Item Fr 6d

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST AREA
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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-03-061

APPLICANT: James Nelson Yardley and Gail Reavely Yardley

PROJECT LOCATION: 730 Topanga Canyon Boulevard, Topanga, Santa Monica Mountains, Los Angeles County

PROJECT DESCRIPTION: Construction of permanent access driveway (maximum 12 feet wide), with retaining wall, slough wall, concrete paving, and drainage facilities through an oak woodland ESHA to provide access to an existing residence. Grading (250 cu. yds.) for a temporary road for geologic testing purposes was previously approved under Permit 4-00-151.

LOCAL APPROVALS RECEIVED: Los Angeles County Environmental Review Board

SUBSTANTIVE FILE DOCUMENTS: 4-00-151 (Yardley); Malibu/Santa Monica Mountains Land Use Plan; Re-Revised Engineering Geologic Report, dated 10/19/01, prepared by Geoplan, Inc.; Oak Tree Report, dated 2/25/00, and Oak Tree Report Update, dated 4/5/04, both prepared by Kay J. Greeley

SUMMARY OF STAFF RECOMMENDATION

Staff recommends approval of the construction of the permanent access driveway, with special conditions to require oak tree mitigation for two trees adversely impacted by the construction, monitoring of other oak trees impacted by the development, implementing the recommendations of the geologic consultant, and preparing and implementing a drainage and polluted runoff plan. As conditioned, the proposed project will be consistent with Sections 30230, 30231, 30240, and 30253 of the Coastal Act.

STAFF RECOMMENDATION:

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 4-03-061 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 permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any 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. Oak Tree Mitigation.

Prior to issuance of the permit amendment, the applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other resource specialist, which specifies replacement tree locations, tree or seedling size planting specifications, and a ten-year monitoring program to ensure that the replacement planting program is successful. At least twenty replacement seedlings, less than one year old, grown from acorns collected in the area, shall be planted on the project site, as mitigation for development impacts to Oak Trees No. 3 and 15, as identified by the "Oak Tree Report," prepared by Kay Greeley, dated February 25, 2000. An annual monitoring report on the oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years.

2. Oak Tree Monitoring

The applicants shall retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during construction of the access road. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if habitat is removed or impacted beyond the scope of the work allowed by Coastal Development Permit 4-03-061. This monitor shall have the authority to require the applicants to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

The applicants shall also implement all oak tree preservation measures enumerated in the "Oak Tree Report," prepared by Kay Greeley, dated February 25, 2000 and the Los Angeles County Oak Tree Permit No. 00-94-(3), dated June 13, 2000. The applicants shall retain a qualified oak tree consultant to monitor the following oak trees, as identified by the "Oak Tree Report," prepared by Kay Greeley, dated February 25, 2000, and the Los Angeles County Oak Tree Permit No. 00-94-(3), dated June 13, 2000 for a period of ten (10) years minimum: 1, 2, 4, 5, 6, 7, 9, 10, &16.

An annual monitoring report shall be submitted for the review and approval of the Executive Director for each of the ten years. Should any of these trees be lost or suffer worsened health or vigor as a result of this project, the applicants shall plant

replacement trees on the site at a rate of 10:1. If replacement plantings are required, the applicants shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a monitoring program to ensure that the replacement planting program is successful.

3. Plans Conforming to Geotechnical Engineer's Recommendations.

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the Re-Revised Engineering Geologic Report", prepared by Geoplan, Inc., dated October 19, 2001. These recommendations to be incorporated into all final design and construction plans include recommendations concerning site preparation, grading, foundations, retaining walls, and drainage.

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).

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 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 plan 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 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs. The use of concrete pavers, concrete with sections of pavers interspersed, or other permeable paving alternatives should be considered to infiltrate stormwater on the road.

(b) Runoff shall be conveyed off site in a non-erosive manner.

(c) Energy dissipating measures shall be installed at the terminus of outflow drains.

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

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background.

The applicants propose the construction of an access driveway (maximum 12 feet wide), with retaining wall, slough wall, concrete paving, and drainage facilities through an oak woodland to provide access from Topanga Canyon Boulevard to an existing residence. Grading (250 cu. yds.) for a temporary road for geologic testing purposes was previously approved under Permit 4-00-151.

The subject project site consists of two parcels, including a 40,080 sq. ft. (0.92-acre) parcel that is developed with a single family residence (L.A. County Tax Assessor information indicates that this residence was constructed in 1951). The project site also includes a 24,820 sq. ft. parcel that is adjacent to the southwest. The proposed driveway crosses the second parcel from Topanga Canyon Boulevard upslope to the existing residence. This adjacent parcel is also owned by the applicants and consists of six previously existing small lot subdivision lots that were retired from development as mitigation [Transfer of Development Credit (TDC)] for the creation of new parcels through approved coastal development permits for land divisions. These lots were deed restricted to prohibit future development and have been tied into one parcel. The provisions of the deed restrictions restrict development on this land to open space uses only, with very few exceptions. One exception allows: "private recreational facilities, driveways, septic systems, corrals, trails and decks". As such, the proposed driveway is an allowed use under the terms of the deed restrictions.

Topographically, the subject site is situated on the east side of Topanga Creek, a United States Geological Survey (USGS) designated blue-line (intermittent) stream, which descends in Topanga Canyon through the southern flanks of the Santa Monica Mountains. Surface drainage on-site is currently accomplished naturally by overland sheetflow toward Topanga Canyon Blvd. and Topanga Creek, which travels south,

eventually passing under Pacific Coast Highway and outletting at Topanga Beach. Vegetation in the canyon and on the subject parcel is dense with scattered coast live oak and scrub oak trees throughout. This Topanga Creek riparian corridor is designated as Environmentally Sensitive Habitat Area (ESHA) in the Malibu / Santa Monica Mountains Land Use Plan (LUP).

The subject location consists of a near-level pad area for the existing house with ascending slopes to the east and descending slopes to the west (towards Topanga Canyon Blvd. and Topanga Creek). Slopes on the eastern and western sides of the parcel approach a gradient of 1.5:1 (horizontal to vertical). Several of the properties near the subject parcel are vacant and would be difficult to develop due to the sensitive nature of the Topanga Creek riparian corridor and associated oak woodland. However, there is some scattered residential development located north and east of the subject property in the rugged oak-covered canyon. The proposed driveway location is a steep, rocky, oak tree covered hillside below the existing single family residence.

The residence is currently accessed via a steep stone, concrete, metal, and wood staircase which climbs some forty feet (40') in elevation up from the existing parking area on Topanga Canyon Blvd., a public street bordering the west side of the property approximately one and a half miles north of Pacific Coast Highway. The parking area provides space for 2-3 vehicles to parallel park on the shoulder of the road but is hazardous due to its location on a bend in Topanga Canyon Blvd. There have been numerous accidents at this location over the last decade. Aside from the existing parking and stairway, the residential development is not visible from Topanga Canyon Blvd. due to the thick natural foliage on-site. There is significant natural vegetation consisting of trees, shrubs, brush, and groundcover.

There are other residences in the area that do not have driveways, but are accessed by staircases leading up from the road below. The existing residence on-site was constructed prior to the effective date of the Coastal Act. The applicants purchased the adjacent retired lots, combined them into one parcel in order to construct a driveway to the existing residence. A previous property owner applied for a coastal permit for a proposed driveway in 1997 (CDP No. 4-97-052), but the application file was never completed, and no action occurred at that time.

The Commission later considered Permit 4-00-151 for the construction of a temporary 10-foot wide, 220-foot wide dirt access driveway for the purposed of on-site geologic testing to determine the feasibility of a permanent driveway, including 250 cu. yds. of grading (all cut). In approving this coastal development permit for a temporary geologic testing road, the Commission found that the oak woodland existing on the site constituted ESHA. The Commission further found that alternative means of providing access to the residence were not feasible and that the alternative of maintaining access as it exists on the site would not be appropriate given the hazards presented by the location of the existing parking on Topanga Canyon Boulevard. The permit was approved with special conditions requiring an oak tree monitor to be present on the site during construction, the monitoring of nine oak trees for a period of 10 years, and the

replacement of oak trees at a ratio of 10 to 1 for every tree that is lost or suffers worsened health as a result of the project. Additionally, an erosion control/drainage plan was required for the temporary road cut. Further, the permit was conditioned to require that the temporary road be restored if a permanent road proved to be infeasible for geologic or other reasons.

The applicants have carried out the road grading and the project geologist has conducted subsurface exploration along the proposed road alignment. The applicants state that the road alignment proposed in the subject application has been modified from the temporary road approved in Permit 4-00-151 in order to comply with the requirements of Caltrans in its approval of a permit for the encroachment of the driveway into the highway right-of-way. The road grading within the revised alignment resulted in the loss of one oak tree (Tree No. 15). The approved permit was not amended to reflect this modified road alignment or the removal of an oak tree. Staff would note that no oak tree monitoring reports (as required by Special Condition No. 1 of Permit 4-00-151) have been submitted to date.

B. Environmentally Sensitive Resources

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

And Section 30240 of the Coastal Act states:

> (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.
>
> (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would

significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Section 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, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, 30240 of the Coastal Act state that environmentally sensitive habitat areas must be protected against disruption of habitat values. In Section 30107.5, the Coastal Act defines environmentally sensitive habitat areas (ESHAs) as 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 development. Therefore, when considering any area, such as the Santa Monica Mountains, with regard to an ESHA determination one must focus on three main questions:

1) Is a habitat or species rare?
2) Is the habitat or species especially valuable because of its special nature or role in the ecosystem?
3) Is the habitat or species easily disturbed or degraded by human activities and developments?

The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Mountains is itself rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Therefore, habitat areas that provide important roles in that ecosystem are especially valuable and meet the second criterion for the ESHA designation. Woodlands that are native to the Santa Monica Mountains, such as oak woodlands, are important coastal resources. Native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, contribute nutrients to watersheds, and are important scenic elements in the landscape. In the Santa Monica Mountains, coast live oak woodland occurs mostly on north slopes, shaded ravines and canyon bottoms. Besides the coast live oak, this plant community includes hollyleaf cherry, California bay laurel, coffeeberry, and poison oak. Coast live oak woodland is more tolerant of salt-laden fog than other oaks and is generally found nearer the coast[1]. Coast live oak also occurs as a riparian corridor species within the Santa Monica Mountains.

Valley oaks are endemic to California and reach their southern most extent in the Santa Monica Mountains. Valley oaks were once widely distributed throughout California's perennial grasslands in central and coastal valleys. Individuals of this species may survive 400-600 years. Over the past 150 years, valley oak savanna habitat has been drastically reduced and altered due to agricultural and residential development. The

[1] NPS 2000. op. cit.

understory is now dominated by annual grasses and recruitment of seedlings is generally poor. This is a very threatened habitat.

The important ecosystem functions of oak woodlands and savanna are widely recognized[2]. These habitats support a high diversity of birds[3], and provide refuge for many species of sensitive bats[4]. 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.

Therefore, because of their important ecosystem functions and vulnerability to development, the Commission finds that oak woodlands and savanna within the Santa Monica Mountains meet the definition of ESHA under the Coastal Act. This is consistent with the Commission's past findings on the Malibu LCP[5]. In the past action on the project site (4-01-151), the Commission did find that the undisturbed oak woodland on the project site is ESHA.

The applicant submitted an Oak Tree Report prepared by Kay J. Greeley, Certified Arborist, dated February 25, 2000, which states:

> There are sixteen (16) native oak trees that are at least eight inches (8") in diameter at a distance of four and one-half feet (4-1/2') above natural grade within the immediate vicinity of the proposed project. The site contains many additional oak trees that are outside the immediate project area.... Each tree is either a single-trunk or multi-trunk *Quercus agrifolia*, commonly known as Coast Live Oak. ... The foliage color of each tree appears normal. ... Foliage density and leaf size are normal. ... Vigor ranges from average to poor among the trees. There are no signs of major pests or diseases. Overall, the canopy is fairly dense and the trees compete for sunlight to varying degrees of success. The low vigor is likely due to a shallow soil profile, given the steep and rocky nature of the site.

The trunks, driplines, and protected zones of each tree were mapped on the site plan proposed in Permit 4-00-151. The applicant declined to provide such mapping for the modified site plan proposed in the subject application, so staff traced the driplines and

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[2] Block, W.M., M.L. Morrison, and J. Verner. 1990. Wildlife and oak-woodland interdependency. *Fremontia* 18(3):72–76. Pavlik, B.M., P.C. Muick, S. Johnson, and M. Popper. 1991. *Oaks of California*. Cachuma Press and California Oak Foundation, Los Olivos, California. 184 pp.

[3] Cody, M.L. 1977. Birds. Pp. 223–231 *in* Thrower, N.J.W., and D.E. Bradbury (eds.). *Chile-California Mediterranean scrub atlas*. US/IBP Synthesis Series 2. Dowden, Hutchinson & Ross, Stroudsburg, Pennsylvania. National Park Service. 1993. A checklist of the birds of the Santa Monica Mountains National Recreation Area. Southwest Parks and Monuments Assoc., 221 N. Court, Tucson, AZ. 85701

[4] Miner, K.L., and D.C. Stokes. 2000. Status, conservation issues, and research needs for bats in the south coast bioregion. Paper presented at *Planning for biodiversity: bringing research and management together*, February 29, California State University, Pomona, California.

[5] Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.

protected zones from the earlier plan onto the modified plan. Additionally, at staff's request, the applicant submitted an Oak Tree Report Update, prepared by Kay Greeley, dated April 5, 2004, that addresses different or additional impacts that could result from the modified driveway plan that were not previously addressed.

Although the applicants did not propose the removal of any oak trees in Permit 4-00-151, the 2000 oak tree report acknowledged the construction of the proposed driveway would remove a significant portion of the roots within the protected zones of several trees, resulting in severe impacts to these trees. This report states that:

> Tree Number 3—Approximately 30 percent (30%) of the protected zone will be cut away below the tree, to within two feet (2') of the trunk. This tree could experience severe impacts, including drought stress and stability issues. If any concerns arise with regard to the stability of the tree during construction, this tree should be removed...
>
> Tree Number 4—Approximately 10 percent (10%) of the protected zone will be cut away below the tree to within seven feet (7') of the trunk. This tree could experience severe impacts, including drought stress and stability issues. If any concerns arise with regard to the stability of the tree during construction, this tree should be removed...
>
> Tree Number 6—Approximately thirty percent (30%) of the protected zone will be cut away below the tree, to within three feet (3') of the trunk. This tree could experience severe impacts, including drought stress and stability issues. If any concerns arise with regard to the stability of the tree during construction, this tree should be removed...
>
> Tree Number 15—Over fifty percent (50%) of the protected zone will be cut away below the tree, right up to the trunk. This tree will likely experience severe impacts, including drought stress and stability issues. If any concerns arise with regard to the stability of the tree during construction, the tree should be removed....

In addition to the potentially severe impacts to these four trees, the 2000 oak tree report identifies four trees (Numbers 5, 7, 9, and 10) that could experience moderate impacts and one tree (Number 16) that could experience minor impacts from the removal of roots in the protected zones for the grading of the temporary access road.

In approving Permit 4-00-151 for a temporary geologic testing road, the Commission found that the oak woodland existing on the site constituted ESHA. The Commission further found that alternative means of providing access to the residence were not feasible and that the alternative of maintaining access as it exists on the site would not be appropriate given the hazards presented by the location of the existing parking on Topanga Canyon Boulevard. The permit was approved with special conditions requiring an oak tree monitor to be present on the site during construction, the monitoring of nine oak trees for a period of 10 years, and the replacement of oak trees at a ratio of 10 to 1 for every tree that is lost or suffers worsened health as a result of the project. Additionally, an erosion control/drainage plan was required for the temporary road cut.

The staff report for Permit 4-00-151 (Yardley) states:

> As stated above, Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. In this case due to the unique site constraints and public safety concerns the proposed access road location is the environmentally preferred alternative. Given the steeply sloping site topography and the near continuous oak canopy the applicants have site and designed the proposed access road in a manner that minimizes landform alteration and avoids removal of any oak trees. Although no oak trees are proposed to be removed the road will encroach within the driplines of nine oak trees. However, as more fully discussed below, if proper grading and construction techniques are implemented around the oak trees and if the trees are adequately maintained and monitored to ensure the health the trees the proposed road will not significantly disrupt the habitat values of the oak woodland onsite.

The Commission's findings acknowledge that, although the proposed driveway is "temporary" for geologic testing purposes, the permanent driveway is likely to be permitted in the same footprint, assuming that the applicant can demonstrate that the site is geologically stable.

As described above, the proposed plan for the road was modified subsequent to the Commission's review of Permit 4-00-151. The applicants have stated that the plan was modified to comply with the requirements of Caltrans. The resulting road meets Topanga Canyon Road at a different angle, and the lower portion of the road is higher on the slope. This modification will result in additional impacts to oak trees on the site. For instance, the trunk of Tree Number 15 is located in the center of the roadway. Not surprisingly, during the grading of the temporary road, Tree Number 15 was removed. Further, the proposed slough wall and associated drainage swale will extend to within one foot of the trunk of Tree Number 3. It is highly likely that this tree will be lost during the proposed construction or die shortly thereafter. Finally, the revised road plan will encroach into the driplines of two trees that it previously did not. Trees Numbers 1 and 2 will have minor encroachments from the road.

Encroachments into the protected zone of an oak tree, particularly of the nature proposed for several of the trees on the project site, can result in significant adverse impacts. An 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.

Although the Commission previously found that the proposed driveway was the least damaging feasible alternative to provide safe vehicular access to the existing development on the site, the development of this road is not without impacts. As described above, there will be impacts to the individual oak trees ranging from minor to severe, including death. Further, the introduction of a roadway through the woodland and the impacts to the trees will interrupt the oak canopy coverage and will lessen the habitat value of the woodland as a whole.

Given the location of the individual oak trees within the woodland and the route of the road, there are no design alternatives that can be employed to avoid or reduce impacts to the ESHA. Where the removal of trees cannot be avoided by any feasible project alternative, mitigation must be provided. Mitigation is also required for impacts that occur to trees as a result of development encroachments into the root zone that cannot be avoided through the implementation of siting or design alternatives. The mitigation must include, at a minimum the planting of replacement trees. If there is suitable area on the project site, replacement trees should be provided on-site, at a ratio of ten replacement trees for every one tree removed. In this case, the loss of Tree Number 15 and the highly likely loss of Tree Number 3 cannot be avoided through the implementation of siting or design alternatives. In order to mitigate the loss of these two trees, the Commission finds it necessary to require the applicant to plant replacement oak trees on the project site. There are areas on the project site upslope of the road that could provide suitable habitat.

Resource specialists studying oak restoration have found that oak trees are most successfully established when planted as acorns collected in the local area or seedlings grown from such acorns. The Commission has found, through permit actions, that it is important to require that replacement trees are seedlings or acorns. Many factors, over the life of the restoration, can result in the death of the replacement trees. In order to ensure that adequate replacement is eventually reached, it is necessary to provide a replacement ratio of at least ten replacement trees for every tree removed or impacted to account for the mortality of some of the replacement trees. So at a replacement ratio of 10 to 1, in order to mitigate the impacts to Trees Number 3 and 15, twenty replacement trees need to be planted on the project site. **Special Condition No. 1** requires the applicant to submit a plan showing the location where the replacement

trees will be planted along with a monitoring program to ensure that the replacement trees grow successfully. Further, nine other oak trees will be impacted (impacts ranging from moderate to severe) by construction of the road within their protected zones. Several of these trees may die or suffer worsened health and vigor as a result of these impacts. Such effects may take several years to reveal themselves. In order to minimize such impacts and to provide mitigation for the loss or diminished health of any of the impacted trees, **Special Condition No. 2** requires the applicant to provide monitoring of Trees Number 1, 2, 4, 5, 6, 7, 9, 10, and 16 for a period of no less than 10 years. If the monitoring reveals that any of these nine trees die or suffer reduced health or vigor, replacement trees must be provided as mitigation. As conditioned by Special Conditions No 1 and 2 to minimize and mitigate impacts to the oak woodland ESHA, the Commission finds that the proposed construction of the permanent driveway will minimize impacts to oak woodland ESHA, consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

C. Geologic Hazards

Section 30253 of the Coastal Act states 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.

As described above, the applicants' consultants were not able to carry out any subsurface geologic investigation because of the site topography and the lack of any vehicular access. As such, in the earlier permit application (4-00-151), the Commission only considered the grading of a temporary access road in order to allow the geologist to carry out an investigation to determine if the site is sufficiently stable for the permanent construction of the proposed access road.

The applicants have carried out the road grading and the project geologist has conducted subsurface exploration along the proposed road alignment. The applicants state that the road alignment proposed in the subject application has been modified from the temporary road approved in Permit 4-00-151 in order to comply with the requirements of Caltrans in its approval of a permit for the encroachment of the driveway into the highway right-of-way. The applicants have submitted the "Re-Revised Engineering Geologic Report", prepared by Geoplan, Inc., dated October 19, 2001.

The report concludes that:

> It is concluded from the comprehensive field investigation and analysis of the data and of other site specific references contained in Geoplans files that proposed grading of an access roadway to 730 N. Topanga Canyon Blvd is feasible with the following limitations.
>
> 1. The proposed driveway is expected to perform adequately with exception that the cutslope will deteriorate, necessitating construction of a slough wall along the toe of the cut.
> 2. A slough wall will be required beginning at the south end of the proposed roadway and extend continuously about 100 feet to trench T-1. The north 40 feet of the proposed roadcut will expose hard basalt which can be expected to stand well in a 1:1 excavation without need for a slough wall.
> 3. It is recommended that the proposed road be surfaced with at least 2 inches of asphalt or concrete to mitigate erosion.
> 4. The proposed 18 inch CMP to join the existing culvert is appropriate. It is suggested that flow be directed to the inside edge of the driveway to a drop inlet at the toe of the slough wall.

The geologist concludes that the proposed development is feasible and will be free from geologic hazard provided his recommendations are incorporated into the proposed development. The geology report contains several recommendations to be incorporated into the project construction regarding grading, slough walls, retaining walls, and drainage 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 Geology Report 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 the proposed project, as conditioned, will minimize potential geologic hazards of the project site and adjacent properties, consistent with Section 30253 of the Coastal Act.

D. 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. 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, the proposed project includes the construction of an access driveway (maximum 12 feet wide), with retaining wall, slough wall, and drainage facilities on a steep hillside through oak woodland. The road is proposed to be paved with concrete. As proposed, a small amount of the runoff behind the proposed slough wall would be conveyed in a swale to a catch basin to an existing rip rap dissipator within the Caltrans right-of-way area. The remainder of the runoff behind the slough wall, retaining wall, as well as all runoff from the road would be directed downslope onto Topanga Canyon Boulevard. The site is considered a "hillside" development, as it involves moderate to steeply sloping terrain with soils that are susceptible to erosion.

The proposed driveway is approximately 220 feet in length. The proposed development will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with a road include pollutants such as petroleum hydrocarbons including oil and grease from vehicles, heavy metals, synthetic organic chemicals, dirt litter, 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 development consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small

storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e. the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. 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 development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act. Given the length of the proposed road and its location within ESHA, alternatives should be considered to infiltrate stormwater including the use of paving blocks for the entire driveway length, incorporating paving blocks as breaks between runs of concrete paving along the road, and the use of other permeable paving materials. Should such permeable paving alternatives prove infeasible, other infiltration measures and/or treatment measures shall be incorporated.

The Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

E. Local Coastal Program

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

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

Section 30604(a) of the Coastal Act 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 that 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 development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' 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. California Environmental Quality Act (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 project, as conditioned, will not have significant adverse effects on the environment within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

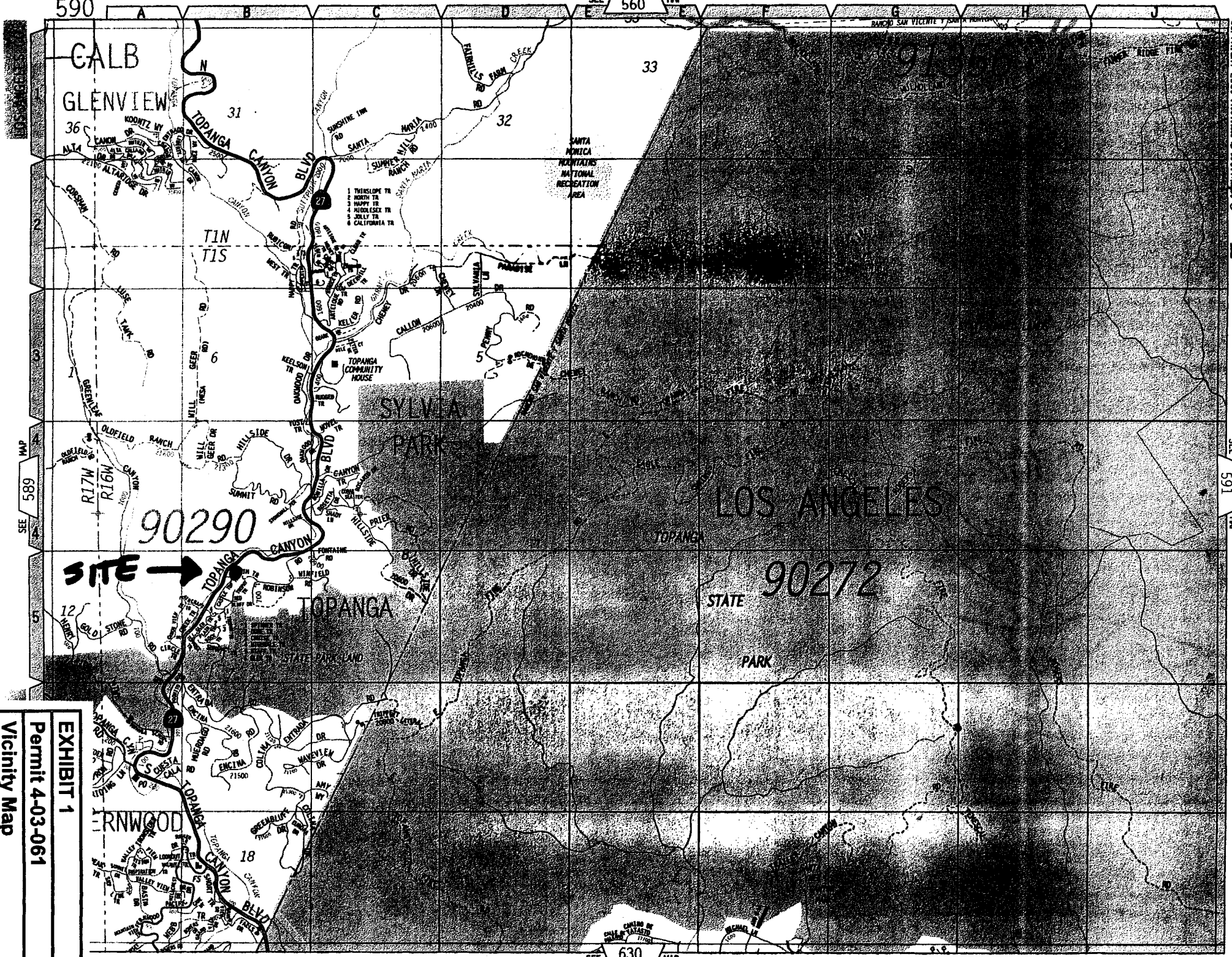

EXHIBIT 1

Permit 4-03-061

Vicinity Map

4444	13 SHEET	P.A. 4444-B-13-21	TRA 1893	REVISED 001121070040001-07					SEARCH NO	MAP EXTENTS 4106840-4107570 4148150-4149200	OFFICE OF THE ASSESSOR COUNTY OF LOS ANGELES COPYRIGHT © 1998

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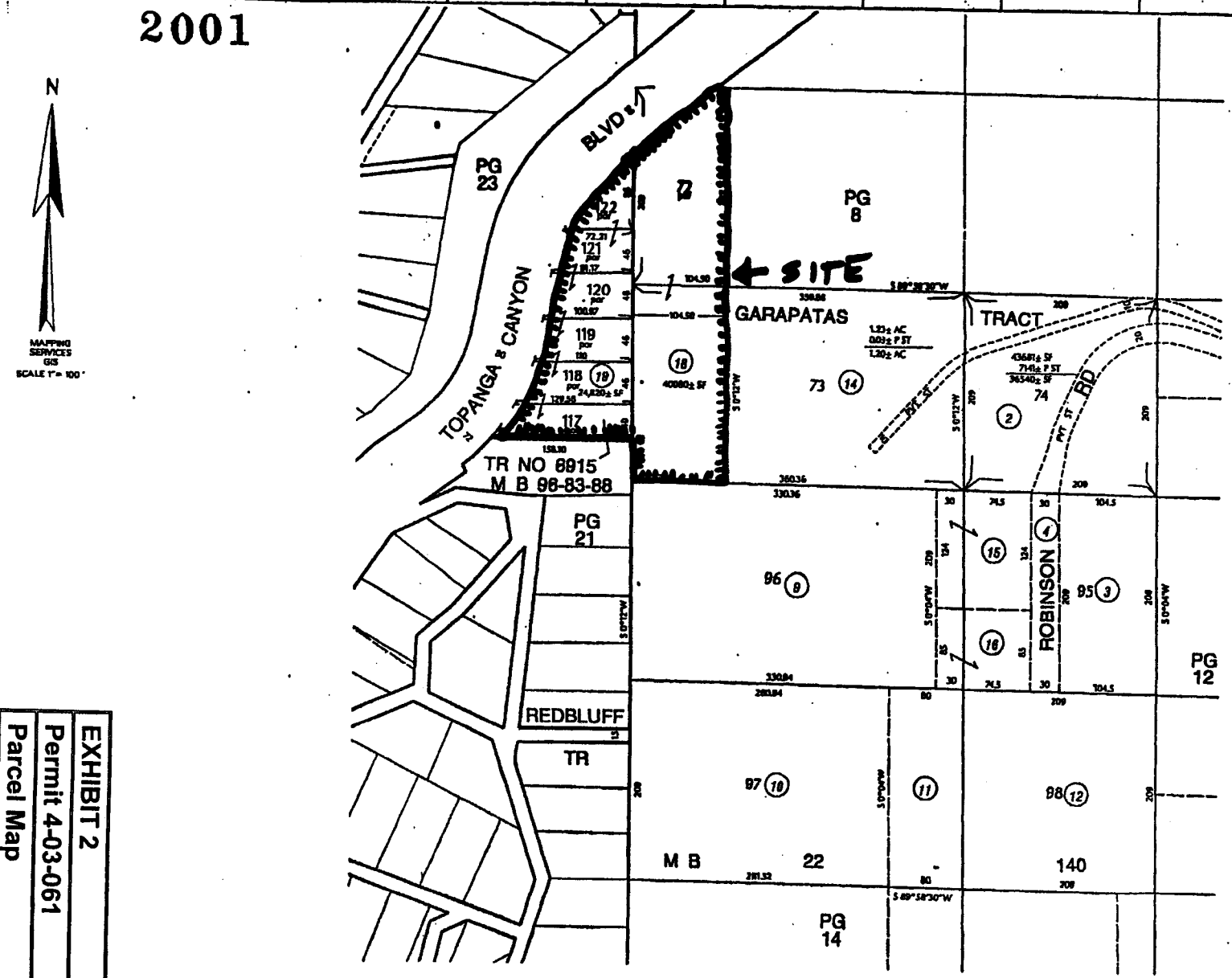
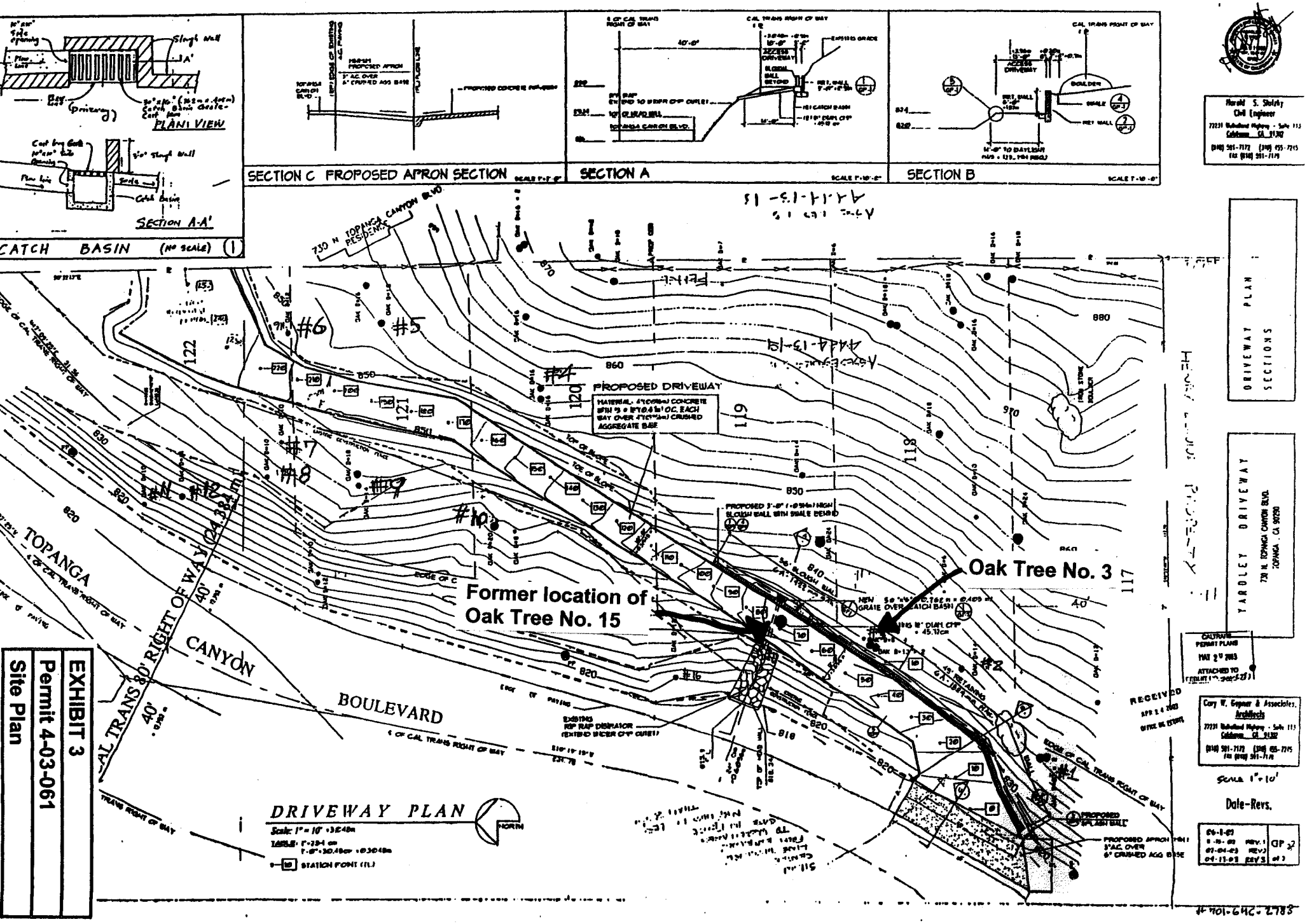


EXHIBIT 2
Permit 4-03-061
Parcel Map

NOV 2 1 2001


PLAN VIEW
SECTION A-A'
CATCH BASIN (No Scale) (1)
SECTION C PROPOSED APRON SECTION
SECTION A
SECTION B
730 N TOPANGA CANYON BLVD
TOPANGA RESIDENCE
PROPOSED DRIVEWAY
Former location of Oak Tree No. 15
Oak Tree No. 3
TOPANGA CANYON BOULEVARD
CAL TRANS 80' RIGHT OF WAY
DRIVEWAY PLAN
Scale: 1" = 10'
DRIVEWAY SECTIONS
YARDLEY DRIVEWAY
730 N. TOPANGA CANYON BLVD.
TOPANGA, CA. 90290
Harold S. Sholdra
Civil Engineer
Cory W. Gepner & Associates
Architects
Scale 1" = 10'
Date-Revs.
EXHIBIT 3
Permit 4-03-061
Site Plan

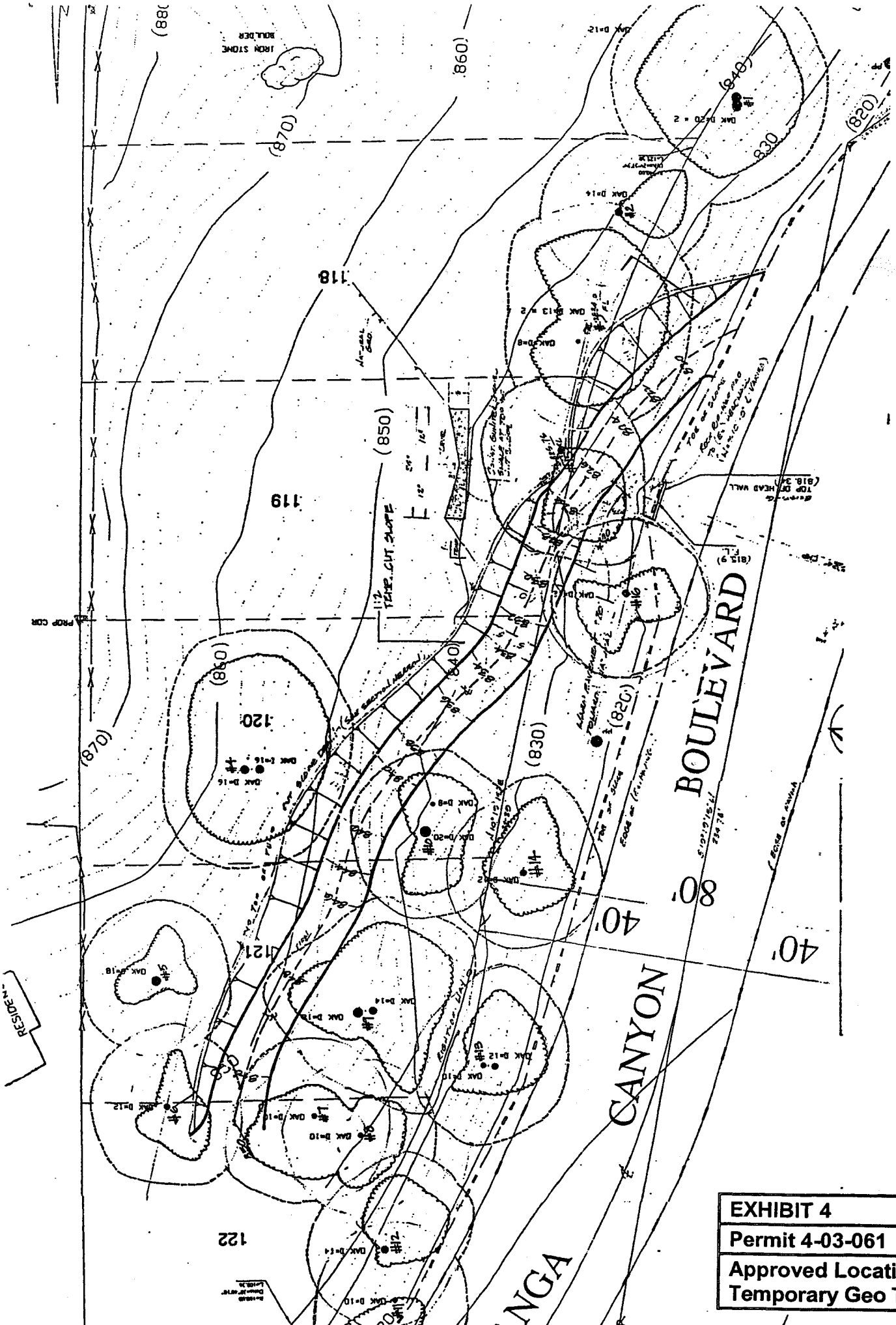


EXHIBIT 4

Permit 4-03-061

Approved Location of Temporary Geo Test Road