

**CALIFORNIA COASTAL COMMISSION**

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Filed: 5/2/06  
49th Day: 6/20/06  
180th Day: 10/29/06  
Staff: Ryan Todaro-LB  
Staff Report: September 21, 2006  
Hearing Date: October 11-13, 2006  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-06-031**APPLICANT:** Andrew Miller**AGENT:** Jaime Massey**PROJECT LOCATION:** 17433 Tramonto Drive (Lot A, Tract 5938), Pacific Palisades, Los Angeles County**PROJECT DESCRIPTION:** Construction of a 32-foot high, 15,135 square-foot, two-story over basement level, single-family residence, studio/maid quarters, various retaining walls, pool, spa, landscaping and tennis court on a vacant lot.

Lot Area	1.92 acres
Building Coverage	9,023 square feet
Pavement Coverage	23,575 square feet
Landscape Coverage	50,937 square feet
Zoning	RE40-1-H
Planning Designation	Minimum Residential
Ht. above finished grade	32 feet

**LOCAL APPROVALS RECEIVED:** City of Los Angeles AIC No. ZA 2006-556-AIC-MEL**SUBSTANTIVE FILE DOCUMENTS:**

- 1) City of Los Angeles, Department of Building and Safety Geology/Soil Report Approval Letter, Log No. 45302, November 3, 2004
- 2) Updated Geologic and Geotechnical Engineering Investigation, W.O. 2275d-2, by GeoSoils Consultants Inc., May 24, 2005
- 3) Coastal Development Permit No. 5-97-030 (Santa Monica Bank)
- 4) Coastal Development Permit No. 5-97-030-A1 (Ronen)
- 5) Coastal Development Permit No. 5-97-030-A2 (Miller)
- 6) Coastal Development Permit No. 5-98-083 (Cigolle & Coleman)
- 7) Coastal Development Permit No. 5-01-169 (Ronen)

## **SUMMARY OF STAFF RECOMMENDATION**

Staff is recommending that the Commission **APPROVE** a coastal development permit for the proposed development with eight (8) special conditions addressing: 1) assumption of risk; 2) final project plans; 3) evidence of conformance with geotechnical recommendations; 4) submittal of revised landscape plan; 5) erosion and drainage control; 6) submittal of plan to mitigate for the potential leakage from the proposed swimming pool and spa; 7) lighting and 8) a deed restriction against the property, referencing all of the Special Conditions contained in this staff report.

## **STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

**MOTION:**                *I move that the Commission approve Coastal Development Permit No. 5-06-031 pursuant to the staff recommendation.*

## **STAFF RECOMMENDATION OF APPROVAL:**

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

### **I. Resolution: Approval with Conditions**

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

### **II. Standard Conditions**

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

2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. 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. Assumption of Risk, Waiver of Liability and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslide, erosion and earth movement; (ii) 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; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) 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.

#### 2. Final Project Plans

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, final plans for the approved development. The final plans shall conform to, and clearly demonstrate compliance with, the following requirements:
  - (1) Gate: The proposed gate located on the northeastern property line, which would provide private access to Topanga State Park shall be eliminated from the project plans.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a

Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**3. Conformance with Geotechnical Recommendations**

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in Updated Geologic and Geotechnical Engineering Investigation, Proposed Single-Family Residence, W.O. 2275d-2, by GeoSoils Consultants Inc., May 24, 2005, and the requirements of the City of Los Angeles, Department of Building and Safety Soils/Geology approval letter, Log No. 45302, November 3, 2004, including the requirements to maintain drainage devices (hydraugers) and all conditions within the City of Los Angeles Planning Department approval of Parcel Map #5938 (local CDP #97-014). Such recommendations shall be incorporated into all final design and construction plans.
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed certified engineering geologist has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**4. Revised Landscape Plan**

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) full size sets of revised landscaping plans prepared by an appropriately licensed professional which demonstrates the following:
  - (1) The plan shall demonstrate that:
    - (a) All planting shall provide 90 percent coverage within 90 days and shall be repeated if necessary to provide such coverage;
    - (b) All 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 the landscape plan;

- (c) Landscaped areas not occupied by hardscape shall be planted and maintained for slope stability and erosion control. To minimize the need for irrigation and minimize encroachment of non-native plant species into adjacent or nearby native plant areas, all landscaping shall consist of native and/or drought tolerant non-invasive plant species. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council (formerly known as the California Exotic Pest Plant Council), or as may be identified from time to time by the State of California shall be utilized on the property. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. All plants employed on the site shall be drought tolerant (low water use) plants identified by U. C Davis and the Water Resources Board. Any existing landscaping that doesn't meet the above requirements shall be removed.
- (d) No permanent irrigation system shall be allowed within the property. Any existing in-ground irrigation systems shall be disconnected and capped. Temporary above ground irrigation to allow the establishment of the plantings is allowed. The landscaping plan shall show all the existing vegetation and any existing irrigation system.

(2) The plan shall include, at a minimum, the following components:

- (a) A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and
- (b) A schedule for installation of plants.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

## **5. Erosion and Drainage Control**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for review and approval of the Executive Director, a plan for erosion and drainage control.

1) Erosion and Drainage Control Plan

(a) The erosion and drainage control plan shall demonstrate that:

- During construction, erosion on the site shall be controlled to avoid adverse impacts across the site, adjacent properties, and the public streets.
- The following temporary erosion control measures shall be used during construction: 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.
- All drainage from the lot shall be directed toward the street and away from the sloped areas and other properties, into suitable collection and discharge facilities.
- Run-off from all roofs, patios, driveways and other impervious surfaces on the site shall be collected and discharged to avoid ponding and/or erosion either on or off the site.

(b) The plan shall include, at a minimum, the following components:

- A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control.
- A site plan showing the location of all temporary erosion control measures.
- A schedule for installation and removal of the temporary erosion control measures.
- A written review and approval of all erosion and drainage control measures by the applicant's engineer and/or geologist.
- A written agreement indicating where all excavated material will be disposed and acknowledgement that any construction debris disposed within the coastal zone requires a separate coastal development permit.
- The location, types and capacity of pipes drains and/or filters proposed.
- A schedule for installation and maintenance of the devices.
- A site plan showing finished grades at two-foot contour intervals and drainage improvements.

(c) These erosion and drainage control measures are required to be in place and operational on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from the runoff waters during construction. All sediment shall be retained on-site unless removed to an appropriately approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

- (d) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils, and cut and fill slopes with geotextiles and/or mats, sand bag barriers, and/or silt fencing; and include temporary drains and swales and sediment basins. The plan 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.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

## 6. Swimming Pool/Spa Leak Prevention Plan

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, a written plan to mitigate for the potential of leakage from the proposed pool and spa. The plan shall, at a minimum:
1. Provide a separate water meter for the pool and spa to allow separate monitoring of the water usage for the pool and spa and the rest of the home;
  2. Identify the materials, such as plastic linings or specially treated cement, to be used to waterproof the underside of the pool and spa to prevent leakage into the structure and the adjacent soils. The plan shall include information regarding past success rates of these materials;
  3. The pool and spa shall be installed using two layers of such material, with a drain between the layers.
  4. Identify methods used to control pool and spa drainage and to prevent infiltration from drainage and maintenance activities into the soils of the applicant's and neighboring properties;
  5. Identify normal and expected water consumption by the pool and spa;
  6. Provide an automatic cut-off of water to the pool and spa if water use in a three-hour period exceeds the normal and expected flow.

The cut-off shall have an override control of up to two hours to allow for the maintenance and cleaning of the pool and spa.

7. The pool shall drain to the sewer and not to the storm drain system.
8. The applicant's engineer shall inspect the liner before the concrete is poured and shall inspect the connections before the installation of any decks or coverings.

B. The permittee shall undertake development in accordance with the final approved plans. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

7. **Lighting**

No lighting associated with the project shall significantly impact adjacent habitat at Topanga State Park. All lighting within the development shall be directed and shielded so that light is directed toward the ground and away from Topanga State Park. Outdoor lighting shall be low-intensity and low in height so that the source of the light cannot be seen from Topanga State Park. The use of motion detectors for security lighting is encouraged.

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 landowner has executed and recorded against the parcel(s) governed by this permit 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; and (2) imposing the 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 entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.



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

The Commission hereby finds and declares:

##### **A. Project Description and Location**

The applicant is proposing to construct a 32-foot high, 15,135 square-foot, two-story over basement level, single-family residence, studio/maid quarters, various retaining walls, pool, spa, landscaping and tennis court on a vacant lot (Exhibit #4).

The project site is located on a 83,535 square-foot (1.92 acres) vacant lot (Lot A of Tract 5938) in the Castellammare area of Pacific Palisades (Exhibit #1). The project is on a gently sloping parcel with a descending slope along the north to northeast side of the plateau. This particular lot faces away from the Pacific Ocean and toward Los Liones Canyon. The north and northeastern portion of the subject property borders a "finger" of Topanga State Park. This area is described as a "finger" because it is a small sloped area of the Park bordered on the east side by Los Liones Drive and the west side by a row of single family home along Quadro Vecchio (Exhibit #1). The homes along Quadro Vecchio overlook the downsloping "finger" of the park. However, the park is shielded by an upward sloping area on the northern edge of the subject property.

##### **B. Project History**

In 1989, the Coastal Commission approved Coastal Development Permit No. 5-89-729 for the subdivision of the 4.53 acre parcel into 4 lots for single family homes, construction of street improvements, utilities, drainage, and slope repair. The slope repair consisted of the removal and re-compaction of a shallow surficial slope failure located on Lot A (project site). 950 cubic yards of graded cut and export was proposed in addition to the remedial grading. One of the conditions required for the project was the recordation of an assumption of risk deed restriction on the property because of a possible ancient landslide that existed on Lot A.

Subsequent to the Commission's approval, the applicant recorded the Parcel Map and the City permitted the applicant to do street and infrastructure improvements, install dewatering wells, and three horizontal drains, as required remedial measures for the possible on-site ancient landslide. However, the Commission permit was never issued because the applicant failed to record the assumption of risk deed restriction, per Special Condition No. 2 of the 1989 permit.

Sometime after the Commission approval in 1989, the property changed ownership (Santa Monica Bank acquired the property). When the new owner became aware that the CDP was never issued, the permit had already expired. Since the permit was never issued, the work performed on the site and undertaken in reliance of a permit did not vest the permit. Therefore, the permit expired and the applicant was required to apply for a new CDP from both the City and the Coastal Commission.

On November 18, 1997, the City of Los Angeles approved local CDP No. 97-014 to allow “the construction, use, and maintenance of four single-family dwellings in the dual permit jurisdiction of the California Coastal Zone.” The City permit included 11 conditions and incorporated the conditions of Modified Recorded Parcel Map No. 5938.

On March 10, 1998, the California Coastal Commission approved Coastal Development Permit 5-97-030 for the Subdivision of a 4.53-acre lot into 4 single-family parcels and approximately 7,000 cubic yards of remedial grading (removal and re-compaction of soil). The permit was issued on September 11, 1998. No construction of the homes were proposed or approved under this subdivision permit. The original permit contained two Special Conditions. Special Condition No. 1 required the applicant to incorporate all conditions of the City of Los Angeles Planning Department approval of Parcel Map 5938, and the recommendations by the applicant’s geotechnical consultant, GeoSoils, Inc. One of the recommendations made by the applicant’s geologist included a residential structure building restriction due to a possible ancient landslide on Lot A. Special Condition No. 2 required the applicant to record a deed restriction assuming the risk of development on Lot A because of the possible ancient landslide on this lot.

In April 2005, the Commission approved, with conditions, an amendment (CDP No. 5-97-030-A2), which modified Special Condition No. 1 of CDP No. 5-97-030 regarding compliance with geologic recommendations made in earlier geologic reports and substituted an updated report and recommendations addressing geologic stability. The amendment removed the building area restriction recommended by the applicant’s geologist in 1997 for the subdivision. As a result of the amendment, Special Condition number 1 of underlying permit No. 5-97-30, which restricted development on part of Lot A through compliance with the geologist recommendations made in the referenced geologic/soils reports, was modified to remove the building restriction recommendation on Lot A.

### **C. Geologic Stability**

The proposed project is located in an area subject to natural hazards. The Pacific Palisades area has a long history of natural disasters, some of which have caused catastrophic damage. Hazards common to this area include landslides, erosion, flooding, and wildfires.

Section 30253 states in part:

*New development shall:*

*(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

*(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed project is located in the Castellammare area of Pacific Palisades. This area has a long history of natural disasters, some of which have caused catastrophic damages. Such hazards common to this area include landslides, erosion, flooding, and wildfires. The subject property is located on a gently to moderately sloping vacant lot facing Los Liones Canyon. The subject property does not face Pacific Coast Highway, which has been the site of most of the landslide activity. Rather, the property faces Los Liones Canyon and other subdivided tracts located above Sunset Boulevard.

The project site is located on an inland, level portion of a larger, bowl-shaped area that lies on the west side of Los Liones Canyon. This bowl-shaped feature has been the subject of many debates by geologists, the City, and the Commission. The debate centered on the geologic origin of this feature. Conflicting reports have indicated that an ancient landslide created the bowl-shaped landform, approximately 5,000 years ago. The possible ancient landslide was said to be the result of either a landslide scarp or the actual head scarp of a landslide. Other reports have held that although this feature may have the topographical expression of a landside scarp, there is no subsurface evidence to support that claim and that because the area is underlain with stream alluvial deposits another conclusion is that the feature is the result of an uplifted stream meander.

In the original permit approved in 1989, the applicant submitted seven geologic investigations that were conducted for the subdivision. These reports discussed, in detail, the bowl-shaped feature, located in the southern portion of Lot A. GeoSoils, Inc. reviewed studies that had been conducted over the past several years for the area, including 30 test borings and numerous trenches that were excavated on Parcel #5938.

The Geotechnical consultant's exploration revealed a sheared contact between two different formations, which GeoSoils found to be indicative of either landsliding or fault displacement. They concluded that based on the information they could not disprove that a large landslide may exist under a portion of Lot A and offsite. However, they stated that no evidence exists of historic or recent movement. The GeoSoils report cited an earlier report by Geolabs, which states:

*...the landslide has attained a high degree of stabilization. At the time of principal movement the slide was probably the result of undercutting by the stream of ancient Los Liones Canyon, groundwater, and possibly a strong earthquake.*

The Geolabs report found that the Factor of Safety of the slope between Parcel Map #5938 and Los Liones Canyon is in excess of 1.5. Based on the information that was available, GeoSoils recommended that the area of Lot A, over which the bowl-shaped feature exists, not be utilized for residential structures. The City's Department of Building and Safety concurred and required a sworn affidavit by the applicant that no habitable structures be constructed within the area of the possible landslide (on Lot A).

Because of the potential natural hazards created by the possible ancient landslide which may have existed on the site, the Commission found that they could only approve the

project on the basis of the recommendations made in the applicant's geologic report and if the applicant assumed the liability from the risk.

According to the applicant's geologist, the possible ancient landslide area on Lot A was thoroughly investigated as well as the adjoining properties south of this lot by Pacific Geology. Since the review and approval of the underlying permit in 1998, the applicant's geologist, GeoSoils, conducted additional tests and reviewed other geologic investigations that were conducted for adjacent development that has recently been constructed. Additional geologic investigation of the soil slump determined that bedrock was at a shallower depth than previous investigations had shown. In addition, slope indicators (tilt-meters) that were previously installed in two locations along the top of the slope within the possible ancient landslide area showed no evidence of movement. Moreover, slope stability analyses by GeoSoils and Pacific Geology indicated that this possible ancient landslide feature is stable.

Based on the additional investigation on this site and the adjoining sites, the applicant's geologist recommended to the City that the restriction on habitable structures could be removed, as long as geologic recommendations made in previous reports and a recent letter (August 31, 2004), including maintaining the hydraugers, are followed. The City reviewed the new geologic information and recommendations and concurred with the applicant's geologist. The City removed the building restriction affidavit requirement from the Department of Building and Safety approval, with two conditions requiring a geologic and soil engineering report for any future development, and that the drainage devices be maintained (See City's Geology/Soil Report Approval Letter, Exhibit #3).

Since the City's Department of Building and Safety had removed the restriction from their approval, and there was evidence submitted by the geologist, indicating that the area is stable, the Commission's condition requiring that the applicant incorporate all recommendations of the consulting geologists was modified to include language adopting the removal of the habitable structures restriction and incorporating the recommendations made in the GeoSoils Inc. letter dated August 31, 2004, and the City's conditions in the Geology/Soil Report Approval Letter, dated November 3, 2004 (CDP 5-97-030-A2).

#### 1. Conformance with Geotechnical Recommendations

Recommendations regarding the construction of the proposed project, including foundations, grading and drainage plans, have been provided in several reports and letters submitted by the applicant, as referenced in the above noted final reports. Adherence to the recommendations contained in these reports is necessary to ensure that the proposed project assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way requires the construction of protective devices that would substantially alter natural landforms.

Therefore, Special Condition No. 3 requires the applicant to conform to the geotechnical recommendations in the Updated Geologic and Geotechnical Engineering Investigation,

W.O. 2275d-2, by GeoSoils Consultants Inc., May 24, 2005. The applicant shall also comply with the recommendations by the City of Los Angeles Department of Building and Safety Geologic/Soils Approval Letter, Log No. 45302, November 3, 2004 and all conditions within the City of Los Angeles Planning Department approval of Parcel Map #5938 (local CDP #97-014).

The Commission's staff geologist has reviewed the applicant's geotechnical consultant's reports and the City's geotechnical approval letter. He concurs with the City's approval letter in which the geotechnical reports are approved with conditions and the restriction regarding habitable structures is removed from Lot A, provided that the hydraugers for groundwater removal are maintained.

## 2. Assumption of Risk

Under Section 30253 of the Coastal Act, new development in areas of high geologic, flood, and fire hazard may occur so long as risks to life and property are minimized and the other policies of Chapter 3 are met. The Coastal Act recognizes that new development may involve the taking of some risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his/her property.

The geotechnical reports have indicated that the subject property possesses a factor of safety exceeding 1.5. The factor of safety of 1.5 or greater demonstrates that, by a geotechnical standpoint, the subject site in the location of the proposed development possesses a high probability of geologic stability. However, the decision to construct the project relying on the geotechnical reports and the Department of Building and Safety is the responsibility of the applicants.

The proposed project may still be subject to natural hazards such as slope failure and erosion. The geotechnical evaluations do not guarantee that future erosion, landslide activity, or land movement will not affect the stability of the proposed project or that the required soldier piles/retaining walls will be installed as specified. Because of the inherent risks to development in areas of steep slopes and mapped landslides, the Commission cannot absolutely acknowledge that the design of the proposed condominium building will protect the subject property during future storms, erosion, and/or landslides. Therefore, the Commission finds that the proposed project is subject to risk from landslides and/or erosion and that the applicant should assume the liability of such risk.

The applicants may decide that the economic benefits of development outweigh the risk of harm, which may occur from the identified hazards. However, neither the Commission nor any other public agency that permits development should be held liable for the applicant's decision to develop. Therefore, the Commission imposes Special Condition No. 1, which requires the applicant to expressly waive any potential claim of liability against the Commission for any damage or economic harm suffered as a result of the decision to develop. The assumption of risk, when recorded against the property as a deed restriction, will show that the applicants are aware of and appreciate the nature of the

hazards which may exist on the site and which may adversely affect the stability or safety of the proposed development.

In case an unexpected event occurs on the subject property, the Commission attaches Special Condition No. 8, which requires recordation of a deed restriction whereby the landowner assumes the risk of extraordinary erosion and/or geologic hazards of the property. The deed restriction will provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely in the future.

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

### 3. Erosion Control Measures

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion via rain or wind could result in possible acceleration of slope erosion and landslide activity. The applicant shall follow both temporary and permanent erosion control measures to ensure that the project area is not susceptible to excessive erosion. Currently, runoff flows uncontrolled over and across the subject property. The applicant has submitted a grading and drainage plan that demonstrates that runoff water is directed to the street and not across the subject property. However, the Commission requires a complete erosion control plan for both permanent and temporary measures. Such measures will lessen the effects grading, site development, and future water runoff will have on the site and surrounding properties.

Therefore, prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, a temporary and permanent erosion and drainage control plan that includes a written report describing all temporary and permanent erosion control and run-off measures to be installed and a site plan and schedule showing the location and time of all temporary and permanent erosion control measures, more specifically defined in special condition No. 5.

### 4. Landscaping

The installation of in-ground irrigation systems, inadequate drainage, and landscaping that requires intensive watering are potential contributors to accelerated weakening of some formations; increasing the lubrication along geologic contacts and increasing the possibility of failure, landslides, and sloughing, which could necessitate protective devices. Due to

the geologic sensitivity of the site, the Commission requires that all plants be low water use. The term "drought tolerant" is equivalent to the terms "low water use" and "ultra low water use" as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>.

The applicant has proposed to landscape approximately 51,000 square feet of his property and has submitted a preliminary landscaping plan. Commission staff reviewed the submitted preliminary landscaping plan for drought tolerant vegetation and determined that *Podocarpus gracilior*, *Cinnamomum camphora*, *Trachelospermum jasminoides*, *Prunus cerasifera*, *Acer palmatum*, *Liriope gigantean*, *Rosa floribunda*, *Pittosporum tobira crassifolia*, *Pittosporum tobira variegata*, *Osmanthus fragrans*, *Trachelospermum jasminoides* and *Jasminum polyanthem* are not drought tolerant.

Invasive plants can invade a riparian area and displace native plants, impeding restoration and preservation efforts. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org/>) and California Native Plant Society ([www.CNPS.org](http://www.CNPS.org)) in their publications. Commission staff reviewed the landscape plan and determined that the plan does contain invasive species, including *Olea europa*, *Pinus pinea*, and *Schinus molle*.

The Commission notes that the applicant's site is adjacent to a State Park, which includes a riparian area. The riparian area is undergoing restoration; invasive plants could hinder this restoration effort. To ensure that the project maintains native and/or drought tolerant vegetation, Special Condition No. 4 is required by the Commission. Special Condition No. 4 requires the applicant to submit a revised landscaping plan for the review and approval of the Executive Director. The plan requires the applicant to plant native and/or drought tolerant vegetation on the site. Native and/or drought tolerant plants are used because they require little to no watering once they are established (1-3 years), they have deep root systems that tend to stabilize the soil, and are spreading plants that tend to minimize erosion impacts of rain and water run-off. The plantings shall provide 90% coverage within 90 days and the plantings shall be maintained in a good growing condition for the prevention of exposed soil, which could lead to erosion and possible earth movement.

Special Condition No. 4 further prohibits the planting of invasive plant species, which tend to supplant or dominate other plant species or does not allow for the establishment of other plant species (in this case native or drought tolerant species). Such plants are restricted in the landscaping plan because of the possibility that the drought tolerant/native plant species would eventually be supplanted or more importantly would not become established at all.

Only as conditioned to incorporate and comply with the recommendation of the applicant's geotechnical consultant, the City of Los Angeles, Department of Building and Safety and to submit a temporary and permanent erosion and drainage control plan and a revised landscaping plan, is the proposed project consistent with Section 30253 of the Coastal Act.

**D. Habitat – Topanga State Park**

Section 30240 of the Coastal Act states:

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

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

The Commission has found that certain coastal bluffs and canyons in the Pacific Palisades area and Santa Monica Mountains are classified as Environmentally Sensitive Habitat Areas. Typically these areas are undeveloped and include extensive, connected habitat areas that are relatively undisturbed. The subject property is located on the southwestern edge of the Santa Monica Mountains in a subdivided, “nearly built-out” tract (Exhibit #X). The subject site is located in a developed, subdivided location where homes, urban landscaping, and landslides have impacted habitat. Single-family residences exist on two sides of the property. The subject property also borders a portion of Topanga State Park. As mentioned previously, the Park area in this location is a “finger” of the larger Topanga State Park that is bordered by Quadro Vecchio (a residential street lined on either side with single family homes) to the southwest of the Park and Los Lions Drive (a surface street that terminates at the Los Lions Trail that leads to Paseo Miramar Fire Road and Temescal Ridge) to the northeast.

Section 30240 requires that development adjacent to parks and recreational areas be sited and designed to prevent impacts, which would degrade such areas. The Park and the surrounding habitat within the Santa Monica Mountains still contain large expanses of native vegetation, which is home to several avian and terrestrial species. Such vegetation includes coastal sage scrub, chaparral, scrub oak, and several other plant species endemic to the Santa Monica Mountains. Coastal sage scrub has incurred tremendous losses statewide. Native plants common to this community are highly adapted to the temperate climate of Southern California and provide habitat for the endangered California gnatcatcher, cactus wren, and orange-throated whiptail lizard, among a list of approximately 100 potentially threatened or endangered species<sup>1</sup>.

**1. Invasive Plants**

As discussed previously, the applicant submitted a preliminary landscape plan, which contained invasive species, including *Olea europa*, *Pinus pinea*, and *Schinus molle*. Invasive plants are fast spreading plants that can overtake an established native plant community. If new development on the edge of the State Park were to incorporate invasive plant material in its landscaping, the native species could be overwhelmed and

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<sup>1</sup> Premises on Coastal Sage Scrub Ecology, CA Department of Fish and Game



supplanted. To ensure that the project maintains non-invasive plant species, Special Condition No. 4 is required by the Commission. Special Condition No. 4 requires the applicant to submit a revised landscaping plan for the review and approval of the Executive Director. The plan requires the applicant to plant the entire site with non-invasive plant species. Such plants are restricted in the landscaping plan because of the possibility that the invasive plants would eventually supplant native plant species within Topanga State Park. The landscaping plan also requires the planting of native and/or drought tolerant vegetation on the entire site. Native and/or drought tolerant plants are used because they require little to no watering once they are established (1-3 years), they have deep root systems that tend to stabilize the soil, and are spreading plants that tend to minimize erosion impacts of rain and water run-off. The plantings shall provide 90% coverage within 90 days and the plantings shall be maintained in a good growing condition for the prevention of exposed soil, which could lead to erosion and possible earth movement.

## 2. Lighting

Lighting has the potential to disrupt the habits of native wildlife within Topanga State Park. Therefore, the Commission imposes Special Condition No. 7, which requires all lighting within the development shall be directed and shielded so that the light is directed towards the ground and away from the park, outdoor lighting shall be low-intensity and low in height and the use of motion detectors for security lighting is encouraged.

## 3. Private Gate

The applicant has proposed a private gate, which would be located on the northeastern property line where an old roadbed exists (Exhibit #4). This gate would provide direct, private access to Topanga State Park. According to Suzanne Goode, a Senior Environmental Scientist with the California Department of Parks and Recreation, private entrances often times result in unwanted trails, increased erosion and disturbances; in some instances where such private gates exist, private individuals have used the gates to access the park for disposal of refuse and storage of items. Therefore, to avoid these potential impacts, the Commission has imposed Special Condition No. 2, which requires the applicant to submit final plans, which show that this private gate has been eliminated.

The Commission finds that, as conditioned to provide and incorporate a landscaping plan that includes non-invasive, native and/or drought tolerant plant species, appropriate lighting and removal of a private gate from the project plans, the proposed project will not degrade or significantly impact the State Park area. The project is therefore found consistent with Section 30240 of the Coastal Act.

## **E. Scenic and Visual Resources**

Section 30251 of the Coastal Act states:

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

Under this section of the Coastal Act development must be sited to avoid impacts to the scenic or visual qualities of coastal areas. In this case the public views are the views from Topanga State Park to the hillsides and canyons of the Santa Monica Mountains of Pacific Palisades and from the surrounding public streets and viewpoints to the ocean.

The subject property is located on the inland facing side of the Castellammare area in the Pacific Palisades. It is located approximately 1/2 mile from Will Rogers State Beach, yet the property is not visible from this beach area. The northern and northeastern portion of the subject property borders a "finger" of the larger Topanga State Park. This portion of the Park slopes steeply to the east, away from the subject property. The "finger" is bordered on the western side by single-family residences along a ridgeline and Quadro Vecchio Road (upslope) and on the eastern side (downslope) by Los Liones Drive. A natural upward-sloping area at the northern and northeastern border between the subject property and the State Park obstructs the view of the subject property from Topanga State Park (both the larger portion of the Park and the "finger" of the Park).

The proposed 32-foot high single-family residence would not be visible from Los Liones Canyon because of the steep slope of the canyon sides and the location of the subject lot on the opposite side of a ridge. While the proposed single-family residence might be seen from a trail in the Park, the construction of the home would not impact the scenic and visual qualities of the State Park. There are existing single-family residences on either side of the subject site. A ridgeline located above the subject property is lined with existing one and two-story single-family homes as well. The homes along the ridgeline are accessed by Quadro Vecchio Street (the southwestern border of the "finger" of Topanga State Park).

However, there are also views of the entire inland facing Castellammare community, with roads, single and multi-family residences, and Topanga State Park. Therefore, the proposed single family home would not impact the views from the public vantage points to the Santa Monica Mountains, Topanga State Park, and the coastline.

Section 30251 of the Coastal Act requires development to minimize alteration of natural landforms. The applicant has proposed 7,345 cubic yards of cut and 6,265 cubic yards of fill with a maximum cut slope height is 18 feet, which conforms to the recommendations of the geotechnical consultants. All of the grading would occur on the subject site. One reason the Coastal Act requires protection of natural landforms is to protect public views. The proposed grading would not significantly alter the natural landform (it was previously

graded) and because of the surrounding development, the change in the landform would not be visible from the surrounding area.

In this particular case the subject property is located in a nearly built-out tract and the construction of the proposed single-family residences would not lead to a further degradation of the surrounding area. The proposed project is not located in an area that could potentially block public views to either Topanga state Park or the coastline. The proposed project is consistent with the character and scale of the structures in the surrounding community. Therefore, the Commission finds the proposed project consistent with Section 30251 of the Coastal Act.

#### **F. Local Coastal Program**

Section 30604 (a) of the Coastal Act states:

*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 coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).*

In 1978, the Commission approved a work program for the preparation of Local Coastal Programs in a number of distinct neighborhoods (segments) in the City of Los Angeles. In the Pacific Palisades, issues identified included public recreation, preservation of mountain and hillside lands, and grading and geologic stability.

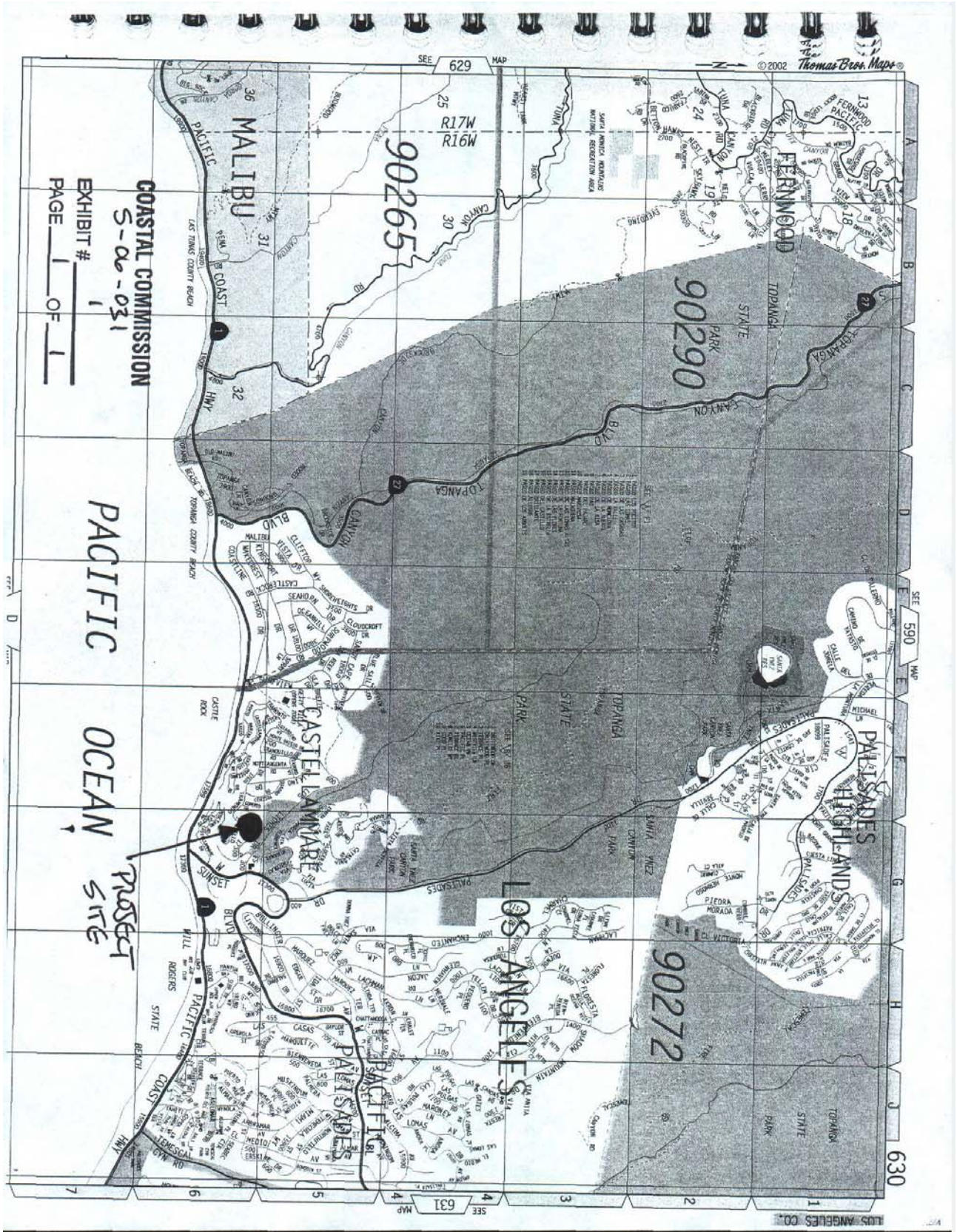
The City has submitted five Land Use Plans for Commission review and the Commission has certified three (Playa Vista, San Pedro, and Venice). However, the City has not prepared a Land Use Plan for Pacific Palisades. In the early seventies, a general plan update for the Pacific Palisades had just been completed. When the City began the LUP process in 1978, with the exception of two tracts (a 1200-acre and 300-acre tract of land), which were then undergoing subdivision approval, most private lands in the community were subdivided and built out. The Commission's approval of those tracts in 1980 meant that no major planning decision remained in the Pacific Palisades. The tracts were A-381-78 (Headlands) and A-390-78 (AMH). Consequently, the City concentrated its efforts on communities that were rapidly changing and subject to development pressure and controversy, such as Venice, Airport Dunes, Playa Vista, San Pedro, and Playa del Rey.

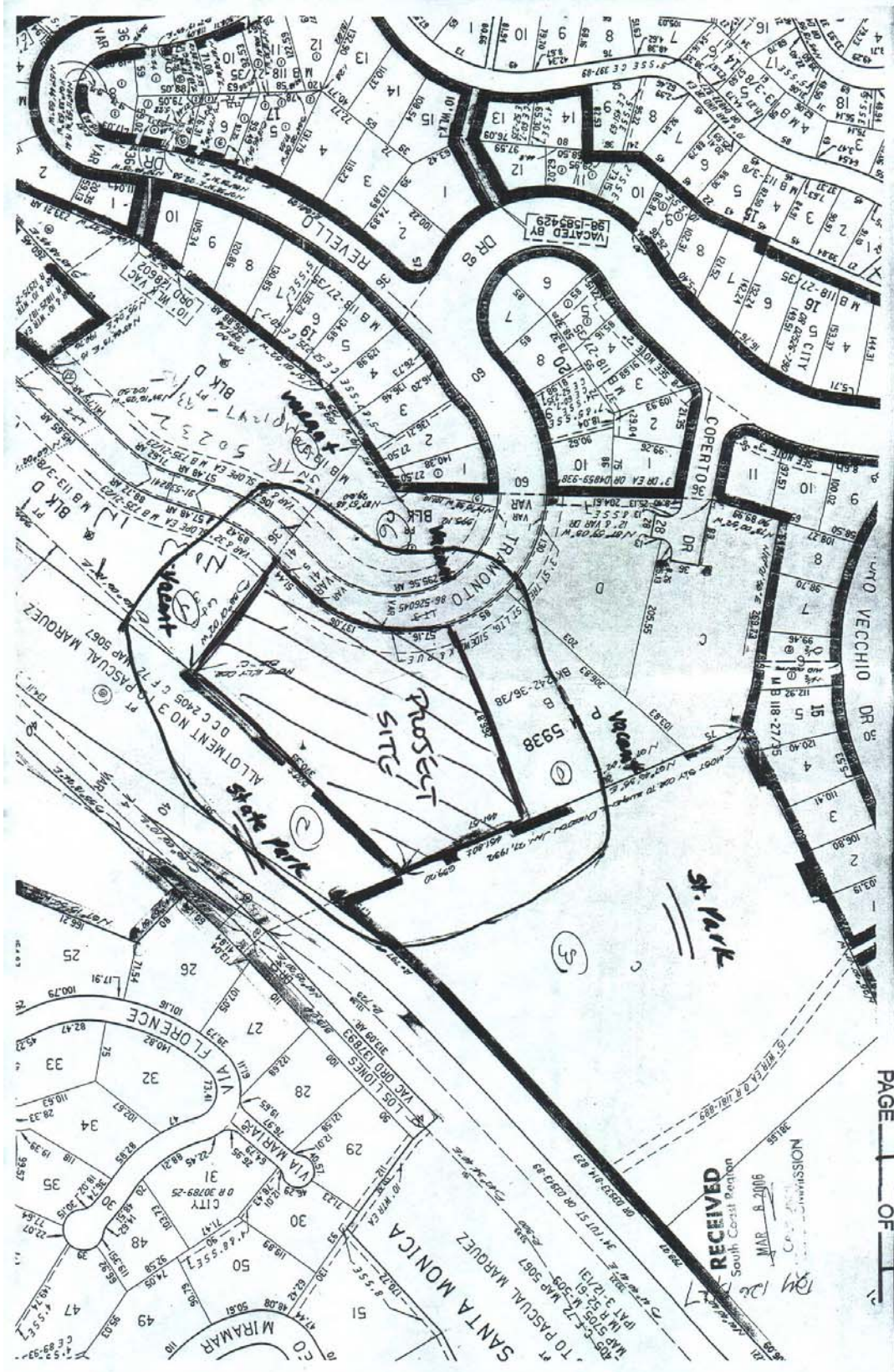
As conditioned, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program in conformity with Chapter 3 of the Coastal Act. The Commission, therefore, finds that the proposed project is consistent with the provisions of Section 30604 (a) of the Coastal Act.

**G. California Environmental Quality Act**

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

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.





COASTAL COMMISSION  
EXHIBIT # 2  
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RAYMOND CHAN  
EXECUTIVE OFFICER

**GEOLOGY/SOIL REPORT APPROVAL LETTER**

November 3, 2004

Log # 45302  
SOILS/GEOLOGY FILE - 2

Andrew Miller  
12840 Nanover St  
Los Angeles, CA 90049

**COASTAL COMMISSION**  
5-06-031

TRACT: PM 5938  
LOT: A  
LOCATION: 17433 Tramonto Dr

EXHIBIT # 3  
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<u>CURRENT REFERENCE REPORT/LETTER(S)</u>	<u>REPORT NO.</u>	<u>DATE(S) OF DOCUMENT</u>	<u>PREPARED BY</u>
Geology/Soil Report	2275D-2	08/31/04	Geosoils
<u>PREVIOUS REFERENCED REPORT/LETTER(S)</u>	<u>REPORT NO.</u>	<u>DATE(S) OF DOCUMENT</u>	<u>PREPARED BY</u>
Dept Approval letter	35339-05	01/21/03	LADBS
Inter-Departmental letter	3600	05/04/88	LADBS


The referenced report concerning the removal of a building restriction on the southeast portion of the subject lot has been reviewed by the Grading Division of the Department of Building and Safety. The site investigations for Parcel Map 5938 determined that a possible prehistoric landslide exists on the southern portion of lot A. The approval letter dated 05/04/88 for the geologic and soil engineering reports contained a condition that habitable structures were restricted from the possible landslide area.

Since 1988, additional subsurface investigations and analyses by Geosoils, Pacific Geology and Coastline Geotechnical have been reviewed and approved by LADBS. Based upon the results of the investigations and analyses, done to date, for this lot and the adjacent lots to the south, It is the opinion of Geosoils Consultants that the restriction regarding habitable structures may be removed from lot A provided that the hydraugers for groundwater removal are maintained. The report is acceptable and the restriction on habitable structures may be considered removed, provided the following conditions are complied with during any site development:

- In the event that a new building, either habitable or non-habitable, is proposed on the possible prehistoric landslide area of lot A, a geologic and soil engineering report addressing the stability and foundation design of the building shall be submitted to the Department of Building and Safety for approval.

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17433 Tramonto Dr

2. All drainage devices on the site shall be maintained in accordance with the conditions of the above referenced Department letters.

  
DANA PREVOST  
Engineering Geologist II

45302  
(213) 482-0480

cc: Geosoils Consultants  
WLA District Office

**COASTAL COMMISSION**

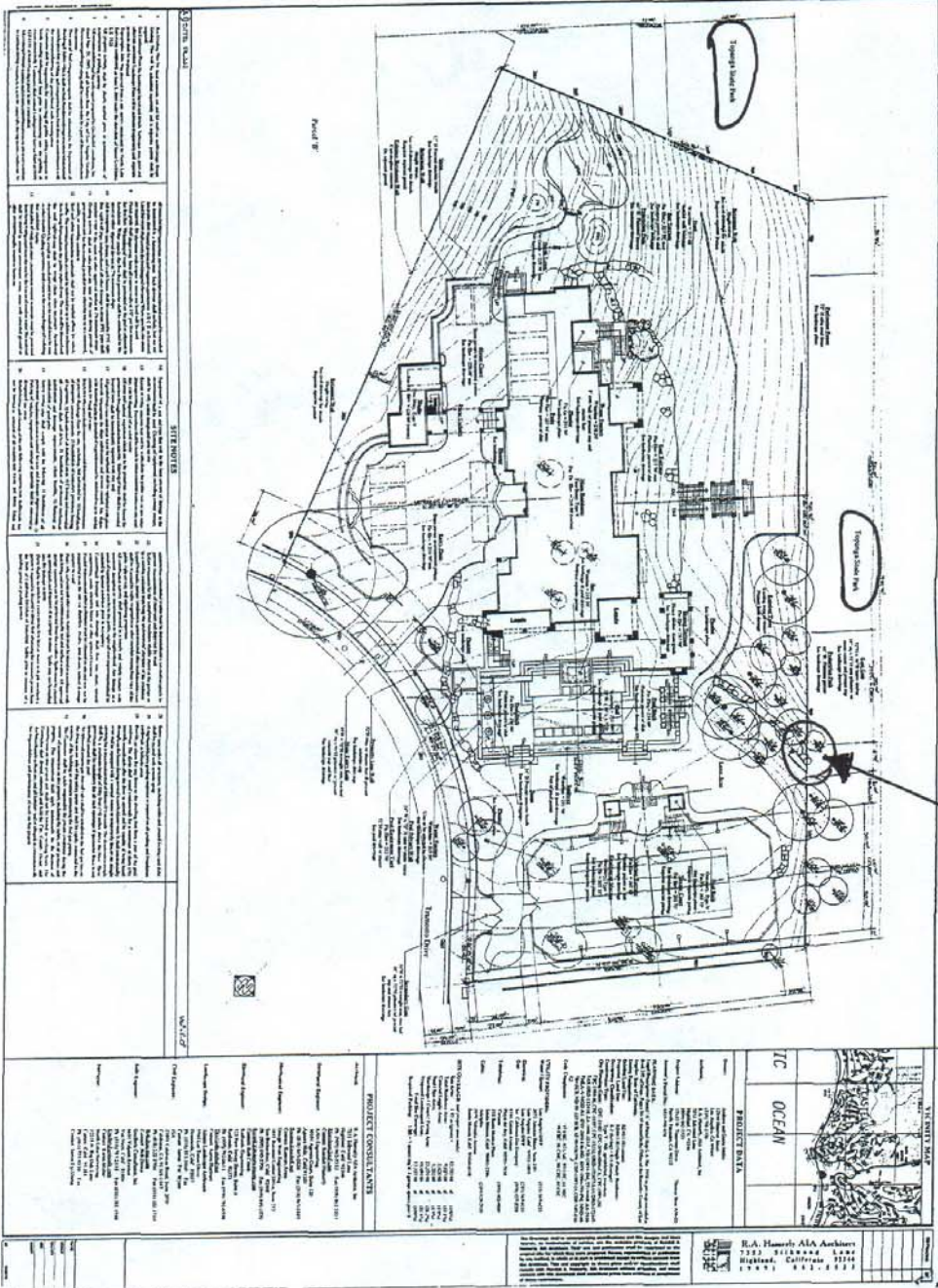
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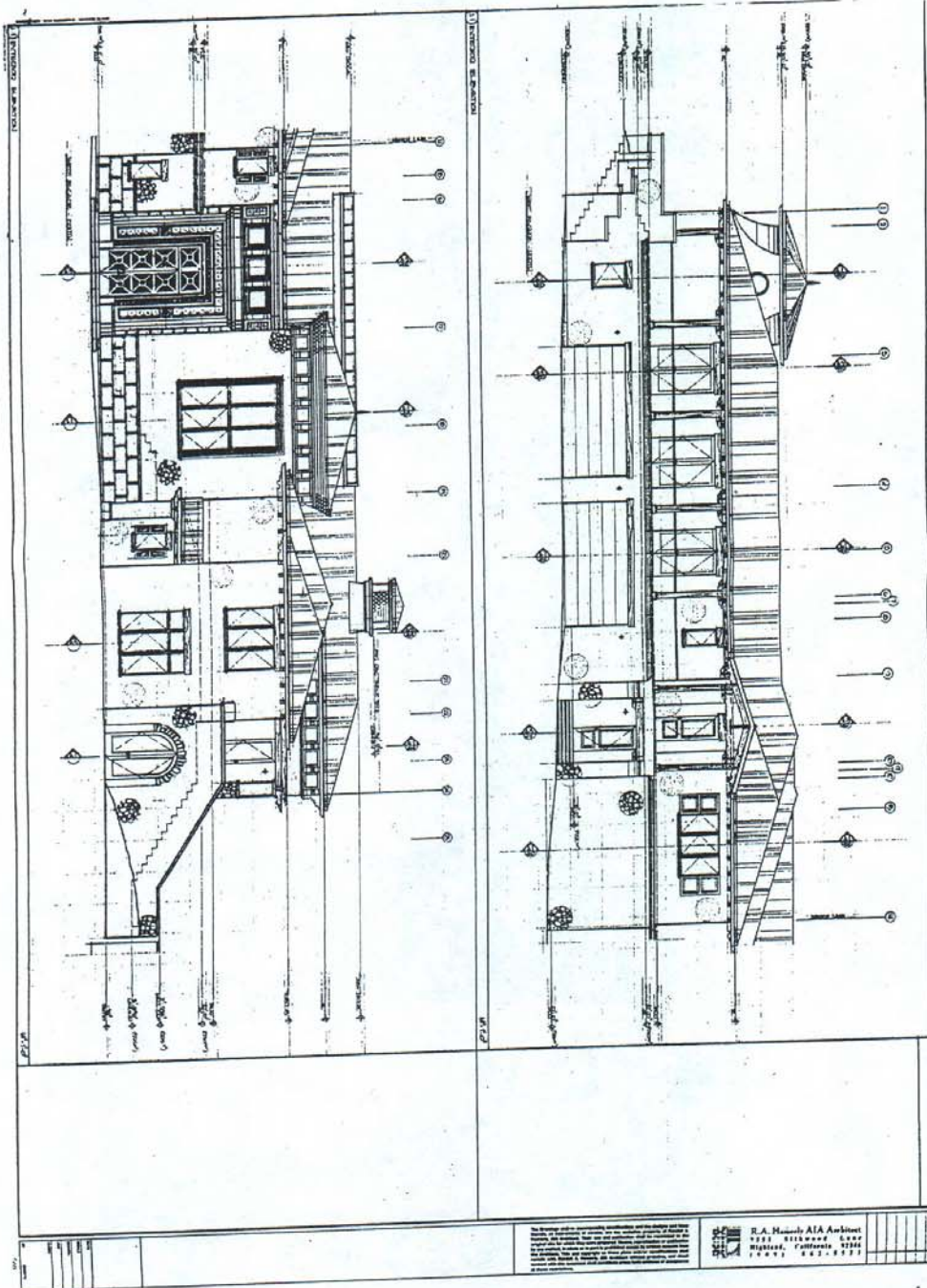
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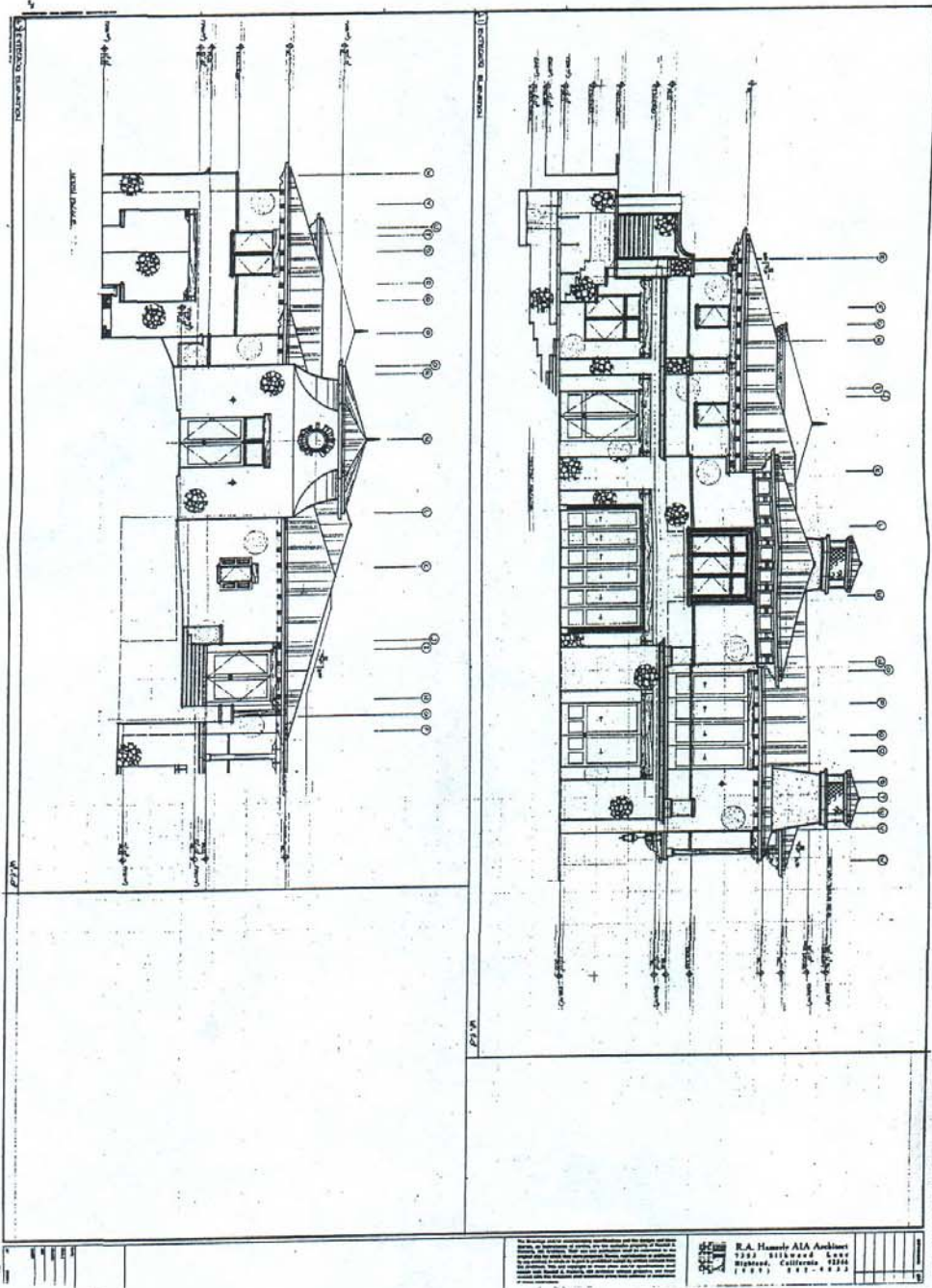
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*Private Gate*

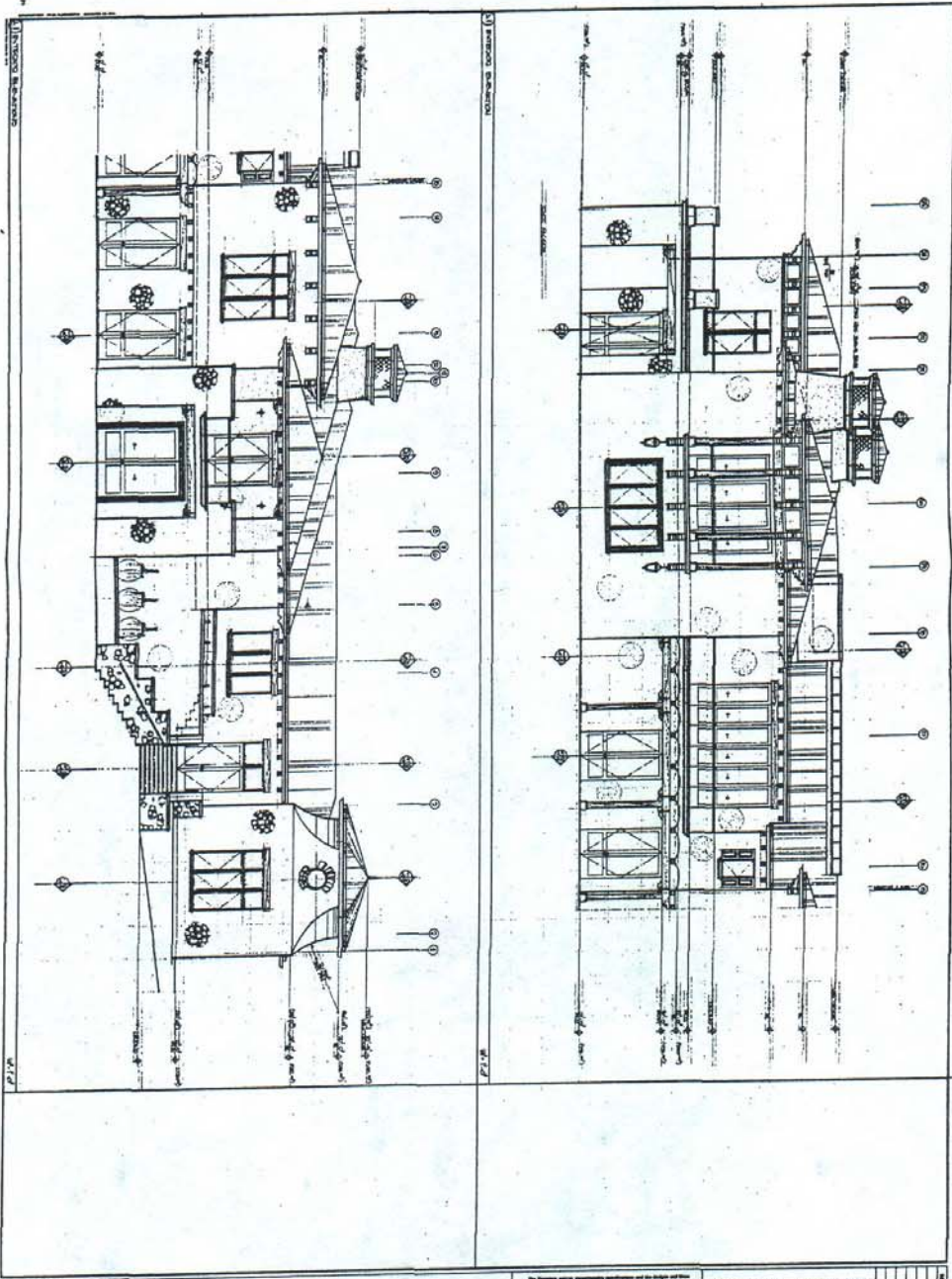
<p><b>PROJECT CONSULTANTS</b></p> <p>Architect: [Faded text]</p> <p>Engineer: [Faded text]</p> <p>Landscaper: [Faded text]</p> <p>Other: [Faded text]</p>		<p><b>PROJECT DATA</b></p> <p>Project Name: Tropicana Hotel and Casino</p> <p>Location: [Faded text]</p> <p>Site Area: [Faded text]</p> <p>Project No.: [Faded text]</p> <p>Scale: [Faded text]</p> <p>Date: [Faded text]</p>	<p><b>DATE</b></p> <p>1/1/77</p>
<p><b>PROJECT DATA</b></p> <p>Project Name: Tropicana Hotel and Casino</p> <p>Location: [Faded text]</p> <p>Site Area: [Faded text]</p> <p>Project No.: [Faded text]</p> <p>Scale: [Faded text]</p> <p>Date: [Faded text]</p>			



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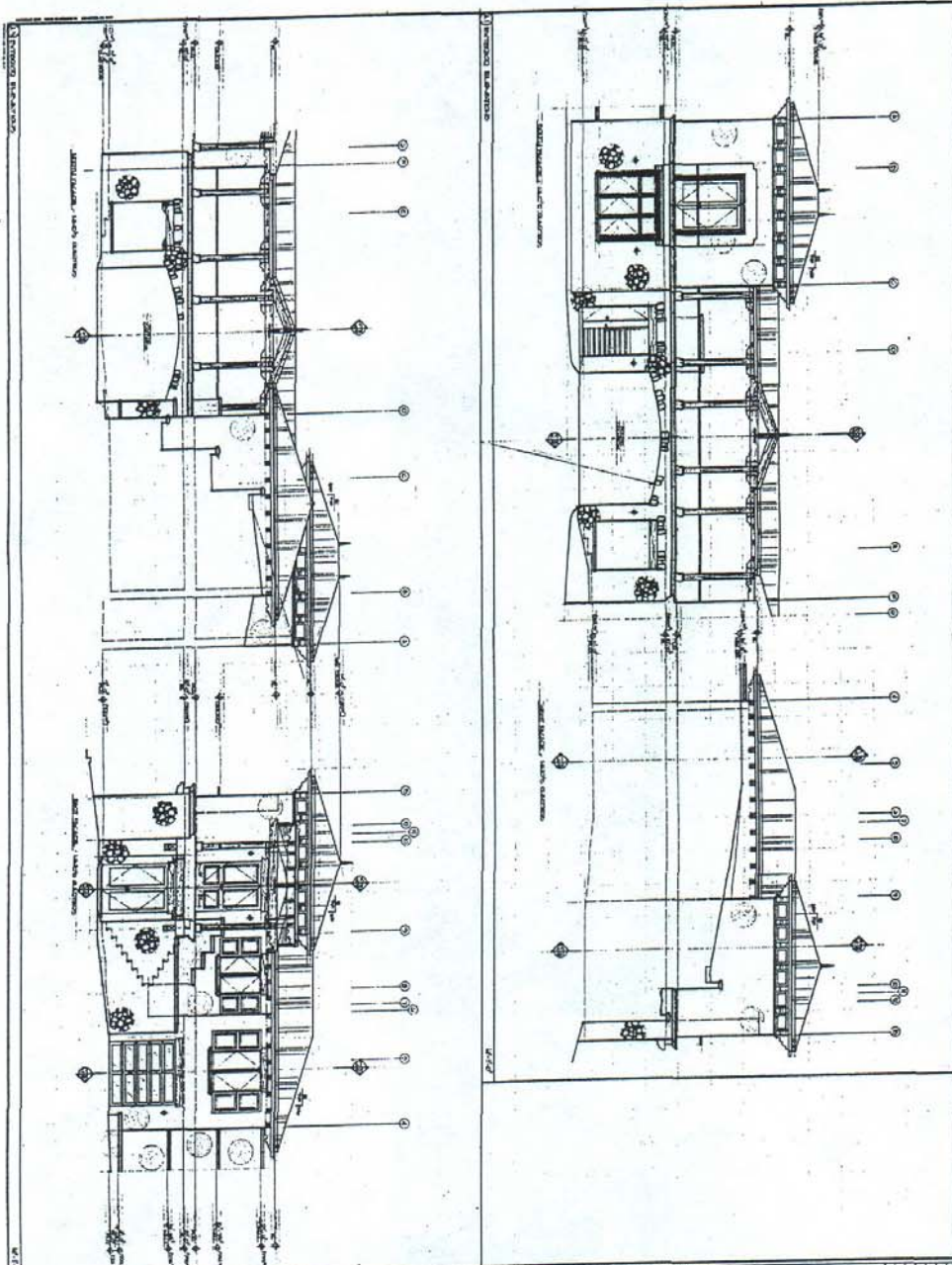
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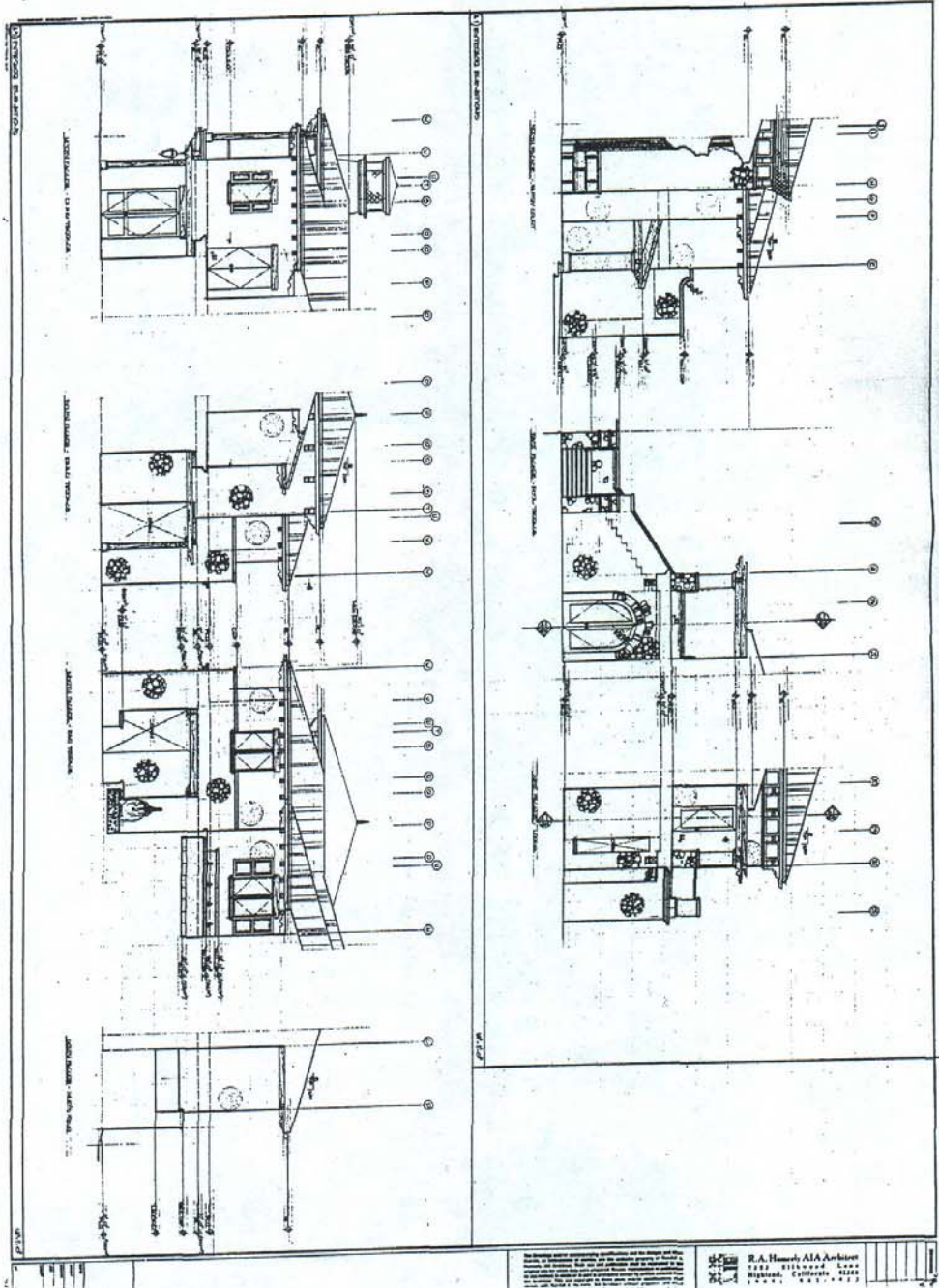
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The drawings on these pages are prepared and the design and construction of the project are the responsibility of the architect and not the Coastal Commission. The Coastal Commission is not responsible for the accuracy of the drawings or the quality of the construction. The Coastal Commission is not a party to the contract between the architect and the client. The Coastal Commission is not a party to the contract between the architect and the contractor. The Coastal Commission is not a party to the contract between the architect and the subcontractor. The Coastal Commission is not a party to the contract between the architect and the supplier. The Coastal Commission is not a party to the contract between the architect and the manufacturer. The Coastal Commission is not a party to the contract between the architect and the distributor. The Coastal Commission is not a party to the contract between the architect and the retailer. The Coastal Commission is not a party to the contract between the architect and the wholesaler. The Coastal Commission is not a party to the contract between the architect and the importer. The Coastal Commission is not a party to the contract between the architect and the exporter. The Coastal Commission is not a party to the contract between the architect and the agent. The Coastal Commission is not a party to the contract between the architect and the broker. The Coastal Commission is not a party to the contract between the architect and the dealer. The Coastal Commission is not a party to the contract between the architect and the distributor. The Coastal Commission is not a party to the contract between the architect and the manufacturer. The Coastal Commission is not a party to the contract between the architect and the supplier. The Coastal Commission is not a party to the contract between the architect and the subcontractor. The Coastal Commission is not a party to the contract between the architect and the contractor. The Coastal Commission is not a party to the contract between the architect and the client.

**R.A. Hamel AIA Architect**  
2212 Hillwood Lane  
Marina, California 94028  
Phone 415-452-8222



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