

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

**Tu 16b**

Filed: 8/29/02
49th Day: 10/17/02
180th Day: 2/25/03
Staff: AM-LB
Staff Report: September 19, 2002
Hearing Date: October 8, 2002
Commission Action:

STAFF REPORT: PERMIT AMENDMENT**AMENDMENT****APPLICATION NUMBER:** 5-99-409-A2**RECORD PACKET COPY****APPLICANT:** William Bagnard**AGENT:** Tim McNamara**PROJECT LOCATION:** 421 Alma Real, Pacific Palisades, City of Los Angeles**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED (5-99-409):**

Demolition of an existing single family home and construction of a two-story over basement, 30-foot high, 7,952 square foot single family home with a two-car garage, driveway, and fences, on a 14,934 square foot canyon facing lot.

DESCRIPTION OF DENIED FIRST AMENDMENT (5-99-409-A1):

Placement of connecting grade beams located on and below the canyon edge for the construction of a 758 square foot deck partially cantilevered over the canyon edge and a request for after-the-fact approval to drill five (5) caissons (three located on the canyon edge and two located on the canyon face), trenching for grade beams, and placement of reinforced steel.

DESCRIPTION OF PROPOSED SECOND AMENDMENT (5-99-409-A2):

Implementation of a remediation plan (required in a settlement agreement) that includes: removing the tops of five (5) existing caissons below grade, filling grade beam trenches and a graded pad area with concrete grout colorized to resemble the natural soils, and revegetating the canyon slope with native, drought resistant plant species. The project also includes the construction of a grade-level wooden deck on the flat portion of the lot, behind the canyon edge.

SUMMARY OF STAFF RECOMMENDATION:

The applicant is requesting authorization for the implementation of a remediation plan as stipulated in a settlement agreement reached by the applicant and the Coastal Commission. The remediation plan includes: 1) ensuring that the existing five (5) caissons terminate below grade, 2) filling the grade beam trenches on the canyon slope and the top

of the slope with concrete grout to the grade level, colored to resemble the soil composing the canyon slope, 3) filling the graded pad and grade beam trenches at the top of the canyon slope with concrete grout, colored to resemble the soil composing the canyon slope, and 4) revegetating the canyon slope with drought resistant plants native to Potrero Canyon using the California Native Plant Society, Santa Monica Mountains Chapter document entitled, Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. In addition to the remediation plan, the applicant has proposed a grade-level, wooden deck located entirely on the flat portion of the lot, behind the edge of the canyon slope.

The proposed project is located along Potrero Canyon, the future site of a public canyon park with walking trails connecting Palisades Park to Will Rogers State Beach. The City of Los Angeles has not prepared a Local Coastal Program for the Pacific Palisades. Therefore, the standard of review is the Coastal Act. In order to approve this amendment application, the Commission must find this project consistent with the policies of the Coastal Act. After the Commission denied the first amendment request at its April 10, 2002 hearing, a settlement agreement was reached between the Coastal Commission Enforcement staff and the applicant, William Bagnard. The settlement agreement has been approved by the Commission and provides that the Commission will not pursue litigation to enforce the Coastal Act violation resulting from the unlawful development that occurred at the subject property. The agreement required Mr. Bagnard to pay a fine of \$10,000 and submit a permit amendment application to incorporate a remediation plan to stabilize the canyon slope and resolve the Coastal Act violation. Staff recommends that the Commission **APPROVE** the proposed permit amendment with three (3) additional special conditions and one (1) revised special condition. Staff is also recommending that the Commission retain the conditions it originally imposed, which are indicated below, with the exception of Special Condition #7. Special Condition #9 shall supersede special Condition #7.

LOCAL APPROVALS RECEIVED:

City of Los Angeles Planning Department, Coastal Exemption No. ZA-2001-3465-CEX,
July 17, 2001

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit #5-99-409 (Bagnard)
2. Coastal Development Permit Amendment application #5-99-409-A1
3. Settlement Agreement between William Bagnard and the California Coastal Commission, September 6, 2002
4. Report on Landslide Study Pacific Palisades Area, September 1976, U.S. Army Corps of Engineers and U.S. Geological Survey
5. FEIR Potrero Canyon Park Development Project, City of Los Angeles, Department of Recreation and Parks, June 1995

6. Final Potrero Canyon Riparian Mitigation Proposal by ERCE, August 1991
 7. Grading Plan and Vegetation Map, Potrero Canyon Park, by Kovacs Byer, and Associates, 1986-1988
 8. Coastal Development Permit #5-91-286 (City of Los Angeles, Rec. and Parks – Potrero Canyon Fill Project) as amended
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I. MOTION, STAFF RECOMMENDATION, AND RESOLUTION:

Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 5-99-409 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.

PROCEDURAL NOTE

A. Coastal Development Permit Amendments

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. Admin. Code 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

Note: Unless specifically altered by this amendment, all conditions imposed on the previously approved permit shall remain in effect.

Conditions of Original Permit:

1. Revised Plans

A. Prior to issuance of the permit the applicant shall submit revised plans for the review and approval of the Executive Director. The plans shall depict the topography of the surface of the lot and of the canyon area 50 feet west of the lot. The plans shall show the location of the house, the fence and the garage approved in this permit 5-99-409, the natural rim of the canyon, and all proposed development. With the exception of fences and the front porch shown in this application, no permanent structures shall be placed between the westerly wall of the house approved in permit 5-99-409 and the canyon property line unless approved by an amendment to this permit.

B. The permittee shall undertake development in accordance with the approved final plans. 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 Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Future Development Deed Restriction

A. This permit is only for the development described in coastal development permit No. 5-99-409. Pursuant to Title 14 California Code of Regulations, section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (a) shall not apply to the portions of the parcel located between the westerly wall of the single family house approved in his permit 4-99-409 and the westerly property line as shown in Exhibit 5. Accordingly, any future improvements to the permitted structure, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), which are proposed within the restricted area shall require an amendment to Permit No.5-99-409 from the Commission or shall require an additional coastal development permit from the Commission or from the City of Los Angeles.

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, reflecting the above restrictions on development in the restricted area. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3. **Assumption of Risk, Waiver of Liability, and Indemnity**

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildland fire, erosion, landslide, or earth movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

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 incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens 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.

4. **Conformance of Design and Construction Plans to Geotechnical Report/Geologic Hazard**

A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the Section of the Engineering Geologic Report 8835-G prepared by Grover Hollingsworth and dated 8/25/99 and the Soils and Geology review letter log 28868 from the Los Angeles City Department of Building and Safety. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. **Winterization/Erosion Control Plan**

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, a plan for erosion and run-off control.

1. **EROSION CONTROL PLAN**

(a) The erosion control plan shall demonstrate that:

- (1) *During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties, and the alley behind the site.*
- (2) The following temporary erosion control measures shall be used during construction: sand bags, a desilting basin and silt fences.
- (3) Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and public streets.
- (4) The following permanent erosion control measures shall be installed: a drain to direct roof and front yard runoff to the street; no drainage shall be directed to rear yard slope; no drainage shall be retained in front yard.

(b) The plan shall include, at a minimum, the following components:

- (1) A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control.
- (2) A site plan showing the location of all temporary erosion control measures.
- (3) A schedule for installation and removal of the temporary erosion control measures.
- (4) A site plan showing the location of all permanent erosion control measures.
- (5) A schedule for installation and maintenance of the permanent erosion control measures.

2. **RUN-OFF CONTROL PLAN**

(a) The run-off control plan shall demonstrate that:

- (1) Run-off from the project shall not increase the sediment or pollutant load in the storm drain system.
- (2) Run-off from all roofs, patios, driveways and other impervious surfaces on the site shall be collected, filtered and discharged to avoid ponding or erosion either on or off the site.
- (3) Run-off from roofs, and driveways shall be directed through filters designed to remove chemicals and particulates, at least for low

flow conditions, (as defined as a one-year storm or as defined by the Regional Water Quality Control Board)

- (b) The plan shall include, at a minimum, the following components:
- (1) The location, types and capacity of pipes drains and/or filters proposed.
 - (2) A schedule for installation and maintenance of the devices.
 - (3) A site plan showing finished grades at two foot contour intervals) and drainage improvements.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Fuel Modification Plan

Prior to issuance of the permit, the applicant shall provide for the review and approval of the Executive Director, a fuel modification and fire safety plan for the development. The plan shall minimize impacts to natural vegetation and public views and must have been reviewed and approved by the Los Angeles City Fire Department. If the Fuel Modification/Fire Safety plan anticipates any removal of vegetation, including thinning, on City Department of Recreation and Parks lands, the applicant shall provide a signed agreement with the City of Los Angeles Department of Recreation and Parks acknowledging that the property is adjacent to the Potrero Canyon Park. The agreement shall specify the location and methods of fuel modification (if any) on City of Los Angeles Department of Recreation and Parks land, and shall specify the amount of any fees or indemnification required for the use of City Property for such fire buffer. If the fuel modification plans show vegetation removal or alteration of City Park Land more than 100 feet from the proposed residential structure, an amendment to this permit shall be required.

7. Landscape Plan

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a plan for landscaping to assure compliance with the project description, terms and conditions of this permit and CDP 5-91-286 and compatibility with the revegetation measures required in that permit. The plan shall be prepared by a licensed landscape architect.

1. The plan shall demonstrate that

- (a) To minimize the need for irrigation the majority of vegetation planted on the site will consist of drought-tolerant plants,

- (b) The applicant shall not employ invasive; non-indigenous plant species, which tend to supplant native species. Such plants are listed in Exhibit 15.
- (c) All vegetation placed on the canyon side slope shall consist of native, drought and fire resistant plants of the coastal sage scrub community.
- (d) All planting shall be completed within 60 days after completion of construction,
- (e) All required plantings will be maintained in good growing conditions through-out the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan, and
- (f) No permanent irrigation system shall be allowed within the property. Any existing in-ground irrigation systems shall be removed. Temporary above ground irrigation to allow the establishment of the plantings is allowed. The landscaping plan shall show all the existing vegetation.

2. The plan shall include, at a minimum, the following components:

- (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the topography of the developed site, and all other landscape features, and
- (b) A schedule for installation of plants.

B. The permittee shall undertake development in accordance with the approved final 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 Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

Conditions Added or Altered by this Amendment:

8. Revised Project Plans

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit revised plans to the Executive Director for review and approval. All plans associated with the project shall be revised to incorporate the following revisions to the project:

- a. All structures associated with the proposed grade-level deck (with the exception of the colored concrete grout used to fill the pad area and grade beams at the top of the slope – required in a settlement agreement) shall be set back, at a minimum, five (5) feet from the edge of the canyon slope.

B. The permittee shall undertake development in accordance with the approved final plans. 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 Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

9. Revised Landscaping Plans

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised landscaping plans to the Executive Director for review and approval. The revised landscaping plans shall supersede the landscaping plan required in Special Condition #7 of the original permit. All plans associated with the project shall be revised to incorporate the following revisions to the project:

- a. The plan shall be prepared by a professionally licensed landscape architect or resource specialist and include a map showing the type, size, and location of all plant materials that will be on the site, the topography of the site, all other landscape features, and a schedule for installation of plants. The landscaping plan shall show all existing vegetation. The landscaping shall be planted using accepted planting procedures required by the professionally licensed landscape architect.
- b. To minimize the need for irrigation the majority of vegetation planted on the site shall consist of drought-tolerant plants.
- c. All areas on the canyon slope shall be planted with drought and fire resistant plants native to Potrero Canyon using the California Native Plant Society, Santa Monica Mountains Chapter document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Deep-rooted plant species shall be selected. The planting shall provide 90% coverage within 2 years from the date of planting.
- d. The applicant shall not employ invasive plant species, which tend to supplant native and drought tolerant plant species anywhere on the lot
- e. No permanent irrigation system shall be allowed on any part of the lot. Any existing in-ground irrigation systems shall be removed. Temporary above ground irrigation to provide for the establishment of the plantings is allowed for a maximum of three years or until the landscaping has become established, whichever occurs first. If, after the three-year time limit, the landscaping has not established itself, the applicant can apply for an amendment to this coastal development permit for the continued use of the temporary irrigation system until which time the landscaping becomes established.
- f. Plantings shall 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 in the landscaping plan.

B. Monitoring

Five years from the date of implementation of the landscaping plan the applicant or successor in interest 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.

C. The permittee shall undertake development in accordance with the approved final 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 Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

10. Implementation of Proposed Restoration

The applicant shall implement and complete the proposed Remediation Plan including: removing the tops of five (5) existing caissons below grade, filling grade beam trenches and a graded pad area with concrete grout colorized to resemble the natural soils, and revegetating the canyon slope with native, drought resistant plant species consistent with approved project plans within 60 days of the issuance of this permit. The Executive Director may grant additional time for good cause.

11. Condition Compliance

Within 90 days of Commission action on this coastal development permit application, or within such 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 provision of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The proposed project is the implementation of a remediation plan (required in a settlement agreement between the Coastal Commission and the applicant, Mr. Bagnard) that includes: 1) removing the tops of the existing five (5) caissons below grade, 2) filling the grade beam trenches on the canyon slope and the top of the slope with concrete grout to the grade level, colored to resemble the soil composing the canyon slope, 3) filling the graded pad and grade beam trenches at the top of the canyon slope with concrete grout, colored to resemble the soil composing the canyon slope, and 4) revegetating the canyon slope with drought resistant plants native to Potrero Canyon using the California Native Plant Society, Santa Monica Mountains Chapter document entitled, Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996 (Exhibit #4). In addition to the remediation plan, the applicant has proposed a grade-level, wooden deck located entirely on the flat portion of the lot, behind the edge of the canyon slope (Exhibit #4).

The subject site is located on lot 29, block 1, tract 9377 in the Huntington Palisades area of Pacific Palisades (Exhibit #1 - #3). This lot is located at the edge of and partially on the face of Potrero Canyon and will overlook the new Potrero Canyon Park recreational area when the Potrero Canyon fill project reaches completion (see *Section C* of this staff report). The Potrero Canyon fill project was approved by the Commission (Coastal Development Permits #5-86-958 and #5-91-286 as amended) and developed to stabilize the canyon sides and protect the existing single-family homes on the canyon edge (as further discussed below in *Section C Potrero Canyon Fill Project*). The subject lot was not a part of the Potrero Canyon fill project and no work was undertaken on the subject property. The surrounding area is comprised of one to three-level single-family homes. The property is located approximately one-half mile inland of Pacific Coast Highway and Will Rogers State Beach, on the east side of Potrero Canyon (Exhibit #1 - #3).

B. Project History

Jurisdiction

Section 30600(b)(1) of the Coastal Act allows local government to assume permit authority prior to certification of a Local Coastal Program. Under this section, a local government may establish procedures for the filing, processing, review, modification, approval, or denial of coastal development permits within its area of jurisdiction in the coastal zone. Section 30601 establishes that in certain areas, and in the case of certain projects, a permit from both the Commission and local government will be required. Section 30602 states that any action taken by a local government pursuant to Section 30600(b)(1) on a coastal development permit application can be appealed by the Executive Director of the

Commission, any person, or any two members of the Commission to the Commission within 20 working days from the Commission's receipt of the notice of the City action.

In 1978, the City of Los Angeles opted to issue its own coastal development permits under Section 30600(b)(1). The Commission staff prepared maps that indicate the area in which Coastal Development Permits from both the Commission and the City are required. This area is commonly known as the "Dual Permit Jurisdiction." Areas in the coastal zone outside the dual permit jurisdiction are known as the "Single Permit Jurisdiction". The City assumes permit jurisdiction for projects located in the single permit jurisdiction, with some exceptions. This project (5-99-409-A2) is located within the "Single Permit Jurisdiction".

Coastal Development Permit 5-99-409

The Commission approved Coastal Development Permit 5-99-409 (Bagnard) in February 15, 2000 subject to 7 special conditions. In this case, the City of Los Angeles had waived its jurisdictional right to issue the coastal development permit by issuing Approval In Concept No. 1999-2425. The City's Approval In Concept directs the applicants to apply for a coastal development permit from the Coastal Commission. Even though the project was located in the single permit jurisdiction, Mr. Bagnard applied directly to the Coastal Commission, an option allowed under certain circumstances and agreed upon by the Coastal Commission and the City of Los Angeles in this case.

The Commission-approved project included the demolition of an existing single family home and construction of a two-story over basement, 30-foot high, 7,952 square foot single family home on a 14,934 square foot, canyon-facing lot. The applicant, William Bagnard, was required to record a deed restriction on the land covenanting that any future development between the westerly wall of the home and the westerly property line requires a new or amended coastal development permit and that the exemptions otherwise provided for in Coastal Act (California Public Resources Code) Section 30610(a) would not apply. The area indicated as being between the westerly wall of the home and the westerly property line is the entire rear yard area and a portion of the canyon face included within the applicant's property lines. Mr. Bagnard was also required to record an "assumption of risk" deed restriction. Both deed restrictions were recorded on March 27, 2000. Coastal Development Permit No. 5-99-409 was issued to Mr. Bagnard on April 14, 2000.

Unpermitted Development and Enforcement History

On July 17, 2001, the City of Los Angeles Planning Department issued Coastal Exemption No. ZA-2001-3465-CEX covering the construction of an "accessory deck with shed" (Exhibit #6). The City issues a "Coastal Exemption" when it determines that a project is exempt from the permit requirements under the Coastal Act. The City sends a copy of the coastal exemption to the Coastal Commission staff. The City Planning Department issued Coastal Exemption No ZA-2001-3465-CEX to Mr. Bagnard based on the project location within the single permit jurisdiction area and on the belief that the exemption criteria were satisfied (Section 30610 of the Coastal Act). The City issued a notice of its action, and

that notice was received by the Commission's South Coast District office on July 23, 2001 (Exhibit #6). Staff of the Commission determined that the project could not be exempt under Section 30610 of the Coastal Act and Section 13250 of Title 14 of the CA Code of Regulations because (1) the proposed deck is not a structure directly attached to the existing single family home, (2) a cantilevered deck over a canyon edge with an extensive foundation system is not normally associated with single family homes, and (3) the coastal development permit for the single family home explicitly made the exemptions of Coastal Act Section 30610(a) inapplicable to further construction at this site, indicating that any future improvements between the westerly wall of the home and the westerly property line would require a coastal development permit.

The original permit (5-99-409) was approved with seven (7) special conditions. Special Condition #2 required the applicant to record a "future development deed restriction" on the property. The deed restriction was recorded and the permit was issued. Special Condition #2 of the original permit states in part,

"Pursuant to Title 14 California code of Regulations, Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the portions of the parcel located between the westerly wall of the single family house approved in [t]his permit [5]-99-409 and the westerly property line as shown is Exhibit 5. Accordingly, any future improvements to the permitted structure, including but not limited to repair and maintenance identified as not requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), which are proposed within the restricted area shall require an amendment to Permit No. 5-99-409 from the Commission or shall require an additional coastal development permit from the Commission or from the City of Los Angeles."

On July 24, 2001, Commission staff sent a letter to the applicant's agent and the City of Los Angeles Planning Department, which indicated 1) Commission staff could not accept the City's exemption based on Section 13250(b)(6) of Title 14 of the CA Code of Regulations; 2) there is a future development deed restriction on the property; 3) the project requires the submittal of a coastal development permit application; and 4) the applicant should not rely on the City-issued exemption and should not proceed with any work related to development within the deed restricted area (Exhibit #7). On July 26, 2001 the applicant's agent, Mr. Tim McNamara and Commission staff discussed the related issues during a phone conversation. Again, Commission staff informed Mr. McNamara that the City's exemption was not consistent with Section 30610(a) of the Coastal Act and Section 13250(b)(6) of Title 14 of the CA Code of Regulations and a coastal development permit application must be obtained. The applicant, however, applied for and received Building Permit 01020-30000-01787 from the City of Los Angeles for a "new 23' x 22' accessory wood deck structure with an attached 1-story 14' x 23' storage shed below" and initiated construction of the project without obtaining the required coastal development permit. As indicated in the checklist items of the Building Permit, a grade beam and caisson foundation was required to support the proposed structures. Commission staff was unaware that building permits were issued for this project.

On or about October 2, 2001, Commission staff confirmed, during a site visit to a neighboring property, that work had begun on the subject property, more specifically at the edge and face of Potrero Canyon. Trenches were dug along the canyon edge and perpendicular to the edge, down the canyon face. Commission Enforcement Staff notified the applicant by both certified letter and by phone conversation of the unpermitted status of the development and directed him to stop work. Since this time the applicant has stopped construction.

At the time the applicant stopped work, five caissons had been drilled, trenches for grade beams had been dug, and reinforcement steel had been tied. However, the grade beams were not cast and the trenches were left open. On October 30, 2001, Commission staff received a request for an emergency permit to allow the completion of the subterranean foundation. The request stated, "the requested preventive work is to complete the foundation while the amendment to Coastal Development Permit 5-99-409 is processed. The completed foundation will allow for the grading and drainage recommendations of the soil report to be completed in the safest manner." After review of the requested emergency permit application by Commission staff and Commission staff geologist, Dr. Mark Johnsson, the application was rejected.

Five (5) caissons were cast. Three of the caissons are located on the canyon edge and two are located approximately 17 feet (in plan view) down the slope of the canyon. Also, five trenches, approximately 2 feet deep and 2 feet wide, have been excavated for the placement of grade beams. These trenches range from approximately 18 feet to 26 feet long. Reinforcement steel has also been set and tied and is ready for concrete.

The work undertaken without benefit of a coastal development permit was installed to support a proposed 1,130 square foot deck, a lower level, one-story storage shed, and stairway from the rear yard to the lower, down-slope level. The applicant submitted coastal development permit amendment application 5-99-409-A1 to authorize the after-the-fact approval of the foundation work and the construction of a 758 square foot deck partially cantilevered over the canyon edge. The lower level shed and stairway was eliminated and the deck was reduced in size by 372 square feet from the previous proposed project. The proposed reduced deck continued to cantilever over the canyon edge.

On April 10, 2002, the Commission denied Mr. Bagnard's request to retain the foundation system and construct a 758 square foot deck partially cantilevered over the canyon edge. Subsequent to the Commission's action, the Commission's enforcement unit initiated negotiations with the applicant to remove the unpermitted development and restore the site. The applicant's geologist, Bob Hollingsworth stated, and the Commission's staff geologist, Dr. Mark Johnsson, concurred, that it would not be geologically feasible to remove the five cast caissons, recompact the holes left by the removal, and recompact the grade beam trenches along the canyon slope.

Commission Enforcement staff reached an agreement with the applicant, which has been approved by the Commission, whereby the applicant would pay a fine of \$10,000, remove the tops of the caissons below grade, fill the grade beam trenches with cement grout

colored to resemble the soil composing the canyon slope, and revegetate the canyon slope with drought resistant plants native to Potrero Canyon. The applicant also agreed to submit this permit amendment application for the remediation plan required in the settlement agreement. The permit amendment application also includes a request to construct a grade-level deck on the flat portion of the property behind the canyon edge.

C. Potrero Canyon Fill Project

In the late 1970's and early 1980's, nine major slides and a number of surficial slumps occurred as a result of erosion from the stream that is located in the bottom of Potrero Canyon (Exhibit #3). As a result of the slides a number of residential structures were damaged and demolished by their owners. In 1984, the City determined that the only way to protect the houses that were still intact on the rim of the Canyon was to fill the canyon and install a subdrain to reduce saturation of the sediments (Coastal Development Permits #5-86-958 and #5-91-286 and amendments). By 1986, the City of Los Angeles had acquired 20 homes on the canyon rim, some of which were later demolished. The Commission approved a project with 25 feet of fill and a subdrain system throughout the canyon. The slides however, continued. By 1991 the City had acquired one additional lot and was considering the acquisition of 7 additional lots on the west canyon rim. At the present time, the City has acquired 31 lots along both sides of the canyon.

In 1991, after the expiration of its original action, the Commission re-approved an expanded project in three phases, subject to conditions. In its approval of the revised project, the Commission reviewed evidence that the headscarps were moving inland, potentially threatening additional houses along at least four streets that were parallel to the rim: De Pauw Street, Friends Street, Earham Street, and Alma Real Drive. The third phase of the fill of the revised project extended about 75 feet above the flow line of the stream. Above that level, the City proposed to place buttress fills extending twenty-five to thirty feet up the canyon sides, in some instances onto privately owned residential lots. These buttress fills were designed to slow down the incremental failure of the lots. The fill would be compacted to 90%. Some of this fill was considered certified structural fill and some was not. This fill was designed, in some cases, to stabilize the entire portion of the lots on the canyon edge. However, many of the lots would only be partially stabilized. It would allow for a safe building pad for a home set back away from the canyon edge, but would only slow down the incremental failure on the canyon slope. The Commission was reluctant to fill the stream and alter the canyon topography with massive grading but agreed to fill the canyon because of the extensive damage to the homes on the canyon rim and the threat of continue landslides. To offset the destruction of the natural canyon, the Commission approved the fill with conditions that required the City to create an artificial stream with riparian habitat on top of the fill, build a public park and trails in the canyon, and revegetate the upper canyon sides and buttress fills with coastal sage scrub. There was a parallel California Department of Fish and Game agreement regarding the alteration of the streambed in the bottom of Potrero Canyon. The subject property was not a part of the fill project and no work was conducted on the subject property (421 Alma Real).

At the completion of the fill project and compliance with the conditions imposed under the Commission's approved permit Potrero Canyon will contain several millions of cubic yards of fill, a public park with trails, a stream and riparian habitat at the bottom of the canyon, and coastal sage assemblage on the canyon slopes.

D. Geologic Hazards

Section 30253 states in part:

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, geologic 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 Geologic and Soils Engineering report by Grover Hollingsworth, and Associates for the construction of the single family home (see CDP #5-99-409) states, "the slopes which descend toward Potrero Canyon Park have been subjected to various degrees of instability in the past, although significant slope failures are not present on the property. Two areas of past surficial instability on the descending slope were, however, noted. A relatively narrow area of erosion and slumping is located along the top of the slope below the northwest corner of the building pad.... Another relatively recent surficial slump is located about 10 feet below the top of the rear slope near the southern property line..."

Commission's staff geologist and engineer concur with the applicant's consultant that it would be infeasible to remove the caissons and reinforcement steel and recompact the trenches without destabilizing the slope and requiring an extensive amount of landform alteration. Therefore, the applicant has submitted a remediation plan (and paid a fine of \$10,000) to remove the tops of the caissons below grade and fill the grade beam trenches with concrete grout colored to resemble the soil composing the canyon slope (as further discussed in the following sections). Retaining the caissons and implementing the remediation plan will minimize the risk to life and property in an area of high geologic hazard and will assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic 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.

To further ensure that the minimization of site erosion will add to the stability of the site, the Commission requires a revised landscaping plan. The Commission has found that native and drought tolerant plant species require one to three years of artificial watering and once the plant material has been established a slow weaning of artificial watering should occur. The installation of permanent irrigation systems, inadequate drainage, and

landscaping that requires intensive watering are major contributors to accelerated slope erosion, landslides, and sloughing, which could necessitate protective devices. It has been found by the California Native Plant Society, that a permanent irrigation system is not required once the plant material is established with native and drought tolerant landscaping.

Native plants are adapted to the unique climatic conditions of their growing area and once established they require little or no supplemental irrigation. When we grow plants found in our resident plant community, we use far less water than traditional garden landscapes. Using drought tolerant natives in our California gardens conserves a scarce natural resource and saves money on water costs; it's a sensible choice.¹

Therefore to ensure that the project maintains native and drought tolerant vegetation for erosion control and slope stability purposes, Special Condition #9 is required by the Commission. Special Condition #9 requires the applicant to submit a revised landscaping plan for the review and approval of the Executive Director. The plan requires the applicant to plant native and drought tolerant vegetation on the canyon slope. Native and drought tolerant plants are used because they require little to no watering once they are established (1-3 years), they have deep root systems that tend to stabilize the soil, and are spreading plants that tend to minimize erosion impacts of rain and water run-off. The landscaping shall provide 90% coverage within two years of planting. Native and drought tolerant plant species are slow growing and require some time to become established.

Due to the nature of this area its history of catastrophic landslides, the Commission finds that approval of a permanent irrigation system in this area would not be consistent with Section 30253, which requires the Commission to use all means to "minimize risks" in areas of high geologic hazard. Therefore, to further curtail the water usage on the site, Special condition #9, requires the applicant to not incorporate a permanent irrigation system in the project. A temporary aboveground irrigation system for the establishment of the vegetation is authorized for up to three years or until the plantings are established, whichever occurs first. If, after the three-year time limit, the landscaping has not established itself, the applicant can apply for an amendment to this coastal development permit for the continued use of the temporary irrigation system until which time the landscaping becomes established. This allowance is given to the applicant in this case due, in part, to the nature of continued erosion across the canyon slope if landscaping has not become established.

During the first month of landscaping installation and thereafter, introduced plants can easily overwhelm natural systems. Ornamental and invasive plants grow rapidly and use several different methods of spreading. Such plants include pepper trees and honeysuckle, plumbago, morning glories, German ivy, eucalyptus, ornamental grasses and other plants that are attracted to moisture and which can overtake a newly planted landscaped or native area. Therefore, to further ensure the continued viability of the

¹ Excerpted from the California Native Plant Society Webpage

landscaping plan and the native plant assemblage on the canyon face, Special Condition #9 restricts the landscaping plan from incorporating any invasive plant species.

Finally, Special Condition #9 requires the applicant to submit a landscape monitoring report after five years from the date implementation of the plan. The report shall certify the on-site landscaping is in conformance with the landscape plan approved pursuant to Special Condition #9. The monitoring report shall include photographic documentation of plant species and plant coverage. This report will further ensure that the applicant and any future owners of the property comply with the requirements in Special condition #9.

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 Coastal Development Permit amendment 5-99-409-A2, 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 shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The Commission also finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to fill and restore the open excavation trenches on site and landscape all disturbed areas with native plants, compatible with the surrounding environment. In order to ensure that the applicant's proposal to restore and revegetate the disturbed portion of the site is implemented in a timely manner, Special Condition #10 requires the applicant to implement and complete the proposed Remediation Plan including: removing the tops of five (5) existing caissons below grade, filling grade beam trenches and a graded pad area with concrete grout colorized to resemble the natural soils, and revegetating the canyon slope with native, drought resistant plant species consistent with approved project plans within 60 days of the issuance of this permit.

The applicant has also proposed the construction of a grade-level deck on the flat portion of the lot, behind the canyon edge. The deck would be located directly adjacent to the canyon edge with no setback. Section 30253 of the Coastal Act requires that development assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic 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 Commission has found (5-99-206 (Smith/Swinden), 5-00-424 (Spriggs), 5-01-040 (Slavik)) that coastal bluffs and canyons undergo ongoing retreat and erosion. The Commission has also found that setting back structural and non-structural developments away from coastal bluff and canyon edges lessens the necessity for future protective devices to support development adjacent to bluff or canyon edges. If development occurred adjacent to a canyon edge there is a potential that, as retreat and erosion occurs (through natural or human induced causes) such development will be undermined and necessitate protective devices. Section 30253 requires that new development not "in any

way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."

It has been found through prior Commission action (e.g., 5-00-459 (Laidlaw)) that non-structural grade-level amenities can be approved between the main structure and the canyon edge so long as the non-structural amenity is set back five (5) feet from the canyon edge and can be constructed without increasing the geologic instability of the site. The proposed deck has not been found to increase the geologic instability of the site but it is located within a five-foot area from the canyon edge. Therefore, there is a potential that ongoing natural and/or human induced erosion could occur on this canyon that would undermine the proposed deck and require the construction of protective devices (See Sections E. and G. below).

[Note: The proposed wood, grade-level deck would be located directly above a cement pad that was excavated without benefit of a coastal development permit. Under the previously mentioned Settlement Agreement between the Commission and Mr. Bagnard (applicant), the pad area located on top of and adjacent to the canyon slope was to be filled with cement grout colored to resemble the soil of the canyon. While the proposed wood deck will be located entirely above the cement pad area, the Commission must analyze the proposed project as if the unpermitted development had not taken place. Therefore, the analysis of the siting of the deck adjacent to the canyon edge was reviewed as if the cement pad area did not exist]

Therefore, the Commission imposes Special Condition #8, which requires the applicant to submit revised plans demonstrating that all structures associated with the proposed grade-level deck (with the exception of the colored concrete grout used to fill the pad area and grade beams at the top of the slope) be set back five (5) feet from the edge of the canyon slope. The permittee shall undertake development in accordance with the approved final plans. 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 Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required. Only as conditioned, does the Commission find the proposed project consistent with Section 30253 of the Coastal Act.

E. Scenic Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance the visual quality in visually degraded areas.

As discussed previously, a major fill project is underway to stabilize the residential lots along the canyon rim. While the canyon bottom has been disturbed by this fill project, the canyon slopes above the fill line have remained, in most cases, undisturbed. Upon completion of the fill project the fill line will be approximately 50 feet in elevation below the top of the slope. This upper 50 feet of the canyon slope will remain in its natural state. This area includes approximately 15 feet (in plan view) of the applicant's property.

In its approval of the fill project, the Commission required, among other things, the planting of riparian habitat at the bottom of the canyon and coastal sage scrub on the canyon slopes. The Commission also required the creation of a public park with hiking trails from the beginning of the canyon to Pacific Coast Highway. The offset of allowing the City to fill the canyon with millions of cubic yards of earth was the creation of a public park with reconstructed riparian and coastal sage communities. The park will have a walking trail that connects the existing Palisades Park (including the Palisades Park Recreation Center, public tennis courts, baseball fields, passive recreation areas, a public library, and public parking lots) to Pacific Coast Highway and Will Rogers State Beach. The requirement to establish a public park in the filled canyon (Coastal Development Permit 5-91-286, as amended) will allow the public to enjoy a coastal canyon experience that is not readily available in this area of the City Los Angeles. Therefore the subject property will overlook a public park with trails linking the inland areas of Pacific Palisades to Will Rogers State Beach upon completion of the final fill project. Part of the reason for the Commission denial of the proposed caisson's, grade beams, and cantilevered deck (5-99-409-A1) was the impact this development would have on views from the public park below.

Currently, five (5) caissons have been cast. Three of the caissons are located on the canyon edge and two are located approximately 17 feet (in plan view) down the slope of the canyon. Also, five trenches, approximately 2 feet deep and 2 feet wide, have been excavated for the placement of grade beams. These trenches range from approximately 18 feet to 26 feet long. Reinforcement steel has also been set and tied and is ready for concrete.

As discussed above, removal of the unpermitted development would destabilize the canyon slope and require an even greater amount of landform alteration in an attempt to stabilize the area. Because it was not geologically feasible (without being found inconsistent with Section 30251 and Section 30253 of the Coastal Act) to remove the five caissons and reinforcement steel in the grade beam trenches and recompact the slope, the Commission and applicant reached a settlement agreement whereby the applicant would submit a remediation plan to resolve the violation. The proposed project includes the implementation of the remediation plan and the construction of a grade-level deck located on the flat portion of the lot, behind the canyon edge. The remediation plan includes removing the tops of five (5) existing caissons below grade, filling grade beam trenches and a graded pad area with concrete grout colorized to resemble the natural soils, and revegetating the canyon slope with native, drought resistant plant species (Exhibit #4).

The remediation plan will be visually compatible with the surrounding area and consistent with the future Potrero Canyon Park. The remediation plan requires that the tops of the five caissons be removed below grade; thus, eliminating the possibility of impacting views from the future park below. In addition, the remediation plan includes the pouring of concrete grout, colored to resemble the soil composing the canyon slope. As discussed previously, it was found that the removal of the reinforcement steel in the grade beam trenches and recompaction of the slope could potentially jeopardize geologic stability. Fortunately, it is not necessary to protect the visual resource. The filling of the trenches with colored concrete to grade level would eliminate the visual impact the grade beams would have on the future park below. Finally, the remediation plan includes the landscaping of native plants associated with Potrero Canyon. This landscaping is consistent with the landscaping required in permit conditions for the future Potrero Canyon Park and is also consistent with the requirements in the applicant's original permit, 5-99-409 (see Special Condition #6 & #7 of the original permit and Exhibit #5 of this staff report.

The applicant has also proposed a grade-level deck on the flat portion of the lot, behind the canyon edge. As indicated in the Alternatives section of the staff report for 5-99-409-A1:

"The applicant's rear yard is between 36 feet and 55 feet from the canyon-facing wall of the existing home to the canyon edge, across the applicant's approximately 80 foot-wide property. There is, therefore, ample room to provide a permeable deck at grade level within the confines of the flat portion of the lot. Thus, the alternative of setting the deck away from the canyon edge without an extensive foundation system on the canyon slope does not restrict the applicant from providing an accessory structure to the existing single family home for private recreational purposes, consistent with the Chapter 3 policies of the Coastal Act."

A flat, grade-level deck would typically not be seen from the canyon below. However, as discussed in Section D. above, there is a potential for the canyon edge to retreat and undermine the proposed deck located adjacent to the canyon edge. As the canyon retreats or erodes, the proposed deck could potentially begin to cantilever over the canyon edge thus, creating an impact to those utilizing the public park below (see findings for 5-99-409-A1 (Bagnard), hereby incorporated herein by reference).

Page 14 of the staff report for 5-99-409-A1, addressing the issues of the proposed cantilevered deck adjacent to the future Potrero Canyon Park states:

"The deck would cantilever over the canyon and would be highly visible to those utilizing the public walkway in the future Potrero Canyon public park. The effect of continuous development on the canyon edge would create a "walled" appearance along the canyon. The recreational experience intended for this park is an open, coastal canyon appearance (as it existed prior to its fill). Development that is highly visible from the future park would detract from this recreational experience. Those that would have visited in this park for such an enjoyment may choose to go elsewhere if development lined the edges of the canyon, creating a more urban

appearance.... The project is not designed or sited to prevent impacts that would significantly degrade the park and recreation area. Allowing development at the edge and on the face of the canyon would be precedent setting, allowing future development along the canyon. This cumulative impact would result in a degraded area that would ultimately lessen the recreational enjoyment of the future Potrero Canyon public park and may influence the decisions of those who would have recreated in this location."

Therefore, to ensure that the proposed deck does not create a future visual impact to the Potrero Canyon Park below, the Commission imposes Special Condition #8. Special Condition # 8 requires the applicant to submit revised plans demonstrating that all structures associated with the proposed grade-level deck (with the exception of the colored concrete grout used to fill the pad area and grade beams at the top of the slope) be set back five (5) feet from the edge of the canyon slope. Therefore, only as conditioned, the proposed remediation plan and the construction of a grade-level deck, behind the canyon edge are consistent with Section 30251 of the Coastal Act.

F. Parks and Recreational Areas

Section 30240 of the Coastal Act states, in pertinent part:

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

The future use of Potrero Canyon will be a public park for passive recreation. Upon completion of the Potrero Canyon fill project, a walkway will be installed giving both access to Will Rogers State Beach and a coastal canyon-like hiking experience. The park will have a reconstructed stream with riparian habitat and an assemblage of coastal sage scrub habitat on the canyon slopes.

Section 30240 of the Coastal Act requires that development in areas adjacent to parks and recreation areas and environmentally sensitive habitat areas be sited and designed to prevent impacts that would significantly degrade such areas. The project site is located adjacent to Potrero Canyon and the future Potrero Canyon Public Park. The proposed project consists of the implementation of a remediation plan, as shown on Exhibit #4. In addition to the remediation plan, the applicant has proposed a grade-level deck located on the flat portion of the lot, behind the canyon edge.

The remediation plan will minimize the impacts caused by the unpermitted development. All structures would be located at or below grade; the tops of the five caissons would be removed below grade and the grade beam trenches would be filled at grade. In addition the concrete grout poured into the grade beam trenches would be colored to resemble the soil composing the canyon slope. Finally, the remediation plan includes the revegetation

of the canyon slope with plant species native to Potrero Canyon, which is consistent with both the prior permit for the applicant's single family home, 5-99-409, and the permit for the Potrero Canyon Fill Project, 5-86-958 and 5-91-286 as amended).

Therefore, the Commission finds the proposed remediation plan and the construction of a grade-level deck, behind the canyon edge consistent with Section 30240 of the Coastal Act.

G. Unpermitted Development

Development has occurred on site without benefit of the required coastal development permit, including construction of five caissons at an approximate depth of 17 feet below grade, trenching for grade beams, and placement of reinforcement steel for the construction of grade beams. The work that was undertaken constitutes development that requires a coastal development permit. As discussed in the preceding sections of this staff report, it was not geologically feasible to remove the five cast caissons and reinforcement steel in the grade beam trenches and ensure geologic stability of the slope.

Therefore, the Commission Enforcement staff reached a Settlement Agreement with the applicant, which has been approved by the Commission in which the applicant was required to pay a fine of \$10,000 and submit an amendment request for the implementation of a remediation plan. In consideration of the agreement, the Commission will not pursue litigation to enforce the Coastal Act violation involving the unpermitted grading and installation of the five cast caissons.

In order to ensure that the applicant's proposal to restore the site is implemented in a timely manner, Special Condition #10 requires the applicant to implement and complete the proposed Remediation Plan including: removing the tops of five (5) existing caissons below grade, filling grade beam trenches and a graded pad area with concrete grout colorized to resemble the natural soils, and revegetating the canyon slope with native, drought resistant plant species consistent with approved project plans within 60 days of the issuance of this permit. The Executive Director may grant additional time for good cause. In addition, to ensure that the components of this application involving unpermitted development are resolved in a timely manner, Special Condition #11 requires that the applicant satisfy all conditions of this permit, which are prerequisite to the issuance of this permit within 90 days of Commission action.

Consideration of the permit amendment application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

H. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms to Chapter 3 policies of the Coastal Act:

- (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 Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

In 1978, the Commission approved a work program for the preparation of Local Coastal Programs in a number of distinct neighborhoods (segments) in the City of Los Angeles. In the Pacific Palisades, issues identified included public recreation, preservation of mountain and hillside lands, and grading and geologic stability.

The City has submitted five Land Use Plans for Commission review and the Commission has certified three (Playa Vista, San Pedro, and Venice). However, the City has not prepared a Land Use Plan for Pacific Palisades. In the early seventies, a general plan update for the Pacific Palisades had just been completed. When the City began the LUP process in 1978, with the exception of two tracts (a 1200-acre and 300-acre tract of land), which were then undergoing subdivision approval, most private lands in the community were subdivided and built out. The Commission's approval of those tracts in 1980 meant that no major planning decision remained in the Pacific Palisades. The tracts were A-381-78 (Headlands) and A-390-78 (AMH). Consequently, the City concentrated its efforts on communities that were rapidly changing and subject to development pressure and controversy, such as Venice, Airport Dunes, Playa Vista, San Pedro, and Playa del Rey.

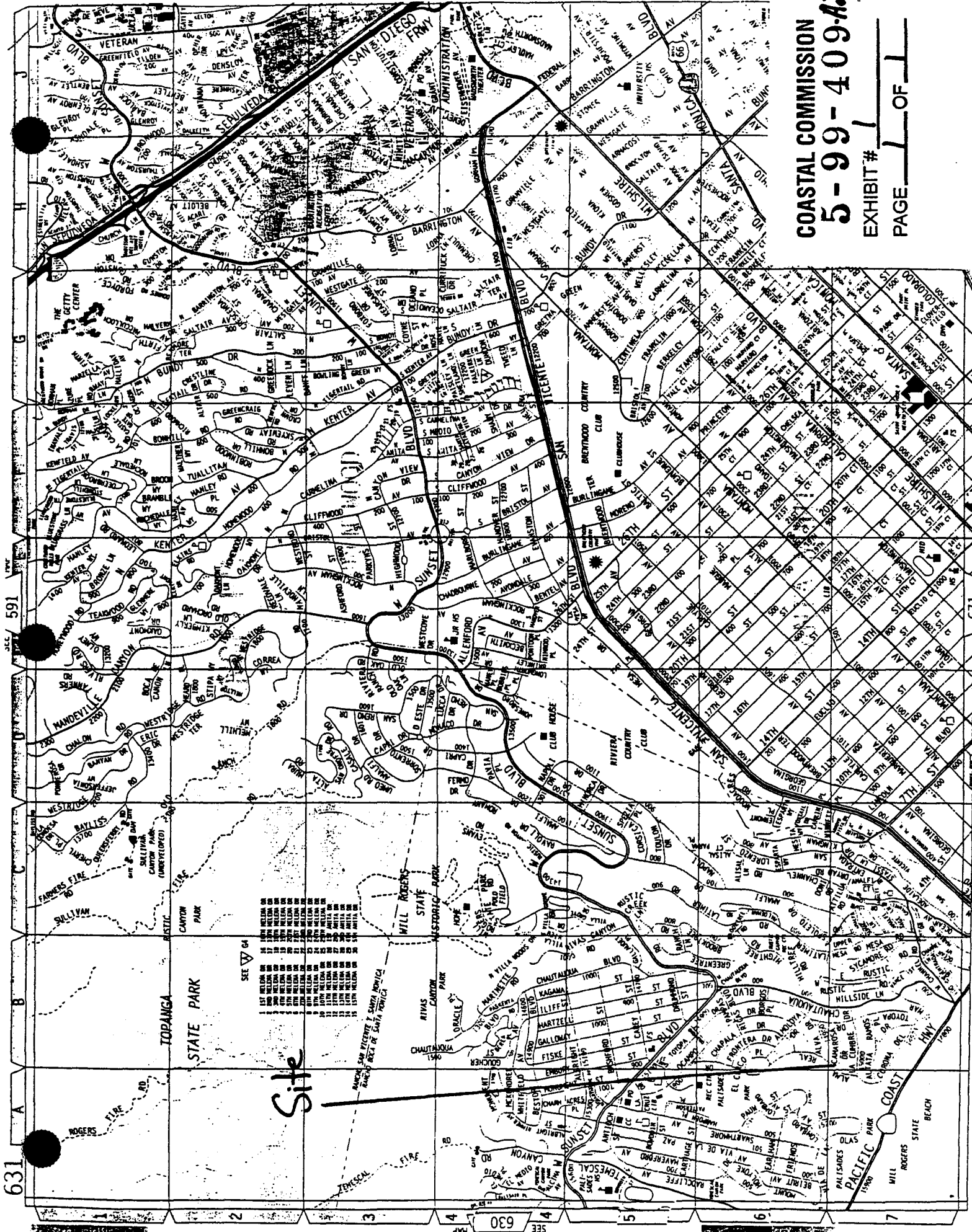
Based upon the findings presented in the preceding sections, the Commission finds that the proposed development, as conditioned, will not create adverse impacts on coastal resources. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

I. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that the activity may have on the environment.

The proposed project as conditioned is found to be consistent with the Chapter 3 policies of the Coastal Act. As explained above and incorporated herein, all adverse impacts have been minimized and the project, as proposed, will avoid potentially significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project is consistent with the requirements of the Coastal Act and CEQA.

End/am



COASTAL COMMISSION
5-99-409-A2

EXHIBIT # 1

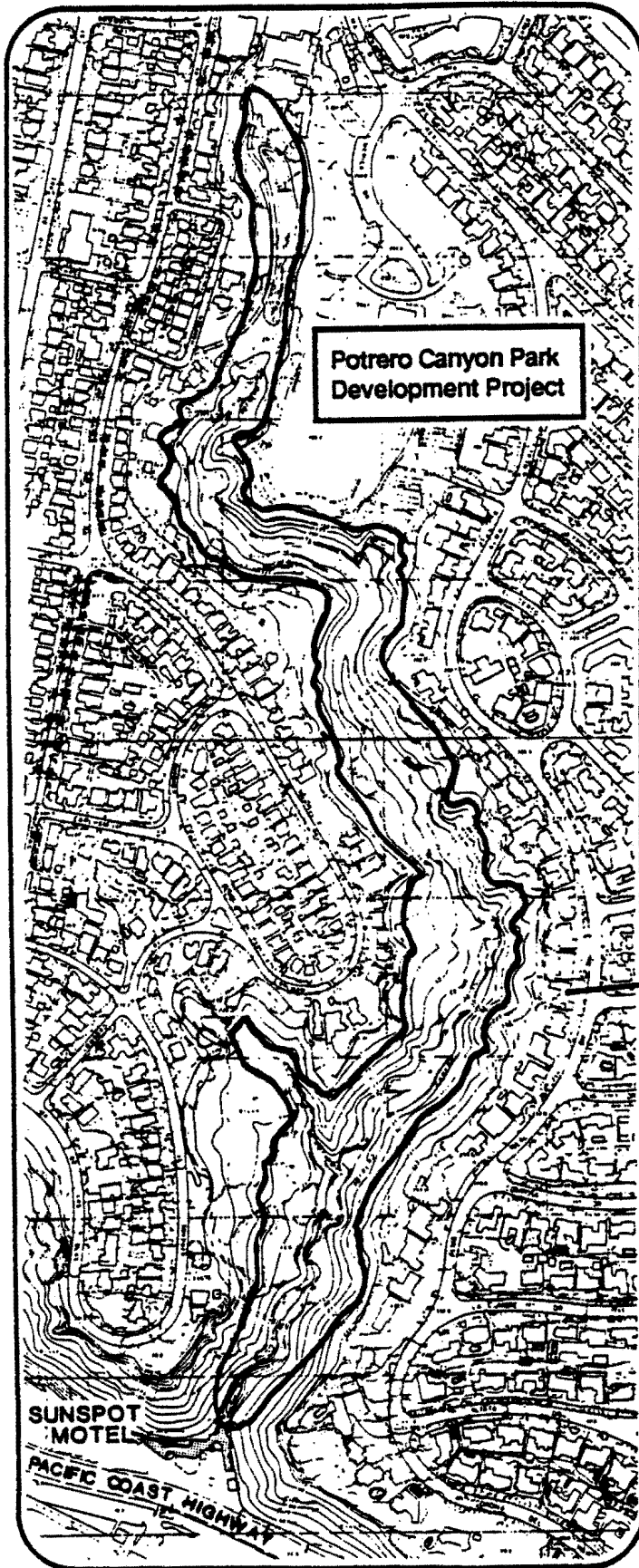
PAGE 1 OF 1

Site

631

630

671



Potrero Canyon Park
Development Project

Site

COASTAL COMMISSION
5-99-409-A2

EXHIBIT # 2
PAGE 1 OF 1

SUNSPOT
MOTEL

PACIFIC COAST HIGHWAY

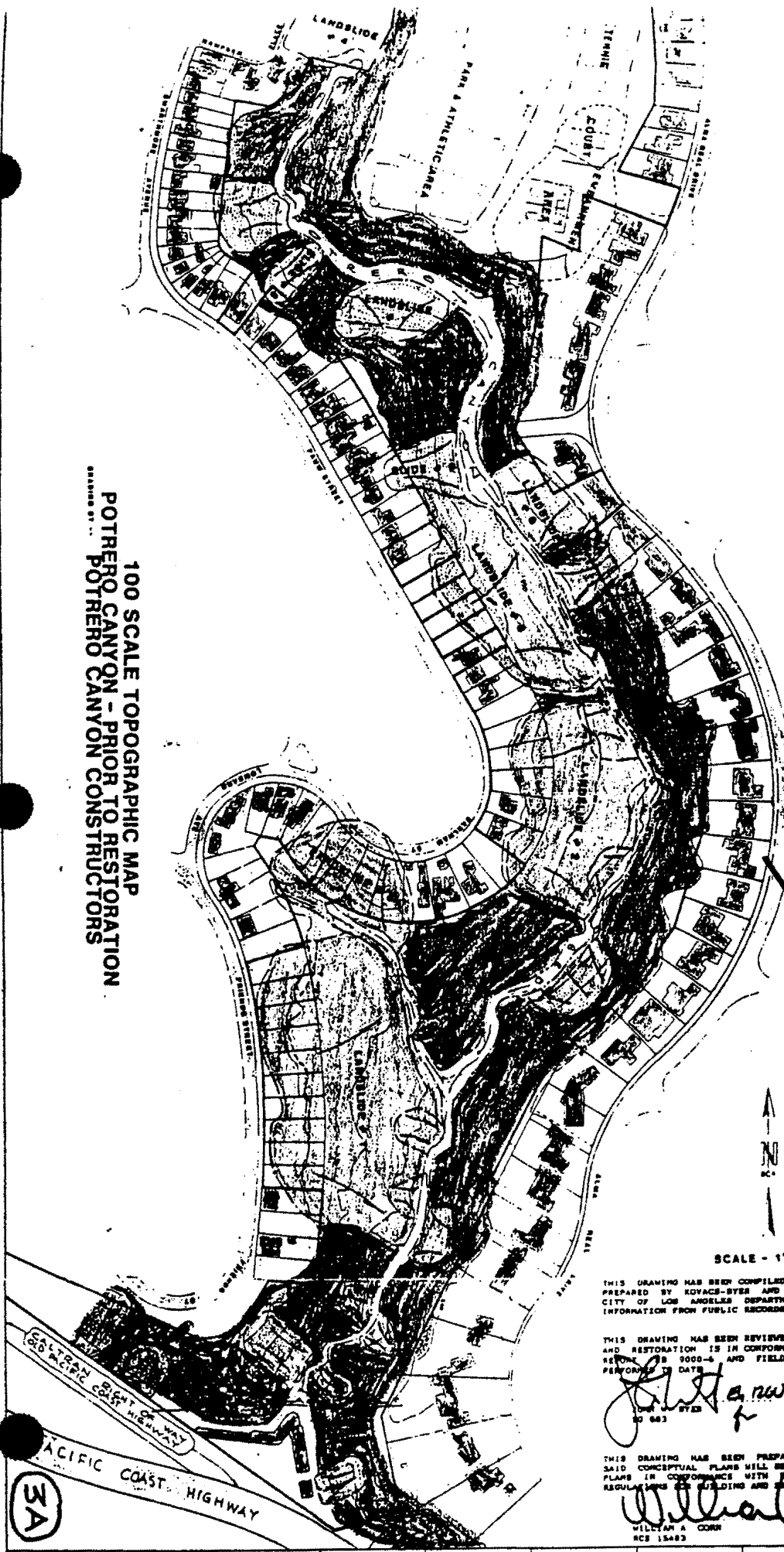


SOURCE: EnviroSphere, 1985.

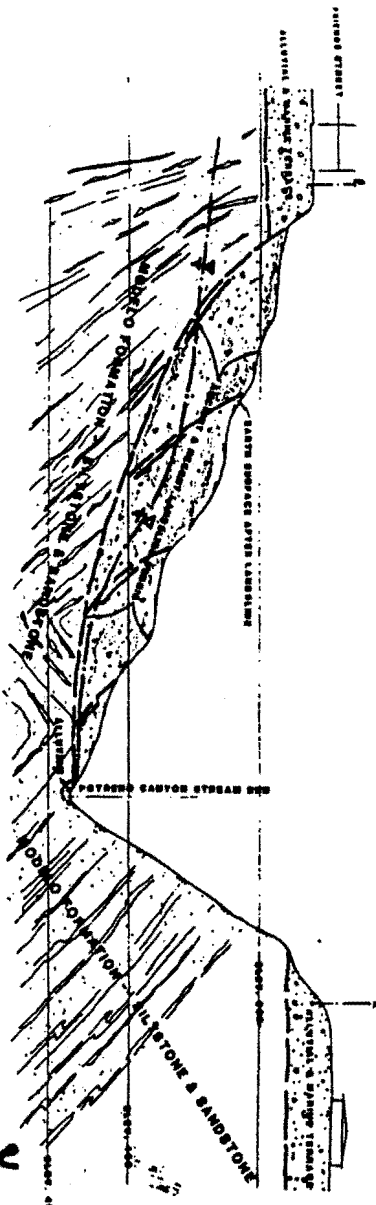
FIGURE

2

100 SCALE TOPOGRAPHIC MAP
 POTRERO CANYON - PRIOR TO RESTORATION
 DRAWN BY POTRERO CANYON CONSTRUCTORS



CROSS-SECTION -- LANDSLIDE # 1
 SCALE 1" EQUALS 40'



Site

COASTAL COMMISSION
 5-99-409-A2
 EXHIBIT # 3
 PAGE 1 OF 1

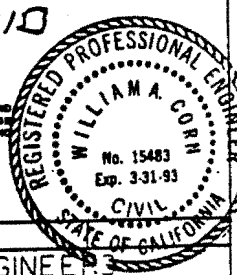
SCALE - 1"=100

THIS DRAWING HAS BEEN COMPILED USING INFORMATION FROM SOILS REPORT PREPARED BY KOVACS-BYER AND ASSOCIATES INC. (KBS 9000-61) FOR THE CITY OF LOS ANGELES DEPARTMENT OF RECREATION AND PARKS PLUS INFORMATION FROM PUBLIC RECORDS.

THIS DRAWING HAS BEEN REVIEWED BY KOVACS-BYER AND ASSOCIATES INC. AND RESTORATION IS IN CONFORMANCE WITH RECOMMENDATIONS FROM SOILS REPORTS 9000-6 AND FIELD INSPECTION FOR RESTORATION WORK PERFORMED TO DATE.

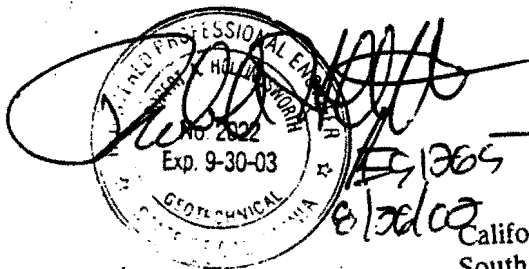
William A. Corn *Robert J. Corn*
 6/9/90
 WILLIAM A. CORN
 RCE 15483
 ROBERT J. CORN
 RCE 33744

THIS DRAWING HAS BEEN PREPARED UNDER MY DIRECT SUPERVISION AND SAID CONCEPTUAL PLANS WILL BE DEVELOPED INTO GRADING AND DRAINAGE PLANS IN CONFORMANCE WITH MUNICIPAL CODE AND CURRENT BUILDING REGULATIONS FOR BUILDING AND REPAIRS OF LOS ANGELES.



△ REMEDIATION PLAN NOTES △

- ① OMIT CONSTRUCTION
- ② EXTENT OF WORK ALLOWED PER CDP 5.99.409.A2 & CITY OF LA. 01020.30001.01787
- ③ SETTLEMENT AGREEMENT 3.b.iii: The graded pad... shall be paved using a concrete grout to resemble the soil composing the canyon slope
- ④ S.A. 3.b.iv: Revegetate the canyon slope with drought resistant, native plants.
- ⑤ S.A. 3.b.i: Caissons shall terminate below existing slope face.
- ⑥ S.A. 3.b.ii: The grade beam trenches shall be filled with colored concrete grout to the grade level of the descending slope
- ⑦ S.A. 3.b: The remediation plan shall be approved by a licensed geo-technical engineer. All concrete shall be colored per 3.b.iii ③ and constructed per city of L.A. permit 01020.30000.01787



California Coastal Commission
South Coast District Office
APPROVED
Permit No. 5-99-409A2

Los Angeles City Planning By: _____
COASTAL ZONE PLAN APPROVAL EFFECTIVE
☒ Single Jurisdiction Date: _____
☐ Dual Jurisdiction
File No. AIC-1999-2425
Approved by: [Signature]
Date: 8/28/00

COASTAL COMMISSION
5-99-409

EXHIBIT # 4
PAGE 1 OF 4

REMEDICATION PLAN
CDP 5.99.409.A2

DESIGN & PLANNING

TERRY McNAMARA
TIM McNAMARA
21515 DEERPATH LANE
MALIBU CALIFORNIA 90265.5105
310.456.0570 fax 310.317.0930

ACCESSORY STRUCTURE

MR & MRS WILLIAM W BAGNARD
421 ALMA REAL DRIVE
PACIFIC PALISADES CA 90272.4418
LOT 29 TRACT 9377

DRAWN
Tim McNamara
CHECKED

DATE
6 May 02

SCALE
4" = 1'-0"

JOB NO.
01.015

SHEET

R.1

AUG 26 2002

REVISED 24 AUG 02



Restoration Plan @ 421 Alms Real

$$1/8^H = 1/8$$

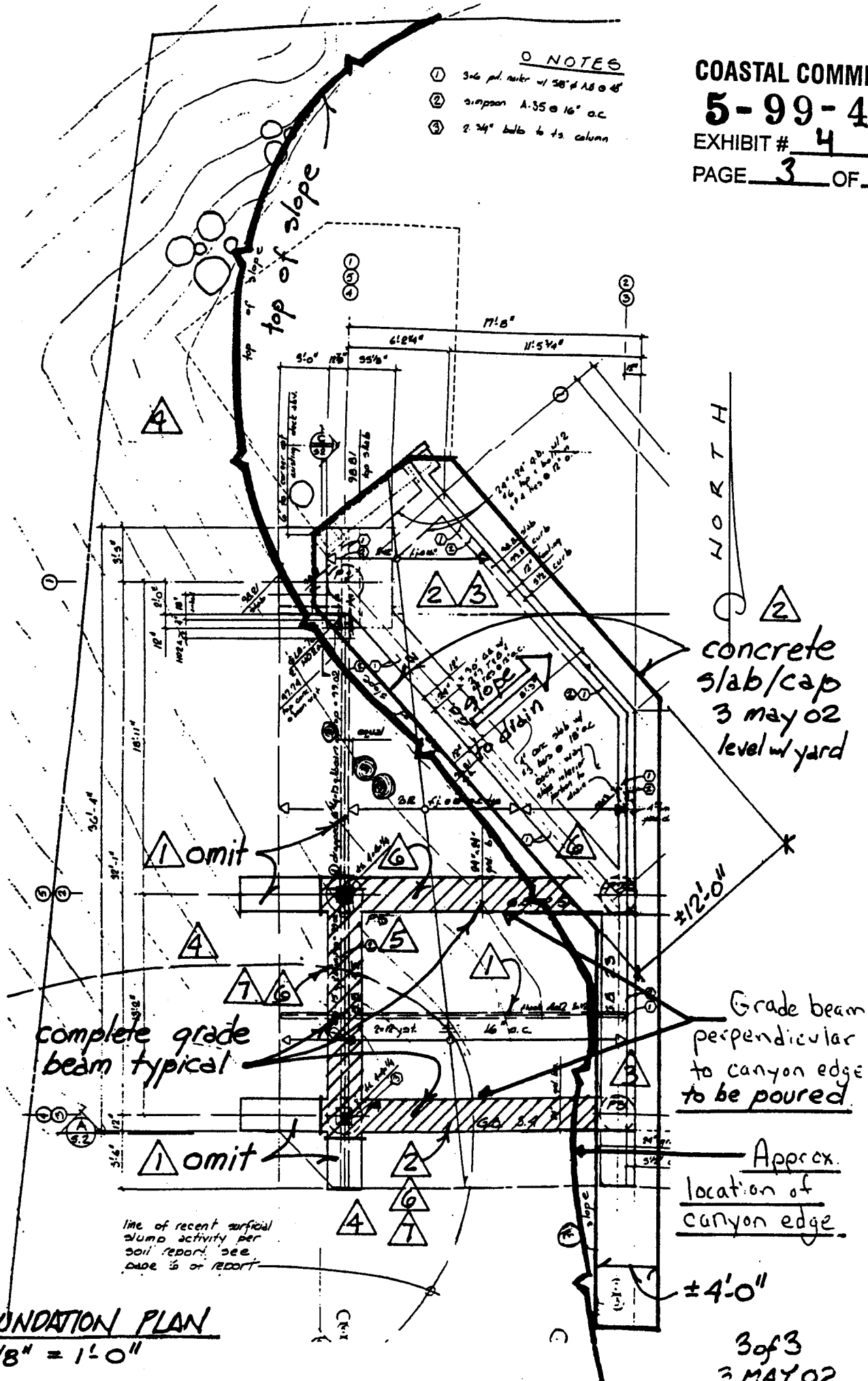
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3 May 02

EXHIBIT # 4
PAGE 3 OF 4

EXHIBIT # 4
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- ① 3-6 pul. raster w/ 50° of AB @ 45°
- ② Simpson A. 35 @ 16° o.c
- ③ 2. 24" bolts to ts. column



FOUNDATION PLAN

$$1/8'' = 1' \circ''$$

3 of 3
3 MAY 02

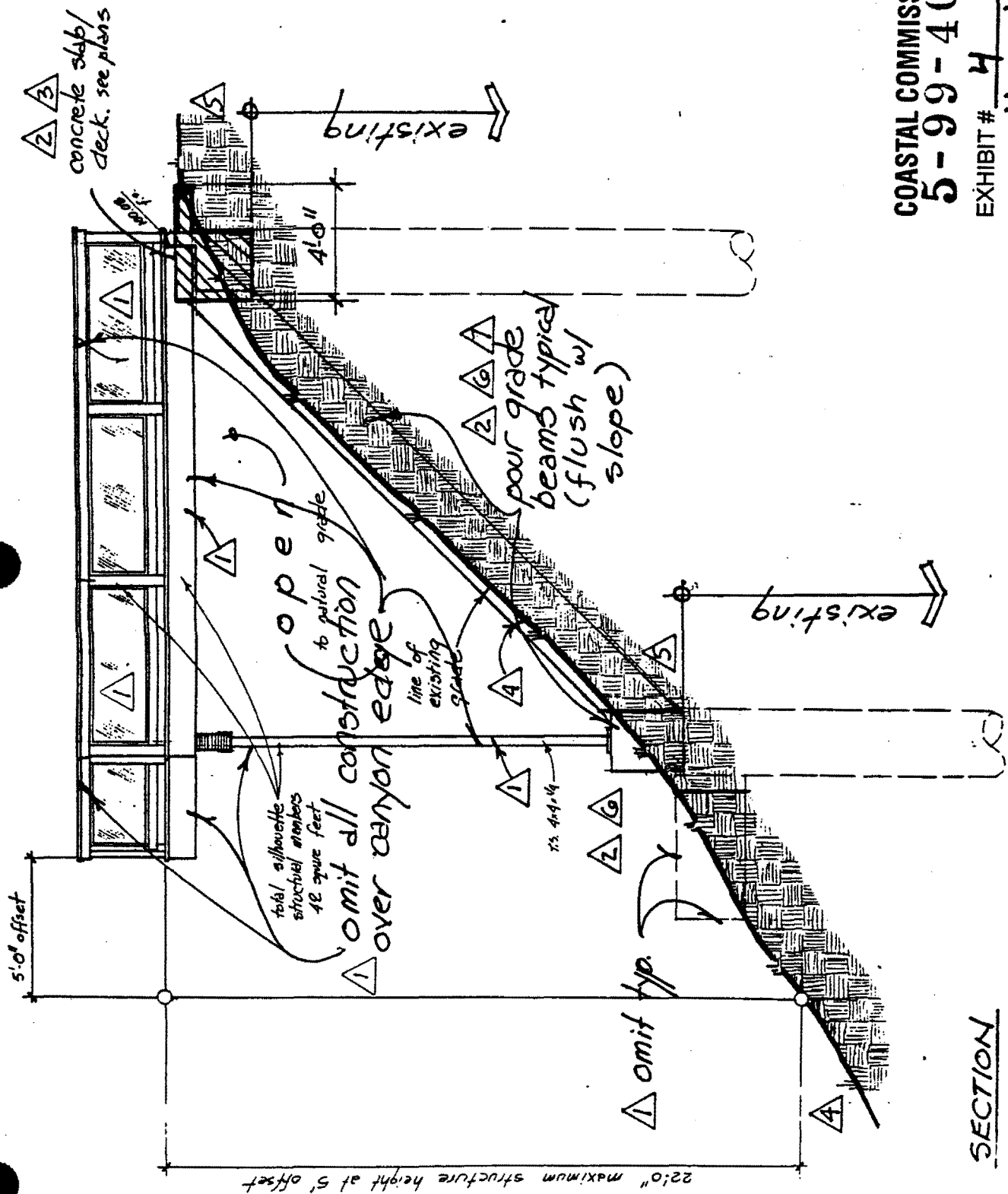
3 мая 02

 $10^{-1} = 0.1$

EXHIBIT # 4
PAGE 4 OF 4

EXHIBIT # 4

PAGE 4 OF 4



CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Page 1 of 7

Date: April 14, 2000

Permit No: 5-99-409

**COASTAL DEVELOPMENT PERMIT**

On 15 February 2000, the California Coastal Commission granted to William Bagnard Coastal Development Permit 5-99-409, subject to the attached Standard and Special Conditions, for development consisting of: Demolish single family dwelling, and construct a 30-ft. high two-story over basement 7,952 sq. ft. single family house with two car garage, driveway and fence. More specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 421 Alma Real, Pacific Palisades.

Issued on behalf of the California Coastal Commission on April 14, 2000.

PETER DOUGLAS
Executive Director

By: 
Title: Coastal Program Analyst

ACKNOWLEDGMENT

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

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

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CAL. ADMIN. CODE SECTION 13158(a).

Date

Signature of Permittee

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

COASTAL COMMISSION
5-99-409-A
EXHIBIT # 5
PAGE 1 OF 7

COASTAL DEVELOPMENT PERMIT

No. 5-99-409

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COASTAL COMMISSION

5-99-409-A

EXHIBIT #

PAGE 2 OF 7

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 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. REVISED PLANS

A. Prior to issuance of the permit the applicant shall submit revised plans for the review and approval of the Executive Director. The plans shall depict the topography of the surface of the lot and of the canyon area 50 feet west of the lot. The plans shall show the location of the house, the fence and the garage approved in this permit 5-99-409, the natural rim of the canyon, and all proposed development. With the exception of fences and the front porch

shown in this application, no permanent structures shall be placed between the westerly wall of the house approved in permit 5-99-409 and the canyon property line unless approved by an amendment to this permit.

B. The permittee shall undertake development in accordance with the approved final plans. 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 Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. FUTURE DEVELOPMENT DEED RESTRICTION

A. This permit is only for the development described in coastal development permit No. 5-99-409. Pursuant to Title 14 California Code of Regulations, section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (a) shall not apply to the portions of the parcel located between the westerly wall of the single family house, approved in his permit 4-99-409 and the westerly property line as shown in Exhibit 5. Accordingly, any future improvements to the permitted structure, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), which are proposed within the restricted area shall require an amendment to Permit No. 5-99-409 from the Commission or shall require an additional coastal development permit from the Commission or from the City of Los Angeles.

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, reflecting the above restrictions on development in the restricted area. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

3. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildland fire, erosion, landslide, or earth movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such

COASTAL DEVELOPMENT PERMIT

No. 5-99-409

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COASTAL COMMISSION
5-99-409-A

EXHIBIT # 5

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hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

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 incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens 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.

4. CONFORMANCE OF DESIGN AND CONSTRUCTION PLANS TO GEOTECHNICAL REPORT GEOLOGIC HAZARD

A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in the Section of the Engineering Geologic Report 8835-G prepared by Grover Hollingsworth and dated 8/25/99 and the Soils and Geology review letter log 28868 from the Los Angeles City Department of Building and Safety. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. WINTERIZATION/EROSION CONTROL PLAN

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and approval of the Executive Director, a plan for erosion and run-off control.

COASTAL DEVELOPMENT PERMIT

No. 5-99-409

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COASTAL COMMISSION

5-99-409-A2

EXHIBIT # 5

PAGE 5 OF 7

1. EROSION CONTROL PLAN

- (a) The erosion control plan shall demonstrate that:
- (1) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties, and the alley behind the site.
 - (2) The following temporary erosion control measures shall be used during construction: sand bags, a desilting basin and silt fences.
 - (3) Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and public streets.
 - (4) The following permanent erosion control measures shall be installed: a drain to direct roof and front yard runoff to the street; no drainage shall be directed to rear yard slope; no drainage shall be retained in front yard.
- (b) The plan shall include, at a minimum, the following components:
- (1) A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control.
 - (2) A site plan showing the location of all temporary erosion control measures.
 - (3) A schedule for installation and removal of the temporary erosion control measures.
 - (4) A site plan showing the location of all permanent erosion control measures.
 - (5) A schedule for installation and maintenance of the permanent erosion control measures.

2. RUN-OFF CONTROL PLAN

- (a) The run-off control plan shall demonstrate that:
- (1) Run-off from the project shall not increase the sediment or pollutant load in the storm drain system.
 - (2) Run-off from all roofs, patios, driveways and other impervious surfaces on the site shall be collected, filtered and discharged to avoid ponding or erosion either on or off the site.
 - (3) Run-off from roofs, and driveways shall be directed through filters designed to remove chemicals and particulates,

COASTAL DEVELOPMENT PERMIT**COASTAL COMMISSION****5-99-409-A2**

No. 5-99-409

Page 6 of 7

EXHIBIT # 5PAGE 6 OF 7

at least for low flow conditions, (as defined as a one-year storm or as defined by the Regional Water Quality Control Board)

(b) The plan shall include, at a minimum, the following components:

- (1) The location, types and capacity of pipes drains and/or filters proposed.
- (2) A schedule for installation and maintenance of the devices.
- (3) A site plan showing finished grades at two foot contour intervals) and drainage improvements.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. FUEL MODIFICATION PLAN

Prior to issuance of the permit, the applicant shall provide for the review and approval of the Executive Director, a fuel modification and fire safety plan for the development. The plan shall minimize impacts to natural vegetation and public views and must have been reviewed and approved by the Los Angeles City Fire Department. If the Fuel Modification/Fire Safety plan anticipates any removal of vegetation, including thinning, on City Department of Recreation and Parks lands, the applicant shall provide a signed agreement with the City of Los Angeles Department of Recreation and Parks acknowledging that the property is adjacent to the Potrero Canyon Park. The agreement shall specify the location and methods of fuel modification (if any) on City of Los Angeles Department of Recreation and Parks land, and shall specify the amount of any fees or indemnification required for the use of City Property for such fire buffer. If the fuel modification plans show vegetation removal or alteration of City Park Land more than 100 feet from the proposed residential structure, an amendment to this permit shall be required.

7. LANDSCAPE PLAN

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a plan for landscaping to assure compliance with the project description, terms and conditions of this permit and CDP 5-91-286 and compatibility with the revegetation measures required in that permit. The plan shall be prepared by a licensed landscape architect.

COASTAL DEVELOPMENT PERMIT

No. 5-99-409

Page 7 of 7

1. The plan shall demonstrate that
 - (a) To minimize the need for irrigation the majority of vegetation planted on the site will consist of drought-tolerant plants,
 - (b) The applicant shall not employ invasive; non-indigenous plant species, which tend to supplant native species. Such plants are listed in Exhibit 15.
 - (c) All vegetation placed on the canyon side slope shall consist of native, drought and fire resistant plants of the coastal sage scrub community.
 - (d) All planting shall be completed within 60 days after completion of construction,
 - (e) All required plantings will be maintained in good growing conditions through-out the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscape plan, and
 - (f) No permanent irrigation system shall be allowed within the property. Any existing in-ground irrigation systems shall be removed. Temporary above ground irrigation to allow the establishment of the plantings is allowed. The landscaping plan shall show all the existing vegetation.
2. The plan shall include, at a minimum, the following components:
 - (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the topography of the developed site, and all other landscape features, and
 - (b) A schedule for installation of plants.

B. The permittee shall undertake development in accordance with the approved final 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 Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

PE:

G:\PERMITS\1999 permits\5-99-409 bagnard permit.doc

COASTAL COMMISSION
5-99-409-A2
EXHIBIT # 5
PAGE 7 OF 7

DATE: 07/17/01

COASTAL EXEMPTION NO. ZA-2001-3465-CEX

FROM: City of Los Angeles
City Planning Department
201 North Figueroa Street
Los Angeles, CA 90012

COASTAL COMMISSION
5-99-409-A2

EXHIBIT # 6

PAGE 1 OF 2

TO: California Coastal Commission
South Coast District
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071

RECEIVED
South Coast District

JUL 23 2001

CALIFORNIA
COASTAL COMMISSION

**EXEMPTION - COASTAL ZONE
SINGLE JURISDICTION AREA**

This coastal exemption from the Department of City Planning for minor repairs and/or improvements in the California Coastal Zone must be submitted with necessary plans to the City of Los Angeles Department of Building and Safety as a coastal clearance to obtain a building permit. (It is only applicable in single jurisdiction areas, otherwise Coastal Commission issues exemption.)

PLEASE TYPE OR PRINT

PROPERTY ADDRESS: 421 OLMA REAL DR.

LEGAL DESCRIPTION: Lot 29 Block 1 Tract 9377

DISTRICT MAP NO. (s) 123 B129 COMMUNITY Brentwood-Pacific Palisades

ZONE: RE 15-1

PROPOSED DEVELOPMENT: For sfd under construction, an accessory deck & shed

APPLICANT Tim McNamee PHONE NO. (310) 456-0570

APPLICANT'S ADDRESS: 18711 Pacific Coast Hwy #24

CITY, STATE, ZIP Malibu CA 90265-5507

I CERTIFY THAT ALL PRIOR COASTAL PERMITS AND/OR EXEMPTIONS ARE ATTACHED.

APPLICANT'S SIGNATURE [Signature]

FOR OFFICE USE ONLY

In accordance with the provisions of Section 30610 of the California Coastal Act (as amended January 1980), a determination has been made that the above-described project does not: (1) involve a risk of adverse environmental effect, (2) adversely affect public access, or (3) involve a change in use contrary to any policy of this division pursuant to Title 14, of the California Administrative Code, and qualifies for an exemption under the category checked below, and a Coastal Development Permit is not required.

- (X) IMPROVEMENTS TO EXISTING SINGLE-FAMILY RESIDENCES. This includes all fixtures and other structures part of a residence—garages, swimming pools, fences, storage sheds but not including reduction of or addition of guest houses; self-contained residential units, or retaining walls that have a potential significant impact on coastal resources.
- () IMPROVEMENTS TO ANY EXISTING STRUCTURE OTHER THAN A SINGLE-FAMILY RESIDENCE. This includes landscaping on the lot and additions; all fixtures and other structures part of the structure, and does not involve reduction of or additional residential dwelling units.
- () REPAIR OR MAINTENANCE. These activities do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities.
- () DEMOLITIONS. Demolitions required by the Department of Building and Safety. Attach notice of Building and Safety requiring demolition.

This exemption in no way excuses the applicant from complying with all applicable policies, ordinances, codes and regulations of the City of Los Angeles. This exemption shall not apply if the project is not consistent with local land use regulations. If it is found that the project description is not in conformance with the actual project to be constructed or is not in conformance with Section 30610 of the California Coastal Act (as amended January 1980), this exemption is null and void.

Robert Janovici
Chief Zoning Administrator

By: ARTUR R. J. JONES

Print name and title of individual signing.

Application Fee 68

Total Fee 76

Receipt No. 229565

NOTE: If filed in Valley Office, originals returned to Downtown Office.

cc: California Coastal Commission
South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071

COASTAL COMMISSION
5-99-409-A?
EXHIBIT # 6
PAGE 2 OF 2

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



July 24, 2001

Tim McNamara
18711 Pacific Coast Highway, #24
Malibu, CA 90265

**SUBJECT: City of Los Angeles Planning Department
Exemption #2001-3465**

The above notice of exemption has been reviewed. The Executive Director hereby rejects the coastal exemption on grounds that the exemption is not consistent with Section 30610(a) of the Coastal Act and Sections 13250(b)(6) of the California Code of regulations. Section 13250(b)(6) states:

Pursuant to Public Resources Code Section 30610(a), the following classes of development require a coastal development permit because they involve a risk of adverse environmental effects:

Any improvement to a single family residence where the development permit issued for the original structure by the Commission, regional commission, or local government indicated that any future improvements would require a permit

The current project under construction was issued Coastal Development Permit 5-99-409 for the demolition of an existing single family dwelling and construction of a 30-foot high, two-story over basement, 7,952 sq. ft. single family dwelling, with a two-car garage, driveway and fence. The project was approved on February 15, 2000 with seven (7) Special Conditions (see attachment). Special Condition #2 required the applicant to record a future development deed restriction. This deed restriction was recorded prior to issuance of the permit. The condition states, in part:

This permit is only for the development described in Coastal Development Permit 5-99-409. Pursuant to Title 14 California Code of Regulations, section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the portions of the parcel located between the westerly wall of the single family house approved in this permit 5-99-409 and the westerly property line as shown in Exhibit 5. Accordingly, any future improvements to the permitted structure, including but not limited to repair and maintenance identified as not requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), which are proposed within the restricted area shall require an amendment to Permit 5-99-409 from the Commission or shall require an additional coastal development permit from the Commission or from the City of Los Angeles.

Section 30600(b) of the Coastal Act allows local government to assume permit jurisdiction prior to certification of a Local Coastal Program. Under this section, local government

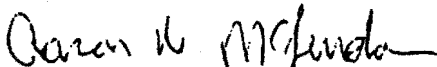
COASTAL COMMISSION
5-99-409-A

EXHIBIT # T 1 of 1

must agree to issue all permits within its jurisdiction. Section 30601 establishes that in certain areas, and in the case of certain projects, a permit from both the Commission and local government will be required. This project is located in the "Single Permit Jurisdiction" of the Coastal Zone, where the City of Los Angeles assumes permit authority. In this situation the City issued Exemption 2001-3465 under section 30610(a) of the Coastal Act and section 13250 of the CA Code of Regulations. However, there is a future development deed restriction recorded on the property. While it is understandable that City Planning Counter staff could not have been aware of such a deed restriction on the property unless the applicant disclosed such information, Commission staff cannot except the exemption under Section 13250(b)(6) and requires the submittal of a Coastal Development Permit application. Commission staff advises the applicant to not rely on this exemption and not proceed with any work related to development within the deed restricted area. If the project described in ZA-2001-3465-CEX is not located in the area between the westerly wall of the single family home and the westerly property line (facing Potrero Canyon) you may submit evidence of its location with regards to the future development deed restriction.

Thank you for your attention to these matters. If you have any questions do not hesitate to call me (562) 590-5071.

Sincerely,



Aaron N. McLendon
Coastal Program Analyst

cc: Gurdon Miller
David Silverman
Andrew Montealegre

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceanside; Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

COASTAL COMMISSION
5-99-409-A2EXHIBIT # 8
PAGE 1 OF 3

December 11, 2001

Tim McNamara
18711 Pacific Coast Highway, #24
Malibu, CA 90265

SUBJECT: Emergency Permit Request (Bagnard)
LOCATION: 421 Alma Real Drive, Pacific Palisades, City/County of Los Angeles

Dear Mr. McNamara,

We received your request for an emergency permit on October 30, 2001 to "pour subterranean foundation only" at 421 Alma Real Drive. You further describe the proposed method and preventive work as follows:

"The requested preventive work is to complete the foundation while the amendment to Coastal Development Permit 5-99-409 is processed. The completed foundation will allow for the grading and drainage recommendations of the soil report... to be completed in the safest manner."

The proposed emergency work as stated above involves the pouring of concrete into open trenches that contain reinforcement steel in order to complete the construction of a foundation on the hillside. You have stated that the "steel reinforcement presents a safety hazard and will be subject to rust and corrosion if faced with extended exposure to the elements. The trenches dug for the grade beams create the potential for slope failure on an already unstable slope." You have further stated that "[t]he requested action, completing the foundation, is justified in that something must [be] done given the conditions that exist at the time of this writing. In the event that approval for the project as designed is not forthcoming the foundation system will stabilize the slope and, with landscaping, will become a visual nonentity. The probable consequences of inaction is slope failure."

Section 30624 of the Coastal Act states, in part, that "the Commission shall provide, by regulation, for the issuance of coastal development permits by the Executive Director of the Commission... in cases of emergency, other than an emergency provided for under Section 30611...."¹

¹ Section 30611 of the Coastal Act allows for the waiver of the permit requirement for certain types of emergency situations when "immediate action by a person or public agency performing a public service is required to protect life and public property from imminent danger, or to restore, repair, or maintain public works, utilities, or services destroyed, damaged, or interrupted by natural disaster, serious accident, or in other cases of emergency...." It does not authorize the permanent erection of structures valued at more than twenty-five thousand dollars. Commission staff notes that the above described situation at 421 Alma Real does not rise to the level of a Section 30611 waiver.

The Commission's regulations are codified in Sections 13001 through 13666.4 of Title 14 of the California Code of regulations. Section 13009² defines "emergency," for purposes of Section 30624, as "a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services." Sections 13136-144 govern the "procedures for processing applications for permits to perform work to resolve problems resulting from a situation falling within [that] definition . . . pursuant to . . . Section 30624." 14 C.C.R. § 13136. Section 13142 establishes the criteria for granting emergency permits. The Executive Director of the Coastal Commission may grant an emergency permit only if he/she finds that:

"(a) An emergency exists and requires action more quickly than permitted by the procedures for administrative permits, or for ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;

"(b) Public comment on the proposed emergency action has been reviewed if time allows; and

"(c) The work proposed would be consistent with the requirements of the California Coastal Act of 1976."

Therefore, pursuant to Sections 13142(a) and 13009, in order to grant an emergency permit, the Executive Director must first conclude that there has been "a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services." After review of your submitted materials and after Commission staff conducted a site visit on November 13, 2001, it was determined that there was no sudden, unexpected occurrence on the site. In addition, the Commission's Staff geologist, Dr. Mark Johnsson, has also found that the current situation on the site at 421 Alma Real does not constitute an "emergency" as defined by 14 C.C.R. § 13009, because the situation does not demand immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.

As an example of the types of situations intended by the emergency permit regulations, the Commission could grant an emergency permit if, for example, a 7.0 earthquake struck the City of Los Angeles, causing a canyon slope to fail, undermining an existing single-family home, and rupturing a water line on the property such that it was eroding the already unstable slope. If immediate action were not taken the earth supporting the home could completely fail causing the home to slide into the canyon. The homeowner might apply for an emergency permit from the Commission to construct temporary support structures along the canyon and under the home to stave off the threat of losing their property. In this case, the Commission could grant an emergency permit because there was a sudden unexpected occurrence that demands immediate action to prevent or mitigate loss or damage to life, health, or property.

² All further section references are to Title 14 of the California Code of Regulations.

In addition, to grant an emergency permit, Section 13142(a) requires the Executive Director to find that the situation "requires action more quickly than permitted by the procedures for administrative permits, or for ordinary permits." In this case, the situation could be remedied under the normal permitting procedure, via an application for a permit to stabilize the existing unpermitted development. On November 27, 2001, Commission staff informed you that we could not recommend approval for the current amendment application (5-99-409-A1). We also advised you that if you were to revise the project description to request authorization for the temporary stabilization of unpermitted development, Commission staff could recommend approval for such a temporary stabilization with sandbags, tarps, and backfill with earth, grout, or other slurry mixture. We indicated we could schedule such an application for the December Commission meeting. This could temporarily alleviate the possibility of surficial failure until the full project was brought before the Commission at the January meeting. You declined this offer.

Section 13142 also requires that the Executive Director find that the "work proposed would be consistent with the requirements of the California Coastal Act of 1976" prior to issuing an emergency permit. Within letters, during phone conversations, and meeting with you in person, Commission staff indicated that the pile and grade beam foundation system at the edge and on the face of Potrero Canyon is inconsistent with the Coastal Act. Therefore, completing the foundation system (pouring concrete for the grade beams) under an emergency permit, when other options exist to temporarily protect the site would be contrary to 14 C.C.R. § 13142.

In conclusion, the situation does not meet the definition of an "emergency" under Section 13009, because there was not "a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services"; and it does not meet the emergency permit requirements specified in Section 13142, because (1) the situation could have been remedied under the normal permitting procedure and (2) the work proposed would have been inconsistent with the Coastal Act. Therefore, the request for an emergency permit to complete the foundation system by pouring concrete in the open trenches is rejected. As stated previously, Commission staff could accept an application and recommend approval for the temporary stabilization of unpermitted development. Although Commission staff could not process such a request under the emergency permit procedures, the process can be done in a timely manner to ensure that the unpermitted development does not create future surficial instability.

Thank you for your cooperation and patience in this matter. If you have any further questions please call me at (562) 590-5071.

Sincerely,

Aaron N. McLendon

Aaron N. McLendon

COASTAL COMMISSION
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