

CALIFORNIA COASTAL COMMISSION

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

W 27a**ADDENDUM**

DATE: April 9, 2013

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item 27a, Wednesday, April 10, 2013
CDP Application No. 4-04-120 (Wallis)

The purpose of this addendum is to delete Special Condition 11 (Site Inspection) of the staff recommendation. Commission staff re-evaluated the imposition of this condition in response to concerns raised by the applicant and determined that the condition is not necessary given a unique set of facts in this case – the property is relatively small and is visible from a public road (Cold Canyon Road), the violation component of the project is relatively minor, and the applicants have been very cooperative in resolving the violation through the subject permit application. Therefore, the staff recommendation is hereby amended to delete Special Condition 11 (Site Inspection).

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Filed: 2/28/13
180th Day: 8/27/13
Staff: D. Christensen-V
Staff Report: 3/21/13
Hearing Date: 4/10/13

STAFF REPORT: REGULAR CALENDAR

Application No.: 4-04-120

Applicant: Gene and Martha Wallis

Project Location: 1805 Cold Canyon Road, Santa Monica Mountains, Los Angeles County (APN 4455-018-062)

Project Description: Construct a new 5,392 sq. ft., two-story, 28 ft. high single-family residence with 720 sq. ft. attached garage, 1,250 sq. ft. detached workshop, 750 sq. ft. guest unit, swimming pool, septic system, entry gate, fencing, retaining walls, driveway, and 1,244 cu. yds. grading (748 cu. yds. cut, 496 cu. yds. fill).

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.

The subject parcel was legally created by a subdivision that was approved by the Commission in 1991 pursuant to CDP No. 5-91-588 (Wallis). The project site is bisected by a blue-line stream with riparian habitat that meets the definition of ESHA. The remainder of the property is disturbed from fuel modification requirements of adjacent residential development. While all proposed development has been clustered and sited at least 100 feet from the on-site riparian ESHA, fuel modification requirements for the proposed development will encroach into the on-site 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 proposed structures are sited as far as feasible from the riparian ESHA to minimize significant disruption of habitat values and

the development area conforms to 10,000 square feet. The project is conditioned to limit fuel modification within the riparian ESHA to removal of dead and downed wood and exotic plant species only. The project is also conditioned to require an open space restriction in order to ensure that the remaining ESHA on the site will be preserved.

Furthermore, fencing of the property would adversely impact the movement of wildlife through the riparian ESHA on this parcel. There is an existing chain-link fence bisecting the property in a north-south direction and following the approximate edge of the stream's east bank riparian canopy. Invasive pepper trees have also been planted adjacent to the riparian canopy. The installation of the fencing and invasive trees are unpermitted since no coastal development permit was requested or obtained for their installation. The project is conditioned to remove the unpermitted fencing and invasive trees that are adjacent to the stream corridor and limit any new fencing to within 50 feet of the approved development area, turnaround, and driveway.

The proposed structure will be visible from public viewing areas and has the potential to adversely impact visual resources. The proposed structure is sited and designed to minimize visual impacts. The project is conditioned to utilize exterior colors consistent with the surrounding natural landscape; that windows on the development be made of non-reflective glass; implement appropriate, adequate, and timely planting of native landscaping to soften the visual impact of the development from public view areas; and incorporate a limit on night lighting of the site to protect the nighttime rural character of this portion of the Santa Monica Mountains.

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APPENDICES

Appendix 1 Substantive File Documents

EXHIBITS

- Exhibit 1. Vicinity Map
- Exhibit 2. Parcel Map
- Exhibit 3. Aerial View
- Exhibit 4. Project Plans
- Exhibit 5. Project Site Plan with Fencing Location
- Exhibit 6. Open Space Restriction Area
- Exhibit 7. CDP 5-91-588 (Wallis) Approved Subdivision Plan

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, dated 10/4/2004; County of Los Angeles Environmental Health Services, Sewage Disposal System Conceptual Approval, dated 3/14/2006; County of Los Angeles Fire Department, Preliminary Fuel Modification Plan Approval, dated 5/30/2006; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, dated 10/10/2006.

I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

*I move that the Commission **approve** Coastal Development Permit No 4-04-120 pursuant to the staff recommendation.*

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:

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 qualified licensed professional. The Plan shall include detailed drainage and runoff control plans with supporting calculations. The plans shall incorporate long-term post-construction Best Management Practices (BMPs) that protect water quality and minimize increases in runoff volume and rate in the project design of developments in the following order of priority:

- a. Site Design BMPs: Project design features that reduce the creation or severity of potential pollutant sources, or reduce the alteration of the project site's natural stormwater flow regime. Examples are minimizing impervious surfaces, preserving native vegetation, and minimizing grading.
- b. Source Control BMPs: Methods that reduce potential pollutants at their sources and/or avoid entrainment of pollutants in runoff, including schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices. Examples are covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals.
- c. Treatment Control BMPs: Systems designed to remove pollutants from stormwater, by gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples are vegetated swales, detention basins, and storm drain inlet filters. Where post-construction treatment of stormwater runoff is required, treatment control BMPs (or suites of BMPs) shall, at a minimum, be sized and designed to treat, infiltrate, or filter stormwater runoff from each storm event, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.

The 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) Projects shall incorporate Low Impact Development (LID) techniques in order to minimize stormwater quality and quantity impacts from development, unless a credible and compelling explanation is provided as to why such features are not feasible and/or appropriate. LID strategies use small-scale integrated and distributed management practices, including minimizing impervious surfaces, infiltrating stormwater close to its source, and preservation of permeable soils and native vegetation.
- (2) Post-development runoff rates 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) Landscape plants shall have low water and chemical treatment demands and be 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 and, if applicable, in accordance with engineered plans prepared by a qualified licensed professional.
- (6) Runoff shall be discharged from the developed site in a non-erosive manner. Energy dissipating measures shall be installed where needed to prevent erosion. Plan details and cross sections for any rock rip-rap and/or other energy dissipating devices or structures associated with the drainage system shall be prepared by a qualified licensed professional. 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 qualified, licensed professional shall ensure that all energy dissipaters use the minimum amount of rock and/or other hardscape necessary to protect the site from erosion.
- (7) All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired prior to the onset of the storm season (October 15th each year) and at regular intervals as necessary between October 15th and April 15th of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
- (9) For projects located on a hillside, slope, or which may otherwise be prone to geologic instability, site drainage and BMP selection shall be developed concurrent with the preliminary development design and grading plan, and final drainage plans shall be approved by a licensed geotechnical engineer or engineering geologist.
- (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 affected 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 necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed 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.

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 a qualified, licensed professional. The qualified, licensed professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan are 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. Basins shall be sized to handle not less than a 10 year, 6 hour duration rainfall intensity event.
- (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.
- (g) All temporary, construction related erosion control materials shall be comprised of bio-degradable materials (natural fiber, not photo-degradable plastics) and must be removed

when permanent erosion control measures are in place. Bio-degradable erosion control materials may be left in place if they have been incorporated into the permanent landscaping design.

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 permitted disposal site or recycled at a permitted 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 necessary changes to the Coastal Commission approved site/development plans required by a qualified, licensed 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. The location and removal of all existing non-native invasive trees (pepper and eucalyptus trees) on the site shall be indicated on the landscape plan.
- (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 50 feet from 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. Fuel modification in riparian areas is limited to removal of dead and downed wood and exotics. 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. 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 6** attached to the findings in support of approval of this permit.

11. Site Inspection

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

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to Commission staff the email address and fax number, if available, and the address and phone number of a contact person authorized to receive the Commission's notice of the site inspections allowed by this special condition. The applicant is responsible for updating this contact information, and the Commission is entitled to rely on the last contact information provided to it by the applicant.

12. Removal of 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.

13. Removal of Unpermitted Development

The applicant shall remove the unauthorized chain-link fence that is within and adjacent to the on-site stream corridor, generally depicted in **Exhibit No. 5**, within 60 days of the issuance of this permit. The Executive Director may grant additional time for good cause.

14. Revised Plans

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, two sets of final revised project plans. All plans must be drawn to scale with dimensions shown. The final revised project plans and project description shall reflect the following:

- (1) Deletion of non-native invasive trees and chain-link fencing on the property that is within the stream's riparian canopy or within 50 feet of the stream's riparian canopy. However, the final revised plans may show fencing within 50 feet of the approved development area, consistent with Special Condition No. 5.

B. The Permittee shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

15. Condition Compliance

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

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.

17. Removal of Natural Vegetation

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

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant proposes to construct a new 5,392 sq. ft., two-story, 28 ft. high single-family residence with 720 sq. ft. attached garage, 1,250 sq. ft. detached workshop, 750 sq. ft. guest unit, swimming pool, septic system, entry gate, fencing, retaining walls, driveway, and 1,244 cu. yds. of grading (748 cu. yds. cut, 496 cu. yds. fill) (Exhibit 4).

The site is located at 1805 Cold Canyon Road at the northwest corner of Mulholland Highway and Cold Canyon Road in the Santa Monica Mountains, unincorporated Los Angeles County (APN 4455-018-062) (Exhibits 1-3). The subject property is 2.85 acres in size and situated among single-family residences to the north, east, and west, and Cold Canyon Road to the south.

The site consists of gently sloping terrain and is bisected by an intermittent U.S. Geological Survey (U.S.G.S.) designated blue-line stream that runs north-south across the property before entering a culvert at Cold Canyon Road at the southern property boundary. The stream is lined with mature riparian woodland vegetation, primarily willow trees. The remainder of the property contains non-native grasses and several scattered non-native invasive tree species (eucalyptus and pepper trees). The applicant proposes to remove the non-native invasive eucalyptus trees from the site, and is in agreement with a condition of permit approval requiring removal of non-native invasive pepper trees that have been planted on the site as well. Most of the property is subject to fuel modification requirements of adjacent residential development. There is an existing chain-link fence bisecting the property in a north-south direction and following the approximate edge of the stream's east bank riparian canopy (Exhibit 5). This fencing is unpermitted since no coastal development permit was requested or obtained for its installation. The applicant is in agreement with a condition of permit approval requiring removal of the unpermitted fencing.

The applicant had originally proposed more site grading (over 4,000 cu. yds.) to significantly re-contour the site on both sides of the on-site stream and adjacent to its banks. In addition, early grading plans prepared by the applicant had not shown the top of stream bank or edge of riparian canopy so an accurate measurement of the proposed developments' distance from the stream corridor could not be obtained. Commission staff requested that the applicant analyze project alternatives in order to minimize grading and landform alteration and ensure that proposed development was set back at least 100 feet from the stream's riparian canopy. The applicant then revised their grading plan in order to meet those objectives.

The project site is located in a scenic area, partially visible from Mulholland Highway (an LUP-designated Scenic Highway) to the south. However, due to the building site's distance from and the elevation above Mulholland Highway, and the presence of intervening existing development in the vicinity, no alternative siting or design options exist on the parcel in which the development would be significantly less visible from public viewing areas. There are no existing or mapped public trails on or adjacent to the subject property.

B. PAST COMMISSION ACTION AND PARCEL LEGALITY

In 1991, the Commission approved Coastal Development Permit (CDP) No. 5-91-588 (Wallis) for subdivision of an 11.66 acre lot into four lots that are 2, 5.27, 2.85, and 1.15 acres in size (Exhibit 7). No other development was proposed or approved in the application. Lot 2, the 5.27-acre lot, was already developed with an existing residence, garage, and barn structure approved pursuant to CDP No. SF-79-5144 and A-79-5724. The other three lots were vacant in 1991, but the applicant had identified potential building sites on each created lot along with associated grading plans. Conditions of permit approval included (1) evidence that a consulting geologist reviewed and approved the proposed grading plans for the created lots, and (2) evidence that the applicant mitigated for the cumulative impacts of the project by extinguishing the development rights of three potential buildable parcels elsewhere in the Santa Monica Mountains. The conditions of approval were satisfied and the permit was issued.

The parcel that is the subject of this staff report is Lot 3, the 2.85-acre lot, of the subdivision approved in CDP 5-91-588. Lot 4, the 1.15-acre lot to the east of Lot 3, has been developed with a residence pursuant to CDP No. 4-95-235. The other vacant lot created by the subdivision, the 2-acre Lot 1, remains undeveloped.

C. HAZARDS AND GEOLOGIC STABILITY

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

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

The proposed development is located in the Malibu/Santa Monica Mountains area, an area historically subject to significant natural hazards including, but not limited to, landslides, erosion, flooding and wild fire. The 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.

D. WATER QUALITY

Section 30231 of the Coastal Act states that:

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

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

The proposed development 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 algacides, chemical pH balancing, and other water conditioning chemicals).

In past permit actions in the Santa Monica Mountains, the Commission has required development be located a minimum distance of 100 feet from streams, in addition to requiring the employment of best management practices to minimize runoff of pollutants, in order to protect water quality. The 100-foot setback is measured from the outer edge of the riparian canopy, or the top of bank where there is no riparian vegetation. This setback provides sufficient area for infiltration of runoff, prevention of erosion and sedimentation, minimization of the spread of invasive exotic plant and animal species, and to allow for an adequate and functional natural vegetation buffer consistent with Section 30231.

As discussed previously, a designated blue-line stream bisects the property in a north-south direction. The stream is lined with mature riparian vegetation, primarily willow trees. The project has been sited and designed to ensure that all proposed development and associated grading provides a 100 foot setback from the outer edge of the riparian canopy on-site. Given the configuration and constraints of the subject property, there are no alternative locations for siting the residential development that would serve to increase the setback from the on-site stream.

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

Further, to ensure that excess excavated material generated by the project is moved off site so as to minimize erosion and sedimentation from stockpiled excavated soil, excess excavated material shall be disposed at an appropriate disposal site or to a site that has been approved to accept fill material.

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 12: Removal of Excess Excavated Material
- Special Condition 16: Pool Drainage and Maintenance
- Special Condition 17: Removal of Natural Vegetation

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

E. ENVIRONMENTALLY SENSITIVE HABITAT

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

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

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

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

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

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

- P63 Uses shall be permitted in ESHAs, DSRs, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with Table 1 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 2.85-acre property is located at the northwest corner of Mulholland Highway and Cold Canyon Road in the Santa Monica Mountains. The site is vacant, but is surrounded by single-family residences to the north, east, and west, and Cold Canyon Road to the south. The applicant proposes to construct a 5,392 sq. ft., 28 ft. high single-family residence with attached garage, a 1,250 sq. ft. detached workshop with 750 sq. ft. guest unit, swimming pool, septic system, entry gate, fencing, retaining walls, driveway, and 1,244 cu. yds. of grading (748 cu. yds. cut, 496 cu. yds. fill).

The applicant submitted a Biological Assessment, listed in the Substantive File Documents, which addresses the habitats present on the project site. Commission staff has also visited the site

to confirm site conditions. The site consists of gently sloping terrain that is bisected by an intermittent U.S. Geological Survey (U.S.G.S.) designated blue-line stream that runs north-south across the property before entering a culvert at Cold Canyon Road at the southern property boundary. The stream is lined with mature riparian woodland vegetation, primarily willow trees. The remainder of the property contains non-native grasses and several scattered non-native invasive tree species (eucalyptus and pepper trees). Most of the property is subject to fuel modification requirements of adjacent residential development.

The project has been designed to place all structures on an area of the site that is disturbed. All proposed development is at least 100 feet away and as far as feasible from the on-site stream riparian corridor. Any alternative location on the site would bring the development closer to the stream. 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.

Woodlands that are native to the Santa Monica Mountains, such as oak woodlands and riparian woodlands, have many important and special roles in the ecosystem. Native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, contribute nutrients to watersheds, and are important scenic elements in the landscape.

In the Santa Monica Mountains, riparian woodland contains the greatest overall diversity of all the plant communities in the area, partly because of its multi-layered vegetation.¹ Riparian communities are the most species-rich to be found in the Santa Monica Mountains. Because of

¹ National Park Service. 2000. Draft: General Management Plan & Environmental Impact Statement, Santa Monica Mountains National Recreation Area, US Dept. of Interior, National Park Service, December 2000.

their multi-layered vegetation, available water supply, vegetative cover and adjacency to shrubland habitats, they are attractive to many native wildlife species, and provide essential functions in their lifecycles². During the long dry summers in this Mediterranean climate, these communities are an essential refuge and oasis for much of the areas' wildlife.

Riparian habitats and their associated streams form important connecting links in the Santa Monica Mountains. These habitats connect all of the biological communities from the highest elevation chaparral to the sea with a unidirectional flowing water system, one function of which is to carry nutrients through the ecosystem to the benefit of many different species along the way.

Additional discussion of the special roles of riparian habitats in the Santa Monica Mountains ecosystem are discussed in the March 25, 2003 memorandum prepared by the Commission's Ecologist, Dr. John Dixon³ (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 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 LCP⁴.

As described above, the project site contains a designated blue-line stream that is lined with riparian woodland 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 riparian habitat on the project site meets the definition of ESHA in the Coastal Act.

² Walter, Hartmut. Bird use of Mediterranean habitats in the Santa Monica Mountains, Coastal Commission Workshop on the Significance of Native Habitats in the Santa Monica Mountains. CCC Hearing, June 13, 2002, Queen Mary Hotel.

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

⁴ Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.

3. Resource Dependent Use

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. Although the proposed structures will not be located within ESHA, required fuel modification to protect these structures from wildfire will require removal or modification of vegetation on the property that is ESHA. As single-family residences do not have to be located within ESHA to function, single-family residences are not a use dependent on ESHA resources. Section 30240 also requires that ESHA be protected against significant disruption of habitat values. As the construction of a residence on the site will require removal of ESHA only from fuel modification for fire protection purposes around the proposed residence, the project would 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.

The subject parcel was legally created by subdivision in 1991, approved by the Commission pursuant to Coastal Development Permit (CDP) No. 5-91-588 (Wallis). Residential use was contemplated for the parcel, as long as development provided a setback from the on-site stream corridor. In addition, the cumulative impacts of the additional residential development that would result from the approved subdivision were mitigated in CDP 5-91-588 by the extinguishment of development rights of three buildable parcels elsewhere in the Santa Monica Mountains. As such, the applicant had reason to believe that it would be possible to build a residence on the subject parcel.

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

In this case, siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to ESHA to the greatest extent feasible. The proposed residence, accessory structures, driveway, and associated grading have been sited at least 100 feet from the on-site riparian ESHA and have been clustered to the maximum extent feasible. However, fuel modification requirements of the proposed development would extend

into the riparian ESHA and the 100 foot ESHA buffer. Given the size and configuration of the property, there are no alternative locations on-site that would provide a greater setback from the riparian ESHA or avoid fuel modification requirements within the on-site ESHA or buffer.

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. The proposed development area conforms to the maximum development area of 10,000 sq. ft. All proposed structures are located within this development area. Any reduction in the size of the development area would not result in any significant reduction in fuel modification requirements within ESHA. 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 within the open space area (shown in **Exhibit 6**) 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. 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. There are several non-native invasive tree species (eucalyptus and pepper trees) scattered throughout the site. The applicant is in agreement with conditions of permit approval requiring removal of the non-native invasive eucalyptus and pepper trees from the site. This is required to be shown on the landscaping plan.

In order to minimize adverse impacts to the on-site riparian ESHA from the effects of fuel modification, fuel modification within the riparian area shall be limited to removal of dead and downed wood and exotics only. This is required to be shown on the final fuel modification and landscaping plans. Further, the disturbed areas of the site that are adjacent to the riparian ESHA shall be planted with native species, consistent with fuel modification requirements, in order to minimize erosion and sedimentation of the adjacent stream habitat.

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 on this parcel. There is an existing unpermitted chain-link fence bisecting the property in a north-south direction and following the approximate edge of the stream's east bank riparian canopy. This fencing in close proximity to the riparian vegetation would have adverse impacts on the ESHA and therefore cannot be approved in this location. In order to ensure that impacts to ESHA from the fencing are minimized, the Commission finds it necessary to require the applicant to remove the unpermitted fencing in a timely manner. Additionally, the Commission finds it necessary to limit any new fencing to that area of the site that is within 50 feet of the approved development area, turnaround, and driveway. This is required to be shown on revised plans and the landscaping plan. The applicant is in agreement with the conditions of permit approval requiring removal of the unpermitted fencing that is within 50 feet of the on-site stream and riparian canopy ESHA in order to allow for unimpeded wildlife movement.

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.

As described above, 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. Nonetheless, 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. The following special conditions are required, as determined in the findings above, to assure that the project is consistent with Section 30240 of the Coastal Act to the maximum extent possible:

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.	Open Space Restriction
Special Condition 11.	Site Inspection
Special Condition 13.	Removal of Unpermitted Development
Special Condition 14.	Revised Plans
Special Condition 17.	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, as limited by Section 30010.

F. VISUAL RESOURCES

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and

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

The proposed project area is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides. The site is visible from portions of Mulholland Highway, a scenic public road. 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 with a maximum height of 28.2 feet from finished grade. The proposed building site and design minimizes the amount of grading and landform alteration necessary for the project. The proposed residence has been clustered near existing residential development in the area. The development will be unavoidably visible from limited portions of Mulholland Highway, a scenic public road. However, due to the building site's distance from and the elevation above Mulholland Highway, and the presence of intervening existing development in the vicinity, no alternative siting or design options exist on the parcel in which the development would be significantly less 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.

G. 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.

H. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without the required coastal development permit. In 2001, the Commission's enforcement division observed that a portion of the subject site was being used for construction staging and stockpiling of equipment and materials associated with

the construction of a residence on an adjacent property to the east. Construction of the residence on the adjacent property to the east has since been completed and all temporary construction staging and stockpiling has been removed from the subject site. This permit application proposes residential development within the area of the site previously disturbed in 2001 and/or within the area subject to fuel modification requirements of the adjacent residence and the subject residence. Further, Special Condition 5 of this permit requires all graded and disturbed areas on the subject site to be planted with native/drought resistant plants.

However, there is new unpermitted development on the property that was observed during a site visit while processing the subject CDP application. The new unpermitted development includes the installation of an existing chain-link fence bisecting the property in a north-south direction and following the approximate edge of the stream's east bank riparian canopy. The unpermitted development also includes the planting of invasive pepper trees adjacent to the on-site stream. No evidence could be found that the fencing or invasive tree installation received a coastal permit from this Commission. The applicant is in agreement with conditions of permit approval summarized below requiring removal of the existing unpermitted fencing and invasive trees.

In order to ensure that the unpermitted development component of this application is resolved in a timely manner, the Commission finds it necessary to require the applicant to remove the unauthorized chain-link fence that is within and adjacent to the on-site stream corridor (generally depicted in Exhibit No. 5) within 60 days of the issuance of this permit, remove invasive trees and landscape all graded and disturbed areas of the site with native species, provide revised plans to delete the unauthorized chain-link fencing and invasive trees from project plans, and fulfill all of the Special Conditions that are a prerequisite to the issuance of this permit, within 180 days of Commission action. The following special conditions are required to assure the project's consistency with all applicable Chapter 3 policies of the Coastal Act:

- Special Condition 5. Landscaping and Fuel Modification Plans
- Special Condition 11. Site Inspection
- Special Condition 13. Removal of Unpermitted Development
- Special Condition 14. Revised Plans
- Special Condition 15. Condition Compliance

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

I. 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 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).

J. 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.

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 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.

APPENDIX 1

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 Report by James Henrickson of Independent Biological Consultants, dated September 15, 2007; Geotechnical and Engineering Geological Report by Gail Hunt, Certified Engineering Geologist, dated October 10, 2005; Geotechnical Investigation by Dale Hinkle, Professional Engineer, dated November 10, 2005; CDP No. SF-79-5144; CDP No. 4-95-235 (Wallis); CDP No. 5-91-588 (Wallis).

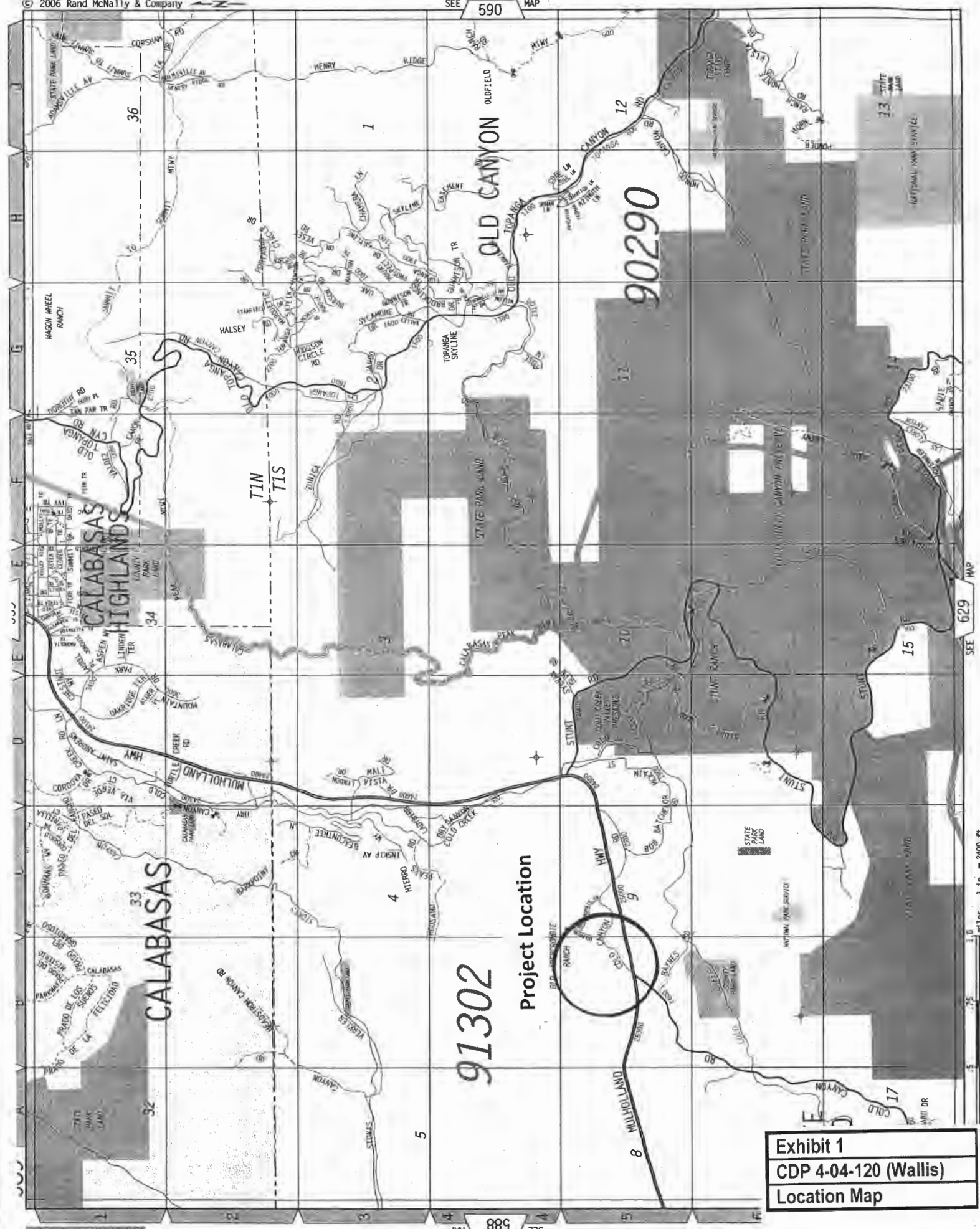
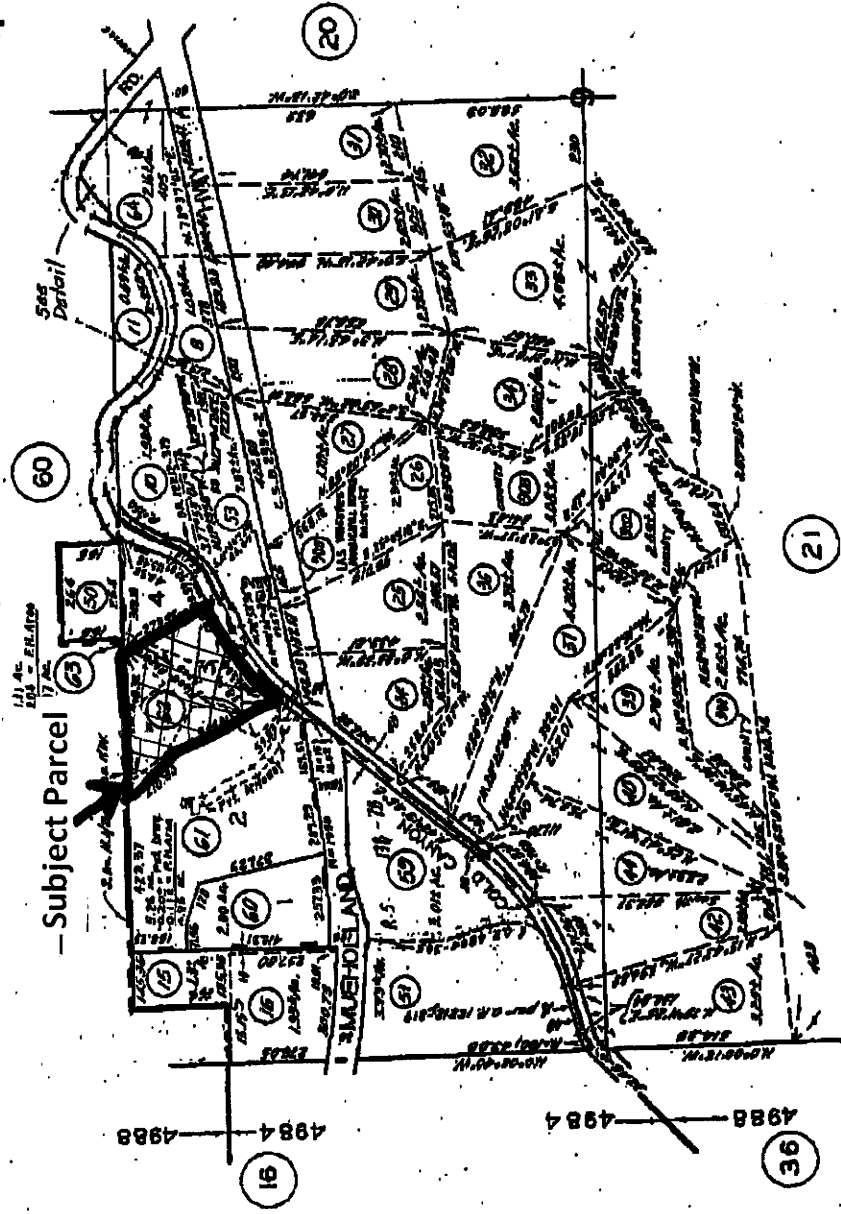
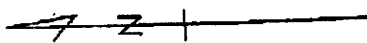


Exhibit 1
CDP 4-04-120 (Wallis)
Location Map

55 18
1" = 400'

2004



CODE
4984
4988

Exhibit 2
CDP 4-04-120 (Wallis)
Parcel Map

T. 1 S., R. 17 W.
PARCEL MAP - P. M. 258-50-52

FOR PREV. ASSM'T SEE:
4455-18 & 20



Exhibit 3
CDP 4-04-120 (Wallis)
Aerial View

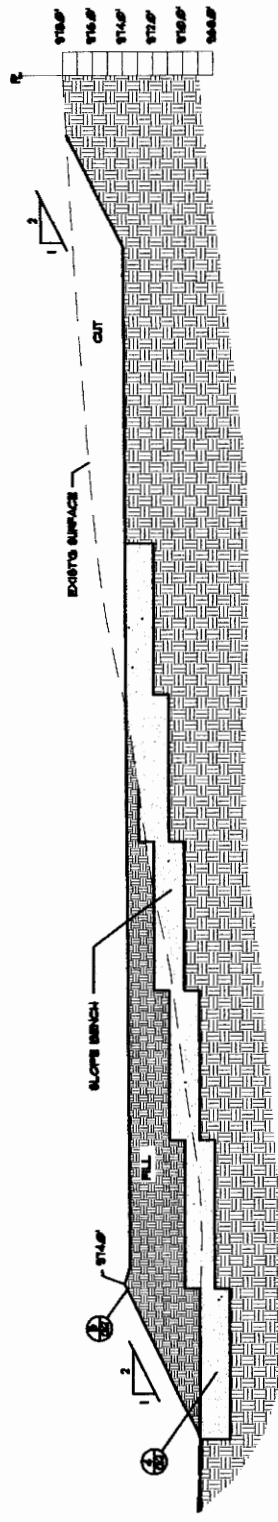
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Location	1828 GOLD CANYON ROAD
City	CALABASAS, CALIF. 91302
Client	MICHAEL E. JALOWSKI, P.E.
Engineer	CIVIL ENGINEER
Address	34708 APPLE STREET
City	HERNDON, CALIFORNIA 92021
Phone	(661) 805-1000, Fax (661) 254-2268

PROPOSED GRADING DETAILS

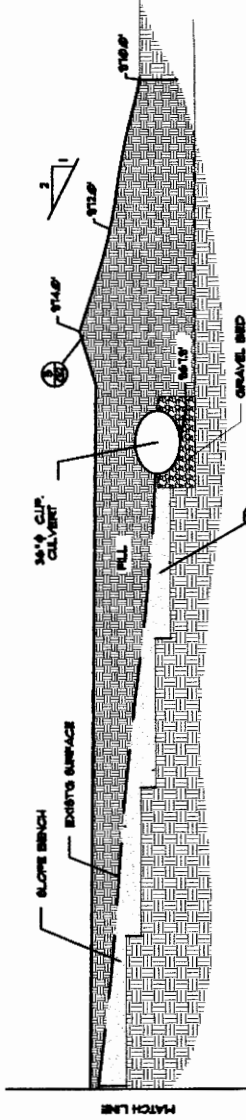
WALLIS PROJECT
1828 GOLD CANYON ROAD
CALABASAS, CALIF. 91302

MICHAEL E. JALOWSKI, P.E.
CIVIL ENGINEER
34708 APPLE STREET
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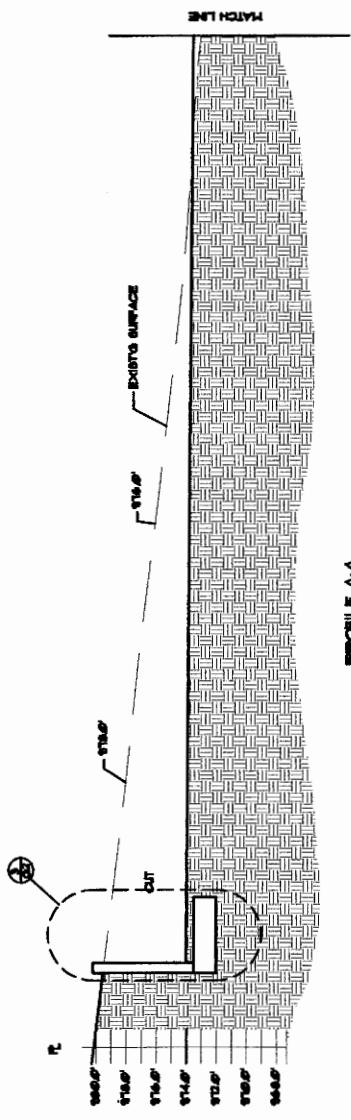
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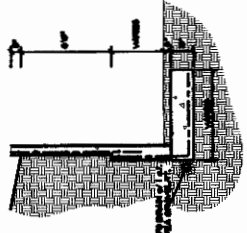
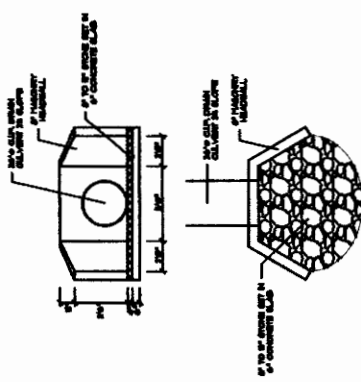
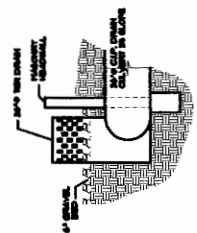


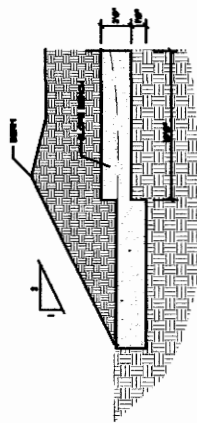
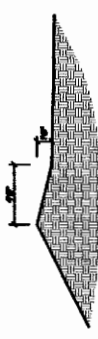
PROFILE A1/A



PROFILE A1/A



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2 CULVERT OUTLET DETAIL			
1 CULVERT INLET DETAIL			

4 BENCH DETAIL			
5 BERM DETAIL			

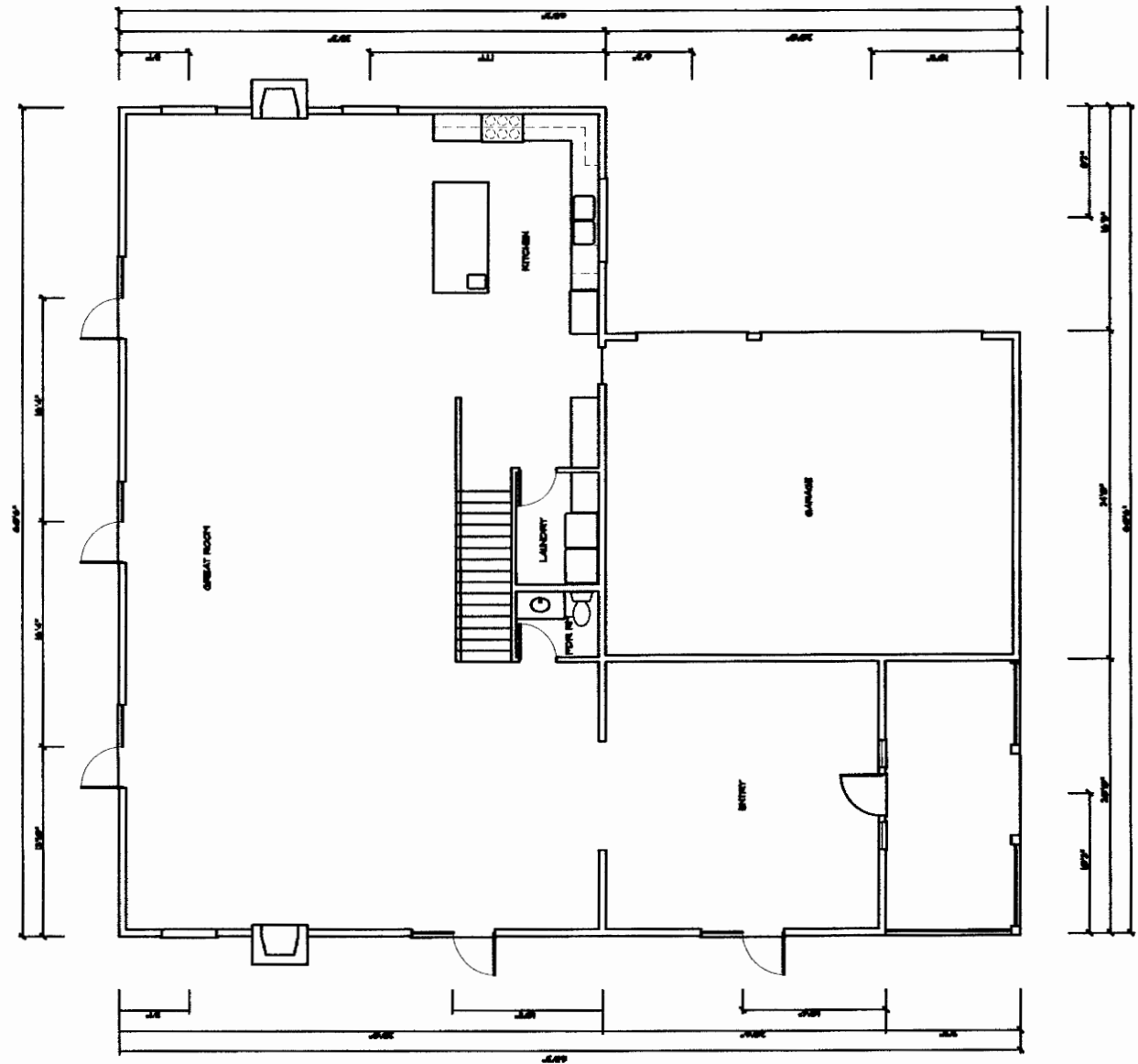
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FIRST FLOOR PLAN

WALLIS PROJECT
1808 GOLD CANYON ROAD
CALABASAS, CALIFORNIA 91322

MICHAEL E. JALBRUN, P.E.
CIVIL ENGINEER
24728 APPLE STREET
HERMAL, CALIFORNIA 91301
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1808 GOLD CANYON



2005.07

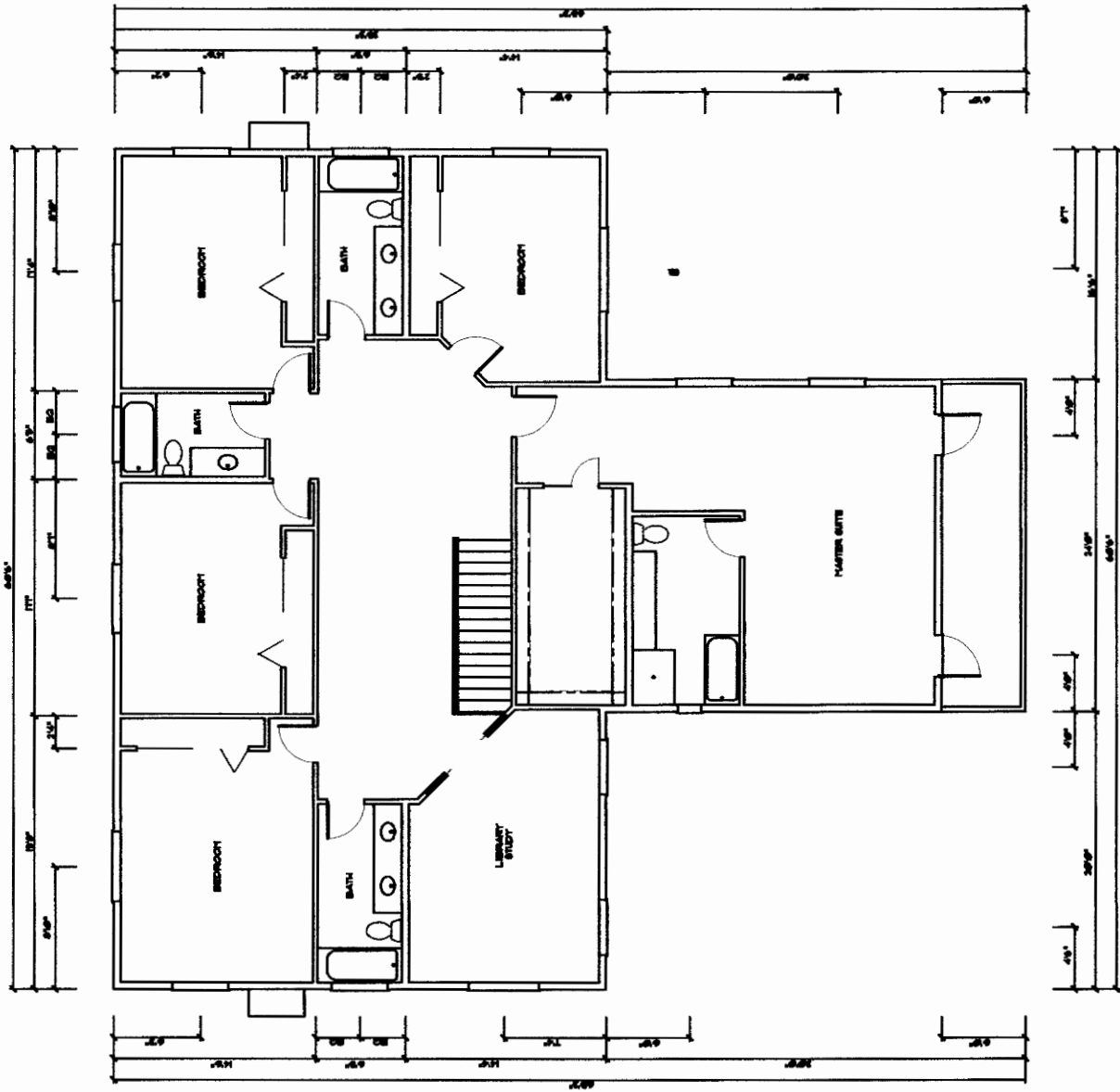
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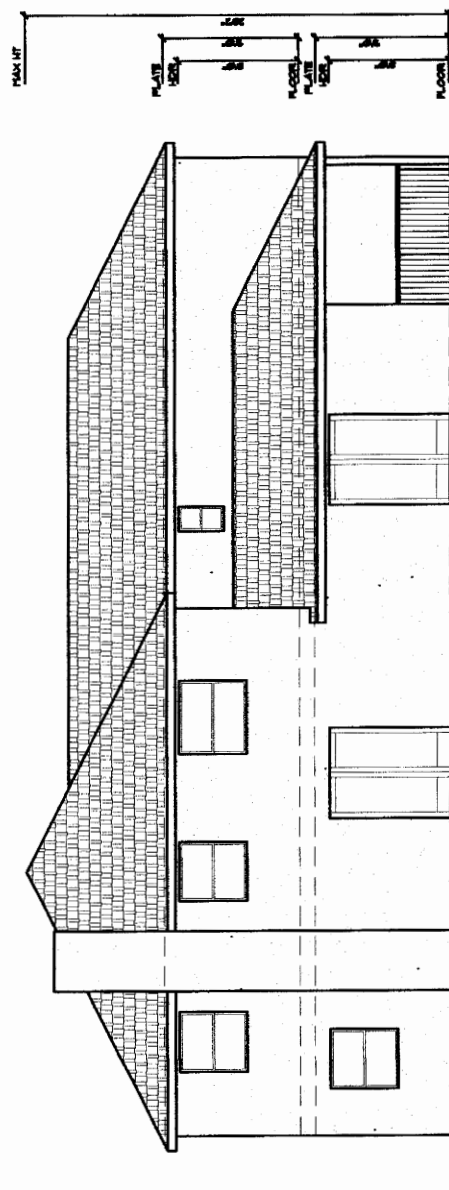
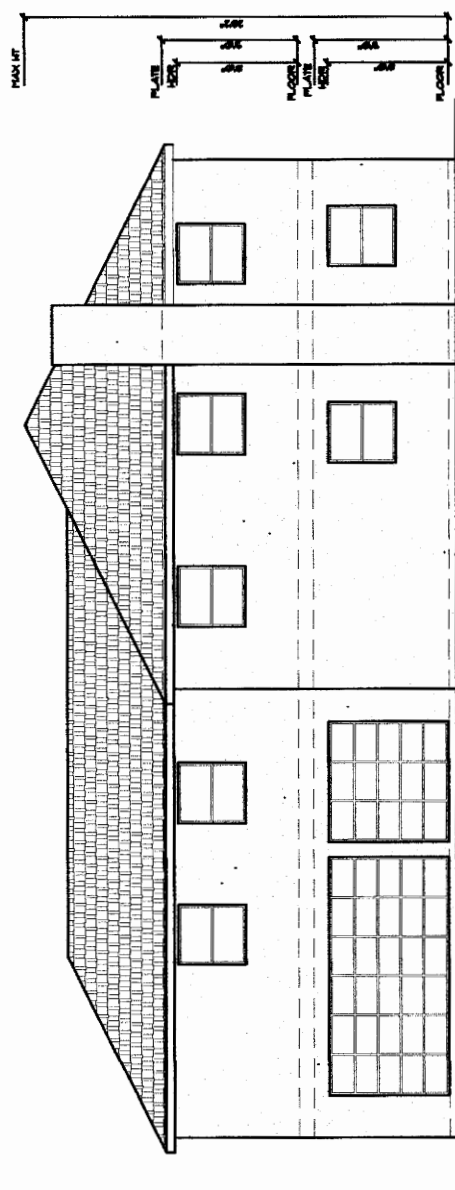
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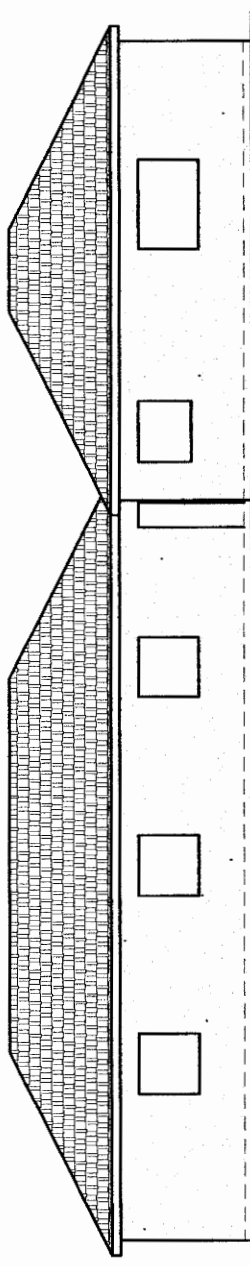
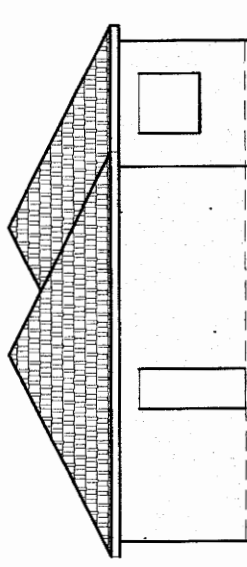
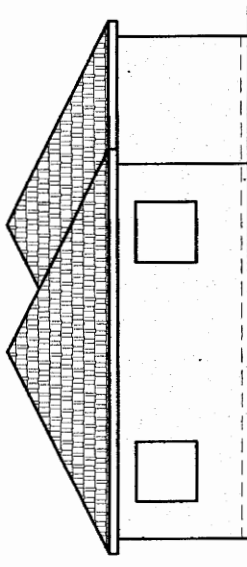
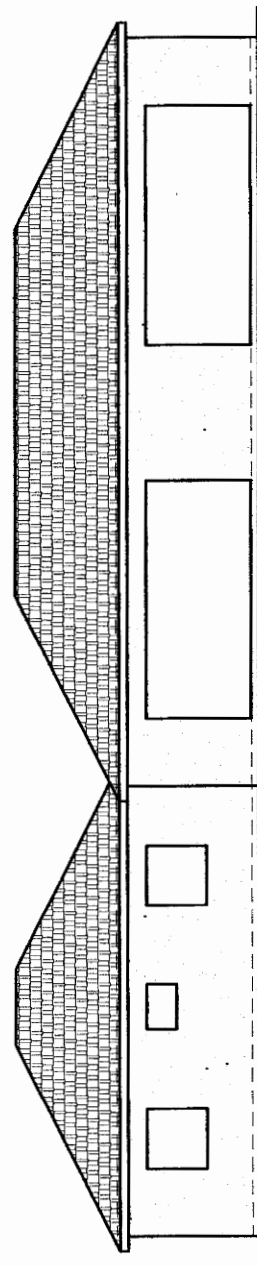
WALLIS PROJECT
1005 COLD CANYON ROAD
CALABAS, CALIFORNIA 91302

MICHAEL E. JALURD, P.E.
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(661) 259-1525, FAX (661) 254-2265

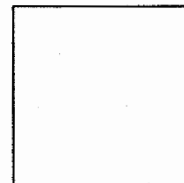


**WEIGHT EVALUATION**

FAST EVAPORATION



VELOCITY MAP



SHEET INDEX

NO.	DESCRIPTION
1	GENERAL NOTES
2	PROPOSED GRADING PLAN
3	PROPOSED FENCING PLAN
4	PROPOSED UTILITY PLAN
5	PROPOSED EROSION CONTROL PLAN
6	PROPOSED DRAINAGE PLAN
7	PROPOSED LANDSCAPE ARCHITECTURE PLAN
8	PROPOSED SITE PLAN
9	PROPOSED CONCEPTUAL SITE PLAN
10	PROPOSED CONCEPTUAL SITE PLAN

- SYMBOL LEGEND**
- 1. Proposed grading (contour interval 2 feet)
 - 2. Proposed grading (contour interval 1 foot)
 - 3. Proposed grading (contour interval 0.5 foot)
 - 4. Proposed grading (contour interval 0.2 foot)
 - 5. Proposed grading (contour interval 0.1 foot)
 - 6. Proposed grading (contour interval 0.05 foot)
 - 7. Proposed grading (contour interval 0.02 foot)
 - 8. Proposed grading (contour interval 0.01 foot)
 - 9. Proposed grading (contour interval 0.005 foot)
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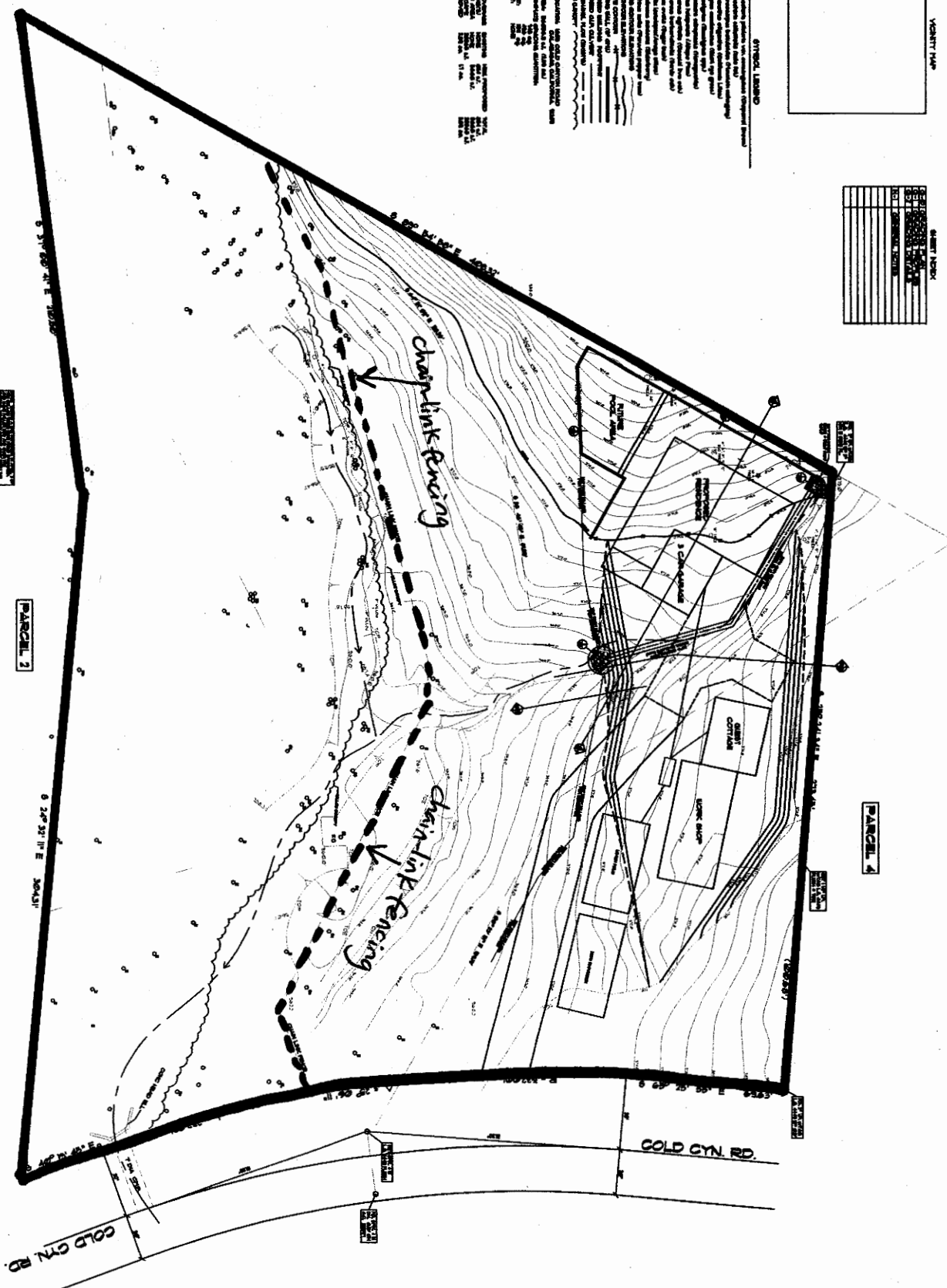


Exhibit 5
CDP 4-04-120 (Wallis)
Fencing Location

PROPOSED GRADING PLAN

WALLIS PROJECT
1805 COLD CANYON ROAD
CALABASAS, CALIF. 91302

MICHAEL
CI
2472
NEURAL
(661) 825 1

DATE
10/1/00
DRAWN BY
J. L. L. L.
CHECKED BY
J. L. L. L.
SCALE
1" = 200'

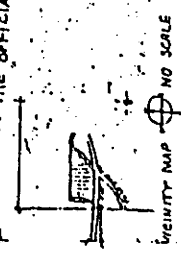
[illegible][illegible]

1. 2000

Date _____ Author P. J. [unclear] Drawn By _____ Job # _____ Project _____ 6-0 6-0	PROPOSED GRADING PLAN	WALLIS PROJECT 1808 COLD CANYON ROAD CALABASAS, CALIF. 91302	MICHAEL CI 2472 NEWHAL (661) 829 1	CDP 4-04-120 (Wallis) Open Space Area
--	-----------------------	--	--	--

OWNER: GENE E. & MARTHA A. WALLIS
 3101 MULHOLLAND HWY.
 CALIFORNIA 91302
 (818) 799-9573
 APRIL 10, 1991
 TOTAL AREA: 15.50 AC
 SCALE: 1" = 50'
 ZONING: A1-1
 PROPOSED ZONING: A1-1

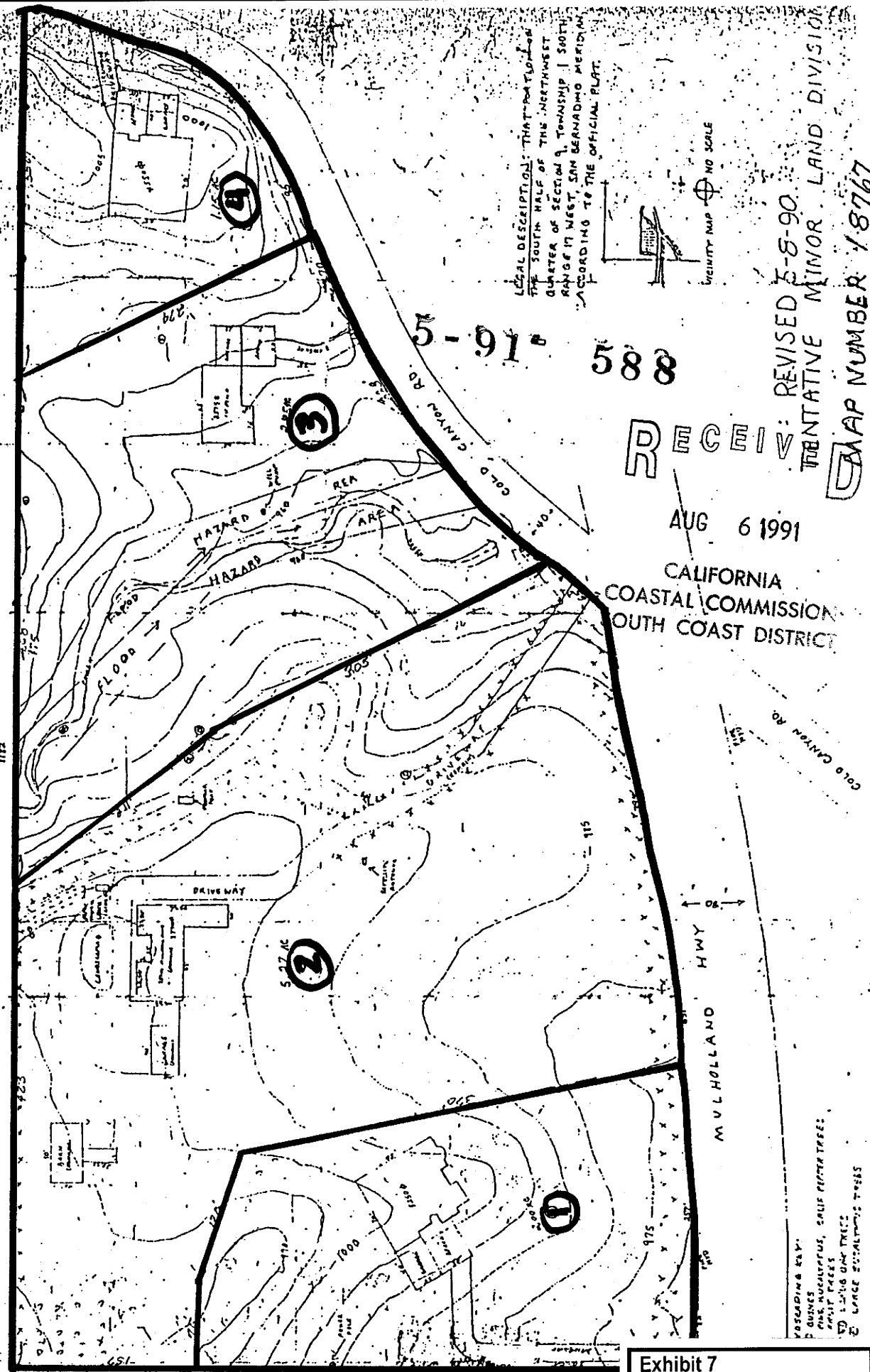
LEGAL DESCRIPTION: THAT PORTION OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 17 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO THE OFFICIAL PLAT.



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 TENTATIVE MINOR LAND DIVISION
 MAP NUMBER 18767

RECEIVED
 AUG 6 1991

CALIFORNIA
 COASTAL COMMISSION
 SOUTH COAST DISTRICT



LEGEND:
 QUINCE
 MULHOLLAND, CALIF. PINE TREES
 PINE TREES
 LARGES OAK TREES
 LARGES EUCALYPTUS TREES

Exhibit 7
 CDP 4-04-120 (Wallis)
 Approved Subdivision
 Plan - CDP 5-91-588