

CALIFORNIA COASTAL COMMISSION

SOUTHERN CENTRAL COAST AREA
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RECORD PACKET COPY

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 Hearing Date: 11/5/02
 Comm Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-01-216

APPLICANT: John and Francesca Perretti

AGENT: Terry Valente

PROJECT LOCATION: 2220 Little Las Flores Road, Topanga, Los Angeles County

PROJECT DESCRIPTION: Construct a three-story 3,732 sq. ft. single family residence with basement, two story 828 sq. ft. garage with second floor 708 sq. ft. guest house, 720 sq. ft. equipment/storage building, spa, 2,142 sq. ft. covered patios, retaining walls, septic system, water storage tank and hydrant, fenced dog area, access driveway and entry gate, grade 1,343 cubic yards of cut material, 14 cubic yards of fill, and export 1,329 cubic yards of material to a site located outside the coastal zone.

Lot area:	2.72 acres
Building pad:	9,695 sq. ft.
Building coverage:	3,905 sq. ft.
Pavement coverage:	9,996 sq. ft.
Landscape coverage:	10,800 sq. ft.
Parking spaces:	2+2
Ht abv fin grade:	35 ft.
Plan Designation:	Rural Land I and II
Zoning:	1 dwelling unit / 5 and 10 acres
Project Density	one du/2 acres

SUMMARY OF STAFF RECOMMENDATION

The applicant requests approval to construct a single family residence, garage/guest house, and barn/workshop on an existing parcel located on Little Las Flores Road near its intersection with Swenson Drive. The proposed project will be cut into a 20 - 30% slope above Little Las Flores Road along an existing roadway and building pad. The subject parcel includes chaparral vegetation which is considered an Environmentally Sensitive Habitat Area (ESHA). In addition, the development site is located approximately thirteen hundred (1,500) feet northwest of designated ESHA within a tributary to Little Las Flores Canyon

Creek. Staff recommends approval of the proposed project with Special Conditions addressing: landscape, erosion control and fuel modification plans; removal of natural vegetation, removal of excavated material; drainage and polluted runoff control plan; future development restriction; plans conforming to geologist/engineer's recommendation; assumption of risk, waiver of liability and indemnity; color restriction; lighting restriction; and a generic deed restriction. The project, as conditioned, will therefore be consistent with the Coastal Act.

IMPORTANT PROCEDURAL NOTE:

This application was filed as complete on June 10, 2002 and tentatively scheduled for the October 2002 Commission meeting but delayed as a result of other priority workload. The application was then scheduled to be heard at the Commission meeting of November 5 - 8, 2002. The 180th day pursuant to the Permit Streamlining Act for Commission action on the subject application is December 7, 2002. Therefore the Commission must vote on Coastal Development Permit Application No. 4-01-216 at the November 5 - 8, 2002 hearing.

LOCAL APPROVALS RECEIVED: Approval in Concept: Los Angeles County Regional Planning Department dated 11/21/2001; Los Angeles County Department of Health Services, dated 11/27/2001 for septic system; County of Los Angeles Fire Department, Fire Protection Engineering Approval and driveway access, dated 4/25/2002; Los Angeles County Fire Department, Final Fuel Modification Plan, dated 1/23/2002.

SUBSTANTIVE FILE DOCUMENTS: Report of a Preliminary Engineering Geologic Investigation, dated September 14, 2001, by Pacific Geology Consultants, Inc.; Geotechnical Engineering Investigation Report, dated October 5, 2001, by Coastline Geotechnical Consultants, Inc.; Coastal Permit No. 4-01-177, Erickson.

STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-01-216 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.

I. 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 permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

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

3. **Interpretation.** Any questions of intent or interpretation of any 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

1. LANDSCAPE, EROSION CONTROL AND FUEL MODIFICATION PLANS

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised landscaping and erosion control plans, prepared and signed by a licensed landscape architect, a qualified resource specialist, or qualified landscape professional for review and approval by the Executive Director. The revised plans shall incorporate the following criteria:

A) Landscape Plans and Erosion Control Plans

- 1) All graded and disturbed areas as a result of the proposed project on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements of the proposed development and the existing on-site fire break and may include gravel and rock areas within Zone A of the Fuel Modification Plan and other appropriate areas to minimize erosion on-site. In areas proposed for planting, such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils and the building pads where development is proposed. The plan shall include vertical elements, such as trees and shrubs, which partially screen the appearance of the proposed residence, garage/guest house and barn/workshop, from the Tuna Canyon Trail located to the west and south of the project site;
- 2) 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;
- 3) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.
- 4) Vegetation within 20 feet of the proposed residence, garage/guest house, storage building and driveway may be removed to mineral earth, vegetation within a 200 foot radius of the structures may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term Fuel Modification Plan submitted pursuant to this special condition. The Fuel Modification Plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the revised Fuel Modification Plan has been reviewed and approved by the Los Angeles County Fire Department, Forestry Division, Fire Prevention Bureau. Any irrigated lawn, turf and ground cover planted within the twenty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
- 5) The final drainage/erosion control plan shall be implemented within 30 days of completion of final grading. By acceptance of this permit, the applicant agrees to maintain the drainage devices on a yearly basis in order to ensure that the system

functions properly. Should the devices fail or any erosion result from the drainage as a result of the project, the applicant or successor in interests shall be responsible for any necessary repairs and restoration.

- 6) Perimeter fencing of the entire property is prohibited. Fencing shall be limited to the immediate area of the building pads, the proposed dog fenced area north of the proposed garage/guest house, and a gate at the driveway entrance from Little Las Flores Canyon Road. Any proposed fencing of the subject parcel shall be identified on the final approved landscape and fuel modification site plan.

B) Interim Erosion Control Plan

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

C) Monitoring

Five (5) years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring and fencing report, prepared by a licensed Landscape Architect, qualified Resource Specialist, or qualified landscape professional that certifies in writing that the on-site landscaping and fencing is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report

shall include photographic documentation of plant species, plant coverage and fencing on site.

If the landscape monitoring report indicates the landscaping and fencing 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 and fencing plan for the review and approval of the Executive Director. The revised landscaping and fencing plan must be prepared by a licensed Landscape Architect, a qualified Resource Specialist, or qualified landscape professional 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.

2. REMOVAL OF NATURAL VEGETATION

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

3. REMOVAL OF EXCAVATED MATERIAL

The applicant shall remove all excess excavated or cut material consisting of approximately 1,329 cubic yards of material to an appropriate disposal site located outside of the Coastal Zone or a site with a valid coastal permit for the disposal of fill material located within the coastal zone.

4. DRAINAGE AND POLLUTED RUNOFF CONTROL PLAN

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

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

season, no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

- (e) The plan shall include drainage devices and BMPs, designed consistent with the standard specified in provision (a) above, which will collect and direct runoff from the proposed barn and corral area through a system of vegetated filter strips and/or other media filter devices. The filter strips or filter devices shall be designed to trap sediment, particulates and other solids and remove or mitigate contaminants through filtration, infiltration and/or biological uptake.

5. FUTURE DEVELOPMENT RESTRICTION

- A. This permit is only for the development described in Coastal Development Permit No. 4-01-216. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) and 13253 (b) (6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) and (b) shall not apply to the entire property. Accordingly, any future improvements to the entire property including the permitted residence, garage/guest house, equipment/storage building, storage tank, or conversion of the equipment/storage building to shelter animals or livestock, and clearing of vegetation or grading, other than as provided for in the approved fuel modification landscape and erosion control plan prepared pursuant to Special Condition Number One (1), shall require an amendment to Permit No. 4-01-216 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

6. PLANS CONFORMING TO GEOLOGIST/ENGINEER'S RECOMMENDATIONS

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and approval by the Executive Director, evidence of the Engineering consultant's review and approval of all project plans including the landscape and erosion control plans. All recommendations contained in the submitted reports titled: Report of a Preliminary Engineering Geologic Investigation, dated September 14, 2001, by Pacific Geology Consultants, Inc.; Geotechnical Engineering Investigation Report, dated October 5, 2001, by Coastline Geotechnical Consultants, Inc. All plans must be reviewed and approved by the consultant.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

7. WILDFIRE WAIVER OF LIABILITY

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

8. COLOR RESTRICTION RESTRICTION

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of coastal development permit 4-01-216, including the structures, roofs, retaining walls, fencing and water storage tank permitted. The palette samples shall be presented in a format not to exceed 8½" X 11" X ½" in size. The palette shall include the colors proposed for the roof, trim, exterior surfaces, retaining walls, fencing, water storage tank, spa or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades, no bright tones, or unpainted metal surfaces. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by coastal development permit 4-01-216 if such changes are specifically authorized by the Executive Director as complying with this special condition.

9. LIGHTING RESTRICTION

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. GENERIC DEED RESTRICTION

PRIOR TO 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 against the parcel(s) governed by this permit 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; and (2) imposing the 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 entire parcel or parcels governed by this permit. 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.

IV. Findings and Declarations.

A. Project Description

The project site is located approximately two miles inland of the coast south of the intersection of Saddle peak Road and Swenson Drive. The parcel is accessed from Saddle peak Road, a public road, Rockview Terrace, Swenson Drive and Little Las Flores Road, the later are private roads (Exhibit 1)

The applicants propose to construct a three story 3,732 sq. ft. single family residence with basement, two story 828 sq. ft. garage with second floor 708 sq. ft. guest house, 720 sq. ft. equipment/storage building, spa, 2,142 sq. ft. covered patios, retaining walls, septic system, water storage tank and hydrant, fenced dog area, access driveway and entry gate, grade 1,343 cubic yards of cut material, 14 cubic yards of fill, and export 1,329 cubic yards of material to a site located outside the coastal zone (Exhibits 2 – 15). The applicants initially proposed to locate a barn/workshop on the north side of the driveway east of the proposed residence with 1,800 cubic yards of cut excavation on site and an export of 1,800 cubic yards to a disposal site located outside the coastal zone. The applicants have revised the project to relocate this structure closer to the residence which is now proposed to be used as an equipment/storage building constructed of non-combustible materials. This building will not be used for sheltering of any animals. A fenced dog area is proposed north of the garage/guest house. The applicant's revised proposal to cluster the structures closer together and construct the equipment/storage building of non-combustible materials will minimize the removal of chaparral, reduce the fuel modification area, and reduced the onsite grading to 1,357 cubic yards of cut and fill. The applicant also reduced the proposed guest house from 828 sq. ft. to 708 sq. ft. in size.

The building site is an irregular shaped parcel on the north side of Little Las Flores Road. From Little Las Flores Road, the property ascends northerly for approximately

40 feet to an existing unimproved driveway. The site continues to ascend about 50 feet to the crest of a southwest trending ridgeline. The building site is located about 20 feet above the existing driveway at the 1,852 foot elevation level. Slopes on the vacant parcel range from 2:1 to 1 ½ to 1 and are vegetated primarily with chaparral plant species.

The site is surrounded by residentially developed parcels with either completed or under construction residences with two parcels to the north and east vacant at this time. The parcel to the north has a Commission approval for a new residence (Coastal Permit No. 4-00-076, Wilkins).

The applicants have received a coastal permit waiver (No. 4-02-101-W) at the July 11, 2002 Commission meeting to drill a water well on the site in a location at the southwest corner of the proposed driveway turnaround area. The applicant is in the process of scheduling the drilling of this water well which will provide domestic and fire suppression water for the proposed residence. Water wells drilled along Little Las Flores Road and Swenson Drive have provided adequate water quantity and quality for residential use.

The subject parcel is not located within a designated wildlife corridor, however, it does include Environmentally Sensitive Habitat Area (ESHA) chaparral species. The chaparral is recovering from the 1993 Malibu fire and according to Commission records the site has burned three times in recorded history. The subject parcel's development site is located approximately fifteen hundred (1,500) feet northwest of designated ESHA within a tributary of Little Las Flores Canyon Creek.

The project parcel is adjacent to a mapped hiking and riding trail crossing along a portion of Swenson Drive to the west from south to north connecting the Coastal Slope Trail to the Backbone Trail (Exhibit 16). The project site and the proposed development is highly visible from this nearby planned Tuna Canyon Trail and limited portions of lands owned by the Santa Monica Mountains National Recreation Area located to the west.

B. Environmentally Sensitive Resources

Section 30231 of the Coastal Act states that:

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

Section 30240 of the Coastal Act states that:

(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 30107.5 of the Coastal Act, defines an environmentally sensitive area as:

"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Section 30231 of the Coastal Act require 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, Sections 30107.5 and 30240 of the Coastal Act state that environmentally sensitive habitat areas must be protected against disruption of habitat values. Therefore, when considering any area, such as the Santa Monica Mountains, with regard to an ESHA determination one must focus on three main questions:

- 1) Is a habitat or species rare or especially valuable?
- 2) Does the habitat or species have a special nature or role in the ecosystem?
- 3) Is the habitat or species easily disturbed or degraded by human activities and developments?

In making ESHA determinations, scale is important. Both temporal and spatial scales must be considered in determining ecologically sensitive habitat, and at different scales the conclusions may vary. Whereas on a local scale a small patch of degraded habitat might not be called ESHA, on a landscape scale its status might be different. For example, on a landscape scale it may form a vital stepping stone for dispersal of a listed species between larger habitat patches. At this scale it is valuable, performing an important role in the ecosystem and is easily degraded by human activities and developments, and so it fits the Coastal Act definition of ESHA. Similarly, habitats in a largely undeveloped region far from urban influences may not be perceived as rare or providing a special function, whereas a large area of such habitats surrounded by a dense urban area may be exceedingly rare and each constituent habitat within it an important functional component of the whole. Therefore, in order to appropriately assess sensitivity of habitats, it is important to consider all applicable ecological scales and contexts. In addition to spatial and temporal scales, there are species scales. For example, one can focus on single species (e. g., mountain lions, flycatchers or

tarplants), or one can focus on whole communities of organisms (e.g., coastal sage scrub or chaparral) or interconnected habitats in a geographic region (e. g., the Santa Monica Mountains and its habitats). On a world-wide scale, in terms of numbers of rare endemic species, endangered species and habitat loss, the Malibu/Santa Monica Mountains area is part of a local hot-spot of endangerment and extinction and is in need of special protection (Myers 1990, Dobson et al. 1997, Myers et al. 2000).

In the case of the Santa Monica Mountains, its geographic location and role in the ecosystem at the landscape scale is critically important in determining the significance of its native habitats. Areas such as the project site form a significant connecting links between the coast and large, undisturbed habitat areas in the Santa Monica Mountains such as the area of the project site. These areas are in turn connected by narrow corridors to the Sierra Madre, San Gabriel and San Bernardino Mountains to the north. Much of the ecological significance of the habitat at the site is the proximity to riparian corridors that connect large inland watersheds with the coast. These corridors are home to many listed species and are easily disturbed by development, and in fact some have already been subject to considerable development near the coast, e.g. Las Flores Canyon, Malibu Creek & Lagoon, Ramirez Canyon and Trancas Canyon. Proceeding inland from the coast, however, the quality of the habitat improves rapidly and soon approaches a relatively undisturbed environment consisting of steep canyons containing riparian oak-sycamore bottoms, with coastal sage scrub and chaparral ascending the canyon walls.

The subject site includes one main habitat type and some of their common and sensitive species of plants and animals, including Chaparral. This habitat type above the habitat descriptions from Holland (1986) and also follow the list given in the NPS General Management Plan & Environmental Impact Statement for the Malibu/SMM area.

At roughly the 1,000 ft. elevation above sea level the vegetation in the Malibu/Santa Monica Mountains shifts to more generally woody evergreen species with sclerophyllous leaves (hard with resinous or waxy coatings). Various sub communities of chaparral occur in the Malibu/SMM area and are described briefly below. The subject building site is located at the 1,820 foot elevation above sea level.

Mixed chaparral is found throughout the mountains. It commonly contains large shrubs such as chamise (*Adenostoma fasciculatum*), scrub oak (*Quercus berberidifolia*), greenbark or spiny ceanothus (*Ceanothus spinosus*), mountain mahogany (*Cercocarpus betuloides*), toyon (*Heteromeles arbutifolia*), hollyleaf redberry (*Rhamnus ilicifolia*), sugarbush (*Rhus ovata*) and manzanita (*Arctostaphylos* spp.) (NPS 2000). Ceanothus chaparral occurs on stable slopes and ridges, where bigpod ceanothus (*Ceanothus megacarpus*) makes up over 50% of the vegetative cover. In other areas buckbush ceanothus (*Ceanothus cuneatus*), hoary-leaved ceanothus (*Ceanothus crassifolius*), or greenbark ceanothus may dominate. In addition to ceanothus, other species that are usually present in varying amounts are chamise, black sage (*Salvia mellifera*), holly-leaf redberry, coast golden bush (*Haploppapus venetus*) and sugarbush.

Commission staff visited the site on October 3, 2002 confirming that the building site is located within native chaparral species, including sumac, chemise, and ceanothus, among other species. Commission staff observes that the area surrounding the building site is chaparral that is typical of this area at the 1,800 foot elevation. The subject site includes a two slopes, the largest facing the south, another facing west towards a drainage area. The subject parcel includes ceanothus, laurel sumac, and chemise, among other native chaparral species. The building site is located about fifteen hundred (1,500) feet east of designated ESHA within a tributary of Little Las Flores Canyon Creek, a blue line stream. The proposed building site will drain into this tributary of Little Las Flores Canyon Creek to the south and then to the west and south.

Section 30240 (a) requires that 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. As identified in Exhibit 2, the location of the proposed structures and other development is located within the existing chaparral species considered ESHA. Therefore, the proposed project is sited within an ESHA.

As explained above, the majority of the 2.72 acre parcel contains vegetation that constitutes an environmentally sensitive habitat area (ESHA) pursuant to Section 30107.5. Section 30240 (a) requires that "environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." Since the majority of the entire parcel constitutes an environmentally sensitive habitat area, Section 30240 restricts development on the parcel to only those uses that are dependent on the resource. The applicant proposes to construct a residence, garage/guest house, equipment/storage building, driveway and conduct fuel modification activities within this ESHA consisting of thinning of existing native chaparral vegetation surrounding all of this development, except for the equipment/storage building which is proposed to be a non-combustible building that does not require fuel modification.

Commission staff concludes that although this project does impact ESHA, with the removal of chaparral species and with the required fuel modification area (thinning zones B and C as identified on the Preliminary Fuel Modification Plan), it does so in a minimal way with the proposed 9,695 sq. ft. footprint of the three structures. It is important to note that the applicant proposes to construct the equipment/storage building with non-combustible materials that will not require additional fuel modification. As a result, the building pad for the residence and garage/guest house is within an area about 8,975 sq. ft. that will require fuel modification of chaparral vegetation surrounding it, but the modification area will not be extended to include the additional 720 sq. ft. pad area for the equipment/storage building since it will not be constructed of combustible materials. The extent of the fuel modification area is discussed further below. Further, further reduction of the development footprint or development area will not result in a substantial reduction of the fuel modification area that extends into the surrounding ESHA. Application of Section 30240 (a), by itself, would require denial of the project, because the project would result in disruption of a residential use which is not a resource dependent use.

However, the Commission must also consider Section 30010, and the Supreme Court decision in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S.Ct. 2886. Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what government action results in a "taking" was addressed by the U.S. Supreme Court in *Lucas v. South Carolina Coastal Council*. In *Lucas*, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. For instance, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project denial would deprive his or her property of all economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the proposed project would constitute a nuisance under State law. Another factor that should be considered is the extent to which a project denial would interfere with reasonable investment-backed expectations.

The Commission interprets Section 30010, together with the *Lucas* decision, to mean that if Commission denial of the project would deprive an applicant's property of all reasonable economic use, the Commission may be required to allow some development even where a Coastal Act policy would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, Section 30240 of the Coastal Act cannot be read to deny all economically beneficial or productive use of land because Section 30240 cannot be interpreted to require the Commission to act in an unconstitutional manner.

In the subject case, the applicants purchased the property in July 2000 for \$190,000. The parcel was designated in the County's certified Land Use Plan in 1986 for residential use. Residential development has previously been approved by the Commission on many other nearby parcels along Swenson Drive and Little Las Flores Road that generally contained the same type of habitat as the applicants' parcel.

At 22331 Swenson Drive, the Commission approved a residence and guest house (CDP No. 4-98-004, Bolanowski). At 2201 Little Las Flores Road, the Commission approved a residence (CDP No. 4-00-087, Sheldon & Berger). At 22464 Little Las Flores Road, the Commission approved a residence (CDP No. 4-00-064, Mastoras). At 22380 Swenson Drive, the Commission approved a residence and guest house (CDP No. 4-00-076, Wilkins).

At the time the applicant purchased the parcel, the County's certified Land Use Plan did not designate the vegetation on the site as ESHA. Based on this fact, along with the presence of existing and approved residential development on nearby parcels, the applicants had reason to believe that they had purchased a parcel on which they would be able to build a residence.

The Commission finds that in this particular case, other allowable uses for the subject site, such as a recreational park or a nature preserve, are not feasible and would not provide the owners an economic return on their investment. The 2.72 acre parcel is

surrounded by other residentially-zoned developed and undeveloped parcels, however, as noted above there are many existing parcels developed or approved with residential development located to the north along Swenson Drive and to the south and east along Little Las Flores Road. There is no indication that a public agency would consider it a priority to purchase a small parcel, such as the project site. According to the applicant's agent, the applicant has not been approached by any state, federal agency or non-profit conservancy requesting to purchase the subject property for park or open space purposes. The Commission, thus, concludes that in this particular case there is no viable alternative use for the site other than residential development. The Commission finds, therefore, that outright denial of all residential use on the property would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.

Next the Commission turns to the question of nuisance. There is no evidence that construction of a residence on the subject property would create a nuisance under California law. Other houses have been constructed in similar situations in chaparral habitat in Los Angeles County, apparently without the creation of nuisances. The County's Health Department has not reported evidence of septic system failures. In addition, the County has reviewed and approved the applicants' proposed septic system, ensuring that the system will not create public health problems. Furthermore, the use that is proposed is residential, rather than, for example, industrial, which might create noise or odors or otherwise create a public nuisance. In conclusion, the Commission finds that a residential project, which includes a moderate-sized house (3,732 sq. ft.), garage/guest house (1,536 sq. ft.), equipment/storage building (720 sq. ft.), spa, terraces, retaining walls, water storage tank, can be allowed to permit the applicant a reasonable economic use of their property consistent with Section 30010 of the Coastal Act.

While the applicants are entitled under Section 30010 to an assurance that the Commission will not act in such a way as to take their property, this section does not authorize the Commission to avoid application of the policies of the Coastal Act, including Section 30240, altogether. Instead, the Commission is only directed to avoid construing these policies in a way that would take property. Aside from this instruction, the Commission is still otherwise directed to enforce the requirements of the Act. Therefore, in this situation, the Commission must still comply with Section 30240 by avoiding impacts that would disrupt and/or degrade environmentally sensitive habitat, to the extent this can be done without taking the property.

Commission staff has considered whether alternative proposals for residential development on the subject parcel would minimize adverse impacts to ESHA. The proposed development is sited to take advantage of an existing graded area and dirt road. The remainder of the property consists of moderate to steep slopes on this parcel which would require substantially more grading for construction of the residence and driveway. As proposed, the project requires a moderate amount of grading, 1,343 cubic yards of cut, 14 cubic yards of fill, and 1,329 cubic yards of export to a disposal site located outside the coastal zone. Therefore, there is no alternative location for the residence on the parcel that could reduce the adverse impacts to ESHA.

Development within areas of ESHA, the Commission typically requires a maximum development or building pad of 10,000 sq. ft. to consolidate residentially related development and minimize the geographic extent of the required fuel modification area. In this area, the Fire Department requires fuel modification in a 200-foot radius from all habitable structures (except for the equipment/storage building which the applicant proposes to construct with Class 1 materials, concrete and metal, that are not flammable or require additional fuel modification) to reduce the risks of wildfire. These fuel modification requirements will cause significant disruption of habitat values in ESHA.

The applicant proposes to construct the residence and garage/guest house partially on an existing building pad that will be expanded to a size less than 10,000 sq. ft. The pad will become a total of 9,695 sq. ft. in size. The proposed equipment/storage building is located on a separate pad about twenty-five feet lower in elevation from the basement floor level of the residential building pad and is about 720 sq. ft. in size. It is important to note that this equipment/storage building is proposed to be located within the fire break area and will be constructed of Class I materials that are not combustible such as concrete and metal. As a result, the equipment/storage building does not require any additional fuel modification area, including any additional vegetation removal on this additional building pad area or within 20 feet of the building in Zone A. Therefore, the required fuel modification will only be required for the proposed residence and garage/guest house on the expanded building pad. The fuel modification area required for the proposed residence and garage/guest house will encompass the majority of the subject parcel and a portion of the adjoining parcel to the north. Further reducing the size or location of the residence and garage/guest house would not result in a significant decrease in the extent of fuel modification required for the development. Therefore, the Commission finds that it is not necessary to reduce the size of the proposed structures because this would not significantly reduce the extent of significant disruption of habitat values beyond the building site in the surrounding area with ESHA.

Nevertheless, the Commission has determined that certain actions can be taken to minimize adverse impacts to ESHA. Therefore, **Special Condition No. One** requires landscape, erosion control and fuel modification plans that must be approved by the Executive Director prior to issuance of the permit. This will insure that, to the extent compatible with fire safety requirements, impacts to native habitat will be minimized by replanting native vegetation on slopes disturbed by construction and by limiting fuel modification beyond 20 feet from the residence to thinning of native vegetation. In addition, drainage and erosion control measures are required to prevent runoff of pollutants and sediments that could adversely impact ESHA. In addition, **Special Condition No. Two** requires the applicant to not commence removal of natural vegetation for the purpose of fuel modification until the county has issued a building or grading permit for the development approved pursuant to this permit. Therefore, the Commission finds that, as conditioned, the development minimizes the potential adverse impacts to ESHA to the maximum extent practical, while allowing for a reasonable residential use of the parcel.

a. Erosion

Minimizing erosion of the site is also important to reduce geological hazards and minimize sediment deposition into an environmentally sensitive habitat area within the blue-line streams or tributaries leading into Little Las Flores Canyon Creek and Las Flores Canyon Creek, both designated as environmentally sensitive habitat areas. The building site drains southeasterly into a blue line stream drainage that drains into Little Las Flores Canyon and Las Flores Canyon Creeks. Riparian vegetation and habitat, designated as environmentally sensitive habitat areas (ESHA) in the Malibu/Santa Monica Mountains Land Use Plan is located as close as about 1,500 feet in the drainage leading southeasterly from the site into Little Las Flores Canyon Creek.

Since the project site and property is not located within any Malibu/Santa Monica Mountains Land Use Plan designated ESHA or Significant Watershed area, the Los Angeles County Environmental Review Board did not review the proposed project. However, based on the above analysis the majority of the subject parcel is considered ESHA, as it includes chaparral plant species. The proposed project will require the removal of vegetation within 20 feet of the proposed structures, except for the equipment/storage building, which includes chaparral plant species, selective removal of vegetation within 100 feet, and the thinning of the vegetation beyond to a 200 foot radius as identified in the applicant's preliminary fuel modification plan. This plan includes the planting of replacement native plants which will minimize the fuel load and fire hazard of the site. Therefore, the development of the subject site will directly impact these ESHA resources through vegetation removal and fuel modification.

In addition, the proposed project does have the potential to have indirect adverse effects as a result of site erosion and offsite sedimentation and water quality impacts. Further the recommendations of the consulting geotechnical engineer emphasize the importance of proper drainage in non-erosive drainage devices to ensure the stability of development on the site. For these reasons, the Commission finds it necessary to require a drainage and erosion control plan prepared by a licensed engineer to minimize erosion on the site and sedimentation offsite into this environmentally sensitive habitat area, as noted in **Special Condition Number One**.

The applicant proposes to grade 1,343 cubic yards of cut, 14 cubic yards of fill and export the 1,329 cubic feet of excess material to a disposal site located outside the coastal zone. **Special Condition number three** requires that the applicant export the excess cut material to a site located outside the Coastal Zone as proposed. Should the disposal site be located within the Coastal Zone, a valid coastal development permit is necessary. The proposed grading also has the potential to create erosion on site and create offsite sedimentation into the drainage courses leading to the Little Las Flores Canyon Creek and Las Flores Canyon Creek. The Commission finds that minimizing site erosion will minimize the project's potential individual and cumulative contribution to adversely affecting these natural drainage courses. Erosion can best be minimized by requiring the applicant to landscape all graded and disturbed areas of the site with native plants, compatible with the surrounding environment. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission finds that non-native and invasive plant species with high surface/foilage weight and shallow root

structures do not serve to stabilize pad areas and that 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 aid in preventing erosion. Therefore, in order to minimize erosion and resultant sedimentation of the drainages and tributaries to Las Flores Canyon Creek downstream, **Special Condition number one** requires that all disturbed and graded areas on the project site shall be stabilized and vegetated with appropriate native plant species. The Commission further notes 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. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant community habitat by new development and associated non-native landscaping. Indirect adverse effects include offsite migration and colonization of native plant species 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, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area, **Special Condition number one** also requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

b. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources, as well as effluent from septic systems. Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters and streams be maintained and restored by minimizing the effects of waste water discharges and controlling runoff, among other means.

As described above, the project proposes to construct a three story 3,732 sq. ft. single family residence with basement, two story 828 sq. ft. garage with second floor 828 sq. ft. guest house, 720 sq. ft. barn/workshop, spa, 2,142 sq. ft. covered patios, retaining walls, septic system, water storage tank and hydrant, access driveway and entry gate, grade 1,800 cubic yards of material and export 1,800 cubic yards of material to a site located outside the coastal zone. The applicant proposes to construct the storage building with non-flammable materials known as Class I materials such as concrete and metal in order to minimize the fuel modification needed for the development.

The site is considered a "hillside" development, as it includes gentle to moderately sloping terrain with soils that are susceptible to erosion surrounding the proposed building site. Further, use of the site for residential purposes introduces potential sources of pollutants such as petroleum, household cleaners, and pesticides, as well as other accumulated pollutants from rooftops and other impervious surfaces.

The proposed development will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Infiltration of precipitation into the soil allows for the natural filtration of pollutants. 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, and estuaries and reduce optimum populations of marine organisms and have adverse impacts on human health.

When infiltration is impeded by impervious surfaces, pollutants in runoff are quickly conveyed to coastal streams and to the ocean. Thus, new development can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff leading to stream channel destabilization, increased flood potential, increased concentration of pollutants, and reduced groundwater levels.

Such cumulative impacts can be minimized through the implementation of drainage and polluted runoff control measures. In addition to ensuring that runoff is conveyed from the site in a non-erosive manner, such measures should also include opportunities for runoff to infiltrate into the ground. Methods such as vegetated filter strips, gravel filters, and other media filter devices allow for infiltration. Because much of the runoff from the site would be allowed to return to the soil, overall runoff volume is reduced and more water is available to replenish groundwater and maintain stream flow. The slow flow of runoff allows sediment and other pollutants to settle into the soil where they can be filtered. The reduced volume of runoff takes longer to reach streams and its pollutant load will be greatly diminished.

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

rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most importantly capturing the initial, "first flush" flows including the 85th percentile 24-hour event and the one-hour event that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition number four**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

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

Therefore, the Commission finds that the proposed project, as required by **Special Condition number four** to incorporate and maintain a drainage and polluted runoff control plan, is consistent with Section 30231 of the Coastal Act.

The Commission also notes that the staff has discussed with the applicant the need to minimize fencing of the property to include only that fencing which is necessary for the security of the spa, the immediate area surrounding the residence and garage pad, a dog fence area north of the garage/guest house and the driveway entry gate (Exhibit 2). The approved Fencing Plan will be incorporated into the Landscape Plan pursuant to **Special Condition Number One**.

The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the significant watersheds of the Malibu/Santa Monica Mountains region through past permit actions. This is due to the potential for future expansions of individual residential and related development which would be exempt from coastal development permit requirements. The Commission notes concern about the potential for future impacts on coastal resources that may occur as a result of further development of the subject property. Specifically, the expansion of the building site and developed area would require more vegetation removal as required for fuel modification by the Los Angeles County Fire Department. Further, adding impervious surfaces to the site through future development or expansion could have adverse impacts on the existing drainage of the site, which in turn would have significant

impacts on the Little Las Flores Canyon Creek and Las Flores Canyon Creek watersheds due to increased erosion and sedimentation. In addition, the Commission 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 above mentioned environmental constraints. Therefore, in order to ensure that any future structures, additions, additional fencing that can affect the movement of wildlife in the area, injure wildlife or create adverse effects on wildlife, or adversely effect habitat values, change in landscaping or use of the equipment/storage building (including the sheltering of any animals or livestock) 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 Number five**, the future development restriction, has been required. **Special Condition Number five** specifically requires that any future development on site shall require an amendment to Coastal Development Permit 4-01-216 or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30231 and 30240 of the Coastal Act.

C. Geologic and Fire Hazards

Section 30253 of the Coastal Act states in 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, 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 proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The applicant proposes to construct a three story 3,732 sq. ft. single family residence with basement, two story 828 sq. ft. garage with second floor 708 sq. ft. guest house, 720 sq. ft. equipment/storage building, spa, 2,142 sq. ft. covered patios, retaining walls, septic system, water storage tank and hydrant, fenced dog area, access driveway and entry gate, grade 1,343 cubic yards of cut material, 14 cubic yards of fill, and export 1,329 cubic yards of material to a site located outside the coastal zone (Exhibits 2 -).

The applicant proposes to construct the stable with non-flammable materials known as Class I materials such as concrete and metal in order to minimize the fuel modification needed for the development. As a result, additional fuel modification beyond that needed for the residence and garage/guest house will not be needed.

The subject site is an undeveloped hillside parcel located along the north side of Little Las Flores Canyon Road. Regarding the geologic and erosion hazard, the applicant submitted a report titled, Report of a Preliminary Engineering Geologic Investigation by Pacific Geology Consultants, dated September 14, 2001. This report concludes that:

Providing the recommendations contained in this report, in addition to those of the Geotechnical Engineer are followed, the residence, garage, and barn (staff note, a barn is no longer proposed) will be safe from landslide hazard, settlement and slippage. In addition, the proposed construction and grading will not adversely affect off-site properties from a geologic standpoint. All specific elements of the County of Los Angeles Building Code shall be followed in conjunction with the design and future construction work.

The applicant also submitted a second report addressing the geotechnical engineering of the proposed project at this site. This second report is titled: Geotechnical Engineering Investigation Report by Coastline Geotechnical Consultants, dated October 5, 2001.

These reports include a number of recommendations to ensure the stability and geotechnical safety of the site. Therefore, to ensure that the recommendations of these consultants have been incorporated into all proposed development, **Special Condition number six** requires the applicants to submit project plans certified by these consultants as conforming to all recommendations regarding structural and site stability. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes to the proposed development approved by the Commission which may be recommended by the consultants shall require an amendment to the permit or a new coastal permit.

However, the Commission notes that, although the subject building site is considered stable from a geologic standpoint, the subject site and the proposed project is still subject to potential erosion and instability. The Commission finds that minimizing site erosion will improve the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed and graded areas of the site with native plants compatible with the surrounding environment. In past permit actions, the Commission has found that invasive and non-native plant species are typically characterized as having a shallow root structure in comparison with their high surface/foilage weight and/or require a greater amount of irrigation and maintenance than native vegetation. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize steep slopes, such as the slopes on the subject site, and that such vegetation results in potential adverse effects to the geologic stability of the project site. In comparison, the Commission finds that native plant species are typically characterized not only by a well developed and extensive root structure in comparison to their surface/foilage weight but

also by their low irrigation and maintenance requirements. Therefore, in order to ensure the stability and geotechnical safety of the site, **Special Condition number one** requires that all proposed disturbed and graded areas on the subject site be stabilized with the planting of native vegetation.

In addition, to ensure that drainage is conveyed off site in a non-erosive manner, the Commission finds that it is necessary to require the applicant, as required by **Special Condition Numbers one and four**, to submit erosion control/drainage plans certified by the consulting geotechnical engineer as conforming to their recommendations. Further, to ensure that the project's drainage structures will not contribute to further destabilization of the project site or its surrounding area and that the project's drainage devices shall be repaired should the devices fail in the future, **Special Condition Number four** also requires that the applicant agree to be responsible for any maintenance should the drainage devices fail or result in erosion. An interim erosion control plan is also needed to minimize erosion during grading and construction, particularly if conducted during the rainy season. A monitoring plan is needed to ensure that the landscaping meets the approved landscaping plan after a five year time period from the time of occupancy of the residential unit. In addition, in the event the proposed grading occurs during the rainy season (November 1 – March 31) sediment basins need to be installed on the project site prior to or concurrent with grading operations and maintained through the development process to minimize sediment from runoff waters during construction. Therefore, the Commission finds it necessary to require a landscape plan with an interim erosion control plan, and a monitoring plan to further minimize and control erosion as noted in **Special Condition Number one**. **Special Condition number two** requires that the fuel modification plan will not commence within the 20-foot zone surrounding the proposed structures until after the local government has issued a building or grading permit for development approved pursuant to this permit and that the vegetation thinning beyond this zone within the 20 – 200 foot fuel modification zone shall not occur until commencement of construction of the structures approved pursuant to this permit.

The Coastal Act also requires that new development minimize the risk to life and property in areas of high geologic and fire hazard. The Coastal Act also recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to establish who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated. It is important to also note that some fuel modification and brush/grass removal may

extend beyond the existing building pad as a result of this development. However, given the type of vegetation that maybe removed, this removal or thinning may be minimal, but will be determined in the revised Final Fuel Modification Plan approved by the Los Angeles County Fire Department pursuant to **Special Condition Number One**.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the Wildfire Assumption of Risk Special Condition, the applicants acknowledge and appreciate the nature of the wildfire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by **Special Condition Number seven**.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

D. Visual Resources

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

In the review of this project, the Commission reviews the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. The Commission examines the building site, the proposed grading, and the size of the building pad and structures. The development of the residence, garage/guest house, equipment/storage building, retaining walls and water storage tank raises two issues regarding the siting and design: one whether or not public views from public roadways will be adversely effected; or, two whether or not public views from public trails will be effected.

The subject site is located in a partial residentially developed area, however, it is immediately surrounded by residentially developed parcels on two sides, and a parcel with an approved residence to the north as noted above. Although the building site is located along a slope well below a designated significant ridgeline along Saddle Peak in the Malibu/Santa Monica Mountains, it is not readily visible from public roadways located to the west, south, or east due to the distance. However, the building site will be visible from a planned public trail located to the south and along a portion of Swenson Drive located to the west as close as 300 feet (Exhibit 16). As a result, public views from this planned public trail may be adversely effected by the proposed development. In addition, the applicant has reduced the proposed grading by further

clustering the proposed development. The applicant initially proposed to grade 1,800 cubic yards of cut to construct the driveway and create or expand three building pads; all of this material was proposed to be exported to a disposal site. At the request of staff, the applicant revised the proposed site and grading plans reducing the grading to 1,343 cubic yards of cut, 14 cubic yards of fill, and exporting 1,329 cubic yards of material to a disposal site located outside the coastal zone. Therefore the proposed landform alteration has been minimized to a total of 1,357 cubic yards of grading on site.

The Commission has found that the use of native plant materials in landscaping plans can soften the visual impact of construction in the Santa Monica Mountains. The use of native plant materials to revegetate graded and restored areas reduces the adverse effects of erosion, which can degrade visual resources in addition to causing siltation pollution in ESHA's, and soften the appearance of development within areas of high scenic quality. The landscape plan will be designed with vertical elements to partially screen and soften the visual impact of the proposed structures with trees and shrubs as viewed from the adjoining public trail located to the south and west of the project site.

The applicants are required to submit a Landscape and Fuel Modification Plan that uses numerous native species compatible with the vegetation associated with the project site for landscaping and erosion control purposes. Furthermore, the Plan will indicate that only those materials designated by the County Fire Department as being a "high fire hazard" are to be removed as a part of this project and that native materials that are located within a 200' radius of the residential structure are to "thinned" rather than "cleared" for wildland fire protection. The vegetation located within 20 feet of the structure and the driveway may be cleared and replaced with native plant species that are less flammable. As required by **Special Condition Number one**, the graded and disturbed areas on the building site will be replanted with native plants. Also as required by **Special Condition Number one**, the landscape plan will be designed with vertical elements to partially screen and soften the visual impact of the structures with trees and shrubs as viewed from the planned public trail located to the south and west of the project site.

In addition, in order to ensure that the structural appearance, i.e. color of the residence, garage/guest house, storage building, roofs, covered patios, retaining walls, entry gate, and water storage tank and the potential glare of the glass windows, will not create adverse visual impacts from the public trail, the Commission finds it necessary to require the applicant to use colors compatible with the colors found in the surrounding area for exterior materials of the proposed structure and non-glare glass for all proposed windows as required by **Special Condition number eight**. In addition, **Special Condition number nine** requires that night lighting, if any, shall be the minimum necessary for lighting, directed downward, be of low intensity, at low height and shielded; security lighting, if any, shall be controlled by motion detector to avoid creating adverse night time visual impacts. The restriction on night lighting is necessary to protect the night time rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area. In addition, low intensity lighting and security lighting controlled by a motion detector will assist in minimizing the disruption of wildlife traversing this area at night that are commonly

found in this rural and relatively undisturbed area. Further, as required by **Special Condition number five**, any future development proposed for development on this site will require a coastal permit or a coastal permit amendment to allow the Commission to review any future proposed development consistent with the visual resource protection policies of the Coastal Act.

Therefore, the Commission finds that the project, as conditioned, minimizes adverse effects to public views to and along the coast and minimizes the alternation of natural landforms. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

Finally, **Special Condition number 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.

E. Septic System

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

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

The applicant is proposing the installation of a septic tank, and septic pits to accommodate the waste water of the proposed development. The applicant has submitted approval from the County of Los Angeles Department of Health Services stating that the proposed septic system is in conformance with the minimum requirements of the County of Los Angeles Uniform Plumbing Code. The County of Los Angeles' minimum health code standards for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of soils along the coastline, among other criteria. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

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

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

G. California Environmental Quality Act (CEQA)

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

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.

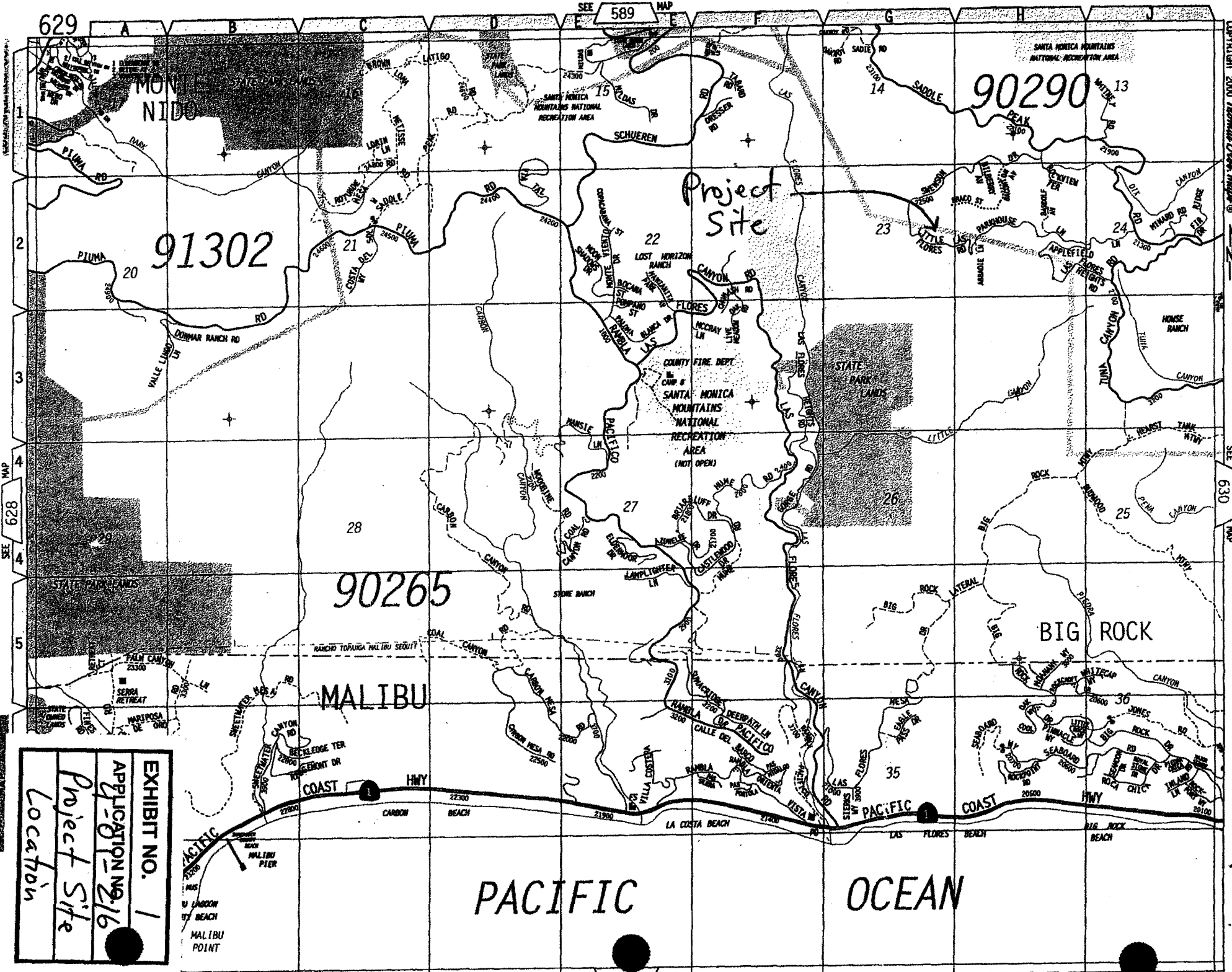
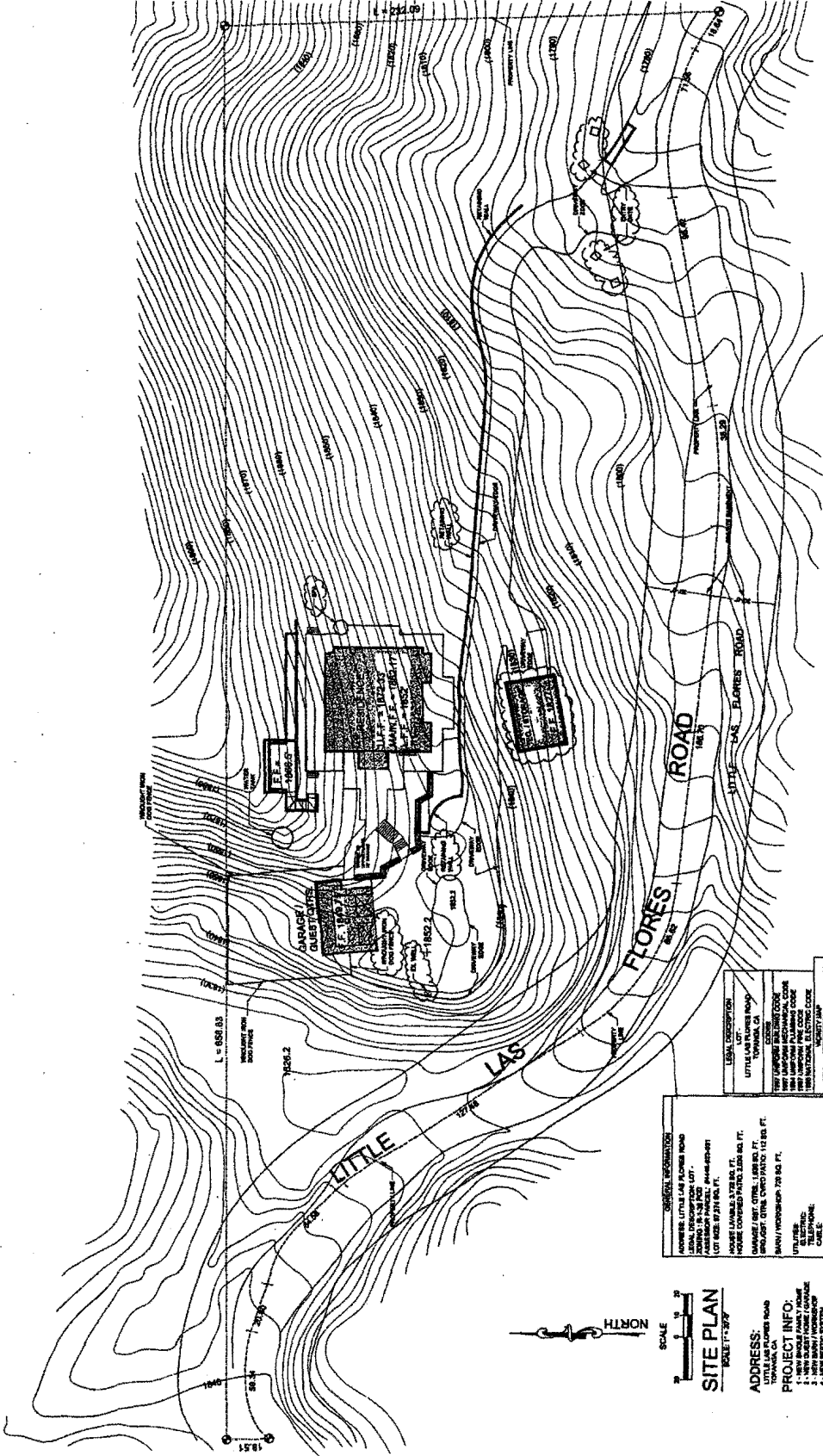


EXHIBIT NO. 1
APPLICATION NO. 216
Project Site Location



GENERAL INFORMATION:
 PROJECT: LITTLE LAS FLORES ROAD
 ADDRESS: 11800 S. FLORES ROAD, TOWNHAWK, CA
 LOT AREA: 10.00 AC.
 HOUSE COVERED PATIO: 1,000 SQ. FT.
 HOUSE: 11,000 SQ. FT.
 GARAGE / STAFF QUARTERS: 1,000 SQ. FT.
 MAIN HOUSE: 11,000 SQ. FT.
 UTILITY: WATER, SEWER, GAS, CABLE, TEL.
 FINISHES: INTERIOR AND EXTERIOR.

PERMITS:
 1. NEW BUILDING PERMIT
 2. NEW MECHANICAL PERMIT
 3. NEW ELECTRICAL PERMIT
 4. NEW WATER PERMIT
 5. NEW SEWER PERMIT
 6. NEW GAS PERMIT
 7. NEW CABLE PERMIT
 8. NEW TEL. PERMIT

EXHIBIT NO. 2
APPLICATION NO.
 4-01-216
Site Plan



Parsons #448-823-831
Torrance, California

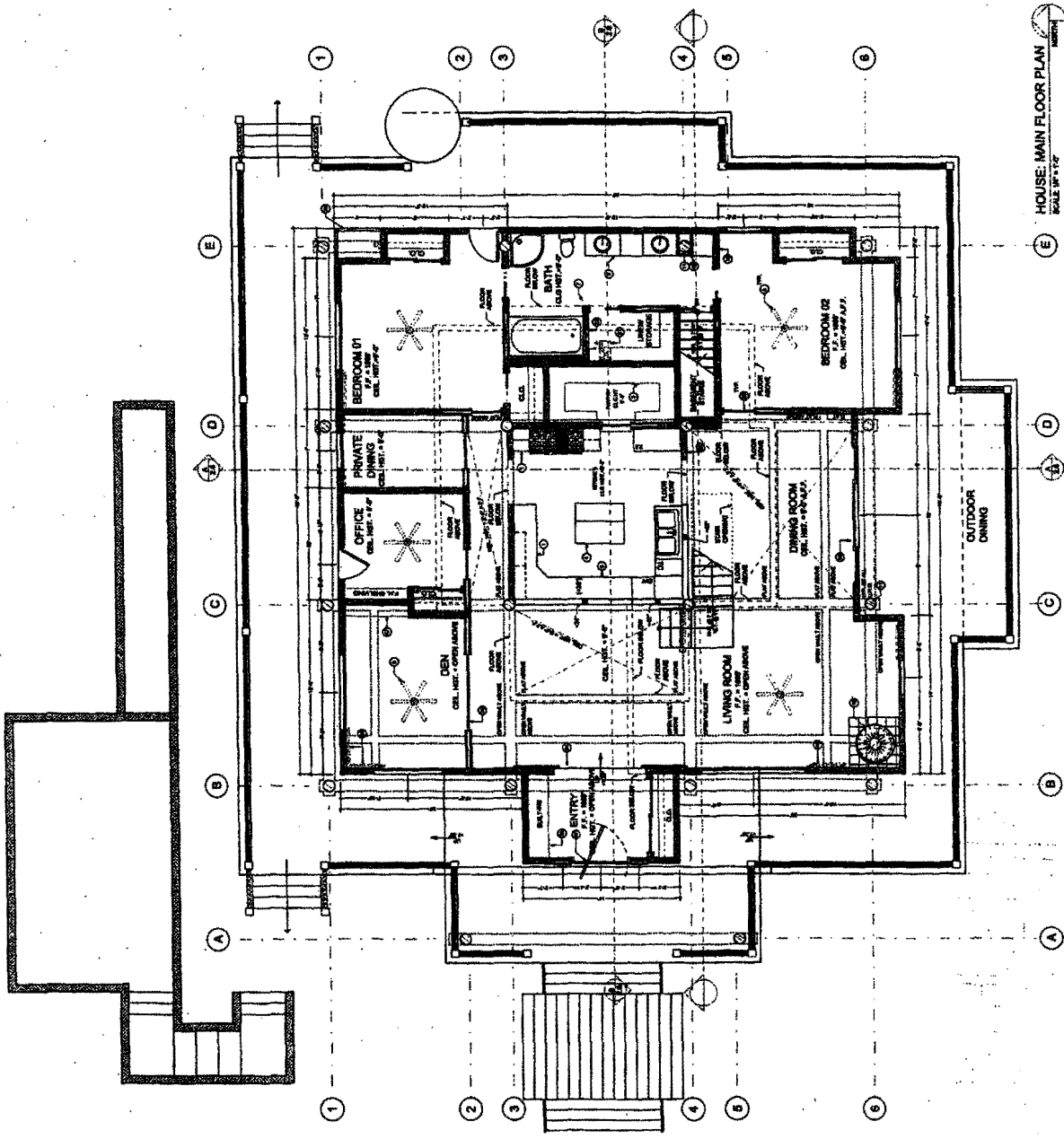
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1/4" = 1'-0"
1/2" = 1'-0"
3/4" = 1'-0"
1" = 1'-0"

Approved for Construction
By [Signature]

Notes:
1. All work shall conform to the latest editions of the Uniform Building Code and the California Building Code.
2. The contractor shall be responsible for obtaining all necessary permits.
3. The contractor shall be responsible for the cost of all materials and labor.

Printed in California
Scale: 1/8" = 1'-0"
Sheet 2.1

Pre-Construction Documents - House: Main Floor Plan



HOUSE: MAIN FLOOR PLAN
SCALE: 1/8" = 1'-0"



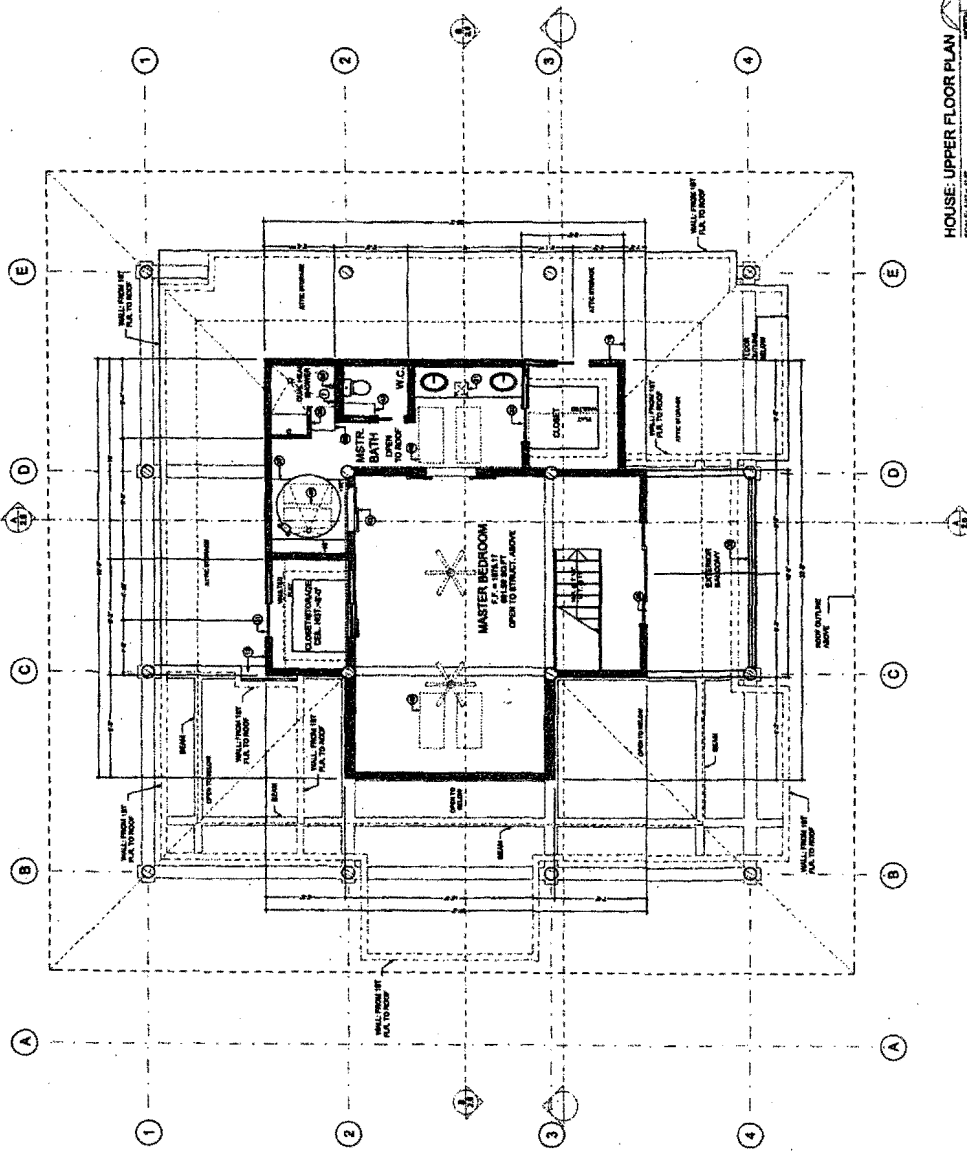
EXHIBIT NO. 3
APPLICATION NO. 4-01-216
House Main
Floor



Parcel #4448-073-031
Tulare, California

Pro-Construction Documents - House: Upper Floor Plan

Scale: 1/8" = 1'-0"
Sheet 2.2



HOUSE: UPPER FLOOR PLAN
SCALE: 1/8" = 1'-0"



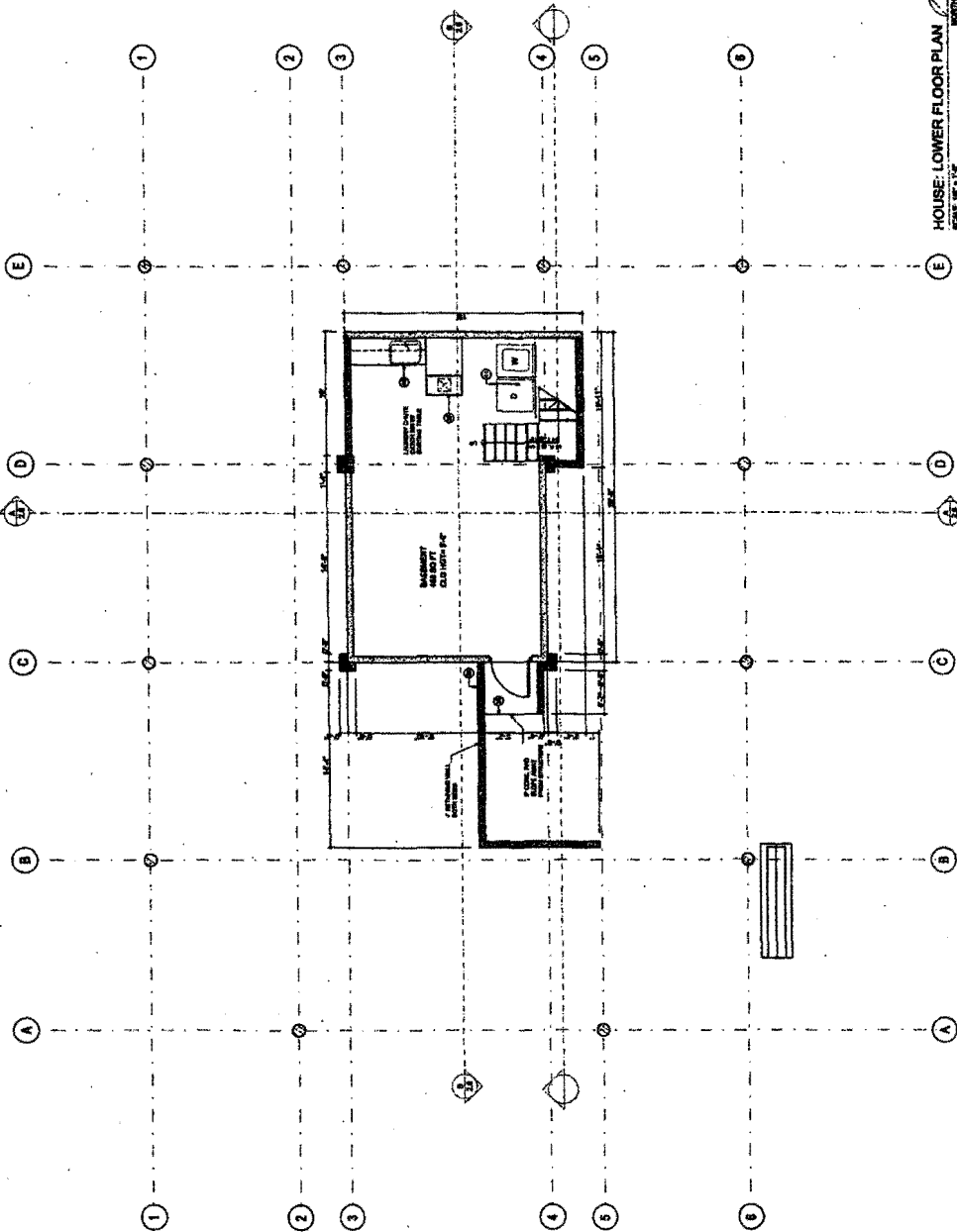
EXHIBIT NO. 4
APPLICATION NO. 4-01-216
House Upper
Floor Plan



Parcel #4448-023-031
Torrance, California

Pro-Construction Documents - House: Lower Floor Plan

Professional Engineer
Scale: 1/8" = 1'-0"
Sheet 2.3



HOUSE: LOWER FLOOR PLAN
SCALE: 1/8" = 1'-0"



EXHIBIT NO. 5
APPLICATION NO. 4-01-616
House
Basement



Parcel #448-023-031
Torrance, California

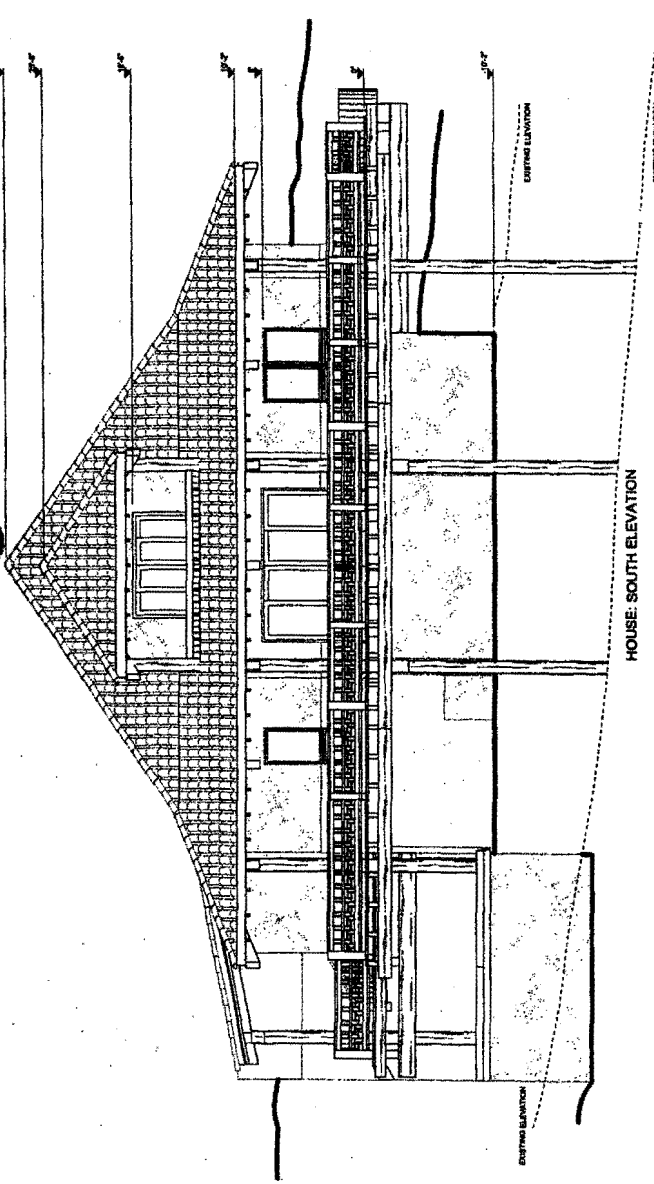
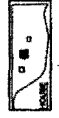
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10-08-2003
1-08-2004

Drawn by:
John P. ...
Checked by:
...

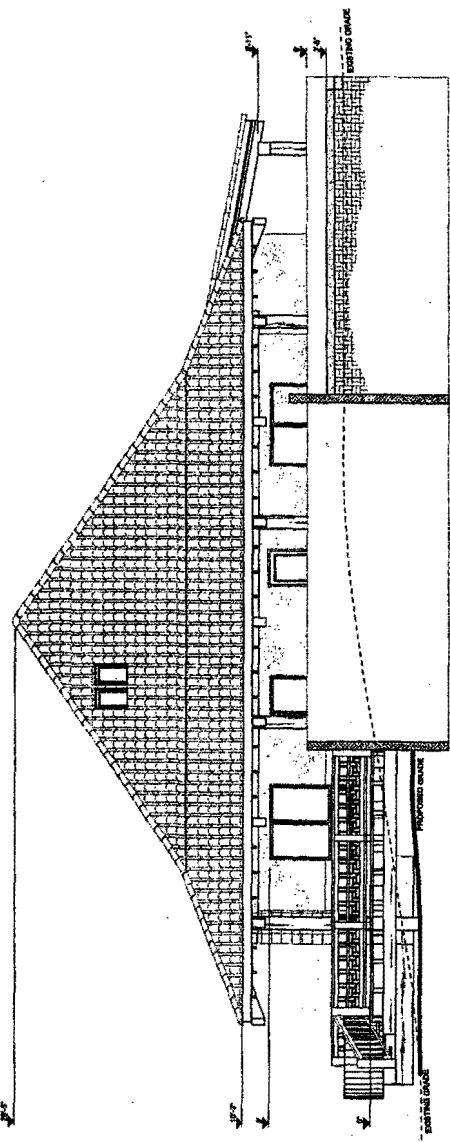
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Address:
...
City:
...

Project Number:
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Scale: 1/4" = 1'-0"
Sheet 2.4

Pre-Constructed Documents - House: Elevations

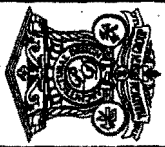


HOUSE: SOUTH ELEVATION



HOUSE: NORTH ELEVATION

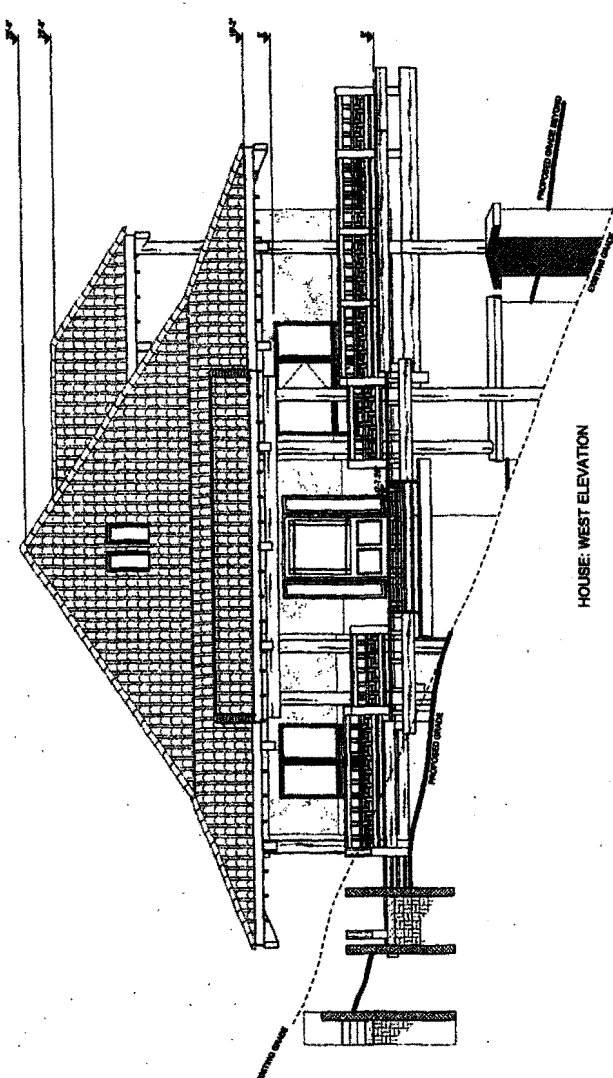
EXHIBIT NO.	6
APPLICATION NO.	4-01-296
House So. & No.	
Elevations	



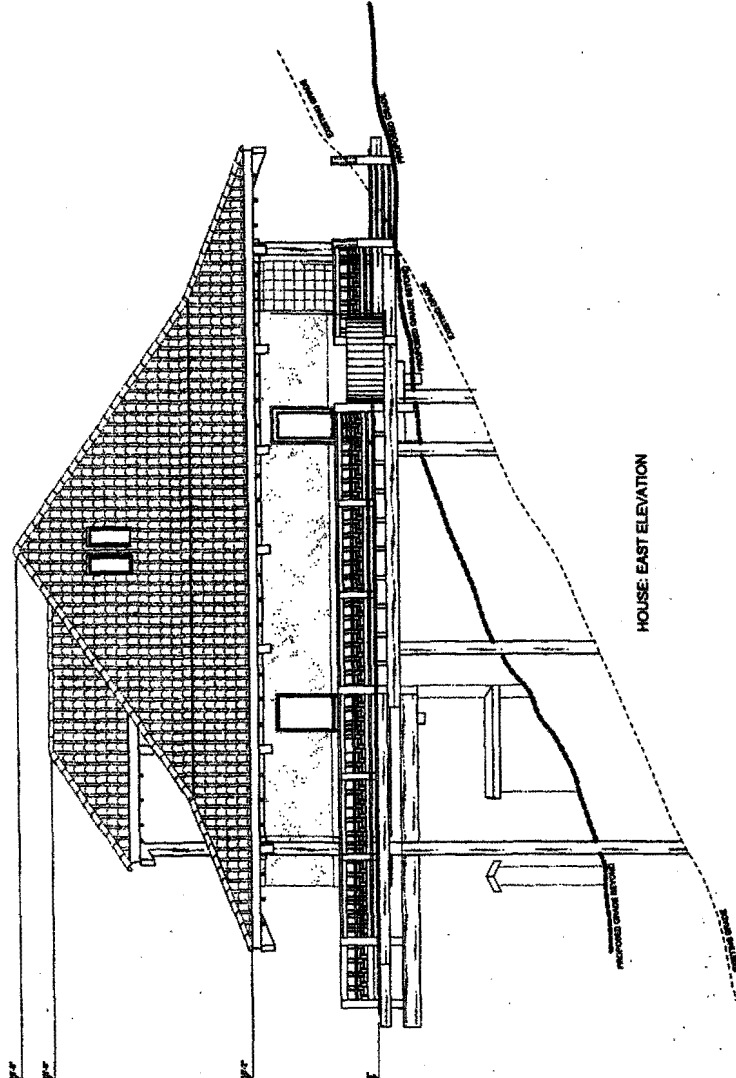
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Torrance, California

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Pro-Construction Documents - Horse-Elevators



HOUSE: WEST ELEVATION



HOUSE: EAST ELEVATION

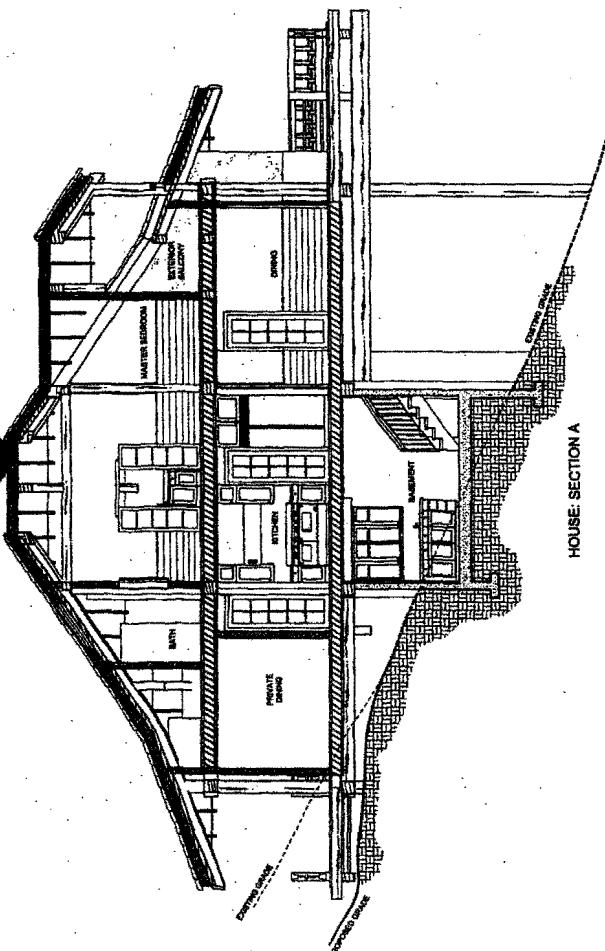
EXHIBIT NO. 7
APPLICATION NO. 4-01-216
House W&E
Elevations



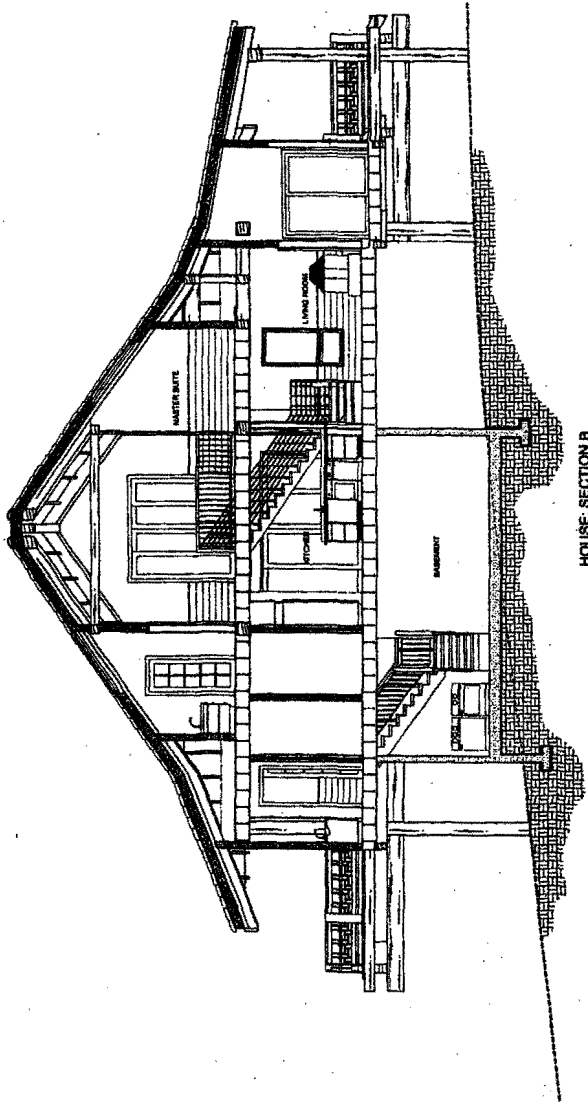
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Troy, California

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Pre-Construction Documents - House Sections



HOUSE: SECTION A



HOUSE: SECTION B

EXHIBIT NO.	8
APPLICATION NO.	01-216
House	
Sections	



Parcel #4448-023-031
Tulare, California

Pre-Construction Documents - House-3-D Axonometrics

10-0000
10-0000
10-0000

Project Name:
Address:
City:
State:
Zip:

Scale:
Date:
Sheet #

Sheet 2.7

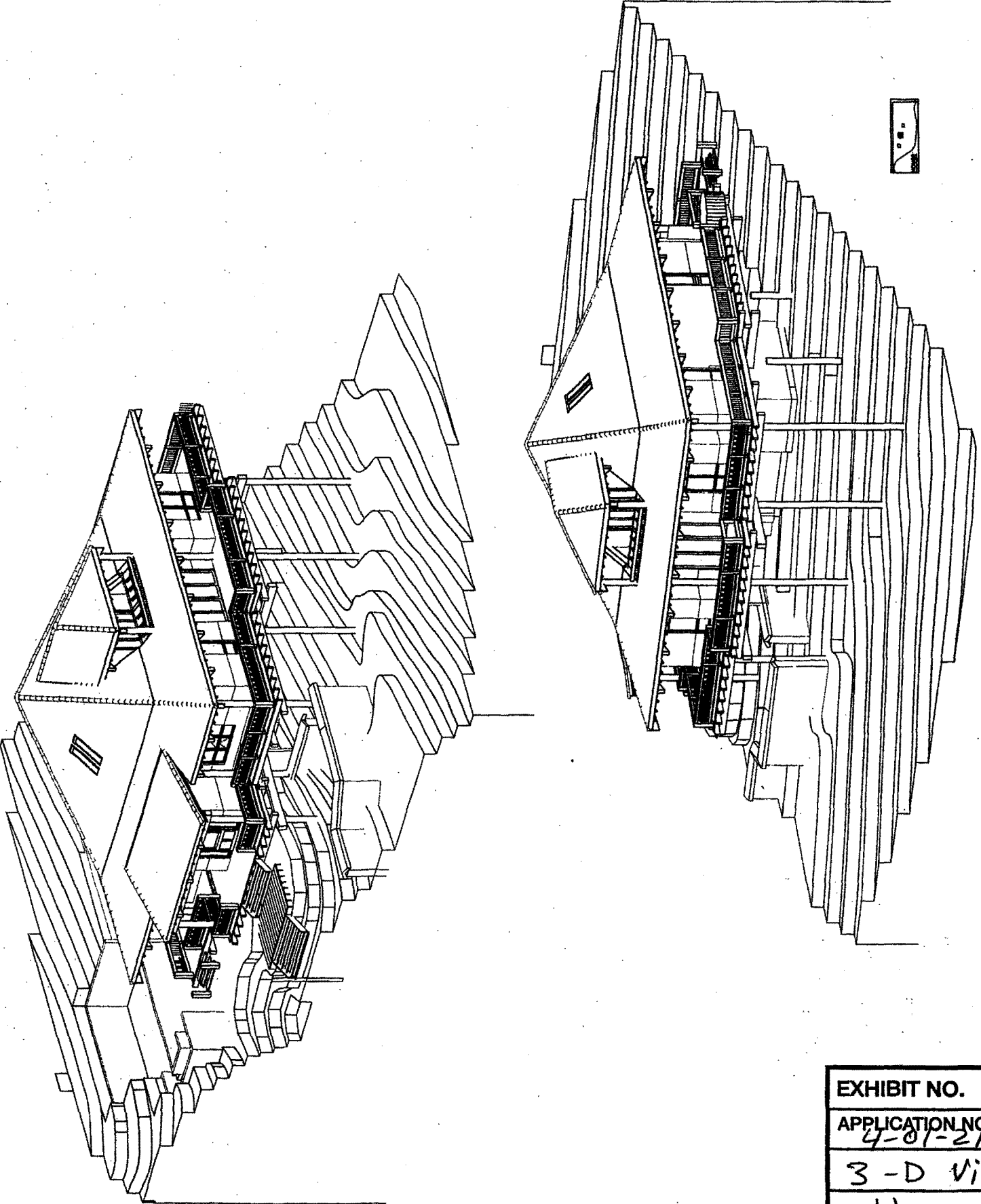


EXHIBIT NO.	9
APPLICATION NO.	4-01-216
3-D View	
House	



PERRETTI CUSTOM RESIDENCE

PARCELS #4448-022-031
TERRACE CALIFORNIA

PERRETTI CUSTOM RESIDENCE, NPD-002, (COASTAL REVIEW), 10.08.02

DATE	NO.	BY	SCALE	APPROVED
PROJECT NO.	DATE	SCALE	APPROVED	
DATE	SCALE	APPROVED		
DATE	SCALE	APPROVED		
DATE	SCALE	APPROVED		

A3.1

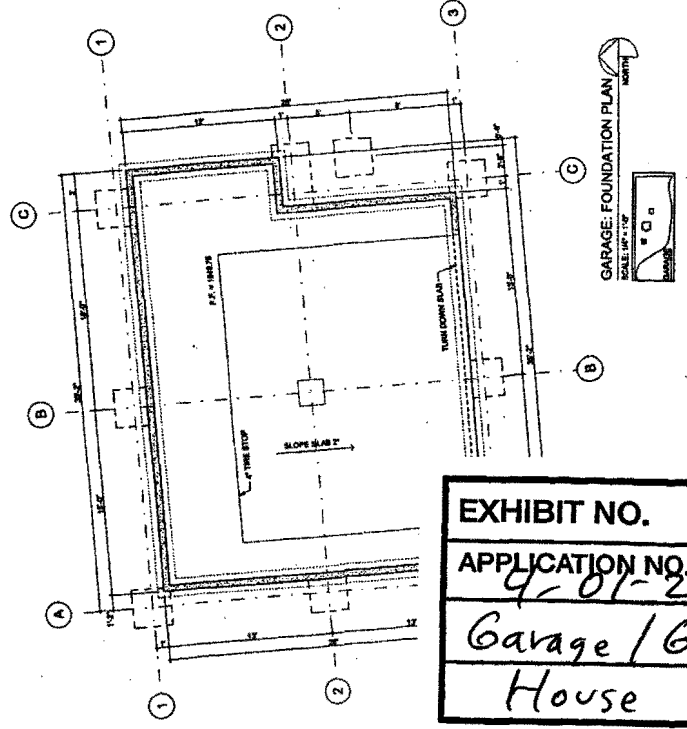
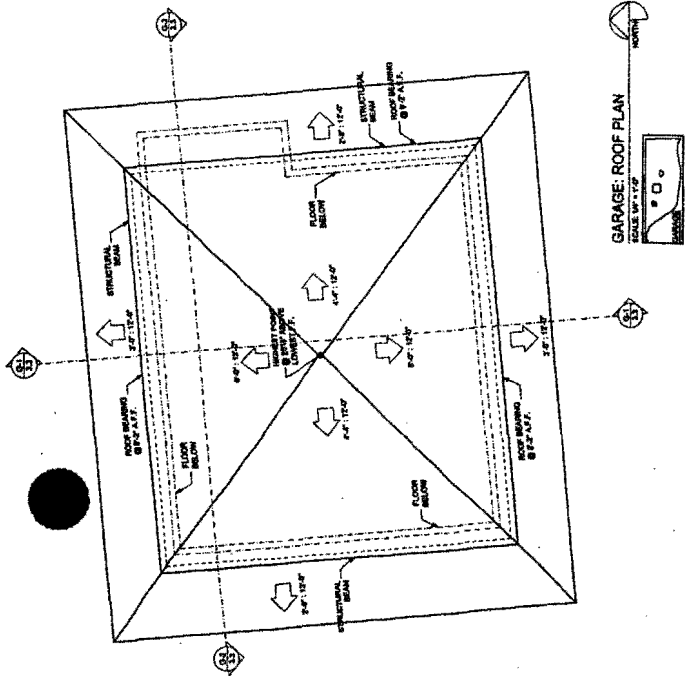
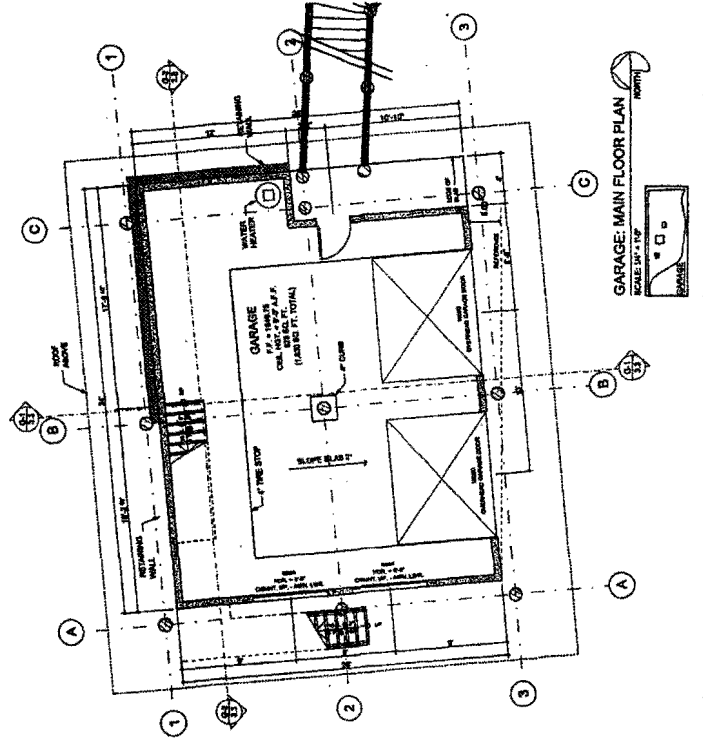
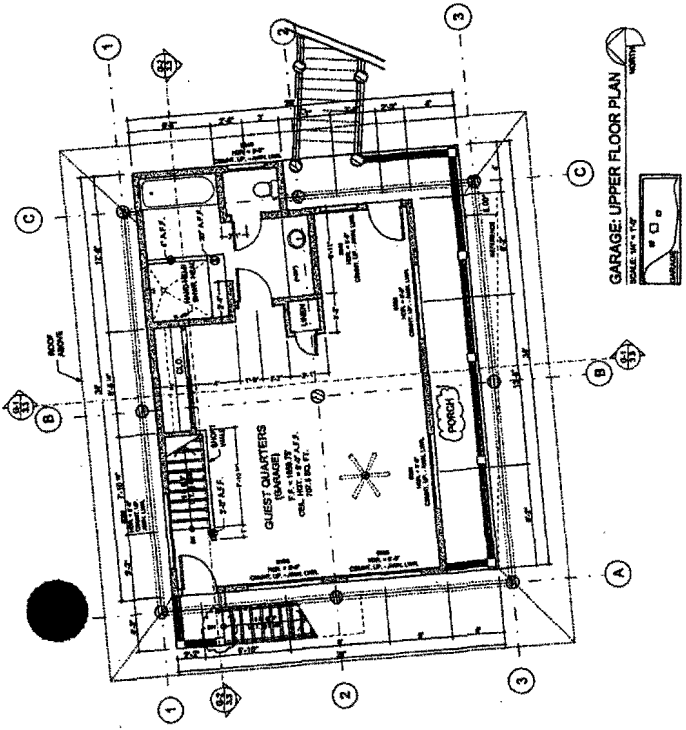


EXHIBIT NO. 10
APPLICATION NO. 4-01-216
Garage / Guest House

PERRETTI CUSTOM RESIDENCE

PARCEL #4448-023-031
 TOPANNA, CALIFORNIA

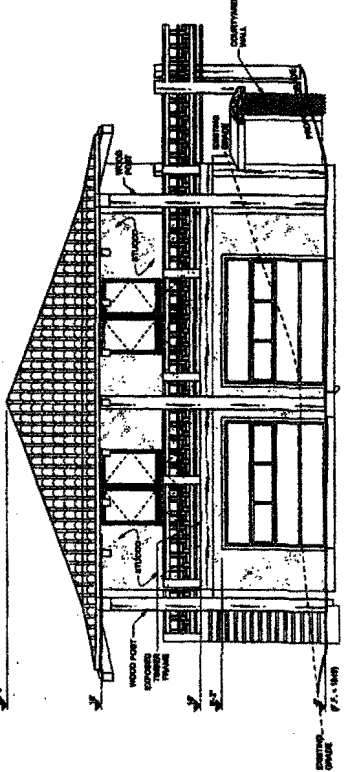
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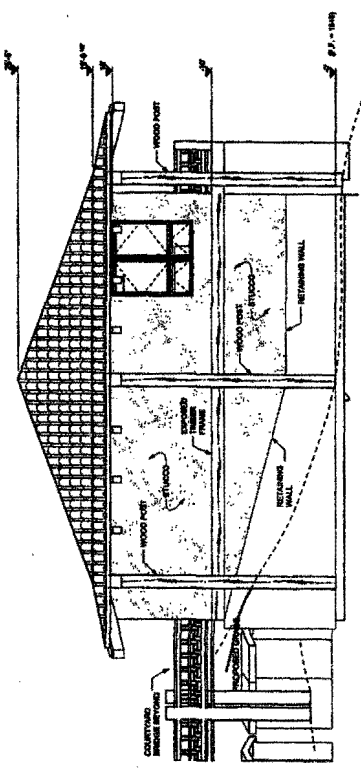
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DESIGNED BY	
DATE	
SCALE	

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TITLE	

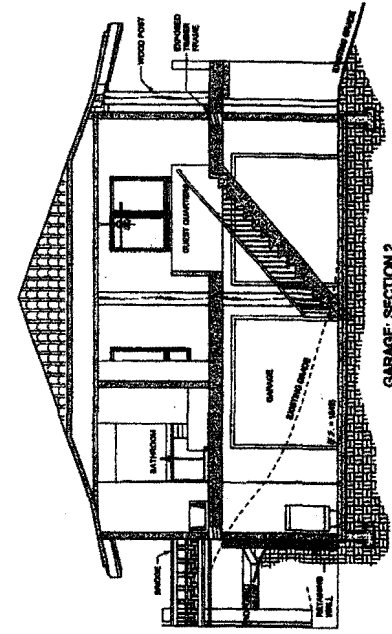
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 GARAGE
 ELEVATIONS & SECTIONS



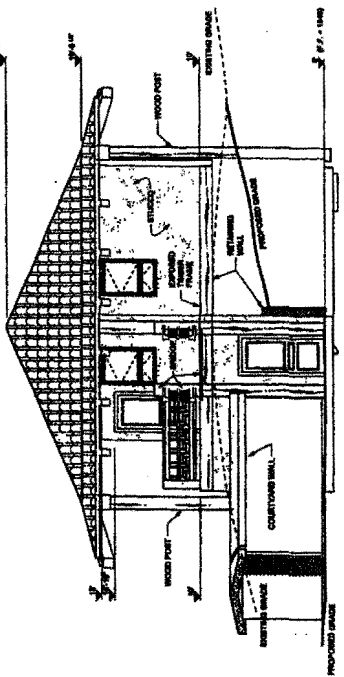
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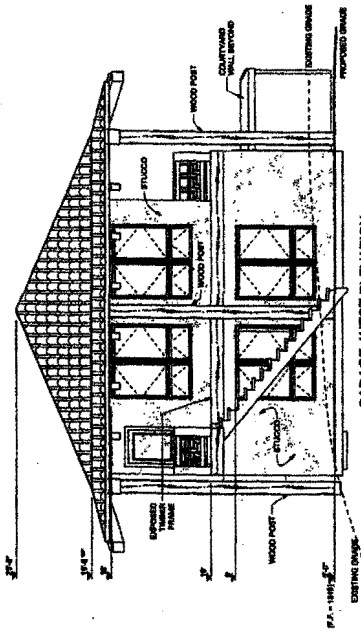
GARAGE: NORTH ELEVATION



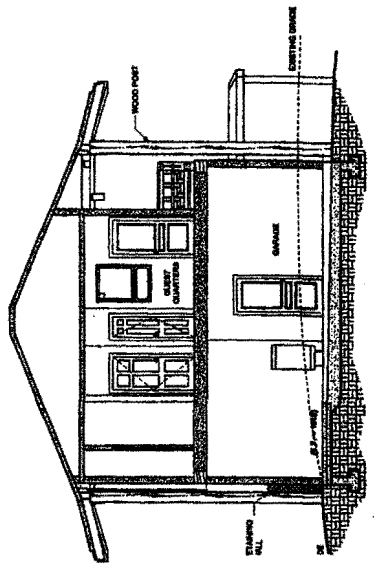
GARAGE: SECTION 2



GARAGE: EAST ELEVATION



GARAGE: WEST ELEVATION



GARAGE: SECTION 1

EXHIBIT NO. 11
 APPLICATION NO. 4-09-216
 Garage/Guest
 Elevation/Section

PERNETTI CUSTOM RESIDENCE

818 226 6111

AM.1

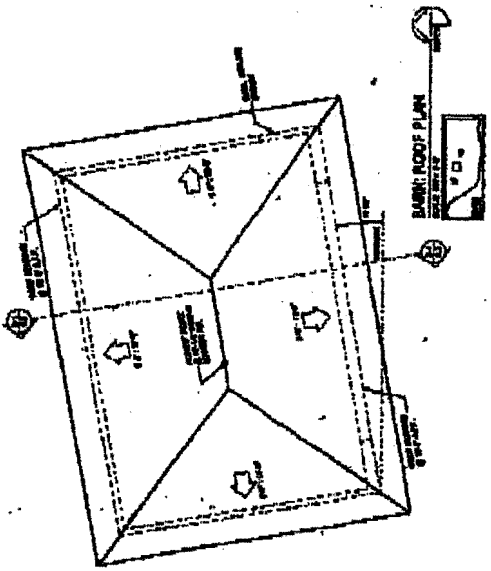
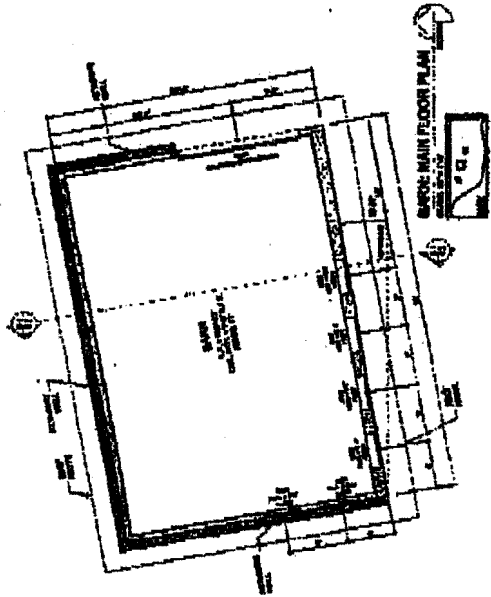
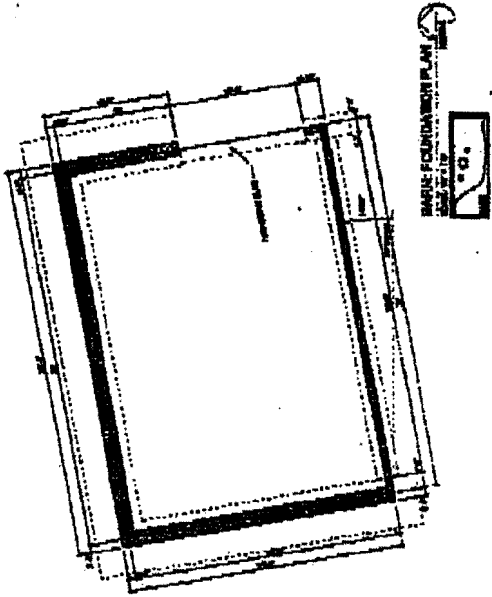
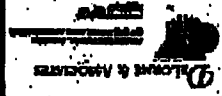

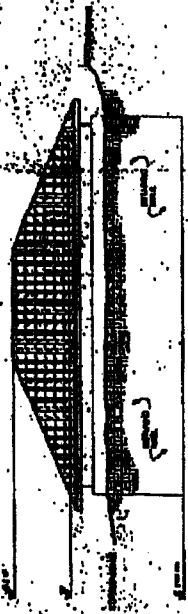


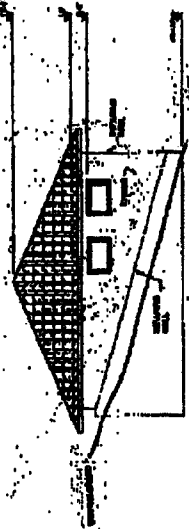
EXHIBIT NO.	12
APPLICATION NO	4-01-296
	Storage
	Bldg



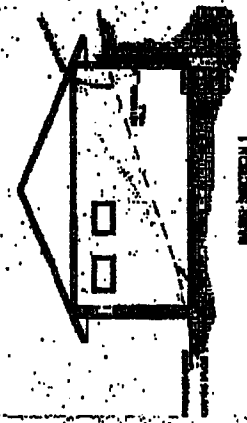




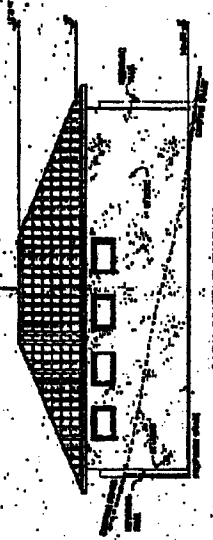
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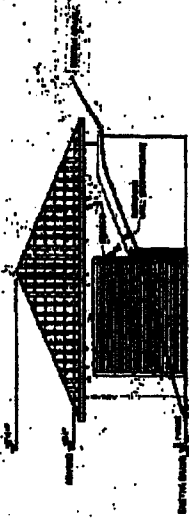
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BANK: SOUTH ELEVATION



BANK: EAST ELEVATION



BANK: WEST ELEVATION

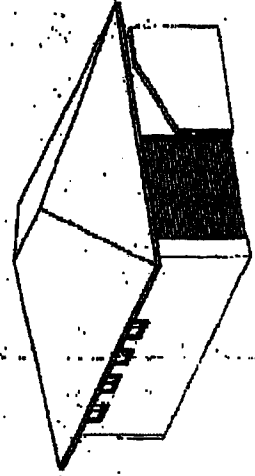
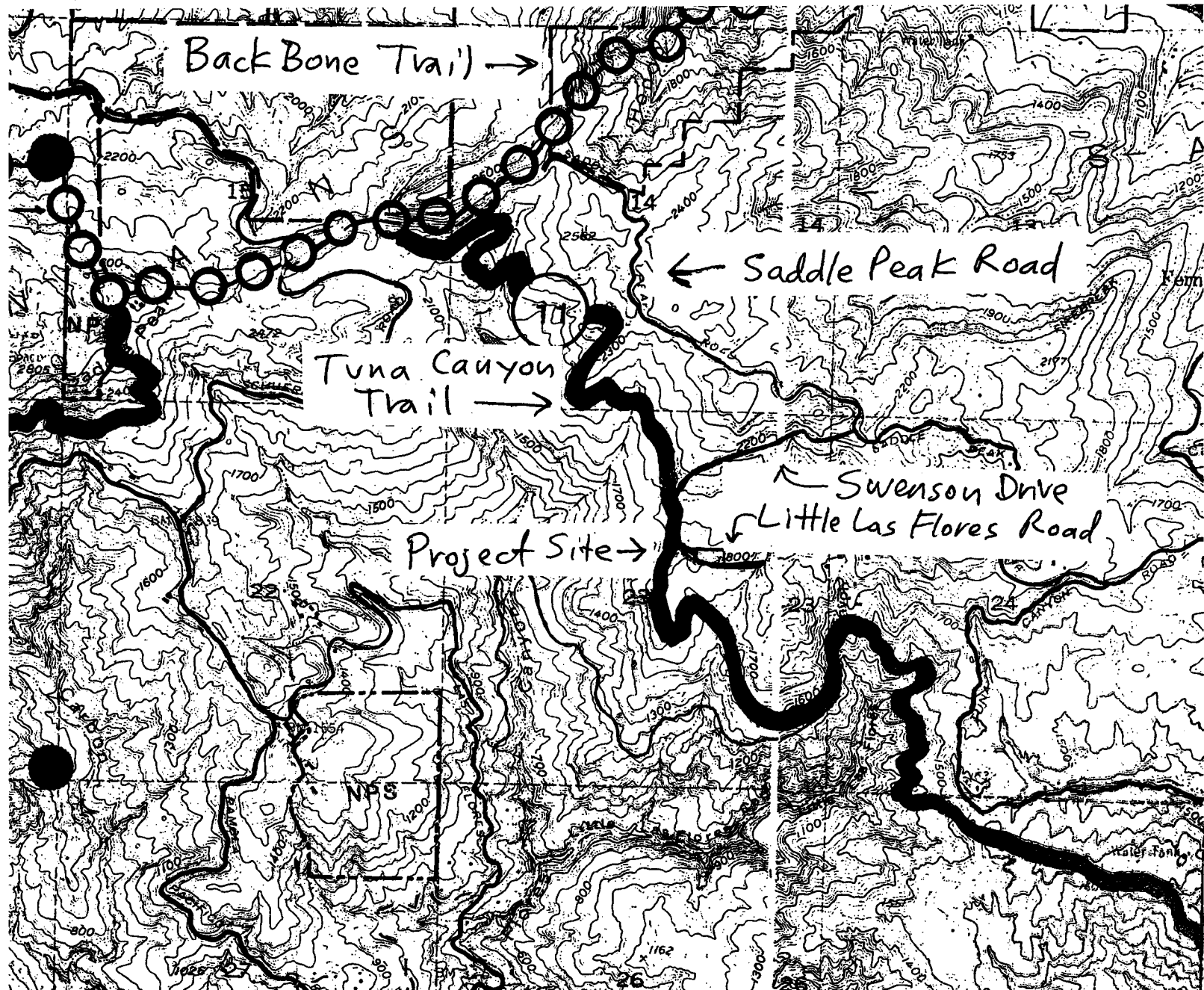


EXHIBIT NO. 13
APPLICATION NO. 4-01-216
Storage
Bldg Elevations



malibu/santa monica m

TRAIL SYSTEM

- BACKBONE TRAIL
- ③ MAJOR FEEDER TRAIL
- 1 THREE PARK TRAIL
- 2 TRANCAS CANYON TRAIL
- 3 ZUMA RIDGE TRAIL
 - 3A To Westlake
 - 3B Reagan Connector
- 4 MALIBU LAKE CONNECTOR
- 5 SOLSTICE CANYON TRAIL
- 6 MESA PEAK TRAIL
- 7 MALIBU CREEK TRAIL
- 8 SADDLE PEAK TRAIL
- 9 CALABASAS-COLD CREEK TRAIL
 - 9A To Zuma Ridge Trail
 - 9B To Valley Circle Scenic Corridor Trail
- 10 CALABASAS TOPANGA CONNECTOR TRAIL
- 11 TUNA CANYON TRAIL
- 12 TOPANGA-HENRY RIDGE TRAIL
 - 12A Topanga-Henry Ridge Trail to Calabasas
 - 12B Topanga-Henry Ridge Trail to Serrana Park
 - 12C Topanga-Henry Ridge Trail to Santa Maria Cyn. Loop Trail
- 13 STOKES RIDGE TRAIL
 - 13A To Calabasas
 - 13B Cold Creek & Stokes Ridge Connector Trail
- 14 SANTA MARIA CANYON TRAIL
 - 14A Santa Maria Canyon Loop Trail
- 15 CAMP BLAUSEN CONNECTOR TRAIL
- 16 VALLEY CIRCLE SCENIC CORRIDOR TRAIL
- 17 LAS VIRGENES TRAIL
- 18 ESCONDIDO FALLS TRAIL
- 19 STUNT HIGH TRAIL
- 20 CORRAL CANYON TRAIL
- 21 COASTAL SLOPE TRAIL
- 22 RAMIREZ CANYON CONNECTOR TRAIL
- 23 PARADISE COVE TRAIL



↑ N
No Scale

EXHIBIT NO. 16
APPLICATION NO. 4-01-216
LA County Trail
Map

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