORK WALLS OR SIMILAR STRUCTURE ARE TO BE DESIGNED FROM CONTOURS SHOWN ON THIS MAP, THE CONTOUR DATA SHOULD BE VERIFIED BY DIRECT LOCATION AND LEVELS PRIOR TO FINAL DESIGN ADOPTION.



**SITE PLAN**  
SCALE: 1" = 8'

**NOTES:**

- \* REORIENT THIS PLAN.
- \* ROOF DRAINS TO FILTER UNIT.

OWNER: APRILS TRUST (310) 457-5700  
JOB ADDRESS: LATIGO CANYON ROAD  
MILPITAS CA. 950265  
LEGAL DESCR: LOT 14 OF TRACT NO. 10544

G.A.C. NO. ABU  
BECK ENGINEERING & SURVEYING CO., INC.  
FOR APRILS TRUST, 2100 WINDMILL ST., DATE 1/03  
CAGDA, PARR, CA.  
TITLE: SITE LOT 14 OF TRACT NO. 10544  
LOCATION: LATIGO CANYON ROAD, MILPITAS, CA 950285  
JOB NO. 01-805 SCALE: 1" = 8' DATE: 01-29











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Exhibit 7  
4-08-061 (Aprils Trust)  
2007 Aerial Photo