

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-97-073

APPLICANTS: William Keenan; Russel Wyluda; Judy Wyluda; Bonnie L. Keenan

AGENT: Robert Kameoka

PROJECT LOCATION: 21701 Saddle Peak Road, Los Angeles County

PROJECT DESCRIPTION: Divide 20.06 acre parcel into three parcels of 6.268 acres (Parcel 1), 6.308 acres (Parcel 2), and 6.912 acres (Parcel 3). 3200 cu. yds. of grading (1600 cu. yds. cut and 1600 cu. yds. fill). Paving of driveway to Parcels 1 and 2. Placement of a temporary construction trailer. Demolish "as built" shed.

Lot area	20.06 acres
Building coverage	none
Plan designation	Rural Land II (one du/5 acres); Rural Land III (one du/2 acres); and Mountain Land (M2) (one du/20 acres)

LOCAL APPROVALS RECEIVED: County of Los Angeles, Department of Regional Planning, Vesting Tentative Minor Land Division Map No. 20845, dated 8-4-97; Conditional Use Permit No. 89-325, dated January 10, 1990.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan. Coastal Development Permits 5-91-429 (Keenan) and 4-96-028, Harberger et al. Geoplan, Inc.: Engineering Geologic Report Vesting Tentative Minor Land Division Map No. 20845, July 31, 1989; Geologic Update Letter, July 17, 1991; Geologic Update Letter, June 9, 1997.

STAFF NOTE: The Commission moved this item to the regular calendar from the consent calendar at the October, 1997 Coastal Commission meeting.

SUMMARY OF STAFF RECOMMENDATION: The proposal is a reapplication for the project approved under Coastal Development Permit 5-91-429 (Keenan) which has expired. Staff recommends approval with four (4) conditions addressing landscaping and erosion control, drainage and erosion control, cumulative impact mitigation, and plans conforming to geologic recommendations.

I. STAFF RECOMMENDATION

Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, 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 below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Cumulative Impact Mitigation.

Prior to the issuance of the Coastal Development Permit, the applicants shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject development with respect to

build-out of the Santa Monica Mountains are adequately mitigated. Prior to issuance of this permit, the applicants shall provide evidence to the Executive Director that development rights for residential use have been extinguished on two (2) building sites in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

- a) one of the five lot retirement or lot purchase programs as referred to in the Malibu/Santa Monica Mountains Land Use Plan (Policy 272, 2-6);
- b) a TDC-type transaction, consistent with past Commission actions;
- c) 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. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

2. Landscaping and Erosion Control Plan

Prior to issuance of permit, the applicant shall submit detailed landscaping and erosion control plans prepared for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All graded areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes at the completion of grading. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage.
- (c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.
- (d) All grading activities shall be carried out as expeditiously as feasible and all building pads shall be hydroseeded, to minimize erosion until such time as the residences are developed, and access roads paved within 30 days of grading completion. In the event that

grading activities are interrupted for a period of more than 30 days, all exposed areas shall be hydroseeded and erosion control and sediment retention methods shall be implemented.

3. Drainage and Erosion Control Plans.

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a drainage and erosion control plan, designed by a licensed engineer which assures that the runoff from the roadways, pads, and fill slopes are collected and discharged in a non-erosive manner which avoids ponding on the pad areas. Site drainage shall not be accomplished by sheetflow runoff. Should the project's drainage structures fail or result in erosion, the applicant/landowner or successor interests shall be responsible for any necessary repairs and restoration.

4. Plans Conforming to Geologic Recommendation

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. All recommendations contained in the Geoplan, Inc.: Engineering Geologic Report Vesting Tentative Minor Land Division Map No. 20845, July 31, 1989; Geologic Update Letter, July 17, 1991; and Geologic Update Letter, June 9, 1997 including slope stability, foundations and drainage shall be incorporated into final project plans. All plans must be reviewed and approved by the consultants.

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.

IV. Findings and Declarations.

A. Project Description and History

The applicant proposes to divide a 20.06 acre parcel into three parcels of 6.268 acres (Parcel 1), 6.308 acres (Parcel 2), and 6.912 acres (Parcel 3) with 3200 cu. yds. of grading (1600 cu. yds. cut and 1600 cu. yds. fill). The grading is necessary to provide an access road and building pads on Parcels 1 and 2. Paving is proposed for the new driveway serving Parcels 1 and 2, whereas Parcel 3 will use an existing driveway.

The project site is located southwest of and adjacent to the horseshoe bend in Saddle Peak Road located approximately one-half mile northwest of its intersection with Tuna Canyon Road. Immediately adjacent to the site and near the northwest corner is an unpaved scenic turn-out ("Vista Point") designated in the certified Land Use Plan (LUP). The vista point is not impacted upon by the proposed development.

Dix Canyon creek, at a higher elevation (above 1900 ft.), flows toward the southeast near and off-site of the southwest corner of the undivided parcel. The creek then crosses onto the parcel at a lower elevation (1760 ft.) in the lower, southeast corner and flows northeast towards Topanga Canyon Creek, exiting the property at the 1680 ft. elevation. No development is proposed near this lower portion of the creek on the parcel. This lower section of the creek is a LUP-designated Disturbed Sensitive Resource (DSR) area, as discussed in greater detail below.

The site ranges from an elevation of 2030 feet, adjacent to Saddle Peak Road, to 1680 feet, at the lowest point on the parcel in Dix Canyon creek to the east. The steepest portion of the site, ranging approximately from 2030 to 1950 feet in elevation, is where the proposed building sites are located. The approximate eastern two-thirds of the site below the 1940 foot contour, including the creek, will remain undeveloped.

The project site contains one existing pad on proposed Parcel 3, which has access off an existing paved private road to an existing residence downhill of the existing pad. This paved road travels along the west boundary inside of Parcel 3, and then travels across easements to the northwest across three other parcels to Saddle Peak Road. No changes are proposed to the paved road and no development is proposed affecting Parcel 3 or these adjacent properties. The easement to Parcel 3 as shown on the Vesting Tentative Minor Land Division Map No. 20845 (see Exhibits 3 and 4) does not correspond to the actual location of the paved road just before it enters Parcel 3. Because of this discrepancy, a second easement has been recorded in the form of a Grant Deed (Document 93 1175321) for purposes of "... utility access and drivable ingress and egress ..." which corresponds to the actual paved roadway location.

The other two parcels will have access through a new 20 ft. wide private road (driveway/fire lane) which will traverse across Parcels 1 and 2 to the north and then connect to a 50 ft. wide easement shared with another parcel to the north, which moves to the west to connect with Saddle Peak Road. Some of the paved roadway and road cut is not on subject property, but belongs to the property to the north. The applicant has furnished a recorded Offsite Covenant by Offsite Property Owner, dated October 22, 1992, which allows the applicants to make changes to that property, i.e. to enter, grade and construct driveway improvements in accordance with plans filed with the County Public Works Department. Further, the offsite property owner has been invited by letter to become a co-applicant in this application, but has not chosen to participate in this manner.

A 20 ft. wide driveway/fire lane connecting to Saddle Peak Road from the newly constructed pads on Parcels 1 and 2 will be paved. The roadways will be banked to convey water and there will be a grouted riprap bed velocity reducer at the southern end of the driveway to dissipate flow.

The project was not reviewed by the County of Los Angeles Environmental Review Committee. Such projects are not reviewed if not located within the designated sensitive resource area or within 200 ft. of the ESHA as defined by the certified LUP. In this case, the closest point of the road to the stream course is approximately 500 ft.

The same subdivision (i.e. same tentative tract and conditional use permit) was approved by the Coastal Commission at the November 12-15, 1991 meeting (Application No. 5-91-429). The present application includes an updated approval of the same tentative map. No paving was proposed under the original proposal, but paving is included with the present proposal. The County approval (CUP No. 89-325) included requirement for removal of a structure existing at that time on Parcel 3. The application was approved by the Coastal Commission with conditions related to grading and landscaping, open space easement, mitigating cumulative impacts of development, and conformance to geologic recommendations. The permit was never issued.

B. New Development/ Cumulative Impacts

Section 30250 (a) of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources:

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 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.

Section 30105.5 of the Coastal Act defines the term "cumulatively", as it is applied 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.

In addition, the certified Land Use Plan contains policy 271 and 273 (d) regarding lot line adjustments and land divisions. The LUP policy cited below has been found to be consistent with the Coastal Act and therefore, may be looked to as guidance by the Commission in determining consistency of the proposed project with the Coastal Act. Policy 271 states, in part, that:

New development in the Malibu Coastal Zone shall be guided by the Land Use Plan Map and all pertinent overlay categories. ... Onto this are overlaid three resource protection and management categories: (a) significant environmental resource areas, (b) significant visual resource areas, and (c) significant hazardous areas. ...

The applicable land use classifications and densities for subject property are: Rural Land II (one du/5 acres); Rural Land III (one du/2 acres); and Mountain Land (M2) (one du/20 acres). Policy 273d states, in part, that:

... land divisions shall be permitted consistent with the density designated by the Land Use Plan Map only if all parcels to be created contain sufficient area to site a dwelling or other principal structure consistent with the LCP. ...

The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu and Santa Monica Mountains area in past permit actions. The Commission has reviewed land division applications to ensure that newly created or reconfigured parcels are of sufficient size, have access to roads and other utilities, are geologically stable and contain an appropriate potential building pad area where future structures can be developed consistent with the resource protection policies of the Coastal Act. In particular, the Commission has ensured that future development on new

or reconfigured lots can minimize landform alteration and other visual impacts, and impacts to environmentally sensitive habitat areas.

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots which already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains creates cumulative impacts on coastal resources and public access over time. Because of the large number of existing undeveloped parcels and potential future development, the demands on road capacity, public services, recreational facilities, and beaches could be expected to grow tremendously.

The proposed reconfiguration will result in three parcels ranging in size from 6.268 acres to 6.912 acres. In past permit actions, the Commission has looked to the land use designations of the certified Malibu/Santa Monica Mountains Land Use Plan for guidance on the maximum allowable density and intensity of land use that may be permitted in any particular area. The Land Use Plan designations for the proposed project building sites (pads) cross over the land use map designations on the LUP, but are predominantly within the following categories: Parcel 1 and 2 -- Rural Land II (one du/5 acres); and Parcel 3 -- Rural Land III (one du/2 acres). Based on these density designations, the proposed parcels conform with the maximum allowable density, which would allow one residence each on Parcels 1 and 2 and up to 3 residences on Parcel 3, assuming all other development standards could be met.

Although the certified Land Use Plan provides guidance in the form of standards for density and intensity of development, the Commission standard of review for land divisions is Chapter 3 of the Coastal Act. In this case, because the proposed project site is located outside the developed coastal terrace area, the criteria provided in Section 30250 (a) is applicable. This section provides that land divisions shall be permitted when: one, 50 percent of the usable parcels in the area have been developed; and two, the created parcels would be no smaller than the average size of the surrounding parcels, in order to ensure that development in areas that have adequate public services. In other words, this policy is to prevent the 'leap frogging' of new development into undeveloped areas, thereby preventing the potentially significant adverse impacts of such development on coastal resources.

The first technical requirement of Section 30250(a) of the Coastal Act is regarding land divisions outside existing developed areas. That section requires that such land divisions be permitted only where 50 percent of the usable parcels in the area have been developed and where other criteria are met. The Commission has found, in past permit decisions, that "existing developed area" for the Malibu area applies only to the urbanized strip, or coastal terrace, along Pacific Coast Highway, and does not apply to the interior of the Santa Monica Mountains. The Commission has further found that the area addressed by the 50 percent criterion is the market area, amounting to the entire Malibu/Santa Monica Mountains coastal zone. Within that area, a majority of the existing parcels are not yet developed, thus causing all proposed land divisions outside the coastal terrace to fail the required 50 percent test of Section 30250(a).

Based on these concerns, the Commission, in the past, found no alternative but to deny a number of land division permits. It was only with the institution of the transfer of development credit program (TDC) that the Commission found a mechanism by which the cumulative impacts could be mitigated and the 50 percent requirement could be met.

The applicants propose to subdivide one parcel of land into three 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.

Regardless, as discussed above, the Commission has approved new subdivisions, and has continued to require purchase of TDC's as preferred among the alternative mitigation strategies. Staff review indicates that the incremental contribution to cumulative impacts would be the creation of two additional lots. Impacts such as traffic, sewage disposal, recreational uses, visual scenic quality and resource degradation would be associated with the development of the additional lots 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 two additional legal buildable lots 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 participation in a lot retirement or purchase program (LUP policy 272), or purchase of two (2) TDCs, 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 creation of new parcels is mitigated by extinguishing existing parcels, thereby ensuring that no net increase in the overall number of lots occurs within the market area. Since the number of usable parcels is not increased by land divisions in conjunction with the TDC program, the 50 percent criterion is, in effect, met.

With regard to the average lot size standard, the first step to making the determination required under Section 30250(a) of the Coastal Act is to choose a representative "surrounding area". Next, using assessor's records, the number of parcels within the surrounding area would be determined. Lastly, an average lot size analysis would be made for the surrounding area. To determine the appropriate surrounding area in the Santa Monica Mountains, the Commission has, in past permit decisions, considered the average and median lot size within one-quarter of a mile, taking into account major topographic features.

In *Billings v. California Coastal Commission*, the court examined the use of an arithmetic mean to determine the size of lots that was typical for a geographic area. In *Billings*, the court rejected the Commission's past use of the arithmetic mean to determine the "average" lot size and rather found the use of a median or mode to be more appropriate. The Commission has found that the mode as a method of calculating the average is of limited utility, and has determined that the median is the best method of determining the average lot size. In *Billings*, the court also rejected the arbitrary delineation of a 1/4 mile radius as the sole criterion for determining the appropriate surrounding area, and instead found that it was appropriate to also take into account major topographic features to delineate the surrounding area.

In this case, staff determined the appropriate "surrounding area" and calculated the "average" lot size. The proposed project site is located within the portion of the Dix Canyon watershed bounded on the west and southwest by Saddle Peak Road and on the east and southeast by Tuna Canyon Road. On the north this area is defined by the ridge running west to east from the approximate northern boundary of subject parcel, thence becoming an imaginary line crossing the stream and intersecting with Tuna Canyon road. This area is roughly one-half mile by one-third miles in size. The major topographic feature of Dix Canyon defines this area, including the slopes of both sides of the canyon down to the canyon bottom. Within this surrounding area, staff identified the median lot size at approximately 2.5 acres. Based on this analysis, the proposed lots of approximately 6 acres in size are considerably larger than the average size of surrounding parcels, consistent with Section 30250(a).

The Commission finds, for the above stated reasons, that the proposed project as conditioned is consistent with Section 30250(a) of the Coastal Act.

C. Geologic Stability/Hazards

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, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

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 this area include landslides, erosion, and flooding. In addition, the certified Los Angeles County Land Use Plan includes the following policies regarding hazards, which are applicable to the proposed development. These policies have been applied by the Commission as guidance in the review of development proposals in the Santa Monica Mountains (paraphrased): P82 minimize grading to minimize potential negative effects of runoff and erosion; P147: evaluate impact on, and from, geologic hazard; P 149: require a geologic report prior to approval; P 154: not generate excessive runoff, debris, and/or chemical pollution that would impact on the natural hydrologic system; and P 156: evaluate impact on fire hazard.

The County Vesting Tentative Tract Map Approval (No. 20845) indicates that the private driveway and fire lane improvements will be delineated on the final map to the satisfaction of the County Fire Department. Regardless, in this case, the proposed project shows fire lanes of 20 ft. width (Vesting Tentative Minor Land Division Map No. 20845, approved by County Regional Planning on 1-10-90, copied and initialed by Regional Planning, dated 8-4-87). Consequently, the proposed site plan does illustrate that the access roads to the pads are 20 ft. in width in compliance with County fire requirements.

The Commission reviews the proposed project's risks to life and property for development such as proposed in this application in areas where there are geologic and flood hazards. The applicant has submitted reports by Geoplan, Inc.: Engineering Geologic Report Vesting Tentative Minor Land Division Map No. 20845, July 31, 1989; Geologic Update Letter, July 17, 1991; Geologic Update Letter, June 9, 1997. The reports found that:

Each of the proposed lots contains a safe building site unaffected by landslide, settlement, or slippage and where efficient private sewage disposal systems may be constructed. Implementation of the Tentative Parcel Map in compliance with the requirements of the County Building Ordinance and recommendations of the project consultants will not affect neighboring property.

As noted above, the proposed development includes a driveway and pad construction for the two parcels requiring new access off of Saddle Peak Road. The driveway and homes could be constructed on each of the two parcels in a manner that minimizes landform alteration. Development on the proposed sites (building pads) would be located away from the stream and close to Saddle Peak Road, which is consistent with the resource protection policies in the LUP discussed above.

Minimizing erosion of the site is important to reduce geological hazards on the site and minimize sediment deposition in the drainages leading to Topanga Canyon Creek. Therefore, it is necessary to require the applicant to submit landscape plans for areas disturbed by grading operations and development activities. These plans must incorporate native plant species and illustrate how these materials will be used to provide erosion control to those areas of the site disturbed by development activities. Special condition number two (2), recommended above, provides for such a landscape/erosion control plan prepared by a licensed landscape architect. In addition, the drainage plan, required above under condition three (3) will ensure runoff is conveyed off the residential building pads and into the watershed and nearby blue-line stream in a non-erosive manner.

Further, based on the findings and recommendations of the consulting engineering geologist, the Commission finds that the proposed development is consistent with Section 30253 of the Coastal Act so long as all recommendations regarding the proposed development are incorporated into the 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 and engineer, as noted in condition number four (4).

The Commission finds that only as conditioned is the proposed project consistent with Section 30253 of the Coastal Act.

D. Environmentally Sensitive Resource Areas

Section 30250(a), stated in full above, provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. Section 30105.5 of the Coastal Act broadly defines the term "cumulatively", in terms of past, current and probable future projects.

Section 30231 of the Coastal Act is designed to protect and enhance, or restore where feasible, marine resources and the biologic productivity and quality of coastal waters, including streams. Section 30231 of the Coastal Act states as follows:

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, and minimizing alteration of natural streams.

In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

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

The Malibu/Santa Monica Mountains Land Use Plan policies addressing protection of ESHAs are among the strictest and most comprehensive in addressing new development. In its findings regarding the Land Use Plan, the Commission emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. The Commission found in its action certifying the Land Use Plan in December 1986 that:

...coastal canyons in the Santa Monica Mountains require protection against significant distribution of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.

The Certified Malibu/Santa Monica Mountains Land Use Plan, used as guidance in past Commission permit decisions, provides policies to: protect of ESHAs against significant disruption of habitat values; locate new development close to existing roadways and services; minimize the effects on sensitive environmental resources; cluster structures; minimize grading for access roads and driveways; minimize the alterations of hillside and ravines; protect the water quality of groundwater basins, nearby streams, or wetlands as a result from development; and not discharge pollutants and other harmful waste into coastal streams or wetlands. Land Use Plan policies also address stream protection and erosion control by: minimizing grading and landscape plans, and balancing long-term stability and minimization of fuel load, among other policies.

Past actions on coastal permits taken by the Commission generally reflect the goals and guidance provided in the certified LUP policies towards development in or near ESHA's. Where the Commission has found that single-family

development would not cumulatively or individually create adverse impacts on habitat or other coastal resources, or that adequate mitigation could be provided, it has been permitted.

The site is located above the Dix Canyon Disturbed Sensitive Resource Area which contains a blue line stream, located east in Old Topanga Canyon. The portion of Dix Canyon creek crossing the southeast corner of the site is a designated disturbed Oak Woodland in the LUP. This designation applies, however, only to the downstream portion of the blue line stream which crosses southwest to northeast across the southeast corner of the underlying parcel. The other, uphill portion of the blue line stream, which is off-site to the southwest and closer to Saddle Peak Road, is not so designated. Neither section of the creek is impacted directly by the proposed development. The building sites themselves are at a distance of approximately 500 ft. or greater from the lower portion of the creek.

DSRs do not meet the Coastal Act definition of environmentally sensitive habitat areas, because they have been modified or disturbed and, therefore, do not have the same biological significance or sensitivity to disturbance as an undisturbed ESHA. Nevertheless, DSRs continue to support native wildlife populations and are sufficiently valuable to warrant some degree of protection.

In this case, the proposed project will significantly increase the amount of impervious surfaces on the subject site. The impervious surfaces created by the newly graded and paved access to Parcels 1 and 2 will increase both the volume and velocity of storm water runoff from the site. Further, the graded pads on Parcel 1 and 2 will have greater potential runoff and sedimentation compared to what would have taken place if the land were allowed to remain in the existing native state. If not controlled and conveyed off-site in a non-erosive manner this runoff will result in increased erosion on and off site. Although the application has a riprap deflection device (velocity reducer) proposed at the bottom of the driveway serving Parcels 2 and 3, there is no comprehensive drainage plan for the graded pads and slopes indicating that no increase in volume and velocity will occur.

Increased erosion in addition to raising issues relative to geologic stability as addressed above, also result in sedimentation of the nearby stream. The increased sediments in the water course can adversely impact riparian systems and water quality. These impacts include:

1. Eroded soil contains nitrogen, phosphorus, and other nutrients. When carried into water bodies, these nutrients trigger algal blooms that reduce water clarity and deplete oxygen which lead to fish kills, and create odors.
2. Erosion of streambanks and adjacent areas destroys streamside vegetation that provides aquatic and wildlife habitats.
3. Excessive deposition of sediments in streams blankets the bottom fauna, "paves" stream bottoms, and destroys fish spawning areas.
4. Turbidity from sediment reduces in-stream photosynthesis, which leads to reduced food supply and habitat.
5. Suspended sediment abrades and coats aquatic organisms.

6. Erosion removes the smaller and less dense constituents of topsoil. These constituents, clay and fine silt particles and organic material, hold nutrients that plants require. The remaining subsoil is often hard, rocky, infertile, and droughty. Thus, reestablishment of vegetation is difficult and the eroded soil produces less growth.
7. Introduction of pollution, sediments, and turbidity into marine waters and the nearshore bottom has similar effects to the above on marine life. Pollutants in offshore waters, especially heavy metals, are taken up into the food chain and concentrated (bioaccumulation) to the point where they may be harmful to humans, as well as lead to decline of marine species.

Section 30240 requires that development in areas adjacent to ESHAs shall be designed to prevent impacts which would significantly degrade such areas. In addition, Section 30231 of the Coastal Act requires that the biological productivity of streams be maintained through, among other means, minimizing waste water discharges and entrainment, controlling erosion,...and minimizing alteration of natural streams.

The drainage and erosion control plan required (Condition 3 discussed under Geologic Hazards above) will ensure that runoff will be conveyed off-site in a non-erosive manner and minimize the impact on the nearby blue-line stream by controlling sedimentation and hydrological impacts. Furthermore, the landscaping plan required (Condition 2 discussed under Geologic and Fire Hazards above) will not only minimize erosion and ensure site stability, but also minimize any adverse affects from erosion on the habitat of the designated blue-line stream. These conditions therefore protect against disruption of habitat values and protect the stream and riparian corridor's biological productivity.

The Commission finds that only as conditioned in two (2) and three (3) above will the proposed project be consistent with the policies found in Sections 30231, 30240 and 30250(a) of the Coastal Act.

E. Visual Impacts/Alteration of Natural Landforms

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.

In addition, the certified Los Angeles County Land Use Plan, used for guidance in past Commission decisions, includes policies protecting visual resources. These policies have been applied by the Commission as guidance in the review of development proposals in the Santa Monica Mountains (paraphrased): P 91:

minimize impacts and alterations of physical features; P 129: attractive appearance and harmonious relationship with the surrounding environment; P 130: protect views to and along the ocean and to and along other scenic features in highly scenic areas and along scenic highways; minimize the alteration of natural landforms; landscape to conceal raw-cut slopes; be visually compatible with/subordinate to setting; be sited so as not to significantly intrude into the skyline as seen from public viewing places; P 134: conform to the natural topography, as feasible, massive grading and reconfiguration discouraged; P137: Clustering to facilitate view protection; P142: New development set below the road grade on the down hill side.

The surrounding area is characterized by smaller lots to the east, south and west, but the project is not located in a small-lot subdivision. The character of proposed development would be transitional between the smaller lots in the same drainage feature, and the larger lots to the north in a separate drainage. Therefore, development of residences on the proposed and/or existing pads would be consistent in character with surrounding residential development.

The proposal includes cut of 1600 cu. yds. and fill of a like amount to construct the building pads for Parcel 1 and 2 and cut for the access road to these sites. The building pad already exists on Parcel 3 and no grading is proposed in connection with this proposed parcel. The proposal is unlike Rein, et. al., a redivision permit application (number 4-96-150) recently denied by the Commission, which required massive grading to gain access to a remote ridgeline. The 3200 cubic yards of grading (cut and fill) required to improve this access road and building pads will result in a reasonable improvement close to the existing roadway with minimal landform alteration.

In addition, the potential visual impacts of grading the hillside to widen the road will be minimal as the building site for Parcels 1 and 2 created will be situated below the scenic overlook by approximately 120 ft.. The ridge to the immediate north will block views of all three parcels from the scenic areas designated from the north. Further, the intervening ridge on the opposite side of Dix Canyon will block the view impact to Topanga State Park to the east.

In addition, use of native plant material in the above-required landscaping plans, required by condition 2, can soften the visual impact of construction and development in the Santa Monica Mountains. The use of native plant materials to revegetate graded areas not only reduces the adverse affects of erosion, but ensures that the natural appearance of the site remains after development.

Therefore, the Commission finds that the project as conditioned minimizes landscape impacts to public views to and along the coast. The Commission finds that the proposed project as conditioned will be consistent with Section 30251 of the Coastal Act.

F. Septic Systems.

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.

In addition, the Malibu/Santa Monica Mountains Land Use Plan includes the following policies addressing sewage disposal. The LUP policies cited below have been found to be consistent with the Coastal Act and therefore, may be looked to as guidance by the Commission in determining consistency of the proposed project with the Coastal Act.

P217 Wastewater management operations within the Malibu Coastal Zone shall not degrade streams or adjacent coastal waters or cause or aggravate public health problems.

P218 The construction of individual septic tank systems shall be permitted only in full compliance with building and plumbing codes ...

The applicant's 1989 geologic study included a report on percolation tests conducted on borings on each of the proposed lots which found that the lots could support deep seepage pits consistent with County plumbing code requirements.

The applicants do not, at this time, propose any construction of structures or septic systems. At such time as coastal development permit applications are reviewed for development additional percolation testing will be required. However, based on the preliminary percolation testing the lots can support a septic system consistent with County Plumbing code requirements. The County of Los Angeles plumbing code requirements for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of the soil, depth to ground water, etc. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

G. Violation

There is an unpermitted mobile home and shed on subject property at the northwest corner of proposed Parcel 3. A review of aerial photographs indicates that neither the shed nor mobile home existed on the site as of March 1, 1994. The applicant's agent indicates that the property owners are presently working with the County to have this permitted as a temporary construction trailer, and that the shed will be removed as it is in the way of access to the existing pad on Parcel 3.

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.

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 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 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. 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 will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area of the Santa Monica Mountains that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

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

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LOS ANGELES CO.

711

SEE 6301 MAP

DETAIL

Project Location

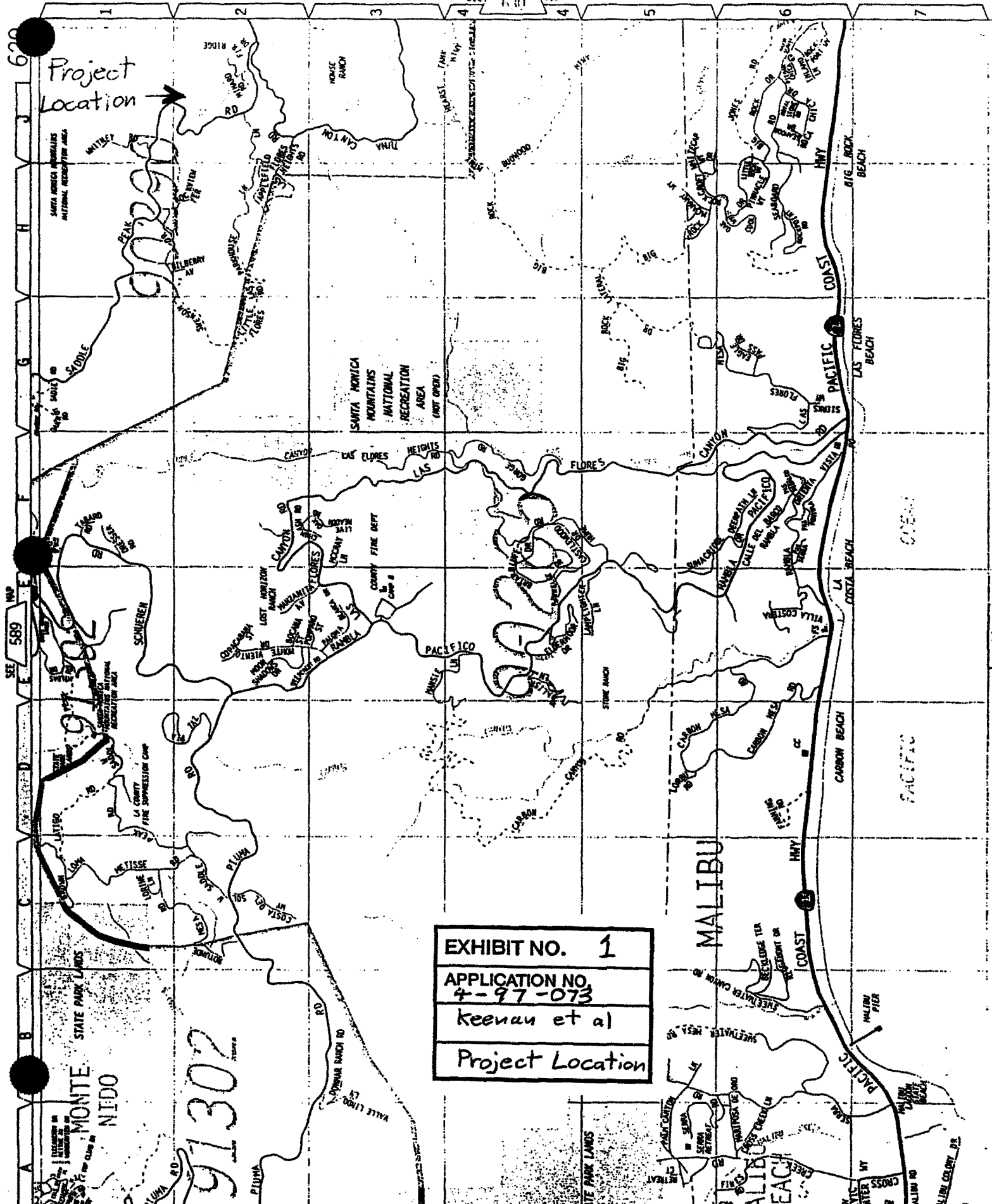


EXHIBIT NO. 1

APPLICATION NO.
4-97-073

Keenan et al

Project Location

91302

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MALIBU

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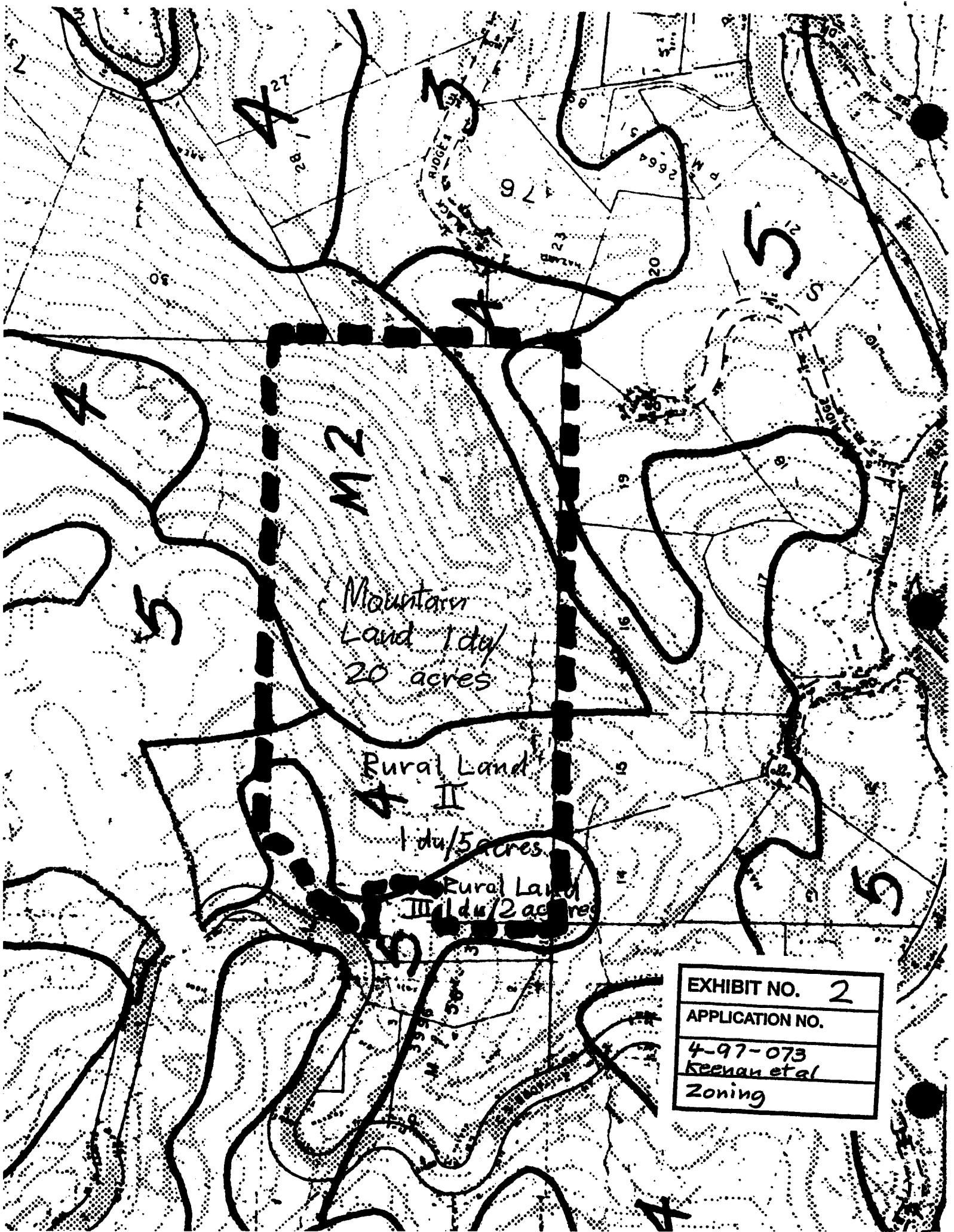
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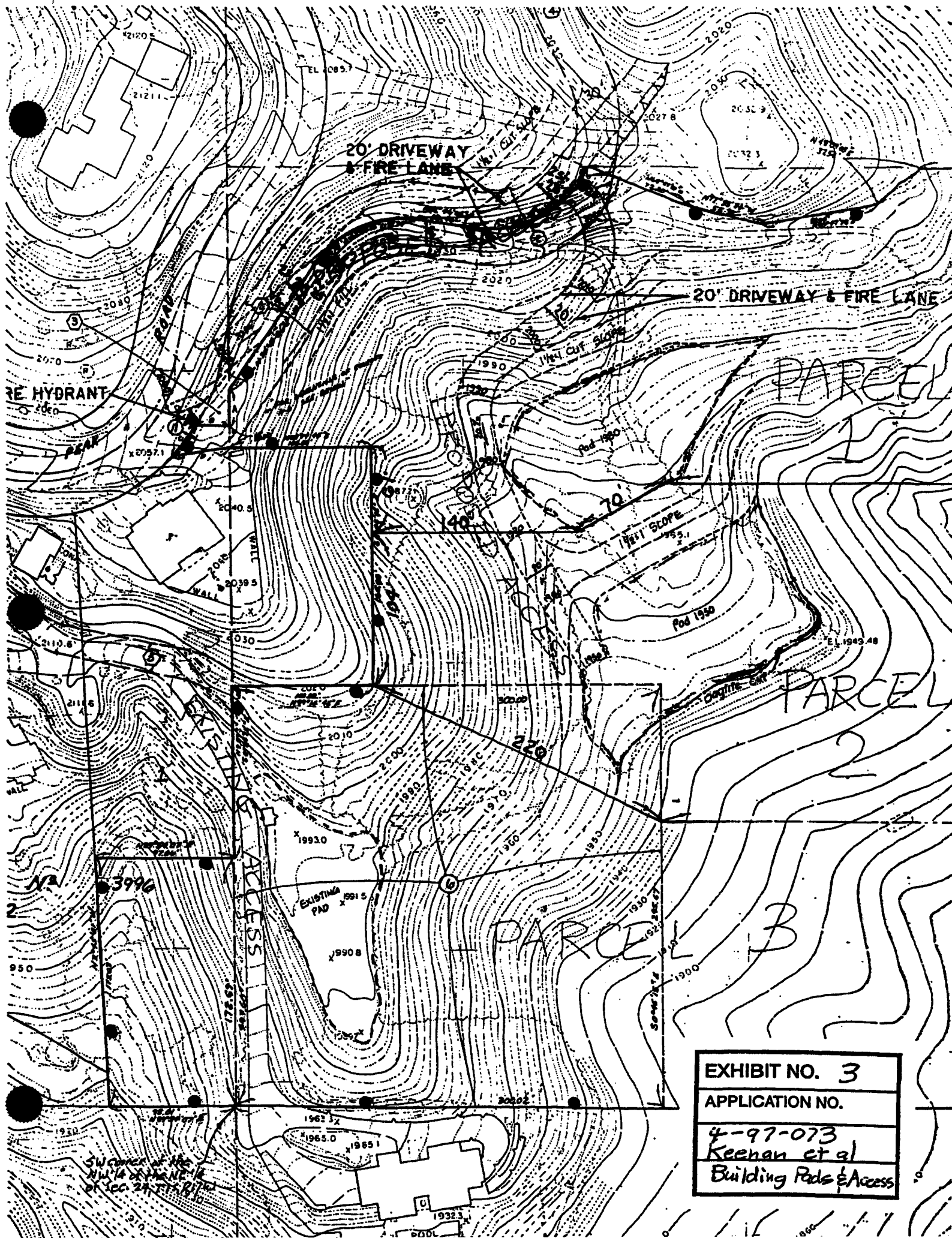


EXHIBIT NO. 3
APPLICATION NO.
4-97-073
Keenan et al
Building Pads & Access

