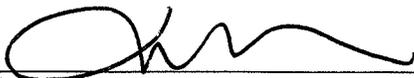


Regional Planning Commission Transmittal Checklist

Hearing Date 1/19/2011
Agenda Item Number 7

Project Number: R2009-01980-(3)
Case(s): Conditional Use Permit No. 200900146
 Variance No. 200900011
Contact Person: Tyler Montgomery, Zoning Permits III

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"/>	DPW Letter
<input checked="" type="checkbox"/>	<input type="checkbox"/>	FD Letter
<input checked="" type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" type="checkbox"/>	Land Use Radius Map
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Site Plan And Elevations
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Topographic Map

Reviewed By: 



Los Angeles County Department of Regional Planning
 320 West Temple Street
 Los Angeles, California 90012
 Telephone (213) 974-6435
PROJECT NUMBER R2009-01980
RCUP 200900146 RVAR 200900011

PUBLIC HEARING DATE 1/19/2011	AGENDA ITEM 7
RPC CONSENT DATE	CONTINUE TO

APPLICANT Jorge and Maria Del Barrio	OWNER Jorge and Maria Del Barrio	REPRESENTATIVE None
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PROJECT DESCRIPTION
 The applicant seeks a conditional use permit (CUP) to authorize the conversion of a guest house into a second dwelling unit without public sewer and located in a Very High Fire Hazard Severity Zone. The applicant also seeks a variance to allow a side-yard setback of less than 35 feet (17'-4"), for a rural second dwelling unit. The property is located in the A-1-10 zone within the Santa Monica Mountains North Area Community Standards District (CSD). The existing guest house is legally nonconforming. A 2,500-square-foot single-family residence also exists on the project site.

REQUIRED ENTITLEMENTS
A conditional use permit to add a second unit without public sewer or water, and a variance to allow less than a 35-foot side yard setback for said unit

LOCATION/ADDRESS
 31350 Mulholland Highway, Malibu,

SITE DESCRIPTION
 The site plan depicts an existing 2,500-square-foot single-family residence and attached carport located on the southeastern portion of the property, which is accessed by a curvilinear 1,300-foot asphalt and gravel driveway to Mulholland Highway to the north. The residence has property line setbacks of more than 90 feet in all directions. The property also contains a 550-square-foot guest house on its northern portion, located to the east of the main driveway. The structure has a front yard setback of 40 feet and side-yard setbacks of 95 feet and 17'-4", respectively.

ACCESS A driveway from Mulholland Highway, to the north	ZONED DISTRICT The Malibu
---	-------------------------------------

ASSESSORS PARCEL NUMBER 4464-008-053	COMMUNITY Santa Monica Mountains North Area
--	---

SIZE 5.3 Acres	COMMUNITY STANDARDS DISTRICT Santa Monica Mountains North Area
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	EXISTING LAND USE	EXISTING ZONING
Project Site	Single-family residence and guest house	A-1-10 (Light Agricultural--10-acre min. lot size)
North	Single-family residences, Vacant land	A-1-20 (Light Agricultural--20-acre min. lot size); A-1-2 (Light Agricultural--2-acre minimum lot size); IT (Institutional)
East	Single-family residences, Stables, Vacant land	A-1-10 (Light Agricultural--10-acre min. lot size)
South	Single-family residences, Vacant land	A-1-10 (Light Agricultural--10-acre min. lot size); A-1-5 (Light Agricultural--5-acre min. lot size)
West	Single-family residences, Vacant land	A-1-10 (Light Agricultural--10-acre min. lot size)

GENERAL PLAN/COMMUNITY PLAN N10 (1 dwelling unit / 10-acres max.)	LAND USE DESIGNATION	MAXIMUM DENSITY 0.1 dwelling units per acre
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ENVIRONMENTAL DETERMINATION
 CUP: Class 3 Categorical Exemption- New Construction or Conversion of Small Structures
 Variance: Class 5 Categorical Exemption- Minor Alterations in Land Use Limitations

RPC LAST MEETING ACTION SUMMARY

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

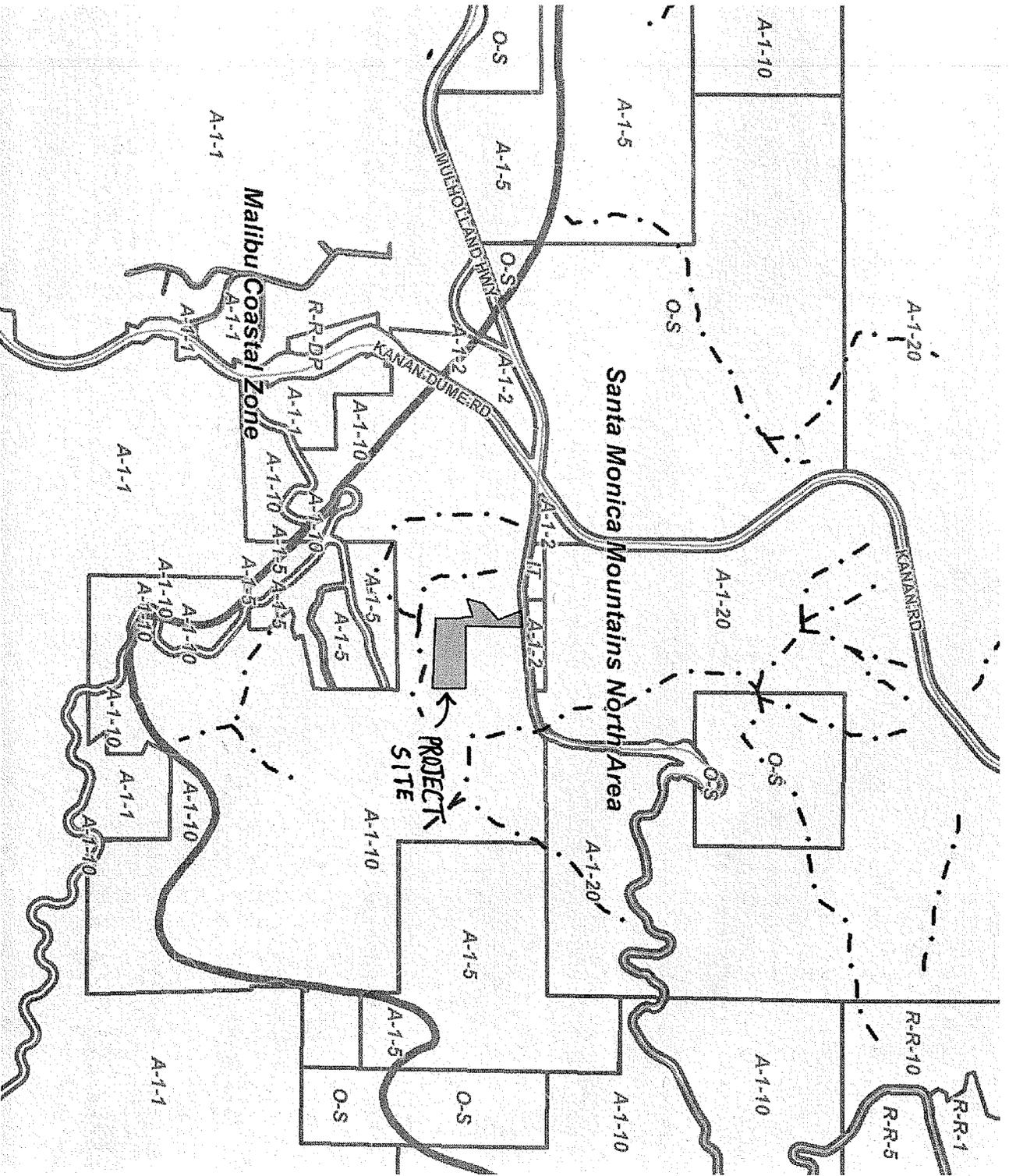
TO BE COMPLETED ONLY ON CASES TO BE HEARD BY THE BOARD OF SUPERVISORS

STAFF CONTACT PERSON: Tyler Montgomery		
RPC HEARING DATE(S)	RPC ACTION DATE	RPC RECOMMENDATION
MEMBERS VOTING AYE	MEMBERS VOTING NO	MEMBERS ABSTAINING

STAFF RECOMMENDATION (PRIOR TO HEARING):

SPEAKERS* (O) 0 (F) 0	PETITIONS (O) 0 (F) 0	LETTERS (O) 0 (F) 0
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*(O) = Opponents (F) = In Favor

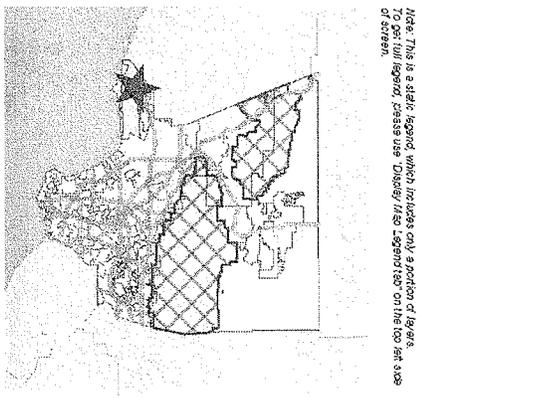


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Legend

	Parcel Boundary		Zoning (Boundary)
	Highway		Zone A-1
	Master Plan of Highways		Zone A-2
	Expressway - (E)		Zone B-2
	Interstate Highway - (I)		Zone C-1
	State Route Highway - (S)		Zone C-2
	Parkway - (P)		Zone C-3
	Major Highway - (M)		Zone C-4
	Minor Highway - (N)		Zone C-5
	State Route Highway - (S)		Zone C-6
	State Route Highway - (S)		Zone C-7
	State Route Highway - (S)		Zone C-8
	State Route Highway - (S)		Zone C-9
	State Route Highway - (S)		Zone C-10
	State Route Highway - (S)		Zone C-11
	State Route Highway - (S)		Zone C-12
	State Route Highway - (S)		Zone C-13
	State Route Highway - (S)		Zone C-14
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	State Route Highway - (S)		Zone C-16
	State Route Highway - (S)		Zone C-17
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	State Route Highway - (S)		Zone C-19
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	State Route Highway - (S)		Zone C-21
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	State Route Highway - (S)		Zone C-98
	State Route Highway - (S)		Zone C-99
	State Route Highway - (S)		Zone C-100



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STAFF ANALYSIS

PROJECT NUMBER

R2009-01980-(3)

CASE NUMBERS

Conditional Use Permit No. 200900146

Variance No. 200900011

PROJECT OVERVIEW

The applicant seeks a conditional use permit (CUP) to authorize the conversion of a guest house located in an area without public sewer and designated as a Very High Fire Hazard Severity Zone. The applicant also seeks a variance to allow a side-yard setback of 17'-4", which is less than the 35 feet required for a rural second dwelling unit. The existing guest house is legally nonconforming and would be allowed to continue in its current configuration without additional permits. The applicant is seeking a CUP to allow kitchen facilities to be added to the existing guest house in order to convert it to a second unit. The property is zoned A-1-10 (Light Agricultural—10-Acre Minimum Lot Area).

DESCRIPTION OF SUBJECT PROPERTY

Location

31350 Mulholland Highway in The Malibu Zoned District and within the Santa Monica Mountains North Area Community Standards District (CSD)

Physical Features

The property is a 5.3-acre irregularly shaped "flag" parcel that contains a large amount of wooded, sloping terrain with some grades of more than 25 percent. A 2,500-square-foot single-family residence and attached carport are located on the southeastern portion of the property, which is accessed by a curvilinear 1,300-foot asphalt and gravel driveway from Mulholland Highway to the north. A 550-square-foot guest house is located on the property's northern portion, to the east of the main driveway. The main residence and guest house are separated by approximately 640 feet (or 1,170 feet via driveway), and both are located on relatively level portions of the site. Numerous oak trees are located on-site, although the existing guest house does not encroach within five feet of their driplines.

ENTITLEMENTS

Pursuant to Section 22.52.1730 of the Los Angeles County Planning and Zoning Code (Title 22), a CUP is required in order to authorize the construction of a second dwelling unit that is not served by public sewer or is within a High Fire Hazard Severity Zone. Because both of these conditions apply to the existing guest house, a CUP is required in order to convert it into a second dwelling unit.

Pursuant to Section 22.52.1750 of Title 22, in rural areas, each lot or parcel of land on

which a second unit is developed is required to have front, side, and rear yards of not less than 35 feet. Rural areas are defined as properties with an allowed density of not more than one dwelling unit per acre under the General Plan Land Use Policy Map. The subject property is designated N10 (Mountain Lands 10), which allows a maximum density of one dwelling unit per 10 acres. In order to authorize a side yard of less than 35 feet for the proposed second dwelling unit, a variance is required.

EXISTING ZONING

Subject Property

The subject property is zoned A-1-10 (Light Agricultural—10-Acre Minimum Lot Area).

Surrounding Properties

Surrounding properties within 500 feet are zoned as follows:

- North: A-1-2 (Light Agricultural; 1-acre minimum lot size); A-1-20 (Light Agricultural—20-acre minimum lot size); IT (Institutional)
- South: A-1-10 (Light Agricultural—10-Acre Minimum Lot Area); A-1-5 (Light Agricultural—5-acre minimum lot size)
- East: A-1-10 (Light Agricultural—10-Acre Minimum Lot Area)
- West: A-1-10 (Light Agricultural—10-Acre Minimum Lot Area)

EXISTING LAND USES

Subject Property

A 2,500-square-foot single-family residence and a 550-square-foot guest house

Surrounding Properties

Land uses within 500 feet of the subject property consist of the following:

- North: Single-family residences, vacant land
- South: Single-family residences, vacant land
- East: Stables, single-family residences, vacant land
- West: Single-family residences, vacant land

PREVIOUS CASES/ HISTORY

The existing single-family residence was constructed in 1980, along with the guest house, which was originally constructed as a detached garage. The conversion of the garage into a guest house with an ancillary septic system was approved in 1982.

In 2009, Regional Planning discovered that the guest house was being illegally rented as a second unit and that kitchen facilities had been installed without proper permits. Zoning Enforcement Case No. 09-0019296 was subsequently opened on July 23, 2009. After being issued a notice of violation, the applicants removed the tenant and all kitchen facilities. After an inspection of the property, the case was closed on August 27, 2009. The applicant subsequently filed for a CUP and variance to convert the guest house into a second dwelling unit.

LAND USE POLICY MAP

The subject property is designated N10 (Mountain Lands 10) in the Santa Monica Mountains North Area Plan ("Plan"), which was adopted by the Board of Supervisors in 2000. This category applies mainly to rural areas with steep terrain and allows a maximum residential density of one dwelling unit per 10 acres. The Plan states that appropriate uses for this category include "low density single-family housing, agriculture, equestrian uses, retreats, monasteries, private campgrounds, bed-and-breakfast lodging, low intensity conference centers, public and private schools, water tanks, telecommunications facilities, and other local serving commercial and public facilities."

The existing single-family residence on the approximately 5.3-acre parcel was developed in 1980, prior to the adoption of the Plan by the Board of Supervisors in 2000, and in accordance with the requirements that were then in effect. A second unit is an allowable use with a CUP on property developed with a single-family residence and located within either a Very High Fire Hazard Severity Zone or in an area that is not served by a public sewer. Therefore, the existing use and the proposed project are consistent with the applicable land use designation for the property.

SITE PLAN

The subject property is an irregularly shaped flag lot of 5.3 acres. A 2,500-square-foot single-family residence and attached carport are located on the southeastern portion of the property, which is accessed by a curvilinear 1,300-foot asphalt and gravel driveway ascending approximately 150 feet in elevation from Mulholland Highway to the north. The residence has property line setbacks of more than 90 feet in all directions. The property also contains a 550-square-foot guest house on its northern portion, located to the east of the main driveway. The guest house has a front yard setback of 40 feet and side-yard setbacks of 95 feet and 17'-4", respectively, and its maximum height is 11'-8". Several oak trees are located to the west of the guest house, although it does not encroach into the protected zones of any of the oak trees. An underground septic tank is located approximately 15 feet to the west of the guest house, and the associated leach field extends approximately 15 feet west of the tank. The property consists mainly of sloping terrain, some of which exceeds 25 percent in grade, although the single-family residence and guest house are located on relatively level portions of the site. The applicant is proposing to add kitchen facilities to the existing guest house in order to convert it to a second unit. The addition of the kitchen facilities will involve only interior remodeling and will not include any increase in square footage or exterior modifications.

COMPLIANCE WITH APPLICABLE ZONING STANDARDS

The subject property is located in the A-1-10 (Light Agricultural—10-Acre Minimum Lot Area) zone. A single-family residence is allowed by right within this zone, and a second dwelling unit is allowed on the subject property with the approval of a CUP.

Section 22.24.110 of Title 22 lists development standards for the A-1-10 zone. Minimum setbacks of 20 feet, 15 feet, and 5 feet are required for front yards, rear yards,

and interior side yards, respectively. The guest house has a front yard setback of 40 feet and side yard setbacks of 95 feet and 17'-4". The Code also requires two (2) covered off-street parking spaces for each single-family residence, which are provided by a carport attached to the main house. The maximum height of structures in the A-1-10 zone is 35 feet above grade, excluding chimneys and antennas. The maximum height of the guest house is 11'-8" above grade.

Section 22.52.1700 et seq. of Title 22 provides for the development of second units. It requires that any second unit without a public sewer connection or within a Very High Fire Hazard Severity Zone first obtain a CUP. Because these conditions apply to the existing guest house, a CUP is required in order to convert it into a second dwelling unit. Section 22.52.1750 requires that, in rural areas, each lot or parcel of land on which a second unit is developed is required to have front, side, and rear yards of not less than 35 feet. In order to authorize a side yard of less than 35 feet for the proposed second dwelling unit, a variance is required.

COMPLIANCE WITH CSD STANDARDS

The subject property is located within the Santa Monica Mountains North Area CSD (Section 22.44.134, Title 22). There are no CSD requirements that would apply to a second unit in an A-1-10 zone. The project does not propose grading or exterior lighting, and the subject property does not include a Significant Ridgeline or an Environmentally Sensitive Habitat Area (ESHA). The site is also outside the Topanga Canyon and Malibou Lake areas and is not a part of an Antiquated Subdivision.

BURDEN OF PROOF—CONDITIONAL USE PERMIT

As required by Section 22.56.040 of the Los Angeles County Code, in addition to the information required in the permit application, the applicant shall substantiate to the satisfaction of the Commission, the following facts:

- A. That the requested use at the location proposed will not:
 1. 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.

- B. That the proposed site is adequate in size and shape to accommodate the yards, wells, fence, parking and loading facilities, landscaping and other development features prescribed in this Title 22, of as is otherwise required in order to integrate said use with the 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.

The applicant's Burden of Proof responses are attached to this document, and it is staff's opinion that the burden of proof has been satisfied.

BURDEN OF PROOF—VARIANCE

As required by Section 22.56.290 of the Los Angeles County Code, in addition to the information required in the permit application, the applicant shall substantiate to the satisfaction of the Commission the following facts:

- A. That there are special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location, or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification;
- B. That such variance is necessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone;
- C. That the granting of the variance will not be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone;

The applicant's Burden of Proof responses are attached to this document, and it is staff's opinion that the burden of proof has been satisfied.

ENVIRONMENTAL DOCUMENTATION

This project has been determined to be categorically exempt under the environmental reporting procedures and guidelines of the California Environmental Quality Act (CEQA). If approved, the CUP qualifies for a Class 3 (New Construction or Conversion of Small Structures) exemption because it is a conversion of a small (550-square-foot) structure. The variance qualifies for a Class 5 (Minor Alterations in Land Use Limitations) exemption because it applies solely to the alteration of a required side-yard setback.

PUBLIC COMMENTS

Legal Notification/Community Outreach

A total of 54 public hearing notices regarding the proposal were mailed to property owners within the 500-foot radius of the subject property and other interested parties on December 9, 2010. The hearing notice was published in the *Malibu Times* and in *La Opinion* on December 16, 2010. The notice has been posted on the property beginning December 16, 2010. Case materials were also sent to the Malibu Library and posted on the Regional Planning website. Staff has received no public comments at this time.

COUNTY DEPARTMENT COMMENTS

The proposed project was submitted by the applicant to various Los Angeles County departments for review and recommendation. During the analysis of the project, Regional Planning staff consulted with the Los Angeles County Fire Department, Department of Public Works, and Department of Public Health.

Public Health stated that it had no objection to the approval of the project, provided that the existing septic system continues to operate independently of the main residence and that Building and Safety issues a Certificate of Occupancy for the structure. This was communicated in a letter dated March 2, 2010 (enclosed).

Public Works stated that it will not require any improvements or dedications and cleared the project for public hearing in a letter dated March 22, 2010 (enclosed).

County Fire verified that the area's existing fire facilities and water flow are adequate and that the applicant has submitted an adequate brush clearance plan. A letter clearing the project for public hearing was issued on April 26, 2010 (enclosed).

STAFF EVALUATION

Conditional Use Permit

A CUP is required for a second unit that is not served by a public sewer or that is within a Very High Fire Hazard Severity Zone. The proposed second unit is located on a property that meets both of those criteria. The intent of this requirement is to allow for discretionary review of these units in areas where a potential lack of fire access, public facilities, and/or adequate roads might otherwise negatively affect the health, comfort, safety, or welfare of area residents. In this case, the proposed second unit has been analyzed by the departments of Public Works, Public Health, and Fire. Public Works has determined that the project site is adequately served by existing roads, and that no additional improvements or dedications are needed. Public Health has determined that the existing septic system is adequate for the proposed second unit and would not create a public health hazard. Therefore, lack of connection to a public sewer is not likely to negatively affect residents of the unit or its vicinity in any significant way. County Fire has also analyzed the project, and determined that the second unit—which is 40 feet from Mulholland Highway—would have adequate access for emergency vehicles, is near a hydrant with sufficient water pressure, and has adequate vegetation clearance radius. The proposed second unit is also consistent with other residential uses in the vicinity. Therefore, it is unlikely that the proposed unit would negatively affect the safety of residents or the community. The second unit would be consistent with the intent of the N10 Land Use Policy Map designation of the Santa Monica Mountains North Area Plan. It would also meet all other development standards of the underlying zoning and the CSD.

Due to the aforementioned factors, it is staff's opinion that the proposed project meets

the burden of proof for a conditional use permit.

Variance

Section 22.52.1755.B.8 requires that, in rural areas, each lot or parcel of land on which a second unit is developed shall have front, side, and rear yards of not less than 35 feet in depth. Aside from the 35-foot side yard requirement, the proposed second unit would be allowed in conjunction with a single-family residence within the A-1-10 (Light Agricultural; 10-Acre Minimum Lot Area) zone. The proposed project has a side yard dept of 17'-4", which is the existing setback for the existing guest house, which was constructed in accordance with the rules and regulations in effect at the time of its development. Section 22.52.1750.C states that the development standards in Section 22.52.1750 may be modified by a variance in accordance with the variance procedures set for the in Chapter 22.56, Part 2 of the Code.

In order for a variance to be granted, the applicants must demonstrate that the property in question has some special circumstance or exceptional characteristic that does not apply to other identically zoned parcels in the vicinity. In this case, the topography and features of the project site is such that the most appropriate location for the residence is within the pre-existing guest house. The guest house was legally created in 1982 with the current side-yard setback of 17'-4". The current development standards for second units--which require 35-foot setbacks in all directions for rural second units--were adopted by the Board of Supervisors in 2004. The steeply sloping topography of much of the subject property results in a situation wherein there are only two areas level enough for the easy creation of building pads: the location of the guest house and the location of the main residence. This is compounded by the property's unusual shape, as much of the southern portion is relatively narrow, making the accomplishment of 35-foot side yards even more difficult. Demolishing the guest house and constructing a second unit approximately 18 feet to the west, while topographically feasible, would place the new structure over the existing septic system. It would encroach into the protected zone of several oak trees, or possibly necessitate their removal. While it is conceivable that another location could be found to accommodate a second unit on the property, it would almost certainly require at least a moderate amount of additional earthmoving, and, likely, the removal of oak trees, on another portion of the property. Staff does not consider any of these alternatives desirable, as they are likely to cause further hillside and environmental degradation, both of which are specifically and repeatedly called out for preservation in the Santa Monica Mountains North Area Plan. Allowing the creation of a second unit from the existing guest house would allow the applicant to enjoy an allowed use in the A-1-10 zone without conflicting with these portions of the Plan.

To be granted a variance, the applicant must also show that the requested increase in height is not likely to affect the health, comfort, or welfare of surrounding neighbors. The existing guest house is not visible from properties to the north, south, and west, and setbacks are greater than the required 35 feet in each of these directions. The structure

is visible from the property to the east. However, it is more than 250 feet from any other residence, as the property to the east is primarily occupied by stables and a riding arena. In addition, the exterior appearance of the structure would be unchanged from its current form, and staff has not received any objections to the project from area residents. As stated above, the project has also been reviewed and cleared by the departments of Public Works, Public Health, and Fire for adequate road access, septic facilities, and fire safety.

The reduction in the required side yard setback will not constitute a grant of special privilege to the subject property that is inconsistent with the limitations on other properties in the vicinity and zone in which the property is situated. Although the guest house is not the required 35-feet from the side property line, the configuration of the lot and the location of neighboring structures still ensures that the second unit is more than 250 feet away from any neighboring residence. The intent of the 35-foot setback requirement for rural second units is to ensure that they are located a sufficient distance from other residences, which provides a privacy buffer and avoids causing development of these areas to seem overly dense. Due to the unique configuration of the subject property and its neighboring residence, the reduction of the required setback would not be contrary to these intentions.

The strict application of the 35-foot side yard setback requirement for the second unit will result in practical difficulties and unnecessary hardships that are inconsistent with the purpose of the setback requirements. As explained above, the purpose of the increased setback requirements for rural second units is to ensure that they are located a sufficient distance from other residences, which provides a privacy buffer and avoids causing development of these areas to seem overly dense. The structure's relocation would almost certainly require at least a moderate amount of additional earthmoving and the removal of oak trees on another portion of the property. Therefore, the additional work, expense, and impacts to the environment in order to comply with the strict letter of the zoning code would not result in a superior project design.

Due to the aforementioned factors, it is staff's opinion that the proposed project meets the burden of proof for a variance.

STAFF RECOMMENDATION

Staff recommends approval of Conditional Use Permit No. 200900146 and Variance No. 200900011, subject to the attached conditions.

SUGGESTED APPROVAL MOTIONS

I move that the Regional Planning Commission close the public hearing and **APPROVE** Conditional Use Permit 200900146 subject to the attached Findings and Conditions of Approval.

I move that the Regional Planning Commission **APPROVE** Variance 200900011 subject to the attached Findings and Conditions of Approval.

Prepared by Tyler Montgomery, Regional Planning Assistant II
To be reviewed by Mi Kim, Acting Section Head, Zoning Permits III

Attachments:

Draft Findings for CUP
Draft Findings for Variance
Draft Conditions of Approval
Applicant's Burden of Proof statements
Clearance letter from Public Health
Clearance letter from Public Works
Clearance letter from County Fire
Topographic map
Aerial photos
Site photos

MK:TM
01/13/11

**FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION
COUNTY OF LOS ANGELES**

**PROJECT NUMBER R2009-01980-(3)
CONDITIONAL USE PERMIT NUMBER 200900146**

REGIONAL PLANNING COMMISSION HEARING DATE: JANUARY 19, 2011

SYNOPSIS: Pursuant to Section 22.52.1730 of the Los Angeles County Planning and Zoning Code ("Zoning Code"), the applicant is requesting a conditional use permit ("CUP") to authorize the conversion of an existing approximately 550 square-foot guest house located in an area without public sewer and designated as a Very High Fire Hazard Severity Zone to a second unit. The existing guest house is a legal nonconforming use that the applicant is proposing to convert to a second unit with the addition of kitchen facilities but no expansion of the floor area of the existing structure. The applicant is concurrently seeking a variance pursuant to Section 22.52.1750 of the Zoning Code to authorize a side yard setback that is less than the required 35 feet for second units within rural areas. The subject property is zoned A-1-10 (Light Agricultural—10-acre minimum lot size).

PROCEEDINGS BEFORE THE REGIONAL PLANNING COMMISSION:

Findings

1. The project site is located at 31350 Mulholland Highway in The Malibu Zoned District and within the Santa Monica Mountains North Area Community Standards District (CSD).
2. The site is zoned A-1-10 (Light Agricultural—10-acre minimum lot size) and is developed with a single-family residence and a guest house.
3. The property is a 5.3-acre irregularly shaped "flag" parcel that contains a large amount of wooded, sloping terrain with some grades of more than 25 percent. A 2,500-square-foot single-family residence and attached carport are located on the southeastern portion of the property, which is accessed by a curvilinear 1,300-foot asphalt and gravel driveway from Mulholland Highway to the north. A 550-square-foot guest house is located on the property's northern portion, to the east of the main driveway. The main residence and guest house are separated by approximately 640 feet "as the crow flies" (or 1,170 feet via driveway), and both are located on relatively level portions of the site. Numerous oak trees are located on-site, although the existing guest house does not encroach within five feet of their driplines.

4. Pursuant to Section 22.52.1750 of Title 22, in rural areas, each lot or parcel of land on which a second unit is developed is required to have front, side, and rear yards of not less than 35 feet. Rural areas are defined as properties with an allowed density of not more than one dwelling unit per acre under the General Plan Land Use Policy Map. The subject property is designated N10 (Mountain Lands 10), which allows a maximum density of one dwelling unit per 10 acres. In order to authorize a side yard of less than 35 feet for the proposed second dwelling unit, a variance is required.
5. Surrounding properties within 500 feet are zoned as follows:
North: A-1-2 (Light Agricultural; 1-acre minimum lot size); A-1-20 (Light Agricultural—20-acre minimum lot size); IT (Institutional)
South: A-1-10 (Light Agricultural—10-acre minimum lot size); A-1-5 (Light Agricultural— 5-acre minimum lot size)
East: A-1-10 (Light Agricultural—10-acre minimum lot size)
West: A-1-10 (Light Agricultural—10-acre minimum lot size)
6. The surrounding land uses consists of the following:
North: Single-family residences, vacant land
South: Single-family residences, vacant land
East: Stables, single-family residences, vacant land
West: Single-family residences, vacant land
7. The Department of Regional Planning has determined that the variance qualifies for a Class 5 (Minor Alterations in Land Use Limitations) Categorical Exemption under the California Environmental Quality Act (CEQA) because it applies solely to the alteration of a required side-yard setback. The department has also determined that the CUP qualifies for a Class 3 Categorical Exemption (New Construction of Conversion of Small Structures) under the California Environmental Quality Act (CEQA) reporting requirements because it includes the conversion of a 550-square foot guest house to a second unit.
8. The public was appropriately notified of the public hearing conducted for this project by mail and newspaper publication. The notice was also posted at the project site for a minimum of 30 days.
8. The proposed project was submitted by the applicant to various Los Angeles County departments for preliminary approval. During its analysis of the project, Regional Planning staff consulted with the Los Angeles County Fire Department, the Department of Public Works, and the Department of Public Health. Public Health, Public Works, and Fire cleared the project for public hearing on March 2, 2010, March 22, 2010, and April 26, 2010, respectively.
9. No public comments were received for or against the project proposal.

10. The subject property is designated N10 (Mountain Lands 10) in the Santa Monica Mountains North Area Plan ("Plan"), which was adopted by the Board of Supervisors in 2000. This category applies mainly to rural areas with steep terrain and allows a maximum residential density of one dwelling unit per 10 acres. The Plan states that appropriate uses for this category include "low density single-family housing, agriculture, equestrian uses, retreats, monasteries, private campgrounds, bed-and-breakfast lodging, low intensity conference centers, public and private schools, water tanks, telecommunications facilities, and other local serving commercial and public facilities." The existing single-family residence on the approximately 5.3-acre parcel was developed in 1980, prior to the adoption of the Plan by the Board of Supervisors in 2000, and in accordance with the requirements that were then in effect. A second unit is an allowable use with a CUP on property developed with a single-family residence and located within either a Very High Fire Hazard Severity Zone or in an area that is not served by a public sewer. Therefore, the existing use and the proposed project are consistent with the applicable land use designation for the property.
11. The subject property is an irregularly shaped flag lot of 5.3 acres. A 2,500-square-foot single-family residence and attached carport are located on the southeastern portion of the property, which is accessed by a curvilinear 1,300-foot asphalt and gravel driveway ascending approximately 150 feet in elevation from Mulholland Highway to the north. The residence has property line setbacks of more than 90 feet in all directions. The property also contains a 550-square-foot guest house on its northern portion, located to the east of the main driveway. The guest house has a front yard setback of 40 feet and side-yard setbacks of 95 feet and 17'-4", respectively, and its maximum height is 11'-8". Several oak trees are located to the west of the guest house, although it does not encroach into the protected zones of any of the oak trees. An underground septic tank is located approximately 15 feet to the west of the guest house, and the associated leach field extends approximately 15 feet west of the tank. The property consists mainly of sloping terrain, some of which exceeds 25 percent in grade, although the single-family residence and guest house are located on relatively level portions of the site.
12. The subject property is located in the A-1-10 (Light Agricultural—10-acre minimum lot size) zone. A single-family residence is allowed by right within this zone, and a second dwelling unit is allowed on the subject property with the approval of a CUP. Section 22.24.110 of Title 22 lists development standards for the A-1-10 zone. Minimum setbacks of 20 feet, 15 feet, and 5 feet are required for front yards, rear yards, and interior side yards, respectively. The guest house has a front yard setback of 40 feet and side yard setbacks of 95 feet and 17'-4". The Code also requires two (2) covered off-street parking spaces for each single-family residence, which are provided by a carport attached to the main house. The maximum height of structures in the A-1-10 zone is 35 feet above grade, excluding chimneys and antennas. The maximum height of the guest house is 11'-8" above grade. The lot

is approximately 5.3 acres, which means that it has sufficient area to accommodate the 35-foot side yard setbacks that are required by the Code for second units in rural areas. However, the existing guest house was built pursuant to applicable standards at the time it was developed in 1982. Because the existing guest house is being converted to a second unit without expansion or exterior alteration, and because the existing guest house is located on the most suitable portion of the property, better site design dictates that the guest house remain in place and a variance be granted for the less-than-required setback. With the approval of the related variance (Variance No. 200900011), the second unit will meet all applicable development standards of Title 22.

13. The subject property is adequate in size and shape to accommodate the parking required for the project. Section 22.52.1180 of the County Code requires that two covered parking spaces be provided for each single-family residence. The proposed project would meet this requirement, as a two-car carport exists on the site.
14. Sections 22.24.110 and 22.20.110 of the County Code set a maximum height for residences in the A-1 zone at 35 feet above grade. According to elevations submitted by the applicant, at no point would the height of the second unit exceed 35 feet above grade.
15. Section 22.52.1750 of the County Code requires that, in rural areas, each lot or parcel of land on which a second unit is developed is required to have front, side, and rear yards of not less than 35 feet. In order to authorize a side yard of less than 35 feet for the proposed second dwelling unit, a variance is required.
16. The subject property is located within the Santa Monica Mountains North Area CSD (Section 22.44.134, Title 22). There are no CSD requirements that would apply to a second unit in an A-1-10 zone. The project does not propose grading or exterior lighting, and the subject property does not include a Significant Ridgeline or an Environmentally Sensitive Habitat Area (ESHA). The site is also outside the Topanga Canyon and Malibou Lake areas and is not a part of an Antiquated Subdivision
18. The subject property is adequately served by highways of sufficient width, and improved as necessary to carry the kind of traffic a single-family residence would generate, and by other public or private facilities as are required. Mulholland Highway is a two-lane thoroughfare without level-of-service issues. This project and its underlying property were reviewed by various County agencies, including Public Works, Fire, and Public Health. Each of these departments subsequently recommended approval for the CUP. Therefore, the project, as proposed, would be adequately served by public roads and the other necessary public and private facilities. Additionally, the proposed project would be a compatible land use for the area

19. The proposed project will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding areas because the proposed second unit is consistent with the other similar development in the area, and the project has been reviewed and cleared by the departments of Public Works, Fire, and Public Health.
20. The proposed project will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site because the proposed second unit is consistent with the other similar development in the area, and the project has been reviewed and cleared by the departments of Public Works, Fire, and Public Health. Therefore, the proposed residence, as designed, is compatible with the surrounding area.
21. The proposed project will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, and general welfare because this project and its underlying property were reviewed by various County agencies, including Public Works, Fire, and Public Health. Each of these departments subsequently recommended approval for the CUP.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION
CONCLUDES:

- A. The proposed use is consistent with the adopted general plan for the area.
- B. The requested use at the proposed locations will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding areas, 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 in a manner that is compatible with uses in the surrounding area;
- 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.

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 Sections 22.56.090 of the Los Angeles County

Code.

REGIONAL PLANNING COMMISSION ACTION:

1. The Commission has considered the Class 3 and Class 5 Categorical Exemptions for this project and certifies that the project 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 200900146 is **APPROVED** subject to the attached conditions.

VOTE:

Concurring:

Dissenting:

Abstaining:

Action Date:

c: Commission Services, Zoning Enforcement, Building and Safety.

Attachment: Conditions

**FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION
COUNTY OF LOS ANGELES**

**PROJECT NUMBER R2009-01980-(3)
VARIANCE NUMBER 200900011**

REGIONAL PLANNING COMMISSION HEARING DATE: JANUARY 19, 2011

SYNOPSIS: Pursuant to Section 22.52.1750 of the Los Angeles County Planning and Zoning Code ("Zoning Code"), the applicant is requesting a variance pursuant to Section 22.52.1750 of the Zoning Code to authorize a side yard setback that is less than the required 35 feet for second units within rural areas. The applicant is concurrently requesting a conditional use permit ("CUP") to authorize the conversion of an existing approximately 500 square-foot guest house located in an area without public sewer and designated as a Very High Fire Hazard Severity Zone to a second unit. The existing guest house is a legal nonconforming use that the applicant is proposing to convert to a second unit with the addition of kitchen facilities but no expansion of the floor area of the existing structure. The subject property is zoned A-1-10 (Light Agricultural—10-acre minimum lot size).

PROCEEDINGS BEFORE THE REGIONAL PLANNING COMMISSION:

Findings

1. The project site is located at 31350 Mulholland Highway in The Malibu Zoned District and within the Santa Monica Mountains North Area Community Standards District (CSD).
2. The site is zoned A-1-10 (Light Agricultural—10-acre minimum lot size) and is developed with a single-family residence and a guest house.
3. The property is a 5.3-acre irregularly shaped "flag" parcel that contains a large amount of wooded, sloping terrain with some grades of more than 25 percent. A 2,500-square-foot single-family residence and attached carport are located on the southeastern portion of the property, which is accessed by a curvilinear 1,300-foot asphalt and gravel driveway from Mulholland Highway to the north. A 550-square-foot guest house is located on the property's northern portion, to the east of the main driveway. The main residence and guest house are separated by approximately 640 feet "as the crow flies" (or 1,170 feet via driveway), and both are located on relatively level portions of the site. Numerous oak trees are located on-site, although the existing guest house does not encroach within five feet of their driplines.
4. Pursuant to Section 22.52.1750 of Title 22, in rural areas, each lot or parcel of land

on which a second unit is developed is required to have front, side, and rear yards of not less than 35 feet. Rural areas are defined as properties with an allowed density of not more than one dwelling unit per acre under the General Plan Land Use Policy Map. The subject property is designated N10 (Mountain Lands 10), which allows a maximum density of one dwelling unit per 10 acres. In order to authorize a side yard of less than 35 feet for the proposed second dwelling unit, a variance is required.

5. Surrounding properties within 500 feet are zoned as follows:
North: A-1-2 (Light Agricultural; 1-acre minimum lot size); A-1-20 (Light Agricultural—20-acre minimum lot size); IT (Institutional)
South: A-1-10 (Light Agricultural—10-acre minimum lot size); A-1-5 (Light Agricultural— 5-acre minimum lot size)
East: A-1-10 (Light Agricultural—10-acre minimum lot size)
West: A-1-10 (Light Agricultural—10-acre minimum lot size)
6. The surrounding land uses consists of the following:
North: Single-family residences, vacant land
South: Single-family residences, vacant land
East: Stables, single-family residences, vacant land
West: Single-family residences, vacant land
7. The Department of Regional Planning has determined that the variance qualifies for a Class 5 (Minor Alterations in Land Use Limitations) Categorical Exemption under the California Environmental Quality Act (CEQA) because it applies solely to the alteration of a required side-yard setback. The department has also determined that the CUP qualifies for a Class 3 Categorical Exemption (New Construction of Conversion of Small Structures) under the California Environmental Quality Act (CEQA) reporting requirements because it includes the conversion of a 550-square foot guest house to a second unit.
8. The public was appropriately notified of the public hearing conducted for this project by mail and newspaper publication. The notice was also posted at the project site for a minimum of 30 days.
8. The proposed project was submitted by the applicant to various Los Angeles County departments for preliminary approval. During its analysis of the project, Regional Planning staff consulted with the Los Angeles County Fire Department, the Department of Public Works, and the Department of Public Health. Public Health, Public Works, and Fire cleared the project for public hearing on March 2, 2010, March 22, 2010, and April 26, 2010, respectively.
9. No public comments were received for or against the project proposal.
10. The subject property is designated N10 (Mountain Lands 10) in the Santa Monica

Mountains North Area Plan ("Plan"), which was adopted by the Board of Supervisors in 2000. This category applies mainly to rural areas with steep terrain and allows a maximum residential density of one dwelling unit per 10 acres. The Plan states that appropriate uses for this category include "low density single-family housing, agriculture, equestrian uses, retreats, monasteries, private campgrounds, bed-and-breakfast lodging, low intensity conference centers, public and private schools, water tanks, telecommunications facilities, and other local serving commercial and public facilities." The existing single-family residence on the approximately 5.3-acre parcel was developed in 1980, prior to the adoption of the Plan by the Board of Supervisors in 2000, and in accordance with the requirements that were then in effect. A second unit is an allowable use with a CUP on property developed with a single-family residence and located within either a Very High Fire Hazard Severity Zone or in an area that is not served by a public sewer. Therefore, the existing use and the proposed project are consistent with the applicable land use designation for the property.

11. The subject property is an irregularly shaped flag lot of 5.3 acres. A 2,500-square-foot single-family residence and attached carport are located on the southeastern portion of the property, which is accessed by a curvilinear 1,300-foot asphalt and gravel driveway ascending approximately 150 feet in elevation from Mulholland Highway to the north. The residence has property line setbacks of more than 90 feet in all directions. The property also contains a 550-square-foot guest house on its northern portion, located to the east of the main driveway. The guest house has a front yard setback of 40 feet and side-yard setbacks of 95 feet and 17'-4", respectively, and its maximum height is 11'-8". Several oak trees are located to the west of the guest house, although it does not encroach into the protected zones of any of the oak trees. An underground septic tank is located approximately 15 feet to the west of the guest house, and the associated leach field extends approximately 15 feet west of the tank. The property consists mainly of sloping terrain, some of which exceeds 25 percent in grade, although the single-family residence and guest house are located on relatively level portions of the site.
12. The subject property is located in the A-1-10 (Light Agricultural—10-acre minimum lot size) zone. A single-family residence is allowed by right within this zone, and a second dwelling unit is allowed on the subject property with the approval of a CUP. Section 22.24.110 of Title 22 lists development standards for the A-1-10 zone. Minimum setbacks of 20 feet, 15 feet, and 5 feet are required for front yards, rear yards, and interior side yards, respectively. The guest house has a front yard setback of 40 feet and side yard setbacks of 95 feet and 17'-4". The Code also requires two (2) covered off-street parking spaces for each single-family residence, which are provided by a carport attached to the main house. The maximum height of structures in the A-1-10 zone is 35 feet above grade, excluding chimneys and antennas. The maximum height of the guest house is 11'-8" above grade.

13. The subject property is adequate in size and shape to accommodate the parking required for the project. Section 22.52.1180 of the County Code requires that two covered parking spaces be provided for each single-family residence. The proposed project would meet this requirement, as a two-car carport exists on the site.
14. Sections 22.24.110 and 22.20.110 of the County Code set a maximum height for residences in the A-1 zone at 35 feet above grade. According to elevations submitted by the applicant, at no point would the height of the second unit exceed 35 feet above grade.
15. Section 22.52.1750 of the County Code requires that, in rural areas, each lot or parcel of land on which a second unit is developed is required to have front, side, and rear yards of not less than 35 feet. In order to authorize a side yard of less than 35 feet for the proposed second dwelling unit, a variance is required
16. The subject property is located within the Santa Monica Mountains North Area CSD (Section 22.44.134, Title 22). There are no CSD requirements that would apply to a second unit in an A-1-10 zone. The project does not propose grading or exterior lighting, and the subject property does not include a Significant Ridgeline or an Environmentally Sensitive Habitat Area (ESHA). The site is also outside the Topanga Canyon and Malibou Lake areas and is not a part of an Antiquated Subdivision.
17. The property in question has special circumstances and exceptional characteristics that do not apply to other identically zoned parcels in the vicinity, and strict application of the Zoning Code requirements would deprive this property privileges enjoyed by other A-1-10,000 zoned property in the vicinity. The topography and features of the project site are such that the most appropriate location for the residence is within the pre-existing guest house. The steeply sloping topography of much of the subject property and its results in a situation wherein there are only two areas level enough for the easy creation of building pads: the location of the guest house and the location of the main residence. This is compounded by the property's unusual shape, as much of the northern portion is relatively narrow, making the accomplishment of 35-foot side yards even more difficult. Demolishing the guest house and constructing a second unit approximately 18 feet to the west in order to satisfy the 35-foot setback requirement, while topographically feasible, would place the new structure over the existing septic system. It would also encroach into the protected zone of several oak trees, or possibly necessitate their removal. While it is conceivable that another location could be found to accommodate a second unit on the property, it would almost certainly require at least a moderate amount of additional earthmoving, and, likely, the removal of oak trees, on another portion of the property. These alternatives are likely to cause further hillside and environmental degradation, both of which are specifically and repeatedly called out for preservation in the Santa Monica Mountains North Area

Plan. Allowing the creation of a second unit from the existing guest house would allow the applicants to enjoy an allowed use of the A-1-10 zone without conflicting with these portions of the Plan.

18. The reduction in the required side yard setback will not constitute a grant of special privilege to the subject property that is inconsistent with the limitations on other properties in the vicinity and zone in which the property is situated. The existing guest house, which will be converted to the second unit, is not visible from properties to the north, south, and west of the subject property, and setbacks are greater than the required 35 feet in each of these directions. The structure is visible from the property to the east. However, it is more than 250 feet from any other residence, as the property to the east is primarily occupied by stables and a riding arena. In addition, the exterior appearance of the structure would be unchanged from its current form, and staff has not received any objections to the project from area residents. Although the guest house is not the required 35-foot from the side property line, the configuration of the lot and the location of neighboring structures still ensures that the second unit is more than 250 feet away from any neighboring residence. The intent of the 35-foot setback requirement for rural second units is to ensure that they are located a sufficient distance from other residences, which provides a privacy buffer and avoids causing development of these areas to seem overly dense. Due to the unique configuration of the subject property and its neighboring residence, the reduction of the required setback would not be contrary to these intentions.
19. The strict application of the 35-foot side yard setback requirement for the second unit will result in practical difficulties and unnecessary hardships that are inconsistent with the purpose of the setback requirements. As explained above, the purpose of the increased setback requirements for rural second units is to ensure that they are located a sufficient distance from other residences, which provides a privacy buffer and avoids causing development of these areas to seem overly dense. The existing guest house, which will be converted to the second unit, is not visible from properties to the north, south, and west of the subject property, and setbacks are greater than the required 35 feet in each of these directions. The structure is visible from the property to the east. However, it is more than 250 feet from any other residence, as the property to the east is primarily occupied by stables and a riding arena. In addition, the exterior appearance of the structure would be unchanged from its current form, and staff has not received any objections to the project from area residents. While it is conceivable that another location could be found to accommodate a second unit on the property, it would almost certainly require at least a moderate amount of additional earthmoving, and, likely, the removal of oak trees, on another portion of the property. These alternatives are likely to cause further hillside and environmental degradation, both of which are specifically and repeatedly called out for preservation in the Santa Monica Mountains North Area Plan. Therefore, the additional work, expense, and impacts to the environment in order to comply with

the strict letter of the zoning code would not result in a superior project design.

20. The reduction in the required side yard setback will not be materially detrimental to the public health, safety, or general welfare, or to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site because the proposed residence is consistent with the other similar development in the area and has been reviewed and cleared by the departments of Public Works, Fire, and Public Health. The existing guest house is not visible from properties to the north, south, and west, and setbacks are greater than the required 35 feet in each of these directions. The structure is visible from the property to the west. However, it is more than 250 feet from any other residence, as the property to the west is primarily occupied by stables and a riding arena. In addition, the exterior appearance of the structure would be unchanged from its current form, and staff has not received any objections to the project from area residents. Therefore, the proposed residence, as designed, is compatible with the surrounding area.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

- A. That because of special circumstances or exceptional characteristics applicable to the property, the strict application of the code deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, as the topography and features of the project site are such that the most appropriate location for the second unit is within the pre-existing guest house;
- B. That the adjustment authorized will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and zone in which the property is situated, as the proposed location of the second unit is consistent with the intentions of the increased side-yard requirement for rural areas;
- C. That strict application of zoning regulations as they apply to such property will result in practical difficulties or unnecessary hardships inconsistent with the general purpose of such regulations and standards, as the additional work, expense, and impacts to the environment in order to comply with the strict letter of the zoning code would not result in a superior project design; and
- D. That such adjustment will not be materially detrimental to the public health, safety or general welfare, or to the use, enjoyment or valuation of property of other persons located in the vicinity, as the proposed second unit would meet all County health and safety standards and would be located more than 250 feet from the nearest residence.

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 Sections 22.56.290 of the Los Angeles County Code.

REGIONAL PLANNING COMMISSION ACTION:

1. The Commission has considered the Class 3 and Class 5 Categorical Exemptions for this project and certifies that the project 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, Variance 200900011 is **APPROVED** subject to the attached conditions.

VOTE:

Concurring:

Dissenting:

Abstaining:

Action Date:

c: Commission Services, Zoning Enforcement, Building and Safety

Attachment: Conditions

1. This grant authorizes the conversion of an existing approximately 550-square-foot guest house located in an area without public sewer and designated as a Very High Fire Hazard Severity Zone into a second unit without any exterior alterations and a reduction from the required 35-foot side yard setback to an eastern side-yard setback of 17'-4" as depicted on the approved site plan marked Exhibit "A", and subject to all of the following conditions of approval.
2. 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.
3. This grant shall not be effective for any purpose and cannot be used until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of, and agree to accept, all conditions of this grant and that the conditions of this grant have been recorded as required by Condition No. 8, and until all required fees have been paid pursuant to Condition No. 9. Notwithstanding the foregoing, this condition (No. 3), and Condition Nos. 4, 5, and 6 shall be effective immediately upon final approval of this grant by the County. The date of final approval is the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
4. 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 fully cooperate 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.
5. 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 and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in the Department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs or expenses shall be billed and deducted:
 - a. If during the litigation process, actual costs or expenses 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 shall be paid by the permittee in accordance with to Los Angeles County Code Section 2.170.010.
6. This grant shall expire unless used within two (2) years from the date of final approval of the grant by the County. A single, one-year time extension may be requested, in writing and with payment of the applicable fee, before the expiration date.
7. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
8. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the 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 subject property during the term of this grant, the permittee, or the property owner if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
9. 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. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. **The permittee shall deposit with the County of Los Angeles the sum of \$600.00.** These monies shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. These funds provide for **three annual** 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 condition of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the

current recovery cost at the time any additional inspections are required, whichever is greater.

10. 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 health or safety or so as to be a nuisance.
11. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise modified as set forth in these conditions or as shown on the approved plans.
12. All structures and operations shall comply with the requirements of the Division of Building and Safety of the County Department of Public Works, and with those requirements of the County Fire Department and Fire Warden in its letter of April 26, 2010 and the Department of Public Health in its letter of March 2, 2010, unless otherwise required by said departments. These conditions are incorporated by this reference as if set forth fully herein, and the referenced letters are hereto attached.
13. The subject property shall be developed and maintained in substantial compliance with the plans on file 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 Regional Planning within 60 days of the date of final approval of the CUP. In the event that subsequent plans are submitted, the written authorization of the property owner is necessary.
14. The maximum height of the second unit shall not exceed 11'-8" above grade.
15. The eastern side yard shall not be less than 17'-4", and all other yards shall not be less than 35 feet in depth.
16. The habitable area of the second unit shall not exceed 550 square feet.
17. A minimum of two (2) on-site covered parking spaces shall be maintained and made continuously available for vehicular parking as shown on the approved Exhibit "A."
18. The second unit shall not be separately sold from the single-family residence that is located on the subject property, but it may be a rental unit. The single-family residence or the second unit located on the subject property shall be owner-occupied in perpetuity. The permittee shall record in the Office of the County Recorder an agreement to this effect as a covenant running with the land for the benefit of the County, and the covenant shall declare that any violation thereof shall

PROJECT NO. R2009-01980-(3)
CONDITIONAL USE PERMIT NO. 200900146
VARIANCE NO. 200900011

DRAFT CONDITIONS
PAGE 4 OF 4

be subject to the enforcement procedures set forth in Part 6 of Chapter 22.60 of the County Code. The agreement shall be submitted to the Director of Regional Planning for review and approval prior to recordation.

MK:TM
01/13/11



CONDITIONAL USE PERMIT BURDEN OF PROOF

Pursuant to Zoning Code Section 22.56.040, the applicant shall substantiate the following:

(Do not repeat the statement or provide Yes/No responses. If necessary, attach additional pages.)

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

1. 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.

This is an existing structure permitted as a guest house with septic tank in 1982. It has been used as such since then. It will not adversely affect anything or anybody because the only change we are applying for is to be occupied full time and have cooking facilities as a second unit.

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 this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.

This structure of 550 Sq Ft sits on approximately one acre with plenty of space for parking, landscape, etc - The closest residence on the same side of the Street is 300 Ft away, and another residence across the highway is about 150 Ft away.

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.

This existing structure is on Mulholland Hwy, and is served by Los Virgenes Water Dpt and Southern California Edison Power Co (bills enclosed)

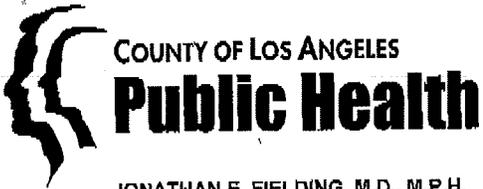


VARIANCE BURDEN OF PROOF

In addition to the information required on the application by Chapter 22.56, Part 2, the applicant for a variance shall substantiate to the satisfaction of the Director the following facts:

(Do not repeat the statement or provide Yes/No responses. If necessary, attach additional pages.)

<p>A. That there are special circumstances or exceptional characteristics applicable to the property involved, such as size, shape, topography, location or surroundings, which are not generally applicable to other properties in the same vicinity and under identical zoning classification; and</p>
<p>This existing 550 sq Guest House, permitted in 1982 is 0.25 ML (1320 Ft) away from the main house - Not being attached, cannot be permitted as Care Takers unit - The Guest House sits by the street level, while the main house is at the top of the hill (about 200 Ft higher) - Relocating this Guest House to meet Second Unit's requirements would be cost-prohibit and a bigger impact on the environment -</p>
<p>B. That such variance is necessary for the preservation of a substantial property right of the applicant such as that possessed by owners of other property in the same vicinity and zone; and</p>
<p>Property owned and occupied by applicants since 1988 - One owner is now ill and needs help with everyday chores (driving, yard care, food shopping, some personal hygiene, etc.) - Most properties in this rural area have Care-Takers Units because of agricultural work, distance to commercial center (6 ML) and no public transportation</p>
<p>C. That the granting of the variance will not be materially detrimental to the public welfare or be injurious to other property or improvements in the same vicinity and zone.</p>
<p>This is an existing structure that will not require modifications -</p>



JONATHAN E. FIELDING, M.D., M.P.H.
Director and Health Officer

JONATHAN E. FREEDMAN
Chief Deputy Director

ANGELO J. BELLOMO, REHS
Director of Environmental Health

ALFONSO MEDINA, REHS
Director of Environmental Protection Bureau

Land Use Program

Patrick Nejadian, REHS
Chief Environmental Health Specialist
6050 Commerce Drive
Baldwin Park, California 91706
TEL (626) 430-5380 • FAX (626) 813-3018



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March 2, 2010

Ms. Maria T. S. Del Barrio
31350 Mulholland Hwy.
Malibu, CA 90265

RE: Project No. R2009-01980 / CUP 200900146; 31350 Mulholland Hwy., Malibu

Dear Ms. Del Barrio:

This is in response to your request for an approval for the use of an existing "guest house" located at the above referenced address as a living quarter for permanent occupancy. Land Use Program has reviewed the information provided regarding the existing onsite wastewater treatment system (As-built plan-approval issued by the Department on May 6, 1981) and has no objection to the approval of this project. This approval is contingent upon the following conditions:

1. The existing onsite wastewater treatment system for the referenced unit will remain and operated independent of the main house and shall be maintained operable at all times to accommodate the needs for the disposal of the wastewater generated as a result of normal household occupancy. In future, if for any reasons, the existing onsite wastewater treatment system becomes inoperable or deemed inadequate by the Department, a new system shall be installed in conformance with the departmental guidelines.
Note: At the time of construction if public sewer connection is available within 200 feet of any part of the proposed building or building's exterior drainage, all future sewage drainage and piping from the building shall be connected to such public sewer.
2. The proposed usage of the referenced unit for the purposes of living quarter shall be in conformance with the guidelines established by this Department and other applicable regulations. Obtain authorization (Certificate of Occupancy) from the Department of Public Works, Building and Safety Division prior to occupancy and commencement of the usage as a living quarter.

MAR 09 2010

Project No. R2009-01980
Maria T. S. Del Barrio
March 2, 2010
Page 2 of 2

If there are any questions or further information is needed, please contact me at 626-430-5380.

Respectfully,

A handwritten signature in black ink, appearing to read 'Patrick Nejadian', is written over a horizontal line. The signature is somewhat stylized and includes several loops and flourishes.

Patrick Nejadian, Chief REHS
Land Use Program

MAR 09 2010



COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

GAIL FARBER, Director

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
<http://dpw.lacounty.gov>

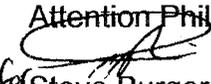
ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

March 22, 2010

IN REPLY PLEASE
REFER TO FILE: LD-1

TO: Mark Child
Zoning Permits I Section
Department of Regional Planning

Attention Phillip Estes

FROM:  Steve Burger
Land Development Division
Department of Public Works

CONDITIONAL USE PERMIT (CUP) NO. 200900146
PROJECT NO. R2009-01980
31350 MULHOLLAND HIGHWAY, MALIBU AREA

- Public Works recommends approval of this CUP.
- Public Works does **NOT** recommend approval of this CUP.

We reviewed the CUP for the Mulholland Highway project located in the unincorporated County area of Malibu in the vicinity of Mulholland Highway and Kanan Dume Road. The permit is to retroactively authorize a second dwelling unit without public water or sewer in a very high Fire Hazard Severity Zone.

There are no additional Public Works improvements or dedication to be imposed under the provisions of the Zoning Ordinance. Please note that prior to any work within public right of way, the applicants will be required to obtain a permit from Public Works' Construction Division, Permit Section. This permit will allow the Permit Section to perform a site visit and review the specific locations of above-ground facilities within public right of way.

If you have any other questions or require additional information, please contact Ruben Cruz or Toan Duong at (626) 458-4910 or by e-mail at rcruz@dpw.lacounty.gov or tduong@dpw.lacounty.gov

RC:ca

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**COUNTY OF LOS ANGELES
FIRE DEPARTMENT**

5823 Rickenbacker Road
Commerced, California 90040-3027

DATE: April 26, 2010

TO: Department of Regional Planning
Permits and Variances

PROJECT #: CUP R2009-01980

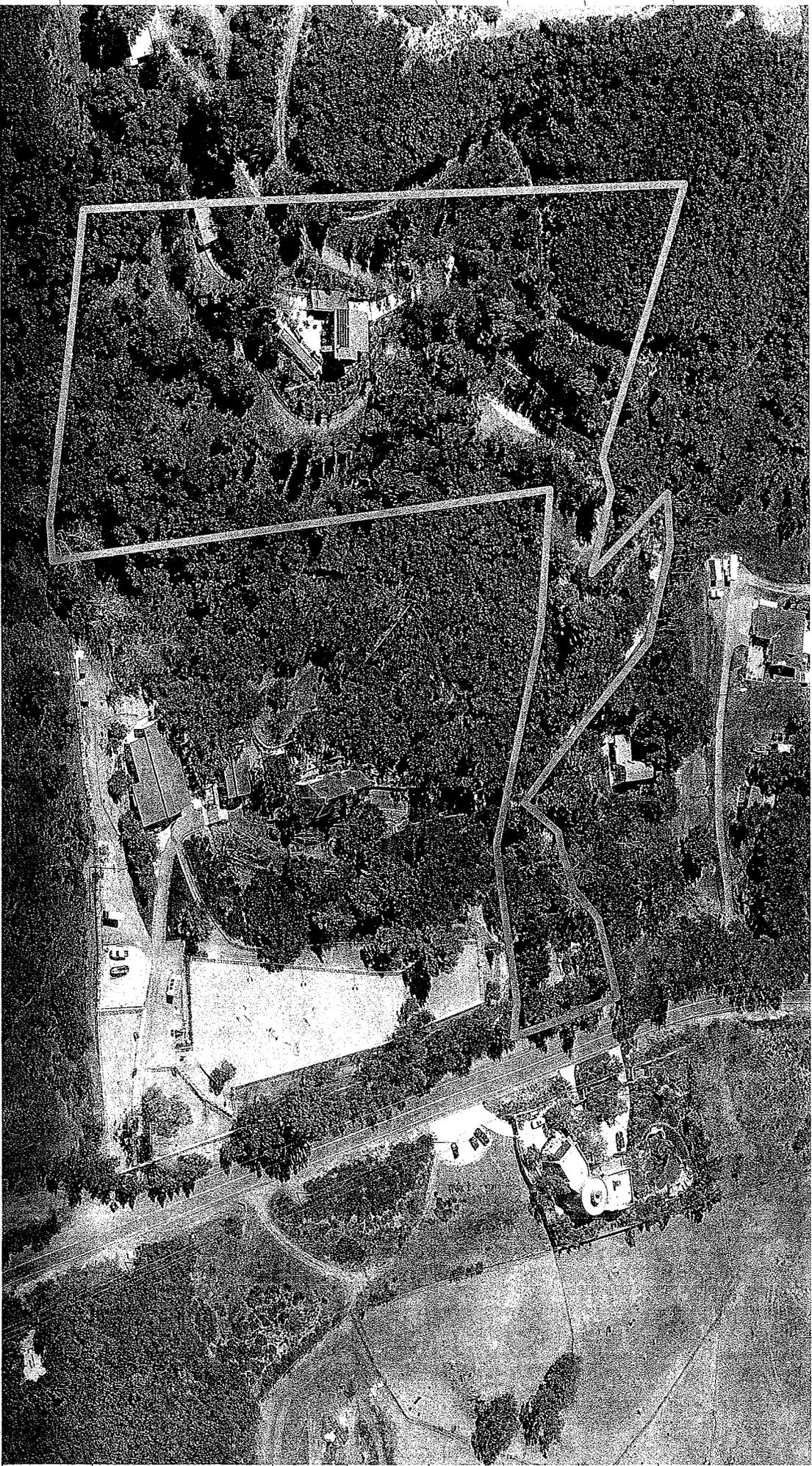
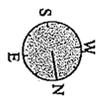
LOCATION: 31350 Mulholland Hwy., Malibu (Co.)

- 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 psi residual pressure. _____ Hydrant(s) flowing simultaneously may be used to achieve the required fire flow.
- Verify and flow test _____ 6" X 4" X 2 1/2" fire hydrant, 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.
- This property is located within the area described by the Fire Department as the Very High Fire Hazard Severity Zone (VHFHSZ). A Preliminary Fuel Modification Plan shall be submitted and approved prior to the Public Hearing. For details contact the Fuel Modification Unit, Fire Station 32, 605 North Angeleno Avenue, Azusa, CA 91702-2904. They may be reached at (626) 969-5205.
- Comments:** THIS PROJECT IS CLEARED BY THE FIRE DEPARTMENT FOR PUBLIC HEARING.
- Water:** Fire flow performed by Las Virgenes Municipal Water District on 04-21-10 is adequate.
- Access:** Fire apparatus access as depicted on Site Plan dated 04-26-10 is adequate.
- Special Requirements:**

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.

Inspector: **SCOTT JAEGGI**

Land Development Unit – Fire Prevention Division – Office (323) 890-4243 Fax (323) 890-9783



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PHOTO KEY

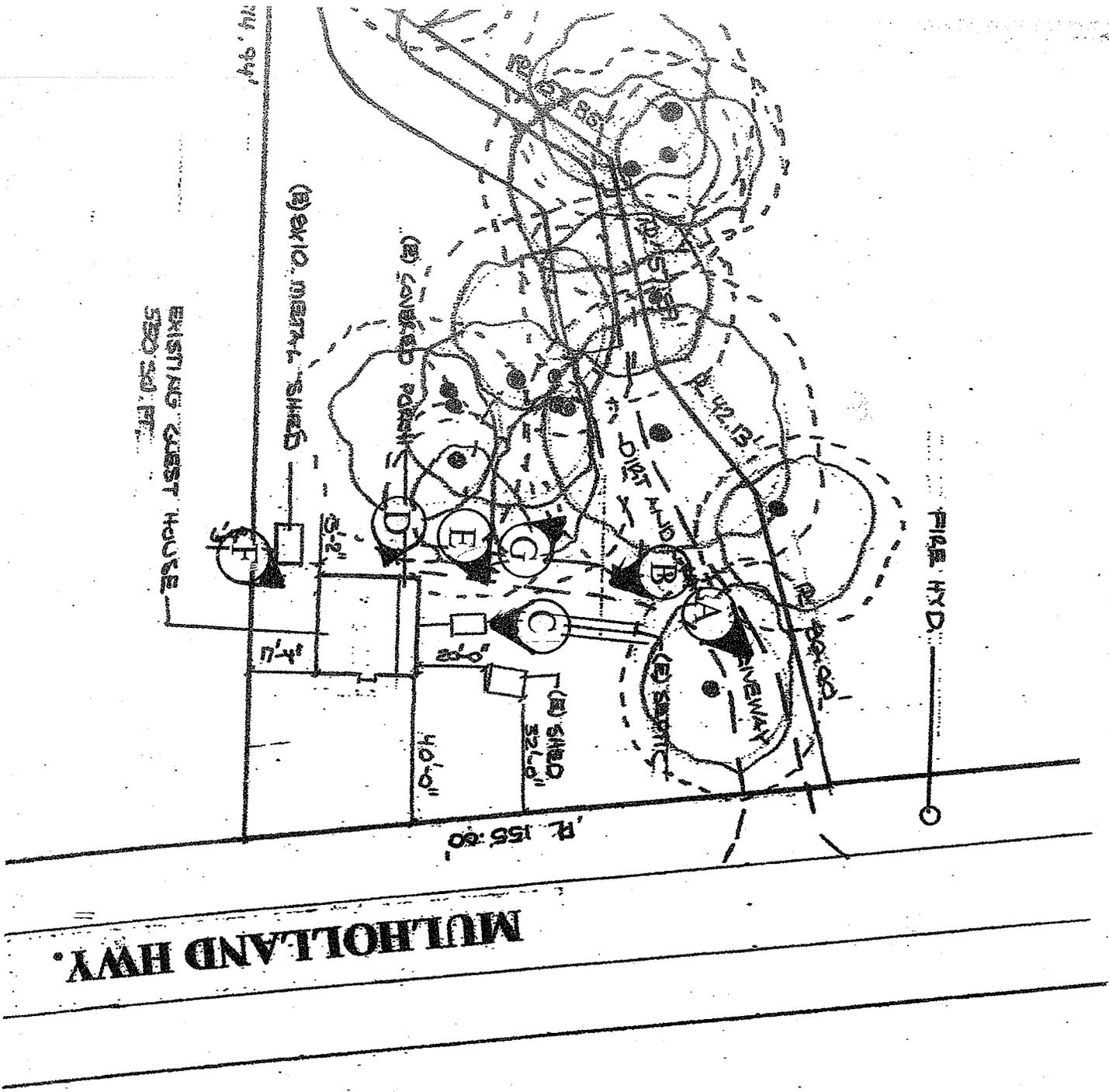


PHOTO A



PHOTO B

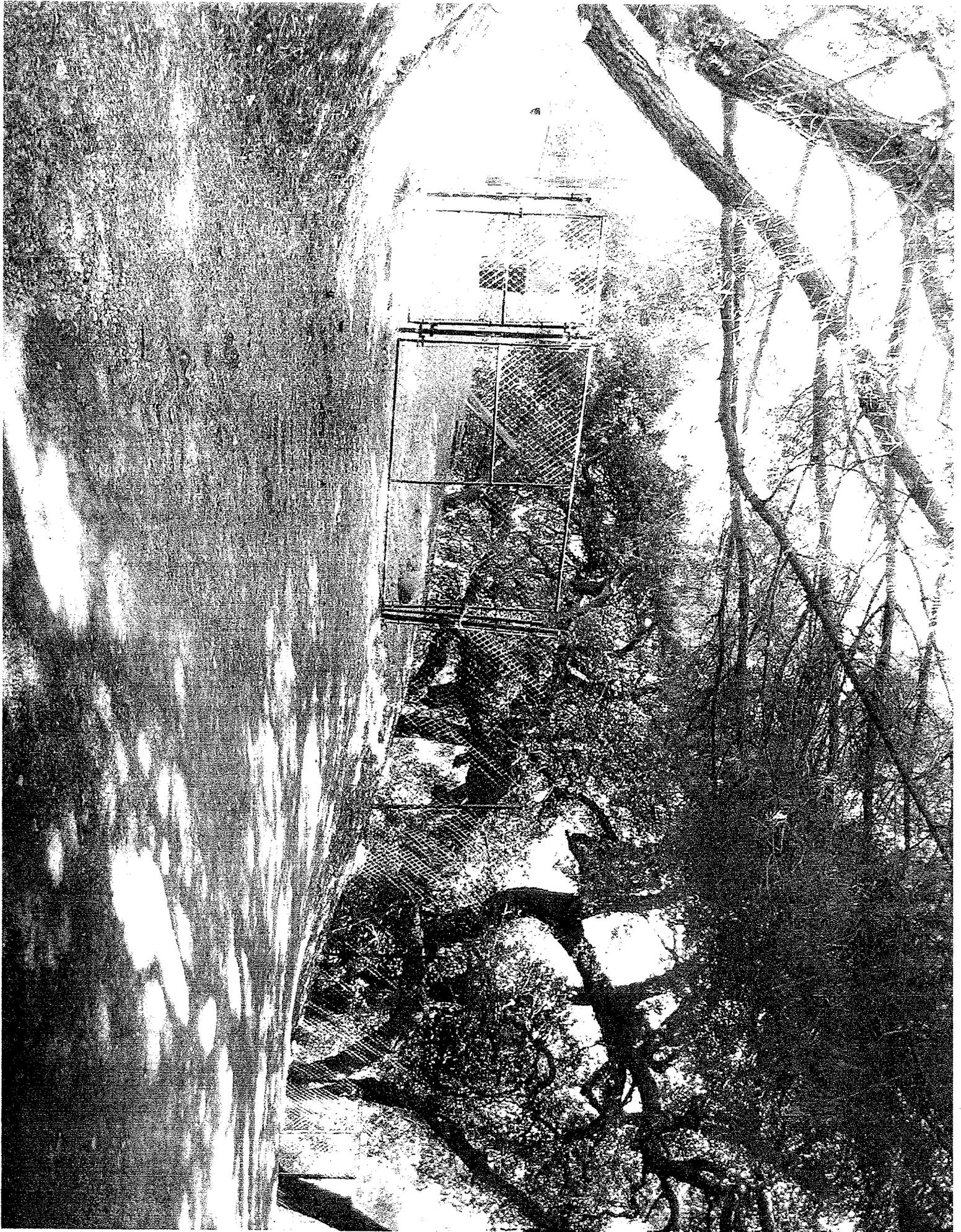


PHOTO C



PHOTO D



PHOTO E

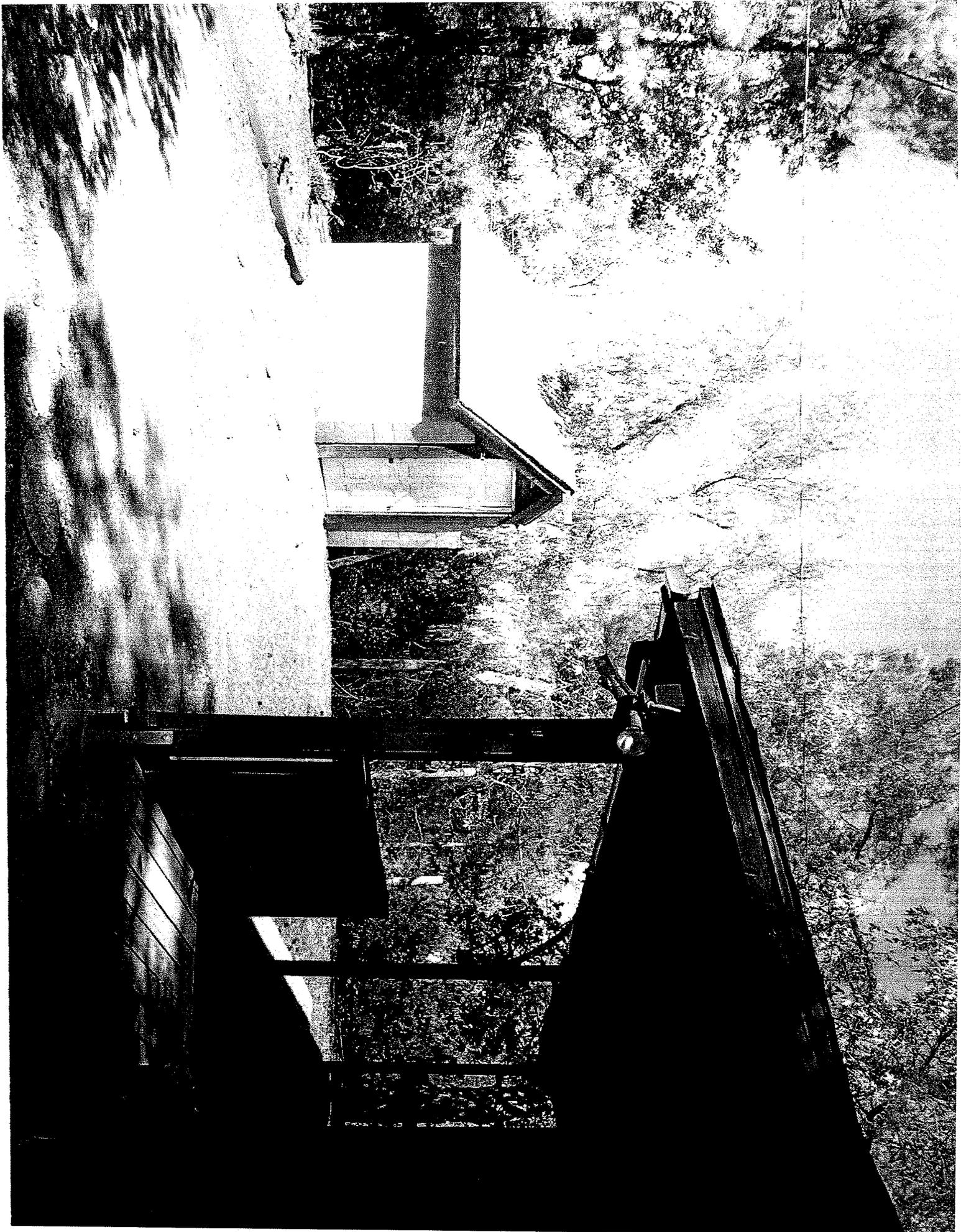


PHOTO F

