

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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March 3, 2011

W22b**ADDENDUM**

To: Commissioners and Interested Parties

From: John Ainsworth, Deputy Director
Gary Timm, Coastal Program Manager
Charles Posner, Staff Analyst

Re: Coastal Development Permit Application No. 4-09-025 (BP West Coast, LLC), 18541 Pacific Coast Highway (Topanga Canyon), Los Angeles County.

Special Condition Seven - Indemnification

Staff recommends the addition of the following underlined language to Special Condition Seven:

7. Assumption of Risk, Waiver of Liability and Indemnity Agreement

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

Liability for Costs and Attorneys Fees: By acceptance of this coastal development permit, the Applicant/Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay -- that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

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Filed: 7/29/2009
180th Day: Waived
270th Day: 4/25/2011
Staff: Charles Posner - LB
Staff Report: 2/17/2011
Hearing Date: March 9, 2011
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 4-09-025**APPLICANT:** BP West Coast Products, LLC (Patrick Foley)**AGENT:** Erika Skeie, Fiedler Group

PROJECT DESCRIPTION: Remodel and reopen an existing gas station with a 1,561 square foot convenience store in the former automobile service building. Includes installation of two underground fuel storage tanks (the old tanks have been removed), twelve fuel dispensers and associated landscaping. The existing pole sign will be removed and replaced with two new monument signs. The existing graded coastal bluff on the site will be stabilized with an inclined concrete wale system (grade beam) with tie-backs and a mesh cable system.

PROJECT LOCATION: 18541 Pacific Coast Highway (Topanga Canyon), Los Angeles County.

Lot Area	2.5 acres (approx.)
Building Coverage	1,561 square feet
Pavement Coverage	19,000 square feet (approx.)
Landscape Coverage	85,000 square feet (approx.)
Parking Spaces	11
Zoning	C2 Commercial
Plan Designation	Neighborhood Business
Building Height	17 feet

SUMMARY OF STAFF RECOMMENDATION

Section 30600(c) of the Coastal Act provides for the issuance of coastal development permits directly by the Commission in regions where the local government having jurisdiction does not have a certified Local Coastal Program (LCP). The County of Los Angeles does not have a certified LCP for the project area. Therefore, the Coastal Commission is the permit issuing entity. The standard of review is Chapter 3 of the Coastal Act.

Staff is recommending that the Commission **APPROVE** the coastal development permit for the proposed gas station, convenience store and slope stabilization project with special conditions. The recommended special conditions, which begin on Page Three, require: a) that the slope stabilization plans shall conform with the recommendations of the consulting geotechnical engineer, b) the implementation of construction and post-construction best management practices to protect water quality and marine resources, c) structures shall be earth-toned, d) the height of signs shall be limited to six feet, e) the waiving of liability, and f) a deed restriction. The applicant does not agree with the limit on the sign heights. The applicant is proposing to install one new ten-foot high sign and one new 5.5-foot high sign (Exhibit #5). **See Page Two for the motion to adopt the staff recommendation.**

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit Waiver 4-05-066-W (BP West Coast Products).
2. County of Los Angeles Department of Regional Planning Project No. R2007-03174-(3) and Conditional Use Permit 2007-00217-(3).
3. DRS Engineering, 2009, "Report of findings, ARCO Facility #9616, 18541 Pacific Coast Highway, Malibu, California", 21 p. report dated 8 July 2009 and signed by D.R. Salter (PE C66911).
4. Byer Geotechnical, Inc. 2009, "Geologic and soils engineering exploration update, existing ARCO Station #9616, Portion of Lots 6 and 7, Tract 26458, 18541 Pacific Coast Highway, Malibu, California", 12 p. geotechnical report dated 16 December 2009 and signed by J.W. Byer (CEG 883) and R.I. Zweigler (GE 2120).
5. DRS Engineering, 2010, "Design submittal, permanent tieback wall, ARCO Facility #9616, 18541 Pacific Coast Highway, Malibu, CA", dated 12 February 2010 and signed by D.R. Salter (PE C66911).
6. Byer Geotechnical, Inc. 2010, "Geologic and soils engineering exploration update, existing ARCO Station #9616, Portion of Lots 6 and 7, Tract 26458, 18541 Pacific Coast Highway, Malibu, California", 23 p. geotechnical report dated 23 July 2010 and signed by J.W. Byer (CEG 883) and R.I. Zweigler (GE 2120).

STAFF RECOMMENDATION:

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

MOTION: *"I move that the Commission approve with special conditions Coastal Development Permit 4-09-025 per the staff recommendation."*

The staff recommends a **YES** vote. Passage of the motion will result in **APPROVAL** of the coastal development permit application with special conditions, and adoption of the following resolution and findings, as set forth in this staff report. The motion passes only by an affirmative vote of a majority of Commissioners present.

I. Resolution: Approval of Coastal Development Permit with Conditions

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

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 this permit is voted on by the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this coastal development permit, the applicant agrees to comply with the recommendations set forth in the geotechnical, engineering and soils reports prepared for the project by DRS Engineering and Byer Geotechnical, Inc. (which are referenced in this report as Substantive File Documents). These recommendations, including recommendations concerning excavation, foundations and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultants (DRS Engineering and Byer Geotechnical, Inc.) prior to commencement of development. The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, and drainage. Any substantial change in the proposed development approved by the Commission that may be required by the consultants shall require an amendment to the permit or new coastal development permit.

2. Interim Erosion Control and Construction Responsibilities

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director two copies of an Interim Erosion Control and Construction Best Management Practices plan, prepared by licensed civil engineer or qualified water quality professional. The consulting civil engineer/water quality professional shall certify in writing that the Interim Erosion Control and Construction Best Management Practices (BMPs) plan is in conformance with the following requirements:

A. 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 plan and on-site with fencing or survey flags.

- 2) Include a narrative report describing all temporary run-off and erosion control measures to be used during construction.
 - 3) The plan shall identify and delineate on a site or grading plan the locations of all temporary erosion control measures.
 - 4) The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible.
 - 5) The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
 - 6) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than thirty (30) days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
- B. Construction Best Management Practices
- 1) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
 - 2) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.
 - 3) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
 - 4) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
 - 5) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.

- 6) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- 7) Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- 8) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- 9) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- 10) The discharge of any hazardous materials into any receiving waters shall be prohibited.
- 11) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- 12) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity
- 13) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

The final Interim Erosion Control and Construction Best Management Practices plan shall be in conformance with the plans approved by the Coastal Commission. The permittee shall undertake development in accordance with the approved final plans. Any changes to the Coastal Commission approved plans required by the consulting civil engineer/water quality professional shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

3. Permanent Drainage and Run-off Control Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, two copies of a final Drainage and Runoff Control Plans for the post-construction project site, prepared by a licensed civil engineer or qualified licensed water quality professional. The plans shall include detailed drainage and runoff control plans with supporting descriptions and calculations. The plans shall incorporate Best Management Practices (BMPs) including site design, source control and treatment control measures designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather runoff leaving the

developed site. The consulting licensed civil engineer or qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:

- A. The plan shall incorporate appropriate Best Management Practices (BMPs) into the development, designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site;
- B. Post-construction structural BMPs (or suites of BMPs) shall specifically include measures designed to minimize runoff of oil and grease, solvents, car battery acid, coolant and gasoline to stormwater system. Runoff from all roofs, roads and parking areas shall be collected and directed through a system of structural BMPs designed to: 1) trap sediment, particulates and other solids, and 2) remove or mitigate contaminants (including trash and debris, vehicular fluids, particulates such as brake pad dust (heavy metals), and fertilizers) through infiltration, filtration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff from the developed site in a non-erosive manner;
- C. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized through the use of low-maintenance landscaping and efficient irrigation technology or systems;
- D. Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals;
- E. All slopes shall be stabilized in accordance with provisions contained in the Landscaping and/or Interim Erosion and Sediment Control Condition for this coastal development permit. The final drainage plans shall be designed and installed in conformance with the recommendations of the project consulting geotechnical engineer;
- F. Post-construction structural 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 storm event for volume-based BMPs, and/or the 85th percentile, one-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs;
- G. All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired at the following minimum frequencies: 1) prior to October 15th each year; 2) during each month between October 15th and April 15th of each year and, 3) at least twice during the dry season. Maintenance records will be kept to verify that the BMPs have been inspected and maintained as required. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner; and,
- H. Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the permittee 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.

The final Drainage and Runoff Control Plan shall be in conformance with the development plans approved by the Coastal Commission. The permittee shall undertake development in accordance with the approved final plans. Any changes to the Coastal Commission approved plans required by the consulting licensed civil engineer, or qualified licensed professional, or engineering geologist shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

4. Landscaping and Fuel Modification Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit two sets of landscaping and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist. The landscaping and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The consulting landscape architect or qualified landscape professional shall certify in writing that the final Landscape and Fuel Modification plans are in conformance with the following requirements:

A. Landscaping Plan

- 1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) 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. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (<http://www.cal-ipc.org/>), or as may be identified from time to time by 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 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. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide ninety-percent (90%) 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) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.

B. Fuel Modification Plans

Vegetation within twenty feet of the gas station may be removed to mineral earth, vegetation within a 200-foot radius of the gas station may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the twenty foot radius of the proposed gas station shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

C. Conformance with Commission Approved Site/Development Plans

The Permittee shall undertake development in accordance with the final Landscape and Fuel Modification Plans. The final Landscape and Fuel Modification Plans shall be in conformance with the site/development plans approved by the Coastal Commission. Any changes to the Coastal Commission approved site/development plans shall be reported to the Executive Director. No changes to the Coastal Commission approved final site/development plans shall occur without an amendment to the coastal development permit, unless the Executive Director determines that no amendment is legally required.

D. Monitoring

Three years from the date of the receipt of the Certificate of Occupancy for the gas station the applicant shall submit to the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the requirements specified in this condition, the applicant, or successors in interest, shall submit, within thirty (30) days of the date of the monitoring report, a revised or supplemental landscape plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental landscaping measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This remedial landscaping plan shall be implemented within thirty (30) days of the date of the final supplemental landscaping plan and remedial measures shall be repeated as necessary to meet the requirements of this condition.

5. Signage

Rooftop signs and signs that exceed the height of the structure are prohibited. Freestanding monument signs shall not exceed a height of six feet (6').

6. Structural Appearance

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of the gas station structure and the wale wall system authorized by the approval of this coastal development permit. The palette samples shall be presented in a format not to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roofs, trims, exterior surfaces, driveways, retaining walls, and other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or bright tones.

7. Assumption of Risk, Waiver of Liability and Indemnity Agreement

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

8. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

The proposed project is the reopening of a gas station that has been shuttered for several years. The 2.5-acre site is situated on the inland side of Pacific Coast Highway, at the intersection with Topanga Canyon Boulevard (Exhibit #1). The former automobile service building on the site (c.1967) is proposed to be remodeled and converted into a 1,561 square foot convenience store (Exhibit #4). The proposed project includes the installation of twelve fuel dispensers (under the two existing canopies) and two underground fuel storage tanks. The old underground fuel tanks have been removed pursuant to Coastal Development Permit Waiver 4-05-066-W (BP West Coast Products). The existing 26-foot tall pole sign will be removed and replaced with two new monument signs (Exhibit #5). Eleven parking spaces are provided on the site (Exhibit #3). New landscaping is also proposed.



18541 PCH, Los Angeles Co. (Sept. 2008) Copyright © 2002-2009 Kenneth & Gabrielle Adelman, California Coastal Records Project, www.californiacoastline.org

Before the gas station reopens, however, the lower part of the slope behind it (a graded coastal bluff) will be stabilized and strengthened to a Factor-of-Safety (FOS) of 1.5. The bluff

is an existing engineered slope that has previously been graded and stabilized by Caltrans using soil anchors and a wale wall. The existing ten-foot high Caltrans wale can be seen on the existing lower bench, which is about fifty feet above the gas station building (see photo).

The proposed slope stabilization work, which is limited to the lower part of the slope below the existing lower bench (Bench #1), includes the installation of an inclined concrete wale system (grade beam) with soil anchors and a mesh cable system. Approximately 140 cubic yards will be cut from the lower slope, fifteen feet behind the existing building, where a seventeen-foot high concrete wale wall will be constructed (Exhibit #6). Eleven 140-foot long soil anchors will be inserted through the wale wall and into bedrock. None of the proposed development extends beyond the applicant's leasehold or under any neighboring property. A new wire mesh will cover the engineered slope up to the lower bench, and a 3.5-foot high debris wall will be constructed on the lower bench, fifty feet above the building.

B. Marine Resources – Water Quality

The proposed project involves hillside grading to stabilize the slope, and the on-going fueling of vehicles at the gas station. The grading and fueling activities proposed to occur on the site both have the potential to pollute the waters of the Pacific Ocean. The ocean is located about two hundred feet south of the project site (Exhibit #2). Coastal Act Sections 30230 and 32031 require that the proposed development be carried out in a manner that protects water quality, biological productivity and marine resources.

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

Specific mitigation measures must be implemented in order to ensure that water quality, biological productivity and marine resources are protected as required by the above-stated Coastal Act policies. Erosion control measures must be implemented during the construction of the slope stabilization portion of the project, and landscaping must be installed to reduce erosion once the grading is complete. Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into

coastal water via rain or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column.

In order to avoid adverse construction-related impacts upon marine resources, the Commission imposes **Special Condition Two** which requires the submittal of an erosion control plan and the implementation of construction Best Management Practices (BMPs) in order to protect water quality and biological productivity. In order to minimize erosion, grading shall take place only during the dry season (April 1 – October 31). **Special Condition Four** requires the applicant to prepare a landscape plan to vegetate the disturbed areas with plants that are appropriate for the area (Santa Monica Mountains). The use of any vegetation that is considered to be invasive and which could supplant native vegetation is prohibited.

The proposed automobile fueling system at the gas station is a new system with new underground fuel tanks, pumps and dispensers. Previously, an auto repair facility was located on site, but the new gas station will not include a repair facility. The installation of the proposed new development affords an opportunity to improve water quality by also installing a state-of-the art drainage system to filter and control polluted run-off before it leave the site and ends up in the ocean. Intensive automobile use on the site and the fueling activities at the gas station will result in the discharge of pollutants onto the surface (e.g., spilled gasoline, dripping lubricants, and heavy metals from brakes).

Most of the pollutants entering the ocean come from land-based development. The Commission finds that it is necessary to minimize to the extent feasible within its jurisdiction the cumulative adverse impacts on water quality resulting from land-based development. Reductions in the amount of pollutants in the existing runoff would be one step to begin to reduce cumulative adverse impacts to coastal water quality. Therefore, appropriate measures must be taken to assure that adverse affects on water quality are minimized. In order to deal with these post construction water quality impacts, the Commission imposes **Special Condition Three** which requires the submittal of final drainage and run-off control plans and the implementation of ongoing Best Management Practices (BMPs) to minimize the amount of pollutants that leave the site and adversely affect water quality and biological productivity. The post-construction BMPs include the incorporation of catch basins equipped with a filtration system, minimization of irrigation and the use of fertilizers and other landscaping chemicals through the use of low-maintenance landscaping and efficient irrigation technology or systems, and that trash, recycling and other waste containers shall be provided on site.

Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

C. Recreation and Public Access

The proposed project must conform with the following Coastal Act policies which protect public access and encourage recreational use of coastal areas.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222 of the Coastal Act states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

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 nonautomobile 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.

The project site is located on the inland side of Pacific Coast Highway and will not interfere with the public's ability to access the sea. As conditioned, the proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities.

Section 30222 of the Coastal Act requires that visitor-serving commercial uses be given priority over residential and other non-priority land uses. The proposed gas station and convenience store will serve visitors to the coast and support coastal recreation in the immediate area without displacing any higher priority uses.

Section 30252 of the Coastal Act requires the proposed project to provide adequate parking facilities in order to mitigate its parking impacts so that the development does not adversely affect the public parking supply that supports public access to the beach. Eleven parking spaces are provided on the site (Exhibit #3). The amount of parking that is "adequate" is determined by calculating the parking demand of a specific project using a parking standard. In this case, the parking standard is set forth in the Los Angeles County Malibu/Santa Monica Mountains Land Use Plan (certified 1986), which the Commission uses as guidance.

Using the LUP for guidance, the Commission's parking requirement for general retail stores and food stores is:

Retail/food store: 1 space for each 225 square feet of gross floor area.

The proposed convenience store is 1,561 square feet in area. The parking requirement for the proposed store is seven parking spaces. Therefore, the proposed provision of eleven on-site parking spaces is adequate to serve the proposed development. Thus, as conditioned, the proposed development conforms with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. Visual Resources

As required by the Coastal Act, the visual qualities of this coastal area shall be protected from negative impacts such as excessive building heights and bulks, and unnecessary visual clutter.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas...

Pacific Coast Highway is a highly scenic coastal highway that runs immediately adjacent to the public beach in the project area. Large signs and advertising on structures can negatively impact the visual quality of the area. The applicant is proposing to install one monument sign that is 5.5 feet tall and one that is 9.5 feet tall (Exhibit #5). The applicant proposes to remove the 26-foot tall sign that exists on the site.

The Commission finds that the proposed 9.5-foot tall sign will distract from the natural beauty of the area and would not be visually compatible with the character of the surrounding area. An alternative sign design that would substantially lessen the adverse effect on visual resources is the 5.5-foot high sign. A smaller sign under six feet in height will not obstruct the public view as much as a larger sign. Therefore, in order to protect against excessive visual impacts caused by large signs, the Commission imposes **Special Condition Five** which limits the heights of exterior signs that are permitted. Rooftop signs and signs that exceed the height of the structure are prohibited. The proposed freestanding signs must be under six feet in height. Therefore, only as conditioned, does the proposed project adequately protect the scenic and visual qualities of the Venice area consistent with Section 30251 of the Coastal Act.

To further minimize the visual impacts associated with development of the project site, the Commission requires that the structure and the face of the proposed wale wall system be finished in a color consistent with the surrounding natural landscape, and the use of appropriate, adequate, and timely planting of native landscaping to soften the visual impact of the development from public view areas. **Special Condition Four** requires the implementation of a landscaping plan and **Special Condition Six** addresses the color restriction. Therefore, only as conditioned, does the proposed project adequately protect the scenic and visual qualities of the Santa Monica Mountains coastal area consistent with Section 30251 of the Coastal Act.

E. Hazards

The Coastal Act states that new development must minimize risks to life and property and not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

Section 30253 of the Coastal Act states, in part:

New development shall:

- a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The geologic review provided by the applicant shows that a landslide exists on the property. The portion of the coastal bluff on the site has previously been graded and stabilized by Caltrans using soil anchors and a wale wall. The slope is no longer a "natural landform" as it has four benches cut into the bluff face and significant concrete and steel structures can be seen.

The proposed development includes the construction of specific slope stabilization measures recommended by a state-registered geotechnical engineer [Byer Geotechnical Inc., 2010, "Geologic and soils engineering exploration update, existing ARCO Station #9616, Portion of

Lots 6 and 7, Tract 26458, 18541 Pacific Coast Highway, Malibu, California", 23 p. geotechnical report dated 23 July 2010 and signed by J.W. Byer (CEG 883) and R.I. Zweigler (GE 2120)]. The proposed slope stabilization work, which is limited to the lower part of the slope below the existing lower bench (Bench #1), includes the installation of an inclined concrete wale system (grade beam) with soil anchors and a mesh cable system. Approximately 140 cubic yards will be cut from the lower slope, fifteen feet behind the existing building, where a seventeen-foot high concrete wale wall will be constructed (Exhibit #6). Eleven 140-foot long soil anchors will be inserted through the wale wall and into bedrock. A new wire mesh will cover the engineered slope up to the lower bench, and a 3.5-foot high debris wall will be constructed on the lower bench, fifty feet above the building.

With the implementation of the proposed slope stabilization measures, the geotechnical engineer asserts that the slope behind the gas station (a graded coastal bluff) will be stabilized and strengthened to a Factor-of-Safety (FOS) of 1.5. A letter of opposition attached to this report as Exhibit #7 expresses concerns about the safety of the proposed project and alleges that the slope stabilization project will involve work under the neighboring property. Commission staff has reviewed the allegations and has determined that none of the proposed development extends beyond the applicant's leasehold or under any neighboring property. The applicant's response to the opposition letter is attached to this report as Exhibit #8.

The Commission staff geologist and engineer have reviewed the geology reports and the proposed slope stabilization plans. **Special Condition One** requires the applicant to comply with the recommendations contained in the consultants' geotechnical, engineering and soils reports. These recommendations, including recommendations concerning excavation, foundations and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultants prior to commencement of development. The Commission finds that, as conditioned, the proposed project will not create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

As designed and conditioned herein, the proposed project will minimize risks to life and property and will not significantly contribute to erosion or destruction of the area. However, no development on the site and near the shoreline can be guaranteed to be safe from hazard. All development located at the foot of geologically active hillsides and near the ocean has the potential for damage caused by landslides, wave energy, floods, seismic events, storms and erosion. The project area is susceptible to natural hazards. **Special Condition Seven** requires that the permittee assume the risks of the potential hazards associated with development, and indemnifies the Commission against liability with respect to the approval of the proposed project.

Additionally, the Commission 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. This deed restriction is required by **Special Condition Eight**. The Commission finds that, as conditioned, the project is consistent with Section 30253 of the Coastal Act.

F. Local Coastal Program

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 (LCP) which conforms with Chapter 3 policies of the Coastal Act:

- (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 Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The County of Los Angeles Land Use Plan (LUP) for Malibu/Santa Monica Mountains was certified 1986. The County of Los Angeles does not have a certified LCP for the project area. The Commission's standard of review for the proposed development is the Chapter 3 policies of the Coastal Act. The certified LUP provides guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and the Malibu/Santa Monica Mountains LUP. Approval of this project will not prejudice the County of Los Angeles' ability to prepare an LCP that is consistent with Chapter 3 of the Coastal Act.

G. California Environmental Quality Act (CEQA)

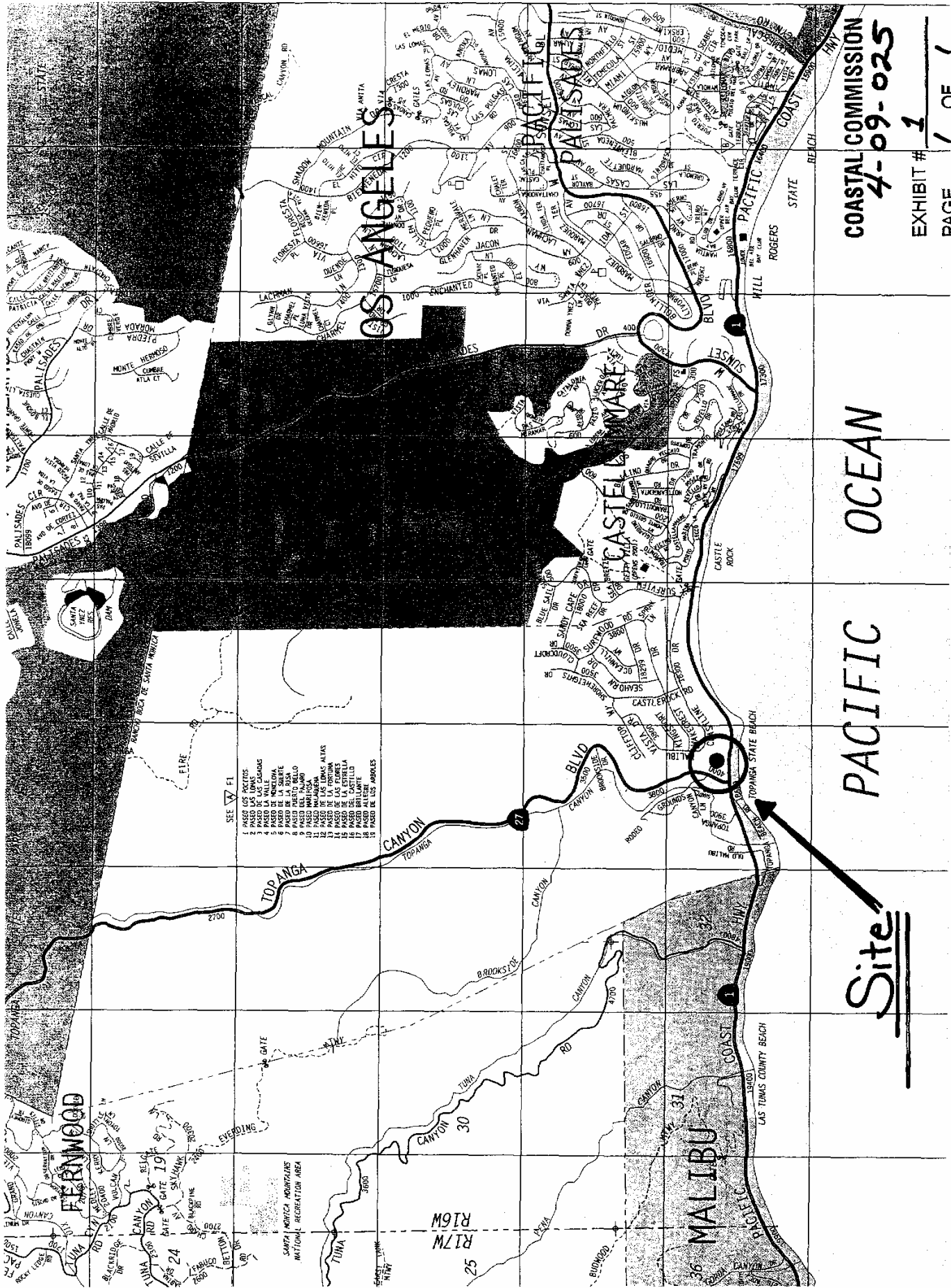
Section 13096 of the California Code of Regulations requires Commission approval of coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental 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 which the activity may have on the environment.

The County of Los Angeles is the lead agency for the purposes of CEQA review. On February 3, 2009, the County of Los Angeles Department of Regional Planning determined that the proposed gas station renovation project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines (Class 3 New Construction or Conversion of Small Structures). [County of Los Angeles Department of Regional Planning Project No. R2007-03174-(3) and Conditional Use Permit 2007-00217-(3).]

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require: a) that the slope stabilization plans shall conform with the recommendations of the consulting

geotechnical engineer, b) the implementation of construction and post-construction best management practices to protect water quality and marine resources, c) structures shall be earth-toned, and d) heights of signs be limited to six feet to protect visual resources.

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



- SEE E1
- 1 PASO DE LOS PATOS
 - 2 PASO DE LAS CAGANAS
 - 3 PASO DE LA VALLE
 - 4 PASO DE LA SIERRA
 - 5 PASO DE LA SIERRA
 - 6 PASO DEL TAJADO
 - 7 PASO DEL TAJADO
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 - 11 PASO DEL TAJADO
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 - 13 PASO DE LAS TIERRAS ALTAS
 - 14 PASO DE LAS TIERRAS ALTAS
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 - 20 PASO DE LAS TIERRAS ALTAS

COASTAL COMMISSION
4-09-025

EXHIBIT # 1
PAGE 1 OF 1

OCEAN

PACIFIC

Site

4443 3 SHEET 4448-35 TRA 8845 2008/12/02/07 2007/03/22/07060001-07 2007/03/22/07060001-07

OFFICE OF THE ASSESSOR
COUNTY OF LOS ANGELES
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SEARCH NO

PG 4

PG 7

PG 2

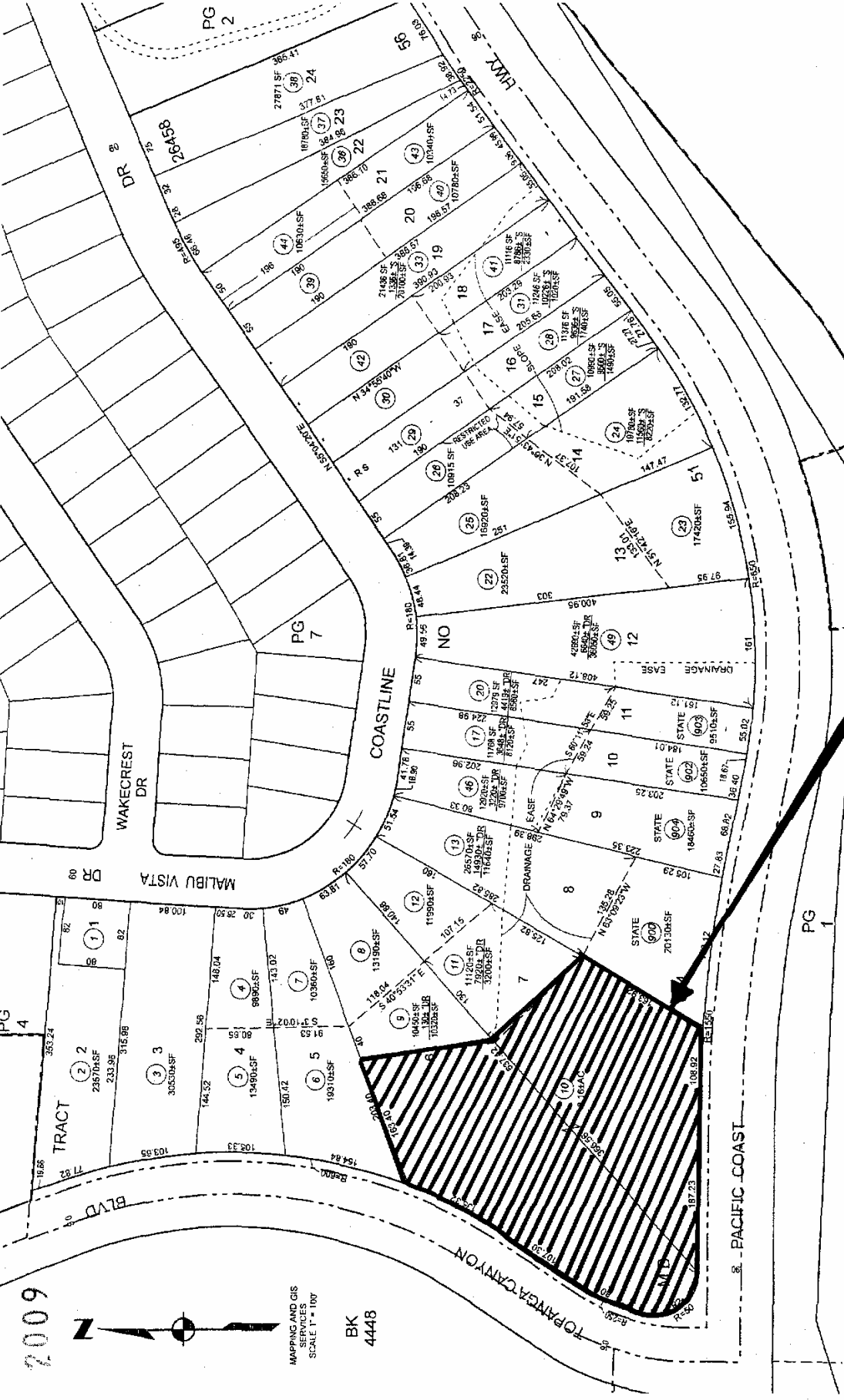
PG 1

2009



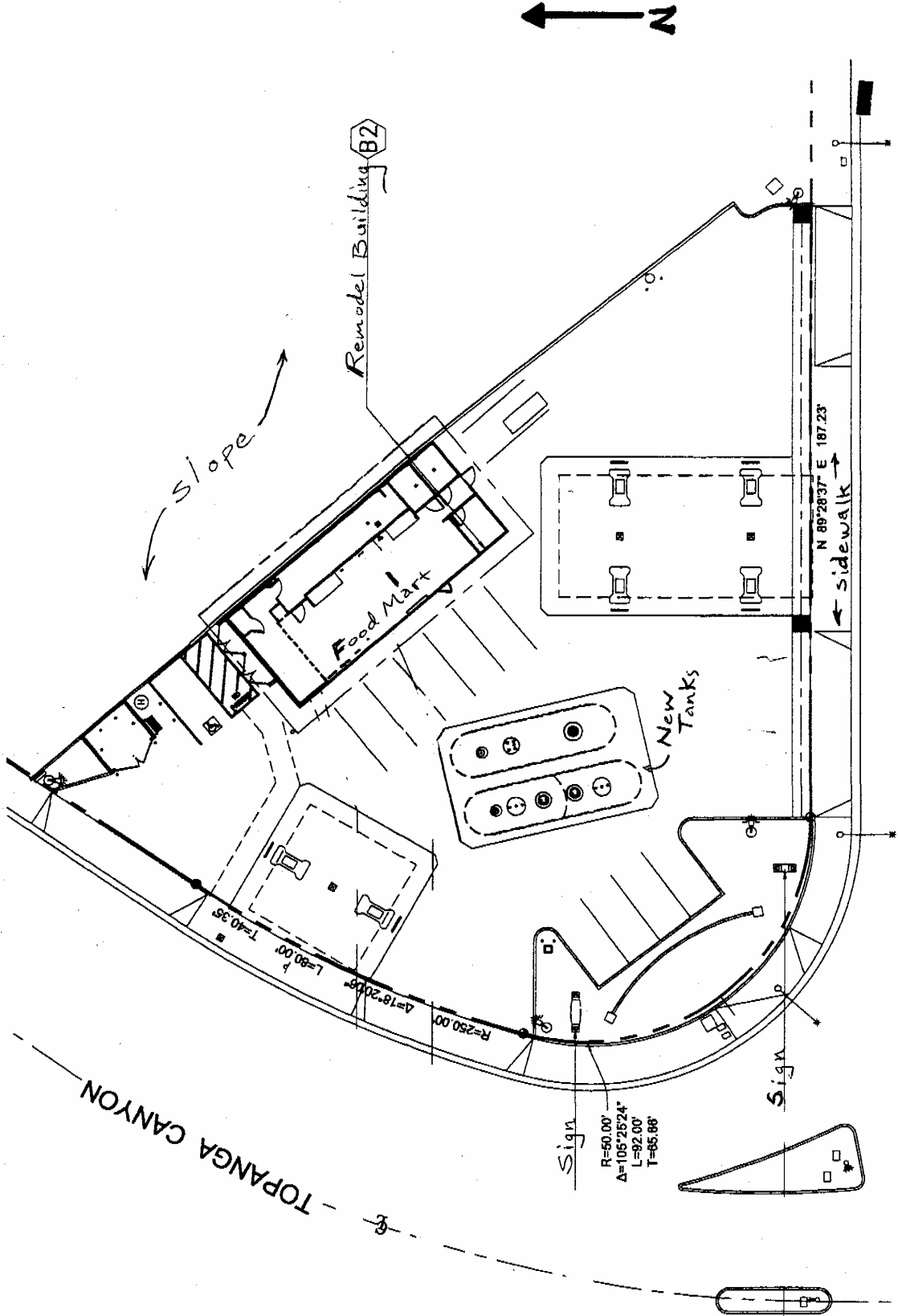
MAPPING AND GIS
SERVICES
SCALE 1" = 100'

BK
4448



COASTAL COMMISSION
4-09-025
EXHIBIT # 2
PAGE 1 OF 1

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18541 P.C.H

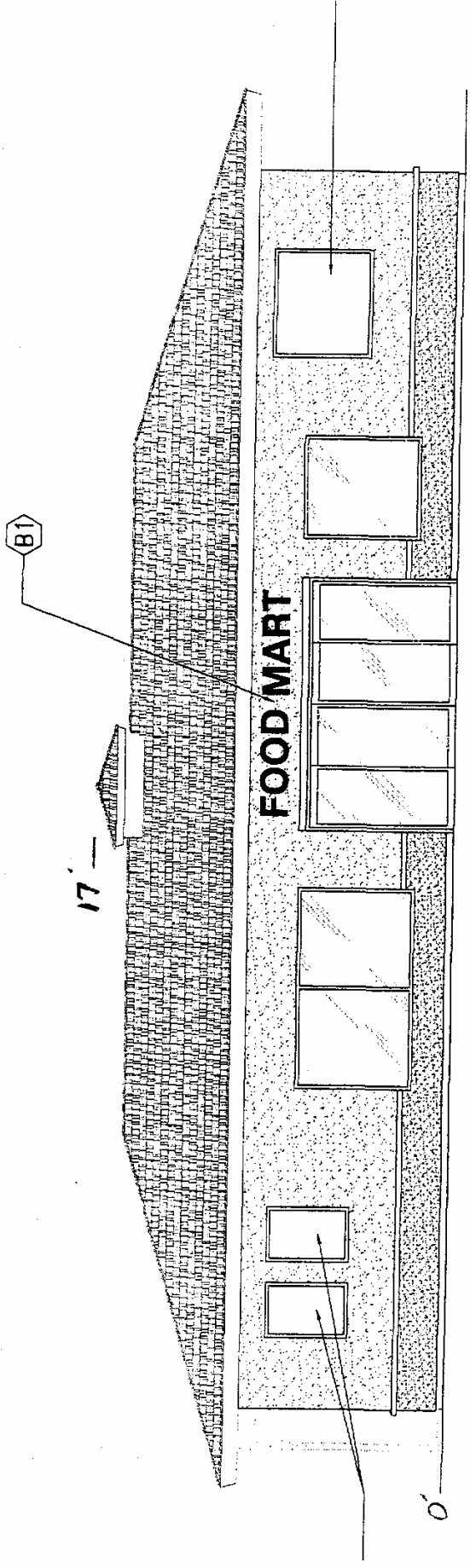


Site Plan
 COASTAL COMMISSION
 4-09-025

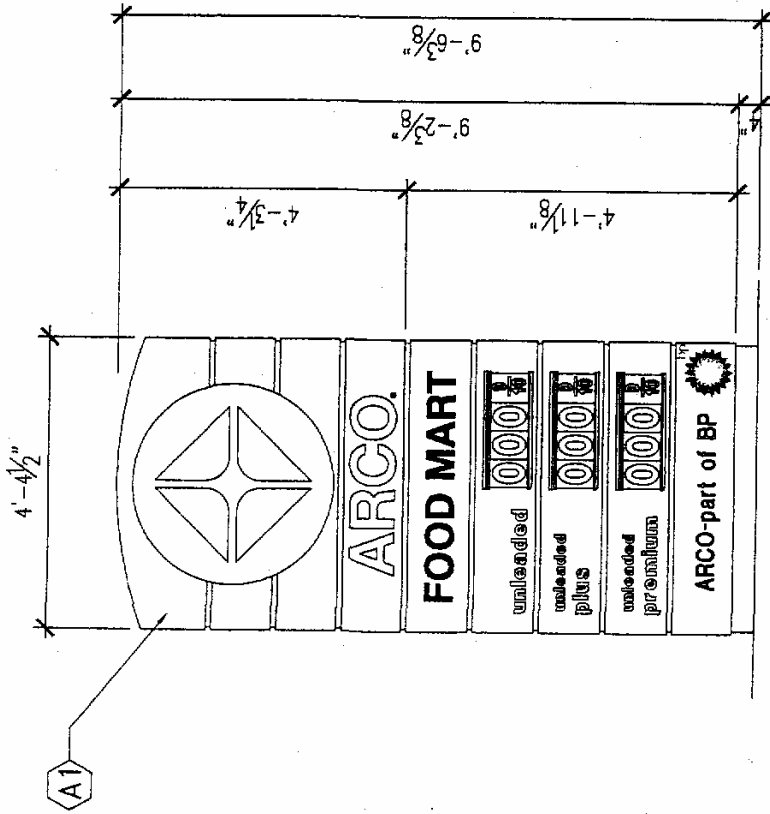
EXHIBIT # 3

PAGE 1 OF 1

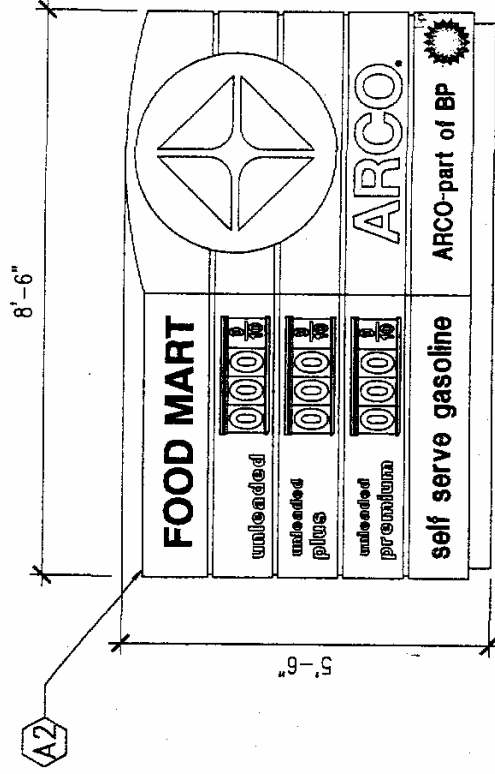
PACIFIC COAST HIGHWAY



01
1
BUILDING ELEVATION (Remodel)



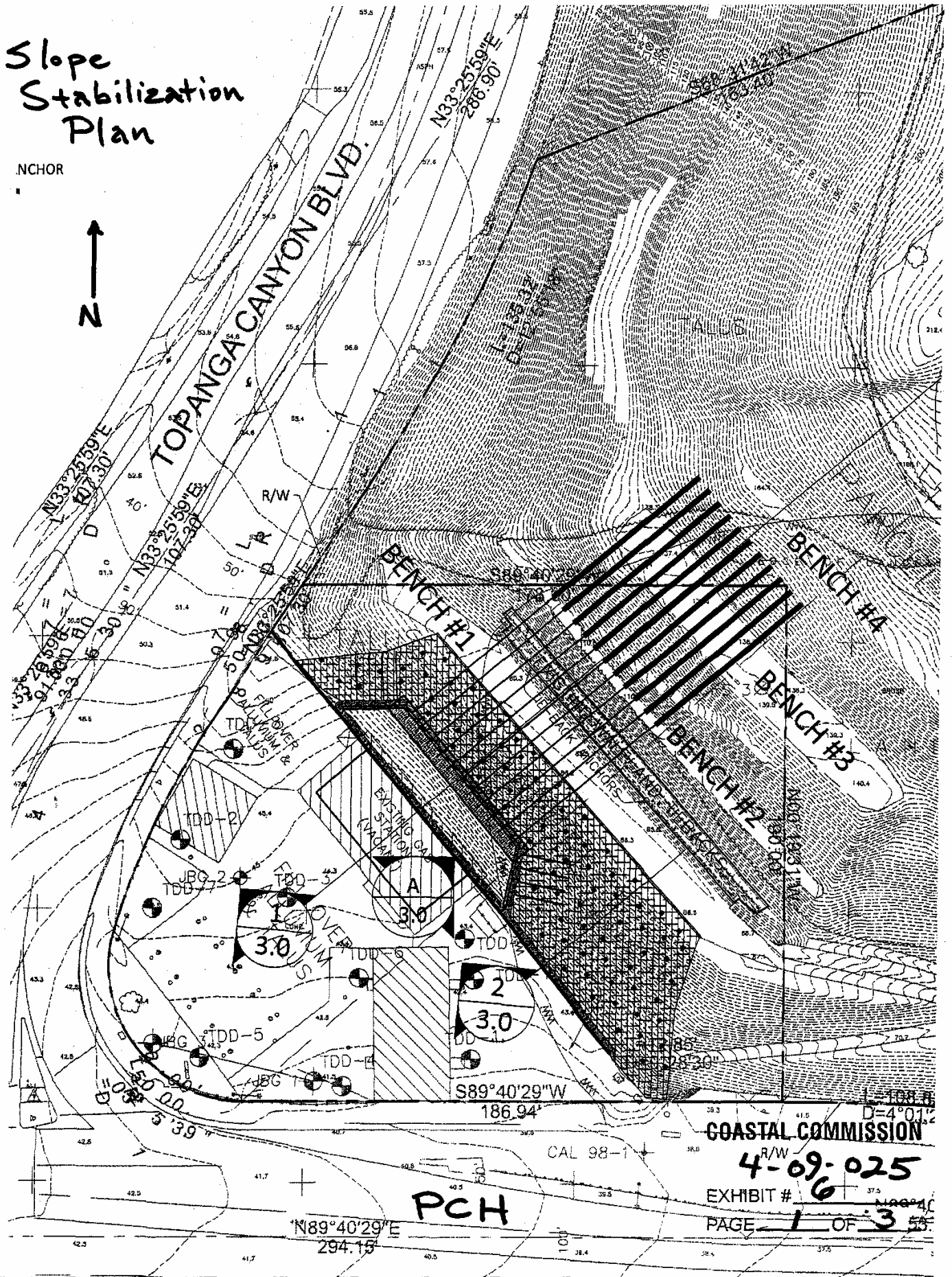
03 MONUMENT SIGN (TALL)
SCALE: NTS



04 MONUMENT SIGN
SCALE: NTS

Slope Stabilization Plan

NCHOR



COASTAL COMMISSION

4-09-025

EXHIBIT # 6

PAGE 1 OF 3

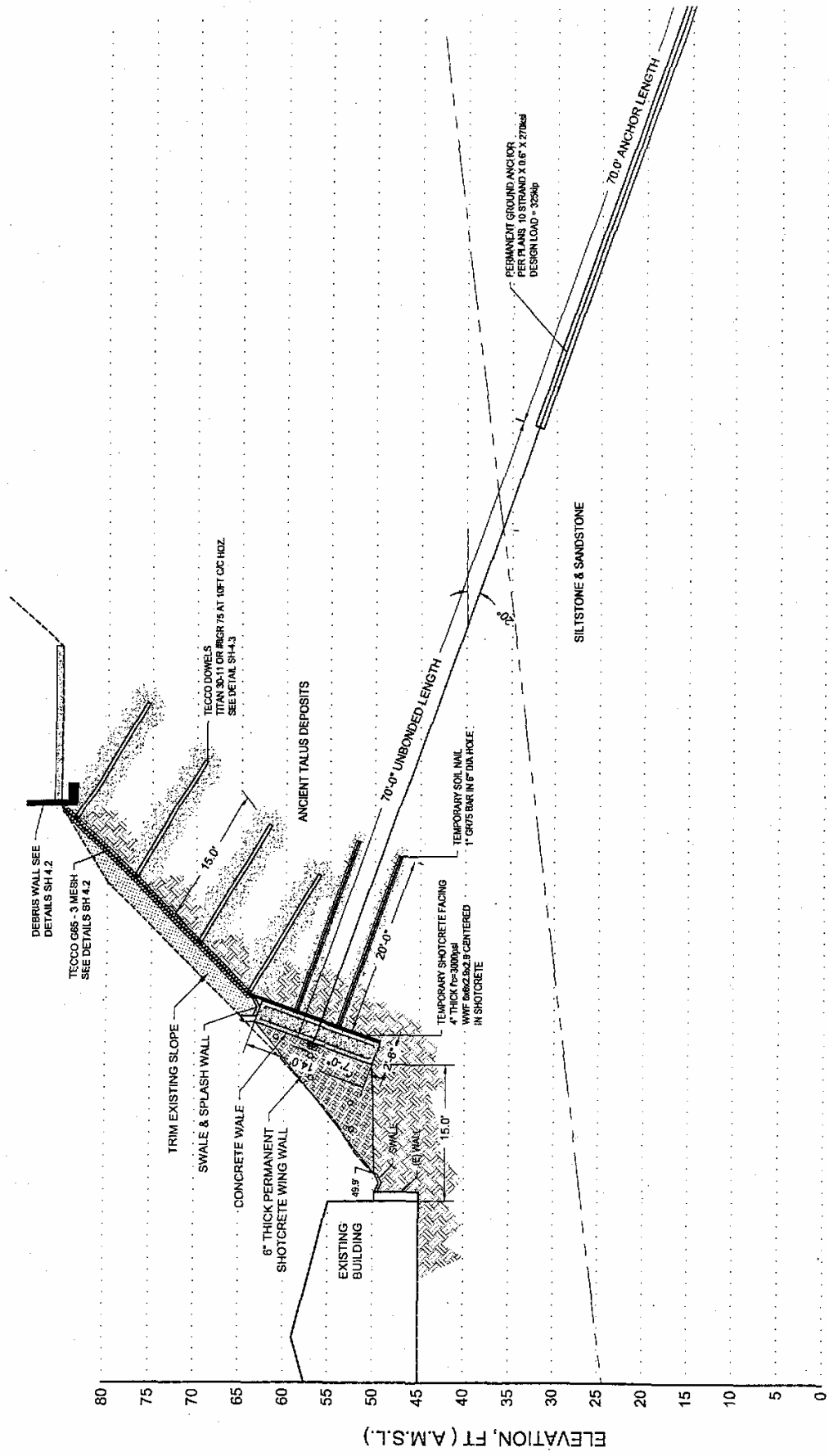
PCH

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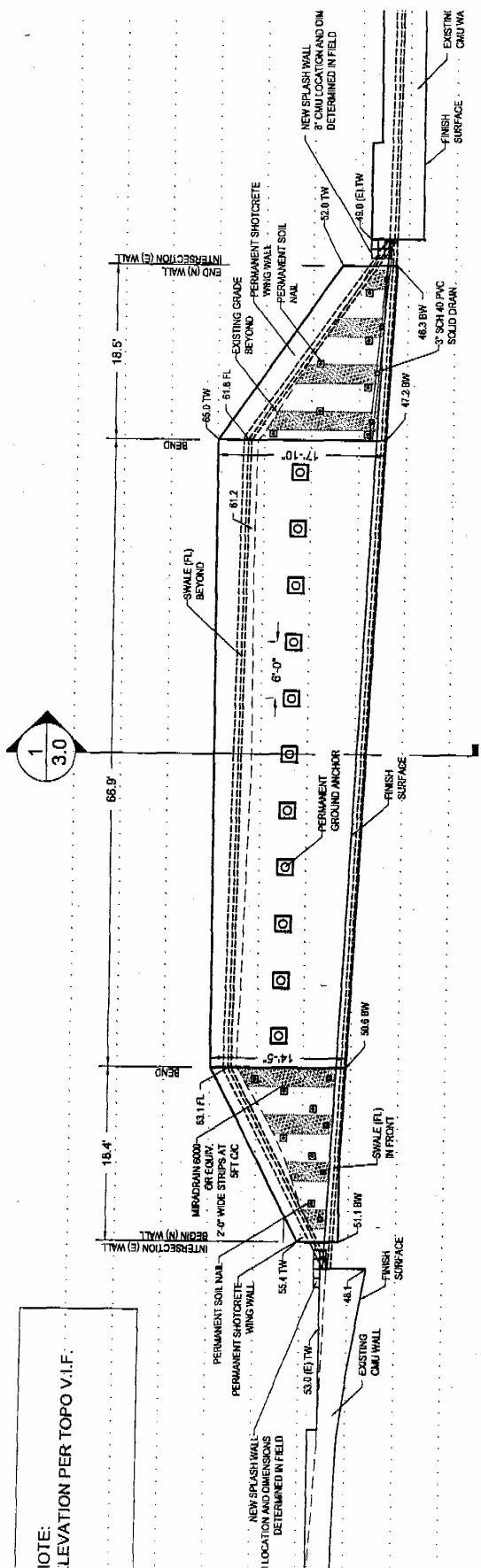
S89°40'29"W
186.94'

CAL 98-1

L=108.8'
D=4°01'



1 SECTION



NOTE:
 ELEVATION PER TOPO V.I.F.

A ELEVATION

LAW OFFICES OF NATASHA ROIT

3929 MALIBU VISTA DRIVE, MALIBU, CALIFORNIA 90265
TELEPHONE (310) 657-7871 FACSIMILE (310) 657-3026
E-MAIL NatashaRoit@yahoo.com

RECEIVED

South Coast Region

OCT 07 2010

CALIFORNIA
COASTAL COMMISSION

October 7, 2010

**LETTER IN OPPOSITION TO
ITEM NO. (APP. 4-09-025)
BP WEST COAST PRODUCTIONS
DATE: OCTOBER 13, 2010**

VIA FAX NO. (562) 590-5084, EMAIL & AND FIRST CLASS MAIL

To: California Coastal Commission
Attention: Chuck Posner

Dear Mr. Posner and the CCC Staff:

This letter is in opposition to Item W 6d on the October 13, 2010 Consent Calendar.

We are the owners of 3929 Malibu Vista Drive, also known as lots 11 and 12 as reflected on Exhibit #2 of the Staff Report. We have also been intimately involved with the multi-million dollars Cal Trans stabilization project of the subject hillside. Despite the direct involvement of our home in the proposed construction, especially the work on the bluff underneath our property and the tieback system under our property for which Cal Trans obtained an easement, we have just learned of BP's in the September 23, 2010 mailing by the CCC.

While we are not opposed to the re-opening of the gas station per se, we are greatly concerned about and are opposed to the method of "slope stabilization" proposed in the Staff Report. More specifically, but without limitation:

1. CUTTING OF THE 140 CUBIC YARDS FROM THE LOWER SLOPE

This area and this hillside in particular are located on a well known landslide. Much of the literature suggests that the landslide and prior active sliding of dirt/debris onto PCH and undercutting the stability of the homes on the bluff, was caused by prior cuts made to the hillside. The shoring project performed by Cal Trans requiring added funds from the federal government with the concomitant oversight from the state and federal governments, as well as the court system, seems to have done a great deal to stabilize the slide and, with it, increased the safety of the homes above it, including ours.

EXHIBIT # 7
PAGE 1 OF 5

LAW OFFICES OF NATASHA ROIT

Page Two

Re: 4-09-025

October 7, 2010

We also believe that the cutting now proposed was rejected by these entities 10 years ago, resulting in litigation and an inability to come to terms on how ARCO/BP wished to proceed, leaving the query as to how the current project differs from the one proposed and rejected previously.

The question needs to be addressed as to why such a cut is necessary at all, considering the safety issues associated therewith. Further, how does this cut work with and/or impact the prior work performed by Cal Trans. These matters are not addressed in the Staff Recommendation, and potentially pose a significant risk to the hillside, to our home, to the gas station, and to the public using the gas station as well as PCH. The selected phrasing that the Factor-of-Safety for the cut area will be 1.5 is misleading as the impact of the cut on the FOS for the greater area of hillside above the cut and for the eight homes that exist on that bluff is not addressed. Certainly, if the hillside could have been brought to the FOS of 1.5 with the small addition by BP, Cal Trans would have allowed this project to proceed 10 years ago.

2. ELEVEN 140-FOOT LONG SOIL ANCHORS WIL BE INSERTED THROUGH THE WALE WALL AND INTO BEDROCK.

In addition to the concerns expressed above, it is likely that the installation of these soil anchors will traverse into our property. There is nothing in the Staff Report which addresses the property line issues.

Further, there appears to be a dearth of documentation as to the location of this bedrock and whether it can actually be reached with the proposed length of these anchors. Short of that specific finding and/or study, this intrusive and potentially dangerous work on the hillside may be commenced only to result in anchors which cannot be embedded into bedrock at 140 feet, thereby destabilizing the hillside or forcing a situation where we would have to allow an easement as a stop-gap measure to a hillside failure.

If I recall correctly (given the short time to review this matter), Cal Trans, with multiple plan variations, could not design a tieback system that would hit bedrock without requiring an easement to our property, therefore, therefore guaranteeing that BP would likewise require the same, which they have not even addressed.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 2 OF 5

LAW OFFICES OF NATASHA ROIT

Page Three

Re: 4-09-025

October 7, 2010

3. DEBRIS FIELD/CHANGE IN CONTOURS AND WATER LEVELS ON LOTS 7 AND 8 – REFERENCE COASTAL PERMIT NO. 4-06-135

Immediately above the proposed work area lie lots 7 and 8 owned by Marvin and Tina Goodfriend. As BP was made aware, in 2001 the Goodfriends dumped and buried at least 274 cubic yards of construction debris from a \$1 million illegal remodel on the hillside right above the proposed gas station and slope stabilization area.

In February 2006, Superior Court Judge Cesar Sarmiento issued an abatement order for that construction debris field, including obtaining all necessary permits therefor. In November 2007, the Coastal Commission approved a Staff Recommendation for the Coastal Permit for the abatement, No. 4-06-135. However, to date, the Goodfriends have failed to abate that extensive debris field. Pursuant to further court order, an inclinometer was installed on the Goodfriend property in the location of the debris field. During the installation of the same, on the toe of the bluff directly adjacent to the BP/Goodfriend property line, high water levels were encountered, causing cave-ins during the drilling process, and prevented the well from being drilled to its intended depth of approximately 80 feet. For there to be that kind of an issue for what would otherwise be a non-event, and to have those high water levels not to be taken into account is foolhardy.

The question that does not appear to be addressed by the Staff Report is the impact of this additional debris field on the proposed stabilization project, including increased water levels, which were not known or included in the stabilization calculations done by Cal Trans, whether the hydrogers installed by Cal Trans have been impacted by the debris field, and other proper geotechnical considerations.

It should also be noted that, in addition to the 274 cubic yards of debris on the lower lot of the Goodfriend property, which has been mapped to extend over the property line onto the BP project site, a fact of which BP is aware, topographic comparisons in the last few months have been completed that indicate a previously unknown additional 80 cubic yards has been measured above surface level. It is unknown what this contains, e.g., debris, soil, or a combination of the two, and what is below ground level in that area, or how that change increases not just surface flow of water or water absorption into the hillside.

COASTAL COMMISSION

EXHIBIT # 7
PAGE 3 OF 5

LAW OFFICES OF NATASHA ROIT

Page Four

Re: 4-09-025

October 7, 2010

**4. ILLEGAL GRADING PERFORMED ON LOT 13 (18460 COASTLINE DRIVE)
– NOTICE OF VIOLATION (YAZDANI) – COPY ATTACHED**

In January 2007, the owners of the property at 18460 Coastline Drive (Shahriar and Kathy Yazdani), lot 13 as it is reflected on Exhibit 2 to the Staff Report, performed an illegal grading operation on the hillside above PCH and one lot over from the outer border of the subject project site. In November 2007, the Coastal Commission issued a Notice of Violation a copy of which is attached to this letter.

In December 2008, Superior Court Judge Cesar Sarmiento issued a Preliminary Injunction ordering Yazdani to comply with the NOV. When Yazdani refused, he was placed in contempt of court. However, to date, that lot remains improperly graded, un-compacted, and unsecured from water intrusion. Inclinometers exist on the Yazdani property from a prior Cal Trans installation, which have not been read, and the inclinometers installed on our property are filled with water.

The question which does not appear addressed by the Staff Recommendations is what impact, if any, the existence of that illegally graded uncompacted hillside has or will have on the “slope stabilization” process suggested in the subject Staff Report.

5. PROPOSED TEN FOOT SIGN

We are also opposed to the proposed ten foot sign, as it will be seen from our property, and feel the signs proposed by the Staff as well as Staff’s proposed earth-tone building colors are more appropriate. Further, as someone who frequently utilizes Topanga Canyon, the sharp right turn and the lack of visibility that exist on that corner must be taken into account with sign placement and the proposed front parking spaces in-between the two signs.

6. CONCLUSION

Given the complexity of this matter, the litigation and Judgments involved, as well as the fact that BP generally and Patrick Foley in particular were fully aware of our property and that I have had previous contact with Mr. Foley about other matters, BP should have contacted us earlier to address any of our possible concerns. They did not, which, at minimum, gives rise to an inference that they are concerned about the negative impact their proposed project may have on our hillside and our home.

LAW OFFICES OF NATASHA ROIT

Page Five

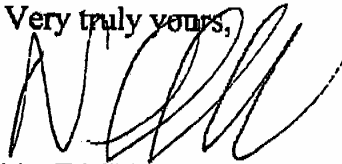
Re: 4-09-025

October 7, 2010

We submit that the above matters must be considered and addressed in earnest before a hearing is held on this matter and would request that the hearing be postponed. If the hearing is not postponed, we hereby register our objections and intend to do so in person at the hearing.

Thank you for your consideration, and please do not hesitate to contact me for any additional information.

Very truly yours,



NATASHA ROIT

NR/wp

Enclosure: as noted

COASTAL COMMISSION

EXHIBIT # 7
PAGE 5 OF 5



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South Coast Region

FEB 15 2011

ELS-10926
January 19, 2011

**CALIFORNIA
COASTAL COMMISSION**

California Coastal Commission
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Attn: Mr. Charles Posner

Subject: Project Number 04-09-025
18541 Pacific Coast Highway, Malibu, Ca

Re: Response to Public Comment Letter: Letter in Opposition to Item W 6d
(App. 4-09-025), BP West Coast Products, October 13, 2010

Dear Mr. Posner:

The applicant is in receipt of a Letter in Opposition to proposed Coastal Commission Case 4-09-025. Byer Geotechnical, the Soils Engineer of Record, has reviewed the letter and prepared the enclosed response to the concerns raised by the adjacent property owner. DRS Engineering, the Structural Engineer for the slope design, has provided the enclosed Section Plan (SH1) to highlight the property line of the adjacent owner; the tiebacks will not extend beyond the applicant's property.

Please contact me with any questions regarding the enclosed; I can be reached at (213) 381-3478.

Respectfully,

Erika Skeie
Project Manager

COASTAL COMMISSION
4-09-025
EXHIBIT # 8
PAGE 1 OF 5



BYER GEOTECHNICAL, INC.

October 15, 2010
BG 21085

Fiedler Group
2322 West Third Street
Los Angeles, California 90057-1906

Attention: Erika Skeie

Subject

Response to Letter of Opposition
Proposed Remodel of Existing ARCO Station # 9616
Portion of Lots 6 and 7, Tract 26458
18541 Pacific Coast Highway
Malibu, California

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South Coast Region

FEB 15 2011

CALIFORNIA
COASTAL COMMISSION

References: Reports by Byer Geotechnical, Inc.:

*Geologic and Soils Engineering Exploration Update, Existing ARCO Station # 9616
Portion of Lots 6 and 7, Tract 26458, 18541 Pacific Coast Highway, Malibu,
California, dated December 16, 2009, revised March 1, 2010; and*

*Plan Review, Proposed Remodel of Existing ARCO Station # 9616, Portion of Lots
6 and 7, Tract 26458, 18541 Pacific Coast Highway, Malibu, California, dated July
23, 2010.*

Law Offices of Natasha Roit:

Letter in Opposition to Item No. W 6d (App. 4-09-025), BP West Coast Productions,
dated October 13, 2010.

Gentlepersons:

Byer Geotechnical has been requested to review and respond to the letter in opposition to your
project located at 18541 Pacific Coast Highway, Malibu, California. The following responses are
provided.

COASTAL COMMISSION

EXHIBIT # 8
PAGE 2 OF 5

Page 2, paragraph 2: The proposed cut behind the existing service-station building is necessary to conform to the County of Los Angeles building code with respect to horizontal setback from the rear wall of the station building to the face of the ascending slope. The proposed cut will be supported with a concrete wale, which is anchored into the bedrock using grouted tieback anchors. The tiebacks are necessary to increase the factor of safety to above 1.5, which is required by the County of Los Angeles, Department of Public Works, Geotechnical and Materials Engineering Division. The Caltrans anchors did not achieve the 1.5 safety factor. The proposed project will not impact the properties at the top of the slope above the bluff. Finally, Caltrans has no jurisdiction over the project on private property.

Page 2, item 2, first paragraph: The additional tieback anchors will not encroach onto any offsite property.

Page 2, item 2, paragraph two: The tieback anchors will be embedded in bedrock, as located by deep borings performed by Byer Geotechnical.

Page 2, item 2, paragraph three: The Caltrans anchors were designed for a specific load resistance and did not specify the bearing material for the anchors.

Page 3, item 3: Surficial deposits of fill and debris buried on Lots 7 and 8 have no impact on the proposed project. The groundwater issues have been taken into account in the design of the project.

Page 4, item 4: Illegal grading performed on Lot 13 has no impact on the proposed project.

Page 4, item 6: The proposed project will have no negative impact on the properties at the top of the slope.

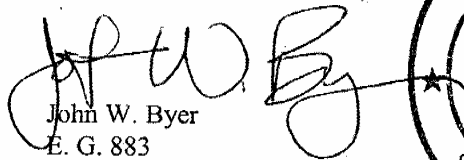
EXHIBIT # 8
PAGE 3 OF 5

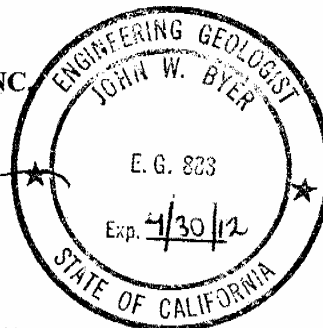
CONCLUSIONS

The project is being reviewed by the County of Los Angeles, Department of Public Works, Geotechnical and Materials Engineering Division. The review is being performed by licensed geotechnical engineers and engineering geologists. The project, when completed, will conform to the building code of the County of Los Angeles, Department of Public Works.

Should you have any questions or need additional information, please feel free to call on me.

Respectfully submitted,
BYER GEOTECHNICAL, INC.


John W. Byer
E. G. 883



JWB:mh

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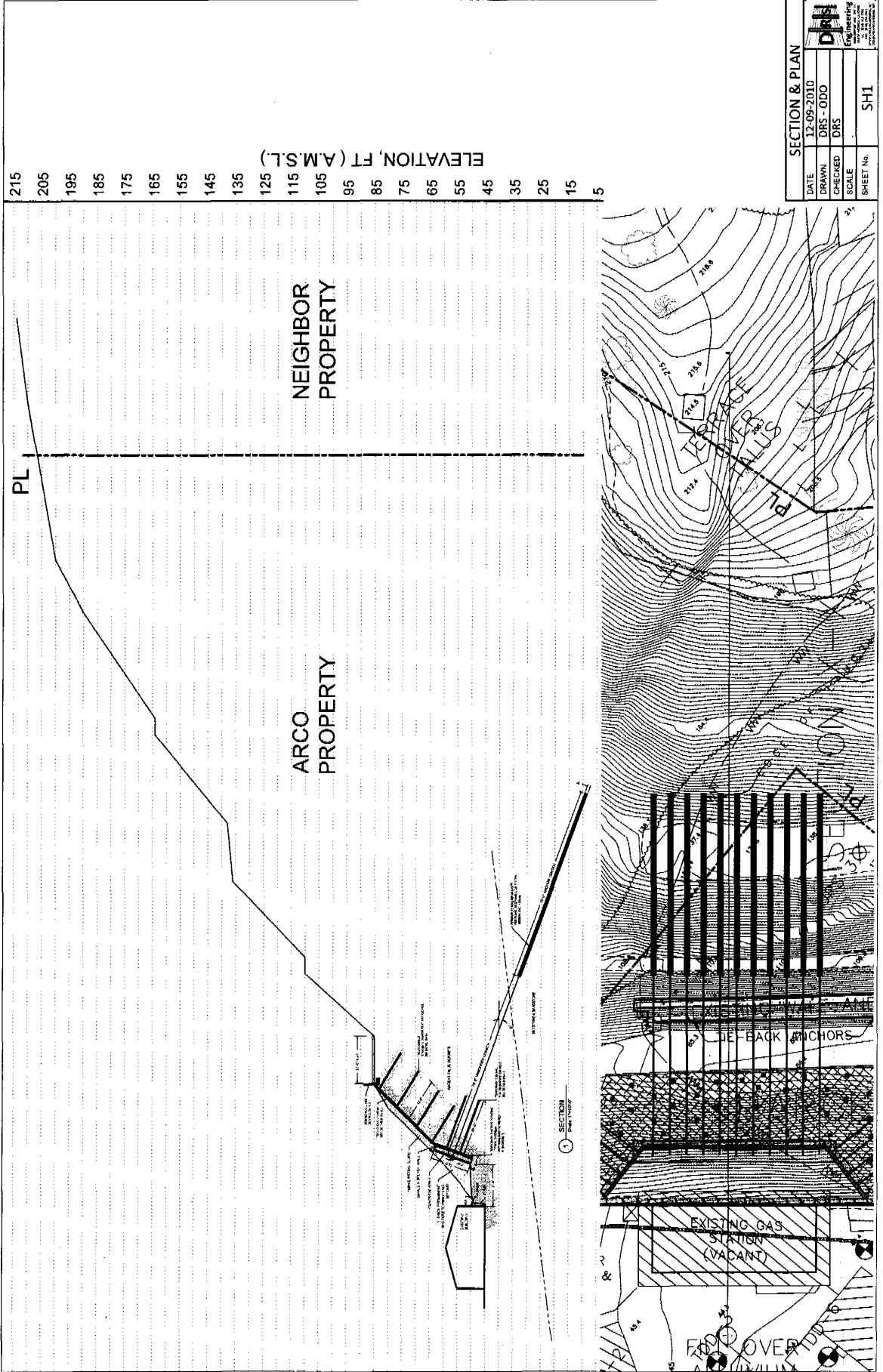
xc: (1) Addressee (E-mail and Mail)

COASTAL COMMISSION

EXHIBIT # 8
PAGE 4 OF 5

BYER GEOTECHNICAL, INC.

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4-09-025