

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
1000 CALIFORNIA ST., SUITE 200  
VAN NUYS, CA 91411  
(805) 585-1800

**RECORD PACKET COPY**

Filed: 1/9/02  
49<sup>th</sup> Day: 2/27/02  
180<sup>th</sup> Day: 7/8/02  
Staff: J Johnson-V  
Staff Report: 5/23/02  
Hearing Date: 6/10/02  
Comm Action:

**STAFF REPORT: REGULAR CALENDAR**

**APPLICATION NO.: 4-01-177**

**APPLICANT: Richard Erickson**

**AGENT: Terry Valente**

**PROJECT LOCATION: 721 Henry Ridge Motorway, Topanga, Los Angeles County**

**PROJECT DESCRIPTION:** Construct a one story 3,033 sq. ft. single family residence with loft, one story 2,450 sq. ft. garage/workshop with mezzanine, 1,024 sq. ft. stable, pool, 1,390 sq. ft. trellises, pool/garden and stable retaining walls, fencing, septic system, two new storage tanks, grade a total of 2,382 cubic yards of material including 2,222 cubic yards of remedial grading. In addition, the applicant is proposing to demolish an existing unpermitted storage structure and is requesting after-the-fact approval for an existing water well and a storage tank.

Lot area:	10.7 acres
Building coverage:	5,402 sq. ft.
Pavement coverage:	3,000 sq. ft.
Landscape coverage:	14,689 sq. ft.
Parking spaces:	4
Ht abv fin grade:	27 ft. 3 inches
Plan Designation:	Rural Land II and Mountain Land
Zoning:	1 dwelling unit / 5 and 20 acres
Project Density	one du/10 acres

**SUMMARY OF STAFF RECOMMENDATION**

The applicant requests approval to construct a single family residence, garage/workshop and stable on an existing parcel located along the Henry Ridge Motorway and Trail. The applicant proposes to demolish an existing 'unpermitted' storage structure and is requesting after-the-fact approval for an existing 'unpermitted' water well and storage tank. In addition, to the existing water tank on site, the proposed project also includes the addition of two new additional water tanks to serve the proposed development. The proposed project is located along a flat graded pad adjacent to the Henry Ridge Motorway, which is

a long established fire break, along the top of a ridgeline northwest of the intersection of Topanga Canyon Boulevard and Old Topanga Canyon Road. The subject parcel includes chaparral vegetation which is considered a Environmentally Sensitive Habitat Area (ESHA). In addition, the development site is located approximately thirteen hundred (1,300) feet west of designated ESHA within Greenleaf Canyon, a significant oak woodland to the east of the project site and is located about twelve hundred (1,200) feet east of Old Topanga Creek, which is also designated ESHA. Because the proposed development is located within a long established firebreak devoid of its former chaparral vegetation, the development will not directly affect ESHA except for the necessary fuel modification surrounding the development located beyond the width of the firebreak area. 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; livestock restriction and stable waste management plan; future development deed restriction; plans conforming to geologist/engineer's recommendation; assumption of risk, waiver of liability and indemnity; color restriction deed restriction; lighting deed restriction; and condition compliance. The project, as conditioned, will therefore be consistent with the Coastal Act.

**IMPORTANT PROCEDURAL NOTE:**

This application was filed as complete on January 9, 2002 and tentatively scheduled for the May 2002 Commission meeting but delayed consistent with other workload to allow the applicant time to revise the proposed project and provide additional information. The application was then scheduled to be heard at the Commission meeting of June 11- 14, 2002. The 180<sup>th</sup> day pursuant to the Permit Streamlining Act for Commission action on the subject application is July 8, 2002. Therefore the Commission must vote on Coastal Development Permit Application No. 4-01-177 at the June 10-14, 2002 hearing.

**LOCAL APPROVALS RECEIVED:** Approval in Concept: Los Angeles County Regional Planning Department dated 9/23/2001; Los Angeles County Department of Health Services, dated 7/17/2001 for septic system; County of Los Angeles Fire Department, Fire Protection Engineering Approval and driveway access, dated 12/04/2001; Los Angeles County Department of Health Services, Application for Well Permit, dated 12/7/1989; Los Angeles County Fire Department, Preliminary Fuel Modification Plan, dated September 19, 2001.

**SUBSTANTIVE FILE DOCUMENTS:** Preliminary Geologic and Soils Engineering Investigation, dated May 3, 2001, by Subsurface Designs Inc.; Coastal Permit No. 4-00-221, Clemens; Coastal Permit No. 4-00-125, Bomar; Coastal Permit No. 4-00-119, Deegan-Day.

---

**STAFF RECOMMENDATION:**

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 4-01-177 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, except as noted below, 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 50 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/workshop and stable, from the Topanga Henry Ridge trail located to the south, east, and north and Topanga State Park located to the east;
- 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/workshop 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 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 property is prohibited. Fencing shall be limited to the area delineated on Exhibit 10 in the vicinity of the building pads, along the Henry Ridge Motorway, and a gate at the driveway entrance from Henry Ridge Motorway. Any 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 40 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 85<sup>th</sup> 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 30<sup>th</sup> 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. LIVESTOCK RESTRICTION AND STABLE WASTE MANAGEMENT PLAN**

- A. In accordance with the applicant's proposal for the proposed stable, the horse facilities on site shall be limited to the keeping or maintaining of no more than four (4) horses or ponies or similar livestock at any time.
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a stable waste management plan for the review and approval of the Executive Director. The plan shall include management practices for the collection, storage, and disposal of stable wastes, including manure and bedding. Such wastes shall be collected and disposed of offsite in a manner and location prescribed in the approved plan.

- C. Any additional or intensified use of the site for ~~livestock~~ maintenance purposes, whether recreational or commercial, shall ~~require an amendment~~ to Coastal Development Permit 4-01-177.
- D. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances ~~that the Executive Director determines may affect the enforceability of the restriction~~. This deed restriction shall not be removed or changed without a Commission amendment to Coastal Development Permit 4-01-177.

**6. FUTURE DEVELOPMENT DEED RESTRICTION**

- A. This permit is only for the development described in Coastal Development Permit No. 4-01-177. 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/workshop, stable, water well and three storage tanks, 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. 4-01-177 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition, any proposed fencing on the subject property is identified on the landscape and fuel modification plan pursuant to Special Condition number one.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restrictions on development in the deed restriction and shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**7. 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: Preliminary Geologic and Soils Engineering Investigation, dated May 3, 2001, by Subsurface Designs Inc., shall be incorporated into all final design and construction including: grading and earthwork, foundations, settlement, floor slabs, excavation erosion control, excavations, retaining walls, drainage and maintenance. 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.

**8. 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 landslides, ground movement, or wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant and landowner 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.

**9. COLOR RESTRICTION DEED 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 4-01-177, including the structures, roofs, retaining walls, fencing and water storage tanks 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 tanks 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 4-01-177 if such changes are specifically authorized by the Executive Director as complying with this special condition.

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structures approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**10. LIGHTING DEED RESTRICTION**

**PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which specifies that all outdoor night lighting shall be the minimum necessary, consistent with safety requirements, shall be of low intensity, at low height and shielded, and shall be downward directed to minimize the nighttime intrusion of the light from the project into sensitive habitat areas. Security lighting, if any, shall be controlled by motion detector. No night lighting, whether permanent or temporary, shall be installed to light the corral/paddock approved pursuant to Coastal Development Permit No. 4-01-177. The document shall run with the land for the life of the structures approved in these permits, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interests being conveyed. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**11. CONDITION COMPLIANCE**

Within one hundred eighty (180) days of Commission action on this Coastal Development Permit application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

#### **IV. Findings and Declarations.**

##### **A. Project Description**

The project site is located nearly five miles inland of the coast north of the intersection of Topanga Canyon Boulevard and Old Topanga Canyon Road. The parcel is accessed from Topanga Canyon Boulevard via either Greenleaf Canyon to Goldstone Road to Henry Ridge Motorway or via Entrado Drive to Canon Drive to Altra Callado Drive to Altraridge Drive to Veteran Springs Drive to Henry Ridge Motorway, or from Mulholland Highway and Eddingham Avenue to Adamsville Avenue to Henry Ridge Motorway, most of these connecting roads from Topanga Canyon Boulevard or Mulholland Highway are private roadways. The subject parcel is not accessible by vehicle from the south at Topanga School Road and Topanga Canyon Boulevard where the Henry Ridge Motorway begins from the south (Exhibit 1).

The applicant proposes to demolish an existing 'unpermitted' storage structure and is requesting after-the-fact approval of an existing 'unpermitted' water well and storage tank. In addition to the existing tank and well, the proposed project also includes the addition of two new additional water tanks to serve a new one story, 27 ft. 3 in., 3,033 sq. ft. single family residence with loft, one story 2,450 sq. ft. garage/workshop with mezzanine, 1,024 sq. ft. stable, pool, 1,390 sq. ft. trellises, pool/garden and stable retaining walls, septic system, fencing and entry gate, grade a total of 2,382 cubic yards of material including 2,222 cubic yards of remedial grading. 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 extent of the fuel modification area needed for the development. (Exhibits 2 - 5).

The building site is a 10.7 acre parcel located along the west side of the Henry Ridge Motorway. The site is on the crest of a north-south trending ridge along the west side of the Henry Ridge Motorway. The proposed building site is located on an existing graded pad which also serves as part of a long established fire break. The building site is at an elevation of about 1,350 feet above sea level. The majority of the 10.7 acre property is in its natural state with the exception of the barren fire break along the ridge, the graded building pad and driveway from the Henry Ridge Motorway located immediately to the northwest of the building pad. The Henry Ridge Motorway and the building pad is part of a long established fire break along the ridge top; vegetation has been cleared from this area for many decades. The applicant has submitted a copy of a 1964 County topographic map identifying this fire break (Exhibit 7). The existing water storage tank is located on a small flat hill located immediately north of the building site at an elevation of about 1,368 above sea level. The applicant's water source is from an existing water well located on the southern portion of the property near the Henry Ridge Motorway.

The site is surrounded by vacant parcels located to the north, south and west; a residence is located on the parcel to the east as a result of Coastal Permit No. 5-91-829, Johnson. In addition, there are other existing residences to the north of the site, including one at 1160 Henry Ridge Motorway now under construction as a result of Coastal Permit No. 4-00-221, Clemens. The Commission has also approved residential

development in the vicinity of the project site including Coastal Permit No. 5-90-115, Marshall; Coastal Permit No. 5-88-1096, Turner & Kleles; Coastal Permit No. P-77-1332, Stewart; Coastal Permit No. ~~5-94-233, Hettig~~, and Coastal Permit No. 5-87-648, English & Marshall. Additionally, there are existing residences located to the north along the Henry Ridge Motorway that are outside the five mile wide Coastal Zone.

A review of parcel legality was conducted by the Commission staff. The subject parcel is identified on the Commission's 1978 build out map as an existing parcel. The parcel also received a Certificate of Exception (CE# 10973) from the Regional Planning Commission of Los Angeles County on December 3, 1968 that was recorded on December 14, 1968. Therefore, the parcel is considered a legal parcel. In addition, the subject parcel has been involved with two prior lot line adjustments with adjoining properties. Coastal Permit Waiver No. 4-97-251-W effective in 1998 adjusted the lot lines of four parcels including the subject parcel. Coastal Permit Waiver No. 4-00-165-W adjusted the lot lines of two parcels including the subject parcel.

The subject parcel is not located within a designated wildlife corridor, however does include Environmentally Sensitive Habitat Area (ESHA) chaparral species and it is located about thirteen hundred (1,300) feet west of Greenleaf Canyon Creek, a blue line stream, which includes designated Environmentally Sensitive Habitat (ESHA), an oak woodland and is located about twelve hundred (1,200) feet east of Old Topanga Creek, also a blue line stream which includes designated ESHA. The proposed building site will drain into Greenleaf Canyon Creek to the east and Old Topanga Creek to the west. The project parcel includes an existing and mapped hiking and riding trail crossing the subject property from south to north. The Topanga - Henry Ridge Trail on the subject property connects the Backbone Trail to the south with three feeder trails to the north to Calabasas, Serrania Park, and the Calabasas Topanga Connector Trail (Exhibit 6). The adjoining property owner, as a result of Coastal Permit No. 5-91-829, Johnson, has recorded an offer to dedicate a public trail easement along the same section of the Henry Ridge Motorway shared by the subject parcel. This easement dedication is located on the eastern half of the Motorway easement; the applicant owns as part of this subject parcel the western half of the Motorway. The project site is highly visible from the adjacent planned Topanga Henry Ridge Trail and limited portions of this trail from the south and north and from Topanga State Park to the east.

#### **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:**

(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.

Commission staff visited the site on January 24, 2002 confirming that the building site is located within a fire break area cleared of native vegetation within an approximate 100 foot width along the approximate 1,100 foot length of the property. The fire break includes approximately 2.5 acres of the 10.7 acre property. It was observed that the area surrounding the fire break area included Chaparral plant species on the remainder of the 10.7 acre parcel except for portions of the graded Henry Ridge Motorway and the graded driveway leading from the Motorway to the subject building site. At very roughly 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 1,350 foot elevation above sea level.

Northern mixed chaparral is found on moist, north facing slopes throughout the mountains. It commonly contains woody vines and large shrubs such as chamise (*Adenosoma 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 observes that the area surrounding the fire break and the building site is chaparral that is typical of this area at the 1,350 foot elevation. The fire breaks area is previously graded that now includes non-native grasses and planted trees such as acacia, eucalyptus and pepper trees. This portion of the parcel was graded prior to the effective date of the 1976 Coastal Act, and does not constitute ESHA. The subject site includes a three slopes, the largest facing the west, another down the ridge to the south, and a minor slope to the east where the Motorway is located. The subject parcel includes ceanothus, laurel sumac, chamise, and scrub oak, among other native chaparral species. The building site is located about thirteen hundred (1,300) feet west of Greenleaf Canyon Creek, a blue line stream, which includes designated Environmentally Sensitive Habitat (ESHA), an oak woodland and is located about twelve hundred (1,200) feet east of Old Topanga Creek, also a blue line stream which includes designated ESHA. The proposed building site will drain into both Greenleaf Canyon Creek to the east and Old Topanga Creek to the west.

Although this area along the ridge within the fire break is approximately 2.5 acres in size; only about 12,382 sq. ft. is proposed for development of the garage/workshop, residence, stable, driveway and fire truck turnaround on two building pads (Exhibits 2 and 3). Section 30240 (b) requires that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat areas. As identified in Exhibits 7 and 8, the location of the structures and other development is located within the approximate 100 foot wide fire break area which is adjacent to ESHA, chaparral species, on either side. Therefore, the proposed project is sited in a location outside the ESHA. However, the development is located adjacent to the ESHA. The setback between the ESHA and the proposed development is less than 50 feet and therefore will have the potential to significantly degrade the adjoining ESHA particularly relative to the need to conduct fuel modification up to 200 feet from the combustible structures.

As explained above, the majority of the 10.7 acre parcel, about 8.2 acres, except for the previously graded fire break and the Henry Ridge Motorway, 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 conduct fuel modification activities within this ESHA consisting of thinning of existing native chaparral vegetation.



Commission staff concludes that although this project does impact some ESHA, with the limited buffer setback 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 relatively small 5,402 sq. ft. footprint of the three structures on the two 12,382 sq. ft. development pads. It is important to note that the applicant proposes to construct the stable with non-combustible materials that will not require additional fuel modification. As a result, the building pad for the residence and garage/workshop is within an area about 9,086 sq. ft. that will require fuel modification surrounding it, but the modification area will not be extended to include the additional approximate 3,296 sq. ft. pad area for the stable and paddock/corral since it will not be constructed of combustible materials. The extent of the fuel modification area is discussed further below. 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 (b), 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 February 2000 for \$300,000. 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 parcels along the Henry Ridge Motorway to the north and Goldstone Road to the east, that generally contained the same type of habitat as the applicants' parcel. At 1035 Henry Ridge Motorway, the Commission approved a 3,000 sq. ft. residence (CDP No. 587648). At 1070 Henry Ridge Motorway, the Commission approved a residence (CDP No. 5881096, Turner & Kleles). At 1075 Henry Ridge Motorway, the Commission approved a residence (CDP No. 5-91-028. At 1160 Henry Ridge Motorway, the Commission approved a 3,532 sq. ft. residence and garage (CDP No. 400221, Clemens). At 21916 Goldstone Road, the Commission approved a 6,339 sq. ft. residence and garage (CDP No. 591829, Johnson).

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 10.7 acre parcel is surrounded by other residentially-zoned undeveloped and developed parcels, however, as noted above there are many existing parcels developed or approved with residential development located to the north along Henry Ridge Motorway and to the west along Goldstone 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 (3,033 sq. ft.), garage/workshop (2,450 sq. ft.), stable (1,024 sq. ft.), pool, trellises for the pool and garden (1,390 sq. ft.), retaining walls, water well and three storage tanks, 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 along a long established fire break (graded prior to the effective date of the Coastal Act). The remainder of the property consists of gentle to steep slopes on this parcel which would require substantially more grading for construction of the residence and driveway. As proposed, the project only requires minimal grading, of 100 cubic yards cut and 60 cubic yards fill with remedial grading consisting of 2,222 cubic yards to address two landslides that occurred in 1978 along the Henry Ridge Motorway road cut. 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 stable which the owner 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/workshop in an existing building pad that is less than 10,000 sq. ft. in size on a pad that is 9,086 sq. ft. The proposed stable is located on a separate pad about eight feet lower in elevation from the residential pad and is about 3,296 sq. ft. in size including the paddock/corral. It is important to note that this stable 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 stable 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 stable in Zone A. Therefore, the required fuel modification will only be required for the proposed residence and garage/workshop on the existing building pad above the stable pad. The fuel modification area required for the proposed residence and garage will encompass nearly half of the entire 10.7 acre parcel and also extend offsite to the east. The Fire Department does not require additional fuel modification around a swimming pool, and according to the applicant to the stable proposed to be constructed with Class 1 materials that are not flammable, such as concrete and metal. Therefore the construction of the pool and the stable will not result in any additional disruption of ESHA. The applicants propose a moderate sized one-story with a loft residence of 3,033 sq. ft. and a 2,450 sq. ft. garage/workshop. Further reducing the size of the residence and garage/workshop or further clustering these

structure 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 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 Topanga Canyon Creek which is also an environmentally sensitive habitat area. The building site drains southwesterly and southeasterly into these two separate tributaries, Old Topanga Canyon Creek and Greenleaf Canyon Creek, respectively. Riparian vegetation and habitat, designated as environmentally sensitive habitat areas (ESHA) in the Malibu/Santa Monica Mountains Land Use Plan is located about 1,200 feet in the southwesterly tributary and about 1,300 feet in the southeasterly tributary from the proposed residential development site. 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 proposed project was not reviewed by the Los Angeles County Environmental Review Board. However, based on the above analysis the majority of the subject parcel except for the proposed build site within the fire break area 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 which includes non native tree species and grasses, 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 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 100 cubic yards of cut, 60 cubic yards of fill and export the excess material to a disposal site located outside the coastal zone. In addition, the applicant proposes to grade an additional 2,222 cubic yards of material for remedial grading to stabilize two 1978 landslides along the Henry Ridge Motorway road cut. **Special Condition number three** requires that the applicant provide evidence to the Executive Director of the location of this disposal site for all excess excavated material. Should the disposal site be located within the Coastal Zone, a coastal development permit shall be provided. The proposed grading also has the potential to create erosion on site and create offsite sedimentation into the drainage courses leading to the above noted Greenleaf Canyon Creek and Old Topanga Creek downstream to Topanga 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/foliage weight. The Commission finds that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize 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 tributaries and Topanga 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 demolish an existing 'unpermitted' storage structure and continue to use an existing 'unpermitted' water well and storage tank with the addition of two water tanks serve a new one story, 27 ft. 3 in., 3,033 sq. ft. single family residence with loft, one story 2,450 sq. ft. garage/workshop with mezzanine, 1,024 sq. ft. stable, pool, 1,390 sq. ft. trellises, pool/garden and stable retaining walls, septic system, water well and three storage tanks, fencing surrounding the building pad, equestrian paddock and along the Henry Ridge Motorway, grade a total of 2,382 cubic yards of material including 2,222 cubic yards of remedial grading. 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. The stable includes four stalls for four horses, a tack room and loft with a fenced paddock/corral adjacent to the stable on the west.

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, pesticides and equestrian waste, as well as other accumulated pollutants from rooftops and other impervious surfaces and stables and paddocks.

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 85<sup>th</sup> 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 85<sup>th</sup> 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.

Lastly, the applicant proposes to construct a stable and fenced equestrian paddock /corral on the subject site. Confined animal facilities are one of the most recognized sources of non-point source pollutants since these types of developments entail areas which are cleared of vegetation and have concentrated sources of animal wastes. The project site generates horse wastes, which includes manure, urine, waste feed, and straw, shavings and/or dirt bedding which can be significant contributors to pollution. Horse wastes are a breeding ground for parasites, flies and other vectors. In addition, horse wastes contain nutrients such as phosphorous and nitrogen as well as microorganisms such as coliform bacteria which can cause eutrophication and a decrease in oxygen levels resulting in clouding, algae blooms, and other impacts affecting the biological productivity of coastal waters.

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. Protection against non-point pollution is found in past Commission actions addressing equestrian facilities which have encouraged the use of vegetative devices ("filter strips" or "elements") to filter material before it is carried off the site. Filter strips are areas of vegetation planted between the development and the drainage course which utilize the ability of plants to slow runoff flow rates, effectively increasing percolation, and collect nutrients such as phosphorous and nitrogen reducing the amount that reach the drainage course. Use of filter elements has been found in past Commission actions, including Coastal Development Permit Nos. 4-98-073 (Ballard), 4-99-190 (Mahoney), 4-00-055 (Stark), 4-00-067 (Harris), 4-00-125, Bomar, to mitigate equestrian facilities as a non-point source of pollution of coastal waters. **Special Condition number four** includes a provision that runoff from the confined animal areas be filtered either through a vegetated filter strip of some other filter media. The Commission notes that equestrian uses also compacts soils and can have increase erosion on site which can contribute to sedimentation downstream into the tributaries of Topanga Canyon Creek. **Special Condition number one** also address mitigation of drainage and polluted runoff from the site.

In addition, to ensure the confined equestrian facility onsite does not generate uncontrolled wastes which could migrate offsite and adversely impact coastal waters, **Special Condition Five** requires the applicant to submit a livestock maintenance

restriction and stable waste management plan. Fully implemented, **Special Condition number five** will require management of manure, soiled bedding and removal of these materials from the site to an authorized disposal site.

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 pool, the area surrounding the equestrian paddock/corral adjacent to the stable, the residential building pad, driveway and gate, and along the Henry Ridge Motorway (Exhibits 3 and 10). 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 Topanga Canyon Creek watershed 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. Furthermore, in order to ensure that the site is not fenced in a manner that can affect the movement of wildlife in the area, injure wildlife or create adverse effects on wildlife, or adversely effect habitat values, the Commission finds it necessary to restrict the types of fencing that may be used on the site in the future, pursuant to a valid coastal development permit or permit amendment as required by **Special Condition Number six**. Special Condition Number six includes a provision prohibiting any fencing of the subject site, except for fencing required for safety around the pool pursuant to the Uniform Building Code, the equestrian paddock/corral, as shown on Exhibit 2, the residential building pad, driveway and gate, and along the Henry Ridge Motorway without a valid coastal permit or permit amendment. Therefore, in order to ensure that any future structures, additions, fencing, change in landscaping or intensity of equestrian use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition Number six**, the future development deed restriction, has been required. **Special Condition Number six** specifically requires that any future proposal for keeping more than four horses on site shall require an amendment to Coastal Development Permit 4-01-177 or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition, **Special Condition number one** requires that any fencing on the parcel be limited to the areas surrounding the two building pad areas and along Henry Ridge Motorway as identified on Exhibit 10 and specifically delimited on the approved landscape and fuel modification plan. Beyond the two building pad



areas there is no need to restrict the movement of wildlife on the parcel. The fencing along the Motorway is proposed to be an open wood post and rail design compatible with both the movement of wildlife and the rural character of the area.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, to require and maintain a landscape plan, erosion control plan, a drainage and polluted runoff control plan, a livestock restriction and stable waste management plan, and future development deed restriction 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 is proposing to demolish an existing 'unpermitted' storage structure and continue to use an existing 'unpermitted' water well and storage tank with the addition of two water tanks serve a new one story, 27 ft. 3 in., 3,033 sq. ft. single family residence with loft, one story 2,450 sq. ft. garage/workshop with mezzanine, 1,024 sq. ft. stable, pool, 1,390 sq. ft. trellises, pool/garden and stable wall, septic system, water well and three storage tanks, fencing surrounding the equestrian paddock, grade a total of 2,382 cubic yards of material including 2,222 cubic yards of remedial grading. 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. (Exhibits 2 - 5).

The subject site is an undeveloped hillside parcel located along the Henry Ridge Motorway in the eastern portion of the Santa Monica Mountains, Topanga area of Los Angeles County. The proposed residence, garage/workshop, pool and stable are located along the crest of a north trending ridge within the northern portion of the parcel. Existing site improvements include a level graded pad about 7,680 sq. ft. in size completed prior to the 1977 effective date of the Coastal Act and an "after the fact" storage structure proposed to be demolished and a water well with storage tank, all

constructed without benefit of a coastal permit. Elevations range from 1,320 feet above sea level to 1,370 feet above sea level with the existing graded pad proposed for the residence located at 1,350 feet above sea level.

Regarding the geologic and erosion hazard, the applicant submitted a report titled, Preliminary Geologic and Soils Engineering Investigation by Subsurface Designs, dated May 3, 2001. This report concludes that:

It is the finding of this firm, based upon subsurface data, that the proposed grading and subject building site will not be affected by settlement, land sliding, or slippage. Further, based upon the proposed location, development will not have an adverse effect on off-site property.

These reports include a number of recommendations to ensure the stability and geotechnical safety of the site including the remediation of two 1978 landslides along the Henry Ridge Motorway road cut east of the building site. Therefore, to ensure that the recommendations of these consultants have been incorporated into all proposed development, **Special Condition number seven** requires the applicant 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 Number 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 Final Fuel Modification Plan approved by the Los Angeles County Fire Department pursuant to **Special Condition Number One**.

As identified in the submitted Preliminary Geologic and Soils Investigation by SubSurface Designs the site includes two relatively small landslides along the cut slope

below the proposed garage/workshop and the northern extension of the proposed residence. This slide debris is generally 5 – 10 feet thick. The base of the slide is well defined and occurred along the steep, near vertical cut slope adjacent to Henry Ridge Motorway. This report states that with the exception of these two mapped landslides, there was no evidence of deep-seated bedrock instability on the subject property and there are no known landslide structures within or immediately adjacent to the subject property that would adversely affect the stability of the site. This report recommends that these landslides be removed and replaced with certified compacted fill to serve as a buttress for the lowest unsupported bed above the slide with a 2:1 gradient blended into the adjacent natural slope.

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

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/workshop, stable, 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 vacant parcels on three side, and a residentially

development parcel on the fourth side. Although the building site is located along a descending ridgeline in the vicinity of a designated significant ridgeline in the Malibu/Santa Monica Mountains, it is not readily visible from public roadways located to the west, south, or east. However, the building site will be visible from a planned public trail located along the Henry Ridge Motorway and public lands located to the northeast, east and southeast within Topanga State Park, but not from Topanga Canyon Road.

The applicants are proposing to demolish an existing 'unpermitted' storage structure and requesting after-the-fact approval of an existing 'unpermitted' water well and storage tank. In addition to the existing tank and well, the proposed project also includes the addition of two new water tanks to serve a new one story, 27 ft. 3 in., 3,033 sq. ft. single family residence with loft, one story 2,450 sq. ft. garage/workshop with mezzanine, 1,024 sq. ft. stable, pool, 1,390 sq. ft. trellises, pool/garden and stable retaining walls, septic system, and fencing, grade a total of 2,382 cubic yards of material including 2,222 cubic yards of remedial grading. 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.

Regarding public trails, the proposed project site is located as close as forty feet west of a portion of the planned Topanga-Henry Ridge Trail (Exhibit 6). This portion of the trail route crosses from Topanga Canyon Road in a northerly direction connecting to the Santa Maria Canyon Trail east of Topanga Canyon Road. In addition, the proposed project site is located as close as one and one half miles west of the existing fire road trail following the ridge along the eastern boundary of the Topanga Canyon Creek watershed (Exhibit 1). The proposed project will be visible from many portions of this north to south fire road/trail at even greater distances. As a result, public views from these park lands and public trails may be adversely effected by the proposed development.

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, east, and north 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 existing and planned public trails and park lands located to the southeast, east, and northeast of the project site.

In addition, in order to ensure that the structural appearance, i.e. color of the residence, garage/workshop, stable, roofs, trellises, retaining walls, fences, and water storage tanks and the potential glare of the glass windows, will not create adverse visual impacts from public lands and trails, 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 nine**. In addition, **Special Condition number ten** 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 six**, 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. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

#### **E. Public Access Trail**

The Coastal Act requires that maximum public access to and along the coast be provided in new development projects. The Coastal Act also requires new development to provide adequate lands suitable for recreation to serve the needs of new residents.

**Coastal Act Section 30210 states:**

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

**Coastal Act Section 30212 states:**

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or,
- (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

**Coastal Act Section 30212.5 states:**

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

**Coastal Act Section 30213 states:**

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

**Coastal Act Section 30223 states:**

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

**Coastal Act Section 30252 states:**

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development. (emphasis added)



**Coastal Act Section 30254 states:**

... Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

**Coastal Act Section 30530 states:**

It is the intent of the Legislature, consistent with the provisions of Chapter 9 (commencing with Section 31400) of Division 21, that a program to maximize public access to and along the coastline be prepared and implemented in a manner that ensures coordination among and the most efficient use of limited fiscal resources by federal, state, and local agencies responsible for acquisition, development, and maintenance of public coastal accessways. There is a need to coordinate public access programs so as to minimize costly duplication and conflicts and to assure that, to the extent practicable, different access programs complement one another and are incorporated within an integrated system of public accessways to and along the state's coastline. The Legislature recognizes that different public agencies are currently implementing public access programs and encourages such agencies to strengthen those programs in order to provide yet greater public benefits.

In the Santa Monica Mountains, a portion of an existing system of heavily used historic trails located on private property has been jeopardized by the conversion of open lands to residential development. In an effort to preserve and formalize the public's right to use these trails, Los Angeles County adopted the Riding and Hiking Trails Master Plan for the Santa Monica Mountains, which is adopted by ordinance into the highway element of the County's 1982 General Management Plan for the Santa Monica Mountains National Recreation Area as updated in 1984 as the Land Protection Plan. The trail system is mapped as part of the 1986 certified Land Use Plan for the Malibu/Santa Monica Mountains Area, a component of the County's Local Coastal Program. The trail system includes the Backbone Trail, a main access route along the coast leading from the metropolitan Los Angeles area on the east past Leo Carrillo State Beach at the Los Angeles County - Ventura County border to Point Mugu State Park in Ventura County on the west. Numerous cross mountain lateral trails link the major population center of the San Fernando Valley on the north with numerous Federal, State, and County mountain and beach park lands within the Mountains and to the south on the beach. These lateral trails provide these links between downtown Santa Monica on the east to Point Mugu State Park on the west. There are two designated regional connector trails linking the Malibu/Santa Monica Mountains trail system with a larger regional system which connects the beach and mountain areas with trails in the Simi Valley, San Gabriel Mountains and other inland areas. The trail network will make a very large number of destinations available to hikers and equestrians. These destinations are quite varied in nature and therefore have the potential of holding interest for many different persons. The choice includes highly scenic locations, such as Escondido Falls and Castro Crag area; historic sites,



including motion picture locations; and active group campsites. Dramatic coastal views, including almost unmatched views of the Channel Islands, are available from vista points along the Backbone Trail, to which the Coastal Slope Trail connects. These extraordinary coastal views are central to the coastal mountain recreation experience and together with the fauna, flora, and climate specific to this area, are among the coastal resource values protected by the public access and recreation policies of the Coastal Act.

One of the trails identified in the adopted trail system is the Topanga-Henry Ridge Trail, which provides access from the inland areas of Calabasas and Woodland Hills located outside the Coastal Zone and Topanga Canyon areas located within the Coastal Zone to coastal areas. This trail quite often runs along unimproved and private dirt roads, including the private road, the Henry Ridge Motorway, located adjacent to the easterly property boundary. These trails have become important and commonly used recreational assets and a means of providing access to and links between natural, scenic, and recreational areas in the mountains. The proposed development in this application is on a parcel which fronts a segment of the Topanga-Henry Ridge Trail, a designated segment of this major trail system.

In permitting residential areas in the Santa Monica Mountains to build out, planning agencies have found that to assure continued availability of the recreational resources of the mountains by the general public, compatible recreational facilities to serve both residents of the new development and existing recreational visitors must be provided. A comprehensive recreation plan for the Santa Monica Mountains has been adopted, as cited above, that includes acquisition by the National Park Service and the California Department of Parks and Recreation of extensive tracts of land for recreation. Careful review of development near such areas to ensure that it is sited and designed to be compatible with recreational uses, and development of a system of scenic highways and hiking and equestrian trails to link the larger units together while retaining access to views, provide recreational opportunities, and provide an alternative mode of access to all areas of the mountains and adjacent coastal areas.

Los Angeles County incorporated the Riding and Hiking Trails Master Plan into the Land Use Plan certified by the Coastal Commission in 1986. In order to preserve and formalize the public's right to use these trails, this trail system map was included as part of the certified Malibu/Santa Monica Land Use Plan (LUP).

The Topanga-Henry Ridge Trail segment located along the eastern property boundary is commonly used by equestrians and hikers, and has been for a long period of time. Although there is an indication that prescriptive rights have been established, the increased demands caused by residential buildout make it necessary to condition such development to formalize the public's right to continued use of these trails.

The applicant's eastern property boundary is shared with the adjoining parcel to east. The Henry Ridge Motorway is located along this shared property boundary. The Commission approved Coastal Permit No. 5-91-829 (Johnson) for a residence and included a special condition requiring an offer to dedicate a public trail easement along that applicant's Motorway easement on adjoining property to the east of the subject

parcel. This twenty foot wide easement was recorded in 1992. The Henry Ridge Motorway is about twenty feet wide and is located primarily on this adjoining property. Along the applicant's property boundary is also a ~~20 foot easement for the Motorway~~. A review of the roadway location in relation to these two adjoining 20 foot wide easements indicates that the majority of the applicant's easement for the Motorway is located on the road cut and slope above the physical location of the Motorway. The existing trail easement is located along the actual physical location of the Motorway and the adjoining property owner's easement. Therefore, there is no need to require this applicant to offer to dedicate a public hiking and equestrian trail easement over a portion of the subject site where the Henry Ridge Motorway easement is located as it is primarily a road cut and slope (Exhibit 9).

As noted in Exhibit 6 the Topanga Henry Ridge Trail is a major north – south feeder trail connecting Topanga and the Backbone Trail to locations north including Calabasas, Serrania Park, Santa Maria Canyon Loop Trail, and the Woodland Hills area. Three adjoining properties to the south have provided similar offers to dedication a portion of this trail as offers to dedicate public trail easements. The adjoining property's offer to dedicate easement along the actual physical location of the Motorway represents an important link that will further complete this trail. Therefore, it is not necessary to require the application to dedicate a offer to dedicate a trail easement. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30212(a), 30212.5, 30213, 30223, 30252, 30254, and 30530 of the Coastal Act.

#### **F. Violations**

Development has occurred on the subject site without the required coastal development permits including construction/installation of an existing storage structure, water well and storage tank. The applicant proposes to demolish the storage structure and is requesting after-the-fact approval of the well and tank as part of their project description.

In order to ensure that the violation portion of this development project is resolved in a timely manner, **Special Condition Number eleven** requires that the applicant satisfy all conditions of this permit, which are prerequisites to the issuance of this permit, within 180 days of Commission action, with additional time that may be approved by the Executive Director for good cause.

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

#### **G. 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 leach field to accommodate the sewage 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.

**H. 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).

I. California Environmental Quality Act (CEQA)

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

The Commission finds that, the proposed 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.

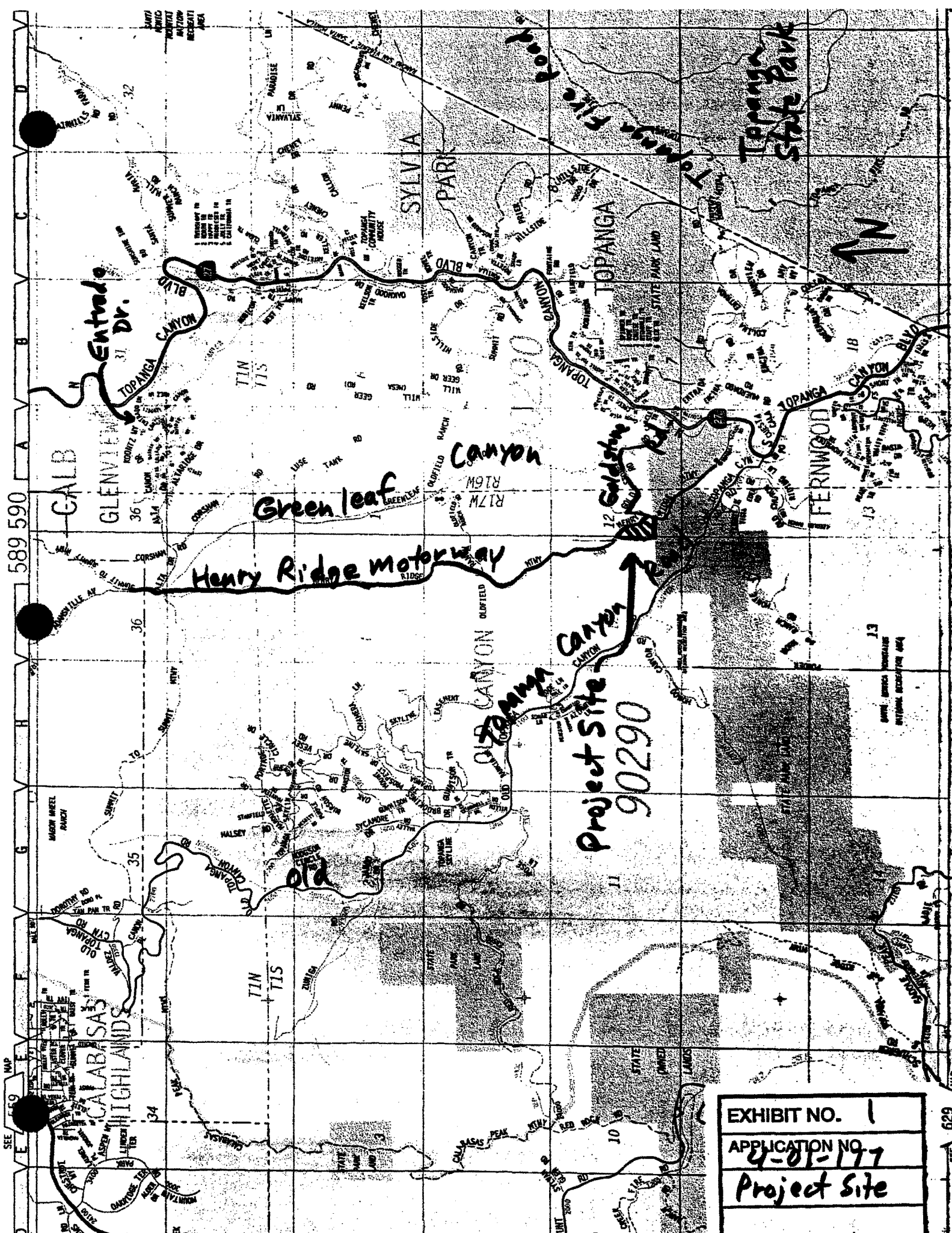
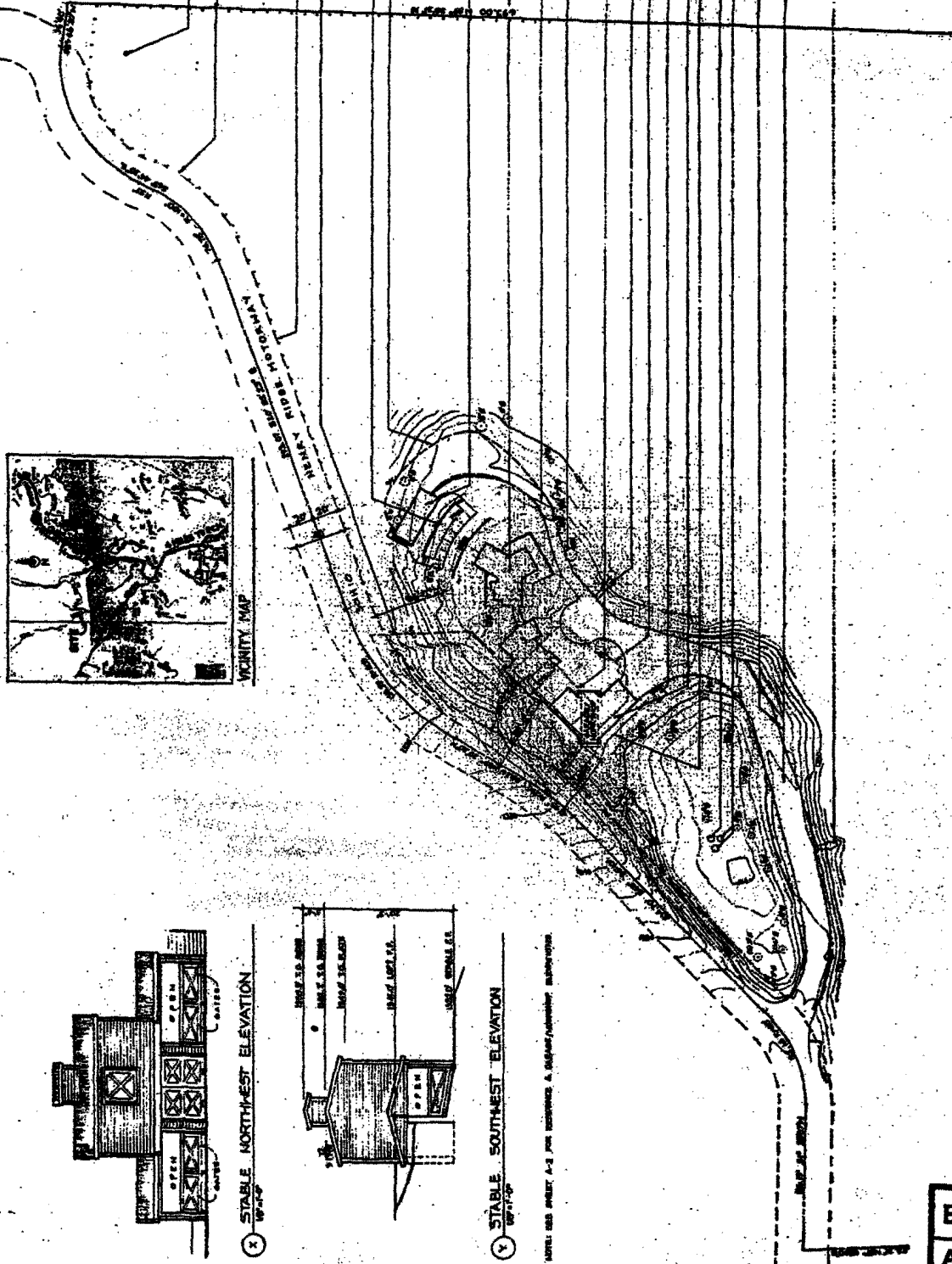


EXHIBIT NO. 1
APPLICATION NO. 4-01-197
Project Site



1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the situation.

[illegible]

## PROPOSED SITE PLAN

EXHIBIT NO. 7  
APPLICATION NO. 4-01-177  
Site Plan  
Stable Elevation



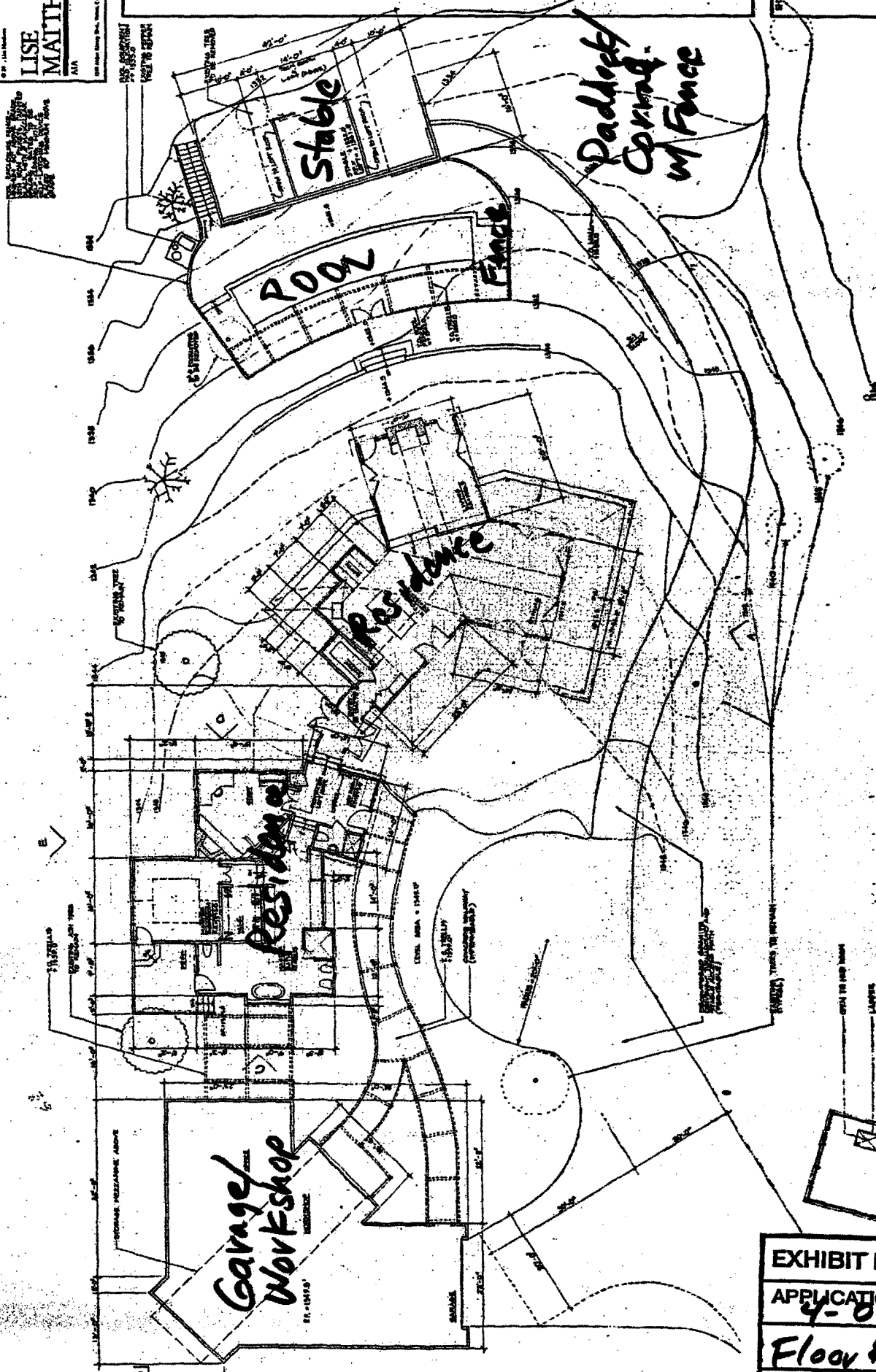
**LISE MATTHEWS**  
 ARCHITECT  
 1001 N. 10th St., Suite 100, Tempe, AZ 85281  
 (602) 964-1111

Paragon South  
 221 N. Henry Ridge Road, Tempe, AZ 85281

A-2

DATE: 12-82

BY: [Signature]



PROPOSED FLOOR AND GRADING PLAN

— CONTOUR - PROPOSED OR EXISTING TO REMAIN  
 - - - - - CONTOUR - EXISTING

NEIGHBORING LOT PLAN

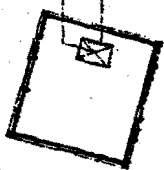
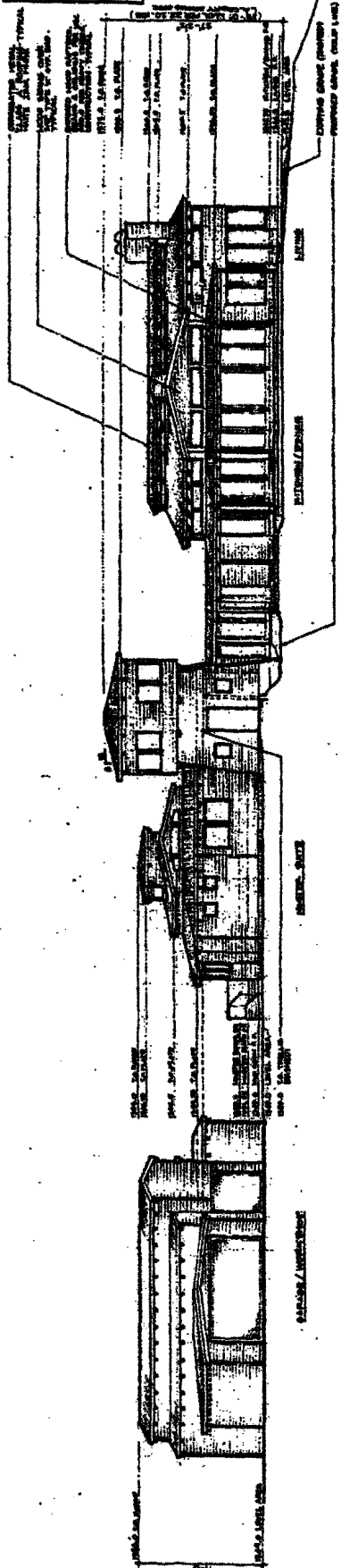


EXHIBIT NO. 3

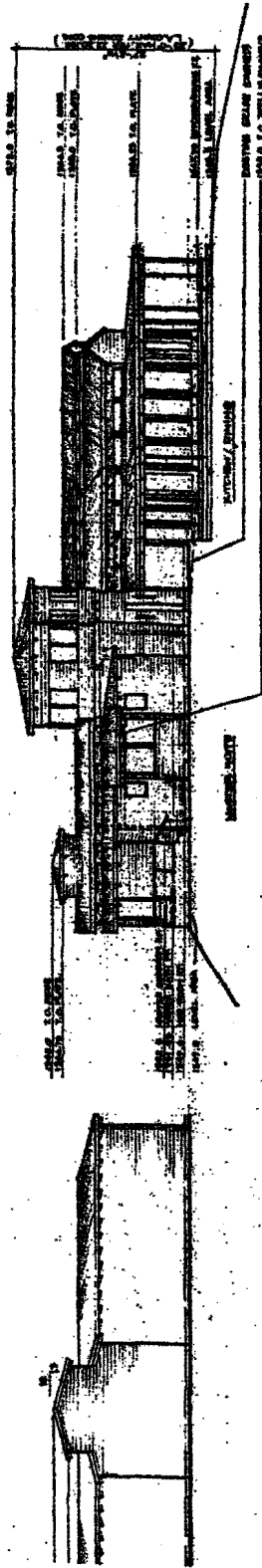
APPLICATION NO. 4-01-177

Floor & Grading Plan

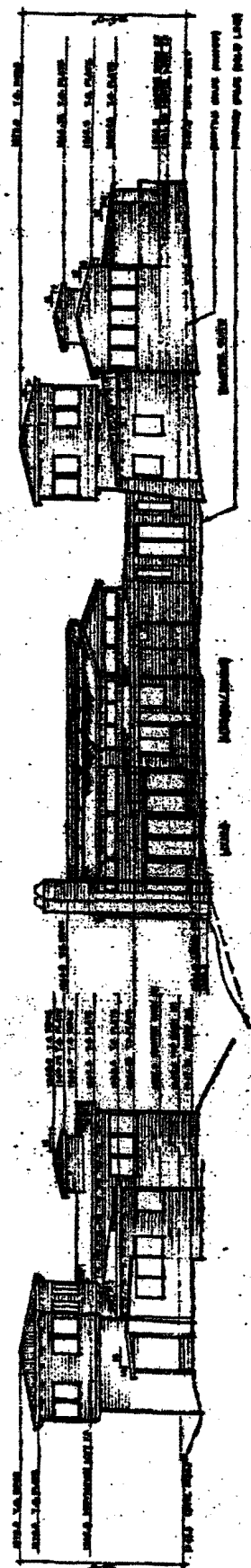
**LISE MATTHEWS**  
AAA



① SOUTHWEST ELEVATION



② NORTHWEST ELEVATION



③ NORTHEAST ELEVATION

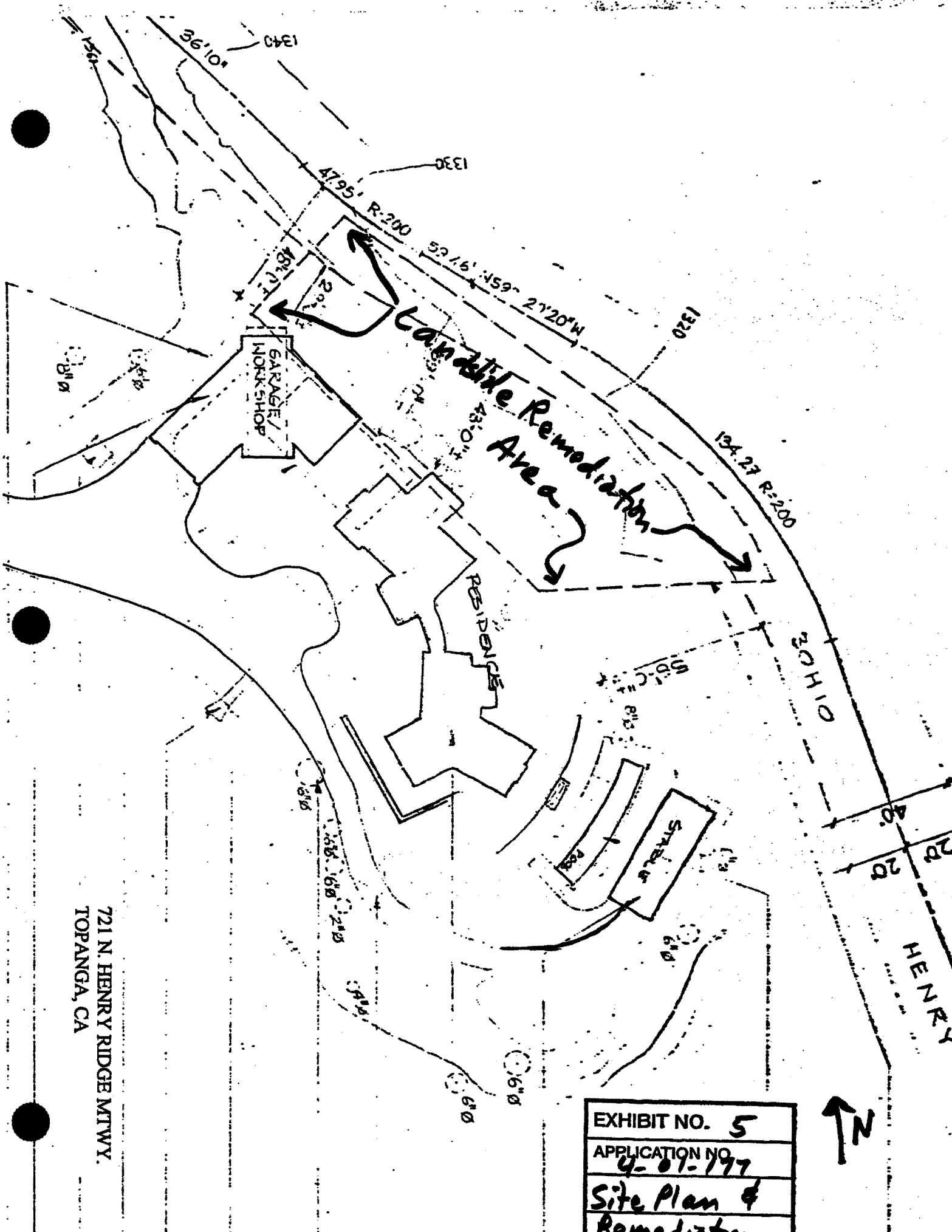
EXHIBIT NO. 4  
APPLICATION NO. 4-01-177  
Elevations

④ GARAGE - NORTH ELEVATION

Paragon South  
221 N. Henry Street, Los Angeles, CA 90012

A-3

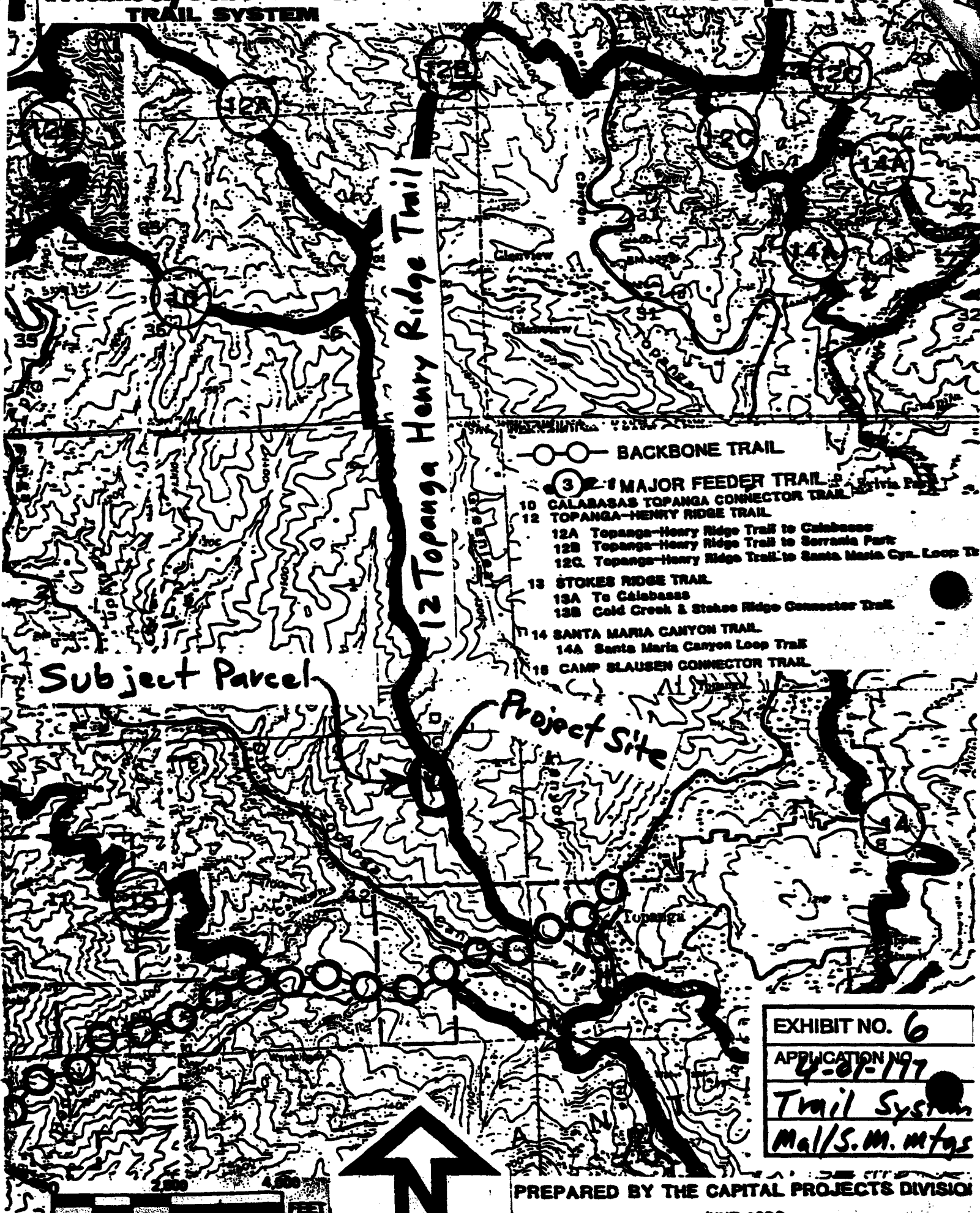




721 N. HENRY RIDGE MTWY.  
TOPANGA, CA

EXHIBIT NO. 5
APPLICATION NO. 9-01-197
Site Plan & Remediation

## TRAIL SYSTEM



Trail System  
Mal/S.M. mfgs

**PREPARED BY THE CAPITAL PROJECTS DIVISION**

JUNE 1962

EXHIBIT NO. 7

APPLICATION NO.

4-89-177

Fire break &

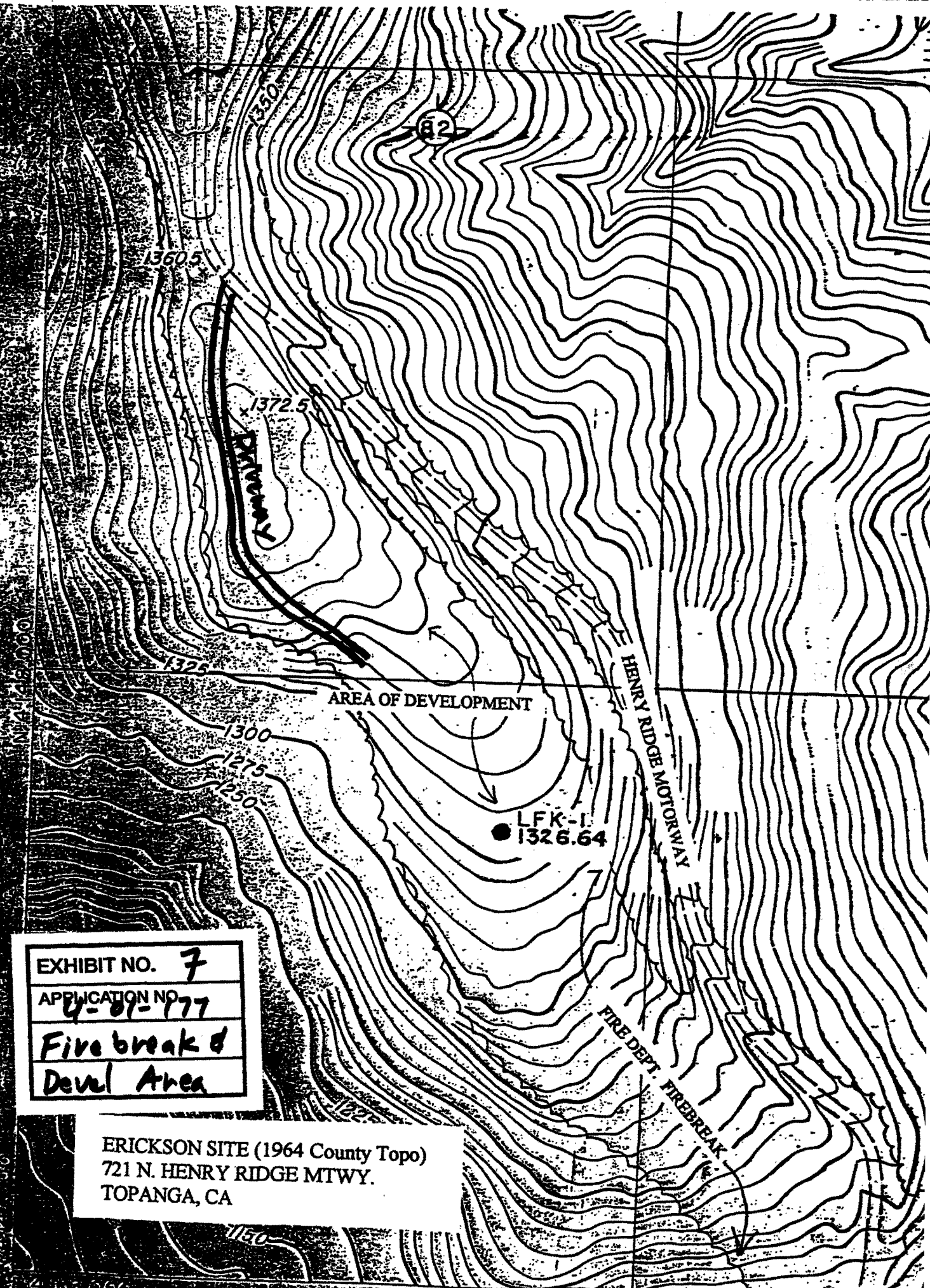
Devel Area

ERICKSON SITE (1964 County Topo)  
721 N. HENRY RIDGE MTWY.  
TOPANGA, CA

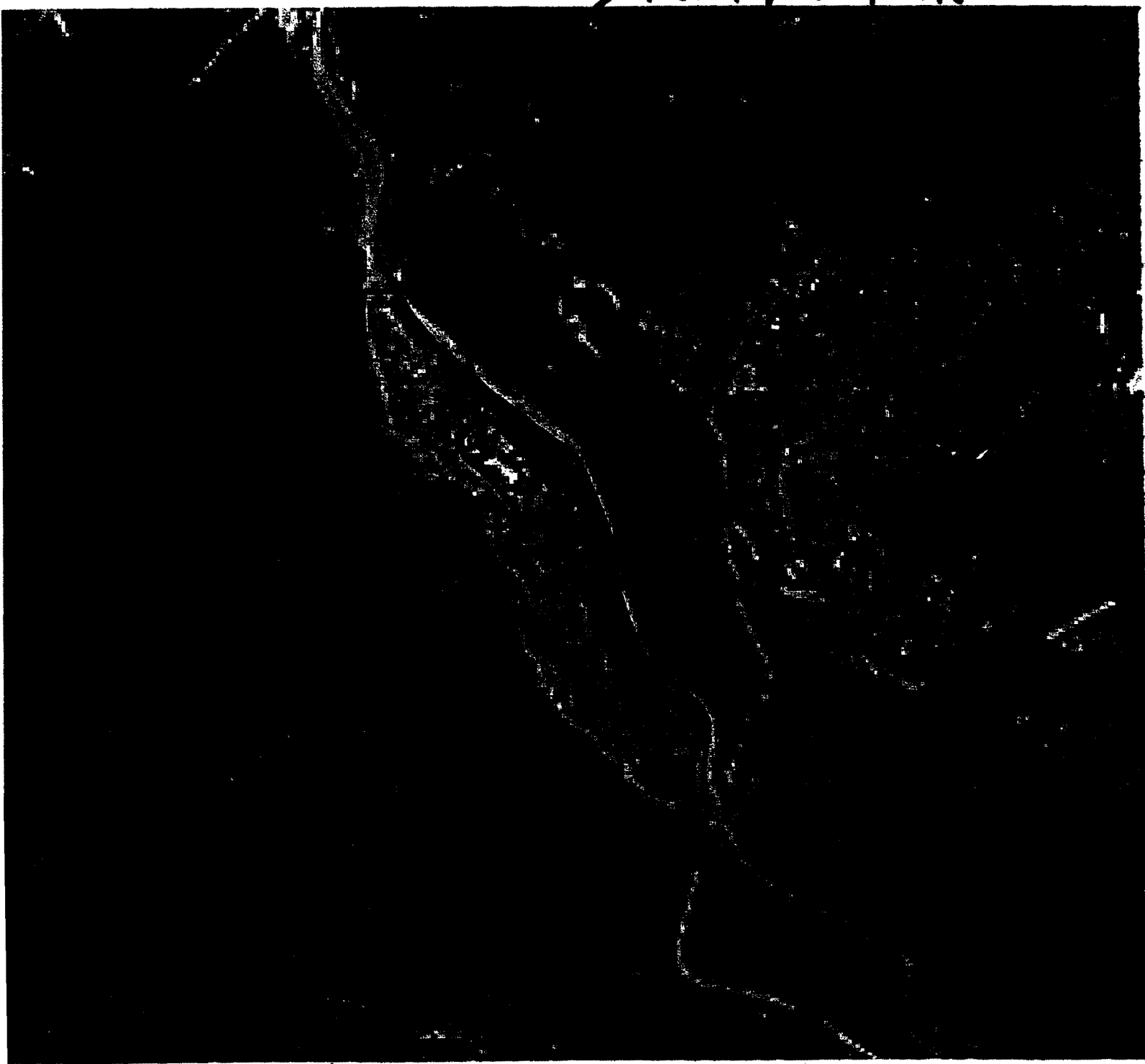
N 41.5000

E 4.03.500

E 4.103.500



Development Site



Approximate Parcel Boundaries

EXHIBIT NO. 8
APPLICATION NO. 4-81-19-7
Devel Site &
Fire Break

TOPOGRAPHIC SURVEY OF A PORTION  
OF THE SE 1/4, NE 1/4, SEC. 12,  
T.1S. R.17W. S.34M.

East  
Property  
Boundary

Henry Ridge  
Motorway & Trail Easement  
On Adjacent Parcel

Slope on Applicant's  
Property & Motorway  
Easement

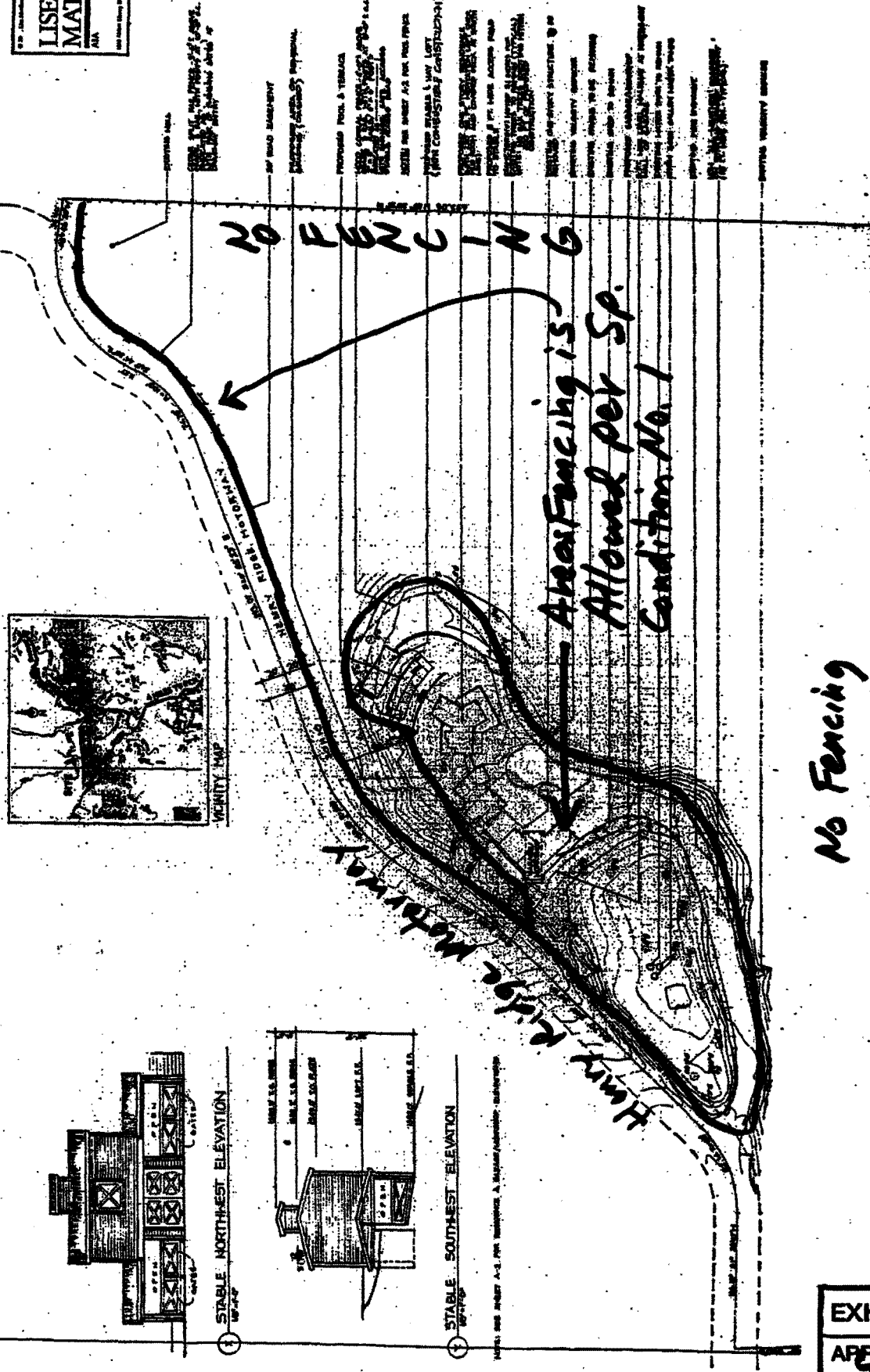
BUTRESS

Building  
Sites

GRADING PLAN

EXHIBIT NO. 9
APPLICATION NO. 81-977
Motorway Easements

M.A. SAMAL  
Surveyor



No Fencing

EXHIBIT NO. 10  
 APPLICATION NO. 9-01-177  
 Areas Fencing is Allowed