

CALIFORNIA COASTAL COMMISSION

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Comm Action	

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-00-162

APPLICANTS: Gerald & Shirley Sayles,

AGENT: Donald Schmitz, Schmitz & Associates

PROJECT LOCATION: 20580 West Betton Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construct a 3,992 sq. ft., two story, 27 feet high, single family residence with attached 600 sq. ft. three car garage, totaling 4,592 sq. ft., swimming pool and spa with non-chemical purification system, septic system, driveway and landscaping, place a temporary 12 foot by 24 foot construction trailer, extension of private water main improvements from intersection of Tuna Canyon and Sabina Roads to Fabuco Road and Betton Drive and project site, trench for and install the water line (includes 35 cubic yards of excavated material exported, assuming sand fill is not required, to 347 cubic yards of excavated material exported, assuming sand fill is required. All excess material will be exported to a landfill located outside the coastal zone. Install three fire hydrants. Grade a total of 1,268 cubic yards for residence and access road, 428 cubic yards of grading will be conducted from the intersection of Betton Drive and Fabuco Road to the turnaround at the driveway. 840 cubic yards will be graded for the residence. Pave Betton Drive about 454 feet beyond existing paved road improvements to driveway and install erosion control swales along top of cut slopes and install a culvert.

Lot area:	2.49 acres
Building coverage:	2,922 sq. ft.
Pavement coverage:	4,200 sq. ft.
Building Pad:	7,000 sq. ft.
Landscape coverage:	10,000 sq. ft.
Parking spaces:	4
Ht abv fin grade:	27 ft.

Plan Designation:
Zoning:
Project Density

Mountain Land
one du/ 20 acres
one du/ 2 acres

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission determine that the proposed project with eleven (11) Special Conditions addressing removal of excavated material, landscaping and erosion control plans, road maintenance agreement, drainage and polluted runoff control plan, pool drainage and maintenance, removal of temporary construction trailer, future improvements restriction, plans conforming to geologic recommendation, wildfire waiver of liability, structural appearance restriction, and condition compliance, is consistent with the requirements of the California Coastal Act. The project site is located within the Tuna Canyon Significant Watershed, but not adjacent to any environmentally sensitive habitat area. The site is accessed from Tuna Canyon Road by private roadways and with paved road improvements existing nearby at the intersection of Betton Drive and Fabuco Road (Commission approved Coastal Permit No. 4-96-025, Jason). Additional road improvements, extending West Betton Drive about 454 feet further west are proposed to access this site, and a water line extension from Tuna Canyon Road via Sabina Drive, Fabuco Road, and Betton Drive are proposed. As a result of the applicant's previously approved Coastal Permit No. 4-97-015 and Coastal Permit Amendment No. 4-97-015-A-1, (which were both vacated by the Commission in July 2000 pursuant to a court judgment) West Betton Drive and the building pad has been graded, brush has been cleared, and a culvert replaced along Betton Drive.

STAFF NOTE

This application was filed on August 18, 2000. This application is similar to the application for a single family residence and garage, pool and spa, driveway, and extension of private road and water main improvements previously filed on February 28, 1997 as Coastal Permit Application Number 4-97-015; it was approved by the Commission on May 13, 1997. Coastal Permit Number 4-97-015 was issued to the applicant on June 15, 1998. On August 6, 1999 the applicant filed Coastal Permit Amendment Application Number 4-97-015-A-1 to revise the road improvements, increase the grading quantity, and install drainage devices along Betton Drive. On December 9, 1999, the Commission approved this Amendment as Coastal Permit Number 4-97-015-A-1. This Amendment was never issued as the applicant had not complied with the Special Conditions. On January 5, 2000, the Court of Appeal ruled in favor of the petitioners in Topanga Association for a Scenic Community, et. al. v. California Coastal Commission et. al. who challenged the Commission's approval of this coastal permit. The Court of Appeal's action concluded that partial reversal of the Commission's action was required because the Commission's action was not consistent with California Environmental Quality Act (CEQA). Subsequently, the case was returned to the Trial Court which ordered the Commission to vacate its May 13, 1997 approval of the Coastal Permit Number 4-97-015. As a result of the Court's action, the Commission on July 13, 2000 vacated its approval of Coastal Permit Number 4-97-015 and Amendment Number 4-97-015-A1. On July 19, 2000, the applicant requested a

new public hearing for a Coastal Permit for the same project previously approved by the Commission. On August 18, 2000 this Application for Coastal Permit No. 4-00-162 was filed. On September 21, 2000, the applicant submitted information to revise the proposed project. On December 12, 2000 the applicant submitted additional information to further revise the proposed project. This application was scheduled for the Commission's January 9, 2001 meeting. The Commission continued the application to the February 13 – 16, 2001 meeting to allow staff an opportunity to review and address a number of issues raised in writing by the public about this application. These issues raised are address in Section K of this report on pages 45 – 48.

LOCAL APPROVALS RECEIVED: Approval in Concept: Los Angeles County Regional Planning Department dated 12/30/96; Los Angeles County Department of Health Services, dated 2/11/97; Preliminary Approval, Los Angeles County Fire Department, dated 1/28/97 and 1/22/01; Approval in Concept, County of Los Angeles Building and Safety/Land Development Division, Department of Public Works, dated May 5, 1999; Approval, Los Angeles County Flood Control District, dated May 6, 1999; Plumbing Plan Review, Los Angeles County Department of Public Works, Building and Safety/Land Development Division, dated June 9, 1999.

SUBSTANTIVE FILE DOCUMENTS: Topanga Association for a Scenic Community et. al. v. California Coastal Commission et. al. and Marian Olson, Court of Appeal of State of California, Second Appellate District, Division Four, January 5, 2000 (Super. Ct. No. BC165640), Geological/Geotechnical Engineering Report, dated August 22 1996, Percolation Data and Septic Design Report, dated October 2, 1996, and Updated Geotechnical Engineering Report, dated April 22, 1999, 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 9, 1978; Coastal Development Permit No. 4-96-172, 4-96-172-E-1 and 4-99-164, Olson; Coastal Development Permit No. 4-96-025, 496-025-A-1, 4-96-025-A-2, 4-96-025-A-3, and Revocation Request R-4-96-025-A-3, Jason.

STAFF RECOMMENDATION:

MOTION: I move that the Commission approve Coastal Development Permit No. 4-00-162 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution:

I. Resolution for Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not

prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. 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.
- 5. 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. REMOVAL OF EXCAVATED MATERIAL

The applicant is authorized to remove excess excavated or cut material consisting of between 359 to 671 cubic yards of material and this material shall be transported to an appropriate disposal site located outside of the Coastal Zone, or an approved site located in the Coastal Zone with a valid coastal development permit for disposal of fill material.

2. LANDSCAPING AND EROSION CONTROL PLANS

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 erosion control plans shall be reviewed and approved by the consulting engineering geologist and engineer 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 & disturbed areas on the subject site and along Betton Drive road easements graded or disturbed by construction 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 February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- 3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- 5) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the final fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Within the fifty (50) foot radius of the proposed house and garage native plants shall be selected from drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains together with

limited areas may be planted with ornamental shrubs and trees and other landscaping that is non invasive and drought tolerant.

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, construction trailer site, 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 geo-fabric covers or other appropriate cover, install geo-textiles 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 geo-textiles 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.

3. ROAD MAINTENANCE AGREEMENT

By acceptance of this Coastal Development Permit, the applicant agrees that should the proposed improvements to West Betton Drive 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 of the road improvements conducted pursuant to this Permit and the drainage structures authorized or required by this Permit.

4. DRAINAGE AND POLLUTED RUNOFF CONTROL PLAN

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary 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 or other BMPs 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 or BMPs 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.

5. POOL DRAINAGE AND MAINTENANCE

Prior to the issuance of the Coastal Development Permit, the applicant shall submit, for review and approval of the Executive Director, a written plan to use the proposed non-chemical water purification system and to mitigate the potential for leakage and discharge from the proposed swimming pool and spa. The plan shall at a minimum: 1) provide a separate water meter for the pool and spa to allow monitoring of water levels for the pool and spa, 2) identify the materials, such as plastic linings or specially treated concrete to be used to waterproof the underside of the pool and spa to prevent leakage, and information regarding past success rates of these materials, 3) identify methods to control pool and spa drainage and to control infiltration and run-off resulting from pool and spa drainage and maintenance activities, 4) identify methods for periodic disposal of pool and spa water for maintenance purposes outside designated Significant Watersheds or Environmentally Sensitive Habitat Areas. The Permittee shall undertake development and maintenance in compliance with the mitigation plan approved by the Executive Director. No changes shall be made to the plan unless they are approved by the Executive Director.

6. REMOVAL OF TEMPORARY CONSTRUCTION TRAILER

With the acceptance of this coastal permit, the applicants agree that the temporary construction trailer on the site shall be removed within two years of the issuance of this Coastal Permit Amendment or within thirty (30) days of the applicant's receipt of the Certificate of Occupancy for the proposed residence from the County of Los Angeles, whichever is less, to a site located outside the Coastal Zone or a site with a valid coastal development permit for the installation of a temporary construction trailer.

7. FUTURE IMPROVEMENTS RESTRICTION

A. This permit is only for the development described and approved in Coastal Development Permit No 4-00-162. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the entire property. Accordingly, any future improvements to the single family residence, garage and entire property authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. 4-00-162 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

B. **Prior to the issuance of a 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. The deed restriction shall supercede and replace the following document recorded in the County of Los Angeles: the Deed Restriction recorded on 2-2-1998, as Instrument No. 98-167819. The deed restriction shall include a legal description of the applicant's entire parcel. The deed

restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the enforceability of the restriction. However, fuel modification consistent with the requirements of the Los Angeles County Fire Department's fuel modification standards is permitted. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

8. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION

All recommendations contained in the Geologic / Geotechnical Engineering Report, dated August 22, 1996, and the Update Geotechnical Engineering Report, dated April 22, 1999, prepared by Gold Coast GeoServices, shall be incorporated into all final design and construction plans 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.

9. 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.

10. STRUCTURAL APPEARANCE RESTRICTION

- A.** The color of the structures and roofs 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.
- B.** **Prior to issuance of the Coastal Development Permit**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The deed restriction shall supercede and replace the Deed Restriction recorded in the County of Los Angeles on 2-2-1998, as Instrument No. 98-167819. 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 any other 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 unless the Executive Director determines that no amendment is required.

11. CONDITION COMPLIANCE

Within ninety (90) days of Commission action on this Coastal Development Permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations

A. Project Description

The project site is located within an undeveloped 16 lot subdivision created in the 1960's. The site is located about two miles inland, northwest of Tuna Canyon, and southwest of Fernwood area. The parcel is accessed about one quarter of a mile to the south of Tuna Canyon Road, along Skyhawk Lane, Chard Avenue (also known as Hawks Nest Trail), and lastly, West Betton Drive (Exhibits 1, 2, 3, and 4).

Skyhawk Lane, Chard Road and a portion of Betton Drive are presently an improved and paved roadway as a result of the Commission approved Coastal Permit No. 4-96-025 issued to Mark Jason for the construction of a residence at 20556 Betton Drive. Chard Avenue and Betton Drive are paved about 20 feet wide as far west as just short or to the east of the intersection of Betton Drive and Fabuco Road (Exhibit 4). Additional road improvements (grading and drainage) were completed along Betton Drive west to the location where the driveway to the Sayles building site is located pursuant to Coastal Permits 4-99-164, Olson and 4-97-015, Sayles, however, the road pavement improvement has not been completed. The applicant's previously proposed road improvements along Betton Drive, approved by Coastal Permit Amendment No. 4-97-015-A-1 have been completed, however, the Coastal Permit Amendment was never issued. These 'as built' improvements include the installation of a larger three foot diameter culvert with a rip rap dissipater and the removal of the former 18 inch diameter culvert, and an increase in the grading from the previously approved 87 cubic yards to 428 cubic yards, an increase of 341 cubic yards (Exhibits 5, 6 and 7).

The project site consists of a graded flat pad on a small knob hill located in the central portion of the property with slopes descending that are gentle to moderate, while not exceeding an approximate 2:1 ratio. The building site of the 2.49 acre parcel is located on the top of the knob hill (Exhibit 8).

The applicant proposes to construct a 3,992 sq. ft., two story, 27 feet high, single family residence with and attached 600 sq. ft. three car garage, totaling 4,592 sq. ft., driveway, septic system, and swimming pool and spa with a non-chemical water purification system to maintain the pool and spa. The project also includes landscaping and the placement of a temporary 12 ft. by 24 ft. construction trailer. The residence, excluding the garage, is proposed to be 3,992 square feet in size. (Exhibits 9 - 11) Constructing the residence will require grading of about 840 cubic yards; 464 cubic yards of cut and 376 cubic yards of fill (most of this grading remains to be completed by the applicant at this time). The applicant has received an "Approval in Concept" from the County of Los Angeles Department of Regional Planning on December 30, 1996 for the proposed residence and road improvements.

The applicant proposes to construct an approximate 454 foot extension of West Betton Drive with drainage improvements, from the east side of the intersection with Fabuco Road to the project site. The proposed improvement of West Betton Drive ends at the western edge of the subject parcel. The roadway improvements will provide for a maximum twenty (20) foot wide paved roadway with erosion control swales along the top of cut slopes and the replacement of a culvert with a three foot diameter culvert with grouted rip rap dissipater. A 20 foot wide paved roadway is required by the Los Angeles County Fire Department. The road improvements require about 332 cubic yards of cut and about 96 cubic yards of fill totaling 428 cubic yards of material. The excess will be exported to a disposal site outside the coastal zone. The applicant received an "Approval in Concept" from the County of Los Angeles Building and Safety/Land Development Division, Department of Public Works on May 5, 1999 for the road improvement and the Los Angeles County Flood Control District on May 6, 1999 for the proposed drainage improvements (Exhibit 5).

The applicant proposes to construct a 2,244 foot long extension of a water main from the intersection of Tuna Canyon and Sabina Roads along Sabina Road, Fabuco Road and Betton Drive to the project site. To construct the water line extension, the area within existing dirt roads will be trenched to install 1,290 feet of six inch diameter pipe and 854 feet of eight inch pipe (Exhibits 4, 12, and 13). If limited amounts of rock are encountered during trenching, no sand backfill will be required, and about 35 cubic yards of rock and other excavated material will be exported. If rock is encountered during trenching, sand backfill will be required, up to about 347 cubic yards of rock and other material will be exported. All exported material will be disposed at an approved disposal site located outside the coastal zone. Three fire hydrants will be installed along the water line route. The applicant has received an "Approved Fire Protection System" from the County of Los Angeles Fire Department, Fire Prevention Division, dated May 19, 1999 for the water main improvements and three fire hydrants. The applicant has received a signed "Plumbing Plan Review" from the Los Angeles County Department of Public Works, Building and Safety/Land Development Division, dated June 9, 1999, for the same water main improvements and three fire hydrants. As a result of the issuance of Coastal Permit No. 4-97-015 to Mr. and Mrs. Sayles in June 1998, the road improvements and the driveway were graded and the building site was partially graded before the Commission vacated the Coastal Permit in July 2000, as directed by the Court. The temporary construction trailer approved in Coastal Permit

Amendment No. 4-97-015-A-1 that once existed on site has been removed from the site, while the additional road grading and the replacement three foot diameter culvert along Betton Drive have been completed. Because Coastal Permit Amendment No. 4-97-015-A-1 was never issued to the applicant, these 'as built' developments are considered "unpermitted" at this time. The proposed water main improvements, fire hydrants, grading at the building site for the structure, installation of the construction trailer, and the paving of the Betton Drive and the applicant's driveway have not been completed at this time.

Although the subject parcel is located within Tuna Canyon Significant Watershed, the site is located about twelve hundred (1200) feet from Tuna Creek and as close as about 500 feet from the Tuna Canyon designated Environmentally Sensitive Habitat Area (ESHA) to the west, and about 750 feet from the designated ESHA to the south (Exhibit 14). In addition, the route of the proposed water line is also located within the Tuna Canyon Significant Watershed, however, it is not located in close proximity to any designated ESHA and is located within an existing roadway. Although the ESHA is nearby, as described below, the proposed project will not have a direct impact on this ESHA.

The improvements proposed by the applicant to the existing access road discussed above, cross four parcels enroute to the applicant's driveway leading to the proposed building pad. These parcels are located immediately north of the subject site and to the east of the site and are owned by other parties (Exhibit 4). However, the applicants have provided evidence of the ingress and egress access easement for the road over these parcels. In addition, the water main improvements and fire hydrants proposed by the applicants discussed above, cross a number of parcels enroute to the applicant's driveway leading to the proposed building pad. These parcels include parcels to the north located along Betton Drive, Fabuco Road, and Sabina Road to Sabina Road's intersection with Tuna Canyon Road. Regarding the property owners, across whose property the proposed road and water main 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 fifteen property owners were notified of the pending permit action under Section 30601.5 (Jason's letter example, Exhibit 15). As of the date of this report one response from Ken Hoff (APN 4448-009-030, Exhibit 22) was received and two letters from Kay Austen, who did not receive such a letter and is not an affected property owner. Mr. Hoff does not wish to be a co-applicant and Kay Austin states that five other affected property owners should have received a co-applicant letter (Exhibit 21). Staff's review of the proposed route for the water line extension and road improvements and the list of affected property owners provided by the applicant indicates that all of the affected property owners have been sent the necessary co-applicant invitation letters. If any additional responses to these letters are received prior to the Commission's February 13, 2001 meeting, they will be reported to the Commission at the public hearing.

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, or in other areas with adequate public services and 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.

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 (Exhibit 14). 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 and the surrounding 16 lot subdivision includes flat and sloping land with gentle to moderate slopes. The site elevation extends about 85 feet ranging from about 1,615 to 1,699 feet above sea level. The proposed building site is located at the top of the small knob hill at the 1,699 foot elevation level. The Betton Drive road and water line improvements extend east about 400 feet dropping to the 1,640 elevation level at the intersection of Betton Drive and Fabuco Road. The water line improvement continues north about 1800 feet over a 1750 foot high ridge along Fabuco Road down to Sabina Road and back up ending at the intersection of Tuna Canyon Road at the 1760 foot elevation. The Betton Drive road improvement extends about 54 feet further east from the intersection with Fabuco Road.

Tuna Creek, a designated Environmentally Sensitive Habitat Area (ESHA), is located about twelve hundred (1200) feet to the east of the subject parcel; the geographic area designated as the Tuna Canyon ESHA is as close as about 500 feet to the west, and about 750 feet to the south. (Exhibit 14) Due to the distance, the proposed residence and road/water main 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 England and Nelson Report prepared for Los Angeles County, titled, Land Capability/Suitability Study Los Angeles County General Plan Revision Program (1976) identified all of the Tuna Canyon watershed as a significant ecological area. However, the Los Angeles County Land Use Plan (LUP) 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 8) A Significant Watershed is not considered an ESHA under the Coastal Act definition of ESHA's, requiring 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, providing guidance to the Commission for the review of development applications.

The habitat values contained in the Tuna Canyon Significant Watershed have been well documented. The 1976 England and Nelson Report designates the Tuna Canyon Significant Watershed as a Significant Ecological Area (SEA). The report describes the concept of a 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.

The England and Nelson Report further 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 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 is returning to the area.

The Malibu/Santa Monica Mountains Land Use Plan policies addressing protection of ESHAs 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 may be used by the Commission as guidance during the review of applications for coastal development permits; these policies are not the standards of review for coastal development permits as the Chapter 3 policies of the Coastal Act are the standard of review.

1. Protection of Environmental Resources

The certified LUP contains policy P63 that states:

Uses shall be permitted in ESHAs, 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 ESHAs 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 (ESHAs) 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

Applicable Land Use Plan policies addressing stream protection and erosion control include the following policies:

P81 To control runoff into coastal waters, wetlands and riparian areas, as required by Section 30231 of the Coastal Act, the maximum rate of storm water runoff into such areas from new development should not exceed the peak level that existed prior to 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.

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 ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.

P86 A drainage control system, including on-site retention or detention where appropriate, shall be incorporated into the site design of new developments to

minimize the effects of runoff and erosion. Runoff control systems shall be designed to prevent any increase in site runoff over pre-existing peak flows. Impacts on downstream sensitive riparian habitats must be mitigated.

P88 In ESHAs 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 ESHAs 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

The applicant proposes to construct a 3,992 sq. ft., two story, 27 feet high, single family residence with attached 600 sq. ft. three car garage, totaling 4,592 sq. ft., swimming pool and spa with non-chemical water purification system, septic system, driveway, and landscaping, place a temporary 12 foot by 24 foot construction trailer, extension of private water main improvements from the intersection of Tuna Canyon and Sabina Roads along Sabina Road, Fabuco Road and Betton Drive to the project site, trench for, grade and install the water line (includes 35 cubic yards exported, assuming sand fill is not required, to 347 cubic yards exported, assuming sand fill is required, all excess graded material will be exported to a landfill located outside the coastal zone), and install three fire hydrants. It is proposed to grade a total of 1,268 cubic yards for residence and access road, 428 cubic yards of grading will be conducted along Betton Drive to the turnaround at the applicant's driveway. The applicant also proposes to

pave Betton Drive about 454 feet beyond road improvements completed as a result of Coastal Permit 4-96-025, Jason, to the applicant's driveway and install erosion control swales along top of cut slopes and replace a culvert beneath Betton Drive. The applicant proposes to grade 840 cubic yards to construct the residence.

The project site is a 2.49 acre parcel; the building site is located in the central portion of the parcel on a small knob hill within the designated Tuna Canyon Significant Watershed.

The existing roadway section along Betton Drive from the Jason property located to the east of the subject property, west of the intersection of Betton Drive and Fabuco Road, was previously approximately a 15 foot wide dirt road. The applicant proposes to widen the road from this point on Mr. Jason's property to the subject driveway to 20 feet (widening to 20 feet was approved in Coastal Permit No. 4-97-015 and was completed), pave the road, and install necessary drainage improvements. The roadway improvements provide for a maximum twenty foot wide roadway to the project site, requiring about 428 cubic yards of total grading (332 cubic yards of cut and 96 cubic yards of fill) with additional cut and fill grading along the length of the road to provide for slope stability and drainage improvements along Betton Drive. The Los Angeles County Fire Department requires a twenty foot wide paved roadway. The proposed slope stability and drainage improvements will require grading up to a maximum width of 35 feet in one area along Betton Drive (Exhibits 5, 6, and 7).

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.

Relative to cumulative impacts of development, the Commission's RECAP study adopted June 1999 reviewed potential cumulative impacts of build out in the Santa Monica Mountains. Specifically within the Tuna Canyon Watershed, there are about 98 total lots, about 12 lots are developed with residential development, and the remaining 86 lots are undeveloped. Of these about 86 undeveloped lots, the subject 16 lot subdivision is included in this calculation. The Commission has approved construction of a residence on one of these subject lots. While the grading for the road improvement (and paving of the road), driveway and building pad and retaining walls, and construction of a retaining wall for the driveway appears to be completed, the proposed residence has not been constructed at this time (Jason, Coastal Permit No. 4-96-025). It is expected that a portion of these vacant lots will be served by imported water from the Los Angeles County Water District No. 29. Another portion of these vacant lots may be served by existing or future on-site water wells, the specific numbers of wells verses District water service for future residential development is unknown at this time and too speculative to determine.

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 and pad with the paved driveway apron area is proposed to be about 7,000 sq. ft. as identified on the applicant's fuel modification plan. A discussion of alternatives including a reduction of the footprint for residential development (reduced scale alternative) is provided below.

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 with native plants 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 a preliminary fuel modification plan which indicates that only vegetation specially designated as "high fire hazard" will be completely removed within a 50 foot radius of the structures as a part of this project. Additionally, only that vegetation which is located within a 200' radius of the residential

structure will be subject to the County Fire Department's fuel modification requirements. Special Condition Number Two requires a Final Fuel Modification plan. Therefore, the project is in conformance with the Table 1 policies of the LUP as they pertain to the minimizing grading, vegetation removal, and the maximum allowable area of building pads.

Furthermore, Table 1 policies require that development be located as close as possible 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 1,268 cubic yards of grading is proposed, including the grading for the road improvements. The installation and trenching for the water main improvement and fire hydrants will require the export of between 35 to 347 cubic yards earth materials encountered during the trenching and installation. The building site is located on the flat portion of a small knob and along the downslope portion of the knob, thus minimizing the need for grading to expand the flat building pad. Additionally, the proposed structures are to be located within a minimum of 60 feet to a maximum of 160' feet of West Betton Drive (the pool will be located as far as about 175 feet from West Betton Drive), an existing dirt road and the legal easement owned by the applicant. The on-site driveway will be about 130 feet in length from Betton Drive to the proposed garage. Although approximately 428 cubic yards of grading is proposed along the Betton Road easement for the road improvements, grading will occur along an approximate 454 foot section of the existing dirt roadway from the applicant's driveway to 54 feet east of the intersection of Betton Drive and Fabuco Road. The roadway width will be no wider than 20 feet with a maximum of 35 feet of disturbed area with the slope and drainage improvements in one location along this road; in one other location no additional width is needed for slope and drainage improvements (Exhibit 6). This application does not include the proposed realignment of the intersection at Betton Drive and Fabuco. The total area of additional disturbed area for the road improvements beyond the former existing 15 foot wide roadway is approximately 5,866 sq. ft or 0.13 acres. This additional grading to widen the road and install slope and drainage improvements as a disturbed area is judged to be the minimum necessary in order for the applicant to comply with the requirements of the Los Angeles County Fire Department, the Flood Control District, and the Building and Safety/Land Development Division of the Public Works Department.

The project includes a drainage swale that is located along the top of a cut slope along the south side of Betton Drive. The purpose of the swale is to collect water runoff from areas above the cut slope, channel the water so it will not flow down the steepened cut slopes (1 ½ : 1 cut slope) and erode the cut slope after it has been hydroseeded (Exhibit 6 and 7). Water from the swale is then drained directly onto the paved roadway to sheet flow across the road to the nearest drainage area leading from the roadway. The effect of the drainage swale is to reduce erosion and sedimentation as a result of widening the roadway. As required by Special Condition Number Two, the disturbed slopes along Betton Drive will be planted and maintained with native plants for erosion

control, visual and habitat enhancement. According to the applicant, the cut and fill slopes along Betton Drive have been hydro seeded. The project also includes the replacement of an existing 18 inch culvert beneath Betton Drive with a new three foot wide culvert and rock energy dissipater along the drainage channel draining the area to the north of the subject building site.

This additional grading to widen Betton Drive and provide for slope stability and drainage will disturb and remove coastal sage scrub plant communities. These plants includes species such as California Sagebrush, Black Sage, California Buckwheat, Laurel Sumac and Toyon. In addition, non-native annual grasses and forbs such as mustards, brome grasses and filaree will also be removed. Its important to note that this area of Tuna Canyon burned in the 1993 Malibu fire and the plant communities are in the process of natural recovery. Although this vegetation is located in a Significant Watershed, it is not considered ESHA.

The subject road improvements are located in the vicinity of the uppermost tributaries of Tuna Canyon Creek, a blue line stream. However, the tributaries in the vicinity of Betton Drive are not considered a riparian corridor as they do not include riparian vegetation. These tributaries to the southwest and to the east are located at minimum about 1,200 feet from the project site. Further, the surrounding vegetation will not be significantly affected as the proposed erosion control swale, enlarged drainage culvert, grading, and construction trailer will be located along or near the road.

In addition, the applicant proposes to install a water line involving 2,244 foot long piping located within a dirt roadway leading from the intersection of Tuna Canyon Road and Sabina Drive to the applicant's driveway at Betton Drive (Exhibits 4, 12, and 13). The route of the piping follows south from Tuna Canyon Road within Sabina Drive to Fabuco Road, then west within Betton Drive. The pipe size ranges from 6 to 8 inches in diameter and includes three fire hydrants along the route. To install the water line about 831 cubic yards of material will be removed from a 4 foot deep by 2.5 foot wide trench; the majority of this material will be replaced in the trench. Depending on the type of soil or rock encountered some of the rock may not be replaced in the trench but exported from site and sand imported to backfill the trench. The amount of excavated material to be exported ranges from 35 to 347 cubic yards of material depending on the quantity of rock encountered.

As required by Special Condition Number Two, the cut and fill slopes along Betton Drive will be landscaped and a drainage system installed for erosion control purposes to minimize potential erosion and sedimentation impacts to the drainages leading to Tuna Canyon Creek to the maximum extent feasible. In addition, as required by Special Condition Number One, the applicants are required to remove all excess material consisting of between 369 to 671 cubic yards, except for material proposed to be used for fill on site, to an appropriate disposal site located outside in the Coastal Zone or a site located in the Coastal Zone approved for disposal with a valid Coastal Development Permit. The Commission also requires that the applicants to maintain the proposed road improvements and drainage structures and be responsible for any necessary repairs and restoration as provided in Special Condition Number Three.

The grading for improvements to Betton Road are proposed along an existing dirt access road and the new impacts that will occur to habitat adjacent to the project area are the minimum necessary to comply with Fire Department safety requirements. This road widening, slope and drainage improvements will remove a small amount of vegetation that is considered habitat. This amount of habitat is only 0.13 acres. The slope and drainage improvements along the road as required by Special Condition No. Two, will be replanted with native vegetation to replace this habitat. It is important to note that this habitat is not considered ESHA, a wetland or habitat for rare and endangered species. Therefore, the project is found to be 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 ESHAs 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 500 feet from the boundary of the Tuna Canyon Environmentally Sensitive Habitat Area and about 1,200 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 has submitted a preliminary landscape and fuel modification plan, approved in concept by the Los Angeles County Fire Department 2/5/97 and now a revised preliminary approved plan dated 1/22/01 which identifies planting zones, a maintenance program, and landscaping and erosion control (Exhibit 23). The plan needs to be updated to include the revised Zone A, High Moisture Zone at 50 feet radius from the proposed structures and other requirements outlined in Special Condition No. Two such as all graded and disturbed areas on the subject site and along Betton Drive shall be planted and maintained for erosion control purposes within sixty days of receipt of the certificate of occupancy. In addition, the plans need to identify that the planting shall be adequate to provide 90 percent coverage within two years and shall be repeated, if necessary, to provide such coverage on all disturbed areas. Lastly, the plans need to identify that 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 and retain sediment on site. An interim erosion control plan and monitoring program are also required.

The applicant has submitted a grading plan that illustrates where the cut and fill areas are located on the building pad and along West Betton Drive. However, these plans do not illustrate how runoff is to be conveyed from the building pad of the proposed

residence or how and where drainage will be conveyed following improvements to the existing access road. The drainage plan also needs to 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. Lastly, these plans need to identify how erosion will be minimized during construction. Therefore, the Commission finds it necessary to require the applicant to submit a revised landscape and erosion control plan providing for replanting of all disturbed areas with 90 percent coverage within two years, and include provisions for sediment basins if grading is to occur during the rainy season. In addition, the Commission finds it necessary to require the applicant to submit a drainage plan that illustrates how runoff will be conveyed from the project site and roadway in a non-erosive manner, as required by Special Condition Number Two (2).

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 Three. Therefore, significant unavoidable impacts are not expected.

Thus, as conditioned, the project is found to be in conformance with the guidance provided in the LUP Table 1 policies that pertain to development within designated watersheds and close to the periphery of designated ESHAs because it will protect streams and ESHAs from alteration and disturbance to the greatest extent possible. In addition, for these reasons, the project is consistent with Sections 30231 and 30240 of the Coastal Act.

4. 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, increase of runoff, erosion, and sedimentation, 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 that:

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

As described above, the proposed development includes grading of a building pad, driveway and to widen and improve Betton Drive with pavement, drainage and slope improvements, construction of a residence, garage, and driveway, replacement of a culvert located beneath the Betton Drive with a larger culvert, a drainage swale, and a temporary construction trailer. The building pad for the residence and garage, the driveway, the road with its enlarged culvert and drainage swale will serve to convey drainage from the applicant's subject property, the private road and upstream areas in the watershed. The site is considered a "hillside" development, as the building site is located on a small hill and the road and water main improvements are located on sloping terrain all with soils that are susceptible to erosion.

The proposed development will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the proposed development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence

water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in Special Condition Number Four, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measure implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that Special Condition Number Four is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site septic system to serve the residence. The applicants' geologic consultants performed percolation tests and evaluated the proposed septic system. The report concludes that the site is suitable for the septic system and there would be no adverse impact to the site or surrounding areas from the use of a septic system. Finally, the County of Los Angeles Environmental Health Department has given in-concept approval of the proposed septic 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.

5. Pool Drainage and Maintenance

The Commission notes that the proposed project is conditioned to incorporate the recommendations of the project's consulting geologists and geotechnical engineer related to the retaining wall proposed for the swimming pool and spa and to incorporate adequate retaining walls (backfill and drainage), site drainage, and erosion control. Special Condition Number Five also will prevent and significantly reduce the potential for pool and spa water from being discharged into the drainages leading to the designated ESHA along Tuna Canyon Creek and other ESHA within other designated Significant Watersheds. However, the Commission also notes that both leakage and periodic maintenance drainage of the proposed swimming pool and spa, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing instability of the site and adjacent properties and potential impacts from pool and spa chemicals (i.e. pool and spa water oxidizing or shocking, algaecides, chemical pH balancing, and other water conditioning chemicals) on the designated ESHA and Significant Watersheds. Although the applicant is proposing to use an alternative water purification system (Exhibit 16) that will eliminate the need for chlorine as a water conditioner, there are other chemicals commonly added to pools and spas to maintain water clarity, quality, and pH levels. Therefore, the Commission imposes Special Condition Number Five on the subject application which requires the

applicant to submit a written plan which includes measures to minimize the potential for leakage from the pool and spa and specific measures to be implemented during maintenance and periodic drainage of the pool and spa. The plan shall include a separate water meter for the pool and spa which will serve to monitor water levels of the pool and spa and identify leakage. The plan shall also include a description of the materials to be utilized to prevent leakage of the pool and spa shell and shall identify methods to control infiltration and run-off from periodic pool and spa drainage and regular maintenance activities. The Commission finds that, as conditioned to minimize potential impacts of the proposed pool and spa, the project is consistent with Sections 30231, 30240, and 30253 of the Coastal Act.

6. Cumulative Analysis of Development and Vegetation Removal

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. 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 Seven provides for a future improvements restriction to replace the one recorded as a result of Coastal Permit Number 4-97-015.

The following is a cumulative analysis of potential residential development for the 16 lots, each about 2.5 acres in size in this subdivision. The 16 lot subdivision consists of about 39.2 acres. The total length of roadways including driveways to access each of the sixteen lots within the subject subdivision (accessed from the intersection of Skyhawk Lane and Tuna Canyon Road) is about 3600 feet. Assuming a similar sized residence and garage at about 5,000 sq. ft. and a similar amount of grading as proposed by this applicant is needed to widen these roads from approximately the existing 15 feet wide to a 20 foot width with an average additional width of up to five feet for slope stability and drainage improvements, a total of about 18,000 square feet of vegetated area will be removed. It's important to note that a condition of project approval will require that the area where vegetation is removed along these roads for the cut and fill slopes will be landscaped with native plants. Because this average additional width along the road will be re-landscaped, a total of about 18,000 square feet of vegetation will be removed to widen the existing 15 foot wide road to a 20 foot wide road. This area is equivalent to about 0.41 of an acre. All of these lots have existing driveways previously cleared of vegetation that are about 10 feet wide. These driveways will be widened to about fifteen feet wide with an average driveway length of

about 100 feet to access the building site on each lot. To widen these driveways, a total of 8,000 sq. ft. of additional vegetated area will be removed. This area is equivalent to about 0.18 acre. Assuming a maximum of about 21,000 sq. ft. of vegetation removal including the building pad and the removal of the vegetation immediately surrounding the structure over a 20 foot radius for fuel modification purposes, about 9,000 sq. ft. will be for the building pad and surrounding hardscape and about a total of about 12,000 sq. ft. will be for the fuel modification of the 20 foot radius immediately surrounding the structure, known as Zone A. (As noted below in the Alternative Section, the building pad including the structures and hardscape for a large home, larger than this subject project, is between 7,000 to 9,500 sq. ft., Exhibit 20) However, it is important to note that the 12,000 sq. ft. of area where native vegetation will be removed for Zone A, a twenty foot wide radius from the structure, will be replanted primarily with native vegetation that includes less flammable vegetation. (In this application, a 50 foot radius will be removed and replanted for zone A, three other pending applications identified below, Jason, Weeger, and Olson have either proposes, or a final approval for a 20, 20, and 30 foot radius, respectively, for zone A.) Based upon a staff discussion, February 1, 2001, with Kevin Johnson of the Los Angeles County Fire Department, Fire Prevention Bureau, most of these lots will have a 20 foot radius for zone A. Therefore, the habitat loss of native vegetation as an average is about 9,000 sq. ft. for the building pad and hardscape. As discussed above, in certifying the LUP, the Commission found that adverse impacts to the significant watershed would be minimized if residential building pads are limited to 10,000 square feet. It is expected that the building pads in this subdivision will only be on average 9,000 square feet, or less.

Assuming 9,000 square feet building pads, on a cumulative basis, about 144,000 sq. ft. of vegetated area will be cleared for the building pad development of this 16 lot subdivision. This is equivalent to about 3.3 acres. For comparison purposes, the applicant in this case is improving approximately a 454 foot section of a roadway, while proposing a 130 foot long driveway and a building pad about 7,000 sq. ft. of area with a fifty foot area surrounding the residential structure where vegetation will be cleared and replanted within Zone A. A review of the other three pending applications for residences in this subdivision indicates that the proposed fuel modification area immediately surrounding two of those structures, Zone A, is 20 feet (Coastal Permit No. 4-96-025, Jason, and Coastal Permit Application No. 4-00-143, Weeger) and surrounding the remaining structures, Zone A, is 30 feet (Coastal Permit Application No. 4-00-188, Olson). The applicant has provided a revised Preliminary Fuel Modification Plan approved by the County of Los Angeles Fire Department on January 22, 2001. This plan indicates that the Fire Department will require the larger 50 foot radius for Zone A immediately surrounding the residence for the clearance and replanting of native vegetation, because the applicant's proposed residence is located at the top of a small knoll, while the other sites are more level. The majority if not all of this Zone A fuel modification area will be replanted with native plant species which will minimize the fire hazard while replacing the majority of the native vegetation. In this analysis, a total of 3.3 acres of vegetation will be removed out of the total of about 39.2 acres for the 16 lots. It is recognized that additional vegetated area will be thinned for fuel modification purposes surrounding the residential structure. However, mitigation measures will be required (similar to the conditions recommended for this project) to prevent any increase

in erosion of sediment or pollutants from these developed lots, to protect water quality and downstream riparian habitat. This vegetation to be removed is not identified as habitat for any threatened or endangered species of plants or animals, or ESHA, or wetland. Accordingly, the Commission finds that on a cumulative basis, with the mitigation measures imposed as conditions, the environmental impacts from the vegetation removal due to residential buildout of the 16 lots will be minimized.

It is important to note that if this land were not subdivided, the guidance provided by the LUP would be to allow Mountain designated land to be divided into two 20 acre lots. Two residences might be developed according to Table 1 policies with limited fuel modification and driveways for the two residences. However, since this subdivision was created prior to the effective date of the Coastal Act, it is expected that up to 16 residences will be proposed over time each with a driveway from a road and each with a fuel modification area. These 16 lots are considered a legal non-conforming subdivision according to the Los Angeles County Land Use Plan land use designation. Provided these 16 lots are developed consistent with the Table 1 policies of the certified LUP, the cumulative impacts on coastal resources will be minimized to the greatest extent feasible.

7. County of Los Angeles Environmental Review Board (ERB)

Lastly, the County of Los Angeles Environmental Review Board (ERB) reviewed this project in September 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. The reasons for this recommendation are listed in the ERB minutes (Exhibit 9). These reasons include that the project is inconsistent with LUP Policies 63 (standards of Table 1 not followed), 64 (not consistent with all LUP Policies), 65 (proposal not located to minimize vegetation clearance, 74 (not located close to existing services), 88 (access road longer than 300 feet), and 150 vegetation clearance on greater than 2:1 slopes). Additional reasons include that the County should investigate implementing Policy 62 and that Policy 271-2a discourages development of "non-conforming" lots of less than 20 acres and this policy should be implemented. The ERB also stated that the cumulative impacts of an additional residence in Tuna Canyon Watershed are not addressed (e.g. vegetation removal for fuel modification, single means of access, significant distance from existing services, wildlife habitat loss not fully mitigated) and could require the preparation of an EIR. The ERB also believed that the 4,000 square foot residence is out of place in this area. The ERB further suggested a modification that the den be directly attached to the remainder of the residence. In addition, the ERB made a number of recommendations, many of which were included as conditions of the County approval.

As explained above, the Commission disagrees with the ERB and finds that the project is consistent with the Table 1 standards of the LUP as noted above. The ERB made a recommendation to the County decision makers that the project is inconsistent with Table 1, however, despite the ERB's recommendation, the County Department of Regional Planning granted Approval in Concept in December 1996. Regarding consistency with Policy 65, the project is located on the logical building site, which is a level graded pad on a small hill and generally devoid of vegetation, and thereby minimizes vegetation removal. Although widening and drainage improvements to 454 feet of Betton Drive, an existing 15 foot wide dirt road, will result in removal of native vegetation, widening the road is necessary to comply with County Fire Department standards. If 454 feet of Betton Road is not widened as required by the County Fire Department, this would foreclose any development on the applicant's property. The road will be widened the minimum width acceptable by the Fire Department and therefore will minimize removal of vegetation. Regarding Policy 74, the proposed residence is located between 60 feet and 170 feet of the existing roadway, West Betton Drive, and therefore is near an existing road. Regarding Policy 150, the proposed project will not require the removal of vegetation on slopes greater than 2:1 as required by the fuel modification plan (the slopes do not exceed about 2:1), in any event, the plan also requires that the slope be replanted with primarily with native, low growing, low fuel volume plants. Regarding Policy 62, which requires that a mechanism should be established to compensate property owners for the loss of any potential development rights; with the County's approval of this project, there is no need to investigate implementing this policy. Furthermore, the County does not have any programs or ordinances to implement this policy. In this case, the County chose not to condemn and purchase the property. The Coastal Commission has no authority to require the County to purchase private property, nor does the Commission have the authority or resources to do so itself. Therefore, this does not present a viable basis for denial of this project.

Regarding Policy 271-2a which discourages development of "non-conforming" lots of less than 20 acres which are distant from existing services, the subject site is located near existing services which includes West Betton Drive for road access and Tuna Canyon Road for a water supply. West Betton is connected to Tuna Canyon Road by private streets, Chard Avenue and Skyhawk Lane, which are existing roads; the majority of this access route is now paved. The County has previously recognized these rights of way as traveled ways through approved certificates of exception, records of surveys, certificates of compliance, etc.. As a result of the Commission's approval of a residence to the east of the subject site, the Jason property at 20556 Betton Drive (Coastal Permit Number 4-96-025), 1,900 feet of roadway has been improved to Fire Department standards along Betton Drive, Chard Road, Skyhawk Lane to Tuna Canyon Road in order to access the future Jason residence. The length of the applicant's driveway to the existing West Betton Drive from the proposed residence is 130 feet -- less than 300 foot maximum allowed in Table 1 policies as noted above. The applicant is proposing to pave a 454 foot extension from the end of the paved portion of Betton Drive on the Jason property to reach the applicant's driveway. Policy P271-2a prohibits approval of a project that has 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. Therefore, the proposed project is consistent with the above policies, as determined by the County Department of Regional Planning and the Commission, even though the County ERB recommended otherwise.

Another one of the ERB recommendations suggested that the footprint of the residence be reduced as the 4,000 square foot residence is out of place in this area. The residence is designed to partially cut the lower level into the hillside while the second floor is located on the flat building pad at the top of the knob hill (Exhibit 10). The lower level is about one half the size of the upper level. This design reduces the footprint of the 4,592 sq. ft. structure to 2,922 sq. ft.. As an example to follow the ERB recommendation, further reducing the footprint to 2,000 sq. ft. would not substantially reduce the area for fire clearance as the maximum 200 foot fuel modification area surrounding the perimeter of the residence would not change significantly. This issue is discussed further in the Project Alternative Section below. The applicant's lot is about 2.49 acres in size. The applicant has submitted a preliminary landscape / fuel modification plan dated 1/22/01 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 recognizes that enforcing the full fuel modification vegetation clearance and thinning requirement would result in modifying the entire subject property as well as offsite properties of others. It appears that the County approval also recognizes the non-conforming 2.49 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. 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 a 200 foot radius with selective cleared areas; in this case the applicant will be required to maintain a County approved 200 foot radius Fuel Modification Zone.

The ERB also suggested a modification to the project; that the den be directly attached to the remainder of the residence. No specific reason was given for this modification. The den is located to the north of the residence about ten feet away from the remainder of the residence. However, the den is attached to the residence with a wall designed in part to reduce prevailing winds blowing across the building pad and to shelter a walkway along the east side of the structure and a patio between the den and kitchen. Relocating the den ten feet closer to the main structure will not substantially reduce the fuel modification area or grading quantity proposed. Therefore, it is not necessary to relocate the den to find the project consistent with relevant Coastal Act policies.

Additional discussion of a reduced size alternative is discussed below in the Alternative Section.

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, as the decision makers 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.

8. Construction Trailer

The applicant's proposed temporary construction trailer will be located along Betton Drive during construction to assist in the construction of the residence and provide site security. Water and sewage service for the trailer is self contained (Exhibit 9). The Commission finds it necessary to require the removal of this trailer to an appropriate disposal site within two years of the issuance of this Coastal Permit Amendment or within thirty (30) days of the applicant's receipt of the Certificate of Occupancy for the proposed residence from Los Angeles County, whichever is less, as required by Special Condition Number Six. The removal of this trailer is necessary to avoid the potential conversion to a second dwelling unit and potential cumulative impacts on public services such as road capacity, sewage disposal, water, electricity as well as erosion and sedimentation impacts to the downstream Tuna Canyon Creek environmentally sensitive habitats. As required by Special Condition Number Two, the temporary site for the construction trailer will be landscaped with native plants within 30 days of occupancy of the residence and after the trailer is removed.

9. Conclusion

Furthermore, the certified Los Angeles County Land Use Plan is only guidance to the Commission to consider. The Commission's standard of review for this project are the Chapter 3 policies of the Coastal Act. The Commission finds that the project is located near existing developed areas able to accommodate it. 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 Commission finds that the project is consistent with and conforms with Sections 30231, 30240 and 30250 of the Coastal Act.

C. Project Alternatives

The applicant is proposing a single family residence on the property. The Commission must describe and evaluate alternatives to the proposed project. Alternative land uses of the property include agricultural use, commercial or industrial use, multi-family development or no development. An alternative to the size of the proposed project, is a

reduced scale residential project. The Los Angeles County land use and zoning designations currently allow for single family residential use, and therefore, it appears that Los Angeles County would not allow any of these alternative uses, except no development and reduced scale residential development. However, assuming that the County could, if it chose, amend the land use plan and zoning ordinance to allow an alternative use, staff will briefly discuss the alternative uses below.

1. Agriculture

The property is too small (about 2.5 acres) to use for grazing livestock. Grazing livestock would generate animal wastes that would have a greater impact on water quality than the proposed residence. The property has very varied terrain and slopes that make it infeasible for growing crops. Agricultural use of the property would also be likely to result in airborne and waterborne pollution from fertilizers and pesticides that are generally used in agriculture. The low rainfall and unavailability of water for irrigation also make this option infeasible. Therefore, agricultural use is not a feasible or environmentally preferable alternative. Furthermore, there is no indication that the County would agree to change the zoning to agriculture, and therefore it appears that this option is not feasible.

2. Commercial or Industrial

Commercial or industrial use of the property would likely require a structure that would not be visually compatible with the area and that would adversely impact public views from nearby hiking trails. In addition, commercial or industrial use of the property could result in more vehicles driving to the property and parking on the property. This would require a larger parking area and increase the amount of pollutants that are discharged on the property and nearby roads, increasing the amount of pollutants entering the watershed. Therefore, this option would have greater environmental impacts than the proposed residence. Furthermore, there is no indication that the County would agree to change the zoning to commercial or industrial, and therefore it appears that this option is not feasible.

3. Multi-family Residential Development

This option would also result in more vehicles driving to the property and parking on the property. This would require a larger parking area and increase the amount of pollutants that are discharged on the property and nearby roads, increasing the amount of pollutants entering the watershed. Therefore, this option would have greater environmental impacts than the proposed residence. Furthermore, there is no indication that the County would agree to change the zoning for the property to multi-family, and therefore it appears that this option is not feasible.

4. No Development

Although environmental impacts would be reduced if the property remained as undeveloped, open space, the property is privately owned and the owner is proposing to

build a residence on the property. The property has been zoned for residential use. Staff is not aware in writing of any public agency or land preservation group that is actively seeking to purchase the site to preserve it as open space. This possibility was raised several years ago, but although several years have passed, no purchase has occurred. The Commission does not have the authority or the resources to purchase private property itself. There are no hazards known that render the property unsafe for residential development, nor are there any wetlands or endangered species present on the property. In these circumstances, it is not feasible to prohibit development of a single family residence on an existing, lawfully subdivided, and privately owned residentially designated property. (Public Resources Code section 30010; *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 1016).

5. Reduced Residential Scale

Another alternative to the proposed project is a smaller single family residence. The applicant proposes a two-story, 4,592 square foot residence including an attached 600 sq. ft. three car garage on a graded pad on the top of a small knob hill near Betton Drive. The proposed building coverage is 2,922 sq. ft. for the subject project. The proposed structures will be visible to a limited degree from public viewpoints along Tuna Canyon and Saddle Peak Roads and as conditioned to include design restrictions, will therefore not significantly impact public views of the coast or coastal mountain areas. The discussion below addresses whether reducing the footprint of the proposed structure, and future residences in the subdivision, would substantially lessen the environmental impacts on the resources in the significant watershed.

Staff requested that the applicant provide an analysis of the cumulative impacts of vegetation removal and/or thinning for development of the entire subdivision, if smaller residences were constructed. The applicant provided an analysis based on residential development on 12 lots in the subject subdivision, including the subject site, for three hypothetical simple square residences of varying sizes. There does not appear to be any reason why the conclusions reached in the analysis of cumulative impacts of development on 12 lots would be any different if the analysis considered all 16 lots in the subdivision.

The first analysis that the applicant provided is essentially a similar size residence to the subject proposed project (although larger) at 5,000 sq. ft. Two reduced scale residential proposals (see Exhibits 18 and 19, right side of drawing) were also analyzed by the applicant at 3,400 sq. ft. and 500 sq. ft. The fuel modification area was determined using a 200 foot radius from the residential foot print. No overlap of fuel modification areas were considered in this approach. In comparing the 5,000 sq. ft. house with a 2,500 sq. ft. footprint to the 3,400 sq. ft. house with a 1,700 sq. ft. footprint (see Exhibit 18 right side) the house size was reduced by 30%, but the fuel modification area was only reduced by 5 %. In comparing the 5,000 sq. ft. two story house to the 500 sq. ft. single story house (see Exhibit 19 right page), the house size was reduced by 90%, but the fuel modification was only reduced by 12 %. In this comparison, such a significant reduction in house size, provides a much more limited reduction in the fuel modification area.

The second analysis provided by the applicant involved the layout of two different size houses on 12 of the lots surrounding the Sayles project lot and area to east to show the effect of more practical house designs that fit the contour of the land, with a garage, driveway, patios, out buildings and architectural designs. Exhibit 18 illustrates the design layout of 5,000 sq. ft. two story residences with a 600 sq. ft. garage. Due to the residence design layout, with its architectural design and hardscape coverage, the actual ground foot print for the layouts in Exhibit 18 are 7,000 to 9,500 sq. ft. The larger footprint is larger than the residence proposed in this application, but was selected by the applicant to represent a large residence commonly proposed in the Santa Monica Mountains/Malibu area. Without considering overlap, the average fuel modification area on an individual basis for each residence is 302,400 sq. ft. within the 200 foot radius of the residential footprint.

However, the fuel modification area in the alternatives discussed above cannot be considered in isolation because generally the fuel modification area on lots of this size extends to the border of the property, or beyond the border and onto the adjacent parcels. A review of the fuel modification area on Exhibit 18 indicates that the 5,000 sq. ft. residences with a 600 sq. ft. garage will have a fuel modification area that overlaps each of the adjoining fuel modification areas for adjoining residences. This fuel modification overlap occurs because the distance between the residences (150 – 250 feet) is less than two times the radius of the fuel modification area (400 feet or more). The fuel modification area extends beyond the lot boundaries due to the modest size of these lots, each about 2.5 acres. The fuel modification for this 5,600 sq. ft. design alternative would be 302,400 sq. ft. (6.94 acres) of area as noted above, without accounting for this overlap. However, when you do take into account the overlap with the required fuel modification area for development on adjacent lots, the fuel modification required for development of a 5,600 sq. ft. residence on the 12 lots is only 142,743 sq. ft. (3.28 acres) of area, as noted on Exhibit 20. The total area of these 12 lots is about 30 acres or 1,306,800 sq. ft.

The applicant has also provided an analysis of a smaller residence. Exhibit 19 shows the layout of a 1,000 sq. ft. two story residence with a 500 sq. ft. garage. (Staff modified this alternative to increase the size to 1,500 sq. ft. for the residence with a 500 sq. ft. two car garage as a two story residence could include habitable space on the second floor above the garage. Such a hypothetical residence in this staff analysis is considered a small residence with 1,500 sq. ft. of habitable space and a 500 sq. ft. garage to total a 2,000 sq. ft. two story structure.

This reduced scale 2,000 sq. ft. two story residence has a 1,000 sq. ft. footprint. As identified in Exhibits 19 and 20, the layout for a 2,000 sq. ft. residence with a 1,000 sq. ft. footprint will realistically result in structure and hardscape coverage of 1,300 to 2,400 sq. ft. to account for the layout of the residence to fit the contour of the land, garage, driveway, patios, out building and architectural design. This reduced size residence represents a 64% reduction in the square footage size of the residence as compared to the 5,600 sq. ft. residence. A review of the fuel modification area on Exhibit 19 indicates that even with a reduced size of a residence at 2,000 sq. ft. the fuel

modification area overlaps each of the adjoining fuel modification areas for adjoining residences. This fuel modification overlap occurs whether or not the residences are large or small because the distance between the residences (150 – 250 feet) is again less than two times the radius of the fuel modification area (400 feet or more). The fuel modification area extends beyond the lot boundaries due to the modest size of these lots. The fuel modification for this reduced size alternative would be 202,500 sq. ft. (4.65 acres) of area. However, the overlapping fuel modification area required for a 2,000 sq. ft. residence is 125,338 sq. ft. (2.88 acres) of area in the cumulative analysis. Thus, the building pad and fuel modification area, even for this reduced scale alternative of 2,000 square feet, will generally extend over the entire lot (which is approximately 2.5 acres) and will also extend onto adjacent lots.

The applicant provided Exhibits 18-20, showing the fuel modification area for the two alternatives on the 12 lots -- a 5,600 sq. ft. two story house with the garage and a 2,000 sq. ft. two story house with a garage. The applicant's analysis indicates that reducing the house size by 64% would result in only a very small reduction in the size of the overlapping fuel modification area from 142,743 square feet to 125,338 square feet. The reduction in this fuel modification area would only be 17,405 square feet (0.4 acres), out of the total acreage of all 12 lots of about 1,306,800 sq. ft. (30 acres). The Commission finds that this small reduction in the fuel modification area would not substantially lessen the impact on native habitat from residential development on these lots.

The applicant's proposed 4,593 square foot residence and garage is considered a reasonable sized residence and garage for this area of the Santa Monica Mountains/Malibu area. The size of the proposed residence is consistent with the size of other residences recently approved by the Commission in the surrounding within and outside the Tuna Canyon Significant Watershed area, including Coastal Permit No. 4-96-025 (Jason), for a 4,800 sq. ft. residence and garage, Coastal Permit No. 4-96-210 (Smith), for a 4,658 sq. ft. residence and garage, Coastal Permit No. 4-96-162 (Jobbins), for a 4,850 sq. ft. residence and garage, and Coastal Permit No. 4-96-215 (Zanini) for a 3,569 sq. ft. residence and garage and a 750 sq. ft. guest house, totaling 4,319 sq. ft. of structures.

For the reasons discussed above, the Commission finds that given the relatively small size of the existing legal lots in the subdivision, and the County's fuel modification requirements, reducing the size of the proposed residences will not substantially lessen the impacts to native habitat resulting from the residential development. The Commission also notes that the alternative of reducing the size of the two story residence would not significantly reduce the visual impacts of the building as the structure will most likely continue to be a two story structure due to the topography of the building site. Further, Special Condition Number Ten will ensure that the structure is visually compatible with the surrounding environment relative to color and the use of non-glare glass windows. These reduced scale alternatives will not significantly reduce use of water for domestic and landscaping irrigation purposes. These alternatives will also not substantially increase water runoff, erosion, and pollution as addressed and required in Special Condition Numbers Two and Four.

Furthermore, as discussed above at pages 13 – 32, mitigation measures will be required that will serve to minimize impacts of this development and future development in the subdivision on water quality and habitat. The vegetation that will be removed or thinned to meet County Fire Department requirements is not habitat for any threatened or endangered species. Conditions will be imposed to prevent an increase in runoff of sediments or pollutants from the site and to protect water quality and downstream riparian habitat.

Therefore, the Commission finds that the above project alternatives, agriculture, commercial and or industrial, and multifamily residential land uses are not feasible due to the surrounding single family residential development and the sensitive nature of the Significant Watershed within the Santa Monica Mountains. The Commission finds that reduced scale single family residential alternatives will not significantly reduce the individual or the cumulative environmental impacts of the project, with the mitigation measures required as conditions of project approval.

Thus, the Commission finds that 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.

D. 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 August 22, 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 applicant submitted and undated Geology Report titled: "Updated Geotechnical Engineering Report" dated April 22, 1999. This updated Report concluded:

It is our finding that the site remains in essentially the same condition as described in our previous reports. The information and recommendations provided in our previous review remains applicable.

The recommendations in the 1996 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 Special Condition Number Eight 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 Two (2) and a polluted runoff control plan, as required by Special Condition Number Four. 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. Special Condition Number Three (3) 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 Special Condition Number Nine.

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

E. 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 this 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 that 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 be occur as a result of the proposed development, and that the project, as proposed, is consistent with Section 30244 of the Coastal Act.

F. 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 that 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 and garage on a small knob located near the center of the parcel in a manner that has minimized the amount of landform alteration and grading. The entire building pad area for this site is about 7,000 sq. ft.

In addition, the applicant proposes to install a temporary construction trailer to the east of the small knob near the intersection of Betton Drive and Fabuco Road.

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 be visible from Tuna Canyon Road and to the north from a portion of Saddle Peak Road. Tuna Canyon Road, a public roadway, encircles the vicinity of the project site to the south, west, and north. The site will 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. The site for the construction trailer will be limited in visibility from these public roads due to its location on the lower elevation portion of the subject property and will be on this location for a temporary two year period or less.

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 the southern flank.

In regards to the proposed improvements to the applicant's easement along West Betton Drive, these improvements will all occur along an existing dirt roadway, and the grading associated with this development will be spread out along a 454 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 the paved extension of West Betton Drive, now a dirt road, will be visible to a limited degree from Tuna Canyon and Saddle Peak Roads.

Regarding public trails, an existing equestrian and hiking trail, the Tuna Canyon trail, is located about one half 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.

Because the site will be visible from Tuna Canyon Road to the west and north, and Saddle Peak Road to the north, mitigation to address potential visual impacts is needed. The proposed two story residence and garage will be less visually intrusive through the use of earth tones for the structures and roofs of the buildings, and non-glare glass which helps the structures blend in with the natural setting. The Commission finds it

necessary to impose Special Condition Number Ten to restrict the color of the subject structures to those compatible with the surrounding environment and prohibit the use of white tones, while requiring the use of non-glare glass windows. In addition, to ensure that any future additions to the permitted structures, which would otherwise be exempt from coastal permit requirements, are reviewed for consistency with Section 30251 of the Coastal Act, the Commission finds, that it is necessary to require that all future additions or improvements to the permitted structures will require a permit or permit amendment, as required by Special Condition Number Seven.

Further, 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 or disturbed areas reduces the adverse affects of erosion, which can degrade visual resources in addition to causing siltation pollution in ESHAs, 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 surrounding the residential structure are to "thinned" rather than "cleared" for wildland fire protection. Special Condition Number Two requires that the landscape plan be completed within thirty days of residential occupancy and at the time the construction trailer is removed and that planting coverage be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage.

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

G. 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 applicants propose to install 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, as conditioned, is consistent with Section 30231 of the Coastal Act.

H. Violation

Although development has taken place prior to the filing of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

As noted above, on June 15, 1998, the applicant received Coastal Permit Number 4-97-015 for the construction of a residence, garage, pool, septic system, landscaping, the extension of a private road and water main improvements about 340 feet beyond approved road improvements to the subject parcel and driveway with 927 cubic yards of grading. The applicant commenced construction by grading the road, driveway and building pad. The Commission approved Coastal Permit Amendment Number 4-97-015-A-1 on December 9, 1999 to revise the road improvements to construct a larger three foot diameter culvert to replace an existing culvert, install erosion control swales along the top of cut slopes and increase approved grading from 87 cubic yards to 428 cubic yards on Betton Drive to access the approved residence. Coastal Permit Amendment Number 4-97-015-A-1 was never issued. The development that has taken place without a coastal development permit amendment includes the installation of a larger three foot diameter culvert with a rip rap dissipater and the removal of the former 18 inch diameter culvert, and an additional 341 cubic yards of grading along Betton Drive.

These road improvements require a coastal permit or permit amendment in order to be in conformance with the Coastal Act. Although a Coastal Permit Amendment (No. 4-97-015-A-1) authorizing this development was approved, it was never issued, and was subsequently vacated by the Commission. The Commission finds it necessary to require the applicant to fulfill all of the Special Conditions as a prerequisite to the issuance of this permit, as required by Special Condition Number Eleven within 90 days of Commission action. Only as conditioned, is the proposed development consistent with the Coastal Act.

I. 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 the Santa Monica Mountains that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

J. 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 Coastal Commission's Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the project, 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.

As explained in the findings set forth above in this Staff Report, and incorporated fully herein, all feasible mitigation measures have been adopted to avoid or reduce any significant adverse effects the project may have on the environment. In addition, the Commission finds that there are no other feasible alternatives available that would avoid or substantially reduce any significant adverse effects the project may have on the environment, considering the applicants right to use their property. The public has not, at this time, brought to the Commission's attention any potential adverse environmental effects of the project that are not discussed in the Staff Report. Therefore, the proposed project, as conditioned, is consistent with the applicable requirements of CEQA.

K. Response to Written Comments Received

Staff received seven letters from the following interested parties noted below raising issues about this application for Coastal Permit No. 4-00-162. The issues raised include adequate public notice, (mailed and posted) invitees for co-applicant status,

Fabuco Road does not connect to Sabrina Drive, the applicant has no permission or right to use Sabina Drive, and various concerns if a private contractor constructs the water line along Sabina Drive. See letters received in Exhibit 21.

1. Public Notice

One of the letters from Sabina and Dr. Malcolm Lesavoy indicates that as adjoining property owners, they did not receive adequate public notice by mail. A review of the mailing list provided by the applicant indicates that a public notice was mailed to these individuals at the address provided by the applicant that is the currently listed in the Commission's Assessor Parcel Number data information for Los Angeles County provided by First American Real Estate Solutions, dated 1/2001, which is 2535 Chard Ave., Topanga, CA 90290. The Lesavoys raise in a second letter that the street where their home is located has been renamed by the County over two years ago to be Hawk's Nest Trail and that the United States Post Office in Topanga does not deliver mail to Chard Avenue any longer, as there is no such street sign. No evidence was provided confirming that the County of Los Angeles had changed the street name nor that the United States Post Office does not deliver mail to Chard Avenue. This second letter from the Lesavoys also indicates that the applicant did not post any notice of the application as he was required to do.

Since this application was continued by the Commission to the February 13 – 16, 2001 meeting, staff revised the mailing list to include a public notice that will be mailed to the Lesavoys at 2535 Hawks Nest Trail address and the 2535 Chard Road address in Topanga. According to the applicant's agent, the site at the intersection of Betton Drive and the applicant's driveway was posted. However, this site on a private roadway is not visible or accessible to the public as a conspicuous location. Staff has asked that the applicant post the site at two public locations near the project site. One posting location is at the intersection of Tuna Canyon Road and Sabina Drive where the water line extension will begin, the other is the intersection of Tuna Canyon Road and Skyhawk Lane where vehicle access from a public road, Tuna Canyon Road, begins to the project site along private roads. Both these locations are conspicuous places, easily read by the public and are as close as possible to the site of the proposed development. Staff received on January 24, 2001 confirmation of these postings from the applicant, through the Declaration of Posting form.

2. Co-Applicant Notice

Two of the letters received from Kay Austen indicate that numerous property owners were not notified by staff of the application and their right to decide to become a co-applicant pursuant to Section 30601.5 of the Coastal Act, because a portion of the proposed project may be located on their property. A review of the application materials indicates that some of these property owners identified in these letters were not on the list provided by the applicant to receive notification of the Commission's public hearing. These property owners identified by Ms. Austen that did not receive a notice of the Commission's meeting include Kevin Driscoll, owner of APN 4448-09-019, Shane and Tanya Johnson owners of APN 4448-09-027 & 028, Tony Orsi owner of APN 4448-009-

029, Sabine and Malcolm Lesavoy owners of APN 4448-09-023 (see Exhibit 22). However, Kevin Driscoll was notified of this application and the meeting schedule through a letter inviting him to be a co-applicant. No evidence was provided that the Lesavoys or the Johnsons own the above parcels. A review of the applicant's list of adjoining property owners indicates that Mr. Orsi and the Lesavoys were notified by mail of the January Commission meeting. The applicant has provided the necessary additional property owners list, including Mr. Driscoll and the Johnson's to address this issue for adequate public notice at the February 13-16, 2001 Commission hearing.

Regarding the co-applicant invitation notice issue, no evidence was provided indicating that the proposed water line project will be located on property owned by the Lesavoys or the Johnson's. It is important to note that even if these parties own the parcels noted above, they do not need to be notified of the co-applicant issue because the proposed water line does not cross the section of Sabina Drive adjacent to these properties and no evidence that the project is located on property owned by these parties was provided.

3. Sabina Road Does Not Connect to Fabuco Road

One letter was received from Vince Scipioni indicating that Sabina Drive does not connect to Fabuco Road. This letter also states that Fabuco Road does not cross APN 4448-09-018 to connect to Sabina Drive to make this connection. This issue was reviewed by staff. Based on historic photographs, a physical connection existed prior to the effective date of the Coastal Act in 1977. Further, a review of the legal document submitted by the applicant on APN 4448-09-018 indicates that the applicant obtained an easement grant deed in 1974 to specifically cross this parcel with an easement for ingress, egress, and public utility purposes. Staff has walked the entire route along Sabina Drive to Fabuco Road and found that this connecting section between Sabina Drive and Fabuco Road existed on October 5, 2000. A review of the Commission's historic photographs indicates that this physical road connection, a dirt road, existed in 1977 as noted in the Commission's infrared aerial photographs. In addition, in pending Application Number 4-00-143, submitted by Pete Weeger, a black and white aerial photograph was submitted dated 4-20-72 from Continental Aerial Photo, Inc. Los Alamitos, California, confirming the existence of this dirt road connection between Sabina Drive and Fabuco Road.

4. Applicant Does Not Have Permission to Use Sabina Road

One letter was received from Theodore Oldemans indicating that he and his wife have a fee interest in up to 4/5 of Sabina Drive, a private road, and the applicant has not received their permission to use their property, along APNs 4448-009-020, 021, 022, (Exhibit 22) for the proposed water line. No evidence of this assertion was provided. A review of this issue concludes that the applicant has the right to place the proposed water line anywhere within the Sabina Drive easement. The applicant obtained an easement grant deed recorded in 1974 from Clifford Hurd and Alfred Gilman to specifically use the real property known as Sabina Drive as "an easement for ingress, egress, and public utility purposes" along the entire length of Sabina Drive. The

applicant has obtained a second easement grant deed recorded in 1998 from Clifford Hurd to specifically use the real property known as Sabina Drive as "an easement for ingress, egress, and public utility purposes" again for the entire length of Sabina Drive. The applicant also has an easement recorded in 1998 as a Grant Deed from Antonio and Carmen Orsi for a ten foot width of Sabina Drive along the western boundary of Mr. Hoff's Property (APN 4448-009-030) and along the 20 foot width of Sabina Drive along the Orsi property (APN 4448-009-024) "for ingress and egress and for the purpose of constructing, operating, and maintaining public and private utility systems, services, and customary and necessary attachments, appurtenances and equipment with the foregoing". According to the applicant, the proposed water line will be located within the eastern portion of Sabina Drive within the above noted 10 and 20 foot width of the eastern portion of Sabina Road. The applicant has provided a site plan approved by Los Angeles County Department of Public Works dated June 9, 1999 and the County Fire Department dated May 19, 1999 indicating a slightly different alignment of the water line although it is entirely located within the Sabina Drive easement. Therefore, a review of the easement documents indicated that the applicant has obtained a right to use Sabina Drive for the purpose of ingress, egress, and public utility purposes.

A second letter was received from Ken Hoff indicating that he is the fee owner of property, APN 4448-009-030 across which the road paving, grading and drainage improvements or the water main improvements are proposed. Mr. Hoff states that a review of a recorded easement through Sabina Road grants only the County of Los Angeles the right to use the easement to construct a water line and does not give a private contractor any easement rights over his property. No evidence was provided to confirm these assertions. Mr. Hoff also states that he has not given his permission to any private party to use this road easement for any purpose. Mr. Hoff also has concerns about a private contractor constructing the water line. Mr. Hoff believes that the applicant does not have the right to use an easement in a record of survey without his express written permission. Lastly, Mr. Hoff requests clarification and specific details concerning the proposed water main installation.

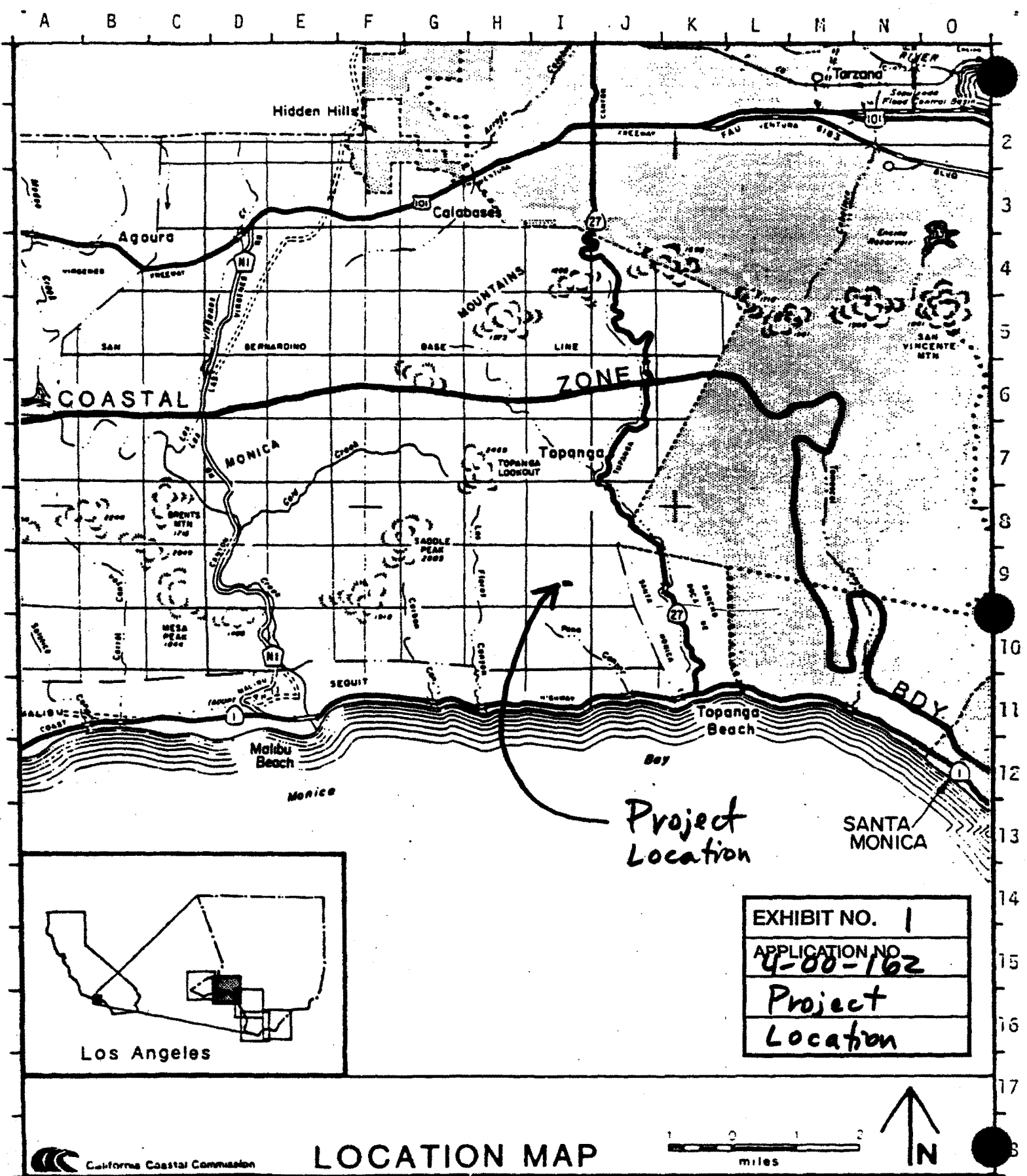
A review of these issues conclude that the applicant has the right to use the three easements granted to him in 1974 and 1998; allowing the applicant to cross all of Sabina Drive including the portion along property owned by Mr. Hoff. Mr. Hoff purchased his property subject to these existing easements. As a result, staff believes that the applicant does not need permission by Mr. Hoff to construct the water line portion of the project. If Mr. Hoff continues to have a concern about the validity of the easements the applicant has provided, Mr. Hoff has the right to contest them directly with Mr. Sayles, the applicant, through a court of law. This appears to be a dispute among private property owners and does not implicate any Chapter 3 policies of the Coastal Act. Mr. Hoff has not submitted the recorded easement through Sabina Road that he believes only grants the County of Los Angeles has the right to use the easement to construct a water line and does not give any easement rights over his property. Regarding the concerns Mr. Hoff has about a private contractor constructing the water line, this issue also is an issue among private property owners. And finally, the clarification and specific details concerning the proposed water main installation are

Application No. 4-00-162
Gerald and Shirley Sayles

Page 49

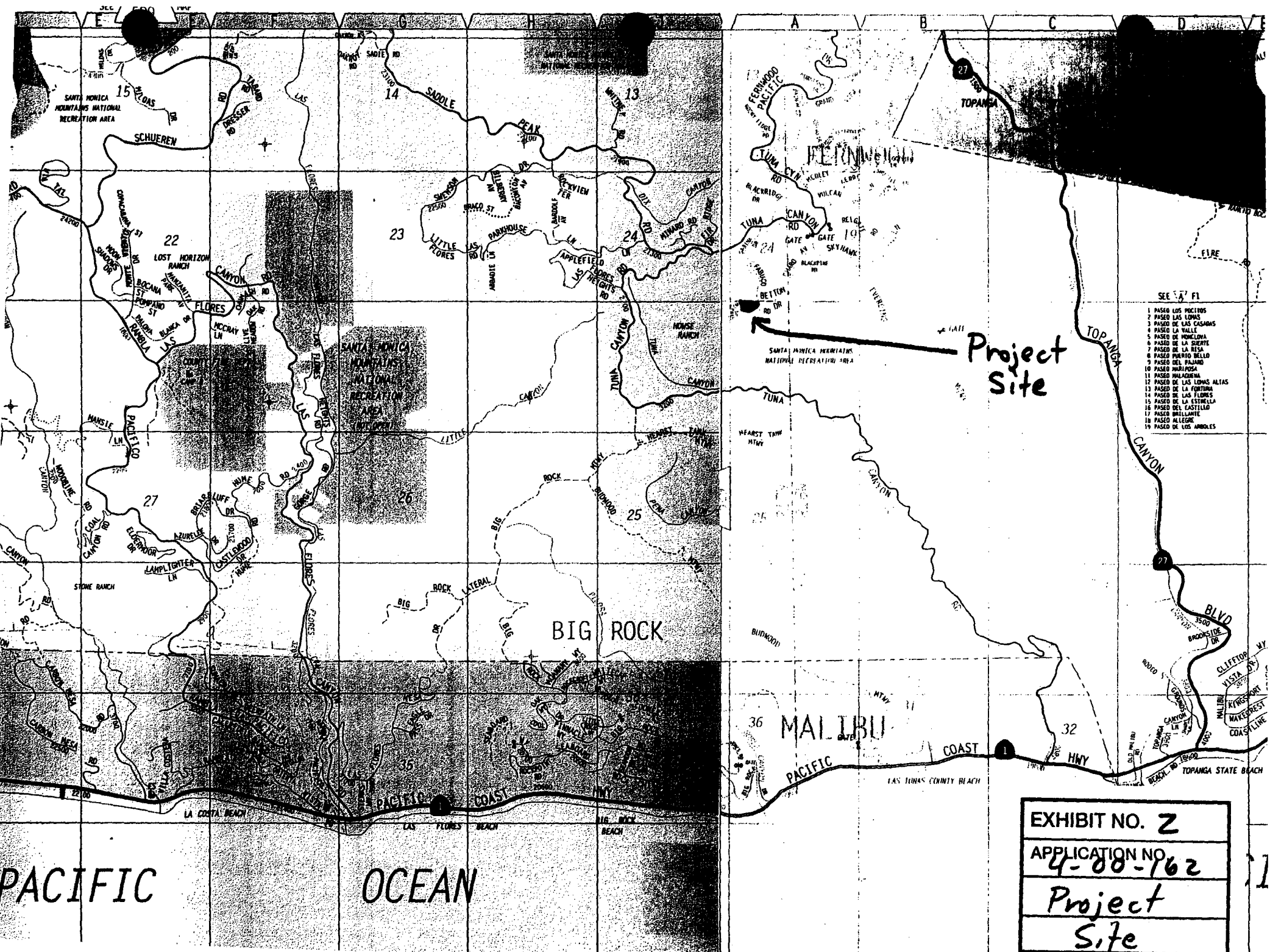
provided in the staff report on pages 10 – 12 above and the application file is available in the Commission's Ventura should Mr. Hoff wish to review these issues further.

400162saylesfinalreportfeb01agenda



LOCATION MAP





ESRI ArcExplorer 1.1

Tuna Canyon 16 lot subdivision and subject lot/building site

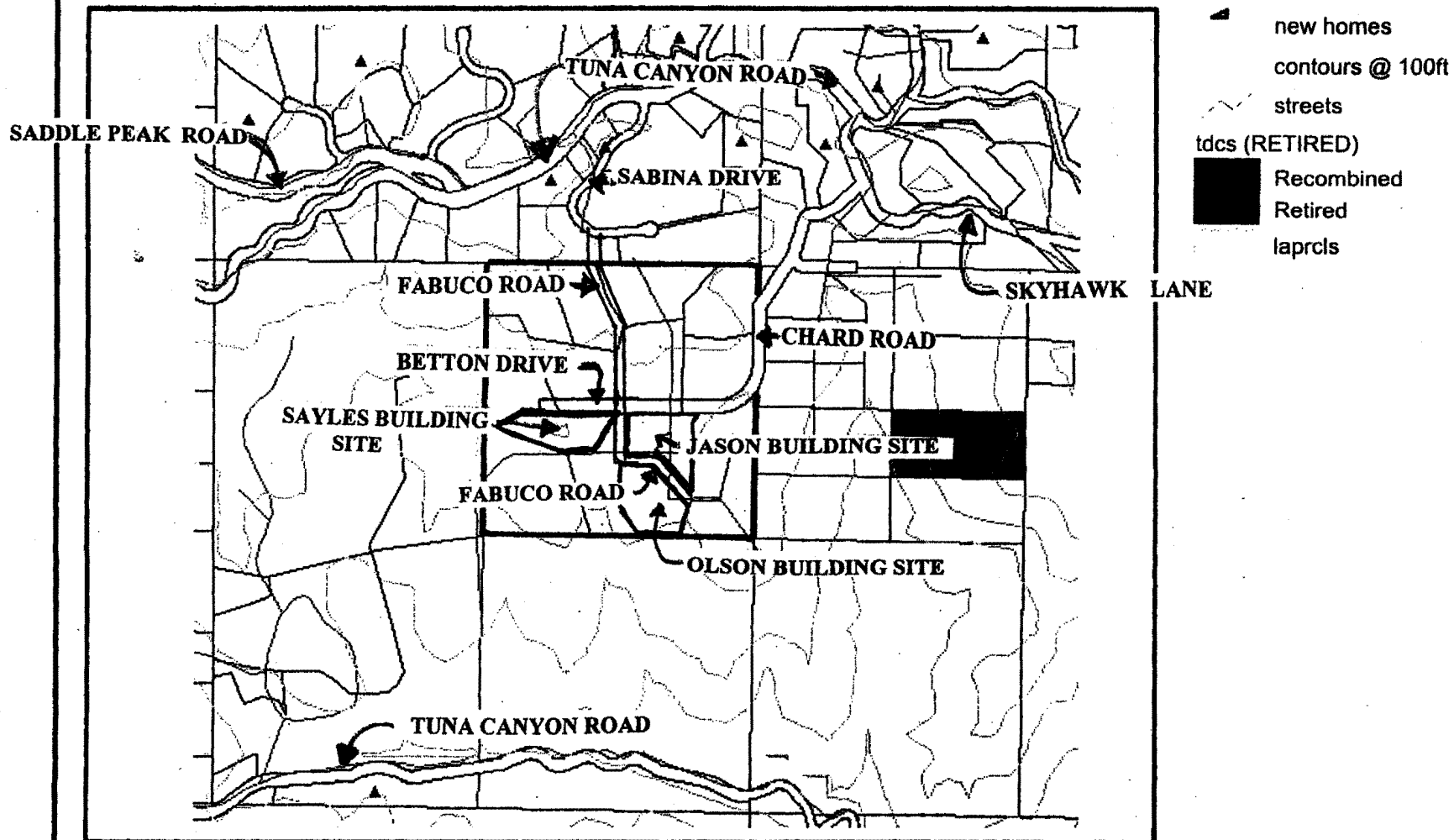
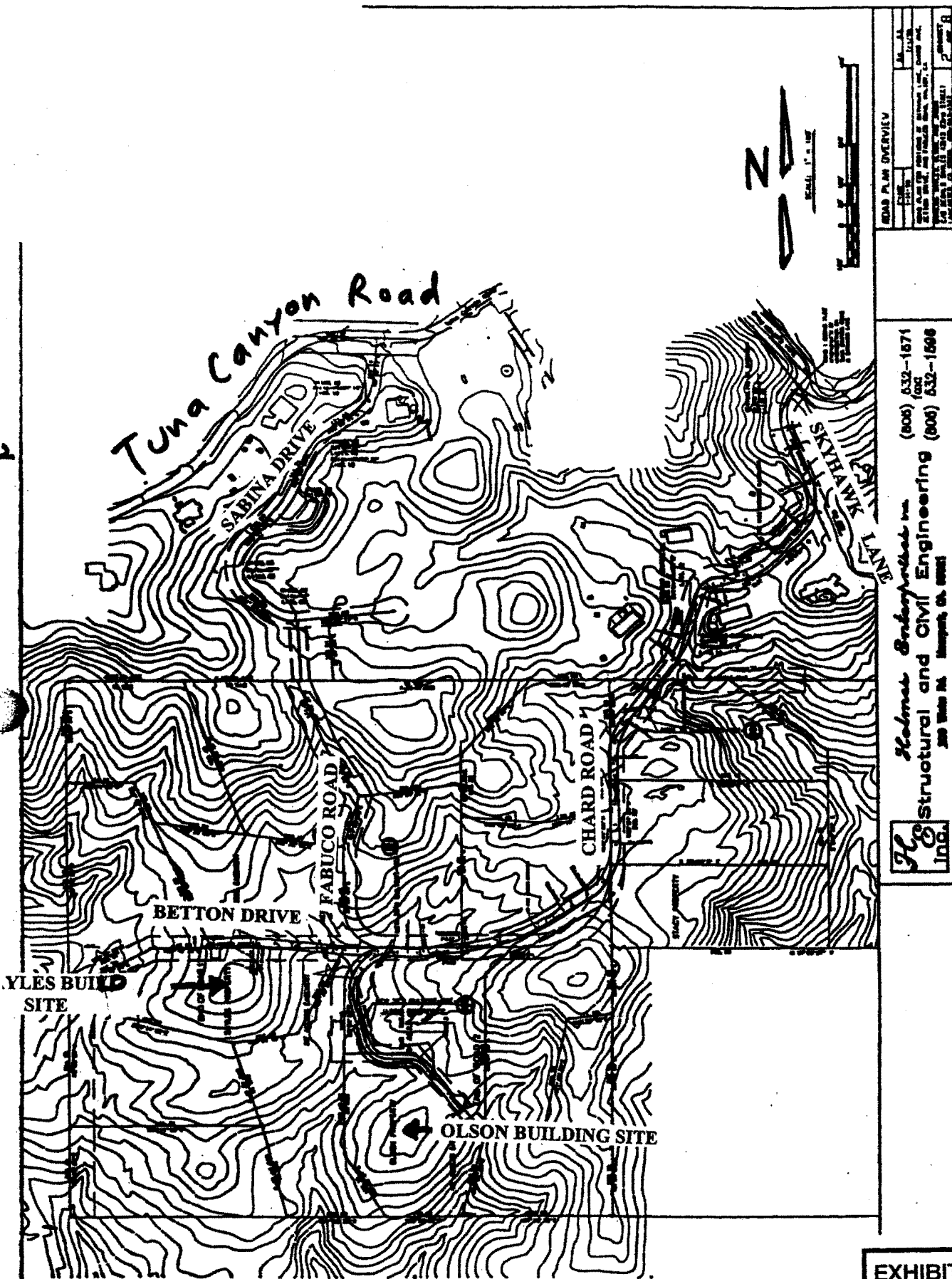


EXHIBIT NO. 3
APPLICATION NO. 4-00-162
Tuna Canyon
16-lots



Holmes Engineering Inc.
 Structural and Civil Engineering (800) 632-1671
 200 State St. Mansfield, OH 44881

EXHIBIT NO. 5
APPLICATION NO. 4-00-962
ROAD IMPRVMT
PLAN OVERVIEW

60' WIDE ACCESS EASEMENT ROAD 1

NOTE: A 40' WIDE EASEMENT WILL BE USED FOR ROAD NO. 2 AS SHOWN ON SHEET NO. 8

21' WIDE R.O.W.

A.C. & BASE SECTION TO BE DETERMINED BY SOILS REPORT

IMBED MAIN VERTICAL RAILS IN BACKFILL W/ NEAT (2 SACK) CEMENT

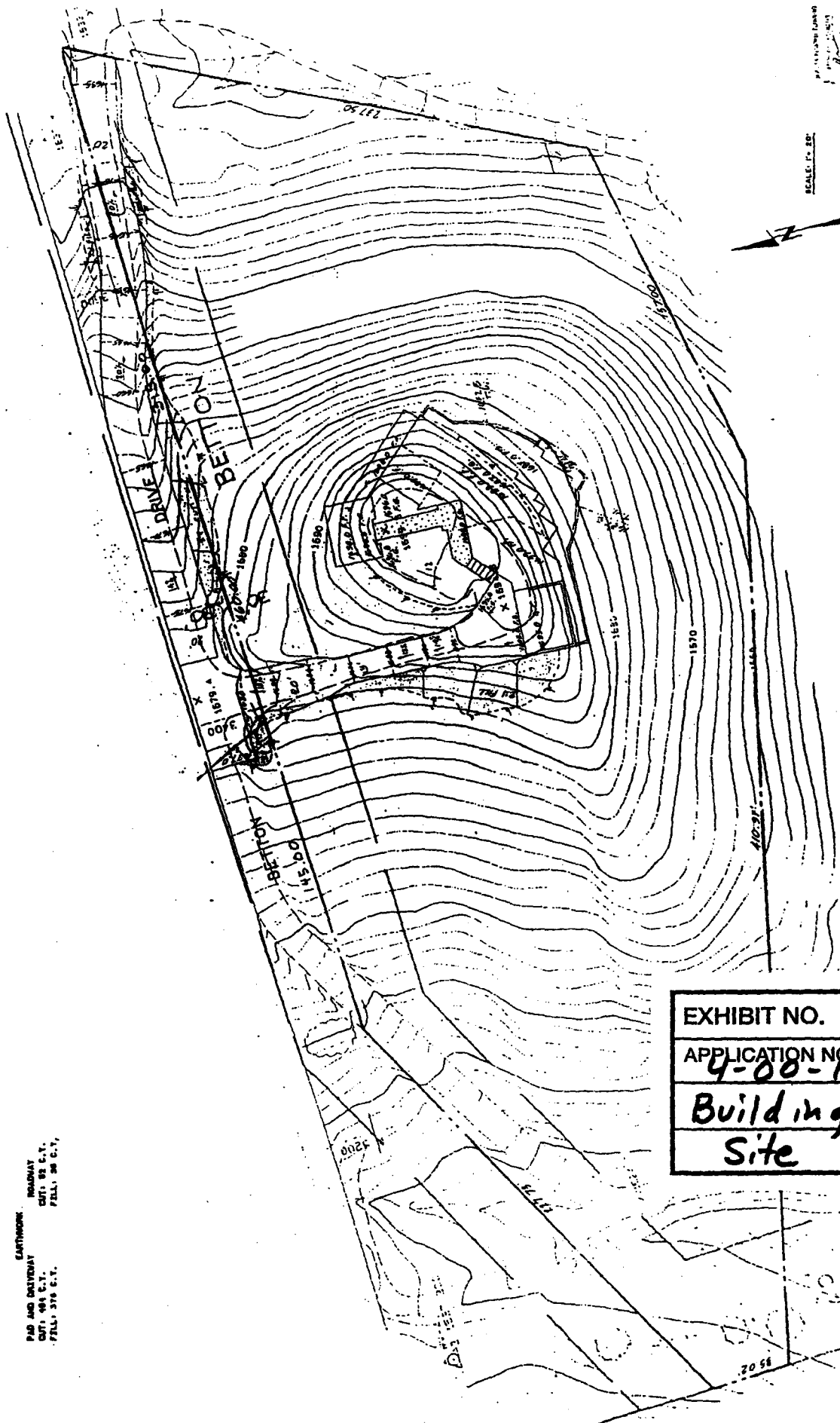
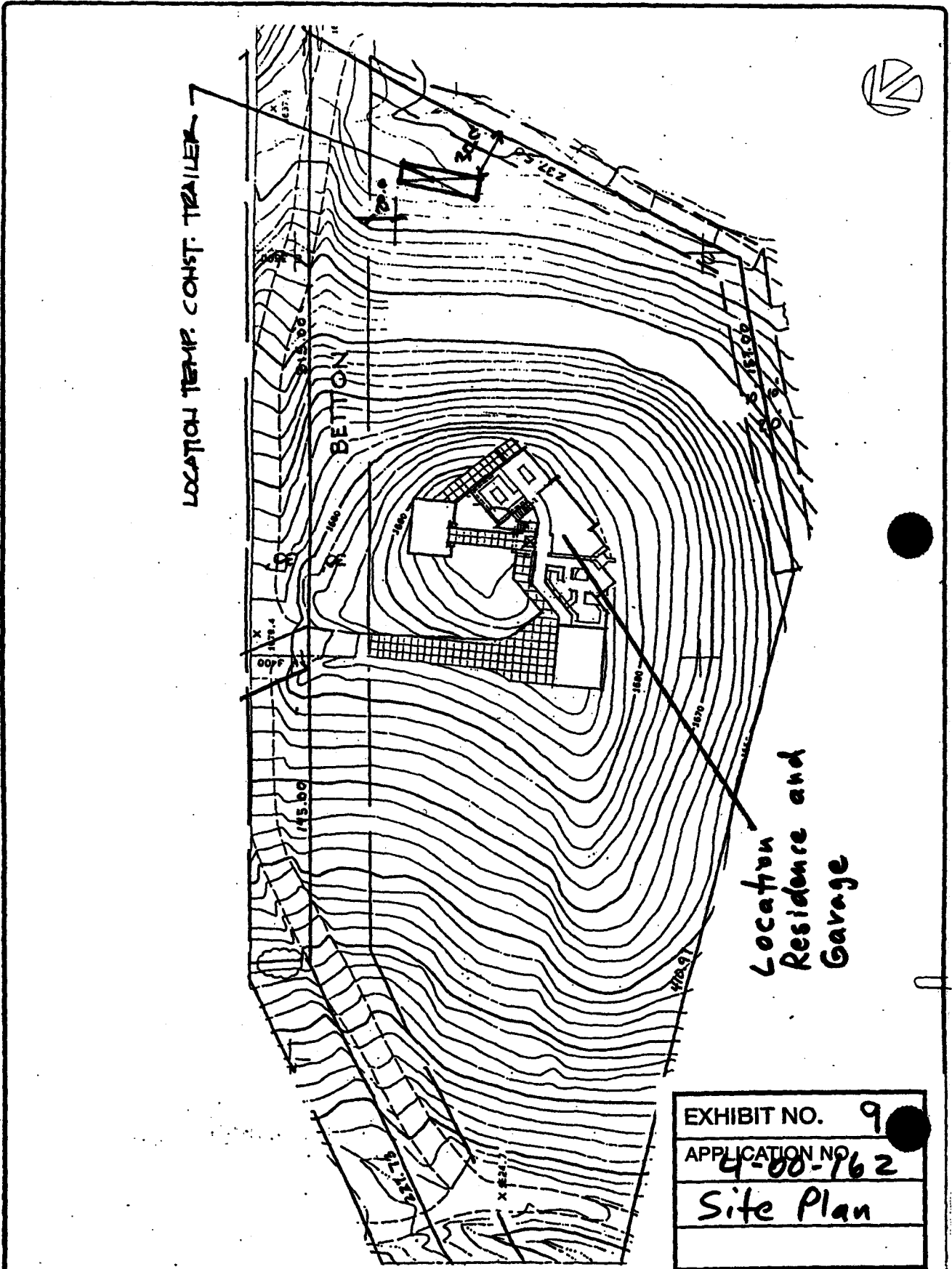
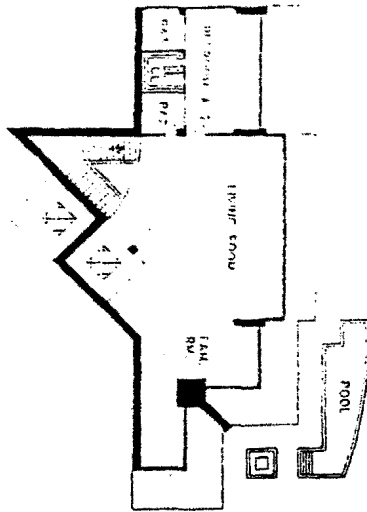


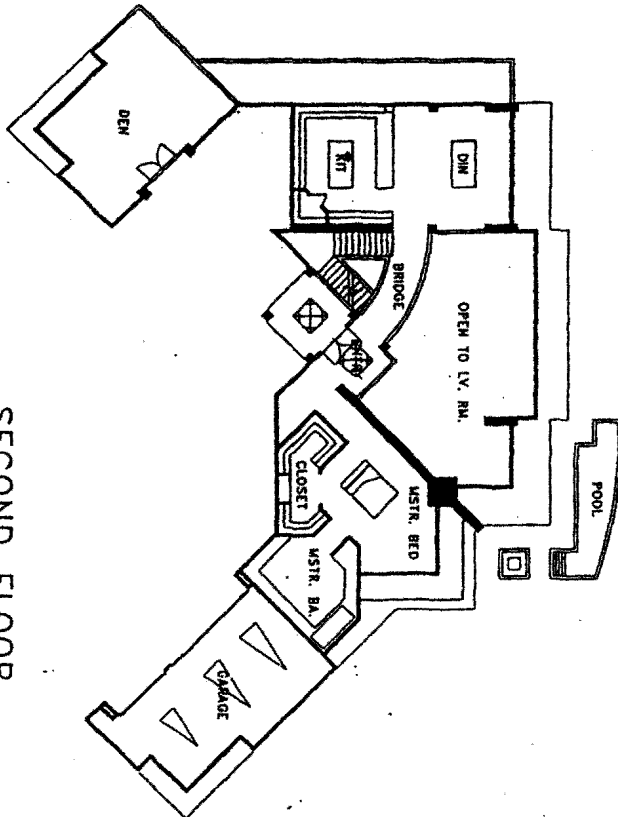
EXHIBIT NO. 8
 APPLICATION NO. 4-88-962
 Building Site

PAD AND DRIVEWAY
 CUT: 82 C.Y.
 FILL: 316 C.Y.
 EARTHWORK



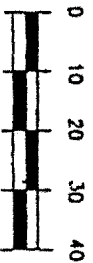


FIRST FLOOR



SECOND FLOOR

SOF 1,750 upper level
SOF 572 den
SOF 1,870 lower level
SOF 3,992 total



SINGLE FAMILY RESIDENCE for
MR & MRS GERALD SAYLES
43143 23RD ST WEST
LANCASTER CALIF.
93536



Jeffrey A. Bolten
architect & architect
3280 Main Drive
Lancaster, California 93536
TEL. (310) 374-7084

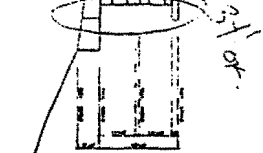
SCALE: 1/8"=1'-0"
DWG. BY: J.A.B.
CHECKED BY: J.B.
PROJECT NO.: 2
FLOOR PLANS
DATE: 04/08/76

EXHIBIT NO. 10

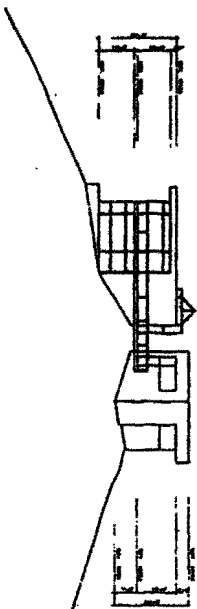
APPLICATION NO.
4-00-162

Floor
Plans

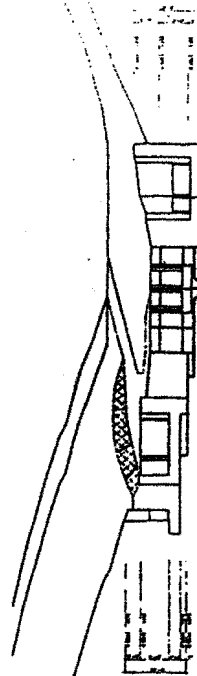
WEST ELEVATION



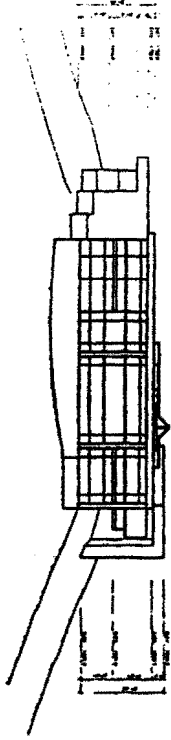
EAST ELEVATION



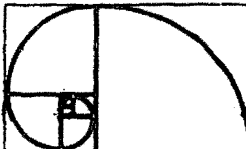
NORTH ELEVATION



SOUTH ELEVATION



SINGLE FAMILY RESIDENCE for
MR & MRS GERALD SAYLES
43143 23RD ST WEST
LANCASTER CALIF.
93536



Jeffrey A. Bolten
architect & designer
320 Main Drive
Lancaster, CA 93536
TEL. (210) 374-7084

Scale: 3/8" = 1'-0"

Rev. 1.1.1.1

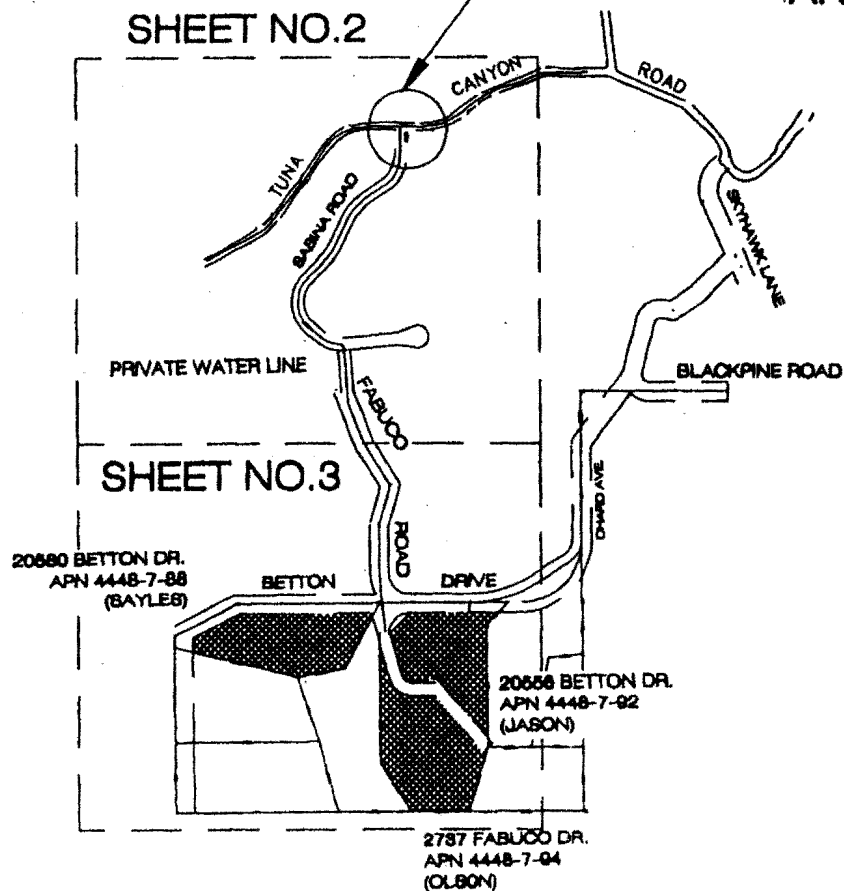
Sheet 1 of 1

10/11/76

EXHIBIT NO. 11
APPLICATION NO. 4-00-762
Elevations

- g. ALL SYSTEM PIPING SHALL BE HYDROSTATICALLY TESTED AT 200 PSI FOR TWO HOURS OR AT 80 PSI ABOVE THE SYSTEM OPERATING PRESSURE, WHICHEVER IS GREATER.
- h. ALL UNDERGROUND MAINS AND LEAD-IN CONNECTIONS SHALL BE FLUSHED AS INDICATED IN TABLE 1-11.1.2 (NPPA #12) PRIOR TO CONNECTION TO THE OVERHEAD PIPING. THE FLUSHING SHALL CONTINUE UNTIL THE WATER IS CLEAR. FLUSHING SHOULD BE PERFORMED AT TIME OF HYDROSTATIC TEST.
- i. FIRE DEPARTMENT CONNECTIONS SHALL BE VISIBLE, ACCESSIBLE, HAVE NPT FEMALE OUTLETS, HAVE PROTECTIVE CAPS AND AN APPROVED CHECK VALVE LOCATED IN THE MAIN LINE (AS CLOSE TO FDC AS POSSIBLE).
- j. ALL VALVES SHALL HAVE A PERMANENTLY AFFIXED SIGN INDICATING ITS FUNCTION.
- k. A STOCK OF SPARE SPRINKLERS OF EACH STYLE, TYPE, AND TEMPERATURE RATING, ALONG WITH A SPRINKLER WRENCH SHALL BE LOCATED AT THE MAIN RISER.
- l. ANY PORTION OF THIS SPRINKLER SYSTEM WHICH IS EXPOSED TO FREEZING SHALL BE ADEQUATELY PROTECTED AGAINST THIS EXPOSURE.
- m. WHEN SERVING MORE THAN 100 SPRINKLERS, AUTOMATIC SPRINKLER SYSTEM SHALL BE SUPERVISED BY AN APPROVED CENTRAL PROPRIETARY OR REMOTE STATION SERVICE OR A LOCAL ALARM WHICH WILL GIVE AN AUDIBLE SIGNAL AT A CONSTANTLY ATTENDED LOCATION. (UBC SEC. 3803)

SEE LOS ANGELES WATER WORKS
DISTRICT 19 DRAWING NO. 29.590 PC.1&2
FOR FM-CT METER, RP BACKFLOW DEVICE
AND INTERCONNECTION DETAILS



INDEX MAP

DEPARTMENT OF PUBLIC WORKS
Building and Safety/Land Development Division
PLUMBING PLAN REVIEW
Under Title 20

By K. Gaudin JUN - 9 1999
These plans have been reviewed for general piping arrangement only. Installed piping must comply with the specific requirements of the Los Angeles County Plumbing Code.

(Approved pending receipt of a letter of approval from water works.)

3. THE EXAC SHALL PERF AND
4. ALL MATE: ACCE STATI
6. UPC STAN
7. INST
8. ALL
9. THE

42" MIN

FLL SAND

TYP

EXHIBIT NO. 12
APPLICATION NO. 2
Water Main Improvement

2 SHALL POTHOLE ALL AREAS WHERE HE SUSPECTS SAME.

IF SURFACES REMOVED OR DAMAGED BY THE INSTALLATION SHALL BE REPLACED WITH EQUIVALENT INSTALLATION. THE PORTION OF SABINA ROAD WHICH IS CURRENTLY USED FOR RESIDENTIAL BE PROPERLY BARRICADED AND BE BACKFILLED PRIOR TO CONTINUING INSTALLATION BEYOND REPAIR OF PAVED AREAS MAY BE POSTPONED UNTIL THE WATERLINE IS PRESSURE TESTED.

ATION, THE WATERLINE SHALL BE PRESSURE TESTED TO 150 PSI AND DISINFECTED PER AWWA 1-68 BEFORE BEING PLACED IN SERVICE.

OR LOCATING WIRE ALONG ALL MAIN AND SERVICE LINES.

LASTIC) 2" OR LARGER SHALL BE SCH. 80 OR CLASS 315 WITH SCH. 80 MIN. FITTINGS OR GREATER

INSTALLATION STANDARDS FOR ALL PLUMBING SHALL BE IS-B OF THE LOS ANGELES COUNTY PLUMBING CODE

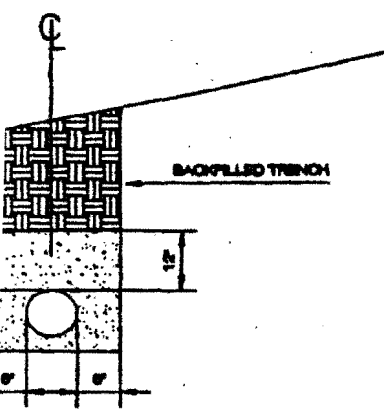
REQUIRED FIRE FLOW 700 GPM
@ 20 PSI FOR 2 HRS.

COUNTY OF LOS ANGELES
FIRE DEPARTMENT
FIRE PREVENTION DIVISION

APPROVED

FIRE PROTECTION SYSTEM
By M. M. M. M. Date MAY 19 1991
FIRE PREVENTION ENGINEER

- ☒ Subject to field inspection approval
 - ☐ Subject to conditions on plans
 - ☐ Subject to compliance with California Sheet Requirements
- The stamping of this plan and specifications SHALL NOT be held to permit or be an approval of the violation of any provisions of any County/City Ordinance or State Law



LEGEND

- 2+00 STATIONING FOR PROPOSED ROAD
- EXISTING CONTOURS (2' INTERVALS)
- EXISTING CONTOURS (10' INTERVALS)
- PROPERTY LINE OR EASEMENT
- EXISTING DIRT ROAD
- PROPOSED ROAD EDGE
- CENTER LINE OF PROPOSED ROAD
- FITTING IDENTIFICATION
 - 2" AIR RELEASE VALVE
 - SHUT OFF VALVE
 - FIRE HYDRANT
 - FITTING WITH THRUST BLOCK


UNDERGROUND
FIRE LINE ONLY

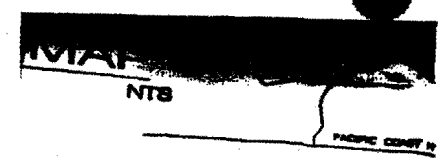
RECEIVED

OCT 10 2000

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

TRENCH BACKFILL

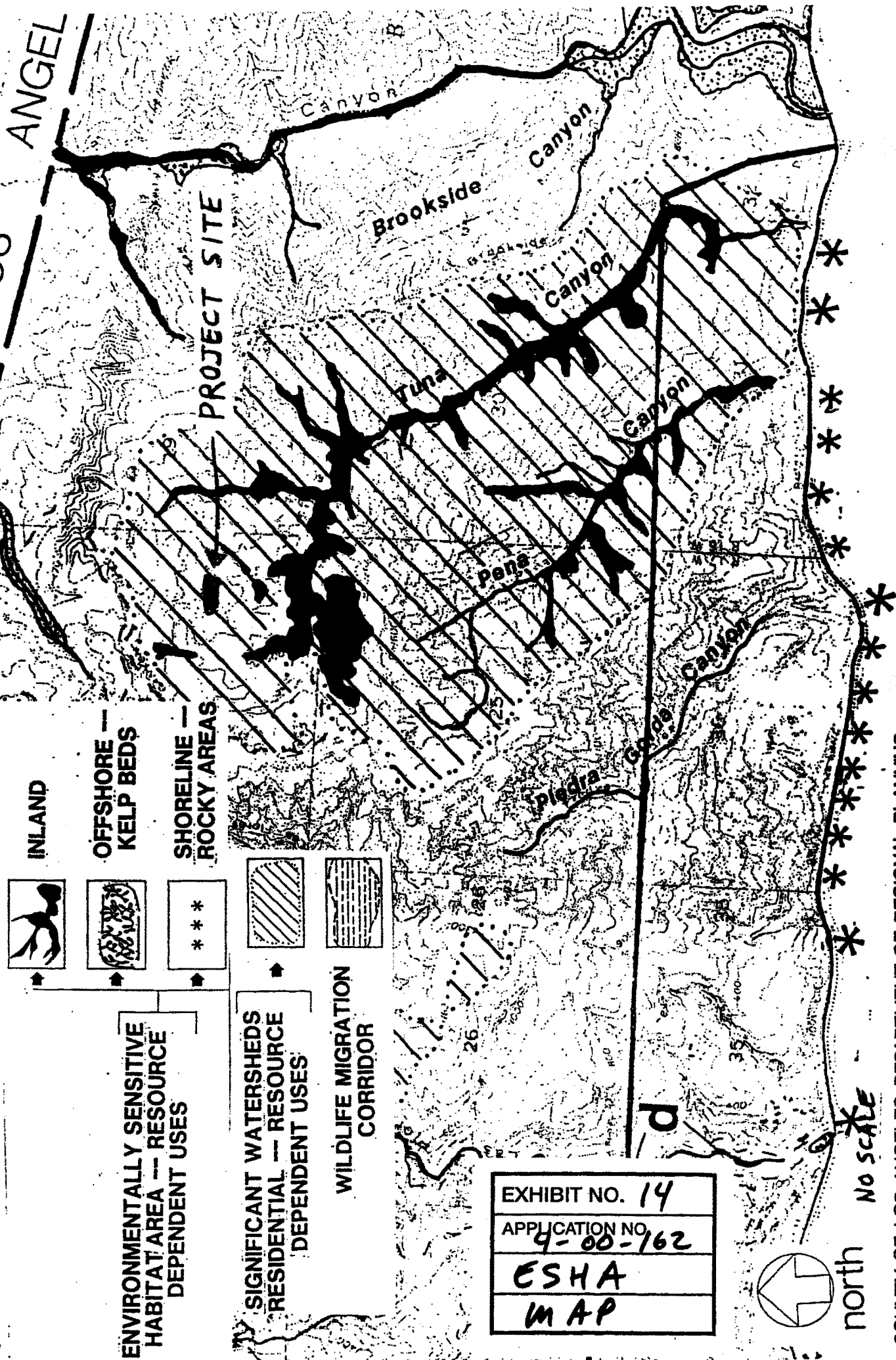
-1571		ROAD AND WATERLINE DATA		
		VARIES		D.M.
-1596		3-8-98		3-10-99
		PRIVATE WATERLINE FOR PORTIONS OF SABINA LANE, BETTON DRIVE, AND FABUCO ROAD MALIBU, CA.		
		OWNERS: SAYLES, OLSON, AND JASON C/O GERALD SAYLES 43143 23RD STREET WEST LANCASTER, CA 93536 805-943-1377		SHEET 1 OF 5



UNITY MAP AND NOTE
TERLINE PLAN-NORTH
TERLINE PLAN-SOUTH
D SECTIONS
D DATA AND DETAILS

EXHIBIT NO. 13
APPLICATION NO. 4-00-962
Water Main
Improvement

SENSITIVE ENVIRONMENTAL RESOURCES OVERLAY ZONES



CALIFORNIA COASTAL COMMISSION

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



December 19, 2000

Mark & Roselyn Jason
20384 Sea Board Road
Malibu, CA 90265

RE: Coastal Development Permit Amendment Application No. 4-00-162, Gerald & Shirley Sayles,
20580 Betton Drive, Malibu, CA

Dear Mark & Roselyn Jason;


This office has received an request to process Coastal Permit Application Number 4-00-162 from Gerald & Shirley Sayles to construct a 4,592 sq. ft., two story, 27 feet high, single family residence, three car garage, swimming pool with non-chemical purification system, septic system, and landscaping, placement of a temporary 12 foot by 24 foot construction trailer, extension of private water main improvements from intersection of Tuna Canyon and Sabina Roads to Fabuco Road and Betton Drive, trench for and install the water line (includes 35 cubic yards exported, assuming sand fill is not required, to 347 cubic yards exported, assuming sand fill is required. All excess material will be exported to a landfill located outside the coastal zone. Install three fire hydrants. Grade a total of 1,268 cubic yards for residence and access road, 428 cubic yards of grading will be conducted from the intersection of Betton Drive and Fabuco Road to the turnaround at the driveway, 840 cubic yards will be graded for the residence. Install erosion control swales along top of cut slopes and install a culvert. Pave Betton Drive about 454 feet beyond approved road improvements to driveway at building site located at 20580 Betton Drive, Topanga near Malibu, CA. The application is filed and scheduled for a public hearing at the Coastal Commission's January 9 - 12, 2001 meeting in Los Angeles.

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 drainage improvements or the 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 or the proposed project before you sign and return this letter, please call me or Jack Ainsworth at the number above or call the applicant's agent, Don Schmitz, Schmitz and Associates at 310-589-0773.

Sincerely,


James Johnson
Coastal Program Analyst

AGREED:

Names (Print)

Signatures

Property Address

EXHIBIT NO. 18
APPLICATION NO. 4-00-162
Co-Applicant
Invite Letter

cc: Donald Schmitz
400162saylescoapps



Carefree
CLEARWATER LTD.

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Models, Features, and Pricing

Carefree Clearwater Water Treatment Systems

Model 1100

Automatic Purification System

The features include:

- Simple to Use Controls
- Plug In Operation
- Lifetime Warranty
- Variable Power Output for Spas and Pools
- Solid State Electronic Circuitry Multiple Fuse Protection
- Light Emitting Diodes Display Power Output Range, Anode Condition and Polarity
- Extended Cleaning Cycle for Purification Cell
- Watertight Weatherproof UL Approved Enclosure.
- N.A.S.A. has granted approval for commercial manufacturing of their patented ionizer to
- Carefree Clearwater, Ltd. Additional U.S. patents pending.
- United States Environmental Protection Agency Est. #59047-GA-001



Top of Page

State-of-the-Art Commercial Rated Electrolytic
Ionizer

The well-proven features are:

- Rugged and Durable Design Protects

<http://www.carefreeclearwater.com/models.html>

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OCT 1 1982

COASTAL COMMERCIAL
SOUTH CENTRAL

EXHIBIT NO. 16

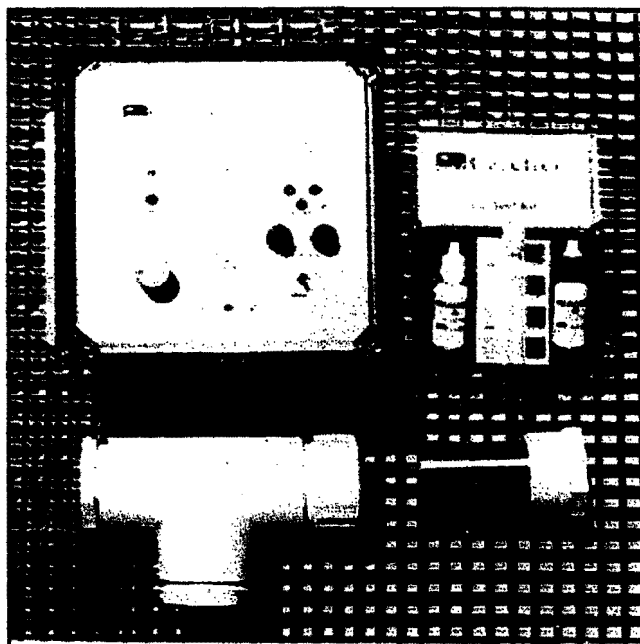
APPLICATION NO. 9-00-182

A.H. Water

Purification 09/04/84

Electronics from Moisture, Corrosion and Harsh Environments. NEMA 4X and UL 508-4X Rated Waterproof Equipment Enclosure. Gasket Sealed Clear Acrylic View Cover. Tamper Proof.

- Heat and Vibration Protected Solid State Electronics.
- Precise Metering and Stable Ion Output. Unit Automatically Maintains Preset Level.
- Simple Operating Controls. Electronic Self-Checking Inspection Circuitry for Anode.
- LED Displays for Power, Polarity, and Anode Status.
- Self-Cleaning Anode Feature. Polarity Reversing Sequential Cleaning Circuit.
- Circuit Design Maintains Accurate Metering Of Mineral Ion Flow Throughout Anode Life.
- The Most Advanced Specialized Alloy Anode for Superior Water Quality and Purity. NSF Listed Ion Chamber Components.
- Meets or Exceeds UL and NSF Standards.
- Ion Test Kit and Complete Operator Manual Included.
- Lifetime Equipment Warranty.



1200 Pricing Information

Top of Page

Retail Pricing

MODEL 1100

Purifies up to 25,000 Gallon Spa/Swimming Pool.
Includes Plug In 1100 Controller, Anode, Ion Test Kit,
2" Ion Chamber, Installation & Instruction Manual.
Please Specify if 220 VAC is needed.

\$795.00

MODEL 1200-R

Purifies 15,000 - 45,000 Gallon Swimming Pools.

EXHIBIT NO. 16

APPLICATION NO. 4-00-162

Alt. Water

Purification 2004

Includes Model 1200-R Controller, Anode, Ion Test Kit, 2" Ion Chamber, Installation & Instruction Manual	\$1395.00
MODEL 1200-C Purifies 45,000 - 65,000 Gallon Swimming Pools. Includes Model 1200-C Controller, Anode, Ion Test Kit, 3" Ion Chamber, Installation & Instruction Manual	\$1595.00
MODEL 1200 C-1 Purifies 65,000 - 125,000 Gallon Swimming Pools. Includes Model 1200 C-1 Controller, Anode, Ion Test Kit, 3" Ion Chamber, Installation & Instruction Manual	\$1995.00
1100 ANODE Lasts 2-3 seasons in a 20,000 Gallon Swimming Pool	\$89.50
1200-R ANODE Lasts 2-3 seasons in a 20,000 Gallon Swimming Pool	\$99.50
1200-C ANODE	\$129.50
ANODE for Other Manufacturers We can provide replacement parts for any manufacturer's equipment.	<u>Contact Us</u> <u>for Pricing</u>
ION TEST KIT	\$15.50
TEST KIT REAGENT REFILL Replace Yearly	\$5.99

The Carefree Clearwater Purifier pays for itself quickly by eliminating the need to spend thousands on chemical sanitizers, algicides and clarifiers etc. Operating costs for the ion generator's electrical consumption averages less than 25 cents per month. Periodic oxidizing along with a low level halogen and maintaining normal water balance are all that's needed.

[Back to the Main Page](#)
[Top of Page](#)

Carefree Clearwater, Ltd.

P.O. Box 204

<http://www.carefreeclearwater.com/models.html>

EXHIBIT NO.	16
APPLICATION NO.	4-88-162
Alt. Water	
Purification P301	

Cornelia, Georgia 30531

Phone (800) 364-5710 or (706) 778-9416 | Fax (706) 778-0423

Email sales@carefreeclearwater.com 

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EXHIBIT NO. 16
APPLICATION NO. 4-00-162
Alt. Water
Purification P 4054



Los Angeles County
Department of Regional Planning
Director of Planning: James E. Hart, AICP



**MINUTES OF THE ENVIRONMENTAL REVIEW BOARD (ERB)
MEETING OF SEPTEMBER 16, 1996**

(Approved December 15, 1996)

PERSONS IN ATTENDANCE:

ERB MEMBERS

Noël Davis, PhD
Keith Deagon
Suzanne Goode
Ron Lacayo
Martha Witter, PhD

REGIONAL PLANNING STAFF

Dave Cowardin
Daryl Koutnik, PhD

Plot Plan 44970 Representative

Don Schmitz

(818) 889-2460

Frank Angel

(310) 470-9897

**MINUTES
SEPTEMBER 16, 1996**

AGENDA ITEMS

1. Goode moved and Witter seconded that the Minutes of the July 15, 1996 ERB meetings be approved as amended.

NEW BUSINESS

2. Plot Plan 44709 - See Attachment ERB Item 2.

NOTE:

ERB MEETINGS ARE INFORMAL WORKING SESSIONS. MEMBERS ARE APPOINTED AS VOLUNTEERS TO SERVE IN AN ADVISORY CAPACITY. MINUTES ARE PREPARED BY PLANNING STAFF PRIMARILY FROM NOTES. MEETINGS ARE ALSO RECORDED ON TAPE WHICH ARE USED PRIMARILY AS A BACK-UP FOR STAFF. VISITORS ARE ADVISED TO TAKE PROPER NOTES AND/OR RECORD THE MEETING. NEW OR CLARIFIED INFORMATION PRESENTED IN 1 MAY RAISE NEW ISSUES AND REQUIRE FURTHER ANALYSIS. MINUTES APPROVED AT THE FOLLOWING MEETING. DRAFT MINUTES MAY BE REQI SUBJECT TO REVISION.

EXHIBIT NO. 17

APPLICATION NO. 4-00-162

ERB

Minutes plot

ENVIRONMENTAL REVIEW BOARD

Case No. Plot Plan 44970

Location 20580 Betton Drive, Malibu

Applicant Gerald Sayles

Request New Single-Family Residence and swimming pool

Resource Category Tuna Canyon Significant Watershed

ERB Meeting Date: September 16, 1996

Staff Recommendation: ☒ Consistent ☐ Inconsistent

Suggested Modifications: - Suggest attaching den directly to remainder of residence.

ERB Evaluation: ☐ Consistent ☒ Inconsistent

Recommendations: - Cumulative impacts of additional residence in Tuna Canyon Watershed not addressed (e.g., vegetation removal for fuel modification, single means of access, significant distance from existing services, wildlife habitat loss not fully mitigated) and could require the preparation of an EIR.

- 4,000 square feet residence is out of place in this area: smaller footprint makes setback from slope edge easier and requires less fire clearance: northeast corner of lot is better building site with less impacts: a smaller structure is recommended to limit impacts: runoff from driveway to be retained on-site.

EXHIBIT NO.	17
APPLICATION NO.	4-88-162
ERB	
Minutes	p2 of 3

ENVIRONMENTAL REVIEW BOARD

Case No. Plot Plan 44970

Location 20580 Betton Drive, Malibu

Applicant Gerald Sayles

Request New Single-Family Residence and swimming pool

Resource Category Tuna Canyon Significant Watershed

ERB Meeting Date: September 16, 1996

ERB Recommendations (continued):

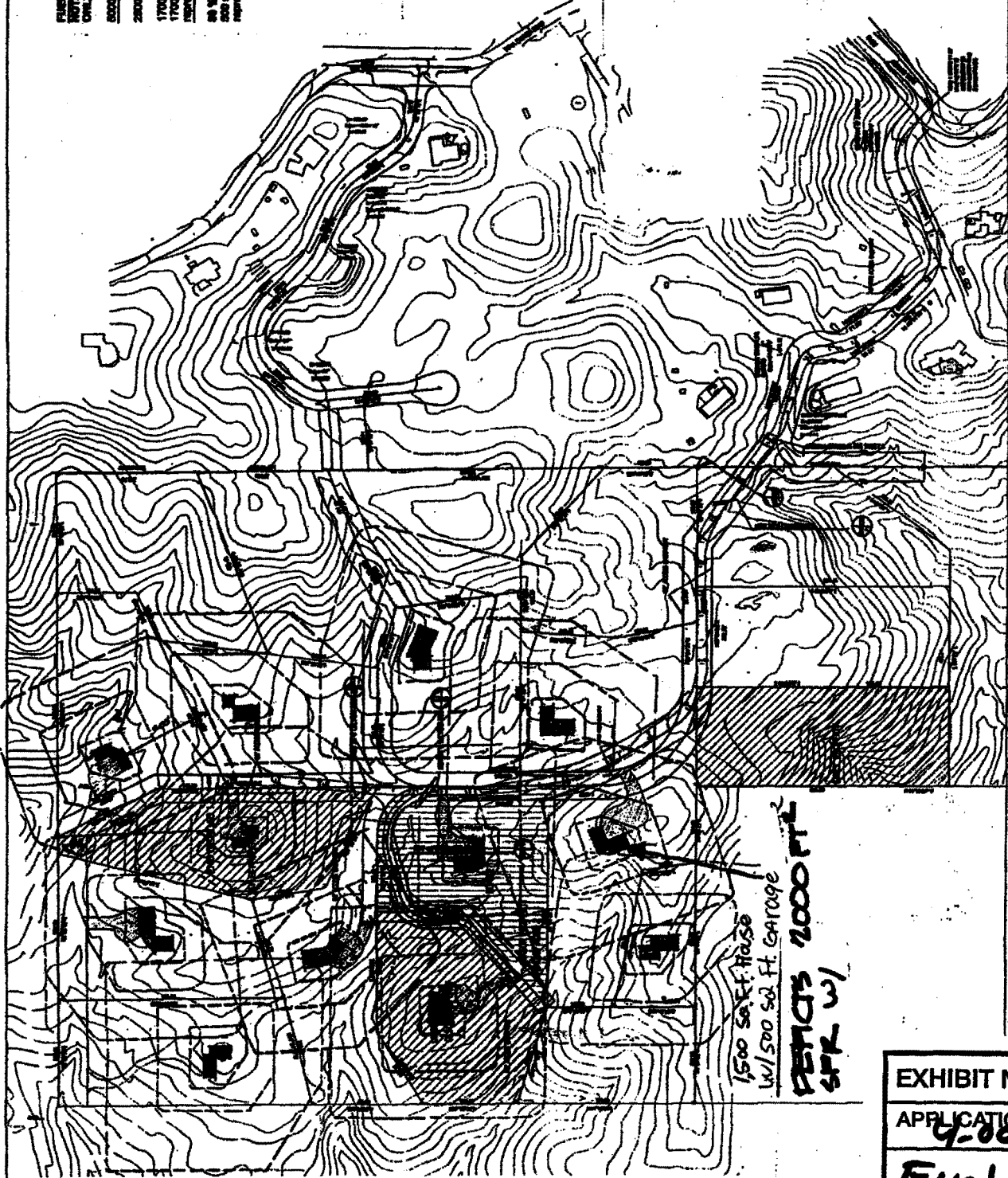
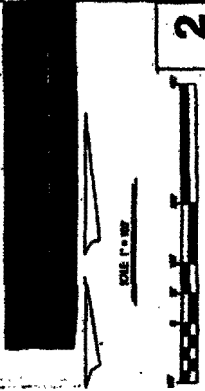
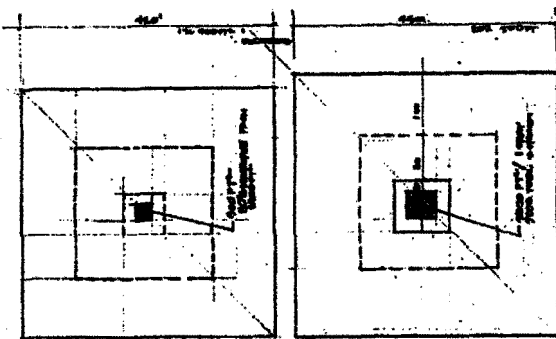
- Plant only indigenous native species in landscaping: use California Native Plant Society (CNPS) list for landscape species.
- Use earth tone colors of local area for house exterior; lighting to be directed downward and of low intensity.
- Inconsistent LUP Policies: 63 (standards of Table 1 not followed) 64 (not consistent with all LUP policies), 65 (proposal not located to minimize vegetation clearance), 74 (not located close to existing services), 88 (access road longer than 300 feet); and 150 (vegetation clearance on greater than 2:1 slopes).
- County should investigate implementation of Policy 62.
- Policy 271-2a discourages development of "non-conforming" lots of less than 20 acres and this policy should be implemented.

EXHIBIT NO.	17
APPLICATION NO.	4-00-182
ERB	
Minutes	p 3 of 3

PERIODS 5,000 FT
SPEZ w/ 600 FT
CARACAS

FUEL MODIFICATION PLAN COMPARISON CHART:
NOTE: ALL FOOTPRINTS SHOWN ARE FIRST FLOOR ONLY.

- 8000 sq ft residence = 2500 sq ft footprint for 2 story house
- 2800 sq ft footprint = 300, 600 sq ft fuel mod area
- 1700 sq ft footprint = 30% reduction in floor area
- 1700 sq ft footprint = 150,000 sq ft fuel mod area
- represents only a 5% reduction in fuel mod area
- 80% reduction in floor area = 800 sq ft footprint
- 800 sq ft footprint plus garage = 170, 400 sq ft fuel mod area
- represents only a 30% reduction in fuel mod area



Holmes Enterprises Inc.
Structural and Civil Engineering (805) 532-1571
200 Wicks Rd. Moorpark, CA. 93021

DATE: 10/1/82
DRAWN BY: J. L. HOLMES
CHECKED BY: J. L. HOLMES
SCALE: 1\"/>

EXHIBIT NO. 19
APPLICATION NO. 4-08-182
Fuel Mod Comparison

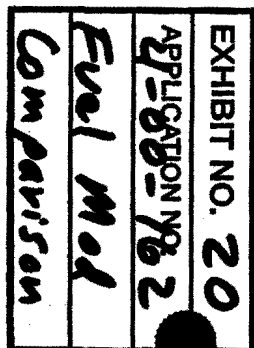
EXHIBIT 19

THE EFFECT OF A LARGE HOUSE VS. TWO SMALLER RESIDENCES ON THE FUEL MODIFICATION AREA

HOUSE SIZE	GARAGE SIZE	TOTAL	TOTAL FOOTPRINT WITH STRUCTURE AND HARDSCAPE	AVG. FUEL MOD AREA/HOME SITE (NO OVERLAP)	FUEL MOD AREA FOR 12 HOUSES	FUEL MOD AREA PER HOUSE SITE
5,000	600	5,600	7,000-9,500	302,400	1,712,912	<u>142,743</u>
1,500	500	2,000	1,300-2,400	202,500	1,504,050	<u>125,338</u>

**Conclusion: By reducing a house from 5,000 square feet to 2,000 square feet, the decrease of brush clearance
Per house is 33% but when considering the overlap of the adjacent houses, the decrease is only 12%.**

Note: Numbers in above table are in square feet.



FROM : KAY AUSTEN & CRAIG HOLX

FAX NO. : 310 4552223

Jan. 02 2001 05:04PM P1

FROM : LESAVOY

FAX NO. : 3104550620

Jan. 02 2001 02:13PM P2

Sabine Lesavoy and Malcolm A. Lesavoy, M.D.

2535 Hawks Nest Trail, Topanga, CA 90290

Tel (310) 455-0607 Fax (310) 455-0620 E-mail: Sabine.Nhn@aol.com

**Attn: California Coastal Commission
Mr. James Johnson**

**Fax: (805) 641-1732
(sent by fax and by registered mail)**

Date: January 1, 2001

**Re: Coastal Development Permit Amendment Application No 4-00-162
Gerald and Shirley Sayles**

RECEIVED

JAN 02 2001

**CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT**

Dear Mr. Johnson:

Just by coincidence TODAY we heard about the above mentioned permit amendment application (named above) through a next door neighbor.

You might not be aware of the fact that my husband (Dr. Malcolm A. Lesavoy) and I are NEW OWNERS of one of the directly adjacent parcels to Sabina Drive and therefore we own part of this road.

This fax serves to inform the California Coastal Commission Staff and Commission that you have once again neglected your duties of informing ALL concerned parties.

Not only are we opposing this permit, but we are also requesting a postponement of the scheduled hearing for January 9th - 12th to a later date, so that we can have ample time to represent our position. According to the law, being owners of land with an officially registered access through Sabina Drive, we MUST be informed by YOUR OFFICE. Officially, we have NOT been informed. As I mentioned at the beginning of this letter, we happened to talk to our neighbors today and heard about this issue by coincidence. We are not accepting this information as a legally correct announcement of this amendment.

Sincerely,

***[Signature]*
Sabine Lesavoy and Dr. Malcolm A. Lesavoy**

**Cc: Frank Angel, Esq.
Coastal Commission, San Francisco Office
Attn: Mr. Peter Douglas, Exec. Director**

EXHIBIT NO. 21
APPLICATION NO. 4-00-162
Letters Received
Page 1 of 11

FROM : KAY AUSTEN & CRAIG HOLX

FAX NO. : 310 4552223

Jan. 04 2001 01:09PM P1

RE: Sayles, #9d, 1/9/01, # 4-00-162

January 3, 2001

Dear Sandy:

James Johnson finally called me today. He told me that he did not know whether or not the Sayles' application comes under the permit streamlining act; he stated the timing of their application was very confusing, and he would leave it to someone more qualified than himself to decide, which I take to be you. (By the way, I mistakenly gave him the wrong parcel number for the Leesvoys: the correct number is 4448-09-023.)

Sandy, there have been several serious omissions of notification: in addition to the Leesvoys, the following owners also should have been notified as possible co-applicants under Section 30601.5: Kevin Driscoll, parcel #4448-09-019. He lives next to the Oldmans; his property, like theirs, encompasses Sabina Drive. Also, I have confirmed that Shane and Tanya Johnson, the new owners I mentioned in my last letter to you, own two parcels: #4448-09-027 and 028. Parcel 027 runs into Sabina Drive; thus the Johnsons own part of it. They purchased these parcels in November or December 2000. James Johnson told me he had not contacted them. Was Tony Oray notified? He also owns part of Sabina Drive.

Sandy, several owners have not been notified, period, much less in a timely fashion. I have been told that all but one are opposed to this project, and even that one may have changed his mind. I don't think it's a coincidence that Mr. Sayles failed to provide all the owners' names. While the Johnsons are new owners, the others are not. Mr. Sayles knew, for example, that Mr. Meyers was selling his land to the Leesvoys who have long opposed his development. This project severely impacts these owners' properties. I am certain they would have written letters and/or testified against the project had they been given the chance.

Also, I have looked and have seen no posted notices by Mr. Sayles in the vicinity—another lack of notification.

Given the extent and serious consequences of this lack of legal notification, I very much hope you will postpone the hearing if it's legally possible to do so. There is a lot at stake, and property owners' rights have been violated by what appears to be a sloppy and ill-considered rush to push this project through. Thank you for your assistance.

Sincerely,

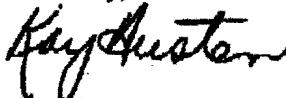
Kay Austen
310-455-1611Cc: Peter Douglas, Executive Director
Frank Angel, Esq.

EXHIBIT NO. 21
APPLICATION NO. 4-00-162
Letters Received
Page 2 of 11

To: James Johnson
From: Kay Austen

RECEIVED

JAN 04 2001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Mr. Johnson:

I gave you the wrong parcel
for the Leavoy. It is #4448-09-023,
formerly owned by Steve Myers.

Shane & Tanya Johnson own parcels
4448-09-028 and 027, which runs into
Sabina Drive. They should have received
the co-applicant notification.

Also, while Chad may appear on the
assessor's map, the Topanga post office
will not deliver to a street which does
not exist but ^{has been} ~~was~~ called Hawk's Nest
Trail for over 2 years.

Sincerely,
Kay Austen

EXHIBIT NO. 21
APPLICATION NO. 4-00-162
Letters Received
Page 3 of 11

VINCE SCIPIONI
20400 Skyhawk Lane
Topanga, CA 90290
TEL (310)558-3336
FAX (310)558-3348

RECEIVED

JAN 04 2001

January 4, 2001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

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

RE: PERMIT NUMBER 4-00-162
Gerald & Shirley Sayles

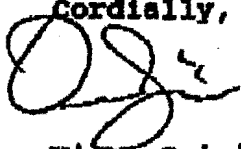
Mr. Johnson,

I oppose the permit - another twenty foot wide paved road into this area is not needed - Skyhawk has already been paved with your permission.

Fabuco Road does not connect to Sabina Drive as indicated in the applicant's Exhibit 4. This is a fabrication by the applicant.

Fabuco Road does not cross parcel 4448-09-018 and connect to Sabina Drive for the purpose of running utilities to the applicants parcel. This can be verified with the Los Angeles County Recorder's Office in Norwalk.

Cordially,



Vince Scipioni
Tuna Canyon Resident
COASTAL.DOC/FAXED 01/04/2001 TO (805)641-1732

EXHIBIT NO. 2

APPLICATION NO.
4-00-162

Letters Received

Page 4 of 11

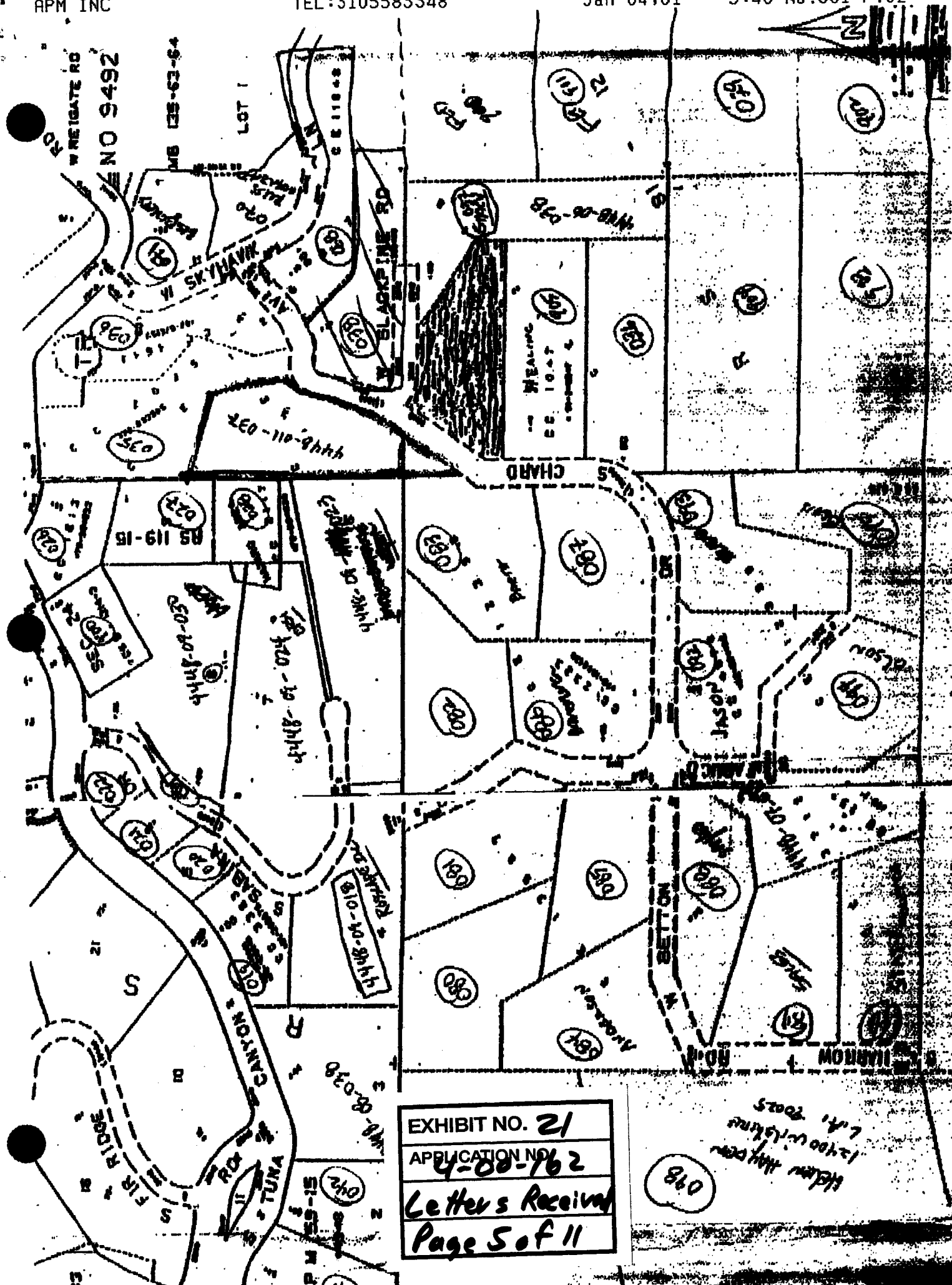


EXHIBIT NO. 21

APPLICATION NO.

4-00-162

Letters Received

Page 5 of 11

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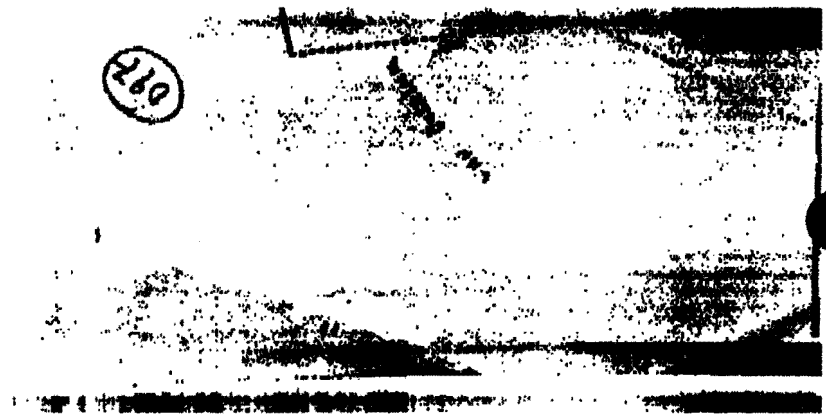
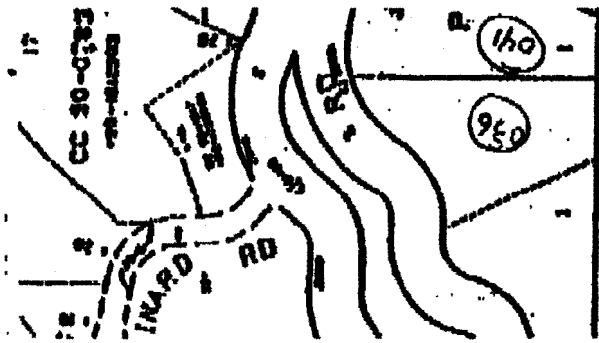


EXHIBIT NO. 21
APPLICATION NO. 4-00-102
Letters Received
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FROM : KRY JUSTEN & CRAIG HOLZ

FRX NO. : 318 4552223

Jan. 04 2001 12:07PM P1

January 3, 2001

Randra Goldberg, Esq.
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California

RE: Lack of Legal Notification on Bayles' Permit No. 4-00-162

Dear Ms. Goldberg:

We are writing you from Hawaii in great distress. We were informed today by Dr. Ray Justen that Mr. James Johnson of the Ventura office believes we received the "Important Public Hearing Notice: Coastal Permit Application" because he sent it to us at Chard Road. He stated that he believed this to be our correct address because Chard Road appears on the assessor's map. That may be. However, the Tengan post office would have no way of delivering a letter with such a wrong address: there is no street sign with the name of Chard Road because it was legally changed over two years ago to Hawk's Nest Trail. Please note that previous notices were sent to us at the correct address. Moreover, Mr. Gregor von Blumarch also lives on Hawk's Nest Trail. Dr. Justen checked with him today; he confirmed that he did receive the notice of public hearing, correctly addressed to Hawk's Nest Trail.

Once again we state in the strongest possible terms that we received no notice whatsoever. Mr. Bayles did not post any notice of his application as he was required to do. The general notice was sent to the wrong address. No notice was sent inviting us to become co-applicants. Per Coastal Act Section 30601.5, the Commission was legally required to notify us as the new owners of parcel #4448-08-023 with a fee interest in Subdiv. Drive. (The previous owner was Steve Myers.) Therefore, we are writing from Hawaii to request yet again that the Bayles' hearing be postponed.

Thank you very much for your attention to this urgent matter.

Sincerely,
Ray Justen

Randra Goldberg

Justen Testimony/and Dr. Michael A. Lanning
cc: Mr. James Justen, Representative District
Frank Bayles, Esq.

01-00-01

00:14pm Fri Jan 04 2001

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T-140 9:32/01

EXHIBIT NO. 21

APPLICATION NO. 21-00-162

Letters Received

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RECEIVED

JAN 05 2001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Theodore Oldemans
P.O. Box 430
Santa Monica, Ca 90406
Phone 826-7443 Fax 310-207-6612

January 3, 2001

Via Fax 805-641-1732
and U.S. Mail

James Johnson
Coastal Program Analyst
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

Re: SAYLES, #9D, 01/09/01
Coastal Development Permit Amendment Application No. 4-00-162,
Gerald & Shirley Sayles, 20580 Betton Drive, Malibu, Ca

Dear Mr. Johnson:

As your records indicate, my wife and I have a "fee interest in the property across which the road paving, grading and drainage improvements or the water main improvements are proposed..."

You may not be aware of the fact that up to 4/5 of Sabina Drive, the road Mr. & Mrs. Sayles intend to use, is on our property.

They have not obtained our permission to use any part of our property, nor will they receive such permission. They do not have an easement across our property, nor will they receive one from us.

Therefore, we do not believe Mr. & Mrs. Sayles have the right or the ability to run a water pipeline to their property. I would also like to point out that Sabina Drive is a private road.

We strongly oppose this permit application on the grounds that it violates our private property and destroys a beautiful canyon.

Please be advised that we are prepared to retain counsel to do whatever is legally necessary to protect our property from the destruction proposed by Mr. & Mrs. Sayles.

Sincerely,


Theodore "Ted" Oldemans

Property Address: 2387 Sabina Drive (lot 20, 21, 22)
Malibu, Ca

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APPLICATION NO. 4-00-162
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KEN HOFF
2326 TUNA CANYON ROAD
TOPANGA, CA 90290

FACSIMILE TRANSMITTAL SHEET

TO: Mr. James Johnson FROM: Ken Hoff
COMPANY: California Coastal Commission DATE: 01/05/2001
FAX NUMBER: (805) 641-1732 TOTAL NO. OF PAGES INCLUDING COVER: 3 pages
PHONE NUMBER: (805) 641-0142 SENDER'S REFERENCE NUMBER:
RE: Coastal Permit Application #4-00-162 YOUR REFERENCE NUMBER:

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

This is in reference to Coastal Development Permit Amendment Application No. 4-00-162, Gerald and Shirley Sayles, 20580 Betton Dr., Malibu, CA.

Please include this letter with other documents being reviewed at the public hearing of the the Coastal Commission meeting in Los Angeles on January 9-12, 2001.

Thank you. If you have any questions you may contact me at (310) 455-1897.

1/11/01 I received your message on 1/9. As requested I will mail you the copy of the letter which I had faxed on 1/5 but which you did not receive the 1st page. I am also referring the letter to you. On 1/5 I had also faxed a copy to Mr. Jack Ainsworth to be included in the report being reviewed at the Coastal Commission meeting of 1/9/01. Thank you for your response to these matters.

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

Mr. James Johnson
Coastal Program Analyst

EXHIBIT NO. 21
APPLICATION NO. 4-00-162
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Re: Coastal Development Permit Amendment Application No. 4-00-162, Gerald and Shirley Sayles,
20580 Betton Drive, Malibu, CA

Dear Mr. Johnson,

As your records indicate I am the owner of a fee interest in the property across which the road paving, grading and drainage improvements or the water main improvements are proposed in this Permit Amendment Application No. 4-00-162. I have a number of concerns regarding this development:

1. Mr. Sayles states in his application that he has received a signed "Plumbing Plan Review" from the Los Angeles County Department of Public Work, Building and Safety / Land Development division, dated June 9, 1999.

I would like to have a copy of this Proposed Plumbing Plan Review sent to my Residence for my review.

I have contacted Mr. Max Rodriguez at the Public Works / Water Works Division of the County of Los Angeles (626) 300-3327 on January 4, 2001 concerning this application. At this time he did not have any knowledge of a permit being requested by Mr. Gerald Sayles. He is researching the application and the feasibility of access by a private individual to develop public water works on private property which has a public easement granted only to LA County Employees. I will advise you of his research as soon as his report is complete.

2. The County of Los Angeles has a recorded easement thru Sabina Road that states: " Together with the right to enter upon and to pass and repass over and along said easement and right of way and to deposit tools, implements, and other materials thereon by said County of Los Angeles, its officers, agents and employees".

The Road Deed grants only the County of Los Angeles the right to use the easement to construct a waterline. It does not give a private Contractor any easement Rights over my Property. Is the County of Los Angeles Water Department going to install the Water Main requested in this permit or will there be a Private Contractor? Mr. Sayles has never contacted me concerning this water main installation or any permit application. The only notification I have received is your letter dated December 19, 2000. I have not given my permission to any private party to utilize this road easement for any purpose.

3. The applicant proposes to construct a 2,244-foot long water main from the intersection of Tuna Canyon and Sabina roads along Sabina Road. Mr. Sayles states: "To Construct the water line extension, the area within existing dirt roads will be trenched to install six and eight inch pipe."

I have many concerns if a Private Contractor completes this installation: (1) Easement Rights

(2) Liability Rights (3) Design and Construction Application within my property easement

(4) Grading and Paving of the Existing Road when the Construction is completed.

(5) Existing Landscaping and sprinkler system replacement

(6) Heavy equipment Liability to my Property during the course of Construction.

(7) Steep slope Liability at the west corner of the proposed water line installation on my Property.

(8) Sabina Road is paved for the first 250' from the Corner of Tuna Canyon Road and Sabina Road.

What are the requirements for the installation of the pipe and the repaving of the existing Road?

4. Mr. Martin Young, Title Examiner for the County of Los Angeles (626 458-7111) states that only the homes included in the record of survey have the right to use the public easement across my property. Mr. Sayles property is not in this record of survey. Therefore according to Mr. Young, Mr. Sayles does not have the right to use this easement without my expressed written permission.

I do not want to join this application as a co-applicant. I want clarification and specific details concerning this proposed water main installation.

Sincerely,

Ken Hoff

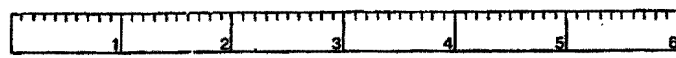
2326 Tuna Canyon Road

Topanga, CA 90290

(310) 455-1897

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1-800-345-7334



SCALE IN 1/16 OF AN INCH

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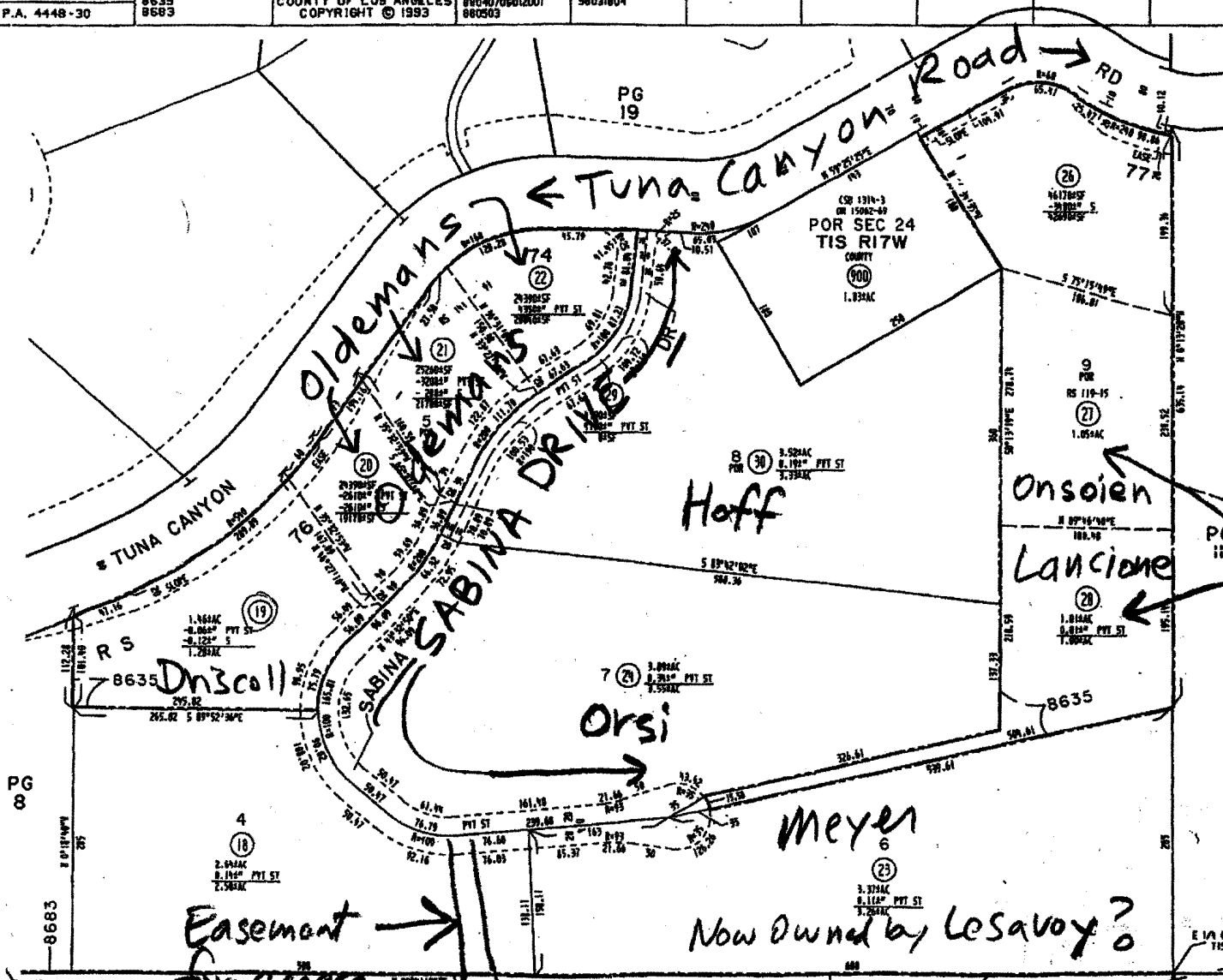
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COUNTY OF LOS ANGELES
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Now Owned by Johnson?

Now Owned by Lesavoy?

Easement for access and waterline

Fabuco Road

EXHIBIT NO. 23
APPLICATION NO. 44-88-1962
APN map
4448-009

MAR 24 1998

E 1/4 COR SEC 24 T15 N10W PG 7

