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DECLARATION OF LEONARD LISTON

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By I, Leonard Liston, declare as follows:

1. I have personal knowledge of the facts set forth herein, and if called as a witness to testify thereto, I could competently and truthfully do so.

2. I am a civil engineer licensed in the State of California since 1980. My company, LC Engineers, has worked on over 13,000 projects, many of which are in the Bel Air area, and I personally have worked on numerous variances in Bel Air involving the Hillside Ordinance ("HO") and more recently the Baseline Hillside Ordinance ("BHO") adopted in 2011. The original permit for the Stone Canyon project at issue was pulled under the HO. Attached as Exhibit "A" is a true and correct copy of my curriculum vitae.

3. I testified before the Zoning Administrator ("ZA"), on January 9, 2013, in support of the reasons why a modest increase in the height of the residence is necessary to address a genuine hardship resulting from the unusual topography of the property. The statements made in this declaration were made to the ZA. Because I cannot attend the City Council meeting on July 3, 2013, due to a previously planned trip out of state, I am providing this declaration discussing facts and information summarizing my testimony and evidence presented by the Applicant that was before the ZA.

4. My understanding, after working closely with the City and various departments, is that the HO and BHO were intended to prevent over-building of hillside lots, to ensure that views are not blocked by proposed structures, and to maintain compatibility of structures in the area. As the ZA acknowledged in his Determination Letter ("Determination") denying the variance, there are many large homes that have received height variances over the years, including several on which I worked, including the property located at 620 Stone Canyon. As discussed below, the variance for 620 Stone Canyon allowing a residence which measured 59 feet was approved in 2007. The 360 Stone Canyon site, has an unusual existing configuration that makes the property shallow in developable area. This shallow developable lot exists because of a water channel that traverses north to south throughout the property within the front yard area. If the water channel did not exist, the home could have been constructed after a front yard setback of 25 feet from the

1 front property line. However, and because of the existing water channel and its 10 foot buffer  
2 area(s), the home must be set back from the front property line approximately 79 feet. As such,  
3 approximately 54 feet of the front yard area is undevelopable and significantly restricts the  
4 developable area of the property. The ZA's Determination Letter speculated that the home could  
5 have been expanded outward to increase the square footage rather than built higher. This  
6 speculation ignored the hardship realities of the property as described above and requirements and  
7 constraints posed by the existing water channel.

8         5.         The proposed height increase of the home will not block anyone's view. In fact, if  
9 one were sitting on the first floor of the nearest home, located at 333 Copa de Oro Road, that floor  
10 would be, at minimum, twenty feet higher than the proposed height of the 360 Stone Canyon roof  
11 line. In other words, an occupant of the neighboring home would have to look down nearly  
12 twenty feet to even see the roof line. Notably, in addition to the difference in elevation, there is  
13 dense foliage and mature trees in between the structures on both properties. Exhibit "E" attached  
14 hereto depicts this difference.

15         6.         Several topographical and physical features are unique to this property primarily  
16 due to the water channel. While the 360 Stone Canyon property is approximately 300 feet deep in  
17 the area of the home, this depth is restricted because of a water channel that traverses from north  
18 to south near the western boundary of the property as well as an ascending slope along the eastern  
19 boundary of the property. As further discussed below, the topographic uniqueness of the water  
20 channel and the legally required setbacks reduces the building area of the property to a depth of  
21 approximately 170 feet, reducing the lot depth by approximately 50 percent.

22         7.         The ZA Administrator did not take into consideration any of the evidence  
23 concerning the setbacks or constraints caused by the water channel. Instead, the ZA's  
24 Determination **speculated** that the house could have been expanded outward to increase the square  
25 footage rather than built higher. This speculation ignored, and failed to take into consideration,  
26 the physical characteristics of the property, the water channel, the flood plain requirements and the  
27 ascending slope, all of which constitute hardships supporting a variance.

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1           8.       The existence of the water channel and required buffers also sets the home back  
2 over 79 feet from Stone Canyon Road, rather than the mere 25 foot front yard setback otherwise  
3 required under the zoning and BHO and to which most other residences have conformed. In other  
4 words the lot area is restricted by the area taken up by the water channel and further setbacks  
5 related thereto. The water channel topography is similarly the reason the datum point – the point  
6 from which the height is measured – is lower. Although presented, none of these issues were  
7 considered by the ZA in his denial, and are critical to several findings which would serve to justify  
8 the variance and the hardships of the property.

9           9.       In his Determination, the ZA stated that approval of the variance would increase the  
10 height of the home by thirty-eight (38%) percent. For the following reason, this is factually  
11 incorrect. Eighty-five (85%) percent of the current structure is +/- 28 feet. Under the HO  
12 applicable at the time the permit was pulled, a house could be built to 36 feet. Therefore, the vast  
13 majority of the home is less than what was, by right, permitted. Only fifteen (15%) percent of the  
14 current home exceeds 36 feet. This elevation difference is caused by the southeasterly slope of the  
15 property toward the water channel - an unusual topographical feature that is not present on most  
16 properties in the area. If the proposed variance is granted, the roof line would be +/- 41 feet for  
17 the majority of the home which the exception of 15 percent of the home. As to that one small  
18 area, the measurement from the finished grade to the roofline would be +/- 48 feet – even if it is  
19 technically +/- 50 feet due to the datum point measured five feet from the southwest corner of the  
20 home. Attached as Exhibit “B” is a cross-section depicting the elevations. Though this precise  
21 diagram was not before the ZA it merely reflects evidence submitted in connection with the  
22 pending application and other submittals of the Applicant and thus is for illustrative purposes only.

23           10.       The existence of the water channel and required buffers also results in a setback of  
24 79 feet compared to the standard setback of 25 feet from Stone Canyon. In other words, the  
25 homeowner's lot is substantially reduced, by approximately 50 percent in depth. The water  
26 channel similarly is the reason the datum point -- the point from which height of the home is  
27 measured -- is lower. Although presented, none of these issues were noted or considered by the  
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1 ZA in his denial, and are critical to several findings which would justify the variance and the  
2 hardships of the property.

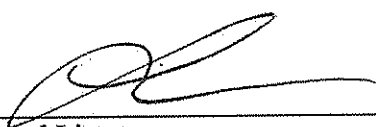
3 11. Attached as Exhibit "C" is a 1960's topographical map of the property. This is a  
4 standard document that should be in the ZA's possession. This topographic map illustrates how  
5 low the property is relative to the surrounding properties. I also understand that the ZA visited the  
6 property, so he would have observed the issues about which I am testifying. Further, this  
7 topographical map shows that the natural grade was at a higher elevation than it is today. Over the  
8 years, the grade was lowered when prior owners developed the site.

9 12. The subject property is and house is similar to many in the immediate area.  
10 Granting the variance would not result in a special privilege or increase the economic value in a  
11 way different than other properties. As the most immediate example, I was the civil engineer who  
12 worked on the 620 Stone Canyon property which also received a height variance to accommodate  
13 linking underground parking between the maid's quarters and the tennis courts. This variance was  
14 granted in 2007. The "functional difficulties" of connecting those two areas was used to  
15 demonstrate hardship. Notably, the 620 Stone Canyon home begins at an elevation almost 60 feet  
16 higher than the finish grade of 360 Stone Canyon so that the property essentially looms over its  
17 neighbors. The ZA declined to consider this and other variances that were granted, observing that  
18 the particular facts surrounding each variance cannot be compared because of the uniqueness of  
19 the individual properties. Nevertheless, in my 30 years of experience, I have noted several  
20 consistencies when administrative bodies exercise their discretion including the size of the  
21 property, i.e., whether it is a larger parcel (which is the case here); whether there are unusual  
22 topographical features that restrict construction (as is the case here); whether granting the variance  
23 would obstruct or impede other property owners (which is not the case here); and, whether  
24 granting the variance would put the property owner in parity with other properties. In my opinion,  
25 the hardships and restraints on the 360 Stone Canyon property are far more significant from a  
26 topographical perspective than the 620 Stone Canyon property and many sites I have worked on  
27 where height variances were granted.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on July 2, 2013, at Los Angeles, California.

  
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Leonard Liston

# **EXHIBIT A**

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## LEONARD I. LISTON II

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12850 Andalusia Drive, Santa Rosa Valley, CA 93012  
(818) 991-7148 f. (818) 991-5942  
Leonard@LCEgroupinc.com

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### Experience

- 2004 to present:     **LC Engineering Group, Inc.**  
*President/Owner*  
Company founded in 2004, providing the architectural and construction industries with complete structural and civil engineering, plan and document preparation and permit processing. Heading a staff of over 25 employees, effectively overseeing all areas of service offered. Previously known as L. Liston & Associates, Inc. founded in 1982.
- 2004 to present:     **CalWest Geotechnical**  
*President/Owner*  
A separate division of *LC Engineering Group, Inc.*, providing geotechnical investigation and analyses, report preparation, laboratory testing, and site observation services during construction. Previously known as West Coast Geotechnical founded in 1982.
- 2004 to present:     **LDMS, LLC**  
*LLC Manager/Owner*  
Construction management and general contracting services; projects include real estate investments, land development, commercial and industrial developments, custom residential estates and single-family subdivisions. Previously known as Leonard Group, LTD founded in 1995.
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### Education

*California State University, Northridge*  
Bachelor of Science, Engineering

*University of California, Los Angeles, School of Engineering*  
Continuing Education, Engineering

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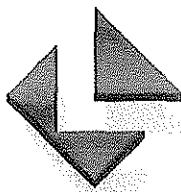
### Licenses

Professional Engineer - State of California, RCE 31902  
Professional Engineer - State of Arizona, RCE 25325  
Professional Engineer - State of Hawaii, RCE 7498  
Professional Engineer - State of Idaho, RCE 7097  
Professional Engineer - State of Montana, RCE 18345  
Professional Engineer - State of Nevada, RCE 9472  
Professional Engineer - State of Texas, RCE 71655  
Professional Engineer - Territory of Guam, RCE 1150  
General Contractor - State of California, B716473/754682

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### Affiliations

A.S.C.E., A.I.S.C., N.S.P.E.



# LC ENGINEERING GROUP, INC.

## CONSULTING ENGINEERS

### COMPANY OVERVIEW

LC Engineering Group, Inc. is a unique full-service engineering company, providing structural, civil and geotechnical engineering services. Our experience, which spans over 30 years, provides us with an advantage over other firms. Leonard Liston, President of LC Engineering Group, Inc. has been in charge of the over 13,000 completed projects. Each department within the organization is managed by a highly trained and experienced professional. LC Engineering Group, Inc. is well versed in all types of construction techniques and requirements regardless of size or complexity. From high rise office buildings to single-family homes, the neighborhood shopping center or a local church, LC Engineering Group, Inc. thrives on problem-solving and finding effective and practical solutions for difficult and complex projects.

### STRUCTURAL ENGINEERING

Our experienced team of structural engineers is skilled in handling all types of projects, whether a custom single-family residence, a mid-rise office building, multi-family complexes or complicated hillside properties. The project structural engineer oversees the analysis and final plan preparation for each project which includes state of the art computer-aided analysis and design that aides in providing complete and comprehensive structural engineering calculations, plans and details needed for the project. As part of our full-service philosophy, our services include responding to the authoritative permit agencies to insure conformance with the applicable Building Codes.

### CIVIL ENGINEERING

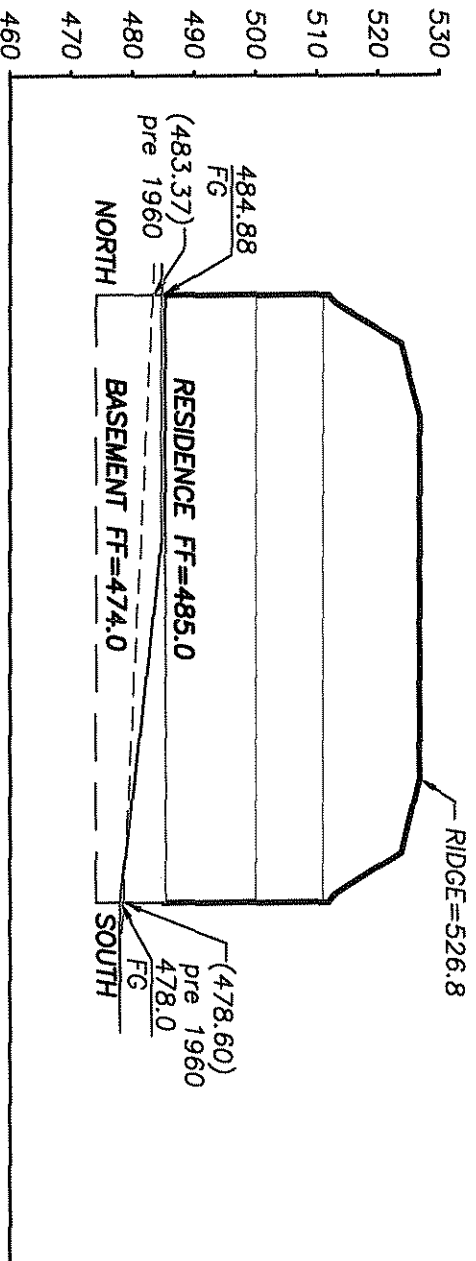
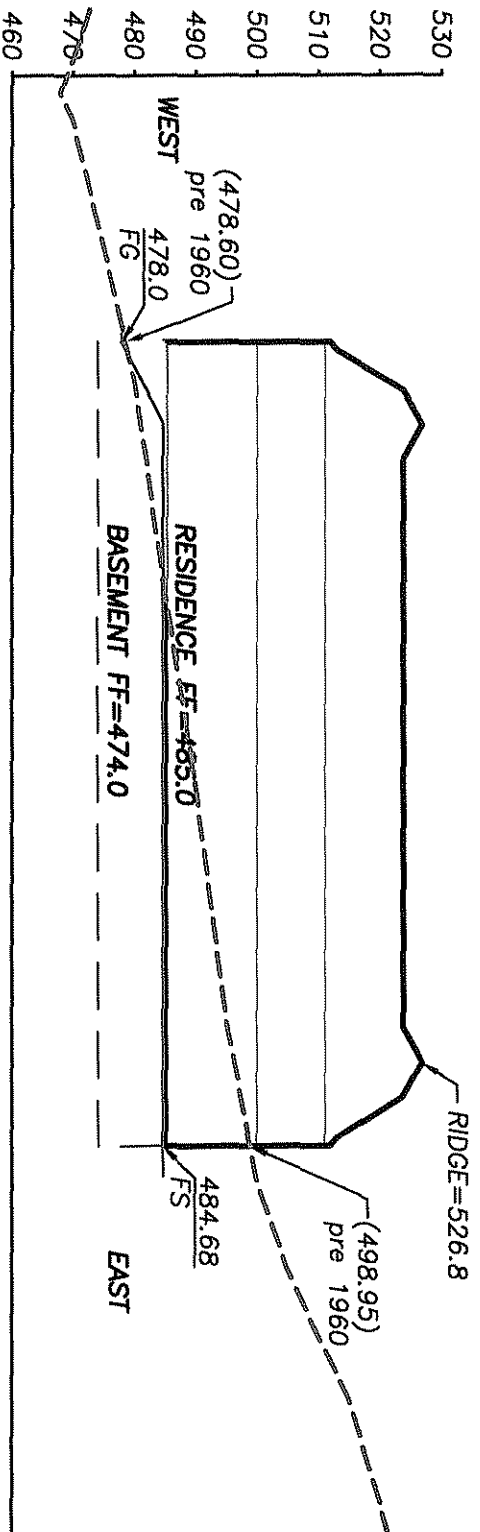
Civil engineering is a vital part of our full-service engineering philosophy. Our experienced team of civil engineers utilizes specially designed computer programs to collate and analyze the data necessary to prepare plans for all facets of civil engineering design related to both residential and commercial projects. Among the services provided by our civil engineering division are tract maps, parcel maps, lot line adjustments, private and public works improvement plans, grading plans, SQUIMP, SWPPP, SWPCP, NOI, and corresponding reports. Again, as part of our full-service philosophy, our services include responding to the authoritative permit agencies to insure conformance with the applicable Building Codes.



## **GEOTECHNICAL ENGINEERING**

As a separate division of LC Engineering Group, Inc., CalWest Geotechnical, a fully licensed soils analyses laboratory, provides geotechnical engineering services with a full array of onsite testing equipment. CalWest Geotechnical services include preliminary geotechnical engineering investigations, slope stability analysis, liquefaction and seismically induced settlement analyses, foundation design analysis, percolation testing, and geotechnical engineering observations during grading and construction. As with structural and civil engineering, our full-service philosophy includes responding to the authoritative permit agencies to insure conformance with the applicable Building Codes.

# **EXHIBIT B**

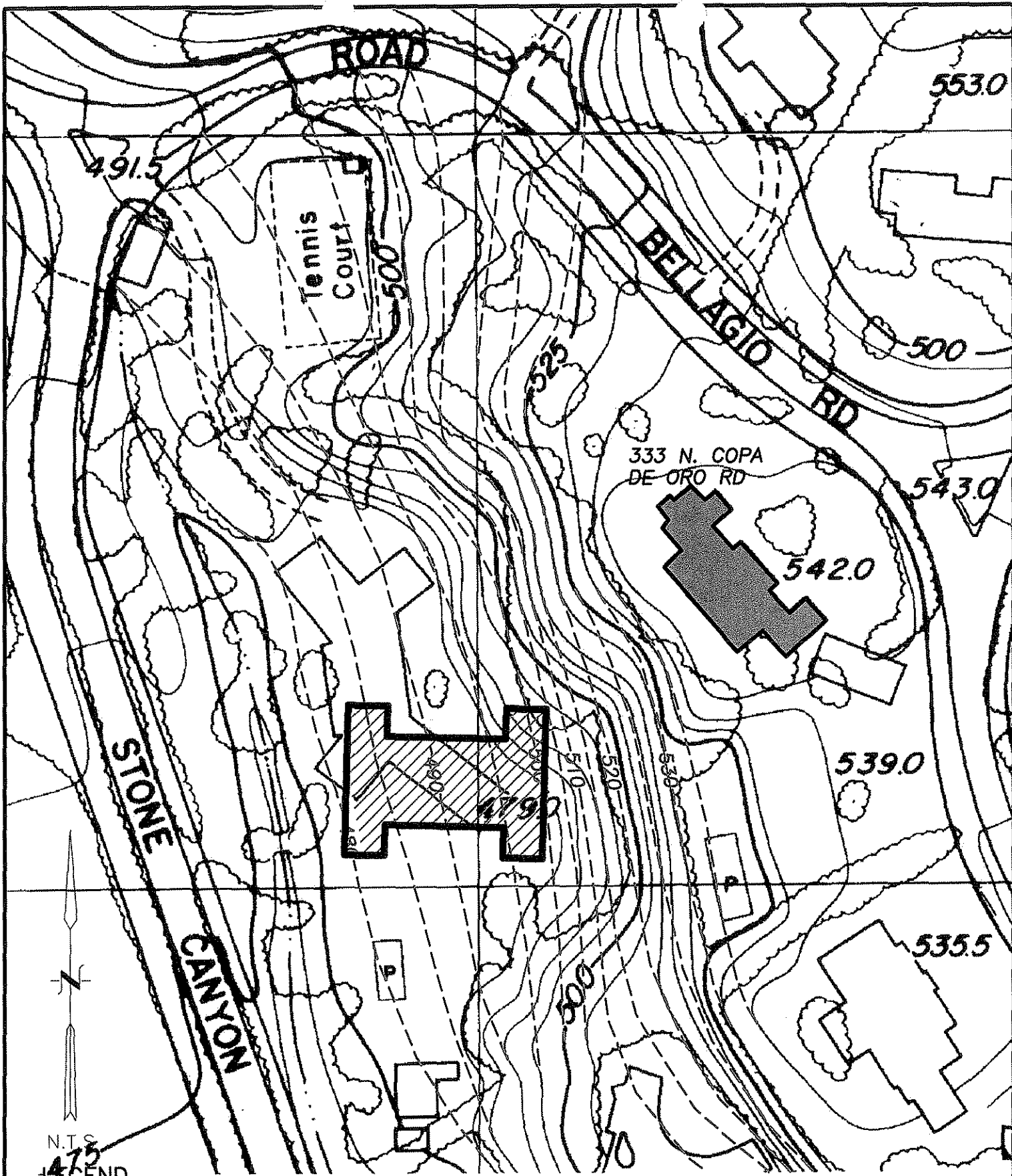


360 STONE CANYON ROAD

SURVEY EXHIBIT



# **EXHIBIT C**



N.T.S.  
1" = 47.5'  
LEGEND

--- APPROXIMATE TOPOGRAPHIC "NATURAL CONTOURS" 479.0=APPROXIMATE PAD ELEV. PRIOR TO SITE GRADING

**SANTA MONICA MOUNTAINS  
TOPOGRAPHIC MAPS**

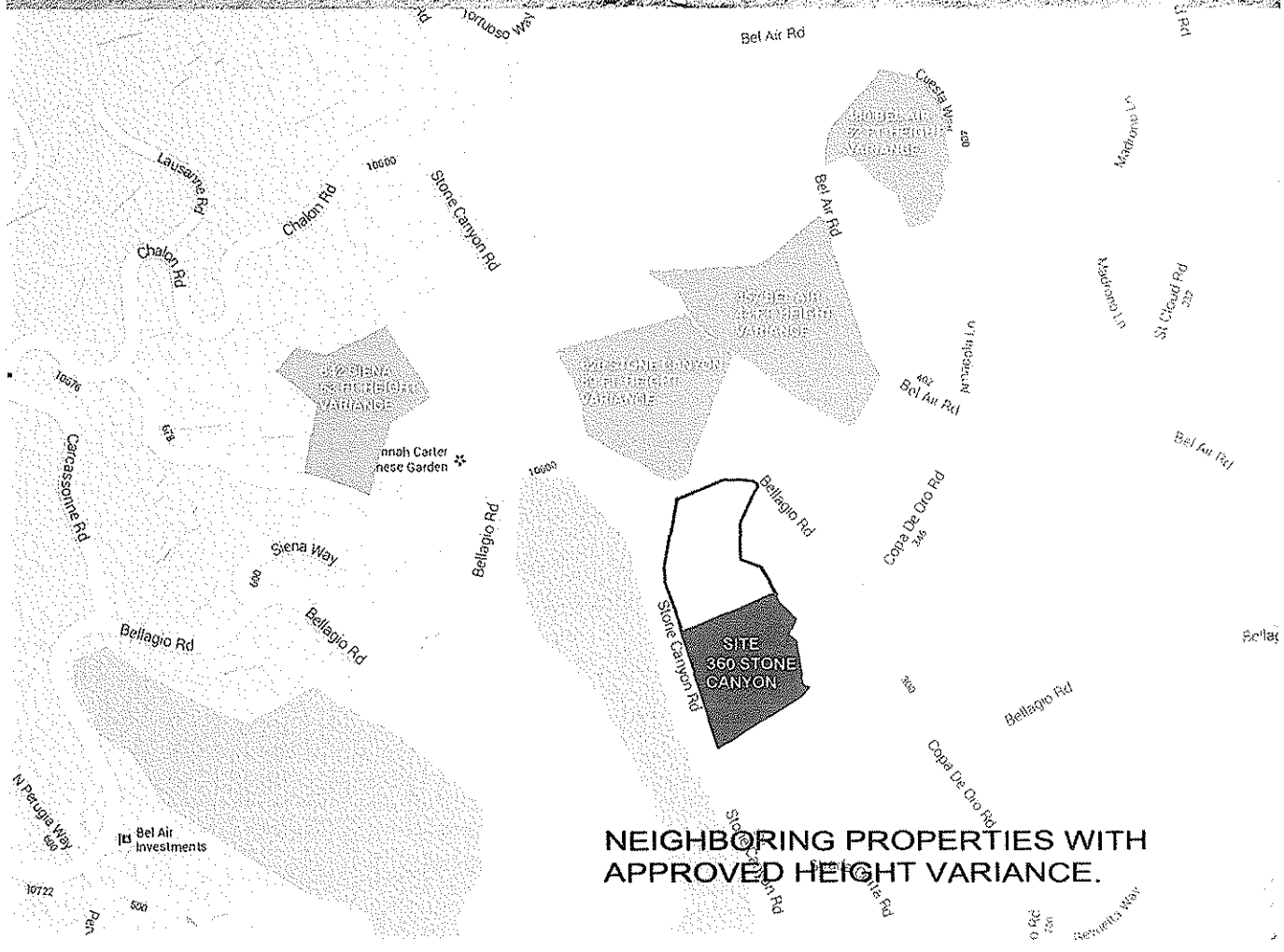
**CITY OF LOS ANGELES**  
LYALL A PARDEE CITY ENGINEER  
JANUARY 1960

**252  
M-664**

# **EXHIBIT D**



VIEW OF 620 STONE CANYON ROAD FROM SITE



NEIGHBORING PROPERTIES WITH APPROVED HEIGHT VARIANCE.