

CALIFORNIA COASTAL COMMISSION

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



Th9a

ADDENDUM

DATE: February 7, 2011
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item 9a, Thursday, February 10, 2011, Coastal Development Permit Amendment 4-02-220-A1 (Markham)

The purpose of this addendum is to make changes to Special Condition Number Eight (8) of the staff report so that the deed restriction will record the conditions of the permit, as amended, and supersede and replace the conditions of the underlying Coastal Development Permit No. 4-02-220 (Sweeney). *Note: ~~Strike through~~ indicates text deleted from the January 18, 2011 staff report pursuant to this addendum and underline indicates text added to the January 18, 2011 staff report pursuant to this addendum.*

1. Staff recommends that Special Condition No. Eight (8) is revised to make clear that the deed restriction records the special conditions of the permit, as amended, instead of the conditions of the underlying CDP No. 4-02-220 (Sweeney). The amendment modifies or replaces one or more of the existing recorded conditions and adds additional special conditions, so a new deed restriction with all of the approved conditions must be recorded to supersede and replace those previously recorded.

Special Condition No. Eight (8) on page 11 shall be revised as follows:

Special Condition Number Eight (8) of the underlying Coastal Development Permit No. 4-02-220 shall ~~remain in effect~~ be superseded and replaced in its entirety with the following updated condition:

PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (4-02-220-A1), the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment, as covenants, conditions and restrictions on the use and enjoyment of

the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit amendment, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property. ***This deed restriction shall supersede and replace the deed restriction(s) recorded pursuant to Special Condition No. Eight (8) of Coastal Development Permit No. 4-02-220, approved on August 6, 2003, which deed restriction(s) is recorded as Instrument No. 04 0659382 in the official records of Los Angeles County.***

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Filed: 11/5/10
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Staff: Kanani Brown
Staff Report: 1/18/11
Hearing Date: 02/10/11

Item Th9a

STAFF REPORT: AMENDMENT

APPLICATION NO.: 4-02-220-A1
APPLICANT: Amanda Markham
AGENT: Steven P. Dahl
PROJECT LOCATION: 780 Schueren Road, Santa Monica Mountains, unincorporated Los Angeles County
APN No.: 4453-003-040 (previously 4453-003-023)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a new two-story, 7,665 sq. ft. single-family residence, including: an attached 605 sq. ft. garage; a detached single-story, 865 sq. ft. garage made of non-combustible materials; pool/Jacuzzi; driveway; septic system; and 3,900 cu. yds. of grading (3,800 cu. yds. cut, 100 cu. yds. fill).

DESCRIPTION OF AMENDMENT: Request for: (1) reduction in size of the previously approved single-family residence from 7,665 sq. ft. to 3,752 sq. ft.; (2) relocation of the 3,752 sq. ft. residence and septic system approximately 200 ft. farther northwest, closer to Schueren Road; (3) reduction in grading from 3,900 cu. yds. to 3,827 cu. yds. (3,827 cu. yds. cut, 0 cu. yds. fill); (4) reduction in size of the detached garage from 865 sq. ft. to 731 sq. ft.; (5) deletion of the pool/Jacuzzi; (6) deletion of the attached garage; and (7) addition of a 711 sq. ft. deck on the second level of the residence.

Lot area: 40.71 acres or 1,773,451 sq. ft.
Building coverage: 3,064 sq. ft.
Pavement coverage: 10,256 sq. ft.
Height abv. finished grade: 25 ft. 11 in.
Parking spaces: 5

MOTION & RESOLUTION: Page 4

SUMMARY OF STAFF RECOMMENDATION: Staff recommends **approval** of the proposed amendment with **fourteen (14) special conditions** regarding (1) geologic recommendations, (2) updated drainage and polluted runoff control, (3) updated landscaping and fuel modification plans, (4) assumption of risk, (5) structural appearance, (6) future development, (7) lighting restriction, (8) deed restriction, (9)

habitat impact mitigation, (10) removal of excess excavated material, (11) removal of natural vegetation, (12) updated interim erosion control plans and construction responsibilities, (13) open space conservation easement, and (14) required approvals.

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

- **ENVIRONMENTALLY SENSITIVE HABITAT AREA.** The project site contains habitat that meets the definition of ESHA and the project, as amended, will have adverse impacts on ESHA. The proposed residence is not a resource dependent use, but will be approved to permit the applicant a reasonable economic use of the property. The structures are sited to minimize significant disruption of habitat values. The project is conditioned to require the grant of an open space easement in order to ensure that the remaining ESHA on the site will be preserved. Mitigation is required for the loss of ESHA due to the development and the required fuel modification around structures.
- **VISUAL RESOURCES.** The structure, as proposed by this amendment, will be visible from public viewing areas. However, the revised residence siting, size, and design will reduce visual impacts when compared to the previously approved structure. There are no siting or design alternatives that would avoid or further reduce visual impacts. However, the project is conditioned to further minimize visual resource impacts by utilizing earth tones on external surfaces, and by limiting night lighting.

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EXHIBITS

- Exhibit 1. Vicinity Map
- Exhibit 2. Parcel Map
- Exhibit 3. Aerial Photograph
- Exhibit 4. Lot Line Adjustment Map
- Exhibit 5. Site Plan
- Exhibit 6. Floor Plans
- Exhibit 7. Structural Elevations
- Exhibit 8. Roof Plan
- Exhibit 9. Garage Plan
- Exhibit 10. Grading Plan
- Exhibit 11. Fuel Modification Plan
- Exhibit 12. Open Space Map
- Exhibit 13. Overlay Map

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, dated 5/3/10; County of Los Angeles Fire Department,

Preliminary Fuel Modification Plan Approval, dated 9/2/10; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, dated 7/20/10.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D; Biological Constraints Analysis for Schueren Road Property, prepared by PCR Services Co., dated June 2001; Seepage Pit Location Report by Schick Geotechnical, Inc. dated 7/30/10; Geologic & Soils Engineering Exploration by Schick Geotechnical, Inc. dated 4/8/09; Response to County of LA Geologic Review Sheet by Schick Geotechnical, Inc. dated 1/11/10 and 4/27/10; County of LA Soils Engineering Review Sheet dated 8/18/10; County of LA Geologic Review Sheet dated 8/23/10; Vegetation Thinning/Removal Areas Plan by Dahl Architects, Inc. dated 10/8/10; Brush Clearance Plan by Dahl Architects, Inc. dated 10/8/10; Grading Plan by G.V.W. Engineering, Inc. dated 2/21/10; Coastal Development Permit 4-02-220 (Sweeney); and Coastal Development Permit 4-03-108 (Jean Ross, LLC & Sweeney).

I. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-02-220 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

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

Special Condition Number One (1) of the underlying Coastal Development Permit No. 4-02-220 shall be revised as follows (Note: ~~Strikethrough~~ indicates text deleted and underline indicates text added):

All recommendations contained in the Substantive File Documents of CDP 4-02-220 and CDP 4-02-220-A1 ~~Preliminary Geologic and Soils Engineering Exploration dated November 29, 2001 prepared by Grover Hollingsworth and Associates, Inc.~~ shall be incorporated into all final design and construction including foundations, site design, grading, sewage disposal, and drainage. Final plans must be reviewed and approved by the project's consulting geotechnical engineer and geologist. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, two sets of plans with evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, sewage disposal and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

2. Updated Permanent Drainage and Runoff Control Plans

Special Condition Number Two (2) of the underlying Coastal Development Permit No. 4-02-220 shall be superseded and replaced in its entirety with the following updated condition:

A. ***Prior to issuance of the Coastal Development Permit***, the applicant shall submit to the Executive Director, two (2) copies of a final Drainage and Runoff Control Plan for the post-construction project site, prepared by a licensed civil engineer or qualified licensed professional. The Plan shall include detailed drainage and runoff control plans with supporting calculations. The plans shall incorporate Best Management Practices (BMPs) including site design, source control and treatment control measures designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather runoff leaving the developed site. The consulting licensed civil engineer or qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

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

specify, the location, dimensions, cubic yards of rock, etc. for the any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The engineer shall certify that the design of the device minimizes the amount of rock and/or other hardscape necessary to meet the sizing requirements.

- (7) Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- (8) All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15th each year) and at regular intervals as necessary between October 15th and April 15th of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- (9) For projects located on a hillside, slope, or which may otherwise be prone to instability, final drainage plans shall be approved by the project consulting geotechnical engineer.
- (10) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

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

3. Updated Landscaping and Fuel Modification Plans

Special Condition Number Three (3) of the underlying Coastal Development Permit No. 4-02-220 shall be superseded and replaced in its entirety with the following updated condition:

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

A) Landscaping Plan

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- (5) Fencing of the entire property is prohibited. Fencing shall extend no further than the approved development area. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in **Special Condition 5, Structural Appearance**, below.

B) Fuel Modification Plans

Vegetation within 20 feet of the proposed house may be removed to mineral earth, vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In

addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the twenty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

C) Conformance with Commission Approved Site/Development Plans

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

D) Monitoring

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

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

4. Assumption of Risk, Waiver of Liability and Indemnity

Special Condition Number Four (4) of the underlying Coastal Development Permit No. 4-02-220 shall remain in effect.

5. Structural Appearance

Special Condition Number Five (5) of the underlying Coastal Development Permit No. 4-02-220 shall be revised as follows (Note: ~~Strikethrough~~ indicates text deleted and underline indicates text added):

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of coastal development permit 4-02-220-A1 ~~4-02-220~~. The palette samples shall be presented in a format not to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, driveways, retaining walls, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised on non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by coastal development permit 4-02-220-A1 ~~4-02-220~~ if such changes are specifically authorized by the Executive Director as complying with this special condition.

6. Future Development Restriction

Special Condition Number Six (6) of the underlying Coastal Development Permit No. 4-02-220 shall be revised as follows (Note: ~~Strikethrough~~ indicates text deleted and underline indicates text added):

This permit is only for the development described in coastal development permit No. ~~4-02-220~~ 4-02-220-A1. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the entire parcel. Accordingly, any future structures, future improvements, or change of use to the permitted structures approved under Coastal Development Permit No. 4-02-220-A1 ~~4-02-220~~, and any grading, clearing or other disturbance of vegetation, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition No. Three (3), shall require an amendment to Permit No. 4-02-220-A1 ~~4-02-220~~ from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

7. Lighting Restriction

Special Condition Number Seven (7) of the underlying Coastal Development Permit No. 4-02-220 shall remain in effect.

8. Deed Restriction

Special Condition Number Eight (8) of the underlying Coastal Development Permit No. 4-02-220 shall remain in effect.

9. Habitat Impact Mitigation

Special Condition Number Nine (9) of the underlying Coastal Development Permit No. 4-02-220 shall remain in effect.

10. Removal of Excess Excavated Material

Special Condition Number Ten (10) of the underlying Coastal Development Permit No. 4-02-220 shall remain in effect.

11. Removal of Natural Vegetation

Special Condition Number Eleven (11) of the underlying Coastal Development Permit No. 4-02-220 shall remain in effect.

The following Special Conditions Numbers Twelve, Thirteen, and Fourteen (12,13,14) shall be added to Coastal Development Permit No. 4-02-220-A1:

12. Updated Interim Erosion Control Plans and Construction Responsibilities

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

1. Erosion Control Plan

- (a) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags.
- (b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
- (c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.
- (d) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins

(including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible.

- (e) The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
- (f) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

2. Construction Best Management Practices

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

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

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

13. Open Space Conservation Easement

A. No development, as defined in Section 30106 of the Coastal Act, grazing, or agricultural activities shall occur outside of the approved development area, within the portion of the property identified as the "open space conservation easement area", as shown in **Exhibit 12** except for:

- (1) Fuel modification required by the Los Angeles County Fire Department undertaken in accordance with the final approved fuel modification plan approved pursuant to **Special Condition 3, Updated Landscaping and Fuel Modification Plans**, or other fuel modification plans required and approved by the Commission pursuant to a different CDP(s) issued by the Commission;
- (2) Drainage and polluted runoff control activities required and approved pursuant to:

- a. The drainage and runoff control plans approved pursuant to **Special Condition 2, Updated Permanent Drainage and Runoff Control Plan**, of this permit; and
 - b. The landscaping and erosion control plans approved pursuant to **Special Condition 12, Updated Interim Erosion Control & Construction Best Management Practices Plan, and Special Condition 3, Updated Landscaping and Fuel Modification Plans**, of this permit;
- (3) Planting of native vegetation and other restoration activities, if approved by the Commission as an amendment to this coastal development permit or a new coastal development permit;
- (4) If approved by the Commission as an amendment to this coastal development permit or a new coastal development permit,
- a. construction and maintenance of public hiking trails; and
 - b. construction and maintenance of roads, trails, and utilities consistent with existing easements.
- B. ***Prior to issuance of the Coastal Development Permit***, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, granting to the Mountains Recreation and Conservation Authority (“MRCA”) on behalf of the people of the State of California an open space conservation easement over the “open space conservation easement area” described above, for the purpose of habitat protection. The recorded easement document shall include a formal legal description of the entire property; and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the open space conservation easement area, as generally shown on **Exhibit 12**. The recorded document shall reflect that no development shall occur within the open space conservation easement area except as otherwise set forth in this permit condition. The grant of easement shall be recorded free of prior liens and encumbrances (other than existing easements for roads, trails, and utilities) which the Executive Director determines may affect the interest being conveyed, and shall run with the land in favor of the MRCA on behalf of the people of the State of California, binding all successors and assigns.

14. Required Approvals

Prior to the issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, evidence of the County of Los Angeles Environmental Health Services’ conceptual approval of the Sewage Disposal System.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. AMENDMENT DESCRIPTION AND BACKGROUND

The applicant requests to amend Coastal Development Permit No. 4-02-220 to allow for: (1) reduction in size of the previously approved single family residence from 7,665 sq. ft. to 3,752 sq. ft.; (2) relocation of the 3,752 sq. ft. residence and septic system approximately 200 ft. farther northwest, closer to Schueren Road; (3) reduction in grading from 3,900 cu. yds. to 3,827 cu. yds. (3,827 cu. yds. cut, 0 cu. yds. fill); (4) reduction in size of the detached garage from 865 sq. ft. to 731 sq. ft.; (5) deletion of the pool/Jacuzzi; (6) deletion of the attached garage; and (7) addition of a 711 sq. ft. deck on the second level of the residence.

The subject site is a vacant, 41-acre, rectangular-shaped lot (APN 4453-003-040) located on the south side of Schueren Road with a portion of the property lying above Schueren Road, south of Saddle Peak Road and northeast of Piuma Road and Rambla Pacifico in the Santa Monica Mountains, unincorporated Los Angeles County (Exhibit 1). The area surrounding the project site is characterized by natural hillside terrain and is vacant to the east, west, and south. Residentially developed parcels are located to the north.

The subject parcel is comprised of moderate to steeply sloping hillside terrain with elevations that range from 1400 ft. to 2200 ft. above mean sea level. The site supports extensive native chaparral plant communities contiguous with a larger area of natural chaparral to the east, west, and south. As discussed in detail below, the habitat on the entire site meets the Coastal Act definition of environmentally sensitive habitat area (ESHA). The project site is located in a scenic area, surrounded by public open space and recreation areas, visible from various public viewing points which afford scenic vistas of the relatively undisturbed natural area.

The amendment application includes the relocation of the previously approved building site approximately 200 ft. farther northwest, closer to Schueren Road, to a site that is more geologically stable (Exhibit 13). Staff notes that the proposed location for the driveway and building pad is preferable to the previously approved location in that it will cluster development close to the existing road, result in a shorter driveway, and require less removal of ESHA. The previously approved building site was located farther southeast along a ridgeline that has potential for landslides. The newly proposed building site is located at the northwest corner of the lot, just east of the bend in Schueren Road as it traverses the northern portion of the property. The area of the proposed building site has been partially cleared of vegetation. However, the hillside terrain surrounding the building site supports extensive native vegetation and natural habitat.

B. PAST COMMISSION ACTION

The underlying permit, Coastal Development Permit No. 4-02-220 (Sweeney), was approved by the Commission in 2003 for construction of a new two-story, 7,655 sq. ft. single-family residence along a ridgeline east of the bend in Schueren Road. The approved development included: an attached 605 sq. ft. garage; a detached single-story, 865 sq. ft. garage made of non-combustible materials; pool/Jacuzzi; driveway; septic system; and 3,900 cu. yds. of grading (3,800 cu. yds. cut, 100 cu. yds. fill). A building pad area over 13,000 sq. ft. in size was permitted based on the parcel size, which was 82 acres at the time. Coastal Development Permit No. 4-02-220 was approved with eleven (11) special conditions regarding (1) geologic recommendations, (2) drainage and polluted runoff control, (3) landscaping and erosion control plans, (4) assumption of risk, (5) structural appearance, (6) future development, (7) lighting restriction, (8) deed restriction, (9) habitat impact mitigation, (10) removal of excess excavated material, and (11) removal of natural vegetation. However, the special conditions were never fulfilled and the permit has not been issued. The CDP has been extended several times and it is active. The site has remained vacant.

In 2004, a lot line adjustment was made between the subject parcel (APN 4453-003-040) and an adjacent parcel to the west, pursuant to the Commission's approval of Coastal Development Permit 4-03-108 (Jean Ross, LLC & Brian Sweeney). The approved lot line adjustment redivided two vacant parcels comprised of 120 acres into two reconfigured parcels, resulting in a mirror image of the previous configuration. The subject parcel (previously APN 4453-003-023) was decreased from 82 acres to 41 acres, and the adjacent parcel (previously APN 4453-003-002) was increased from 41 acres to 82 acres. Both parcels contain relatively undisturbed native habitat consisting of chaparral plant communities contiguous with a larger area of natural chaparral. Thus, both parcels are considered ESHAs. With the previously approved building pad area over 13,000 sq. ft., the lot line adjustment resulted in a reduction of the lot area by half and the potential to result in cumulative adverse impacts to ESHA. To mitigate these impacts, Coastal Development Permit No. 4-03-108 was approved with one (1) special condition regarding future development on the adjacent parcel. Special Condition One (1) requires any future development on the adjacent parcel to be located within a building pad area 10,000 sq. ft. in size or less.

In addition, the applicant submitted a transfer of permit on 7/26/05 and six separate applications to the Commission, each seeking a time extension on CDP No. 4-02-220. These time extensions were submitted on 7/8/05, 6/15/06, 7/30/07, 7/1/08, 7/28/09, and 7/27/10, with approval by the Commission for all time extensions.

C. HAZARDS AND GEOLOGIC STABILITY

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

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed development is located in the Malibu/Santa Monica Mountains area, an area historically subject to significant natural hazards including, but not limited to, landslides, erosion, flooding, and wild fire. The Preliminary Geologic and Soils Engineering Exploration dated November 29, 2001, prepared by Grover Hollingsworth and Associates, Inc. identified a possible shallow landslide just south of the previously approved building site:

An older possible shallow landslide is mapped below and south of the proposed building site based on a review of air photographs, topographic expression, and lack of bedrock outcrops. The possible surficial slope failure likely includes weathered bedrock. The possible landslide as shown on the Geologic Map is considered a restricted use area.

However, based upon borings logged by Schick Geotechnical, Inc. in 2007 and 2008, the proposed building site is free of landslides and is located approximately 200 ft. farther away from the possible shallow landslide area than the previously approved site.

Therefore, the submitted geology, geotechnical, and/or soils reports referenced as Substantive File Documents in CDP No. 4-02-220 and CDP No. 4-02-220-A1 conclude that the project site is suitable for the proposed project based on the evaluation of the site's geology in relation to the proposed development. The reports contain recommendations to be incorporated into the project plans to ensure the stability and geologic safety of the proposed project, the project site, and the adjacent properties. To ensure stability and structural integrity and to protect the site and the surrounding sites, the Commission requires the applicant to comply with the recommendations contained in the applicable reports, to incorporate those recommendations into all final design and construction plans, and to obtain the geotechnical consultant's approval of those plans prior to the commencement of construction.

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

Further, the Commission finds that, for the project to ensure stability and avoid contributing significantly to erosion, all slopes and disturbed areas of the subject site must be landscaped, primarily with native plants, to stabilize disturbed soils and reduce erosion resulting from the development.

Although the conditions described above render the project sufficiently stable to satisfy the requirements of Section 30253, no project is wholly without risks. Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from natural hazards, including wildfire and erosion, those risks remain substantial here. If the applicant nevertheless chooses to proceed with the

project, the Commission requires the applicant to assume the liability from these associated risks. Through the assumption of risk condition, the applicant acknowledges the nature of the fire and/or geologic hazard that exists on the site and that may affect the safety of the proposed development.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30253 of the Coastal Act and as a response to the risks associated with the project. Please note that **Special Conditions Two (2), Three (3), and Twelve (12)**, required as part of the original approval of CDP 4-02-220, have been updated here in accordance with the Commission's current special conditions:

Special Condition 1: Plans Conforming to Geotechnical Engineer's Recommendations

Special Condition 2: Updated Permanent Drainage and Runoff Control Plans

Special Condition 3: Updated Landscaping and Fuel Modification Plans

Special Condition 4: Assumption of Risk, Waiver of Liability and Indemnity

Special Condition 12: Updated Interim Erosion Control Plans and Construction Responsibilities

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

D. WATER QUALITY

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

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

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

The proposed development, located near the top of the Las Flores Canyon watershed area, will result in an increase in impervious surfaces, which leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site and eventually be discharged to coastal waters, including streams, wetlands, and estuaries.

The pollutants commonly found in runoff associated with residential use can reduce the biological productivity and the quality of such waters and thereby reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to minimize the potential for such adverse impacts to water quality and aquatic resources resulting from runoff both during construction and in the post-development stage, the Commission requires the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site, including: 1) site design, source control and/or treatment control measures; 2) implementing erosion sediment control measures during construction and post construction; and 3) revegetating all graded and disturbed areas with primarily native landscaping.

Additionally, the applicant's geologic consultants have concluded that the site is suitable for the proposed septic system and that there would be no adverse impact to the site or surrounding areas from the use of a septic system. The County of Los Angeles Environmental Health Department has given in-concept approval for a septic system design for the proposed residence. However, the applicant has indicated that revisions have been made to the design, but in-concept approval has not yet been given for the revised system. As such, the County of Los Angeles Environmental Health Department's in-concept approval of the proposed septic system will be required prior to the issuance of the permit to assure that it meets the plumbing code requirements. The Commission has found that conformance with the provisions of the plumbing code is protective of water resources.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30231 of the Coastal Act. Please note that **Special Conditions Two (2), Three (3), and Twelve (12)**, required as part of the original approval of CDP 4-02-220, have been updated here in accordance with the Commission's current special conditions:

Special Condition 2: Updated Permanent Drainage and Polluted Runoff Control Plans

Special Condition 3: Updated Landscaping and Fuel Modification Plans

Special Condition 11: Removal of Natural Vegetation

Special Condition 12: Updated Interim Erosion Control Plans and Construction Responsibilities

Special Condition 14: Required Approvals

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

E. ENVIRONMENTALLY SENSITIVE HABITAT

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Project Description and Site Specific Biological Resource Information

The subject site is a vacant, 41-acre, rectangular-shaped lot (APN 4453-003-040) located on the south side of Schueren Road with a portion of the property lying above Schueren Road, south of Saddle Peak Road and northeast of Piuma Road and Rambla Pacifico in the Santa Monica Mountains, unincorporated Los Angeles County (Exhibit 1). The project site descends below the area south of Schueren Road at gradients ranging from 3:1 to 1½:1. The site is crossed with secondary canyon ridges, which generally descend at an average of approximately 24 degrees south. Vegetation consists of native chaparral over a majority of the site, which is presently intact and undisturbed, with the exception of a small area along the road. This chaparral habitat is part of a large contiguous area of sensitive native habitat that extends to the south, east, and west of the subject site. Additionally, there is one area approximately 1 acre in size consisting of native bunchgrass grassland.

The applicant requests to relocate the previously approved building site approximately 200 ft. further northwest, closer to Schueren Road, to a site that is more stable, and reduce the size of the building height, building pad, parking area, and grading (Exhibit 13). The proposed project includes: (1) reduction in size of the previously approved single-family residence from 7,665 sq. ft. to 3,752 sq. ft.; (2) relocation of the residence approximately 200 ft. farther northwest, closer to Schueren Rd.; (3) reduction in grading from 3,900 cu. yds. to 3,827 cu. yds. (3,827 cu. yds. cut); (4) reduction in size of the detached garage from 865 sq. ft. to 731 sq. ft.; (5) deletion of the pool/Jacuzzi; (6) deletion of the attached garage; and (7) addition of a 711 sq. ft. deck. Thus, the impacts to ESHA will be reduced by an overall reduction in the development area.

The applicant submitted the Biological Assessment, listed in the Substantive File Documents, which addresses the habitats present on the project site. The report identifies four vegetation/habitat communities of the project site. The report approximates the acreages and describes these habitats thus:

Bigpod Ceanothus-Chamise Chaparral (29.8 acres)

This is the most abundant vegetation type found on site. Bigpod ceanothus-chamise chaparral represents an intermingling of scrub species with chaparral species. These areas contain an even mix of the dominants, chamise and bigpod ceanothus, plus co-dominant species including California buckwheat, and laurel sumac. Other species occurring less frequently include our Lord's candle, redshank, deerweed, golden yarrow, bush mallow, black sage, and California everlasting and a variety of annual forbs. Bigpod ceanothus-chamise chaparral occurs on a majority of the project site and more frequently where large patches of chaparral on steeper slopes merge.

Birchleaf Mountain Mahogany-Chamise (6.7 acres)

Birchleaf mountain-mahogany-chamise communities consist of evergreen, sclerophyllous, medium height to tall shrubs that form a dense cover on steep slopes. This community prefers to grow on slopes with alluvium or seep rock. Dominant species within this community on-site include birchleaf mountain-mahogany chamise, and greenbark ceanothus. Other less frequent members of this community include laurel sumac, wild cucumber, holly-leaved cherry, and a variety of annual forbs. Approximately 6.7 acres of birchleaf mountain-mahogany-chamise chaparral are present.

Chaparral/Cleared Vegetation/Disturbed (2.5 acres)

This area consists of trimmed bigpod ceanothus chaparral with a cleared understory. Due to clearing, the area is disturbed and the understory is dominated by non-native forbs and grasses that are adapted to frequent disturbance. Approximately 2 acres of cleared chaparral and an additional ½ acre of road disturbance occur on the project site

Native Grassland (1 acre)

Native grassland communities consist of a mid height (2 ft.), herbaceous vegetation that is dominated by perennial grasses but generally also harbors native and introduced annual forbs. Topographic factors that contribute to grassland presence include gradual slopes or flat areas with deep, well-developed soils in areas below 3,000 above mean sea level. Approximately 1 acre of native bunchgrass grassland occurs on the project site. The grassland was located in a secluded area surrounded by mature thick chaparral.

A map of the habitats on the site was also prepared by the biological consultant to delineate the four vegetation communities. While there is scattered residential development in the area, there is undisturbed, contiguous chaparral habitat to the west, south, and east of the site. **Exhibit 3** is an aerial photograph of the immediate area around the project site.

The project has been designed to place all structures near the area of the site directly adjacent to Schueren Road that has been disturbed, although portions of the residence extend outside of this area. Any alternative location on the site would likely include the removal of more native vegetation. The proposed development area, including the building pad, graded slopes, structures, and parking area, is estimated by the applicant to measure approximately 10,256 sq. ft., which is 2,744 sq. ft. less than the previously approved development area. The applicant's approved fuel modification plan (approved by the Los Angeles County Fire Department) shows the use of the standard three zones of vegetation modification. Zones "A" (setback zone) and "B" (irrigation zone) are shown extending in a radius of approximately 100 ft. from the proposed structures (Exhibit 11). A "C" Zone (thinning zone) is provided for a distance of 100 ft. beyond the "A" and "B" zones.

2. ESHA Designation on the Project Site

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

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

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

The project site is located within the Mediterranean Ecosystem of the Santa Monica Mountains. The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Mountains is rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodland have many special roles in the Mediterranean Ecosystem, including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of essential habitat for local endemics, the support of rare species, and the reduction of erosion, thereby protecting the water quality of coastal streams. Additional discussion of the special roles of these habitats in the Santa Monica Mountains ecosystem are discussed in the March 25, 2003 memorandum prepared by the Commission’s Ecologist, Dr. John Dixon¹ (hereinafter “Dr. Dixon Memorandum”), which is incorporated as if set forth in full herein.

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

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-asha-memo.pdf>

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.

As described above, the project site contains pristine bigpod ceanothus-chamise chaparral, birchleaf mountain-mahogany-chamise, and native grassland habitat that are 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 bigpod ceanothus-chamise chaparral, birchleaf mountain-mahogany-chamise, and native grassland habitat on the project site meets the definition of ESHA in the Coastal Act.

3. Resource Dependent Use

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

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

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

should be considered is the extent to which a project denial would interfere with reasonable investment-backed expectations.

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

As described above, the subject parcel was designated in the Los Angeles County Land Use Plan for residential use. Residential development has previously been approved by the Commission on sites in the immediate area. At the time the applicant purchased the parcel in December 2004, the County's certified Land Use Plan did not designate the vegetation on the site as ESHA; however, approval of a new single-family residence was approved for the parcel, pursuant to CDP No. 4-02-220. Based on these facts, along with the presence of existing and approved residential development in the area, the applicant had reason to believe that it had purchased a parcel on which it would be possible to build a residence.

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

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

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

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

While the applicant is entitled under Section 30010 to an assurance that the Commission will not act in such a way as to “take” the property, this section does not authorize the Commission to avoid application of the policies of the Coastal Act, including Section 30240, altogether. Instead, the Commission is only directed to avoid construing these policies in a way that would take property. Aside from this instruction, the Commission is still otherwise directed to enforce the requirements of the Act. Therefore, in this situation, the Commission must still assure compliance with Section 30240 by avoiding impacts that would significantly disrupt and/or degrade environmentally sensitive habitat, to the extent this can be done without taking the property.

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

In this case, siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to ESHA to the greatest extent feasible. In past permit actions, the Commission has allowed up to 10,000 sq. ft. of development area for a residence on a parcel zoned for residential development in this area of the Santa Monica Mountains to avoid a taking of property. As detailed above, the reduction of the development area from 13,000 sq. ft. to the proposed 10,256 sq. ft. and clustering the development adjacent to the existing road will reduce impacts to ESHA. All proposed structures are located within this development area. Although a smaller development area would reduce the ESHA loss somewhat, the reduction would not be significant. Nor are there other resources such as streams, riparian areas, or visual resources that would be protected by a smaller development area. As such, the Commission concludes that the proposed siting and design of the project, as proposed to be amended, will minimize impacts to ESHA to the extent feasible. The Commission also finds that the proposed development area provides a reasonable economic use.

5. Open Space Conservation

This project is inconsistent with Section 30240 of the Coastal Act, and is only being allowed to avoid a taking of private property for public use. The Commission finds that for the project to be consistent with Section 30240 to the maximum extent feasible, while providing a reasonable economic use, this project must constitute the maximum

amount of ESHA destruction on the site and the remaining ESHA on the property must be preserved in perpetuity.

The Commission finds that the most effective way to assure ESHA preservation on the site is the granting of an open space conservation easement to the Mountains Recreation and Conservation Authority (a joint powers authority) that prohibits development on the remainder of the site now and in the future. The Mountains Recreation and Conservation Authority (MRCA) is a public agency that represents a partnership between the Santa Monica Mountains Conservancy, the Conejo Recreation and Park District, and the Rancho Simi Recreation and Park District. The MRCA is dedicated to the preservation and management of open space, parkland, watershed lands, trails, and wildlife habitat. The MRCA manages and provides ranger services for almost 50,000 acres of public lands and parks that it owns or that are owned by the Santa Monica Mountains Conservancy. In the course of its normal duties, the MRCA park rangers and other staff are better able to monitor open space areas to ensure that the restrictions are followed than Commission staff. Further, an easement will be recorded against the title to the property and thus provide notice to future owners of the limitations that apply to the open space conservation area, reducing the risk of a future irreparable violation of the restriction. The governing board of the MRCA has agreed to accept all open space easements required by the Commission for properties within the Santa Monica Mountains National Recreation Area.

It is important that the property owner grant an easement to MRCA rather than simply record an open space deed restriction. Although a deed restriction should notify future owners of the restriction in the same manner that a recorded easement would, it would not be as effective in preserving the remaining ESHA for the following two reasons. First, a deed restriction is not as reliable because a property owner can record another document purporting to rescind the deed restriction. Although any attempt to rescind a deed restriction required by a coastal development permit (“CDP”) without an amendment to that CDP authorizing such a rescission would constitute a violation of the CDP and the Coastal Act, the County Recorder’s office is likely to allow recordation of a rescission without the required Coastal Commission authorization. Indeed, the Commission has experienced the phenomenon of property owners recording documents purporting to modify deed restrictions recorded pursuant to CDP requirements. See, e.g., Commission findings for CDP Amendment F7453-A2 (Stephenson), approved March 2005, and Violation File V-6-04-010 (Del Mar Estates). On the other hand, because an easement necessarily involves more than one person, the County Recorder would not likely record a document purporting to rescind an easement unless the easement holder was also to sign the document. Thus, a condition requiring a deed restriction is much easier to violate, and therefore much less protective, than a condition requiring an easement.

Second, the Legislature has recently adopted new provisions to the Government Code specifically sanctioning the use of conservation easements for this purpose and changing procedures to ensure that they are prominent in searching title to property. In 2001, the Legislature adopted a new requirement that County Recorders keep a separate and “comprehensive index of conservation easements.” See Cal. Gov’t Code § 27255(a). As such, the Commission finds that the requirement of an open space and

conservation easement is the most effective method of ensuring that the remaining ESHA on the project site will be conserved in the future. Finally, the Commission concludes that an open space easement that allows only the easement holder and no other entity to enter the property for inspection purposes does not interfere with the fee title owner's right to exclude the general public. It therefore does not constitute a significant invasion of the fee title owner's property interest.

In conclusion, the Commission finds that it is necessary to require the applicant to grant an open space easement to the MRCA over the open space area on the project site in order to insure that the remaining ESHA will be preserved. Only as conditioned will the proposed project minimize impacts to ESHA, as required by Section 30240 of the Coastal Act.

6. Habitat Impact Mitigation

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

Fuel modification is the removal or modification of combustible native or ornamental vegetation. It may include replacement with drought tolerant, fire resistant plants. The amount and location of required fuel modification will vary according to the fire history of the area, the amount and type of plant species on the site, topography, weather patterns, construction design, and siting of structures. There are typically three fuel modification zones applied by the Los Angeles County Fire Department, which include a setback zone immediately adjacent to the structure (Zone A) where all native vegetation must be removed, an irrigated zone adjacent to Zone A (Zone B) where most native vegetation must be removed or widely spaced, and a thinning zone (Zone C) where native vegetation may be retained if thinned or widely spaced although particular high-fuel plant species must be removed. The combined required fuel modification area around structures can extend up to a maximum of 200 feet. If there is not adequate area on the project site to provide the required fuel modification for structures, then brush clearance may also be required on adjacent parcels. In this way, for a large area around any permitted structures, native vegetation will be cleared, selectively removed to provide wider spacing, and thinned. The Commission has found in past permit actions, that a new residential development (with a 10,000 sq. ft. development area) within ESHA with a full 200 foot fuel modification radius will result in impact (either complete removal, irrigation, or thinning) to ESHA habitat of four to five acres.

Obviously, native vegetation that is cleared and replaced with ornamental species or substantially removed and widely spaced will be lost as habitat and watershed cover. As

discussed in the Dr. Dixon 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. Although the impacts from habitat removal cannot be avoided, the Commission finds that the loss of ESHA resulting from the removal, conversion, or modification of natural habitat for new development including the building site area, and fuel modification can be mitigated in order to ensure that ESHA impacts are minimized to the extent feasible.

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

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

The third habitat impact mitigation option is the payment for mitigation of impacts to habitat. The payment is based on the habitat types in question, the cost per acre to restore or create comparable habitat types, and the acreage of habitat affected by the project. The Commission has, in past permit decisions, determined the appropriate payment for the restoration or creation of chaparral and coastal sage scrub habitat, based on research carried out by the Commission's biologist. A range of cost estimates was obtained that reflected differences in restoration site characteristics including topography (steeper is harder), proximity to the coast (minimal or no irrigation required at coastal sites), types of plants (some plants are rare or difficult to cultivate), density of planting, severity of weed problem, condition of soil, etc.

The Commission has determined that the appropriate mitigation for loss of coastal sage scrub or chaparral ESHA should be based on the actual installation of replacement plantings on a disturbed site, including the cost of acquiring the plants (seed mix and

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>

container stock) and installing them on the site (hydroseeding and planting). The payment amount found by the Commission to be appropriate to provide mitigation for the habitat impacts to ESHA areas where all native vegetation will be removed (building site, the “A” zone required for fuel modification, and off-site brush clearance areas), and where vegetation will be significantly removed and any remaining vegetation will be subjected to supplemental irrigation (the “B” zone or any other irrigated zone required for fuel modification) is \$12,000 per acre. Further, the Commission has required a payment of \$3,000 per acre for areas where the vegetation will be thinned, but not irrigated (“C” zone or other non-irrigated fuel modification zone).

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

7. Additional Mitigation Measures to Address Additional ESHA Impacts

The Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping, and mitigation for that effect was discussed in the previous section. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. This sort of impact was not addressed in the prior section. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area that are not directly and immediately affected by the proposed development, the Commission requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

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

Furthermore, fencing of the property would adversely impact the movement of wildlife through the ESHA and wildlife migration corridor on this parcel. Therefore, the Commission finds it is necessary to limit fencing to the perimeter of the approved development area, turnaround, and driveway. This is required to be shown on the landscaping plan.

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

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

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

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30240 of the Coastal Act. Please note that **Special Condition Three (3)** has been updated and **Special Condition Thirteen (13)** has been added in accordance with the Commission's current special conditions.

- Special Condition 3:** Updated Landscaping and Fuel Modification Plans
- Special Condition 6:** Future Development Restriction
- Special Condition 7:** Lighting Restriction
- Special Condition 8:** Deed Restriction
- Special Condition 9:** Habitat Impact Mitigation
- Special Condition 11:** Removal of Natural Vegetation
- Special Condition 13:** Open Space Conservation Easement

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

F. VISUAL RESOURCES

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

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

The proposed project area is located within a scenic viewshed area and will be visible from Schueren Road, an LUP designated scenic roadway, and surrounding public open space and recreation areas (Exhibit 3 illustrates the expansive State Lands surrounding the subject lot). Development of the proposed residence raises two issues regarding the siting and design: (1) whether or not the public views from the public roadways will be adversely affected; or, (2) whether or not public views from public lands and trails will be affected.

The development has been clustered on one pad area that is 10,256 sq. ft. in size and designed to reduce landform alteration and removal of native vegetation that is considered environmentally sensitive habitat. The proposed structures are sited and designed to minimize impacts to visual resources to the extent feasible. While the proposed residence is located closer to Schueren Road, the proposed building site and design will reduce impacts to visual resources by decreasing the height, grading, building pad, pavement coverage, and parking area of the previously approved residence.

The proposed structure is compatible with the character of other residential development in the area. The proposed structure height is consistent with the maximum height (35 feet above existing grade) that the Commission has permitted in past decisions in the Santa Monica Mountains and with the maximum height (35 feet) allowed under the guidance policies of the Malibu/Santa Monica Mountains LUP. In addition, the development would be partially screened by vegetation.

Even with vegetative screening, the proposed development will be unavoidably visible from public viewing areas. The Commission has considered siting and design alternatives that would avoid or reduce any impacts to visual resources. There is no feasible alternative whereby the structure would not be visible from public viewing areas. To minimize the visual impacts associated with development of the project site, the Commission requires: that the structure be finished in a color consistent with the surrounding natural landscape; that windows on the development be made of non-reflective glass; use of appropriate, adequate, and timely planting of native landscaping

to soften the visual impact of the development from public view areas; and a limit on night lighting of the site to protect the nighttime rural character of this portion of the Santa Monica Mountains.

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

Additionally, the Commission requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The following special conditions are required to assure the project's consistency with Section 30251 of the Coastal Act. Please note that **Special Condition Three (3)** has been updated in accordance with the Commission's current special conditions.

Special Condition 3: Updated Landscaping and Fuel Modification Plans

Special Condition 5: Structural Appearance

Special Condition 6: Future Development Restriction

Special Condition 7: Lighting Restriction

Special Condition 8: Deed Restriction

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

G. LOCAL COASTAL PROGRAM PREPARATION

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

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed projects will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the projects and are accepted by the applicant. As conditioned, the proposed development will avoid or minimize adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. The following

special conditions are required to assure the amended project's consistency with Section 30604 of the Coastal Act:

Special Conditions 1 through 14

Therefore, the Commission finds that approval of the development, as proposed to be amended and as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, project alternatives and mitigation measures have been considered and incorporated into the project, as proposed to be amended. Five types of mitigation actions include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures required as part of this coastal development permit include the avoidance of impacts to ESHA through clustering structures, and by prohibiting development outside of the approved development area as required by the granting of an open space conservation easement. Mitigation measures required to minimize impacts include requiring drainage best management practices (water quality), interim erosion control (water quality and ESHA), limiting lighting (ESHA), restricting structure color (visual resources), and requiring future improvements to be considered through a CDP. Finally, the habitat impact mitigation condition is a measure required to compensate for impacts to ESHA. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

Special Conditions 1 through 14

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the project, as proposed to be amended and as conditioned to

mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

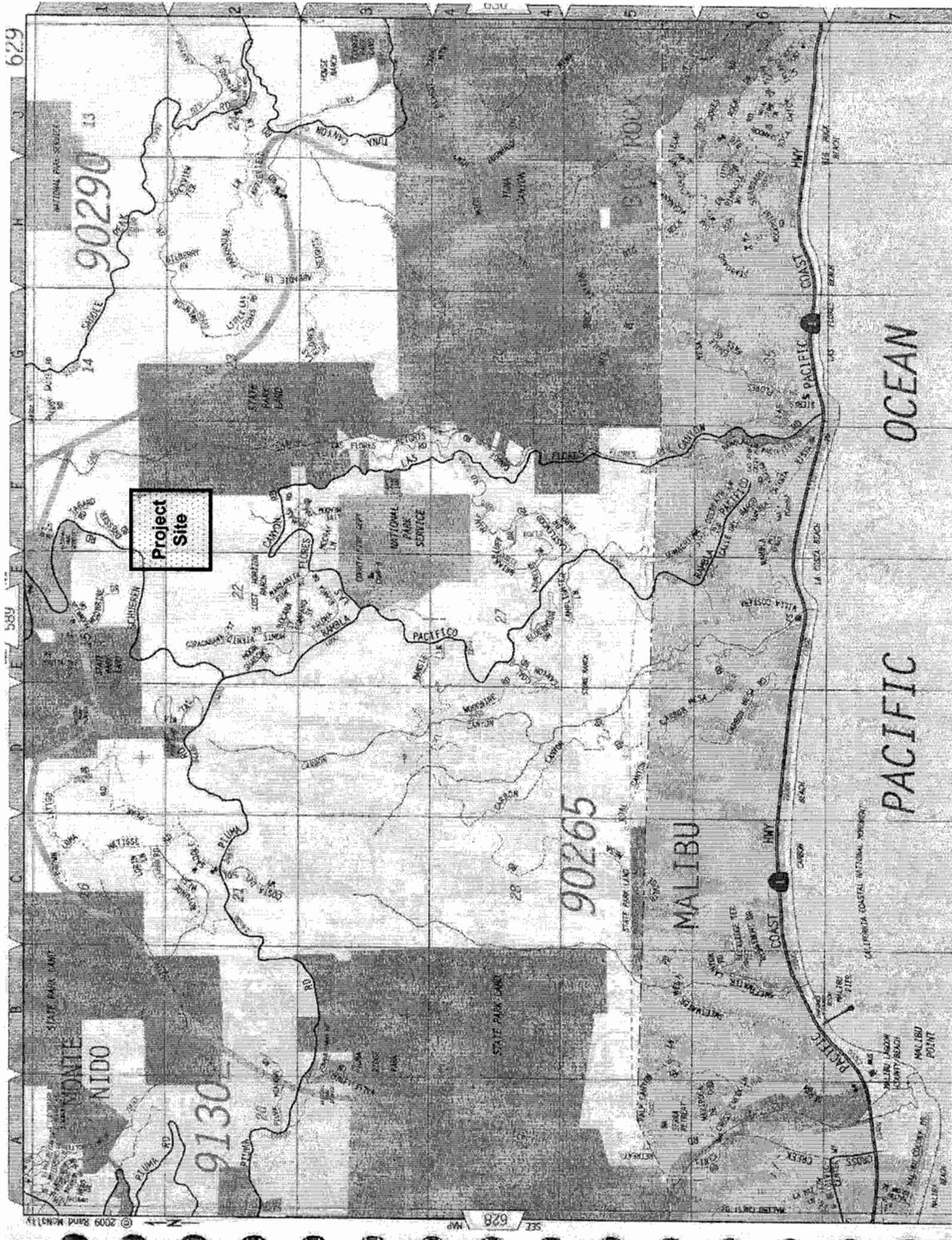
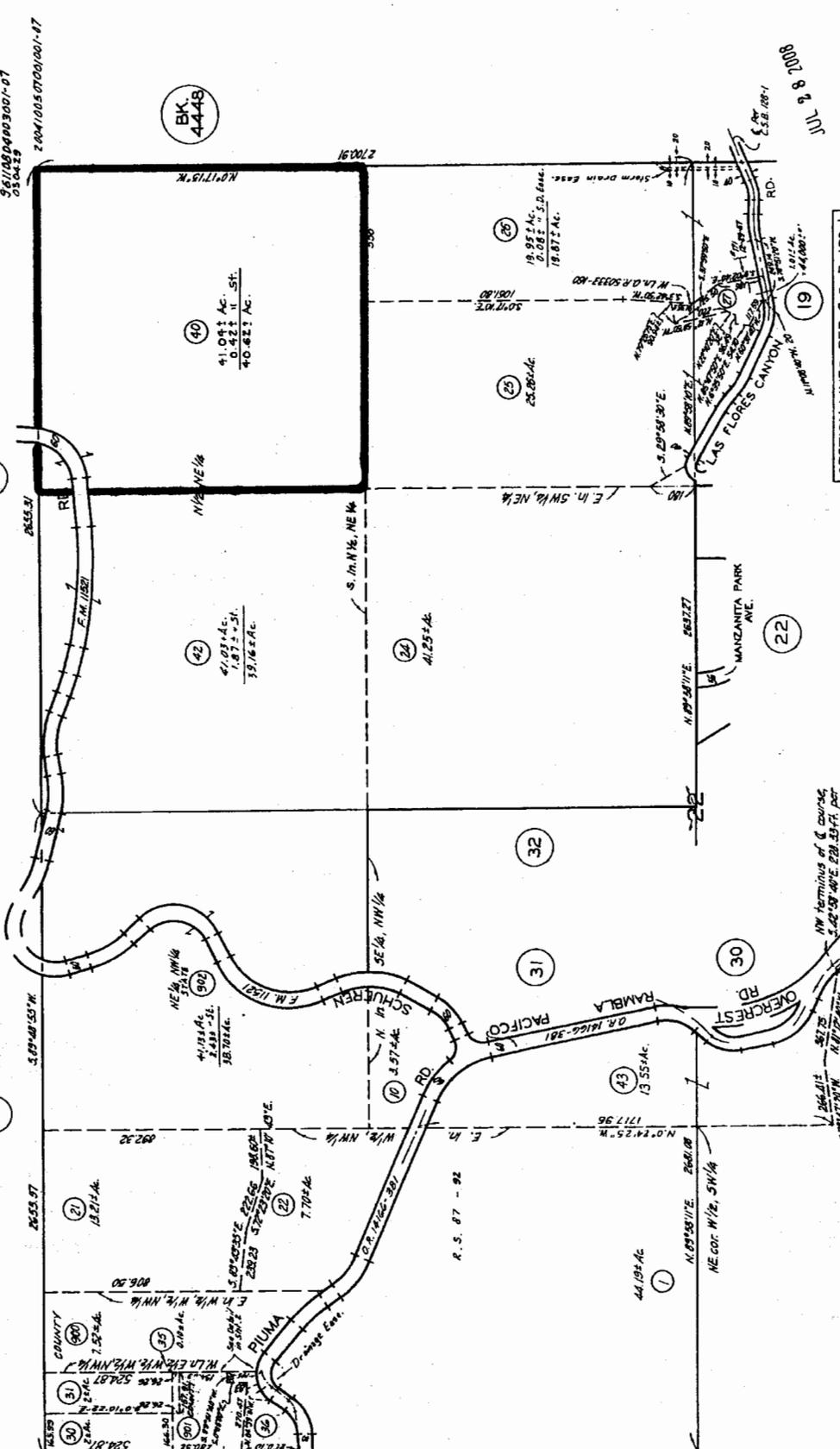


EXHIBIT 1
Permit 4-02-220-A1
Vicinity Map

4453 3
SHEET I
SCALE 1" = 400'

2009

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SECTION LINES PER C.S. B-128-1

ASSESSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

JUL 8 2008

T. I. S., R. 17 W.

FOR PREV. ASSM'T SEE:
4453 - 3

CODE
8658

EXHIBIT 2
Permit 4-02-220-A1
Parcel Map

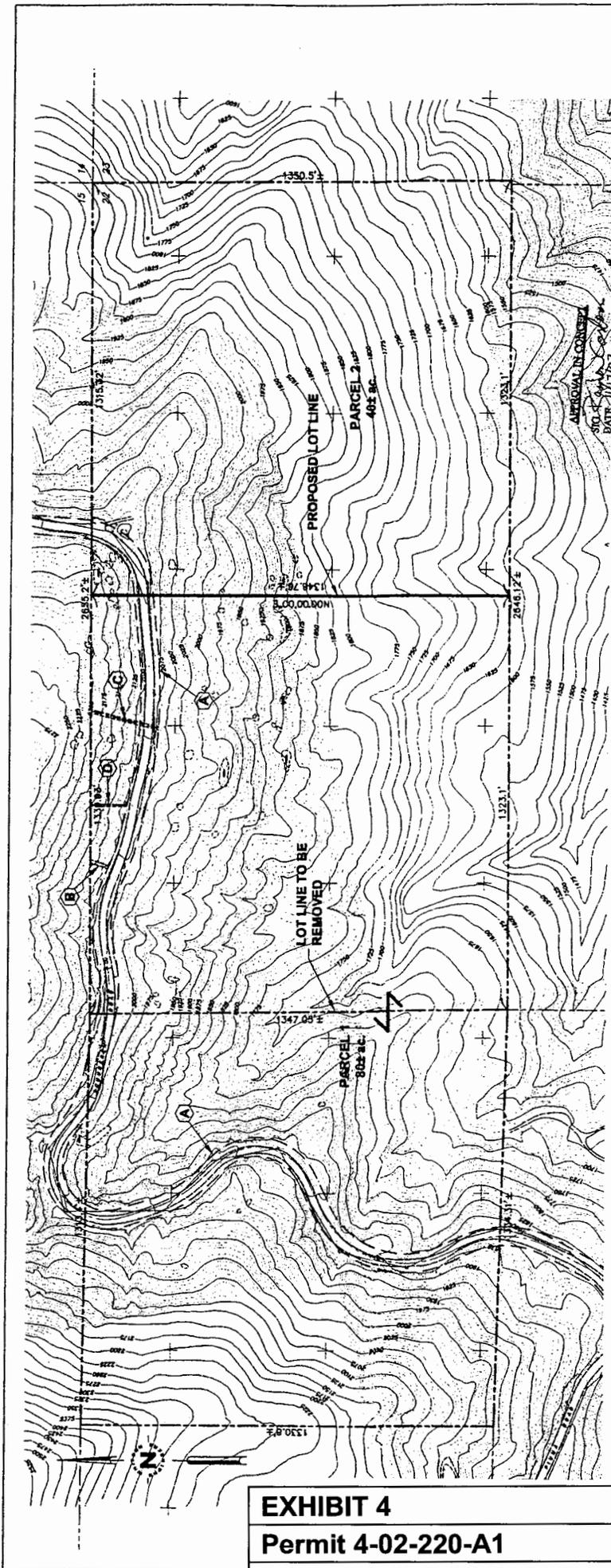


EXHIBIT 4
Permit 4-02-220-A1
Lot Line Adjustment Map

PLAN CHECK NO. LLA 102119

APPROVAL IN CONCEPT
 DATE 11/17/03
 For sec. 3000 et seq of the
 Public Resources Code and
 Title 14 of the
 Administrative Code, State
 of California
 THIS IS NOT A PERMIT
 and
 is subject to any conditions
 listed below

TENTATIVE LOT LINE ADJUSTMENT MAP NO.

**BEING A PORTION OF THE NORTH 1/2
 OF SECTION 22, T. 15S., R. 17 W., S.B.M.**

**MALIBU, UNINCORPORATED LOS ANGELES COUNTY, CA
 PREPARED MARCH 5, 2003
 SCALE: 1" = 200'**

**PREPARED FOR:
 JEAN ROSS, L.L.C.
 AND BRIAN A. SWEENEY**

PREPARED BY:

WE WHITSON ENGINEERS
 9699 Blue Lakeshore Lane • Suite 105 • Monterey, CA 93940
 831 648-8225 • Fax 831 373-5065
 CIVIL ENGINEERING • LAND SURVEYING • PROJECT MANAGEMENT

| PARCEL | AREA BEFORE LLA | AREA AFTER LLA |
|--------|-----------------|----------------|
| 1 | 40± ac. | 80± ac. |
| 2 | 80± ac. | 40± ac. |

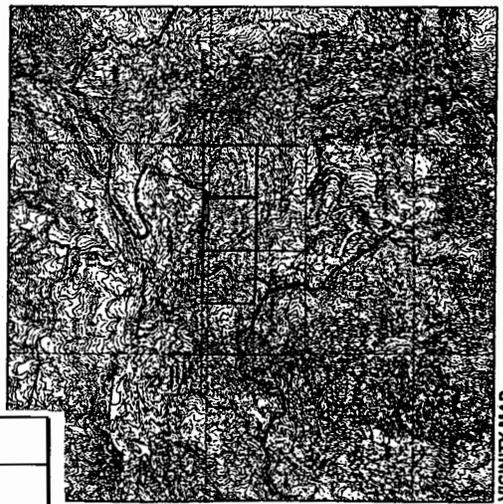
NOTES:
 TOPOGRAPHY SHOWN IS FROM OTHER SOURCES AND WAS NOT PREPARED BY
 WHITSON ENGINEERS. WE ARE ADEQUATE FOR THE PURPOSE OF THIS APPLICATION.
 NO FIELD SURVEYING TO CHECK THE ACCURACY OF THE RECORD BOUNDARY WAS
 CONDUCTED BY WHITSON ENGINEERS.

THERE ARE NO EXISTING STRUCTURES OR IMPROVEMENTS ON SUBJECT
 PROPERTIES.

EXISTING ZONING: A-1-1

EASEMENTS PER FIRST AMERICAN TITLE COMPANY OF LOS ANGELES
 PRELIMINARY TITLE REPORT No. 203400-31 DATED OCTOBER 18, 2000

- Ⓐ 50' WIDE ACCESS EASEMENT FOR PUBLIC ROAD AND
 HIGHWAY PURPOSES; RECORDED NOVEMBER 4, 1938
 IN BOOK 1881 PAGE 232, AND PER FM 11037
- Ⓑ 10' WIDE UTILITY EASEMENT
- Ⓒ 10' WIDE PUBLIC UTILITY EASEMENT
- Ⓓ 4' WIDE PUBLIC UTILITY EASEMENT



VICINITY MAP
 SCALE: 1"=1000'

| REVISION | DATE | BY | DESCRIPTION |
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Rodrick James Architects LLP
 1134 el centro street
 south pasadena, ca, 91030
 (626) 564-0011 (626) 564 1591 fax

dahl architects, inc.
 780 SCHUREN ROAD
 MALIBU, CA, 90265

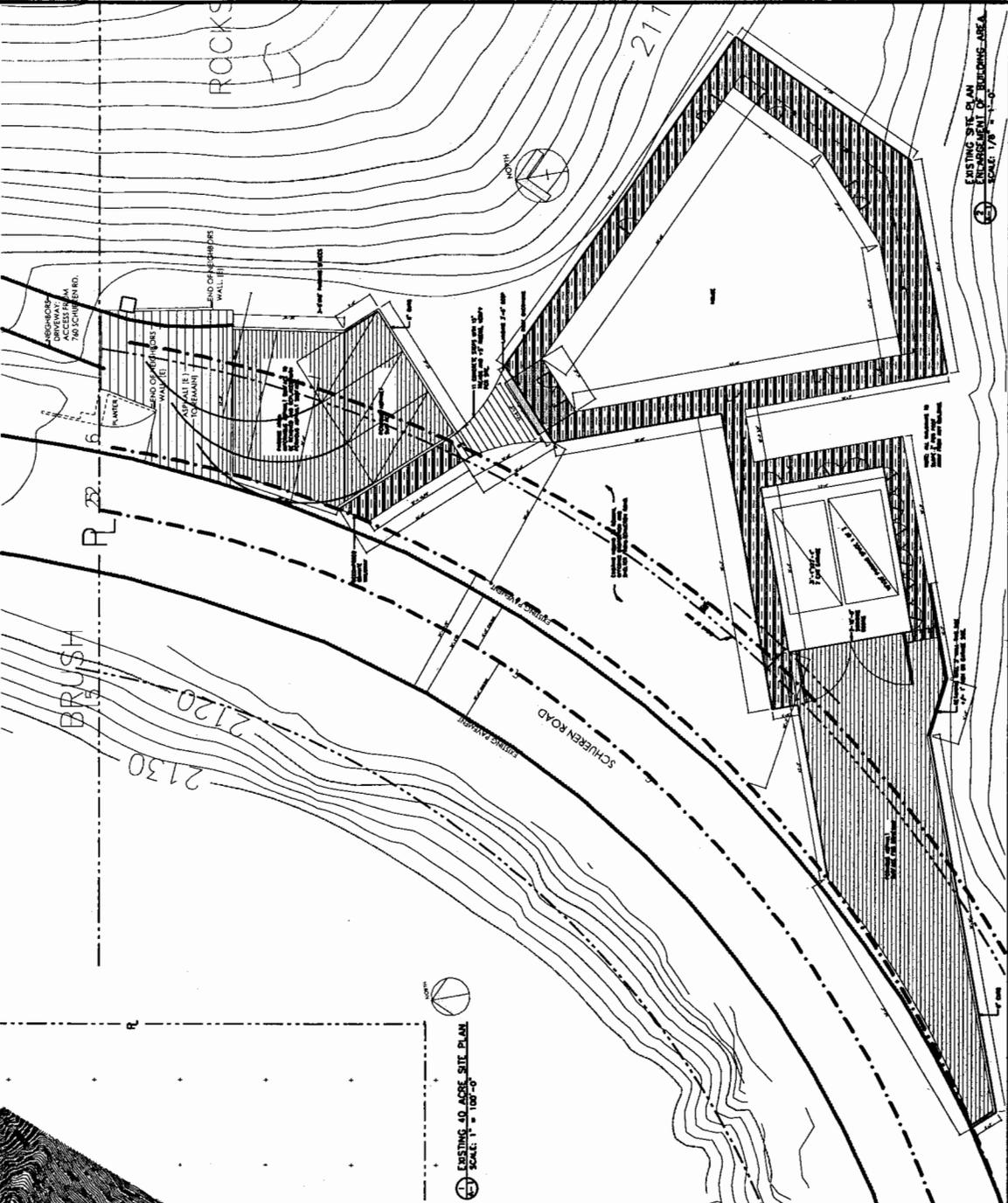
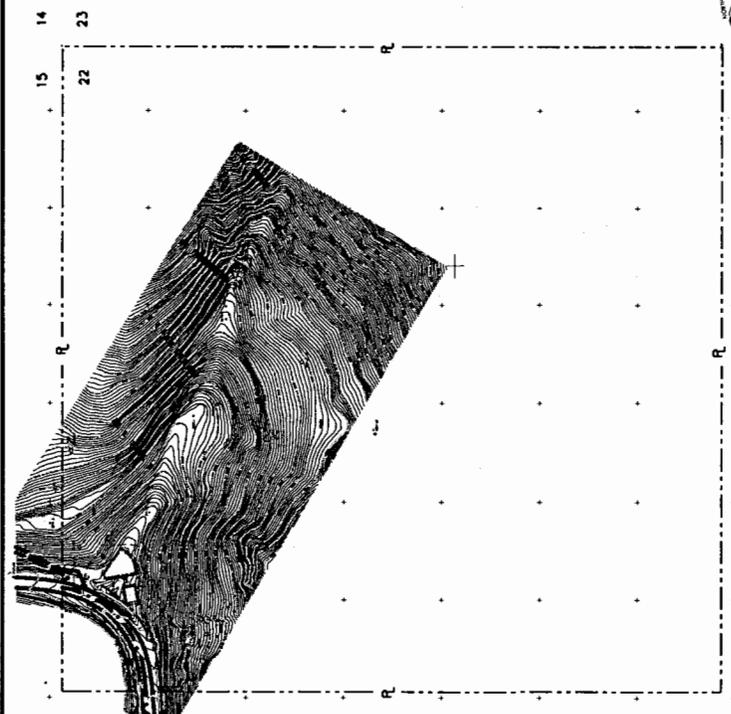
COVER/SITE PLANS
 STATISTICS
 A-1

CALIFORNIA COASTAL COMMISSION:
 INTENT TO ISSUE PERMIT: 4-02-220-E5
 GRANTED ON AUGUST 6, 2003
 EXTENSIONS GRANTED AND CURRENT

SHEET INDEX:
 A-1 COVER/SITE PLANS
 A-2 FLOOR PLANS
 A-3 SECTION/ROOF/PAVING-GARAGE COMPRESSION
 A-4 GARAGE PLAN

SCOPE OF WORK:
 CONTRACTOR TO PROVIDE ALL NECESSARY PERMITS AND SECURE ALL NECESSARY UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SECURING ALL NECESSARY UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SECURING ALL NECESSARY UTILITIES.

STATISTICS:
 TOTAL AREA: 14,000 SQ. FT.
 TOTAL FLOOR AREA: 14,000 SQ. FT.
 TOTAL GARAGE AREA: 14,000 SQ. FT.
 TOTAL PAVING AREA: 14,000 SQ. FT.
 TOTAL SECTION/ROOF AREA: 14,000 SQ. FT.
 TOTAL GARAGE COMPRESSION AREA: 14,000 SQ. FT.



NOTES:
 1. A SHAW ENGINEERING CONTROLLER SHALL BE DETAIL FOR ALL LANDSCAPING.
 2. THE PROJECT SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE CALIFORNIA COASTAL COMMISSION, TITLE 26, PART 8.
 3. THE PROJECT SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE CALIFORNIA COASTAL COMMISSION, TITLE 26, PART 8.
 4. THE PROJECT SHALL BE DESIGNED TO MEET THE REQUIREMENTS OF THE CALIFORNIA COASTAL COMMISSION, TITLE 26, PART 8.
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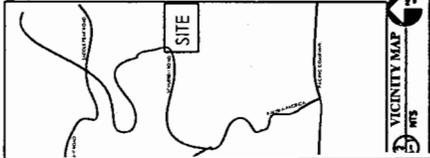


EXHIBIT 5
Permit 4-02-220-A1
Site Plan

VICINITY MAP
 WTS

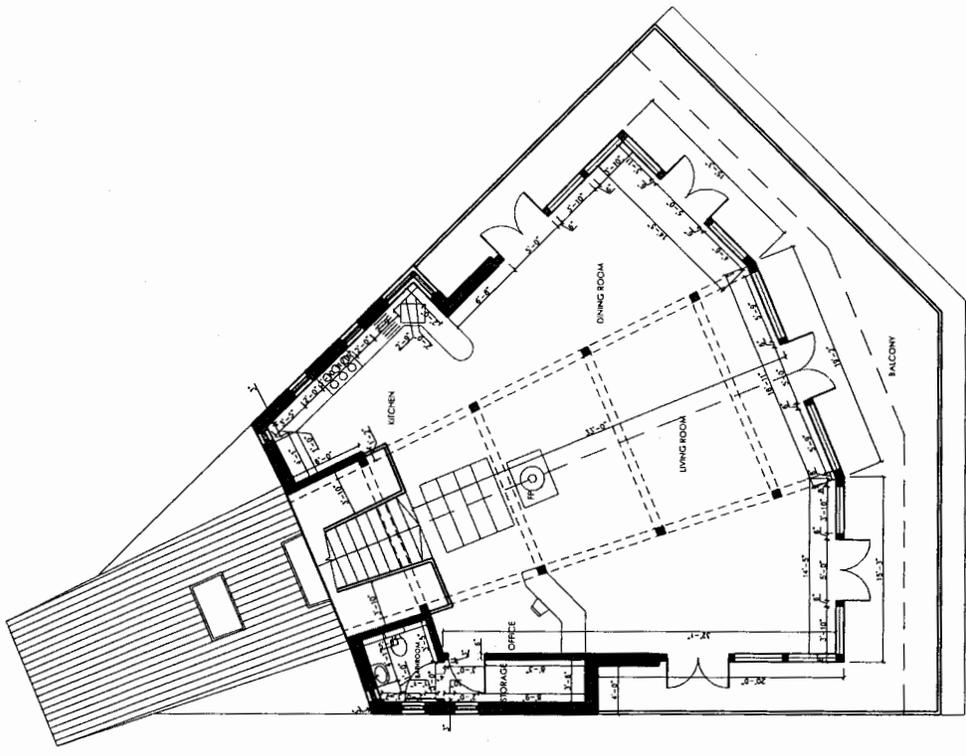
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Roderick James Architects LLP
 1134 el centro street
 south pasadena, ca, 91030
 (626) 564-0011 (626) 564 1591 fax

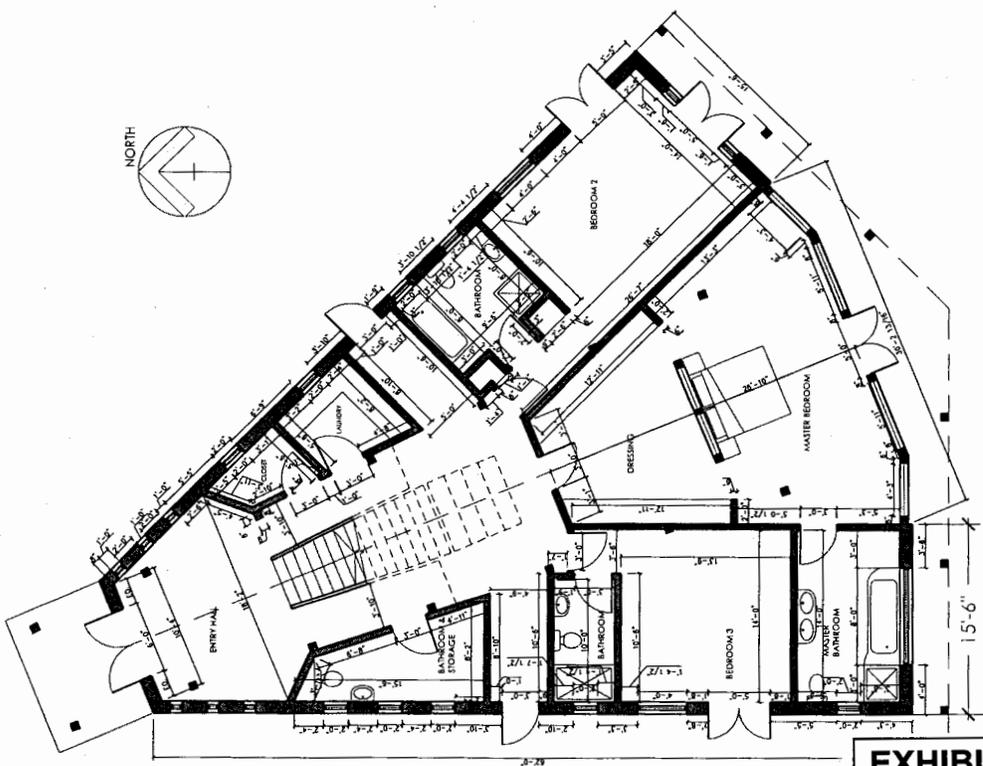
dahl architects, inc.
 1134 el centro street
 south pasadena, ca, 91030
 (626) 564-0011 (626) 564 1591 fax

MARKHAM RESIDENCE
 780 SCHUREN ROAD
 MALIBU, CA, 90265

FLOOR PLANS
 A-2
 A-2



2 SECOND FLOOR PLAN
 A-2 SCALE: 1/4" = 1'-0"



1 GROUND FLOOR PLAN
 A-2 SCALE: 1/4" = 1'-0"

EXHIBIT 6
Permit 4-02-220-A1
Floor Plans

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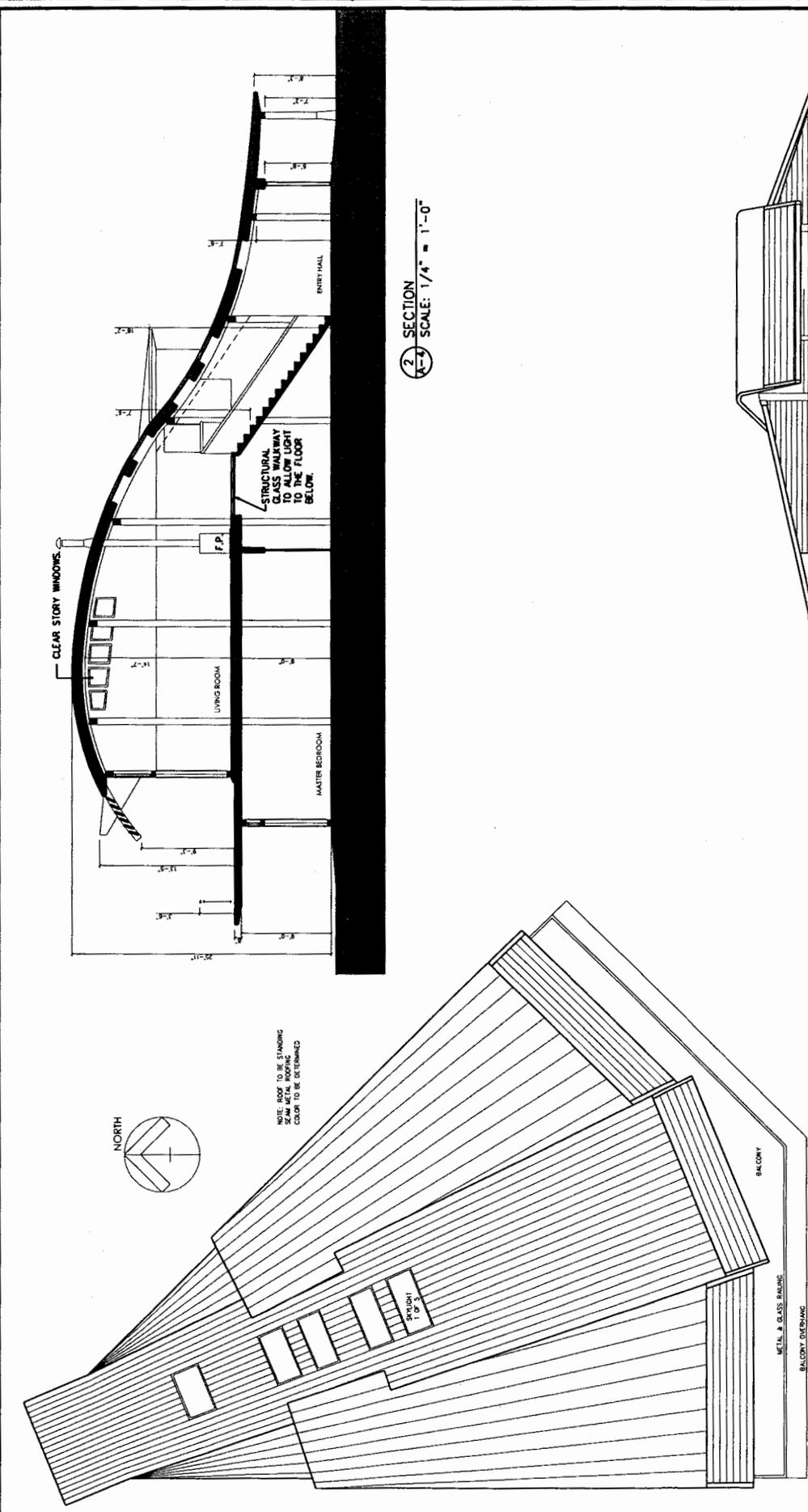
dahl architects, inc.
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 (626) 564-0011 (626) 564 1591 fax



MARKHAM RESIDENCE
 780 SCHUERN ROAD
 MALIBU, CA, 90265

ROOF PLAN
 SECTION
 HOUSE/GARAGE COMP

A-4
 SHEET NO. 1 OF 10
 DATE 02/22/08



1 ROOF PLAN
 A-4 1/4" = 1'-0"

EXHIBIT 8
 Permit 4-02-220-A1
 Roof Plan

3 GARAGE TO HOUSE COMPARISON
 A-4 1/4" = 1'-0" SOUTH EAST VIEW

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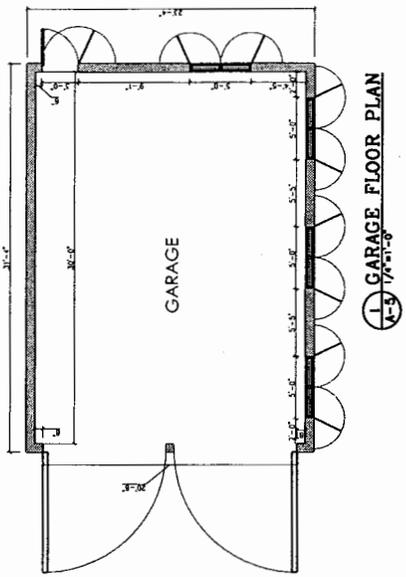
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 1134 el centro street
 south pasadena, ca, 91030
 (626) 564-0011 (626) 564 1591 fax

dahl architects, inc.
 1134 el centro street
 south pasadena, ca, 91030
 (626) 564-0011 (626) 564 1591 fax



MARKHAM RESIDENCE
 780 SCHUREN ROAD
 MALIBU, CA, 90265

GARAGE PLAN
 PROJECT SHEET
 4-02-220-A1
 A-5



1 GARAGE FLOOR PLAN
 A-5 1/4"=1'-0"

NOTE: STANDING SEAM ROOF TO BE BY "FABRAL" OR EQUAL. COLOR "OLD TOWN GLORY" WHICH IS A LOW GLOSS GRAY.

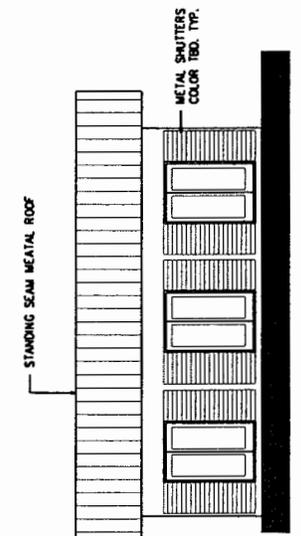
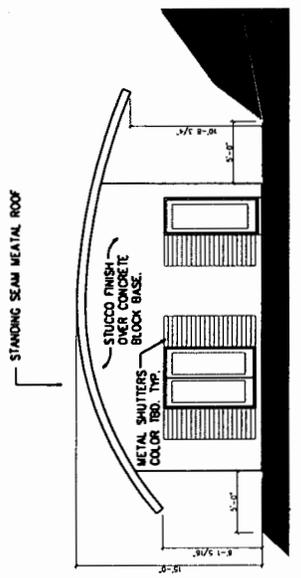
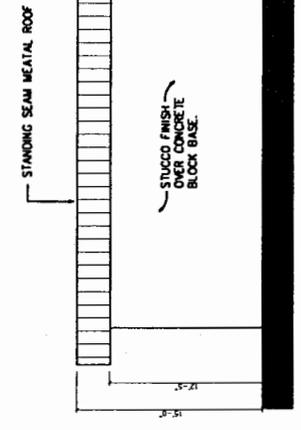
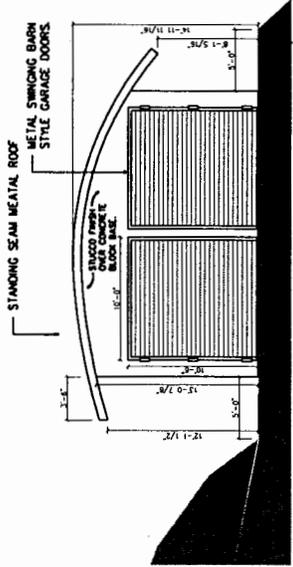
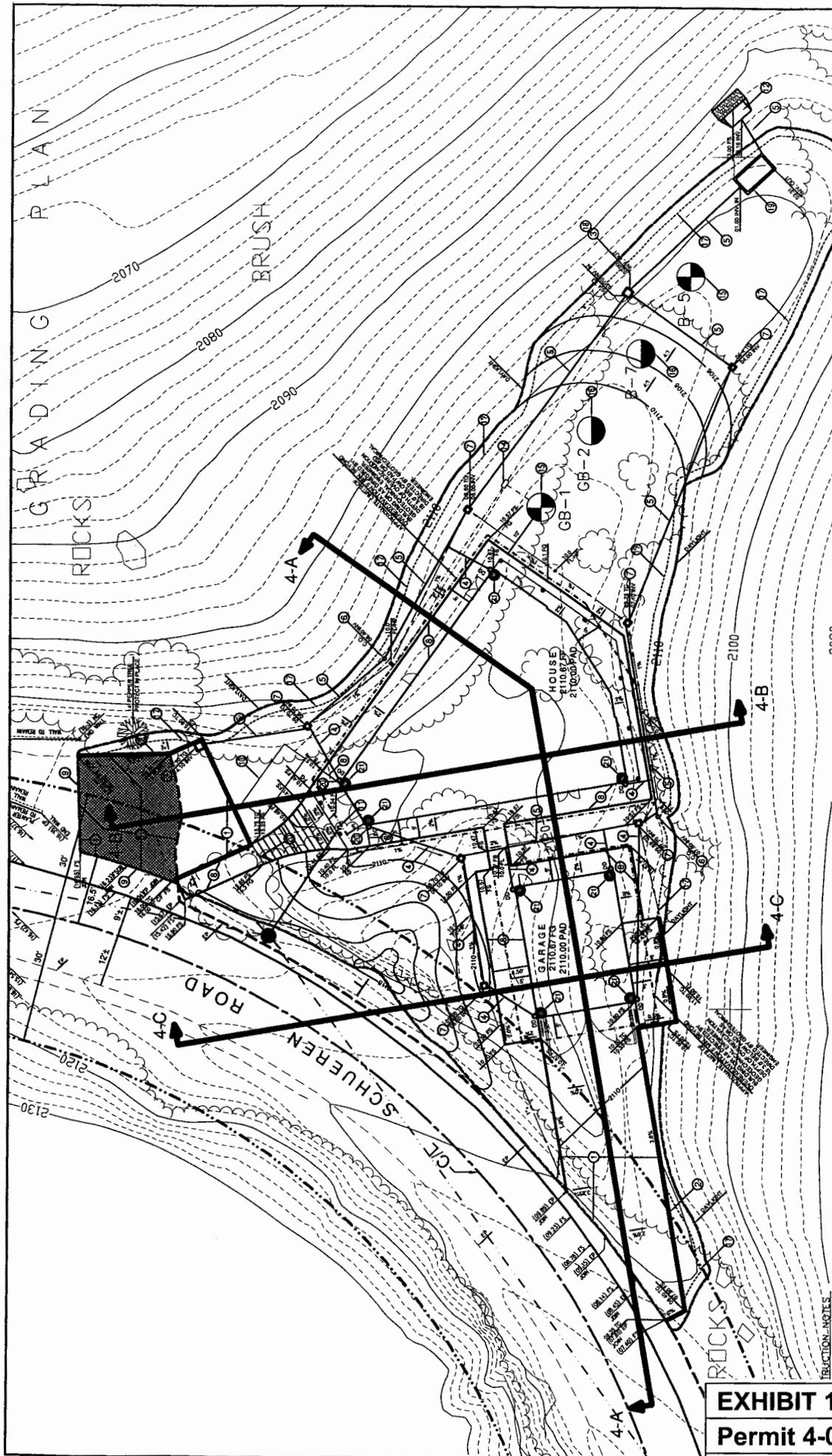


EXHIBIT 9
 Permit 4-02-220-A1
 Garage Plan



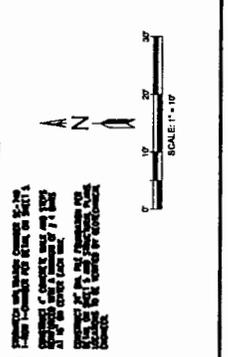
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| REVISIONS | |
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| | |

COUNTY OF LOS ANGELES
 780 SCHUEREN ROAD, MALIBU, CALIFORNIA
GRADING
 DATE: May 12, 2010
 DRAWN BY: Murbu-COZ
 SCALE: 1" = 100'
 SHEET 3 OF 5
 554-1981
 JOSEPH B. L. SHIMON

PREPARED BY:
G.V.W. ENGINEERING, INC.
 12524 S. LYNNWAY AVE. REDWOOD, CA 94116
 TEL: (415) 967-8811 FAX: (415) 967-8832
 WWW.GVWENGINEERING.COM

DATE: 12-23-2009
 DRAWN BY: JAMES S. VOICE
 CHECKED BY: JAMES S. VOICE

CALL BEFORE YOU DIG
 TOLL FREE 1-800-237-3400
 LANDFILLING SERVICE ALERT



- EXPLANATORY NOTES:**
- 1. CONTRACTOR TO VERIFY ALL SPOT ELEVATIONS AND PROPOSED ELEVATIONS.
 - 2. CONTRACTOR TO VERIFY ALL SPOT ELEVATIONS AND PROPOSED ELEVATIONS.
 - 3. CONTRACTOR TO VERIFY ALL SPOT ELEVATIONS AND PROPOSED ELEVATIONS.
 - 4. CONTRACTOR TO VERIFY ALL SPOT ELEVATIONS AND PROPOSED ELEVATIONS.
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 - 18. CONTRACTOR TO VERIFY ALL SPOT ELEVATIONS AND PROPOSED ELEVATIONS.
 - 19. CONTRACTOR TO VERIFY ALL SPOT ELEVATIONS AND PROPOSED ELEVATIONS.
 - 20. CONTRACTOR TO VERIFY ALL SPOT ELEVATIONS AND PROPOSED ELEVATIONS.

EXHIBIT 10
Permit 4-02-220-A1
Grading Plan (Page 1 of 2)

BOUNDARY MAP

N 89° 58' 16" E 1,327.47

N 89° 57' 52" W 1,322.96

N 0° 19' 40" W 1,348.28

N 0° 08' 10" W 1,349.75

SEE SHEETS FOR FINISHING DETAILS

Open Space Conservation Easement

1400

APRIL 20, 2010

MOJIBU-COTA

APPROVED BY: [Signature]

1400

REVISIONS

COUNTY OF LOS ANGELES

780 SCHUEN ROAD, MALIBU, CALIFORNIA

BOUNDARY MAP

G.V.W. ENGINEERING, INC.

1333 S LYMAN AVE, GARDENA, CA 90248

TEL: (310) 534-0111, (800) 944-2862

FAX: (310) 534-0112, Email: gvw@gvw-engineering.com

PREPARED BY:

REGISTERED PROFESSIONAL ENGINEER

NO. 10000

STATE OF CALIFORNIA

EXPIRES: 01/01/2011

DATE: 04/20/2010

PROJECT NO. 10000

PROJECT NAME: MALIBU-COTA

PROJECT ADDRESS: 780 SCHUEN ROAD, MALIBU, CA 90248

PROJECT CONTACT: [Name]

PROJECT PHONE: [Phone]

PROJECT FAX: [Fax]

PROJECT EMAIL: [Email]

PROJECT WEBSITE: [Website]

PROJECT URL: [URL]

PROJECT SOCIAL MEDIA: [Social Media]

PROJECT BLOG: [Blog]

PROJECT NEWSLETTER: [Newsletter]

PROJECT PRESS RELEASE: [Press Release]

PROJECT VIDEO: [Video]

PROJECT PHOTO: [Photo]

PROJECT AUDIO: [Audio]

PROJECT TEXT: [Text]

PROJECT IMAGE: [Image]

PROJECT OBJECT: [Object]

PROJECT PROPERTY: [Property]

PROJECT BUSINESS: [Business]

PROJECT ORGANIZATION: [Organization]

PROJECT INDUSTRY: [Industry]

PROJECT MARKET: [Market]

PROJECT ECONOMY: [Economy]

PROJECT SOCIETY: [Society]

PROJECT CULTURE: [Culture]

PROJECT IDENTITY: [Identity]

PROJECT REPUTATION: [Reputation]

PROJECT IMAGE: [Image]

PROJECT BRAND: [Brand]

PROJECT LOGO: [Logo]

PROJECT TAGLINE: [Tagline]

PROJECT MISSION: [Mission]

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PROJECT LEGAL: [Legal]

PROJECT FINANCIAL: [Financial]

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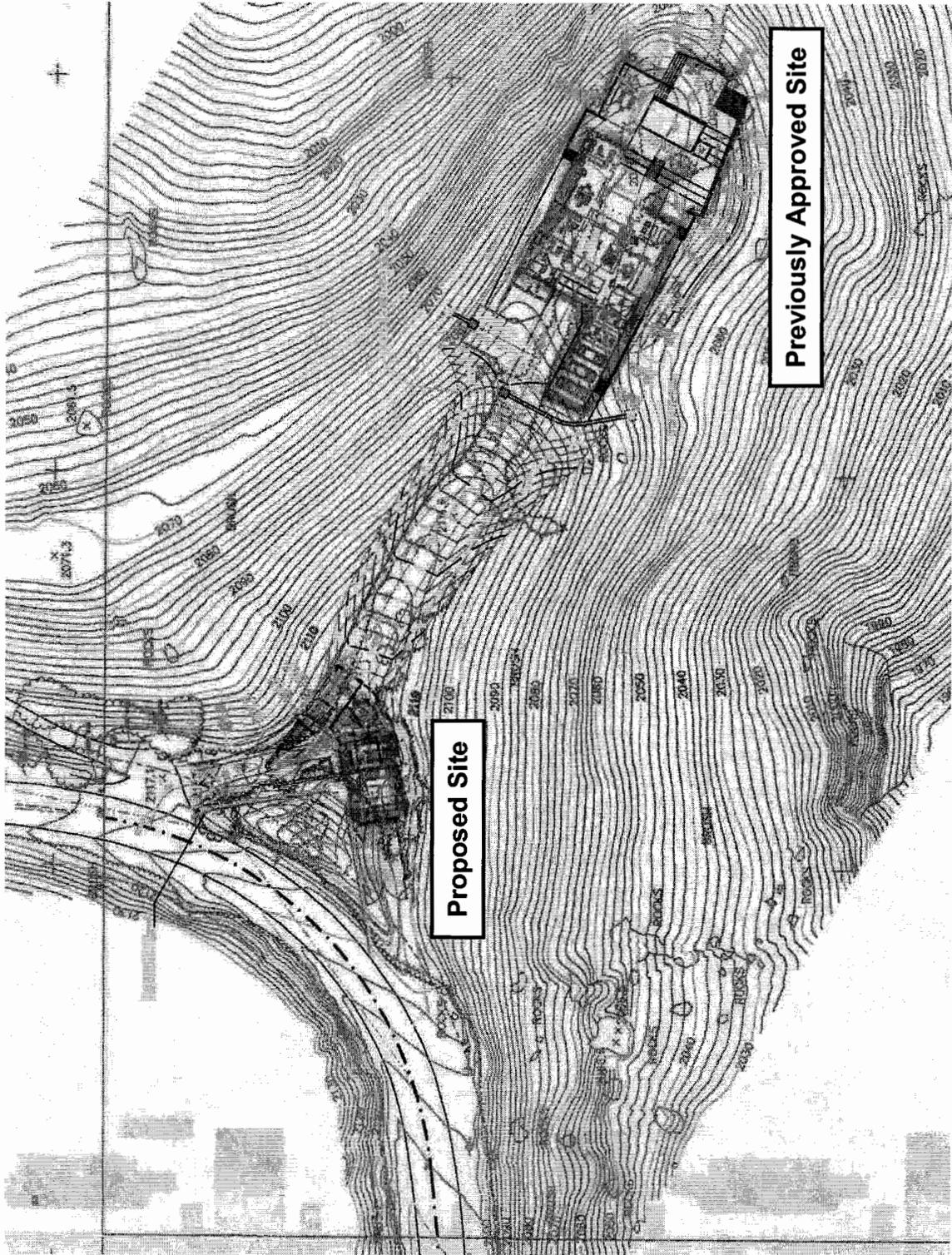
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PROJECT TACTICAL: [Tactical]



Proposed Site

Previously Approved Site

EXHIBIT 13
Permit 4-02-220-A1
Overlay Map