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

W 9c

Filed:	9/4/08
180th Day:	3/3/09
Staff:	J. Johnson
Staff Report:	1/22/09
Hearing Date:	2/4/09

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-08-029

APPLICANT: Fariba Tiffany

AGENT: NA

PROJECT DESCRIPTION: Construct a one-story, 13 ft. high, 740 sq. ft. guest house with 315 sq. ft. first floor balcony, 2nd floor 140 sq. ft. covered patio, and 610 sq. ft. roof garden attached to a two story 24 ft. high 400 sq. ft. one car garage with second floor 160 sq. ft. storage loft. The project includes a single-story addition to the existing two-story, 1,856 sq. ft. single-family residence, consisting of a 13 ft. high 153 sq. ft. bathroom and storage area attached to a 306 sq. ft. covered patio. The project also includes a 34 lineal foot driveway extension, placement of solar panels on proposed garage and existing garage roofs, pool and spa, and 236 cu. yds. (190 cu. yds. cut, 46 cu. yds. fill) of grading with 144 cu. yds. of export to an offsite disposal site.

PROJECT LOCATION: 22072 Topanga School Road, Topanga, Santa Monica Mountains; Los Angeles County (APN: 4445-006-026)

Parcel Area:	1 acre
Building Coverage:	3,199 sq. ft.
Development Area:	9,800 sq. ft.
Driveway Coverage:	1,900 sq. ft.
Maximum Height:	24 ft.

MOTION & RESOLUTION: **Page 4**

SUMMARY OF STAFF RECOMMENDATION:

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

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

- **CUMULATIVE IMPACTS.** The project includes construction of a guesthouse unit on the subject site where a primary residence already exists. Guest units intensify the use of the subject parcel which creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, guesthouses and second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development. The applicant is proposing a 740 sq. ft. guest unit with an attached 400 sq. ft. garage. This conforms to the Commission's past actions, allowing a maximum of 750 square feet for a guest unit in the Santa Monica Mountains area. To ensure that the guest unit is not enlarged, the project is conditioned to require a future improvements restriction and recordation of an accompanying deed restriction.
- **OAK TREE PROTECTION.** Staff visited the site and confirmed that none of the proposed development would encroach within the protected zones (5 ft. from canopy dripline) of any oak trees. No oak trees removal or tree trimming or other modifications are proposed as part of this project.
- **VISUAL RESOURCES.** Given the limited size of the structures as well as the distance (1,000 to 4,000 feet) and elevation difference (50 feet higher) from the Backbone Trail and portions of Topanga State Park located to the east, public views of the structures will be minimal due to the distance and topography. The potential visibility will be further reduced by the mature oak woodland and landscaping that exists on and off the subject site. However, the visual impact of the structure from the north and east can be further minimized. Therefore, the project has been conditioned to require that 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.
- **ENVIRONMENTALLY SENSITIVE HABITAT AREA.** There is oak woodland habitat, located off-site and partially within the southwest boundary of the property that meets the definition of ESHA. However, the majority of the subject parcel is already developed with residential and related accessory structures, non-native trees and other ornamental landscaping. The disturbed/developed project site, which includes three individual oak trees in the northeast portion of the property along Topanga School Road and a cluster of four oak trees in the southwest portion of the property, does not meet the definition of ESHA. All proposed development is within this developed/disturbed area and would not result in direct impacts to ESHA. Further, the project has been condition to ensure that it would not have indirect effects on the oak woodland, including special conditions for drainage and erosion control plans, pool maintenance, future improvements restrictions, lighting restrictions, and oak tree monitoring during construction.

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Exhibit 1: Vicinity Map
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Exhibit 8: Fuel Modification Plan
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Exhibit 10: Sensitive Environmental Resources Overlay Zones
Exhibit 11: Aerial Photo

LOCAL APPROVALS RECEIVED: County of Los Angeles Fire Department Prevention Bureau Preliminary Fuel Modification Plan Approval, dated 8/16/2006; County of Los Angeles, Department of Regional Planning Approval-In-Concept, dated 7/30/2008; County of Los Angeles Fire Department, Approved Fire Access, dated 7/23/2008.

SUBSTANTIVE FILE DOCUMENTS: Limited Geologic and Soils Engineering Investigation, dated June 19, 2007 by Subsurface Designs, Inc.; Percolation Test Report, dated December 11, 2007 by Lawrence Young, Registered Environmental Health Specialist; Biological Resource Study, 22072 Topanga School Road, Topanga, CA, by Bruce Malinowski, Landscape Architect, received August 5, 2008.

I. STAFF RECOMMENDATION

APPROVAL WITH CONDITIONS

MOTION: ***I move that the Commission approve Coastal Development Permit No 4-08-029 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 the 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 permits 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 applicants agree to comply with the recommendations contained in the Limited Geologic and Soils Engineering Investigation, dated June 19, 2007 by Subsurface Designs, Inc. These recommendations, including recommendations concerning foundations, grading, structure setback, foundations, floor slabs, excavation erosion control, excavations, retaining walls, and drainage and maintenance, shall be incorporated into all final designs and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to foundations, grading, structure setback, foundations, floor slabs, excavation erosion control, excavations, retaining walls, and drainage and maintenance. 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 Fuel Modification Plans

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

A) Landscaping Plan

(1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (http://www.CNPS.org/), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (http://www.cal-ipc.org/), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property.

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

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

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

(5) Fencing of the entire property is prohibited. Any new fencing shall extend no further than the approved development area. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in Special Condition No. 9 below.

B) Fuel Modification Plans

Vegetation within 20 feet of the proposed accessory structure (guest house) and addition to the primary residence may be removed to mineral earth, vegetation within a 200-foot radius of these structures may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. Fuel modification in riparian areas is limited to removal of dead and downed wood and exotics. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the twenty foot radius of the proposed guest house and

addition to the primary residence shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

C) Conformance with Coastal Commission Approved Site/Development Plans

The Permittee shall undertake development in accordance with the final Landscape and Fuel Modification Plans. The final Landscape and Fuel Modification Plans shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

D) Monitoring

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

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the requirements specified in this condition, the applicant, or successors in interest, shall submit, within 30 days of the date of the monitoring report, a revised or supplemental landscape plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental landscaping measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This remedial landscaping plan shall be implemented within 30 days of the date of the final supplemental landscaping plan and remedial measures shall be repeated as necessary to meet the requirements of this condition.

3. <u>Assumption of Risk</u>

By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from wildfire; (ii) to assume the risks to the applicants 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.

4. Interim Erosion Control & Construction Best Management Practices Plan

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

1. Erosion Control Plan

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

(b) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.

(c) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.

(d) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) 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; stabilize any stockpiled fill with geofabric covers or other appropriate cover; install geotextiles or mats on all cut or fill slopes; and close and stabilize open trenches as soon as possible.

(e) The erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out 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 the coastal zone or to a site within the coastal zone permitted to receive fill.

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

2. Construction Best Management Practices

(a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.

(b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.

(c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.

(d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.

(e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.

(f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.

(g) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.

(h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.

(i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.

(j) The discharge of any hazardous materials into any receiving waters shall be prohibited.

(k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.

(l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity

(m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

B. The final Interim Erosion Control and Construction Best Management Practices plan, shall be in conformance with the site/ development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans required by the consulting civil engineer/water quality professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

5. <u>Drainage and Runoff Control Plan</u>

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 or qualified professional and shall incorporate site design and source control Best Management Practices (BMPs) designed to control pollutants and minimize the volume and velocity of runoff leaving the developed site. In addition to the specifications above, the consulting civil engineer or water quality professional shall certify in writing that the final Drainage/Runoff Control Plans are in substantial conformance with the following minimum requirements:

1. BMPs should consist of site design elements and/or landscape based features or systems that serve to maximize site permeability, avoid directly connected impervious area and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas on site, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches, cisterns.

2. Landscaping materials shall consist primarily of native or other low-maintenance plant selections which have low water and chemical treatment demands consistent with **Special Condition 2, Landscaping Plan**. An efficient irrigation system designed based on hydrozones and utilizing drip emitters or micro-sprays or other efficient design should be utilized for any landscaping requiring water application.

3. All slopes should be stabilized in accordance with provisions contained in the Landscaping and/or Erosion and Sediment Control Conditions for this Coastal Development Permit.

4. Runoff shall be conveyed off site in a non-erosive manner. Energy dissipating measures shall be installed at the terminus of outflow drains.

5. 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/planted, adjusted 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 final Drainage and Runoff Control Plan shall be in conformance with the site/ development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans required by the consulting civil engineer/water quality professional or engineering geologist shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

6. <u>Future Development Restriction</u>

This permit is only for the development described in Coastal Development Permit No. 4-08-029. Pursuant to Title 14 California Code of Regulations Sections 13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code Sections 30610 (a) and (b) shall not apply to any of the development governed by this permit. Accordingly, any future improvements to any portion of the development governed by this permit, including but not limited to the guest house/garage (or conversion of any portion of the garage to habitable space or addition of a door or other interior ingress between the non-habitable garage and the guest unit), covered patio/eave shall require an amendment to Coastal Development Permit No. 4-08-029 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

7. <u>Deed Restriction</u>

Prior to issuance of the coastal development permit, the applicants shall submit to the Executive Director for review and approval documentation demonstrating that the applicants have 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.

8. Removal of Excess Excavated Material

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

9. Structural Appearance

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

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

10. Lighting Restrictions

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.

11. Pool and Spa Drainage and Maintenance

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

12. Oak Tree Construction Monitoring

To ensure that all other oak trees located on the subject parcel 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 flagging shall be installed on trees to be protected.

The applicant shall retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during all grading operations, foundation and framing construction of all proposed development within 25 feet of any oak tree. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if habitat is removed or impacted beyond the scope of the work allowed by this Coastal Development Permit. 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.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION

The applicant proposes to construct a one-story 13 ft. high 740 sq. ft. guest house with a 315 sq. ft. first floor balcony, 2nd floor 140 sq. ft. covered patio, and 610 sq. ft. roof garden. The project also includes an attached two-story, 24 ft. high, 400 sq. ft. one-car garage with second floor 160 sq. ft. storage loft that is directly attached to the proposed guesthouse. Further the project includes a 34 lineal foot driveway extension, add 600 sq. ft. of solar panels to proposed garage roof, and 600 sq. ft. of panels to existing garage roof.

The project includes a single-story addition to the existing two-story, 1,856 sq. ft. single family residence, consisting of a 13 ft. high 153 sq. ft. bathroom and storage area attached to a 306 sq. ft. covered patio. Other development includes construction of a pool and spa, and 236 cu. yds (190 cu. yds. cut, 46 cu. yds. fill) of grading grade with 144 cu. yds. of export to an offsite disposal site (Exhibits 2-11). The cut grading is proposed to create the guest house and residential addition's foundations, pool, and driveway. All excess cut materials will be exported to an approved disposal site located outside the coastal zone. The proposed driveway extension consists of about 576 sq. ft. of decomposed granite on the site.

The proposed project site is located at 22072 Topanga School Road, Topanga, in the Santa Monica Mountains, unincorporated Los Angeles County (Exhibit 1). The site is developed with a two story 1,856 sq. ft. single family residence, detached 480 sq. ft. garage and storage shed that were originally built in 1935 prior to the effective date of the Coastal Act in 1977.

The developed portion of the lot is relatively flat with gently sloping areas along the southern and eastern perimeters. The southern portion of the lot drops towards Old Topanga Canyon Creek, but does not include the creek and its banks. The proposed new building site for the guest house/garage is a gently sloping pad area located at the northeast corner of the subject lot near the existing driveway and Topanga School Road. The proposed addition to the primary residence is located on a flat pad area located at the southwest corner of the subject lot. The southwestern portion of the lot slopes down towards Old Topanga Creek, although the southwestern lot boundary is located no closer than about 160 feet measured horizontally uphill from Old Topanga Creek which is located at about the 750 foot elevation above sea level. The subject lot has a slope that ranges from 873 to 815 feet above sea level well above the creek channel. The proposed development closest to the creek, the addition to the primary residence, is located well above it at the 865 foot elevation level. The subject lot includes coast live oak trees with non-native grasses, pepper, olive, and fruit trees, a garden, and a lawn. Within the adjoining slope dropping beyond the subject lot from about 160 feet measured horizontally to the creek channel, the creek channel includes a Coast live oak riparian woodland with toyon, scrub oak, California bay, western sycamore, poison oak, and holly-leaf redberry. The proposed guest house/garage and addition to the primary residence is located within overlapping fuel modification areas resulting from residential and school development on adjoining lots along Topanga

School Road. (Exhibit 9). The project as conditioned in this report, will have no adverse impacts on ESHA.

Given the limited size of the proposed guest house/garage and addition as well as the distance and elevation from the Backbone Trail and the Topanga-Henry Ridge Trail located to the north and south and portions of Topanga State Park located to the east, public views of the guest house/garage and addition will be minimal due to the surrounding mature non-native trees, oak woodland and topography.

The applicant submitted this coastal permit application (CDP 4-08-029) which was filed on September 5, 2008. Commission review under the Permit Streamlining Act ends March 3, 2009. Therefore, the Commission must act on this application no later than the February 2008 meeting unless the review period is extended by the applicant.

B. ENVIRONMENTALLY SENSITIVE HABITAT

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

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

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

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

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

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

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

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

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

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

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

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

1. Project Description and Site Specific Biological Resource Information

The subject site is located on the south side of Topanga School Road, west of Topanga Canyon Boulevard, and just northeast of Old Topanga Creek and north of the intersection between Old Topanga Canyon Road and Topanga Canyon Boulevard. Old Topanga Creek is a designated blue-line stream located beyond the subject parcel to the south. The developed portion of the parcel is relatively flat with gentle slopes to the south and east, with the southwestern portion sloping south towards Old Topanga Creek. Elevations on the lot range from about 873 to 815 feet above sea level. Old Topanga Creek is located about 750 feet above sea level below the subject lot's southwestern boundary about 160 feet measured horizontally. The project sites for the addition to the primary residence and the guest house/garage are located about 120 feet and 240 feet, respectively, from the southwestern edge of the subject lot's property line and about 115 feet and 120 feet, respectively, above the 750 foot elevation of the creek.

The site is currently developed with a single family residence, detached garage, and storage shed constructed in 1935. The proposed guest house/garage is located on the

northeastern portion of the subject lot while the addition to the existing primary residence is located adjacent and northwest of the primary residence. There is an existing garage and storage shed located between the primary residence and the proposed guest house/garage.

The applicant submitted the Biological Resource Study, listed in the Substantive File Documents, which addresses the habitats present on the project site. The study identifies one vegetation/habitat community on the project site consisting of coast live oak woodland. The southwest portion of the site where the residence is located includes numerous mature coast live oak trees associated with the oak woodland/riparian canyon below within the creek area.

A map of the habitats on the site was also prepared by the biological consultant. Commission staff visited the subject property on January 16, 2008 and confirmed that the site description and aerial map provided in the Study was accurate. While there is residential and school development (Topanga School) surrounding the area, there is undisturbed, contiguous oak woodland/riparian habitat beyond the subject lot to the southwest along Old Topanga Canyon Creek. Exhibit 11 depicts a 2007 aerial photograph of the project site and immediate surrounding area.

According to public information, the applicant purchased the subject property in 1999 for a price of $484,000. The parcel was designated in the Los Angeles County Land Use Plan for residential use. The Residential land use designation applies to the property that allows residential development at a maximum density of 1 dwelling unit per 1 acre of land. The parcel is 1-acre in size, and there are other scattered, residential developments in the same area. There is currently no offer to purchase the property from any public park agency.

Not including the area of the driveway or turnaround, the total development area for the existing primary residence, residence addition, guest house/garage, and existing garage and shed measures approximately 9,800 sq. ft. as calculated by the applicant's engineer. The applicant's approved fuel modification plan (approved by the Los Angeles County Fire Department) shows the use of the three zones of vegetation modification. Zones "A" (setback zone) and "B" (irrigation zone) are shown extending in a total radius of approximately between 0 to 50 feet from the proposed structures due to the Oak woodland. A "C" Zone (thinning zone) is provided for a distance of 150 feet beyond the "A" and "B" zones to a maximum of 200 feet to the south in the direction of Old Topanga Canyon Creek. No oak trees are proposed for removal or thinning. The proposed addition to the primary residence will not extend the existing fuel modification toward the creek, in fact, the entire subject lot is overlaid by five overlapping fuel modification zones as a result of the surrounding residential and school buildings (Exhibit 10).

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, the native habitats of the Santa Monica Mountains, such as coastal sage scrub, chaparral, oak woodland and riparian woodlands are easily disturbed by human activities. As discussed in the Dr. Dixon Memorandum, development has many well-documented deleterious effects on natural communities of this sort. These environmental impacts may be both direct and indirect and include, but certainly are not limited to, the effects of increased fire frequency, of fuel modification, including vegetation clearance, of introduction of exotic species, and of night lighting. Increased fire frequency alters plant communities by creating conditions that select for some species over others. The removal of native vegetation for fire protection results in the

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[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

direct removal or thinning of habitat area. Artificial night lighting of development affects plants, aquatic and terrestrial invertebrates, amphibians, fish, birds and mammals. Thus, large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodlands are especially valuable because of their special roles in the Santa Monica Mountains ecosystem and are easily disturbed by human activity. Accordingly, these habitat types meet the definition of ESHA. This is consistent with the Commission's past findings in support of its actions on many permit applications and in adopting the Malibu LCP[2].

As described above, the project site contains disturbed Oak Woodland habitat on the project site. This Oak Woodland habitat, which is part of the Old Topanga Canyon Creek corridor, and the areas to the west, south, east, and north that are beyond the project site are part of a large, contiguous block of pristine native vegetation including native chaparral habitat. The subject lot and surrounding oak woodland is designated as a disturbed ESHA on the Los Angeles County Sensitive Habitat Map. Accordingly, the Commission finds that the Oak Woodland habitat, located southwest of the existing residence, on the project site meets the definition of ESHA in the Coastal Act. However, the majority of the subject parcel is already developed with residential and related accessory structures, non-native trees and other ornamental landscaping. The developed project site does not include any oak trees, with the exception of three oak trees in the northwest portion of the property along Topanga School Road near the proposed guest house and a cluster of four oak trees on the southwestern portion of the property near the proposed addition to the primary residence. Therefore the residentially-developed portion of the property (where all proposed development would be located), roughly between the existing residence and Topanga School Road, does not meet the definition of ESHA in the Coastal Act.

3. Siting and Design

In past permit actions, the Commission has allowed up to 10,000 sq. ft. of development area for a residence on a parcel zoned for residential development in this area of the Santa Monica Mountains to avoid a taking of property. As detailed above, the proposed development area (including both the existing primary residence, garage, and shed on site and the new proposed residential addition, guest house/garage) conforms to the maximum development area of 10,000 sq. ft. All proposed structures are located within this development area. The proposed guest house/garage will be located on an existing gentle sloping pad entirely within a previously developed portion of the subject site adjacent to the access driveway and Topanga School Road.

As described above, a majority of the site is disturbed oak woodland that does not meet the definition of ESHA, because the area has been significantly developed with residentially-related structures and ornamental landscaping. There is relatively undisturbed oak woodland habitat located off-site and partially within the southwest lot

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

boundary. The existing single-family residence represents the approximate break between the oak woodland ESHA and the disturbed areas of the property. All proposed development is within this developed/disturbed area and would not result in the direct removal of ESHA, nor would the development have significant additional indirect impacts above those already experienced at the site as a result of existing residential development.

In past permit actions, the Commission has typically required that new development be set back 100 ft. or more from ESHA in order to provide an adequate buffer. The proposed guest house/garage will be located more than 100 feet from the ESHA on the property. However, the residential addition and pool would not be located 100 feet from the ESHA. In this case, the Commission finds that although the proposed residential addition and pool would not provide a 100 ft. buffer from the canopy of the adjacent oak woodland, there are unique, site-specific factors which would allow for the reduced setback while still avoiding any adverse impacts to the adjacent ESHA. In this case, the existing residence is located within the canopy of the oak woodland with no buffer. The proposed addition and pool will be located further from the oak woodland/riparian areas than the existing residence on site and is not expected to result in any additional cumulative impacts to the adjacent ESHA. Further, due to overlapping fuel modification zones from the existing residence on the subject site and existing residences and school facilities located on the neighboring lots immediately northwest, north, east, and south of the site, no new or additional fuel modification requirements are necessary for any of the proposed development. Thus, the proposed guest house/garage and addition are not expected to result in any new adverse impacts to the oak woodland on site and the oak woodland/riparian habitat areas off site. As such, the Commission concludes that the proposed siting and design of the project will avoid impacts to ESHA. Thus, the proposed project will not result in any new impacts to ESHA due to its location.

4. Fuel Modification

The applicant's approved fuel modification plan (approved by the Los Angeles County Fire Department) shows the use of the three zones of vegetation modification. Zones "A" (setback zone) and "B" (irrigation zone) are shown extending in a total radius of approximately between 0 to 50 feet from the proposed structures due to the Oak woodland. A "C" Zone (thinning zone) is provided for a distance of 150 feet beyond the "A" and "B" zones to a maximum of 200 feet to the south in the direction of Old Topanga Canyon Creek. No oak trees are proposed for removal or thinning, except for dead or downed wood. The proposed addition to the primary residence will not extend the existing fuel modification toward the creek, in fact the entire subject lot is overlaid by five overlapping fuel modification zones as a result of the surrounding residential and school buildings (Exhibit 9).

5. Oak Tree Protection

The project site is located within a disturbed oak woodland, in a subdivision, where the past creation of urban-scale lots has resulted in a higher density of residential

development. The majority of the subject site is disturbed and while there are few oak trees present near Topanga School Road, understory plant species and connectivity to other woodland areas are lacking and therefore the developed/disturbed portion of the site is not considered to be an environmentally sensitive habitat area. However, through past permit actions in the Santa Monica Mountains, the Commission has found that native oak trees are an important coastal resource, even where they are not part of a larger woodland that is ESHA. 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. Individual oak trees such as those on or adjacent to the subject site do provide habitat for a wide variety of wildlife species. As required by Section 30250 of the Coastal Act, the proposed new development can be approved only where it will not have impacts on coastal resources. Additionally, oak trees are an important component of the visual character and scenic quality of the area and must be protected in order to ensure that the proposed development is visually compatible with this character, as required by Section 30251 of the Coastal Act.

Staff visited the site and confirmed that none of the proposed development would encroach within the protected zones (5 ft. from canopy dripline) of any oak trees. As currently proposed by the applicant, the guest house/garage is located on a site that is set back 9 feet or more from the canopy of 3 individual oak trees on the eastern portion of the lot. The proposed addition to the primary residence will be located at least 5 feet from the edge of the canopy of an oak tree cluster consisting of 4 trees with a combined 7 inch diameter measured four feet above grade.

Given the proximity of individual oak trees to construction, the Commission finds that potential impacts to oak trees on the project or adjacent site must be minimized by employing protective measures during project construction. Therefore, the Commission requires the applicant to install temporary protective barrier fencing around the protected zones (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of all oak trees and such fencing is to be 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. Further, the Commission requires that a biological consultant, arborist, or other resource specialist shall be present on-site during all grading operations, foundation and framing construction 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 this coastal development permit. 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.

6. Additional Mitigation Measures to Address Potential 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. Indirect adverse

effects from residential landscaping may 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. 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.

In addition, the Commission has found that night lighting in and around ESHA areas in the Malibu/Santa Monica Mountains may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, given the proximity to oak woodland ESHA, **Special Condition 10**, 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, given the proximity to ESHA and Old Topanga Creek corridor, fencing of the property would adversely impact the movement of wildlife through the adjacent ESHA. Therefore, the Commission finds it is necessary to limit any new fencing to the perimeter of the development area (building pad), pool, and driveway. This is required to be shown on the landscaping plan, required in **Special Condition 2**

Finally, 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 guest houses and primary residences and related 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 6**, the future development restriction, has been required.

Finally, **Special Condition 7** 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.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30240 of the Coastal Act:

Special Condition 2. Landscaping and Fuel Modification Plans
Special Condition 6. Future Development Restriction
Special Condition 7. Deed Restriction
Special Condition 10. Lighting Restriction
Special Condition 12. Oak Tree Monitoring

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

C. HAZARDS AND GEOLOGIC STABILITY

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

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

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

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

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

Although the conditions described above render the project sufficiently stable to satisfy the requirements of Section 30253, no project is wholly without risks. Due to the fact that the proposed project is located in an area subject to an extraordinary potential for

damage or destruction from natural hazards, including wildfire, 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 proposed grading will not be balanced on the project site and will result in a surplus of graded material. Excavated materials that are placed in stockpiles are subject to increased erosion, and if retained upon the site, such materials may contribute to additional unpermitted landform alteration. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, the Commission requires the applicant to remove all excavated material from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit.

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

Special Condition 1. Plans Conforming to Geotechnical Engineer's Recommendations
Special Condition 2. Landscaping, Erosion Control, and Fuel Modification Plans
Special Condition 3. Assumption of Risk
Special Condition 4. Interim Erosion Control & Construction Best Management Practices Plan
Special Condition 5. Drainage and Polluted Runoff Control Plan
Special Condition 8. Removal of Excess Excavated Material

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

D. WATER QUALITY

Section 30231 of the Coastal Act states that:

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

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality 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.

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

Additionally, the proposed grading will not be balanced on the project site and will result in a surplus of graded material. Excavated materials that are placed in stockpiles are subject to increased erosion, and if retained upon the site, such materials may inadvertently contribute to adverse water quality impacts to coastal waters and water quality. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, the Commission requires the applicant to remove all excavated material from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit.

Therefore, in order to minimize the potential for such adverse impacts to water quality resulting from drainage runoff both during construction and in the post-development stage, the Commission requires the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site, including: 1) sizing post-construction structural BMPs to accommodate (infiltrate, filter, or otherwise treat) the runoff from all storms up to and including the 85th percentile storm runoff event; 2) implementing erosion control measures during construction and post construction; and 3) revegetating all graded and disturbed areas with primarily native landscaping.

Additionally, the applicant’s geologic consultants have concluded that the existing on-site septic system is sufficient to handle the additional waste stream from the proposed accessory structure and the residential addition. The County of Los Angeles Environmental Health Department has given in-concept approval of the existing septic system to serve the existing and proposed developments, indicating that it meets the plumbing code requirements. The Commission has found that conformance with the provisions of the plumbing code is protective of water resources.

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

Special Condition 2. Landscaping, Erosion Control, and Fuel Modification Plans
Special Condition 4. Interim Erosion Control & Construction Best Management Practices Plan
Special Condition 5. Drainage and Polluted Runoff Control Plan
Special Condition 8. Removal of Excess Excavated Material
Special Condition 11. Pool and Spa Drainage and Maintenance

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

E. VISUAL IMPACTS

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. In the review of this project, Commission staff analyzed the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. Staff examined the building site, the size of the proposed structure, and alternatives to the size, bulk and scale of the structure. The development of the guest house raises the issue of whether or not views from public viewing areas will be adversely affected.

The subject site is located in a low density residential area south of Mulholland Highway and Cold Canyon Road in the Malibu/Santa Monica Mountains. The applicant proposes to construct a one-story 13 ft. high 740 sq. ft. guest house, 315 sq. ft. first floor balcony with 2nd floor 140 sq. ft. covered patio and 610 sq. ft. roof garden attached to a two story 24 ft. high 400 sq. ft. one car garage with second floor 160 sq. ft. storage loft, 34 lineal foot driveway extension, add 600 sq. ft. of solar panels to proposed garage and 600 sq. ft. of panels to existing garage roofs, add one story 13 ft. high 153 sq. ft. pool bath and storage with 306 sq. ft. covered patio to existing two story, 1,856 sq. ft. single family residence, construct pool and spa, grade 190 cu. yds. of cut, 46 cubic yards of fill, with 144 cu. yds. of export to an offsite disposal site (Exhibits 2-11). The cut grading is proposed to create the guest house and residential addition's foundations, pool, and driveway. All excess cut materials will be exported to an approved disposal site located outside the coastal zone. The proposed driveway extension consists of about 576 sq. ft. of decomposed granite on the site.

The proposed building site is located at an elevation of between approximately 865 and 870 feet above sea level. The subject lot ranges from 873 to 815 feet in elevation above sea level. Slopes south of the building site descend toward Old Topanga Canyon Creek, a U.S. Geological Survey (USGS) designated blue-line stream that is approximately 160 feet away from the proposed addition to the existing primary residence. The proposed building pad for the guest house/garage, driveway extension, and addition to the primary residence drain south and east leading to Old Topanga Canyon Creek. Existing residences are located to the northwest, southeast, and east of the subject site. Topanga School is located to the north and northeast across Topanga School Road. The Backbone Trail is located about 1,000 feet to the north of the project site and the proposed Topanga-Henry Ridge Trail is located about 500 feet to the south. Topanga State Park is located as close as 4,000 feet to the east of the project site.

Given the limited size of the structures as well as the distance (500, 1,000 to 4,000 feet) and elevation difference (50 feet higher) from the Topanga-Henry Ridge Trail, Backbone Trail to the south and north and portions of Topanga State Park located to the east, public views of the structures will be minimal due to the distance and topography. The potential visibility will be further reduced by the mature oak woodland and landscaping that exists on and off the subject site. Mitigation is needed to address potential public visual impacts for the proposed guest house/garage from the north and east and the proposed addition to the primary residence from the north. The addition to the residence is not visible from the south. The visual impact of the proposed structure can be minimized by requiring this 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 9**.

Visual impacts can be further reduced by the use of appropriate and adequate landscaping, including visually screening on the north and east sides of the guest house/garage. Therefore, **Special Condition 2** requires the applicants to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. Implementation of **Special Condition 2** will soften the visual impact of the development from public view areas. To ensure that the final approved landscaping plans are successfully implemented, **Special Condition 2** also requires the applicant to revegetate all disturbed areas in a timely manner and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time.

In addition, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area creates a visual impact to nearby public lands and scenic roads. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. The area south of the subject site contains environmentally sensitive habitat. Therefore, **Special Condition 10** 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 guest house/garage and addition to a primary residence, which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that any future development or improvements normally associated with the guest house/garage (or conversion of any portion of the garage to habitable space), proposed addition to the primary residence, which might otherwise be exempt, is reviewed by the Commission for compliance with the visual resource policies contained in Section 30251 of the Coastal Act. **Special Condition 6**, 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 7** 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 property.

The following special conditions are required to assure the project's consistency with Section 30251 of the Coastal Act:

Special Condition 2: Landscaping and Fuel Modification Plans
Special Condition 6: Future Development Restriction
Special Condition 7: Deed Restriction
Special Condition 9: Structural Appearance
Special Condition 10: Lighting Restriction

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

F. CUMULATIVE IMPACTS

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

> ***(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 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 that:

> ***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.***

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

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

The applicant is proposing a 740 sq. ft. guest unit with an attached 400 sq. ft. garage, 160 sq. ft. non habitable loft and interior stairway only to the garage/loft, 315 sq. ft. first floor balcony, second floor covered patio and 610 sq. ft. of roof garden.. This conforms to the Commission's past actions, allowing a maximum of 750 square feet for a guest unit or second dwelling unit in the Santa Monica Mountains area.

This proposed structure is not intended to be occupied as a separate residential second unit. In fact, no kitchen facilities are proposed to be included in this structure. The plans show the proposed structure as a two-story building with no interior access or doorway proposed between the non-habitable garage and habitable 740 sq. ft. guest unit. All of the proposed development will be located on the existing gently sloping pad, therefore, it will not result in the removal of oak trees. The guest house is located within the fuel modification area of the existing residence and the five overlapping fuel modification areas of the existing surrounding residences and Topanga School buildings located on the surrounding lots. The Los Angeles County Fire Department has approved a fuel modification plan for the proposed guest house/garage and addition to the primary residence. The Los Angeles County Fire Department approved fuel modification plan provides that no fuel modification, except for the removal of dead and downed wood, is required for the oak woodland onsite and offsite oak woodland/riparian area located along the creek area. Therefore, no impacts to ESHA will occur. Further, as conditioned in this report and described in the above findings, the proposed project would have no impact on coastal resources.

Future improvements to the proposed unit such as additional square footage, addition of kitchen facilities, or conversion of the structure/garage as a residential second unit, addition of a door or stairway between the guest house and garage, or future improvements to the proposed addition to the primary residence could raise issues with regard to individual or cumulative impacts to coastal resources. To ensure that any additions or improvements that could further intensify the use of the unit will be reviewed by the Commission and to ensure that the unit conforms with the maximum 750 sq. ft. guidance, the Commission requires that any additions or improvements related to the unit, that may otherwise be exempt from coastal permit requirements, shall be reviewed by the Commission for consistency with the resource protection policies of the Coastal Act.

Additionally, the Commission requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The following special conditions are required to assure the project's consistency with Sections 30250 and 30252 of the Coastal Act, as well as the Los Angeles County LUP:

Special Condition 6: Future Development Restriction
Special Condition 7: Deed Restriction

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

F. LOCAL COASTAL PROGRAM (LCP) PREPARATION

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

Special Conditions 1 through **12**

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).

G. 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 above, the proposed development, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as

special conditions. The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

Special Conditions 1 through **12**

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.

408029 tiffany staff report

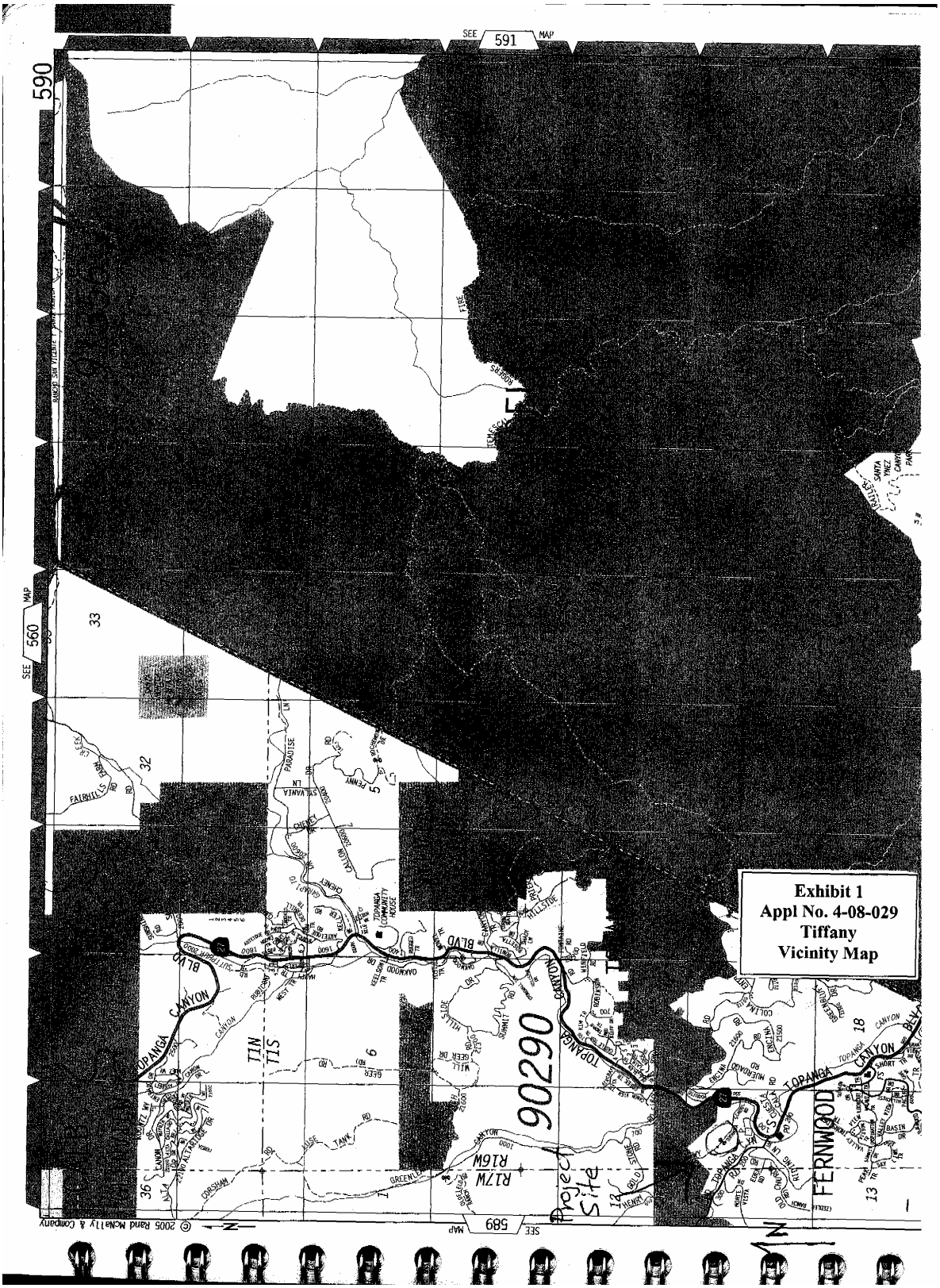
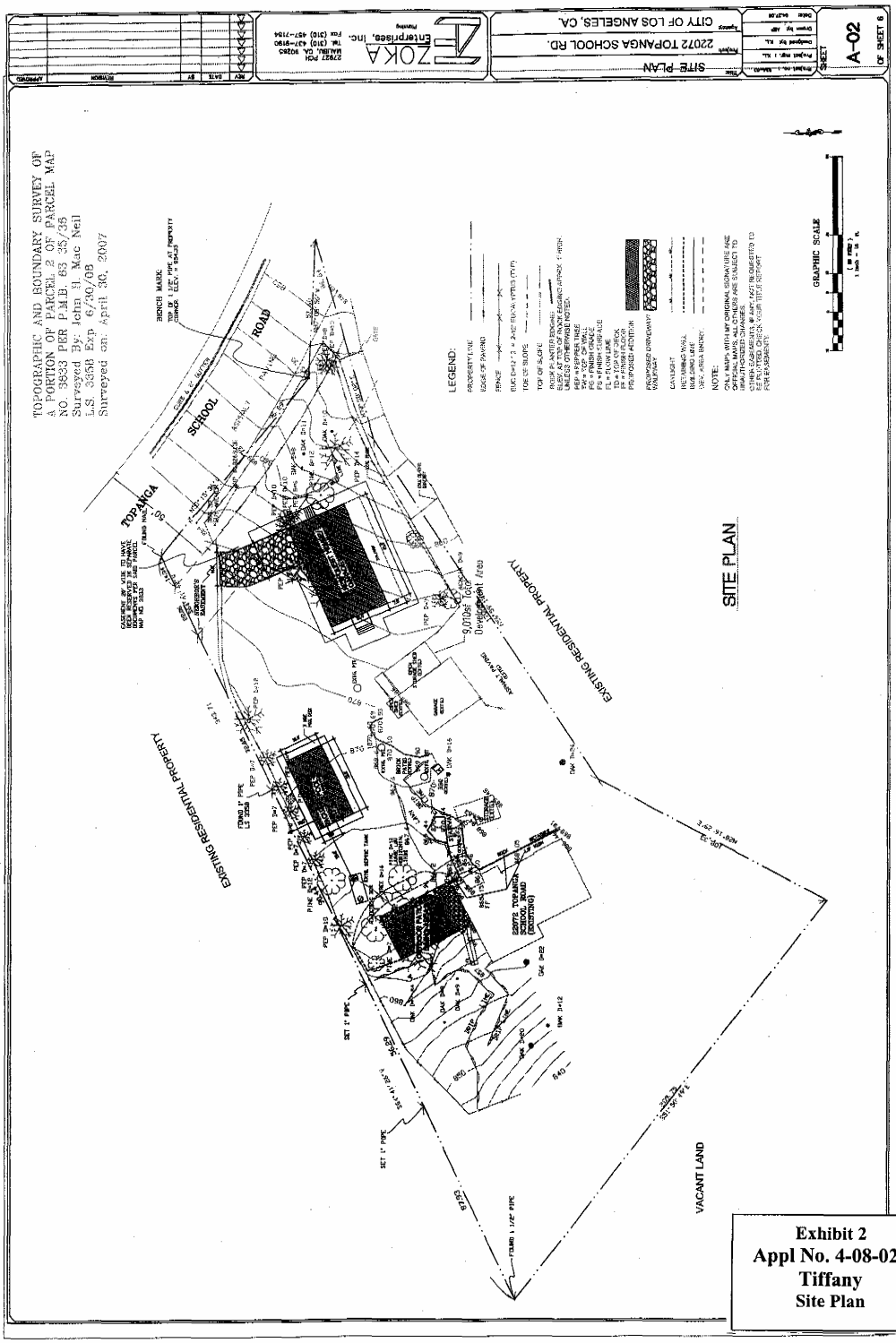


Exhibit 1
Appl No. 4-08-029
Tiffany
Vicinity Map



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Appl No. 4-08-029
Tiffany
Site Plan

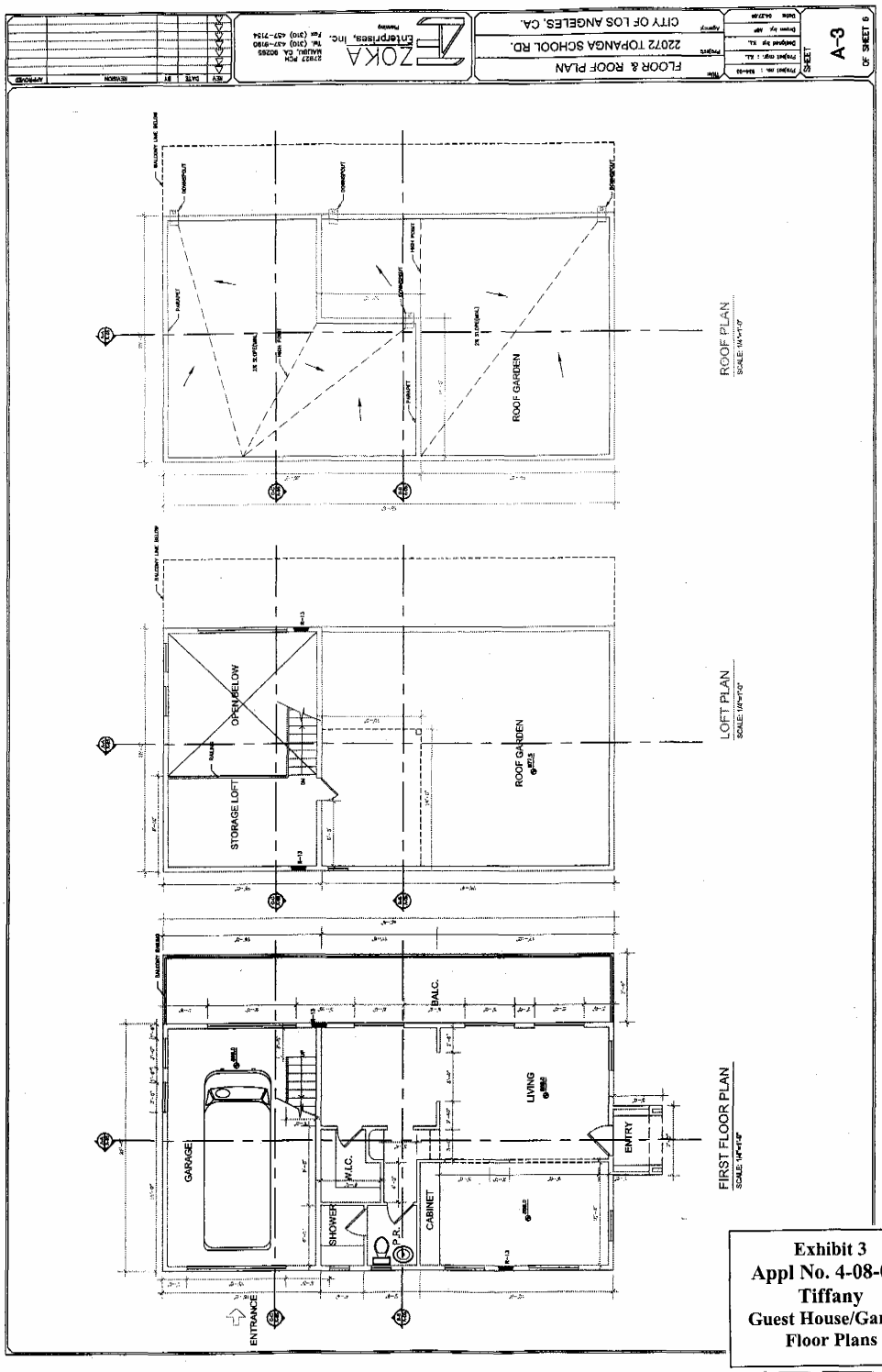


Exhibit 3
Appl No. 4-08-029
Tiffany
Guest House/Garage
Floor Plans

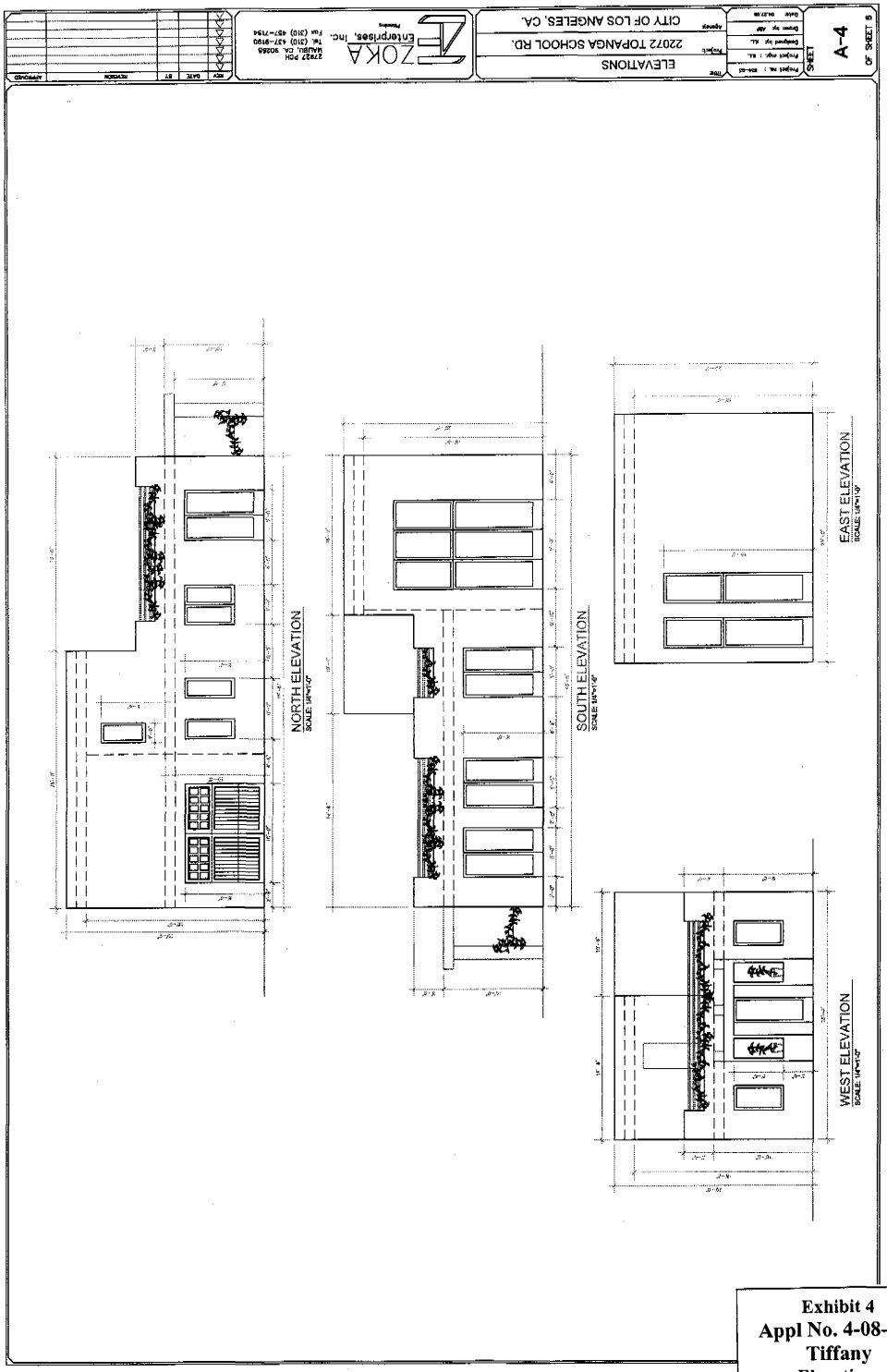


Exhibit 4
Appl No. 4-08-029
Tiffany
Elevations

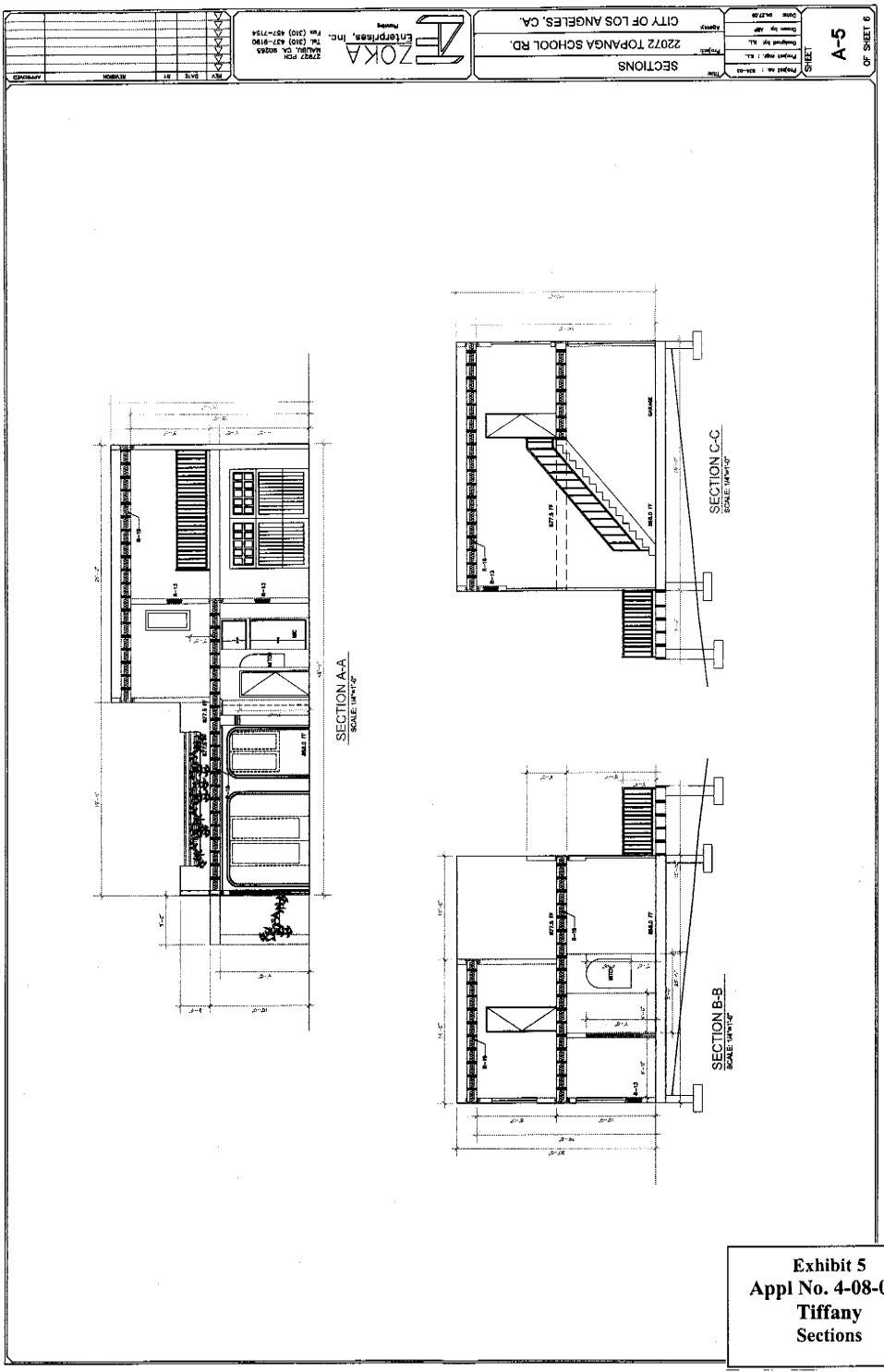


Exhibit 5
Appl No. 4-08-029
Tiffany
Sections

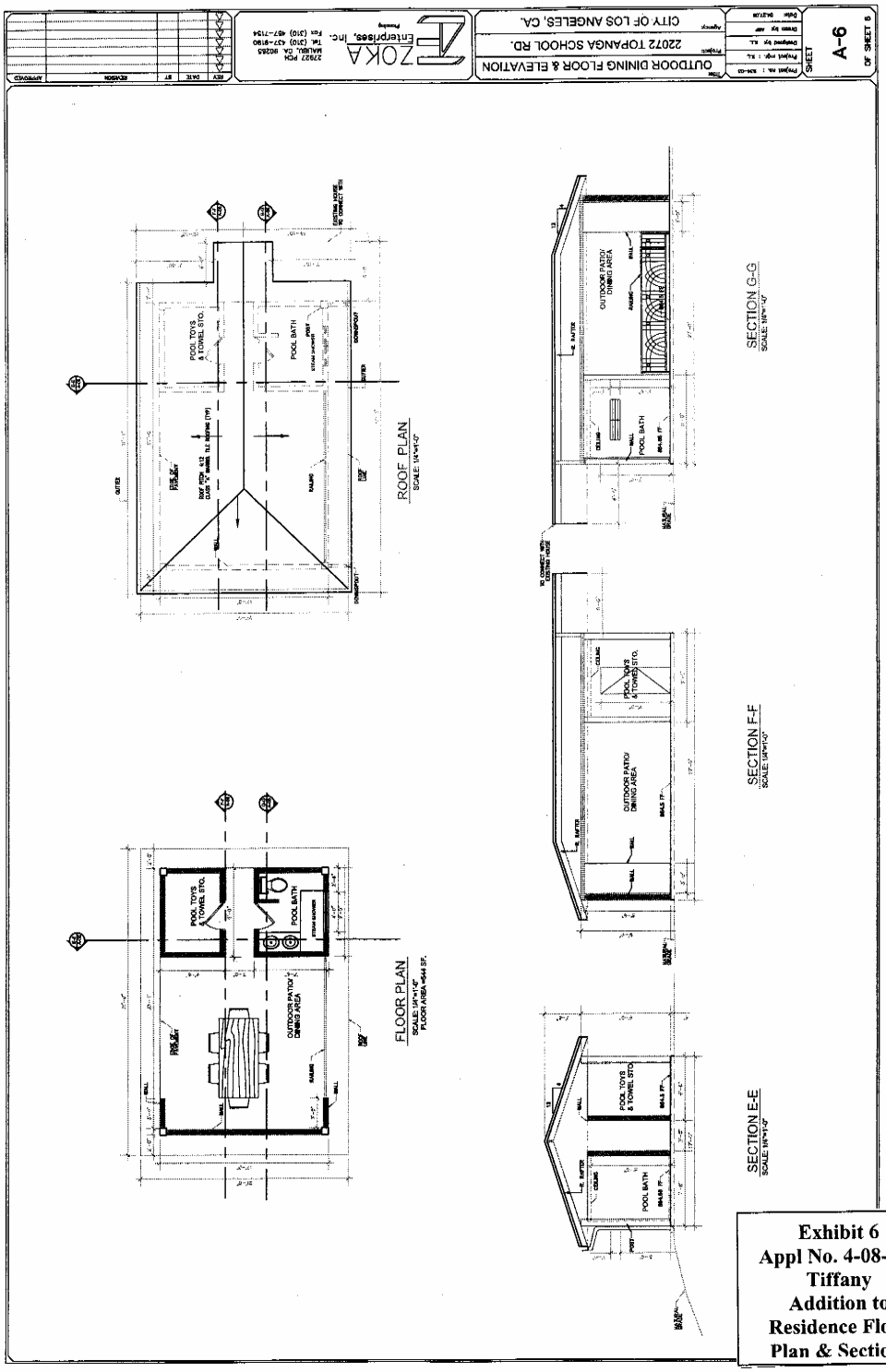


Exhibit 6
Appl No. 4-08-029
Tiffany
Addition to
Residence Floor
Plan & Sections

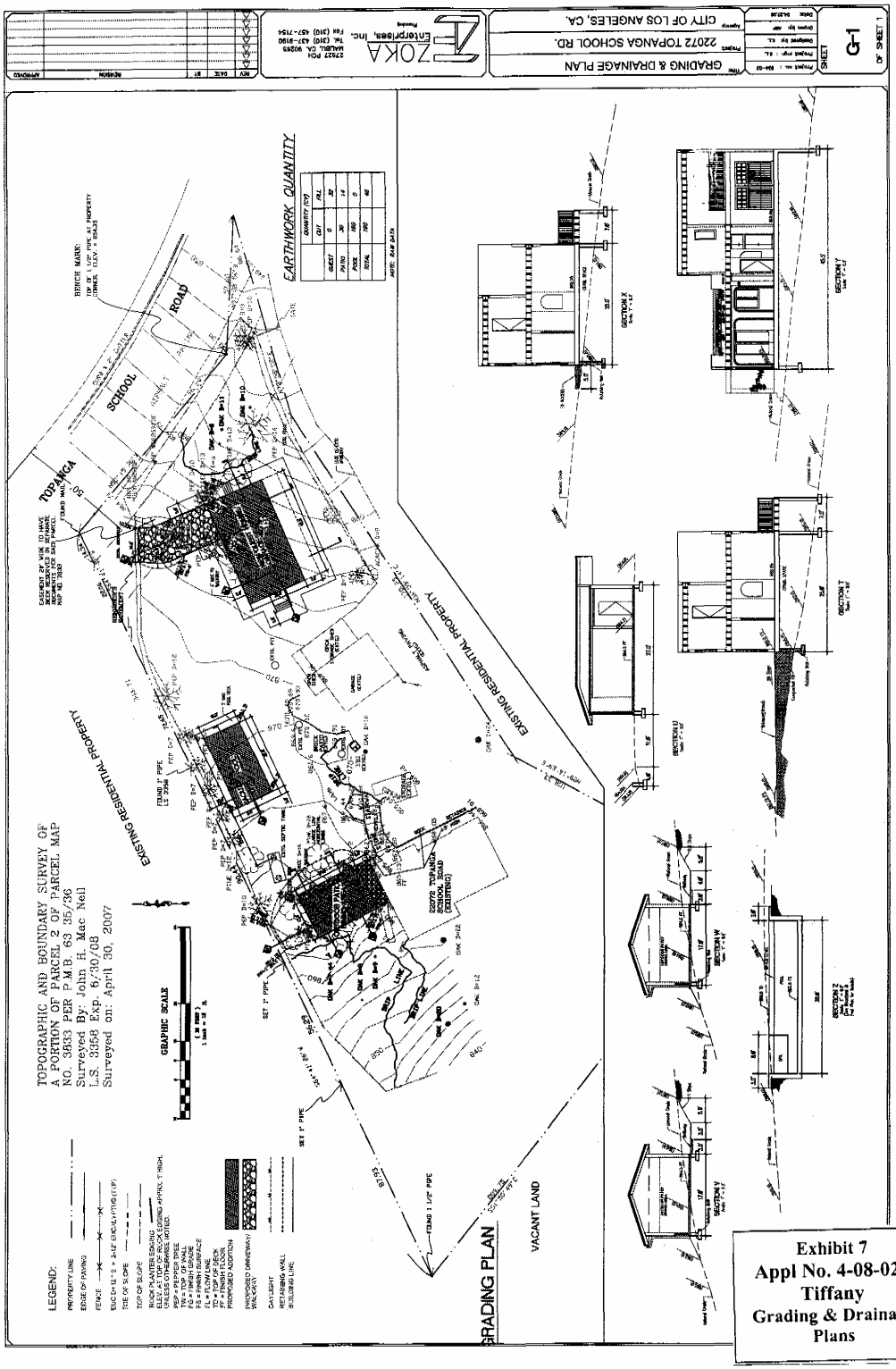


Exhibit 7
Appl No. 4-08-029
Tiffany
Grading & Drainage Plans

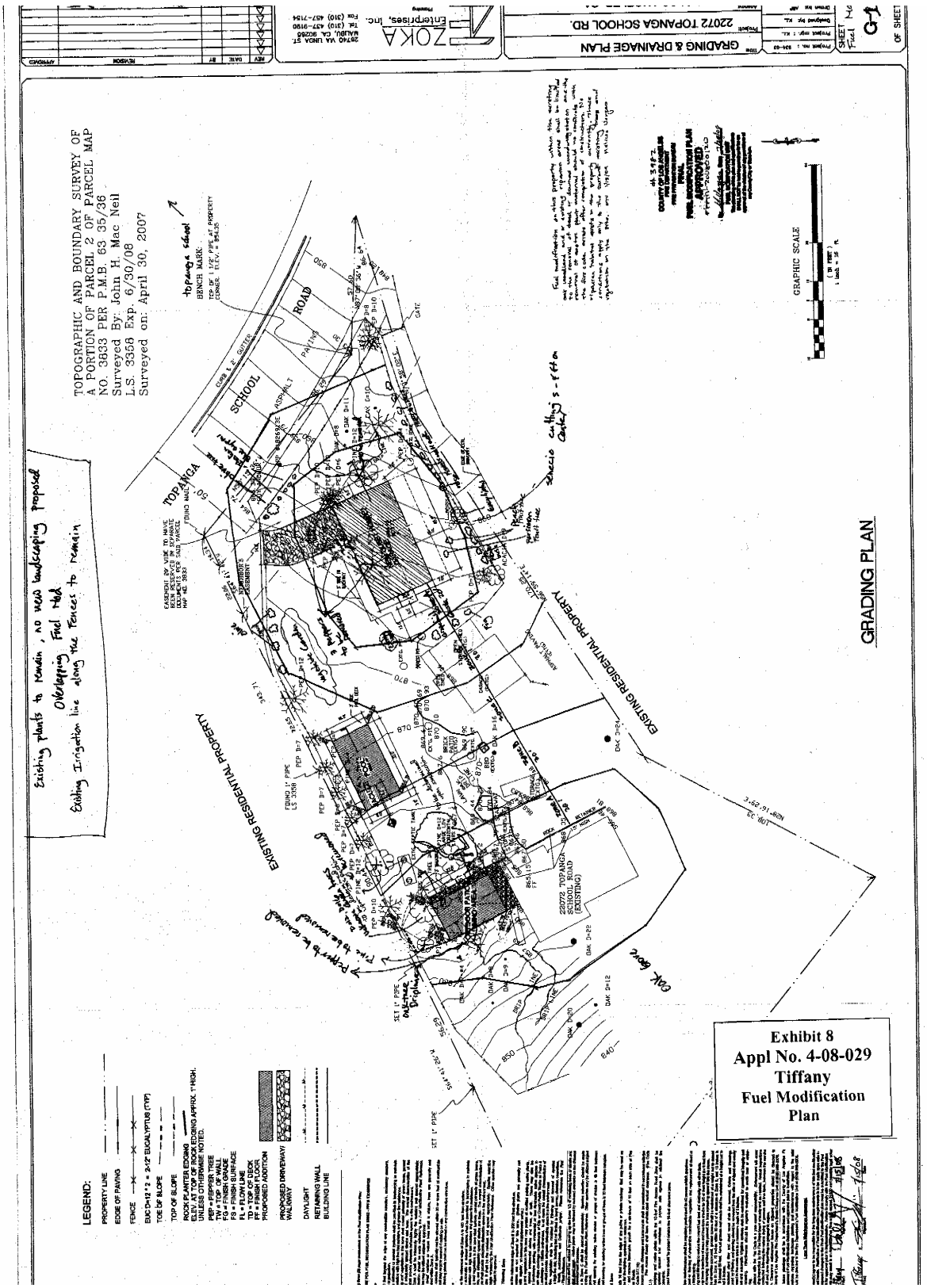


Exhibit 8
Appl No. 4-08-029
Tiffany
Fuel Modification Plan

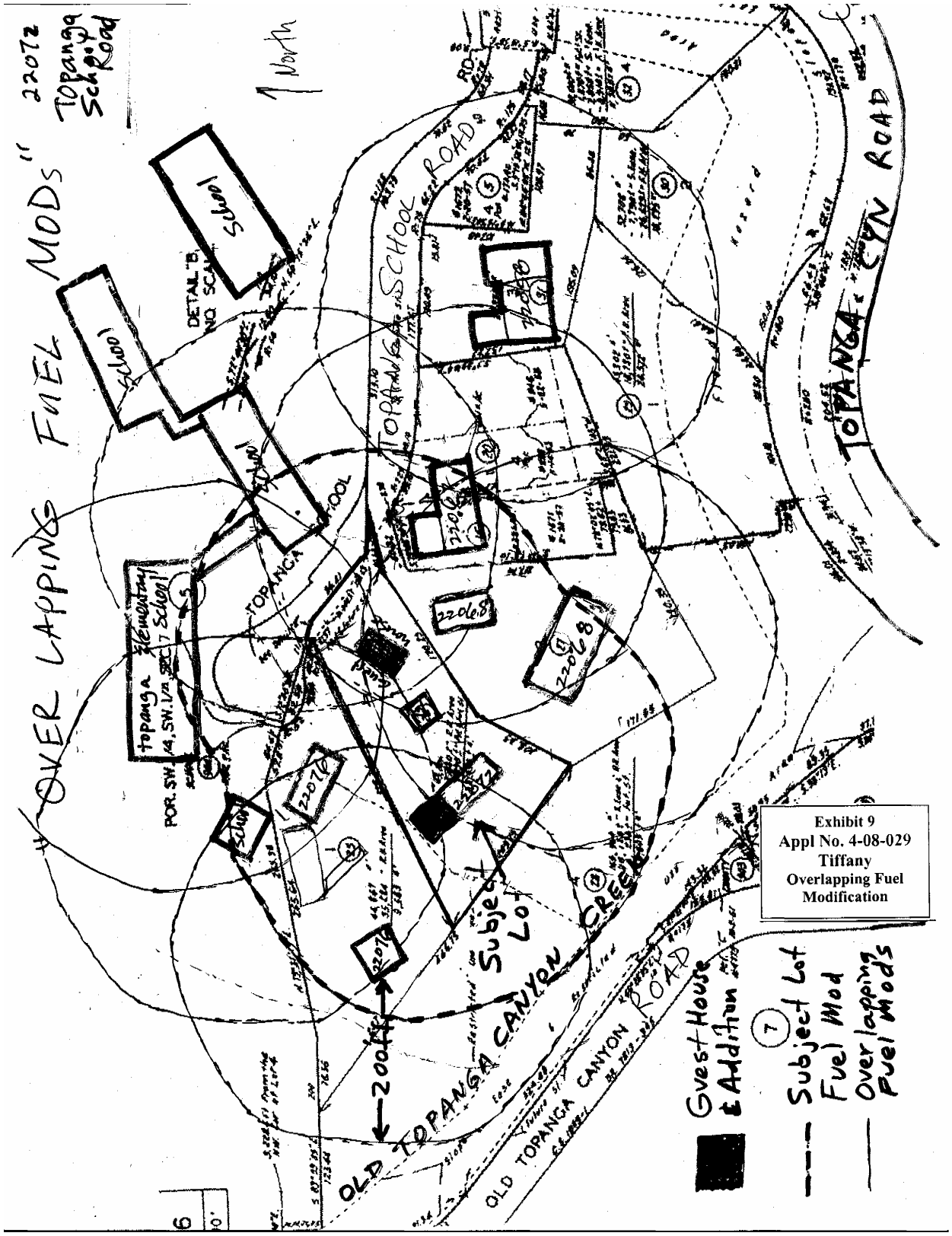


Exhibit 9
Appl No. 4-08-029
Tiffany
Overlapping Fuel Modification

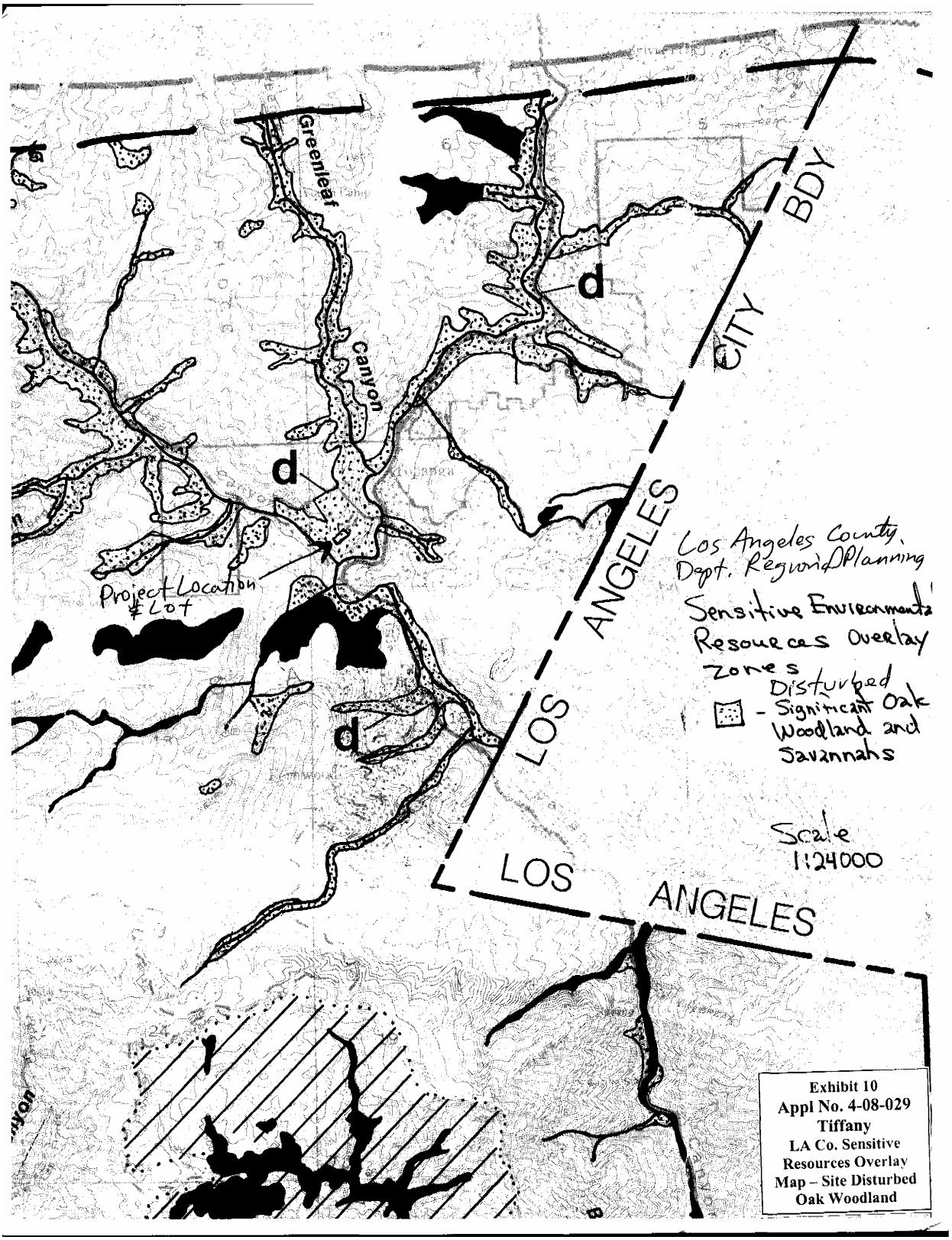
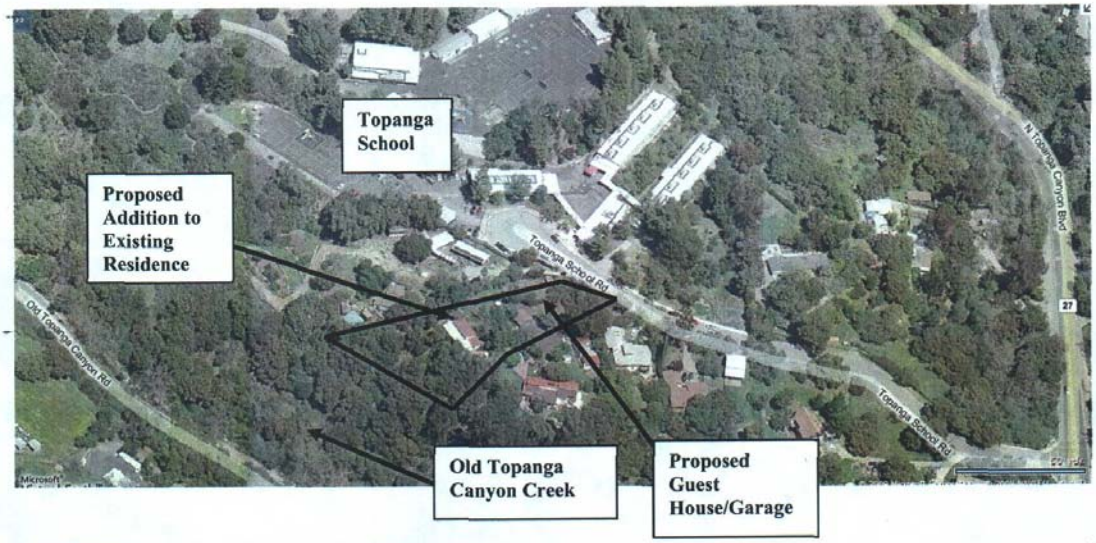


Exhibit 10
Appl No. 4-08-029
Tiffany
LA Co. Sensitive Resources Overlay Map – Site Disturbed Oak Woodland



Property Boundaries (Approximate)

North

Exhibit 11
Tiffany
Appl No. 4-08-029
Aerial Photo 2008