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

Request Filed: 6/9/95
Staff: R. Richardson
Staff Report: 10/27/95
Hearing Date: 11/14-17/95
Commission Action:

TU20b

STAFF REPORT: REVOCATION REQUEST

APPLICATION NO.: R-4-94-195A

APPLICANT: Barbara Eide

PROJECT LOCATION: 1561 N. Lookout Dr.., Agoura, L.A. County

PROJECT DESCRIPTION: Modify special condition #1 pertaining to deed restriction and scenic easement to allow for the construction of a 350 sq. ft. play house, 50 cu. yds. of grading, a patio and a retaining wall within 90 ft. from the northern boundary of the property line and modify special condition #1 to allow for the transfer of 2400 sq. ft. of Gross Structural Area (GSA) credit (8 lots) to other Small Lot Subdivions located in the Santa Monica Mountains. (Note: the development allowed within the scenic easement will require a coastal development permit prior to commencement of development.)

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

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PROCEDURAL NOTE:

The California Code of Regulations, Title 14, Division 5.5, Section 13105 state the grounds for the revocation of a coastal development permit are 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 contends that the grounds in section 13105(a) exist because:

(1) "It cannot, at this time, be stated whether or not the information given to the Commission was accurate. However, given the past performance of the applicant, there is good cause to believe it was not." (See Exhibit 1, page 3).

(2) The permittee has developed a portion of Yavapai Trail; therefore, the permittee submitted inaccurate information to the Commission by "deceiving" the Commission regarding plans to develop the trail. Had the Commission known of the intent to develop Yavapai trail, it would not have issued the permit amendments. (See Exhibit 2, letter of June 16, 1995).

The applicant contends that the grounds in section 13105(b) exist because:

(1) The permittee did not post notice as required by section 13054(b).

(2) The applicant received no notice of the addendum to the staff report.

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. (See 1 at bottom of the page)

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 otherwise not made known to the Commission and could have caused the Commission to require additional or different conditions or deny the application.

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1 Issues of apparent interest to the Commission as stated at the October 12, 1995 hearing are discussed at: a) plumbing/electrical in playhouse: pg. 9, paragraph 1; b) Yavapai Trail: pg. 6, paragraph 3 and page 7 paragraphs 1-3; c) items added in the 1/95 staff report addendum pg. 9, paragraph 1.

II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Amendment Description/Background

On January 11, 1995, the Commission approved the amendment to coastal development permit A-158-78(Eide) for the modification of Special Condition #1 pertaining to a deed restriction and scenic easement. 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 and 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.

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 resdence was never granted. In August of 1980, the Commission approved a one year extension of time.

More recently, the site was the subject of coastal development permit 4-92-124(Eide) for the construction of retaining walls varying in heights of three to six feet with 166 cubic yards of grading (107 cu. yds. of cut and 59 cu. yds. of fill.) The retaining walls were built prior to the Commission's approval of the project. During the handling of the permit application in 1992, staff discovered that the second single family residence had been built prior to the issuance of authorization to commence construction and that the remaining 8 lots had not been deed restricted.

As noted in the staff report for the subject amendment (4-94-194A), dated 12/28/94, under the original permit the Commission approved the construction of two 2,741 sq. ft., 29 ft. high single family residences. At that time (12/94), the applicant submitted information that indicated that they had actually constructed a 1,996 sq. ft. single family home on lot 1 (APN 4462-21-45) and a 3,903 sq. ft. single family home on lot 2 (APN 4462-21-46.)

Presently pending in a separate permit amendment application is the propriety of the as built houses that are inconsistent with the approved 2,741 sq. ft. size of the single family residence and grading associated with the construction of the retaining walls. As stated in the 4-94-194A staff report (pg. 4), "This application and staff report does not attempt to resolve the outstanding questions pertaining to the unpermitted development."

The public hearing for the subject revocation request was originally scheduled for the August 9, 1995 Commission meeting. The project applicant, Barbara Eide, requested a postponement based on the fact that her agent was unable to attend the meeting. The Commission granted the postponement and directed staff to reschedule the public hearing to the next available local hearing. The Commission's next meeting was scheduled for September 12-15, 1995 and was located in Eureka. Thus, the next available local meeting was October 10-13, 1995, in San Diego. The applicant for revocation, David Ramey, requested a postponement based on the fact that he had not yet reviewed the subject permit files associated with the revocation request. The Commission granted the postponement and directed staff to reschedule the public hearing to the next available local hearing, Nov. 14-17, 1995, in Los Angeles.

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 alleged grounds for revocation 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 it cannot be determined whether or not the information given to the Commission was inaccurate but it contends that the applicant's "past performance" is "good cause" to believe that the

information submitted by the applicant was inaccurate. In order to qualify for grounds for revocation the request must factually demonstrate the above. As indicated above, the first standard consists, in part, of the inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application. Rather than asserting that there is proof of inaccurate, erroneous or incomplete information and providing evidence of it the applicant has merely asserted that he suspects that the information in the application was inaccurate. The suspicion appears to be based upon the "past performance" of the permit applicant. Essentially, the applicant is contending that, because there may be development on the site that violates the Coastal Act, the Commission should assume that the permit applicant's submitted information cannot be trusted and must be inaccurate. Such an assertion or suspicion is not evidence of inaccurate, erroneous or incomplete information. The applicant for revocation has provided no evidence of any inaccuracy, nor has an independent staff review of the application submittal disclosed any inaccuracy. Staff has reviewed the information submitted by the applicant to investigate the accuracy of the information submitted at the time of the amendment request. This review indicates that there was a slight disparity in the size of the houses which was provided in the information submitted for the first and second amendments. Staff has confirmed that, as submitted by the applicant's agent, the size of the homes differed from the 2,741 sq. ft. homes that were approved under the original permit. As indicated at that time, one home was constructed at 2,996 sq. ft. (APN 4462-21-46) and the other at 3,903 (APN 4462-21-46.) Subsequent to the Commission's approval of the amendment, the applicant submitted a second amendment request to revise the size of the homes approved by the original permit consistent with what was actually built. Contrary to the information that staff received in processing the first amendment, the applicant then submitted new information that indicates the houses were in fact built at 2081 sq. ft. and 3805 sq. ft. The new information submitted by the applicant indicates that the combined square footage of the homes as-built is 5,886 sq. ft., opposed to 6,899 sq. ft. (2,996 + 3,903, as submitted under 4-94-195A application.) The inaccuracy of the home sizes is not relevant to the conditions imposed on the subject amendment nor is it relevant to the consideration of the amendment. Furthermore, the revocation request makes no reference to the size of the homes, as constructed.

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. Furthermore, Commission staff has not found any evidence of the intentional inclusion of inaccurate or erroneous information. (As indicated above, the applicant voluntarily notified staff of the as built size of the two residences.) Therefore, the Commission finds that there was not any inclusion of inaccurate, erroneous or incomplete information in connection with the amendment application submittal.

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. The Commission finds that even though information relative to the size of the homes initially submitted was inaccurate, it is not pertinent to the consideration of the proposed project amendment because the amendment request, which is also pending before the Commission, provides the correct size of the homes as a component of the

amendment which the Commission must consider. Thus, the Commission finds that accurate information would not have caused the Commission to require additional or different conditions on a permit or deny the amendment application.

The Commission finds, therefore, that the grounds in 13105(a) do not exist. There is no evidence of the submittal of inaccurate information as asserted by the applicant for revocation. Further, even though there may have been an inaccuracy in the correct size of the two homes initially, as discovered by staff, such disparity was irrelevant to the issues presented by the amendment. Thus, accurate information regarding the size of the homes would not have altered the Commission's decision. Finally, there is no evidence of intentional submission of inaccurate information.

In a followup letter 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 amendment 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." 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. Staff has verified that a portion of the Yavapai Trail street easement has been developed with a drainage swale and landscaping adjacent to the Eides property. This matter is currently under investigation by the Commission's Enforcement Division as a separate matter. It is totally unrelated to any proposed or allowed development in the permit amendment application which the Commission is considering as a separate matter and which the revocation request applies to. 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).

As previously indicated, the first standard for the Commission to consider is whether the application included inaccurate, erroneous or incomplete information relative to development within the Yavapai Trail easement. The applicant for revocation has submitted evidence of an alleged violation concerning development within the street easement and cited a special condition to the permit amendment which would allow the future construction of a pool, playhouse and fence within a specified area of the property subject to a coastal development permit. The applicant's reasoning seems to be that unpermitted development of any kind anywhere on or adjacent to the property equates to the submittal of inaccurate information. 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 amendment application, however, is unrelated to the development which has taken place in the street easement. This is a violation matter for the Commission to consider as a separate and independent matter. The Commission finds, therefore, that the permit amendment application did not include inaccurate, erroneous or incomplete information relative to development within the Yavapai Trail street easement.

The second standard consists of determining whether there was any intent to include inaccurate, erroneous or incomplete information relative to development within the Yavapai Trail easement in the submittal of the permit amendment application. As discussed above, the applicant for revocation asserts that the existence of unpermitted development on Yavapai Trail is a deception in regards to development plans for the street. Evidence of a Coastal Act violation concerning an unrelated development undertaken by the permittee, however, does not constitute an intentional inclusion of inaccurate information in the permit application. Further, staff has not found any evidence of the intentional inclusion of inaccurate or erroneous information relative to Yavapai Trail in the application. Therefore, for the reasons stated above, the Commission finds that there was no intentional inclusion of inaccurate, erroneous or incomplete information in the amendment application.

The third standard which the Commission must consider is whether accurate information (existing unpermitted development) would have caused the Commission to require additional or different conditions or to deny the application. As discussed above in detail, this information concerns an unrelated and unpermitted development which is being investigated as a separate Coastal Act violation matter by the Commission's Enforcement Unit. This information is not pertinent to the consideration of the proposed amendment. Therefore, the Commission finds that this information would not have resulted in the requirement of additional or different conditions or the denial of the permit amendment.

The Commission finds, therefore, that the grounds in 13105(a) do not exist relative to the development within the Yavapai Trail easement. There is no evidence of the intentional inclusion of inaccurate information as asserted by the applicant for revocation. Information concerning an alleged violation in the form of unpermitted development is irrelevant to consideration of the amendment. Therefore, accurate information concerning this unpermitted development would not have altered the Commission's decision.

Staff also notes that, in correspondence received since the preparation of the original staff report pertaining to this revocation request, the applicant for revocation asserts that, because the applicant did not inform the Coastal Commission staff in his application of certain development that was built within the open space area without benefit of a coastal development permit, the coastal development permit should be revoked (Exhibit 5, page 2). This assertion, too, does not satisfy the grounds in 13105(a) for the same reasons as stated on pages 4-7 above. In short, there is no evidence of intentional inclusion of information; because information concerning an alleged violation is irrelevant to consideration of the amendment, it therefore would not have altered the Commission's decision even if the application was incomplete in not calling out such violations.

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?"

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 three 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 admits that residents did receive notice two weeks prior to the hearing (notices were mailed on 12/29/94). 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)] although the applicant has not submitted any evidence that would support this contention, however, and staff is unable to confirm whether the applicant complied with the posting requirement. The Commission will assume, however, for the purpose of this analysis and for the record, that the site may not have been properly posted. As indicated, the revocation request also states that "at no time during the permit proceedings was public notice given by the applicant." The letter requesting revocation also states, however, that concerned residents were notified two weeks prior to the hearing. Therefore, public notice was provided by mailing which the Commission finds to be adequate legal notice.

Second, the request asserts that the applicant for revocation had no notice of the addendum to the staff report. The request contends that pursuant to 14 C.C.R. 13054(b), which states, in part, that the notice "shall contain a general description of the nature of the proposed development," that the subject amendment was incorrectly noticed. This basis for this contention is related to the fact that the amendment was revised to include the allowance for the construction of a pool, playhouse, fencing and grape arbor within 50 ft. of the deed restricted lots. This revision was made known in an addendum to the staff report, dated January 9, 1995, available to the public on that day and at the hearing. Additionally, contrary to the applicant for revocation's assertion that the revision was never mentioned at the hearing, this revision was stated on the record by Commission staff at the January 12, 1995 hearing during the staff presentation, which commenced prior to the Commission receiving public testimony. At the begining of the staff presentation, which was made by staff analyst Rebecca Richardson, it was stated for the record, "There is an addendum included in your packet with changes to the staff report." After Ms. Richardson described the proposed Gross Structural Area transfer, she stated, "The applicant is also proposing that the open space deed restriction allow for the construction of a pool, a 350 sq. ft. playhouse, grape arbor, and fencing. This would be placed on the 17 (sic) open space lots."

Furthermore, no additional notice besides the addendum is required for minor changes to a project or amendment or for an addendum report which describes changes or provides additional information or findings. The changes to the project do not equate to a major deviation from that described in the notice since open space easements imposed by special conditions normally allow this type of development. Ancillary development such as, e. g., a pool, playhouse, landscaping, etc. have been allowed by the Commission to be built by homeowners in open space deed restricted areas in the past. In the case of this project, the playhouse does not include a plumbing or septic system and is proposed as an allowable future development on deed restricted lots (emphasis added). In fact, the amendment specifically prohibits plumbing in the playhouse. As such, this practice of amending the project description in an addendum has been routine and the Commission staff consider the above modification to a deed restriction to be minor in nature. The addendum is considered minor because 1) only ancillary strucutres would be allowed and 2) the amended deed resriction did not actually allow for the construction of these uses, as any development proposed on the deed restricted lots would require a coastal development permit. The applicant for revocation had a representative at the January 1995 hearing. Therefore, the applicant for revocation and other interested parties had legally adequate notice of the addendum. Further, the contents of the addendem did not invalidate the adequacy of the public notice given. In summary, the Commission finds that the assertion concerning the addendum does not constitute inadequate notice.

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 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 amendment should be revoked because of numerous violations which exist on the site) were made known to the Commission as early as January of 1995 and staff was aware of these violations and they were analyzed and reported to the Commission in the amendment staff report. Therefore, the Commission finds that the views expressed in the letter were made known to the Commission and would not have resulted in additional or different conditions to or denial of the amendment. Thus the request has not provided relevant information to support such an assertion.

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 amendment request and those objections were reported to and considered by the Commission before acting on the permit amendment. The Commission finds that no evidence exists to suggest that the views of persons not notified were not otherwise made known to the Commission. In addition, based on the discussion provided in the preceding paragraph relative to the staff's and Commission's knowledge and consideration of previous existing violations on the site, the Commission finds that any issues or views that may have been raised with respect to the revised amended project would not have caused the Commission to either require additional or different conditions or deny the application.

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 evidence of the 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 the notice provisions of Section 13054 were not complied with 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.

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EXHIBIT NO. 1
APPLICATION NO.
R-4-94-195A

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 notifies 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 <u>north</u> 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-4-94-195A

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 <u>any kind</u> 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-4-94-195A

June 7, 1995

California Coastal Commission
South Central Coast Area
89 S. California Street, Suite 200
Ventura, CA 93001

Dear Sirs:

This letter is to demand that permit number 4-94-195A2, being considered on June 15, 1995, project location o 1561 N. Lookout Drive, Agoura Hills, California, be rejected. We, residents of Lookout Drive, Malibou Lake, California, strongly object to consideration of further development or modification of existing permits for the following reasons:

1. Section 30251 of the California Coastal Act states:

"The scenic and visual qualities of coastal area 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 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."

The proposed addition of a 350 square foot "playhouse", an additional 50 cubic yards of grading, a patio and a retaining wall within 90 feet from the northern boundary of the property:

a. Will dramatically alter the natural land form.
b. Be absolutely incompatible with the character of any of the surrounding area or structures.
c. Destroy and detract from the visual quality in an area that has already been visually savaged due to previous construction by the developer.

In addition, all of the proposed structures will be completely visible from both Malibu Creek State Park and from Lookout Drive.

2. Section 30240 of the California Coastal Act states:

"Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such areas."

The proposed modifications are in violation of this section because:

a. It is a certainty that the project will create and contribute significantly to erosion, geologic instability and destruction of the site and surrounding area. An additional 50 cubic yards of grading on this steep slope could do nothing less.

b. The construction of a retaining wall is a protective device by definition. It will substantially alter the natural landform. In fact, the proposed retaining wall has already been constructed. Three retaining walls already exist, although only two are permitted. The existing retaining walls are in defiance of Coastal Commission permits, as well.

In addition, the grading modifications proposed are in absolute defiance of the Malibu/Santa Monica Mountains Land Use Plan. Specifically, 50 cubic yards of grading is excessive and violates the following sections of the Plan:

a. P82 states - "Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on theses resources are minimized."

The proposal clearly violates this section of the Land Use Plan. Fifty cubic yards of grading is hardly a minimal amount of grading.

b. P91 states - "All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible".

The proposal clearly violates this section of the Land Use Plan. Existing grading and development already has dramatically altered the physical features of the land. The proposed modification, grading and development will further destroy the physical features of the land. The construction and grading has potentially adverse effects on all of the processes of the site.

c. P130 states - "In all highly scenic areas and along scenic highways, new development (including buildings, fences, fences, paved areas, signs, and landscaping) shall:

- 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 Mailbu LCP."

The proposal clearly violates this section of the Land Use Plan. The proposed modifications and construction of a 350 square foot "playhouse" structure and patio will dramatically alter the scenic features of the area.

- "minimize the alteration of natural landforms."

The proposal clearly violates this section of the Land Use Plan. The proposed grading and construction will dramatically alter the natural landform.

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

The proposal clearly violates this section of the Land Use Plan. The proposed grading and construction is absolutely incompatible with any development in the area. The proposed development is on a rugged, natural slope. There are no "playhouses", pools, patios retaining walls or similar graded areas anywhere in the area, with the exception of areas where the very same developer has already violated existing Coastal Permission permits.

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

The proposal clearly violates this section of the Land Use Plan. The proposed grading and construction 90 feet from the northern boundary of the property line is in a location far above any current construction. The modification of the existing permit would allow for a swimming pool, a new 350 square foot structure and a new patio in an area that is clearly visible from Malibu Creek State in a number of areas as well as from Lookout Drive itself.

The proposed modifications are in violation of this section because:

a. Lookout Drive is directly adjacent to Malibu Creek State Park. The proposed modifications would significantly degrade the view from the park as well as the Lookout Drive neighborhood.

b. Such proposed development is absolutely incompatible with the continuance of this sensitive, natural area.

3. Section 30253(1) of the California Coastal Act states:

"New development shall minimize risks to life and property in areas of high geologic, flood and fire hazard."

The proposed modifications are in violation of this section because:

a. The proposed construction of a 350 square foot "playhouse" would significantly increase the fire risk in an area already deemed "extremely hazardous" by adding yet another flammable structure to an already crowded area.

b. Further cuts into the hillside may adversely affect drainage and erosion in the area and cause geologic instability.

4. Section 30253(2) of the California Coastal Act states:

"New development shall 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".

Specifically in regards to the proposed retaining wall, the Coastal Commission is hereby advised that a third retaining wall has already been constructed and has been in place for approximately one year. This third wall exists approximately 50 feet from the northern border of the property line. This wall has not been permitted by Coastal Commission and is clearly illegal. No soils, drainage or structural engineering reports have been prepared nor submitted for this illegal wall. In addition, its existence violates all of the aforementioned statutes. Granting this modification would seem to yet again give tacit approval to the illegal construction activity that has already taken place.

In addition, the Coastal Commission is hereby advised that a 65 foot stairway has already been built adjacent to the three existing retaining walls. This stairway has also not been permitted. This stairway also violates all of the previously quoted statutes.

In regards to the modification of the single family residences, the Coastal Commission is well aware that two residences are already in existence. The dimensions of the residences have been recently approximated by measuring the interior walls. The residence at 1561 Lookout Drive has been estimated at 3,806 square feet. The adjacent residence has been estimated at 2,081 square feet.

The developer is in clear violation of Coastal Commission permits. California Coastal Commission Appeal Number 158-78, voted and approved on 8/16/78 gave permission to build two structures "containing about 2,741 square feet of floor structure". The developer subsequently constructed two residences. As per your staff report of 5/17/95, "neither residence was constructed in accordance with the approved plans for the original permit". In fact, they were constructed in absolute and unequivocal violation of this permit.

The initial residence construction of 3805 square feet violated a clear coastal commission permit, 158-78, voted on 8/16/78 allowing "about 2,751 square feet of floor area." In a letter to the Coastal Commission dated May 2, 1995, the Eides assert that they "do not accept the assertion by staff that the homes developed on their property represent a violation of the 1978 permit." This is asinine. The Eide's have known for 17 years that their home was in violation of the permit. They could have easily applied to Coastal Commission for clarification or modification of the permit at any time prior to construction had they any desire to attempt to follow the law. That the Coastal Commission would even consider retroactively covering up this clear violation of Coastal permits is unconscionable.

The second residence constructed was also in violation of Coastal permits. This residence is smaller than permitted. This residence was constructed prior to the issuance of a permit and prior to the satisfaction of a special condition requiring recording of an offer to dedicate an open space easement and deed restriction. It is inconceivable that the Coastal Commission would modify its permits to give its retroactive approval to such flagrant illegal activity in violation of its own permits.

The Commission should also note than an additional 350 square feet of construction space is proposed in this permit. This fact is not addressed in staff reports. This would bring the total square footage to 755 square feet in excess of the allowable gross structural area for this site, not 405 square feet as noted in the staff report of 5/17/95. This fact must not be overlooked and is yet another reason why the Commission should deny permit modifications.

The proposed construction will have a negative impact on the land values in the area. The property in this area has largely maintained its value because of its remote and natural setting in close proximity to an urban environment. Continued construction that adversely impacts the natural setting, such as that which is proposed in this permit is an eyesore. Such construction has already decreased the value of all of the homes in this area.

As the Coastal Commission is undoubtedly aware, the developers of this mess, Harold and Barbara Eide, are currently under investigation by the enforcement arm of the California Coastal Commission for previous violations. The Eide's have done nothing but violate both the spirit and the letter of the law. It is beyond comprehension that the Coastal Commission could consider that the permit modifications would be followed, based on the history of previous non-compliance by the Eide's.

According to Rebecca Richardson in the Ventura Office of the Coastal Commission, each case that is presented before the Commission must be considered separately, without consideration of previous permits or violations. This practice must stop. It is absurd and flies in the face of common sense. Such an attitude is in clear contradistinction to any civil or criminal statute in existence in American jurisprudence. Evidence of previous behavior by an individual is clearly admissible evidence in any court of law, be the case civil or criminal. Although the Coastal Commission is not a court of law, it is a governing body that regulates and makes decisions based on administrative laws and policies. It is an extension of the law and should be governed by it. The policies of the Coastal Commission should at least be constrained by the dictates of common sense.

Finally, the Coastal Commission is advised that we feel that permit 4-94-195A was approved and issued illegally. As interested parties, we were advised that the Coastal Commission hearing help on January 11, 1995 in Los Angeles, California was to "Modify Special Condition #1 pertaining to the deed restriction and scenic easement to allow for the transfer of 2400 sq. ft. of Gross Structural Area credit (8 lots) to other Small Lot Subdivisions located in Santa Monica Mountains." A concerned representative was in attendance at this meeting.

However, on June 5, 1995 it was discovered by the interested parties that on January 9, 1995 an addendum was issued to permit 4-94-195A. This addendum added the following, "and to allow for the future development of a pool, children's playhouse (not to exceed 350 sq. feet.), fencing and a grape arbor on lots APN 4462-21-03, -04, -23, -22, -21."

Not one of the interested parties was informed of this addendum. The subject of this addendum was not addressed in the Coastal Commission staff report of 12/7/94. The addendum was not given with proper notification so as to allow any of the affected parties to respond. In fact, this addendum was not even mentioned at the Coastal Commission hearing. This addendum, containing dramatic and significant deviations from the original permit was issued and approved in clear violation of Coastal Commission policy.

The Coastal Commission is therefore advised of our intent to file for a hearing to revoke permit #4-92-195A. We encourage the Commission to postpone any action on permit #4-92-195A2 until such a revocation hearing can be held. It is clear from their past conduct that the Eide's will begin construction on the patio, pool and playhouse immediately. This construction must be properly reviewed before the Coastal Commission can permit new permits or any changes thereto. We are confident that once the facts in this matter are presented to the Commission, that the proposed construction will be disallowed.

Please be advised that the interested parties have determined to pursue legal action against the Coastal Commission for violation of its statutes should the above wrongs not be redressed.

Lastly, the Coastal Commission is undoubtedly aware that none of the above discussion would be necessary had the Eides followed the specific Coastal Commission restrictions that were issued in permit 158-78 on 8/16/78. In this permit, the Coastal Commission clearly stated, and illustrated in a map attached to the permit, that the lots referred to in the current permit application were to be deed restricted in exchange for allowing building of the two aforementioned residences. The lots were, in fact, not restricted by the Eides as mandated by the Coastal Commission. Had the Coastal Commission permit been followed, the need for any of this discussion would have been obviated. That the Coastal Commission would permit <u>any</u> construction on land that was not handled in according to its specific instructions is incredible. That the Commission would condone such flagrant violations of its own permits by allowing further construction defies any rational comprehension.

Accordingly, we, the undersigned, respectfully request, and indeed, demand, that the Coastal Commission act in a responsible manner and in accordance with the Coastal Commission Statutes and the Land Use Plan of Santa Monica and Malibu. We request that at least, the Coastal Commission postpone the hearing on June 15, 1995 until it has heard from the interested parties on our request to revoke permit #4-92-195A. The Coastal Commission has a duty to uphold its statutes and enforce the laws. It is also inconceivable that the Coastal Commission should do anything but deny the requested changes in permits requested in permit number 4-95-195A2.

David W Davey DVM

Signed

1611 Lookout Drive Agoura Hills, CA 91301

Address

June 7 1995

Date

Ann Marie Miller Ann Marie Miller

Signed

1605 Lookout Dr, Agoura CA 91301

Address

June 7, 1995

Date

BEATRICE TESDORPF
KINON BELLAS

Signed

1531 LOOKOUT DR. AGOURA, CA 91301

Address

JUNE 7, 95

Date

Don & Margrit McKindley DON & MARGARIT MCKINDLEY

Signed

1552 LOOKOUT DR, Agoura, CA 91301

Address

6/7/95

Date

J. C. Peters J. C. PETERS

Signed

1541 LOOKOUT DR., AGOURA CA 91301

Address

6/7/95

Date

Vera + Mahlon Hubbard
Signed

1547 Lookout Dr. Agoura, Ca 91301
Address

6-7-95
Date

Patricia A. Henkel
RICHARD & PATRICIA HENKEL Richard R. Henkel
Signed

1755 LOOKOUT DRIVE AGOURA, CA 91301
Address

6-7-95
Date

W E Miller W E MILLER
Signed

1165 LOOKOUT DR AGOURA, CA. 91301
Address

6-7-95
Date

cc: Nancy Cave
Coastal Commission
San Francisco, CA

Edward K Hamada / EDWARD K HAMADA
Signed

16636 Lookout Dr., Agoura CA 91301
Address

6/9/95
Date

Signed

Address

Date

Signed

Address

Date

EXHIBIT NO. 4
APPLICATION NO.
R-4-94-195A

PHILIP J. HESS
ATTORNEY

155 South Hudson Avenue
Los Angeles, CA 90004-1033

(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

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)

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. <u>All</u> 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.

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