

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 4-12-009

Applicant: Dennis and Debbie Beiso

Agent: Kevin Southerland, Architecture350

Project Location: 3021 Tuna Canyon Road, Topanga, Santa Monica Mountains, Los Angeles County (APN: 4448-007-107)

Project Description: Revegetation of a temporary access road and request for after-the-fact approval of: 1) the removal of 266 cu. yds. of cut from one area of the site and the construction of a keyway and placement of 262 cu. yds. of fill in an approximately 1,525 sq. ft. area, to remediate unpermitted grading on descending slopes adjacent to the existing residence; and 2) the placement of a drainage dissipation device.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with conditions.

The project site is located on an 1.87-acre property at 3021 Tuna Canyon Road, within the unincorporated area of the Santa Monica Mountains in Los Angeles County (APN 4448-007-107) (Exhibits 1-3). The subject property is accessed from a private driveway that extends from Tuna Canyon Road at the southeast corner of the site. The property is surrounded by existing residential development on the north, east and south; and abuts a vast area of public park land owned by the Mountains of Recreation and Conservation Authority on the west. The subject property is comprised of moderate to very steep slopes ranging from 1:1 to 6:1 (H:V, horizontal:vertical) that are situated on the south flank of a southwest trending ridge that descends to the west and south of the subject property. A relatively flat existing developed area

is located on the crest of the ridgeline on the east side of the rectangular-shaped parcel. This flat area is currently developed with an existing two-story 3,760 sq. ft. single family residence approved pursuant to CDP No. 5-88-912. The steeply sloping parcel is located just outside the boundary of an area designated as “Significant Watershed” area (Tuna Canyon Watershed) in the certified Los Angeles County Land Use Plan (LUP). However, the property drains to the southwest away from Tuna Canyon into an off-site unnamed tributary approximately 700 feet west of the subject property. This unnamed tributary is indicated as blue-line stream drainage on the U.S Geological Survey (USGS).

The applicant proposes to revegetate a temporary access road and requests after-the-fact approval of: 1) the removal of 266 cu. yds. of cut from one area of the site and the construction of a keyway and placement of 262 cu. yds. of fill in an approximately 1,525 sq. ft. area, to remediate unpermitted grading on descending slopes adjacent to the existing residence; and 2) the placement of a drainage dissipation device. Initially, without the benefit of a coastal development permit (CDP), the applicant placed approximately 266 cu. yds. of excavated cut material over the westerly descending slope on both the applicant’s and adjacent neighbor’s property to the south during excavation and construction of new retaining walls and a swimming pool with the intent to remove and properly compact these soils at a future date. However, the County of Los Angeles stopped the applicant from continuing with this work that was not permitted by the County or the Coastal Commission and issued a Notice of Violation on November 14, 2011. In an attempt to remove the downslope uncertified fill and stabilize the excavated upper slope as quickly as possible, the applicant, also without the benefit of a CDP, removed 266 cu. yds. of the uncertified fill on the lower slope and utilized the soil (approximately 262 cu. yds.) for placement and compaction as engineered fill on the applicant’s upper slope property only. Exhibit 6 shows the two slope areas where grading has occurred. Area “A”, as labeled on this exhibit, is the area where the applicant placed the 266 cu. yds. of fill material, and later removed it. Area “B” is where the applicant constructed a keyway, and benched in 262 cu. yds. of material, compacting each layer and ending with a certified fill slope. The cross sections in Exhibit 5 show that while this fill slope covers an approximately 1,525 sq. ft. area, the fill is relatively shallow and mimics the natural slope. As such, it does not represent a significant alteration of landform. Additionally, Exhibit 6 also shows Area “C” which is the temporary road that the applicant constructed to allow for the construction of the new septic pits and which the applicant now proposes to revegetate. Finally, Area “D” is the location of the energy dissipation device that the applicant placed to minimize erosion from site drainage. The project’s total disturbed area (Areas A, B, C and D) is approximately 3,703 square feet.

The proposed development is located on a steep hillside lot in the Malibu/Santa Monica Mountains, an area historically subject to significant natural hazards including, but not limited to, landslides, erosion, flooding and wild fire. The placement and subsequent removal of fill material denuded Area “A” of native vegetation. Further, the as-built slope remediation development in Area “B” also resulted in removing native vegetation from the hillside area. As a result, the bare soil and disturbed area could lead to an increase in the volume and velocity of stormwater runoff and sediment load that can have a negative impact on coastal resources, including increase erosion, sedimentation, and slope instability. Therefore to ensure the stability and geotechnical safety of the site as well as to reduce the sediment load that can be expected to leave the site and eventually be discharged to coastal waters, including streams, wetlands,

Special Condition Four (4) requires the applicant to submit and implement a Revegetation and Erosion Control Plan, prepared by a licensed Landscape Architect or qualified Resource Specialist, for the review and approval of the Executive Director. Native plant species that are endemic to the Santa Monica Mountains shall be used to cover all areas temporarily disturbed and where soils are exposed due to as-built slope remediation activities. In addition, Special Condition 4 requires the applicant to install temporary erosion control measures until plantings become established and to implement a five year monitoring program to ensure the success of the replanting. Finally, **Special Conditions 1 and 2** require the applicant to incorporate all of the consulting geologist's recommendations and to assume the risk of development. Only as conditioned will the proposed development minimize adverse impacts to water quality and coastal resources as well as ensure project site geologic stability to the maximum extent possible.

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.

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APPENDICES

Appendix 1 Substantive File Documents

EXHIBITS

- Exhibit 1. Vicinity Map
- Exhibit 2. Parcel Map
- Exhibit 3. Aerial Photo
- Exhibit 4. Site Plan/Slope Remediation Project Plan
- Exhibit 5. Grading Cross-Section
- Exhibit 6. Proposed Development Locations Exhibit

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, dated November 5, 2012.

I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

*I move that the Commission **approve** Coastal Development Permit No 4-12-009 pursuant to the staff recommendation.*

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

Resolution:

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

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in all of the geology, geotechnical, and/or soils reports referenced as Substantive File Documents. These recommendations, including recommendations concerning foundations, sewage disposal, and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

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

2. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from erosion and slope instability; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents,

and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

3. Deed Restriction

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

4. Revegetation and Erosion Control Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, a detailed Revegetation and Erosion Control Plan, prepared by a licensed Landscape Architect or qualified Resource Specialist, for all areas of the project site temporarily disturbed by as-built slope remediation grading activities. Within 60 days of the issuance of this coastal development permit, the applicant shall commence implementation of the approved Revegetation and Erosion Control Plan. The Executive Director may grant additional time for good cause. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

A) Technical Specifications

- (1) The Revegetation and Erosion Control Plan shall provide for the stabilization of exposed soils in the project area with native plant species. 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 and consistent with the requirements of the Los Angeles County Fire Department regarding plant species, size and spacing within the applicable fuel modification zones. All native plant species shall be of local genetic stock and indigenous to the Santa Monica Mountains. 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) Planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils. Planting shall 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.
- (3) The plan shall include temporary erosion control measures and best management practices that provide temporary erosion control in all disturbed areas until the required plantings become established. Such measures may include, but not be limited to, temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing. The plan shall identify and delineate on the revegetation plan the locations of all temporary erosion control measures. These erosion control measure shall be installed on the project site and maintained until the plantings are established and adequate to stabilize on-site soils to minimize erosion and sediment from runoff waters.

B) Monitoring

Five years from the date of completion of the proposed development the applicant shall submit for the review and approval of the Executive Director, a revegetation monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the revegetation is in conformance with the Revegetation and Erosion Control Plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

The Permittee shall undertake development in accordance with the final Revegetation and Erosion Control Plan. Any changes to the Coastal Commission approved Revegetation and Erosion Control Plan shall be reported to the Executive Director. No changes to the Coastal Commission approved plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

5. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall

satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the expiration of this coastal permit approval and the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND BACKGROUND

The applicant proposes to revegetate a temporary access road and requests after-the-fact approval of: 1) the removal of 266 cu. yds. of cut from one area of the site and the construction of a keyway and placement of 262 cu. yds. of fill in an approximately 1,525 sq. ft. area, to remediate unpermitted grading on descending slopes adjacent to the existing residence; and 2) the placement of a drainage dissipation device (Exhibit 4).

Initially, without the benefit of a coastal development permit (CDP), the applicant's contractor had "temporarily" placed approximately 266 cu. yds. of excavated cut material over the westerly descending slope on the applicant's and adjacent neighbor's property and adjacent to the excavated slope area adjacent to the existing residence during excavation and construction of new retaining walls and swimming pool originally approved pursuant to Coastal Development Permit Exemption Request No. 4-09-037-X with the intent to remove and properly compact these soils at a future date. However, the County of Los Angeles stopped the applicant from continuing with this work that was not permitted by the County or the Coastal Commission and issued a Notice of Violation on November 14, 2011. Exemption Request No. 4-09-037-X (explained in further detail below) only approved minor pool excavation and not a significant amount of landform alteration. In an attempt to remove the downslope uncertified fill and stabilize the excavated upper slope as quickly as possible, the applicant, also without the benefit of a CDP, removed 266 cu. yds. of the uncertified fill on the lower slope and used the soil (approximately 262 cu. yds.) as fill to generate a new graded upper slope located on the applicant's property only, that supports the existing driveway and serves as backfill to the new retaining walls. Exhibit 5 depicts the changes from the original pre-disturbed topography, unpermitted grading, and as-built slope remediation topography. Thus, as stated above, this permit is requesting after-the-fact approval for the removal of 266 cu. yds. of cut material and the placement of 262 cu. yds. of fill. In addition, the applicant is also proposing to revegetate an unpermitted temporary access road to its pre-disturbed condition and recompact the remaining 4 cu. yds. of fill on the lower slope area. Exhibit 6 shows the two slope areas where grading has occurred. Area "A", as labeled on this exhibit, is the area where the applicant placed the 266 cu. yds. of fill material, and later removed it. Area "B" is where the applicant constructed a keyway, and benched in 262 cu. yds. of material, compacting each layer and ending with a certified fill slope. The cross sections in Exhibit 5 show that while this fill slope covers an approximately 1,525 sq. ft. area, the fill is relatively shallow and mimics the natural slope. As such, it does not represent a significant alteration of landform. Additionally, Exhibit 6 also shows Area "C" which is the temporary road that the applicant constructed to allow for the construction of the new septic system and which the applicant now proposes to revegetate. Finally, Area "D" is the location of the energy dissipation device that the applicant placed to minimize erosion from site

drainage. The project's total disturbed area (Areas A, B, C and D) is approximately 3,703 square feet.

The project site is located on an 1.87-acre property at 3021 Tuna Canyon Road, within the unincorporated area of the Santa Monica Mountains in Los Angeles County (APN 4448-007-107) (Exhibits 1-3). The subject property is accessed from a private driveway that extends from Tuna Canyon Road at the southeast corner of the site. The property is surrounded by existing residential development on the north, east and south; and abuts a vast area of public park land owned by the Mountains of Recreation and Conservation Authority on the west.

Topographically, the proposed development area is located on a relatively flat portion of the property that has been previously developed with a two-story 3,760 sq. ft. single family residence approved pursuant to coastal development permit (CDP) No. 5-88-912 and which is surrounded to the west and south by moderate to very steep slopes ranging from 1:1 to 6:1 (H:V, horizontal:vertical) that descend approximately 100 feet in elevation from the top of the ridgeline. Elevations on the property range from approximately 1,002 to 900 feet above mean sea level from the top of the relatively flat developed ridgeline down to the steep undeveloped portion of the site. The steeply sloping parcel is located just outside the boundary of an area designated as "Significant Watershed" area (Tuna Canyon Watershed) in the certified Los Angeles County Land Use Plan. However, the property drains to the southwest away from Tuna Canyon into an off-site unnamed tributary approximately 700 feet west of the subject property. This unnamed tributary is indicated as blue-line stream drainage on the U.S Geological Survey (USGS).

The majority of the undeveloped portion of the site is vegetated with native chaparral vegetation on and near the steeper slopes of the site, which extends off site as part of a larger contiguous area of chaparral which constitutes an environmentally sensitive habitat area. However, the area of the site where the as-built and proposed development has and will occur is located on the existing developed portion of the site and is located within the overlapping fuel modification areas of the single family residence on site and existing residential development on neighboring properties where vegetation clearance and trimming are required by the Los Angeles County Fire Department Forestry Division for fire protection. Therefore, the native vegetation disturbed by the proposed development is located within the developed portion of the site and is isolated and not part of a larger contiguous area of chaparral habitat and does not, therefore, constitute an environmentally sensitive habitat area (ESHA).

The project site is visible from public parklands to the west of the property however; there are no existing or mapped public trails on or adjacent to the subject property. Additionally, the project site is visible from Tuna Canyon Road (which is designated as a scenic highway pursuant to the certified Malibu/Santa Monica Mountains LUP). However, due to the steep sloping topography and existing residence on site, the location of the as-built and proposed road revegetation development will not be visible from Tuna Canyon Road. Thus, the proposed development will not be visible from any public viewing areas. Additionally, the proposed fill slope will mimic the natural slope on the site, will not result in significant landform alteration, and all disturbed areas will be revegetated with native vegetation. Therefore, the proposed project will not adversely impact visual resources.

B. PAST COMMISSION ACTION

On April 13, 1989, the Commission approved Coastal Development Permit (CDP) No. 5-88-912 for construction of a new 2,300 sq. ft., 27-foot high, single family residence, with a driveway, garden area, and septic system on the subject property. The project was approved by the Commission subject to special conditions regarding 1) fuel modification and landscape plans, 2) geology recommendation, and 3) assumption of risk. Additionally, on August 20, 2009, the Commission approved Coastal Development Permit Exemption Request No. 4-09-037-X for the construction of a 472 sq. ft. addition to the existing single family noted above. The exemption request also included a new 450 sq. ft. pool, hot tub, and 1,190 sq. ft. of deck space. No grading, removal of native vegetation, or changes to the existing septic system were proposed or approved. Further, on December 16, 2010, the Commission approved Coastal Development Permit Waiver De-Minimis No. 4-10-101-W for the relocation of two (2) future expansion pits, approximately 40 feet in depth and 6 feet in diameter, for an existing septic system. The seepage pits were previously located in the same area of the site as the approved swimming pool.

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 on a hillside lot 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 applicant is requesting after-the-fact approval of remedial grading (266 cu. yds. of cut and 262 cu. yds. of fill) to remediate unpermitted grading on descending slopes adjacent to existing residence; construction of a keyway and drainage dissipation device. In addition, the applicant is also proposing to revegetate a temporary access road. The applicant submitted a "Interim Grading Report" prepared by Geocon West Inc., dated January 16, 2012, "Final Report of Observation and Testing Services During Placement of Backfill for Retaining Wall and Remedial Slope Repair" prepared by Geocon West Inc., dated September 19, 2012, and a Response Letter for 3021 Tuna Canyon Road, prepared by Axial Engineering Group, Inc., dated October 31, 2012 all for the subject site evaluating the geologic stability of the site in relation to the proposed site development.

According to the January 16, 2012 "Interim Grading Report" by Geocon West Inc., due to spatial constraints the applicant's contractor had "temporarily" placed the soil behind retaining walls as well as over the westerly descending slopes during excavation of the site and swimming pool, with the intent to remove and properly compact these soils at a future date. The geotechnical consultants recommended that the site soils that were "temporarily" placed be gathered and

utilized for placement and compaction as engineered fill. This fill slope provides support for the existing driveway at the top of slope and backfills the existing retaining walls.

All three 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, as specified in **Special Condition No. One (1)**, 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, 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. Therefore, the Commission finds it necessary to impose **Special Condition No. Four (4)**, which requires the applicant to submit a Revegetation and Erosion Control Plan, prepared by a licensed Landscape Architect or qualified Resource Specialist, for all areas of the project site temporarily disturbed by as-built slope remediation grading activities and proposed temporary road revegetation. The plan must incorporate native plants, of local genetic stock, consistent with the fuel modification requirements of the Los Angeles County Fire Department. Special Condition No. 4 also specifies that the applicant shall commence implementation of the approved Revegetation and Erosion Control Plan within 60 days of the issuance of this coastal development permit.

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 erosion and slope instability, 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 erosion and/or geologic hazard that exists on the site and that may affect the safety of the proposed development.

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

- Special Condition 1: Plans Conforming to Geotechnical Engineer's Recommendations
- Special Condition 2: Assumption of Risk, Waiver of Liability and Indemnity
- Special Condition 4: Revegetation and Erosion Control Plans

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

D. WATER QUALITY

Section 30231 of the Coastal Act states that:

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

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

The subject property is located just outside the boundary of an LUP-designated “Significant Watershed” area (Tuna Canyon Watershed); however the property drains to the southwest away from Tuna Canyon into an off-site unnamed tributary approximately 700 feet west of the subject property. This unnamed tributary is indicated as blue-line stream drainage on the U.S Geological Survey (USGS).

The applicant proposes to revegetate a temporary access road and requests after-the-fact approval of: 1) the removal of 266 cu. yds. of cut from one area of the site and the construction of a keyway and placement of 262 cu. yds. of fill, to remediate unpermitted grading on descending slopes adjacent to the existing residence; and 2) the placement of a drainage dissipation device. Although the proposed as-built development did not result in impervious surfaces, it will modify the natural slope and result in bare soil and disturbed areas which could lead to an increase in the volume and velocity of stormwater runoff and sediment load 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.

Therefore, in order to minimize the potential for such adverse impacts to water quality and aquatic resources resulting from runoff both during the post-development stage, the Commission requires the revegetation of all graded and disturbed areas with primarily native landscaping, **Special Condition No. Four (4)** requires the applicant to submit and implement a Revegetation and Erosion Control Plan, prepared by a licensed Landscape Architect or qualified Resource Specialist, for the review and approval of the Executive Director. Native plant species that are endemic to the Santa Monica Mountains shall be used to cover all areas temporarily disturbed and where soils are exposed due to as-built slope remediation activities. In addition, Special Condition 4 requires the applicant to install temporary erosion control measures until plantings

become established and to implement a five year monitoring program to ensure the success of the replanting. Interim erosion control measures implemented during post-development revegetation will serve to minimize the potential for adverse impacts to water quality resulting from onsite stormwater and sediment load runoff. Therefore, the Commission finds that Special Condition No. 4 is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

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

Special Condition 4: Revegetation and Erosion Control Plans

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

E. UNPERMITTED DEVELOPMENT

Development has occurred on the subject site without the required coastal development permit.

The unpermitted development includes 1) the placement of 266 cu. yds. of excavated material on the downslope hillside of the subject property, 2) the removal of 262 cu. yds. of this fill, the construction of a keyway and slope remedial grading (262 cu. yds. of fill) on the upper slope to remediate the unpermitted grading noted above, and 3) the placement of a drainage dissipation device. This application includes the request for after-the-fact approval for all of the above referenced unpermitted slope remediation.

In order to ensure that the unpermitted development component of this application is resolved in a timely manner, the Commission finds it necessary to require the applicant to fulfill all of the Special Conditions that are a prerequisite to the issuance of this permit, within 90 days of Commission action. The following special condition is required to assure the project's consistency with all applicable Chapter 3 policies of the Coastal Act:

Special Condition 5: Condition Compliance

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

F. LOCAL COASTAL PROGRAM PREPARATION

Section 30604(a) of the Coastal Act states:

- (a) *Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal,*

finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

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

Special Conditions 1 through 5

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 5

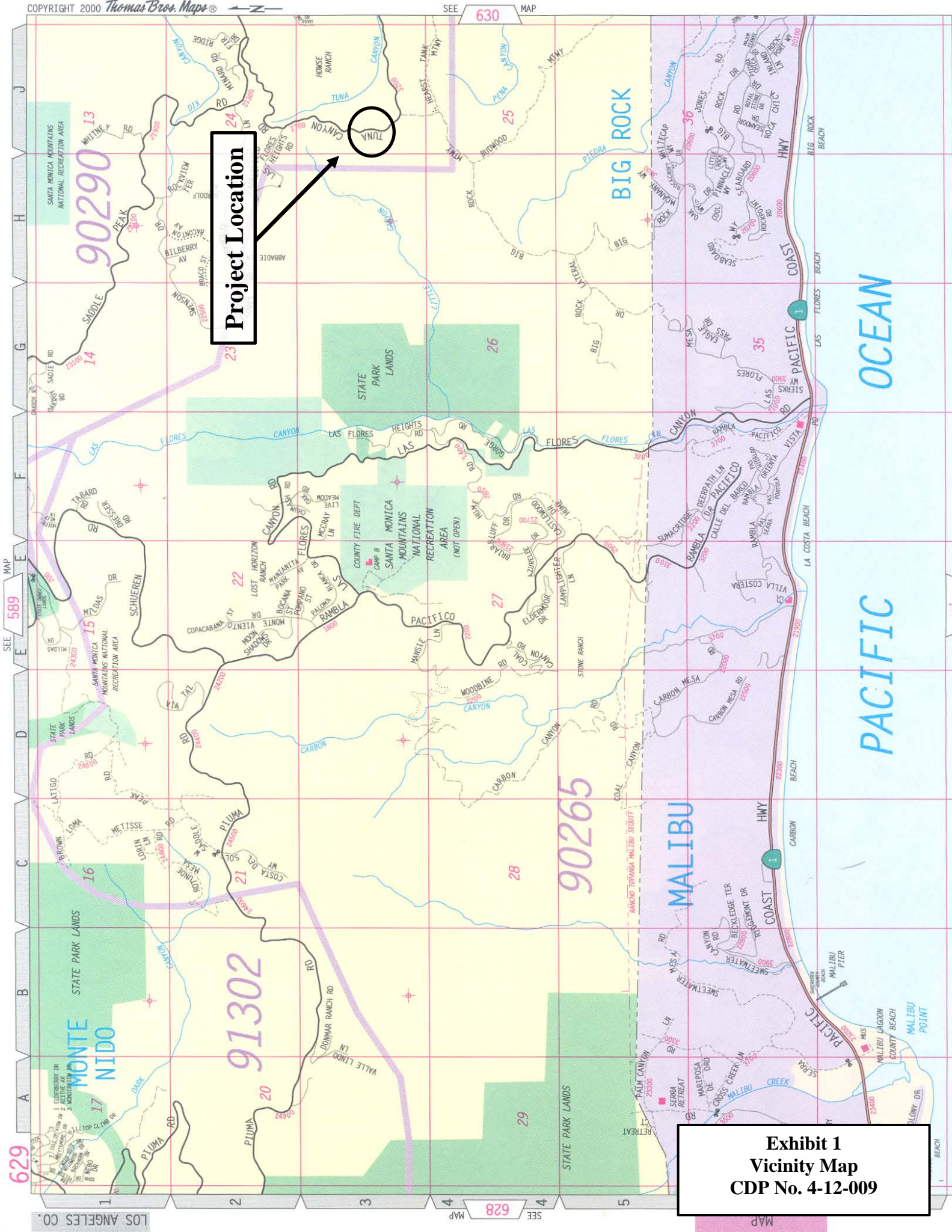
As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the

activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX 1

Substantive File Documents

Certified Malibu/Santa Monica Mountains Land Use Plan; The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D; Interim Grading Report 3021 Tuna Canyon Road, prepared by Geocon West Inc., dated January 16, 2012; Final Report of Observation and Testing Services During Placement of Backfill for Retaining Wall and Remedial Slope Repair 3021 Tuna Canyon Road, prepared by Geocon West Inc., dated September 19, 2012; Response Letter for 3021 Tuna Canyon Road, prepared by Axial Engineering Group, Inc., dated October 31, 2012; Coastal Development Permit 5-88-912; Exemption Request 4-09-037-X (Beiso) and Coastal Development Permit 4-10-101-W (Beiso).



Project Location

**Exhibit 1
Vicinity Map
CDP No. 4-12-009**



Exhibit 3
Aerial Photo
CDP No. 4-12-009

- ④ CONSTRUCT TOP OF SLOPE BEHM PER DETAIL "A" ON SHEET G-2.
- ⑤ CONSTRUCT AREA DRAIN PER DETAIL "B" ON SHEET G-3.
- ⑥ CONSTRUCT TOP OF WALL DRAIN PER DETAIL "C" ON SHEET D-2.
- ⑦ CONSTRUCT TYPICAL RAIL BACKSILL/BRACKING PER DETAIL "D" SHEET G-3
- ⑧ CONSTRUCT TYPICAL SLOPE BENCHING PER DETAIL "E" SHEET G-3.
- ⑨ (SOIL ENGINEERS RECOMMENDATION IN FIELD SHALL HAVE PRECEDENCE OVER DETAIL)
- ⑩ CONSTRUCT ROCK RIP RAP PAD PER DETAIL "F" SHEET G-3.

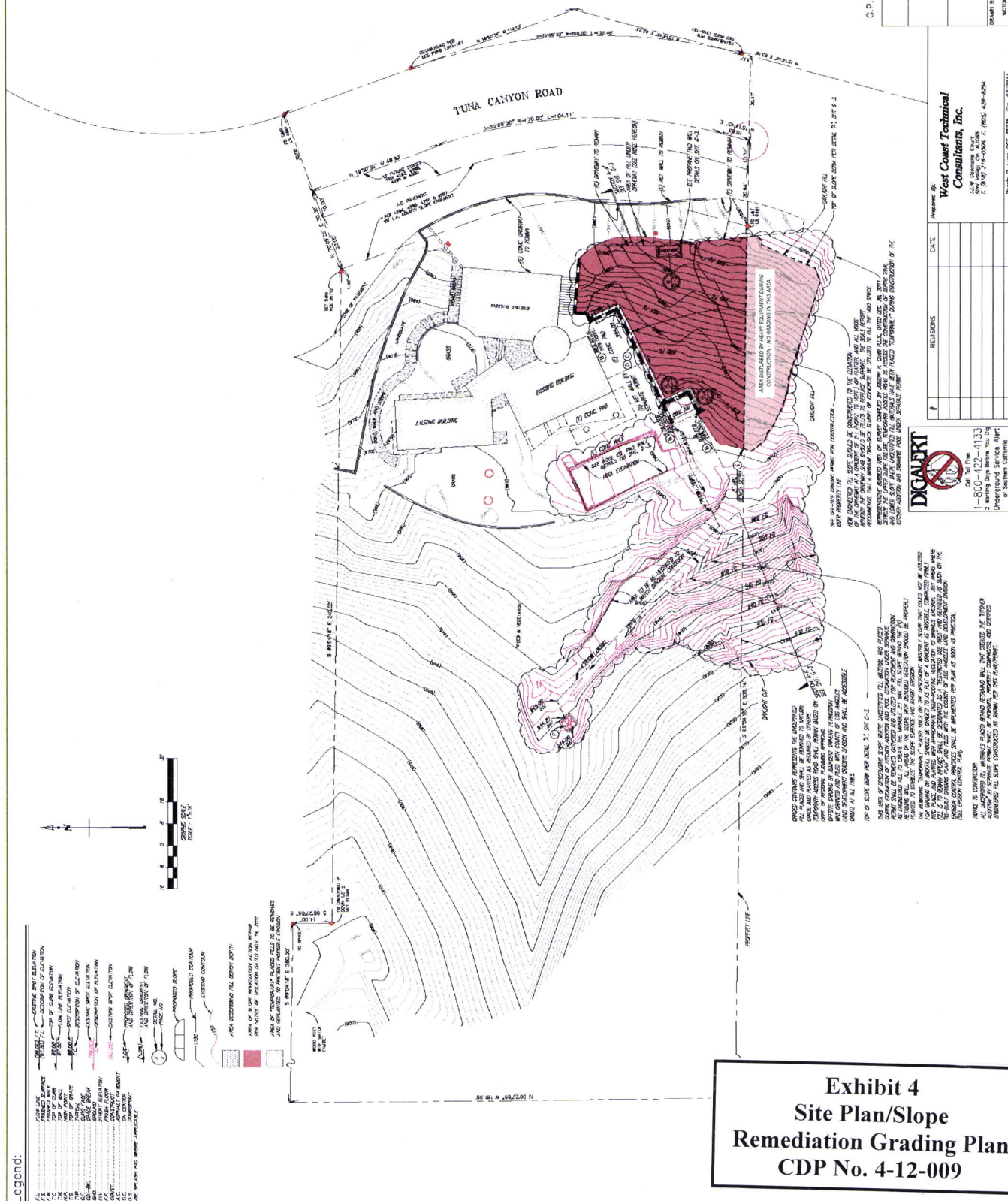
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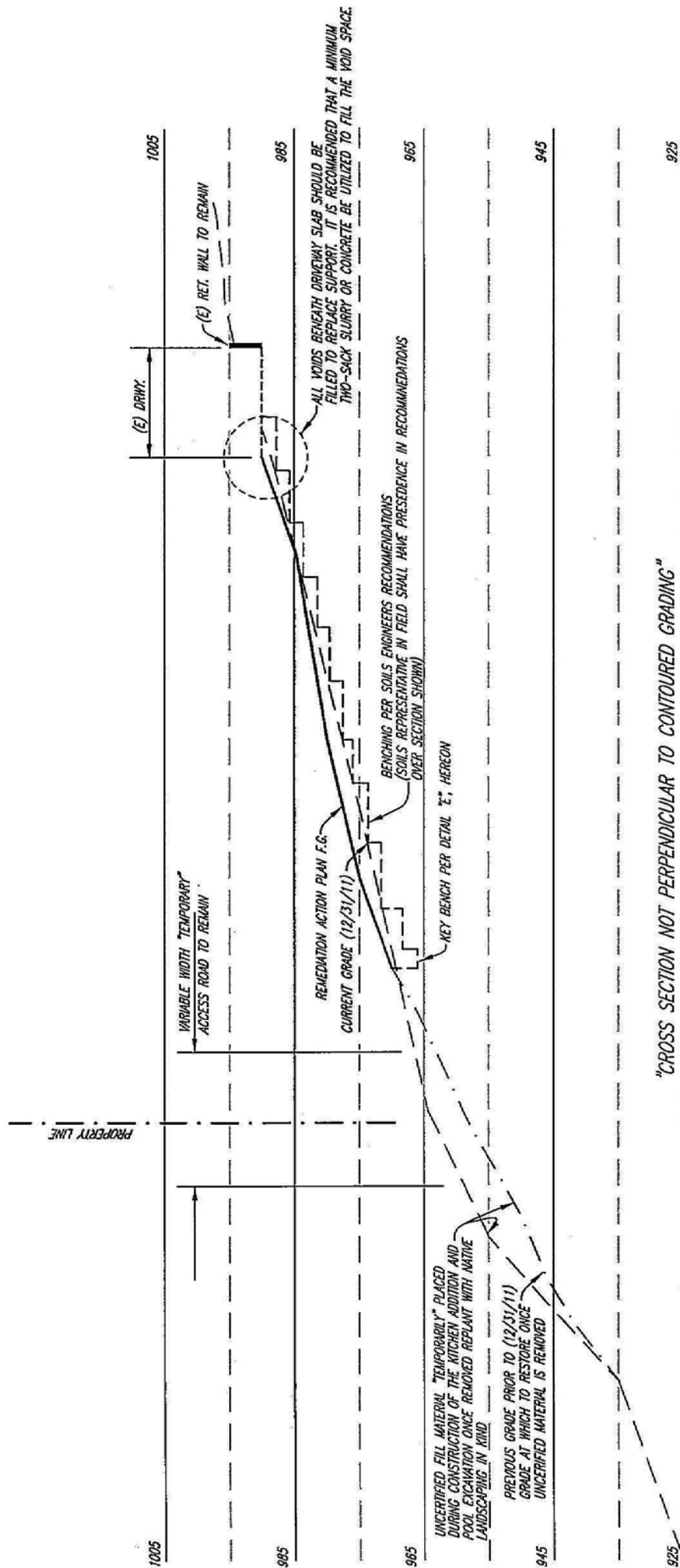
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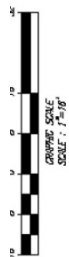
SLOPE REMEDIATION ACTION PLAN

DENNIS AND DEBBIE BEISO
3021 TUNA CANYON ROAD, FERNWOOD
COUNTY OF LOS ANGELES, CA.

DRAWN BY: TACTONG	CHECKED BY: TACTONG	DRAWING NUMBER
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[illegible]





AREA DESIGNING FILL BENCH DEPTH

AREA OF SLOPE REMEDIATION ACTION REPAIR
PER NOTICE OF VIOLATION DATED NOV. 14, 2017

AREA OF "TEMPORARY" SLOPED FILL IN THE REMOVED
AND REVEALED TO PREVENT POSSIBLE EROSION

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Exhibit 6
Proposed Work Locations
CDP No. 4-12-009