

CALIFORNIA COASTAL COMMISSION

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Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 4-02-013
APPLICANT: Raymond and Darojka Monti
PROJECT LOCATION: Mar Vista Ridge Motorway, Malibu (Los Angeles County)

PROJECT DESCRIPTION: Construction of a new 1,560 sq. ft., 17' 5" high, one-story single family residence (SFR), with attached, 598 sq. ft., subterranean 2-car garage, septic system; well; 2, 4,000-gallon water storage tanks; and 620 cu. yds. of grading (250 cu. yds. of cut and 370 cu. yds. of fill). Paving of approximately 2,335 sq. ft. of the existing access road to meet fire department requirements. In addition, proposed project includes a request for after-the-fact placement of a temporary 40' x 8' x 10' storage container on site during construction.

Lot area: 11.00 acres
Building coverage: 2,158 sq. ft.
Pavement coverage: 2,800 sq. ft.
Unimproved area: 454,202 sq. ft.
Parking spaces: 4
Ht abv fin grade: 17'5"

LOCAL APPROVALS RECEIVED: Approval in Concept, County of Los Angeles Regional Planning, dated 11/6/01; Approval in Concept (Septic System), County of Los Angeles, dated 1/15/02; Approval in Concept, Los Angeles County Fire Department, Fire Prevention Bureau: Fuel Modification, dated 9/20/01; Road Access and Turnarounds, dated 1/9/02; Los Angeles County Environmental Review Board, Approval in Concept, dated 9/17/01; Well driller's work plan approval, dated 1/15/02.

SUBSTANTIVE FILE DOCUMENTS: *Geologic/Geotechnical Engineering Report*, by Gold Coast Geoservices, Inc., dated 6/21/01; *Percolation Test Results for Seepage Pits and Septic System*, by Gold Coast Geoservices, Inc., dated 6/19/01; *Response to Environmental Health Division Review Letter*, by Gold Coast Geoservices, Inc., dated 11/30/01.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with **ten (10)** special conditions regarding Conformance with Geologic Recommendations, Drainage and Polluted Runoff, Landscaping and Erosion Control, Removal of Natural Vegetation, Wildfire Waiver of Liability, Future Development Deed Restriction, Lighting Restriction, Revised Plans, Removal of Temporary Storage Container, and Condition Compliance.

I. STAFF RECOMMENDATION

1. **Motion:** *I move that the Commission approve Coastal Development Permit No. 4-02-013 pursuant to the staff recommendation.*

2. **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.

3. **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. Plans Conforming to Geologic Recommendations

- a) All recommendations contained in the *Geologic/Geotechnical Engineering Report*, by Gold Coast Geoservices, Inc., dated 6/21/01, shall be incorporated into all final design and construction including site preparation, foundations, floor slabs, drainage, sewage disposal, and grading. All plans must be reviewed and approved by the geologic / geotechnical consultant. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, evidence of the consultants' review and approval of all project plans. Such evidence shall include affixation of the consulting geologists' stamp and signature to the final project plans and designs.
- b) The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes to 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. The Executive Director shall determine whether required changes are "substantial."

2. Drainage and Polluted Runoff Control Plan

Prior to issuance of a 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 volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with the geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

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

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

3. Landscape and Erosion Control Plan and Fuel Modification

Prior to issuance of a coastal development permit, the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall incorporate the following criteria:

A) Landscaping Plan

- (1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) 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.

- (5) Vegetation within 50 feet of the proposed house may be removed to mineral earth; vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover shall only be planted within the fifty foot radius of the proposed house and shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.
- (6) Fencing of the property shall be limited to the area delineated as Zone A on the final approved fuel modification plan. Perimeter fencing of the property shall be prohibited. Fencing shall be of a design that is visually compatible with the surrounding rural environment, such as a smooth (non-barbed) three string fencing or split rail fencing design, with the exception of the fencing around the immediate development footprint. The color of the fencing shall also be compatible with the surrounding environment.

B) Interim Erosion Control Plan

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that should grading take place during the rainy season (November 1 – March 31) the 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 geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion 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 geotextiles 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 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 report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

4. Removal of Natural Vegetation

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

5. Wildfire Waiver of Liability

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

6. Future Development Deed Restriction

This permit is only for the development described in Coastal Development Permit No. 4-02-013. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6) & 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a)&(b) shall not apply to the residence and observation platform/storage building. Accordingly, any future structures, additions, or improvements related to the residence and platform/storage building approved under Coastal Development Permit No. 4-02-013 will require a permit from the California Coastal Commission or its successor agency.

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

7. Lighting Restriction

A. The only outdoor, night lighting allowed on the site shall be the following:

- (1) The minimum necessary to light walkways used for entry and exit to the structures, including parking areas, on the site. This lighting shall be limited to fixtures that do not exceed two feet in height, that are directed downward, and use bulbs that do not exceed 60 watts, or the equivalent, unless a higher wattage is authorized by the Executive Director.
- (2) Security lighting attached to the residence that is controlled by motion detectors and is limited to 60 watts, or the equivalent.
- (3) The minimum lighting necessary for safe vehicular use of the driveway. The lighting shall be limited to 60 watts, or the equivalent.
- (4) No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

B. Prior to issuance of Coastal Development Permit No. 4-02-013 the applicant shall execute and record a deed restriction reflecting the above restrictions. 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.

8. Revised Plans

Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, revised site, grading, fuel modification, and landscaping plans which show that the developed area of the

site does not exceed 10,000 sq. ft. in size, including the building pad, and yard areas, as generally shown on Exhibit 10. All other previously disturbed areas of the site shall be revegetated with appropriate native plant species in accordance with **Special Condition 3**.

9. Removal of Temporary Storage Container

The applicant shall remove the existing storage container shown on the Site Plan (Exhibits 4-5) within two years of the issuance of this Coastal Permit or within sixty (60) days of the applicant's receipt of the Certificate of Occupancy for the proposed residence from the County of Los Angeles. After the structure is removed, the disturbed site shall be revegetated as required by **Special Condition Three** within sixty (60) days. The Executive Director may grant additional time for good cause.

10. Condition Compliance

Within one hundred twenty (120) 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

The Commission hereby finds and declares as follows:

A. Project Description and Background

The applicant is proposing construction of a 1,560 sq. ft., 17' 5" high, one-story single family residence (SFR), with attached, 598 sq. ft., subterranean 2-car garage, septic system; well; 2, 4,000-gallon water storage tanks; and 620 cu. yds. of grading (250 cu. yds. of cut and 370 cu. yds. of fill). The applicant is also proposing the paving of approximately 2,335 sq. ft. of Mar Vista Ridge Motorway to meet fire department requirements (Exhibit 4), and the after-the-fact placement of a temporary storage container on site during construction. The subject site is currently vacant, and there have been no previous coastal development permits obtained for the subject property.

The property consists of 11 acres of located along the northeast side of Mar Vista Ridge Motorway, approximately one mile east of Latigo Canyon Road. Vegetation on-site consists of native chaparral and riparian vegetation; however the building pad area and adjacent areas also contain some non-native grasses as the result of previous, pre-coastal disturbance on the site. The property is bounded by an unidentified dirt road on its northerly side, and by Mar Vista Motorway on its southwesterly side. The proposed building site is located adjacent to Mar Vista Ridge Motorway, in the southern part of the parcel, near the top of a northwest trending ridge. Slopes in the vicinity of the proposed building area are gentle to moderate, not exceeding 2.3:1. Approximately, 200 feet to the east of the proposed building site, however, slopes increase to 1.5:1. The maximum

elevation change on the site is approximately 160 feet. Drainage from the property is primarily northeast by sheetflow runoff, toward an unnamed USGS mapped blueline stream (Exhibit 3). The entire parcel is located within the Solstice Canyon Significant Watershed Area, a designated sensitive resource area in the Malibu/Santa Monica Mountains Land Use Plan (Exhibit 2). The project site is not visible from any trails, scenic roads, or public viewing areas.

Access to the project site is from Latigo Canyon Road and McReynolds Roads to Mar Vista Ridge Motorway, a partially paved road which extends southeast from McReynolds Road. Mar Vista Ridge Motorway forms the southwestern boundary of the subject property (Exhibits 1 and 4).

In order to comply with fire department requirements for access to the site, the applicant is proposing to pave approximately 2,335 sq. ft. of Mar Vista Road as it approaches the project site (Exhibit 3). The improvements proposed to the Mar Vista Road are located within the existing road easement and were previously approved under CDP 4-94-224 (Mar Vista Road Homeowners Association).

B. Geologic Stability and Hazards

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

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, 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...*

Section 30250(a) of the Coastal Act states (in part):

New residential, ... development, ... shall be located within, contiguous with, or in close proximity to existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

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, flooding, and earth movement. In addition, fire is a persistent threat due to the indigenous chaparral community of the coastal mountains. Wildfires can denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides.

The prominent geomorphic features in the area are Latigo Canyon to the west, Solstice Canyon to the north and east, and the Pacific Ocean and various beaches to the south. The project site is located on a small knoll within a western trending, descending ridge line. Drainage on-site is by sheetflow, to the northeast, via existing contours, and into a USGS mapped blueline stream (Exhibit 3), a tributary of Solstice Creek, which drains to the Pacific Ocean.

The project proposes a total of 620 cu. yds. of grading (250 cu. yds. of cut and 370 cu. yds. of fill) for the siting of the residence on the building pad, excavation of the garage area, driveway, and fire department turnaround. The applicant has submitted reports indicating that the geologic stability of the site is favorable for the project and that no

potentially active faults, adversely oriented geologic structures, or other hazards were observed by the consultants on the subject property. Based on site observations, slope stability analysis, evaluation of previous research, analysis and mapping of geologic data, and limited subsurface exploration of the site, the engineering geologists have prepared reports addressing the specific geotechnical conditions related to the site.

The *Geologic/Geotechnical Engineering Report*, by Gold Coast Geoservices, Inc., dated 6/21/01, in evaluating the various engineering geologic factors affecting site stability and the existing site conditions, states:

It is the opinion of the undersigned that the proposed construction will be safe against hazard from landslide settlement, or slippage, and that the proposed construction will have no adverse geologic effect on offsite properties. Assumptions critical to our opinion are that the design recommendations will be properly implemented during the proposed construction and that the property will be properly maintained to prevent excessive irrigation, blocked drainage devices, or other adverse conditions.

The Commission notes that the geologic and engineering consultants have included a number of recommendations regarding site preparation, setbacks, foundations, drainage, sewage disposal, and grading which will increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission finds it necessary to require the applicant, through **Special Condition 1**, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The project will increase the amount of impervious coverage on-site which may increase both the quantity and velocity of stormwater runoff. If not controlled and conveyed off-site in a non-erosive manner, this runoff may result in increased erosion, affect site stability, and impact downslope water quality. The applicant's geologic / geotechnical consultant has recommended that site drainage be collected and distributed in a non-erosive manner. Interim erosion control measures implemented during construction will minimize short-term erosion and enhance site stability. However, long-term erosion and site stability must be addressed through adequate landscaping and through implementation of a drainage and runoff control plan. To ensure that runoff is conveyed off-site in a non-erosive manner, the Commission finds it necessary to require the applicant, through **Special Conditions 1, 2, and 3**, to submit drainage / erosion control plans conforming to the recommendations of the consulting geotechnical engineer for review and approval by the Executive Director, to adequately control runoff from impervious surfaces, and to assume responsibility for the maintenance of all drainage devices on-site.

In addition to controlling erosion during grading operations, landscaping of the graded and disturbed areas of the project will enhance the stability of the site. Long-term erosion can be minimized by requiring the applicant to revegetate 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 has found that such plant species do not serve to stabilize slopes and may adversely affect the overall stability of a project site. Native species, alternatively, tend to have a deeper root structure and aid in preventing erosion. Invasive, non-indigenous plant species tend to supplant species that are native to the Malibu / Santa Monica Mountains area. Increasing urbanization in this area has already caused the loss or degradation of major portions of native habitat and native plant seed banks through grading and removal of topsoil. Moreover, invasive and fast-growing trees and groundcovers originating from other continents

which have been used for landscaping in this area have seriously degraded native plant communities adjacent to development. Therefore, the Commission finds that in order to ensure site stability, all disturbed, graded, and sloped areas on-site shall be landscaped with appropriate native plant species, as specified in **Special Condition 3**.

The Commission requires that new development minimize the risk to life and property in areas of high fire hazard while recognizing that new development may involve the taking of some risk. Vegetation in the coastal areas of the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral, communities which have evolved in concert with, and continue to produce the potential for frequent wildfires. The warm, dry summer conditions of the local Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wildfire damage to development that cannot be completely avoided or mitigated. When development is proposed in areas of identified hazards, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use the property.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through the wildfire waiver of liability, as incorporated in **Special Condition 5**, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. For fire suppression, and to protect residences, the Fire Department requires the reduction of fuel through the removal and thinning of vegetation for up to 200 feet from any structure. The applicant has submitted a Fuel Modification Plan with final approval by the Los Angeles County Fire Department Fuel Modification Unit for this project.

The fuel modification required for the proposed residence will overlap onto the properties located immediately to the north and east of the subject site (Exhibit 10). In order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition 4**. This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The limitation imposed by **Special Condition 4** avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans. Therefore, Commission finds that the proposed project, as conditioned, is consistent with Sections 30250 and 30253 of the Coastal Act.

C. Environmentally Sensitive Resources

Sections 30231 and 30240 of the Coastal Act require that development in and adjacent to Environmentally Sensitive Habitat Areas shall be sited and designed to prevent impacts which would significantly degrade those areas. Section 30231 requires the protection of coastal waters and aquatic ecosystems, through, among other means, controlling runoff (drainage management and erosion control, for example) and limiting the removal of natural vegetation that serves to buffer adverse impacts upon these resources.

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

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 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 requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, 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. 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 1,970 foot elevation above sea level.

Commission staff visited the site on June 3, 2002, confirming that the building site is located within an area that has previously been partially cleared of native vegetation. The area adjacent to the building pad location, and portions of the building pad area

have been previously cleared of vegetation, and partially graded in conjunction with the use of the site for a shooting range/club. These alterations took place prior to the inception of the Coastal Act, as did the construction of the observation platform/storage building. It was observed that the area surrounding the proposed building pad included chaparral plant species. The remainder of the 11-acre parcel except for those portions directly adjacent to Mar Vista Ridge Motorway is also densely covered with native chaparral species (predominately ceanothus scrub). 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 can be found in the below habitat descriptions from Holland (1986), and also follows the list given in the NPS General Management Plan & Environmental Impact Statement for the Malibu/SMM area:

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 Mar Vista Ridge Road and the building site is chaparral that is typical of this area at the 1,900 foot elevation. The building pad area was previously partially graded and now includes non-native grasses and an introduced, mature, pine tree (Exhibit 11). 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 two main slopes, the largest facing the north, another to the east. The subject parcel includes ceanothus, laurel sumac, chamise, and California bay, among other native chaparral species. The building site is located about 390 feet south of and drains into, an unnamed, USGS mapped blue line stream, which, in turn, drains into Solstice Creek.

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 footprint of previous pre-coastal disturbance of the site. 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 11-acre parcel, except for the previously graded portions of the property, and Mar Vista 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, it does so in a minimal way with the proposed 2,158 sq. ft. footprint of the residence/garage, the existing observation platform/storage building, and the two water tanks on the two development pad areas combining for 7,077 sq. ft of development area. It is important to note that the existing observation platform/storage building is a concrete block structure that will not require additional fuel modification. As a result, the modification area required for protection of the residence will not be extended to include the observation platform/storage building since it is not 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 March 2001. 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 several

parcels along Mc Reynolds Road and Mar Vista Ridge Motorway that generally contain the same type of habitat as the applicants' parcel. At 2700 Mar Vista Ridge Motorway, the Commission approved a 2,100 sq. ft. residence (CDP No. 4-94-122, Schmitz). At 2145 McReynolds Road, the Commission approved a 2,595 sq. ft. residence (CDP No 4-95-125). At 2245 McReynolds Road, the Commission approved a 5,200. ft. residence (CDP No 4-95-126). Under, CDP 4-94-224 (Mar Vista HOA) the Commission approved the improvement and paving of two miles of Mar Vista Motorway, and the extension of utilities along the road to service future residential development along this road.

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 11-acre parcel is surrounded by other residentially-zoned undeveloped and developed parcels, however, as noted above there are several existing parcels developed or approved with residential development located to the north along Mar Vista Ridge Motorway and to the northwest along McReynolds Road. 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 (1,750 sq. ft.), attached deck, driveway, water well, observation platform/storage building, and two water 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 a disturbed area along a long established graded road. The disturbed area was partially graded and cleared of vegetation prior to the effective date of the Coastal Act. The remainder of the property consists of gentle to steep slopes, which would require substantially more grading for construction of the residence and driveway, or would result in additional fuel modification from the residence encroaching into undisturbed ESHA. As proposed, the project only requires minimal grading, of 250 cubic yards cut and 370 cubic yards fill. Therefore, there is no alternative location for the residence on the parcel that could reduce the adverse impacts to ESHA.

The certified Santa Monica Mountains LUP policies addressing protection of Significant Watersheds are among the strictest and most comprehensive in addressing new development. In its findings regarding the LUP, the Commission emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. The Commission found in its action certifying the Land Use Plan in December, 1986 that:

Coastal canyons in the Santa Monica Mountains require protection against significant disruption of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.

The LUP contains several policies designated to protect the Watersheds, and ESHA's contained within, from both the individual and cumulative impacts of development:

Protection of Environmental Resources

P63: Uses shall be permitted in ESHAs, DSRs, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with the Table 1 and all other policies of this LCP.

Table 1 states that for "existing parcels smaller than 20 acres in proximity to existing development and/or services, and/or on the periphery of the significant watershed:, residential uses are permitted: "at existing parcel cuts (buildout of parcels of legal record) in accordance with specified standards and policies...". The Table 1 policies applicable to Significant Watersheds are as follows:

...Allowable structures shall be located in proximity to existing roadways, services and other development to minimize the impact on the habitat.

...Grading and vegetation removal shall be limited to that necessary to accommodate the residential unit, garage, and one other structure, one access road and brush clearance required by the Los Angeles County Fire Department. The standard for a graded pad shall be a maximum of 10,000 sq. ft.

The applicant has concentrated the proposed development on an approximately 6,850 sq. ft. pad, located directly adjacent to Mar Vista Motorway, thus minimizing landform

alteration or other impacts on the habitat of the significant watershed. An additional accessory pad is proposed to accommodate the two water storage tanks, as shown on Exhibit 10. This pad is of approximately 227 sq. ft. in size, which is consistent with the overall 10,000 sq. ft. development area guideline. The pads are located in the southwest portion of the property. There is also evidence on the site of vegetation clearance and partial grading which took place prior to the inception of the Coastal Act (Exhibit 11). The applicants have also indicated, in their landscaping plan their desire to include several 'lawn' areas in the development which utilize these previously cleared and graded areas. These areas would expand the development area, as generally shown on Exhibit 10, beyond the 10,000 sq. ft. maximum pad size for the development. Therefore, the Commission requires the applicant to submit revised final plans which delineate the final developed area of the site as being under 10,000 sq. ft. in size, as generally shown on Exhibit 11. This development area shall include the residence, turnaround area, proposed lawn/garden areas. All other disturbed areas of the site shall be revegetated with appropriate native plant species pursuant to **Special Conditions 2 and 3**. The location for the proposed building site for the residence, adjacent to Mar Vista Ridge Motorway will additionally minimize the amount of grading necessary to create a driveway to the proposed residence.

The applicant has additionally submitted a fuel modification plan for the proposed project, as approved The Los Angeles County Fire Department, which delineates the extent of clearance and brushing requirements proposed by the applicant for the residence to meet fire safety regulations (Exhibit 10). No other undisturbed native vegetation will be modified to comply with the fuel modification requirements of the Fire Department. **Special Condition 3**, however, requires the applicant to prepare and submit a landscape plan for the entire parcel that relies primarily upon the use of drought tolerant, native plants. The implementation of the final approved plan will result in the usage of primarily locally native species, thus minimizing the impacts of the development on the significant watershed, and wildlife habitat overall.

In addition to requiring the impacts associated with fuel modification, the Commission has found that night lighting of a high intensity has the potential to disrupt the hunting, roosting, and nesting behavior of wildlife that occupy and pass through this sensitive habitat area. The Commission's application of **Special Condition 7** reduces the disruptive effects that night lighting can have on the wildlife occupying these habitat areas, by restricting outdoor night lighting to the minimum amount required for safety.

...New on site roads shall be limited to a maximum of 300 feet or one third of the parcel depth, whichever is smaller.

The proposed driveway with fire department turnaround is approximately 50 feet in length from the point at which it diverges from the access/easement road, which is located immediately off site. As such, the length of the driveway as it is located from the property boundary is less than 300 feet, and conforms to the above Table 1 policy regarding new roads on site. The applicant additionally proposes to pave approximately 90 feet of the existing access/easement road; however, these improvements are located off-site on the adjacent property to the east.

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

As stated previously, the site is adjacent to the Santa Monica Mountains National Recreation Area, and drains into a USGS mapped blue-line tributary of Solstice Canyon Creek. The Commission finds that the minimization of non-point source pollutants from new development will help to maintain and enhance the quality of coastal waters, streams, wetlands, estuaries and lakes. Non-point source pollution is the pollution of coastal waters (including streams and underground water systems) which enters the waterway from numerous sources which are difficult to identify on an individual basis. Non-point source pollutants include suspended solids, coliform bacteria and nutrients. These pollutants can originate from many different sources such as overflow septic systems, storm drains, runoff from roadways, driveways, rooftops and horse facilities.

Grading for the proposed project will encompass a total of 620 cu. yds. (250 cu. yds. cut and 370 cu. yds. fill) for the siting of the residence, fire department turnaround, and driveway. The applicant has submitted a geologic report dated June 21, 2001, and prepared by Gold Coast Geoservices, Inc. which makes specific recommendations regarding site stabilization upon grading, and the proper management of site drainage to avoid erosion and ensure site stability. The Commission finds that the implementation of the geologic recommendations, as required by **Special Condition 1**, and the implementation of specific erosion management measures that must be implemented should grading be undertaken during the rainy season, pursuant to **Special Conditions 2 and 3**, will ensure that erosion is controlled consistent with the Section 30231 and the Table 1 policies and will reduce the non-point source pollution impacts of the proposed development on the nearby drainages.

In order to address the issue of wildlife movement across the property and in association with the Solstice Canyon Significant Watershed, and the adjacent wildlife corridor located to the west of the site, the Commission requires the applicant, through **Special Condition 3**, to restrict fencing of the site to the immediate vicinity of the residence, and prohibits perimeter fencing of the property, thereby allowing the free passage of wildlife within the wildlife corridor. **Special Condition 3** also requires that any fencing that is otherwise consistent with the applicable policies of the Coastal Act, shall be designed and constructed of materials that are safe for wildlife to pass through (chain link or barbed wire, for example, would not be acceptable anywhere on the site).

As stated previously, wildlife corridors serve as "highways" for wildlife movement, connecting otherwise isolated populations and habitats essential to the survival of rare and threatened species such as the red-legged frog, willow flycatchers, Cooper's hawks, and the Least Bell's Vireo. Development in close proximity to such habitats can disturb wildlife, disrupting their natural behavioral patterns, and forcing them to search further afield for necessary resources. Development in these sensitive resource areas, resulting in the additional removal of native vegetation through grading and fuel modification requirements, the construction of fencing, and increased night lighting results in the degradation of habitat essential to the functioning of the ecosystem as a whole. As such, the Commission requires the applicant, through **Special Condition 6**, to record a future improvements deed restriction. The recordation of such a restriction will result in future

development, which might otherwise be exempt, being analyzed to limit and address the potential impacts to the wildlife corridor, stream drainages, and other sensitive resources.

Development within areas of ESHA, the Commission typically requires a maximum development area 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 (the existing observation platform/storage building, which is constructed with Class 1 materials, concrete and metal, that are not flammable or require additional fuel modification is not proposed as a habitable structure) 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, deck, and water tanks on two pad areas that combine for a total developed pad area of approximately 7,077 sq. ft. The applicant also proposes to retain an existing pre-coastal observation platform/storage building, and seeks after-the-fact approval for the placement of a temporary storage container on site during construction of the residence. The proposed water tanks are located on a separate pad from the residential pad and is about 227 sq. ft. in size. It is important to note that the water tanks, and the observation platform/storage building are proposed to be constructed of Class I materials that are not combustible such as concrete and metal. Additionally, the proposed deck is to be constructed of non-flammable materials. As a result, the water tanks, observation platform/storage building, and deck will not require any additional fuel modification area, including any additional vegetation removal on there respective pad areas. Therefore, the required fuel modification will only be required for the proposed residence. The fuel modification area required for the proposed residence and garage will encompass about 3 acres of the 11-acre parcel and will also extend offsite to the west. The applicants propose a moderately sized one-story residence of 1,560 sq. ft. Further reducing the size of the residence, observation platform, and water tanks or further clustering these structures 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 3 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 4** 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 Solstice Canyon Creek which is also an environmentally sensitive habitat area. The building site drains southwesterly and southeasterly into an unnamed tributary of Solstice Creek. Riparian vegetation and habitat, and the mapped USGS blue-line stream are located approximately 390 feet from the proposed residential development site. As the project site and property is located within a Malibu/Santa Monica Mountains Land Use Plan Significant Watershed area, the proposed project was reviewed by the Los Angeles County Environmental Review Board. 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 required by the Los Angeles County Fire Department. 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 2**.

The applicant proposes to grade 250 cubic yards of cut, 370 cubic yards of fill for the project. The proposed grading has the potential to create erosion on site and create offsite sedimentation into the drainage courses leading to the above noted unnamed blue-line stream tributary to Solstice Creek. The Commission finds that minimizing site erosion will minimize the project's potential individual and cumulative contribution to adversely affecting these natural drainage courses. Erosion can best be minimized by requiring the applicant to landscape all graded and disturbed areas of the site with native plants, compatible with the surrounding environment. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission finds that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize pad areas and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and aid in preventing erosion. Therefore, in order to minimize erosion and resultant sedimentation of the tributaries and Solstice Canyon Creek downstream, **Special Condition 3**

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 3** 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 retain an existing, pre-coastal, observation platform/storage structure in conjunction with the construction of a new one story, 17' 5" (from finished grade) 1, 750 sq. ft. single family residence, attached deck, septic system, water well and two water storage tanks, and grade a total of 620 cubic yards of material. The applicant proposes to construct the deck with non-flammable materials in order to minimize the fuel modification needed for the development.

The site is considered a "hillside" development, as it includes gentle to moderately sloping terrain with soils that are susceptible to erosion surrounding the proposed building site. Further, use of the site for residential purposes introduces potential sources of pollutants such as petroleum, household cleaners, 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 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Such a plan will allow for the infiltration and filtering of runoff from the developed areas of the site, most

importantly capturing the initial, "first flush" flows including the 85th percentile 24-hour event and the one-hour event that occur as a result of the first storms of the season. This flow carries with it the highest concentration of pollutants that have been deposited on impervious surfaces during the dry season. Additionally, the applicant must monitor and maintain the drainage and polluted runoff control system to ensure that it continues to function as intended throughout the life of the development. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition 2**, 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 3** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

The proposed development also includes the installation of an on-site septic system with 1,500-gallon tank to serve the residence. 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. The applicants' geologic consultants performed percolation tests and evaluated the proposed septic system. The report concludes that the site is suitable for the septic system and there would be no adverse impact to the site or surrounding areas from the use of a septic system. The applicant has submitted in-concept approval from the County of Los Angeles stating that the proposed septic system is in conformance with the minimum requirements of the Uniform Plumbing Code. The Los Angeles County minimum health code standards for septic systems take into account the percolation capacity of soils, the depth to groundwater, and other considerations, and have generally been found to be protective of coastal resources. The Commission therefore finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

Therefore, the Commission finds that the proposed project, as required by **Special Conditions 2 and 3** to incorporate and maintain a drainage and polluted runoff control plan, and interim erosion control plan, is consistent with Section 30231 of the Coastal Act.

Therefore, the Commission finds that the proposed project, as conditioned by **Special Conditions 1,2,3, 6, and 7** is consistent with the policies of Sections 30230, 30231 and 30240 of the Coastal Act. In addition, as noted above, the Commission has determined that the proposed project is also consistent with the applicable guidelines comprised by the policies of the certified Malibu/Santa Monica Mountains Land Use Plan, upon which the Commission has relied as a reference and guideline in reviewing previous coastal development permit applications.

D. Violations

As stated previously, the installation of a 40' x 8' x 10' storage container has occurred without the required coastal development permit (Exhibits 10 and 11). The applicant seeks after-the-fact approval for the installation of the container and proposes to remove it upon completion of the construction of the residence. To ensure that the applicant's proposal to remove the unpermitted container is properly implemented and that the violation involving the removal of the storage container is resolved in a timely manner, **Special Condition 9** requires that the applicant remove the storage container within 60 days of receipt of the certificate of occupancy for the residence, or within two years of Commission action. To further ensure that the violation portion of this development project that is addressed in this permit action is resolved in a timely manner, **Special Condition 10** requires that the applicant satisfy all conditions of this permit, which are prerequisites to the issuance of this permit, within 120 days of Commission action.

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.

E. Local Coastal Program

Section 30604(a) of the Coastal Act states (in part):

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

Section 30604(a) of the Coastal Act stipulates 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 significant adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

F. California Environmental Quality Act (CEQA)

Section 13096(a) of the Coastal Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California 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.

bkl

SEE MAP 1587

D E F G H J
V

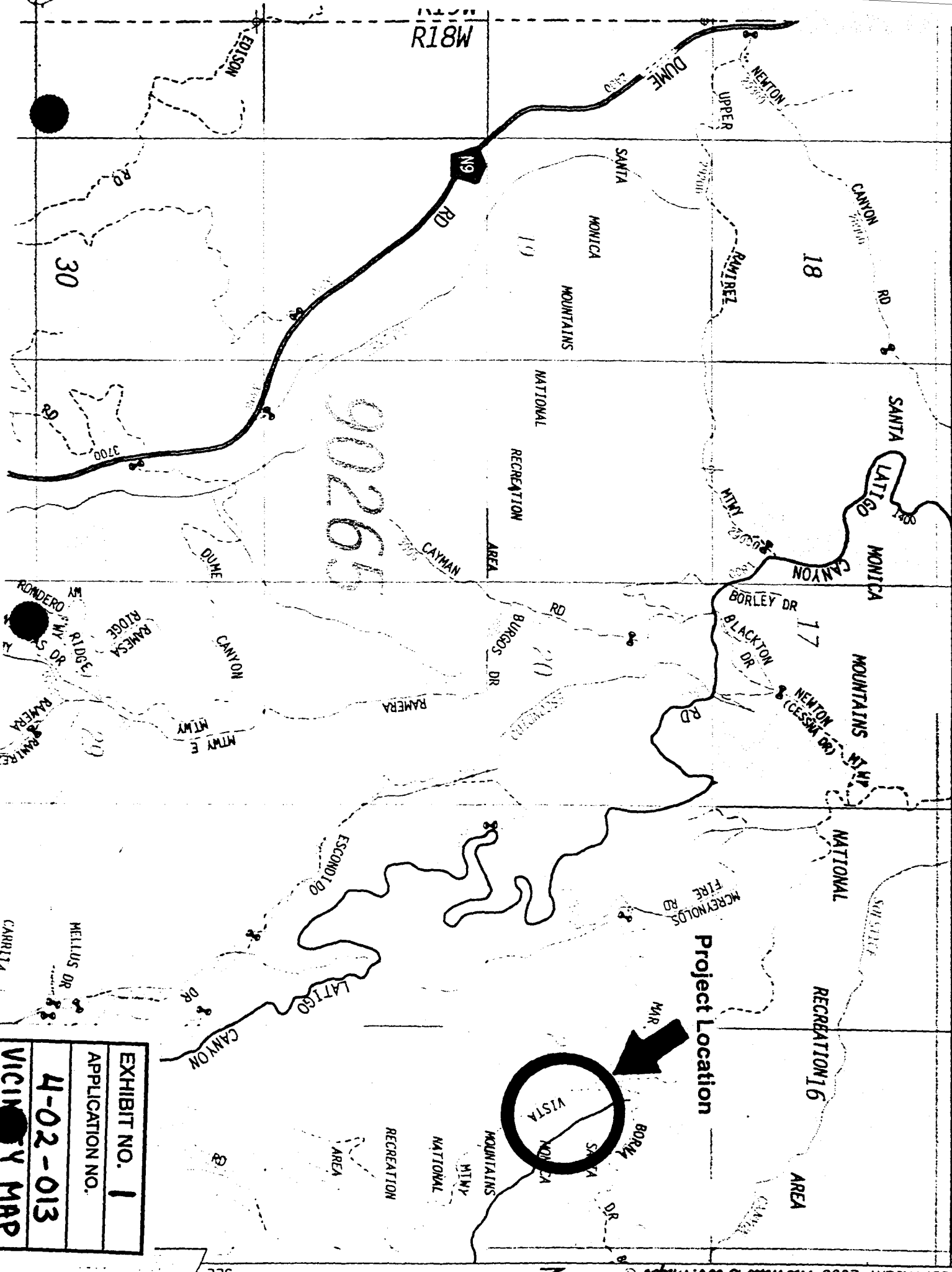
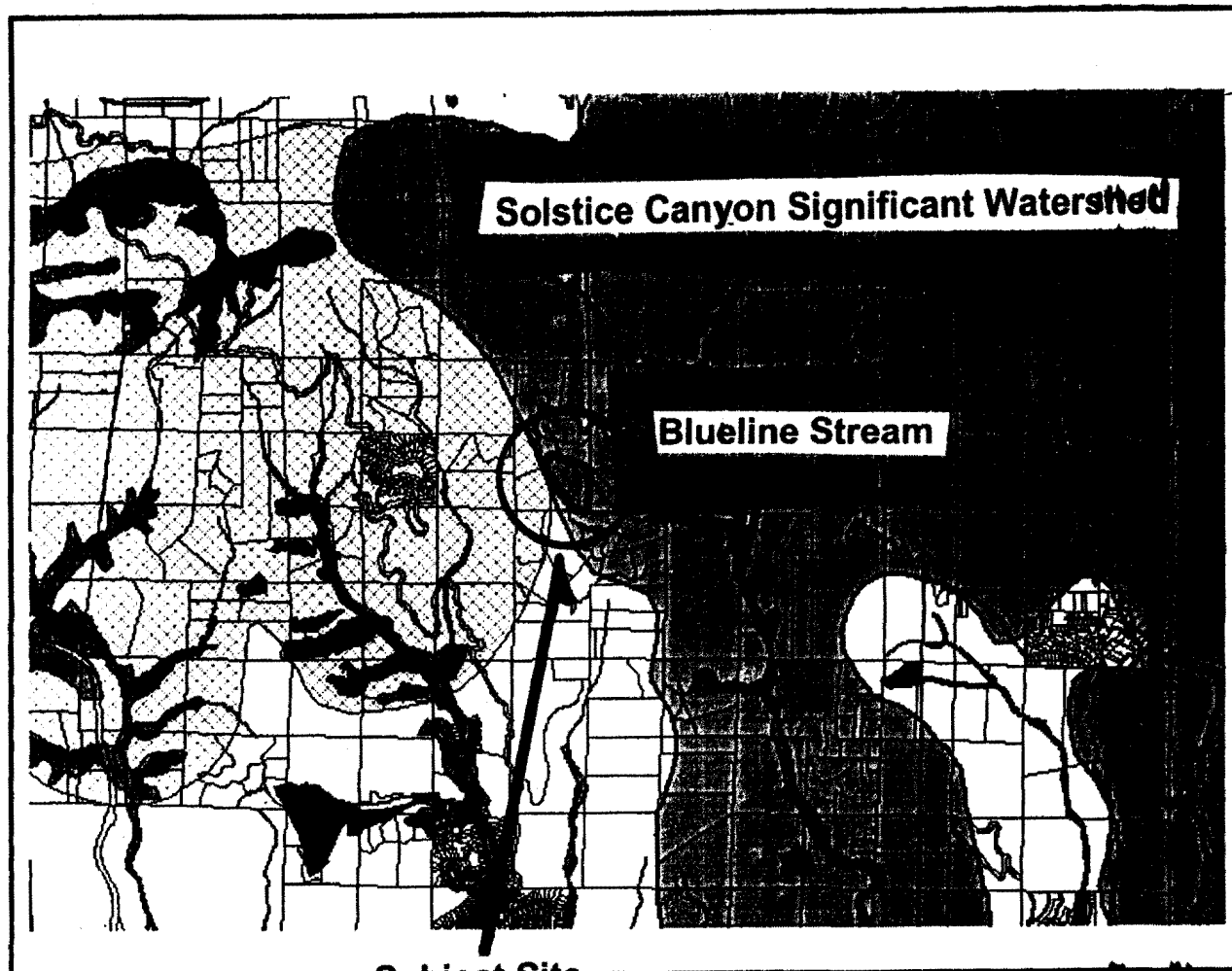


EXHIBIT NO. 1
APPLICATION NO.
4-02-013
VICINITY MAP

4-02-013 Monti



Subject Site

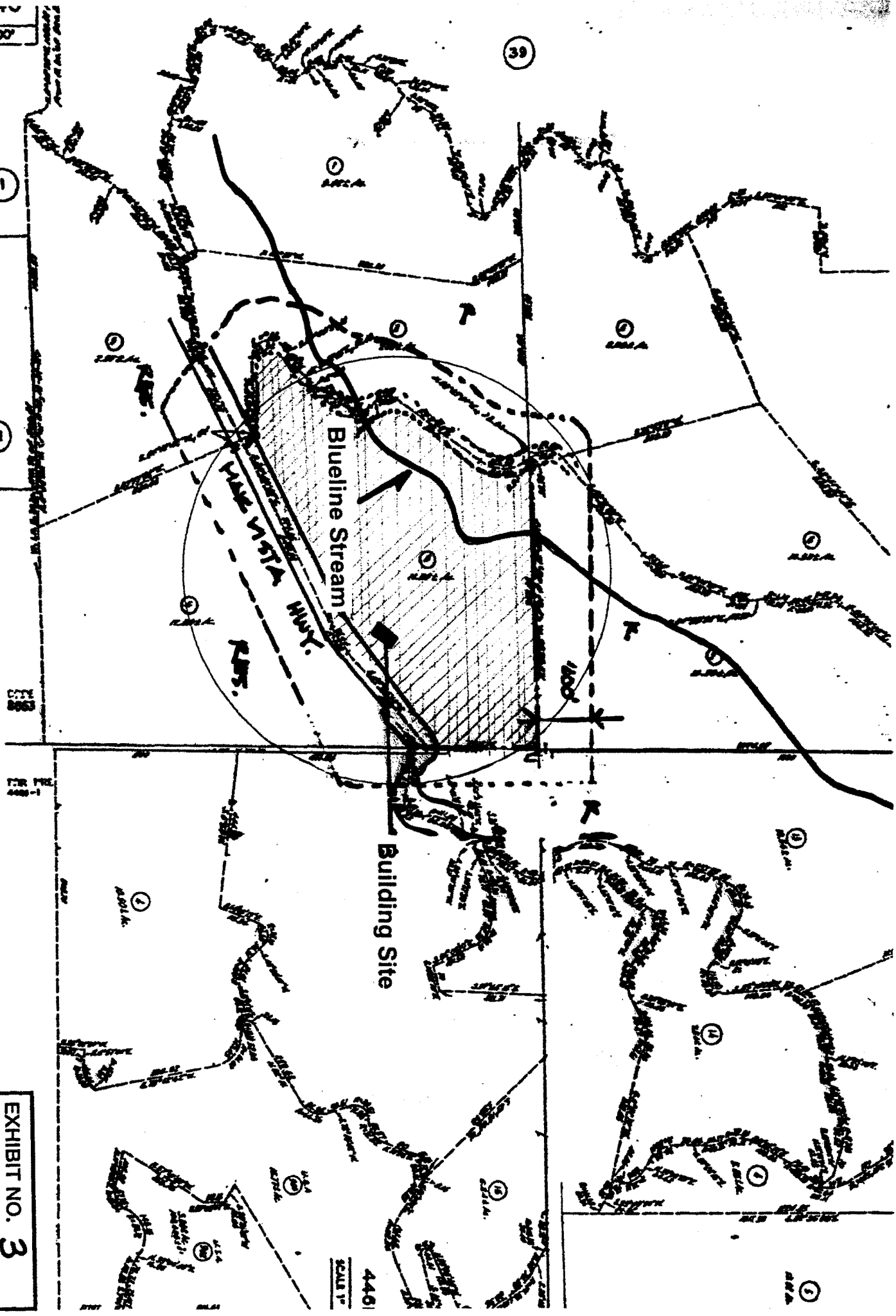


EXHIBIT NO. 2
APPLICATION NO.
4-02-013
ESHA MAP

SCALE 1" = 200'



4



440
SCALE 1" = 200'

EXHIBIT NO. 3
APPLICATION NO.
4-02-013
PARC MAP

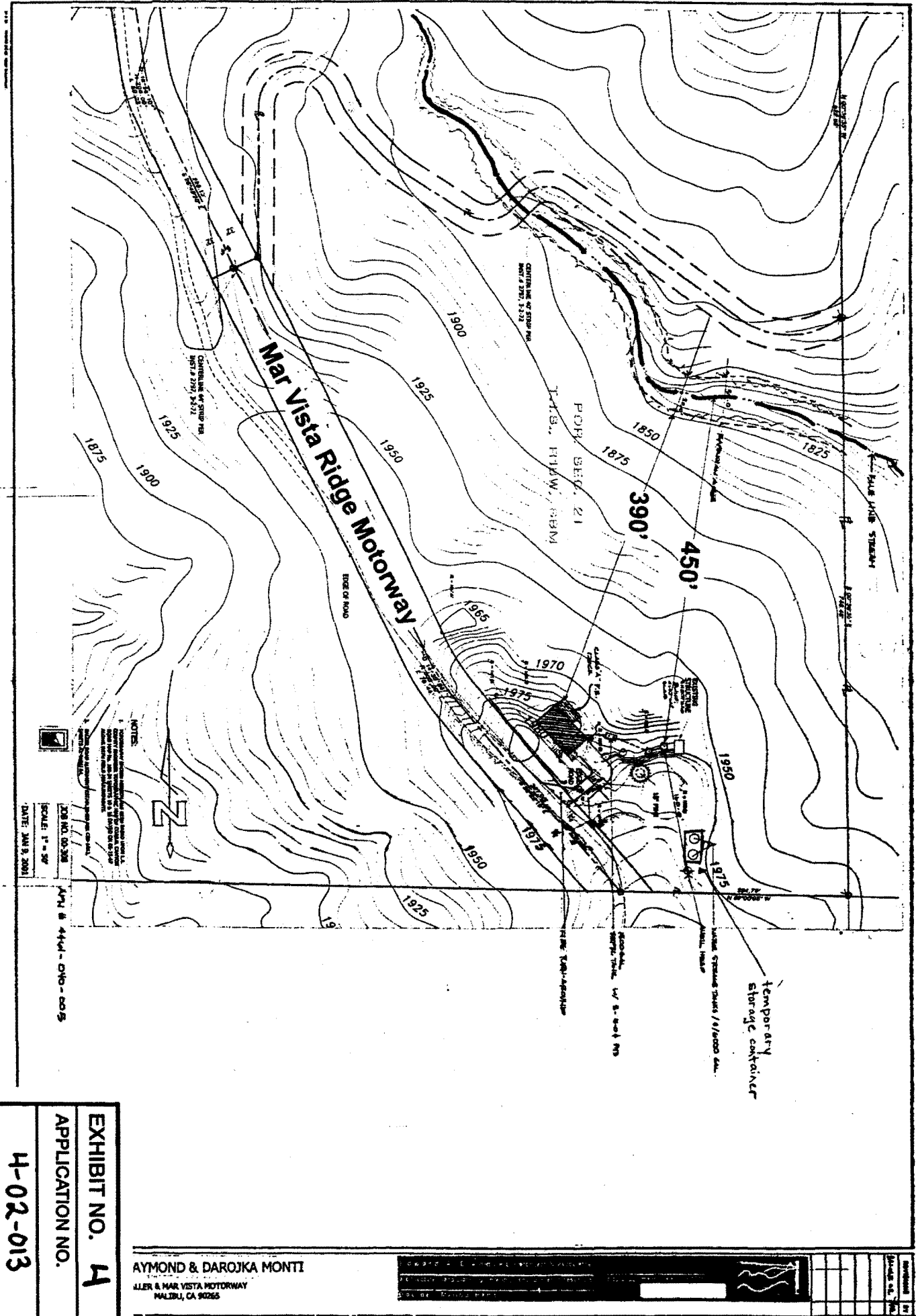
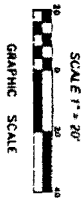


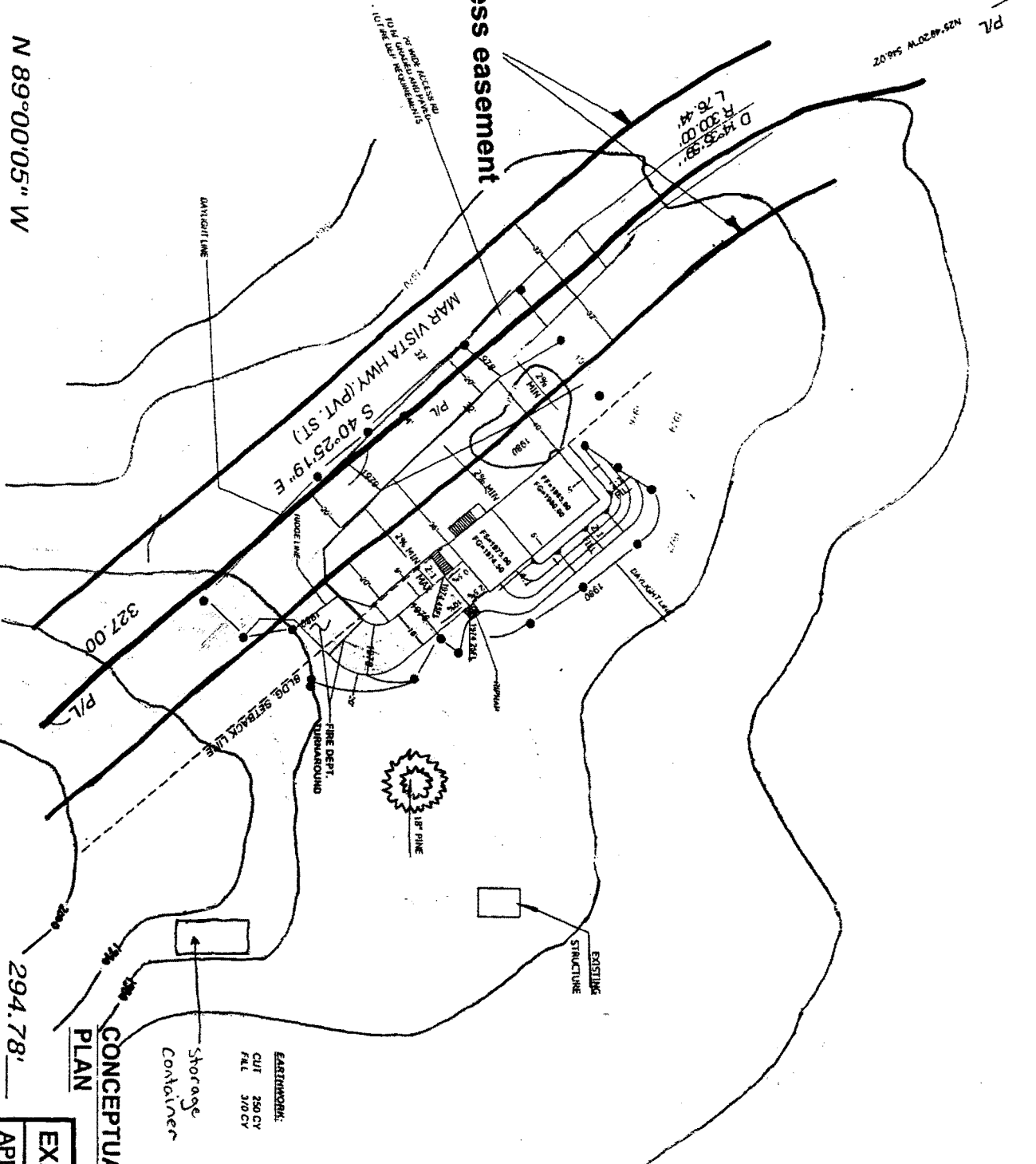
EXHIBIT NO. 4
APPLICATION NO.
4-02-013
SITE PLAN

AYMOND & DAROJKA MONTI
 ENGINEERS
 11111 MAR VISTA MOTORWAY
 MALIBU, CA 90265

DATE: 1/9/01	BY: [Signature]
SCALE: 1" = 50'	PROJECT: 4-02-013
JOB NO. 00-308	PLAN # 4444 - 010 - 005
DATE: JAN 9, 2001	



60' wide access easement



N 89°00'05" W

CONCEPTUAL GRADING PLAN

EARTHWORK:
 CUT 250 CY
 FILL 370 CY

Storage Container

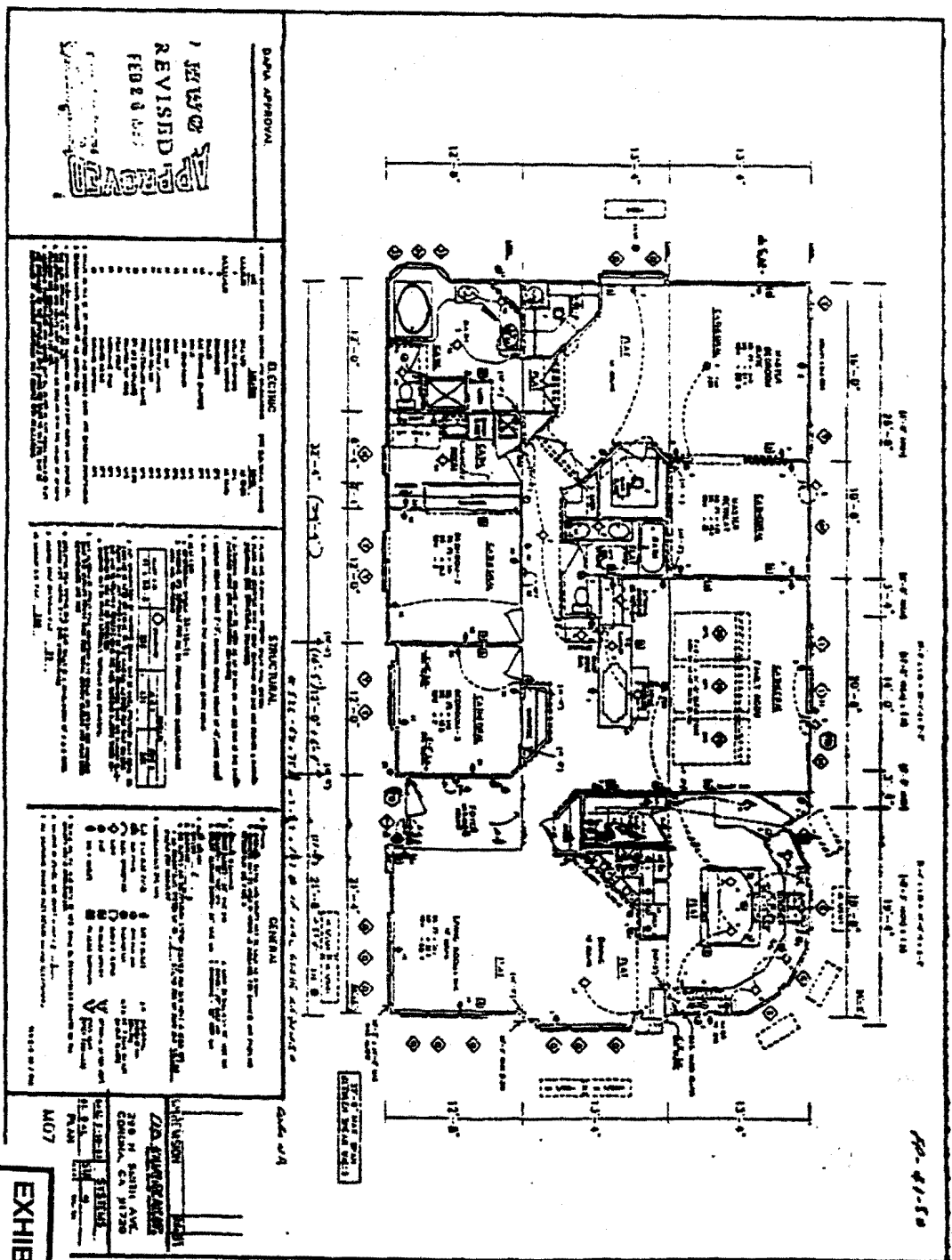
EXHIBIT NO. 5
 APPLICATION NO.

4-02-013

GRADING PLAN

PREPARED FOR:
RAYMOND & DAROJKA MONTI
 BALLER & MAR VISTA MOTOR WAY
 MALIBU, CA 90265

PREPARED BY:
SCHMITZ & ASSOCIATES
 29350 PACIFIC COAST HWY. UNIT 12
 MALIBU, CA 90265
 310-589-0773 FAX 310-589-0353



APPROVED
 REVISED
 FEDERAL

ELECTRICAL

1. All wiring shall be in accordance with the National Electrical Code, as amended, and the local codes.

2. All wiring shall be done in accordance with the manufacturer's instructions.

3. All wiring shall be done in accordance with the applicable codes and standards.

4. All wiring shall be done in accordance with the applicable codes and standards.

5. All wiring shall be done in accordance with the applicable codes and standards.

6. All wiring shall be done in accordance with the applicable codes and standards.

7. All wiring shall be done in accordance with the applicable codes and standards.

8. All wiring shall be done in accordance with the applicable codes and standards.

9. All wiring shall be done in accordance with the applicable codes and standards.

10. All wiring shall be done in accordance with the applicable codes and standards.

STRUCTURAL

1. All structural work shall be done in accordance with the applicable codes and standards.

2. All structural work shall be done in accordance with the applicable codes and standards.

3. All structural work shall be done in accordance with the applicable codes and standards.

4. All structural work shall be done in accordance with the applicable codes and standards.

5. All structural work shall be done in accordance with the applicable codes and standards.

6. All structural work shall be done in accordance with the applicable codes and standards.

7. All structural work shall be done in accordance with the applicable codes and standards.

8. All structural work shall be done in accordance with the applicable codes and standards.

9. All structural work shall be done in accordance with the applicable codes and standards.

10. All structural work shall be done in accordance with the applicable codes and standards.

GENERAL

1. All work shall be done in accordance with the applicable codes and standards.

2. All work shall be done in accordance with the applicable codes and standards.

3. All work shall be done in accordance with the applicable codes and standards.

4. All work shall be done in accordance with the applicable codes and standards.

5. All work shall be done in accordance with the applicable codes and standards.

6. All work shall be done in accordance with the applicable codes and standards.

7. All work shall be done in accordance with the applicable codes and standards.

8. All work shall be done in accordance with the applicable codes and standards.

9. All work shall be done in accordance with the applicable codes and standards.

10. All work shall be done in accordance with the applicable codes and standards.

REVISION

NO.	DESCRIPTION
1	ADD
2	ADD
3	ADD
4	ADD
5	ADD
6	ADD
7	ADD
8	ADD
9	ADD
10	ADD

DATE: 10/10/00
 DRAWN BY: JLM
 CHECKED BY: JLM
 PROJECT NO.: 4-02-013

EXHIBIT NO. 6

APPLICATION NO. 4-02-013

FLOOR PLAN

PROJECT NO. 4-02-013
 DATE 10/10/00
 LOCATION

a

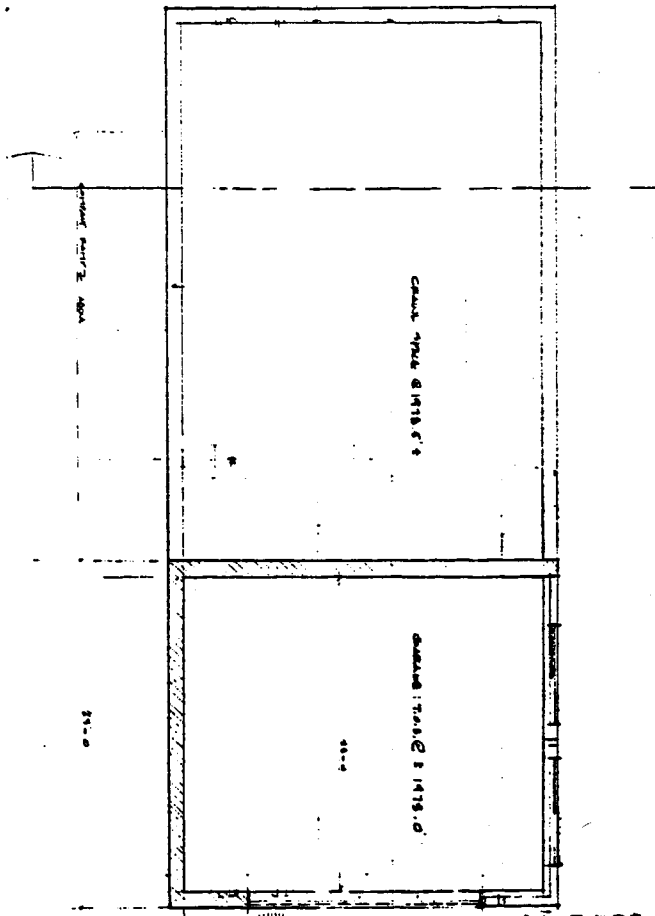
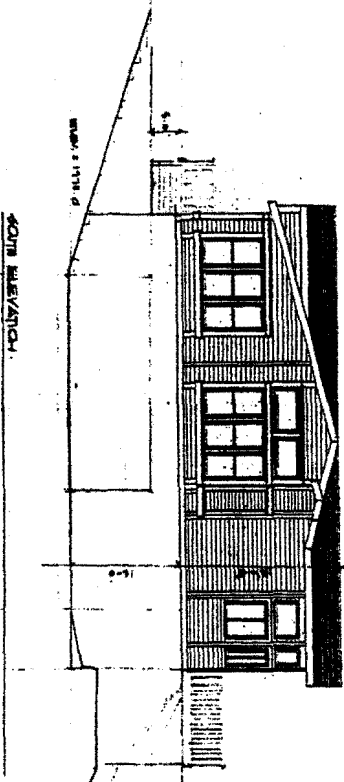
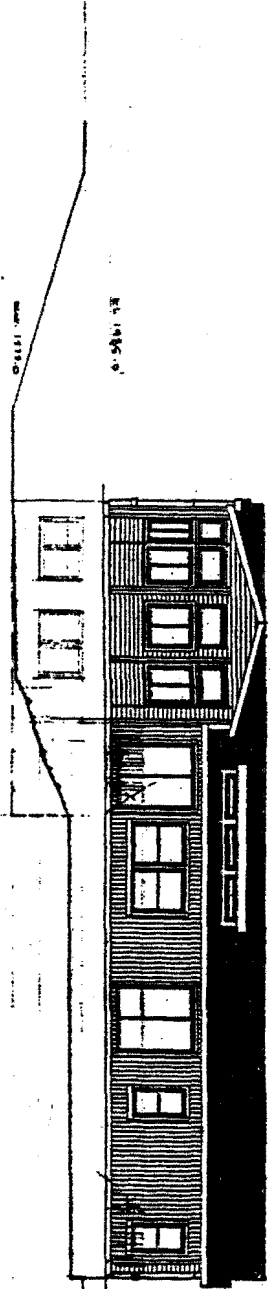


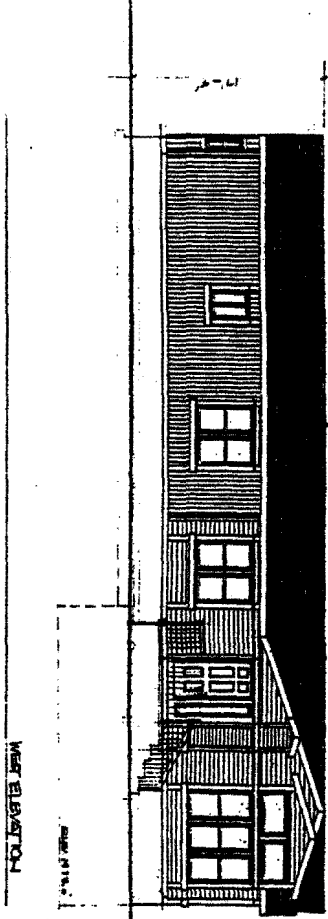
EXHIBIT NO. **7**
APPLICATION NO. **4-02-013**
GARAGE CEILING SPACE



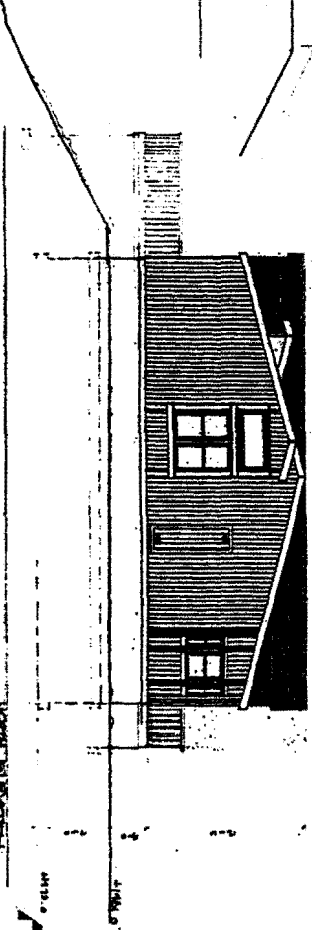
FRONT ELEVATION



RIGHT ELEVATION



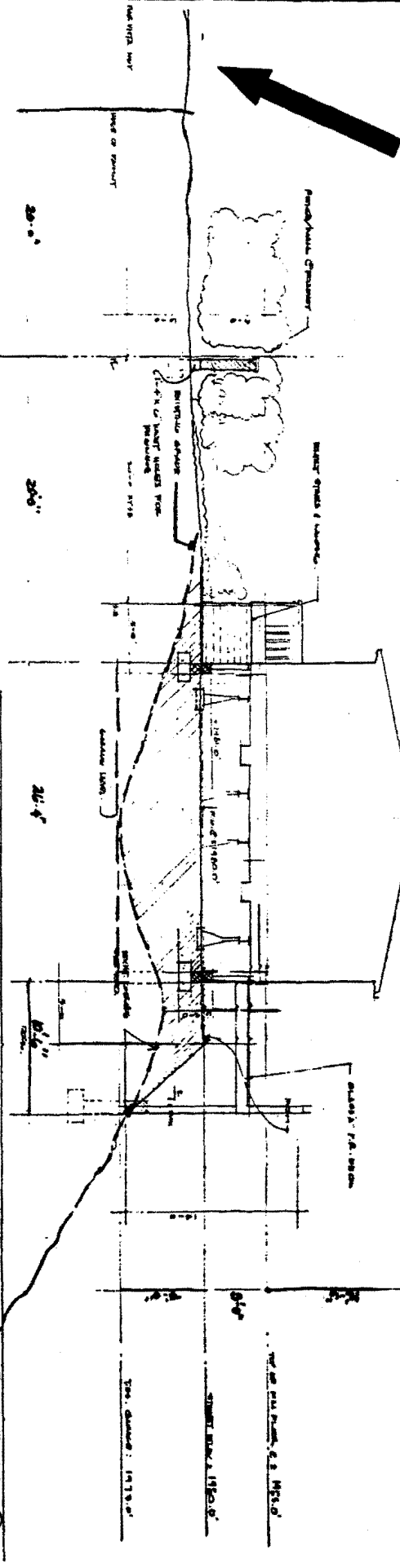
BACK ELEVATION



LEFT ELEVATION

EXHIBIT NO. **8**
 APPLICATION NO.
 4-02-013
 ELEVATIONS

Mar Vista Ridge Motorway



1. Details of construction are called out on drawings and shall conform to the details shown on the drawings and to the specifications for the same.
2. Dimensions shall be as shown on drawings.
3. Materials shall be as shown on drawings.
4. Work shall be completed in accordance with the drawings and specifications.
5. The contractor shall be responsible for obtaining all permits required for the work.
6. The contractor shall be responsible for obtaining all necessary easements and rights of way.
7. The contractor shall be responsible for obtaining all necessary approvals from the appropriate authorities.
8. The contractor shall be responsible for obtaining all necessary approvals from the appropriate authorities.
9. The contractor shall be responsible for obtaining all necessary approvals from the appropriate authorities.
10. The contractor shall be responsible for obtaining all necessary approvals from the appropriate authorities.

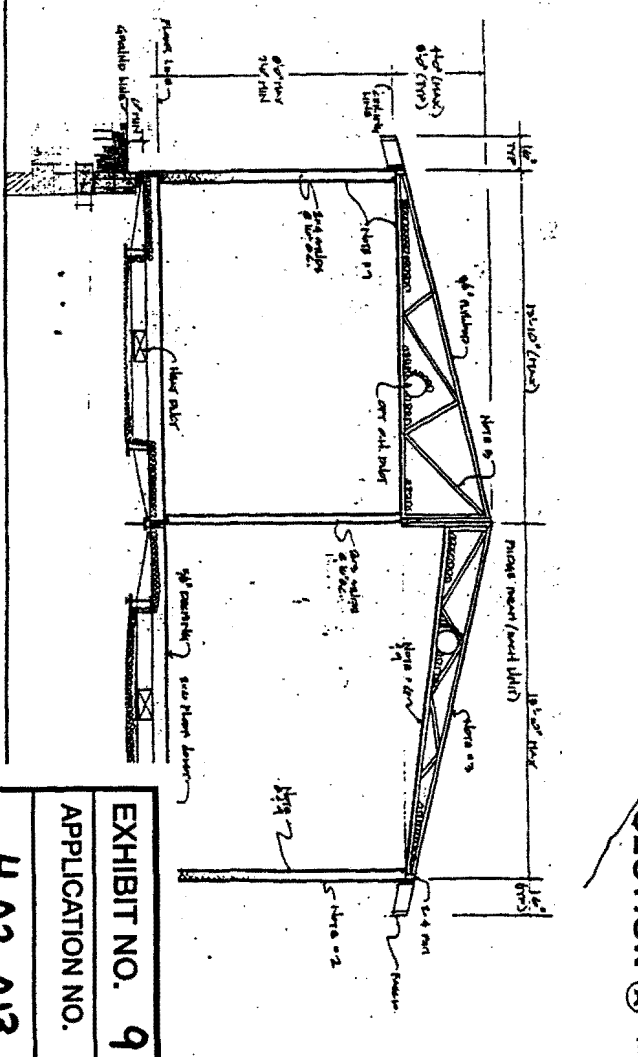
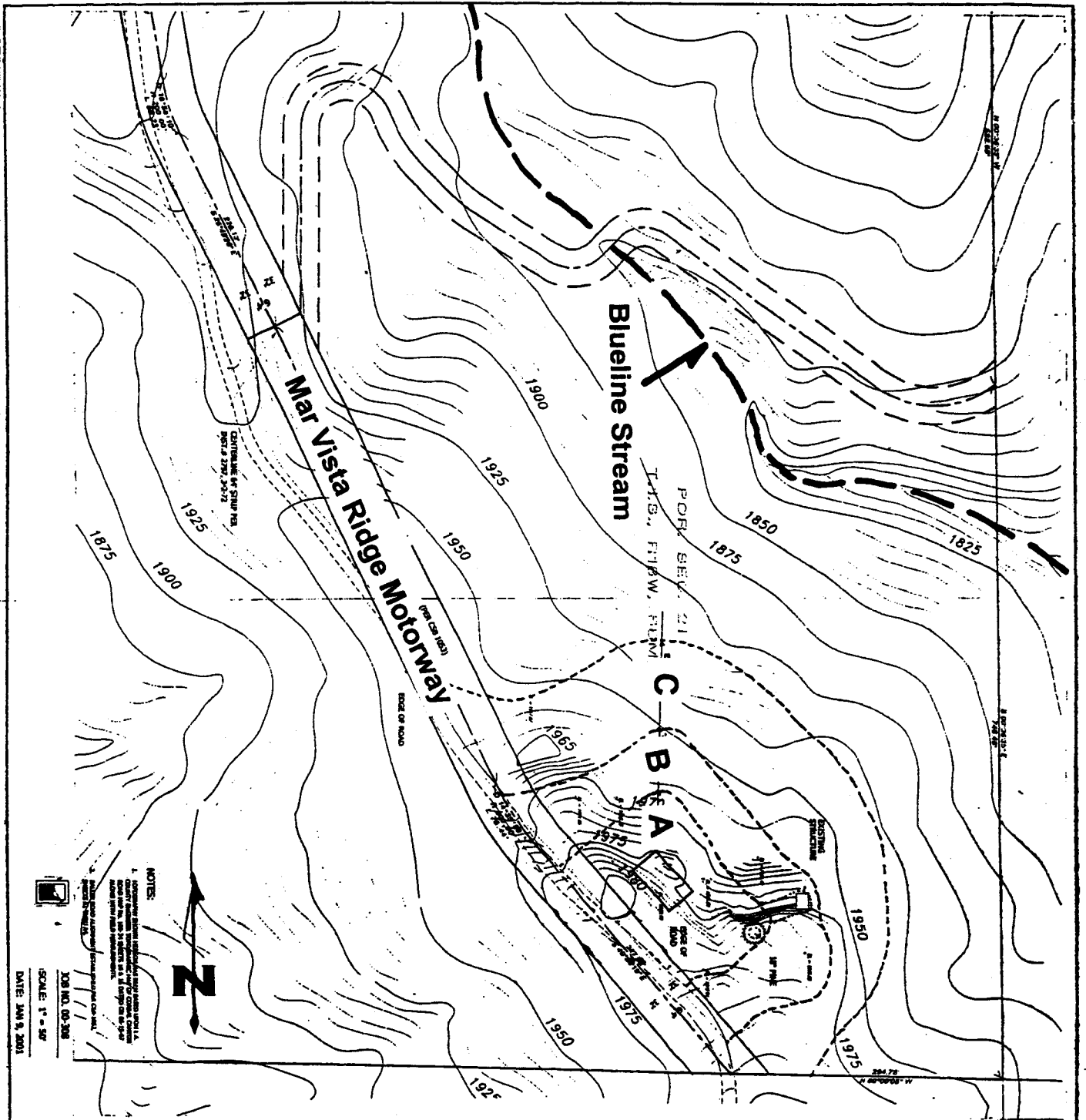


EXHIBIT NO. 9
APPLICATION NO.
4-02-013
CROSS SECTION



NOTES:

1. CONTOUR INTERVAL IS 25 FEET.
2. ELEVATIONS ARE IN FEET ABOVE SEA LEVEL UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
5. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
6. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
7. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
8. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
10. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

DATE: JAN 9, 2001
 SCALE: 1" = 50'
 X29 101 00-208

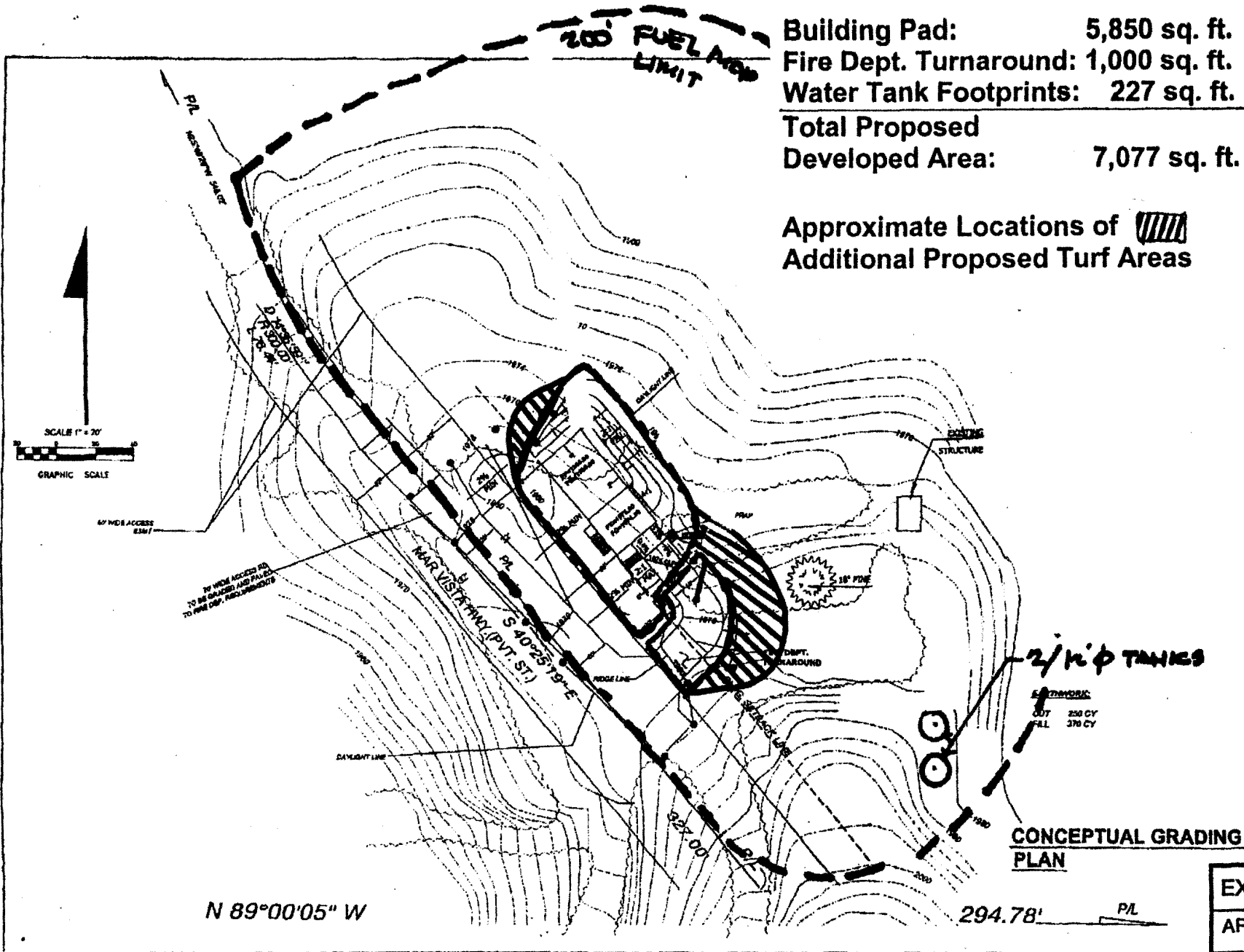
EXHIBIT NO. 10
APPLICATION NO.
4-02-013
FUEL MOD. PLAN

Notes:

1. The proposed fuel modification is for the engine of the vehicle.
2. The proposed fuel modification is for the engine of the vehicle.
3. The proposed fuel modification is for the engine of the vehicle.
4. The proposed fuel modification is for the engine of the vehicle.
5. The proposed fuel modification is for the engine of the vehicle.
6. The proposed fuel modification is for the engine of the vehicle.
7. The proposed fuel modification is for the engine of the vehicle.
8. The proposed fuel modification is for the engine of the vehicle.
9. The proposed fuel modification is for the engine of the vehicle.
10. The proposed fuel modification is for the engine of the vehicle.

YMOND & DAROJKA MONTI
 1000 MAR VISTA MOTORWAY
 MALIBU, CA 90261





Building Pad: 5,850 sq. ft.
 Fire Dept. Turnaround: 1,000 sq. ft.
 Water Tank Footprints: 227 sq. ft.
 Total Proposed Developed Area: 7,077 sq. ft.

Approximate Locations of  Additional Proposed Turf Areas

2" rip TANKS
 CUT 250 CY
 FILL 375 CY

CONCEPTUAL GRADING PLAN

PREPARED BY:
SCHMITZ & ASSOCIATES
 2850 INGLEWOOD HWY. UNIT 13
 PALMDALE, CA 93550
 310-880-8772 FAX 310-880-8783

PREPARED FOR:
RAYMOND & DAROJKA MONTI
 8400 S. VISTA HORTON WAY
 PALMDALE, CA 93552

JOB NO.
 SCALE 1" = 20'

EXHIBIT NO. 11
 APPLICATION NO.
 4-02-013
 10,000 sq. ft. PAD

