

CALIFORNIA COASTAL COMMISSION

1000 SOUTH CENTRAL COAST AREA
1000 SOUTH CALIFORNIA ST., SUITE 200
LOS ANGELES, CA 90001
(805) 641-0142

**RECORD PACKET COPY**

Filed: 1/10/99

Staff: J. Johnson-VJ

Staff Report: 3/25/99

Hearing Date: 4/15/99

Commission Action:

STAFF REPORT: PERMIT EXTENSION REQUEST**APPLICATION NO.: 4-96-172-E-1****APPLICANT: Marian Olson****AGENT: Don Schmitz****PROJECT LOCATION: 2737 South Fabuco Road, Malibu, Los Angeles County**

PROJECT DESCRIPTION: Construct a 2 story, 4,000 sq. ft., single family residence with four car garage, swimming pool, septic system, and landscaping. Extend private road and water main improvements about 800 feet beyond approved road to adjoining parcel. Grade about 1,352 cubic yards for the residence and access road.

STAFF RECOMMENDATION:

The staff recommends that extension be granted for the following reason: No changed circumstances have occurred since the approval of the subject development that affects the project's consistency with the Coastal Act.

PROCEDURAL NOTE

The Commission's regulations provide that permit extension requests shall be reported to the Commission if:

- 1) The Executive Director determines that due to changed circumstances the proposed development may not be consistent with the Coastal Act, or
- 2) Objection is made to the Executive Director's determination of consistency with the Coastal Act (14 C.C.R. Section 13169).

If three (3) Commissioners object to an extension request on the grounds that the proposed development may not be consistent with the Coastal Act, the application shall be set for a full hearing as though it were a new application. If three objections are not received, the permit will be extended for an additional one-year period.

Staff received twelve (12) letters of objection or request for a public hearing during the public notice period through February 10, 1999. One letter of support was received after the public notice period. These letters are listed in Exhibit A, and a sample of these letters is attached in Exhibit 11.

In summary, the objection letters set forth a total of three issues that are asserted to constitute changed circumstances:

- (1) Cumulative impacts of sequential residential and road development projects;
- (2) Development impacts on West Coast Steelhead Trout within Tuna Canyon and in an adjoining Watershed;
- (3) Loss of one fire escape route, Tuna Canyon Road, to Pacific Coast Highway

The Commission finds, as described in detail below, that none of these three issues constitutes changed circumstances pursuant to 14 C.C.R. Section 13169.

SUBSTANTIVE FILE DOCUMENTS: Geological/Geotechnical Engineering Report, dated May 6, 1996, and Percolation Data and Septic Design Report, dated May 1, 1996, prepared by Gold Coast GeoServices, Inc.; A Phase One Cultural Survey, dated January 19, 1996, prepared by Environmental Research Archaeologists; Tuna Canyon Significant Ecological Area: An Assessment of the Cumulative Impacts of the Potential Maximum Development, prepared for Tuna Mesa Property Owners Association, by Phillips Brandt Reddick, Inc. dated January 8, 1978; Coastal Development Permit No. 4-96-025, Jason; Coastal Permit Amendment No. 4-96-025-A-1, Jason; Coastal Development Permit No. 4-97-015, Sayles and Anderson; Coastal Development Permit No. 4-96-172, Olson.

LOCAL APPROVALS RECEIVED: Approval in Concept: Los Angeles County Regional Planning Department dated 9/24/96; Los Angeles County Department of Health Services, dated 8/1/96; Los Angeles County Fire Department, dated 6/25/96.

FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Location

The applicant has requested a one year extension of the coastal development permit to construct a two-story, 29 foot high, 4,000 sq. ft., single family residence with attached four car garages, motor courtyard, swimming pool, septic system, and landscaping. The applicant also proposes to improve a private road with pavement including water main improvements about 800 feet beyond the same approved road improvements to adjoining parcel. Grading consists of a total of about 1,352 cubic yards for the residence and access road. Constructing the residence will require grading about 1,016 cubic yards; 775 cubic yards of cut and 241 cubic yards of fill. The remaining grading is for the road. The roadway improvements provide for a maximum thirty foot wide roadway to the project site, requiring about 135 cubic yards of

cut and about 201 cubic yards of fill. The excess cut of about 468 cubic yards will be exported to a disposal site outside the coastal zone. (Exhibits 1 - 9)

The project site is located within an existing undeveloped subdivision about two miles inland northwest of Tuna Canyon and south of Fernwood area. This sixteen (16) lot subdivision appears to have been recorded in 1969 prior to the effective date of the Coastal Act. The subject parcel is accessed about one half of a mile to the south of Tuna Canyon Road, along Skyhawk Lane, to Chard Avenue, to Betton Drive and lastly to Fabuco Road. (Exhibits 1, 2, 3, and 4) Although a portion of Chard Avenue and all of Betton Drive and Fabuco Road are presently unimproved dirt roadways, a previous applicant, Mark Jason (Coastal Development Permit No. 4-96-025), has Commission approval to construct improvements to Skyhawk, Chard and Betton Roads. The applicant, Marion Olson, in the application proposed to construct an approximate 300 foot improvement of these road and water improvements along the existing Betton Drive and Fabuco Road to the project site. Fabuco Road ends at the eastern edge of this parcel. The project site is a relatively flat 2.37 acre parcel; the building site is located in the central portion of the parcel on a small knob hill. (Exhibits 2 & 3)

Although the subject parcel is located within Tuna Canyon Significant Watershed, the site is located about one thousand feet from Tuna Creek and about 300 feet from the Tuna Canyon designated environmentally sensitive habitat area (ESHA) and will not have a direct impact on this ESHA (Exhibit 10).

The improvements proposed by the applicant to the existing access roads discussed above, cross four parcels en route to the applicant's parcel (Exhibit 4). However, the applicant has provided evidence of the ingress and egress access easement over the roads. Regarding the four property owners, across whose property the proposed road improvements are located, these individuals were notified of this development pursuant to section 30601.5 of the Coastal Act. Section 30601.5 states as follows: "All holders or owners of any interests of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant." A total of four property owners were notified of the pending permit action under Section 30601.5. None of these property owners responded to these letters, dated November 21, 1996, from staff prior to the Commission hearing on December 12, 1996 when the Commission approved this application with conditions.

B. Background and Permit History

In August 1996, the Commission approved Coastal Permit No. 4-96-025 for Mark Jason for the construction of a 2 story, 25 foot high, 4,800 sq. ft., single family residence, pool and grading of about 696 cubic yards of material. This project, located along Betton Drive, included road improvements consisting of paving a 1,790 foot long section, installing drainage devices and about an additional 3,016 cubic yards of grading. This project site is located southeast of the paved western end of Chard Drive which leads to Skyhawk Lane and Tuna Canyon Road (Exhibit 4). On July 7, 1997, Mr. Jason complied with all of the conditions required prior to the issuance of the coastal development permit, as a result, the permit was issued to the applicant. The Commission approved the project with Special Conditions addressing future development, plans conforming to geologic recommendation, wildfire waiver

of liability, road maintenance agreement, erosion control and drainage plans, and required approvals.

In September 1998, the Commission approved Coastal Permit Amendment No. 4-96-025-A-1 for Mark Jason, for the construction of a below grade retaining wall to reinforce the road embankment and replace an approved drainage culvert with an 'Arizona' crossing along Chard Road. In September 1998, the permit amendment was issued to the applicant. In September 1998, the Commission approved an extension of Coastal Permit No. 4-96-025 for an additional year, without objection. The road improvements and residence have not been constructed at this time.

In December 1996, the Commission approved the subject Coastal Permit No. 4-96-172 for Marian Olson. This coastal permit was issued in May 1998 (Exhibit 12). On December 11, 1998, the applicant requested the subject extension for this Coastal Permit. These road improvements and the residence have not been constructed at this time.

In May 1997, the Commission approved Coastal Permit No. 4-97-015, subject to six Special Conditions, for Gerald & Shirley Sayles and Frances Anderson (co-applicant due to the road improvements) to construct a two story, 4,592 sq. ft. single family residence with an attached three car garage, swimming pool, septic system, and landscaping. West Benton Drive, a private road, was approved to be twenty (20) feet wide with pavement and water improvements along an approximate 340 foot length beyond the road improvements approved in the above Jason (Coastal Permit No. 4-96-025) and Olson (Coastal Permit No. 4-96-172) projects. Total grading included 927 cubic yards of material for the residence and access road. The Commission approved the project with Special Conditions addressing landscape and erosion control and drainage plans, road maintenance agreement, future improvements restriction, plans conforming to geologic recommendation, wildfire waiver of liability, and design restrictions. This coastal permit was issued in June 1998. These road improvements and the residence have not been constructed at this time.

C. Objections to Extension Request

On December 11, 1998, the Coastal Commission received this coastal permit extension request. Staff reviewed the request and determined there were no changed circumstances affecting the project's consistency with the Coastal Act. Pursuant to Section 13169 of the Commission's regulations, notice was given to all property owners within 100' of the property, from a list supplied by the applicant, and all known interested parties of this determination and the project site was posted. Twelve (12) written objections to this determination or requests for a public hearing were received between during the public noticing period from January 28, 1999 through February 10, 1999 (see sample of letters in Exhibit 11).

In summary, the objection letters set forth a total of three issues that are asserted to constitute changed circumstances:

- (1) Cumulative impacts of sequential residential and road development projects;
- (2) Development impacts on West Coast Steelhead Trout within Tuna Canyon and in an adjoining Watershed;

(3) Loss of one fire escape route, Tuna Canyon Road, to Pacific Coast Highway.

The CCC finds, as described in detail below, that none of these three issues constitutes changed circumstances pursuant to 14 C.C.R. section 13169.

Summary of Arguments Made in the Objections

1. Cumulative impacts of sequential residential, road, and utility development projects

This objection raised by letters received from Niederberghaus and Lesavoy, Petermann, Pugliese, Keeler, Scipioni, Rashby, Maxwell, Tothoroh, Hoff, and the Mindels all assert as follows:

Three separate residential and road improvement projects were submitted for Commission review in a sequential manner to hide the adverse cumulative impacts of these developments, which is inconsistent with Section 30250 (a) of the Coastal Act. The Jason project was reviewed by the Commission in August 1996, the Olson project was reviewed in December 1996, while the Sayles/Anderson project was reviewed in May 1997. Each of these projects included the improvement/extension of a portion of a roadway and utilities necessary to access each project. The Jason project included a 1,800 foot road/utility improvement which was also necessary to access the Olson project. The Olson project included a 800 foot road/utility improvement further extending this road. The road/utility improvements approved in the Jason and Olson projects are necessary to access the Sayles/Anderson project. The Sayles/Anderson project includes a 340 foot road/utility improvement that again further extended the road. Because no more than one project is before the Commission at a time, cumulative impacts are not addressed as required by Coastal Act Section 30250.

2. Development Impacts on West Coast Steelhead Trout within Tuna Canyon Watershed and in an adjoining Watershed

This objection raised by letters received from Petermann, Keeler, Tothoroh, all assert as follows:

Since the approval of this project in 1997, information about the existence, within the Tuna Canyon Watershed and an adjoining watershed, of a federally listed endangered species, the West Coast Steelhead Trout has been identified. These letters state that Steelhead Trout have been found in the Tuna Canyon Watershed or an adjoining watershed. Construction of this project will adversely impact this species.

3. Loss of one fire escape route, Tuna Canyon Road, to Pacific Coast Highway

This objection raised by letters received from Petermann, Keeler, Maxwell, Tothoroh, Hoff, Austen all assert as follows:

Since the approval of this project in 1997, the first three miles of the Tuna Canyon Road landward of Pacific Coast Highway has been closed to two way traffic. It is now open one way downhill to the south as an emergency escape route during fires and could be completely

closed at any time by the County; therefore it creates inadequate access and a hazardous fire condition and therefore is not consistent with Coastal Act Section 30253.

D. Analysis

1. Cumulative Impacts of Sequential Development

The Commission received numerous letters asserting that the Commission did not review cumulative impacts of this subject project and future projects particularly with concerns about the sequential timing of the applications. The staff report for the Olson project however, clearly show that the Commission thoroughly reviewed and analyzed in detail the cumulative impacts of the subject residential development including road and utility improvements. (See pages 5 – 17 in the Olson staff report dated 4/24/97, Exhibit 15) Coastal Act Sections 30250 (a) and Section 30105.5 state:

Section 30250(a) of the Coastal Act states (in part):

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.

Section 30105.5 of the Coastal Act states:

"Cumulatively" or "cumulative effect" means the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Regarding Section 30250, the Coastal Act requires that new development be located in existing developed areas able to accommodate it, or other areas where it will not have significant adverse effects on coastal resources. The Coastal Act defines cumulatively or cumulative effect as the incremental effects of an individual project reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The individual and cumulative impacts of the proposed project were analyzed in this case as is required under Section 30250 (a) of the Coastal Act. The Commission reviewed individual and cumulative impacts of the development consistent with Section 30231 addressing the biological productivity and quality of coastal streams and with Section 30240 addressing environmentally sensitive habitats (ESHA).

The following is what the Commission found relative to these coastal issues. The subject site is located on a 2.37 acre relatively flat lot within the Tuna Canyon Significant Watershed Area. Tuna Creek, a designated environmentally sensitive habitat is located about 1,000 feet to the south of the subject parcel; the geographic area designated as ESHA is about 300 feet south of the parcel. Tuna Canyon is designated a Significant Watershed Area because of the

relatively undisturbed nature and presence of wildlife. However, a Significant Watershed is not considered an ESHA under the Coastal Act's definition of ESHA's, such as riparian vegetation, as the Watershed Area is dominated by vegetation and wildlife common to the Santa Monica Mountains. The Malibu/Santa Monica Mountains Land Use Plan (LUP) which was certified by the Commission in 1986, established specific policies and development standards to protect the resources of these relatively undisturbed watersheds. The Commission has used these LUP policies as guidance in their review of permit applications in the Santa Monica Mountains.

The Commission reviewed the report titled; "Tuna Canyon Significant Ecological Area: An Assessment of the Cumulative Impacts of Potential Maximum Development", prepared for the Tuna Canyon Property Owners Association by Steven Nelson, Director of Biological Science, Phillips, Brandt, Reddick, dated January 9, 1978. The purpose of this report was to provide a detailed resource inventory and analysis of the Tuna Canyon Watershed to be used by decision makers as advanced and additional environmental input to their planning process. It's important to note that this report is an objective analysis and assessment of cumulative impacts resulting from the potential buildout of the area. A second report documenting habitat values in the Tuna Canyon Significant Watershed was prepared for Los Angeles County in 1976 by England and Nelson.

Many of the letters received regarding this time extension asserted that the Commission did not review the cumulative impacts of this area due to the sequential nature of the applications brought before the Commission one at time by the applicants. However, the Commission specifically reviewed and analyzed the cumulative impacts of the potential buildout of the Tuna Canyon Watershed Area, including the Olson site. The 1978 Nelson report reviewed by the Commission provided an analysis and assessment of cumulative impacts resulting from the potential buildout of the area. This report concluded that continuing development in this area to the potential maximum density of parcels would result in about a 50% increase in the number of residences. A number of biological impacts were identified as a result of maximum development, however, due to the extremely low density of potential development in the area, some of these impacts are not expected to be significant. The Commission found that the report concluded that:

If the appropriate mitigation measures suggested in Section 6.0 (actually 7.0) are implemented, these impacts, and most others, can be effectively mitigated to levels that would not result in significant adverse impacts on a local or cumulative basis.

The Commission reviewed and found that this report's conclusion that unavoidable impacts are primarily related to the loss and degradation of habitat wildlife resources, and the destruction of valuable riparian habitat by severe erosion and siltation processes. The appropriate areas for development where both of these effects are most likely to be minimized are the more level, generally disturbed areas in the watershed. The subject site is located in the upper watershed area where the canyon is relatively level and disturbed with dirt roads. The Commission further found that the report further concluded that:

If development is geographically restricted in this manner, and all development complies with all of the mitigation measures suggested, unavoidable adverse impacts

should not be expected to have significant cumulative effects on valuable downstream resources.

The Los Angeles County Land Use Plan (LUP) Policies and particularly those policies in Table 1 were developed as a result of the information in the reports and the 1978 report's suggestions to partially or completely mitigate impacts. The Commission found that these policies, including the Table 1 policies, reflect the development constraints and mitigation measures identified in the Nelson report. The Table 1 policies were found by the Commission and were certified in the LUP as consistent with the Coastal Act. These LUP policies were used by the Commission as guidance during the review and analysis of the subject project and were certified by the Commission as consistent with the Coastal Act. The LUP designates this area as Mountain Land for residential development within specific limits. Policy 63 states that uses shall be permitted in Significant Watershed in accordance with Table 1 and all other policies of the LUP. Table 1 provides that residential uses are permitted for "existing parcels smaller than 20 acres in proximity to existing development and/or services, and/or on the periphery of the significant watershed", "at existing parcel cuts (buildout of parcels of legal record) in accordance with specified standards and policies..." Applicable Table 1 policies to Significant Watersheds include the following:

Allowable structures shall be located in proximity to existing roadways, services and other development to minimize the impacts on habitat.

Structures shall be located as close to the periphery of the designated watershed as feasible, or in any other location for which it can be demonstrated that the effects of development will be less environmentally damaging.

Stream beds in designated ESHA's shall not be altered except where consistent with Section 30236 of the Coastal Act.

Grading and vegetation removal shall be limited to that necessary to accommodate the residential unit, garage, and one other structure, on access road and brush clearance required by the Los Angeles County Fire Department. The standard for a graded pad shall be a maximum of 10,000 sq. ft.

New access roads shall be limited to a maximum length of 300 feet or one third of the parcel depth, whichever is smaller. Greater lengths may be allowed through conditional use, provided that the Environmental Review Board and County Engineer determine that there is no acceptable alternative.

Site grading shall be accomplished in accordance with the stream protection and erosion control policies.

It is important to note that the Los Angeles County LUP does not designate the Olson parcel as open space; residential development is a permitted use. The Commission analyzed the subject project relative to each of these policies including the Table 1 policies. As an example, the Commission found that the project was limited to 9,975 sq. ft. of area for site grading and vegetation removal consistent with the maximum 10,000 sq. ft. allowed by Table

1. Further, the Commission found that the project included a landscape and fuel modification plan that illustrated how the areas disturbed by development activities on site will be revegetated to provide erosion control and how native plants will be thinned rather than cleared to retain the erosion control characteristics of the property. The Commission also found that the proposed project was located close to existing roads and services, and that the on-site access road, the driveway from the existing Fabuco Road to the residence and garage, will be less than 100 feet in length. Table 1 limits driveway length to 300 feet, the subject driveway was less than 300 feet in length. The proposed road improvements along Fabuco Road and Betton Drive will occur on an existing dirt roadway within the applicant's legal ingress and egress easement. The road width will be no wider than 30 feet and in some locations less than 30 feet to limit grading due to topographical constraints, as the minimum width allowed by the Los Angeles County Fire Department. The Commission found that development would be close to existing roads and services and that grading activities be minimized and that development be designed to minimize landform alteration. The Commission also found that the proposed development was located as close to the periphery of the designated watershed as feasible, and that streambeds and ESHA's were not altered and would be protected to the greatest extent possible.

The Commission was aware of and reviewed the fact that about 1,800 feet of the section of Benton Drive en route to Skyhawk Lane will be improved as part of the Commission approval of the development of the adjoining parcel owned by Mark Jason, Coastal Permit No. 4-96-025. The Jason project included a 1800 foot road improvement to South Chard Avenue and Betton Road which is also necessary to access the Olson project. The Olson project includes a 800 foot road improvement extending the improvement of Betton Drive and then improving Fabuco Road to the project site (Exhibit 4).

The Commission was aware of and reviewed the fact that there were vacant parcels in the area. The Commission was aware and reviewed the fact that other residential development was approved by the Commission in the vicinity and that future development applications may be reviewed Commission for other vacant parcels. The Commission had approved Coastal Permits for development in this portion of the watershed; specifically, Jason (Coastal Permit No. 4-96-025), Anderson (Coastal Permit No. 4-96-021), Lesavoy (Coastal Permit No. 4-95-031), Geer (Coastal Permit No. 4-94-124), and Andrews (Coastal Permit No. 4-92-122).

The Commission reviewed and analyzed the fact that the proposed project site is accessible due to a series of easements across a series of existing dirt roads. A grading and drainage plan was reviewed that illustrates how drainage will be conveyed off the road in a non-erosive manner after the construction of the road improvements. To address potential erosional impacts from the building site, the Commission required a special condition requiring the applicant to submit erosion control and drainage plans that illustrate how runoff will be conveyed from the project site in a non-erosive manner. The applicant submitted drainage plans indicating that drainage from the building site would drain north to Fabuco Road onto a rip rap dissipater and then west towards a drainage leading south eventually into Tuna Canyon Creek, a total distance of about 1,000 feet. The Commission also required another special condition to ensure the road access and drainage improvements are maintained and any necessary repairs and restoration resulting from failure are done in the future, if needed. This condition also ensured that the road improvements and drainage structures function

properly in the future to prevent erosion and sedimentation of nearby streams. The Commission found that because the project site is located in the upper canyon where the site is generally level with an existing dirt road leading to the graded site and building pad, no significant adverse impacts are expected.

The Commission further analyzed the potential for cumulative impacts as a result of potential future expansions of individual residential development that would be exempt from the requirement of obtaining a coastal permit, such as an addition to the residence. To address the potential for expanding the grading, vegetation removal, and impervious surfaces as a result of future development, the Commission required a special condition addressing the restriction of future improvements. This special condition required a deed restriction to ensure that future development at this site that would be otherwise exempt from Commission permit requirements will be reviewed for consistency with the Coastal Act. Therefore, the Commission found that the proposed project as approved with conditions addressed individual and cumulative impacts and was consistent with and conformed to Sections 30231, 30240, and 30250 (a) of the Coastal Act.

The Commission received numerous letters asserting that the Commission did not review cumulative impacts of this subject project and future projects particularly with concerns about the sequential timing of the applications. No evidence was provided in these letters to support the assertion that the sequential timing of applications created cumulative adverse impacts not reviewed by the Commission or affected the Commission's prior assessment of cumulative impacts of potential build out of residential uses and road improvements in the area. Staff is unaware of any other information that may raise new evidence of changed circumstances relative to cumulative impacts that was not analyzed in the original Olson coastal permit application. The sequential timing of applications to develop this area does not in itself have the potential to create cumulative impacts as the Commission has reviewed the potential buildout of all of the vacant lots within the entire Tuna Canyon Watershed, regardless of the sequence of the submittal of applications, their order of potential approval, or the order of development of each lot. As a result, there are no 'changed circumstances' relative to cumulative impacts and the sequential timing of the applications to develop this area. And lastly, the letters and evidence submitted provide no new arguments that the Commission has not heard during the public record review of Coastal Permit Application No. 4-96-172, for Marian Olson.

2. Development Impacts on West Coast Steelhead Trout within Tuna Canyon Watershed and in an adjoining Watershed

There were three letters received in February 1999 from Petermann, Keeler, Tothoroh, all asserting that the subject project in this watershed would impact West Coast Steelhead Trout in local creeks and an adjoining watershed. The Commission reviewed individual and cumulative impacts of the development consistent with Section 30231 addressing the biological productivity and quality of coastal streams, and with Section 30240 addressing environmentally sensitive habitats (ESHA). The Commission generally does review potential impacts to protected or sensitive species where their presence is known. The Commission did not address in the staff report potential development impacts specifically on a certain species known as the West Coast Steelhead Trout within Tuna Canyon and in an adjoining

Watershed. The federally endangered steelhead trout (*Oncorhynchus mykiss*) was not identified as a protected species within Tuna Canyon Creek during the Commission's review and analysis of the subject project.

In an effort to clarify these assertions made by the writers of these three letters, staff requested in a letter dated March 12, 1999 additional information regarding the asserted existence of this species in the Tuna Canyon Creek Watershed or an adjoining Watershed and how this species may be significantly adversely impacted by this project.

In response, staff received three additional letters from these writers. The first letter dated March 16, 1999 was received from Toby Keeler, Co-Chair, Government Relations Committee of the Las Virgenes Homeowners Federation, Inc. This letter asserts that yearling West Coast Steelhead Trout were found in Topanga Creek last summer and that historical records indicate that significant numbers of the fish were in Topanga Creek and Malibu Creek. The second letter dated March 18, 1999 was received from David Totheroh. This letter asserts that according to information published in the Topanga Messenger (dated August 13, 1998) Steelhead Trout were discovered in Topanga Creek. The letter also asserts that runoff, erosion and sedimentation which can be easily foreseen as a result of the Olson and similar development plans in the watershed would have impacts on the habitat of the trout. The third letter dated March 16, 1999 was received from Herbert Petermann, VOICE Chair (Letter is provided as a sample in Exhibit 13). This letter asserts that a biologist from the Resource Conservation District of the Santa Monica Mountains (RCDSMM) stated that another biologist from the National Marine Fisheries Service (NMFS) found a steelhead trout in Topanga Creek in August 1998. The letter notes that Topanga Creek is adjacent to Tuna Canyon. The letter also asserts that the RCDSMM biologist believes it is likely that steelhead trout also occur in the Tuna Canyon Creek Watershed. A copy of the same Topanga Messenger article dated August 13, 1998 and a copy of a Los Angeles Times article dated March 16, 1999 titled, "Salmon Protection Plan to Target Urban Habitats" were attached. This letter also asserts that any additional grading and building of roads or structures in the Tuna Canyon Watershed will adversely effect the survival of the steelhead trout by paving and building adjacent to stream beds which increases erosion, siltation, and degrades the natural habitat around watersheds. The Commission notes that all of these letters set forth assertions as to the existence of the identified species, however, none of the letters included actual evidence of the existence.

In an effort to investigate whether there is any actual evidence of the species' existence, Staff contacted Sean Manion, conservation biologist for the RCDSMM on March 19, 1999 to confirm whether the statements made in Mr. Petermann's letter are correct. Mr. Manion stated that the statement in Mr. Petermann's letter was a misunderstanding. Mr. Manion did not state that it is likely that Steelhead Trout also occurs in the Tuna Canyon Creek Watershed. Rather, he recalls that he stated the opposite: that it is "unlikely that Steelhead Trout are in Tuna Canyon Creek". Staff attempted to contact Mr. Anthony Spina with the National Marine Fisheries Service (NMFS) to confirm whether or not he discovered Steelhead Trout in Topanga Creek in August 1998. Unfortunately, Mr. Spina is unavailable until later in April 1999. In addition, Staff contacted Eric Shott, Fishery Biologist, with NMFS to determine if Steelhead Trout is present in the Tuna Canyon Creek watershed and confirm if Mr. Spina of the NMFS discovered Steelhead Trout in Topanga Creek as noted in the Topanga

Messenger. Mr. Shott responded on March 22, 1999 that the NMFS is preparing an official response to this request for information. Staff is currently awaiting receipt of this response. If a response is received prior to the Commission's meeting, Staff will convey the response to the Commission at the meeting.

Therefore, no evidence was provided, nor has staff investigation discovered any, to support the assertion that Steelhead Trout was discovered in Tuna Canyon Creek. The alleged discovery of Steelhead Trout in Topanga Creek or local creeks is not relevant to development in Tuna Canyon Watershed because the watersheds are two separate and distinct watersheds. In other words, water falling within the Tuna Canyon Watershed does not flow into Topanga Canyon Creek, but rather it flows downhill into Tuna Canyon Creek. Further, no evidence was provided by the writers noted above or discovered by staff to support the assertion that a Steelhead Trout was found in Topanga Canyon Creek as noted in the Topanga Messenger Article. It's important to note that the reason this alleged discovery is not relevant is because Topanga Creek is located within a separate and distinct watershed from the Tuna Canyon Creek Watershed. Although these two watersheds are adjacent to each other they are not hydrologically connected and are distinct watersheds. Even if Steelhead Trout were discovered in Topanga Canyon Creek, there is no evidence that development in the Tuna Canyon Watershed would affect such species in Topanga Canyon Creek.

However, even if the Commission had evidence of the species' presence in Tuna Canyon Creek, this would not constitute changed circumstances. Even if this species were found in Tuna Canyon Creek, the Commission found in approving the subject development project that, as conditioned, the project would not create any significant adverse impacts to biological productivity and quality of coastal streams and wetlands appropriate to maintain optimum populations of marine organisms, control runoff, prevent substantial interference with surface water flow, maintain natural buffer areas that protect riparian habitats, and minimize alteration of natural streams. The Commission reviewed and analyzed the project and its site and found that no impacts would result from site disturbance and runoff for three reasons. These reasons include the site's substantial 1,000 foot distance from the upper portion of Tuna Creek, the project's conformance with the guidance provided in Table 1 policies and other LUP policies, and as conditioned the project will minimize erosion from the site and sedimentation offsite. (The approved permit conditions are included in Exhibit 12.) Further, no stream alteration or substantial interference with surface water flow was proposed, and no riparian habitats were effected by the project. Therefore, even if Steelhead Trout were discovered in Tuna Creek, it does not change the Commission's 1997 analysis or conclusions in the Olson Coastal Permit staff report, because no significant adverse effects would occur on either an individual or cumulative basis to Steelhead Trout as a result of the Olson project. Thus, although assertions were made that development in the Tuna Canyon Watershed would effect Steelhead Trout, no evidence was received or found by staff to support the assertions which would lead the Commission to question the prior decision to approve the subject development project. Even if these assertions were true and supported by actual evidence, there still wouldn't be changed circumstances because no significant adverse effects would occur on either an individual or cumulative basis to Steelhead Trout. As a result, there are no 'changed circumstances' relative to the issue of significantly adversely affecting Steelhead Trout.

2. Loss of one fire escape route, Tuna Canyon Road, to Pacific Coast Highway

There were six letters received in February 1999 from Petermann, Keeler, Maxwell, Tothorh, Huff, and Austen, asserting that the 1998 closure, as a result of a geologic hazard, and rerouting traffic on Tuna Canyon Road to a one way direction creates inadequate access and a hazardous fire condition under Coastal Act Section 30253. The Commission reviewed the proposed project's risk to life and property in an area where there are fire hazards. The Commission acknowledges that the access status of Tuna Canyon Road has changed since the project was approved rerouting traffic on Tuna Canyon Road to a one way direction downhill to the south from its intersection with Saddle Peak Road to Pacific Coast Highway.

Coastal Act Section 30253 requires that new development minimize the risk of life and property in areas of high fire hazard.

Coastal Act Section 30253 states (in part):

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The Coastal Act also recognizes that new development may involve the taking of some risk and requires 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, the potential cost to the public, as well as the individual's right to use the property. Vegetation in the Santa Monica Mountains consist of highly flammable coastal sage scrub and chaparral with the potential for frequent wild fires and a risk of wild fire damage to development that cannot be completely avoided or mitigated. In fact, the Commission was aware that the subject property burned in the 1993 Malibu Fire. The Commission did approve this project with a condition requiring the applicant to assume the liability from these risks. As a result, the Commission found that the project was consistent, as conditioned, with Section 30253 of the Coastal Act.

In an effort to address these assertions noted above made by the writers of these letters, staff investigated the facts relative to ingress and egress to the subject site. Staff contacted Captain Jordon, of the Los Angeles County Fire Department on March 16, 1999 by telephone. Captain Jordon confirmed that Tuna Canyon Road was closed last year and is now a one-lane road south from its intersection with Saddle Peak Road to Pacific Coast Highway. Captain Jordan confirmed that even with the one-way nature and narrowing in a few locations of the two lane wide roadway the ingress and egress to the site is adequate and meets the minimum Fire Code Standards. A review of a road map of the area indicates that access to and from the site is available from Fabuco Road, to Betton Drive, to Chard Avenue, to Skyhawk Lane's intersection with Tuna Canyon Road (Exhibit 2 & 14). Access to and from this intersection is available to the east on Fernwood Pacific to Topanga Road. To the west access is available from Tuna Canyon Road to Saddle Peak to Schueren to Piuma and to Malibu Canyon Road or from Saddle Peak to Stunt Road to Mulholland Highway. These

access routes are available even if Tuna Canyon Road from Saddle Peak to Pacific Coast Highway is closed in the future. These facts underscore that there is no new information that effects the Commission's prior analysis and decision on the Olson Coastal Permit.

Therefore although assertions were made regarding the 1998 closure of Tuna Canyon Road as a result of a geologic hazard, the rerouting of traffic on Tuna Canyon Road to a one-way direction, and the creation of inadequate access and a hazardous fire condition under Coastal Act Section 30253, no evidence was received or found by staff to support the assertions which would lead the Commission to question the prior decision to approve the subject development project. As a result, there are no 'changed circumstances' relative to fire ingress and egress and a fire hazardous condition under Coastal Act Section 30253.

E. Conclusion

The Commission found, in its approval of Coastal Permit No. 4-96-172, that the proposed project is consistent with Chapter 3 policies of the Coastal Act, and would not prejudice the ability of Los Angeles County to prepare a local coastal program which is consistent with the provisions of the Coastal Act. As discussed above, the objections raised by letter writers received in February 1999 and further clarified in March 1999 do not constitute "changed circumstances" that would affect the proposed project's consistency with the Coastal Act.

Staff is unaware of any other information regarding the Commission's approval of the Olson project and has identified no other possible "changed circumstances" in addition to those asserted by the objectors here. There have been no other identified changes to the proposed project or the project site that would cause the Commission to find the project inconsistent with the Coastal Act.

Accordingly, the Commission finds that there are no "changed circumstances" present that have occurred since the project's approval that affect the project's consistency with the Coastal Act. Therefore, the Commission grants a one year extension of the coastal development permit.

Exhibit A

Letters received objecting to or requesting public hearing regarding extension of time for permit.

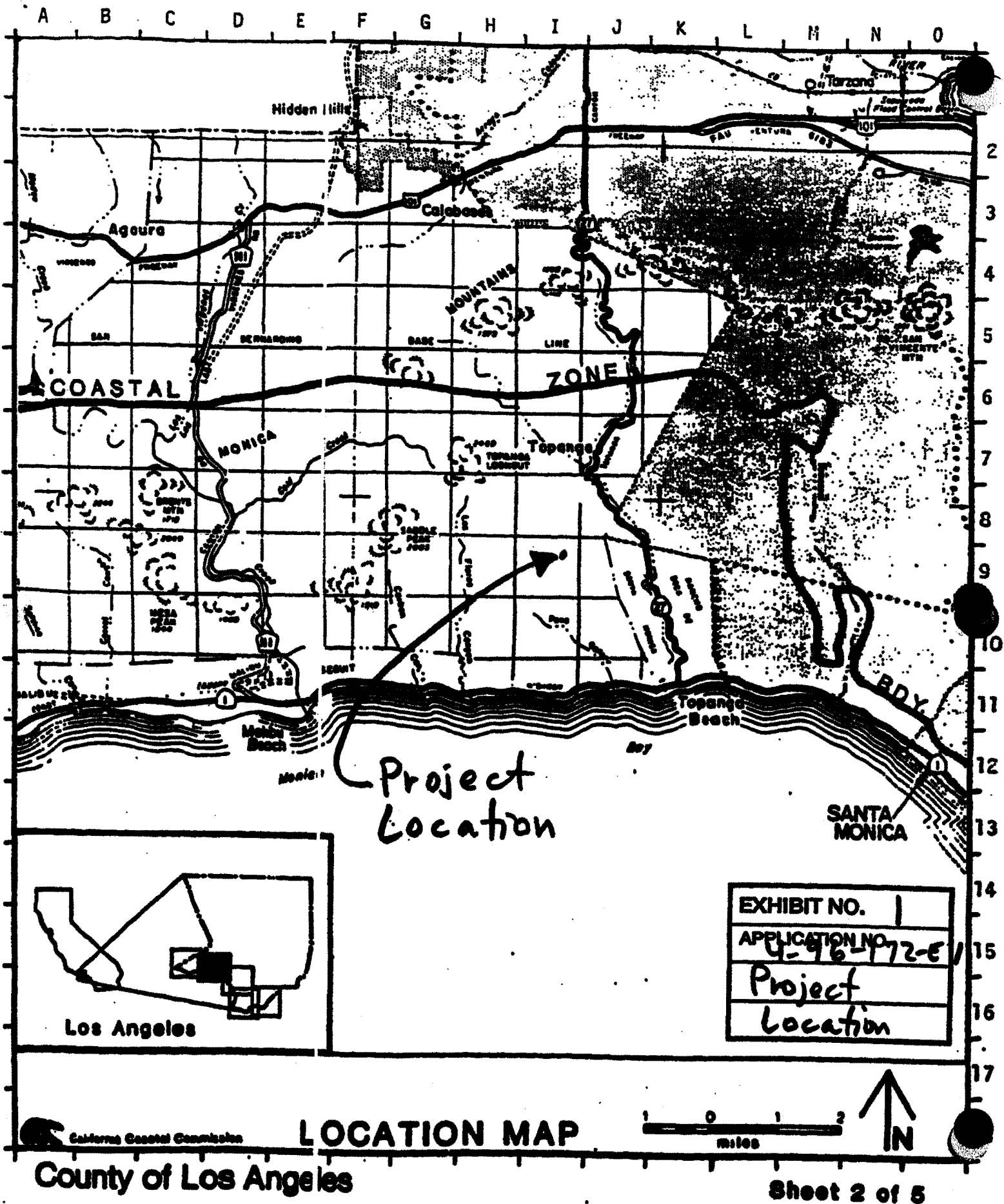
1. Letter from Malcolm Lejavoy and Sabine Niederberghaus received 2/3/99
2. Letter from Herbert Petermann, Viewridge Owners Involved in the Community & Environment received 2/4/99
3. Letter from Roger Pugliese, Topanga Association for a Scenic Community received 2/2/99
4. Letter from Toby Keele, Las Virgenes Homeowners Federation, Inc. received 2/5/99
5. Letter from Vince & Sonia Scipioni received 2/5/99
6. Letter from Robin Maxwell received 2/5/99
7. Letter from Kay Austen received 2/5/99
8. Letter from David Totharoh received 2/8/99
9. Letter from Sophie and Fernando Calisto received 2/8/99
10. Letter from Dan and Lisa Mindel received 2/10/99
11. Letter from Burt Rashby received 2/10/99
12. Letter from Mrs. Colleen Hoff received 2/10/99

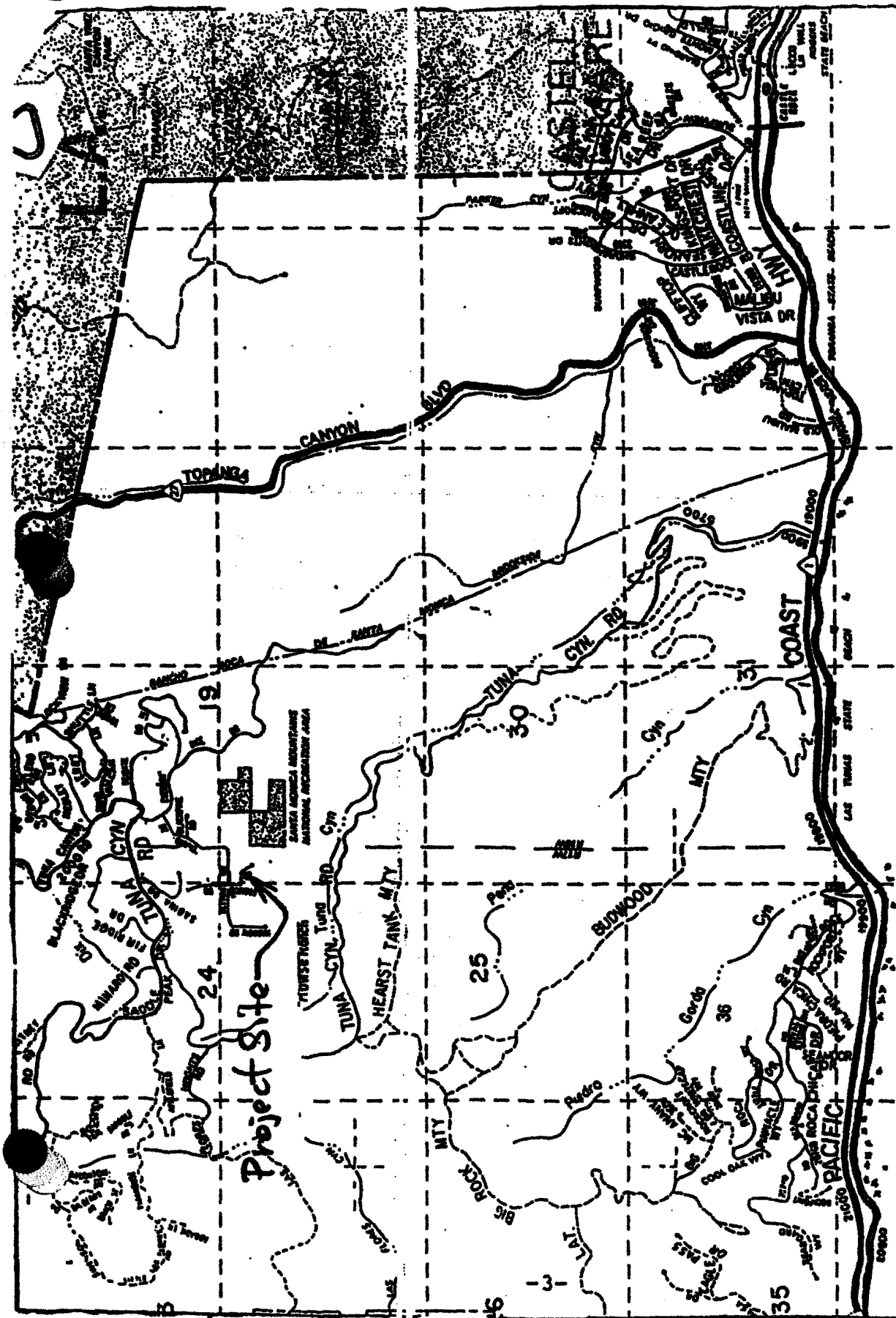
Letters received in favor of extension of time for permit.

1. Letter from Mark Jason received 3/3/99.

Letters received in response to Staff's request for more information.

1. Letter from Herbert Petermann, VOICE Chair received March 19, 1999.
2. Letter from Toby Keeler, Co-Chair Las Virgenes Homeowners Federation received 3/17/99.
3. Letter from David Totharoh received 3/18/99.





PACIFIC OCEAN

OCK BEACH

EXHIBIT NO. 2
APPLICATION NO. 4-96-172-6
Project Site

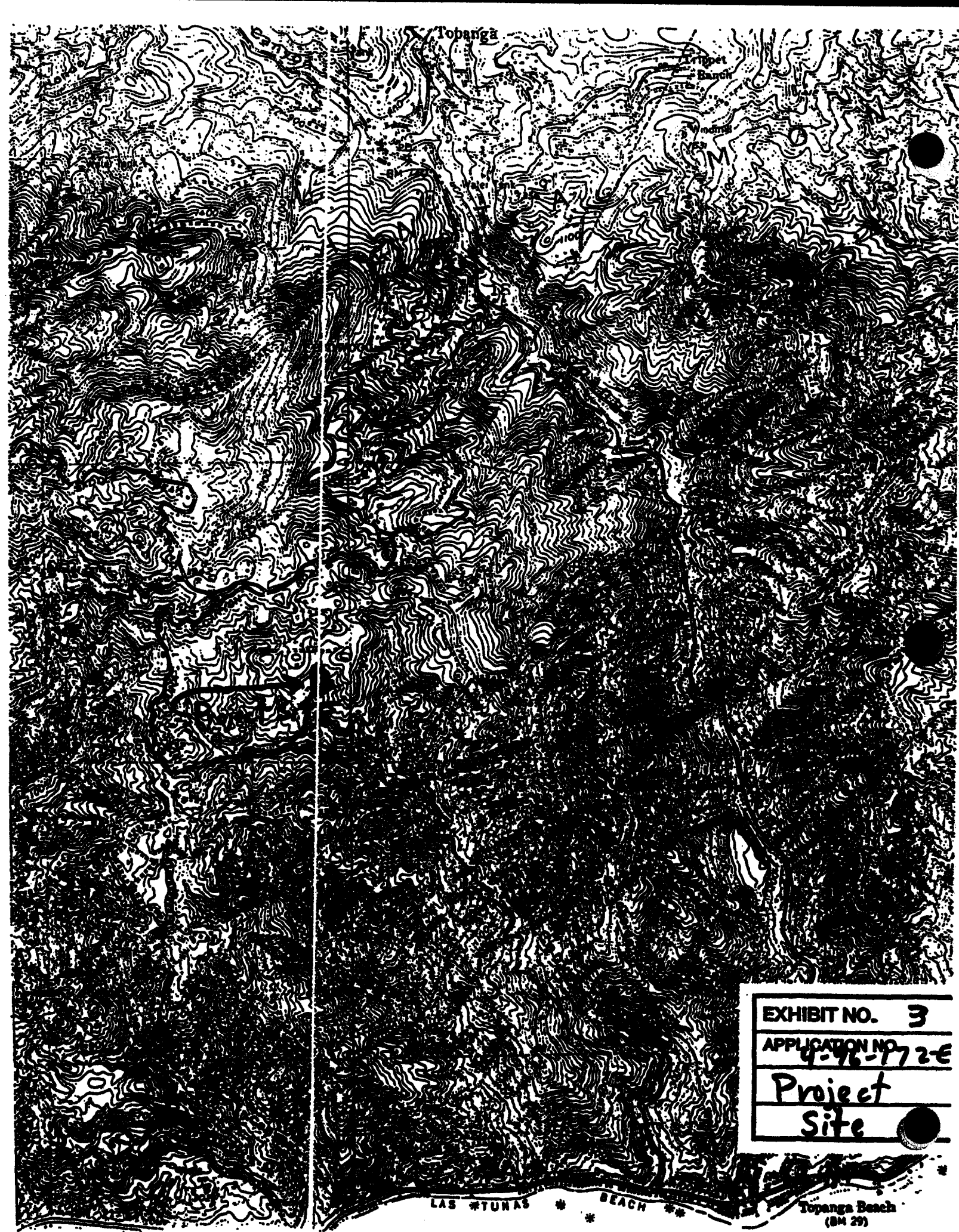


EXHIBIT NO. 3

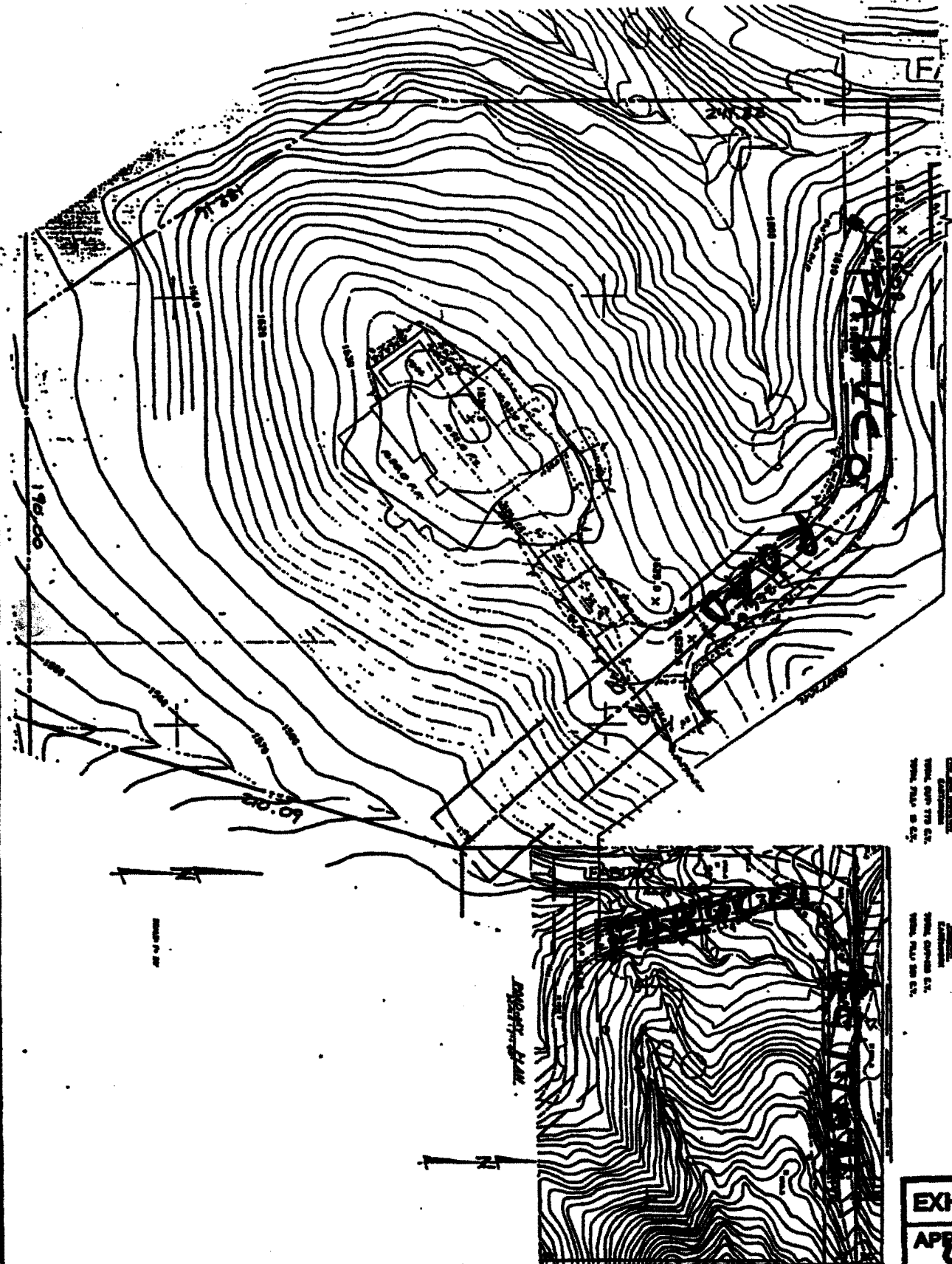
APPLICATION NO. 4-96-172-E

Project
Site

LAS TUNAS

BEACH

Topanga Beach
(BM 29)



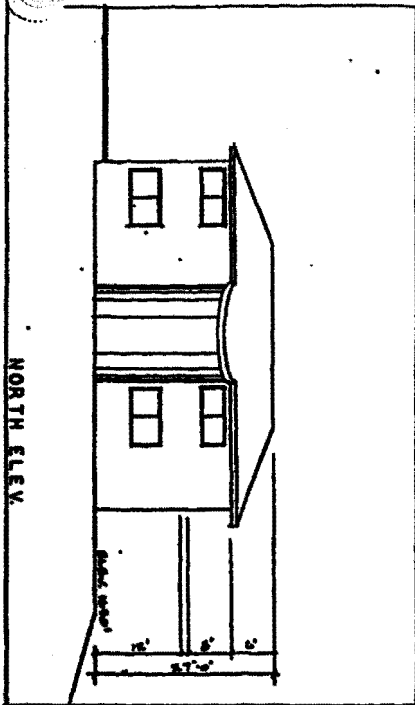
FOR THE ENGINEER
 LANDSCAPE ARCHITECT
 CIVIL ENGINEER
 SURVEYOR
 1000 10th St. N.E.
 WASH. D.C. 20002

NO.	DATE	DESCRIPTION
1	10/1/50	PRELIMINARY
2	10/1/50	FINAL
3	10/1/50	FINAL
4	10/1/50	FINAL
5	10/1/50	FINAL
6	10/1/50	FINAL
7	10/1/50	FINAL
8	10/1/50	FINAL
9	10/1/50	FINAL
10	10/1/50	FINAL

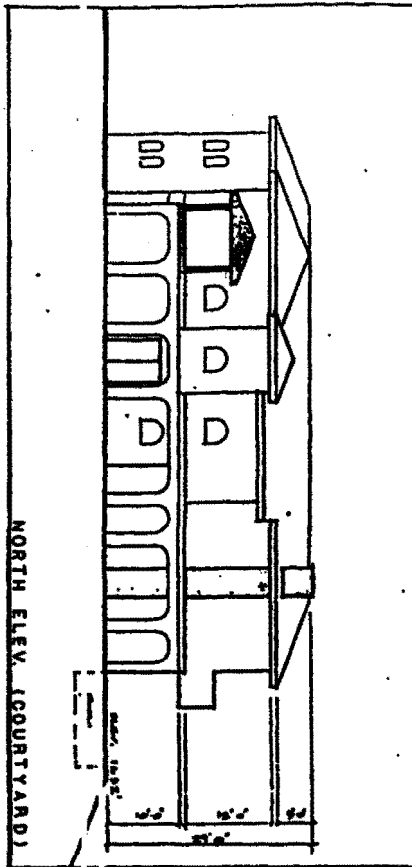
V **Vantage Engineering Co., Inc.**
 1000 10th St. N.E., Wash. D.C. 20002
 (202) 462-1000

GRADING PLAN
2737 Febucco Road
 WASHINGTON, D.C. 20002

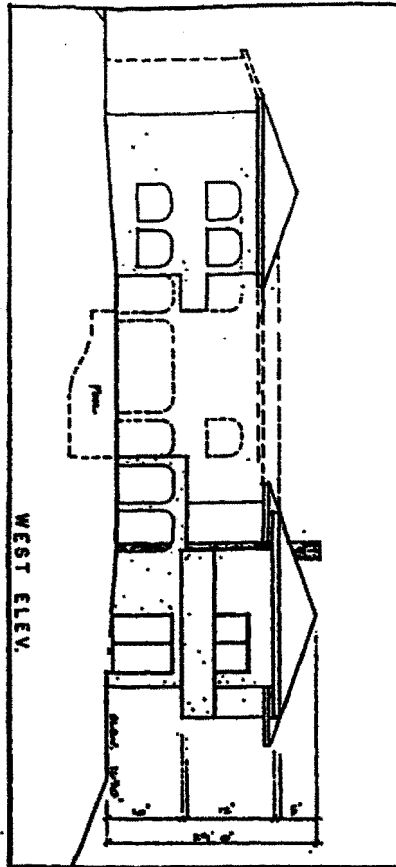
EXHIBIT NO. 50
APPLICATION NO. U-96-172-C-1
Grading Plan



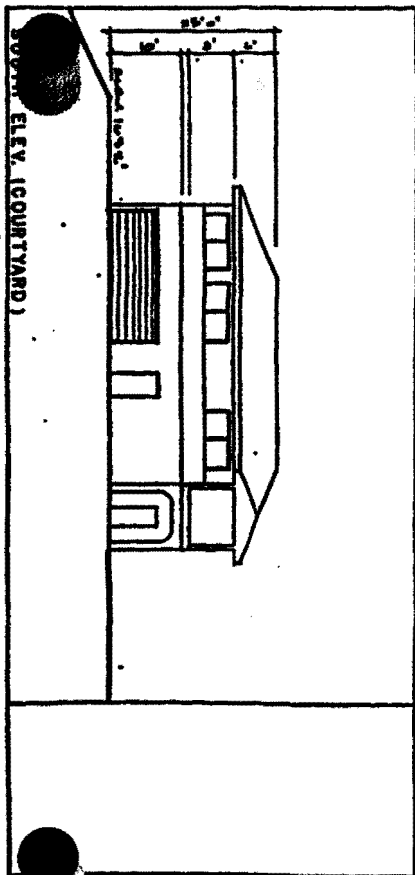
NORTH ELEV.



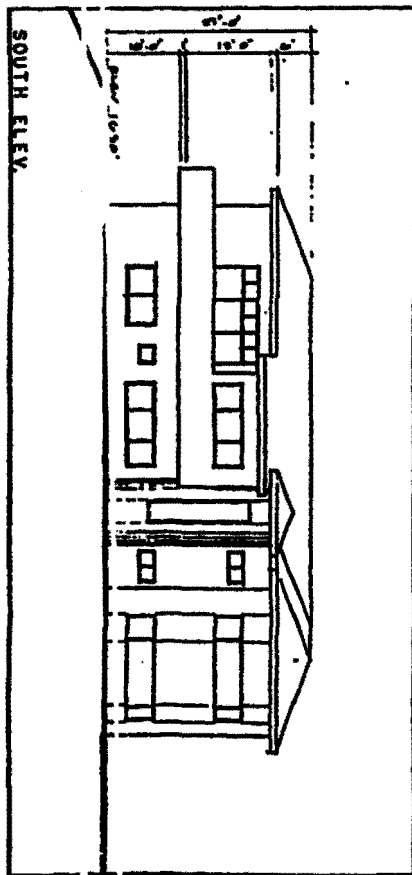
NORTH ELEV. (COURTYARD)



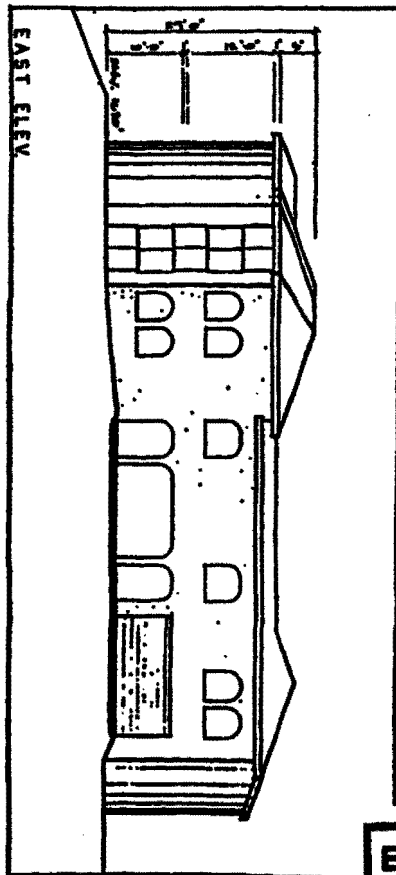
WEST ELEV.



SOUTH ELEV. (COURTYARD)



SOUTH ELEV.



EAST ELEV.

EXHIBIT NO. 8

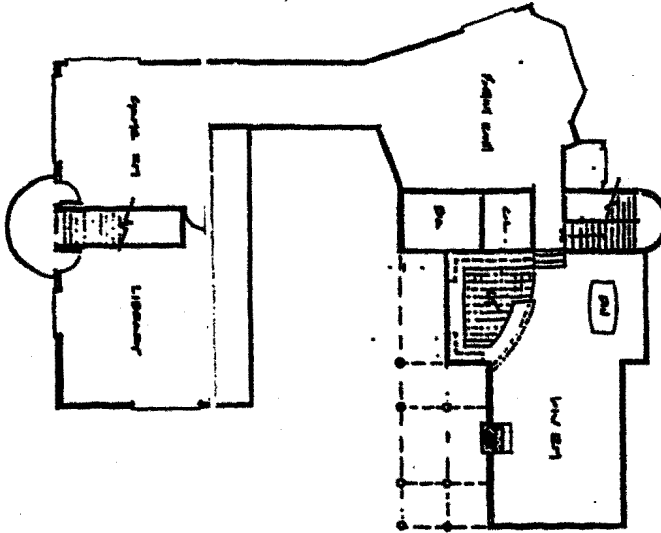
APPLICATION NO. 4-96-192-E

Elevations

Prepared by
MRS. MURRAY OLSON
1501 Crystal Drive #723
Arlington, VA 22202

Prepared by
THOMAS DENTON & COMPANY
ARCHITECTS
JAMES A. DENTON
(703) 274-7004

SECOND FLOOR PLAN



FIRST FLOOR PLAN

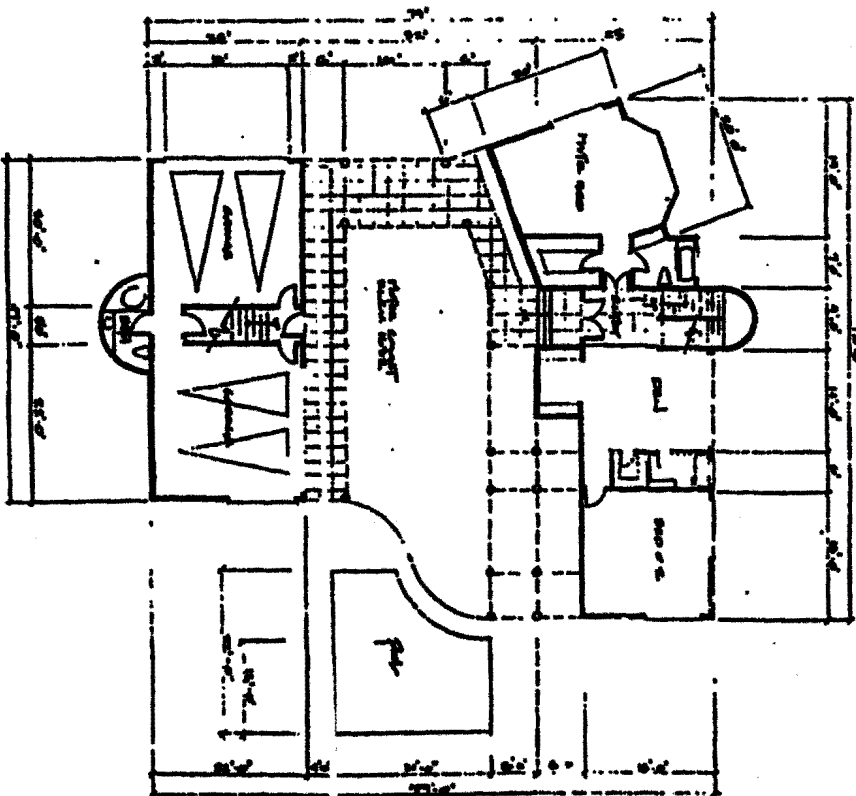
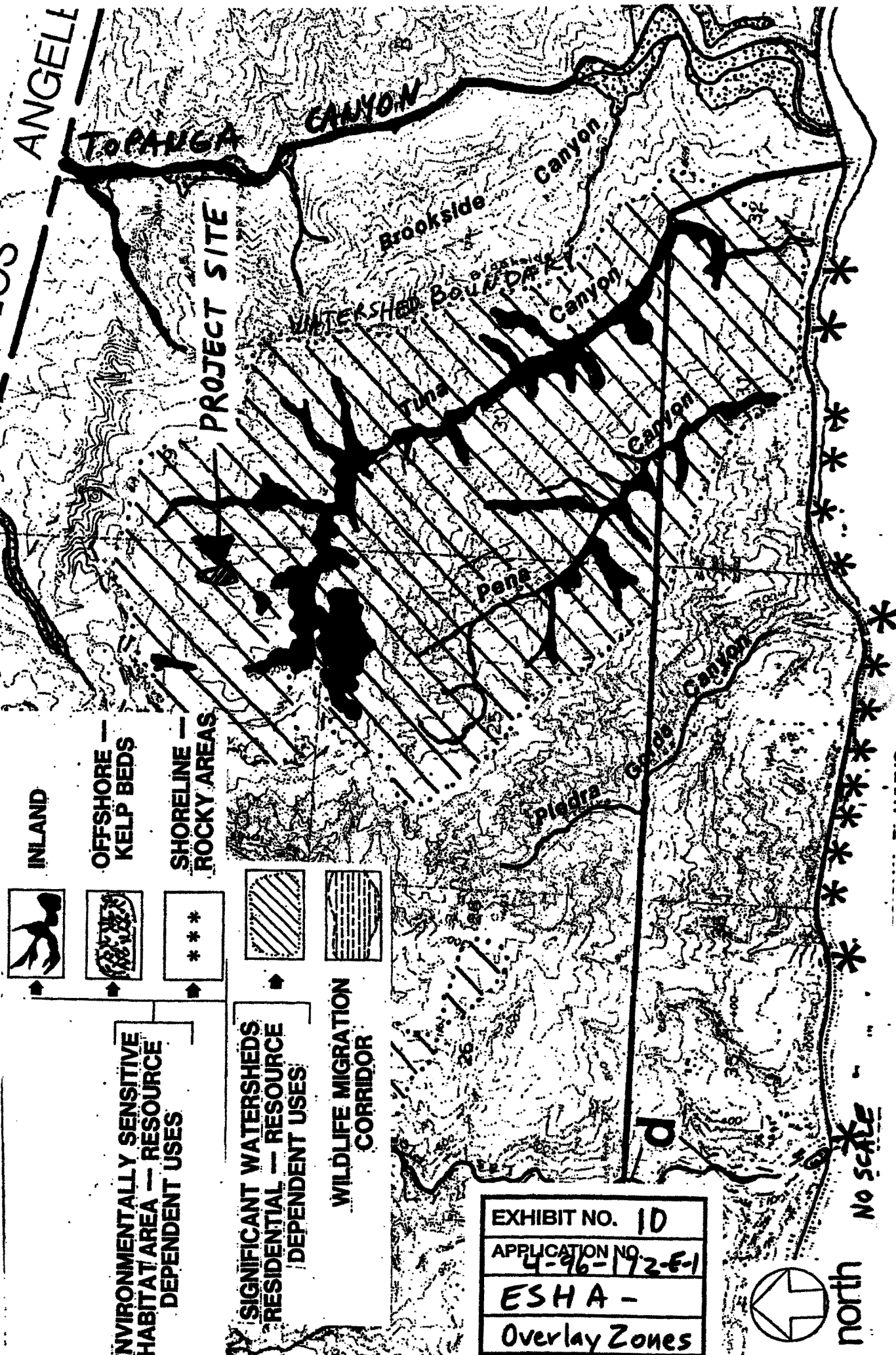


EXHIBIT NO. 9
 APPLICATION NO. 9-96-772-
 Floor Plans

SENSITIVE ENVIRONMENTAL RESOURCES OVERLAY ZONES



**UCLA SCHOOL OF MEDICINE**

Division of Plastic and Reconstructive Surgery

MALCOLM ALAN LESAVOY, M.D., F.A.C.S.Professor of Plastic and Reconstructive Surgery
UCLA Medical CenterChief, Plastic and Reconstructive Surgery
Harbor/UCLA Medical Center
Torrance, California

UCLA Medical Center

61-128 CHS

Box 951663

Los Angeles, California 90095-1663

Tel: (310) 825-1647 Fax: (310) 825-2745

From: Sabine Niederbergbaum, M.B.A. & Malcolm A. Lesavoy, M.D.
2535 Hawks Nest Trail, Topanga, CA 90290
Tel (310) 455-0407 Fax (310) 455-0620**To:** California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001**Attn:** Mr. James Johnson**Re:** Permit No. 4-96-172-E1 granted on December 12th, 1996

Topanga, February 2nd, 1999

Dear Mr. Johnson;

It has come to our attention that there has been a request for an extension on Olsen Permit No. 4-96-172-E1. We would like to strongly request that the Coastal Commission entertains a public hearing in Los Angeles County concerning this issue.

There has been a tremendous amount of opposition to this and related developments in the extremely fragile Tuna Canyon Watershed. Prior to Olson's first permit granted on December 12th, 1996, cumulative impact was not addressed by the Coastal Commission. Prior and subsequent permits granted by the Coastal Commission (Jaxon and Sayles respectively) definitely effect cumulative impact including now this Olsen property. All three of these properties are dependent upon one another, based on your previously permitted 1800 foot paved road which is clearly in contrary and illegal to the Coastal Act (which only allows 300 ft).

EXHIBIT NO. 11

APPLICATION NO.
4-96-172-E-1

Objection Letter

Sample 1 of 7

-2-

In addition, builder Mr. Peter Weeger has clearly stated on many occasions that he intends to build another 4 homes in the same fragile Tuna Canyon Watershed area (defying Coastal instructions to remove his new boundary gates, etc.). It is obvious to all of us in the neighborhood that this has been a consistent and deliberate attempt to mislead the Coastal Commission by releasing these permit applications in different time sequences, so that only one application is before the Commission at one time. This strategy seems calculated to prevent the Commission from understanding the major cumulative impacts in this area.

Thank you in advance for your consideration and we look forward to a hearing date concerning this issue in the Los Angeles County area.

Sincerely,

M. A. Lesaujy M.D.
Malcolm A. Lesaujy, M.D.

Signed in absence

Sabine Niederberghaus
Sabine Niederberghaus

cc. Senator Tom Burton
Senator Tom Hayden
Mrs. Sandy Brown, Assistant to Senator T. Hayden
Frank Angel, Esq
Roger Pugliese, Chairman/TASC
TUNA (Topanga Unified Neighborhood Association)
L.A. Times, T. Christina Miller
Zev Yaroslavsky

EXHIBIT NO. 11

APPLICATION NO.
4-96-172-E-1

Objection Letter

Sample 2 of 7

EXHIBIT NO. 11
APPLICATION NO. 4-96-172-E-1
Objection Letter
Sample 3 of 1

RECEIVED
FEBRUARY 1, 1996
FEB 1 1996

California Coastal Commission
Mr. James Johnson, Analyst
89 South California St., Suite 200
Ventura, California

COASTAL COMMISSION
SOUTH CENTRAL

Re: New Information About Tuna Canyon Road Necessitates
a Hearing on Olson Extension Request, Permit # 4-96-172-E1

Dear Mr. Johnson:


Serial development is occurring in Tuna Canyon: the same consultant/architect carefully times permit applications so that only one at a time is before the Coastal Commission. If the Coastal Commission does not stop him, there will be a minimum of twenty to thirty new homes in Tuna Canyon within the next five years. Residents and wildlife will be extremely endangered if not destroyed by such density in this rare and fragile watershed--residents from blocked exits in case of fire; wildlife from pollution of Tuna Creek and destruction of habitat.

Though several homes are ranged along its rim, Tuna Canyon remains one of the last undeveloped coastal canyons. According to Resource Conservation District biologist, Rosi Dagit, it is one of the most pristine contained watersheds in Southern California. It has a year-round creek that sustains a variety of wildlife--from several varieties of birds to mountain lions to the West Coast Steelhead Trout, an endangered species. Just yesterday, I saw two bobcat cubs (bobkittens ?) playing near the road.

You may not be aware that Tuna Canyon road was closed last spring and summer due to slides. According to the county road department, in the 4,000 square miles of Los Angeles County, there were thirty-three geological failures last year due to El Nino, eighteen of them in the Santa Monica Mountains; with sixteen slides on Tuna Canyon Road alone. This frightened residents greatly because it is one of only two escape routes to PCH in case of fire for the few thousand residents of the Fernwood Pacific, Saddlepeak, and Tuna Canyon sections of Topanga. Of the two escape routes, Tuna is the fastest and most direct: you reach PCH in ten minutes. Unfortunately, it is also the most fragile escape route: its single narrow twisting lane has crumbled or been washed out by scores of slides each year.

But the County didn't close Tuna Canyon road because of the slides and wash-outs. They can be fixed. It closed it because of a new, even more dangerous situation: a prehistoric scarp was reactivated and so severely undermined by last year's rains that a 3/4 mile-long slide could engulf the road at any moment. Only under the greatest pressure from frightened residents and Supervisor Zev Yaroslavsky did the County agree to reopen Tuna last July in time for fire season. But it believes the slide danger is so great (and hence its liability) that it converted Tuna

from a two-way road to a one-way road--down the canyon and out--in order to eliminate as much traffic as possible. Even so, our new one-way road is dotted by stop signs. Why? So that drivers will stop and look to make sure that the road is still there.

Ironically (in view of the Coastal Commission's apparent approval of more homes here), the County believes that because the Canyon is so ecologically rare and fragile, permits will be time consuming and difficult to obtain. To save the road will take millions of dollars (one to two million alone just for design and construction, not including the environmental impact studies). Massive grading and reconstruction are needed to contain the scarp, move the upper road into the hill, and raise the elevation of the lower road. (Imagine a horseshoe resting on its side [], and you have the shape of the road.)

So at a time when one of only two fire escape routes to PCH is in imminent danger of being swept away by a massive slide almost a mile long, the Coastal Commission is approving more homes and residents here. If that road goes, as the County clearly believes it will, all of us here, old and new residents alike, will be trapped in a fire by blocked exits and increased traffic. I lived in the Oakland Hills one summer on one of those narrow twisting streets that later burned. None of us, including the Coastal Commission, wants to see another catastrophe like that.

Therefore, I hope you will schedule a hearing as soon as possible on the Olson request for an extension. May I suggest that you invite Dean Lehman to the hearing? He is an Assistant Engineer with the County Roads Department, and it was he who relayed the above facts as he, I, and other concerned residents of Tuna Canyon toured the road last year when it was closed. Susan Nissman, Senior Field Deputy to Supervisor Yaroslavsky, organized the field trip down poor old Tuna, and she can put you in touch with him.

In the meantime, I am sending you the July 30th, 1998 issue of the Topanga newspaper, The Messenger, with its detailed account of the meeting last July 21 between about a hundred residents and representatives of Soils and Geology, and the Fire and Roads Departments about the obstacles to reopening Tuna Canyon Road. This lengthy article conveys better than I can the fragility of Tuna Canyon and the danger of that road. (I am the lady in the picture standing behind Dean Lehman as he points out the crumbling road and bank beneath us.)

Thank you very much for your careful consideration of my letter. I look forward to meeting you at the hearing.

Sincerely,



Kay Austen, Ph.D.

2630 Tuna Canyon Rd.
Topanga, CA 90290
310-455-1611

EXHIBIT NO. 11
APPLICATION NO. 4-96-172-E-1
Objection Letter
Sample 4 of 7

TOPANGA ASSOCIATION FOR A SCENIC COMMUNITY
P.O.BOX 352, TOPANGA, CALIFORNIA 90290

February 3, 1999

California Coastal Commission
South Central Coast Area
89 South Street
Suite 200
Ventura, Ca. 93001

At: James Johnson

Dear James,

It has come to our attention that coastal development permit # 4-96-172-E1 has requested an extension of one year. Our organization of over 600 residents in Topanga have some concerns regarding this permit and its extension. We respectfully request that the Executive Director report the Olson's permit extension application to the Coastal Commission for a public hearing. We would like this to be heard in Los Angeles County. There are many residents who are concerned about the Tuna Canyon Watershed area where this house may be built.

Since the project was approved on December 12, 1996, circumstances affecting the Olson project's consistency with the Coastal Act and the Malibu LUP have changed, especially in regards to Section 30250 (a). When the Olson project came up, the commission did not know about the Sayles project. It was not before the Commission at that time. This project was reviewed by staff towards the end of January 1997. The Sayles project is clearly related to the Olson project for purposes of cumulative impact assessment especially because the Sayles project depends on the 800 ft. long access road approved as part of the Olson project. Since the Olson project was approved there have been developers preparing and grading other parcels in the significant watershed.

There is evidence before the Commission that shows that the consultant for all the individual residential projects in the Tuna Canyon Significant Watershed appears to be deliberately time releasing the permit applications so that no more than one application is ever pending before the Commission at the same time. This strategy seems calculated to prevent the Commission from seeing this for what it is. It is clearly a means to get around the Coastal Act, the LUP and CEQA.

Thank you for any consideration in this matter. I can be reached at (310) 455-2951.

Sincerely yours,



Roger Pugliese
Chair/TASC

EXHIBIT NO.	11
APPLICATION NO.	4-96-172-E-1
Objection Letter	
Sample 5 of 7	

Robin Maxwell

EXHIBIT NO. 11
APPLICATION NO. 4-96-172-E-1
Objection Letter
Sample 6 of 7

FAX

RECEIVED
FEB 05 1999
CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

TO: JAMES JOHNSON
California Coastal Commission
89 South California Street Suite 200
Ventura, CA 93001

FROM: ROBIN MAXWELL

RE: REQUEST FOR PUBLIC HEARING FOR EXTENSION APPLICATION ON
TUNA CANYON PROPERTY (OLSON - Permit No. 4-96-172-E1)

DATE: February 3, 1999

Dear Mr. Johnson,

As a concerned resident of Tuna Canyon, I would like to request that your executive director report MARION OLSON'S PERMIT EXTENTION APPLICATION to the Coastal Commission for public hearing in Los Angeles County. (permit #4-96-172-E1).

Since the original permit was granted, several things have changed. On December 12, 1996, when the Olson project was approved, the Coastal Commission was not aware of the SAYLES PROJECT (a home to be built in the same area) because the permit application was not submitted until January 31, 1997. But this project is clearly related to the Olson project, especially with regard to ADVERSE CUMULATIVE EFFECTS ON COASTAL RESOURCES. The Sayles project depends on the 800 foot long access road approved as part of the Olson Project.

One other person, a Mr. PETE WEEGER, has illegally placed a fence across an access road to the property in question and was forced to remove it until he obtained the correct permit.

In addition, it is clear that the consultant for all the individual residential properties releases the permit applications in such a way that no more than one application is ever pending before the commission at the same time, so that you at the commission are prevented from seeing this as a cumulative effects problem. Also note that the consultant and the architect are the same on all projects.

One final thing. Because of severe damage to Tuna Canyon Road south of Saddle Peak Road during the winter of 1998, the last 3 miles of the road down to Pacific Coast Highway was closed to two way traffic. Only after a protracted battle with L.A. County was the road allowed to be opened ONE WAY, going down, so it could be used as an escape route during fires. The residents have been put on notice that the road could be COMPLETELY CLOSED at any time the county sees fit to do so.

The idea of a development in this very fragile area of Tuna Canyon seems irresponsible and downright suicidal. I hope you will reconsider this and other permits in a public hearing.

Sincerely,

Robin Maxwell

ROBIN MAXWELL

EXHIBIT NO. 11
APPLICATION NO. 4-96-172-E-1
Objection Letter
Sample 7 of 7

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



Page 1 of 4
Date: May 5, 1998
Permit No. 4-96-172

COASTAL DEVELOPMENT PERMIT

On December 12, 1996, the California Coastal Commission granted to Marian Olson this permit subject to the attached Standard and Special conditions, for development consisting of: Construct a 4,000 sq. ft., 2 story single family residence with four car garage, swimming pool, septic system, and landscaping. Extend private road and water main improvements about 800 feet beyond approved road to adjoining parcel. Grade about 1,352 cubic yards for the residence and access road and is more specifically described in the application on file in the Commission offices.

The development is within the coastal zone in Los Angeles County, BE 273, South Fabuco, Malibu.

Issued on behalf of the California Coastal Commission by

PETER DOUGLAS
Executive Director

JUL 13 1998

By: *[Signature]*
JAMES JOHNSON
Coastal Program Analyst
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

[Signature]
Date July 10, 1998

[Signature]
Signature of Permittee

3797Cpg5cdp/sm

EXHIBIT NO.	12
APPLICATION NO.	4-96-172-E-1
Coastal Development	
Permit	1 of 4

COASTAL DEVELOPMENT PERMIT

Page 2 of 4
Permit No. 4-96-172

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 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.

SPECIAL CONDITIONS:

1. EROSION CONTROL AND DRAINAGE PLAN

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a erosion control and drainage plan designed by a licensed engineer. The plan 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 according to the submitted landscape plan, utilizing native plants where possible, within thirty (30) days of final occupancy of the residence. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage.

EXHIBIT NO. 17
APPLICATION NO. 4-96-172-E-1
Coastal Development
Permit 2044

COASTAL DEVELOPMENT PERMIT

Page 3 of 4
Application No. 4-96-172

- b) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved disposal location.
- c) The drainage plan shall illustrate that run-off from the roof, patios, driveway 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. Site drainage shall not be accomplished by sheet-flow runoff. Should the residential project's drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.

2. ROAD MAINTENANCE AGREEMENT

By acceptance of this Coastal Development Permit, the applicant agrees that should the proposed improvements to the access road or the proposed drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be solely responsible for any necessary repairs and restoration along the entire length of the access road as it crosses Betton Drive and Fabuco Road.

3. FUTURE IMPROVEMENTS RESTRICTION:

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. 4-96-172; and that any future structures, additions or improvements to the property, including but not limited to clearing of vegetation, that might otherwise be exempt under Public Resource Code Section 30610(a), will require a permit from the Coastal Commission or its successor agency. However, fuel modification consistent with the requirements of the Los Angeles County Fire Department's fuel modification standards is permitted. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

4. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION

All recommendations contained in the Geologic / Geotechnical Engineering Report, dated May 6, 1996, prepared by Gold Coast GeoServices, shall be incorporated into all final design and construction including foundation systems, retaining walls, cut slopes and excavations, and site drainage. All plans must be reviewed and approved by the consultants. Prior to the

EXHIBIT NO. 12

APPLICATION NO.
4-96-172-E-1

Coastal Development

Permit 3 of 4

COASTAL DEVELOPMENT PERMIT

Page 4 of 4
Application No. 4-96-17

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 in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

5. WILDFIRE 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, operations, 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.

3797Cpg8cdp/sm

EXHIBIT NO. 12
APPLICATION NO. 4-96-172-E-1
Coastal Development
Permit 4 of 4



VOICE

EXHIBIT NO. 13
APPLICATION NO. 4-96-172-E-1
Additional Info Steelhead 1 of 6

Viewridge Owners Involved in the Community and Environment

March 16, 1999

California Coastal Commission
South Central Coast Area
89 South St., Suite 200
Ventura, CA 93001

Attn: James Johnson
Sent Via Fax and U.S. Mail

RECEIVED
MAR 19 1999
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: Olsen Coastal Permit Extension No. 4-96-172-E-1

Dear Mr. Johnson:

I am responding to your letter, dated March 12, 1999, in which you requested additional information regarding the existence in the Tuna Canyon Watershed or adjoining watersheds of the West Coast Steelhead Trout, a federally listed endangered species.

I spoke to Sean Manion (Tel. 310-455-2533), conservation biologist for the Resource Conservation District of the Santa Monica Mountains, on March 15, 1999, regarding the existence of the West Coast Steelhead Trout in Topanga Creek. This creek is immediately adjacent to Tuna Canyon. Mr. Manion said a steelhead trout was found in the creek in August 1998 by Anthony Spina, biologist for the National Marine Fisheries Service. This is significant, since this species is listed as endangered and it was thought that the fish was found only north of Malibu Creek. He said it is likely that the steelhead trout also occurs in Tuna Canyon Creek Watershed. I have attached a copy of an article published in the Messenger and written by Rosi Dagit, biologist for the RCDSMM. This article describes in detail how this steelhead trout was found, and its significance for the health of the Topanga Watershed.

We feel that any additional grading and building of roads or structures in the Tuna Canyon Watershed will adversely effect the survival of the steelhead trout. The paving and building adjacent to stream beds increases erosion, siltation and degrades the natural habitat around watersheds. In my letter to you, dated February 3, 1999, I described the cumulative impact the access road will create. Three applicants have received permission to build along this access road. A dozen or more lots will be open to future development along this same access road. A Los Angeles Times article, written March 16, 1999, (see attachment) describes a salmon protection plan that will be strictly enforced for urban watersheds in the Portland and Seattle areas. Since the West Coast Steelhead Trout is threatened with extinction, federal, state and local agencies are mandated to protect it.

Page 2

We request you deny permits to build in the Tuna Canyon Creek Watershed, including the Olsen Coastal Permit.

Yours truly,

Herbert Petermann

Herbert Petermann, VOICE Chair

cc: Roger Pugliese, TASC Chair
Sean Manion, conservation biologist-RCDSMM

EXHIBIT NO. 13
APPLICATION NO. 4-96-172-E-1
<i>Additional Info</i>
<i>Steelhead 2 of 6</i>

INSIDE

Arson Blaze at
Post
Office
P. 4

Georgia
Revisited
P. 2

Historical Society
Turns
Silver
P. 8

Battling
Brush
A How-to
P. 6

EXHIBIT NO. 13

APPLICATION NO.
4-96-172-E-1

Additional Info

Sheethead 3 of 6

MESSENGER

Herbert & Joan Petermann
3185 Rossini Pl
Topanga CA 90290



THE SANTA MONICA MOUNTAINS NEWS AND ARTS PUBLICATION

Vol. 22 No. 16

August 13, 1996 - August 26, 1996

Fifty cents

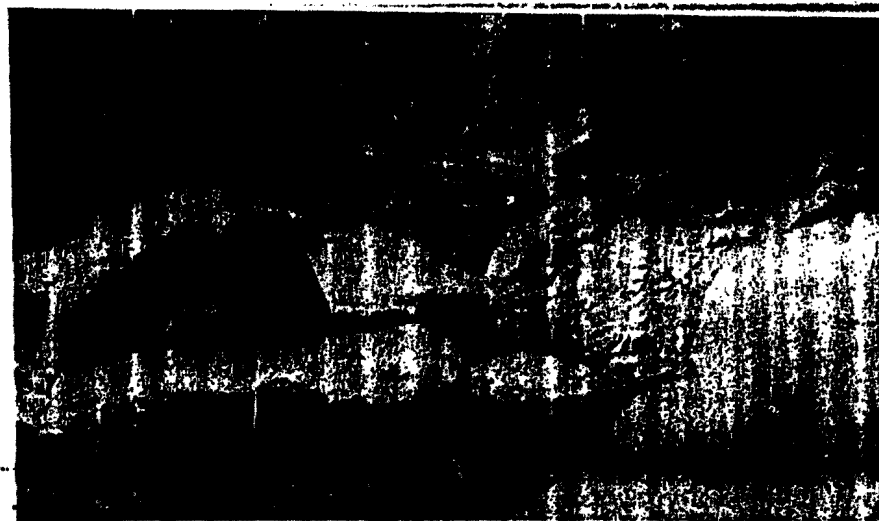
Water, Water Everywhere

Big Week for the Creek!

By Rosi Dagit

Topanga Creek defines the community of Topanga in many ways! From ridge top to ridge top, it captures everything. The roads follow the creek to get us in and out. Like all the water falling down the slopes, the community is concentrated along the banks of the creek. When the rain falls, the fires burn or the earth quakes, the creek is always center stage.

You'd think with such an important role to play, Topanga Creek would get more respect. Well, during the week of July 27, it finally did. That Monday, the first meeting of the Topanga Watershed Committee was held. Tuesday, the Resource Conservation District of the Santa Monica Mountains (RCDSMM)



Topanga residents say no, they are saving some of California's beauty for the rest of us."

The Board of Supervisors responded by challenging TCFMCAC to develop a watershed management plan. Finally, completed in April 1996, the Draft Topanga Creek Watershed Management Study was sent out for review and became a blueprint for further action. Top on the list was establishment of a watershed committee to take the process forward.

Rabyn concluded with the following emotional remarks: "This arduous process was fueled by the passionate involvement of our volunteer engineers, biologists, geologists, planners, lawyers. With help from the RCDSMM and Supervisor Yaroslavskiy, we

Y ROSI DAGIT

Water quality was ranked first in the state. Wednesday, the Topanga Canyon Town Council, Chamber of Commerce and Topanga Woman's Club decided to fund a Watershed Web page. And on Friday, National Marine Fisheries Service biologist Anthony Spina found a year-old steelhead trout in the creek. What a week!

FIRST TOPANGA WATERSHED COMMITTEE MEETING

Monday, July 27, was hot in more ways than one! The mercury soared into the 100s inside the Topanga Community House. Members of the Topanga Canyon Floodplain Management Citizen's Advisory Committee (TCFMCAC) and RCDSMM were hot about the first official Topanga Watershed Committee meeting. The RCDSMM received a \$5,500 grant from the California Department of Conservation to coordinate the logistics of establishing a watershed committee. Finally, the next stage in developing a watershed-wide planning effort was about to begin.

A watershed committee needs to see the big picture, the interconnectedness of things, and think through the consequences, like ripples spreading on a pool. Repairing a slumping slope which holds up a road is tied to trees, which are homes to birds, cool our homes, protect our privacy, and prevent erosion and sedimentation that can smother the creek bed and kill the waterbugs which feed the trout, or add pollutants into the water which run to the beach and make surfers sick. Hot stuff indeed!

At 1:45 p.m. it began to happen. One by one, representatives of all the major stakeholders in Topanga arrived. Over two-thirds of the Canyon is publicly owned open space. Both state and national parks were represented. Agency representatives from Caltrans and Los Angeles County Department of Public Works, the Fire Department, Regional Planning, and the Regional Water Quality Control Board arrived. National Marine Fisheries sent a steelhead trout specialist. Representatives of Supervisor

Rosel and crew's search for steelhead trout—a success!

Zev Yaroslavsky and Assemblyperson Sheila Kuehl came. Most of Topanga's community groups had representation as well: the Chamber of Commerce, Firesafe Committee, Topanga Association for a Scenic Community, Topanga Coalition for Emergency Preparedness, Woman's Club and the Los Angeles Athletic Club. Most of the RCDSMM staff helped out. Like drops of rain joining to form a stream, each person came to take part in establishing a bigger effort. It was an impressive gathering.

"We are happy to be a part of this exciting new effort," said Gus Guiney, newly-appointed District Supervisor of the Los Angeles District of State Parks, summing up the feelings expressed by many.

A capsule review highlighted some interesting tidbits about the watershed. As the third largest drainage into the Santa Monica Bay, the Topanga Watershed is outlined by fire roads that run the ridges from the Parker Mesa overlook, up to dirt Mulholland, across Summit to Summit, along the Calabasas Motorway above Red Rock, up to Saddle Peak and back down to the coast along the spine between Fernwood and Tuna Canyon. While Topanga still retains much of its biological diversity, only half of the privately owned property has been developed. With 4,500 homes already, and a population that surged from 6,000 residents in 1980 to 12,000 in 1995, the pressure from additional development is real. Septic tank horror stories abound, and the main roads are choked with traffic.

Our creek is home to a wide array of critters, including a recovering population of western pond turtles. Fishing for steelhead trout was a summertime pastime until 1980, when the last fish was documented. Now listed as an endangered species, steelhead trout provide a litmus test for creek health. If the creek can support the fish, then

perhaps there is hope of maintaining a healthy creek system.

Rabyn Blake, Chairperson of TCFMCAC, presented a summary of the group's work. The TCFMCAC evolved in 1990 from a group responding to a proposed Floodway Ordinance which would have significantly raised the anticipated water level in the creek during a flood due to runoff from the upper watershed. Buildings along the creek which were damaged for any reason would have had to be rebuilt up to 10 feet above the peak levels of the 1980 flood. In reality, this meant that rebuilding would be almost impossible. Creekside residents were already feeling the force of the runoff from the newly graded Summit Pointe, whose impacts far outweighed those predicted by the County approved drainage plan. Canyon Oaks was looming on the horizon, and people were justifiably worried that things would only get worse as the headwaters of Topanga Creek were paved. The Topanga community hired a hydrologist and began refuting some of the County's assumptions.

This led to the appointment of a formal committee by Supervisor Ed Edelman to study this problem further. In 1992, the committee presented "An Alternative Plan to the Proposed Topanga Canyon Floodway Ordinance." The plan included many recommendations, but foremost was the establishment of a watershed-wide planning effort.

At the time, Los Angeles Times reporter Bill Boyarsky described Topangans as "obstructionist, temperamental, self-centered, uncompromising and paranoid." He then went on to add, "but Topangans are smart to be suspicious. Anyone familiar with the history of Los Angeles County knows that flood control projects have permitted development in both the flatlands and the mountains...For when

begin our new process. We anticipate the realization of our visions with your participation. Thank you for joining with us."

Next, John Crawford, civil engineer, gave a brief summary of some of the main engineering and structural concerns identified in the Draft Management Study. First, he suggested that runoff from upslope development should be retained on site. This notion flies in the face of accepted practice of moving water as quickly as possible downstream. Instead of exacerbating the flood hazard, upslope development should be held responsible for maintaining or bettering existing conditions. While this may sound a bit radical, it really means that we need to pay more attention to how we design our projects. Simply implementing better grading practices, carefully evaluating brush clearing impacts and the downstream impacts of altering stream flow by installing hardscape along the banks would make a big difference.

WATER QUALITY

Water quality issues were addressed by hydrologist, engineer and TCFMCAC member Phil Chandler. "The biggest problem we have is the lack of baseline data," stated Chandler. Topanga has a whole host of potential contributors to the poor water quality marks we have received at the beach. Old septic tanks, corrals animals next to the creek, road runoff and sedimentation add to the problem. He highlighted the connection between the fire and flood cycles and the impacts to water quality.

After several failed attempts at generating funding, this year the RCDSMM submitted a 205j grant to the State Water Resources Control Board, asking for \$57,700 for two years to collect and analyze water quality throughout the watershed. The idea is to establish both fixed and roving stations for sampling water quality which will provide a baseline. Trained community volunteers will help collect data at five

EXHIBIT NO. 13
APPLICATION NO. 4-96-172-E-1
Additional Info
Steelhead 4 of 6

News

MESSANGER 8-13-98

APPLICATION NO.
4-96-172-E-1

Additional Info

Steelhead 5 of 6

CREEK CONTINUES FROM P. 1

stations weekly and another 10 stations monthly for two years. Information about depth, temperature, pH, a variety of nutrients and turbidity will be analyzed with instruments provided through the RCDSMM. Total suspended sediments, total and fecal coliform and *E. coli* bacteria counts will be done at a lab.

This information will be invaluable to the Topanga Watershed Committee in evaluating efforts to reduce non-point source pollution and restore water quality year-round at Topanga Beach. Funding should be available to begin data collection in July 1999. In the meantime, further education will be a tool used to help community residents recognize the relationship of their actions (dumping horse manure into the creek, non-filtered graywater, etc.) to overall water quality. Some water data from Topanga was collected as part of a study done for the Malibu Creek Watershed. Shirley Biroski of the Regional Water Quality Control Board has promised to see about getting that for us.

COORDINATED RESOURCE MANAGEMENT PROCESS

Rosi Dagit, Conservation Biologist for the RCDSMM presented the structural framework for the functioning of the committee, which is also known as CRMP for short. Since this is an entirely voluntary process with no regulatory powers, actions supported by the committee have to be implemented as a result of consensus. This means that everyone agrees to a particular recommendation and voluntarily participates in making it happen. The idea of consensus is easy to talk about and hard to implement. Everyone has an equal voice. No votes for majority rule. The process forces participants to stretch their points of view, to creatively think of solutions and be committed to working her to meet all needs. And it takes months of struggle to come up with a

strategy that will satisfy all.

Given the nature of the Topanga community, it is perhaps the only way to approach voluntary implementation of the best management practices. It also means that the new Watershed Committee will have to define its goals. The mission is to provide coordinated watershed planning. The next step for the committee is to define what watershed planning in Topanga is, and how to manage it. As a stepping-off point, the recommended actions developed by the TCFMCAC were provided to all participants. Rosi asked that everyone take a look at these for the next meeting and "alter, amend, revise and add to the list." At the August 31 meeting, the real work of the committee will begin.

WATERSHED WEB PAGE

A key part of the watershed planning effort is community involvement. In addition to regular updates in the *Messenger*, a web page providing all the details will be established. Gary Meyer will have things up and running by the end of August. Everyone is invited to look at the maps, read the minutes, review the handouts and give their input to the Committee. Although regular meetings will be held during the work day, the Committee plans to hold night forums for the community as things progress.

The meeting concluded with everyone making connections and sharing ideas. "This is the second volume of *The Topanga Story*," suggested Susan Nissman, Deputy for Supervisor Yaroslavsky. "We've come full circle. Now we are looking at the watershed as a living, breathing entity. Everyone has a stake in keeping it alive. Our office considers this effort to be extremely important. Topanga is still viable, nothing is wiped out yet. We have a chance to really make things work."

ENDANGERED STEELHEAD FOUND IN TOPANGA

Anthony Spina, biologist for the

National Marine Fisheries Service, is an expert on our local endangered steelhead trout. His agency is the regulatory arm that oversees protection of the species. After the Watershed Committee meeting, he agreed to walk the creek on Friday, July 31 with RCD biologist Rosi Dagit, Noel Rhodes, and future conservationists Joseph Sloggy and Sean Deruny to see if there were any trout present. Starting a bit below the bridge by Willows Restaurant, the creek waders searched for spawning and rearing habitat, barriers, impediments and fish.

They found incredible areas with perfect gravel beds for spawning. Deep pools shaded by overhanging oaks, willows and bays provide perfect summer refuge for baby fish. Huge boulders strewn about created dynamic waterfalls that at this low water stage are definite impediments to fish movement up or downstream, but might be passable when the rains are falling. Down they hiked, scrambling over boulders, soaked up to their waists, searching each stretch of likely water for the elusive steelhead. They found lots of Arroyo chubs, minnow-like fishes of all sizes and ages. Tadpoles, waterstriders, whirligig beetles and toe-biters abounded. They almost stepped on a large garter snake and watched two smaller ones swimming in pools. Water temperature was fairly constant at 20°C, and pH was fine for fish at 7 to 7.5.

Finally, down near the narrows, Anthony found a steelhead trout. A single yearling hid below the green filamentous alga at the edge of a pool—black spots on a light background, white tips edged the fins, swift, darting movements, streamlined body. It couldn't be mistaken for a rotund, slow-moving Arroyo chub. The fish was over two miles up from the ocean and looking fine.

This is the first official documentation of steelhead in Topanga Creek since a California Department of Fish and Game survey in 1980. Listed last August as an endangered species, steelhead were thought to be found only

north of Malibu Creek. Their range formerly extended all the way south to Baja, but due to impacts of human development, they have not been found for years.

An incredibly adaptable fish, steelhead trout are the anadromous version of rainbow trout. In fact, they are almost interchangeable in looks and behavior. Adults wait for the rolling floods to charge down the creek. They primarily feed on small aquatic insects, fighting their way upstream in search of suitable spawning habitat. Hundreds of eggs are laid in coarse gravel and then most adults return to the ocean. The smolts hatch out and grow in the protected areas of the creek for one to two years, but no one is really sure of the timing for small streams like Topanga. Eventually, the small fish make their way downstream to the ocean. From there they make their way into the deep, returning in several years as adults ready to spawn.

The presence of this yearling means that adults made their way into Topanga Creek during the winter rains of 1997. It means that water quality in the creek is still good enough to support the food the fish need to grow. But why is there only one? What happened to all the others? Are adults able to reach the best spawning and rearing habitat above the boulder falls? Did the flood of 1980 set up the boulder barriers? Had they left due to the drought of the late '80s? Or did the influx of humans into the watershed since then have an impact? How will the presence of an endangered species impact Topanga?

The creek walk generated a host of questions that will take years to answer. Finding all the threads and weaving them together into a livable web connecting all the inhabitants of the watershed will be a serious challenge for the community and the Topanga Watershed Committee. There are many issues to resolve, and we are all in it for the long haul. But in the meantime, it sure is good to know that at least one steelhead trout in Topanga is a good home! ■

COS ANGELES TIMES

SALMON: Protection Plan

Continued from A1

later this year, will affect areas that are home to two-thirds of the population of Washington and Oregon. The region's major cities are undergoing rapid growth—the Seattle area alone is gaining 80,000 new residents a year—that is threatening to choke out the habitat of the remaining wild fish.

With today's expected listings, the long arm of the federal law will be brought to bear for the first time not only on rural logging and grazing, but on neighborhood road culverts, strip malls and gas stations near rivers and creeks—and possibly even on homeowners who wash their cars in their driveways and fertilize their lawns.

"This mandates us to do what we should have been doing many, many years ago. It certainly reflects the poor state of our waterways, and Portland already has made the commitment that we're going to do whatever we can to reach the goal of fish recovery," said Portland Mayor Vera Katz.

Officials in Seattle and Portland said the federal listings could add muscle to attempts in both regions to check urban sprawl. Both areas already are taking steps to halt building adjacent to streams, remove road culverts, aggressively restore natural habitat around waterbeds, control the amount of land that is paved over and step up enforcement of water quality standards.

But evidence of sharply declining fish stocks indicates that more

will make determinations of how they will be enforced on state, local and private lands. Theoretically, the listings would prohibit any development that would come at the expense of a salmon or its habitat. However, the Clinton administration has attempted to develop cooperative agreements with local jurisdictions and landowners that will result in species and habitat protection without day-to-day federal involvement in land use decisions or an outright moratorium on new development.

Portland already is spending \$1 billion in a project to prevent sewage overflows into the Willamette River and is considering removal of a small dam on the Little Sandy River—in addition to an exhaustive review of virtually every city policy to improve water conditions for salmon.

In Washington, the three-county Puget Sound area has developed a comprehensive plan for habitat protection and restoration that officials hope will come close to meeting federal requirements. King County has budgeted \$9 million for scientific studies and watershed improvement plans and an additional \$6.5 million for purchase of crucial salmon habitat. Seattle has announced it will halt all logging and tear out logging roads on the huge watershed that provides most of the city's water, a plan that undoubtedly will result in higher water and power bills.

Washington Gov. Gary Locke's \$100-million-a-year plan for the rest of the state is currently stalled in the Legislature.

One of its key components is a

cooperative agreement worked out with the timber industry that specifies harvest practices on 10 million acres of forest near salmon habitat over the next 50 years, a plan the timber industry claims will cost it \$2 billion in revenue. In exchange, the state would cut the industry's taxes by \$14 million to \$18 million a year.

The plan has drawn criticism from environmental groups, who generally say the two states are not moving aggressively enough to check the sharp downward slide of the salmon.

"Business as usual is not working. Otherwise, we wouldn't be at the point of listing every species of salmon and steelhead that swim in our waters. We've spent a hundred years taming and damming and destroying. We're going to have to spend the next hundred years figuring out how to save what we've destroyed," said Bill Arthur, regional director of the Sierra Club.

But Arthur and others said that could be a good thing. Indeed, the response of most local officials was not to challenge the federal listings but almost to welcome them. "The salmon are very much an icon of the Northwest," said Seattle Mayor Paul Schell. "The irony here is that if we work hard to save the fish, we may indeed save ourselves. It'll translate into the benefits of sound transportation planning, growth management and a move past rampant consumerism to think about what we're doing as it impacts the next generation. If any area of the country has a chance to attack this problem, it'll be us."

Salmon Protection Plan to Target Urban Habitats

Conservation: Rules will mark first time Endangered Species Act directly affects major cities.

by KIM MURPHY
STAFF WRITER

SEATTLE—Endangered species legislation will move from the rural back-country to the heart of one of the nation's fastest-growing metropolitan areas today with the federal government's expected decision to extend protected status to salmon in urban waters around the cities of Seattle and Portland, Ore.

Never before has the 28-year-old Endangered Species Act been invoked to demand protection and recovery of a dwindling species whose habitat—from key navigation routes like the Willamette River to small neighborhood creeks—permeates the housing

tracts, industrial parks and shopping malls of a major urban center.

The National Marine Fisheries Service said it would specify that nine salmon and steelhead groupings in Washington and Oregon are

CASH COW
High-tech workers boost efforts to protect forests. A5

threatened with extinction. The agency plans to defer until September decisions on whether to extend similar protection to chinook salmon along the California coast and in the Central Valley.

The Pacific Northwest listings, combined with others that already have been made or are pending

EXHIBIT NO. 13
APPLICATION NO. 4-96-172-E-1
Additional Info
Steelhead 6 of 6

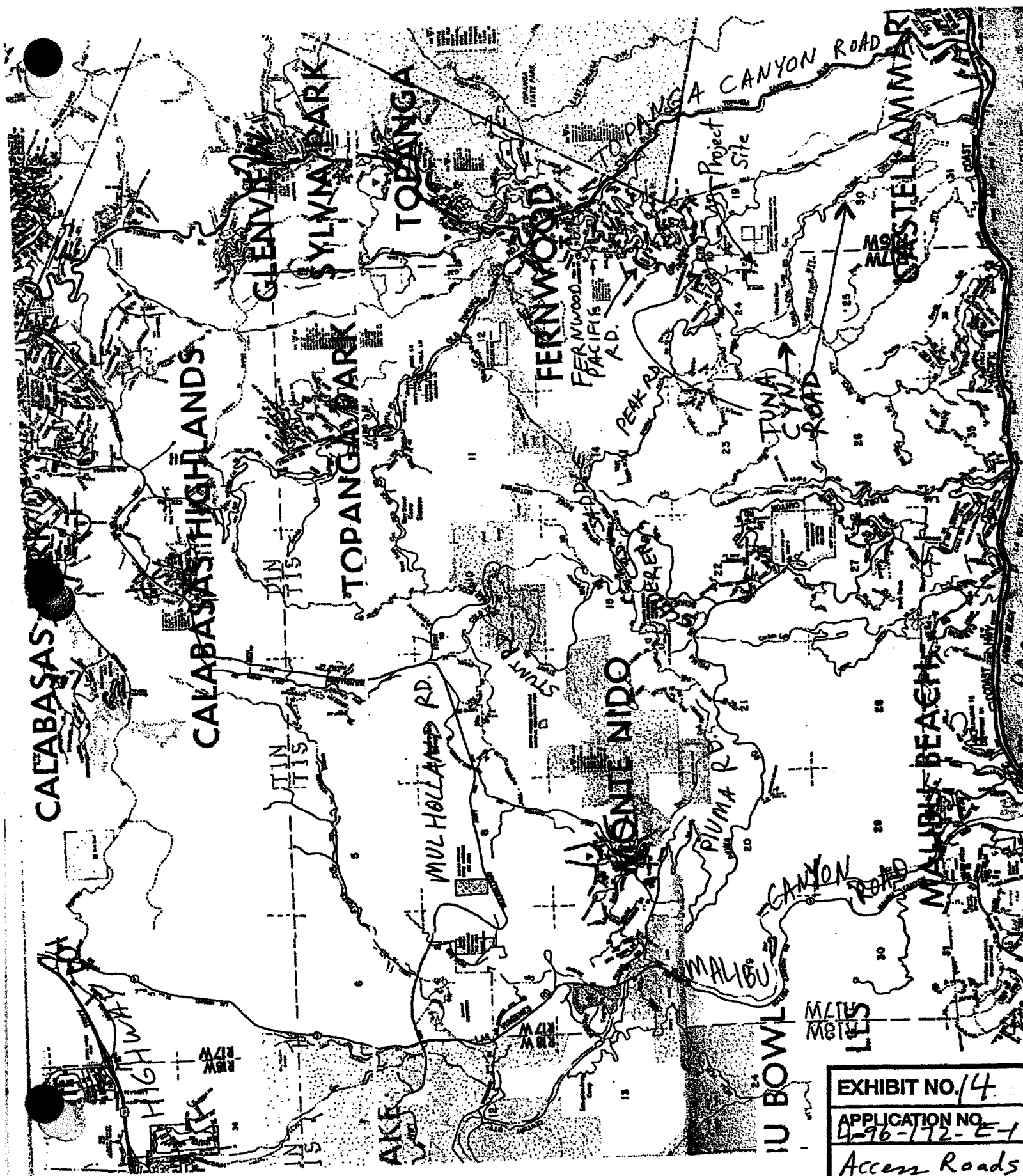


EXHIBIT NO. 14
APPLICATION NO.
4-76-172-E-1
Access Roads

CALIFORNIA COASTAL COMMISSION

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

Filed: 11/1/96
Staff: J Johnson
Commission Action: 12/12/96
Staff Report: 4/24/97
Findings Hrg Date: 5/13 - 16/97
Comm Action on Findings:
7620A

**STAFF REPORT: REVISED FINDINGS****Tu 23a**

APPLICATION NO.: 4-96-172

APPLICANT: Marian Olson AGENT: Donald Schmitz, The Land & Water Company

PROJECT LOCATION: 2737 South Fabuco Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a 4,000 sq. ft., 2 story single family residence with four car garage, swimming pool, septic system, and landscaping. Extend private road and water main improvements about 800 feet beyond approved road to adjoining parcel. Grade about 1,352 cubic yards for the residence and access road.

Lot area:	2.37 acres
Building coverage:	2,000 sq. ft.
Pavement coverage:	2,200 sq. ft.
Landscape coverage:	3,000 sq. ft.
Parking spaces:	4
Ht abv fin grade:	29 ft.
Plan Designation:	Mountain Land
Zoning:	one du/ 20 acres
Project Density	one du/ 2 acres

EXHIBIT NO. 15
APPLICATION NO. 4-96-172-E
Commission Adopted
Findings - Olson

21 pages, 11 Exhibits

COMMISSION ACTION: Approval with Conditions

DATE OF COMMISSION ACTION: December 12, 1996

COMMISSIONERS ON PREVAILING SIDE: Commissioners Arellas, Calcagno, Campbell, Fleming, Giacomini, Rick, Staffel, and Wan. (Commissioner Pavley abstained.)

LOCAL APPROVALS RECEIVED: Approval in Concept: Los Angeles County Regional Planning Department dated 9/24/96; Los Angeles County Department of Health Services, dated 8/1/96; Los Angeles County Fire Department, dated 6/25/96.

SUBSTANTIVE FILE DOCUMENTS: Geological/Geotechnical Engineering Report, dated May 6, 1996, and Percolation Data and Septic Design Report, dated May 1, 1996, prepared by Gold Coast GeoServices, Inc.; A Phase One Cultural Survey, dated January 19, 1996, prepared by Environmental Research Archaeologists; Tuna Canyon Significant Ecological Area: An Assessment of the Cumulative Impacts of the Potential Maximum Development, prepared for Tuna Mesa Property Owners Association, by Phillips Brandt Reddick, Inc. dated January 8, 1978; Coastal Development Permit No. 4-96-025, Jason.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the following findings in support of the Commission's December 12, 1996 action approving the proposed project with special conditions. The project site proposed for the residence is located within the Tuna Canyon Significant Watershed, but not near an environmentally sensitive habitat area. The site is accessed from Tuna Canyon Road by private roadways and an approved, but not yet constructed, extension, of Skyhawk, Chard, and Betton (Coastal Permit 4-96-025, Jason). Additional improvements, extending Betton and Fabuco roads about 800 feet, are proposed to access this site.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. EROSION CONTROL AND DRAINAGE PLAN

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a erosion control and drainage plan designed by a licensed engineer. The plan 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 according to the submitted landscape plan, utilizing native plants where possible, within thirty (30) days of final occupancy of the residence. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage.
- b) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved disposal location.
- c) The drainage plan shall illustrate that run-off from the roof, patios, driveway 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. Site drainage shall not be accomplished by sheet-flow runoff. Should the residential project's drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.

2. ROAD MAINTENANCE AGREEMENT

By acceptance of this Coastal Development Permit, the applicant agrees that should the proposed improvements to the access road or the proposed drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be solely responsible for any necessary repairs and restoration along the entire length of the access road as it crosses Betton Drive and Fabuco Road.

3. FUTURE IMPROVEMENTS RESTRICTION:

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. 4-96-172; and that any future structures, additions or improvements to the property, including but not limited to clearing of vegetation, that might otherwise be exempt under Public Resource Code Section 30610(a), will require a permit from the Coastal Commission or its successor agency. However, fuel modification consistent with the requirements of the Los Angeles County Fire Department's fuel modification standards is permitted. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

4. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION

All recommendations contained in the Geologic / Geotechnical Engineering Report, dated May 6, 1996, prepared by Gold Coast GeoServices, shall be incorporated into all final design and construction including foundation systems, retaining walls, cut slopes and excavations, and site drainage. All plans must be reviewed and approved by the consultants. 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 in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

5. WILDFIRE 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, operations, 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.

A. Project Description

The project site is located within an undeveloped subdivision about two miles inland northwest of Tuna Canyon and south of Fernwood area. The parcel is accessed about one quarter of a mile to the south of Tuna Canyon Road, to Skyhawk Lane, to Chard Avenue, to Betton Drive and lastly to Fabuco Road. (Exhibits 1, 2, 3, and 4) Although Chard, Betton and Fabuco are presently unimproved dirt roadways, a previous applicant, Mark Jason (Coastal Development Permit 4-96-025), has Commission approval to construct improvements to Skyhawk, Chard and Betton Roads. The applicant now proposes to construct an approximate 800 foot extension of these road and water improvements along Betton Drive and Fabuco Road to the project site. Fabuco Road ends at the eastern edge of this parcel. The roadway improvements

provide for a maximum thirty foot wide roadway to the project site, requiring about 135 cubic yards of cut and about 201 cubic yards of fill. The project site is a relatively flat 2.37 acre parcel; the building site is located in the central portion of the parcel on a small knob hill.

The applicant proposes to construct a 4,000 sq. ft., 2 story, 29 ft. high, single family residence, attached four car garages, motor courtyard, septic system, and swimming pool. (Exhibits 5, 6, 7, 8 and 9) Constructing the residence will require grading of about 1,016 cubic yards; 775 cubic yards of cut and 241 cubic yards of fill. Excess cut of about 534 cubic yards will be exported to a disposal site outside the coastal zone.

Although the subject parcel is located within Tuna Canyon Significant Watershed, the site is located about one thousand feet from Tuna Creek and about 300 feet from the Tuna Canyon designated environmentally sensitive habitat area and will not have a direct impact on this ESHA.

The improvements proposed by the applicant to the existing access roads discussed above, cross four parcels enroute to the applicant's parcel. However, the applicant has provided evidence of the ingress and egress access easement over the road. Regarding the four property owners, across whose property the proposed road improvements are located, these individuals have been notified of this development pursuant to section 30601.5 of the Coastal Act. Section 30601.5 states as follows: "All holders or owners of any interests of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant." A total of four property owners were notified of the pending permit action under Section 30601.5 (Exhibits 4 and 10). None of these property owners responded to these letters, dated November 21, 1996, from staff prior to the Commission hearing on December 12, 1996.

B. Environmentally Sensitive Resource Areas

Section 30250(a) of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources:

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.

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.

Section 30231 of the Coastal Act is designed to protect and enhance, or restore where feasible, marine resources and the biologic productivity and quality of coastal waters, including streams.

Section 30231 of the Coastal Act states as follows:

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.

In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values:

(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.

The project site is located within the Los Angeles County Land Use Plan designated Tuna Canyon Significant Watershed. The Tuna Canyon Significant Watershed Area includes about 1,524 acres of land in the coastal Santa Monica Mountains within the watersheds of Tuna and Pena Canyons. The terrain is extremely steep, generally greater than 30% slope, and rugged in this canyon. The majority of the subject site is relatively flat with the proposed building site on a small knob hill.

Tuna Creek, a designated environmentally sensitive habitat area (ESHA), is located about one thousand feet to the south of the subject parcel; the geographic area designated as ESHA is about three hundred feet south of the parcel. (See Exhibit 11) Due to the distance, the proposed residence and road improvements will not directly affect this ESHA. Tuna Canyon is designated a significant watershed because of the relatively undisturbed nature and the presence of wildlife. It is important to note that the 1978 Nelson Report identified all of the Tuna Canyon watershed as a significant ecological area. However, the Los Angeles County Land Use Plan certified by the Commission in 1986 changed the terminology to the Tuna Canyon Significant Watershed for both Tuna and Pena Canyon watershed while narrowing the ESHA designation for the Tuna Canyon Significant Ecological Area to generally the riparian vegetation along the two creeks, Tuna Canyon and Pena Creeks. (Exhibit 11) A Significant Watershed is not considered an ESHA under the Coastal Act definition of ESHA's, worthy of more stringent protection as an example for riparian vegetation, because they are dominated by vegetation and wildlife common throughout the Santa Monica Mountains. However, the certified LUP did establish specific policies and development standards to protect the sensitive resources of these relatively undisturbed watersheds.

The habitat values contained in the Tuna Canyon Significant Watershed have been well documented. A consultant's report prepared for Los Angeles County in 1976 by England and Nelson designates the Tuna Canyon Significant Watershed as a Significant Ecological Area (SEA). The report describes the concept of an SEA as follows:

The 62 significant ecological areas selected were chosen in an effort to identify areas in Los Angeles County that possess uncommon, unique or rare biological resources, and areas that are prime examples of the more common habitats and communities.

Thus, the goal of the project was to establish a set of areas that would illustrate the full range of biological diversity in Los Angeles County, and remain an undisturbed relic of what was once found throughout the region. However, to fulfill this function, all 62 significant ecological areas must be preserved in as near a pristine condition as possible ...

If the biotic resources of significant ecological areas are to be protected and preserved in a pristine state, they must be left undisturbed. Thus, the number of potential compatible uses is limited. Residential, agricultural, industrial, and commercial developments necessitate the removal of large areas of natural vegetation and are clearly incompatible uses.

A report prepared for Los Angeles County in 1976 by England and Nelson designates the Tuna Canyon Significant Watershed as a Significant Ecological Area (SEA). The reports states:

Tuna and Pena Canyons are the last drainages in the central and eastern Santa Monica Mountains that have not sustained development either in the watershed or between the canyon mouth and the coast. A year-round stream is present in Tuna Canyon. This resource is in itself limited in distribution in the Santa Monica Mountains, and most of Southern California. Due to this feature and its coastal exposure, the riparian woodland in the canyon bottom is in excellent health and supports healthy wildlife populations. Animals utilize the stream as a water source and forage in the chaparral and coastal sage scrub on adjacent hillsides.

The combined qualities of healthy vegetation, riparian woodland, surface moisture, no development, and an unobstructed opening to the coast are unique in the western Santa Monica Mountains and have caused the canyon to become an important area to migratory bird species. In addition to migratory songbirds, waterfowl have been seen in the canyon during migration.

A report titled "Tuna Canyon Significant Ecological Area: An Assessment of the Cumulative Impacts of the Potential Maximum Development," was prepared for the Tuna Canyon Property Owners Association by Steven Nelson, Director of Biological Science, Phillips Brandt Reddick, dated January 9, 1978. The purpose of the report was to provide a detailed resource inventory and analysis of the Tuna Canyon Significant Watershed to be used by decision makers as advanced and additional environmental input to their planning process. The report is an objective analysis and assessment of cumulative impacts resulting from the potential buildout of the area. Measures to partially or completely mitigate impacts were suggested. The subject site is mapped by the report as a chaparral biotic community typically with broad-leaf sclerophyllous vegetation with considerable diversity in species composition. Although, the subject site and surrounding area burned in the 1993 Malibu Fire; the chaparral and coastal sage vegetation appears to be returning.

The Malibu/Santa Monica Mountains Land Use Plan policies addressing protection of ESHA's and Significant Watersheds are among the strictest and most comprehensive in addressing new development. In its findings regarding the Land Use Plan, the Commission emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. The Commission found in its action certifying the Land Use Plan in December 1986 that:

...coastal canyons in the Santa Monica Mountains require protection against significant distribution 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.

The Land Use Plan (LUP) includes several policies designed to protect the Watersheds, and ESHA's contained within, from both the individual and cumulative impacts of development. Many of these policies, particularly those in Table 1 were developed as a result of the information presented in the two above noted reports on Tuna Canyon Significant Watershed and Ecological Area. These policies are used by the Commission as guidance during the review of applications for coastal development permits.

1. Protection of Environmental Resources

P63 Uses shall be permitted in ESHA's, DSRs, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with Table 1 and all other policies of the LCP.

Table 1 states that for "existing parcels smaller than 20 acres in proximity to existing development and/or services, and/or on the periphery of the significant watershed" residential uses are permitted: "at existing parcel cuts (build-out of parcels of legal record) in accordance with specified standards and policies..." The Table 1 policies applicable to Significant Watersheds are as follows:

Allowable structures shall be located in proximity to existing roadways, services and other development to minimize the impacts on the habitat.

Structures shall be located as close to the periphery of the designated watershed as feasible, or in any other location for which it can be demonstrated that the effects of development will be less environmentally damaging.

Streambeds in designated ESHA's shall not be altered except where consistent with Section 30236 of the Coastal Act.

Grading and vegetation removal shall be limited to that necessary to accommodate the residential unit, garage, and one other structure, one access road and brush clearance required by the Los Angeles County Fire Department. The standard for a graded building pad shall be a maximum of 10,000 sq. ft.

New on-site access roads shall be limited to a maximum length of 300 feet or one third of the parcel depth, whichever is smaller. Greater lengths may be allowed through conditional use, provided that the Environmental Review Board and County Engineer determine that there is no acceptable alternative.

Site grading shall be accomplished in accordance with the stream protection and erosion control policies.

Designated environmentally sensitive streambeds shall not be filled. Any crossings shall be accomplished by a bridge.

Other applicable Land Use Plan policies include:

- P67 Any project or use which cannot mitigate significant adverse impacts as defined in the California Environmental Quality Act on sensitive environmental resources (as depicted on Figure 6) shall be denied.
- P68 Environmentally sensitive habitat areas (ESHA's) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Residential use shall not be considered a resources dependent use.
- P74 New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources.

2. Stream Protection and Erosion Control

- P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.
- P84 In disturbed areas, landscaping plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low-growing covers to reduce heat output may be used. Within ESHA's and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.
- P88 In ESHA's and Significant Watersheds and other areas of high potential erosion hazard, require site design to minimize grading activities and reduce vegetation removal based on the following guidelines:

Structures should be clustered.

Grading for access roads and driveways should be minimized; the standard new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the County Engineer and Environmental Review Board and the determination that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use.

- P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrologic, water percolation and runoff) to the maximum extent feasible.
- P96 Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste shall not be discharged into or alongside coastal streams or wetlands.

Past permit actions taken by the Commission generally reflect the goals contained in the certified LUP policies towards development in ESHA's and Significant Watersheds. Where the Commission has found that single-family development, including accessory structures, would not cumulatively or individually create adverse impacts on habitat or other coastal resources, or that adequate mitigation could be provided, it has been permitted. Although the certified LUP takes a different approach than some past permit decisions by allowing some residential development within SEAs and Significant Watersheds, subject to conformance with the policies stated above, the goal of the LUP remains the same; the protection of watersheds as viable units.

The applicant proposes to construct a 4,000 sq. ft., two story single family residence, attached garages, motor courtyard, septic system, and swimming pool. Constructing the residence will require grading of about 1,016 cubic yards; 775 cubic yards of cut and 241 cubic yards of fill. The residential development is limited to one site and does not include other development normally associated with residential development, including tennis courts, or equestrian facilities. The project also includes an approximate 800 foot extension of road and water improvements along Betton Drive and Fabuco Road to the project site. The roadway improvements provide for a maximum thirty foot wide roadway to the project site, requiring about 336 cubic yards of total grading (135 cubic yards of cut and 201 cubic yards of fill). Total grading for the entire project is about 1,352 cubic yards of material. The project site is a relatively flat 2.37 acre parcel; the building site is located in the central portion of the parcel on a small knob hill within the Tuna Canyon Significant Watershed.

3. Cumulative and Individual Impacts of Development

The 1978 report by Nelson provided an analysis and assessment of cumulative impacts resulting from the potential buildout of the area. The report concluded that continuing development in this area to the potential maximum density of parcels would result in about a 50 % increase in the number of residences. The report admitted that this buildout may be an overestimate of the ultimate conditions of development, representing a worst case condition. A number of biological impacts were identified as a result of maximum development, however, due to the extremely low density of potential development in the area, some of these impacts are not expected to be significant. The Report states:

If the appropriate mitigation measures suggested in Section 6.0 (actually 7.0) are implemented, these impacts, and most others, can be effectively mitigated to levels that would not result in significant adverse impacts on a local or cumulative basis.

The report indicated that unavoidable adverse impacts are primarily related to the loss and degradation of habitat wildlife resources, and the destruction of valuable riparian habitat by severe erosion and siltation processes. Those areas where both of these effects are most likely to be minimized are the more level, generally disturbed areas in the watershed. The subject site is located in the upper watershed area where the canyon is relatively level and disturbed with existing dirt roads. The report concluded by stating:

If development is geographically restricted in this manner, and all development complies with all of the mitigation measures suggested, unavoidable adverse impacts should not be expected to have significant cumulative effects on valuable downstream resources.

The Nelson report was used by the County as the basis to develop the Table 1 policies as discussed below. These policies reflect the development constraints and mitigation measures identified in the Nelson report. The Table 1 policies were certified by the Commission as consistent with the Coastal Act.

To further address individual and cumulative impacts and appropriate mitigation measures in analyzing the proposed project for conformance with the resource protection policies of the Coastal Act, the Land Use Plan and with Table 1 policies will be addressed. For instance, Table 1 specifies that grading and vegetation removal shall be limited and that the standard for a graded building pad shall be a maximum of 10,000 sq. ft. In this case, the proposed building pad is to be no larger than 10,000 sq. ft. at 9,975 sq. ft.. Furthermore, the applicant has submitted landscape and fuel modification plans for the proposed development. These plans illustrate how the areas disturbed by development activities on site will be revegetated to provide erosion control and how native plants associated with this site will be "thinned" rather than "cleared" in order to retain the erosion control properties of this vegetation. The removal of this vegetation is required, as per the Los Angeles County Fire Department's Fuel Modification Standards, and the applicant has submitted fuel modification plans which indicate that only vegetation specially designated as "high fire hazard" will be completely removed as a part of this project. Additionally, only that vegetation which is located within a 300' radius of the residential structure will be subject to the County Fire Department's fuel modification requirements. Therefore the project is in conformance with the Table 1 policies of the LUP as they pertain to the minimization of grading, vegetation removal, and the maximum allowable area of building pads.

Furthermore, Table 1 policies require that development be located close to existing roads and services, and that on-site access roads be limited to no more than 300' in length so that impacts to habitat are minimized. Additionally, LUP policies (P78, P82, P88, & P91) specify that grading activities be minimized and that development be designed to minimize landform alteration, and that said development is placed as close to existing services as possible. In the case of the proposed residence, no more than 1,016 cubic yards of grading is proposed. The building site is located on the flat portion of a small knob, thus minimizing the need for grading to create the flat building pad. Additionally, the proposed structure is to be located within 100' feet of Fabuco Road, an existing dirt road and the legal easement owned by the applicant. The grading for the new on-site access driveway will be less than 100 feet in length. In regards to the proposed improvements on this easement, all development will occur on the existing dirt roadway within the applicant's legal ingress and egress easement. Although there is approximately 336 cubic yards of grading proposed along this easement, grading will occur along an approximate 800 foot section of an existing roadway. The road width will be no wider than 30 feet and in some locations less than 30 feet to limit grading due to topographical constraints. Therefore, this grading is judged to be the minimum necessary in order for the applicant to comply with the requirements of the Los Angeles County Fire Department.

About 1800 feet of the section of this route to Skyhawk Lane (beyond the road section to be improved proposed in this application) will be improved as part of the Commission approval of an adjoining parcel (Mark Jason, Coastal Permit 4-96-025). Furthermore, as the grading is proposed along an existing dirt access road, no significant new impacts will occur to habitat adjacent to the

project area. Therefore, the project is found to be generally in conformance with the LUP Table 1 policies that pertain to the proximity of new development to existing services and the minimization of landform alteration. These Table 1 policies are used as guidance by the Commission in the review of this application.

Table 1 policies also specify that development be located as close to the periphery of the designated watershed as feasible, and that streambeds, and ESHA's not be altered and that they are protected to the greatest extent possible. Additionally, LUP policy P96 specifies that water quality be protected from degradation resulting from development. The proposed project site is located on a lot that is about 300 feet from the boundary of the Tuna Canyon Environmentally Sensitive Habitat Area and about 1,000 feet from Tuna Canyon Creek. This area includes other single family residences, and in the past, the Commission has granted permits for development in this portion of the watershed; specifically, Jason, (Coastal Permit 4-96-025), Anderson (Coastal Permit 4-96-021), Lesavoy (Coastal Permit 4-95-031), Geer (Coastal Permit 4-94-124) and Andrews (Coastal Permit 4-92-122).

The applicant submitted a landscape plan indicating that all disturbed areas would be planted with drought resistant and native plant species. The plan was also approved by the Los Angeles County Forestry Department as a fuel modification plan for the purpose of reducing fire hazards. However, the plan needs to indicate that the planting will be adequate to provide for ninety percent coverage within two years. In addition, the plan should indicate that should grading occur during the rainy season sediment basins would be required. Condition number one provides for these revisions to the landscape plan.

Furthermore, the proposed project site is accessible due to an easement across a series of existing dirt roads. The applicant has submitted a grading and drainage plan that illustrates how and where drainage will be conveyed following improvements to the existing access road. These plans illustrate that the above referenced drainage devices will reduce the flow of runoff generated by the proposed improvements and convey the flows into existing natural drainage patterns which currently handle flows from the unimproved access road. However, these plans do not illustrate how runoff is to be conveyed from the building pad of the proposed residence or how erosion will be minimized during construction. Therefore, the Commission finds it necessary to require the applicant to submit erosion control and drainage plans that illustrate how runoff will be conveyed from the project site in a non-erosive manner, as required by special condition number one (1).

In addition, to ensure the access road and drainage improvements are maintained in the future, the Commission finds it necessary to require the applicant to be solely responsible for any necessary repairs and restoration resulting from this failure along the entire section of the access road proposed to be developed as a part of this permit. Further, this condition is necessary to ensure the road improvements and drainage structures function properly in the future to prevent erosion and sedimentation of nearby streams, as required by special condition number two (2). Therefore, because the project site is located in the upper canyon where the site is generally level with an existing dirt road leading to the site and building pad, significant unavoidable impacts are not expected.

Thus, as conditioned, the project is found to be in conformance with the LUP Table 1 policies that pertain to locating development within designated watersheds and close to the periphery of designated ESHA's while protecting streams and ESHA's from alteration and disturbance to the greatest extent possible.

The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the significant watersheds of the Malibu/Santa Monica Mountains region through past permit actions. This is due to the potential for future expansions of individual residential development which would be exempt from coastal development permit requirements. Specifically, the Commission notes concern about the potential for future impacts on coastal resources that may occur as a result of further development of the subject property. Specifically, the expansion of building site and developed area would require more vegetation removal as required for fuel modification by the Fire Department. Further, adding impervious surfaces to the site through future development or expansion could have adverse impacts on the existing drainage of the site, which in turn would have significant impacts on the Tuna Canyon watershed due to increased erosion and sedimentation. Therefore, the Commission finds it is necessary to require the applicant to record a future improvements deed restriction to ensure that expanded development at this site that would otherwise be exempt from Commission permit requirements will be reviewed for consistency with the Coastal Act. Special condition number three (3) provides for a future improvements restriction.

Lastly, the County of Los Angeles Environmental Review Board (ERB) reviewed this project in May 1996. The ERB meetings are working sessions where the appointed ERB members serve in an advisory capacity to the Regional Planning Commission (or the County decision makers) providing recommendations on whether or not the project conforms to the policies of the County LUP. LUP Policy P64 indicates that projects shall be approved for coastal permits only upon a finding that the project is consistent with all policies of the LUP.

The ERB evaluation and recommendation to the County decision makers (the Regional Planning staff in this case) concluded that the proposed project was inconsistent with the policies of the County LUP. Although the reasons for this recommendation are unclear in the ERB minutes, it appears from staff's review of the minutes that the reasons may have been: (1) that the lot is distant from existing services and remote from existing roads, and (2) that the lot is eligible for lot retirement program. In addition, the ERB made a number of recommendations, many of which were included as conditions of the County approval.

Regarding the first reason, the subject site is connected to Tuna Canyon Road by private roadways known as Chard Avenue, Betton Drive, and Fabuco Road. The County has previously recognized these rights of way as travelled ways through approved certificates of exception, records of surveys, certificates of compliance, etc.. As a result of the approval of a residence immediately north of the subject site, the Jason property at 20556 Betton Drive, about 1,900 feet of roadway will be improved to Fire Department standards from the Jason property to Tuna Canyon Road in order to access the future Jason residence. The length of the driveway to the existing Fabuco Road from the proposed residence is less than 300 foot maximum allowed in Table 1 policies as noted above. The applicant is proposing to pave an 800 foot extension from the approved paved access to the Jason property on the existing but unpaved roads, Betton Drive and Fabuco Road. Therefore, the subject site is served by existing roads.

Regarding the second reason, the County Land Use Plan includes a policy, P271 (b) (3) that states that new residential uses would be permitted in Significant Watersheds in accordance with the policies, standards, and conditions of the LUP. It also states that where development of small parcels is determined to yield a potential for significant impacts, the parcel would be eligible to participate in the development rights retirement program. Policy P271-2a, which discourages development of lots of less than 20 acres in designated significant watersheds which are distant from existing services and are determined by the ERB to potentially incur a significant adverse impact on the ESHA's or Significant Watersheds. In this case, the ERB did not determine that a significant adverse impact on either ESHA's or Significant Watersheds would occur. In fact, the ERB made a number of recommendations to the County decision makers to consider during the review process. Many of these recommendations were incorporated into the project design or conditions of the County's approval. As noted above, the lot is located near existing services. Therefore, the applicant's proposed project has complied with the Table 1 Policies in the LUP and is not compelled to participate in the County's voluntary lot retirement program. Further, the County does not have implementing ordinances to carry out the lot retirement program provided in the LUP.

One of the recommendations of the ERB included suggesting that vegetation clearance should not exceed 10% of the lot area. The applicant's lot is about 2.37 acres in size. The applicant has submitted a landscape / fuel modification plan indicating that County Fire Department approval for the fuel modification will extend well beyond the applicant's parcel boundaries to achieve a selective thinning of natural vegetation. The County's approval recognized that portions of the property included heavily sloping land within a Very High Fire Hazard Severity Zone. The County required approval of a County Fire Department fuel modification plan that balances safety policies of the Malibu LUP with other LUP policies to minimize significant impacts on the natural habitat. The County recognized that enforcing the full 300 foot clearance requirement would result in modifying the entire subject property as well as offsite properties of others. It appears that the County approval also recognized the non-conforming 2.7 acre size of the subject parcel. The certified Land Use Plan designates the subject site and surrounding area as Mountain Land, one dwelling unit per 20 acres. Because of the non-conforming size of the subject site, it is not feasible to meet the Land Use Plan Table 1 policy limiting land clearance to 10% of the lot area.

In addition, reducing the footprint of the residence, which is about 2,000 sq. ft. for the 4,000 sq. ft. two story structure, would not substantially reduce the area for fire clearance. Further, the 10% of the lot clearance limit was established when the County Fire Department only required a 100 foot radius clearance zone. As a result of numerous Santa Monica Mountain wildfires since 1986, the Fire Department has increased the approved fuel modification zone radius for new development to about a 200 to 300 foot radius with selective cleared areas.

In conclusion, although the County ERB found the project inconsistent with the LUP, the ERB action was only a recommendation to the County decision makers. In this case, the County Department of Regional Planning staff found the proposed project consistent with the Los Angeles County Land Use Plan and approved it in concept with conditions. These conditions included recommendations by the ERB such as a landscape plan with native species consistent with current Fire Department standards.

The certified Los Angeles County Land Use Plan provides guidance to the Commission to consider. The Commission finds that the project meets the LUP and the Table 1 policies as discussed above, contrary to the recommendation of the ERB. The Commission standard of review for this project are the policies of the Coastal Act. Therefore, Commission finds that the project is located near existing developed areas able to accommodate it with adequate public services. And further the Commission finds that the project will not have significant adverse effects, either individually or cumulatively, on coastal resources. The Commission also finds that the biological productivity and quality of coastal waters and riparian habitat, ESHA, will be protected as a result of the proposed project as conditioned.

Thus, the proposed project, as conditioned, will result in development that is consistent with and conforms with Sections 30231, 30240, and 30250(a) of the Coastal Act.

C. Geologic Stability

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, 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 Malibu area which is generally considered to be subject to an unusually high number of natural hazards. Geologic hazards common to the Malibu 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.

The Commission reviews the proposed project's risks to life and property in areas where there are geologic, flood and fire hazards. Regarding the geologic hazard, the applicant submitted a geologic report titled "Geologic / Geotechnical Engineering Report", dated May 6, 1996, prepared by Gold Coast GeoServices, Inc. This report states:

It is the opinion of the undersigned that the proposed structure(s) will be safe against hazard from landslide, settlement or slippage, and the proposed construction will have no adverse geologic effect on offsite properties. Assumptions critical to our opinion are that the design recommendations will be properly implemented during the proposed construction and that the property will be properly maintained to prevent excessive irrigation, blocked drainage devices, or other adverse conditions.

The recommendations in this geology report address the following issues: foundation systems, retaining walls, cut slopes and excavations, site drainage, and plan review. Based on the findings and recommendations of the consulting geologist 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 Geologist as conforming to their recommendations, as noted in condition number four (4) for the final project design, grading, drainage, and landscape and irrigation plans for the proposed project.

Minimizing erosion of the site is important to reduce geological hazards on the site and minimize sediment deposition in the drainages leading to Tuna Canyon Creek. The applicant has submitted landscape and fuel modification plans for the proposed development. These plans incorporate the use of native species and illustrate how these materials will be used to provide erosion control to those areas of the site disturbed by development activities. These plans also illustrate that vegetation will be "thinned" rather than "cleared" for fuel modification purposes, thus allowing for the continued use of existing native plant materials for on site erosion control. The thinning, rather than complete removal, of native vegetation helps to retain the natural erosion control properties, such as extensive and deep root systems, provided by these species.

In order to ensure that drainage from the residential building pad is conveyed from the site and into the watershed in a non-erosive manner and erosion is controlled and minimized during construction, the Commission finds it necessary to require the applicant to submit site drainage plans, as required by special condition number one (1). Furthermore, the Commission finds it necessary to require the applicant, should the proposed improvements to the access road or the proposed drainage structures fail or result in erosion, to be solely responsible for any necessary repairs and restoration resulting from this failure along the entire section of the access road subject to this permit. Condition number two (2) provides for such maintenance of the access roadways and drainage structures.

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act also 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. In fact, the property burned in the 1993 Malibu Fire. 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 five (5).

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

D. Archaeological Resources.

Section 30244 of the Coastal Act states that:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Policy 169 of the Malibu/Santa Monica Mountains Land Use Plan, which the Commission has relied on as guidance in past land use decisions in the Topanga area, states that:

Site surveys performed by qualified technical personnel should be required for projects located in areas identified as archaeologically / paleontologically sensitive. Data derived from such surveys shall be used to formulate mitigating measures for the project.

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The Coastal Act requires the protection of such resources to reduce potential adverse impacts through the use of reasonable mitigation measures. Archaeological resources can be degraded if a project is not properly monitored and managed during earth moving activities conducted during construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be lost. As so many archaeological sites have been destroyed or damaged as a result of development activity or natural processes, the remaining sites, even though they may be less rich in materials, have become increasingly valuable. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact. The greater province of the Santa Monica Mountains is the locus of one of the most important concentrations of archaeological sites in Southern California. Although most of the area has not been systematically surveyed to compile an inventory, the sites already recorded are sufficient in both number and diversity to predict the ultimate significance of these unique resources.

The applicant submitted an archaeological report for the development site on the parcel. The report dated January 19, 1996 was prepared by E. Gary Stickel for the footprint area of the residence. The project area is located in an area where 13 site surveys or excavations for cultural resources were done within a one mile radius.

Based on an evaluation of an intense site survey, no cultural resources were identified. Based on these negative findings, the consultant determined that further cultural resources management measures would not be relevant. That recommendation would change, however, if any artifacts or bone material were to be discovered during the construction of the residence. In such an event, construction work should cease until a professional archaeologist could inspect the parcel and assess the significance of any such finds. These are the appropriate Cultural Resources Management recommendations for the project in view of the findings of this research.

Therefore, the Commission finds that no adverse impacts on archaeological resources will occur as a result of the proposed development, and that the project, as proposed, is consistent with Section 30244 of the Coastal Act.

E. 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 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 LUP contains the following policies regarding landform alteration and the protection of visual resources which are applicable to the proposed development:

- P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.
- P90 Grading plans in upland areas of the Santa Monica Mountains should minimize cut and fill operations in accordance with the requirements of the County Engineer.
- P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.
- P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on sloped terrain should be set below road grade.
- 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 LCP.

minimize the alteration of natural landforms.

be landscaped to conceal raw-cut slopes.

P135 Ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.

The applicant proposes to develop a residence on a small knob located on a relatively flat parcel in a manner that has minimized the amount of landform alteration and grading. The entire building pad area for this site is less than 10,000 sq. ft. in size.

In the review of this project, the Commission reviews the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. The Malibu/Santa Monica Mountains Land Use Plan protects visual resources in the Santa Monica Mountains. Tuna Canyon Road is recognized as a "second priority scenic area" which is given special treatment when evaluating potential impacts caused by new development.

The Commission examines the building site, the proposed grading, and the size of the building pad and structures. The development of the residence and garage raises two issues regarding the siting and design: one, whether or not public views from public roadways will be adversely impacted, or two, whether or not public views from public trails will be impacted.

The siting, size and grading for the building pad will not be visible from Tuna Canyon Road. Tuna Canyon Road, a public roadway, encircles the vicinity of the project site to the south, west, and north. Because the residence is located on a flat south facing plateau below the peak of immediate area, the site does not appear to be visible from Tuna Canyon Road to the west or north of the site. The site will also not be visible from Tuna Canyon Road to the south as the topography drops steeply from the plateau to a narrow and steep canyon where Tuna Canyon Road and Creek are located. Therefore, there does not appear to be any short range public views from public roads to the project site within a half mile of the building site.

In any event, the proposed grading for the building site is modest as the building pad will be cut into the top of a knob with a limited amount of fill placed along two flanks to create a flat building pad.

In regards to the proposed improvements to the applicant's easement along Betton Drive and Fabuco Road, these improvements will all occur along an existing dirt roadway, and the grading associated with this development, about 336 total cubic yards of grading (135 cubic yards of cut and 201 cubic yards of fill), will be spread out along a 800 foot section of road. This grading is judged to be the minimum amount necessary to meet the requirements of the Los Angeles County Fire Department. Furthermore, no significant cut or fill slopes will result from the above referenced grading, and no adverse or significant visual impacts are anticipated as no sections of the existing road are visible except from a few properties located in the upper section of the Tuna Canyon Watershed. Additionally, these properties are, for the most part,

located directly adjacent to the access road, however, these are considered private views as opposed to public views addressed by the Coastal Act.

Regarding public trails, a existing equestrian and hiking trail, the Tuna Canyon trail, is located about two thirds of a mile to one mile south and west of the project site. Due to the distance, public views of the project site will be limited.

The Commission has found that the use of native plant materials in landscaping plans can soften the visual impact of construction in the Santa Monica Mountains. The use of native plant materials to revegetate graded areas reduces the adverse affects of erosion, which can degrade visual resources in addition to causing siltation pollution in ESHA's, and soften the appearance of development within areas of high scenic quality. The applicant has submitted a landscape and fuel modification plan that uses numerous native species compatible with the vegetation associated with the project site for landscaping and erosion control purposes. Furthermore, the plan indicates that only those materials designated by the County Fire Department as being a "high fire hazard" are to be removed as a part of this project and that native materials that are located within a 300' radius of the residential structure are to "thinned" rather than "cleared" for wildland fire protection.

Therefore, the Commission finds that the project as proposed minimizes impacts to public views to and along the coast. Therefore, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act.

F. 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.

The applicant is proposing the installation of a new 1200 gallon septic tank, and two seepage pits to accommodate the sewage of the proposed development. 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 County of Los Angeles' minimum health code standards for septic systems 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.

G. Local Coastal Program

Section 30604 of the Coastal Act states that:

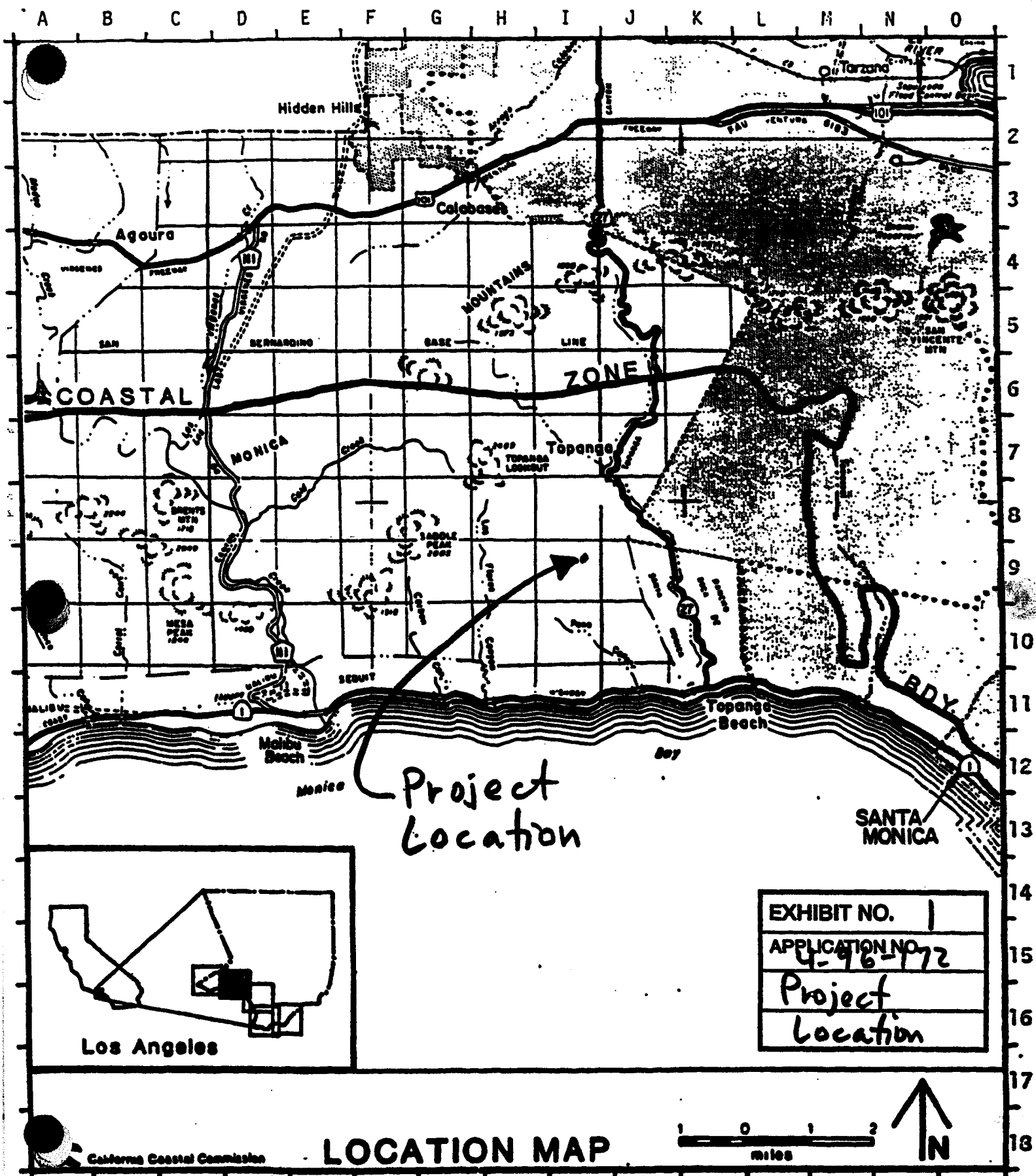
a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the 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's ability to prepare a Local Coastal Program for this area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

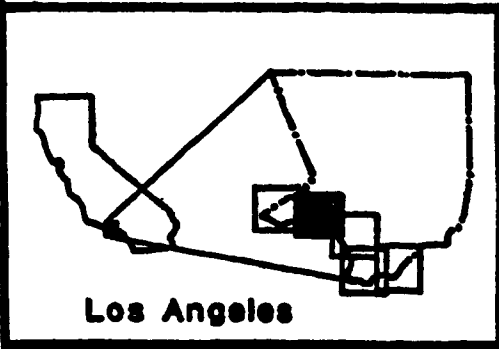
H. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5 (d)(2)(1) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment.

As discussed above, the proposed project has been mitigated to incorporate plans addressing erosion control and drainage, road maintenance, future improvement restriction, plans conforming to the consulting geologist's recommendations, and a wildfire waiver of liability. As conditioned, there are no feasible alternatives or mitigation measures available, beyond those required, which would lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and is found consistent with the requirements of CEQA and the policies of the Coastal Act.



Project Location

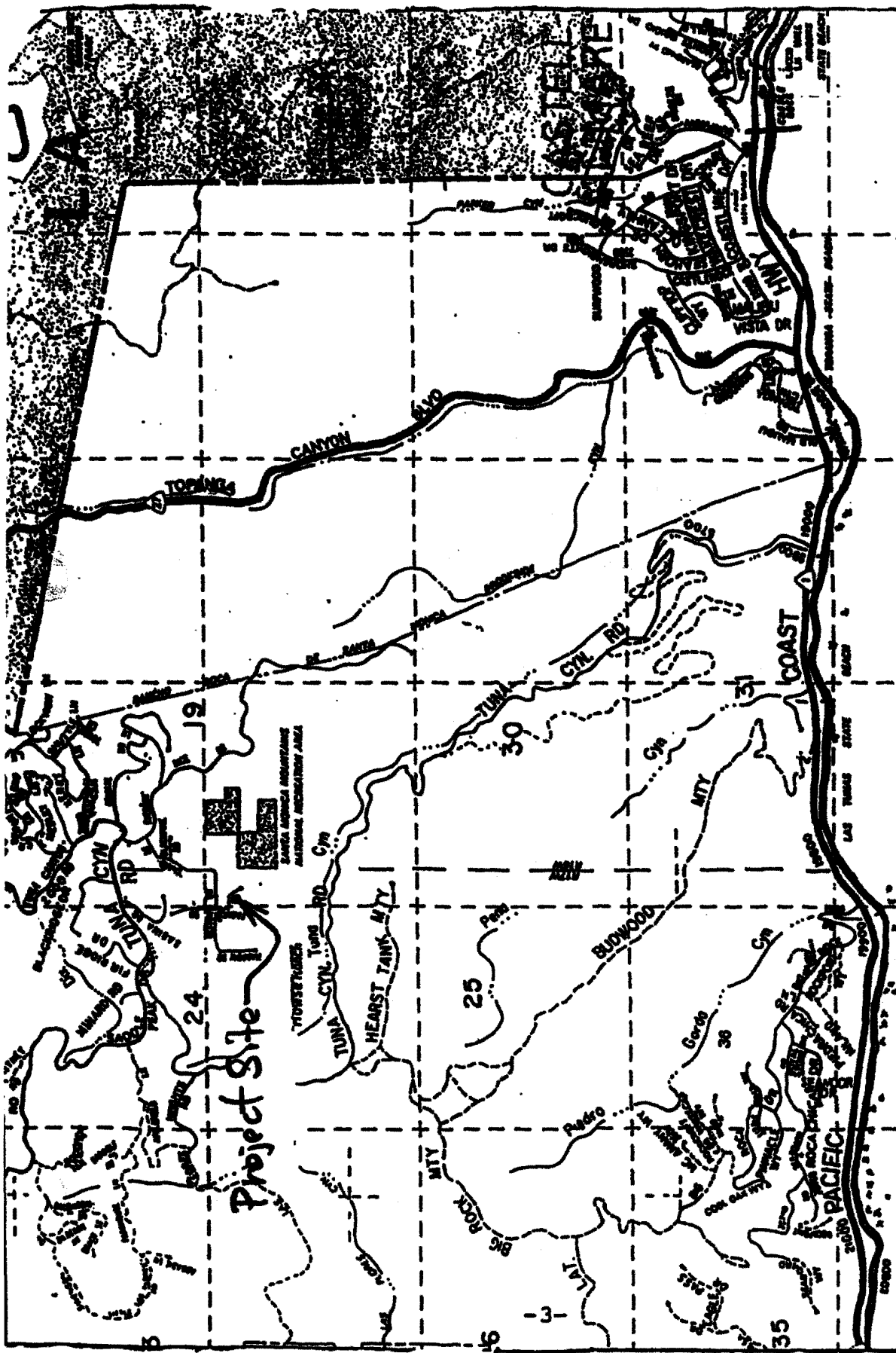


Los Angeles

EXHIBIT NO.	1
APPLICATION NO.	4-96-172
Project Location	

LOCATION MAP





PACIFIC OCEAN

OAK BEACH

EXHIBIT NO.	2
APPLICATION NO.	4-46-172
Project Site	

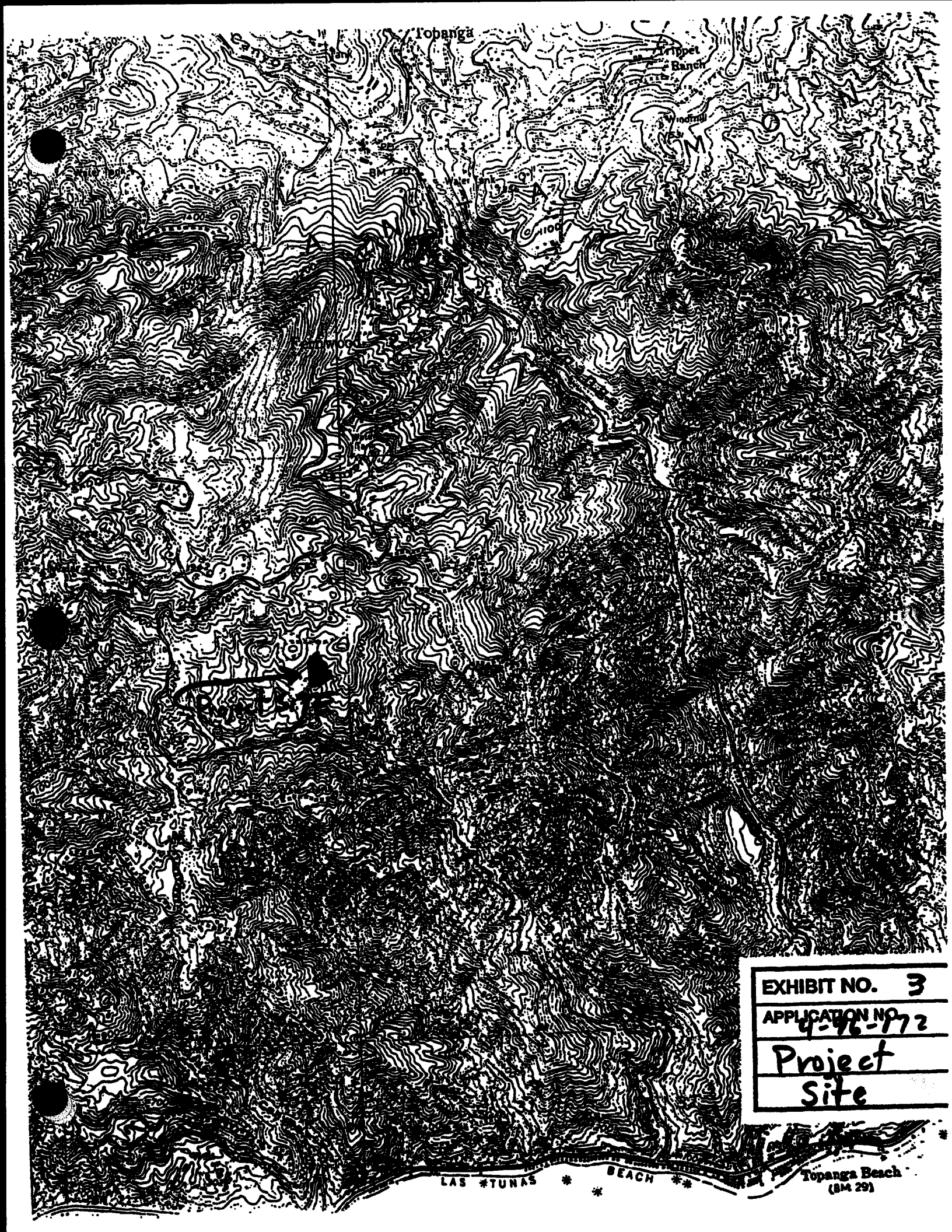
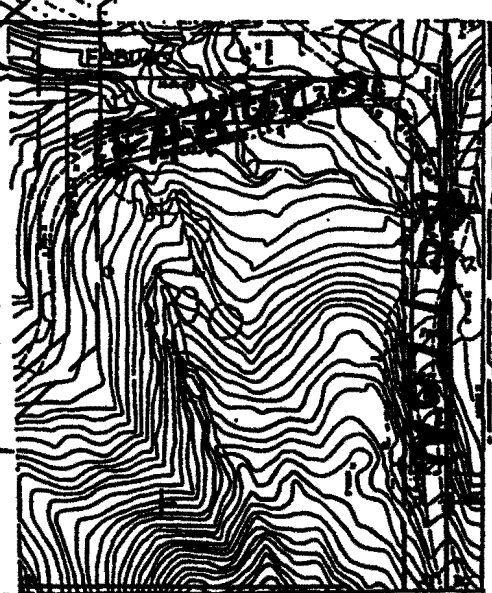


EXHIBIT NO. 3
APPLICATION NO. 4-76-172
Project
Site

LAS TUNAS * BEACH *

Topanga Beach
(BM 29)



**RECEIVED
CARTERS**

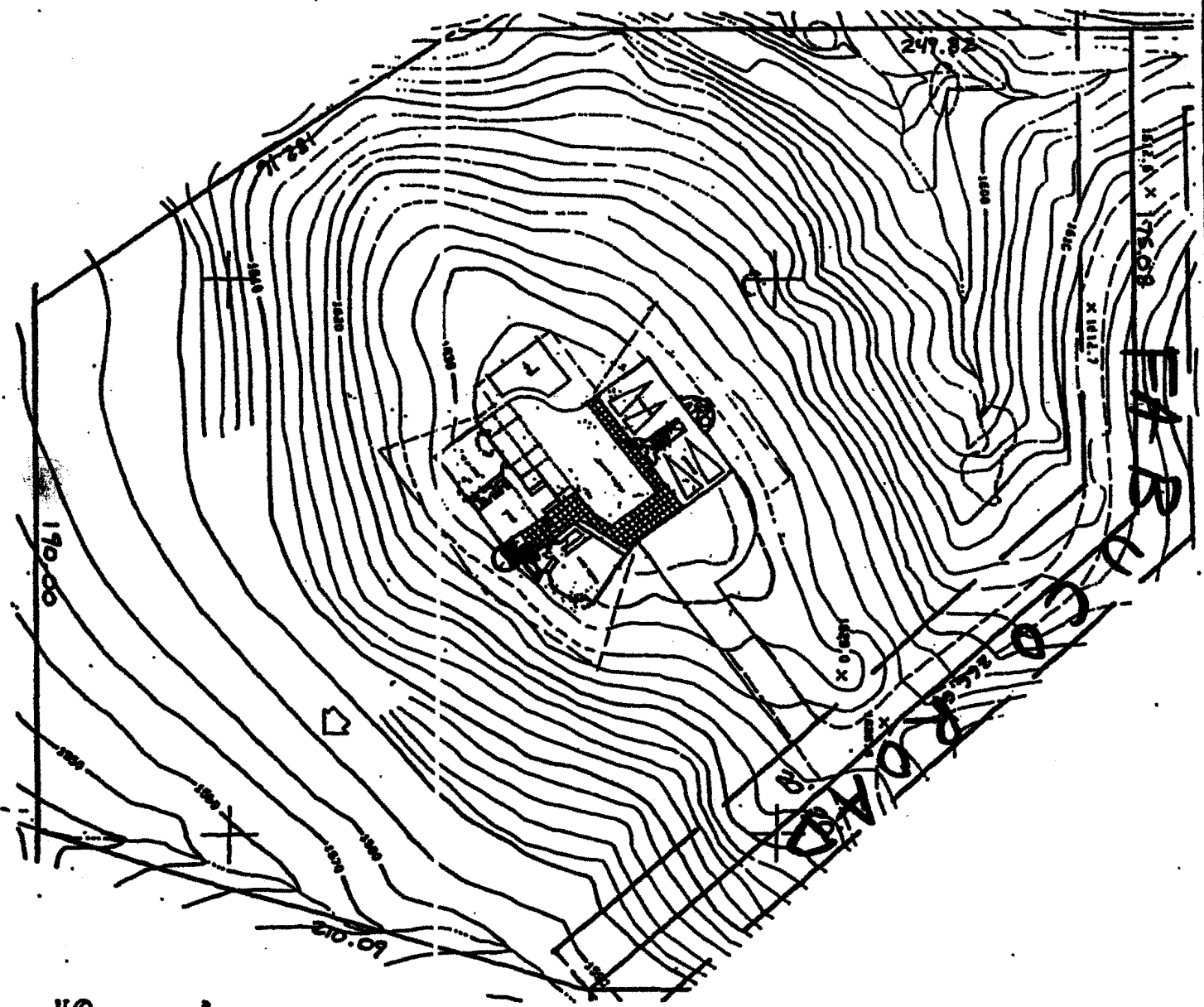
Grading Plan

GRADING PLAN
2737 Febuco Road

Source: Police Dept. Records, 1968-1970, 1972-1973, 1975-1976, 1978-1979, 1981-1982, 1984-1985, 1987-1988, 1990-1991, 1993-1994, 1996-1997, 1999-2000, 2002-2003, 2005-2006, 2008-2009, 2011-2012, 2014-2015, 2017-2018, 2020-2021, 2023-2024, 2026-2027, 2029-2030, 2032-2033, 2035-2036, 2038-2039, 2041-2042, 2044-2045, 2047-2048, 2050-2051, 2053-2054, 2056-2057, 2059-2060, 2062-2063, 2065-2066, 2068-2069, 2071-2072, 2074-2075, 2077-2078, 2080-2081, 2083-2084, 2086-2087, 2089-2090, 2092-2093, 2095-2096, 2098-2099, 2101-2102, 2104-2105, 2107-2108, 2110-2111, 2113-2114, 2116-2117, 2119-2120, 2122-2123, 2125-2126, 2128-2129, 2131-2132, 2134-2135, 2137-2138, 2140-2141, 2143-2144, 2146-2147, 2149-2150, 2152-2153, 2155-2156, 2158-2159, 2161-2162, 2164-2165, 2167-2168, 2170-2171, 2173-2174, 2176-2177, 2179-2180, 2182-2183, 2185-2186, 2188-2189, 2191-2192, 2194-2195, 2197-2198, 2199-2200, 2202-2203, 2205-2206, 2208-2209, 2211-2212, 2214-2215, 2217-2218, 2220-2221, 2223-2224, 2226-2227, 2229-2230, 2232-2233, 2235-2236, 2238-2239, 2241-2242, 2244-2245, 2247-2248, 2250-2251, 2253-2254, 2256-2257, 2259-2260, 2262-2263, 2265-2266, 2268-2269, 2271-2272, 2274-2275, 2277-2278, 2280-2281, 2283-2284, 2286-2287, 2289-2290, 2292-2293, 2295-2296, 2298-2299, 2301-2302, 2304-2305, 2307-2308, 2310-2311, 2313-2314, 2316-2317, 2319-2320, 2322-2323, 2325-2326, 2328-2329, 2331-2332, 2334-2335, 2337-2338, 2340-2341, 2343-2344, 2346-2347, 2349-2350, 2352-2353, 2355-2356, 2358-2359, 2361-2362, 2364-2365, 2367-2368, 2370-2371, 2373-2374, 2376-2377, 2379-2380, 2382-2383, 2385-2386, 2388-2389, 2391-2392, 2394-2395, 2397-2398, 2399-2400, 2402-2403, 2405-2406, 2408-2409, 2411-2412, 2414-2415, 2417-2418, 2420-2421, 2423-2424, 2426-2427, 2429-2430, 2432-2433, 2435-2436, 2438-2439, 2441-2442, 2444-2445, 2447-2448, 2450-2451, 2453-2454, 2456-2457, 2459-2460, 2462-2463, 2465-2466, 2468-2469, 2471-2472, 2474-2475, 2477-2478, 2480-2481, 2483-2484, 2486-2487, 2489-2490, 2492-2493, 2495-2496, 2498-2499, 2501-2502, 2504-2505, 2507-2508, 2510-2511, 2513-2514, 2516-2517, 2519-2520, 2522-2523, 2525-2526, 2528-2529, 2531-2532, 2534-2535, 2537-2538, 2540-2541, 2543-2544, 2546-2547, 2549-2550, 2552-2553, 2555-2556, 2558-2559, 2561-2562, 2564-2565, 2567-2568, 2570-2571, 2573-2574, 2576-2577, 2579-2580, 2582-2583, 2585-2586, 2588-2589, 2591-2592, 2594-2595, 2597-2598, 2599-2600, 2602-2603, 2605-2606, 2608-2609, 2611-2612, 2614-2615, 2617-2618, 2620-2621, 2623-2624, 2626-2627, 2629-2630, 2632-2633, 2635-2636, 2638-2639, 2641-2642, 2644-2645, 2647-2648, 2650-2651, 2653-2654, 2656-2657, 2659-2660, 2662-2663, 2665-2666, 2668-2669, 2671-2672, 2674-2675, 2677-2678, 2680-2681, 2683-2684, 2686-2687, 2689-2690, 2692-2693, 2695-2696, 2698-2699, 2701-2702, 2704-2705, 2707-2708, 2710-2711, 2713-2714, 2716-2717, 2719-2720, 2722-2723, 2725-2726, 2728-2729, 2731-2732, 2734-2735, 2737-2738, 2740-2741, 2743-2744, 2746-2747, 2749-2750, 2752-2753, 2755-2756, 2758-2759, 2761-2762, 2764-2765, 2767-2768, 2770-2771, 2773-2774, 2776-2777, 2779-2780, 2782-2783, 2785-2786, 2788-2789, 2791-2792, 2794-2795, 2797-2798, 2799-2800, 2802-2803, 2805-2806, 2808-2809, 2811-2812, 2814-2815, 2817-2818, 2820-2821, 2823-2824, 2826-2827, 2829-2830, 2832-2833, 2835-2836, 2838-2839, 2841-2842, 2844-2845, 2847-2848, 2850-2851, 2853-2854, 2856-2857, 2859-2860, 2862-2863, 2865-2866, 2868-2869, 2871-2872, 2874-2875, 2877-2878, 2880-2881, 2883-2884, 2886-2887, 2889-2890, 2892-2893, 2895-2896, 2898-2899, 2901-2902, 2904-2905, 2907-2908, 2910-2911, 2913-2914, 2916-2917, 2919-2920, 2922-2923, 2925-2926, 2928-2929, 2931-2932, 2934-2935, 2937-2938, 2940-2941, 2943-2944, 2946-2947, 2949-2950, 2952-2953, 2955-2956, 2958-2959, 2961-2962, 2964-2965, 2967-2968, 2970-2971, 2973-2974, 2976-2977, 2979-2980, 2982-2983, 2985-2986, 2988-2989, 2991-2992, 2994-2995, 2997-2998, 2999-3000, 3002-3003, 3005-3006, 3008-3009, 3011-3012, 3014-3015, 3017-3018, 3020-3021, 3023-3024, 3026-3027, 3029-3030, 3032-3033, 3035-3036, 3038-3039, 3041-3042, 3044-3045, 3047-3048, 3050-3051, 3053-3054, 3056-3057, 3059-3060, 3062-3063, 3065-3066, 3068-3069, 3071-3072, 3074-3075, 30

Vign Engineering Co., Inc.
75 STATE ST. BOSTON, MASS.
(617) 552-0800

[illegible]



SITE PLAN



EXHIBIT NO.	6
APPLICATION NO.	4-46-172
Site Plan	

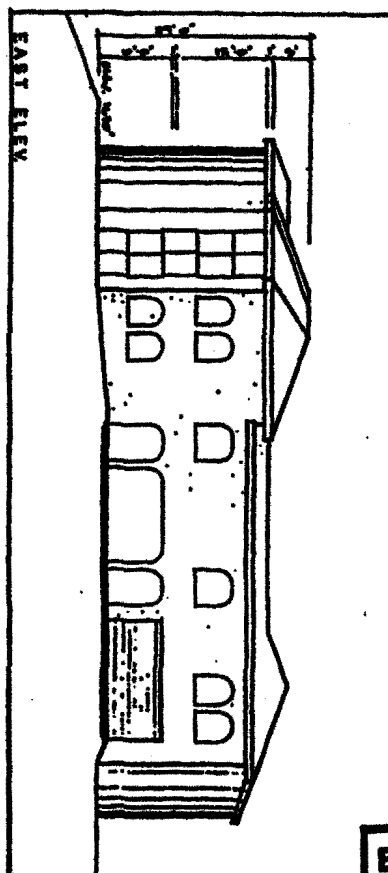
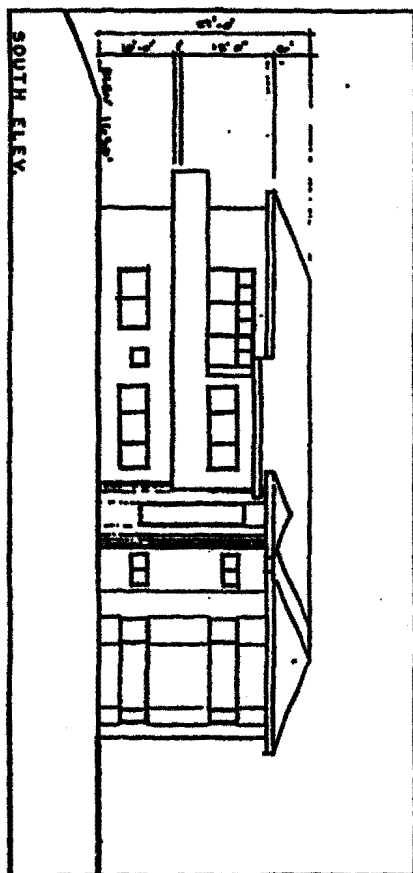
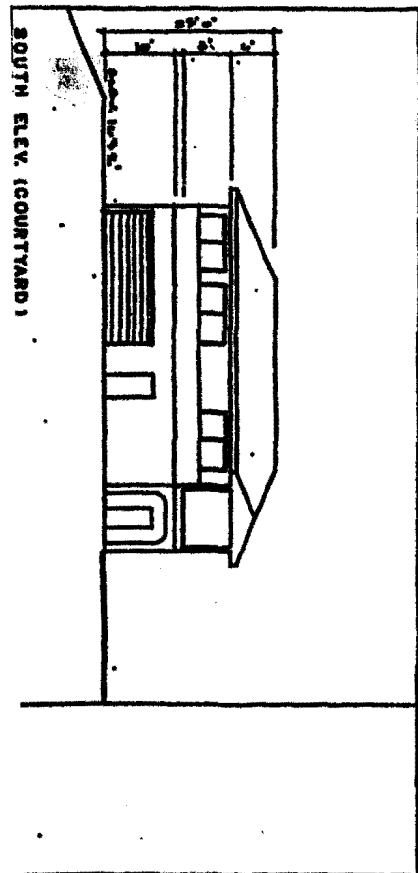
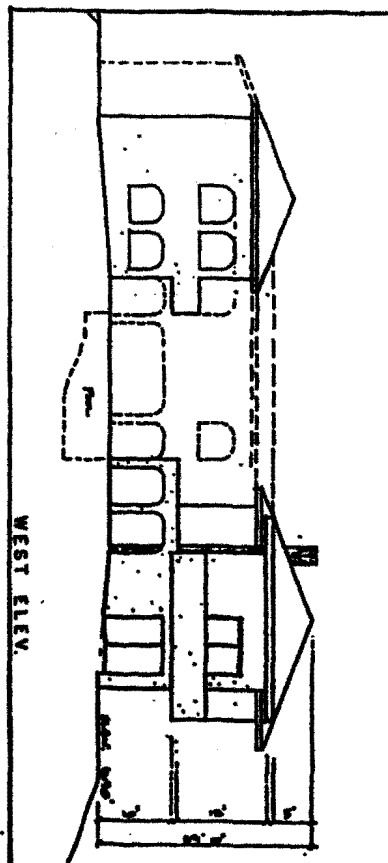
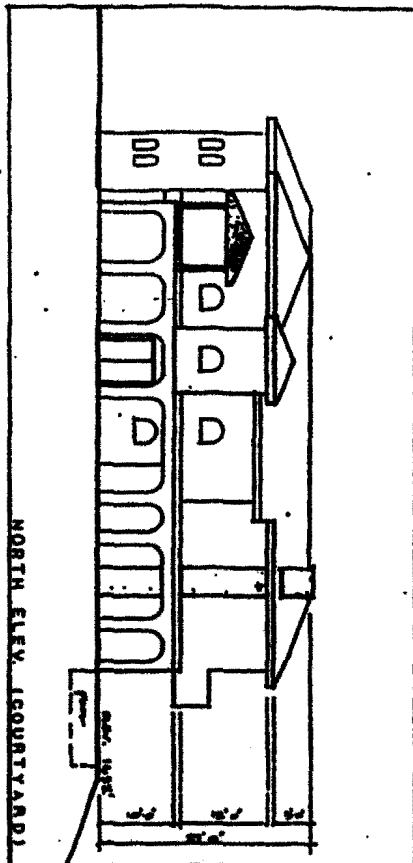
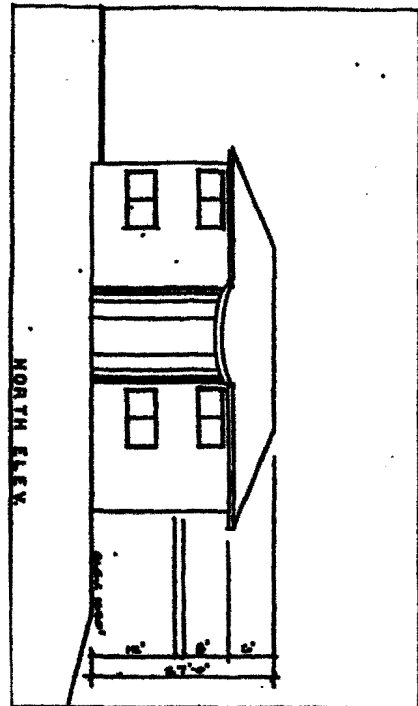


EXHIBIT NO. 5

APPLICATION # 92-981792

Elevations

Prepared by
118 Plume Ct
1501 Crystal Drive #111
Arlington, VA 22202

Prepared by
Theodore A. Davis
Architect
Jeffrey A. Davis
(703) 374-7004

Hand-drawn floor plan of the first floor of a building. The plan shows a large central hall with a staircase on the right side. To the left of the hall is a room labeled 'Library'. To the right of the hall is a room labeled 'Lobby'. At the top of the plan is a room labeled 'Reading room'. A circular entrance is on the left side. A small room labeled 'Bath' is located near the staircase. The plan is drawn with simple lines and includes some furniture like a desk and chairs.

EXHIBIT NO. 9
APPLICATION NO. 9-96-172
Floor Plans

CALIFORNIA COASTAL COMMISSION

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



November 21, 1996

Robert Hentges and Catherine Sochacki
4319 Seminol Drive
Royal Oak, MI 48073

RE: Coastal Development Permit Application No. 4-96-172, Marian Olson, 2737 South Fabuco Road, Malibu

Dear Robert Hentges and Catherine Sochacki;

This office has received an application from Marian Olson for the construction of a 4,000 sq. ft. two story single family residence with four car garage, swimming pool, septic system and landscaping at 2737 South Fabuco Road, Malibu. The application is filed and scheduled for a public hearing at the Coastal Commission's December 10 - 13, 1996 meeting.


In addition to the proposed residence, the applicant requests the approval of an extension of Betton Drive and Fabuco Road and water main improvements to serve the proposed residence. This extension of about 800 feet includes about 336 cubic yards of grading to pave the roadways.

Coastal Act Section 30601.5 states as follows:

All holders or owners of any interests of record in the affected property shall be notified in writing of the permit application and invited to join as co-applicant.

Because our records in the application file indicate that you are the owner of a fee interest in the property across which the road paving, grading and water main improvements are proposed, the Commission is notifying you of the application pursuant to Section 30601.5. With this letter, staff are inviting you to join this application as a co-applicant if you so choose. If you wish to join as a co-applicant, you may indicate your agreement by signing and returning a copy of this letter. If you have any questions or need further information about this application and the proposed project, please call me at the number above.

Sincerely,


James C. Johnson
Coastal Program Analyst

AGREED:

Signature

Print Name

Property Address

cc: Donald Schmitz
olsoncos.doc

EXHIBIT NO. 10
APPLICATION NO. 4-96-172
Road/Property
Interests

SENSITIVE ENVIRONMENTAL RESOURCES OVERLAY ZONES

