


CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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VENTURA, CA 93001
(805) 641-0142

Request Filed: 6/9/95
Staff: R. Richardson 
Staff Report: 11/1/95
Hearing Date: Nov. 14-17, 1995
Commission Action:

STAFF REPORT: REVOCATION REQUEST

APPLICATION NO.: R-4-92-124

APPLICANT: Barbara Eide

PROJECT LOCATION: 1611 Yavapai Trail, Agoura, Los Angeles County

PROJECT DESCRIPTION: Construction of retaining walls with 166 cu. yds. of grading (107 cu. yds. cut and 59 cu. yds. fill) on a vacant lot to increase the backyard area of a single family residence on an adjacent lot.

PERSON REQUESTING REVOCATION: David W. Ramey, 1611 Lookout Drive, Agoura, L.A. County and adjoining neighbors on Lookout Drive

TU20aPROCEDURAL NOTE:

The Commission's regulations state the grounds for the revocation of a coastal development permit as follows:

Grounds for revocation of a permit shall be:

- (a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the Commission finds that accurate and complete information would have caused the Commission to require additional or different conditions on a permit or deny an application;
- (b) Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application. 14 Cal. Code of Regulations Section 13105.

APPLICANT'S CONTENTION:

The applicant for revocation contends that the grounds in Section 13105(a) exist because the permit applicant submitted inaccurate information, as follows: (1) the two retaining walls as constructed "differ significantly in dimensions" from the permit application and (2) that "significant grading has occurred" since the issuance of the permit creating two flat pads which "greatly exceeds the amount that was represented in the information given the Commission" (See Exhibit 1). The request also asserts a third basis for the existence of grounds in 13105(a): (3) blockage of the Yavapai Trail Easements by applicant via a wall and other structures.

The applicant contends that the grounds in section 13105(b) exist because "at no time during the permit proceedings was public notice given by the applicant." (See Exhibit 1)

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission find that no grounds exist for revocation under either Section 13105(a) or (b) and deny the request.

STAFF RECOMMENDATION

Staff recommends that the Commission adopt the following resolution and findings:

I. Denial

The Commission hereby denies the request for revocation on the basis that (1) there was no intentional inclusion of inaccurate, erroneous or incomplete information in connection with the coastal development permit application where accurate and complete information would have caused the Commission to require additional or different conditions on the permit or deny the application; and (2) there was no failure to comply with the notice provisions of Section 13054 where the views of the persons not notified were not otherwise not made known to the Commission and could have caused the Commission to require additional or different conditions or deny the application.

II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Project Description/Background

On July 9, 1992, the Commission approved an after-the-fact permit for the construction of two parallel retaining walls with 166 cubic yards of grading (107 cu. yds. cut, 59 cu. yds. fill) to increase the backyard area of a single family residence on an adjacent lot. The findings state in the project description that the retaining walls will vary in height from three to six feet, with the maximum height of the retaining walls at six feet. The report

contenplated that the majority of the walls being three to four feet in height. In discussing visual impacts the findings state that "the most significant wall, from a visual standpoint, is the lower wall which will reach a height of eight feet in one location" and that "this wall, as with the others, will not be visible from Lookout Drive." Therefore, the maximum height of the approved retaining walls, as stated in the original staff report, would be eight feet. Relative to proposed grading, the project description states "the area between the two sets of retaining walls will not be made into a flat pad, instead the slope will remain." The findings state that "the grading will not result in significant cuts in the hillside, instead, the majority of the retaining walls are along existing cuts made for the construction of Yavapai Trail." The Commission approved the permit application with no special conditions.

The proposed development is located on a lot previously deed restricted as open space with limited development potential as the result of a Commission permit action in 1978 (A-158-78, Eide). Under the original permit, the South Coast Regional Commission approved the project for the construction of two Single Family Residences without any conditions. The permit was subsequently appealed to the State Commission and the proposed project was revised by the applicant. Under the revised project description, the Commission approved the combination of three lots into two lots (9,546 sq. ft. and 9,776 sq. ft.) with the construction of two (2) 2,741 sq.ft., 29 ft. high single family residences. The Commission approved the transfer of two development credits instead of further development on 17 lots adjacent to and in the vicinity of the proposed building sites within the Malibu Lake Small Lot Subdivision. The approval was based on special conditions pertaining to a deed restriction and scenic easement and the submittal of a soils report.

The permit was issued on September 26, 1978. The applicant deed restricted 9 of the 17 lots and one TDC was sold. The applicant was authorized to construct the residence located on lot 1 (APN 4462-21-45.) However, the remaining 8 lots were not deed restricted and authorization to commence construction on the second lot was never granted. In August of 1980, the Commission approved a one year extension of time. During the processing of the permit application for the after-the-fact development which is the subject of this revocation request, staff discovered that the second single-family residence had been constructed without authorization to commence construction. In order to legalize the construction of the second residence the permittee must finalize the recordation of the deed restrictions against the remaining 8 lots as required in the original permit.

As a related matter, on January 11, 1995, the Commission approved an amendment to the original coastal development permit (A-158-78, Eide) for the modification of Special Condition #1 pertaining to the deed restriction and scenic easement (4-94-195A). As approved, the modified deed restriction and scenic easement allowed for the transfer of 2400 sq. ft. of Gross Structural Area credit (8 lots) to other designated Small Lot Subdivisions located in the Santa Monica Mountains as an alternative to selling a TDC. Additionally, the modified deed restriction allowed for the future development of a pool, children's play house (not to exceed 350 sq. ft.) and fencing on lots identified as APN 4462-21-23,-22,-21. The approval was subject to special conditions that included a modified deed restriction and scenic easement, a guideline for transferring gross structural area credits, a timeline for

condition compliance and a requirement of a future improvements deed recordation on the subject sites.

Other permit matters related to this site include a revocation request for the amendment (4-94-195A) on the assertion that grounds, as set forth in section 13105(a) and 13105(b) existed. This item is scheduled for a public hearing at the Commission's Nov. 14-17, 1995 hearing. In addition, the applicant is proposing a second amendment to permit (4-94-195A2) for an after-the-fact permit to revise the size of the homes from 2,741 sq. ft. each to 2,081 sq. ft. and 3,805 sq. ft. Further, the request includes a proposal to modify Special Condition #1 (Deed Restriction and Scenic Easement) to allow for a revised location of the ancillary development and to increase the type of development allowed on three of the deed restricted lots.

Presently pending is a separate permit amendment application for this site (4-92-124A) for the after-the-fact construction of a 140 foot long retaining wall, a 66 foot long staircase, a 54 foot long drainage swale and landscaping.

B. Grounds for Revocation

Section 13105(a)

Pursuant to 14 California Code of Regulations (C.C.R.) Section 13108, the Commission has the discretion to grant or deny a request to revoke a coastal development permit if it finds that any of the grounds, as specified in 14 C.C.R. Section 13105 exist. 14 C.C.R. Section 13105 states, in part, that the grounds for revoking the permit shall be as follows: (1) that the permit application intentionally included inaccurate, erroneous or incomplete information where accurate and complete information would have caused the Commission to act differently; and, (2) that there was a failure to comply with the notice provisions where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to act differently. On June 8, 1995 the South Central Coast District office received a written request for revocation of the subject coastal development permit amendment (Exhibit 1.) As previously stated, the request for revocation is based on both of the grounds indicated above.

The first ground for revocation set forth in 13105(a) contains three essential elements or tests which the Commission must consider:

- a. Did the application include inaccurate, erroneous or incomplete information relative to the permit amendment?
- b. If the application included inaccurate, erroneous or incomplete information, was the inclusion intentional? (emphasis added)
- c. Would accurate and complete information have caused the Commission to require additional or different conditions or deny the application?

The request for revocation states that "permit 4-92-124 should be revoked because of the intentional inclusion of inaccurate information by the applicant in connection with this coastal development permit." The alleged inaccurate information is that "the two walls constructed differ significantly

in dimensions from those stated by the applicant" and that "flat grading has occurred, creating not one but two flat pads," which has resulted in "significant grading".

More specifically, regarding the height of the walls, the revocation request states that "using information supplied by the applicant, the staff report prepared for this permit stated that the height of the retaining walls vary in height from three to six feet, however, the majority of the wall is three to four feet in height." (See Exhibit 1) The revocation request, however, asserts that "the lower wall, measures approximately 6 feet 5 inches at the highest point of its west end" and "approximately 8 feet 10 inches at the highest point of its east end." (The staff report states on page 6 of the findings that the lower wall will reach a height of eight feet in one location.) The request also states that the upper wall is approximately 5 feet 8 inches tall along its entire length.

Regarding grading, the revocation request states that "using information submitted by the applicant . . . the applicant has stated that the area between the two sets of retaining walls will not be made into a flat pad, instead the slope will remain." The request, however, asserts that "flat grading has occurred, creating not one but two flat pads, the second being between an illegally constructed and non-permitted wall that is the subject of additional Coastal Commission violations".

Also regarding grading, the revocation request also asserts that more fill has taken place than the applicant stated: "using information submitted by the applicant . . . the applicant proposes the construction of retaining walls with 166 cubic yards of grading (107 cu. yds. cut, 59 cu. yds. fill)." The applicant for revocation asserts, however, that "a minimum of approximately 108 cu. yds. of fill have been necessary to fill in the area behind the lower wall . . . a minimum of approximately 86 cu. yds. of fill have been necessary to fill in the area behind the upper wall."

In a followup letter (See Exhibit 4) to the Commission to provide additional information to support the revocation request the applicant identifies a second issue relative to the grounds stated in Section 13105(a) of the Commission's regulations. This issue regards the Yavapai Trail street easement (which runs along the eastern border of Lookout Drive) relative to the additional development which the subsequent permit (4-94-195A) would allow in the revised special condition no. 1 within a portion of the property (playhouse, pool and fencing). The applicant for revocation specifically notes that the special condition states "the above said development shall require a coastal development permit and shall not block Yavapai Trail unless L.A. County vacates this trail and a coastal development permit is issued for the Trail's vacated status." The letter goes on to state that "it is clear that the Commission has been deceived in regards to the intended plans for development on Yavapai Trail by the Eides" because the street has not been vacated by L.A. County and the Eides "have completely blocked access to Yavapai Trail from Lookout Drive with railroad ties." Additionally, the letter states that the Eides "have encroached by over 4 feet onto the trail with their middle wall (there is an illegal third wall currently in place at a higher level)." Furthermore, the applicant for revocation contends that the Eides "have placed a cement walkway . . . blocked the trail with boulders . . . planted trees," within Yavapai Trail street easement. Finally, the letter

asserts that had the Commission known that the Eides intended to develop Yavapai Trail, they would have good reason to not issue permits to the Eides and that this is ample basis for revocation.

The first contention made by the applicant for revocation is that the retaining walls were built higher than the height stated in the application. The applicant (Eide) has submitted a site plan which states that the maximum height of the lowest retaining wall is 6 ft. 6 in. high from existing grade and that the upper wall was 5 ft. 9 in. from existing grade. In addition, staff has conducted a site visit on October 19, 1995 to measure the retaining walls. Staff's measurement of the lowest retaining wall found it to be 6 ft. 8 in. high from existing grade. Staff notes that the lowest wall is designed with hand rail which is 2 ft. above the top of the wall. Staff's measurement of the upper wall found it to be 5 ft. 9 in. high from existing grade. While this matter continues to be the subject of a pending investigation, based on the most recent site visit and the site plan submitted, the height of the walls as constructed deviate in height by a maximum of 6 inches, (with 6 ft. the maximum height), from that which the Commission approved.

With respect to the grading that occurred in conjunction with the retaining walls, staff has reviewed the grading plans submitted by the applicant under the permit approval which were signed by a certified engineer dated 4/18/91. As approved by the engineer, the plans indicate that the majority of the earth movement was excavation. Staff has visited the site and confirmed that two flat areas were created in conjunction with the construction of the retaining walls. In addition, staff has been in discussions with the applicant's Geotechnical Engineer. As represented by Mr. Anderson, the grading plans that were submitted by the applicant originally, were based on Los Angeles County's 200 scale topography maps, which is an inaccurate representation of the site's topography. As stated by Mr. Anderson, this inaccuracy could be corrected by having the site surveyed. An updated survey of the site (from that illustrated on the L. A. County maps) would thereby enable the applicant to have a qualified professional prepare an accurate topography map and grading plan. Based on staff's discussion with Mr. Anderson and investigation and site visits, staff concludes based on currently available information that the amount of grading that was calculated based on an inaccurate topography map verses the amount of grading should have been calculated based on accurate topography map (drawn from an updated survey of the site) would evidence a minor deviation in grading calculations (i.e. less than 50 cu. yds.). (Staff investigation is ongoing relative to this violation.)

With respect to the contention made by the applicant for revocation regarding Yavapai Trail street easement, staff has verified that a portion of the Yavapai Trail street easement has been developed with a drainage swale, boulders and landscaping adjacent to the Eides property. Further, staff investigation has verified that a third retaining wall has been built, but has not definitively determined whether any of the wall blocks the area. As stated previously, the drainage swale, landscaping and retaining wall are components of the proposed permit amendment request (4-92-124A). The Commission's Enforcement Division has confirmed that the applicant has requested a vacation permit from the County of L. A. Further, L. A. County Department of Building and Safety has stated that they intend to vacate this easement. The pending amendment to the original permit (4-92-124A), which includes the above discussed development will be considered as a separate

matter for the Commission to consider from that which the revocation request applies to. Thus, the applicant is essentially stating that violations of the Coastal Act or previous coastal permits obtained by the Eides are grounds for revocation under Section 13105(a).

(1) In considering whether the application included inaccurate, erroneous or incomplete information, all three assertions of inaccuracy are analyzed. First, regarding the easement blockage, the applicant for revocation has submitted evidence of an alleged violation concerning development within the street easement. The applicant's reasoning seems to be that later unpermitted development of any kind anywhere on or adjacent to the property equates to the submittal of inaccurate information at the time of the application. The letter of June 16, 1995 states that the Commission has been deceived in regards to the intended plans for development on Yavapai Trail and that "the numerous violations" are adequate basis for revocation of permits. The permit application involving the construction of two retaining walls, however, is unrelated to the development which has taken place in the street easement. The development that has occurred within the street easement (Yavapai Trail) adjacent to the east of the home is a violation matter for the Commission to consider as a separate and independent issue. Evidence of a later violation does not equate to inclusion of inaccurate information at time of application. The Commission finds, therefore, that the permit application did not include inaccurate, erroneous or incomplete information relative to development within the Yavapai Trail street easement. With respect to the minor deviations of (1) the wall height and (2) amount of grading from the statements in the application, the Commission finds that the application did contain minor inaccuracies, as explained in detail above. The wall height differed by a maximum of 6 inches and the grading plans by approximately 50 cu. yds. as currently estimated. Therefore, the Commission finds there were some inaccurate information of a minor nature in the application. The first test is met.

(2) The second standard consists of determining whether the inclusion of inaccurate information was intentional. The revocation request does not contain any evidence that would indicate that the information presented was intentionally inaccurate. The applicant for revocation asserts that the existence of later unpermitted development on Yavapai Trail is a deception in regards to development plans. Evidence of a Coastal Act violation concerning an unrelated development undertaken by the permittee, however, does not constitute evidence of an intentional inclusion of inaccurate information in the permit application. Furthermore, Commission staff investigation, including numerous site visits and conversations with all parties concerned, and plan review, has not found any evidence of the intentional inclusion of inaccurate or erroneous information with report to the blockage of the easement, wall height or grading amount. (As indicated above, the applicant is processing an amendment to the permit to revise the original plans to reflect the as-built development.) Therefore, the Commission finds that there was not any intentional inclusion of inaccurate, erroneous or incomplete information. The second test is not met.

(3) The third standard for the Commission to consider is whether accurate information would have resulted in the requirement of additional or different conditions or the denial of the application. As discussed above, recent investigation of the original permit application has verified that the

applicant submitted inaccurate information of a relatively minor nature with regard to the grading and site topography. Further, the applicant did not build the walls as they were illustrated in the original plans. The information that was obtained subsequent to the Commission's approval of the original permit has indicated that both the inaccuracy of information and the unpermitted change to the development represent a deviation to permit that is minimal in nature. The approximated deviation in grading calculations is minimal (less than 50 cu. yds.). As such, the amount if additional grading would not have been subject to additional or different conditions. The available information regarding the deviation in the as-built height, location and length of the walls indicates that similarly the walls would not be subject to conditions. In other words, had the Commission had available the true information regarding wall height and amount of grading, the same decision to approve the coastal development permit with the same conditions would have been made. This is based on the fact that the increase in maximum height of the walls by 6 inches and in grading by 50 cu. yds. would be consistent with past Commission action regarding consistency with sections 30253 and 30251 of the Coastal Act. There is no evidence the Commission would have made a different decision had the minor inaccuracies been corrected. Therefore, the Commission finds that the third test is not met -- the minor inaccuracies would not have caused different conditions or permit denial.

The Commission finds, therefore, that the grounds in 13105(a) do not exist because the second and third tests are not met. Staff notes that even though there was inaccurate information regarding the amount of grading, pending investigations by staff, such disparities will be subject to Commission action under the proposed permit amendment application (4-92-124A).

Section 13105(b)

The second alleged grounds for revocation of the permit is that the applicant failed to comply with the Commission's public notice requirements. More specifically, the essential question the Commission must consider is whether or not there was "failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application?" This is a three part test.

With respect to the first part of the question regarding whether or not the applicant complied with the notice provisions of Section 13054, which state that the applicant must post notice of the proposed development, the revocation request has raised two similar issues. First, the request asserts that the applicant did not provide the required public notice at any time during the permit proceedings. However, the letter states that residents did receive notice two weeks prior to the hearing (notices were mailed on 6/22/92). Thus, the applicant for revocation and others had actual knowledge of the project. This two week noticing period is consistent with the requirements of Section 13054(b). Thus, it is an incorrect assertion that the required public notice was not provided at any time. The letter also implies that the applicant did not comply with the posting requirements of the Commission's regulations [14 C.C.R. 13054(b)]. Review of the permit file evidenced that the posting card for this site was mailed to the applicant and

returned by the post office due to incorrect mailing address. Thus, the Commission will assume, for purposes of this analysis that the site was not properly posted. Because, however, the residents and applicant for revocation were notified by mail, the Commission cannot conclude that there was no public notice. The letter requesting revocation also states, that concerned residents were notified two weeks prior to the hearing and had actual knowledge of it. Therefore, public notice was provided which the Commission finds to be adequate legal notice. The first element of the test is not met.

Regarding the second part of the above question, relative to whether the view of the persons who were not notified were otherwise made known to the Commission, the revocation request does not identify any persons who were not notified. In addition the South Central Coast office did not receive any returned hearing notices from those parties notified. Further, the views expressed in the revocation request (largely, that the permit should be revoked because of numerous violations which exist on the site) were made known to the Commission as early as July 7, 1992 and staff was aware of these violations and they were analyzed and reported to the Commission in the staff report. The applicant for revocation has provided no evidence that views of any persons not notified were not made known to the Commission. Nor has staff investigation disclosed any such evidence. Therefore, the Commission finds that the views expressed in the letter were made known to the Commission. Thus the request has not provided relevant information to support such an assertion. The second element of the test is not met.

Lastly, the third portion of the above question asks if the view of persons that might not have been notified and not otherwise made known to the Commission would have caused the Commission to require additional or different conditions or deny the application. Letters of objection were received from interested parties relative to the permit request. Those objections were given to the Commission before its public hearing on the matter. Therefore, the Commission knew of these objections before acting on the permit. The Commission finds that no evidence exists to suggest that the views of persons not notified were not otherwise made known to the Commission. The applicant for revocation has provided no such evidence, nor has staff review disclosed any. In addition, based on the discussion provided in the preceding paragraph relative to the staff's and Commission's knowledge of previous existing violations on the site, the Commission finds that any issues or views that may have been raised with respect to those violations would not have caused the Commission to either require additional or different conditions or deny the application. Therefore, the Commission finds that the third element of the test of 13105(b) is not met. Because none of the three essential elements of 13105(b) are satisfied, the Commission finds that no grounds exist under 13105(b).

As listed above, the request for revocation does not meet the requirements of 14 C.C.R. 13105(a)&(b). The Commission finds, therefore, that this revocation request should be denied on the basis that no grounds exist because there is no intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application which could have caused the Commission to require additional or different conditions on a permit or deny an application; and on the basis that there is no evidence that there was defective notice and views of the person(s) not notified were not otherwise made known to the Commission and could have caused the Commission to require additional or different conditions on a permit or deny an application.

EXHIBIT NO. 1
APPLICATION NO.
R-4-92-124

June 8, 1995

California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219
Attn: Nancy Cave

Dear Ms. Cave:

Pursuant to the receipt of your FAX transmittal of June 7, 1995 and to my letter to you of June 7, 1995 and after reviewing the appropriate Coastal Commission code sections, this letter is to request a hearing for revocation of coastal development permits 4-94-195A and 4-92-124, issued to Harold and Barbara Eide of 1561 Lookout Drive, Agoura Hills, California.

As per Coastal Commission code, Article 16, section 13105, two grounds exist for revocation of previously issued coastal development permits. These are:

1. "Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit, where the commission finds that accurate and complete information would have caused the commission to require additional or different conditions on a permit or deny and application."

2. "Failure to comply with the notice provisions of Section 13054, where the views of the person(s) not notified were not otherwise made known to the commission and could have caused the commission to require additional or different conditions on a permit or deny and application."

As you well know, Article 3, section 13054 pertains to notification requirements for permit applications. Of particular note is section (b), in regards to public notice and section (c) which obligates the Coastal Commission to revoke permits if permits were granted without proper notice being given.

Grounds for revocation of permits 4-94-195A and 4-92-124 exist because of violations of both parts of Article 16, section 13105 of the Coastal Code.

In regards to permit 4-94-195A:

1. According to Article 3, section 13054 (b), "At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development, notice that an application for a permit for the proposed development has been submitted to the commission."

Please be advised that at no time during the permit proceedings was public notice given by the applicant. This is in direct violation of the above mentioned section.

Concerned residents (which include virtually the entire neighborhood) were only notified of this application for permit approximately two weeks before the hearing. Residents had no time to prepare an adequate response for the Commission.

2. As detailed in my letter to you of June 7, 1995, substantive changes to permit 4-94-195A were made in a Coastal Commission addendum, dated January 9, 1995. This addendum made significant and extreme changes in the original permit, allowing for building of a 350 square foot children's playhouse, a pool, fencing and a grape arbor.

The original permit pertained only to land used transfer credits. Your staff report of 12/7/94 addressed only this issue. The public hearing on January 11, 1995 addressed only this issue. No public notice was posted as to the addendum by the applicant as mandated by Article 3, Section 13054(b). No notification was made by mail of the proposed addendum as mandated by Article 3, Section 13054 (a). Indeed, the entire addendum was handled in a secret and underhanded fashion that is at best irregular, certainly in gross and direct violation of the Coastal Code and most likely illegal.

Accordingly, per the requirements of Article 3, Section 13054 (c), the Coastal Commission is obligated to review this matter and hold a hearing to revoke permit 4-94-195A. Proper notification was never given for this permit.

It cannot, at this time, be stated whether or not the information given to the Commission in regards to the proposed development of permit 4-94-195A was accurate. However, given the past performance of the applicant, there is good cause to believe that it was not. This letter is submitted stating only the facts that can be proven at this time. Additional facts may be provided to the Commission in regards to grounds for revocation based on a review of the submitted plans.

It is imperative that the Commission consider a revocation hearing on this matter immediately. As a representative of neighborhood interests and the interests anyone who is interested in maintaining the public lands, I request such a hearing. The neighborhood is concerned that irreversible damage to the land will be sustained to the area should the applicant be allowed to proceed with development. As the Commission is well aware, numerous violations of the Coastal Code as well as violations of previously issued permits have been committed by the applicants. As per Article 16, section 13107, of the Coastal Code, operation of permit 4-94-195A must be suspended until a revocation hearing can be held. This can and should be ordered by action of the executive director. It is proper that a revocation hearing be held prior to the issuance of permits that would allow for further damage and assault to the land in this area.

In regards to permit 4-92-124:

1. According to Article 3, section 13054 (b), "At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development, notice that an application for a permit for the proposed development has been submitted to the commission."

Please be advised that at no time during the permit proceedings was public notice given by the applicant. This is in direct violation of the above mentioned section.

Concerned residents (which include virtually the entire neighborhood) were only notified of this application for permit approximately two weeks before the hearing. Residents had no time to prepare an adequate response for the Commission.

2. According to Article 16, section 13105 (a), permit 4-92-124 should be revoked because of the intentional inclusion of inaccurate information by the applicant in connection with this coastal development permit. Specifically:

a. Using information supplied by the applicant, the staff report prepared for this permit stated that "The height of the retaining walls vary in height from three to six feet, however, the majority of the wall is three to four feet in height."

In fact, the two walls constructed differ significantly in dimensions from those stated by the applicant.

The lower wall, measures approximately 6 feet 5 inches at the highest point of its west end. It measures approximately 8 feet 10 inches at the highest point of its east end. It is approximately 55 feet 5 inches in length.

The upper wall is approximately 5 feet 8 inches tall along its entire, approximately 91 foot, length.

Both walls significantly differ from permitted dimensions.

b. Using information submitted by the applicant, the staff report submitted for this permit stated, "The applicant has stated that the area between the two sets of retaining walls will not be made into a flat pad, instead the slope will remain."

In fact, flat grading has occurred, creating not one but two flat pads, the second being between an illegally constructed and non-permitted wall that is the subject of additional Coastal Commission violations (and addressed in a separate letter).

c. Using information submitted by the applicant, the staff report submitted for this permit stated, "The applicant has stated that this project is necessary to provide a backyard for her single family residence on the lot to the west of this vacant lot."

It is the obvious intent of the applicant to develop the area north of the residence, on the side of the hill.

d. Using information submitted by the applicant, the staff report submitted for this permit stated that "The proposed amount of grading is not a large amount of grading and will not result in a significant amount of landform alteration."

In fact, significant grading has occurred. Two flat pads have been constructed. A non-supported vertical cut in the hillside at the west end of the upper (permitted) retaining wall has been made. The character of the hillside has been substantially altered and destroyed as a result of the grading and landscaping activity that has occurred.

e. Using information submitted by the applicant, the staff report submitted for this permit stated that, "The applicant proposes the construction of retaining walls with 166 cubic yards of grading (107 cu. yds. cut, 59 cu. yds. fill."

In fact, a minimum of approximately 108 cu. yards of fill have been necessary to fill in the area behind the lower wall (approximate dimensions of 2 yards minimum height, 18 yards minimum length and 3 yards minimum depth). A minimum of approximately 86 cu. yards of fill have been necessary to fill in the area behind the upper wall (approximate dimensions of 2 yards height, 34 yards minimum length and 2 yards minimum depth). This fill was obtained from the surrounding lots. This amount of fill greatly exceeds the amount that was represented in the information given the Commission.

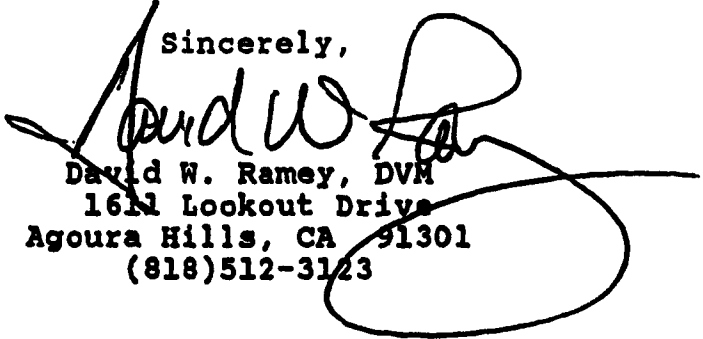
Thus, there is ground for revocation of permit 4-92-124 based on violations of both sections of Article 16, section 13105 of the Coastal Code. Proper notice was never given by the permit applicant. As evidenced by subsequent development, the applicant submitted inaccurate information in obtaining his permits that he never intended to follow, or else is incompetent to develop property. It is imperative that the Commission consider a revocation hearing on this matter.

As a representative of neighborhood interests and the interests anyone who is interested in maintaining the public lands, I request such a hearing. As the Commission is well aware, numerous violations of the Coastal Code as well as violations of previously issued permits have been committed by the applicants. As per Article 16, section 13107, of the Coastal Code, operation of permit 4-92-124 must be suspended until a revocation hearing can be held. This can and should be ordered by action of the executive director. It is proper that a revocation hearing be held and that the damage caused to the land by these actions be addressed.

In light of the above facts and in accordance with the previously stated code sections, I therefore reiterate my requests, as a representative of interests of the neighborhood and anyone who is interested in maintaining land under Coastal Commission jurisdiction, to:

1. Immediate suspension of permit number 4-95-194A, issued to Harold and Barbara Eide, pending a revocation hearing, as well as immediate suspension of any hearing pertaining to the modification of said permit, and
2. Scheduling of a revocation hearing on permit number 4-92-124, issued to Harold and Barbara Eide.

Sincerely,



David W. Ramey, DVM
1611 Lookout Drive
Agoura Hills, CA 91301
(818)512-3123

EXHIBIT NO. 2
APPLICATION NO.
R-4-92-124

June 16, 1995

Ms. Nancy Cave
California Coastal Commission
45 Fremont Street - Suite 2000
San Francisco, CA

Dear Ms. Cave:

This letter is to provide additional information for you in support of my request for a revocation hearing of permits 4-92-124 and 4-94-195A, issued to Harold and Barbara Eide of 1561 Lookout Drive, Agoura Hills, CA. My letter to you of June 15, 1995 went into some detail as to the numerous reasons that such a hearing would be warranted. However, I feel that it is imperative that any and every issue that can be cited in support of my quest for a revocation hearing should be mentioned.

This area addresses two specific areas of concern. The first issue is the almost laughably inadequate notice given for an addendum to permit 4-94-195A, issued by the Coastal Commission Staff on January 9, 1995. This addendum of January 9, 1995 regarding Permit 4-94-195A, item Number W21b, issued prior to the Coastal Commission hearing of January 11, 1995 is in clear violation of the law and Coastal Commission policy and this matter was brought to your attention in my letter to Rebecca Richardson of June 7, 1995. No notice of any kind was made to any of the interested parties of the extensive changes mentioned in the addendum, particularly the addition of a 350 square foot playhouse, a swimming pool and fencing was not given to the general public nor was it made available to the concerned parties at any time. By law, such information must be made available a minimum of ten days before any hearing date, so that a response may be prepared by interested parties. Nor was any notice of such changes posted by the applicants, as required by Coastal Commission policy, Article 16, Sections 13105(b) and 13054.

All concerned parties in the matter of permit #4-94-195A were notified that the hearing on January 11, 1995 was only regard to proposed trades in land use credits. A staff report issued by your office on December 7, 1994 was prepared in regards to and addressed only the proposed land use credits. The surprise addendum of January 9, 1995 contained numerous additions and changes to what was, on the surface, a routine matter of land transfer credits. As previously stated, the addendum was never made available to the public nor to individuals in the neighborhood. The changes were never made public in the hearing of January 11, 1995, that was attended by a representative of our neighborhood. No one in the area had knowledge of these changes prior to the January 11, 1995 hearing. Because of this, no one had the opportunity to respond or object to the proposed modifications. No one was even aware of the existence of these modifications. That such changes were approved by the Commission without a hearing is at best shameful, at worst illegal. Why would the Coastal Commission try to sneak something like this in? This issue alone would seem sufficient for the Commission to hold a revocation hearing on permit 4-94-195A.

The second issue is in regards to the development of Yavapai Trail, a county access road that runs on the east border of 1561 Lookout Drive. The Coastal Commission has made it clear that it does not approve of any blockage or development of Yavapai Trail. In the "Notice of Intent to Issue Amendment to Coastal Development Permit," issued on behalf of the Coastal Commission on January 19, 1995, the Coastal Commission's Policy was clearly stated. It said, "The above said development shall require a coastal development permit and shall not block Yavapai Trail unless L.A. County vacates this trail and a coastal development permit is issued for the trail's vacated status."

Article 16, Section 13105(a) gives grounds for revocation if there has been, "Intentional inclusion of inaccurate, erroneous or incomplete information in connections with a coastal development permit application where the commission finds that accurate and complete information would have caused the commission to require additional or different conditions on a permit or deny an application." Therefore, in retrospect, it is clear that the Commission has been deceived in regards to the intended plans for development on Yavapai Trail by the Eides.

Yavapai Trail has not been vacated by L.A. County.

The Eides have completely blocked access to Yavapai Trail from Lookout Drive with railroad ties. They have completely blocked the top of the trail with the lowest of their retaining walls, issued in permit 4-92-124. They have encroached by over 4 feet onto the trail with their middle wall (there is an illegal third wall currently in place at a higher level). They have placed a cement walkway on the trail. They have blocked the trail with boulders. They have planted trees. They now have even shown the Coastal Commission exactly where all of this non-permitted development lies in their plans for additional development attached to the staff report on application 4-94-195A2!

Clearly, had the Commission known that the Eides intended to develop Yavapai Trail, indeed, had they known that it had already been done, they would have had good reason to not issue permits to the Eides. There is ample basis for revocation of permits 4-92-124 and 4-94-195A based on these facts alone! Further detail and photo documentation on this matter can be examined in my letter to you of June 14, 1995, which detailed the numerous violations of Coastal Code and permits that have been committed by the Eides.

The matter of permit revocation begs the immediate attention of the Coastal Commission. If ever clear grounds for revocation existed, it is here. The concerned residents of the area await your reply.

Sincerely,

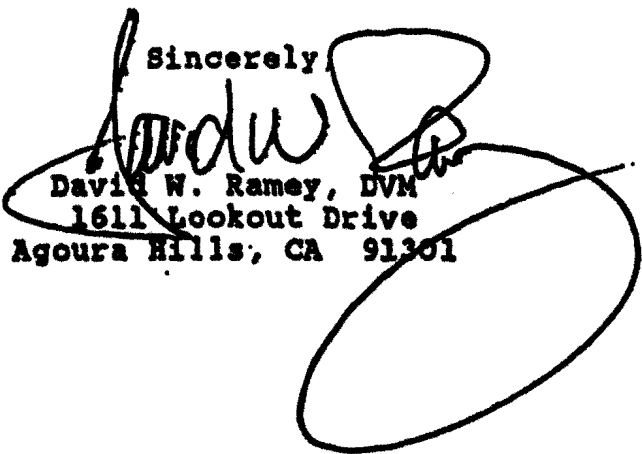

David W. Ramey, DVM
1611 Lookout Drive
Agoura Hills, CA 91301

EXHIBIT NO. 3
APPLICATION NO.
R-4-92-124

PHILIP J. HESS
ATTORNEY

155 South Hudson Avenue
Los Angeles, CA 90004-1033

RECEIVED
JUL 25 1995
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

(213) 954-8266
Fax (213) 954-1208

July 24, 1995

BY FAX & FIRST CLASS MAIL
Rebecca K. Richardson
Coastal Program Analyst
California Coastal Commission
South Central Coast Area Office
89 South California Street - Suite 200
Ventura, CA 93001

Re: (1) Permit Amendment Application Nos. 4-94-195A2 & 4-92-124A
(2) Revocation Proceedings On Permit Nos. 94-195A & 4-92-124

Dear Ms. Richardson:

I am writing to advise you of the current position of Harold and Barbara Eide on certain aspects of the above items.

The 1995 permit amendment application (4-94-195A2)

This application was filed to enable Mr. and Mrs. Eide to seek revisions to the boundary line established in Special Condition No. 1 within which certain development, including a playhouse, a patio, fencing and associated grading, could be located. The application was filed on May 17, 1995 and set for hearing at the June 1995 Commission meeting. It was continued to the July meeting at the request of Mr. and Mrs. Eide, and I understand from a June 29, 1995 telephone conversation with you that it was subsequently continued by staff to the August meeting so that it could be heard together with the revocation proceeding that has been initiated for the permit it seeks to amend (No. 4-94-195A).

Please be advised that Mr. and Mrs. Eide are willing to accept Special Condition No. 1, which moves the boundary line for development from 50 to 90 feet north of the southern property line of certain lots, as proposed in the staff report dated May 27, 1995 on this application.

At this time, however, Mr. and Mrs. Eide are not willing to accept, and wish to reserve the right to appear before the Commission to object to, the new terms for Special Condition No. 2 which would either reduce the number of GSA credits that may be transferred or require the retirement of two lots in Malibou Lake or in another small lot subdivision subject to the review and

approval of the Executive Director.

Mr. and Mrs. Eide object to Special Condition No. 2 because it is based on the premise that the two homes they have constructed on their property exceed the total amount of Gross Structural Area allowed by the Commission in Permit No. A-158-78 (Eide). I have recently conducted a review of the entire Commission file for Permit No. A-158-78 (Eide) that you were kind enough to retrieve for me from the archives. I will submit a letter to you this week that will demonstrate, based on the contents of that file, that there is no reasonable basis for a finding that the two houses built on the Eide property violate the terms of Permit No. A-158-78 (Eide) as approved by the Commission in 1978.

The revocation proceedings

Mr. and Mrs. Eide are currently preparing, and expect to submit to you by the end of this week, a package of materials that respond to the various points raised in the complaints which led to your June 26, 1995 issuance of notices of revocation proceedings for Permit Nos. 4-94-195A and 4-92-124. I understand from these notices that the staff has acceded to a request from the complaining party to hold the hearings on these revocation proceedings at the August meeting.

In addition, I understand that Mrs. Eide has made an appointment for an inspection of the Eide property by Susan Friend of the South Central Coast Area staff on August 2, 1995. I am somewhat puzzled as to the purpose of this inspection. In our June 29 telephone conversation you advised me that responsibility for the revocation proceeding concerning permit No. 4-92-124 has been shifted from you to Ms. Friend. However Ms. Friend advised Mrs. Eide when they spoke by telephone to arrange the inspection that Ms. Friend will be conducting this inspection only for purposes of the application No. 4-92-124A, and that she has no role in the revocation proceeding for the underlying permit which that application seeks to amend. She also advised Mrs. Eide that the hearing on the permit amendment application has been continued to the September meeting of the Commission. I would appreciate clarification on the scheduling of each of the revocation and permit amendment application hearings at your earliest convenience.

Ms. Friend also indicated to Mrs. Eide that a staff report for the permit revocation proceedings has already been prepared, presumably by you prior to your departure for vacation earlier this month. I understand from a staff member to whom I spoke by telephone last week that staff reports for the August meeting will not be available to applicants or to the public prior to their circulation to the Commissioners, which is expected to

July 24, 1995

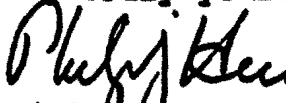
occur on or before July 28, 1995. I look forward to receiving a copy of the staff reports on the revocation proceedings as soon as possible. Please bear in mind that, since Mr. and Mrs. Eide did not return from Norway until July 4, 1995, they were unable to submit a response to the revocation proceedings by the July 5, 1995 deadline you specified in the notices. I trust that you and your colleagues will consider the response that Mr. and Mrs. Eide will submit this week, and revise the staff report to the extent warranted by that response.

Scheduling for the August hearings

I understand that South Central Coast Area items are scheduled to be heard by the Commission on August 10, 1995. Mr. and Mrs. Eide hereby request that the above-referenced items be moved to the calendar for August 11, 1995. This request is made because I will be out of town through August 10, 1995, and Mr. and Mrs. Eide wish to have their attorney present for the Commission hearing. While this would require the Commission and staff to take these items out of the usual order, only minimal inconvenience would result since the Commission meeting is taking place only a short distance from the South Central Coast Area staff offices. In making this request Mr. and Mrs. Eide seek the same measure of scheduling flexibility offered by staff when the hearings on the revocation proceedings and application No. 4-94-195A2 were continued one month to accommodate the convenience of the complainant.

Since you will be out of the office until August 7, I am sending copies of this letter to Jack Ainsworth in your office, and also to Adrienne Klein in San Francisco. I look forward to an opportunity to discuss the issues raised above, and that will be raised in the letters that will be submitted by me and by Mr. and Mrs. Eide this week, as soon as you return. In the meantime, I would be happy to respond to any questions or to discuss these issues with Mr. Ainsworth or Ms. Klein.

Very truly yours,


Philip J. Hess

PJH/hs

cc: Jack Ainsworth (By Fax)
Adrienne Klein (By Fax)

EXHIBIT NO. 4
APPLICATION NO.
R-4-92-124

August 21, 1995

Ms. Nancy Cave
California Coastal Commission
45 Fremont Street - Suite 2000
San Francisco, CA

Dear Nancy:

This letter is to demand that the continued abuse of the your permit process regulations by Harold and Barbara Eide of 1561 Lookout Drive cease. Unfortunately, due to its actions, I must also conclude that this abuse of the permit process is tacitly supported by your Ventura Staff. Accordingly, I am directing this letter to you and legal counsel in San Francisco.

I am confident, due to your experience and involvement in these matters, that there is no need to review the numerous violations of Coastal Act regulations and problems created by the Eides. However, it is clear from their actions that the Eides are willfully and shamefully trying to circumvent proper permit procedures in their attempts to develop an area of land that should be protected by the Coastal Act.

Article 2, Section 13053.4 of the California Code of Regulations states:

"To the maximum extent feasible, functionally related developments to be performed by the same applicant shall be the subject of a single permit application."

The Eides are clearly intending to develop the property at 1561 Lookout Drive according to some sort of a plan. However, rather than follow proper procedure, as mandated by the California Code, they are apparently trying to piecemeal their development so as to avoid scrutiny of the entire project. At this time, the following permits exist or are pending:

1. Permit 158-78, allowed for the construction of two homes (the permitted dimensions were, of course, violated).
2. Permit 4-92-124, allowed for the construction of two retaining walls (one of which was added to illegally).

3. A revocation hearing for the above permit (pending).
4. Permit 4-94-195A, an amendment of permit 158-78 pertaining to GSA credits and subsequently amended at the eleventh hour by staff to allow for construction of a playhouse, pool, fencing and grape arbor.
5. Permit R-4-94-195A, pertaining to revocation of the above permit (pending).
6. Permit 4-94-195A2, pertaining to further amendment of permit 4-94-195A, allowing retroactive permitting of the dimensions of the Eide's homes, fencing and a 5 foot high retaining wall (a third wall!) as well as fencing. This amendment to the amended amendment was further amended by staff at the eleventh hour (August 7, 1995, two days before a scheduled hearing) to include a stairway (pending).
6. Yet another amendment pertaining to the construction of a drainage swale and other improvements (pending). This hearing has been postponed. (I am sorry that I do not have the details of this permit in front of me).

Thus, there have been two permits pertaining to development of the same property issued to the Eides. These permits are or have been the subject of four amendments with two staff issued addendums that include substantive changes added at the eleventh hour. In what way does this follow the regulations as stated in Section 13053.4?

In addition, three investigations of the building activities of the Eides are pending:

1. Your own investigations of the numerous violations of the Coastal Act that have been committed by the Eides.
2. An investigation by L.A. County Department of Building and Safety into a road graded illegally by the Eides across land that is designated as a scenic easement.
3. An investigation by L.A. County Department of Building and Safety into the blocking of Yavapai Trail by the Eides' construction frenzy. A meeting with L.A. County Supervisor Yaroslovsky is planned in the near future with the Eides and the residents to address their violations.

While this activity is going on, the Eides have continued to build, without permits and in defiance of an order to suspend construction issued while permit revocation is pending. As you are aware from my previous correspondence:

1. They have already built part of the third wall, the permit for which is scheduled for a hearing in October (see number 5, above). Please note that the Eides obtained a permit for the construction of this wall from Los Angeles County Building and Safety citing that they had Coastal Commission Authority to build this wall, which, in fact, they did not have.

2. They have already built a stairway (see number 5, above).

3. They have started by construct a rose garden and laid concrete forms between the middle and illegally constructed third walls. This construction was the subject of a conversation between myself and Jack Ainsworth and documented in my letter to him of August 21, 1995 (copy enclosed).

It is undoubtedly in the power of the Coastal Commission to stop all of this and get everything straightened out. The land in question and the violations thereto are subject to several jurisdictions. Much action from the governing bodies is pending.

Accordingly, it seems reasonable and appropriate to respectfully request that:

1. All construction activity at 1561 Lookout Drive be immediately suspended until all actions on violations addressed by L.A. County Building and Safety and the Coastal Commission are concluded and that violation of the suspension carry mandated penalties. As it is entirely conceivable that, as a result of the numerous violations, some sort of action mandating restoring the property will be required by the Eides, it seems prudent to see what those actions might be prior to allowing any future construction.

Cave, Page 4

2. The Eides be required to submit a single permit application to the Coastal Commission in regards to their complete plans for developing their property and all of the land in question, including that which was supposed to have been deed restricted previously. The merits of such a plan can be discussed at an appropriate hearing in the future.

The requests above are reasonable and prudent in light of the facts. Accordingly, I request a response from your office as soon as possible.

Sincerely,

David W. Ramey, DVM
1611 Lookout Drive
Agoura Hills, CA 91301
(818)512-3123)

cc: Katherine Cutler
Commissioners

