

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

SOUTH CALIFORNIA ST., SUITE 200

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Staff: L. Ford
Staff Report: 10/17/02
Hearing Date: 11/5/02
Commission Action:

**RECORD PACKET COPY****STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.:** 4-01-183**APPLICANT:** Alfred Kemper**PROJECT LOCATION:** 1231 Old Topanga Canyon Road, Topanga, Los Angeles County

PROJECT DESCRIPTION: Construction of a three story, 33 foot high, 1,320 sq. ft. single family residence with attached two-car garage, septic system, driveway, retaining walls, completion of an approximately 175 foot long stair system, solar panel platform, and approximately 488 cu. yds. of grading. The project also includes demolition and removal of footings, stairs, and stone retaining walls from a previous residence destroyed by fire, removal of an unpermitted utility shed, and after-the-fact approval for construction of a ten wooden retaining walls, partial construction of the 175 foot long stair system, and removal of an oak tree.

Lot area:	29,000 square feet
Building coverage:	440 square feet
Pavement coverage:	1,150 square feet
Landscape coverage:	800 square feet
Unimproved:	26,600 square feet

LOCAL APPROVALS RECEIVED: County of Los Angeles Planning Department, Approval in Concept, October 10, 2001; County of Los Angeles Environmental Review Board Approval in Concept, April 16, 2001; County of Los Angeles Fire Department Oak Tree Permit #01-087, July 5, 2001; County of Los Angeles Geologic Review, Approval in Concept, June 3, 2002; County of Los Angeles Soils Engineering Review, Approval in Concept, May 28, 2002; County of Los Angeles, Fire Department (Access), Approval in Concept, February 7, 2002; County of Los Angeles, Environmental Health, Approval in Concept, December 21, 2001.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan (1986); "Oak Tree Report, 1231 Old Topanga Canyon Rd., Topanga (Los Angeles County) Project No. 317-1-01," RDI & Associates, Inc., DBA Trees, etc., March

27, 2001; "Negative Archaeological Survey Report: Results of a Phase I Archaeological Survey at 1231 Old Topanga Canyon Road," Compass Rose Archaeological, Inc., November 19, 2001; Percolation Test and Site Evaluation Report, Barton Slutske, Registered Environmental Health Specialist, November 21, 2001; "Preliminary Geotechnical Investigation, 1231 Old Topanga Canyon Road, Topanga, California," P.A. & Associates, Inc., December 15, 2000; "Addendum Engineering Geology and Soils Engineering Report and Response to Soils Engineering and Geologic Review Sheets, 1231 Old Topanga Canyon Road, Topanga, California," P.A. & Associates, Inc., May 9, 2002.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with twelve (12) special conditions regarding conformance with geologic recommendations, landscape and erosion control plans, drainage and polluted runoff control plan, oak tree restoration and monitoring plan, assumption of risk, removal of natural vegetation, removal of excess graded material, future development restriction, lighting restrictions, deed restriction, and revised plans.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-183 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2)

there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **Plans Conforming to Geologic Recommendations**

All recommendations contained in the reports prepared by P.A. & Associates, Inc. ("Preliminary Geotechnical Investigation, 1231 Old Topanga Canyon Road, Topanga, California," dated December 15, 2000; "Addendum Engineering Geology and Soils Engineering Report and Response to Soils Engineering and Geologic Review Sheets, 1231 Old Topanga Canyon Road, Topanga, California," dated May 9, 2002) shall be incorporated into all final design and construction including soil preparation, grading, scarification, fill, slabs-on-grade, settlement, retaining walls, cement, temporary shoring/bracing, and drainage. Final plans must be reviewed and approved by the project's consulting geotechnical engineer. Prior to the issuance of the Coastal Development Permit, the applicants shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any

substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require an amendment to the permit or a new Coastal Development Permit.

2. Landscaping and Erosion Control Plans

Prior to issuance of the Coastal Development Permit, the applicants shall submit landscaping, erosion control, and fuel modification plans prepared by a licensed landscape architect or qualified resource specialist for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the engineering geologist to ensure that the plans are in conformance with the consultant's recommendations. The plans shall incorporate the following criteria:

A) Landscaping Plan

- 1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within sixty (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native, drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996. Invasive, non-indigenous plant species that tend to supplant native species shall not be used.
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- 4) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- 5) The Permittees shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the Coastal Development Permit, unless the Executive Director determines that no amendment is required.
- 6) Vegetation within 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200 foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the

types, sizes, and location of plant materials to be removed, and how often thinning is to occur. In addition, prior to issuance of the Coastal Development Permit, the applicants shall submit evidence that the final fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf, and ground cover planted within the 50 foot radius of the proposed structures shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

B) Interim Erosion Control Plan

- 1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas, and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31), the applicants shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils, and cut and fill slopes with geotextiles, mats, sand bag barriers, and/or silt fencing; and temporary drains, swales, and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

C) Monitoring

Five years from the date of the receipt of the certificate of occupancy for the residence, the applicants 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 applicants (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 qualified resource specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

3. Drainage and Polluted Runoff Control Plan

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

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate, or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, one (1) hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned, and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage, filtration structures, or other BMPs fail or result in increased erosion, the applicants, landowner, or successor-in-interest shall be responsible for any necessary repairs to the drainage, filtration system, and BMPs and restoration of any eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicants shall submit a repair and restoration plan to the

Executive Director to determine if an amendment or new Coastal Development Permit is required to authorize such work.

4. Oak Tree Restoration and Monitoring Plan

The applicant shall retain the services of an independent biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during any improvements and/or restoration efforts of the oak trees located along the access road that may be recommended by the consultant. Protective fencing shall be used around the canopies or base of the oak trees adjacent to the construction area that may be disturbed during construction or grading activities. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if an oak tree(s) is removed, damaged or impacted beyond the scope of the work allowed by Coastal Development Permit 4-01-183. This monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

For the oak tree that was removed, replacement seedlings, less than one year old, grown from acorns collected in the area, shall be planted at a ratio of at least 10:1 on the applicant's parcel (Assessor's Parcel No. 4438-006-015) or a nearby location acceptable to the Executive Director. For the six (6) oak trees (#1, 3, 5, 7, 15, 16) whose protected zones are encroached upon by the proposed residence, driveway, and septic system, as shown in Exhibit 5, that may be lost or suffer worsened health or vigor, replacement seedlings, less than one year old, grown from acorns collected in the area shall be planted at a ratio of at least 3:1 on the applicant's parcel (Assessor's Parcel No. 4438-006-015) or a nearby location acceptable to the Executive Director. Prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications, and a monitoring program to ensure that the replacement planting program is successful. An annual monitoring report on the oak tree restoration and preservation shall be submitted for the review and approval of the Executive Director for each of the 10 years.

5. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire; (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.

6. Removal of Natural Vegetation

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

7. Removal of Excess Graded Material

The applicant shall remove all excess graded material to an appropriate disposal site located outside of the Coastal Zone. Prior to the issuance of the coastal development permit, the applicants shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. Should the dumpsite be located in the Coastal Zone, a coastal development permit shall be required.

8. Future Development Restriction

This permit is only for the development described in coastal development permit 4-01-183. 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 development governed by coastal development permit 4-01-183. Accordingly, any future improvements to the single family house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit 4-01-183 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

9. Lighting Restrictions

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
2. Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
3. The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60-watt incandescent bulb.

B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

10. Deed Restriction

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

11. Revised Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval of the Executive Director, revised project plans that eliminate the proposed wood deck and patio on the west side of the residence, the proposed patio on the south side of the residence, and all stairs, platforms, retaining walls and other development located on the hillside south of the residence.

12. Condition Compliance

Within sixty (60) days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a three story, 33 foot high, 1,320 sq. ft. single family residence with attached two-car garage, septic system, driveway, retaining walls, completion of an approximately 175 foot long stair system, solar panel platform, and approximately 488 cu. yds. of grading. The project also includes demolition and removal of footings, stairs, and stone retaining walls from a previous residence destroyed by fire, removal of an unpermitted utility shed, and after-the-fact approval for construction of a ten wooden retaining walls, partial construction of the 175 foot long stair system, and removal of an oak tree. **(Exhibits 3-11)**.

The approximately 0.66 acre project site is located in the Topanga Park area of unincorporated Los Angeles County. The surrounding lots fronting onto Old Topanga Canyon Boulevard are generally developed with single family residences. The hillside south of the project site is largely undeveloped, and contains large tracts of land owned by land trusts and public agencies.

The project site contains the remnants of a residence that was destroyed by fire. Remaining development includes footings, stone retaining walls, and stairs. In addition, a utility shed, ten wooden retaining walls, and partial construction of an approximately 175 foot long stairway ascending the hillside have been placed and/or constructed on the property without the benefit of a coastal development permit.

Site topography is characterized by a southerly ascending slope with gradients ranging from 2:1 to 1:1. The slope levels to approximately 3:1 in the northeast corner of the property, adjacent to the road. In addition, several small near-level pad areas in the northern half of the property remain from the destroyed residence. The applicant proposes to cut approximately 480 cu. yds. of material south of the 3:1 area in the northeast portion of the site, in order to accommodate the proposed residence and driveway.

The site is forested with oak trees and some non-native pine trees, and is mapped as an oak woodland environmentally sensitive habitat area (ESHA) in the certified 1986 Malibu/Santa Monica Mountains Land Use Plan. The site is located across Old Topanga Road and approximately 100 feet south of Topanga Creek, a U.S. Geological Survey designated blue-line stream.

The proposed project will not be visible from any scenic highways, trails, or public viewing areas. A Phase I archaeological survey conducted on the project site found no evidence of cultural resources.

B. Hazards and Geologic Stability

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

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

The applicant has submitted two geologic reports prepared by P.A. & Associates, Inc. ("Preliminary Geotechnical Investigation, 1231 Old Topanga Canyon Road, Topanga, California," dated December 15, 2000; "Addendum Engineering Geology and Soils Engineering Report and Response to Soils Engineering and Geologic Review Sheets, 1231 Old Topanga Canyon Road, Topanga, California," dated May 9, 2002). The reports make numerous recommendations regarding grading and earthwork, foundations, retaining walls, settlement, floor slabs, cement, temporary shoring/bracing, and drainage.

The Subsurface Designs, Inc. report dated April 22, 2000 concludes:

The proposed site/grading construction on the site will not have an adverse geotechnical effect or create unsafe conditions with regard to potential hazard from landsliding, settlement, or slippage provided that our findings and recommendations are considered in the design and construction of the project.

Therefore, based on the recommendations of the applicant's engineering geologic consultants, the proposed development is consistent with the requirements of Section 30253 of the Coastal Act, so long as the engineering geologic consultant's recommendations are incorporated into the final project plans and designs. Therefore, it is necessary to require the applicant to submit final project plans that have been certified in writing by the engineering geologic consultant as conforming to all recommendations of the consultant, in accordance with **Special Condition One (1)**.

However, the Commission recognizes that development, even as designed and constructed to incorporate all recommendations of the consulting geologists, may still

involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the subject property.

The Commission finds that due to the possibility of erosion, landslide, earthquake, and wildfire, the applicants shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicants to waive any claim of liability against the Commission, its employees, and agents, for damage to life or property that may occur as a result of the permitted development. The applicants' assumption of risk, as required by **Special Condition Five (5)**, when executed and recorded on the property deed, will show that the applicants are aware of and appreciate the nature of the hazards associated with development of the site, and that may adversely affect the stability or safety of the proposed development.

For these reasons, therefore, the Commission finds that as conditioned by **Special Condition One (1)** and **Special Condition Five (5)**, the proposed project is consistent with the geologic stability requirements of Coastal Act Section 30253.

Erosion

Section 30253 of the Coastal Act requires that new development neither create nor contribute significantly to erosion. As noted above, the site of the proposed project contains slopes that descend, at gradients up to 1:1, to within 100 feet of a blue line stream. Incorporating adequate drainage, erosion control, and appropriate landscaping into the proposed development will serve to minimize erosion at the site.

As noted above, the applicant's proposal includes construction of a three story, 33 foot high, 1,320 sq. ft. single family residence with attached two-car garage, septic system, driveway, retaining walls, completion of an approximately 175 foot long stair system, solar panel platform, and approximately 488 cu. yds. of grading. The project also includes demolition and removal of footings, stairs, and stone retaining walls from a previous residence destroyed by fire, removal of an unpermitted utility shed, and after-the-fact approval for construction of a ten wooden retaining walls, partial construction of the 175 foot long stair system, and removal of an oak tree.

In total, the project will result in additional impervious surface area on the site, increasing both the volume and velocity of storm water runoff. Unless surface water is controlled and conveyed off of the site in a non-erosive manner, this runoff will result in increased erosion on and off the site.

Uncontrolled erosion leads to sediment pollution of downgradient water bodies. Surface soil erosion has been established by the United States Department of Agriculture, Natural Resources Conservation Service, as a principal cause of downstream sedimentation known to adversely affect riparian and marine habitats.

Suspended sediments have been shown to absorb nutrients and metals, in addition to other contaminants, and transport them from their source throughout a watershed and ultimately into the Pacific Ocean. The construction of single family residences in sensitive watershed areas has been established as a primary cause of erosion and resultant sediment pollution in coastal streams.

In order to ensure that erosion and sedimentation from site runoff are minimized, the Commission requires the applicant to submit a drainage plan, as defined by **Special Condition Three (3)**. **Special Condition Three (3)** requires the implementation and maintenance of a drainage plan designed to ensure that runoff rates and volumes after development do not exceed pre-development levels and that drainage is conveyed in a non-erosive manner. Fully implemented, the drainage plan will reduce or eliminate the resultant adverse impacts to the water quality and biota of coastal streams. This drainage plan is fundamental to reducing on-site erosion and the potential impacts to coastal streams. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development.

In addition, the Commission finds that temporary erosion control measures implemented during construction and removal of existing footings and retaining walls on the slope will also minimize erosion and enhance site stability. **Special Condition Two (2)** therefore requires the applicant to implement interim erosion control measures should grading take place during the rainy season. Such measures include stabilizing any stockpiled fill with geofabric covers or other erosion-controlling materials, installing geotextiles or mats on all cut and fill slopes, and closing and stabilizing open trenches to minimize potential erosion from wind and runoff water.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will reduce erosion and serve to enhance and maintain the geologic stability of the site, provided that minimal surface irrigation is required. Therefore, **Special Condition Two (2)** requires the applicant to submit landscaping plans, including irrigation plans, certified by the consulting geologists as in conformance with their recommendations for landscaping of the project site. **Special Condition Two (2)** also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that the use of such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and therefore aid in preventing erosion.

In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area. Increasing urbanization in

this area has caused the loss or degradation of major portions of the native habitat and loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast growing trees that originate from other continents that have been used as landscaping in this area have invaded and seriously degraded native plant communities adjacent to development. Such changes have resulted in the loss of native plant species and the soil retention benefits they offer. As noted the implementation of **Special Condition Two (2)** will ensure that primarily native plant species are used in the landscape plans and that potentially invasive non-native species are avoided. Therefore, the Commission finds that in order to ensure site stability and erosion control, the disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition Two (2)**.

The applicant proposes to cut 480 cu. yds. of earth on the site, producing excess graded material. The Commission finds that stockpiling excavated material may contribute to increased erosion at the site. The Commission also notes that additional landform alteration would result if the excavated material were to be collected and retained on site. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, **Special Condition Seven (7)** requires the applicant to remove all excess graded material from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit.

Furthermore, to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition Six (6)**. In the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans, loss of natural vegetative cover may result in unnecessary erosion. **Special Condition Six (6)** specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced.

Finally, in order to ensure that any future site development is reviewed for its potential to create or contribute to erosion, the Commission finds it necessary to impose **Special Condition Eight (8)**, which requires the applicants to obtain a coastal development permit for any future development on the site, including improvements that might otherwise be exempt from permit requirements. In addition, **Special Condition Ten (10)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

Wild Fire

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

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicants assume the liability from these associated risks. Through **Special Condition Five (5)**, the assumption of risk, the applicants acknowledge the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of **Special Condition Five (5)**, the applicants also agree to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

In summary, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

C. Sensitive Habitat

Section 30231 of the Coastal Act states:

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

Section 30240 of the Coastal Act states:

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

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

Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

To assist in the determination of whether a project is consistent with Section 30231 and 30240 of the Coastal Act, the Commission has relied in past permit decisions on the certified Malibu/Santa Monica Mountains Land Use Plan (LUP), which contains numerous policies designated to protect sensitive resource areas from the individual and cumulative impacts of development. The certified LUP has been found to be consistent with the Coastal Act and provides specific standards for development in Malibu and the Santa Monica Mountains.

The certified Malibu/Santa Monica Mountains Land Use Plan (LUP) indicates that the project site is located within a significant oak woodland environmentally sensitive habitat area (ESHA). The LUP requires residential uses in significant oak woodlands to be consistent with provided development standards and policies. The standards applicable to this site include the following:

- Encroachment of structures within an oak woodland shall be limited such that at least 90% of the entire woodland is retained. Leachfields shall be located outside the dripline of existing oaks.
- Clustering of structures shall be required to minimize the impacts on natural vegetation.
- Land alteration and vegetation removal shall be minimized.
- Structures shall be located as close to the periphery of the oak woodland, as feasible, including outside the woodland, or in any other location for which it can be demonstrated the effects of development will be less environmentally damaging.

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

The subject site is a narrow hillside lot that contains sixteen mature oak trees. The trees form a continuous canopy over much of the site. All proposed development is located within the protected zones of oak trees. The Oak Tree Report, prepared by Richard Ibarra of RDI & Associates, Inc., dated March 27, 2001 and the Los Angeles County Oak Tree Permit #01-087 detail the following proposed encroachments on the property:

- a. Leach line construction within the dripline of tree #1*
- b. Wood deck & patio construction on the west side of the house within the dripline and protective zones of trees #3, 5, 6, 7*
- c. Patio construction on the south side of the house within the driplines and protected zones of trees #5, 7, 14, 15, 16*
- d. Construction of the east side of the house within the protective zones of trees #15 and #16*
- e. New construction of a wood stairway system within the driplines and protective zones of trees #3, 5, 6, 7, 8, 11, 12, 13, and 14.*
- f. Construction of a concrete swale within the driplines and protective zone of trees #14, 15, and 16.*
- g. Clearance pruning for trees #3, 5, and 7 for the roof of the main residence.*

Given setback requirements, no location exists for the proposed single family residence outside of the protective zones of oak trees. As shown in the Oak Tree Map (**Exhibit 5**), the proposed three-story main residence encroaches into the protected zones of five oak trees (#3, #5, #7, #15, and #16), but, with the exception of the tip of its southwest corner, is located outside of all oak tree driplines. Similarly, the proposed driveway encroaches within the protected zones of four oak trees (#1, #3, #15, and #16), but is largely located outside of oak tree driplines. The septic system (including leach line) shown on the Oak Tree Map and discussed in the Oak Tree Report and Oak Tree Permit has been changed. The currently proposed septic system, shown in **Exhibit 3**, includes a septic tank and two septic pits located under the driveway. The septic tank is located within the protected zone of Oak Tree #1, but outside of all oak tree driplines. The septic pits are located outside of all oak tree protected zones. Deck and patio areas on the east and south side of the main residence, however, are located well within the driplines of several oak trees, as are eight of the ten retaining walls, and a system of stairs that ascend the hillside to a solar energy platform located at the top of the lot. A proposed drainage swale is also located under the oak tree canopy, as is the proposed septic tank.

Construction of the proposed residence and driveway will require approximately 488 cu. yds. of grading, 480 cu. yds. of which will be cut. The grading will occur within the

footprints of the residence, driveway, and patio areas and will impact the oak trees whose protected zones and driplines are overlap with the proposed development as discussed above.

Lastly, the Oak Tree Report notes that a \$5,000 fine was assessed and paid by the applicant for a violation of the Los Angeles County's Oak Tree Ordinance. A letter submitted by the applicant from the County of Los Angeles Fire Department, dated March 7, 2001, describes the violation as "the illegal pruning and removal of a Coast Live Oak (*Quercus agrifolia*)." The oak tree was located within the footprint of the currently proposed residence.

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

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

This publication goes on to state:

Any change in the level of soil around an oak tree can have a negative impact. The most critical area lies within 6' to 10' of the trunk: no soil should be added or scraped away. . . . Construction activities outside the protected zone can have damaging impacts on existing trees. . . . Digging of trenches in the root zone should be avoided. Roots may be cut or severely damaged, and the tree can be killed. . . . Any roots exposed during this work should be covered with wet burlap and kept moist until the soil can be replaced. The roots depend on an important exchange of both water and air through the soil within the protected zone. Any kind of activity which compacts the soil in this area blocks this exchange and can have serious long term negative effects on the trees. If paving material must be used, some recommended surfaces include brick paving with sand joints, or ground coverings such as wood chips . . .

This publication also notes specific considerations for watering supplements underneath and near oak trees, and states:

Improper watering is often overlooked as the cause of tree death because it can take years for the damage to show. Once the tree shows obvious signs of decline, it is often too late to correct the problem. . . .Overwatering, especially during the summer months, causes a number of problems which can lead to decline and eventual death of the tree. It creates ideal conditions for attacks of Oak Root Fungus by allowing the fungus to breed all year. In addition, both evergreen and deciduous oaks grow vigorously in the spring and naturally go

dormant in the summer. Extra water only encourages new tip growth which is subject to mildew. Oaks need this period of rest.

There should be no planting within a minimum 6 to 10 feet of the trunk. Avoid plants that require any supplemental water once established. Choose plants suited for "dry shade."

As described above, the proposed development involves the encroachment of structures and impervious surfaces into the protected zones and within the driplines of several oak trees. The proposed project also involves grading within the driplines and protected zones of several oak trees, and the location of a septic system in close proximity to Oak Tree #1. These proposed developments will have impacts on the oak woodland ESHA on site.

The encroachment of structures and driveway pavement will increase the amount of impervious surface and therefore decrease the infiltrative function of the soil adjacent to the oak trees, while increasing the volume and velocity of stormwater that can be expected to flow down adjacent slopes. An increase in impervious surface decreases the exchange of air and water to the root zone of the trees, as does the placement of structures. The placement of structures and the construction of driveways also result in compaction of underlying soil which further decreases the availability of air and nutrients to the oak tree roots. The proposed grading within the oak tree protected zones will have direct impacts on the affected oak trees, including exposure and cutting of roots and dramatic changes in the level and compaction of soil surrounding the oak tree roots.

As noted above, a **septic tank** and two seepage pits are proposed in a location that is setback approximately -1 feet, 15 feet, and 35 feet respectively from the protected zone of Oak Tree #1. The septic system is also located within 100 feet of most oak trees on the site; however, the other oak trees are located at elevations at least 10 feet above the proposed driveway and would not be expected to be subject to effluent discharge (**Exhibits 4 and 5**). In past Commission actions, the Commission has required a minimum 100 ft. setback of seepage pits from oak tree canopy driplines, where feasible, to minimize potential impacts of sewage effluent on the health of the oak tree. In the case of the proposed project, however, due to the location of several other oak trees on the site it is not possible to set back the proposed septic system 100 feet from the oak tree canopy driplines. Additionally, the applicant has submitted a report from the Barton Slutske, Registered Environmental Health Specialist, dated November 21, 2001, indicating that the seepage pits will exceed Uniform Plumbing Code percolation requirements.

Nevertheless, the proposed septic system could potentially result in excessive and detrimental water discharge into the root system of Oak Tree #1 given its close proximity and the uncertain nature of establishing geologic structure and water uses that may occur in the future.

The Commission therefore finds that the proposed construction activities can have detrimental impacts on the oak trees whose driplines are located both within and outside of the area to be disturbed by the project. Furthermore, the Commission finds that since the root systems may radiate out as much as 50 feet beyond the oak canopy driplines, even those oak trees adjacent to the development whose protected areas are not within the proposed development envelope may be negatively impacted through disturbance to their root systems.

Commission staff has explored alternatives to the proposed development. Given the steep slopes and presence of oak trees elsewhere on the site, the proposed residence and driveway are sited in the location most protective of the oak woodland ESHA and other coastal resources. However, a reduction in the number of structures on site and reduction of the overall footprint of development would reduce impacts to the oak woodland ESHA while still allowing residential use of the property. Therefore, the **Special Condition Eleven (11)** requires the applicant to submit revised plans eliminating the proposed wood deck and patio on the west side of the residence, the proposed patio on the south side of the residence, and all stairs, platforms, retaining walls, and other development located on the hillside south of the residence.

As noted above, the Commission finds that the remainder of proposed construction activities will also have detrimental impacts on the oak trees whose driplines are located both within and outside of the area to be disturbed by the project. The Commission further notes that damage to the oak trees resulting from the proposed project may not become apparent for many years. Therefore, the Commission finds that the applicant must mitigate for the adverse impacts resulting from construction encroachment into the protected zone of oak trees #1, #3, #5, #7, #15, and #16. In addition, the applicant must mitigate for the unpermitted removal of the oak tree noted in the Los Angeles County Fire Department letter dated March 7, 2001. In past permit actions the Commission has typically required a 10:1 mitigation ratio for the loss or removal of oak trees, and a 3:1 mitigation ratio in cases where the oak trees will not be removed, but will suffer incremental adverse impacts over time from the proposed improvements. **Special Condition Four (4)** requires the applicant to plant 28 oak trees on the applicant's parcel or a nearby location acceptable to the Executive Director. Furthermore, pursuant to **Special Condition Four (4)**, the applicant must also submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications. Finally, the applicant shall also submit an annual monitoring report on the oak tree mitigation and preservation process to ensure the long term health of existing oak trees on site and success of the oak tree mitigation plan.

As mentioned, with the exception of encroachment into the protected zones of four oaks, all development proposed on site has been set back outside of the protected zones of on site oak trees. However, to ensure that the protected zones will not be inadvertently violated by the permitted development activities, **Special Condition Four (4)** also requires that protective fencing be placed around the protected zones of the

oak canopies within or adjacent to the construction area that may be disturbed during construction or grading activities.

Furthermore, the Commission finds that excessive water irrigation and infiltration that may accompany inappropriate residential landscaping may adversely impact the sensitive root systems of the oaks on site and that use of primarily native, drought resistant plant species compatible with these areas will minimize the need for irrigation and water, thereby preventing additional adverse impacts on the oak woodland. Therefore, in order to minimize adverse effects to the oak trees on site as well as other indigenous plant communities of the Malibu/Santa Monica Mountains area, **Special Condition Two (2)** requires that all landscaping consist primarily of native plant species compatible with oak woodland habitat and that invasive plant species shall not be used.

The Commission further finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. Therefore, **Special Condition Two (2)** is also necessary in order to minimize adverse impacts on the indigenous plant communities of the project site and the Malibu/Santa Monica Mountains area.

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

The Commission finds that potential adverse effects of the proposed development on riparian habitat may be minimized through the implementation of a drainage and polluted runoff control plan, which will ensure that erosion is minimized and polluted run-off from the site is controlled and filtered before it reaches natural drainage courses within the watershed. Therefore, the Commission requires **Special Condition Three (3)**, the Drainage and Polluted Run-off Control Plan, which requires the applicant to incorporate appropriate drainage devices and Best Management Practices (BMPs) to

ensure that run-off from the proposed structures, impervious surfaces, building pad area, and horse corral is conveyed off-site in a non-erosive manner and is treated/filtered to reduce pollutant load before it reaches coastal waterways. (See Section D. Water Quality for a more detailed discussion of coastal water quality).

The Commission has found that night lighting of a high intensity has the potential to reduce the habitat value of ESHA, and disrupt the behavior of wildlife that occupy or migrate through rural and relatively undisturbed areas. Therefore, **Special Condition Nine (9)** is necessary to reduce the disruptive effects of night lighting on wildlife by restricting outdoor night lighting to the minimum amount required for safety.

The Commission further finds that the amount and location of any new development that may be proposed in the future on the subject site is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, to ensure that any future structures, additions, change in landscaping or intensity of use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition Eight (8)**, the future development restriction, has been required. In addition, **Special Condition Ten (10)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

As conditioned, the Commission finds that, for the reasons set forth above, the proposed project is consistent with the requirements of Sections 30231 and 30240 of the Coastal Act.

D. Water Quality

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

Section 30231 of the Coastal Act states:

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

As described in detail in the previous sections, the applicant is proposing to develop the subject site with a new single-family residence and other appurtenant structures. The site is considered a "hillside" development, as it involves steeply to moderately sloping terrain with soils that are susceptible to erosion. The site is located approximately 100 feet from Topanga Creek, a U.S. Geological Survey designated blue line stream.

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

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

For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence

water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition Three (3)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition Two (2)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site private sewage disposal system to serve the residence. The County of Los Angeles, Department of Health Services, has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of resources.

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

E. Violation

Unpermitted development has taken place prior to submission of this permit application including placement of a utility shed, construction of ten wooden retaining walls, removal of an oak tree, and partial construction of an approximately 175 foot long stairway. The applicant requests after-the-fact approval for the stairway construction, ten wooden retaining walls, and removal of an oak tree, and proposes to remove the utility shed. The applicant also requests approval to construct a new three story, 33 ft. high, 1,320 sq. ft. single-family residence with attached two-car garage, septic system, driveway, completion of an approximately 175 foot long stair system, solar panel platform, approximately 488 cu. yds. of grading, and demolition and removal of footings, stairs, and stone retaining walls from a previous residence destroyed by fire. The subject permit application addresses the unpermitted development, as well as the new development proposed in the subject application. In order to ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition Twelve (12)** requires that the applicant satisfy all conditions of this permit that are prerequisite to the issuance of this permit within 60 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an

admission as to the legality of any development undertaken on the subject site without a coastal permit.

F. Local Coastal Program

Section 30604 of the Coastal Act states:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicants. As conditioned, the proposed project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for the Malibu/Santa Monica Mountains area that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. California Environmental Quality Act

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

The Commission finds that the proposed project, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned,

has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

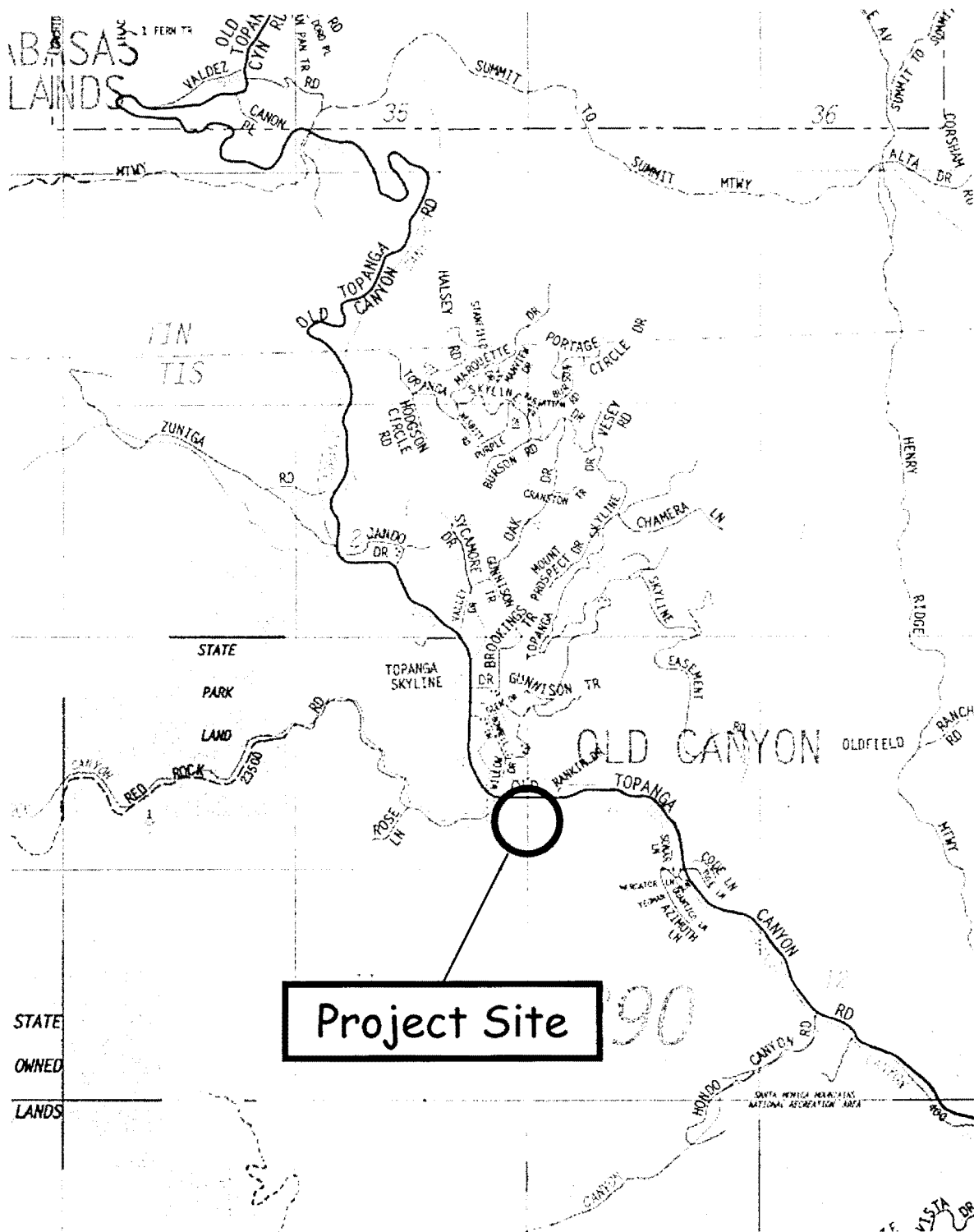
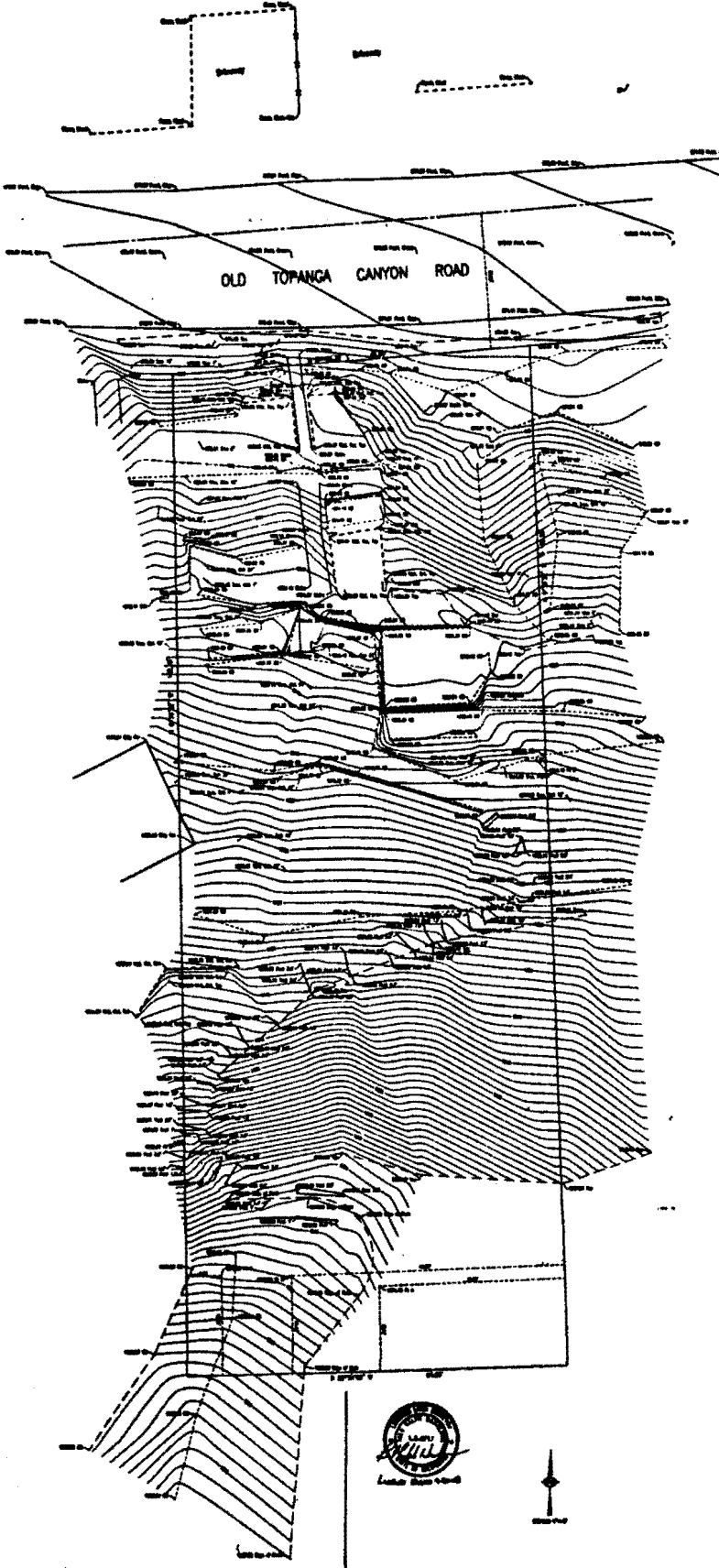
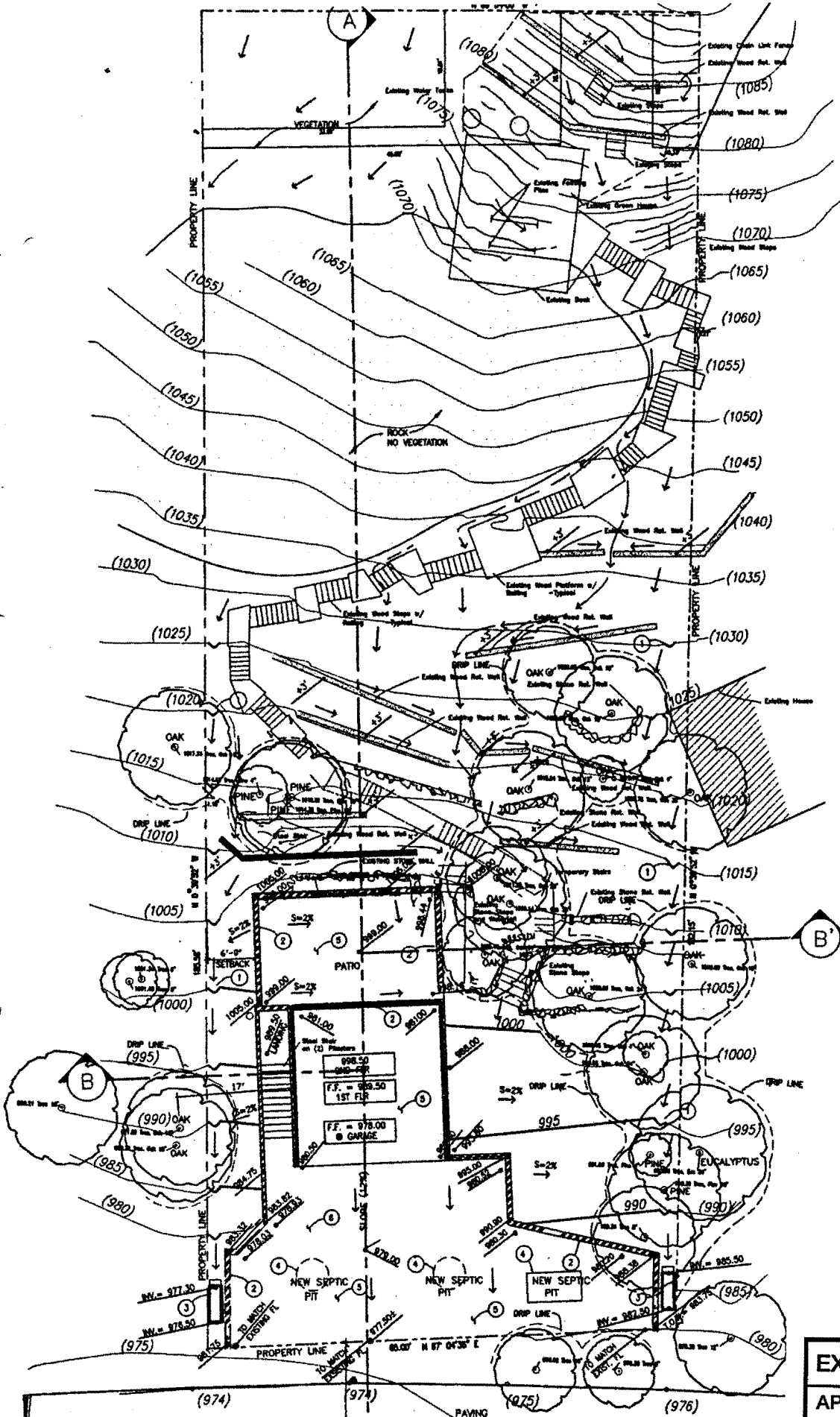


EXHIBIT NO.
APPLICATION NO.
4-01-183
VICINITY MAP



Scale: 1" = 100' (approximate)
 Date: 4-1-83
 Surveyor: Larry M. Smith

EXHIBIT NO. 2
APPLICATION NO.
4-01-183
SITE SURVEY



1 GRADING PLAN

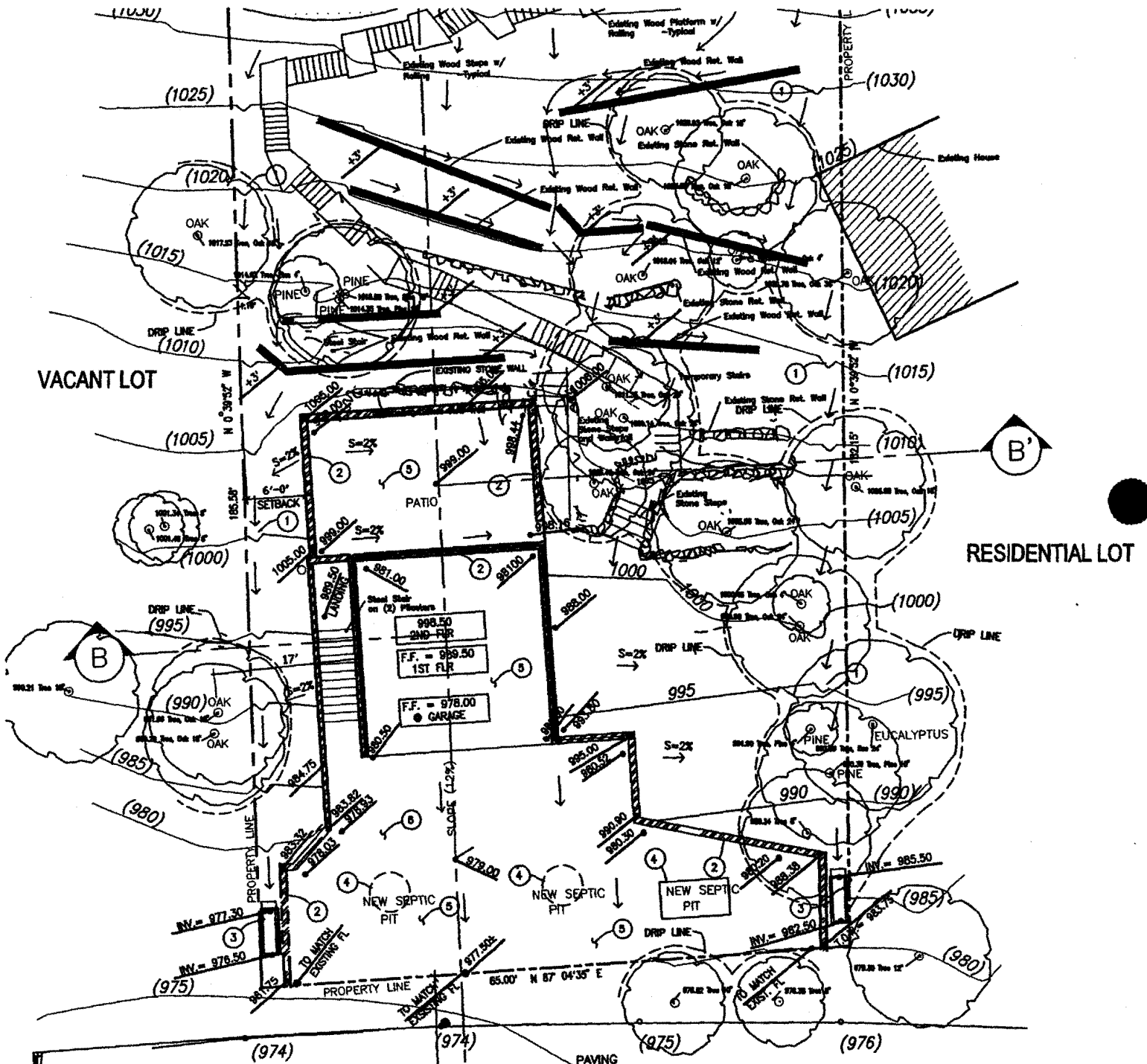
A

SCALE:

1" = 10'-0"

EXHIBIT NO. 3
APPLICATION NO.
4-01-183
SITE PLAN / GRADING PLAN

OLD TORANGA CANYON ROAD, CYN. RD.
1251 OLD TORANGA CYN. RD.

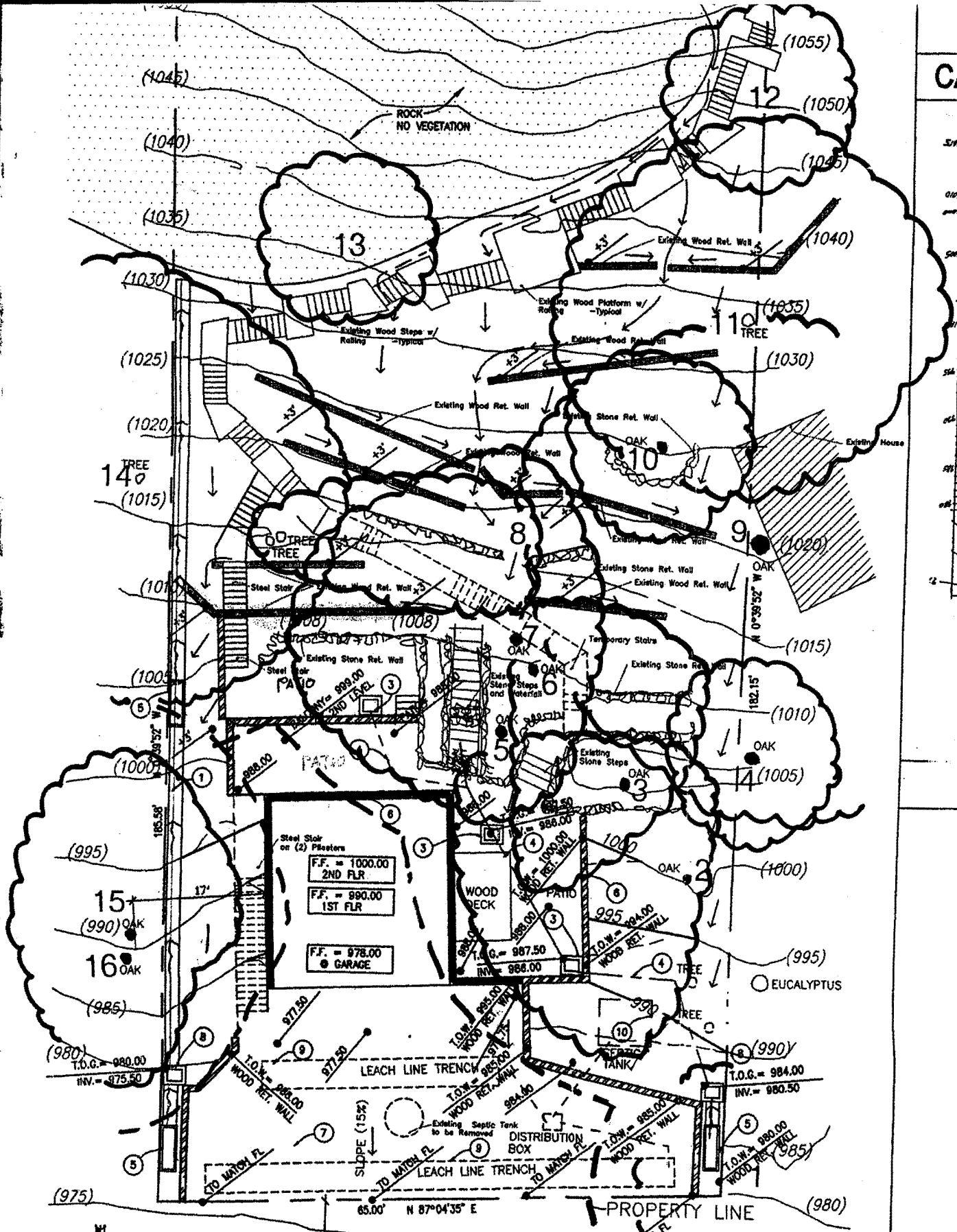


1 SITE PLAN

OLD TORANGA CANYON ROAD CYN. F

SCALE: 1" = 10'-0"

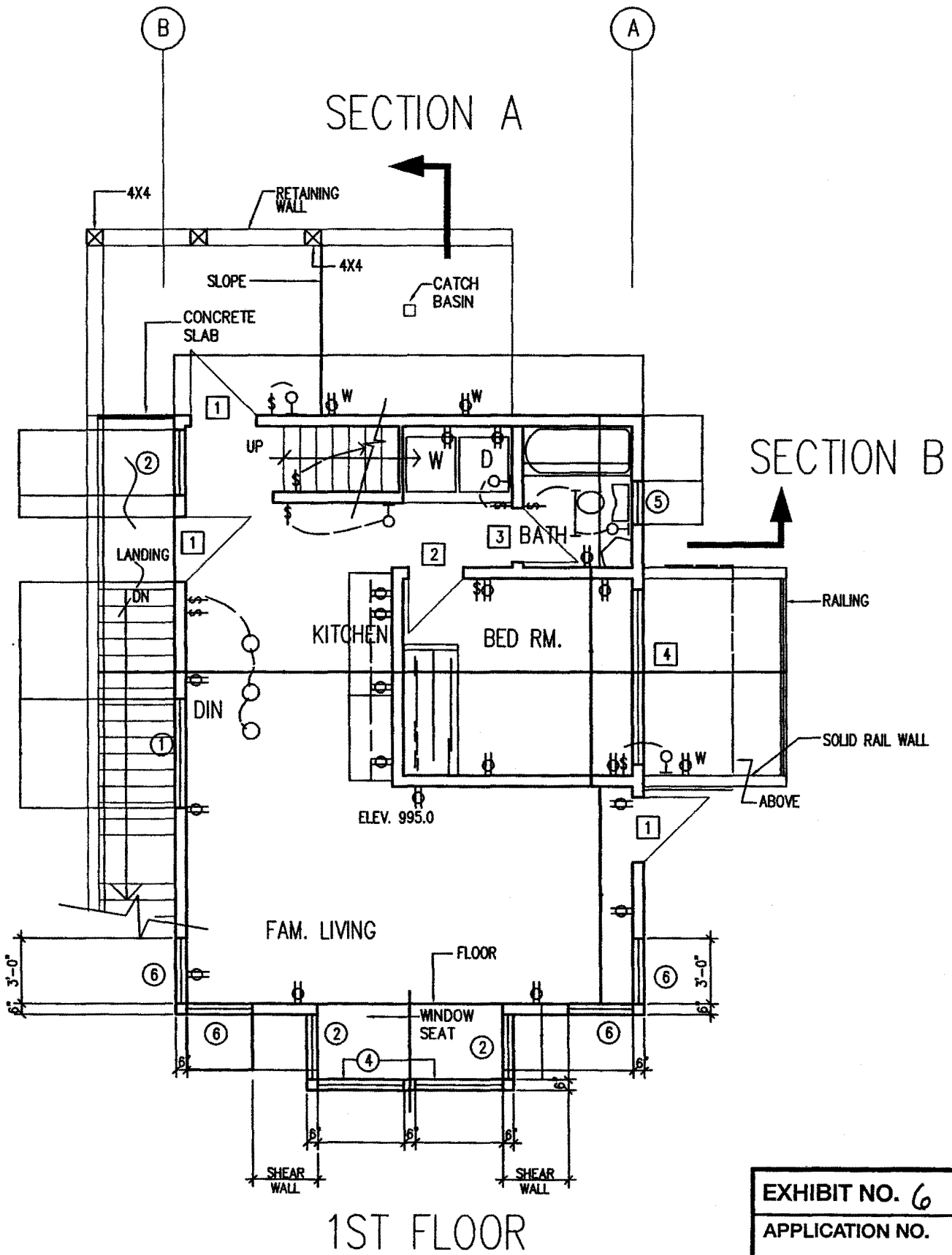
EXHIBIT NO. 4
APPLICATION NO.
4-01-183
SITE PLAN DETAIL



1231 OLD TOPANGA CYN

EXHIBIT NO. 5
APPLICATION NO.
4-01-183
OAK TREE MAP

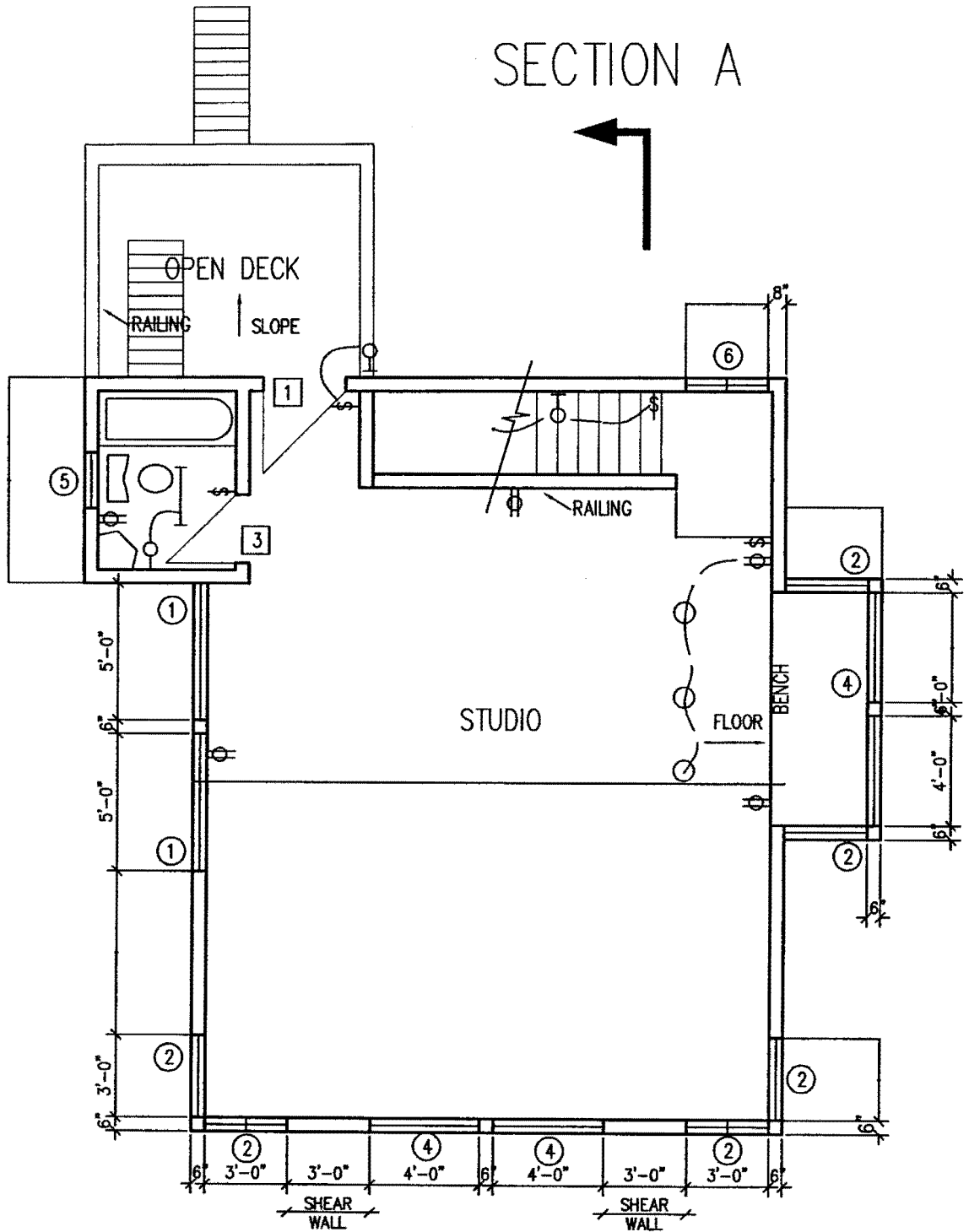
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1ST FLOOR

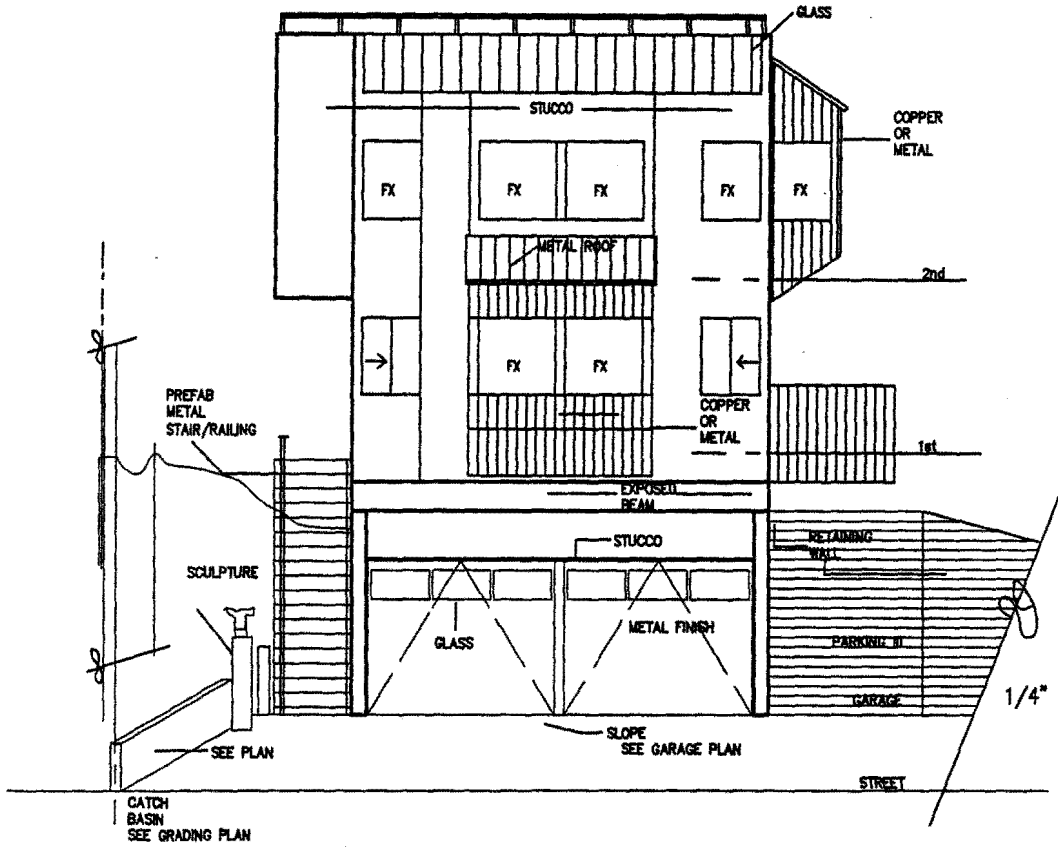
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APPLICATION NO.
4-01-183
FIRST FLOOR PLAN

SECTION A



2ND FLOOR

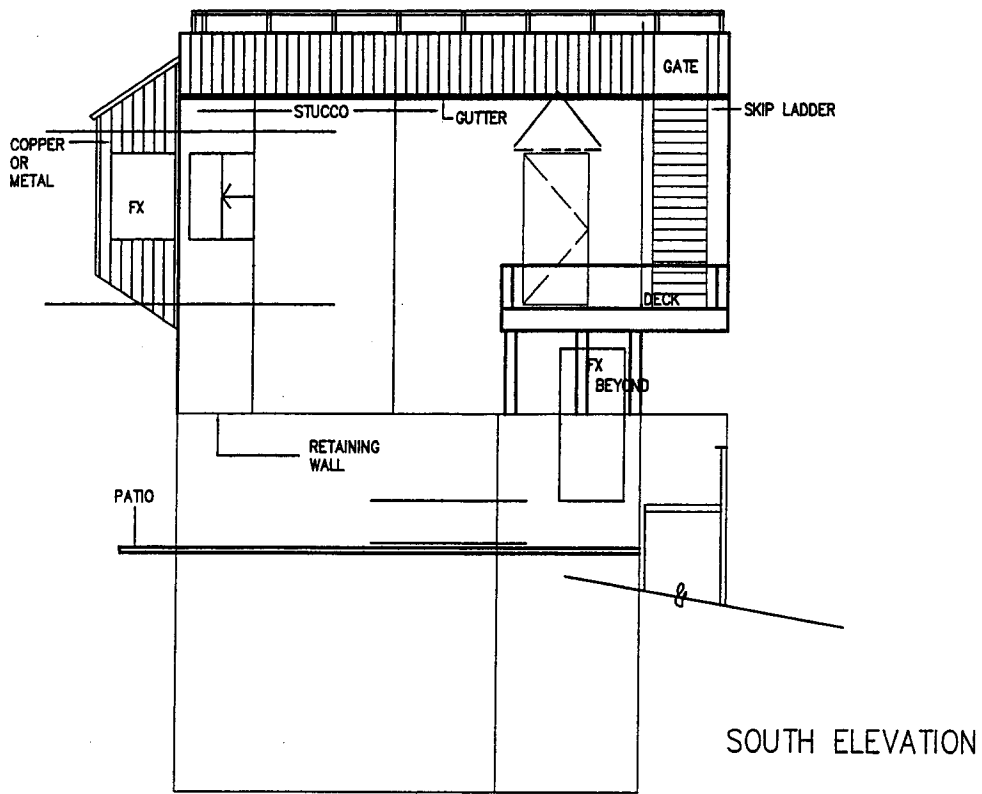
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APPLICATION NO.
4-01-183
SECOND FLOOR PLAN



NORTH STREET ELEV.

6 of 11

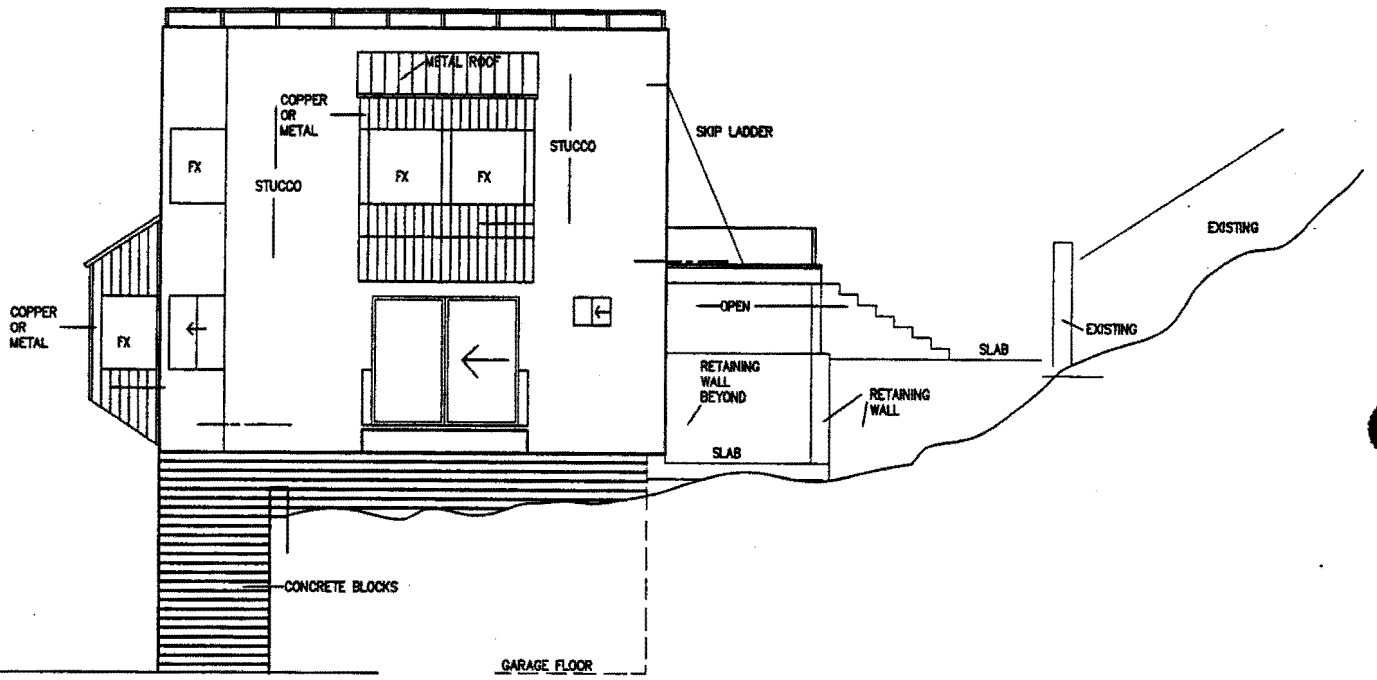
EXHIBIT NO. 8
APPLICATION NO.
4-01-183
NORTH ELEVATION



Alfred Kemper
 1231 Old Topanga Cyn. Rd.
 Topanga, CA 90290

90811

EXHIBIT NO. 9
APPLICATION NO.
4-01-183
SOUTH ELEVATION

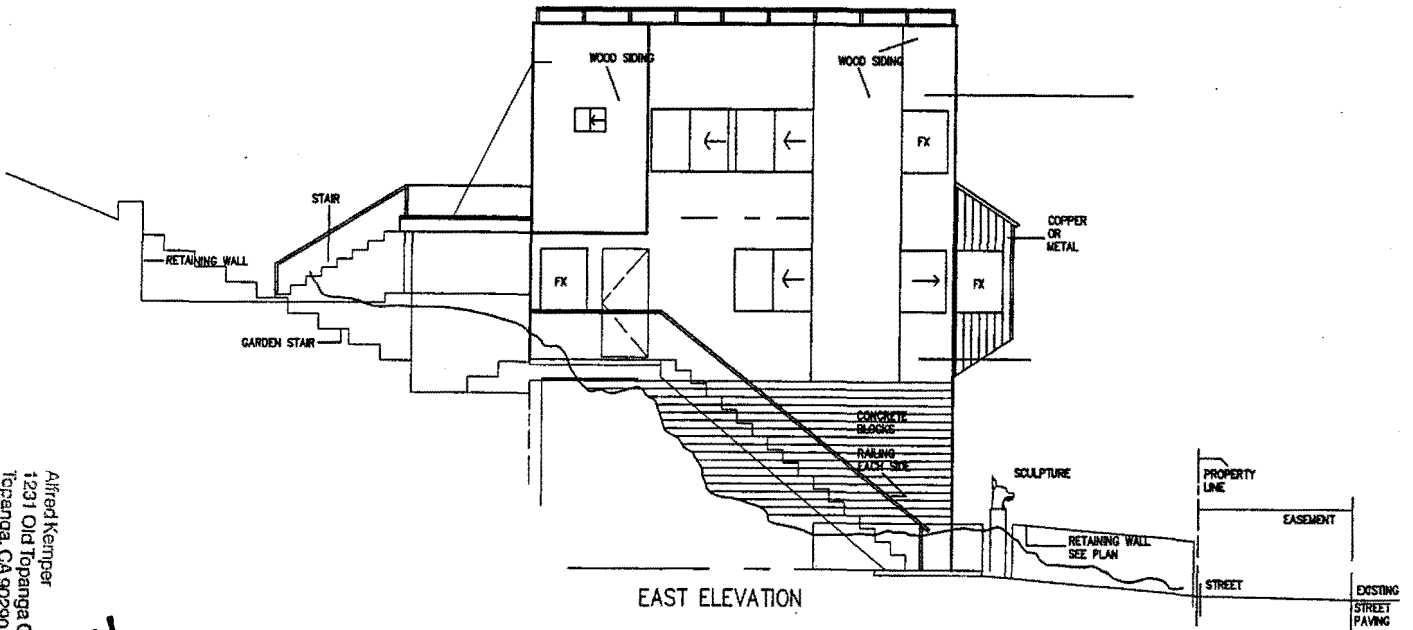


WEST ELEVATION

Alfred Kemper
 1231 Old Topanga Cyn. Rd.
 Topanga, CA 90230

8 of 11

EXHIBIT NO. 10
APPLICATION NO.
4-01-183
WEST ELEVATION

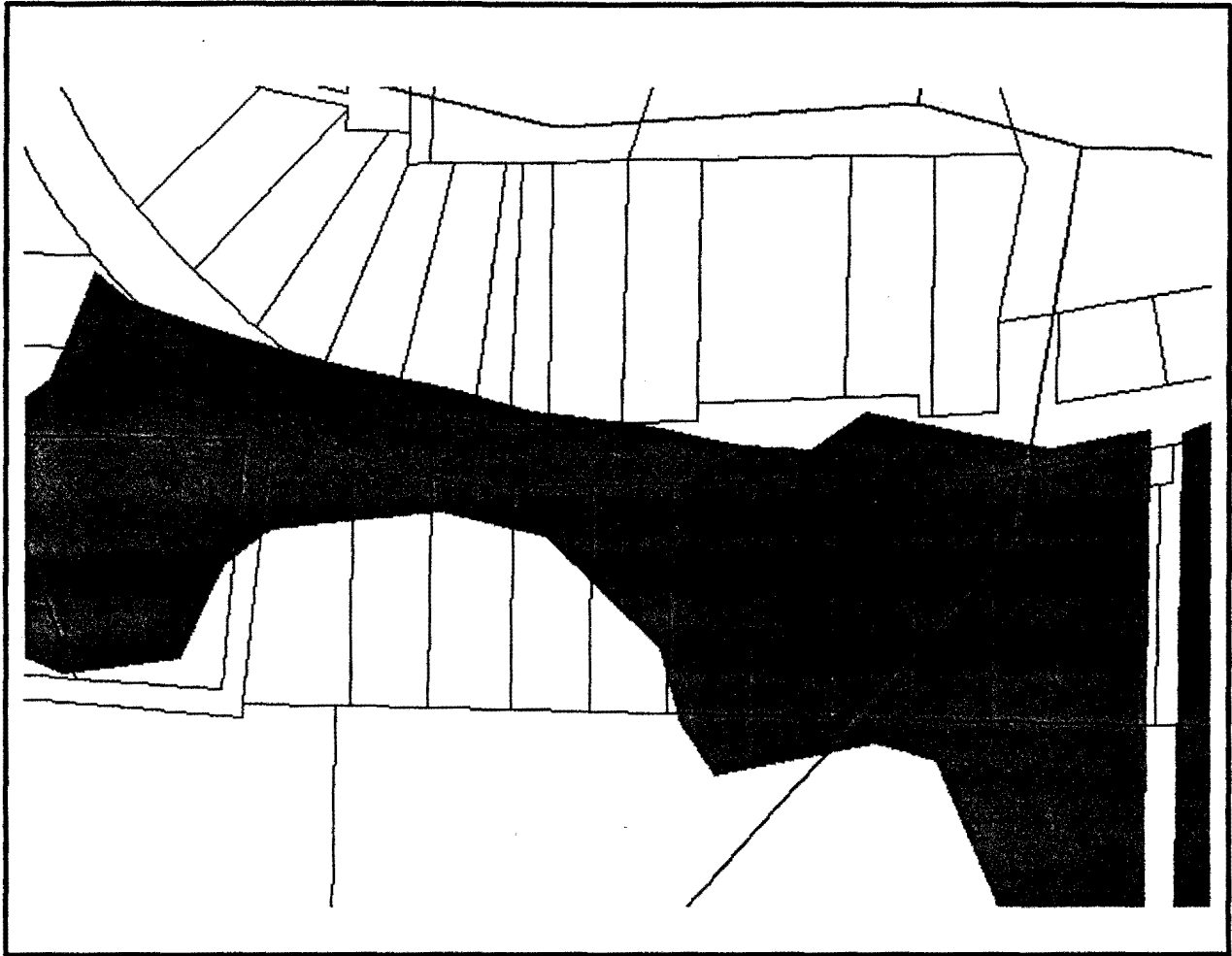


EAST ELEVATION

Alfred Kemper
 1231 Old Topanga Cyn. Rd.
 Topanga, CA 90290

7-28-11

EXHIBIT NO. 11
APPLICATION NO.
4-01-183
EAST ELEVATION



















-  StrmsDLG
-  trailslacoplan
-  trailotds
-  laprcis
- esha (ESHA)**
-  Coldcreek management area
-  dudleya cymosa
-  dune habitat
-  inland
-  la jolla valley preserve
-  locally disturbed resources
-  oak woodlands and savannahs
-  perigrine falcon
-  sea bluff succulent plants
-  significant watersheds residential
-  stream corridor
-  wildlife migration corridor

EXHIBIT NO. 12
APPLICATION NO.
4-01-183
COASTAL RESOURCES