

# **MYERS' ROAD AND BRIDGE APPEAL**

**POWERPOINT PRESENTATION**

**JULY 17, 2018**

# SECTION 1

# DESIGNING FOR FIRE



# 949 TORO CANYON ROAD

## A case for a 2nd means of egress/access

### CONTEXT

- 40 ACRE SITE: Largest on Toro Canyon
- The most dangerous potential for a devastating wild fire (60 yrs/5 yrs of drought)
- ESH - +/- 500, 000 SF
- Thomas Fire - December 2017

### 4 COMPELLING REASONS

A. FIRE: HEALTH/LIFE SAFETY

B. AG SUPPORT

C. WELL WATER DELIVERY

D. RIPARIAN WATER AND AG RIGHTS (1894)

## **P& D DENIAL: 4 REASONS**

**1. FIRE:** Existing road ADEQUATE, NOT REQUIRED by CSFPD

**2. ACCESS:** Property NOT AG ZONED

**3. ESH:** INCONSISTENT with Toro Canyon Plan

**4. NATIVE & SPECIMEN TREE PROTECTION:**

P&D has determined that a secondary egress road and bridge are NOT NECESSARY

# 1. FIRE:

## a. Existing road is adequate

**Objection:** Fire Chief Rampton and Fire Marshall Ed Foster CSFPD noted “Construction occurring on properties next to your property, which made the long (dead-end) drive “Congested.” Intent (FC 501.2.3)

**501.2.3 Additional access.** *The fire code official is authorized to require more than one fire apparatus access road based on the potential for impairment of a single road by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access*

SEE LETTER TO D.G RICHARDSON 11/1/16 ON CONGESTION AND BLOCKAGE

DEBRIS FLOW ON 1/9/18 RENDERED ROAD INACCESSIBLE

## 949 TORO CANYON ROAD PHOTO SURVEY OF THOMAS FIRE AND DEBRIS FLOW



Debris Flow blocking 930/949 Toro Canyon easement and blocking culvert 1/9/18. Supports the need for a second means of egress.



Easement road blockage view east. 1/9/18.

# 1. FIRE:

## b. CSFPD is NOT REQUIRING a second means of egress

**Objection:** Overlooking the fact that No1 goal in planning is safety, P&D incorrectly applies standard Fire TC-2.4 which requires a 2nd means of egress only for new subdivisions of 5 lots or more to a totally different situation - a large lot in an extremely dangerous fire zone.

*Chief Rampton and Fire Marshall Ed Foster not only believe it **prudent** but **fully support** 949's concept of a second means of egress, enhancing fire fighting and improving occupant's safety. Fire chiefs Ray Navarro, Steve Oaks, Fire Marshals Scott Coffman, Captains Al MesKimen and Bill Taff agree that a 2nd means of egress would make the area safer and support the application.*



## **1. FIRE: quotations from letters of support**

“There is an important historical note to this case. Ed Foster and I wrote the code for Carpinteria Summerland Fire Protection District at the time of the construction of the Myers property. We felt requiring a secondary means of egress for access under 5 parcels was potentially a taking. Importantly, the potential to identify a secondary means of egress was placed as a definitive means to obtain highly valued secondary access roads at the time of permit approved for a future date.”

“This is an opportunity for the Board of Supervisors to move forward. To place community fire protection as a key priority to save lives and protect our very valuable assests, people.”

- **Scott Coffman**, Battalion Chief (retired)

# **1. FIRE:**

## **quotations from letters of support**

### Carpinteria-Summerland Fire Protection District

“my assessment is there would be benefits to life, health and safety, by an alternate ingress/egress for emergency medical situations and/or evacuation, if the primary means were obstructed...there is merit to granting Mr. Myers permission to seek application for construction.”

“Please consider allowing the permit process to move forward.”

- **Ray Navarro**, Fire Chief

## **1. FIRE:**

### **b. CSFPD is NOT REQUIRING a second means of egress**

Thus The County should support the property owner's proposal to build a bridge and road at 949 Toro Canyon Road for the purposes of enhanced health/life safety and with insignificant environmental impact and at no cost to the County.

Given the Toro Canyon potential for the devastating wildfire, not to support a plan that could potentially save lives of residents and firefighters and which is fully supported by 2 Fire Chiefs, 3 Fire Marshals, and 1 distinguished Fire Captain, seems unjustified and could expose the County to enormous liability.



# AGRICULTURE

**Circa 2005**



## 2. ACCESS:

### Property NOT AG ZONED

#### **Objection:** 949 TORO CANYON - AN AGRICULTURAL PROPERTY

- The Comprehensive Plan Land Use designation (until December 2004) was AG II.40 rural Zone Residential 40-E-1.
- AG started on 949 Toro Canyon in 1996. +/- 5 acres.
- Comprehensive Plan Designation: A-11-40 RURAL was changed to AG Land Use designation, **Mountain Area (MA-100)**, Zone **MT-Toro**.
- **Planning and Dev Map 8/1/10 depicts under General Zoning both AG and MA.**
- Article 35.2 p. 2-23 shows MT-Toro Principal Allowable Land Use as AG and AG-11-40 as Legal Non-conforming(Historical Legal) use.
- An AG support road is an improvement and not a new development per 35.11 Glossary p.11-6, AG Element GOAL 1, Policy 1C Goal VI.

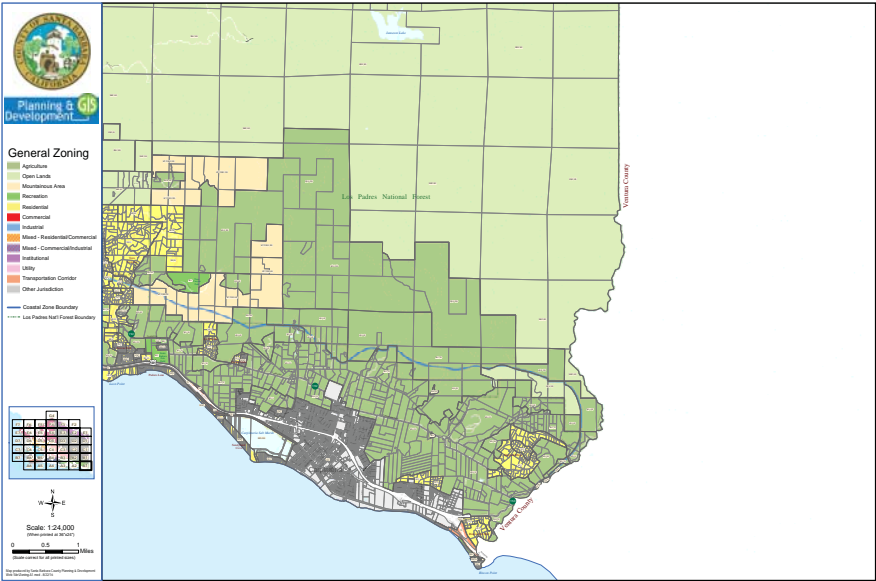
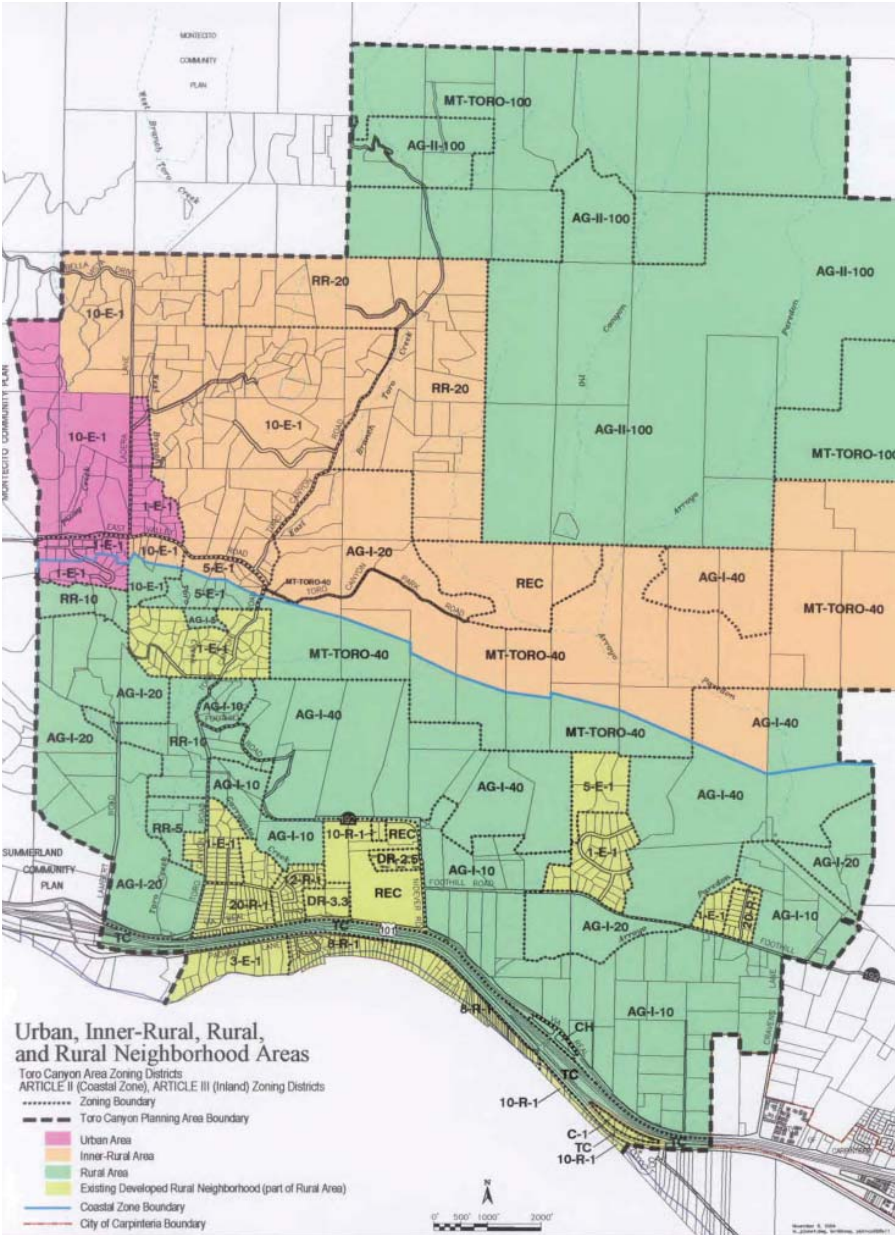
# Toro Canyon Plan

**Table 1. Development and Potential Buildout**

Comprehensive/Coastal Plan Land Use Designation	Applicable Zoning	No. of Parcels	Existing Resid. Units	Acres	Potential Add'l Units
AC	Various	7	6	882	6
A-I-5	AG-I-5	1	0	5.6	1
A-I-10	AG-I-10	92	47	498	54
A-I-20	AG-I-20	34	25	476	11
A-I-40	AG-I-40	20	13	715	20
A-II-100	AG-II-100	6	6	117	0
MA-40	MT-TORO-40	15	8	635	8
MA-100	MT-TORO-100	15	6	755	11
Cemetery	AG-I-5/10	1	0	11.7	—

**TABLE 4: AGRICULTURAL LAND USE DESIGNATIONS**

Land Use Plan Designation	Number of Parcels*	Acres
A-I-5	1	6
A-I-10	92	498
A-I-20	34	476
A-I-40	20	715
A-II-100	6	117
MA-40	15	635
MA-100	15	755
AC	7	882
<b>Totals:</b>	<b>190</b>	<b>4,084</b>



# **EXCERPT from Santa Barbara County Code**

## **Chapter 35.28.100 - Land Use & Development Code**

### **E “Permit and processing requirements, ESH-TCP.**

The following permit and Processing requirements shall apply to lots zoned ESH-TCP.

#### **1. Land Use Permit requirement:**

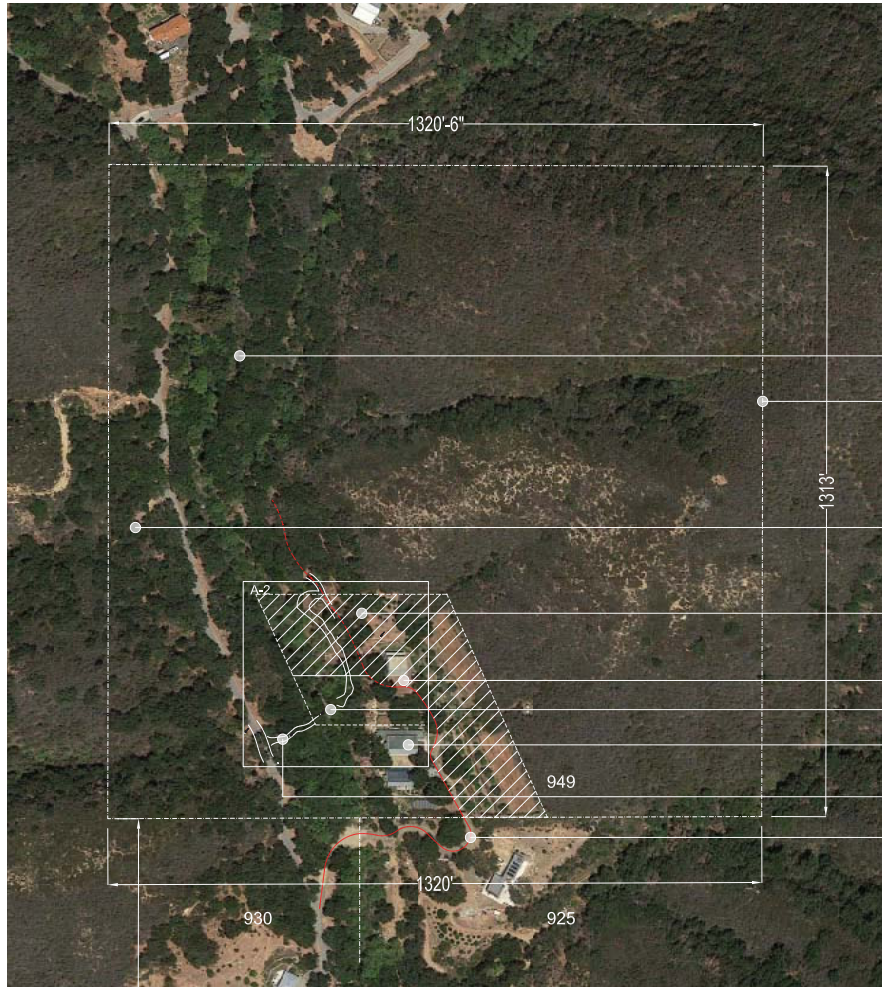
a. The issuance of a Land Use Permit in compliance with Section 35.82.110 (Land Use Permits) shall be required for the following activities **unless the activity is directly related to an agricultural use on a lot with an agricultural zone designation.**

(1) The removal of native vegetation along 50 linear feet or more of a creek bank or removal that, when added to the previous removal of native vegetation within the affected habitat on the site, would total 50 or more linear feet of native vegetation along a creek bank.

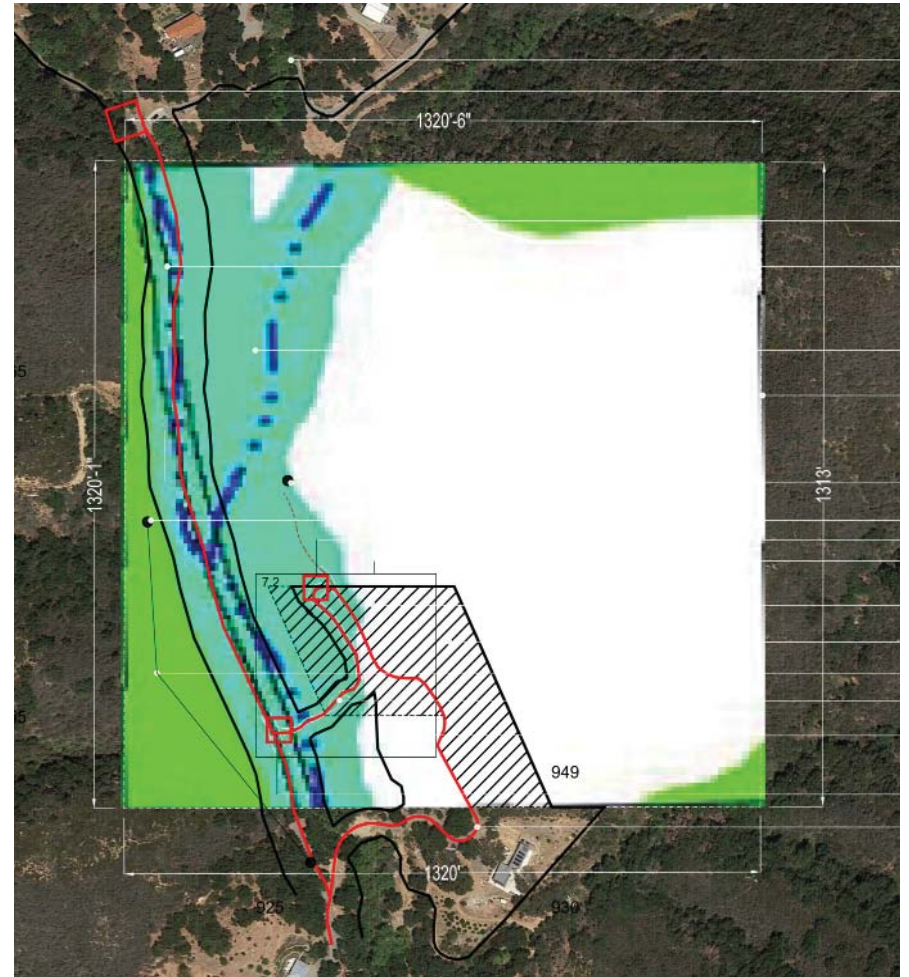
(2) Grading in excess of 50 cubic yards of cut or fill.



# ESH



**Site Plan - Hatched Area shows existing Agricultural**



**Site Plan - Environmental Sensitive Habitat Overlay**

### **3. ESH:**

**No justification to allow construction of a bridge and road in an ESH; in conflict with the 7 policies cited.**

#### **Objection a:**

##### **3 Compelling Reasons:**

- Health Life Safety - Fire Egress/Access
- AG Support Road
- Well #4 EMMWC Exploration

#### **See statement of Grounds for Appeal (4116 Items 1-6)**

Item 5: The conclusory finding that the proposed secondary access is inconsistent with seven different environmental policies because it would “disrupt and fragment the biological corridor and damage the riparian habitat and creek” is unsupported by evidence in the record, and directly contrary to the biologist’s, wildlife biologist’s, and arborist’s reports filed in support of the application. In fact, the proposed development is consistent with all of the cited policies because it complies with them “to the maximum extent feasible.”

### **3. ESH:**

**No justification to allow construction of a bridge and road in an ESH; in conflict with the 7 policies cited.**

#### **Objection b:**

The 7 TC Policies cited and the +/-10 not cited by P&D do not prohibit a property owner from crossing an ESH area for Compelling Reasons and suggest a balance between reasonable development and environmental protection, “Maximum extent feasible.” See Bio TC 7, 7.2

The estimated disturbance is .004% in some 500,000sf of designated ESH - an insignificant impact on a 40-acre property.

### 3. ESH:

**No justification to allow construction of a bridge and road in an ESH; in conflict with the 7 policies cited.**

#### **Objection c:**

**We believe the proposal for a 2nd means of egress meets the following TORO CANYON PLAN GOALS:**

- GOAL: Protect sensitive habitats and other biological resources, and provide a **balance** between protection of habitats and various activities that can adversely affect natural vegetation and wildlife such as **flood control, fire protection, and agricultural development;**
- GOAL: Maintain adequate services and infrastructure to support development and **provide for public safety.**

# NATIVE & SPECIMEN TREE PROTECTION



## **4. Native and Specimen Tree Protection:**

### **Several protected trees were removed**

#### **Objection:**

- No protected Native Trees have been removed in the construction of the 2nd road, confirmed by arborist Kenneth Knight, aerial photos showing undisturbed tree canopy and Google Toro Canyon Road Images.
- Mr Knight surveyed 59 protected trees and 22 Sycamore trees concurring 2 in excellent health, 51 in good health, and 6 in fair health. Others in good condition although all trees stressed by 5-year drought related reasons.
- Knight's mitigation suggestions are intended to reduce extent of construction damage to acceptable levels, so that the existing trees can be assured of survival without decline.

## 4. NATIVE & SPECIMEN TREE PROTECTION: quotations from letters of support

Ken Knight, Registered Consulting Arborist #507

Letter dated August 8, 2016

“During the preparation for my 1/4/16 report, **I did not see evidence of protected trees that were removed within the area graded.**

On page 12 and 15, staff states that aerial imagery before and after the grading shows that numerous protected native trees were removed during construction of the unpermitted road. **The canopy cover in this area continues to be extensive, and I cannot find evidence in the aerial photographs that protected trees were removed.**

On page 18, the staff reports indicate that the critical root zones of 28 protected trees would be impacted. While this is true, my 1/4/16 report recommends procedures for reducing these impacts including changing alignments and construction retaining walls. In my opinion, **these trees would likely recover and continue to thrive after the road project is completed** if my recommendations are implemented.”

# SECTION 2





**February 2016**  
**Winter - Sycamore Trees have no leaves**



**April 2013**  
**Spring - Sycamore Trees have leaves**



**949 Toro Canyon Road Entrance - April 2012**

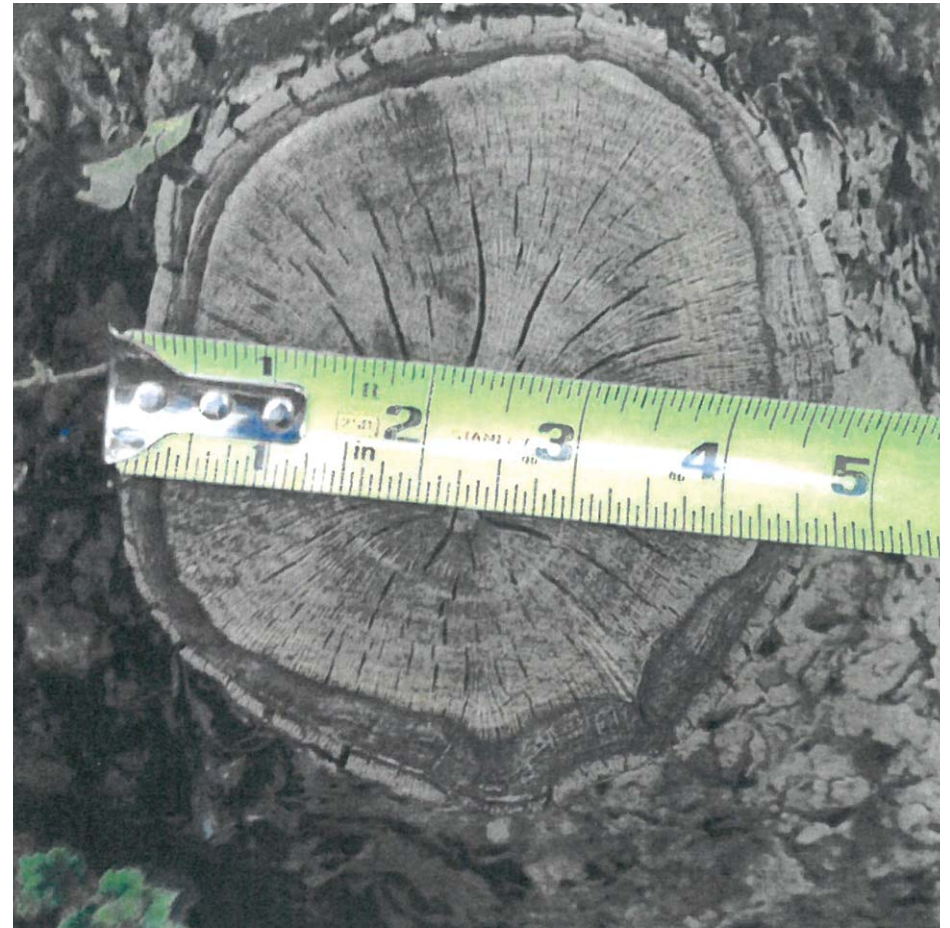
**NOTE: Marked Trees**



949 TORO CANYON ROAD  
AUGUST 2016

Barton Myers Associates Inc., Architects, Planners

**949 Toro Canyon Road Entrance - August 2016**  
**NOTE: Marked Trees are still there**



- Tree Removal
- 4 1/2" stem removes

## 4. NATIVE & SPECIMEN TREE PROTECTION: quotations from letters of support

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# **ETHICAL PRINCIPLES IN PLANNING**

## **American Planning Association**

7. Pay special attention to the inter-relatedness of decisions and long range consequences of present actions;
  
11. Not misrepresent facts or distort information for the purposes of achieving a desired outcome;

### **See statement of Grounds for Appeal (4116 Items 1-6)**

Item 6: In late 2015 and again in early 2016, without ever having seen the fire department recommendations, the biologist's analysis, the wildlife biologist's recommendations, or the arborist's recommendations, Staff repeatedly advised the Applicant that it would never approve the proposed secondary access. Staff denied the complete application just weeks after it was filed and assigned to a planner in 2016. The evidence supports the conclusion that Staff made its decision without due consideration of the documentation actually being filed concurrently with the application.

# SECTION 3

# DESIGNING FOR FIRE





## 949 TORO CANYON ROAD PHOTO SURVEY OF THOMAS FIRE AND DEBRIS FLOW



949 Toro Canyon Road 12/17/17

Collection of fire hoses for pickup. A vindication of our arguments and those of 2 fire marshals and 1 distinguished fire captain, that the second means of access/egress would provide life/health/public safety in one of the most dangerous fire areas in Santa Barbara County.



949 Toro Canyon access road 12/14/17 showing Cal Fire fire hoses.

## 949 TORO CANYON ROAD PHOTO SURVEY OF THOMAS FIRE AND DEBRIS FLOW



949 Toro Canyon access road 12/14/17. View east of the creek with fire hoses. Notice creek to the north showing burned areas.

949 Toro Canyon access road 12/14/17 showing fire hoses west of the creek. Fire burned south to access road.

## 949 TORO CANYON ROAD PHOTO SURVEY OF THOMAS FIRE AND DEBRIS FLOW



View of fire hose west of accessory building.  
Fire burned within 10 feet of the building.



View of fire hose east of accessory building. Fire burned within 10 feet of the building.

## 949 TORO CANYON ROAD PHOTO SURVEY OF THOMAS FIRE AND DEBRIS FLOW



949 Toro Canyon access road 12/14/17. East embankment above creek, hoses and burned area.



949 Toro Canyon access road 12/14/17. View is south, location is west of accessory building, trail of fire hoses/

## 949 TORO CANYON ROAD PHOTO SURVEY OF THOMAS FIRE AND DEBRIS FLOW

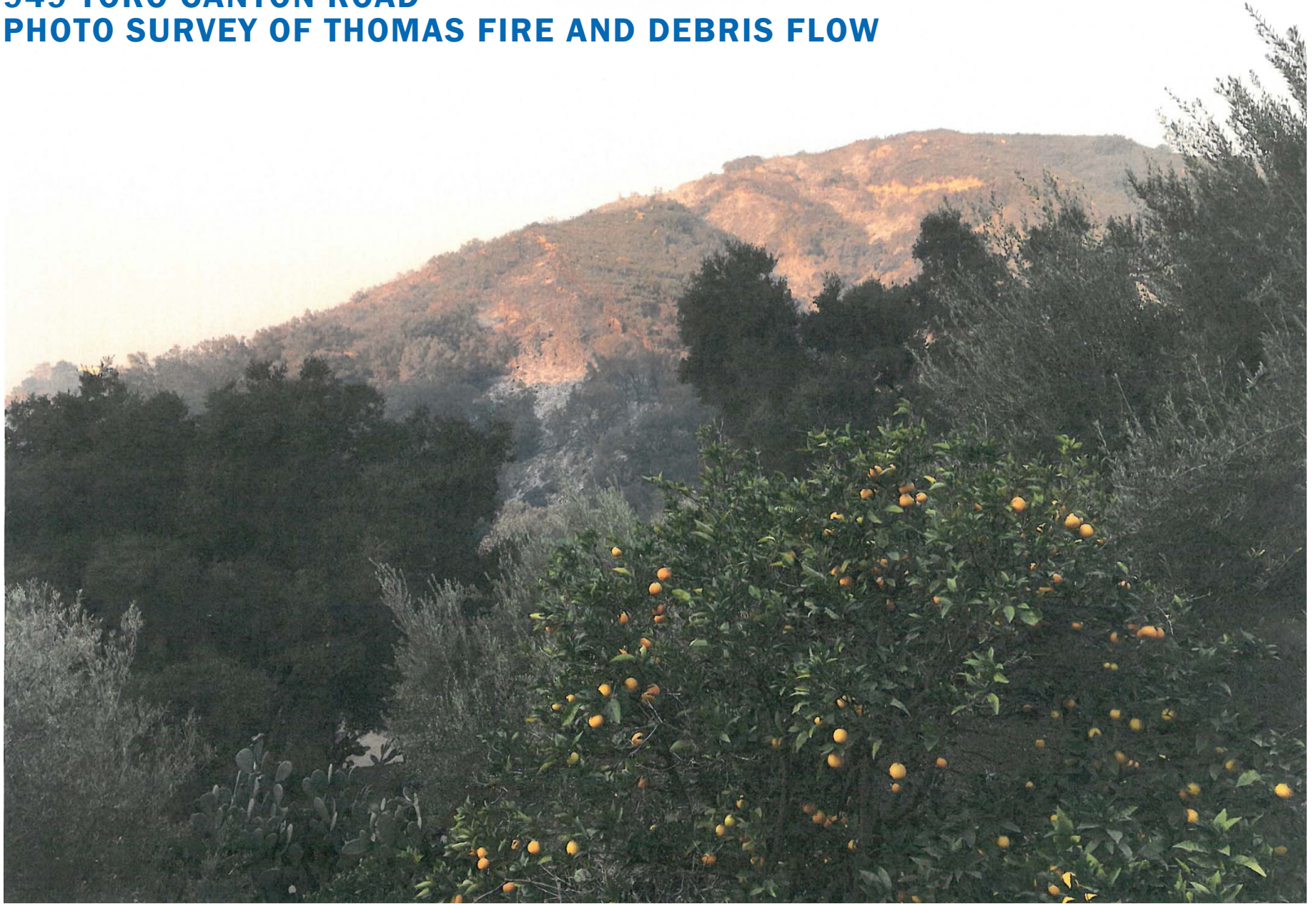


View of the fire break cut by Cal Fire through oaks north of accessory building 1/6/18.



Fire hoses on south property line running east up hillside.  
12/14/17.

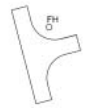
## 949 TORO CANYON ROAD PHOTO SURVEY OF THOMAS FIRE AND DEBRIS FLOW



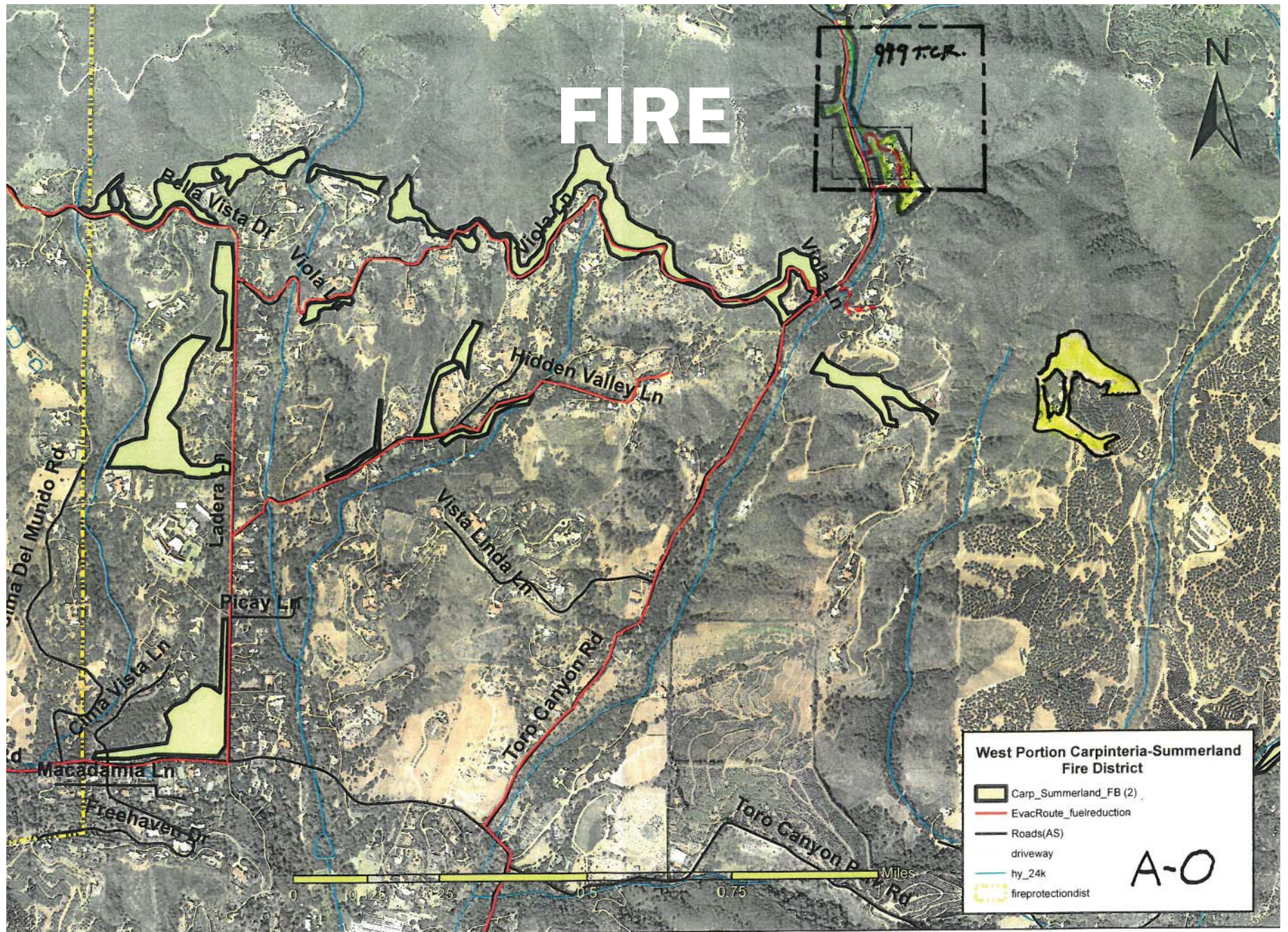
View northeast over blood oranges showing burned areas. 1/9/18. 949 is an oasis within a burned devastated area.



- AG Fire Break
- Fire Department Hydrant #89/Hammerhead
- Future AG Fire Break
- Fuel Management for Toro Canyon Road
- Toro Canyon Creek
- Property Line
- Existing Well #3 / #4 Hammerhead Fire Refuge
- Existing Service Road
- Existing AG
- Existing Fire Hydrant
- Location of Proposed Bridg
- Existing Residence (4 Buildings @ 6,000SF) Fire Resistant Shelter
- Hammerhead
- Existing Driveway



**949 Toro Canyon Road  
FIRE PROTECTION PLAN**

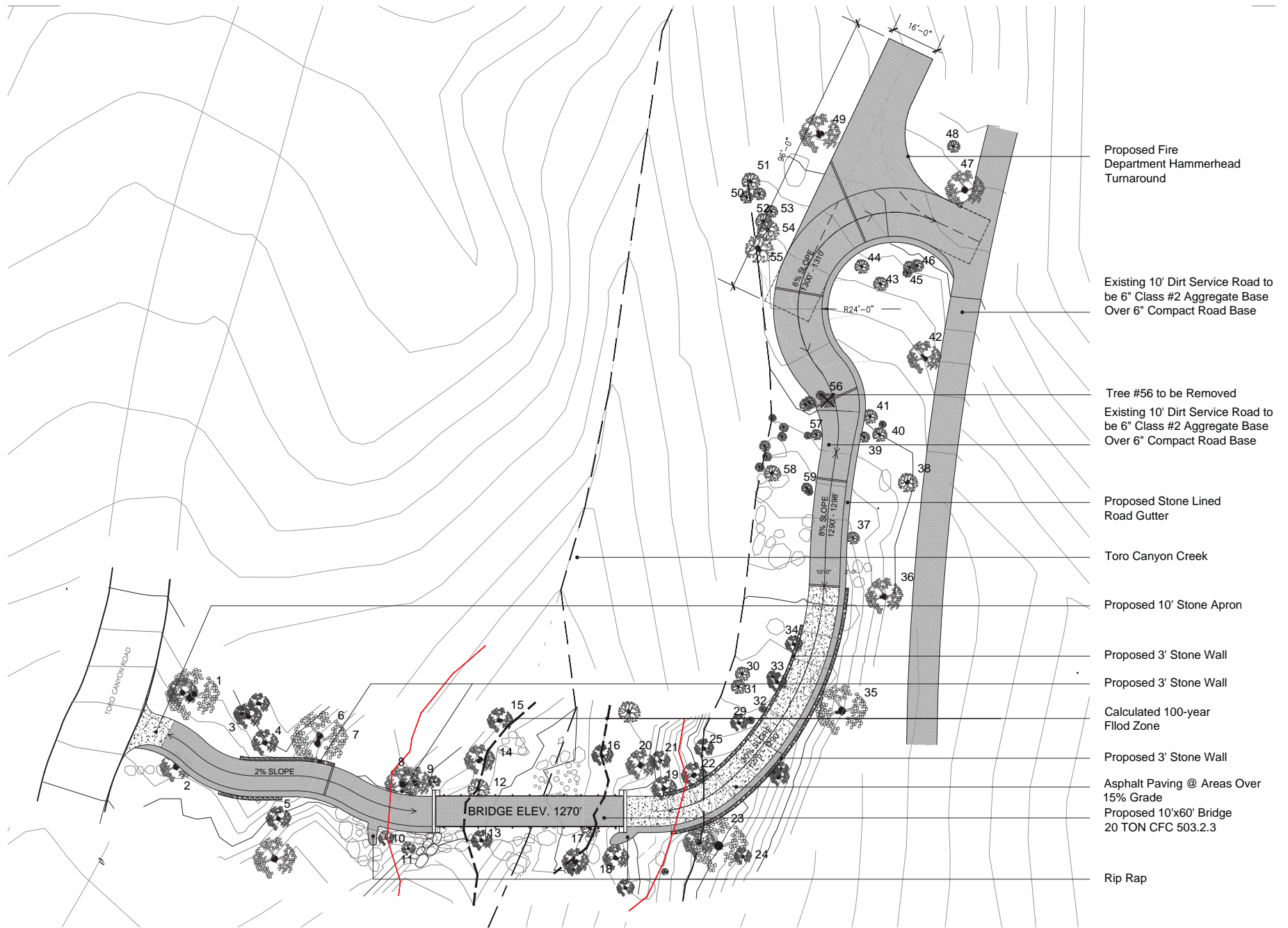




# SECTION 4

# THE ROAD & BRIDGE

A SECOND MEANS OF EGRESS AT 949 TORO CANYON ROAD



Proposed Fire Department Hammerhead Turnaround

Existing 10' Dirt Service Road to be 6" Class #2 Aggregate Base Over 6" Compact Road Base

Tree #56 to be Removed  
Existing 10' Dirt Service Road to be 6" Class #2 Aggregate Base Over 6" Compact Road Base

Proposed Stone Lined Road Gutter

Toro Canyon Creek

Proposed 10' Stone Apron

Proposed 3' Stone Wall

Proposed 3' Stone Wall

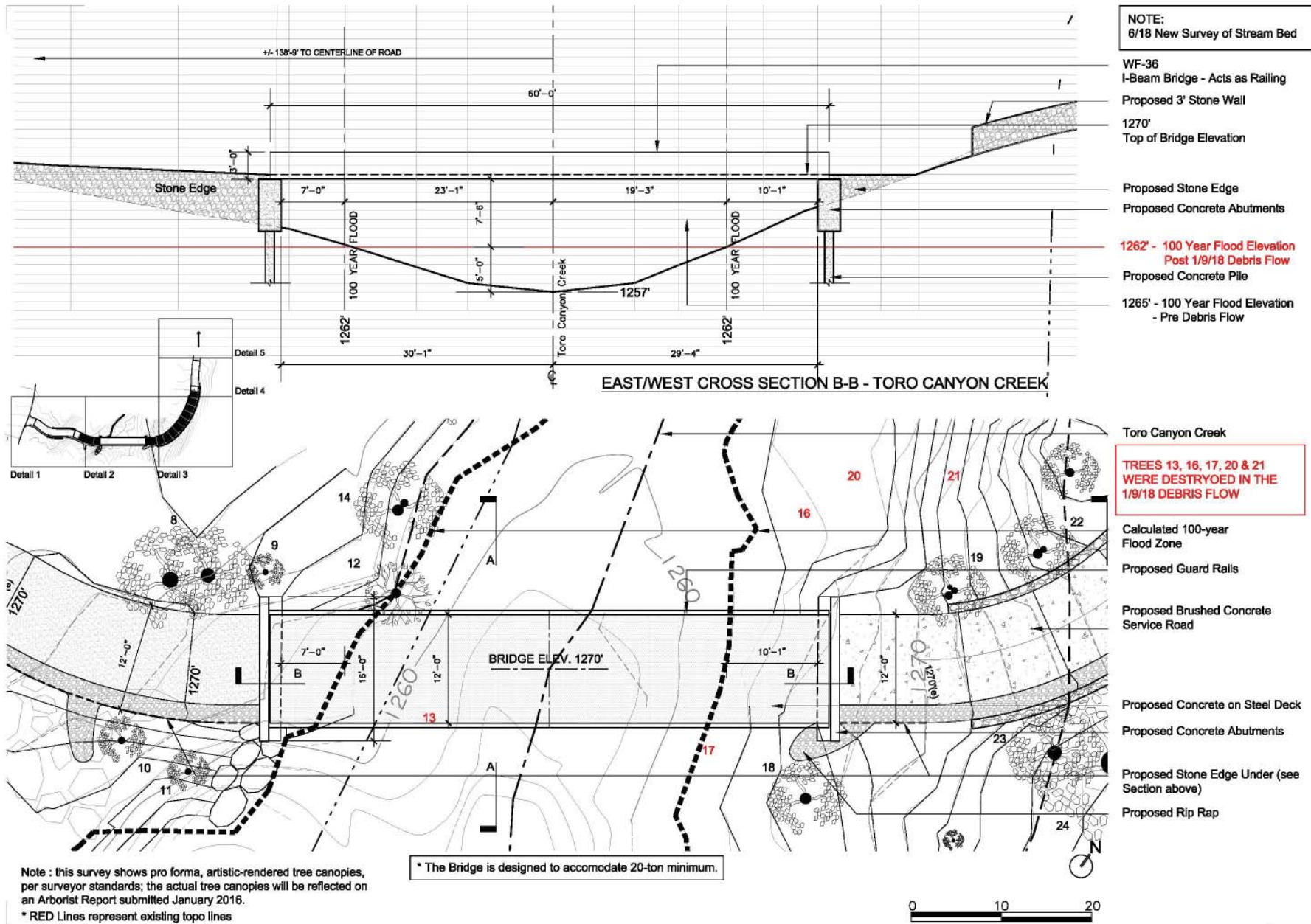
Calculated 100-year Flood Zone

Proposed 3' Stone Wall

Asphalt Paving @ Areas Over 15% Grade

Proposed 10'x60' Bridge  
20 TON CFC 503.2.3

Rip Rap





**View to the East**

