

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200

Amendment

Submitted: 09/19/95

Staff: J. Sheele/cm

Staff Report: 01/24/96 1731P

Hearing Date: 02/09/96

Commission Action:

STAFF REPORT: PERMIT AMENDMENT

F7b

APPLICATION NO.: 3-94-39-A

APPLICANT: KIRSTIE WILDE and PAUL MILLER

PROJECT LOCATION: West side of North San Antonio Avenue between 2nd and 4th Avenues, City of Carmel, Monterey County, APN 010-321-046

DESCRIPTION OF PROJECT: Demolition of an existing garage and construction of a new two-story, single-family dwelling and shared driveway.

DESCRIPTION OF AMENDMENT: Revised house plans; height, siting and lot coverage are essentially the same, grading is reduced, and driveway materials are changed from cobblestone to exposed aggregate and tire strips.

LOCAL APPROVALS RECEIVED:

- o Design Study (DS-94-16) approved by Planning Commission on 10/12/94.
- o Certificate of Compliance with the Subdivision Map Act - 8/9/93.
- o Amendment to approved Design Study (DS-95-36) approved by Planning Commission on 9/13/95.
- o City Council denied the appeal of the Planning Commission's decision to approve the Design Study on 11/7/95.
- o CEQA - Categorically exempt.

SUBSTANTIVE FILE DOCUMENTS:

- o Carmel Local Coastal Program Land Use Plan.
- o Preliminary Cultural Resources Reconnaissance by Anna Runnings and Trudy Haversat, February 8, 1994.
- o 3-84-85 Patterson
- o 3-90-21 Hart
- o 3-91-97 Thorn

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission concur that the proposed amendment is immaterial as determined by the Executive Director.

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

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

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

The Executive Director of the Commission found the proposed permit amendment to be an immaterial change to the Coastal Development Permit. However, an objection was received and the appropriate procedure is to refer the matter to the Commission. In this case, the objector has requested the Commission make an independent determination of materiality. Therefore, prior to opening a public hearing on the proposed permit amendment, the Commission must determine whether the proposed permit amendment is material.

When making an independent determination of materiality, if a majority of the Commission membership present finds that the proposed permit amendment is material, the public hearing shall be opened on the proposed amendment as scheduled. If a majority of the membership present determines that the proposed amendment is immaterial, the amendment will be deemed approved as submitted and there will be no further hearing on the proposed amendment.

SUMMARY OF STAFF RECOMMENDATION FOR IMMATERIAL AMENDMENT

The staff recommends that the Commission determine that the proposed amendment is immaterial as determined by the Executive Director. The amendment is subject to the conditions in the adopted staff report for the original project (3-94-39), and is consistent with the requirements of the Coastal Act.

I.A. Commission Concurrence with Executive Director's Determination

The Commission hereby determines that the Executive Director's determination of the proposed amendment as submitted by the applicant is immaterial and will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

NOTE: If the majority of the Commission present determines that the proposed amendment is immaterial, the amendment is deemed approved as submitted and there will be no further hearing on the proposed amendment.

SUMMARY OF STAFF RECOMMENDATION IF THE COMMISSION DETERMINES THE PROPOSED AMENDMENT IS MATERIAL.

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

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I.B. Approval with Conditions.

The Commission hereby approves the amendment to the coastal development permit, subject to the conditions below, on the grounds that the development with the proposed amendment will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions. (see 3-94-39)

III. Special Conditions. (see 3-94-39)

NOTE: All conditions attached to the previously approved permit remain in effect.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

1. Project Description/Background and Amendment Analysis.

On December 15, 1994, the Coastal Commission conditionally approved Coastal Development Permit 3-94-39 Kirstie Wilde and Paul Miller for the demolition of an existing garage and the construction of a new two-story, single family dwelling with a shared driveway, located on the west side of north San Antonio

Avenue between 2nd and 4th Avenues in the City of Carmel (see Exhibit 2). On September 19, 1995, the applicants applied for an amendment to their Coastal Development Permit. The amendment request was to revise the plans for the previously approved, two story, single-family dwelling; height, siting and lot coverage are essentially the same, grading is reduced, and driveway materials are changed from cobblestone to exposed aggregate and tire strips. Both the original and the amended projects have received review and approval from the City of Carmel. The Executive Director reviewed the amendment pursuant to the California Administrative Code Section 33166(a)(2) and considered the amendment to be immaterial if no written objections were received within ten working days from the date of the public notice. An objection was received along with a follow-up letter from Anthony Lombardo on behalf of Dr. and Mrs. Golub (see Exhibits 3, 4, and 5). The immaterial amendment was not issued and a hearing is scheduled for the February, 1996, Commission meeting (the subject of this staff report). The applicants have responded to the objections -- see Exhibits 11, 12, and 13.

2. Opponent's Objections to Revised Design.

Mr. Lombardo's letter states, "the proposed project appears to be located on a "lot" which appears to have been illegally created."

At the time of the original project approval, the Commission accepted the City's determination that the lot was a legal lot of record. On August 9, 1993, the City granted a "Certificate of Compliance with the Subdivision Map Act and the City Zoning Regulations". The original project and the amendment proposal are based on the City's determination that the subject parcel is a legal lot. Mr. Lombardo's letter includes a parcel map which he claims depicts the proposed project site as a portion of APN 010-321-03. However, this parcel map clearly shows the subject parcel as a separate lot, APN 010-321-046 and thus does not seem to support the contention that it appears as part of another parcel. The issue of lot legality was not raised as an issue at the City level either at the time of the original project approval, the amendment approval or during the appeal process. The City has determined the parcel to be a legal lot. Since the Commission has found the parcel to be a legal lot of record and the amendment is solely for changes to the previously approved dwelling, the status of the lot is irrelevant to the amendment.

Secondly, Mr. Lombardo's letter states, "Notwithstanding the legality of the existence or non-existence of this parcel as a separate legal lot, the proposed project violates the LUP." ...

"The proposed "amendment" to this project with its skylight measuring almost thirty (30) feet long and three feet wide on the ridge of the roof significantly degrades not only the quality of the visual experience enjoyed by the public on the Carmel beach in the evenings, but also would be completely inconsistent with the character of the neighboring homes. In fact, this proposed amendment would be in direct violation of the condition contained in the original permit for the development of a home on this site that says lighting visible from public viewing areas should be subdued.

The policies contained in the Carmel LUP are modeled after California Coastal Act Sections 30251 and 30240 which would also be violated by the approval of this project."

3. Staff Response to Objections.

Findings in the adopted staff report state:

"Because of the site topography and existing trees only the roof area of the house may be visible from the beach. To reduce visual impact, exterior finishes including roofing materials should be limited to earthen/sand tone colors, non-reflective/low-glare glass, and exterior lighting should be limited to the amount necessary for safety and directed away from the adjacent beach areas."

In addition, adopted condition No. 2.B. states:

2. PRIOR TO COMMENCEMENT OF CONSTRUCTION the permittee shall submit the following for the Executive Director's review and approval:

- B. Final project plans (site, floor and elevations) including evidence of review and approval by the City Building Department. Samples of exterior surfaces (chips by color and material). All exterior finishes including roofing materials shall be earthen/sand tone colors. All windows shall be non-reflective, low-glare, and all window frames shall be bronze anodized or wood. All exterior lighting shall be limited to the amount necessary for safety and in any case directed away from the adjacent beach areas. All utility connections shall be installed underground as proposed.

The amendment plans include primarily revisions to design features of the previously-approved dwelling, such as the relocation of dormers and change in the roof lines. The height, siting and lot coverage are essentially the same as the original project. The amendment plans include a new 3 foot by 30 foot skylight. The proposed skylight is non-reflective tinted glass with a bronze trim. The exterior materials of the house are the same as originally proposed — wood shingles with some earthen stucco and a fire-proof, tile shake roof. The amendment plans are consistent with the findings and conditions of the original project approval. As conditioned by CDP 3-94-39, to include measures to reduce the visual impacts and ensure the protection of the area's visual qualities, the development as amended is consistent with Sections 30251 and 30240(b) of the Coastal Act and approved LUP development standards. Staff notes that because the City of Carmel does not have a certified LCP, the standard of review for Coastal Commission issued coastal permits is Chapter 3 of the Coastal Act and not the Carmel LUP. The LUP may only be used as advisory guidance.

4. Opponents' Objection to Lot Coverage.

Finally, Mr. Lombardo's letter states:

"... the Carmel LUP permits a maximum of thirty-five percent (35%) site coverage on any parcel. Even if this parcel were located on a legal lot of record and complied with all the other policies of the Carmel LUP, it exceeds the thirty-five percent (35%) maximum by 11.7%."

5. Staff Response to Objection.

Findings in the adopted staff report state:

The proposed building coverage is 1954 sq. ft. (27 percent) according to the project plans. The project also includes a shared driveway of 1520 sq. ft. (21 percent). The proposed building coverage is within the LUP allowable building coverage of 35 percent. Although the proposed total site coverage exceeds the LUP allowable building coverage of 35 percent, the parcel is relatively small and the project includes a shared driveway. An increase in building coverage does not meet the actual intent of the Land Use Plan building coverage standard; however, it is consistent with the intent of Coastal Act development policies. The proposed height is 18 1/2 feet; however, conditions of the City's approval require the height to be lower (reduced) to 18 feet, which is consistent with the 18-foot height limit allowed by the LUP.

The building coverage proposed by the amendment is 2065 sq. ft. (29 percent) according to the plans. The project amendment includes a shared driveway of 1264 sq. ft. (17 percent). The building coverage as amended is within the LUP allowable building coverage of 35 percent. Although the total site coverage as amended exceeds the LUP allowable total site coverage of 35 percent, the parcel is relatively small and includes a shared driveway. While an increase in building coverage does not meet the actual intent of the Land Use Plan building coverage standard, it is consistent with the intent of Coastal Act development policies because it is sited and designed to protect views along the ocean and it is visually compatible with the character of the surrounding area. The LUP has been approved by the City and certified by the Commission. The LUP is used as a guideline and the project must be reviewed for consistency with Coastal Act policies. In this case both the original coastal development permit and the amendment are consistent with the policies contained in Chapter 3 of the Coastal Act and will not prejudice the ability of the City of Carmel to complete and implement a certified Local Coastal Program.

Exhibits

- 1.A. Amendment Plans - Site Plan.
 - 1.B. Elevation - E.
 - 1.C. Elevation - W.
 - 1.D. Elevation - N.
 - 1.E. Elevation - S.
2. Adopted Staff Report 3-94-39 Wilde and Miller.
3. Letter of 12/12/95 from Anthony Lombardo Re: Objection to the amendment.
4. Letter of 12/13/95 from Anthony Lombardo Re: Supplement to previous letter.
5. Letter of 1/11/96 from Anthony Lombardo Re: Specific objections to the amendment.
6. Letter of 1/10/96 from Anthony Lombardo to the City Attorney Re: Project construction and building permit.
7. Letter of 1/12/96 from Rick Tooker, City Planner Re: Response to project construction
8. Letter of 1/16/96 from Les Strnad Re: Response to project construction.
9. Letter of 1/17/96 from Anthony Lombardo Re: Lot legality.
10. Letter of 1/22/96 from Les Strnad Re: Response to lot legality.
11. Letter of 1/16/96 from Paul Miller and Kirstie Wilde Re: Response to Mr. Lombardo's letter of 1/11/96.
12. Letter of 1/17/96 from Paul Miller to Anthony Lombardo Re: Skylight visibility issue.
13. Letter of 1/22/96 from Paul Miller Re: Response to Mr. Lombardo's 1/17/96 letter -- lot legality.



Wm. David Martel, AIA
& Associates
Architects
1500 17th Ave.
San Francisco, CA 94114

WIDE RESIDENCE
SAN ANTONIO AVENUE
CARMEL, CALIFORNIA

Most of site
blended into
Hillside, 1000 ft. to
Hillside, 1000 ft. to
Hillside, 1000 ft. to

GRADING INFORMATION
ESTIMATED AMOUNT OF GRASS ON SITE
ESTIMATED AMOUNT OF FILL ON SITE
EXCESS SOIL TO BE DISTRIBUTED
UNIFORMLY OVER SITE

PROJECT INFORMATION

AP NO. 700-001-001
ADDRESS 3000 17th Ave
CARMEL, CALIF.

SITE AREA 2.75 AC. ±

PROPOSED BUILDING AREA 1.5 AC. ±
TOTAL AREA 1.5 AC. ±
ATTACHED GARAGE 1.5 AC. ±
GARAGE 1.5 AC. ±
WALKWAY 1.5 AC. ±
PROPOSED DRIVE 1.5 AC. ±

SITE COVERAGE CALCULATIONS

ALLOWED 40%
PROPOSED 40%
FOOT AND DRIVE CALCULATIONS
ALLOWED 40%
PROPOSED 40%

OWNER INFORMATION

PAUL HILLER, OWNER
1500 17th Ave
PACIFIC GROVE, CALIFORNIA 93950
TELEPHONE (408) 944-0011

SCHEDULE OF DRAWINGS	
NO.	DRAWING TITLE
1	GENERAL NOTES
2	FOUNDATION PLAN
3	GROUND FLOOR PLAN
4	ROOF PLAN
5	UPPER LEVEL PLAN
6	UPPER LEVEL PLAN
7	UPPER LEVEL PLAN
8	UPPER LEVEL PLAN
9	UPPER LEVEL PLAN
10	UPPER LEVEL PLAN
11	UPPER LEVEL PLAN
12	UPPER LEVEL PLAN
13	UPPER LEVEL PLAN
14	UPPER LEVEL PLAN
15	UPPER LEVEL PLAN
16	UPPER LEVEL PLAN
17	UPPER LEVEL PLAN
18	UPPER LEVEL PLAN
19	UPPER LEVEL PLAN
20	UPPER LEVEL PLAN

PROPOSED
RESIDENCE



PLOT PLAN
SCALE: 1/8" = 1'-0"

EXHIBIT NO. 1.A.

APPLICATION NO.
3-94-39-A

Amendment Plans
Site Plan

California Coastal Commission



WM DAVID MARTIN, AIA
& ASSOCIATES

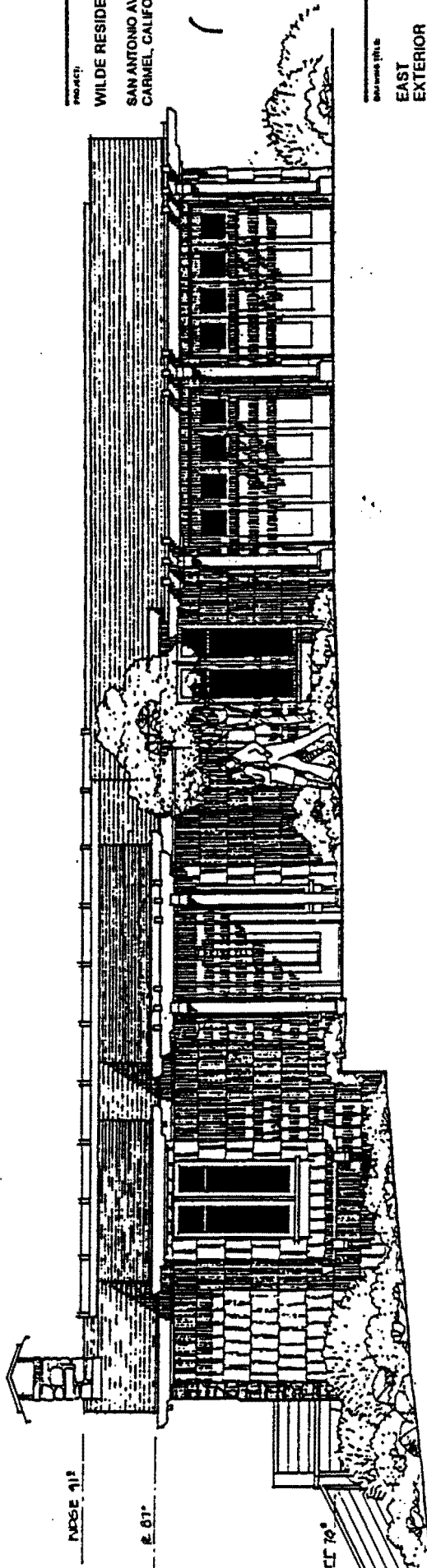
ARCHITECTURE &
LAND PLANNING

2000 N. 10TH AVE.
SUITE 100
DENVER, CO 80202

NOSE 11"

2 81"

11 10"



PROJECT:

WILDE RESIDENCE
SAN ANTONIO AVENUE
CARMEL, CALIFORNIA

DATE: 10/10/00

EAST
EXTERIOR
ELEVATION

EAST ELEVATION
SCALE: 1/4" = 1'-0"
(North San Antonio Ave.)

DESIGNED BY: WDM
DRAWN BY: JDM
DATE: 10/10/00

EXHIBIT NO. 1.B.

APPLICATION NO.
3-94-34-A

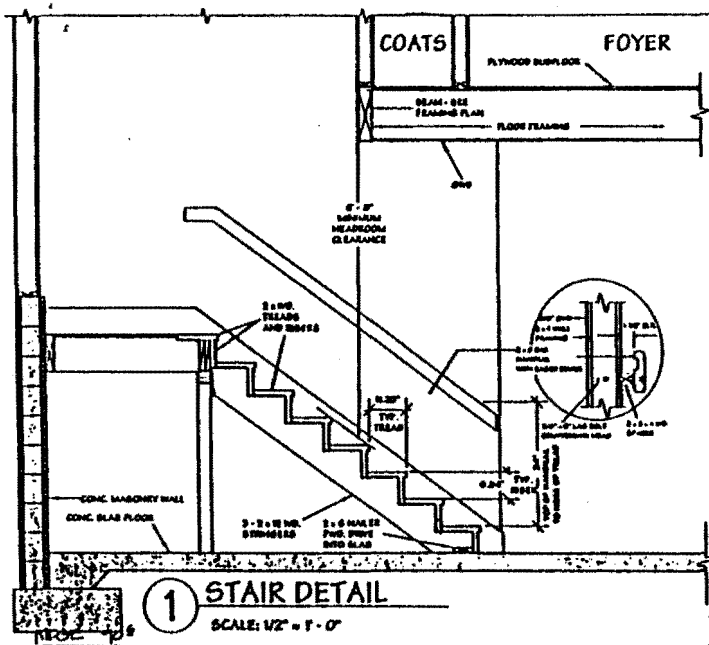
Amendment Plans

Elevation - E

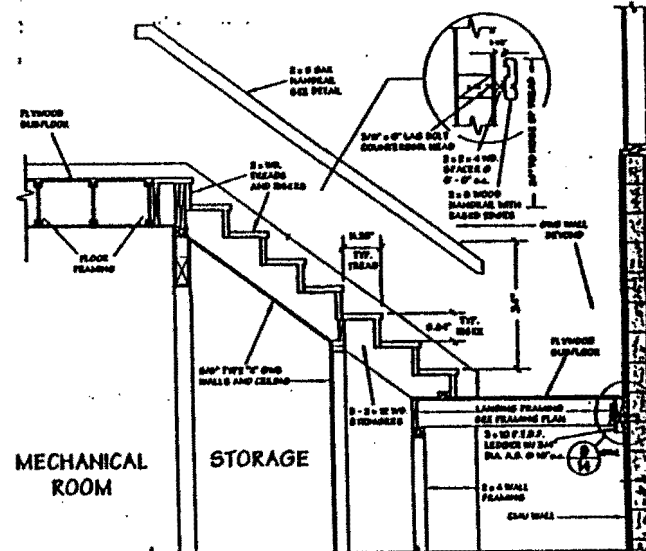
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EXHIBIT NO. 1.C.
APPLICATION NO. 3-94-34-A
Amendment Plans Elevation-W



1 STAIR DETAIL
SCALE: 1/2" = 1'-0"



2 STAIR DETAIL
SCALE: 1/2" = 1'-0"



NORTH ELEVATION
SCALE: 1/4" = 1'-0"



Wm DAVID MARTIN, AIA
& ASSOCIATES

ARCHITECTURE &
LAND PLANNING

P. O. BOX 843
MONTREY, CA 94034
(415) 323-3111

PROJECT:

WILDE RESIDENCE

SAN ANTONIO AVENUE
CARMEL, CALIFORNIA

DRAWING TITLE:

NORTH
EXTERIOR
ELEVATION

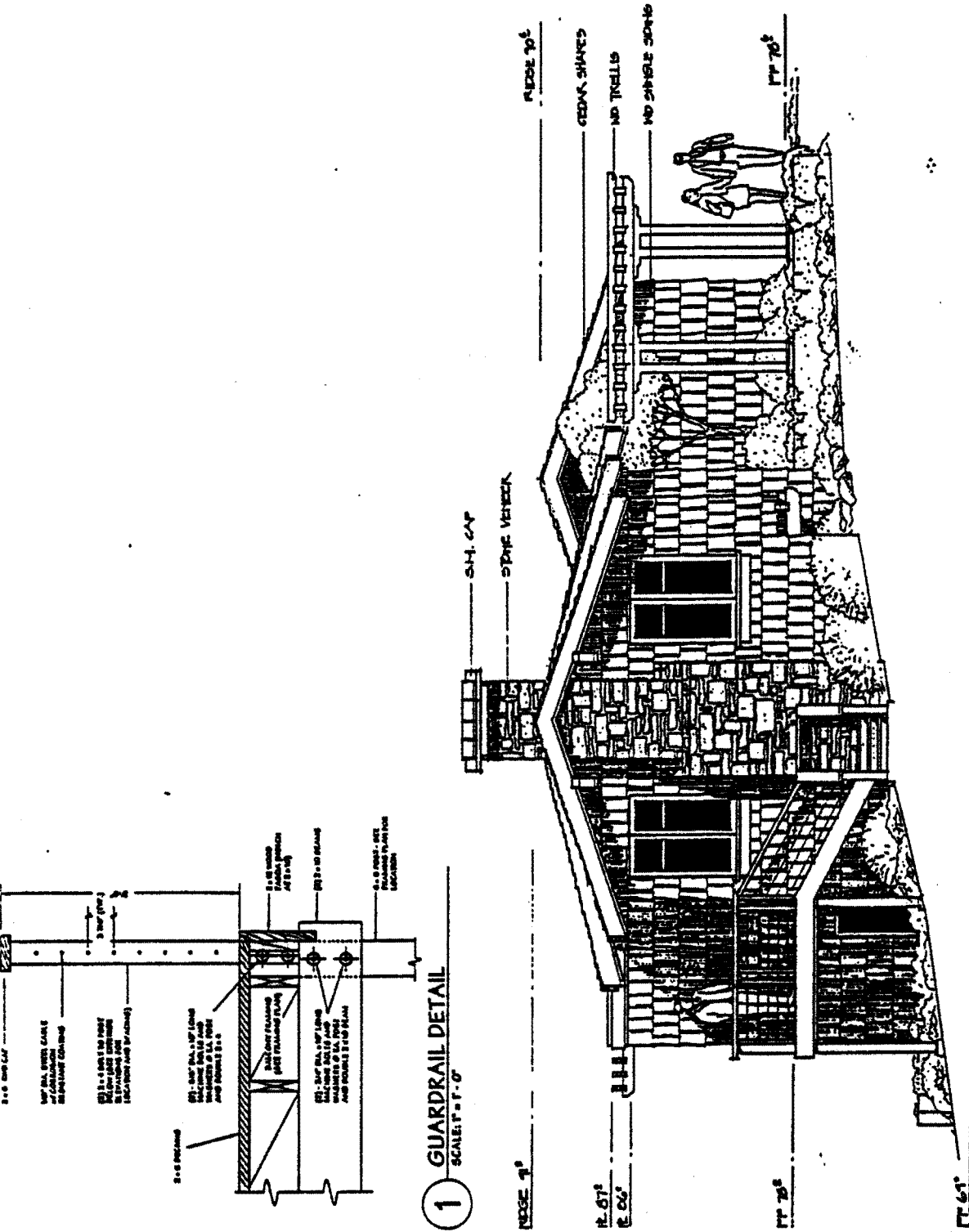
DRAWN BY: WDM
CHECKED BY: AUGUST 24, 1995
REVISED:

ALL USE OF THIS PLAN AND SPECIFICATIONS IS LIMITED TO THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY OTHER USE, REPRODUCTION, OR MODIFICATION OF THIS PLAN WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT IS PROHIBITED. THE ARCHITECT ASSUMES NO LIABILITY FOR CONSTRUCTION DEFECTS OR OMISSIONS.

SHEET NUMBER

10
OF TWENTY

EXHIBIT NO. 1.D.
APPLICATION NO. 4
Amendment Plans
Elevation - N



TH 7a

DL 99 11/30/94

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200

Filed: 11/04/94
 49th Day: 12/23/94
 180th Day: 05/03/95
 Staff: J. Sheele/cm
 Staff Report: 11/22/94 1656P
 Hearing Date: 12/15/94
 Commission Action:

**ADOPTED**STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 3-94-39

APPLICANT: KIRSTIE WILDE and PAUL MILLER

PROJECT LOCATION: West side of North San Antonio Avenue between 2nd and 4th Avenues, City of Carmel, Monterey County, APN 010-321-046

PROJECT DESCRIPTION: Demolition of an existing garage and construction of a new two-story, single-family dwelling and shared driveway.

Lot area:	7,125 sq. ft.
Building coverage:	1,958 sq. ft.
Pavement coverage:	1,520 sq. ft.
Landscape coverage:	3,847 sq. ft.
Parking spaces:	2 spaces
Zoning:	Residential
Plan designation:	Residential, 2-12 units/acre
Project density:	6 units/acre
Ht abv fin grade:	18 feet

LOCAL APPROVALS RECEIVED:

- o Design Study (DS-94-16) and Certificate of Compliance with the Subdivision Map Act.
- o CEQA - Categorically exempt.

SUBSTANTIVE FILE DOCUMENTS:

- o Carmel Local Coastal Program Land Use Plan.
- o Preliminary Cultural Resources Reconnaissance by Anna Runnings and Trudy Haversat, February 8, 1994.
- o 3-84-85 Patterson
- o 3-90-21 Hart
- o 3-91-97 Thorn

EXHIBIT NO. 2
APPLICATION NO. 3-94-39-A
Adopted Staff
Report - 3-94-39

1/20

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

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

II. Standard Conditions. See attached Exhibit A.

III. Special Conditions.

1. PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit for the Executive Director's review and approval, a recorded driveway easement for ingress/egress over the shared driveway for the adjacent parcel, APN 010-321-045.
2. PRIOR TO COMMENCEMENT OF CONSTRUCTION the permittee shall submit the following for the Executive Director's review and approval:
 - A. A monitoring program for the protection of archaeological resources during the grading and construction phase of the project. The monitoring program shall be prepared by the project archaeologist and approved by the Executive Director prior to grading and/or construction. If any resources are encountered, all work shall stop and a plan of mitigation shall be prepared and submitted to the Executive Director for review and approval.
 - B. Final project plans (site, floor and elevations) including evidence of review and approval by the City Building Department. Samples of exterior surfaces (chips by color and material). All exterior finishes including roofing materials shall be earthen/sand tone colors. All windows shall be non-reflective, low-glare, and all window frames shall be bronze anodized or wood. All exterior lighting shall be limited to the amount necessary for safety and in any case directed away from the adjacent beach areas. All utility connections shall be installed underground as proposed.

CALIFORNIA COASTAL COMMISSION

EXHIBIT 3-94-39-A

2/20

3. Unless waived by the Executive Director, a separate coastal permit shall be required for any additions to the permitted development, any additional landform alteration or vegetation removal beyond the amount specified in this approval.

IV. Findings and Declarations.

The Commission hereby finds and declares:

1. Project Description and Background

The proposed developments consists of the demolition of an existing garage and the construction of a new two-story single-family dwelling and a shared driveway. The existing driveway and garage currently serve the residence of the adjacent parcel to the north, APN 010-321-045. The proposed shared driveway will provide continued ingress and egress to San Antonio Avenue for the adjacent residence. There is an access easement in the project file which confirms this arrangement; however, it has not been recorded. Conditions of this permit require evidence of recordation. The subject site is located on the west side of north San Antonio Avenue between 2nd and 4th Avenues in the City of Carmel.

The adjacent lot to the north (APN 010-321-045) contains a dwelling constructed in the mid-1800's. The Planning Commission designated the structure as an Architectural/Cultural/Historical Resource. The subject lot (APN 010-321-046) contains a garage and a large paved area. The garage will be demolished and a new house will be constructed. The new house site is away and downslope from North San Antonio Avenue. The grade of the site drops to the west allowing a stepped foundation and a one-story appearance as viewed from the street. The sites contain numerous pittosporum, holly, acacia, and a eucalyptus tree. The proposed structure may be partially visible from a small portion of City beach. The project site and surrounding residential neighborhood is characterized by a significant number of upper and lower canopy trees which are responsible for much view blockage. Surrounding development is a small residential enclave and City beach.

The subject site lot was subdivided through approval by the City on August 25, 1954. As confirmation, a "Certificate of Compliance with the Subdivision Map Act and the City Zoning Regulations" dated August 9, 1993, was submitted with the application.

2. Priority Use of Oceanfront Land and Compatibility with Adjacent Beach

Several Coastal Act policies, as cited below, address oceanfront development:

Section 30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

CALIFORNIA COASTAL COMMISSION
EXHIBIT 2 3-94-39-A
3/20

Section 30222. The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30255. Coastal-dependent developments shall have priority over other developments on or near the shoreline. Except as provided elsewhere in this division, coastal-dependent developments shall not be sited in a wetland.

The site is located approximately 500 feet from Ocean Avenue, which is the main thoroughfare leading from Highway 1 through downtown Carmel to the beach. The site is within an existing subdivision. There are existing residences to the north and south. To the west the site is separated from City Beach by several other residences. The nearby public beach area receives heavy use at times. The beach's characteristics (wide, with clean white sand, in a scenic setting and in a protected cove) suggest that its use demand will remain high.

Demand for support facilities is high. Upland support uses for the site appear to be infeasible because of the existing and adjacent residential uses, the limited size of the site, and the difficulty of vehicular access. The residential development as proposed, is consistent with Coastal Act oceanfront development and recreational use policies.

3. Public Access

Sections 30210 and 30212 of the Coastal Act provide:

Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (Amended by Cal. Stats. 1978, Ch. 1075).

Section 30212.

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

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

CALIFORNIA COASTAL COMMISSION
EXHIBIT 2 394-39-A
7/20

(2) adequate access exists nearby, or,

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

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Coastal Act policies require provisions for public access except where adequate access exists nearby. In this case there is adequate public access nearby. Access to the south is by an easement from North San Antonio Avenue (near 4th Avenue) adjacent to the Sand and Sea Subdivision (approximately 150 feet from the site) and from Ocean Avenue to the beach.

The certified LUP has designated formal access points. Access through the subject property is one of these points (see Exhibits 4A and B). Although the LUP identifies this access location, a detailed site inspection shows pedestrian access is not physically possible as it is blocked by fences and vegetation. Although adequate pedestrian access is available nearby, the existing access easement is not extinguished. Adequate pedestrian access is available nearby adjacent to the Sand and Sea Subdivision, from North San Antonio near Fourth Avenue, and from Ocean Avenue to the beach. Although implementation zoning will have to clarify public access points along Carmel City Beach, the proposed project will not prejudice the City's ability to prepare an implementation program consistent with the certified LUP. The proposed project is consistent with Coastal Act public access policies and previous Commission actions (3-91-97 Thorn).

4. Scenic Resources and Land Habitat

Sections 30251 and 30240(b) of the Coastal Act provide:

Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic area such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

CALIFORNIA COASTAL COMMISSION
EXHIBIT 2 3-94-39-A
5/20

Section 30240.

(b) 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 habitat areas.

The following are the LUP standards for beach related properties:

1. That the proposed construction is so located as to preserve maximum public view while ensuring the private property owner reasonable development of the land.
2. That the proposed construction is so located as to not degrade or conflict with recreational use of the adjacent public property.
3. That the design of the proposed construction is compatible with existing buildings for the purpose of protecting the special neighborhood character.
4. That public right of access has been reviewed on the property and, where required, made a condition in the use permit.
5. That the property has been reviewed for public recreation use and the land acquisition list of the City has been reviewed regarding purchase of the property for such purpose and the review indicates the City has no need to acquire the property.
6. That the building site involved was a lot of record which was included on County Assessor's Rolls for the year 1979-1980 or a use permit is issued by the City for lot line adjustment.
7. That the new building or addition proposed will not exceed a height of eighteen feet (18') above the existing grade and will not exceed eighteen feet (18') above the finished grade.
8. That the building coverage on the site will not exceed thirty-five percent (35%) of the site area.
9. That the buildings are located so that maximum open space on the site is provided nearest the beach. That the Board of Adjustments may at its discretion reduce any required rear, side or front yard to not less than three feet (3') so as to provide maximum open space to the project for the public benefit.
10. That utilities for the development are to be placed underground.
11. That the property is presently connected to or will be connected to the sanitary sewer system upon issuance of the use permit.

CALIFORNIA COASTAL COMMISSION
EXHIBIT 2 3-94-39-A
6/20

12. That a review of the project indicates that it is not in conflict with Carmel's Local Coastal Program.
13. That a landscaping plan has been submitted for review which indicates all specimens of planting and no trees are indicated on the plan which would achieve a height greater than eighteen feet (18') or create a growth which would block out a significant public view.
14. That a drainage system has been designed for the site to prevent undue erosion and excess water running from the site onto the beach.

Carmel Beach, one of the primary visitor destinations of the Monterey Peninsula, is widely renowned for its outstanding scenic character, wide expanse of clean white sand, and views of Carmel Bay and Point Lobos.

The proposed building coverage is 1954 sq. ft. (27 percent) according to the project plans. The project also includes a shared driveway of 1520 sq. ft. (21 percent). The proposed building coverage is within the LUP allowable building coverage of 35 percent. Although the proposed total site coverage exceeds the LUP allowable building coverage of 35 percent, the parcel is relatively small and the project includes a shared driveway. An increase in building coverage does not meet the actual intent of the Land Use Plan building coverage standard; however, it is consistent with the intent of Coastal Act development policies. The proposed height is 18 1/2 feet; however, conditions of the City's approval require the height to be lower to 18 feet, which is consistent with the 18-foot height limit allowed by the LUP.

Because of the site topography and existing trees only the roof area of the house may be visible from the beach. To reduce visual impact, exterior finishes including roofing materials should be limited to earthen/sand tone colors, non-reflective/low-glare glass, and exterior lighting should be limited to the amount necessary for safety and directed away from the adjacent beach areas.

As conditioned, to include measures to reduce the visual impacts and ensure the protection of the area's visual qualities, the development is consistent with Sections 30251 and 30240(b) of the Coastal Act and approved LUP development standards.

5. Development Patterns and Public Works Capacities

Section 30250(a) of the Coastal Act reads in part:

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

CALIFORNIA COASTAL COMMISSION
EXHIBIT 2 3-94-39-A
7/20

Section 30254 of the Coastal Act reads in part:

New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division; provided, however, that it is the intent of the Legislature that State Highway Route 1 in rural areas of the coastal zone remain a scenic two lane road. Special districts shall not be formed or expanded except where assessment for, and provision of, the service would not induce new development inconsistent with this division. Where existing or planned public works facilities can accommodate only a limited amount of new development, services to coastal dependent land use, essential public services and basic industries vital to the economic health of the region, state, or nation, public recreation, commercial recreation, and visitor-serving land uses shall not be precluded by other development.

Though major public service systems exist for the City of Carmel, some operate near or above capacity. Both water supply and sewer capacity for Monterey Peninsula are especially limited. The Monterey Peninsula Water Management District (MPWMD) is responsible for the allocation of water supply to the different city and county areas on the Monterey Peninsula. On January 22, 1991, the Monterey Peninsula Water Management District enacted a water connection moratorium; however, the moratorium was lifted in August, 1993. Adequate water supply is available for the proposed residence.

The Commission can find that adequate service capacities are available at this time and that the development will not individually have significant adverse impacts on coastal resources. Water supply for additional development within the City of Carmel may not be available in the future and approval of this project does not set a precedent for approval of similar development within the City.

As proposed and conditioned by the City, the subject development is consistent with Sections 30250(a) and 30254 of the Coastal Act and new development policies of the City's Land Use Plan.

6. Archaeology

Section 30244 of the Coastal Act states that where development would adversely impact archaeological resources, reasonable mitigation measures shall be required. The approved Land Use Plan (LUP) for the City of Carmel states as follows:

- A. All major building and construction within the potential archaeologically significant zone shall be required to obtain a use permit from the City of Carmel.

CALIFORNIA COASTAL COMMISSION
EXHIBIT 2 3-94-39-A

8/20

- B. The permit application for such development shall be submitted to the archaeological clearinghouse as designated by the State Historical Preservation Office.
- C. Should any lot be found to contain significant archaeological resources, the use permit shall be conditioned to require mitigation of the development impacts, if any, on the resource. To insure adequate mitigation, the standard procedures adopted by the Coastal Commission (Appendix II) shall be followed.

The proposed building site is within an area of known archaeological significance as defined in the LUP. A "Preliminary Cultural Resources Reconnaissance" was prepared for the site by Anna Runnings and Trudy Haversat, February 8, 1994. The report concludes as follows:

Based upon the background research and the surface reconnaissance of the project area, we conclude that the project area does not contain surface evidence of significant cultural resources. Because of this, we make the following recommendation:

- o The proposed project should not be delayed for archaeological reasons.

Because of the possibility of unidentified (e.g., buried) cultural resources being found during construction, we recommend that the following standard language, or the equivalent, be included in any permits issued within the project area:

- o If archaeological resources or human remains are accidentally discovered during construction, work shall be halted within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. If the find is determined to be significant, appropriate mitigation measures shall be formulated and implemented.

As conditioned to require a monitoring program to protect archaeological resources during construction, the proposed development is consistent with Section 30244 of the Coastal Act and approved LUP archaeological resource policies.

7. CEQA and Local Coastal Program

The proposed project as conditioned will not create any significant adverse environmental impacts within the meaning of the California Environmental Quality Act.

In addition, the proposed development as conditioned is consistent with the policies contained in Chapter 3 of the Coastal Act and will not prejudice the ability of the City of Carmel to complete and implement a certified Local Coastal Program.

EXHIBITS

- A. Standard Conditions.
 - 1. Location Map.
 - 2. Site Plan.
 - 3.A. Elevation - E.
 - 3.B. Elevation - W.
 - 3.C. Elevation - N.
 - 3.D. Elevation - S.
 - 4.A. Land Use Plan Pedestrian Access Map.
 - 4.B. Land Use Plan Pedestrian Access Map Inset.
- 5. Letter of Concern Regarding Access from Robin Wilson dated October 26, 1994.

1656P

CALIFORNIA COASTAL COMMISSION
EXHIBIT 2 3-94-39-A
10/20


EXHIBIT-A

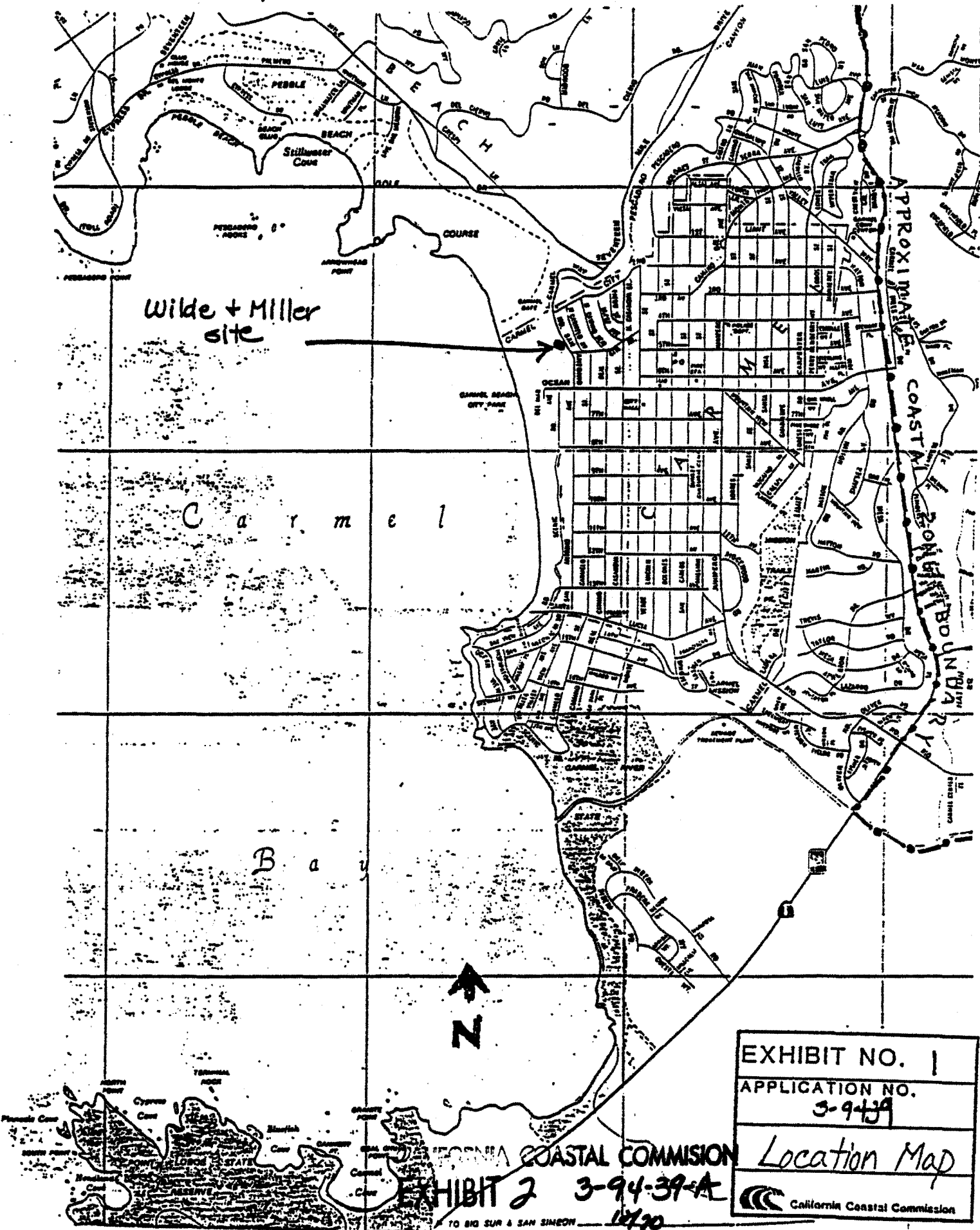
RECOMMENDED CONDITIONS

STANDARD CONDITIONS:

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

COASTAL COMMISSION
EXHIBIT 2 3-94-39-A
11/20

EXHIBIT NO. A
APPLICATION NO. 3-94-39
Standard Conditions
 California Coastal Commission



CARMEL - PT. LOBOS

RECEIVED
OCT 26 1994

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SAN ANTONIO STREET

SHEET INDEX

- A1 SITE PLAN
- A2 UPPER FLOOR PLAN
- A3 LOWER FLOOR PLAN
- A4 WIN EXTERIOR ELEVATIONS
- A5 E/S EXTERIOR ELEVATIONS
- A6 LANDSCAPE PLAN
- A7 GRADING PLAN

PROJECT INFORMATION

APN 010-321-046
SITE AREA 7,123 S.F.
ADDRESS: 3 NW OF 4TH ON SAN ANTONIO
CARMEL BY-THE-SEA, CA

SITE COVERAGE

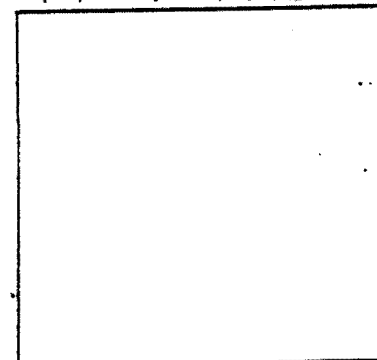
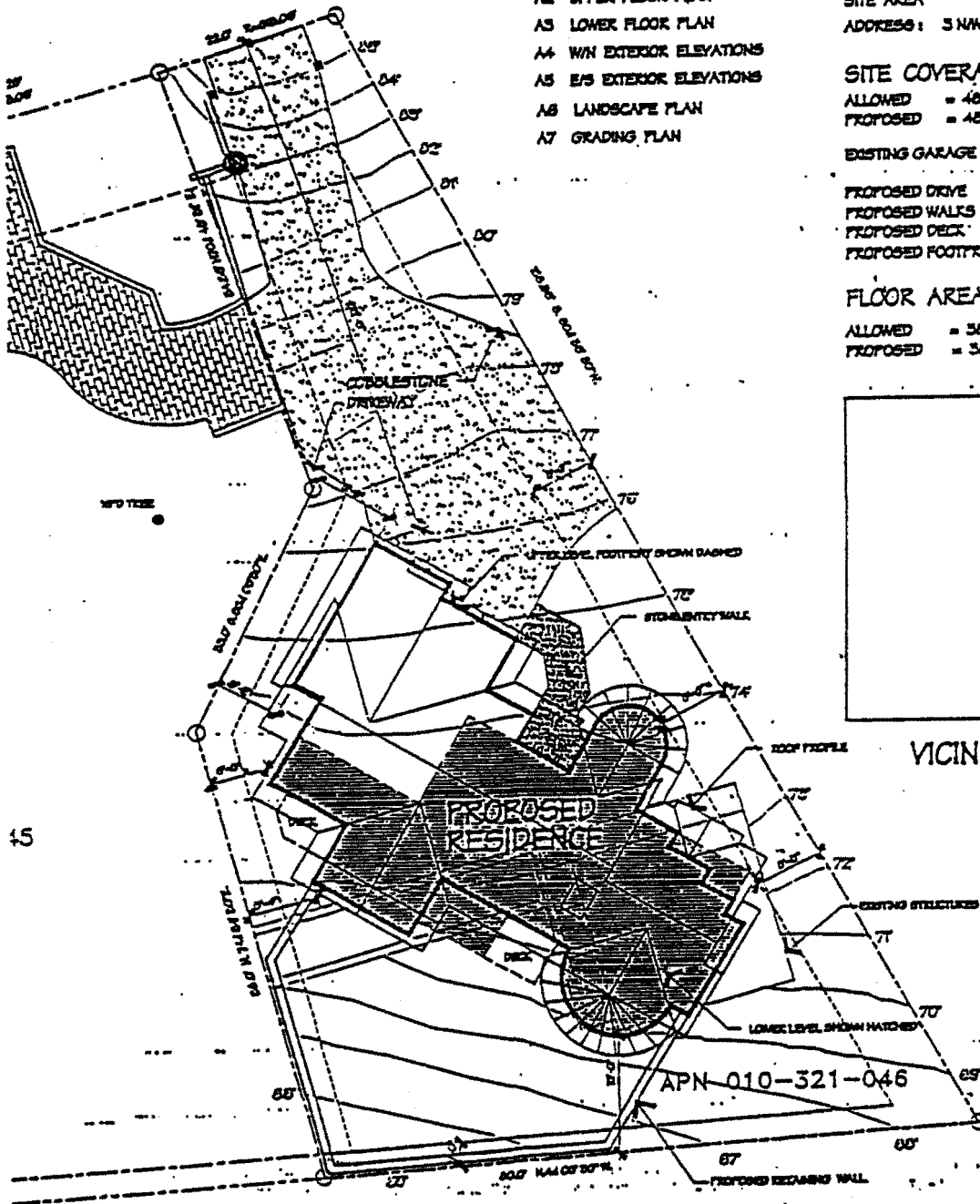
ALLOWED = 48.5% 3,474 S.F.
PROPOSED = 48.5% 3,474 S.F.

EXISTING GARAGE = 484 S.F.

PROPOSED DRIVE = 1,820 S.F.
PROPOSED WALKS = 115 S.F.
PROPOSED DECK = 81 S.F.
PROPOSED FOOTPRINT = 1,756 S.F.

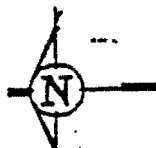
FLOOR AREA RATIO

ALLOWED = 38.75% 2,761 S.F.
PROPOSED = 38.75% 2,760 S.F.



VICINITY MAP

WILDE RESIDENCE
APN 010-321-046
SAN ANTONIO ST. CARMEL, CA



SITE PLAN

SCALE: 1/8" = 1'-0"

CALIFORNIA COASTAL COMMISSION
EXHIBIT 2 3-94-39-A
13/10

MANUELAGO
MANUELAGO &
SULLIVAN
DESIGN STUDIO

EXHIBIT NO. 2

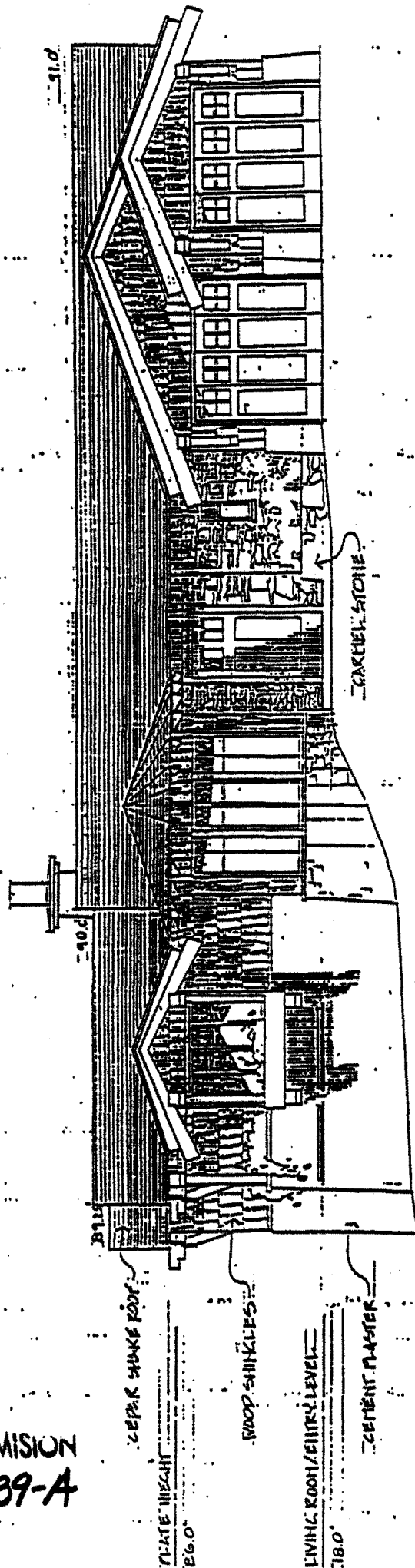
APPLICATION NO.

3-94-39

Site Plan

CALIFORNIA COASTAL COMMISSION
 EXHIBIT 2 3-94-39-A

14/20



EAST ELEVATION

(North San Antonio Ave.)

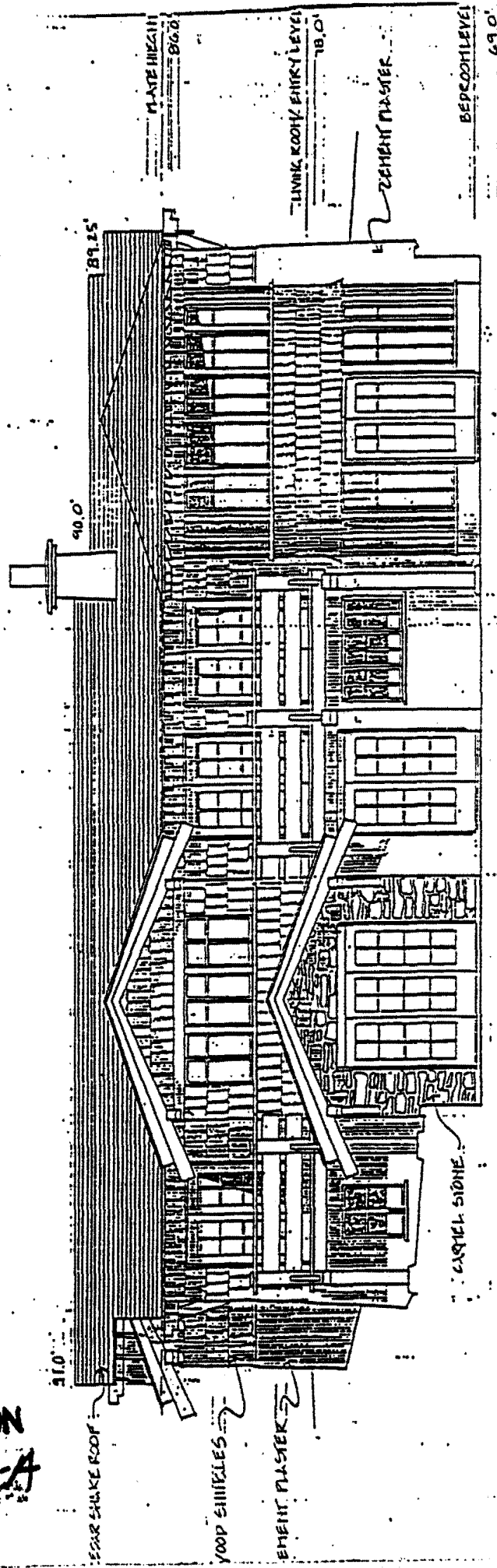
EXHIBIT NO. 3A

APPLICATION NO.

3-94-39

Elevation - E

CALIFORNIA COASTAL COMMISSION
 EXHIBIT 2 3-94-39-A
 5/20



WEST ELEVATION

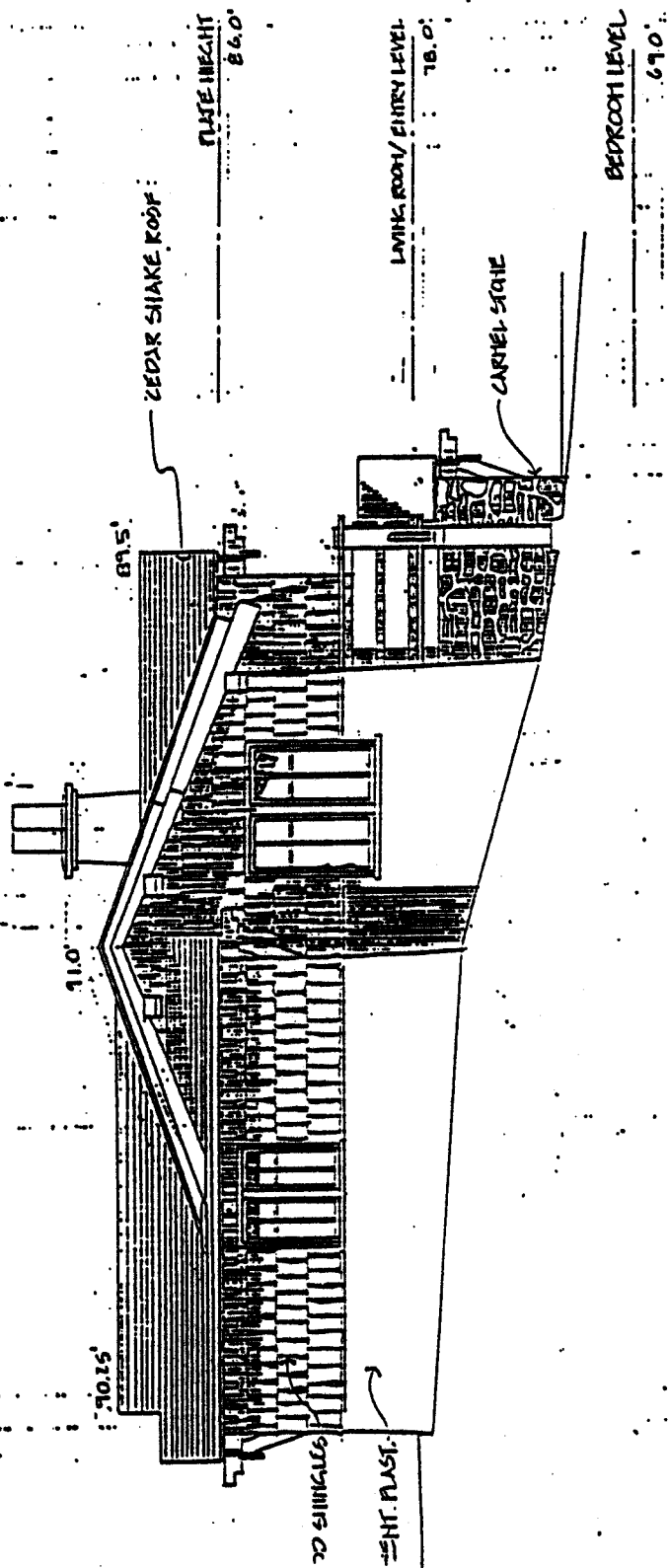
EXHIBIT NO. 3B

APPLICATION NO.

3-94-39

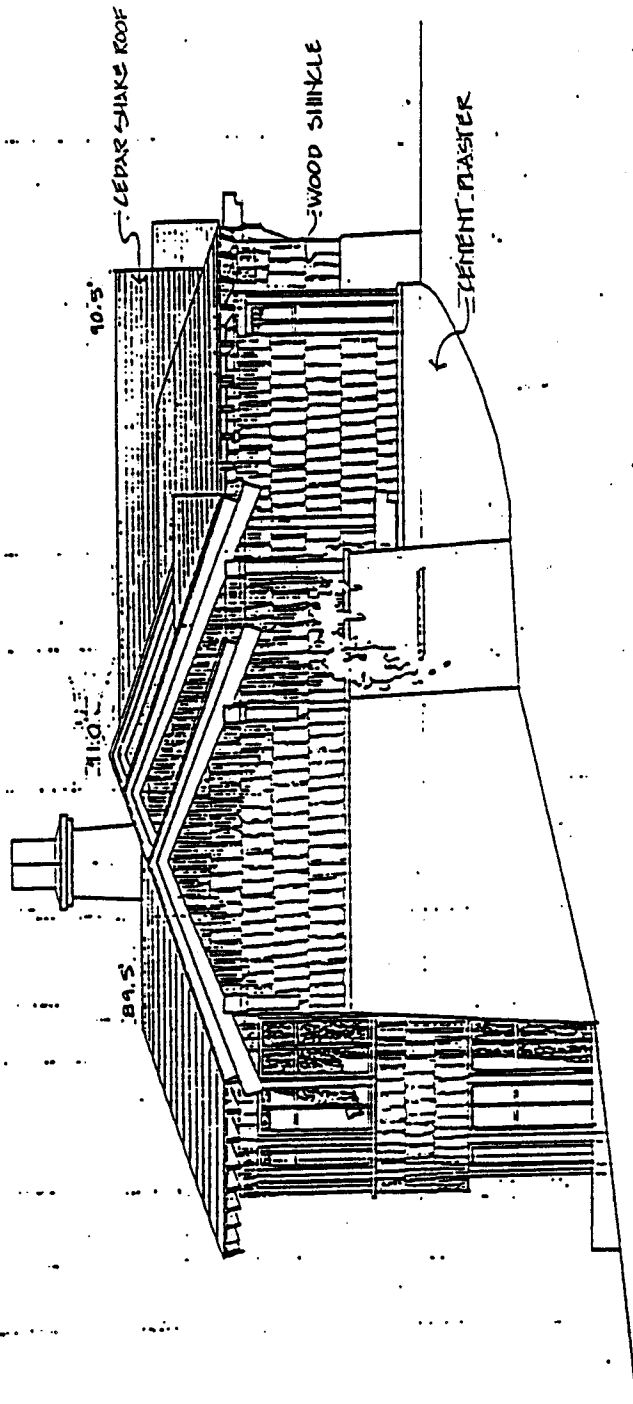
Elevation - W

CALIFORNIA COASTAL COMMISSION
 EXHIBIT 2 3-94-39-A
 10/20



NORTH ELEVATION

EXHIBIT NO. 3C
APPLICATION NO.
3-94-39
Elevation - N

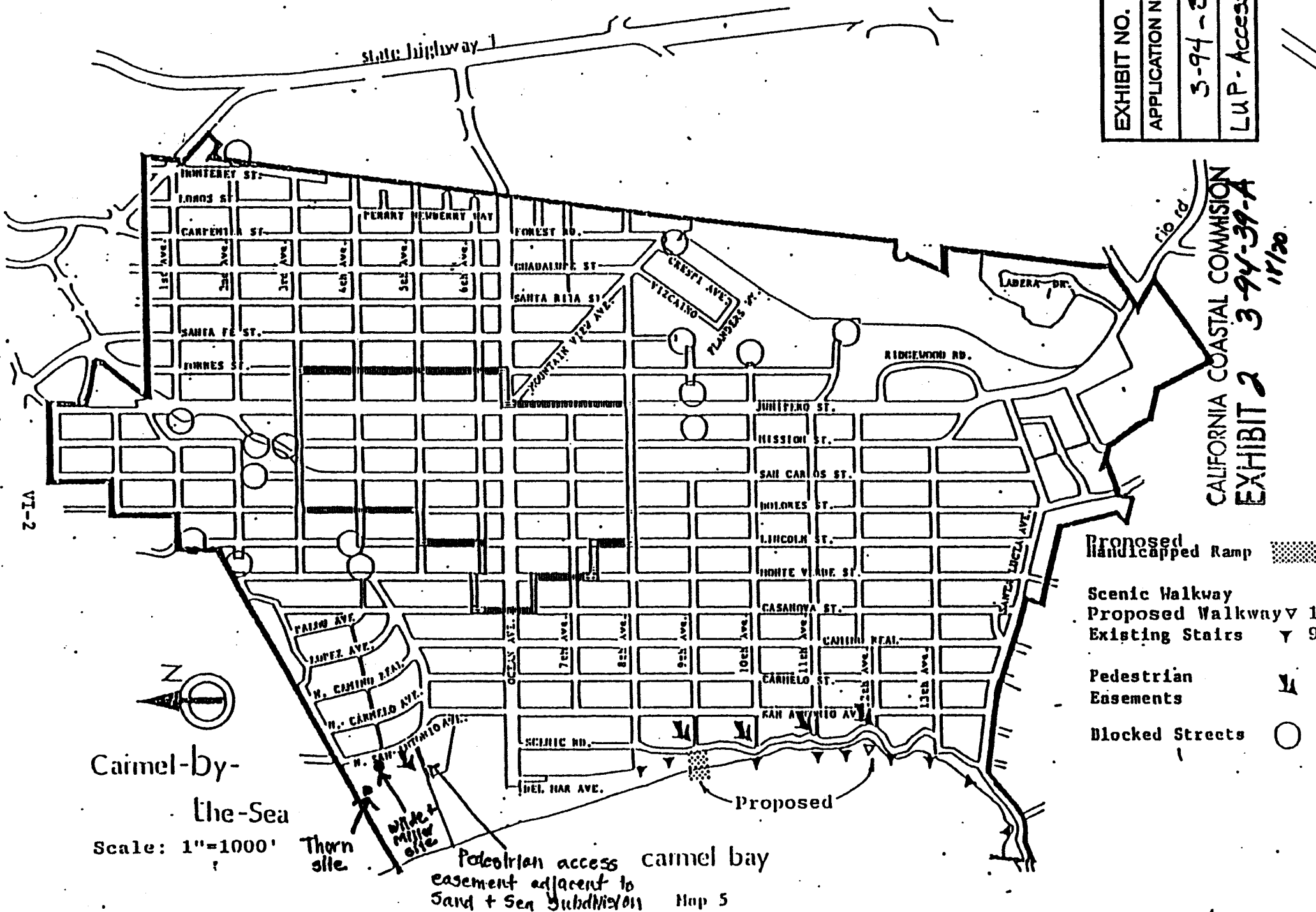


SOUTH ELEVATION

CALIFORNIA COASTAL COMMISSION
 EXHIBIT 2 3-94-39-A
 17/20

EXHIBIT NO. 3D
APPLICATION NO.
3-94-39
Elevation-S

EXHIBIT NO. 4A
APPLICATION NO.
3-94-39
LUP-Access Map



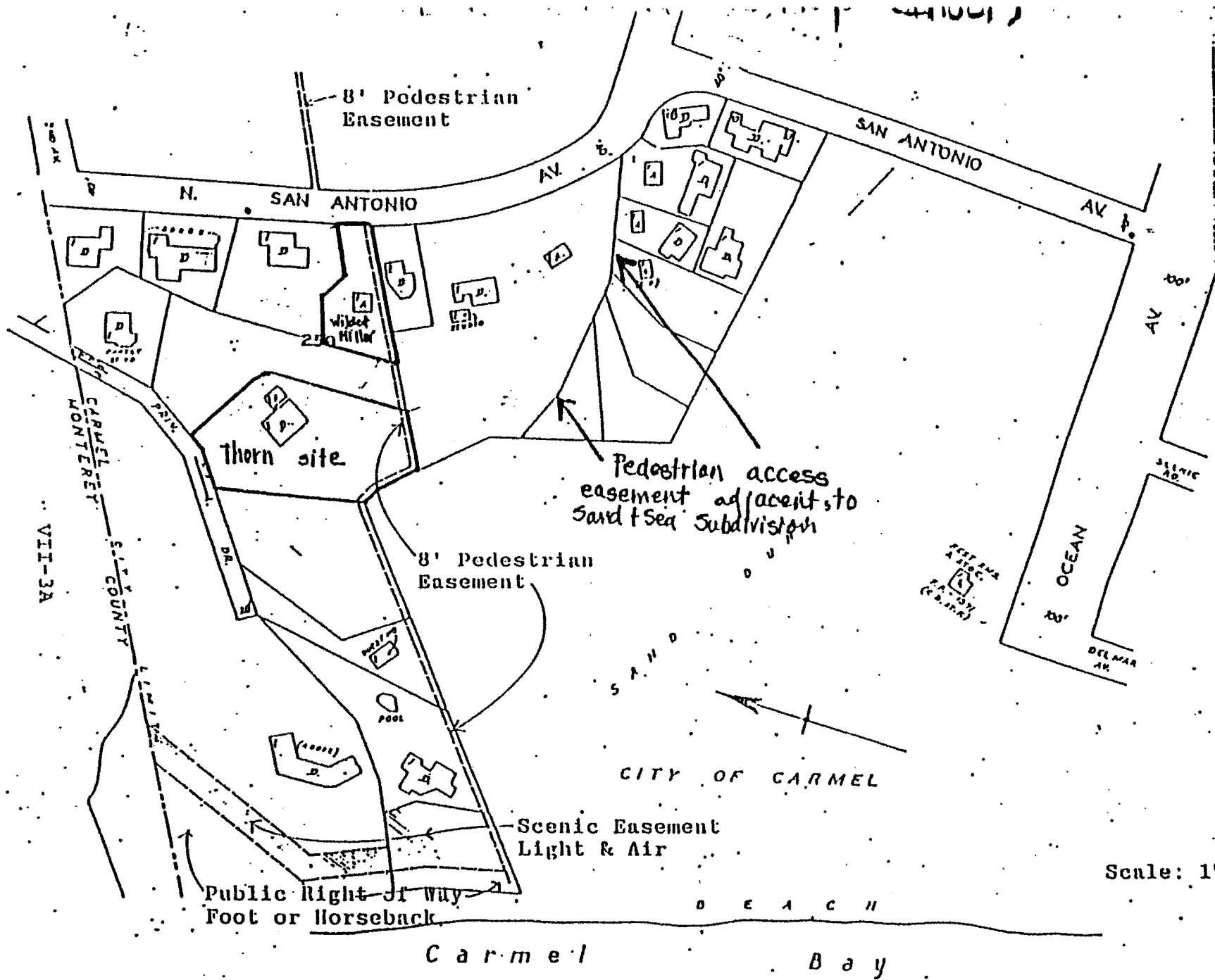


EXHIBIT NO. 4B
APPLICATION NO.
3-94-39
LUP- Access Map Inset

CALIFORNIA COASTAL COMMISSION
EXHIBIT 2 3-94-39-A 19/20

Robin Wilson • P.O. Box 5247 • Carmel, California 93921
(408) 622-9429

California Coastal Commission
Central Coast Area
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

October 26, 1994
RECEIVED
OCT 27 1994
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

In re: Sand Dunes Lot 3 (N. San Antonio 3 NW of 4th),
Carmel, California.

Dear Commissioners:

You have under consideration a permit to allow the construction of a home on referenced parcel, and I write to invite your attention to the impact of the proposed building on public access to Carmel Beach.

The 1980 Carmel Coastal Land Use study submitted to the Coastal Commission shows on Map 7A (enclosed) an extension to the beach of the 3rd Avenue pathway (an 8' Pedestrian Easement) running along the south lot line of referenced parcel. The proposed construction will eliminate any possibility of developing this public access to the shoreline, depriving visitors and residents, particularly those dwelling in the northeast quadrant of Carmel, of a safe route to the northern end of the public dunes and beach.

Lack of such access will also continue to force the unwary to find their way either down extremely hazardous 4th Avenue to the beach access route at its foot or down the 3rd Avenue footpath only to emerge suddenly into North San Antonio (effectively, a southern extension of 17 Mile Drive) with neither further access to the shore nor any sort of safe walkway toward Ocean Avenue to the south and the existing paths to the beach.

I hope the Commission will provide some guidance on how safe coastal access may be provided if the 1980 public easement is to be foreclosed.

Sincerely,

Robin S. Wilson

CALIFORNIA COASTAL COMMISSION
EXHIBIT 2 3-94-39-A

20/20

EXHIBIT NO. 5
APPLICATION NO. 394-39
Letter of Concern Re: Access

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OCT 27 1994

P

ANTHONY LOMBARDO & ASSOCIATES
ATTORNEYS AT LAW

ANTHONY L. LOMBARDO
JACQUELINE M. ZISCHKE
VANESSA W. VALLARTA

POST OFFICE BOX 2119
SALINAS, CALIFORNIA 93902

SALINAS (408) 754-2444
MONTEREY (408) 373-2444
FAX (408) 754-2011

File No. 00293.000

RECEIVED
DEC 19 1995

December 12, 1995

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

VIA FACSIMILE

RECEIVED
DEC 18 1995

CALIFORNIA
COASTAL COMMISSION

Mr. Peter M. Douglas, Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: Proposed Permit Amendment No. 3-94-39-A

Dear Mr. Douglas:

I represent Dr. and Mrs. Orville Golub in all matters relating to the above referenced matter.

On behalf of the Golubs, I object to the Commission's proposed amendment to Permit No. 3-94-39. The proposed changes are inconsistent with the policies contained in the Coastal Act and are therefore a material amendment to the permit.

Additionally, I object to the fact that the December 7th Notice provides for ten working days within which all interested parties may register objections, and yet this item has been scheduled on the December 14, 1995 agenda.

Sincerely,

Anthony Lombardo
Anthony L. Lombardo

ALL:DLM:ncs

cc: Dr. and Mrs. Orville Golub
Mr. Les Strnad

00293\L-DOUGLAS.001

EXHIBIT NO. 3
APPLICATION NO. 3-94-39-A
Letter of Objections
from A. Lombardo

ANTHONY LOMBARDO & ASSOCIATES
ATTORNEYS AT LAW

ANTHONY L. LOMBARDO
JACQUELINE M. ZISCHKE
VANESSA W. VALLARTA

POST OFFICE BOX 2119
SALINAS, CALIFORNIA 93903

SALINAS (408) 754-2444
MONTEREY (408) 373-2444
FAX (408) 754-2011

Our File No. 293.000

December 13, 1995

VIA FACSIMILE

Mr. Louis R. Calcagno, Vice Chairman
California Coastal Commission
P. O. Box 62
Moss Landing, CA 95039

Re: Proposed Permit Amendment No. 3-94-39-A

Dear Commissioner Calcagno:

Supplementing my letter to Executive Director Douglas dated December 12, 1995, Dr. and Mrs. Orville Golub, I hereby request that the Coastal Commission make an independent determination as to whether the proposed amendment to Coastal Development Permit Number 3-94-39 is a material amendment, pursuant to California Administrative Code Section 13166(a)(3).

Sincerely,


Anthony L. Lombardo

ALL:scf

00293\L-CCC.001

EXHIBIT NO. 4
APPLICATION NO. 3-94-39-A
Letter of 12/13/95
from A. Lombardo

ANTHONY LOMBARDO & ASSOCIATES

ATTORNEYS AT LAW

ANTHONY L. LOMBARDO
JACQUELINE M. ZISCHKE
VANESSA W. VALLARTA

POST OFFICE BOX 2119
SALINAS, CALIFORNIA 93902

SALINAS (408) 754-2444
MONTEREY (408) 373-2444
FAX (408) 754-2011

File No. 00293.000

January 11, 1996

VIA FACSIMILE

RECEIVED
JAN 12 1996
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Ms. Jeri Sheele
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

Re: Miller and Wilde; CDP 3-94-39A

Dear Ms. Sheele:

This firm represents Dr. and Mrs. Golub, residents of the City of Carmel and who own a home adjacent to this proposed project.

The proposed project appears to be located on a "lot" which appears to have been illegally created.

The parcel cannot be considered for any type of development under the Carmel Land Use Plan ("LUP") unless it appears as a separate legal parcel on the 1979-1980 Assessor's tax roles. An examination of the 1978, 1979 and 1980 Assessor's tax roles reveals that they do not illustrate this parcel as a legal lot of record. Attached as Exhibit "A" to this letter is a copy of the Assessor's plat map depicting the proposed project site, which is listed as a portion of APN 010-321-03.

The applicants appear to have obtained certificates of compliance in 1993 from the City of Carmel in an attempt to create a separate parcel on which to develop this proposed home.

Unfortunately, a certificate of compliance does not cure the underlying legal defect with this parcel which is the failure to comply with Business and Professions Code §11535(c) which was the controlling legal provision in effect at the time that the City approved the tentative map for the division of this parcel in 1954. That Business and Professions Code section required that a record

00293\L-SHEELE.002

EXHIBIT NO. 5

APPLICATION NO.
3-94-39-A

Letter of 1/11/96
from A. Lombardo

Ms. Jeri Sheele
California Coastal Commission
January 11, 1996
Page 2

of survey map be recorded for the division of any lands containing parcels less than five acres in size.

The Official Records of Monterey County do not indicate that a record of survey was ever completed or recorded in compliance with this provision and therefore the approval of the creation of this as a separate parcel lapsed over forty (40) years ago. Consequently, the purported approval of a second home on an undivided portion of APN 010-321-03 would appear to be in violation of the City's Zoning Ordinance, State Subdivision Map Act and the Coastal Act.

Notwithstanding the legality of the existence or non-existence of this parcel as a separate legal lot, the proposed project violates the LUP.

The LUP enumerates several specific development standards which are applicable to the area in which this proposed home is located.

In the original action taken by the Commission on this permit application, the Commission found that the potential visibility of this structure from the Carmel beach could create an inconsistency with the LUP policies and State Coastal Act regarding the protection of the recreational use of adjacent public property and preserving the maximum preservational quality of public viewshed, as well as the requirement that new homes be compatible to the maximum extent possible with the existing neighborhood structures.

The proposed "amendment" to this project with its skylight measuring almost thirty (30) feet long and three feet wide on the ridge of the roof significantly degrades not only the quality of the visual experience enjoyed by the public on the Carmel beach in the evenings, but also would be completely inconsistent with the character of the neighboring homes. In fact, this proposed amendment would be in direct violation of the condition contained in the original permit for the development of a home on this site that says lighting visible from public viewing areas should be subdued.

The policies contained in the Carmel LUP are modeled after California Coastal Act §§ 30251 and 30240 which would also be violated by the approval of this project.

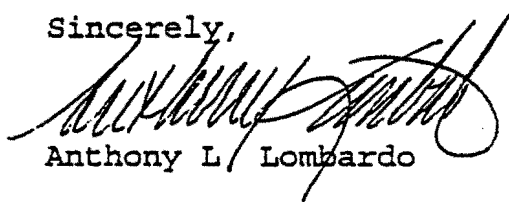
Ms. Jeri Sheele
California Coastal Commission
January 11, 1996
Page 3

Finally, the Carmel LUP permits a maximum of thirty-five percent (35%) site coverage on any parcel. Even if this parcel were located on a legal lot of record and complied with all the other policies of the Carmel LUP, it exceeds the thirty-five percent (35%) maximum by 11.7%.

Conclusion

The Golubs respectfully request that the Coastal Commission deny the requested amendment to the proposed permit and prohibit the development on what appears to be an illegal lot which has attempted to have been created by the applicant in neither compliance with the State Subdivision Map Act, nor compliance with the State Coastal Act.

Sincerely,



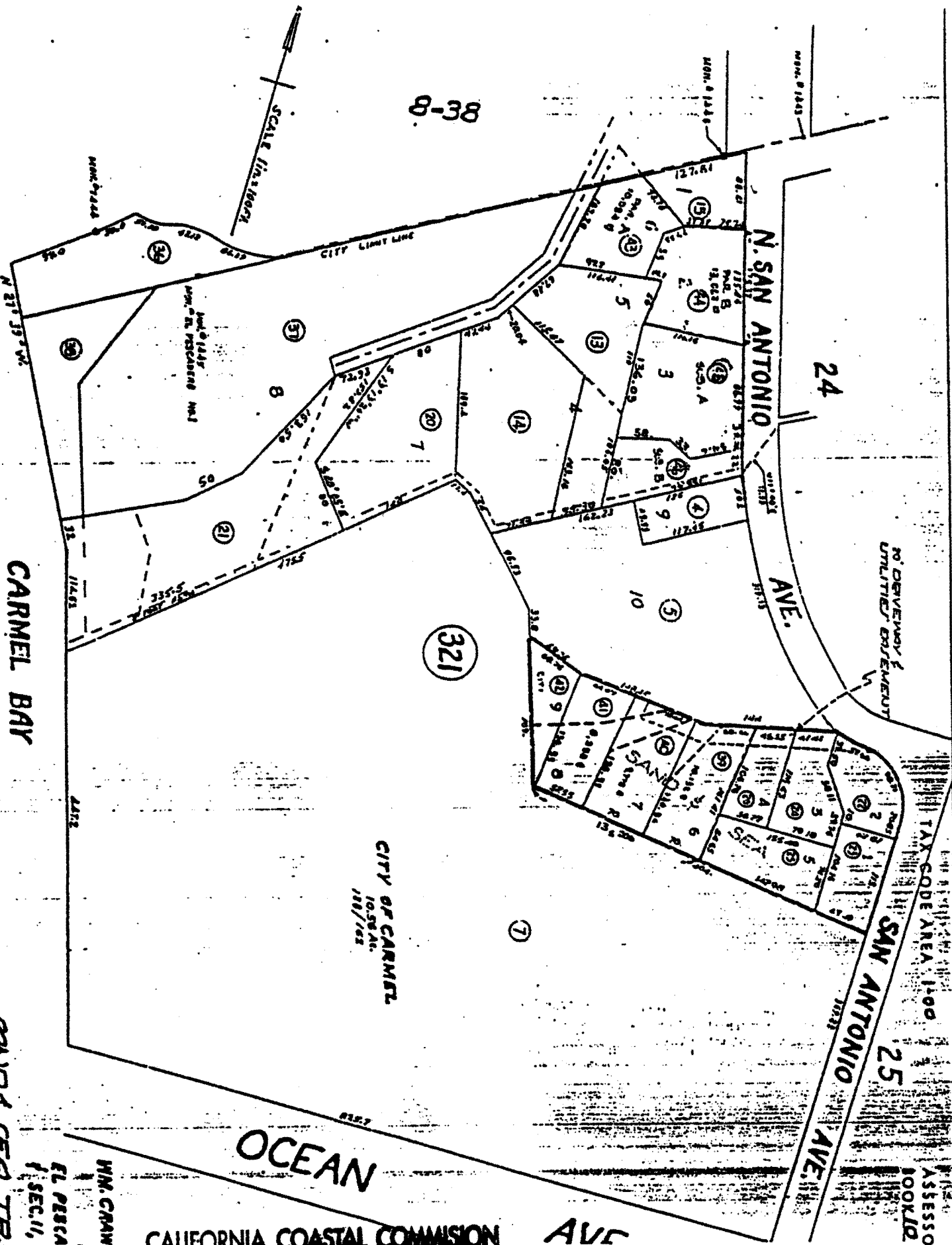
Anthony L. Lombardo

ALL:ncs

Enclosures

cc: Dr. and Mrs. Orville Golub
Mr. Dennis Hodgins

8-38



CARMEL BAY

OCEAN

CITY OF CARMEL
1056 AC.
188/162

CALIFORNIA COASTAL COMMISSION
EXHIBIT 5 8-94-39-A
4/4-65

Exhibit "A"

TO DRIVEWAY &
UTILITIES EASEMENT

TAX CODE AREA 1100
25

ASSESSOR'S MAP
BOOK 10 PAGE 32

W.N. CAMPBELL, PROPRIETOR
IN
EL PERCADERO RANCH
1 SEC. 11, T. 16 S. R. 1 W.
SAVED JSEA TB. 644 RECORDER

ANTHONY LOMBARDO & ASSOCIATES

ATTORNEYS AT LAW

ANTHONY L. LOMBARDO
JACQUELINE M. ZISCHKE
VANESSA W. VALLARTA

POST OFFICE BOX 2110
SALINAS, CALIFORNIA 93902

SALINAS (408) 754-2444
MONTEREY (408) 373-2444
FAX (408) 754-2011

File No. 00293.000

January 10, 1996

VIA FACSIMILE

Donald G. Freeman
Carmel City Attorney
P. O. Box 805
Carmel, CA 93921-0805

RECEIVED
JAN 16 1996

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Miller and Wilde Building Permit

Dear Don:

Yesterday it came to our attention that the City has issued a permit to allow construction to begin on a home that was purported to have been approved on the west side of North San Antonio between Second and Fourth Avenues.

As I am sure you are aware, this coastal development permit has been appealed to the California Coastal Commission. It is, therefore, not final and no building permit should have been issued for this project.

I am writing this letter to request that the City immediately red-tag the job and stop construction pending resolution of this matter by the Coastal Commission.

This is particularly important because our research indicates that the City may have granted a permit for a home on an illegal lot. In the event the lot was not legally created, construction of a second home would be a violation of the State Subdivision Map Act as well as the Coastal Act which I am sure the City would not wish to have occur.

I would appreciate it if you could confirm to me in writing that the City has rescinded whatever permit it may have issued.

Sincerely,

Ally
Anthony L. Lombardo

ALL:ncs

cc: Dr. and Mrs. Orville Golub
Mr. Dennis Hodgkin

~~bcc: Ms. Jerry Sheele~~

EXHIBIT NO. 6
APPLICATION NO. 8-94-37-A
Letter of 1/10/96
from A. Lombardo

City of Carmel-by-the-Sea

COMMUNITY PLANNING AND BUILDING DEPARTMENT
POST OFFICE DRAWER G • CARMEL-BY-THE-SEA, CA 93921
(408) 624-8835

RECEIVED
JAN 16 1996

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

12 January 1996

Paul Miller
1500 Sunset Drive
Pacific Grove, CA 93950

Dear Mr. Miller:

Thank you for your letter of 11 January 1996, wherein you describe your understanding of the issues related to construction on your parcel located on North San Antonio Avenue between Second and Fourth Avenues.

The City of Carmel-by-the-Sea confirms your understanding. Therefore, it is the purpose of this letter to re-confirm that no work shall proceed on the project site beyond pouring footings. Once the California Coastal Commission has approved a development permit amendment (scheduled for February 1996), you will be allowed to proceed with full development of the project.

Please do not hesitate to call me if you have any questions.

Sincerely,



Rick Tooker
Senior Planner

C: Lee Otter, Coastal Commission
Anthony Lombardo
Property File

Doc:1/12L

EXHIBIT NO.	7
APPLICATION NO.	3-44-34-A
Letter of 11/2/96	
from R. Tooker	

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200



January 16, 1996

Mr. Paul Miller
1500 Sunset Drive
Pacific Grove, CA 93950

Dear Mr. Miller:

This is a follow-up to Mr. Rick Tooker's letter of January 12, 1996 addressed to you and your telephone conversation with Jeri Sheele of my staff earlier today. As you know, the Coastal Commission approved Coastal Development Permit 3-94-39 Wilde and Miller for garage demolition and house construction on North San Antonio Avenue, between 2nd and 4th Avenues, Carmel, APN 010-321-046 on December 15, 1994. On September 19, 1995, you applied for an amendment to that permit. The only work you may do at this time is work in accord with your original approval. Any work which differs from that original approval, Coastal Development 3-94-39, must first be approved by the Coastal Commission.

If you have any questions, please contact Jeri Sheele.

Sincerely,

A handwritten signature in cursive script that reads "Les Strnad".

Les Strnad
Supervisor of Planning and Regulation

LS/cm

cc: Rick Tooker, Planning Department
Donald Freeman, City Attorney
Dr. and Mrs. Golub
Anthony Lombardo

29j

EXHIBIT NO. 8
APPLICATION NO. 3-94-39-A
Letter of 1/16/96
from L. Strnad

ANTHONY LOMBARDO & ASSOCIATES

ATTORNEYS AT LAW

ANTHONY L. LOMBARDO
JACQUELINE M. ZISCHKE
VANESSA W. VALLARTA

POST OFFICE BOX 2119
SALINAS, CALIFORNIA 93902

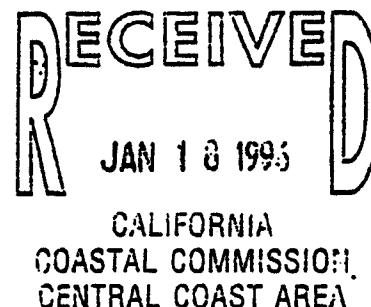
SALINAS (408) 754-2444
MONTEREY (408) 373-2444
FAX (408) 754-2011

File No. 00293.000

January 17, 1996

VIA FACSIMILE

Mr. Les Strnad
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060



Re: Miller and Wilde; CDP 3-94-39A

Dear Mr. Strnad:

Thank you for sending me a copy of your letter of January 16th.

As was set forth in our recent correspondence, we have been unable to find any evidence in the record supporting a determination that this parcel is a legal lot of record. I am concerned that if the applicants are unable to establish this fact and are permitted to continue construction on the project, they may attempt to argue that the State is prevented from halting construction in the event it is an illegal lot once they have allowed the applicants to proceed.

I would appreciate it if you could review this matter with your legal counsel to determine whether, pending the resolution of the appeal, work should be suspended on the existing permit.

Sincerely,

Anthony L. Lombardo

ALL:ncs

cc: Dr. and Mrs. Orville Golub
Mr. Dennis Hodgins

00293\L-STRNAD.001

EXHIBIT NO. 9
APPLICATION NO. 3-94-39-A
Letter of 1/17/96
from A. Lombardo

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200



January 22, 1996

Anthony Lombardo, Attorney at Law
P.O. Box 2119
Salinas, CA 93902

Re: 3-94-39-A Wilde and Miller

Dear Mr. Lombardo:

This letter is in response to your letter of January 17, 1996 regarding the legality of the subject parcel, APN 010-321-046.

At the time of the original project approval, (December 15, 1994), the Commission accepted the City's determination that the subject lot was a legal lot of record. On August 9, 1993, the City granted a Certificate of Compliance with the Subdivision Map Act and the City Zoning Regulations.

The information contained in my January 16, 1996 letter to Mr. Miller (copy enclosed) continues to be correct. The only work that may be done at this time is work in accord with the original approval 3-94-39.

Sincerely yours,

Les Strnad

Supervisor of Planning and Regulation

LS/JS/cm
Enclosure

cc: Paul Miller
Rick Tooker, Planning Department
Donald Freeman, City Attorney
Dr. and Mrs. Golub
Dennis Hodgins

0030j

EXHIBIT NO.	10
APPLICATION NO.	3-94-39-A
Letter of 1/22/96	
from L. Strnad	

Paul Miller & Kirstie Wilde
1500 Sunset Drive
Pacific Grove, Ca. 93950

RECEIVED
JAN 18 1996

January 16, 1996

Ms. Jeri Sheele
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Our Amendment Application (Miller and Wilde, CDP 3-94-39A)

Dear Ms. Sheele,

Thank you very much for the opportunity to respond to the points raised in Mr. Lombardo's letter of January 11, 1996:

1. The legality of the parcel

When we acquired this property in early 1993, we asked the City for an acknowledgement that subdivision of the parcel (back in 1954) was legal. The procedure under state law for making such a determination is the issuance of a Subdivision Map Act "Certificate of Compliance" (Government Code §66499.35(a)). As far as we know, there is no other procedure available to a property owner to determine if his property is a separate legal parcel.

The City of Carmel, after investigating the circumstances of our parcel's subdivision, issued a Certificate of Compliance for it. (A copy of the certificate is attached.) The Certificate of Compliance was recorded on August 18, 1993. We have since invested a great deal of money in the parcel based on our belief that the Certificate of Compliance settled, once and for all, the parcel's legal status.

Since 1993, development of the parcel with a single-family residence has been approved three times by the Carmel Planning Commission (November 17, 1993, October 12, 1994, and September 13, 1995), by the Carmel City Council (November 7, 1995) and by the California Coastal Commission (December 15, 1994). All these approvals included acknowledgements by the agency involved that the parcel was a legal lot-of-record.

The issue presently before the Commission is simply whether certain minor amendments to the existing Coastal Permit should be approved. The question of our parcel's legality has long-ago been decided, and is irrelevant to the issue at hand.

[It may also be worth noting that Mr. Lombardo's attempt to show that our parcel was illegally created is based on erroneous statements of law. For example, he claims that pursuant to Business and Professions Code §11535(c) a recorded survey map was required to finalize subdivision of our parcel. This is incorrect. Our parcel, being part of a 2-lot subdivision, was exempt from the all state mapping requirements, including §11535(c), by Business and Professions Code §11535(a) (see 1947 Statutes, chapter 259—copy attached).]

2. The amendments sought are consistent with the Coastal Act

Mr. Lombardo goes to some length to try to show that our proposed amendment is not consistent with the Carmel LUP. The question of LUP compliance is irrelevant since the Carmel LCP has never been certified. The standard of review for you to consider is the Coastal Act itself.

EXHIBIT NO. 11

APPLICATION NO. 3-94-39-A

Letter of 1/16/96

from P. Miller

1/4

Mr. Lombardo complains that the lot coverage of our project is too great. That issue was already decided by you, when you granted our original Coastal Development Permit in 1994, and is irrelevant to the amendment.

Furthermore, we feel that the amendment we seek, skylight and all, is fully consistent with the Coastal Act, primarily because the house is basically hidden from any public view. Mr. Lombardo makes the rather remarkable claim that the skylight will "significantly degrade the . . . quality of the visual experience enjoyed by the public on the Carmel beach in the evenings." This claim is remarkable, and ridiculous, because in fact our proposed house can barely be seen from Carmel beach. It is well behind the Pebble Beach Golf Course, is in back of five other developed lots, and is much lower than the house directly behind it. Carmel Senior Planner Rick Tooker told me today, "Your house cannot be seen from the beach."

Even if it could be seen, Mr. Lombardo's argument *assumes* that light emitted from our skylight will be bright enough to be a public nuisance. He offers no evidence that this is true. In fact, it is patently untrue as can readily be seen by viewing other ridge skylights on various buildings in the Carmel area. We have invited Mr. Lombardo to accompany us on a nighttime "skylight" tour; so far he has not agreed.

[Beware of photographs purporting to show how our skylight will appear at night. Photos of nighttime light sources can be manipulated by means of f-stops and time exposures to show, basically, anything. The only way to judge such a question is in person, with one's own eyes, which is exactly what Carmel officials were able to do before they approved the amendment.]

Please keep in mind that when our skylight proposal was first presented to the Carmel planning department, staff put the amendment on the Planning Commission's consent agenda.

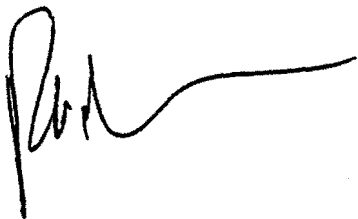
The Golubs, without the cooperation of any other neighbors, protested and insisted on a full public hearing. They got their hearing and made strenuous arguments against the skylight. Their complaints were turned down unanimously by the Carmel Planning Commission.

The Golubs then appealed the Planning Commission's decision to the Carmel City Council. Another full public hearing was held. The City Council again turned down the Golubs unanimously. All this in a city that puts a premium on subdued lighting!

The amendment then went to the Coastal Commission staff. Your office determined that the amendment sought was immaterial from a Coastal Act standpoint and scheduled the amendment for the Coastal Commission's consent calendar. Once again, the Golubs have protested and insisted on a full public hearing.

We think the Golubs' protests are simply a waste of the Commission's time, and resemble a personal vendetta.

Please approve our amendment application as soon as possible.



CALIFORNIA COASTAL COMMISSION
EXHIBIT 11 39439-A
2/4

Recording Requested and When Recorded
Please Mail to:

Kirstie Wilde
1500 Sunset Drive
Pacific Grove, Ca 93950

RECORDED AT REQUEST OF

SEP 3 4 45 PM '93

OFFICE OF RECORDER
COUNTY OF MONTEREY
SALINAS, CALIFORNIA

60933

CITY OF CARMEL-BY-THE-SEA

CERTIFICATE OF COMPLIANCE WITH THE

SUBDIVISION MAP ACT AND CITY ZONING REGULATIONS

1. Location West Side of N. Antonio bet. 2nd and 4th Avenues

Block: Sand Dunes Lot(s): 3 (B-1-b)

AP #: 010-321-46

Tract: _____

2. Zoning: R-1-B-AS Single Family Residential/Beach Overlay/
Archaeological Overlay

3. Conformity with minimum building site standards:

This is an irregularly shaped lot containing approximately 7,170 square feet with 22 feet of street frontage. This lot was subdivided as "lot B-1-b" through approval of a map by the Carmel-by-the-Sea Board of Adjustments on 25 August 1954. This lot complies with the minimum size requirements for a building site per section 17.24.070.4.d of the Municipal Code.

Brian Roseth

Acting Director of Planning & Building

12 August 1993
Date

ALL-PURPOSE ACKNOWLEDGMENT

State of CALIFORNIA

County of MONTEREY

On 8/12/93 before me, CAROL A. JARICK (name, title of officer), personally appeared BRIAN ROSETH

personally known to me — OR — ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the

CALIFORNIA COASTAL COMMISSION

EXHIBIT 11

394-39-A

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL SIGNING FOR HIMSELF/HERSELF

☐ CORPORATE OFFICER

TITLE

CORPORATE

☐ PARTNER

PARTNERSHIP

☐ ATTORNEY-IN-FACT

PRINCIPAL

1947 Version of Subdivision Map Act--in effect at time of subdivision of Miller/Wilde parcel. §11535(a) exempted Miller/Wilde parcel from all state mapping requirements. Based on this, and other facts, Carmel issued a Certificate of Compliance for Miller/Wilde parcel in 1993.

822

STATUTES OF CALIFORNIA

[Ch. 259

CHAPTER 259

An act to amend Section 11535 of the Business and Professions Code, relating to the regulation of real estate subdivisions, and declaring the urgency thereof, to take effect immediately.

In effect
immediately

[Approved by Governor May 15, 1947. Filed with Secretary of State
May 15, 1947.]

The people of the State of California do enact as follows:

SECTION 1. Section 11535 of the Business and Professions Code is amended to read:

11535. (a) "Subdivision" refers to any real property, improved or unimproved, or portion thereof, shown on the last preceding tax roll as a unit or as contiguous units, which is divided for the purpose of sale, whether immediate or future, by any subdivider into five or more parcels within any one-year period.

(b) "Subdivision" does not include either of the following:

(1) Any parcel or parcels of land in which all of the following conditions are present: (i) Which contain less than five acres, (ii) which abut upon dedicated streets or highways, (iii) in which street opening or widening is not required by the governing body in dividing the land into lots or parcels, and (iv) the lot design meets the approval of the governing body.

(2) Any parcel or parcels of land divided into lots or parcels, each of a net area of one acre or more, a tentative map of which has been submitted to the governing body and has been approved by it as to street alignment and widths, drainage provisions and lot design.

(c) In either case provided in subsection (b) of this section, there shall be filed a record of survey map pursuant only to the provisions of Chapter 15 of Division 3 of this code.

(d) Nothing contained in this chapter shall apply to land dedicated for cemetery purposes under the Health and Safety Code of the State of California.

Sec. 2. This act is hereby declared to be an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Section 1 of Article IV of the Constitution and shall therefore go into immediate effect. A statement of the facts constituting such necessity is as follows:

Due to the prevailing housing shortage, various schemes for the subdividing of bungalow courts and other similar property are being promoted and offered to the public by individuals and a few real estate operators without the safeguards which the Subdivision Map Act provides. It is essential for the protection of the public that such matters be subjected to regulation and control without delay.

CALIFORNIA COASTAL COMMISSION
EXHIBIT // 3-94-39-A

4/4

**Paul M. Miller
1500 Sunset Drive
Pacific Grove, California 93950**

January 17, 1996

Fax to Tony Lombardo

Dear Tony,

Thank you for responding to my phone calls. I would like to reiterate in writing what I told you on the telephone, namely, that the Golubs seem to have a greatly exaggerated idea of the amount of light that will be emitted from the ridge skylight we are planning for our house on San Antonio Ave. My research indicates that only a very faint glow will be visible from the exterior of the house--certainly nothing that will disrupt the Golubs enjoyment of the spectacular views available from the upper floor of their home.

I say this after having discussed the issue extensively with two glazing contractors who will be bidding the job, and after having viewed several similar ridge skylights which exist on various buildings in the Carmel area.

I was very glad when I learned that the Golubs had hired you to represent them in this matter because I know how fair you are. I submit to you that the Golubs are making a big deal out of, basically, nothing. I invite you (or Mr. Golub, if he is available) to accompany me on a nighttime tour of local ridge skylights, so you can see for yourself.

My phone number is 644-9911. Please reply as soon as possible.

Best Regards,



RECEIVED
JAN 23 1996

CALIFORNIA
COMMISSION
COAST AREA

EXHIBIT NO. 12
APPLICATION NO. 3-44-34-A
Letter of 1/17/96
from P. Miller

**Paul M. Miller
1500 Sunset Drive
Pacific Grove, California 93950**

January 22, 1996

Jeri Sheele
California Coastal Commission
725 Front Street
Santa Cruz CA 95060

Re: Our permit amendment, Miller and Wilde CDP 3-94-39A

Dear Jeri,

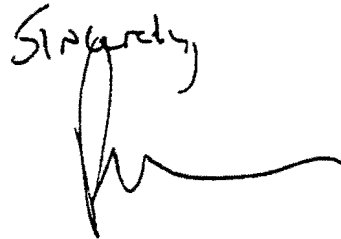
Thank you for sending me a copy of Tony Lombardo's letter of January 17, 1996.

As I stated in my letter to you last week, it is my contention that the issue of my parcel's legality was irrevocably settled when the City of Carmel issued a Certificate of Compliance for the parcel back in 1993.

Nevertheless, after discussing Mr. Lombardo's letter with Diane Landry today, I have decided to send you a complete set of documents from my files establishing that our parcel is a legal lot-of-record. These are the same documents that the City of Carmel relied when it issued the Certificate of Compliance.

It will take me several days to locate all the documents. Also, I will be out of town most of this week. I will try to get everything to you by February 1st.

I am sending this letter to Tony Lombardo. I will also provide him with the documents at the same time I send them to you.

Sincerely,


RECEIVED	
EXHIBIT NO.	13
APPLICATION NO.	3-94-39-A
Letter of 1/22/96	
from P. Miller	

1941 - 1942