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**CALIFORNIA COASTAL COMMISSION**

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Filed: 7/14/97  
49th Day:  
180th Day:  
Staff: JLR:LB  
Staff Report: 7/24/97  
Hearing Date: 8/12-15/97  
Commission Action:



STAFF REPORT: APPEAL  
SUBSTANTIAL ISSUE

**RECORD PACKET COPY**

LOCAL GOVERNMENT: City of Los Angeles

DECISION: Approval with Conditions

APPEAL NO.: A-5-PPL-97-141

APPLICANT: Robert and Audrey Cowan AGENT: Lynn Heacox

PROJECT LOCATION: 435 Upper Mesa Road, Pacific Palisades, Los Angeles County

PROJECT DESCRIPTION: Appeal by Alexander Man/FOCUS from decision of City of Los Angeles granting permit to Robert and Audrey Cowan to construct a 4-story single-family residence.

APPELLANT: Alexander Man/FOCUS

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed for the following reasons: The proposed project is compatible with the character of the community and the project as approved conforms to Coastal Act and previous Commission actions and will not prejudice the ability of the local government to prepare a Local Coastal Program consistent with the Coastal Act.

I. APPELLANT'S CONTENTIONS

The appellant, Alexander Man/FOCUS, has appealed the City of Los Angeles decision to approve Local Development Permit CDP 95-004 for a 4-story single-family residence. The basic issue raised by the appellant is blockage of public views from a public street (See Exhibit B letter).

II. APPEAL PROCEDURES

Section 30600(b) of the Coastal Act provides that prior to certification of

its Local Coastal Program, a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval, or denial of a Coastal Development Permit. Pursuant to this provision, the City of Los Angeles developed a permit program in order to exercise its option to issue Local Coastal Development Permits in 1978.

Sections 13302-13319 of the California Code of Regulations provide procedures for issuance and appeals of locally issued Coastal Development Permits. Section 30602 of the Coastal Act allows any action by local government on a Coastal Development Permit application evaluated under Section 30600(b) to be appealed to the Commission.

After a final local action on a Local Coastal Development Permit, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a twenty working day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission (Section 30602).

At this meeting, the Commission will have a public hearing to determine whether a substantial issue exists with respect to the grounds on which the appeal has been filed. The Commission may decide that the appellants' contentions raise no substantial issue of conformity with the Chapter 3 policies of the Coastal Act, in which case the action of the local government stands. On the other hand, the Commission may find that a substantial issue does exist with the action of the local government if it finds that the proposed project may be inconsistent with the Chapter 3 policies of the Coastal Act of 1976.

If the Commission finds that a substantial issue does exist, then the hearing may be continued open and scheduled to be heard as a de novo permit request at a subsequent hearing. Section 13321 specifies that de novo actions will be heard according to the procedures outlined in Section 13114 of the Code of Regulations.

### III. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that No Substantial Issue exists with respect to the City's approval of the project with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to PRC Section 30625(b)(1).

MOTION. Staff recommends a YES vote on the following motion:

I move that the Commission determine that Appeal No. A-5-VEN-6-035 raises No Substantial Issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

#### IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

##### A. Project Description and Background

The applicant proposes to construct a 4,400 sq. ft., 4-story, 46.5' high single-family residence with an attached 2-car garage. The proposed residence has been under construction for several months and has received final City approvals from the Planning Department, Grading Department and Building Department. The City inadvertently failed to notify the Commission office of the issuance of "final action" and thus no appeal period commenced. Subsequently, on May 5, 1997, the appellant notified the South Coast Commission office that no notice of Final Local Action had occurred at the subject property. In that letter (See Exhibit B) the applicant also filed the appeal. The 20 day appeal period terminated on July 14, 1997 and the appeal was officially filed with the Commission on that day.

The appellant contends that the proposed project is located in the "dual permit" jurisdiction area and therefore also requires a coastal development permit from the Commission. However, according to the official Commission Coastal maps that is not the case. The project is located in the "single permit" jurisdiction area and would not require a permit from the Commission. However, all projects whether located in the single or dual permit areas, are appealable to the Commission.

The residence will be constructed on a steep 2:1 descending slope. There is approximately 52 feet in elevation from Upper Mesa Road to the lowest grade elevation on the western edge of the site. The lower level was previously improved with a small residence constructed over a 2-car garage which were subsequently demolished. The lower level has access from an easement on Mesa Road, a parallel street lower on the hill. The subject site is located approximately four blocks inland of Pacific Coast Highway on a very narrow 20' wide residential street.

Following is a description of the site as excerpted from a City staff report:

The subject property is a sloping, almost rectangular-shaped, interior, record lot, having a frontage of approximately 45 feet on the west side of Upper Mesa Road and an approximate depth of 119 feet. The property features a steep downslope from Upper Mesa Road to the existing one-story residence that is accessed from an easement on Mesa Road. The portion of the subject site to be developed is accessed from Upper Mesa Road and is currently vacant land.

Surrounding properties are within the R1 Zone and are characterized by hillside topography, and narrow streets. The surrounding properties are developed with two- and three-story single-family dwellings. Some residences are cantilevered over the canyon.

Upper Mesa Road, adjoining the subject property to the east, is a local street dedicated to a width of 50 feet and improved with asphalt and rolled berms. However the actual pavement width is 20 feet.

## B. Substantial Issue Analysis

As stated in Section III of this report, any local government Coastal Development Permit may be appealed to the Commission. However, the grounds for an appeal of a Coastal Development Permit issued by the local government prior to certification of its Local Coastal Program are limited to the Chapter 3 policies of the Coastal Act. The Commission shall hear an appeal unless it determines that no substantial issue exists as to conformity with Chapter 3 policies of the Coastal Act. In this case, staff has recommended that no substantial issue exists with respect to the grounds on which the appeal has been filed.

The basic issue raised by the appellant, Alexander Man, addresses public views from the public street. The proposed residence will be one-story above the street level and the other 3-levels will be below the descending hillside. The level above the street will contain a 2-car garage consistent with other nearby development on either side of the subject site.

Although the appellant has not addressed any specific policies in Chapter 3 of the Coastal Act, the appellant's contentions do allude to the Coastal Act issue of community character. Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline 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.

Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas be protected and that permitted development be visually compatible with the character of surrounding areas.

The appellant states that the house should not be any higher than street level. Specifically the appellant states that "I frequently take my walks along this part of Upper Mesa Road. If its built to the height approved in the CDP 95-004, I, and other walkers will no longer have broad horizon views of the Pacific Ocean."

The applicant's representative states that the house is located in a designated "Calvo" exclusion area but did not qualify for an exemption because of a pre-existing small residence above a garage. The applicant states that a coastal development permit would not have been required if the lot had been vacant. Specifically, the representative states the following:

The home being constructed is located within a Coastal Commission Calvo exclusion area. As you know, the Calvo exclusion areas were specifically drafted to include all areas of the coastal zone where the construction of

a single family home on a legal lot would have "...no potential, either individually or cumulatively, for significant adverse impacts on highly scenic resources of public importance, on environmentally sensitive areas, on prime agricultural land or on agricultural lands currently in production, or on public access to or along the coast.

The State Coastal Commission clearly recognized, in 1979 when the Calvo exclusion areas were being drafted by their staff, that the development of new homes in this area would not have any significant impacts on "...highly scenic resources of public importance..." The home has been designed in cooperation with the neighbors, includes five enclosed on-site parking spaces (consistent with the City's Hillside Ordinance) and is completely compatible with the character of the surrounding area. A similar home on this property was approved by the city in 1986 and not appealed to the Coastal Commission (that approval has expired). Other homes have also been constructed in the Calvo exclusion area under similar circumstances without Coastal Development Permits. There are no substantive Coastal Act issues involved in the development of this home.

The subject site has an extensive permit history. In 1986, the City approved a 5-level, 64' high residence. The applicant has abandoned those previous plans. Subsequently, in 1995, the City Zoning Administrator approved a 4-level, 55' high residence. That approval was appealed to the Board of Zoning Appeals. Based on neighborhood concerns, the BZA reduced the height of the structure from 55' to 46.5'. That approval resulted in a residence that would be one-story above the street level consistent with the adjacent developed parcels.

Following is a relevant finding that the City made when granting the variance:

13. The granting of such variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located.

The applicant has submitted the following in support of this required finding:

The topography of the site, the alignment of the road and the desire for improved vehicular access, dictate the design envelope of the residence. Redesigning this home by reducing its height to one story above the street at Upper Mesa Road will have no effect on property owners located immediately below the homesite. This is because the upper floor has been purposely designed with a larger rear yard setback and is screened from view by the lower floors. The number of stories below road elevation has no effect on property owners above the site or as seen from the street. Imposing a design standard on this site other than what is proposed cannot provide any material benefit to any adjacent property owner. The residence as proposed can comply with all aspects of the Uniform Building Code.

The surrounding area is developed with numerous multi-level residences. The prevailing pattern of newer development is 3-5 levels in height. Many of these structures extend one story over the street for garage access and then cascade down the slope, as does this proposed structure. The City's final approval 4-levels and one-story above the street level was consistent with this pattern of development.

The Commission's actions have also been consistent with this pattern. In May, 1991, the Commission approved a similar structure (5-91-105) approximately one block from the subject site.

In that decision, as in the present instance, the Commission found that a structure no more than one story above the road would be subordinate to the setting, consistent with community character and consistent with Section 30251. In its previous decisions, the Commission has not required projects to limit their heights to the level of the frontage road when other structures extend above the road. Because other houses on this block extend above the road, the Commission finds that there is no substantial issue with respect to the project's consistency with the Coastal Act. The proposed project is compatible with the character of the community and the project as approved by local government conforms to the Coastal Act and previous Commission actions and will not prejudice the ability of the local government to prepare a Local Coastal Program consistent with the Coastal Act.

Therefore, the Commission finds that No Substantial Issue exists with respect to the proposed project's conformance with the Chapter 3 policies of the Coastal Act, or the approval of Local Coastal Development Permit 95-004, and that Appeal No. A-5-PPL-97-141 raises no substantial issue with respect to the grounds on which the appeal has been filed.

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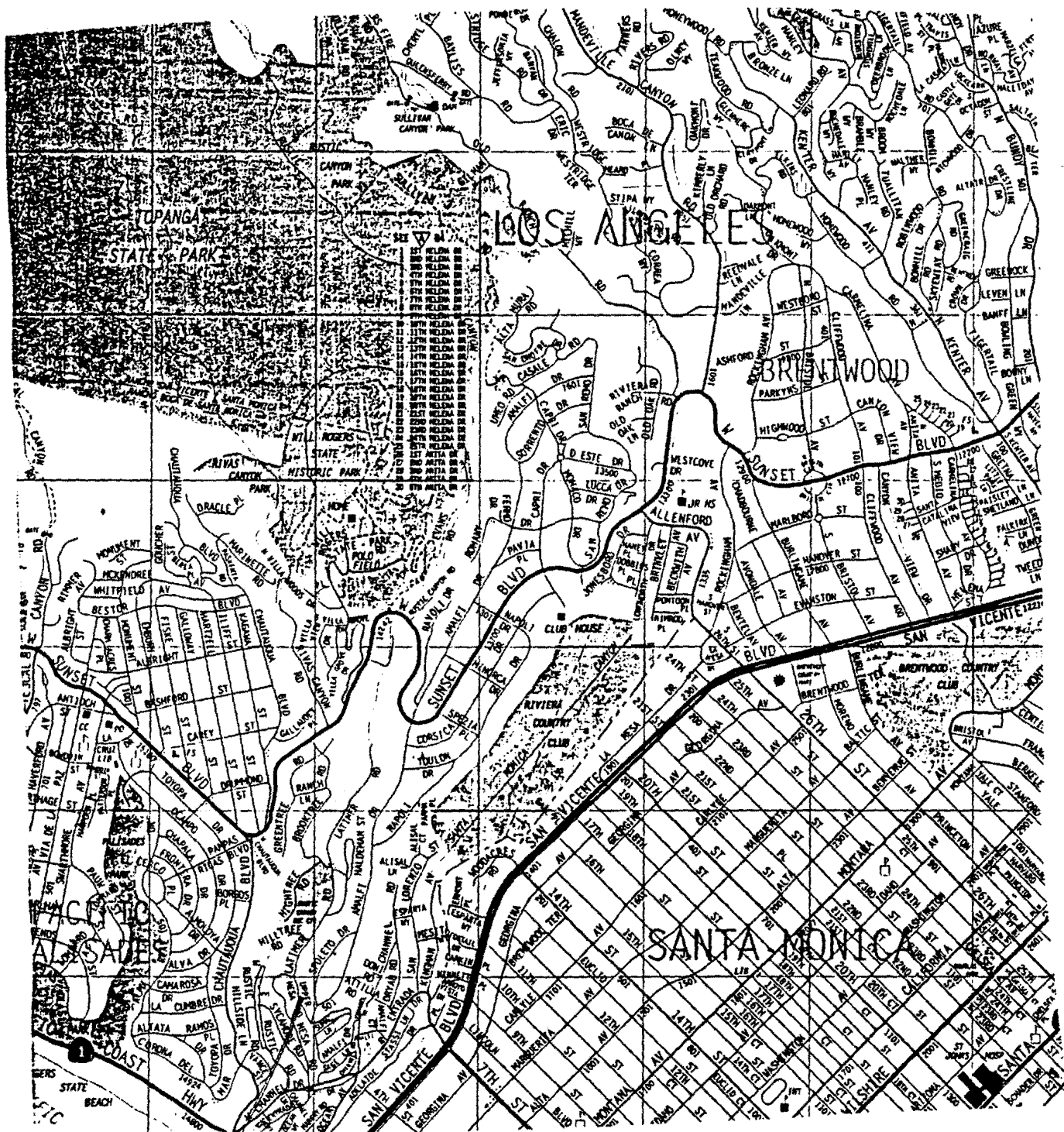
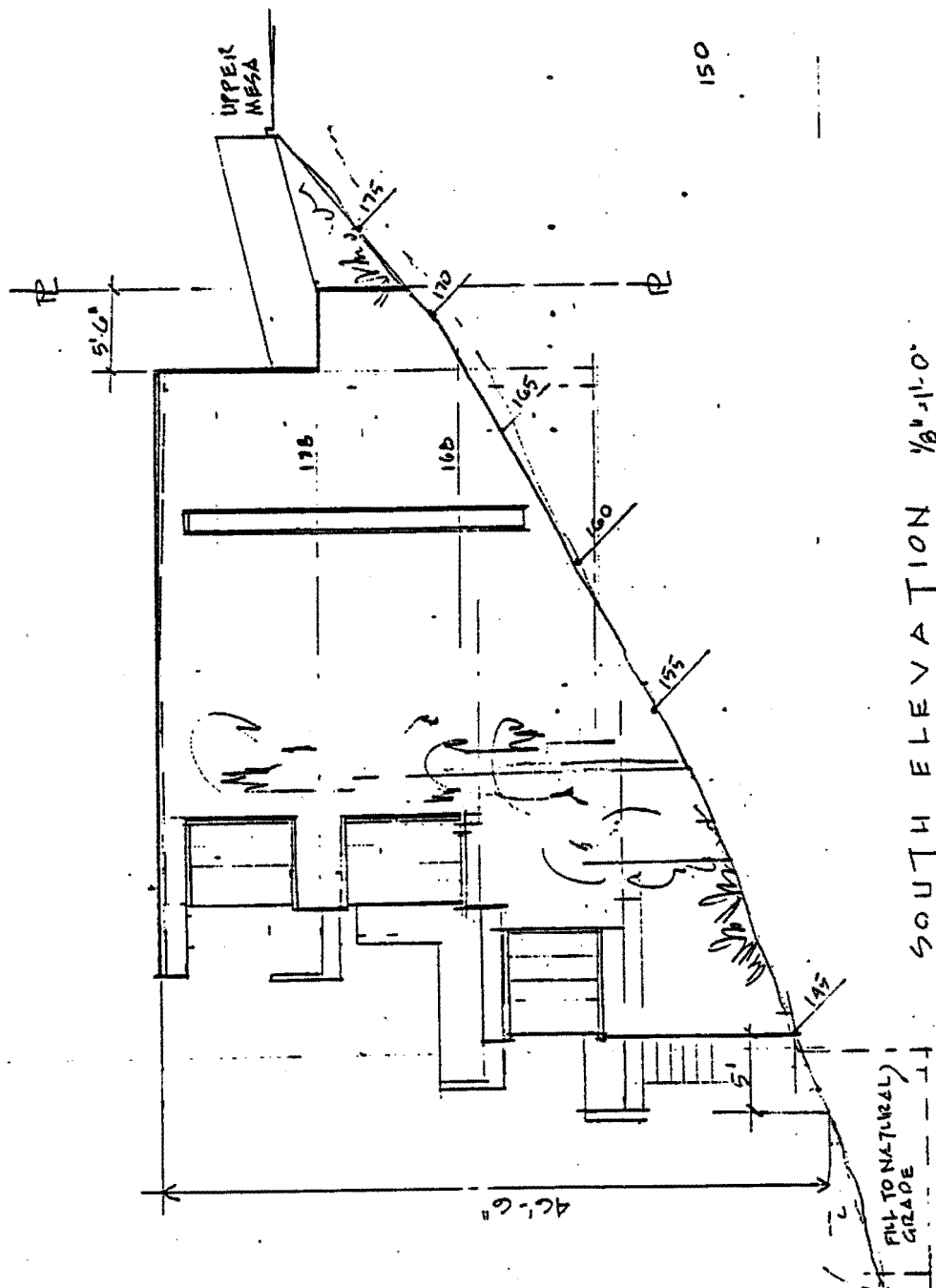


Exhibit A

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SOUTH ELEVATION 1/8"=1'-0"

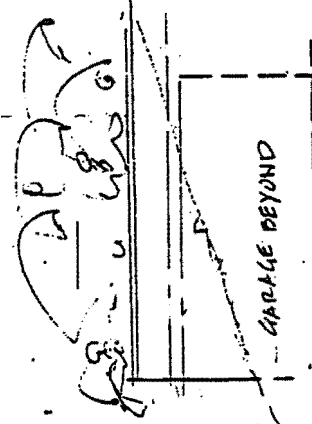


Exhibit B  
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1/14/96 EXHIBIT B 2d/8



CONDITIONS OF APPROVAL

The conditions and requirements of Zoning Administration Case No. 95-0318-YV have not been modified substantially, except as indicated below.

1. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
2. The use and development of the property shall be in substantial conformance with the plot/floor/elevation plans submitted with the application and marked Exhibit "A" "A-1", except as may be revised as a result of this action. The building height shall not exceed 46.5 feet.
  - a. The development and structure as restricted shall observe: a maximum 10-foot height above adjacent easterly street grade level; a 0-foot front yard setback only for the below street grade middle and lower floors; a structure build out envelope shall be no greater than the building elevations as depicted in scale in the subject exhibit; a westerly projection of the structure for each floor level, including balconies and architectural features, shall be no greater than the building elevations as depicted in scale in the subject exhibit.
  - b. The existing structure(s) on the westerly side of the property shall be completely removed.
  - c. The grant clause and all conditions of approval shall be provided in the "Notes" portion on the building plans submitted to the Zoning Administrator and the Department of Building and Safety. (Modified by BZA 1-30-96)
3. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective conditions, if, in the Administrator's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. Off-street parking shall be provided and maintained consistent with applicable provisions of the Municipal Code.
5. The applicant shall secure Fire Department Plot Plan approval prior to the issuance of a building permit. Such plot plan approval shall consider but not be limited to

Exhibit C

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interior fire sprinklers; boxed-in eaves; single pane, double thickness or insulated windows; non-wood siding and 2-inch nominal thickness of exposed wooden members.

6. The Department of Building and Safety shall determine whether or not the geologic and soils reports are required and adequate prior to issuing any permits. Runoff and drainage controls plans shall be provided to the satisfaction of the Department of Building and Safety.
7. Grading and foundation work shall be confined to the dry season – April 15 through November 15, or as otherwise set forth in Section 91.7002(e) of the Municipal Code.
8. Construction activities shall take place only within the following schedule:
  - a. Monday through Friday - 7:30 a.m. to 5:30 p.m.
  - b. Saturday - 10 a.m. to 3 p.m.
  - c. Sunday - Prohibited
9. Upper Mesa Road shall remain open and unobstructed for a minimum of 10 feet in width during construction.
10. Building height shall not exceed three stories or ~~55~~ 46.5 feet in height. (Modified by BZA 1-30-96)
11. The grant clause and conditions of approval shall be included in the "Notes" portion of the plans submitted to the Zoning Administrator and other public agencies for sign-off and approval.
12. Prior to the issuance of any certificate of occupancy, the owner of the property shall fully dedicate and improve Upper Mesa Road adjoining the subject property, including sidewalk fill-in, street trees, street lights and fire hydrants, to the satisfaction of, respectively, the Bureau of Engineering, Bureau of Street Lighting and the Fire Department, or post bonds suitably guaranteeing improvements, all at no expense to the City of Los Angeles.

Exhibit C  
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