

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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**RECORD PACKET COPY**

Filed: 8/29/95
49th Day: 10/17/95
180th Day: 2/24/96(Waived)
270th Day: 5/24/96
Staff: CAREY
Staff Report: 4/12/96
Hearing Date: 5/7-10/96
Commission Action:

STAFF REPORT: REGULAR CALENDAR**APPLICATION NO.:** 4-95-136**APPLICANT:** Stan Kaplan**AGENT:** Michael Zakian Architects**PROJECT LOCATION:** 3044 Sequit Drive, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of 2,507 sq. ft., 18 ft. high from existing grade single family residence, 816 sq. ft. garage, 3,435 sq. ft. of terrace area, pool, septic system, 1,820 cu. yds. of grading (1,700 cu. yds. cut, and 120 cu. yds. fill) and lot line adjustment in the El Nido small lot subdivision.

Lot area:	14,437 sq. ft.
Building coverage:	2,397 sq. ft.
Pavement coverage:	4,401 sq. ft.
Landscape coverage:	2,040 sq. ft.
Parking spaces:	4
Plan designation:	Residential I (1 du/ac)
Ht abv fin grade:	18 ft.

LOCAL APPROVALS RECEIVED: County of Los Angeles Approval in Concept, Preliminary Health Services Approval

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan, 5-84-163 (Embleton), 5-86-349A2 (Johnson), 5-88-416 (Haines), 5-88-418 (Wilstein), 5-88-445 (Tobin), 5-88-591 (Goldberg), 5-88-908 (Jensen), 5-88-939 (Mellein), 5-89-082 (Crommie), 5-89-148 (Schrader), 5-89-235 (Chan), 5-89-434 (Skeisvoll), 5-89-506 (Kaplan), 5-90-233 (Crommie), 5-90-771 (Skeisvoll), 5-90-772 (Embleton), 5-91-616 (Landsman), 4-92-074 (Kaplan), 5-92-189 (Dore), 4-95-194A (Eide)

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission approve the proposed development with Special Conditions regarding revised plans, future improvements, assumption of risk, and geology. The principal issue in this permit request is consistency with Section 30250 of the Coastal Act. The

SUMMARY OF STAFF RECOMMENDATION (CONTINUED):

proposed project site is located within a small-lot subdivision. The total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources. Cumulative development constraints common to small-lot subdivisions were documented by the Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled: "Cumulative Impacts of Small Lot Subdivision Development In the Santa Monica Mountains Coastal Zone". Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan (LUP) requires that new development in small lot subdivisions comply with the Slope-Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit. Past Commission action certifying the LUP indicates that the Commission considers the use of the Slope Intensity Formula appropriate for determining the maximum level of development which may be permitted in small lot subdivision areas consistent with the policies of the Coastal Act. The basic concept of the formula assumes that the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse impacts on coastal resources. For this application, staff recommends that the applicant be granted a maximum allowable GSA of 1,490 sq. ft. and that he be further granted an additional 500 sq. ft for extinguishing the development rights on a nearby lot. Additionally, staff recommends that the applicant be granted a further 600 sq. ft. addition to the maximum allowable GSA for extinguishing the development rights on two non-contiguous lots in one of four small lot subdivisions in the vicinity. Staff recommends that the permit be further conditioned to require a future improvements deed restriction, geologic review by the applicant's consultant, and assumption of risk. As conditioned, the proposed project will be consistent with all applicable Coastal Act policies.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

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

II. Standard Conditions.

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging

receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

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

III. Special Conditions.

1. Revised Plans.

Prior to issuance of permit, the applicant shall submit, for the review and approval of the Executive Director, revised project plans which indicate that the proposed dwelling does not exceed the maximum allowable gross structural area (GSA) of 1,490 sq. ft. as determined by the Slope Intensity Formula pursuant to Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan. This total GSA may be increased by an additional 500 sq. ft. granted in conjunction with the extinguishment of the development rights of Lot 91. The applicant shall submit, for the review and approval of the Executive Director, evidence that all potential for future development has been permanently extinguished for Lot 91 of Tract 9456 on Sequit Drive in the El Nido small-lot subdivision.

Additionally, pursuant to Policy 271(b)(2), the maximum allowable GSA may be further increased by 500 sq. ft. by extinguishing development rights on lots contiguous to the building site or by 300 sq. ft. for each lot not contiguous to the building site but within the El Nido, Malibu Bowl, Malibu Vista, or Malibu Mar Vista Small-Lot Subdivision. Prior to the issuance of the permit, the applicant may submit, for the review and approval of the

Executive Director, evidence that the development rights have been extinguished on any combination of contiguous or non-contiguous lots which would bring the development into conformance with Policy 271(b)(2) of the Malibu/Santa Monica Mountains LUP.

2. Future Improvements

Prior to issuance of the Coastal Development Permit, the applicant shall record a deed restriction, in a form and content acceptable to the Executive Director, which provides that Coastal Commission Permit 4-95-136 is for the approved development only and that any future improvements or additions, on the property including grading will require a permit from the Coastal Commission or its successor agency. Any future improvements shall conform to the allowable Gross Structural Area (GSA) as defined by policy 271 in the certified Malibu/Santa Monica Mountains Land Use Plan. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens.

3. Structure and Roof Color Restriction.

Prior to issuance of permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which restricts the color of the subject structure to natural earth tones, compatible with the surrounding earth colors (white tones will not be acceptable). The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns and shall be recorded free of prior liens.

4. Plans Conforming to Geologic Recommendation

All recommendations contained in the Geotechnical Engineering Report, dated 2/8/91, an Update Geotechnical Report and Onsite Private Sewage Disposal System Design, dated 12/6/93, and an Update Geotechnical Engineering Report, dated 5/31/95, all prepared by West Coast Geotechnical shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by the consultants. Prior to the issuance of permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

5. Assumption of Risk.

Prior to issuance of permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from

steep slopes, landsliding and wildfire on site and the applicant assumes the liability from such hazards, and the (b) applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and or its officers, agents and employees relative to the Commission's approval of the project for any damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

6. Condition Compliance.

All requirements specified in special conditions 1-5 above, must be fulfilled within 120 days of Commission action. Failure to comply with such additional time as may be granted by the Executive Director for good cause, will terminate this permit.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description.

The applicant proposes the construction of a 2,507 sq. ft, 18 ft. high from existing grade single family residence, 816 sq. ft. garage, 3,435 sq. ft. of terrace area, pool, septic system, 1,820 cu. yds. of grading (1,700 cu. yds. cut and 120 cu. yds. fill) and lot line adjustment. The proposed project site is two parcels on Sequit Drive in the El Nido small lot subdivision.

The proposed project was originally scheduled for the November 1995 Commission hearing. The applicant requested postponement at that time. The item was rescheduled for the January hearing. The applicant again requested postponement at the January hearing so that he could arrange to find additional bonus lots to retire in order to increase his maximum allowable gross structural area. Staff agreed that there was good reason to postpone the hearing to allow the applicant to work out these details. The applicant waived his right to a hearing within 180 days. No changes have been made to the proposed plans in the interim.

B. Public Comment.

After the project was noticed for the November 1995 hearing, staff received six comment letters from surrounding property owners concerning the proposed project. Copies of the letters are included as Exhibit 8. One of the contentions of several of the letters is that the application was not properly noticed for the November hearing. The contention was, specifically, that the radius map supplied by the applicant was not properly prepared and that several properties within the 100 foot radius were not noticed. Staff has reviewed the radius map and confirmed that it was prepared in error. The 100-foot radius was drawn from the center of the project site rather than from the property lines as required. A new radius map was prepared and staff has confirmed that all appropriate properties will be noticed.

Another contention of several of the letters relates to geologic instability and landform alteration. As discussed in Section F below, there are some issues raised by the stability of the site. The applicant's consultants have identified the presence of an eroded, ancient landslide scarp. However, their conclusion is that the proposed project site will be stable and will not affect offsite properties. Two of the comment letters question the potential impacts to geologic stability of constructing a swimming pool. While the applicant's consultants have not specifically addressed the stability of the proposed swimming pool, they did conclude that the proposed project site will be stable. Additionally, staff is recommending that the applicant submit evidence that the consultants have reviewed the final plans (including the proposed pool plans) and assured that they are consistent with all their recommendations. With regard to landform alteration, staff has concluded that the proposed grading will be beneath the proposed residence and will have no adverse impacts to visual resources. The proposed grading is discussed in Section E below.

Finally, all of the letters request that the applicant be required to meet the maximum GSA allowed under the Slope Intensity Formula. One letter states that: "If the Commission grants the applicant's square footage request it becomes very unfair for the other small lot owners". Another letter states that: "Approval of additional square footage on this project will set a terrible precedent in the El Nido small lot subdivision encouraging over-building of lots". As discussed in Section D below, staff recommends that the proposed project either be revised to reduce the size of the proposed structure or that the applicant retire the development rights to additional bonus lots such that the proposed structure will conform to the maximum allowable GSA.

C. Background.

1. Proposed Project Site.

The Commission has previously considered two separate applications for development on the subject site. In Permit Application 5-89-506 (Kaplan, Embleton and Kelly), the applicant proposed a lot line adjustment involving four lots and the construction of a 1,689 sq. ft. residence on Lot 94 with swimming pool, septic system and 1,200 cu. yds. of grading. In this application, the applicant proposed to adjust lot lines to enlarge the proposed project site (Lot 94) which would increase the maximum GSA. He further proposed to have his neighbor remove the deed restriction from the adjacent Lot 93 so that the applicant could then retire the development rights from that lot and receive a 500 sq. ft. bonus to his maximum GSA. This application was withdrawn before the Commission took any action because the applicant had purchased Lot 95 and wanted to resubmit an application for a house on both lots.

The Commission later considered Permit Application 4-92-074 (Kaplan) for the construction of a 2,567 sq. ft. single family residence with a 816 sq. ft. garage, terrace, pool, septic system, 700 cu yds. of grading, and a lot line adjustment. This project approved under this permit is identical to the currently proposed residence. The Commission approved a maximum allowable GSA for the project site of 1,490 sq. ft. The applicant was also granted an additional 300 sq. ft. for extinguishing the development rights on a nearby lot. The Commission later approved permit amendment 4-92-074 (Kaplan) to allow the addition of 500 sq. ft. to the GSA for the extinguishment of Lot 91 rather than 300 sq. ft. Thus, the applicant was permitted a total GSA of

1,990 sq. ft. for the proposed residence. The applicant never activated this permit and it has since expired.

2. Other Sites in the Immediate Area.

The Commission has considered many permit applications for properties in the immediate area. Following in Table 1 is a list of those actions. These noted permit applications are for development on Sequit Road within the El Nido small lot subdivision.

Application Number	Name	Proposed Sq. Ft.	Max. GSA Allowable	Lot Square Footage	Bonus Sq. Ft.	Total GSA Permitted
5-84-163	Embleton	1,026 sq. ft.	526 sq. ft. (45% Slope)	5,200 sq. ft.	500 sq. ft. (1 contiguous parcel)	1,026 sq. ft.
5-88-416	Haines	2,800 sq. ft.	3,176 sq. ft. (23% Slope)	17,921 sq. ft. (2 lots)	None	3,176 sq. ft.
5-88-939	Mellein	1,832 sq. ft.	1,323 sq. ft. (45% Slope)	9,296 sq. ft. (2 lots)	500 sq. ft. (1 contiguous lot)	1,823 sq. ft.
5-89-235	Chan	2,172 sq. ft.	1,252 sq. ft. (38% slope)	10,986 sq. ft.	900 sq. ft. (3 non-contiguous lots)	2,152 sq. ft.
5-90-771	Skeisvoll	500 sq. ft.	500 sq. ft. (40% Slope)	8,420 sq. ft.	None	500 sq. ft.
5-90-772	Embleton	500 sq. ft.	500 sq. ft. (40% Slope)	9,488 sq. ft.	None	500 sq. ft.
5-91-616	Landsman	1,399 sq. ft.	1,399 sq. ft. (30% Slope)	7,870 sq. ft.	None	1,399 sq. ft.

Table 1

Additionally, the Commission has approved many permit applications for development which is within the El Nido small lot subdivision, on Seabreeze Drive, Searidge Drive, and Valmere Drive. Following is Table 2 which shows the permit applications approved by the Commission for single family residences on these three streets.

Application Number	Name	Proposed Sq. Ft.	Max. GSA Allowable	Lot Square Footage	Bonus Sq. Ft.	Total GSA Permitted
5-88-418	Wilstein	1,113 sq. ft.	1,782 sq. ft.		None	1,113 sq. ft.
5-88-418A	Wilstein	1,713 sq. ft. (600 sq. ft. addition)	1,782 sq. ft.		None	1,713 sq. ft.
5-88-445	Tobin	1,463 sq. ft.	1,415 sq. ft. (17% Slope)	5,515 sq. ft.	None	1,463 sq. ft. (48 sq. ft. over Max. GSA allowed)
5-88-445A	Tobin	1,230 sq. ft. (Reduction of sq. ft.)	1,415 sq. ft.	5,515 sq. ft.	None	1,230 sq. ft.

5-88-591	Goldberg	2,362 sq. ft.	2,325 sq. ft. (15% Slope)	10,073 sq. ft. (2 lots)	None	2,325 sq. ft. (Revised Plans)
5-88-908	Jensen	1,707 sq. ft.	1,592 sq. ft. (31% Slope)	9,930 sq. ft.	None	1,592 sq. ft. (Revised Plans)
5-89-082	Crommie & Hinerfeld	1,812 sq. ft.	1,765 sq. ft. (29% Slope)	9,153 sq. ft.	None	1,765 sq. ft. (Revised Plans)
5-89-148	Schrader	1,546 sq. ft.	1,450 sq. ft. (24% Slope)	6,329 sq. ft.	None	1,450 sq. ft. (Revised Plans)
5-89-434	Skeisvoll	1,376 sq. ft.	1,085 sq. ft. (34% Slope)	7,324 sq. ft.	300 sq. ft. (1 non- contiguous lot)	1,376 sq. ft.
5-90-233	Crommie	1,009 sq. ft.	1,009 sq. ft. (34% Slope)	5,730 sq. ft.	None	1,009 sq. ft.
5-90-233A	Hinerfeld	1,309 sq. ft. (300 sq. ft. addition)	1,009 sq. ft. (34% Slope)	5,730 sq. ft.	300 sq. ft. (Retired 1 non- contiguous lot)	1,309 sq. ft.
5-92-189	Dore	1,525 sq. ft.	1,025 sq. ft. (31% Slope)	4,815 sq. ft.	500 sq. ft. (1 contiguous lot)	1,525 sq. ft.

Table 2

As can be noted from the table, the maximum allowable Gross Structural Area (GSA) is a function of the size and slope of the project site. Larger, less steep parcels have a larger allowable building area, while lots which are smaller or steeper are granted a smaller GSA.

D. Cumulative Impacts.

Section 30250 (a) of the Coastal Act states, in part, that:

(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 effect, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Throughout the Malibu/Santa Monica Mountains coastal zone there are a number of areas which were subdivided in the 1920's and 30's into very small "urban" scale lots. These subdivisions, known as "small-lot subdivisions" are comprised of parcels of less than one acre but more typically range in size from 4,000 to 5,000 square feet. The total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources. Cumulative development constraints common to small-lot subdivisions were documented by the

Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled: "Cumulative Impacts of Small Lot Subdivision Development In the Santa Monica Mountains Coastal Zone".

The study acknowledged that the existing small-lot subdivisions can only accommodate a limited amount of additional new development due to major constraints to buildout of these areas that include: Geologic problems, road access problems, water quality problems, disruption of rural community character, creation of unreasonable fire hazards and others.

Following an intensive one-year planning effort by Commission staff, including five months of public review and input, new development standards relating to residential development on small lots in hillsides, including the Slope-Intensity/Gross Structural Area Formula (GSA) were incorporated into the Malibu District Interpretive Guidelines in June 1979. A nearly identical Slope Intensity Formula was incorporated into the 1986 certified Malibu/Santa Monica Mountains Land Use Plan under policy 271(b)(2).

Policy 271(b)(2) of the Malibu/Santa Monica Mountains Land Use Plan (LUP) requires that new development in small lot subdivisions comply with the Slope-Intensity Formula for calculating the allowable Gross Structural Area (GSA) of a residential unit. Past Commission action certifying the LUP indicates that the Commission considers the use of the Slope Intensity Formula appropriate for determining the maximum level of development which may be permitted in small lot subdivision areas consistent with the policies of the Coastal Act. The basic concept of the formula assumes that the suitability of development of small hillside lots should be determined by the physical characteristics of the building site, recognizing that development on steep slopes has a high potential for adverse impacts on coastal resources.

Slope-Intensity Formula:

$$GSA = (A/5) \times ((50-S)/35) + 500$$

GSA = the allowable gross structural area of the permitted development in square feet. The GSA includes all substantially enclosed residential and storage areas, but does not include garages or carports designed for storage of autos.

A = the area of the building site in square feet. the building site is defined by the applicant and may consist of all or a designated portion of the one or more lots comprising the project location. All permitted structures must be located within the designated building site.

S = the average slope of the building site in percent as calculated by the formula:

$$S = I \times L/A \times 100$$

I = contour interval in feet, at not greater than 25-foot intervals, resulting in at least 5 contour lines

L = total accumulated length of all contours of interval "I" in feet

A = the area being considered in square feet

1. GSA Calculation.

The applicant is proposing to construct a single family residence 2,567 sq. ft. in size. The proposed 14,437 sq. ft. project site consists of two adjacent parcels (Lots 94 and 95 of Tract 9456) as well as 20-foot wide portion of another adjacent parcel (Lot 93) to the west of the proposed project site. This 20-foot wide strip is to be added to the proposed project site by a lot line adjustment discussed below.

The applicant has submitted a GSA calculation. This calculation utilized a five-foot interval topographic map which also excluded a 1,830 sq. ft. area from the building area. Unfortunately, the map utilized for this calculation was not submitted to staff. The survey map submitted to staff has a two-foot contour interval. This map was utilized by staff to carry out an analysis of the appropriate GSA for the project site. With regard to excluding area of the proposed site from the calculation, the Commission has in past permit decisions, provided for the exclusion of area so long as the excluded area is not part of the building pad area. This exclusion is most appropriate on project sites where there is a particularly steep area of the site where no construction would take place, and the remainder of the site is less steep. However, in this case, as the site plan shows, the entire site except for required setbacks is proposed to be developed. As such, staff notes that it is not appropriate to exclude area from the GSA calculations.

The GSA calculation performed by the applicant utilized a slope of 35% and an area of 12,607 sq. ft. Based on these parameters, the applicant arrived at a maximum GSA of 1,584 sq. ft. As noted above, it is not appropriate to exclude any area of the site from the calculation. Staff's calculation utilizing the entire site arrived at a slope of 38% and a maximum GSA of 1,490. This is the maximum GSA arrived at by the applicant and accepted by the Commission in Permit Application 4-92-074 (Kaplan). As such, the Commission finds that the maximum allowable GSA for the proposed project site is 1,490 sq. ft.

2. Bonus Lots.

In past permit decisions, the Commission has increased the maximum allowable GSA for projects when the development rights of additional lots were permanently extinguished.

The maximum allowable gross structural area (GSA) as calculated through the Slope-Intensity Formula may be increased as follows:

(1) Add 500 square feet for each lot which is contiguous to the designated building site provided that such lot(s) is (are) combined with the building site provided that such lot(s) is (are) combined with the building site and all potential for residential development on such lot(s) is permanently extinguished.

(2) Add 300 square feet for each lot in the vicinity of (e.g., in the same small lot subdivision) but not contiguous with the designated building site provided that such lot(s) is (are) combined with other developed or developable building sites and all potential for residential development on such lot(s) is permanently extinguished.

a. Lot 91.

As part of the proposed project, the applicant proposes to extinguish the development rights on a lot down the street from the proposed project site and thus add more square footage to the maximum allowable GSA. Directly adjacent to the proposed project site is Lot 93 (Exhibit 6). The development rights for Lot 93 were extinguished and it was combined with Lot 92 pursuant to Permit 5-84-163 (Embleton). A single family residence was constructed on Lot 92 and an extra 500 sq. ft. was added to the GSA for extinguishing the development rights on Lot 93. Adjacent to Lot 92, there is a vacant parcel (Lot 91) and a parcel developed with a single family residence (Lot 90). The applicant proposes to extinguish the development rights on Lot 91 and add 500 square feet to the maximum allowable GSA for the proposed project site.

While the lot which would have development rights extinguished is not immediately adjacent to the proposed project site, the applicant maintains that he should be given an extra 500 sq. ft. (rather than the 300 sq. ft. allowable for non-contiguous lots) because the owner of Lot 92 (Embleton) could remove the deed restriction from Lot 93 and instead place it on Lot 91 on the other side. The applicant could then extinguish the development rights on Lot 93 for his proposed project site. It should be noted that this removal of deed restriction and recordation of new deed restrictions would only be possible with Commission approval. In the permit amendment 4-92-074A, the Commission approved the 500 sq. ft. bonus for the extinguishment of development rights on Lot 91 even though it is not technically contiguous to the proposed project site. The Commission found this to be simpler yet have the same effect as removing the deed restriction from Lot 93 and placing it on Lot 91. Pursuant to Permit 4-92-074, the owner of Lot 91 did record a deed restriction extinguishing all development rights and combining it with his developed Lot 90. However, the applicant never activated that permit and it has since expired.

The Commission finds that it is appropriate to allow the applicant to add an extra 500 sq. ft. to the maximum allowable GSA for the extinguishment of development rights on Lot 91. However, in order to ensure that development rights are permanently extinguished, it is necessary to require the applicant to cause a deed restriction to be recorded on Lot 91 extinguishing the development rights.

b. Additional lots in the vicinity.

The applicant now also proposes to extinguish the development rights on two non-contiguous lots in order to obtain an additional bonus of 600 sq. ft. to add to his maximum allowable GSA. The applicant has indicated that he can extinguish the development rights on two lots in a nearby small lot subdivision, but not in the El Nido subdivision. In many past permit decisions, the Commission has interpreted Policy

271(b)(2) to mean that non-contiguous lots used to increase the residential GSA by 300 sq. ft. should be located in the same small lot subdivision as the proposed development to ensure the cumulative development impacts within that subdivision were mitigated. However, the reference in Policy 217(b)(2) indicating non-contiguous retirement lots be located in the "in the vicinity" suggest that nearby small lot subdivisions could be considered in the "vicinity". In two recent permit decisions [5-86-349A2 (Johnson) and 4-94-195A and A2 (Eide)], the Commission has allowed bonus lots to be retired in one of several nearby small-lot subdivisions. In these permit actions, the Commission has considered evidence that the El Nido small lot subdivision has severe restrictions on the supply of undeveloped lots available for sale which are not already deed restricted.

As previously stated, the purpose of the GSA credit program is to reduce the impacts of development within small lot subdivisions and maintain the rural character of these "rural villages." When a lot is retired within the same small lot subdivision, there is a reduced potential buildout and thus there is a reduction in the development pressures related to water usage, septic capacity, traffic, geologic hazards, and habitat loss. If a lot is to be retired in a different small lot subdivision, the Commission must address whether or not that small lot subdivision is within the vicinity of the area and whether or not the small lot subdivision is subject to the same development patterns and pressures as the subject lot. Both these criteria must be met in order for the extinguishment of the development rights of a lot to have a positive effect on the buildout potential of the area.

The El Nido (where the subject project site is located) and Malibu Bowl Small Lot Subdivisions are located in close proximity on Corral Canyon Road and the main access into this canyon is Pacific Coast Highway. Similarly, the Malibu Vista and Malibu Mar Vista small lot subdivisions are located on the lower half of Latigo Canyon Road and access to this canyon road is Pacific Coast Highway. These two small lot subdivisions can be considered within the same vicinity as El Nido, as they are less than a mile to the west of the subject small lot subdivision, drain into adjacent canyons and feed into the Santa Monica Bay in close proximity. Other small lot subdivisions in the Santa Monica Mountains would not qualify as within the same vicinity because they are too far away, are not within similar watersheds, do not have similar development pressures and geologic and topographic constraints and do not affect the same area.

These four small lot subdivisions also have similar development patterns and pressures. In 1979 a study of the small lot subdivision areas was completed; this study addressed the number of buildable lots within each small lot subdivision and the potential individual and cumulative impacts associated with the buildout of these small lot subdivision. The impacts associated with each small lot subdivision, as identified in this study, is shown in Exhibits 4-7. In all four small lot subdivisions there are buildable lots which if built out will have adverse impacts on the areas such as an increase in traffic along the canyon roads and Pacific Coast Highway; an increase in water usage and septic usage and thus negatively impact water quality and quantities; adverse environmental impacts through the removal of vegetation and non-point source pollution into Santa Monica Bay; an increase in geologic instability through an increase of structures and development on

these very steep, unstable slopes; and increase fire hazard; and an increase in soil erosion from the grading required to develop these lots. These small lot subdivisions are in close proximity and as such the build-out of these subdivisions will adversely impact the same general area, as outlined above.

Therefore, given the proximity of these four small lot subdivisions to each other and the interrelated nature of the cumulative impacts which could result from the buildout of these subdivisions, retirement of lots in any of these four subdivisions will avoid these impacts. The Commission therefore finds, that a lot within the El Nido, Malibu Vista or the Malibu Mar Vista Small Lot Subdivision could be considered within the vicinity of the subject lot and thus could be used for the extinguishment of development rights for the purpose of increasing the GSA of the subject property.

3. Lot Line Adjustment.

The applicant is also proposing a lot line adjustment (Exhibit 5) which would result in the following modifications:

1. The lot line between Lot 93 (Embleton) and Lot 94 (Kaplan) would be shifted 20 feet to the west, resulting in the addition of 1,458 sq. ft. to the proposed project site. This shift is proposed to allow the applicant a greater area to be used in the GSA calculation.
2. Lots 94, 95 and the 20-foot strip described in 1 above would be combined into one parcel.
3. The lot line between Lot 92 (Embleton) and Lot 91 (Kelley) would be shifted 20 feet to the west, resulting in the addition of lot area to Lot 92.
4. Lots 92, 93 and the 20-foot strip described in 3 above would be combined into one parcel.
5. Lots 90 and 91 would be combined into one parcel.

This lot line adjustment was proposed by the applicant and approved and recorded by the County of Los Angeles without a coastal development permit. The lot line adjustment was approved by the Commission in Permit 4-92-074(Kaplan). However, that permit was never activated and has since expired. As such, the lot line adjustment has not legalized through an approved, activated permit. In order to ensure that this matter is finally resolved, the Commission finds it necessary to require the applicant to comply with the special conditions of this permit within 120 days of Commission action.

While the proposed lot line adjustment will result in adding to the area of the proposed project site and thus increasing the maximum allowable GSA, it will also result in the reduction in the total number of lots. The Commission finds that the lot line adjustment is consistent with Section 30250(a) of the Coastal Act.

4. Conclusion.

So, as discussed above, the Commission finds it appropriate to grant the applicant a maximum GSA of 1,490 sq. ft., with an additional 500 sq. ft. for the extinguishment of development rights on Lot 91. This would allow a total GSA of 1,990 sq. ft. Should the applicant further extinguish the development rights of two non-contiguous lots in one of the following small lot subdivisions: 1) El Nido; 2) Malibu Bowl; 3) Malibu Vista; 4) Malibu Mar Vista, then he would be allowed an additional 600 sq. ft. for a total GSA of 2,590 sq. ft.

The applicant was previously granted a permit (4-92-074) and amendment (4-92-074A) for the construction of a residence with a maximum square footage of 1,990 sq. ft. However, the applicant was requesting a permit for the construction of a 2,567 sq. ft. structure. The Commission did not grant his request in that permit application. Rather, the permit was conditioned to submit revised plans showing a residence of no more than 1,990 sq. ft. The applicant never activated the 1992 permit. He reapplied for the same structure of 2,567 sq. ft. There are no changed circumstances that would now make the proposed structure consistent with Commission's GSA calculations.

The applicant previously submitted a letter (Exhibit 7) stating his rationale for the size of the proposed structure. Basically, the applicant asserts that he could, if he chose, build three single family residences where he currently proposes the construction of one residence. The lots he describes are Lot 91, Lot 94, and Lot 95. He further asserts that the proposed residence would have fewer impacts than the three hypothetical "spec" homes. As such, the applicant feels that he should be entitled to a larger house than allowed under the Slope-Intensity Formula described above.

However, staff notes that:

1. Each of the three lots are quite steep, especially Lot 91. It is unlikely that anything larger than a 500 sq. ft. structure could be built on Lot 91. In fact, as noted in the background, Permit 5-84-163 (Embleton) was approved for construction of a 1,026 sq. ft. residence on Lot 92. This total GSA included a 500 sq. ft. bonus for the extinguishment of development rights on the contiguous Lot 93. Slightly larger homes could possibly be approved on Lot 94 and Lot 95. While these lots are also quite steep, they are larger in size than Lot 91.
2. The applicant would realize a benefit from constructing one structure rather than three. Namely, an additional 500 sq. ft. will be added to the GSA in exchange for not developing Lot 91. Further, by combining Lots 94 and 95 and adding the 20-foot wide strip in the lot line adjustment, the area of the proposed building site is increased.

The Commission finds that in granting the applicant approval for a structure of 1,990 sq. ft., the applicant is already realizing maximum benefit from the addition of the square footage added in the lot line adjustment and from receiving a 500 sq. ft. bonus for a lot which is not technically contiguous to the proposed building site. In reviewing past Commission actions in the El Nido small-lot subdivision as shown in Table 1 and 2 above, it becomes apparent that the Commission has consistently applied the Slope-Intensity Formula to determine the appropriate maximum GSA. In cases where the project site was relatively small or steep, smaller residences were permitted. In

two cases (5-90-771 and 5-90-772), project sites were so steep that residences of only 500 sq. ft. were approved. Where the project sites were larger in area or less steep, larger structures were approved. Further, where the applicant proposed to extinguish the development rights on either contiguous or non-contiguous parcels, the appropriate additional square footage was added to the maximum allowable GSA.

The Commission finds that there are no unique circumstances involved in the applicant's request for a larger structure than what would be allowable under the Slope-Intensity Formula. The Commission further finds that it would be inequitable to grant the applicant a larger structure than other applicants in identical situations have been granted. As such, the applicant has now proposed to retire two non-contiguous small lot parcels as described above. When two such lots are retired, the applicant will receive a 600 sq. ft. bonus which will give him a total GSA of 2,590 sq. ft. Therefore, the proposed structure would be consistent with the maximum allowable GSA. In order to ensure that any future development on the project site is consistent with the GSA, the Commission finds it is necessary to require the applicant to record a future improvements deed restriction. Further, as discussed above, in order to ensure that development rights are permanently extinguished for the 500 sq. ft. bonus, it is necessary to require the applicant to cause a deed restriction to be recorded on Lot 91 extinguishing all development rights. Finally, it is necessary to require the applicant to cause all development rights to be extinguished on two non-contiguous lots in order to increase the maximum GSA by 600 sq. ft. The Commission finds that, only as conditioned, is the proposed project consistent with Section 30250(a) of the Coastal Act.

E. Visual Resources.

Section 30251 of the Coastal Act states that:

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

The proposed project is located on Sequit Drive in the El Nido small-lot subdivision. This area overlooks Soltice Canyon State Park. The park consists of one large canyon and a few secondary canyons that branch off the main canyon. One of the secondary canyons, Dry Canyon, extends up towards the El Nido subdivision. Within Dry Canyon is a trail which follows the canyon to just below the subdivision. Much of the existing development within the subdivision is visible from the trail and the park. As described in the background section above, the Commission has approved several permits for development of single family residences along Sequit Road. These structures are visible from the park below, particularly those on the downslope side of the road.

The proposed project site is located on the upslope side of Sequit Drive. While the proposed structure will be visible from the park below, it will be no more visible than the existing development in the area. Grading and landform alteration has been minimized. As conditioned

(discussed in Section C. Cumulative Impacts above) to reduce the total square footage of the proposed structure to 1,990 sq. ft., the proposed residence will be compatible with the size, height, and bulk of the existing residences previously approved by the Commission in the area. As such, the proposed project will be visually compatible with the character of surrounding areas. However, since the project will still be visible from the State Park below, the Commission finds it necessary to require the applicant to utilize earth tones for the exterior building and roof materials. This will ensure that the proposed structure will minimize visual impacts to the maximum extent possible. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

F. Geologic Stability

Section 30253 of the Coastal Act states in part that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The applicant has submitted a Geotechnical Engineering Report, dated 2/8/91, an Update Geotechnical Report and Onsite Private Sewage Disposal System Design, dated 12/6/93, and an Update Geotechnical Engineering Report, dated 5/31/95, all prepared by West Coast Geotechnical for the subject site. The applicants' consultants determined that the proposed project site is grossly and surficially stable and therefore suitable for the proposed development.

Earlier reports prepared for the project site [Soil Engineering Investigation, dated 3/25/87, prepared by West Coast Soils and Engineering Geologic Report, dated 10/10/90, prepared by Geoplan, Inc.] identify the presence of an eroded, ancient landslide scarp. The Geoplan report states that: "The slide remnant appears to thicken west where it will be stripped by proposed development of lot 94. It does not affect development of lot 95".

The West Coast Soils reports address a shear dip plane on the project site along the contact between the Calabasas Formation and the underlying Conejo Volcanics Formation. The report states that the proposed residence will be constructed at an elevation which will result in removal of the material located above the shear dip plane. The geologist's recommendation is that the Calabasas Formation which will remain in place, be supported by the retaining walls integrated

into the residence foundation. This construction technique will result in a factor of safety in excess of 1.5, according to the geotechnical report. The geological investigation states that:

The subject property is considered a suitable site for the proposed development from a geotechnical engineering standpoint. It is the opinion of West Coast Geotechnical that the proposed development will be safe against hazards from landslide, settlement, or slippage, and the proposed grading and development will not affect the stability of the subject site or the surrounding area provided the following recommendations are made a part of the site development plans and implemented during construction.

Based on the recommendations of the consulting geologists, the Commission finds that the development is consistent with Section 30253 of the Coastal Act so long as the geologic consultant's geologic recommendations are incorporated into project plans. Therefore, the Commission finds it necessary to require the applicant to submit project plans that have been certified in writing by the consulting Engineering Geologist as conforming to their recommendations.

Additionally, while the geotechnical engineer has asserted that the site will be safe from geologic hazards, there are intrinsic risks associated with hillside development, especially on sites as steep as the proposed project site. Also, the headscarp of an ancient landslide has been identified on the proposed project site. Further, the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire. As such, the Commission finds that it is necessary to require the applicant to assume the risk of developing the proposed project. The applicant's assumption of risk, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of hazards which exist on the site and which may adversely affect the stability or safety of the proposed development. The Commission finds that the proposed development, as conditioned, is consistent with Section 30253 of the Coastal Act.

G. Septic System

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, minimizing alteration of natural streams.

The applicant proposes the construction of a septic system to provide sewage disposal for the proposed residence. The applicant has submitted an Update Geotechnical Engineering report and Onsite Private Sewage Disposal System Design, dated 12/6/93, prepared by West Coast Geotechnical. This report concludes that the proposed project site would provide adequate

percolation for the proposed residence and septic system. Additionally, the applicant has submitted evidence of Preliminary Approval from the Los Angeles County Department of Health Services which indicates that the proposed septic system meets the standards of the plumbing code. The Commission has found, in past permit decisions, that compliance with the plumbing code is protective of coastal resources. As such, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

H. Local Coastal Program

Section 30604 of the Coastal Act states that:

a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

I. Violation.

The proposed project includes the approval of a lot line adjustment which is discussed above. This adjustment was approved by the County and carried out by the applicant prior to approval of the applicant's 1992 permit application (4-92-074). The lot line adjustment was approved in that permit. However, Permit 4-92-074 was never activated and it has since expired. As such, the lot line adjustment has not been legalized through an approved, activated permit. Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

J. California Environmental Quality Act.

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed

development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity would have on the environment.

There proposed development would not cause significant, adverse environmental impacts which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.

BCKAPLAN.DOC

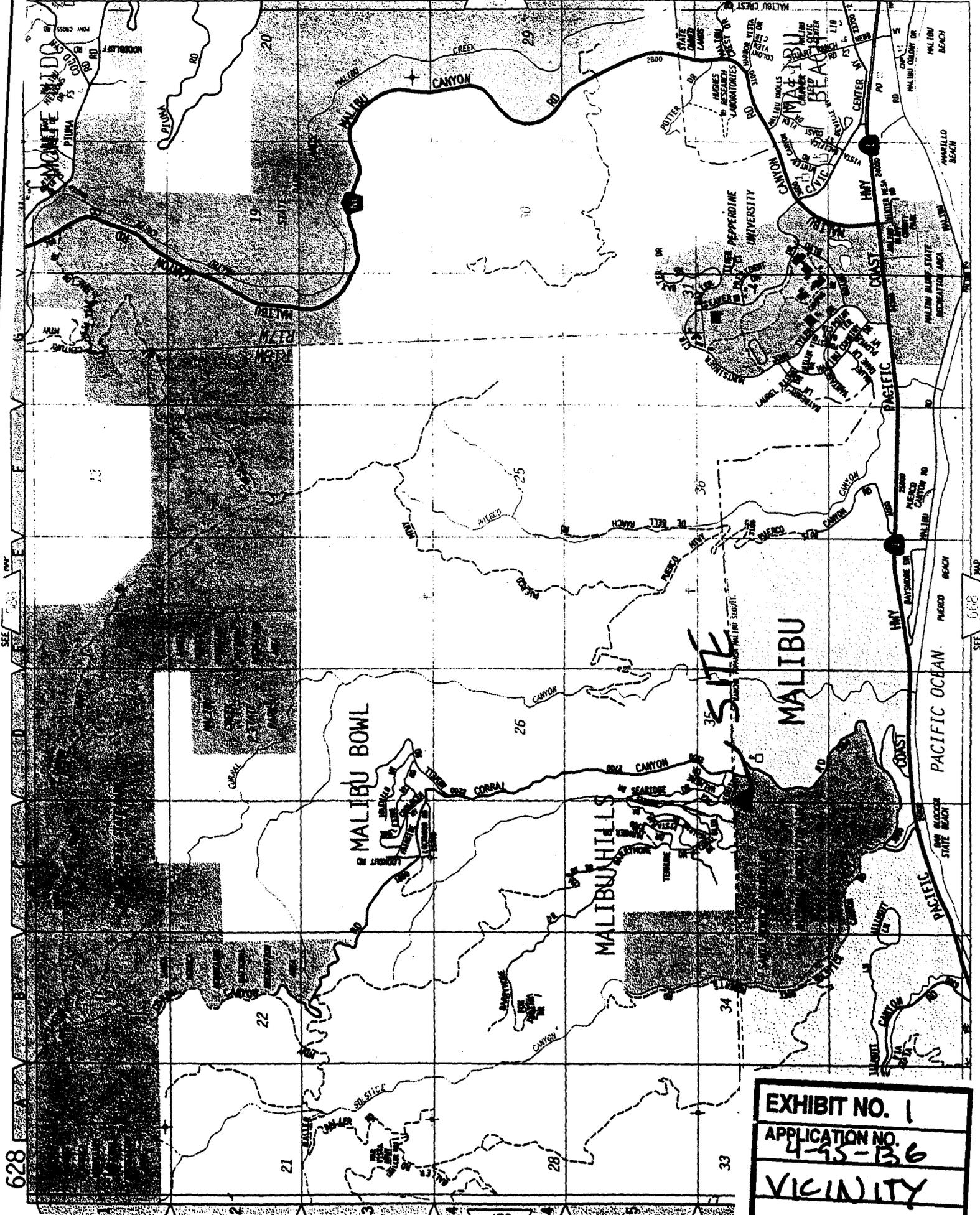
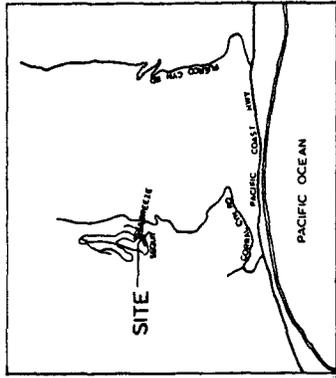


EXHIBIT NO. 1
APPLICATION NO. 4-95-136
VICINITY

628

SEE MAP 668



BUILDING SUMMARY

FIRST FLOOR	2187 SF
SECOND FLOOR	310 SF
TOTAL	2497 SF
GARAGE:	818 SF
SITE AREA	14437 SF
TERRACE AREA	3435 SF
LANDSCAPED AREA	2040 SF
UNIMPROVED AREA	5600 SF
DRIVEWAY	906 SF

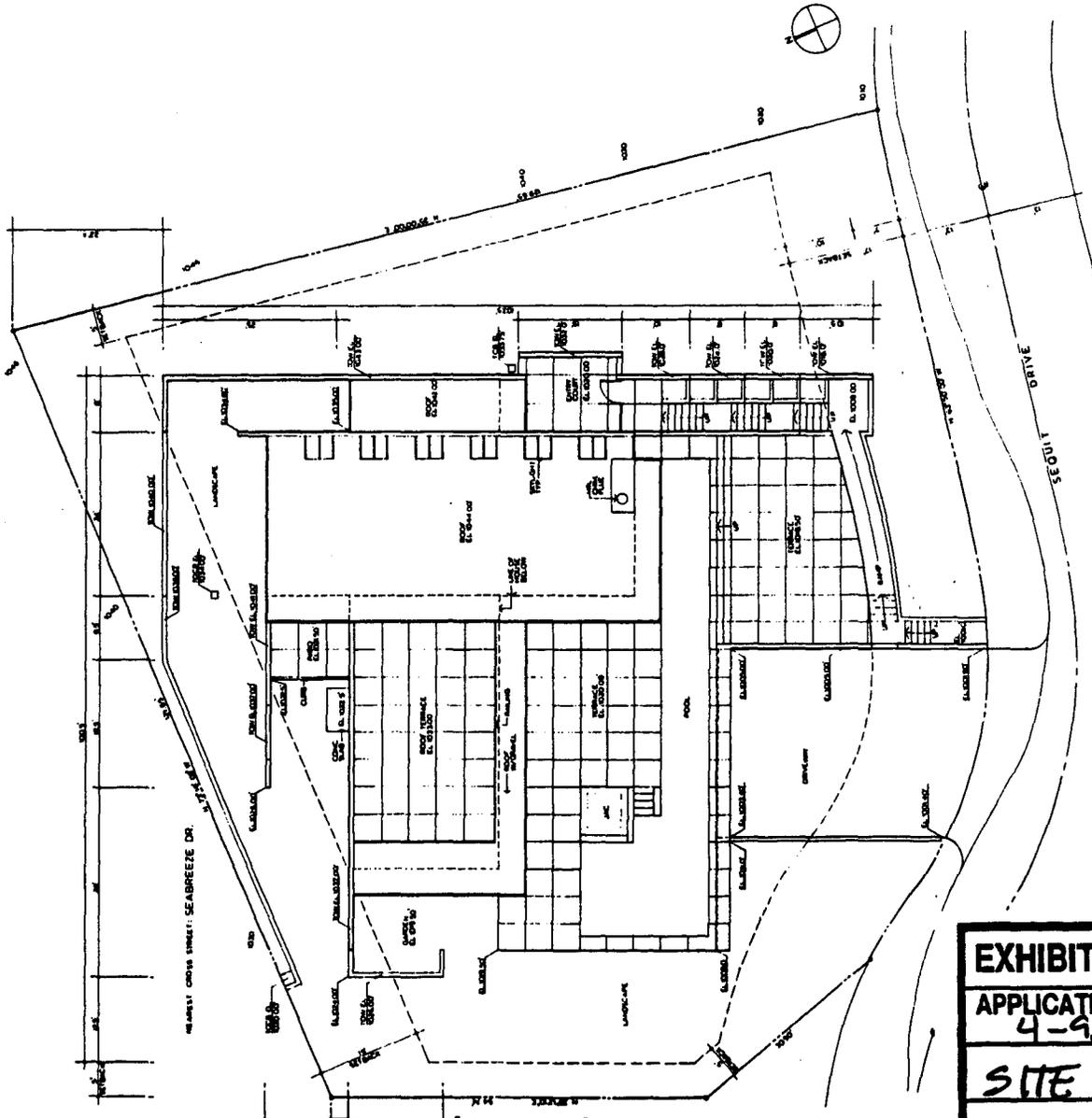
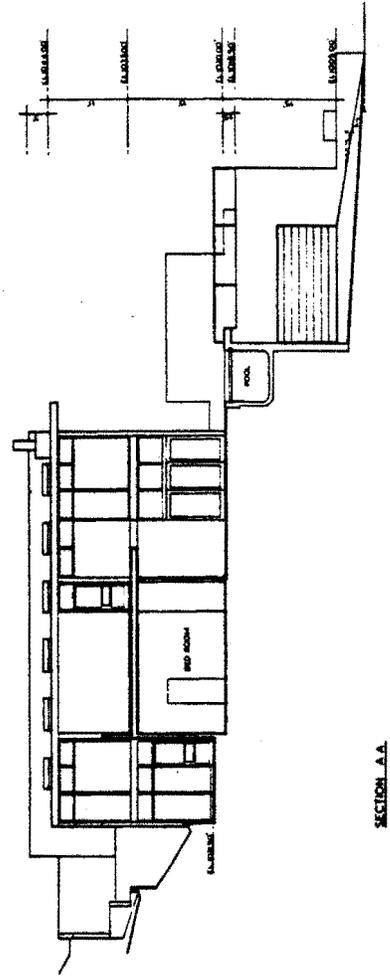
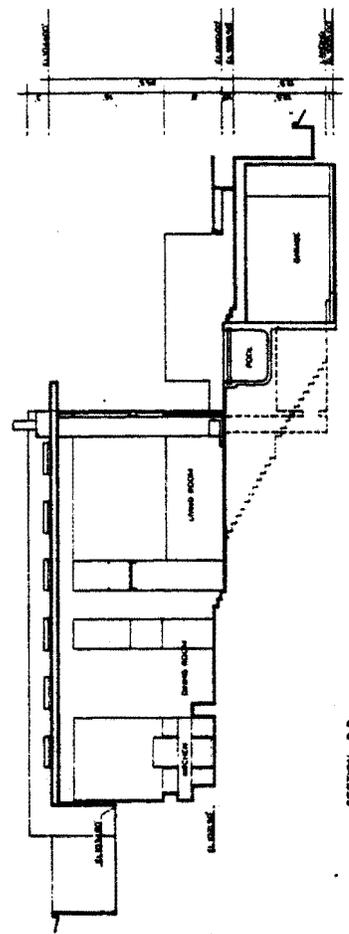


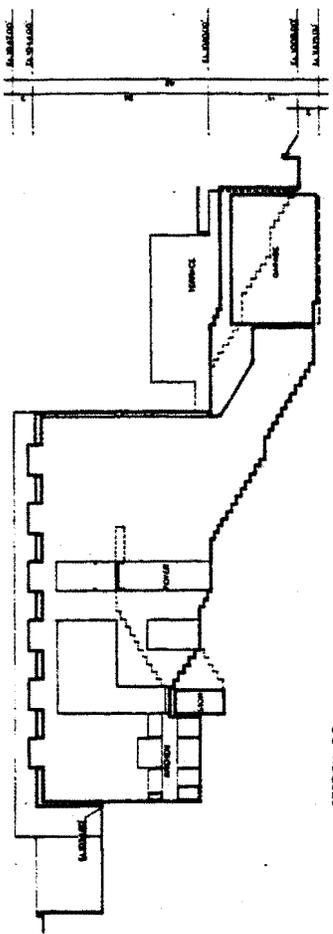
EXHIBIT NO. 2
APPLICATION NO.
4-95-136
SITE PLAN



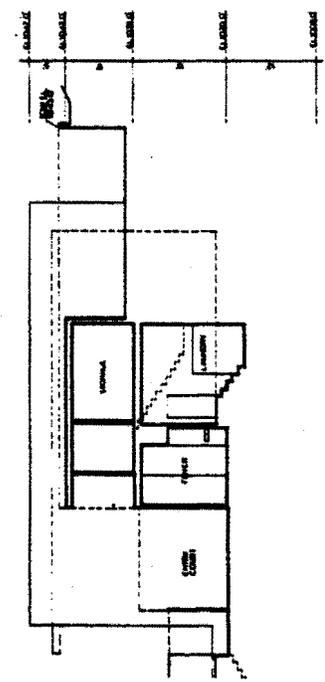
SECTION_A.A



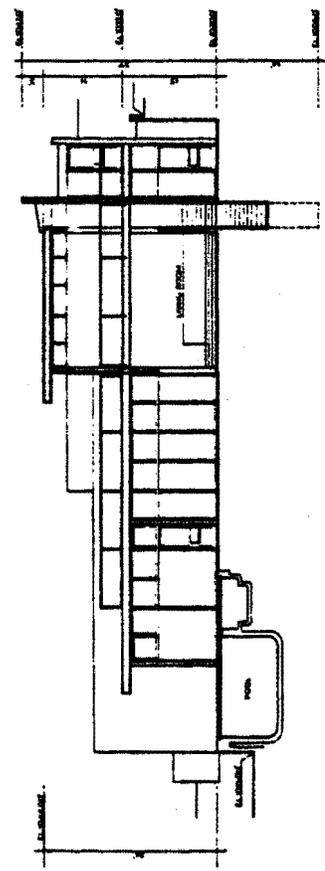
SECTION_B.B



SECTION_C.C



SECTION_D.D



SECTION_E.E

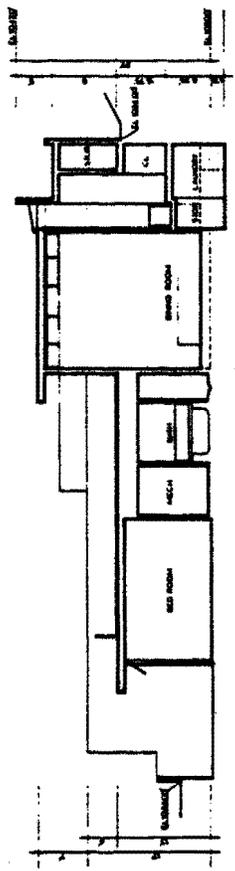
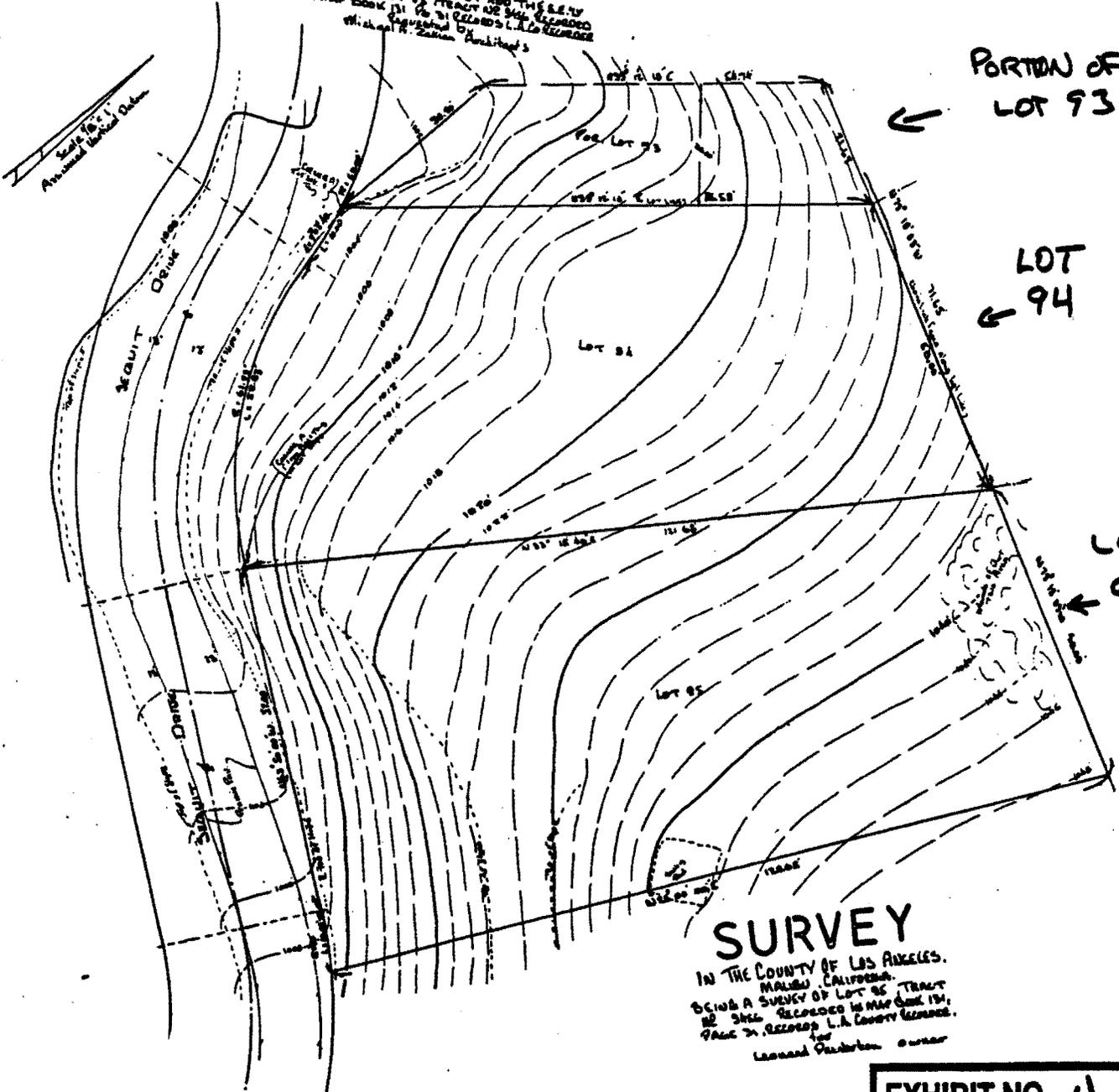


EXHIBIT NO. 3
APPLICATION NO.
4-95-126
sections

SURVEY

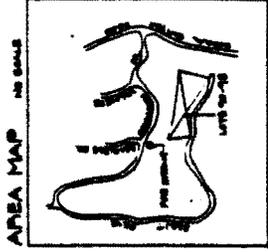
IN THE COUNTY OF LOS ANGELES,
MALIBU, CALIFORNIA.
BEING A SURVEY OF LOT 93 AND THE S.E. 1/4
EAST PART OF LOT 95 TRACT NO. 944, RECORDED
IN MAP BOOK 131, PAGE 21 RECORDS L.A. COUNTY RECORDS
Prepared by
Michael R. Zeller, Registered
Professional Surveyor



SURVEY

IN THE COUNTY OF LOS ANGELES,
MALIBU, CALIFORNIA.
BEING A SURVEY OF LOT 95 TRACT
NO. 944, RECORDED IN MAP BOOK 131,
PAGE 21, RECORDS L.A. COUNTY RECORDS.
Prepared for
Leonard Penabazco, owner

EXHIBIT NO. 4
APPLICATION NO. 4-95-136
TOPO MAP



PRESENT ZONING: A-1, LIGHT APARTMENTS

ASSESSOR'S MAP BOOK 181, PAGE 81

AREA BEFORE ADJUSTMENT:

LOT 1	114.0	50 FT
LOT 2	114.0	50 FT
LOT 3	114.0	50 FT
LOT 4	114.0	50 FT
LOT 5	114.0	50 FT
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LOT 50	114.0	50 FT

AREA AFTER ADJUSTMENT:

LOT 1	114.0	50 FT
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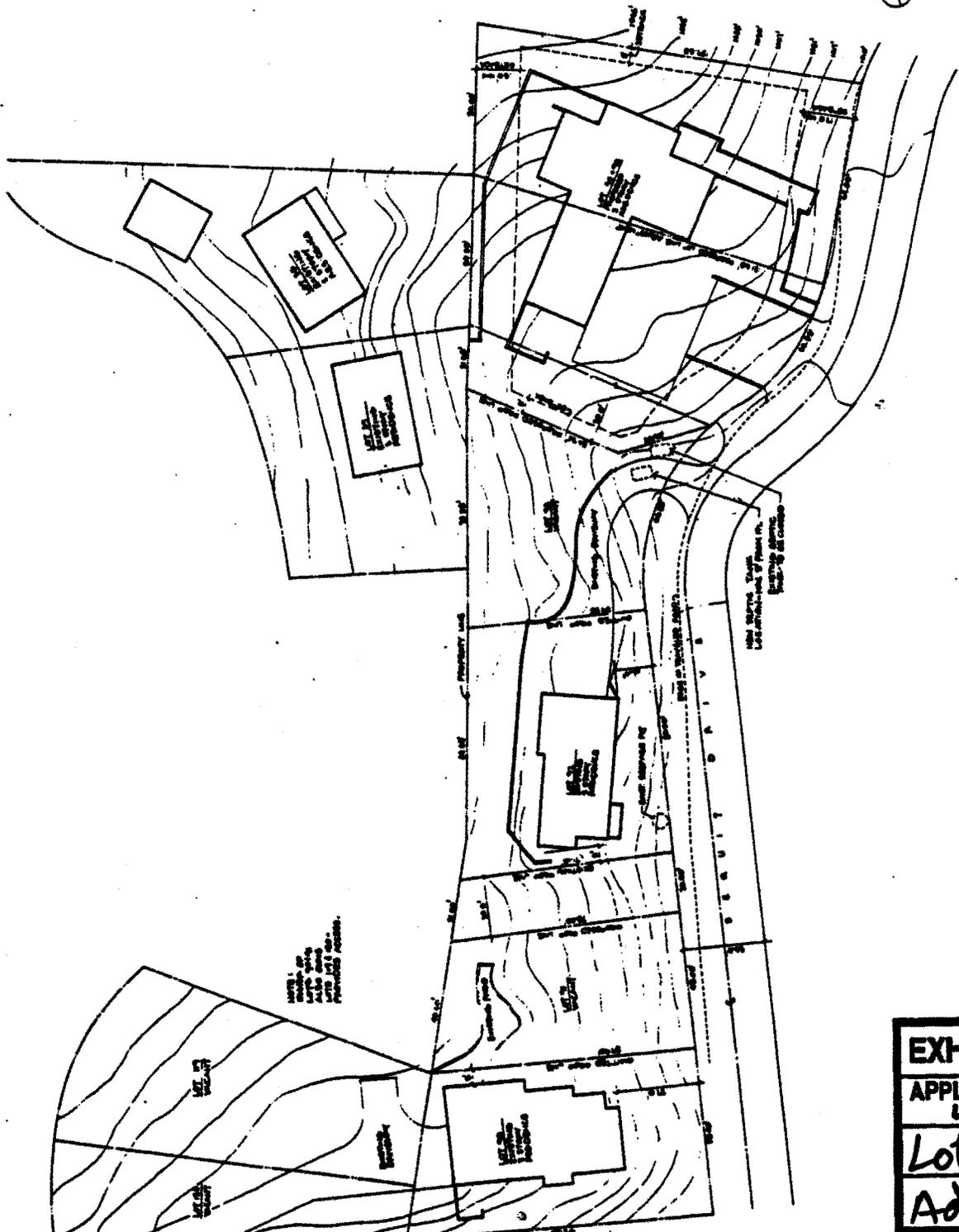


EXHIBIT NO. 5
APPLICATION NO.
 4-95-136
Lot Line
Adjustment

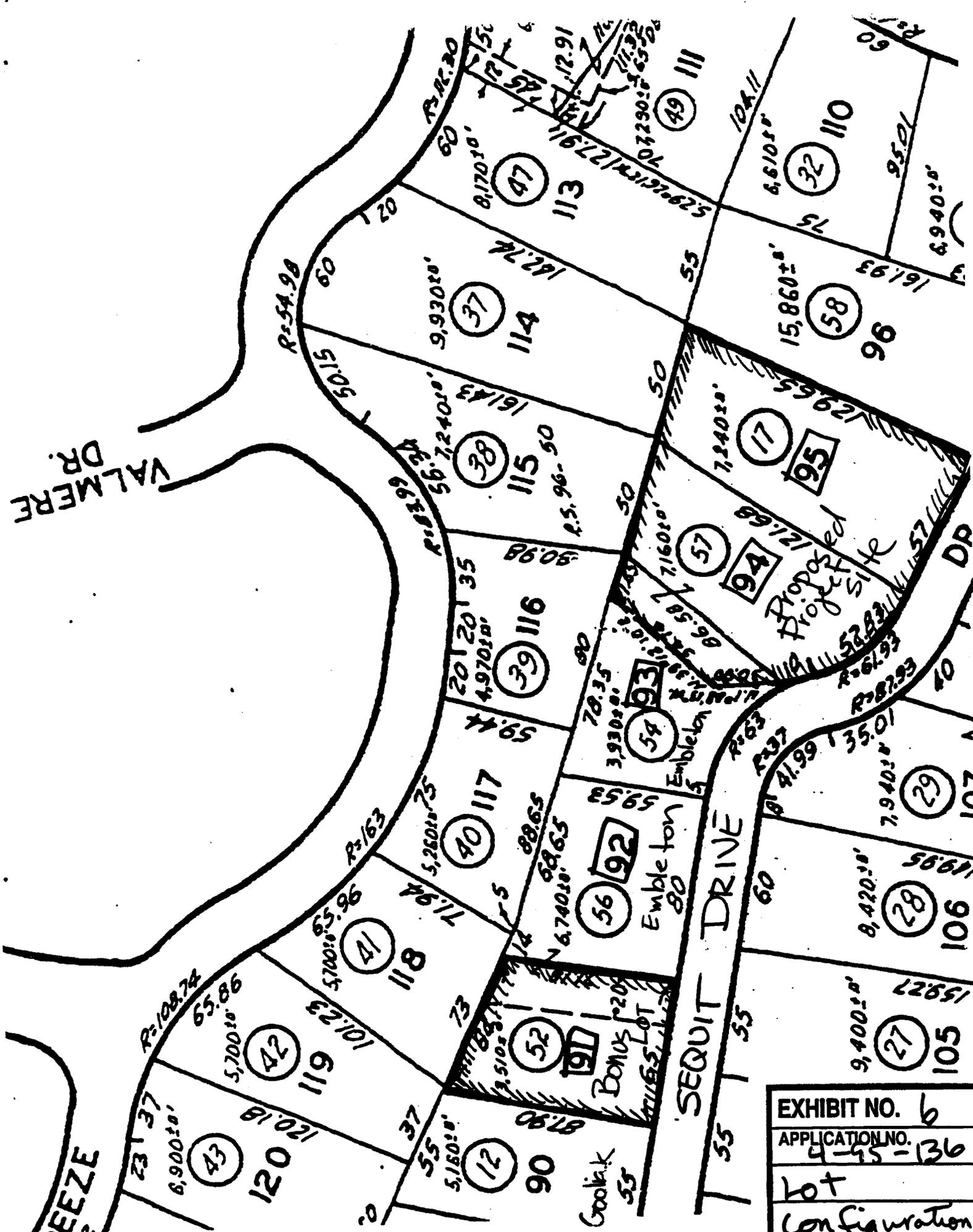


EXHIBIT NO.	6
APPLICATION NO.	4-95-136
lot	
Configuration	

DATE: July 12, 1995
TO: Jack Ainsworth
California Coastal Commission
RE: 4-92-074 & 4-92-074A
FROM: Stan Kaplan, 830 Euclid St. #C, Santa Monica, CA 90403
RE: NEW APPLICATION AND REQUEST FOR NEW HEARING

Dear Jack,

As we discussed, enclosed is my check for \$250 to cover the cost of re-applying to the Coastal Commission regarding my case.

As you will no doubt recall, at my July, 1992 hearing, the Commission -- by a five to five tie vote -- denied my request to build a 2567 square foot home in Corral Canyon, Malibu. By subsequent amendment, the Commission -- as did your staff -- concurred in my "lot switch proposal", granting my request for a 500 square foot addition to my basic GSA of 1490. I was granted the right to build a 1990 square foot home.

There are two issues that need to be considered. First, in reviewing my GSA calculation, the 1490 number appears to be in error. The correct figure is 1584 (substantiation is enclosed).

Then, there is the larger issue.

Clearly, a substantial number of Commission members supported me in my initial request at my July, 1992 hearing. They recognized my substantial efforts in eliminating development on two neighboring lots. In effect, where three homes could have gone -- with all the attendant drain on resources -- now only one home would be built.

But for the unfortunate absence of a Commission member who had to depart right before my application was heard, I believe I would have been granted my initial request for a 2567 square foot home.

Despite my best efforts to proceed with this project, I find myself in an untenable "Catch 22" predicament.

Banks are telling me my project does not "pencil" out. The foundation costs alone of \$300,000 make it a project that they do not consider "economically viable" for such a small house.

I am being forced into a situation where I must proceed with the alternative scenario of erecting three homes on the three lots involved since the foundation

RECEIVED
JUL 26 1995
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

4-95-

EXHIBIT NO. 7
APPLICATION NO. 4-95-136
Applicant's

1063

(2)

costs for the house I want to build would be equivalent to the foundation costs for three "spec" homes!

I am extremely frustrated at this situation. Three separate homes of 843, 1030 and 1079 square feet (a total of 2952 square feet) could be built on the three lots. I propose only building one house. Why shouldn't I be allowed that full 2952 square feet? With my proposal, there would be substantially less drain on coastal resources as state law encourages. If three homes were built, where there would have been at most two cars, there could now be six. There would be three, not one, new septic systems dumping into the hill. There would be three times the grading. Three times more of everything the Coastal Act seeks to discourage.

What's making this whole situation even more crazy and illogical to me is the fact that several homes of 3000 square feet or more are rising right around me. A 2952 square foot home would be completely in character with the neighborhood and provide me and my family with a home of modest but acceptable size. Must the Coastal Act be so unreasonably applied that the neighborhood should have to end up with three spec homes rather than one carefully and aesthetically designed, one that would improve rather than lower the quality of life on the street? By forcing me into this position, is this not tantamount to a "taking" of my property without due process? Is this not a violation of my constitutional rights?

On the one hand, I have the Coastal Commission so strictly applying standards to my case that in effect the Coastal Act is undermined (although a five to five tie vote indicates many thought my case quite reasonable). On the other, I have banks who are refusing to lend me the money I need unless I become in effect a developer. For me, I truly feel sandwiched between a rock and a hard place. Why should I have to give up my dream home after five years of architectural fees, geology fees, planning fees, structural fees and on and on -- thousands and thousands of dollars in expenses -- to satisfy a regulation that, in this situation, totally contradicts itself? And why should a tie vote mean I'm the one who loses? Tie goes to the runner and if anyone has been run ragged these last five years, it's me and no one else!

Given the decline in real estate values in the Malibu area in which I am seeking to live, there are new economic realities I feel the Commission needs to hear about in order to fully and fairly reevaluate my situation.

I would much prefer getting a decent square footage allotment and proceeding with my project for one house. Although I feel I should be entitled to the full 2952 square feet (in one house -- not three), I would be willing to accept my original request of 2567. This would be sufficient to enable my project to proceed but I want the Commission to be fully aware of what I feel I should be entitled to.

2063

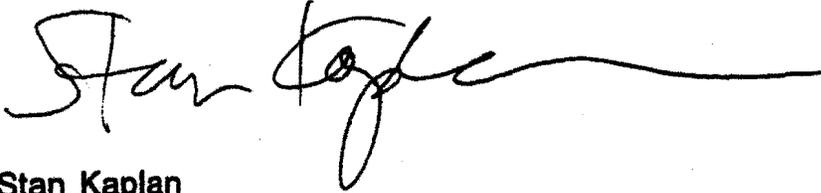
EXHIBIT NO. 7
APPLICATION NO. 4-95-126

(3)

Therefore, I am requesting a new hearing before the full Commission at the earliest possible date so that my situation can be reevaluated in light of today's new economic realities.

Thank you for your prompt attention to this matter.

Respectfully submitted,



Stan Kaplan

3 of 3

EXHIBIT NO. 7
APPLICATION NO. 4-85-1316

Beverly Taki

2633 Coal Canyon Road, Malibu, Ca 90265 310-456-1272 /FAX 310-456-3263

November 21, 1995

RECEIVED

NOV 27 1995

Mr. Jack Ainsworth
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT
Permit Application #4-95-136
3044 Sequit Drive, Malibu

Dear Mr. Ainsworth:

In reference to the above mentioned application for Mr. Stan Kaplan, I would like to express my concerns for the approval of this project according to the applicants request.

1. I own two properties, immediately adjacent (as marked with an X on the attached map, your exhibit no. 6). To this date, I have not received any written notification of this application from the applicant or the Coastal Commission. I only learned of this through a neighbor. This appears to be a direct violation of the Coastal Commission's policy of neighborhood notification.
2. Per the applicant's letter to you of July 12, 1995 (your exhibit no. 7) the applicant is claiming ownership of Lot #91. Stating that he can build an 843 square foot house on this parcel. Through the public records, (attached exhibit 8) Kaplan does not appear to have ownership of this parcel. This record shows that it was sold in June 95 and not to him. How does he make this claim that he can build a house on a property he does not own?
3. If the applicant is attempting to create a lot line adjustment and take some of Embleton's land on lot 93 and lot 93 was a bonus lot when Embleton built his house, then it should stay recorded as a bonus and Kaplan should not be eligible to use any portion of Lot 93 for his building project.
4. The applicant's project should be required to meet the GSA of the other homes in the area. I totally dispute the applicant's contention that 3,000 sq. ft. homes are sprouting up around him. As per (attached Exhibit 9, from your staff report,) I don't see numerous permits for 3,000 sq. ft. homes. The only large home is the Haines property and it is indeed out of character of this small lot neighborhood. If the Commission grants the applicant's square footage request it becomes very unfair for the other small lot owners.
5. The grading required for this project is in total excess and could create a problem to my two properties directly above the property in question. Moving this much dirt, which I calculate to be nearly 197 truck loads is an extraordinary amount of earth export. Let alone, the unfair wear and tear on the private narrow street of Sequit, other property owners.

10617

EXHIBIT NO. 96
APPLICATION NO. 4-95-136
Comment
Letters

Mr. Jack Ainsworth
Page 2
November 21, 1995

6. As Realtor, actively selling properties in Corral Canyon, as well as Malibu, I can substantiate the applicant's statement in your letter that real estate values are declining. But, what does that have to do with the Coastal Commission? **New economic realities is certainly not a condition on which the Commission should be basing their decision.** However, if they did base their decisions on economics realties, they would not allow this project to be built, as houses in this neighborhood sell between \$350,000 and \$570,000. If the true cost of his foundation is \$300,000, that is truly out of proportion to what any realistic developer would put into this property. From my business experience, the neighborhood will end up with a half-built foundation on a property that becomes abandoned due to economics. Please investigate your permit that was issued next door to 2947 Corral Canyon Road. This is a classic example of a developer who abandoned the project and the neighbors have been left looking at an unsightly foundation for the past two years.

Giving property owners permits to overdevelop their parcel is not doing justice to the applicant or to the neighbors in the small lot subdivision. Overdeveloping is not economically feasible and reduces the charming characteristic of the area, which is directly above the beautiful Solstice Canyon State Conservancy.

With very great expectations that your staff will do what is fair for all parties.

Sincerely,

Beverly Taki
Property Owner/Adjacent Lot to applicant

CC: Barbara Carey ✓

20617

EXHIBIT NO. 8
APPLICATION NO. 4-95-186

Property Profile

Copyright(C) 1994 Dataquick Information Systems (619)455-6900

Exhibit # 8

First Owner: Robert Gooliak
 Second Owner:
 Ownership:
 Mail Address: 2925 Seabreeze Dr
 Malibu Ca 90265-2948
 Site Address:
 90265
 Telephone No.:
 Parcel Number: 4457-016-052
 Census Tract: 8004.01
 Map Page-Grid: 628 C6
 Legal Descr.: Tr=9456 Por Lying W Of E 20 Ft Of Lot 91
 Tract: 09456 Block: Lot:

Property Characteristics

Use Desc.: Vacant Land- Res	Bedrooms: 0
Zoning: A11*	Bathrooms: 0.0
No. Of Units: 0	Total Rooms: 0
Year Built: 190	Parking:
Lot Size: 0	View:
Square Feet: 0	Pool:
	Fireplace:

Sale & Loan Information

Last Sale Date: 06/28/95	Cost/Sq. Foot: N.A.
Sale Amount: \$545,000 (Full)	Document No.: 0001031465
Lender: Royal Th&Ln	
Loan Amount: \$400,000	(Loan 2 Amount): N.A.
Loan Type: Conventional	(Loan 3 Amount): N.A.

Assessment & Tax Information

Assessed Total: \$9,921	Tax Amount: \$199
Land Total: \$9,921	Tax Status: Current
Improvement: N.A.	Year Delinquent: N.A.
Percent Imp.: 0.00	Tax Rate Area: 0080
Exemption:	

3 of 17

EXHIBIT NO. 8
APPLICATION NO. 4-95-136

The Accuracy of the Above Information is Deemed Reliable but is Not Guaranteed

Exhibit #8

JUN 28 1995

AMERICAN COAST

95 1031465

RECORDING REQUESTED BY:
American Coast Title

When Recorded Mail To:
Robert M. Goolak
2825 Seabreeze Drive
Malibu, CA 90265

Escrow No. 1084-SLS
Title Order No. 84888-04

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S) Tax Parcel No. 4457-16-12, 4457-16-52, 4457-16-42, 4457-16-43

DOCUMENTARY TRANSFER TAX IS \$ 889.88 CITY TAX \$ 0.00

FEE \$10 2
2

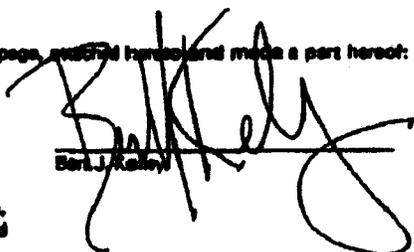
(X) computed on full value of property conveyed, or
() computed on full value less value of liens or encumbrances remaining at time of sale,
OR transfer is exempt from tax for the following reason:

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged.

BERT J. KELLEY
hereby GRANT(S) to
ROBERT M. GOOLAK, an unmarried man
the following described real property in the City of Malibu
County of Los Angeles, State of California
See legal description shown as Exhibit "A" comprised of one page, attached hereto and made a part hereof:

DATED: June 20, 1995

STATE OF CALIFORNIA
COUNTY OF Los Angeles



Bert J. Kelley

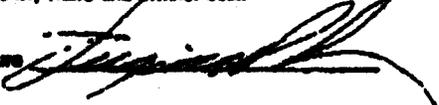
ON June 21, 1995
Virginia Storm
Bert J. Kelley

before me,
personally appeared

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) appear(s) 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 instrument.

Witness my hand and official seal.



Signature 

(This area for notary seal)

MAIL TAX STATEMENTS TO: Robert M. Goolak 2825 Seabreeze Drive Malibu, CA 90265

NOTIFICATION SENT BY ©

40517

EXHIBIT NO. 8
APPLICATION NO. 4-95-1316

JUN 28 1995

AMERICAN COAST

Exhibit #8

ORDER NO. 54998-04

EXHIBIT A

PARCEL 1: LOTS 90, 119 AND 120 OF TRACT NO. 9456, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 131 PAGES 30 TO 32 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 2: LOT 91 OF TRACT NO. 9456, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 131 PAGE 31 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THEREFROM THE EASTERLY 20 FEET OF SAID LOT 91 MEASURED AT RIGHT ANGLES.

4 95 1031465

50617

EXHIBIT NO. 8
APPLICATION NO. 4-95-136

RECEIVED

NOV 28 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

**Jane Windsor
3058 Sequit Drive
Malibu, CA. 90265**

tel: 310-456-5060

fax: 310-456-8170

Dear Ms. Carey:

November 27th, 1995

**Re: APPLICATION NO: 4-95-136
3044 Sequit Drive, Malibu, LA County
Applicant: Stan Kaplan**

I am the co-owner of 3058 Sequit Drive which is directly beside the site in question.

I would like to bring to your attention the following facts: Sequit Drive is not a County Maintained Road and the reason for this is because it is very narrow. When constructions are taking place on Sequit, it does not permit two way traffic and if a grading of dirt which will involve over 200 dump trucks should take place, the fire risk to the homeowners on Sequit will be very great. And we have already had our share of both fires and landslides in this area.

Also, I would like to register my opposition to a proposed development which is 1000 square foot greater than any existing home in the neighborhood. If the Coastal Commission is prepared to approve houses of this size which are contrary to the PSA guidelines, what should prevent me and others like me from requesting the same concessions. The reasons are very clear. El Nido cannot sustain houses of such proportions and that is why in the past, no house of comparable size has been approved. What is the point of having PSA regulations if they are ignored or disregarded. The injustice of this is one thing, but the dangers to our property because of weakened hillsides and a history of slope failure is far more pressing. And the one thing which endangers such conditions more than anything else is the excavations for a swimming-pool - which is why there are no swimming-pools in any of these neighboring houses.

6517

EXHIBIT NO. 8
APPLICATION NO. 4-95-136

My understanding is that the home in question has been incorrectly documented and that the bonus of 500 square feet added to make up the three lots is, in fact, of a Lot which is deed-restricted. All I have heard of the irregularities in this matter has been quite shocking and I would hope that the Coastal Commission will not be a party to decisions which are contrary to present standards of construction and existing laws.

El Nido is a community made up of small sub-divisions - mainly because the terrain militates against large building operations. The current project is massive compared to existing homes. I and other neighbors would like to protest this development in person and hope and assume, the hearing can be moved to Los Angeles where our voices can be heard. It seems devious and unjust for it to take place in San Francisco where it would involve enormous inconvenience on the part of those wishing to give testimony.

Before any further analysis of the project is made, the Coastal Commission should investigate the geology of the hillside in question - as we have done over the years. If your findings in any way duplicate our own, you will see that you are dealing with a fragile hillside which sits immediately above a serious slope failure. Our house is smack in the middle of both and that is why we are so concerned.

yours truly,

Jane Windsor

Jane Windsor

70617

EXHIBIT NO. 4
APPLICATION NO. 4-57-136

RECEIVED
NOV 13 1995

ventura
office

NOV 15 1995

RECEIVED
NOV 13 1995

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

CALIFORNIA
COASTAL COMMISSION

The California Coastal Commission

for Tuesday, November 14, 1995

Re: Application No. 4-95-136 (Kaplan, L.A. Co.)
3044 Sequit Drive, Malibu, CA 90265

From: Mr. & Mrs. Doug Pace, 2701 Seabreeze Dr. Malibu 90265
To Whom It May Concern,

As neighbors near subject property, we believe we speak for the majority of our neighborhood, many of whom are horse owners, as we are - that the amount of grading requested above will substantially Block our one riding trail into Solstice Park. No Coastal Notice was posted at the site. It is very steep, too large a grading concept for a small lot neighborhood and out of character with nearby homes.

During construction, no equestrian access will be possible into Solstice since we estimate 228 dump truck loads of dirt will be required for the requested grading and 456 round trip truck traffic on little Sequit Drive, Seabreeze and Canal Canyon Roads. We request that you seriously consider downsizing the allowable grading on this Permit Application. Thank You.

8 of 17

Sincerely,
Doug and Judi Pace

EXHIBIT NO. 8
APPLICATION NO. 4-95-136

CHARLES MAROWITZ

**3058, Sequit Drive,
Malibu, CA. 90265**

**tel: 310-456-5060
fax: 310-456-8170**

RECEIVED

NOV 21 1995

**CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT**

Dear Ms. Carey:

November 17th, 1995

**Re: APPLICATION NO: 4-95-136
3044 Sequit Drive, Malibu, LA County
Applicant: Stan Kaplan**

Regarding the abovenamed application, I wish to protest in the strongest possible terms the proposed building project at 3044, Sequit Drive which is directly adjacent to my own property at 3058 Sequit Drive. If it proceeds, it would directly endanger both my property and the lives of my family. The terrain on which the building is being projected sits directly beneath a seriously destabilized hillside which has already been the subject of extensive correspondence between the Department of Water and Power and ourselves. (See enclosed)

The DWP itself, in a letter dated October 12th 1993, has acknowledged that the slide mass at the Malibu nuclear site vicinity of Corral Canyon, the Lot immediately below Lots 94 and 95 "is located in a natural-shaped bowl that concentrates subsurface water in the area of the slope failure" and that "shallow-rooted native grasses are growing in the landslide area". Geologists from the DWP further discovered there was a natural spring beneath this hillside which contributed to the destabilization and recommended that, to insure its safety, no construction take place immediately above it - which is precisely where the site of Mr. Kaplan's project is being planned. If it goes forward, there is no question it will further deteriorate the existing slope failure, and if a building of 3323 square feet is erected on this land (which involving the removal of 1500 yards of dirt at 8 cubic yards per truck breaks down to approximately 200 trucks of dirt), the hazard to my property and the safety of my family becomes greatly intensified.

90f1-

EXHIBIT NO. 8
APPLICATION NO. 4-95-136

In the case of most small lot constructions in El Nido, a balance of cubic yardage has been maintained so that no import or export of dirt was necessary, and this is in keeping with Coastal Commission guidelines. That balance would unquestionably be upset in the case of the proposed development.

The overriding fact is that the proposed development runs contrary to established GSA requirements. Most of the houses on and around Sequit Drive take up an average of 1500 to 1750 square feet. Mr. Kaplan's project adds an additional 1000 square feet and includes the geologically-complicating factor of a swimming-pool. Virtually every garage in the neighborhood is approximately 400 square feet. Mr. Kaplan's proposed garage is 800 square feet - twice the customary size. No house in the immediate vicinity (particularly situated on a vulnerable hillside) has been built up to such staggering proportions.

There are also serious discrepancies in Mr. Kaplan's submission to the Coastal Commission. The neighbor-notification radius map of Mr. Kaplan's map was drafted from the center of the property and not the property boundaries, consequently at least six to ten neighbors who would be directly affected by the project were not informed of the plan. Which is in direct violation of the regulations governing such proposed developments.

The proposed lot-line adjustment in Mr. Kaplan's plan includes Lot 93 as one of those incorporated in the general argument that it would make more sense to build one house on a stretch of parcels where three could legally be built. This is specious reasoning, if not outright deceit. Lot 93 included in that formulation is deed restricted and has been so for many years and no structures are permitted to be built on that lot - nevertheless, it was incorporated into Mr. Kaplan's argument as a 'bonus' for the construction of one home.

10617

EXHIBIT NO. 8
APPLICATION NO. 4-95-136

By no stretch of anyone's imagination could a 3323 square feet home be considered in harmony with the dwellings around Sequit Drive; an area dotted with small, one family dwellings none of which contain a swimming pool - probably because of negative geological considerations.

Mr. Kaplan, in his ambition to create his 'dream home', seems to have no compunction whatsoever in turning the lives of his immediate neighbors into a nightmare. The construction, if it goes forward as proposed, would radically reduce views from at least five surrounding houses. It would bring Mr. Kaplan's development right up to the doors and gardens of his surrounding neighbors and, for over a year, would involve massive ground-disturbance and inconvenience in an area which, for as long as I have lived there, has never been free of construction and development. And the road on which Mr. Kaplan plans to cart his 187 trucks of dirt is the very same Sequit Drive which I and other neighbors have, for five years, been agitating to have paved and made safe. - Made safe for what? For Mr. Kaplan's 3323 square foot development which far exceeds the parameters allowed under the GSA formula.

The philosophy behind all the environmental regulations of the past twenty-five years has been to insure that overbuilding does not occur in this area, and here is a plan for a monstrous act of overbuilding in direct opposition to the principle of small lot subdivision which has prevailed in El Nido since the mid-60s.

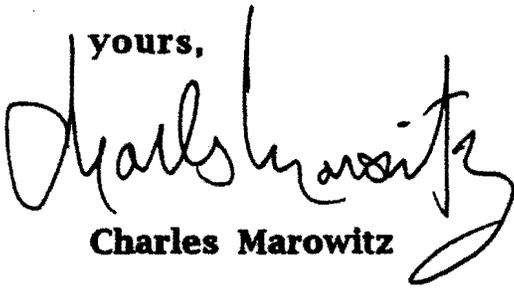
I am not opposed to a man building a home on land he has legitimately acquired but it should be done in accordance with established GSA requirements and without endangering the safety and well-being of those around him. The land on which this project is being proposed is directly beneath an established slope-failure which is extremely fragile and subject to further deterioration as soon as heavy rains return. Is the Coastal Commission and Mr. Kaplan prepared to indemnify his neighbors against the threat of wholesale destabilization which such a project would create?

11 of 17

EXHIBIT NO. 8
APPLICATION NO. 4-95-136

Given the irregularities of Mr. Kaplan's proposal, the speciousness of his arguments and the attendant dangers involved in the exaggerated size of the project, we strongly protest the issuance of any approvals in this application - other than those in keeping with the existing GSA guidelines.

yours,



Charles Marowitz

PS: Given the intense concern of neighbors concerning this proposal and their desire to make personal submissions to the Coastal Commission, I would respectfully request the Hearing regarding this matter be moved to the January '96 calendar in Los Angeles. This would also enable those neighbors not yet notified to be properly informed and to take whatever measures they felt appropriate.

120617

EXHIBIT NO. 8
APPLICATION NO. H-65-15

Department of Water and Power



the City of Los Angeles

FOM BRADLEY
Mayor

Commission
CONSTANCE L. RICE, *President*
RICK J. CARUSO, *Vice President*
ANGEL M. FCH VARRIA
DOROTHY GREEN
ANTHONY WILLOUGHBY
JUDITH K. DAVISON, *Secretary*

DANIEL W. WATERS, *General Manager and Chief Engineer*
ELDON A. COLLON, *Assistant General Manager - Power*
JAMES F. WICKSER, *Assistant General Manager - Water*
PHYLLIS F. CURRIE, *Chief Financial Officer*

October 12, 1993

DWP File P-73641

Mr. Charles Marowitz
3058 Sequit Drive
Malibu, California 90265

Dear Mr. Marowitz:

Slide Mass at Malibu Nuclear Site
Vicinity of Corral Canyon Road and
Soltice Canyon Road, Malibu

This is in reply to your letter dated August 12, 1993 regarding the slope failure on the above-mentioned site.

The Department conducted a thorough investigation of the slope failure. This investigation included field investigations and measurements by Department geologists, engineers, and surveyors, review of numerous historical and recent aerial photographs, and review of available County of Los Angeles files.

The conclusions reached are that the slope failure was naturally occurring, primarily as a result of too much water and a poorly compacted slope, and not as a result of any Department activity. These conclusions were reached by considering the following:

1. There was a greater-than-average amount of rainfall during the 1992-93 season. This fact was aggravated by the location of the house at 3058 Sequit Drive which is located in a natural-shaped bowl that concentrates subsurface water in the area of the slope failure.
2. Additional water was probably added to the slope due to the location of the septic system.
3. The slope material that failed was poorly compacted soil that originated from a combination of any one or all of the following: construction of Sequit Drive, construction of the house, and/or the construction in 1984 of an unauthorized road connecting Sequit Drive with Corral Canyon Road. None of these activities were conducted by the Department.
4. Shallow-rooted native grasses are growing in the landslide area instead of deeper-rooted native s

130 of 17

Water and Power Conservation

111 North Hope Street, Los Angeles, California Mailing address: Box 111, Los An
Telephone: (213) 481-4211 Cable address: DEWAPOLA FAX: (213) 481-8

EXHIBIT NO. 8
APPLICATION NO. 4-95-130

Mr. Charles Marowitz

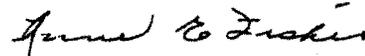
-2-

October 12, 1993

Inasmuch as the slope failure was not the result of any Department activity, the Department is not responsible. Therefore, the Department does not intend to take any corrective action on this matter.

If you have any questions, please call me at (213) 367-0565 or Mr. Frank Kobashi at (213) 367-0579.

Sincerely,



ANNE E. FISHER
Chief Real Estate Officer

MGA:cx

c: Mr. Frank Kobashi

14 of 17

EXHIBIT NO. 8
APPLICATION NO. 4-95-136

Department of Water and Power



the City of Los Angeles

RICHARD J. RIORDAN
Mayor

Commission
DENNIS A. ITO, *President*
CONSTANCE L. RICE, *Vice President*
JOSE DE JESUS LEGASPI
JUDY M. MILLER
MARCIA F. VOLPERT
JUDITH K. KASNER, *Secretary*

WILLIAM R. MCCARLEY, *General Manager*
KENNETH S. MIYOSHI, *Assistant General Manager and Chief Engineer*
ELDON A. COTTON, *Assistant General Manager—Power*
JAMES E. WICKSER, *Assistant General Manager—Water*
PHYLLIS E. CURRIE, *Chief Financial Officer*

February 16, 1995

DWP File P-73641

Mr. Charles Marowitz
c/o Texas Stage Company
200, West 3rd Street
Fort Worth, Texas 76102

Dear Mr. Marowitz:

Slide Mass at Malibu Nuclear Site
Vicinity of Corral Canyon Road and
Soltice Canyon Road, Malibu

This will acknowledge receipt of your letter dated January 31, 1995 to Mr. William R. McCarley, General Manager, regarding the slope failure on the above-mentioned site.

Please refer to our letter dated October 12, 1993, a copy of which is enclosed for your reference. The Department's position remains unchanged. The slope failure was not the result of any Department activity and we, therefore, do not intend to take any corrective action on this matter.

If you have any questions, please call me at (213) 367-0565 or Mrs. June Iwamoto at (213) 367-0582.

Sincerely,

ANNE E. FISHER
Chief Real Estate Officer

MGA:cr
Enclosure

c: Mrs. June Iwamoto

15 of 17

EXHIBIT NO. 8
APPLICATION NO. 4-AS-136

2987 Seabreeze Drive
Malibu, California 90265
November 19, 1995

RECEIVED

NOV 27 1995

Barbara Kerri
California Coastal Commission
89 South California Street #200
Ventura, California 92001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Dear Ms. Kerri:

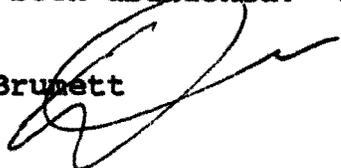
I am writing, with concern, regarding an application by Stan Kaplin (application #4-95-136..3044 Sequit Drive) I am one of the few neighboring lots that received notice of Mr. Kaplins proposal and I have some serious reservations. My first alarm is that more of the surrounding neighbors were not notified of this proposal. My lawyer advised me that Mr. Kaplin is responsible to notify each neighbor within 100 yards of his property boundary. I feel that any homeowner in the area should be advised of a possibility that the hillside below their property might be chipped away!

Removing the amount of soil to build such a big house with pool will undermine our hillside. I am fearful with messing with mother nature! Before I bought my home, I hired a geologist to check out this property. One thing that was branded into me was LEAVE THE HILLSIDE ALONE!!! The drainage from septic systems and leach fields above Mr. Kaplin's property will be adjusted because of chipping away the natural hillside. I am afraid this could cause a possible slide during a rainy season or earthquake...therefore jeopardizing my property. Also, the logistics of removing such amounts of soil is a concern. Corral Canyon, Seabreeze Drive and Sequit Drive are fragile hillside roads maintained by the new city of Malibu and county of Los Angeles. The amount of dump trucks to haul the soil away will cause extensive damage to the hillside roads and possibly cause damage to homes from vibrations, etc, along the way as well.

Finally, I know there is a limit as to the size a house can be in this area, and I think Mr. Kaplin is trying to use any avenue he can to "blindside" state and county officials to get an exception to the square footage laws. He is also using threats of building three "tract" houses if his proposal is not accepted. Therefore I am questioning any of his proposals.

In conclusion, I do not want to be involved in another state and county disaster as the Big Rock development was. The state and county engineers approved the development and expansion of the community above Big Rock Canyon above Pacific Coast Highway. The engineers were wrong, the development slid and the properties have been abandoned. Thank you for your consideration.

Dan Brunett



16 of 17

EXHIBIT NO. 6
APPLICATION NO. 4-95-136

RECEIVED

NOV 22 1995

Joseph F. Jensen
2977 Seabreeze Dr.
Malibu, CA. 90265
November 21, 1995

Barbara Carey
California Coastal Commission
89 South California St., Suite 200
Ventura, CA 93001

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST DISTRICT

Dear Barbara

This letter is in response to application # 4-95-136, an application by Stan Kaplan to build a 2507 sq. ft. home plus an 800 sq. ft. garage adding up to 3307 sq. ft. on 3044 Sequit Drive. We are in support of the staff report and special condition #1 that requires the applicant to meet the maximum allowable gross structural area (GSA). It would be extremely unfair to the other residents in this area who have met their GSA requirement, even though they wanted more square footage. An approval of this project beyond the GSA amount would set a terrible precedent for future homes or neighbors wishing to add to their existing homes resulting in complete build-out of the neighborhood with the negative impacts as outlined in the Commission report entitled "Cumulative Impacts of Small Lot Subdivision Developed in the Santa Monica Mountains Coastal Zone."

We are in support of homes that meet the character of other homes in the neighborhood. The application, however, overlooks some important facts. The radius map used for the notification of neighbors was drawn from the center of the property and not from the property boundaries. Many of the neighbors directly impacted by this project were not notified. There also appears to be a shell game occurring with the deed restricted lots that should have been retired. The previously approved square footage of 1990 sq. ft. is more than generous.

Embleton previously retired lot 93 as a contiguous lot for a bonus of 500 sq. ft. on application 5-84-163. You were generous to allow Kaplan to count lot 91 as a contiguous lot assuming Embleton's 500 sq. ft. bonus can be transferred from 93 to 91. Now the applicant intends to capture a portion of lot 93 for the proposed project site. Not only dose this add additional area to his GSA square footage, he is intending to use lot 93, "a retired lot," for a portion of his structure. The lot line adjustment combines 94, 95, and a 20 foot strip of 93 into one parcel, it combines 92, 93 and a 20 foot strip of 91 into one parcel, and it combines lots 90 and 91 into one parcel. Embleton and Kaplan have already taken the bonus credit for retiring lots 91 and 93. The lot line adjustment eliminates lots 91 and 93 including their deed restrictions. Approving the lot line adjustment allows Kelly, Embleton, and Kaplan to count the additional area of the retired lots 91 and 93 in their project sites for their GSA calculations and allows them to build structures on the retired lots 91 and 93. It also appears that Kelly has already retired lot 91 for a bonus credit on his structure on lot 90. Has credit for retiring lot 91 been used twice? Kaplan was never the owner of lot 91.

If the lot line adjustment is approved, the bonus sq. ft. credits for retiring lots should be removed and the project should only be allowed to have 1490 sq. ft. The applicant should not be allowed to take the 500 sq. ft. credit and then use the retired lot as additional project area and use it for a portion of his structure. The maximum GSA square footage for his project without the use of the deed restricted lot 93 as project area should be 1390 sq. ft. plus the 500 sq. ft. bonus for retiring a lot. Proof must be shown that lot 91 was not previously retired for another project.

We are in support of a staff report that meets Coastal Commission guidelines, however, the lot line adjustment should be reconsidered, the project should meet the GSA standard, and lot 93 should not be developed. Approval of additional square footage on this project will set a terrible precedent in the El Nido small lot sub division encouraging over-building of lots.

Thank you for your time in considering these issues.

Sincerely

Joseph F. Jensen
Joseph F. Jensen

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EXHIBIT NO. 8
APPLICATION NO. 4-95-136

