

## CALIFORNIA COASTAL COMMISSION

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Hearing Date: 7/14/04  
Comm Action:



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### STAFF REPORT: CONSENT CALENDAR

**APPLICATION NO.:** 4-04-003

**APPLICANTS:** Colin Smit      **AGENT:** John Hamilton, Hamilton Architects

**PROJECT LOCATION:** Northeast corner of Tuna Canyon Road and Reigate Road, Topanga, Los Angeles County

**PROJECT DESCRIPTION:** Construct a 35 foot high, two story, 4,158 sq. ft. single family residence including three car 630 sq. ft. attached garage, driveway, retaining walls, swimming pool, septic system, and 1,676 cubic yards of cut and fill grading.

Lot area:	2.5 acres
Building coverage:	2,324 sq. ft.
Pavement coverage:	4,050 sq. ft.
Landscape coverage:	4,210 sq. ft.
Parking spaces:	3
Ht abv fin grade:	35 ft.

#### **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the proposed project with special conditions relating to incorporation of geologic recommendations, landscaping and erosion control, drainage and polluted runoff control, wildfire waiver, color restriction, lighting restriction, future improvement restriction, and a generic deed restriction. The proposed project is located on a large parcel south of and beyond the Fernwood Subdivision on the upper western portion of Topanga Canyon. The applicant requests approval to construct a single-family residence and garage on an existing parcel accessed by a short driveway directly from Tuna Canyon Road. As conditioned, the proposed project will be consistent with the applicable policies of the Coastal Act.

**LOCAL APPROVALS RECEIVED:** Los Angeles County Approval in Concept, Health Department Preliminary Approval for septic system.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan; Updated Geotechnical Engineering Report, dated May 14, 2002, by Southwest Geotechnical, Inc.; Coastal Permit No. 4-01-233 (Port).

The staff recommends that the Commission adopt the following resolution:

**I. Approval with Conditions**

**I. STAFF RECOMMENDATION**

**MOTION:**     *I move that the Commission approve Coastal Development Permit No 4-04-003 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permits as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMITS:**

The Commission hereby approves the Coastal Development Permits 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 permits 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 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 Geotechnical Engineer's Recommendations**

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the Updated Geotechnical Engineering Report, dated March 31, 2003, by West Coast Geotechnical, Updated Engineering Geologic Report, dated March 25, 2003, by Mountain Geology, Inc. and Limited Engineering Geologic Report, dated October 29, 2002, by Mountain Geology, Inc. These recommendations to be incorporated into all final design and construction plans include recommendations concerning site preparation, grading, compaction and utility trench backfilling, foundations, lateral design, foundation settlement, concrete slabs-on-grade, AC paving, expansive soils, temporary excavations and shoring, drainage and moisture protection, grading and retaining wall backfilling, retaining walls, foundation setback, temporary excavations, excavation characteristics, swimming pool, sewage disposal, drainage, plan review, and site observation.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

#### **2. Landscaping and Erosion Control Plans**

**Prior to the issuance of the coastal development permit,** the applicant shall submit landscaping and erosion control plans, prepared by a licensed landscape architect or qualified resource specialist for review and approval by the Executive Director. The plans shall incorporate the following criteria:

##### **A) Landscaping Plan**

- 1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of completion of the proposed development. To minimize the need for irrigation and to screen and soften the visual impact of development, landscaping shall consist of primarily 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, and shall be compatible with the character of the surrounding native environment. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. The plan shall specify the erosion control measures to be implemented and the materials necessary to accomplish short-term stabilization, as needed on the site. Replacement planting for Elderberry plants within the small drainage area on the southwest portion of the parcel, shall include the planting of at least five Coast Live Oaks as recommended by the "Limited Biological Report" dated March 11, 2004 by Klaus Radkte, GeoSafety, Inc. Additional trees and shrubs shall be planted along the north, west and south side of the residence and garage to partially screen the development from public view along Tuna Canyon Road, consistent with the requirements of the Los Angeles County Fire Department.

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, compatible with the surrounding environment, using accepted planting procedures, and consistent with fire safety requirements. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years, and this requirement shall apply to all disturbed and graded soils;

- 2) Plantings shall be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 3) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment(s) to the Coastal Development Permit(s), unless the Executive Director determines that no amendment is required.
- 4) Vegetation within 20 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, as recommended in the

"Limited Biological Report" noted above. 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 planted within the fifty foot radius of the proposed house shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

#### **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 sites shall be clearly delineated on the project site with fencing or survey flags.
- 2) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. 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, and shall 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 control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout 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 of the coastal zone or within the coastal zone to a site 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 thirty (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 (5) years from the date of completion of the proposed development, 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 assesses the on-site landscaping and certifies whether it 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 these permits, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The supplemental landscaping plan must be prepared by a licensed landscape architect or 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. The permittee shall implement the remedial measures specified in the approved supplemental landscape plan.

### **3. Wildfire Waiver of Liability**

By acceptance of this permit, the applicant agrees to indemnify and hold harmless the California Coastal Commission, its officers, agents, and employees against any and all claims, demands, damages, costs, and expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wildfire exists as an inherent risk to life and property.

### **4. Drainage and Polluted Runoff Control Plan**

**Prior to the issuance of the coastal development permit,** the applicant shall submit for the review and approval of the to the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater leaving the developed site. The plans shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with 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 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.

- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30<sup>th</sup> each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if amendment(s) or new Coastal Development Permit(s) are required to authorize such work.

**5. Color Restriction**

**Prior to the issuance of the coastal development permit**, the applicant shall submit to the Executive Director, a color palette and material specifications for the outer surface of all structures, including the driveway pavement authorized by the approval of coastal development, permit 4-04-003. The palette samples shall be presented in a format not to exceed 8 1/2" X 11" X 1/2" in size. The palette shall include the colors proposed for the all of the roofs, trims, exterior surfaces, retaining walls, driveway, or other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones). Including shades of green and brown with no white or light shades, galvanized steel, and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by Coastal Development Permit No. 4-04-003 if such changes are specifically authorized by the Executive Director as complying with this special condition.

**6. Lighting Restriction**

**A.** The only outdoor night lighting allowed on the subject parcel are limited to the following to minimize night time intrusion of light and disruption of wildlife traversing this area at night within this rural area:

1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas and driveways, on the site. This lighting shall be limited to fixtures that do not exceed two feet in height, that are directed downward, and use incandescent bulbs that do not exceed 60 watts, or energy efficient bulbs such as compact florescent that do not exceed a 12 watt rating, or bulbs generating the equivalent amount

of lumens, unless a higher wattage is authorized by the Executive Director.

2. Security lighting attached to the residence and garages that are controlled by motion detectors is limited to incandescent bulbs that do not exceed 60 watts, or energy efficient bulbs such as compact florescent that do not exceed a 12 watt rating, or bulbs generating the equivalent amount of Lumens, unless a higher wattage is authorized by the Executive Director.
3. The minimum lighting necessary for safe vehicular use of the driveway. That lighting shall be limited to incandescent bulbs that do not exceed 60 watts, or energy efficient bulbs such as compact florescent that do not exceed a 12-watt rating, or bulbs generating the equivalent amount of lumens, unless a higher wattage is authorized by the Executive Director.
- B. No lighting on the remainder of the parcel, including the slopes and other areas, and no lighting for aesthetic purposes is allowed.

#### **7. Future Development Restriction**

This permit is only for the development described in Coastal Development Permit 4-04-003. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code section 30610(a) shall not apply to the development governed by Coastal Development Permit 4-04-003. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by these permits, including but not limited to, any grading, clearing or other disturbance of vegetation and fencing, other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition 2 shall require an amendment to Coastal Development Permit 4-04-003 from the Commission or shall require additional coastal development permits from the Commission or from the applicable certified local government.

#### **8. Deed Restriction**

***Prior to issuance of the coastal development permit*** the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to these permits, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of these permits as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the

use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

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

The Commission hereby finds and declares:

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

The applicant proposes to construct a 35 ft. high, two story, 4,158 sq. ft., single-family residence including an attached 630 sq. ft. garage, driveway, 4-8 foot high retaining walls totaling 130 feet long, swimming pool, septic system, 838 cu. yds. of excavation, 838 cubic yards of fill all located on a 2.5 acre parcel just south of the Fernwood subdivision (Exhibits 1 – 8). The proposed project site is located on a small flat graded pad near the intersection of Tuna Canyon Road and Reigate Road created prior to the effective date of the Coastal Act in 1977 (Exhibit 1). The proposed driveway accessing the garage on the existing building site is the shortest distance from Tuna Canyon Road, a total of about 60 feet. There are several existing residences in the surrounding the proposed project site. The project site is located within the fuel modification zone of four residences located to the south, west, north and east of the project site. The applicant submitted a "Limited Biological Report" dated March 11, 2004 by Klaus Radtke, GeoSafety, Inc., that identified the limited biological resources on site and the overlapping fuel modification requirements of the four adjacent properties. This report evaluated the parcel for alternative building sites, finding virtually no other buildable site available on the parcel that would create lesser environmental impacts. The parcel has relatively undisturbed chaparral located on the southeastern portion of the property where no development, fuel modification or vegetation removal is proposed. Given the existing pattern of residential development on surrounding parcels and the road configuration, the proposed project site does not contain environmentally sensitive habitat area nor is it a part of a larger contiguous habitat area. The applicant has submitted a Final Fuel Modification Plan approved by the Los Angeles County Fire Department, dated January 9, 2004.

##### **B. Hazards and Geologic Stability**

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

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, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

## **1. Geology**

The proposed project site is located on the western portion of an irregular shaped parcel that traverses down slope from Tuna Canyon Road along Reigate Road. The applicant has submitted two reports: 1) Updated Geotechnical Engineering Report, dated March 25, 2003, by Mountain Geology, Inc.; and 2) Update Geotechnical Engineering Report which addresses the geologic conditions and a geotechnical engineering evaluation of the site. The engineer and engineering geologist consultants have found the geology of the proposed project site to be suitable for the construction of the proposed residence. They have identified no landslides or other geologic hazards on the site. The engineer and geotechnical engineering consultants conclude that:

It is the opinion of West Coast Geotechnical that the proposed development will be safe against hazard from landslide, settlement or slippage, and that the proposed development will not have an adverse affect on the stability of the subject site or immediate vicinity, provided our recommendations are made part of the development plans and are implemented during construction. .

The engineer and engineering geologist consultants conclude that the proposed development is feasible and will be free from geologic hazard provided their recommendations are incorporated into the proposed development. The Geotechnical Report contains several recommendations to be incorporated into the project construction regarding; foundations, plan review, site observation, to ensure the stability and geologic safety of the proposed project site and adjacent property. To ensure that the recommendations of the consultant have been incorporated into all proposed development the Commission, as specified in **Special Condition No. 1**, requires the applicant to incorporate the recommendations cited in the Geotechnical Engineering Reports into all final design and construction plans. Final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed developments, as approved by the Commission, which may be recommended by the consultant shall require an amendment to the permit or a new coastal development permit.

The Commission finds that controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad will minimize erosion and add to the geologic stability of the project sites. To ensure

that adequate drainage and erosion control are included in the proposed developments the Commission requires the applicant to submit drainage and interim erosion control plans certified by the consultants, as specified in **Special Conditions Nos. 2 and 4**. **Special Condition No. 4** requires the applicants to maintain a functional drainage system at the subject sites to insure that run-off from the project sites is diverted in a non-erosive manner to minimize erosion at the sites for the life of the proposed developments. Should the drainage system of the project sites fail at any time, the applicant will be responsible for any repairs or restoration of eroded areas as consistent with the terms of **Special Condition No. 4**.

The Commission also finds that landscaping of graded and disturbed areas on the subject site will serve stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition No. 2** requires the applicant to submit and implement landscaping plans that utilize and maintain native and noninvasive plant species compatible with the surrounding area in order to revegetate all graded or disturbed areas.

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 notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes 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 and invasive species, and once established aid in preventing erosion.

The Commission finds that the proposed project, as conditioned, will minimize potential geologic hazards of the project site and adjacent properties.

## **2. Wild Fire**

The proposed project is located in the Santa Monica Mountains, an area subject to an extraordinary potential for damage or destruction from wild fire. Typical vegetation in the Santa Monica Mountains consists mostly of coastal sage scrub and chaparral. Many plant species common to these communities produce and store terpenes, which are highly flammable substances (Mooney in Barbour, Terrestrial Vegetation of California, 1988). Chaparral and sage scrub communities have evolved in concert with, and continue to produce the potential for, frequent wild fires. The typical warm, dry summer conditions of the Mediterranean climate combine with the natural characteristics of the native vegetation to pose a risk of wild fire damage to development that cannot be completely avoided or mitigated.

Due to the fact that the proposed projects are located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from these associated risks. Through **Special Condition No. 3**, the wildfire waiver of

liability, the applicant acknowledges the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development. Moreover, through acceptance of **Special Condition No. 3**, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted projects.

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 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.*

As described in detail in the previous sections, the applicants are proposing the construction of a single-family residence on a small flat graded pad located below the grade of Tuna Canyon Road. This site drains north into two small drainages leading to a tributary located northeast of the project site that joins Topanga Canyon Creek, a designated blue-line stream. The project site is considered a "hillside" development, as it involves sloping hillside terrain with soils that are susceptible to erosion.

The proposed development will result in an increase in impervious surface at the subject site, which in turn 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.

Therefore, in order to find the proposed project 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 sites. 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.

For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) should be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs. The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85<sup>th</sup> percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition No. 4**, and finds this will ensure the proposed developments 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 measures 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 No. 2** is necessary to ensure the proposed developments will not adversely impact water quality or coastal resources.

Finally, the proposed developments include the installation of on-site private sewage disposal systems to serve the residences. The applicant's geologic consultants conducted percolation tests on the site as noted in the report "Limited Engineering Geologic Report Proposed Private Sewage Disposal System", dated October 29, 2002 by Mountain Geology, Inc. On the basis of these prior tests, the septic system was designed to utilize seepage pits located in the southwestern portion of the site. The County of Los Angeles, Department of Health Services, has given in-concept approval of the proposed septic system, dated 2-25-2004, determining that the system meets the requirements of the plumbing code. The Commission has found that conformance with the provisions of the plumbing code is protective of coastal resources. For the reasons set forth above, the Commission finds that the proposed projects, as conditioned to incorporate and maintain a drainage and polluted runoff control plan, are consistent with Section 30231 of the Coastal Act.

#### **D. Scenic and Visual Quality**

Section 30251 of the Coastal Act states that:

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

The applicant proposes to construct a two story, 35 foot high, 4,158 sq. ft., single-family residence including an attached 630 sq. ft. garage, driveway, 4-8 foot high retaining walls totaling 130 feet long, swimming pool, septic system, 838 cu. yds. of excavation, 838 cubic yards of fill all located on a 2.5 acre parcel.

In the review of this project, the Commission reviews the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. The Malibu/Santa Monica Mountains Land Use Plan protects visual resources in the Santa Monica Mountains. Tuna Canyon Road is recognized as a number 2 priority scenic highway and is located as close as 50 feet to the building site. Upper Tuna Canyon is recognized as a highly scenic area that are given special treatment when evaluating potential impacts created by new development.

The Commission examines the building site, the proposed grading, and the size of the building pad and structures. The development of the residence and garage raise two issues regarding the siting and design: one, whether or not public views from public roadways will be adversely impacted, or two, whether or not public views from public trails will be impacted. Due to the distance and intervening topography, the project site is not visible from any planned or existing public trail. It is important to note that there are residences located on the adjacent parcels located to the west, north, east and south and additional residences along Tuna Canyon Road in either direction.

The proposed residence will be visible from Tuna Canyon Road in both the northbound and southbound directions along this section of the road. The building pad for the 35 foot high residence is located at the 1,606 foot elevation level about 12 feet lower than the adjoining grade elevation for the Tuna Canyon Road which is located at about the 1,618 foot high level. In effect, the top of the proposed residence will be about 23 feet above the grade of the highway at this location. Due to its lower grade elevation for the building pad and the approximate 50 foot setback from Tuna Canyon Road, the public visibility of the residence, garage, retaining walls and driveway will be limited. However, because the proposed development will be visible from Tuna Canyon Road, a designated scenic highway, for road traffic in either direction, some visual mitigation is necessary. In order to reduce the public visibility of the residence, garage, retaining walls, and driveway, landscape screening, such as trees and shrubs, could further reduce the public visibility of the structure from the west, north and south. The Commission finds it necessary to impose **Special Condition No. Two** that requires the applicant to revise the landscape plan to include vertical elements such as trees and shrubs along the west, north, and south sides of the residence and garage to partially screen the structures from public view along Tuna Canyon Road.

The grading necessary to expand the existing building pad and construct the driveway to the garage, is judged to be the minimum amount necessary to access the building site from Tuna Canyon Road while meeting the requirements of the Los Angeles County Fire Department relative driveway slope requirements. Furthermore, no significant cut or fill slopes will result from the above referenced grading, and no adverse or significant visual impacts are anticipated as a result of the driveway colored an earthen tone as seen from Tuna Canyon Road as required by **Special Condition No. Five**.

Because the proposed structures and development will be visible from Tuna Canyon Road located to the west, north and south, mitigation to address potential visual impacts is needed for the development and structures. The proposed two story residence, garage and retaining walls will be less visually intrusive through the use of earth tones for the structures and roofs of the buildings, retaining walls, the driveway, and non-glare glass which helps the structures blend in with the natural setting. The Commission finds it necessary to impose **Special Condition No. Five** to restrict the color of the subject

structures and driveway to those compatible with the surrounding environment and prohibit the use of white tones, while requiring the use of non-glare glass windows.

The Commission has found that night lighting of areas in the Malibu / Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, public parks and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, in order to protect the night time rural character of this portion of the Santa Monica Mountains, consistent with the scenic and visual qualities of this coastal area, the Commission limits the nighttime lighting of the property, residence, garage and pool to that necessary for safety as outlined in **Special Condition No. Six**.

The Commission finds that the amount and location of any new development that may be proposed in the future on the subject site is significantly limited by the unique nature of the site and the environmental and scenic constraints discussed above. To ensure that any future additions to the permitted structures, which would otherwise be exempt from coastal permit requirements, are reviewed for consistency with Sections 30231, 30240, 30251 and 30253 of the Coastal Act, the Commission finds, that it is necessary to require that all future additions or improvements to the permitted structures, or any future development on the subject parcel, will require a permit or permit amendment, as required by **Special Condition No. Seven**.

**Special Condition No. Eight** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

Therefore, the Commission finds that the project, as conditioned, minimizes impacts to public views to and along the coast, and thus, is consistent with Section 30251 of the Coastal Act.

#### **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).*

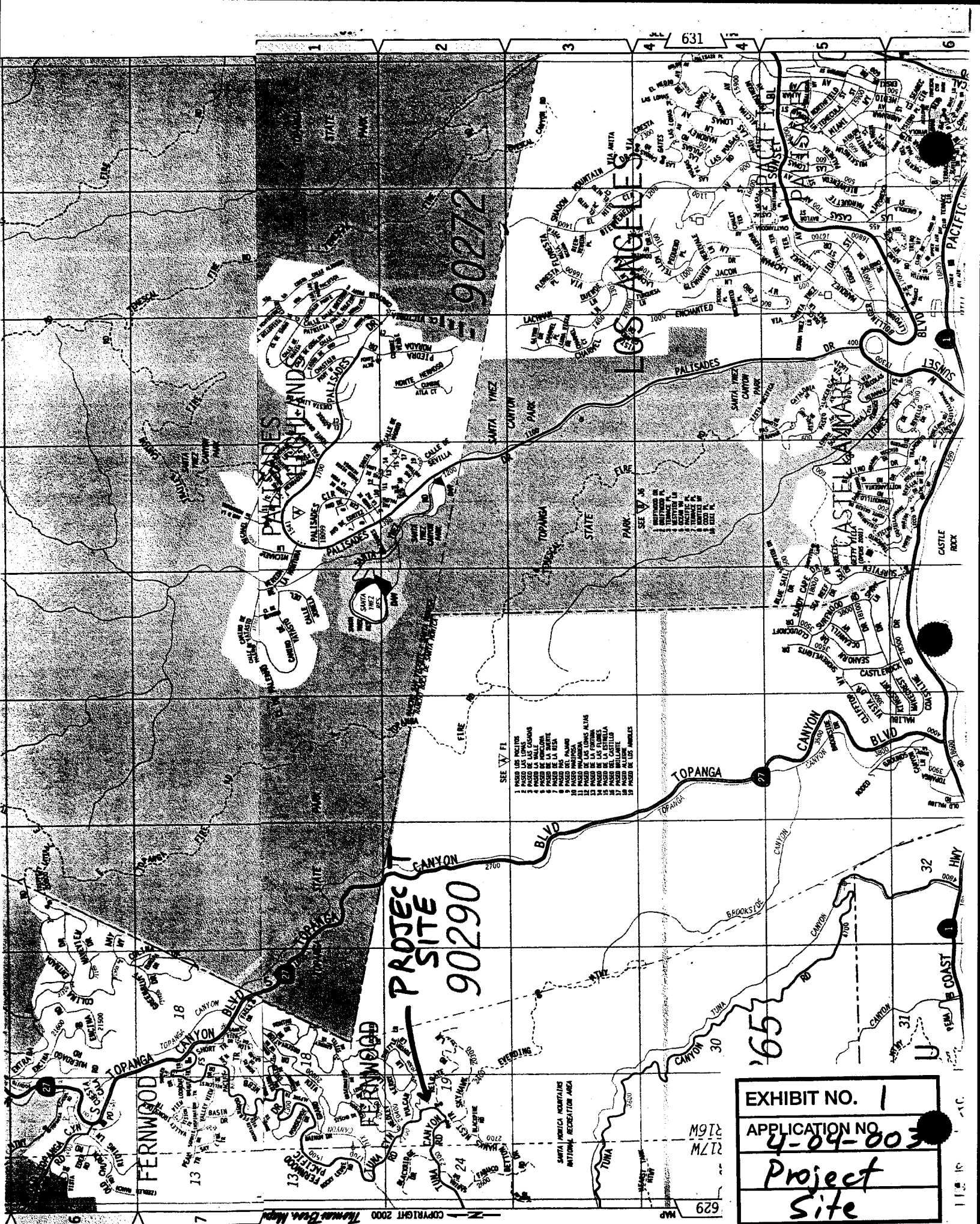
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the

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 projects and are accepted by the applicant. As conditioned, the proposed developments will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed developments, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

**F. CEQA**

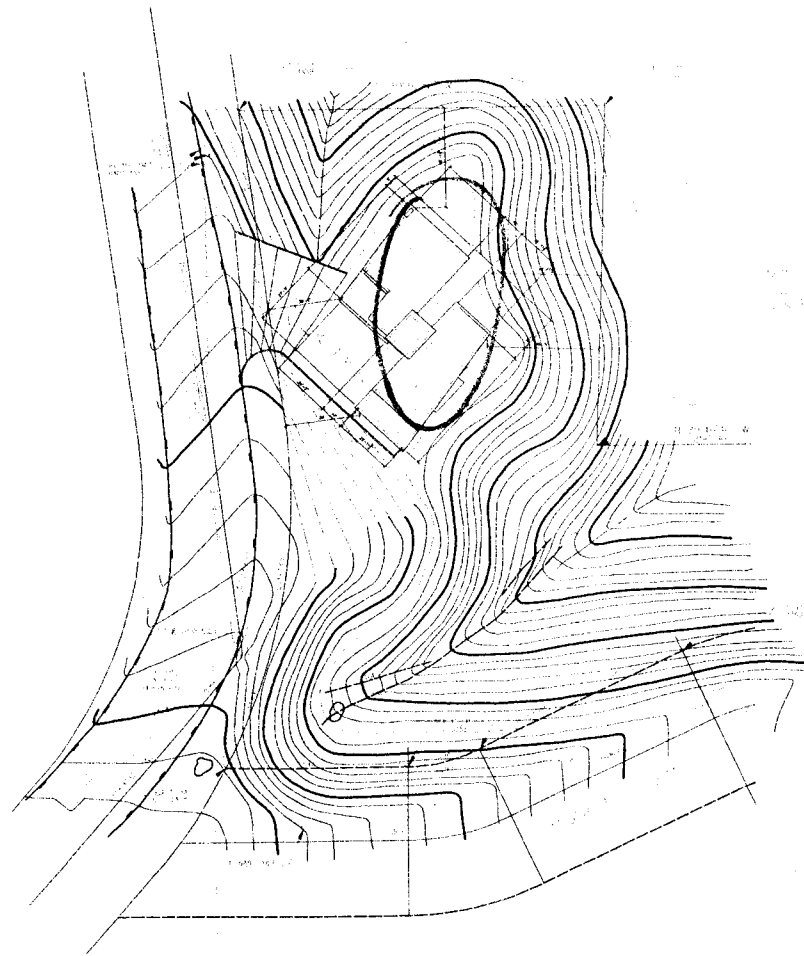
Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California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

The Commission finds that the proposed projects, 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.



- SEE V F1
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EXHIBIT NO. 1
APPLICATION NO. 4-04-003
Project Site



Site Plan  
Scale: 1/2" = 1'-0"



Project Information	Legend	Architectural Keynotes
<p>NEW RESIDENCE - 4,156 SQ. FT. FIRST FLOOR - 2,324 SQ. FT. INCLUDES 500 SQ. FT. DRIVE SECOND FLOOR - 1,832 SQ. FT.</p> <p>OCCUPANCY GROUP R-3 (USE 2001 IBC 1601.10.1) USE: SINGLE FAMILY RESIDENCE AND GARAGE TYPE V, NON-RATED FULLY BRICKLINED 3 STORY, 10.05 117' - 10.07' LOT AREA - 2.52 ACRES APPROXIMATELY 108,111 SQ. FT.</p> <p>2001 CA BUILDING CODE AS ADAPTED BY THE COUNTY OF LOS ANGELES</p> <p>2001 CA PLUMBING CODE AS ADAPTED BY THE COUNTY OF LOS ANGELES</p>	<p>NEW 2 1/2" VSD OR 3 1/2" STANDARD GALE MET. STUBS AT 16" OC. WITH 1-LAYER OR 2" VSD DIVISION WALLS AND EACH SIDE</p> <p>EXHAUST FANS CAPABLE OF PROVIDING A MINIMUM OF 15 MINUTE AIR CHANGES PER AIR CHANGES REQUIRED IN DRINKABLE AND SPRINKLER BY THE REEF LIGHT SWITCH IN OTHER HANDICAP DEVICE</p> <p>DIMENSIONS INDICATED BY PARENTHESES INDICATES EXISTING MEASUREMENTS</p> <p>INDICATES KEYNOTES. SEE KEYNOTE LEGEND ON EACH SHEET FOR INFORMATION</p>	<p>1. UNNOTES EASEMENT</p> <p>2. AN APPROVED SHUTTER VALVE WILL BE INSTALLED ON THE FUEL GAS LINE ON THE PLUMBING SIDE OF THE UTILITY METER AND BE PROPERLY CONNECTED TO THE EXTERIOR OF THE STRUCTURE CONTAINING THE FUEL GAS PIPING</p> <p>3. DRIVEWAY SLOPE SHALL NOT EXCEED 12.5% MAXIMUM CROSS SLOPE IS 10% MAX. SLOPE WITHIN PARKING AREA IS 5%</p> <p>4. ALL COLLECTED RAINWATER SHALL BE CONVEYED THROUGH CORNER TO STABLE 1/4" DIA. MIN. PROPOSED 1" DIA. SUB-SURFACE PIPES MIN. 4" PROVIDE CUTTERS AND CONNECTIONS MIN. DRAIN SLOPE 2" PER FOOT</p>

SHE  
ARCHITE  
A01: SITE PLAN AND  
SURVEY  
A02: FIRST FLOOR  
A03: SECOND FLOOR  
A04: ROOF PLAN  
A05: ELEVATIONS  
A06: ELEVATIONS

EXHIBIT NO. 2  
APPLICATION NO. 4-84-803  
Site Plan  
Detail

JOHN HAMILTON  
HAMILTON ARCHITECTS  
1000 Wilshire Blvd. Suite 400  
Los Angeles, CA 90017  
Tel: 213.467.1000

Title Sheet  
Site Plan, Index,  
Project Information

1  
10.0.02  
10.0.02

APPLICANT'S COPY

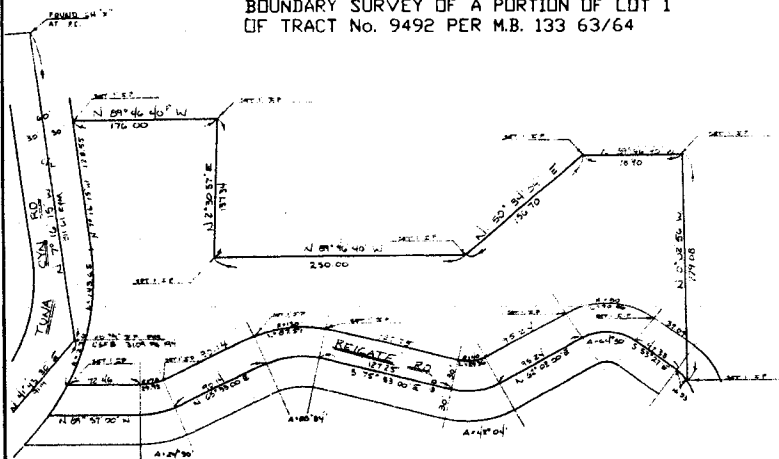
DEPARTMENT OF PUBLIC PLANNING  
CASE NO. 11111  
The following is a preliminary plan of a project  
which has been submitted to the Department of  
Public Planning for review and comment.  
It is not to be used for any other purpose  
without the written consent of the Department.  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVAL INSTRUCTIONS  
1. APPROVED BY THE DEPARTMENT OF PUBLIC PLANNING  
2. APPROVED BY THE DEPARTMENT OF PUBLIC PLANNING  
3. APPROVED BY THE DEPARTMENT OF PUBLIC PLANNING  
4. APPROVED BY THE DEPARTMENT OF PUBLIC PLANNING

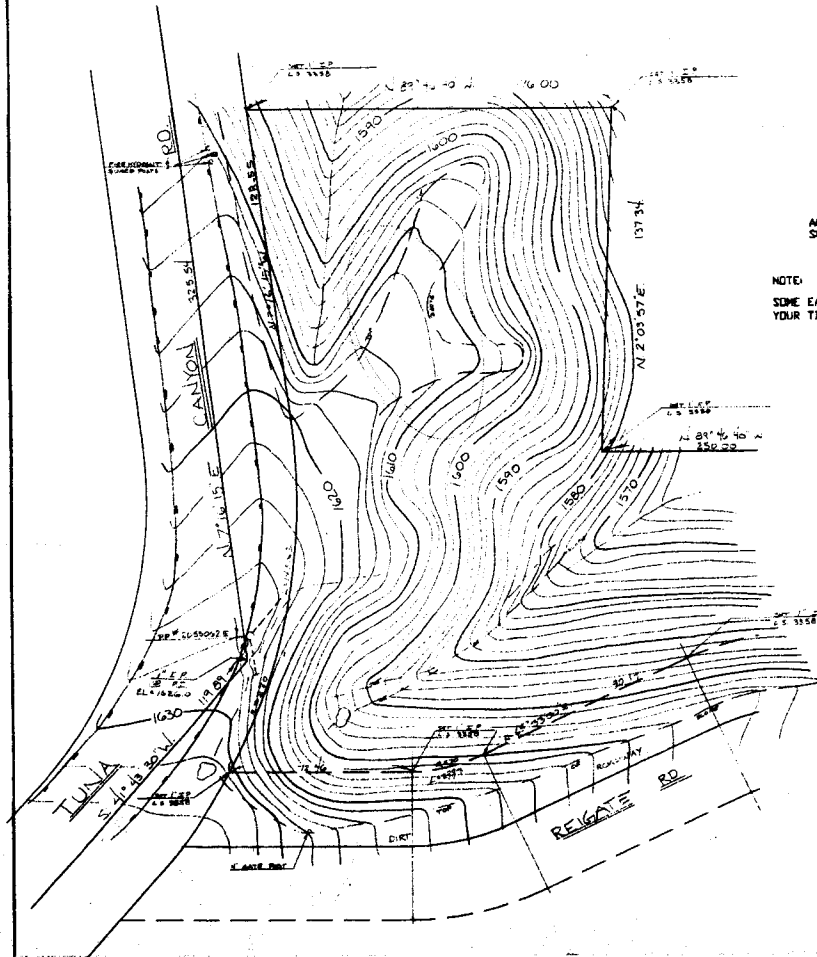
SEE ATTACHED CONDITIONS

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10.0.02  
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AS NOTED  
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BOUNDARY SURVEY OF A PORTION OF LOT 1  
OF TRACT No. 9492 PER M.B. 133 63/64



TOPOGRAPHIC MAP OF A PORTION OF A PORTION OF  
LOT 1 TRACT No. 9492 PER M.B. 133 PAGES 63/64

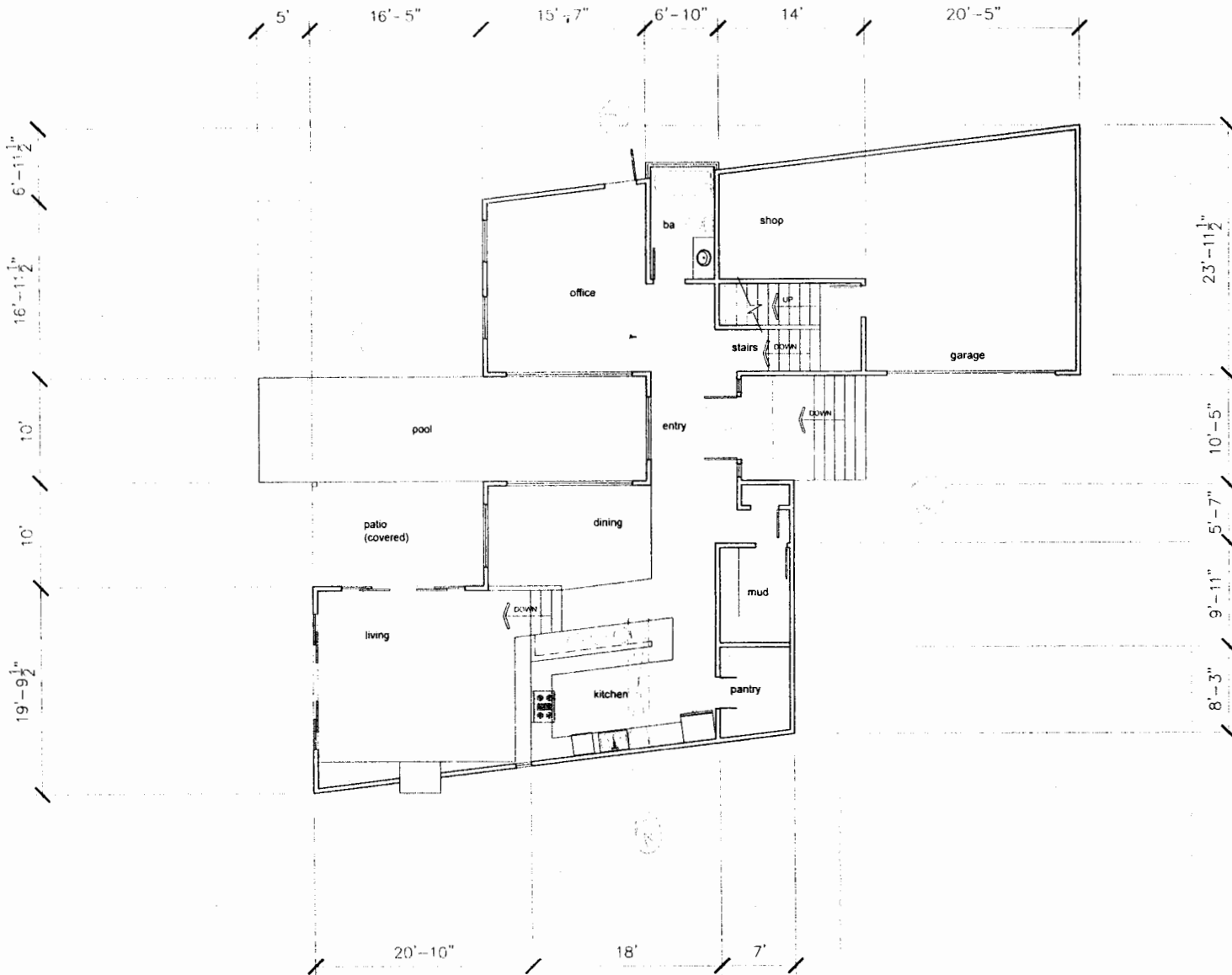


NOTE:  
SOME EASEMENTS SHOWN. CONSULT  
YOUR TITLE REPORT FOR EASEMENTS.

JOHN H. MAC NEIL  
2330 TOPANGA CANYON BLVD.  
TOPANGA, CA  
213-455-2013 90290

FILE # 7664 BIN 0-C-1

EXHIBIT NO. 3  
APPLICATION NO. 4-04-003  
Topographic  
Map



First Floor Plan  
Scale 1/4" = 1'-0"

EXHIBIT NO. 4  
APPLICATION NO. 4-84-803  
First Floor Plan

Smit Residence		Hamilton Architects	
2115	10.6.02	1	AS NOTED
1	100%	1	2.1
A	1	1	17

Second Floor Plan

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

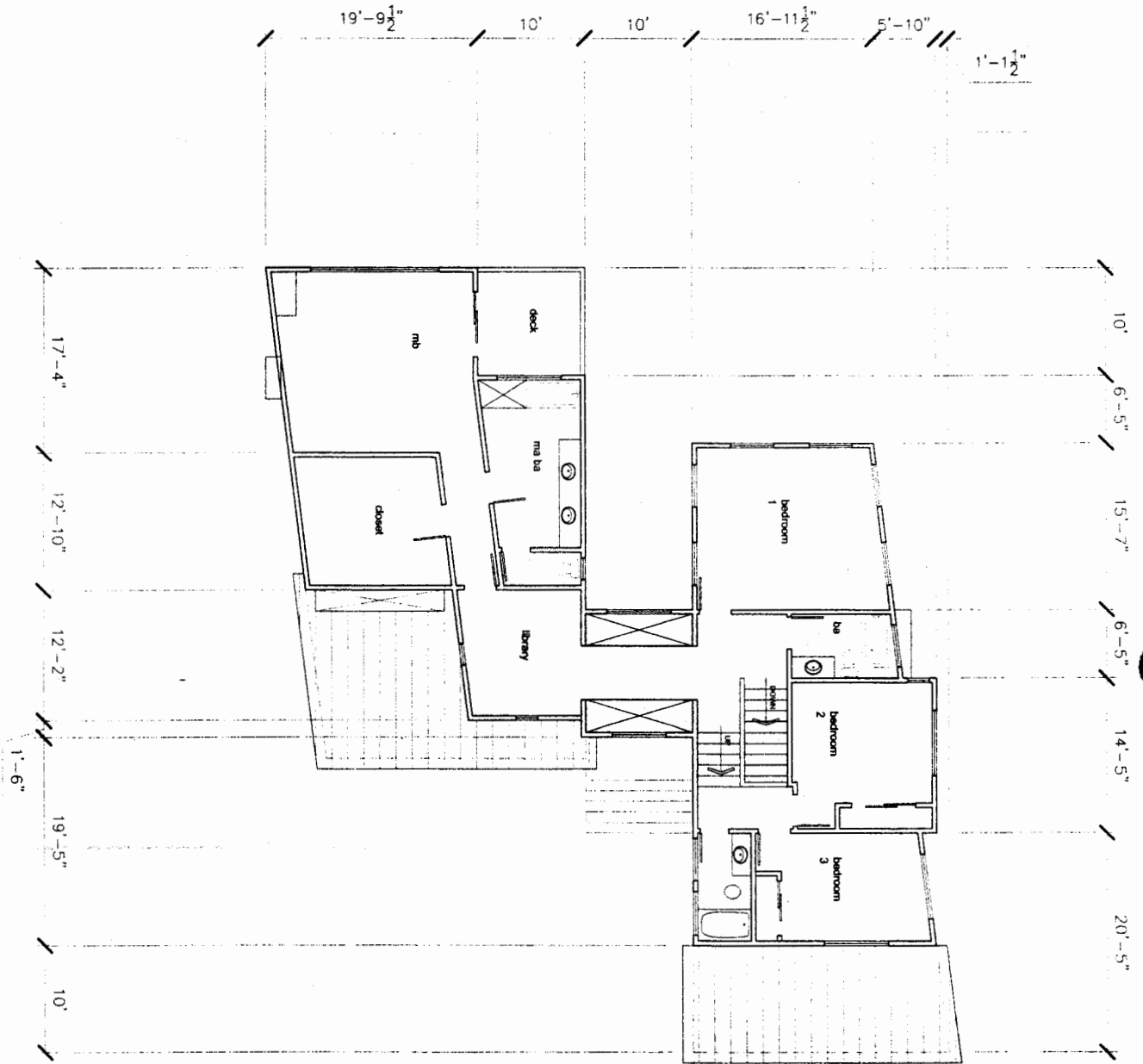
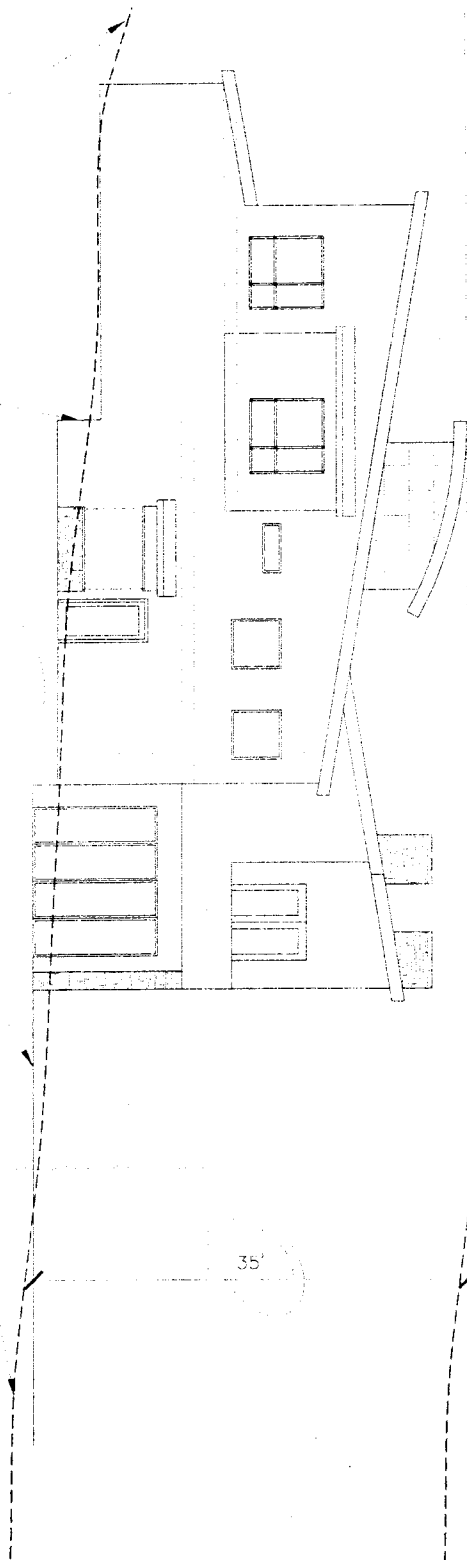


EXHIBIT NO. 5  
APPLICATION NO. 4-04-003  
Second Floor Plan

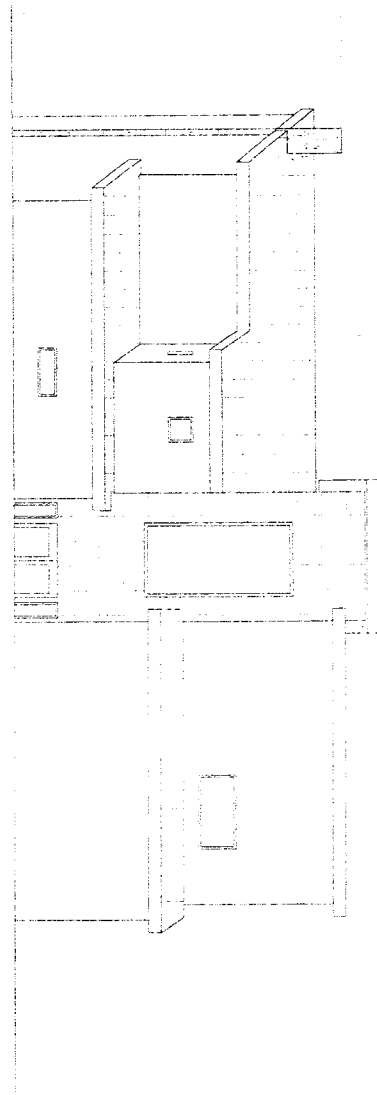
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east elevation  
Scale 1/4" = 1'-0"

FINISHED GRADE  
EXISTING NATURAL SLOPE



South elevation  
Scale 1/4" = 1'-0"



29'-6"

EXHIBIT NO. 6  
APPLICATION NO. 4-04-003  
South & East  
Elevations

1	2115	Smit Residence	1	Elevations	HAMILTON ARCHITECTS	JOHN PATRICK HAM
1	10.6.02	MEC of Tule Canyon and Pigeon Rd Tulare Canyon, CA	1	Elevations	12460 Ventura Blvd, Suite 404 Van Nuys, CA 91411 Tel: (818) 708-1000 Fax: (818) 708-1001	
AS NOTED						

west elevation  
Scale 1/4" = 1'-0"

FINISHED GRADE  
EXISTING NATURAL SLOPE

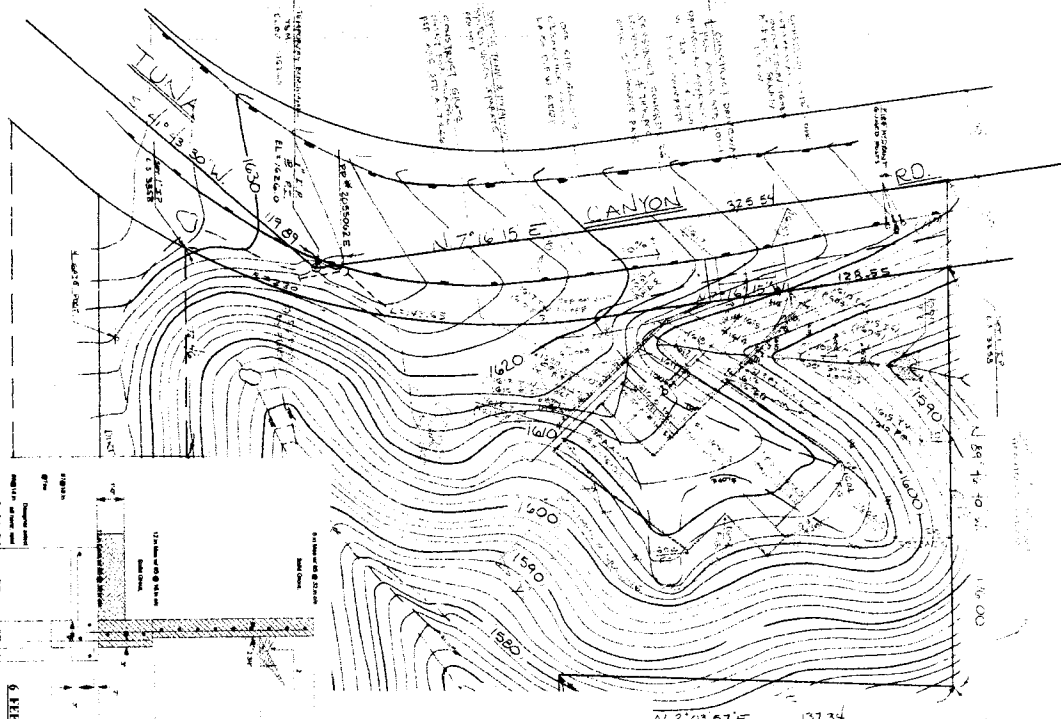
north elevation  
Scale 1/4" = 1'-0"

FINISHED GRADE  
EXISTING NATURAL SLOPE

35'

EXHIBIT NO. 7  
APPLICATION NO. 4-04-003  
North & West  
Elevation

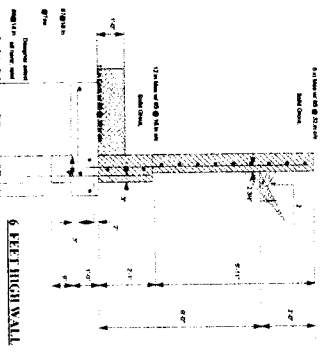
1	A	32	1	2115	Smit Residence	1	Elevations	HAMILTON ARCHITECTS	JOHN PATRICK HAMIL
1	1	100%	1	100%	100%	1	Elevations	1740 Miller Blvd, Suite 100 San Francisco, CA 94115 Tel: 415.774.1000	100%
1	1	100%	1	100%	100%	1	Elevations	1740 Miller Blvd, Suite 100 San Francisco, CA 94115 Tel: 415.774.1000	100%



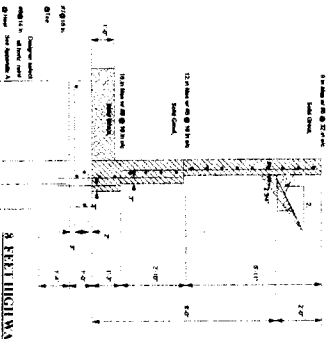
N 2° 03' 57\"/>

ASSET 24, 1991  
SCALE 1\"/>

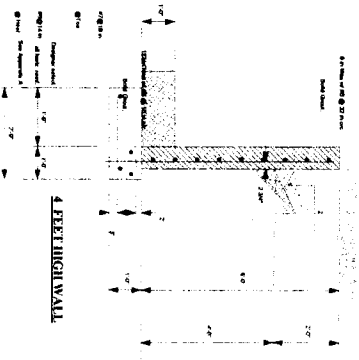
SHIMMER, JOHN H. MONTGOMERY, L.S. 3308



6 FOOT HIGH WALL



4 FOOT HIGH WALL

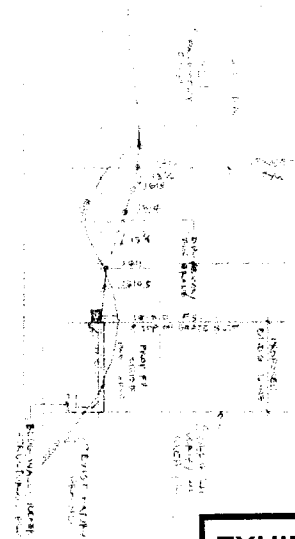


4 FOOT HIGH WALL

SECTION B - B  
SCALE 1\"/>

200' (10') ELEVATION, ELEVATION, ELEVATION, and ELEVATION Detail

SECTION A - A  
SCALE 1\"/>



RETAINING WALL DETAILS

SITE AND GRADING PLAN  
REFER TO ARCHITECTURAL SITE PLAN FOR FINISH ELEVATIONS



EXHIBIT NO.	8
APPLICATION NO.	4-04-003
Site & Grading Plan	

<b>CLIENT:</b> SMIT RESIDENCE CO CA CONTRACTING ENTERPRISES 141 30th APT. 1 SANTA MONICA, CA 90401	<b>ARCHITECT:</b> MR. JOHN F. HAMILTON, AIA 1240 VENEZIA BLVD., STE. 200 LOS ANGELES, CA 90006	<b>CIVIL ENGINEER:</b> G. F. MONTGOMERY & ASSOCIATES, INC. 1617 W. WILSON WAY SANTA ANA, CALIF. 92705 TEL. NO. 949-261-1166	<b>SOILS ENGINEER:</b> ROBERT J. SHUBERT ORD ENGINEERING CORP. P.O. BOX 408 WEST HILLS, CA 91367 TEL. NO. 818-977-6422	<b>GRADING PLAN:</b> SMIT RESIDENCE 1140 TUNA CANYON TOPANGA, CA 91367
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