

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
 39 SOUTH CALIFORNIA ST., SUITE 200
 VENTURA, CA 93001
 (805) 641-0142



Filed: 5/12/98
 49th Day: 6/30/98
 180th Day: 11/8/98
 Staff: JEL-V *for*
 Staff Report: 5/21/98
 Hearing Date: 6/9-12/98

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-97-242

APPLICANT: John & Mirma Frank

AGENT: Vitus Matare

PROJECT LOCATION: 20602 Medley Lane, Topanga, CA (Los Angeles County)

PROJECT DESCRIPTION: Construct 2,070 sq. ft., three-story, 26 foot high, single family residence with attached 470 sq. ft. garage, and septic system.

Lot area:	19,080 sq. ft. (.44 acre)
Building coverage:	1,845 sq. ft.
Pavement coverage:	2,875 sq. ft.
Landscape coverage:	620 sq. ft.
Parking spaces:	four; two covered
Ht abv fin grade:	26 feet

LOCAL APPROVALS RECEIVED: County of Los Angeles: Regional Planning, Approved In Concept, 10/9/97; Public Works, Geologic Approval, 4/6/98; Health Services, Sewage Disposal System Approved for Design, 12/5/97; Fire Department, Conceptual Approval, 4/6/98.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains certified Land Use Plan; Update Engineering Geologic Report, 10/23/97, Mountain Geology; Updated Engineering Geologic and Plan Review Report, 10/24/90, Mountain Geology; Coastal Development Permit: 5-88-268 (Vernon)

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the project with special conditions relating to: **future improvements restriction, conformance to geologic, and fire waiver of liability.**

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit 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 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. Future Improvements

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. 4-97-242; and that any additions to the permitted structure, change of use, future structures or improvements to the property, including but not limited to clearing of vegetation and grading, that might otherwise be exempt under Public Resource Code Section 30610(a),(b), will require a permit from the Coastal Commission or its successor agency. Removal of vegetation consistent with L. A. County Fire Department standards relative to fire protection is permitted.

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.

2. Plans Conforming to Geologic Recommendations

Prior to the issuance of a coastal development permit the applicant shall submit, for review and approval by the Executive Director, evidence of the geology and geotechnical consultants' review and approval of all project plans. All recommendations contained in the Update Engineering Geologic Report, 10/23/97, Mountain Geology and the Updated Engineering Geologic and Plan Review Report, 10/24/90, Mountain Geology, shall be incorporated into all final design and construction including grading, retaining walls, foundation setbacks, excavations, sewage disposal and drainage. All plans must be reviewed and approved by the consultants.

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

3. Waiver of Liability

Prior to the issuance of a 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

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant has proposed to construct a 2,070 sq. ft., three-story, 26 foot high, single family residence with attached 470 sq. ft. garage, and septic system. The project is located in the Fernwood small lot subdivision, west of Topanga Canyon Boulevard, east of Tuna Canyon Road, and on the uphill side of the northern portion of Medley Lane. The lot is a record of survey lot and was legally created.

The subject site is situated on a northeast facing slope, in a partially developed residential neighborhood, surrounded by residential structures on all four sides. The design of the proposed residence will step down in conformance with the existing slope of the site and will not be visible from the north.

There is one significant sized oak tree and two smaller scrub oaks located on the subject property. There are also four significant oak trees on the adjacent property, to the northeast, with canopies that extend over the subject property. In May of 1998, the proposed project was reviewed by the Los Angeles County Fire Department and no Oak Tree Permit was required. The applicant has submitted evidence as to the location of the oak trees relative to the proposed development. The proposed plan indicates that all on-site and neighboring oak trees shall be preserved and protected, with a setback of at least 5' from the canopies.

The site is somewhat visible from Topanga State Park, located approximately one half mile to the east. However, the preservation of the existing oak trees will help to screen and soften the visual impact of the proposed project. The site will not be visible from any public trails. The proposed project will not have any significant adverse visual impact given the location within an existing residential neighborhood, the stepped down design of the structure, the slope behind and above the site, the preservation of the existing oak trees, and the distance from Topanga State Park.

In June of 1988, the Commission reviewed a coastal development permit application, 5-88-268 (Vernon), for a 1,475 sq. ft., one-story plus loft, 33 feet high, single family residence with four on-site parking places and septic system. The permit was approved subject to the following five special conditions: 1) future improvements deed restriction, 2) conformance to geologic reports, 3) assumption of risk deed restriction, 4) percolation test, and 5) proof of legal access. All of the above conditions were met, and the permit was issued on June 29, 1989. In January of 1990, a driveway to the site was installed, however, the permitted residence was never constructed. The applicant is now proposing a larger residence on the subject parcel.

B. Cumulative Impacts of New Development

The proposed project involves the construction of a new single family residence which is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new development.

Section 30250(a) of the Coastal Act states:

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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of the surrounding parcels.

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.

Throughout the Malibu/Santa Monica Mountains coastal zone there are a number of areas which were subdivided in the 1920's and 30's into very small "urban" scale lots. These subdivisions, known as "small-lot subdivisions" are comprised of parcels of less than one acre but more typically range in size from 4,000 to 5,000 square feet. The total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources. Cumulative development constraints common to small-lot subdivisions were documented by the Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled: "Cumulative Impacts of Small Lot Subdivision Development In the Santa Monica Mountains Coastal Zone".

The study acknowledged that the existing small-lot subdivisions can only accommodate a limited amount of additional new development due to major constraints to buildout of these areas that include: Geologic, road access, water quality, disruption of rural community character, creation of unreasonable fire hazards and others. Following an intensive one-year planning effort by Commission staff, including five months of public review and input, new development standards relating to residential development on small lots in hillsides, including the Slope-Intensity/Gross Structural Area Formula (GSA) were incorporated into the Malibu District Interpretive Guidelines in June 1979. A nearly identical Slope Intensity Formula was incorporated into the 1986 certified Malibu/Santa Monica Mountains Land Use Plan under policy 271(b)(2).

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots which already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains creates cumulative impacts on coastal resources and public access over time. Because of this, the demands on road capacity, public services, recreational facilities, and beaches could be expected to grow tremendously.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan (LUP) requires that new development in small lot subdivisions comply with the Slope-Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit. Past Commission action certifying the LUP indicates that the Commission considers the use of the Slope Intensity Formula appropriate for determining the maximum level of development which may be permitted in small lot subdivision areas consistent with the policies of the Coastal Act. The basic concept of the formula assumes the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse impacts on coastal resources.

Slope-Intensity Formula:

$$GSA = [A/S] \times [(80-S)/38] + 500$$

GSA = the allowable gross structural area of the permitted development in square feet. The GSA includes all substantially enclosed residential and storage areas, but does not include garages or carports designed for storage of autos.

A = the area of the building site in square feet. The building site is defined by the applicant and may consist of all or a designated portion of the one or more lots comprising the project location. All permitted structures must be located within the designated building site.

S = the average slope of the building site in percent as calculated by the formula:

$$S = \frac{L}{A} \times 100$$

I = contour interval in feet, at not greater than 25-foot intervals, resulting in at least 5 contour lines

L = total accumulated length of all contours of interval "I" in feet

A = the area being considered in square feet

The proposed project is located in the small lot subdivision of Fernwood and involves the construction of a 2,070 sq. ft. single family residence. The applicant has submitted a GSA calculation in conformance to Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan (LUP). This calculation utilizes a two-foot interval topographic map, contour length of 2,848 feet, an area of 19,080 sq. ft, and a slope of 29.85%. Based on these parameters, the applicant arrived at a **maximum GSA of 2,697 sq. ft.** Therefore, the

proposed 2,070 square feet of habitable space would be consistent with the maximum allowable GSA.

Some additions and improvements to residences on small steep lots within these small lot subdivisions have been found to adversely impact the area. Many of the lots in these areas are so steep or narrow that they cannot support a large residence without increasing or exacerbating the geologic hazards on and/or off site. Additional buildout of small lot subdivisions affects water usage and has the potential to impact water quality of coastal streams in the area. Other impacts to these areas from the buildout of small lot subdivisions include increases in traffic along mountain road corridors and greater fire hazards.

For all these reasons, and as this lot is within a small lot subdivision, further structures, additions or improvements to the subject property could cause adverse cumulative impacts on the limited resources of the subdivision. The Commission, therefore, finds it necessary for the applicant to record a future improvements deed restriction on this lot, as noted in *special condition number one (1)*, which would require that any future structures, additions or improvements to the property, beyond those now proposed, would require review by the Commission to ensure compliance with the policies of the Coastal Act regarding cumulative impacts and geologic hazards. At that time, the Commission can ensure the new project complies with the guidance of the GSA formula and is consistent with the Coastal Act.

The Commission therefore finds that the proposed project, only as conditioned, consistent with Section 30250(a) of the Coastal Act.

D. Geologic Stability and 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, 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 prominent geomorphic features in the area are Topanga Canyon to the east, Dix Canyon to the northwest, and the northeast-trending strike ridge on which the property is situated. The site is located on a moderately descending, northeast-facing, natural slope.

Past grading on the site consisted of cutting along the northern property line to accommodate the construction of Medley Lane.

Physical relief across the site from the ridge down slope to Medley Lane is on the order of forty-five (45) feet. Slope gradients vary from nearly horizontal on the southern most portion of the property, to as steep as 1:1 on the cut slope which is adjacent to Medley Lane. The average natural slope gradient in the area of the proposed residence is approximately 3:1. Slope drainage is by sheet flow runoff directed toward the northeast via the existing contours.

1. Geology

The applicant has submitted a Update Engineering Geologic Report, dated 10/23/97, prepared by Mountain Geology and a Updated Engineering Geologic and Plan Review Report, dated 10/24/90, prepared by Mountain Geology for the subject site.

The geologic stability of the site is favorable to the project, according to these reports, and no potentially active and/or active faults, adversely oriented geologic structure, or other geologic hazards were observed by the consultants. In regard to slope stability, the site is free from any rain-related damage such as landslides or mudflows, although soil slopes are subject to downhill creep and erosion. A prehistoric landslide has been mapped approximately 400' east of the subject property.

Based on the geotechnical consultant's site observations, excavation, laboratory testing, evaluation of previous research, analysis and mapping of geologic data, limited subsurface exploration of the site and, the engineering geologists have provided recommendations to address the specific geotechnical conditions related to grading, retaining walls, foundation setbacks, excavations, sewage disposal and drainage. In conclusion, the engineering geologic investigation states that:

"Based upon our investigation, the proposed development will be free from geologic hazards such as landslides, slippage, active faults, and settlement. The proposed development and installation of the private sewage disposal system will not have any adverse effect upon the stability of the site or adjacent properties provided the recommendations of the Engineering Geologist and Geotechnical engineer are complied with during construction."

Given the findings and recommendations of the consulting engineering geologists, 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 geologists as conforming to their recommendations, as noted in *special condition number one (1)* for the final project plans for the proposed project.

2. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act 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. 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 two (2).

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

E. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, 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, minimizing alteration of natural streams.

The proposed septic system includes a 1,000 gallon septic tank with seepage pits. The installation of a private sewage disposal system was review by the consulting geologist,

Mountain Geology, and found not to create or cause adverse conditions to the site or adjacent properties due to the favorable geologic structure, favorable nature of the earth materials with respect to percolation rates, and the favorable effect of a deep capping depth.

A percolation test was performed on the subject property which indicated the percolation rate meets Uniform Plumbing Code requirements for a three bedroom residence and is sufficient to serve the proposed single family residence. The applicant has submitted a design approval for the sewage disposal system from the County of Los Angeles Department of Health Services, based on a three bedroom single family residence. This approval indicates that the sewage disposal system for the project in this application complies with all minimum requirements of the Uniform Plumbing Code.

The Commission has found in past permit actions that compliance with the health and safety codes will minimize any potential for waste water discharge that could adversely impact coastal waters. Therefore, the Commission finds that the proposed septic system is consistent with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, 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 effects which the activity would have on the environment.

The proposed development would not cause significant, adverse environmental effects which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.

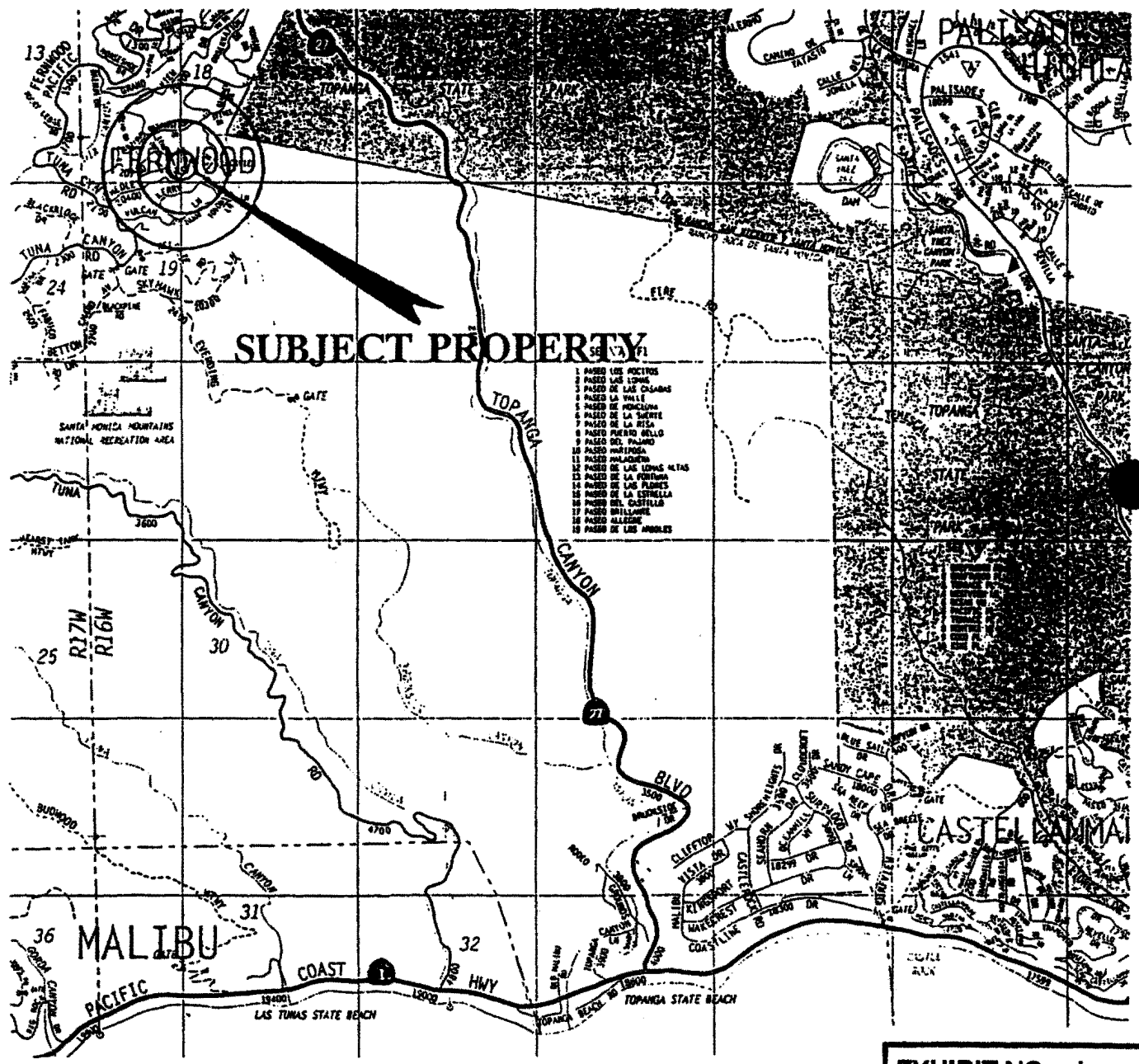


Mountain Geology, Inc.

VICINITY MAP

CONSULTING ENGINEERING GEOLOGISTS

REFERENCE: THOMAS BROTHERS MAP GUIDE, PAGE 630

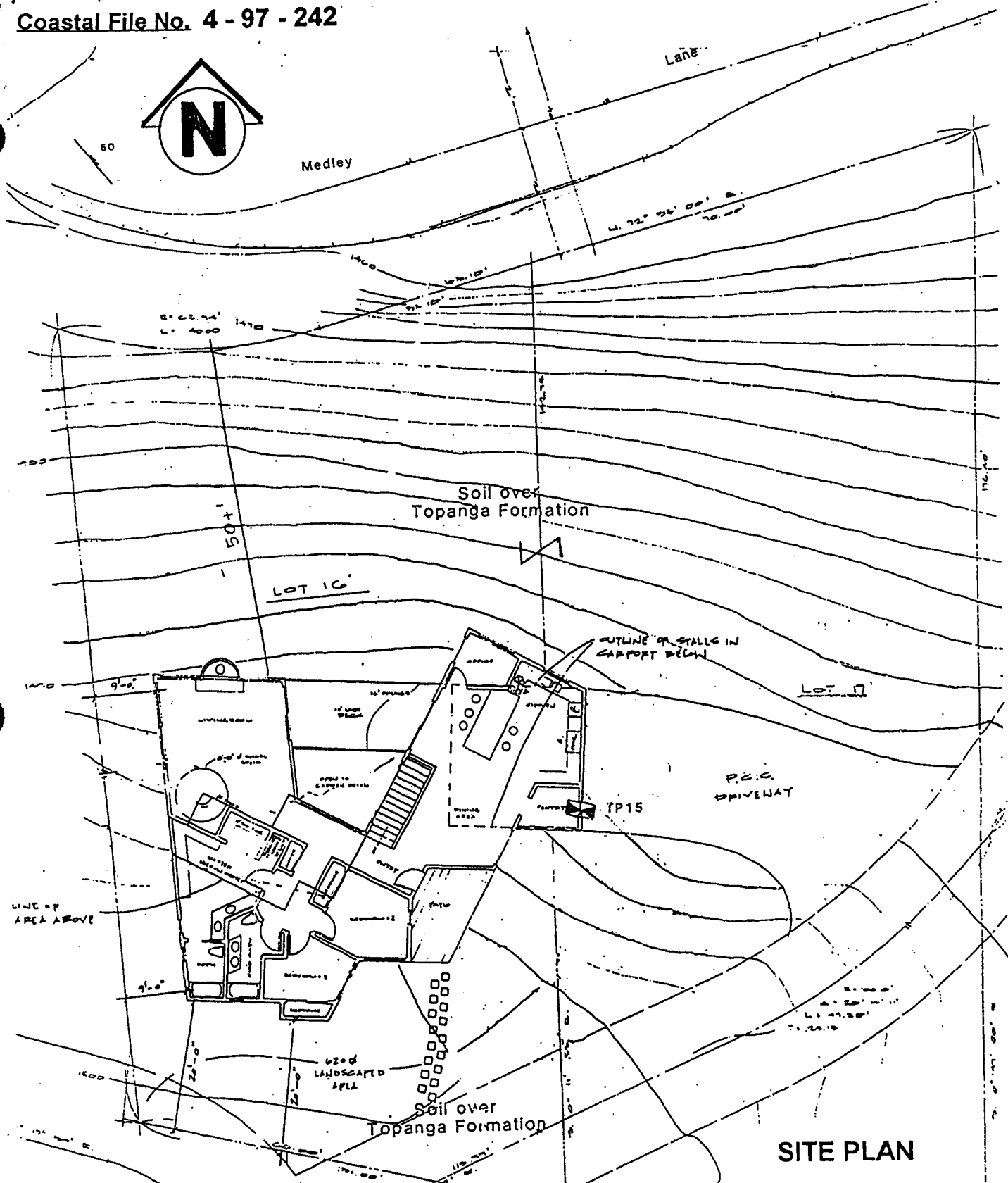


SCALE

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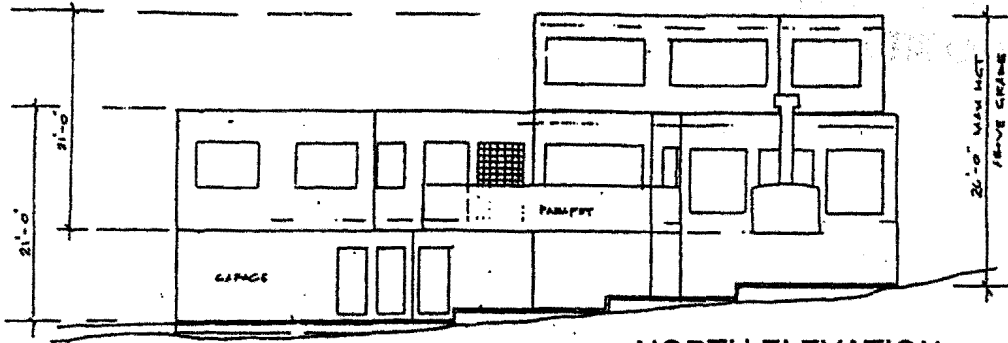
EXHIBIT NO. <i>i</i>
APPLICATION NO.
<i>4-97-242 (FR)</i>
<i>VICINITY MAP</i>



SITE PLAN

EXHIBIT NO. <u>2</u>
APPLICATION NO.
<u>4-97-242 (FRANK)</u>
SITE PLAN

FRANK RESIDENCE
NEW CONSTRUCTION
20602 MEDLEY LANE
TOPANGA, CA. 9029
 LOS ANGELES COUNTY
 APN 4448 - 016 - 039

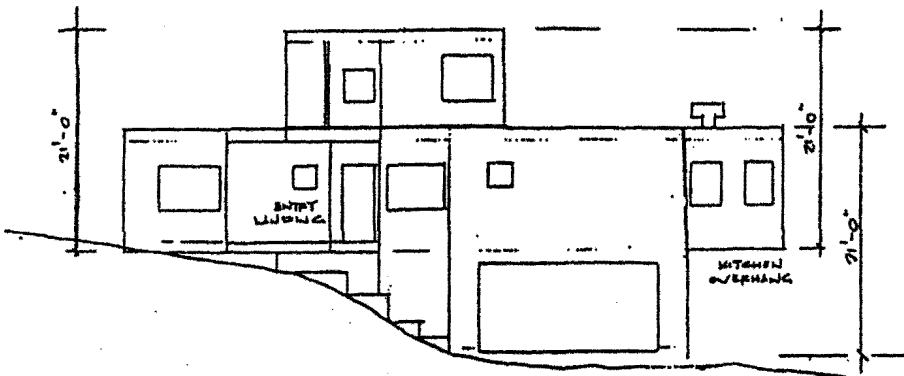


NORTH ELEVATION

RECEIVED

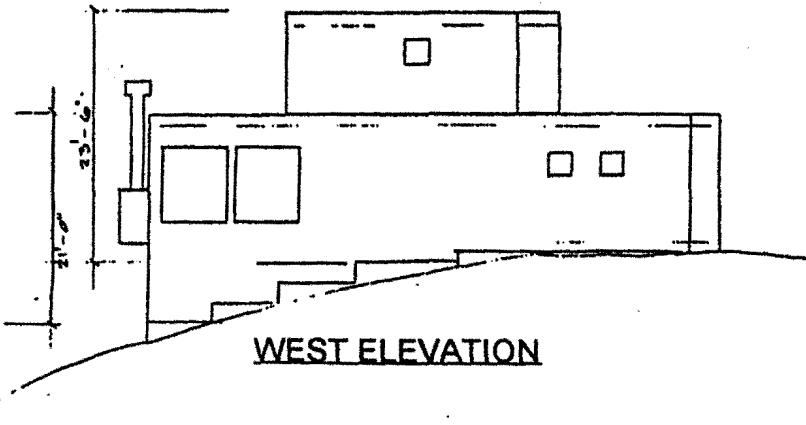
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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT



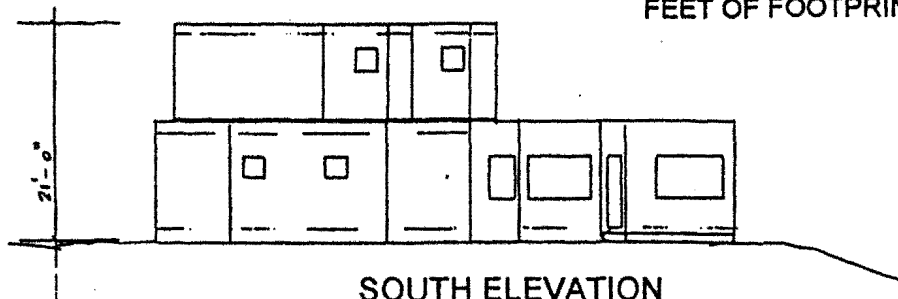
EAST ELEVATION

MAIN LEVEL: 1845 SQ FT
LOFT LEVEL: 225 SQ FT
TOTAL: 2070 SQ FT
GARAGE: 470 SQ FT



WEST ELEVATION

MAXIMUM HEIGHT OF STRUCTURE ABOVE GRADE
(WITHIN FOOTPRINT OF STRUCTURE OR WITHIN 5
FEET OF FOOTPRINT) SHALL BE 26 FEET OR LESS.



SOUTH ELEVATION

EXHIBIT NO. 3
APPLICATION NO.
4-97-242 (FRANK)
ELEVATIONS