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CALIFORNIA COASTAL COMMISSION

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Filed: 2/17/00
49th Day: 4/6/00
180th Day: 8/15/00
Staff: mb-*Y*
Staff Report: 3/19/00
Hearing Date: 5/9-12/00

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 4-00-022

APPLICANT: Ron Rivkin

PROJECT LOCATION: 1055 Cold Canyon Road, Monte Nido, Los Angeles County

PROJECT DESCRIPTION: Construct 2,400 sq. ft., one story, 17 ft. high single family residence with detached carport, pool, septic system, and temporary construction trailer. No grading is proposed.

Lot area: 2.18 acres.
Building coverage: 2,400 sq. ft.
Pavement coverage: 1,400 sq. ft.
Parking spaces: 1 covered, 2 open
Height above existing grade: 17 ft.

LOCAL APPROVALS RECEIVED: County of Los Angeles: Environmental Review Board, Plot Plan 46035, October 15, 1999; Approval in Concept, dated 11/16/99.

SUBSTANTIVE FILE DOCUMENTS: Mountain Geology, Inc., Limited Engineering Geologic Report, July 27, 1999; Coastal Development Permits 4-94-157 (Teherani), 4-96-211 (Felder), 4-98-073 (Ballard), 4-99-083 (Heeney), and 4-99-198 (Halbreich).

SUMMARY OF STAFF RECOMMENDATION

The proposed development is a single family residence in a previously proposed subdivision overlooking a trail and a blue line stream. Staff recommends approval of the proposed project with seven (7) special conditions regarding: geologic recommendations, drainage and polluted runoff control, landscaping and erosion control, removal of natural vegetation, wildfire waiver of liability, color restriction and deed restriction on future development.

STAFF RECOMMENDATION:

I. **Approval with Conditions**

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-00-022 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

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. Plans Conforming to Geologist's and Engineer's Recommendations

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval by the Executive Director, evidence of the Geologist and Geotechnical Engineer consultant's review and approval of all project plans. All recommendations contained in the: Mountain Geology, Inc., Limited Engineering Geologic Report, July 27, 1999 including recommendations related to grading, foundations, and setbacks shall be incorporated in the final project plans. All plans must be reviewed and approved by the geologic consultants.

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

2. Drainage and Polluted Runoff

Prior to the issuance of the coastal development permit, the applicant shall submit for the review and approval of the Executive Director, a drainage and polluted runoff control plan designed by a licensed engineer which minimizes the volume, velocity, and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting geotechnical engineer and engineering geologist to ensure

the plan is in conformance with the consultants' recommendations. The plan shall include but not be limited to the following criteria:

- (a) Post-development peak runoff rates and average volumes shall not exceed pre-development conditions.
- (b) Runoff from all roofs, parking areas, driveways and other impervious surfaces shall be collected and directed through a system of vegetated and/or gravel filter strips or other media filter devices. The filter elements shall be designed to 1) trap sediment, particulates, and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the building site in a non-erosive manner.
- (c) The plan shall include provisions for maintaining the drainage and filtration systems so that they are functional throughout the life of the approved development. Such maintenance shall include the following: (1) the drainage and filtration system shall be inspected, cleaned and repaired prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

3. Landscaping and Erosion Control Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

A) Landscaping Plan

- 1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated

October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- 3) No clearing, thinning, or other disturbance of vegetation shall be permitted within the areas designated as riparian canopy and/or significant oak woodland as illustrated on the Fuel Modification Plan revised on 2/23/00 and approved by the County of Los Angeles Fire Department Fuel Modification Unit on 3/06/00.
- 4) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen the residence and retaining wall west of the residence from the views of the Cold Creek Trail located west of the project site, and of the dedicated hiking and equestrian trail easement located along the west property boundary.
- 5) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 6) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

B) Interim Erosion Control Plan

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes

and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) **Monitoring.**

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

4. **Removal of Natural Vegetation**

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

5. Wild Fire Waiver of Liability

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, 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.

6. Color Restriction

The color of the structures, roofs, and driveway permitted hereby shall be restricted to a color compatible with the surrounding environment (white tones shall not be acceptable). All windows shall be comprised of non-glare glass.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

7. Future Improvements

This permit is only for the development described in coastal development permit No. 4-00-022. Pursuant to Title 14 California Code of Regulations Sections 13250 (b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the entire parcel. Accordingly, any future improvements to the permitted structures, including but not limited to clearing of vegetation or grading, other than as provided for in the approved fuel modification, landscape and erosion control plan prepared pursuant to Special Condition 3, shall require an amendment to Permit No. 4-00-022 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the restricted area. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This

deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a 2,400 sq. ft., one story, 17 ft. high single family residence with detached carport, pool, septic system, and temporary construction trailer. No grading is proposed except for incidental work typical of residential development (i.e. excavation and fill for foundation work and septic system installation).

The pad was constructed as part of an earlier coastal development permit for a subdivision, as discussed below. Access to the building pad is by way of an existing driveway off an existing shared paved access road off Cold Canyon Road. The pad and cut slope have been cleared and are predominantly vegetated with non-natives. Trees have been already planted on the fill slope and along the shared paved accessway (approximately 20 ft. in height). A watering system and concrete drainage swales have been installed, but both are deteriorated. At the bottom of the fill slope is a natural shelf with native vegetation including a stand of wild roses as well as ceonothus and a large oak tree, beyond which is the riparian area and two channels of Cold Creek.

The entrance to the parcel at Cold Canyon Road is at the approximate 740 ft. elevation while the residence is proposed below Cold Canyon Road at the approximate 640 foot elevation. Grade then descends toward the flood hazard area (Cold Creek) beyond which and off-site is the adjacent trail (Stunt High Trail). A portion of the trail is visible from the building pad on a minor, low ridge within the canyon bottom approximately 400 ft. to the west. A link of this trail was provided by the underlying subdivision in 1981 (Coastal development permit P-81-7701).

Cold Creek is a designated blue line stream bordered by an Environmentally Sensitive Habitat Area. The entire parcel is located within the Cold Creek Resource Management Area, as well as portions of designated environmentally sensitive habitat areas associated with the Cold Creek riparian corridor and a significant oak woodland habitat within the natural drainage course west of the building pad. Development to the south and south consists of single family development and equestrian facilities or undeveloped pads suitable for single family residences. The remaining surrounding development is a mixture of vacant land and single family development. Further to the southwest is the Monte Nido small lot subdivision. The subject property is Lot 9 of a ten lot, 85 acre subdivision approved by the Commission in 1981 (Coastal development permit P-81-7701), including construction of roads, building pads and septic systems and a trail easement.

B. Geologic Stability and Hazards

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

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

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

The prominent geomorphic features in the area are Cold Creek to the west and a LUP-designated Significant Ridgeline to the east. Topography on the site ranges from approximately 740 ft. at Cold Canyon Road to approximately 600 ft. adjacent to Cold Creek. Slope drainage is by sheet flow to the north or west or through drains to the north and west off the existing building pads. Most of the previously graded area of the site, including the pad and driveway, drains directly toward Cold Creek.

1. Geology

The applicant has submitted a Mountain Geology, Inc., Limited Engineering Geologic Report, July 27, 1999 which states that:

It is the opinion of the undersigned, a duly registered geotechnical engineer, based upon tests conducted as outlined in this report, copies of test results being available for review, that if constructed in accordance with our recommendations and properly maintained, (1) the proposed structure(s) will be safe against hazard from landslide, settlement, or slippage, and that (2) the proposed building or grading construction will have no adverse effect on the geologic stability or property outside of the building site.

Given the findings and recommendations of the consulting engineering geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal

Act so long as all recommendations regarding the proposed development are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting engineering geologists as conforming to their recommendations, as noted in *special condition number one (1)* for the final project plans for the proposed project.

2. Erosion

Surface drainage on site, as noted above, is predominately toward the north and west, toward Cold Creek which is approximately 200 feet to the west of the proposed residential structure. The creek is designated as an environmentally sensitive habitat area and the Creek and project site are within the Malibu/Cold Creek Resource Management Area. Both designations are found in the land use component of the Malibu/Santa Monica Mountains LUP. The consulting geologist is concerned about the drainage associated with the proposal and recommended that drainage should be dispersed in a non-erosive manner to preclude concentration of runoff and erosion.

The project will significantly increase the amount of impervious surfaces on the site, increasing both the volume and velocity of storm water runoff. Increased erosion may also result in sedimentation of the nearby stream on an interim basis and after construction. If not controlled and conveyed off the site in a non-erosive manner, this runoff will result in increased erosion on and off the site and affect site stability. Although the project plans indicate that there will be a drainage control plan, the materials submitted do not contain sufficient detail to determine that the project addresses these concerns, nor do they show necessary repairs.

Consequently, the Commission finds it necessary to require the applicant to submit a detailed drainage and erosion control plan which shows that water is conveyed off the building pad in a manner that will ensure stability of the site and the surrounding area. Approval with *special condition number two (2)*, therefore, is necessary. This condition will ensure site stability and avoidance of the potentially adverse impacts of erosion and sedimentation on the blue line stream in a manner consistent with PRC Section 30253, relative to protection of ESHAs and the biological productivity and quality of coastal waters and streams.

Further, the Commission finds it necessary to require the applicant to submit a detailed landscape and erosion control plan for the proposed development as proposed by *special condition three (3)*. Landscaping is a necessary part of this plan to minimize the potential for erosion of grading and disturbed soils and thereby ensure site stability. It is also necessary to ensure that the landscape and erosion control plan is reviewed and approved by the consulting engineering geologist and includes measures for replanting, soil stabilization, maintenance, sedimentation control, and monitoring. Such a plan ensures site stability and avoidance of the potentially adverse impacts of erosion and sedimentation in a manner consistent with PRC Section 30253.

In addition, *special condition number four (4)* is necessary to ensure that removal of natural vegetation for fuel modification purposes does not take place without implementation of the proposed single family residence. Unnecessary fuel modification should be avoided as it is contrary to the provisions of PRC Section 30253 including ensuring site stability and avoiding adverse impacts of erosion and sedimentation.

3. Fire

The Coastal Act also requires that new development minimize the risk to life and property in areas of high fire hazard. The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by *special condition number five (5)*. The Commission finds that only as conditioned above is the proposed project consistent with Section 30253 of the Coastal Act.

C. Environmentally Sensitive Habitat Areas

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal

waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 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, and minimizing alteration of natural streams.

Section 30240 states:

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

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

To assist in the determination of a proposed project's consistency with Sections 30230, 30231, and 30240 of the Coastal Act, the Commission has looked to the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) for guidance. The Land Use Plan has been found to be consistent with Coastal Act Policies and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. In its findings regarding the certification of the Malibu/Santa Monica Mountains LUP, the Commission emphasized the importance placed by the Coastal Act on protection of sensitive environmental resources and found that:

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

Specifically, Policy 79 of the LUP provides that in order to protect sensitive riparian habitats, all development, other than driveways and walkways, should be setback at least 50 ft. from the outer limit of designated environmentally sensitive riparian

vegetation to maintain a natural buffer area. Table 1 of the LUP further provides that new structures shall be located 100 ft. from the outer limit of the riparian tree canopy. Policy 79 of the LUP also provides that seepage pits for new septic systems shall be located at least 100 ft. from the outer edge of riparian or oak tree canopies. In addition, Policy 82 of the LUP, in concert with the Coastal Act, provides that grading shall be minimized to ensure that the potential negative effects of runoff and erosion on watershed and streams is minimized. Further, Policies 84 and 94, in concert with the Coastal Act, provide that disturbed areas shall be revegetated with native plant species within environmentally sensitive habitat areas and significant watersheds.

As previously mentioned, the proposed project site is located on a west-facing hillside west of Cold Canyon Road within the Cold Creek Resource Management Area and is adjacent to and upslope from Cold Creek. Cold Creek is designated as a blueline stream by the United States Geological Survey and the stream's associated riparian corridor is designated as an Environmentally Sensitive Habitat Area (ESHA) by the Malibu/Santa Monica Mountains Land Use Plan (LUP).

The area proposed for construction of a new residence is an existing building pad that is located upslope from Cold Creek and the designated ESHA at the project site. As the proposed single family residence will occur within an area previously disturbed by past grading and vegetation removal, it will not result in removal of sensitive riparian habitat, individual oak trees, or significant oak woodland habitat at the project site.

In past permit actions regarding new development adjacent to riparian habitat, the Commission has required that all new development, consistent with Table 1 of the Malibu/Santa Monica Mountains LUP, be located more than 100 ft. from the outer limit of the riparian vegetation canopy in order to provide for an adequate buffer area from new development. In the case of the proposed project, the location of the existing building pad previously approved by the Commission enables construction of the proposed residence at approximately 150 feet from the riparian canopy.

The proposed septic pit area will be located approximately 125 ft. from the blueline stream and the edge of the riparian corridor.

In addition to the above mentioned setback/buffer areas, the applicant has submitted a Fuel Modification Plan approved by the Los Angeles County Fire Department Fuel Modification Unit which indicates that no cutting or clearing of vegetation will be required for fuel modification purposes in the riparian corridor or a single large oak adjacent to the site, and extension of the significant oak woodland to the south. The Approved Fuel Modification Plan indicates that the existing setback areas for the proposed residence are an adequate distance from the edge of the riparian corridor and a significant oak tree for purposes of vegetation thinning/clearance requirements for fire safety, while ensuring that all existing riparian vegetation and oak trees on the subject site will be preserved.

The Commission further finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native

plants species indigenous to the Malibu/Santa Monica Mountains area. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, *Special Condition three (3)* requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

The Commission notes that seasonal streams and drainages, such as Cold Creek and the natural drainage located on the subject site, in conjunction with primary waterways, provide important habitat for riparian plant and animal species. Section 30231 of the Coastal Act provides that the quality of coastal waters and streams shall be maintained and restored whenever feasible through means such as: controlling runoff, preventing interference with surface water flows and alteration of natural streams, and by maintaining natural vegetation buffer areas. In past permit actions the Commission has found that new development adjacent to coastal streams and natural drainages results in potential adverse impacts to riparian habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species, disturbance of wildlife, and loss of riparian plant and animal habitat.

In the case of the proposed project, no removal of vegetation in environmentally sensitive habitat areas identified on site is proposed and the Commission notes that all natural vegetation buffer areas currently existing at the subject site will be maintained. Additionally, because the existing building pad is located approximately 150 ft. updrift from the established flood zone of Cold Creek, no streambed alteration or interference of stream flow in Cold Creek will result from the proposed project. The Commission finds that potential adverse effects to the value and quality of Cold Creek, and of the riparian and oak tree habitat on the subject site, may be further minimized through the implementation of an appropriate landscaping plan utilizing native plant species, and implementation of a drainage and polluted runoff control plan.

The Commission finds that minimizing site erosion will reduce the project's individual and cumulative potential to adversely affect the designated ESHA associated with Cold Creek and the natural drainage course, as well as sensitive resources located downstream of the project site. Erosion and sedimentation can best be minimized by requiring the applicant to implement a drainage and polluted runoff control plan (discussed in further detail under Section E. Water Quality), by incorporating interim erosion control methods during construction, and by landscaping disturbed areas of the site with native plants compatible with the surrounding environment.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission finds that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes or riparian areas, and therefore do not prevent erosion in such areas. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and aid in preventing erosion.

Therefore, in order to minimize erosion and excess sedimentation into Cold Creek and the natural drainage course on site and downstream areas, *Special Condition three (3)* requires that all disturbed and graded areas be stabilized and vegetated with appropriate native plant species. *Special Condition three (3)* also requires that an interim erosion control plan be prepared and submitted with proof of review by the project's consulting geotechnical and geologic engineer, as conforming to their recommendations to reduce excess erosion and sedimentation from the project site into Cold Creek and the natural drainage during construction activities.

Furthermore, *Special Condition four (4)* requires that no removal or thinning of natural vegetation for fuel modification purposes shall occur until grading or building permits have been secured from the local government and construction of the permitted development has commenced. The limitation imposed avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and runoff control devices and implementation of the landscaping and interim erosion control plans.

Further, non-point source pollution is the pollution of coastal waters (including streams and underground water systems) which enters the waterway from numerous sources which are difficult to identify on an individual basis. Non-point source pollutants include suspended solids, coliform bacteria and nutrients. These pollutants can originate from many different sources such as overflow septic systems, storm drains, runoff from roadways, driveways, rooftops and horse facilities. The Commission finds that the minimization of non-point source pollutants from new development will help to maintain and enhance the quality of coastal waters, streams, wetlands, estuaries and lakes.

To ensure that the proposed project is consistent with Section 30231 of the Coastal Act, the landscape and erosion control plan mentioned in the previous section, and required by *special conditions two (2)* and *three (3)* reduce the non-point source pollution impacts of the proposed development, and ensure consistency with PRC Section 30231. To ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as specified by *Special Condition 2*, to incorporate drainage and polluted runoff control measures into development of the project site. This condition also ensures that: the project's drainage and runoff control structures will not contribute to further erosion and sedimentation at the project site or surrounding area; that the project's drainage structures shall be repaired should the structures fail in the future; and that the applicant agree to be

responsible for any repairs or restoration of eroded areas should the drainage structures fail or result in erosion.

As previously discussed, portions of the subject site have been identified by the Malibu/Santa Monica Mountains LUP as riparian habitat and significant oak woodland, resources designated as environmentally sensitive habitat areas. Due to the unique nature of the subject site, the Commission finds that the amount and location of any new development on the subject site is significantly limited by the above mentioned environmental constraints. Therefore, in order to ensure that any future structures, additions, or landscaping that may be exempt from coastal permit requirements are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, *Special Condition seven (7)*, the future development deed restriction, has been required.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

D. Visual Resources

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In addition, the certified Malibu/Santa Monica Mountains LUP provides policies regarding protection of visual resources, which are used as guidance and are applicable to the proposed development. These policies have been applied by the Commission as guidance, in the review of development proposals in the Santa Monica Mountains and include: ***P 125 sited and designed relative to LCP-designated scenic highways, views to and along the shoreline, and scenic coastal areas; P129 designed and located for attractive appearance and harmonious relationship with the surroundings; P130 In highly scenic areas and along scenic highways, sited and designed to protect views to and along the ocean and to and along other scenic features, minimize the alteration of natural land forms, conceal raw-cut slopes, compatible with and subordinate to the character the***

setting, and not intrude into the skyline as seen from public viewing places; P134 sited to conform to the natural topography.

The applicant proposes to construct a 2,400 sq. ft., one story, 17 ft. high single family residence with detached carport, pool, septic system, and temporary construction trailer. No grading is proposed except for incidental work typical of residential development (i.e. excavation and fill for foundation work and septic system installation). To assess any potential visual impacts of this project to the public, the Commission reviews the publicly accessible locations from which the proposed development is visible, such as beaches, parks and trails. The Commission typically also examines the building site and the size of the structure.

The proposed development will be set back approximately two hundred fifty feet from Cold Canyon Road. Visibility from Cold Canyon Road is partly blocked by the topography. The project will be visible from a nearby trail, segments of the Stunt High Trail to the west. The project is also visible from State Park land on the ridge to the east, overlooking Cold Canyon.

Although the single story residence has less potential visual impact on the trail compared to a larger or two story structure, the proposed 2,400 sq. ft. building and detached carport, and ancillary improvements, will be visible from public lands and the Stunt High Trail. Further, later expansion of the structure has the potential to create adverse visual impacts unless subject to further Commission review. Additions to single family residences in this area would otherwise be exempt under Commission review under the administrative regulations.

The impact on public views can be mitigated by requiring that: the residence to be finished in a color consistent with the surrounding natural landscape: the windows of the proposed structure be of a non-reflective nature: and the driveway be colored in a manner that blends into the surrounding area. To ensure any visual impacts associated with the colors of the structure and the potential glare of the window glass are minimized, the Commission finds it necessary to require the applicant to use colors compatible with the surrounding environment, non-glare glass, and a colored driveway as required by *Special Condition number six (6)*.

In addition, future developments or improvements to the property have the potential to create significant adverse visual impacts as seen from the public trail and the surrounding area. It is necessary to ensure that future developments or improvements normally associated with a single family residence, which might otherwise be exempt, be reviewed by the Commission for compliance with the visual resource protection policies of the Coastal Act. *Special Condition number seven (7)*, the future improvements deed restriction, will ensure the Commission will have the opportunity to review future projects for compliance with the Coastal Act.

Furthermore, visual impacts can be mitigated by requiring the slope facing the connector trail to be adequately landscaped. The landscaping plan submitted includes native, drought resistant plants and partially screen and soften the visual impact of the structure, as required by *Special Condition number three (3)*.

In summary, the proposed project as conditioned will not result in a significant adverse impact to the scenic public views or character of the surrounding area in this portion of the Santa Monica Mountains. Thus, the Commission finds that the proposed project is consistent, as conditioned, with Section 30251 of the Coastal Act and the policy guidance contained in the certified Malibu/Santa Monica Mountains LUP.

E. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, runoff, erosion, and sedimentation, and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act states:

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

As described, the proposed project includes construction of a 2,400 sq. ft., one story, 17 ft. high single family residence with detached carport, pool, septic system, and temporary construction trailer. No grading is proposed. The use of the site for residential purposes will introduce potential sources of pollutants such as petroleum, household cleaners, and pesticides, as well as other accumulated pollutants from rooftops and other impervious surfaces.

The removal of natural vegetation and placement of impervious surfaces associated with new residential development reduces infiltration of rainwater into the soil thereby increasing the rate and volume of runoff, which in turn causes increased erosion and sedimentation. Infiltration of precipitation into the soil reduces runoff and provides for the natural filtration of pollutants. When infiltration is prevented by impervious surfaces, pollutants in runoff are quickly conveyed to coastal streams and to the ocean. Thus,

new development can cause cumulative impacts to the hydrologic cycle of an area and coastal waters by increasing and concentrating runoff leading to stream channel destabilization, increased flood potential, increased concentration of pollutants, and reduced groundwater levels.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from the site in a non-erosive manner, drainage and water pollution control measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site is returned to the soil, overall runoff volume is reduced and more water is available to replenish groundwater and maintain stream flow. Slow surface flow of runoff allows sediment and other pollutants to settle into the soil where they can be filtered. The reduced volume of runoff takes longer to reach streams and its pollutant load is greatly reduced.

The project is conditioned to implement and maintain a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. This drainage plan is required in order to ensure that risks from geologic hazard are minimized and that erosion, sedimentation, and polluted runoff are minimized to reduce potential impacts to coastal streams, natural drainages, and environmentally sensitive habitat areas on site. In order to further ensure that adverse impacts to coastal water quality do not result from the proposed project, the Commission finds it necessary to require the applicant to incorporate filter elements that intercept and infiltrate or treat the runoff from the site, as specified in *Special Condition 2*. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

The proposed development includes installation of an on-site septic system with a 1200 gallon tank to serve the residence. The 1200 gallon septic tank will be located on the northern side of the building pad, from which effluent from the septic system will be pumped upgrade, away from Cold Creek, and disposed of through 2 septic pits. The applicants' engineering geologic consultants have evaluated the site relative to a potential septic system and conclude that the site is suitable for the septic system and that there will be no adverse impact to the site or surrounding area from use of the proposed septic system. Finally, the County of Los Angeles Department of Health Services has approved the design of the proposed sewage disposal system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources. Therefore, the Commission finds that the proposed project, as

conditioned to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with 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 effects and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for this area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. 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)(A) 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 effects that the activity may have on the environment.

The proposed development, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.

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3.

BACKBONE

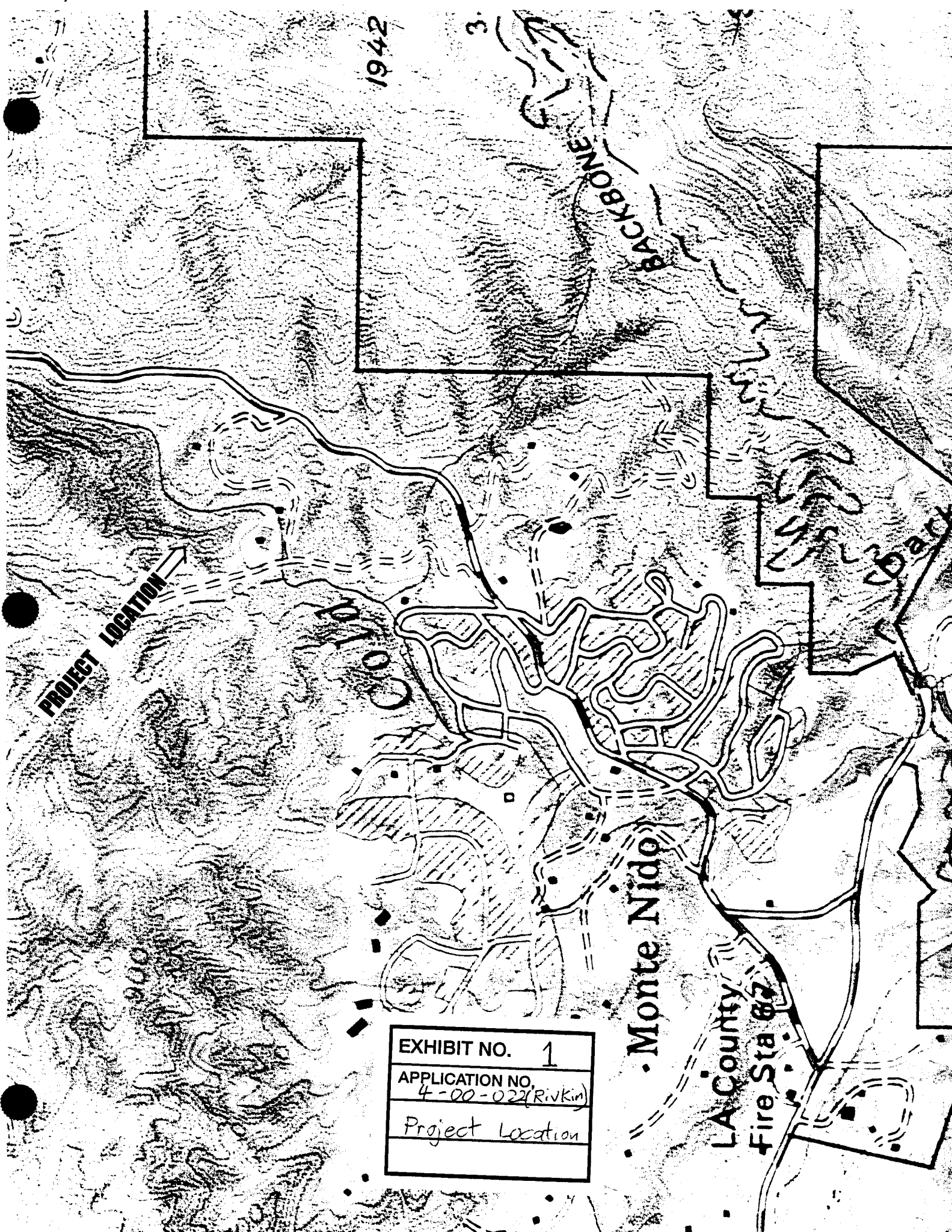
Coast

Monte Nido

LA County
Fire Sta 67

PROJECT LOCATION

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| EXHIBIT NO. | 1 |
| APPLICATION NO. | 4-00-022(Rivkin) |
| Project Location | |
| | |



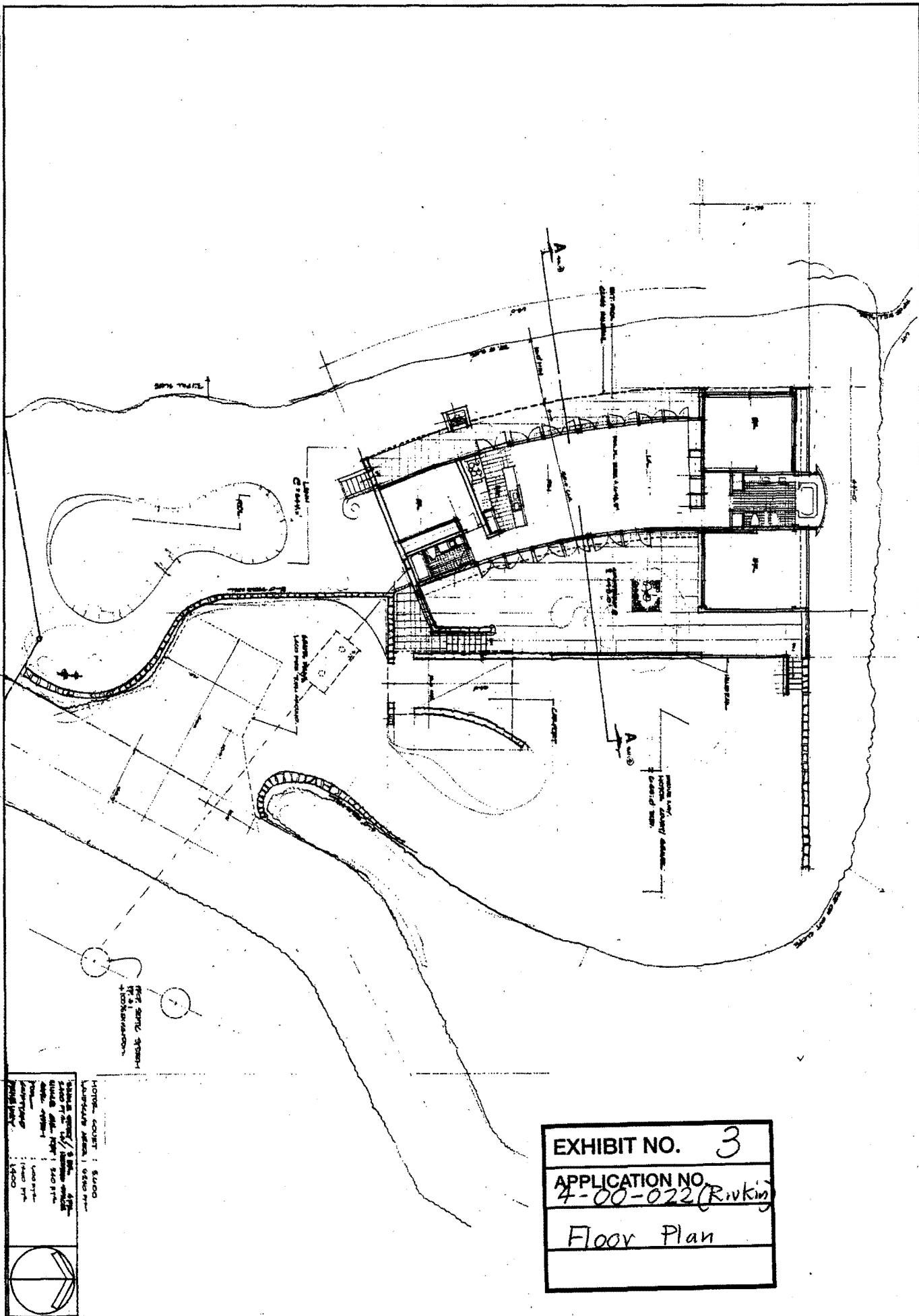
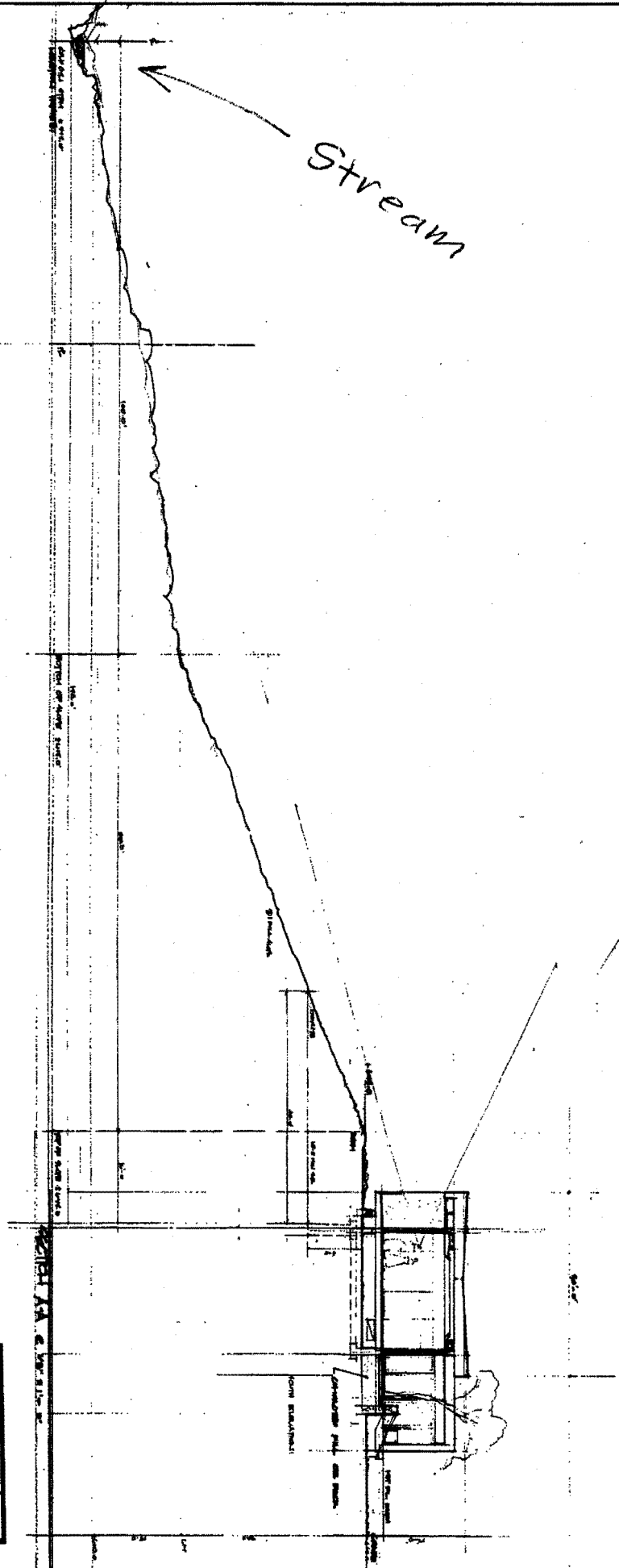


EXHIBIT NO. 3
 APPLICATION NO. 4-00-022 (Rivkin)
 Floor Plan

HOTEL - COURT : 5000
 LABORATORY AREA : 5000 sq. ft.
 STAIRS : 1000 sq. ft.
 ELEVATOR : 1000 sq. ft.
 PLUMBING : 1000 sq. ft.
 MECHANICAL : 1000 sq. ft.
 ELECTRICAL : 1000 sq. ft.
 TOTAL : 10000 sq. ft.

Stream

EXHIBIT NO. 4
APPLICATION NO. 4-00-022(R.V.K.H.)
Elevation



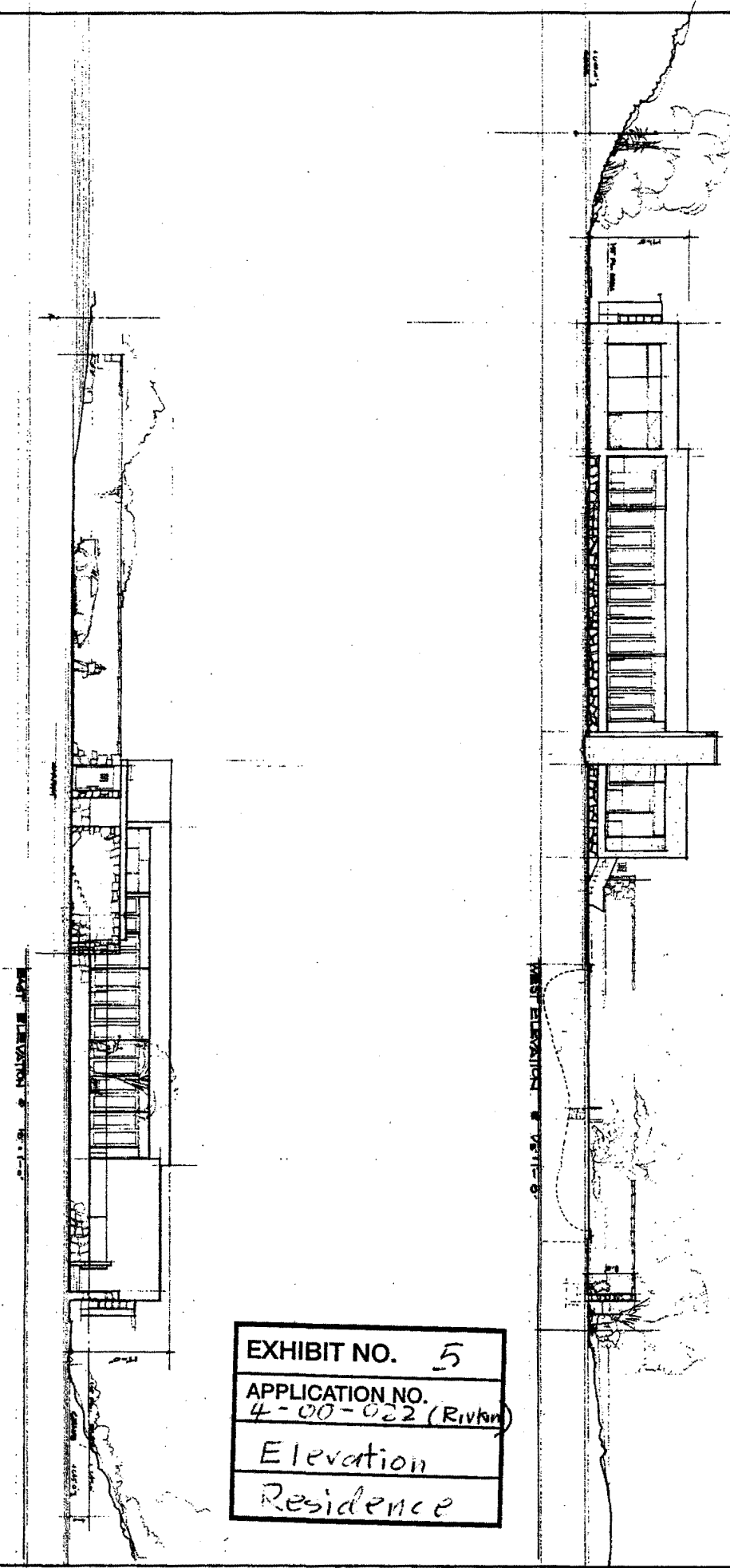


EXHIBIT NO. 5
APPLICATION NO.
4-00-022 (River)
Elevation
Residence

