

## CALIFORNIA COASTAL COMMISSION

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Commission Action:



## RECORD PACKET COPY

### STAFF REPORT: PERMIT AMENDMENT

**APPLICATION NO.:** 4-96-103-A2

**APPLICANT:** Mac Lachlan Family Trust      **AGENT:** Terry Valente

**PROJECT LOCATION:** 774 Old Topanga Canyon Road, Topanga (Los Angeles County)

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Construction of a new 1,855 sq. ft., 35 ft. high, two-story single family residence (SFR) with a 420 sq. ft. attached garage to replace a 1,155 sq. ft. SFR destroyed by fire. The project includes 360 cu. yds. of grading (275 cu. yds. cut, 85 cu. yds. fill) 250 cu. yds. of overexcavation for removal and recompaction of the building pad, and the demolition of four existing accessory structures approximately 330 sq. ft. in total combined size.

**DESCRIPTION OF AMENDMENT:** The amendment includes modifications to the previously approved project plans to construct 332 sq. ft. of additions to the approved 1,855 sq. ft. residence, 200 sq. foot deck addition, retaining wall and exterior staircase east of residence, railroad tie stairway, widening of driveway, removal of rear garden wall, and temporary placement of a trailer for residential use during construction of a new single family residence.

**PREVIOUSLY AMENDED FOR:** (A1) Modify Special Condition 6, Removal of Existing Accessory Structures, to adjust the term of removal of the existing development from prior to the construction of the proposed single family residence to not more than thirty days after the issuance of a certificate of occupancy for the proposed single family residence from the County of Los Angeles.

**LOCAL APPROVALS RECEIVED:** County of Los Angeles, Fire Department, Fire Prevention Engineering, Preliminary Approval dated 5/10/01; County of Los Angeles, Department of Regional Planning, Approval-in-Concept dated 7/11/01;

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan (LUP); Coastal Development Permit 4-96-103; Coastal Development Permit Amendment 4-96-103-A1; Coastal Development Permit 4-96-103-E1.

**PROCEDURAL NOTE(1):** The 180<sup>th</sup> day Permit Streamlining Act deadline is July 2, 2001. Therefore this item cannot be postponed for later consideration unless the applicant agrees to extend the time limit for review.

**PROCEDURAL NOTE(2):** The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) *The Executive Director determines that the proposed amendment is a material change,*
- 2) *Objection is made to the Executive Director's determination of immateriality, or*
- 3) *The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.*

In this case, the proposed amendment will affect a permit condition required for the purpose of protecting a coastal resource. 14 Cal. Admin. Code 13166.

**Summary and Staff Recommendation:**

Staff recommends that the Commission approve the proposed amendment with five Special Conditions regarding revised oak tree monitoring program, revised drainage plans, removal of temporary trailer, condition compliance, and revised plans.

**I. STAFF RECOMMENDATION:**

**MOTION:** *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-96-103 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

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

**RESOLUTION TO APPROVE A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendments on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially

lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

**NOTE:** All standard and special conditions attached to the previously approved permits remain in effect to the extent not otherwise modified herein. Underlined text indicates new content; strikethrough text indicates deleted text. New conditions are so indicated and set forth in ordinary font in Special Conditions 9-11.

## II. Special Conditions

### 2. Oak Tree Monitoring Program (Revised)

#### A) Construction Monitoring

Prior to the issuance of the Coastal Development permit, the applicant shall retain the services of an independent biological consultant or arborist with appropriate qualifications acceptable to the Executive Director to develop an oak tree monitoring program during construction of for the proposed project. The biological consultant or arborist shall be present on site during all grading activity, ~~and~~ during the removal of the four accessory structures located in the north east corner of the property, during the widening of the driveway, and during removal of the temporary trailer. All recommendations contained in both the Oak Tree Report dated 12/6/94 and the Addendum to Oak Tree Report by Rosi Dagit, Certified Arborist, dated 9/9/97 shall be incorporated into the monitoring plan. Protective fencing shall be used around the protection zone of the oak trees (5 feet beyond the dripline of the canopy) within or adjacent to the construction area ~~all oak trees~~ which may be disturbed during construction or grading activities. The consultant shall immediately notify the Executive Director if unpermitted activities, or if habitat is removed or impacted beyond the scope of the work allowed by Coastal Development Permit 4-96-103. This monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

#### B) Replacement Planting Plan

Within sixty (60) days of receipt of the certificate of occupancy for the residence, the applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, for oak trees that may be lost or suffer worsened health or vigor due to activities approved under Coastal Development Permit 4-96-103. The replacement planting plan shall specify the oak trees that were lost or suffered worsened health or vigor as a result of construction, the oak

trees that may suffer delayed effects to health or vigor as a result of the activities approved under Coastal Development Permit 4-96-103, replacement tree locations, tree or seedling size planting specifications, and a monitoring program to ensure that the replacement planting program is successful. For oak trees that may be lost or suffer worsened health or vigor due to activities approved under Coastal Development Permit 4-96-103, replacement seedlings, less than one year old, grown from acorns collected in the area shall be planted at a ratio of at least 10:1. Compliance with this Special Condition shall not be deemed achieved until ten replacement trees for any affected oak have survived a minimum of five years from the date of planting, and no longer require artificial inputs (such as irrigation) for continued survival.

### **C) Ten Year Monitoring**

For each of ten years, commencing 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, an annual monitoring report on the status of the oak tree replanting program and the health and vigor of the oak trees that were identified in the replacement planting plan with the potential to suffer delayed effects as a result of the activities approved under Coastal Development Permit 4-96-103. The monitoring report shall include photographic documentation of the oak trees subject to this condition.

Should any other oak trees be identified through the monitoring process to be lost or suffer worsened health or vigor as a result of the activities approved under Coastal Development Permit 4-96-103, the applicant shall plant seedlings, less than one year old, grown from acorns collected in the area, at a ratio of at least 10:1. If replacement plantings are required, the applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications, and a monitoring program to ensure that the replacement planting program is successful.

### **5. Drainage Plans (Revised)**

~~Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner which avoids ponding on the pad area. Site drainage shall not be accomplished by sheetflow runoff. Should the project's drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.~~

Prior to the 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 that 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 85<sup>th</sup> 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) Runoff shall be directed away from the trunks of oak trees.
- (d) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (e) 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 30<sup>th</sup> 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.

#### **9. Removal of Temporary Trailer (New)**

The applicant shall remove the temporary trailer within two years of the issuance of the date that this amendment is issued, or within sixty (60) days of the applicant's receipt of the Certificate of Occupancy from the County of Los Angeles for the proposed residence approved pursuant to Coastal Development Permit 4-96-103, whichever is the lesser period of time, to a site located outside of the Coastal Zone or a site with a valid coastal development permit for the trailer.

### **10. Condition Compliance (New)**

Within 120 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.

### **11. Revised Project Plans (New)**

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final revised project plans. The revised plans shall clearly illustrate the dirt portion of the common access road on the property and indicate that this area is not to be paved.

## **III. Findings and Declarations**

### **A. Project Description and Background**

The applicant is requesting modifications to the project plans approved October 13, 1998 pursuant to Coastal Development Permit 4-96-103, to construct 332 sq. ft. of additions to the approved 1,855 sq. ft. residence, 200 sq. foot deck addition, retaining wall and exterior staircase east of residence, railroad tie stairway, widening of driveway, and removal of rear garden wall.

In addition, the applicant is requesting after-the-fact approval for a temporary residence trailer that is located at the southwest corner of the subject site, near the existing detached garage, adjacent to Old Topanga Road. The applicant represents that the trailer was installed in September 2000 on an existing flat pad site that the applicant represents was constructed prior to the Coastal Act, and that no additional grading was conducted to create a pad site. In addition, the trailer is self-contained and does not require septic hookup.

The underlying permit CDP 4-96-103 was approved by the Commission on October 13, 1998, for the construction of a new residence to replace a previously existing residence destroyed by wildfire, with eight (8) special conditions regarding landscape and erosion control plans, oak tree monitoring program, plans conforming to geologic recommendation, exported excavation material, drainage plans, removal of existing accessory structures, future improvements, and a wild fire waiver of liability. To date, the special conditions have not been satisfied in their entirety, and therefore CDP 4-96-103 has not been issued. The applicant has been granted an extension of the permit with expiration on October 13, 2001.

The subject site is located at 774 Old Topanga Canyon Road, approximately one mile northwesterly of the intersection of Old Topanga Canyon Road and Topanga Canyon

in Topanga, Los Angeles County, California (see Exhibit 1). The approximately 1/2-acre parcel is a partially developed hillside property situated along the north side of Old Topanga Canyon Road within the Old Topanga Small Lot Subdivision. Access is via a shared private access road used in common with the neighboring residences to the northwest. A paved portion of the road extends approximately 70 feet from Old Topanga Canyon Road onto the subject parcel, where it abruptly converts to a compacted dirt drive. After approximately 40 feet along the dirt drive, access to the proposed residence is provided by a brick driveway that ascends steeply from the road to the building pad. The County of Los Angeles Fire Department has recently determined that the existing driveway is not adequate for emergency access, though the Fire Department originally issued an approval-in-principle for the proposed project.

In response to the revised Fire Department approval, the applicant proposes to construct a railroad tie stairway, new exterior staircase and retaining wall along the east side of the proposed residence, and to widen the existing improved driveway. The driveway ascends at a steep incline and would require extensive modification to provide adequate emergency vehicle access to the building site. To avoid these extensive modifications, the applicant and the Fire Department have negotiated a fire protection plan (fire access) plan that includes widening a portion of the access road and extending a railroad tie stairway up the slope to the residence, and providing "fire access" that encircles the entire residence (Exhibit 3 and 6). The applicant submitted a Fire Protection Plan stamped with preliminary approval from the Los Angeles Fire Department, Fire Prevention and Engineering. However, the plan incorrectly illustrates the existing asphalt road. The plan shows that a portion of the road at the bottom end of the driveway is asphalt, which the applicant has acknowledged, and Commission staff has verified, that this is actually a dirt road (Exhibit 6).

The project site is located on the eastern slope of Old Topanga Canyon. Slopes on site range from a total vertical height of 280 ft. over a linear distance of 351 ft. from east to west, with an approximate slope ratio (H:V) of 2:1 (26°) to 1.5:1 (33°). A level graded pad was constructed for the previously existing single family residence which was destroyed by a house fire is located approximately 35 vertical feet above Old Topanga Canyon Road and will be utilized for the subject residence. Drainage within the site is essentially of sheet flow runoff of precipitation derived primarily within the site boundaries and the contiguous property to the east.

The subject parcel contains remnant structures from the previous 1,155 sq. ft. residence which was destroyed in 1991, including foundation, concrete piers, driveway, drains, and rock retaining walls. In addition, there are four wooden accessory structures, constructed under a Coastal Act of 1976 located on a steep slope within the driplines of several trees in the north east corner of the property upslope from the building pad. Under the approved Coastal Development Permit, these four structures are to be removed not later than thirty days after the issuance of the certificate of occupancy for the proposed project from the County of Los Angeles. In the southwest corner of the subject site,

adjacent to the shared paved access road off of Old Topanga Canyon Road, there is an approximately 200 sq. ft. existing detached garage and the aforementioned residence trailer.

The subject site is also located within an area designated by the certified LUP as disturbed oak woodland. In addition, Old Topanga Creek, a designated blueline stream on the U.S. Geological Survey quadrangle maps, and associated environmentally sensitive habitat area (ESHA) is located approximately 200 ft. from the project site on the opposite (western) side of Old Topanga Road. As previously discussed, portions of the subject site have been identified by the Malibu/Santa Monica Mountains LUP as disturbed oak woodland, and are thus designated as environmentally sensitive habitat.

## **B. Environmentally Sensitive Habitat Area**

Section 30230 of the Coastal Act states:

***Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.***

Section 30231 of the Coastal Act states that:

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

Section 30240 states:

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

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

To assist in the determination of a proposed project's consistency with Sections 30230, 30231, and 30240 of the Coastal Act, the Commission has looked to the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) for guidance. The Land Use



Plan has been found to meet standards for development in the Santa Monica Mountains. The LUP also identifies habitat areas and addresses individual and cumulative impacts.

Past permit actions take into account the certified LUP policies regarding biological significance and habitat. The subject site is also located in oak woodland. Where development, including residential, could create adverse impacts, mitigation could be provided.

As previously mentioned, the site is located north of Old Topanga Canyon on the upslope from Old Topanga Canyon stream by the United States

The applicant is requesting to construct 332 sq. ft. of new structure, 2,187 sq. ft and a 200 sq. ft. deck. Also requesting the tear down and construction of a new structure.

The applicant proposes a new retaining wall along the driveway, an improved driveway in order to meet Fire Department (Exhibit 3) requirements. The driveway will be widened to 20 feet at the location of the of the tie stairway, would then tie to the site. This stairway is intended for fire rescue uses. In conjunction with the Fire Department imposed a minimum 5-foot wide driveway. As a result, the applicant is proposing to provide access from the

**1. Encroachment Into**

The proposed amendment to the consulting arborist has been on the westside, increased do not encroach within the proposed project

Act Policies and provides specific measures to protect environmentally sensitive areas and erosion control, from both the

generally reflect the goals contained in the LUP, toward development in areas of oak woodland. As noted previously, the site is listed by the certified LUP as disturbed oak woodland. It was found that single-family residential development would not cumulatively or individually impact natural resources, or that adequate mitigation has been permitted.

The site is located on a developed hillside north of Old Topanga Small Lot Subdivision, and Old Topanga Creek is designated as a blueline

The previously approved project plans to construct a 1,855 sq. ft. residence for a total of 2,187 sq. ft. and a 200 sq. ft. deck (Exhibit 3). The applicant is also requesting a trailer for residential use during

The applicant proposes a new stairway, new exterior staircase and retaining wall along the driveway, and widened residence, and widen the existing driveway to meet requirements of the Los Angeles County Fire Department. The applicant's plan requires the brick driveway to be widened from the access road to the driveway. Walking access, via a railroad tie widened driveway to the building pad, would provide pedestrian access route for fire fighting and fire department access plan, the Fire Department requires a route around the residence. As a result, the applicant is proposing to provide access from the yard of the first floor level.

**2. Trees**

The proposed amendment to the consulting arborist has been on the westside, increased do not encroach within the proposed project. The removal of any oak trees. Additionally, the increase in the development footprint for the stairway and rear yard retaining wall would not encroach within the driplines of the oak trees on the site. However, the driplines of oak trees on the site. As

shown in Exhibit 5, the widening of the driveway, construction of a railroad tie stairway, and placement of the temporary trailer will be located within the canopies of native, mature oaks.

Under the proposed project modifications, the present 10-foot wide brick driveway would be widened to 20 feet along approximately 60 feet of its length with matching brick pavers. As illustrated in Exhibit 5, the existing driveway encroaches into surrounding oak tree driplines, and further widening will result in additional encroachment within the dripline of the neighboring oak trees. As stated, the Commission recognizes that paving within an area maintaining the root systems of oak trees may eliminate the exchange of water, nutrients, air, and other gases, thereby potentially harming or killing the oak trees. Therefore, the project has the potential to adversely impact the root systems of the surrounding oak trees.

In past permit actions the Commission has found that development within the oak tree dripline or protected zone (5-foot zone extending outside of the tree dripline) has the potential to adversely impact the surrounding oak trees. These effects may be immediately visible in some cases, but the decline and eventual death of affected oaks may take years – even more than a decade in some cases. Therefore, avoidance of impacts to oaks is the highest priority, and where adverse effects cannot be completely avoided in long-term monitoring and mitigation (if eventually necessary) is required. Revised **Special Condition Two** (Oak Tree Monitoring Program) sets forth these requirements. In addition, Revised **Special Condition Five** (Drainage Plans) requires that the applicant's final drainage and runoff control plans contain provisions to ensure that runoff is directed away from the trunks of oaks. These measures are discussed further below.

The applicant has submitted a Fire Protection Plan stamped with preliminary approval from the County of Los Angeles Fire Department, Fire Prevention and Engineering. Clarification by staff of the Fire Department approval has indicated that the widening of the driveway is required for a turnout area, in the event that more than one emergency vehicle enters the common access road. It is important to note that the Fire Protection Plan illustrates the existing asphalt road incorrectly. The plan indicates that a portion of the road at the bottom end of the driveway is asphalt, however the applicant has acknowledged, and Commission staff has verified, that this area is actually a dirt road (Exhibit 6). As proposed, the current amendments do not include asphalt paving of the access road. Therefore, to ensure that asphalt paving in this area is not inferred under this amendment, the Commission finds it necessary to impose **Special Condition Eleven (11)** which requires final revised project plans that clearly illustrate the dirt portion of the common access road on the property.

The applicant proposes to construct a new railroad tie stairway along the north property line, crossing approximately 90 feet from the eastward curve of the driveway up to the adjoining first story stairway on the north side of the residence. The consulting arborist has indicated that the railroad tie steps can be placed at-grade and secured with metal reinforcing bars situated to avoid major roots of the surrounding trees. However,

although the proposed stairway and railroad tie stairway appears to provide access to the approved house and surrounding trees. Alternative alignments may cause greater potentially adverse effects. As noted, the placement of a stairway at this alignment encroaches into the dripline of oak trees. There is a more feasible, less costly alternative. **(2)** requires an on-site monitoring plan, and ten years of annual monitoring to assess any oak trees that may suffer worsened health or vigor.

The applicant is requesting a residence trailer during construction. The trailer is located at the southwest corner of the site. Though temporary, this development encroaches into the dripline of the oak trees, and has the potential to impact oak tree resources. **Special Condition 2** requires the monitoring of oaks located near the trailer.

The Commission has previously approved the approved development at the subject location with conditions, the subject development encroaches on oak trees on the project site. The oak tree monitoring program (Special Condition 2) requires the applicant to submit an oak tree monitoring program for review. The recommendations contained in the Addendum to Oak Tree Report dated 12/6/94, in addition, Special Condition Two requires the applicant to monitor all oak trees and the presence of oak trees during grading activity and during the construction of the development. Successful implementation of the

For the reasons explained above, the subject amendments to the subject development are within the driplines and protected zones of oak trees. The Commission finds it necessary to include on-site monitoring of oak trees during the grading and surfacing of the driveway, and the placement of the residence trailer. **Condition 2**, as revised, requires the applicant to prepare a qualified specialist to monitor oak tree health or vigor due to the proposed development. The replacement planting program requires the applicant to specify seedling size planting specifications. The program further provides for adaptive management. The program is implemented in response to

the dripline of oak trees, the applicant has the option to provide emergency access to the approved house. Potential to adversely impact the surrounding oak trees may have been determined to be minimal at the subject location, and as previously noted, the applicant has the Department. Thus, although the development encroaches on oak trees, it does not appear that the proposed development will cause any oak trees to suffer worsened health or vigor. **Special Condition Two** requires the applicant to submit a replacement oak tree planting program to address any oak trees that may be impacted by the development of the stairway.

The applicant is requesting a temporary placement of a residence trailer during construction of the family residence. This trailer is located at the southwest corner of the site within the dripline of oak trees. Though temporary, this development encroaches into the dripline of oak trees, and has the potential to impact oak tree resources. The applicant is requesting the monitoring of oaks located near the trailer.

The Commission has previously approved the approved development at the subject location with conditions, the subject development encroaches on oak trees on the project site. The oak tree monitoring program (Special Condition 2) requires the applicant to submit an oak tree monitoring program for review. The recommendations contained in the Addendum to Oak Tree Report dated 12/6/94, in addition, Special Condition Two requires the applicant to monitor all oak trees and the presence of oak trees during grading activity and during the construction of the development. Successful implementation of the

For the reasons explained above, the subject amendments to the subject development are within the driplines and protected zones of oak trees. The Commission finds it necessary to include on-site monitoring of oak trees during the grading and surfacing of the driveway, and the placement of the residence trailer. **Condition 2**, as revised, requires the applicant to prepare a qualified specialist to monitor oak tree health or vigor due to the proposed development. The replacement planting program requires the applicant to specify seedling size planting specifications. The program further provides for adaptive management. The program is implemented in response to

has been modified to clarify that the protective fencing is required around the limits of the protection zone of the oak trees (5 feet beyond the dripline of the trees) within or adjacent to the construction area that may be disturbed during grading. Fully implemented, **Special Condition 2** will ensure that oak trees are protected during project activities.

Previously, the applicant seeks after-the-fact approval for the placement of a trailer during construction. The trailer is placed within the dripline of the trees. The Commission has found in past permit actions that development activities may have delayed detrimental impacts on trees. In cases where structures are located within the dripline of oak trees, the Commission has found in past actions that removal of such structures is consistent with a long-term strategy to minimize impacts to the oak trees. There is no alternative location for the trailer on the subject site that would not also encroach into the dripline of the trees or require grading of a pad. As noted previously, the trailer is located on an existing pre-Coastal pad. To ensure the timely removal of the proposed residence trailer from beneath the oak canopy, the Commission imposes **Special Condition Nine (9)** which requires the applicant to remove the temporary structure within 90 days of the issuance of the date of the amendment is issued, or within 90 days of the applicant's receipt of the Certificate of Occupancy from the City of Los Angeles for the proposed residence approved pursuant to Coastal Permit 4-96-103, whichever is the lesser period of time.

The Commission finds that due to the concentration of oak trees on the site and the potential adverse impacts from any new source of development, final revised plans are required to accurately show the proposed amendments. The analysis is undertaken based on changes made informally by the applicant during the review process. The impacts of the project are not fully reflected on Exhibits 3-6. Therefore, **Special Condition (11)** is imposed to require revised plans which clearly illustrate the location of the common access road that is not to be paved.

### Impact on Oak Trees

The amendment includes several elements of development that will alter the site, including additional paving, expansion of the building footprint, a retaining wall, new retaining wall, and staircases. The building footprint itself is expanded 5 feet to 8 feet on three sides of the residence. Since the area is oak woodland, these modifications further advance development toward the oak trees on the site and off the site. The Commission recognizes that drainage is critical to oak tree damage, since adequate drainage away from oak tree trunks is necessary to ensure a proper balance of moisture, air, and nutrients to grow and survive. The proposed modifications will alter site drainage and given the extent and location of oak resources, the Commission finds that altered runoff patterns and impervious surfaces that will result from the proposed development has the potential to adversely impact the surrounding oak tree resources. The article entitled,

"Oak Trees: Care and Maintenance," prepared by the Forestry Department of the County of Los Angeles, states:

*Oaks are easily damaged and very sensitive to disturbances that occur to the tree or in the surrounding environment. The root system is extensive but surprisingly shallow, radiating out as much as 50 feet beyond the spread of the tree leaves, or canopy. The ground area at the outside edge of the canopy, referred to as the dripline, is especially important: the tree obtains most of its surface water and nutrients here, as well as conducts an important exchange of air and other gases.*

This publication also notes:

*Water trapped at the base of the tree could lead to root rot or other impacts, and to the decline and premature death of a highly valued landscape tree.*

The Commission has previously addressed drainage of the site as a result of the approved development at the project site. The Commission imposed Special Condition 5 which requires the applicant to submit a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner. This condition specified that site drainage shall not be accomplished by sheetflow runoff. Due to the alteration of drainage as a result of this amendment in conjunction with the presence of oak woodland and the steep topography of the site, the Commission finds it necessary to revise **Special Condition Five (5)** to clarify that runoff shall be directed away from the trunks of oak trees. Implementation of **Special Condition Five (5)** will ensure that oak trees on site are protected from drainage changes as a result of paving, expansion of the building footprint, removal of a rock wall, new retaining wall, and staircase.

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

### **C. 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, the applicant proposes to modify the previously approved project plans to construct 332 sq. ft. of additions to the approved 1,855 sq. ft. residence, 200 sq. foot deck addition, retaining wall and exterior staircase east of residence, railroad tie stairway, widening of driveway, removal of rear garden wall, and temporary placement of a trailer for residential use during construction of a new single family residence.

The site is considered a "hillside" development. As noted previously, drainage within the site comprises essentially of sheet flow runoff of precipitation derived primarily within property boundaries and the contiguous property to the east. The applicant has asserted that there are no drainage control devices along the access road. Presumably runoff flows to the access road, at the low portion of the property, and infiltrates into the soil and/or flows down the slope toward Old Topanga Canyon Road, potentially reaching Old Topanga Creek. Old Topanga Creek, a designated blue line stream on the U.S. Geological Survey quadrangle maps, is flanked by Disturbed Oak Woodland on the opposite (western) side of Old Topanga Road. Furthermore, portions of the subject site have been identified by the Malibu/Santa Monica Mountains LUP as Disturbed Oak Woodland, resources designated as environmentally sensitive habitat areas under the Coastal Act.

The proposed amendment will result in an increase in impervious surface at multiple locations across the parcel, as a result of widening the brick driveway, new concrete stairway, and residence footprint expansion. This increase, 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.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from

the site in a non-erosive manner, drainage and water pollution control measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site is returned to the soil, overall runoff volume is reduced. Slow surface flow of runoff allows sediment and other pollutants to settle into the soil where they can be filtered. The reduced volume of runoff takes longer to reach streams and its pollutant load is greatly reduced.

The Commission has previously addressed drainage of the site as a result of the approved development at the project site. The Commission imposed Special Condition 5 which requires the applicant to submit a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner. This condition specified that site drainage shall not be accomplished by sheetflow runoff.

Whereas the original development was concentrated roughly at the center of the parcel, the proposed modifications extend throughout the site into areas that have not been developed previously. Modifications include paving in the western portion of the property, a new retaining wall and staircase at the south property boundary, and a 90-foot railroad tie stairway aligning the northern property line. In addition, drainage will be altered as a result of removing a 50-foot long rock wall which lies near the boundary of the development exclusion area upslope and east of the residence. As proposed, development will now be scattered throughout all of the "developable" area of the property (see Section D, Cumulative Impacts, for buildable area defined in the Gross Structural Area calculation associated with this parcel).

As a result of this dispersal of development, in combination with the steep hillside topography, the Commission finds it necessary to revise **Special Condition Five (5)** to provide comprehensive runoff control that implements and maintains a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. This drainage plan is required in order to ensure that risks from geologic hazard are minimized and that erosion, sedimentation, and polluted runoff are minimized to reduce potential impacts to coastal streams, natural drainages, and environmentally sensitive habitat areas. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial "first flush" flows that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85<sup>th</sup> 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 5, and finds that this will ensure that the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine resource protection policies of the Coastal Act.

Therefore, the Commission finds that the proposed amendment, as conditioned by **Special Condition Five (5)** is consistent with Section 30231 of the Coastal Act.

#### **D. Cumulative Impacts**

Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new developments. Section **30250 (a)** of the Coastal Act states:

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

A number of areas in the coastal zone within the Malibu/Santa Monica Mountains area were subdivided in the 1920's and 1930's into very small "urban" scale lots such as the proposed project site. These subdivisions known as "small-lot subdivisions" are comprised of parcels of less than one acre (often ranging in size from only 4,000 to 5,000 sq. ft.). The total buildout of these dense subdivisions would result in a number of adverse cumulative effects to coastal resources. Cumulative development constraints common to small-lot subdivisions were documented by the Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled "Cumulative Impacts of Small Lot Subdivision Development in the Santa Monica Mountains Coastal Zone." The study acknowledged that the existing small-lot subdivisions can only accommodate a limited amount of additional new development due to major constraints including: geologic problems, road access problems, septic system water quality problems, disruption of rural community character, and the creation of unreasonable fire hazards.

Following an intensive one-year planning effort by Commission staff, including five months of public review and input, new development standards relating to residential development of small lots on hillsides, including the Slope Intensity/Gross Structural Area (GSA) Formula were incorporated into the Malibu District Interpretative Guidelines in June 1979. A nearly identical Slope Intensity/GSA Formula was incorporated into the



136 certified Malibu/Santa Monica Mountains Land Use Plan (LUP) under Policy 271(b)(2).

Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP requires that new development in small lot subdivisions comply with the Slope Intensity/ Formula for calculating the Gross Structural Area (GSA) allowed for a residential unit. The Malibu/Santa Monica Mountains Land Use Plan (LUP), including the Slope Intensity/GSA Formula for determining the maximum level of development which may be permitted in small lot subdivisions, has been certified by the Commission and determined to be consistent with the Coastal Act. The basic concept of the formula assumes that the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse effects on coastal resources.

Under the underlying permit, the applicant received Commission approval to construct a 355 sq. ft. single family residence with a 420 sq. ft. attached garage on the subject site which is located within the Old Topanga Small Lot Subdivision. The applicant submitted a GSA calculation utilizing a slope of 32% and an area of 20,191 sq. ft. The data for the calculation was derived from a five-foot interval topography map of the project site which excluded 5,072 sq. ft. of the lot from the usable buildable area. The accumulated length of all contour lines is 1,290 ft. Based on these parameters, the GSA (or maximum allowable size for a structure on the subject site not including a garage) is 2,576 sq. ft.

**Slope Intensity Formula**

$$\text{GSA} = (A/5) \times [(50-S)/35] + 500$$

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

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

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

$$\text{S} = I \times L/A \times 100$$

I = The contour level in feet, at not greater than 25 foot intervals, resulting in at least five (5) contour lines.

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

A = The area being considered in square feet.

Under the amendment, the residence would be modified to include an additional area for a total of 2,187 sq. ft. The residence will not exceed the allowable area if the Commission finds that the proposed amendment is consistent with Sections 3020 and 30252 of the Coastal Act.

E. V

This is an after-the-fact request for the temporary placement of an approved mobile home trailer for residential use during construction of a new single family residence. The applicant proposes to use the existing trailer residence during construction and proposes to remove the trailer two years from issuance of the Certificate of Occupancy, whichever is less. To ensure compliance with the proposal to remove the temporary trailer is implemented, **Special Condition Ten (10)** requires removal of the temporary trailer within two years of the Coastal Development Permit, or within 60 days of the issuance of the Certificate of Occupancy notice for the single family residence approved (whichever is the lesser period of time). To further ensure compliance with the conditions of this permit, which are prerequisites to the issuance of the permit, within 120 days of Commission action.

Consideration by the Commission has been based solely upon the provisions of the Coastal Act. Review of this permit does not constitute a finding of violation with regard to an alleged violation nor does it constitute an admission of any development undertaken on the subject site without a coastal development permit.

F. Local Coastal Program

Section 30200 of the Coastal Act states that:

*Prior to the issuance of a coastal development permit, the local coastal program, a coastal development permit issuing agency, or the commission on appeal, finds that the project is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted project will not prejudice the ability of the local government to prepare a local coastal program in conformity with the provisions of Chapter 3 (commencing with*

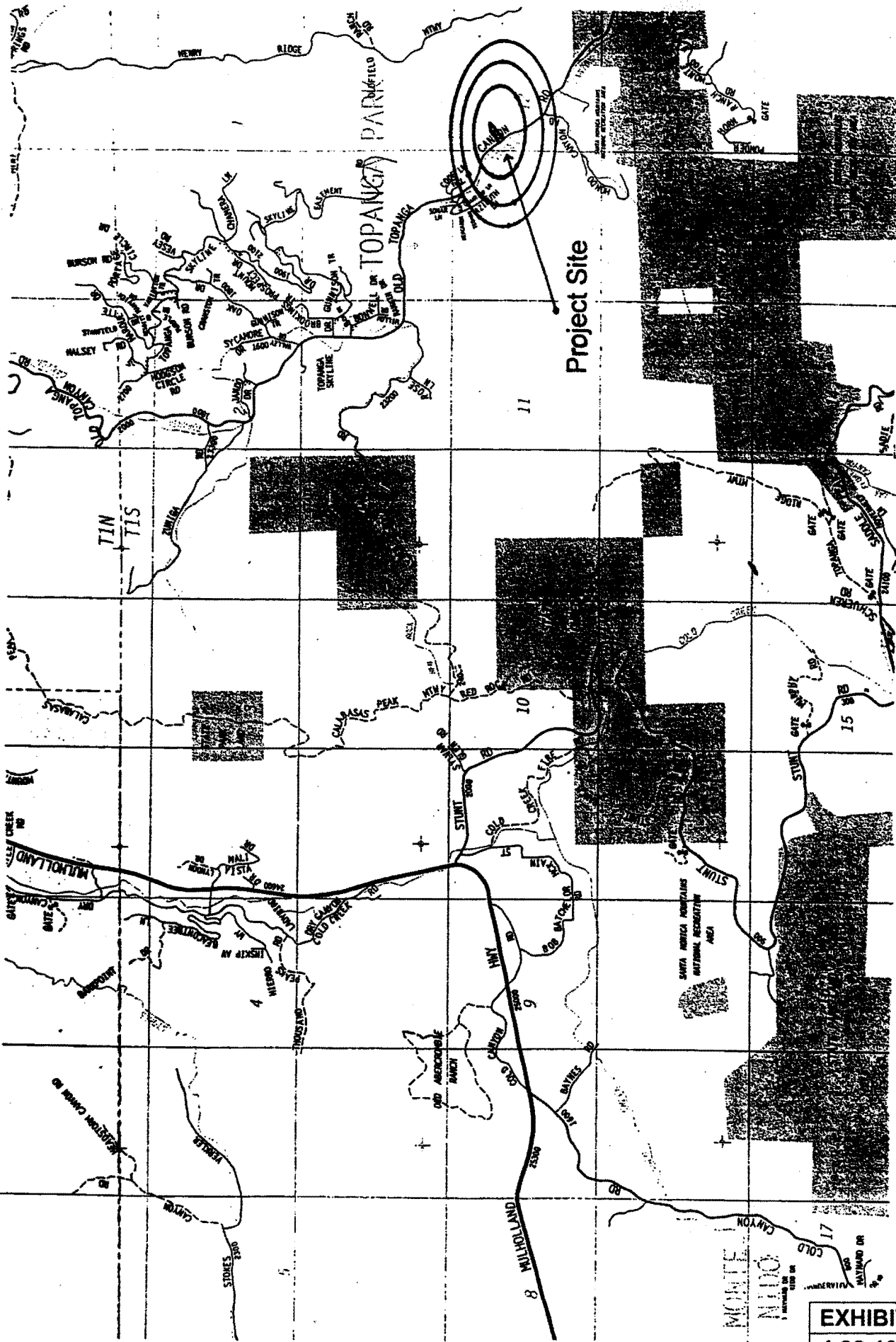
Section 30200 of the Coastal Act provides that the Commission shall issue a coastal development permit if the project will not prejudice the ability of the local government to prepare a Local Coastal Program which conforms with the provisions of the Coastal Act. The preceding sections provide findings that the project is in conformity with the provisions of Chapter 3 if certain conditions are met and into the project and accepted by the applicant. As

conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for Los Angeles County which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

#### **H. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity would have on the environment.

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



**EXHIBIT 1**  
**4-96-103-A2**  
**Vicinity Map**

4438 28  
 SCALE 1" = 150'

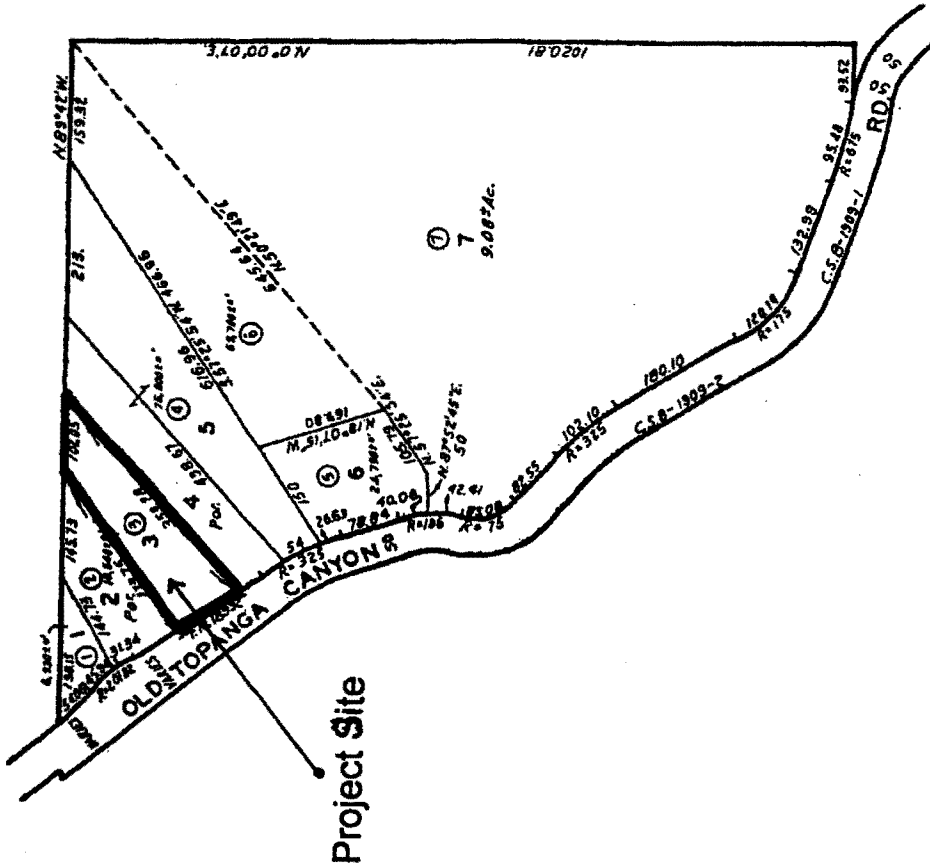
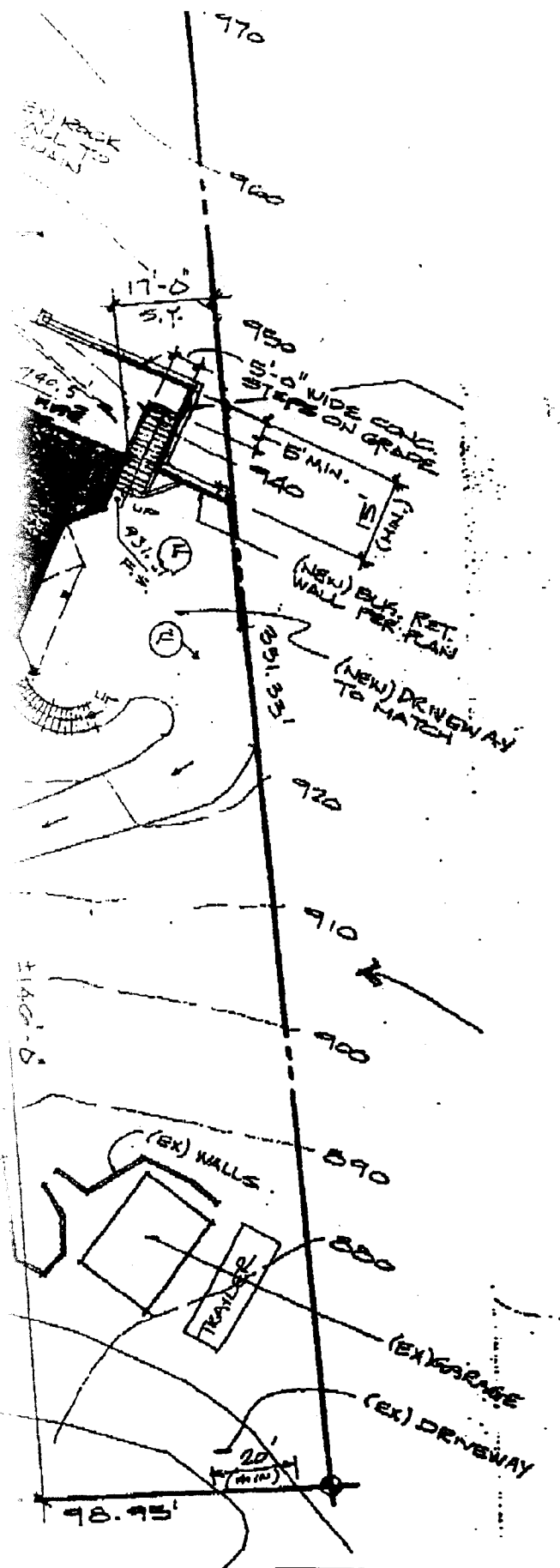


EXHIBIT 2  
 4-96-103-A2  
 Parcel Map



PROVIDE (NEW) RETAINING WALL PER PLAN

5'0" WIDE CONC. STEPS ON GRADE

12' SQ. CONC. COLUMN PER FC (10) REAR

PROVIDE (NEW) RETAINING WALL PER PLAN

5'0" WIDE CONC. STEPS ON GRADE SW

PROPOSED THE V 2-STOREY SINGLE FAMILY DWELLING W/ ATTACHED 2-CAR GARAGE

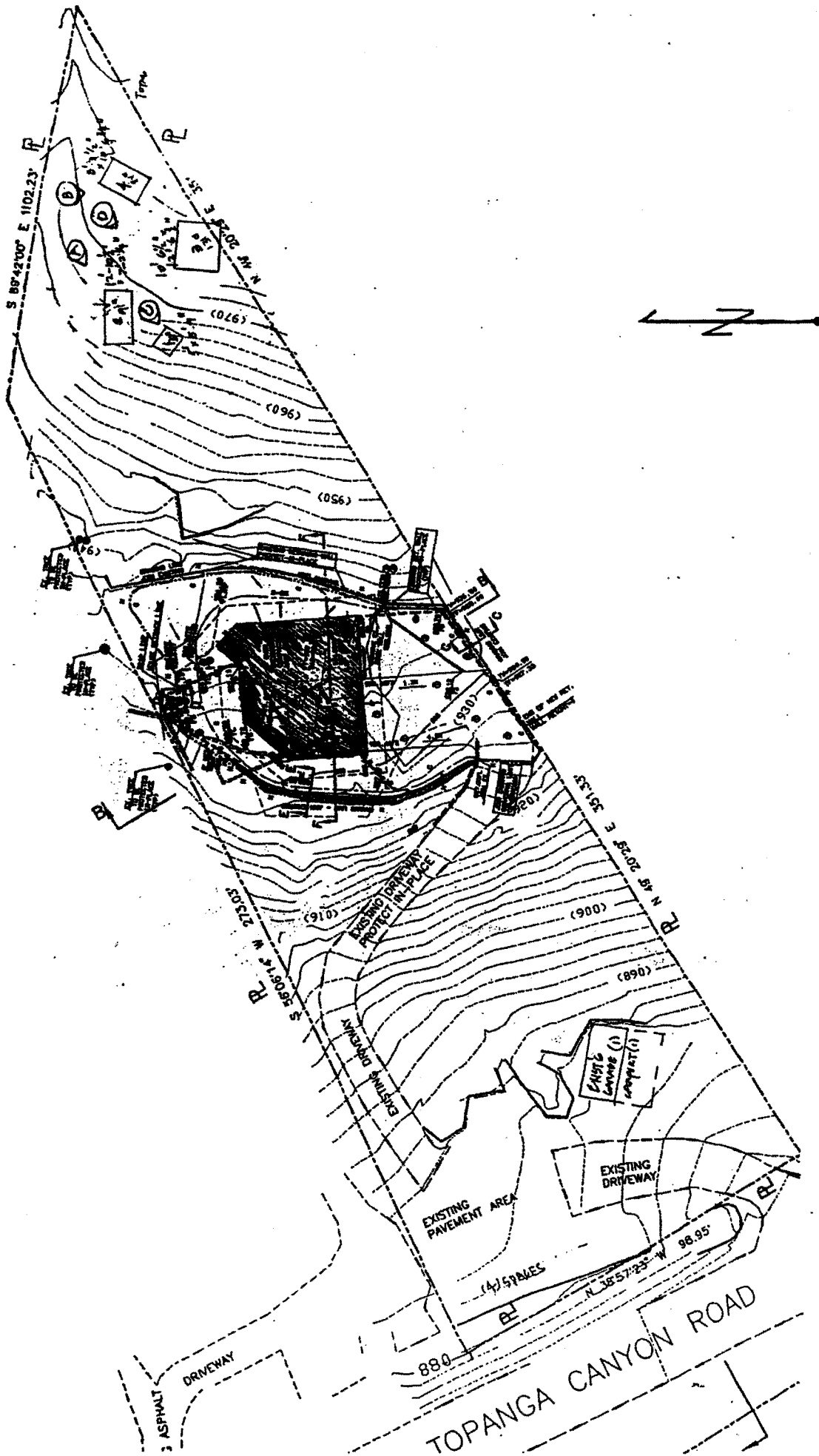
PROVIDE & MAINTAIN (MIN.) 5'0" WIDE ACCESS FOR FIRE DEPARTMENT

(EX) PAVED DRIVEWAY

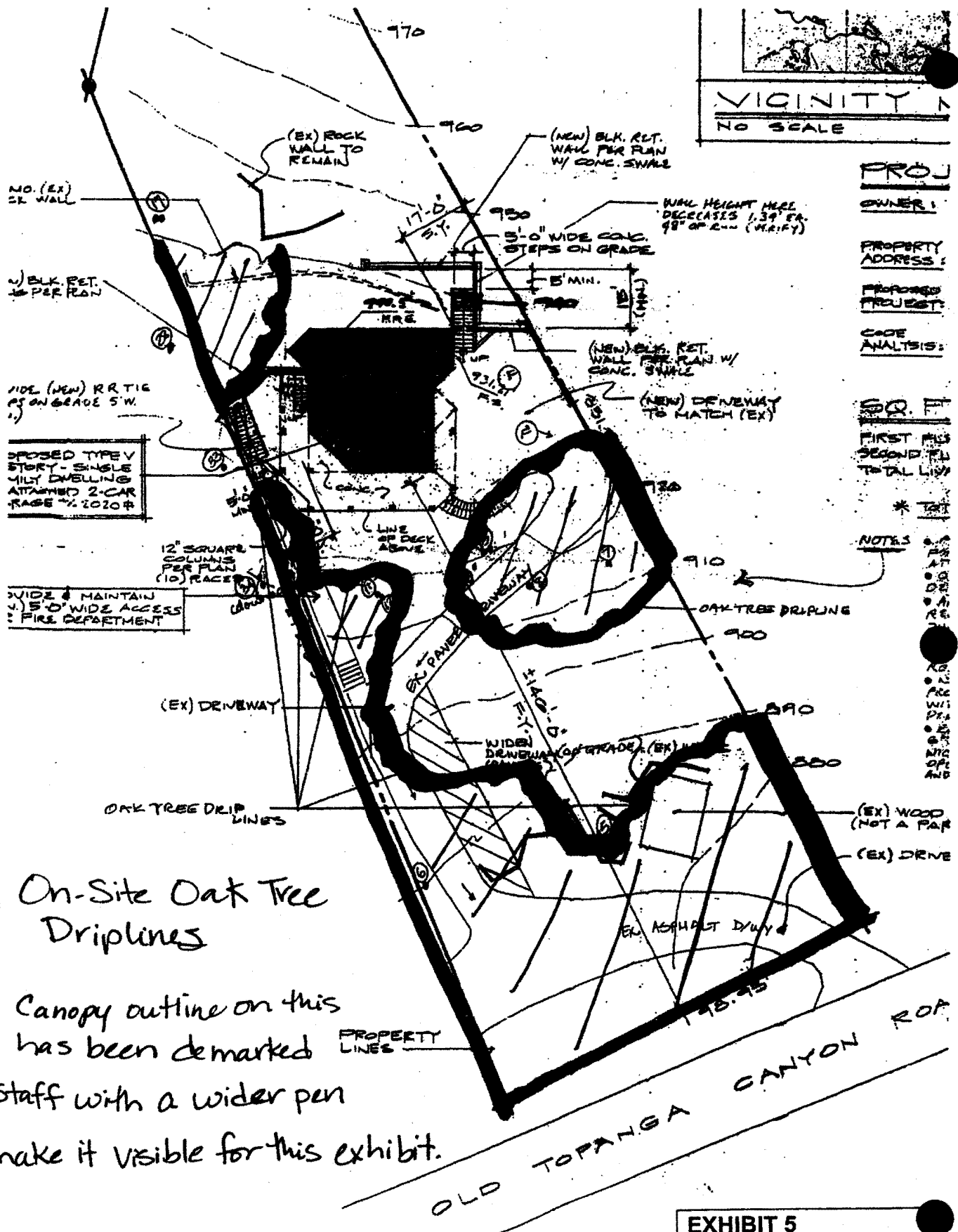
PROPER LINES

CANYON BLVD

EXHIBIT 3
4-96-103-A2
Site Plan



<b>EXHIBIT 4</b>
<b>4-96-103-A2</b>
<b>Previously Approved Site Plan</b>



VICINITY 1  
NO SCALE

PROJ  
OWNER:  
PROPERTY ADDRESS:  
PROPOSED PROJECT:  
CASE ANALYSIS:

SQ. FT  
FIRST FL  
SECOND FL  
TOTAL LIV  
\* TOT

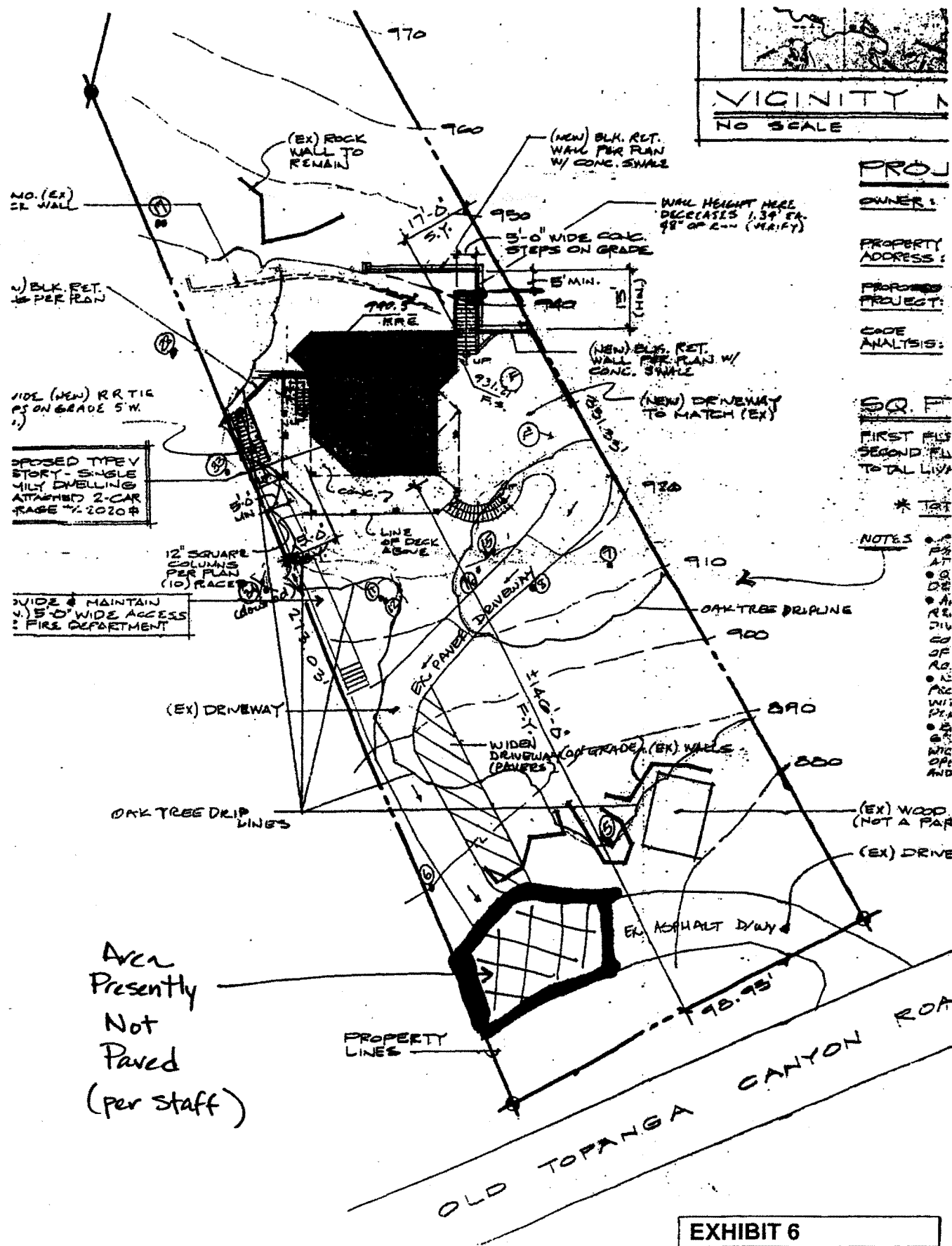
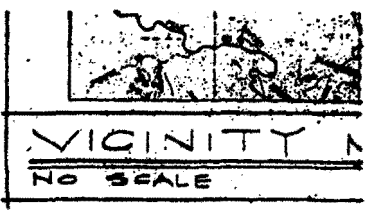
NOTES  
• P  
• A  
• Q  
• D  
• A  
• R  
• J  
• K  
• N  
• F  
• W  
• P  
• S  
• G  
• M  
• O  
• P  
• A  
• N  
• D

**On-Site Oak Tree Driplines**

Note: Canopy outline on this plan has been demarked by staff with a wider pen to make it visible for this exhibit.

EXHIBIT 5  
4-96-103-A2  
Oak Tree Canopy





PROJ  
OWNER:  
PROPERTY ADDRESS:  
PROPOSED PROJECT:  
CODE ANALYSIS:

SQ. FT.  
FIRST FLY  
SECOND FLY  
TOTAL LIVABLE

- \* TIT
- NOTES
- P.P.
  - AT
  - D
  - DE
  - A
  - RE
  - DIV
  - ED
  - OF
  - AD
  - N
  - PC
  - W/
  - PA
  - E
  - G
  - MIC
  - OF
  - AND

EXHIBIT 6  
4-96-103-A2  
Fire Protection Plan

PROPOSED SITE PLAN

