

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585 - 1800

Filed: 09/22/02  
49th Day: 11/10/02  
180th Day: 03/21/03  
270th Day: 06/19/03  
Staff: LKF-V  
Staff Report: 03/20/03  
Hearing Date: 04/10/03  
Commission Action:



RECORD PACKET COPY

## STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO.:** 4-02-160

**APPLICANTS:** Sally and Jake Reason

**PROJECT LOCATION:** 561 N. Creek Trail, Topanga (Los Angeles County)

**PROJECT DESCRIPTION:** Conversion of a 477 sq. ft. basement storage area to a habitable laundry/den area, and request for after-the-fact approval of the differences between a 1,826 sq. ft. residence authorized under exemption determination CDP 4-92-064-X and a 2,971 sq. ft. as-built residence, including reconfiguration of the floor plan and addition of 1,145 sq. ft. of habitable space. The effect of the proposal would be after-the-fact approval of an unpermitted 2,971 sq. ft. single family residence.

**LOCAL APPROVALS RECEIVED:** Approval in Concept, County of Los Angeles Department of Regional Planning, dated March 23, 2002; Certificate of Occupancy, County of Los Angeles Building and Safety Division, dated August 23, 1999.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permit No. 4-92-064-X; certified 1986 Malibu/Santa Monica Mountains Land Use Plan (LUP).

### SUMMARY OF STAFF RECOMMENDATION

Staff recommends **denial** of the applicants' proposal. The effect of the Commission action would be denial of an unpermitted 2,971 sq. ft. single family residence.

As detailed in the findings, the proposed project is inconsistent with Chapter Three policies for the protection of oak woodland ESHA and water quality. The proposed project would result in greater impacts to these resources than would the 1,826 sq. ft. residence that was authorized under CDP 4-92-064-X. Feasible alternatives exist that would be consistent with the resource protection policies of Chapter Three of the Coastal Act.

## **I. STAFF RECOMMENDATION**

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 4-02-160 for the development proposed by the applicants.*

### **STAFF RECOMMENDATION OF DENIAL:**

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

### **RESOLUTION TO DENY THE PERMIT:**

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

## **II. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **A. Project Description and Background**

The applicants seek approval for conversion of a 477 sq. ft. basement storage area to a habitable laundry/den area, and after-the-fact approval of the differences between a 1,826 sq. ft. residence authorized under exemption determination CDP 4-92-064-X and a 2,971 sq. ft. as-built residence, including reconfiguration of the floor plan and addition of 1,145 sq. ft. of habitable space. The effect of the proposal would be after-the-fact approval of an unpermitted 2,971 sq. ft. single family residence. **(Exhibit 4)**.

The project site is an approximately 0.40-acre parcel located in the Topanga area of unincorporated Los Angeles County. The site is located immediately west of Topanga Canyon Boulevard, and adjacent to Topanga Canyon Creek. The site is developed with a single family residence, patio, driveway, a private access road that parallels the creek and the eastern property line, and an approximately 105 foot long segment of North Creek Trail. The access road is located between the creek and the residence. In order to increase the allowable Gross Structural Area (GSA) for the site to 2,643 sq. ft. (not including the garage), the development rights on an adjacent lot have been retired **(Exhibit 5)**.

The parcel descends steeply eastward towards North Creek Trail and the creek, which is a U.S. Geological Survey designated blue line stream. The site contains numerous

mature oak trees and is located within an oak woodland environmentally sensitive habitat area (ESHA) that is mapped as a significant oak woodland in the certified 1986 Malibu Santa Monica Mountains Land Use Plan (LUP) (**Exhibits 2 and 3**).

The site has been the subject of prior Commission action. In 1992, the previous owner, Mr. Joseph Opiela, received an exemption letter for the rebuild of a residence that was destroyed by wildfire (**Exhibits 6 to 11**). The exemption letter allowed the

***Demolition of an existing burned residence and the construction of a 1,826 square foot, 32 foot high single family residence with 134 cubic yards of grading (67 cu. yds. cut, 67 cu. yds. fill). The existing septic system will be used.***

The exempt 1,826 sq. ft. residence included 1,095 sq. ft. of habitable space and a 731 sq. ft. garage. The exemption letter noted

***Please be advised that only the project described above is exempt from the permit requirements of the Coastal Act. Any change in the project may cause it to lose its exempt status.***

The applicants have submitted photos depicting "the current house during the framing phase of construction during 1992 and '93." These photos depict the current house design and footprint, confirming that this significantly larger residence was built instead of the residence authorized by CDP 4-92-064-X (**Exhibit 14**).

On August 23, 1999, Mr. Opiela received a Certificate of Occupancy from Los Angeles County for a 2,748 sq. ft. residence, including a 725 sq. ft. garage. Measurement of floor plans submitted with the current application indicate that the as-built size of the residence is 2,971 sq. ft., 1,145 sq. ft. larger than permitted under exemption # 4-92-064-X. Moreover, the footprint of the as-built residence is approximately 680 sq. ft. larger than permitted under exemption # 4-92-064-X (**Exhibit 12**).

Because it represents a substantial change to the exempt project description, and is substantially larger than the exempt development, the project, as-built, is not exempt. Thus, the entire residence must be considered unauthorized development.

The applicants have applied for after-the-fact approval of the differences between the as-built residence and the exempt residence, including reconfiguration of the floor plan and addition of 1,145 sq. ft. of habitable space. However, as discussed below, the requested development increases the project's impacts on the oak woodland ESHA on site, as well as on the nearby creek. Furthermore, siting and design alternatives exist that would reduce those impacts. The proposed project is therefore inconsistent with the resource protection policies of Chapter Three of the Coastal Act, and must be denied.

**B. Environmentally Sensitive Habitat Areas (ESHA)**

Section 30240 of the Coastal Act states:

***(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those 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 those areas, and shall be compatible with the continuance of those habitat and recreation areas.***

Section 30107.5 of the Coastal Act defines an environmentally sensitive area as follows:

***"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 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values. In addition, the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) contains numerous policies designed to protect sensitive resource areas from the individual and cumulative impacts of development. The LUP was certified in 1986 and the County is in the process of preparing a new land use plan.

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

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

Section 30107.5 defines ESHA by three criteria:

- 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 recent actions, the Commission has found that the Santa Monica Mountains ecosystem is itself rare and especially valuable because of its special nature as the largest, most pristine, physically complex, and biologically diverse example of a Mediterranean ecosystem in coastal southern California. Furthermore, because of the rare and special nature of the Santa Monica Mountains ecosystem, the ecosystem roles of substantially intact areas of the constituent habitats, such as coast live oak woodlands, are "especially valuable" under the Coastal Act.

The important ecosystem functions of oak woodlands are widely recognized. Oak woodlands support a high diversity of birds, and provide refuge for many sensitive species, as well as more common wildlife. Typical wildlife in this habitat includes acorn woodpeckers, scrub jays, plain titmice, northern flickers, cooper's hawks, western screech owls, mule deer, gray foxes, ground squirrels, jackrabbits and several species of sensitive bats.

Oak woodlands are also easily disturbed by development. The article entitled, "Oak Trees: Care and Maintenance," prepared by the Forestry Department of the County of Los Angeles, states:

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

This publication goes on to state:

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

Because of their especially valuable nature, their important ecosystem functions, and their vulnerability to human disturbance, contiguous oak woodlands are considered ESHA in the Santa Monica Mountains.

The subject site is a hillside property that contains numerous mature oak trees. The trees form a continuous canopy over much of the site. This canopy is contiguous with oak woodland extending south and east into Topanga State Park, and north along Topanga Creek for several miles (**Exhibit 3**). Although the woodland is disturbed by scattered residential development, it provides important habitat and connectivity for woodland species. Therefore, for all the reasons stated above, the oak woodland constitutes an ESHA pursuant to Section 30107.5 of the Coastal Act.

As described above, the applicants' proposal includes a request for after-the-fact approval of the differences between a 1,826 sq. ft. residence authorized under exemption determination CDP 4-92-064-X and a 2,971 sq. ft. as-built residence, including reconfiguration of the floor plan and addition of 1,145 sq. ft. of habitable space. The effect of the proposal would be after-the-fact approval of an unpermitted 2,971 sq. ft. single family residence.

Site plans submitted in 1992 for CDP #4-92-064 indicate that a 12" diameter oak tree (Oak 1) was located approximately five feet east of the footprint of the exempt residence, and that three 14" oak trees (Oaks 2, 3, and 4) were located just north of Oak 1, approximately two feet east of the footprint of the exempt residence. Superimposition of the as-built plans for the residence on the 1992 plans reveals that a portion of the residence was built over the location where Oak 1 had stood, and that the southeast corner of the garage was built within the driplines (i.e., under the canopy) of Oaks 2, 3, and 4. These encroachments were the result of the increase in size of habitable space included in the applicants' current proposal.

In addition, three oak trees are located immediately south of the residence. The additional habitable space included in the applicants' current proposal increases encroachment into the protected zones (defined by the Los Angeles County Oak Tree Ordinance as five feet from the dripline or fifteen feet from the trunk, whichever is greater) of two oak trees (Oaks 5 and 6) in this area. Furthermore, aerial photographs indicate that substantial clearance of the woodland canopy in the vicinity of the rebuilt residence occurred between 1986 and 2001 (**Exhibit 13**); however, insufficient information exists to determine the cause of the clearance and the specific number and location of affected oak trees.

As described above, the proposed development involves the encroachment of structures and impervious surfaces into the protected zones and within the driplines of several oak trees. These proposed developments can have impacts on the oak woodland ESHA on site.

The encroachment of structures increases the amount of impervious surface and therefore decreases the infiltrative function of the soil adjacent to the oak trees, while

increasing the volume and velocity of stormwater that can be expected to flow down adjacent slopes. An increase in impervious surface decreases the exchange of air and water to the root zone of the trees, as does the placement of structures. The placement of structures also results in compaction of underlying soil, which further decreases the availability of air and nutrients to the oak tree roots.

The Commission therefore finds that the proposed additional habitable space can have detrimental impacts on the oak trees whose driplines and/or protected zones are located within the area to be disturbed by the project. As noted above, since the root systems may radiate out as much as 50 feet beyond the oak canopy driplines, even those oak trees adjacent to the development whose protected areas are not within the proposed development envelope may be negatively impacted through disturbance to their root systems. Therefore, avoiding development within a tree's protected zone can be viewed as a minimum requirement for avoiding adverse impacts to the tree. In summary, the proposed as-built developments will have impacts on the oak woodland ESHA on site and are therefore inconsistent with Section 30240 of the Coastal Act.

Feasible siting and design alternatives exist that would minimize impacts to ESHA. Although exemption determinations preclude analysis of a project for consistency with Chapter Three policies, construction of the residence found to be exempt under CDP #4-92-064 would have resulted in fewer impacts to the oak trees on site. Additional alternatives, including reducing the size of the exempt residence and reconfiguring the floor plan would further reduce impacts to the oak woodland ESHA.

Implementation of either of the above alternatives would significantly reduce the proposed project's impacts on ESHA. Therefore, for the reasons discussed above, the Commission finds that the proposed development, as proposed, has not been sited or designed in a manner that would minimize impacts to ESHA, and is not an ESHA-dependent use, and is, therefore, not consistent with Section 30240 of the Coastal Act.

### C. Water Quality

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

Section 30231 of the Coastal Act states:

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

*maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.*

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.

As described above, the proposed project includes a request for after-the-fact approval of the differences between a 1,826 sq. ft. residence authorized under exemption determination CDP 4-92-064-X and a 2,971 sq. ft. as-built residence, including reconfiguration of the floor plan and addition of 1,145 sq. ft. of habitable space. The effect of the proposal would be after-the-fact approval of an unpermitted 2,971 sq. ft. single family residence. The site is considered a "hillside" development, as it involves steeply to moderately sloping terrain with soils that are susceptible to erosion. The site is located immediately upslope of Topanga Canyon Creek, a U.S. Geological Survey designated blue line stream.

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

A feasible alternative exists that would minimize impacts to ESHA. Although exemption determinations preclude analysis of a project for consistency with Chapter Three policies, construction of the residence found to be exempt under CDP #4-92-064 would have resulted in less impervious surface area and therefore decreased potential for water quality impacts on the adjacent stream. While it is feasible to mitigate for water quality impacts, these impacts, when taken in conjunction with the adverse impacts to



ESHA lead the Commission to conclude that the preferred alternative is a reduced sized residence with a footprint that minimizes adverse impacts to ESHA.

Implementation of this alternative would reduce the proposed project's impacts on ESHA. Therefore, for the reasons discussed above, the Commission finds that the proposed development, as proposed, has not been sited or designed in a manner that would minimize impacts to water quality and ESHA and is, therefore, not consistent with Sections 30231 and 30240 of the Coastal Act.

#### **D. Violations**

Development has occurred on the subject site without the required coastal development permits. The unpermitted development includes construction of a 2,971 sq. ft. residence that is 1,145 sq. ft. larger and of a different configuration than the 1,826 sq. ft. single family residence authorized under exemption determination CDP 4-92-064-X. Because the as-built residence represents a substantial change to the exempt project description, and is substantially larger than the exempt development, the project, as-built, is not exempt and therefore must be considered unauthorized development.

The applicants request after-the-fact approval for the differences between the as-built residence and the exempt residence, including reconfiguration of the floor plan and addition of 1,145 sq. ft. of habitable space. As discussed previously, the proposed project is inconsistent with the ESHA and water quality policies of Chapter Three of the Coastal Act. Therefore, the Commission finds it necessary to deny the applicants' after-the-fact proposal. The Commission's enforcement division will evaluate further actions to address this matter.

Consideration of this application by the Commission has been based solely upon the Chapter Three 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 of the Coastal Act states:

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

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

**F. CEQA**

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

The Commission finds that the proposed project would result in significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project is determined to be inconsistent with CEQA and the policies of the Coastal Act. As noted previously, feasible alternatives exist which would not result in the significant, avoidable adverse impacts to coastal resources and public coastal views of this portion of the applicants' proposed project.

Project Site

90290

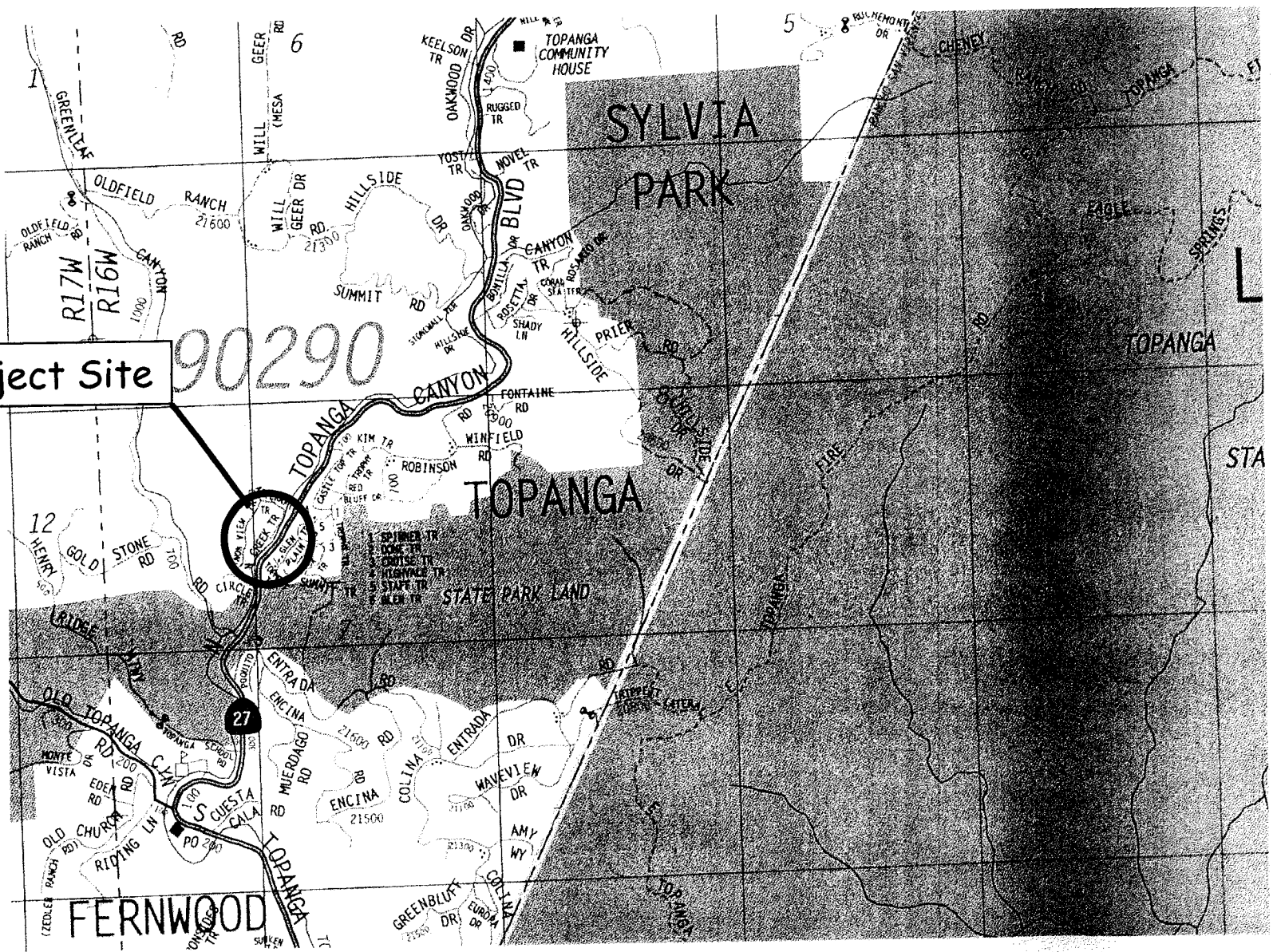
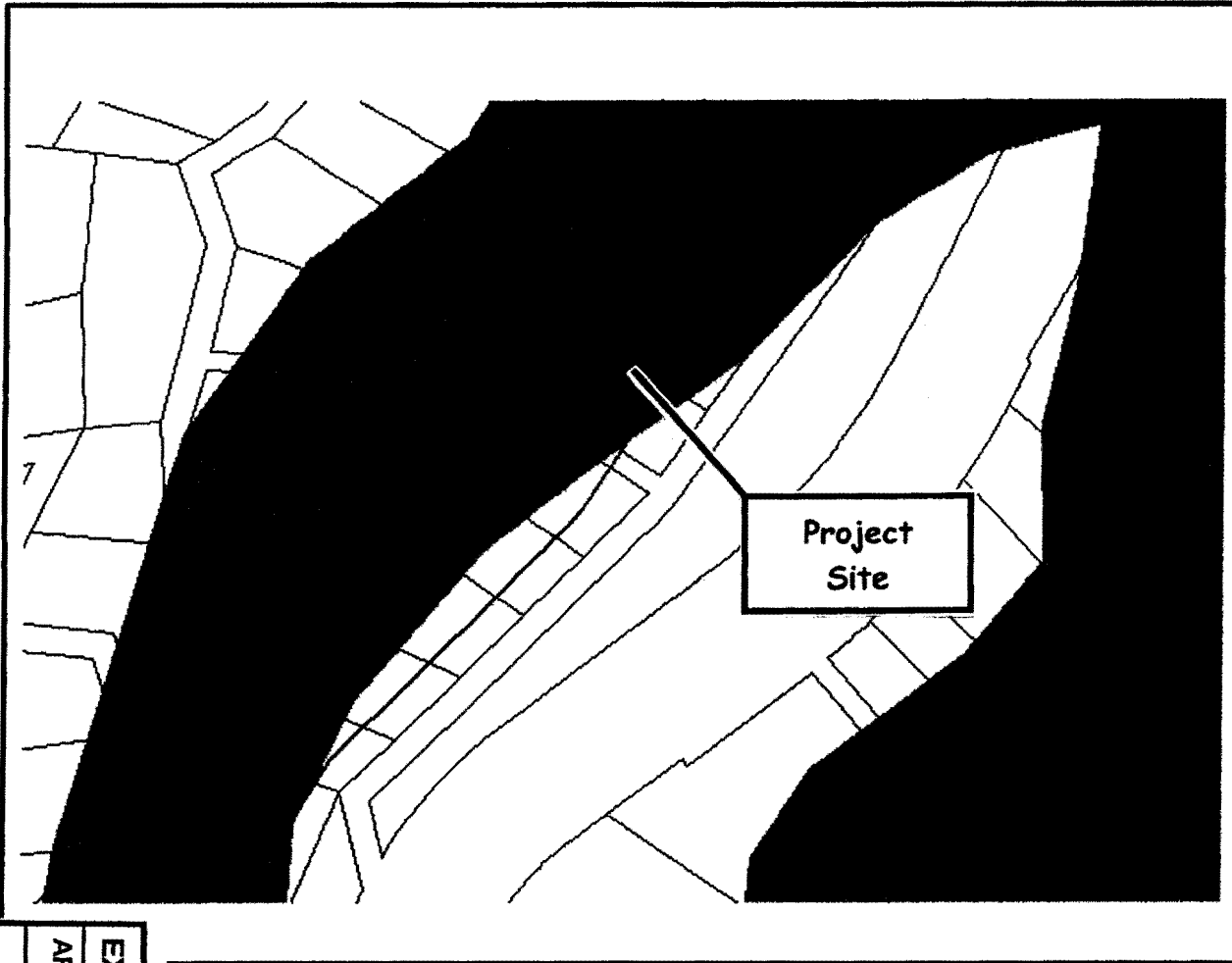







EXHIBIT NO. 1
APPLICATION NO.
4-02-160
VICINITY MAP

4-02-160 (Reason) 561 N. Creek Trail, Topanga



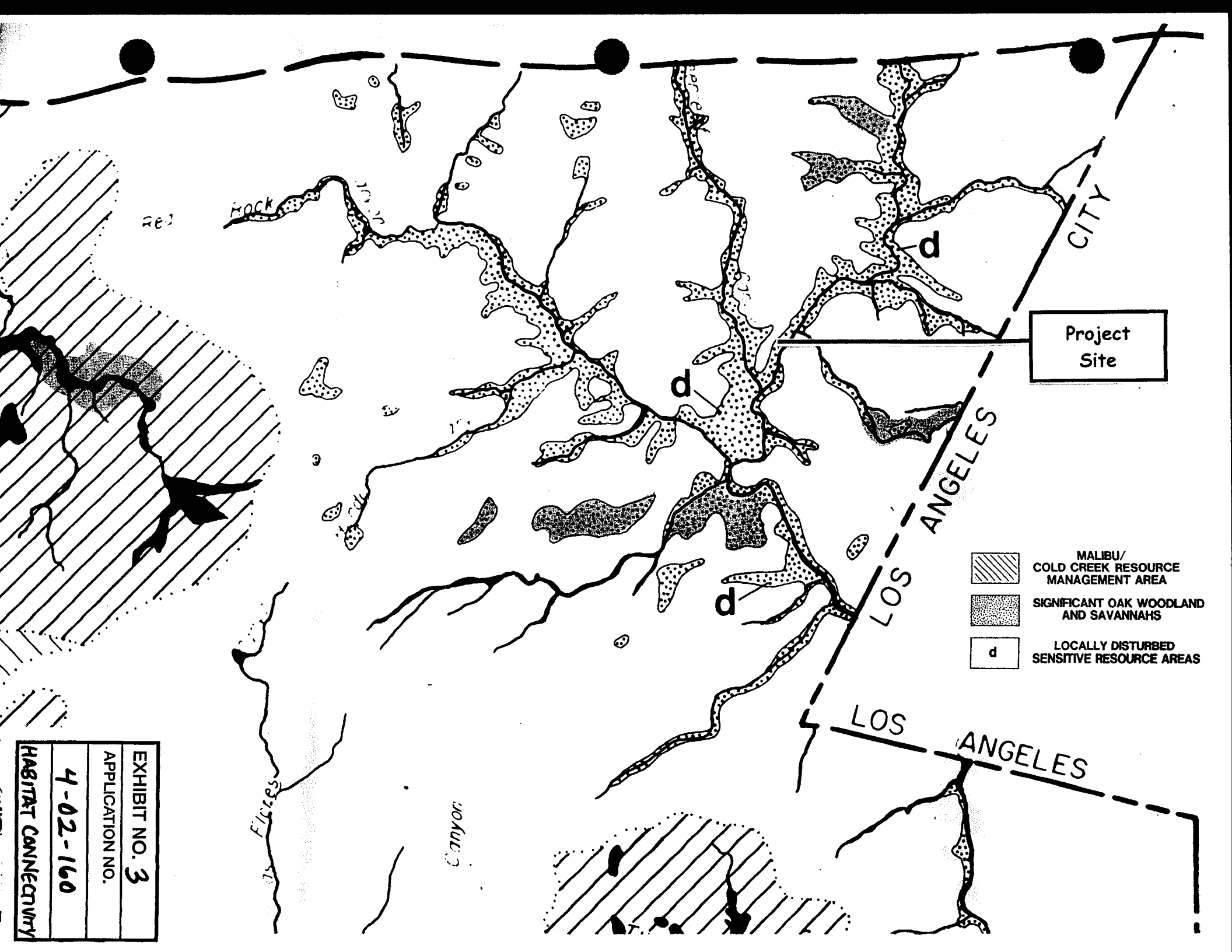
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-  trailslacoplan
-  trailotds
-  laprcis
-  esha

Project Site



Wednesday, Mar 19 2003

EXHIBIT NO. 20  
APPLICATION NO.  
4-02-160  
ESHA



Project Site




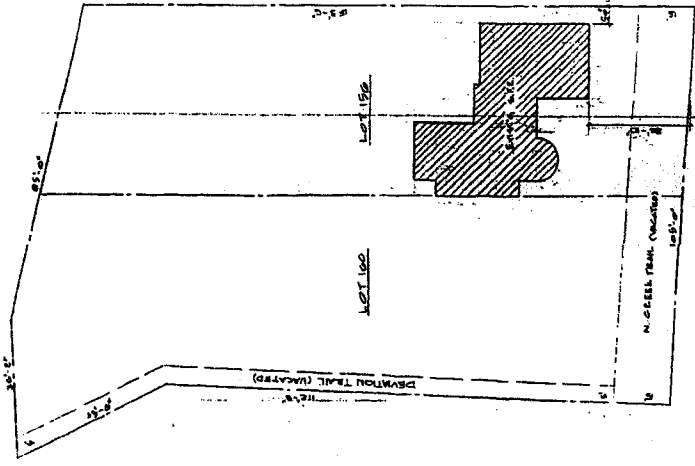
-  MALIBU/  
COLD CREEK RESOURCE  
MANAGEMENT AREA
-  SIGNIFICANT OAK WOODLAND  
AND SAVANNAHS
-  LOCALLY DISTURBED  
SENSITIVE RESOURCE AREAS

EXHIBIT NO. 3
APPLICATION NO.
4-02-160
HABITAT CONNECTIVITY

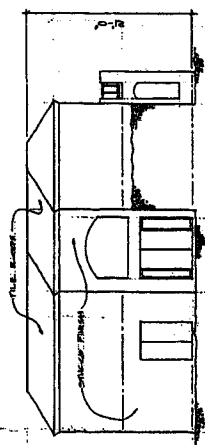


**SITE PLAN**  
SCALE: 1/8" = 1'-0"

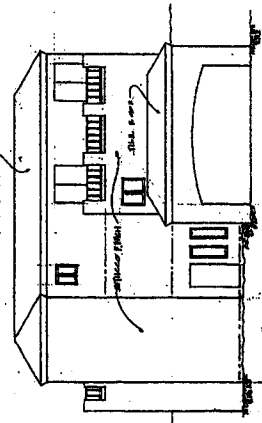
**ZONING:**  
TABLE 1 - R-1 (RESIDENTIAL SINGLE-FAMILY)  
**PERMITTED ADDRESS:**  
1500 N. GREEN PARK  
WINDY, CO. 80000

**LEGAL DESCRIPTION:**  
LOT 162 IN CITY OF DENVER, COLORADO, BEING THE SOUTHWEST CORNER OF THE SECT. 16, T. 107 N., R. 101 W., BEING THE PLACE'S AS-2-B

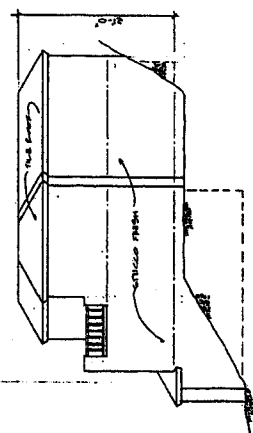
**EXISTING USE:**  
RESIDENTIAL SINGLE-FAMILY AS-2-B  
NO NEW CONSTRUCTION  
NO INCREASE IN FOOTPRINT  
NO OTHER USES TO BE PERMITTED



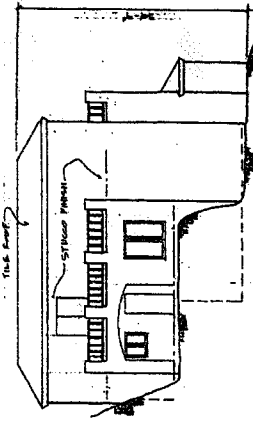
**WEST ELEVATION**  
SCALE: 1/8" = 1'-0"



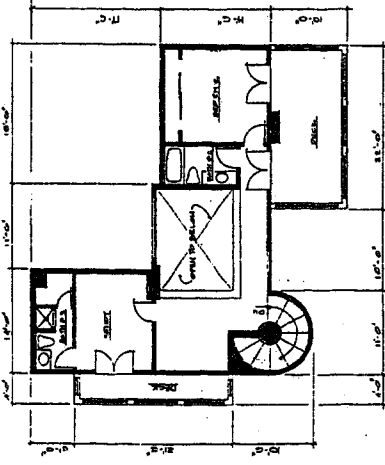
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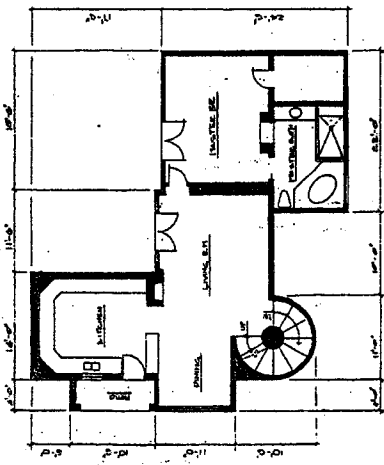
**NORTH ELEVATION**  
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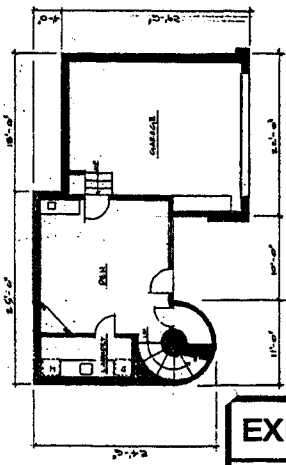
**SOUTH ELEVATION**  
SCALE: 1/8" = 1'-0"



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



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



**BASEMENT LEVEL FLOOR PLAN**  
SCALE: 1/8" = 1'-0"

**EXHIBIT NO. 4**  
**APPLICATION NO.**  
**4-02-160**  
**AS-BUILT RESIDENCE**

Recording requested by and mail to:

Name: JOSEPH OPIELA

Address: 8021 SEMINOLE PR.

City/State/Zip: CLAYTON, MO 63105

MAR 21 2002

COPY of Document Recorded  
.....  
Original will be returned  
Processing Fee  
LOS ANGELES COUNTY REGISTRAR - RECORDER

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COVENANT AND AGREEMENT TO HOLD PROPERTY AS ONE PARCEL

The undersigned hereby certify that we are the owner's of real property located in the County of Los Angeles, State of California and is legally described, as follows:

LOT 161, 156, & 160

TRACT 6915

(Legal description)

as recorded in Book 4444, Page 025,020, Records of Los Angeles County. This property is located at and is known by the following address:

561 N. CREEK TRAIL TOPANGA, CA

(Street Address)

We hereby agree and covenant with the County of Los Angeles that the above legally described real property shall be held as one parcel.

This covenant and agreement is executed for the purpose of granting all development rights of lot 161 to lots 160 and 156 to allow the construction of a single dwelling at 561 N. Creek Trail as regulated by Title 22 (Zoning Ordinance) of the Los Angeles County Code.

This Covenant and Agreement shall run with all of the above described land and shall be binding upon ourselves, and future owners, encumbrancers, their successors, heirs or assignees and shall continue in effect until released by the authority of the Director of Planning of the County of Los Angeles upon submittal of request, 'applicable fees' and evidence that Covenant and Agreement is no longer required by law.

Owner's Name JOSEPH OPIELA  
(Please type or print)

Signature of owner [Signature]  
(Sign)

( Two Officer's Signatures  
( Required for Corporations \_\_\_\_\_  
(Sign)

Name of Corporation \_\_\_\_\_

Dated this \_\_\_\_\_, day of \_\_\_\_\_, 19 \_\_\_\_\_

SIGNATURES  
MUST BE  
NOTARIZED

ACKNOWLEDGEMENT FORM

State of City of St. Louis  
of Missouri

On March 18, 2002 before me, Christine M. Thomas,

(here insert name and title of the officer), personally appeared JOSEPH OPIELA, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Christine M. Thomas

CHRISTINE M. THOMAS  
Notary Public - Notary Seal  
STATE OF MISSOURI  
City of St. Louis  
My Commission Expires: Aug. 5, 2002

(Seal)

NOTARIES: ATTACH ADDITIONAL OR OTHER FORMS, IF REQUIRED

EXHIBIT NO. 5  
APPLICATION NO.  
4-02-160  
COVENANT

COASTAL

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA  
5 WEST BROADWAY, SUITE 380  
LONG BEACH, CA 90802  
(213) 590-5071

EXEMPTION LETTER

RECEIVED

JUN 26 2002



CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

DATE: March 16, 1992

NAME: Joseph Opiela  
561 North Creek Trail  
Topanga, CA. 90290

LOCATION: 561 North Creek Trail, Topanga; Los Angeles County

PROJECT: Demolition of an existing burned residence and the construction of a 1,826 square foot, 32 foot high single family residence with 134 cubic yards of grading (67 cu. yds. cut, 67 cu. yds. fill). The existing septic system will be used.

This is to certify that this location and/or proposed project has been reviewed by the staff of the Coastal Commission. A coastal development permit is not necessary for the reasons checked below.

\_\_\_ The site is not located within the coastal zone as established by the California Coastal Act of 1976, as amended.

\_\_\_ The proposed development is included in Categorical Exclusion No. \_\_\_\_\_ adopted by the California Coastal Commission.

\_\_\_ The proposed development is judged to be repair or maintenance activity not resulting in an addition to or enlargement or expansion of the object of such activities (Section 30610(d) of Coastal Act).

\_\_\_ The proposed development is an improvement to an existing single family residence (Section 30610(c) of the Coastal Act) and not located in the area between the sea and the first public road or within 300 feet of the inland extent of any beach (whichever is greater) (Section 13250(b)(4) of 14 Cal. Admin. Code.

\_\_\_ The proposed development is an improvement to an existing single family residence and is located in the area between the sea and the first public road or within 300 feet of the inland extent of any beach (whichever is greater) but is not a) an increase of 10% or more of internal floor area, b) an increase in height over 10%, or c) a significant non-attached structure (Sections 30610(a) of Coastal Act and Section 13250(b)(4) of Administrative Regulations).

\_\_\_ The proposed development is an interior modification to an existing use with no change in the density or intensity of use (Section 30106 of Coastal Act).

(OVER)

E7: 4/88

EXHIBIT NO. 6
APPLICATION NO.
4-02-160
EXEMPTION 4-92-064-X



— The proposed development involves the installation, testing and placement in service of a necessary utility connection between an existing service facility and development approved in accordance with coastal development permit requirements, pursuant to Coastal Act Section 30610(f).

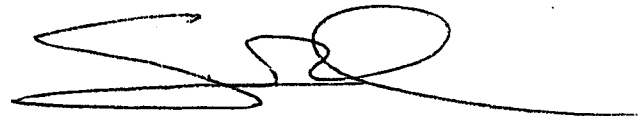
— The proposed development is an improvement to a structure other than a single family residence or public works facility and is not subject to a permit requirement (Section 13253 of Administrative Regulations).

XX The proposed development is the rebuilding of a structure, other than a public works facility, destroyed by natural disaster. The replacement conforms to all of the requirements of Coastal Act Section 30610(g).

— Other:

Please be advised that only the project described above is exempt from the permit requirements of the Coastal Act. Any change in the project may cause it to lose its exempt status. This certification is based on information provided by the recipient of this letter. If, at a later date, this information is found to be incorrect or incomplete, this letter will become invalid, and any development occurring at that time must cease until a coastal development permit is obtained.

Truly yours,



By: Susan Friend

Title: Staff Analyst

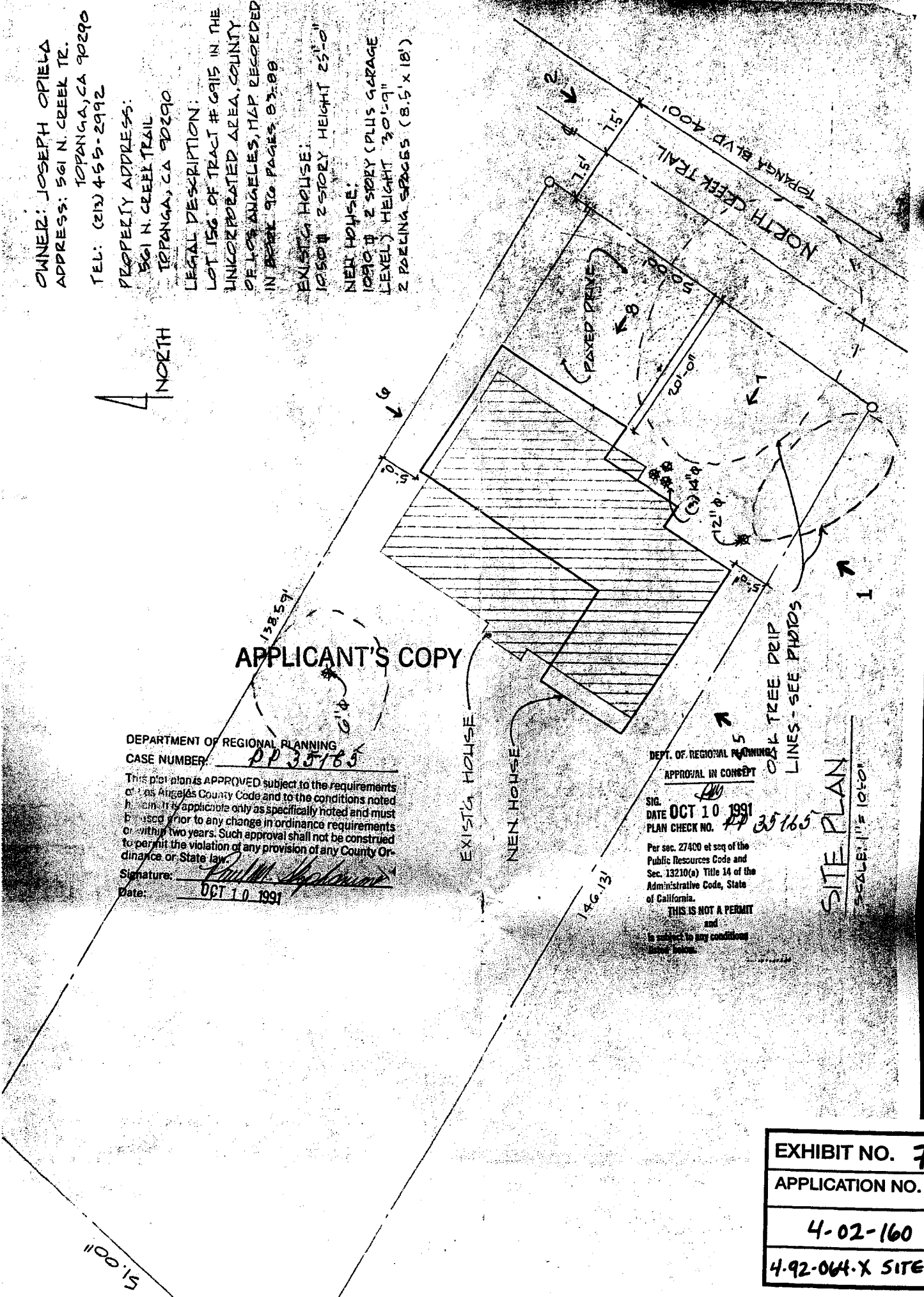
590-5071

OWNER: JOSEPH OPIELA  
ADDRESS: 561 N. CREEK TR.  
TOPANGA, CA 90290  
TEL: (818) 455-2992

PROPERTY ADDRESS:  
561 N. CREEK TRAIL  
TOPANGA, CA 90290

LEGAL DESCRIPTION:  
LOT 156 OF TRACT # 6915 IN THE  
UNINCORPORATED AREA, COUNTY  
OF LOS ANGELES, MAP RECORDED  
IN BOOK 90, PAGES 83-88

EXISTING HOUSE:  
1050 sq ft 2 STORY HEIGHT 25'-0"  
NEW HOUSE:  
1050 sq ft 2 STORY (PLUS GARAGE  
LEVEL) HEIGHT 30'-9"  
2 PARKING SPACES (8.5' x 18')



APPLICANT'S COPY

DEPARTMENT OF REGIONAL PLANNING  
CASE NUMBER: PP 35165

This plan is APPROVED subject to the requirements  
of Los Angeles County Code and to the conditions noted  
herein. It is applicable only as specifically noted and must  
be used prior to any change in ordinance requirements  
or within two years. Such approval shall not be construed  
to permit the violation of any provision of any County Or-  
dinance or State law.

Signature: Paul M. [Signature]  
Date: OCT 10 1991

DEPT. OF REGIONAL PLANNING  
APPROVAL IN CONCEPT

SIG. [Signature]  
DATE OCT 10 1991  
PLAN CHECK NO. PP 35165

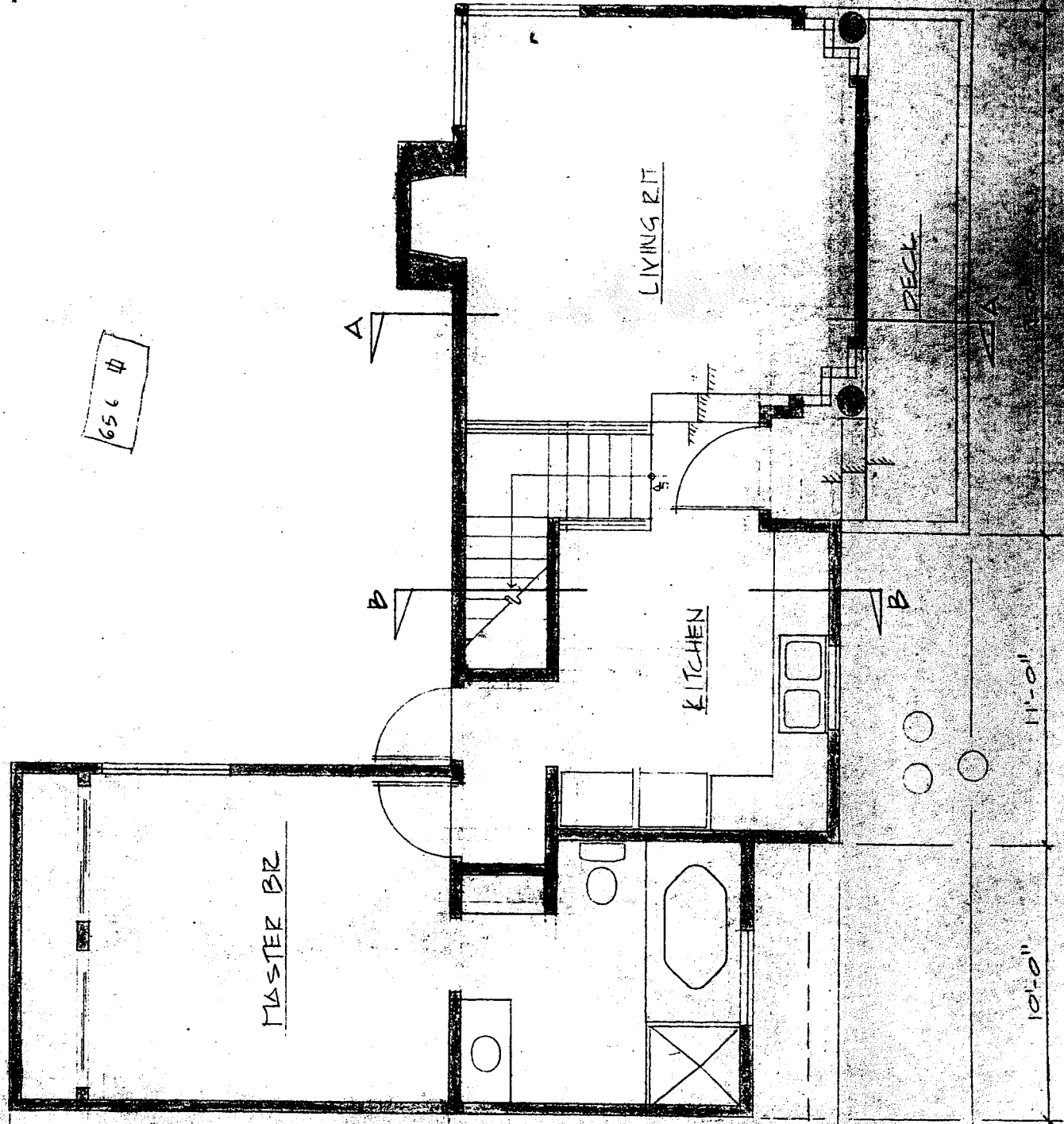
Per sec. 27400 et seq of the  
Public Resources Code and  
Sec. 13210(a) Title 14 of the  
Administrative Code, State  
of California.

THIS IS NOT A PERMIT  
and  
is subject to any conditions  
shown herein.

SITE PLAN  
SCALE: 1/8" = 10'-0"

EXHIBIT NO. 7  
APPLICATION NO.  
4-02-160  
4.92-064-X SITE PLAN

656 #



FIRST FLOOR

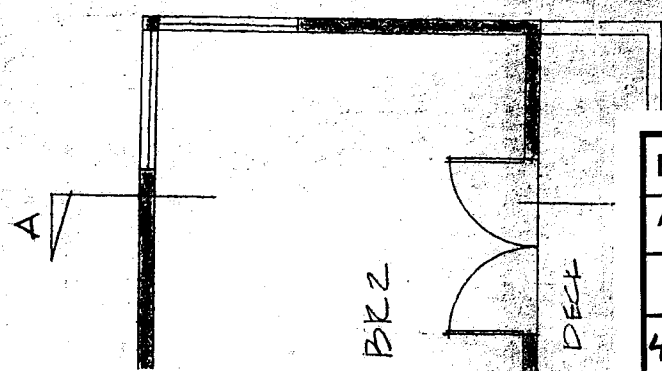
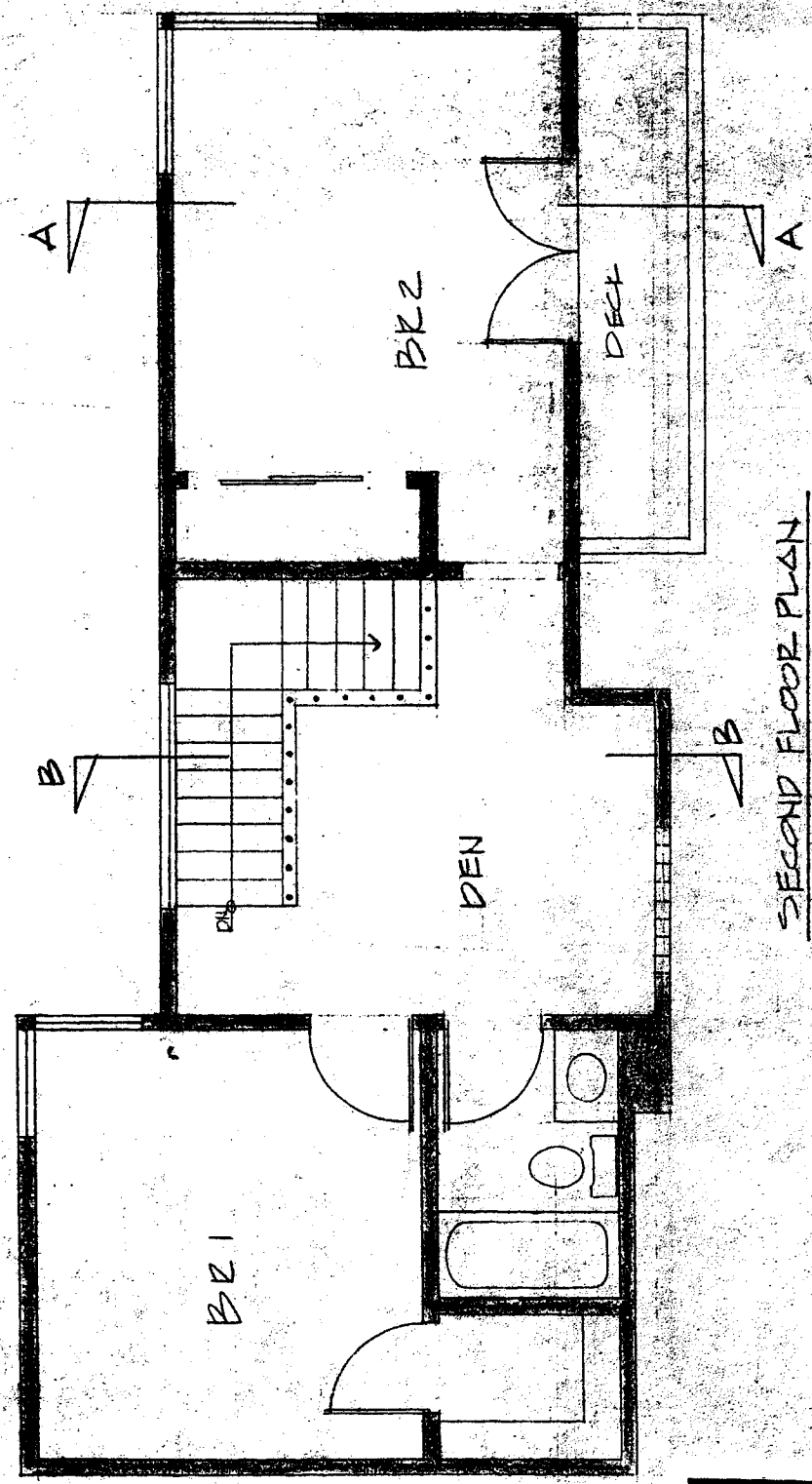


EXHIBIT NO. 8
APPLICATION NO.
4-02-160
4-92-064-X FIRST FLOOR

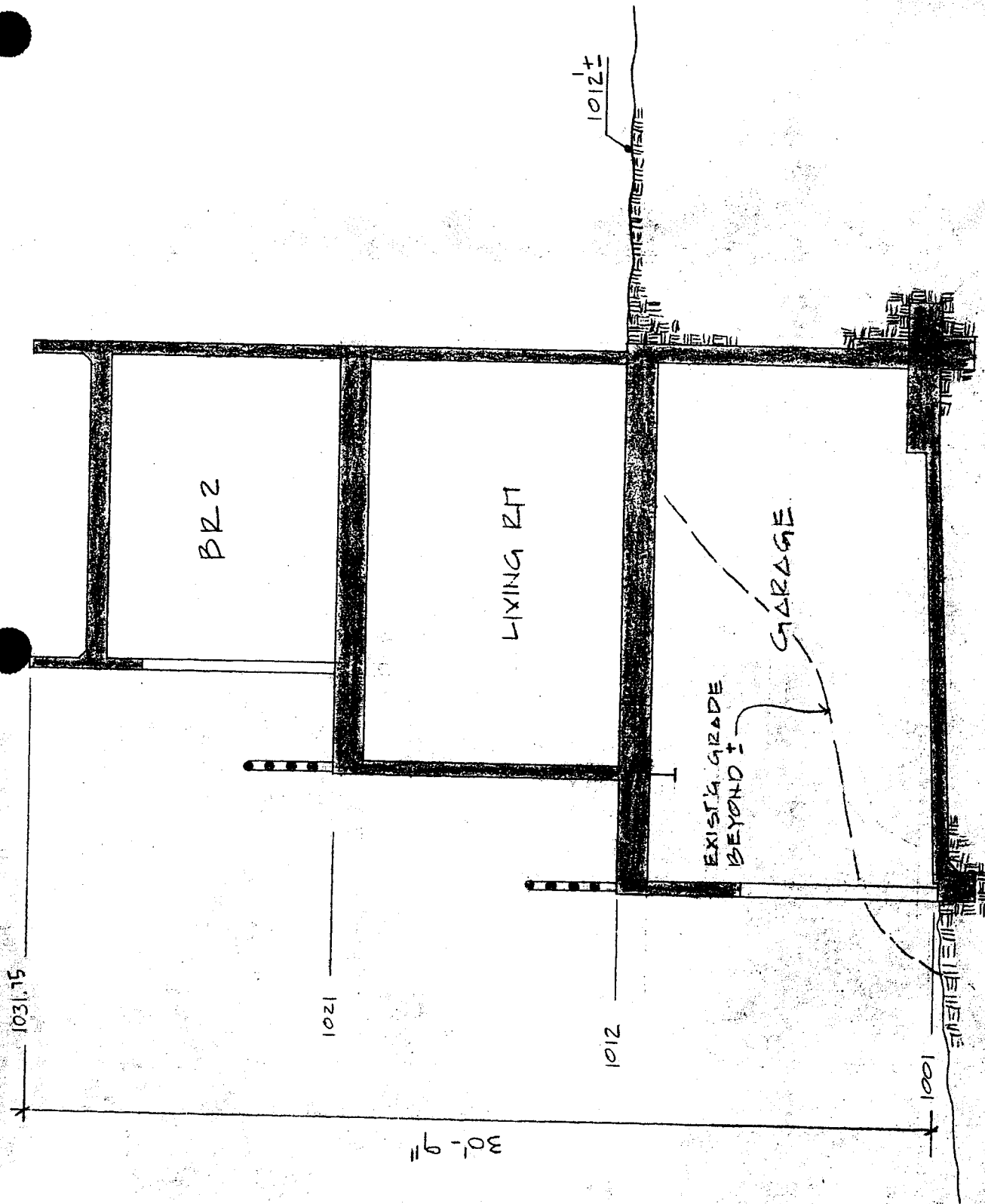


434



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

EXHIBIT NO. 9
APPLICATION NO.
4-02-160
4-92-064-X SECOND FLOOR



SECTION "A"  
 1/8" = 1'-0"

EXHIBIT NO. 10
APPLICATION NO.
4-02-160
4-92-064-X SECTION A

DEN

KITCHEN

SECTION "B"

SCALE: 1/4" = 1'-0"

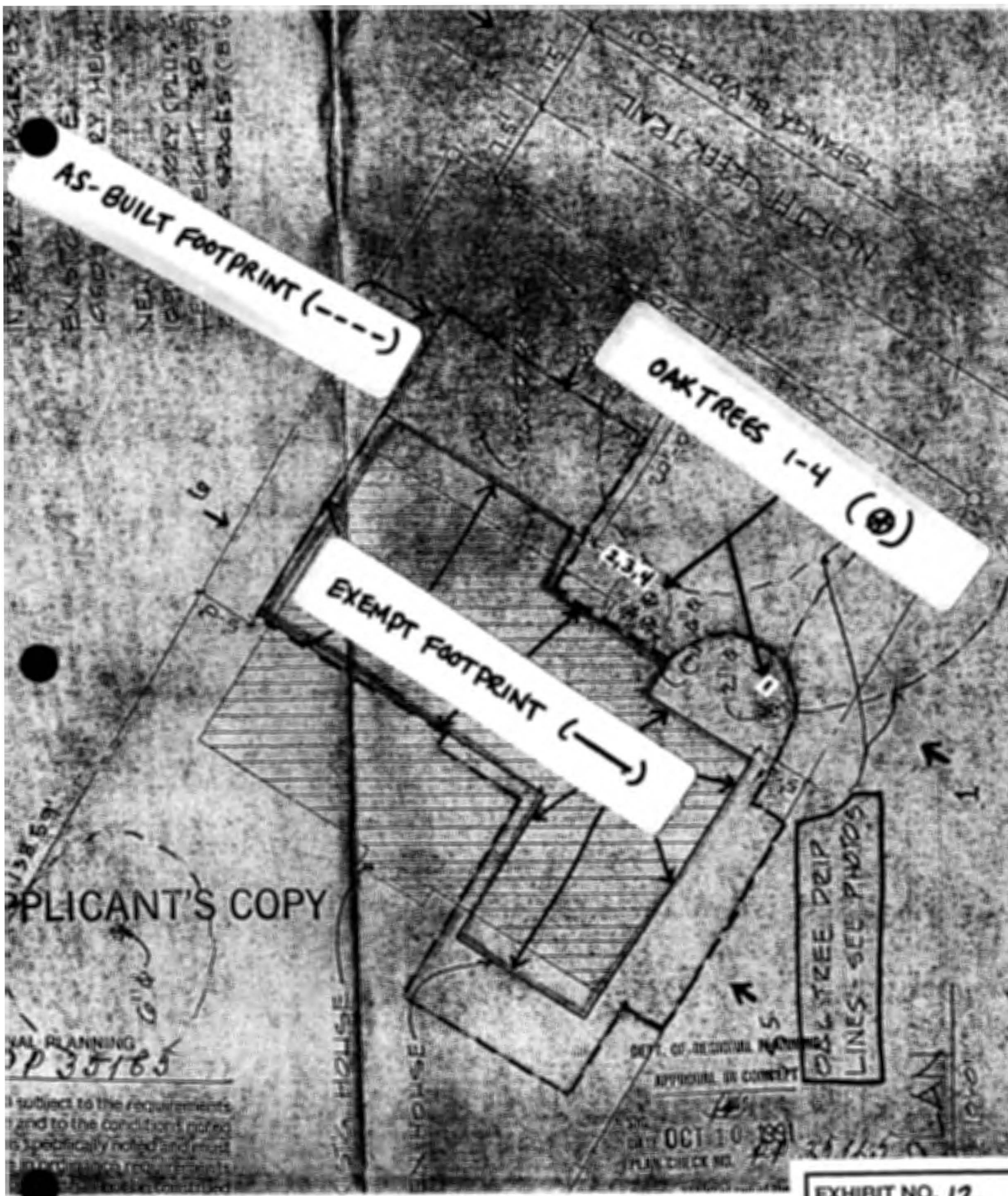
EXHIBIT NO. 11

APPLICATION NO.

4-02-160

4-92-064-X SECTION B



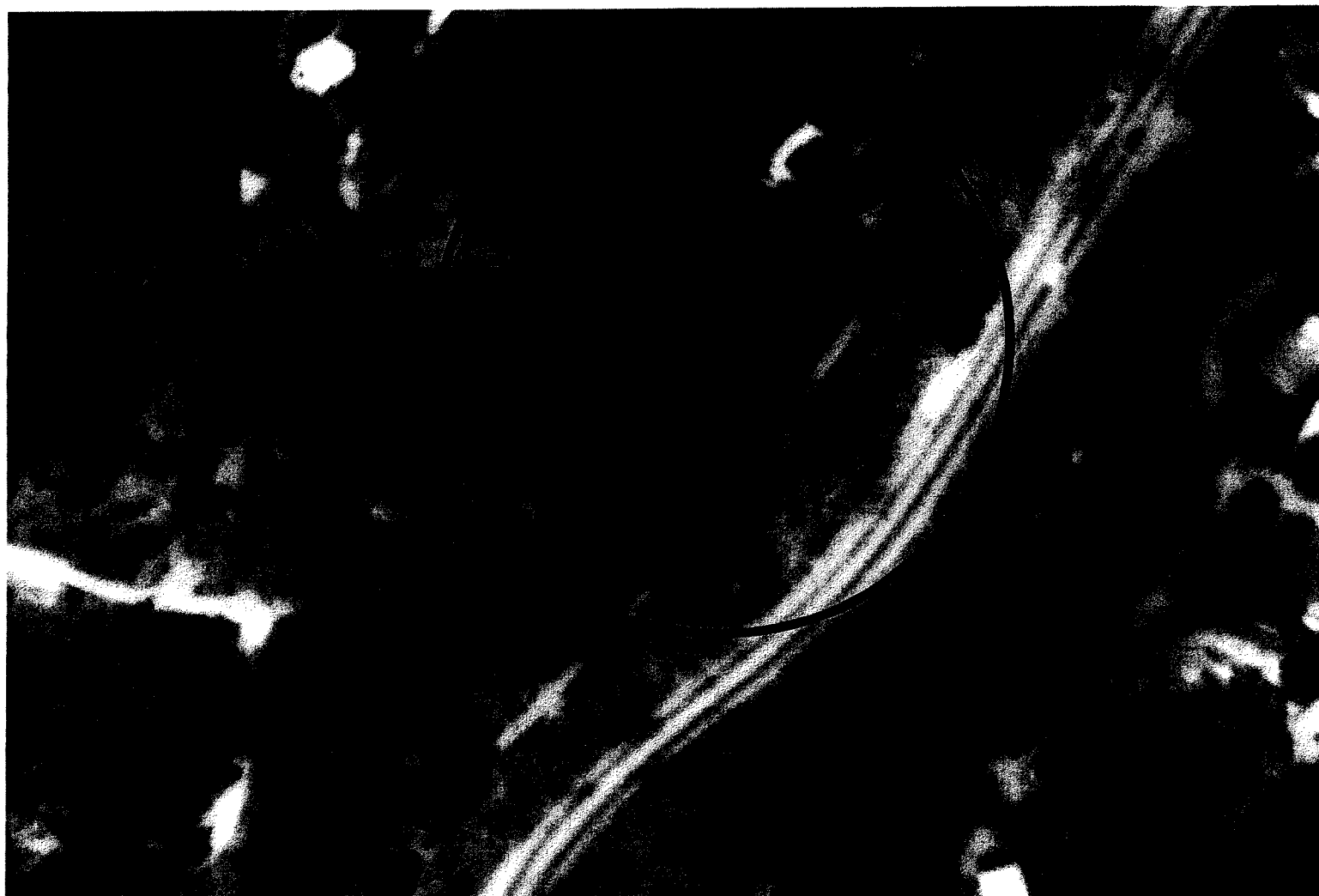


APPLICANT'S COPY

REGIONAL PLANNING  
 35185

subject to the requirements  
 and to the conditions noted  
 is specifically noted and must  
 be in accordance with the  
 applicable zoning ordinance

EXHIBIT NO. 12
APPLICATION NO.
4-02-160
FOOTPRINT COMPARISON



Project site in 1986. Residence obscured by canopy.

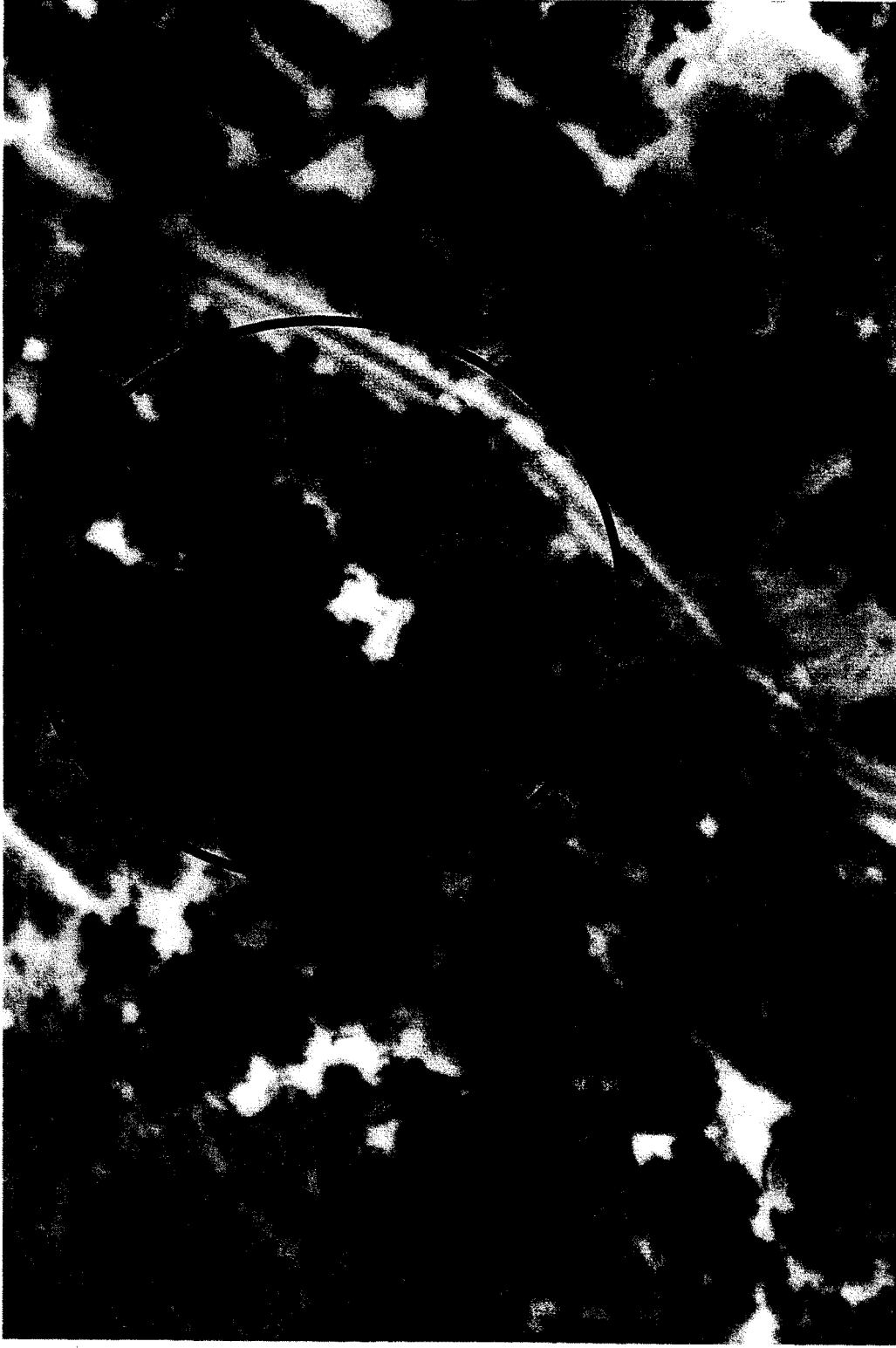
EXHIBIT NO. 13

APPLICATION NO.

4-02-160

OAK CANOPY (ZPP)





Project site in 2001. Residence clearly visible.

# EXHIBIT 14

## PHOTOS

### Page 1 (clockwise from upper left):

- Photo 1: Original residence prior to destruction by fire in 1991. View is to the north.
- Photo 2: Current residence. View is to the east.
- Photo 3: Back of current residence view is to the southeast.
- Photo 4: Current residence. View is to the north.

### Page 2 (clockwise from upper left):

- Photo 1: Current residence during framing phase of construction in 1992-1993. View is to the north.
- Photo 2: Current residence during framing phase of construction in 1992-1993. View is to the northwest.
- Photo 3: Front of current residence during framing phase of construction in 1992-1993. View is to the west. Note cut oak tree limb in foreground.
- Photo 4: Basement area of current residence while under construction in 1992-1993. View is to the northwest.

### Page 3

Front of current residence showing dripline of Oaks 2, 3, and 4. View is to the south.

