

CALIFORNIA STATE COASTAL CONSERVANCY

1330 BROADWAY, SUITE 1100

OAKLAND, CA 94612

ATSS 567-1015

TELEPHONE 415/464-1015

August 25, 1988



John Bowers, Staff Counsel
California Coastal Commission
631 Howard Street
San Francisco, California 94105

EXHIBIT NO. 12
APPLICATION NO. 5-88-170
letter from Coastal Conservancy
California Coastal Commission

Dear John:

In response to your request for information relating to the Conservancy's acceptance of Offers to Dedicate easements for public access at 27900 Pacific Coast Highway, Malibu, enclosed please find a copy of the Conservancy resolution of June 11, 1982, and accompanying Project Synopsis. The vertical access easement was accepted by Certificate of Acceptance recorded April 5, 1983; formal acceptance of the easement for parking purposes has been postponed pending resolution of the issues raised by physical obstructions of the easement area (fencing, landscaping) on the property. (The lateral access referred to in the June 11, 1982 Project synopsis is the subject of a deed restriction recorded by the prior owners and thus would not be further acted upon by the Conservancy.) The Conservancy is interested in ultimately developing and opening public access in this area, although there are no immediate plans to do so, due in part to the existence of these obstructions.

As the enclosed Project Synopsis indicates, Conservancy acceptance of these easements was pursuant to Public Resources Code Section 31104.1, which directs the Conservancy to "serve as a repository for lands whose reservation is required to meet the policies and objectives of the California Coastal Act of 1976", and authorizes the acceptance of dedicated easements pursuant to this authority. The subject offers to dedicate were recorded pursuant to conditions of coastal development permits required by the South Coast Regional and State Coastal Commissions, which found that without provision for public access to the beach and adequate public parking, the proposed development would not have been in conformity with the Chapter 3 of the Coastal Act. The Conservancy relied upon this determination in exercising its authority under Section 31104.1 to accept the dedications.

In addition, staff analyzed the dedications under project specific criteria included in the "GUIDELINES AND CRITERIA FOR CONSERVANCY ACCEPTANCE OF DEDICATIONS AND DONATIONS OF LESS-THAN-FEE INTERESTS IN REAL PROPERTY" adopted by the Conservancy in 1979 (copy enclosed). The Project Synopsis notes the high demand placed on beach use in the Malibu area and the fact that no beach access existed for more than two miles in either direction from the subject property, as well as the lack of a suitable public or private agency willing and able to accept the interest (see Criteria 2(c) in the GUIDELINES), as supporting Conservancy

DRUKMEJIAN, Co.



John Bowers
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Page two

acceptance.

Thus, the Conservancy's action to accept the easements was primarily in response to the determination of your Commission in the application of Coastal Act policies to a particular development proposal, and to the lack of other available public access opportunities in the immediate vicinity. It was not the product of any independent Conservancy analysis of the most appropriate or desirable location for vertical access in this vicinity, and it would not be accurate to characterize the acceptance of these dedications as reflecting any such determination by this agency.

We have previously advised your South Coast office, by letter to Robert Joseph dated June 28, 1988 (copy enclosed), of our concerns regarding the obstructions on the vertical and parking easements at 27900 PCH. We believe these obstructions constitute violations of both the easements and the original coastal permit, and have been discussing possible means of resolution with the current property owner. Such resolution may require amendment or relocation of the easements in whole or in part (subject, of course, to Coastal Commission approval). In the meantime, you should be advised that useable public access at this location is by no means assured for the near future.

That being the case, Conservancy staff strongly supports the continued application of Coastal Act access policies to proposed developments in this area. We are also willing and eager to work with your staff and affected property owners to develop a comprehensive approach to access in the area, and we would urge you to allow enough flexibility in any access conditions recommended to permit this to occur.

In the view of present Conservancy staff, the public access easements at 27900 Pacific Coast Highway represent an adequate, but not necessarily ideal, vertical accessway to Paradise Cove. There was once a footpath to the beach that the public used before the area was parcelized and developed but that path has now been almost entirely obscured. The ideal location has not yet been determined, but it might include the shared private easement (a wide paved road) which all of the affected property owners previously agreed upon, apparently, as the most logical way to gain access to the beach. Two years ago we were approached by consultants and attorneys representing BlackTor, who sought our cooperation and that of the adjoining property owners in planning the best location for all concerned for the development of a public access trail and parking. Although these informal negotiations were dropped as a result of one landowner's decision to postpone development of his property, we remain available and interested in continuing these discussions in the same spirit of cooperation. We would of course be amenable, in appropriate circumstances, to releasing our interest in any portion of the easements that are not ultimately needed. These alternatives cannot be fully explored, however, unless access policies are applied uniformly, as appropriate, to mitigate the impacts of developments in the area.

John Bowers
August 25, 1988
Page 3

If we can provide any further information, please feel free to call.

Sincerely,

AGB for

Marcia Grimm
Staff Counsel

Peter S. Brand

Peter S. Brand
Project Manager

CALIFORNIA STATE COASTAL CONSERVANCY

1330 BROADWAY, SUITE 1100
OAKLAND, CA 94612
ATSS 561-1015
TELEPHONE 415/464-1015



June 28, 1988

Robert Joseph
California Coastal Commission
South Coast Area
245 West Broadway, Suite 380
Long Beach, California 90802

Dear Mr. Joseph:

The State Coastal Conservancy staff generally supports your staff's recommendation regarding the amendment of Coastal Development Permit No. 5-81-35 for a single family house located at 27920 Pacific Coast Highway. We understand that the amendment would involve relocating the driveway onto the recorded vertical access easement and a lot line adjustment involving property to the East at 27910 Pacific Coast Highway. We are further advised that the applicant will request that the item be continued to the Commission's July meeting. However, we would like to take this opportunity to state our concerns and to make an additional suggestion regarding the proposed conditions of approval.

As you know, both the vertical access easement and an easement for public parking were required to be dedicated as conditions of the original permit. On July 11, 1982, the Coastal Conservancy authorized the acceptance of both easements, and a Certificate of Acceptance of the vertical easement was recorded by the Conservancy in January of 1983. It became apparent thereafter that both easement areas are blocked along Pacific Coast Highway by fencing, landscaping, and a private driveway, making public use of the easements impossible. Pending the resolution of these violations, the Conservancy has deferred recordation of a certificate of acceptance of the parking easement dedication, and has advised the current property owner, Donahue Wildman (co-applicant on this permit), of the need to correct these violations.

In 1986, representatives of Mr. Wildman proposed to realign the driveway and remove other obstructions to the easements in conjunction with a relocation of the vertical access easement to the boundary between these parcels. We have no objection to this solution, only upon condition that the existing violations be corrected.

As noted in the staff recommendation, the driveway shown on the recorded Certificate of Compliance, and associated improvements, are inconsistent with the requirements of the permit condition and use of

Mr. Robert Joseph
June 28, 1988
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the easements. Your enforcement staff investigated the site in June of 1985 and reached the same conclusion.

Inasmuch as the present application concerns a lot line adjustment as well as relocation of the driveway, we believe it appropriate that the requested amendment be granted by your commission only upon condition that the existing violations to prior conditions, and to the easements, be corrected. This remedial action could be affected by requiring the obstructions to be removed from the easement areas, and/or by relocation of the vertical easement to the driveway at 27920 Pacific Coast Highway or other location mutually agreeable to the Commission, the Conservancy, and affected property owners. In this regard, we support SPECIAL CONDITIONS 1 and 3, as set forth in the staff recommendation, but suggest that the following additional language be added to Special Condition 1:

With the agreement of the Coastal Conservancy and the co-applicant, the Executive Director [of the Coastal Commission] may approve a relocation of the easement in lieu of a new configuration of the structures, provided that the relocated easement provides public access substantially equivalent, in the opinion of the Executive Director, to that provided under the original permit requirements.

We believe this additional language would provide affected parties with the additional flexibility which may be necessary to resolve the current situation. We understand that the applicants may propose some alternative conditions to correct the easement violations. We would like to be advised of any such alternative, and assume that the Commission will approve any alternative affecting the interests of the Conservancy only subject to Conservancy approval.

With respect to the substance of the amendment, we have no objection to relocation of the driveway onto the vertical access easement which is held by the Conservancy, provided that no impediments to public use of the accessway are thereby created. No development should be approved which would prevent the development of the required parking lot and vertical accessway on the subject properties.

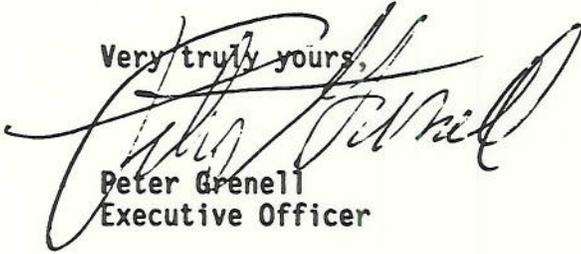
The Coastal Conservancy has acted to accept easements required by your Commission and intends to complete that action, and ultimately open the easements for public use, pending a satisfactory resolution of the situation. We are willing to work with the property owners to devise the least burdensome solution consistent with the rights of the public to obtain access to the coast. We hope we can count upon your assistance and cooperation to assure that these rights of public use, which have been determined by you to be essential to the consistency of this development with the Coastal Act, and through the dedication of

Mr. Robert Joseph
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Page two

which the applicant has obtained the benefits of development, be preserved for future use.

Should you desire further information, please contact Peter Brand or Marcia Grimm of my staff.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Peter Grenell". The signature is written in dark ink and is positioned above the typed name and title.

Peter Grenell
Executive Officer

cc: Jonathan Horne, Law Office of Sherman L. Stacey
Burton S. Levinson, Levenson & Leiberman, Inc.
Lynn J. Heacox
Pam Emerson, South Coast Office

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071



Filed: 4/28/88
49th Day: 6/17/88
180th Day: 10/26/88
Staff: Damm:mr
Staff Report: 8/31/88
Hearing Date: 9/13-16/88

AMENDMENT
STAFF REPORT AND RECOMMENDATION

APPLICATION NO.: 5-81-35A

APPLICANT: Ken Chiate & Roger Wolk Agent: Land & Water
Company

ORIGINAL

DESCRIPTION: Construction of a 2-story, 5-bedroom 6,800 square foot single family dwelling with attached 3-car garage, swimming pool and tennis court. Maximum building height is 35 feet above existing grade.

AMENDED

DESCRIPTION: Relocation of the access driveway from the west side of the lot to the east side of the lot. Realignment of the access driveway will not alter the size, height, number of bedrooms, parking or basic location of the approved residence on the property.

SITE: 27920 Pacific Coast Highway, Malibu; APN 4460-3217

LOCAL APPROVALS RECEIVED:

- County Building and Safety plan check approval.
- County Health Department final approval
- County geologic approval

SUBSTANTIVE FILE DOCUMENTS:

1. Malibu/Santa Monica Mountains Land Use Plan, County of Los Angeles Local Coastal Program, December 30, 1986
2. Coastal Development Permits 78-2707 (Chiate) 5-81-35A (Chiate), 80-7554 (Chiate).

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material.
14 California Administration Code 13166.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission determine that the proposed development with the proposed amendment, subject to the condition below, is consistent with the requirements of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends, that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby approves the amendment to the coastal development permit, subject to the conditions below, on the grounds that the development with the proposed amendment will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. SPECIAL CONDITIONS:

NOTE: Unless specifically altered by the amendment, all conditions attached to the previously approved permit remain in effect.

Future Improvements:

Prior to transmittal of the amendment to permit, the applicant shall submit to the Executive Director, a deed restriction for recordation agreeing that any future additions or improvements to the property, other than those permitted under the terms and conditions of coastal development permit 5-81-35A, shall require a coastal development permit or amendment

from the Commission or its successor agency. Further, the deed restriction shall inform future owners, occupants and successors in interest to the property that public access easements are located adjacent to the home site along the eastern property line extending from Pacific Coast Highway down to and along the beach. Said public access easements were recorded in documents Nos. 80-116953 and 80-1161952 recorded on November 18, 1980, in the County Recorders Office in Los Angeles. In the event that the permittee or future successors in interest desire additional improvements to the property for privacy or security, such improvements shall be at the expense of the permittee or successors in interest.

The deed restriction shall be recorded free of prior liens except for tax liens and shall be binding on heirs, assigns and successors in interest.

The deed restriction shall run with the land in favor of the people of the State of California. It shall be irrevocable for the period of time in which the benefits of this permit are in existence, such period running from the date of recording.

III. FINDINGS AND DECLARATIONS

The Commission adopts the following findings and declarations:

A. Project Description and History

Development of the subject property has a long permit history. The Coastal Commission approved a two lot subdivision in 1978 creating the parcel the applicants wishes to build upon and an adjoining parcel. The property is located in the Paradise Cove area of Malibu and includes bluff top area, an approximate 100 foot high bluff and beach area. The subdivision was approved (CDP 78-2707) with conditions requiring recordation of an offer to dedicate public access easements down to and along the beach (reference Exhibit #2). Beginning at Pacific Coast Highway, the public access easements were located over an existing road easement then followed the eastern property line adjacent to the building site and then down the slope to the beach and along the beach. The applicants applied and received an extension to the permit for the subdivision in 1980. The permit for the subdivision was subsequently amended (CDP 5-81-44A) resulting in minor realignments to the public access easement. In 1981, coastal development permit 5-81-35 for construction of a residence on parcel 2 of the subdivision was approved by the Commission; the current amendment request relates to the construction of the residence approved under permit 5-81-35. Work has commenced in reliance on the coastal permit in the form of grading, utility installation and drainage improvements.

The only matter subject to the current amendment request involves a redesign of the residence in order to accommodate an access driveway along the east side of the lot rather than along the west side as originally approved in (reference Exhibits 3 and 4) permit 5-81-35.

B. Status of Lot Line Adjustment:

In the process of reviewing this amendment request, the staff became aware that a lot line adjustment had occurred which changed ownership of a portion of the property involving a segment of the vertical access easement as well as a designated public parking area fronting Pacific Coast Highway. Initially it was thought that it would be expeditious to process the lot line adjustment along with the amendment for the redesign of the residence. However, the lot line adjustment is complicated by the fact that the adjustment has been recorded resulting in the involvement of a second property owner. Therefore, it has been determined that the matters should be treated separately.

The Commission finds that approval of this amendment does not relieve the applicant of any responsibility to apply for and obtain any necessary coastal development permit or amendment required by law to legalize the lot line adjustment. Neither does the Commission action on this amendment constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred; nor does it constitute an admission as to the legality of any development undertaken on the site without a coastal development permit.

C. Affects of Amendment or Public Access:

As noted in the project description and history section of these findings, public access to and along the beach has been a major issue associated with this property, and with properties in Paradise Cove in general. The Commission has found in previous permits that there is evidence of historic public use for access from Pacific Coast Highway to and along the beach. Because of this evidence of historic use, and because of the public access policies contained in the Coastal Act, the Commission required the offers to dedicate access in the subdivision.

The issue the subject amendment request raises, is whether or not the redesign of the access driveway to serve the applicant's approved residence will result in a greater potential for conflicts between members of the public utilizing the vertical accessway, if and when the accessway is improved and open to the public, and the residents of the home to be built. The permit history for this property clearly indicates the Commission's concern over improving public access in the Paradise Cove area; but, it also makes clear that the Commission desires a functional vertical accessway that minimizes conflicts with private residents while not diminishing access opportunities. Of relevance is Section 30210 of the Coastal Act which 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.

With the redesign of the residence, both the access driveway and the entry

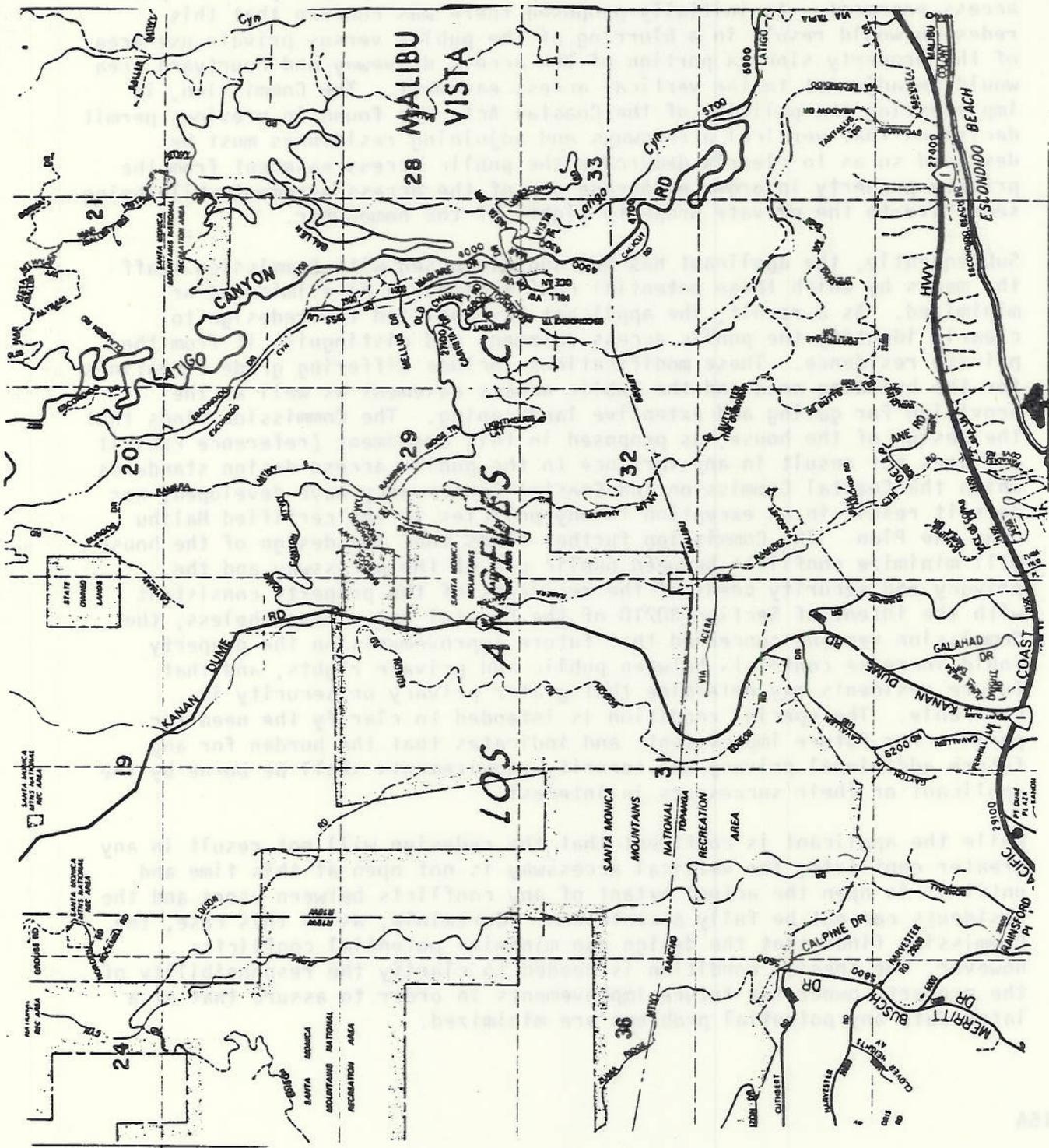
to the home are located along the same side of the property as the public access easement. As initially proposed there was concern that this redesign would result in a blurring of the public versus private use area of the property since a portion of the access driveway and courtyard area would be adjacent to the vertical access easement. The Commission, in implementing the policies of the Coastal Act, has found in previous permit decisions that vertical accessways and adjoining residences must be designed so as to clearly demarcate the public access easement from the private property in order encourage use of the access easement while being sensitive to the private property rights of the homeowner.

Subsequently, the applicant has met and discussed with Commission staff the means by which these potential conflicts could be eliminated or minimized. As a result, the applicant has modified the redesign to clearly identify the public access easement and distinguish it from the private residence. These modifications include differing grade elevations for the building area and the public access easement as well as the provision for gating and extensive landscaping. The Commission finds that the design of the house, as proposed in this amendment (reference Exhibit #4) does not result in any variance to the public access design standards which the Coastal Commission and Coastal Conservancy have developed, nor does it result in an exception to any policies in the certified Malibu Land Use Plan. The Commission further finds that the design of the house will minimize conflicts between public use of the accessway and the privacy and security needs of the residents of the property consistent with the intent of Section 30210 of the Coastal Act. Nevertheless, the Commission remains concerned that future improvements on the property could increase conflicts between public and private rights, and that future residents may determine that greater privacy or security is desirable. The special condition is intended to clarify the need for permits for future improvements and indicates that the burden for any future additional privacy and security requirements shall be borne by the applicant or their successors in interest.

While the applicant is confident that the redesign will not result in any greater conflicts, the vertical accessway is not open at this time and until it is open the actual extent of any conflicts between users and the residents can not be fully ascertained. Certainly, as in this case, the Commission finds that the design can minimize potential conflicts; however, the special condition is needed to clarify the responsibility of the property owner for future improvements in order to assure that at a later date any potential problems are minimized.

7015A

2-81-35A
Exhibit #1



S-81-35A Location

Exhibit 1

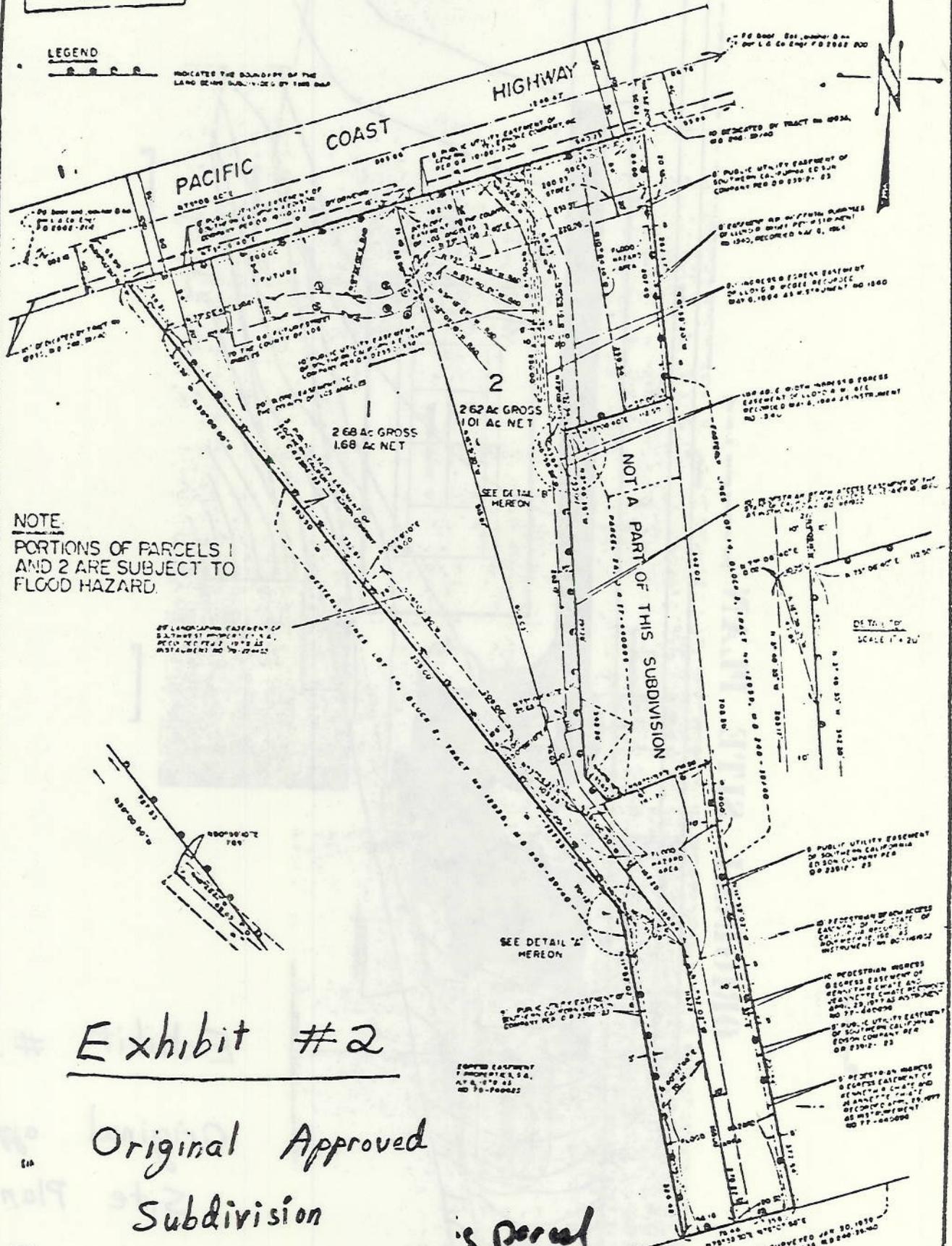
S-81-35A Exhibit #1

PARCEL MAP NO. 7543

IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES
STATE OF CALIFORNIA

FILED WITH LOS ANGELES
REG. STRAY RECORDS
DEC 28 1947

LEGEND
----- INDICATES THE BOUNDARY OF THE
LAND BEING SUBDIVIDED BY THIS MAP



NOTE
PORTIONS OF PARCELS 1
AND 2 ARE SUBJECT TO
FLOOD HAZARD.

Exhibit #2

*Original Approved
Subdivision*

5-81-35A

*Parcel
map*

3 5-81-35A

PACIFIC OCEAN

EXHIBIT
C

ORIGINAL SITE PLAN

[FOR APPROVAL PERMIT 5-81-35]

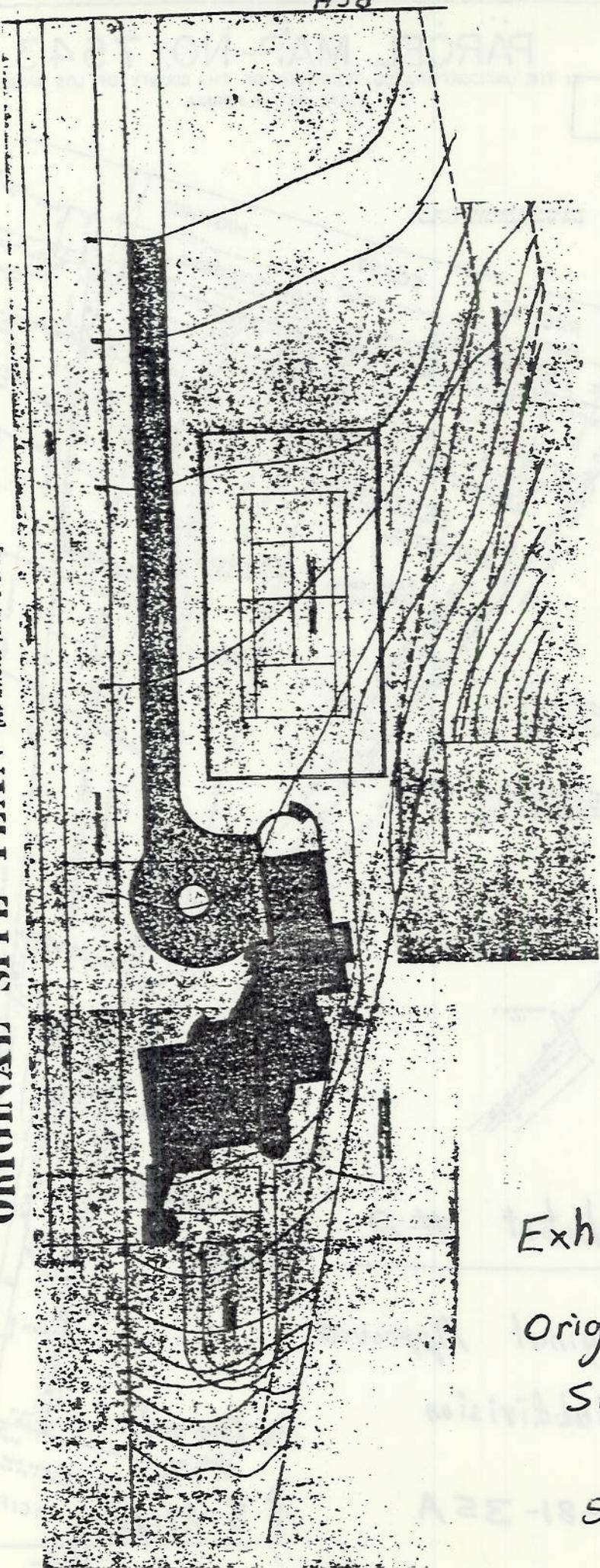


Exhibit #3

Original approved
Site Plan

5-81-35A

REVISED SITE PLAN

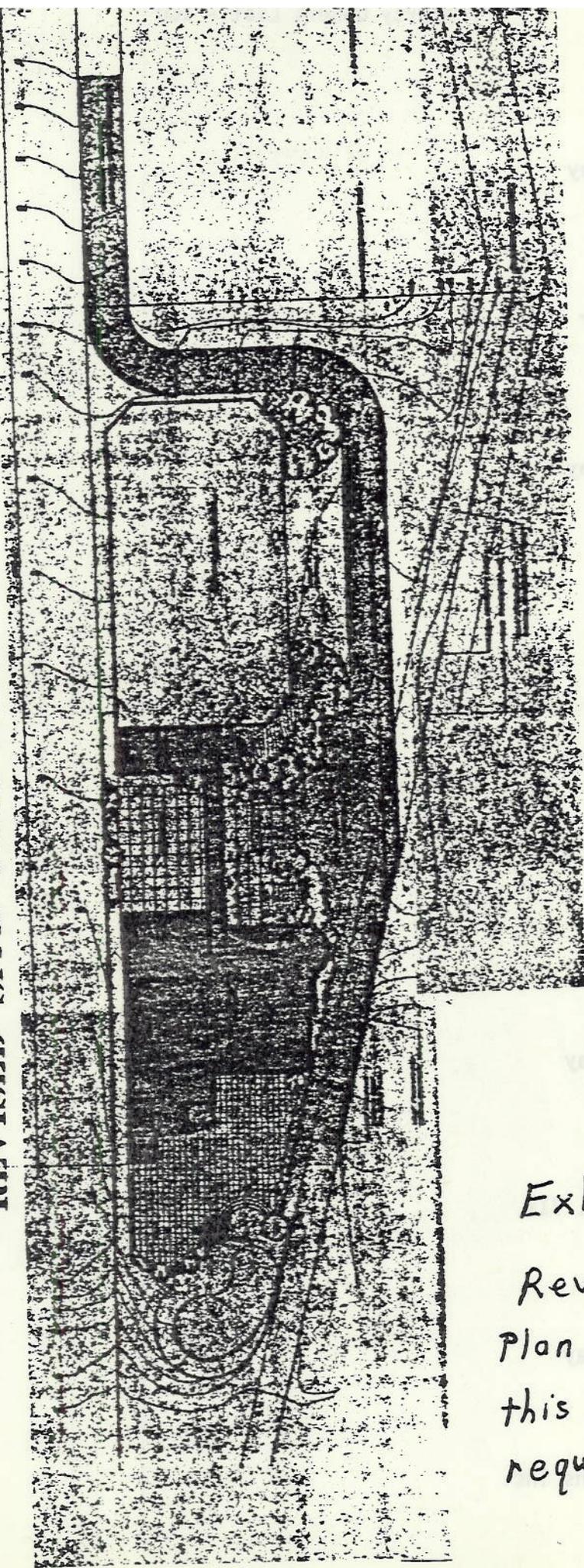


Exhibit # 4
Revised Site
Plan subject to
this amendment
request

5-81-35A

S-81-35A

Steven & Dana Sparks
27852 Pacific Coast Highway
Malibu, Ca 90265

4460-32-10

Donahue L. Wildman
8700 W. Bryn Ave. 5th Floor
Chicago, Ill 60631

4460-32-18

Occupant
27910 Pacific Coast Highway
Malibu, Ca 90265

4460-32-18

Burt & Gene Sunkin
1206 S. Maple Ave.
Los Angeles, Ca 90015

4460-32-19

Black Tor Corp N V
16530 Ventura Blvd, Ste 202
Encino, Ca 91436

4460-32-20

Joseph & Mirella Ventress
504 N. Palm Drive
Beverly Hills, Ca 90210

4460-32-8

Occupant
27856 Pacific Coast Highway
Malibu, Ca 90265

4460-32-8

Virginia Palance
2170 Century Park East No. 711
Los Angeles, Ca 90067

4460-32-9

Occupant
27854 Pacific Coast Highway
Malibu, Ca 90265

4460-32-9

George Roy Hill Productions Inc.
79 Madison Avenue
New York, New York 10016

4460-7-6

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200



August 15, 1996

James Pierce
Legal Division
Coastal Conservancy
1330 Broadway, Suite 1100
Oakland, CA 94612-2530

RE: Chiate-Wildman access easement in Malibu, Los Angeles County

Dear James:

Per our telephone conversation and your request, I have enclosed several documents for your review.

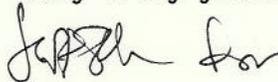
1. Document no. 1 is a copy of the deed restriction recorded on November 18, 1980. Attached as Exhibit B to the deed restriction is a copy of the staff report for coastal development permit application no. P-78-2707 (Chiate). The revised findings attached at the back of this staff report note the imposition of several additional special conditions, including a condition requiring a vertical access of 10 feet on the trail from Pacific Coast Highway to the beach. (Note that this permit is also known as coastal development permit no. PE-80-2707). The addendum dated April 21, 1980 and attached at the back of the staff report sets forth the specific language of the condition requiring the 10 foot vertical easement from PCH.
2. Document no. 2 relates to Permit No. PE-80-2707, granted on April 9, 1980. It was amended on July 22, 1981. Attached to the first document, the offer to dedicate, is a copy of the staff recommendation and findings (Exhibit B) for this amendment. This amendment relocated a portion of the previously recorded vertical access easement. (See Exhibit B, conditions 1 & 2.) The permit amendment no. is 5-81-44A.
3. The original permit, P-78-2707, was for subdivision of a 5.3 acre parcel into 2 lots. The document attached as no. 3, the irrevocable offer to dedicate, contains the staff report and findings for permit no. 5-81-35 (Chiate and Wolk). This permit was for a single-family home with improvements on the second of the two lots created by the original subdivision permit. Page 2 of the staff report shows a special condition required in connection with the grant of this permit of an offer to dedicate an easement to be used for public parking as shown on Exhibit C.
4. Document no. 4 is a copy of the staff report and findings for coastal development permit application no. 5-89-1034 (Chiate). This application was for the construction of a single-family home with improvements on the first lot that was created by the original subdivision. Special condition no. 1, on page 2 of the staff report, is a future improvement condition.

5. Document no. 5 is a notice of proposed permit amendment for permit no. 5-89-1034. It is the first amendment granted for that house. The amendment reduced the size of the home from 10360 sq. ft. to 9300 sq. ft.
6. Document no. 6 is the staff report for the second amendment to permit no. 5-89-1034. This permit amendment, no. 5-89-1034A2, proposed the placement of a 400 sq. ft. tea house on a sand bench at the base of the bluff. The amendment was denied by the Commission.
7. Document no. 7 is a copy of a notice of proposed permit amendment for the third amendment to permit no. 5-89-1034. This amendment added 2500 sq.ft. of basement to the single-family residence.
8. Document no. 8 is a copy of the fourth amendment to permit no. 5-89-1034, no. 5-89-1034A4. This amendment increased the amount of grading on site, added a new wall, and extended the approved wall on the east side of the property.
9. Document no. 9 is a copy of the 5th amendment to permit no. 5-89-1034, no. 5-89-1034A5. This amendment added to a subterranean exercise room below the pool deck.

The CCC recently received an application for an additional amendment to permit no. 5-89-1034, no. 5-89-1034A6. This application proposes construction of a tennis court, tennis pavilion, and entry gate and fence.

After reviewing these documents, should you have questions about the location of the easements and/or construction of the houses and improvements located on the subject lots, please give me a call, I will put you in touch with the project analyst in our Ventura Office who is familiar with the permit and easement history for these sites. I hope this information is helpful to you.

Very truly yours,



CATHERINE E. CUTLER
Staff Counsel

Encls: a/s

cc: Ralph Faust (w/o encls.)
Rebecca Richardson (w/o encls.)

3876L

*Gary Timm
supervisor*

805/641-0142
-site visit?
Susan Trand
permit
violations

RECEIVED

AUG 19 1996

STATE COASTAL CONSERVANCY
OAKLAND, CALIF.

1 in (7) Exhibit B hereby incorporated by reference and subject to the
2 following condition(s): (8) a deed restriction for recording granting lateral
3 public access up to 25 feet inland from the mean high tide line, however,
4 in no case will said dedication be nearer than five feet to the proposed
5 development;

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12 VI. WHEREAS, the subject property is a parcel located between the first
13 public road and the shoreline; and

14 VII. WHEREAS, under the policies of Sections 30210 through 30212 of the
15 California Coastal Act of 1976, public access to the shoreline and along
16 the coast is to be maximized, and in all new development projects located
17 between the first public road and the shoreline be provided; and

18 VIII. WHEREAS, the Commission found that but for the imposition of the above
19 conditions the proposed development could not be found consistent with the
20 public access policies of Section 30210 through 30212 of the California Coastal
21 Act of 1976 and that in the absence of such conditions a permit could not
22 therefore have been granted.

23 //
24 //
25 //

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80- 1161953

1 NOW THEREFORE, in consideration of the granting of permit no. PE-80-2707
2 (9) _____ to the owner(s) by the Commission, the owner(s) hereby irrevocably
3 covenants with the California Coastal Commission that there be, and hereby
4 is, created the following restrictions on the use and enjoyment of said
5 subject property, to be attached to and become a part of the deed to the
6 property: The undersigned Owner, for himself/herself and for his/her heirs,
7 assigns, and successors in interest, covenants and agrees that:
8 the public may pass and repass and engage in passive recreational use
9 within the 25 feet from the mean high tide line , however, the dedication
10 shall be no closer than five feet to the proposed development;
11 _____
12 _____
13 _____
14 _____
15 _____

16 Said deed restriction shall remain in full force and effect during the
17 period that said permit, or any modification or amendment thereof, remains
18 effective, and during the period that the development authorized by said
19 permit, or any modification of said development, remains in existence in or
20 described herein, and to that extent, said deed restriction is hereby deemed
21 and agreed by Owner to be a covenant running with the land, and shall bind
22 Owner and all his/her assigns or successors in interest.

23 Owner agrees to record this Deed Restriction in the Recorder's Office
24 for the County of Los Angeles as soon as possible after the date
25 of its execution.
26

27
28
29

80-1161953

1 Acceptance of the offer in subject to a covenant which runs with the
2 land providing that the first offer to accept the easement may not abandon
3 it but must instead offer the easement to other public agencies or private
4 associations acceptable to the Executive Director of the Commission for the
5 duration of the term of the original offer to dedicate. The grant of easement
6 once made shall run with the land and shall be binding on the owners, their
7 heirs, and assigns.

8 Executed on this 25 day of September, 1980, in the City of
9 Malibu, County of Los Angeles.

10 Dated: Sept 25, 1980

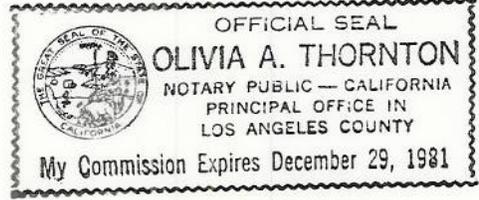
11 Signed [Signature]
(OWNER) R.S. Wolk

12 [Signature] MARILYN WOLK

13 [Signature]
(OWNER) Jeannette Chate

17 STATE OF CALIFORNIA
18 COUNTY OF Los Angeles
19 On September 25, 1980, before the undersigned, a Notary Public in
20 and for said State, personally appeared Roger Wolk and Marilyn
21 Wolk and Jeannette Chate, whose name(s) are subscribed to the
22 within instrument, and acknowledge that they executed the same.

23 [Signature]
24 Notary Public in and for said County and State



80- 1161953

1 Acceptance of the offer is subject to a covenant which runs with the
2 land, providing that the first offer to accept the easement may not abandon
3 it but must instead offer the easement to other public agencies or private
4 associations acceptable to the Executive Director of the Commission for the
5 duration of the term of the original offer to dedicate. The grant of easement
6 once made shall run with the land and shall be binding on the owners, their
7 heirs, and assigns.

8 Executed on this 18 day of November, 1980, in the City of
9 Los Angeles, County of Los Angeles.

10 Dated: November 18, 1980
11 Signed: Kenneth R. Chiato
12 (OWNER) Kenneth R. Chiato

13
14 _____
(OWNER)

15
16
17 STATE OF CALIFORNIA
18 COUNTY OF Los Angeles

19 On November 18, 1980, before the undersigned, a Notary Public in
20 and for said State, personally appeared Kenneth R. Chiato
21 _____, whose name(s) are subscribed to the
22 within instrument, and acknowledge that they executed the same.

23
24 Gaile A Strother
Notary Public in and for said County and State

25 //
26 //
27 //



EXHIBIT "A"

Lot 14 in Block 2 of Tract 12935, in the County of Los Angeles, State of California, as per map recorded in Book 248 Pages 39 and 40 of Maps, in the office of the county recorder of said county.

EXCEPT that portion of said Lot, described as follows:

Beginning at a point in the Easterly line of said Lot 14, distant South $6^{\circ} 33' 20''$ East 262.37 feet from the Northeast corner of said Lot; thence South $73^{\circ} 08' 40''$ West 112.50 feet to a point hereafter referred to as Point "A"; thence South $3^{\circ} 48' 35''$ East 342.28 feet; thence South $44^{\circ} 9' 42''$ East 35.85 feet; thence North $68^{\circ} 21' 57''$ East 108.88 feet to the Easterly line of said Lot 14; thence North $6^{\circ} 33' 20''$ West 362.02 feet to the point of beginning.

ALSO EXCEPT all minerals, oil, petroleum, asphaltum, gas, coal and other hydrocarbon substances in, on, within and under said land, but without right of entry, as in deed from Marblehead Land Company, filed for record June 4, 1943, in Book 20011 Page 350, Official Records.

ALSO EXCEPT from said land any portion thereof which at any time was tide land which was not formed by the deposit of alluvion from natural causes and by imperceptible degrees.

80- 1161953

EXHIBIT A

PROJECT DESCRIPTION:

Division of one 5.3 acre parcel into 2 parcels of 2.6 and 2.7 acres each.

LOCATION DESCRIPTION & STREET ADDRESS: 27900 Pacific Coast Highway,
between the nearest public roadway and the shoreline; near Paradise
Cove in Malibu

DISTANCE FROM MEAN HIGH TIDE LINE: adjacent

PRESENT USE OF PROPERTY: vacant

SITE SIZE: irregualr shape; 5.3 acres

DENSITY: GROSS: NET:

UNIT MIX:

ON-SITE PARKING: Primary = Size =

Tandem = Size = Total =

PROJECT HEIGHT: Above CFR = Above AFG =

PROJECT COST: Permit cost only - no construction involved

EIR: Negative Declaration

AGENCY APPROVAL: Approval in Concept - Los Angeles County

Homeowners Assoc. - Health Dept. -

Building Dept. - RWOCB -

APCD

Project Description:

The proposed land division involves an irregularly shaped 5.3 acre ocean front parcel. Two lots would be created at 2.6 and 2.7 acres each. Both lots would have Pacific Coast Highway and sandy beach frontage. 9

The shape of the parcel takes an irregular jog at the center of the eastern boundary. At that location exists a one acre parcel, subdivided from the subject 5.3 acres some years ago. An access easement extends from Pacific Coast Highway across the to-be-created 2.7 acre lot to the one acre lot. A house exists on that one acre parcel. Please note the attached site plan.

A trail exists through the subject parcel and descends down a canyon to the sandy beach. The trail way follows the proposed land division boundary. During the recent storms, the trail way has received some debris, making access very difficult. However, the damage is not so extensive as to preclude repair.

History:

The applicant has previously brought before this Commission the proposal for land division on the subject site. The proposal was for a division into 4 parcels of 1.06, 1.2, 1.3, and 1.8 acres each. P-377 was heard on May 5, 1977, and denied. He then appealed the decision to the State Commission. The appeal was given a NSI determination.

Issues:

1. Compliance with Section 30250(a) of the Coastal Act and the Los Angeles County Guidelines - Land Division Criteria
2. Section 30212 - Public Access

Compliance with Section 30250(a) of the Coastal Act and the Los Angeles County Guidelines - Land Division Criteria

Section 30250(a) of the Coastal Act states:

30250 (a). New development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

80- 1161953

Four criteria for land division exist. The first is that the resulting development be located within or contiguous to developed areas able to accommodate it.

The site will front on Pacific Coast Highway. Utilities will be taken from existing sources within that street. Sewage disposal, as in all of Malibu will be by individual septic systems. Access from the 2.7 acre site will be from the existing utilized access easement. A new vehicle access way would be designed for the 2.6 acre parcel. The site is approximately 1.25 miles from Kanan Dume Road, a major inland thoroughfare.

The second criterion for land division approval is that 50 percent of the useable parcels in the area be developed. The existing Los Angeles County guidelines utilize Malibu as a whole as a market area. According to the 1976 assessors map books, Malibu is 34% developed. Therefore, the project is not in conformance with Section 30250(a) of the Act.

If the proposed Los Angeles County guidelines were to be utilized, the market area would consist of Assessors Map Book #4460. The 1977 books show that map book 4460 is 50.8% developed, or 215 out of 423 lots are developed.

The third criterion for development is that the size of the to-be-created parcels would be no smaller than the average size of the surrounding parcels. The State guidelines have determined that the "surrounding parcels" would include those parcels within $\frac{1}{4}$ mile of the perimeter of the project. The average size of the surrounding parcels of this proposed project is 2.5 acres as can be seen on the attachment. As the to-be-created lots consist of 2.6 and 2.7 acres each, the project would be consistent with this criterion.

The fourth criterion is that the proposed project must be consistent with the adopted guidelines for such development.

As the guidelines utilizing Assessors Map Books as indicators of market area have not yet been adopted, the project is not consistent with Land Division guidelines as set forth in the existing Los Angeles County Interpretive guidelines.

Section 30212 - Public Access:

Section 30212 of the Act states:

30212. Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 2 of Article XV of the California Constitution.

No public vertical accessways are located near the proposed project. The nearest vertical access to the west is at Paradise Cove, 1800 feet away. The nearest vertical access to the east is at Holiday House, 1800 feet or approximately 1/3 miles away.

At some time in the future, provision of a public vertical access way in the area proposed for land division would be a significant and much needed public service. The existing vertical access way of the subject site would be an adequate and easily accessible location.))

Findings:

1. Applicant proposes to subdivide a 5.3 acre parcel into two parcels of 2.6 and 2.7 acres each.
2. The site is located at Escondido Beach on a bluff top descending to the sandy beach.
3. A canyon exists at the center of the site which descends to the sandy beach. A trail way exists at this canyon. Damage to the trailway was sustained during the recent storms.

4. The application for the proposed land division meets the land division criteria as stated in the Act, except for the following:

The market area, as determined by utilizing Malibu as a whole is 34% developed, thereby not meeting the 50% developed market area criterion.

5. The proposed development is not in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and will prejudice the ability of the local government to prepare a local coastal program that is in conformity with said chapter.

6. There are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available for imposition by this Commission under the power granted to it which would substantially lessen any significant adverse impact that the development, as finally proposed may have on the environment.

STAFF RECOMMENDATION: Denial

Staff Planner

Perisho
SS

not:

vertical access 10' down
existing trail
lateral access

no further studies until LCP
is approved. (concept must be in
concord with LCP)

80- 1161953

Subdiv. 5.3 acre parcel in 2 parcels of 2.6 and 2.7 acres at 27900 Pacific Coast Highway, Malibu by Kenneth R. Chiante

4/3/79
approved

12

REVISED FINDINGS:

The Commission finds, after public hearing, that:

1. The site has an existing canyon with a trailway existing from Pacific Coast Highway to the beach.
2. The project conforms to all the interpretative guidelines on lot splits except the 50% developed rule. However, if the recommended revised guidelines are utilized for the 50% developed area, the project will comply.
3. The applicant has offered mitigation measures in the form of a vertical access and lateral access easement on the property.
4. The project, as conditioned, conforms to the public access requirements of the Coastal Act of 1976 and will not impair the ability of local government to prepare its local coastal plan.
5. There are feasible mitigation measures, as provided under CEQA, available for imposition by the Commission under the power granted to it that lessens the impact and provides public access. These measures have been considered in imposing the conditions.

Note: Conditions

1. Vertical access of 10' on the trail.
2. Lateral access condition.
3. No further subdivision until the local LCP has been approved and certified.
4. If any further land division is considered upon condition #3 being completed, such division must be in conformance with the LCP.

80- 1161953

April 21, 1980

9:00 a.m.

Torrance
City Council Chambers
3031 Torrance Boulevard
Torrance, California

13

RECEIVED

CALIFORNIA
COASTAL COMMISSION

A D D E N D U M

Page 1 - please add the following to Agenda Item IV (Chair Report);
B. Election of Chairperson

Page 6 - Please add the following to your Agenda Item VIII:

(8) PE-80-2707
cp

Request to extend a permit for subdivision of a 5.3 acre parcel into 2 parcels. Permit was approved with condition of Disagreement as to the location of the vertical accessway. The applicant has delayed issuance of the permit. The applicant has finally agreed upon location of the easement calls for the easement to traverse a second parcel which was not part of the original permit; but which is owned by the applicant. Therefore, the vertical access conditions must be recorded with both properties. Previous Conditions: Prior to issuance of permit, applicant shall submit the following:

1. a deed restriction for recording granting vertical access to give the public the privilege and right to pass and repass over a strip of Dedicator's said real property 10 feet in width measured from the north property line extending from the edge of the public right-of-way, Pacific Coast Highway, to the mean high tide line of the Pacific Ocean.
2. a deed restriction for recording granting lateral public access up to 25 feet inland from the mean high tide line, however, in no case will said dedication be nearer than five feet to the proposed development.
3. No further subdivision until the local LCP has been approved and certified.
4. If any further land division is considered upon Condition #3 being completed, such division must be in conformance with the LCP; at 27900 Pacific Coast Highway, in Malibu, by Kenneth R. Chiato. Permit was approved on March 27, 1978 and expired on March 26, 1980. The permit was approved by a 7 to 1 vote of the Commission.

Condition:

Prior to issuance of permit, the applicant shall execute and record a document, in a form and content, approved by the Executive Director of the Commission irrevocably offering to dedicate to an agency approved by the Executive Director, an easement for public pedestrian access to the shoreline. Such easement shall be ten feet wide, located on the subject parcel and adjacent property (AP#4460-03.013) as shown on the attached map. Basically the easement

check wording

80- 1161953

(continued)

PERMIT NUMBER

DESCRIPTION

(8) PE-80-2707
(Cont.) cp

shall begin at Pacific Coast Highway, extend adjacent to and on the east side of an existing driveway within proposed parcel #2, to the adjacent parcel (AP#4460-032-013), extend through that adjacent parcel, entering again proposed parcel #2, then descending down the most western drainage course terminating at the mean high tide line. Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed. *or post bond to cover the encumbrance*
The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowners. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

The applicant may construct a vehicular gate across the driveway entrance. However, a pedestrian gate must also be provided by the applicant concurrently. Said pedestrian access gate would be opened for daylight hours only. The pedestrian gate lock shall be controlled by the Los Angeles County Dept. of Beaches or other agency approved by the Executive Director.

This document shall be recorded with the parcel of the subject permit and the adjacent parcel (AP#4460-032-013).
Extension will be granted for one year. Permit will expire on March 26, 1981.

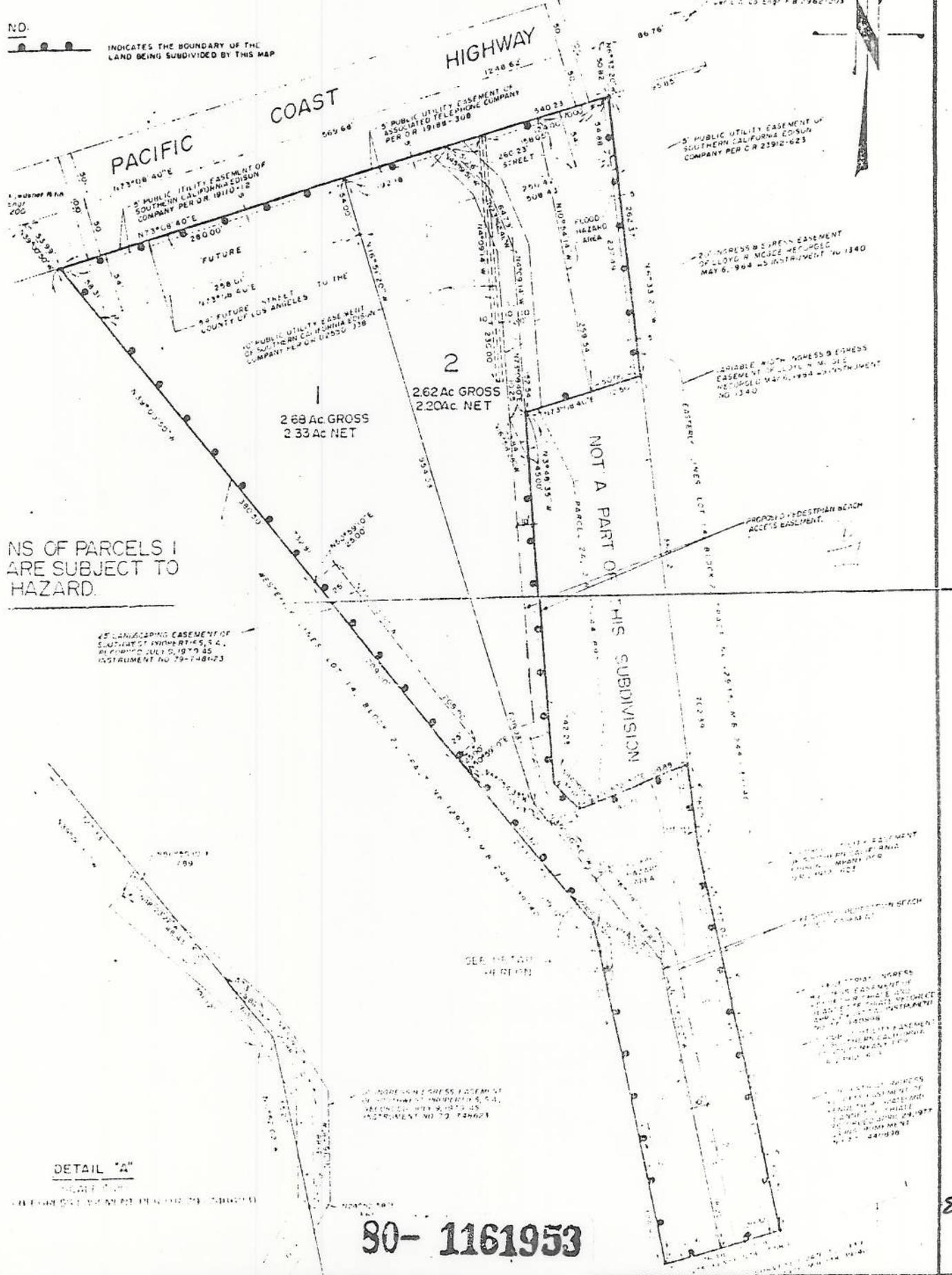
Recommendation:

Page 8 ~~please delete LGA-15 537-79(c) from your agenda, same has been withdrawn by the applicant.~~

80-01161953

PARCEL MAP NO. 80-1161953
 IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES
 STATE OF CALIFORNIA

NO.  INDICATES THE BOUNDARY OF THE LAND BEING SUBDIVIDED BY THIS MAP



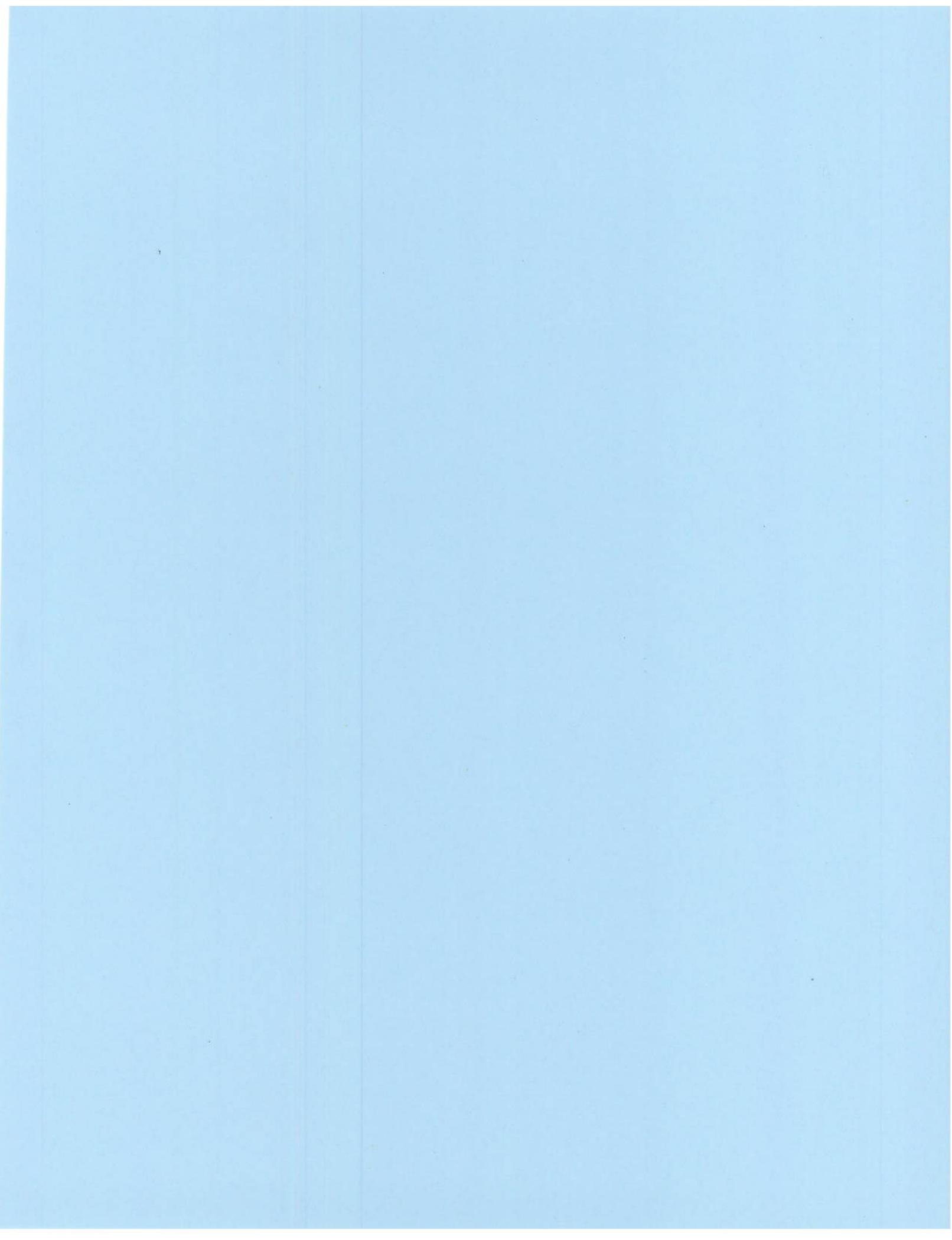
NS OF PARCELS 1 ARE SUBJECT TO HAZARD.

45' CANALSIDE EASEMENT OF SOUTHERN CALIFORNIA EDISON COMPANY PER D.R. 1910-12

DETAIL "A"

80-1161953

EXHIBIT C



vertical 2

81-1259943

WAR 1 81994
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

80-118

1 Return Original To and
2 Recording Requested By:
3 State of California
4 California Coastal Commission
5 631 Howard Street, 4th Floor
6 San Francisco, CA 94105

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
21 MIN. PAST. 4 P.M. DEC 23 1981

FREE L

6 IRREVOCABLE OFFER TO DEDICATE

7 I. WHEREAS, Dr. Roger S. Wolk, Kenneth R. Chiate, Jeanette Chiate, Marilyn
8 S. Wolk are the record owners, hereinafter referred to as "owners," of the
9 real property located at 27900 Pacific Coast Highway, Malibu, Los Angeles
10 County, California, legally described as particularly set forth in attached
11 Exhibit A hereby incorporated by reference and hereinafter referred to as the
12 "subject property"; and

13 II. WHEREAS, the California Coastal Commission, hereinafter referred to
14 as "the Commission," is acting on behalf of the People of the State of
15 California; and

16 III. WHEREAS, the People of the State of California have a legal interest
17 in the lands seaward of the mean high tide line; and

18 IV. WHEREAS, pursuant to the California Coastal Act of 1976, the owners
19 applied to the Commission for a coastal development permit for subdivision of
20 a 5.3-acre parcel into two parcels of 2.6 and 2.7 acres each on the subject
21 property; and

22 V. WHEREAS, a coastal development permit no. PE-80-2707 was granted on
23 April 9, 1980, and amended by 5-81-44(A1) on July 22, 1981, by the Commission
24 in accordance with the provisions of the Staff Recommendation and Findings
25 shown in attached Exhibit B and hereby incorporated by reference, subject to
26 the following condition:

27 //

5-17-82 ORIG. SENT TO CONS. W/1
ACKNOWLEDGMENT FOR THEIR
ACCEPTANCE

1 Prior to the issuance of permit, the applicant shall execute and record
 2 a documnet in a form and content approved by the Executive Director of the
 3 Commission irrevocably offering to dedicate to an agency approved by the
 4 Executive Director an esement for public pedestrian access from Pacific
 5 Coast Highway to the shoreline. Such easement shall be recorded free of prior
 6 liens and clear of encumbrances which the Executive Director determines may
 7 affect the interest being conveyed or post bond to cover the encumbrances.

8 VI. WHEREAS, the subject property is a parcel located between the first
 9 public road and the shoreline; and

10 VII. WHEREAS, under the policies of Sections 30210 through 30212 of the
 11 California Coastal Act of 1976, public access to the shoreline and along the
 12 coast is to be maximized, and in all new development projects located between
 13 the first public road and the shoreline shall be provided; and

14 VIII. WHEREAS, the Commission found that but for the imposition of the above
 15 condition, the proposed development could not be consistent with the public
 16 access policies of Section 30210 through 30212 of the California Coastal Act
 17 of 1976 and that therefore in the absence of such a condition, a permit could
 18 not have been granted;

19 NOW, THEREFORE, in consideration of the granting of permit no. PE-80-2707
 20 and 5-81-44(A1) to the owners by the Commission, the owners hereby offer to
 21 dedicate to the People of California an easement in perpetuity for the pur-
 22 poses of public pedestrian access to the shoreline located on the subject
 23 property ten feet wide and as specifically set forth by attached Exhibit C
 24 hereby incorporated by reference. The location of the easement as set forth
 25 in Exhibit C has been modified from that shown in Document 8-1161952 as
 26 recorded in the County of Los Angeles on November 18, 1980. This document
 27 is a substitute for Document 8-1161952.

81- 1259943

1 This offer of dedication shall be irrevocable for a period of twenty-one
 2 (21) years, measured forward from the date of recordation, and shall be
 3 binding upon the owners, their heirs, assigns, or successors in interest to
 4 the subject property described above. The People of the State of California
 5 shall accept this offer through the County of Los Angeles, the local
 6 government in whose jurisdiction the subject property lies, or through a
 7 public agency or a private association acceptable to the Executive Director
 8 of the Commission or its successor in interest.

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81- 1259943

1 Acceptance of the offer is subject to a covenant which runs with the land,
 2 providing that the offeree to accept the easement may not abandon it but
 3 must instead offer the easement to other public agencies or private association
 4 acceptable to the Executive Director of the Commission for the duration of
 5 the term of the original offer to dedicate. The grant of easement once made
 6 shall run with the land and shall be binding on the owners, their heirs, and
 7 assigns.

8 Executed on this 11th day of December, 1981, in the
 9 City of Los Angeles, County of Los Angeles Calif
 10 Dated: 12/11/81

TO 1944 CA (8-74)
 (Individual)

STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES } SS.

81-1259943



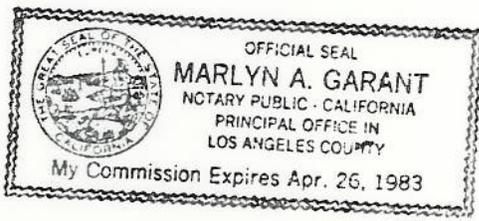
On December 11, 1981
 State, personally appeared Kenneth R. Christie before me, the undersigned, a Notary Public in and for said

Kenneth R. Christie
 above
 signed, a

to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same.

WITNESS my hand and official seal.

Signature Marlyn A. Garant
 MARLYN A. GARANT



(This area for official notarial seal)

81-1259943



above
 signed, a
 County and

TO 444 C
 (Attorney in Fact)

STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES } SS.

On December 11, 1981 before me, the undersigned, a Notary Public in and for said State, personally appeared Kenneth R. Christie

known to me to be the person whose name is subscribed to the within instrument, as the Attorney in fact of Roger S. Walk and Marlyn S. Walk and acknowledged to me that he subscribed the name of Marlyn S. Walk thereto as principal and his own name as Attorney in fact.

WITNESS my hand and official seal.

Signature Marlyn A. Garant
 MARLYN A. GARANT
 Name (Typed or Printed)



1 This is to certify that the offer of dedication set forth above dated
 2 December 11, 1991, and signed by Kenneth R. Chiato, Mrs. Mrs. Roger
 3 Wolk, Jeanette Chiato, owner(s), is hereby acknowledged by the
 4 undersigned officer on behalf of the California Coastal Commission pursuant
 5 to authority conferred by the California Coastal Commission when it granted
 6 Coastal Development Permit No. 5-81-35 on April 7, 1990 and the
 7 California Coastal Commission consents to recordation thereof by its duly
 8 authorized officer.

9 Dated: December 21, 1991

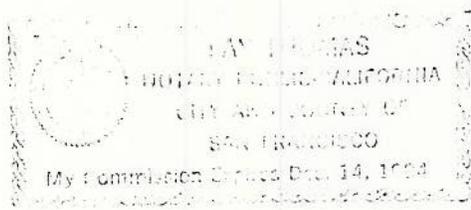
10 Cynthia K. Long
 11 CYNTHIA K. LONG, LEGAL COUNSEL
 12 California Coastal Commission

13 STATE OF CALIFORNIA
 14 COUNTY OF SAN FRANCISCO

15 On December 21, 1991, before the undersigned, a Notary Public in
 16 and for said State, personally appeared Cynthia K. Long,
 17 Legal Counsel known to me to be the authorized representative
 18 of the California Coastal Commission and known to me to be the person who
 19 executed the within instrument on behalf of said Commission, and acknowledged
 20 to me that such Commission executed the same.

21 Witness my hand and official seal.

22
 23 Cynthia K. Long
 24 Notary Public in and for said County and
 25 State



26 81- 1259943

EXHIBIT A

County of Los Angeles, State of California,

Parcel 2 of Parcel Map No. 7543 as per map thereof filed
in Book 135 Pages 58 and 59 of Parcel Maps, in the Office
of the County Recorder of Said County.

81- 1259943

EXHIBIT A

Memorandum

CALIFORNIA COASTAL COMMISSION
SOUTH COAST-REGION V
P. O. Box 1450
Long Beach, CA 90801
(213) 590-5071 (714) 846-0648

81-1259943

TO: STATE COMMISSION

FROM: MICHAEL L. FISCHER, EXECUTIVE DIRECTOR

SUBJECT: REQUEST FOR AMENDMENT TO PERMIT NO. P/PE-80-2707 (KENNETH/JEANNETTE CHIATE & ROGER/MARILYN WOLK)

PROCEDURES

In the case of permits issued by the Commission under the Coastal Act of 1976, the Commission regulations (Section 13166) permit applicants to request approval by the Commission of amendments to the project or permit conditions. The Commission may approve an amendment if it finds that the revised development is consistent with the Coastal Act. The staff recommends that the Commission hold a public hearing on the amendment request, and at the close of the public hearing, vote on the request.

1. Project Description. The project approved in the original permit application P-80-2707, and permit extension PE-80-2707 was the subdivision of a 5.3 acre parcel into two parcels of 2.6 acres and 2.7 acres each. The extension request was submitted by the applicant in order to resolve the question of the location of the vertical easement condition which the South Coast Regional Commission had found, after public hearing, would offer mitigation measures (in addition to a lateral access easement condition and no further subdivision until in conformance with the LCP of Los Angeles County) and thus could be found to be in conformance with the provisions of Chapter 3 of the California Coastal Act of 1976.

The vertical access condition was the subject of a great deal of discussion with both the South Coast Regional Commission staff and the State Commission legal staff in an attempt to locate a vertical easement which would be acceptable to all parties concerned. On November 18, 1980 an Irrevocable Offer to Dedicate (#80-1161952) a vertical access was recorded in the official records of Los Angeles County. A portion of that offer reads, in part, that:

"...The easement may be resited subject to issuance of a permit by the Regional Commission or the Commission where there is no Regional Commission. Improvements to the access easement may be required as a condition of the issuance of the permit."

At the time prior to the recordation, the applicant indicated in a letter to the Commission (File P-2707, August 20, 1979) that he owned only the parcel which was the subject of the above-referenced permit, and had no legal interest in an adjacent one-acre parcel. Since that time, the applicant purchased an interest in the adjoining one-acre parcel and recently applied for a permit to build a single-family dwelling on the one-acre parcel. The application for permit SF-80-7554 (Appeal #44-81) was approved and the permit has been issued.

EXHIBIT B

The applicant has also submitted a request to construct a single-family dwelling on the 2.6 acre parcel, application for permit SF-81-7867 which was scheduled for hearing before the South Coast Regional Commission on June 1, 1981. A condition of approval on the requested application was for the applicant to construct the vertical access easement specifically as set forth in the recorded document #80-1161952.

Prior to the June 1, 1981 hearing, the applicant requested that the condition be changed allowing him to construct the vertical access easement in another location (a portion of which would be located on the one-acre parcel adjoining the 2.6 acre parcel). He was advised by staff to request a continuation of permit SF-81-7867 (#5-81-35) until such time as an amendment request could be placed on a calendar before the Commission for the relocation of the vertical access easement (#5-81-44/A/).

2. Proposed Amendment. The applicant states that the relocation of a portion of the vertical access over the one-acre parcel is now feasible since the applicant has a legal interest in the property. The applicant also states that because of the shape of the 2.6 acre parcel, the installation of a drain, and the relocation of the existing roadway, a better pedestrian access location can be provided which essentially provides a 10 foot vertical pedestrian access easement in the same location as initially required by the South Coast Regional Commission insofar as the easement runs from Pacific Coast Highway to the commencement of the one-acre parcel, and then"to run through the one-acre property (approximately 10 to 15 feet to the east of where it is currently located on the recorded offer to dedicate to the ocean end of the one-acre parcel, and then to run through the subject parcel to the beach in essentially the same location as previously dedicated". (See Exhibit 1.)

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants, subject to the condition below, an amendment to the subject permit on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program in conformity with the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Conditions.

The amendment is subject to the following conditions:

81- 1259943

EXHIBIT B

1. Prior to issuance of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to an agency approved by the Executive Director, an easement for public pedestrian access to the shoreline. Such easement shall be ten (10) feet wide located along the easterly portion of Assessor's Parcel Map #4460-32-14 in a southerly direction, thus following the most westerly portion of Assessor's Parcel Map #4460-32-13) to its most southerly end, and again reentering Assessor's Parcel Map #4460-32-14 following the most easterly portion in a southerly direction and extend from the Pacific Coast Highway to the mean high tide line of the Pacific Ocean. Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.

The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

2. Prior to issuance of permit, the applicant shall submit documentation which shows all legal interest in the subject parcels (APM #4460-32-13 and APM #4460-32-14), and shall submit a letter signed by all parties having legal interest in subject parcels which approves the recordation ~~and~~ construction ^{and maintenance} of the vertical access easement on said parcels.

81- 1259943

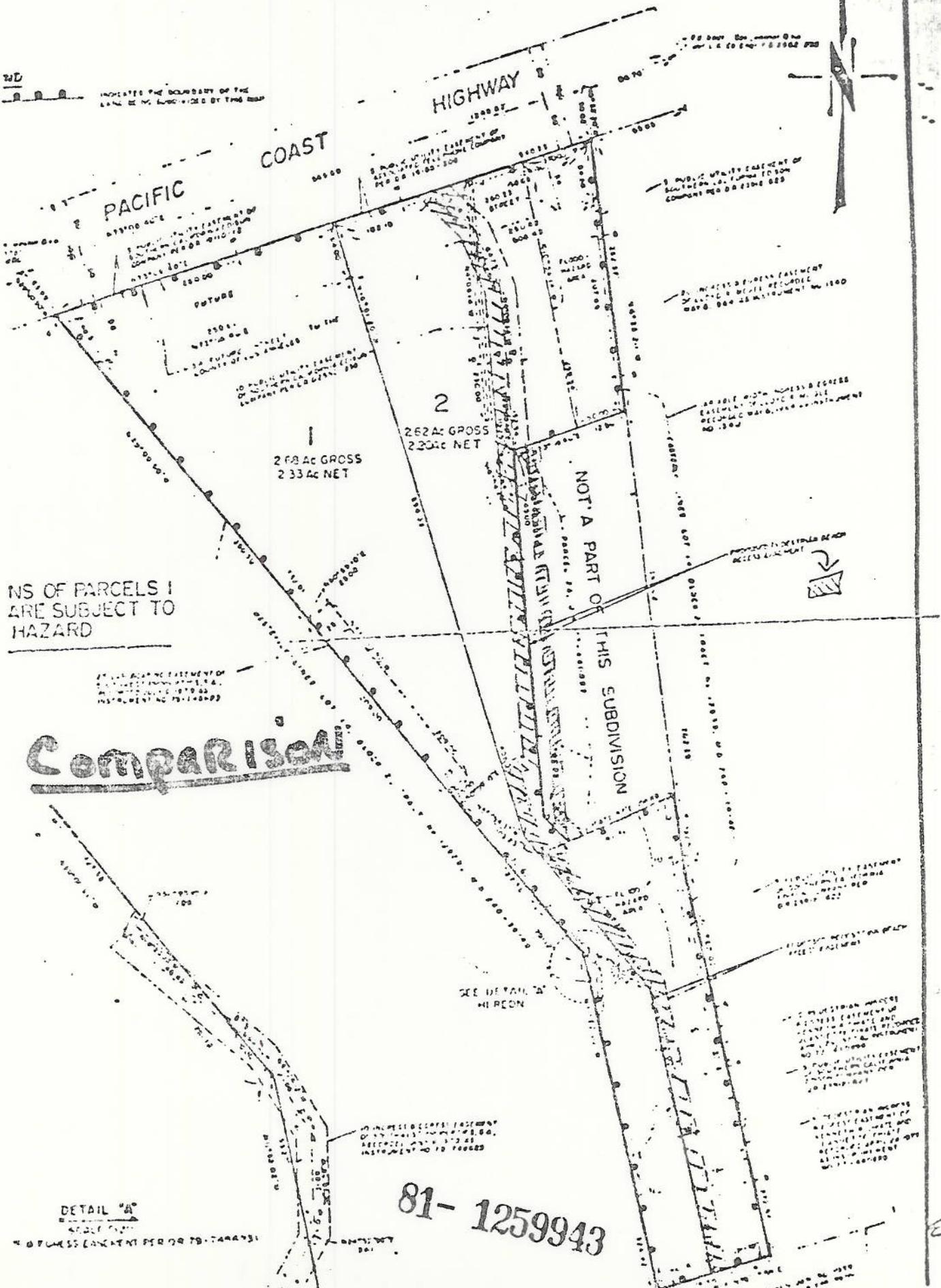
EXHIBIT
B

PARCEL MAP NO. 754

IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES
STATE OF CALIFORNIA

WD

INDICATES THE BOUNDARY OF THE
LAND BEING SUBDIVIDED BY THIS MAP



LOTS OF PARCELS 1
ARE SUBJECT TO
HAZARD

Comparison

DETAIL "A"

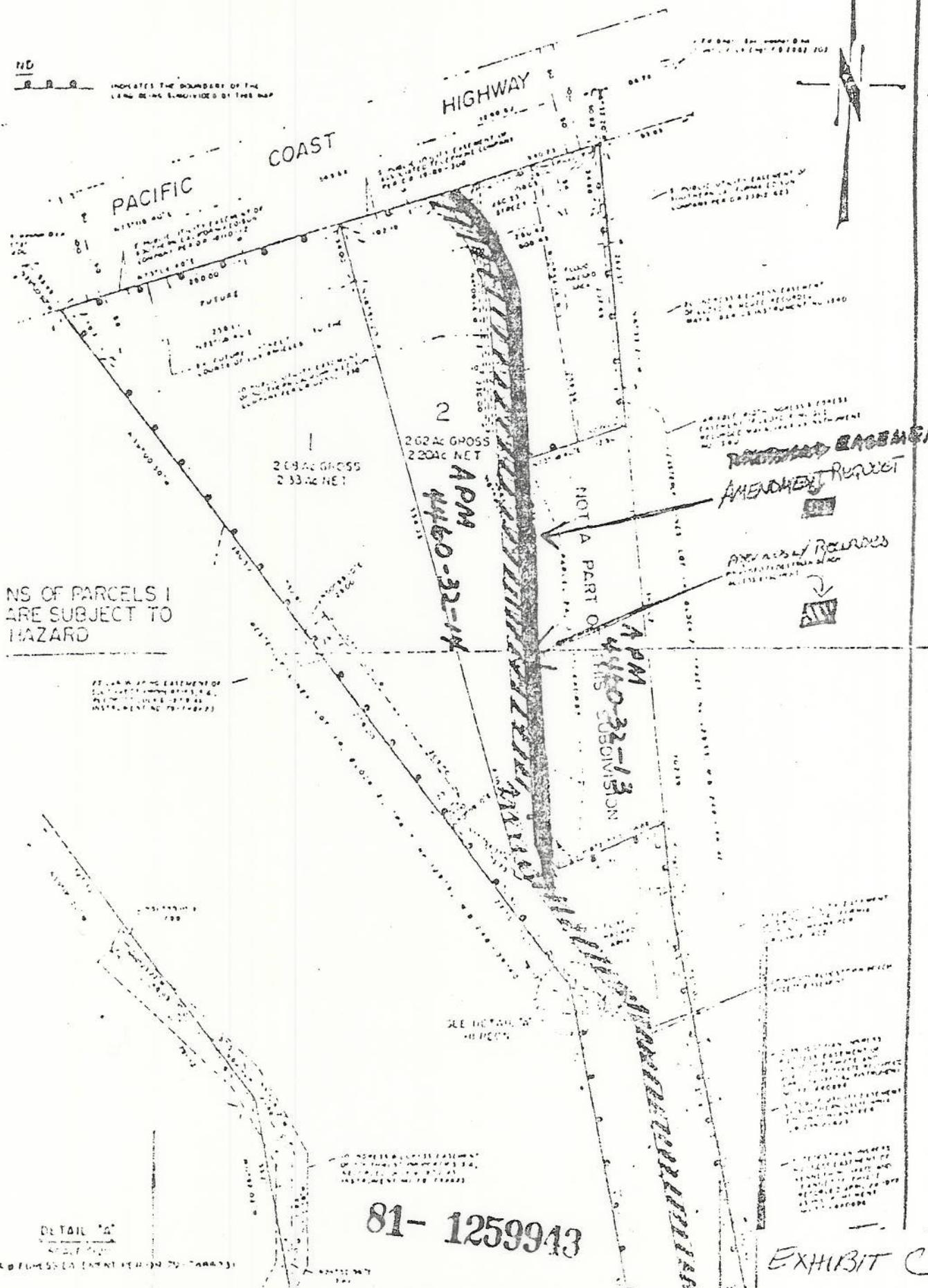
NO. OF EASEMENT PER OR 78-7444731

81-1259943

EXHIBIT
B

TRACT MAP NO. 107
IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF LOS ANGELES
STATE OF CALIFORNIA

ND
INDICATES THE BOUNDARY OF THE
LAND BEING SUBDIVIDED BY THIS MAP



NS OF PARCELS 1
ARE SUBJECT TO
HAZARD

AS SHOWN BY THE EASEMENT OF
SOUTH PACIFIC COMPANY, 1914,
AS AMENDED BY INSTRUMENT NO. 79-12923

~~PROPOSED~~ EASEMENT
AMENDMENT REQUEST

APPROXIMATE BOUNDARIES
PROPOSED BY THE APPLICANT

81-1259943

EXHIBIT C

D/DF-2707 / AMENDMENT 5-81-100/A

#3

pk g. 3
final

Return Original To and
Recording Requested By:
STATE COASTAL CONSERVANCY
1330 BROADWAY, SUITE 1100
OAKLAND, 94612
CA

83-108586

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
17 MIN. PAST. 4 P.M. JAN 6 1982

RECEIVED
MAR 1 8 1984
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST DISTRICT

IRREVOCABLE OFFER TO DEDICATE

FREE C
12

FREE C
12

I. WHEREAS, Dr. Roger S. Wolk, Kenneth R. Chiate, Jeanette Chiate, Marilyn S. Wolk are the record owners, hereinafter referred to as "owners," of the real property located at 27900 Pacific Coast Highway, Malibu, Los Angeles County, California, legally described as particularly set forth in attached Exhibit A hereby incorporated by reference and hereinafter referred to as the "subject property"; and

II. WHEREAS, the California Coastal Commission, hereinafter referred to as "the Commission," is acting on behalf of the People of the State of California; and

III. WHEREAS, the People of the State of California have a legal interest in the lands seaward of the mean high tide line; and

IV. WHEREAS, pursuant to the California Coastal Act of 1976, the owners applied to the Commission for a coastal development permit for construction of a two-story, 6,800 -sq. ft. single-family residence with three-car garage, two-car carport, swimming pool, and tennis court on the subject property; and

V. WHEREAS, a coastal development permit no. 5-81-35 was granted on July 22, 1981, by the Commission in accordance with the provisions of the Staff Recommendation and Findings shown in Exhibit B attached hereto and hereby incorporated by reference, subject to the following condition:

//
//

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
31 MIN. PAST. 9 A.M. JAN 26 1983

RECEIVED
FEB 3 1982
CALIFORNIA
COASTAL COMMISSION

This document is being recorded in the public records as submitted by notary public.

1 Prior to issuance of the permit, the applicant shall execute and record
 2 a document in a form and content approved by the Executive Director of the
 3 Commission irrevocably offering to dedicate an easement to be used for public
 4 parking to a public agency or private association acceptable to the Executive
 5 Director. The easement shall be 25 ft. wide and located adjacent to and
 6 parallel to the existing right-of-way within the area designated as "FUTURE
 7 STREET" on recorded parcel map "7543. The offer or the accepted easement
 8 shall be extinguished when construction of the street commences. The offer
 9 shall run for a period of 21 years from the date of recordation and shall
 10 be prior to all liens except tax liens and all encumbrances the Executive
 11 Director determines may affect the interest being conveyed.

12 VI. WHEREAS, the subject property is a parcel located between the first
 13 public road and the shoreline; and

14 VII. WHEREAS, under the policies of Sections 30210 through 30212 of
 15 the California Coastal Act of 1976, public access to the shoreline and along
 16 the coast is to be maximized, and in all new development projects located
 17 between the first public road and the shoreline shall be provided; and

18 VIII. WHEREAS, under the policy of Section 30223 of the California
 19 Coastal Act of 1976 upland areas necessary to support recreational uses
 20 shall be reserved for such uses where feasible.

21 IX. WHEREAS, the Commission found that but for the imposition of the
 22 above condition, the proposed development could not be found consistent with
 23 the public access policies of Section 30210 through 30212 and Section 30233
 24 of the California Coastal Act of 1976 and that therefore in the absence of such
 25 a condition, a permit could not have been granted;

26 //
 27 //

~~82-11159~~

83- 108580

1 NOW, THEREFORE, in consideration of the granting of permit no. 5-81-35
 2 to the owners by the Commission, the owners hereby offer to dedicate to the
 3 People of California an easement for the purposes of public parking located
 4 on the subject property adjacent to and parallel to the existing highway
 5 and within the same area previously offered for dedication for future
 6 highway use and as specifically set forth by attached Exhibit C hereby
 7 incorporated by reference. The parking space is offered subject to the owners'
 8 right to subsequently locate reasonable access and egress to the subject
 9 property.

10 With the offering of this easement and the easements for vertical and
 11 lateral access as offered in Documents 80-1161953 and 80-1161952 recorded
 12 on November 18, 1980, in the County of Los Angeles, reasonable beach access
 13 shall be deemed to have been provided so that no further conditions regarding
 14 parking, access, or improvements thereon shall be imposed in connection with
 15 further improvements to the subject property as set forth in Exhibit A.

16 This offer of dedication shall be irrevocable for a period of twenty-one
 17 (21) years, measured forward from the date of recordation, and shall be
 18 binding upon the owners, their heirs, assigns, or successors in interest
 19 to the subject property described above. The People of the State of California
 20 shall accept this offer through the County of Los Angeles, the local government
 21 in whose jurisdiction the subject property lies, or through a public agency or
 22 a private association acceptable to the Executive Director of the Commission
 23 or its successor in interest. The easement shall not be improved, opened
 24 for public use, or posted until such time as it is accepted by the public
 25 agency or private association. The offer or accepted easement shall be
 26 extinguished when construction of the "FUTURE STREET" commences.

27 //

1 Acceptance of the offer is subject to a covenant which runs with the land,
 2 providing that the offeree to accept the easement may not abandon it but
 3 must instead offer the easement to other public agencies or private associations
 4 acceptable to the Executive Director of the Commission for the duration of
 5 the term of the original offer to dedicate. The grant of easement once made
 6 shall run with the land and shall be binding on the owners, their heirs, and
 7 assigns.

8 Executed on this 11 day of December, 1981, in the
 9 City of Los Angeles, County of Los Angeles, Cal

10 Dated: 12/11/81
 11 Signed: Kenneth R. Chiate
 12 Kenneth R. Chiate

13 Type or Print Name of Above
 14 Signed: Raymond S. Walk
 15 by Kenneth R. Chiate, attorney in fact

16 Type or Print Name of Above
 17 Signed: Isaac Chiate
 18 Kenneth R. Chiate, attorney in fact

19 Type or Print Name of Above

20 STATE OF CALIFORNIA
 21 COUNTY OF

22 On _____, before the undersigned, a
 23 Notary Public in and for said State, personally appeared _____

24 _____,

25 whose names are subscribed to the within instrument, and acknowledge that they
 26 executed the same.

27 _____
 Notary Public in and for said County and State

TO 444 C
(Attorney in Fact)

TI 5

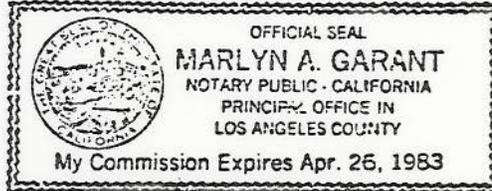
STATE OF CALIFORNIA }
COUNTY OF Los Angeles } SS.

~~82- 11159~~
83- 108580

On December 11, 1981 before me, the undersigned, a Notary Public in and for said State,
personally appeared Kenneth R. Chiata
known to me to be the person whose name is subscribed to the within instrument, as the
Attorney in fact of Jacquette Chiata
and acknowledged to me that he subscribed the name is
of Kenneth R. Chiata thereto as principal is
and his own name as Attorney in fact.

WITNESS my hand and official seal.

Signature Marlyn A. Garant
MARLYN A. GARANT
Name (Typed or Printed)



TO 444 C
(Attorney in Fact)

TI 5

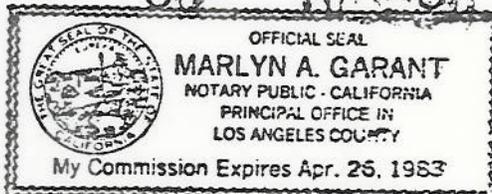
STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } SS.

~~82- 11159~~
83- 108580

On December 11, 1981 before me, the undersigned, a Notary Public in and for said State,
personally appeared Kenneth R. Chiata
known to me to be the person whose name is subscribed to the within instrument, as the
Attorney in fact of Roger S. Walk and Marlyn S. Walk
and acknowledged to me that he subscribed the name is of Roger S. Walk and
Marlyn S. Walk thereto as principals is
and his own name as Attorney in fact.

WITNESS my hand and official seal.

Signature Marlyn A. Garant
MARLYN A. GARANT
Name (Typed or Printed)



~~82- 11159~~
83- 108580

TO 1944 CA (8-74)

(Individual)

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } SS.

~~82- 11159~~
83- 108580

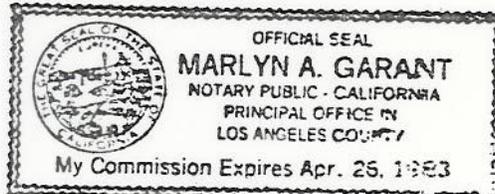


On December 11, 1981 before me, the undersigned, a Notary Public in and for said
State, personally appeared Kenneth R. Chiata

_____, known to me
to be the person whose name is subscribed
to the within instrument and acknowledged that he
executed the same.

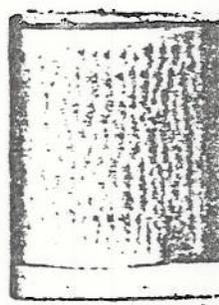
WITNESS my hand and official seal.

Signature Marlyn A. Garant



83- 108580

(This area for official notarial seal)



1 This is to certify that the offer of dedication set forth above dated
2 Dec 11, 19 81, and signed by Kenneth R. Chiate for
3 himself, Dr. Rogers. Wolk,
4 Marilyn S. Wolk &, owner(s), is hereby acknowledged by the
5 Jeanette Chiate
6 undersigned officer on behalf of the California Coastal Commission pursuant
7 to authority conferred by the California Coastal Commission when it granted
8 Coastal Development Permit No. 5-81-35 on July 22, 1981 and the
9 California Coastal Commission consents to recordation thereof by its duly
10 authorized officer.

11 Dated: December 18, 1981

12 Cynthia K Long
13 CYNTHIA K LONG, LEGAL COUNSEL
14 California Coastal Commission

15 STATE OF CALIFORNIA
16 COUNTY OF SAN FRANCISCO

17 On December 18, 1981, before the undersigned, a Notary Public in
18 and for said State, personally appeared Cynthia K. Long,
19 Legal Counsel known to me to be the authorized representative
20 of the California Coastal Commission and known to me to be the person who
21 executed the within instrument on behalf of said Commission, and acknowledged
22 to me that such Commission executed the same.

23 Witness my hand and official seal.

24 Fay Thomas
25 Notary Public in and for said County and
26 State

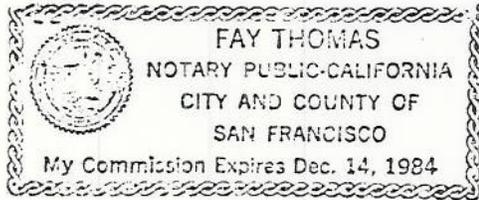


EXHIBIT A

County of Los Angeles, State of California,

Parcel 2 of Parcel Map No. 7543 as per map thereof filed
in Book 135 Pages 58 and 59 of Parcel Maps, in the Office
of the County Recorder of Said County.

~~82-11159~~

83- 108580

EXHIBIT A

SOUTH COAST DISTRICT
666 E. Ocean Blvd., Suite 3107
P.O. Box 1450
Long Beach, CA 90801
(213)590-5071

4th Day 6-23-81
Staff Report 8-6-81
Hearing Date 8/19/81
Staff Analyst Dixie Nowell

STAFF REPORT: CONSENT CALENDAR

PROJECT DESCRIPTION

APPLICANT: Kenneth Chiate and Roger Wolk AGENT: Cahill-Leese Architects

PERMIT NO.: 5-81-35

PROJECT LOCATION: 27900 Pacific Coast Hwy., Malibu, CA

PROJECT DESCRIPTION: Construction of a 2-story, 5-bedroom 6800 sq. ft. SFD with attached 3-car garage, 2-car carport, swimming pool and tennis court.

LOT AREA 2.7 acres ZONING R-1 20,000
BLDG. COVERAGE 6800 sq. ft. PLAN DESIGNATION G.P.
PAVEMENT COVERAGE 5500 sq. ft. G.P., LUP draft, LUP adopt, LUP cert., LCP
LANDSCAPE COVERAGE n/a PROJECT DENSITY n/a
HEIGHT ABV. FIN. GRADE 30'

LOCAL APPROVALS RECEIVED: Approval in Concept/ L.A. County

SUBSTANTIVE FILE DOCUMENTS

I. STAFF RECOMMENDATION

83- 108580

Approval with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

~~82-11150~~

1. Notice of Receipt and Acknowledgement. The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Construction 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. Compliance. All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

II. SPECIAL CONDITIONS: Prior to issuance of the permit, the applicant shall execute and record a document in a form and content approved by the Executive Director of the Commission irrevocably offering to dedicate an easement to be used for public parking to a public agency or private association acceptable to the Executive Director. The easement shall be 25 feet wide and located adjacent to and parallel to the existing right-of-way within the area designated as "FUTURE STREET" on recorded parcel map "7543. The offer or the accepted easement shall be extinguished when construction of the street commences. The offer shall run for a period of 21 years from the date of recordation and shall be prior to all liens except tax liens and all encumbrances the Executive Director determines may effect the interest being conveyed.

III. FINDINGS

A. Project Description and History

The application is a request to construct a 2-story, 6800 sq. ft. SFD with attached garage swimming pool and tennis court on a 2.7 acre parcel. The subdivision of a 5.3 acre parcel into two

83- 108580

parcels of 2.6 acres and 2.7 (subject parcel) acres was approved under permit application P-2707 and PE-80-2707, with vertical and lateral access conditions which have been recorded.

B. Issues

1. Access

Section 30223 of the Coastal Act states:

Upland areas necessary to support recreational uses shall be reserved for such uses, where feasible.

The area in which the applicant's parcel is located immediately abuts Pacific Coast Hwy. Due to the rural nature of this area, the traffic (both automobile and trucks) moves at a maximum rate of speed. Any public use of the recorded vertical access easement could be precluded by lack of off street parking facilities on the ocean side of Pacific Coast Hwy. Parking on the dirt shoulders on either the north or south side of Pacific Coast Hwy. could result in accidents to vehicles and possible pedestrian fatalities.

At a County requirement of the original subdivision, the applicant was required to dedicate a portion of his property for a "Future Street" to the County of Los Angeles.

The Commission finds that the project, as conditioned, can be found consistent with Section 30223 of the Coastal Act of 1976.

rm

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RECEIVED

APR 24 1963

STATE OF ASHUTL CONSERVATION
DANVILLE, CALIF.

#4

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071

Filed: 12/01/89
49th Day: 1/19/90
180th Day: 5/30/90
Staff: A. Padilla
Staff Report: 12/27/89
Hearing Date: 1/9-12/90
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-89-1034

APPLICANT: Ken Chiate

AGENT: Land & Water Company

PROJECT LOCATION: Pacific coast Highway, Malibu

PROJECT DESCRIPTION: Construction of a 4,700 sq. ft., 31 ft. high single-family residence with attached two-car garage, driveway, swimming pool, septic system, and approximately 2,400 cubic yards of grading (900 cu. yds. of cut, 1,500 cu. yds. fill) on a 1.26 acre lot.

Lot area:	2.6 acres
Building coverage:	16,514 sq. ft.
Pavement coverage:	14,592 sq. ft.
Landscape coverage:	
Parking spaces:	6
Zoning:	Residential
Plan designation:	Residential I
Ht abv ext grade:	35 feet.

LOCAL APPROVALS RECEIVED: Approval in Concept

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica LUP; 78-2707 (Chiate), 5-81-35A (Chiate)

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with special conditions relating to future improvements, bluff setback, and geology.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

I. Standard Conditions. See Attachment X

III. Special Conditions.

1. Future Improvements

Prior to issuance of the permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which provides that Coastal Development Permit 5-89-1034 is for the approved development only, and that any future additions or improvements to the property including clearing of vegetation and grading will require a new Coastal Development Permit from the Coastal Commission or its successor agency.

2. Revised Plans

Prior to issuance of the permit, the applicant shall submit revised plans showing that the proposed development is located a minimum of 25 feet from the edge of the bluff. In this case the edge of the bluff is at the 105 foot contour line.

3. Plans Conforming to Geologic Recommendation

All recommendations contained in the Engineering Geologic Report prepared by Lockwood-Singh & Associates (3/4/82) regarding the proposed development shall be incorporated into all final design and construction including grading, foundations, septic system and drainage. All plans must be reviewed and approved by the consultants. Prior to transmittal of the permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

IV. Findings and Declarations.

A. Project Description

The applicant proposes to construct a 10,360 sq. ft., 35 ft. high, as measured from existing grade, single family residence with driveway, septic system, and 4,954 cu. yds. of grading (3,848 cu. yds. of cut, 1,106 cu. yds. of fill).

The subject property is located along Pacific Coast Highway in the Paradise Cove area of Malibu and includes a bluff top area, an approximate 100 foot high bluff and beach area. The proposed residence will be located atop the bluff area. The proposed residence as located conforms to the structural stringline.

Site History

The Commission approved a two lot subdivision in 1978. Lot 1 is the subject lot consisting of 2.68 acres. Lot 2 consists of 2.62 acres. The subdivision was approved with conditions requiring recordation of an offer to dedicate public access easements down to and along the beach. The access easement was located along the eastern property line of the lot 2. The access easement was recorded and was accepted by the Coastal Conservancy. The permit for the subdivision was subsequently amended (5-81-44A) resulting in a minor realignment to the public access easement. In 1981, coastal development permit 5-81-35 for construction of a residence on lot 2 of the subdivision was approved by the Commission. The residence on lot 2 is currently under construction.

B. Geologic Hazard and Erosion.

Section 30253 of the Coastal Act states, in part, that:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, 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 following Malibu LUP policies are also applicable:

P164 On blufftops, new development shall be set back a minimum of 25 feet from the top of the bluff or at a stringline drawn between the nearest corners of adjacent structures, whichever distance is greater, but in no case less than would allow a 75-year useful life for the structure.

P165 No further permanent structures shall be permitted on a bluff face, except for engineered staircases or accessways to provide public beach access where no feasible alternative means of public access exists (emphasis added).

Development on steep bluffs has been found by the Commission in the past to have the potential to significantly exacerbate the natural process of erosion in conjunction with erosion caused by wave action on coastal bluffs. Erosion rates are greater when structures are built on the bluff face. Rain water running off such structures over time tend to undercut and erode the area of the bluff immediately behind the structure. Additionally, the loss of

vegetation through the altering of the natural landform would increase the erosion potential. The increased erosion resulting from the placement of structures on the bluff face could necessitate the placement of protective measures, like gunite which would result in substantial natural landform alteration.

Policy 164 of the LUP requires a bluff top set back of 25 feet or to a stringline which ever is greater. Based upon the information submitted by the applicant, staff has determined that a portion of the proposed residence will encroach within 25 feet of the bluff and onto the bluff face. According to the topography map and grading plans submitted the edge of the bluff is at the 105 foot contour line. A deck, swimming pool and stairs will encroach within 25 feet of the bluff.

Since the project conforms to the structural stringline the required 25 foot bluff set back would be the greater distance. Therefore, the the applicant shall submit revised plans showing that all development is setback a minimum of 25 feet. Furthermore, to ensure that no future development will encroach within the bluff setback or onto the bluff face the applicant shall record a future improvement deed restriction which requires that any additions or improvements on the site in the future must obtain a coastal permit. The Commission, therefore, finds that only as conditioned will the proposed project be consistent with Section 30253 of the Coastal Act and with Policy 164 of the LUP.

C. Visual Resources

Section 30251 of the Coastal Act states that permitted development shall be sited and designed to minimize the alteration of natural landforms and protect the scenic and visual quality of coastal areas:

Section 30251

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 surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.

In addition, the Malibu LUP contains the following policies regarding protection of visual resources which are applicable to the proposed development:

P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on sloped terrain should be set below road grade.

P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.

be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LUP.

be visually compatible with and subordinate to the character of its setting.

be sited so as not to significantly intrude into the skyline as seen from public viewing places.

The applicant proposes to construct a 35 ft. high, as measured from existing grade, single-family residence with 4,954 cu. yds. of total grading (3,848 cu. yds. of cut, 1,106 cu. yds. of fill). The proposed grading is for the construction of the residence, tennis court, driveway and parking court. Because the majority of the grading will be covered by the proposed structures and the building site is lower than Pacific Coast Highway the visual impact from the exposed grading will not be significant.

The proposed project is consistent with the surrounding development and as proposed will not adversely impact any public views to along the ocean. The Commission, therefore, finds that the proposed project is consistent with Section 30251 of the Coastal Act and all applicable policies of the LUP.

D. Geology

Section 30250(a) of the Coastal Act states in Part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

In addition Section 30253 states in part that new development shall:

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

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, 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 Engineering Report prepared by Lockwood-Singh & Associates, dated March 4, 1982 and subsequent update (9/5/89), states that the site is free from geologic hazards such as landslides, slippage active faults, and undue differential settlement. The report concludes that the construction of a single-family residence is considered feasible from an engineering geologic standpoint provided the recommendations in the report are made a part of the plans and are implemented during construction. The recommendations include grading, foundations, sewerage disposal, and drainage. The Commission, therefore, finds that only as conditioned to incorporate all recommendations by the consulting Geologist and Soils Engineer will the proposed project be consistent with Section 30253 of the Coastal Act.

E. Water Quality:

Section 30231 of the Coastal Act states that:

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.

In addition, the Malibu/Santa Monica Mountains Land Use Plan contains the following policies concerning sewage disposal:

- P217 Wastewater management operations within the Malibu Coastal Zone shall not degrade streams or adjacent coastal waters or cause or aggravate public health problems.
- P218 The construction of individual septic tank systems shall be permitted only in full compliance with building and plumbing codes....
- P226 The County shall not issue a coastal permit for a development unless it can be determined that sewage disposal adequate to function without creating hazards to public health or coastal resources will be available for the life of the project beginning when occupancy commences.

The proposed development includes the installation of an on-site septic system to provide sewage disposal. A favorable percolation test was performed on the subject property which indicates that the percolation rate is sufficient to serve the proposed single-family dwelling on the site. The consulting geologist states that the site is suitable for the septic system and there should be no adverse influence on the site and surrounding areas. The Commission, therefore, finds that the project as proposed is consistent with Section 30231 of the Coastal Act and all relevant policies of the LUP.

F. Local Coastal Program:

Section 30604(a) of the Coastal Act states that:

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).

On December 11, 1986, the Commission certified the Land Use Plan portion of the Malibu/Santa Monica Mountains LCP. The Certified LUP contains policies to guide the types, locations and intensity of future development in the Malibu/Santa Monica Mountains area. Among these policies are those specified in the preceding sections regarding erosion, visual resources, geology, and septic system standards. As conditioned, the proposed development will not create adverse impacts and is consistent with the policies contained in the LUP. Therefore, the Executive Director determines that approval of the proposed development will not prejudice the County's ability to prepare a Local Coastal Program implementation program for Malibu and the Santa Monica Mountains which is consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

30210

Attachment X

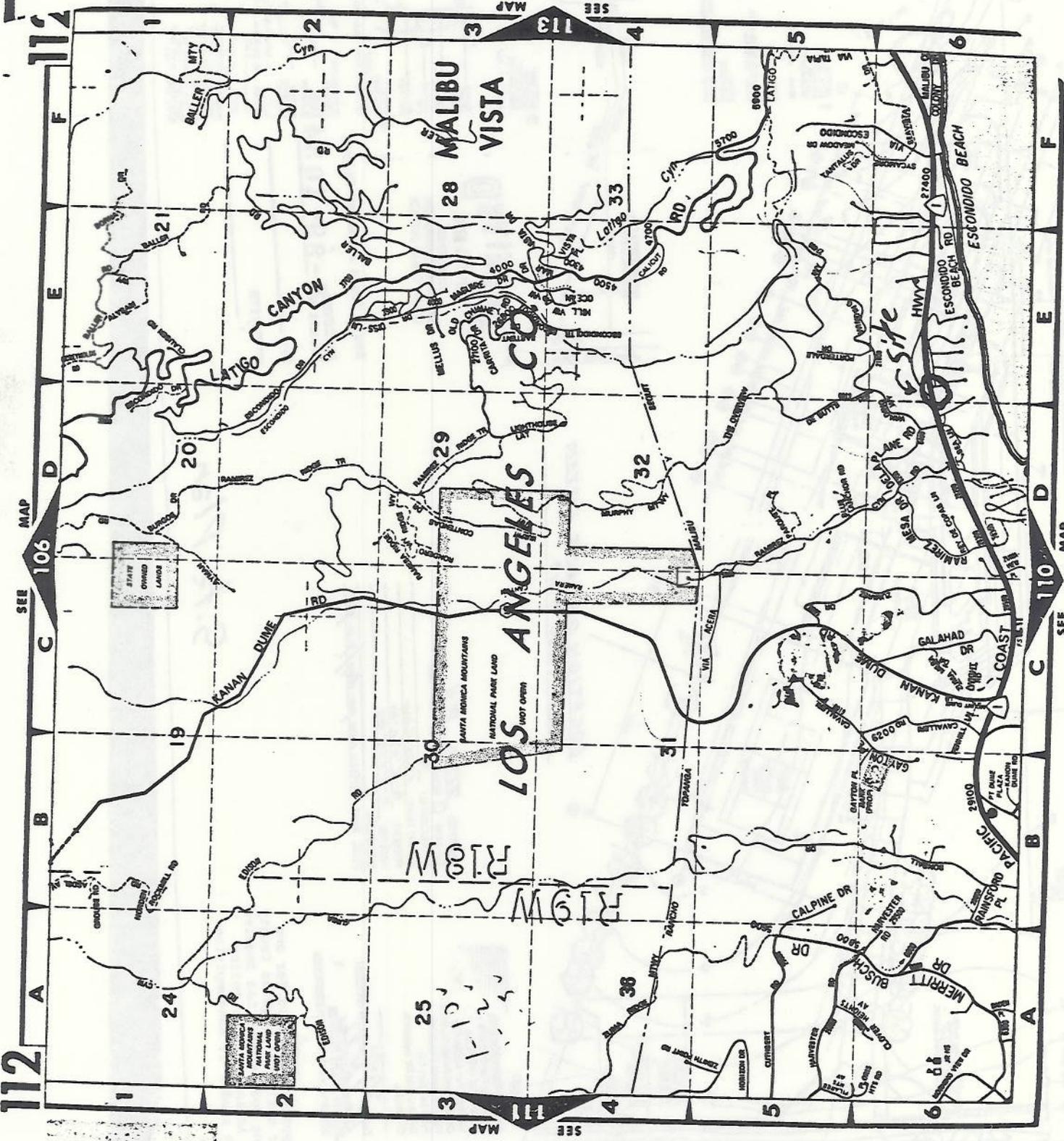
To: Permit Applicants
From: California Coastal Commission
Subject: Standard Conditions

The following standard conditions are imposed on all permits issued by the California Coastal Commission.

I. STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

Normal Base Maps



5-89-1034

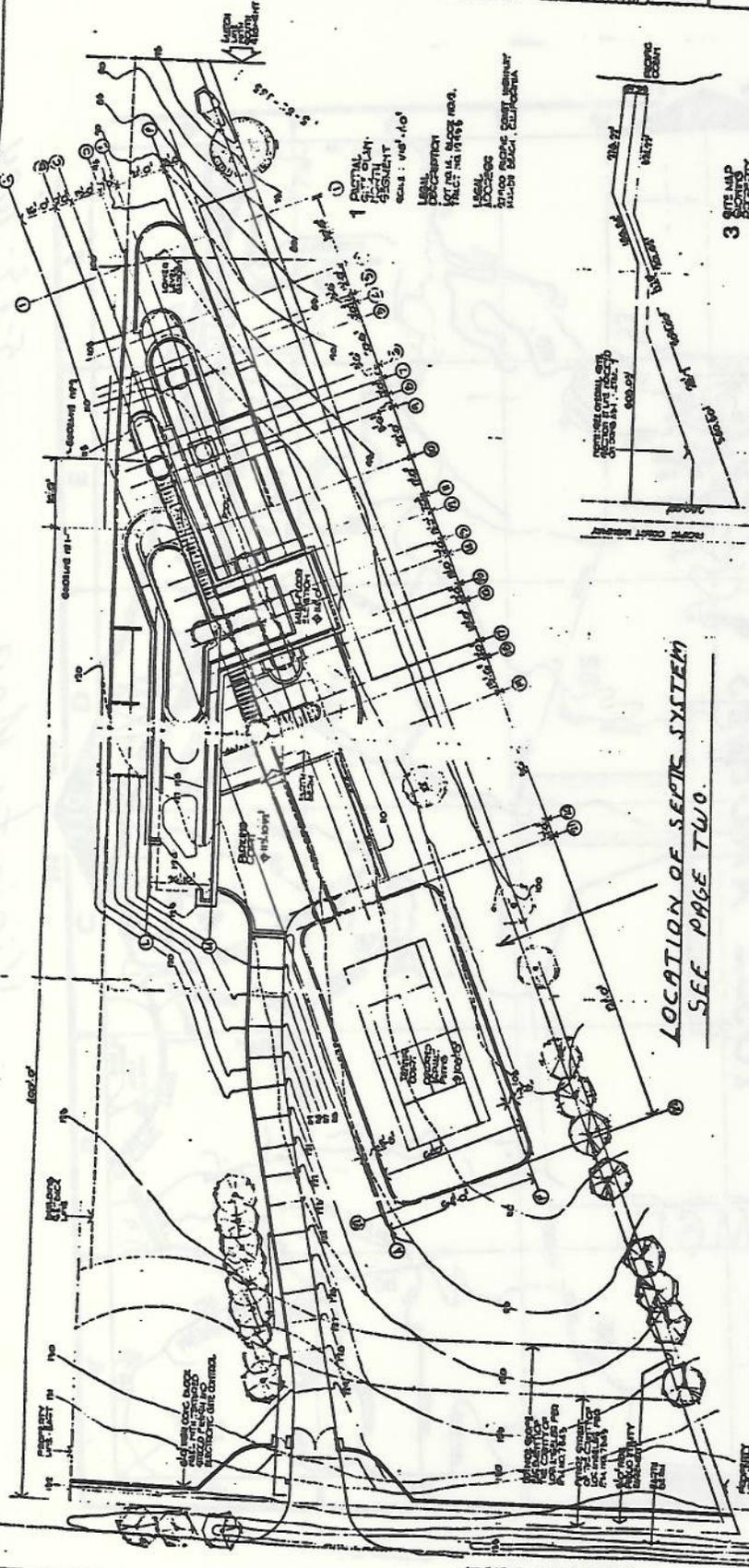
Vicinity Map

112

SEE MAP 111

SEE MAP 110

SEE MAP 113



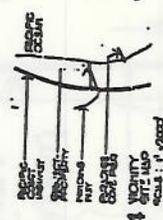
1. ELECTRICAL PLAN
 SHEET NO. 1000
 SCALE: 1/8" = 1'-0"

2. MECHANICAL PLAN
 SHEET NO. 1000
 SCALE: 1/8" = 1'-0"

3. SEPTIC SYSTEM PLAN
 SHEET NO. 1000
 SCALE: 1/8" = 1'-0"



3. SITE MAP
 SHEET NO. 1000
 SCALE: 1/8" = 1'-0"



4. VENTILATION PLAN
 SHEET NO. 1000
 SCALE: 1/8" = 1'-0"

RECEIVED
 NOV 01 1989
 CALIFORNIA
 COASTAL COMMISSION
 SOUTH COAST DISTRICT

South Coast District Office
 APPROVED
 Permit No. **5-89-1034**

By: _____
 PROJECTIVE

LOCATION OF SEPTIC SYSTEM
 SEE PAGE TWO.

ADDRESS: 2230 R.A.
 NEW REMODEL OVERFLOW
 BEDROOMS: 2
 SEPTIC TANK: 1200 GALS
 PRESENT: 8'-5" x 36" x 27"
 FUTURE: 8'-5" x 36" x 27"
 OVERFLOW: 4250 GALS PER DAY PER PIT
 PERC. RATE: 4250 GALS PER DAY PER PIT

Seepage Diagram System
 Approved For DESIGNER'S
 PURPOSES ONLY. As
 Required For California
 Coastal Commission Review.
 Final Approval Required
 Prior To Start Of
 Construction Or Issuance
 Of Permits.

DATE: 7/1/89
 HEALTH OFFICER
 COUNTY OF LOS ANGELES
 DEPARTMENT OF HEALTH SERVICES

This approval is valid for one year or until Los Angeles County Plumbing Code and/or Los Angeles County Administrative Policy changes render it noncomplying.

Site Plan

South Coast District Office
APPROVED 5-89-1044

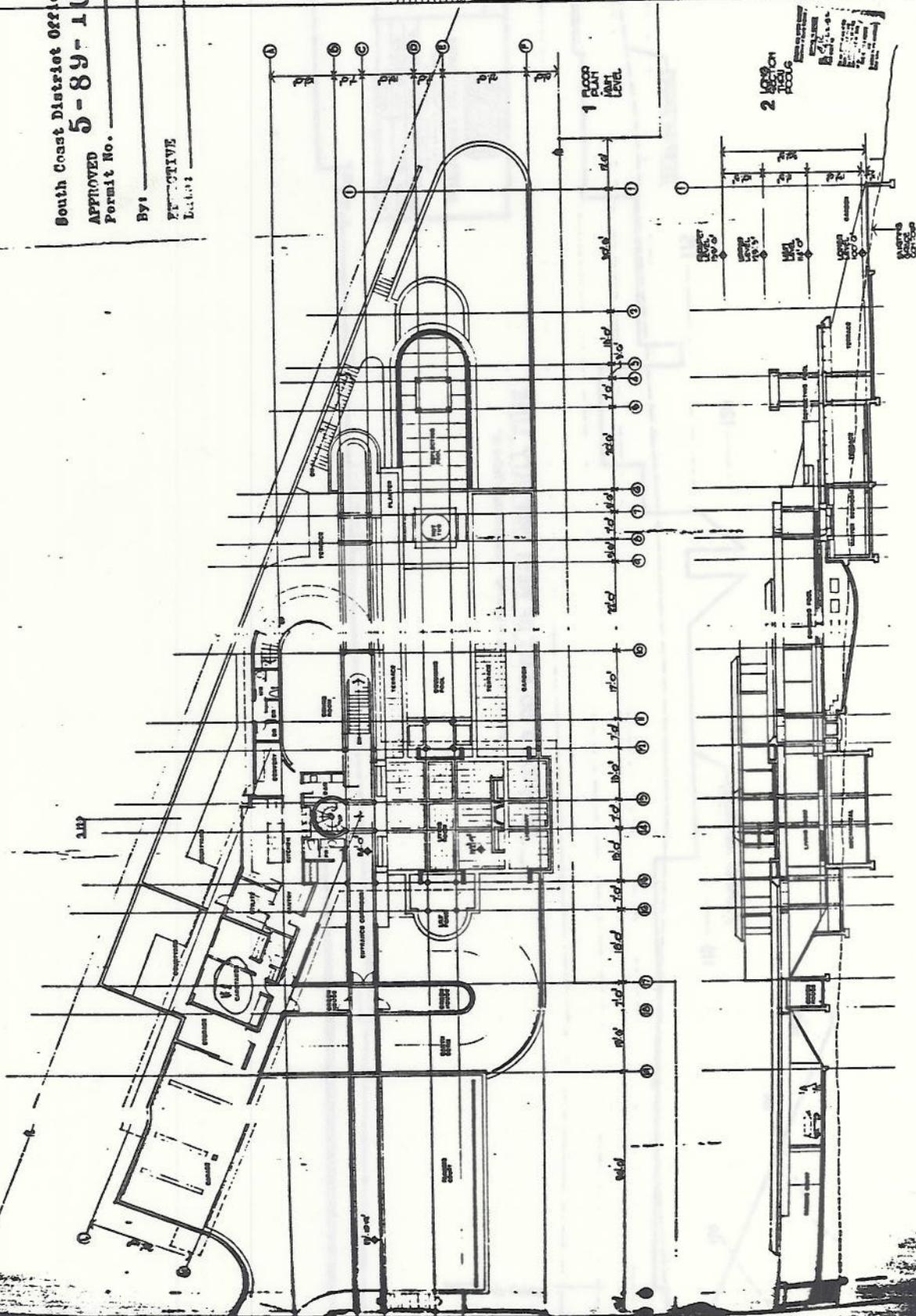
Permit No. _____
By: _____
PROJECTIVE
L. 1001

ARTHUR
ERICKSON
ARCHITECTS

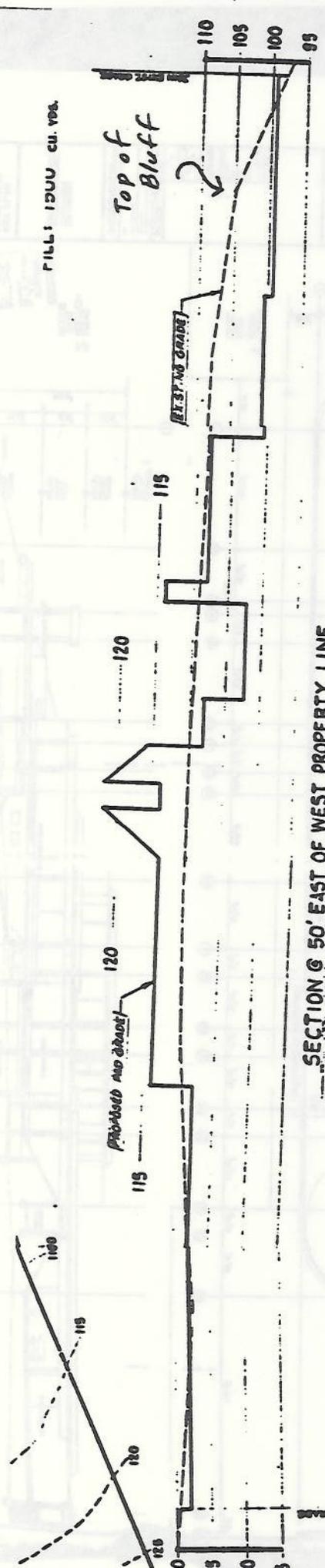
SUNON
RESIDENCE

KEY PLAN
MAIN LEVEL

A2-1



2-66-1034



FILL: 1500 cu. yds.

Top of Bluff

Proposed New Grading

SECTION @ 50' EAST OF WEST PROPERTY LINE
 SCALE: VERTICAL ~ 1/8"=1'-0" HORIZONTAL ~ 1/4"=1'-0"

JCA
JONES, CAHILL & ASSOCIATES
 1000 Park Avenue, New York, NY 10028
 (212) 850-1000
 ENGINEER: M. W. JONES, P.E. DATE: 12/17/85
 DRAWN: C. C. DATE: 12/17/85
 CHECKED: [Signature] DATE: 12/17/85

BUNKIN RESIDENCE
 CONCEPTUAL GRADING
 MALIBU CALIF

Exhib. 7
 5-89-1034

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071

Page 1 of 3
Date: February 8, 1990
Permit Application No. 5-89-1034

NOTICE OF INTENT TO ISSUE PERMIT

On January 11, 1989, the California Coastal Commission granted to Ken Chiate Permit 5-89-1034, subject to the attached conditions, for development consisting of

Construction of a 4,700 sq. ft., 31 ft. high single-family residence with attached two-car garage, driveway, swimming pool, septic system, and approximately 2,400 cubic yards of grading (900 cu. yds. of cut, 1,500 cu. yds. fill) on a 1.26 acre lot.

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at Pacific Coast Highway; Malibu, CA.

The actual development permit is being held in the Commission office until fulfillment of the Special Conditions 1 - 3, imposed by the Commission. Once these conditions have been fulfilled, the permit will be issued. For your information, all the imposed conditions are attached.

Issued on behalf of the California Coastal Commission on February 8, 1990.

PETER DOUGLAS
Executive Director

By: 
Title: Staff Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this notice of the California Coastal Commission determination on Permit No. 5-89-1034, and fully understands its contents, including all conditions imposed.

Date

Permittee

Please sign and return one copy of this form to the Commission office at the above address.

NOTICE OF INTENT TO ISSUE PERMIT

Page 2 of 3
Permit Application No. 5-89-1034

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. 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.
7. 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.

SPECIAL CONDITIONS:

1. Future Improvements

Prior to issuance of the permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which provides that Coastal Development Permit 5-89-1034 is for the approved development only, and that any future additions or improvements to the property including clearing of vegetation and grading will require a new Coastal Development Permit from the Coastal Commission or its successor agency.

2. Plans Conforming to Geologic Recommendation

All recommendations contained in the Engineering Geologic Report prepared by Lockwood-Singh & Associates (3/4/82) regarding the proposed development shall be incorporated into all final design and construction including grading, foundations, septic system and drainage. All plans must be reviewed and approved by the consultants. Prior to transmittal of the permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

3. Applicant's Assumption of Risk.

Prior to authorization to proceed with development, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazards from landslides, waves during storms, and from erosion and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

*NOTE: The documents needed to comply with Conditions 1 - 3 will be sent to you from our San Francisco Office AFTER the Commission meeting. When you receive the documents, if you have any questions, please contact the Legal Department at (415) 543-8555.

0282M:AP/gf

#5

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071



1st amendment

NOTICE OF PROPOSED PERMIT AMENDMENT

TO: All Interested Parties
FROM: Peter Douglas, Executive Director
DATE: June 8, 1990
SUBJECT: Permit No. 5-89-1034 granted to Ken Chiate

for: Construction of a 10,360 sq. ft., 31 ft. high single-family residence with attached two-car garage, driveway, swimming pool, septic system, and approximately 4,954 cubic yards of grading on a 1.26 acre lot.

at: 27930 Pacific Coast Highway, Malibu

The Executive Director of the California Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following change(s):

Reduce the square footage of the approved 10,360 square foot single-family residence to 9,300 square feet and reduce the grading from the approved 4,954 cubic yards to 2,107 cubic yards (1,636 cu. yds. of cut and 471 cu. yds. of fill).

FINDINGS

Pursuant to 14 Cal. Admin. Code Section 13166(a)(2) this amendment is considered to be IMMATERIAL and the permit will be modified accordingly if no written objections are received within ten working days of the date of this notice. This amendment has been considered "immaterial" for the following reason(s):

The proposed amendment will not encroachment further seaward than the approved project and will not change the intent of the Commission's approval of the original development. The proposed project is consistent with past Commission permit decisions for the area and will not adversely impact coastal resources or access. The amendment is consistent with the Coastal Act and certified LCP.

If you have any questions about the proposal or wish to register an objection, please contact Al J. Padilla at the Commission Area office.

C2: 4/88

50620



1st Amendment

1000 CALIFORNIA STREET, SUITE 200
LONG BEACH, CA 90802
(714) 486-1000

NOTICE OF PROPOSED PERMIT AMENDMENT

TO: All Interested Parties

FROM: Peter Douglas, Executive Director

DATE: June 8, 1988

SUBJECT: Permit No. 5-88-101A granted to Ken Chata

For: Construction of a 10,000 sq. ft., 31 ft. high single-family residence with attached two-car garage, driveway, swimming pool, septic system, and approximately 4,950 cubic yards of grading on a 1.55-acre lot.

at: 5350 Pacific Coast Highway, Malibu

The Executive Director of the California Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following change(s):

Reduce the square footage of the approved 10,000 square foot single-family residence to 8,000 square feet and reduce the grading from the approved 4,950 cubic yards to 2,701 cubic yards (1,856 cu. yds. of cut and 645 cu. yds. of fill).

FINDINGS

Pursuant to 14 Cal. Admin. Code Section 13066(a)(2) this amendment is considered to be IMMATERIAL and the permit will be modified accordingly if no written objections are received within ten working days of the date of this notice. This amendment has been considered "immaterial" for the following reason(s):

The proposed amendment will not encroachment further seaward than the approved project and will not change the intent of the Commission's approval of the original development. The proposed project is consistent with past Commission permit decisions for the area and will not adversely impact coastal resources or access. The amendment is consistent with the Coastal Act and certified LCP.

If you have any questions about the proposal or wish to register an objection, please contact AJ J. Peltier at the Commission Area Office.

#6

W9a

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., 2ND FLOOR
VENTURA, CA 93001
(805) 641-0142

Filed: 3-10-94
49th Day: 4-28-94
180th Day: 9-5-94
Staff: SPF-VJK
Staff Report: 3-16-94
Hearing Date: April 12-15, 1994
Commission Action:



STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-89-1034A2

APPLICANT: Ken Chiate

PROJECT LOCATION: 27930 Pacific Coast Highway, City of Malibu; Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 9,300 square foot single family residence with attached two-car garage, driveway, swimming pool, private septic system, and 2,107 cubic yards of grading (1,636 cu. yds. cut, 471 cu. yds. fill).

DESCRIPTION OF AMENDMENT: Placement of a 400 square foot teahouse with no walls, electricity, water, or septic system for three years or until the completion of the single family residence, whichever comes first, on a sand bench at the base of the bluff. No grading is required.

LOCAL APPROVALS RECEIVED: Approval from the City of Malibu

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan and Coastal Development Permits P-3-15-76-7428 (Ventress), P-2707 (Chiate), 5-84-63 (Vanoff), 5-87-321 (Black Tor), 5-88-175 (Sunset partnership), 5-89-1034 (Chiate), 5-89-1034A (Chiate),

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

APW

SUMMARY OF STAFF RECOMMENDATION:

This is an after-the-fact permit amendment for the placement of a teahouse on a back dune at the base of a bluff at the west end of Escondido Beach. If denied, resolution and/or restoration of the site would be resolved through enforcement action. Staff recommends that the Commission determine that the proposed development with the proposed amendment is not consistent with the requirements of the Coastal Act.

I. STAFF RECOMMENDATION

Denial

The Commission hereby denies an amendment for the proposed development on the grounds that it would not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and would prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of the Coastal Act.

II. Findings and Declarations

The Commission hereby finds and declares as follows:

A. Project Description and Background

This is an after-the-fact permit amendment request for the placement of a 400 square foot teahouse with no walls, electricity, water, or septic system, at the base of the bluff on the back sand dune area of the beach. The teahouse is nearly finished in its construction, needing only the roof to be completed and the side railings to be installed.

The project site is a 2.6 acre lot which fronts Pacific Coast Highway east of Paradise cove and extends down a bluff to Escondido Beach. The southerly facing bluff slope descends to the coast with elevation difference across the property of 135 feet. The Commission originally approved in coastal development permit 5-89-1034 (Chiate) the construction of a 10,360 sq. ft., 31 ft. high single family residence with attached two-car garage, driveway, swimming pool, septic system, and approximately 4,954 cubic yards of grading on a 1.26 acre lot. The applicant later amended the permit to reduce the square footage of the house and the grading such that the new project description was for a 9,300 square foot single family residence with a private septic system, swimming pool, and 2,107 cubic yards of grading (1,636 cu. yds cut, 471 cu. yds fill) on the bluff. Both the permit and the amendment have been issued, and work has begun on site. All development in the permit and amendment are proposed on the top of the bluff; all development is setback from the edge of the bluff by at least 25 feet. The permit for the residence was approved with three special conditions which required the recordation of a future improvements deed restriction, the recordation of an assumption of risk deed restriction and plans conforming to the geologic recommendations. No conditions were imposed on the amendment.

Previously, this site was subdivided under coastal development permit P-2707

(Chiate). The permit for the subdivision required the recordation of an offer to dedicate public vertical access to the beach and a lateral access along the beach from the mean high tide line landward 25 feet. An amendment to this permit, 5-81-44A (Chiate) was approved to modify the vertical easement to the eastern portion of the eastern lot.

B. Shoreline Development/Seaward Encroachment/Public Access.

Seaward extension of development on beachfronting lots raises issues with respect to the public access, visual resources, and hazards policies of the Coastal Act:

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 30212 of the Coastal Act states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

(3) agriculture would be adversely affected. Dedicated access way shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way.

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, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 of the Coastal Act states in part:

New development shall:

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

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

In addition, the Malibu/Santa Monica Mountains Land Use Plan (LUP) contains numerous policies regarding development on beachfront lots. Although the certified Malibu/Santa Monica Mountains Land Use Plan is no longer legally binding upon the new City, many standards contained in the LUP are still applicable to development within the City and will continue to be used as guidance. The Commission recognizes that the legal physical separation between the City and County boundary does not eliminate the natural interrelationship caused by topographic or resource characteristics (i.e. Significant Watersheds and ESHA's). This relationship must be taken into consideration in planning and regulation of development in the Santa Monica Mountains regardless of the defined boundary between City and County. Therefore, the Malibu/Santa Monica Mountains LUP will continue to be used in evaluating projects located within the City wherever applicable.

P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on sloped terrain should be set below road grade.

P128 In addition to that required for safety, further bluff setbacks may be required for oceanfront structures to minimize or avoid impacts on public views from the beach. Blufftop structures should be set back from the bluff edge sufficiently far to insure that the structure does not infringe on views from the beach except in areas where existing structures on both sides of the proposed structure already impact public views from the beach. In such cases, the new structure should be located no closer to the bluff's edge than the adjacent structures.

P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.

P147 Continue to evaluate all new development for impact on, and from, geologic hazard.

P153 On sites exposed to potentially heavy tidal or wave action, new development and redevelopment shall be sited a minimum of 10 feet

landward of the mean high tide line. In a developed area where new construction is generally infilling and is otherwise consistent with LCP policies the proposed new structure may extend to the stringline of existing structures on each side.

P154 Continue to review development proposals to ensure that new development does not generate excessive runoff, debris, and/or chemical pollution that would have a significantly negative impact on the natural hydrologic systems.

P165 No further permanent structures shall be permitted on a bluff face, except for engineered staircases or accessways to provide public beach access where no feasible alternative means of public access exists.

The proposed project is located at the base of a bluff on a sand bench. This sand bench, or back sand dune, appears to have been previously disturbed; there is some iceplant as well as native vegetation in this area. A portion of the area has little to no vegetation. On the neighboring lot to the west, this sand bench continues. To the east, the sand bench is stopped at the drainage area on the eastern side of the applicant's property. The geologic report in the permit file for this lot does not address the composition of the soils at the base of the bluff. However, the geologic report for a project approved on the adjacent parcel under Permit 5-87-321 (Black Tor) does describe the physical makeup of this back dune as artificial fill material which is identified as primarily beach sand. However, the dune on the neighboring lot was previously disturbed. It is possible that the sand bench, prior to any disturbance, existed as an aeolian dune. Aeolian dunes are created by a combination of wind blown sand and slope-wash. This sand bench functions as a back dune, providing sand supply to the beach when exposed to wave action. Due to its distance from the ocean, the sand bench is only subject to wave attack during severe storms. The landward extent of wave attack can be noted at the point in the change from sand to a vertical or near vertical cliff. The bluff, the bench at the base of the bluff, and the sandy beach are a part of one system which provide sources of sand for the beach.

As such, the sand bench is an important part of the sand cycle. Paradise Cove, where this beach is located, is the westernmost unit in the Santa Monica Bay sand cell that extends from Point Dume to the Redondo submarine canyon. Sand for this beach comes from off the bluffs, to some degree; the stockpiled sand benches; and down streams. In this case, Ramirez Canyon to the west, and the minor drainage on the applicant's property act as partial suppliers of sand. The amount of sand on the beach, and likewise the width of the beach, fluctuates throughout the year and is dependent, among other things, on the severity of winter storms.

While no wave uprush report was done for this project, there was such a report prepared for Permit 5-88-175 (Sunset Partnership). This report stated that an existing beach level parking area located on the back dune was in an area subject to wave action. This parking area was landward of an existing beach cabana which is protected by a seawall. The proposed tea house would be located in line with that parking area, so it is reasonable to assume that it would also be subject to wave action. As such, the proposed structure's location on the beach level portion of the site could have negative impacts with regard to both public access and geologic stability.

F. Local Coastal Program.

Section 30604(a) of the Coastal Act states that:

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).

On December 11, 1986, the Commission certified the Land Use Plan portion of the Malibu/Santa Monica Mountains LCP. On March 28, 1991, the City of Malibu incorporated and the project site is within the City boundaries. Therefore, the County of Los Angeles certified Malibu Land Use Plan is no longer legally effective for this area. However, it does still provide guidance on the implementation of the Coastal Act policies. The Certified LUP contains policies to guide the types, locations and intensity of future development in the Malibu/Santa Monica Mountains area. Among these policies are those specified in the preceding sections regarding shoreline development, public access, and visual impacts. As proposed, the amendment will create adverse impacts and will be inconsistent with the policies contained in the LUP. Therefore, the Commission finds that approval of the proposed development will prejudice the City of Malibu's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. CEQA

Section 13096(a) of the Commission's administrative 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)(i) 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 impact which the activity may have on the environment. The Malibu/Santa Monica Mountains Land Use Plan provides that:

P67 Any project or use which cannot mitigate significant adverse impacts as defined in the California Environmental Quality Act on sensitive environmental resources shall be denied.

and asserts in the general goals and objectives that the intention is to follow the policy that is most protective of resources.

As discussed in the preceding section, there are feasible alternatives to the proposed project which would lessen the impact on the environment. The Commission therefore finds that the project is not the least environmentally damaging feasible alternative and cannot be found consistent with the requirements of the Coastal Act to conform to CEQA.

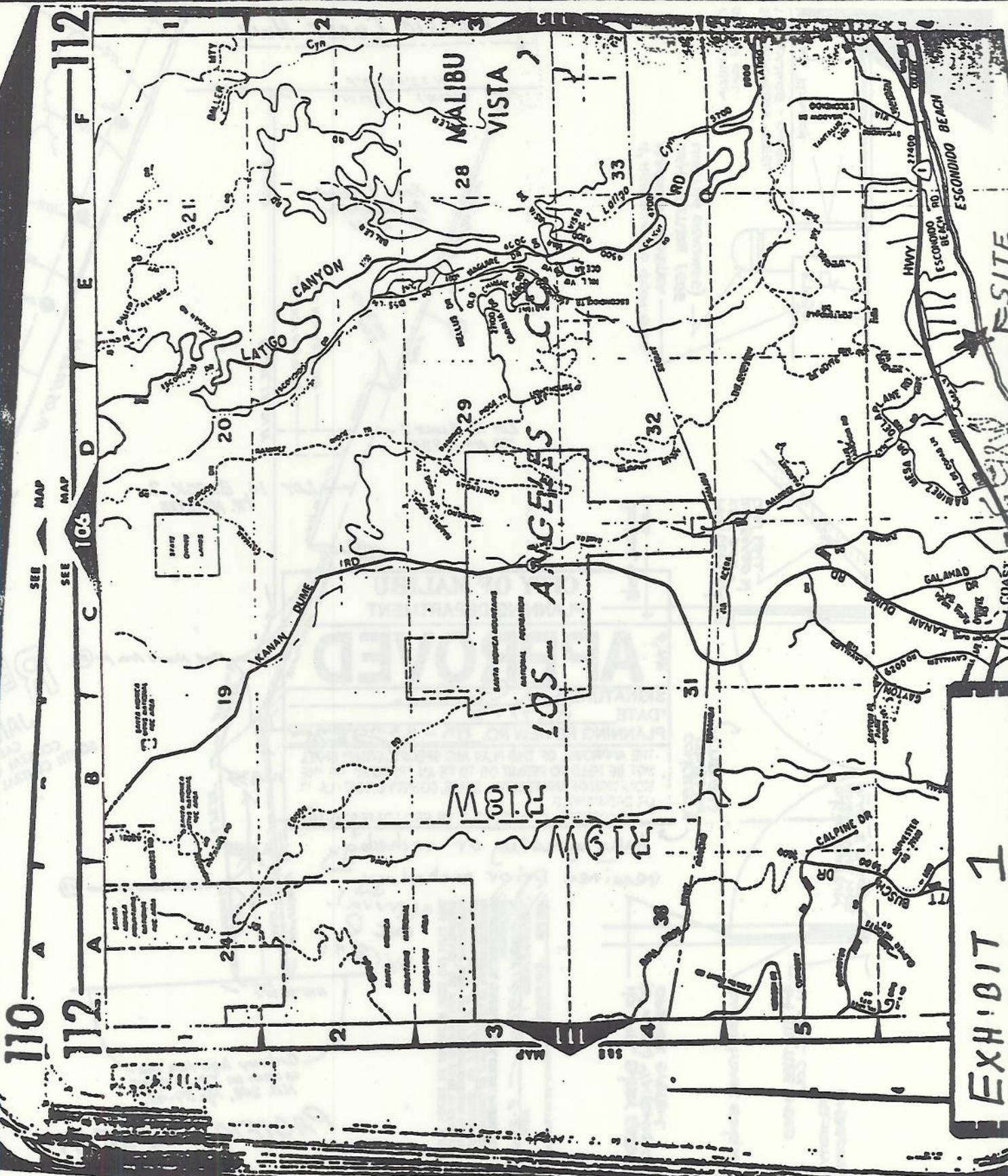
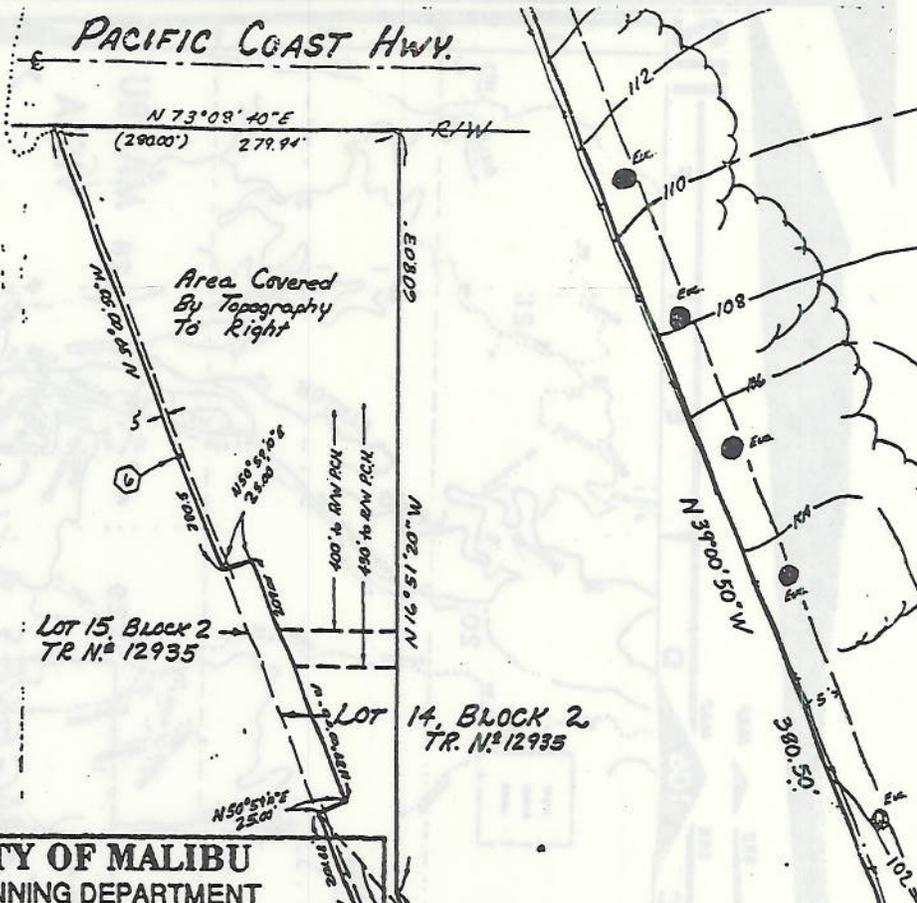
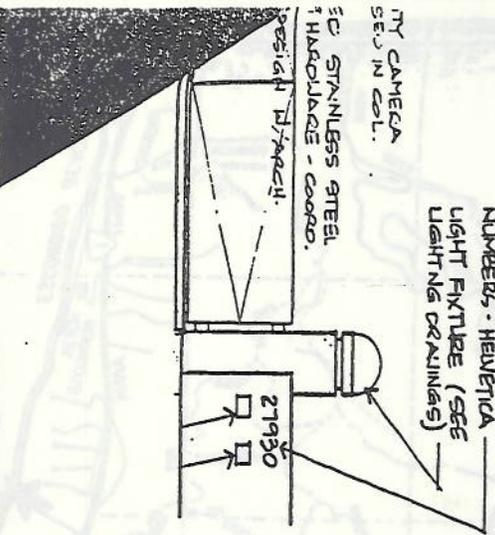


EXHIBIT 1

EXHIBIT NO. 1
APPLICATION NO. 5-89-1034A2
VICINITY

EXHIBIT NO. 1
APPLICATION NO.
5-89-1034A2



**CITY OF MALIBU
PLANNING DEPARTMENT**

APPROVED

SIGNATURE: *[Signature]*
 DATE: 11/17/93
 PLANNING REVIEW NO. PPR-93-23

THE APPROVAL OF THIS PLAN AND SPECIFICATIONS SHALL NOT BE HELD TO PERMIT OR TO BE AN APPROVAL OF THE VIOLATION OF ANY FEDERAL STATE, COUNTY OR CITY ORDINANCES.

APPROVAL VALID FOR ONE YEAR FROM DATE STAMPED

RECEIVED

JAN 23 1994

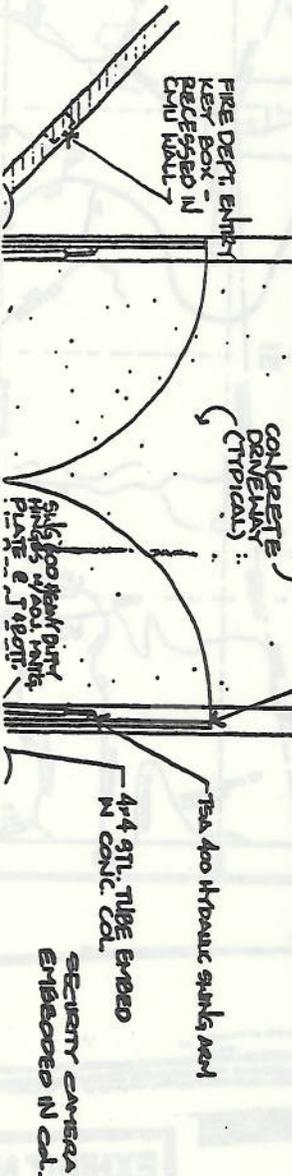
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Any grading or archeology requires prior archeology approval.

[Signature]
11/17/93

THIS PLAN HAS BEEN REVIEWED BY TERRA TECH CONSULTING INC AND APPROVED TO BE IN GENERAL CONFORMANCE WITH THE REQUIREMENTS IN OUR REPORT DATED 4-14-93. WE MAKE NO REPRESENTATION AS TO ACCURACY OF DIMENSIONS OR MEASUREMENTS CALCULATED ON ANY PORTION OF THIS PLAN.

[Signature]
DATE 9-29-90



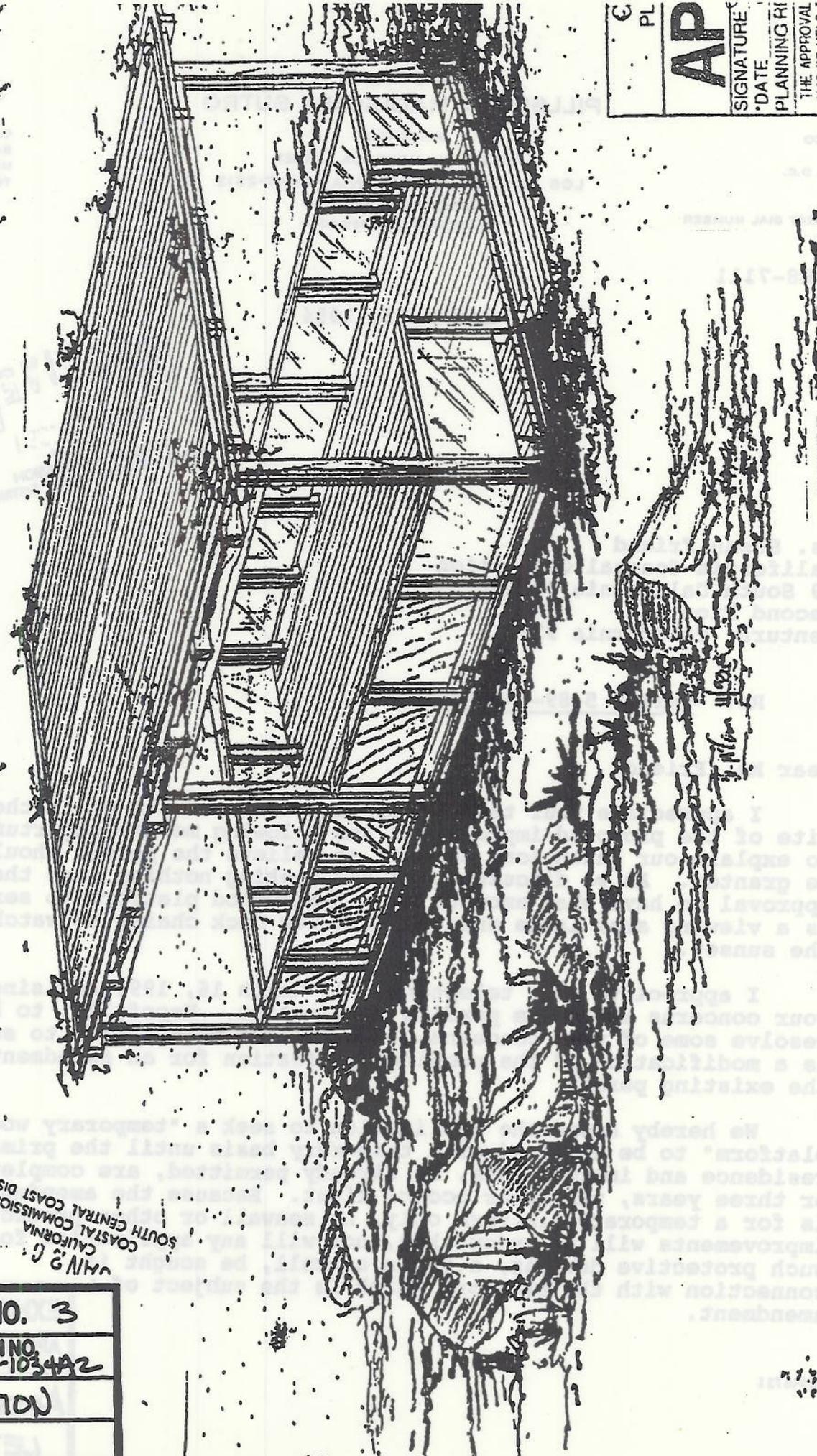
- EXHIBIT NO. 2**
- APPLICATION NO. 5-99-1034A2**
- PLOT PLAN**



INSET MAP
SCALE: 1" = 100'

Easements Per Provident Title C

EXHIBIT NO. 2
APPLICATION NO. 5-99-1034A2
PLOT PLAN



C PL
AP
SIGNATURE _____
DATE _____
PLANNING RE _____
THE APPROVAL
NOT BE HELD
VIOLATION OF A
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* THIS AFTROW

Any of
require
apl

"TEA HOUSE" (BIRD'S EYE VIEW)

171
JAN 2 6
CALIFORNIA
SOUTH CENTRAL COAST DISTRICT

EXHIBIT NO. 3
APPLICATION NO. 5-89-1034A2
ELEVATION

LAW OFFICES OF
PILLSBURY MADISON & SUTRO

SAN FRANCISCO
SAN JOSE
WASHINGTON, D.C.
SAN DIEGO

SUITE 1200
725 SOUTH FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90017-2513

ORANGE COUNTY
SACRAMENTO
MENLO PARK
TOKYO

WRITER'S DIRECT DIAL NUMBER

TELEPHONE (213) 488-7100
TELECOPIER (213) 629-1033

(213) 488-7111

March 23, 1994

RECEIVED
MAR 23 1994
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Ms. Susan Friend
California Coastal Commission
89 South California Street
Second Floor
Ventura, California 93001

Re: Permit 5-89-1034A2

Dear Ms. Friend:

I appreciate your taking the time to meet with me at the site of the proposed improvement and allowing me the opportunity to explain our intentions and why we believe the permit should be granted. As we discussed, we are seeking nothing more than approval to have what amounts to a small wood platform to serve as a viewing area large enough for a few deck chairs to watch the sunset.

I appreciate your telephone call March 16, 1994 advising of your concerns about the pending application. Hopefully, to help resolve some of your concerns, I would like this letter to serve as a modification of the pending application for an amendment to the existing permit.

We hereby amend the application to seek a "temporary wood platform" to be utilized on a temporary basis until the primary residence and improvements, as already permitted, are completed, or three years, whichever occurs first. Because the amendment is for a temporary platform only, no seawall or other protective improvements will be undertaken, nor will any application for such protective devices, e.g., a seawall, be sought in connection with the platform which is the subject of amendment.

20346731

EXHIBIT NO. 4192
APPLICATION NO. 5-89-1034A2
APPLICANT'S LETTER

California Coastal Commission
March 23, 1994
Page 2

As we discussed, the area where this platform will be maintained is not now, nor has it ever been according to all photographs and records I have researched, part of the beach. Further, the location of the platform is well behind the stringline of existing structures on adjacent properties. I am hopeful staff can recommend approval of this minor amendment.

If you have any other questions, please let me know.

Very truly yours,

Kenneth R. Chiate

Kenneth R. Chiate

KRC/f

EXHIBIT NO. 4 202
APPLICATION NO.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., 2ND FLOOR
VENTURA, CA 93001
(805) 641-0142

NOTICE OF PROPOSED PERMIT AMENDMENT

320

TO: All Interested Parties
FROM: Peter Douglas, Executive Director
DATE: March 2, 1995
SUBJECT: Permit No. 5-89-1034 granted to David Saperstein

for the construction of a 10,360 square foot, 31 foot high. single family residence with attached two-car garage, swimming pool, septic system, and approximately 4,954 cubic yards of grading and amended to reduce the square footage to 9,300 square feet and reduce the grading to 2,107 cubic yards (1,636 cu. yds. cut, 471 cu. yds. fill)

at 27930 Pacific Coast Highway, City of Malibu; Los Angeles County.

The Executive Director of the California Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following change(s):

Addition of a 2,500 square foot basement not to be used as additional unit and minor changes to the interior floor plan resulting in no change to the square footage.

FINDINGS

Pursuant to 14 Cal. Admin. Code Section 13166(a)(2) this amendment is considered to be IMMATERIAL and the permit will be modified accordingly if no written objections are received within ten working days of the date of this notice. This amendment has been considered "immaterial" for the following reason(s):

1. The proposed change will not affect the height or bulk of the building; the basement is proposed to be below grade.
2. The proposed change will not create any adverse environmental, geologic or public access impacts to the area, and is consistent with the Chapter Three policies of the Coastal Act. The project will not prejudice the City's ability to prepare a certified local coastal plan.

If you have any questions about the proposal or wish to register an objection, please contact Susan Friend at the Commission Area office.

1498M/SPF:VNT

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
 89 SOUTH CALIFORNIA ST., SUITE 200
 VENTURA, CA 93001
 (805) 641-0142

AMENDMENT TO PERMIT

June 28, 1995

Permit Number 5-89-1034A4 issued to Kenneth Chiate and transferred to David Saperstein

for the construction of a 10,360 sq. ft. 31 ft. high, single family residence with attached two car garage, swimming pool, septic system, and approximately 4,954 cubic yards of grading; and amended first to reduce the square footage to 9,300 sq. ft. and reduce the grading to 2,107 cubic yards (1,636 cu. yds. cut, 471 cu. yds fill), and subsequently to add a 2,500 square foot basement and minor changes to the interior floor plan

at 27930 Pacific Coast Highway, City of Malibu; Los Angeles County

has been amended to include the following changes:

Increase the grading on site by 1,000 cubic yards (500 cu. yds. cut, 500 cu. yds. fill), add a new wall and extend the approved wall on the east property line.

This amendment will become effective upon return of a signed copy of this form to the Commission Area office. Please note that the original permit conditions are still in effect.

Sincerely,

Peter M. Douglas
 Executive Director

By: Susan P. Friend
 Coastal Program Analyst

ACKNOWLEDGMENT

I have read and understand the above amendment and agree to be bound by its conditions and the remaining conditions of permit number _____

Date _____

Signature _____

0043e
 SPF/snm

589-1034A5

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142



AMENDMENT TO PERMIT

RECEIVED
AUG - 4 1995
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

June 28, 1995

Permit Number 5-89-1034A4 issued to Kenneth Chiate and transferred to David Saperstein

for the construction of a 10,360 sq. ft. 31 ft. high, single family residence with attached two car garage, swimming pool, septic system, and approximately 4,954 cubic yards of grading; and amended first to reduce the square footage to 9,300 sq. ft. and reduce the grading to 2,107 cubic yards (1,636 cu. yds. cut, 471 cu. yds fill), and subsequently to add a 2,500 square foot basement and minor changes to the interior floor plan

at 27930 Pacific Coast Highway, City of Malibu; Los Angeles County

has been amended to include the following changes:

Increase the grading on site by 1,000 cubic yards (500 cu. yds. cut, 500 cu. yds. fill), add a new wall and extend the approved wall on the east property line.

This amendment will become effective upon return of a signed copy of this form to the Commission Area office. Please note that the original permit conditions are still in effect.

Sincerely,

Peter M. Douglas
Executive Director

By: Susan P. Friend
Coastal Program Analyst

ACKNOWLEDGMENT

I have read and understand the above amendment and agree to be bound by its conditions and the remaining conditions of permit number _____

Date

7/5/95

Signature

David Saperstein

0043e
SPF/snm

COPY OF LAST AMENDMENT

STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

NOTICE OF PROPOSED PERMIT AMENDMENT

TO: All Interested Parties
FROM: Peter Douglas, Executive Director
DATE: August 7, 1995
SUBJECT: Permit No. 5-89-1034 granted to Kenneth Chiate and
transferred to David Saperstein

for the construction of a 10,360 sq. ft. 31 ft. high, single family residence with attached two car garage, swimming pool, septic system, and approximately 4,954 cubic yards of grading; and amended first to reduce the square footage to 9,300 sq. ft. and reduce the grading to 2,107 cubic yards (1,636 cu. yds. cut, 471 cu. yds fill); subsequently to add a 2,500 square foot basement and minor changes to the interior floor plan; and finally to increase the grading by 1,000 cubic yards, add a new wall and extend the existing wall on the east property line.

at 27930 Pacific Coast Highway, City of Malibu; Los Angeles County

The Executive Director of the California Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following change(s):

Addition of a subterranean exercise room below the pool deck. This requires no grading or other changes to the hardscape or floor plans.

FINDINGS

Pursuant to 14 Cal. Admin. Code Section 13166(a)(2) this amendment is considered to be IMMATERIAL and the permit will be modified accordingly if no written objections are received within ten working days of the date of this notice. This amendment has been considered "immaterial" for the following reason(s):

The addition of the exercise room will not affect the height of the building or require and grading. The exercise room is proposed to be built below the approved pool deck. The exercise room will not be used as a guest unit or other living unit. The changes proposed will not create any adverse visual impacts from Pacific Coast Highway; the changes are not visible from the beach. No environmental resources will be adversely impacted by the changes. The proposed amendment will not lessen the City's ability to prepare a local coastal program, and is consistent with the Chapter Three policies of the Coastal Act.

If you have any questions about the proposal or wish to register an objection, please contact Susan Friend at the Commission Area office.

1715M/C2: 4/88

DESCRIPTION OF PROPOSED AMENOMENT: TENNIS COURT & OPEN
TRELLIS PAVILION & ENTRY GATE/FENCE

CERTIFICATION

I hereby certify that I or my authorized representative will complete and post the "Notice of Proposed Permit Amendment" form furnished me by the Commission in a conspicuous place on the development property upon receipt of said notice.

I hereby certify that to the best of my knowledge the information in this application and all attached exhibits is full, complete, and correct, and I understand that any misstatement or omission of the requested information or any information subsequently requested may be grounds for denying the application, for suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the Commission.



 Signature of Applicant(s) or Agent

NOTE: If signed by agent, applicant must sign below.

I hereby authorize DANIEL CHURNOVSKY to act as my representative and bind me in all matters concerning this application.



 Signature of Applicant(s)