

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
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F4f



Filed: 7/29/96  
49th Day: 9/16/96  
180th Day: 1/25/97  
Staff: Betz-VJA  
Staff Report: 7/22/96  
Hearing Date: 10/8-11/96  
Commission Action:

## RECORD PACKET COPY

STAFF REPORT: CONSENT

APPLICATION NO.: 4-96-124

APPLICANT: Sheldon Gordon AGENT: Mike Barsocchini

PROJECT LOCATION: 3250 Serra Road, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Subdivide five acre parcel with existing single family residence and guest house into two parcels of 2.37 and 2.63 gross acres; convert guest house (Parcel 1) into primary single family residence including kitchen addition; create access easement over Parcel 1 for the benefit of Parcel 2; widen and improve Serra Road along frontage of both parcels including pedestrian/ equestrian access; removal of existing horse stable and tack room (Parcels 1 and 2); relocate septic system (Parcel 1); create two enclosed parking spaces on Parcel 2; reduce impermeable area on Parcel 2 to less than 25,000 sq. ft.. No grading or vegetation removal is proposed.

Lot Area	5 acres
Building Coverage	8,385 sq. ft.
Pavement Coverage	51,090 sq. ft.
Landscape Coverage	158,325 sq. ft.
Parking Spaces	2 enclosed
Zoning	Rural residential 1 ac. min.
Project Density	.4 dua

LOCAL APPROVALS RECEIVED: Approval in Concept, Planning Department, City of Malibu, dated 7-1-96; In-concept Approval, Environmental Health, City of Malibu; Tentative Parcel Map No. 24243, Planning Commission, City of Malibu, for meeting dated June 17, 1996.

SUBSTANTIVE FILE DOCUMENTS: Coastal Development Permits: 4-95-173 (MHAB Trust), 4-95-054 (SAM Trust); Miller Geosciences, Inc., Engineering Geologic and Geotechnical Review, August 14, 1994; Chester King, Archaeological Reconnaissance at 3250 Serra Road, Malibu, California, February 5, 1996.

SUMMARY OF STAFF RECOMMENDATION: The proposal will divide a five acre lot into two lots. An existing single family residence of 3,963 sq. ft., small caretakers residence, and accessory buildings and structures would remain. A large guest house of 2,785 sq. ft. on Parcel 1 will convert to a primary residence. The intensity of development remains similar, but creation of a new lot and primary residence requires a cumulative development condition (Transfer of Development Credits). The staff also recommends a special condition addressing archaeology impact mitigation.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby approves the amendment to the coastal development permit on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal program 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 on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Cumulative Impact Mitigation

Prior to the issuance of the Coastal Development Permit Amendment, the applicant shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject amended development with respect to build-out of the Santa Monica Mountains are adequately mitigated. Prior to issuance of this permit, the applicant shall provide evidence to the Executive Director that development rights for residential use have been extinguished on one (1) building site in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

- a) a TDC-type transaction, consistent with past Commission actions;
- b) participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

2. Archaeological Resources

By acceptance of this permit the applicant agrees that in the event that an area of intact buried cultural deposits are discovered during excavation and construction operations, excavation work in this area shall be halted and an appropriate data recovery strategy be developed, by the applicants archaeologist, and a Native American consultant, consistent with CEQA guidelines and implemented, subject to the review and approval of the Executive Director.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

1. Proposed Development

The proposed development is in a valley or canyon inland of the Malibu coast at the base of a range of hills located two miles north of Malibu Point and one and a half miles northeast of the Malibu Civic Center. (Exhibit 1) The area contains a variety of residential building intensities and lot sizes (Exhibit 2), as discussed in greater detail in the following section. The subject property is developed with lush exotic vegetation fed by well water, a primary residence, large guest house, caretakers house, pond, swimming pool, a system of stairs, walkways, roadways and a water slide, as well as corrals, outbuildings, and two septic systems.

The applicant proposes to subdivide one five acre parcel into two parcels. (Exhibit 3) The lot contains an existing one story single family residence and a two story guest house. The land division will run between these two buildings, dividing the parcel into a north parcel of 2.37 gross acres (Parcel

1) and a south parcel of 2.63 gross acres (Parcel 2). With the division and addition of a kitchen, the guest house will become the primary residence of Parcel 1.

Conversion of the guest house to a primary residence is a condition of the City of Malibu Tentative Parcel Map approval No. 24243.

Parcel 1 will contain the existing large, two story, 2,785 guest house, which will become a primary residence through addition of a kitchen. Parcel 1 would also include the existing horse riding ring, corral, and pond. The septic system serving development on Parcel 1 would be relocated so that it is fully located on Parcel 1 prior to recording. There would also be an access easement over Parcel 1 for the benefit of Parcel 2. The proposal also includes removal of an existing tack room, mostly on Parcel 1, and an existing stable, mostly on Parcel 2.

Parcel 2 would contain the existing former single story main residence of 3,963 sq. ft., an existing pool and related small buildings, an existing tennis court, two existing three stall barns, a larger barn, a shed, and a one story, 320 sq. ft. caretakers residence. The existing septic system on Parcel 2 would remain. Two enclosed parking spaces would be created on Parcel 2. The impermeable area on Parcel 2 would be reduced to to less than 25,000 sq. ft. through conversion of paving to turfblock.

There would be a widening and improvements to Serra Road along frontage of both parcels including pedestrian/equestrian access. No grading or removal of major vegetation is proposed.

## 2. Surrounding Development and Project Setting

Much of the site is relatively flat, at the approximate 90 foot elevation with the present primary residence and guest house located about fifty feet higher against the base of the ridge to take advantage of the views to the west.

The proposed development is within the density allowed by the underlying zoning which permits as high a density as 1 du/ac. The site is not within an environmentally sensitive habitat area or a significant watershed, nor do any proposed or existing trails traverse the site. There is no significant native vegetation, including the lack of a significant number of native trees, on the site except for the undisturbed hillside behind the two residences above the approximate 160 ft. contour which will be unaffected by development.

The property is located in a residential enclave in a coastal canyon or valley at the base of a range of hills located two miles north of Malibu Point and one and a half miles northeast of the Malibu Civic Center. The area is often referred to a Serra Retreat after a religious retreat in the area. (Exhibit II) The area has an gate feature and an unstaffed gatehouse, but does not have a gate which can be closed. Streets are narrow in the area, with a lack of opportunity for parking on the shoulder. The Serra Retreat property is located on a free standing hill in the middle of the valley and residential community commencing about 100 feet to the southwest of the site of the proposed land division. East of the subject site is a ridge extending from the main body of the Santa Monica Mountains to Pacific Coast Highway. Malibu Lagoon is approximately one mile southwest of the project site and Malibu Creek is approximately one-half mile to the west.

The subject site is one of a band of larger lots of several acres in size along the north and east sides of the Serra Retreat. Almost immediately to the north is an unincorporated area of Significant Watershed designated as Mountain Land, 1 du/20 acres in the LCP Land Use Plan. An area on unincorporated land only about 100 feet northwest of the subject parcel was recently subject to a land division on the August, 1996 agenda, Application No. 4-95-173 (MHAB Trust). (Exhibit II) In contrast, southwest of the subject property beyond the Serra Retreat is an area of much smaller lots, a designated lot subdivision.

B. Cumulative Impacts of New Development

Section 30250(a) of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted 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 the surrounding parcels.

Section 30105.5 of the Coastal Act defines the term "cumulatively," as it is used in Section 30250(a), to mean that:

the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

The applicant is proposing to subdivide a five acre parcel into two parcels of 2.37 and 2.63 acres in size. The Commission is required to review the cumulative impacts of a land division pursuant to section 30250(a) of the Coastal Act. In this situation, because the project site is located in an existing developed area the average lot size criteria provided in Section 30250(a) is not applicable.

The Coastal Act requires that new development, including subdivisions and multi-family projects, be permitted only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impact problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels and/or residential units through subdivisions and multi-unit projects. Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, future build-out of many lots located in environmentally sensitive areas would create adverse cumulative impacts on coastal resources.

As a means of addressing the cumulative impact problem in past actions, the Commission has consistently required, as a special condition to development permits for land divisions and multi-unit projects, participation in the Transfer of Development Credit (TDC) program as mitigation (155-78, Zal; 158-78, Eide; 182-81, Malibu Deville; 196-86, Malibu Pacifica; 5-83-43, Heathercliff; 5-83-591, Sunset-Regan; and 5-85-748, Ehrman & Coombs). The TDC program resulted in the retirement from development of existing, poorly-sited, and non-conforming parcels at the same time new parcels or units were created. The intent was to insure that no net increase in residential units resulted from the approval of land divisions or multi-family projects while allowing development to proceed consistent with the requirements of Section 30250(a).

In several permit actions in Los Angeles County prior to the City of Malibu's incorporation (5-86-592, Central Diagnostic Labs; 5-86-951, Ehrman and Coombs; 5-85-459A2, Ohanian; and 5-86-299A2 and A3, Young and Golling), the Commission found that until other mitigation programs were both in place and able to be implemented, it is appropriate for the Commission to continue to require purchase of TDC's as a way to mitigate the cumulative impacts of new subdivisions and multi-residential development. In 1986, the Commission certified the Malibu/Santa Monica Mountains Land Use Plan, which is no longer legally binding within the City of Malibu. The Plan contained six potential mitigation programs that if in place would adequately mitigate the cumulative impacts of new development. However in approving the above cited permit requests, the Commission found that none of the County's six mitigation programs were defined in the LUP as "self-implementing" or adequate to offset the impact of increased lots in the Santa Monica Mountains and that mitigation was still required to offset the cumulative impacts created by land divisions and multi-unit projects. The Commission found that the TDC program, or a similar technique to retire development rights on selected lots, remained a valid means of mitigating cumulative impacts. Without some means of mitigation, the Commission would have no alternative but denial of such projects based on the provisions of Section 30250(a) of the Coastal Act.

The applicants propose to subdivide one parcel of land into two residential lots. The proposed number of residential units is consistent with the character of the area. The subject parcel is an existing legal parcel. Therefore, no cumulative impact mitigation requirements shall be imposed as a condition of approval of this permit regarding the legality of the existing parcel.

As discussed above, the Commission has approved new subdivisions, but has continued to require purchase of TDC's as one of the alternative mitigation strategies. Staff review indicates that the incremental contribution to cumulative impacts would be the creation of one additional lot. Impacts such as traffic, sewage disposal, recreational uses, visual scenic quality and resource degradation would be associated with the development of the additional lot in this area. Therefore, the Commission determines that it is necessary to impose a requirement on the applicant, in order to insure that the cumulative impacts of the creation of one additional legal buildable lot is adequately mitigated. This permit has therefore been conditioned to require the applicant to mitigate the cumulative impacts of the subdivision of this property, either through purchase of one (1) TDC or participation along with a public agency or private nonprofit corporation to retire habitat or

watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. The Commission finds that as conditioned, the proposed project is consistent with Section 30250 of the Coastal Act.

C. 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.

In addition, the Malibu Land Use Plan, which serves as guidance in the City area, contains the following policies regarding geologic stability:

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

P149 Continue to require a geologic report, prepared by a registered geologist, to be submitted at the applicant's expense to the County Engineer for review prior to approval of any proposed development within potentially geologically unstable areas including landslide or rock fall areas and the potentially active Malibu Coast-Santa Monica Fault Zone. The report shall include mitigation measures proposed to be used in the development.

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.

Most of the site, in the more gently sloping and flat areas, is located on old alluvium deposited by past stream action. Basaltic bedrock is found on the steeper, eastern portions of the site. An area to the east of and not part of the site has been burned by recent fires and has been hydroseeded.

Sheetflow from above the residences on the site is presently collected and directed around the residences. Drainage from the residence yards and eaves is already collected and conveyed to the driveways.

The applicant has provided a report by Miller Geosciences, Inc. titled Engineering Geologic and Geotechnical Review dated August 14, 1994. The consultant reviewed the site in terms of joints and fracture planes, landslides, groundwater, and faulting and seismicity. The report states that

"... the site has been evaluated for the feasibility of the lot-split only and not for construction." and that the "...the lot division does not cross any geologic hazard."

The septic system relocation has been subject to a separate analysis as discussed below. The two principal residences resulting from the land division are existing. No lots or pads are presently proposed where a new single family development is anticipated. Any future development would be subject to review relative to geologic hazards. When these circumstances are considered in conjunction with the consultant's determination and the lack of other new development, the Commission finds that the proposed land division, conversion to primary residence of the guest house, and removal of stable, tack room, and reduction of impermeable area is consistent with Coastal Act section 30253.

#### D. Archaeological Resources

Section 30244 of the Coastal Act states that:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The greater province of the Santa Monica Mountains is the focus of one of the most important concentrations of archaeological sites in Southern California. Although most of the area has not been systematically surveyed to compile an inventory, the sites already recorded are sufficient in both number and diversity to predict the ultimate significance of these unique resources. Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history.

The Coastal Act requires the protection of such resources to reduce potential adverse impacts through the use of reasonable mitigation measures. Archaeological resources can be degraded if a project is not properly monitored and managed during earth moving activities conducted during construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be lost. As so many archaeological sites have been destroyed or damaged as a result of development activity or natural processes, the remaining sites, even though they may be less rich in materials, have become increasingly valuable. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact.

An Archaeological Assessment of the project site was prepared by Chester King, City of Malibu archaeologist. He found that the proposed land division and associated changes were not expected to impact archaeological resources. No sites were recorded in the project area, although six sites were recorded within a half mile radius. A walking survey of the site revealed no altered soil indicating prehistoric archaeological remains. Pursuant to King's recommendations, work will be stopped and the City archaeologist and Chumash resource manager will be contacted if any remains are discovered during construction. Remains includes dark soil with shell, fire altered rock, or stone artifacts as well as human remains. The City has included a condition noting these criteria in their approval.



The Commission has, in past hearing and voting, required on-site archaeologists and Native American consultants to monitor grading and site preparation operations in areas where cultural resources are or may be present. The Commission finds that, based on the review by the City's archaeologist, it is not necessary to require monitors to be on-site during excavation or construction operations. However, it is necessary to require the applicant to agree that if archaeological resources are encountered during excavation and construction, construction would halt and a qualified archaeologist would be retained in order to ensure that archaeological resources are properly identified and adequate mitigation measures are implemented. The Commission finds that the proposed project, as conditioned, is consistent with Section 30244 of the Coastal Act.

#### E. 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 proposed development involves relocation of one of the septic systems as noted above. The applicant has submitted septic system "In-concept Approval" from the City of Malibu Department of Environmental Health. As reviewed by the City, the proposed project is consistent with the City's plumbing code and will not adversely impact the biological productivity and quality of the coastal waters located south of the subject site. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

#### F. 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 Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with 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 amendment 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 amendment 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 of Malibu's ability to prepare a Local Coastal Program for this area of Malibu that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of 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 that would substantially lessen any significant adverse impacts that the activity may have on the environment.

The proposed project, as conditioned will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970 that have not been adequately mitigated. Therefore, the proposed project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

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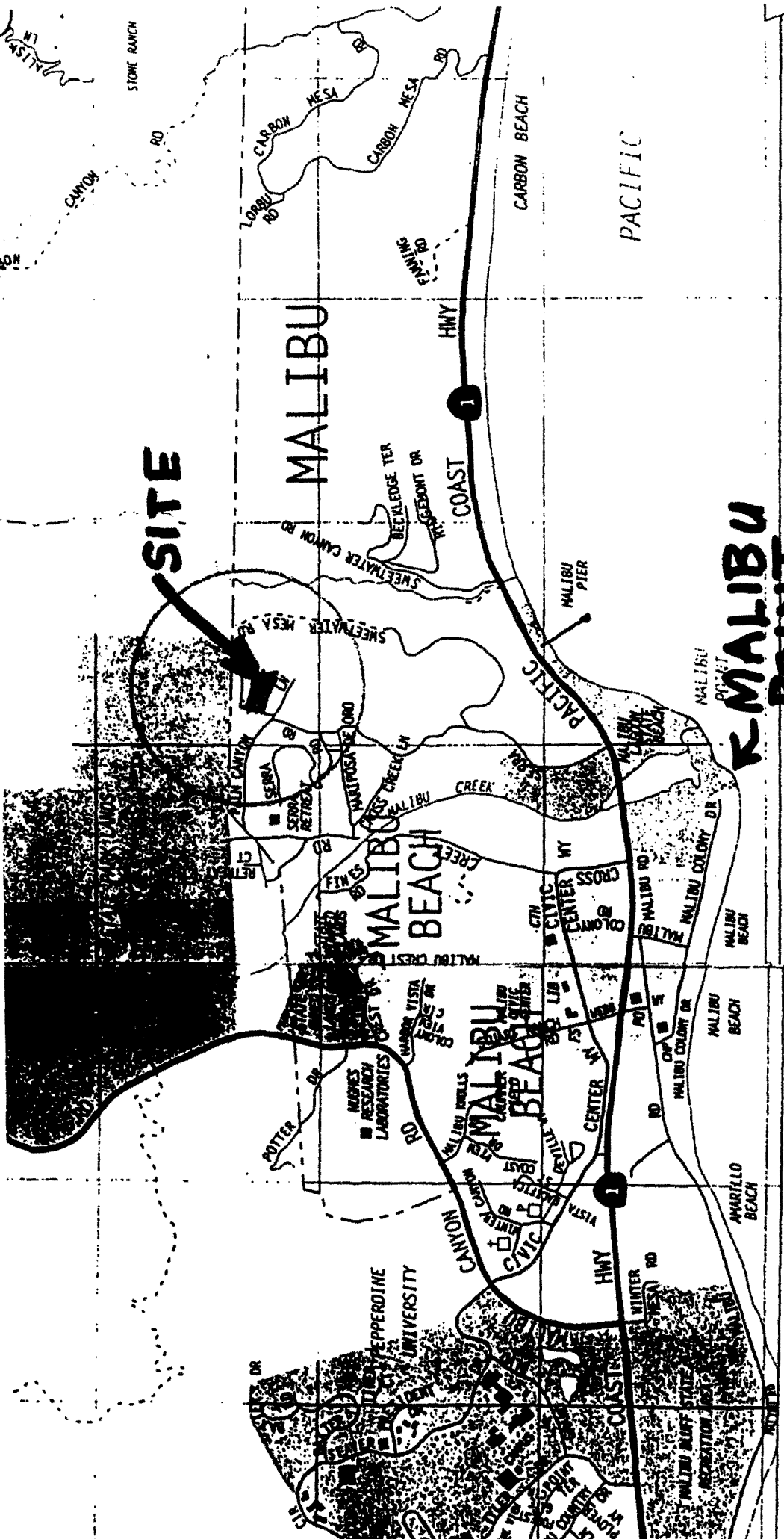
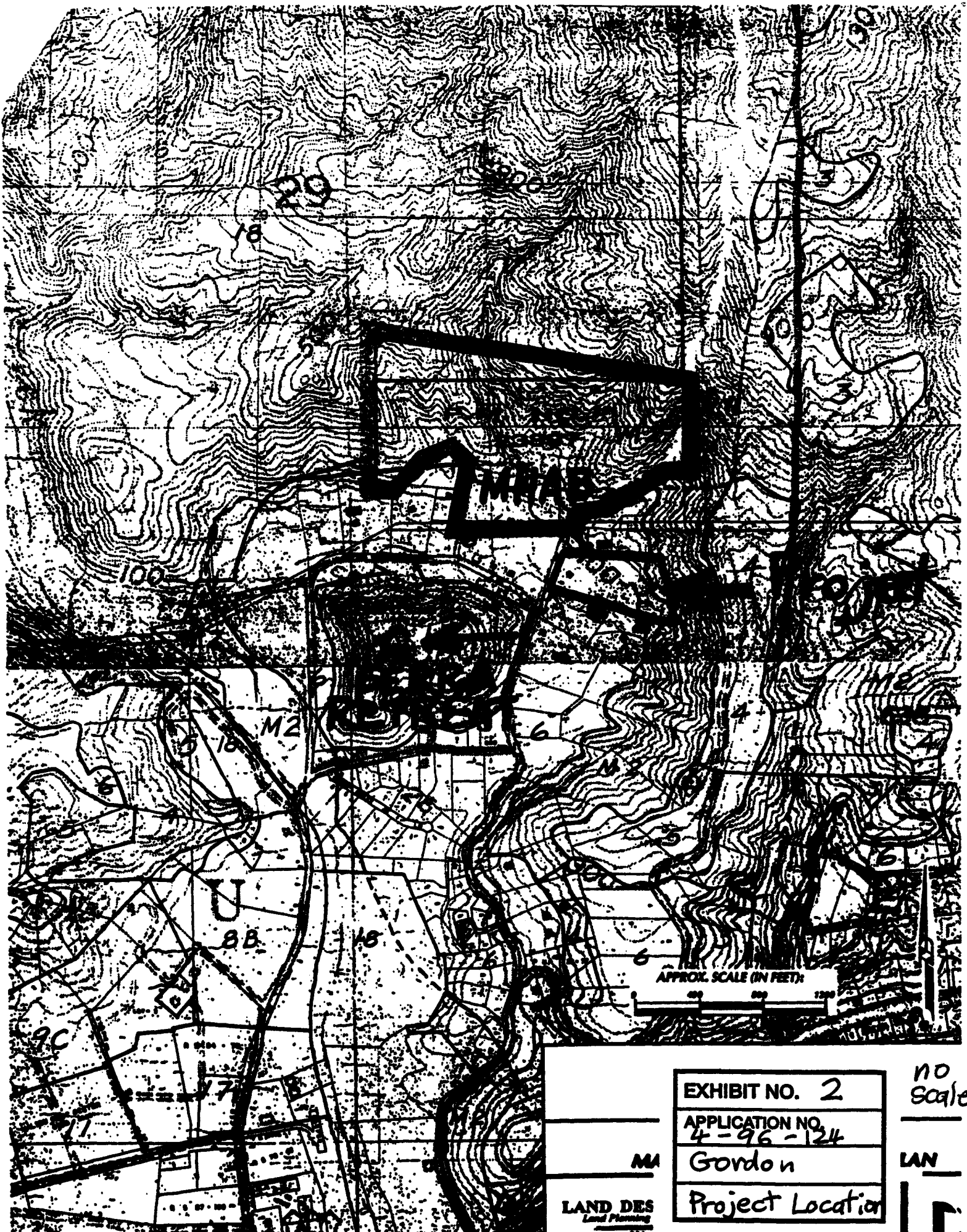


EXHIBIT NO. 1
APPLICATION NO.
4-96-124
Gordon
Project Location

no scale



APPROX. SCALE (IN FEET):



EXHIBIT NO. 2

APPLICATION NO.  
4-96-124

Gordon

Project Location

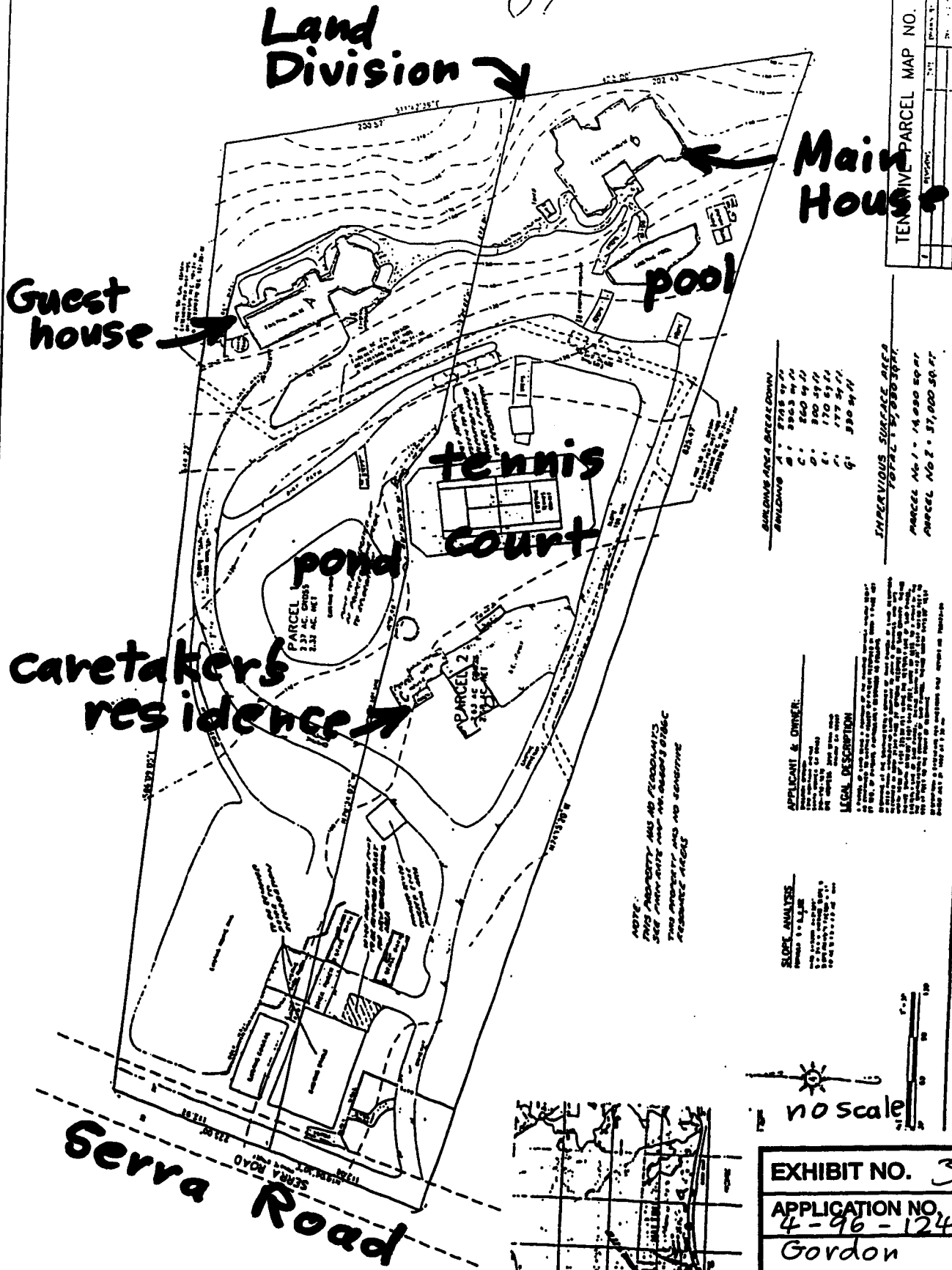
NO  
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LAN

MA  
LAND DES  
Land Planning

TENSIVE PARCEL MAP NO. 24243

NO.	DATE	DESCRIPTION
1	10/1/96	PRELIMINARY
2	10/1/96	REVISION
3	10/1/96	REVISION
4	10/1/96	REVISION
5	10/1/96	REVISION
6	10/1/96	REVISION
7	10/1/96	REVISION
8	10/1/96	REVISION
9	10/1/96	REVISION
10	10/1/96	REVISION



**IMPERVIOUS SURFACE AREA**

BUILDING	1	2758 sq ft
POOL	2	2963 sq ft
TENNIS COURT	3	260 sq ft
DRIVEWAY	4	100 sq ft
POND	5	170 sq ft
WALKWAY	6	177 sq ft
OTHER	7	330 sq ft
<b>TOTAL</b>		<b>5700 sq ft</b>

**IMPERVIOUS SURFACE AREA**  
 TOTAL = 5700 SQ FT  
 PARCEL NO 1 = 14,000 SQ FT  
 PARCEL NO 2 = 37,000 SQ FT

**NOTE:**  
 THIS PROPERTY HAS 40 FEET OF  
 SIDE YARD SETBACK AND 20 FEET OF  
 FRONT YARD SETBACK.  
 THE PROPERTY HAS NO SENSITIVE  
 RESOURCE AREAS.

**APPLICANT & OWNER:**  
 Applicant: [Name]  
 Owner: [Name]

**LEGAL DESCRIPTION:**  
 A certain parcel of land, more particularly described as follows: [Detailed legal description of the property, including acreage and location details.]

**SLOPE ANALYSIS:**  
 The slope analysis shows that the proposed development is consistent with the existing site conditions and does not require any special erosion control measures.

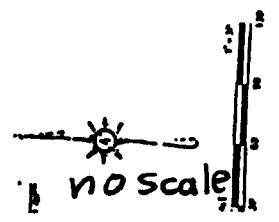


EXHIBIT NO. 3
APPLICATION NO. 4-96-124
Gordon
Proposed Dev.

