

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
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Staff: S. Hudson  
Staff Report: 9/24/98  
Hearing Date: October 13, 1998  
Commission Action:

**STAFF REPORT: CONSENT CALENDAR**

**APPLICATION NO.:** 4-96-219

**APPLICANT:** Los Angeles County Department of Public Works

**PROJECT LOCATION:** Mulholland Highway, approximately 830 ft. east of Cold Canyon Road, Los Angeles County (APNs: 4455-018-027 and 028).

**PROJECT DESCRIPTION:** The applicant is requesting approval for 2,500 cu. yds. of grading (fill) and landscaping in follow-up to an emergency permit issued for slope restoration.

**LOCAL APPROVALS RECEIVED:** N/A

**SUBSTANTIVE FILE DOCUMENTS:** Standard Specifications for Public Works Construction dated 1997; Emergency Coastal Development Permit 4-95-18.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends approval of the proposed project with three (3) special conditions regarding a revegetation and erosion control monitoring program, assumption of risk, and condition compliance. The Los Angeles County Department of Public Works (LACDPW) is requesting approval for 2,500 cu. yds. of grading (fill) and landscaping in follow-up to an emergency permit issued for slope restoration. The proposed grading has been previously carried out and was required to stabilize Mulholland Highway which had become undermined as a result of a slope failure during the 1996 storm season. The project site is located adjacent to and upslope from an area designated by the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) as a significant watershed for the Santa Monica Mountains and more than 1,200 ft. from Cold Creek. With the required special conditions, the project will be in conformance with the policies of the Coastal Act relating to new development, habitat protection, and geologic hazards.

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

**I. Approval with Conditions**

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in 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. Revegetation and Erosion Control Monitoring Program**

(a) Prior to the issuance of a coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, a three (3) year Monitoring Program, prepared by a landscape architect or resource specialist, which outlines revegetation performance standards to ensure that revegetation efforts at the project site are successful. Successful site restoration shall be determined if the revegetation of native plant species on site is adequate to provide 90% coverage by the end of the three (3) year monitoring period and is able to survive without additional outside inputs, such as supplemental irrigation.

(b) The applicant shall submit, for the review and approval of the Executive Director, written annual reports, beginning after the first year following implementation of the restoration program and include recommendations for mid-program corrections, if necessary. At the end of a three (3) year period, a final detailed report shall be submitted for review and approval of the Executive Director. If this report indicates that the restoration project has in part, or in whole, been unsuccessful, based on the performance standards outlined in the monitoring program, the applicant shall be required to submit a revised or supplemental program to compensate for those portions of the original program which were not successful. The revised, or supplemental, revegetation program shall be processed as an amendment to this coastal development permit.

#### **2. Applicant's Assumption of Risk**

Prior to the issuance of the coastal development permit, the applicant shall submit an executed agreement, in a form and content acceptable to the Executive Director, that provides that the applicant understands that (a) the site may be subject to extraordinary hazard from erosion or slope failure and that the applicant assumes the risks from such hazards; and (b) the applicant unconditionally waives any claim of liability against the Commission and agrees to indemnify and hold harmless the Commission, its offices, agents, and employees relative to the Commission's approval of the project for any damage due to natural hazards.

#### **3. Condition Compliance**

Within 90 days of Commission action on the permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to the issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

## **IV. Findings and Declarations**

The Commission hereby finds and declares:

### **A. Project Description and Background**

The applicant is requesting approval for 2,500 cu. yds. of grading (fill) and landscaping in follow-up to an emergency permit issued for slope restoration. All work has been previously carried out. The project site is located within the road shoulder and the fill slope for Mulholland Highway approximately 830 ft. east of Cold Canyon Road (Exhibit One). Although the project site is not located within an environmentally sensitive habitat area and no streams cross the project site, the Commission notes, however, that the project site is located adjacent to and upslope from an area designated by the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) as a significant watershed for the Santa Monica Mountains.

Emergency Coastal Development Permit 4-96-219-G was issued on January 2, 1996, for the restoration of an eroded highway shoulder/slope in imminent danger of slope failure. The slope restoration activity involved the import of the above mentioned 2,500 cu. yds. of fill soil for the reconstruction of a 1.5:1 (34°) slope, and the revegetation of the reconstructed slope with a native seed mix.

### **B. Hazards**

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

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

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

The Los Angeles County Department of Public Works (LACDPW) is requesting approval for 2,500 cu. yds. of grading (fill) and landscaping for slope restoration in follow-up to an emergency permit issued for slope restoration. All work has been previously carried out. All grading to reconstruct the failed slope was implemented in accordance with the project

plans prepared by the engineers for the LACDPW and with the guidelines contained within the "Standard Specifications for Public Works Construction" dated 1997. The LACDPW and Commission staff have confirmed through inspection of the site prior to construction that the proposed grading was required to stabilize Mulholland Highway which had become undermined as a result of a slope failure on the downward slope roadway shoulder of Mulholland Highway during the 1996 storm season.

The Commission finds that the minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants compatible with the surrounding environment. The applicant has indicated that the re-constructed fill slope was covered with Jute Soil Saver and seeded with a native seed mix consisting of 19 different plant species indigenous to the Santa Monica Mountains and compatible with the Chaparral and Coastal Strand vegetation immediately after the grading activity was conducted. To ensure that the revegetation of the reconstructed fill slope is successful, Special Condition One (1) requires the applicant to implement a revegetation and erosion control monitoring program for the project site for a period of three (3) years. Monitoring shall include the submittal of annual reports to the Executive Director which shall indicate the progress of the revegetation and erosion control program and shall include any recommendations for modifications to the project if the initial restoration effort fails. Further, in order to ensure that the revegetation and erosion control monitoring program is implemented in a timely manner, Special Condition Three (3) requires the applicant to satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action.

In addition, the Commission notes that the proposed development is located in an area of the Coastal Zone subject to slope failure and erosion hazards. The Coastal Act recognizes that certain development, such as the reconstruction of the road shoulder/fill slope for Mulholland Highway, 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 determine 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.

As such, the Commission finds that due to the unforeseen possibility of erosion and slope failure, the applicant shall assume these risks as a condition of approval. Therefore, Special Condition Two (2) requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

### **C. Environmentally Sensitive Habitat Area**

Section 30230 of the Coastal Act states that:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 states:

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

Section 30240 states:

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

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

Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural 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.

Although the project site is not located within an environmentally sensitive habitat area and no streams cross the project site, the Commission notes, however, that the project site is located adjacent to and upslope from an area designated by the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) as a significant watershed for the Santa Monica Mountains and approximately 1,200 ft. from Cold Creek. To assist in the determination of whether a project is consistent with sections 30230, 30231 and 30240 of

the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the certified Malibu/ Santa Monica Mountains LUP for guidance. The Malibu LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. The Malibu/Santa Monica Mountains LUP policies regarding protection of significant watersheds are among the strictest and most comprehensive in addressing new development. In its findings regarding the certification of the Malibu/Santa Monica Mountains LUP, the Commission emphasized the importance placed by the Coastal Act on protection of sensitive environmental resources finding that:

*Coastal canyons in the Santa Monica Mountains require protection against significant disruption of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.*

In addition, Policy 82 of the LUP, in concert with the Coastal Act, provides that grading shall be minimized to ensure that the potential negative effects of runoff and erosion on watershed and streams is minimized. Policies 84 and 94, in concert with the Coastal Act, provide that disturbed areas shall be revegetated with native plant species within environmentally sensitive habitat areas and significant.

In the case of the proposed project, the Commission finds that the proposed 2,500 cu. yds. of grading was required to reconstruct a failed slope and to stabilize Mulholland Highway which had become undermined as a result of the slope failure during the 1996 storm season. The Commission notes, however, that increased erosion on site would subsequently result in a potential increase in the sedimentation of the downslope significant watershed area and Cold Creek. The Commission finds that the minimization of site erosion will minimize the project's potential individual and cumulative contribution to adversely affect the adjacent watershed and stream. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. Therefore, to ensure that the revegetation of the reconstructed fill slope previously carried out by applicant is successful, Special Condition One (1) requires the applicant to implement a revegetation and erosion control monitoring program for the project site for a period of three (3) years. Monitoring shall include the submittal of annual reports to the Executive Director which shall indicate the progress of the revegetation and erosion control program and shall include any recommendations for modifications to the project if the initial restoration effort fails. Further, in order to ensure that the revegetation and erosion control monitoring program is implemented in a timely manner, Special Condition Three (3) requires the applicant to satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action. Therefore, the Commission finds that the proposed amendment, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

## **D. Local Coastal Program**

Section 30604 of the Coastal Act states that:

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

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

## **E. CEQA**

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

The Commission finds that, 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, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

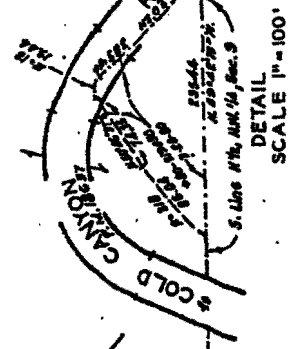
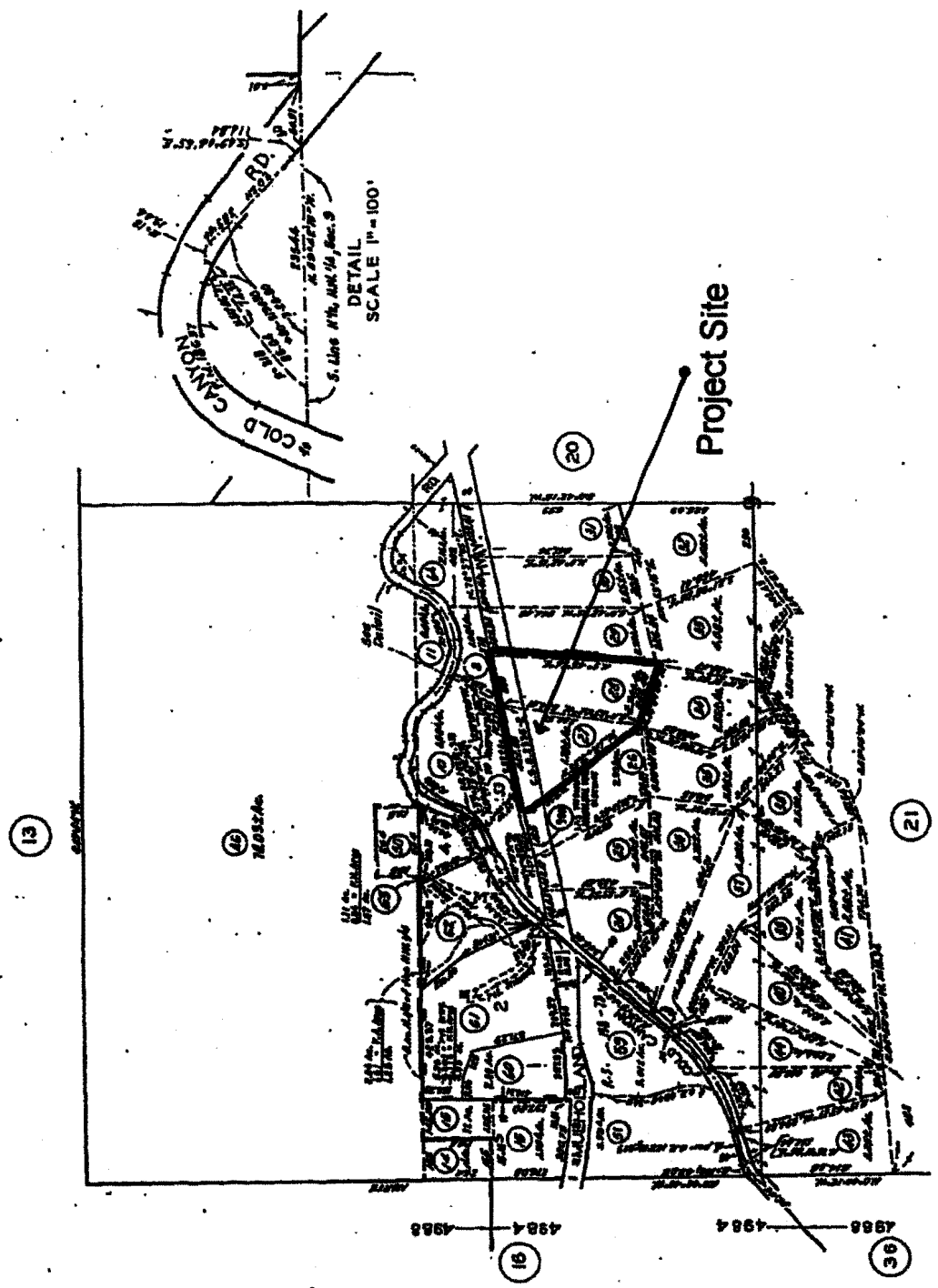
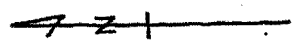
**SMH-VNT**

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4455 18  
SCALE 1" = 400'



ASSESSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.

Exhibit No. 2: (4-96-219) Parcel Map

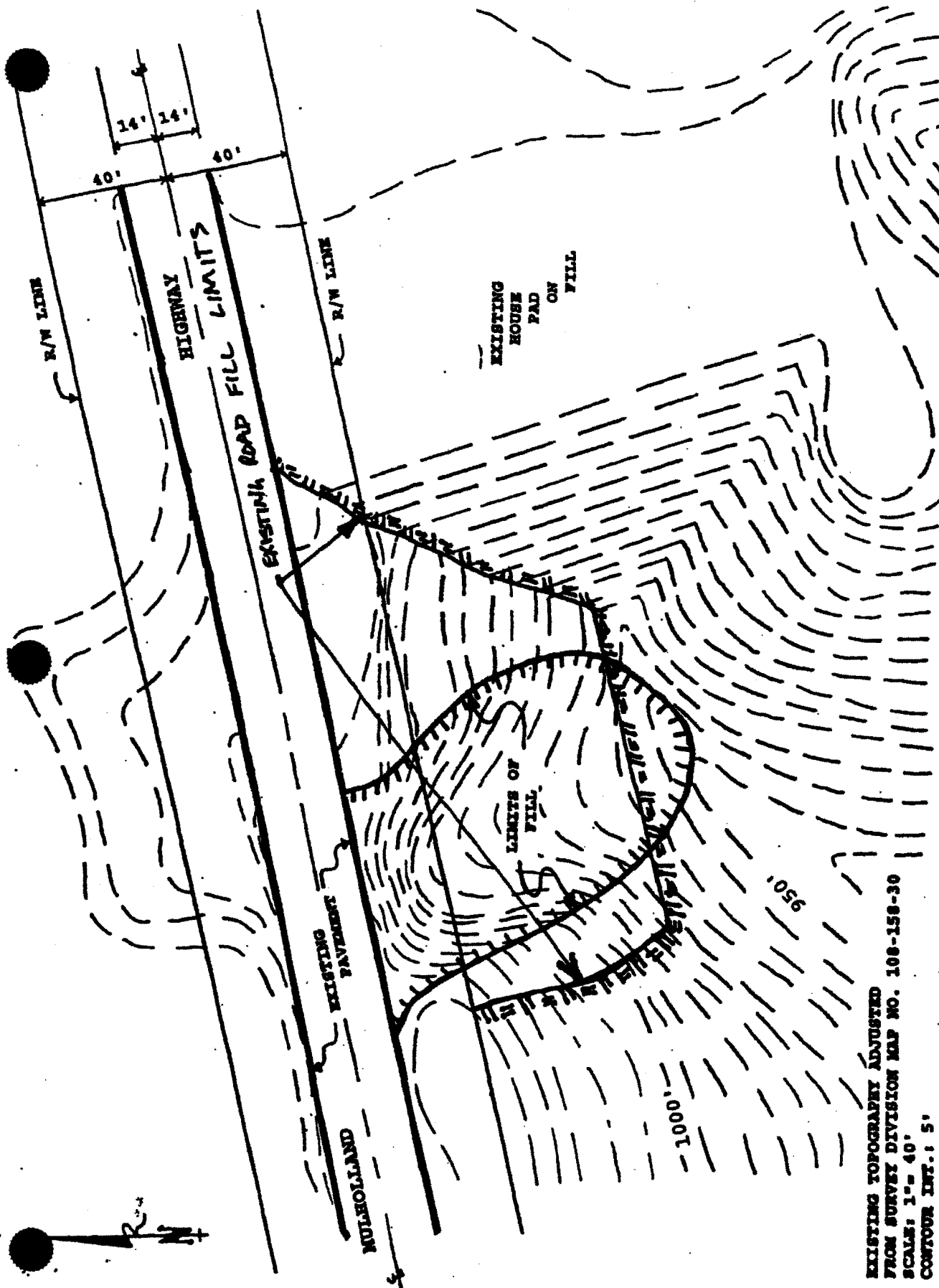


Exhibit No. 3: (4-96-219) Site/Grading Plan

