

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: 9/7/2010
180th Day: 3/6/2010
Staff: J. Johnson
Staff Report: 11/24/2010
Hearing Date: 12/15/2010

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-10-027

APPLICANT: Gregory Finn

AGENT: Thomas Myers, Lorcan O'Herlihy Architects

PROJECT LOCATION: 570 Schueren Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a two story, 32 foot high, 2,229 sq. ft. single family residence with attached two car, 457 sq. ft., garage, supported on columns to allow main floor level and garage to exist at grade with Schueren Road; septic system, two solar panel arrays; potting shed; remove a block wall, and 3 non-native pine trees and 4 eucalyptus trees; and implement 20,900 cubic yards of remedial grading (10,091 cubic yards of cut and 10,809 cubic yards of fill) for slope stabilization. In addition, the project includes the request for after-the-fact approval of the removal of two existing tennis courts on site.

MOTION & RESOLUTION: Page 3

SUMMARY OF STAFF RECOMMENDATION: Staff recommends **approval** of the proposed development with conditions.

The standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified Malibu – Santa Monica Mountains Land Use Plan (LUP) serve as guidance. Following is a summary of the main issues raised by the project and how they are resolved by staff's recommendation:

- **ENVIRONMENTALLY SENSITIVE HABITAT AREA.** The project site does not include habitat that meets the definition of ESHA nor will an expansion of the offsite fuel modification in a non-contiguous chaparral area result in affecting any ESHA.
 - **VISUAL RESOURCES.** The proposed structure will be visible from public viewing areas and will adversely impact visual resources. There are design alternatives that would avoid or reduce visual impacts. The project is conditioned to provide revised structure appearance plans to minimize the visible appearance of the residence.
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EXHIBITS

- Exhibit 1. Vicinity Map
- Exhibit 2. Assessor Parcel Map
- Exhibit 3. Architectural Survey
- Exhibit 4. Grading Plan
- Exhibit 5. Grading Plan Section
- Exhibit 6. Site Plan/Fuel Modification Plan
- Exhibit 7. Site Photos
- Exhibit 8. Main Floor Plan
- Exhibit 9. Lower Floor Plan
- Exhibit 10. East & West Elevations
- Exhibit 11. South & North Elevations
- Exhibit 12. Building Sections

- Exhibit 13. Building Sections
 - Exhibit 14. Public Lands & Trails Map
 - Exhibit 15. Aerial Photo
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LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, dated 3/9/2010; County of Los Angeles Environmental Health Services, Sewage Disposal System Conceptual Approval, dated 2/3/2010; County of Los Angeles Fire Department, Final Fuel Modification Plan Approval, dated 3/4/2010; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, dated 3/1/2010.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Biological Assessment, prepared by Forde Biological Consultants, dated July 29, 2010; Geotechnical Engineering Update Report by Calwest Geotechnical Consulting Engineers, dated July 15, 2009; Coastal Permit No. 4-07-122, Arrow.

I. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-10-027 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 landslides, 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. Drainage and Polluted Runoff Control Plan

A. ***Prior to issuance of the Coastal Development Permit***, the applicant shall submit for the review and approval of the Executive Director, two (2) copies of a final Drainage and Runoff Control Plan, including supporting calculations. The plan shall be prepared by a licensed civil engineer or qualified licensed professional and shall incorporate Best Management Practices (BMPs) including site design and source control measures designed to control pollutants and minimize the volume and velocity of stormwater and dry weather runoff leaving the developed site. In addition to the specifications above, the consulting civil engineer or qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

- (1) BMPs should consist of site design elements and/or landscape based features or systems that serve to maintain site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas on site, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns.
- (2) 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 should be utilized for any landscaping requiring water application.
- (3) All slopes should be stabilized in accordance with provisions contained in the Landscaping and/or Erosion and Sediment Control Conditions for this Coastal Development Permit.
- (4) Runoff shall be conveyed off site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of outflow drains.
- (5) For projects located on a hillside, slope, or which may otherwise be prone to instability, final drainage plans should be approved by the project consulting geotechnical engineer.
- (6) 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 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, or qualified licensed 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 control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.

- (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 landscaping and erosion control plans shall be reviewed and approved by the consulting engineer to ensure that the plans are in conformance with the consultants' recommendations. The consulting landscape architect or qualified landscape professional shall certify in writing that the final revised 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 Coastal 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) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) and (b) 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. 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.

11. Removal of Excavated Material

Prior to issuance of the Coastal Development Permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

12. Construction Timing and Sensitive Bird Species Surveys

For any construction activities between February 15th and September 1st and for any tree removal at any time of year (including eucalyptus tree removal), the applicant shall retain the services of a qualified biologist or environmental resource specialist (hereinafter, "environmental resources specialist") to conduct sensitive bird species surveys and monitor project operations associated with all construction activities:

At least 30 calendar days prior to commencement of any construction or tree removal activities, the applicant shall submit the name and qualifications of the environmental resources specialist, for the review and approval of the Executive Director. The environmental resources specialist shall ensure that all project construction and operations shall be carried out consistent with the following:

- A. The applicant shall ensure that the environmental resources specialist, with experience in conducting bird surveys shall conduct bird surveys 30 calendar days prior to the listed activities to detect any active bird nests in all trees within 500 feet of the project site. A follow-up survey must be conducted 3 calendar days prior to the initiation of construction and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first.
- B. If an active nest of any federally or state listed threatened or endangered species, species of special concern, or any species of raptor is found within 500 ft. of construction activities, the applicant shall retain the services of an environmental resources specialist to monitor bird behavior and construction noise levels. The environmental resources specialist shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. If the environmental resources specialist determines that there are active nests, the specialist shall establish an appropriate buffer for each nest. No work shall occur inside the buffer of an active nest until the fledglings are no longer dependent on the nest or until the specialist otherwise determines the nest is inactive. If the specialist determines that there are no active nests, vegetation and tree removal should occur within 5 days of the nest survey.

- C. If an active nest of a federally or state-listed threatened or endangered species, bird species of special concern, or any species of raptor is found, the applicant shall notify the appropriate State and Federal Agencies within 24 hours, and shall develop an appropriate action specific to each incident. The applicant shall notify the California Coastal Commission in writing by facsimile or e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.

13. Condition Compliance

Within 180 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the expiration of this coastal permit approval and the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

1. Detailed Project Description

The applicant proposes to a two story, 32 foot high, 2,229 sq. ft. single family residence with attached two car, 457 sq. ft., garage, supported on columns to allow main floor level and garage to exist at grade with Schueren Road; septic system, two solar panel arrays; potting shed; remove a block wall, and 3 non-native pine trees and 4 eucalyptus trees; and implement 20,900 cubic yards of remedial grading (10,091 cubic yards of cut and 10,809 cubic yards of fill) for slope stabilization. In addition, the project includes the request for after-the-fact approval of the removal of two existing tennis courts on site.

The two story residence and attached garage will be elevated above a deepened pile and grade beam foundation system to allow the upper level and garage to match the grade of Schueren Road, while the lower level is proposed above the grade of the downsloping site. The garage will be accessed via an elevated driveway from Schueren Road.

The residence is proposed to be sited on a steep slope where a landslide has previously been subject to slope instability. According to the applicant's engineer, fill had been placed on the building site during the original construction of Schueren Road prior to the effective date of the Coastal Act on 1976 resulting in fill material being placed on top of the unstable landslide. The applicant's engineer recommends that the landslide damaged slope be repaired by removal and re-compaction of the soil on site prior to any new development occurring on any portion of the site. The remediation consists of removing 10,091 cubic yards of material to re-compact and reconstruct the

slope with slope benching, subdrains and a keyway with 10,809 cubic yards of fill. The 718 cubic yards of imported fill will consist of about 400 cubic yards of concrete debris created from the demolition of the two tennis courts.

2. *Location, Vicinity & Surrounding Development*

The site is located at 570 Schueren Road, Malibu in the unincorporated Los Angeles County (APN 4453-026-007) (Exhibits 1-15). The subject property is 1.83 acres in size and situated among single-family residences located to the northwest, west, south and east. The site is access from both Schueren Road from the west and Dresser Road from the east. Tabard Road is located to the north, although it does not access the subject property.

3. *Physical site characteristics*

The proposed project site is located within the Las Flores Canyon watershed, at an elevation ranging from approximately 2,120 to 2,190 feet above sea level. The property is situated on the west slope of Las Flores Canyon. The headwaters of Las Flores Creek, a U.S. Geological Survey (U.S.G.S.) designated blue-line stream, lies approximately 1,000 feet downslope to the east of the site.

According to the Commission's historic aerial photographs, the 3 existing tennis courts on site existed prior to the effective date of the Coastal Act in 1977. The site was developed with the 3 tennis courts as part of a development plan constructing residential development on surrounding lands in the late 1960's and early 1970's of which the residents would use the site for recreational purposes. The site is no longer used by these residents for recreational purposes. Further, there are no existing or mapped public trails on or adjacent to the subject property.

The project site is located in a scenic area, visible from various public viewing points, such as Schueren Road (an LUP-designated Scenic Highway) to the west and public parkland and the Backbone trail located to the north, which afford scenic vistas of the relatively undisturbed natural area (Exhibit 14). However, due to the building site's 1,400 foot distance from and the 300 foot elevation below the Backbone Trail, no alternative siting or design options exist on the lot in which the development would be significantly less visible from these public viewing areas.

The subject site does not include any environmentally sensitive habitat area (ESHA) due to the fact that the site has been previously disturbed by the presence of 3 tennis courts, vegetation clearance that has occurred as a result of the fuel modification requirements for existing residential development on the surrounding properties, and an onsite dirt roadway from Schueren Road. The subject lot has several non native pine trees and invasive eucalyptus trees on it that were planted for landscaping purposes in conjunction with the tennis courts but does not include any oak trees or other native trees. The property is partially vegetated with native chaparral vegetation. However, the subject property is surrounded by other residentially developed properties. As a result, the native chaparral habitat on the site and on the immediately adjacent properties is separated from adjacent chaparral habitat by existing roads and

surrounding single-family residential development and is; therefore, not part of a large, contiguous block of native chaparral vegetation. Thus, the chaparral habitat on site (and in offsite areas where vegetation clearance resulting from fuel modification for the proposed residence) does not constitute environmentally sensitive habitat area (ESHA) pursuant to Section 30107.5 of the Coastal Act.

In the Santa Monica Mountains, the Los Angeles County Fire Dept. requires a 200-ft fuel modification (on-site) and/or brush clearance (off-site) zone from combustible structures. In this case, the 200-ft fuel modification/brush clearance zone overlaps with existing fuel modification zones for existing adjacent development located to the north, east and southwest. However, the 200 foot fuel modification/brush clearance is required for the proposed project on the vacant land with chaparral located across Schueren Road to the northwest. The native chaparral vegetation is isolated and not considered ESHA. This chaparral vegetation is disturbed on three sides by fuel modification from existing residential development, Schueren Road and residential access driveways. Therefore, it is not part of a large contiguous block of native chaparral vegetation and does not constitute environmentally sensitive habitat area (ESHA) pursuant to Section 30107.5 of the Coastal Act. However, there is the potential for nesting birds in the vicinity of the project site which is addressed below in the ESHA section.

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, including the remediation of the onsite landslide.

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.

The residence is proposed to be sited on a steep slope where a landslide has previously been subject to slope instability. According to the applicant's engineer, fill had been placed on the building site during the original construction of Schueren Road prior to the effective date of the Coastal Act on 1976 resulting in fill material being placed on top of the unstable landslide. This fill was placed on the downslope edge of the roadway located along the north/northwest margin of the site where the proposed residence will be located. The applicant's engineer recommends that the landslide damaged slope be repaired by removal and re-compaction of the soil on site prior to any new development occurring on any portion of the site. The remediation consists of removing 10,091 cubic yards of material to re-compact and re-construct the slope with slope benching, subdrains and a keyway with 10,809 cubic yards of fill. The 718 cubic yards of imported fill will consist of about 400 cubic yards of concrete debris created from the demolition of the two tennis courts. The engineer's recommendations include site preparation, grading, compaction, keys, benching, subdrains, and utility trench backfill to ensure stability of the slope.

The project has been designed to place the residential structure on the site directly adjacent to Schueren Road that has been previously disturbed. An alternative building site location on the lower portion of the property was reviewed with two potential access driveways. This alternative site is located on the flat pad area near the existing tennis courts. However, according to the applicant's engineer, the landslide along Schueren Road needs to be remediated to ensure the safety of any development on the site regardless of whether it is located on the existing flat pad or on the slope adjacent to Schueren Road. Thus, the proposed remedial grading is necessary regardless of where the proposed residence will be located on site. One alternative access driveway to the alternative building site is along Tabbard Road which accesses 5 residences located to the north of the subject lot. The applicant does not have an easement to use this roadway to access the subject lot. The applicant has an easement to access the subject site from the second access route along Dresser Drive. This alternative site accessed from Dresser Drive would require an additional 2,056 cubic yards of grading to widen, remove and re-compact and pave Dresser Drive along a 785 foot length and reconstruct a 42" drainage culvert which currently exists below Dresser Drive.

The applicant's engineer in the Geotechnical Engineering Update Report noted in the Substantive File Documents has confirmed that the " proposed development will be safe against hazard from landslide, settlement or slippage, and that the proposed development will not have an adverse affect on the stability of the subject site or immediate vicinity, provided our (their) recommendations are made part of the improvement plans and are implemented during construction."

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 landslide, 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 landslide and erosion 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:** Drainage and Polluted Runoff Control Plans
- Special Condition 4:** Interim Erosion Control and Construction Responsibilities
- 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: Drainage and Polluted Runoff Control Plans

Special Condition 4: Interim Erosion Control Plans and Construction Responsibilities

Special Condition 5: Landscaping and Erosion Control Plans

Special Condition 11: 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.

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.

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 site is located on the east side of Schueren Road, surrounded on three sides by existing residential development. The project site descends steeply from the east side of the road to a flat pad where 3 tennis courts exist. The site drains into Las Flores Creek, a designated blue-line stream. The majority of the site is barren of vegetation with the exception of the slope area along Schueren Road.

The applicant submitted the Biological Assessment, listed in the Substantive File Documents, which addresses the vegetation present on the project site. The report notes that the entire 1.83 acre site is located within the fuel modification zones of surrounding residences. The southeastern two-thirds of the property are devoid of native vegetation as 3 tennis courts occupied this area. Some sparse chaparral which has been previously thinned as a result of fuel modification for adjacent residences occupies the remainder of the site along the slope below Schueren Road which also includes non-native pine and eucalyptus trees. The report approximates the acreage and describes this habitat as:

Disturbed Chaparral Habitat (0.60 acres)

Native species observed within the fuel-modified chaparral include ceanothus (Ceanothus sp.), chaparral yucca (Yucca whipplet), coast melic (Melica imperfecta), coastal ashy-leaf buckwheat (Eriogonum cinereum), coastal prickly pear (Opuntia sp.), deerweed (Lotus scoparius), laurel sumac (Malosma luarina), giant wild rye (Leymus condensatus), phacelia (Phacelia ssp.), telegraph weed (Heterotheca gradniflora), wild

cucumber (*Marah macrocarpus*), and wild morning glory (*Calystegia macrostegia*); however, they are limited to just a few individuals of each.

A map of the habitats on the site was also prepared by the biological consultant. Commission staff visited the subject property in November 2010 and confirmed that the disturbed habitat exists along the slope below Schueren Road and the majority of the site includes barren land with 3 tennis courts.

The subject site does not include any environmentally sensitive habitat area (ESHA) due to the fact that the site has been previously disturbed by the presence of 3 tennis courts, vegetation clearance that has occurred as a result of the fuel modification requirements for existing residential development on the surrounding properties, and an onsite dirt roadway from Schueren Road. The subject lot has several non native pine trees and invasive eucalyptus trees on it that were planted for landscaping purposes in conjunction with the tennis courts but does not include any oak trees or other native trees. The property is partially vegetated with native chaparral vegetation. However, the subject property is surrounded by other residentially developed properties. As a result, the native chaparral habitat on the site and on the immediately adjacent properties is separated from adjacent chaparral habitat by existing roads and surrounding single-family residential development and is; therefore, not part of a large, contiguous block of native chaparral vegetation. Thus, the chapparal habitat on site (and in offsite areas where vegetation clearance resulting from fuel modification for the proposed residence) does not constitute environmentally sensitive habitat area (ESHA) pursuant to Section 30107.5 of the Coastal Act.

Public parkland has been acquired in this general vicinity located to the north along the upper ridge of the Santa Monica Mountains, but 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.

In the Santa Monica Mountains, the Los Angeles County Fire Dept. requires a 200-ft fuel modification (on-site) and/or brush clearance (off-site) zone from combustible structures. In this case, the 200-ft fuel modification/brush clearance zone overlaps with existing fuel modification zones for existing adjacent development located to the north, east and southwest. The proposed location of the residence would require the fuel modification of native vegetation located to the northwest on the opposite side of Schueren Road outside the existing overlapping fuel modification zones of two nearby residences. This area, approximately 23,000 sq. ft., is located within the "B" Zone (irrigation zone) extending in a radius of approximately 100 feet from the proposed structure and within the "C" Zone (thinning zone) extending a radius approximately 100 feet to a distance of 200 feet beyond the "A" and "B" zones. However, the native chaparral vegetation located opposite Schueren Road is isolated and not considered ESHA. This chaparral vegetation is disturbed on three sides by fuel modification from existing residential development, Schueren Road and residential access driveways. Therefore it is not part of a large contiguous block of native chaparral vegetation and does not constitute environmentally sensitive habitat area (ESHA) pursuant to Section 30107.5 of the Coastal Act. As such, the Commission concludes that the proposed siting and design of the project will minimize impacts to ESHA to the extent feasible.

2. Additional Mitigation Measures to Address Habitat Impacts

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.

The subject lot has several non native pine trees and invasive eucalyptus trees on it that were planted for landscaping purposes in conjunction with the tennis courts but does not include any oak trees or other native trees. The proposed project includes the removal of 7 non-native and invasive trees. The applicant's biologist has conducted a preliminary biological survey of the subject site and found no evidence of any nesting or roosting by any raptor or sensitive bird species. However, due to the fact that the non-native trees proposed for removal still have the potential to provide habitat for sensitive bird species, it is necessary to ensure that potential impacts to nesting bird species are avoided during construction activities. Moreover, the applicant's biologist recommends that a qualified biologist conduct a nest survey before construction begins, which also includes the removal of the disturbed chaparral and non-native trees on the slope where site remediation is required and the proposed residence will be located. Thus, in order to avoid any potential adverse impacts to raptor or sensitive bird species, Special Condition 12 requires that should construction activities occur between February 15th and September 1st (bird breeding season), a qualified environmental resource specialist shall conduct pre-construction bird surveys to determine whether nesting or breeding behavior is occurring and prohibit any construction activities within 500 feet of any nesting or breeding birds.

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.

Furthermore, fencing of the property would adversely impact the movement of wildlife through on this lot. Therefore, the Commission finds it is necessary to limit fencing/gates to the perimeter of the approved development area, driveway area along Schueren Road, and at the driveway from Dressler Road. This is required to be shown on the landscaping plan.

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.

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.** Removal of Natural Vegetation
- Special Condition 12.** Construction Timing and Sensitive Bird Species Surveys

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 proposed project area is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides within a residentially developed area. 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 site is visible from Schueren Road, a public road (an LUP-designated Scenic Highway). Additionally, the development will be visible from various public viewing points, such as public parkland and the Backbone trail both located to the north, which afford scenic vistas of the relatively undisturbed natural area with areas of residential development (Exhibit 14). However, due to the building site's 1,400 foot distance from and the 300 foot elevation below the Backbone Trail, no alternative siting or design options exist on the lot in which the development would be significantly less visible from these public viewing areas.

The proposed residence is two stories with a maximum height of 32 feet from existing and finished grade at any given point. The residence is designed to follow the slope from Schueren Road. The proposed building site and design minimizes the amount of grading and landform alteration necessary for the project after the required site remediation is completed. From most viewing points north of the residence, including the Backbone Trail and public parkland, the development will effectively appear to cascade down the slope. The proposed project would, therefore, impact scenic vistas and visual resources in the area.

The Commission has considered siting and design alternatives to avoid or reduce adverse impacts of the proposed development on visual resources. In this case, staff has identified an alternative building site location on the lower portion of the site. However, development in this location will not minimize the amount of grading and landform alteration for the required slope/landslide remediation. The alternative building site on the lower pad area will not significantly reduce the visibility of the development from public viewing areas and minimize adverse impacts to visual resources. The public visibility of the upper floor of the residence and garage is in the context of surrounding residential development on the same south and east side of Schueren Road and thus is not a significant visual impact. Therefore, there are no siting alternatives that would significantly reduce impacts to visual resources.

To further 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. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without the required coastal development permit. The unpermitted development includes the removal of two of the three existing tennis courts on site. This application includes the request for after-the-fact approval for the above referenced unpermitted development in order to construct the proposed project.

In order to ensure that the unpermitted development component of this application is resolved in a timely manner, the Commission finds it necessary to require the applicant to fulfill all of the Special Conditions that are a prerequisite to the issuance of this permit, within 180 days of Commission action. The following special condition is required to assure the project's consistency with all applicable Chapter 3 policies of the Coastal Act:

- Special Condition 13.** Condition Compliance

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit. The Commission's enforcement division will evaluate further actions to address this matter.

G. LOCAL COASTAL PROGRAM (LCP) PREPARATION

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

- 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 13

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).

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

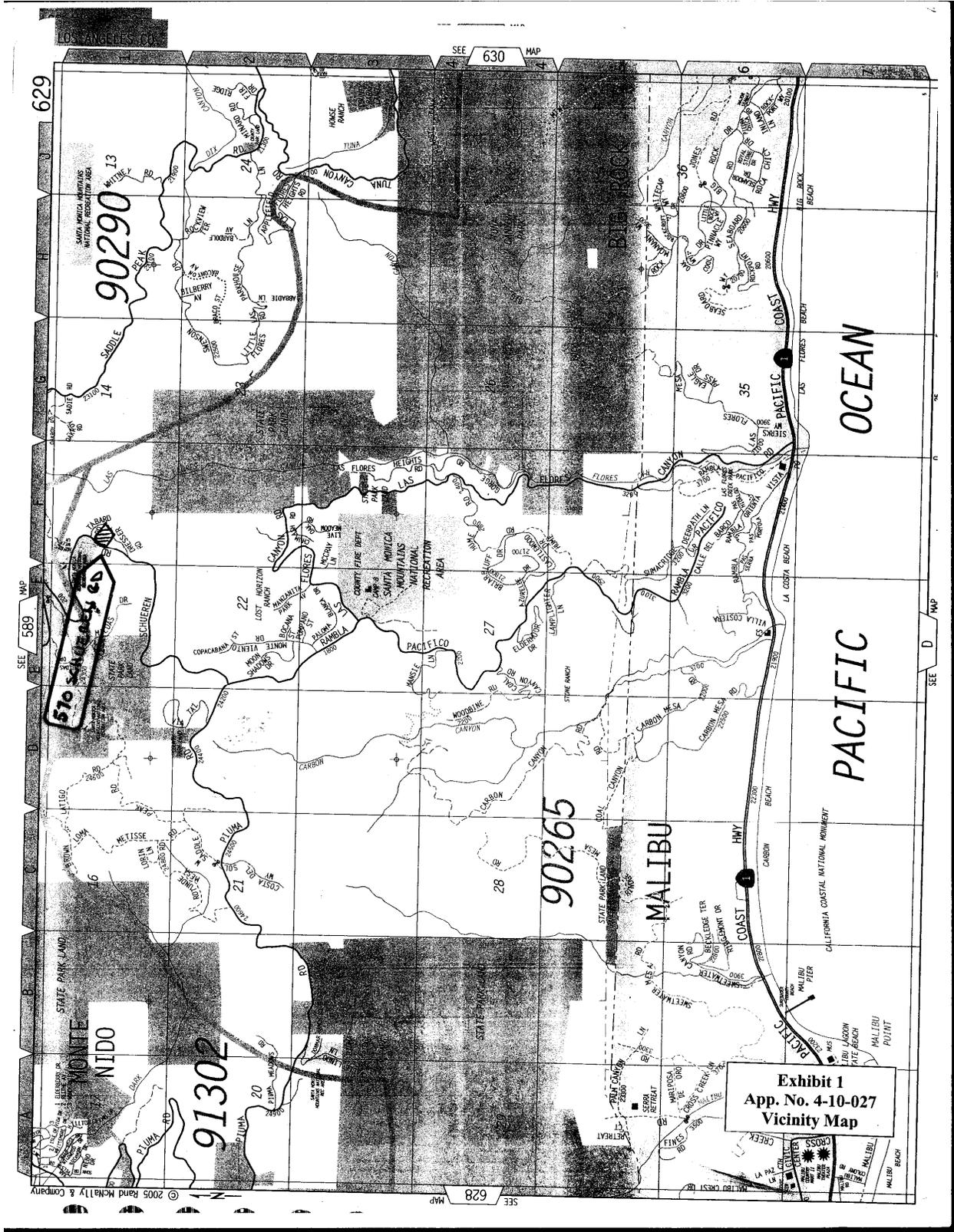
Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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 above, the proposed development, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. 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 13

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.



LOS ANGELES CO

SEE 630 MAP

629

90290

SEE 589 MAP

570 Schuering Co

MONTENIDO

91302

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SEE 628 MAP

90265

MALIBU

OCEAN

PACIFIC

Exhibit 1
App. No. 4-10-027
Vicinity Map

LOH
Local Ordinance Architects

FINN RESIDENCE

ARCHITECTURAL SURVEY
SCALE: 1" = 20'
DATE: 10/20/07
BY: [Signature]

C1.0
2 OF 3

- LEGEND:**
- PROPERTY LINE
 - STREET CENTERLINE (C)
 - ROADWAY
 - CONCRETE (CONC.)
 - ASPHALT (ASP.)
 - GRAVEL (GRAV.)
 - STREET LIGHT (S.L.)
 - ADJACENT LOT
 - BUILDING
 - CHAIN LINK FENCE
 - WOOD FENCE
 - WELDED IRON FENCE
 - CONCRETE (CONC.)
 - MARKET (M.R.)
 - IRRIGATION CONTROL VALVE
 - WELL



Scale 1" = 20'

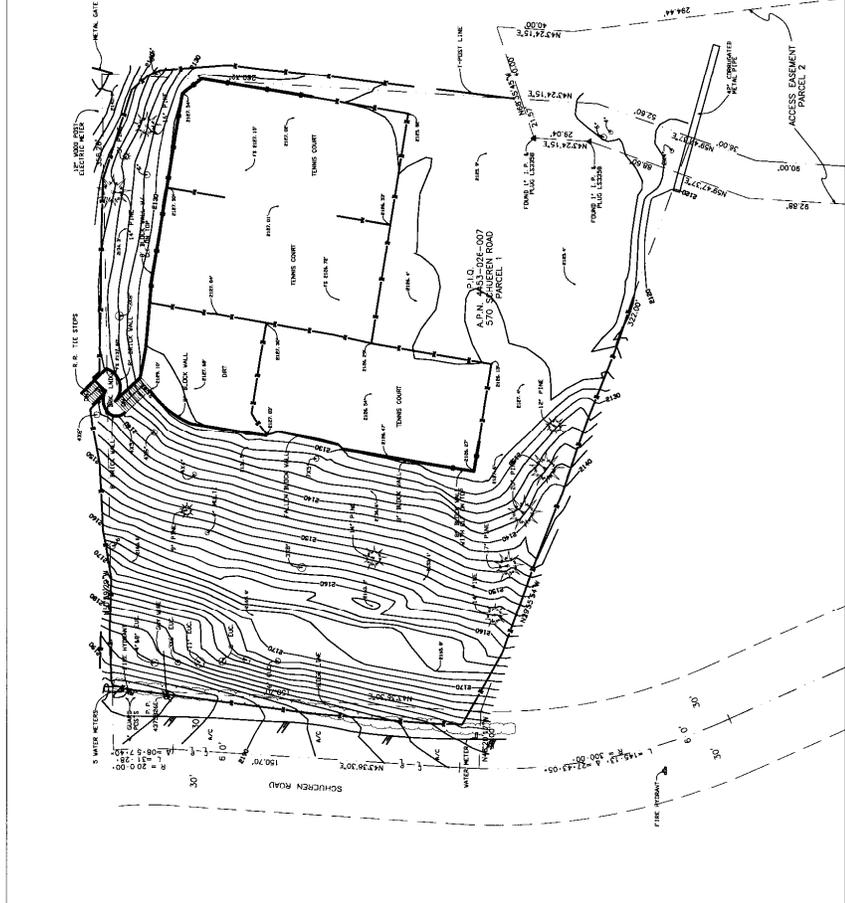


ARCHITECTURAL SURVEY

PREPARED BY:
GREG FINN ARCHITECT
5700 WILSON AVENUE
CALIFORNIA, CA 92636

DATE: 10/20/07
BY: [Signature]

PROJECT: FINN RESIDENCE
SHEET: C1.0
OF: 3



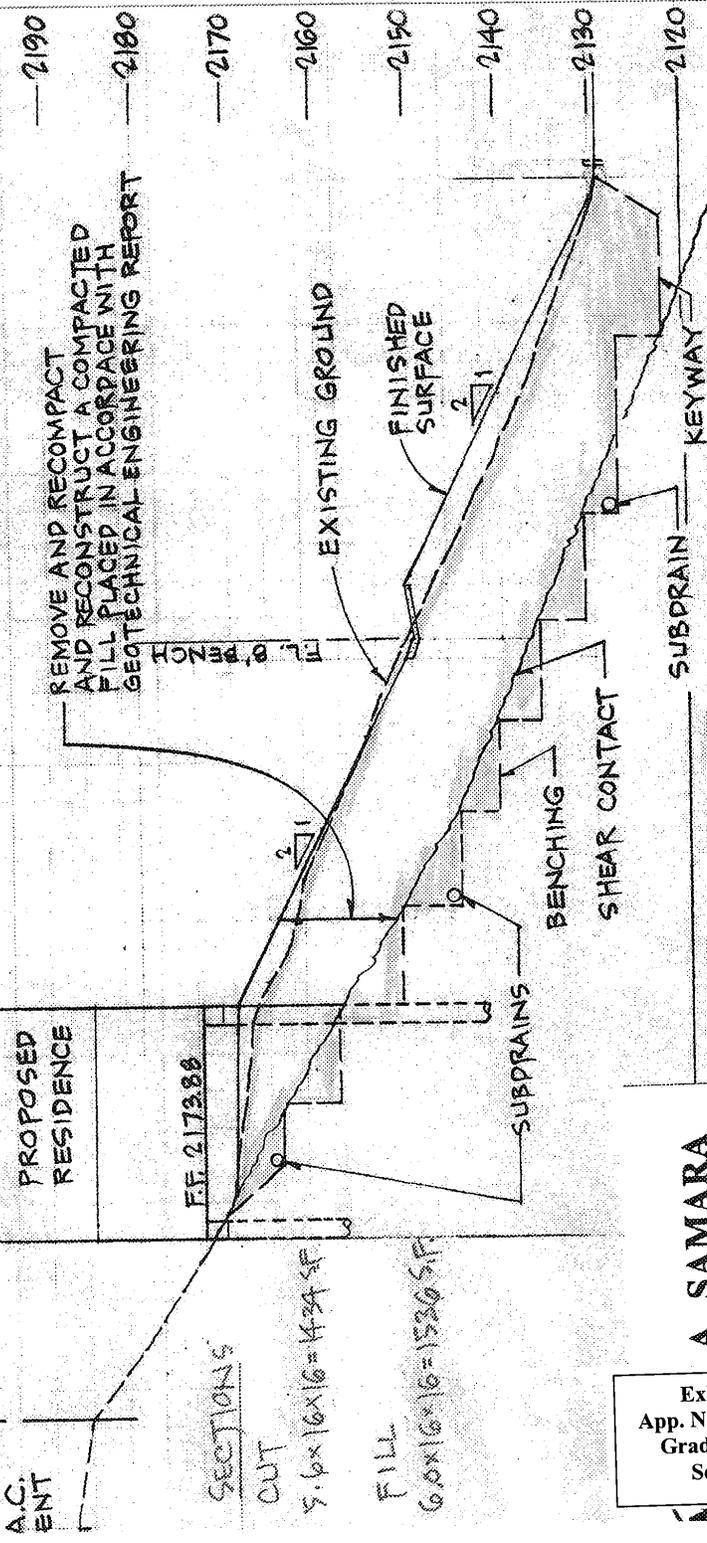
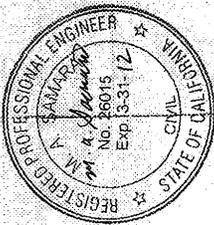
**Exhibit 3
App. No. 4-10-027
Architectural
Survey**

ESTIMATED GRADING QUANTITIES (570 SCHUEREN ROAD)

CUT = $190' \times 1434/27 = 10,091 \text{ C.Y.}$

FILL = $190' \times 1536/27 = 10,809 \text{ C.Y.}$

IMPORT = 718 C.Y.



SECTION "X-X"
SCALE: 1"=16'

A. SAMARA
VIL/STRUCTURAL
ENGINEERING

Exhibit 5
App. No. 4-10-027
Grading Plan
Section

1 S. Sepulveda Blvd. • Suite 115 • Los Angeles, CA 90045
Tel. (310) 322-5535 • Fax (310) 322-5562
samaraengineering@spc.ckasny.net

9/30/09

A.C.
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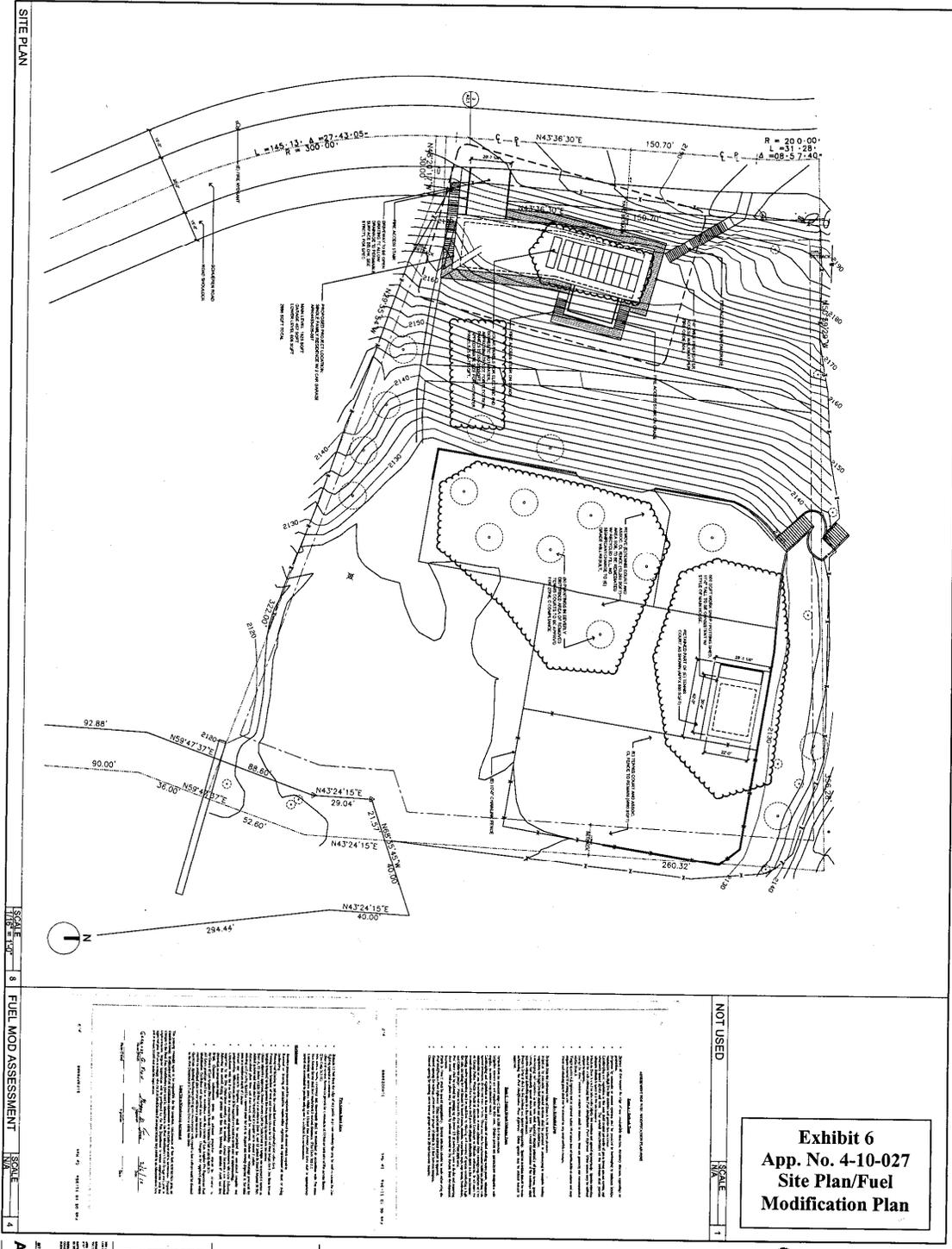
SECTIONS

CUT

5.6x16x16 = 1434 SF

FILL

6.0x16x16 = 1536 SF



SITE PLAN

SCALE 1\"/>

FUEL MOD ASSESSMENT

SCALE 1\"/>

A1.01

NOT USED

SCALE 1\"/>

Exhibit 6
App. No. 4-10-027
Site Plan/Fuel
Modification Plan

FINN RESIDENCE
570 SCHUEREN ROAD, MALIBU, CA 90265

L O H A
Lorean O'Herlihy Architects
1537 S. La Cienega Blvd, Los Angeles, CA 90035 USA
T: 310.657.4383 F: 310.657.4880 www.loha.com



A10

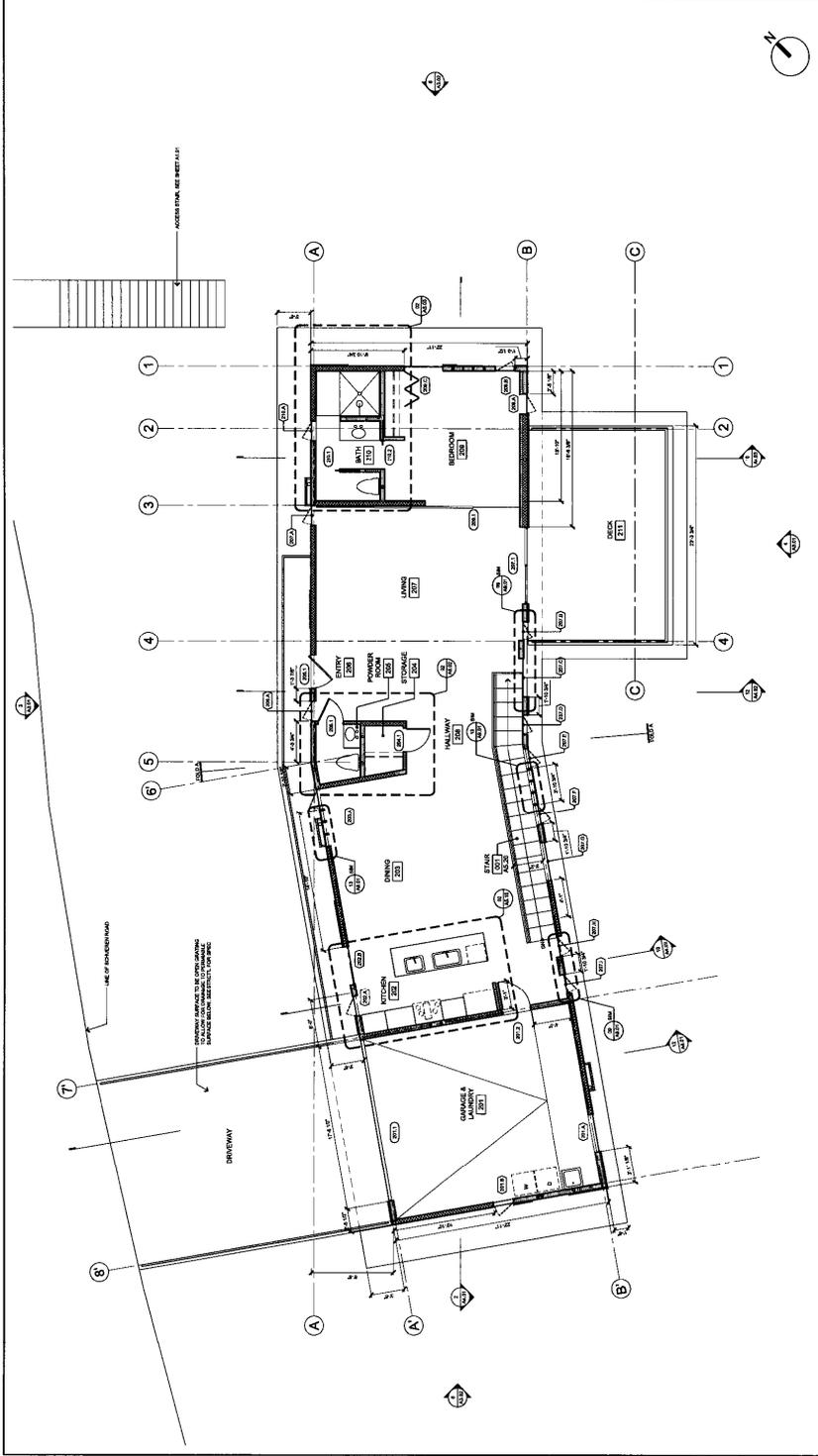
DATE: 10/10/10
SCALE: 1/8" = 1'-0"

PROJECT: FINN RESIDENCE
CLIENT: FINN RESIDENCE
LOCATION: FINN RESIDENCE

DESIGNED BY: LORCAN O'HERRILLY ARCHITECTS
DATE: 10/10/10

FINN RESIDENCE

LOHA Lorcan O'Herrilly Architects



FLOOR PLAN - MAIN LEVEL

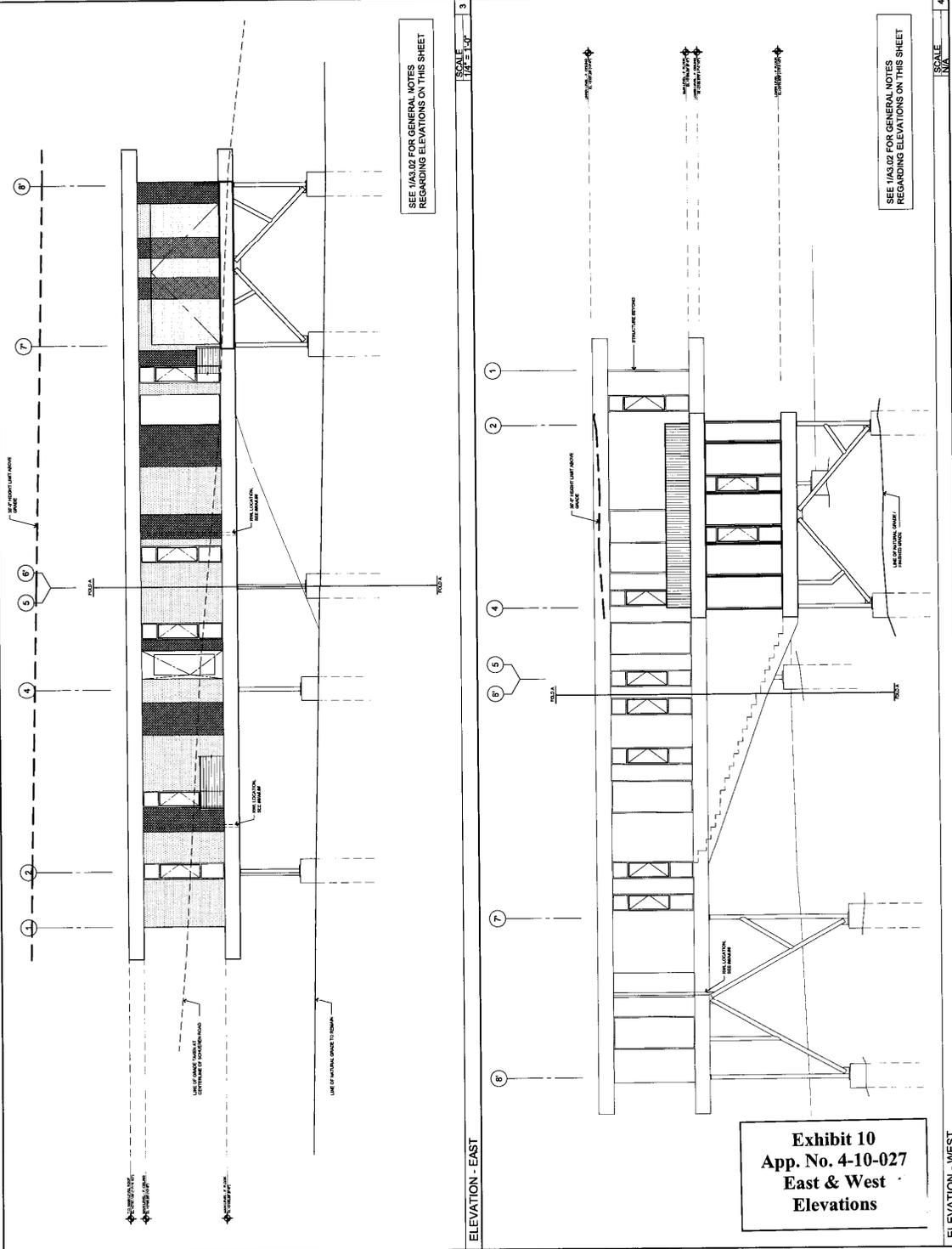
<p>GENERAL NOTES:</p> <ol style="list-style-type: none"> 1. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN ARE TO FACE UNLESS OTHERWISE NOTED. 2. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN ARE TO FACE UNLESS OTHERWISE NOTED. 3. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN ARE TO FACE UNLESS OTHERWISE NOTED. 4. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN ARE TO FACE UNLESS OTHERWISE NOTED. 5. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN ARE TO FACE UNLESS OTHERWISE NOTED. 6. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN ARE TO FACE UNLESS OTHERWISE NOTED. 7. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN ARE TO FACE UNLESS OTHERWISE NOTED. 8. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN ARE TO FACE UNLESS OTHERWISE NOTED. 9. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN ARE TO FACE UNLESS OTHERWISE NOTED. 10. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN ARE TO FACE UNLESS OTHERWISE NOTED. 11. ALL DIMENSIONS TO BE SHOWN ON THIS PLAN ARE TO FACE UNLESS OTHERWISE NOTED. 	<p>FINN RESIDENCE</p> <p>SCALE: 1/8" = 1'-0"</p>	<p>NOT USED</p>				
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Exhibit 8
App. No. 4-10-027
Main Floor Plan

L O H A
LOCAL ORTHONY ARCHITECTS

FINN RESIDENCE

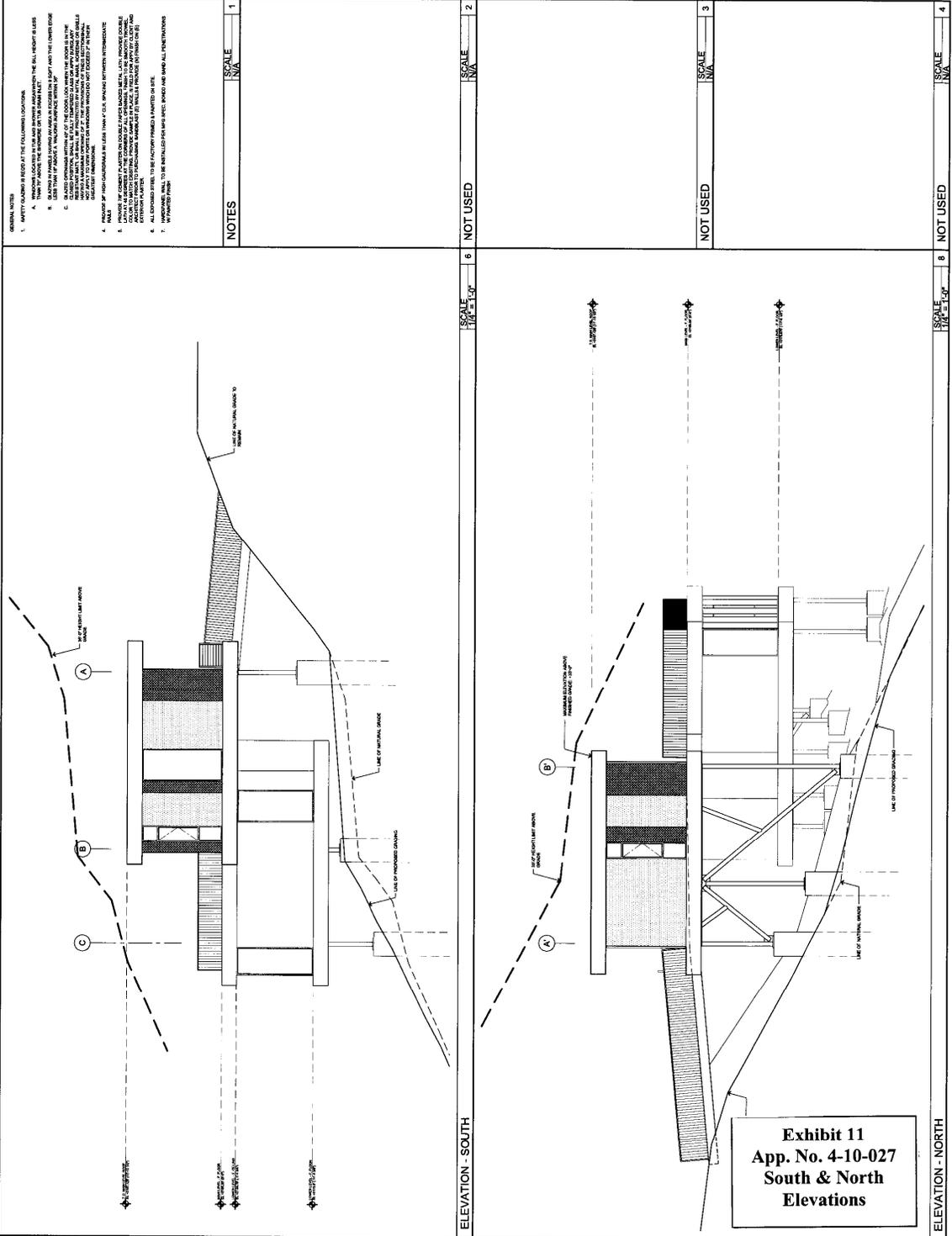
EXHIBIT
SCALE
A3.0



LOH
Loran Overlay Architects

FINN RESIDENCE

DATE: 04/10/07
PROJECT: FINN RESIDENCE
DRAWING: ELEVATIONS
SCALE: A3.0



- GENERAL NOTES
- EMPTY GLAZING IS SHOWN AT THE FOLLOWING LOCATIONS:
 - WINDOWS LOCATED IN THE EAST AND WEST WALLS OF THE BUILDING AT LEVELS 1 AND 2.
 - GLAZING IN WALLS LOCATED AT LEVELS 1 AND 2 AT THE CORNER OF THE BUILDING.
 - GLAZING IN WALLS LOCATED AT LEVELS 1 AND 2 AT THE CORNER OF THE BUILDING.
 - GLAZING IN WALLS LOCATED AT LEVELS 1 AND 2 AT THE CORNER OF THE BUILDING.
 - PROPOSED GLAZING IS SHOWN AT THE FOLLOWING LOCATIONS:
 - WINDOWS LOCATED IN THE EAST AND WEST WALLS OF THE BUILDING AT LEVELS 1 AND 2.
 - GLAZING IN WALLS LOCATED AT LEVELS 1 AND 2 AT THE CORNER OF THE BUILDING.
 - GLAZING IN WALLS LOCATED AT LEVELS 1 AND 2 AT THE CORNER OF THE BUILDING.
 - GLAZING IN WALLS LOCATED AT LEVELS 1 AND 2 AT THE CORNER OF THE BUILDING.
 - ALL DIMENSIONS ARE TO THE FACE UNLESS OTHERWISE NOTED.
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 - ALL DIMENSIONS ARE TO THE FACE UNLESS OTHERWISE NOTED.
 - ALL DIMENSIONS ARE TO THE FACE UNLESS OTHERWISE NOTED.
 - ALL DIMENSIONS ARE TO THE FACE UNLESS OTHERWISE NOTED.

NOTES

SCALE: N/A

1

NOT USED

SCALE: N/A

2

NOT USED

SCALE: N/A

3

NOT USED

SCALE: N/A

4

ELEVATION - SOUTH

SCALE: 1/4" = 1'-0"

8

ELEVATION - NORTH

SCALE: 1/4" = 1'-0"

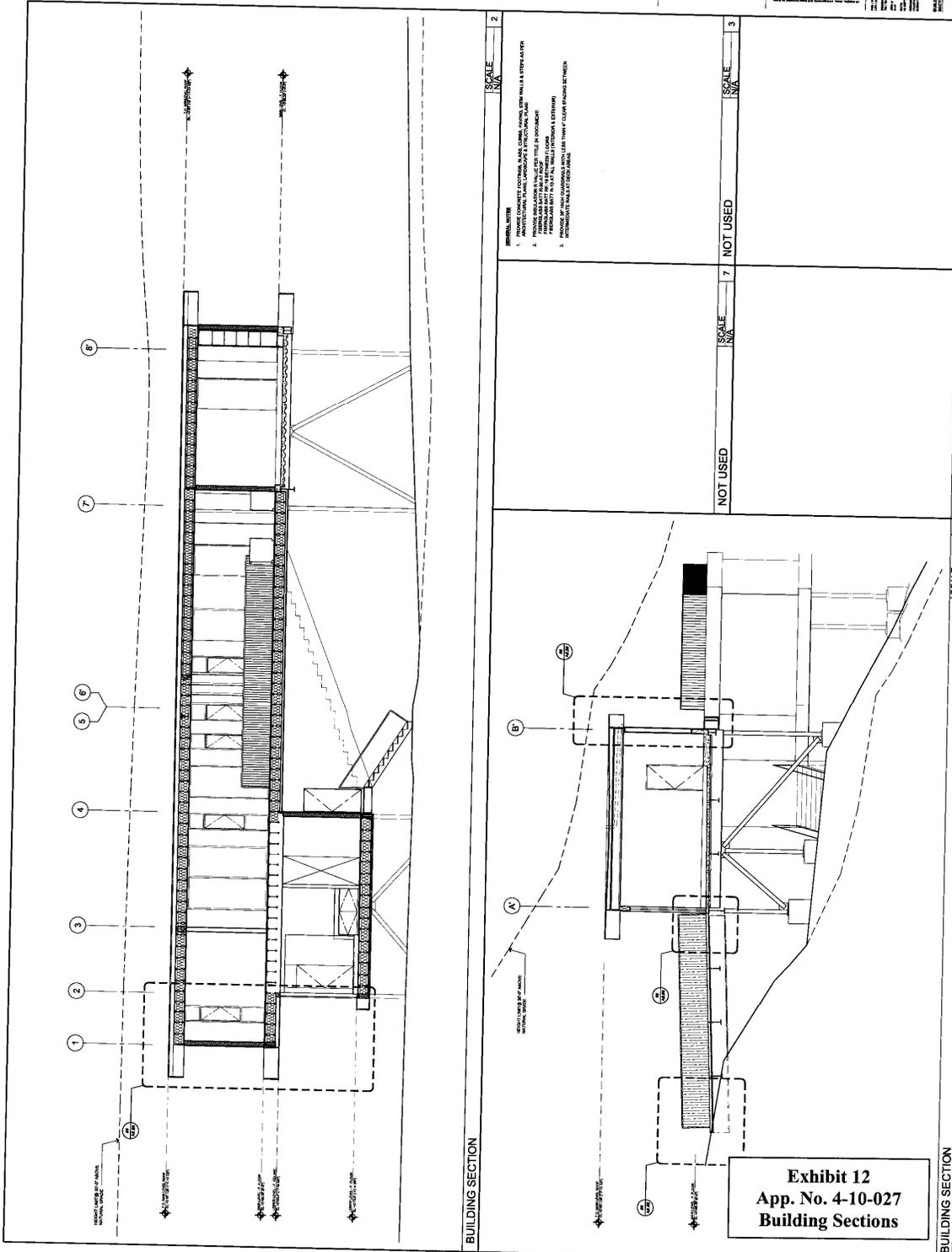
8

Exhibit 11
App. No. 4-10-027
South & North
Elevations

LOHAS
Loren O'Hearty Architects

FINN RESIDENCE

DATE: 01/11/11
PROJECT: FINN RESIDENCE
SHEET: 38 OF 40
SCALE: AS SHOWN
DRAWN BY: [Name]
CHECKED BY: [Name]



- GENERAL NOTES**
1. PROVIDE CONCRETE FOOTINGS IN ALL EXTERIOR WALLS & STEEP SLOPES.
 2. PROVIDE CONCRETE FOUNDATIONS IN ALL EXTERIOR WALLS & STEEP SLOPES.
 3. PROVIDE INSULATION IN ALL EXTERIOR WALLS & ROOFS.
 4. PROVIDE INSULATION IN ALL EXTERIOR WALLS & ROOFS.
 5. PROVIDE INSULATION IN ALL EXTERIOR WALLS & ROOFS.
 6. PROVIDE INSULATION IN ALL EXTERIOR WALLS & ROOFS.
 7. PROVIDE INSULATION IN ALL EXTERIOR WALLS & ROOFS.
 8. PROVIDE INSULATION IN ALL EXTERIOR WALLS & ROOFS.

SCALE	NOT USED						
N/A		N/A		N/A		N/A	

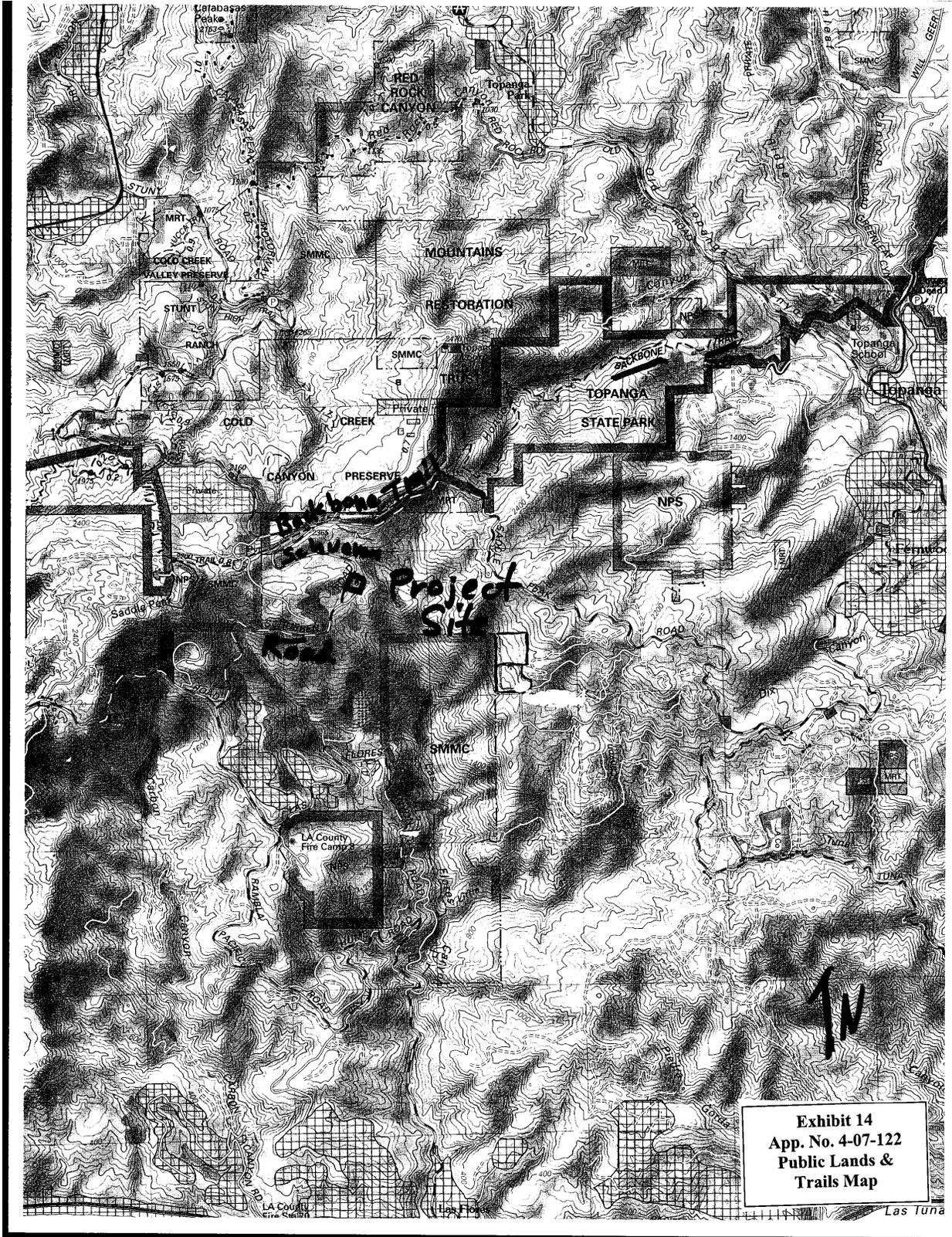
Exhibit 12
App. No. 4-10-027
Building Sections

A4.0

SCALE N/A

NOT USED

SCALE N/A



Schueren Road



Subject Lot &
Building Site

Exhibit 15
App. No. 4-10-027
Aerial Photo