

CALIFORNIA COASTAL COMMISSION

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Commission Action:



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STAFF REPORT: AMENDMENT

APPLICATION NO.: 4-99-126-A-1

APPLICANT: Ed & Madeline Frymer

PROJECT LOCATION: 1521 Decker Canyon Road, Malibu, Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construct a 8,000 sq. ft., 2 story single family residence with six car 4,500 sq. ft. subterranean garage, pool, septic system, landscaping, temporary placement of construction trailer, and grading of 1,385 cubic yards of cut and 50 cubic yards of fill, export 1,335 cubic yards of material to be disposed outside the coastal zone.

DESCRIPTION OF AMENDMENT: Construct a 2 story, 35 ft. tall, 7,368 sq. ft. single family residence with a 4,330 sq. ft. subterranean garage, pool, solar panel array, septic system, temporary construction trailer, landscaping, and grading of 1,760 cubic yards of cut, 1,100 cubic yards of fill, export 660 cubic yards of material to either a disposal site located outside the coastal zone, or a coastal permit approved site within the coastal zone.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the proposed revised project and amendment with four revised Special Conditions addressing: landscape, erosion control and fuel modification plans, removal of excavated material, future development deed restriction, and a structural appearance deed restriction. The applicant requests approval to construct a smaller single family residence and garage with increased cut and fill grading and export of material with a new solar panel array on a lot directly accessed from Hasstad Drive, near its intersection with Decker Canyon Road. The subject site proposed for the residence is located within a Wildlife Corridor, although it is not located on or adjacent to any designated Environmentally Sensitive Habitat Area. The revised project, as conditioned, will be consistent with the Coastal Act.

LOCAL APPROVALS RECEIVED: Los Angeles County Department of Regional Planning Approval in Concept, October 12, 2000.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permit 4-99-126, Frymer; Certified Malibu/Santa Monica Mountains Land Use Plan.

PROCEDURAL NOTE: 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.*

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material, 14 Cal. Code of Regulations Section 13166. In this case, the Executive Director has determined that the proposed amendment is a material change to the project and has the potential to affect conditions required for the purpose of protecting coastal resources.

I. STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 4-99-126-A-1 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 amendment 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.

II. STANDARD AND SPECIAL CONDITIONS

Note: Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit No. 4-99-126 continue to apply (Exhibit 11, Notice of Intent to Issue Permit # 4-99-126-A-1). In addition, the following revised special conditions are hereby imposed as conditions on the proposed project as amended pursuant to Coastal Development Permit No. 4-99-126-A-1.

Revised Special Conditions

1. REVISED LANDSCAPE, EROSION CONTROL AND FUEL MODIFICATION PLANS

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final 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 final landscaping and erosion control/drainage plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The final plans shall incorporate the following criteria:

A) **Landscaping and Erosion Control Plans**

All graded & disturbed areas and the existing graded building pad areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. The proposed solar panel array shall be partially screened from public view along Decker Canyon Road to the north, east and south with appropriate native shrub and tree species.

- 1) All cut and fill slopes and the existing graded building pad areas on the subject site 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;

- 2) 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;
- 3) 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.
- 4) Vegetation within 20 feet of the proposed residence and garage and driveway 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 final 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, as revised, has been reviewed and approved by the Los Angeles County Fire Department, Forestry Division, Fire Prevention Bureau. Any irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
- 5) The final drainage/erosion control plan shall be implemented within 30 days of completion of final grading. By acceptance of this permit, the applicant agrees to maintain the drainage devices on a yearly basis in order to ensure that the system functions properly. Should the devices fail or any erosion result from the drainage from the project, the applicant or successor in interests shall be responsible for any necessary repairs and restoration.

B) Interim Erosion Control Plan

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

4. **REVISED REMOVAL OF EXCAVATED MATERIAL**

The applicant shall remove all excavated or cut material consisting of approximately 660 cubic yards of material to an appropriate disposal site located outside of the Coastal Zone, or a site located within the Coastal Zone with a valid Coastal Permit, except for the 1,100 cubic yards of cut material proposed to be used for fill on the project site.

5. REVISED FUTURE DEVELOPMENT DEED RESTRICTION

- A.** This permit is only for the development described in Coastal Development Permit No. 4-99-126-A-1. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall apply to the entire property. Accordingly, any future improvements to the entire property including the permitted residence and garage, and clearing of vegetation or grading, other than as provided for in the approved fuel modification landscape and erosion control plan prepared pursuant to Special Condition Number One (1), shall require an amendment to Permit No. 4-99-126-A-1 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition, any proposed fencing of the subject property is prohibited except for fencing required for safety around the pool pursuant to the Uniform Building Code and within 50 feet of the approved residence approved with a valid coastal development permit or permit amendment from the Commission or from the applicable certified local government. The applicant agrees that fencing on site must be of a type that will not restrict wildlife movement or cause injury to wildlife; barbed wire, mesh or chain link fencing shall not be permitted, except that chain link fencing may be permitted for safety around the pool pursuant to the Uniform Building Code.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restrictions on development in the deed restriction and shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

8. REVISED STRUCTURAL APPEARANCE DEED RESTRICTION

- A.** The color of the structures, roof and solar panel array permitted hereby shall be restricted to a color compatible with the surrounding environment (white tones shall not be acceptable). All windows and glass shall be comprised of non-glare glass. Night lighting, if any, shall be directed downward, be of low intensity, at low height and shielded; security lighting, if any, shall be controlled by motion detector.
- 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 document shall run with the land for the life

of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

III. FINDINGS AND DECLARATION

The Commission hereby finds and declares:

A. Project Description and Background.

On January 13, 1999, the Commission approved, with special conditions, Coastal Development Permit No. 4-99-126 for the construction of a 8,000 sq. ft. single family residence with six car 4,500 sq. ft. subterranean garage, pool, septic system, landscaping, temporary placement of construction trailer, and grading of 1,385 cubic yards of cut and 50 cubic yards of fill, export 1,335 cubic yards of material to be disposed outside the coastal zone at 1521 Decker Canyon Road, Malibu.

The project site is located approximately three miles inland of the intersection of Pacific Coast Highway and Encinal Canyon Road, just north of Barney Knob located at the intersection of Encinal Canyon Road and Decker Road. The parcel is accessed from Hasstad Drive near its intersection with Encinal Canyon Road (Exhibits 1 and 2). The applicant proposes to amend the project and Coastal Permit to construct a two story, 35 foot high, 7,368 sq. ft. residence with a 4,330 sq. ft. subterranean garage, pool, septic system, solar panel array (a south facing tilted and ground mounted panel system 60 feet long by 6 feet high), landscaping, temporary placement of a construction trailer, and grading of 1,760 cubic yards of cut and 1,100 cubic yards of fill, export 660 cubic yards of material to be disposed either outside the coastal zone or within the coastal zone at a site with a coastal permit (Exhibits 3 – 10). The building site is located on the west side of Decker Road immediately north of its intersection with Hasstad Drive. The solar panel array is located on the northeast portion of the property, about 60 feet west of Decker Road on the partially graded pad where the residence is proposed further to the northwestern portion of the property. A dirt access road extends below the west side of the building pad providing access to a second level pad to the west. These pads and the access road appear to exist prior to the effective date of the Coastal Act in 1977 according to the Commission's historical aerial photo of the site taken in 1977.

The Malibu/Santa Monica Mountains Land Use Plan designates the site as Rural Land I (one dwelling unit for ten acres) and Rural Land II (one dwelling unit for two acres). Although the subject parcel is located within a designated wildlife corridor, the site is not located within or near any designated Environmentally Sensitive Habitat Area (ESHA). No mapped hiking or riding trails cross the subject property, although there are two trails nearby. Elevations on the 4.77 acre property range from about 1,475 feet above sea level on the western portion of the property to about 1,690 feet on the eastern portion of

the property. Slope gradients range from relatively flat at the building site to slope gradients ranging from 3:1 to 5:1 on the western portion of the property currently covered with a moderate growth of native chaparral. The proposed building site is located at the 1,680 foot elevation.

The property is clearly visible from Decker Road, limited portions of Mulholland Highway and National Park Property. The building site is located within a partially developed residential neighborhood with a number of vacant lots.

B. Individual and Cumulative Impacts in Sensitive Resource Areas

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

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

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

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

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

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

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

Coastal Act Section 30250 provides for three tests to determine whether new development is appropriately located from the standpoint of cumulative impacts. The first test is whether or not the proposed new development is located within, contiguous or in close proximity to an existing developed area. The second test is whether or not the location of the new development is in an area able to accommodate it or with adequate public services. The third test is whether or not the proposed revised project will or will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Regarding the first test, the proposed project is located about three miles inland of the coast on the west side of Decker Road within the Santa Monica Mountains. This inland area of the western Santa Monica Mountains is partially developed with residential and public recreational land uses. The Commission considers this portion of the Santa Monica Mountains to not be a developed area, including the subject site, and therefore does not meet the first test.

The second test is whether or not the location of the new development is in an area able to accommodate it or with adequate public services. The applicant proposes to revise the project by amending Coastal Permit No. 4-99-126 to construct a two story, 35 foot high, 7,368 sq. ft. residence with a 4,330 sq. ft. subterranean garage, pool, septic system, solar panel array (a south facing titled and ground mounted panel system 60 feet long by 6 feet high), landscaping, temporary placement of a construction trailer, and grading of 1,760 cubic yards of cut and 1,100 cubic yards of fill, export 660 cubic yards of material to be disposed either outside the coastal zone or within the coastal zone at a site with a coastal permit (Exhibits 3 – 10). The subject site is provided with public services including public road access, water, electricity, and telephone. The applicant proposes to construct a solar panel array for the purpose of thermal heating of the pool and photo-voltaic generation of electricity with a direct connection to the electric grid. The applicant proposes to construct an on-site septic system to adequately dispose of sewage generated on-site. Therefore, the development meets the second test by being located in an area able to accommodate it. The third test of Section 30250 examines whether or not the proposed revised project will have significant adverse effects, either individually or cumulatively, on coastal resources and is discussed below.

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots which already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains would create cumulative impacts on coastal resources and public access over time. Because of the larger number of existing undeveloped parcels and potential future development, the demands on road capacity, public services, recreational facilities, and beaches is expected to grow tremendously.

The Los Angeles County Land Use Plan, certified by the Commission, provides guidance for the Commission to consider in this application. The LUP includes a New Development Policy, which notes that new development in the Malibu coastal zone will be guided by the LCP Land Use Plan map and associated development standards. The project site is located within a Los Angeles County Land Use Plan designated Wildlife Corridor between Arroyo Sequit Significant Watershed and the Trancas Canyon Significant Watershed. England and Nelson designates these areas as Significant Ecological Areas (SEA). This 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 certified Malibu/Santa Monica Mountains LUP designates areas between several of the Significant Watersheds as Wildlife Corridors in order to ensure that wildlife populations which live in the relatively undisturbed habitat areas of the significant watersheds are able to freely pass between the watersheds.

The Land Use Plan policies addressing protection of Significant Watersheds (and by reference Wildlife Corridors) 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 disruption of habitats, 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.

1. Protection of Environmental Resources

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 reports titled: 1) Significant Ecological Areas of the Santa Monica Mountains Report, prepared for Los Angeles County Department of Regional Planning, by the Los Angeles County Museum of Natural History Foundation, 1982; and 2) Land Capability/Suitability Mapping and Analysis Los Angeles County General Plan Revision Program, Volume III, Significant Ecological Area Study, by Environmental Systems Research Institute, dated 1976. These policies are used by the Commission as guidance during the review of applications for coastal development permits.

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

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

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

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

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

Grading and vegetation removal shall be limited to that necessary to accommodate the residential unit, garage, and one other structure, one access

road and brush clearance required by the Los Angeles County Fire Department. The standard for a graded building pad shall be a maximum of 10,000 sq. ft.

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

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

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

Additionally, for Wildlife Corridors:

- The fencing of entire parcels shall be prohibited in order to allow free passage of wildlife.

Other applicable Land Use Plan policies include:

P64 An Environmental Review Board (ERB) comprised of qualified professionals with technical expertise in resource management (modeled on the Significant Ecological Areas Technical Advisory Committee) shall be established by the Board of Supervisors as an advisory body to the Regional Planning Commission and the Board to review development proposals in ESHAs, areas adjacent to the ESHAs, Significant Watersheds, Wildlife Corridors, Significant Oak Woodlands, and DSRs. The ERB shall provide recommendations to the Regional Planning Commission (or decision making body for coastal permits) on the conformance or lack of conformance of the project to the policies of the Local Coastal Program. Any recommendation of approval shall include mitigation measures designed to minimize adverse impacts on environmental resources. Consistent with P271(a)(7), projects shall be approved by the decision making body for coastal permits only upon a finding that the project is consistent with all policies of the LCP.

P65 The Environmental Review Board shall consider the individual and cumulative impact of each development proposal within a designated Significant Watershed. Any development within a significant watershed shall be located so as to minimize vegetation clearance and consequent soil erosion, adverse impacts on wildlife resources and visual resources, and other impacts. Therefore, development should be clustered and located near existing roads, on areas of relatively gentle slopes as far as possible outside riparian areas in canyons and outside ridgeline saddles between canyons which serve as primary wildlife corridors.

P67 Any project or use which cannot mitigate significant adverse impacts as defined in the California Environmental Quality Act on sensitive environmental resources (as depicted on Figure 6) shall be denied.

P68 Environmentally sensitive habitat areas (ESHA's) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Residential use shall not be considered a resources dependent use.

P74 New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources.

2. Stream Protection and Erosion Control

The Land Use Plan (LUP) includes several policies designed to protect the Watersheds, and ESHA's while addressing stream protection and erosion control from both the individual and cumulative impacts of 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 ESHA's and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.

P88 In ESHA's and Significant Watersheds and other areas of high potential erosion hazard, require site design to minimize grading activities and reduce vegetation removal based on the following guidelines:

Structures should be clustered.

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

Designate building and access envelopes on the basis of site inspection to avoid particularly erodible areas.

Require all sidecast material to be recompacted to engineering standards, reseeded, and mulched and/or burlapped.

P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrologic, water percolation and runoff) to the maximum extent feasible.

P96 Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste shall not be discharged into or alongside coastal streams or wetlands.

Past permit actions taken by the Commission generally reflect the goals contained in the certified LUP policies towards development in ESHA's and Wildlife Corridors. 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 revised project; a 2 story, 35 ft. tall, 7,368 sq. ft. single family residence with a 4,330 sq. ft. subterranean garage, pool, solar panel array, septic system, temporary construction trailer, landscaping, and grading of 1,760 cubic yards of cut, 1,100 cubic yards of fill, export 660 cubic yards of material to either a disposal site located outside the coastal zone, or a coastal permit approved site within the coastal zone. The building site is located on the west side of Decker Road immediately north of its intersection with Hassted Drive. A partially graded pad is located at this eastern portion of the subject lot. A dirt access road extends below the west side of the building pad providing access to a second level pad to the west. The existing building pad areas including the lower small pad is estimated to be about 12,000 sq. ft. in size. The residential development is limited to one site and does not include other development normally associated with residential development, such as tennis courts, or equestrian facilities.

A Wildlife Corridor is not considered an ESHA under the Coastal Act definition of ESHA's worthy of more stringent protection, such as an example 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 areas.

The East Fork of Arroyo Sequit Creek is located about one thousand feet to the west of the subject parcel; the ESHA designated portion of this creek is located about 2,000 feet west of the parcel. The western portion of the parcel drains into the East Fork of Arroyo

Sequit Creek. To the north, a Significant Oak Woodland is located about 3,000 feet to the north of the subject parcel. The eastern portion of the parcel drains to a tributary of Trancas Canyon Creek and the designated ESHA located about 3,000 feet to the east. Due to the distance, the proposed residence and driveway improvements will not directly affect these ESHAs and Creek habitats.

3. Cumulative and Individual Impacts of Development

In analyzing the proposed revised project for conformance with the resource protection policies of the Coastal Act, Land Use Plan and with Table 1 policies, one can address the project with regard to each policy in turn. 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. The applicant proposes to construct a revised residence and patio area with a footprint of 4,330 sq. ft., a pool with a footprint of 864 sq. ft., and a driveway of 1,400 sq. ft. on an existing graded pad area which is estimated to be about 12,000 sq. ft. in size (including a small lower graded pad). As proposed the building and disturbed area proposed for the residence, subterranean garage, pool, patio, and driveway will be 5,476 sq. ft. in size which is less than the maximum allowed pad size of 10,000 sq. ft., as defined in the Table 1 policies. However, because the existing pad areas, including the lower pad, is larger than the allowed 10,000 sq. ft. size, the remainder of the existing building pad that is not proposed for the development of the proposed revised project needs to be replanted with native plants as required by Special Condition Number One.

The Commission has rigorously applied this policy based on the fact that graded pad areas larger than 10,000 sq. ft. do not minimize grading, result in significant removal of vegetation and increased erosion which will not maintain the biological productivity, diversity, or habitat values of Wildlife Corridor areas. There have been several past coastal permits that were approved in this Wildlife Corridor that conform to this Table 1 standard including Coastal Permit No. 4-92-246, Ulmer and Kart, Coastal Permit No. 5-91-400, Satterlee, and Coastal Permit No. 5-91-865, Imhof.

In this proposed amendment application, the applicant is proposing to increase the grading to 1,760 cubic yards of cut primarily to excavate the subterranean garage and pool into the edge of the building pad. A total of 1,100 cubic yards of fill is proposed with the remaining 660 cubic yards of cut material exported to either a disposal site located outside the coastal zone or a disposal site located within the coastal zone with a valid coastal permit. Revised Special Condition Number Four requires that this excess cut material be exported either to a disposal site located outside the coastal zone or a disposal site located within the coastal zone with a valid coastal permit, as proposed by the applicant.

Table 1 also requires that the allowable structures be located in proximity to existing roadways and services to minimize impacts to habitat. New on-site access roads shall be limited to a maximum length of 300 feet. The applicant proposes to locate the

proposed residence as close as 130 feet to Decker Road and 50 feet to Hasstad Road. The solar panel array will be located about 60 feet from Decker Road. The driveway is located on an existing dirt driveway to the building site and will be approximately 100 feet in length. Table 1 requires that structures be located as close to the periphery of the designated watershed as feasible and not alter streambeds in designated ESHAs. The proposed building site is not located within a designated watershed and will not alter a streambed. The revised project will be a smaller footprint than the project previously approved by the Commission as Coastal Permit No. 4-99-126. Although the applicant now proposes to construct a ground mounted solar panel array detached from the residence, the revised project will not result in additional disturbance of vegetation beyond that previously approved in Coastal Permit No. 4-99-126. The majority of the existing graded building pad is devoid of significant vegetation, other than grasses.

Table 1 further requires that site grading be accomplished in accordance with the stream protection and erosion control policies of the Land Use Plan. These policies emphasize that new development shall be designed to minimize grading and vegetation removal to "ensure the potential negative effects of runoff and erosion on these resources are minimized". The applicant proposes to fill 1,100 cubic yards of material on the eastern portion of the existing graded building pad, along with some cut area to provide for a 4 % slope from the revised residence to Decker Road. A 2:1 slope is proposed along the north, east and south edge of this pad area. As required by revised Special Condition Number One, a landscape, erosion control and fuel modification plan will provide for adequate landscaping on all disturbed and graded areas to minimize onsite erosion and offsite sedimentation. This will serve to ensure that the biological productivity and quality of coastal streams is maintained and that the habitat values of areas like Wildlife Corridors are protected against significant disruption. Therefore, to ensure that no adverse impacts on the Wildlife Corridor from increased runoff occur, Revised Special Condition Number One requires a landscape, erosion control and fuel modification plan to landscape all disturbed and graded areas on the project site including appropriate native plant species to partially screen the solar panel array from public view to the north, east and south along Decker Road.

The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the significant watersheds of the Malibu/Santa Monica Mountains region through past permit actions. This is due to the potential for future expansions of individual residential and related development which would be exempt from coastal development permit requirements. 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 the building site and developed area would require more vegetation removal as required for fuel modification by the Los Angeles County 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 Arroyo Sequit and Trancas Canyon watersheds due to increased erosion and sedimentation. Therefore, the Commission finds it is necessary to require the applicant to record a

Revised Future Development 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 resource policies of the Coastal Act. Revised Special Condition Number Five is necessary to ensure that any future additions or vegetation removal on the revised project, which otherwise may be exempt from coastal permit requirements will be consistent with the Coastal Act. The applicant has not complied with this Condition pursuant to the approval of Coastal Permit No. 4-99-126, as a result, a new deed restriction is needed for this revised project in this Coastal Permit Amendment No. 4-99-126-A-1. Furthermore, in order to ensure that the site is not fenced in accordance with Table 1 policy, Special Condition Number Five includes a provision prohibiting any fencing of the subject site except for fencing required for safety around the pool pursuant to the Uniform Building Code and within 50 feet of the approved residence with a valid coastal permit or permit amendment.

The certified Los Angeles County Land Use Plan provides guidance to the Commission to consider. Therefore, the Commission finds that the revised project, as conditioned, is in conformance with the guidance provided in the LUP Table 1 policies that pertain to locating development within designated wildlife corridors while protecting streams and ESHA's from disturbance to the greatest extent possible. The Commission's standard of review for revised project is the policies of the Coastal Act.

Regarding Section 30250 of the Coastal Act, the proposed revised project is located in an area that is not considered a "developed area". Therefore, the Commission finds that the revised project is located in an "other area with adequate public services". And further, the Commission finds that the revised 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, and the Wildlife Corridor will be protected as a result of the proposed revised project, as conditioned. Thus, the revised and amended project, as conditioned, will result in development that is consistent with and conforms with Sections 30231, 30240, and 30250(a) of the Coastal Act.

C. Geologic and Fire Hazards

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 that 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.

Minimizing erosion of the site is important to reduce geological hazards on the site and minimize sediment deposition in the drainages leading to Arroyo Sequit and Trancas Canyon Creeks. The applicant has submitted a draft Landscape and Fuel Modification Plan 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. Revised Special Condition Number One requires that this draft Fuel Modification Plan be approved by the Los Angeles County Fire Department, Forestry Division, Fire Prevention Bureau.

In order to ensure that drainage from the residential building pad is conveyed from the site and into the watersheds in a non-erosive manner and erosion is controlled and minimized during construction, the Commission finds it necessary to require the applicant to submit revised erosion control plans, as required by Revised Special Condition Number One.

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

D. Visual Resources.

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character 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 revised residence, garage, pool and solar panel array on a small intermediate ridge at elevation 1,681 feet above sea level, north of Barney's Knob which is at elevation 1,729 feet, both sites are located along Decker Road (Exhibits 1 and 2). The project site was graded as a relatively flat building pad prior to 1977. The existing building pad area including a lower small pad is estimated to be about 12,000 sq. ft. in size.

In the review of this revised 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. Decker Road is recognized as a "third priority scenic highway" with ocean vistas, deep valleys and canyons, and rugged mountains as the features of scenic vistas. This scenic highway designation is given special treatment when evaluating potential impacts caused by new development. From Mulholland Highway, the project site is a limited long distance view, therefore, no adverse visual impacts, as a result, of the proposed revised project are anticipated from Mulholland Highway.

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 Decker Road. Decker Road, a public roadway crosses the eastern perimeter of the property. The revised project site will be visible for some distance in either direction due to the openness of the roadway area and project site vicinity. The applicant proposes to construct the revised residence at the same maximum height of 35 feet above existing grade as approved by Coastal Permit Number 4-99-126. The lower level is a subterranean garage cut into the hillside of the graded pad, both the residence and garage are revised to be constructed at a reduced size. There are also a number of other large residences located in the immediate vicinity of the project site and along Barney's Knob to the south of the project site.

The Commission has found that the use of native plant materials in landscaping plans can soften the visual impact of construction in the Santa Monica Mountains. The use of native plant materials to revegetate graded areas reduces the adverse affects of erosion, which can degrade visual resources in addition to causing siltation pollution in ESHA's, and soften the appearance of development within areas of high scenic quality. The applicant has submitted a preliminary 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 (Exhibit 4). 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 revised project and that native materials that are located within a 200' radius of the residential structure are to "thinned" rather than "cleared" for wildland fire protection. The vegetation located within 20 feet of the structure and the driveway will be cleared and replaced with native plant species that are less flammable. No changes in the fuel modification plan to address the amended solar panel array are necessary. Further, the applicant proposes to plant sumac along the eastern perimeter of the property along Decker Road and along Hasstad Road to the south, a private road. As required by Revised Special Condition

Number One, the disturbed area will be less than 10,000 square feet, with the remainder of the graded area replanted with native plants and the area surrounding the solar panel array will be planted with native plants to provide for adequate screening as viewed by the public from Decker Road.

In order to ensure that the structural appearance, i.e. color of all the structures and the potential glare of the glass windows and solar panel array, will not create adverse visual impacts, the Commission finds it necessary to require the applicant to use colors compatible with the colors found in the surrounding area for exterior materials of the proposed structure and non-glare glass for all proposed windows and the solar panels as required by revised Special Condition Number Eight. In addition, revised Special Condition Number Eight requires that night lighting, if any, shall be directed downward, be of low intensity, at low height and shielded; security lighting, if any, shall be controlled by motion detector to avoid creating adverse night time visual impacts.

Regarding public trails and public lands, an existing equestrian and hiking trail, the Three Park Trail Connection trail, traverses west to east about two thirds of a mile to the south. To the west and east of the project site are lands owned by the Santa Monica Mountains National Park Service. Due to the distance, proposed and conditioned landscaping and the required revised structural appearance deed restriction in Special Condition Number Eight, public views of the project site will be limited and adequately mitigated.

Therefore, the Commission finds that the revised project, as conditioned, minimizes adverse impacts to scenic public views to and along the coast in this area of the Santa Monica Mountains. Therefore, the Commission finds that the proposed revised project, as conditioned, is consistent with Section 30251 of the Coastal Act.

E. Septic System

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

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

The applicant is proposing the installation of a new 2,000 gallon septic tank, and two seepage pits to accommodate the sewage of the proposed amended 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 revised project is consistent with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed revised project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the revised project and accepted by the applicant. As conditioned, the proposed revised 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 revised development, as conditioned, will not prejudice the County of Los Angeles's ability to prepare a Local Coastal Program for this area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. California Environmental Quality Act (CEQA)

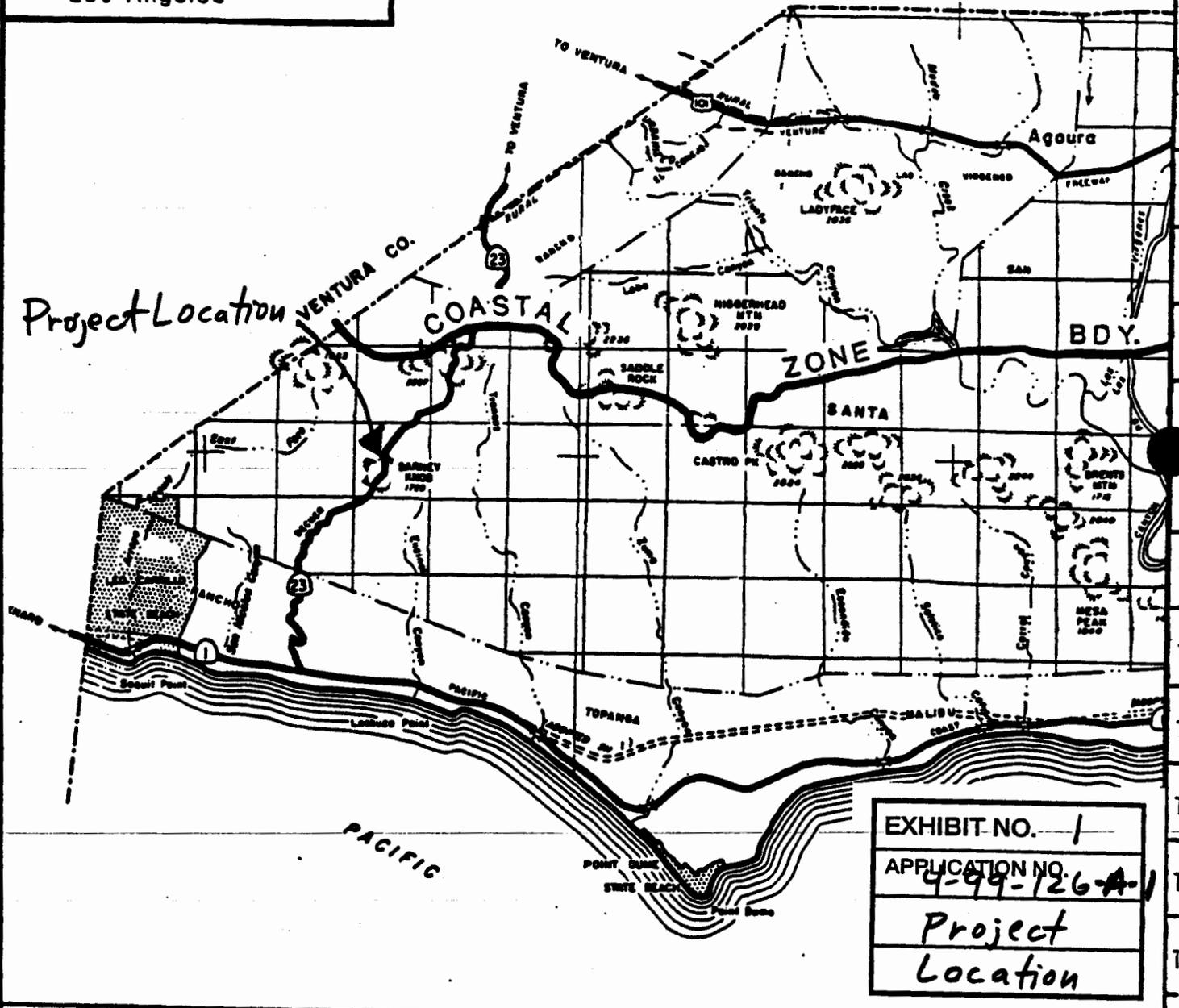
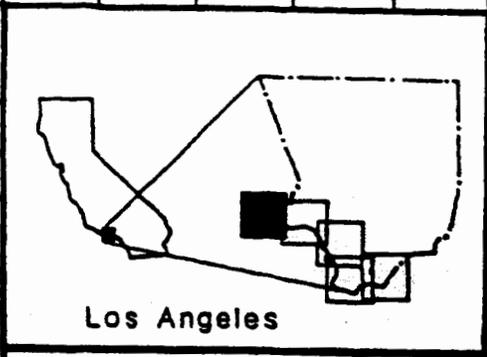
Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California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

The Commission finds that, the proposed revised project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed revised project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

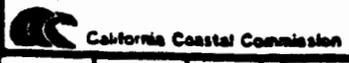
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| EXHIBIT NO. 1 |
| APPLICATION NO. 4-99-126-A-1 |
| <i>Project Location</i> |

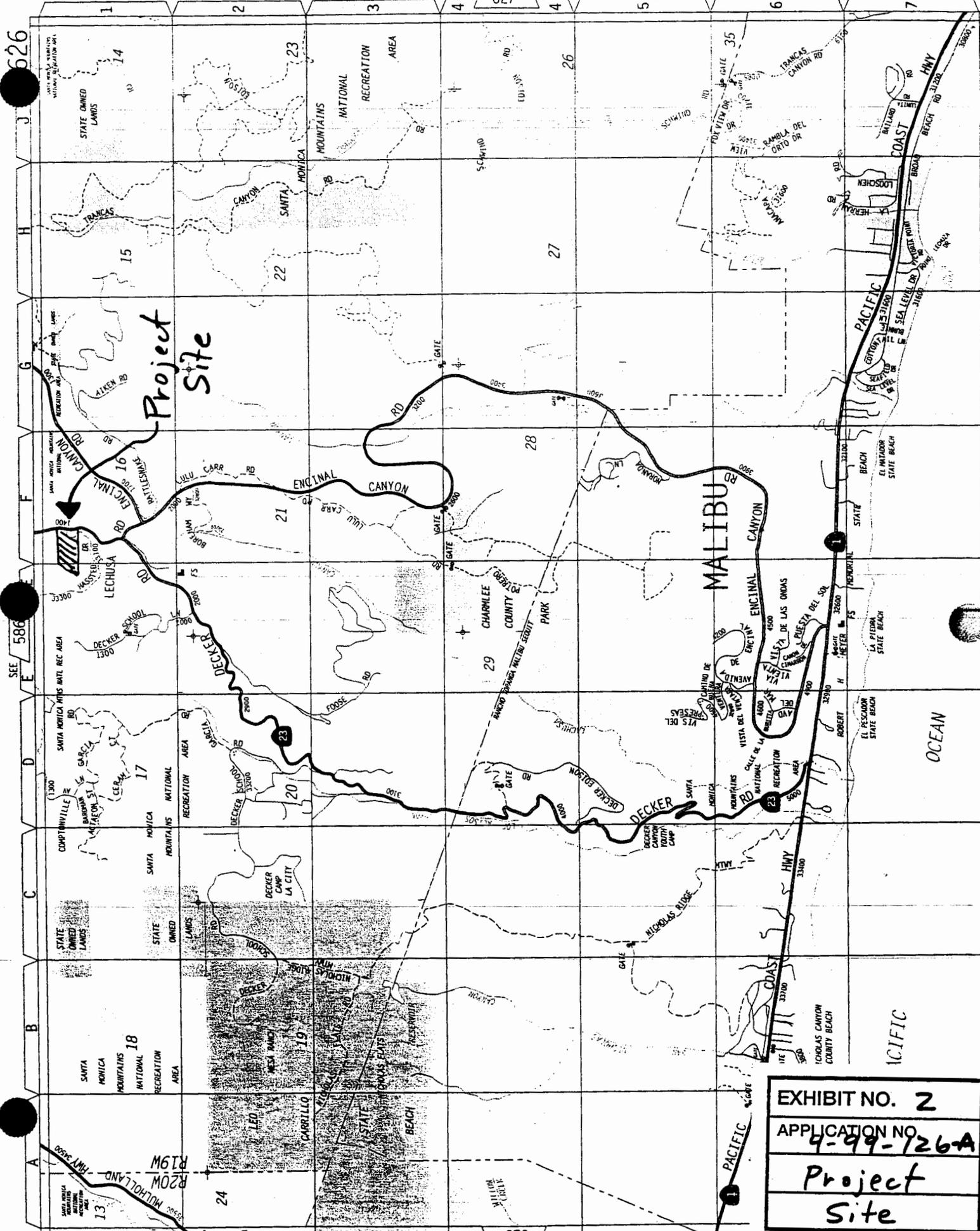


LOCATION MAP



626

SEE 586



Project Site

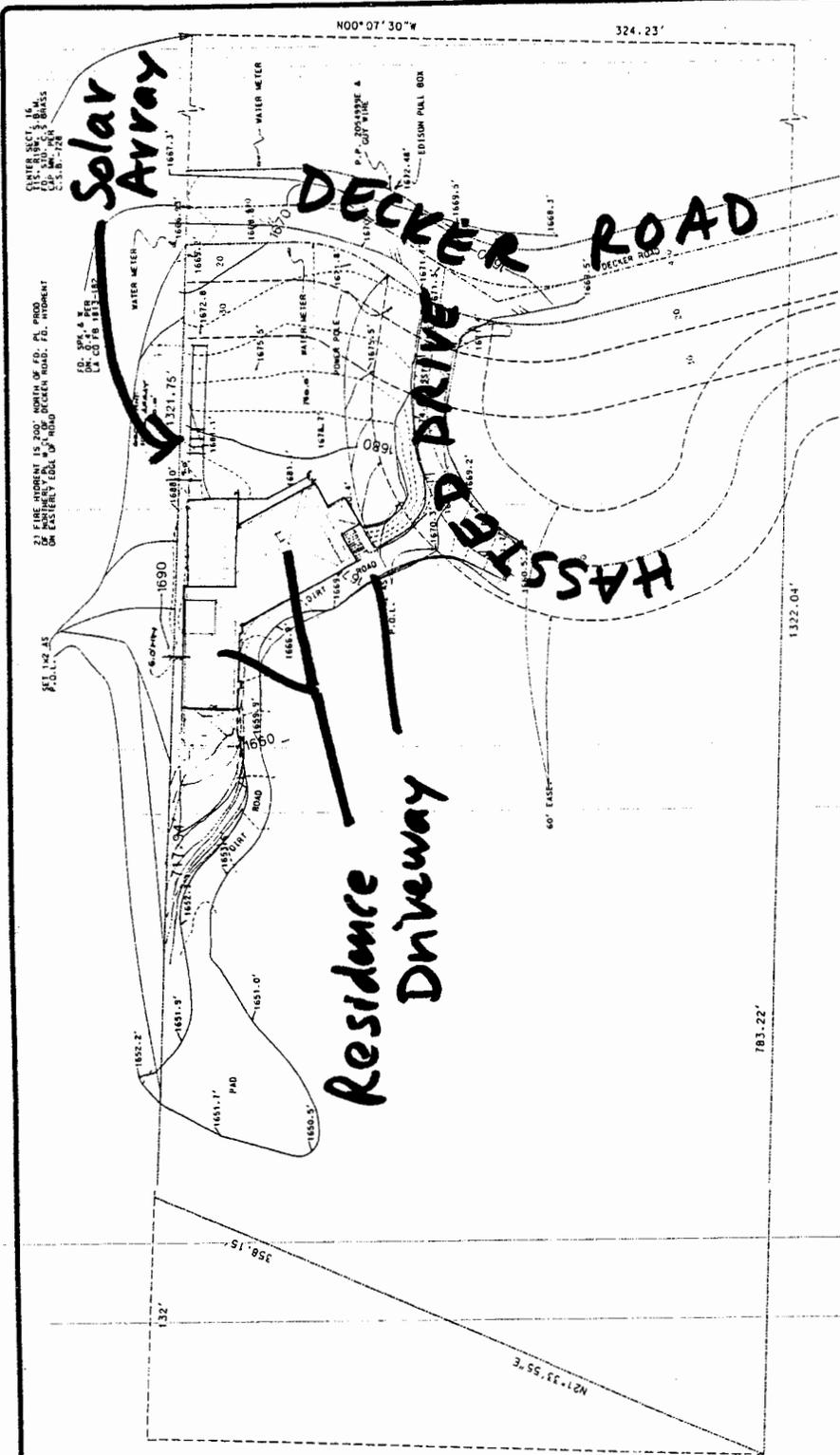
MALIBU

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| EXHIBIT NO. 2 |
| APPLICATION NO 4-99-126-A |
| Project Site |

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| REVISIONS | BY | DATE |
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Edward A. D'Andrea Architects & Associates
 1521 Orange St. Suite 200
 San Francisco, CA 94109
 415-774-0207
 ASSASSORS PARCEL MAP NO. 1

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| OWNER | |
| PREPARED BY | |
| DATE | |
| SCALE | |
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PROJECT SUMMARY:
 SUBSTANTIAL GARAGE : 4850.0 FT²
 1ST LEVEL / 2ND / OFFICE : 4073.0
 SUP. RM. / INT. HALL : 9840.0
 2ND / TERRACE : 500.0
 3RD / TERRACE : 500.0
 FOOTPRINT : 20000
 TOTAL HEATED (HV) SPACE : 7300.0
 TOTAL HEATED (HV) SPACE : 8530.0 FT²

EDWARD FRYMER
 1642 OTSEGO STREET
 SHERMAN OAKS, CA. 91403

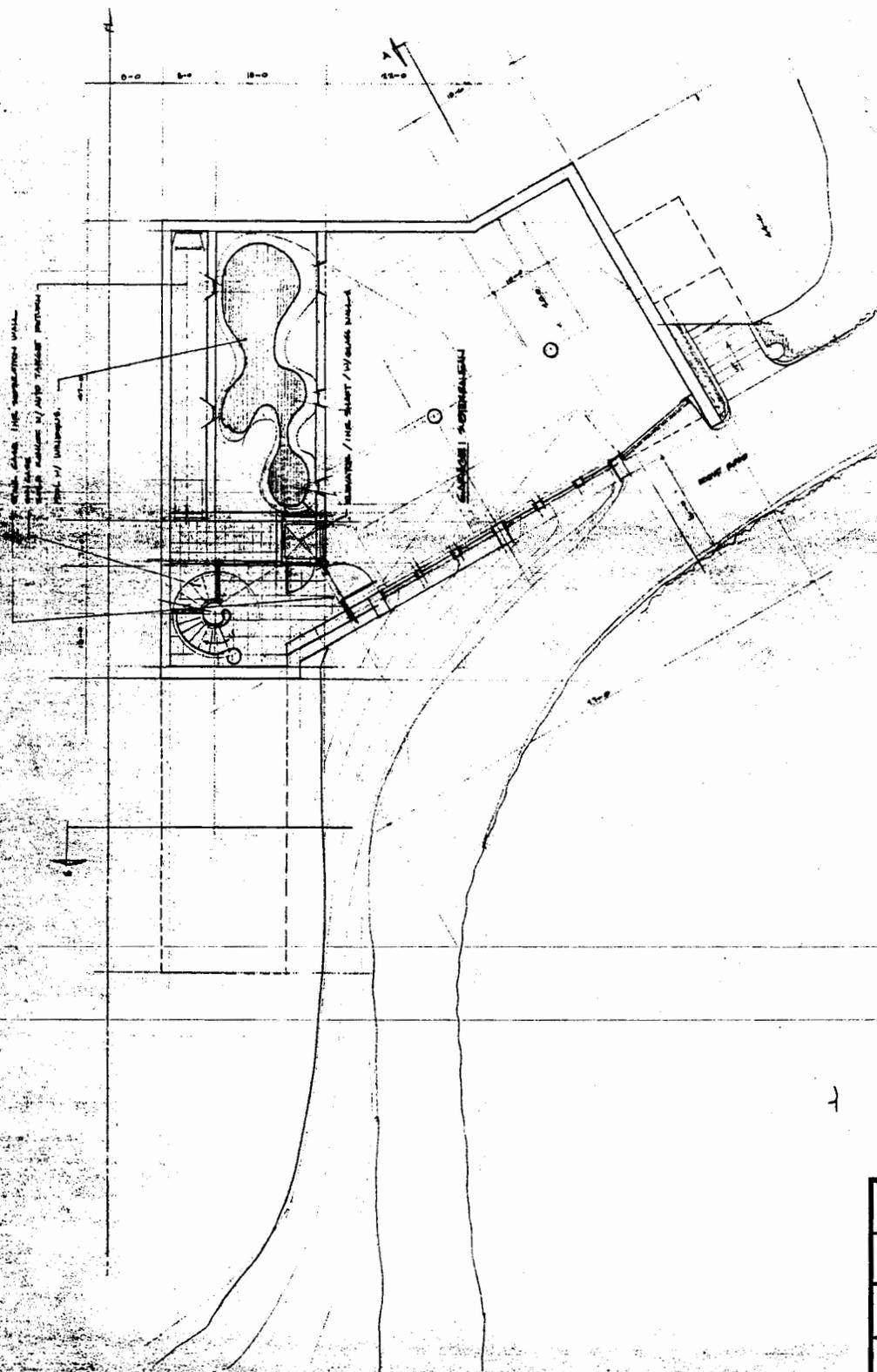
LEGEND:
 PROPERTY LINES
 STREET CENTERLINE (C/L)
 ASPHALT (A/C)
 MONUMENT
 WATER METER

SCALE: 1" = 30'
 JOB NO. 99-126-118
 SHEET NO. 1
 DATE: AUG 8, 1998

Scale 1" = 30'

EXHIBIT NO. 4
 APPLICATION NO. 99-126-A-1
 Site Plan

SUPER CLEAN / ENTRY
garage
 SIZE 11'-0" x 17'-0" P.C.
 100% COMPLETE
 1118
 1118-0 P.C. TOTAL

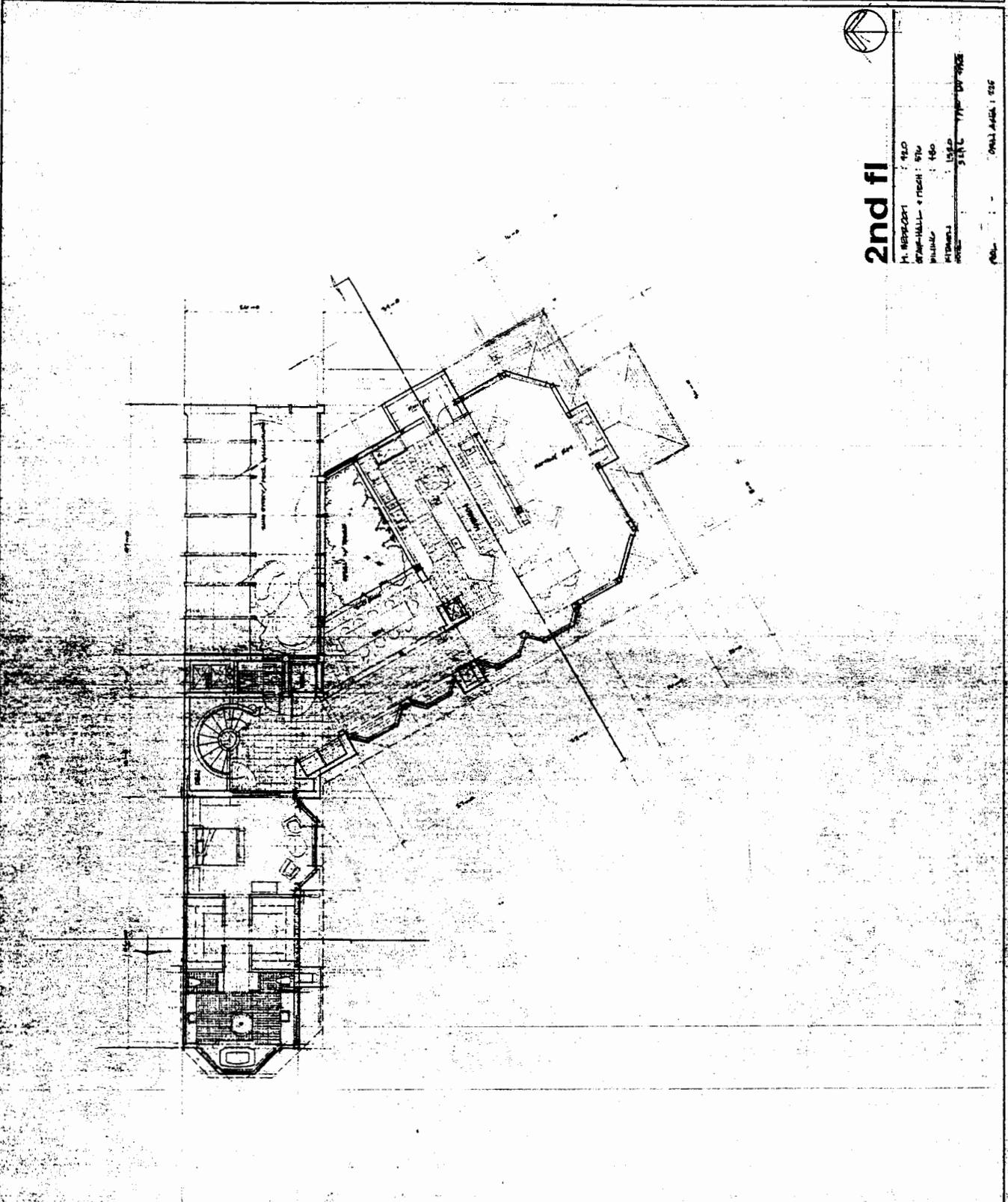


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| EXHIBIT NO. 5 |
| APPLICATION NO. 4-99-126-A-1 |
| Garage Plan |

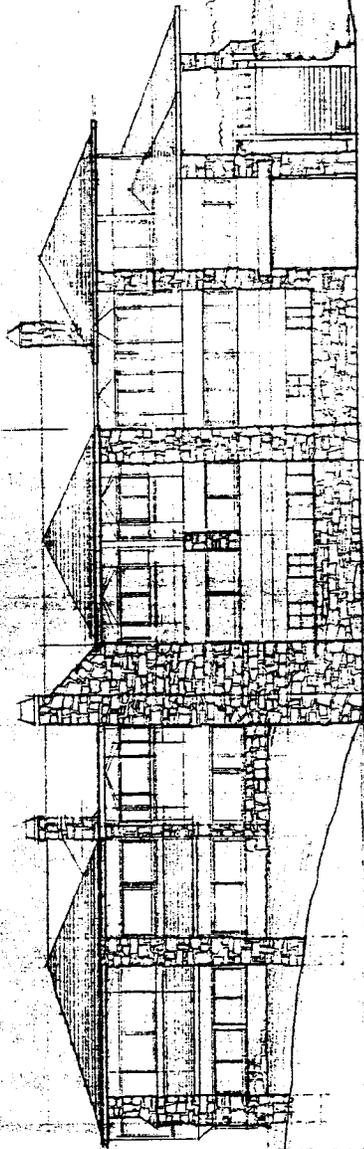


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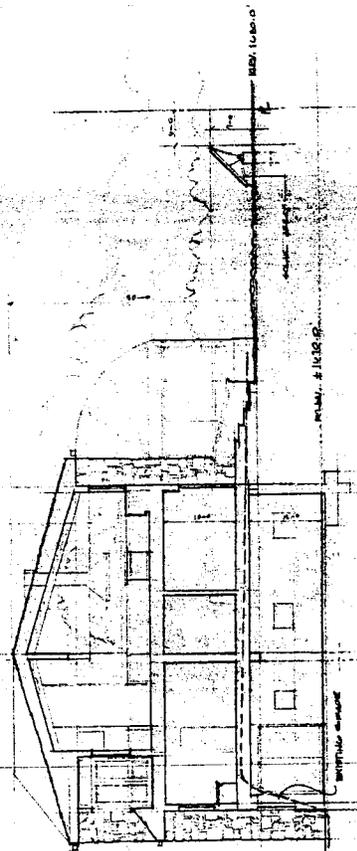
H. REPORT : 750
 STAIR-HALL : 576
 STAIR : 460
 TOTAL : 1036
 DATE : 11/18/78
 DRAWN : ONEL A. 1255



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| EXHIBIT NO. 7 |
| APPLICATION NO. 4-99-126-A-1 |
| 2nd Floor Plan |



WEST ELEVATION



SECTION A-C

EXHIBIT NO. 8
APPLICATION NO. 4-99-126-A-1
West Elevation
Section

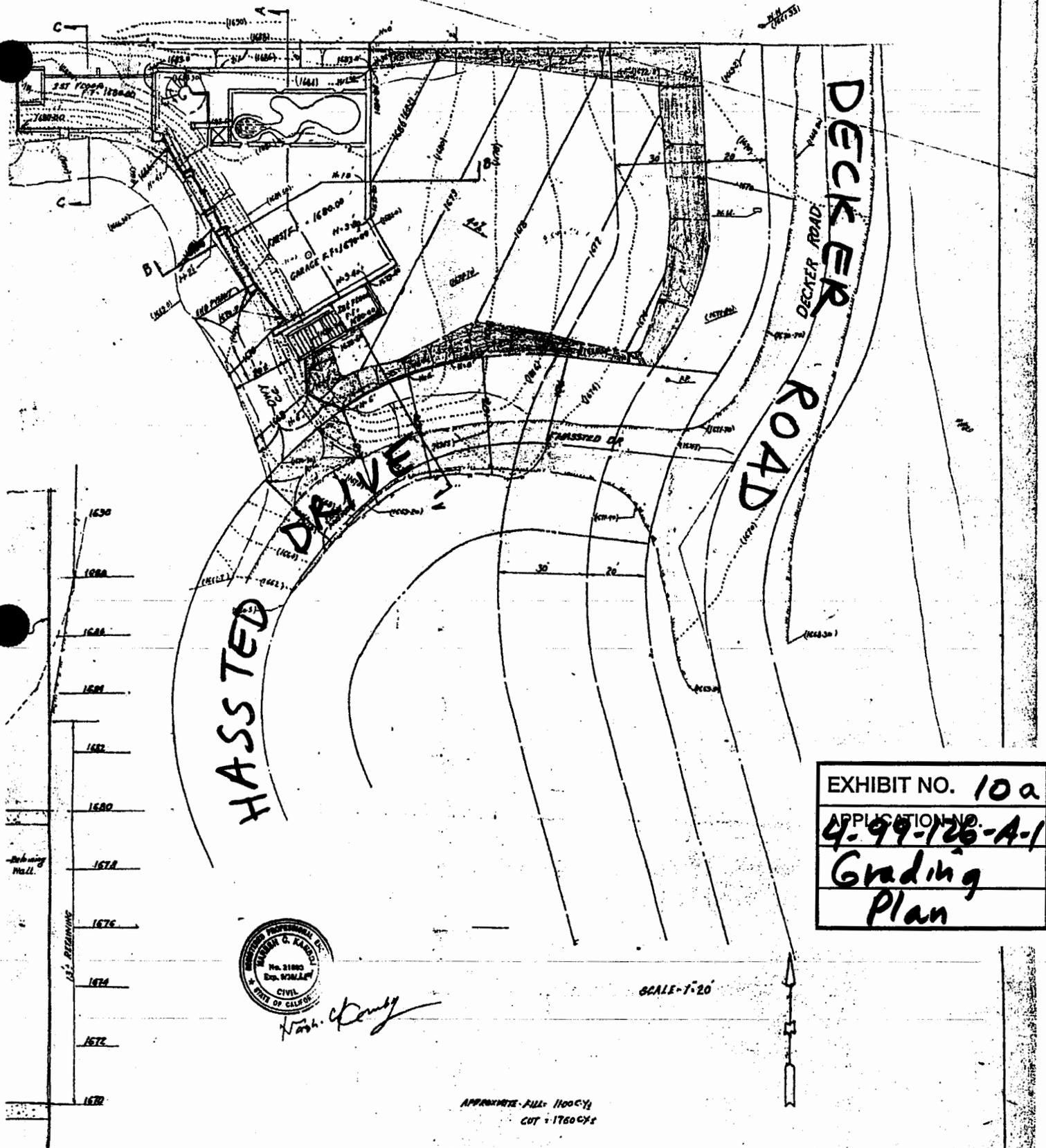


EXHIBIT NO. 10a
 APPLICATION NO.
 4-99-126-A-1
 Grading
 Plan

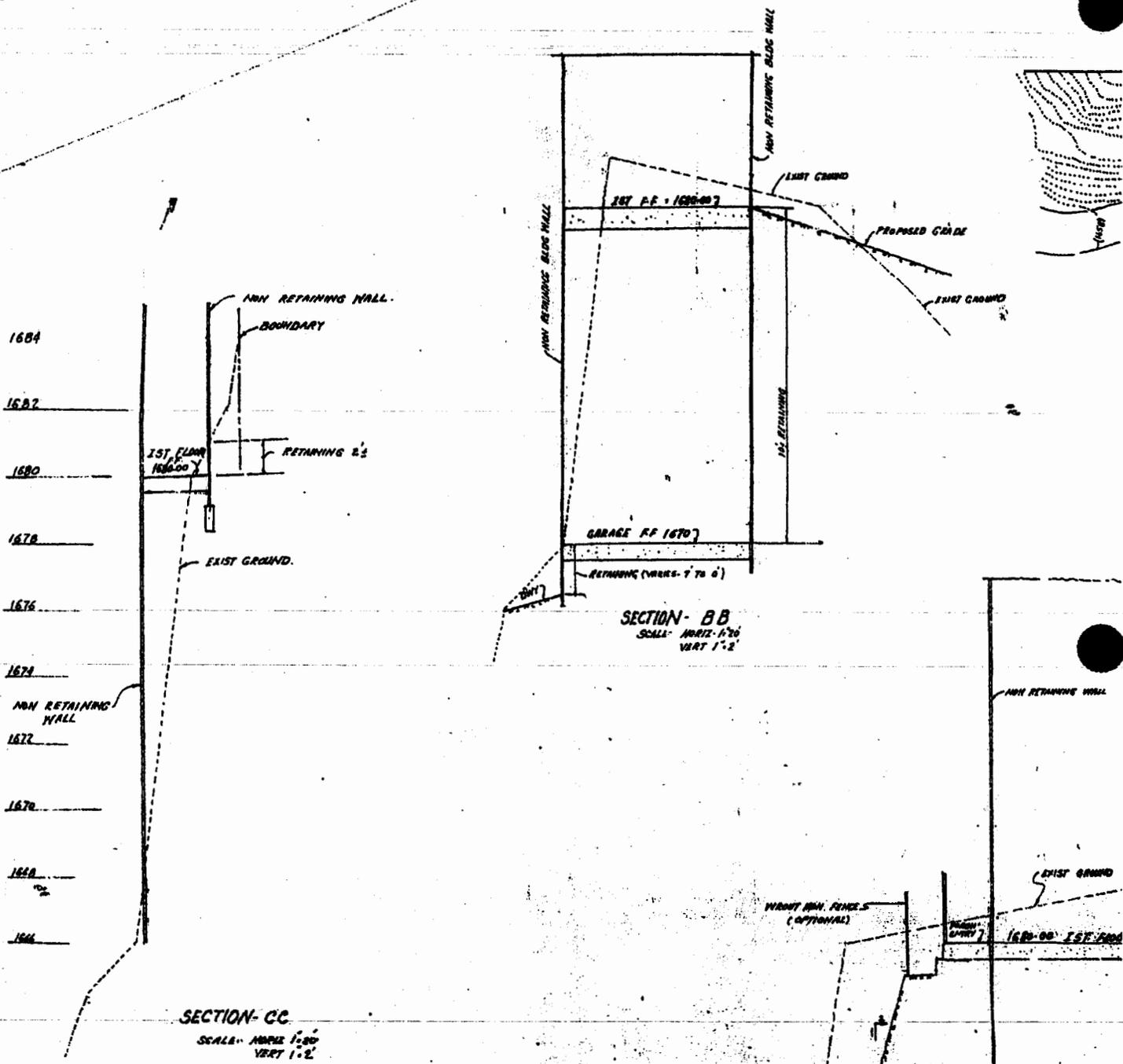


Mark C. Kandy

SCALE = 1" = 20'

APPROXIMATE FILL = 1100 CY
 CUT = 1760 CY

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|--|---|--|
| <p>ARCHITECT Edward A. D'Andrea, architect & associates c/o SCHMITZ ASSOCIATES 29350 W. PACIFIC COAST HWY. MALIBU (310) 456-7311</p> | <p>NEWMAN ENGINEERING & ASSOCIATES 7018 WOODLEY AVE. VAN NUYS, CALIF. 91406 (818) 756-5000 (818) 756-5005 (FAX)</p> | <p>FINE GRADING PLAN FOR FRYMER RESIDENCE 1521 DECKER ROAD, MALIBU (CA-PAN 4472-02-04) DWG # C-1</p> |
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| EXHIBIT NO. 106 |
| APPLICATION NO. 4-99-126-A-1 |
| Grading Plan |

SECTION-AA
SCALE: HORIZ 1"=20'
VERT 1"=2'

CALIFORNIA COASTAL COMMISSION

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



Page 1 of 7

Date: January 19, 2000

Permit Application No. 4-99-126

NOTICE OF INTENT TO ISSUE PERMIT

On January 13, 2000, the California Coastal Commission granted to Ed & Madeline Frymer, permit 4-99-126, subject to the attached conditions, for development consisting of: Construct a 8,000 sq. ft., 2 story single family residence with six car 4,500 sq. ft. subterranean garage, pool, septic system, landscaping, temporary placement of construction trailer, and grading of 1,385 cubic yards of cut and 50 cubic yards of fill, export 1,335 cubic yards of material to be disposed outside the coastal zone and is more specifically described in the application on file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 1521 Decker Canyon Rd., Malibu.

The actual development permit is being held in the Commission office until fulfillment of the Special Conditions 1-8, imposed by the Commission. Once these conditions have been fulfilled, the permit will be issued. For your information, all the imposed conditions are attached.

Issued on behalf of the California Coastal Commission by,

PETER DOUGLAS
 Executive Director

By: James Johnson
 Coastal Program Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this notice of the California Coastal Commission determination on Permit No. _____, and fully understands its contents, including all conditions imposed.

 Date

 Permittee

Please sign and return one copy of this form to the Commission office at the above add

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| EXHIBIT NO. 11 |
| APPLICATION NO. 4-99-126-A-1 |
| Notice of Intent |
| 4-99-126 |

NOTICE OF INTENT TO ISSUE PERMIT

Page 2 of 7
Permit Application No. 4-99-126

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. LANDSCAPE, EROSION CONTROL, AND FUEL MODIFICATION PLANS

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final 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 final landscaping and erosion control/drainage plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The final plans shall incorporate the following criteria:

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| EXHIBIT NO. 11 |
| APPLICATION NO. 4-99-126-A |
| Notice of Intent |
| 4-99-126 2 |

NOTICE OF INTENT TO ISSUE PERMIT

A) Landscaping and Erosion Control Plans

- 1) All graded & disturbed areas and the existing graded building pad areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- 2) All cut and fill slopes and the existing graded building pad areas on the subject site 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 20 feet of the proposed residence and garage and driveway 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 final 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, as revised, has been reviewed and approved by the Los Angeles County Fire Department, Forestry Division, Fire Prevention Bureau. Any irrigated lawn, turf and ground cover planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
- 6) The final drainage/erosion control plan shall be implemented within 30 days of completion of final grading. By acceptance of this permit, the applicant agrees to maintain the drainage devices on a yearly basis in order to ensure that the system functions properly. If the drainage devices fail or any erosion result from the drainage from the project, the applicant shall be responsible for any necessary repairs and restoration.

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| EXHIBIT NO. 11 |
| APPLICATION NO. 4-99-126A-1 |
| Notice of Intent |
| 4-99-126 3 |

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B) Interim Erosion Control Plan

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

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2. REMOVAL OF NATURAL VEGETATION

Removal of natural vegetation for the purpose of fuel modification within the 20 foot zone surrounding the proposed structure shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 20-200 foot fuel modification zone shall not occur until commencement of construction of the structure approved pursuant to this permit.

3. 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 sixty (60) 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. After the trailer is removed the disturbed site shall be revegetated as required by Special Condition number one (1) within 60 days.

4. REMOVAL OF EXCAVATED MATERIAL

The applicant shall remove all excavated or cut material consisting of approximately 1,335 cubic yards of material to an appropriate disposal site located outside of the Coastal Zone, except for the approximate 50 cubic yards of material proposed to be used for fill on the project site.

5. FUTURE DEVELOPMENT DEED RESTRICTION

- A. This permit is only for the development described in Coastal Development Permit No. 4-99-126. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall apply to the entire property. Accordingly, any future improvements to the entire property including the permitted residence and garage, and clearing of vegetation or grading, other than as provided for in the approved fuel modification landscape and erosion control plan prepared pursuant to Special Condition Number One (1), shall require an amendment to Permit No. 4-99-126 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition, any proposed fencing of the subject property is prohibited except for fencing required for safety around the pool pursuant to the Uniform Building Code and within 50 feet of the approved residence approved with a valid coastal development permit or permit amendment from the Commission or from the applicable certified local government. The applicant agrees that fencing on site must be of a type that will not restrict wildlife movement or cause injury to wildlife; barbed wire, mesh or chain link fencing shall not be permitted, link fencing may be permitted for safety around the pool pursuant to the Code.

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- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restrictions on development in the deed restriction and shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

6. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval by the Executive Director, evidence of the Engineering Geologist and Engineer consultant's review and approval of all project plans. All recommendations contained in the submitted geologic report titled: Report of Preliminary Engineering Geologic Investigation, dated October 10, 1998, by Pacific Geology Consultants; Soils Engineering Investigation, dated October 15, 1998, by SubSurface Designs shall be incorporated into all final design and construction including foundation support, retaining walls, site drainage, on-site effluent disposal, grading, excavations, and erosion control. All plans must be reviewed and approved by the consultants.

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.

7. WILD FIRE WAIVER OF LIABILITY

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

8. STRUCTURAL APPEARANCE DEED RESTRICTION

- A. The color of the structures and roof 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. Night lighting, if any, shall be directed downward, be of low intensity, at low height and shielded; security light controlled by motion detector.

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- 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 document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

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