

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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Commission Action:  
8006A

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-97-041

APPLICANT: Lena Pousette

PROJECT LOCATION: 1177 Latigo Canyon Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a 3,111 square foot, one story split level, single family residence, 550 square foot two car garage, swimming pool, septic system, two 5,000 gallon water storage tanks, and a 150 foot driveway. Grade a total of 1,141 cubic yards, cut 519 cubic yards and fill 622 cubic yards for the residence and driveway. The applicant is also requesting "after the fact" approval of an unpermitted temporary construction trailer to be relocated on the building site, a storage structure, water well, and the disposal of an abandoned vehicle and boat.

Lot Area	10 acres
Building Coverage	3,661 sq. ft.
Pavement Coverage	3,000 sq. ft.
Parking Spaces	2
Plan Designation	Rural Land II, Rural Land I, and Mountain Land
Zoning	one du/ 5, 10, and 20 acres
Project Density	1 du/10 acres
Ht abv fin grade	15 feet

LOCAL APPROVALS RECEIVED: Approval in Concept, County of Los Angeles Department of Regional Planning, dated 11/26/96; Approval in Concept, Los Angeles County Department of Health Services, dated 6/28/96; Preliminary Approval, County of Los Angeles, Fire Department, dated 8/15/96.

SUMMARY OF STAFF RECOMMENDATION:

The Commission held a public hearing on this project at the July 1997 meeting and continued this project from the consent calendar to a public hearing to address issues raised as to potential public prescriptive rights on the Castro Peak Motorway, public services, and cumulative impacts. Staff recommends approval of the project with special conditions addressing landscape/erosion control and drainage plans; removal of temporary trailer, storage structure, and vehicles; plans conforming to the geologic recommendations; wildfire waiver of liability; design restrictions; future improvements; and condition compliance, to bring this project into compliance with the Coastal Act. The

subject lot is bisected by the coastal zone boundary; the project site is located within the coastal zone along a saddle between a ridge of Castro Crest and the west flank of Castro Peak. The development site does not drain into the Upper La Sierra Canyon Significant Watershed which is primarily located on the portion of the property outside the coastal zone; rather the site drains into the Newton Canyon and Zuma Creek watersheds. A small portion of the La Sierra Canyon Significant Watershed is mapped within the coastal zone on the eastern portion of the subject property. The site is accessed from Latigo Canyon Road and Castro Peak Motorway. The applicant also proposes to widen a portion, about 2,700 feet of Castro Peak Motorway, a private road, to 20 feet and pave a portion, about 1,045 feet. The road improvements are requirements of the Los Angeles County Fire Department to provide all weather emergency response access to the proposed residence. A detailed review of these road improvements completed September 11, determined that the entire length of the Motorway from Latigo Canyon Road to the subject property is located outside the coastal zone boundary. As a result, the portion of the project relating to widening and paving of the Motorway is no longer part of this application; it has been withdrawn by the applicant from the project description. Therefore, the issue of potential prescriptive rights having been acquired on the Motorway and the potential effect of the road improvements on any such rights are not determined in this report.

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SUBSTANTIVE FILE DOCUMENTS: Addendum Engineering Geologic Report, dated February 15, 1997, Engineering Geologic Report and Geotechnical Report, dated August 5, 1991, both by Donald Kowalewsky, Environmental & Engineering Geology; Coastal Permit Number 4-96-210, (Smith); Coastal Permit Number 4-96-162, (Jobbins); Coastal Permit Number 4-97-015, (Sayles); Coastal Permit Number 80-7443, (Carlson); Coastal Permit Waiver Number 5-91-215, (Carlson); Coastal Permit Number 5-82-359, (McCarthy and Frankel); Coastal Permit Number 4-96-084, (Von Hagen).

#### STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

##### I. Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

##### II. Standard Conditions

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

2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. Special Conditions.

#### 1. LANDSCAPE/EROSION CONTROL AND DRAINAGE PLANS

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a revised landscape / erosion control plan designed by a licensed landscape architect and a drainage plan designed by a licensed engineer. The plans shall incorporate the following criteria:

- a) All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes according to the submitted landscape plan within ninety (90) days of final occupancy of the residence. To minimize the need for irrigation and to screen or soften the visual impact of development, all landscaping shall consist of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled "Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains," dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- b) 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. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils. Plantings shall include vertical elements to screen and soften the visual impact of the residence and garage as seen from the south and southwest.

- c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved disposal location.
- d) The drainage plan shall illustrate that run-off from the roof, patios, driveway and all other impervious surfaces on the subject parcel will be collected and discharged in a non-erosive manner which avoids ponding on the pad area. Site drainage shall not be accomplished by sheet-flow runoff. Should the residential project's drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.
- e) Vegetation within 50 feet of the proposed residence may be removed to mineral earth. Selective thinning, for purposes of fire hazard reduction, shall be allowed in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. However, in no case should vegetation thinning occur in areas greater than a 300 foot radius of the residence, or as determined by the Los Angeles County Fire Department. The fuel modification plan shall include details regarding the types, sizes and locations of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the final fuel modification plan has been reviewed and approved by the Los Angeles County Fire Department, Fire Prevention Bureau.

## 2. REMOVAL OF TRAILER, STORAGE STRUCTURE, AND VEHICLES

With the acceptance of this permit, the applicant agrees that the "temporary construction trailer, storage structure, and abandoned vehicle and boat" on the site shall be removed within 60 days of the receipt of certificate of occupancy from Los Angeles County to an appropriate disposal site located outside the coastal zone.

## 3. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION

All recommendations contained in the Addendum and Engineering Geological Reports, dated February 15, 1997 and August 5, 1991, prepared by Donald Kowalewsky, Environmental & Engineering Geology, shall be incorporated into all final design and construction plans including grading, foundations, seepage pit, retaining walls, pool, and drainage. All plans must be reviewed and approved by the consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

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

4. WILDFIRE WAIVER OF LIABILITY

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

5. DESIGN RESTRICTIONS

Prior to the issuance of the Coastal Development Permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which restricts the color of the subject residence, garage, and roofs to colors compatible with the surrounding environment. White tones shall not be acceptable. All windows shall be of non-glare glass. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

6. FUTURE IMPROVEMENTS RESTRICTION

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 4-97-041; and that any future structures, additions or improvements to the property, including but not limited to clearing of vegetation, that might otherwise be exempt under Public Resource Code Section 30610(a), will require a permit from the Coastal Commission or its successor agency. However, fuel modification consistent with the requirements of the Los Angeles County Fire Department's fuel modification standards consistent with special condition number one (1) is permitted. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

7. CONDITION COMPLIANCE

All requirements specified in the above conditions that the applicant is required to satisfy as a prerequisite to the issuance of this permit must be fulfilled within 120 days of Commission action. Failure to comply with such additional time as may be granted by the Executive Director for good cause, will nullify this permit approval.

IV. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Project Description and Background

1. Project Location and Description

The project site is located within a partially developed subdivision nearly five miles inland along a saddle between a ridge of Castro Crest and the west flank of Castro Peak. The ten acre lot is accessed from Latigo Canyon Road along a 4,200 foot length of Castro Peak Motorway, a private drive that is a dirt roadway. The coastal zone boundary bisects the lot nearly in half with the southern portion located within the coastal zone. The building site is located on the southern portion of the lot south of Castro Peak Motorway in an area which also serves as a long established fire break. (Exhibits 1, 2, and 3)

The applicant proposes to construct a 3,111 square foot, one story split level, single family residence with a detached 550 square foot two car garage, swimming pool, septic system, two 5,000 gallon water storage tanks, and a 150 foot long driveway. The applicant proposes to grade a total of 1,141 cubic yards of material; cut 519 cubic yards and fill 622 cubic yards for the residence and driveway. (Exhibits 4 - 8)

Outside of the coastal zone, the applicant also proposes to widen about a 2,700 foot length of Castro Peak Motorway to 20 feet and pave 1,045 feet of the road (total length of road to site from Latigo Canyon Road is about 4,200 feet). See Exhibit 9. These road improvements are no longer a part of this application; they have been withdrawn by the applicant from the project description. The road improvements are requirements of the Los Angeles County Fire Department to provide all weather emergency response access to the proposed residence.

The applicant is also requesting "after the fact" approval of an unpermitted 2,000 sq. ft. temporary construction trailer to be partially demolished and relocated adjacent to the building site, a storage structure, a water well and storage tank (water storage tank to be replaced with the two tanks above), and an abandoned vehicle and boat disposed on the parcel.

Outside the coastal zone, on the northern portion of the lot, is a corral, stable, riding rink, and two residential trailers.

## 2. Background

The Commission held a public hearing on this project at the July 1997 meeting and continued this project from the consent calendar to a public hearing to address potential public prescriptive rights related to public access along the Castro Peak Motorway, public services, and cumulative impacts. These issues were raised at July meeting by Lenora Kirby, representing the Santa Monica Mountains Trails Council, Frank Angel, and Dave Brown (via faxed letter). In an effort to obtain evidence as to potential public rights, staff sent letters to numerous members of the public requesting information on public rights along the Castro Peak Motorway. Staff received some responses: seven indicating public use of the Motorway (Exhibit 14 is an example); one indicating use by owner permission; and three indicating no public rights (Exhibit 12, NPS letter, is one example of these). However only very limited information was provided indicating that only a limited number of the public have traversed the Motorway. Five letters indicated that public use of the Motorway existed since either 1930, 1950, 1959, or the mid 1970's. (These letters will be provided to the Commission at the scheduled hearing in October 1997 in the Deputy Director packet.) However, for reasons described below, further discussion of prescriptive rights along the Motorway is not necessary here. Further, since the mid 80's, the Los Angeles County Department of Parks

and Recreation proposed to locate the Backbone Trail along this section of the Motorway. Since then, the Los Angeles County Park and Recreation Trail Plan was modified to relocate a portion of the Backbone Trail from this section of the Motorway to the present location of the existing Backbone Trail, which is located to south of the subject parcel and traverses along the lower flank of Castro Peak. (Exhibit 3)

After the July Commission meeting, the applicant stated to staff that the Motorway was outside the coastal zone and that portion of the project did not need to be reviewed. As a result, a boundary determination was done along the twelve parcels the Castro Peak Motorway traverses to access the applicant's property. The initial boundary determination, completed July 29, was inconclusive relative to the location of the coastal zone to the proposed improvements along the Motorway as the parcel map did not indicate where the Motorway traverses the parcel and the paving plan was inadequate to fully identify parcel boundaries. As requested by staff, the applicant's paving plan was revised by the applicant's surveyor in a manner adequate to establish the coastal zone boundary on the paving plan. (Exhibit 9) The Commission technical services staff determined on September 10 that the entire Motorway was located outside the coastal zone. (Exhibit 15) As a result, the applicant withdrew that portion of the project from consideration by the Commission. Therefore, because the road improvements are outside the Commission's jurisdiction and no longer a part of this application, the issue of public prescriptive rights need not be further addressed. Thus, no part of this revised project includes development that was addressed by the members of the public who believed that public rights existed or might be affected by the project.

The certified Malibu/Santa Monica Mountains Land Use Plan (LUP) designates the site as Rural Land II, Rural Land I, and Mountain Land, allowing one dwelling for five, ten, and twenty acres, respectively. The building site is located on land designated as Rural Land II. Although this lot overall is smaller than the average of the designated land uses, this lot is legal non-conforming. (Exhibit 10)

The subject property is surrounded by single family residences to the west and east, and vacant lands to the north and south. The National Park Service (NPS) owns lands surrounding Castro Peak and along the southern slopes of the Castro Crest Area. NPS has identified this parcel for a future easement acquisition in their Land Protection Plan. (Exhibit 11) To the northeast of the site are two property holdings of the NPS; the closest is about 1,500 feet from the building site. The NPS determination is based on the desire to protect the scenic viewshed from the Backbone Trail. To the southwest, south and east is a substantial land holding of the NPS, through which the Backbone Trail traverses east to west below Castro Crest. The proposed residence will not be visible from most of these lands due to the topography. However, to the south and southwest, the project will be visible from some of the NPS land, portions of the Backbone Trail, and portions of Latigo Canyon Road. In a letter dated September 4, 1997, Arthur Eck, Superintendent of the Santa Monica Mountains National Recreation Area, NPS, concludes that funding is not available, nor anticipated in the near future, for acquisition of parcels identified as non-priority Fee or Easement parcels. (Exhibit 12)

The designated Upper La Sierra Significant Watershed is located along the north facing slopes of the ridge west of Castro Peak. The northern portion of the subject parcel outside the coastal zone includes a portion of this Watershed. A small portion of the Upper La Sierra Significant Watershed,

estimated to be about one acre, is located within the coastal zone east of the applicant's property. (Exhibit 13) It is important to note that the majority of this watershed is located outside the coastal zone. Further, the boundaries of this mapped Watershed appear to be inaccurate as the approximate one acre located within the coastal zone drains south rather than north into the Watershed. The residence, as proposed, is located on a gently sloping existing pad below a LUP designated Significant Ridgeline. The building site and driveway drains to the south, in the opposite direction from the La Sierra Significant Watershed. However, the building site drains to the Newton Canyon Significant Watershed to the south, which is designated about 1,500 feet south of the building site.

B. New Development and Environmentally Sensitive Resource Areas

Section 30250(a) of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources:

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.

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

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

Section 30231 of the Coastal Act is designed to protect and enhance, or restore where feasible, marine resources and the biologic productivity and quality of coastal waters, including streams.

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

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

(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.

The Malibu/Santa Monica Mountains Land Use Plan policies addressing protection of Environmentally Sensitive Habitat Areas (ESHA's) are among the strictest and most comprehensive in addressing new development. In its findings regarding the LUP, the Commission has consistently emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. The LUP includes numerous policies addressing this issue which have been applied as guidance by the Commission in the review of development proposals in the Santa Monica Mountains.

Other applicable Land Use Plan policies address: the protection of ESHAs against significant disruption of habitat values; locate new development close to existing roadways and services; existing development to minimize the effects on sensitive environmental resources; cluster structures; minimize grading for access roads and driveways; minimize the alterations of hillside and ravines; protect the water quality of groundwater basins, nearby streams, or wetlands as a result from development; and pollutants and other harmful waste shall not be discharged into coastal streams or wetlands. Land Use Plan policies also address stream protection and erosion control by: minimizing grading; landscape plans shall balance long-term stability and minimize fuel load, among other policies.

Past actions on coastal permits taken by the Commission generally reflect the goals and guidance provided in the certified LUP policies towards development in or near ESHA's. Where the Commission has found that single-family development would not cumulatively or individually create adverse impacts on habitat or other coastal resources, or that adequate mitigation could be provided, it has been permitted.

#### 1. New Development

The Coastal Act provides that new development shall be located within, contiguous with, in close proximity to, existing developed areas able to accommodate development (test one). In the event the new development is in an area not able to accommodate the development, other areas must have adequate public services (test two), and the development must not create significant adverse effects, either individually or cumulatively, on coastal resources (test three). These three tests of Section 30250 (a) will be discussed below. The proposed project must meet tests one and three, or tests two and three to be found consistent with Section 30250 (a).

The first test, whether or not the new development is located within, contiguous with, or in close proximity to, existing developed areas able to accommodate the proposed development, will be discussed. The subject parcel is split by three land use designations established by the Los Angeles County Land Use Plan. The parcel is designated as Rural Land II, Rural Land I, and Mountain Land providing for one dwelling unit for five acres, one unit for 10 acres, and one unit for 20 acres, respectively. The average density designation for the parcel is about 10.5 acres. As a result, this parcel is non-conforming at 10 acres in size. The portion of the parcel located within the coastal zone has land use density designations which includes a portion designated one unit for 5 acres, another portion designated as one unit for 10

acres, and another portion as one unit for 20 acres. It is important to note that the proposed building site is located along the flattest portion of the parcel along the west saddle of Castro Peak area; the building site is designated Rural Land II, one dwelling unit for 5 acres.

The subject site is not located within an existing developed area, as commonly defined by the Commission in the past. The closest developed area is the Point Dume/Malibu terrace area located about three miles south. The subject parcel is located within a residential designated area accessed by the Castro Peak Motorway, an unpaved roadway. Castro Peak Motorway extends from Latigo Canyon Road on the west, to Castro Peak, and then to Corral Canyon Road on the east. (Exhibit 2) A review of the parcels between Latigo Canyon Road and Castro Peak was done. There are 31 parcels accessed by the Motorway between Latigo Canyon Road and Castro Peak; 11 parcels are developed with residential and commercial development. Of these, only about 26 parcels are located with a building site within the coastal zone. There are 5 parcels with residential development sites located outside the coastal zone. Therefore, about one third of the parcels in this area are developed.

A review of Commission permit records was done which indicated that four coastal permits were issued for residential or residential related development along this portion of the Castro Peak Motorway. The Commission approved a 1,672 sq. ft. residence for McCarthy and Frankel (coastal permit # 5-82-359) in 1982 on a site accessed by the Motorway immediately to the southeast of the subject parcel. Further, the Los Angeles County Fire Department determined in 1982 that the Motorway from Latigo Canyon Road, past the subject site, east to the McCarthy/Frankel residence meet their standards for an all weather access road. The Commission approval included a residence without an connection to the Southern California Edison electrical grid. The residence is powered by an electric generator and may also include a solar photovoltaic system. The Commission approved, in December 1996, a coastal permit for Mr. Von Hagen to construct a radio amateur structure/home and three antennae on a parcel located about one half mile east of the subject site (coastal permit number 4-96-084); electric power will be provided with an on-site generator.

The Commission approved a 2,453 sq. ft. residence and attached two car garage through coastal permit 80-7443 for Sten Carlson located along Castro Peak Motorway about 2,200 feet west of the Pousette parcel. Since then, the new owner Jim Nylund, received a coastal permit waiver # 5-91-215, for the construction of a 2,340 sq. ft. accessory structure for motor vehicles. Electric power is provided to this site from Latigo Canyon Road.

In addition, the Los Angeles County Department of Regional Planning approved a permit for a 5,000 sq. ft. two story residence on a parcel owned by Mr. Caddell immediately to the west of the subject site. This residence, located outside the coastal zone, does not require Commission approval; the site is now under development. As a result of existing development on the adjacent parcels to the west and east of the subject parcel, the approval of a new residence on the subject site is considered a clustering of residential development.

Therefore, because about one third of the parcels in this geographic area are developed and two adjacent parcels are developed with residential land uses, the Commission finds that the area surrounding the subject parcel is a partially developed area. As a result, the Commission finds that the proposed project does not meet test number one as the project site is not located

within an existing developed area able to accommodate it. Because the project is not located in a developed area able to accommodate it we need to move on to test number two of Section 30250 (a).

Regarding the second test, for areas located outside a developed area, the Commission reviews the adequacy of public services as an important criteria. The applicant has access along Castro Peak Motorway to the site and is required by the Los Angeles County Fire Department to improve portions of the Motorway to provide for all weather emergency vehicle access to meet current fire code standards. As noted above and on Exhibit 9, these improvements are located outside the coastal zone and, thus, are not subject to Commission action. Therefore, because the Fire Department has determined that the proposed road improvements will be adequate to serve the proposed residence, adequate road access to the subject parcel will be provided.

Water service is provided by an 'unpermitted' on-site water well and storage system located within the coastal zone. The applicant proposes to replace the existing water storage tank with two new 5,000 gallon water tanks. The well produces water at eight (8) gallons per minute and will store water in two proposed storage tanks totalling 10,000 gallons. Minimum County standards require water production at three gallons per minute. The applicant's well produces more than twice the water required. This amount of water storage is nearly triple the County required 3,500 gallons necessary as determined by the Los Angeles County Fire Department to be adequate for emergency fire fighting purposes. At the rate the well produces water, the 3,500 gallons of required water can be provided in a little over seven hours. The applicant also is proposing to construct an approximate 10,000 gallon swimming pool adjacent to the residence; the water could also be used to douse a fire on site. Therefore, total water storage will be up to 20,000 gallons on site, well beyond the 3,500 gallons required. Further, the applicant proposes to construct an interior automatic fire sprinkler system and fire resistant construction for the residence, and a driveway turnaround area, consistent with County Fire Code requirements. As proposed by the applicant, the project has received preliminary approval by the Los Angeles County Fire Department, and therefore, the Commission finds that adequate water service is available to the site.

Electrical service from Southern California Edison could be provided from three nearby locations. The applicant proposes to provide service from existing overhead service lines located along the north side of Latigo Canyon Road, which is located about 300 feet south of the subject parcel. Electric service could also be provided by extending service from the Nylund property, which is about 2,200 feet to the west along Castro Peak Motorway. Lastly, electrical service could also be provided from existing lines serving the communication facilities at the top of Castro Peak to the east of the subject parcel; the service line is about 2,500 feet to the south-east of the site. Regardless, electrical utility connections to new residences are usually considered exempt from coastal permit requirements (California Code of Regulations Section 13252 (a) (3) (B)). Therefore, the Commission finds that there is adequate electrical service available to the site.

Telephone service is provided by General Telephone Enterprises (GTE) directly to the subject parcel through land based overhead wires. Cellular telephone service at the site may also be provided by through the use of communication cell sites and earth orbiting communication satellites. Internet access to the World Wide Web could be provided by either land based wires, or orbiting

satellites. Therefore, communication services are also available to the site. Sewage disposal is proposed to be provided by an on-site private septic system, as is common in the Santa Monica Mountains area, and is therefore adequate as described in section E. Septic Systems, below.

Therefore, the proposed project is located in an "other area with adequate public services" that are available and the Commission has previously approved development, and thus, meets the second test of Section 30250 of the Coastal Act.

The third test addressing project specific individual and cumulative impacts will be discussed in the section below.

## 2. Environmentally Sensitive Habitat Individual/Cumulative Impacts

The following discusses the third test, whether there are significant adverse project impacts, either individual or cumulative, on coastal resources. Individual and cumulative impacts are addressed through the Chapter 3 Policies of the Coastal Act and the land use policies of the certified Los Angeles County Land Use Plan. The LUP is used as guidance by the Commission in carrying out Coastal Act policies. As noted above the land use policies allow for residential development at a density of about one unit for ten acres. The applicant proposes to construct one residence on a ten acre parcel. As noted in LUP policies P64 and P65, the County Environmental Review Board (ERB) shall consider individual and cumulative impacts of each development within a designated significant watershed. The ERB provides recommendations to the Regional Planning Commission (or the decision makers for coastal permits) on the conformance or lack of conformance of the project to the policies of the LCP. Any recommendation of approval by the ERB will include mitigation measures designed to minimize adverse impacts on environmental resources. The ERB also considers individual and cumulative impacts of each development proposal within designated significant watersheds. This project was reviewed by the ERB and its findings on individual and cumulative impacts are discussed in detail below.

Along the northern portion of the lot is a small portion of the Upper La Sierra Significant Watershed, the majority of which is located within a north facing canyon of Castro Peak. The majority of this inland Watershed is located outside the coastal zone on the inland side of Castro Peak north of the subject parcel. Only a small portion of this Watershed, about one acre, is mapped within the coastal zone on the central portion of the applicant's property. (Exhibit 13) It is important to note that the project site is not located within this designated significant watershed, nor drains into it. Located just below a saddle between a ridge known as Castro Peak Crest and the west flank of Castro Peak, the project site is just below the area which drains north to the Upper La Sierra Significant Watershed. The building pad and driveway leading from the Castro Peak Motorway does not drain to the north into this inland Watershed as depicted on the Watershed map, Exhibit 13, but rather to the south. The building site is not located within this designated Watershed and is about 150 feet south of the actual Watershed boundary. It is important to point out that this saddle area and along the ridge leading to Castro Peak has been disturbed and graded as a substantial fire break. As a result, there is limited vegetation along this ridge and the grade may have been altered along the Castro Peak Motorway north of where the project site is located.

Because the building site and driveway are located in an area that drains to the south, the Newton Canyon Significant Watershed which includes a blue line stream and significant oak woodlands and savannahs, has the potential to be impacted. These resources are designated in the LUP as a environmentally sensitive habitat area, which are as close as about 1,500 feet from the building site and road improvements. This stream leads into the Zuma Canyon Creek and Zuma Creek wetland which not only includes designated oak woodland and savannah, but also, a riparian habitat and wetland, all of which is designated as an environmentally sensitive habitat area (ESHA) in the LUP.

Because the building site and road improvements drain to the south, away from the Upper La Sierra Significant Watershed, no individual or cumulative impacts are expected to this area. However, because the building site and road improvements drain to the south into the Newton Canyon Watershed there are potential individual and cumulative impacts to the ESHA in the Newton Canyon, and Zuma Creek, and wetland.

The project was reviewed by the Los Angeles County Department of Regional Planning and approved in concept based in part on the review and recommendation of the County Environmental Review Board (ERB). It is important to note that the ERB found the project consistent with the Los Angeles County Land Use Plan. The ERB review focused on the applicant's proposed horse corral and stable which are located within the Upper La Sierra Canyon Significant Watershed and outside the coastal zone. ERB review was required by the County because the northern portion of the ten acre lot is located within the Upper La Sierra Canyon Significant Watershed but is not within 200 feet of the Upper La Sierra Canyon ESHA. Recommendations were made by the ERB to the County Department of Regional Planning on July 15, 1996 which included the following mitigations: the removal of all eucalyptus and pine trees within 100 feet of the residence; trees are to be pruned/thinned according to the County approved fuel modification plan, all oaks to be retained on site (outside coastal zone); record covenant restricting property to one single family residence; plant only native plant species; runoff from stable and corral to be collected on-site and filtered (outside coastal zone), runoff from the driveway to comply with County NPDES standards; use earth tones of local area for house exterior. Due to the small scale of the proposed development for the residence, garage, and driveway, potential cumulative and individual impacts were addressed by the ERB with mitigation measures. These mitigation measures included: a fuel modification plan, the removal of non-native species, the replanting of native species; runoff from the driveway to comply with County NPDES standards; and restricting the use of the property to on single-family residence. Therefore, the County's ERB review and the action of the Department of Regional Planning found the proposed project, as conditioned, consistent with the applicable LUP policies addressing significant adverse individual and cumulative impacts.

A review of some of the applicable LUP policies, if the site and the proposed project were in a significant watershed, may be helpful in addressing individual and cumulative impacts on coastal resources. Because the proposed project site is not located within a designated significant watershed, the project does not need to meet the guidance provided by these LUP policies. However, as proposed, the project meets the LUP policies listed below. As an example, LUP Policy P63 states that uses shall be permitted within significant watersheds in accordance with Table 1 and all other policies. LUP policies, including Table 1, specify that grading activities be minimized and that development be designed to minimize grading and potential impacts to ESHA, and

that said development be placed as close to existing services as possible. The project description as described above, limits residential development to one site and includes grading of a total of 1,141 cubic yards of cut and fill for the building pad and driveway turnaround. Grading to construct the residence, driveway, and turnaround area consist of 519 cubic yards of cut and 622 cubic yards of fill. The building site is located on the flat graded portion of a small saddle between a ridge of Castro Crest and a flank of Castro Peak that serves as a fire break. The residence is designed as a split level structure with a garage clustered twenty feet away, thus, minimizing the need for further grading to expand the flat building pad while minimizing the need for an expansive fuel modification area. Additionally, the proposed structure is to be located about 150 feet along an existing driveway leading from Castro Peak Motorway, well within the 300 feet allowed by the Table 1 policy. Therefore, this grading is determined to be reasonable in order for the applicant to construct the proposed project. This development is proposed near existing services, the residence will be accessed from the nearby Motorway, electrical service is nearby, telephone service is provided to the site, and water is available on the site. The proposed project, even though it is not required to meet the guidance provided by the above LUP policies, does meet them.

The LUP Table 1 policies allow a maximum of 10,000 sq. ft. of area for a building pad. The proposed building site consists of about 9,000 sq. ft. of area for site development which includes a temporary residential trailer, which will be relocated adjacent to the proposed building site and used during construction. Therefore, the proposed building site is within the limits of this policy, if applicable, which it is not.

Although the project site is not located within a significant watershed, the proposed project, as conditioned, meets the guidance provided in Table 1 for a project located within such a significant watershed; this project is not located within such a watershed.

Regarding individual and cumulative impacts to coastal resources, the Land Use Plan also includes policies stating that in disturbed areas landscaping shall include native plants consistent with fire safety requirements by balancing the long-term stability while reducing the fire load. The applicant submitted a Landscape Plan and Fuel Modification Plan approved by the Los Angeles County Fire Department which identifies planting zones, a maintenance program, and landscape and erosion control program. The plan indicates that all graded areas will be planted and maintained for erosion control and visual enhancement at the completion of grading. The plan needs to be revised to state that all disturbed areas will be planted and maintained for erosion control and visual enhancement, rather than all graded areas. In addition, the plans need to identify that the planting shall be adequate to provide 90 percent coverage within two years and shall be repeated, if necessary, to provide such coverage, rather than 90 percent coverage within 90 days, as indicated on the plans. The shorter time frame is not necessary at this site. Lastly, the plans need to identify that should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps that meet County NPDES standards) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction and retain sediment on site. Therefore, the Commission finds it necessary to require the applicant to submit a revised landscape/erosion control plan providing for

replanting of all disturbed areas with 90 percent coverage within two years, and include provisions for sediment basins if grading is to occur during the rainy season, all approved as a final fuel modification plan by the Los Angeles County Fire Department, as required by condition number one (1). The proposed project, as conditioned, meets the landscaping and fuel modification guidance provided in the LUP for all projects located in the Santa Monica Mountains and Malibu area, and therefore, minimizes any impacts on coastal resources on an individual and cumulative basis.

Once construction is complete, the applicant proposes to remove the temporary trailer and storage structure to a disposal site outside the coastal zone. The Commission finds it necessary to require the removal of these structures to an appropriate disposal site within 60 days of the applicant's receipt of the certificate of occupancy from Los Angeles County, as required by condition two (2). The removal of these structures is necessary to avoid the potential conversion to a second dwelling unit and potential cumulative impacts on public services such as road capacity, sewage disposal, water, and electricity, as well as, erosional impacts to the Newton Canyon and Zuma Creek watersheds. The disturbed area where these structures are located will be landscaped as required by condition one (1). In addition, within the drainage gully west of the building site are an abandoned vehicle and boat. The Commission finds that these discarded transportation vehicles have the potential to add pollutants, including petroleum products, to the drainage courses as they deteriorate, thereby adversely affecting ESHA downstream within Newton Canyon, Zuma Creek, and wetland. Condition number two (2) requires the removal of these vehicles to an appropriate disposal site outside the coastal zone to protect water quality of coastal streams and a wetland.

Therefore, as conditioned, and determined by the ERB and Department of Regional Planning, the project generally meets the guidance provided in the LUP policies that pertain to locating development outside of designated watersheds and close to the periphery of designated ESHA's while protecting streams and ESHAs from alteration and disturbance to the greatest extent possible. This project was approved in concept by Los Angeles County on November 28, 1997.

The cumulative impacts of build out for this area will be discussed based upon a staff review of potential development of this subject area. As noted previously, the area between Latigo Canyon and Castro Peak includes 26 parcels with potential building sites located within the coastal zone. Five parcels with building sites located in this area are outside the coastal zone, one includes an existing residence. Of the 26 parcels, eleven are currently developed with residential or commercial (communication facilities on Castro Peak) development. These 26 parcels range in size from about one acre to 44 acres; most are between five and ten acres in size. Most of these parcels are also located along or near a long established fire break which has been graded and cleared of vegetation to reduce the fire hazard. Therefore, the fire break area is a heavily disturbed area due to these fire clearance activities. The geology of this area is relatively stable as it is underlain by sedimentary bedrock consisting of interbedded sandstone and siltstone capable of supporting residential development. Based on the large parcel size for most of these parcels and the geology, staff believes that percolation for septic systems will be found adequate for these parcels. Therefore, the geology and septic percolation capacity of this area appears to be adequate to support potential buildout.



Regarding road access, the Castro Peak Motorway traverses most of these parcels providing for direct or nearby access across a driveway to potential building sites. Only four parcels are located, one parcel length or less, removed from the Motorway, thereby requiring the crossing of an intervening parcel to access the Motorway. Because the Motorway crosses most of these parcels, future build out of this area will be clustered near the roadway. Further, the western portion of the Motorway is being improved to meet County Fire Department access standards. It is anticipated that only minimal grading and landform alteration would be required to improve the Motorway to the east and beyond the subject parcel. Most of these parcels have an existing building pad and driveway leading to it from the Motorway, thereby minimizing the potential for landform alteration and grading impacts. Most of these parcels appear to have water available on the site or nearby. Staff has been informed by a property owner that the parcels on the crest of the ridge leading to Castro Peak and along the north facing flank have found adequate water supplies. However, water may not be as readily available for parcels that are located on the south facing flank of the ridge leading to Castro Peak. Most of these parcels in this area include land on the ridge and along the north facing side of the ridge. Therefore, most of the remaining undeveloped parcels have the potential to be built out consistent with the densities allowed by the Malibu/Santa Monica Mountains Land Use Plan. It appears that only one parcel has the potential to be divided according to the LUP. Most of these parcels either conform or are non-conforming as to density.

The Commission has certified the Malibu/Santa Monica Mountains Land Use Plan which designated specific land uses, density, and mitigation measures to provide guidance to the Commission during the review of individual projects until the County of Los Angeles completes a Local Coastal Program. These LUP policies, as discussed above, address individual and cumulative impacts. These policies address the need to minimize landform alteration and grading, control drainage to minimize erosion and downstream sedimentation, provide for the landscaping with native plants of disturbed areas to minimize erosion and fire hazards, and provide for fuel modification plans to reduce the fire hazard, as an example. If future development projects, on the remaining 15 parcels are proposed, mitigation measures would be required as conditions of approval at that time. Because of the topography, it is expected that most property owners would design a project on existing building pads and use existing driveways to minimize landform alteration and grading. As a result, the individual impacts created by each of these potential projects, considered cumulatively for the additional 15 parcels, would not result in significant impacts to resources on and near each parcel and downstream from these parcels. These parcels will be developed under the guidance of the LUP coastal resource protection policies and the coastal resource protection policies required in Chapter 3 of the Coastal Act. Therefore, individual impacts on coastal resources created by each of these potential projects will be mitigated through conditions of approval and project design in a manner that will not create significant adverse impacts on coastal resources, on a cumulative basis, as required by Section 30250 of the Coastal Act.

Thus, because the project site and driveway improvements are located outside of any designated significant watersheds, at least 1,500 feet from designated ESHA in the Newton Canyon and Creek area downstream, and the project meets the guidance of the County LUP coastal resource protection policies, significant adverse impacts on an individual basis or considered all together on a cumulative basis are not expected, as a result of the proposed project, as



conditioned. Therefore the Commission finds that the proposed project, as conditioned, meets the third test of Section 30250 (a) of the Coastal Act.

In conclusion, although the certified Los Angeles County Land Use Plan provides guidance to the Commission to consider, the Commission's standard of review for this project are the policies of the Coastal Act. Therefore, Commission finds that although the proposed project is not located within an existing developed area able to accommodate it, it is located in an other area with adequate public services. Furthermore, the Commission finds that the project will not have significant adverse effects, either individually or cumulatively, on coastal resources. Thus, the Commission finds that the proposed project, as conditioned, meets tests two and three of Section 30250 (a). The Commission also finds that the biological productivity and quality of coastal waters and riparian habitat, ESHA, will be protected as a result of the proposed project as conditioned. Thus, the proposed project, as conditioned, is consistent with and conforms with Sections 30231, 30240, and 30250(a) of the Coastal Act.

### C. Geologic Stability

Section 30253 of the Coastal Act states:

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 area which is generally considered to be subject to an unusually high number of natural hazards. Geologic hazards common to the Malibu area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The Commission reviews the proposed project's risks to life and property in areas where there are geologic, flood and fire hazards. Regarding the geologic hazard, the applicants submitted two geologic reports, the first is titled "Engineering Geologic Report", and Addendum Engineering Geologic Report" dated August 5, 1991 and February 15, 1997, respectively, prepared by Donald Kowalewsky, Environmental & Engineering Geology. These reports state:

From an engineering geologic standpoint, the proposed construction of a single family residence is feasible. Provided the following recommendations are incorporated in the plans and implemented, future construction can be made safe from landslide, settlement or slippage. In addition, construction utilizing the following recommendations, will not adversely affect off-site property.

Provided all recommendations in our August 5, 1991 report and this addendum are incorporated in the building plans and implemented during construction, the proposed house, garage, and pool construction will be safe from geologic hazards related to landslide, settlement or slippage. Proposed grading and construction will not adversely affect off-site properties.

The recommendations in these geology reports address the following issues: grading, retaining walls, foundation setback, swimming pool, fill removal, temporary excavations, sewerage disposal, drainage, and plan review.

Based on the findings and recommendations of the consulting engineering geologist, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting Engineering Geologist as conforming to their recommendations, as noted in condition number three (3) for the final project design and drainage plans for the proposed project.

Minimizing erosion of the site is important to reduce geological hazards on the site and minimize sediment deposition in the drainages leading to Newton Canyon Creek and Zuma Creek. Therefore, the Commission finds that it is necessary to require the applicant to submit landscape and final fuel modification plans for the proposed development. The applicant submitted such plans which will incorporate native plant species and illustrate how these materials will be used to provide erosion control to those areas of the site disturbed by development activities. These plans also illustrate that existing vegetation will be "thinned" rather than "cleared" for fuel modification purposes, thus allowing for the continued use of existing native plant materials for on site erosion control. The thinning, rather than complete removal, of native vegetation helps to retain the natural erosion control properties, such as extensive and deep root systems, provided by these species. Special condition number one (1) provides for a revised landscape/erosion control plan prepared by a licensed landscape architect with some revisions as noted in section IV. B., New Development and Environmentally Sensitive Resource Areas, above.

The Commission finds it necessary for the applicant to submit a drainage plan that will adequately direct drainage from the residential building pad and driveway and convey water from this area downstream into the Newton Canyon Watershed, located about 1,500 feet to the south, in a non-erosive manner. Without such a plan to reduce erosion from storm water runoff, the building site could become unstable and the road could become eroded and impassible. Condition number one (1) will provide for such a drainage plan to reduce erosion.

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act also recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. The property has burned in the past 10 - 30 years according to a map by the Office of Emergency Services and Federal Management Agency (OES - FEMA), dated 9/21/94, and is located within a fire break area. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by condition number four (4).

The Commission finds that only as conditioned is the proposed project consistent with Section 30253 of the Coastal Act.

#### D. 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 area such as those designated in the California Coastline Preservation 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 certified Malibu/Santa Monica Mountains Land Use Plan includes numerous policies which are applicable to the proposed development. These policies include: minimizing alterations of physical features, such as ravines and hillsides; site and design new development to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands; structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment; in highly scenic areas 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 LCP; 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 not to significantly intrude into the skyline as seen from public viewing places; and site structures to conform to the natural topography, as feasible.

As previously stated, this project involves the construction of a 15 foot high, split level, one story, 3,111 square foot, single family residence and a 550 sq. ft. two car garage on a graded pad near along a saddle between a ridge and a flank of Castro Peak. The site is located just below another significant ridgeline along Castro Peak. This ridgeline is designated as a significant ridgeline on the Scenic Resources map in the Malibu/Santa Monica Mountains Land Use Plan.

In the review of this project, the Commission reviews the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. The Malibu/Santa Monica Mountains Land Use Plan (LUP) protects visual resources in the Santa Monica Mountains. Significant Ridgelines are given special treatment when evaluating potential visual impacts caused by new development. The project site is located below and to the south of a significant visual ridgeline.

The Commission examines the building site, the proposed grading, and the size of the building pad and structures. The development of the residence and garage raises two issues regarding the siting and design: one, whether or not public views from public roadways will be adversely impacted, or two, whether or not public views from public parks and trails will be impacted.

The proposed one story residence will be visible from limited portions of upper Latigo Canyon Road and Kanan Dume Road to the south and southwest. The structure will also be visible from National Park Service lands to the south and southwest. The structure will not be visible to the east and north as an intervening ridgeline and Castro Peak provide a topographic screen.

Regarding public trails, an existing hiking trail, the Backbone Trail is located about one half to one mile south of the project site. This trail is also located south of Newton Canyon. Due to the distance, public views from this trail of the proposed residence will be limited.

Arthur Eck, Superintendent, of the NPS provided a comment letter dated September 4, 1997. The letter notes that the specific parcel is located "within an area identified for easement acquisition in the NPS Land Protection Plan". This interest is based on the NPS's desire to protect the scenic viewshed from the Backbone Trail. (Exhibits 12 and 11) Mr. Eck admits that "funding is not currently available, nor is it anticipated in the near future, for acquisition of parcels identified as non-priority Fee or Easement parcels".

To conform with the policies of the Coastal Act and LUP regarding visual impacts, the Commission has in past permit actions required that structures not break ridgelines by siting them down the slope, in areas not visible, or when no other alternative is available, restricting the height of the structure. In this case, given the topography and size of the property, the relatively flat site within a saddle below a significant ridgeline, the site is suitable for the proposed project.

Regarding landform alteration, the residential site is a graded pad on a relatively flat portion of a saddle between two ridgelines. The amount of final grading to prepare the building site for a split level residence is reasonable, comprising of a total of 1,141 cubic yards, 519 cubic yards of cut and 622 cubic yards of fill. The difference of 103 cubic yards of cut vs fill will be imported to the site as fill. These exposed fill areas on the

residential site will be landscaped as required by condition number one (1) to minimize erosion of the fill material. The applicant's project will minimize grading and will not significantly alter the existing landform on the property; therefore, the proposed project is consistent with the Coastal Act and the guidance provided by the Malibu/Santa Monica Mountains Land Use Plan (LUP) policies regarding landform alteration.

However, because the site is located below a significant ridgeline and will be visible from public locations noted above, mitigation to address potential visual impacts is needed. The proposed one story, split level, residence and detached garage will be less visually intrusive through the use of earth tones for the structures and roofs and non-glare glass which helps the structure blend in with the natural setting. The Commission finds it necessary to impose condition number five (5), design restrictions, to restrict the color of the subject structures to those compatible with the surrounding environment and prohibit the use of white tones, while requiring the use of non-glare glass windows to reduce visual impacts.

Furthermore, in order to ensure that future additions that might otherwise be exempt from coastal permit requirements, are reviewed for compliance with Section 30251 of the Coastal Act, the Commission finds it necessary to require that any future developments will require Commission review as provided by condition number six (6).

Although there is no way to fully screen the residence from locations visible by the public, it is possible to partially screen the proposed structure by requiring the applicant to landscape the site with native plants, compatible with the surrounding environment and designed to screen and soften the visual impacts of the development. The Commission has found that the use of native plant materials, including vertical elements, in landscaping plans can soften the visual impact of new development in the Santa Monica Mountains. The use of native plant materials to revegetate graded or disturbed areas reduces the adverse affects of erosion, which can degrade visual resources in addition to causing siltation pollution in ESHAs, and soften the appearance of development within areas of high scenic quality. Condition number one (1) requires a revised landscape plan be completed within thirty (90) days of residential occupancy and that planting coverage for all disturbed areas be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage. The landscaping plan shall include vertical elements to break up the view of the proposed structures as seen to the south and southwest. Therefore, the Commission finds that the project, as conditioned, minimizes impacts to public views to and along the coast, and thus, is consistent with Section 30251 of the Coastal Act.

#### E. Septic Systems

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

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

In addition, the Malibu Land Use Plan includes policies addressing sewage disposal: wastewater management operations within Malibu Coastal Zone shall not degrade streams or adjacent coastal waters; the construction of individual septic tank systems shall be permitted only in full compliance with building and plumbing codes; the County shall not issue a coastal permit for a development unless it can be determined that sewage disposal adequate to function without creating hazards to public health or coastal resources will be available for the life of the project beginning when occupancy commences.

The applicant proposes to install a 1,500 gal septic tank and seepage pit to accommodate the sewage of the proposed development. The applicant has submitted approval from the County of Los Angeles Department of Health Services stating that the proposed septic system is in conformance with the minimum requirements of the County of Los Angeles Uniform Building Code. The County of Los Angeles' minimum health code standards for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of soils along the coast, the depth of groundwater, etc.

The consulting engineer has reviewed the site and concluded that the construction of a septic system will not adversely affect the proposed site or the adjacent properties, provided the system is constructed in conformance with the requirements of Los Angeles County. The Commission therefore finds that the project is consistent with Section 30231 of the Coastal Act.

#### F. Violation

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. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

A portion of the proposed project includes after the fact development (temporary construction trailer, storage structure, water well and storage system, and disposal of abandoned vehicle and boat) which requires a coastal permit in order to be in conformance with the Coastal Act. The Commission finds it necessary to require the applicant to fulfill all of the special conditions as a prerequisite to the issuance of this permit, as required by special condition number seven (7) within a reasonable period of time, within 120 days of Commission action. Only as conditioned is the proposed development consistent Sections 30231, 30240, 30250, 30251 and 30253 of the Coastal Act.

G. Local Coastal Program.

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

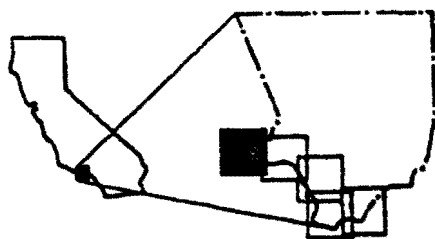
H. California Environmental Quality Act (CEQA)

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5 (d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment.

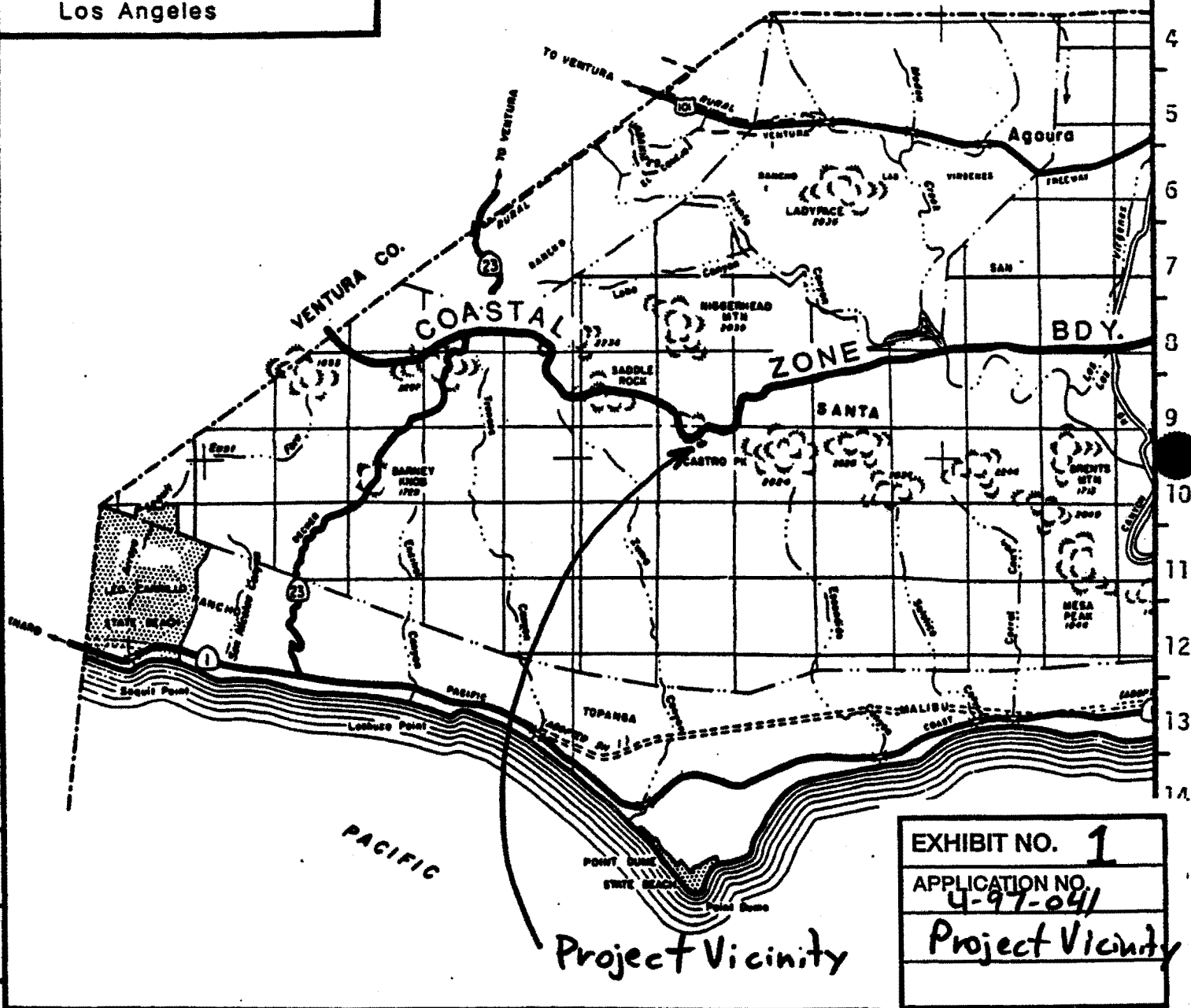
As discussed above, the proposed project has been mitigated to incorporate conditions addressing coastal issues discussed above. The proposed project, as conditioned, will not have significant adverse effects on the environment within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project has been determined to be consistent with CEQA and the policies of the Coastal Act.

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Los Angeles



California Coastal Commission

LOCATION MAP

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County of Los Angeles

Sheet 1 of 5



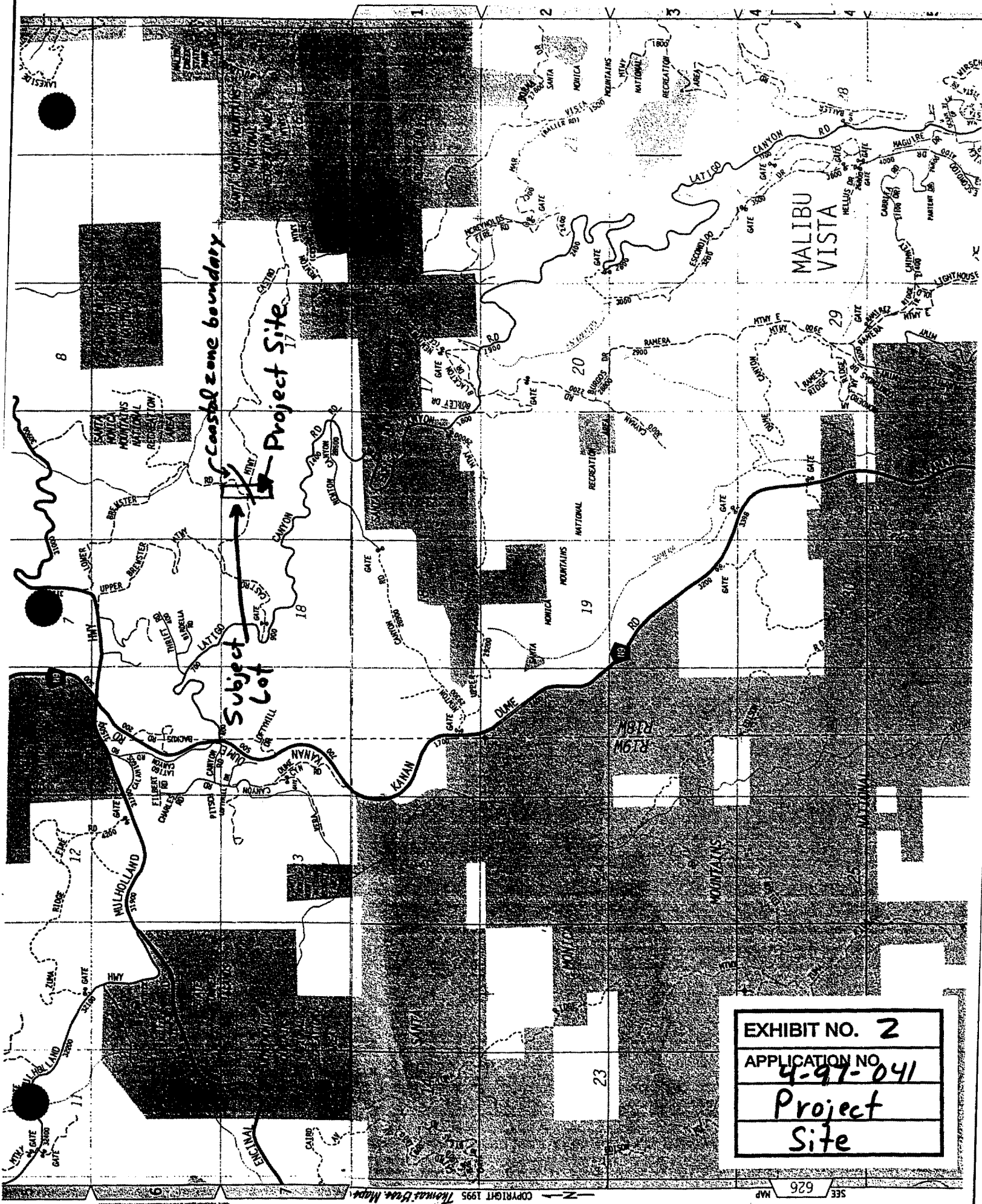


EXHIBIT NO. 2

APPLICATION NO. 4-97-041

Project Site



EXHIBIT NO. 3

APPLICATION NO.

4-97-041

Project Site



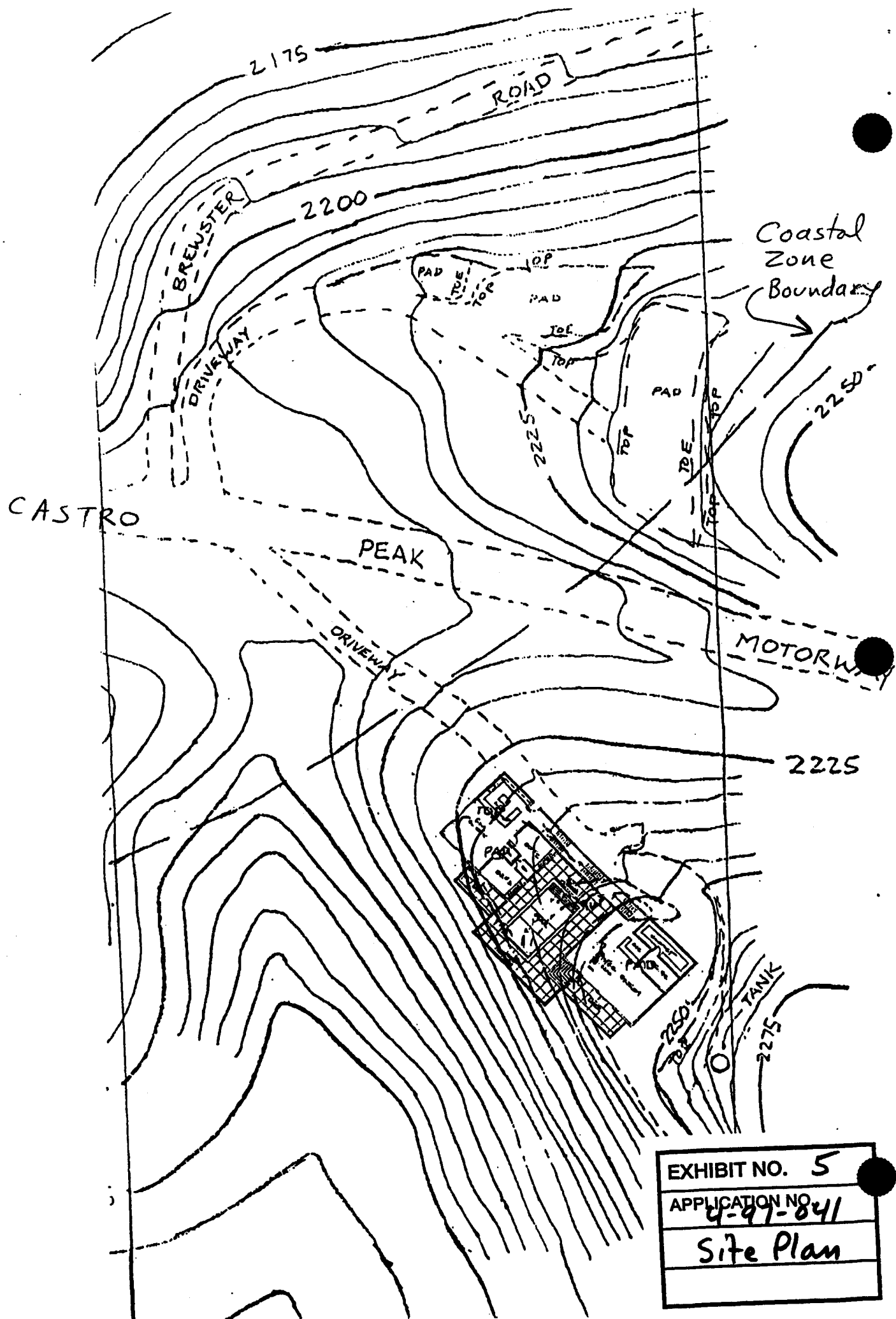
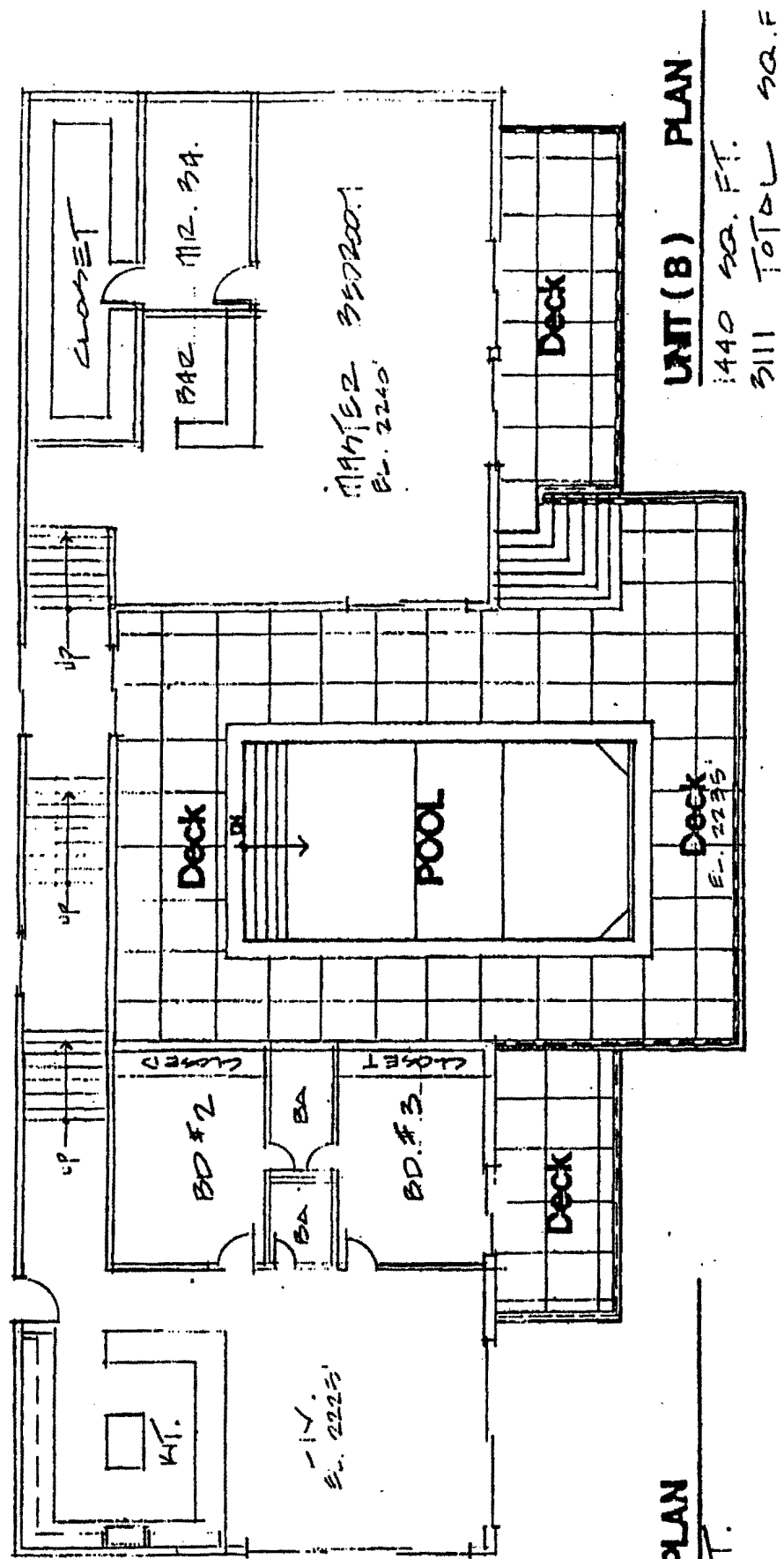


EXHIBIT NO. 5
APPLICATION NO. 4-97-841
Site Plan



EXHIBIT NO. 6
APPLICATION NO. 4-97-041
Floor Plan



UNIT (A) PLAN  
1440 SQ. FT.

UNIT (B) PLAN  
1440 SQ. FT.  
3111 TOTAL SQ. F.



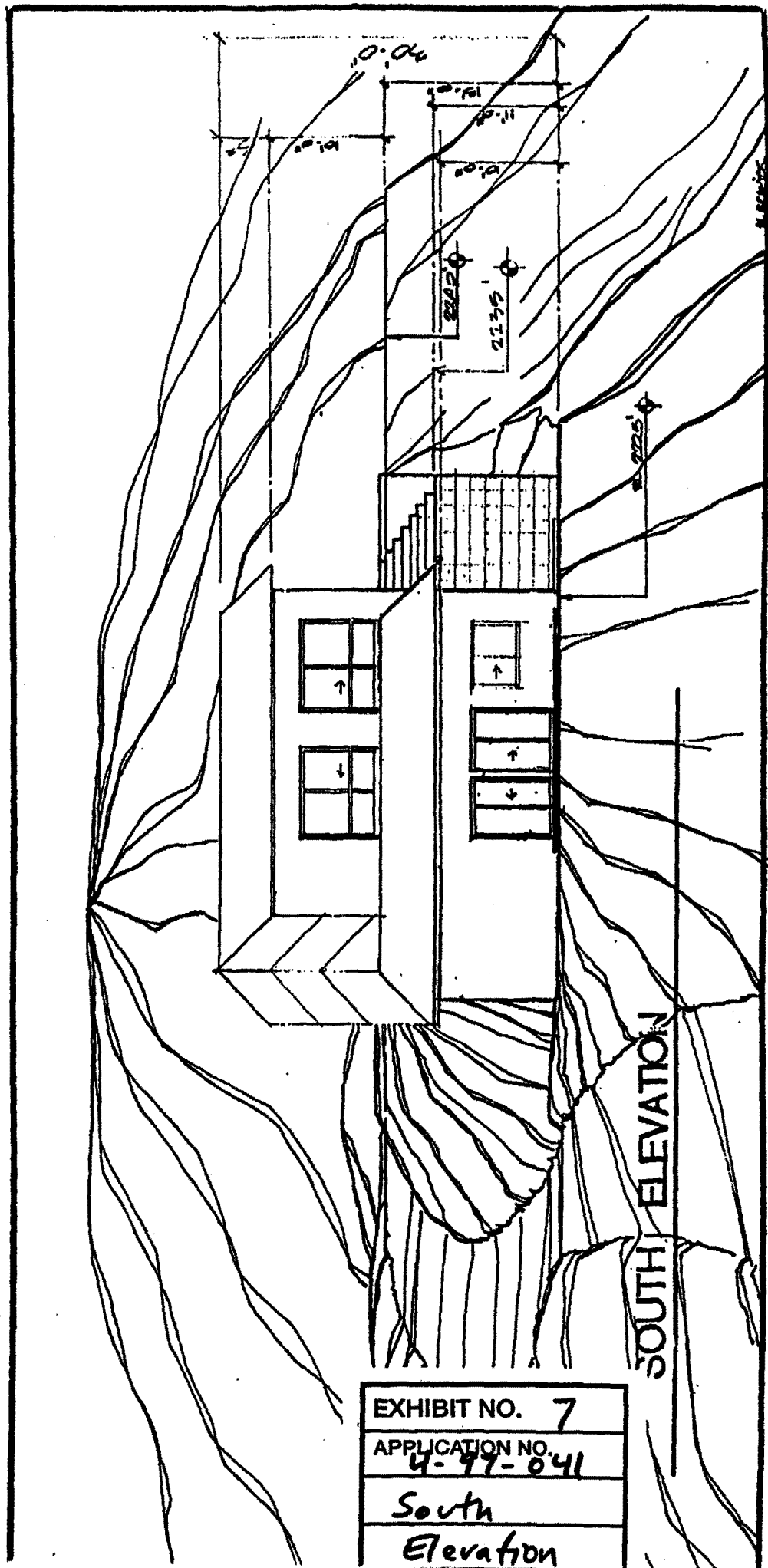


EXHIBIT NO. 7
APPLICATION NO. 4-97-041
South Elevation

From :

Mar. 05. 1988 03:05 PM

P01

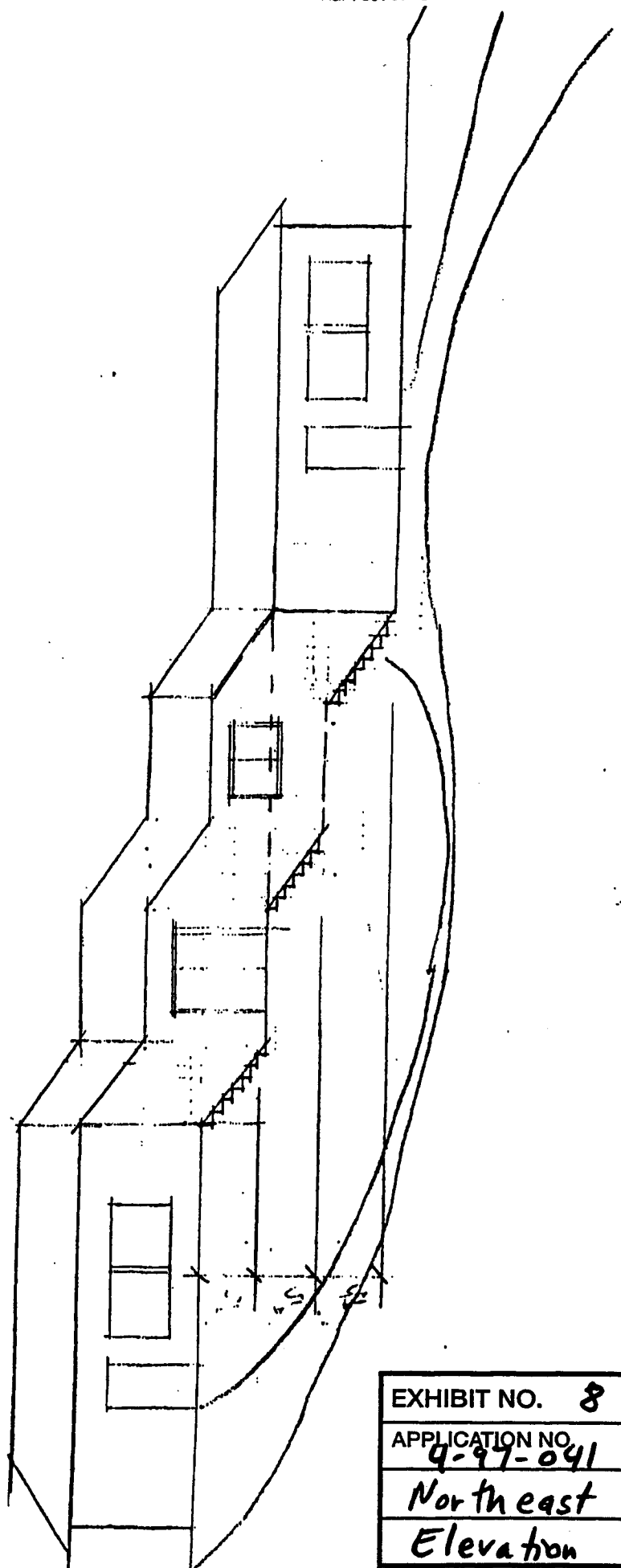


EXHIBIT NO. 8

APPLICATION NO. 9-97-041

North east  
Elevation



SCALE 1" = 100'  
AUGUST 2, 1997

COASTAL ZONE BOUNDARY MAP FOR THE NORTH EAST  
QUARTER OF SECTION 18, TOWNSHIP 1 SOUTH, RANGE  
18 WEST, SAN BERNARDINO MERIDIAN PER BOUNDARY  
DETERMINATION 34-67 DATED JULY 29, 1997

RECEIVED

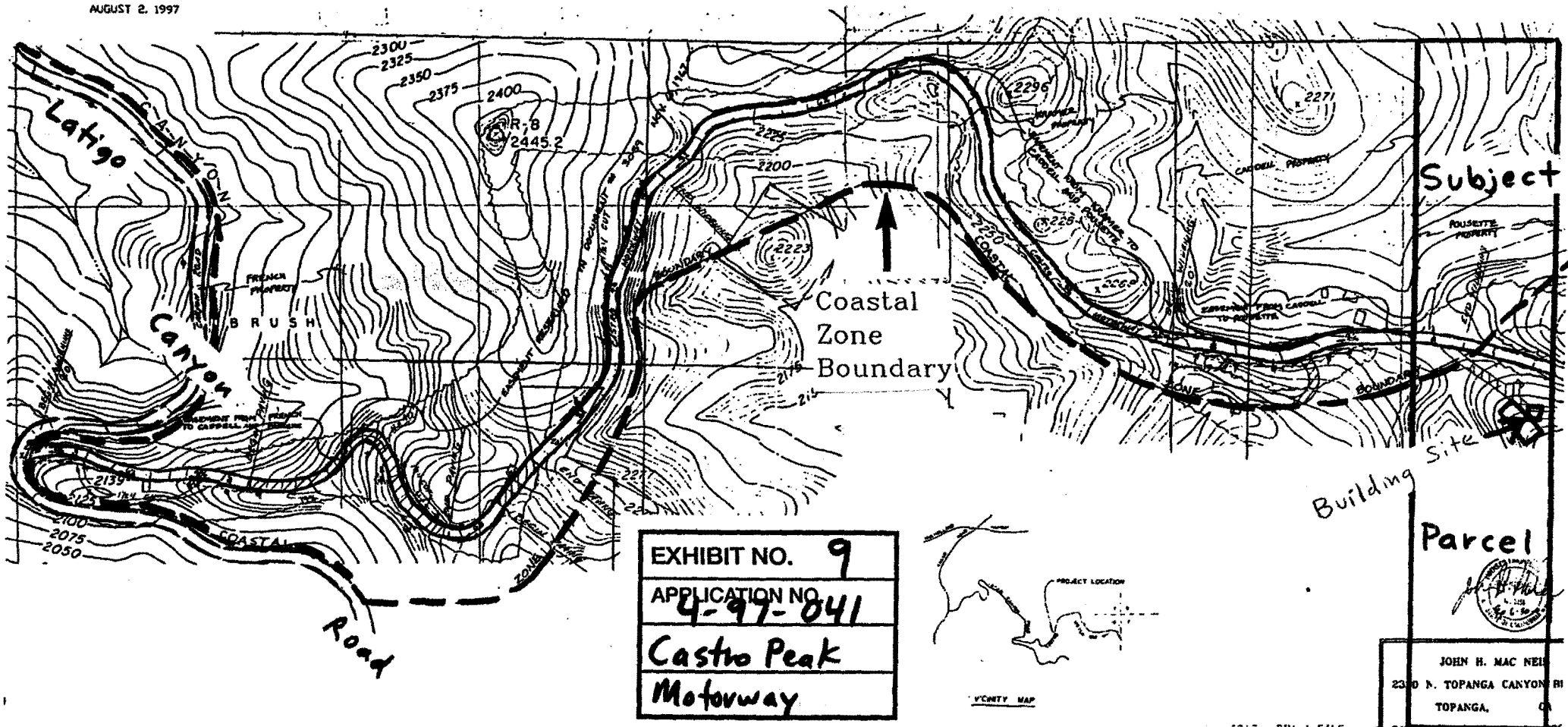
SEP 04 1997

SAN BERNARDINO  
COUNTY COMMISSIONER  
NORTH CENTRAL COAST DISTRICT

RECEIVED

SEP 11 1997

SAN BERNARDINO  
COUNTY COMMISSIONER  
NORTH CENTRAL COAST DISTRICT





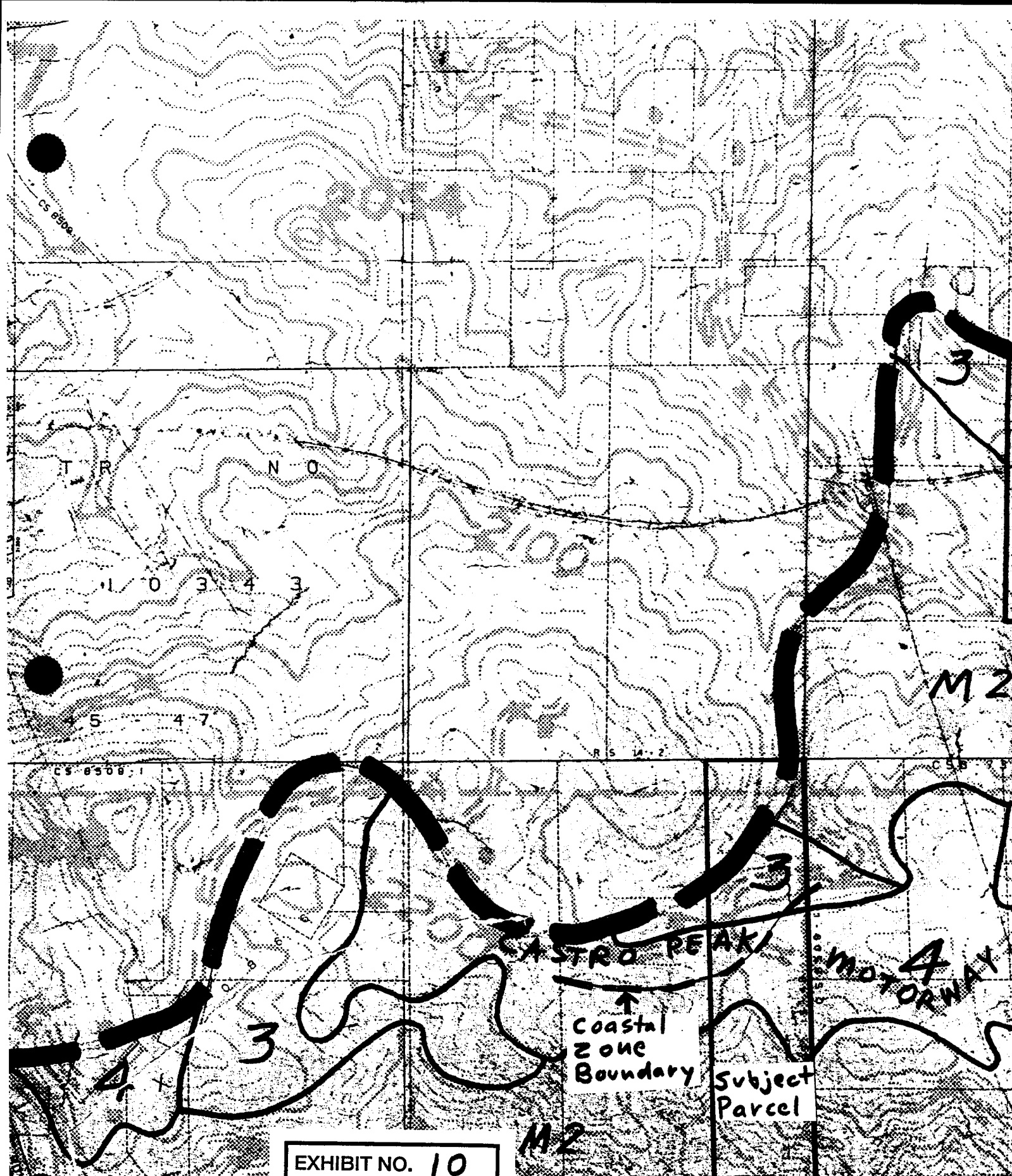
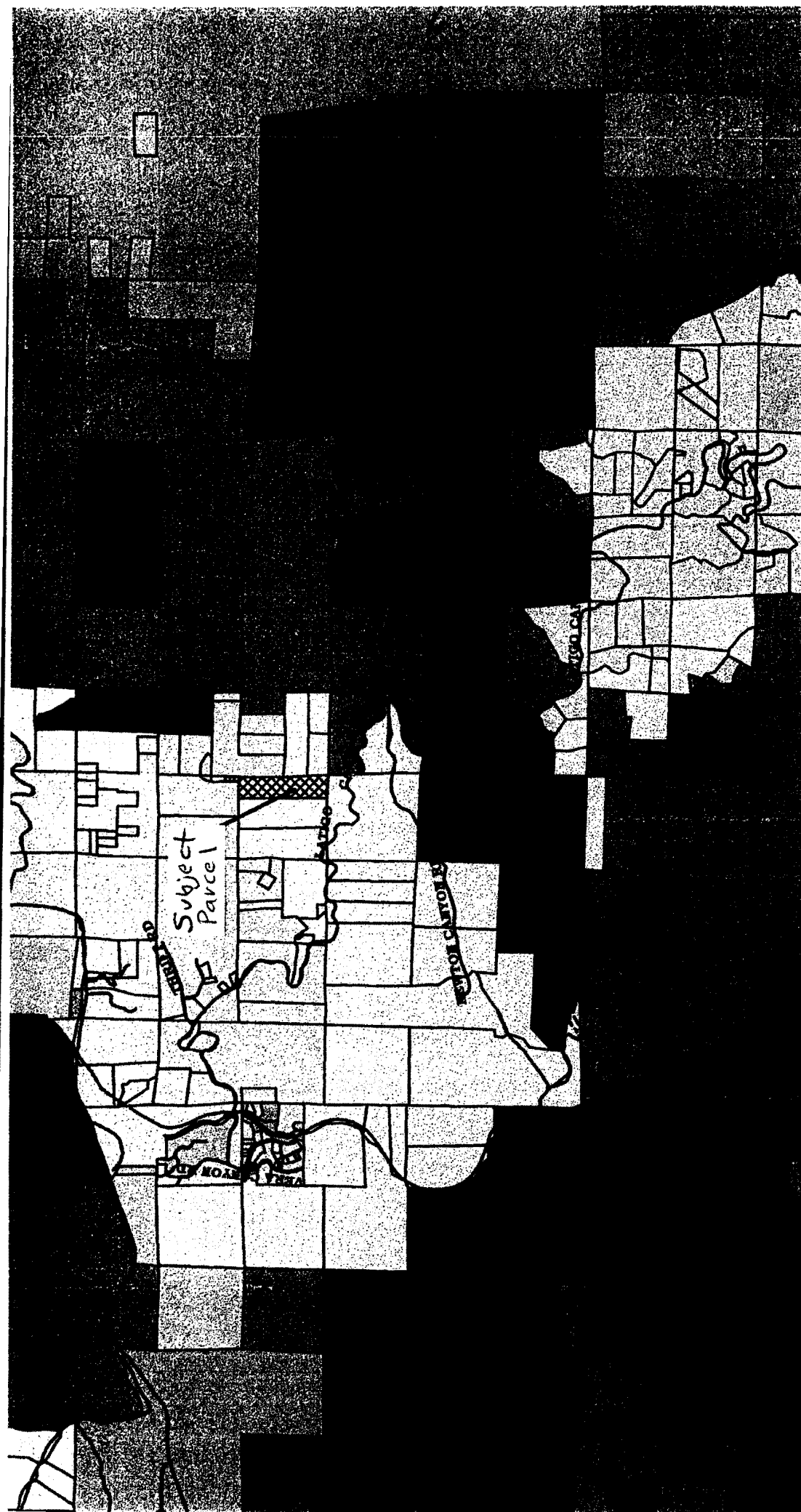


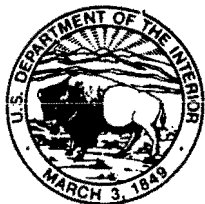
EXHIBIT NO. 10  
APPLICATION NO. 4-97-041  
LA County Land  
Use Designations



- Compatible Private Recreation Land
- Cooperative Planning Area
- Developed Land
- Military Land
- National Park Service Land
- Other Parkland (State)
- Other Public Land
- Proposed National Park Service Easement Acquisition Area
- Proposed National Park Service Fee Acquisition Area
- Proposed State Acquisition Area
- State Conservation Easement Land
- Backbone Trail
- Roads
- Tract 122-26
- Tract Boundaries

Land Protection Strategy Classification

EXHIBIT NO.	11
APPLICATION NO.	4-99-041
NPS Land	
Protection Plan	



IN REPLY REFER TO:

## United States Department of the Interior

### NATIONAL PARK SERVICE

Santa Monica Mountains National Recreation Area  
30401 Agoura Road, Suite 100  
Agoura Hills, California 91301

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SEP 05 1997

L1425  
Tract 122-26

SEP 4 1997

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Mr. James C. Johnson  
Coastal Program Analyst  
California Coastal Commission  
South Central Coast Area  
89 South California Street, Suite 200  
Ventura, California 93001

Dear Mr. Johnson:

This is in response to your request for our input on a coastal development permit to construct a new residence at 1177 Latigo Canyon Road (National Park Service Tract No. 122-26, Pousette). This tract is located within an area identified for easement acquisition in our Land Protection Plan. That determination was based on the desire to protect the scenic viewshed from the Backbone Trail which is located south of the Castro Motorway and is reflected on the attached map. The map also indicates the Land Protection Plan strategies for this area of Castro. You are probably aware of the fact that funding is not currently available, nor is it anticipated in the near future, for acquisition of parcels identified as non-priority Fee or Easement parcels.

We have concerns about paving 1,045 feet of the Castro Motorway and the invitation it presents for further development within a particularly fire sensitive area. In the past, I believe that there has been reluctance to grant development permits due to the lack of available adequate water sources in this area and adequate fire protection.

No determination has been made by the National Park Service on prescriptive rights along fire roads such as the Castro Motorway. To our knowledge, these roads are not currently considered public roads for the purposes of either public or private access even though they are utilized by property owners to access their property. It is our understanding that most fire roads throughout the mountains do not have recorded easement rights to Los Angeles County or

EXHIBIT NO. 12

APPLICATION NO.

4-97-041

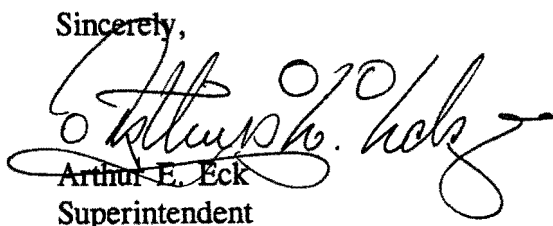
NPS Letter

page 1 of 2

Ventura County describing the extent of such rights. This matter has not been presented to our Solicitor for a formal review.

Thank you for extending the opportunity for us to comment.

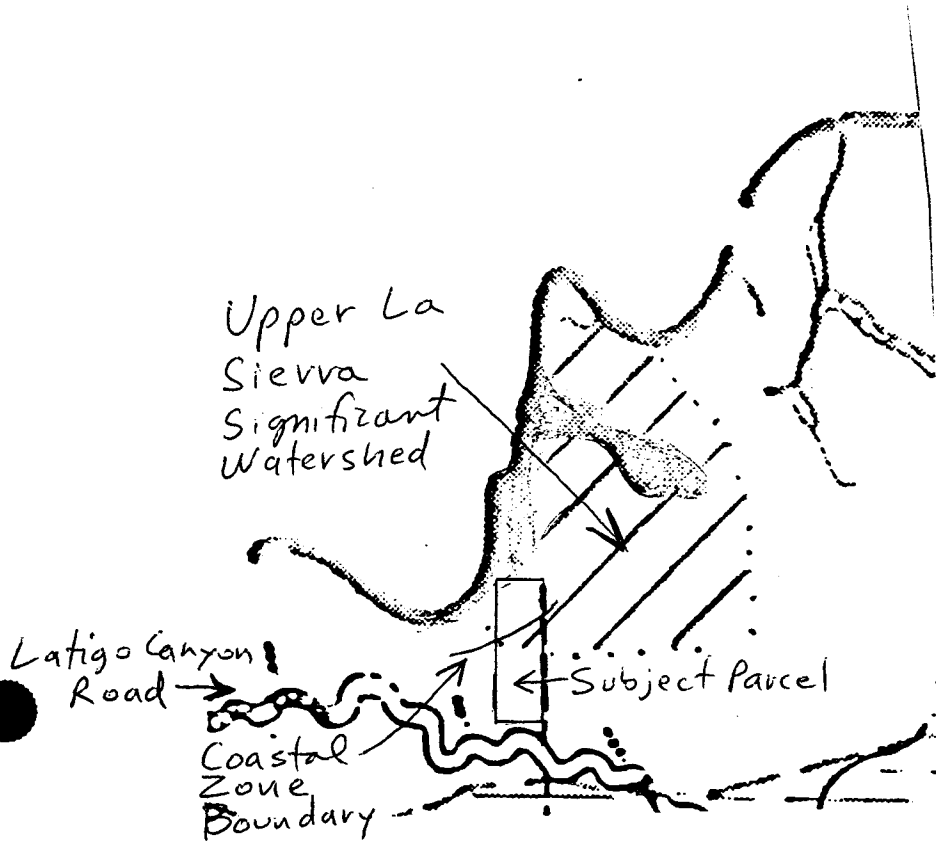
Sincerely,



Arthur E. Eck  
Superintendent

EXHIBIT NO. 12
APPLICATION NO. 4-97-041
NPS Letter
page 2 of 2

# SENSITIVE ENVIRONMENTAL RESOURCES



No Scale  
Los Angeles County Local Coastal Program

Note: The majority of the Upper La Sierra Significant Watershed is located to the north and west of this mapped area.

EXHIBIT NO. 13
APPLICATION NO. 4-97-041
La Sierra Sign.
Watershed

**NATIONAL FOUNDATION FOR ENVIRONMENTAL SAFETY, INC.**

A Non-Profit Corporation

2118 Wilshire Blvd., Suite 184, Santa Monica, CA 90403 (310) 456-2652

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Yoshiko Otani

August 5, 1997

Chairman Rusty Areias  
California Coastal Commission  
1400 N Street  
Sacramento, CA 95814

EXHIBIT NO. 14
APPLICATION NO. 4-97-041
Public Use letter
page 1 of 2

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AUG 08 1997

COASTAL COMM.  
SOUTH CENTRAL COAST DISTRICT

Dear Chairman Rusty Areias and  
Members of the Commission

Application No.: 4-97-041 (Lean Pousette): 1177 Latigo Canyon Road/Castro Peak Motorway, Malibu, CA (claiming private road status and closing off the Castro Peak Motorway Public Trail).

**Project Description:**

The applicant proposes to build a single family home (claiming to correct many existing Coastal Act violations at the same time), in the process closing off Castro Peak Motorway forever for public trail use. We urge you to deny this application unless a public trail is dedicated along Castro Peak Motorway and violations are corrected with adherence to a strict timetable along with continuous monitoring.

**Castro Peak Motorway: A public trail**

Castro Peak Motorway, claimed by the applicant to be a private road, has been an equestrian and hiking trail used by the public since the 1930's and maintained by the Los Angeles County Fire Department (and thus with taxpayers' money at public expense) at least into the 1980's. Attached please see sections of the 1950 and 1970 edition of the Los Angeles County Department of Forester and Fire Warden Maps documenting Castro Peak Motorway. These maps have been used by the State of California in assisting to establish evidence of prescriptive trail easements in the Santa Monica Mountains. I have color-coded the Castro Peak Motorway and marked the applicant's location with an X. I will also be forwarding full-size duplicates of these maps to the South Central Coast Area office for their permanent files.

A short synopsis of the history of Castro Peak motorway is as presented here. During the early 1930's a series of manned fire lookout towers was established by the County Forester & Fire Warden (now known as County Fire Department) on top of major mountain peaks (Temescal Peak Lookout, Topanga Peak Lookout, Castro Peak Lookout, Triunfo Peak Lookout) in the Santa Monica Mountains. These lookout towers were connected via dirt roads -- called motorways -- which ran largely along the mountain crest and interconnected to laterals leading to the inland valley and the ocean. The Castro Peak Motorway was one of these historic roads connecting to the Castro Peak Fire Lookout Tower, serving also as a well-documented public hiking and equestrian trail.

I have utilized the Castro Peak Motorway as a hiking trail since 1959 when I came to this country. My base for hiking throughout the central and western Santa Monica Mountains at this time was the home of western movie actor Wally Ford whose ranch was located near Malibu Lake, just east of what is now known as the present Peter Strauss Ranch. From this home base we regularly hiked up to the Castro Peak Lookout Tower where the patrolman invited us on several occasions to visit the facilities and camp inside the compound. We also extensively hiked along the Castro Peak Motorway and along its laterals leading to the beach as well as towards the present Kanan-Dume Road.

My hiking in the western Santa Monica Mountains and on the Castro Peak Motorway was interrupted from 1966 to 1968 when I went to Northern California to continue my education. From 1968 to the early 1980's I drove the Castro Peak Motorway regularly in my capacity as County forester, initially assisting with supervision of work projects carried out by County Fire Department inmate crews in maintaining the motorways and thereafter conducting vegetation and fire research in the area. During this time I personally witnessed that the motorway was regularly used by hikers and equestrians even though the Fire Department attempted to limit public vehicular use along sections of it and at times also attempted to discourage hiker and equestrian use during high fire danger.

In summary, I strongly urge you to acknowledge the great body of evidence of prescriptive rights use of Castro Peak Motorway as a public trail dating to the 1930's and not to issue any development permits in the area without first requiring adequate public trail easements. I furthermore urge you to reschedule the public hearing on the permit from September 9-12 in Eureka to October in Southern California. Having the meeting in the Santa Monica Mountains area would make it possible for me to attend. I could then present further prescriptive easement documentation to the Commission in the form of historic maps and photographs (taken as early as 1933 from Castro Peak Fire Lookout Tower) that would help document the historic and continuous public use of Castro Peak Motorway as a public trail that was maintained by the County of Los Angeles for many years at public expense.

Sincerely yours,

*Klaus Radtke*

Klaus Radtke, Ph.D.  
Wildland Resource Sciences  
Vice President

EXHIBIT NO. 14
APPLICATION NO. 4-97-841
Public Use Letter
page 2 of 2

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200



September 10, 1997

## MEMORANDUM

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SEP 11 1997

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

To: James Johnson  
South Central Coast Area Office

From: Jayson Yap *JY*  
Technical Services Division

Re: Boundary Determination 34-97  
Castro Peak Motorway

Per your request I have reviewed the map prepared by John H. MacNeil showing the properties of the above referenced boundary determination, Castro Peak Motorway and the Coastal Zone Boundary. Based on the information available (Coastal Zone Boundary Map #134, Boundary Determination 34-97), the Coastal Zone Boundary on the prepared map is correct in showing that the portion of Castro Peak Motorway in question lies outside of the Coastal Zone.

Also per your request I have enclosed copies of the relevant boundary work and correspondence that has taken place over the past few months. Please feel free to contact me if you have any questions regarding this material.

encl.

EXHIBIT NO. 15
APPLICATION NO. 4-97-041
CZBD
Motorway