

CALIFORNIA COASTAL COMMISSION

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**W 22b**

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 Staff: AM-LB AM
 Staff Report: Jan. 17, 2002
 Hearing Date: Feb. 6, 2002
 Commission Action:

STAFF REPORT: PERMIT AMENDMENT**AMENDMENT****APPLICATION NUMBER:** 5-99-409-A1

RECORD PACKET COPY

APPLICANT: William Bagnard**AGENT:** Tim McNamara**PROJECT LOCATION:** 421 Alma Real, Pacific Palisades, City of Los Angeles**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED (5-99-409):**

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

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

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

SUMMARY OF STAFF RECOMMENDATION:

The applicant is requesting after-the-fact approval for casting of five caissons at the edge and on the face of Potrero Canyon, trenching for grade beams, and placement of reinforced steel. The applicant has included in this amendment application the casting of grade beams and the construction of a 758 square foot deck, partially cantilevered over the canyon edge. The proposed project is located along Potrero Canyon, the future site of public canyon park with walking trails connecting Palisades Park to Will Rodgers State Beach. The City of Los Angeles has not prepared a Land Use Plan for the Pacific Palisades. Therefore, the standard of review is the Coastal Act. In order to approve this amendment application, the Commission must find this project consistent with the policies within the Coastal Act. The key issues before the Commission in this amendment request are landform alteration, the importance of preserving scenic resources, community character, development that would increase the risk of fire hazard, and consistency with a

prior permit action that required the establishment of native plant species on the canyon slopes. Staff recommends that the Commission **DENY** the proposed project.

As submitted, the proposed project is primarily inconsistent with Sections 30240, 30251, and 30253 of the Coastal Act. The pattern of development along the canyon edge consists of single family homes constructed on the flat portion of the lot behind the canyon edge. In some cases, construction has extended beyond the canyon edge, namely decks and retaining walls. While some of these ancillary structures were constructed prior to the Coastal Act the Commission's enforcement staff is conducting ongoing research and investigation for those properties that have developed on or over the canyon edge without benefit of a Coastal Development Permit.

LOCAL APPROVALS RECEIVED:

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

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit #5-99-409 (Bagnard)
 2. Report on Landslide Study Pacific Palisades Area, September 1976, U.S. Army Corps of Engineers and U.S. Geological Survey
 3. FEIR Potrero Canyon Park Development Project, City of Los Angeles, Department of Recreation and Parks, June 1995
 4. Final Potrero Canyon Riparian Mitigation Proposal by ERCE, August 1991
 5. Grading Plan and Vegetation Map, Potrero Canyon Park, by Kovacs Byer, and Associates, 1986-1988
 6. Coastal Development Permit #5-91-286 (City of Los Angeles, Rec. and Parks – Potrero Canyon Fill Project) as amended
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STAFF RECOMMENDATION:

I. STAFF RECOMMENDATION OF DENIAL

Staff recommends that the Commission reject the following motion and thereby adopt the following resolution. The motion passes only by affirmative vote of a majority of the Commissioners present.

MOTION:

I move that the Commission approve the proposed amendment to Coastal Development Permit No. 5-99-409 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY A PERMIT AMENDMENT:

The Commission hereby **DENIES** a coastal development permit amendment for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will 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 would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

PROCEDURAL NOTE

A. Coastal Development Permit Amendments

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

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

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

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

IV. FINDINGS AND DECLARATIONS: 3e)

The Commission hereby finds and declares:

A. Project Description and Location

The subject site is located on lot 29, block 1, tract 9377 in the Huntington Palisades area of Pacific Palisades (Exhibit #1). This lot is located at the edge of and partially on the face of Potrero Canyon and will overlook the new Potrero Canyon Park recreational area when the Potrero Canyon fill project reaches completion (see *Section C* of this staff report). The Potrero Canyon fill project was developed to stabilize the canyon sides and protect the existing single-family homes on the canyon edge (as further discussed below in *Section C Potrero Canyon Fill Project*). The surrounding area is comprised of one to three-level single family homes. The property is located approximately one-half mile inland of Pacific Coast Highway and Will Rodgers State Beach, on the east-side of Potrero Canyon (Exhibit #1).

The proposed project is a request for the after-the-fact approval of five (5) cast caissons drilled at a minimum of 17 feet below grade (three at the edge of the canyon and two on the canyon face), trenching for grade beams, and setting reinforcement steel in the excavated trenches to tie the caisson together. The project also includes the pouring of concrete in the open trenches to complete the foundation system and the construction of a 758 square foot deck, partially cantilevered over the canyon edge. The pouring of concrete and the construction of the deck are the only aspects of the project that have not yet occurred and, therefore, are not considered after-the-fact development.

Three of the five caissons are located at the edge of Potrero Canyon and two are located approximately 17 feet (in plan view) down the slope of the canyon. Grade beams are proposed to tie the piles together. Two of the grade beams are located perpendicular to the canyon edge (tying the upper caissons to the lower caissons).

B. Project History

Section 30600(b)(1) of the Coastal Act allows local government to assume permit authority prior to certification of a Local Coastal Program. Under this section, a local government may establish procedures for the filing, processing, review, modification, approval, or denial of coastal development permits within its area of jurisdiction in the coastal zone. Section 30601 establishes that in certain areas, and in the case of certain projects, a permit from both the Commission and local government will be required. Section 30602 states that any action taken by a local government on a coastal development permit application can be appealed by the Executive Director of the Commission, any person, or any two members of the Commission to the Commission within 20 working days from the receipt of the notice of City action.

In 1978, the City of Los Angeles opted to issue its own coastal development permits. The Commission staff prepared maps that indicate the area in which Coastal Development

Permits from both the Commission and the City are required. This area is commonly known as the "Dual Permit Jurisdiction." Areas in the coastal zone outside the dual permit jurisdiction are known as the "Single Permit Jurisdiction". The City assumes permit jurisdiction for projects located in the single permit jurisdiction, with some exceptions. This project (5-99-409-A1) is located within the "Single Permit Jurisdiction".

The Commission approved Coastal Development Permit 5-99-409 on February 15, 2000 subject to 7 special conditions. In this case, the City of Los Angeles waived its jurisdictional right to issue the coastal development permit by issuing Approval In Concept 1999-2425. The City's Approval In Concept directs applicants to apply for a coastal development permit with the Coastal Commission.

The Commission approved project included the demolition of an existing single family home and construction of a two-story over basement, 30-foot high, 7,952 square foot single family home on a 14,934 square foot, canyon-facing lot. The applicant was required to record a deed restriction on the land stipulating that any future development between the westerly wall of the home and the westerly property line requires a new or amended coastal development permit and the exemptions otherwise provided for in Coastal Act (California Public Resources Code) Section 30610(a) shall not apply. The area indicated as being between the westerly wall of the home and the westerly property line is the entire rear yard area and a portion of the canyon face included within the applicant's property lines.

On July 17, 2001, the City of Los Angeles Planning Department issued Coastal Exemption No. ZA-2001-3465-CEX covering the construction of an "accessory deck with shed" (Exhibit #9). The City issues a "Coastal Exemption" when it determines that a project is exempt from the permit requirements under the Coastal Act. The City sends a copy of the coastal exemption to the Coastal Commission staff. Coastal Exemption No ZA-2001-3465-CEX was issued to Mr. Bagnard based on the project location within the single permit jurisdiction area and on the belief that the exemption criteria were met (Section 30610 of the Coastal Act). The Notice was received by the Commission's South Coast District office on July 23, 2001 (Exhibit #9). Staff of the Commission determined that the project could not be exempt under Section 30610 of the Coastal Act and Section 13250 of Title 14 of the CA Code of Regulations because (1) the proposed deck is not a structure directly attached to the existing single family home, (2) a cantilevered deck over a canyon edge with an extensive foundation system are not normally associated with single family homes, and (3) the coastal development permit for the single family home explicitly made the exemptions of Coastal Act section 30610(a) inapplicable to further construction at this site, indicating that any future improvements between the westerly wall of the home and the westerly property line would require a coastal development permit.

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

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

On July 24, 2001, Commission staff sent a letter to the applicant's agent and the City of Los Angeles Planning Department, which indicated 1) Commission staff could not accept the City's exemption based on Section 13250(b)(6) of Title 14 of the CA Code of Regulations; 2) there is a future development deed restriction on the property; 3) the project requires the submittal of a coastal development permit application; and 4) the applicant should not rely on the City issued exemption and should not proceed with any work related to development within the deed restricted area (Exhibit #10). On July 26, 2001 the applicant's agent, Mr. Tim McNamara, and Commission staff discussed the related issues during a phone conversation. Again, Commission staff informed Mr. McNamara that the City's exemption was not consistent with Section 30610(a) of the Coastal Act and Section 13250(b)(6), CA Code of Regulations and a coastal development permit application should be submitted. The applicant, however, applied for and received Building Permit 01020-30000-01787 from the City of Los Angeles for a "new 23' x 22' accessory wood deck structure with an attached 1-story 14' x 23' storage shed below." As indicated in the checklist items of the Building Permit, a grade beam and caisson foundation was required to support the proposed structures. Commission staff was unaware that building permits were issued for this project. As further described in Exhibit #10, the proposed project, including casting of caissons and grade beams and the construction of a cantilevered deck over Potrero Canyon, is not exempt under 30610(a) of the Coastal Act and 13250(b)(6) of the CA Code of Regulations.

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

At the time the applicant had stopped work trenches for grade beams were dug and reinforcement steel tied. However, the grade beams were not cast and the trenches were left open. On October 30, 2001, Commission staff received a request for an emergency permit to allow the completion of the subterranean foundation. The request stated, "the requested preventive work is to complete the foundation while the amendment to Coastal Development Permit 5-99-409 is processed. The completed foundation will allow for the

grading and drainage recommendations of the soil report ... to be completed in the safest manner." After review of the requested emergency permit application by Commission staff and Commission staff geologist, Dr. Mark Johnsson, the application was rejected (see Exhibit #11 for complete rejection letter).

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

The work undertaken without benefit of a coastal development permit was installed to support a proposed 1,130 square foot deck, a lower level, one-story storage shed, and stairway from the rear yard to the lower, down-slope level. The applicant has amended their original site plans, reducing the deck area to 758 square feet and eliminating the lower level shed and stairway.

C. Potrero Canyon Fill Project

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

In 1991, after the expiration of its original action, the Commission re-approved an expanded project in three phases, subject to conditions. In its approval of the revised project, the Commission reviewed evidence that the headscarps were moving inland, potentially threatening additional houses along at least four streets that were parallel to the rim: De Pauw Street, Friends Street, Earlham Street, and Alma Real Drive. The third phase of the fill of the revised project extended about 75 feet above the flow line of the stream. Above that level, the City proposed to place buttress fills extending twenty-five to thirty feet up the canyon sides, in some instances onto privately owned residential lots. These buttress fills were designed to slow down the incremental failure of the lots. The fill would be compacted to 90%. Some of this fill was considered certified structural fill and some was not. This fill was designed, in some cases, to stabilize the entire portion of the lots on the canyon edge. However, many of the lots would only be partially stabilized. It would allow for a safe building pad for a home set back away from the canyon edge, but

would only slow down the incremental failure on the canyon slope. The Commission approved the fill with conditions that required the City to create an artificial stream with riparian habitat on top of the fill, build a public park and trails in the canyon, and revegetate the upper canyon sides and buttress fills with coastal sage scrub. There was a parallel CA Department of Fish and Game agreement regarding the alteration of the streambed in the bottom of Potrero Canyon.

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

D. Unpermitted Development

Development has occurred on site without benefit of the required coastal development permit, including construction of five caissons at an approximate depth of 17 feet below grade, trenching for grade beams, and placement of reinforcement steel for the construction of grade beams. The work that was undertaken constitutes development that requires a coastal development permit.

Consideration of the permit amendment application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit, as further described in a letter to the applicant (Exhibit #10).

E. Scenic Resources

Section 30251 of the Coastal Act states:

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

The proposed project is located at the edge and cantilevered over Potrero Canyon. As discussed previously, a major fill project is underway to stabilize the residential lots along the canyon rim. In its approval of this project, the Commission required, among other things, the planting of riparian habitat at the bottom of the canyon and coastal sage scrub on the canyon slopes. The Commission also required the creation of a public park with hiking trails from the beginning of the canyon to Pacific Coast Highway. The offset of allowing City to fill the canyon with millions of cubic yards of earth was the creation of a public park with reconstructed riparian and coastal sage communities. The park will have

a walking trail that connects the existing Palisades Park (including the Palisades Park Recreation Center, public tennis courts, baseball fields, passive recreation areas, a public library, and public parking lots) to Pacific Coast Highway and Will Rodgers State Beach. Therefore the subject property will overlook a public park upon completion of the final fill project.

Landform Alteration, Community Character, and Cumulative Effects

On February 15, 2000, the Commission approved Coastal Development Permit 5-99-409 for the construction of a 30-foot high, 7,952 square foot single family home on the subject property. The project was found consistent with Section 30251 because the home was set back from the canyon edge and the home conformed to the height limit in this section of the Palisades. The findings state:

The project is set back from the canyon and conforms to the height limits of this portion of the Pacific Palisades, which is thirty feet above finished grade. Only the deck, which cantilevers over the canyon rim, would have been be [sic] visible from the public park. The applicant has removed the deck from the project at this time. As conditioned to require an amendment for any development between the line of the house and the canyon property line, the project is consistent with section 30251, is in scale with the neighborhood and with previous Commission approvals.

As discussed in Section B of this staff report, the applicant received an exemption from the City of Los Angeles Planning Department, in July 2001, for an accessory deck and shed, cantilevered over the canyon edge. Building permits were issued and five deep caissons have been cast, trenches dug for grade beams, and reinforcement steel has been tied.

The proposed application is for the after-the-fact approval of the piles, excavated trenches, and placement of reinforcement steel. Also included in the proposed project is the pouring of concrete to complete the casting of grade beams and construction of a 758 square foot deck, partially cantilevered over the canyon edge. The latter portion of the project is the only part that is not after-the-fact development. The applicant has removed the shed and stairway from the project.

The applicant has asserted that the neighboring properties have developed at the edge of and across the canyon edge. He has established a string line based on the neighboring properties and believes that the proposed deck is "visually compatible with the character of the surrounding area." He has submitted a site plan of the three homes north and six homes south of the subject property. Of these nine homes, the applicant has alleged that two directly north of the subject property (431 and 441 Alma Real) and one home directly south and another six homes to the south of the subject property (411 and 341 Alma Real) have developments over the edge of the canyon. While this may be true, none of the four properties have received coastal development permits from either the City of Los Angeles or the Coastal Commission. There is no record of proposed developments for 431 and 441 Alma Real in the Commission's South Coast District office. The homes around

Potrero Canyon were built within an older subdivision and some may have pre-coastal developments outside the flat pad above the canyon. The Commission's Enforcement unit is currently investigating the deck that was built at 411 Alma Real without benefit of a coastal development permit. This deck is directly south of the proposed project. There is an existing retaining wall located at 341 Alma Real that was recently constructed beyond the canyon edge. The Commission was made aware of this development in Coastal Development Permit #5-00-476 (Kirkwood).

The City of Los Angeles issued a "Coastal Exemption" for the retaining wall located at 341 Alma Real Drive on January 31, 2001 and on February 8, 2001, Commission staff contacted the City and told them that the project did not come within the exemption criteria as established in Section 30610 of the Coastal Act and Section 13250 of Title 14 California Code of Regulations. The findings for Coastal Development Permit 5-00-476 (Kirkwood) state:

"On January 31, 2001, the City of Los Angeles Planning Department issued Coastal Exemption Notice #2001-472-CEX covering the construction of the retaining wall. The City issues a "Coastal Exemption" when it determines that a project is exempt from the permit requirements under the Coastal Act. The City sends a copy of the coastal exemption to the Coastal Commission staff. The City issued the exemption to Mr. Kirkwood based on the project location within the single permit jurisdiction area and on the belief that the exemption criteria were met (Section 30610 of the Coastal Act). The Notice was received by the Commission's South Coast District office on February 6, 2001 (Exhibit #15). Because the Exemption Notice "project description section" was left completely blank, Commission staff did not know what type of development the Exemption Notice purported to allow. On February 8, 2001, staff of the South Coast District office contacted the City Planning Supervisor concerning the exemption notice. Commission staff was told that Exemption Notice #2001-472-CEX was for a retaining wall, however, the Planning Supervisor could not determine the physical description of the wall in terms of the height and amount of grading needed. At this time, Commission staff verbally informed the Planning Supervisor that construction of a retaining wall and grading does not come within the exemption criteria as established in Section 30610 of the Coastal Act because they are not activities normally associated with a single family structure and because of the adverse impacts that such a project could have on Potrero Canyon. The Planning Supervisor agreed that the Coastal Exemption was improper and assured Commission staff that building permits would not be issued for the retaining wall and that Exemption Notice #2001-472-CEX would be revoked.

The City's certified coastal permit ordinance provides that the Coastal Commission may, within 20 days, appeal any City action on a coastal development permit, which is defined to include a determination that no permit is required. However, in this case, based on the City's assurance that the exemption would be revoked and building permits would not be issued, Commission staff did not file a written appeal or objection to the City's Exemption Notice. For reasons unclear to staff, the City did not revoke the Exemption, and on February 26, 2001, the City issued Building Permit

#01020-30000-00033 for a 125-foot long, 15-foot high retaining wall supported with piles and grade beams.

Not until March 22, 2001, did Commission staff learn that building permits were issued and construction had begun on the retaining wall. By this time, the 20-day period to appeal the Coastal Exemption had ended. The Commission staff notified the applicant that the Coastal Exemption had been issued erroneously and that the retaining wall is not consistent with the policies of the Coastal Act because it will adversely impact views from Potrero Canyon. The applicant asserted that he had begun construction of the retaining wall, and incurred considerable expense, in reliance on the Exemption Notice and building permits issued by the City. He had already graded the canyon edge and drilled and filled ten 24-inch holes with concrete for the caisson support system. The applicant further asserted that the Coastal Commission failed to appeal the City's Exemption and that he therefore had a right to complete the work authorized in the City building permit. The Commission also contacted the City to discuss this situation, but ultimately the City decided not to revoke the Coastal Exemption and building permit for the retaining wall.

In short, the City erroneously granted authorization under the Coastal Act for the retaining wall and, for the reasons explained above, the Commission did not file a timely appeal of the City's action. In addition, removal of the concrete, caisson support system that the applicant installed in reliance on the building permit issued by the City would require substantial canyon slope excavation and potentially increase the instability of the canyon slope. Therefore, the Commission staff has determined that, in the unique facts presented in this case, the Commission should not require the applicant to remove the retaining wall and restore the area."

The situation that occurred in the above narrative has parallel procedural issues as the subject amendment request. However, in the case of 5-00-476 (Kirkwood) there was legal as well as factual information concerning the retaining wall that limited the Commission's ability to remove the retaining wall. In the case of Mr. Bagnard, the Commission did notify the applicant and the City within the 20 working day period (the rejection of "Coastal Exemption #ZA-2001-3465-CEX was sent one day after receipt of the City's Notice of Exemption). In addition, Commission staff discussed the necessity of a coastal development permit application with the applicant's representative before work had begun. Finally, Commission staff and Commission staff geologist, Dr. Mark Johnsson, determined that there are available measures that could mitigate for the impacts caused by the unpermitted development without destabilizing the canyon slope. For these reasons, there is not a precedent set by the unique situation at 341 Alma Real.

Therefore, the four properties with amenities past the canyon edge in the vicinity of the project site were not constructed with benefit of a coastal development permit and do not give precedent to further development on the canyon edge or across the canyon slope.

The Commission finds, consistent with its findings in approving 5-99-409, that the proposed project does not minimize alteration of natural landforms and will have a

negative effect on the scenic and visual qualities of the surrounding area by contributing to a cumulative adverse impact of increase development along the canyon edge and canyon slope. As such, the proposed project is inconsistent with Section 30251 of the Coastal Act as discussed below.

a. Landform Alteration

Section 30251 of the Coastal Act requires new development to be sited to "minimize the alteration of natural landforms." The applicant requests after-the-fact approval of the placement of five caissons, approximately 17 feet deep, and two-foot wide and deep trenches for grade beams. The deepened foundation system would then support a 758 square foot deck, partially cantilevered over the canyon edge.

As previously discussed in Section C of this staff report, a major fill project to support the slopes of the canyon and canyon-facing lots is underway. The fill project is nearing completion and will then become the site of a public park. While the canyon bottom has been disturbed by this fill project, the canyon slopes above the fill line have remained, in most cases, undisturbed. Upon completion of the fill project the fill line will be approximately 50 feet below the subject property.¹ Therefore, the upper 50 feet of the canyon slope will remain in its natural state.

The proposed project does not minimize the alteration of natural landforms. The proposed project requires five caissons embedded a minimum of 17 feet below grade. Three of the caissons would be located along the canyon edge and two located on the face of the canyon. Grade beams would then be required to tie the piles together. The grade beams would traverse the canyon slope, perpendicular to the canyon edge. This would drastically alter the natural state of this portion of the canyon. The applicant has stated that 95% of the work for the foundation system would be conducted below ground. While this may be true, the applicant's agent, geologist, and Commission staff geologist, Dr. Mark Johnsson have all indicated that there is existing surficial slumping below the canyon edge.

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

¹ Geologic and Soils Engineering Exploration #GH8835-G, Grover Hollingsworth and Associates, Inc., August 25, 1999

While the concrete will, for the most part, be located below grade, there is no assurance that future surficial erosion could expose the foundation system. If this were to occur, concrete caissons and or 2-foot wide horizontal grade beams would be seen from the future public park below. The Commission cannot find such a project consistent with the Coastal Act.

b. Community Character/Public Views from Recreation Areas

Pursuant to Section 30251 of the Coastal Act, new development must be visually compatible with the character of the surrounding area. The proposed project would result in a visual intensification of use of the site from its undeveloped state. The applicant has contended that several properties along the canyon, including both neighboring properties, have cantilevered decks. In addition, the applicant has stated that the proposed deck for 421 Alma Real is behind a string line projected from the decks to the north and south. Several properties do have pre-coastal cantilevered decks and some have unpermitted cantilevered decks (currently under investigation by the Commission's Enforcement unit). However, the overall appearance of the canyon above the fill line for the stabilization project undertaken by the City of Los Angeles is natural and undeveloped.

The project site is located at the edge and on the face of Potrero Canyon. This canyon and City park is currently undergoing a major fill project to stabilize the canyon slopes, as well as the single-family home lots along the canyon rim. At the completion of the fill project, the City of Los Angeles will begin the creation of a public park with a reconstructed stream and riparian habitat, coastal sage scrub mitigation effort, and a public walkway connecting the Palisades Park to Will Rodgers State Beach. The requirement to establish a public park in the filled canyon (Coastal Development Permit 5-91-286) will allow the public to enjoy a coastal canyon experience that is not readily available in this area of the City Los Angeles. The trail will provide coastal access from the upper Potrero Canyon (the location of the Palisades Park) to Will Rodgers State Beach. New development along the canyon edges and canyon slopes will adversely impact the subject area and is inconsistent with Section 30251.

c. Cumulative Impacts

The majority of decks along this area of Potrero Canyon are pre-coastal. There are also some decks that have been constructed without benefit of a Coastal Development Permit. These are subject to ongoing investigation by the Commission's Enforcement unit and subject to future enforcement action. Approval of the proposed project would set a precedent for future development along the canyon edge and canyon slope. Over time, as continued applications are submitted for similar development, such incremental impacts can result in significant cumulative impacts.

The applicant's agent states, "the proposed deck is visually compatible with the character of the surrounding area and cannot be seen from Pacific Coast Highway. The minimalist nature of the proposed structure is such that it is practically invisible when viewed off site to the west from De Pauw Street." While the structure may be small in scale in contrast to the canyon, approval of the project would set a precedent to allow further development along the slopes of the canyon and across the canyon edge. This, in effect, could lead to a "walled in" canyon that would significantly impact the visually quality of the future public park and the character of the surrounding community. Therefore, development on the subject property must be sited and designed to be visually compatible with the undisturbed characteristic of the surrounding area.

Conclusion

The Commission finds that the project, as proposed, is not sited and designed to protect the scenic and visual characteristics of the surrounding area and does not minimize the alteration of natural landforms. Denial of the proposed project would preserve the existing scenic resources and community character in the subject location. Also, denial of the project will ensure that the visual quality of the future Potrero Canyon Park is safeguarded against cumulative development along the canyon edge and down the canyon slope. The proposed project, a deepened foundation system to support a 758 square foot deck would be highly visible from the future public park and would lead to the disruption of the visually quality of the area. Therefore, the Commission finds that the proposed project is inconsistent with Section 30251 of the Coastal Act.

F. Parks and Recreational Areas

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

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

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

Section 30240 of the Coastal Act requires that development in areas adjacent to parks and recreation areas be sited and designed to prevent impacts which would significantly degrade such areas. The project site is located adjacent to Potrero Canyon and the future Potrero Canyon public park. The proposed project, consisting of a 758 square foot deck supported by five caisson and grade beams, is located at the edge and on the slope of Potrero Canyon. The deck would cantilever over the canyon and would be highly visible to

those utilizing the public walkway in the future Potrero Canyon public park. The effect of continuous development on the canyon edge would create a "walled" appearance along the canyon. The recreational experience intended for this park is an open, coastal canyon appearance (as it existed prior to its fill). Development that is highly visible from the future park would detract from this recreational experience. Those that would have visited in this park for such an enjoyment may choose to go elsewhere if development lined the edges of the canyon, creating a more urban appearance. Therefore, the proposed project is inconsistent with Section 30240 of the Coastal Act. The project is not designed or sited to prevent impacts that would significantly degrade the park and recreation area. Allowing development at the edge and on the face of the canyon would be precedent setting, allowing future development along the canyon. This cumulative impact would result in a degraded area that would ultimately lessen the recreational enjoyment of the future Potrero Canyon public park and may influence the decisions of those who would have recreated in this location.

In addition, the City of Los Angeles, Recreation and Parks was required to mitigate for the loss of habitat due to the enormous amount of earth that would partially fill the canyon. The fill project would displace a natural stream and riparian habitat, as well as approximately 75 feet of canyon slope naturally vegetated with an assemblage of coastal sage scrub and chaparral. The City was required (under CDP #5-91-286) to reconstruct a stream and riparian habitat area at the canyon bottom and revegetate the remaining slopes with coastal sage scrub and chaparral. In past commission actions, including the applicant's original coastal development permit for his home (CDP #5-99-409), projects were conditioned to include a landscaping plan incorporating, among other things, native plant species of the Santa Monica Mountains on the canyon slopes and no invasive, non-native species. The applicant provided such a plan as a condition of approval of his coastal development permit.

The proposed project would cantilever a deck over the canyon edge and require five caissons and concrete grade beams located along the canyon edge and across the slope of the canyon. Coastal sage scrub requires sunlight to perpetuate continued growth. The deck would create an area of shading that would not provide suitable habitat for the continued growth of the native plant assemblage. In addition, the grade beams and piles would be located just below grade and in some cases above grade. This paving of the canyon edge and slope also reduces the habitat necessary for native plant survival. The proposed project would not be compatible with the continuance of this habitat area. The proposed project is inconsistent with Section 30240 of the Coastal Act and the intent of the mitigation measures required for the reestablishment of native plant species along the canyon slopes. Therefore, the project must be denied.

G. Wild Fire Hazard

Section 30253 states in pertinent part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The proposed project is located on the edge of and cantilevered over Potrero Canyon. The canyon walls are vegetated with a mixture of native plant species, predominately coastal sage scrub, and some introduced ornamental plant species. At the completion of the City's fill project, the canyon slopes will be planted with an assemblage of native plant species, enhancing habitat and creating a coastal canyon experience.

One of the many risks in developing in this area is the potential for brush fires. While the planting of native species enhances and rehabilitates this canyon, some native plants species possess high oil content, which creates added fuel loads for potential brush fire. In past Commission action, this conflict was addressed and resolved by working with applicants who are concerned with the protection of their property, the fire department who must combat and control fires and the potential for fires, and the resource issues associated with ongoing habitat mitigation measures within the canyon. The Commission has limited structures over the canyon edge that would increase the chance of brush fires spreading to the canyon facing homes (see, e.g., 5-00-476). Cantilevered decks would create an updraft as brush fires spread along the canyon slopes, intensifying heat, and spreading potential fire to the homes.

Section 30253 of the Coastal Act states that new development must minimize the risks to life and property in areas of high fire hazard. The City of Los Angeles, Bureau of Fire Prevention has indicated that Potrero Canyon and its surrounding homes lie in an area of high fire hazard. In discussions with former Battalion Chief Alfred Hernandez, City of Los Angeles Fire Department, he described the risk of building decks that would cantilever over the canyon edge, which would ultimately spread a potential brush fire to the homes on the flat portion of the lots, above the canyon slopes.

The proposed deck is cantilevered over Potrero Canyon. The siting and design of this deck does not minimize the risk of fire hazard and would increase the risk to life and property. Therefore, the Commission finds that the proposed project is inconsistent with Section 30253 of the Coastal Act and must be denied.

G. Local Coastal Program

Section 30604 (a) of the Coastal Act states:

Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the

proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

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

The City has submitted five Land Use Plans for Commission review and the Commission has certified three (Playa Vista, San Pedro, and Venice). However, the City has not prepared a Land Use Plan for Pacific Palisades.

The construction of the proposed 758 square foot deck cantilevered over the canyon edge and supported by five deepened caissons is inconsistent with the Chapter 3 policies of the Coastal Act as previously discussed. The development located at the edge and on the slope of Potrero Canyon would result in the alteration of natural landforms, the degradation of the scenic and visual quality of the area, and the siting of development that would impact the future park and recreation area, which is inconsistent with Section 30240 and 30251 of the Coastal Act. Section 30240 states that development adjacent to parks and recreation areas shall be sited and designed to prevent impacts that would significantly degrade such areas. Section 30251 states that development should minimize landform alteration and visual impacts, and site and design development consistent with the character of the surrounding community. Section 30253 states that development should minimize risk to life and property in areas of high fire hazard. The proposed development would prejudice the City of Los Angeles' ability to prepare a Local Coastal Program for Pacific Palisades that is consistent with the Chapter 3 policies of the Coastal Act, as required by Section 30604(a). Therefore, the proposed project is found inconsistent with the Chapter 3 policies of the Coastal Act and must be denied.

H. Alternatives

Denial of the proposed deck and foundation system will not deny all economically beneficial or productive use of the applicant's property or unreasonably limit the owner's reasonable investment-backed expectations of the subject property. The applicant is left with a 30-foot high, 7,952 square foot single family home. The existing home is set back approximately 40 feet from the canyon edge across the approximately 80-foot width of the canyon facing property line. This gives the applicant a sizable rear yard for private recreational use without development at the edge or on the slope of the canyon. Besides the desire to have a deck extend over the canyon edge for the applicant's private enjoyment, the applicant's agent has stated that an additional objective of the proposed project is to direct water runoff to the street and away from the canyon slope. There are, however, alternatives that address both the applicant's desire for private recreational

amenities as well as limiting water runoff over the canyon edge. One of the many possible alternatives would include the following:

◆ **Setback Development away from the Canyon Edge**

The applicant has proposed a private recreational amenity (a cantilevered deck over the canyon slope) that requires a deepened foundation system. The applicant currently has a relatively large rear yard. The applicant's rear yard is between 36 feet and 55 feet from the canyon-facing wall of the existing home to the canyon edge, across the applicant's approximately 80 foot-wide property. There is, therefore, ample room to provide a permeable deck at grade level within the confines of the flat portion of the lot. Thus, the alternative of setting the deck away from the canyon edge without an extensive foundation system on the canyon slope does not restrict the applicant from providing an accessory structure to the existing single family home for private recreational purposes, consistent with the Chapter 3 policies of the Coastal Act. In addition, the applicant has stated that the foundation system is necessary to redirect water runoff to the street, consistent with their geology and soils report. This alternative does not preclude the applicant from directing water runoff to the street. Water can be directed to the street through a number of options, such as constructing a berm, cutoff trench, French drains, fine grading, or any manner of drainage systems that serve the purpose of redirecting water flow. Therefore, this alternative would satisfy the objectives of the project as proposed, consistent with the Chapter 3 policies of the Coastal Act.

I. California Environmental Quality Act

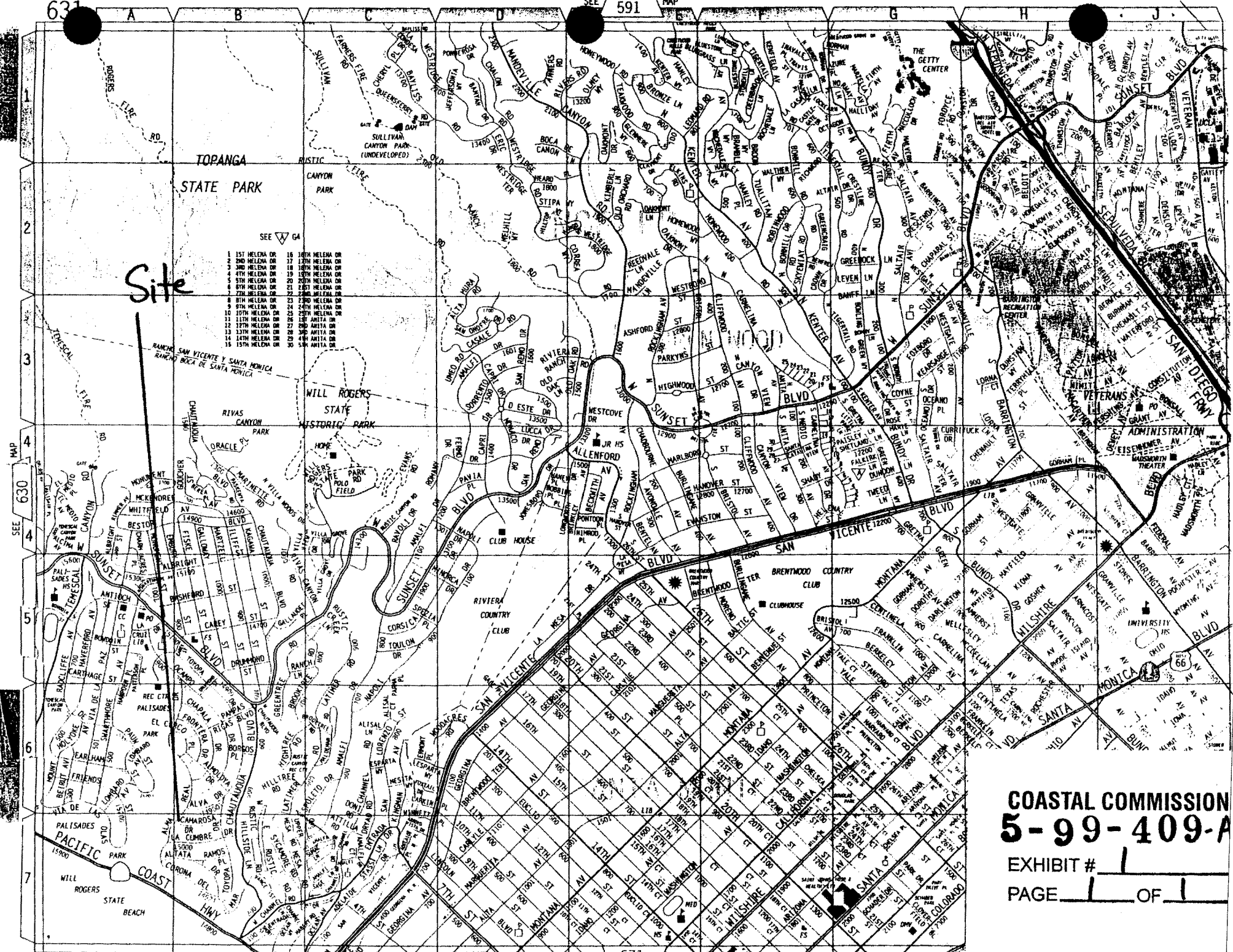
Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental 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.

As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, as described in the preceding sections that would lessen any significant adverse impact which the development may have on the environment. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act and the project must be denied.

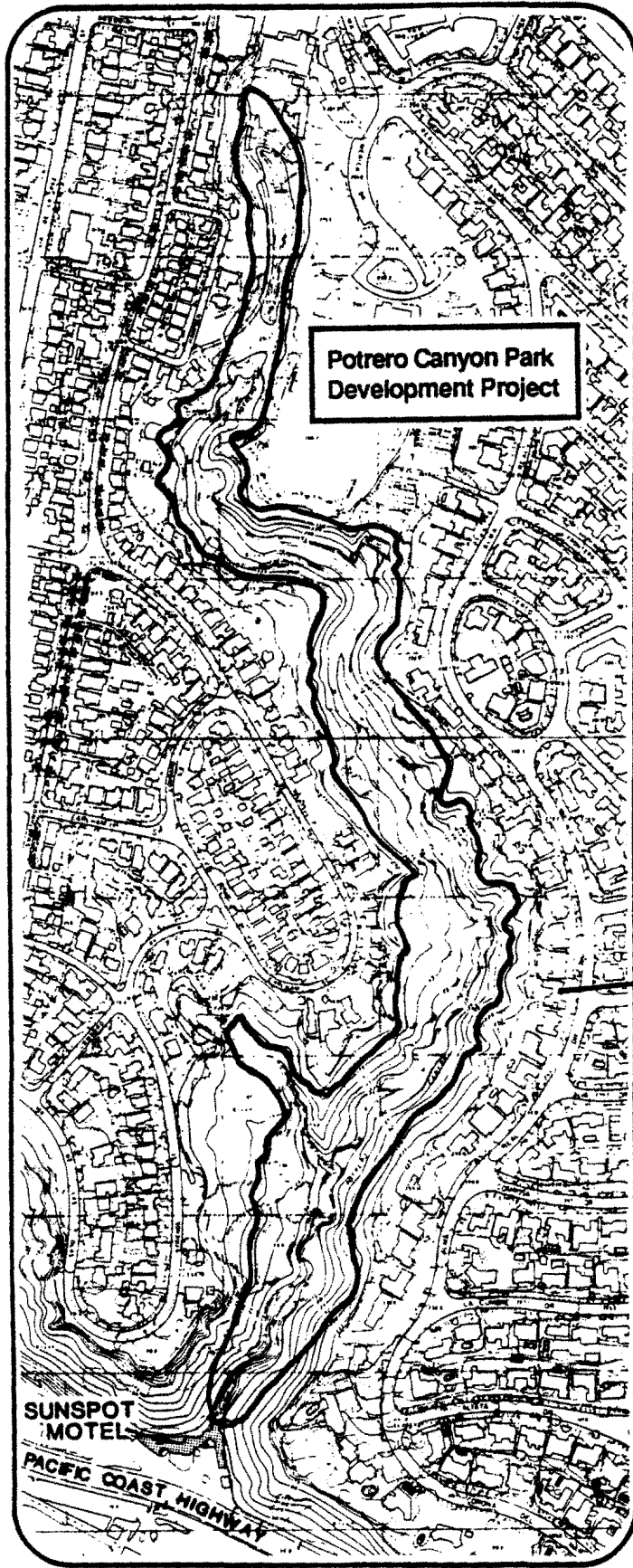
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Site

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Potrero Canyon Park
Development Project

Site

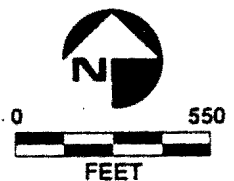
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SUNSPOT
MOTEL

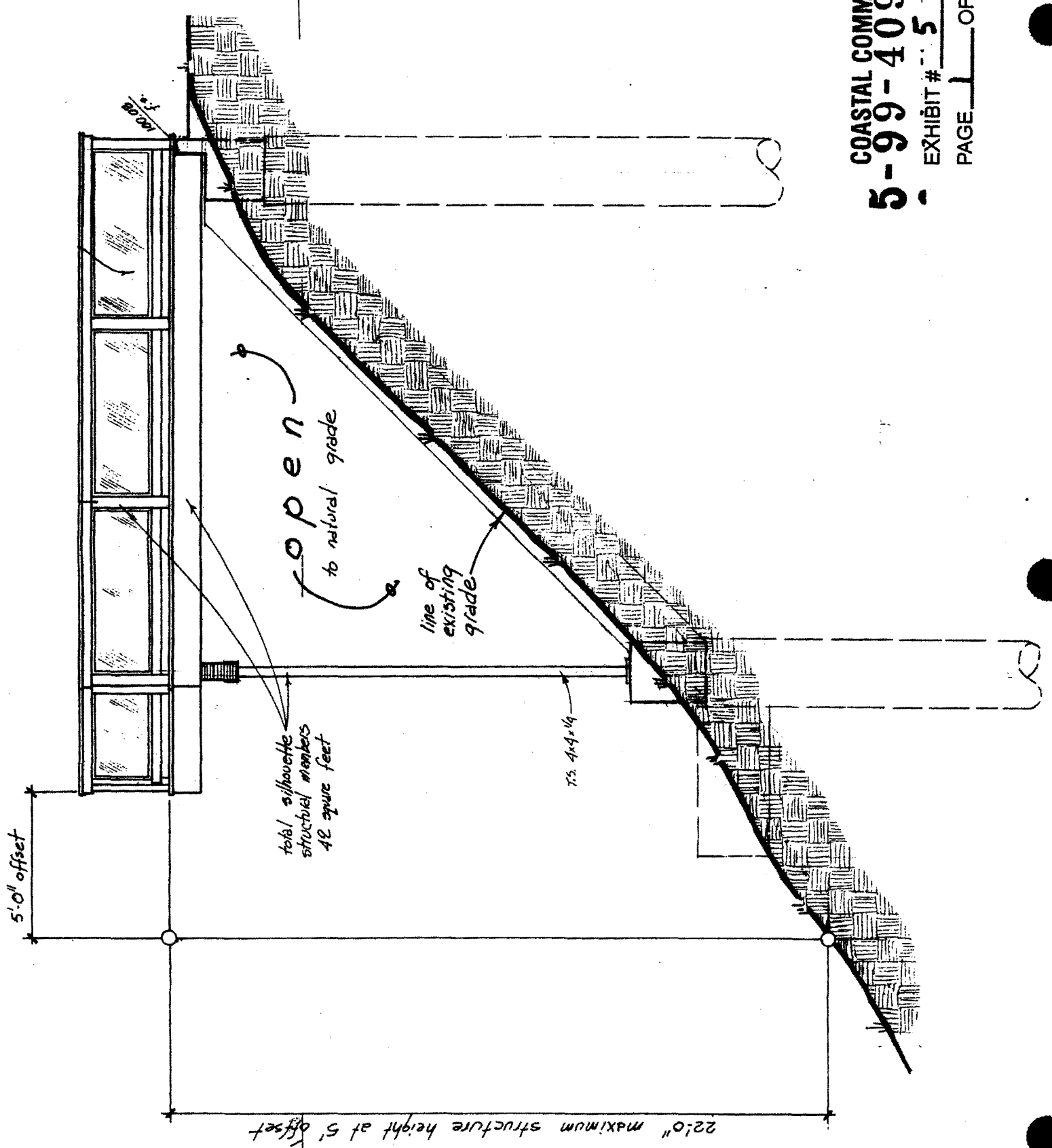
PACIFIC COAST HIGHWAY



SOURCE: EnviroSphere, 1985.

FIGURE

2



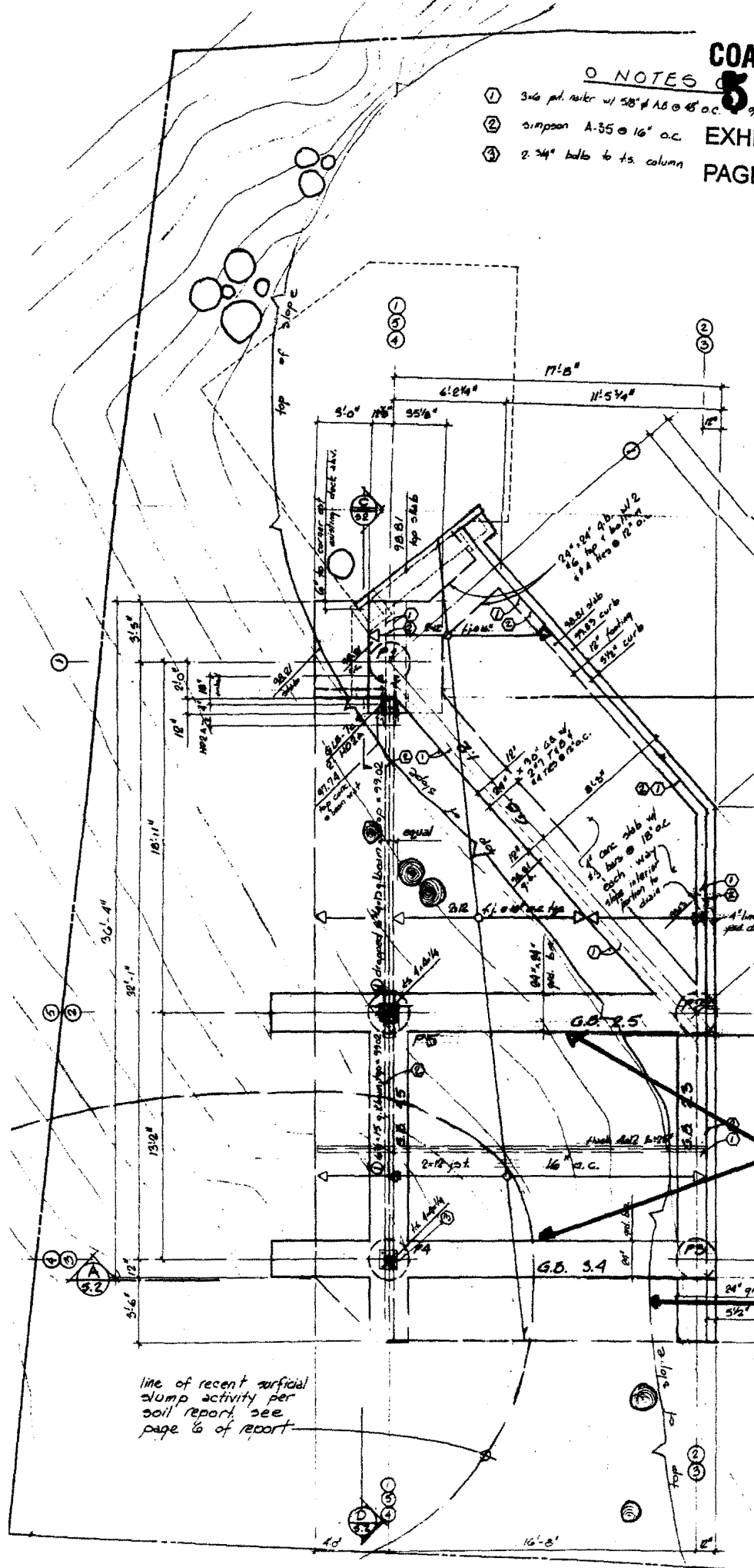
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EXHIBIT # 5

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NOTES

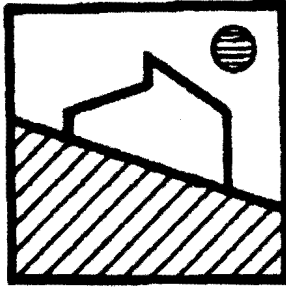
- ① 3/4" dia. rebar w/ 58" dia. A.S. @ 4' o.c. 9" embed.
- ② Simpson A-35 @ 16" o.c.
- ③ 2" dia. bolts to ts. column



Grade beam
perpendicular
to canyon edge

Approx.
location of
canyon edge

line of recent surficial
slump activity per
soil report see
page 6 of report



Grover Hollingsworth and Associates, Inc.

October 29, 2001
GH8835-G

Mr. And Mrs. Bagnard
556 Bienvenida
Pacific Palisades, California 90272

Subject: Geotechnical Comments, Deck Foundation Excavations, Lot 29, Block 1, Tract 9377, 421 Alma Real Drive, Los Angeles, California.

References: Reports by Grover-Hollingsworth and Associates, Inc.: Geologic and Soils Engineering Report, Proposed Additions, Deck, and Pool, dated August 25, 1999; Additional Geotechnical Comments, Proposed Residence, February 8, 2000; Additional Recommendations, Abandoned Basement Void, May 23, 2000; and Additional Recommendations #2, Abandoned Basement Void, dated June 6, 2000.

City of Los Angeles Review Letter, dated October 7, 1999.

Dear Mr. and Mrs. Bagnard:

This information regarding the existing foundation excavations for the rear yard deck is provided following our observations of the site on September 24 and 25, 2001, and October 11, 2001, and following consultation with Tim McNamara.

A deck is planned in the rear yard. The deck extends over the descending slope. Plans for the deck, which have been approved by the City of Los Angeles have been reviewed and signed by this office. The deck will be supported on a foundation system that consists of friction piles, grade beams, and deepened conventional footings.

We have observed and approved five (5) pile excavations and a continuous footing excavation segment for the deck. Grade beam excavations also exist. We understand that concrete has not been placed in any of the excavations.

Engineering Geology

31129 Via Colinas, Suite 707, Westlake Village, California 91362 • (818) 889-0844 • (FAX) 889-4170

COASTAL COMMISSION Geotechnical Engineering

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October 29, 2001


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The foundations should be completed as soon as possible in order to maintain the surficial stability of the slope and adjoining region of the pad during the impending rainy season. Our report recommends that excavations be stabilized within 30 days of creation.

Should you have any questions, please feel free to call.

Respectfully submitted,


JEFFREY I. FARRAR
Project Geologist *Dona*


ROBERT A. HOLLINGS WORTH
G.E. 2022/E.G. 1265



JIF:RAH:dl

xc: (1) Addressee
(3) Tim McNamera

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Grover-Hollingsworth and Associates, Inc.
Geotechnical Consultants

BY GB DATE 8/88
3/91

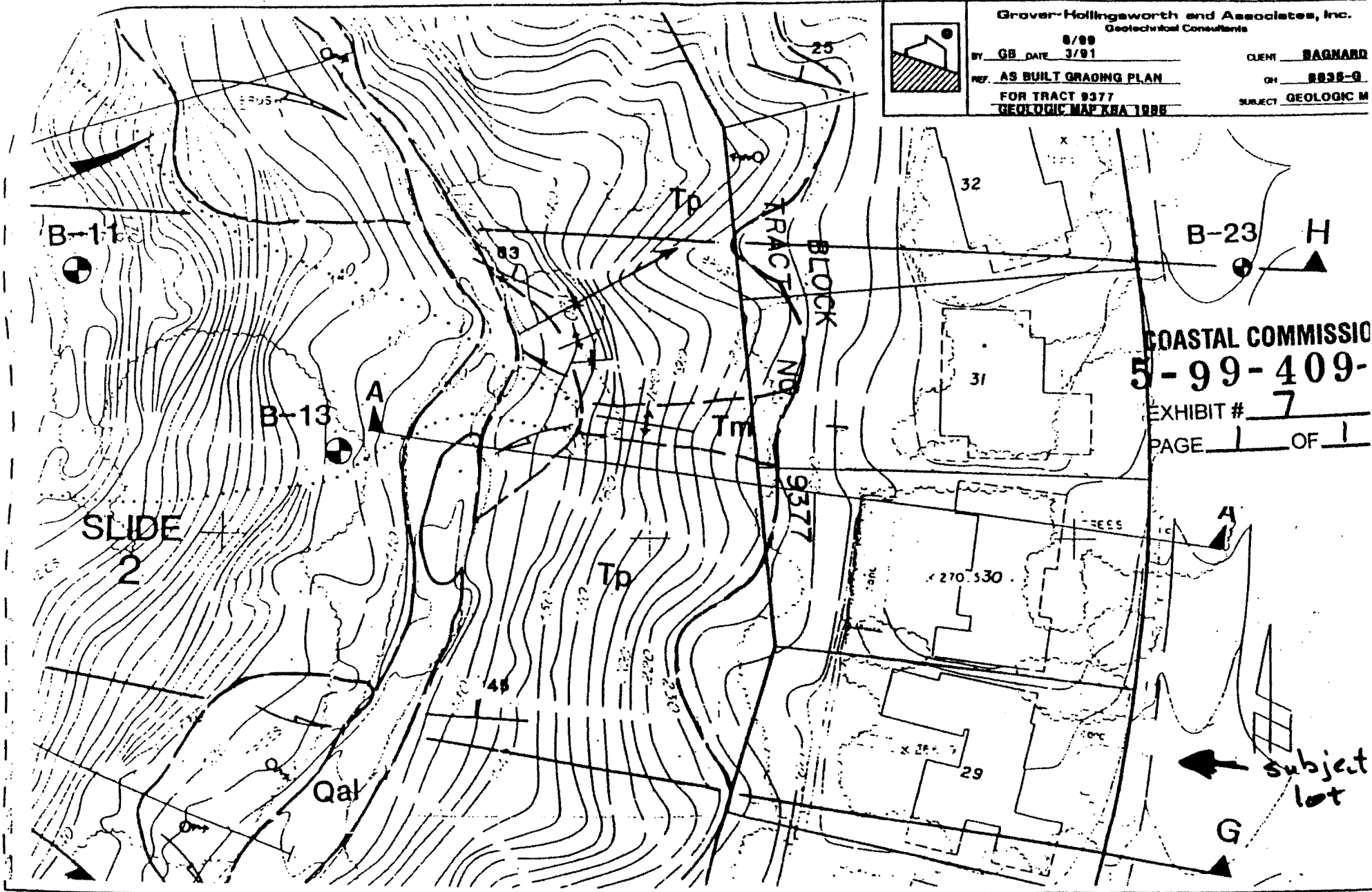
CLIENT BARNARD

REF AS BUILT GRADING PLAN

OH 8828-0

FOR TRACT 9377
GEOLOGIC MAP KBA 1988

SUBJECT GEOLOGIC M



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subject lot

CALIFORNIA COASTAL COMMISSION

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

Page 1 of 7
Date: April 14, 2000
Permit No: 5-99-409



COASTAL DEVELOPMENT PERMIT

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

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

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

PETER DOUGLAS
Executive Director

By: 
Title: Coastal Program Analyst

ACKNOWLEDGMENT

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

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

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

_____ Date

_____ Signature of Permittee

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

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COASTAL DEVELOPMENT PERMIT

No. 5-99-409

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STANDARD CONDITIONS

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

SPECIAL CONDITIONS:

1. **REVISED PLANS**

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

COASTAL DEVELOPMENT PERMIT **COASTAL COMMISSION**

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

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

2. FUTURE DEVELOPMENT DEED RESTRICTION

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

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

3. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY

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

COASTAL DEVELOPMENT PERMIT

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

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

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

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

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

5. WINTERIZATION/EROSION CONTROL PLAN

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

COASTAL DEVELOPMENT PERMIT

No. 5-99-409

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1. EROSION CONTROL PLAN

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

2. RUN-OFF CONTROL PLAN

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

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

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

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

6. FUEL MODIFICATION PLAN

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

7. LANDSCAPE PLAN

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

COASTAL DEVELOPMENT PERMIT

No. 5-99-409

Page 7 of 7

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

2. The plan shall include, at a minimum, the following components:
 - (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the topography of the developed site, and all other landscape features, and
 - (b) A schedule for installation of plants.

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

PE:

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COASTAL COMMISSION
5-99-409-A
EXHIBIT # 8
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DATE: 07/17/01

COASTAL EXEMPTION NO. ZA-2001-3465-CEX

COASTAL COMMISSION
5-99-409-A

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

EXHIBIT # 9
PAGE 1 OF 2

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

RECEIVED
South Coast District

JUL 23 2001

CALIFORNIA
COASTAL COMMISSION

**EXEMPTION - COASTAL ZONE
SINGLE JURISDICTION AREA**

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

PLEASE TYPE OR PRINT

PROPERTY ADDRESS: 421 OLMA REAL DR.

LEGAL DESCRIPTION: LOT 29 Block 1 Tract 9377

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

ZONE: RE 15-1

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

APPLICANT Tim McNamee PHONE NO. (30) 456.0570

APPLICANT'S ADDRESS: 18711 Pacific Coast Hwy #24

CITY, STATE, ZIP Malibu CA 90265-5507

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

APPLICANT'S SIGNATURE [Signature]

FOR OFFICE USE ONLY

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

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

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

Robert Janovici
Chief Zoning Administrator

By: ARTS RAYDES

Print name and title of individual signing.

Application Fee 68 Total Fee 76 Receipt No. 229565

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

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

COASTAL COMMISSION
5-99-409-A
EXHIBIT # 9
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CALIFORNIA COASTAL COMMISSION

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



July 24, 2001

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

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

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

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

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

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

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

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

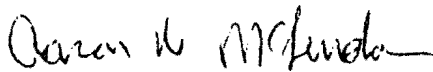
COASTAL COMMISSION
5-99-409-1

EXHIBIT # 10

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

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

Sincerely,



Aaron N. McLendon
Coastal Program Analyst

cc: Gurdon Miller
David Silverman
Andrew Montealegre

COASTAL COMMISSION
5-99-409-A
EXHIBIT # 10
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CALIFORNIA COASTAL COMMISSION

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

~~COASTAL COMMISSION~~
5-99-409-A

EXHIBIT # 11
PAGE 1 OF 3



December 11, 2001

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

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

Dear Mr. McNamara,

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

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

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

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

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

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

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

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

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

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

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

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

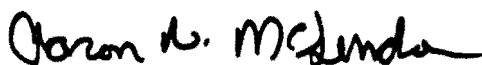
In addition, to grant an emergency permit, Section 13142(a) requires the Executive Director to find that the situation "requires action more quickly than permitted by the procedures for administrative permits, or for ordinary permits." In this case, the situation could be remedied under the normal permitting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

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

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

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

Sincerely,



Aaron N. McLendon

COASTAL COMMISSION
5-99-409-A

EXHIBIT # 11

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