

**CALIFORNIA COASTAL COMMISSION**

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



# W26b

## ADDENDUM

[Click here to go  
to the original staff report.](#)

**DATE:** January 10, 2012  
**TO:** Commissioners and Interested Parties  
**FROM:** South Central Coast District Staff  
**SUBJECT:** Agenda Item W26b, Application No. 4-10-110 (Foy), Wed., January 11, 2012

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The purpose of this addendum is to clarify the project description and to add a special condition and findings for an offer-to-dedicate a public hiking and equestrian trail for the portion of the Backbone Trail traversing the property.

Note: ~~Strikethrough~~ indicates text to be deleted from the December 22, 2011 staff report and underline indicates text to be added to the staff report.

1.) The following Special Condition shall be added to page 18 of the staff report:

### **17. Offer-to-Dedicate Public Hiking and Equestrian Trail Easement**

In order to implement the applicant's proposal of an offer to dedicate a ten foot (10') wide public access hiking and equestrian trail easement for passive recreational use as part of this project, the applicant as landowner agrees to complete the following prior to issuance of the permit: the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director a ten foot (10') wide public access hiking and equestrian trail easement in the general location and configuration depicted in **Exhibit 20**. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use that may exist on the property. The document shall also provide that there shall be no gate(s) at the entrance to or exit from the easement.

The offer shall provide the public the right to pass and re-pass over the dedicated route. The document shall be recorded free of prior encumbrances except for tax liens, which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable. The recording document shall include legal descriptions of both the applicant's entire parcel and the trail easement area and a graphic representation prepared by a licensed surveyor showing the area identified in the legal description of the easement area.

2.) The following language shall be added as Section IV. G of the December 22, 2011 staff report:

**G. Public Access**

**Coastal Act Section 30210 states:**

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

**Coastal Act Section 30212.5 states:**

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

**Coastal Act Section 30213 states:**

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

**Coastal Act Section 30223 states:**

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

**Coastal Act Section 30252 states:**

The location and amount of new development should maintain and enhance public access to the coast by...(6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The Coastal Act mandates that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Additionally, the Coastal Act mandates that lower cost visitor and recreational facilities, such as public hiking and equestrian trails, shall be protected, encouraged, and provided, where feasible.

In the Malibu/Santa Monica Mountains area, the existing system of heavily used historic trails located on private property has been adversely impacted by the conversion of open lands to housing. In an effort to preserve and formalize the public's right to use these trails, Los Angeles County adopted the Riding and Hiking Trails Master Plan for the Santa Monica Mountains, which is adopted by ordinance into the highway element of the County's 1982 General Management Plan for the Santa Monica Mountains National Recreation Area as updated in 1984 as the Land Protection Plan. The trail system is mapped as part of the 1986 certified Land Use Plan (LUP) for the Malibu/Santa Monica Mountains Area, a component of

the County's Local Coastal Program. This trail system has become an important and commonly used recreational asset and a means of providing access to and links between natural, scenic, and recreational areas in the mountains.

A portion of the Backbone Trail System runs through the southern east-west property boundary below the building pad area. (Exhibits 17-18) The National Park Service holds an access easement across this portion of the property. A road right-of-way easement for Saddle Peak Road is also held by Los Angeles County across the same area, although the easement is not currently developed for road purposes. Since a portion of Backbone Trail is located on the subject parcel, the applicant proposes, as part of the project, an offer-to-dedicate a ten foot (10') wide public trail easement across the southern east-west property boundary of the subject property. (Exhibit 20) To ensure that public access is adequately protected on the subject property consistent with the applicant's voluntary offer-to-dedicate a public hiking and equestrian trail easement, the Commission requires that the proposed offer-to-dedicate is accurately recorded prior to the issuance of the coastal development permit.

The following special condition is required, as determined in the findings above, to assure the project's consistency with Sections 30210, 30212.5, 30213, 30223, and 30252 of the Coastal Act:

**Special Condition 17. Offer-to-Dedicate Public Hiking and Equestrian Trail Easement**

The Commission therefore finds that the proposed project, as conditioned, is consistent with Sections 30210, 30212.5, 30213, 30223, and 30252 of the Coastal Act.

3.) To clarify the project description and correct an inadvertent error, the following changes shall be made to page 18, Section IV.A. Project Description and Background, of the December 22, 2011 staff report:

A portion of the Backbone Trail System runs through an approximately 300 ft. long portion of the southern east-west property boundary below the building pad area. (Exhibits 17-18) The National Park Service holds an an-trail access easement across this portion of the property. A road right of way easement for Saddle Peak Road is also held by Los Angeles County across the same area, although the easement is not currently developed for road purposes. The proposed project does not include any development that would interfere with public use of the Backbone Trail, or otherwise impact public access in the area. The applicant has proposed to dedicate a trail easement for hiking and equestrian use through the portion of the Backbone Trail that is located on the property.

The site is located at 100 Mildas Road in the Santa Monica Mountains, unincorporated Los Angeles County (APN 4453-017-044) (Exhibits 1-3). The subject property is 2.35 acres in size and is located south of Stunt Road and west of Schueren Road. A large 30-million gallon water tank owned by the Las Virgenes Municipal Water District is located immediately west of the site and other single family residences are located in the vicinity. (Exhibit 18)...

4.) The following changes shall be made to the following sections of the December 22, 2011 staff report:

## **G. H. Local Coastal Program Preparation**

Section 30604(a) of the Coastal Act states:

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

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

### **Special Conditions 1 through ~~16~~ 17**

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

## **H. I. California Environmental Quality Act**

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, project alternatives and mitigation measures have been considered and incorporated into the project. Five types of mitigation actions include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures required 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 recording an open space deed restriction. 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 ~~16~~17**

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

5.) The attached **Exhibit 20** should be added to the December 22, 2011 staff report.

**Attachments:**

Exhibit 20

The 10 foot wide Public Hiking and Equestrian Trail Easement shall be located within the 30 foot Saddle Peak Road easement area depicted on this exhibit in the location of the existing Backbone Trail.

# CUSTOM RESIDENCE FOR: KEVIN R. FOY

100 MILDAS DRIVE MALIBU, CA 90265

**PROJECT DIRECTORY**  
RECORD OWNERS:  
KEVIN R. FOY  
100 MILDAS DRIVE  
MALIBU, CA 90265  
(714) 381-7697  
EMAIL: kevinrfoyd@att.net

APPLICANT:  
KEVIN R. FOY  
100 MILDAS DRIVE  
MALIBU, CA 90265  
(714) 381-7697  
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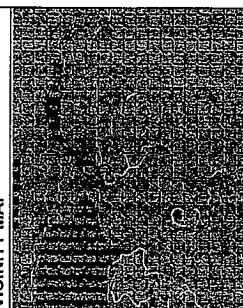
**PROJECT DESCRIPTION**  
1. DEMOLISH EXISTING MAIN HOUSE FOUNDATION.  
2. REBUILD NEW MAIN HOUSE OVER OLD MAIN HOUSE FOOTPRINT BURNED IN 1993 FIRE.  
3. DEMOLISH EXISTING GUEST HOUSE AND GARAGE FOUNDATION.  
4. REBUILD NEW GUEST HOUSE AND GARAGE OVER OLD GUESTHOUSE AND GARAGE FOOTPRINT BURNED IN 1993.  
5. BOTH MAIN HOUSE AND GUEST HOUSE FOOTPRINTS WILL BE BIGGER THAN EXISTING FOOTPRINTS.

**PHOTOS SCHEDULE**  
① VIEW FROM WEST  
② VIEW TO WEST  
③ VIEW FROM EAST  
④ VIEW FROM NORTH  
⑤ VIEW FROM SOUTH

**PROJECT DATA**  
ASSESSOR'S PARCEL NUMBER: 4453-017-044  
PROPERTY BOUNDARY DESCRIPTION: TRACT NO. 3084, LOT 1  
SITE ADDRESS: 100 MILDAS DRIVE  
MALIBU, CA 90265  
LOT SIZE: 2.35 ACRES - GROSS  
1.99 ACRES - NET

**BUILDING SQUARE FOOTAGES:**  
MAIN HOUSE:  
UPPER FLOOR: 2,212 SQ. FT.  
LOWER FLOOR: 1,325 SQ. FT.  
TOTAL MAIN HOUSE: 3,537 SQ. FT.  
GUEST HOUSE:  
UPPER FLOOR: 1,325 SQ. FT.  
LOWER FLOOR: 1,325 SQ. FT.  
TOTAL GUEST HOUSE: 2,650 SQ. FT.  
TOTAL MAIN HOUSE AND GUEST HOUSE: 6,187 SQ. FT.  
TOTAL GARAGE: 1,270 SQ. FT.  
TOTAL UPPER FLOOR: 3,660 SQ. FT.  
TOTAL LOWER FLOOR: 2,520 SQ. FT.  
TOTAL OBSERVATORY FLOOR: 132 SQ. FT.  
TOTAL MAIN HOUSE: 7,888 SQ. FT.  
TOTAL MAIN HOUSE LIVING AREA: 6,338 SQ. FT.  
GUEST HOUSE:  
LOWER FLOOR: 858 SQ. FT.  
UPPER FLOOR: 375 SQ. FT.  
TOTAL GUEST HOUSE: 1,233 SQ. FT.  
TOTAL UPPER FLOOR: 1,270 SQ. FT.  
TOTAL LOWER FLOOR: 758 SQ. FT.  
TOTAL GUEST HOUSE: 2,198 SQ. FT.  
TOTAL LIVING AREA: 8,536 SQ. FT.  
TOTAL LIVING AREA: 7,148 SQ. FT.

**VICINITY MAP**

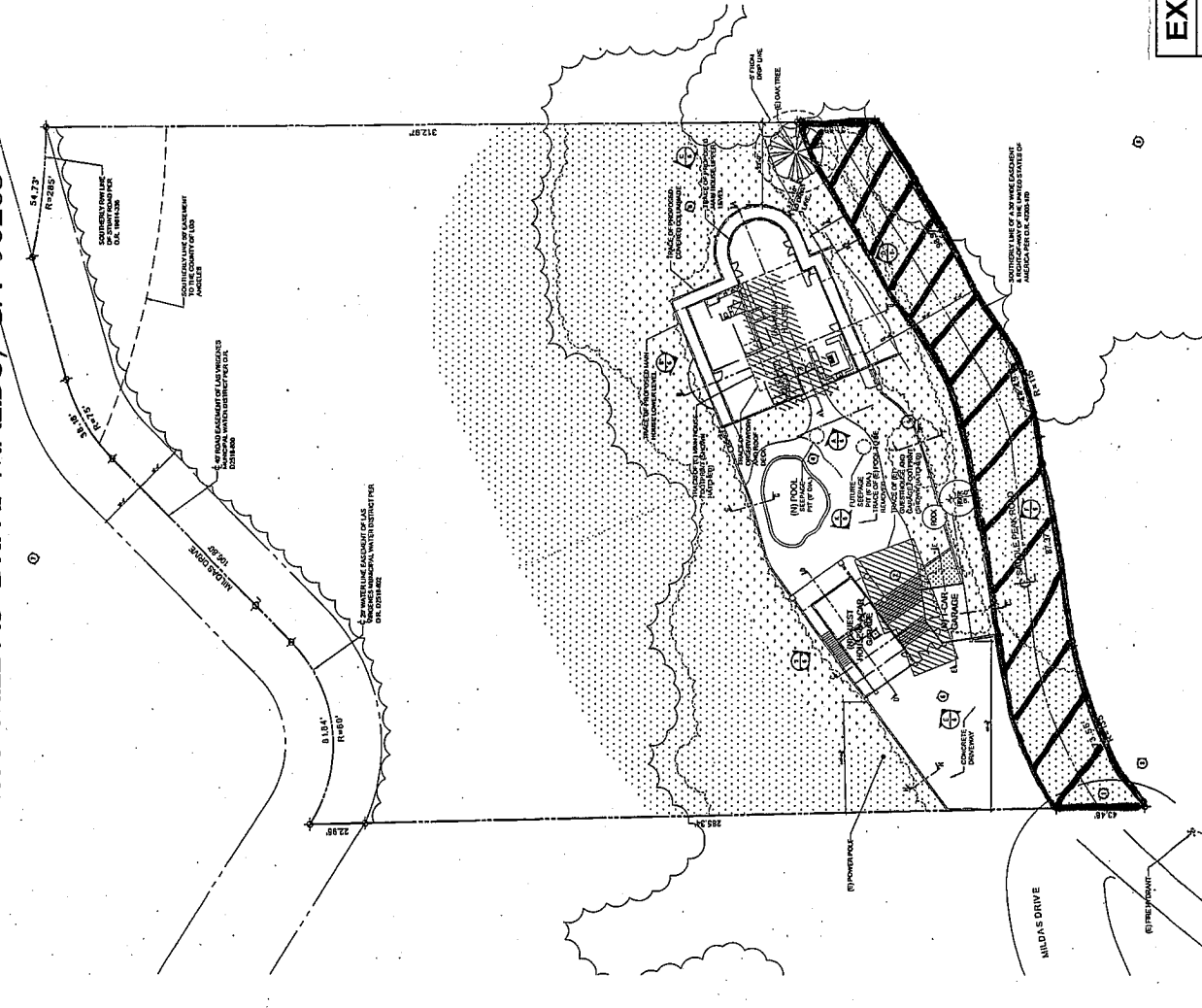


**SHEET INDEX**  
1. SITE PLAN, PROJECT INFORMATION  
2. MAIN HOUSE LOWER AND UPPER FLOOR PLANS

## EXHIBIT 20

CDP 4-10-110 (Foy)

OTD Public Trail Easement



SITE PLAN

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585-1811



Filed: 8/25/11  
180th Day: 2/21/12  
Staff: A. Tysor  
Staff Report: 12/22/11  
Hearing Date: 1/11/12

# Item W26b

## **STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.:** 4-10-110

**APPLICANT:** Kevin Foy

**PROJECT LOCATION:** 100 Mildas Drive, Malibu, Los Angeles County

**PROJECT DESCRIPTION:** Demolish and remove foundation and slab remnants of a previously existing single family residence and garage and construct a 6,396 sq. ft., 27 ft. high from existing grade single family residence with 370 sq. ft. of covered terraces, detached 375 sq. ft., 14 ft. high one car garage, detached 1,645 sq. ft., 22.5 ft. high. accessory structure (750 sq. ft. 2<sup>nd</sup> story guest house, 4 car 1<sup>st</sup> floor 895 sq. ft. garage), driveway, pool, septic system, and 2,125 cu. yds. of grading (1,425 cu. yds. cut and 700 cu. yds. fill) and storage of a temporary 168 sq. ft. construction trailer.

**MOTION & RESOLUTION:** Pages 3 and 4

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

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

- **ENVIRONMENTALLY SENSITIVE HABITAT AREA.** The project site contains habitat that meets the definition of ESHA and the project 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 structure(s) is sited on an existing building pad constructed prior to the effective date of the Coastal Act and the development area conforms to 10,000 square feet. The project is conditioned to require an open space restriction 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 proposed structure will be visible from public viewing areas. The project is designed to cut the structure into the slope to minimize visual impacts. There are no siting or design alternatives that would avoid or further reduce visual impacts. The project is conditioned to restrict the color and exterior finishes of the residence, to landscape all disturbed areas, to limit external lighting.

## Table of Contents

<b>I. STAFF RECOMMENDATION.....</b>	<b>3</b>
<b>II. STANDARD CONDITIONS.....</b>	<b>4</b>
<b>III. SPECIAL CONDITIONS .....</b>	<b>4</b>
1. Plans Conforming to Geotechnical Engineer's Recommendations .....	4
2. Assumption of Risk, Waiver of Liability and Indemnity .....	5
3. Permanent Drainage and Polluted Runoff Control Plan.....	5
4. Interim Erosion Control Plans and Construction Responsibilities .....	7
5. Landscaping and Fuel Modification Plans.....	9
6. Structural Appearance.....	11
7. Lighting Restriction.....	11
8. Future Development Restriction.....	12
9. Deed Restriction.....	12
10. Habitat Impact Mitigation.....	12
11. Open Space Restriction .....	16
12. Site Inspection.....	16
13. Removal of Natural Vegetation .....	17
14. Removal of Excavated Material.....	17
15. Removal of Temporary Construction Trailer .....	17
16. Pool and Spa Drainage and Maintenance.....	18
<b>IV. FINDINGS AND DECLARATIONS.....</b>	<b>18</b>
A. PROJECT DESCRIPTION AND BACKGROUND.....	18
B. HAZARDS AND GEOLOGIC STABILITY .....	20
C. WATER QUALITY .....	21
D. ENVIRONMENTALLY SENSITIVE HABITAT.....	22
E. VISUAL RESOURCES.....	33
F. CUMULATIVE IMPACTS .....	35
G. LOCAL COASTAL PROGRAM PREPARATION.....	37
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT.....	38

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## EXHIBITS

- Exhibit 1. Vicinity Map
- Exhibit 2. Parcel Map
- Exhibit 3. Site Plan
- Exhibit 4. Demolition Plan
- Exhibit 5. Floor Plans
- Exhibit 6. Garage and Guest House Plans
- Exhibit 7. Roof Plans
- Exhibit 8. North Elevation
- Exhibit 9. South Elevation



- Exhibit 10. East Elevation
  - Exhibit 11. West Elevation
  - Exhibit 12. Guest House and Garage Elevations
  - Exhibit 13. Cross-Sections
  - Exhibit 14. Grading Plan
  - Exhibit 15. Grading Cross-Sections
  - Exhibit 16. Open Space Restriction Area
  - Exhibit 17. Backbone Trail Map
  - Exhibit 18. Aerial of Project Vicinity
  - Exhibit 19. Photograph of Project Site
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**LOCAL APPROVALS RECEIVED:** County of Los Angeles Department of Regional Planning, Approval in Concept, dated 7/13/10; County of Los Angeles Environmental Health Services, Sewage Disposal System Conceptual Approval, dated 7/6/2011; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, dated 1/5/11; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, dated 2/17/11.

**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 Assessment prepared by Forde Biological Consultants, dated 2/14/11; Geotechnical and Geologic Updated Report prepared by Coast Geotechnical, Inc., dated October 7, 2010.

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## **I. STAFF RECOMMENDATION**

The staff recommends that the Commission adopt the following resolution:

**MOTION:**        *I move that the Commission approve Coastal Development Permit No 4-10-110 pursuant to the staff recommendation.*

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

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

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

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development

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

## II. STANDARD CONDITIONS

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

## III. SPECIAL CONDITIONS

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

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in all of the geology, geotechnical, and/or soils reports referenced as Substantive File Documents. These recommendations, including recommendations concerning foundations, sewage disposal, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that

may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

## **2. Assumption of Risk, Waiver of Liability and Indemnity**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildfire and erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

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

A. ***Prior to issuance of the Coastal Development Permit***, the 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 5, Landscaping and Fuel Modification**

**Plans.** An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design shall be utilized for any landscaping requiring water application.

- (5) All slopes shall be stabilized in accordance with provisions contained in the Landscaping and/or Interim Erosion and Sediment Control Condition for this Coastal Development Permit.
- (6) Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of outflow drains where necessary. The consulting engineer shall provide plan details and cross sections for any rock rip-rap and/or other energy dissipating devices or structures associated with the drainage system. The drainage plans shall specify, the location, dimensions, cubic yards of rock, etc. for the any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The engineer shall certify that the design of the device minimizes the amount of rock and/or other hardscape necessary to meet the sizing requirements.
- (7) Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- (8) All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15<sup>th</sup> each year) and at regular intervals as necessary between October 15<sup>th</sup> and April 15<sup>th</sup> of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- (9) For projects located on a hillside, slope, or which may otherwise be prone to instability, final drainage plans shall be approved by the project consulting geotechnical engineer.
- (10) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

B. The final 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.

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

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

##### **1. Erosion Control Plan**

- (a) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags.
- (b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
- (c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.
- (d) The plan shall specify that 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.

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

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

### **A) Landscaping Plan**

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;

- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- (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 6, 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.

## **6. Structural Appearance**

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

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by this Coastal Development Permit if such changes are specifically authorized by the Executive Director as complying with this special condition.

## **7. Lighting Restriction**

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

- (1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
- (2) Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
- (3) The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

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

## **8. Future Development Restriction**

This permit is only for the development described in this Coastal Development Permit. Pursuant to Title 14 California Code of Regulations section 13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) and (b) shall not apply to the development governed by this Coastal Development Permit. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, including but not limited to, any grading, clearing or other disturbance of vegetation other than as provided for in the approved landscape plan prepared pursuant to **Special Condition 5, Landscaping and Fuel Modification Plans**, shall require an amendment to this Coastal Development Permit from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

## **9. Deed Restriction**

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

## **10. Habitat Impact Mitigation**

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

protection purposes. The delineation shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains.

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

#### A. Habitat Restoration

##### 1) Habitat Restoration Plan

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

The applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating compliance with the performance standards outlined in the restoration plan and describing the revegetation, maintenance and monitoring that was conducted during the prior year. The annual report shall include recommendations for mid-course corrective measures. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If this report indicates that the restoration project has been, in part or in whole, unsuccessful, based on the approved goals and performance standards, the applicant shall submit a revised or supplemental restoration plan with maintenance and monitoring provisions, for the review and approval of the Executive Director, to compensate for those portions of the original restoration plan that were not successful. Should supplemental restoration be required, the applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating the supplemental restoration areas. At the end of the five-year period, a final report shall be submitted evaluating whether the supplemental restoration plan has achieved compliance with the goals and performance

standards for the restoration area. If the goals and performance standards are not met within 10 years, the applicant shall submit an application for an amendment to the coastal development permit for an alternative mitigation program and shall implement whatever alternative mitigation program the Commission approves, as approved.

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

## 2) Open Space Deed Restriction

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

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

## 3) Performance Bond

***Prior to issuance of the Coastal Development Permit***, the applicant shall post performance bonds to guarantee implementation of the restoration plan as follows: a) one equal to the value of the labor and materials; and b) one equal to the value of the maintenance and monitoring for a period of 5 years. Each performance bond shall be released upon satisfactory completion of items (a) and (b) above. If the applicant fails to either restore or maintain and monitor according to the approved plans, the Coastal Commission may collect the security and complete the work on the property.

## **B. Habitat Conservation**

***Prior to issuance of the Coastal Development Permit***, the applicant shall (or, if the applicant is not the owner of the habitat conservation site, then the owner of the habitat conservation site shall) execute and record an open space deed restriction in a form and content acceptable to the Executive Director, over the entirety of a legal parcel or parcels containing chaparral and/or coastal sage scrub ESHA. The chaparral and/or coastal sage scrub ESHA located on the mitigation

parcel or parcels must be of equal or greater area than the ESHA area impacted by the proposed development, including the fuel modification/brush clearance areas. No development, as defined in section 30106 of the Coastal Act, shall occur on the mitigation parcel(s) and the parcel(s) shall be preserved as permanent open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of the parcel or parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

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

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

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

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

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

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

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

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

Prior to the payment for mitigation to the Mountains Recreation and Conservation Authority, the applicant shall submit, for the review and approval of the Executive Director, the calculation of the payment required to mitigate adverse impacts to chaparral and/or coastal sage scrub habitat ESHA, in accordance with this condition. After review and approval of the payment calculation, the payment shall be made to the Mountains Recreation and Conservation Authority's Coastal Habitat Impact Mitigation Fund for the acquisition, permanent preservation or restoration of habitat in the Santa Monica Mountains coastal zone, with priority given to the acquisition of or extinguishment of all development potential on

properties containing environmentally sensitive habitat areas and properties adjacent to public parklands.. The payment may not be used to restore areas where development occurred in violation of the Coastal Act's permit requirements.

## **11. Open Space Restriction**

A. No development, as defined in Section 30106 of the Coastal Act, grazing, or agricultural activities shall occur in the Open Space Area as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit 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 5, 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 3, Permanent Drainage and Runoff Control Plan**, of this permit; and
  - b. The landscaping and erosion control plans approved pursuant to **Special Condition 4, Interim Erosion Control & Construction Best Management Practices Plan, and Special Condition 5, 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 the issuance by the Executive Director of the NOI for this Coastal Development Permit***, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the portion of the subject property affected by this condition, as generally described on **Exhibit 16** attached to the findings in support of approval of this permit.

## **12. Site Inspection**

A. By acceptance of this permit, the applicant irrevocably authorizes, on behalf of the applicant and all successors-in-interest with respect to the subject property, Coastal

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

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

### **13. Removal of Natural Vegetation**

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

### **14. Removal of Excavated Material**

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

### **15. Removal of Temporary Construction Trailer**

With the acceptance of this coastal permit, the applicant agrees that the temporary trailer on the site shall be removed within two years of the issuance of this coastal development permit or within thirty (30) days of the applicants receipt of the Certificate

of Occupancy for the proposed residence from the County of Los Angeles, whichever is less, to a site located outside the Coastal Zone or a site with a valid coastal development permit for the installation of temporary trailers and storage containers.

#### **16. Pool and Spa Drainage and Maintenance**

By acceptance of this permit, the applicant agrees to install a no chlorine or low chlorine purification system and agrees to maintain proper pool water pH, calcium and alkalinity balance to ensure any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat areas. In addition, the applicant agrees not to discharge chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

#### **A. PROJECT DESCRIPTION AND BACKGROUND**

The applicant proposes to demolish and remove foundation and slab remnants of a previously existing single family residence and garage and to construct a 6,396 sq. ft., 27 ft. high single family residence with 370 sq. ft. of covered terraces, detached 375 sq. ft. 14.5 ft. tall one car garage, detached 1,645 sq. ft., 22.5 ft. high accessory structure (750 sq. ft. 2<sup>nd</sup> story guest house, 4 car 1<sup>st</sup> floor 895 sq. ft. garage), driveway, pool, septic system, and 2,125 cu. yds. of grading (1,425 cu. yds. cut and 700 cu. yds. fill) and storage of a temporary 168 sq. ft. construction trailer. (Exhibits 3-10) In addition to the earthwork calculation of 2,125 cu. yds of cut and fill, the applicant also proposes to export 500 cu. yds. of material and to remove and re-compact approximately 3,075 cu. yds. of material (Exhibits 11-12).

A portion of the Backbone Trail System runs through an approximately 300 ft. long portion of the southern east-west property boundary below the building pad area. (Exhibits 17-18) The National Park Service holds a trail easement across this portion of the property. A road right of way easement for Saddle Peak Road is also held by Los Angeles County across the same area, although the easement is not currently developed for road purposes. The proposed project does not include any development that would interfere with public use of the Backbone Trail, or otherwise impact public access in the area.

The site is located at 100 Mildas Road in the Santa Monica Mountains, unincorporated Los Angeles County (APN 4453-017-044) (Exhibits 1-3). The subject property is 2.35 acres in size and is located south of Stunt Road and west of Schueren Road. A large 30 million gallon water tank owned by the Las Virgenes Municipal Water District is located immediately west of the site and other single family residences are located in the vicinity. (Exhibit 18) The site contains foundation and slab remnants of a single-family residence, foundation and slab remnants of a detached garage, and an abandoned swimming pool that was destroyed by wildfire in 1993. The previously existing two-story



single family residence was constructed in 1976, prior to the effective date of the Coastal Act.

The subject site is located at an elevation of approximately 2,471 feet to 2,331 feet above sea level. The existing building pad is situated along an east-west trending minor ridgeline. The site slopes steeply down on the north and east side of the existing building pad area and slopes down from the south side of the building pad area where it flattens out to the public trail location.

The project site is located in a scenic area, visible from various public viewing points, including Stunt Road to the north of the project site, Schueren Road to the south, Saddle Peak Road to the east and surrounding public parkland. (Exhibit 18) The existing building pad is located on a minor east-west trending ridgeline backed by a major ridgeline.

The proposed residence is two stories. The applicant proposes to cut the lower story into the ridge, so most of the structure will be approximately 17 feet above existing grade. However, the maximum height at any given point of the 2-story portion of the structure will be 27 ft. from existing grade. Additionally, an approximately 132 sq. ft. curved observatory skylight area extends above the middle of the roof from the interior and is 1.5 to 5.5 ft. taller than the residence, or 22.6 feet above existing grade. Finally, the accessory structure will be a maximum height of 22.5 ft. and the one car garage will be 14.5 ft. high. (Exhibits 8-13)

In this case, a two-story single family residence, destroyed by fire in 1993, previously existed on the site. The proposed residence will be sited on the existing pad area and will be cut further into the ridge and thus lower in height than the previous residence, although the residence will be larger in overall size. The new proposed residence will be cut into the building pad to minimize view impacts from height and massing. (Exhibits 8-9) Both stories will be visible mostly from the north and south elevations. View impacts from the east elevation (looking towards the residence from Saddle Peak Road) will be minimized due to vegetation, including a large oak tree. Further, due to the building site's distance from and the elevation above Schueren Road and Stunt Road, and the presence of intervening ridges, including a major ridgeline north of the building site, view impacts are minimized. Further, the site is located near existing single-family homes and the residence will be located adjacent to a large 30 million gallon water tank and will be lower in elevation than the water tank, minimizing additional view impacts when viewed from the south and east. (Exhibit 18) Finally, the residence will be visible from the Backbone Trail which traverses the area, and crosses the project site just below the proposed development area. However, no alternative siting options exist on the parcel in which the development would be significantly less visible from public viewing areas given the steep slopes on the property and the existing building pad location. Furthermore, the proposed development area is an existing disturbed area (developed prior to the effective date of the Coastal Act) and locating development in any other location on the project site would increase impacts to environmentally sensitive habitat.

## B. HAZARDS AND GEOLOGIC STABILITY

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

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

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

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

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

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

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

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

**Special Condition 2:** Assumption of Risk, Waiver of Liability and Indemnity

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

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

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

## **C. WATER QUALITY**

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

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

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

The proposed development will result in an increase in impervious surfaces, which leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site and eventually be discharged to coastal waters, including streams, wetlands, and estuaries. The pollutants commonly found in runoff associated with residential use can reduce the biological productivity and the quality of such waters and thereby reduce optimum populations of marine organisms and have adverse impacts on human health. Additionally, both leakage and periodic maintenance drainage of the proposed swimming pool, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing the instability of the site and adjacent properties and potential impacts from pool chemicals (i.e. pool water algaecides, chemical pH balancing, and other water conditioning chemicals).

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; 3) revegetating all graded and disturbed areas with primarily native landscaping; and 4) installing a no chlorine or low chlorine purification system for the proposed pool and maintaining the proper pool water pH, calcium and alkalinity balance.

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

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

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

**Special Condition 4:** Interim Erosion Control Plans and Construction Responsibilities

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

**Special Condition 13:** Removal of Native Vegetation

**Special Condition 16:** Pool Drainage and Maintenance

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

## **D. ENVIRONMENTALLY SENSITIVE HABITAT**

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

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

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

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

In addition, the Malibu/Santa Monica Mountains LUP provides policy guidance regarding the protection of environmentally sensitive habitats. The Coastal Commission

has applied the following relevant policies as guidance in the review of development proposals in the Santa Monica Mountains.

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

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

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

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

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

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

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

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

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

The subject 2.35 acre property is located immediately south of Stunt Road, just west of Schueren Road at elevations between 2,471 and 2,331 feet above mean sea level. The site contains foundation and slab remnants of a single-family residence, detached garage, and swimming pool that were destroyed by wildfire in 1993. The existing building pad is situated along a minor east-west trending ridgeline. The site is well vegetated, and with the exception of the existing building pad area and trail along the southern property boundary, the vegetation is undisturbed. Rock outcroppings are located adjacent to south side of the building pad.

The applicant submitted a Biological Assessment, prepared by Forde Biological Consultants on February 14, 2011 (listed in the Substantive File Documents), which

addresses the habitats present on the project site. The report identifies the main vegetation/habitat communities on the 2.35 acre project site as follows:

**Big Pod Ceanothus Chaparral**

Big pod ceanothus chaparral (*Ceanothus megacarpus* alliance) dominates a steep north-facing slope across most of the area. This community is relatively diverse and dense, with plant cover at 100%. In addition to big pod ceanothus, common species within the community include buck brush (*Ceanothus cuneatus*), chamise (*Adenostoma fasciculatum*), laurel sumac (*Malosma laurina*), and toyon (*Hetromeles arbutifolia*). Three young coast live oaks ((*Quercus agrifolia*) were observed along the southern edge of this habitat, and a mature coast live oak is associated with the chaparral in the northeast part of the property along Mildas Road.

**Disturbed Mixed Chaparral**

Disturbed mixed chaparral occurs on a north-facing slope across rocky substrate in the southwestern quarter of the property. No single shrub species appears to dominate this community... Common species include chamise, toyon, and laurel sumac, with annual grasses occupying openings in the canopy.

**Disturbed Laurel Sumac**

A disturbed laurel sumac association occupies a narrow slope south of the old residence...Laurel sumac is dominant with an understory of highly invasive, non-native fountain grass (*Pennisetum setaceum*).

**Disturbed Grassland**

Disturbed grassland surrounds the disturbed laurel sumac vegetation on the south part of the property within the former fuel modification zone...The grassland is dominated by fountain grass and is crossed by an unpaved road.

**Wild Oats Grassland**

Dominated by non-native annual grass species especially wild oats (*Avena* spp.) and brome (*Bromus* spp.) occupies part of the former fuel modification zone of the old residence. In addition to grasses, non-native species such as red-stemmed filaree (*Erodium cicutarium*) are common, but native forbes and shrubs such as deerweed (*Lotus scoparius*) are also present.

A map of the habitats on the site was also prepared by the biological consultant and included in the biological report. Commission staff visited the subject property in December 2011 and confirmed that, with the exception of the existing building pad area and trail along the southern property boundary, the project site is undisturbed (with the exception of the existing pad area occupied by the foundations of the previously existing residence on the site) and comprised of a dense chaparral vegetation community. While there is scattered residential development in the area, there is undisturbed, contiguous coastal sage scrub and chaparral habitat to the north and west of the site. Additionally, there is a large contiguous area of undisturbed habitat north, northeast, and northwest of the project site. **Exhibit 18** is a current aerial photograph of the immediate area around the project site.

According to public information, the applicant purchased the subject parcel in 2004 for \$600,000. The parcel was designated in the Los Angeles County Land Use Plan for residential use. The land use designation that applies to the property is Mountain Land, which allows residential development at a maximum density of 1 dwelling unit per 20 acres of land. The parcel is 2.35 in size, and there are other scattered, residential developments in the same area. The Backbone Trail traverses the southern portion of the property. Public parkland has been acquired in this general vicinity, the Santa Monica Mountains National Recreation Area.

The project has been designed to place all structures on the existing building pad that was disturbed for the development of the previously existing single-family residence destroyed by fire in 1993. Any alternative location on the site would include the removal of more native vegetation. One large oak tree is located to the east of the building site and will not be disturbed. Not including the area of the driveway, the proposed development area is estimated by the applicant to measure approximately 9,977 sq. ft. The applicant's approved fuel modification plan (approved by the Los Angeles County Fire Department) shows the use of the standard three zones of vegetation modification. Zones "A" (setback zone) and "B" (irrigation zone) are shown extending in a radius of approximately 100 feet from the proposed structures. A "C" Zone (thinning zone) is provided for a distance of 100 feet beyond the "A" and "B" zones.

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

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

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

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

The project site is located within the Mediterranean Ecosystem of the Santa Monica Mountains. The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Mountains is rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodland have many special roles in the Mediterranean Ecosystem,

including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of essential habitat for local endemics, the support of rare species, and the reduction of erosion, thereby protecting the water quality of coastal streams. Additional discussion of the special roles of these habitats in the Santa Monica Mountains ecosystem are discussed in the March 25, 2003 memorandum prepared by the Commission's Ecologist, Dr. John Dixon<sup>1</sup> (hereinafter "Dr. Dixon Memorandum"), which is incorporated as if set forth in full herein.

Unfortunately, the native habitats of the Santa Monica Mountains, such as coastal sage scrub, chaparral, oak woodland and riparian woodlands are easily disturbed by human activities. As discussed in the Dr. Dixon Memorandum, development has many well-documented deleterious effects on natural communities of this sort. These environmental impacts may be both direct and indirect and include, but certainly are not limited to, the effects of increased fire frequency, of fuel modification, including vegetation clearance, of introduction of exotic species, and of night lighting. Increased fire frequency alters plant communities by creating conditions that select for some species over others. The removal of native vegetation for fire protection results in the direct removal or thinning of habitat area. Artificial night lighting of development affects plants, aquatic and terrestrial invertebrates, amphibians, fish, birds and mammals. Thus, large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodlands are especially valuable because of their special roles in the Santa Monica Mountains ecosystem and are easily disturbed by human activity. Accordingly, these habitat types meet the definition of ESHA. This is consistent with the Commission's past findings in support of its actions on many permit applications and in adopting the Malibu LCP<sup>2</sup>.

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

### **3. Resource Dependent Use**

The Commission finds that the project site and the surrounding area constitutes an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act restricts development within ESHA to only those uses that are dependent on the resource. The applicant proposes to construct a single family residence on the parcel. As single-family residences do not have to be located within ESHA to function, single-family residences are not a use dependent on ESHA resources. Section 30240 also

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

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



requires that ESHA be protected against significant disruption of habitat values. As the construction of a residence on the site will require both the complete removal of ESHA from the home site and fuel modification for fire protection purposes around it, the proposed project would also significantly disrupt the habitat value in those locations. Application of Section 30240, by itself, would therefore require denial of the project, because the project would result in significant disruption of habitat values and is not a use dependent on those sensitive habitat resources.

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

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

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

The Commission finds that in this particular case, other allowable uses for the subject site, such as a recreational park or a nature preserve, are not feasible and would not provide the owner an economic return on the investment. There is currently no offer to purchase the property from any public park agency. The Commission thus concludes that in this particular case there is no viable alternative use for the site other than

residential development. The Commission finds, therefore, that outright denial of all residential use on the project site would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.

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

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

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

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

Obviously, the construction of residential development, including vegetation removal for both the development area as well as required fuel modification, 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. The building site is located on an existing pad area constructed prior to the effective date of the Coastal Act. Additionally, 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 proposed development area conforms to the maximum development area of 10,000 sq. ft. 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. Further, the development area is located on the existing development pad constructed prior to the effective date of the Coastal Act. As such, the Commission concludes that the proposed siting and design of the project will minimize impacts to ESHA to the extent feasible. The Commission also finds that the proposed development area provides a reasonable economic use.

## **5. Open Space Restriction**

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.

As such, the approved project alternative, will minimize impacts to ESHA to the maximum extent feasible if the remaining ESHA on the project site is protected as open space. The Commission has found, in past permit actions 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 (MRCA). The MRCA accepts and monitors open space easements over larger areas of land to ensure the preservation of ESHA. However, in this case, due to the relatively small size of the parcel, the Commission requires the applicant to limit development over the open space area (shown in Exhibit 16) through an open space restriction. The open space restriction will ensure that development within the open space area must be limited to: approved fuel modification and drainage control activities; planting of native vegetation and other restoration activities; and construction and maintenance of public hiking trails, if approved by the Commission as an amendment to this coastal development permit, or as a new coastal development permit, and the use of existing easements. To implement the open space restriction, the applicant is required to record a deed restriction that imposes the terms and conditions of this permit, including the open space restriction (along with a legal description and graphic depiction of the open space area) 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. Only as so conditioned, will the proposed project minimize impacts to ESHA, pursuant to 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 Memorandum<sup>3</sup>, the cumulative loss of habitat cover also reduces the value of the sensitive resource areas as a refuge for birds and animals, for example by making them—or their nests and burrows—more readily apparent to predators. Further, fuel modification can result in changes to the composition of native plant and wildlife communities, thereby reducing their habitat value. Although the impacts from habitat removal cannot be avoided, the Commission finds that the loss of ESHA resulting from the removal, conversion, or modification of natural habitat for new development including the building site area, and fuel modification can be mitigated in order to ensure that ESHA impacts are minimized to the extent feasible.

The Commission has identified three appropriate methods for providing mitigation for the unavoidable loss of ESHA resulting from development; namely, habitat restoration, habitat conservation, and 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

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

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 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. In this case, as described above, there is a disturbed pad area that was developed prior to the effective date of the Coastal Act. This disturbed area will not be included in the area for which habitat impact mitigation is required. 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:

- Special Condition 5.** Landscaping and Fuel Modification Plans
- Special Condition 7.** Lighting Restriction
- Special Condition 8.** Future Development Restriction
- Special Condition 9.** Deed Restriction
- Special Condition 10.** Habitat Impact Mitigation
- Special Condition 11.** Open Space Restriction
- Special Condition 12.** Site Inspection
- Special Condition 13.** Removal of Natural Vegetation

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

## **E. VISUAL RESOURCES**

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

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

The project site is located in a scenic area, visible from various public viewing points, including Stunt Road to the north of the project site, Schueren Road to the south, Saddle Peak Road to the east and public parkland to the north. (Exhibit 18) The existing building pad is located on a minor east-west trending ridgeline backed by a major ridgeline. Development of the proposed residence raises two issues regarding the siting

and design: (1) whether or not public views from public roadways will be adversely affected; or, (2) whether or not public views from public lands and trails will be affected.

The proposed residence is two stories. The applicant proposes to cut the lower story into the ridge, so most of the structure will be approximately 17 feet above existing grade. However, the maximum height at any given point of the 2-story portion of the structure will be 27 ft. from existing grade. Additionally, an approximately 132 sq. ft. curved observatory skylight area extends above the middle of the roof from the interior and is 1.5 to 5.5 ft. taller than the residence, or 22.6 feet above existing grade. Finally, the accessory structure will be a maximum height of 22.5 ft. and the one car garage will be 14.5 ft. high. (Exhibits 8-13)

In this case, a two-story single family residence, destroyed by fire in 1993, previously existed on the site. The proposed residence will be sited on the existing pad area and will be cut further into the ridge and thus lower in height than the previous residence, although the residence will be larger in overall size. The new proposed residence will be cut into the building pad to minimize view impacts from height and massing. (Exhibits 8-13) Both stories will be visible mostly from the north and south elevations. View impacts from the east elevation (looking towards the residence from Saddle Peak Road) will be minimized due to vegetation, including a large oak tree. Further, due to the building site's distance from and the elevation above Schueren Road and Stunt Road, and the presence of intervening ridges, including a major ridgeline north of the building site, view impacts are minimized. Further, the site is located near existing single-family homes and the residence will be located adjacent to a large 30 million gallon water tank and will be lower in elevation than the water tank, minimizing additional view impacts when viewed from the south and east. (Exhibit 18) Finally, the residence will be visible from the Backbone Trail which traverses the area, and crosses the project site just below the proposed development area. However, no alternative siting options exist on the parcel in which the development would be significantly less visible from public viewing areas given the steep slopes on the property and the existing building pad location. Furthermore, the proposed development area is an existing disturbed area (developed prior to the effective date of the Coastal Act) and locating development in any other location on the project site would increase impacts to environmentally sensitive habitat.

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:

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

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

## **F. CUMULATIVE IMPACTS**

Section **30250(a)** of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of the surrounding parcels.

Section **30252** of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking

facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section **30105.5** of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

[T]he incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The Commission has consistently emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area, particularly those of subdivisions, multi-family residential development, and second residential units, all of which result in increased density. It is particularly critical to evaluate the potential cumulative impacts of increased density given the existence of thousands of undeveloped and poorly sited parcels in the mountains that were created decades ago in antiquated subdivisions. Construction of a guest house unit or second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, guest houses and second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development.

In past actions, the Commission has limited the development of guest house units and second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In its review and action on the Malibu/Santa Monica Mountains Land Use Plan (LUP), the Commission found that placing an upper limit on the size of these units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu/Santa Monica Mountains area and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one, or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence.

The applicant is proposing a 750 sq. ft. guest unit. This conforms to the Commission's past actions, allowing a maximum of 750 square feet for a guest unit or second dwelling unit in the Santa Monica Mountains area. However, future improvements to the proposed unit such as additional square footage could raise issues with regard to individual or cumulative impacts to coastal resources. Such improvements and their potential impacts must be addressed by the Commission to ensure conformance with the Chapter 3 policies of the Coastal Act.

To ensure that any additions or improvements that could further intensify the use of the unit will be reviewed by the Commission and to ensure that the unit conforms with the

maximum 750 sq. ft. guidance, the Commission requires that any additions or improvements related to the unit, that may otherwise be exempt from coastal permit requirements, shall be reviewed by the Commission for consistency with the resource protection policies of the Coastal Act.

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 Sections 30250 and 30252 of the Coastal Act, as well as the Los Angeles County LUP:

**Special Condition 8.** Future Development Restriction

**Special Condition 9.** Deed Restriction

The Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

## **G. LOCAL COASTAL PROGRAM PREPARATION**

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

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

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

### **Special Conditions 1 through 16**

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

## **H. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, project alternatives and mitigation measures have been considered and incorporated into the project. Five types of mitigation actions include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures required 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 recording an open space deed restriction. 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:

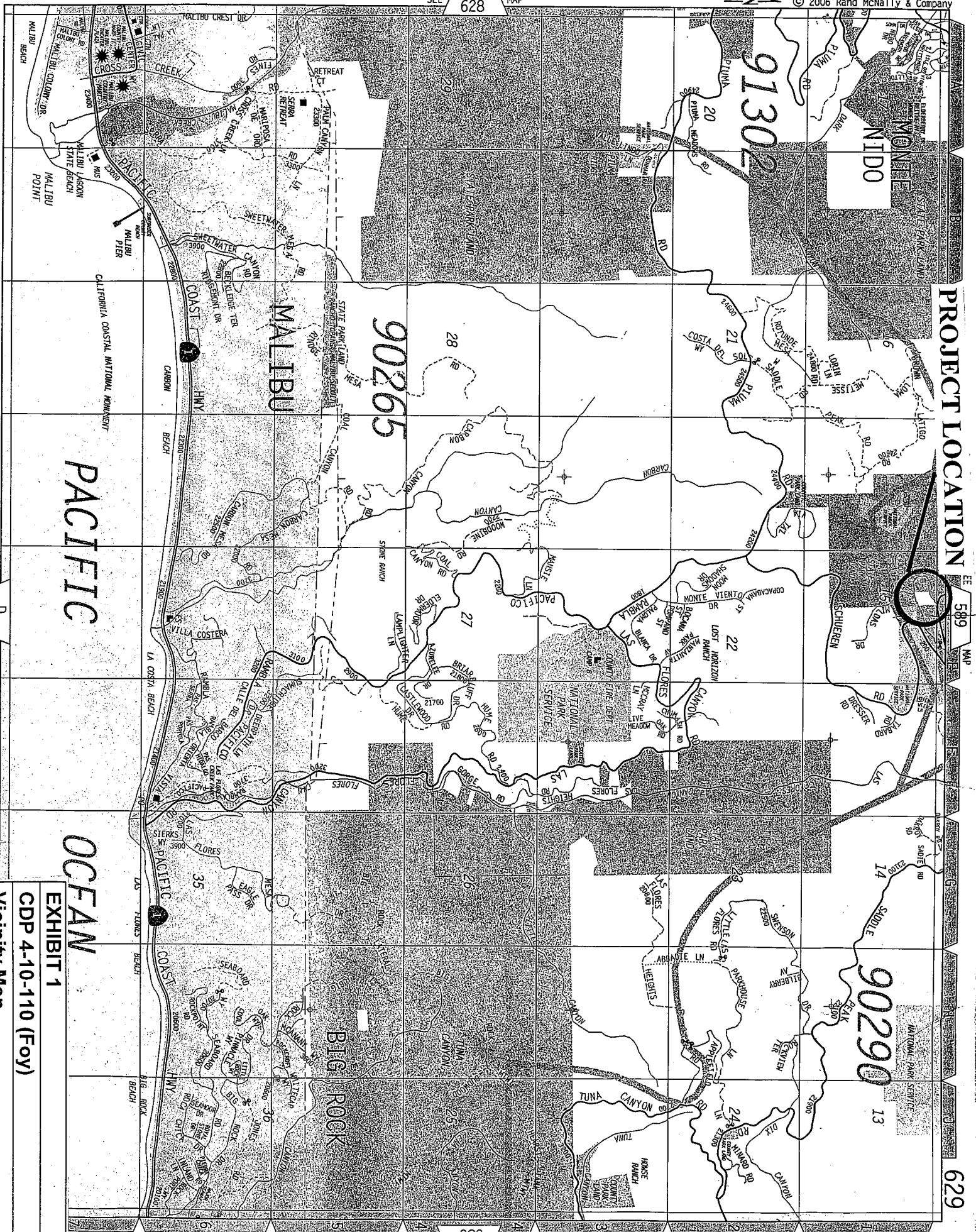
### **Special Conditions 1 through 16**

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

PROJECT LOCATION

EE 589 WP

629



PACIFIC

OCEAN

EXHIBIT 1

CDP 4-10-110 (Foy)

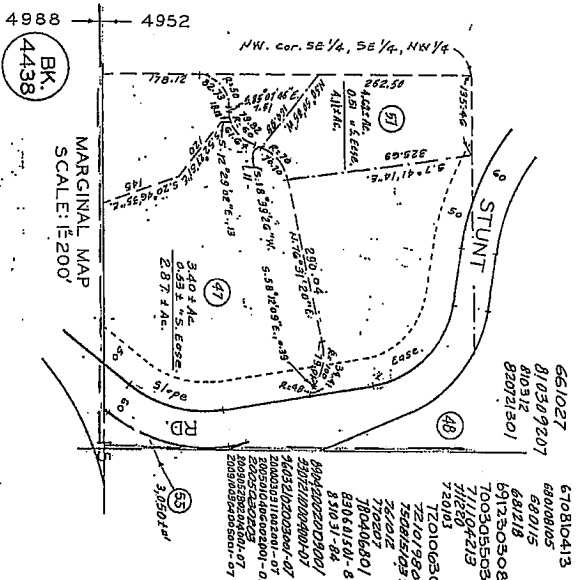
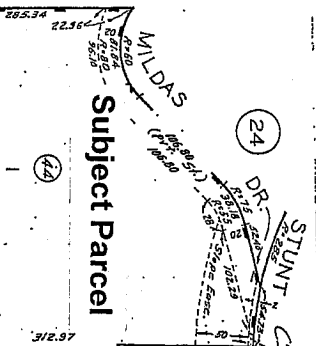
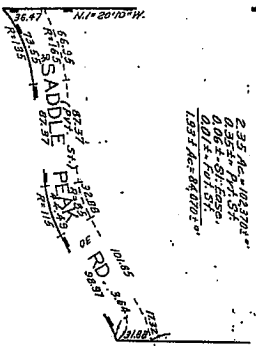
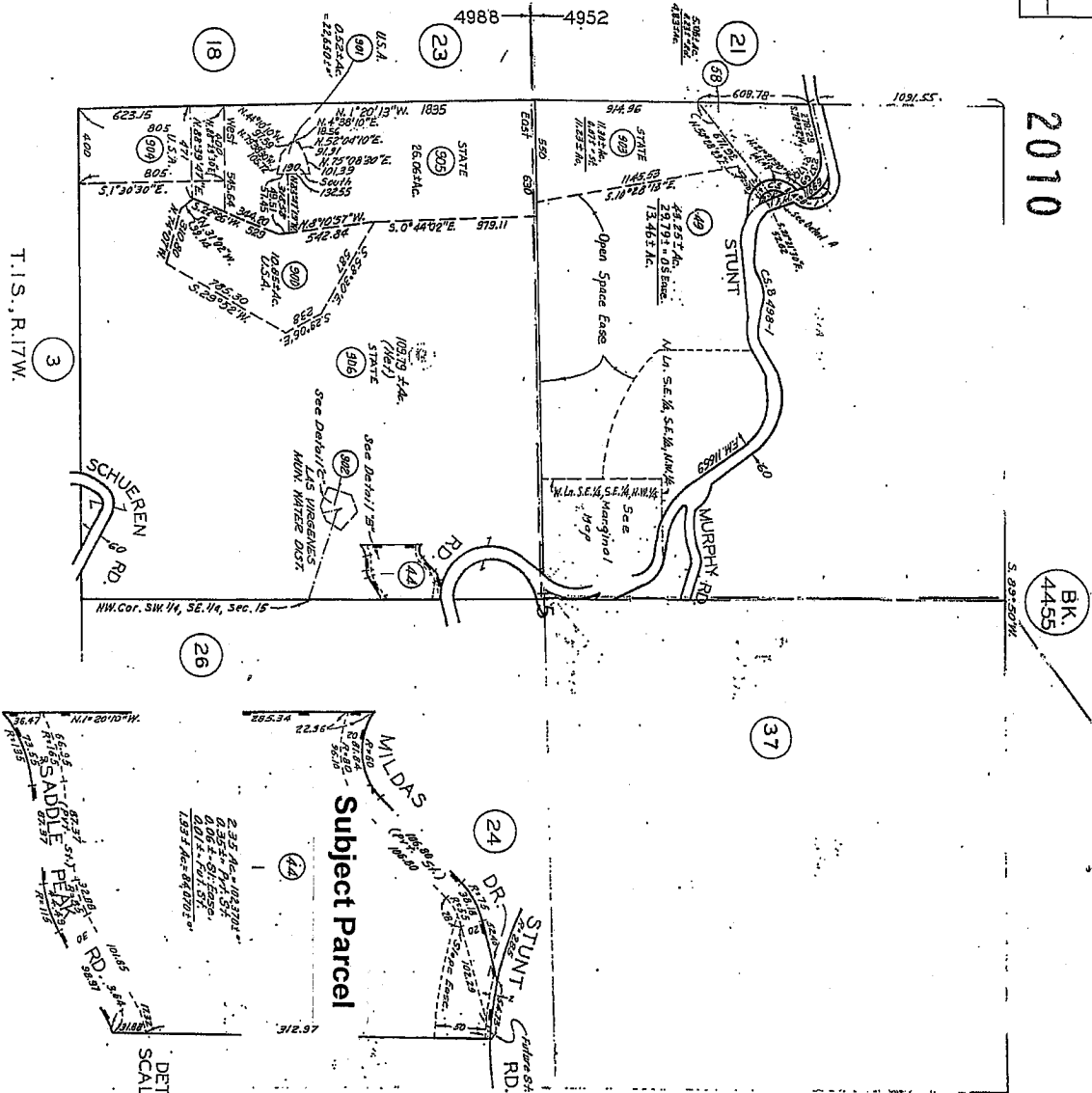
Vicinity Map

4453 17  
SCALE 1" = 600'

2010

CODE  
4952  
4988  
FOR PREV. ASSMT SEE:  
4453-17

T.I.S., R.17W.  
TRACT NO. 3068.4 M.B. 855-57-59



SECTION LINES PER CSB 498-1  
PARCEL 58 CANNOT BE SEGREGATED WITHOUT  
CALIFORNIA COASTAL COMMISSION APPROVAL

ASSESSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.

OCT 28 2009

EXHIBIT 2  
CDP 4-10-110 (Foy)  
Parcel Map

100 MILDAS DRIVE MALIBU, CA-90265



ian

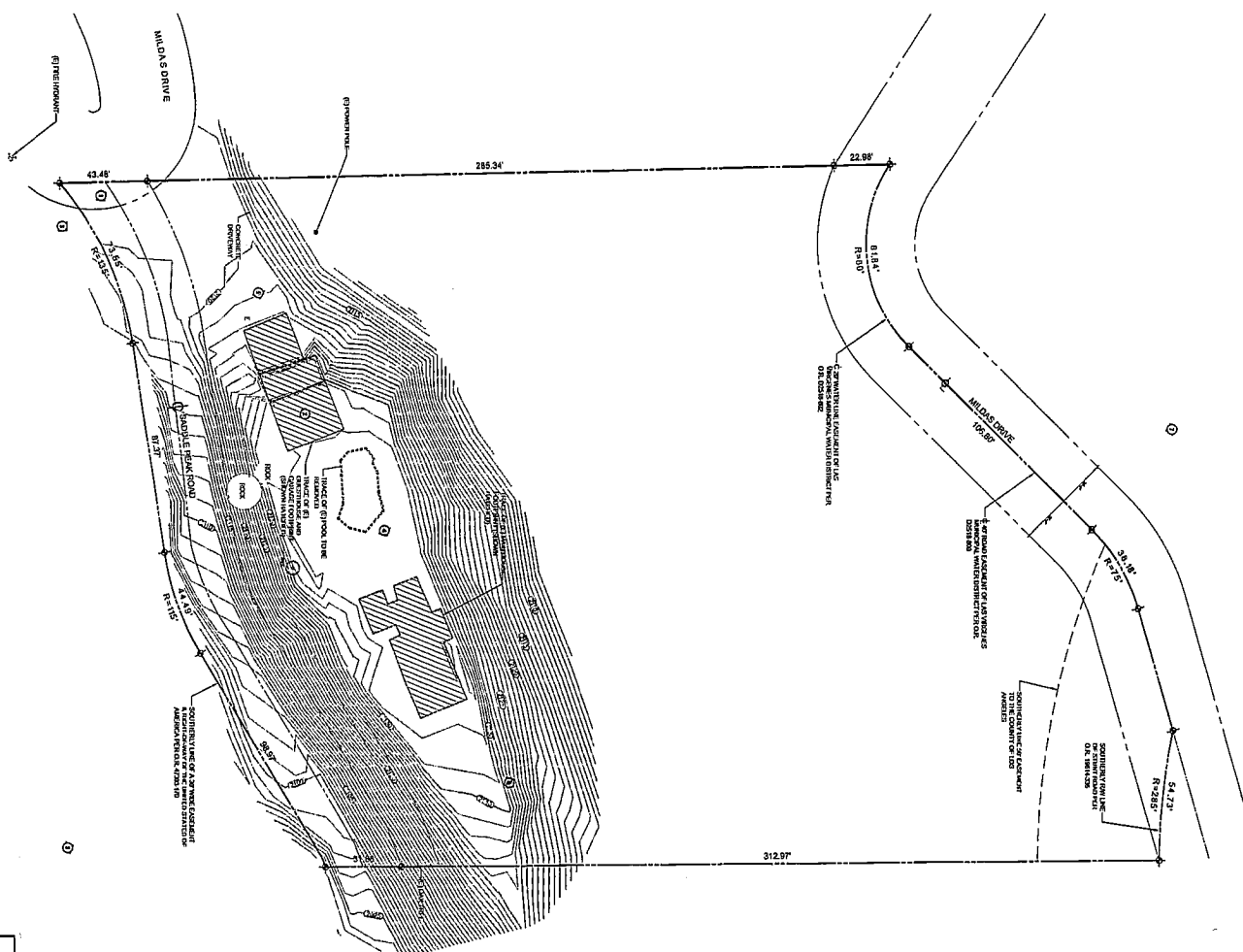
**PROJECT INFORMATION**  
**VICINITY MAP**  
**SITE PLAN**

TRAINING	EO	ORDERED	K.F.	DATE	6/29/11	SCORE	AS NOTED	EO NO.	MAIL INU	SHEET
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**EXHIBIT 4**

**CDP 4-10-110 (Foy)**

## Demolition Plan



### DEMOLITION PLAN

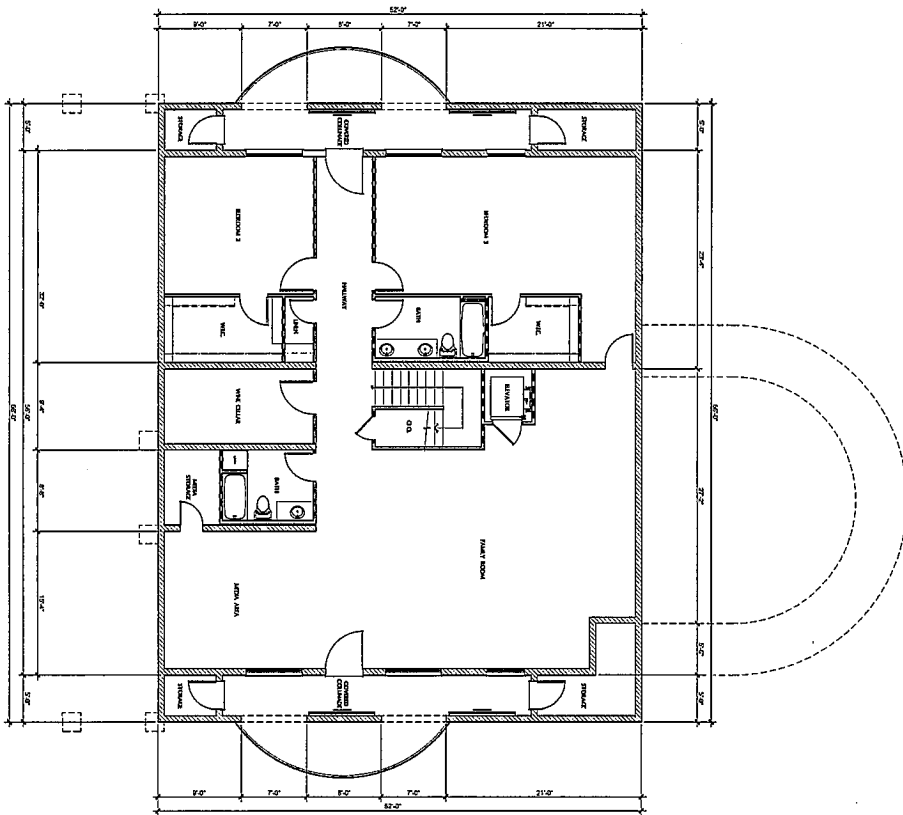
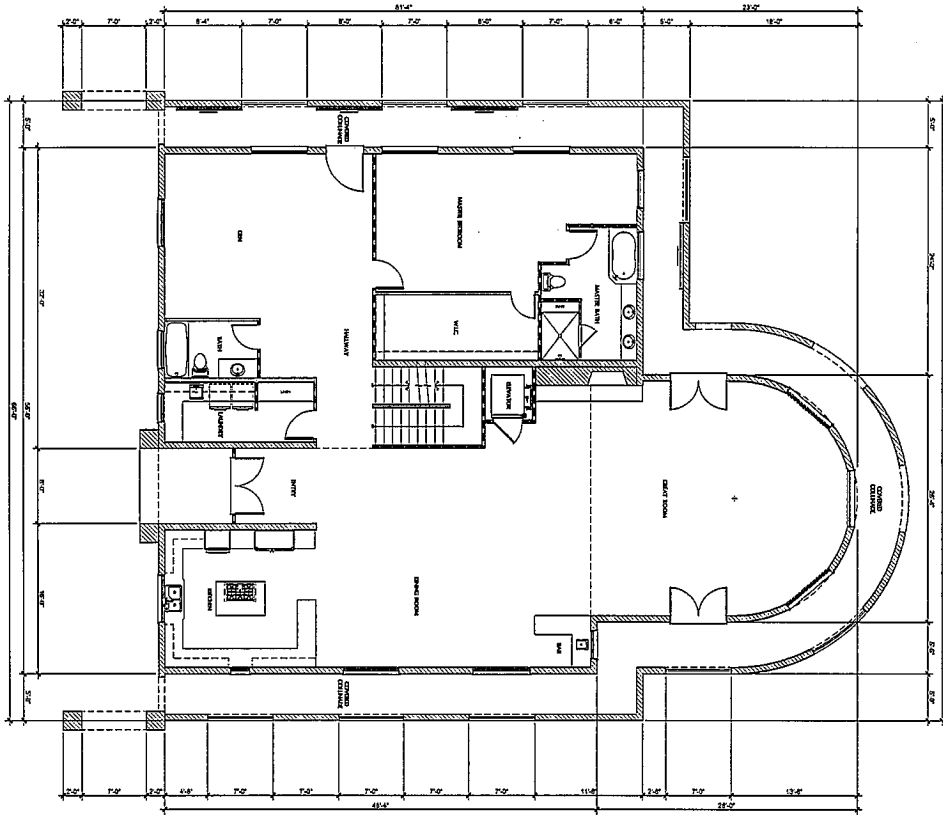
custom residence for:

**KEVIN FOY**  
100 Mildas Drive  
Malibu, CA 90265  
(714) 381-7697



REVISED	BY
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MAIN HOUSE - UPPER LEVEL FLOOR PLAN

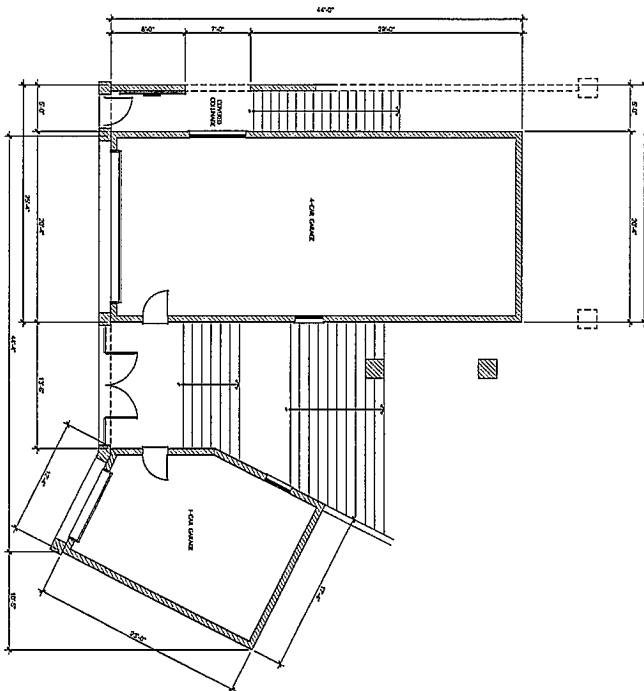
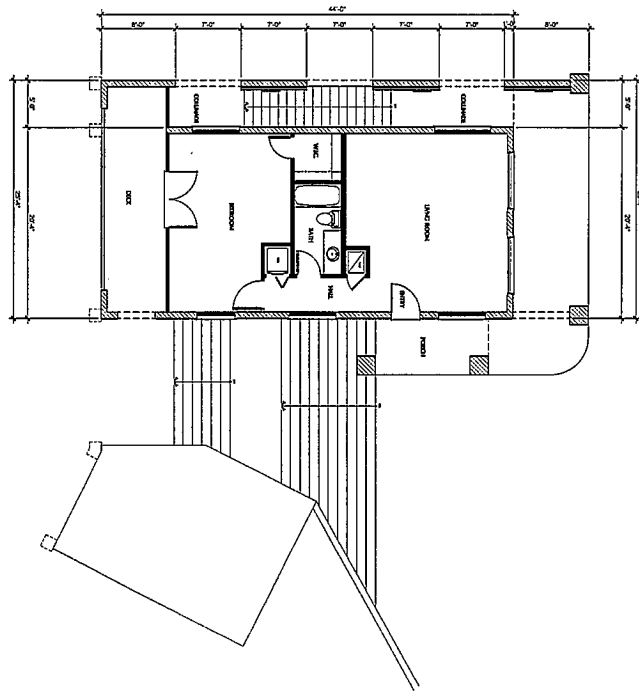
MAIN HOUSE - LOWER LEVEL FLOOR PLAN



EXHIBIT 5

CDP 4-10-110 (Foy)

Floor Plans



GUEST HOUSE - UPPER LEVEL FLOOR PLAN

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

B

GUEST HOUSE - LOWER LEVEL FLOOR PLAN

## EXHIBIT 6

CDP 4-10-110 (Foy)

Garage and Guest House Floor Plans

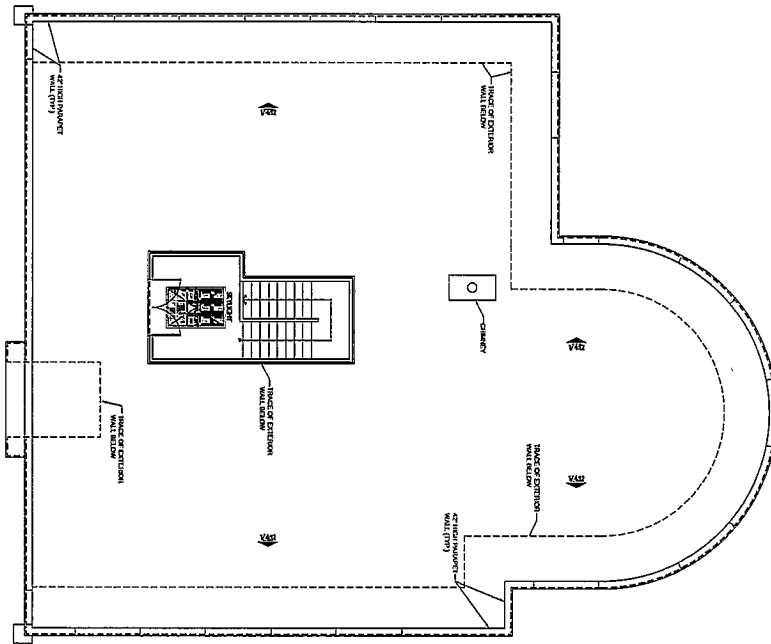
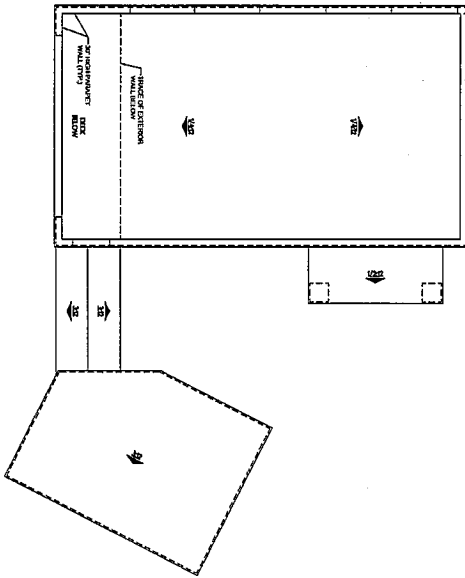
GUEST HOUSE  
UPPER LEVEL FLOOR PLAN

custom residence for:

KEVIN FOY  
100 Mildas Drive  
Malibu, CA 90265  
(714) 381-7697

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REVISION	DATE
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GUEST HOUSE / GARAGE - ROOF PLAN

SCALE  
1/8\"/>

MAIN HOUSE - OBSERVATORY PLAN AND ROOF PLAN

**EXHIBIT 7**  
**CDP 4-10-110 (Foy)**  
**Roof Plans**

MAIN HOUSE - OBSERVATORY PLAN AND ROOF PLAN  
GUEST HOUSE / GARAGE - ROOF PLAN

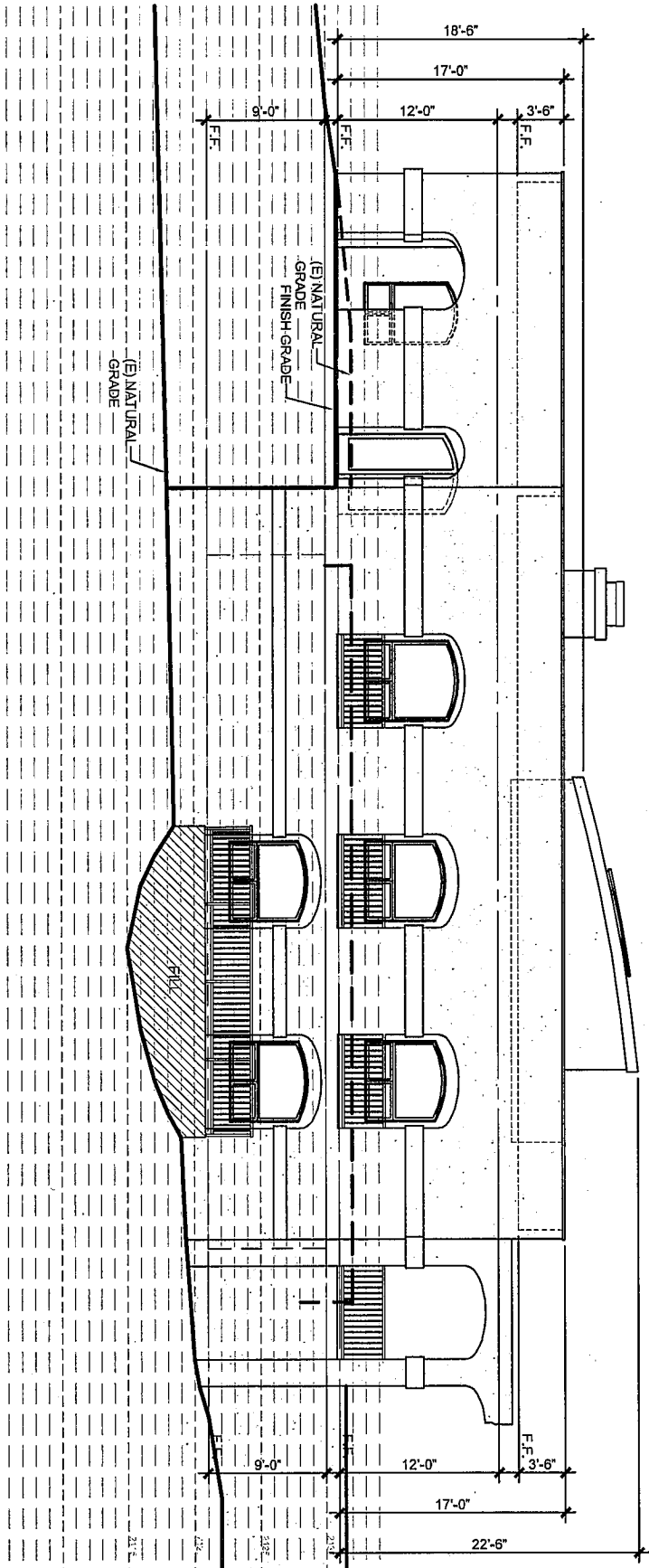
custom residence for:

**KEVIN FOY**  
100 Mildas Drive  
Malibu, CA 90265  
(714) 381-7697



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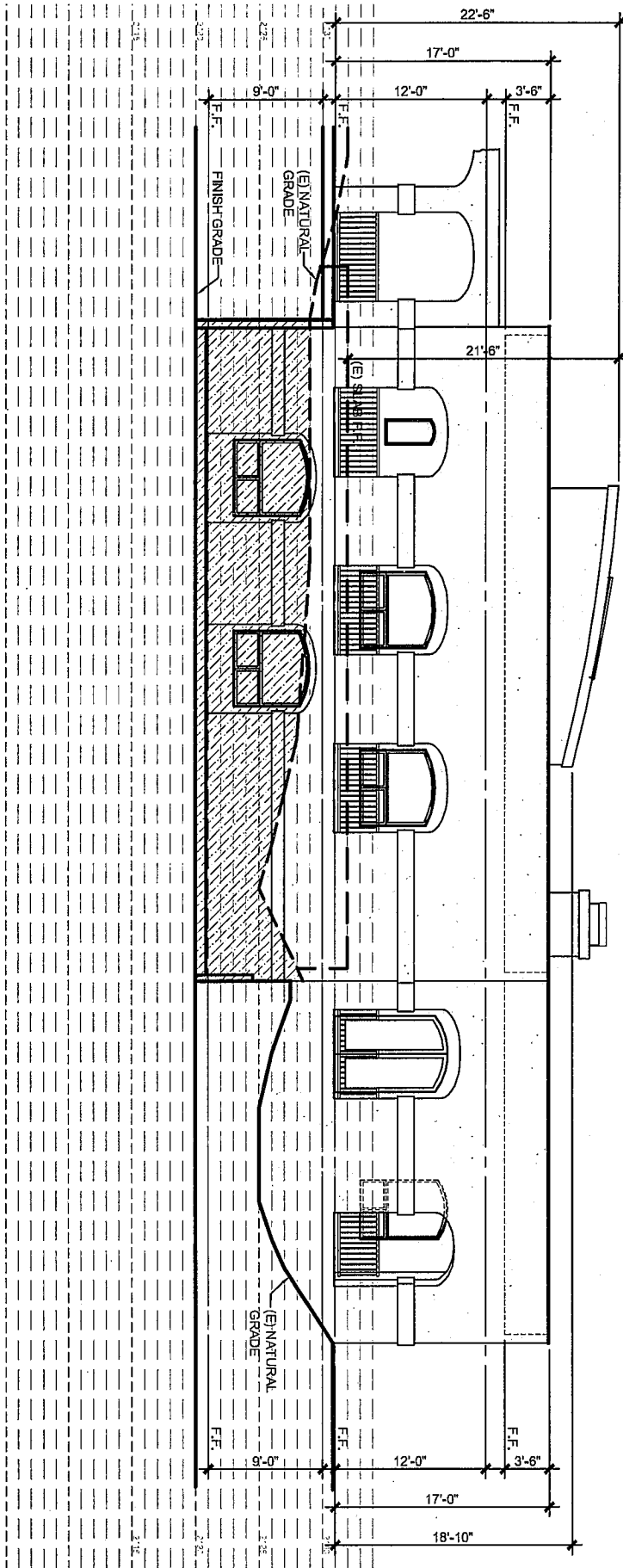
# MAIN HOUSE - NORTH ELEVATION



SCALE: **B**

EXHIBIT 8  
CDP 4-10-110 (Foy)  
North Elevation

# MAIN HOUSE - SOUTH ELEVATION



SCALE:

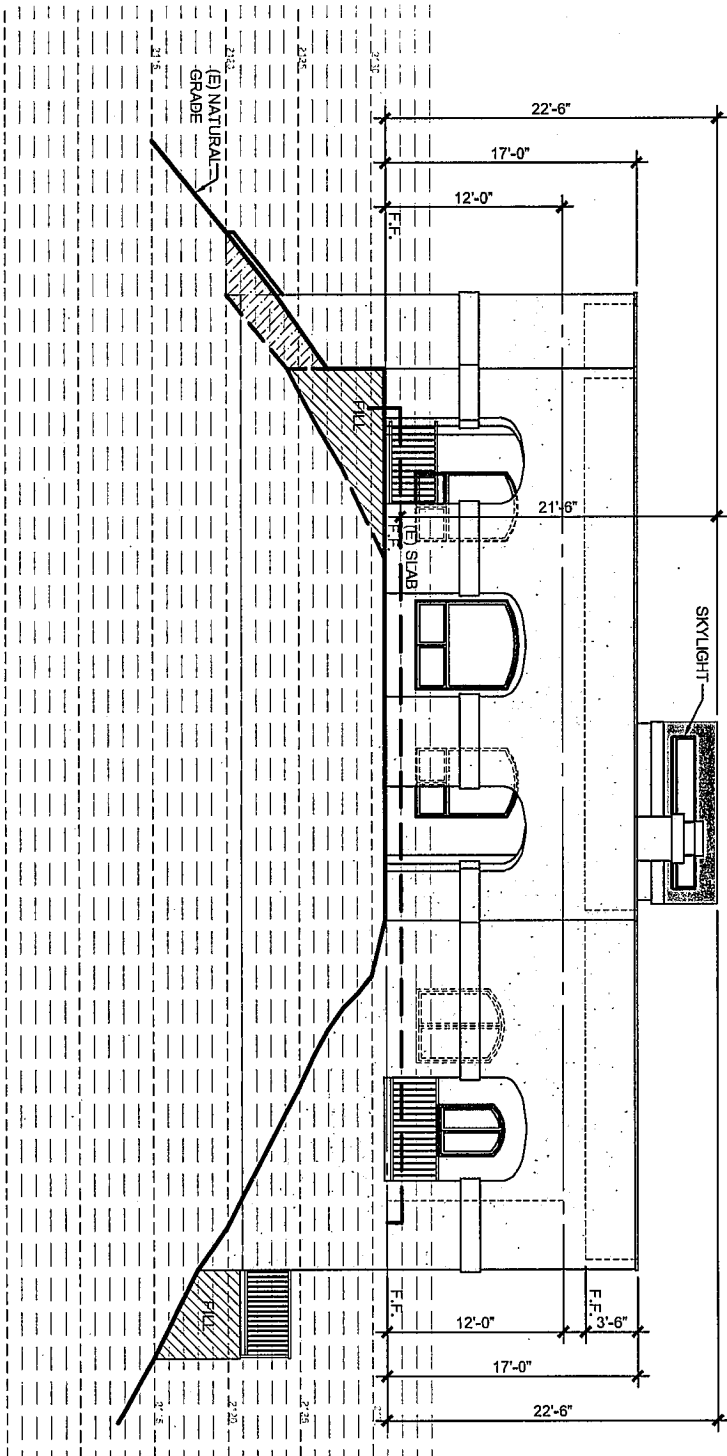
1" = 1'-0"

EXHIBIT 9

CDP 4-10-110 (Foy)

South Elevation

# MAIN HOUSE - EAST ELEVATION



SCALE:

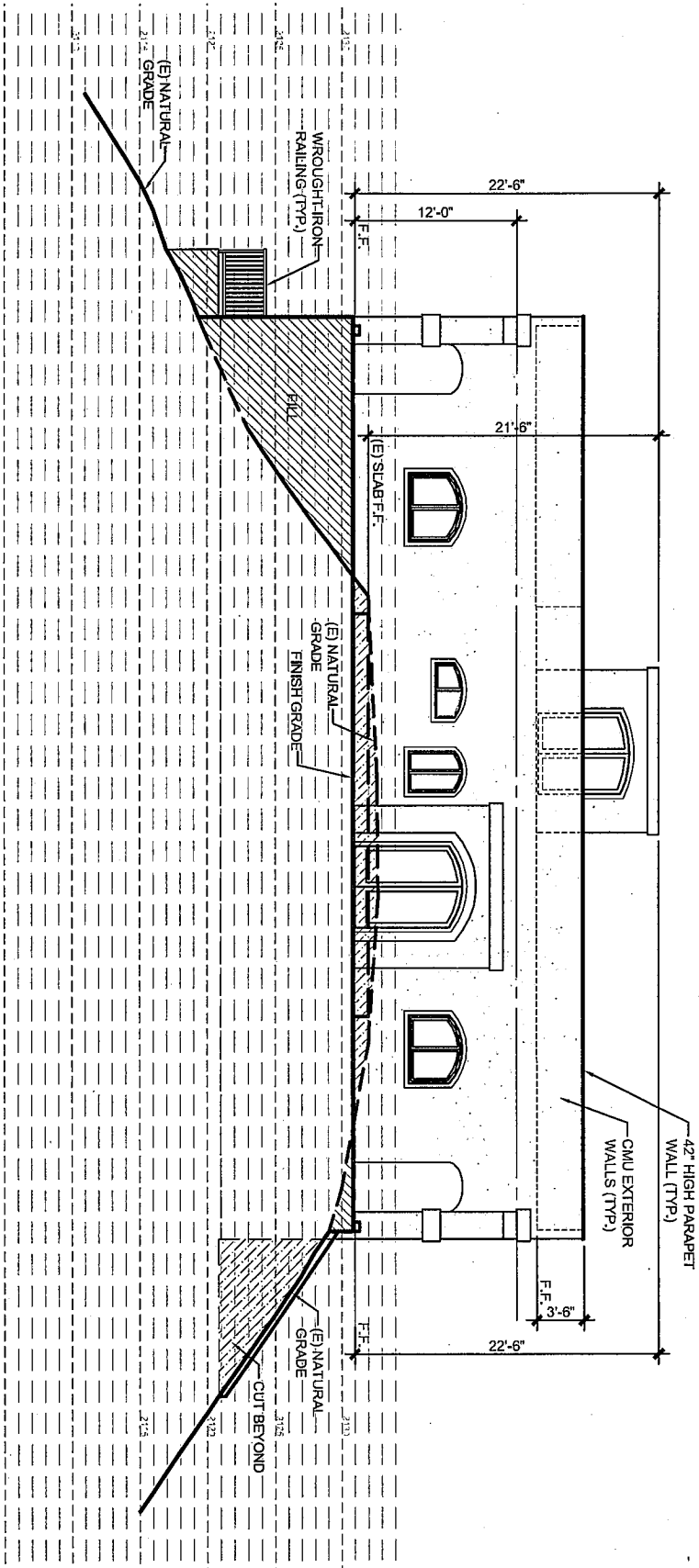
N.T.C.

C

EXHIBIT 10

CDP 4-10-110 (Foy)

East Elevation



MAIN HOUSE - WEST ELEVATION

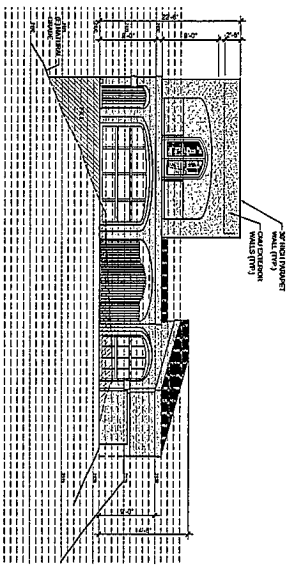
SCALE:

A

EXHIBIT 11

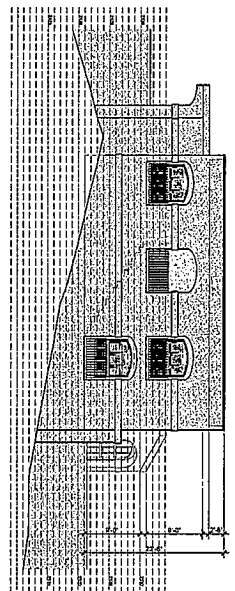
CDP 4-10-110 (Foy)

West Elevation



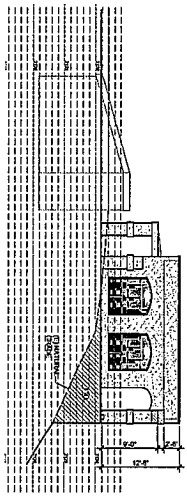
GUEST HOUSE / GARAGE - WEST ELEVATION

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



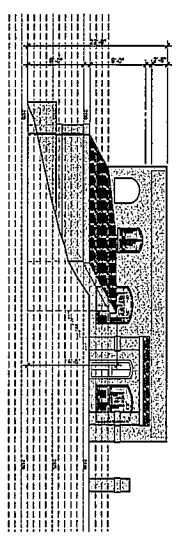
GUEST HOUSE / GARAGE - NORTH ELEVATION

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



GUEST HOUSE / GARAGE - EAST ELEVATION

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



GUEST HOUSE / GARAGE - SOUTH ELEVATION

EXHIBIT 12

CDP 4-10-110 (Foy)

Guest House/Garage Elevations

QUESTHOUSE/GARAGE  
EXTERIOR ELEVATIONS

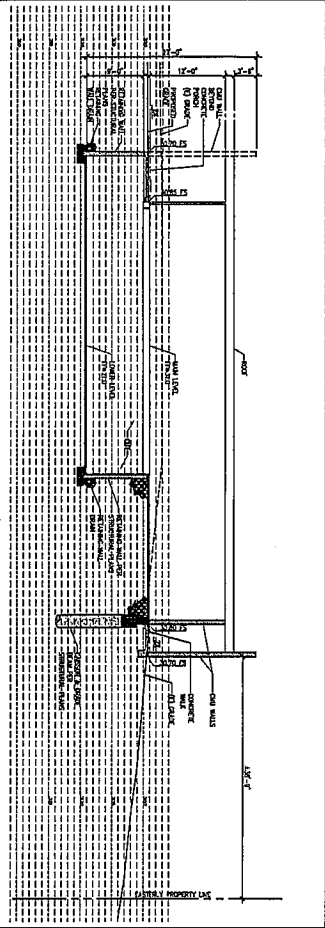
custom residence for:

KEVIN FOY  
100 Mildas Drive  
Malibu, CA 90265  
(714) 361-7697

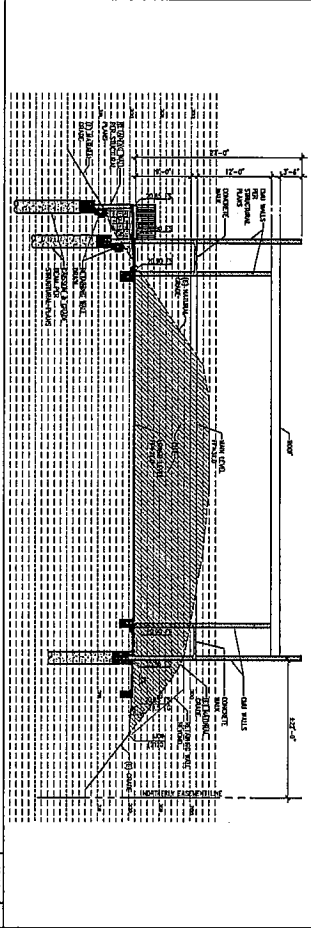


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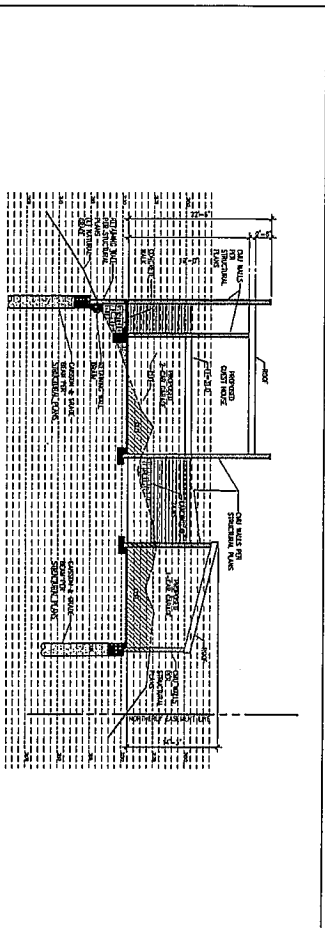




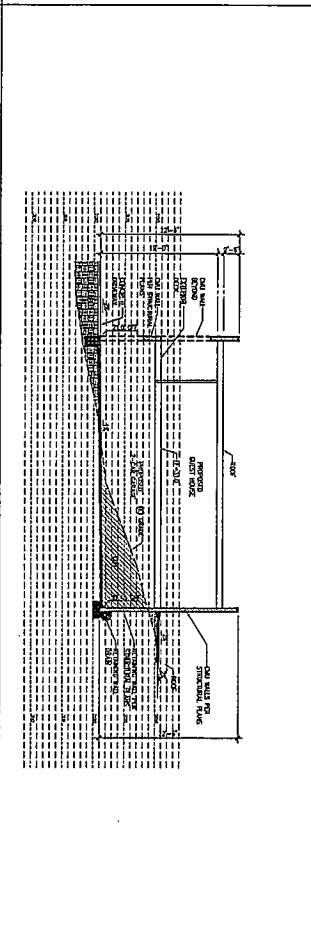
MAIN HOUSE - SECTION A-A



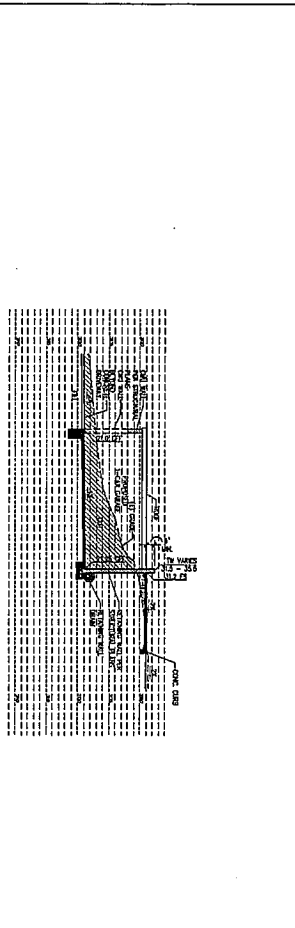
MAIN HOUSE - SECTION B-B



SECTION C-C



SECTION D-E



SECTION E-E

NOT USED

NOT USED

EXHIBIT 13

CDP 4-10-110 (Foy)

Cross Sections

custom residence for:

**KEVIN FOY**

100 Midas Drive

Malibu, CA 90265

(714) 381-7697

**Professional CADD Services**

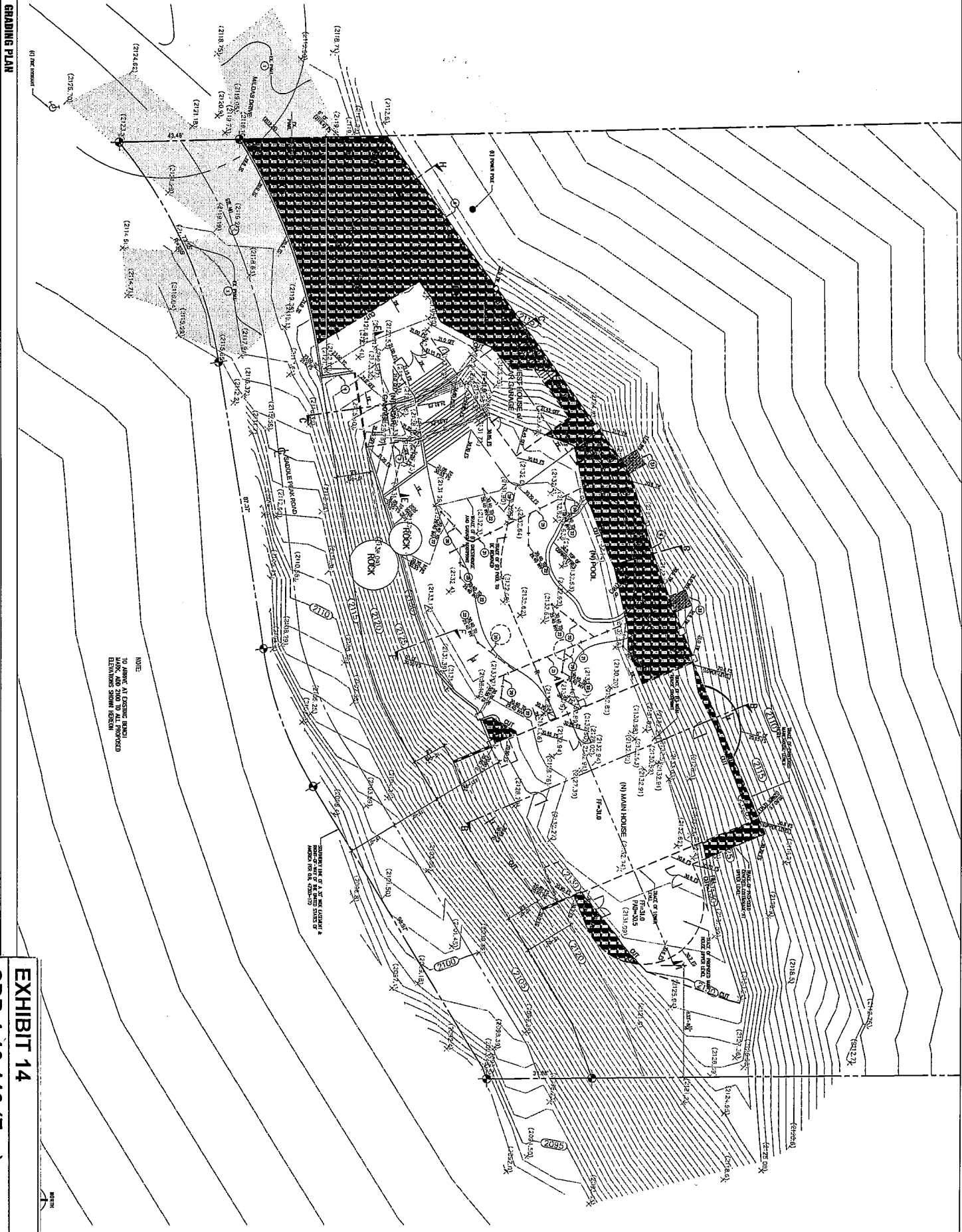
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Los Angeles, CA 90047

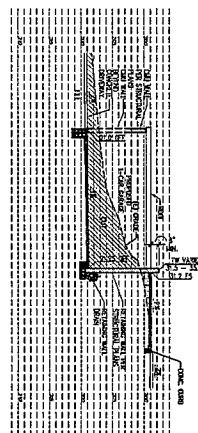
714.831.9233 ext 714.831.9234

www.professionalcadd.com



NOTE:  
TO ADJUST AT EXISTING ELEVATION  
MARK, AND 2000 TO ALL PROPOSED  
ELEVATIONS SHOWN HEREON

EXHIBIT 14 CDP 4-10-110 (Foy) Grading Plan	custom residence for: <b>KEVIN FOY</b> 100 Mildas Drive Malibu, CA 90265 (714) 381-7697	PREPARED BY: <b>R.C.E.</b> 2082 S.E. BRISTOL STREET, SUITE 206 NEWPORT BEACH, CA 92660 (949) 975-1228	
	GRADING PLAN	REVISIONS:	DATE:



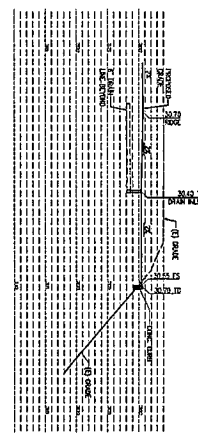
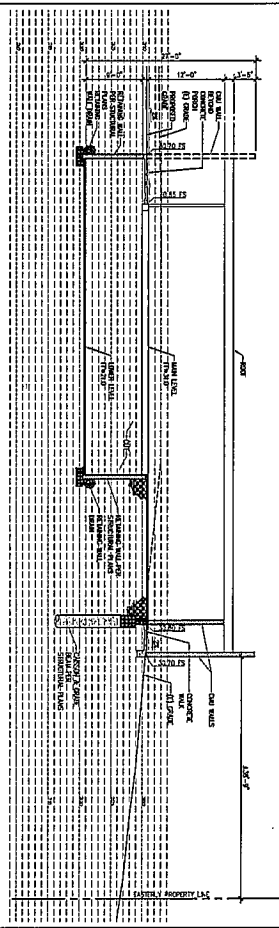
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SECTION E-E

E

SECTION A-A

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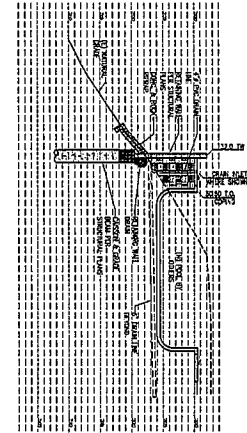
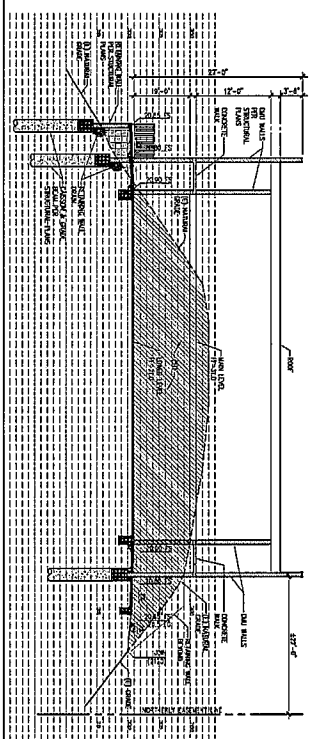
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SECTION F-F

F

SECTION B-B

B



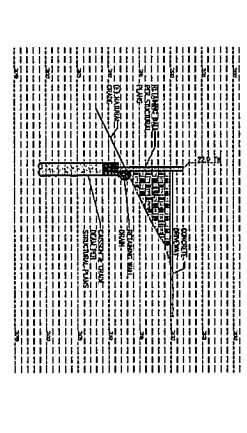
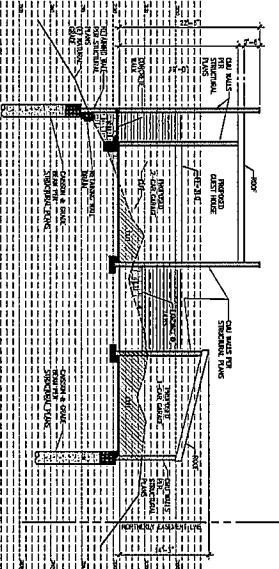
NOT USED

SECTION G-G

G

SECTION C-C

C



NOT USED

SECTION H-H

H

SECTION D-D

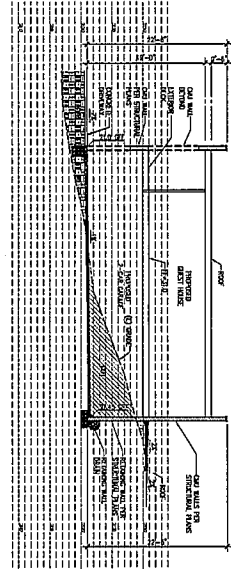


EXHIBIT 15  
CDP 4-10-110 (Foy)  
Grading Cross Sections

GRADING SECTIONS

custom residence for:  
**KEVIN FOY**  
100 Mildas Drive  
Malibu, CA 90265  
(714) 381-7697

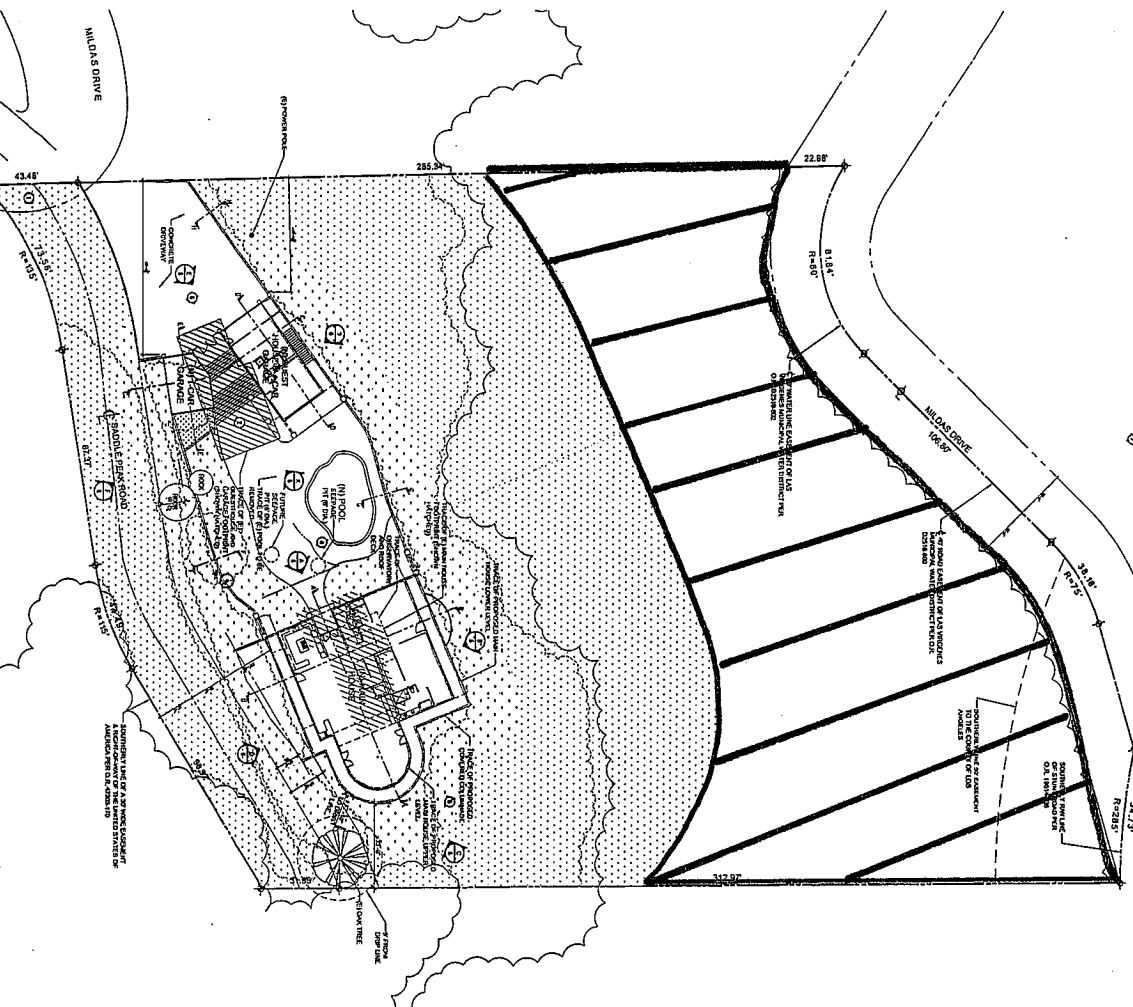
PREPARED BY:  
**R.C.E.**  
2082 S.E. BRISTOL STREET, SUITE 206  
NEWPORT BEACH, CA 92660  
(949) 975-1328



DATE	1/1/00
BY	R.C.E.
CHECKED	
DATE	
BY	
CHECKED	
DATE	
BY	
CHECKED	
DATE	
BY	

# CUSTOM RESIDENCE FOR: KEVIN R. FOY

100 MILDAS DRIVE MALIBU, CA 90265



## PROJECT DIRECTORY

RECORD OWNER:  
KEVIN R. FOY  
633 WEST VALLEY VIEW DRIVE  
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## PROJECT DESCRIPTION

1. DEMOLISH EXISTING MAIN HOUSE FOOTPRINT, BURNED IN 1993 FIRE.
2. REBUILD NEW MAIN HOUSE OVER OLD MAIN HOUSE FOOTPRINT, BURNED IN 1993 FIRE.
3. DEMOLISH EXISTING GUEST HOUSE AND GARAGE FOOTPRINT.
4. REBUILD NEW GUEST HOUSE AND GARAGE FOOTPRINT, BURNED IN 1993 FIRE.
5. GUEST HOUSE AND GARAGE FOOTPRINTS WILL BE BIGGER THAN EXISTING FOOTPRINTS.

## PHOTOS SCHEDULE

- ① VIEW FROM WEST
- ② VIEW FROM WEST
- ③ VIEW TO WEST
- ④ VIEW FROM EAST
- ⑤ VIEW FROM SOUTHWEST
- ⑥ VIEW FROM NORTH
- ⑦ VIEW FROM WEST
- ⑧ VIEW FROM SOUTH

## PROJECT DATA

ASSESSOR'S PARCEL NUMBER: 463-017-044  
PROPERTY BOUNDARY DESCRIPTION: TRACT NO. 3004, LOT 1  
SITE ADDRESS: 100 MILDAS DRIVE  
MALIBU, CA 90265  
LOT SIZE: 2.37 ACRES, 103,000 SQ. FT.  
BUILDING SQUARE FOOTAGE: 10,000 SQ. FT.

## MAIN HOUSE

LOWER FLOOR: 2,412 SQ. FT.  
UPPER FLOOR: 2,208 SQ. FT.  
TOTAL LOWER FLOOR: 4,620 SQ. FT.  
COVERED PORCH AREA: 1,200 SQ. FT.  
TOTAL COVERED PORCH AREA: 1,200 SQ. FT.  
TOTAL MAIN HOUSE: 5,820 SQ. FT.

## POOL

POOL AREA: 1,200 SQ. FT.  
TOTAL POOL AREA: 1,200 SQ. FT.

## OTHER AREAS

LOWER FLOOR: 655 SQ. FT.  
UPPER FLOOR: 1,200 SQ. FT.  
TOTAL LOWER FLOOR: 1,855 SQ. FT.  
TOTAL UPPER FLOOR: 1,200 SQ. FT.  
TOTAL OTHER AREAS: 3,055 SQ. FT.

## NEIGHBORHOOD

NEIGHBORHOOD: MALIBU  
TOTAL NEIGHBORHOOD: 1,200 SQ. FT.

## SHEET INDEX

1. SITE PLAN, PROJECT INFORMATION
2. DEMOLITION PLAN AND UPPER FLOOR PLAN
3. GUESTHOUSE (GARAGE) LOWER AND UPPER FLOOR PLAN
4. MAIN HOUSE ROOF PLAN, GUEST HOUSE ROOF PLAN

## EXHIBIT 16

CDP 4-10-110 (Foy)

Open Space Restriction Area

The Open Space Restriction shall apply to the area on the subject property (as generally shown on this exhibit by the cross-hatching) outside of the Final Los Angeles County Fire Department approved Fuel Modification Zone B and outside of Mildas Drive.

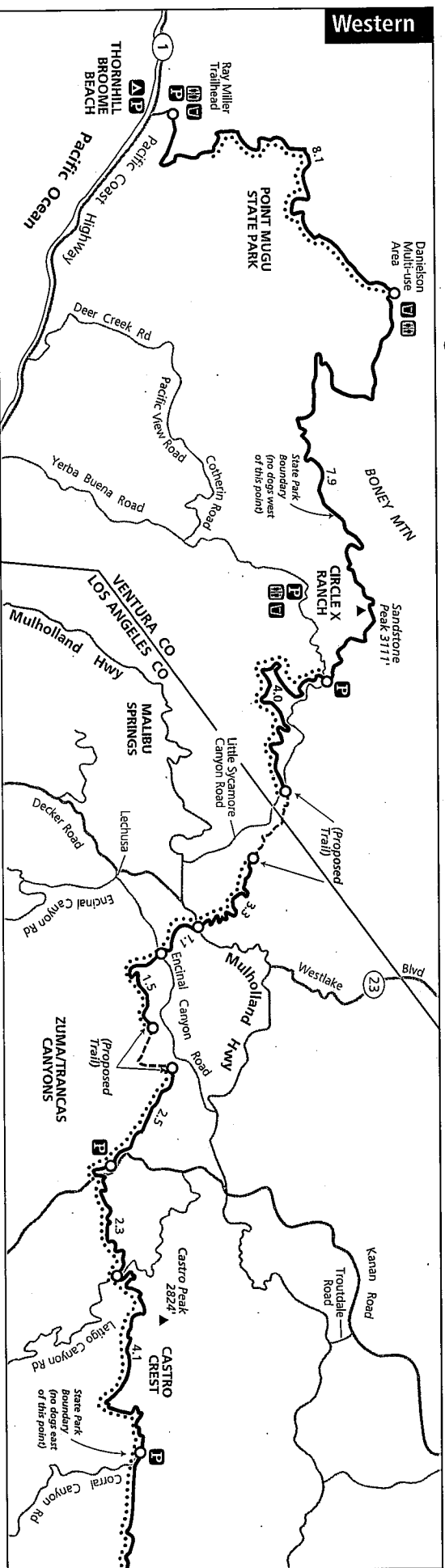
PROJECT INFORMATION  
VICINITY MAP  
SITE PLAN

custom residence for:

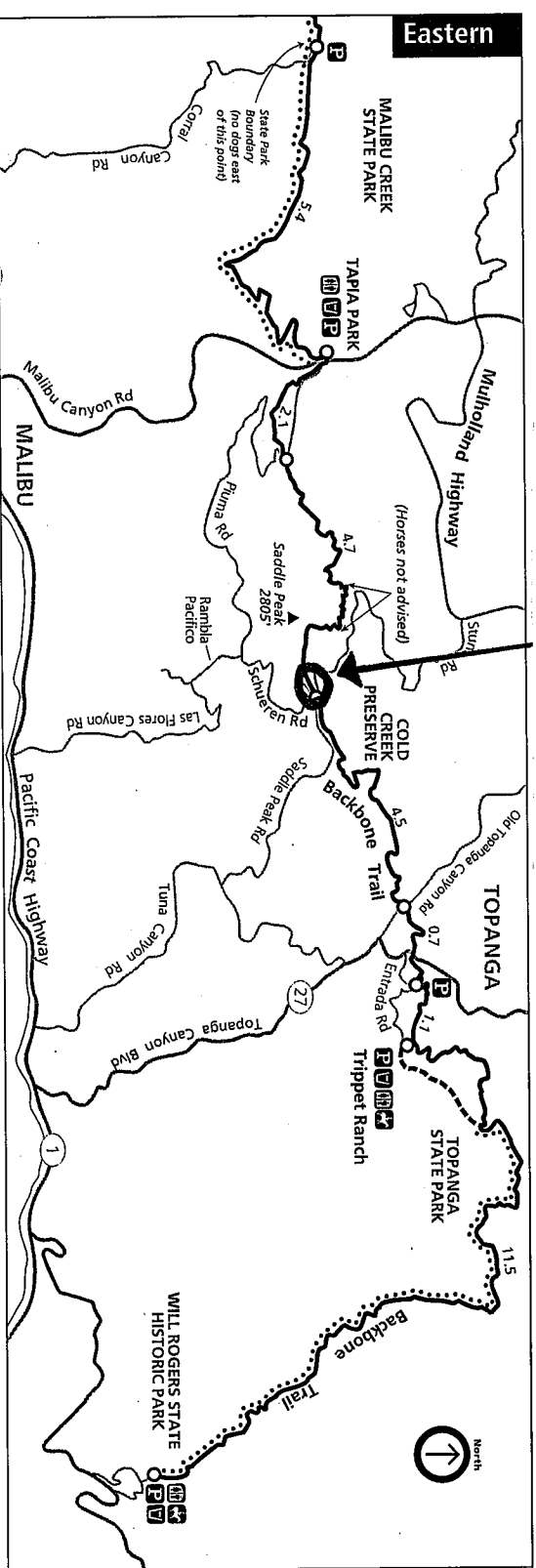
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WWW.KFOY-CADD.COM

# Backbone Trail System



## PROJECT LOCATION



NOTE: Do not rely only on this map for exploring the Backbone Trail. Detailed maps are available at the National Park Service Visitor Center in Thousand Oaks.



**Project Site**

**Backbone Trail**

Saddle Peak Rd

Se  
en Rd

Moonrise Dr

Midas Dr

**Exhibit 18**

**CDP 4-10-110 (Foy)**

**Aerial View** (©Google Earth)





Surrounding  
Residential  
Development

Project Site adjacent  
to water tank

**Exhibit 19**  
**CDP 4-10-110 (Foy)**  
**Site Photo towards west**  
**from Saddle Peak Rd.**

