

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Filed: 8/5/97
 49th Day: 9/5/97
 180th Day: 3/4/97
 Staff: MB-V
 Staff Report: 12/23/97
 Hearing Date: 1/12/97

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-89-878-A1

APPLICANT: James O. Cariker

PROJECT LOCATION: 5941 Philip Avenue, City of Malibu, Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Subdivision of two 4.65 acre parcels (net) into eight residential lots with 20,500 cu. yds. of grading (15,000 cu. yds. cut and 5,500 cu. yds. fill) to be developed with single family residences.

DESCRIPTION OF AMENDMENT: (1) reduce grading to 18,400 (9,700 cu. yds. cut and 8,700 cu. yds. fill) and (2) reduce number of parcels from 8 to 4.

LOCAL APPROVALS RECEIVED: Parcel Map No. 24799 City of Malibu (undated and unstamped by City), received August 5, 1997; Grading Plan for Parcel Map 24799, City of Malibu (undated and unstamped by City), received October 15, 1997; County of Los Angeles, Fire Department, Conditions of Approval for Subdivision 24799, dated 9/11/97.

SUBSTANTIVE FILE DOCUMENTS: Settlement Agreement, County of Los Angeles Superior Court Case No. SCO40986, dated 1/15/97. Coastal development permit 5-89-878 (Cariker & Kinzer, Inc.).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission determine that the proposed amendment is consistent with the requirements of the Coastal Act. Conditions (1), (4), (6), and (7) of the original permit remain in effect including the grading and landscaping plan, future improvements plans conforming to geologic recommendations, and trail dedication. Condition (5), cumulative impact mitigation, remains in effect but is modified to reduce the number of required Transfer of Development Credits (TDCs) from six to two. Conditions (2), revised tract map and grading plans, and (3), removal of excess cut material, are no longer relevant and are deleted.

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

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

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

STAFF RECOMMENDATION

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.

NOTE: The standard conditions of the permit remain in effect. Special conditions 2 and 3 of the original permit have been deleted (see Exhibit 2). The remaining special conditions have been renumbered as outlined below and are in effect. Special conditions (1) Landscaping and Erosion Control Plan and (3) Cumulative Impact Mitigation have been revised as follows.

1. 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.

2. Future Development:

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 5-95-878; and that any future structures, additions or improvements to the property, including but not limited to clearing of vegetation and grading, that might otherwise be exempt under Public Resource Code Section 30610(a), will require a permit from the Coastal Commission or its successor agency. Removal of vegetation consistent with L. A. County Fire Department standards relative to fire protection is permitted. 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.

3. 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.

4. Plans Conforming to Geologic Recommendation

All recommendations contained in the Geologic Investigation dated 8-2-88, by Mountain Geology, Inc. shall be incorporated into all final design and construction including grading, septic systems and grading. 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, fault setback, 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. Trail Dedication.

Prior to the transmittal of permit, the applicant shall submit an irrevocable offer to dedicate a public access trail easement continuous with, and over the entire length of Zuma Ridge Trail that lies within the applicant's parcel as shown on Exhibit 3. The irrevocable offer shall be of a form and content approved by the Executive Director, free of prior encumbrances except for tax liens, providing the public the right to pass and repass over the noted route limited to hiking and equestrian uses only. However, the applicant shall not interfere with present public use of this road. The dedicated trail easement shall not be open for public hiking and equestrian usage until a public agency or private association approved by the Executive Director agrees to accept responsibility for maintenance and liability associated with the trail easement. The offer shall run with the land in favor of the State of California binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

III. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background

1. Project Description

The applicant proposes to (1) reduce grading to 18,400 (9,700 cu. yds. cut and 8,700 cu. yds. fill) and (2) reduce number of parcels to be created from 8 to 4.

The proposed amendment affects a land division proposed on a approximately ten acres (two 4.65 net acre parcels) at the base of the foothills inland of the Pacific Coast Highway. (Exhibit 1) The property is located approximately

1000 ft. north of Morning View Drive and adjacent to Philip Avenue. The elevation on the site ranges from approximately 170 to 270 ft. The site contains two single family dwellings (Parcels 2 and 4), a guest house (Parcel 4), accessory buildings (Parcels 1, 2 and 4), partial drainage improvements, and has been disced for fire control.

The original permit was for 20,500 cu. yds. of grading (15,000 cu. yds. cut and 5,500 cu. yds. fill). The propose amendment includes 9,700 cu. yds. cut and 8,700 cu. yds. fill. (Exhibit 3) The cut is for creation of a common entry and cul-de-sac coming off of Philip road, for portions of the driveways to new Parcels 2, 3 and 4, and for a cut slope on the uphill side of the large pad to be created on new Parcel 3. The application does not break down the cut amounts by location. The compacted fill amounts are: 3,100 cu. yds. for the cul-de-sac and entry road, 3,800 cu. yds. for compaction and grading of private driveways as required by the County Fire Department, and 1,800 cu. yds. for compaction and grading of one house pad for the proposed parcel on the southeast (Parcel 3). The 1000 cu. yds. difference between the cut and fill is due to compaction of. In summary, the change in grading reduces the amount of grading by 2,100 cu. yds. from 20,500 to 18,400 cu. yds. in comparison to the original permit 5-89-878-A1 (Cariker & Kinzer).

The certified LUP for Los Angeles County is used as guidance in Commission consideration of development proposals in the City of Malibu. The average lot size will be approximately 2.5 gross acres after the division. The resulting parcels would have the following net areas according to the applicant: Parcel 1 -- 87,626 sq. ft.; Parcel 2 -- 87,544 sq. ft.; Parcel 3 -- 87,369 sq. ft.; and Parcel 4 -- 156,799 sq. ft.. The proposed development conforms to the certified LUP density of Residential I (1 du/ac) because the lots all exceed this minimum.

2. Background

The original permit, approved on June 13, 1997 was subdivision of two 4.65 acre parcels (net) into eight residential lots with 20,500 cu. yds. of grading (15,000 cu. yds. cut and 5,500 cu. yds. fill) to be developed with single family residences. The present application results from a settlement agreement between the applicant and the City of Malibu (Settlement Agreement, County of Los Angeles Superior Court Case No. SC040986, dated 1/15/97) through which the City agreed to approve a final map for four lots. The Settlement Agreement stated that the applicant had the right to only construct one single family residence on each lot.

The project approval included seven conditions (see Exhibit 2): (1) a grading and landscaping plan; (2) a revised tract map and grading plan to reduce grading to 20,500 cu. yds.; (3) removal of excess cut and stockpiled material; (4) a document requiring a coastal permit for future improvements; (5) cumulative impact mitigation through purchase of six transfer of development credits; (6) conformance of plans to geologic recommendations; and (7) an offer to dedicate a public access trails easement along the west property line. None of the conditions of the permit have been met and the permit was never issued. However, the original permit has been extended six times through June 13, 1998.

Conditions (2) and (3) of the original permit required submittal of a revised tract map/grading plan and removal of excess fill from the site. The conditions are no longer relevant because the applicant has submitted a new tract map and grading plans which accurately reflect the grading proposed and

shows that it does not result in removal of any excess fill from the site. Regarding cumulative impact mitigation, the proposed change to condition (5) recognizes that less TDCs are required, as discussed in greater detail below. Relative to condition (7), the applicant has not requested amendment to this condition and has indicated (personal communication to staff) that he is not contesting the required easement for the trail.

B. Visual Resources/Landform Alteration

Section 30251 of the Coastal Act states (in part) 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 surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. ...

The elevation on the site ranges from approximately 170 to 270 ft. The subject property, as noted above, is located approximately 1000 ft. north of Morning View Drive and adjacent to Philip Avenue. The surrounding area is characterized by concentration of development on lots of one acre or more with graded pads involving cut and fill and landscaping and accessory structures. These lots take advantage of views to and along the coast. The project is similar in character to such development in the surrounding area. Under the amendment, the revised lot configuration and proposed grading is compatible with the character of the surrounding area and development is located in a manner consistent with past Commission actions.

The original permit 5-89-878 findings contained an extensive discussion of the project's impact on natural landform alteration and visual resources which were mitigated by lowering the amount of grading, requiring a grading and landscaping plan, and removing excess cut material. The condition on removal of excess cut material is no longer necessary.

The findings noted that there were a number of applicable policies regarding visual resources and landform alteration in the certified LUP for Los Angeles County, now used for guidance only since the City of Malibu has been incorporated for the review of development proposals. These include the following (paraphrased as applicable): P 82: minimize grading to avoid runoff and erosion effects; P 91: minimize impacts and alterations of physical features; P 129: attractive appearance and harmonious relationship with the surrounding environment; P 130: conceal raw-cut slopes, not 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.

The following shows how the proposed amendment will result in a decrease in intensity of development and less alteration of natural landform in comparison to the previously approved project.

The applicant has submitted a revised grading plan for the proposed cut and fill. (Exhibit 3) The plan shows that the proposed amendment will further reduce grading to 18,400 (9,700 cu. yds. cut and 8,700 cu. yds. fill) from the previously approved 20,500 cu. yds..

Further, there will be a reduced number of parcels to be created from 8 to 4. There will be only the creation of one new pad for a residence, compared to five proposed previously, resulting in a reduction in grading for new pads for single family residences.

Under the previous permit 5-89-878, there was a proposal for creation of eight parcels, of which there were five new pads for future single family residences with extensive fill and three with minor or no fill, as shown on Exhibit 4 of the old staff report (Exhibit 4). In comparison, a significant amount of cut for building pad preparation will be required only for one parcel i.e. newly proposed Parcel 3.

Further, only construction of two additional single family residences may result after the land division on Parcels 1 and 3, because the other two new parcels (Parcels 2 and 4) already contain single family residences. The revised project description decreases the total number of existing and potential principal residential units from eight to four which reduces the visual impacts associated with single family development. This will also decrease the potential for related buildings and other improvements as additions to and accessory to single family residences on each of the four parcels.

Previously, under 5-89-878, a large cul-de-sac was proposed to enter the property near the northeast corner. The proposed project design moves the entry road to a location further south on Philip Avenue. (Exhibit 3) This provides a more logical "T" intersection located at a safer distance away from the road intersection to the northeast, provides more of a direct entrance into the new building site on parcel 3, and avoids disturbance to existing structures. The amount of cut and fill, consequently, is less than the previously proposed for the access road, a reduction from 14,000 cu. yds. (12,000 cu. yds. cut and 2,000 cu. yds. fill) to 3,700 cu. yds. cut and an unspecified amount of fill. [Note: The amount of associated fill would be 3,700 cu. yds. less compaction, say 3,400 cu. yds.. This results in a total amount of grading for the access road of approximately 7,200 cu. yds. in comparison to the 14,000 cu. yds. under the original permit.]

Although there is a significant amount of grading proposed (18,400 cu. yds.), it will be distributed over a large, gently sloping area which reduces the impact on the existing landform and visual resources. The maximum height of the fill slope on new Parcel 3, which will be visible from Pacific Coast Highway, is 20 ft. at a 2:1 slope. This slope will not significantly alter the existing landform and any visual impact resulting from grading can be mitigated with landscaping. Further, a large cut slope of 40 ft. maximum is proposed at the entrance of the access road from Philip Avenue, albeit only a small portion is at this height and slope. This cut slope will not be visible from any public view areas on scenic highways and any visual impacts resulting from grading can be mitigated with landscaping. In addition, the amount of grading is consistent with other development in the surrounding area. Further, the proposed grading is necessary to comply with Fire Department requirements for an access road.

The original permit 5-89-878 contained a special condition addressing a grading and landscaping plan and is recommended for retention under the amendment, although it has been revised to reflect the latest California Native Plant Society guidelines. The grading and landscaping plan's use of native plant material in suitable landscaping plans as required can soften and

screen the visual impact of the cut and fill slopes to be created for the building pads and road, and ensure that the natural appearance of the site remains after development. In addition, the landscaping condition has been revised to add a stipulation that all building pads shall be hydroseeded and access roads paved to minimize erosion within 30 days of completion of grading.

In summary, the proposed amendment and the conditions of approval of the underlying permit, as modified above, ensure consistency with Coastal Act policies on visual quality and landform alteration. The Commission, therefore, finds that the proposed project as conditioned is consistent with Section 30251 of the Coastal Act.

C. Geologic and Fire 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 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 site is substantially disturbed and has been disced in the past for vegetation control. The site is within a developed area. The application for amendment includes a grading and drainage plan which illustrates how drainage will be conveyed off the developed areas of the parcels in a non-erosive manner. The amount of landform alteration is reduced by the amendment. The proposed amendment will not decrease any drainage and erosion problems on site by lowering the potential for impervious surfaces and paving. Runoff and erosion is controlled by the original conditions of approval which required a grading and landscaping plan.

A geotechnical investigation was conducted on the site for the original project proposal which found that:

... development of the property as contemplated is feasible from the engineering geology standpoint, provided adherence is given to the recommendations of this report.

The geologic conditions of the site have not changed since this investigation. The geologic report contained recommendations relative to site grading, septic systems and drainage. The original permit included a special condition of approval for conformance with all geologic recommendations

contained in the geologic investigation. The Commission finds that condition (4) is still applicable to the amended project and remains in effect.

In summary, the proposed amendment and the retention of the previously required condition (4) of approval regarding geologic hazards ensure minimization of risk and assure structural integrity. Therefore, the Commission finds the proposed development as conditioned consistent with Section 30253 of the Coastal Act.

D. Septic System

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, and minimizing alteration of natural streams.

The proposal will reduce and relocate potential septic system locations because the number of potential parcels and single family residences will be reduced. However, while the Commission recognizes that installation of septic systems may contribute to adverse water quality and geologic hazards in the local area, the applicant has provided evidence of favorable percolation tests for the proposed development as part of the original permit. The percolation rates are consistent with Uniform Plumbing Code requirements. The Commission has found that these minimum standards are protective of coastal water quality and resources.

Therefore, the Commission finds the proposed development consistent with Section 30231 of the Coastal Act.

E. 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 two parcels containing a total of approximately ten gross acres into four parcels. The Commission is required to review the cumulative impacts of a land division pursuant to section 30250(a) of the Coastal Act. 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. 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, 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.

The amendment proposes to subdivide one ownership of two parcels into four residential lots with existing residences existing on two of the four parcels to be created, and a potential of four residences. The proposed number of residential units is consistent with the certified LUP density designation on these parcels which is 1 unit per acre. The two existing parcels are legal lots created prior to the Coastal Act and no cumulative impact mitigation requirements shall be imposed as a condition of approval regarding the legality of the existing parcels.

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 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 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 two additional legal buildable lots is adequately mitigated.

The original permit (see Exhibit 2) had been conditioned to require the applicant to mitigate the cumulative impacts of the subdivision of this property, either through purchase of six (6) 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. Because only two new principal residences will result from the proposed amendment, the Commission finds that a lowering of required TDCs to two is appropriate. Consequently, special condition number (3) has been revised to reflect this reduction in the TDC number required under this amendment.

The Commission finds that as conditioned, the proposed project is consistent with Section 30250 of the the Coastal Act.

F. Local Coastal Program

Section 30604(a) 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 coastal 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.

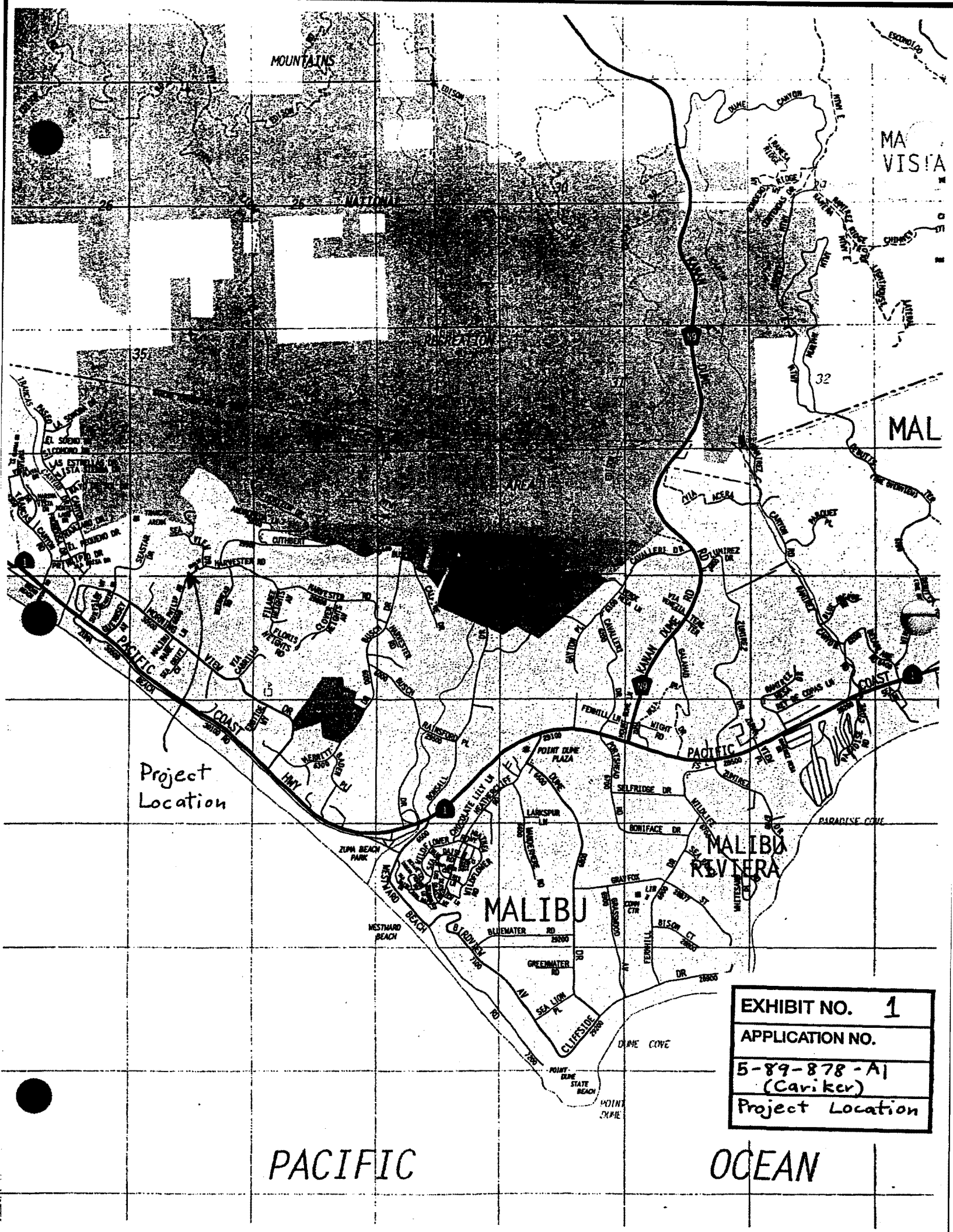
The proposed development as conditioned will not create adverse impacts and is consistent with Chapter 3 policies of the Coastal Act. The Commission finds that approval of this project, as conditioned, will not prejudice the ability of the City of Malibu to prepare a Local Coastal Program that is consistent with the policies of Chapter 3 of the Coastal Act, and is therefore consistent with Section 30604 (a) of the Coastal Act.

G. 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 by any conditions of approval, 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 may have on the environment.

As discussed above, the proposed project has been mitigated, through retention of the original conditions of approval as modified above, to require a grading and landscaping plan, deed restriction on future improvements, cumulative impact mitigation, plans conforming to geologic recommendations, and a trail dedication. The proposed amended development, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed amended project, as conditioned to mitigate the identified impacts, is consistent with the requirements of CEQA and the policies of the Coastal Act.

8251A



Project Location

EXHIBIT NO. 1
APPLICATION NO.
5-89-878-A1 (Cariker)
Project Location

PACIFIC

OCEAN

CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071

RECEIVED
MAY 08 1992

Page 1 of 5
Date: August 3, 1990
Permit Application No. 5-89-878



EXTENSION NOTICE OF INTENT TO ISSUE PERMIT
JUNE 13, 1993

On June 13, 1990, the California Coastal Commission granted to CARTKER & KINZER INC. Permit 5-89-878, subject to the attached conditions, for development consisting of:

Subdivision of two 4.65 acre parcels (net) into eight residential lots with 20,500 cu yds. of grading (15,000 cu. yds. cut, 5,500 cu. yds. fill) The two parcels are developed with single family residences.

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in Los Angeles County at 5909 & 5941 Philip Avenue, Malibu

The actual development permit is being held in the Commission office until fulfillment of the Special Conditions 1-7, imposed by the Commission. Once these conditions have been fulfilled, the permit will be issued. For your information, all the imposed conditions are attached.

Issued on behalf of the California Coastal Commission on June 13, 1990

RECEIVED
MAY 08 1992
CALIFORNIA COASTAL COMMISSION
SOUTH COAST AREA

PETER DOUGLAS
Executive Director

By: [Signature]
Title: Staff Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this notice of the California Coastal Commission determination on Permit No. 5-89-878, and fully understands its contents, including all conditions imposed.

22 APR 92
Date

[Signature]
Permittee

Please sign and return one copy of this form to the Commission office at the above address.

EXHIBIT NO. 2
APPLICATION NO. 5-89-878-A1
(Cartker)
Original Permit

NOTICE OF INTENT TO ISSUE PERMIT

Permit Application No. Page 2 of 5
5-89-878

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.

SPECIAL CONDITIONS:

1. Grading and Landscaping Plan

Prior to the issuance of a coastal development permit, the applicant shall submit a landscaping plan prepared by a licensed landscape/architect 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. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily 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 Wildl

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in the Santa Monica Mountains, dated November 23, 1988. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

- (b) 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 run-off waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.
- (c) Cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native species using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within 90 days and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils.

2. Revised Tract Map and Grading Plans

Prior to issuance of permit the applicant shall submit a revised Tract Map and grading plan approved by the County of Los Angeles consistent with the final proposed grading (as shown in the revised grading plan submitted to this office on 5/30/90) indicating no more than 20,500 cubic yards of total grading.

3. Removal of Excess Cut Material

Prior to the issuance of the Coastal Development permit, the applicant shall submit to the Executive Director, the location of the proposed dump site for all excess cut material and unpermitted fill not required for the construction of the building pads and access road.

All unpermitted fill stockpiled on the site shall be removed from the site within 90 days from the date of Commission action.

4. Future Improvements

Prior to the issuance of the coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 5-89-878; and that any future improvements to the property, including but not limited to clearing of vegetation and grading, will require a permit from the Coastal Commission or its successor agency. Clearing of vegetation as required by Los Angeles County for fire protection is permitted. The document shall run with the land binding all successors and assigns, and shall be recorded free of and any other encumbrances which the Executive Director determines the interest being conveyed.

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5. 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 six (6) 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 contained in the Malibu/Santa Monica Mountains land Use Plan (Policy 272, 2-6);
- b) a TOC-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.

6. Plans Conforming to Geologic Recommendations

All recommendations contained in the Geologic Investigation dated 8-2-88, by Mountain Geology, Inc. shall be incorporated into all final design and construction including grading, septic systems, and drainage, all plans must be reviewed and approved by the consultant prior to commencement of development. Prior to the issuance of the coastal development permit, the applicant shall submit evidence for the review and approval of the Executive Director of the consultant's review and approval of all final design and construction plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, fault setback, 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.

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7. Trail Dedication.

Prior to transmittal of permit, the applicant shall submit an irrevocable offer to dedicate a public access trails easement, continuous with, and over the entire length of Zuma Ridge Trail that lies within the applicant's parcel as shown on Exhibit 3. The irrevocable offer shall be of a form and content approved by the Executive Director, free of prior encumbrances except for tax liens, providing the public the right to pass and repass over the noted route limited to hiking and equestrian uses only. However, the applicant shall not interfere with present public use of this road. The dedicated trail easement shall not be open for public hiking and equestrian usage until a public agency or private association approved by the Executive Director agrees to accept responsibility for maintenance and liability associated with the trail easement. The offer shall run with the land in favor of the State of California binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

After you have signed and returned the duplicate copy you will be receiving the legal forms to complete (with instructions) from the San Francisco Office. When you receive the documents if you have any question, please call the Legal Department at (415) 543-8555.

JA:tn
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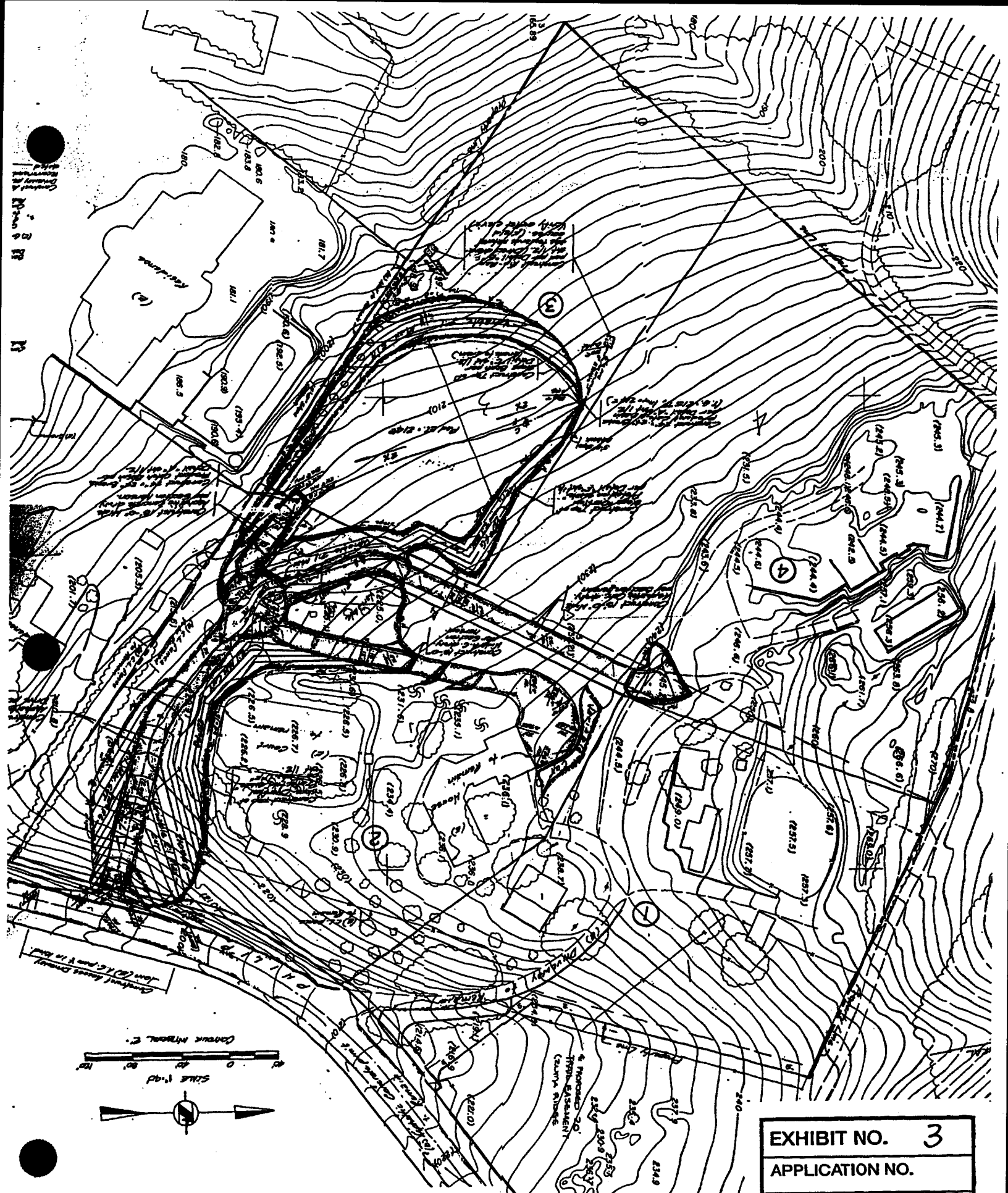
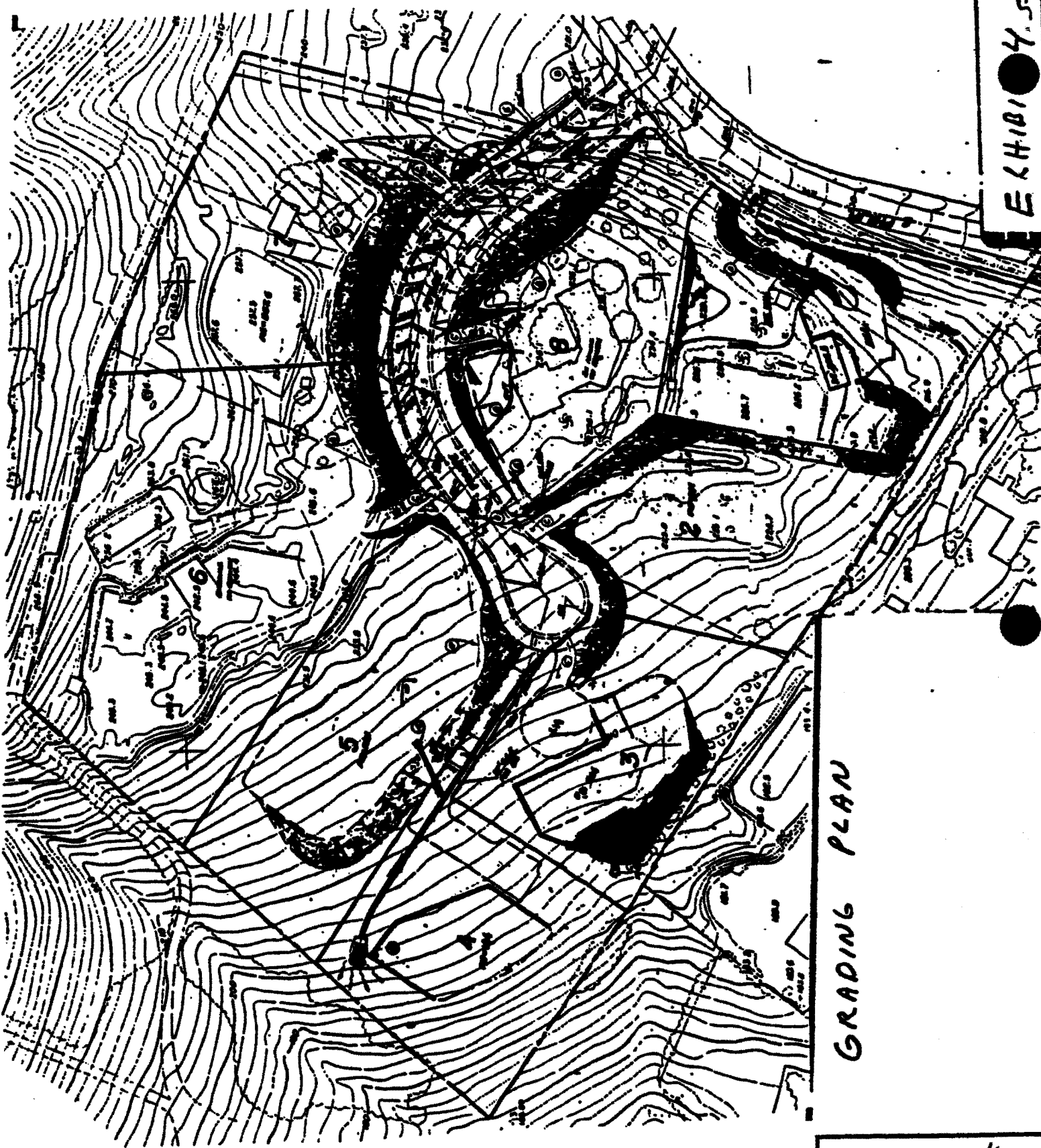


EXHIBIT 4-5-89-1



GRADING PLAN

EXHIBIT NO.	4
APPLICATION NO.	
5-89-878-A1 (Cariker)	
Original Grading	

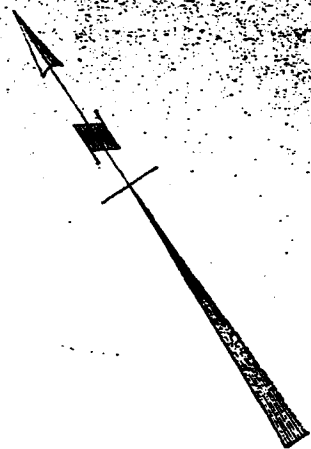
PARCEL MAP NO. 24799

IN THE CITY OF MALIBU
COUNTY OF LOS ANGELES
STATE OF CALIFORNIA

LEGEND



INDICATES BOUNDARY BEING SUBDIVIDED
INDICATES FOUND MONUMENTS

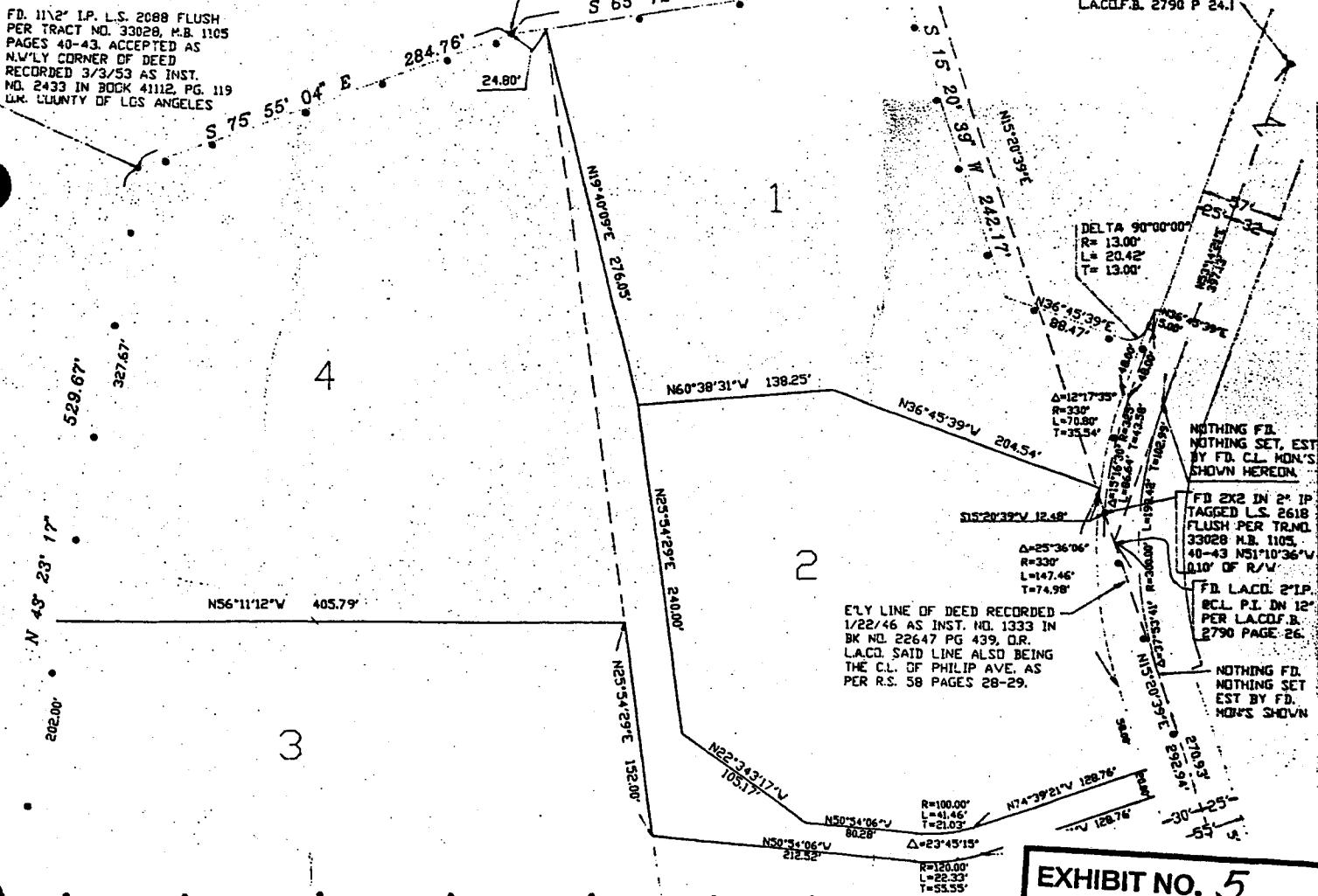


NE'LY CORNER OF DEED RECORDED 1/22/46 AS INST. NO. 1333 IN BK 22647, PAGE 439 D.R. COUNTY OF LOS ANGELES, SAID POINT ESTAB. BY INTERSECTION OF FD. CL. MON'S SHOWN AND RECORD ANGLE FROM MON. TO THE WEST PER TR. NO. 33028, M.B. 1105 PGS. 40-43, FD. 11/2' I.P., L.S. 2088, DN 3', NO REF. N38°19'47"W 0.36' FROM CORNER.

FD. 2' I.P. R.C.E. 23777 PER TRACT NO. 33028 M.B. 1105 PAGES 40-43, ACCEPTED AS ANGLE POINT IN N'LY LINE OF DEED RECORDED 3/3/53 AS INST. NO. 2433 IN BOOK 4112, PAGE 119, Q.R. COUNTY OF LOS ANGELES

FD. 11/2' I.P. L.S. 2088 FLUSH PER TRACT NO. 33028, M.B. 1105 PAGES 40-43, ACCEPTED AS N'LY CORNER OF DEED RECORDED 3/3/53 AS INST. NO. 2433 IN BOOK 4112, PG. 119 Q.R. COUNTY OF LOS ANGELES

FD. L.A.C.D. 2' I.P. & CL. P.I. DN 12" PER L.A.C.D.F.B. 2790 P 24.



DELTA 90°00'00"
R=13.00'
L=20.42'
T=13.00'

NOTHING F.D.
NOTHING SET. EST.
BY FD. CL. MON'S.
SHOWN HEREON.

FD 2X2 IN 2" I.P.
TAGGED L.S. 2618
FLUSH PER TR.M.D.
33028 M.B. 1105,
40-43 N51°10'36"W
0.10' OF R/W

FD. L.A.C.D. 2' I.P.
B.C.L. P.I. DN 12"
PER L.A.C.D.F.B.
2790 PAGE 26.

E'LY LINE OF DEED RECORDED 1/22/46 AS INST. NO. 1333 IN BK NO. 22647 PG 439, D.R. L.A.C.D. SAID LINE ALSO BEING THE CL. OF PHILIP AVE. AS PER R.S. 58 PAGES 28-29.

NOTHING F.D.
NOTHING SET
EST BY FD.
MON'S SHOWN

FD. 11/2' I.P. L.S. 2572, UP 3', NO REF. ACCEPTED AS THE S.W. LY CCR. PARCEL 2 OF DEED RECORDED 3/3/53 AS INST. NO. 2433 IN BOOK 4112, PG. 119, D.R. CO. LOS ANGELES

S'LY LINE OF DEED RECORDED 3/3/53 AS INST. NO. 2433, BK 4112, PG. 119, D.R. CO. OF L.A. ESTAB. BETWEEN FD MONUMENTS.

FD. 2' I.P. L.S. 274 FLUSH, ACCEPTED, DEED RECORDED 3/3/53 IN BK 4112 PAGE ESTABLISHED BY IN FD. MONUMENTS CHL

EXHIBIT NO. 5

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Parcel Map

