

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Hearing Date: April 9, 1998

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-97-227

APPLICANT: Dr. William Treiger

AGENT: Donald Schmitz

PROJECT LOCATION: 22766 Saddle Peak Road, City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of a 4,100 sq. ft., 31 ft. 6 in. high from existing grade single family residence with attached three car garage, septic system, pool, landscaping, and paving an existing access road. There is no proposed grading.

Lot area:	1.55 acres
Building coverage:	5,400 sq. ft. new proposed
Pavement coverage:	4,300 sq. ft. new proposed
Parking spaces:	3 new proposed
Landscape coverage:	5,700 sq. ft. proposed
Parking Spaces	3
Ht abv fin grade:	31 ft., 6 in.

LOCAL APPROVALS RECEIVED: L.A. County Regional Planning Approval-in-Concept, L.A. County Health Department Approval, L.A. County Fire Department Approval

SUBSTANTIVE FILE DOCUMENTS: Malibu/ Santa Monica Mountains Land Use Plan, The Final Compaction Report and As-Built Geologic Report dated July 5, 1990 by Robertson Geotechnical, Inc., Updated Engineering Geologic Report dated January 27, 1998 by Gold Coast GeoServices, Inc., Coastal Development Permit 5-83-766 (Goodstein and Watson), Coastal Development Permit 5-84-274 (Watson), Coastal Development Permit 4-92-217 (Zwan).

SUMMARY OF STAFF RECOMMENDATION:

The applicant is proposing a 4,100 sq. ft., 31 ft. 6 in high single family residence with an attached three car garage, septic system, paving of an existing access road, pool, and landscaping. The applicant does not propose any grading of the site. Staff recommends approval with special conditions regarding landscaping, drainage and erosion control, waiver of wildfire liability, conformance with geologic recommendations, and future improvements.

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, as conditioned, 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 governments 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 this permit is reported to the Commission. 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 in the application for permit, subject to any special conditions 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 project during its development, 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. Landscaping and Fuel Modification Plans

Prior to issuance of the coastal development permit, the applicant shall submit landscaping and fuel modification plans prepared by a licensed landscape architect for review and approval by the Executive Director. 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. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native/ drought resistant plants as listed by the California Native Plant Society, Santa Monica Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. Plantings shall include vertical elements to partially screen and soften the visual impact of the residence and garage as seen from Saddle Peak to the north of the site.
- b) Vegetation within 50 feet of the proposed house may be removed to mineral earth and vegetation within a 200 feet radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur.

2. Drainage and Erosion Control Plans

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan from a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner which avoids ponding on the pad area. Drainage from the site shall not be accomplished by sheet flow runoff. With the acceptance of this permit, the applicant agrees that should the project's drainage structures fail or result in erosion, the applicant/ landowner or successor interests shall be responsible for any necessary repairs and restoration.

3. Wild Fire 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, operation, 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.

4. Plans Conforming to Geologic Recommendation

All recommendations contained in the Final Compaction Report and As-Built Geologic Report dated July 5, 1990 by Robertson Geotechnical, Inc. and the Updated Engineering Geologic Report dated 01/27/98 by Gold Coast GeoServices shall be incorporated into all final design and construction plans including foundations, grading and drainage plans. *Prior to the issuance of the coastal development permit*, the applicant shall submit for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans incorporates all of the recommendations specified in the above-referenced geologic evaluations approved by the California Coastal Commission for the project site.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Future Improvements

Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which shall provide that: Coastal Commission Permit 4-97-227 is only for the proposed development and that any future additions or improvements to the property including clearing of vegetation and grading, will require a permit from the Coastal Commission or its successor agency. The deed restriction shall specify that clearance of vegetation up to 50 feet outward from the approved residence and selective thinning within 200 foot radius of the approved residence as provided in Special Condition 1(b) above, is permitted and shall not require a new permit. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Structure and Roof Color Restriction

Prior to issuance of 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 structure to natural earth tones, compatible with the surrounding earth colors (white tones will not be acceptable). The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

IV. Findings and Declarations:

A. Project Description and Background:

The applicant proposes the construction of a 4,100 sq. ft., 31 ft., 6 in high, from existing grade, single family residence with an attached three car garage, septic system, paving of the existing access road, pool, and landscaping. The building pad has previously been graded during 1990 under Coastal Development Permit 5-83-766 (Goodstein and Watson). The applicant is not proposing any additional grading.

The proposed project site consists of a 1.55 acre parcel located on the southern side of Saddle Peak Road within the Santa Monica Mountains, unincorporated portion of the City of Malibu in Los Angeles County (Exhibits 1, 2). This area has a land use designation of Rural Land II (1 du/ 5 ac.). Access to the lot is via an existing graded access road from Saddle Peak Road. As part of the permit application the applicant proposes to pave a portion of the existing access road. The site encompasses a sloping hillside on the east side of the parcel. The west side of the building pad descends to a steep mountain side slope. This steep portion of the property is a designated "Restricted Use Area" per a special condition imposed by Coastal Development Permit 5-84-274 (Watson) (Exhibit 3).

On January 25, 1984 the Commission approved Coastal Development Permit 5-83-766 (Goodstein and Watson) for an eight lot subdivision with a possibility of six additional lots on three 20 acre parcels. In this action the Commission imposed an open space easement condition and provided for the offering of a trail along the southernmost property boundary. With the Commission's consent, the applicant re-applied in April of 1984. Consequently, Coastal Development Permit 5-84-274 (Watson) was approved on September 14, 1984 for the subdivision of 3 parcels into 14 lots, and the construction of three driveways and building pads. Attached to the permit were special conditions, which included a trail dedication to connect with Tuna Canyon Trail, a condition for a viewing park and viewing area, open space easements, and transfer of development credits.

On September 7, 1984 an agreement was reached between the applicant and staff concerning revisions to resolve issues and add changes to the revised conditions and findings of the report. Among the changes was an agreement that the building sites would be regarded as approved and that the "Open Space" condition would remain unchanged. On September 14, 1984 the Commission adopted these revisions. The document of record, therefore, is the Revised Conditions and Findings (8/21/84), along with the above mentioned memorandum. The project description reads as follows:

The Commission approves a proposal to divide three 20-acre parcels into 14 parcels. The Commission reserves approval of a specific building design until a specific coastal development permit for the proposed houses can be presented and analyzed. The Commission approves the location of three driveways extending approximately 710', 820', and 760' in to the hills, usually following existing firebreaks along the ridgelines to minimize grading.

In 1987, Thomas Watson applied for a permit amendment to amend the special condition requiring construction and dedication of a public viewing platform to allow for an in-lieu payment to be used for purchasing or maintaining existing or new hiking trails. The payment was for \$54,468 to be

used primarily to fund the improvement of the portion of the Tuna Canyon Trail dedicated in 5-84-274. The payment was substituted because during the course of negotiations with the Santa Monica Mountains Conservancy the viewing platform proved unworkable because of liability and maintenance problems. The Conservancy then suggested the public would be better served by an alternative improvement, such as a hiking trail. All of the special conditions have been met and the permit was issued.

On Wednesday December 9, 1992 Coastal Development Permit 4-92-217 (Zwan) was approved for the same project that the applicant in proposing at this time. Attached to the permit were three special conditions regarding landscaping, geologist review, and drainage and erosion control plans. The special conditions were never met and, consequently the permit expired.

B. Visual Effects

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.

In addition, the certified Los Angeles County Land Use Plan includes the following policies regarding protection of visual resources, which are used as guidance and are applicable to the proposed development. These policies have been applied by the Commission as guidance, in the review of development proposals in the Santa Monica Mountains.

- P91 All new development shall be designed to minimize impacts and alternatives of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to maximum extent feasible.
- P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.
- P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:
- be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LUP.
 - Minimize the alteration of natural landforms
 - Be landscaped to conceal raw-cut slopes.
 - Be visually compatible with and subordinate to the character of its setting.
 - Be sited so as to not significantly intrude into the skyline as seen from public viewing places.

P134 Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.

The applicant proposes the construction of a 4,100 sq. ft., 31 ft., 6 in. high from existing grade single family residence with 3-car garage, septic system, pool, landscaping, and paving the existing access road (Exhibit 4,5,6). The project site has been previously graded under the original subdivision permit and the applicant proposes no further grading. The proposed site is located on what was previously referred to as Lot 11 of the original subdivision. Although the building sites have already been approved, the individual houses require a Coastal Development Permit.

In the permit for the subdivision the Commission found that there would be impacts on public views and recreational opportunities resulting from the subdivision and subsequent development of single-family residences. However, the Commission found that with the dedication of a trail and viewing area (later replaced by an in-lieu payment) the impacts would be properly mitigated and the subdivision would be consistent with the visual protection policies of the Coastal Act.

Normally, in assessing visual impacts the Commission would examine alternative site locations, grading, and the size of the building pad. In this case, the Commission in its approval of the subdivision determined the building sites. Consequently, all grading of the driveways and building pads for the subdivision has been completed. However, any additional grading on the individual lots, when proposed for development with the single-family residences, must be found to be in substantial conformance with the grading plan as submitted in Coastal Development Permit 5-84-274 (Watson).

In this case the applicant is not proposing any additional grading. The proposed driveway and building pad are in the same location and at the same elevation as the plans in Coastal Development Permit 5-84-274 (Watson). However, in the review of this project, the Commission must analyze the publicly accessible locations where the proposed development is visible to assess potential visual impacts.

The Malibu/ Santa Monica Mountains Land Use Plan designates the vicinity of the site as a "Scenic Area" (Exhibit 7). Therefore, special treatment is given when evaluating potential impacts created by new development. The subject site is located south of Saddle Peak Road, a designated Scenic Highway. Saddle Peak Road weaves among the hilltops of an area, which is designated as a Significant Ridgeline having both ocean and inland views.

Access to the property is via a private road that circles around the property (see Exhibit 3) towards other properties within the subdivision. The maximum height of the proposed residence will be 31 feet 6 inches, which is under the 35 foot height requirement of the Malibu/ Santa Monica Mountains LUP. In addition, the Commission has in past actions permitted residences within this area that are 35 feet in height. The proposed site is visible from Saddle Peak Road, however, as mentioned above the building site has previously been approved and the grading has already been performed.

In addition, the proposed Tuna Canyon Trail lies to the south of the property and the Backbone Trail lies north of the property. The Backbone Trail, which runs east to west, is located north of the

proposed residence along the northern side of Saddle Peak Ridge and drops into Hondo Canyon. Due to the topography of the surrounding area, the subject site will not be visible from the Backbone Trail. The western end of the property, which has been designated as an "Restricted Use Area", runs adjacent to the proposed Tuna Canyon Trail. The intent for this north/ south running trail is to connect Pacific Coast Highway and Tuna Canyon with the Backbone Trail. The Tuna Canyon Trail is identified on the Los Angeles County Parks and Recreation, Malibu/ Santa Monica Mountains Area Plan Trails System, dated June 1983 (Exhibit 8). The future trail is designated to run along the contours of the descending canyon. The proposed residence and garage would be visible from the future Tuna Canyon Trail and Saddle Peak Road, a designated scenic highway. Therefore, in order to address the potential visual impact from the proposed structure, the Commission has imposed a design and color restriction (Special Condition 6). This restriction will require the applicant to execute and record a deed restriction that restricts the color of the subject structures and roofs to colors compatible with colors of the surrounding environment, (white tones are not acceptable). In addition, all windows and glass for the proposed structure shall be of non-glare glass.

Furthermore, future developments or improvements to the property have the potential to create visual impacts to both the proposed Tuna Canyon Trail and the scenic highway, Saddle Peak Road. The proposed residence is 31.5 feet in height above the existing grade, any additions that would increase the height of the structure could have a negative visual impact on the surrounding area. To ensure that any future developments or improvements normally associated with a single family residence, which might otherwise be exempt, are reviewed by the Commission for compliance with the visual resource protection policies of the Coastal Act. The Commission finds it is necessary to require a deed restriction be recorded on the subject parcel which acknowledges that all future development proposed on the site must first be submitted to the Commission for its review (Special Condition 5). The deed will run with the land binding all successors and assigns, and shall be recorded free from prior liens that the Executive Director determines may effect the enforceability of the restriction.

The Commission has found in past permit actions in this area that landscaping can eventually screen and soften the visual impacts of development from public view areas. Therefore, the Commission finds that in order to screen and soften the visual impacts of the proposed structure from Saddle Peak Road and the future Tuna Canyon Trail appropriate drought resistant, and fire retardant plants compatible with the surrounding vegetation need to be planted. The plantings shall include vertical elements to partially screen and soften the visual impact of the residence and the attached garage. Special Condition one (1) requires the applicant to submit a landscape plan that requires native plants to be used.

The Commission finds that only as conditioned the development will be sited and designed to protect the public view along the scenic coastal area and will be visually compatible with the surrounding area. Therefore, the Commission finds the proposed project is consistent with Section 30240 and 30251 of the Coastal Act.

C. Geological Hazards

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, 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 that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to 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.

Due to the fact that the proposed project is located in an area subject to an extraordinary high potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes liability from the associated risks. 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 special condition three (3).

The applicant has submitted an Updated Engineering Geologic Report dated January 27, 1998 from Gold Coast GeoServices, Inc. The geologic report concludes, "the site remains suitable for the planned development of a single family residence on the existing building pad." In addition, the initial report for the building site by Robertson Geotechnical Inc. states:

"Hillside developments involve risks that are not found in conventional flatland developments and these risks can never be eliminated. This report and the referenced reports present an assessment of the risks involved in the development and recommendations to minimize the risks. It is the opinion of the undersigned, based on the findings of this geologic and soils engineering observations and the referenced reports, that provided our recommendations are followed, the proposed residence will be safe against hazards from landslide, settlement or slippage and that the proposed residence will have no adverse effects from geologic stability of the property outside the building site."

Based on the findings and recommendations of the consulting geologist, the Commission finds that the proposed development is consistent with the Coastal Act as long as all recommendations are incorporated into the project plans as noted in special condition four (4).

The Commission finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all graded and disturbed areas of the site with primarily native plants, compatible with the surrounding environment. In order to protect the property and hillside from wildfire which could increase the potential for erosion and landslides the Commission is requiring that the applicant submit a fuel modification plan that has been reviewed and approved by the Los Angeles County Fire Department. Special Condition one (1) has been added to ensure that all proposed disturbed areas are stabilized and vegetated.

In addition, development on slopes and the use of non-permeable surfaces often intensifies storm runoff in a destructive manner, thereby contributing to an increased potential for erosion and

landslides on the property. Uncontrolled runoff will result in erosion and destabilization of the canyon slopes and eventually the building site. The Final Compaction Report and As-Built Geologic Report dated July 5, 1990 by Robertson Geotechnical, Inc. states:

Drainage control is imperative for continued site stability. A comprehensive drainage plan should be prepared by a qualified design professional. Pad, roof and yard drainage should be positively collected and transferred to the natural drainage course in non erosive drainage devices.

To ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as specified by special condition two (2), to submit drainage plans certified by the consulting geotechnical engineer as conforming to the recommendations. The Commission finds that based on the findings of the geologic reports, and as conditioned to incorporate the recommendations of the geologic consultants and required drainage plan, the proposed project is consistent with Section 30253 of the Coastal Act.

D. Septic System

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 entrapment, 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.

The proposed project includes the installation of an on-site septic system to serve the residence. The applicant has submitted a favorable percolation test. Furthermore, the Final Compaction report states that "The use of a private sewage disposal system on the subject property should not adversely affect the stability of the site or adjoining properties." Additionally, the applicant has submitted evidence of in-concept approval from the Los Angeles County Health Department, which indicated that the septic system meets the standards of the plumbing code. The Commission has found in past permit decisions that the compliance of septic systems with the requirements of the plumbing code is protective of coastal resources. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

E. 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 County of Los Angeles' 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).

F. 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)(i) 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 impact which the activity may have on the environment.

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.

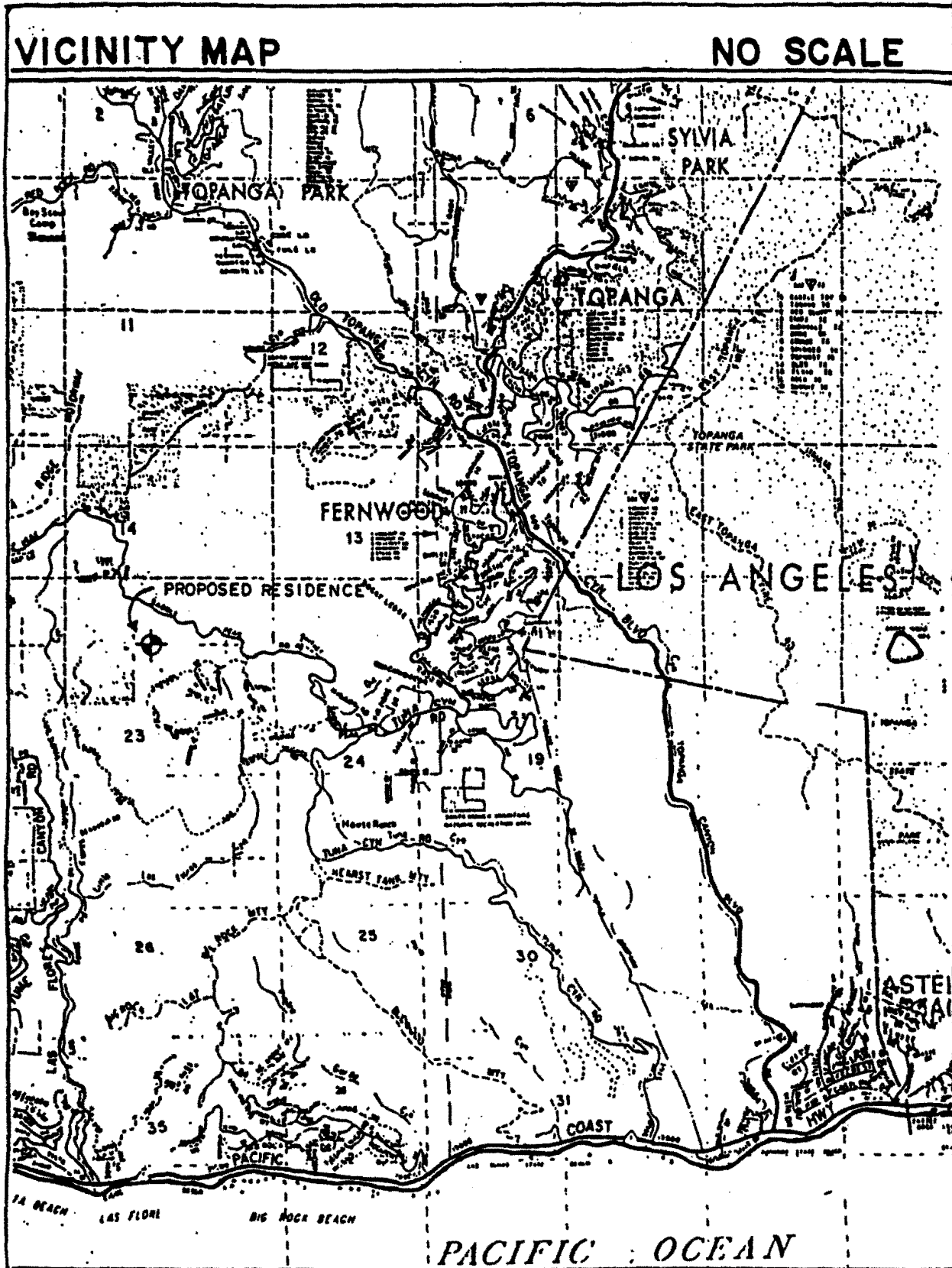


Exhibit No. 1
4-97-227 (Treiger)
Vicinity Map

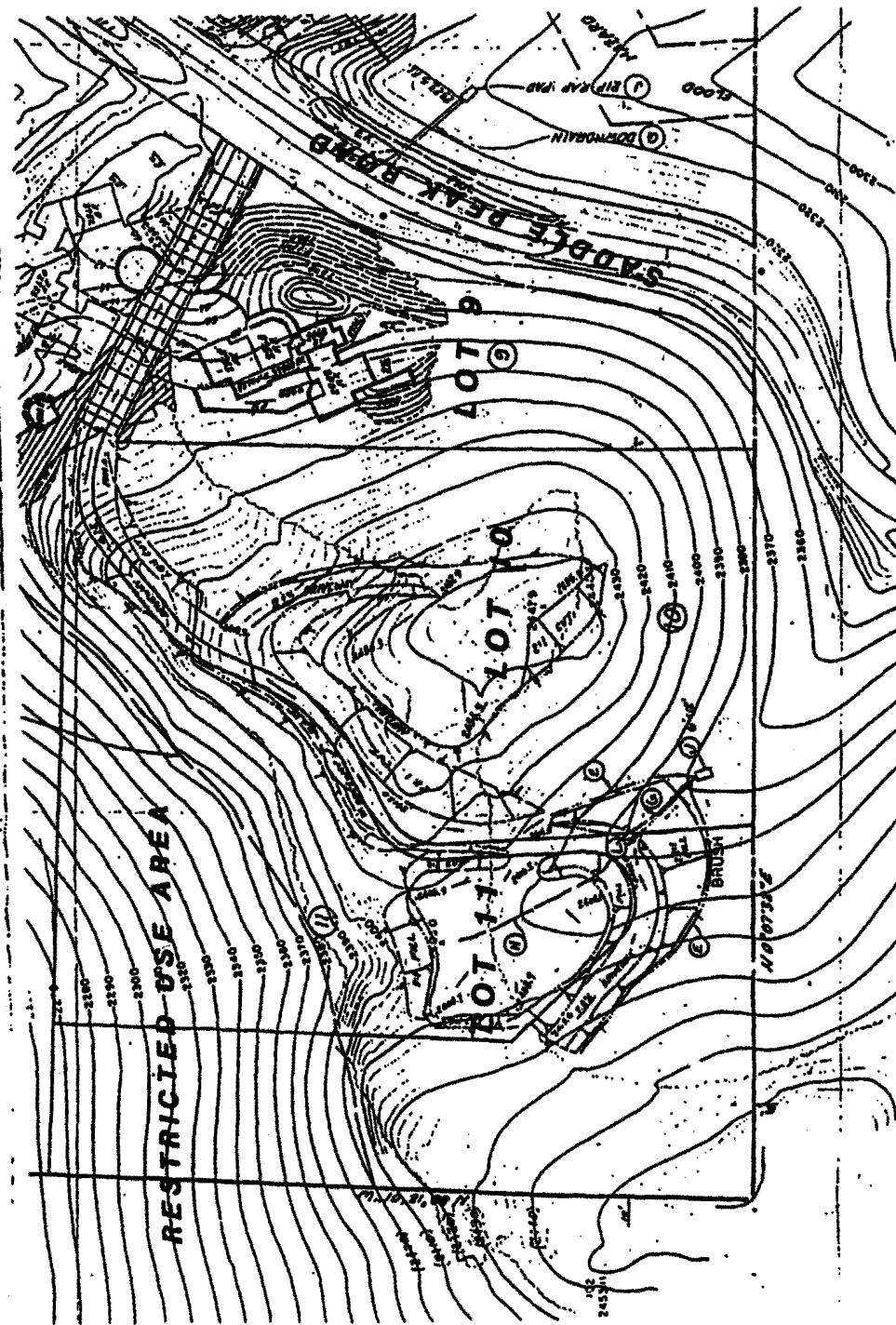


Exhibit No. 3
4-97-227 (Treiger)
Grading Plan