

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff: Betz-V
Staff Report: 9/9/98
Hearing Date: 10/13-16/98

**STAFF REPORT: CONSENT**

APPLICATION NO.: 4-98-196

APPLICANT: Keith and Katie Omata

PROJECT LOCATION: 6060 Galahad Drive, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Subdivide 2.6 acre parcel with existing single family residence into two parcels of 1.3 gross acres each.

Lot Area	2.6 acres
Zoning	Residential II, 2 du/ac; Rural land II,

LOCAL APPROVALS RECEIVED: City of Malibu: Environmental Health Department, approval, dated Sep 27 1996; Planning Department, Approval in Concept, dated 7-7-98 and Tentative Parcel Map No. 24563 review dated 10/11/96; City Geologist, Geology and Geotechnical Review Sheet, "Approved", dated 5/2/97.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Coastal Development Permits 4-97-138 (Ricciardone), 4-96-095 (Sauter), 5-87-914 (Omata), 5-81-414 A (Corning and Matsugama), P-7896 (Harris) and P-7455 (Corning); Recorder's Office, County of Los Angeles, Irrevocable Offer to Dedicate Open Space 87 122024, July 31, 1987.

SUMMARY OF STAFF RECOMMENDATION: The proposal will divide a 2.6 acre lot into two lots of 1.3 acres each. An existing single family residence of approximately 5,000 sq. ft. in floor area will remain on proposed parcel 1. Staff recommends approval of the proposed minor land division with a special condition addressing cumulative impact mitigation through a transfer of development credit.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions

The Commission hereby approves the coastal development permit on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

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

III. Special Condition.

1. Cumulative Impact Mitigation

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

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

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description

1. Proposed Development

The proposal will subdivide a 2.6 acre parcel with an existing approximate 5,000 sq. ft. single family residence on proposed parcel 1 into two parcels. Existing development is a single family residence at the approximate 310 ft. contour, which will be located on newly created lot 1. City of Malibu approval of the Tentative Parcel Map includes specification of a building envelope for a future residence on newly created lot 2 at above the 310 ft. contour. The building envelope is roughly 7500 sq. ft. in size. The application includes no physical improvements such as construction of buildings or grading or vegetation removal.

The proposed land division is located on a parcel near the intersection of Galahad Drive and Kanan Dume Road. Surrounding land includes residential development and vacant land. Large holdings of public land are located north of the project site.

2. Background

Construction of the existing single family residence was approved under coastal development permit 5-87-914 (Omata) subject to conditions regarding applicant's assumption of risk and waiver of liability relative to erosion, slope failure and fire hazard, implementation of the recommendations of the

consulting geologist, drainage and erosion control plans, a conservation and open space easement below the 300 ft. contour, a landscape and fuel modification plan, and certification of the septic system. The open space easement and deed restriction has been recorded and consequently would not allow development on newly created parcels 1 or 2 below the 300 ft. contour. In other words, this restriction would confine residential development to the western 15 % of the parcel adjacent to Galahad Dr..

The Coastal Commission recently approved a land division into eight parcels for property to the south and adjacent to the proposed Omata land division. This permit, 4-96-095 (Sauter) allowed eight parcels and 2,460 cu. yds. of grading (1,230 cu. yds. cut and 1,230 cu. yds. fill) for creating of building pads near Galahad Drive. The permit was subject to conditions requiring cumulative impacts mitigation through a transfer of development credits program, review of project plans to conform to geologic recommendations, and a revegetation and landscaping plan.

B. Cumulative Impacts of New Development

Section 30250(a) of the Coastal Act states:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of the surrounding parcels.

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

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

The applicant is proposing, as noted, to subdivide a 2.6 acre parcel with one existing single family residence into two parcels of 1.3 gross acres each. The Commission is required to review the cumulative impacts of a land division pursuant to section 30250(a) of the Coastal Act. In this location, because the project site is located in an existing developed area the average lot size criteria provided in Section 30250(a) is not applicable.

The Coastal Act requires that new development, including subdivisions and multi-family projects, be permitted only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area in past permit actions. The cumulative impact problem stems from the existence of thousands of undeveloped and poorly sited parcels in the mountains along with the potential for creating additional parcels

and/or residential units through subdivisions and multi-unit projects. Because of the large number of existing undeveloped lots and potential future development, the demands on road capacity, services, recreational facilities, and beaches could be expected to grow tremendously. In addition, future build-out of many lots located in environmentally sensitive areas would create adverse cumulative impacts on coastal resources.

As a means of addressing the problem in past actions, the Commission has consistently required, as a special condition to development permits for land divisions and multi-unit projects, participation in the Transfer of Development Credit (TDC) program as mitigation for cumulative impacts, most recently in the project area in the above-noted land division, 4-96-095 (Sauter), which allowed division into eight parcels for property to the south and adjacent to the proposed Omata land division. Other related examples of use of the TDC program include permits: 155-78, Zal; 158-78, Eide; 182-81, Malibu Deville; 196-86, Malibu Pacifica; 5-83-43, Heathercliff; 5-83-591, Sunset-Regan; and 5-85-748, Ehrman & Coombs; and 4-97-138, Ricciardone.

The TDC program results in the retirement from development of existing, poorly-sited, and non-conforming parcels at the same time new parcels or units were created. The intent was to insure that no net increase in residential units resulted from the approval of land divisions or multi-family projects while allowing development to proceed consistent with the requirements of Section 30250(a).

In several permit actions in Los Angeles County prior to the City of Malibu's incorporation (5-86-592, Central Diagnostic Labs; 5-86-951, Ehrman and Coombs; 5-85-459A2, Ohanian; and 5-86-299A2 and A3, Young and Golling), the Commission found that until other mitigation programs were both in place and able to be implemented, it is appropriate for the Commission to continue to require purchase of TDC's as a way to mitigate the cumulative impacts of new subdivisions and multi-residential development.

In 1986, the Commission certified the Malibu/Santa Monica Mountains Land Use Plan, which is no longer legally binding within the City of Malibu. The Plan contained six potential mitigation programs that if in place would adequately mitigate the cumulative impacts of new development. However in approving the above cited permit requests, the Commission found that none of the County's six mitigation programs were defined in the LUP as "self-implementing" or adequate to offset the impact of increased lots in the Santa Monica Mountains and that mitigation was still required to offset the cumulative impacts created by land divisions and multi-unit projects. The Commission found that the TDC program, or a similar technique to retire development rights on selected lots, remained a valid means of mitigating cumulative impacts. Without some means of mitigation, the Commission would have no alternative but denial of such projects based on the provisions of Section 30250(a) of the Coastal Act.

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

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

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

C. Geologic Stability

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

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

In addition, the Malibu/Santa Monica Mountains Land Use Plan, which serves as guidance in the City area, contains the following policies regarding geologic stability: P147-- evaluate all new development for impact on, and from, geologic hazard; P149 -- require a geologic report, prepared by a registered geologist, prior to approval of proposed development.

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

The proposed land division has been subject to geologic or geotechnical review as part of the local review process, which found that the proposed land division was feasible, and that no new development was proposed which would raise an issue under Section 30253. In addition, the report evaluated a potential single family residence on the proposed Lot 2 and found that a single family residence was feasible if supported on reinforce concrete piles and set back from the slope. The report, RJR Engineering Group, Geotechnical Engineering and Geologic Report, Proposed Lot Split, Tentative Parcel Map No. 24563, April 11, 1997 concluded by finding that:

Based upon our review of the site and the available data, and based upon Section 111 of the Los Angeles County Building Code the proposed improvements are feasible from a geologic and geotechnical standpoint, assuming the recommendations presented in this report and implemented during the design and construction of the project. In addition, the stability of the site and surrounding areas will not be adversely affected by a proposed residence, constructed on the new created lot, based upon on [sic] analysis and proposed design.

The proposed development does not include any construction or grading, as previously noted, and any future development would be subject to review relative to geologic hazards. When the above geotechnical findings are considered, the Commission finds that the proposed land division is consistent with Coastal Act section 30253.

D. Septic System

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

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

The proposed development involves no creation of a septic system or modification to the existing system. The geotechnical analysis included sampling and evaluation of subsurface materials by exploratory borings in the area of potential construction of a single family residence and installation of a sewage disposal system. The land division was reviewed by the City of Malibu and this approval indicates that a sewage disposal system for a future residence would comply with all minimum requirements of the City of Malibu Plumbing Code.

There is a blue line stream designated on the USGS map approximately 500 ft. to the east of the potential building site on parcel 2. The Commission has found in past permit actions that compliance with the City's health and safety codes will minimize any potential for waste water discharge that could adversely impact coastal waters.

Therefore, the Commission finds that the proposed septic system is consistent with Sections 30231 and 30250 of the Coastal Act.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

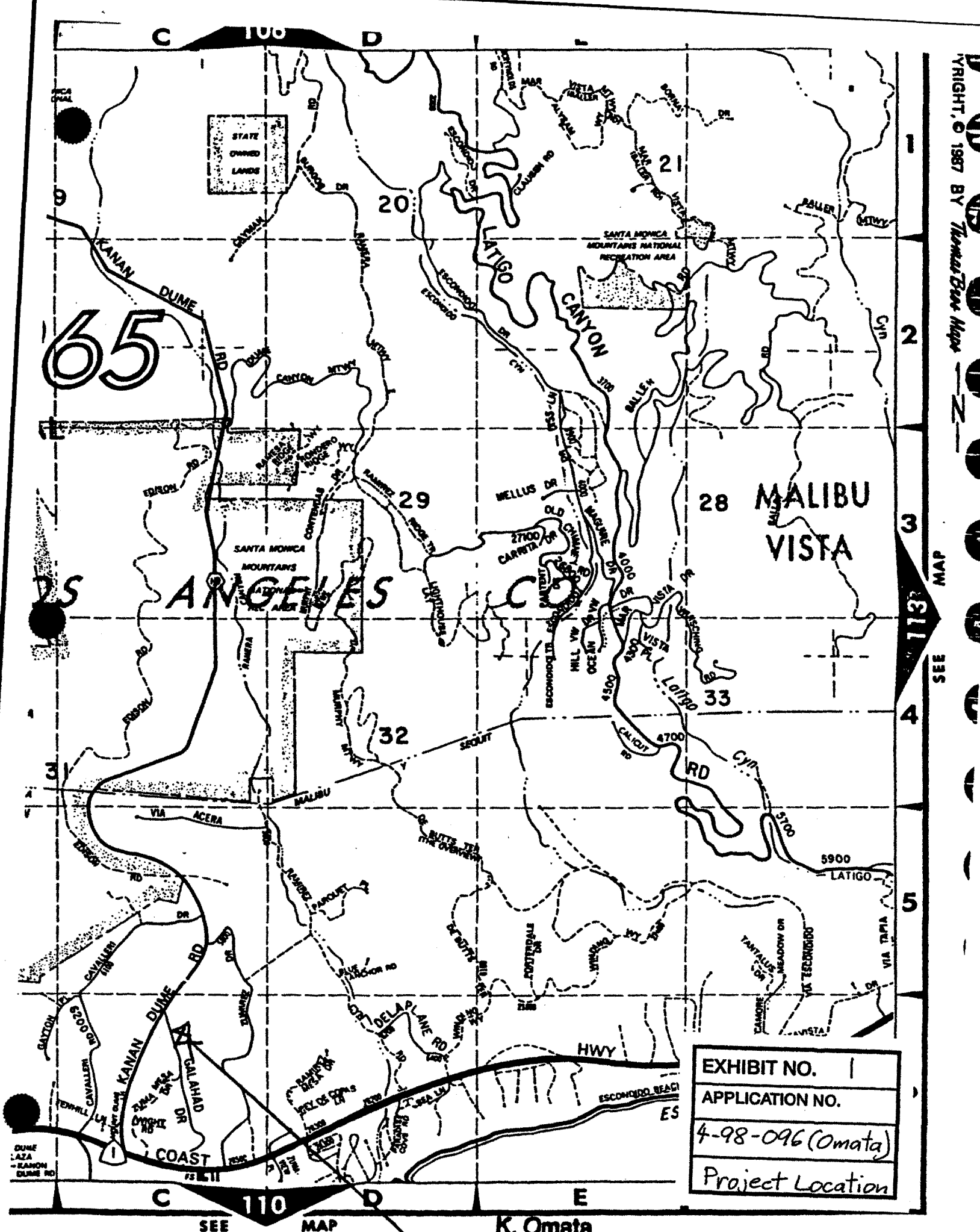
(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice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

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

F. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5 (d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effects that the activity may have on the environment.

The proposed development would cause no adverse environmental effects which would not be adequately mitigated by the project conditions required herein. Therefore, the proposed project, as conditioned, is found to be consistent with CEQA and the policies of the Coastal Act.



K. Omata
6060 Galahad Drive
Malibu, CA 90265

TENTATIVE PARCEL MAP NO. 24563

6060 GALAHAD DRIVE
PARCEL 1, PARCEL MAP NO. 13802, P.M.B. 159 - 25 & 26

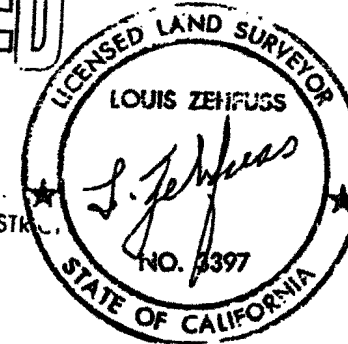
EXHIBIT NO. II
APPLICATION NO.
4-98-046 (Omata)
Land Division

above ground structural development shall be limited to the 315' contour elevation or above.
(Maril Miller, 10/11/98)

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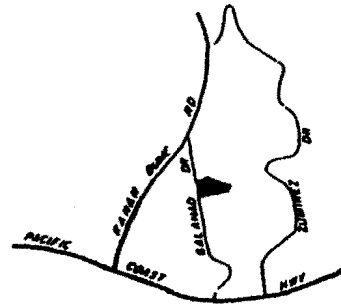


APPLICANT AND OWNER
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(310) 457-1696

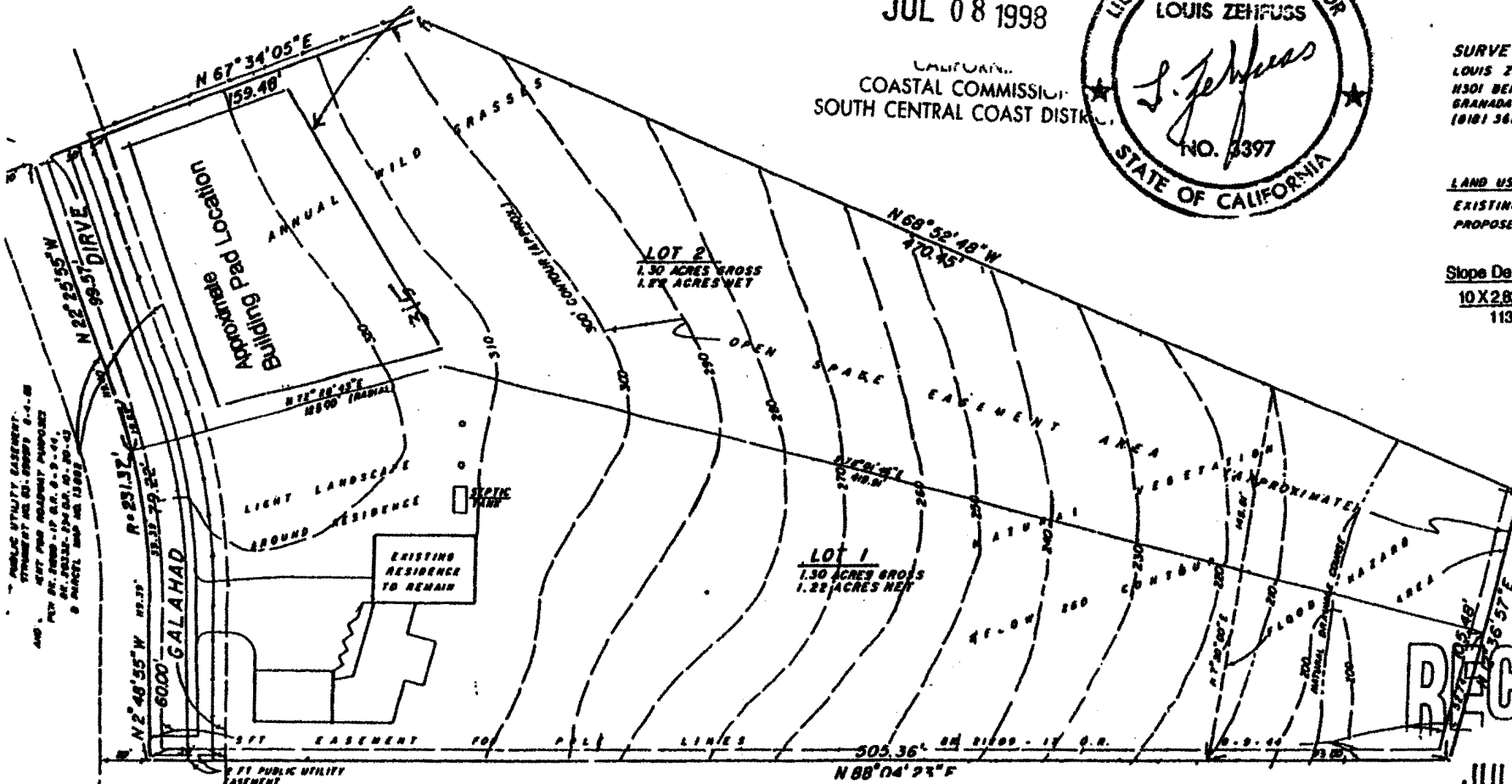
SURVEYOR
LOUIS ZEHFUSS L.S. 3397
1301 BERTRAND AVE.
GRANADA HILLS, CA. 91344
(818) 368-8616

LAND USE
EXISTING RRI
PROPOSED RRI

Slope Density Factor
 $\frac{10 \times 2824 \times 100}{113216} = 24.9$



VICINITY MAP
NOT TO SCALE



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(1) The parcel will comply with Design Guidelines stated in Article 10.0001. Split pads and stepped footing as described in the E.J.B. Engineering report (pp 21-24) would be utilized. Approximately 150 cubic yd of soil would be used for compaction or grading for foundation and driveway.

slopes descends at gradients ranging from 4:1 to about 3:1 and steepen towards the canyon 2-4:1 slope gradients (Kovacs, et al)