

Item Fr 6g

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-03-103

APPLICANT: Joseph and Cheryl Azoulay

AGENT: Richard Welsh

PROJECT LOCATION: 26247 Fairside Road, Malibu Bowl Small Lot Subdivision, Santa Monica Mountains, Los Angeles County

PROJECT DESCRIPTION: The construction of a 2,300 sq. ft., 35 ft. high from existing grade single family residence with 2-car garage, septic system, 300 cu. yds. of grading (150 cu. yds. cut and 150 cu. yds. fill), removal of three oak trees and encroachment within the protected zone of eight oak trees on a 6,000 sq. ft. lot. The project includes after-the-fact approval for the removal of two of the three oak trees that were already removed without a coastal development permit.

Lot area:	6,000 sq. ft.
Building coverage:	1,450 sq. ft.
Pavement coverage:	2,470 sq. ft.
Landscape coverage:	530 sq. ft.
Parking spaces:	2

LOCAL APPROVALS RECEIVED: County of Los Angeles Approval in Concept

SUBSTANTIVE FILE DOCUMENTS: Engineering Geologic Report, dated 2/18/03, prepared by Mountain Geology, Inc.; Geotechnical Engineering Report, dated 3/20/03, prepared by West Coast Geotechnical, Oak Tree Report, dated October 10, 2002, prepared by Kay J. Greeley

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with twelve **Special Conditions** relating to (1) geologic recommendations, (2) local approvals, (3) assumption of risk, (4) landscaping and erosion control, (5) wildfire waiver, (6) drainage and polluted runoff control, (7) future development, (8) deed restriction, (9) cumulative impact mitigation, (10) revised plans, (11) oak tree mitigation, and (12) oak tree monitoring. The proposed project is located within the Malibu Bowl Small Lot Subdivision, an area where the Commission has consistently applied the Slope Intensity Formula to establish a maximum gross structural area (GSA) for projects, based on the area and slope of the building site. The proposed residence, only as conditioned, will be consistent with the maximum GSA appropriate for the project site. As conditioned, the proposed project will be consistent with the applicable policies 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 4-03-103 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 PERMIT:

The Commission hereby approves the Coastal Development Permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the 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

All recommendations contained in the Engineering Geologic Report, dated 2/18/03, prepared by Mountain Geology, Inc.; Geotechnical Engineering Report, dated 3/20/03, prepared by West Coast Geotechnical shall be incorporated into all final design and construction, including recommendations concerning foundations, grading, and drainage, and must be reviewed and approved by the consultant prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director of the consultant's review and approval of all final design and construction plans.

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

2. Local Approvals.

Prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, evidence of a final approved geologic review sheet from the Los Angeles County Department of Building and Safety. The applicant shall also submit evidence of approval of the septic system by the Los Angeles County Environmental Health Department.

The final plans approved by Los Angeles County shall be in substantial conformance with the plans approved by the Commission. Any substantial changes in the proposed development approved by the Commission that may be required by Los Angeles County shall require an amendment to the permit or a new Coastal Development Permit.

3. Assumption of Risk

By acceptance of this permit, the applicant acknowledges and agrees to the following:

1. The applicant acknowledges and agrees that the site may be subject to hazards from erosion, and landsliding.
2. The applicant acknowledges and agrees to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.
3. The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
4. The applicant agrees to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

4. 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.

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 50 feet of the proposed house may be removed to mineral earth, vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover 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 should grading take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained through out the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.
- 3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 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.

5. 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.

6. 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.
- (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.

7. Future Development Restriction

This permit is only for the development described in Coastal Development Permit 4-03-103. 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 4-03-103. Accordingly, any future structures, future improvements, or change of use to the permitted structures authorized by this permit, 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 No. 2 shall require an amendment to Coastal Development Permit 4-03-103 from the Commission or shall require an additional coastal development permit 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 this permit, 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 this permit 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.

9. Cumulative Impact Mitigation

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, evidence that all potential for future development has been permanently extinguished on any combination of lots within the Malibu Bowl small lot subdivision, or within the same watershed, to comply with the requirements of the slope intensity formula in accordance with Policy 271(b)(2) of the previously certified 1986 Malibu/Santa Monica Mountains Land Use Plan provided such lots are legally combined with other developed or developable building sites within the same small lot subdivision or watershed. The maximum allowable gross structural area of 1,022 sq. ft. may be increased by 500 sq. ft. by extinguishing development rights on a lot contiguous to the building site or by 300 sq. ft. for each lot which is not contiguous but which is in the same small lot subdivision or watershed.

10. Revised Plans.

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, revised plans that incorporate all of the following requirements:

A. Oak Tree Protected Zones

No portion of any structure, (including terraces, cantilevered decks) shall encroach within the protected zone (dripline and five foot radius outside the dripline) of Oak Trees Numbers 1, 4, 5, 8, 9, 10, 11, 12, and 13, as identified in the Oak Tree Report, dated October 10, 2002, prepared by Kay J. Greeley. Encroachments within the protected zone of Oak Tree Number 1 shall be minimized to the maximum extent feasible.

B. Maximum Gross Structural Area

All substantially enclosed residential and storage areas, excluding garages or carports designed for storage of autos, shall not exceed 1,022 sq. ft. except that it may be increased by 300 sq. ft. for each lot retired (in accordance with Special Condition No. 9

above) which is not contiguous but is within the Malibu Bowl small lot subdivision or within the Corral Canyon watershed.

C. Septic System

The septic system shall be redesigned such that the septic tank and the seepage pit(s) are located within the driveway.

11. 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 thirty replacement seedlings, less than one year old, grown from acorns collected in the area, shall be planted on a suitable site that is restricted from development or is public parkland, as mitigation for development impacts to Oak Trees No. 3, 6, and 7, 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.

12. Oak Tree Monitoring

The applicants shall also implement all oak tree preservation measures enumerated in the "Oak Tree Report," dated October 10, 2002, prepared by Kay J. Greeley. The applicants shall retain a qualified oak tree consultant to monitor Oak Tree Number 2 for a period of ten (10) years minimum.

An annual monitoring report shall be submitted for the review and approval of the Executive Director for each of the ten years. Should this tree be lost or suffer worsened health or vigor as a result of this project, the applicants shall plant replacement trees at an off-site location at a ratio 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.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description.

The applicants propose the construction of a 2,300 sq. ft. (1,900 sq. ft. living area and a 400 sq. ft. basement storage area), 35 ft. high from existing grade single family residence with 2-car garage, septic system, 300 cu. yds. of grading (150 cu. yds. cut and 150 cu. yds. fill), removal of three oak trees and encroachment within the protected zone of eight oak trees. The project includes after-the-fact approval for the removal of two of the three oak trees that were already removed without a coastal development permit. The applicants are also proposing to retire the development rights on three parcels located in Latigo Canyon. The proposed project site is a 6,000 sq. ft. lot within the Malibu Bowl small lot subdivision on Fairside Road. The site is environmentally very constrained due to the extensive oak tree canopy, steep slopes and the nearby landslide, and these constraints were undoubtedly reflected in the price the applicant paid for the property when purchased in 2003 for \$40,000 (according to public information from the Los Angeles County Assessor).

The applicant originally applied for a 3,200 sq. ft. residence. Subsequent to their submittal of the application, the applicants' consultant calculated the maximum gross structural area, based on the formula consistently required by the Commission for parcels within small lot subdivisions such as Malibu Bowl (discussed in greater detail below) to be a maximum of 1,022 sq. ft. The applicants' architect has since revised the plans to include 1,900 sq. ft. of living area on two levels, and a 400 sq. ft. basement storage area within the same footprint as the original plan.

B. Background

The following chart details recent Commission approvals of permits for residential within the Malibu Bowl small lot subdivision. Several things are apparent from this list. One is that most of the homes approved are within a limited range of square footage between 1,400 sq. ft. and 2,000 sq. ft. Additionally, most of the project sites are either larger or include more than one parcel. Finally, none of the approvals include the use of bonus square footage to increase the size of the residence. Most notable is Permit 4-92-128 (Schultz/Westre) which was approved for the two parcels immediately adjacent to (west of) the subject site

Application Number	Name	Proposed Sq. Ft.	Max. GSA Allowable	Lot Size (sq. ft.)	Bonus Sq. Ft.	Total GSA Permitted
4-99-161 (1836 Lookout)	Barton, Miller, Lindenlaub	1,882 sq. ft.	1,901 sq. ft.	10,949 sq. ft.	None	1,882 sq. ft.
4-96-152 (26228 Ingleside)	Petzing	1,812 sq. ft.	1,812	15,927 sq. ft. (2 lots)	None	1,812 sq. ft.
4-93-084 (26225 Fairside)	Skuro	1,408 sq. ft.	2,089 sq. ft.	12,300 sq. ft. (2 lots)	None	1,408 sq. ft.
4-92-240 (1809 Newell)	Schultz/Westre	2,195 sq. ft.	2,195 (36% slope)	33,616 sq. ft.	None	2,195 sq. ft.
4-92-139 (26333 Ingleside)	Schrader	3,527 sq. ft.	3,527 sq. ft. (42% slope)	70,352 sq. ft.	None	3,527 sq. ft.
4-92-128 (26257 Coolglen)	Schultz/Westre	1,730 sq. ft.	1,730 (32% slope)	12,000 sq. ft. (2 lots)	None	1,730 sq. ft.
5-92-098(1901 Newell)	Schrader	2,489 sq. ft.	2,386 sq. ft. (36% slope)	24,829 sq. ft.	None	2,386 sq. ft. (Revised Plans required)
5-84-598 26166 Fairside	McCallister	2,076 sq. ft.	2,100 sq. ft. (22% slope)	10,000 sq. ft.	None	2,076 sq. ft.

C. Cumulative Impacts

The proposed project involves the construction of a new single-family residence which is defined under the Coastal Act as new development. New development raises issues with respect to cumulative impacts on coastal resources. Sections 30250 and 30252 of the Coastal Act address the cumulative impacts of new development.

Section 30250(a) of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of the surrounding parcels.

Section 30252 of the Coastal Act states:

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

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Throughout the Malibu/Santa Monica Mountains coastal zone there are a number of areas, which were subdivided in the 1920's and 30's into very small "urban" scale lots. These subdivisions, known as "small lot subdivisions" are comprised of parcels of less than one acre but more typically range in size from 4,000 to 5,000 square feet. The total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources. Cumulative development constraints common to small lot subdivisions were documented by the Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled: "Cumulative Impacts of Small Lot Subdivision Development In the Santa Monica Mountains Coastal Zone".

The study acknowledged that the existing small lot subdivisions can only accommodate a limited amount of additional new development due to major constraints to buildout of these areas that include: Geologic, road access, water quality, disruption of rural community character, creation of unreasonable fire hazards and others. This report states that:

Proper site design on a large enough lot can remove, or at least reduce, the need for off-site mitigation. On-site mitigation upon small lots is often difficult or impossible because of the limited area with which to work. For example, proper area for septic tank leach fields may not be possible with a very small lot. Furthermore, the larger the lot the more flexibility. Since many of these small lots are composed of uniformly steep slopes and there is no "best building site", larger lots often present the builder a better choice for house placement. Larger lots allow for greater control of increased storm runoff through use of special drains and buffering vegetation to help absorb the increased water.

Staff would note that the subject project site is a clear example of this issue. The slopes are uniformly steep and there is no preferred building site that can avoid impacts to the

oak trees (as discussed in greater detail below). Further, the parcel is too small to provide for required mitigation on-site.

Following an intensive one year planning effort regarding impacts on coastal resources by Coastal Commission staff, including five months of public review and input, new development standards relating to residential development on small lots in hillsides, including the Slope-Intensity/Gross Structural Area Formula (GSA) were incorporated into the Malibu District Interpretive Guidelines in June 1979. As described in these guidelines, use of the GSA formula "is intended to limit the size and intensity of residential development corresponding with the size and slope of the land". A nearly identical Slope Intensity Formula was incorporated into the 1986 certified Malibu/Santa Monica Mountains Land Use Plan under policy 271(b)(2) to reduce the potential effects of buildout as discussed below.

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots which already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains creates cumulative impacts on coastal resources and public access over time. Because of this, the demands on road capacity, public services, recreational facilities, and beaches could be expected to grow tremendously.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP, which has been used as guidance by the Coastal Commission, requires that new development in small lot subdivisions comply with the Slope Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit. Past Commission action certifying the LUP indicates that the Commission considers the use of the Slope Intensity Formula appropriate for determining the maximum level of development which may be permitted in small lot subdivision areas consistent with the policies of the Coastal Act. The basic concept of the formula assumes the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse impacts on resources. Following on the next page is the formula and description of each factor used in its calculation:

Slope Intensity Formula:

$$\text{GSA} = (A/5) \times ((50-S)/35) + 500$$

GSA = the allowable gross structural area of the permitted development in square feet. The GSA includes all substantially enclosed residential and storage areas, but does not include garages or carports designed for storage of autos.

A = the area of the building site in square feet. The building site is defined by the applicant and may consist of all or a designated portion of the one or more lots comprising the project location. All permitted structures must be located within the designated building site.

S = the average slope of the building site in percent as calculated by the formula:

$$S = I \times L/A \times 100$$

I = contour interval in feet, at not greater than 25-foot intervals, resulting in at least 5 contour lines

L = total accumulated length of all contours of interval "I" in feet

A = the area being considered in square feet

The maximum allowable gross structural area (GSA) as calculated through the Slope-Intensity Formula may be increased as follows:

(1) Add 500 square feet for each lot which is contiguous to the designated building site provided that such lot(s) is (are) combined with the building site provided that such lot(s) is (are) combine with the building site and all potential for residential development on such lot(s) is permanently extinguished.

(2) Add 300 square feet for each lot in the vicinity of (e.g. in the same small lot subdivision) but not contiguous with the designated building site provided that such lot(s) is (are) combined with other developed or developable building sites and all potential for residential development on such lot(s) is permanently extinguished.

The proposed project is located in the small lot subdivision of Malibu Bowl and involves the construction of a new 2,300 sq. ft. (1,900 sq. ft. living area and a 400 sq. ft. basement storage area) two-story single-family residence with a 2-car garage and driveway on one 6,000 sq. ft. lot. As noted above, the applicant originally proposed a residence of 3,200 sq. ft. The applicant has subsequently calculated the maximum allowable GSA according to the Slope Intensity Formula detailed above. This calculation arrived at a maximum GSA of 1,022 sq. ft. Staff has confirmed that the applicant's calculations conform to the formula used by the Commission in past permit decisions.

However, the applicant is proposing a 2,300 sq. ft. (1,900 sq. ft. living area and a 400 sq. ft. basement storage area) single family residence, which is 1,278 sq. ft. greater in size than that allowed by the calculated GSA. In order to comply with Policy 271(b)(2) of the certified LUP, the applicants propose to extinguish the development rights on three small lot subdivision parcels in the Latigo Canyon watershed for a bonus of 900 sq. ft. The applicants apparently did not include the proposed 400 sq. ft. of basement storage in their proposed GSA. However, the proposed storage area is completely enclosed and Commission has consistently included such areas in the total GSA.

Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP and past Commission decisions have provided that the maximum allowable GSA may be increased by 500 sq. ft. for each parcel contiguous to the project site that is retired from development. Additionally, the maximum GSA may be increased by 300 sq. ft. for each retired parcel that is not contiguous to the project site, but is **in the vicinity** of the project site. The example provided in Policy 271(b)(2) for "in the vicinity" is **in the same small lot subdivision**. In limited instances, the Commission has interpreted this provision to include the retirement of lots outside of the same small lot subdivision, but within the same watershed.

As previously stated, the purpose of the GSA requirements is to reduce the impacts of development within small lot subdivisions and to maintain the rural character of these "rural villages". When a lot is retired within the same small lot subdivision, there is a reduced potential buildout and thus there is a reduction in the development pressures related to water usage, septic capacity, traffic, geologic hazards, and habitat loss. If a lot is to be retired in a different small lot subdivision, the Commission has addressed whether or not the small lot subdivision is within the vicinity of the area and whether or not the retirement of a lot in the different small lot subdivision will mitigate the same types and degree of impacts. In allowing the retirement of non-contiguous lots "in the vicinity" to include those parcels within the watershed, the Commission has found that this would reduce impacts such as traffic, impacts to water quality from increased water and septic usage as well as non-point source pollution, removal of native vegetation, increase in erosion and exposure of structures to geologic hazards through an increase in development on steep slopes, and an increase in fire hazards. Within the same watershed, retirement of parcels would reduce impacts to the same drainage, stream, and habitat system as well as to the same transportation system. As such, "in the vicinity" as used in Policy 271(b)(2) can be considered to include other small lot subdivisions within the same watershed. However, the Commission finds that it is not appropriate to interpret "in the vicinity" as used in Policy 271(b)(2) to include small lot subdivisions that are not within the same watershed

In this case, all of the parcels contiguous to the project site are either developed or are already retired. The applicants have indicated that no non-contiguous parcels within the Malibu Bowl small lot subdivision are currently being offered for sale. Staff is not aware of which avenues the applicants have pursued in order to find potential parcels to retire within Malibu Bowl. Staff would note that out of 169 lots within the Malibu Bowl small lot

subdivision, approximately 64 lots are vacant and unretired (based on maps developed for Santa Monica Mountains Regional Cumulative Assessment Project, 1999). In fact, only six lots have been retired in this small lot subdivision, although several projects have been approved for development of one residence on two parcels.

The applicants' agent has indicated that there is only one lot presently available on the market that is within the Corral Canyon watershed area (which includes Malibu Bowl and the El Nido small subdivisions), but that the price of the parcel makes it infeasible for retirement. Rather, the applicants propose the retirement of three parcels in Latigo Canyon (although the applicants did not indicate which small lot subdivision the parcels are part of, the two subdivisions in Latigo Canyon are Malibu Vista and Malibu Mar Vista). As these parcels are not within Malibu Bowl or the Corral Canyon watershed, the Commission cannot approve these lots for retirement as 300 sq. ft. bonus lots.

If the applicants can retire one or more parcels that are either within the Malibu Bowl small lot subdivision, or within the Corral Canyon watershed, then the maximum GSA of 1,022 sq. ft. can be increased commensurately. **Special Condition No. 9** provides a means to increase the total allowable GSA in conjunction with extinguishing development rights on non-contiguous lots within the Malibu Bowl small lot subdivision, or within the same watershed for bonus square footage of 300 sq. ft. per lot retired. Alternatively, the development must be brought into conformance with the maximum GSA of 1,022 sq. ft. as provided by Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP, as used as guidance in past Commission decisions. In any case, the final plans must be revised such that the square footage conforms with the approved GSA including a bonus for each retired lot (if any) and such that no portion of the structure encroaches within the protected zone of any oak tree, as required by **Special Condition No. 10**.

Some additions and improvements to residences on small steep lots within these small lot subdivisions have been found to adversely impact the area. Many of the lots in these areas are so steep or narrow that they cannot support a large residence without increasing or exacerbating the geologic hazards on and/or off site. Additional buildout of small lot subdivisions affects water usage and has the potential to impact water quality of coastal streams in the area. Other impacts to these areas from the buildout of small lot subdivisions include increases in traffic along mountain road corridors and greater fire hazards.

For all these reasons, and as this lot is within a small lot subdivision, further structures, additions or improvements, including the conversion of garage or understory area to habitable space, on the subject property could cause adverse cumulative impacts on the limited resources of the subdivision. The Commission, therefore, finds it necessary for the applicant to record a future improvements deed restriction on this lot, as noted in **Special Condition No. 7**, which would require that any future structures, additions or improvements to the property, beyond those approved in this permit, would require review by the Commission to ensure compliance with the policies of the Coastal Act regarding cumulative impacts and geologic hazards. At that time, the Commission can

ensure that the new project complies with the guidance of the GSA formula and is consistent with the policies of the Coastal Act.

Finally, **Special Condition No. 8** 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.

The Commission therefore finds that, only as conditioned, is the proposed project consistent with Sections 30250(a) and 30252 of the Coastal Act.

D. Environmentally Sensitive Resources

Sections 30231 and 30240 of the Coastal Act state:

Section 30231:

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

Section 30240:

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

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

As described above, the applicants propose the construction of a 2,300 sq. ft. (1,900 sq. ft. living area and a 400 sq. ft. basement storage area), 35 ft. high from existing grade single family residence with 2-car garage, septic system, 300 cu. yds. of grading (150 cu. yds. cut and 150 cu. yds. fill), removal of three oak trees and encroachment within the protected zone of eight oak trees. The project includes after-the-fact approval for the removal of two of the three oak trees that were already removed without a coastal development permit. The applicants assert that, after the issuance of their oak tree permit from the County of Los Angeles, they were advised by County staff and by

their oak tree consultant that they could proceed to remove three trees even though they had not yet received approval of a coastal development permit or local approvals for the proposed development. The applicants have stated that they had removed two trees when they were notified by their neighbor that they did not have all required approvals.

The applicants have submitted an Oak Tree Report, dated October 10, 2002, prepared by Kay J. Greeley that addresses the oak trees on the subject project site. The report identifies 11 coast live oak trees that are located either on or immediately adjacent to the project site. Exhibit No. ___, shows the 11 coast live oak trees located within and immediately adjacent to the proposed project site. To the west of the project site, Permit 4-92-128 (Schultz/Westre) was approved on two parcels for a 1,730 sq. ft. residence. The majority of the residence is located on westerly parcel with a small area of structure on other parcel, which is adjacent to the subject project site. That site contains several large oaks, three of which extend onto the project site and would be encroached upon by the proposed structure (Oak Trees Numbers 4, 5, and 9). There are four oak trees (Oak Trees Numbers 9, 10, 11, and 12) on the lowest portion of the site which would all be subject to encroachment by the proposed structure. There are two trees (Oak Trees Numbers 1, and 2) located between the proposed structure and Fairside Road. The proposed driveway and retaining wall would encroach into the protected zone of Oak Tree Number 2, to within a few feet of the trunk. Oak Tree Number 3 is located within the proposed footprint of the garage and would be removed for the project. Oak trees Numbers 6 and 7 were located within the footprint for the proposed residence and have already been removed.

The Malibu Bowl Small Lot Subdivision was formerly oak woodland that has been highly disturbed by dense residential development that removed many of the oak trees and significantly degraded the habitat value of this area. Due to the level of development and disturbance within Malibu Bowl, small parcels like the subject site that contain oak woodland areas in the interior of the subdivision cannot be considered to be an environmentally sensitive habitat area (ESHA). However, the site and the immediately adjacent sites do support several large oak trees in a remnant woodland. Through past permit actions on residential development in the Santa Monica Mountains the Commission and has found that native oak trees are an important coastal resource. 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. The area surrounding the Malibu Bowl small lot subdivision is considered to be ESHA as it contains large tracts of contiguous undisturbed oak woodland and chaparral habitat. The remaining oak trees within the subdivision do provide some habitat for a wide variety of wildlife species and are considered to be an important part of the character and scenic quality of the area.

Oak trees are a part of the California native plant community and need special attention to maintain and protect their health. Oak trees in residentially landscaped areas often

suffer decline and early death due to conditions that are preventable. Damage can often take years to become evident and by the time the tree shows obvious signs of disease it is usually too late to restore the health of the tree. Oak trees provide important habitat and shading for other animal species, such as deer and bees. Oak trees are very long lived, some up to 250 years old, relatively slow growing becoming large trees between 30 to 70 feet high, and are sensitive to surrounding land uses, grading or excavation at or near the roots and irrigation of the root area particularly during the summer dormancy. Improper watering, especially during the hot summer months when the tree is dormant and disturbance to root areas are the most common causes of tree loss.

The article entitled "Oak Trees: Care and Maintenance" prepared by the Forestry Department of the County of Los Angeles states:

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

This publication goes on to state:

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

In past permit actions, the Commission has required that the removal of native trees, particularly oak trees, or encroachment of structures into the root zone be avoided unless there is no feasible alternative for siting development.

In this case, the applicants propose the removal of three mature oak trees. Oak Tree Number 3 is located within the proposed footprint of the garage and would be removed for the project. Oak trees Numbers 6 and 7 were located within the footprint for the proposed residence and have already been removed. It is apparent from reviewing the

map of the oak tree canopy, that it would be very difficult to construct even a very small structure on the project site without removing Oak Trees Numbers 6 and 7. These trees were located approximately in the center of the project site and their protected zones, particularly that of Oak Tree Number 6, covered a large area of the site. Oak Tree Number 3 is located on the upper area of the site, where the applicants propose the construction of the garage. Staff requested that the applicants' agent evaluate alternative designs for the garage that could avoid the removal of this tree. However, the agent states that this removal is also necessary:

Subsequent re-evaluation of the possibility for preservation of Oak tree number three per request of Commission staff has not altered the original conclusion. It is important to note that this specimen lies at the south-west corner of the allowable building area, and the easterly fork overlies almost the full extent of the width of the allowable building area to the east. The height of this main fork is approximately twelve to fifteen feet above adjacent grade with a lean approximately 25 degrees...The canopy of this specimen overlies approximately one-half of the moderately sloped allowable building area.

Staff would note that the growth pattern of this tree is somewhat unusual in that one trunk extends almost horizontally across the site to the east, while the other trunk extends in much the same way to the west. If the eastern portion were to be removed to provide driveway clearance, even if the structure were redesigned to relocate the garage, the tree would be left unbalanced and would be severely impacted. As such, this does not appear to be a feasible alternative to avoid its removal. Therefore, the project will result in the removal of three mature oak trees. The Commission has found that if removal of an oak tree is required the loss of the oak tree must be mitigated at a ratio of 10:1 (10 replacement trees to mitigate for each tree removed). 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 removal of Oak Trees Number 3, 6, and 7, thirty replacement trees need to be planted. Typically, the commission will require such mitigation to be carried out on the project site, if suitable habitat exists therein. In this case, given the size of the parcel and the presence of several mature oak trees, there would not be adequate area for the planting of the required replacement trees. As such, off-site mitigation must be provided such that the replacement trees are planted at a suitable site that is restricted from development or is public parkland. The site needs to be public land or otherwise restricted in order to ensure that the replacement trees are not just removed at some time in the future for new development. **Special Condition No. 11** 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.

Given that three mature oak trees must be removed to accommodate a home of even moderate size on this severely constrained lot, it is especially important that impacts to the remaining eight oaks be minimized to the greatest extent feasible. It is clear that a home can be designed for the site that can avoid the protected zones of all eight trees, with the exception of Oak Tree Number 2. It would not be possible to construct a driveway to any structure without encroaching into the protected zone of Oak Tree Number 2. This oak tree will be impacted by construction of the driveway and retaining wall within its protected zone. This tree 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 this oak tree, **Special Condition No. 12** requires the applicants to provide monitoring of Oak Tree Number 2 for a period of no less than 10 years. If the monitoring reveals that Oak Tree Number 2 dies or suffers reduced health or vigor, replacement trees (at a ratio of 10:1) must be provided as mitigation.

The remaining seven trees are located along the west and north edges of the site and the proposed structure could be located outside of these trees. However, the proposed residence does not avoid the protected zones. As noted above, the applicants' architect redesigned the residence to reduce the total square footage from 3,200 sq. ft. to 2,300 sq. ft. This reduction, though, occurred on the upper level and the basement level of the structure only. The main level maintained the same footprint, which encroaches into the protected zones of Oak Trees Numbers 4, 5, 9, 10, 11, 12, and 13. In past permit actions, the Commission has consistently required that, where feasible, development shall be located outside of the protected zone. As described above, it is not feasible to avoid the removal of 3 oak trees or the encroachment of the driveway and retaining wall within the protected zone of one oak tree. It is feasible, however, to avoid any encroachment into the protected zone of the remaining seven trees through a redesign of the proposed residence. To ensure that the remaining oak trees onsite are protected from development impacts, the Commission requires the applicant to revise their plans to relocate any structures, including terraces, and cantilevered decks outside of the protected zone of the Oak Trees Numbers 4, 5, 9, 10, 11, 12, and 13, as specified in **Special Condition No. 10**. While the proposed cantilevered deck would not require grading in the root zone, it would require trimming or removal of branches for clearance and/or fire protection purposes. In addition, **Special Condition No. 10** requires revised plans to relocate the proposed septic tank back to the originally proposed location beneath the driveway in the upper area of the site in order to avoid impacts to Oak Trees Number 12 and/or 13 from grading within the protected zone for placement of the tank and sewage lines. As conditioned, the project will avoid impacts to these seven oak trees.

The Commission therefore finds that the proposed project, as conditioned, is consistent with Sections 30231 and 30240 of the Coastal Act regarding protection of oak trees.

E. 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.*

Geology

The applicant has submitted the Engineering Geologic Report, dated 2/18/03, prepared by Mountain Geology, Inc.; Geotechnical Engineering Report, dated 3/20/03, prepared by West Coast Geotechnical which evaluate the geologic stability of the subject site in relation to the proposed development. The geology report identifies two prehistoric landslides near the proposed project site. The report states that:

The site is free from any recent rain-related damage such as landslides or mudflows. However, prehistoric landslides have mapped by MGI and others to the east and immediately to the west and northwest of the subject property. The mapped limits of surrounding landslide masses were determined by our review of the referenced engineering geologic and geotechnical engineering reports, review of available regional geologic maps, geologic field mapping of the area, and the findings of our subsurface exploration of the subject property...It should be noted that mapped prehistoric landslide masses near the subject property did not display visible evidence of historic movement during our investigation of the subject property.

The geotechnical consultants recommend that the proposed residence be constructed on a caisson foundation. Their report states that:

The slope stability analyses for the regional section were utilized in establishing the foundation setback plane, which represents the plan at which the slope possesses the minimum required factor of safety, i.e. 1.5 and 1.1 for the static and pseudo-static conditions, respectively. Accordingly, all future foundations for the proposed residence should be founded below the foundation setback plane, in accordance with the foundation design criteria presented in later sections of this report.

The report's geologic section map shows the plane that must be intersected by the pilings of the foundation. Additionally, the report provides recommendations regarding the placement of the seepage pits in the upper area of the site, as well as recommendations regarding site preparation, grading, compaction, foundations, retaining walls, and drainage. The geotechnical engineering report concludes that:

It is the opinion of West Cost 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 engineering geologic and geotechnical 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 Geologic/Geotechnical Reports contain several recommendations to be incorporated into project construction, design, 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 submit project plans certified by the consulting geologist and geotechnical engineer as conforming to all structural and site stability recommendations for the proposed project. Final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission. In this case, the County of Los Angeles has not yet reviewed or approved the consultant's geologic and geotechnical engineering analysis or the proposed foundation system design. In order to ensure that the analysis conforms to the requirements of the County geologist, the Commission finds it necessary to require the applicants to provide evidence of the County's final approved geologic review sheet. This requirement is set forth in **Special Condition No. 2**. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultants or by the County 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 site. To ensure that adequate drainage and erosion control are included in the proposed development the Commission requires the applicant to submit drainage and interim erosion control plans certified by the consultants, as specified in **Special Conditions Nos. 4 and 6**. **Special Condition No. 4** requires the applicant to maintain a functional drainage system at the subject site to insure that run-off from the project site is diverted in a non-erosive manner to minimize erosion at the site for the life of the proposed development. Should the drainage system of the project site 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. 4** 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/foilage weight. The Commission notes that non-native and invasive plant species with high surface/foilage 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. Therefore, the Commission finds that in order to ensure site stability, all disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in Special Condition No. 2.

The Commission also finds that due to the possibility of erosion, and landslide, the applicant shall assume these risks as conditions of approval. Because this risk of harm cannot be completely eliminated, the Commission requires the applicant to waive any claim of liability against the Commission for damage to life or property that may occur as a result of the permitted development. The applicant's assumption of risk, as required by **Special Condition No. 3**, when executed and recorded on the property deed (as required by **Special Condition No. 8**), will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and that may adversely affect the stability or safety of the proposed development.

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

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 project is 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. 5**, 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 project.

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

F. 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 applicant proposes to construct a 2,300 sq. ft. (1,900 sq. ft. living area and a 400 sq. ft. basement storage area), 35 ft. high from existing grade single family residence with 2-car garage, septic system, 300 cu. yds. of grading (150 cu. yds. cut and 150 cu. yds. fill), removal of three oak trees and encroachment within the protected zone of eight oak trees.

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 to accommodate (infiltrate, filter or treat) the runoff from the more frequent storms, rather than for the largest 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 American Society of Civil Engineers (ASCE) and the Water Environment Federation (WEF) have recommended a numerical BMP design standard for storm water that is derived from a mathematical equation to maximize treatment of runoff volume for water quality based on rainfall/runoff statistics and which is economically sound.¹ The maximized treatment volume is cut-off at the point of diminishing returns for rainfall/runoff frequency. On the basis of this formula and rainfall/runoff statistics, the point of diminishing returns for treatment control is the 85th percentile storm event. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition No. 6**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

Furthermore, interim erosion control measures implemented during construction and post construction landscaping will serve to minimize the potential for adverse impacts to

¹ *Urban Runoff Quality Management, WEF Manual of Practice No. 23, ASCE manual and Report on Engineering Practice No. 87.* WEF, Alexandria, VA; ASCE, Reston, VA. 259 pp (1998); Urbonas, Guo, and Tucker, "Optimization of Stormwater Quality Capture Volume," in *Urban Stormwater Quality Enhancement - Source Control, Retrofitting, and Combined Sewere Technology, Proceedings of an Engineering Foundation Conference*, Harry C. Torno, ed. October 1989. New York: ASCE, pp. 94-110.

water quality resulting from drainage runoff during construction and in the post-development stage. Therefore, the Commission finds that **Special Condition No. 4** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

Finally, the proposed development includes the installation of an on-site private sewage disposal system to serve the residence. The Commission has found that conformance with the provisions of the plumbing code, as demonstrated by evidence of the local government's review and approval of the septic system design is protective of coastal resources. In this case, the County of Los Angeles has not yet reviewed or approved the proposed septic system design. In order to ensure that the plan, as required to be revised pursuant to **Special Condition No. 10**, conforms to the provisions of the plumbing code, the Commission finds it necessary to require the applicants to provide evidence of the County's approval of the final plan. This requirement is set forth in **Special Condition No. 2**.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned to incorporate and maintain a drainage and polluted runoff control plan and to provide evidence of County approval of the septic system, is consistent with Section 30231 of the Coastal Act.

G. Unpermitted Development

Unpermitted development occurred on the subject parcel prior to submission of this permit amendment application including the removal of two oak trees. This development is an integral part of the proposed project and the applicants have included the removal of the two trees in this permit application. As described above, removal of these two oak trees for the construction of a single family residence, as conditioned to provide required mitigation is consistent with the Chapter 3 policies of the Coastal Act.

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

H. 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

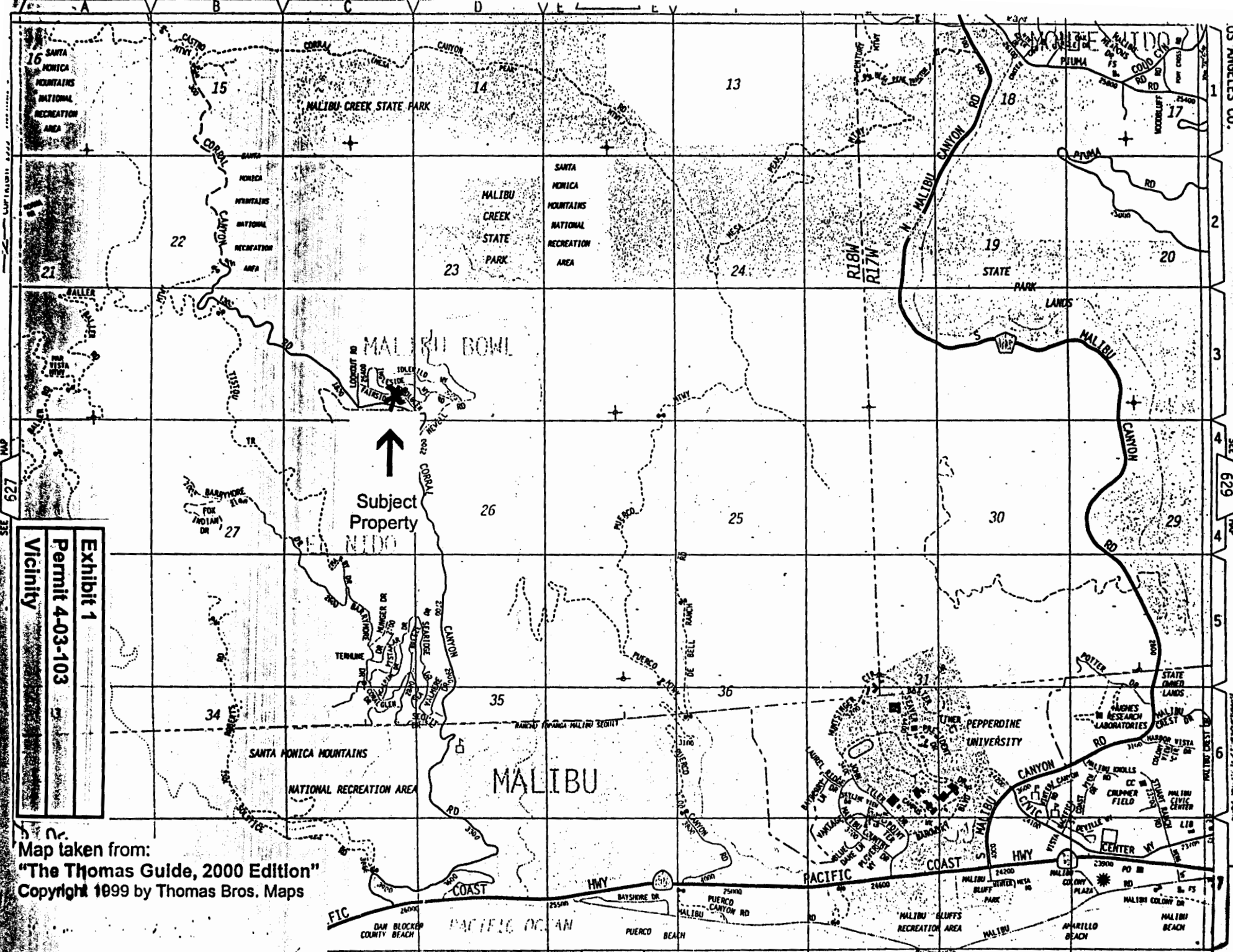
the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

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 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).

I. 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.



OS ANGELES CO.

SEE 629 MAP

SEE 668 MAP

Exhibit 1
 Permit 4-03-103
 Vicinity

Map taken from:
 "The Thomas Guide, 2000 Edition"
 Copyright 1999 by Thomas Bros. Maps

Subject Property

MALIBU

PACIFIC COAST HWY

PACIFIC OCEAN

SEE 668 MAP

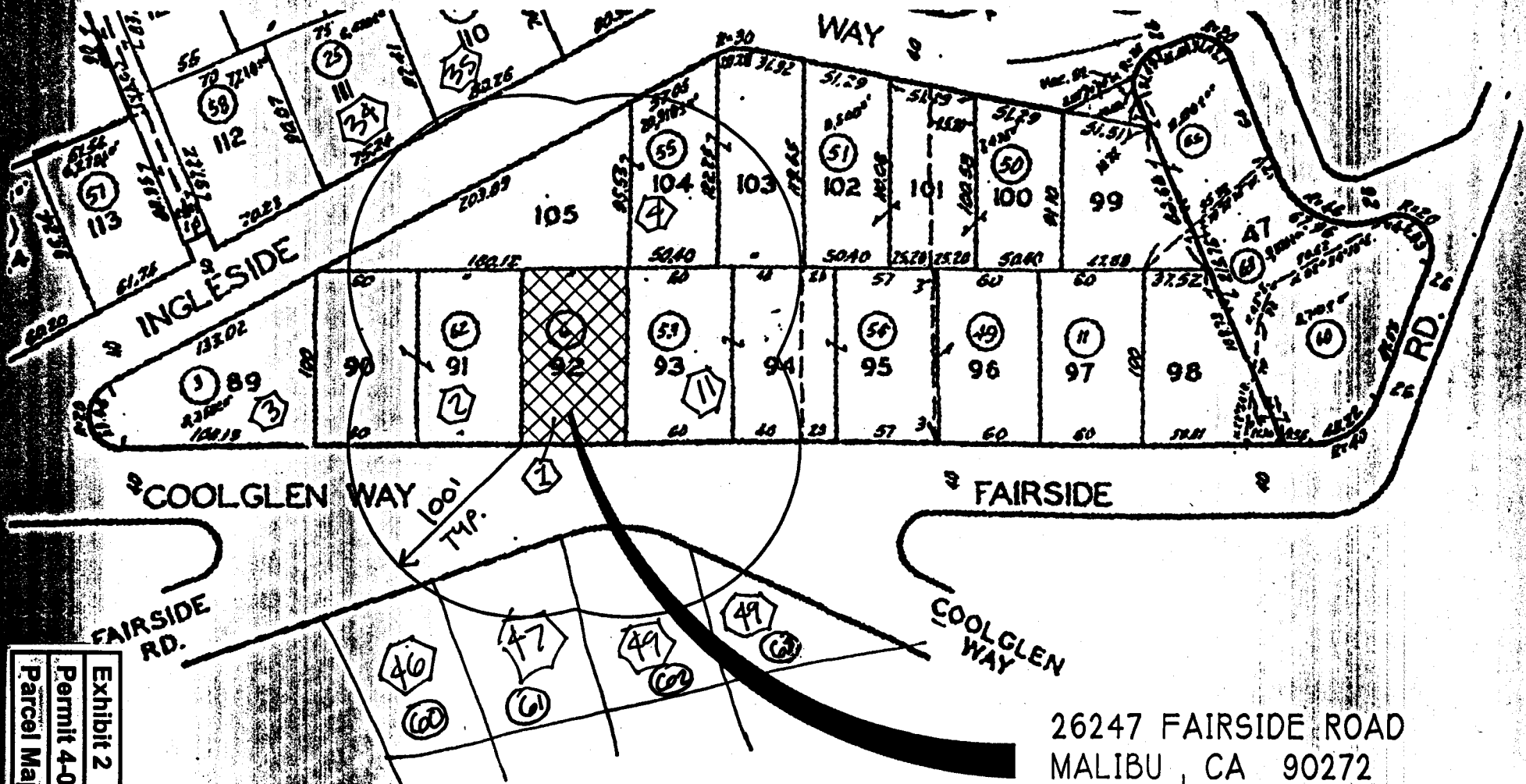


Exhibit 2
 Permit 4-03-103
 Parcel Map

LOCATION PLAN

26247 FAIRSIDE ROAD
 MALIBU, CA 90272
 PARCEL NUMBER 4457 007 006

1" = 100' - 0"

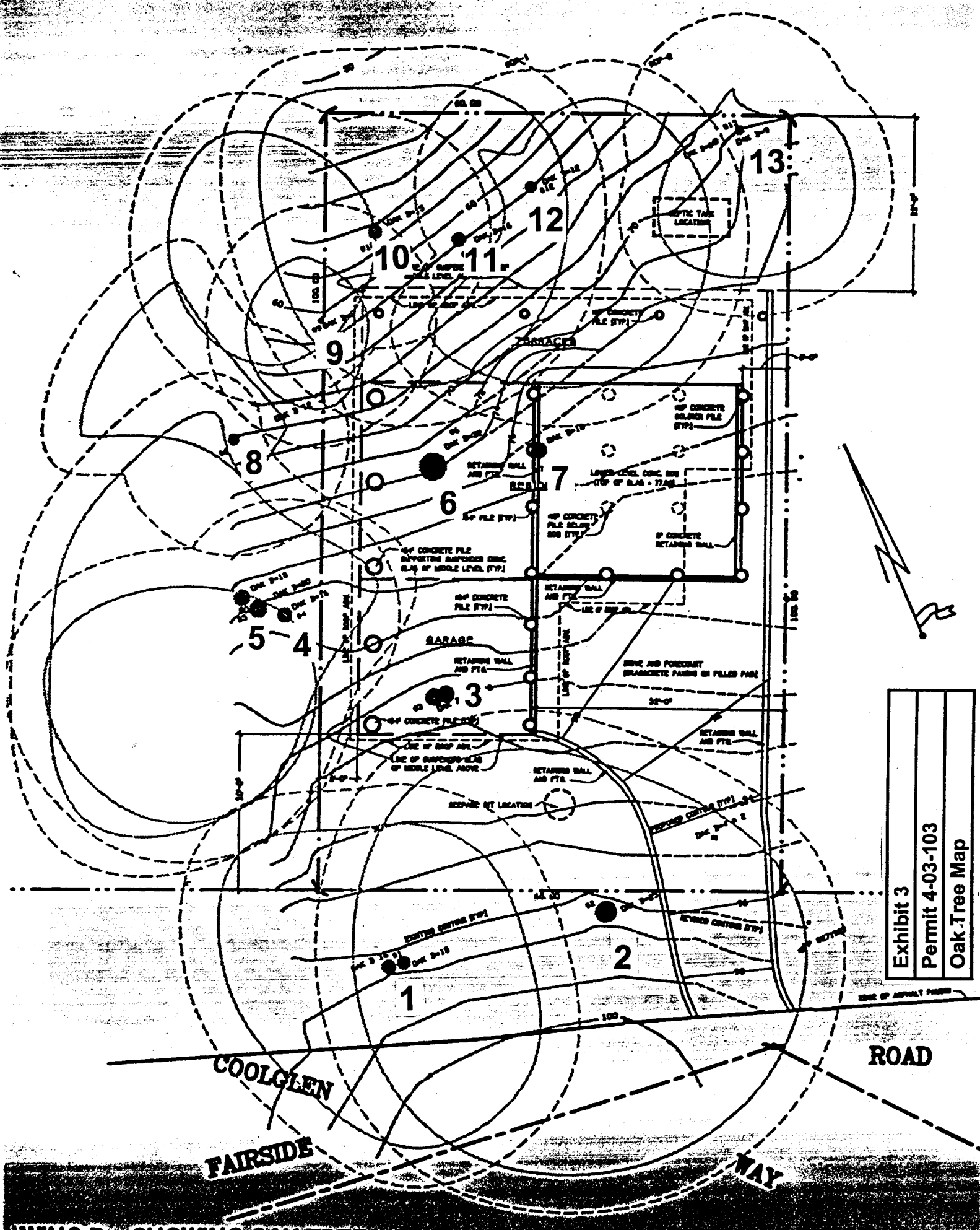
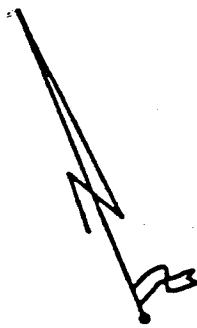
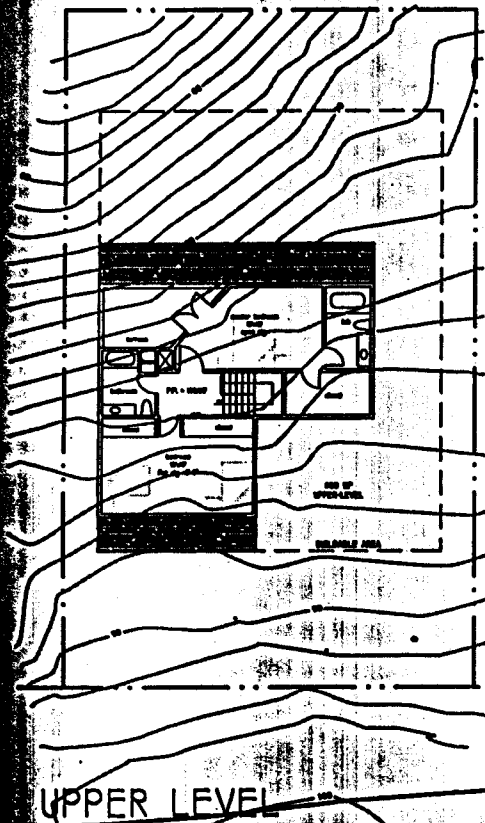


Exhibit 3
 Permit 4-03-103
 Oak Tree Map



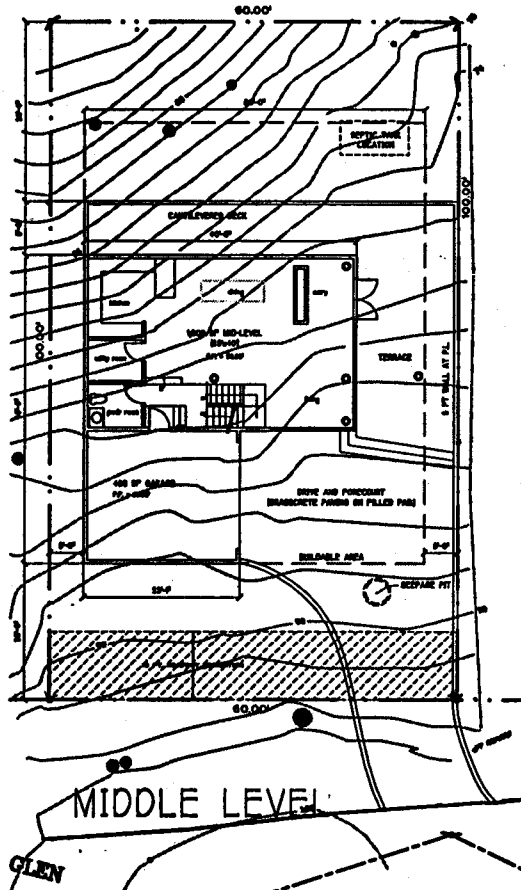


UPPER LEVEL PLAN

1" = 10' - 0"

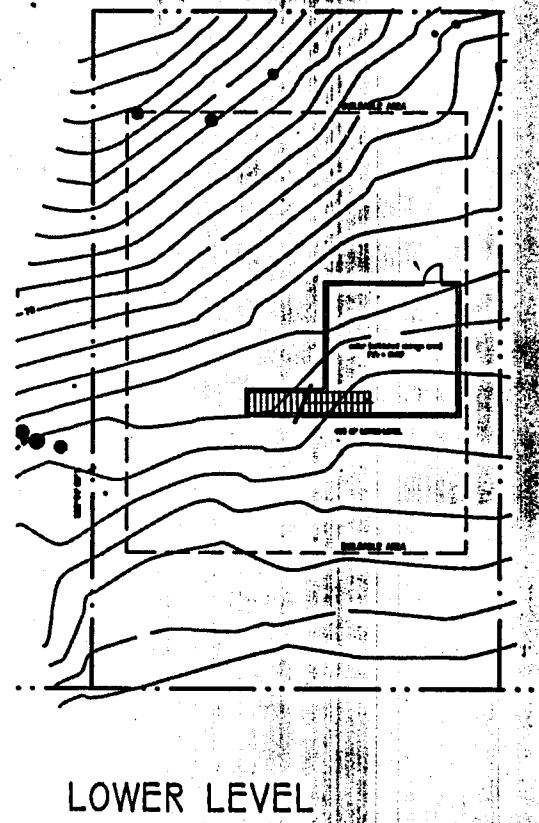
NOTE: THIS DRAWING INDICATES CONCEPTUAL ARRANGEMENTS FOR PURPOSE OF GENERAL COASTAL COMMISSION REVIEW ONLY. NOT FOR BUILDING PERMIT OR CONSTRUCTION USE.

Exhibit 4
Permit 4-03-103
Revised Floor Plans



MIDDLE LEVEL PLAN

1" = 10' - 0"



LOWER LEVEL PLAN (BASEMENT)

1" = 10' - 0"



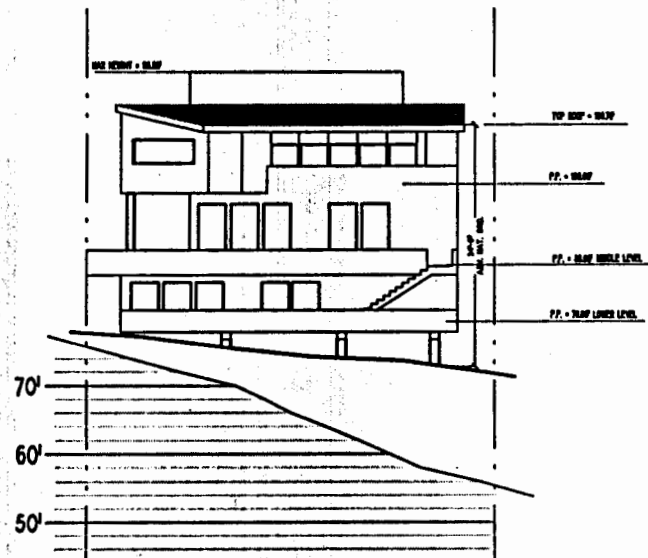
(COASTAL DEVELOPMENT REVIEW)

REVISED PLANS INDICATING REDUCED PROPOSED SQUARE FOOTAGE (1,900 S.F. GSA)

PREPARED FOR
MR. AND MRS. JOHNNY AZOULAY

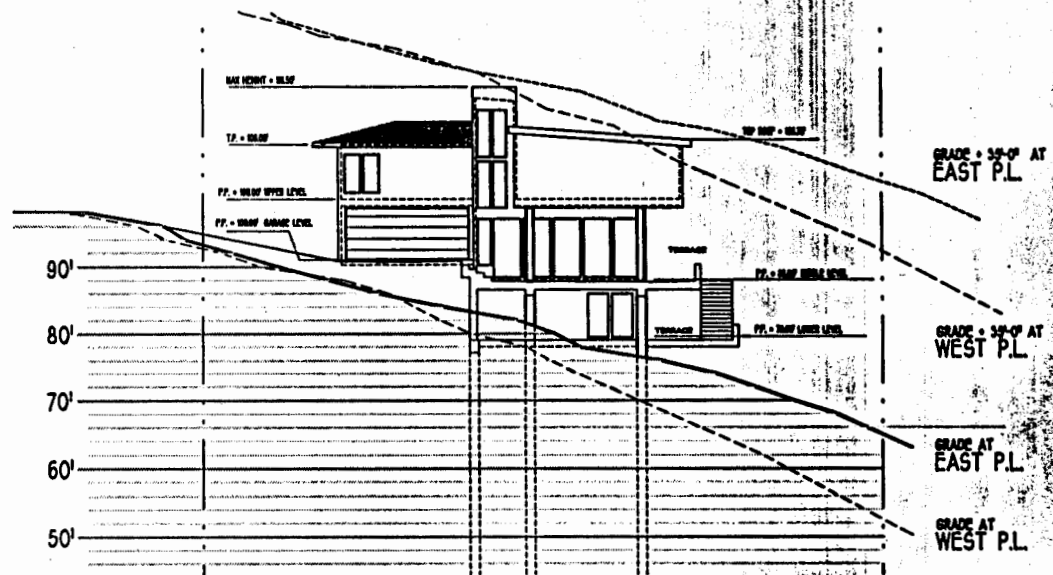
FOR PROJECT NUMBER
26247 FAIRSIDE ROAD
MALIBU, CA 90272

FLOOR PLANS



NORTH ELEVATION

1" = 10' - 0"



EAST ELEVATION

1" = 10' - 0"

Exhibit 5
Permit 4-03-103
Elevations

NOTE: THIS DRAWING INDICATES CONCEPTUAL ARRANGEMENTS FOR PURPOSE OF GENERAL PLANNING DEPARTMENT REVIEW ONLY. NOT FOR BUILDING PERMIT OR CONSTRUCTION USE.

(PLOT PLAN REVIEW)

LA. DEPT. OF REGIONAL PLANNING PROJECT NUMBER: OTP 02-281 (3)

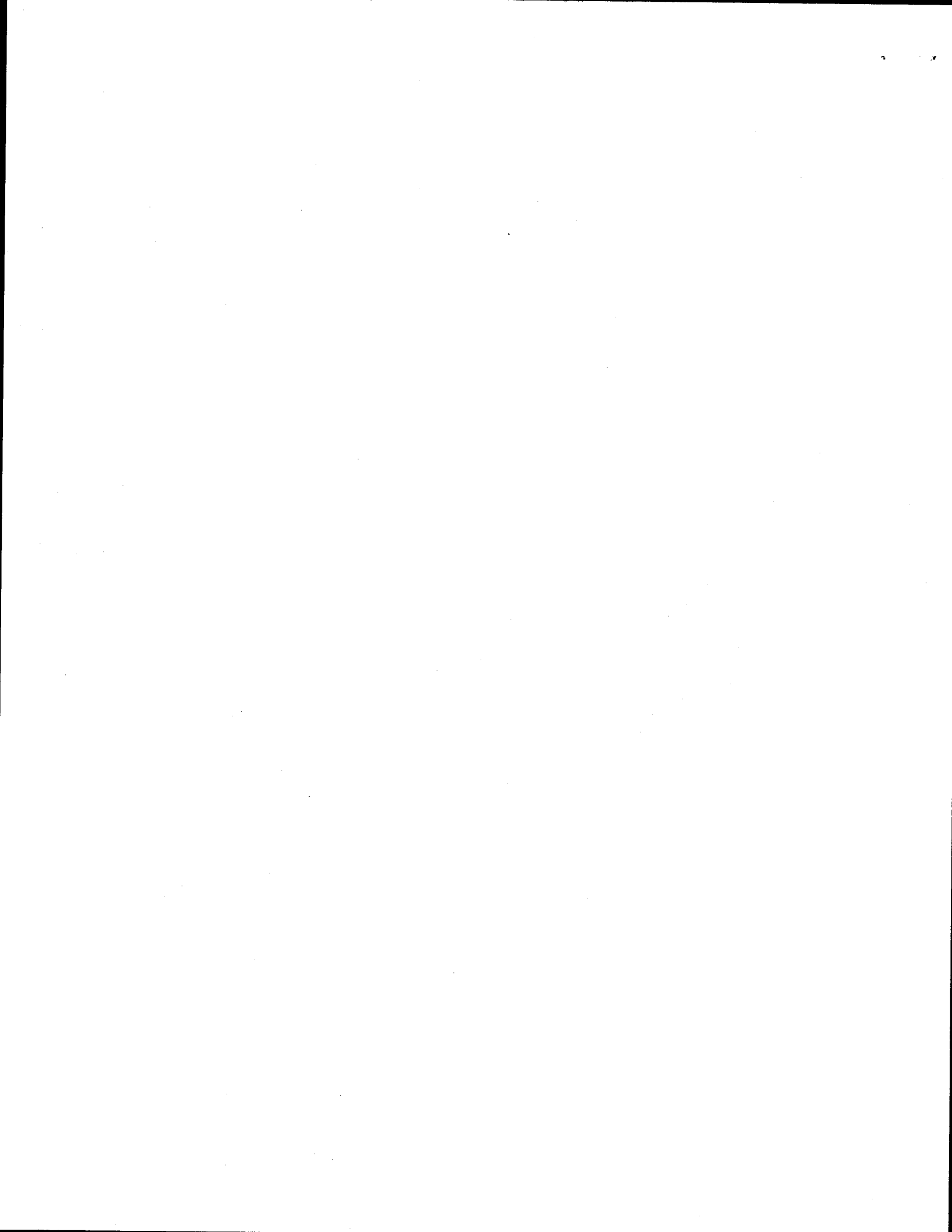
APPLICATION FOR OAK TREE PERMIT, INITIAL ENVIRONMENTAL ASSESSMENT & ENVIRONMENTAL REVIEW BOARD

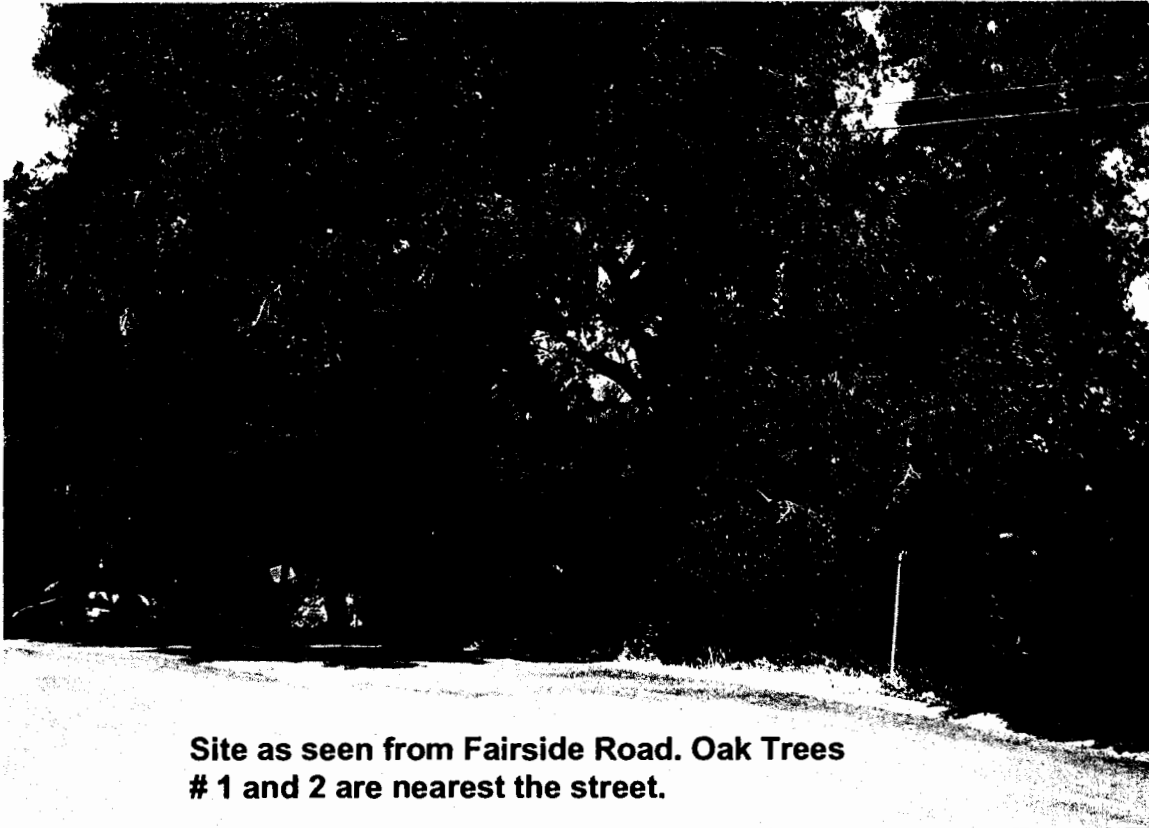
PREPARED FOR
MR. AND MRS. JOHNNY AZOULAY

4828 NORTH BALLOSA AVENUE
 SHERMAN OAKS, CA 91505

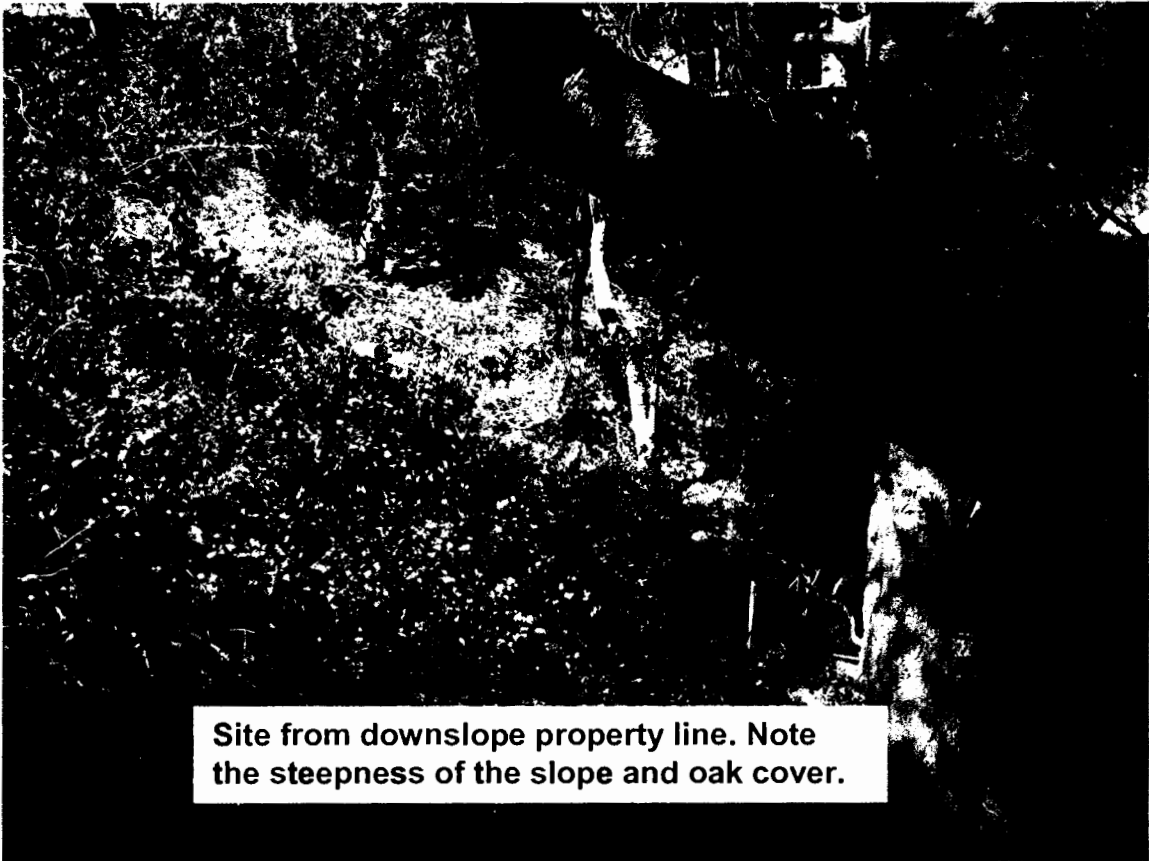
FOR SUBJECT PROPERTY
 26247 FAIRSIDE ROAD
 MALIBU, CA 90272

PAGE 1 OF 2
 ELEVATIONS





**Site as seen from Fairside Road. Oak Trees
1 and 2 are nearest the street.**



**Site from downslope property line. Note
the steepness of the slope and oak cover.**

Exhibit 6

Permit 4-03-103

Photographs

