

Hearing Officer Transmittal Checklist

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|--------------------------------|
| Hearing Date June 16, 2009 |
| Agenda Item Number <i>4</i> |

PROJECT NUMBER 96209-(3)
CONDITIONAL USE PERMIT 200700131
Contact Person: Dean Edwards

| Included | NA/None | Document |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Factual |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Property Location Map |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Staff Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Draft Findings |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Draft Conditions |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Approved Conditions for RCUP96-209 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | DPW Letter |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | FD Letter |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Other Department's Letter(s) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Burden Of Proof Statement(s) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Environmental Documentation (IS, MMP, EIR) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Opponent And Proponent Letters |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Photographs |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution (ZC Or PA) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance with 8.5 X 11 Map (ZC Or PA) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Aerial (Ortho/Oblique) Image(s) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Land Use Radius Map |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Site Plan And Elevations |

Reviewed By: *Max Anderson*



Los Angeles County Department of Regional Planning
 320 West Temple Street
 Los Angeles, California 90012
 Telephone (213)
PROJECT NUMBER 96209-(3)
CONDITIONAL USE PERMIT 200700131

| | |
|---|--------------------------|
| PUBLIC HEARING DATE June 16, 2009 | AGENDA ITEM 4. |
| RPC CONSENT DATE | CONTINUE TO |

| | | |
|---|---------------------------------------|--|
| APPLICANT Anne Marie Bennestrom | OWNER Anne Marie Bennestrom | REPRESENTATIVE Kathleen Hill |
|---|---------------------------------------|--|

PROJECT DESCRIPTION
 The proposed project consists of the continued operation of a health retreat. No new construction is proposed. The facility operates 24 hours a day, seven days a week. A maximum of 5 staff members are on site at any given time. One staff member resides at the facility. Clients are transported to and from the facility by the two facility vans.

REQUIRED ENTITLEMENTS
 Conditional Use Permit for the continued operation of a health retreat, a use subject to permit in the A-1-1 (Light Agriculture) zone.

LOCATION/ADDRESS
 2025 North McKain Street

SITE DESCRIPTION
 The project site slopes north to south; is developed with a 2,800 square foot main building with a pool and spa, seven accessory structures (four 100 square foot meditation buildings, a 400 square foot yoga building and two service buildings) and nine parking spaces. A garden is located on the south parcel. The northern parcels are vegetated with ornamental and native vegetation.

| | |
|---|---|
| ACCESS North McKain Street | ZONED DISTRICT The Malibu |
| ASSESSORS PARCEL NUMBER 4455-020-009, 4455-020-010 & 4455-020-015 | COMMUNITY Malibu Coastal Zone |
| SIZE 5.73 Acres | COMMUNITY STANDARDS DISTRICT NA |

| | EXISTING LAND USE | EXISTING ZONING |
|--------------|-------------------------|---------------------------|
| Project Site | Health Retreat | A-1-1 (Light Agriculture) |
| North | Single-family Residence | A-1-1 (Light Agriculture) |
| East | Single-family Residence | A-1-1 (Light Agriculture) |
| South | Single-family Residence | A-1-1 (Light Agriculture) |
| West | Single-family Residence | A-1-1 (Light Agriculture) |

| | | |
|---|---|---|
| GENERAL PLAN/COMMUNITY PLAN Malibu Local Coastal Plan | LAND USE DESIGNATION Rural Land 3 | MAXIMUM DENSITY One dwelling unit per two acres |
|---|---|---|

ENVIRONMENTAL DETERMINATION
 Class 1 Categorical Exemption – Existing Facilities

RPC LAST MEETING ACTION SUMMARY

| | | |
|-----------------------|-------------------|---------------------------|
| LAST RPC MEETING DATE | RPC ACTION | NEEDED FOR NEXT MEETING |
| MEMBERS VOTING AYE | MEMBERS VOTING NO | MEMBERS ABSTAINING/ABSENT |

TO BE COMPLETED ONLY ON CASES TO BE HEARD BY THE BOARD OF SUPERVISORS

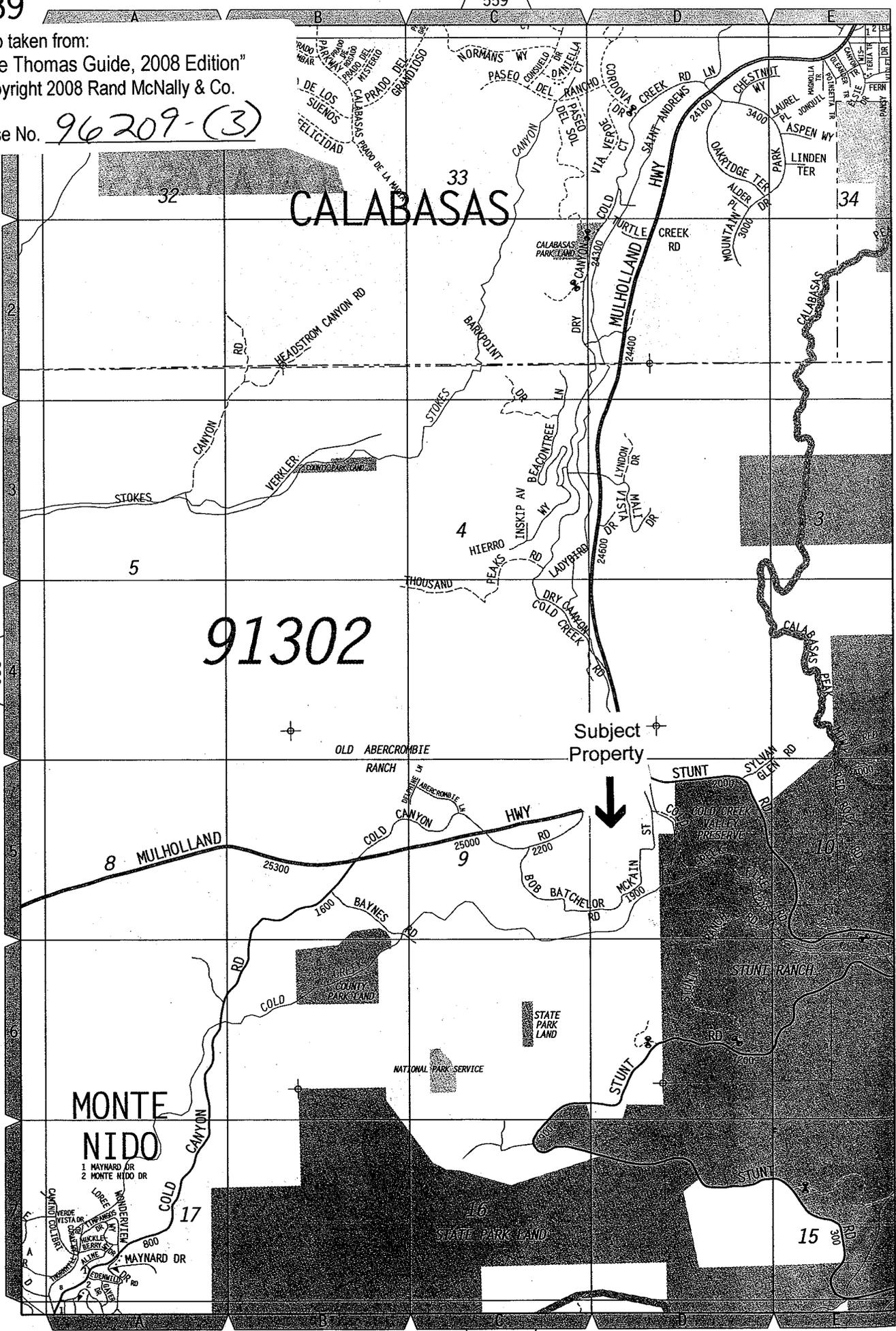
| | | |
|---|-----------------------------|---------------------------|
| STAFF CONTACT PERSON: | | |
| RPC HEARING DATE(S) | RPC ACTION DATE | RPC RECOMMENDATION |
| MEMBERS VOTING AYE | MEMBERS VOTING NO | MEMBERS ABSTAINING |
| STAFF RECOMMENDATION (PRIOR TO HEARING): | | |
| SPEAKERS* (O) (F) | PETITIONS (O) (F) | LETTERS (O) (F) |

*(O) = Opponents (F) = In Favor

Map taken from:
"The Thomas Guide, 2008 Edition"
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Case No. 96209-(3)

SEE 588 MAP



CALABASAS

91302

Subject Property



MONTE NIDO

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STAFF ANALYSIS
PROJECT NUMBER 96209-(3)
CONDITIONAL USE PERMIT 200700131

PROJECT DESCRIPTION

The proposed project consists of the continued operation of a health retreat. No new construction is proposed. The facility operates 24 hours a day, seven days a week. A maximum of 5 staff members are on site at any given time. One staff member resides at the facility. Clients are transported to and from the facility by the two facility vans.

REQUIRED ENTITLEMENTS

Conditional use permit for the continued operation of a health retreat, a use subject to permit in the A-1-1 (Light Agriculture) zone.

LOCATION

The subject property is located at 2201 North Stunt Road in the Malibu Coastal Zone and the Malibu Zoned District.

SITE DESCRIPTION

The 5.73 acre project site slopes north to south; is developed with a 2,800 square foot main building with a pool and spa, seven accessory structures (four 100 square foot meditation buildings, a 400 square foot yoga building and two service buildings) and nine parking spaces. A garden is located on the south parcel. The northern parcels are vegetated with ornamental and native vegetation. Access is provided by Mckain Street.

ENVIRONMENTAL DETERMINATION

The project is eligible for a Class 1 Categorical Exemption for existing facilities.

LEGAL NOTIFICATION AND PUBLIC OUTREACH

Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, property posting, library posting and DRP website posting.

PREVIOUS CASES/ZONING HISTORY

The existing facility was approved under the following three cases:

- Conditional Use Permit 608 was approved December 17, 1974 and it expired on January 29, 1985.
- Conditional Use Permit 2574 was approved on April 10, 1985 and it expired on January 29, 1995.
- Conditional Use Permit 96-209 was approved on August 5, 1997 and it expired October 2, 2007. Conditions for the permit are attached.

STAFF EVALUATION

General Plan Consistency

The Malibu Local Coastal Plan residential land use designation for the subject property is Rural Land 3, which has a maximum density of one dwelling unit per two acres. *Rural land is generally low-intensity, rural areas characterized by rolling steep terrain usually outside established rural communities. Principal permitted land uses shall include: large lot residential use, low intensity commercial recreational uses, agriculture activities, the less intensively developed or open space portion of urban and rural developments, and lower cost visitor uses such as hostels, tent camps, recreational vehicle parks, and similar uses are permitted as a conditional use, provided that any residential use for more than short term visitor occupancy shall not exceed the intensity of the equivalent residential density.* (Malibu Local Coastal Plan – page 53)

There are no Malibu Local Coastal Plan policies that apply to the existing health retreat facility.

Staff analysis concludes that the facility is consistent with the Malibu Local Coastal Plan.

Zoning Ordinance and Development Standards Compliance

The subject property is zoned A-1-1 (Light Agriculture – One Acre Lot Minimum). The facility is a Health Retreat, a use subject to permit in the Light Agriculture zone.

Section 22.24.060 identifies required conditions for Health Retreats in the Agricultural Zones. These conditions have been included in the attached draft conditions (15-21).

Pursuant to Section 22.52.1220, *parking requirements for any uses that are not specified, parking shall be provided in an amount which the director finds adequate to prevent traffic congestion and excessive on-street parking.* Nine parking spaces are provided. A maximum of five staff members are on site at any given time. Clients are transported to and from the facility by the two facility vans. Two parking spaces are available for deliveries and visitors. Staff analysis concludes there is sufficient parking at the facility. Condition 24 requires that nine parking spaces be maintained.

Staff analysis concludes that the facility is compliant with the Zoning Ordinance.

Neighborhood Impact/Land Use Compatibility

The subject property is surrounded by single-family residences. There is no history of violations property. With conditions, the facility should not have a negative impact on the neighborhood.

Burden of Proof

The applicant is required to substantiate all facts identified by Section 22.24.060 of the Los Angeles County Code. The Burden of Proof with applicant's responses is attached. Staff analysis concludes that the Burden of Proof has been met.

COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS

The Fire Department submitted a letter dated April 9, 2009 clearing the project for hearing, requiring the removal of one parking space (reducing the number of spaces from ten to nine) for the fire lane and the clearance of brush. Staff observed during the site inspection that the bush clearance had occurred.

PUBLIC COMMENTS

No comments from the public have been received.

FEES/DEPOSITS

If approved, fees identified in the attached project conditions will apply unless modified by the Hearing Officer.

STAFF RECOMMENDATION

The following recommendation is made prior to the public hearing and is subject to change based upon testimony and/or documentary evidence presented at the public hearing: Staff recommends approval of Project Number 96209 and Conditional Use Permit 200700131 subject to the attached conditions.

Prepared by Dean Edwards, Senior Regional Planning Assistant
Reviewed by Mark Child, Supervising Regional Planner, Zoning Permits 1 Section

Attachments:

Draft Conditions of Approval
Applicant's Burden of Proof statement
Environmental Document
Site Photographs
Site Plan
Land Use Map

FINDINGS AND ORDER OF THE HEARING OFFICER COUNTY OF LOS ANGELES

**PROJECT NUMBER 96209-(3)
CONDITIONAL USE PERMIT 200700131**

REQUEST: Conditional use permit for the continued operation of a health retreat, a use subject to permit in the A-1-1 (Light Agriculture) zone.

HEARING DATE: June 16, 2009

PROCEEDINGS BEFORE THE HEARING OFFICER:

Findings

1. The subject property is located at 2025 North McKain Street in the Malibu Coastal Zone and the Malibu Zoned District.
2. The proposed project consists of the continued operation of a health retreat. No new construction is proposed. The facility operates 24 hours a day, seven days a week. Currently, a maximum of 5 staff members are on site at any given time with only one staff member residing at the facility. Clients are transported to and from the facility by the two facility vans.
3. The facility is consistent with the Malibu Local Coastal Plan because the use is similar to uses allowed in the Rural Land 3 land use designation and the facility does not conflict with any of the Plans' policies.
4. With the approval of a Conditional Use Permit, the facility is compliant with the Zoning Ordinance because a Health Retreat is a use subject to permit A-1-1 (Light Agriculture – One Acre Lot Minimum) zone and there is sufficient parking for the facility (nine spaces).
5. The facility is compatible with the surrounding neighborhood because the property does not have a history of zoning violations and the conditions have been applied to the permit to minimize the facility's impact on the neighborhood.
6. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper and property posting.
7. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Hearing Officer determines that it is necessary to limit the term of the grant to 20 years with the option of a 10 year Director's review for a total of 30 years.

8. The location of the documents and other materials constituting the record of proceedings upon which the Commission's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits 1 Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

- A. That the proposed use is consistent with the adopted general plan for the area; and
- B. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety or general welfare; and
- C. That the proposed site is adequate in size and shape to accommodate the development features prescribed in Title 22 of the County Code, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- A. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required.

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a Conditional Use Permit as set forth in Section 22.56.040 of the Los Angeles County Code.

HEARING OFFICER ACTION:

1. I have considered the Categorical Exemption for this project and certify that it is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.
2. In view of the findings of fact and conclusions presented above, Conditional Use Permit 200700131 is APPROVED subject to the attached conditions.

c: Hearing Officer, Zoning Enforcement, Building and Safety

This grant authorizes the continued operation of a health retreat, subject to the following conditions of approval:

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition Number 8, and until all required monies have been paid pursuant to Condition Number 9 and Condition Number 10.
3. The permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate reasonably in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
4. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee according to Los Angeles County Code Section 2.170.010.

5. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
6. Prior to the use of this grant, the property owner or permittee shall **record the terms and conditions** of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
7. **This grant will terminate on June 16, 2029** unless renewed by the Director for one additional period of ten years, not to exceed a total grant term of thirty (30) years, upon the permittee's request made in accordance with the procedures set forth in Part 12 of Chapter 22.56 of the County Code and notification per subsection A.10.c of Section 22.56.030. A request for Director's Review must be made at least six months before the expiration date. Upon termination of this grant, entitlement to the use of the property shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, a new conditional use permit application shall be filed with the Department of Regional Planning at least six months prior to the termination of this permit, whether or not any modification of the use is requested at that time.
8. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. The permittee shall deposit with the County of Los Angeles the sum of **\$1,500.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The deposit provides for **ten (10) biennial (one every other year)** inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the approved site plan on file. The amount charged for additional inspections shall be \$150.00 per inspection, or the current recovery cost, whichever is greater.

9. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or

- a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance.
10. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.
 11. All structures shall conform with the requirements of the Division of Building and Safety of the Department of Public Works.
 12. All structures, walls and fences open to public view shall remain free of extraneous markings, drawings or signage that was not approved by the Department of Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises.
 13. In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
 14. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, a Revised Exhibit "A" shall be submitted to the Department of Regional Planning within sixty (60) days of the date of approval for the Conditional Use Permit.
 15. The health retreat shall be located on a lot or parcel of land having an area of not less than two acres.
 16. Not more than 10 persons, including staff, patrons and guests, shall be in residence at such retreat at any one time.
 17. All activities shall be conducted as a part of a live-in healthcare program only. Providing services to persons in residence for less than 24 hours is prohibited.
 18. All exercise, gymnasium, therapy and similar equipment, and areas used for sunbathing, shall be located within a building or shall be effectively screened so as not to be visible to surrounding property. Such screening shall consist of walls, screening fences or suitable landscaping.

19. All patrons shall be transported to and from the premises unless otherwise expressly authorized by the hearing officer.
20. Where visible to surrounding property, all retreat structures shall be compatible with the dwellings and structures in the vicinity thereof.
21. No signs shall be permitted in conjunction with such use.
22. Nine off-street parking spaces shall be maintained at all times.
23. Employee vehicles, facility vehicles and delivery vehicles must park on-site.
24. Outdoor storage on required parking spaces is prohibited.
25. All outdoor lighting shall be shielded and directed away from adjacent residences.
26. The use of accessory structures as residences is prohibited.
27. Assessor's Parcel Number 4455-021-015 shall be considered a part of this grant. Said parcel shall be kept vacant.
28. Guests, on a non-resident basis, are not permitted on the site.
29. A staff member shall be considered in residence when he or she spends more than 12 hours per day on the premises on a regular basis, but does not include a staff member who works only on the premises during the evening hours for security or emergency purposes.
30. A maximum of two owner/operators are permitted on the property on a non-resident bases at any one time.
31. A maximum of six staff members, in addition to the operators of the facility, are permitted on the property at any one time.
32. A "No Parking" sign shall be erected and maintained by the applicant along the frontage of the subject property that is located on McKain Street.
33. The permittee must implement all conditions identified in the Fire Department's letter dated April 9, 2009.



Los Angeles County
Department of Regional Planning

Director of Planning. James E. Hartl. AICP



October 2, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

The Ashram
c/o Tom Cohen
Cohen, Alexander & Clayton
One Boardwalk, Ste. 102
Thousand Oaks, CA 91360-5799

RE: CONDITIONAL USE PERMIT CASE NO. 96-200 (3)
To authorize the continued operation of a health retreat.
2025 McKain Street, Calabasas.

Dear Applicant:

PLEASE NOTE: This document contains the Hearing Officer's findings and order and conditions relating to **APPROVAL** of the above referenced case. **CAREFULLY REVIEW EACH CONDITION.**

Condition 2 requires that the permittee must file an affidavit accepting the conditions before this grant becomes effective. **USE THE ENCLOSED AFFIDAVIT FOR THIS PURPOSE.**

The applicant or **ANY OTHER INTERESTED PERSON** may **APPEAL** the Hearing Officer's decision to the Regional Planning Commission at the office of the commission's secretary, Room 170, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Contact the commission's secretary for the necessary forms and the amount of the appeal fee at (213) 974-6409. The appeal must be postmarked or delivered in person within 15 days after this notice is received by the applicant. The Hearing Officer's decision may also be called up for review by the Regional Planning Commission during the appeal period.

For further information on appeal procedures or any other matter pertaining to this approval, please contact the Zoning Permits Section at (213) 974-6443.

HEARING OFFICER'S FINDINGS AND ORDER:

REQUEST: The applicant requests a Conditional Use Permit to authorize the continued operation of a health retreat ("Ashram") in an A-1-1 (Light Agriculture - One Acre Required Area) zone.

FACTUAL SUMMARY:August 5, 1997 Public Hearing

A duly noticed public hearing was held. Four persons were sworn (the applicant, the applicant's representative and two neighboring property owners).

The applicant's representative presented testimony in support of the project. The representative noted that the applicant would be willing to include the southerly parcel (APN 4455-021-015) in the application to provide assurance to the residents that no further development would take place. However, the applicant had requested a modification of three proposed conditions: Condition 17(c) limiting the maximum number of guests to eight; 17(j), requiring all areas used by motor vehicles to be paved; and 17(k), requiring the submission of a landscaping plan. The applicant's representative noted that due to cancellations it was necessary to over-book events; that most portions of the McKain were unpaved and to include that in paving requirements would be unreasonable; paving the parking lot would not be compatible with the neighborhood, though the applicant would use a hose and spigot to water down the parking lot; the parking lot was not generally visible from the properties to the south; the one neighbor, northerly of the parking lot, who had the best view, did not object to the landscaping.

Two nearby residents voiced concerns about the conditions of approval. Issues included the exclusion of the southerly parcel as a part of the conditional use permit (the testifiers requested that this parcel be included and kept vacant to reduce impacts to southerly properties); booking in excess of eight guests; excessive staff; visibility of cars and windshield glare from the parking lot; concerns about increasing the number of guests (which the testifiers felt would also increase the number of staff); and that provisions were not made for the termination of the use at the sale of the property. The testifiers were concerned that another establishment would not operate a health retreat on the property as responsibly as the Ashram.

In rebuttal, the applicant noted due to cancellations, the Ashram, at times, operated at less than optimal capacity; over-booking at 12 guests would preclude this from happening. The applicant also noted that the Ashram had complied with the part of the ordinance covering health retreats. The applicant finally stressed that business growth has been slow.

The Hearing Officer noted that termination of the permit upon sale of the property was unenforceable. Staff also noted that County Counsel had rendered an opinion that conditional use permit grants ran with the property upon sale. In response to community concerns the Hearing Officer commented that the limitation of the grant to

10 years provided adequate protection to the neighboring property owners.

There being no further testimony, the Hearing Officer closed the public hearing and approved the project subject to the conditions recommended by staff, with some additional conditions: that the southerly parcel be included in the conditional use permit; for the applicant to provide parking lot landscaping to the satisfaction of the staff biologist; tennis courts would be prohibited; and the applicant would have to coordinate with Department staff to develop a condition which permitted a limited amount of over-booking. As part of this condition, the applicant would be required to file quarterly reports with Department staff as to the number of guests permitted on site.

Findings

The applicant has requested a conditional use permit to authorize the continued operation and maintenance of a health retreat.

The subject property is a combination of two irregular-shaped parcels: A northern parcel (APN 4455-020-009) and a central parcel (APN 4455-020-010), totaling 4.53 acres in size, located at 2025 McKain Street in unincorporated Calabasas, in the Malibu Zone District. Staff also notes a southern parcel of the same ownership, (APN 4455-021-015) approximately one acre in area. This parcel is vacant and will be included as part of the request.

The zoning on the subject project site is A-1-1 (Light Agriculture-One Acre Required Minimum Lot Size). Surrounding zoning consists of A-1-1 to the north, south, west and east.

The project is designated as a "Rural Land III" in the Malibu/Santa Monica Mountains Community Plan.

A health retreat currently exists on the subject property. Surrounding land use consists of single-family residential to the north, west, east and south.

The submitted site plan (Exhibit "A") depicts an existing health retreat consisting of a two-story health retreat building, 2,800 sq.ft. in area, a 400 sq.ft. meditation building, a 300 sq.ft. service building, a sundeck, and three smaller meditation buildings, 100 sq.ft. each. A five space parking area is indicated north and west of the meditation cottages.

The site takes access from McKain Street to the south.

The applicant has requested a conditional use permit to authorize the continued operation of the health retreat. Under Section 22.24.100, health retreats are subject to a permit in the A-1 Zone, subject to the conditions of Section 22.24.060.

The existing facility was previously approved under two cases: Conditional Use Permit No. 608 (approved December 17, 1974; expired January 29, 1985) and Conditional Use Permit No. 2574-(5) (approved April 10, 1985; expired January 29, 1995).

Staff observed one directional sign and a sign which indicated the main entrance to the health retreat. One neighbor also noted that landscaping around the parking lot was not adequate.

The "Rural Land III" category of the Malibu/Santa Monica Mountains Interim Area Plan permits a wide variety of commercial uses.

The health retreat is located in an area with predominately vacant and single family residential development. The buildings of the health retreat are consistent in appearance with the surrounding residences. Activities provided by the health retreat are passive recreational. Other activities such as pool exercises and weight training are done in the health retreat building.

The health retreat hires a maximum of seven employees; no more than five staff members are on site at a given time. Out of the five staff members, one resides on-site on a 24 hour basis.

The health retreat provides transportation for its clients. Clients are transported to and from the facility in two vans. Under the existing permit the applicant is limited to a maximum of eight clients on-site at any given time.

The applicant has requested that Condition No. 12 of Conditional Use Permit No. 2574-(5) be modified to permit two additional clients (a maximum of 10 clients). According to the applicant, this change has been proposed to protect the health retreat from canceled reservations.

Subsequent to the public hearing, the Hearing Officer determined that Section 22.24.060 limits the ability to allow more than 10 people in residence at the health retreat.

The applicant also requested that Condition No. 29 of the previous permit which deems that the permit expire under a change of ownership be eliminated.

The applicant, in response to concerns regarding development on the southern parcel, has proposed to include the use of the southern parcel (APN 4455-021-015) as part of the conditional use permit request.

Staff investigated the site on May 29, 1997 and July 29, 1997. On the first visit, staff noted parking congestion; eight automobiles were parked westerly of the primary building, impeding access to the parking lot. Staff also observed a seven space parking lot with storage over one of the parking spaces.

The applicant is permitted a maximum of 8 staff on site at a time. Parking spaces are also needed to accommodate two vans. In addition to the existing seven, three additional parking spaces are needed.

Since the request involves the continuation of an existing health retreat, a Categorical Exemption was granted under California Environmental Quality Act (CEQA) Guidelines.

Staff received three phone calls and five letters regarding this request. One phone call and four letters voiced support of the request.

Two phone calls and a letter expressed concern over the following issues: off-site parking, noise, staff/clients residing in the meditation buildings, attendance on the site in excess of that required under the previous conditional use permit, insufficient landscaping around the parking lot and further development of the vacant parcel to the south.

Potential problems could be addressed with on-site inspections. The applicant is also prohibited from constructing tennis courts.

The parcel designated APN 4455-021-025 will be included in this permit. Said parcel shall remain vacant throughout the term of this grant.

Staff has recommended that three additional parking spaces be provided (bringing the total to 10) and a Revised Exhibit "A" which clearly indicates the parking.

Condition No. 29 of the previous grant, which specified the termination of the use following a change in ownership, is not appropriate. The termination of the permit upon sale of the property is unenforceable. County Counsel has also rendered an opinion that conditional use permit grants run with the property upon sale. Limitation of the grant to 10 years provides adequate protection to the neighboring property owners. With exception to this condition, the applicant will be subject to all of the conditions of Conditional Use Permit No. 2574 for this grant.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

REGARDING THE CONDITIONAL USE PERMIT:

- A. The proposed use is consistent with the adopted general plan for the area;

- B. The requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding area, and will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety and general welfare;
- C. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, landscaping and other development features;
- D. The proposed site is adequately served by highways of sufficient width, and improved as necessary to carry the kind of traffic such use would generate and by other public or private facilities as are required;
- E. Compatibility with surrounding land uses will be ensured through implementation of the attached conditions;

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a conditional use permit as set forth in Section 22.56.090, Title 22, of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

- 1. I approve the categorical exemption for the project, certify that I have reviewed and considered the environmental information contained in the initial study for the proposed project, and determine that the proposed project will not have a significant effect on the environment.
- 2. In view of the findings of fact presented above, Conditional Use Permit Case No. 96-209-(3) is **APPROVED**, subject to the attached conditions.

BY:  _____ Date: 9/30/97
 JOHN SCHWARZE, HEARING OFFICER
 Department of Regional Planning
 County of Los Angeles

RDH:RJF:rjf

Attachments: Conditions
 Affidavit

c: Each Commissioner; Zoning Enforcement; Building and Safety;
 Testifiers: Hal Helsley and Catherine Cappel

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee and the owner of the property involved (if other than the permittee) have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant.
3. The permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
4. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee according Los Angeles County Code Section 2.170.010.

5. This grant will expire unless used within 2 years from the date of approval. A one year time extension may be requested before the expiration date.
6. This grant will terminate October 2, 2007.

Entitlement to the use of the property as a health retreat thereafter shall be subject to the regulations then in effect.

7. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
8. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. The permittee shall deposit with the County of Los Angeles the sum of \$ 1000.00. The fee shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fee provides for ten annual inspections.

If any future inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse the Department of Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance.

9. The permittee shall submit three (3) copies of a Revised Exhibit "A" conforming to such of the following conditions as can be shown on a plan. Said revised plan shall depict ten on-site parking spaces. The property shall be developed and maintained in substantial conformance with the approved plan. All plans must be accompanied by the written authorization of the property owner.
10. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.

11. Upon receipt of this letter, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Forester and Fire Warden to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided as may be required by said Department.
12. Provisions shall be made for all natural drainage to the satisfaction of the Los Angeles County Department of Public Works.
13. The subject facility shall be maintained in compliance with requirements of the Los Angeles County Department of Health Services. Adequate water and sewage facilities shall be provided to the satisfaction of said Department.
14. All structures shall conform with the requirements of the Division of Building and Safety of Los Angeles County Department of Public Works.
15. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises.
16. In the event of such extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
17. This grant authorizes the continued operation and maintenance of an existing health retreat, subject to the following restrictions as to use:
 - a. Parcel No. APN 4455-021-015 shall be considered a part of this grant. Said parcel shall be kept vacant;
 - b. The permittee shall provide 10 off-street parking spaces at all times;
 - c. Outdoor storage on required parking spaces is expressly prohibited;

- d. Not more than 10 persons, including staff, patrons and guests, shall be in residence at the health retreat at any one time;
- e. A staff member shall be considered in residence when he or she spends more than 12 hours per day on the premises on a regular basis, but does not include a staff member who works only on the premises during the evening hours for security or emergency purposes;
- f. A maximum of two owner/operators, are permitted on the property on a non-resident basis at any one time;
- g. A maximum of six staff members, in addition to the operators of the facility, are permitted on the property at any one time;
- h. Guests, on a non-resident basis, are not permitted on the subject property;
- i. All patrons shall be transported to and from the premises in vehicles supplied by the operators of the facility;
- j. All employee's vehicles, vehicles owned by the facility, and delivery vehicles will park on-site;
- k. All areas used by motor vehicles on the subject property shall be treated to prevent emission of dust;
- l. Three copies of a landscape plan for the parking area, which may be incorporated into a revised plot plan, shall be submitted to and approved by the Director of Planning before the issuance of a building permit. The applicant shall utilize vegetation to the satisfaction of the Department of Regional Planning staff biologist. The landscape plan shall show the size, type and location of all plants, trees, and watering facilities. All landscaping shall be maintained in a neat, clean and healthful condition, including proper pruning, weeding, removal of litter, fertilizing and replacement of plants when necessary;
- m. A "No Parking" sign shall be erected and maintained by the applicant along the frontage of the subject property that is located on McKain Street;
- n. All outdoor lights shall be shielded and directed away from adjacent residences;

- o. All exercise, gymnasium, therapy, and similar equipment areas used for sunbathing shall be located within a building or shall be effectively screened so as not to be visible to surrounding property. Such screening shall consist of walls, screening fences or suitable landscaping;
- p. The construction and operation of tennis courts is expressly prohibited;
- q. All activities shall be conducted as part of a live-in health care programs only;
- r. The providing of services for persons maintaining residence for less than 24 hours shall be prohibited;
- s. No signs shall be permitted in conjunction with such use;
- t. The use of meditation cottages for residential facilities is expressly prohibited;
- u. In the event that the operation of any part of this facility should result in substantial complaints to the Department of Regional Planning, or the Regional Planning Commission, the above described conditions may be modified if, after a duly noticed hearing by the Regional Planning Commission, such modification is deemed appropriate in order to eliminate or reduce said complaints.

RDH:RJF:rjf:rm 10-2-97



COUNTY OF LOS ANGELES FIRE DEPARTMENT

FIRE PREVENTION DIVISION

Land Development Unit
5823 Rickenbacker Road
Commerce, California 90040

TRANSMITTAL

DATE: April 9, 2009

TO: DRP - Dean Edwards, FPD - Calabasas, Agent - Kathleen Hill

FROM: Scott Jaeggi, Inspector
(323) 890-4243
sjaeggi@fire.lacounty.gov

SUBJECT: CUP 96-209 / 2025 N. McKain Street, Calabasas

ATTACHED PLEASE FIND THE CONDITIONS OF APPROVAL FOR THE ABOVE REFERENCED PROJECT. IF YOU HAVE ANY ADDITIONAL QUESTIONS PLEASE FEEL FREE TO CONTACT ME BY E-MAIL OR TELEPHONE.



COUNTY OF LOS ANGELES

FIRE DEPARTMENT

5823 Rickenbacker Road
Commerce, California 90040-3027

DATE: April 9, 2009

TO: **Department of Regional Planning**
Attn: Permits and Variances

PROJECT #: CUP 96-209

LOCATION: 2025 N. McKain Street, Calabasas

- The Fire Department Land Development Unit has no additional requirements for this permit.
- The required fire flow for this development is ____ gallons per minute for _ hours. The water mains in the street, fronting this property must be capable of delivering this flow at 20 pounds per square inch residual pressure.
- Verify __ 6" X 4" X 2 1/2" fire hydrants, conforming to AWWA C503-75 or approved equal. All installations must meet Fire Department specifications. Fire hydrant systems must be installed in accordance with the Utility Manual of Ordinance 7834 and all installations must be inspected and flow tested prior to final approval.
- Comments:** THIS PROJECT IS CLEARED FOR PUBLIC HEARING BY THE FIRE DEPARTMENT.
- Location:** Fire Flow from Las Virgenes Municipal Water District dated 05-01-08 is adequate.
- Access:** Off-site access is adequate per the Site Plan dated 10-09-08.
- Special Requirements:** THE FOLLOWING ITEMS SHALL BE COMPLETED AND VERIFIED BY THE FIRE DEPARTMENT WITHIN 30-DAYS FROM THE DATE OF THIS NOTICE:
1. On-site brush clearance shall be completed as per the Fire Department CUP inspection performed on March 24, 2009. In addition this property will continue to be subject to regular brush inspections that are performed annually by the Fire Department.
 2. Delete parking space #10 in the upper parking lot to enlarge fire apparatus turnaround area. This space shall be marked "No Parking - Fire Lane".
 3. Post evacuation plan maps in highly visible areas of all buildings and advise all employees of evacuation procedures.
 4. Advise all visitors of evacuation procedures upon their arrival at the facility.

Fire Protection facilities; including access must be provided prior to and during construction. Should any questions arise regarding this matter, please feel free to call our office at (323) 890-4243.

Respectfully,

PHIL COCKER
BATTALION CHIEF

PROPERTY DESCRIPTION:

The subject property, an operating health retreat, is comprised of three parcels: A northern parcel (APN 4455-020-009), a central parcel (APN 4455-020-010), and a southern parcel (APN 4455-021-015), totaling approximately 5.83 acres. The Ashram is located at 2025 McKain Street in unincorporated Calabasas, in the Malibu Zone District.

Surrounding zoning consists of A-1-1 to the north, south, west and east. Surrounding land use consists of single-family residential to the north, west, east and south. The site is designated as "Rural Land III" in the Malibu/Santa Monica Mountains Community Plan, which allows a wide variety of commercial uses.

The site plan (Exhibit "A") depicts The Ashram, which includes the main two-story health retreat building (2,800 sq. ft.), a meditation building (400 sq. ft.), a service building (300 sq. ft.), a sundeck and three smaller meditation buildings (100 sq. ft. each). A ten space off-street parking area is located northwest of the meditation cottages.

The health retreat is located in an area with predominately undisturbed land and single family residential development. The buildings of the health retreat are consistent in appearance with the surrounding residences. Activities provided by the health retreat are passive recreational. Other activities such as pool exercises and weight training are done in the health retreat building and screened from public view.

Not more than 10 persons, including staff, patrons, and guests, are in residence at the health retreat at any one time. Applicant provides 10 off-street parking spaces at all times. In addition, as required by Section 22.24.060 of the Code, the Applicant provides transportation for its clients to and from the premises.

BURDEN OF PROOF:

Section 22.56.040 of the Code requires the following information to satisfy the Burden of Proof for Conditional Use Permit cases:

A. That the requested use at the location proposed will not:

Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or 2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or 3. Jeopardize, endanger

or otherwise constitute a menace to the public health, safety or general welfare.

The granting of Applicant's request to allow the continued use of the site as a health retreat will not adversely affect, be materially detrimental to, nor jeopardize, endanger or constitute any menace: to the use, valuation or enjoyment of property in the vicinity; to the health, peace, comfort or welfare of persons residing or working in the surrounding area; or to the public health, safety or general welfare because the Applicant has been operating the health retreat for almost thirty years in compliance with all conditions set forth by the County under the existing and prior conditional use permits, and proposes no changes to the existing use, which coexists well with the uses, habitants and habitats of the surrounding area.

- Further, the Applicant notes that The Ashram does now and will continue to operate pursuant to all applicable conditions prescribed by the County, as set forth in the October 2, 1997 approval of CUP 96-209-(3), conditions 1 through 17, attached hereto as Attachment "B."

Finally, the Applicant does now and will continue to operate The Ashram in compliance with all requirements for health retreats, as set forth in Section 22.24.060A of the Code and repeated here:

22.24.060 Conditional use permits—Additional conditions imposed when.

Every conditional use permit for any use listed in this section shall be subject to additional conditions as listed herein. The hearing officer, in granting the conditional use permit, may not change or modify any of the following, which are conditions of use:

A. Health Retreats.

1. Such retreat shall be located on a lot or parcel of land having an area of not less than two acres.
2. Not more than 10 persons, including staff, patrons and guests, shall be in residence at such retreat at any one time; and
3. All activities shall be conducted as a part of a live-in healthcare program only, the providing of services for persons maintaining residence for less than 24 hours shall be prohibited; and
4. All exercise, gymnasium, therapy and similar equipment, and areas used for sunbathing, shall be located within a building or shall be effectively screened so as not to be visible to surrounding property. Such screening shall consist of walls, screening fences or suitable landscaping; and
5. All patrons shall be transported to and from the premises unless otherwise expressly authorized by the hearing officer; and
6. Where visible to surrounding property, all structures housing such retreat shall be compatible with the dwellings and structures in the vicinity thereof; and
7. No signs shall be permitted in conjunction with such use.

B. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.

The Ashram health retreat consists of approximately 5.83 acres, exceeding the two-acre minimum required under Section 22.24.060A(1) of the Code. The design of the facility's minimal structures (formerly a single family residence with small appurtenant buildings that are largely occluded from view by vegetation) fit in with the surrounding uses. The total square footage of buildings (less than 4,000 sq. ft.) is dwarfed by the remaining vast amount (more than 250,150 sq. ft.) of open space. Accordingly, the requested continuing use both accommodates its few necessary and basic structures and ideally integrates with all other uses in the surrounding area.

C. That the proposed site is adequately served: (1) By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and (2) By other public or private service facilities as are required.

(1) The Ashram is adequately served via two means of access:

(a) From Mulholland Highway (80 ft. width), which feeds to Cold Canyon Road (appx. 30 ft. width), which feeds to Bob Batchelor Road (40-60 ft. width), which feeds to McKain Street (25 ft. width); and,

(b) From Stunt Road (60 ft. width), which feeds to McKain Street (25 ft. width).

(2) The Ashram continues to receive adequate water service, sewage disposal and all other necessary and required utilities.

ENVIRONMENTAL CLEARANCE:

Since the request involves the continuation of an existing health retreat, without any change whatsoever, a Categorical Exemption, as granted for the latest CUP (No. 96-209-(3)), is again requested under California Environmental Quality Act (CEQA) Guidelines.