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

Th 22e

ADDENDUM

DATE: August 4, 2008

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item Th 22e, Application No. 4-07-126 (Mitchell) Topanga, Los Angeles County, Thursday, August 7, 2008

The purpose of this addendum is correct inadvertent errors, add an additional condition, modify conditions, to attach and respond to new plans proposed by the applicant's representative, and to attach and respond to letters submitted by neighboring property owners.

Note: ~~Strikethrough~~ indicates text to be deleted from the July 27, 2008 staff report and underline indicates text to be added to the July 27, 2008 staff report.

1.) The Project Description shall be modified as follows:

-Page 1:

Construct a 2 story, 30 ft. high, 3,776 sq. ft. single family residence with an attached 755 sq. ft. garage, driveway, 65' x 15' bridge, septic system, retaining walls, ~~920~~ 510 cu. yds. of grading (50 cu. yds. cut, 460 cu. yds. fill~~, 410 cu. yds. import)~~ at 869 Old Topanga Canyon Road in the Topanga Townsite/Old Topanga small lot subdivision, Los Angeles County. The project also includes the combination of two adjacent lots (APN 4438-023-004 and APN 4438-023-005). The proposed project requires the removal of one mature Coast Live Oak tree (*Quercus agrifolia*) (Oak Tree #4) and encroachment into the protected root zones of nine Coast Live Oak Trees (Oak Trees #1, 2, 3, 5, 7, 8, 9, ~~16~~ 23 and 22). The Oak Tree Report submitted by the applicant indicates that a total of 27 oak trees are located on the property. (**Exhibits 2-5**).

-Page 16:

The applicant proposes to construct a 2 story, 30 ft. high from existing grade, 3,776 sq. ft. single family residence with an attached 755 sq. ft. garage, driveway, 65' x 15' bridge supported by 4 caissons outside of the creek bank, septic system, retaining walls, ~~920~~ 510

cu. yds. of grading (50 cu. yds. cut, 460 cu. yds. fill~~, 410 cu. yds. import)~~ at 869 Old Topanga Canyon Road.

-Page 25, 2nd paragraph:

The proposed project is a 2 story, 30 ft. high from existing grade, 3,776 sq. ft. single family residence with an attached 755 sq. ft. garage, driveway, 65' x 15' bridge supported by 4 caissons outside of the creek bank, septic system, retaining walls, ~~920~~ 510 cu. yds. of grading.

2.) Section C. Water Quality, shall be modified as follows:

-Page 22, last paragraph:

To ensure that water quality impacts to Old Topanga Creek will be minimized during the proposed construction activities within and adjacent to Old Topanga Creek, the Commission finds it necessary to require the applicant of CDP ~~4-06-092~~ 4-07-126 to implement the construction best management practices detailed in **Special Condition Sixteen (16)**.

3.) Special Condition Eleven (11), beginning on page 10, shall be modified as follows:

11. Oak Tree Protection, Monitoring, and Mitigation

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, that specifies replacement tree locations, tree or seedling size planting specifications, and a ten-year monitoring program with specific performance standards to ensure that the replacement planting program is successful. At least ~~twenty~~ thirty(~~2~~30) replacement seedlings, less than one year old, grown from acorns collected in the area, shall be planted in appropriate oak woodland habitat areas on the subject parcel or at an offsite location approved by the Executive Director, as mitigation for adverse impacts to ~~two~~ three oak trees (Oak Tree #23, #3 and #4) because Oak Tree #23 will be directly impacted by trenching for a leach field, Oak Tree #4 will be removed for construction of the residence, and for Oak Tree #3, because the branches will have to be significantly trimmed to meet fire department requirements and the leach field will be located directly under the root zone.

The applicant shall commence implementation of the approved oak tree replacement planting program concurrently with the commencement of construction on the project site. An annual monitoring report on the oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years of the monitoring program. If monitoring indicates that the replacement oak tree program is not in conformance with or has failed to meet the performance standards specified in the monitoring program approved pursuant to this condition, the applicant, or successors in interest, shall submit a revised or supplemental planting plan for the review and approval of the Executive Director, revise it as necessary to obtain the Executive Director's approval, and implement the approved version of the plan. The revised planting plan shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

To ensure that all oak trees located on the subject parcel and along the proposed access driveway are protected during construction activities, temporary protective barrier fencing shall be installed around the protected zones (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of all oak trees and retained during all construction operations. If required construction operations cannot feasibly be carried out in any location with the protective barrier fencing in place, then temporary flagging shall be installed on all oak trees to ensure protection during construction. The permittee shall also follow the oak tree preservation recommendations that are enumerated in the "Oak Tree Report" by Bruce Malinowski, dated May 9, 2007, and the update letter dated July 14, 2008. To ensure protection of oak tree roots during excavation for development, all root excavation shall be completed by hand and/or with air spades or similar devices. Any trenching required within the critical root zone of a protected tree shall be done by hand. Any roots one inch in diameter or greater encountered during grading or trenching shall be cleanly cut and sealed.

A biological consultant, arborist, or other resource specialist shall be present on-site during all construction operations and shall be directed to immediately notify the Executive Director if unpermitted activities occur or if any oak trees are damaged, removed, or impacted beyond the scope of the work allowed by Coastal Development Permit 4-07-126. This monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. Should Oak Tree #1, 2, 5, or 7~~, or 16~~ be removed as a result of construction activities, at least ten replacement oak seedlings, less than one year old, grown from acorns collected in the area, shall be planted in appropriate oak woodland habitat areas on the subject parcel or at an off-site location as mitigation approved by the Executive Director. In that case, the applicant shall submit, for the review and approval of the Executive Director, a supplemental oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a monitoring program with specific performance standards to ensure that the supplemental replacement planting program described in this paragraph is successful revise it as necessary to obtain approval, and implement the approved version of the plan . An annual monitoring report on the supplemental oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years. Upon submittal of the supplemental replacement planting program required in this paragraph, the Executive Director shall determine if an amendment to Permit No. 4-07-126, or an additional coastal development permit, from the Commission is required.

The biological consultant or arborist shall monitor Oak Tree #1, 2, 5, or 7~~, and 16~~ identified in the above referenced "Oak Tree Report" by Bruce Malinowski for a period of ten (10) years minimum. An annual monitoring report shall be submitted for the review and approval of the Executive Director for each of the ten years. Should any of these trees be lost or suffer worsened health or vigor as a result of this project, the permittee shall submit, for the review and approval of the Executive Director, an off-site oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a monitoring program to ensure that the replacement planting program is successful; revise that program as necessary to obtain the Executive Director's approval, and implement the approved version of the plan. Replacement trees shall be provided at a rate of 10:1.

4.) Section F. Environmentally Sensitive Resources, shall be modified as follows:

-Page 43, first full paragraph:

However, the applicant's proposed design will encroach into the protected zones of nine oak trees and will require the removal of one oak tree (tree #4). The applicant obtained a Los Angeles County Oak Tree Permit, No. 02-339-(3), dated October 31, 2005, to authorize the removal of one oak tree (#4) and the encroachment of nine oak trees (Oak Trees #1,2, 3, 5, 7, 8, 9, 10 and 12). However, based on the most recent plan identifying all oak trees on the site prepared by Bruce Malinowski on July 14, 2008, staff has determined that the proposed residence will likely encroach into Oak Trees #1, 2, 3, 5, 7, 8, 9, ~~16,~~ and 22.

-Page 43, last paragraph, last sentence:

Therefore, extensive pruning of the canopies of Oak Trees #1, 2, 3, 5, 7, 8, 9, ~~16,~~ and 22 around the proposed residence will be required.

-Page 45:

	Revised Plans	Proposed Project
No Encroachment	Tree #8, 9, 22	
Encroachment for Development Footprint	Tree #1, 2, 3, 5, 7, 16	Trees #1, 2, 3, 5, 7, 8, 9, 16, 22
Encroachment due to residence, septic tank and leach field	Tree #3, 23	Tree #3, 23
Potential Encroachment due to septic tank and leach field	Tree #9, 11, 14, 22~~, 23~~	Tree #9, 11, 14, 22~~, 23~~
Tree Removal	Tree #4	Tree #4
Trees that require 10:1 mitigation	Tree #3, 4, 23	Tree #3, 4, 23, 8

-Page 46, 2nd paragraph:

In addition to the removal of oak tree #4, the location of the footprint required by the revised plans in **Special Condition Thirteen (13**) would still include encroachments within the protected zones of three oak trees on the site, including Oak Trees # 3, 5, and 7. Given the location of these oaks it would not be feasible for even a residence of much smaller size to avoid encroachment within the dripline of these trees on the site because of the dense interconnected riparian canopy. Additionally, the proposed bridge will still encroach into oak tree #1, #2~~, and #16~~. The leach field would still encroach significantly in the protected zone of oak tree # 3 and #23. There is no feasible alternative siting for the septic system or the driveway on this significantly constrained parcel. As such, the revised plans will still result in encroachments to six oak trees (Oak Trees #1, 2, 3, 5, 7, and 23 ~~16~~). Additionally, the location of the leach fields within the protected zones of Oak Trees #9, 11, and 14 is not likely to significantly impact these trees because they are located on a steep slope above the

proposed leach field location, and it would not be expected that significant impacts to roots or trimming of branches would be necessary.

-Page 47, first full paragraph:

Additionally, if any of the oak trees are damaged or removed as a result of construction activities, **Special Condition Eleven (11)** requires replacement plants to be planted on the project site or another location, approved by the Executive Director, as mitigation. In that case, the applicant shall submit, for the review and approval of the Executive Director, a supplemental oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a monitoring program to ensure that the replacement planting program is successful. An annual monitoring report on the supplemental oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years. Further, **Special Condition Eleven (11)** requires the planting of ~~twenty~~ thirty (~~2~~30) oak trees as mitigation ~~for~~ because Oak Tree #23 will be directly impacted by trenching for a leach field, Oak Tree #4~~, which~~ will be removed for construction of the residence, and mitigation is required for Oak Tree #3, because the branches will have to be significantly trimmed to meet fire department requirements and the leach field will be located directly under the root zone. Thus, given the steep slopes and dense coverage of the lot with oak trees, and implementation of the special conditions herein, there are no other alternatives that can be employed to avoid or reduce impacts to oak trees. To provide additional protections for Oak Tree #1, 2, 5, and 7~~, and 16,~~ **Special Condition Eleven (11)** requires monitoring for a period of ten years and submittal of an annual monitoring report for the review and approval of the Executive Director for each of the ten years…

5). Special Condition 13 shall be modified as follows:

-Page 12:

13. Revised Plans

Prior to issuance of the coastal development permit**,** the applicant shall submit, for the review and approval of the Executive Director, two sets of revised building plans (site plan, floor plans, elevations, etc.) showing:

A. A reduced footprint area as shown on **Exhibit 8**;

B. Habitable floor area that does exceed the GSA of 3,028 square feet;

C. Height no greater than 35 feet from existing grade;

D. That the house is designed to be raised above the ground on caissons to the maximum extent possible~~.~~;

E. That the house is designed so that Tree #4 will not be removed.

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

6.) The Staff Summary and Recommendation on Page 1 shall be revised as follows:

Staff recommends approval of the proposed project with ~~**seventeen (17)**~~ **eighteen (18) special conditions** conforming to...~~and~~ (17) site inspection, and (18) septic system requirements.

7.) Add Special Condition Eighteen (18) to page 16 of the Staff Report:

18. Septic System Requirements

Prior to issuance of the coastal development permit, the applicant shall provide evidence of final approval of the septic system by Los Angeles County Health Department. In addition, the applicant shall submit plans, for review and approval of the Executive Director, that show an advanced onsite wastewater treatment system that provides tertiary treatment. If final Los Angeles County Health Department approval results in locating any portions of the septic system or leach fields in the protected zones of oak trees and in a location not presently proposed, an amendment to Coastal Development Permit 4-07-126 is required.

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

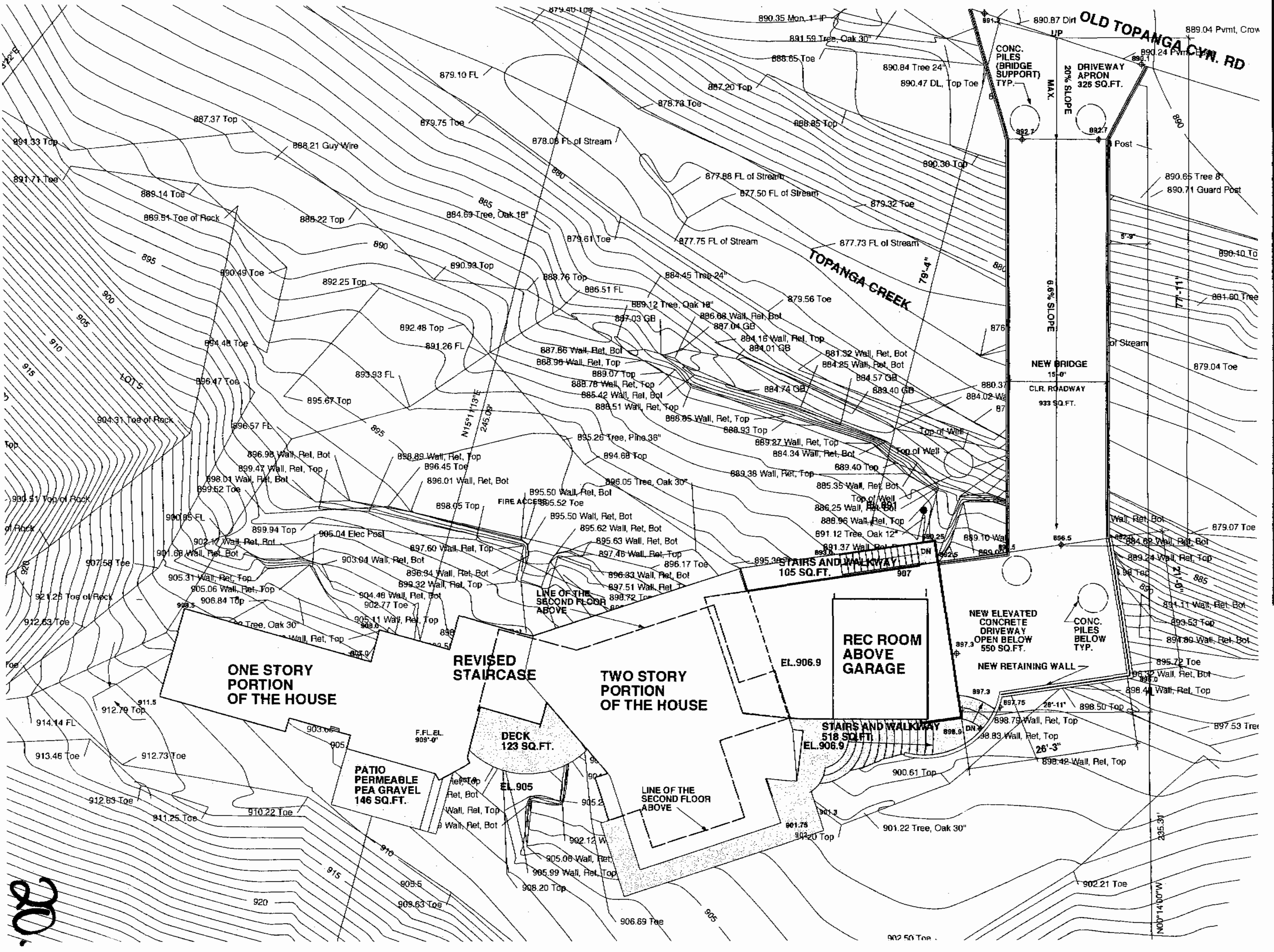
8.) Exhibit #8 shall be revised to say “Revised Development Area” instead of “Revised Development Footprint.”

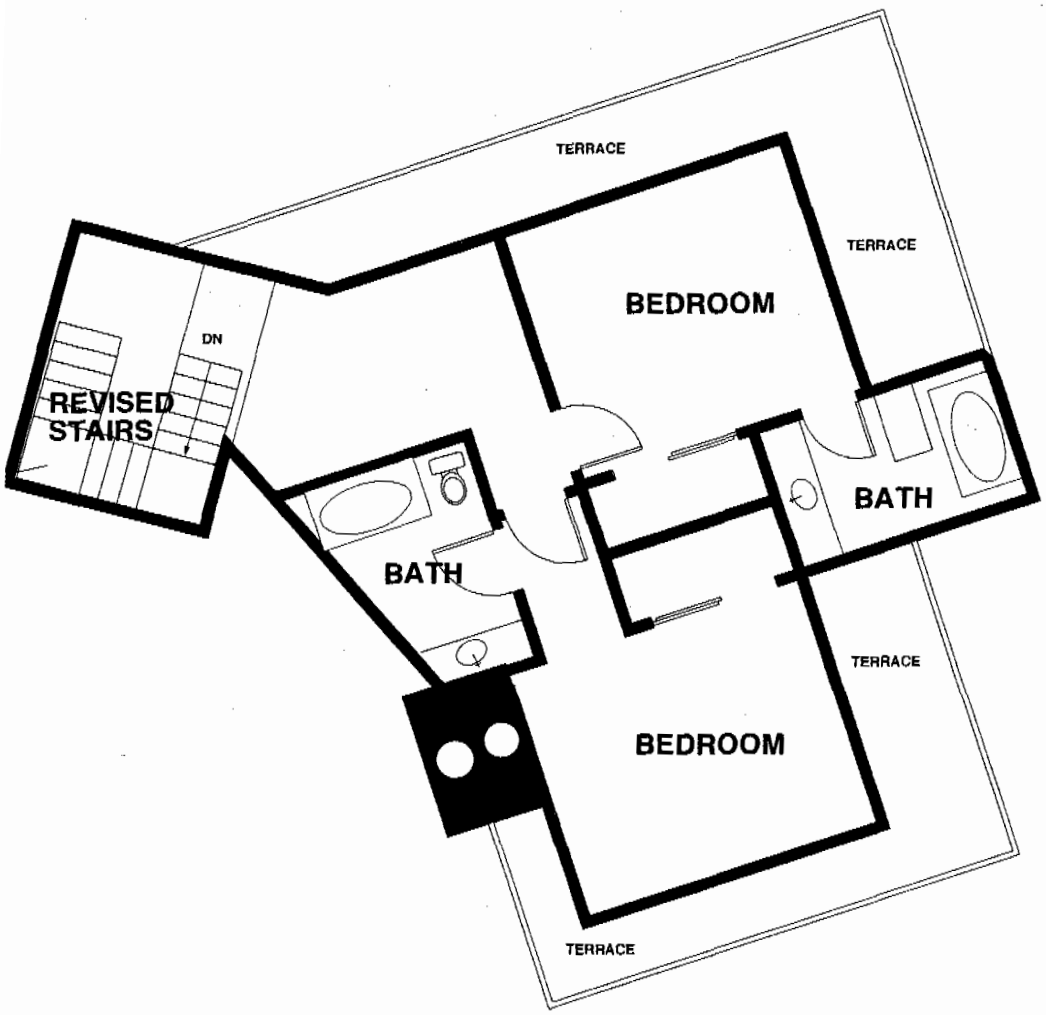
9.) The applicant’s representative has proposed an alternative project. The applicant’s proposed alternative plans are attached hereto. The applicant has reduced the second story floor down to one story over the portion of the house on the western lot to reduce impacts to oak tree branches and canopy. However, the footings will still impact oak tree root zones of several oak trees. Additionally, according to fire department requirements, the canopy of oak trees overhanging this portion of the residence will still have to be trimmed to allow feet of access around the residence, clear to the sky. In order to assure compliance with Section 30240 by avoiding impacts that would significantly disrupt and/or degrade environmentally sensitive habitat, to the extent this can be done without taking the property, the alternative smaller development area, required by Special Condition Thirteen (13), continues to be the recommended alternative project.

10.) Letters are attached from neighboring property owners received on August 1, 2008 and August 4, 2008. The neighbors assert that the property was not adequately posted and they did not receive adequate notice of the proposed project and request postponement. The letters also raised several issues regarding the proposed development. They assert that the proposed septic tank does not have an adequate setback from the creek, that geologic issues, including possibilities for landslides, remain on the site that have not been adequately assessed, that the residence will encroach into the protected zones of oak trees, and that visual impacts are inadequately addressed.

In response, Commission staff has sent out hearing notices to all the neighboring property owners within 100 feet of the property boundary, including the neighbors that the letters indicate did not receive notice. Regarding the property posting, the permit application includes a signed declaration of posting. (Application Section VII. Certification, page 9.) The applicants have received notice, and in fact sent comment letters, and are able, if they so choose, to attend the Commission hearing on this item. Regarding the issues raised regarding the septic system, Special Condition Eighteen (18) addresses these concerns because it requires final approval by LA County Health Department before the permit is issued and it also requires an advanced onsite waste water treatment system. Regarding geologic issues onsite, the applicant has provided the geological reports identified in the Substantive File Documents in the staff report. The geotechnical report prepared by GeoSystems, dated April 6, 2005, states on page 8 that: “Ancient or recent landslides were not observed on the property. In addition, our examination of slopes on the property did not reveal the presence of past surficial slope failures.” This report also includes a Section 111 statement on page 22, which states: “It is the finding of this firm that the proposed structures and private sewage disposal system will be safe and the site will not be affected by any hazard from landslide, settlement or slippage and the completed work will not adversely affect adjacent property, in compliance with the County of Los Angeles Code, provided our recommendations are followed.” Further, Special Condition One (1) requires the applicant to comply with all the recommendations contained in the geotechnical reports. Additionally, other concerns raised in the letters are addressed by Special Condition Thirteen (13), requiring revised plans, which reduces encroachments into the protected zones of oak trees to the maximum extent feasible and reduces the scale of the development.

Attachments:
1.) Revised plans submitted by applicant on July 31, 2008 (2 pages)
2.) Letter from neighboring property owners to Commission staff, dated August 1, 2008.
3) Addendum to the letter from the neighboring property owners to Commission staff, dated August 4, 2008.


OLD TOPANGA CYN. RD
TOPANGA CREEK
ONE STORY PORTION OF THE HOUSE
REVISED STAIRCASE
TWO STORY PORTION OF THE HOUSE
REC ROOM ABOVE GARAGE
EL.906.9
DECK 123 SQ.FT.
EL.905
PATIO PERMEABLE PEA GRAVEL 146 SQ.FT.
LINE OF THE SECOND FLOOR ABOVE
STAIRS AND WALKWAY 105 SQ.FT.
STAIRS AND WALKWAY 518 SQ.FT.
NEW ELEVATED CONCRETE DRIVEWAY OPEN BELOW 550 SQ.FT.
NEW RETAINING WALL
CONC. PILES BELOW TYP.
CONC. PILES (BRIDGE SUPPORT) TYP.
NEW BRIDGE 15'-0" CLR. ROADWAY 933 SQ.FT.
6.6% SLOPE
20% SLOPE MAX.
DRIVEWAY APRON 325 SQ.FT.
FIRE ACCESS
LOT 5
N15°11'13"E 245.09'
N00°14'00"W 235.31'
79'-4"
77'-11"
26'-3"
26'-11"
21'-0"



REVISED SECOND FLOOR PLAN
SCALE 1/8"=1'-0"

765 SQ.FT. GROSS
FLOOR AREA (NO CHANGE)

faxed to: (805)641-1732

Date: August 1, 2008
Re: application: 4-07-126
agenda item: Th 22, E
scheduled for 08/ 07/ 2008

Attention of:
Amber Tysor, Planner, and The Costal Commission

From:

John Kassir 905 Old Topanga, Al and Maria Johnson 860 Old Topanga, Jon Hilaiel and Valerie Kahne 874 Old Topanga, Deborah Jones 859 Old Topanga, Gary and Elsa Delorme 890 Old Topanga Canyon rd.

Dear Ms. Tysor and Coastal Commissioners,

We need your help. We are writing to bring to your attention what we feel is an important matter concerning coastal permit application 4-07-126. (scheduled for public hearing on 08/ 07/ 2008). We request that this letter become part of the record. We all own homes within 100 ft. proximity to the lot location in question; 869 Old Topanga Canyon Rd., Topanga 90290 (Los Angeles County) (APN(s) 4438-023-04, 4438-023-05). Some us have just received public hearing notices (not but a week from this hearing), and it was just posted on the property yesterday 07/ 31/ 2008. Some of us, including The Delormes and Deborah Jones of 853 - 859 Old Topanga Canyon rd., who shares her property lines with 869 Old Topanga (property in question), haven't received a notice still. Before yesterday, when it was posted on the property, or the day before when some of us received these notices, none of us knew this was happening at all!

We feel it is prudent on the Coastal Commissions part to at least postpone agenda item Th 22, E (coastal permit application number 4-

22.

07-126) to a later hearing so that we, neighbors in good standing to this property may look over and research the 77 pages of information supporting this permit.

We've assessed from their report that this property asks for some major concessions on the Coastal Commissions part, including, but not limited to: greatly substandard setbacks from the blue line creek of both the Septic system and leech field. They both incroach not only on the creek, but also the root systems of nine mature Calfornia oak trees as well as the septic being placed within 6 feet of Deborah Jones' property line. (something, we suspect she may have legal recourse to).

Other concessions with special conditions include, but are not limited to: The distruction of one mature (and quite old we might add) "protected" California oak tree; Encroachment by foundations, septic systems and leech fields on the root systems of nine other Oak trees; Structural encroachment under the dripline of at least ten other oak trees; Compromises in Drainage and polluted runoff; and of course, The Asthetic Issues (obliteration of the natural view of at least four neighbors that have all lived in their homes close to 20 years or more).

Unless of course, you're already prepared to deny the permit outright, We are asking that you not only postpone this hearing for all our benefit, but also, so that you may take an even closer look at this project. We feel we may all find that this project would grossly impact the local environment all the way to the ocean, and to the point that we, the neighbors to this property, will be the ones suffering the largest concessions.

We appreciate that you and the Coastal Commission are there to protect the coastal area and environment. Every one of us making this request, have had to put projects aside that were turned down or

altered by your office and had to understand it was for the betterment of the community and coastal region. None of us, in the past, were allowed to have even a few of the concessions that these people want, or build anything close to its size. The report says this home plan is consistant with other homes in proximity. This is completely untrue and in fact the plans included in their report and request seem to show structural square footages larger than the GSA allows for. It is important to postpone this item to a future hearing so that we who are directly impacted by this descision will have a chance to know if we need to oppose this request or not. We don't want to unnecessarily cause Mr. Mitchell hardship if we don't have to.

Although different county departments have allowed these many consessions(don't ask us how !), none of them said it was a good idea to do so. Some may not have compromised if they knew how many other concessions Mr. Mitchell was being given. But, none of them have the most important decision of all; whether to negatively effect the Coastal and Neighborhood Environment or not! That desision is up to your department and rests on your shoulders. Please, please take that decision very seriously. It impacts <u>our</u> lives profoundly !

Ultimately, we will abide by your descisions in these matters and all we ask is that you not agree to compromise this perminent environmental and asthetic alteration without giving us a fair chance to research how it will effect us directly and allow us to act accordingly.

Thank you for serving us. With appreciation and sincerity,

John Kassir Al Johnson Maria Johnson Deborah Jones

Jon Hilaiel Valerie Kahne Gary Delorme Elsa Delorme

Gary Delorme Elsa Delorme

24.

faxed to: (805)641-1732

Date: August 4, 2008
Re: application: 4-07-126
agenda item: Th 22, E
scheduled for 08/ 07/ 2008

Addendum to letter sent: 08/ 01/08

Attention of:
Amber Tysor, Planner, and The Costal Commission

From:

John Kassir 905 Old Topanga, Al and Maria Johnson 860 Old Topanga, Jon Hilalel and Valerie Kahne 874 Old Topanga, Deborah Jones 859 Old Topanga, Gary and Elsa Delorme 890 Old Topanga Canyon rd.

Dear Ms. Tysor and Coastal Commissioners,
As an addendum to our prior letter we would like you to take note and apply to the record:
That the property in review, Coastal permit application 4-07-126 (scheduled for public hearing on 08/ 07/ 2008) does not in it's description of property history or geological study mention that the house that was there previously, was destroyed by landslide in January of1969 killing it's occupant, Donald Douris. It Is documented in 'The Topanga Story', a historical book by Louise ArmstrongYork, who was a journalist of the highest esteem and said book was published by The Topanga Historical Society. The tragedy exposed the Approximately 120 ft. sheer rock behind and above the exact building site that is now proposed for the main part of the designed house. Above that said sheer rock still remains the top section and very large part of the loose land that came loose in 1969 and we feel it is prudent that it also be checked for safety by the proper geologists. As it is most certainly not

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part of Mr. Mitchells property or easily accessible we are sure it was not included in the original study. Were it to come down, (and we're sure it will sooner or later) it would not only bury the proposed home in question, but also quite probably push that house, once built, into the creek creating a dam and not only flooding Mr. Kassir's and other homes up creek of it, but also the debris would most certainly endanger Ms. Deborah Jones' house and bridge directly down creek of them.

We have noticed in the Permit Application Report's Staff Recommendation that there are seventeen (17) special conditions relating to Mr. Mitchells plans. Any one of them could be reason to look very closely at denying a permit. One very important one, number (3) involves "assumption of risk". It is our contention that if the Coastal Commission and/ or Building and Safety dept. is showing reservations as to the safety of this build enough to not assume any risk, and in showing this vote of "no confidence", then why should we who are in direct proximity to this proposed build want to live next door to such a risk?

Regardless of whom assumes the legal risk in this situation, none of us would wish to see such a prevailing tragedy. Those of us who have lived in this canyon for many years have the same agenda as your agency and the Coastal Act policies:

- Protection and expansion of public access to the shoreline and recreational opportunities and resources, including commercial visitor-serving facilities;
- Protection, enhancement and restoration of environmentally sensitive habitats, including intertidal and nearshore waters, wetlands, bays and estuaries, riparian habitat, certain wood and grasslands, streams, lakes, and habitat for rare or endangered plants or animals;
- Protection of productive agricultural lands, commercial fisheries and archaeological resources;
- Protection of the scenic beauty of coastal landscapes and seascapes;
- The establishment, to the extent possible, of urban-rural boundaries and directing new housing and other development into areas with adequate services to avoid wasteful urban

sprawl and leapfrog development; and

- Protection against loss of life and property from coastal hazards.

In closing, we'd like to thank you for your staff recommendations and special conditions so far, as well as your revised development footprint. Afterall you are our last line of defense in protecting our coastal act policies, especially in a situation where someone is willing to throw as much money as possible to fill their agenda without regard to their neighbors or environment.

Thank You for the oppurtunity to voice our strong, and very important concerns.

Sincerely,

John Kassir, Al Johnson, Maria Johnson, Deborah Jones, Jon Hilaiel, Valerie Kahne, Gary Delorme, Elsa Delorme

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

Th 22e

Filed:	2/1/08
180th Day:	7/30/08
270th Day:	10/28/08
Staff:	A. Tysor
Staff Report:	7/24/08
Hearing Date:	8/7/08

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO: 4-07-126

APPLICANT: Ian Mitchell

PROJECT LOCATION: 869 Old Topanga Canyon Rd.,Topanga , Los Angeles County

PROJECT DESCRIPTION: Construct a 2 story, 30 ft. high, 3,776 sq. ft. single family residence with an attached 755 sq. ft. garage, driveway, 65' x 15' bridge, septic system, retaining walls, 920 cu. yds. of grading (50 cu. yds. cut, 460 cu. yds. fill, 410 cu. yds. import) at 869 Old Topanga Canyon Road in the Topanga Townsite/Old Topanga small lot subdivision, Los Angeles County. The project also includes the combination of two adjacent lots (APN 4438-023-004 and APN 4438-023-005) and the removal of one mature Coast Live Oak tree and encroachment into the protected root zones of nine Coast Live Oak Trees.

Lot area:	**1.2 acres**
Building coverage:	**2,876 sq. ft.**
Pavement coverage:	**892 sq. ft.**
Driveway and bridge:	**1,808 sq. ft.**
Ht. above finished grade:	**28-30 ft.**

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with **seventeen (17) special conditions** relating to plans conforming to (1) geotechnical engineer's recommendations, (2) landscaping and erosion control, (3) assumption of risk, (4) drainage and polluted runoff control, (5) removal of natural vegetation, (6) structural appearance, (7) lighting restriction, (8) lot combination, (9) future development restriction, (10) deed restriction, (11) oak tree protection, monitoring, and mitigation, (12) final approved fuel modification plans, (13) revised plans, (14) open space restriction, (15) riparian habitat revegetation plan, (16) construction responsibilities and timing, and (17) site inspection.

The standard of review for the project is the Chapter 3 policies of the Coastal Act. In addition, the policies of the certified Malibu–Santa Monica Mountains Land Use Plan (LUP) serve as guidance. As conditioned, the proposed project will be consistent with the applicable policies of the Coastal Act.

LOCAL APPROVALS RECEIVED: Los Angeles County Department of Regional Planning Approval-in-Concept, dated June 7, 2006; Los Angeles County Department of Health Services Approval-in-Concept, dated September 30, 2004; Los Angeles County Fire Department Preliminary Fuel Modification Plan Approval, dated January 30, 2006; County of Los Angeles Fire Department Fire Protection Engineering Approval dated March 6, 2006, Los Angeles County Oak Tree Permit 02-339-(3) Approval dated October 31, 2005; Department of the Army Nationwide Permit 33 Authorization: *Temporary Construction, Access, and Dewatering,* prepared by Department of the Army, Los Angeles District, Corps of Engineers, dated July 31, 2007; Letter regarding Streambed Alteration Agreement Number # 1600-2005-0558-R5 Bridge Over Old Topanga Creek, Department of Fish and Game, March 27, 2008 (letter to applicant explaining that Department of Fish and Game was unable to meet the statutory deadline to issue the agreement); California Regional Water Quality Control Board, Los Angeles Region, Water Quality Certification for Proposed Construction of a Temporary Dunnage Crossing, File No. 07-025, dated July 20, 2007; Letter to the applicant from the Department of the Army, Los Angeles District, Corps of Engineers, dated January 5, 2007;

SUBSTANTIVE FILE DOCUMENTS: "Oak Tree Report," prepared by Bruce Malinowski, dated May 9, 2007; Updated Oak Tree Analysis, prepared by Bruce Malinowski, dated July 14, 2008; "Biological Assessment for 869 Old Topanga Canyon Road," prepared by Steve G. Nelson, dated December 26, 2006; "Floodplain Study for Lots 4&5, 869 Old Topanga Canyon Road," prepared by Parviz Abdavi-Azar, P.A. & Associates, dated June 2002, revised September 2003; "Phase I Archeological Resource Survey and Impact Evaluation," prepared by Brandon S. Lewis, dated September 23, 2003; "Engineering Geologic Recommendations for Sewage Disposal System Design, 869 Old Topanga Canyon Road," prepared by GeoSystems, Inc., dated May 18, 2004; "Updated Soils and Engineering Geologic Investigation," prepared by GeoSystems, Inc., dated April 6, 2005.

I. Approval with Conditions

A. STAFF RECOMMENDATION

MOTION: ***I move that the Commission approve Coastal Development Permit No 4-07-126 pursuant to the staff recommendation.***

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

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

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the Geotechnical Reports prepared by GeoSystems, dated April 6, 2005 and May 18, 2004. These recommendations, including recommendations concerning grading, foundation, retaining walls, sewage disposal, and drainage shall be

incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

2. Landscaping and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit final landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plans shall incorporate the criteria set forth below. All development shall conform to the approved landscaping and erosion control plans:

A) Landscaping Plan

1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Native Plants for Landscaping in the Santa Monica Mountains, updated August 2007. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.

2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting shall be primarily of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.

3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.

4) Vegetation within 20 feet of the proposed house may be removed to mineral earth. Vegetation within a 200-foot radius of the main structure may be

selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with the approved long-term fuel modification plan for this project. Irrigated lawn, turf and ground cover planted within the first twenty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

5) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

6) Fencing of the entire property is prohibited. Fencing shall extend no further than the development area shown on the final approved long-term fuel modification plan for this project. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in Special Condition Six (6) below.

7) No permanent irrigation is permitted within the protected zone (defined as a five foot radius outside the dripline, or 15 feet from the trunk, whichever is greater) of any oak tree on the project site and landscaping within the oak tree protected zones shall be limited to native oak tree understory plant species.

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

B) <u>Interim Erosion Control Plan</u>

1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.

2) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to

an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.

3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) Monitoring

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

(2) If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

3. Assumption of Risk, Waiver of Liability and Indemnity

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

4. Drainage and Polluted Runoff Control Plan

A. ***Prior to issuance of the coastal development permit***, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

(a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.

(b) Runoff shall be conveyed off site in a non-erosive manner.

(c) Energy dissipating measures shall be installed at the terminus of outflow drains.

(d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

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

5. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 100 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved

pursuant to this permit. Vegetation thinning within the 100-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

6. Structural Appearance

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of Coastal Development Permit No. 4-07-126. The palette samples shall be presented in a format not to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roofs, trims, exterior surfaces, driveways, retaining walls, and other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored and constructed with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by Coastal Development Permit No. 4-07-126 if such changes are specifically authorized by the Executive Director as complying with this special condition.

7. Lighting Restriction

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

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

2. Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

3. The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

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

8. Lot Combination

A. By acceptance of this permit, the applicant agrees, on behalf of himself and all successors and assigns with respect to the subject property, that: (1) All portions of the two adjacent parcels, APN 4438-023-004 and APN 4438-023-005, shall be recombined and unified, and shall henceforth be considered and treated as a single parcel of land for all purposes, including but not limited to sale, conveyance, lease, development, taxation or encumbrance; and (2) the single parcel created thereby shall not be divided, and none of the parcels existing at the time of this permit approval shall be alienated from each other or from any portion of the combined and unified parcel hereby created.

B. ***Prior to issuance of this coastal development permit***, the applicant shall execute and record a deed restriction, in a form acceptable to the Executive Director, reflecting the restrictions set forth above. The deed restriction shall include a legal description and graphic depiction of the two parcels being recombined and unified. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

C. ***Prior to issuance of this coastal development permit*****,** but after the deed restriction described in the prior paragraph is recorded, the applicant shall provide evidence to the Executive Director that the applicant has provided a copy of the recorded deed restriction to the county assessor's office and requested that the assessor's office revise its records and maps to reflect the combination of the parcels.

9. Future Development Restriction

This permit is only for the development described in Coastal Development Permit No. 4-07-126. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to any future development on any portion of the parcel. Accordingly, any future improvements to any portion of the property, including but not limited to the residence, garage, septic system, landscaping, and removal of vegetation or grading other than as provided for in the approved fuel modification and landscape plans prepared pursuant to Special Conditions Twelve (12) and Two (2), respectively, shall require an amendment to Coastal Development Permit No. 4-07-126 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

10. Deed Restriction

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

11. Oak Tree Protection, Monitoring, and Mitigation

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, that specifies replacement tree locations, tree or seedling size planting specifications, and a ten-year monitoring program with specific performance standards to ensure that the replacement planting program is successful. At least twenty (20) replacement seedlings, less than one year old, grown from acorns collected in the area, shall be planted in appropriate oak woodland habitat areas on the subject parcel or at an offsite location approved by the Executive Director, as mitigation for adverse impacts to two oak trees (Oak Tree #3 and #4) because Oak Tree #4 will be removed for construction of the residence, and for Oak Tree #3, because the branches will have to be significantly trimmed to meet fire department requirements and the leach field will be located directly under the root zone.

The applicant shall commence implementation of the approved oak tree replacement planting program concurrently with the commencement of construction on the project site. An annual monitoring report on the oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years of the monitoring program. If monitoring indicates that the replacement oak tree program is not in conformance with or has failed to meet the performance standards specified in the monitoring program approved pursuant to this condition, the applicant, or successors in interest, shall submit a revised or supplemental planting plan for the review and approval of the Executive Director, revise it as necessary to obtain the Executive Director's approval, and implement the approved version of the plan. The revised planting plan shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

To ensure that all oak trees located on the subject parcel and along the proposed access driveway are protected during construction activities, temporary protective barrier fencing shall be installed around the protected zones (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of all oak trees and retained during all construction operations. If required construction operations cannot feasibly be carried out in any location with the protective barrier fencing in place, then temporary flagging shall be installed on all oak trees to ensure protection during construction. The permittee shall also follow the oak tree preservation recommendations that are enumerated in the "Oak Tree Report" by Bruce Malinowski, dated May 9, 2007, and the update letter dated July 14, 2008.

A biological consultant, arborist, or other resource specialist shall be present on-site during all construction operations and shall be directed to immediately notify the Executive Director if unpermitted activities occur or if any oak trees are damaged, removed, or impacted beyond the scope of the work allowed by Coastal Development Permit 4-07-126. This monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. Should Oak Tree #1, 2, 5, 7, or 16 be removed as a result of construction activities, at least ten replacement oak seedlings, less than one year old, grown from acorns collected in the area, shall be planted in appropriate oak woodland habitat areas on the subject parcel or at an off-site location as mitigation approved by the Executive Director. In that case, the applicant shall submit, for the review and approval of the Executive Director, a supplemental oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a monitoring program with specific performance standards to ensure that the supplemental replacement planting program described in this paragraph is successful revise it as necessary to obtain approval, and implement the approved version of the plan . An annual monitoring report on the supplemental oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years. Upon submittal of the supplemental replacement planting program required in this paragraph, the Executive Director shall determine if an amendment to Permit No. 4-07-126, or an additional coastal development permit, from the Commission is required.

The biological consultant or arborist shall monitor Oak Tree #1, 2, 5, 7, and 16 identified in the above referenced "Oak Tree Report" by Bruce Malinowski for a period of ten (10) years minimum. An annual monitoring report shall be submitted for the review and approval of the Executive Director for each of the ten years. Should any of these trees be lost or suffer worsened health or vigor as a result of this project, the permittee shall submit, for the review and approval of the Executive Director, an off-site oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a monitoring program to ensure that the replacement planting program is successful; revise that program as necessary to obtain the Executive

Director's approval, and implement the approved version of the plan. Replacement trees shall be provided at a rate of 10:1.

12. Final Approved Fuel Modification Plans

A. ***Prior to issuance of the Coastal Development Permit***, the applicant shall submit, for the review and approval of the Executive Director, Fuel Modification Plans for the approved development (in conformance with the fuel modification plans dated January 30, 2006, that have been given Preliminary Approval by the Los Angeles County Fire Department and the final revised plans required by Special Condition Thirteen (13)) that have been granted Final Approval by the Los Angeles County Fire Department.

B. The Permitee shall undertake development in accordance with the final approved site plan(s) and elevations, grading plan(s), and fuel modification plan(s). Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required

13. Revised Plans

Prior to issuance of the coastal development permit**,** the applicant shall submit, for the review and approval of the Executive Director, two sets of revised building plans (site plan, floor plans, elevations, etc.) showing:

A. A reduced footprint area as shown on **Exhibit 8**;

B. Habitable floor area that does exceed the GSA of 3,028 square feet;

C. Height no greater than 35 feet from existing grade;

D. That the house is designed to be raised above the ground on caissons to the maximum extent possible.

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

14. Open Space Restriction

No development, as defined in Section 30106 of the Coastal Act, grazing, or agricultural activities shall occur in the Open Space Area as described and depicted in an Exhibit

attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

a. Fuel modification required by the Los Angeles County Fire Department undertaken in accordance with the final approved fuel modification plan required by Special Condition Twelve (12);
b. Drainage and polluted runoff control activities undertaken pursuant to the plans required by Special Conditions Two (2) and Four (4);
c. Planting of native vegetation and other restoration activities, in accordance with Special Condition Two (2) or if approved by the Commission as an amendment to this coastal development permit or a new coastal development permit;
d. Construction, maintenance, or use of public hiking trails, if approved by the Commission as an amendment to this coastal development permit or a new coastal development permit ; and
e. Construction and maintenance of roads, trails, and utilities pursuant to existing easements, if approved by the Commission in a new coastal development permit.
f. Leach field installation and maintenance of leach fields in the location depicted on the site plans for this project and undertaken in accordance with the Los Angeles County Department of Health Services Approval-in-Concept, dated September 30, 2004. Any vegetation removal or clearance necessary for the installation or maintenance of the septic system shall be revegetated consistent with the requirements of Special Condition Two (2).

Prior to the issuance by the Executive Director of the NOI for this permit, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction, prepared by a licensed surveyor, of the portion of the subject property affected by this condition, as generally shown on **Exhibit 9** attached to the findings in support of approval of this permit.

15. Riparian Habitat Revegetation Plan

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a detailed Riparian Habitat Revegetation Plan, prepared by a biologist or environmental resource specialist with qualifications acceptable to the Executive Director, for all of the riparian corridor areas of Old Topanga Creek that are located on the subject parcels, including areas where riparian vegetation will be temporarily disturbed or removed due to construction and/or demolition activities, using native plant species that are appropriate for a riparian/oak woodland habitat area. The plan shall indicate that all invasive and non-native plant species will be removed from the stream channel/riparian vegetation corridor within the revegetation area. The plan shall further include details regarding the types, sizes, and location of plants to be placed within the revegetation area. Only native plant species

appropriate for a riparian/oak woodland and which are endemic to the Santa Monica Mountains shall be used, as listed by the California Native Plant Society - Santa Monica Mountains Chapter in their document entitled Recommended List of Native Plants for Landscaping in the Santa Monica Mountains, updated August 2007. All plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property. The applicant shall implement the approved version of the Riparian Habitat Revegetation Plan. Successful site restoration shall be determined if the revegetation of native plant species on site is adequate to provide 90% coverage by the end of the five (5) year monitoring period and is able to survive without additional outside inputs, such as supplemental irrigation. The plan shall also include a detailed description of the process, materials, and methods to be used to meet the approved goals and performance standards and specify the preferable time of year to carry out restoration activities and describe the interim supplemental watering requirements that will be necessary.

Monitoring Program

A monitoring program shall be implemented to monitor the riparian habitat restoration/revegetation for compliance with the specified guidelines and performance standards. The applicant shall submit, upon completion of the initial planting, a written report prepared by a qualified resource specialist, for the review and approval of the Executive Director, documenting the completion of the initial planting/revegetation work. This report shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) documenting the completion of the initial planting/revegetation work.

Five years from the date of issuance of this coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a Riparian Habitat Revegetation Monitoring Report, prepared by a qualified biologist or Resource Specialist, that certifies whether the on-site revegetation is in conformance with the plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the monitoring report indicates the revegetation is not in conformance with or has failed to meet the performance standards specified in the plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental restoration plan for the review and approval of the Executive Director. The revised restoration plan must be prepared by a qualified biologist or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The applicant shall revise the revised restoration plan as necessary to obtain the Executive Director's approval and implement the approved version of the plan.

16. Construction Responsibilities and Timing

The permittee shall comply with the following work-related requirements:

(a) Excavation and grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director.

(b) Prior to commencement of any work approved by this permit, the work area shall be flagged to identify limits of construction and identify natural areas off limits to construction traffic. All temporary flagging, staking, and fencing shall be removed upon completion of the project.

(c) No construction materials, debris, or waste shall be placed or stored where it may be subject to erosion and dispersion or encroach into a habitat area or drainage.

(d) Construction materials, chemicals, debris, and sediment shall be properly contained and secured on-site to prevent the unintended transport of material, chemicals, debris, and sediment into habitat areas and coastal waters by wind, rain, or tracking. Best Management Practices and Good Housekeeping Practices, designed to prevent spillage and/or runoff of construction-related materials and to contain sediment and contaminants associated with the construction activity, shall be implemented prior to the on-set of such activity.

(e) Debris and excavated material shall be appropriately disposed at a legal disposal site. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is required.

(f) Debris and excavated material shall be removed from the project area as necessary to prevent the accumulation of sediment and other debris which may be discharged into habitat areas and coastal waters.

(g) Any and all debris resulting from construction activities shall be removed from the project site within 7 days of completion of construction.

17. Site Inspection

A. By acceptance of this permit, the applicant irrevocably authorizes, on behalf of himself and his successors-in-interest with respect to the subject property, Coastal Commission staff and its designated agents to enter onto the property to undertake site inspections for the purpose of monitoring compliance with the permit, including the special conditions set forth herein, and to document their findings (including, but not limited to, by taking notes, photographs, or video), subject to Commission staff providing 24 hours advanced notice to the contact person indicated pursuant to paragraph B prior to entering the property, unless

there is an imminent threat to coastal resources, in which case such notice is not required. If two attempts to reach the contact person by telephone are unsuccessful, the requirement to provide 24 hour notice can be satisfied by voicemail, email, or facsimile sent 24 hours in advance or by a letter mailed three business days prior to the inspection. Consistent with this authorization, the applicant and his successors: (1) shall not interfere with such inspection/monitoring activities and (2) shall provide any documents requested by the Commission staff or its designated agents that are relevant to the determination of compliance with the terms of this permit.

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

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

1. Project Description

The applicant proposes to construct a 2 story, 30 ft. high from existing grade, 3,776 sq. ft. single family residence with an attached 755 sq. ft. garage, driveway, 65' x 15' bridge supported by 4 caissons outside of the creek bank, septic system, retaining walls, 920 cu. yds. of grading (50 cu. yds. cut, 460 cu. yds. fill, 410 cu. yds. import) at 869 Old Topanga Canyon Road. The project also includes the combination of two adjacent lots (APN 4438-023-004 and APN 4438-023-005). The proposed project requires the removal of one mature Coast Live Oak tree (*Quercus agrifolia*) (Oak Tree #4) and encroachment into the protected root zones of nine Coast Live Oak Trees (Oak Trees #1, 2, 3, 5, 7, 8, 9, 16 and 22). The Oak Tree Report submitted by the applicant indicates that a total of 27 oak trees are located on the property. (**Exhibits 2-5**).

The two lots are located in the Topanga Townsite/Old Topanga small lot subdivision in Topanga in the Santa Monica Mountains, less than 1.5 miles northwest of Fernwood. (**Exhibit 1**)The site is situated among scattered single family residences in the area along Old Topanga Canyon Road. Residential development surrounds the property on all sides except to the south on the same side of Old Topanga Canyon Road. The project site consists of two lots totaling 1.2 acres, the northern lot (APN 4438-023-005) is .56 acres and the adjacent lot to the south (APN 4438-023-004) is .64 acres. The footprint of the proposed residence is 3,768 square feet (2,876 first story footprint and

second story deck area in addition to 892 square feet for the ground level decks, main stairway and walkway, and the lower level stairs and walkway). The total development area, not including the driveway, is approximately 5,600 square feet. The proposed habitable floor area is 2,759 square feet (total floor area is 3,776 sq. ft.) and is within the allowable GSA of 3,028 sq. ft. calculated by the applicant and confirmed by staff. The septic system is proposed to be located at the southern end of the driveway, approximately 35 feet away from the bank of Old Topanga Creek and about 50 away from the center of the creek. The leach fields are located on the southern side of the house between the rock slope and the residence. At its closest point, the residence will be located approximately 25 feet from the creek bank and approximately 35 feet from the center of the creek.

The project site is located on highly constrained lots in the Topanga Canyon watershed, within a Riparian and Oak Woodland designated as Environmentally Sensitive Habitat Area in the LUP. The building site on the property is located between Topanga Canyon Creek to the north and the steep rock face on the southern portion of the property. Elevations on the property range from approximately 876 feet above mean sea level along Old Topanga Creek near the road at the property's northern edge to approximately 1,006 feet above mean sea level along the property's southern edge. Old Topanga Canyon Creek, a USGS designated blue-line stream, drains from west to east on the entire northern portion of the site running parallel to Old Topanga Canyon Road. Approximately .75 miles downstream from the site, Old Topanga Creek meets Topanga Creek, which then flows approximately 4 miles south to the ocean.

According to the biological report submitted by the applicant, the site contains a disturbed oak riparian woodland along and adjacent to the banks of Old Topanga Creek. The understory vegetation consists of some native species, including stinging nettle (*Urtica dioica ssp. Holosericea*) and wild rose (*Rosa californica*), but also consists of giant reed (*Arundo donax*), periwinkle (*Vinca major*), and ivy (*Hedera sp*.). The tree community consists of coast live oak (*Quercus agrifolia)* and western sycamore (*Platanus racemosa)* as dominant species, and also contains California walnut (*Juglans californica*) and willow (*Salix sp.).* Mixed chaparral is found on the southern one-half of the property where it occupies steep slopes that rise out of the canyon bottom. Common and dominant species in this vegetation are laurel sumac (*Malosma laurina*), California sagebrush (Artemisia californica), black sage (Salvia mellifera), California buckwheat (*Eriogonum fasciculatum*), and chamise (*Adenostoma fasciculatum*)*.* The Los Angeles County Department of Regional Planning Approval-in-Concept, dated June 7, 2006 requires the applicant to remove the large pine tree and the periwinkle from the property. The applicant proposes to remove the non-native vegetation from the property, including the periwinkle, and plans to replace it with native vegetation.

The applicant has identified several alternatives for development on the site including: 1) the previously approved project, described below, for a 3,178 sq. ft. single family residence across one parcel, and 2) an alternative of two separate houses and two separate bridges. The applicant asserts that the proposed alternative will have the least

impacts to the oak woodland. To avoid impacts to the root zones and the oak tree canopy, the applicant has proposed a house design with varied heights between one and two stories across both lots to try to reduce impacts to the interconnected oak tree canopy. The residence has also been designed to be raised above the ground in most places on caissons, including the slough retaining wall. However, the applicant's proposed design will encroach into the protected zones of nine oak trees and will require the removal of one oak tree.

The proposed bridge and driveway will occupy an area of approximately 1,808 sq. ft. A 65 ft. by 15 ft. steel bridge is proposed over Topanga Canyon Creek to allow access to the southern parcel from Old Topanga Canyon Road. Four caissons are proposed to be located outside of the creek bank to support the bridge. (**Exhibits 2 & 5**) A temporary dunnage crossing is part of the proposed project. The dunnage crossing will serve the purpose of moving drilling equipment across Old Topanga Creek in order to construct the foundation for a permanent bridge which will be used to access the proposed single-family residence. Once the permanent bridge is set, the temporary crossing will be removed, and all other project-related work will use the permanent bridge for crossing the creek. The piles and foundation for the permanent bridge have been designed to be placed above the streambed.

According to a letter from the Army Corps of Engineers to the applicant, dated January 6, 2007, the Corps determined that the proposed permanent steel bridge would not discharge dredged or fill material into the waters of the United States because the four piles of the bridge will be located outside of the Ordinary High Water Mark, the limits of the Corps jurisdiction. Therefore, the proposed bridge and piles is not subject to Section 404 of the Clean Water Act. Further, the applicant applied to California Department of Fish and Game (DFG) for a streambed alteration agreement to work in the stream. In response, the DFG sent a letter stating that it could not act with the statutorily required time frame and so the project is approved. Also, the California Regional Water Quality Control Board issued a Water Quality Certification for construction of a temporary dunnage crossing for use while the steel bridge is constructed. (CRWQCB, File No. 07-025, dated July 20, 2007).

2. Property History

Remnants of past residential development exist on the southern parcel (APN 4438-023-004), including an overgrown graded flat pad area, dilapidated low stone retaining walls adjacent to the pad area, and an old staircase accessing the pad area. The applicant submitted records from the Los Angeles County Department of Building and Safety, which indicate that a residence existed on the property prior to 1970. The applicant proposes to remove the fragments of the old foundation where a portion of the proposed residence will be located.

On April 9, 1992, the Commission approved, with special conditions, Coastal Development Permit (CDP) No. 5-91-497 (Hehr) for construction of a new two-story,

3,178 sq. ft., 35 ft. high from existing grade single family residence with a 3-car garage, septic system, 88 cu. yds. of grading (44 cu. yds. cut and 44 cu. yds. fill) and a bridge crossing Topanga Creek at 869 Topanga Canyon Road, Topanga, Los Angeles County. The Gross Structural Area calculation was estimated by staff to be 3,419 using both adjacent lots in the calculation. The residence was proposed to be constructed on only the southern lot (APN 4438-023-004) and the bridge was proposed to built across Topanga Creek to the same lot (APN 4438-023-004) for access to the residence.

B. Hazards and Geologic Stability

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

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

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

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

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

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

Although the conditions described above render the project sufficiently stable to satisfy the requirements of Section 30253, no project is wholly without risks. Due to the fact

that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from natural hazards, including wildfire, those risks remain substantial here. If the applicant nevertheless chooses to proceed with the project, the Commission requires the applicant to assume the liability from these associated risks. Through the assumption of risk condition, the applicant acknowledges the nature of the fire and/or geologic hazard that exists on the site and that may affect the safety of the proposed development.

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

1. Plans Conforming to Geotechnical Engineer's Recommendations
2. Landscaping and Erosion Control Plan
3. Assumption of Risk
4. Drainage and Polluted Runoff Control Plan
12. Final Approved Fuel Modification Plans

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

C. Water Quality

Section 30231 of the Coastal Act states:

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

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

Topanga Canyon Creek, a USGS designated blue-line stream, drains from west to east on the northern portion of both properties, running parallel to Old Topanga Canyon Road. Approximately .75 miles downstream from the site, Old Topanga Creek meets Topanga Creek, which then flows approximately 4 miles south to the ocean. The creek

is lined by riparian and oak woodland vegetation that is delineated as Environmentally Sensitive Habitat Area on the Malibu/Santa Monica Mountains Land Use Plan (LUP) resource maps. The site is very constrained, with the only feasible building location between the creek and the rock face to the south of the site.

A 65 ft. by 15 ft. steel bridge is proposed over Topanga Canyon Creek to allow access to the southern parcel from Old Topanga Canyon Road. Four caissons are proposed to be located outside of the creek bank to support the bridge. (**Exhibits 2 & 5**) A temporary dunnage crossing is part of the proposed project. The dunnage crossing will serve the purpose of moving drilling equipment across Old Topanga Creek in order to construct the foundation for a permanent bridge which will be used to access the proposed single-family residence. Once the permanent bridge is set, the temporary crossing will be removed, and all other project-related work will use the permanent bridge for crossing the creek. The piles and foundation for the permanent bridge have been designed to be placed above the streambed. According to a letter from the Army Corps of Engineers to the applicant, dated January 6, 2007, the Corps determined that the proposed permanent steel bridge would not discharge dredged or fill material into the waters of the United States because the four piles of the bridge will be located outside of the Ordinary High Water Mark, the limits of the Corps jurisdiction. Therefore, the proposed bridge and piles is not subject to Section 404 of the Clean Water Act. Further, the applicant applied to California Department of Fish and Game (DFG) for a streambed alteration agreement to work in the stream. In response, the DFG sent a letter stating that it could not act with the statutorily required time frame and so the project is approved. Additionally, the California Regional Water Quality Control Board issued a Water Quality Certification for construction of a temporary dunnage crossing for use while the steel bridge is constructed.

In past permit actions the Commission has found that new development adjacent to or upslope of coastal streams and natural drainages results in potential adverse impacts to riparian habitat and the water quality of the creek from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species, disturbance of wildlife, and loss of riparian plant and animal habitat. The sensitive habitats found in the stream and downstream of the project sites could be adversely impacted by the proposed project through the introduction of excavated materials, chemicals, debris or sediment into the stream. The proposed development will result in an increase in impervious surfaces, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat,

including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed sites. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Four (4)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition Two (2)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources. Additionally, all graded areas to be replanted with native vegetation so as to reduce erosion and sediment laden runoff into coastal waterways.

To ensure that water quality impacts to Old Topanga Creek will be minimized during the proposed construction activities within and adjacent to Old Topanga Creek, the Commission finds it necessary to require the applicant of CDP 4-06-092 to implement the construction best management practices detailed in **Special Condition Sixteen (16)**. Furthermore, excavated materials that are placed in stockpiles are subject to increased erosion. In order to ensure that excavated material will be properly removed

and disposed in a timely manner, **Special Condition Sixteen (16)** requires the applicant to properly contain, secure, and remove all debris and excavated material from the site.

In order to ensure that adverse effects to riparian habitat and water quality from increased erosion and sedimentation from the development are minimized to the maximum extent feasible, the Commission finds that **Special Condition Fifteen (15)**, Riparian Habitat Revegetation, is necessary. Specifically, Special Condition 15 requires that prior to issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, a detailed Riparian Habitat Revegetation Plan, prepared by a biologist or environmental resource specialist with qualifications acceptable to the Executive Director, for all of the riparian corridor areas of Old Topanga Creek that are located on the subject parcels. All invasive and non-native plant species shall be removed from the stream channel/riparian vegetation corridor within the Revegetation Plan area. In addition, Special Condition 15 also requires the applicant to implement a five year monitoring program to ensure the success of the replanting.

The Commission has consistently required, through past permit actions, that new development provide a buffer of no less than 100 feet from the outward extent of the riparian canopy (or from the top of the stream bank where there is no riparian vegetation) in order to protect riparian ESHA, as well as to minimize impacts to water quality from development. The Commission has, however, allowed exceptions when this setback would otherwise require a taking because there is no other siting option. In this case, there are no siting alternatives that can provide a 100–foot buffer, given the location of the stream across the property, and the location of the near-vertical rock slope. The minimal buffer provided as part of the proposed development is the maximum that can be provided, while allowing for a residential development with a septic system. The proposed development includes the installation of an on-site septic system to serve the residence that will not meet the minimum setback. The septic system is proposed to be located at the southern end of the driveway, approximately 35 feet away from the bank of Old Topanga Creek and about 50 away from the center of the creek. The leach fields are located on the southern side of the house between the rock slope and the residence. At its closest point, the residence will be located approximately 25 feet from the creek bank and approximately 35 feet from the center of the creek. However, the applicant's geologic consultants have concluded that the site is suitable for the proposed septic system and that there would be no adverse impact to the site or surrounding areas from the use of a septic system. The applicant has received an approval-in-concept for the septic system from the Los Angeles County Department of Health Services, dated September 30, 2004, indicating that it meets the plumbing code requirements. The Commission has found that conformance with the provisions of the plumbing code is protective of water resources.

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

2. Landscaping and Erosion Control Plan
4. Drainage and Polluted Runoff Control Plan
12. Final Approved Fuel Modification Plans
15. Riparian Habitat Revegetation Plan
16. Construction Responsibilities and Timing

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

D. Visual Resources

Section 30251 of the Coastal Act states:

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

In addition, the Malibu/Santa Monica Mountains LUP provides policy guidance regarding the protection of visual resources. The Coastal Commission, as guidance in the review of development proposals in the Santa Monica Mountains, has applied these policies.

> ***P91*** ***All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.***
>
> ***P125*** ***New development shall be sited and designed to protect public views from LCP- designated highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on a sloped terrain should be set below road grade.***
>
> ***P129*** ***Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.***

P130 ***In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:***

- ***Be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LUP.***
- ***Minimize the alteration of natural landforms***
- ***Be landscaped to conceal raw cut slopes***
- ***Be visually compatible with and subordinate to the character of its setting.***
- ***Be sited so as to not significantly intrude into the skyline as seen from public viewing places.***

P131 ***Where feasible, prohibit placement of structures that will break the ridgeline views, as seen from public places***

P134 ***Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.***

P142 ***New development along scenic roadways shall be set below the road grade on the down hill side wherever feasible, to protect designated scenic canyon and ocean views.***

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. Section 30251 also requires that development be sited and designed to protect views of scenic areas, minimize alteration of landforms, and be visually compatible with the surrounding area. The Commission is required to review the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public.

Scenic elements surrounding the subject site in the Topanga Townsite/Topanga Oaks small lot subdivision include hillsides of oak woodland and dense brush and a riparian corridor along Old Topanga Creek. The proposed project is a 2 story, 30 ft. high from existing grade, 3,776 sq. ft. single family residence with an attached 755 sq. ft. garage, driveway, 65’ x 15’ bridge supported by 4 caissons outside of the creek bank, septic system, retaining walls, 920 cu. yds. of grading. The proposed project requires the removal of one mature Coast Live Oak tree (*Quercus agrifolia*) (Oak Tree #4) and encroachment into the protected root zones of nine Coast Live Oak Trees (Oak Trees #1,2, 3, 5, 7, 8, 9, 16 and 22). The Oak Tree Report submitted by the applicant indicates that a total of 27 oak trees are located on the property.

The proposed single-family residence would be sited under a canopy of oak trees and spread across two lots with a development area of 5,600 square feet. As conditioned to be redesigned, the residence will be two-story and located on one of the two parcels that comprise the project site. With the revised plans required by **Special Condition**

Thirteen (13), three less oak trees than the applicant's proposed project will have to be trimmed clear to the sky for fire department requirements. The residence will still be visible from Old Topanga Canyon Road. However, it will be located in the small lot subdivision in the vicinity of other single family residences of similar size and character. Residential development surrounds the property on all sides except to the south on the same side of Old Topanga Canyon Road. The Commission finds, therefore, that the project has been sited and designed to minimize landform alteration or other impacts to visual resources to the extent feasible.

The visual impact of the proposed structure can be minimized by requiring the structure to be finished in a color consistent with the surrounding natural landscape and, further, by requiring that windows on the proposed residence be made of non-reflective glass. To ensure visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as detailed in **Special Condition Seven (7).**

In addition, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area creates a visual impact to nearby scenic roads and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, **Special Condition Seven (7)** limits night lighting of the site in general; limits lighting to the developed area of the site; and specifies that lighting be shielded downward. The restriction on night lighting is necessary to protect the nighttime rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area.

Finally, regarding future developments or improvements, certain types of development on the property, normally associated with a single-family residence, which might otherwise be exempt, may have the potential to impact scenic and visual resources in this area. Therefore, it is necessary to ensure that any future development or improvements normally associated with a single-family residence, which might otherwise be exempt, is reviewed by the Commission for compliance with the scenic resource policy, Section 30251 of the Coastal Act. **Special Condition Nine (9)**, the Future Development Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Further, **Special Condition Ten (10)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the subject property.

Therefore, the Commission finds that the project, as conditioned, minimizes adverse effects to public views to and along the coast and minimizes the alternation of natural landforms. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

E. Cumulative Impacts

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section 30250 (a) of the Coastal Act states:

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

Section 30252 of the Coastal Act states:

> ***The location and amount of new development should maintain and enhance public access to the coast by (l) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.***

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

> ***the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.***

The proposed project involves the construction of a new single-family residence, which is “development” as defined under the Coastal Act. Pursuant to Coastal Act Sections 30250 and 30252 cited above, new development raises issues relative to cumulative impacts on coastal resources.

Throughout the Malibu/Santa Monica Mountains Coastal Zone there are a number of areas that were subdivided in the 1920’s and 30’s into very small “urban” scale lots.

These subdivisions, known as "small lot subdivisions" are comprised of parcels of less than one acre but more typically range in size from 4,000 to 5,000 square feet. The total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources. Cumulative development constraints common to small lot subdivisions were documented by the Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled: "Cumulative Impacts of Small Lot Subdivision Development in the Santa Monica Mountains Coastal Zone".

The study acknowledged that the existing small lot subdivisions can only accommodate a limited amount of additional new development due to major constraints to buildout of these areas that include: geologic, road access, water quality, disruption of rural community character, creation of unreasonable fire hazards and others. Following an intensive one year planning effort regarding impacts on coastal resources by Coastal Commission staff, including five months of public review and input, new development standards relating to residential development on small lots in hillsides, including the Slope-Intensity/Gross Structural Area Formula (GSA) were incorporated into the Malibu District Interpretive Guidelines in June 1979. A nearly identical Slope Intensity Formula was incorporated into the 1986 certified Malibu/Santa Monica Mountains Land Use Plan under policy 271(b)(2) to reduce the potential effects of buildout as discussed below.

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots that already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains creates cumulative impacts on coastal resources and public access over time. Because of this, the demands on road capacity, public services, recreational facilities, and beaches could be expected to grow tremendously.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP, which has been used as guidance by the Commission in past permit actions, requires that new development in small lot subdivisions comply with the Slope Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit. Past Commission action certifying the LUP indicates that the Commission considers the use of the Slope Intensity Formula appropriate for determining the maximum level of development that may be permitted in small lot subdivision areas consistent with the policies of the Coastal Act. Additionally, the Commission has, through coastal development permit actions, consistently applied the Slope Intensity Formula to new development in small lot subdivisions. The basic concept of the formula assumes the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse impacts on resources. Following is the formula and description of each factor used in its calculation:

Slope Intensity Formula:

GSA = (A/5) × ((50-S)/35) + 500

GSA = the allowable gross structural area of the permitted development in square feet. The GSA includes all substantially enclosed residential and storage areas, but does not include garages or carports designed for storage of autos.

A = the area of the building site in square feet. The building site is defined by the applicant and may consist of all or a designated portion of the one or more lots comprising the project location. All permitted structures must be located within the designated building site.

S = the average slope of the building site in percent as calculated by the formula:

S = I × L/A × 100

I = contour interval in feet, at not greater than 25-foot intervals, resulting in at least 5 contour lines

L = total accumulated length of all contours of interval "I" in feet

A = the area being considered in square feet

In addition, pursuant to Policy 271 of the Malibu/Santa Monica Mountains LUP, the maximum allowable gross structural area (GSA) as calculated above, may be increased as follows:

(1) Add 500 square feet for each lot which is contiguous to the designated building site provided that such lot(s) is (are) combined with the building site and all potential for residential development on such lot(s) is permanently extinguished.

(2) Add 300 square feet for each lot in the vicinity of (e.g. in the same small lot subdivision) but not contiguous with the designated building site provided that such lot(s) is (are) combined with other developed or developable building sites, or dedicated in fee title to a public agency, and all potential for residential development on such lot(s) is permanently extinguished.

The proposed project is located in the Topanga Townsite/Topanga Oaks small lot subdivision and involves the construction of a 2 story, 30 ft. high, 3,776 sq. ft. single family residence with an attached 755 sq. ft. garage, driveway, 65' x 15' bridge, septic

system, retaining walls, 920 cu. yds. of grading. The project also includes the removal of one mature Coast Live Oak tree and encroachment into the protected root zones of nine Coast Live Oak Trees. In addition, in order to meet the above referenced GSA requirements, the applicant proposes to construct the residence across two adjacent lots (APN 4438-023-004 and APN 4438-023-005). As explained below, **Special Condition Eight (8)**, lot combination, will assure that these two parcels remain combined in perpetuity.

The applicant submitted a GSA calculation of 3,028 square feet, based on the area and slope of the project site, assuming the two existing lots are combined into one project site. This calculation is shown on the site plans. Staff has confirmed that this GSA is accurate. Therefore, the proposed 3,776 sq. ft. single family residence (with 2,759 sq. ft. of habitable space) will be consistent with the GSA requirements for the subject site provided that the two separate subject parcels are combined into a single lot.

As previously stated, the purpose of the GSA requirements is to reduce the impacts of development within small lot subdivisions and to maintain the rural character of these "rural villages." When a lot is retired within the same small lot subdivision, there is a reduced potential buildout and thus there is a reduction in the development pressures related to water usage, septic capacity, traffic, geologic hazards, and habitat loss. In addition, some additions and improvements to residences on small steep lots within these small lot subdivisions have been found to adversely impact the area. Many of the lots in these areas are so steep or narrow that they cannot support a large residence without increasing or exacerbating the geologic hazards on and/or off site. Additional buildout of small lot subdivisions affects water usage and has the potential to impact water quality of coastal streams in the area. Other impacts to these areas from the buildout of small lot subdivisions include increases in traffic along mountain road corridors and greater fire hazards.

For all these reasons, and as this lot is within a small lot subdivision, further structures, additions or improvements on the subject property, including the conversion of all or a portion of the garage to habitable space, could cause adverse cumulative impacts on the limited resources of the subdivision. The Commission, therefore, finds it necessary for the applicant to record a future development deed restriction on the subject property, as noted in **Special Condition Nine (9)**, which would require that any future structures, additions or improvements to the property, beyond those approved in this permit, be reviewed by the Commission to ensure compliance with the policies of the Coastal Act regarding cumulative impacts and geologic hazards. At that time, the Commission can ensure that the new project complies with the guidance of the GSA formula and is consistent with the policies of the Coastal Act.

In addition, the Commission notes that the proposed 3,776 sq. ft. residence (2,759 sq. ft. of habitable space) is proposed to be built across two separate lots (APNs 4438-023-005 and 4438-023-005) and that the maximum allowable gross structural area of 3,028 sq. ft. was calculated considering the total area of two adjacent lots owned by the

applicant. The Commission has long required that lots in small lot subdivisions, aggregated for purposes of the GSA formula, as noted above, be tied together and treated as a single parcel. Such a combination was required in earlier permit decisions authorizing development of a residence on two or more lots in a small lot subdivision [CDP No. 4-07-037 (Snyder), CDP No. 4-06-131 (Martin), CDP No. 4-05-167 (Gepner), CDP No. 4-03-059 (Abshier & Nguyen), CDP No. 4-02-247 (McCain), CDP No. 4-00-092 (Worrel), 4-00-252 (Arrand), 4-00-263 (Bolander)]. Therefore, to ensure that each of the lots are permanently combined as required in conjunction with the use of the GSA formula, **Special Condition Eight (8)** is necessary to ensure that the two subject lots are combined and held as such in the future.

Finally, **Special Condition Ten (10)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The Commission therefore finds that the proposed project, only as conditioned, is consistent with Sections 30250(a) and 30252 of the Coastal Act.

F. Environmentally Sensitive Resources

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

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

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

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

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

> ***New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either***

individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of the surrounding parcels.

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

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

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

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

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

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

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

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

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

1. Project Description and Site Specific Biological Resource Information

The project site is located on two highly constrained lots in the Topanga Canyon watershed, within an Oak Woodland and riparian corridor designated as Environmentally Sensitive Habitat Area in the LUP (**Exhibit 7**). The building site on the property is located between Topanga Canyon Creek to the north and the steep rock face on the southern portion of the property. Elevations on the property range from approximately 876 feet above mean sea level along Old Topanga Creek near the road at the property's northern edge to approximately 1,006 feet above mean sea level along the property's southern edge. Old Topanga Canyon Creek, a USGS designated blue-line stream, drains from west to east on the entire northern portion of the site running parallel to Old Topanga Canyon Road. Approximately .75 miles downstream from the site, Old Topanga Creek meets Topanga Creek, which then flows approximately 4 miles south to the ocean.

According to the biological report submitted by the applicant, the site contains a disturbed oak riparian woodland along and adjacent to the banks of Old Topanga Creek. The understory vegetation consists of some native species, including stinging nettle (*Urtica dioica ssp. Holosericea*) and wild rose (*Rosa californica*), but also consists of non-native giant reed (*Arundo donax*), periwinkle (*Vinca major*), and ivy (*Hedera sp*.). The tree community consists of coast live oak (*Quercus agrifolia)* and western sycamore (*Platanus racemosa)* as dominant species, and also contains California walnut (*Juglans californica*) and willow (*Salix sp.).* Mixed chaparral is found on the southern one-half of the property where it occupies steep slopes that rise out of the canyon bottom. Common and dominant species are laurel sumac (*Malosma laurina*), California sagebrush (Artemisia californica), black sage (Salvia mellifera), California buckwheat (*Eriogonum fasciculatum*), and chamise (*Adenostoma fasciculatum*). The Los Angeles County Department of Regional Planning Approval-in-Concept, dated June 7, 2006 requires the applicant to remove the large pine tree and the periwinkle from the property. Additionally, the proposed project would require the removal of one oak tree and encroachment into the protected zones of nine oak trees.

According to public information, the applicant purchased the parcel with APN 4438-023-004 in 2000 for $79,500 and the parcel with APN 4438-023-005 in 2000 for $79,500. The parcels were designated in the Los Angeles County Land Use Plan for residential use. Three land use designations apply to each property which are: Residential I, that allows residential development at a maximum density of 1 dwelling unit per acre of land; Rural Land II, that allows 1 dwelling unit per 5 acres, and Agriculture. The parcels

combined are approximately 1.2-acres in size, and there are other scattered, residential developments in the same small lot subdivision.

2. ESHA Designation on the Project Site.

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

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

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

The project site is located within the Mediterranean Ecosystem of the Santa Monica Mountains. The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Mountains is rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodland have many special roles in the Mediterranean Ecosystem, including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of essential habitat for local endemics, the support of rare species, and the reduction of erosion, thereby protecting the water quality of coastal streams. Additional discussion of the special roles of these habitats in the Santa Monica Mountains ecosystem are discussed in the March 25, 2003 memorandum prepared by the Commission's Ecologist, Dr. John Dixon[1] (hereinafter "Dr. Dixon Memorandum"), which is incorporated as if set forth in full herein.

Unfortunately, coastal sage scrub, chaparral, oak woodland and riparian habitats are easily disturbed by human activities. As discussed in the Dr. Dixon Memorandum, development has many well-documented deleterious effects on natural communities of this sort. These environmental impacts may be both direct and indirect and include, but certainly are not limited to, the effects of increased fire frequency, of fuel modification, including vegetation clearance, of introduction of exotic species, and of night lighting.

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

Increased fire frequency alters plant communities by creating conditions that select for some species over others. The removal of native vegetation for fire protection results in the direct removal or thinning of habitat area. Artificial night lighting of development affects plants, aquatic and terrestrial invertebrates, amphibians, fish, birds and mammals. Thus, large, contiguous, relatively pristine stands of coastal sage scrub, chaparral, oak woodland, and riparian habitats are especially valuable because of their special roles in the Santa Monica Mountains ecosystem and are easily disturbed by human activity. Accordingly, these habitat types meet the definition of ESHA. This is consistent with the Commission's past findings in support of its actions on many permit applications and in adopting the Malibu LCP[2].

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

Oak Woodland and Riparian Woodland ESHA

Additionally, as explained above, the site contains oak woodland riparian woodland ESHA. Woodlands that are native to the Santa Monica Mountains, such as oak woodlands, are important coastal resources. Native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, contribute nutrients to watersheds, and are important scenic elements in the landscape. In the Santa Monica Mountains, coast live oak woodland occurs mostly on north slopes, shaded ravines and canyon bottoms. Besides the coast live oak, this plant community includes hollyleaf cherry, California bay laurel, coffeeberry, and poison oak. Coast live oak woodland is more tolerant of salt-laden fog than other oaks and is generally found nearer the coast[3]. Coast live oak also occurs as a riparian corridor species within the Santa Monica Mountains. Valley oaks are endemic to California and reach their southern most extent in the Santa Monica Mountains. Valley oaks were once widely distributed throughout California's perennial grasslands in central and coastal valleys. Individuals of this species may survive 400-600 years. Over the past 150 years, valley oak savanna habitat has been drastically reduced and altered due to agricultural and residential development. The understory is now dominated by annual grasses and recruitment of seedlings is generally poor. This is a very threatened habitat. The important ecosystem functions of oak woodlands and

[2] Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.
[3] NPS 2000. op. cit.

savanna are widely recognized[4]. These habitats support a high diversity of birds[5], and provide refuge for many species of sensitive bats[6]. Typical wildlife in this habitat includes acorn woodpeckers, scrub jays, plain titmice, northern flickers, cooper's hawks, western screech owls, mule deer, gray foxes, ground squirrels, jackrabbits and several species of sensitive bats. Therefore, because of their important ecosystem functions and vulnerability to development, the Commission finds that oak woodlands and savanna within the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

Riparian woodlands occur along both perennial and intermittent streams and drainages in nutrient-rich soils. Partly because of its multi-layered vegetation, the riparian community contains the greatest overall biodiversity of all the plant communities in the area. Riparian communities are the most species-rich to be found in the Santa Monica Mountains. As a result of their multi-layered vegetation, available water supply, vegetative cover and adjacency to shrubland habitats, they are attractive to many native wildlife species, and provide essential functions in their lifecycles[7]. During the long dry summers in this Mediterranean climate, these communities are an essential refuge and oasis for much of the areas' wildlife.

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

The streams themselves provide refuge for sensitive species including: the coast range newt, the Pacific pond turtle, and the steelhead trout. The coast range newt and the Pacific pond turtle are California Species of Special Concern and are proposed for federal listing[8], and the steelhead trout is federally endangered. The health of the streams is dependent on the ecological functions provided by the associated riparian woodlands. These functions include the provision of large woody debris for habitat,

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[4] Block, W.M., M.L. Morrison, and J. Verner. 1990. Wildlife and oak-woodland interdependency. *Fremontia* 18(3):72–76. Pavlik, B.M., P.C. Muick, S. Johnson, and M. Popper. 1991. *Oaks of California*. Cachuma Press and California Oak Foundation, Los Olivos, California. 184 pp.

[5] Cody, M.L. 1977. Birds. Pp. 223–231 *in* Thrower, N.J.W., and D.E. Bradbury (eds.). *Chile-California Mediterranean scrub atlas*. US/IBP Synthesis Series 2. Dowden, Hutchinson & Ross, Stroudsburg, Pennsylvania. National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701

[6] Miner, K.L., and D.C. Stokes. 2000. Status, conservation issues, and research needs for bats in the south coast bioregion. Paper presented at *Planning for biodiversity: bringing research and management together*, February 29, California State University, Pomona, California.

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

[8] USFWS. 1989. Endangered and threatened wildlife and plants; animal notice of review. Fed. Reg. 54:554-579. USFWS. 1993. Endangered and threatened wildlife and plants; notice of 1-year petition finding on the western pond turtle. Fed. Reg. 58:42717-42718.

shading that controls water temperature, and input of leaves that provide the foundation of the stream-based trophic structure.

The importance of the connectivity between riparian areas and adjacent habitats is illustrated by the Pacific pond turtle and the coast range newt, both of which are sensitive and both of which require this connectivity for their survival. The life history of the Pacific pond turtle demonstrates the importance of riparian areas and their associated watersheds for this species. These turtles require the stream habitat during the wet season. However, recent radio tracking work[9] has found that although the Pacific pond turtle spends the wet season in streams, it also requires upland habitat for refuge during the dry season. Thus, in coastal southern California, the Pacific pond turtle requires both streams and intact adjacent upland habitats such as coastal sage scrub, woodlands or chaparral as part of their normal life cycle. The turtles spend about four months of the year in upland refuge sites located an average distance of 50 m (but up to 280 m) from the edge of the creek bed. Similarly, nesting sites where the females lay eggs are also located in upland habitats an average of 30 m (but up to 170 m) from the creek. Occasionally, these turtles move up to 2 miles across upland habitat[10]. Like many species, the pond turtle requires both stream habitats and the upland habitats of the watershed to complete its normal annual cycle of behavior. Similarly, the coast range newt has been observed to travel hundreds of meters into upland habitat and spend about ten months of the year far from the riparian streambed[11]. They return to the stream to breed in the wet season, and they are therefore another species that requires both riparian habitat and adjacent uplands for their survival.

Riparian habitats in California have suffered serious losses and such habitats in southern California are currently very rare and seriously threatened. In 1989, Faber estimated that 95-97% of riparian habitat in southern California was already lost[12]. Writing at the same time as Faber, Bowler asserted that, *"[t]here is no question that riparian habitat in southern California is endangered."*[13] In the intervening 13 years, there have been continuing losses of the small amount of riparian woodlands that remain. Today these habitats are, along with native grasslands and wetlands, among the most threatened in California.

In addition to direct habitat loss, streams and riparian areas have been degraded by the effects of development. For example, the coast range newt, a California Species of

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[9] Rathbun, G.B., N.J. Scott and T.G. Murphy. 2002. Terrestrial habitat use by Pacific pond turtle in a Mediterranean climate. Southwestern Naturalist. (*in Press*).

[10] Testimony by R. Dagit, Resource Conservation District of the Santa Monica Mountains at the CCC Habitat Workshop on June 13, 2002.

[11] Dr, Lee Kats, Pepperdine University, personal communication to Dr J. Allen, CCC.

[12] Faber, P.A., E, Keller, A. Sands and B.M. Massey. 1989. The ecology of riparian habitats of the southern California coastal region: a community profile. U.S. Fish and Wildlife Service Biological Report 85(7.27) 152pp.

[13] Bowler, P.A. 1989. Riparian woodland: An endangered habitat in southern California. Pp 80-97 *in* Schoenherr, A.A. (ed.) Endangered plant communities of southern California. Botanists Special Publication No. 3.

Special Concern has suffered a variety of impacts from human-related disturbances[14]. Human-caused increased fire frequency has resulted in increased sedimentation rates, which exacerbates the cannibalistic predation of adult newts on the larval stages.[15] In addition impacts from non-native species of crayfish and mosquito fish have also been documented. When these non-native predators are introduced, native prey organisms are exposed to new mortality pressures for which they are not adapted. Coast range newts that breed in the Santa Monica Mountain streams do not appear to have adaptations that permit co-occurrence with introduced mosquito fish and crayfish[16]. These introduced predators have eliminated the newts from streams where they previously occurred by both direct predation and suppression of breeding.

Therefore, because of the essential role that riparian plant communities play in maintaining the biodiversity of the Santa Monica Mountains, because of the historical losses and current rarity of these habitats in southern California, and because of their extreme sensitivity to disturbance, the native riparian habitats in the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

Although the oak woodland on the project site contains a disturbed understory consisting of non-native species, such as giant reed (*Arundo donax*), periwinkle (*Vinca major*), and ivy (*Hedera sp*.), the 27 oak trees on the site support a relatively undisturbed and intact dense oak canopy. Additionally, the site contains riparian ESHA along Old Topanga Creek. While scattered residential development exists in the area, there are contiguous areas of oak woodland ranging from undisturbed to moderately disturbed existing east of the subject site along Old Topanga Canyon Creek. Furthermore, the subject site is delineated as an Environmentally Sensitive Habitat Area on Malibu/Santa Monica Mountains Land Use Plan resource maps. (**Exhibit 7**).

Therefore, due to the important ecosystem roles of oak woodland, riparian woodland, and chaparral in the Santa Monica Mountains and the fact that the subject site is undisturbed and part of a large, unfragmented block of habitat, the Commission finds that the chaparral, and oak woodland, and riparian woodland on and surrounding the project site meets the definition of ESHA under the Coastal Act.

3. Resource Dependent Use.

The Commission finds that the project site and the surrounding area constitutes an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act restricts development within ESHA to only those uses that are dependent on the resource. The applicant proposes to construct a single family residence on the parcel.

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[14] Gamradt, S.C., L.B. Kats and C.B. Anzalone. 1997. Aggression by non-native crayfish deters breeding in California newts. Conservation Biology 11(3):793-796.
[15] Kerby, L.J., and L.B. Kats. 1998. Modified interactions between salamander life stages caused by wildfire-induced sedimentation. Ecology 79(2):740-745.
[16] Gamradt, S.C. and L.B. Kats. 1996. Effect of introduced crayfish and mosquitofish on California newts. Conservation Biology 10(4):1155-1162.

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

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

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

As described above, the subject parcel was designated in the Los Angeles County Land Use Plan for residential use. Residential development has previously been approved by the Commission on sites in the immediate area. Based on these facts, along with the presence of existing and approved residential development in the area, the applicant had reason to believe that it had purchased a parcel on which it would be possible to build a residence.

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

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

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

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

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

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

public services as feasible, and locating structures near other residences in order to minimize additional fuel modification.

a) Impacts of Development in an Oak Woodland ESHA

According to Oaks of California, "Coast live oak is unique among the California oaks in its ability to thrive along the coast…Proximity to the ocean provides a milder climate for coast live oak, with warmer winters (seldom encountering frost or snow) and less sweltering summers than found inland. Fog is common, providing additional relief from heat and drought…Inland, it can be found at elevations up to 5,000 feet with groves that spread across valleys, on steep hillsides, in rocky canyons, and along streams and intermittent watercourses" (Pavlik, Muick, Johnson, and Popper, 1991).

The coast live oak is a large, evergreen tree with a dense, round crown and large limbs. Its trunk divides into either erect limbs or, more commonly, into crooked, wide-spreading limbs that sometimes touch or trail the ground. They can grow to 30 to 70 feet high and 35 to 80 feet wide.

Oaks are easily damaged and are very sensitive to disturbances that occur to the tree or the surrounding environment. Their root system is extensive, but surprisingly shallow, radiating out as much as 50 feet beyond the spread of the tree leaves, or canopy. The ground area at the outside edge of the canopy, referred to as the dripline, is especially important: the tree obtains most of its surface water and nutrients here, as well as conducts an important exchange of air and other gases (Los Angeles County Regional Planning Oak Tree Ordinance).

In past permit actions, the Commission has recognized the importance of the habitat area provided by oak woodlands or savannas. Oak woodlands, and often associated riparian areas have been identified as extremely important to the fish and wildlife resources of California. They are recognized for supporting a wide variety of wildlife species by providing food, nesting, and roosting cover, and in many instances, important understory vegetation. In addition, hardwoods benefit fishery resources by preventing the erosion of hillsides and stream banks, moderating water temperatures by shading, and contributing nutrients and food-chain organisms to waterways (California Department of Fish and Game, Hardwood Policies, 1985).

There are potential significant adverse impacts to individual oak trees, oak woodland ESHA, and other ESHA on the site from various aspects of the proposed project. Encroachments into the protected zone of an oak tree, particularly of the nature proposed for several of the trees on the project site, can result in significant adverse impacts. An article entitled "Oak Trees: Care and Maintenance" prepared by the Forestry Department of the County of Los Angeles states:

> ***Oaks are easily damaged and very sensitive to disturbances that occur to the tree or in the surrounding environment. The root system is extensive but surprisingly shallow, radiating out as much as 50 feet beyond the spread of***

> ***the tree leaves, or canopy. The ground area at the outside edge of the canopy, referred to as the dripline, is especially important: the tree obtains most of its surface water and nutrients here, as well as conducts an important exchange of air and other gases.***

This publication goes on to state:

> ***Any change in the level of soil around an oak tree can have a negative impact. The most critical area lies within 6' to 10' of the trunk: no soil should be added or scraped away. . . . Construction activities outside the protected zone can have damaging impacts on existing trees. . . . Digging of trenches in the root zone should be avoided. Roots may be cut or severely damaged, and the tree can be killed. . . . Any roots exposed during this work should be covered with wet burlap and kept moist until the soil can be replaced. The roots depend on an important exchange of both water <u>and</u> air through the soil within the protected zone. Any kind of activity which compacts the soil in this area blocks this exchange and can have serious long term negative effects on the trees. If paving material must be used, some recommended surfaces include brick paving with sand joints, or ground coverings such as wood chips . . .***

In this case, siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to ESHA to the greatest extent feasible.

b) Impacts to ESHA from Proposed Project

The applicant proposes to construct a 2 story, 30 ft. high from existing grade, 3,776 sq. ft. single family residence with an attached 755 sq. ft. garage, driveway, 65' x 15' bridge supported by 4 caissons outside of the creek bank, septic system, retaining walls, 920 cu. yds. of grading. The Oak Tree Report submitted by the applicant indicates that a total of 27 oak trees are located on the property. The project site consists of two lots totaling 1.2 acres, and footprint of the proposed residence (across both lots) totals 3,768 square feet (2,876 first story footprint and second story deck area in addition 892 square feet for the ground level decks, main stairway and walkway, and the lower level stairs and walkway). The total development area is approximately 5,600 square feet.

The applicant has identified alternatives for development on the site, including the previously approved project for a 3,178 sq. ft. single family residence across one parcel (CDP 5-91-497), and 2) an alternative plan using each of the two parcels and constructing two separate houses and two separate bridges. While the applicant identified the previously approved project (CDP 5-91-497) as an alternative, the applicant dismissed it as being less environmentally preferable because design of the residence proposed by the applicant would be smaller than the previously approved residence by approximately 252 sq. ft. and because of the use of a caisson foundation for a portion of the development. The applicant asserts that the proposed project alternative, described above, will have the least impacts to the oak woodland habitat. To avoid impacts to the root zones and the oak tree canopy, the applicant has proposed a

stepped house design with varied heights between one and two stories across both lots to try to reduce impacts to the interconnected oak tree canopy. The residence has also been designed to be raised above the ground in most places on caissons, including the slough retaining wall.

However, the applicant's proposed design will encroach into the protected zones of nine oak trees and will require the removal of one oak tree (tree #4). The applicant obtained a Los Angeles County Oak Tree Permit, No. 02-339-(3), dated October 31, 2005, to authorize the removal of one oak tree (#4) and the encroachment of nine oak trees (Oak Trees #1,2, 3, 5, 7, 8, 9, 10 and 12). However, based on the most recent plan identifying all oak trees on the site prepared by Bruce Malinowski on July 14, 2008, staff has determined that the proposed residence will likely encroach into Oak Trees #1, 2, 3, 5, 7, 8, 9, 16, and 22. While staff has identified nine trees that will be encroached upon, these nine trees have different numbers than the trees permitted for enroachment in Oak Tree Permit No. 02-339-(3). The root zones of these nine trees may be impacted when the house footings are constructed. Further, according to an update letter from the consulting arborist, Bruce Malinowski, dated July 14, 2008, oak trees 7, 8, and 9 will require minimal pruning to accommodate the residence walls or roof. The report states that the required pruning will not remove more than 5% of any tree mass for each of these trees. Further, the report states that oak tree #7 has one low branch at 10 feet above grade that is about 5" in diameter, 10 feet long, and in good health that will have to be removed. Also, oak tree #8 and oak tree #9 will require two descending limbs to be pruned on each tree because the roof peak is 25' above the base of tree #8 and 6' above the base of tree #9 and each of the four limbs are about 5-6" in diameter and are in moderate health. The removal of the branches from tree #8 and tree #9 will, according to the report, is less than 5% of the tree mass of each tree.

The applicant's representative asserts that the remaining limbs will be kept in place because the design of the house, one story in height in certain locations with decking, instead of entirely two-story, will allow the residence to be located below the remaining overhanging oak limbs, and thereby serve to reduce impacts to the oak tree canopy. However, the County of Los Angeles Fire Department Fire Protection Engineering approval, dated March 6, 2006, requires "a minimum of five 5' 0" walking access, clear to sky, all around structure." Therefore, all of the oak tree branches above the house, not just the branches described in the recent report by Bruce Malinowski, will need to be removed to meet the fire department requirements. The applicant claims that the fire department will allow the tree limbs to stay in place; however, this assertion is inconsistent with the fire department's approval requiring clearance "clear to sky" and the applicant has provided no evidence to support the assertion that this clearance will not be required. Based on the site plans, the oak tree reports, site and aerial photographs, and a visit to the site, the entire proposed residence is proposed to be located under the canopy of oak trees. Therefore, extensive pruning of the canopies of Oak Trees #1, 2, 3, 5, 7, 8, 9, 16, and 22 around the proposed residence will be required.

Additionally, the proposed location of the septic system and leach fields will have impacts to ESHA. The septic system is proposed to be located at the southern end of the driveway, approximately 35 feet away from the bank of Old Topanga Creek and about 50 away from the center of the creek. The leach fields are located on the southern side of the house between the rock slope and the residence. At its closest point, the residence will be located approximately 25 feet from the creek bank and approximately 35 feet from the center of the creek. Further, the proposed leach fields will encroach into the protected zones of Oak Trees # 3, 9, 11, 14, 22, 23. Oaks have shallow roots that obtain most of the surface water and nutrients as well as conducting an important exchange of air and other gases. The trenching to construct the leach fields will remove and/or damage oak tree roots, as well as the introduction of more water to the oak roots that would occur naturally, particularly in the dry season has the potential to adversely impact the health of oak trees, especially Tree #3, #22, and #23.

b) Alternative Project Design to Reduce Impacts to ESHA/ Revised Plans

The Commission has consistently required, through past permit actions, that new development provide a buffer of no less than 100 feet from the outward extent of the riparian canopy (or from the top of the stream bank where there is no riparian vegetation) in order to protect riparian ESHA, as well as to minimize impacts to water quality from development. The Commission has, however, allowed exceptions when this setback would otherwise require a taking because there is no other siting option. In this case, there are no siting alternatives that can provide a 100–foot buffer, given the location of the stream across the property, and the location of the near-vertical rock slope. The minimal buffer provided as part of the proposed development is the maximum that can be provided, while allowing for a residential development with a septic system. Further, there are no siting alternatives that can eliminate all impacts to the existing 27 oak trees on the site due to the highly constrained nature of the property, including the proximity of the creek to the north and the rocky slope to the south.

Nonetheless, there are siting and design alternatives to the proposed design that would reduce impacts to several of the oak trees. An alternative design with a smaller development area and footprint would significantly reduce impacts to the oak woodland and riparian ESHA. A residence could be designed and sited in a similar location on the site that was previously approved by the Commission in 1992. Coastal Development Permit (CDP) No. 5-91-497 (Hehr) was approved in April 1992 for construction of a new two-story, 3,178 sq. ft., 35 ft. high from existing grade single family residence with a 3-car garage, septic system, 88 cu. yds. of grading and a bridge crossing Topanga Creek in a similar location that is currently proposed. The residence would have had a development footprint of approximately 1,687 sq. ft. The residence was proposed to be constructed on only the southern lot (APN 4438-023-004) and the bridge was proposed to built across Topanga Creek to the same lot for access to the residence. This development would have had less impacts to several oak trees than the currently proposed project, including less encroachment into Oak Trees #7, 8, 9, and 22. As redesigned, the structure would no longer encroach into the protected zones of Oak

Trees # 8, 9, and 22, although the proposed leach fields would still encroach into Oak Trees # 3, 9, 11, 14, 22, 23.

Therefore, in order to minimize impacts to ESHA and provide a reasonable economic use, **Special Condition Thirteen (13)** requires revised plans with a revised footprint area as shown on Exhibit 8, similar in size to the plans previously approved in CDP No. 5-91-497, a habitable floor area that does not exceed the GSA of 3,028 sq. ft., and a height of no greater than 35 feet from existing grade. This alternative will reduce the proposed 3,768 sq. ft. footprint, while allowing the same square footage of habitable area. Furthermore, the revised footprint area provides space to allow the siting of external decking to the south side of the residence in between the residence and rock slope. Plans for the proposed bridge and driveway, as shown on the plans submitted by the applicant, will not need to be adjusted to access the residence. The location of the residence required by the revised plans in **Special Condition Thirteen (13)** will be in approximately the same location where the residence is currently proposed on the eastern lot (APN 4438-023-004). However, the portion of the residence proposed across the western lot (APN 4438-023-005) would be deleted. The applicant, however, would still need to comply with **Special Condition Eight (8)**, lot combination, to avoid exceeding the allowable GSA of 3,028 sq. ft. Additionally, the revised plans in **Special Condition Thirteen (13)** would still require the applicant to construct the house on caissons, a project component currently proposed, in order to provide the maximum protection to the root zones of the oak trees.

The revised plans required by **Special Condition Thirteen (13)** will reduce impacts to the oak woodland because it will result in less oak tree encroachments than the proposed project (**Exhibits 6 & 8**). The following is a chart showing impacts to oak trees in the project vicinity resulting from the revised plans compared with the proposed project:

	Revised Plans	Proposed Project
No Encroachment	Tree #8, 9, 22	
Encroachment for Development Footprint	Tree #1, 2, 3, 5, 7, 16	Trees #1, 2, 3, 5, 7, 8, 9, 16, 22
Encroachment due to residence, septic tank and leach field	Tree #3	Tree #3
Potential Encroachment due to septic tank and leach field	Tree #9, 11, 14, 22, 23	Tree #9, 11, 14, 22, 23
Tree Removal	Tree #4	Tree #4

The revised plans will have a footprint area that will no longer require encroachment into Oak Trees #8, #9 and 22 and will significantly reduce encroachment into Oak Tree #7. Nevertheless, the revised plans will still require the removal of Oak Tree #4 to construct the residence, as does the applicant's proposed project. Given the constraints on the property, including the location of oak trees throughout the site, the steep rock face, and Old Topanga Creek, it is not feasible to site or design development that can avoid the removal of Oak Tree #4 given its location in the center of the property. Therefore, the project will result in the removal of one mature oak tree.

In addition to the removal of oak tree #4, the location of the footprint required by the revised plans in **Special Condition Thirteen (13**) would still include encroachments within the protected zones of three oak trees on the site, including Oak Trees # 3, 5, and 7. Given the location of these oaks it would not be feasible for even a residence of much smaller size to avoid encroachment within the dripline of these trees on the site because of the dense interconnected riparian canopy. Additionally, the proposed bridge will still encroach into oak tree #1, #2, and #16. The leachfield would still encroach significantly in the protected zone of oak tree # 3. There is no feasible alternative siting for the septic system or the driveway on this significantly constrained parcel. As such, the revised plans will still result in encroachments to six oak trees (Oak Trees #1, 2, 3, 5, 7, and 16). Additionally, the location of the leach fields within the protected zones of Oak Trees #9, 11, and 14 is not likely to significantly impact these trees because they are located on a steep slope above the proposed leach field location, and it would not be expected that significant impacts to roots or trimming of branches would be necessary.

In past permit actions, the Commission has required that the removal of native trees, particularly oak trees, or encroachment of structures into the root zone be avoided unless there is no feasible alternative for the siting of development. The applicant has identified alternative designs to reduce impacts to oak trees, but due to the large number of oak trees interspersed throughout the small lot, the applicant was proposed a design that would encroach into the protected zones of nine oak trees and require the removal of one. However, the Commission has determined that alternatives to the proposed project are feasible. Therefore, **Special Condition Thirteen (13)** requires revised plans to reduce the footprint of the residence to further reduce encroachment into the protected zones of oak trees #8, 9, and 22, identified in the chart above. Further, **Special Condition Eleven (11)** provides for oak tree protection, monitoring, and mitigation. To ensure that all oak trees located on the subject parcel and along the proposed access driveway are protected during construction activities, **Special Condition Eleven (11)** requires temporary protective barrier fencing shall be installed around the protected zones (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of all oak trees and retained during all construction operations. If required construction operations cannot feasibly be carried out in any location with the protective barrier fencing in place, then temporary flagging must be installed on all oak trees to ensure protection during construction. Additionally, **Special Condition Eleven (11)** requires that a biological consultant, arborist, or other resource specialist shall be

present on-site during all construction operations on site and shall be directed to immediately notify the Executive Director if unpermitted activities occur or if any oak trees are damaged, removed, or impacted beyond the scope of the work allowed by Coastal Development Permit 4-07-126. This monitor will have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

Additionally, if any of the oak trees are damaged or removed as a result of construction activities, **Special Condition Eleven (11)** requires replacement plants to be planted on the project site or another location, approved by the Executive Director, as mitigation. In that case, the applicant shall submit, for the review and approval of the Executive Director, a supplemental oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a monitoring program to ensure that the replacement planting program is successful. An annual monitoring report on the supplemental oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years. Further, **Special Condition Eleven (11)** requires the planting of twenty (20) oak trees as mitigation for Oak Tree #4, which will be removed for construction of the residence, and for Oak Tree #3, because the branches will have to be significantly trimmed to meet fire department requirements and the leach field will be located directly under the root zone. Thus, given the steep slopes and dense coverage of the lot with oak trees, and implementation of the special conditions herein, there are no other alternatives that can be employed to avoid or reduce impacts to oak trees. To provide additional protections for Oak Tree #1, 2, 5, 7, and 16, **Special Condition Eleven (11)** requires monitoring for a period of ten years and submittal of an annual monitoring report for the review and approval of the Executive Director for each of the ten years. If any of these trees are lost or suffer worsened health or vigor as a result of this project, the permittee is required to submit an off-site oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a monitoring program to ensure that the replacement planting program (at a rate of 10:1 oak trees) is successful.

In conclusion, as discussed in detail above, the proposed project site contains areas of coastal sage scrub, chaparral, oak, and riparian ESHA as well as areas that have been disturbed for a prior residence before the effective date of the Coastal Act. With the inclusion of special conditions to minimize and mitigate significant adverse impacts to ESHA, development could be approved, if modified, to provide the applicant with an economically viable use of the property. The Commission concludes that siting and design of the project, required by **Special Condition Thirteen (13), Revised Plans,** will minimize impacts to ESHA to the extent feasible. The Commission also finds that the development area allowed under **Special Condition (13)** provides a reasonable economic use.

5. Open Space Deed Restriction.

This project is inconsistent with Section 30240 of the Coastal Act, and is only being allowed to avoid a taking of private property for public use. The Commission finds that for the project to be consistent with Section 30240 to the maximum extent feasible, while providing a reasonable economic use, this project must constitute the maximum amount of ESHA destruction on the site and the remaining ESHA on the property must be preserved to the extent possible. As such, this project alternative, required by **Special Condition Thirteen (13)**, as a whole, will minimize impacts to ESHA to the maximum extent feasible if the remaining ESHA on the project site is protected as open space. **Special Condition Ten (10),** therefore, requires the applicant to record a deed restriction on the property that limits development over the open space area (shown in **Exhibit 9**) to: fuel modification and drainage control activities carried out in accordance with **Special Condition Fourteen (12)** and **Special Condition Four (4)**; planting of native vegetation and other restoration activities; and construction and maintenance of public hiking trails, if approved by the Commission as an amendment to this coastal development permit, or as a new coastal development permit. **Special Condition Fourteen (14)** also makes an exception for existing road, trail, and utilities easements.

7. Additional Mitigation Measures to Address Additional ESHA Impacts

The Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping, and mitigation for that effect was discussed in the previous section. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. This sort of impact was not addressed in the prior section. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area that are not directly and immediately affected by the proposed development, **Special Condition 2** requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

Additionally, in order to ensure that adverse effects to riparian habitat and water quality from increased erosion and sedimentation are minimized to the maximum extent feasible, and to implement the applicant's proposal to remove invasive, non-native vegetation from the riparian corridor and to restore the channel with native riparian vegetation, the Commission finds that **Special Condition Fifteen (15)**, Riparian Habitat Revegetation, is necessary. Specifically, Special Condition 15 requires that prior to issuance of the permit, the applicant shall submit, for the review and approval of the

Executive Director, a detailed Riparian Habitat Revegetation Plan, prepared by a biologist or environmental resource specialist with qualifications acceptable to the Executive Director, for all of the riparian corridor areas of Old Topanga Creek on the subject parcels, including areas where riparian vegetation will be temporarily disturbed or removed due to construction and/or demolition activities using native plant species that are appropriate for a riparian/oak woodland habitat area. All invasive and non-native plant species shall be removed from the stream channel/riparian vegetation corridor within the Revegetation Plan area. In addition, Special Condition 15 also requires the applicant to implement a five year monitoring program to ensure the success of the replanting.

In addition, the Commission has found that night lighting of ESHA areas in the Malibu/Santa Monica Mountains may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, **Special Condition 7**, Lighting Restriction, limits night lighting of the site in general; limits lighting to the developed area of the site; and requires that lighting be shielded downward. Limiting security lighting to low intensity security lighting will assist in minimizing the disruption of wildlife that is commonly found in this rural and relatively undisturbed area and that traverses the area at night.

Furthermore, fencing of the property would adversely impact the movement of wildlife through the ESHA on this parcel. Therefore, the Commission finds it is necessary to limit fencing to this perimeter of the development area (building pad), turnaround and driveway. This is required to be shown on the landscaping plan, required in **Special Condition 2**.

Additionally, the Commission finds that the amount and location of any new development that could be built in the future on the subject site consistent with the resource protection policies of the Coastal Act is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, the permitting exemptions that apply by default under the Coastal Act for, among other things, improvements to existing single family homes and repair and maintenance activities may be inappropriate here. In recognition of that fact, and to ensure that any future structures, additions, change in landscaping or intensity of use at the project site that may otherwise be exempt from coastal permit requirements are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition 9** the future development restriction, has been required.

Further, **Special Condition 10** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and thereby provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property. Finally, in order to ensure that the terms and conditions of this permit are adequately implemented, **Special Condition 12** authorizes Commission staff to enter onto the property (subject

to 24 hour notice to the property owner) to undertake site inspections for the purpose of monitoring compliance with the permit.

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

G. Local Coastal Program

Section 30604 of the Coastal Act states:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and are accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

H. California Environmental Quality Act

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

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, project alternatives and

mitigation measures have been considered and incorporated into the project. Five types of mitigation actions include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures required as part of this coastal development permit amendment include the avoidance of impacts to ESHA through clustering structures, prohibiting development outside of the approved development area as required by the open space easement, and prohibiting the removal of native vegetation prior to commencement of construction. Mitigation measures required to minimize impacts include, drainage best management practices (water quality), interim erosion control (water quality and ESHA), limiting lighting (ESHA and visual), restricting structure color (visual resources), oak tree protection, monitoring, and mitigation and requiring future improvements to be considered through a CDP. Finally, revised plans are required in order to lessen impacts to ESHA. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

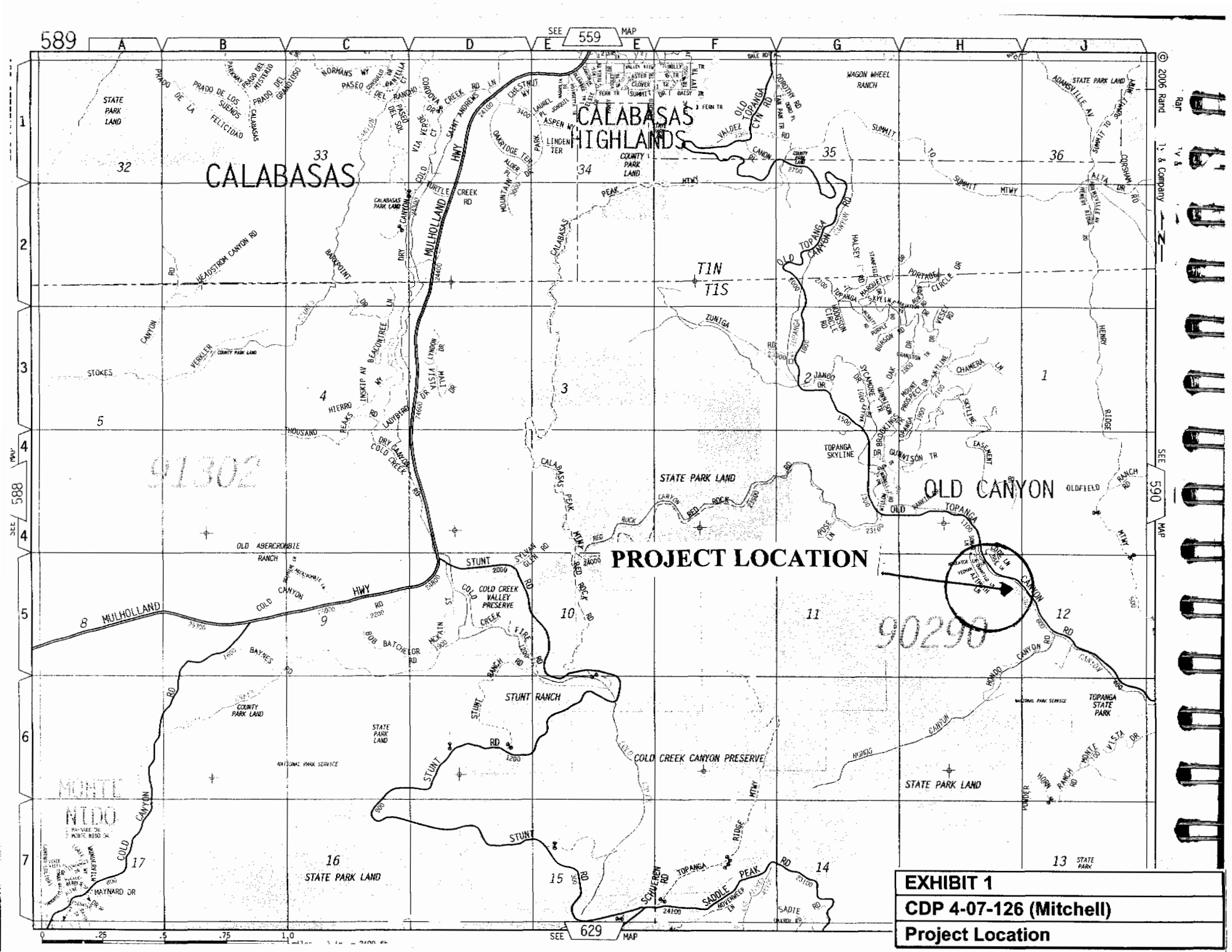


EXHIBIT 1
CDP 4-07-126 (Mitchell)
Project Location

PROJECT INFORMATION

PROJECT SCOPE:

CONSTRUCTION OF 2 STORY SINGLE FAMILY DWELLING WITH ATTACHED 2 CAR GARAGE. (2 BEDROOMS.)
TYPE V-1HR
CONSTRUCTION OF BRIDGE AND PARTIALLY ELEVATED DRIVEWAY.

SQ.FT. CALCULATIONS

LOWER LEVEL
GARAGE AND STORAGE: 755 SQ.FT.

1ST FLOOR
MAIN HOUSE: 1988 SQ.FT.
REC. ROOM: 288 SQ.FT.

2ND FLOOR: 786 SQ.FT.

TOTAL GROSS FLOOR AREA: 3776 SQ.FT.

TOTAL NET FLOOR AREA: 3421 SQ.FT.

TOTAL HABITABLE FLOOR AREA: 2756 SQ.FT.

LEGAL DESCRIPTION

LOT 4 AND 5
TOPANGA TOWNSITE
M.B. 16-110-111
869 OLD TOPANGA CANYON ROAD
COUNTY OF LOS ANGELES

LOT COVERAGE:

LOT AREA: 52,267 SQ.FT.

BUILDINGS COVERAGE AREA :

TOTAL BUILDING FOOTPRINT AREA: 2,976 SQ.FT. = 5.5%
FIRST STORY FOOTPRINT 2,638 SQ.FT.
SECOND STORY OVERHANG 238 SQ.FT.

BRIDGE AND DRIVEWAY: 1,808 SQ.FT. = 3.46%

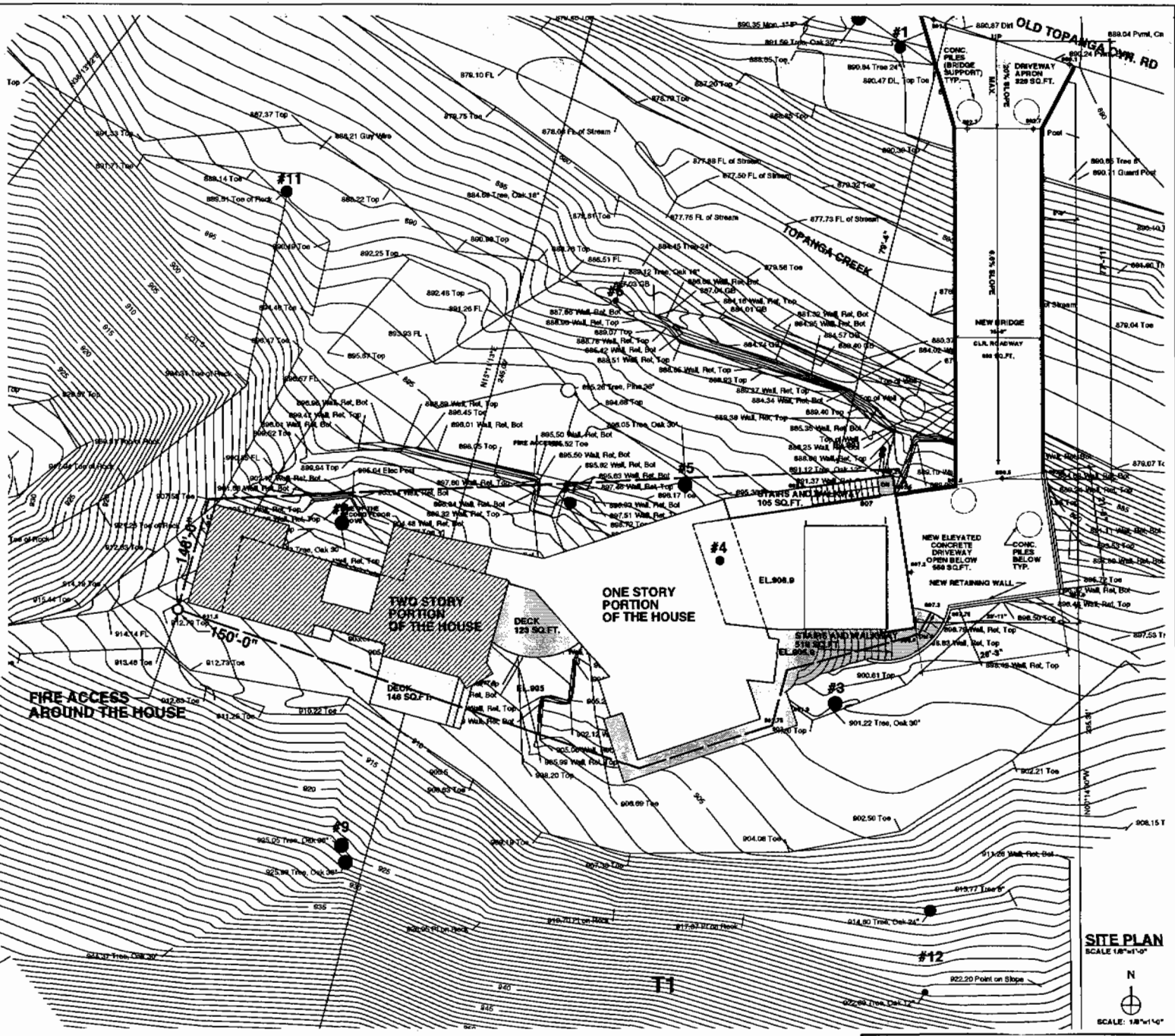
HARDSCAPE AREA: 892 SQ.FT. = 1.7%
GROUND LEVEL DECKS 269 SQ.FT.
MAIN STAIRS AND WALKWAY 518 SQ.FT.
LOWER LEVEL STAIRS AND WALK 105 SQ.FT.

ARCHITECT:

TOMAS OSINSKI
C22656
4240 GLENMUIR AVE.
LOS ANGELES, CA 90065
(323) 226-0579

OWNER:

IAN MITCHELL
3605 SEAHORN DR.
MALIBU, CA 90265-5643



SITE PLAN
SCALE 1/8"=1'-0"

N

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

T1

REVISIONS	BY

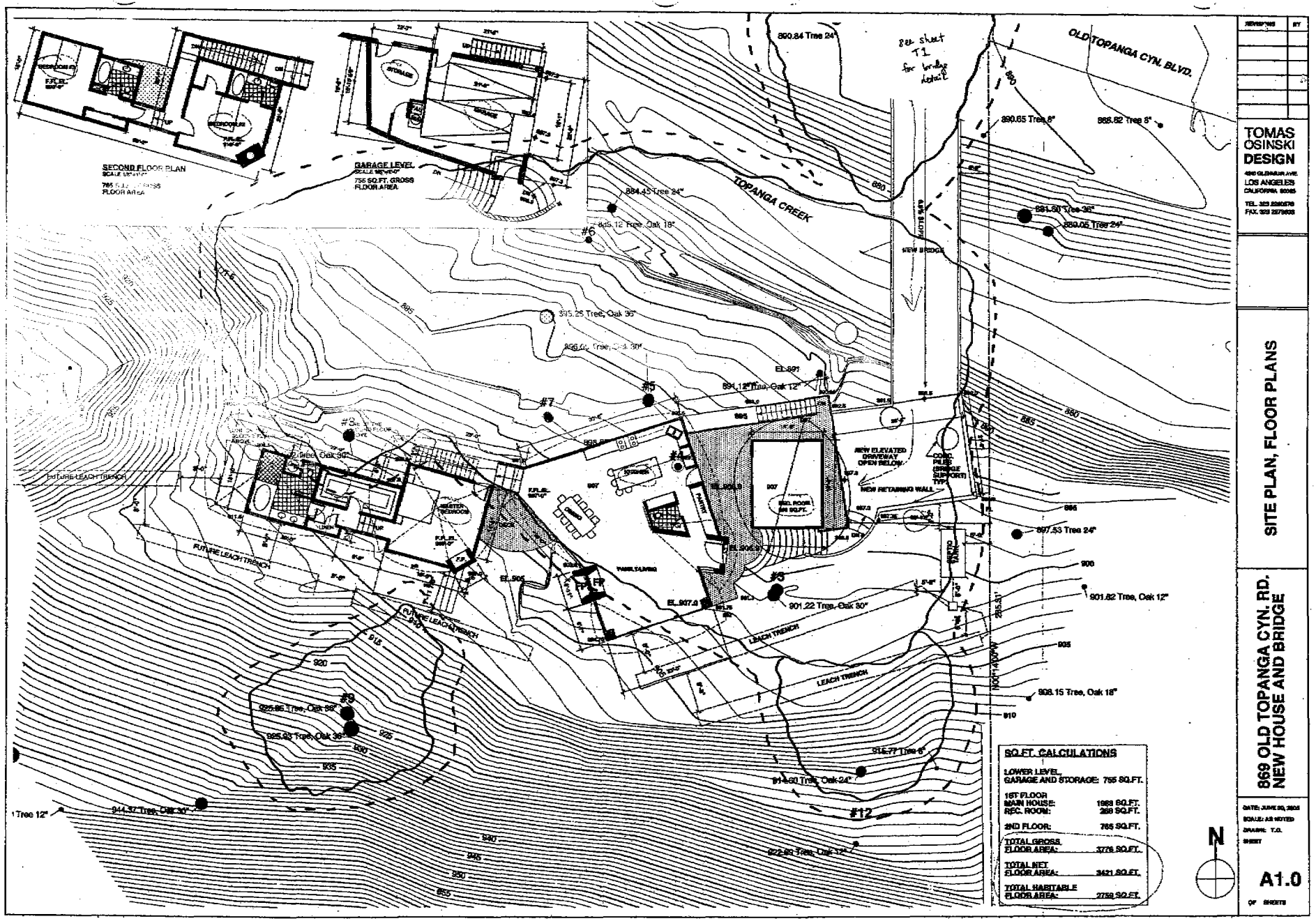
TOMAS OSINSKI
DESIGN
4240 GLENMUIR AVE.
LOS ANGELES
CALIFORNIA 90065
TEL. 323 2290578
FAX. 323 2278803

SITE PLAN

869 OLD TOPANGA CYN. RD.
NEW HOUSE AND BRIDGE

DATE: JUNE 5, 2008
SCALE: AS NOTED
DRAWN: T.O.
SHEET
T1
OF SHEETS

EXHIBIT 2
CDP 4-07-126 (Mitchell)
Site Plan



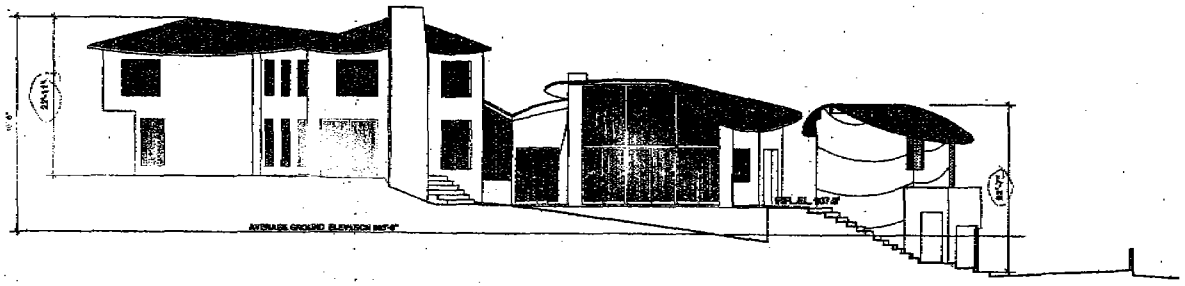
TOMAS OSINSKI DESIGN

SITE PLAN, FLOOR PLANS

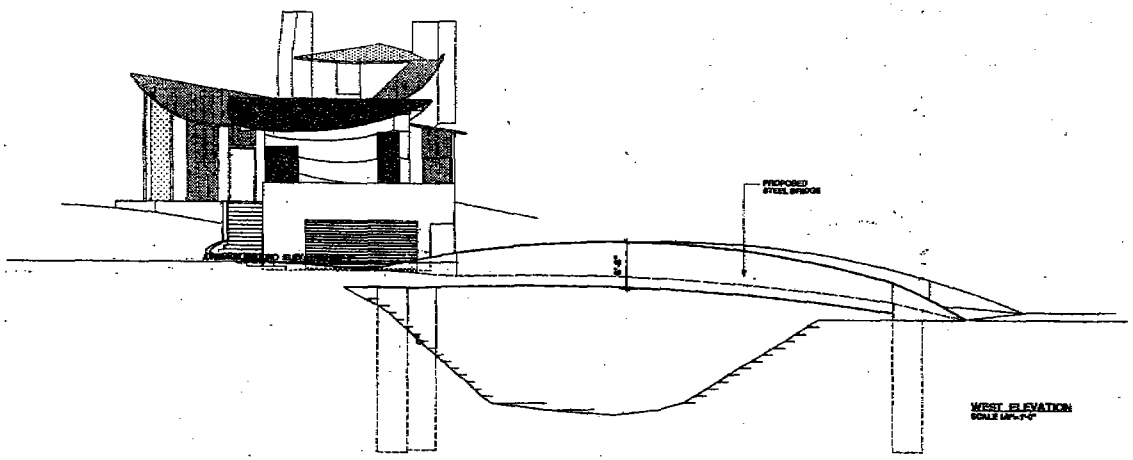
869 OLD TOPANGA CYN. RD.
NEW HOUSE AND BRIDGE

A1.0

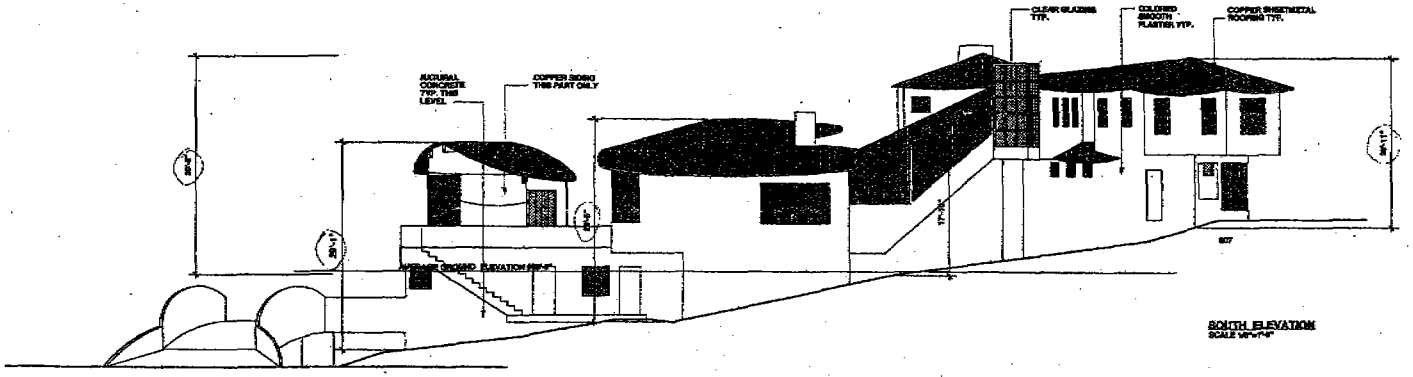
EXHIBIT 3
CDP 4-07-126 (Mitchell)
Floor Plans



NORTH ELEVATION



WEST ELEVATION



SOUTH ELEVATION

TOMAS OSINSKI DESIGN

EXTERIOR ELEVATIONS

869 OLD TOPANGA CYN. RD.
NEW HOUSE AND BRIDGE

A2

EXHIBIT 4
CDP 4-07-126 (Mitchell)
Elevations

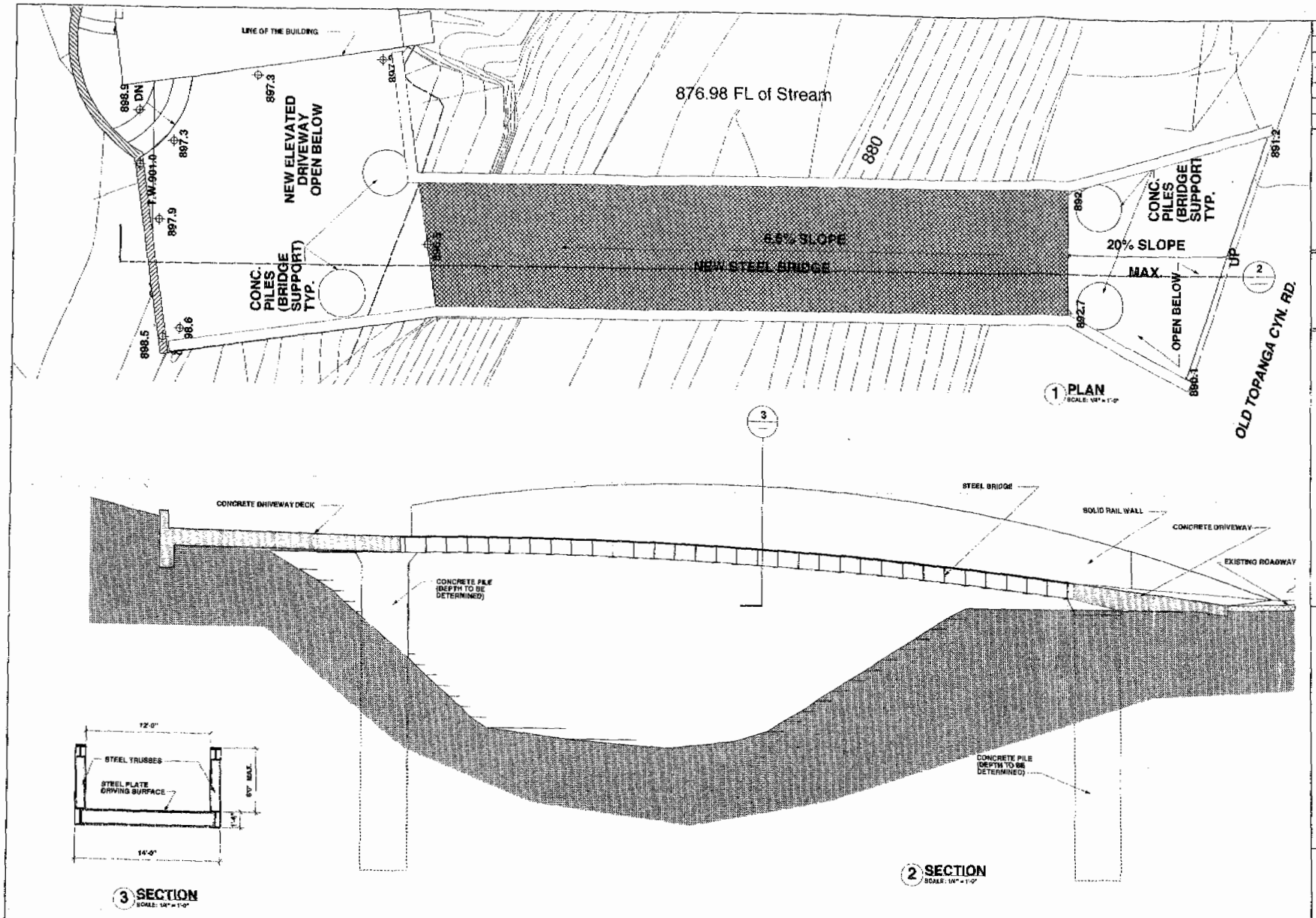


EXHIBIT 5
CDP 4-07-126 (Mitchell)
Bridge Plan

PROJECT INFORMATION

PROJECT SCOPE:

CONSTRUCTION OF 2 STORY SINGLE FAMILY DWELLING WITH ATTACHED 2 CAR GARAGE. (3 BEDROOMS.)
TYPE V-1HR
CONSTRUCTION OF BRIDGE AND PARTIALLY ELEVATED DRIVEWAY.

SQ.FT. CALCULATIONS

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GARAGE AND STORAGE: 755 SQ.FT.

1ST FLOOR
MAIN HOUSE: 1958 SQ.FT.
REC. ROOM: 258 SQ.FT.

2ND FLOOR: 765 SQ.FT.

TOTAL GROSS FLOOR AREA: 3776 SQ.FT.

TOTAL NET FLOOR AREA: 3421 SQ.FT.

TOTAL HABITABLE FLOOR AREA: 2758 SQ.FT.

LEGAL DESCRIPTION

LOT 4 AND 5
TOPANGA TOWNSITE
M.B. 18-110-111
APN 4438-023-004 and 4438-023-005
869 OLD TOPANGA CANYON ROAD
COUNTY OF LOS ANGELES

LOT COVERAGE:

LOT AREA: 52,207 SQ.FT.

BUILDINGS COVERAGE AREA :

TOTAL BUILDING FOOTPRINT AREA: 2,878 SQ.FT. = 5.5%

BRIDGE AND DRIVEWAY: 1,774 SQ.FT. = 3.4%

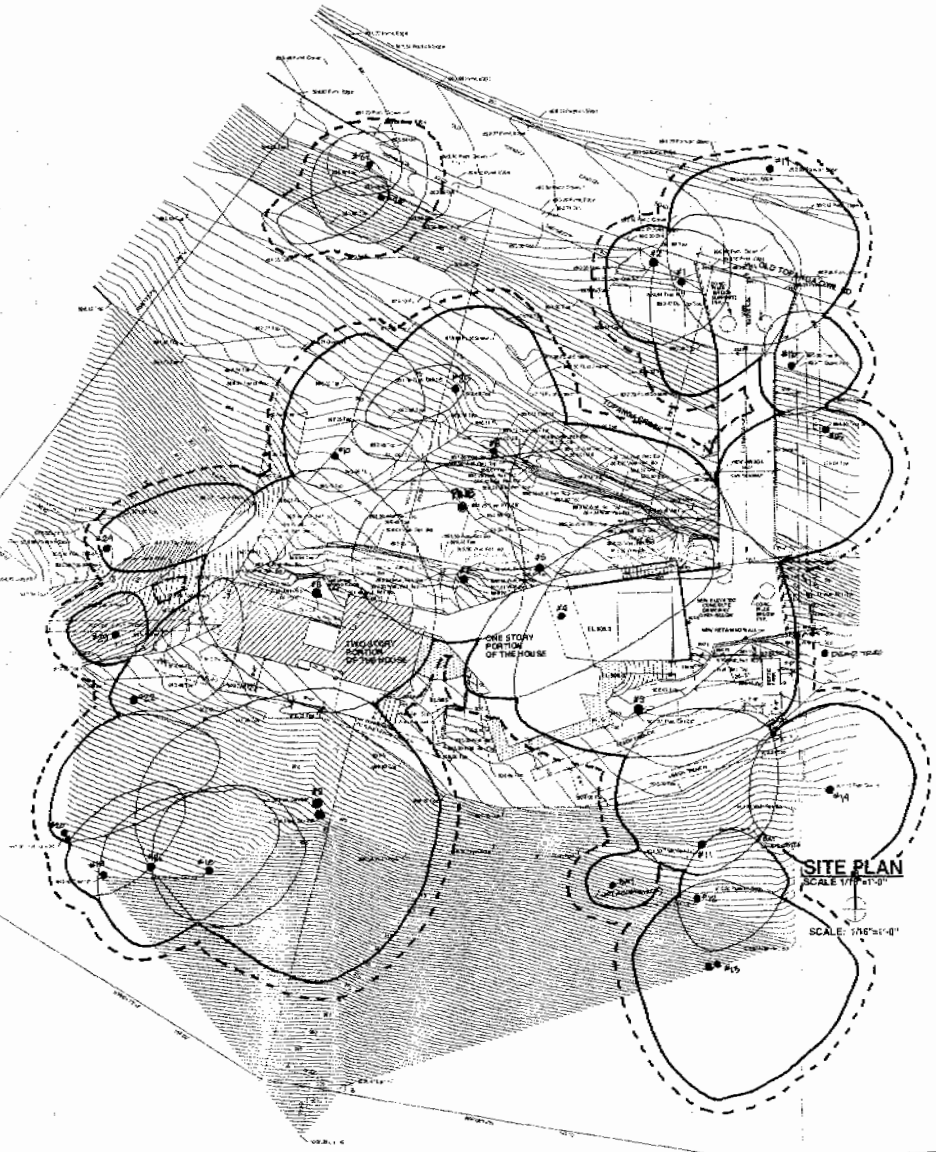
HARDSCAPE AREA: 1,250 SQ.FT. = 2.4%

ARCHITECT:

TOMAS OSINSKI
C22658
4240 GLENMAUR AVE.
LOS ANGELES, CA 90065
(323) 226-0576

OWNER:

IAN MITCHELL
3809 SEAHORN DR.
MALIBU, CA 90265-5843



SITE PLAN
SCALE 1/16"=1'-0"

SCALE: 1/16"=1'-0"

REVISIONS | BY

TOMAS OSINSKI
DESIGN
4240 GLENMAUR AVE
LOS ANGELES
CALIFORNIA 90065
TEL. 323.226.0576
FAX. 323.227.8303

SITE PLAN

869 OLD TOPANGA CYN. RD.
NEW HOUSE AND BRIDGE
(APN 4438-023-004 and 4438-023-005).

DATE: FEB 28, 2005
SCALE: AS NOTED
DRAWN: T.O.
SHEET

Bruce Malinowski

EXHIBIT 6
CDP 4-07-126 (Mitchell)
Site Plan w/Oak Tree Driplines

4-07-126

4-07-126 (Mitchell)

Blueline Streams
Coastal Zone Boundary
Malibu City Boundary
LA - Ventura County Boundary
Parcels

ESHAs
Coldcreek management area
inland
locally disturbed resources
oak woodlands and savannahs
significant watersheds residential
wildlife migration corridor
Ocean

N
W E

0.1 0 0.1 0.2 Miles

EXHIBIT 7
CDP 4-07-126 (Mitchell)
LUP ESHA Map

PROJECT INFORMATION

PROJECT SCOPE:

CONSTRUCTION OF 2 STORY SINGLE FAMILY DWELLING WITH ATTACHED 2 CAR GARAGE. (3 BEDROOMS) TYPE V-1HR
CONSTRUCTION OF BRIDGE AND PARTIALLY ELEVATED DRIVEWAY.

SQ.FT. CALCULATIONS

LOWER LEVEL GARAGE AND STORAGE: 755 SQ.FT.

1ST FLOOR
MAIN HOUSE: 1066 SQ.FT.
REC. ROOM: 240 SQ.FT.

2ND FLOOR: 765 SQ.FT.

TOTAL GROSS FLOOR AREA: 2771 SQ.FT.

TOTAL NET FLOOR AREA: 2421 SQ.FT.

TOTAL HABITABLE FLOOR AREA: 2759 SQ.FT.

LEGAL DESCRIPTION

LOT 4 AND 5
TOPANGA TOWNSITE
M.B. 18-110-111
869 OLD TOPANGA CANYON ROAD
COUNTY OF LOS ANGELES

LOT COVERAGE:

LOT AREA: 92,387 SQ.FT.

BUILDINGS COVERAGE AREA :

TOTAL BUILDING FOOTPRINT AREA: 2,076 SQ.FT. = 2.5%
FIRST STORY FOOTPRINT 2,056 SQ.FT.
SECOND STORY OVERHANG 238 SQ.FT.

BRIDGE AND DRIVEWAY: 1,608 SQ.FT. = 1.66%

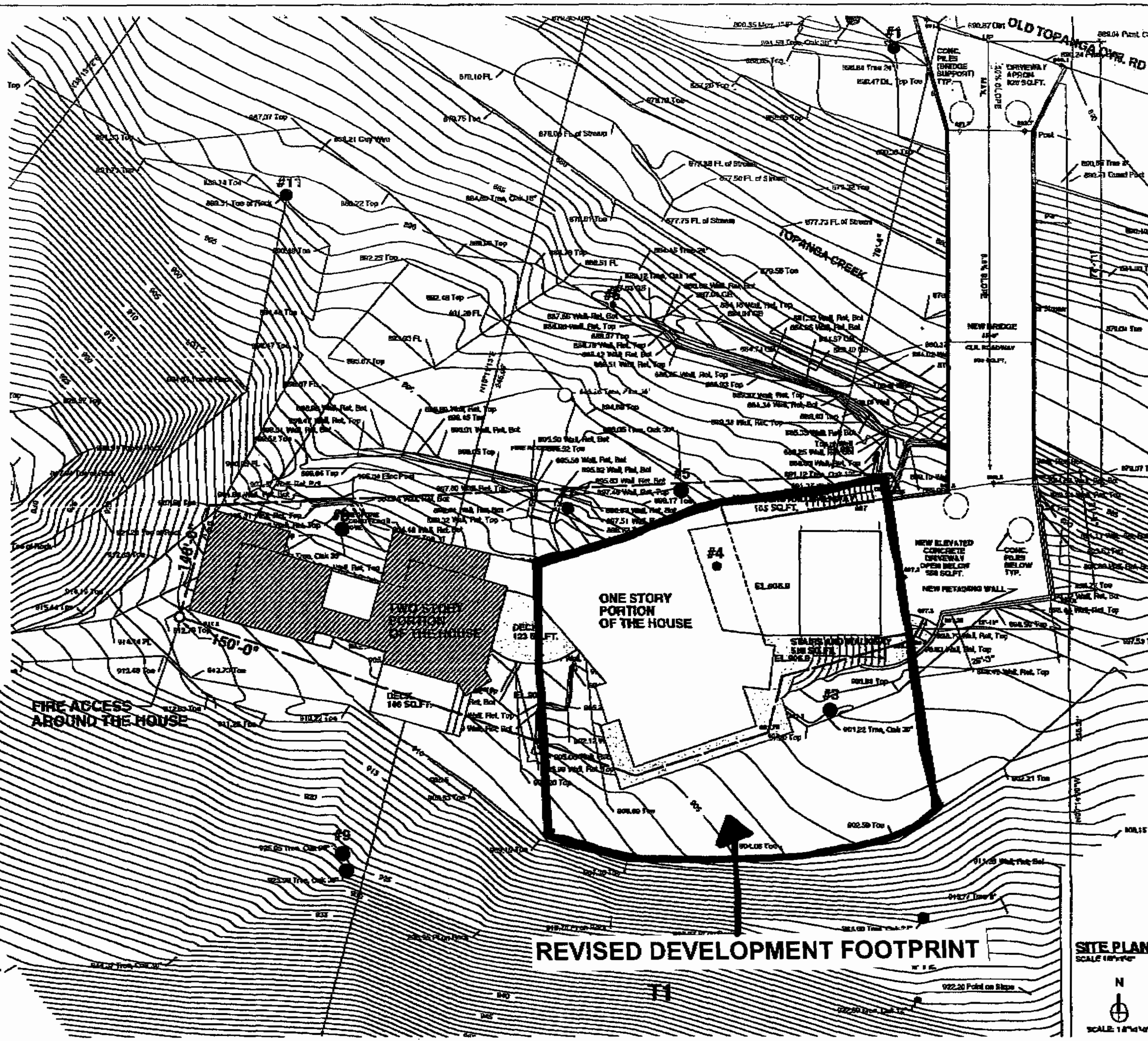
HARDSCAPE AREA: 982 SQ.FT. = 1.7%
GROUND LEVEL DECKS 289 SQ.FT.
MAIN STAIRS AND WALKWAY 589 SQ.FT.
LOWER LEVEL STAIRS AND WALK 105 SQ.FT.

ARCHITECT:

TOMAS OSINSKI
4240 GLENMUIR AVE.
LOS ANGELES, CA 90065

OWNER:

IAN MITCHELL
8800 SEAHORN DR.
MALIBU, CA 90265



SITE PLAN

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

TOMAS OSINSKI DESIGN
4240 GLENMUIR AVE.
LOS ANGELES
CALIFORNIA 90065

SITE PLAN

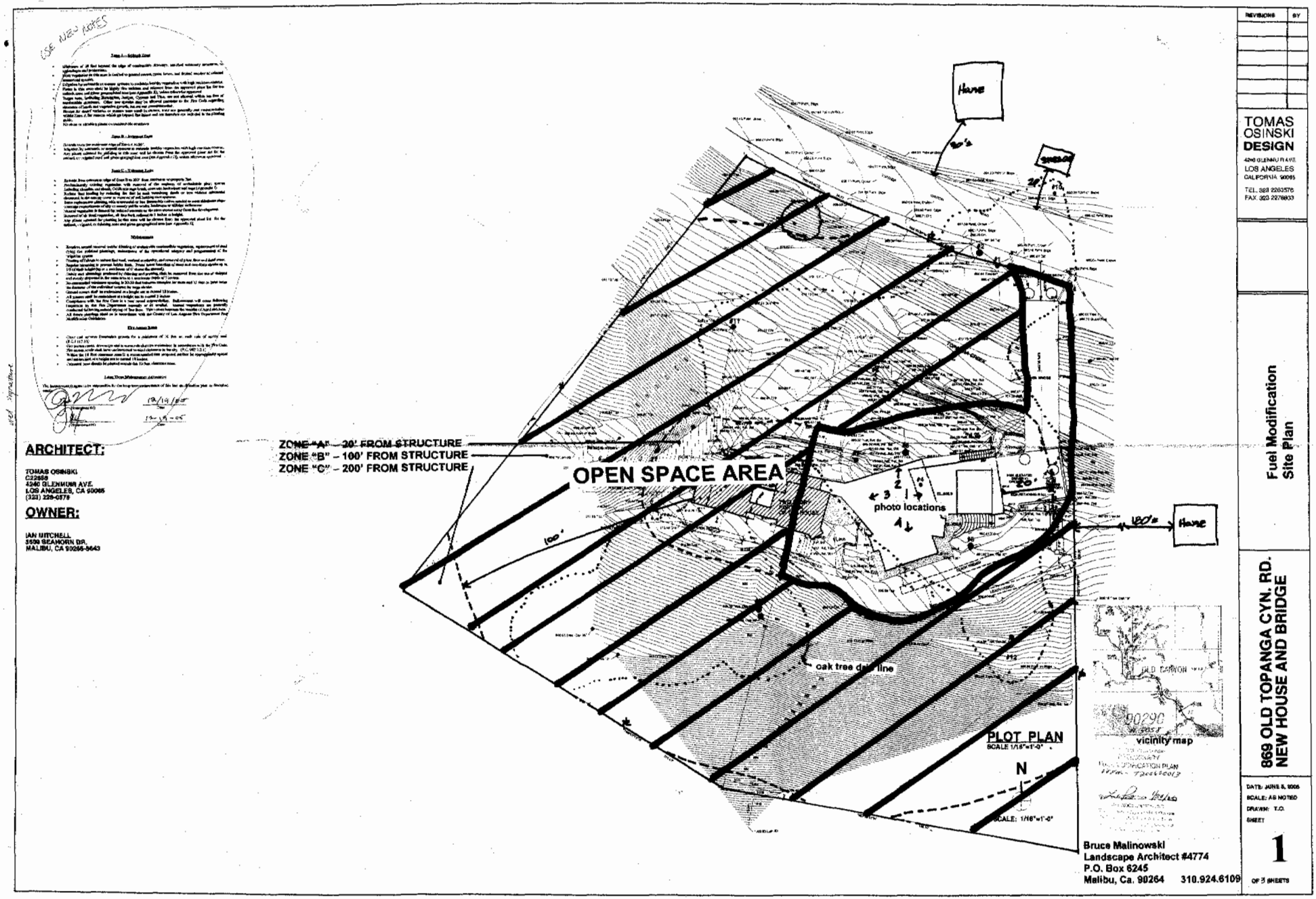
869 OLD TOPANGA CYN. RD.
NEW HOUSE AND BRIDGE

T1

EXHIBIT 8

CDP 4-07-126 (Mitchell)

Revised Development Footprint



The **Open Space Restriction** (Special Condition 14) shall apply to *all areas* of the subject properties (APN 4438-023-004 and APN 4438-023-005), as *generally* shown on this exhibit by the cross-hatching.

EXHIBIT 9
CDP 4-07-126 (Mitchell)
Open Space Area

STATE OF CALIFORNIA—THE RESOURCES AGENCY

Th 8a

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(213) 590-5071

COMMISSION ACTION:
☒ Approved as Recommended
☐ Denied as Recommended
☐ Approved with Changes
☐ Denied
☐ Other

Filed: 7/29/91
49th Day: 9/16/91
180th Day: Waived
270th Day: 4/25/92
Staff: CAREY
Staff Report: 12/20/91
Hearing Date: 1/13-16/92
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 5-91-497

APPLICANT: Bruce and Michael Hehr AGENT: None

PROJECT LOCATION: 869 Topanga Canyon Road, Topanga, Los Angeles County

PROJECT DESCRIPTION: Construction of a 3,178 sq. ft., 35 ft. high from existing grade single family residence with 3-car garage, septic system, 88 cu. yds. of grading (44 cu. yds. cut and 44 cu. yds. fill) and bridge crossing of Topanga Creek, a blueline stream.

Lot area:	1.2 acres
Building coverage:	1,687 sq. ft.
Pavement coverage:	None
Landscape coverage:	No additional
Parking spaces:	3
Plan designation:	Rural Land II (1 du/5 ac) and Res I (1 du/1 ac)
Ht abv ext grade:	35 ft.

LOCAL APPROVALS RECEIVED: County of Los Angeles Approval in Concept

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan

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SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with Special Conditions relating to geology, landscaping, and future improvements.

I. STAFF RECOMMENDATION

Staff recommends that the Commission Adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in

EXHIBIT 10
CDP 4-07-126 (Mitchell)
Previous Staff Report and Recommendation for CDP 5-91-497

conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.

4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Geology

All recommendations contained in the Geology Investigation Report, dated 8/26/88, prepared by Keith Ehlert, and a Preliminary Soils Investigation, dated 10/19/88, and Update Letter, dated 6/24/91, prepared by Soils International, shall be incorporated into all final design and construction including foundations, grading and drainage and all plans must be reviewed and approved by the consultants prior to commencement of development.

Prior to permit issuance, the applicant shall submit evidence to the Executive Director of the consultant's review and approval of all final

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

2. Future Development

Prior to issuance of a coastal development permit the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which provides that Coastal Development Permit No. 5-91-497 is for the approved development only and that any future improvements or additions on the property including clearing of vegetation or grading (except as described below) will require a new coastal development permit from the Commission or its successor agency. The deed restriction shall specify that clearance of vegetation up to 30 feet outward from the approved residence and selective thinning of vegetation within a 100 foot radius of the approved residence as required by the Los Angeles County Fire Department is permitted and shall not require a new permit.

3. Landscaping Plan

Prior to the issuance of a coastal development permit, the applicant shall submit a landscaping plan prepared by a licensed landscape/architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

(a) All graded areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated January 20, 1992. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

(b) Cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native species using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within 90 days and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils.

(c) Vegetation within 30 feet of the proposed house may be removed to mineral earth, vegetation within a 100' radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plan materials to be removed, and

how often thinning is to occur.

(d) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Project Description

The applicant proposes the construction of a 3,178 sq. ft., 35 ft. high from existing grade single family residence with 3-car garage, septic system, 88 cu. yds. of grading (44 cu. yds. cut and 44 cu. yds. fill) and a bridge crossing of Topanga Creek, a blueline stream. The proposed project site is located within an Environmentally Sensitive Habitat Area and an Oak Woodland on Old Topanga Canyon Road in Topanga. No trail mapped by the County crosses the site. There are existing stone walls and stairs on the site and it appears that there was a structure on the site at some time in the past. Topanga Canyon Creek is parallel to the road and adjacent to it across the site. On the other side of the canyon the site slopes to a flat pad area and there is a sheer rock wall beyond the pad.

The proposed project was originally scheduled for the January hearing. The applicant originally proposed to construct an "Arizona" crossing and culvert across Topanga Creek which is located almost directly adjacent to Old Topanga Canyon Road. The applicant indicated that for various reasons the construction of a bridge to the project would not be feasible. Staff was recommending denial of the proposed project because it would not be consistent with the resource protection policies of the Coastal Act and the Malibu/Santa Monica Mountains LUP. The applicant has since revised the project to include a bridge across Topanga Creek rather than an "Arizona" crossing.

B. Sensitive Environmental Resources

The proposed project is located within a Significant Oak Woodland and Topanga Creek, a blueline stream which crosses the site is designated as a Environmentally Sensitive Habitat Area (ESHA) in recognition of the sensitive habitat values that exist in the area. Sections 30230, 30231 and 30236 of the Coastal Act are designed to protect and enhance, or restore where feasible, marine resources and the biological productivity and quality of coastal waters, including streams:

Section 30230:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy

populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231:

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

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values:

Section 30240:

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

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

In addition, the Malibu/Santa Monica LUP contains several policies for stream protection and erosion control:

P72 Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. . .

P73 The use of pesticides, herbicides, or any toxic chemical substance (with the exception of non-regulated home pesticides considered necessary for maintenance of households) shall be prohibited in designated environmentally sensitive habitats, except in an emergency which threatens the habitat itself.

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

P78 Stream road crossings should be undertaken by the least environmentally damaging feasible method. Road crossings of streams should be accomplished by bridging, unless other methods are determined by the ERB to be less damaging. Bridge columns shall be located outside stream courses, if feasible. Road crossings of streams within Environmentally Sensitive Habitat Areas designated by the LCP may be allowed as a conditional use for the purpose of providing access to recreation areas open to the public or homesites located outside the ESHA where there is no feasible alternative for providing access. Wherever possible, shared bridges or other crossings shall be used for providing access to groups of lots covered by this policy.

P79 To maintain natural vegetation buffer areas that protect all sensitive riparian habitats as required by Section 30231 of the Coastal Act, all development other than driveways and walkways should be set back at least 50 feet from the outer limit of designated environmentally sensitive riparian vegetation.

P80 The following setback requirements shall be applied to new septic systems: (a) at least 50 feet from the outer edge of the existing riparian or oak canopy for leachfields, and (b) at least 100 feet from the outer edge of the existing riparian or oak canopy for seepage pits. . .

P81 To control runoff into coastal waters, wetlands and riparian areas, as required by Section 30231 of the Coastal Act, the maximum rate of storm water runoff into such areas from new development should not exceed the peak level that existed prior to development.

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

P86 A drainage control system, including on-site retention or detention where appropriate, shall be incorporated into the site design of new developments to minimize the effects of runoff and erosion. Runoff control systems shall be designed to prevent any increase in site runoff over pre-existing peak flows. Impacts on downstream sensitive riparian habitats must be mitigated.

P87 Require as a condition of new development approval abatement of any grading or drainage condition on the property which gives rise to existing erosion problems.

P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e. geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.

P94 Degradation of the water quality of groundwater basins, nearby streams or wetlands shall not result from development of the site...

Because the project site is located within a Significant Oak Woodland the project must be evaluated against the performance standards set forth in Table

1 of the Certified LUP. Table 1 is divided into subsections containing specific development standards depending on parcel size, location, and potential impacts to identified coastal resources. Residential development is allowed in this area provided the project is in accordance with specified standards and policies. The following policy language from Table 1 sets specific design standards for all development located within watersheds:

> Encroachment of structures within an oak woodland shall be limited such that at least 90% of the entire woodland is retained. Leachfields shall be located outside the dripline of existing oak trees.
>
> Clustering of structures shall be required to minimize the impacts on natural vegetation.
>
> Development shall adhere to the provisions of the County of Los Angeles Oak Tree Ordinance.
>
> Land alteration and vegetation removal shall be minimized.
>
> Structures shall be located as close to the periphery of the oak woodland as feasible including outside the woodland, or in any other location for which it can be demonstrated that the effects of development will be less environmentally damaging.
>
> Structures shall be located as close as feasible to existing roadways and other services to minimize the construction of new infrastructure.
>
> Site grading shall be accomplished in accordance with the stream protection and erosion control policies.
>
> Streambeds in Oak Woodlands shall not be altered except where consistent with Section 30236 of the Coastal Act. Bridges shall be used for roadway crossings. (emphasis added)

The applicant proposes the construction of a 3,178 sq. ft., 35 ft. high from existing grade single family residence with 3-car garage, septic system, 88 cu. yds. of grading (44 cu. yds. cut and 44 cu. yds. fill) and a bridge crossing of Topanga Creek, a blueline stream. The proposed project site is located within an Environmentally Sensitive Habitat Area and an Oak Woodland on Old Topanga Canyon Road in Topanga. The structure and proposed leachfield are located at least 50 feet from the riparian stream corridor in conformance P79 and P80 of the certified LUP.

In evaluating the proposed project against the above referenced Table 1 policy language, it is necessary to consider each policy in turn. For one, Table 1 states that land alteration and vegetation removal shall be minimized. The applicant originally proposed the construction of an approximately 200 ft. long, 12 ft. wide access road which crossed a blue line stream in an "Arizona" dip crossing which included a culvert to channel the stream. Although this would have required relatively little grading (800 cu. yds.), this would have removed the vegetative cover in a stream course and its associated riparian area. The removal of vegetation could be minimized by crossing the stream with a bridge rather than constructing the driveway through the stream and riparian area. The applicant has revised the proposed project to include a bridge across Topanga Creek instead of the "Arizona" crossing. In order to further minimize the loss of vegetation as a result of the proposed project, the

Commission finds it necessary to require the applicant to submit landscape plans to revegetate any graded areas. Therefore, as conditioned, vegetation removal has been minimized and the project is therefore consistent with this policy of Table 1 as well as P78 and Sections 30231 and 30236 of the Coastal Act.

Table 1 also requires that structures be located as close as feasible to existing roadways and other services to minimize the construction of new infrastructure. As originally proposed, the property would take access from Old Topanga Canyon Road and would have utilized an approximately 200 ft. long access road across Topanga Creek to the building site as an alternative to a bridge. Much of the length of the proposed driveway was necessary to "switch back" down into and out of Topanga Creek. With the proposed construction of a bridge, the applicant has reduced the length of the road to approximately 125 ft. It does not appear that there is a building location closer to the road where a structure could be constructed. The centerline of the stream is approximately 30 feet from the road so it would not be possible to place a structure between the road and the creek. In addition, the building pad site is located on an existing pad and is the only feasible pad location on the site. Therefore, as proposed, the project is located as close as feasible to the existing roadway.

Additionally, Table 1 states that streambeds in Oak Woodlands shall not be altered except where consistent with Section 30236 of the Coastal Act and that bridges shall be used for roadway crossings. Section 30236 is regarding stream alterations which are necessary to protect existing structures from flooding. Such protection is not involved in this case. The applicant originally proposed to cross the stream with an "Arizona" crossing which would take the driveway down across the stream bed. Additionally, the applicant proposed to place two 12 inch culverts beneath the roadway where it crosses the centerline of the creek. In a letter to staff, the applicant stated that bridging the stream was not feasible:

> In addition to being prohibitively expensive, a bridge built under the new requirements would be unsightly to say the least. A 75' bridge 4' above the highway would look a little like the Golden Gate relocated to Old Topanga Canyon.

While staff noted that such a bridge as the applicant alleges would be required to cross the stream would in all probability have negative visual impacts, it is very important to protect the habitat value of Topanga Creek. There are many existing properties on the same side of the highway which cross Topanga Creek with a bridge at street level. The Commission has required, in numerous past permit actions, that stream courses be bridged. In permit action [5-89-955 (Carlson)], the Commission required that a tributary of Topanga Creek be bridged rather than culverted for a driveway crossing. To allow the applicant to cross Topanga Creek on the proposed project site with a roadway and culverts rather than a bridge would alter the stream, remove vegetation from the riparian corridor, increase erosion downstream of the crossing, and disrupt the habitat values of an environmentally sensitive habitat area. Additionally, to allow construction of this crossing which does not comply with Coastal Act or LUP policies would set a precedent for other development not only in this area but also in other areas next to stream courses. For these reasons, staff recommended that the Commission deny the previous proposal because with an "Arizona" crossing, the project could not

conform to this provision of Table 1. In response to that recommendation, the applicant has revised the project to include a bridge crossing of the stream. As currently proposed, the proposed project would ensure that the streambed would not be altered. Therefore, the proposed project is consistent with this Table 1 policy.

Further, Table 1 specifies that site grading must be accomplished in accordance with the stream protection and erosion control policies. The stream protection and erosion policies state that new development shall be located as close as feasible to existing roadways, services and existing development to minimize the effects on sensitive environmental resources. Additionally, Policy 78 states that:

> Stream road crossings should be undertaken by the least environmentally damaging feasible method. Road crossings of streams should be accomplished by bridging, unless other methods are determined by the ERB to be less damaging. Bridge columns shall be located outside stream courses, if feasible...

This policy applies to all projects which require stream crossings. The Table 1 policy stated in the previous paragraph which applies to projects within Oak Woodlands is more restrictive and so the most restrictive policy should be applied. Additionally, Policy 82 states that grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized. Policy 91 states that all new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e. geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible. The grading proposed for the project is not excessive (88 cu. yds.), the building pad is minimal and is located as close as is feasible to the existing roadway. Further, the applicant now proposes to cross the stream with a bridge. Therefore, impacts and alterations of physical features and processes of the site would be minimized. Thus, the proposed project is consistent with these stream protection and erosion control policies. For these reasons, the Commission finds that the proposed project, as conditioned to require landscaping of graded areas, is consistent with the policies of Table 1, the LUP policies regarding environmentally sensitive habitat areas and stream protection and erosion, and the provisions of Sections 30230, 30231, 30236, and 30240 of the Coastal Act regarding environmentally sensitive habitat areas, coastal streams, or marine resources.

C. Cumulative Impacts, Intensity of Development

Section 30250(a) of the Coastal Act states in part:

> (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have a significant adverse effects, either individually or cumulatively, on coastal resources.

The Commission in past permit actions, has recognized certain development constraints common to small lot subdivisions including geologic and fire

hazards, limited road access, septic and water quality problems and disruption of rural community character. As a means of controlling the amount and size of development in small lot subdivisions the Commission developed the Slope Intensity--GSA formula.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan (LUP) requires that new development in small lot subdivisions comply with the Slope-Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit. The basic concept of the formula assumes that the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse impacts on coastal resources.

The proposed project site is located within the Old Topanga small lot subdivision. The site consists of two lots and is 1.2 acres in size. The applicant has not submitted GSA calculations, and the topographical map showing both natural and proposed contours does not cover the entire lots. However, there are contours for the building area and the portion of the site not covered is too steep for development. Staff has made an estimate of the building site area of 17,632 sq. ft. which has a slope of approximately 21%. Incorporating this information into the Slope Intensity Formula, staff arrived at a maximum allowable GSA of 3,419 sq. ft. Therefore, the proposed structure of 3,178 sq. ft conforms to the GSA.

In order to ensure that the residence does not exceed the GSA and to put future owners on notice that the size of the structure is limited to 3,419 sq. ft., the Commission finds it is necessary to condition the permit with a future improvements deed restriction. The Commission finds the residence, as conditioned, in conformance with GSA calculations, and therefore with the Malibu/Santa Monica Mountains LUP and the Coastal Act.

D. Geology.

Section 30253 of the Coastal Act states in part:

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

In addition, the Malibu LUP contains the following policies regarding geologic stability:

> P147 Continue to evaluate all new development for impact on, and from, geologic hazard.
>
> P149 Continue to require a geologic report, prepared by a registered geologist, to be submitted at the applicant's expense to the County Engineer for review prior to approval of any proposed development within potentially geologically unstable areas including landslide or rock fall areas and the potentially active Malibu Coast-Santa Monica

> Fault Zone. The report shall include mitigation measures proposed to be used in the development.

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property. The applicant has submitted a Geology Investigation Report, dated 8/26/88, prepared by Keith Ehlert, and a Preliminary Soils Investigation, dated 10/19/88, and Update Letter, dated 6/24/91, prepared by Soils International. The geologist found the site to be stable and that no landslides are present. The geology report states that:

> Provided that recommendations in this report as well as those of the soils engineer are followed, it is this consultants opinion that the site can be developed without hazard of landslides, slippage, or undue settlement, and the development can proceed without similar adverse influence on adjoining properties.

Based on the recommendations of the Geologist and the Soils Engineer, the Commission finds that the development will be free from geologic hazards so long as the Geologist's recommendations as well as the recommendations of the Soils Engineer are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consultants as conforming to their recommendations. As conditioned, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act and relevant policies of the Malibe Land Use Plan..

E. Septic System

The proposed development includes the installation of an on-site septic system to provide sewage disposal. The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

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

In addition, the Malibu/Santa Monica Mountains Land Use Plan contains the following policies concerning sewage disposal:

> P217 Wastewater management operations within the Malibu Coastal Zone shall not degrade streams or adjacent coastal waters or cause or aggravate

public health problems.

P218 The construction of individual septic tank systems shall be permitted only in full compliance with building and plumbing codes...

P226 The County shall not issue a coastal permit for a development unless it can be determined that sewage disposal adequate to function without creating hazards to public health or coastal resources will be available for the life of the project beginning when occupancy commences.

The applicant has submitted Preliminary Sewage Disposal Approval from the County Health Services Department which indicates that the proposed septic system meets the requirements of the health and plumbing codes. Therefore, the Commission finds that the proposed septic system is consistent with Section 30231 of the Coastal Act and the applicable LUP policies.

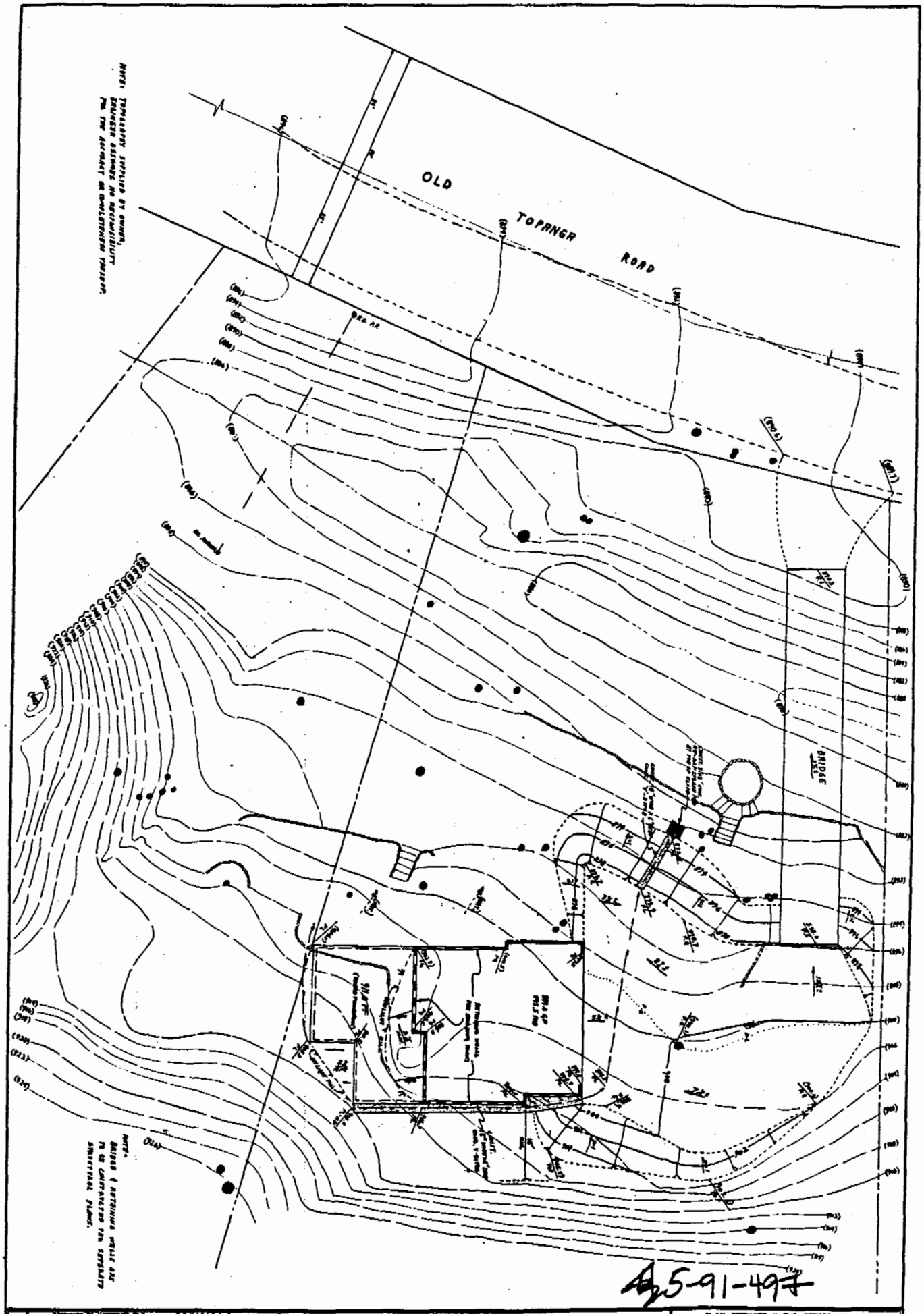
F. Local Coastal Program.

Section 30604 of the Coastal Act states that:

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

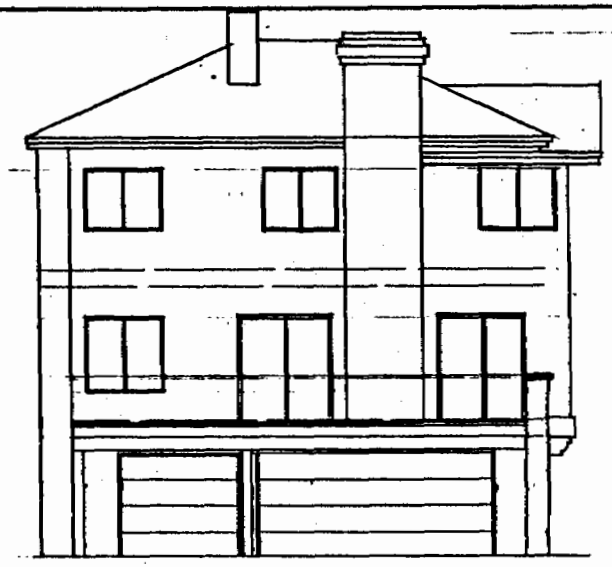
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. On December 11, 1986, the Commission certified the Land Use Plan portion of the Malibu/Santa Monica Mountains Local Coastal Program. The certified LUP contains policies to guide the types, locations, and intensity of future development in the Malibu/Santa Monica Mountains area. Among these policies are those specified in the preceding sections regarding sensitive resources, stream protection, cumulative impacts, geology, and water quality. As conditioned, the development will not create adverse impacts and will be consistent with the policies contained in the LUP and Coastal Act. Therefore, the Commission finds that approval of the proposed development will not prejudice the County's ability to prepare a Local Coastal Program program for Malibu which is consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

3247E
BJC



AJ 5-91-497

DESIGNED BY: M.W.	APPROVED BY:	REVISIONS	SHEET TITLE: SITE PLAN	CLIENT: BRUCE HEHR	PLAN PREPARED IN THE OFFICES OF: WARLING & ASSOCIATES 19050 Olympia St. Northridge, CA 91326 (818) 886-0311
DRAFTED BY: M.W.	CHECKED BY:			PROJECT: 869 OLD TOPANGA ROAD	
REVISED BY:					
SCALE: 1" = 8'	DATE: MAR, 1991	DESCRIPTION BY DATE			



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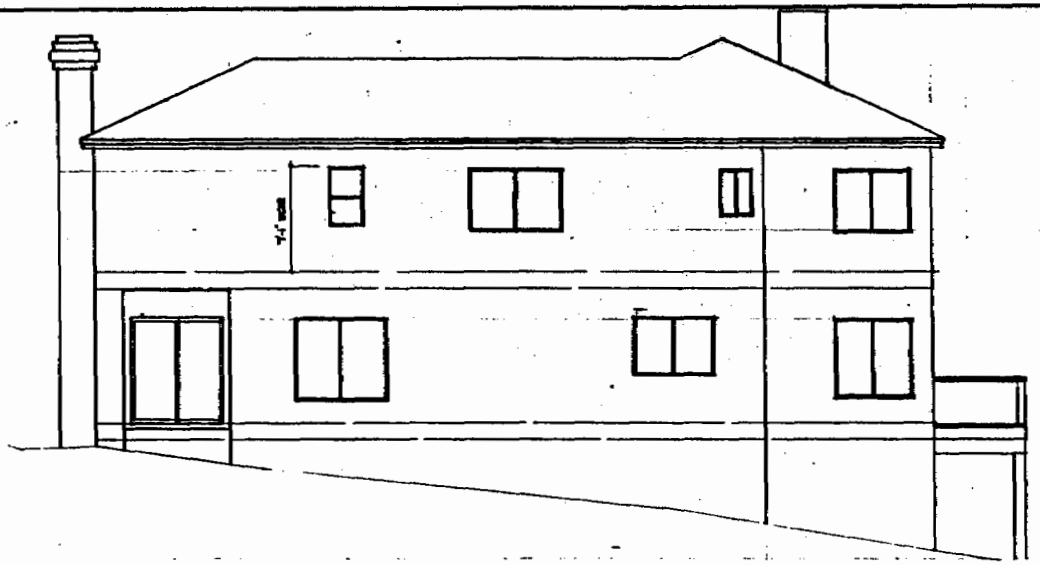

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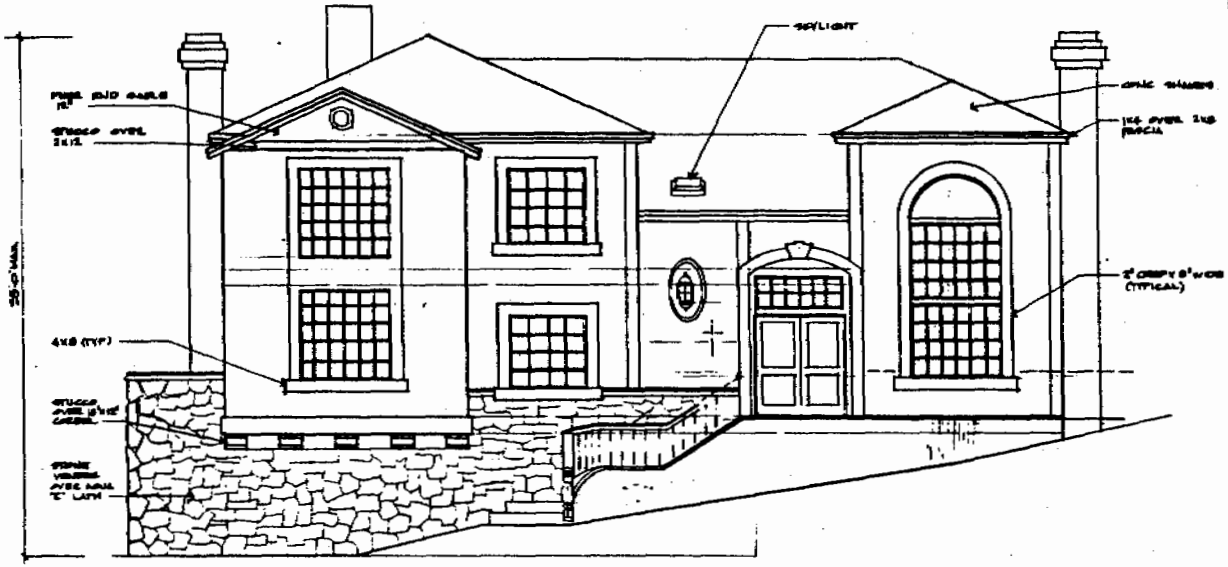
RIGHT SIDE ELEVATION



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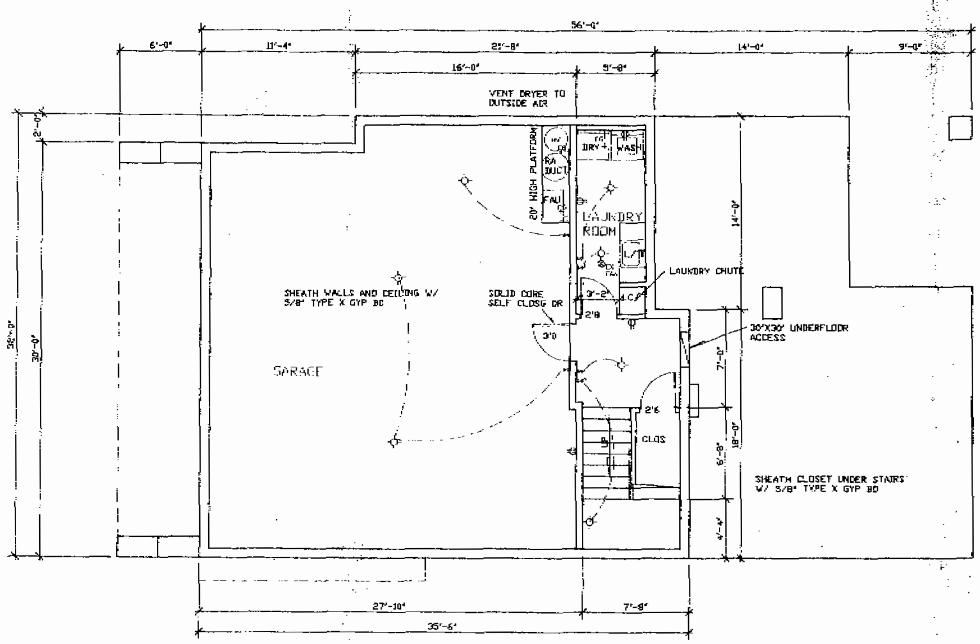
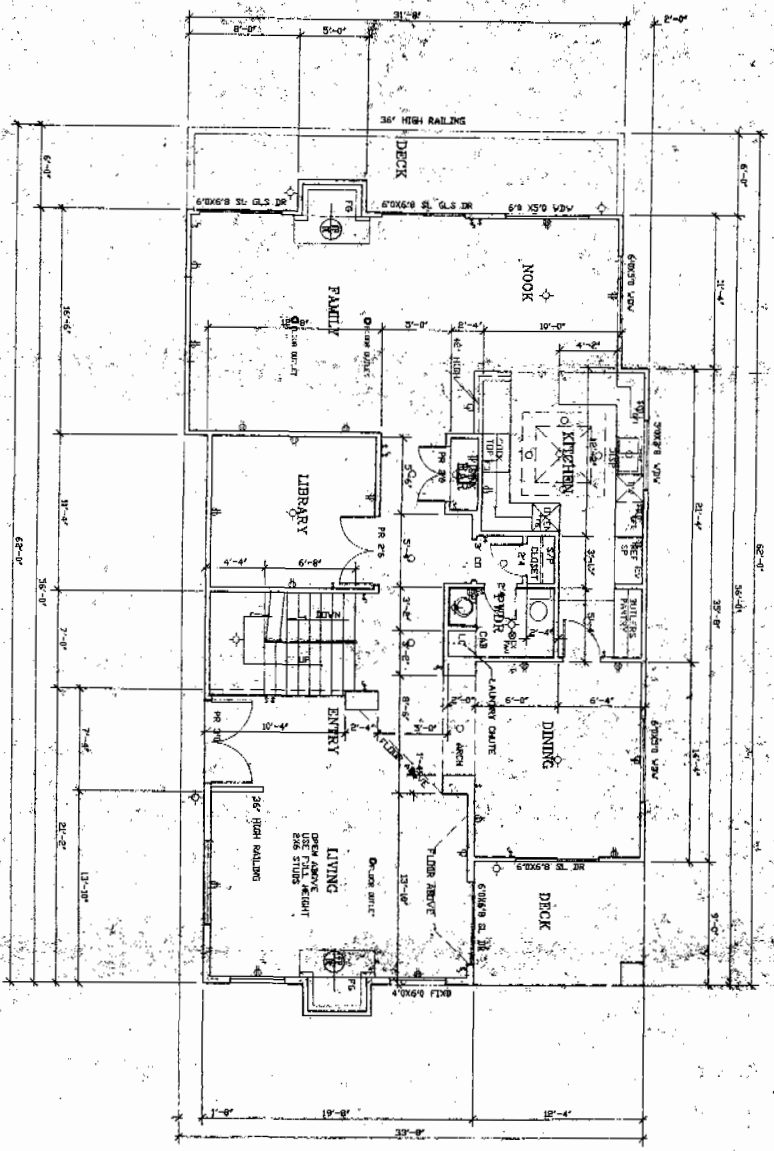


121 SQ FT LIVABLE 850 SQ FT GARAGE

HEHR RESIDENCE
GARAGE LEVEL

RPC
RESIDENTIAL PLANNING CONSULTANTS INC.
11145 TAMPA AVE. SUITE 15B
NORTHRIDGE, CALIF. 91326
(818)363-3604

Date 4/1/90
Scale 1/4"=1'-0"
Drawn RPC
Job HEHRIST
Sheet
Of Sheets



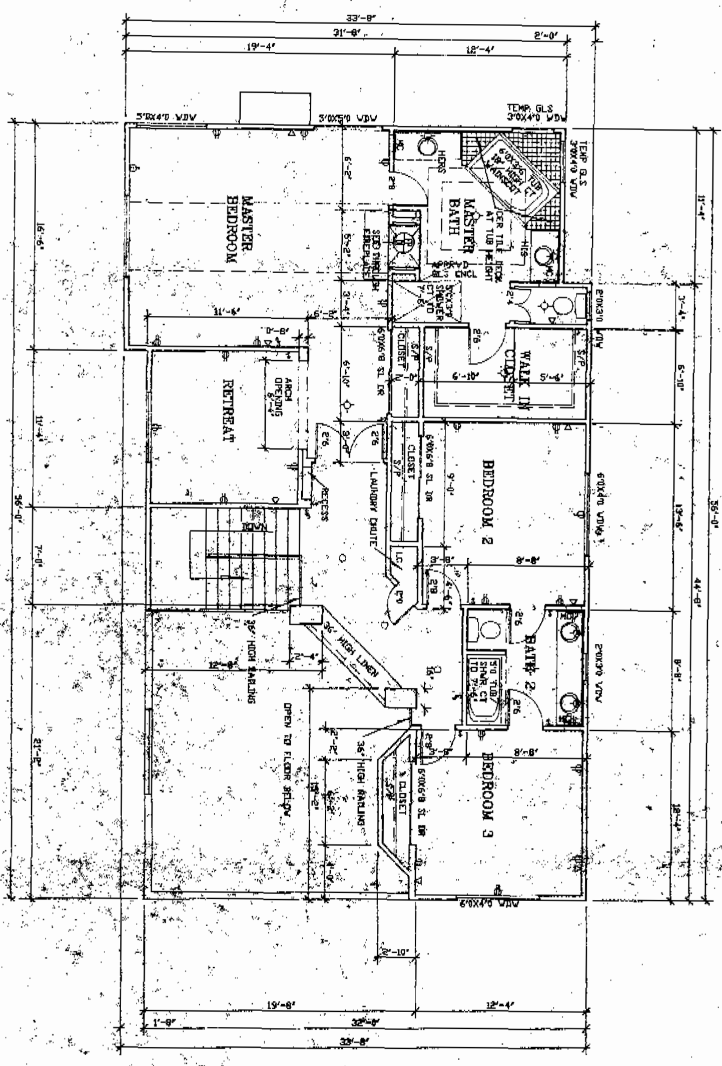
1687 SQ. FT.

HEHR RESIDENCE
FIRST FLOOR

RPC
RESIDENTIAL PLANNING CONSULTANTS INC.
11145 TAMPA AVE. SUITE 15B
NORTHRIDGE, CALIF. 91326
(818)363-3604

Job: HEHR
Drawn: RPC
Scale: 1/4"=1'-0"
Date: 4/1/90

APPROVED 5-91-497
Permit No.
By:
EFFECTIVE
Date:



HEHR RESIDENCE
TOP FLOOR

RPC
RESIDENTIAL PLANNING CONSULTANTS INC.
11145 TAMPA AVE. SUITE 15B
NORTHRIDGE, CALIF. 91326
(818)363-3604

Date 4/1/90
Scale 1/4"=1'-0"
Drawn RPC
Job HEHRE
Sheet

South Coast District Office
Approved 5-91-497