

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO: 4-06-035

APPLICANT: Steven Barles

PROJECT LOCATION: 20919 Shady Lane, Topanga Oaks Small Lot Subdivision, Topanga (Los Angeles County)

PROJECT DESCRIPTION: Construction of a 1,261 sq. ft. single-family residence with subterranean garage, deck, driveway, retaining walls, 263 cu. yds. of grading (cut), septic system, and after-the-fact request for removal of three (3) oak trees.

Lot area:	6,100 sq. ft.
Building coverage:	1,100 sq. ft.
Pavement coverage:	750 sq. ft.
Ht. abv. fin. grade:	33 ft.

LOCAL APPROVALS RECEIVED: Los Angeles County Regional Planning Department Approval-in-Concept, dated December 15, 2005; Los Angeles County Department of Health Services approval of septic system, dated March 7, 2006; Los Angeles County Fire Department, Fire Protection Engineering approval, dated April 17, 2006; Los Angeles County Fire Department, Final Fuel Modification Plan, dated July 26, 2006; Los Angeles County Fire Department Emergency Oak Tree Permits, dated January 28, 2005 and February 8, 2005; Los Angeles County Oak Tree Permit No. T200400021, dated March 31, 2005.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains certified Land Use Plan; "Percolation Test Results" by Lawrence Young, Registered Environmental Health Specialist, dated February 10, 2006; "Geotechnical Investigation" by Coleman Geotechnical, dated October 24, 2005; "Soils Engineering and Geologic Investigation" by Robert Stone & Associates, Inc., dated July 1, 1987; "Oak Tree Report" by Steven Barles, dated July 19, 2004 and revised February 8, 2005; "Oak Tree Report" by Kay Greeley, Certified Arborist, dated May 15, 2006; "Addendum to Oak Tree Report" by Kay Greeley, dated August 8, 2006; CCC Violation No. V-4-05-058.

SUMMARY OF STAFF RECOMMENDATION

The proposed project site is located in the Topanga Oaks small lot subdivision in the Santa Monica Mountains. The subject property is 6,100 sq. ft. in size and situated among single-family residences and vacant land to east. A small, seasonal drainage is located on the vacant parcel to the east, approximately 50 feet from the proposed project site. The subject parcel is also flanked by two private roads: Shady Lane to the south and Hillside Drive to the north. The applicant proposes to construct a 1,261 sq. ft. single-family residence with subterranean garage, deck, driveway, retaining walls, 263 cu. yds. of grading (cut), septic system, and after-the-fact request for removal of three (3) oak trees. The three trees removed from the site by the applicant did not have the benefit of a coastal development permit. Currently, the site contains four on-site mature Coast Live Oak trees and three off-site Coast Live Oak trees (*Quercus agrifolia*).

Staff recommends that the Commission approve a portion of the proposed development and deny the remaining portion, as follows:

Part 1: Approve construction of a 1,261 sq. ft. single-family residence with subterranean garage, deck, driveway, retaining walls, 263 cu. yds. of grading (cut), septic system, encroachment within the protected zones of two (2) oak trees, and request for after-the-fact approval for removal of one (1) oak tree at 20919 Shady Lane in Topanga, Los Angeles County.

In addition, staff is recommending that this portion of the development to be approved be subject to **Ten (10) Special Conditions** regarding submittal of revised plans, plans conforming to geotechnical engineer's recommendations, assumption of risk, drainage and polluted runoff control, landscaping and erosion control, oak tree protection and monitoring, oak tree mitigation, removal of excess excavated material, future improvements, and deed restriction.

Part 2: Deny the request for after-the-fact approval for removal of two (2) oak trees.

The standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified Malibu – Santa Monica Mountains Land Use Plan (LUP) serve as guidance.

I. STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

MOTION: *I move that the Commission adopt the staff recommendation for Coastal Development Permit 4-06-035 by adopting the two-part resolution set forth in the staff report.*

STAFF RECOMMENDATION OF APPROVAL IN PART AND DENIAL IN PART

Staff recommends a **YES** vote on the following motion. This will result in the adoption of the following two-part resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

A. RESOLUTION:

Part 1: Approval with Conditions of a Portion of the Development

The Commission hereby **approves** the portion of the proposed coastal development permit consisting of construction of a 1,261 sq. ft. single-family residence with subterranean garage, deck, driveway, retaining walls, 263 cu. yds. of grading (cut), septic system, encroachment within the protected zones of two oak trees and after-the-fact request for removal of one oak tree, on the grounds that the development, subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. 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.

Part 2: Denial of the Remainder of the Development

The Commission hereby **denies** the portion of the proposed coastal development permit consisting of an after-the-fact request for removal of two (2) oak trees on the grounds that the development will not conform with the policies of Chapter 3 of the Coastal Act. Approval of this portion of the project would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. 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. Revised Plans

Prior to issuance of the Coastal Development Permit, the applicant shall submit two (2) sets of revised project plans, for the review and approval of the Executive Director, to redesign and re-orient the residence and drainage features such that no part of the development encroaches within the protected zone (5 feet from dripline or 15 feet from trunk, whichever is greater) of oak tree Nos. 3, 5, 6, 7, or 8 identified in the "Oak Tree Report" by certified arborist Kay Greeley, dated May 15, 2006.

2. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the Geotechnical Report prepared by Coleman Geotechnical, dated October 24, 2005, and that all such recommendations shall be incorporated into all final design and construction, including recommendations concerning foundations, grading, retaining walls, drainage, and sewage disposal, and must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction and drainage. No substantial changes in the proposed development approved by the Commission may occur without an approved amendment(s) to this permit or new Coastal Development Permit(s).

3. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildfire; (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.

4. Drainage and Polluted Runoff Control Plan

Prior to 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 the amount of stormwater runoff produced by all storms 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 (i.e., 2 or greater), 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 an amendment or new coastal development permit is required to authorize such work.

5. Landscaping and Erosion Control Plans

Prior to issuance of the Coastal Development Permit, the applicant shall submit two sets of final landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the criteria set forth below. All development shall conform to the approved landscape and erosion control plans.

A. Landscaping Plan

- (1) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation, all landscaping shall consist primarily of 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. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or the State of California, shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
- (2) 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 using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.
- (3) Plantings will 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.
- (4) 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 to the coastal development permit, unless the Executive Director determines that no amendment is required.
- (5) Vegetation within 20 feet of the proposed house may be removed to mineral earth, vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term final fuel modification plan. Irrigated lawn, turf and ground cover planted within the twenty 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.
- (6) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- (7) No permanent irrigation is permitted within the protected zone (defined as a five foot radius outside the dripline, or 15 feet from the trunk, whichever is greater) of any oak tree on or adjacent to the project site, and landscaping within the oak tree protected zones shall be limited to native oak tree understory plant species.

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 site 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 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 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 occupancy, 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. Failure to comply with deadlines to submit the landscape monitoring report may result in the commencement of enforcement proceedings, including potential judicial action and administrative orders, as well as the recordation of a notice of violation in the chain of title for the property.

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 this permit, 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.

6. Oak Tree Protection and Monitoring

To ensure that on-site oak trees are protected during grading and construction activities, protective barrier fencing shall be installed around the drip line of all oak trees during construction operations. In addition, no permanent irrigation is permitted within the protected zone (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of any on-site oak trees and landscaping within the oak tree protected zones shall be limited to native oak tree understory plant species. The permittee shall also follow the oak tree preservation recommendations that are enumerated in the "Oak Tree Report" dated May 15, 2006, prepared by Kay Greeley, certified arborist.

Prior to commencement of construction, the permittee shall retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during grading and construction activities. The biological consultant or arborist shall immediately notify the Executive Director if unpermitted activities occur or if oak trees are removed or impacted beyond the scope of the work allowed by Coastal Development Permit 4-06-035. This biological consultant or arborist shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

The biological consultant or arborist shall monitor all oak trees identified in the above referenced "Oak Tree Report" by Kay Greeley 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 any of these trees be lost or suffer worsened health or vigor as a result of this project, the permittee shall submit, for the review and approval of the Executive Director, an off-site 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. Replacement trees shall be provided at a rate of 10:1.

7. Oak Tree Mitigation

Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Executive Director, an off-site oak tree replacement planting program, 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. The applicant shall coordinate with the Mountains Restoration Trust to prepare and implement the off-site oak tree replacement planting program. At least thirty (30) replacement seedlings, less than one year old,

grown from acorns collected in the selected planting area, shall be planted as mitigation for impacts to three (3) oak trees as a result of the proposed project, including the removal of one tree (oak tree # 4) and significant encroachments into the protected zone of two trees (oak trees # 1 and 2). All replacement seedlings must be planted in a suitable location off-site that is restricted in perpetuity from development or is public parkland. An appropriate off-site planting area shall be identified in collaboration with the Mountains Restoration Trust (MRT), and shall be located near the project site, within the Topanga Canyon watershed. The applicant shall commence implementation of the approved off-site oak tree replacement planting program concurrently with the commencement of construction on the project site. 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.

8. Removal of Excess Excavated Material

Prior to the issuance of the Coastal Development Permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

9. Future Development Restriction

This permit is only for the development described in Coastal Development Permit 4-06-035. 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 4-06-035. 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 landscape plan/fuel modification prepared pursuant to Special Condition No. 5 shall require an amendment to Coastal Development Permit 4-06-035 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

10. Deed Restriction

Prior to the issuance of the Coastal Development Permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to these permits, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of these permits as covenants, conditions and

restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a 1,261 sq. ft. single-family residence with subterranean garage, deck, driveway, retaining walls, 263 cu. yds. of grading (cut), septic system, and after-the-fact request for removal of three (3) oak trees at 20919 Shady Lane in the Topanga Oaks small lot subdivision in the Santa Monica Mountains (**Exhibits 1-4**). The subject property is 6,100 sq. ft. in size and the site slopes at approximately 22 degrees, with a maximum relief of about 30 feet. The proposed project site is located within the Topanga Canyon watershed, at an elevation of approximately 1,000 feet above sea level.

The Topanga Oaks small lot subdivision was formerly an oak woodland that has been highly disturbed by dense residential development. The subject site is situated among single-family residences and vacant land to east. A small, seasonal drainage is located on the vacant parcel to the east, approximately 50 feet from the proposed project site. The subject parcel is also flanked by two private roads: Shady Lane to the south and Hillside Drive to the north. Access to the site is proposed to be provided by a short driveway off Shady Lane to the south. The site is not visible from any public viewing areas.

Prior to the unpermitted removal of three (3) oak trees in April 2005, the site contained seven (7) mature Coast Live Oak trees (*Quercus agrifolia*) (oak tree #1-7). Three (3) off-site oak trees overhang the subject parcel (oak trees #8-10) (**Exhibit 5**). Photographs of the site prior to tree removal indicate that a large portion of the parcel was under the canopy of oak trees, and grasses dominated the understory of the canopy. However, due to the fact that the site has been previously disturbed by the presence of roads and residential development this area is not considered to be an environmentally sensitive habitat area (ESHA). Nonetheless, in past permit actions in the Santa Monica Mountains, the Commission has found that native oak trees are an important coastal resource, as discussed in greater detail below. Currently, the majority of the parcel is devoid of vegetation as a result of the tree removals, with the exception of an oak tree in the southeast corner of the parcel (#3) and three oak trees on the west side of the parcel (#5, 6, 7). The 2 to 4 foot tall trunk base of removed oak trees # 1, 2,

and 4 remain in place on the site and new growth is emerging from the large stumps of oak trees # 1 and 2.

Unpermitted Oak Tree Removals

On January 28, 2005 the applicant obtained an Emergency Oak Tree Permit from the Los Angeles County Fire Department for the removal of a large, multi-trunk oak tree (oak tree #1) located at the south end of the parcel adjacent to Shady Lane. On February 8, 2005, the Fire Department provided written permission to the applicant for emergency removal of a second large, multi-trunk oak tree (oak tree #2) located on the south side of the parcel, and pruning of other oak trees. The stated "emergency" involved a portion of a tree that was overhanging Shady Lane, and a tree that was growing into an overhead utility line near Shady Lane. On March 31, 2005, the applicant obtained an Oak Tree Permit from Los Angeles County Department of Regional Planning for removal of a large oak tree (oak tree #4) at the north end of the parcel and encroachments into the protected zone of seven other oaks trees (# 3, 5, 6, 7 on-site and #8, 9, 10 off-site) in order to accommodate construction of a proposed residence (**Exhibit 5**). The permit also confirmed permission for emergency removal of oak trees # 1 and 2 per the Fire Department emergency authorizations. All oak tree removal and pruning work authorized by the County took place in April 2005. The applicant did not obtain a coastal development permit or emergency coastal permit for the removal of the on-site oak trees, as required by Section 30600(a) of the Coastal Act. On May 11, 2005 Commission staff sent the property owner, Steve Barles, Notice of Violation No. V-4-05-058 notifying him that removal of oak trees in the Coastal Zone without a coastal development permit is a violation of the Coastal Act. Therefore, the applicant seeks after-the-fact approval for removal of oak trees # 1, 2, and 4 in the subject permit application.

B. 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. 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. 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 that 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 that 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 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 proposed project site is located in the Topanga Oaks small lot subdivision, an area subject to the provisions of the slope intensity formula. The applicant proposes the construction of a new 1,261 sq. ft. single-family residence with attached garage on a parcel that is 6,100 sq. ft. in size. The applicant has submitted a GSA calculation in conformance to Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP. This calculation arrived at a maximum GSA of 1,261 sq. ft. of habitable space. Staff has confirmed that the applicant's calculations conform to the formula used by the Commission in past permit decisions. The proposed 1,261 sq. ft. of habitable space is consistent with the maximum allowable GSA of 1,261 sq. ft.

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 of these reasons, future improvements on the subject property could cause adverse cumulative impacts on the limited resources of the subdivision. The Commission, therefore, finds it necessary to require a future improvements deed restriction on this lot, as noted in **Special Condition No. Nine (9)**, which would ensure that any future structures, additions, change in landscaping or intensity of use at the project site, that may otherwise be exempt from coastal permit requirements, are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act.

Finally, **Special Condition No. Ten (10)** 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 the proposed project, only as conditioned, is consistent with Sections 30250(a) and 30252 of the Coastal Act.

C. 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 a geotechnical report ("Geotechnical Investigation," Coleman Geotechnical, October 24, 2005) and a geologic report ("Soils Engineering and Geologic Investigation," Robert Stone & Associates, Inc., July 1, 1987) that evaluate the geologic stability of the subject site in relation to the proposed development. Based on their evaluation of the site's geology and the proposed development, the consultants have found that the project site is suitable for the proposed project.

The submitted geologic reports contain several recommendations to be incorporated into project construction, foundations, grading, retaining walls, and drainage to ensure the stability and geologic safety of the proposed project site and adjacent property. To ensure that the recommendations of the consultants have been incorporated into all proposed development, the Commission, as specified in **Special Condition No. Two (2)**, requires the applicant to comply with and incorporate the recommendations contained in the submitted geologic reports into all final design and construction, and to obtain the approval of the geotechnical consultants prior to commencement of construction. Final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission. Any substantial changes to the proposed development, as approved by the Commission, which may be recommended by the consultant shall require an amendment to the permit or a new coastal development permit.

The Commission finds that controlling and diverting run-off in a non-erosive manner from the proposed structures, impervious surfaces, and building pad will also add to the geologic stability of the project site. Therefore, in order to minimize erosion and ensure stability of the project site, and to ensure that adequate drainage and erosion control is included in the proposed development, the Commission requires the applicant to submit drainage and erosion control plans certified by the geotechnical engineer, as specified in **Special Condition Nos. Four (4) and Five (5)**.

In addition, the Commission finds that landscaping of graded and disturbed areas on the subject site will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain the geologic stability of the site. Therefore, **Special Condition No. Five (5)** requires the applicant to submit landscaping plans that utilize and maintain native and

noninvasive plant species compatible with the surrounding area for landscaping the project site.

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 slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition No. Five (5)**.

Furthermore, to ensure that excess excavated material is moved off site so as not to contribute to unnecessary landform alteration and to minimize erosion and sedimentation from stockpiled excavated soil, the Commission finds it necessary to require the applicant to dispose of the material at an appropriate disposal site or to a site that has been approved to accept fill material, as specified in **Special Condition No. Eight (8)**.

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. Three (3)**, the assumption of risk, 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 3, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted projects.

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

D. Environmentally Sensitive Habitat, Water Quality, and Visual Resources

Section 30231 states:

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

Section 30240 states:

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

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

Section 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 30251 of the Coastal Act requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. Section 30251 of the Coastal Act, states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be

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

Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through, among other means, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Sections 30240 of the Coastal Act state that environmentally sensitive habitat areas must be protected against disruption of habitat values. Section 30250 of the Coastal Act requires that development be located and designed to ensure that significant adverse impacts, both individual and cumulative, be avoided. Finally, Section 30251 of the Coastal Act requires that the scenic and visual qualities of coastal areas be protected.

Woodlands that are native to the Santa Monica Mountains, such as oak woodlands, are important coastal resources. Native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading, provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, contribute nutrients to watersheds, and are important scenic elements in the landscape. In the Santa Monica Mountains, coast live oak woodland occurs mostly on north slopes, shaded ravines and canyon bottoms. Besides the coast live oak, this plant community includes hollyleaf cherry, California bay laurel, coffeeberry, and poison oak. Coast live oak woodland is more tolerant of salt-laden fog than other oaks and is generally found nearer the coast¹. Coast live oak also occurs as a riparian corridor species within the Santa Monica Mountains. Valley oaks are endemic to California and reach their southern most extent in the Santa Monica Mountains. Valley oaks were once widely distributed throughout California's perennial grasslands in central and coastal valleys. Individuals of this species may survive 400-600 years. Over the past 150 years, valley oak savanna habitat has been drastically reduced and altered due to agricultural and residential development. The understory is now dominated by annual grasses and recruitment of seedlings is generally poor. This is a very threatened habitat. The important ecosystem functions of oak woodlands and savanna are widely recognized². These habitats support a high diversity of birds³, and provide refuge for many species of

¹ NPS 2000. op. cit.

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

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

sensitive bats⁴. Typical wildlife in this habitat includes acorn woodpeckers, scrub jays, plain titmice, northern flickers, cooper's hawks, western screech owls, mule deer, gray foxes, ground squirrels, jackrabbits and several species of sensitive bats. Therefore, because of their important ecosystem functions and vulnerability to development, the Commission has consistently found in past permit decisions that oak woodlands and savanna within the Santa Monica Mountains meet the definition of ESHA under the Coastal Act.

However, there are also areas in the Santa Monica Mountains where past development patterns have resulted in the fragmentation and disturbance of oak woodlands and savannas. This is particularly true in "small lot subdivision" areas where small "urban scale" parcels were created in the past, many within oak woodlands or savannas. The dense level of residential development in many of these subdivisions has resulted in significant disturbance and fragmentation of the oak woodlands although many oak trees still remain. The subject site is within the Topanga Oaks small lot subdivision, which is an oak woodland that has been highly disturbed over time by dense residential development on small, suburban scale parcels. The subject site is situated among existing single-family residences, vacant land to the east, and flanked by two private roads. Due to the fact that the subdivision has been previously disturbed by the construction of roads and residential development, the overall oak woodland area would not be considered an environmentally sensitive habitat area (ESHA). However, in past permit actions in the Santa Monica Mountains the Commission has found that native oak trees are an important coastal resource, even if the overall woodland would not be considered ESHA. 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. Native trees that are not part of a larger, intact habitat may nonetheless provide nesting or roosting habitat for raptors and other birds that are rare, threatened, endangered, fully protected, or species of special concern. Furthermore, individual oak trees such as those on the subject site 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.

According to Oaks of California, "Coast live oak is unique among the California oaks in its ability to thrive along the coast...Proximity to the ocean provides a milder climate for coast live oak, with warmer winters (seldom encountering frost or snow) and less sweltering summers than found inland. Fog is common, providing additional relief from heat and drought...Inland, it can be found at elevations up to 5,000 feet with groves that spread across valleys, on steep hillsides, in rocky canyons, and along streams and intermittent watercourses" (Pavlik, Muick, Johnson, and Popper, 1991). The coast live oak is a large, evergreen tree with a dense, round crown and large limbs. Its trunk divides into either erect limbs or, more commonly, into crooked, wide-spreading limbs that sometimes touch or trail the ground. They can grow to 30 to 70 feet high and 35 to 80 feet wide.

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

Oaks are easily damaged and are very sensitive to disturbances that occur to the tree or the surrounding environment. Their 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 (Los Angeles County Regional Planning Oak Tree Ordinance).

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.

Encroachments into the protected zone of an oak tree can result in significant adverse impacts. 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 . . .

Given the importance of oak woodlands and individual oak trees, even those that have been disturbed or fragmented by development, the Commission has consistently required, through past permit actions, that new development avoid the removal of oak trees, unless there is no feasible alternative for siting or designing the structures. Further, given the sensitivity of oak trees to disturbance or encroachment of development into the root zone, the Commission has required that encroachments within the protected zone (5 feet beyond the dripline, or 15 feet from the trunk, whichever is greater) be avoided unless there is no feasible alternative for the siting of development. If encroachments cannot be avoided, then the Commission requires that encroachments be minimized to the maximum extent feasible. If encroachments extend a minimal distance within the protected zone of an oak tree, the Commission has required the affected tree to be monitored for a period of ten years, to identify if the tree has been harmed by the encroachment. If it is determined that the tree has been adversely affected, then mitigation is required. In the case of significant encroachments within the protected zones of oak trees, the Commission has determined that the affected trees are likely to suffer worsened health as a result and mitigation has been required. The oak tree mitigation that the Commission has required is the planting of replacement trees, at a ratio of at least ten seedlings for every tree impacted. If there is suitable area on the project site, replacement trees should be provided on-site. The Commission has found, through permit actions, that replacement trees, particularly oak trees, are most successfully established when the 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.

Project Site Background

Prior to the unpermitted removal of three (3) on-site oak trees in April 2005, the site contained seven (7) mature Coast Live Oak trees (*Quercus agrifolia*). In addition, three (3) off-site oak trees overhang the subject parcel (**Exhibit 5**). Photographs of the site prior to tree removal indicate that a large portion of the parcel was under the canopy of oak trees, and grasses dominated the understory of the canopy. Currently, the majority of the parcel is devoid of vegetation as a result of the tree removals, with the exception of an oak tree in the southeast corner of the parcel (oak tree #3) and three oak trees on the west side of the parcel (oak trees #5, 6, 7). The 2 to 4 foot tall trunk base of removed oak trees # 1, 2, and 4 remain in place on the site and new growth is emerging from the large stumps of oak trees # 1 and 2.

As stated previously, Los Angeles County Department of Regional Planning issued the applicant an oak tree permit on March 31, 2005 for removal of oak tree #4 with a Factual Summary that states:

The applicant is requesting an oak tree permit to authorize the removal of one oak tree and the encroachment into the protected zone of seven oak trees in order to accommodate the construction of a single-family residence at 20880 Hillside Drive, Topanga, in the unincorporated County area. In addition, one oak tree was issued an Emergency Oak Tree Permit on 1/28/05, and an additional oak tree was approved for removal for emergency vehicle access on 2/8/05 by the County Fire Department.

In addition to the oak tree permit issued by the County Department of Regional Planning, the Fire Department had issued emergency permits for the removal of two additional trees prior (oak trees #1 and 2). The stated "emergency" involved a portion of a tree that was overhanging Shady Lane, and a tree that was growing into an overhead utility line near Shady Lane. In any case, the applicant had not applied for an emergency coastal permit or coastal development permit from the Coastal Commission for the oak tree removals.

The applicant submitted an Oak Tree Report and map, prepared by himself, and based upon his own oak tree observations conducted on July 19, 2004, almost a year prior to obtaining County approval for oak tree removals. The applicant's report identified that oak tree #1 would require removal in order to accommodate the proposed driveway. The report also identified that the remaining six on-site oak trees, in addition to the three off-site oak trees, would need to be pruned by a qualified arborist. No hazards or emergency conditions concerning the oak trees were identified in the report. However, the applicant did note in his report that overhead electrical wires were resting on the branches of oak tree #7 and pruning would be required. The applicant's oak tree maps are included in **Exhibit 6**.

Since the applicant is not a certified arborist or resource specialist with appropriate qualifications for analyzing the on-site oak trees, staff requested that the applicant provide an oak tree report prepared by a qualified arborist. The applicant submitted an Oak Tree Report, prepared by certified arborist Kay Greeley, and dated May 15, 2006. An addendum to the Oak Tree Report, dated August 8, 2006, was also submitted. The report identified four (4) existing on-site oak trees and three (3) off-site oak trees that are in close proximity and overhang the subject property. A map showing the protected zones of the identified trees was also provided (**Exhibit 5**). The trunk locations of the three trees already removed by the applicant were included on the map, but the protected zones were not depicted. The report assigned a number to each tree for identification. Oak tree numbers assigned in the arborist's oak tree report and map are the same as those indicated in the report and map prepared by the applicant. Staff would note that the oak tree driplines indicated on the maps differ significantly. However, the applicant's maps show an approximate canopy dripline of removed oak trees # 1, 2, and 4 (**Exhibit 6**).

In consideration of proposed residential development, the arborist's oak tree report indicates that the protected zone of two (2) on-site oak trees (#3 and 5) will be encroached as a result of the proposed project (**Exhibit 5**). The report also addressed the three oak trees previously removed. The report indicates that the proposed development would not have required removal of removed oak trees #1 and 2, although

encroachment within the dripline and/or protected zones of these trees would have been unavoidable. Removed oak tree #4 had been situated nearest the central portion of the parcel and the report states that its retention would have prohibited site development.

Denial of the Removal of Oak Tree Nos. 1 and 2

In past permit actions, the Commission has required that the removal of native trees, particularly oak trees, be avoided unless there is no feasible alternative for the siting of development. The proposed project involves construction of a 1,261 sq. ft. single-family residence with subterranean garage, deck, driveway, retaining walls, 263 cu. yds. of grading (cut), septic system, and after-the-fact request for removal of three (3) oak trees (# 1, 2, and 4). Three trees were removed from the site by the applicant without a coastal development permit.

Staff visited the project site, reviewed photos of the site taken before the removal of three oak trees, the proposed site plan, the oak tree protected zone map prepared by the applicant (July 2004), and the oak tree protected zone map prepared by Kay Greeley (May 2006). Staff's review indicates that the removal of oak tree #4 is necessary in order to site any development on the property, as discussed in greater detail below. However, given the location of oak trees # 1 and 2 on the project site these trees do not have to be removed to allow for the development of the proposed project. In addition, the evidence in the record suggests that oak trees # 1 and 2 do not pose a significant hazard so as to require emergency authorization for removal. Feasible alternatives exist, such as trimming, to remove branches from overhead wiring while still preserving the integrity of the trees.

Although the proposed septic system, driveway, and small portions of the residence would encroach within the protected zones of oak trees # 1 and 2, this development could be accommodated without complete removal of the trees. While oak trees # 1 and 2 would undoubtedly be impacted by such encroachments, the retention of these trees on site could protect the important habitat, water quality, and scenic benefits of oak trees on the site.

The removal of oak trees # 1 and 2 was unpermitted as the applicant did not obtain a coastal development permit prior to carrying out the removal. The removal of these two trees is not required to accommodate the development of the project site and results in the loss of habitat for birds, bats, and other wildlife. The other resource benefits of oak trees including the prevention of erosion, the moderation of water temperatures in streams through shading, the provision of food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, and the contribution of nutrients to the watershed will be lost by the removal of the two trees. Finally, the scenic value of large oak trees in the landscape will be lost. Therefore, the Commission finds that the after-the-fact request for removal of oak trees # 1 and 2 does not avoid or minimize impacts to the oak trees, a significant coastal resource, inconsistent with Sections 30231, 30250, and 30251 of the Coastal Act. As such, the portion of the development

consisting of removal of oak trees # 1 and 2 is denied. Finally, the unpermitted removal of the trees results in ongoing resource damage as the habitat value, water quality benefits, and scenic value of the two trees no longer exist on the site.

Remainder of the Development

The remainder of the proposed project includes the construction of a 1,261 sq. ft. single-family residence with subterranean garage, deck, driveway, retaining walls, 263 cu. yds. of grading (cut), septic system, removal of one oak tree (tree # 4), and encroachment of development within the protected zones of oak trees # 1, 2, 3, and 5.

Given the small size of the property, steepness of the slope, and the location of oak trees over the majority of the site, staff notes that it is not feasible to site or design development that can avoid the removal of all oak trees on the property. Given its location in the center of the proposed development area, staff can identify no siting or design alternatives that could eliminate to the removal of oak tree #4. Without the removal of this tree, residential development could not feasibly be constructed on the project site. As such, there does not appear to be a feasible alternative to avoid the removal of oak tree # 4. Therefore, the project will result in the removal of one mature oak tree. 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. At a replacement ratio of 10 to 1, in order to mitigate the removal of oak tree # 4, ten replacement trees need to be planted.

In addition to the removal of oak tree #4, the project as designed would include encroachments within the protected zones of four additional oak trees on the site, including oak trees # 1, 2, 3, and 5. (Staff would note that although oak trees # 1 and 2 have been previously removed by the applicant without a coastal development permit, as discussed above, these removals are not consistent with the Coastal Act and cannot be approved. As such, the condition of the site, including the location of these trees, must be considered as though the unpermitted removal had not occurred.) Given the location of oak trees # 1 and 2, it would not be feasible for even a residence of much smaller size to avoid encroachment within the dripline of oak trees # 1 and 2 on the site. As designed, the septic system, driveway, and small portions of the structure would encroach significantly on the protected zones of oak trees # 1 and 2. There is no feasible alternative siting for the septic system or the driveway on this significantly constrained parcel that could avoid encroaching on these trees. As such, the project will result in encroachments to two trees. Given that one mature oak tree 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 oaks on site be minimized to the greatest extent feasible. The Commission has found that if a significant encroachment within the protected zone of an oak tree is unavoidable the impacts to the health of the oak tree and its potential loss over time must be mitigated at a ratio of 10:1 (10 replacement trees to mitigate for each tree removed). So at a replacement ratio of 10 to 1, in order to mitigate the significant encroachments into the protected zone of oak trees # 1 and 2, twenty replacement trees need to be planted.

In order to mitigate the impacts from the removal of oak tree # 4, and the significant encroachment into the protected zones of oak trees # 1 and 2, a total of thirty (30) replacement trees must be planted. In order to provide this mitigation, the Commission finds it necessary to require the applicant to plant thirty replacement trees, as detailed in **Special Condition No. Seven (7)**. **Special Condition Seven (7)** requires the applicant to plant at least thirty replacement seedlings, less than one year old, grown from acorns collected in the selected off-site planting area. Typically, the commission will require such mitigation to be carried out on the project site, if suitable habitat exists therein. Since on-site mitigation is not feasible given the limited size of the property and available space after construction of the proposed residence, all replacement seedlings must be planted in a suitable location off-site that is restricted from development or is public parkland. Staff has contacted the Mountains Restoration Trust (MRT), a non-profit organization that has carried out similar projects entailing restoration of oak woodland habitat. MRT staff has indicated that there are potential sites in the area that would be appropriate for the planting of the replacement trees. An appropriate off-site mitigation area shall be identified in collaboration with the Mountains Restoration Trust (MRT), and shall be located within the Topanga Canyon watershed. **Special Condition Seven (7)** also requires the applicant to submit an off-site oak tree replacement planting program, 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. The applicant shall coordinate with the Mountains Restoration Trust to prepare and implement the off-site oak tree replacement planting program. The applicant shall commence implementation of the approved off-site oak tree replacement planting program concurrently with the commencement of construction on the project site.

Finally, the project includes encroachments into the protected zones of two additional oak trees on the site (oak trees # 3 and 5). In the case of these two trees, there appear to be feasible siting and design alternatives to avoid or reduce impacts to oak trees # 3 and 5. The proposed west side of the residence that contains a portion of the garage and a deck area could be reduced or omitted without changing the design of the habitable area in order to avoid encroachment within the protected zone of oak tree #5. In addition, the residence could be shifted slightly to the west in order to avoid encroachment within the protected zone of oak tree #3. Drainage devices would also require adjusting. Therefore, the Commission finds it necessary to impose **Special Condition No. One (1)** that requires the applicant to submit revised plans, for the review and approval of the Executive Director, to redesign and re-orient the residence and drainage features such that no part of the proposed development encroaches within

the protected zone of oak trees # 3 or 5, or any other oak tree identified in the "Oak Tree Report" by certified arborist Kay Greeley, dated May 15, 2006, with the exception of oak trees 1 and 2.

Finally, the proposed residence is located immediately adjacent to the protected zones of other on- and off-site oak trees. In order to ensure that no impacts outside the scope of work allowed by this permit occur to these oak trees, **Special Condition Six (6)** requires the applicant to retain the services of a qualified biological consultant or arborist, who shall be present on site during grading operations, and during excavation for foundations of the residence and any underground utilities or irrigation lines. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if any oak trees are damaged, removed, or impacted beyond the scope of the work allowed by this permit. This monitor shall have the authority to require the applicants to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. **Special Condition Six (6)** also requires the applicant to implement all oak tree preservation measures enumerated in the submitted "Oak Tree Report" by Kay Greeley, dated May 15, 2006. To ensure that oak trees are protected during grading and construction activities, **Special Condition Six (6)** also requires the applicant to install protective barrier fencing around the dripline of on-site and adjacent off-site oak trees during construction operations. In addition, to ensure the oak trees on-site are not adversely affected by irrigation or inappropriate landscaping, **Special Condition Five (5) and Six (6)** includes a provision that prohibits permanent irrigation within the protected zone of any oak trees, and landscaping within the oak tree driplines or the protected zones shall be limited to native oak tree understory plant species.

Conclusion

As discussed, the removal of oak trees # 1 and 2 is not required to accommodate the development of the project site and results in the loss of habitat for birds, bats, and other wildlife. The other resource benefits of oak trees including the prevention of erosion, the moderation of water temperatures in streams through shading, the provision of food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife species, and the contribution of nutrients to the watershed will be lost by the removal of the two trees. Finally, the scenic value of large oak trees in the landscape will be lost. Therefore, the Commission finds that the after-the-fact request for removal of oak trees # 1 and 2 does not avoid or minimize impacts to the oak trees, a significant coastal resource, inconsistent with Sections 30231, 30250, and 30251 of the Coastal Act. As such, the portion of the development consisting of removal of oak trees # 1 and 2 is denied.

For the reasons set forth above, the Commission finds that the portion of the proposed project for construction of a residence, request for after-the-fact approval of removal of one (1) oak tree (oak tree #4), and encroachment within the protected zone of oak trees # 1 and 2, only as conditioned to provide replacement trees offsite as mitigation of the impacts of removing one tree and significantly encroaching within the protected zones of two trees, and to redesign the project to avoid encroaching within the protected zone

of any other onsite or offsite oak tree, is consistent with Coastal Act Sections 30231, 30250, and 30251.

E. 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 1,261 sq. ft. single-family residence with subterranean garage, deck, driveway, retaining walls, 263 cu. yds. of grading (cut), and septic system.

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.

Further, as stated previously, the site is located approximately 50 feet away from a small drainage within the Topanga Canyon watershed and involves sloping hillside terrain with soils that are susceptible to erosion. In past permit actions the Commission has found that new development adjacent to or upslope of coastal streams and natural drainages results in potential adverse impacts to riparian habitat and marine resources from increased erosion, contaminated storm runoff, introduction of non-native and invasive plant species, disturbance of wildlife, and loss of riparian plant and animal habitat.

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.⁵ 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. Four (4)**, and finds this will ensure the proposed development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

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

⁵ *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. Five (5)** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

The applicant is proposing to construct a septic system, consisting of a 1,708-gallon septic tank and seepage pits, to accommodate the sewage of the proposed development. The County of Los Angeles Environmental Health Department has given in-concept approval of the proposed septic system, determining that the system meets the requirements of the plumbing code. The County of Los Angeles' minimum health code standards for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of soils within the Santa Monica Mountains, among other criteria. Therefore, the proposed septic system, as designed to meet these standards, will minimize adverse impacts to water quality. As conditioned to provide construction-phase and post-construction drainage controls, and to landscape disturbed areas, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

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, is consistent with Section 30231 of the Coastal Act.

F. Unpermitted Development

Development has occurred on the subject site without the required coastal development permit that includes removal of three (3) mature Coast Live oak trees located on the proposed driveway and building site. This application includes the request for after-the-fact approval for the above referenced unpermitted development in order to construct the proposed project. No evidence could be found that the oak tree removals received a coastal permit from this Commission.

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

G. Local Coastal Program

Section **30604** of the Coastal Act states:

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

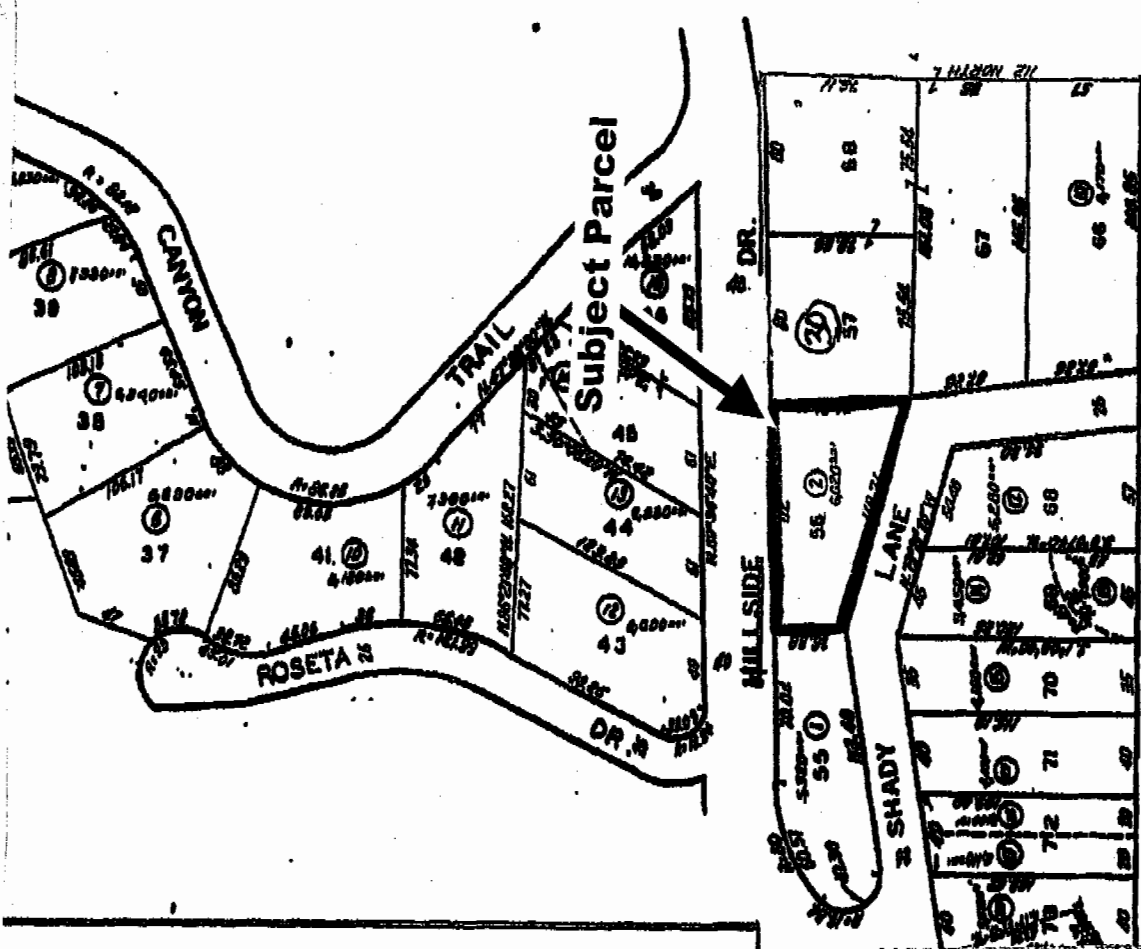
local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and are implemented by the applicant. As conditioned, the proposed development will not create significant 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).

H. California Environmental Quality Act

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 incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the portion of the proposed development that will be approved by this permit, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental impacts have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the portion of the proposed project approved by this permit, only as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act. In addition, as discussed above, the Commission finds that the portion of the proposed project that will be denied by this permit, would result in significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. There are alternatives to the removal of two oak trees, as discussed in the preceding sections, that would avoid these significant impacts.



TRACT NO.
M. B. 102 -

EXHIBIT NO.
APPLICATION NO.
4-06-035
Vicinity + Parcel Map

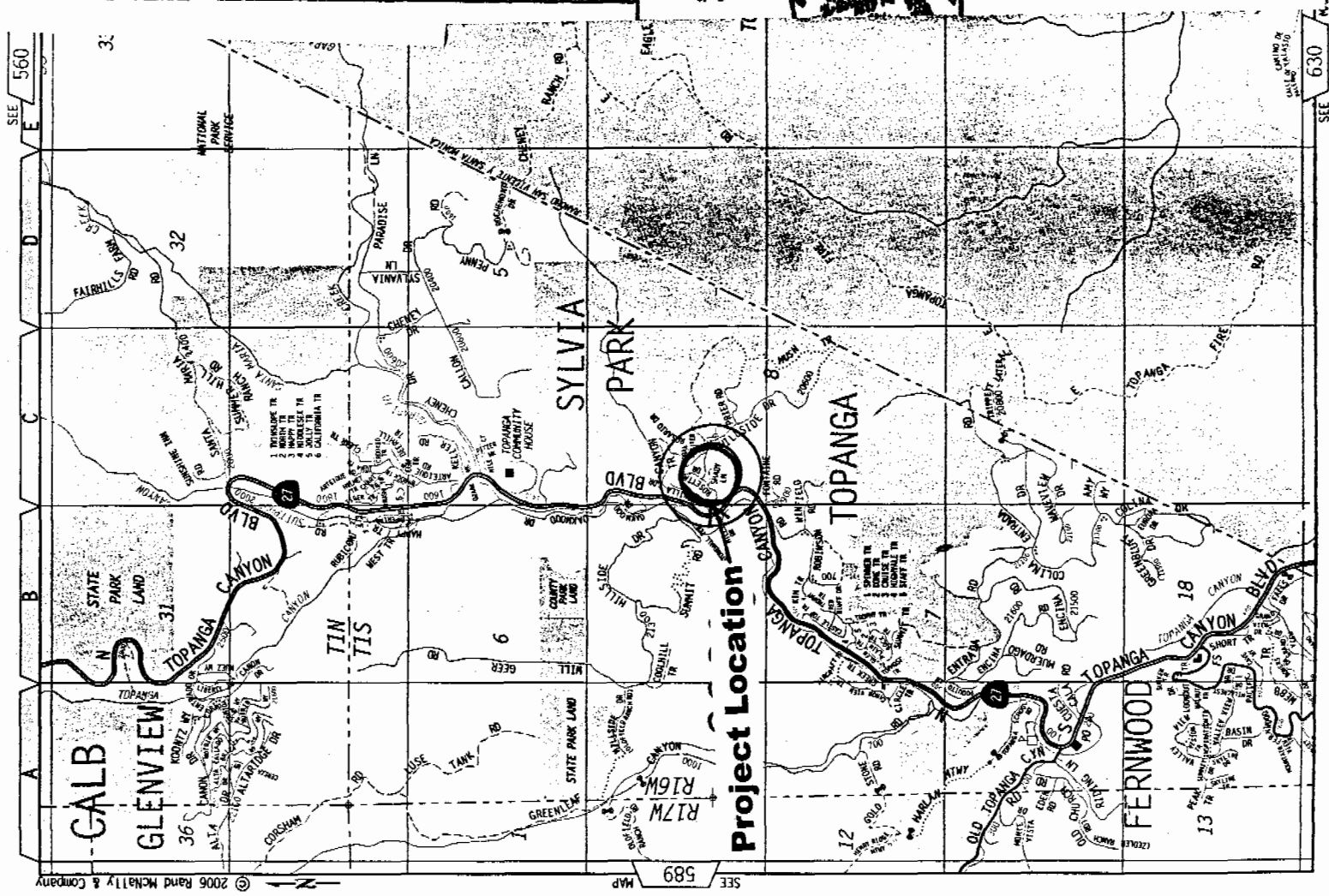
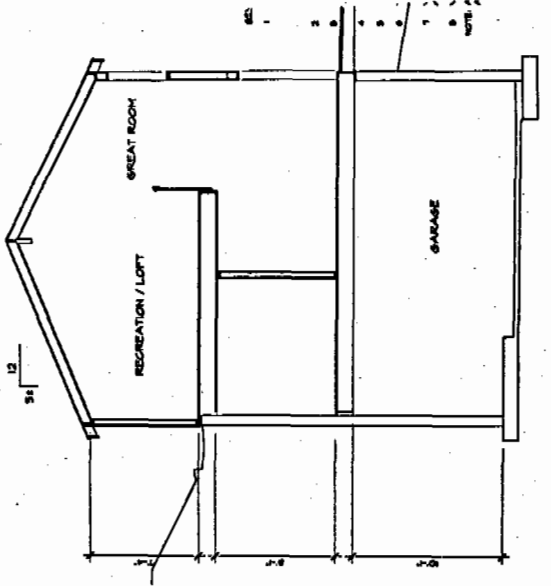
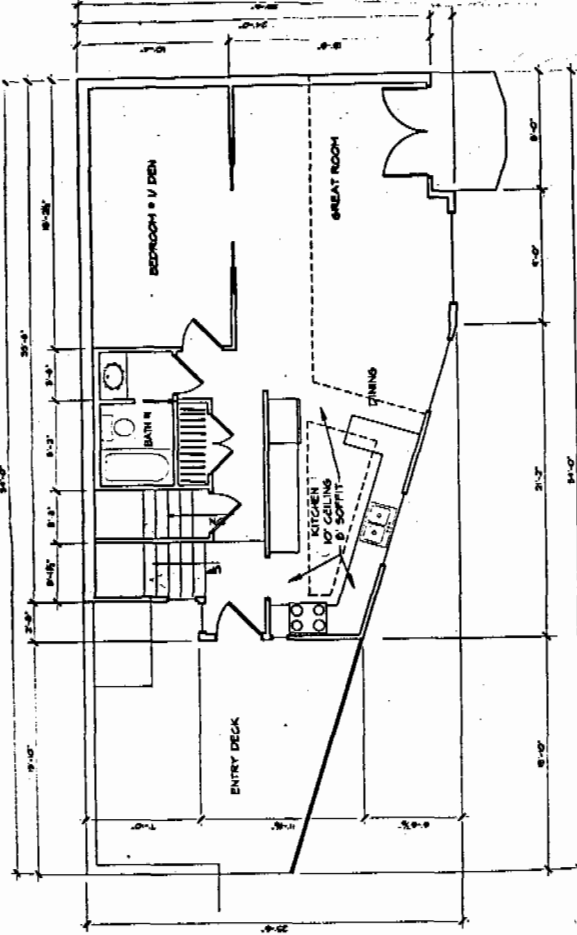


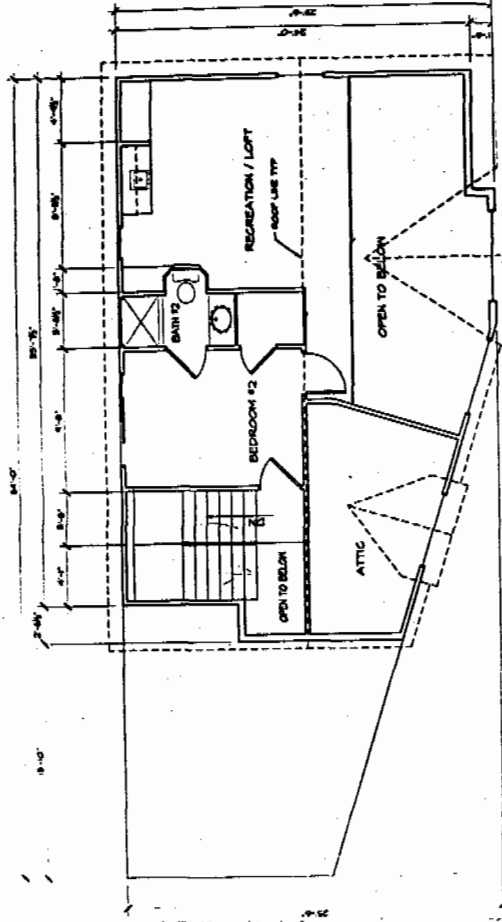
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 APPLICATION NO.
 4-06-035
 Floor Plans



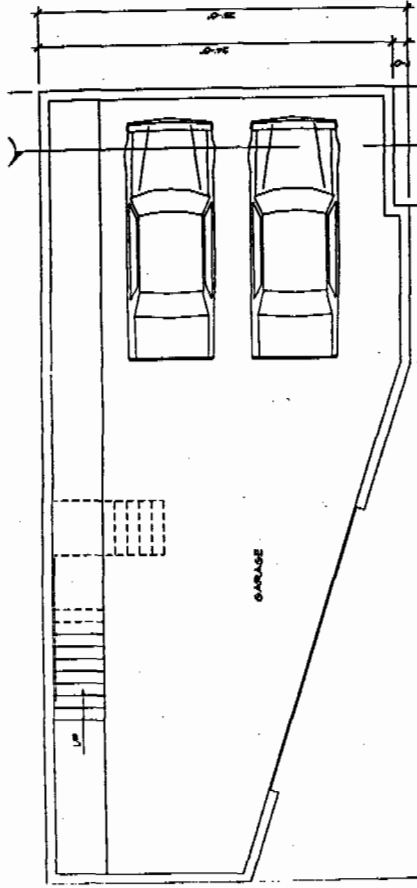
SECTION 'A'
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FIRST FLOOR PLAN
 SCALE: 1/4" = 1'-0"
 1ST FLOOR SQ. FT.



SECOND FLOOR PLAN
 SCALE: 1/4" = 1'-0"
 2ND FLOOR = 454 SQ. FT.



GARAGE/BASEMENT PLAN
 SCALE: 1/4" = 1'-0"

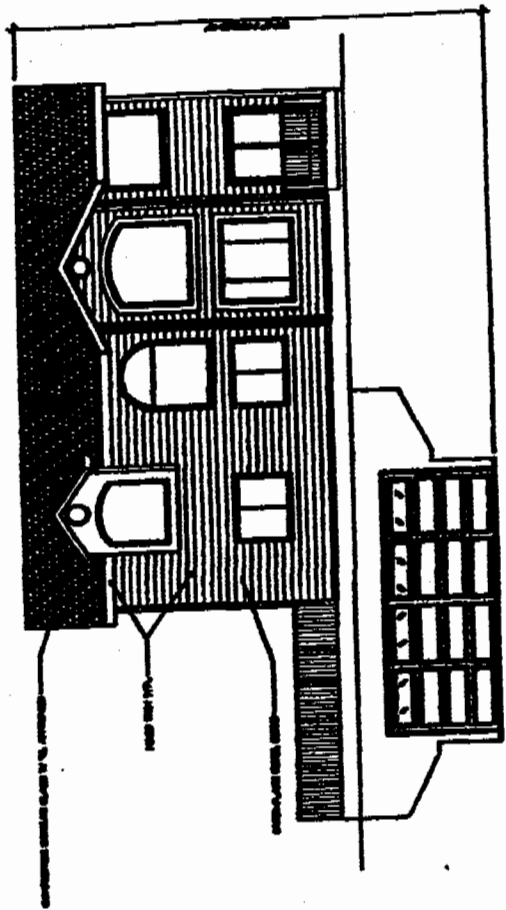
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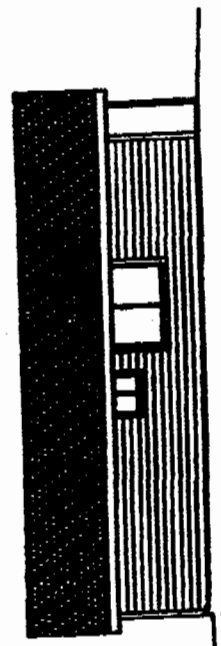
COUNTY OF WINDSOR
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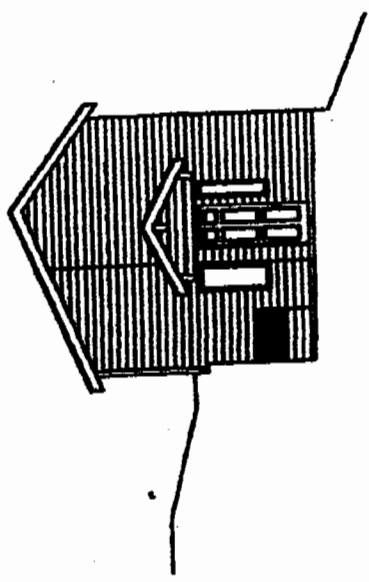
EXHIBIT NO. 4
APPLICATION NO.
4-06-035
Elevations



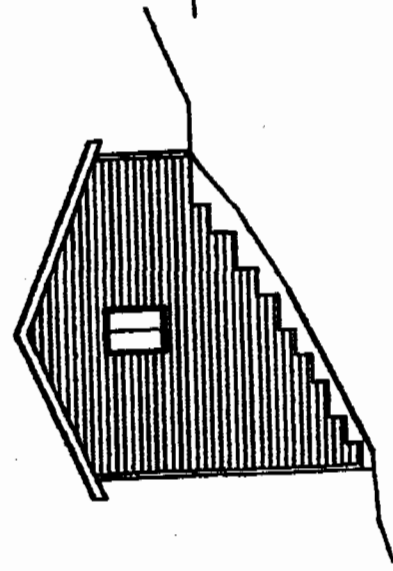
FRONT ELEVATION



REAR ELEVATION



LEFT ELEVATION



RIGHT ELEVATION

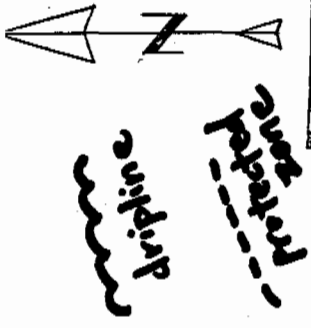
OAK TREE MAP

Kay J. Greeley (805) 577-8432
 ❖ Civil Engineer 37396
 ❖ Landscape Architect 4035
 ❖ Certified Arborist WC-1140



TOPOGRAPHY SURVEY MAP AT L
 TRACT #6943 TOPANGA, CA.

284 Valley Gate Road
 Simi Valley, California 93065
 Fax (805) 577-8433
 kggreeley@carrifirm.net



GRADE
 ALL
 NE
 FLOOR EL.
 LOCATION
 1/8" WALL
 PAVING

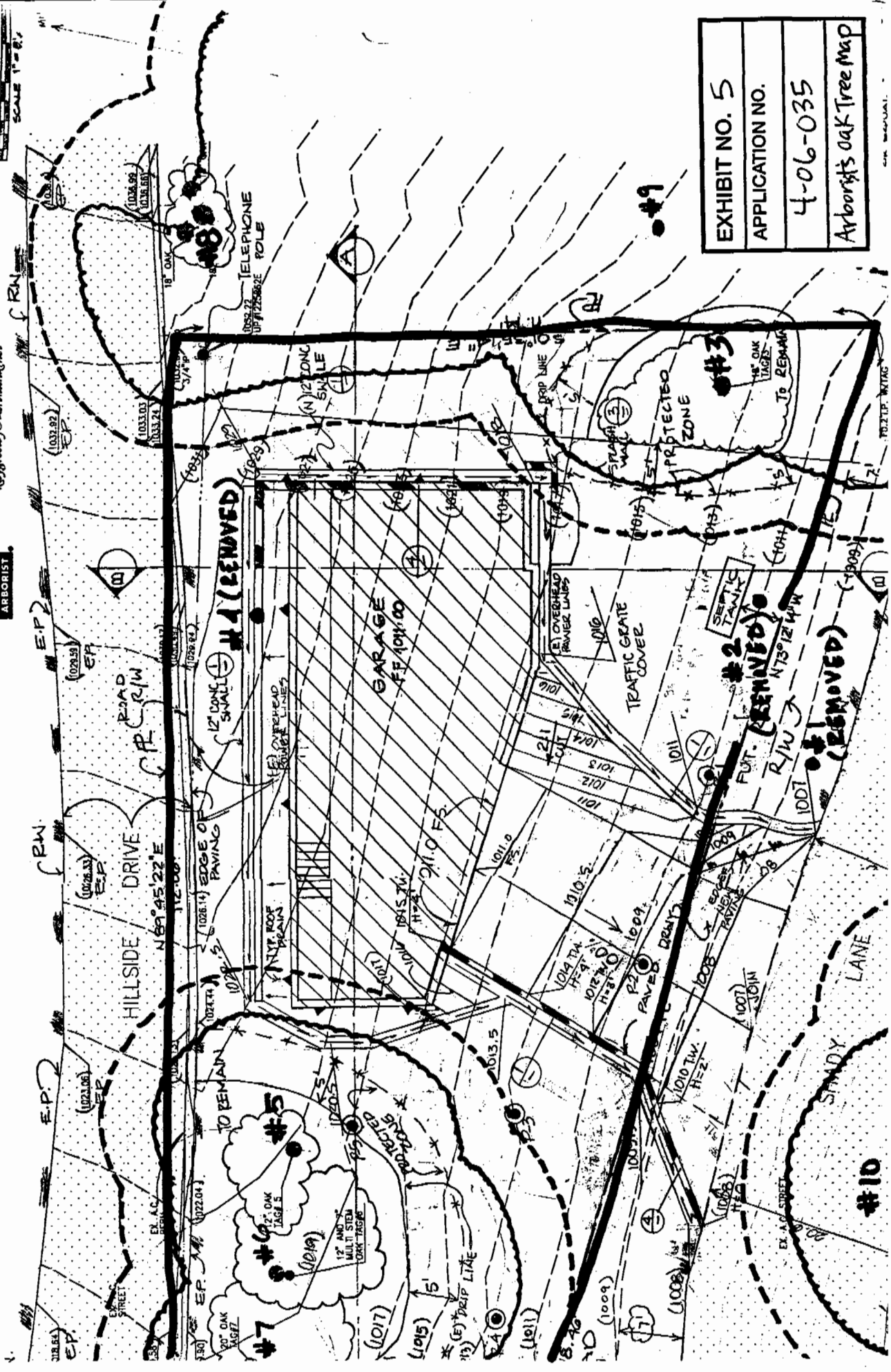
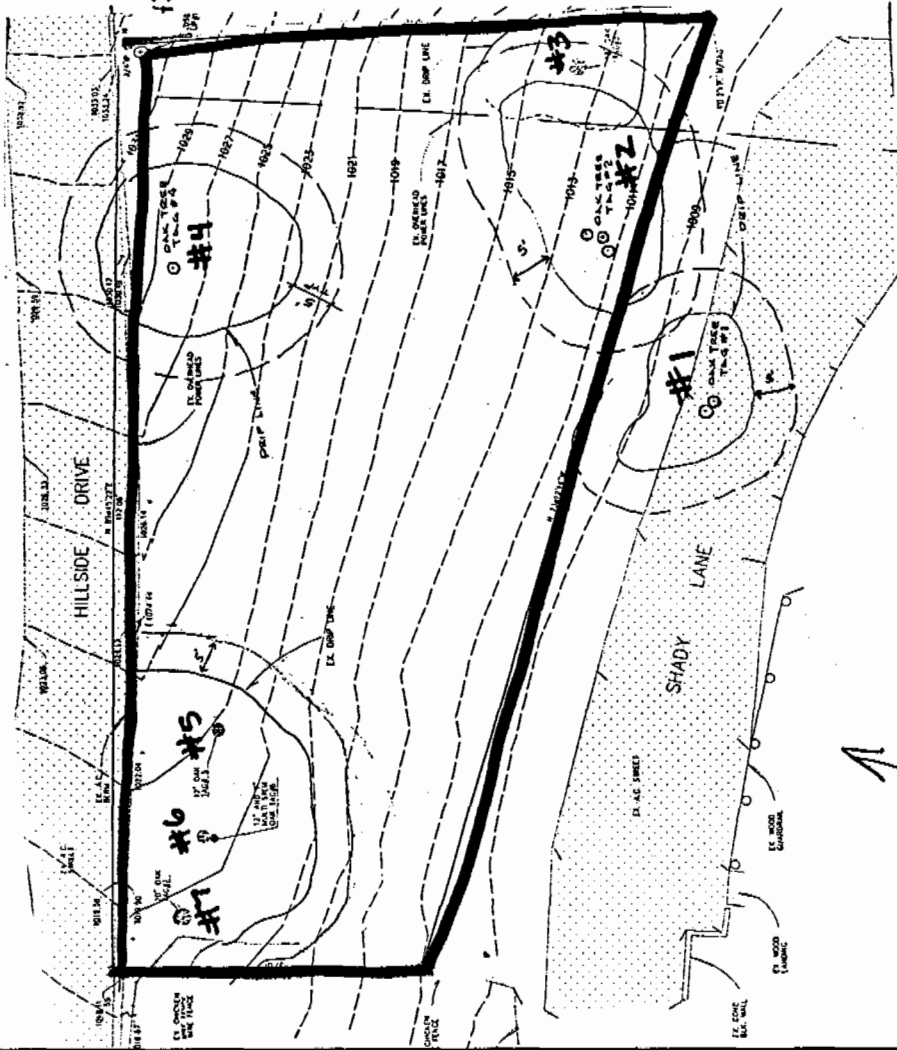
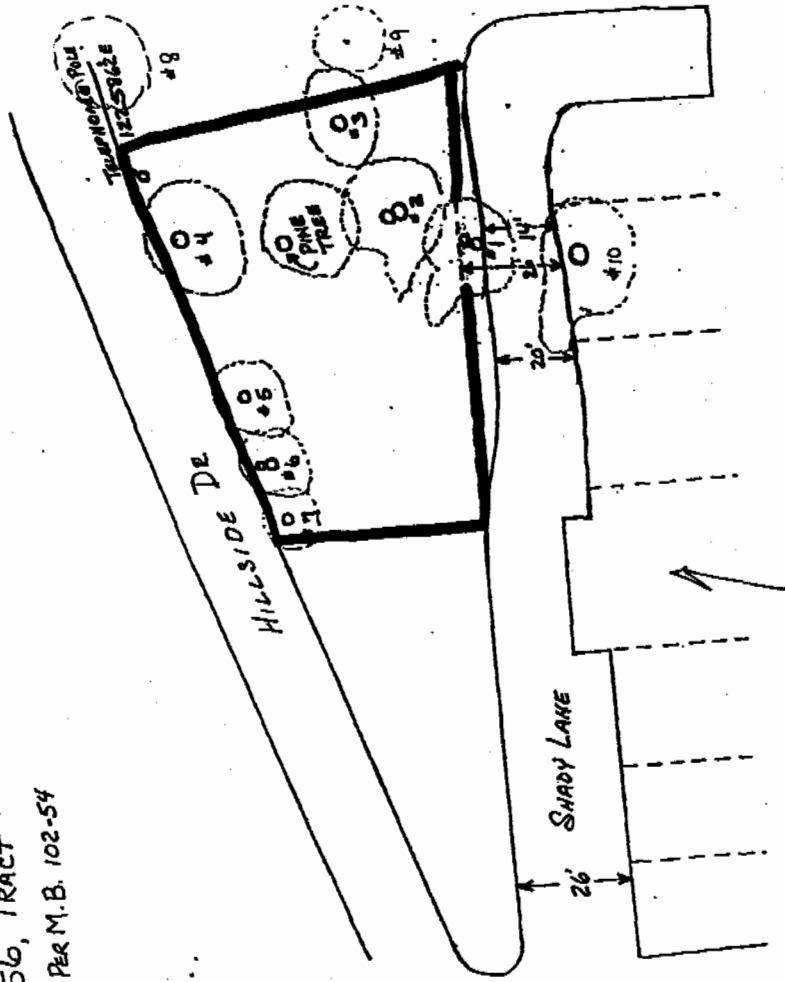


EXHIBIT NO. 5
APPLICATION NO.
4-06-035
Arborist's oak Tree Map



56, TRACT #
13 PER M.B. 102-54



map from applicant's 2004 oak tree report

map submitted by applicant to portray
approximate dripline and protected zone
of removed oak trees #1, 2, and 4.

received by CCC August 10, 2006

EXHIBIT NO. 6
APPLICATION NO.
4-06-035
Applicant's Oak Tree Maps