

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Hearing Date: 12/9/99
Commission Action:



STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-99-073

APPLICANT: Ronald and Linda Dillaway

AGENTS: Terry Valente
Oscar McGraw

PROJECT LOCATION: 1600 Topanga Skyline Drive, Topanga; Los Angeles County

PROJECT DESCRIPTION: Construction of a 3,683 sq. ft. single family residence, a septic system, and approximately 398 cu. yds. of grading (266 cu. yds. of cut, 36 cu. yds. of fill, and 96 cu. yds. of removal and recompaction).

Lot area:	4.7	acres
Building coverage:	2,404	sq. ft.
Pavement coverage:	3,479	sq. ft.
Ht. abv. ext. grade:	35	ft.

LOCAL APPROVALS RECEIVED: Los Angeles County Approval in Concept; Los Angeles County Health Department Approval in Concept; Los Angeles County Fire Department Approval.

SUBSTANTIVE FILE DOCUMENTS: Update Soils Engineering Investigation Report by Subsurface Designs Inc. dated 4/7/99; Update Engineering Geologic Report by Pacific Geology Consultants dated 4/2/99; Preliminary Engineering Geologic Investigation by Pacific Geology Consultants dated 12/8/97; Soils Engineering Investigation by Subsurface Designs Inc. dated 12/15/96; and Riparian Vegetation Survey and Oak Report by Rosi Dagit, Arborist, dated 6/22/99.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with eight (8) special conditions regarding landscaping, erosion control, and riparian habitat enhancement plans; construction monitoring; drainage plans and responsibility; plans conforming to geologic recommendation; removal of excavated material; removal of vegetation; other required approvals; and a future development deed restriction. The proposed development will be located adjacent to and upslope from a stream which is designated as an environmentally sensitive habitat area (ESHA) by the Malibu/Santa Monica Mountains LUP and as a blueline stream by the United States Geologic Service. In addition, portions of the subject site are designated as significant oak woodland by the LUP. The proposed development will not result in the removal of any riparian habitat or individual oak trees on the subject site.

STAFF RECOMMENDATION

The staff recommends that the Commission **APPROVE** the permit application with special conditions.

MOTION

Staff recommends a **YES** vote on the following motion:

I move that the Commission approve with special conditions Coastal Development Permit 4-99-073 per the staff recommendation as set forth below.

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

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 effects 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 term or condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Landscape, Erosion Control, and Riparian Habitat Enhancement Plan

Prior to issuance of a coastal development permit, the applicant shall submit a landscaping, erosion control, and riparian habitat enhancement plan, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping, erosion control, and riparian enhancement program shall be reviewed and approved by the consulting engineering geologist and biological consultant or arborist that the plans are in conformance with the consultants' recommendations. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

A. Landscaping Plan

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains 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 which tend to supplant native species shall not be used.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot 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. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County.

B. Interim Erosion Control Plan

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- (3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C. Riparian Habitat Enhancement Plan

All invasive and non-native plant species shall be removed from the stream channel/riparian vegetation corridor on site and from the 50 ft. riparian habitat setback/buffer area as measured from the outer limit of the riparian vegetation canopy delineated on Exhibit 3. The riparian vegetation corridor and 50 ft. riparian habitat setback/buffer area shall be revegetated with appropriate native plant species. The plan shall specify the preferable time of year to carry out the restoration and describes the supplemental watering requirements that will be necessary. The plan shall also specify specific performance standards to judge the success of the enhancement effort. The performance standards shall incorporate ground and canopy coverage and survival rates typical to riparian areas in the Santa Monica Mountains. All recommendations contained in the Riparian Vegetation Survey and Oak Report by Rosi Dagit, Arborist, dated 6/22/99 shall be incorporated into the monitoring plan.

D. Monitoring

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape and riparian habitat enhancement monitoring report, prepared by a licensed Landscape Architect or

qualified Resource Specialist, that certifies the on-site landscaping and riparian habitat enhancement is in conformance with the landscape and riparian habitat enhancement plan approved pursuant to this special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape and riparian habitat enhancement monitoring report indicates the landscaping and habitat enhancement is not in conformance with or has failed to meet the performance standards specified in the landscaping and riparian habitat enhancement plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan and riparian habitat enhancement program for the review and approval of the Executive Director. The revised landscaping and riparian habitat enhancement plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

2. Construction Monitoring

The applicant shall retain the services of an independent biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during all grading activity. All recommendations contained in the Riparian Vegetation Survey and Oak Report by Rosi Dagit, Arborist, dated 6/22/99, shall be incorporated into the monitoring plan. Protective fencing shall be used around all oak trees and riparian vegetation which may be disturbed during construction activities. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if habitat is removed or impacted beyond the scope of the work allowed by Coastal Development Permit 4-99-073. This monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to any oak trees or riparian vegetation on site beyond the scope of work allowed for by this permit, the applicant shall be required to submit a revised, or supplemental, restoration program to adequately mitigate such impacts. The revised, or supplemental, restoration program shall be processed as an amendment to this coastal development permit.

3. Drainage Plans and Maintenance Responsibility

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 designed by a licensed engineer which assures that run-off from the road and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner. Site drainage shall not be accomplished by sheetflow runoff. With acceptance of this permit, the applicant agrees that should any of the project's surface or subsurface drainage structures fail or result in erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

4. Plans Conforming to Geologic Recommendation

All recommendations contained in the Update Soils Engineering Investigation Report by Subsurface Designs Inc. dated 4/7/99; Update Engineering Geologic Report by Pacific Geology Consultants dated 4/2/99; Preliminary Engineering Geologic Investigation by Pacific Geology Consultants dated 12/8/97; and the Soils Engineering Investigation by Subsurface Designs Inc. dated 12/15/96 shall be incorporated into all final design and construction including all grading and drainage improvements. All plans must be reviewed and approved by the geologic and the geotechnical engineering consultants as conforming to said recommendations. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

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

5. Removal of Excavated Material

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

6. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit

7. Required Approvals

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director a Streambed Alteration Agreement or other evidence of approval from the California Department of Fish & Game or evidence that such approval is not required.

8. Future Development Deed Restriction

A. This permit is only for the development described in coastal development permit No. 4-99-073. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not

apply to the proposed residence or the entire subject parcel. Accordingly, any new development on the subject parcel or future improvements to the permitted single family residence, including but not limited to landscaping or repair and maintenance identified as requiring a permit in Public Resources Section 30610(d) and Title 14 California Code of Regulations Sections 13252(a)-(b), shall require an amendment to Permit 4-99-073 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development in the deed restriction and shall include legal descriptions of the applicant's entire parcel. The deed restriction 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 Commission amendment to this coastal development permit.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing the construction of a 3,683 sq. ft. single family residence, a septic system, and approximately 398 cu. yds. of grading (266 cu. yds. of cut, 36 cu. yds. of fill, and 96 cu. yds. of removal and recompaction). The subject site is a 4.7 acre lot located in the Old Topanga Canyon area of Los Angeles County (Exhibit 1). Slopes on site descend from Topanga Skyline Road approximately 50 ft. in elevation in a southeast direction to the centerline of a stream (a tributary of Old Topanga Canyon Creek) at an approximate slope gradient of 2:1 (26°) to 1.5:1 (34°). Slopes ascend from the stream on the canyon floor in a southeast direction. The new proposed residence will be located on the descending slope immediately adjacent to and downslope from Topanga Skyline Road (Exhibit 3).

The project site has been previously developed with a dirt road, grading to construct a small pad area, and a swimming pool which were constructed prior to 1977 and the implementation of the Coastal Act. The existing swimming pool has been previously filled and is no longer visible. The stream located on the project site is designated as an environmentally sensitive habitat area (ESHA) by the Malibu/Santa Monica Mountains Land Use Plan (LUP) and as a blueline stream by the United States Geologic Service. In addition, portions of the subject site are designated as significant oak woodland by the LUP.

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 applicant is proposing the construction of a 3,683 sq. ft. single family residence, a septic system, and approximately 398 cu. yds. of grading (266 cu. yds. of cut, 36 cu. yds. of fill, and 96 cu. yds. of removal and recompaction). The proposed residence will be located on a descending slope immediately adjacent to and downslope from Topanga Skyline Road and will utilize, in portion, a small relatively flat pad area which was constructed prior to 1977. Although the majority of the proposed residence will be located on a steep slope, the structure will be constructed using a friction pile/beam foundation in order to ensure structural stability and will require only a relatively minor amount of grading (266 cu. yds. of cut and 36 cu. yds. of fill). In addition, the Soils Engineering Investigation by Subsurface Designs, Inc. dated 12/15/96 indicates that the current factor of safety for the slope on the project site is in excess of 1.5 (a factor of safety of 1.5 or greater is considered necessary to ensure slope stability), and that, therefore, the existing slope on the project site is grossly stable. Further, the Update Engineering Geologic Report by Pacific Geology Consultants dated 4/2/99 indicates that the proposed project will be free from geologic hazards. The report states:

Providing the recommendations contained in this report, in addition to those of the Geotechnical Engineer are followed, the residence will be safe from landslide hazard, settlement or slippage. In addition, the proposed construction will not adversely affect off-site properties from a geological standpoint. All specific elements of the County Building Code shall be followed in conjunction with design and future construction work.

The Update Soils Engineering Investigation Report by Subsurface Designs Inc. dated 4/7/99; Update Engineering Geologic Report by Pacific Geology Consultants dated 4/2/99; Preliminary Engineering Geologic Investigation by Pacific Geology Consultants dated 12/8/97; and the Soils Engineering Investigation by Subsurface Designs Inc. dated 12/15/96 include a number of geotechnical recommendations to ensure the stability and

geotechnical safety of the site. Therefore, to ensure that the recommendations of the geotechnical and geologic engineering consultants have been incorporated into all proposed development, Special Condition Four (4) requires the applicant to submit project plans certified by both the consulting geotechnical and geologic engineer as conforming to all recommendations regarding structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

However, the Commission notes that, although the subject site is considered grossly stable from a geologic standpoint, the steep slopes on the subject site are still subject to potential erosion and soil slippage. The Soils Engineering Investigation by Subsurface Designs, Inc. dated 12/15/96 states:

The potential for future erosion and soil slippage still exists, therefore, it is recommended that descending slope area(s) be planted with an erosion retardant ground cover adhering to the following criteria:

- *is effective in preventing surface erosion;*
- *is drought resistant;*
- *has a relatively low surface mass weight;*
- *has a fairly deep and extensive root system;*
- *requires a minimum of maintenance by owner;*
- *has a low irrigation demand.*

...

Positive pad drainage shall be incorporated into the final plans. In no case shall water be allowed to pond within the site, impound against structures, or flow in a concentrated and/or uncontrolled manner down the descending slopes. All surface water shall be conducted away from foundations and slope areas to suitable drainage facilities, via non-erosive devices.

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 and graded areas of the site with native plants compatible with the surrounding environment. In past permit actions, the Commission has found that invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foilage weight and/or require a greater amount of irrigation and maintenance than native vegetation. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize steep slopes, such as the slopes on the subject site, and that such vegetation results in potential adverse effects to the geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foilage weight but also by their low irrigation and maintenance requirements. Therefore, in order to ensure the stability and geotechnical

safety of the site, Special Condition One (1) requires that all proposed disturbed and graded areas on subject site are stabilized with native vegetation.

In addition, 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 required by Special Condition Three (3), to submit drainage plans certified by the consulting geotechnical engineer as conforming to their recommendations. Further, to ensure that the project's drainage structures will not contribute to further destabilization of the project site or surrounding area and that the project's drainage structures shall be repaired should the structures fail in the future, Special Condition Three (3) also requires that the applicant agree to be responsible for any repairs or restoration of eroded areas should the drainage structures fail or result in erosion.

Further, the Commission also notes that the amount of new cut grading proposed by the applicant is larger than the amount of fill to be placed and will result in approximately 230 cu. yds. of excess excavated material. Excavated materials that are placed in stockpiles are subject to increased erosion. The Commission also notes that additional landform alteration would result if the excavated material were to be retained on site. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, Special Condition Five (5) requires the applicant to remove all excavated material, including concrete debris resulting from the removal of the existing pool, from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

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 Resources

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.

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 coastal development permit actions for new development in the Santa Monica Mountains, looked to the certified Malibu/Santa Monica Mountains Land Use Plan (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. 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.

Specifically, Policy 79 of the LUP provides that in order to protect sensitive riparian habitats, all development, other than driveways and walkways, should be setback at least 50 ft. from the outer limit of designated environmentally sensitive riparian vegetation to maintain a natural buffer area. Table 1 of the LUP further provides that new structures shall be located at least 100 ft. from the outer limit of the riparian tree canopy. Policy 79 of the LUP also provides that seepage pits for new septic systems

shall be located at least 100 ft. from the outer edge of the riparian or oak canopy. 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. Further, 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.

The project site is characterized as canyon terrain. Slopes on site descend from Topanga Skyline Road approximately 50 ft. in elevation in a southeast direction to the centerline of a stream (a tributary of Old Topanga Canyon Creek) located on the canyon floor. The stream located on the project site is designated as an environmentally sensitive habitat area (ESHA) by the Malibu/Santa Monica Mountains LUP and as a blueline stream by the United States Geologic Service. In addition, portions of the subject site are designated as significant oak woodland by the LUP. The proposed development will be located in a previously disturbed portion of the subject site and will not result in the removal of any riparian or oak tree habitat.

In past permit actions regarding new development adjacent to riparian habitat, the Commission has required that all new development, consistent with Table 1 of the Malibu/Santa Monica Mountains LUP, be located more than 100 ft. from the outer limit of the riparian vegetation canopy in order to provide for an adequate buffer area from new development. However, in the case of the proposed project, the Commission notes that due to unique site constraints, it is not possible to construct the proposed development (or any less environmentally damaging alternative) on the subject site consistent with the 100 ft. setback from the riparian canopy typically required by the Commission.

The proposed development will be located between Topanga Skyline Road and the blueline stream on the subject site. The location of the proposed residence is constrained by several environmental factors including the location of the road, stream, riparian vegetation, and oak tree habitat. The Topanga Skyline Road Right of Way/property line is located only 92-104 feet from the outer limit of the riparian vegetation canopy on the subject site. Therefore, the Commission notes that, due to limited amount of area between the road and riparian vegetation canopy, it is not possible to construct any type of new development, including the proposed residence, that would be setback 100 ft. or more from the outer limit of the riparian vegetation canopy as typically required. Although the proposed project will not provide for the 100 ft. setback from the riparian canopy typically required for new development, the Commission does note that the proposed development will be located at least 50 ft. or more from the outer limit of the riparian vegetation and oak tree canopy and that the nearest septic pit will be located as far as feasible (approximately 84 ft.) from the outer limit of the riparian canopy and more than 100 ft. from the centerline of the blueline stream. In addition, the applicant has previously submitted a Fuel Modification Plan approved by the Los Angeles County Fire Department which indicates that the proposed 50 ft. setback for the proposed residence from the riparian/oak tree canopy is

adequate for vegetation thinning/clearance requirements and that all existing riparian vegetation within the riparian corridor and all oak trees on the subject site will be preserved. Special Condition Six (6) has been required in order to ensure that no vegetation may be removed on the subject site for the purpose of fuel modification until after the local government has issued a building or grading permit. The Commission further notes that due to the unique configuration of the subject site in relation to the location of the blueline stream, a further reduction in the size of the proposed residence would not provide for a significantly larger setback/buffer area for the proposed development from the riparian and oak tree habitat on site.

The Commission also notes that there are no alternative building sites on the subject parcel that would not result in greater adverse effects to the riparian and oak tree habitat than the proposed building site. The proposed building site for the new residence will be located immediately downslope and adjacent to Topanga Skyline Road (no new access road is proposed or required) and upslope from the stream on the western portion of the subject site (approximately 65 ft. from the centerline of the stream and 50 ft. or greater in distance from the dripline of the riparian vegetative canopy located along the stream channel). The proposed building site is vegetated with low-lying ruderal vegetation only and no removal of riparian vegetation or oak tree habitat is proposed or required. The subject parcel is bisected by the blueline stream which runs in a north/south direction. Although it is possible to construct a new residence more than 100 ft. from the riparian vegetation canopy on the eastern portion of the subject site (east of the blueline stream), the Commission notes that the eastern portion of the property is characterized as a heavily vegetated steep ascending slope which has been designated as significant oak woodland by the LUP and that any development in this area would require the removal of a large portion of sensitive oak tree habitat. Further, any development on the eastern portion of the subject site would also require the construction of a new access road and stream crossing within the riparian habitat. As such, the Commission notes that there are no alternative potential building sites on the subject parcel that would result in fewer adverse effects to riparian and oak tree habitat than the proposed location for the new residence. Therefore, for the reasons discussed above, the Commission notes that the proposed development has been adequately designed and located in order to provide for the maximum feasible setback/buffer area from the existing riparian vegetation and oak tree habitat on the subject site.

The Commission notes that seasonal streams and drainages, such as the tributary stream located on the subject site, in conjunction with primary waterways, provide important habitat for riparian plant and animal species. Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible. In past permit actions, the Commission has found that new development adjacent to riparian areas, such as the stream located on the subject site, results in potential adverse effects to riparian habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species used for landscaping, disturbance to wildlife, and loss of riparian plant

and animal habitat. In the case of the subject site, the Commission notes that the riparian and oak tree habitat on site has been degraded from past development. Although primarily populated with native riparian plant species, the riparian and oak tree habitat on the subject site has been partially colonized by invasive and non-native plant species including Black mustard, Russian thistle, Tree tobacco, and Eucalyptus. As discussed in detail above, the Commission notes that although the proposed development will be located as far as feasible from the riparian and oak tree habitat (designated as ESHA by the LUP), due to the unique configuration of the site and environmental constraints, it is not possible for the proposed development (or any feasible alternative) to be setback 100 ft. or more from those resources as typically required by the Commission to ensure adequate resource protection. However, in the case of the proposed project, the Commission notes that potential adverse effects to the value of the riparian and oak tree habitat on the subject site may be partially mitigated through the implementation of a habitat enhancement program. Therefore, in order to mitigate any adverse effects to the riparian habitat that result from the proposed development and to ensure that the quality of coastal waters and streams are maintained and restored, Special Condition One (1) requires the applicant to submit a riparian habitat enhancement program that would provide for the removal of all invasive and non-native plant species from the stream channel/riparian vegetation corridor on site and from the 50 ft. riparian habitat setback/buffer area delineated on Exhibit 3. The riparian vegetation corridor and 50 ft. riparian habitat buffer area shall be revegetated with appropriate native plant species. Special Condition One (1) also requires the applicant to submit a landscape and riparian habitat enhancement monitoring report five years from the date of the receipt of the Certificate of Occupancy for the residence, for the review and approval of the Executive Director, and prepared by a licensed Landscape Architect or qualified Resource Specialist indicating the success or failure of the enhancement effort. If the landscaping and habitat enhancement effort is in part, or in whole, unsuccessful, the applicant shall be required to submit a revised or supplemental enhancement program.

In addition, the Commission notes that the proposed project includes approximately 398 cu. yds. of grading (266 cu. yds. of cut, 36 cu. yds. of fill, and 96 cu. yds. of removal and recompaction). Although no grading is proposed within the riparian corridor or oak tree habitat located on the subject site, the proposed grading will result in potential adverse effects to the riparian habitat on site including increased erosion on site and increased sedimentation of the drainage course and downstream areas. The Commission finds that the minimization of site erosion will minimize the project's potential individual and cumulative contribution to adversely affect the natural drainage course. 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. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission finds that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes or riparian areas and that such vegetation results in potential adverse effects to the stability of the project site. Native species,

alternatively, tend to have a deeper root structure than non-native, invasive species and aid in preventing erosion. Therefore, in order to minimize erosion and resultant sedimentation of the drainage course on site and downstream areas, Special Condition One (1) also requires that all disturbed and graded areas shall be stabilized and vegetated with appropriate native plant species.

The Commission further notes that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant community habitat by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant species habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, Special Condition Number One (1) also requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

Further, 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 required by Special Condition Three (3), to submit drainage plans certified by the consulting geotechnical engineer as conforming to their recommendations. Further, to ensure that the project's drainage structures will not contribute to further destabilization of the project site or surrounding area and that the project's drainage structures shall be repaired should the structures fail in the future, Special Condition Three (3) also requires that the applicant agree to be responsible for any repairs or restoration of eroded areas should the drainage structures fail or result in erosion.

In addition, the Commission notes that the proposed grading will be located in proximity to several oak trees and riparian plant species and that such grading may result in potential adverse effects to those resources. In order to ensure that any potential adverse effects to the oak trees and riparian habitat on the project site are minimized, Special Condition Two (2) requires the applicant to retain the services of an environmental resource specialist to be present on site during all grading activity. In addition, Special Condition Two (2) also requires the use of protective fencing around all oak trees or riparian vegetation which may be disturbed by the proposed grading. The monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant adverse effects or damage occur to any oak trees on site as a result of grading activity, the applicant shall be required to submit a revised, or supplemental,

restoration program to adequately mitigate such adverse effects. The revised, or supplemental, restoration program shall be processed as an amendment to this coastal development permit.

As previously discussed, portions of the subject site have been identified by the Malibu/Santa Monica Mountains LUP as significant oak woodland, and riparian habitat and designated as ESHA. Due to the unique nature of the subject site, the Commission finds that the amount and location of any new development on the subject site is significantly limited by the above mentioned environmental constraints. Therefore, in order to ensure that any future structures, additions, or landscaping that may be exempt from coastal permit requirements are reviewed by the Commission for consistency with the resource protection and water quality policies of the Coastal Act, Special Condition Eight (8) has been required.

The Commission notes that any development located within a stream channel (including revegetation and riparian habitat enhancement) will require a Streambed Alteration Agreement from the California Department of Fish and Game. Special Condition Seven (7) has been required to ensure that, prior to the issuance of a coastal permit, the applicant shall submit to the Executive Director a Streambed Alteration Agreement or other evidence of approval from the California Department of Fish & Game or evidence that such approval is not required.

Therefore, for the reasons discussed above, the Commission finds that the proposed amendment, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

D. Visual Resources

Section 30251 of the Coastal Act states that:

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 subordinated to the character of its setting.

The proposed development will not be visible from any public viewing areas other than a portion of Topanga Skyline Drive. In addition, the Commission notes that the proposed development will be located downslope from the road and that the majority of the residence will not be visible from the roadway. Further, the Commission also notes that the proposed residence will be constructed on a soldier pile/beam foundation in order to minimize grading and landform alteration on the subject site and ensure

structural stability. Therefore, for the reasons discussed above, the Commission finds that the proposed development, as proposed, will not result in any adverse effects to public views and is consistent with Section 30251 of the Coastal Act.

E. Septic System

The Commission recognizes that the potential build-out of lots in the Santa Monica Mountains, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

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

As previously discussed, the proposed septic system and seepage pits will be located as far as feasible from all riparian vegetation and oak tree habitat on the subject site. In addition, the applicant has submitted approval from the County of Los Angeles Department of Health Services stating that the proposed septic system is in conformance with the minimum requirements of the County of Los Angeles Uniform Plumbing Code. The minimum health code standards for septic systems for Los Angeles County have been found protective of coastal resources and take into consideration the percolation capacity of soils along the coastline, the depth to groundwater, etc. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

F. 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'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. 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

File:smh/permits/regular/4-99-073 Dillaway report

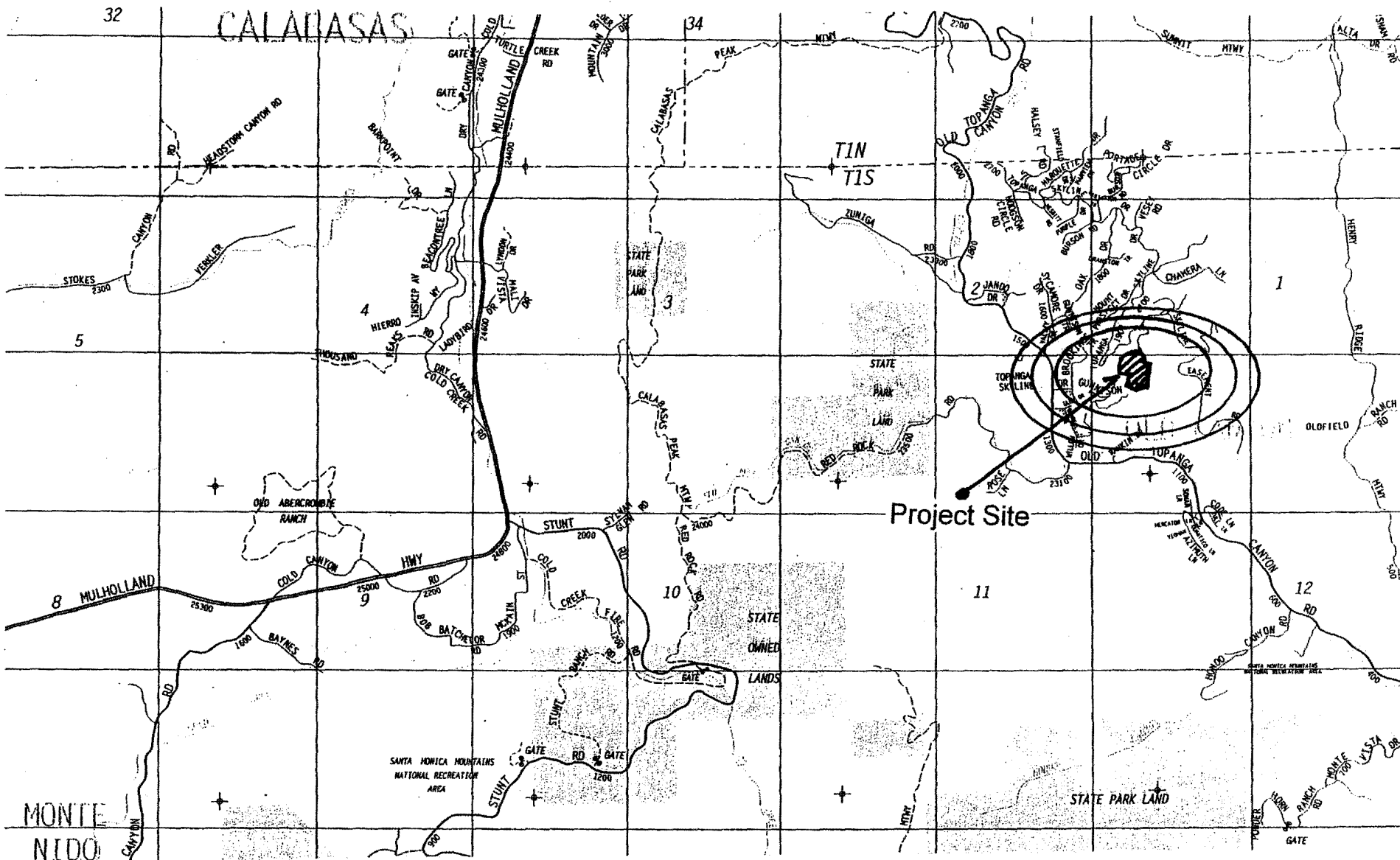


EXHIBIT 1
CDP 4-99-073 (Dillaway)
Location Map

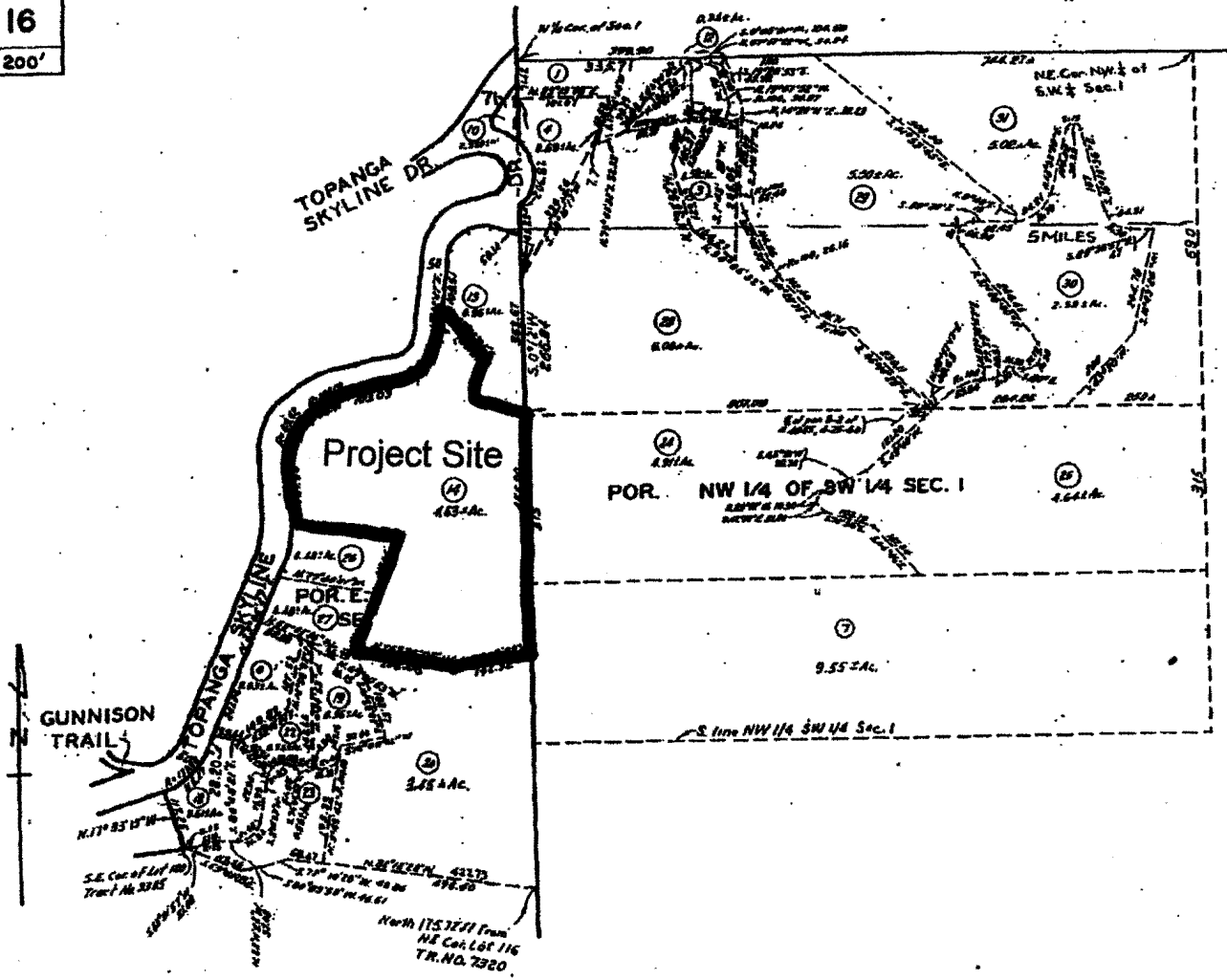
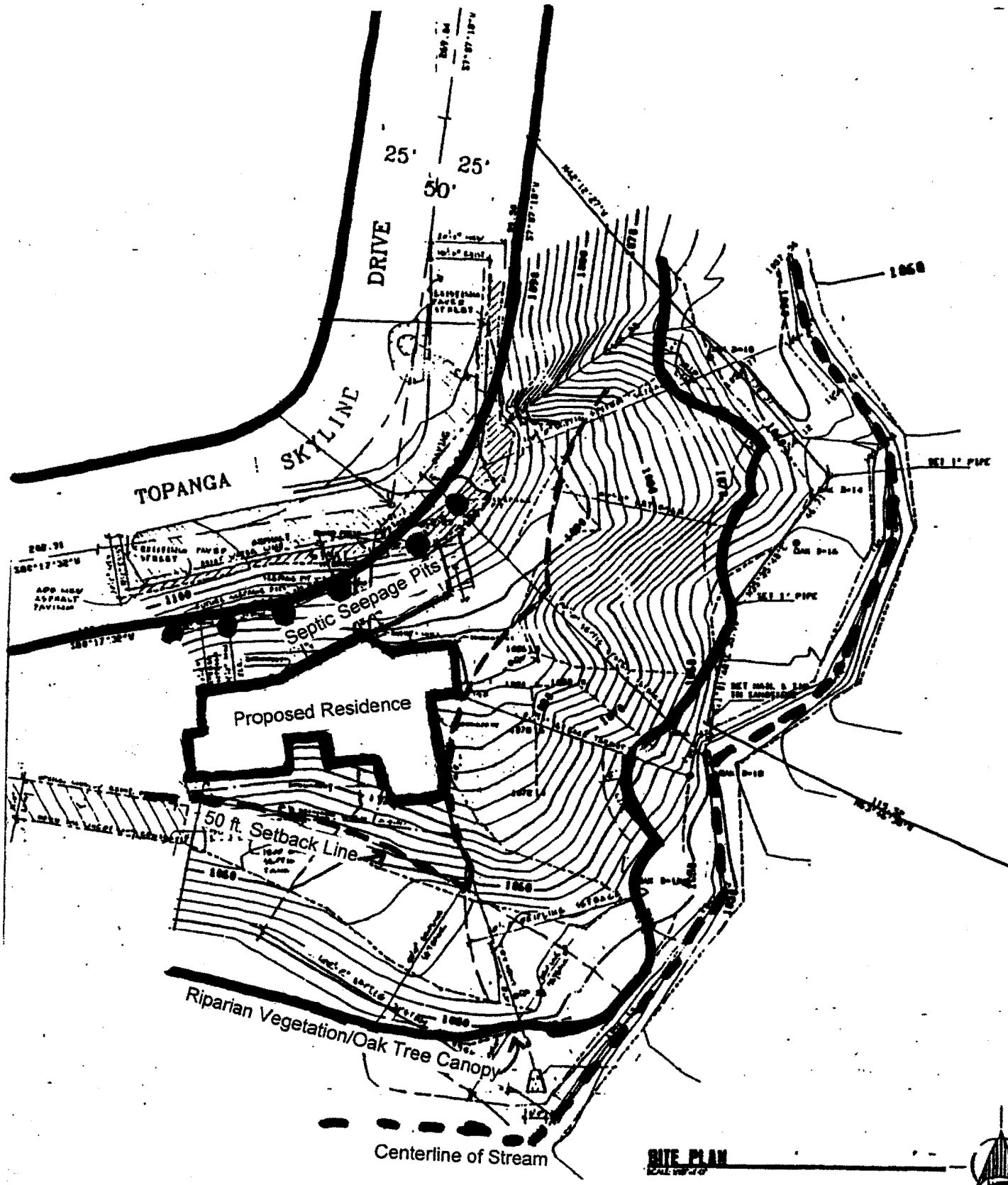


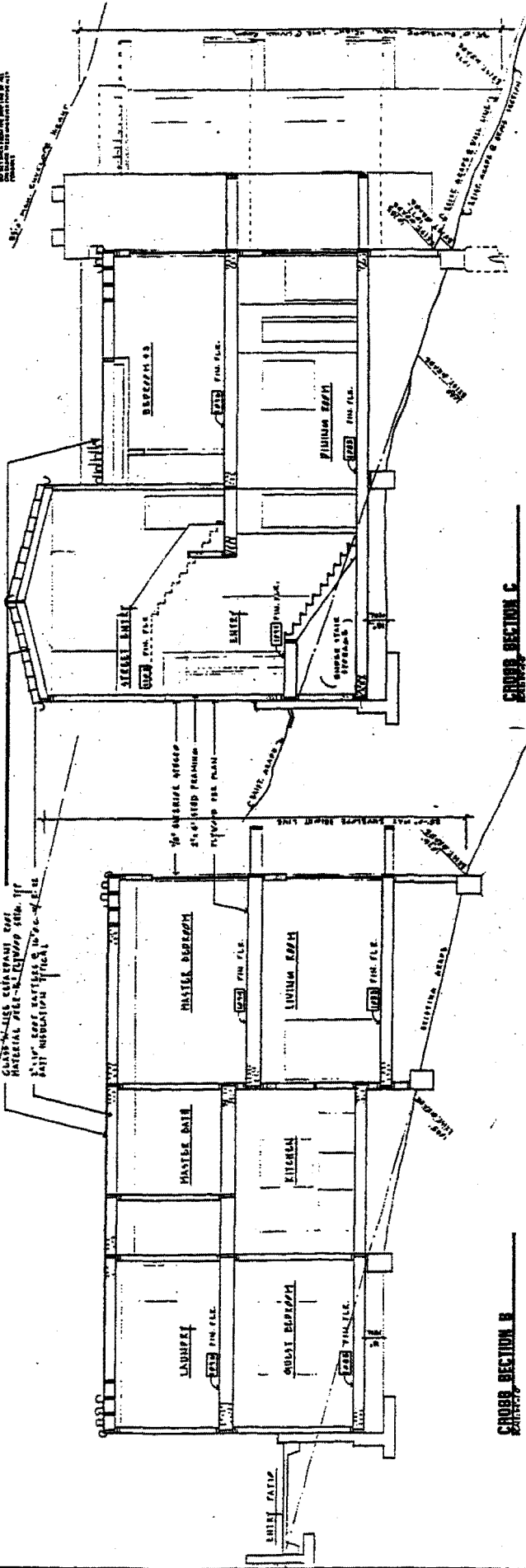
EXHIBIT 2
CDP 4-99-073 (Dillaway)
Parcel Map



SITE PLAN

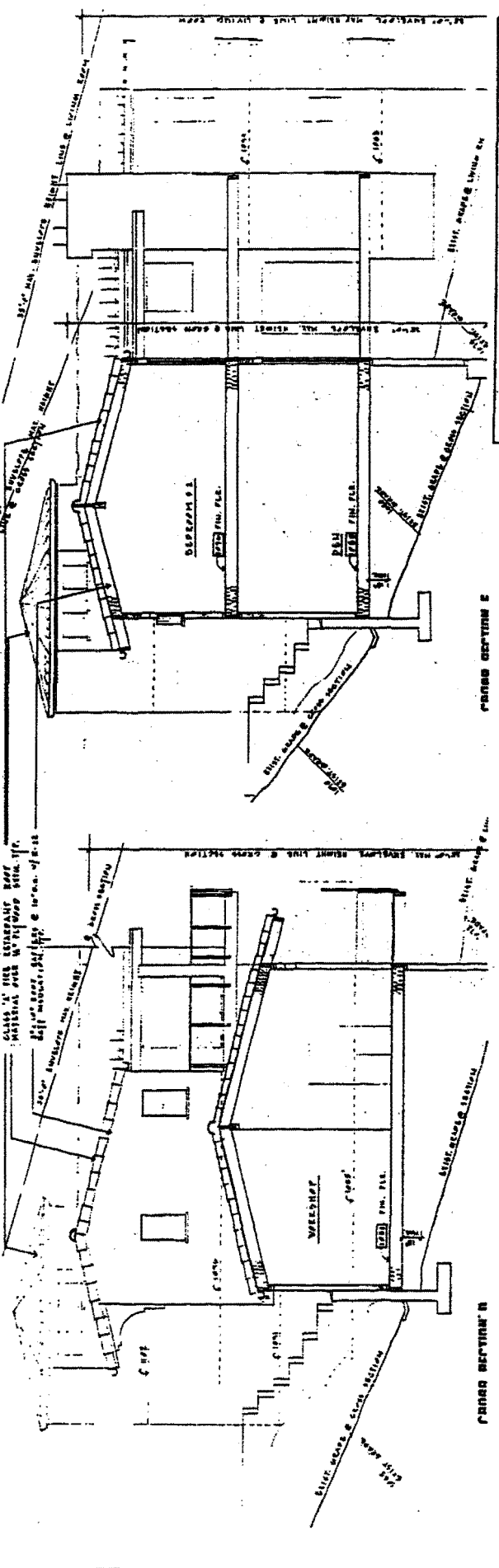
EXHIBIT 3
CDP 4-99-073 (Dillaway)
Site Plan

NO.	DESCRIPTION
1	SECTION THROUGH WALL
2	SECTION THROUGH DOOR
3	SECTION THROUGH WINDOW
4	SECTION THROUGH ROOF
5	SECTION THROUGH FLOOR
6	SECTION THROUGH STAIR
7	SECTION THROUGH PORCH
8	SECTION THROUGH BALCONY
9	SECTION THROUGH TERRACE
10	SECTION THROUGH DRIVE
11	SECTION THROUGH GARAGE
12	SECTION THROUGH ATTIC
13	SECTION THROUGH CRAWL SPACE
14	SECTION THROUGH FOUNDATION
15	SECTION THROUGH BASEMENT
16	SECTION THROUGH SLOPE
17	SECTION THROUGH CURB
18	SECTION THROUGH DRIVEWAY
19	SECTION THROUGH SIDEWALK
20	SECTION THROUGH STREET



CROSS SECTION B

CROSS SECTION C



CROSS SECTION D

CROSS SECTION E

EXHIBIT 5
CDP 4-99-073 (Dillaway)
Structural Cross Sections

