

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 4-97-233

APPLICANT: Scott Reif

AGENT: Rosalind Nelson

PROJECT LOCATION: 4011 Escondido Drive, Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of a two story, 1,832 sq. ft. single family residence with an attached three car garage, driveway, retaining walls, and a septic system within a small Lot subdivision. The project includes 2,000 cu. yd. of grading (1,000 cut and 1,000 fill).

Lot area:	26,175 sq. ft.
Building Coverage:	1,496 sq. ft. new proposed
Pavement Coverage:	600 sq. ft. new proposed
Parking Spaces:	3 new proposed
Landscape Coverage:	4,000 new proposed
Ht. Above finished grade:	30 ft.
Land Use Designation:	Rural Land III

LOCAL APPROVALS RECEIVED: Los Angeles County Department of Regional Planning "Approval-in-Concept" dated Aug. 8, 1998; Los Angeles County Department of Regional Planning Oak Tree Permit No. 92146-(3) Approval dated Aug. 27, 1992; Los Angeles County Department of Public Works Grading Plan Drainage Review Approval dated Oct. 13, 1993.

SUBSTANTIVE FILE DOCUMENTS: Malibu/ Santa Monica Mountains Land Use Plan; Oak Tree Report prepared by Lee Newman and Associates dated July 10, 1992; Engineering Geologic Report prepared by Geoplan, Inc. dated Feb. 7, 1989; Response to GRS 7/23/91 and 8/6/91 prepared by Geoplan, Inc. dated March 23, 1992; Engineering Geologic Memorandum Prepared by Geoplan, Inc. dated May 6, 1993; Engineering Geologic Memorandum and Update prepared by Geoplan, Inc. dated Oct. 23, 1997; Hydraulic Calculations prepared by Limon

Engineering Corp. dated July 1, 1993; Soils Engineering Investigation prepared by Western Soils dated March 7, 1989; Review of the Malibu/ Santa Monica Mountains TDC Program; Coastal Development Permit Staff Reports 5-90-919 (Tyndale); 4-95-136 (Kaplan); 4-93-206 (Stevens); Offer to Dedicate Scenic Easement and Irrevocable Declaration of Restrictions (Stout P-84-137) and (Ghassemieh 5-84-805).

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends denial of the proposed project based on its inconsistency with the protection of environmental resources and the failure to provide documentation of a legal right to build. The applicant is proposing the construction of a two-story, 1,832 sq. ft., 30 ft. high single family residence with an attached three-car garage, driveway, retaining walls, and a septic system. The proposed grading includes 2,000 cu. yd. of grading (1,000 cut and 1,000 fill).

The subject site is located on three adjacent parcels (Lots 14, 15, and 16 of Tract Map 5801) within the Malibu Vista small lot subdivision. Escondido Creek, a designated blue-line stream according to the United States Geologic Service (USGS), flows through the southeastern corner of the property across Lot 14. The site is located within the oak woodland riparian area, which the Malibu/ Santa Monica Mountains Land Use Plan (LUP) has classified as a disturbed sensitive resource area.

Through past permitting action, however, Lots 14 and 15 have been deed restricted as open space through the Commission's transfer of development credit (TDC) program. These restrictions prohibit any development from occurring on Lots 14 and 15 other than leach fields. The proposed project is designed so that the single family residence is located on Lots 15 and 16, with the leach field and a small portion of the residence on Lot 14. In light of these deed restrictions, at this time the applicant has failed to provide the Commission with proof of a legal right to build any part of the residence on Lot 14 or 15.

The location of the residence on Lot 15 has been proposed primarily on Lot 15 in order to avoid any adverse effects on the existing mature oak tree existing on Lot 16. However, the proposed project will require trimming of the mature oak tree to construct the proposed garage which will be partially located within the oak tree dripline. In addition, the proposed location of the single family residence and leach field is within the 50 foot setback for the Escondido Creek riparian corridor.

Therefore, staff recommends denial of the proposed project due to the applicant's failure to provide proof of a legal right to locate the development as proposed, that the residence and septic system conflict with the ESHA policies of the Coastal Act and the guidance provided in the Malibu/ Santa Monica Mountains Land Use Plan, and because alternatives exist which would have less adverse environmental impacts.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Denial.

The Commission hereby **denies** a permit for the proposed development on the grounds that the applicant has not provided documentation of a legal right to locate the development as proposed, the development, as conditioned, will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, would prejudice the ability of the local governments having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act and would result in significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Findings and Declarations:

The Commission hereby finds and declares:

A. Project Description and Background:

The applicant is proposing the construction of a two story, 1,832 sq. ft., 30 ft. high single family residence with an attached three car garage, driveway, retaining walls, septic system, and 2,000 cu. yd. of grading (1,000 cut and 1,000 fill) (Exhibit 3-6).

The subject site is situated across three parcels (Lots 14, 15, and 16) with a combined area of approximately 26,175 sq. ft., and is located within the Malibu Vista small Lot subdivision (Exhibit 1,2). The slope of the site varies from horizontal to as steep as 1:1. The site is located within an oak woodland area designated as a disturbed resource area by the Malibu/ Santa Monica Mountains Land Use Plan (LUP). In addition, Escondido Creek, which the United States Geologic Service classifies as a blueline stream, flows intermittently across the southeast corner of Lot 14. The designated land use for the subject property is Residential III. According to the LUP, Residential III is defined as:

Urban residential areas generally characterized by single-family residential homes and low intensity planned unit developments.

The property is located southwest of the intersection of Escondido Drive and Maguire Drive. There is an existing culvert, which diverts the Escondido Creek underneath the roadway. The property contains two oak trees; the oak tree located on Lot 16 is a mature oak tree. The property currently has a flat pad area located on Lot 15, which has been overgrown with brush.

Due to the need to protect the blueline stream and oak woodland riparian corridor, past permitting actions have required the deed restriction of Lots 14 and 15 of Tract Map 5801 as Open Space through the Commission's transfer of development credit (TDC) program. Lot 14 of Tract Map 5801 ("Lot 14") was restricted under Coastal Development Permit P5-84-137 (Stout) and Lot 15 of Tract Map 5801 ("Lot 15") was restricted under Coastal Development Permit 5-84-

805 (Ghassemieh) (Exhibits 7, 8). These restrictions prohibit any development from occurring on Lots 14 or 15 other than underground utility lines and septic systems. Therefore, all development other than underground utility lines and septic systems must be restricted to Lot 16 which is not deed restricted, namely Lot 16 of Tract Map 5801.

On April 11, 1991 the Commission approved Coastal Development Permit 5-90-919 (Tyndale) for the construction of a 1,820 sq. ft. single family residence with a three car garage and septic tank to be located on Lots 15 and 16 subject to five (5) special conditions relating to: 1) plans conforming to geologic recommendation; 2) assumption of risk; 3) future improvements; 4) GSA restrictions; and 5) oak tree preservation.

During the April 11, 1991 hearing, the applicant had requested that the building site be allowed to straddle the Lot line between Lots 15 and 16 to prevent any adverse effects on or the removal of the mature oak tree on Lot 16. The Commission approved the applicant's request. The special conditions attached to the permit were never met, and therefore the permit was never issued and the Commission's approval expired on April 11, 1993.

B. Legal Right to Use the Property for the Proposed Development

Section 30601.5 of the Coastal Act indicates that applicants must "demonstrate a legal right, interest or other entitlement to use the property for the proposed development." In order to demonstrate a legal right to develop a proposed project, an applicant is required to provide a "description and documentation of [its] legal interest in all property upon which work would be performed" in connection with its permit application. (14 C.C.R. § 13053.5[b].)

As a result of past permitting actions, Lots 14 and 15 were deed restricted as open space through the Commission's Transfer of Development Credit (TDC) program. The applicant has failed to provide evidence of a legal right to develop the proposed residence, garage, driveway, and retaining walls on Lots 14 or 15.

Lot 14 was deed restricted to satisfy a special condition under Coastal Development Permit No. P5-84-137 (Stout). Coastal Development Permit No. P5-84-137 (Stout) for the construction of footings with caissons for 124 apartments at 20665 Sea Gull Way was approved with a mitigating special condition requiring the retirement of 14 TDC lots as open space; Lot 14 was one of the lots retired to satisfy this special condition (Exhibit 7). Development Permit 5-84-805 (Ghassemieh) for the division of 5 acres into 3 lots at 30535 Morning View Drive was approved with a special condition requiring 2 TDC lots to be deed restricted and retired as open space. As a result, Lot 15 was retired (Exhibit 8).

The irrevocable offer to dedicate scenic easement and declaration of restrictions for Lot 14 was recorded on November 7, 1988 and the irrevocable offer to dedicate scenic easement and declaration of restrictions for Lot 15 was recorded on February 19, 1985 (Exhibit 7 and 8). Both deed restrictions provide that the Open Space properties are effective for a period of 21 years; provided that if a political subdivision or private association accepts the offer to dedicate, the easement shall be in effect for perpetuity. No such acceptance has yet occurred; therefore, the use restrictions on Lot 14 expire on November 7, 2009 and the use restrictions on Lot 15 expire on February 19, 2006. (Exhibit 7 and 8). The declaration of restrictions provides that the restrictions stated therein "shall be effective limitations from the data of recordation...and shall

find the Grantor and all successors and assigns." Thus, these deed restrictions are currently effective.

The deed restrictions provide that the applicant agree to restrict development on the Open Space Property "so as to preserve the open space and scenic values present on the Open Space Property and so as to prevent the adverse direct and cumulative effects on coastal resources and public access to the coast which would occur if the Open Space Property would be developed as building sites for residential use." Furthermore, the deed restrictions define the available uses of the property as follows:

Use of Property. The use of the Open Space Property shall be limited to natural and private open-space for habitat protection, resource conservation, and private recreation, and as applied, in accordance with the following limitations. No development as defined in Public Resources Code, Section 30106, attached hereto as Exhibit B and incorporated herein by this reference, including but not limited to removal of trees and other major vegetation, grading, paving, or installation of structures such as signs, buildings, etc., shall occur or be allowed on the Open Space Property with the exception of the following, subject to applicable governmental regulatory requirements:

- a) the removal of hazardous substances or conditions or non-native or diseased plants or trees;*
- b) the removal of any vegetation which constitutes or contributes to a fire hazard to residential use of neighboring parcels, and which vegetation lies within 100 feet of existing or permitted residential development;*
- c) the installation or repair of underground utility lines and septic systems,*
- d) the posting of signs to prevent trespass of no greater than the minimum size specified by law.*

Consequently, the majority of applicant's proposed project is prohibited by operation of the deed restrictions. The open space restriction operates to prohibit the construction of any portion of the proposed residence, garage, driveway, or retaining walls on either Lot 14 or 15.

C. Environmentally Sensitive Resources:

Section 30231 of the Coastal Act states:

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.

Section 30240:

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

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

Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural 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 shall be protected against any significant disruption of habitat values.

The certified Malibu/ Santa Monica Mountains Land Use Plan (LUP), which may be used by the Commission as guidance for this area in Los Angeles County in evaluating a project's consistency with Coastal Act Policies, and past Commission actions have designated the project site as a "disturbed sensitive resource area." The majority of the disturbed sensitive resource areas within the Malibu Vista small Lot subdivision are oak woodlands and savannas that have the same biological significance as an undisturbed environmentally sensitive habitat area (ESHA), and are sufficiently valuable to warrant protection from further impacts. Although these areas are no longer inhabited by the same diversity of wildlife as undisturbed areas, they continue to sustain large native wildlife populations, especially birds.

As previously mentioned, the applicant is requesting the construction of a 1,830 sq. ft. single family residence, three car attached garage, septic system, and 2,000 cu. yd. of grading (1,000 cut and 1,000 fill). The Escondido Creek, a designated blueline stream by the United States Geologic Service (USGS), flows seasonally along the southeast corner of the subject site.

To assist in the determination of whether a project is consistent with Section 30231 and 30240 of the Coastal Act, the Commission has, in past coastal development permit actions, looked to the Malibu/ Santa Monica Mountains LUP for guidance. The Malibu/ Santa Monica Mountains LUP has been found to be consistent with the Coastal Act and provides specific standards for development within the Santa Monica Mountains. The following LUP policies pertain to the proposed project:

P58 *Riparian woodlands, streams, oak woodlands, and savannas which are located in areas of existing development and can no longer support a significant number of species normally associated with healthy habitat shall be designated as "Disturbed Sensitive Resources" (DSRs).*

P60 *Oak woodlands (non-riparian) or savannas located outside Significant Watersheds shall be considered as significant resources...*

P79 *To maintain natural vegetation buffer area that protect all sensitive riparian habitats as required by Section 30231 of the Coastal Act, all development other than driveways and walkways should be set at least 50 feet from the outer limit of designated environmentally sensitive riparian vegetation.*

The site consists mostly of native savanna vegetation, primarily native grasses and shrubs. The site also contains two oak trees of the species Quercus agrifolia, more commonly known as Coast Line Oak. The Commission notes that oaks are easily damaged and are very sensitive to disturbances that occur to the tree or the surrounding environment. Their root system is extensive, but shallow, radiating out as much as 50 feet beyond the spread of the tree leaves, or canopy. The ground area at the outside edge of the canopy, referred to as the dripline, is especially important: the tree obtains much of its surface water and nutrients here, as well as conducts an important exchange of air and other gases (Los Angeles County Regional Planning Oak Tree Ordinance). In past permit actions, the Commission has recognized the importance of the habitat area provided by oak woodlands or savannas. Oak woodlands and associated riparian areas have been identified as extremely important to the wildlife resources of California. They are recognized for supporting a wide variety of wildlife species by providing food, nesting, and roosting cover, and in many instances, important understory vegetation.

The Los Angeles County Oak Tree Ordinance (#88-0157) adopted on October 16, 1988 prohibits the cutting, removal, moving, or the encroachment into the protected zone of an oak tree without first obtaining a permit. The applicant has submitted an Oak Tree Report dated July 10, 1992 prepared by Lee Newman and Associates, Inc. The oak tree consultant proposed to remove the 27 inch diameter trunk from the mature oak tree located on Lot 16. On August 27, 1992, an oak tree permit was issued "to prune and encroach upon one oak tree for the purpose of constructing a single family residence." However, sometime after the issuance of the permit, the 27 inch trunk of the oak tree has fell as a result of natural causes.

The Los Angeles County Regional Planning Oak Tree Ordinance requires that all development be located at least 5 feet away from the dripline of the tree or 15 feet away from the trunk. The proposed project is located approximately 10 feet from the trunk of the tree. Therefore, the proposed residence encroaches into the dripline and could potentially harm the mature oak tree.

The applicant proposes to construct the single family residence primarily on Lot 15, which is deed restricted as open space, to prevent any adverse effects to the existing oak tree. However, the applicant has not researched other alternatives. For example, the applicant could apply for a waiver from the Los Angeles County Department of Regional Planning for a front yard setback variance. By reducing the 35 foot front yard setback, the residence could be constructed entirely on Lot 16, east of the existing oak tree. Another alternative would be to remove the mature oak tree, which has already shown evidence of weakness, after obtaining a permit from Los Angeles County. The applicant could then implement mitigating measures consistent with those required by the LA County Fire Department Forestry Division including replanting oak trees at a 10 to 1 ratio. The Commission in past permitting actions has allowed for the removal of oak trees within disturbed resource areas provided that an oak tree permit is first obtained from the Los Angeles County Department of Regional Planning and that all proper mitigation measures are met.

As previously mentioned, Escondido Creek, a blue line stream, flows intermittently across the southeast corner of Lot 14. The Commission through past permitting actions has required that all development be located a minimum of 50 feet from the riparian corridor surrounding streams to maintain the natural vegetation buffer areas that protect riparian habitat and minimize the adverse effect of water runoff and control erosion as required by Section 30231 of the Coastal Act. In addition, Policy P79 of the Malibu/ Santa Monica Mountains LUP requires all development other than driveways and walkways to be set at least 50 feet from the outer limit of the designated environmentally sensitive riparian vegetation. The portion of the residence proposed to be located on the restricted Lot 15 would violate this setback by being located approximately 45 feet from the stream bank. The riparian corridor typically extends five to ten feet beyond the edge of the stream bank, thus reducing the distance between the proposed project and riparian corridor to approximately 35 to 40 feet. Locating the entire project on Lot 16, alternatively, would increase the setback from the riparian corridor and make the project consistent with past permitting actions.

The project as proposed would locate the single family residence closer to the designated blue line stream and the riparian corridor than the Commission finds is necessary to comply with Coastal Act Section 30231 and LUP Policy P79. Therefore, the Commission feels that the proposed project is not consistent with Section 30231 and 30240 of the Coastal Act.

D. Geological Stability

Section 30253 of the Coastal Act states:

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

The proposed project is located in the Santa Monica Mountains, an area that 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. Wildfires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

Section 30253 of the Coastal Act requires that new development be designed so as to neither create nor contribute significantly to erosion. The applicant has submitted an Engineering Geologic Report, dated Feb. 7, 1989, a Response to Los Angeles County Geologic and Geotechnical Engineering Review, dated March 23, 1992, an Engineering Geologic Memorandum, dated May 6, 1993, and an Engineering Geologic Memorandum and Update, dated October 23, 1997, all prepared by Geoplan, Inc. Also, the applicant has submitted Hydraulic Calculations prepared by Limon Engineering Corp. dated July 1, 1993. In a letter dated October 23, 1997 the consulting engineer has concluded that:

"Residential development of 4011 Escondido Drive is feasible, provided such development is undertaken in compliance with plans and specifications which incorporate applicable elements of the County Building Ordinance and the recommendations of the project consultants. Development within this framework will not be affected by hazard of landslide, settlement or slippage. Implementation of the proposed project will not affect neighboring property adversely."

In addition, the consulting geologists recommend that a debris control wall be installed behind the residence to protect from any possible landslides. The project plans submitted by the applicant have included a retaining wall located immediately west of the residence. Based on the recommendations of the consulting geologists, the Commission finds that the proposed development is consistent with Section 30253 of the Coastal Act so long as the geologic consultant's geologic recommendations are incorporated into project plans.

E. Visual and Landform Alteration

Section 30251 of the Coastal Act states:

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.

According to Section 30251 of the Coastal Act, the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. This area is located in a rural setting characterized by a vegetated westerly sloping hillside. Although the site is not visible from any scenic highways or places of public recreation, the proposed structure will be visible from Escondido Drive and Maguire Drive. The applicant has located the proposed project behind an existing oak tree, which faces the roadway. The tree will act as a natural buffer to soften the effects of the development.

The Commission finds that the proposed development will be sited and designed to protect the public view along the scenic coastal area and will be visibly compatible with the surrounding area. Therefore, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act.

F. Cumulative Impacts

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.

1. GSA Calculations

Throughout the Malibu/ Santa Monica Mountains coastal zone there are a number of areas, which were subdivided in the 1920's and 1930's into very small "urban" scale Lots. These subdivisions, known as "small-Lot subdivisions" are comprised of parcels less than one acre, typically ranging in size from 4,000 to 5,000 square feet. The total buildout of these dense subdivisions would result in a number of adverse cumulative impacts to coastal resources. Cumulative development constraints common to small-Lot subdivisions were documented by the Coastal Commission and the Santa Monica Mountains Comprehensive Planning Commission in the January 1979 study entitled: "Cumulative Impacts of Small Lot Subdivision Development in the Santa Monica Mountains Coastal Zone."

This study acknowledged that the existing small-Lot subdivisions could only accommodate a limited amount of additional new development due to major constraints to buildout of these areas that include:

Geologic problems, road access problems, water quality problems, disruption of rural community character, creation of unreasonable fire hazards and others.

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

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

Slope-Intensity Formula

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

GSA = The allowable gross structural area of the permitted development in square feet.
The GSA includes all substantially enclosed residential and storage areas, but does

not include garages or carports designed for storage of autos.

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

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

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

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

L = Total accumulated length of all contours of intervals "I" in feet.

A = The area being considered in square feet.

The applicant is proposing to construct a 1,830 sq. ft. single family residence on three adjacent parcels (Lots 14, 15, and 16 of Tract 5801) within a small lot subdivision. However, as previously mentioned, Lots 14 and 15 are deed restricted as open space through prior coastal development permits. Therefore, when calculating the GSA formula, only the area of Lot 16, the buildable lot should be used. The applicant has submitted a GSA calculation using only the area of Lot 16, 8,560 sq. ft. The calculated GSA for the entire proposed project was found to be 1,832 sq. ft. Thus, the proposed project is within the maximum allowable GSA for Lot 16.

2. Transfer of Development Credit

The transfer of development credit (TDC) program was created to address the fundamental planning problems cause by the existence of a large number of undeveloped parcels and the limited availability of urban services. In 1978, the report entitled "Cumulative Impacts of Potential Development in the Santa Monica Mountains Coastal Zone" was prepared for the Santa Monica Mountains Comprehensive Planning Commission and the Coastal Commission. The report identified some 5,200 undeveloped parcels in small-Lot subdivisions and 3,400 other undeveloped parcels in the Los Angeles County portion of the Santa Monica Mountains area, for a total of approximately 8,600 undeveloped Lots.

Due to the large number of existing lots and the potential demands on coastal roads, services, recreational facilities, and beaches which would result from development of these lots, the 1978 report recommended that land divisions should not be approved if they increased the total number of lots in the Santa Monica Mountains coastal zone. In other words, the study recommended that a means should be found to combine existing lots or otherwise retire existing lots so that new land divisions would not result in a net increase in the amount of development that could occur.

The TDC program ensures that no net increase in development occurs, even if land divisions are approved. The developability of existing parcels is extinguished at the same time new parcels are created. In past actions, the Commission has consistently required, as a special condition to development permits for land divisions and multi-unit projects, participation of the TDC program as mitigation for the cumulative impacts of creating new parcels.

As discussed earlier on pages 3 and 4, the applicant has submitted plans that locate the proposed single family residence, driveway, garage, and retaining walls on Lots 14 and 15. The proposed location of this development is inconsistent with and in violation of the open space deed restrictions required through the TDC program (Exhibit 7 and 8).

The Commission has in past permit actions allowed applicants to exchange one TDC lot for another. However, in this case by exchanging either of the retired lots (Lot 14 and 15) with the developable lot (Lot 16) would result in more significant adverse environmental effects by causing encroachment within the protected corridor surrounding the blueline stream and the 50 feet setback from the riparian corridor imposed by the Commission.

As proposed, the project is not consistent with the mitigation measures required in past permitting actions and would not be consistent with the Commission's TDC program's mitigation of cumulative impacts adopted to implement Section 30250(a) of the Coastal Act.

G. 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 entrapment, 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.

Also, the policies of the Malibu/ Santa Monica Mountains Land Use Plan that can be used as guidance in evaluating this project include the following:

P80 *The following setback requirements shall be applied to new septic systems: (a) at least 50 feet from the outer edge of the existing riparian or oak canopy for leach fields, and (b) at least 100 feet from the outer edge of the existing riparian or oak canopy for seepage pits. A larger setback shall be required if necessary to prevent lateral seepage from the disposal beds into stream waters.*

The proposed project includes the installation of an on-site septic system to serve the residence. A favorable percolation test was performed on the property, which indicates that the percolation rate is sufficient to serve the proposed project on the subject site. The applicant proposes to locate the new leach field approximately 50 feet from the existing stream bank, and only approximately 40 feet from the riparian corridor.

Section 30231 of the Coastal Act requires the biological productivity and the quality of streams be maintained and restored through maintaining natural vegetation buffer areas that protect

riparian habitats, and minimizing alteration of natural streams. Furthermore, the Malibu/ Santa Monica Land Use Plan P80 requires that leach fields be located at least 50 feet from the outer edge of the existing riparian. Thus, the proposed location of the leach field violates the 50 foot riparian setback as required per both Section 30231 of the Coastal Act and Policy P80 of the Malibu/ Santa Monica LUP applied by the Commission as previously explained. Therefore, the Commission finds that the proposed project is not consistent with Section 30231 of the Coastal Act.

H. Local Coastal Program

Section 30604 of the Coastal Act states that:

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

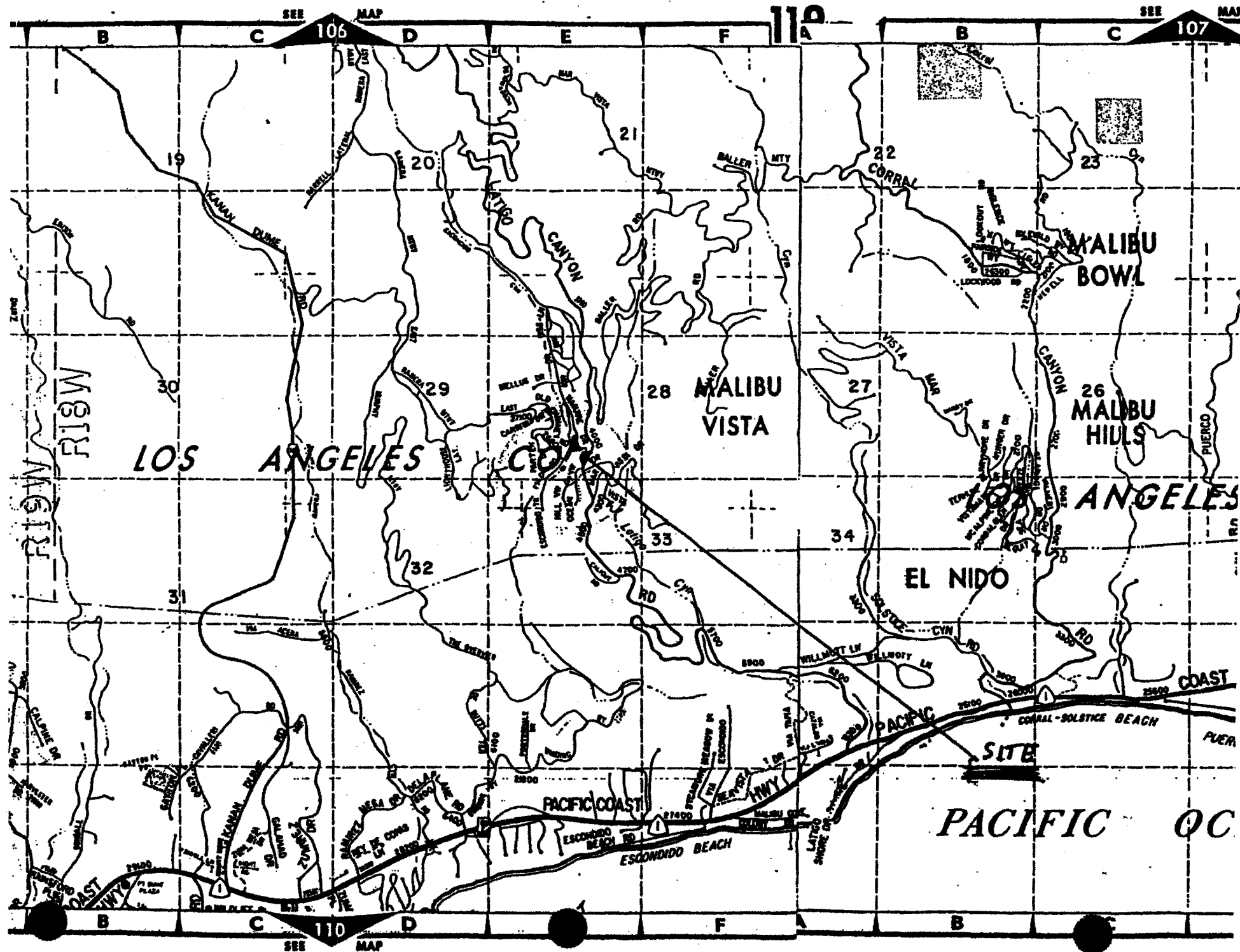
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections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

I. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) 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 effects that the activity would have on the environment. The Commission finds that other feasible alternatives for the site exist including reducing the size and front yard setback of the proposed development or removing the existing mature oak tree and performing the required mitigation measures as enforced by the Los Angeles County Fire Department Forestry Division.

The proposed development would result in significant, adverse environmental effects within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project is determined to be inconsistent with CEQA and with the policies of the Coastal Act.

Exhibit 1
CDP 4-97-233 (Rel'd)
Vicinity Map



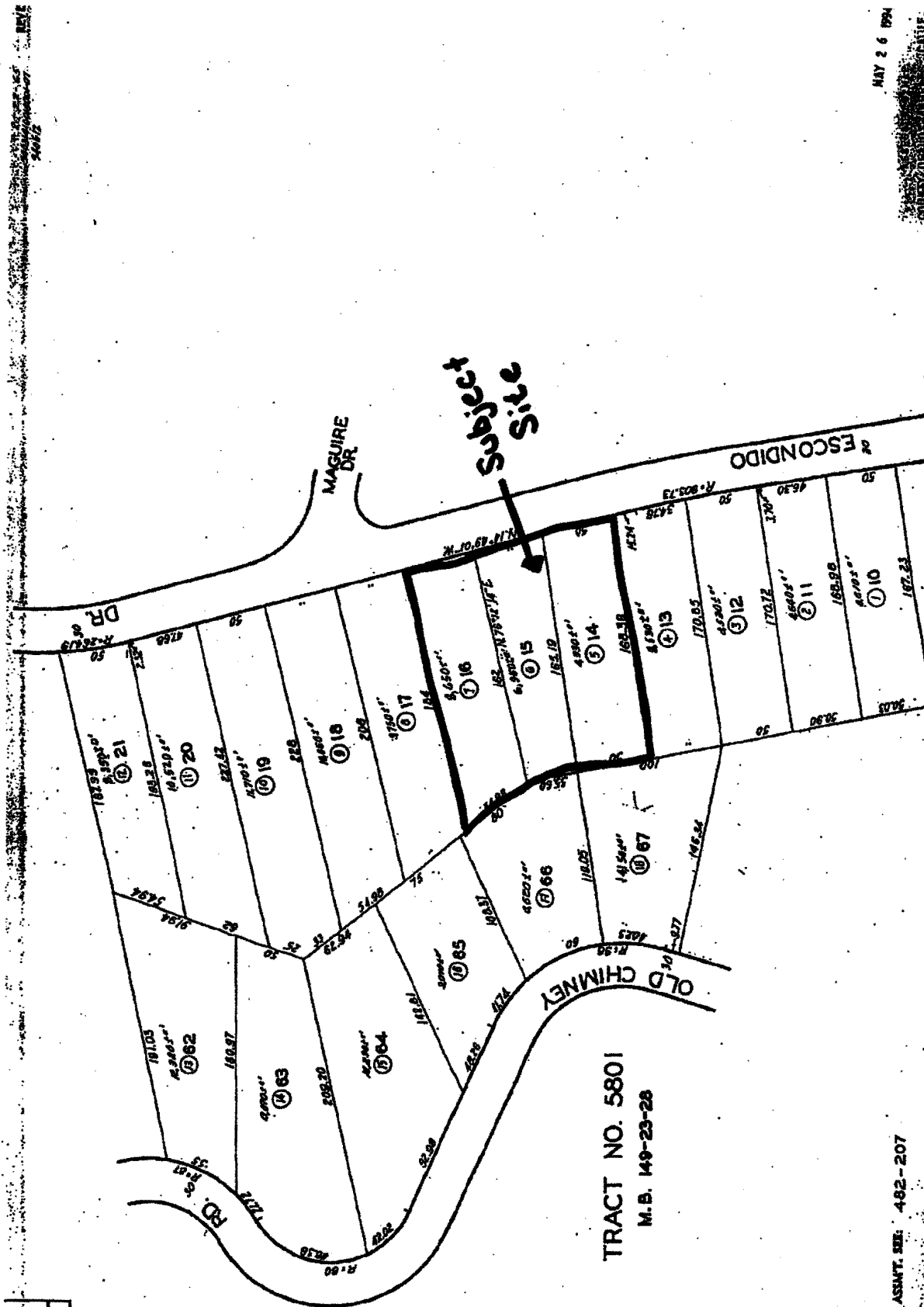
1995

TRACT NO. 5801
M.B. 149-23-28

CODE 8683

FOR PREY. ASSAULT. SEE: 482-207

Exhibit 2
CDP 4-97-233 (Reif)
Parcel Map





52: 1ⁿ = 20'-0"

LOTS 14, 15 AND 16
TRACT NO. 5001 McLELL, CALIFORNIA

SLOPE INTENSITY FORMULA:

81-15-5

I-10 L-203 A-8650 (LOT 16 ONLY)

50.12 x 203 = 100

三

$$0.000000 + \left(\frac{0.000000}{0.000000} \right) \left(\frac{0.000000}{0.000000} \right) \times 0.000000$$

630-1630-291-54

1990

1

$$2591 = \sqrt{5.7}$$

BUILDING SQ. FT. - 1820 < 6 1632

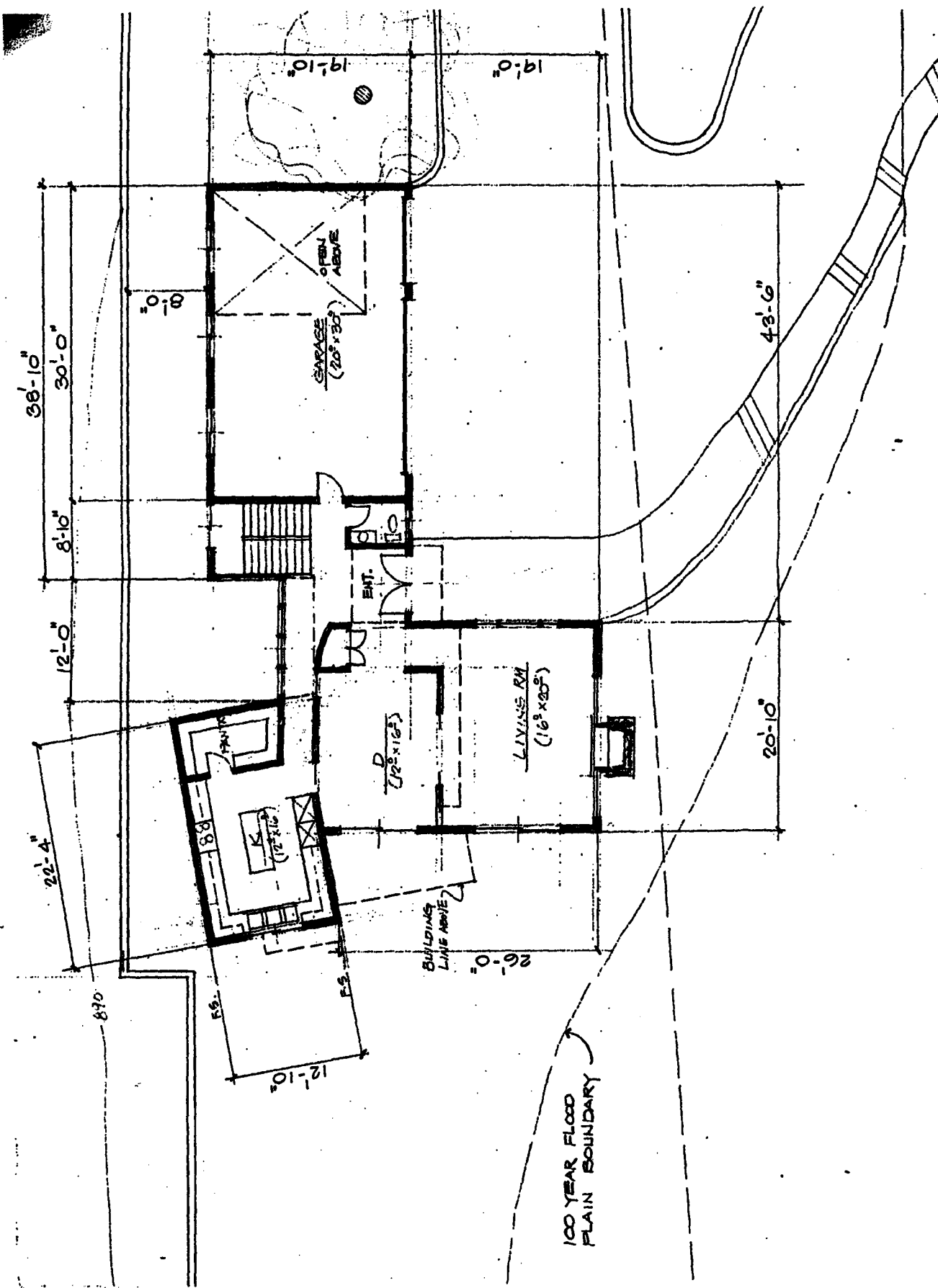
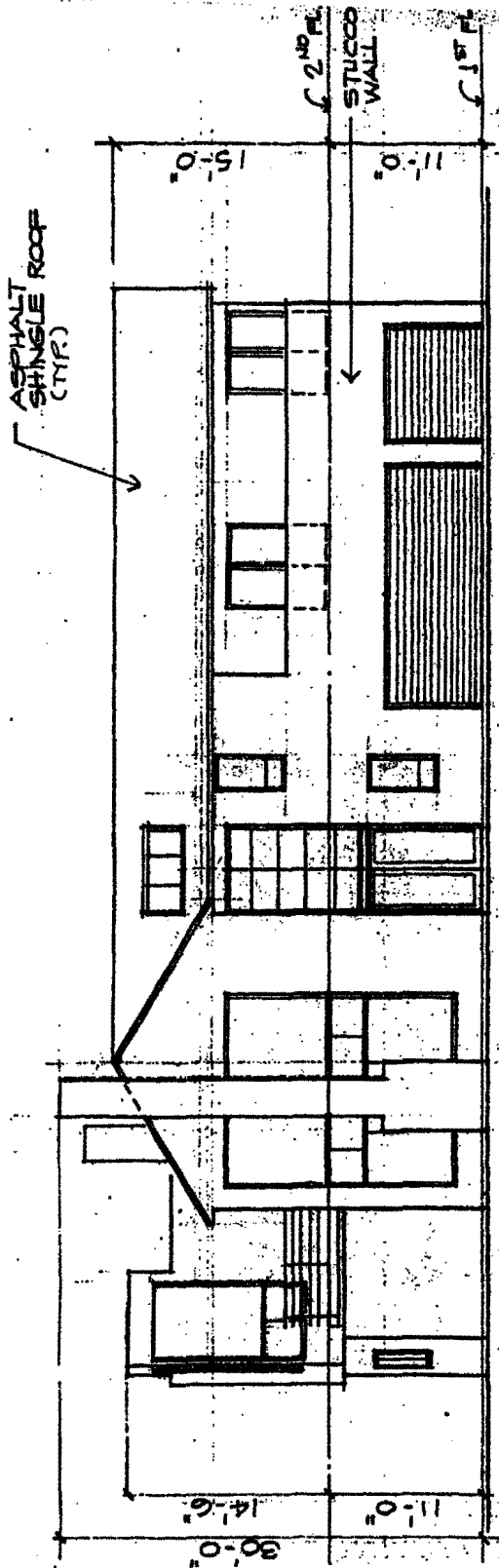
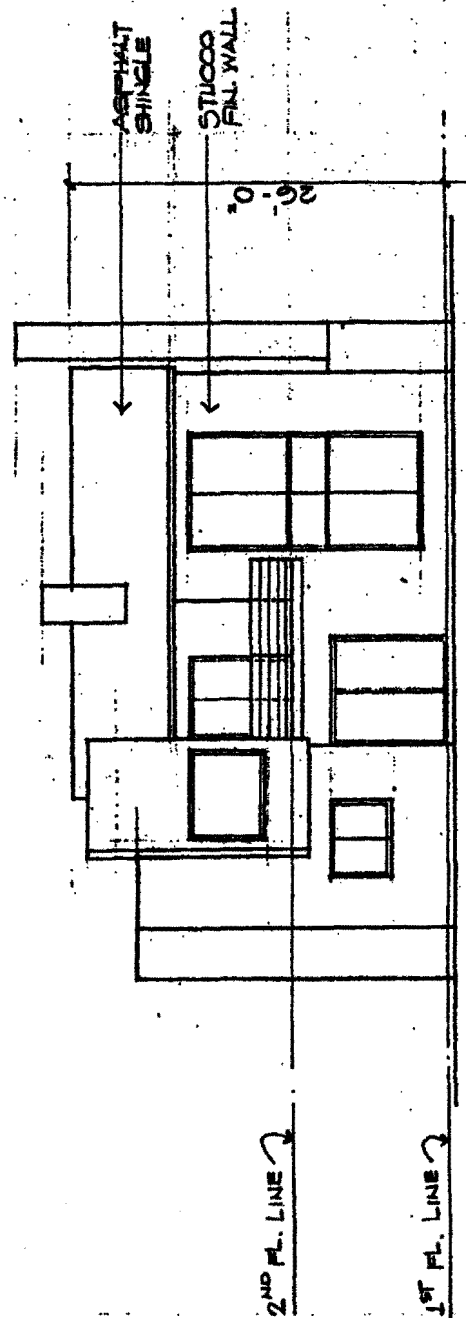


Exhibit 4
CDP 4-97-233 (Reif)
Floor Plan

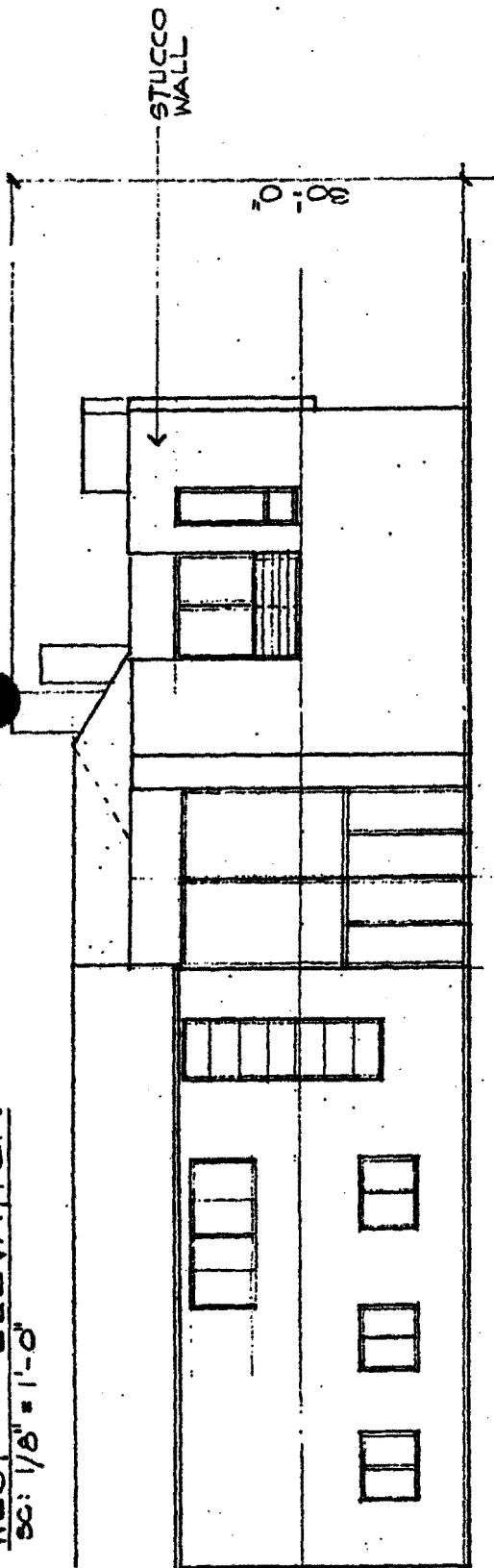


EAST ELEVATION
SCALE 1/8" = 1'-0"

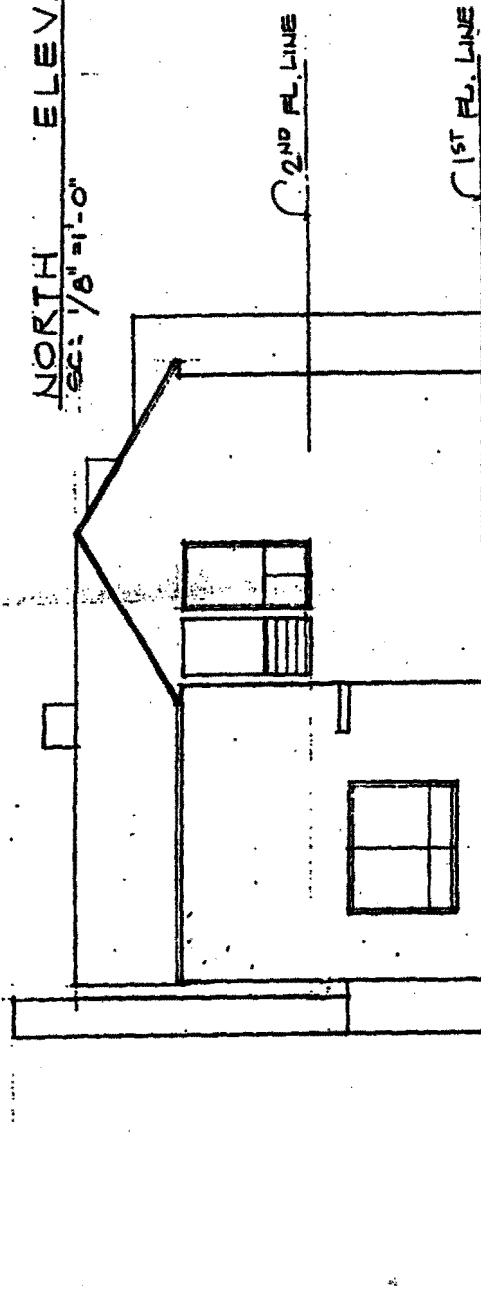


SOUTH ELEVATION

WEST ELEVATION
SC: 1/8" = 1'-0"



NORTH ELEVATION
SC: 1/8" = 1'-0"



JP/TD: (10/80)

88-1971132

Recording Requested By and When Recorded, Mail To:

California Coastal Commission

631 Howard St., 4th Fl.

San Francisco, CA 94105

Attention Legal Department:

Permit No. ~~88-1971132~~

4461. 26. 7, 8, 12, 13, 15, 16, 19, 20

4461. 27. 1, 2, 3, 5

4461. 31. 1, 8, 6, 17

4461. 32. 9

IRREVOCABLE OFFER TO DEDICATE SCENIC EASEMENT

AND

DECLARATION OF RESTRICTIONS.

THIS IRREVOCABLE OFFER TO DEDICATE SCENIC EASEMENT AND DECLARATION OF RESTRICTIONS (hereafter "Offer") is made this 7 day of November, 1988 by BARRIO NEWSON PRODUCTIONS INC., (hereinafter referred to as "Grantor").
a California Corporation

I. WHEREAS, Grantor is the legal owner of a fee interest of certain real properties located in the County of Los Angeles, State of California and described in the attached Exhibit A (hereinafter referred to as the "Open Space Property"); and

II. WHEREAS, all of the Open Space Property is located within the coastal zone as defined in Section 30103 of the California Public Resources Code (which code is hereinafter referred to as the "Public Resources Code"); and

III. WHEREAS, the California Coastal Act of 1976 (hereinafter referred to as the "Act") creates the California Coastal Commission (hereinafter referred to as the "Commission") ~~and the South Coast Regional Commission~~ (hereinafter ~~"Regional Commission"~~) and requires that any development

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA
31 MIN. 4 P.M. DEC 8 1988
PAST.

FREE L

RECORDER'S MEMO:
POOR RECORD IS DUE TO
QUALITY OF ORIGINAL DOCUMENT

Exhibit 7
CDP 4-97-233 (Relf)
Lot 14 Deed Restriction
P5-84-137 (Stout)

approved by the ~~Commission or Regional Commission~~ must be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code; and

IV. WHEREAS, Pursuant to the Act, MARIBU CEDARS LTD., A LIMITED PARTNERSHIP (hereinafter the "Applicant") applied to the ~~Commission or Regional Commission~~ for a permit to undertake development as defined in the Act within the coastal zone of Los Angeles County (hereinafter the "Permit"); and

V. WHEREAS, In its decision on the Permit (Permit No. P6-84-137) decided on 18th DECEMBER, 1984, the ~~Commission or Regional Commission~~ found that the development proposed by the Applicant would cause an increase in residential density thus contributing to adverse cumulative impacts on both coastal resources and public access to the coast within the Los Angeles County coastal zone, and that such density increase could not be permitted consistent with the policies of the Act without corresponding reductions in the number of existing, undeveloped residential building sites available in the vicinity for residential development so as to mitigate the adverse cumulative effects of the proposed development; and

VI. WHEREAS, in its decision on the Permit, the ~~Commission or Regional Commission~~, acting on behalf of the People of the State of California and pursuant to the Act, granted the Permit to the Applicant upon condition (hereinafter the "Condition") requiring inter alia that the Applicant cause Grantor to grant a scenic or open/space easement over the Open Space Property and agree to restrict development on the Open Space Property so as to preserve the open space and scenic values present on

cumulative effects on coastal resources and public access to the coast which would occur if the Open Space Property would be developed as building sites for residential use; and

VII. WHEREAS, the Commission ~~as Regional Commission~~ has placed the Condition on the Permit because a finding must be made under Public Resources Code Section 30604(a) that the proposed development is in conformity with the provisions of Chapter 3 of the Act and that in the absence of the protections provided by the Condition said finding could not be made; and

VIII. WHEREAS, the Applicant has elected to comply with the Condition and has contracted with Grantor; and, in return for valuable consideration granted by Applicant to Grantor, receipt of which is hereby acknowledged, Grantor has agreed to execute this Offer so as to enable Applicant to fulfill the Condition thus allowing Applicant to undertake the development authorized by the Permit; and

IX. WHEREAS, it is intended that this Offer is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8 of the California Constitution and that said restrictions shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1;

NOW, THEREFORE, in consideration of the mutual benefit and conditions set forth herein and substantial public benefits for the protection of coastal resources to be derived therefrom, the preservation of the Open Space Property in open-space uses, the valuable consideration granted by Applicant to Grantor as a consequence of the grant of the Permit to the Applicant by the ~~Regional Commission~~ or Commission, and the

beneficial effect on the method of determining the assessed value of the Open Space Property including any reduction thereof due to the imposition of limitations on its use as set forth in this Offer, Grantor hereby irrevocably offers to dedicate to the State of California, a political subdivision of the State or a private association approved in writing by the Executive Director of the Commission as grantee (hereafter "Grantee"), a conservation and scenic easement in gross and in perpetuity for light, air, view, and the preservation of scenic qualities over the Open Space Property, subject to the following terms, conditions, and restrictions.

1. USE OF PROPERTY. The use of the Open Space Property shall be limited to natural and private open-space for habitat protection, resource conservation, and private recreation, and AS APPLICABLE, in accordance with the following limitations. No development as defined in Public Resources Code, Section 30106, attached hereto as Exhibit B and incorporated herein by this reference, including but not limited to removal of trees and other major vegetation, grading, paving, or installation of structures such as signs, buildings, etc., shall occur or be allowed on the Open Space Property with the exception of the following, subject to applicable governmental regulatory requirements:

a) the removal of hazardous substances or conditions or non-native or diseased plants or trees;

b) the removal of any vegetation which constitutes or contributes to a fire hazard to residential use of neighboring parcels, and which vegetation lies within 100 feet of existing or permitted residential development;

c) the installation or repair of underground utility lines and septic systems,

d) the posting of signs to prevent trespass of no greater than the minimum size specified by law.

e) _____

2. RIGHT OF ENTRY. The Grantee or its agents may, at times reasonably acceptable to Grantor, enter onto the Open Space Property to ascertain whether the use restrictions set forth above are being observed by the Grantor. No right of access for the public or persons other than the Grantee or its agents is created by this provision.

3. BENEFIT AND BURDEN. This Offer shall run with and burden the Open Space Property, and all obligations hereby imposed shall be deemed to be covenants and restrictions running with the land, shall be effective limitations on the use of the Open Space Property from the date of recordation of this document and shall bind the Grantor and all successors and assigns. This Offer shall benefit the State of California.

4. CONSTRUCTION OF VALIDITY. If any provisions of these restrictions shall be held to be invalid or for any reason become unenforceable, no other provision shall be thereby affected or impaired.

5. ENFORCEMENT. Any act or any conveyance, contract, or authorization whether written or oral by the Grantor which uses or would cause to be used or would permit use of the Open Space Property contrary to the terms of this Offer will be deemed a breach hereof. The Grantee

whatsoever, except matters arising out of the sole negligence of the Grantee, while in, upon, or in any way connected with the Open Space Property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, its agencies, departments, officers, agents and employees from all liability, loss, cost, and obligations on account of or arising out of any such injuries or losses however occurring. The Grantee shall have no right of control over, nor duties and responsibilities with respect to the Open Space Property which would subject the Grantee to any liability occurring upon the land by virtue of the fact that the right of the Grantee to enter the land is strictly limited to preventing uses inconsistent with the interest granted and does not include the right to enter the land for the purpose of correcting any dangerous condition as defined by California Government Code Section 830.

9. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations and reservations contained in this Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

10. TERM. This Offer shall be binding upon the Grantor and his and/or her heirs, assigns or successors in interest to the Open Space Property described above for a period of 21 years. Upon recordation of an acceptance of this Offer by the Grantee in the form attached hereto as Exhibit C, this Offer shall have the effect of a grant of open space and scenic easement in gross and perpetuity for light, air, view, and the preservation of scenic qualities over the Open Space Property that shall run with the land and be binding on the parties heirs, assigns and

may bring any action in court necessary to enforce this Offer, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the enforcement proceedings provided in this paragraph are not exclusive and that the Grantee may pursue any appropriate legal and equitable remedies. The Grantee shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this Offer shall be brought in law or in equity. Any forbearance on the part of Grantee to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

6. TAXES AND ASSESSMENTS. Grantor agrees to pay or cause to be paid all real property taxes and assessment levied or assessed against the Open Space Property.

7. MAINTENANCE. The Grantee shall not be obligated to maintain, improve or otherwise expend any funds in connection with the Open Space Property or any interest or easement created by this Offer. All costs and expenses for such maintenance improvement, use or possession shall be born by the Grantor, except for maintaining compliance with the terms of this Offer.

8. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, its agencies, departments, officers, agents and employees are to be free from all liability and claim for damage by reason of any injury to any person or persons, including Grantor, or property of any kind whatsoever and to whosoever belonging, including Grantor, from any cause or causes

This Offer shall be binding upon the Grantor and his heirs, assigns or successors in interest to the Open Space Property described above for a period of 21 years. Upon recordation of an affidavit of this Offer by the Grantee in the form attached hereto as Exhibit A, this Offer shall have the effect of a grant of open space and scenic easement in gross and perpetuity for light, air, view, and the preservation of scenic qualities over the open space area that shall run with the land and be binding on the parties heirs, assigns and successors.

IN WITNESS WHEREOF, Grantor has executed this Offer on the 7 day of

November 1987
by [Signature]
ROSLIND MORRISON NELSON
BARRE NELSON PRODUCTIONS INC.

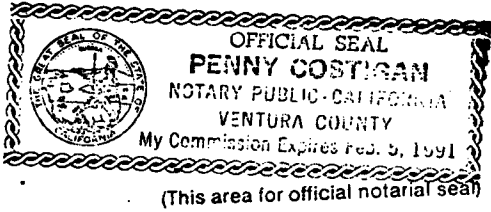
Grantor

STATE OF CALIFORNIA ss.
COUNTY OF Ventura
On November 8, 1987 Before me, the undersigned, a Notary Public in and for
said State, personally appeared Rosa Lind Nelson and
_____, personally known to me (or proved to me on the
basis of satisfactory evidence) to be the persons who executed the within instrument as
_____, President and _____ Secretary, on behalf of _____

the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature [Signature]



2002 (6.92) - (Corporation) First American Title Insurance Company

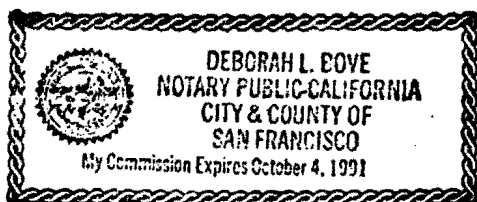
Consent to Recordation

This is to certify that the Offer to Dedicate set forth above
7th November, 1988, and signed by KARRIE NELSON PRODUCTIONS
a California Corporation
Grantor(s), is hereby acknowledged by the undersigned officer on behalf
California Coastal Commission when it granted Coastal Development Permit
No. P5-84-137 on 12-18-84 and the California Coastal
Commission consents to recordation thereof by its duly authorized officer.
Dated: December 1, 1988

John Bowers
John Bowers, Staff Counsel

STATE OF California)
COUNTY OF San Francisco) ss

On this 1st day of December, in the year 1988,
before me DEBORAH L. BOVE, a Notary Public, personally
appeared JOHN BOWERS, personally known (or proved to me
on the basis of satisfactory evidence) to be the person who executed this
instrument as staff counsel of the California Coastal Commission and
acknowledged to me that the California Coastal Commission
executed it.



Deborah L. Bove
NOTARY PUBLIC FOR SAID STATE
AND COUNTY

NOTARY PUBLIC, IN AND FOR THE

County of _____

EXHIBIT A

Open Space Property

LOTS 8, 9, 10, 11, 12, ¹⁴²72, 73, 75, 76, 122, 123, 152, 164, 165, 190 & 196 OF TRACT 5801 AS RECORDED IN MAP BOOK 149 PAGES 23-28 INCLUSIVE OF MAPS IN THE OFFICE OF THE LOS ANGELES COUNTY RECORDER.

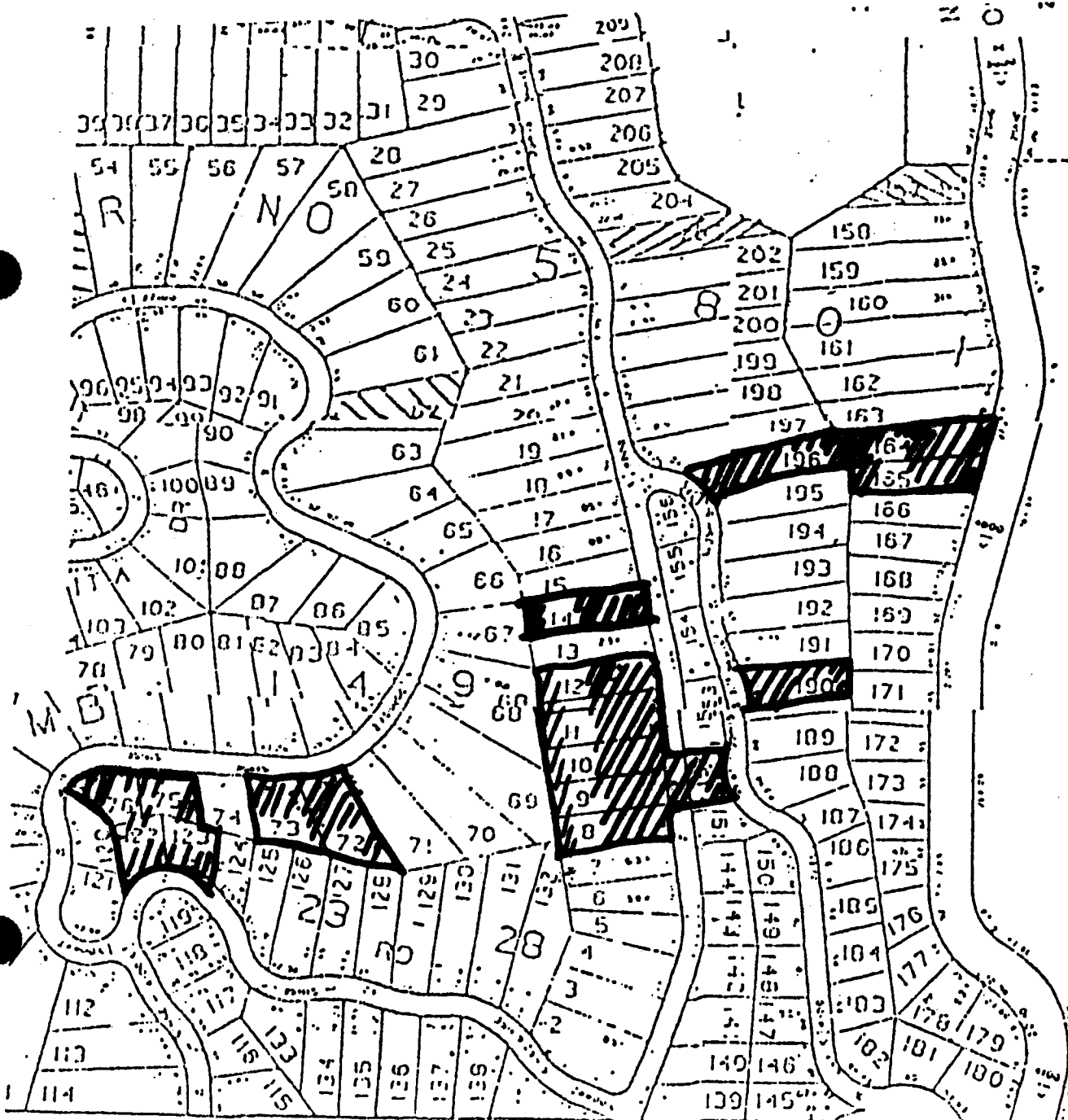


EXHIBIT B

Public Resources Code Section 30106

§ 30106. Development

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

EXHIBIT C

12

Recording Requested by and
When Recorded Mail To:
California Coastal Commission
631 Howard Street, 4th Floor
San Francisco, California 94105
Attention: Legal Department

CERTIFICATE OF ACCEPTANCE

OFFER AND DEDICATION OF SCENIC EASEMENT

This is to certify that _____ hereby
accepts the Offer to Dedicate a Scenic Easement executed by _____
on _____, 19____
and recorded on _____, 19____ in Book _____, Page _____ of the Official Records in the
Office of the Recorder of _____ County.

Dated

By _____

For _____

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____, 19____, before the undersigned, a Notary Public in and
for the said State, personally appeared _____

_____, Title _____
known to me to be the _____ of the _____
_____, who executed the within
instrument and acknowledged to me that he executed the same.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

EXHIBIT C

ACKNOWLEDGEMENT BY CALIFORNIA COASTAL COMMISSION

13

This is to certify that _____
_____ is a public agency/private association acceptable to the
Executive Director of the _____ Commission,
California Coastal Commission to be Grantee under the above described Offer
to Dedication.

Dated

Executive Director

Coastal Commission

STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

On _____, before the undersigned, a Notary Public in and
for said State, personally appeared _____

Name

Title

of the California Coastal Commission and known to me to be the person who ex-
ecuted the within instrument on behalf of said Commission, and acknowledged to
me that such Commission executed the same.

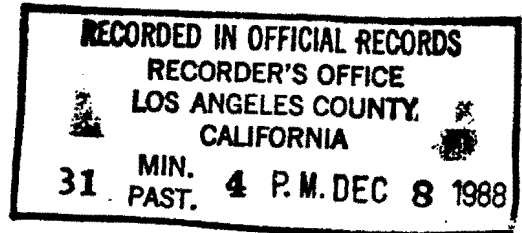
Witness my hand and official seal.

Notary Public in and for said
County and State

88-1971135

3P/TDC

Recording Requested By:



When Recorded Mail To:

California Coastal Commission

631 Howard Street

San Francisco, CA 94105

Attn: ~~Legal Department~~ LEGAL DEPARTMENT

FEE \$ 17.00 L

Permit No. P5-84-137

4461-26-6, 7, 8, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24

4461-27-1, 2, 3, 16

4461-30-15, 24, 26

4461-31-1, 7, 8, 6, 13, 17, 20, 22

4461-32-9, 12, 14

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions, is made this 14th day of November, 1988, by EDWARD HOFFMAN II (Jr.), hereinafter referred to as "Declarant"

I. WHEREAS, Declarant is the legal owner of a fee interest of certain real property located in the County of Los Angeles, State of California and described in the attached Exhibit A, which is hereby incorporated by this reference, and is hereinafter referred to as the "Subject Lands"; and

II. WHEREAS, all of the Subject Lands are located within the coastal zone as defined in Sections 30103 of the California Public Resources Code (which code is hereinafter referred to as the "Public Resources Code"); and

III. WHEREAS, the California Coastal Act of 1976, (hereinafter referred to as the "Act") creates the California Coastal Commission (hereinafter referred to as "Commission") ~~the South Coast Regional Commission (hereinafter referred to~~

RECORDER'S INFO:
POOR RECORD IS DUE TO
QUALITY OF ORIGINAL DOCUMENT

2.

Commission or Regional Commission must be consistent with the policies of the Act set forth in Chapter 3 Division 20 of the Public Resources Code; and

IV. WHEREAS, Pursuant to the Act MAEIBU COOKS LTD., a limited partnership (hereinafter the "Applicant") applied to the Commission ~~or Regional Commission~~ for a permit to undertake development as defined in the Act within the coastal zone of Los Angeles County (hereinafter the "Permit"); and

V. WHEREAS, In its decision on the Permit (Permit No. P5-84-137, decided on 12-18, 1984) the Commission ~~or Regional Commission~~ found that the development proposed by the Applicant would cause an increase in the residential density, thus contributing to adverse cumulative effects on coastal resources and on public access to the coast within the Los Angeles County coastal zone, and that such density increase could not be permitted consistent with the policies of the Act without corresponding reductions in the number of existing undeveloped building sites available in the vicinity for residential development so as to mitigate the adverse cumulative effects of the proposed development; and

VI. WHEREAS, in its decision on the Permit the Commission ~~or Regional Commission~~, acting on behalf of the People of the State of California and pursuant to the Act, granted the Permit to the Applicant upon condition (hereinafter the "Condition") requiring inter alia that Applicant cause Declarant to recombine and unify the Subject lands into a single parcel for all purposes with respect to the lands included therein, including but not limited to sale, conveyance, development, taxation or encumbrance; and

VII. WHEREAS, the Commission ~~or Regional Commission~~ has placed the Condition on the Permit because a finding must be made under Public Resources Code Section 30604(a) that the proposed development is in conformity with the provisions of Chapter 3 of the Act and that in the absence of the protections provided by the Condition, said finding could not be made; and

contracted with Declarant and, in return for valuable consideration granted by Applicant to Declarant, receipt of which is hereby acknowledged, Declarant has agreed to execute and record this Declaration of Restrictions so as to enable Applicant to fulfill the Condition, thus allowing Applicant to undertake development authorized by the Permit; and

IX. WHEREAS, Declarant intends that this Declaration of Restrictions recombine and unify the Subject Lands in lieu of a more costly and lengthy map procedure pursuant to Government Code Section 66499.11 which would be undertaken but for costs and time delays; and

X. WHEREAS, it is intended that this Declaration of Restrictions is perpetual and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8 of the California Constitution and that said restrictions shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1.

NOW, THEREFORE, in consideration of the benefit to the Declarant as a consequence of the grant of the Permit to the Applicant and Applicant's grant of valuable consideration to the Declarant, the ability of the Declarant to recombine and unify the Subject Lands without proceeding by the more lengthy and costly map procedure pursuant to the California Government Code Section 66499.11, and the beneficial effect on the method of determining the assessed value of the Subject Lands including any reduction thereof due to the imposition on its use as set forth in this Declaration of Restriction, the Declarant hereby agrees that: (1) All portions of the Subject Lands shall be recombined and unified, and shall henceforth be considered and treated as a single parcel of land for all purposes with respect to the lands included therein, including but not limited to sale, conveyance, development, taxation or encumbrance; (2) The single parcel created herein shall not be divided or

otherwise alienated from the combined and unified parcel; (3) If the County of Los Angeles revises its procedures for recombination and unification of lands pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) such that the Subject Lands may be recombined and unified, or otherwise merged, pursuant to a map procedure without further cost to or effort by Declarant, Declarant hereby agrees and consents to such recombination and unification of the Subject Lands by map procedures; (4) Any breach of this Declaration of Restrictions shall constitute an abrogation of this contractual agreement which flows from the terms of the Permit and shall therefore render the Declarants or their successors liable pursuant to the provisions of Chapter 9 of Division 20 of the Public Resources Code; (5) This Declaration of Restrictions shall constitute a covenant running with the land, restricting the use and enjoyment of the Subject Land, benefitting and burdening all portions of the Subject Lands; and (6) This Declaration of Restrictions shall be attached to and become a part of the deed to the Subject Lands, shall bind the Declarants and their successors, heirs, and assigns in perpetuity and shall benefit the People of the State of California.

If any provisions of these restrictions shall be held to be invalid or for any reason become unenforceable, no other provision shall be thereby affected or impaired.

Executed on this 14th day of November, 1988, at 4:10 pm
Malibu, California.

by [Signature] (S)
EDWIN HIGGINS JR

Declarant

88-1071125

STATE OF CALIFORNIA)

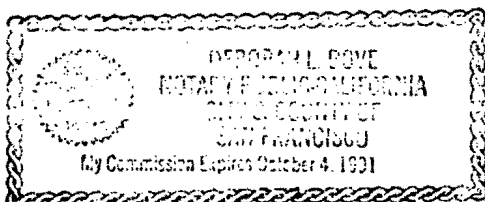
COUNTY OF Los Angeles ss.

On November 14, 19 88, before me, the undersigned
Public, personally appeared Edward Higgins II (Jr.)
and _____ he is _____, known to me to be the persons whose
names are subscribed to the foregoing instrument and acknowledged to me that
they executed the same.

Witness my hand and official seal the day and year in this certifi-
cate first above written.

STATE OF California)
COUNTY OF San Francisco) ss.

On this 1st day of December, in the year 1988,
before me DEBORAH L. BOVE, a Notary Public, personally
appeared JOHN BOWER, personally known (or proved to me
on the basis of satisfactory evidence) to be the person who executed this
instrument as staff counsel of the California Coastal Commission and
acknowledged to me that the California Coastal Commission
executed it.



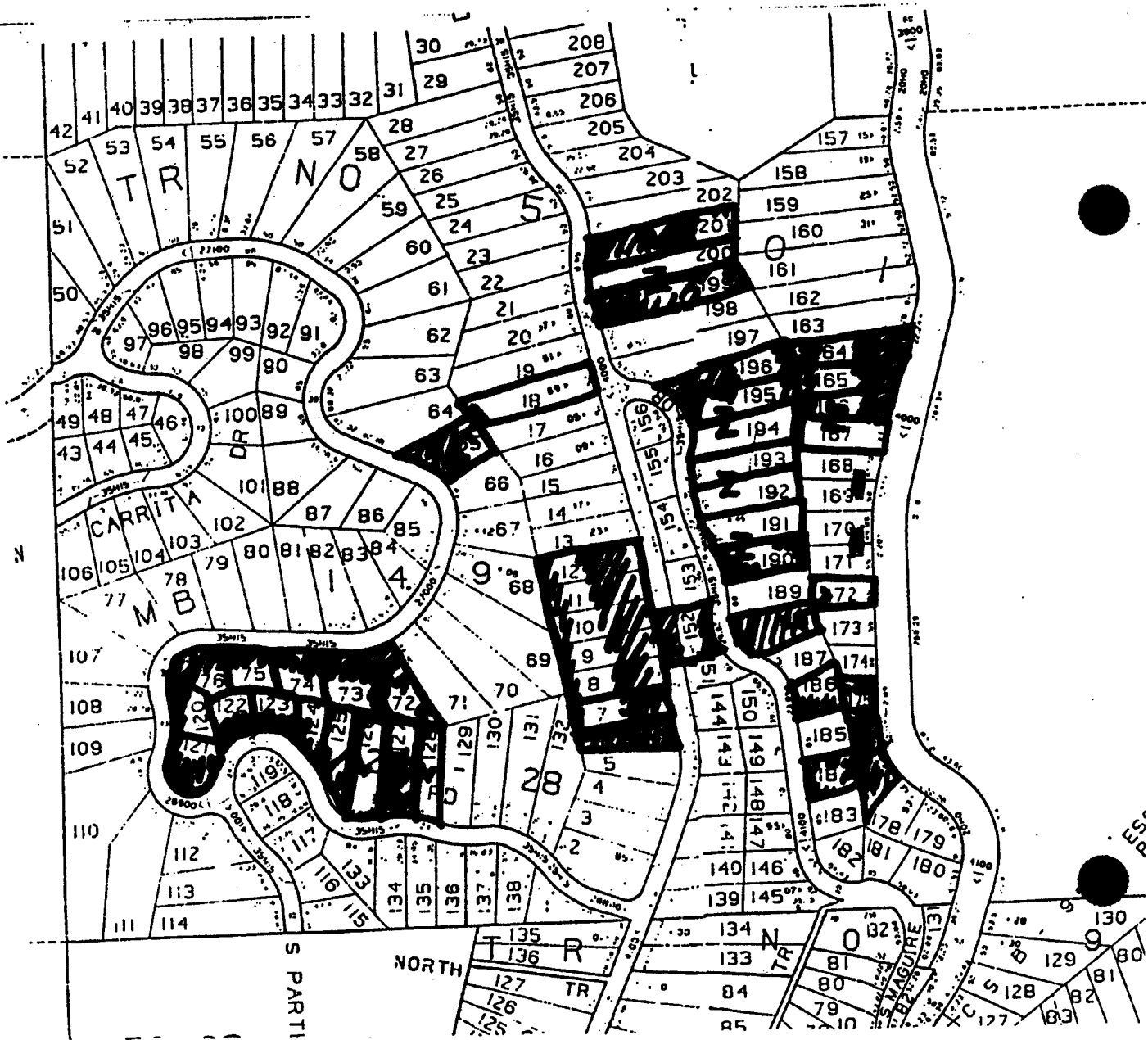
Deborah L. Bove
NOTARY PUBLIC FOR SAID STATE
AND COUNTY

88-1971135

88-1971135

EXHIBIT A
Subject Lands

Lots 7,8,9,10,11,12 & 152 combined with Lot 6; Lot 65 combined with Lot 18; Lots 72,73,74,75,76,120,121,122,123,124,125 combined with Lot 126; Lot 127 combined with Lot 128; Lot 184 combined with Lot 177; Lots 175, 186 combined with Lot 176; Lot 172 combined with Lot 188; Lot 190 combined with Lot 191; Lot 193 combined with Lot 192; Lots 196,195 combined with Lots 194; Lots 164,165,166 combined with Lot 167; Lots 199 & 201 combined with Lot 200 of Tract 5801 as recorded in Map Book 149 Pages 23-28 inclusive of Maps in the office of the Los Angeles County Recorder.



JP/TDC (10/80)

Recording Requested By and When Recorded, Mail To:

California Coastal Commission

631 Howard St., 4th Fl.

San Francisco, CA 94105

Attention Legal Department:

Permit No. 5-84-8054461-27-6

FREE 13 0

IRREVOCABLE OFFER TO DEDICATE SCENIC EASEMENT

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA

AND

DECLARATION OF RESTRICTIONS.

31 MIN. 1 P.M APR 15 1985
PAST.

THIS IRREVOCABLE OFFER TO DEDICATE SCENIC EASEMENT AND DECLARATION OF

RESTRICTIONS (hereafter "Offer") is made this 19 day of FEBRUARY,
1985, by NANCY & CARL PEPPERMAN, (hereinafter
referred to as "Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest of certain real properties located in the County of Los Angeles, State of California and described in the attached Exhibit A (hereinafter referred to as the "Open Space Property"); and

II. WHEREAS, all of the Open Space Property is located within the coastal zone as defined in Section 30103 of the California Public Resources Code (which code is hereinafter referred to as the "Public Resources Code"); and

III. WHEREAS, the California Coastal Act of 1976 (hereinafter referred to as the "Act") creates the California Coastal Commission (hereinafter referred to as the "Commission") and the South Coast Regional Commission (hereinafter "Regional Commission") and requires that any development

approved by the Commission or Regional Commission must be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code; and

IV. WHEREAS, Pursuant to the Act, SHASSERIEH CA TRUST FOR CHARLORAN (hereinafter the "Applicant") applied to the Commission or Regional Commission for a permit to undertake development as defined in the Act within the coastal zone of Los Angeles County (hereinafter the "Permit"); and

V. WHEREAS, In its decision on the Permit (Permit No. 5-84-805-, decided on JANUARY 8th, 1985), the Commission or Regional Commission found that the development proposed by the Applicant would cause an increase in residential density thus contributing to adverse cumulative impacts on both coastal resources and public access to the coast within the Los Angeles County coastal zone, and that such density increase could not be permitted consistent with the policies of the Act without corresponding reductions in the number of existing undeveloped residential building sites available in the vicinity for residential development so as to mitigate the adverse cumulative effects of the proposed development; and

VI. WHEREAS, in its decision on the Permit, the Commission or Regional Commission, acting on behalf of the People of the State of California and pursuant to the Act, granted the Permit to the Applicant upon condition (hereinafter the "Condition") requiring inter alia that the Applicant cause Grantor to grant a scenic or open/space easement over the Open Space Property and agree to restrict development on the Open Space Property so as to preserve the open space and scenic values present on the Open Space Property and so as to prevent the adverse direct and

cumulative effects on coastal resources and public access to the coast which would occur if the Open Space Property would be developed as building sites for residential use; and

VII. WHEREAS, the Commission or Regional Commission has placed the Condition on the Permit because a finding must be made under Public Resources Code Section 30604(a) that the proposed development is in conformity with the provisions of Chapter 3 of the Act and that in the absence of the protections provided by the Condition said finding could not be made; and

VIII. WHEREAS, the Applicant has elected to comply with the Condition and has contracted with Grantor; and, in return for valuable consideration granted by Applicant to Grantor, receipt of which is hereby acknowledged, Grantor has agreed to execute this Offer so as to enable Applicant to fulfill the Condition thus allowing Applicant to undertake the development authorized by the Permit; and

IX. WHEREAS, it is intended that this Offer is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8 of the California Constitution and that said restrictions shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1;

NOW, THEREFORE, in consideration of the mutual benefit and conditions set forth herein and substantial public benefits for the protection of coastal resources to be derived therefrom, the preservation of the Open Space Property in open-space uses, the valuable consideration granted by Applicant to Grantor as a consequence of the grant of the Permit to the Applicant by the Regional Commission or Commission, and the

beneficial effect on the method of determining the assessed value of the Open Space Property including any reduction thereof due to the imposition of limitations on its use as set forth in this Offer, Grantor hereby irrevocably offers to dedicate to the State of California, a political subdivision of the State or a private association approved in writing by the Executive Director of the Commission as grantee (hereafter "Grantee"), a conservation and scenic easement in gross and in perpetuity for light, air, view, and the preservation of scenic qualities over the Open Space Property, subject to the following terms, conditions, and restrictions.

1. USE OF PROPERTY. The use of the Open Space Property shall be limited to natural and private open-space for habitat protection, resource conservation, and private recreation, and AS APPROVED, in accordance with the following limitations. No development as defined in Public Resources Code, Section 30106, attached hereto as Exhibit B and incorporated herein by this reference, including but not limited to removal of trees and other major vegetation, grading, paving, or installation of structures such as signs, buildings, etc., shall occur or be allowed on the Open Space Property with the exception of the following, subject to applicable governmental regulatory requirements:

a) the removal of hazardous substances or conditions or non-native or diseased plants or trees;

b) the removal of any vegetation which constitutes or contributes to a fire hazard to residential use of neighboring parcels, and which vegetation lies within 100 feet of existing or permitted residential development;

c) the installation or repair of underground utility lines and septic systems,

d) the posting of signs to prevent trespass of no greater than the minimum size specified by law.

e) _____

2. RIGHT OF ENTRY. The Grantee or its agents may, at times reasonably acceptable to Grantor, enter onto the Open Space Property to ascertain whether the use restrictions set forth above are being observed by the Grantor. No right of access for the public or persons other than the Grantee or its agents is created by this provision.

3. BENEFIT AND BURDEN. This Offer shall run with and burden the Open Space Property, and all obligations hereby imposed shall be deemed to be covenants and restrictions running with the land, shall be effective limitations on the use of the Open Space Property from the date of recordation of this document and shall bind the Grantor and all successors and assigns. This Offer shall benefit the State of California.

4. CONSTRUCTION OF VALIDITY. If any provisions of these restrictions shall be held to be invalid or for any reason become unenforceable, no other provision shall be thereby affected or impaired.

5. ENFORCEMENT. Any act or any conveyance, contract, or authorization whether written or oral by the Grantor which uses or would cause to be used or would permit use of the Open Space Property contrary to the terms of this Offer will be deemed a breach hereof. The Grantee

may bring any action in court necessary to enforce this Offer, including, but not limited to, injunction to terminate a breaching activity and to force the restoration of all damage done by such activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the enforcement proceedings provided in this paragraph are not exclusive and that the Grantee may pursue any appropriate legal and equitable remedies. The Grantee shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this Offer shall be brought in law or in equity. Any forbearance on the part of Grantee to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

6. TAXES AND ASSESSMENTS. Grantor agrees to pay or cause to be paid all real property taxes and assessment levied or assessed against the Open Space Property.

7. MAINTENANCE. The Grantee shall not be obligated to maintain, improve or otherwise expend any funds in connection with the Open Space Property or any interest or easement created by this Offer. All costs and expenses for such maintenance improvement, use or possession shall be born by the Grantor, except for maintaining compliance with the terms of this Offer.

8. LIABILITY AND INDEMNIFICATION. This conveyance is made and accepted upon the express condition that the Grantee, its agencies, departments, officers, agents and employees are to be free from all liability and claim for damage by reason of any injury to any person or persons, including Grantor, or property of any kind whatsoever and to whomsoever belonging, including Grantor, from any cause or causes

whatsoever, except matters arising out of the sole negligence of the Grantee, while in, upon, or in any way connected with the Open Space Property, Grantor hereby covenanting and agreeing to indemnify and hold harmless the Grantee, its agencies, departments, officers, agents and employees from all liability, loss, cost, and obligations on account of or arising out of any such injuries or losses however occurring. The Grantee shall have no right of control over, nor duties and responsibilities with respect to the Open Space Property which would subject the Grantee to any liability occurring upon the land by virtue of the fact that the right of the Grantee to enter the land is strictly limited to preventing uses inconsistent with the interest granted and does not include the right to enter the land for the purpose of correcting any dangerous condition as defined by California Government Code Section 830.

9. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations and reservations contained in this Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

10. TERM. This Offer shall be binding upon the Grantor and his and/or her heirs, assigns or successors in interest to the Open Space Property described above for a period of 21 years. Upon recordation of an acceptance of this Offer by the Grantee in the form attached hereto as Exhibit C, this Offer shall have the effect of a grant of open space and scenic easement in gross and perpetuity for light, air, view, and the preservation of scenic qualities over the Open Space Property that shall run with the land and be binding on the parties heirs, assigns and successors.

See Next Page

85 420340

10. TERM. This Offer shall be binding upon the Grantor and his and/or her heirs, assigns or successors in interest to the Open Space Property described above for a period of 21 years. Upon recordation of an acceptance of this Offer by the Grantee in the form attached hereto as Exhibit C, this Offer shall have the effect of a grant of open space and scenic easement in gross and perpetuity for light, air, view, and the preservation of scenic qualities over the open space area that shall run with the land and be binding on the parties heirs, assigns and successors.

IN WITNESS WHEREOF, Grantor has executed this Offer on the 19th day of

FEBRUARY 1985.

by Nancy Pepperman & Carl Pepperman
by Rosalind Merrifield Nelson
NANCY PEPPERMAN & CARL PEPPERMAN
by: ROSALIND MERRIFIELD NELSON 85 420340
Grantor THEIR ATTORNEY IN FACT.

STATE OF CALIFORNIA)

COUNTY OF _____) ss.

STATE OF CALIFORNIA } ss.
COUNTY OF Los Angeles

On February 19, 1985 before me,
the undersigned, a Notary Public in and for said County and State,
personally appeared ROSALIND MERRIFIELD NELSON

☒ personally known to me;

☐ proved to me on the basis of satisfactory evidence,

whose name is subscribed to the within instrument, as
the Attorney S in fact of CARL PEPPERMAN
& NANCY PEPPERMAN and acknowledged

to me that she subscribed the name S
of CARL PEPPERMAN & NANCY PEPPERMAN hereto as
principal S and her own name S as Attorney S in fact.

Signature Elizabeth A. Praino

Elizabeth A. Praino

Name (Typed or Printed)

Notary Public in and for said County and State

ATTORNEY IN FACT



FOR NOTARY SEAL OR STAMP

Consent to Recordation

This is to certify that the Offer to Dedicate set forth above dated FEBRUARY 19th, 1985, and signed by CARL & NANCY PEPPERMAN, Grantor(s), is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission when it granted Coastal Development Permit No. 5-84-805 on 1-8-1985 and the California Coastal Commission consents to recordation thereof by its duly authorized officer.
Dated: March 7, 1985

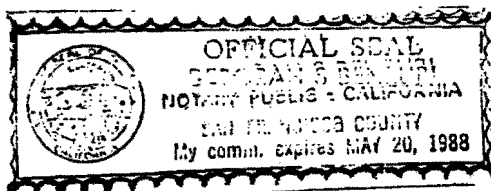
T.R. Gorman
Chief Counsel
California Coastal Commission

STATE OF CALIFORNIA)

COUNTY OF SAN FRANCISCO) ss.

On March 7, 1985, before me, the undersigned Notary Public, personally appeared T.R. Gorman, Chief Counsel of the California Coastal Commission, known to me to be the person whose names ~~are~~ is subscribed to the foregoing instrument and acknowledged to me that they California Coastal Commission executed the same.

Witness my hand and official seal the day and year in this certificate first above written.



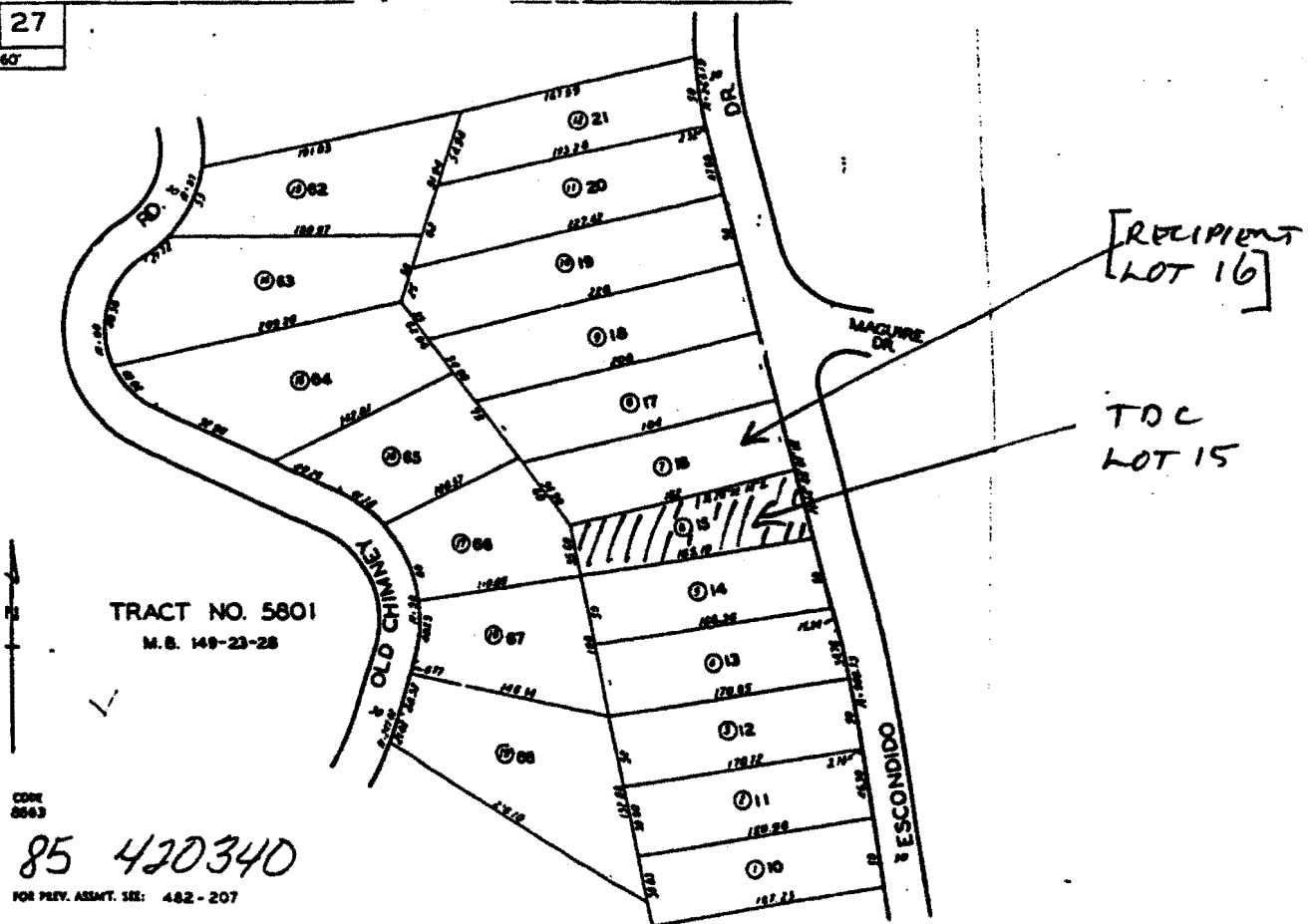
Deborah S. Benrubi
Notary Public, in and for the
County of San Francisco
State of California.

EXHIBIT A

Open Space Property

TRACT 5801 MAP BOOK 149 PAGES 23-28 AS
RECORDED IN OFFICE OF LOS ANGELES COUNTY
RECORDED: LOT 15.

4461 27
SCALE 1" = 60'



85 420340

EXHIBIT B

Public Resources Code Section 30106

§ 30106. Development

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

RECORDER'S MEMO:
POOR RECORD IS DUE TO
QUALITY OF ORIGINAL DOCUMENT

EXHIBIT C

Recording Requested by and
When Recorded Mail To:
California Coastal Commission
631 Howard Street, 4th Floor
San Francisco, California 94105
Attention: Legal Department

CERTIFICATE OF ACCEPTANCE

OFFER AND DEDICATION OF SCENIC EASEMENT

This is to certify that _____ hereby
accepts the Offer to Dedicate a Scenic Easement executed by _____
on _____, 19____
and recorded on _____, 19____ in Book _____, Page _____ of the Official Records in the
Office of the Recorder of _____ County.

By _____

Dated _____

For _____

STATE OF CALIFORNIA)

COUNTY OF _____)

On _____, 19____, before the undersigned, a Notary Public in and
for the said State, personally appeared _____

_____, Title _____
known to me to be the _____ of the _____
_____, who executed the within
instrument and acknowledged to me that he executed the same.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

EXHIBIT C

ACKNOWLEDGEMENT BY CALIFORNIA COASTAL COMMISSION

This is to certify that _____
_____ is a public agency/private association acceptable to the
Executive Director of the _____ Commission,
California Coastal Commission to be Grantee under the above described Offer
to Dedication.

Dated

Executive Director

Coastal Commission

STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

On _____, before the undersigned, a Notary Public in and
for said State, personally appeared _____

Name

Title

of the California Coastal Commission and known to me to be the person who ex-
ecuted the within instrument on behalf of said Commission, and acknowledged to
me that such Commission executed the same.

Witness my hand and official seal.

Notary Public in and for said
County and State

3P/TDC

Recording Requested By:

RECORDED IN OFFICIAL RECORDS	
RECORDER'S OFFICE	
LOS ANGELES COUNTY	
CALIFORNIA	
31 MIN.	1 P.M. APR 15 1985
PAST.	

When Recorded Mail To:

California Coastal Commission

631 Howard Street

San Francisco, CA 94105

Attn: Roy Gorman

FEE \$	15 ⁰⁰	0
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Permit No. 5-84-805
4461-27-6

DECLARATION OF RESTRICTIONS

This Declaration of Restrictions, is made this 19th day of FEBRUARY, 1985, by PEPPERMAN
NANCY & CARL PEPPERMAN, hereinafter referred to as "Declarant"

I. WHEREAS, Declarant is the legal owner of a fee interest of certain real property located in the County of Los Angeles, State of California and described in the attached Exhibit A, which is hereby incorporated by this reference, and is hereinafter referred to as the "Subject Lands"; and

II. WHEREAS, all of the Subject Lands are located within the coastal zone as defined in Sections 30103 of the California Public Resources Code (which code is hereinafter referred to as the "Public Resources Code"); and

III. WHEREAS, the California Coastal Act of 1976, (hereinafter referred to as the "Act") creates the California Coastal Commission (hereinafter referred to as "Commission") the South Coast Regional Commission (hereinafter referred to as "Regional Commission") and requires that any development approved by the

Commission or Regional Commission must be consistent with the policies of the Act set forth in Chapter 3 Division 20 of the Public Resources Code; and

IV. WHEREAS, Pursuant to the Act CHASSEMIEN CA TRUST
FOR CHILDREN (hereinafter the "Applicant") applied to the Commission or Regional Commission for a permit to undertake development as defined in the Act within the coastal zone of Los Angeles County (hereinafter the "Permit"); and

V. WHEREAS, In its decision on the Permit (Permit No. 5-84-805, decided on 1 8, 1985) the Commission or Regional Commission found that the development proposed by the Applicant would cause an increase in the residential density, thus contributing to adverse cumulative effects on coastal resources and on public access to the coast within the Los Angeles County coastal zone, and that such density increase could not be permitted consistent with the policies of the Act without corresponding reductions in the number of existing undeveloped building sites available in the vicinity for residential development so as to mitigate the adverse cumulative effects of the proposed development; and

VI. WHEREAS, in its decision on the Permit the Commission or Regional Commission, acting on behalf of the People of the State of California and pursuant to the Act, granted the Permit to the Applicant upon condition (hereinafter the "Condition") requiring inter alia that Applicant cause Declarant to recombine and unify the Subject lands into a single parcel for all purposes with respect to the lands included therein, including but not limited to sale, conveyance, development, taxation or encumbrance; and

VII. WHEREAS, the Commission or Regional Commission has placed the Condition on the Permit because a finding must be made under Public Resources Code Section 30604(a) that the proposed development is in conformity with the provisions of Chapter 3 of the Act and that in the absence of the protections provided by the Condition, said finding could not be made; and

VIII. WHEREAS, Applicant has elected to comply with the Condition and has

contracted with Declarant and, in return for valuable consideration granted by Applicant to Declarant, receipt of which is hereby acknowledged, Declarant has agreed to execute and record this Declaration of Restrictions so as to enable Applicant to fulfill the Condition, thus allowing Applicant to undertake development authorized by the Permit; and

IX. WHEREAS, Declarant intends that this Declaration of Restrictions recombine and unify the Subject Lands in lieu of a more costly and lengthy map procedure pursuant to Government Code Section 66499.11 which would be undertaken but for costs and time delays; and

X. WHEREAS, it is intended that this Declaration of Restrictions is perpetual and shall constitute enforceable restrictions within the meaning of Article XIII, Section 8 of the California Constitution and that said restrictions shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1.

NOW, THEREFORE, in consideration of the benefit to the Declarant as a consequence of the grant of the Permit to the Applicant and Applicant's grant of valuable consideration to the Declarant, the ability of the Declarant to recombine and unify the Subject Lands without proceeding by the more lengthy and costly map procedure pursuant to the California Government Code Section 66499.11, and the beneficial effect on the method of determining the assessed value of the Subject Lands including any reduction thereof due to the imposition on its use as set forth in this Declaration of Restriction, the Declarant hereby agrees that: (1) All portions of the Subject Lands shall be recombined and unified, and shall henceforth be considered and treated as a single parcel of land for all purposes with respect to the lands included therein, including but not limited to sale, conveyance, development, taxation or encumbrance; (2) The single parcel created herein shall not be divided or

otherwise alienated from the combined and unified parcel; (3) If the County of Los Angeles revises its procedures for recombination and unification of lands pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) such that the Subject Lands may be recombined and unified, or otherwise merged, pursuant to a map procedure without further cost to or effort by Declarant, Declarant hereby agrees and consents to such recombination and unification of the Subject Lands by map procedures; (4) Any breach of this Declaration of Restrictions shall constitute an abrogation of this contractual agreement which flows from the terms of the Permit and shall therefore render the Declarants or their successors liable pursuant to the provisions of Chapter 9 of Division 20 of the Public Resources Code; (5) This Declaration of Restrictions shall constitute a covenant running with the land, restricting the use and enjoyment of the Subject Land, benefitting and burdening all portions of the Subject Lands; and (6) This Declaration of Restrictions shall be attached to and become a part of the deed to the Subject Lands, shall bind the Declarants and their successors, heirs, and assigns in perpetuity and shall benefit the People of the State of California.

If any provisions of these restrictions shall be held to be invalid or for any reason become unenforceable, no other provision shall be thereby affected or impaired.

Executed on this 19th day of FEBRUARY, 1985, at MALIBU

_____, California.

Nancy Pepperman Carl Pepperman
by Rosalind M. Noyan
by ROSALIND M. NOYAN
THEIR ATTORNEY IN FACT

Declarant

STATE OF CALIFORNIA)
COUNTY OF _____) ss.

STATE OF CALIFORNIA }
COUNTY OF Los Angeles } ss.

85 420341

On February 19, 1985 before me,
the undersigned, a Notary Public in and for said County and State,
personally appeared ROSALIND MERRIFIELD NELSON,

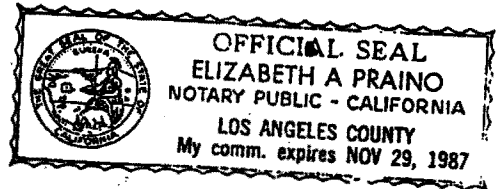
☒ personally known to me;
☐ proved to me on the basis of satisfactory evidence,
whose name is subscribed to the within instrument, as
the Attorney S in fact of CARL PEPPERMAN
& NANCY PEPPERMAN

and acknowledged
to me that she subscribed the name S
of CARL PEPPERMAN & NANCY PEPPERMAN thereto as
principal S and her own name as Attorney S in fact.

Signature Elizabeth A. Praino
Elizabeth A. Praino
Name (Typed or Printed)

Notary Public in and for said County and State

1-121 MAINE ATTORNEY IN FACT



FOR NOTARY SEAL OR STAMP

County of _____

State of California.

Approval by:

TRG

Date March 7, 1985

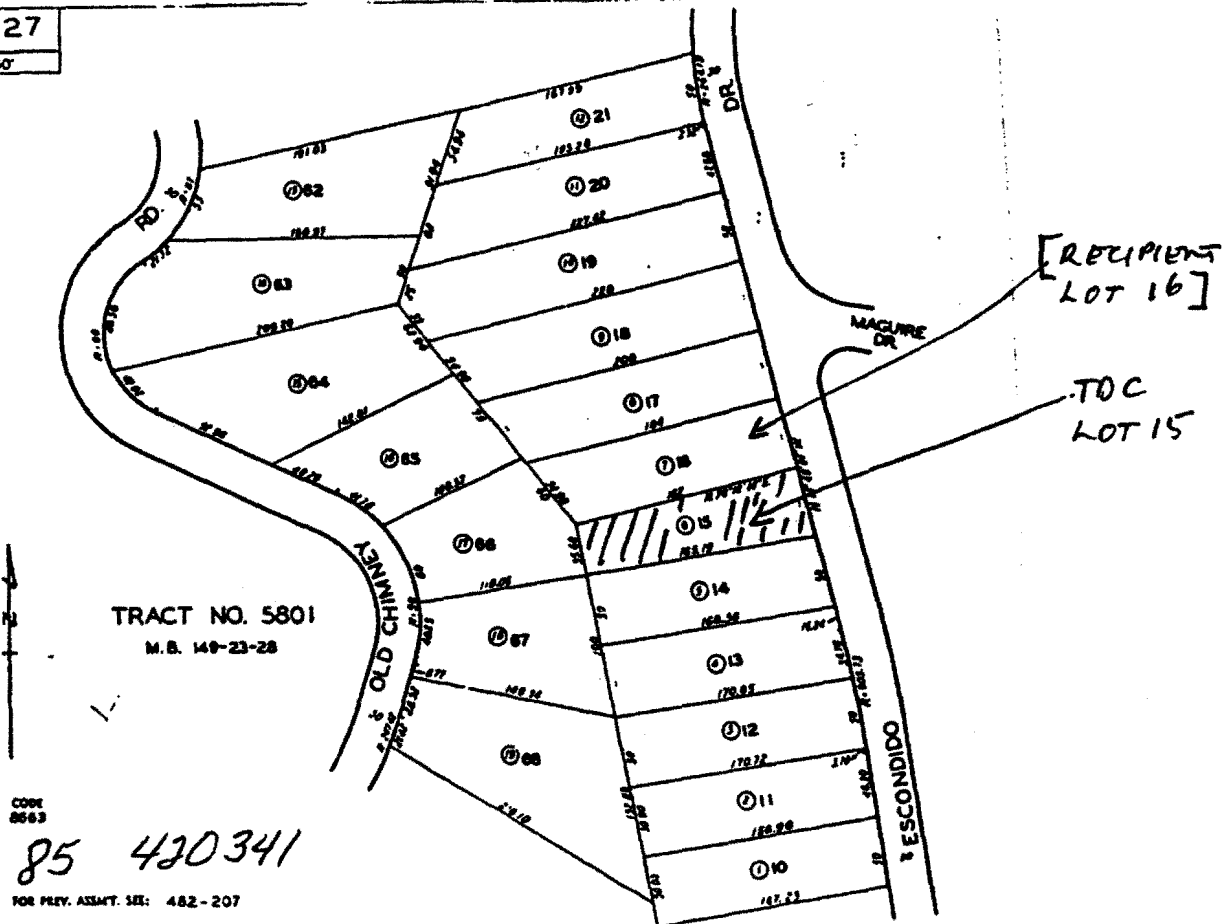
California Coastal Commission

EXHIBIT A

Subject Lands

TRACT 5801 MAP BOOK 149 PAGES 23-28 AS RECORDED
IN OFFICE OF LOS ANGELES COUNTY RECORDER: LOTS 15 AND 16

4461 27
SCALE 1" = 60'



85 420341

100

