

CALIFORNIA COASTAL COMMISSION

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Filed: 12/2/09
180th Day: N/A
Staff: D. Christensen
Staff Report: 1/21/10
Hearing Date: 2/11/10

**STAFF REPORT: REQUEST FOR RECONSIDERATION**

APPLICATION NO.: 4-08-022-R

APPLICANT: Tom Elliott

AGENT: Marissa Coughlan

PROJECT LOCATION: 1522 Decker Canyon Road, Santa Monica Mountains (Los Angeles Co.)

PROJECT DESCRIPTION: Construction of a two-story, 28-ft. high, 4,413 sq. ft. single-family residence with 1,129 sq. ft. attached garage, swimming pool, 5,000 gallon water tank, septic system, 300-ft. long driveway with hammerhead turnaround, retaining walls, and 1,498 cu. yds. of grading (749 cu. yds. cut, 749 cu. yds. fill). The applicant also sought after-the-fact approval of a 6-ft. high chain-link perimeter fence.

COMMISSION ACTION AND DATE: The Commission denied Coastal Development Permit Application No. 4-08-022 on November 5, 2009.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission deny the request for reconsideration because no new relevant information has been presented that could not, with reasonable diligence, have been presented at the November hearing, and no errors in fact or law have been identified that have the potential of altering the Commission's decision.

SUBSTANTIVE FILE DOCUMENTS: CDP Application No. 4-08-022 Staff Report, dated October 14, 2009, and Staff Report Addendum dated November 2, 2009; Applicant Request for Reconsideration Letter, dated December 2, 2009; Revised Los Angeles County Fire Department approval of Preliminary Fuel Modification Plan, dated November 11, 2009; Malibu/Santa Monica Mountains Land Use Plan (LUP); The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D; "Biological Assessment," prepared by Forde Biological Consultants, dated February 7, 2007; "Geologic and Soils Engineering Exploration," prepared by Grover Hollingsworth and Associates Inc., dated March 27, 2007; "Drainage Study," by The G4 Group Inc., dated March 2008; Coastal Development Permit No. 4-99-015 (Goebels); Los Angeles County Department of Regional Planning Approval-in-Concept, dated February 25, 2008; County ERB Recommendations, dated October 29, 2007; Los Angeles County Fire Department approval of access and turnaround areas, dated April 2, 2008; Los Angeles County Fire Department approval of Preliminary Fuel Modification Plan, dated March 25, 2008, revised September 23/30, 2009, and re-revised November 25, 2009; Los Angeles County Department of Health Services, Conceptual Approvals for Private Septic Systems, dated October 9, 2007.

PROCEDURAL NOTE

The Commission's regulations provide that at any time within thirty (30) days following a final vote upon an application for a coastal development permit, the applicant of record may request that the Commission grant a reconsideration of the denial of an application, or of any term or condition of a coastal development permit which has been granted (Title 14 Cal. Code of Regulations Section 13109.2).

The regulations also state (*id.* at § 13109.4) that the grounds for reconsideration of a permit action shall be as provided in Coastal Act Section 30627, which states, in part:

The basis of the request for reconsideration shall be either that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter or that an error of fact or law has occurred which has the potential of altering the Commission's initial decision.

Cal. Pub. Res. Code § 30627(b)(3). Section 30627 (b)(4) of the Coastal Act also states that the Commission "shall have the discretion to grant or deny requests for reconsideration."

The applicant submitted a request for reconsideration of the Commission's November 5, 2009 decision on December 2, 2009, stating the grounds for its request within the 30-day period following the final vote, as required by Section 13109.2 of the regulations. If a majority of the Commissioners present vote to grant reconsideration, the permit application will be scheduled for a subsequent Commission hearing, at which the Commission will consider it as a new application (Title 14, Cal. Code of Regs., Section 13109.5(c)).

SUMMARY OF APPLICANT'S CONTENTIONS

The request for reconsideration is based on the assertion that an "error of fact" has occurred that could potentially alter the Commission's initial decision. The applicant states:

During the hearing staff stated "the Fire Department no longer allows for the substitution of fire walls for the required 200 foot fuel modification zone." This statement is false. The Los Angeles County Fire Department reviews proposed developments on a case-by-case basis. A firewall similar to that approved in 1999 will avoid the need to fuel modify/clear native chaparral that the Commission now considers ESHA. After the hearing, the Los Angeles County Fire Department conducted another analysis and after extensive review and meetings determined that because the fire suppression system was added to the project and the proposed residence was moved farther west, away from native chaparral, they would approve a "6 foot high solid block or other noncombustible material fire wall to mitigate the need for brush clearance off-site" (see new approved fuel modification plan note). This approval mitigates any need for off-site brush clearance. In addition, the Los Angeles County Fire

Department requested removal of plants proposed within fuel modification zones A and B at the rear of the structure (as indicated on the plan).

During the hearing it was said that the parcel size was 2 acres when, in fact, it is 2.80 acres (121,970 sq. ft.) as determined by the title report, survey, and property tax assessment.

I. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission grant reconsideration of Coastal Development Permit No. 4-08-022-R pursuant to the staff recommendation.*

STAFF RECOMMENDATION TO DENY RECONSIDERATION:

Staff recommends a **NO** vote on the motion. Following the staff recommendation will result in denial of the request for reconsideration and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

RESOLUTION TO DENY RECONSIDERATION:

The Commission hereby denies the request for reconsideration of the Commission's decision on coastal development permit application no. 4-08-022 on the grounds that no "error of fact or law" occurred that has the potential of altering the Commission's initial decision, and no relevant new evidence has been presented that could not, in the exercise of reasonable diligence, have been presented at the original hearing.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Location

On November 5, 2009, the Commission denied the proposed development that is the subject of the underlying permit application. The proposed development was a request for construction of a two-story, 28-ft. high, 4,413 sq. ft. single-family residence with 1,129 sq. ft. attached garage, swimming pool, 5,000 gallon water tank, septic system, 300-ft. long driveway with hammerhead turnaround, retaining walls, and 1,498 cu. yds. of grading (749 cu. yds. cut, 749 cu. yds. fill). In addition, the applicant sought after-the-fact approval of a 6-ft. high chain-link perimeter fence and had indicated that the residence would be

equipped with a “water curtain” sprinkler system and the proposed pool would be equipped with a special pump for additional fire protection purposes.

The proposed project site is an approximately 2-acre vacant parcel located on the east side of Decker Canyon Road, north of Encinal Canyon Road and south of Mulholland Highway in the Santa Monica Mountains, Los Angeles County. The subject property is disturbed and does not meet the definition of ESHA in the Coastal Act. However, the area east and northeast of the property consists of chaparral habitat that is part of a large, contiguous block of pristine native vegetation and meets the definition of ESHA in the Coastal Act, for the reasons articulated in the findings adopted by the Commission on November 5, 2009, which findings are incorporated herein by reference and attached as **Exhibits 3-4** of this staff report.

B. Grounds for Reconsideration

Pursuant to Section 30627 (b)(4) of the Coastal Act, the Commission has the discretion to grant or deny requests for reconsideration. Section 30627(a)(1) states that the Commission shall develop procedures that the Commission will use in deciding whether to grant reconsideration of any decision to deny an application for a coastal development permit, and shall follow those procedures in making that decision.

Section 30627 (b)(3) states in relevant part that the valid bases for a request for reconsideration include (1) “that an error of fact or law has occurred” that could alter the Commission’s initial decision or (2) that there is “relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter”. If the Commission votes to grant reconsideration, it will consider the permit application as a new application at a subsequent hearing.

C. Issues Raised by the Applicant

The applicant’s request for reconsideration, attached as **Exhibits 1-2** of this report, contends that errors of fact occurred which have the potential for altering the Commission’s initial decision. The applicant has generally cited 2 points of contention:

1. Fuel Modification and ESHA Impacts

a. There was no Error of Fact or Law that Could Alter the Commission’s Decision

The applicant asserts that, in making its decision, the Commission relied on a false statement made by Commission staff during the hearing, in which staff conveyed that the Fire Department no longer allows for the substitution of fire walls for the required 200 foot fuel modification zone. As evidence of this assertion about current Fire Department procedure, the applicant states that *after the hearing* the Los Angeles County Fire Department conducted further review and analysis and determined that they would approve a six foot high solid block wall or other noncombustible material fire wall on the subject property to mitigate the need for brush clearance off-site. As evidence, the

applicant has provided a Fire Department-approved Preliminary Fuel Modification Plan, dated November 25, 2009, that contains a six foot high wall across the rear property line and a note stating, "fire wall mitigates the need for brush clearance off-site" (**Exhibit 2**). The applicant claims that this evidence demonstrates that the proposed project will avoid the need to impact off-site ESHA, and that this information would lead the Commission to a different result.

The evidence the applicant has provided does not demonstrate either: (1) that the Fire Department still allows fire walls to substitute for 200 feet of fuel modification, even on a case by case basis; or (2) what the Fire Department's requirements would be for off-site fuel modification adjacent to the subject site if the project were built as proposed. By necessity, fuel modification plans reviewed and approved by the Fire Department in connection with proposed development only cover property that is owned or controlled by the applicant. The Fire Department cannot require a permit applicant to carry out fuel modification on adjacent property if it is owned by a different property owner. Rather, a different unit of the Fire Department (Brush Clearance Unit) will notice adjacent property owners of the need to carry out brush clearance on their property in order to provide the required 200 foot radius of modified fuel for each habitable structure.

In this case, the residence that was proposed by the applicant would be located approximately 106 feet from the rear property line. As such, a brush clearance radius of approximately 94 would be necessary off-site in order to meet the Fire Departments' required 200 foot radius of modified fuel around the structure. The November 25, 2009 Preliminary Fuel Modification Plan simply states that the Fire Department would approve such a wall (an unremarkable statement) and that such a wall would provide some mitigation. It remains unclear if this "mitigation" in conjunction with the fire wall would lead the Fire Department to eliminate its typical brush clearance requirement in its entirety, to approve a reduced area of brush clearance on the adjacent property, or to take some other approach. To clarify what the Fire Department intended in approving this revised Preliminary Fuel Modification Plan for the subject property, Commission staff contacted Captain Keith Condon of the Fuel Modification Unit of the Los Angeles County Fire Prevention Department. Captain Condon indicated that the applicant's proposed wall along the rear property line is intended to reduce or eliminate the need for off-site brush clearance. However, Captain Condon also expressed that the proposed wall will not guarantee that brush clearance won't be required off-site by the Brush Clearance Unit and their inspectors in the field. As such, the evidence the applicant has provided does not demonstrate that a fire wall would, in fact, eliminate the need for off-site brush clearance and a full 200 feet of fuel modification around the proposed habitable structure.

Moreover, other evidence demonstrates that Commission staff's statement at the hearing regarding the Fire Department no longer allowing use of fire walls to substitute for the required 200-ft. fuel modification zone around residences was not inaccurate. Staff had been told by Fire Department staff as well as permit applicants in recent years that fire walls have been deemed ineffective by the Fire Department to eliminate the need for on-site fuel modification, or off-site brush clearance. Moreover, in processing the subject permit application, Commission staff had specifically requested that the applicant find out if

the Fire Department would allow a fire wall on the project site in lieu of brush clearance requirements off-site in this case, given that the Department had previously allowed it in 1999. The applicant's agent at the time (Scott Peters) indicated to staff that the response by the Fire Department was that it was no longer their policy to allow such a substitution. Further, the two different fuel modification plans (approved by the Fire Department) previously submitted by the applicant did not include any such fire wall or other measures designed to reduce the need for off-site brush clearance. Finally, the Commission's findings (adopted on November 15, 2009) state the following with regard to the fire wall issue:

The applicant has asked the Los Angeles County Fire Department if it would allow the construction of a fire wall on the project site in lieu of the full 200-foot radius of fuel modification and/or brush clearance requirement (as had been done for the previously approved development at this site in 1999, providing a significant reason why the Commission had previously approved siting development on the knoll-top pad), and the Fire Department replied that it no longer allows that substitution given the lack of effectiveness of fire walls alone for fire protection in this area. (Page 17)

This statement is based on the applicant's representation that a fire wall with reduced brush clearance was not approved for the subject project by the Fire Department in lieu of its normal brush clearance requirement. The applicant did not dispute this statement or provide evidence that it was inaccurate prior to the November 15, 2009 Commission hearing. So, based on information provided to staff in the past by Fire Department staff, permit applicants, and the subject applicant's agent, the statement by staff that fire walls would not be allowed to substitute for required fuel modification or brush clearance requirements does not constitute an error of fact or law.

Furthermore, even if the Commission's reliance on this statement were an error of fact, which it is not, it would not have had the potential of altering the Commission's decision. Based on the site-specific Fire Department determination recounted in the Commission findings quoted above (that off-site brush clearance would be required even if a wall were in place), the Commission's concern about the impact of this particular project on adjacent ESHA would have been unchanged even if it turned out that, as a general policy matter, the Fire Department did still retain some flexibility. Conversely, even if the Commission believed that the Fire Department were willing to waive the requirement for off-site brush clearance in relation to this particular project, it still would not change the Commission's analysis. The applicant had stated prior to the Commission hearing that the Fire Department would not require off-site brush clearance to protect the structure in its proposed location. So the Commission had already considered whether, if the applicant's statements were true, the proposed residence would minimize impacts to off-site ESHA (even though the applicant was not, at that time, proposing the construction of a fire wall). As stated in the Commission's findings for the action, the second of two fuel modification plans provided by the applicant contained a handwritten note by the reviewing Fire Department representative that states: "no brush clearance is required on adjoining properties as a part of this fuel modification plan – Per Capt. Condon LACFD-Fuel Mod (By RWK 9/30/09)." The Commission found in considering this fuel modification plan that:

“Furthermore, even if the Fire Department were to make such an exception at this time, the Commission would not be a party to any agreement to that effect, and the requirement could be changed at any time in the future” (Page 12). So, the Commission considered this statement and concluded that notwithstanding the representation that brush clearance would not be required on adjacent properties, the environmentally preferred alternative was to re-site the residence at least 200 feet from the rear property lines in order to ensure that off-site brush clearance would not be required in the future.

Similarly, even if the Fire Department had made a site-specific exception in this case to alleviate the requirement of any fuel modification off-site, Commission staff had testified at the hearing that there is no assurance that any exception to fuel modification standards would remain in place in perpetuity given the likelihood of changes in Fire Department policy direction and personnel. *Deputy Director Jack Ainsworth stated:

“Even assuming the Fire Department today will not require the full 200 feet of fuel modification, it does not mean this policy will remain in place in perpetuity. With changes in Fire Department personnel and new policy directions, the new requirement may not stand. Over the years I have seen many changes in fuel modification standards with the Fire Department even when there is an approved fuel modification plan.”

As such, the Commission had considered the potential for Fire Department exceptions in this case and found that avoiding all potential for impacts to off-site ESHA by siting the residential development closer to Decker Canyon Road and at least 200 feet from all off-site ESHA was the environmentally preferred alternative that could be found consistent with all Chapter 3 policies of the Coastal Act, if the applicant should propose such a development on the project site in the future.

b. There is no Relevant New Evidence that, in the Exercise of Reasonable Diligence, Could not have been Presented at the Hearing.

Finally, another basis for the Commission to reconsider its permit decisions is that there is relevant new evidence which, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter. In this case, the applicant's agent has not stated in the written request for reconsideration that there is relevant new evidence. However, she has provided a copy of a third, approved fuel modification plan for the project which includes the construction of a fire wall along the rear property line. This plan itself (dated after the November 15, 2009 Commission hearing) is new evidence, but it is not relevant to the question of how best to protect the off-site ESHA, for the reasons indicated in the prior section. Moreover, even if this evidence were relevant to the issues considered by the Commission in its action on CDP 4-08-022, it is not evidence that, in the exercise of reasonable diligence, could not have been presented at the hearing on the matter. As described in the Commission findings, the applicant, the applicant's representatives, and staff had several discussions about the issue of required fuel modification, including one with the applicant's agent (Scott Peters) indicating that the Fire Department had stated that it was no longer their policy to allow a substitution of a fire wall for fuel modification. Had

the applicant, or his other agent (Marissa Coughlan) considered this statement to be in error, or that the Fire Department's position had changed, they could have, in the exercise of reasonable diligence, provided a third approved fuel modification plan prior to the Commission hearing. The applicant has not presented any evidence that the plan could not have been provided prior to the hearing.

For the reasons stated above, this claim presents no basis for reconsideration pursuant to Section 30627(b)(3) of the Coastal Act.

2. Parcel Size

The applicant also asserts that the Commission relied on a purportedly false statement made by Commission staff during the hearing, in which staff conveyed that the subject parcel is 2 acres in size. The applicant asserts that the subject parcel is 2.80 acres in size. The applicant did not provide any evidence to support this assertion.

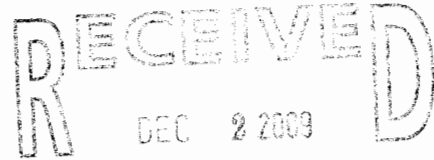
The applicant's own coastal development permit application form and related project plans submitted to staff state that the parcel is 2 acres in size. The prior CDP (No. 4-99-015) related to the subject property had also indicated that the parcel is approximately 2 acres in size. Although the staff report for the subject CDP application considered by the Commission on November 5, 2009, had clearly stated that the parcel is 2 acres in size, the applicant did not bring the alleged discrepancy to the attention of Commission staff prior to or during the Commission hearing. Based upon the information provided by the applicant for the subject CDP application, Commission staff had reason to believe that the parcel is 2 acres in size. No evidence to the contrary has been provided.

Even if Commission staff's presentation did underreport the size of the subject parcel by almost 30%, such a discrepancy is insignificant and irrelevant to the Commission's stated considerations, and it therefore would not have the potential for altering the Commission's previous decision. For the reasons stated above, this claim presents no basis for reconsideration pursuant to Section 30627(b)(3) of the Coastal Act.

D. Conclusion

In summary, the Commission finds that the applicant has not pointed to any error of fact or law that could have altered the Commission's initial decision or could cause the Commission to change its decision now, and he has not presented any relevant new evidence that, in the exercise of reasonable diligence, could not have been presented at the original hearing on the matter. Consequently, there is no basis for reconsideration, and the applicant's request for reconsideration must be denied. Moreover, pursuant to Section 30627(b)(4) of the Coastal Act, even if the applicant meets the criteria for reconsideration, the Commission has the discretion to grant or deny the request. In this case the applicant has not met the criteria for reconsideration, and the Commission denies the request.

4-08-022-R



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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission
89 California Street, 2nd Floor
Ventura, Ca 93001

December 2, 2009

Request for Reconstruction
Of Denial of
4-08-022
Single Family Residence
Elliott

Dear Commission:

On November 5, 2009, the California Coastal Commission (Commission) denied our request for approval to construct a new two-story single-family residence (SFR) with attached garage, swimming pool, 5000 gallon water tank, pool pump, water curtains and sprinklers. Also part of the application is a septic system, 300-foot driveway with hammerhead turnaround, retaining walls and 1498 cubic yards of grading (749 cubic yards of cut and 749 cubic yards of fill).

Pursuant to Section 30627 of the Public Resource Code, sub-sections (a) (1), sub-section (b) (1), (2) & (3), and Title 14, Article 18, Sections 13109.1 to 13109.5 of the California Code of Regulations, we are requesting the reconsideration.

The basis for this request is factual error.

During the hearing, Staff commented on a previous Coastal Development Permit issued for the construction of a SFR on the subject property in 1999. At that time, the Commission did not consider native chaparral in the Santa Monica Mountains as Environmentally Sensitive Habitat Areas (ESHA). Regardless of the designation of the native chaparral, a firewall was included in the previously approved project, designed to avoid fuel modification/clearance of native chaparral. During the hearing, Staff stated "the Fire Department no longer allows for the substitution of fire walls for the required 200 foot fuel modification zone". This statement is false. The Los Angeles County Fire Department (LACOFD) reviews proposed developments on a case-by-case basis. A firewall similar to that approved in 1999 will avoid the need to fuel modify/clear native chaparral that the Commission now considers ESHA.

Exhibit 1
CDP 4-08-022-R
Reconsideration Request Letter

ELLIOTT
REQUEST FOR RECONSIDERATION
DENIAL OF PERMIT 4-08-022

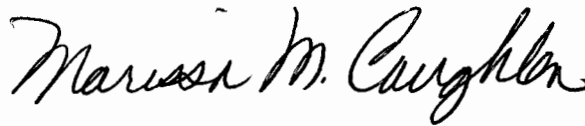
PAGE TWO
December 2, 2009

After the hearing, the Los Angeles County Fire Department (LACOFD) conducted another analysis and after extensive review and meetings, determined that because of the fire suppression system was added to the project and the proposed single family residence (SFR) was moved farther west, away from the native chaparral, they would approve a **"6 foot high solid block or other noncombustible material fire wall to mitigate the need for brush clearance offsite"** (see new approved fuel modification plan note). This approval mitigates any need for offsite brush clearance. In addition, the Los Angeles County Fire Department (LACOFD) requested removal of plants proposed within Fuel Modification Zones A & B at the rear of the structure (as indicated on the plan).

Upon approval by the Commission and upon the commencement of construction, we will send a courtesy letter to notify the adjacent property owner(s) that they will not be required or allowed to brush clear on their parcel. As we all are aware, the National Park Service (NPS) will not brush clear under any circumstance so it is a moot point as far as they are concerned.

During the hearing it was said that the parcel size was 2 acres parcel when, in fact, it is 2.80 acres (121, 970 square feet) as determined by the title report, survey and property tax assessment.

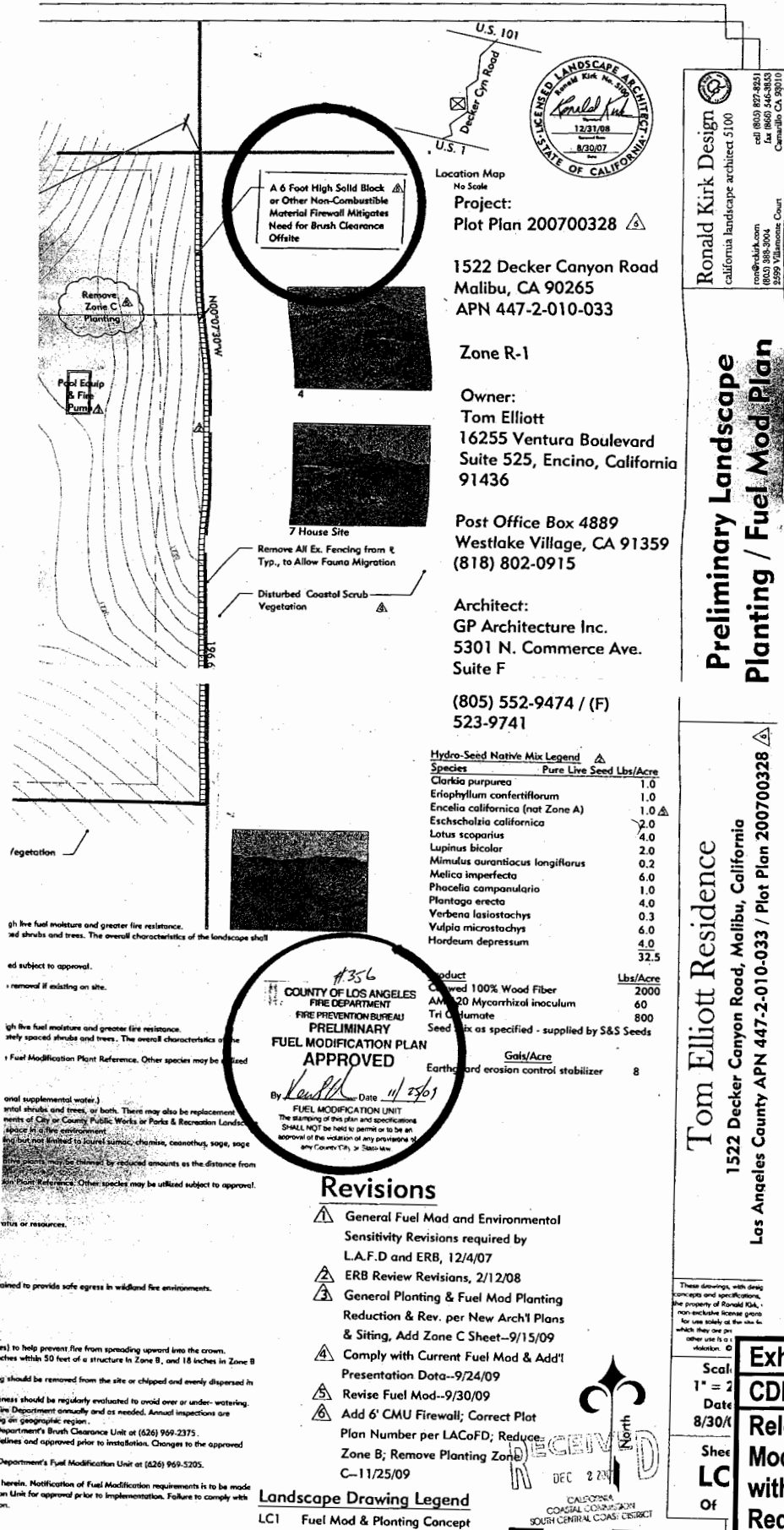
Sincerely yours,

A handwritten signature in black ink that reads "Marissa M. Coughlan". The signature is written in a cursive, flowing style.

Marissa M. Coughlan
Applicant
Representing Mr. Tom Elliott

Enclosure:
Revised approved LACOFD
Fuel Modification/Clearance
Plan (11/25/09)

Relevant Portion of Submitted Fuel Modification Plan Submitted with Request for Reconsideration



Ronald Kirk Design
california landscape architect #100
ron@rkd.com
(805) 888-3004
1299 Villamonte Court
Camarillo CA 90010

**Preliminary Landscape
Planting / Fuel Mod Plan**

Tom Elliott Residence
1522 Decker Canyon Road, Malibu, California
Los Angeles County APN 447-2-010-033 / Plot Plan 200700328

These drawings, with design concepts and specifications, are the property of Ronald G.A. non-exclusive license grants for use solely at the site to which they are prepared. No other use is permitted.

Scale:
1" = 2'
Date:
8/30/08
Sheet:
LC
Of:

Exhibit 2

CDP 4-08-022-R

**Relevant Portion of Fuel
Modification Plan Submitted
with Reconsideration
Request Letter**

CALIFORNIA COASTAL COMMISSION

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Th 13a

Filed: 2/26/09
180th Day: Waived
270th Day: 11/23/09
Staff: D. Christensen
Staff Report: 10/14/09
Hearing Date: 11/5/09



STAFF REPORT: REGULAR CALENDAR

APPLICATION No.: 4-08-022

APPLICANT: Tom Elliott

PROJECT LOCATION: 1522 Decker Canyon Road, Santa Monica Mountains (Los Angeles Co.)

PROJECT DESCRIPTION: The applicant is proposing to construct a two-story, 28-ft. high, 4,413 sq. ft. single-family residence with 1,129 sq. ft. attached garage, swimming pool, 5,000 gallon water tank, septic system, 300-ft. long driveway with hammerhead turnaround, retaining walls, and 1,498 cu. yds. of grading (749 cu. yds. cut, 749 cu. yds. fill). The applicant also seeks after-the-fact approval of a 6-ft. high chain-link perimeter fence.

Lot Area:	2 acres
Building Coverage:	3,018 sq. ft.
Paved Area:	9,000 sq. ft.
Landscaped Area:	17,148 sq. ft.
Ht. Abv. Fin. Grade:	28 ft.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **DENIAL** of the subject permit application. 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.

The applicant proposes to construct a single-family residence on an approximately 2-acre property along Decker Canyon Road in the Santa Monica Mountains. To the south of the subject parcel are several single family residences along Decker Canyon Road. To the north of the parcel is vacant land that has been disturbed to some degree by past grading and brush clearance activities. To the east of the parcel is a large area of vacant land that contains relatively undisturbed native chaparral vegetation. Much of this area, to the northeast, is National Park Service land. The subject site is located in an area designated as a Wildlife Corridor (between the Arroyo Sequit Significant Watershed and the Trancas Canyon Significant Watershed) in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP).

In 1999 the Commission had approved residential development on the subject parcel (CDP 4-99-015 (Goebels)) that included a main residence and detached garage on the existing knoll-top

Exhibit 3
CDP 4-08-022-R
CDP No. 4-08-022 Staff
Report

pad on the eastern portion of the site and a guest unit/garage in the western portion of the site. This permit has since expired. However, at the time the Commission considered CDP Application No. 4-99-015, native chaparral vegetation in the Santa Monica Mountains was not yet recognized as an especially valuable habitat type that met the definition of ESHA under the Coastal Act, so the Commission made no ESHA determination for the site. The area was, however, mapped as a Wildlife Migration Corridor in the LUP, and the Commission found it important to maintain the habitat value of the mature chaparral area to the east of the property for migrating wildlife. The project included a 6-ft. high, 66-ft. long fire retardant wall between the proposed residential development and the east property boundary to avoid the need for removal of vegetation off-site within the mature chaparral area to the east. At that time, the Los Angeles County Fire Department had approved the fire retardant wall as an adequate alternative to the requirement for the neighboring property owner to carry out off-site brush clearance to the east of the house. Because the project successfully avoided the need for removal of the chaparral habitat, the Commission found that the project would not impair the habitat values it sought to protect. The Commission found that the wall would minimize the project's effects upon the chaparral habitat that is of value to migrating wildlife in the corridor. Since that time, the Commission has regularly found, in numerous past permit actions, that many areas located in the Santa Monica Mountains Coastal Zone meet the Coastal Act definition of ESHA even though they may contain no resource designation or some other resource designation, such as Wildlife Migration Corridor.

The subject 2-acre property has historically been disturbed and currently consists of non-native ruderal vegetation. An existing residence is situated on an adjacent parcel to the south and its associated fuel modification radius encroaches into much of the western portion of the subject property. In addition, an existing graded pad that pre-dates the effective date of the Coastal Act is situated on a knoll in the eastern portion of the site. As such, the subject property is disturbed and does not meet the definition of ESHA in the Coastal Act. However, the area east and northeast of the property consists of chaparral habitat that is part of a large, contiguous block of pristine native vegetation and meets the definition of ESHA in the Coastal Act.

The applicant had originally proposed to construct a residential development similar to that previously approved in CDP 4-99-015, consisting of a two-story, 4,358 sq. ft. single-family residence with a 796 sq. ft. attached garage on the existing knoll-top pad in the eastern portion of the property, and a detached 1,401 sq. ft. guest house/garage in the western portion of the property. Proposed grading under this proposal included a total of 2,560 cu. yds. (1,293 cu. yds. cut, 1,267 cu. yds. fill) and the proposed development area exceeded 15,000 sq. ft. In processing the subject permit application, Commission staff asked for an alternatives analysis to limit the proposed development area to no more than 10,000 sq. ft., which is the maximum development area the Commission has allowed for projects in the Santa Monica Mountains that the Commission is compelled to approve notwithstanding their negative impact on ESHA. Staff also requested the applicant analyze the feasibility of siting all proposed development closer to Decker Canyon Road (in the area of the proposed guest house) to avoid vegetation removal/thinning for fuel modification purposes within the undisturbed native chaparral area to the east that meets the definition of ESHA under the Coastal Act.

In response to the issues raised by staff in processing the application, the applicant has omitted the proposed guest house, redesigned/reconfigured the proposed main residence and attached garage on the knoll-top pad to provide a larger setback from the rear/east property boundary and ESHA, and reduced the proposed development area to 9,990 sq. ft. The redesign has increased the structure's rear yard/ESHA setback from 34 feet to 106 feet. However, given Fire Department fuel modification requirements for fire protection, approximately 100-ft. of the

required 200-ft. fuel modification radius around the proposed structures would not be able to be contained on the project site. As such, the Fire Department would require brush clearance to be carried out by the owner of the neighboring property off-site to provide adequate fire protection for the proposed residence. Such brush clearance would encroach approximately 94-feet into off-site ESHA. Thus, while the revised proposal would reduce impacts to off-site ESHA, the project as proposed would still have unavoidable impacts to the off-site ESHA. The applicant has stated that he is unwilling to relocate the residence to the western portion of the property for several stated reasons, including the loss of mountain views that would result.

The proposed siting of the residential development is not consistent with Section 30240 of the Coastal Act or the guidance policies of the LUP because residential development is not a resource-dependent use, because the habitat removal associated with the proposed construction (including the required fuel modification areas) will not protect ESHA against any significant disruption of habitat values, and because the proposed development would not be "as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources." In addition, the proposed as-built chain link fencing around the perimeter of the property inhibits the free passage of wildlife within ESHA and the designated Wildlife Corridor, which does not protect ESHA against any significant disruption of habitat values. Furthermore, alternatives exist to accommodate construction of a single-family residence on the property while avoiding impacts to off-site ESHA, consistent with Coastal Act policies. Therefore, staff recommends **denial** of the subject application.

LOCAL APPROVALS RECEIVED: Los Angeles County Department of Regional Planning Approval-in-Concept, dated February 25, 2008; County ERB Recommendations, dated October 29, 2007; Los Angeles County Fire Department approval of access and turnaround areas, dated April 2, 2008; Los Angeles County Fire Department approval of Preliminary Fuel Modification Plan, dated March 25, 2008, revised September 23, 30, 2009; Los Angeles County Department of Health Services, Conceptual Approvals for Private Septic Systems, dated October 9, 2007.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan (LUP); The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D; "Biological Assessment," prepared by Forde Biological Consultants, dated February 7, 2007; "Geologic and Soils Engineering Exploration," prepared by Grover Hollingsworth and Associates Inc., dated March 27, 2007; "Drainage Study," by The G4 Group Inc., dated March 2008; Coastal Development Permit No. 4-99-015 (Goebels).

I. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

MOTION I: *I move that the Commission approve Coastal Development Permit 4-08-022 pursuant to the staff recommendation.*

Staff Recommendation of Denial:

Staff recommends a **NO** vote. Failure of this motion (through adoption of staff's recommended "no" vote) will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Deny the Permit:

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will 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 would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a two-story, 28-ft. high, 4,413 sq. ft. single-family residence with 1,129 sq. ft. attached garage, swimming pool, 5,000 gallon water tank, septic system, 300-ft. long driveway with hammerhead turnaround, retaining walls, and 1,498 cu. yds. of grading (749 cu. yds. cut, 749 cu. yds. fill) (**Exhibits 3-8**). In addition, the applicant seeks after-the-fact approval of a 6-ft. high chain-link perimeter fence and has indicated that the residence will be equipped with a "water curtain" sprinkler system and the proposed pool will be equipped with a special pump for additional fire protection purposes.

The proposed project site is an approximately 2-acre, rectangular-shaped parcel located on the east side of Decker Canyon Road, north of Encinal Canyon Road and south of Mulholland Highway in the Santa Monica Mountains, Los Angeles County (**Exhibits 1-2**). The west portion of the property adjacent to Decker Canyon Road consists of gently sloping terrain that then ascends in a northeast direction, up to a fairly level graded knoll-top pad (**Exhibits 12 and 17**). Site elevations range from 670 feet in the western portion of the property to 720 feet in the eastern portion of the property. The existing

graded knoll-top pad has been documented by Commission staff to date back to the 1960's. As such, the graded pad and an approximately 300-ft. long road up to it along the north property boundary, pre-date the effective date of the Coastal Act. The property has been disturbed since that time and periodically cleared/mowed. More recently (since the effective date of the Coastal Act), a chain-link fence has been constructed along the property's perimeter without benefit of a coastal development permit. The applicant is proposing to retain this fencing as part of the proposed project.

According to the applicant's submitted Biological Assessment, prepared by Forde Biological Consultants, the property contains non-native ruderal vegetation, with the exception of a few small native toyon (*Heteromeles arbutifolia*) trees. The biological assessment also states that a large area of native chaparral vegetation exists to the east, beginning at the applicant's eastern property boundary, that meets the Coastal Act definition of an environmentally sensitive habitat area (ESHA). The subject site is located in an area designated as a Wildlife Corridor (between the Arroyo Sequit Significant Watershed and the Trancas Canyon Significant Watershed) in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) (**Exhibit 11**).

To the south of the parcel are several single family residences along Decker Canyon Road. To the north of the parcel is vacant land that has been disturbed to some degree by past grading activities which created a building pad and driveway pursuant to CDP No. 5-89-048. To the east of the parcel is a large area of vacant land that contains relatively undisturbed native chaparral vegetation. Much of this area, to the northeast, is National Park Service land.

The site is not visible from any public viewing areas.

Prior Commission Action

The Commission has previously approved residential development on the subject parcel. In 1999 the Commission approved CDP 4-99-015 (Goebels) for a 3,800 sq. ft., 26 ft. high, two story single family residence, detached 3-car garage adjacent to residence on an existing 7,900 sq. ft. pad atop a low knoll, fire department turnaround at upper mouth of existing driveway, 18 ft. high, two-story, additional detached 4-car garage with 800 sq. ft. first floor and 750 sq. ft. guest unit on second floor, six ft. high, approximately 66 linear ft., non-combustible fire wall along partial property line, swimming pool, septic system, and 170 cu. yds. of grading (95 cu. yds. cut and 75 cu. yds. fill), subject to special conditions regarding landscape and erosion control plans, conformance with geologic recommendations, a future development restriction, and a waiver of liability regarding wildfire risks (**Exhibit 9**). The permit was issued April 27, 2000. However, the permit expired on May 11, 2001 because the property owner at the time did not commence construction of the approved development and did not request a permit extension prior to expiration.

At the time the Commission considered CDP Application No. 4-99-015, native chaparral vegetation in the Santa Monica Mountains was not yet recognized as an especially

valuable habitat type that met the definition of ESHA under the Coastal Act, so the Commission made no ESHA determination for the site. The area was, however, mapped as a Wildlife Migration Corridor in the LUP, and the Commission found it important to maintain the habitat value of the mature chaparral area to the east of the property for migrating wildlife. The project included a 6-ft. high, 66-ft. long fire retardant wall between the proposed residential development and the east property boundary to avoid the need for removal of vegetation off-site within the mature chaparral area to the east. At that time, the Los Angeles County Fire Department had approved the fire retardant wall as an adequate alternative to the requirement for the neighboring property owner to carry out off-site brush clearance to the east of the house. Because the project successfully avoided the need for removal of the chaparral habitat, the Commission found that the project would not impair the habitat values it sought to protect. The Commission found that the wall would minimize the project's effects upon the chaparral habitat that is of value to migrating wildlife in the corridor.

The Malibu/Santa Monica Mountains Land Use Plan (LUP) certified by the Coastal Commission in 1986 contains a tiered approach to sensitive resource designation. In applying this policy approach to numerous permit decisions that have come before the Commission since 1986, such as CDP 4-99-015, the Commission has concluded that the tiered approach often does not adequately protect lands that meet the definition of ESHA under the Coastal Act but nevertheless fall into one of the lower tiers in the LUP system. The Commission has found, in past permit actions, that many areas located in the Santa Monica Mountains Coastal Zone meet the Coastal Act definition of ESHA even though they may contain no resource designation or some other resource designation, such as Wildlife Migration Corridor.

As discussed in further detail later in this report, the area east of the property contains a large contiguous area of native chaparral vegetation that the Commission finds meets the Coastal Act definition of ESHA.

Subject Permit Application

The applicant had originally proposed to construct a residential development similar to that previously approved in CDP 4-99-015. The applicant proposed a two-story, 4,358 sq. ft. single-family residence with a 796 sq. ft. attached garage on the existing knoll-top pad in the eastern portion of the property, and a detached 1,401 sq. ft. guest house/garage in the western portion of the property (**Exhibit 10**). The applicant also proposed to improve an existing 300-ft. long, 20-ft. wide driveway to the upper pad. Proposed grading under this proposal included a total of 2,560 cu. yds. (1,293 cu. yds. cut, 1,267 cu. yds. fill) and the proposed development area exceeded 15,000 sq. ft. A major departure from the project approved in CDP 4-99-015 is that the applicant did not propose to include the construction of the fire retardant wall between the proposed residential development and the east property boundary. In processing the application, Commission staff asked for an alternatives analysis to limit the proposed development area to no more than 10,000 sq. ft., which is the maximum development area the Commission has allowed for projects in the Santa Monica Mountains that the

Commission is compelled to approve notwithstanding their negative impact on ESHA. Staff also requested the applicant analyze the feasibility of siting all proposed development closer to Decker Canyon Road (in the area of the proposed guest house) to avoid vegetation removal/thinning for fuel modification purposes within the undisturbed native chaparral area to the east that meets the definition of ESHA under the Coastal Act.

In response to the issues raised by staff in processing the application, the applicant has omitted the proposed guest house, redesigned/reconfigured the proposed main residence and attached garage on the knoll-top pad to provide a larger setback from the rear/east property boundary and ESHA, and reduced the proposed development area to 9,990 sq. ft. The redesign has increased the structure's rear yard/ESHA setback from 34 feet to 106 feet. As such, the Fire Department would require brush clearance to be carried out by the owner of the neighboring property off-site to provide adequate fire protection for the proposed residence. Such brush clearance would encroach approximately 94 feet into off-site ESHA. While the revised proposal would reduce impacts to off-site ESHA compared to the original proposal, the project as proposed would still have impacts to off-site ESHA that could be avoided through alternative siting of the residence. The applicant has stated that he is unwilling to relocate the residence to the western portion of the property for several stated reasons, including the loss of mountain views that would result.

The applicant has asked the Los Angeles County Fire Department if they would approve the construction of a fire wall in lieu of a full 200-foot radius of fuel modification and/or brush clearance beyond the northeastern and eastern property lines, as had been done for the previously approved development at this site in 1999. The Fire Department representative replied that they no longer allow the substitution of fire walls for the full 200 feet of fuel modification/brush clearance, given the lack of effectiveness of fire walls for fire protection in this area. In order to comply with the mandatory County Fire Department requirements, the current application therefore effectively proposes brush clearance of off-site ESHA, some of which would be on National Park Service land.

The hearing on the subject application had previously been scheduled for the August 13, 2009 meeting; however, the hearing was postponed on August 10, 2009, at the request of the applicant, to allow for additional time to respond to the staff recommendation. Commission staff had a meeting with the applicant and his representatives on September 28, 2009. At the meeting the applicant asserted that the Fire Department would not require off-site brush clearance for the proposed project and therefore no ESHA would be impacted. The applicant also asserted that siting the development in the western portion of the property closer to Decker Canyon Road was infeasible given site constraints. Commission staff requested the applicant provide documents or other evidence to support these assertions, and the applicant agreed he would at a later date.

The applicant's representative, Marissa Coughlan, provided staff with additional information on October 9, 2009. The applicant modified his project description to include

the following additional project features: 1) a 5,000 gallon water tank to be located on the proposed development pad, 2) a “water curtain” sprinkler system to be installed on the residence, and 3) to equip the proposed pool with a special pump for additional fire protection purposes.

The applicant also provided staff with a revised Fire Department-approved fuel modification plan that contained a handwritten note by the reviewing Fire Department representative that said, “no brush clearance is required on adjoining properties as a part of this fuel modification plan – Per Capt. Condon LACFD-Fuel Mod (By RWK 9/30/09).” However, this note on the plan is only conveying that the applicant will not be the party responsible for brush clearance on adjacent properties that he does not own, as is standard practice. The Fire Department will separately send notices to the adjacent property owners directing them to clear brush on their property that is within 200 feet of an adjacent structure. Legally, the Fire Department cannot mandate on an applicant’s fuel modification plan that they must clear brush on adjacent properties they do not own. As such, the submitted plan with note does not in any way demonstrate that the Fire Department has made an exception to its standard required 200 foot fire protection area in this case. Furthermore, even if the Fire Department were to make such an exception at this time, the Commission would not be a party to any agreement to that effect, and the requirement could be changed at any time in the future.

Additionally, Ms. Coughlan submitted a letter dated October 1, 2009 (**Exhibit 16**), which details meetings and discussions between Commission staff and the applicant and his representatives (his architect Mr. Pedroso and his lawyer Mr. Block) in February 26, 2009. Ms. Coughlan was not retained as the applicant’s agent at the time and was not present during these discussions or meeting. Many of the statements in this letter are unsubstantiated or inaccurate. For instance, the letter states that Commission staff advised the applicant that if the guesthouse was deleted from the project and the development area reduced to 10,000 sq. ft., then the residence could be approved on the upper pad. Staff did advise the applicant that given the project’s impacts on off-site ESHA, all development would have to be located within a maximum 10,000 sq. ft development area. However, staff also requested that the applicant analyze other feasible alternatives to locate all structures such that impacts to off-site ESHA could be avoided. If it is feasible to avoid ESHA removal, then such avoidance is required in order to achieve conformity with the policies of the Coastal Act. Staff did not at any time indicate to the applicant that staff would recommend approval of the residence on the upper pad area in exchange for the changes listed above. Rather, staff indicated that it appeared entirely feasible to site development on the lower, western area of the site where it would not require any removal of ESHA to provide fire protection.

The applicant and his agents at the time requested staff’s advice regarding measures he could take to redesign the project or to include additional mitigation measures that would allow him to make his best case to the Commission that impacts had been minimized, even if staff continued to recommend denial of the CDP. Such potential measures discussed included moving the residence as far away from the eastern property line as possible (even with the structure still on the upper pad), as well as the

applicant possibly proposing to pay an in-lieu habitat impact mitigation fee in excess of the fee that would otherwise typically be required (where ESHA is unavoidably impacted by development). However, staff did not require the applicant to include such measures, nor did staff indicate that the staff recommendation would be changed to approval even if such measures were proposed by the applicant.

At all times, staff continued to tell the applicant and his agents that it appeared to be feasible to avoid all impacts to ESHA by siting the development on the lower, western area of the parcel. The applicant has represented that such siting is in fact not feasible for a variety of issues, including setbacks, location of septic system, amount of grading required, etc. However, the applicant has not provided any detailed information to demonstrate that such constraints exist and render the western area of the site infeasible. Staff suggested that the applicant conceptualize an alternative development area in the western portion of the property and show asserted constraints. Ms. Coughlan provided staff with a mock-up site plan for a 4,000 sq. ft. home placed exactly 200 feet from the rear property line, and estimated to require 6,200 cu. yds. of grading (cut). However, this alternative site concept is situated halfway down a major slope between the upper eastern and the lower western portions of the property, and not in the gently-sloping area staff had discussed and identified as a feasible alternative location (**Exhibit 15**). Ms Coughlan states on page 3 of her letter attached as **Exhibit 16** that the septic system is situated in the lower area because it is the best percolation area and that relocating the residence to the lower area would conflict with the septic system. However, no constraint information was provided to demonstrate this assertion. Given what was previously proposed and approved in the lower area of the property (guest house, driveway, and septic system, per CDP 4-99-015 and the applicant's originally proposed plans), and in consideration of County-required yard and septic system setbacks, there appears to be ample opportunity to site a residential development there. As such, the applicant has not demonstrated that the area within the gently-sloping western portion of the property nearer Decker Canyon Road is infeasible or significantly constrained for siting the proposed residential development.

County Environmental Review Board (ERB) Review

Since the subject property is located in an LUP-designated Wildlife Corridor, the County ERB reviewed the originally proposed project for consistency with the LUP. The originally proposed project included a guest house in the western portion of the property and a main residence in the eastern portion of the property approximately 34 feet away from the off-site undisturbed chaparral vegetation. On October 29, 2007, the ERB provided a number of recommendations for the project, which included the elimination of perimeter fencing, adherence to a 10,000 sq. ft. maximum pad area and a 300 foot maximum long driveway, elimination of guest unit garage, modifications to landscaping plan, and structure color and exterior lighting restrictions.

However, staff notes that the LUP serves as guidance only, and it is the Chapter 3 policies of the Coastal Act that are the Commission's standard of review for the proposed project. While the ERB's recommendations with regard to the project would

have undoubtedly reduced the impacts to sensitive resources, the Commission finds that there are additionally feasible alternatives that would avoid impacts to ESHA that would be inconsistent with Coastal Act section 30240 altogether, and that adoption of such an alternative is necessary to find that the proposed project is consistent with the Chapter 3 policies of the Coastal Act.

B. 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.

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.

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.

1. Project Description and Site Specific Biological Resource Information

The proposed project site is an approximately 2-acre, rectangular-shaped parcel located on the east side of Decker Canyon Road, north of Encinal Canyon Road and south of Mulholland Highway in the Santa Monica Mountains, Los Angeles County. The west portion of the property adjacent to Decker Canyon Road consists of gently sloping terrain that then ascends in a northeast direction, up to a fairly level graded knoll-top pad. Site elevations range from 670 feet in the western portion of the property to 720 feet in the eastern portion of the property. The existing graded knoll-top pad has been documented by Commission staff to date back to the 1960's. As such, the graded pad and an approximately 300-ft. long road up to it along the north property boundary, pre-date the effective date of the Coastal Act. The property has been disturbed since that time and periodically cleared/mowed. More recently (after the effective date of the Coastal Act), a chain-link fence has been constructed along the property's perimeter without benefit of a coastal development permit. The applicant is seeking after-the-fact approval of this fence as part of this application, in order to be able to retain this fencing as part of the proposed project.

The subject site is located in an area designated as a Wildlife Corridor (between the Arroyo Sequit Significant Watershed and the Trancas Canyon Significant Watershed) in the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). To the south of the parcel are several single family residences along Decker Canyon Road. To the north of the parcel is vacant land that has been disturbed to some degree by past grading activities which created a building pad and driveway pursuant to CDP No. 5-89-048. To the east/northeast of the parcel is a large area of vacant land that contains relatively undisturbed native chaparral vegetation. Much of this area, to the northeast, is National Park Service land.

According to the applicant's submitted Biological Assessment, prepared by Forde Biological Consultants (February 2007), the subject property contains non-native ruderal vegetation, with the exception of a few small native toyon (*Heteromeles arbutifolia*) trees. The Biological Assessment also states that a large area of native chaparral vegetation exists to the east, beginning at the applicant's eastern property boundary, that meets the Coastal Act definition of an environmentally sensitive habitat area (ESHA). Based on Commission staff review of the Biological Assessment and aerial photographs of the site and surrounding area, staff concurs with the above characterization of the area.

The applicant proposes to construct a two-story, 28-ft. high, 4,413 sq. ft. single-family residence with 1,129 sq. ft. attached garage, swimming pool, water tank, septic system, 300-ft. long driveway with hammerhead turnaround, retaining walls, after-the-fact 6-ft. high chain-link perimeter fencing, and 1,498 cu. yds. of grading (749 cu. yds. cut, 749

cu. yds. fill) on the subject property. In addition, the applicant has proposed that the residence will be equipped with a “water curtain” sprinkler system and the proposed pool will be equipped with a special pump for additional fire protection purposes. The residential development is proposed on the existing knoll-top pad at the eastern portion of the property and approximately 106 feet from the rear/east property boundary and the off-site native chaparral habitat. The applicant’s approved fuel modification plan 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. As such, the 100-ft. Zone C (thinning zone) of the required 200-ft. fuel modification radius for the residence would not be contained within the property. The brush clearance that would be required off-site up to 200 feet from the proposed structure would encroach into the off-site chaparral habitat to the east/northeast.

The applicant has recently provided staff with a revised Fire Department-approved fuel modification plan that contains a handwritten note by the reviewing Fire Department representative that states: “no brush clearance is required on adjoining properties as a part of this fuel modification plan – Per Capt. Condon LACFD-Fuel Mod (By RWK 9/30/09).” However, this note on the plan is only conveying that the applicant will not be the party responsible for brush clearance on adjacent properties that he does not own, as is standard practice. The Fire Department will separately send notices to the adjacent property owners directing them to clear brush on their property that is within 200 feet of an adjacent structure. Legally, the Fire Department cannot mandate on an applicant’s fuel modification plan that they must clear brush on adjacent properties they do not own. As such, the submitted plan with note does not in any way demonstrate that the Fire Department has made an exception to their standard required 200 foot fire protection area in this case. Furthermore, even if the Fire Department were to make such an exception at this time, the Commission would not be a party to any agreement to that effect, and the requirement could be changed at any time in the future.

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 is contained in the March 25, 2003 memorandum prepared by the Commission’s Ecologist, Dr. John Dixon¹ (hereinafter “Dr. Dixon Memorandum”), which is incorporated as if set forth in full herein.

Unfortunately, coastal sage scrub, chaparral, oak woodland and riparian habitats 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 stands of coastal sage scrub, chaparral, oak woodland, and riparian habitats 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 ESHA. This is consistent with the Commission’s past findings in support of its actions on many permit applications and in adopting the Malibu LCP².

The subject 2-acre property has historically been disturbed and currently consists of non-native ruderal vegetation. An existing graded pad that pre-dates the effective date of the Coastal Act is situated on a knoll in the eastern portion of the site. An existing residence is situated on an adjacent parcel to the south and its associated brush clearance radius encroaches into much of the western portion of the subject property. It appears that at least a portion of the area where vegetation has been removed on the site is in excess of what is required for the adjacent residence or to maintain the existing driveway and pad on the subject site. As such, the subject property is disturbed and

¹ 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-esh-memo.pdf>

² The Commission’s “Revised Findings” in support of its September 13, 2002 adoption of the City of Malibu Local Coastal Program were adopted on February 6, 2003.

does not meet the definition of ESHA in the Coastal Act. However, the area east and northeast of the property consists of 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 adjacent to the project site meets the definition of ESHA in the Coastal Act.

3. Resource Dependent Use and Habitat Degradation

The Commission finds that the surrounding area east and northeast of the property constitutes an environmentally sensitive habitat area (ESHA), and brush clearance requirements associated with the proposed residence on the subject parcel will encroach into the off-site ESHA area. While the applicant has reduced potential impacts to off-site ESHA from the level associated with the original proposal by reconfiguring the proposed residence upon the knoll-top pad, the proposed project will still have avoidable impacts to ESHA. Given Fire Department fuel modification requirements for fire protection, the 100-ft. Zone C (thinning zone) of the required 200-ft. fuel modification radius around proposed structures would not be contained within the property or limited to non-ESHA areas. The brush clearance that would be required off-site up to 200 feet from the proposed structure would still encroach into off-site ESHA (approximately 94 feet of clearance area would be required on the adjacent site).

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 extends to a maximum of 200 feet. If there is not adequate area on the project site to provide the required fuel modification for structures, as is the case for the proposed residence, then brush clearance will be required on adjacent parcels. In this way, for a large area around any permitted structures, native vegetation will be cleared, selectively removed to provide wider spacing, and thinned. Further, the Commission has found that off-site brush clearance will have more impact on ESHA than if the Zone C fuel modification were contained on a project site. This is because Zone C requirements include thinning or removing highly flammable plant species. The approved fuel modification plan will give specifics about which plants need to be thinned and how wide spacing needs to be. However, in the case of off-site brush clearance, the adjacent property owner will receive a notice in the mail requiring them to clear vegetation within a certain radius of structures. No plan is approved and no details

about the specific vegetation types on the neighbor's property is provided. In the Commission's experience, such off-site brush clearance typically results in complete removal of all vegetation within the required radius.

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 Memorandum³, 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.

Section 30240(a) of the Coastal Act restricts development within ESHA to only those uses that are dependent on the resource. As neither single-family residences nor fuel modification needs to be located within ESHA to function, single-family residences and associated fuel modification are not uses dependent on ESHA resources. Section 30240(a) also requires that ESHA be protected against significant disruption of habitat values. As the proposed residential development will require removal of ESHA from brush clearance for fire protection purposes, the project would significantly disrupt the habitat value in those locations. In addition, the proposed as-built 6-ft. high chain link fencing around the perimeter of the property inhibits the free passage of wildlife within a designated Wildlife Corridor and within ESHA, inconsistent with Section 30240(a) of the Coastal Act. Finally, Section 30240(b) requires that development adjacent to ESHA be sited and designed to prevent impacts that would significantly degrade the ESHA, and again, the proposal would site the main structure in a location that would require significant degradation of the adjacent ESHA. Section 30240 therefore requires denial of the project, as proposed, because the project would result in significant disruption and degradation of habitat values, and residential fuel modification is not a use dependent on those sensitive habitat resources.

In addition to Section 30240 of the Coastal Act, the LUP, which serves as guidance, provides, in policy P74, that new development should be located “as close as feasible to existing roadways . . . and existing development to minimize the effects on sensitive environmental resources.” Application of this requirement to the instant proposal yields the same result as application of Section 30240, as it also favors relocation of the proposed development to the western portion of the site, where it would be closer to both the road and development to the south.

As discussed previously, in 1999 the Commission had approved residential development on the subject parcel (CDP 4-99-015 (Goebels)) that included a main residence and detached garage on an existing knoll-top pad and a guest unit/garage in the western portion of the property. However, that permit has expired, and at the time

³ 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>

the Commission considered CDP Application No. 4-99-015, native chaparral vegetation in the Santa Monica Mountains was not yet recognized as an especially valuable habitat type that met the definition of ESHA under the Coastal Act. The area was, however, mapped as a Wildlife Migration Corridor in the LUP, and the Commission found it important to maintain the habitat value of the mature chaparral area to the east of the property for migrating wildlife. The project included a 6-ft. high, 66-ft. long fire retardant wall between the proposed residential development and the east property boundary to avoid the need for removal of vegetation off-site within the mature chaparral area to the east. At that time, the Los Angeles County Fire Department had approved the fire retardant wall as an adequate alternative to the requirement for the neighboring property owner to carry out off-site brush clearance to the east of the house. Because the project successfully avoided the need for removal of the chaparral habitat, the Commission found that the project would not impair the habitat values it sought to protect. The Commission found that the wall would minimize the project's effects upon the chaparral habitat that is of value to migrating wildlife in the corridor. Since that time, the Commission has regularly found, in numerous past permit actions, that many areas located in the Santa Monica Mountains Coastal Zone meet the Coastal Act definition of ESHA even though they may contain no resource designation or some other resource designation, such as Wildlife Migration Corridor.

Since the time CDP 4-99-015 was approved, two circumstances have changed that must be factored into Commission analysis of the proposed project: 1) large, contiguous areas of native chaparral vegetation in the Santa Monica Mountains are now recognized as an especially valuable habitat type that meet the definition of ESHA under the Coastal Act, even though such areas may not have been designated expressly as ESHA in the Los Angeles County LUP, and 2) the Los Angeles County Fire Department no longer allows fire walls in lieu of providing the full 200-foot radius of fuel modification and/or brush clearance around all flammable structures.

In the case of the proposed project, the off-site areas of native chaparral vegetation are ESHA that must be protected against any significant disruption of habitat value, and the brush clearance requirements that would be associated with the proposed residential development would not serve to avoid and minimize impacts to ESHA to the greatest extent feasible. The applicant has asked the Los Angeles County Fire Department if it would allow the construction of a fire wall on the project site in lieu of the full 200-foot radius of fuel modification and/or brush clearance requirement (as had been done for the previously approved development at this site in 1999, providing a significant reason why the Commission had previously approved siting development on the knoll-top pad), and the Fire Department replied that it no longer allows that substitution given the lack of effectiveness of fire walls alone for fire protection in this area.

The proposed siting of the residential development is not consistent with Section 30240 of the Coastal Act or the guidance policies of the LUP because residential development is not a resource-dependent use, because the habitat removal associated with the proposed construction (including the required brush clearance areas) will not protect ESHA against any significant disruption of habitat values, because the proposed

development would not be “as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources”, and because there are feasible alternatives, as discussed below.

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

Denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicant’s property nor unreasonably limit the owner’s reasonable investment-backed expectations of the subject property. Approvable alternatives to the proposed development exist.

Alternatives must be considered to determine if there is an alternative project that would lessen or avoid the significant environmental impacts to ESHA to such an extent that it would be consistent with the ESHA protection policies listed above. An alternative is a description of another activity or project that responds to the major environmental impacts of the project identified through the Commission’s analysis.

The most obvious alternative that may be approvable for this site would be to move the proposed development to the western portion of the property (**Exhibits 13-14**). The western portion of the site could accommodate construction of a single-family residence while also avoiding impacts to off-site ESHA. The subject parcel is rectangular-shaped, extending approximately 430 feet eastward from Decker Canyon Road. The west portion of the property adjacent to Decker Canyon Road consists of gently sloping terrain that then ascends in a northeast direction up to a graded knoll-top pad. The alternative site identified by staff is located within the gently-sloping western portion of property nearer Decker Canyon Road and adjacent development to the south. This area of the site has historically been disturbed, associated with fuel modification for the residence to the south, and is farther away from off-site ESHA areas. Construction of a residence in this location would avoid brush clearance in ESHA. The Commission had previously approved a guest house in this location, pursuant to CDP 4-99-015. In addition, the applicant of the subject permit application had originally proposed a guest house in this location that the applicant’s consulting geologic engineer stated was a suitable site for the development. And according to the grading plans associated with each of the two previous guest house proposals in this area of the property, the amount of required grading was minimal. Therefore, there is substantial evidence to conclude that construction of a single-family residence in this alternative location is feasible, located nearer existing roads and residences, and would not involve a significant amount of grading or landform alteration. In sum, a feasible alternative exists to accommodate residential development on the property that avoids impacts to ESHA. In addition, there exist fencing siting and design alternatives that would allow for safe passage of wildlife and could be found consistent with the ESHA protection policies of the Coastal Act.

In processing the subject permit application, Commission staff had asked the applicant to analyze the alternative of siting the proposed residential development within the western portion of the property. However, the applicant has stated that he is unwilling to

relocate the residence to the western portion of the property due to several reasons, including that the loss of mountain views that would result. As discussed above, the applicant has represented that such siting is, in fact, not feasible for a variety of reasons, including required setbacks, location of septic system, amount of grading required, etc. However, the applicant has not provided any detailed information to demonstrate that such constraints exist and render the western area of the site an infeasible location for the proposed development. As such, the Commission can only conclude that there may well be feasible siting and design alternatives that would avoid ESHA impacts. Although the alternative of re-siting the residence is clearly feasible, re-siting the proposed development involves many variables and could be accomplished in many different ways, and the Commission cannot redesign the project. Thus, the Commission will not attempt to approve the project with conditions requiring such relocation.

Although the Commission presents this alternative in an effort to assist the applicant by identifying a potentially approvable alternative project, the Commission cannot now guarantee that any given alternative would receive Coastal Act approval when it is presented in the future. This is true for many reasons, among them that (1) the Commission reviews each project independently when it is presented, along with the required information about impacts to Coastal resources, (2) the composition of the Commission at the time of such an application may not be the same as it is now, and the Commission may interpret the governing standards differently, view the facts differently, or simply exercise its discretion differently; and (3) the specific details of the project presented may raise additional issues that the general description listed below does not anticipate.

Nevertheless, with those caveats in mind, it appears that development could be designed on the subject site such that it would avoid 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 deeper within existing disturbed areas rather than near the edge of those areas and within 200 feet of undisturbed habitat areas, locating development as close to existing roads and public services as feasible, as suggested by policy P74 of the LUP, and locating structures near other residences in order to minimize additional fuel modification.

5. Conclusion

For the reasons discussed above, the Commission finds that the proposed project does not protect ESHA from significant disruption of habitat values and has not been sited and designed in a manner that would prevent impacts that would significantly degrade the off-site ESHA. The project is therefore not consistent with Section 30240 of the Coastal Act. Finally, the proposed project is inconsistent with Policies 68 (which mirrors 30240(a)), 69 (which mirrors 30240(b)), and 74 of the Malibu/Santa Monica Mountains Land Use Plan, which the Commission uses as guidance. As discussed, there are feasible alternatives that would avoid the significant disruption of habitat values. The

applicant has declined to propose such an alternative. The project must therefore be denied.

C. Unpermitted Development

Unpermitted development occurred on the subject parcel prior to submission of this permit application including, but not limited to, construction of chain-link fencing along the perimeter of the property. The applicant is now requesting after-the-fact approval for retention of the fencing pursuant to this application. The Commission is denying this application for the reasons discussed in full in the preceding sections of this report. Therefore, pursuant to the staff recommendation, the Commission's enforcement division will evaluate further actions to address this matter.

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

D. Local Coastal Program

Section 30604 of the Coastal Act states:

a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will not be in conformity with the provisions of Chapter 3. The proposed development will create adverse impacts and is found to be inconsistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development would prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

E. 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 is not consistent with the policies of the Coastal Act. There are feasible alternatives that would avoid the adverse environmental effects of the project, including the alternative to site residential development within the western portion of the property, for the reasons listed in this report. Therefore, the Commission finds that the proposed project is not consistent with the requirements of the Coastal Act to conform to CEQA.

Project Site

90265

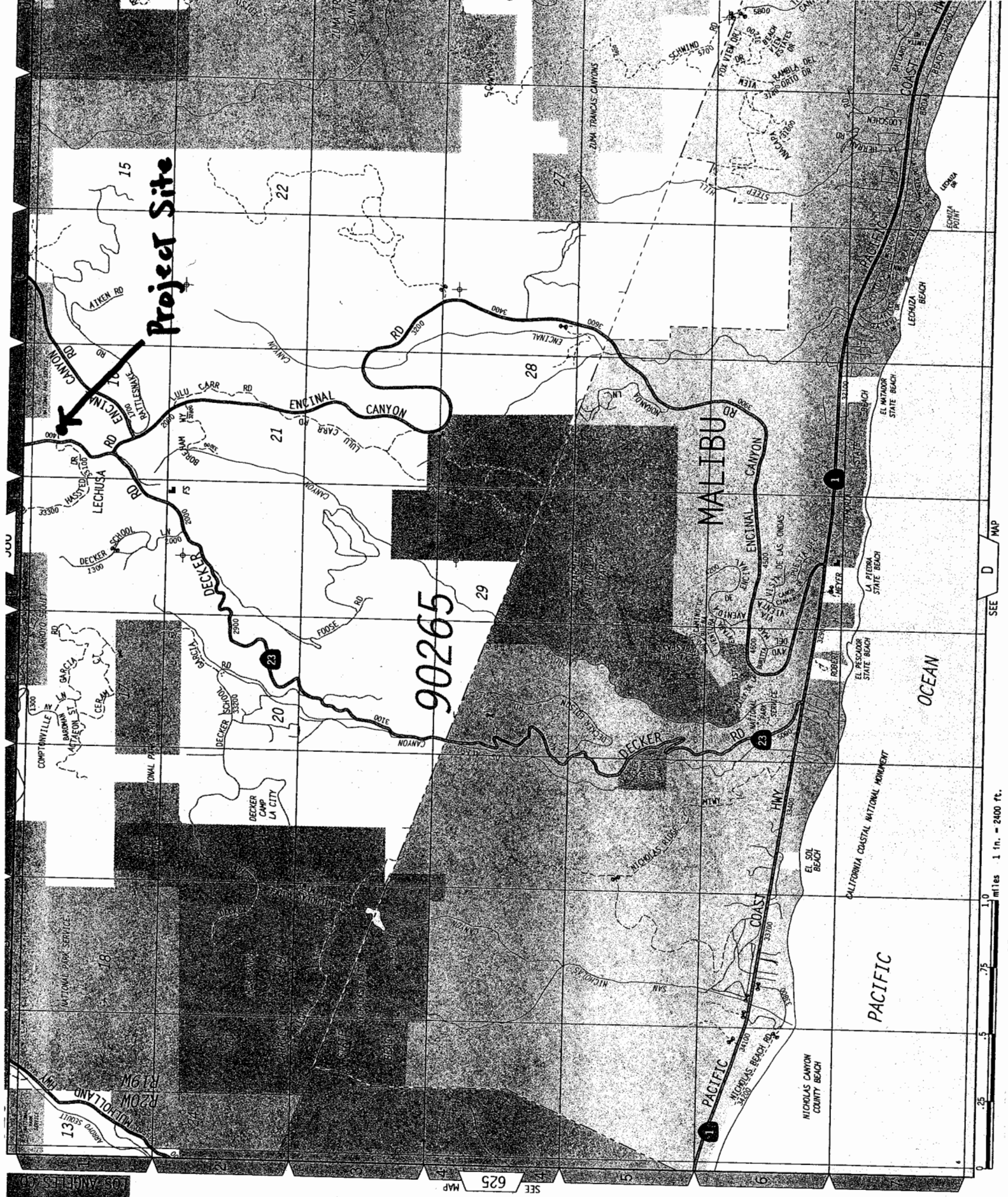
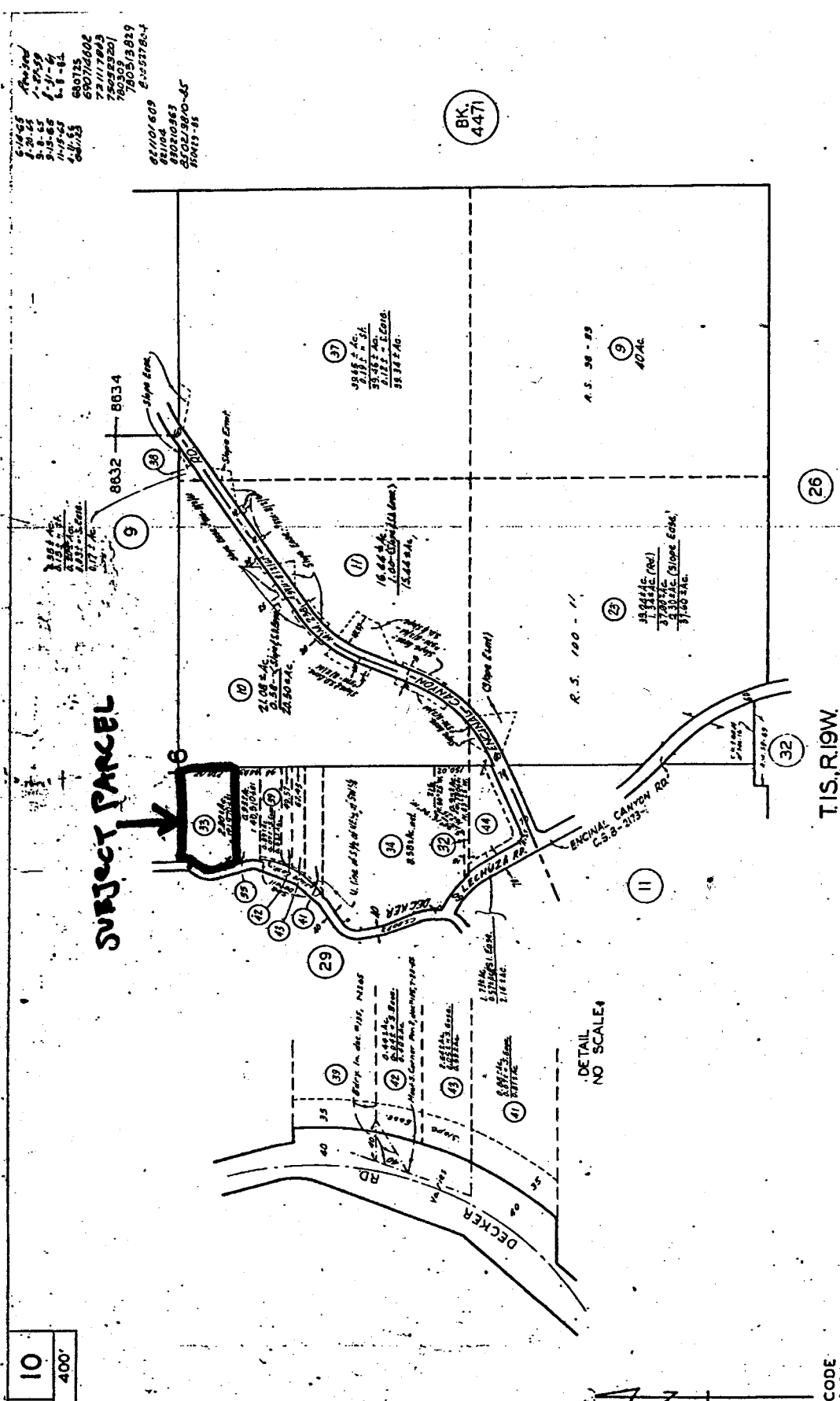


Exhibit 1
4-08-022 (Elliott)
Vicinity Map

SCALE 1" = 400'

CODE
8632
8634

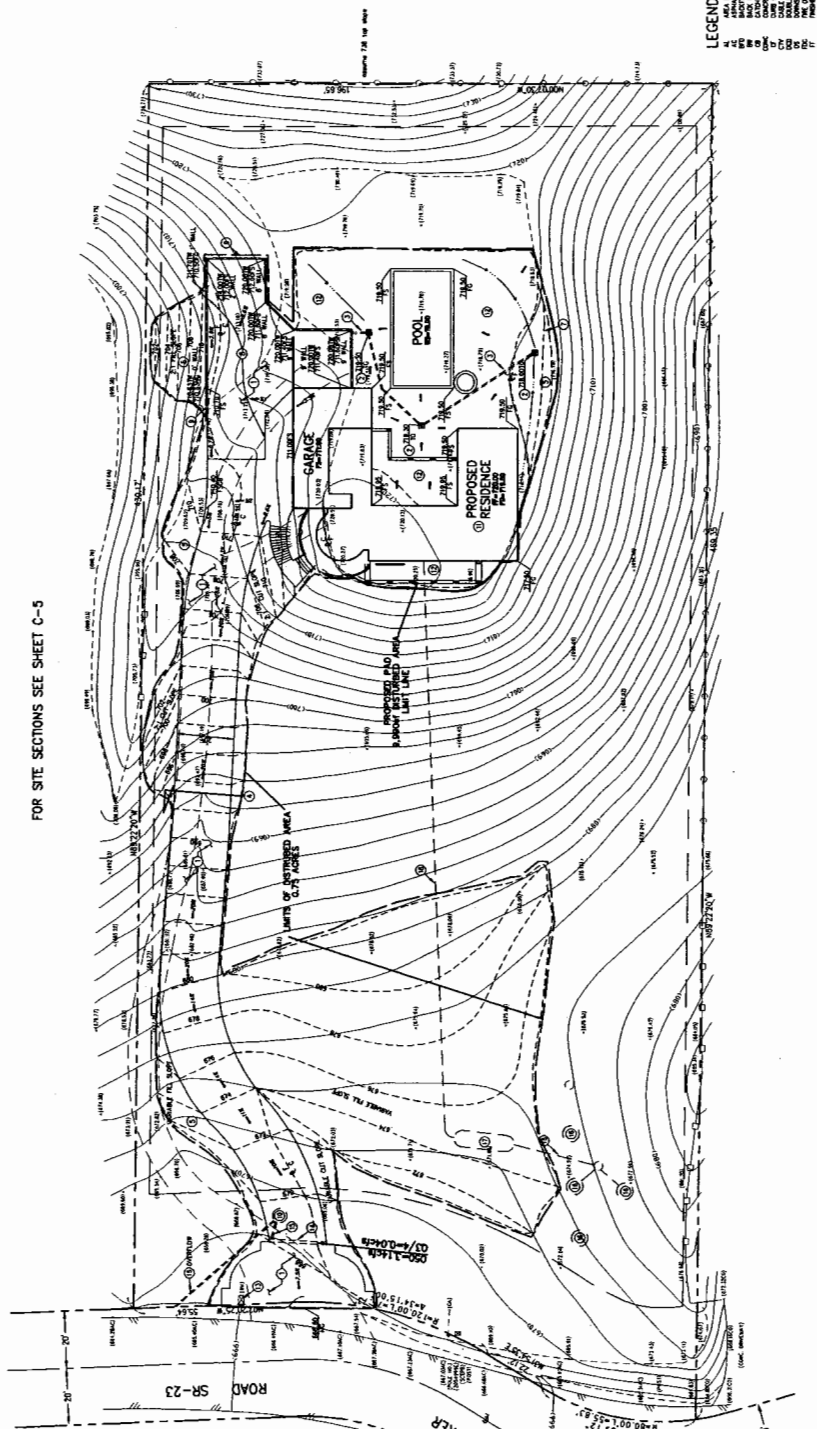
Exhibit 2
4-08-022 (Elliott)
Parcel Map



CONSTRUCTION NOTES

1. CONSTRUCT REMAINING SURFACE PER SOILS REPORT.
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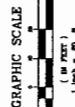
FOR SITE SECTIONS SEE SHEET C-5



FIRE DEPT. DRIVEWAY GRADES 335'
 OVERALL DRIVEWAY GRADE = 13.3%
 START GRADE = 138.80
 END GRADE = 144.00
 DIFFERENCE = 5.20'
 LENGTH OF 20% GRADE = 132'

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PRELIMINARY GRADING PLAN
 1522 DECKER ROAD, MALIBU
 PORTION OF THE NE 1/4, SW 1/4, SECTION 16, TWP. 1 SOUTH, RGE. 19 WEST, S.B.M.
 IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA



CIVIL ENGINEER

THE G4 GROUP, INC.
 Consulting Engineers
 144 EAST HIGH STREET, SUITE 202
 MALIBU, CALIFORNIA 90263
 PHONE (310) 551-0910 FAX (310) 551-0911

PREPARED BY:

DATE:

PROJECT NO.:

JOB NO. 0710

JULY 2009

PROJECT INFORMATION:

GENERAL INFORMATION:
 PROJECT NAME: 1522 DECKER ROAD
 CLIENT: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT ADDRESS: 1522 DECKER ROAD, MALIBU, CA 90263
 PROJECT NO.: 1522-001
 PROJECT DATE: 1/11/2009
 PROJECT STATUS: PRELIMINARY
 PROJECT DESCRIPTION: GRADING PLAN
 PROJECT LOCATION: 1522 DECKER ROAD, MALIBU, CA 90263
 PROJECT OWNER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT ARCHITECT: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT SURVEYOR: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT LANDSCAPE ARCHITECT: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT CIVIL ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT ELECTRICAL ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT MECHANICAL ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT PLUMBING ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
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 PROJECT WIRELESS ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT FIBER ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
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 PROJECT INTERNET ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT CABLE ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT SATELLITE ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT WIRELESS ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT FIBER ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT OPTICAL ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.
 PROJECT ELECTRONIC ENGINEER: GROVER HOLINGSWORTH ASSOCIATES, INC.

EARTHWORK QUANTITIES BREAKDOWN:

	CUT	FILL
BUILDING PAD MAIN HOUSE	358 CY	0 CY
LANDSCAPE FILL TO BALANCE SITE	0 CY	622 CY
DRIVEWAY	138 CY	105 CY
DIRT DECK/PAVEMENT TURN-AROUND	233 CY	22 CY
REMOVAL & RECONSTRUCTION PROPOSED RESIDENCE		805 C.U. YARDS

EXHIBIT 4

4-08-022 (Elliott)

Grading Plan

1522 DECKER ROAD, MALIBU

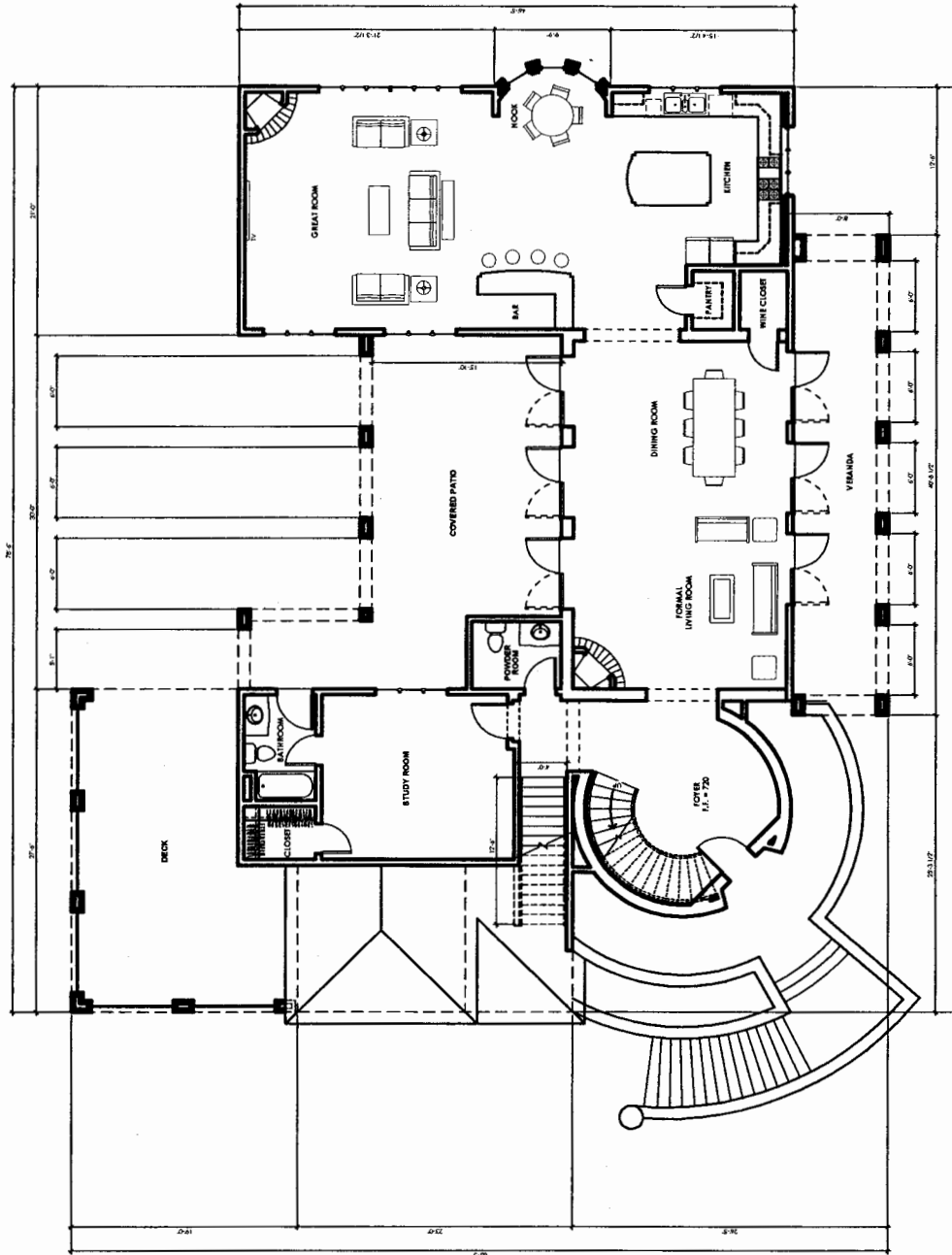
SECTION 16, TWP. 1 SOUTH, RGE. 19 WEST, S.B.M.

LOS ANGELES, STATE OF CALIFORNIA

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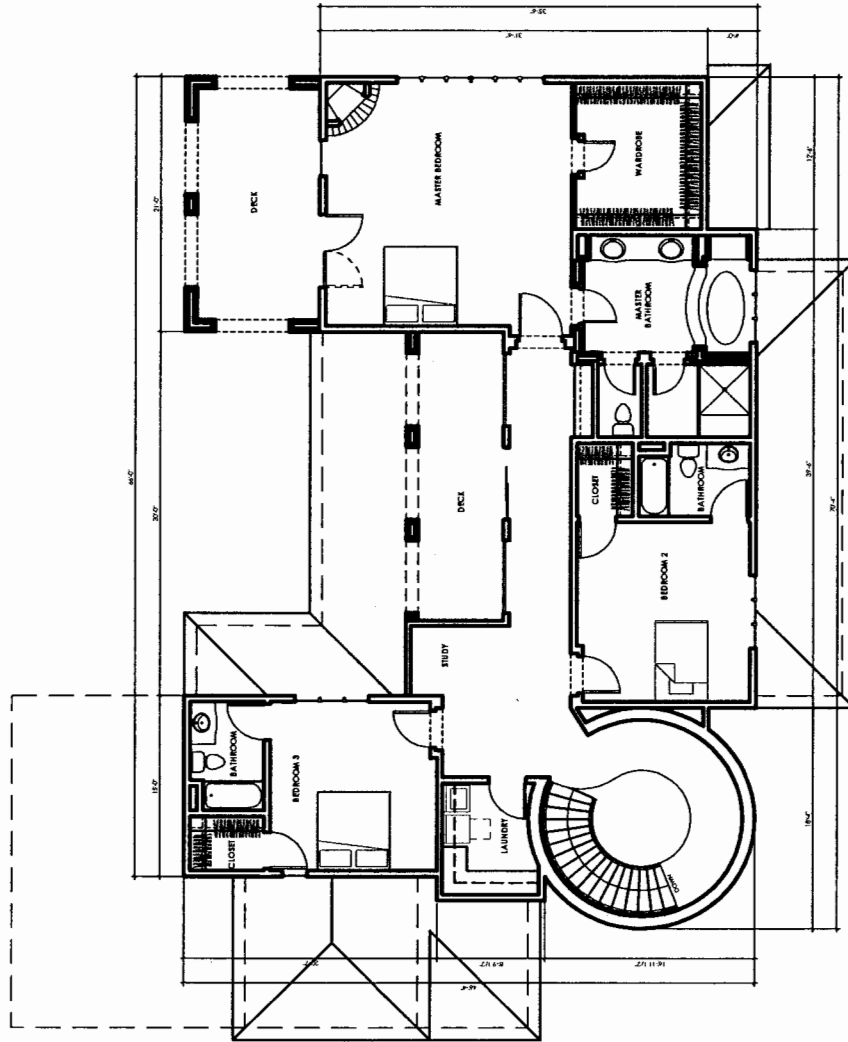
FIRST FLOOR PLAN



FIRST FLOOR PLAN 01 z

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03.10.09	REV. 2.00 (ARCHITECTURAL)

A2.03
SECOND FLOOR PLAN



SECOND FLOOR PLAN
SCALE 1/4" = 1'-0"
01 z



5301 N. COMMERCE AVE. SUITE F
MOONBARK, CALIFORNIA 93021
WWW.GPARCHITECTURE.COM
T. 805.552.9474
F. 805.523.9741

1. 2000年10月1日起，凡在我国境内销售货物的单位和个人，均应按销售额的一定比例缴纳增值税。

ELLIOT RESIDENCE
1522 DECKER CYN ROAD, MALIBU, CA 90265-2420
TOM ELLIOT
JOB : 0421

[illegible]

GARAGE FLOOR PLAN **01** 
SCALE 1/4" = 1'-0"

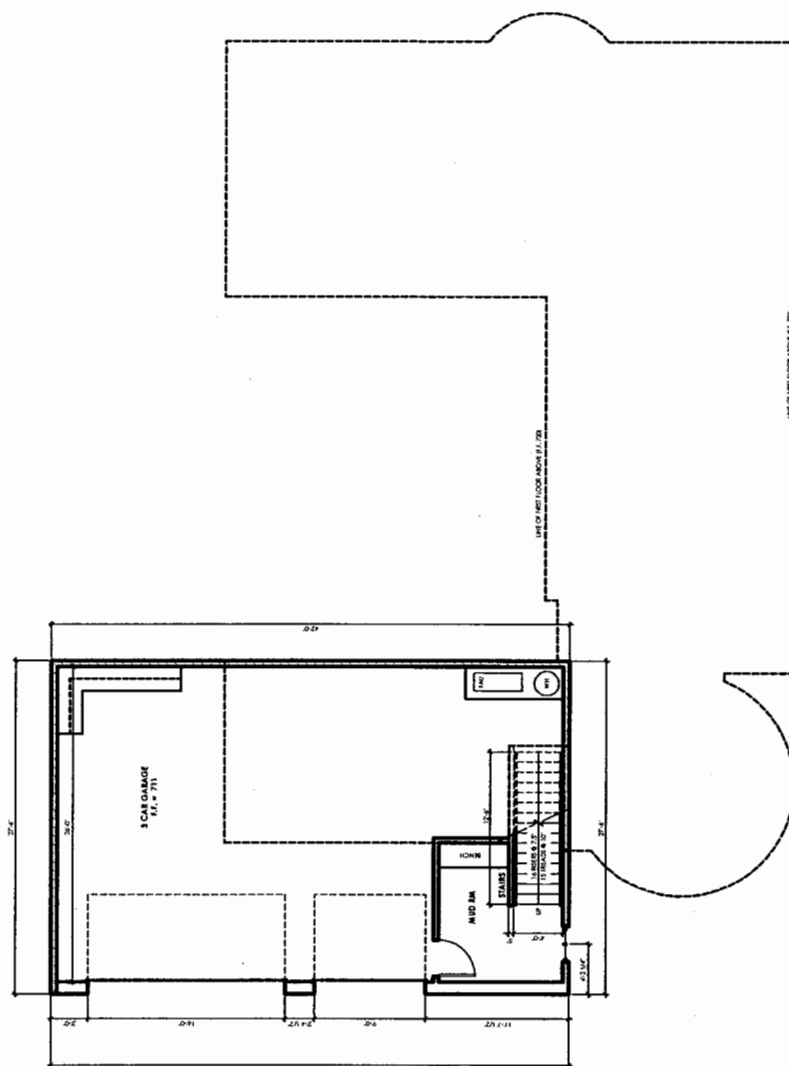
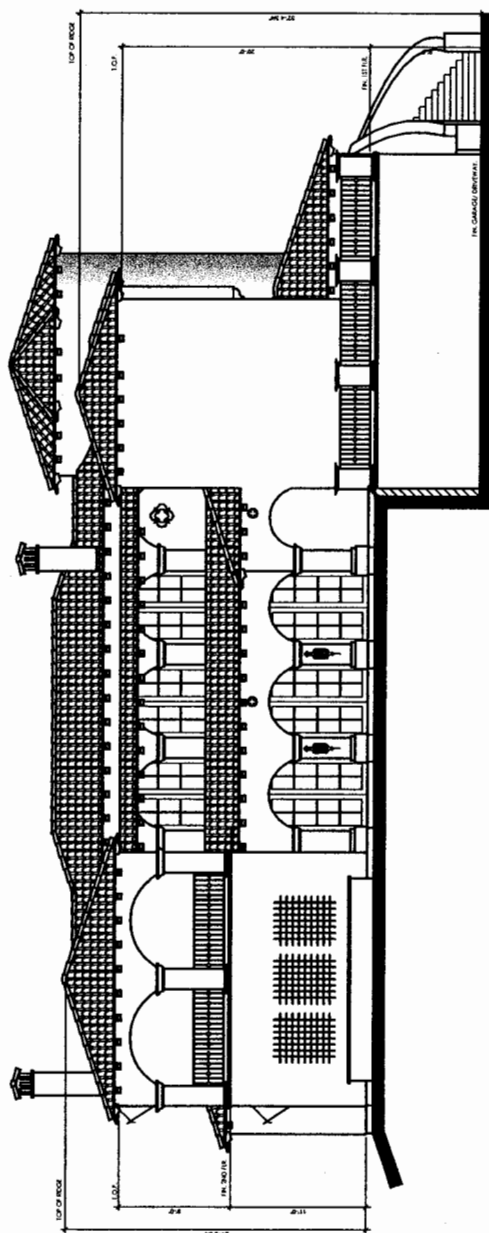
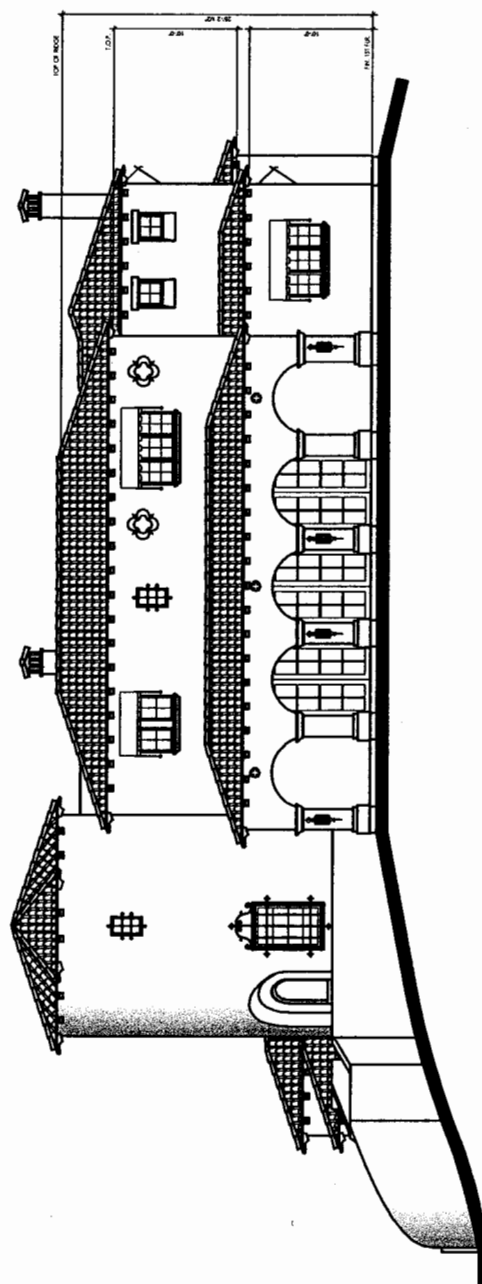


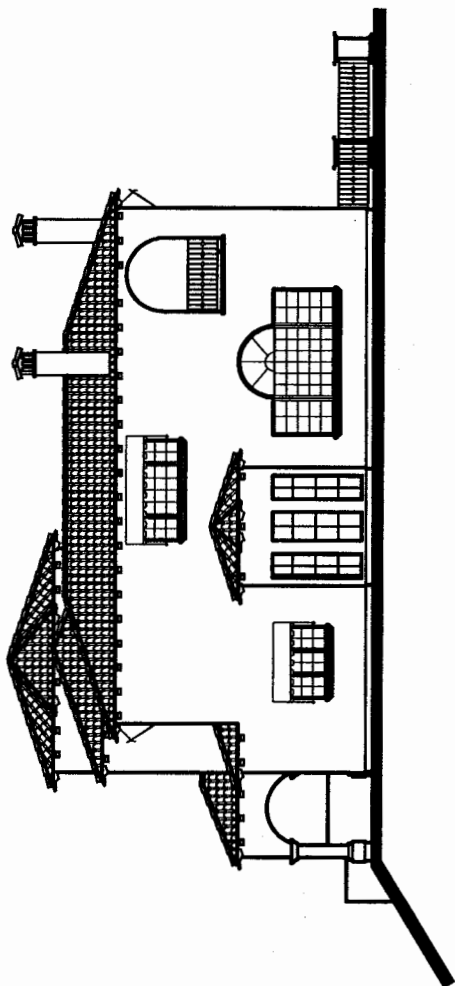
Exhibit 7
4-08-022 (Elliott)
Garage Floor Plan



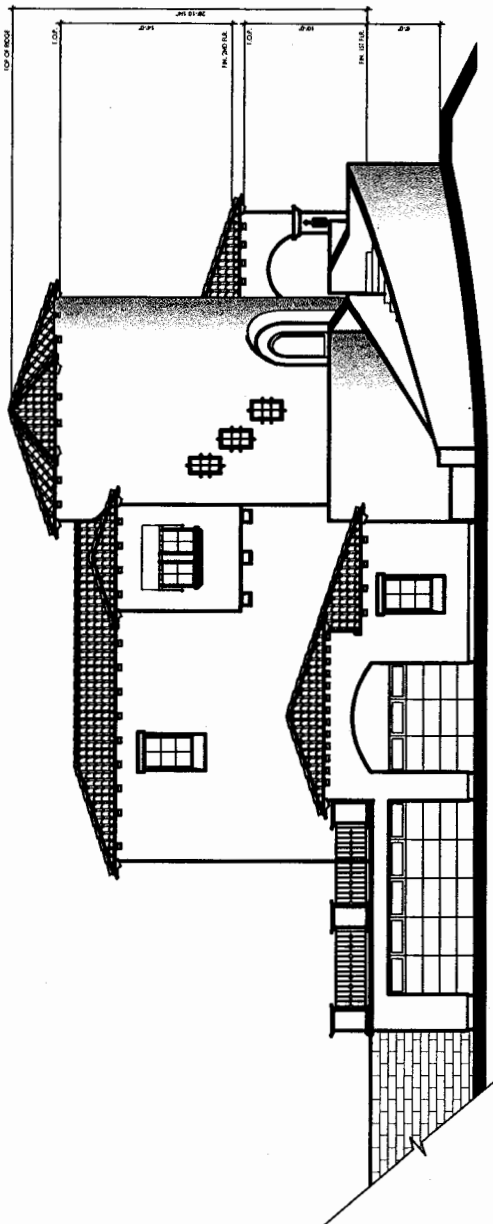
EAST ELEVATION (REAR)



WEST ELEVATION (FRONT)



SOUTH ELEVATION (RIGHT) **02**
SCALE: 1/8" = 1'-0"



NORTH ELEVATION (LEFT) **01**
SCALE: 1/8" = 1'-0"

ELLIOT RESIDENCE
1522 DECKER CYN ROAD, MALIBU, CA 90265-2420
TOM ELLIOT
JOB: 0421

DATE	DESCRIPTION
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10.10.07	REV. 100.0 - 1522 DECKER CYN RD

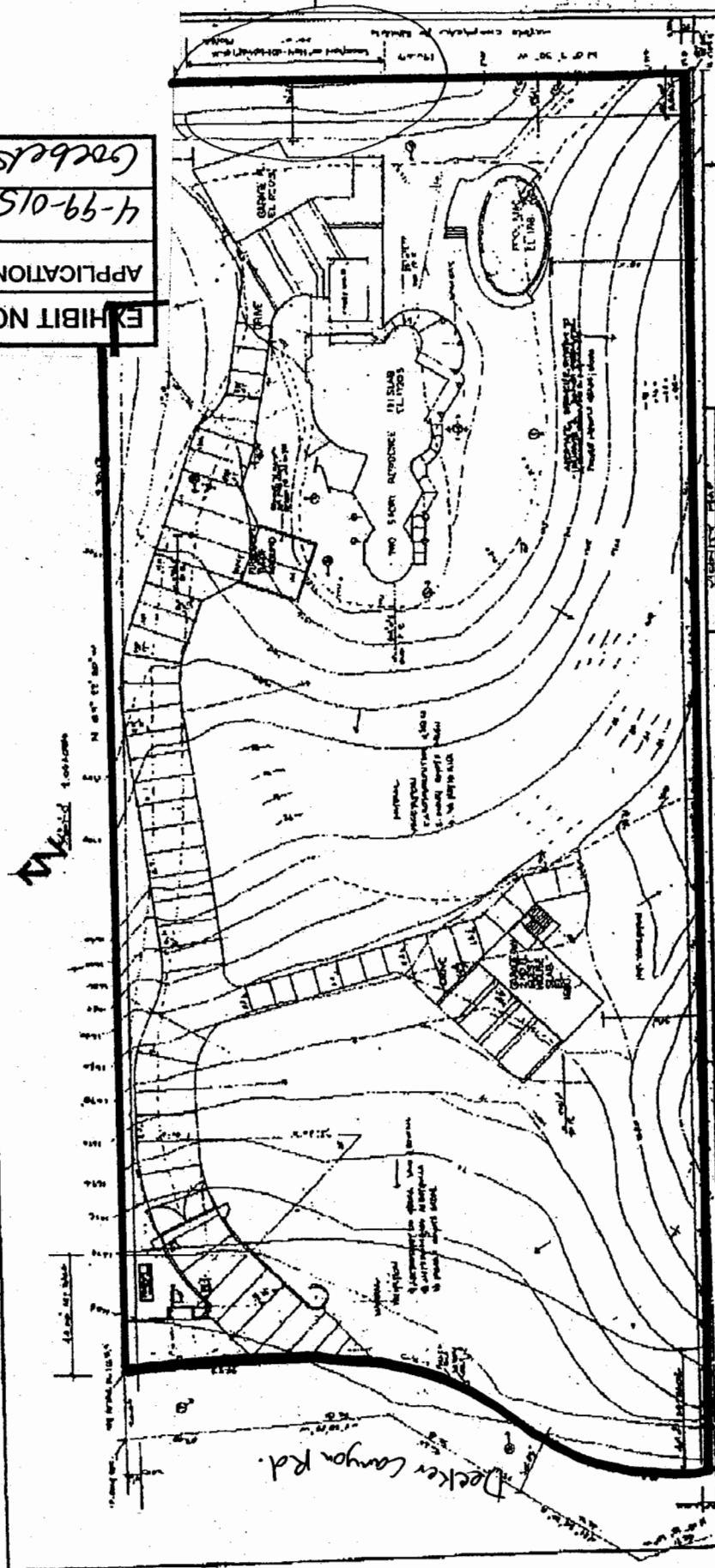
A3.02

PROPOSED ELEVATIONS

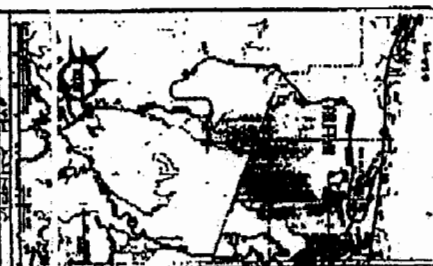
File wall

PHILIPP GOEBELS RESID. SKYLAR BROWN ARCHIT
1522 DODDER CANYON RD. 3 MALIBU CA 90265-8455 SYCAMORE HILLS MALIBU CA

EXHIBIT NO. 7
APPLICATION NO.
4-99-015
Goebels



SITE PLAN
ARCHITECT: SKYLAR BROWN
DATE: 4-99-015
SCALE: 1/4" = 1'-0"

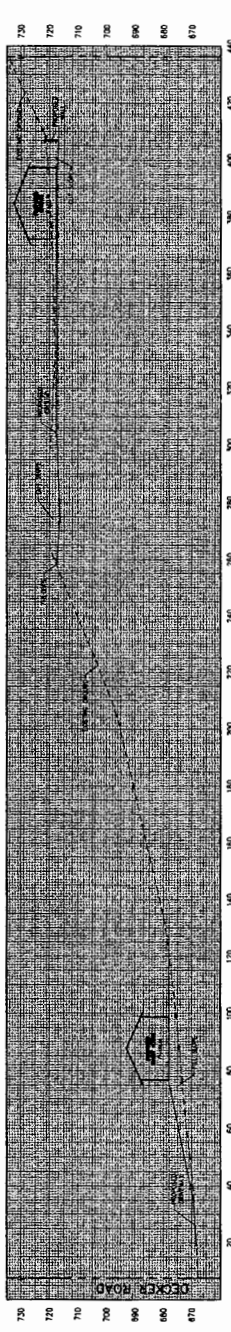


GOEBELS RESID. SKYLAR BROWN ARCHIT
1522 DODDER CANYON RD. 3 MALIBU CA 90265-8455 SYCAMORE HILLS MALIBU CA

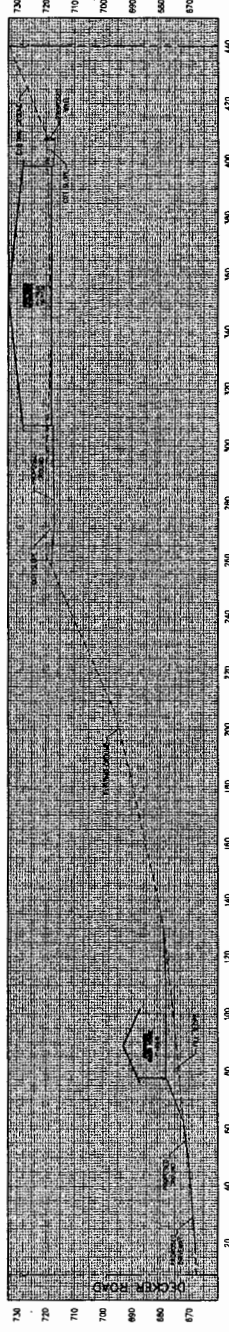
GOEBELS RESID. SKYLAR BROWN ARCHIT
1522 DODDER CANYON RD. 3 MALIBU CA 90265-8455 SYCAMORE HILLS MALIBU CA

GOEBELS RESID. SKYLAR BROWN ARCHIT
1522 DODDER CANYON RD. 3 MALIBU CA 90265-8455 SYCAMORE HILLS MALIBU CA

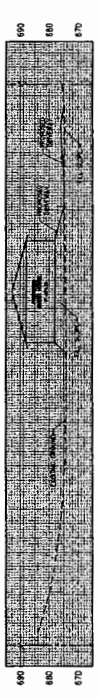
Exhibit 9
4-08-022 (Elliott)
CDP 4-99-015 Site Plan



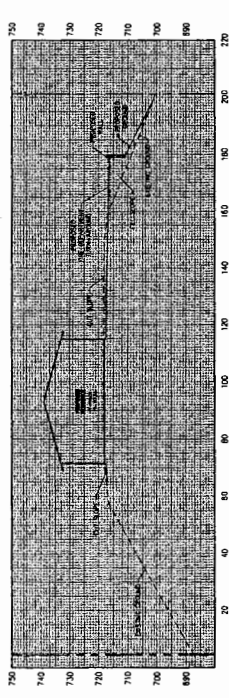
SECTION A-A
HORIZONTAL & VERTICAL SCALE 1"=20'



SECTION B-B
HORIZONTAL & VERTICAL SCALE 1"=20'



SECTION C-C
HORIZONTAL & VERTICAL SCALE 1"=20'

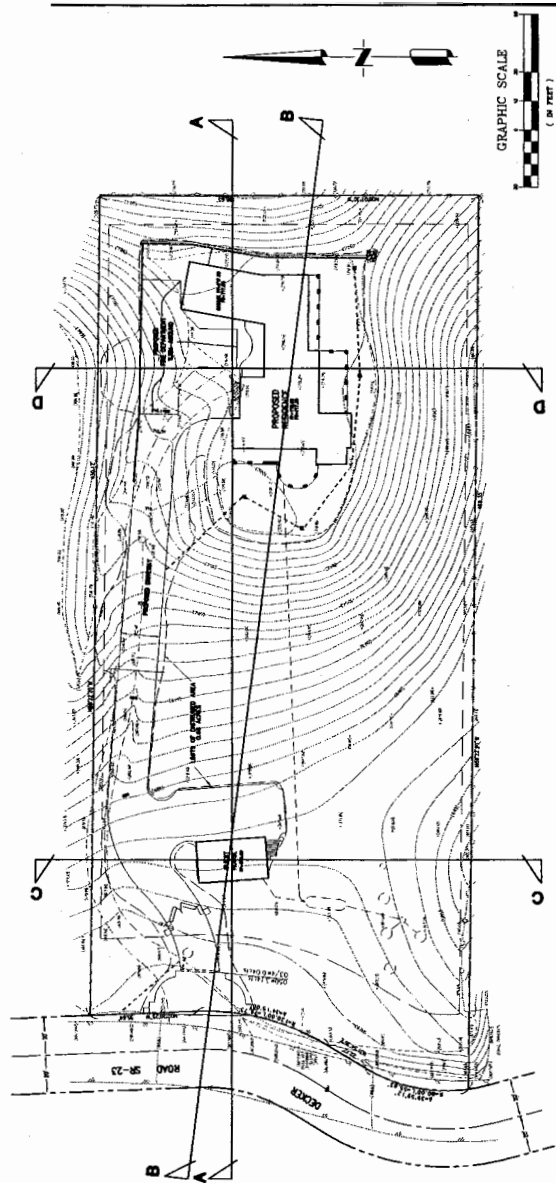


SECTION D-D
HORIZONTAL & VERTICAL SCALE 1"=20'

SITE VOLUME TABLE: 0710 - MAY 8, 2007

SITE	STRATUM SURF	CUT	FILL	METHOD
0710	FINAL NEW 1.25M X 2.5M	1287	26 (C)	GRD
BEHIND BUS MAIN HOUSE	888 CY	27 CY		
BEHIND 140 GUEST HOUSE	0 CY	100 CY		
BEHIND 140 GUEST HOUSE	338 CY	1008 CY		
BEHIND 140 GUEST HOUSE	88 CY	132 CY		
REMOVAL & RECOMPACTION PROPOSED RESIDENCE			1198 C.U. YARDS	
REMOVAL & RECOMPACTION PROPOSED GUEST HOUSE			272 C.U. YARDS	

PROJECT LOCATION: 1522 DECKER ROAD, MALIBU, CA 90265
 TOTAL DISTURBED AREA: 3.48 ACRES
 PRE-DEVELOPMENT IMPERVIOUS AREA: 0.42 ACRES
 POST-DEVELOPMENT IMPERVIOUS AREA: 0.42 ACRES



CROSS SECTIONS
 1522 DECKER ROAD, MALIBU
 PORTION OF THE NE 1/4 SW 1/4 SECTION 16, TWP. 1 SOUTH, RGE. 19 WEST, S.B.M.
 IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

C-5

DATE: _____
 DRAWN BY: _____
 CHECKED BY: _____
 DESIGNED BY: _____

JOB NO. 0710
 DATE: JUNE 2008

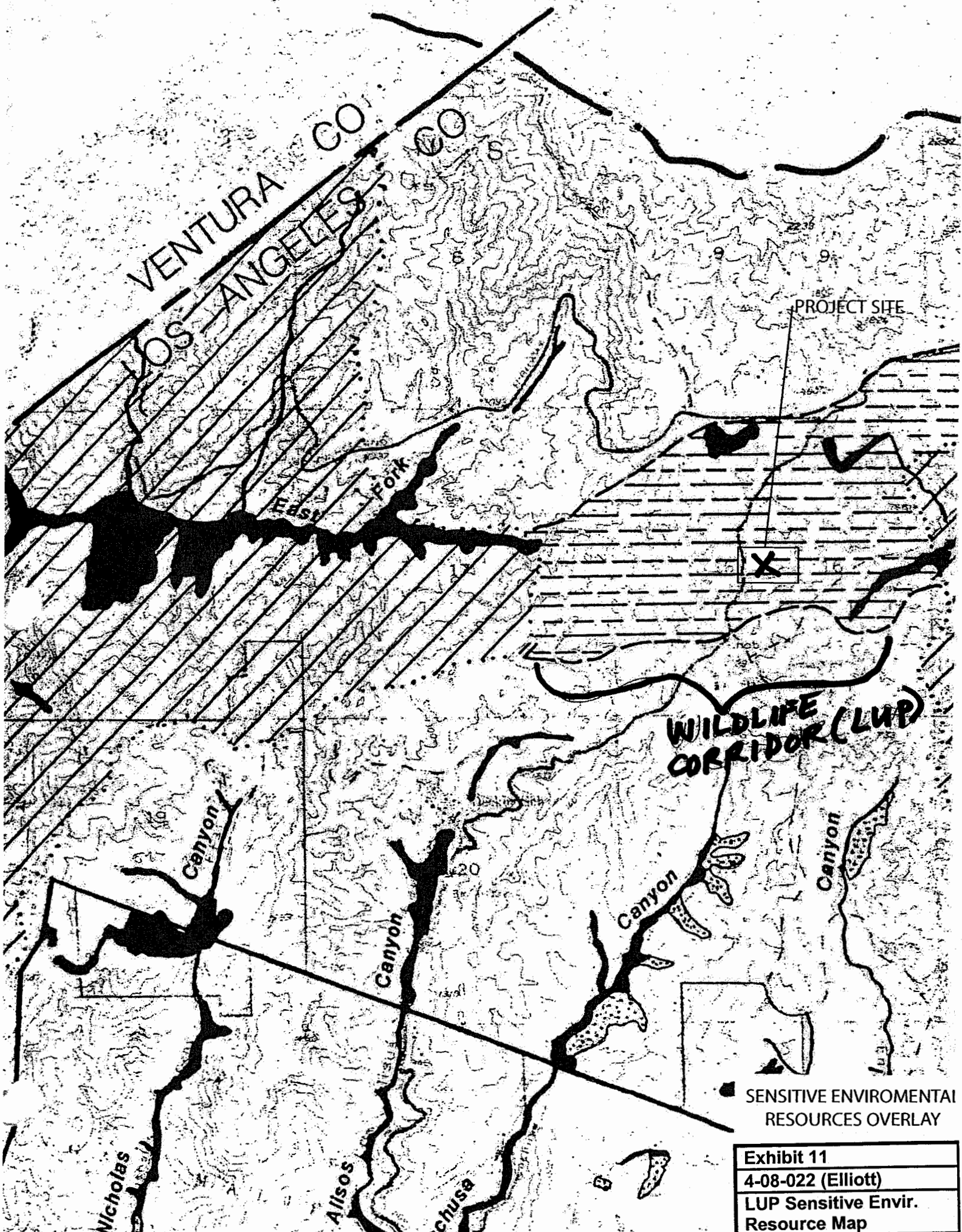
PREPARED BY:
THE G4 GROUP INC.
 Consulting Engineers
 144 EAST HIGH STREET, SUITE 200
 LOS ANGELES, CA 90012
 PHONE: (213) 512-0010 FAX: (818) 512-0011

CIVIL ENGINEER:
 DATE: _____
 SIGN: _____
 SEAL NO. _____

UNDERGROUND SERVICE ALERT
 Call TOLL FREE
 1-800-227-2800
 TWO WORKING DAYS BEFORE YOU DIG

REVISIONS:

NO.	DATE	DESCRIPTION OF REVISION



VENTURA CO
LOS ANGELES CO

PROJECT SITE

WILDLIFE
CORRIDOR (LUP)

SENSITIVE ENVIROMENTAL
RESOURCES OVERLAY

Exhibit 11
4-08-022 (Elliott)
LUP Sensitive Envir.
Resource Map

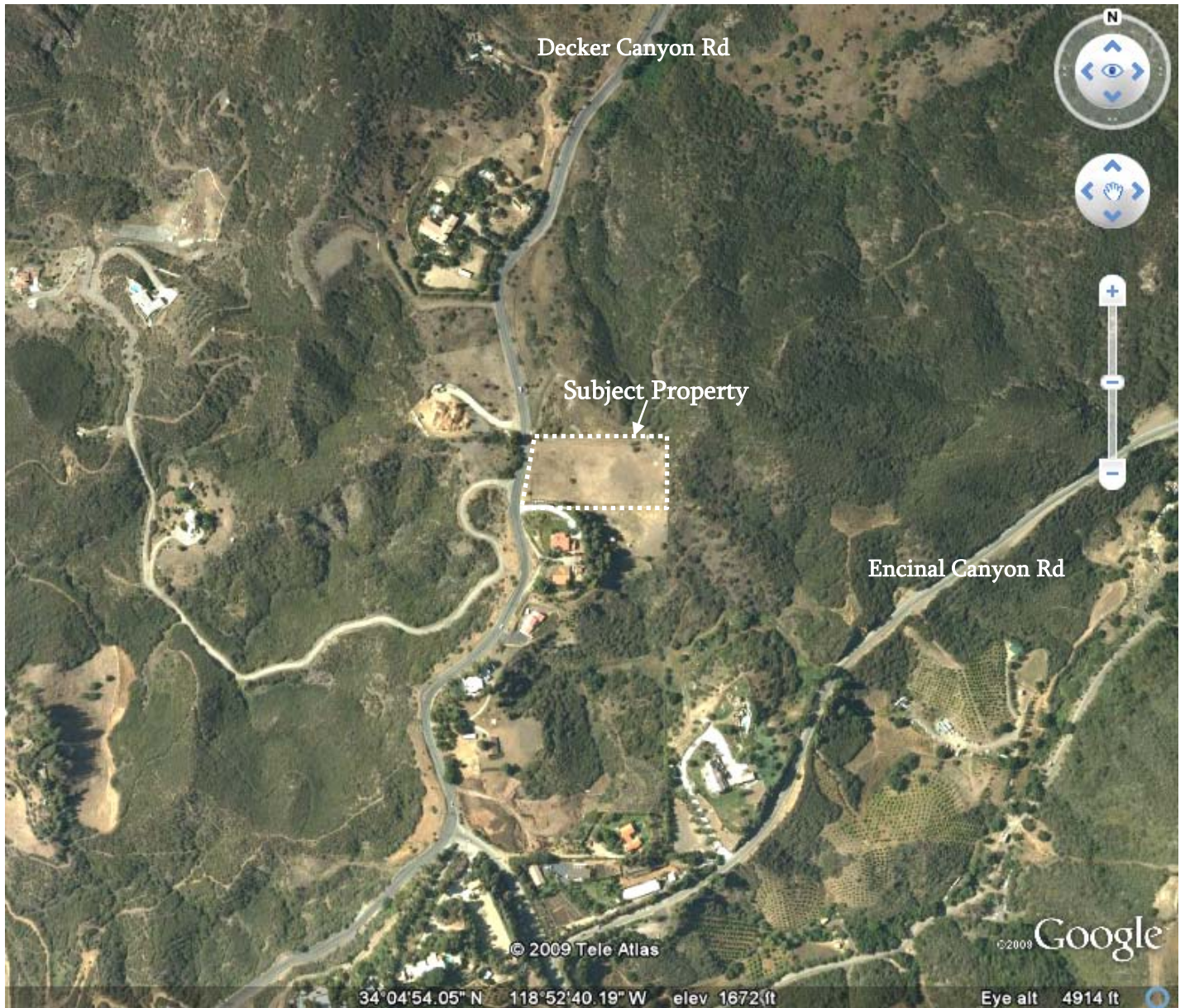


Exhibit 12
4-08-022 (Elliott)
Aerial View

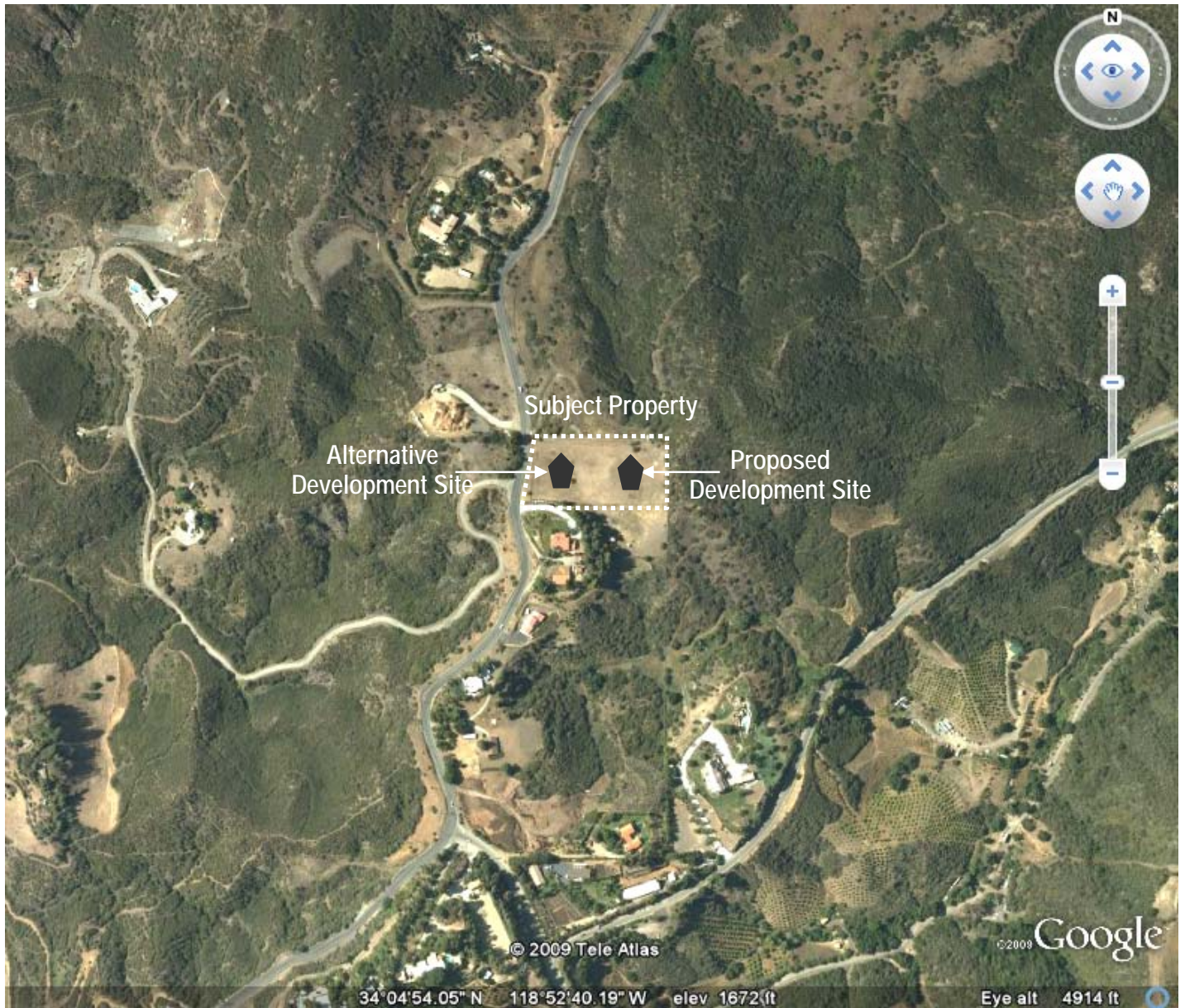


Exhibit 13
4-08-022 (Elliott)
Aerial View with
Proposed and
Alternative Site

☐ : Alternative Development Envelope
~18,000 sq. ft.



itecture

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OCT 9 2009

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT
ARCHITECTURAL PLANNING

TOM ELLIOT RESIDENCE

3022 Decker Canyon Road, Malibu, CA

October 6, 2009

Fire Safety Features Narrative

04-08-022

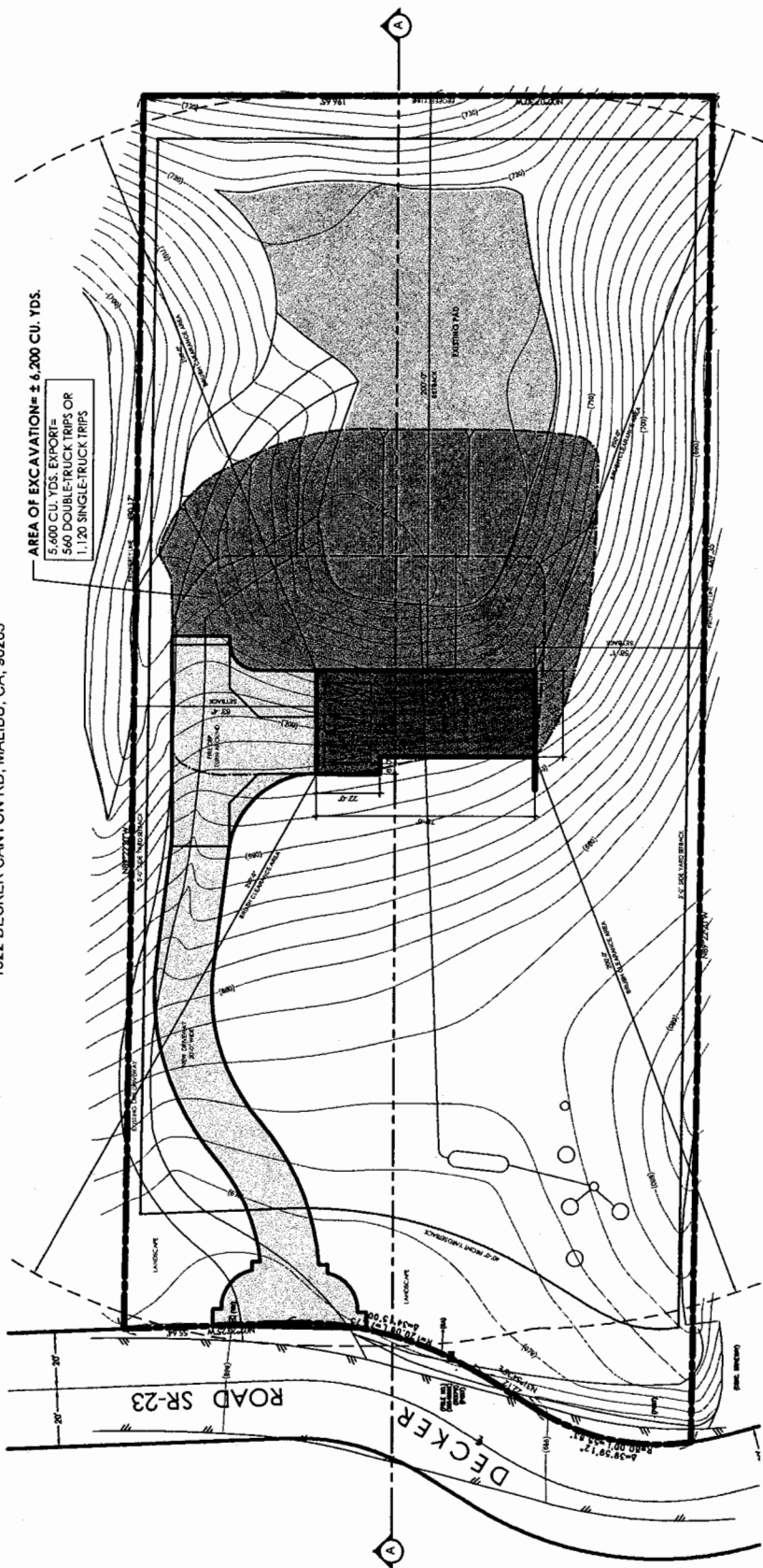
1. Two-Piece Clay Mission Style Roofing
2. Fascia and Eaves with no less than 2" nominal wood thickness
3. Stucco Exterior Wall Finish
4. 5/8" Type X interior gypsum board throughout
5. Fire Sprinkler system throughout Residence with "Water Curtain" at exterior windows
6. Swimming Pool outfitted with pump for firefighting purposes
7. Water storage tank for firefighting purposes

Option C Grading Narrative

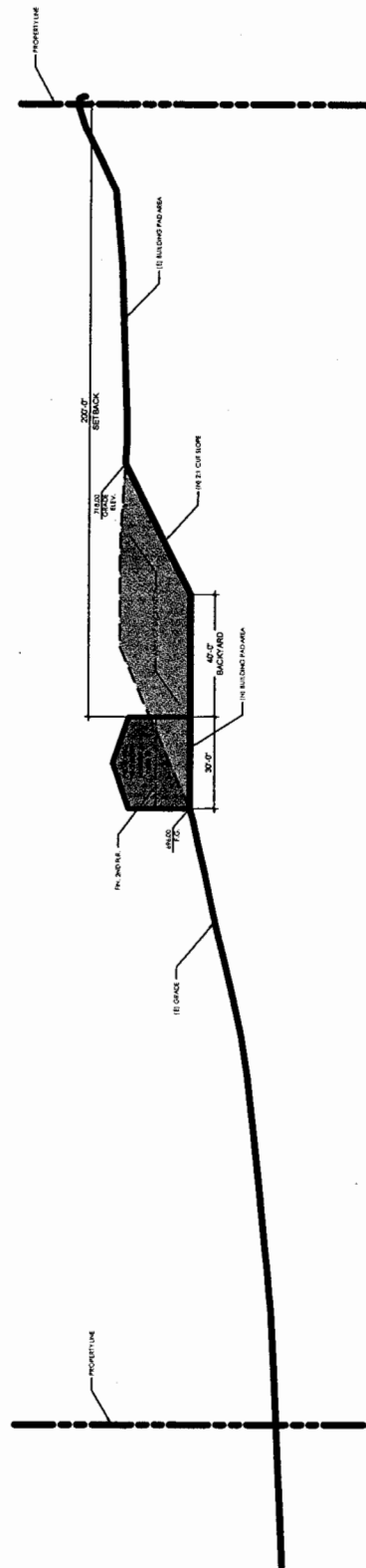
1. Option C: moving the house 200' away from rear property line would place the home at an elevation 22 feet lower than the existing graded pad.
2. Results in $\pm 6,200$ cubic yards of excavation vs. current design on the existing pad of 700 cubic yards
3. Current design offers a balance site with no export. Option C requires export of approximately 5,600 cubic yards resulting in 560 double truck trips or 1,120 single truck trips to remove the excess dirt.

ELLIOT RESIDENCE

1522 DECKER CANYON RD, MALIBU, CA, 90265



PROPOSED OPTION "C"
PLAN VIEW
SCALE: 1/8" = 1'-0"



PROPOSED OPTION "C"
SECTION A-A
SCALE: 1/8" = 1'-0"

MARISSA M. COUGHLAN
CONSULTANTS
23852 Pacific Coast Hwy., #324
Malibu, Ca 90265
(310) 456-6262
(310) 457-8427 Fax
m.coughlan11@verizon.net

RECEIVED
OCT 4 2009

Re: 1522 Decker Canyon Road
Malibu, Ca 90265
APN: 4472-0010-033
Coastal: 4-08-022

**Factual Basis In Support of Development on
Existing Pad
Summary of Coastal Meetings &
Chronology of Parcel Development
10-1-09**

In 1999 the California Commission issued a permit for the development of a custom single family residence on this parcel (4-99-015) to Mr. Goebels. The development was sited on an existing legal pad. In 2001 an amendment for this application was approved. The project description by the Commission staff was: "The applicant proposes to construct a 3800 square foot, 26 foot high, two story single family residence, detached 3-car garage adjacent to residence on an existing 7900 square foot pad atop **low knoll**, fire department turnaround at upper mouth of existing driveway, 18 foot high, two-story, additional detached 4-car garage with 800 square foot first floor and 750 square foot guest unit on second floor, six foot high, approximately 66 linear feet, non-combustible fire wall along along partial property line, swimming pool, septic system, and grade 170 cubic yards of material, total (95 cu yds of cut and 75 cu yds of fill)". The Commission staff indicated that the majority of the proposed structures were proposed on an existing pad that had been documented by the Commission staff to date back to the 1960's, **thus minimizing landform alternation. Since the fire department had previously allowed for a fire wall to substitute for the 200 feet of clearance, the Fire Department is no longer requiring fuel modification beyond the property line since and is indicated on the plans of the fuel modification plan of the current application (4-08-022 Elliott). Since this approval there have been numerous single family residences with and without accessory structures approved by the Commission so the Elliott project is consistent with the requirements and policies of Coastal Act Sections 30250, 30252, 30253, 30230, 30231 and 30240 (and P63 of that section), P69, P84 The Elliott project is also consistent with the applicable requirements of CEQA wherein mitigation is available (and as suggested by Staff: see notes below)**

Exhibit 16
4-08-022 (Elliott)
Marissa Coughlan's Correspondence in Support of Proposed Project

1. In May of 2004 Mr. Thomas Elliott (current owner) during the due diligence period of his escrow had a meeting with the Commission staff in the Ventura Office and was informed that there would be no trouble obtaining approvals for a new single family residence on this parcel as long he remained within the footprint of the previously approved development (4-99-015). Based on that information, Mr. Elliot proceeded to have a new home designed. It was reviewed by Los Angeles County and received approvals from the different divisions within that system including the *Environmental Review Board, and Department of Regional Planning with approval from the Los Angeles County Forestry Division Fuel Modification Unit which does not require any brush clearance as part of their approval (exhibit enclosed with submittal).*
2. Mr. Elliott's original submittal sited the main house on the existing pad and a barngarage/guesthouse on the lower portion of the parcel. After Coastal Commission staff review, the staff stated that the barngarage/guesthouse would have to be deleted. Subsequently, Mr. Elliott was informed that a determination-made that there was ESHA adjacent to his parcel. Because of this determination Mr. Elliott was informed he would have to reduce the scope of his project to fit within a 10,000 square foot building envelope but that it could still be sited on the existing pad. This revised plan was reviewed and approved by LACO Forestry Division/Fuel Modification unit and no offsite brush clearance was required.

Mr. Elliott, Mr. Pedroso (architect) and Mr. Elliott's lawyer met with Jack Ainsworth, Barbara Carey and Deanna Christiansen, regarding the findings of the staff report because it was contrary to all of the information and discussions which Mr. Elliott and his lawyer and consultants had had with the Staff. In that meeting there Mr. Ainsworth discussed possible in lieu mitigation fees which could be paid and that those fees would be \$13,000.00. Although this number was suggested by Staff, we do not believe it is consistent with the in lieu mitigation fees for non-irrigated areas nor is consistent with the minimal area upon which the fee would be made. We do not believe that this fee is applicable since the LACO Fire Fuel Modification unit is not requiring any modification to areas beyond the property line on the east and none on the others as they have already been addressed by the Elliott biologist (see letter attached and fuel mod approved

ELLIOTT-FACTUAL BASIS IN SUPPORT OF DEVELOPMENT ON
EXISTING PAD, SUMMARY OF COASTAL MEETINGS & CHRONOLOGY
OF PARCEL DEVELOPMENT IN SURROUNDING AREA 4-08-022

October 1, 2009

Page Three

plan). Additional recommendations by Staff at that meeting were to bring the house forward and add the pool and water tank between the east property line.

3. Mr. Elliott spent \$38,000.00 on a third redesign which included the reduction in the scope of the project to be within the 10,000 square foot maximum development area and having moved the residence farther away from the ESHA, adding the pool and water tank it was determined by the Coastal staff that the reduced project could not be approved and the Staff recommended that the project as submitted did not met Chapter 3 and the project would be denied. The staff's newest recommendation was that the new single family residence should be placed at the bottom of the parcel near the street (Decker Canyon) which is a scenic corridor. This was after the Staff had previously recommended deletion of the barngarage/guesthouse from this area in order make the findings for approval. It is inconsistent that the Staff recommends removal of the barngarage/guesthouse from this area because of potential impacts and subsequently comes back with a recommendation that the single family residence be relocated to this area. After meetings and conferences with Los Angeles County Regional Planning, Environmental Health, Fire and discussions with the OWTS designer and geologist to discuss relocation of the residence to the lower area, it was concluded that there would be conflicts and impacts on the development OWTS because it was the determined that this area was the best perc location. Additionally, a complete relocation would be problematic to the other reviewing authorities and have to go through a complete new process forcing Mr. Elliott to incur additional exorbitant and undo expenses jeopardizing his project. Although P74 may be considered by the Staff in this case, the other agencies concluded that it may not be approvable and would compromise the placement of the OWTS. This is the only appropriate and adequate area for the OWTS. Since a legally graded pad exists, we believe that any relocation would not be consistent with P82. Placement of the structure as submitted would minimize any alternation of natural landforms and be the best overall environmental alternative for this site. The submittal minimizes any potential grading impact of 56 cubic yards of grading with 560 double truck trip and 1120 single truck trips to export the removal of the material because this alternative would require more grading (see exhibit). The quantities and number of truck trips would over shadow the one and only possible impact which could be mitigated. Mr. Andrew McGinn Forde, consulting biologist has made the determination that the adjacent ESHA areas have been disturbed and degraded and is consistent with Section 30107.5 of the Coastal Act or Section 30240. The placement of the structure has been reviewed and approved by the Environmental Review Board and is consistent with Policy 69. In view of the constraints

ELLIOTT-FACTUAL BASIS IN SUPPORT OF DEVELOPMENT ON
EXISTING PAD, SUMMARY OF COASTAL MEETINGS & CHRONOLOGY
OF PARCEL DEVELOPMENT IN SURROUNDING AREA

October 1, 2009

Page Four

by Los Angeles County and the consultants' reviews and analysis, placement in any other location other than what was submitted would be inconsistent with Section 30010 and would deny Mr. Elliott all economically viable use of the property and would result in a taking. This is based on the studies completed for this development, Coastal staff suggested alternatives and discussions with Los Angeles County. During Mr. Elliott's due diligence acquisition period wherein he and his other consultants' met with the Commission staff prior to his acquisition and were told he could build on the existing pad as long as he stayed within the basic footprint of the previously approved project, Mr. Elliott purchased the property. He also relied on that information and approvals by the Commission for development on neighboring and nearby parcels. Mr. Elliott had sufficient reason to believe, based on the information provided by the Staff, that he could build the home that his family needs would provide. After using this information to design and plot the submittal and after numerous funds expended Mr. Elliott with be in jeopardy of retaining any viable economic use on this parcel and return on his investment. Even though the Supreme Court (Lucas vs South Carolina Coastal Council) speaks to an outright denial of the use of the parcel, we believe that the staff proposal so compromises the use as needed for his family that it is an ipso facto denial of the use. The development as proposed would not be evidence of a nuisance and is consistent with past and recent approved development by the CCC in this and similar habitat areas and consistent with Section 30010. We believe that our position is supportable given all of the data and does not conflict with Section 30240 especially since the Forestry Division is not requiring any brush clearance as part of their approval of the fuel modification plan. Even though the LACO Fire is not requiring off site fuel modification, Mr. Elliott still moved the project away from the ESHA and put the pool and water tank as indicated by staff as the best area since the structure was moving forward from the original submittal location. The development is clustered and was relocated to minimize still remains within the 10,000 square foot building envelope.

4. The comparative parcel review below demonstrates that the Elliott proposal is consistent with existing Coastal Commission approved developments. A couple of the developments are under construction or have been recently approved by the Commission.
 - a. 4472-010-033 Thomas Elliott (subject of this application). The existing building pad is not visible at all from Decker Road on the southern approach to the Elliot property until directly within the property frontage, and then only with a purpose to view up the slope. Similarly, the building pad is visible from the northern approach along Decker, at a single spot and only for a second at a normal travel speed, and then only with a purposeful sighting up-slope and at just the right angle. The existing building pad is not visible at all from Decker Canyon Road on the southern approach to the Elliott property until directly within the property frontage, and then only with a purpose to view up the slope. Similarly, the building pad is visible from the northern approach along Decker only at a single spot and only for a second at a normal rate of speed, and then only with a purposeful sighting up-slope and at just the right angle. This visibility may be moot with the development of the approved adjacent residential site on the north of the Elliot property. Landscape treatment will obviate much of the visual impact along the Decker frontage, such as it is, with a diffuse view through native oak tree canopies , and native shrubs strategically placed at just the right angel. This site has been a disturbed site as are two of the adjacent parcels to the north and east.
 - b. 4472-029-007 (across the street from Elliott) 1485 Decker Canyon Road
In 1999 the Commission approved the construction of a new two story, 8000 square foot residence with a six (6) car subterranean garage, septic system, pool, exotic landscaping, placement of temporary construction trailer and approximately 1445 cubic yards of grading.
Permit 4-07-08. Approved 2 story, 6439 square foot single family residence with attached 3 car garage, 29 foot high. A Habitat Impact Mitigation In-Lieu Fee was made to the MRCA for \$888.00. Material amendments were issued for the slight reduction of structure and garage – 4.98 acres

ELLIOTT-FACTUAL BASIS IN SUPPORT OF DEVELOPMENT ON
EXISTING PAD, SUMMARY OF COASTAL MEETINGS & CHRONOLOGY
OF PARCEL DEVELOPMENT IN SURROUNDING AREA 4-08-022

October 1, 2009

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- c. 4472-010-035 (1532 Decker Canyon Road), permitted in 1985 is a 3132 square foot, single story single family residence with 2 car garage - .93 acres
- d. 4472-010-010 (1655 Encinal Canyon Road) adjacent to the east of Elliott parcel and parcels 4472-010-035, 041, 042, 043, 034, 032, 044 and 011. 6227 square foot single family residence with 2 car garage permitted in 1993 21.06 acres
- e. 4472-010-032 (1720 Lechusa Road) 3,312 square foot, two story single family residence with 2 car garage built in 1981 – 2 acres
- f. 4471-010-034 (1636 Decker Canyon Road) 1944 square foot 1 car garage single family residence built in 1952 – 21.08 acres
- g. 4472-010-039 (1542 Decker Canyon Road) 1823 square foot single family residence built in 1975 - .89 acres
- h. 4472-010-041(lot) -.81 acres
- i. 4472-010-042 (lot) -.44 acres
- j. 4472-010-044 (1754 Lechuza Road) 1680 square foot single family residence with a two car garage built in 1985 -2.88 acres
- k. 4472-010-043 (lot) .69 acres

- l. 4472-029-010 (lot) 9.11 acres
- m. 4472-029-011 (lot) 2.40 acres
- n. 4472-029-012 (lot) 2.40 acres
- o. 4472-029-014 (lot) 3 acres
- p. 4472-029-015 (lot) 2,70 acres
- q. 4472-029-016 (lot) 3.10 acres (1521 Decker Canyon Road)-under construction
- r. 4472-029-017 (lot) 3.60 acres
- s. 4472-029-018 (33260 Hassted Drive) 2653 square foot single family residence with 2 car garage built in 1991. 3 acres
- t. 4472-029-019 (lot) 2.60 acres
- u. 4473-009-004 (33303 Hassted Drive) 10 approx. acres, 2840 square foot single family residence with a 2 car garage built in 2004
- v. 4472-009-020 (33310 Hassted Drive) 10 approx, acres 2570 square foot single family residence with 2 car garage built in 2004

**ELLIOTT-FACTUAL BASIS IN SUPPORT OF DEVELOPMENT ON
EXISTING PAD, SUMMARY OF COASTAL MEETINGS & CHRONOLOGY
OF PARCEL DEVELOPMENT IN SURROUNDING AREA 4-08-022**

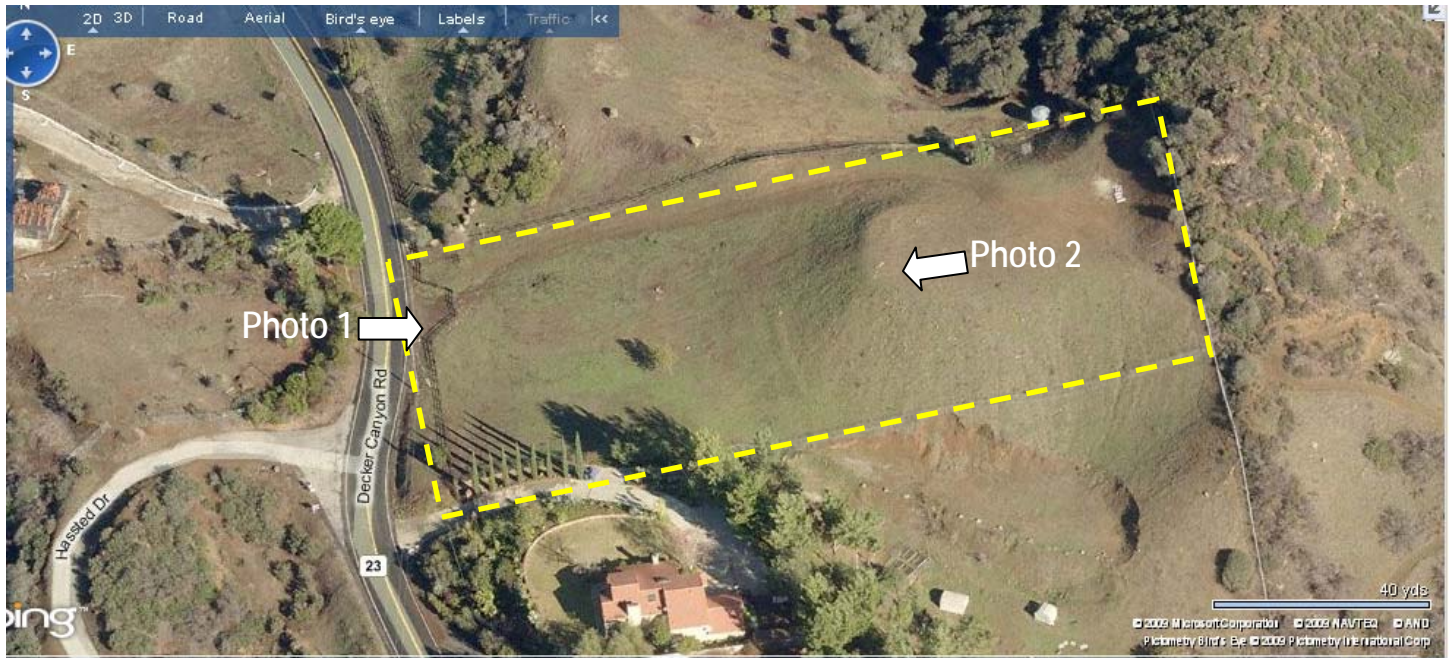
October 1, 2009

Page Seven

w. 4472-009-023 (1351 Decker Canyon Road 10.22 approx. acres, 3878 square foot single family residence with 2 car garage built in 2001

EXHIBITS INCLUDED IN SUBMITTAL PACKAGE:

- 1. Factual Basis, Development Analysis & Meeting Summary Narrative**
- 2. LACO Fuel Modification Plan-revised (per Capt Keith Condon)**
- 3. Alternative C site plan with grading quantities and truck trips of material removal (24" x 36")**
- 4. Aerial view with fuel modification from adjacent parcels (24" x 36")**
- 5. Preliminary landscaping plan (24" x 35") with 11 (8-1/2 x 11) color photos**
- 6. Narrative regarding Fire Safety Features of project and Option C grading narrative**



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Photo 1: View from Decker Cyn Rd. looking east across property



Photo 2: View from upper pad looking west toward Decker Cyn Rd.



CALIFORNIA COASTAL COMMISSION

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

Th 13a



ADDENDUM

DATE: November 2, 2009
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item Th 13a, November 5, 2009; Application No. 4-08-022 (Elliott)

Correspondence has been received from the National Park Service in support of the staff recommendation. This correspondence is attached as Exhibit 1 of this addendum.

Exhibit 4
CDP 4-08-022-R
Addendum to CDP No. 4-08-022 Staff Report



United States Department of the Interior

NATIONAL PARK SERVICE
Santa Monica Mountains National Recreation Area
401 West Hillcrest Drive
Thousand Oaks, California 91360-4207

In reply refer to:
L76/ 111-41

November 2, 2009

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

RE: Agenda Item Th 13a, CDP No. 4-08-022, 1522 Decker Canyon Road

Dear Chairman and Commissioners:

The National Park Service has reviewed the Staff Report for Coastal Development Permit Application No. 4-08-022, which proposes a 4,413 sq. ft. single-family residence with 1,129 sq. ft. attached garage, plus other associated construction at 1522 Decker Canyon Road in the Santa Monica Mountains. The applicant also seeks after-the-fact approval of a 6-ft. high chain-link perimeter fence.

The project site falls fully within the boundary of Santa Monica Mountains National Recreation Area. Further, the project site is adjacent to federal parkland to the northeast owned and managed by the National Park Service. When establishing SMMNRA, Congress recognized a national interest in protecting and preserving significant natural, cultural, and recreational resources provided by the Santa Monica Mountains and adjacent coastline.

Congress further stated that "the State of California and its local units of government have authority to prevent or minimize adverse uses of the Santa Monica Mountains and adjacent coastline area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority" (P. L. 95-625). Consistent with this authority, the National Park Service provides comments to State and local land use regulatory agencies. We assume a neutral position and do not support or oppose land development, although at the invitation of permitting agencies, we comment on issues concerning park resources of the national recreation area. We offer the following comments. Overall, we concur with the staff report's findings that the project could be designed to fully avoid new impacts to native habitat east and northeast of the project by clustering development closer to Decker Canyon Road.

Fuel Modification

The project, as proposed, would encroach into federal parkland to accomplish Los Angeles County's required 200-ft fuel modification zone. The proposed residence would be located approximately 110 feet from parkland, thus would require approximately 90 feet of vegetation clearance on federal parkland. The staff report makes the same finding: "In order to comply

with the mandatory County Fire Department requirements, the current application therefore effectively proposes brush clearance of off-site ESHA, some of which would be on National Park Service land” (Staff Report, pg.7). Public laws governing National Park System administration (16 USC Sec. 1-4a) and Santa Monica Mountains National Recreation Area (16 USC Sec. 460kk) do not allow native vegetation and wildlife habitat removal to accommodate adjacent private development. Therefore, we find the project as proposed would be incompatible with federal parkland management.

Biological Resources

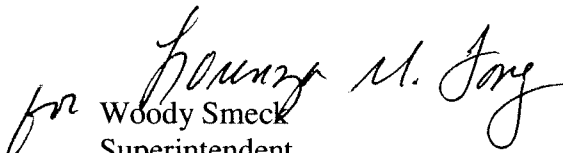
The staff report identifies the project site as within a wildlife migration corridor. The project as proposed places the house at the eastern edge of the property, close to native vegetation and away from Decker Canyon Road and existing residential development. As such, it intrudes urban impacts into the natural environment, contributing to habitat reduction. The National Park Service’s mountain lion tracking programs include the subject property within the home range of three lions that have been tracked during the past seven years. The proposed residence, with the associated additional habitat removal and other edge effects, such as domestic animals and pets, fencing, night-time lighting, noise, etc., present a cumulative negative impact on lion and other wildlife movement through this area.

Project Alternatives

We agree with the staff report’s finding that feasible on-site alternatives exist which reduce environmental impacts by moving the proposed house to the western portion of the project site, away from federal parkland and native habitat.

Thank you for the opportunity to comment. If you have questions, please call Melanie Beck, Outdoor Recreation Planner, at (805) 370-2346.

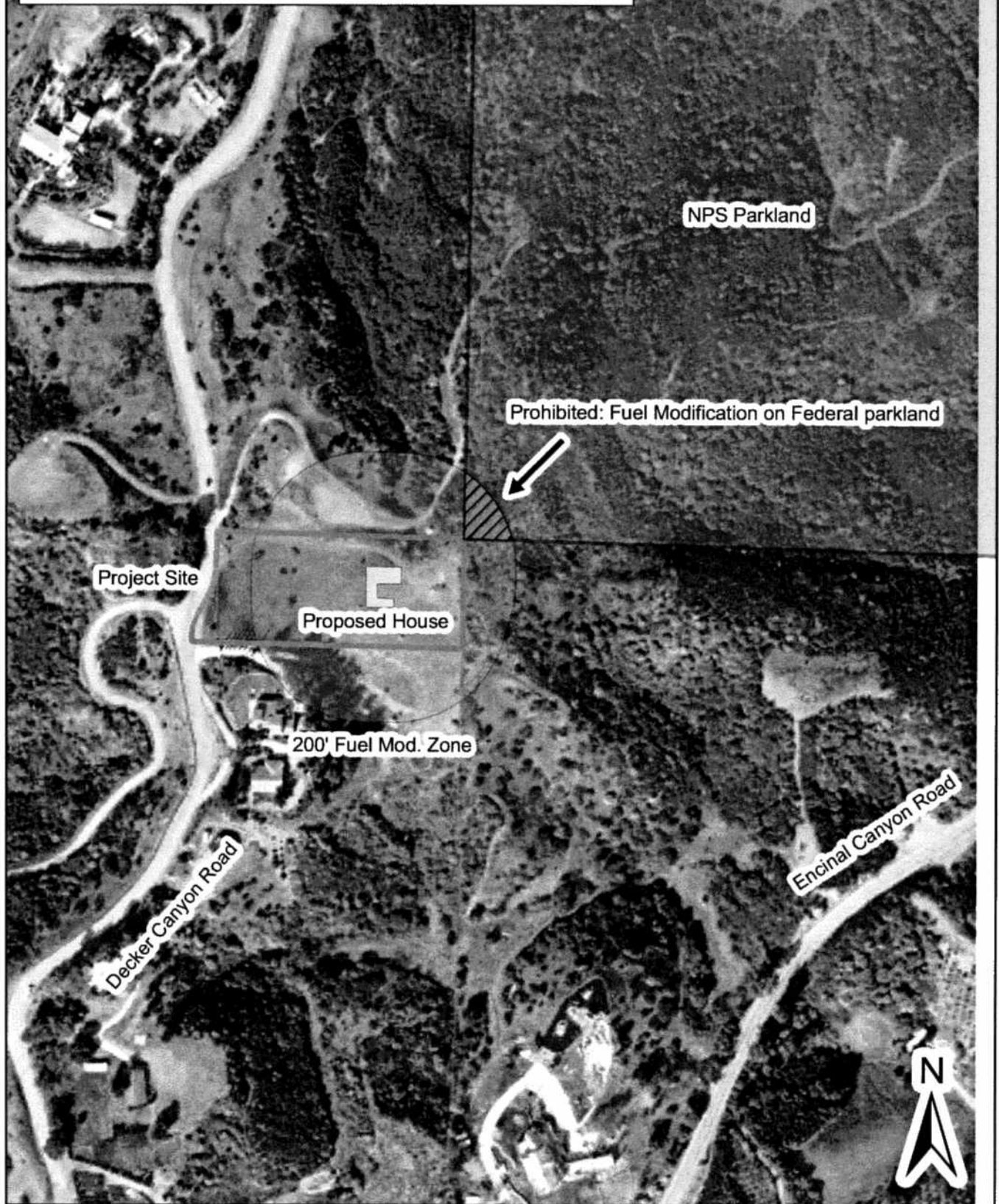
Sincerely,


for Woody Smeck
Superintendent

Enclosure: Attachment 1 – 1522 Decker Canyon Rd, Project Setting

cc: Joe Edmiston, Executive Director, Santa Monica Mountains Conservancy
Ron Schafer, Superintendent, Angeles District, State Department of Parks and Recreation
Clark Stevens, District Manager, Resource Conservation District of the Santa Monica Mountains

Attachment 1: Project Setting 1522 Decker Canyon Road



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Feet