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CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 641-0142

RECORD PACKET COPY



Filed: 12/8/97
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180th Day: N/A
Staff: JLA *jc*
Staff Report: 1/14/98
Hearing Date: 3/3-6/98

STAFF REPORT: PERMIT EXTENSION REQUEST

APPLICATION NO: 4-91-136E5 & 5-91-139E5

APPLICANT: Saddle Peak Associates Agent: Bruce Phillips

PROJECT LOCATION: 25715 & 25755 Piuma Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of two, two story, 4,520 square foot, 35 foot high single family residences on two parcels with septic systems and swimming pools. Total proposed grading for both lots is 9,960 cubic yards (4,130 cu. yds. cut, 5,890 cu. yds fill).

SUBSTANTIVE FILE DOCUMENTS: 5-87-974 (Saddlepeak Associates); 4-91-136 & 139 (Saddlepeak Associates)

PROCEDURAL NOTE.

The Commission's regulations provide that permit extension requests shall be reported to the Commission if:

- 1) The Executive Director determines that due to changed circumstances the proposed development may not be consistent with the Coastal Act, or
- 2) Objection is made to the Executive Director's determination of consistency with the Coastal Act (14 C.C.R. Section 13169).

If three (3) Commissioners object to an extension request on the grounds that the proposed development may not be consistent with the Coastal Act, the application shall be set for a full hearing as though it were a new application. If three objections are not received, the permit will be extended for an additional one-year period.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the extension be granted for the following reasons:

No changed circumstances have occurred since the approval of the subject development that affect the projects consistency with the Coastal Act.

FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to extend the subject permits for the construction of a two, two story, 4,520 sq. ft., 35 foot high single family residences on two parcels with septic systems and swimming pools. Total grading proposed is 9,960 cu. yds. (4,130 cu. yds. cut, 5,890 cu. yds. fill). The subject parcels are located in the Monte Nido area of the Santa Monica Mountains, are bounded by Piuma, Cold Canyon and Woodbluff Roads, in an area commonly referred to as the "Monte Nido Triangle." (Exhibit 1). The parcels were created as part of a seven lot subdivision of an eight acre parcel approved in 1988 under Coastal Development Permit 4-87-974 (Saddlepeak Associates). The subject parcels are lots 4 and 6 of this subdivision (Exhibit 2). Lot 4 is located on the corner of Woodbluff and Piuma Road and Lot 6 is located approximately 130 feet east of the corner of Cold Canyon Road and Piuma Road.

The sites are gently rolling to level and have been disturbed by past grading and vegetation clearance. Parcel 4 has been used as an informal parking lot for a number of years and both parcels have been used as a motorcycle and bicycle riding area. The Malibu/Santa Monica Mountains Land Use Plan designates the parcels as one unit per acre.

The subject permit applications were approved by the Commission on November 14, 1991 subject to five special conditions relating to landscaping, revised plans specifying building pad size, future development restriction, conformance with geologic recommendations and a structure and roof color restriction. The permits were extended four times by the Executive Director without objection.

The five other residences in this seven lot subdivision were originally approved under permit application 5-91-133, 134, 135, 137 and 138 several months prior to the subject permit applications. Permit 5-91-134 was approved on June 12, 1991 and the permit has been extended five times. Permits 4-91-133, 135, 137 and 138 were approved on September 12, 1991. These permits were extended once (from 1993 to 1994). However, in 1994 the applicant did not apply for a second extension of the permits until after the permits had already expired. The applicant

reapplied for permits for the four residences under permit application No. 5-95-034, 035, 036 and 037. These permit applications were approved by the Commission on April 13, 1995. These permits have been extended one time. The expiration date for these permits is April 13, 1998.

B. Objection to Extension Request

The most recent extension request (extension no.5) for the subject permits was submitted in late October of 1997 prior to the expiration date of the permits. Staff analyzed the request and determined there were no changed circumstances affecting the project's consistency with the Coastal Act. Pursuant to Section 13169 of the Commission regulations notice of this determination was provided to residents and land owners within 100 feet of the property. No objections were received from the public. However, at the December 1998 Commission meeting the Commission objected to the Executive Director's determination and directed staff to schedule this extension request for a public hearing.

At the December 1997 hearing the Commission expressed concerns regarding possible changed circumstances which could affect these projects consistency with the Coastal Act. The Commission referenced the objections received from a member of the public regarding the extension of two other permits extensions on Piuma Road, 5-87-458-E9 (Bernstein) and 4-92-115-E4 (Star Sapphire). The Commission believed that the subject permits were in the same vicinity as the Bernstein and Star Sapphire permits and therefore the objections cited for these permit extensions would also apply to the subject permit extensions.

The letter objecting to the extension of the Bernstein and Star Sapphire permit extension was submitted by Mr. David Brown representing the Santa Monica Mountains Task force of the Sierra Club (Exhibit 5). The objection letter cited three areas of changed circumstances relating to: the lack of water availability; the potential impacts on visual resources from new parklands; and new fire clearance requirements which would result impacts to the significant watershed and site stability.

C. Analysis

Although the subject sites and the sites cited in Mr. Brown's letter are located on Piuma Road the project sites are not located in the same vicinity. The Bernstein and Star Sapphire parcels are located on Saddle Peak ridgeline which is the boundary separating the Malibu Creek Significant Watershed from the Cold Creek Significant Watershed. This is a Malibu/Santa Monica Mountains Land Use Plan designated "Significant Ridgeline" and is visible from Pacific Coast Highway to the San Fernando Valley. The subject sites are located within Monte Nido valley approximately 3/4 of mile from Malibu Canyon Road. The project sites are approximately two miles apart and do not share any similar geomorphic, infrastructure, or other physical characteristics. Therefore, the changed circumstances Mr. Brown has cited for the Bernstein and

Star Sapphire permit extensions are not relevant to the subject projects with respect to water availability or visual resources. However, the objection to the extensions regarding increased fire clearance requirements is an applicable issue with respect to changed circumstances concerning the subject projects. The following is an analysis of Mr. Brown's arguments made in objection to the permit extensions on the Bernstein and Star Sapphire projects in relation to the subject projects.

Water Availability

Mr. Brown cited the lack of water availability as changed circumstance which would affect the Bernstein and Star Sapphire permits consistency with the Coastal Act. The subject properties will be served by existing Las Virgenes Water District water mains located adjacent to the project sites. This water supply will be adequate to supply the domestic and fire suppression needs of the proposed residential developments. The Commission recognized in the approval of the subdivision under permit 5-87-974 that the Las Virgenes Water District would supply water to these sites. The availability of water from these existing water mains has not changed since the approval of the permits. Therefore, the Commission finds there are no changed circumstance relative to water availability which would affect the projects consistency with the Coastal Act.

Visual Resources

In his objection to the extension of the Bernstein and Star Sapphire permits Mr. Brown asserts that because of new parkland acquisitions the projects would now adversely impact the views from these parklands. Therefore, Mr. Brown cites that this is a changed circumstance which would affect the consistency of the project with the Coastal Act. The project sites Mr. Brown are referring to in his objection letter are located on a significant ridgeline and are visible from an extensive area including some newly acquired parklands located at the crest of the ridgeline and below the ridge line to the south.

The subject sites are located in Monte Nido Valley approximately two miles from the Saddlepeak ridge line in an area surrounded by existing residential development. The subject sites will not be visible from a majority of these newly acquired parkland because of intervening topography. The new parklands from which the subject sites are visible are located on a ridgeline some two miles away from the project sites. The view from the parkland includes the existing developed residential areas of Monte Nido which surround the project site. Given the existing developed nature of this area and distant view of this valley location from the parklands, the addition of two residential units would not result in any significant impacts on the viewshed from these new parklands. Therefore, the acquisition of these new parklands are not a changed circumstance which would affect the project's consistency with the Coastal Act.

In approving the subject permits the Commission did consider the potential visual impacts of the projects from Piuma Road, an LUP designated scenic roadway, as well as the nearby Back Bone

Trail. To mitigate the visual impacts of the developments the Commission required landscaping plans to screen the development, restricted the colors to natural earth tones, required that all future improvements, which would otherwise be exempt from Commission review, be reviewed by the Commission to ensure consistency with Section 30251 and required that 60% of the parcels remain in open space. Therefore, the visual impacts of these projects were mitigated and minimized through these special conditions of approval on these permits.

The Commission therefore finds that the purchase of new parkland approximately two miles from the subject site does not constitute a changed circumstance which would affect the projects consistency with the Coastal Act.

Fire Hazard Regulations.

After the 1993 Malibu Firestorm the Los Angeles County Fire Department increased it's brush clearance requirements around structures from 100 to 200 feet. Mr. Brown asserts in his objection to the Bernstein and Star Sapphire permit extensions that the change in these requirements may alter the projects conformance with the Coastal Act requirements for minimization of fire hazards Section 30253(1), ensuring erosion prevention and geologic stability, Section 30253(2), and protecting the Significant Watershed resources, Section 30240(b).

As a special condition of approval for the subject permits the Commission required the submittal of a landscaping plan that included the following provision:

1(d) Vegetation within 30 feet of the proposed house may be removed to mineral earth, vegetation within a 100' radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant material to be removed, and how often thinning is to occur.

In addition, the Commission also required a future development restriction which stated in part that:

Clearing of vegetation consistent condition 1(d) above for fire protection is permitted.

The new County Fire Department requirement for a 200 foot clearance zone differs in scope from the provisions of the above mentioned special conditions. The increased fuel modification requirements will require that the permit be amended in order to implement this new requirement. Therefore, the change to the fuel modification requirement is a changed circumstance.

However, the Commission finds that the increased fuel modification requirement does not constitute a changed circumstance which would affect the consistency of the projects with the Coastal Act. In the case of the subject projects, these sites are located in an existing developed area of Monte Nido and are not located in a significant watershed or other sensitive resource area. The sites are relatively level and for the most part devoid of any significant vegetation or habitat. In addition, any vegetation which may be removed within the additional 100 foot fuel modification zone will be limited to thinning of vegetation only. The vegetative cover within this zone will be retained ensuring no increased erosion will occur in this zone. Therefore, the additional 100 feet of vegetative thinning will not result in any significant impact on the surrounding vegetation, habitat or result in increased erosion or sedimentation. Furthermore, the landscaping and erosion control special condition attached to the permits will ensure all disturbed areas will be revegetated with native vegetation planted consistent with fire safety requirements which will ensure the proposed projects minimize erosion and enhanced site stability.

Therefore, although the change in brush clearance requirements is a changed circumstance which will require an amendment to the permits, the modified brush clearance/thinning requirements do not affect the project's consistency with the Coastal Act.

D. Conclusion

The Commission found, in its approvals of permit 4-91-136 and 4-91-139 that the proposed projects are consistent with Chapter Three policies of the Coastal Act, and would not prejudice the ability of Los Angeles County to prepare a local coastal program which is consistent with the provisions of the Coastal Act. As discussed above, the objections raised by Mr. Brown do not constitute changed circumstances which would affect the proposed projects consistency with the Coastal Act.

Specifically, the circumstances surrounding water availability have not changed. Likewise, the potential visual impacts of the projects present no changed circumstance, given the previous analysis and mitigation of the issue.

The 200' fire clearance regulation does present a changed circumstance. However, given the sites are within an existing developed area, are almost devoid of any native vegetation and any additional clearance zone will be limited only to thinning of vegetation no significant impacts to resources or site stability will result from this change. Therefore, this change does not affect the project's consistency with the Coastal Act.

Staff investigation has identified no other possible changed circumstances. There have been no other changes to the proposed projects or the project sites which would cause the Commission to find the projects inconsistent with the Coastal Act. The proposed projects are consistent with the Coastal Act and will not prejudice the ability of Los Angeles County to prepare an LCP which is consistent with the Coastal Act.

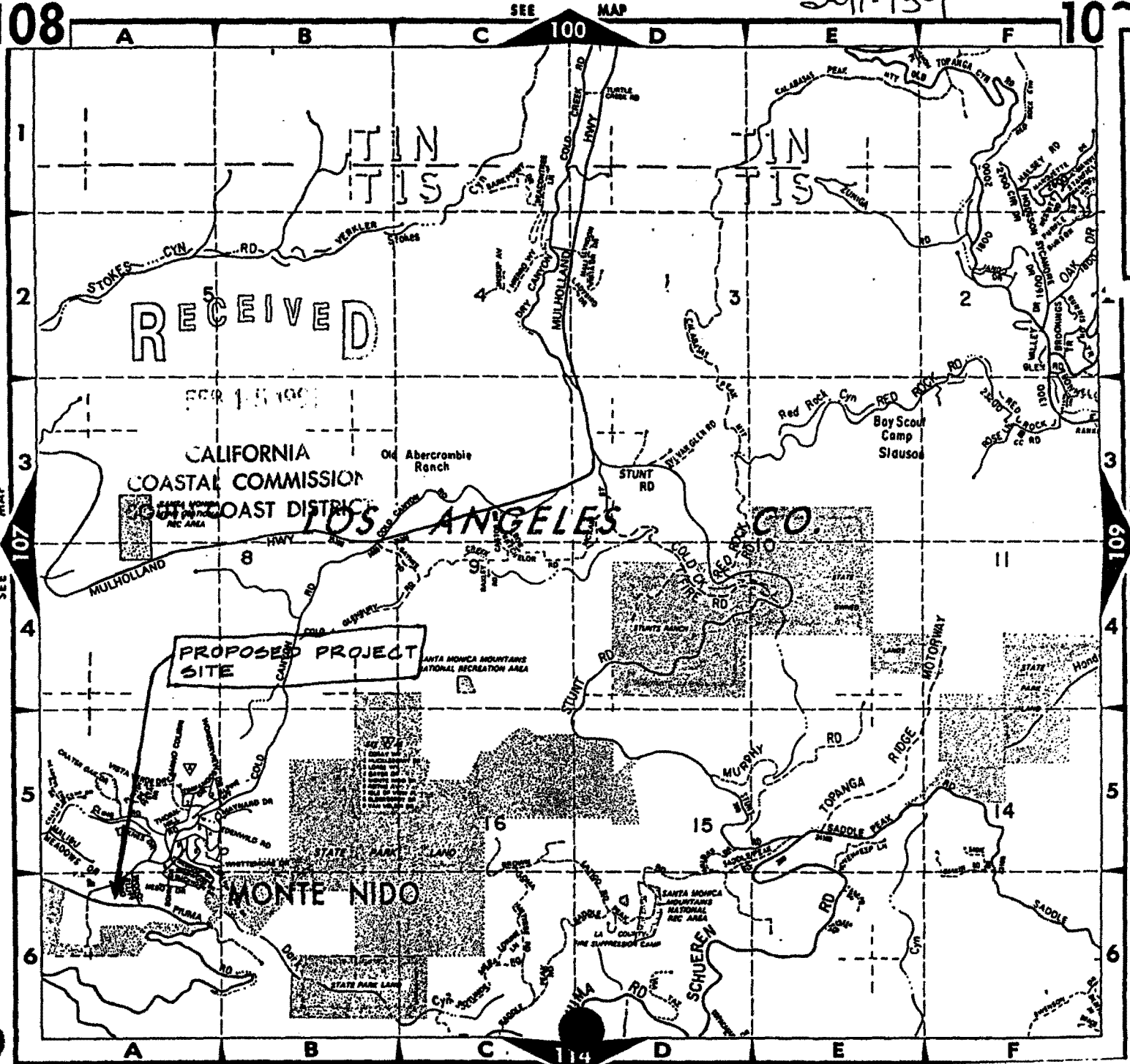
Accordingly, the Commission finds there are no changed circumstances present which have occurred since the projects approval that affect the projects consistency with the Coastal Act. therefore, the Commission grants a one year extension of the coastal development permit

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| EXHIBIT NO. 1 |
| APPLICATION NO. |
| 5-91-136 & 139 |
| LOCATION MAP |

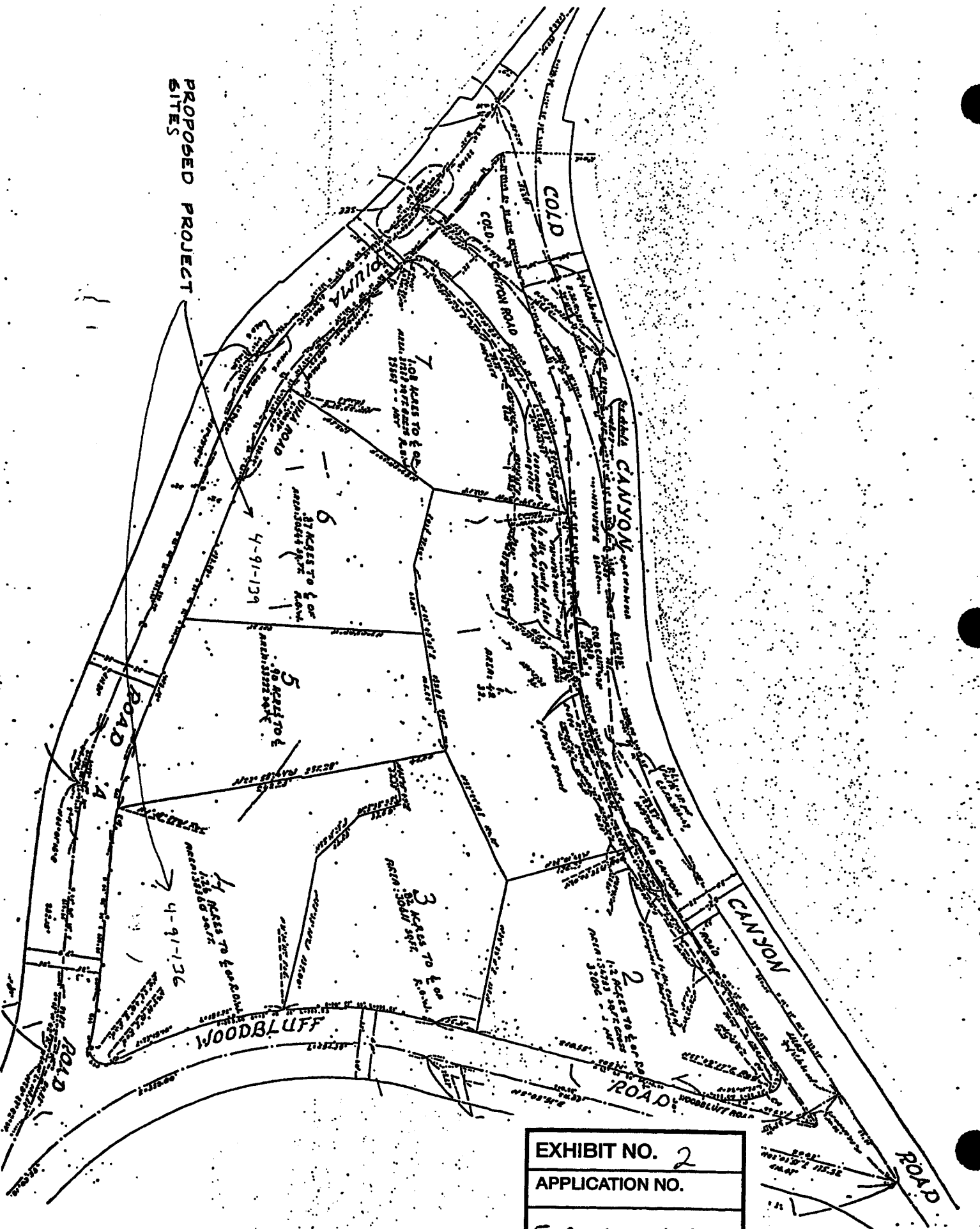
SEE MAP 107

SEE MAP 109

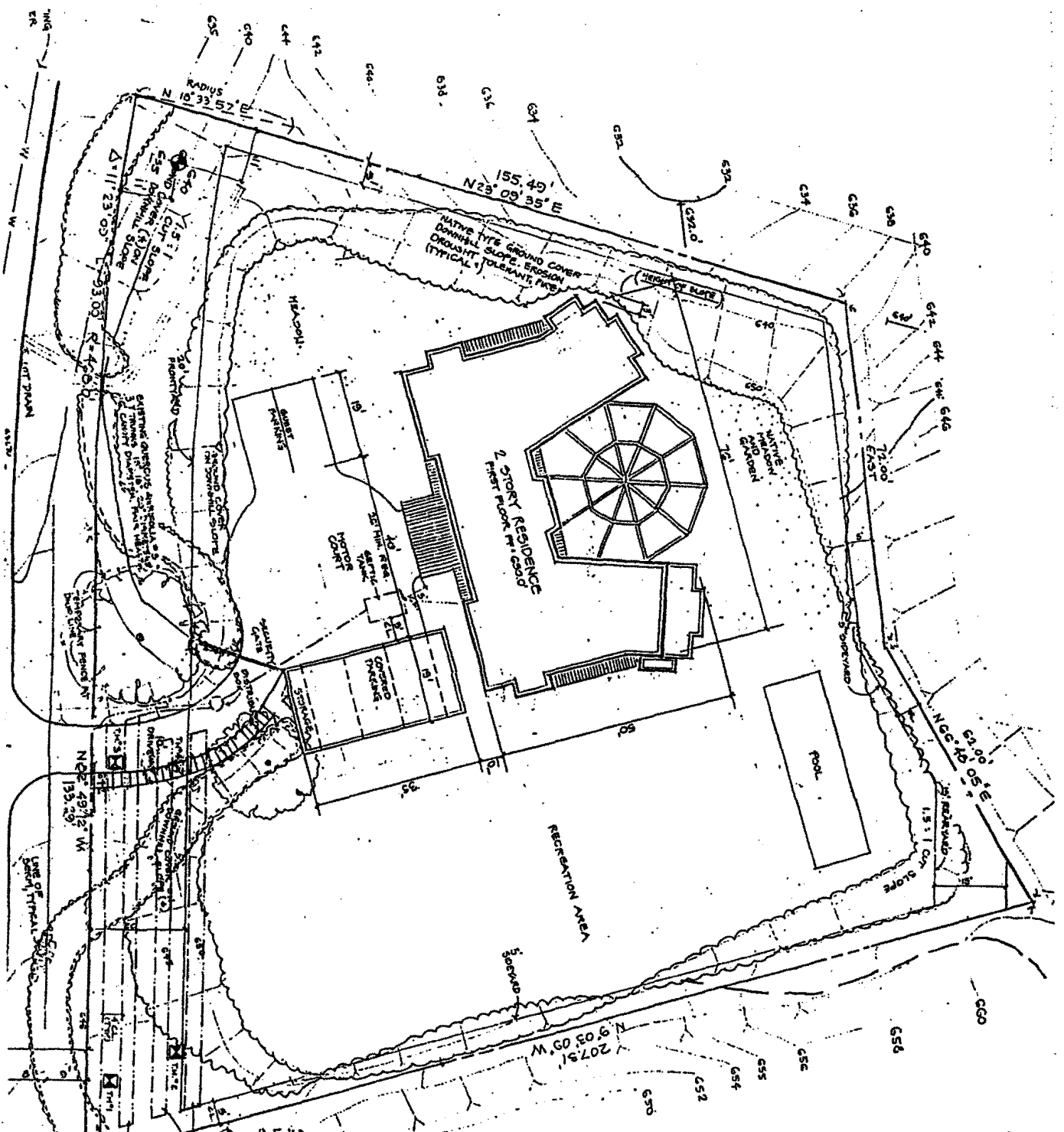
SEE MAP 100

SEE MAP 114

PROPOSED PROJECT
SITES



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| EXHIBIT NO. 2 |
| APPLICATION NO. |
| 5-91-136 & 139 |
| PARCEL MAP |



SITE PLAN KEY
 LOT & TRACT ABID
 SCALE: 1/8" = 1'-0"
 PUMA ROAD
 LOCATION OF SURVEYOR'S STAKE
 FUTURE DRAINAGE TRENCHES
 PROPOSED DRAINAGE TRENCHES
 E AT 5' 8" - SEE SH



SOUTH COAST DISTRICT
 5-91-139

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| <p> RE EXHIBIT NO. 3 </p> |
| <p> APPLICATION NO. </p> |
| <p> 5-91-136 + 139 </p> |
| <p> SITE PLAN - L076 </p> |

SITE PLAN - 6074

LOT 4 TRACT 45160
SCALE: 1/2" = 1'-0"
PIUMA ROAD



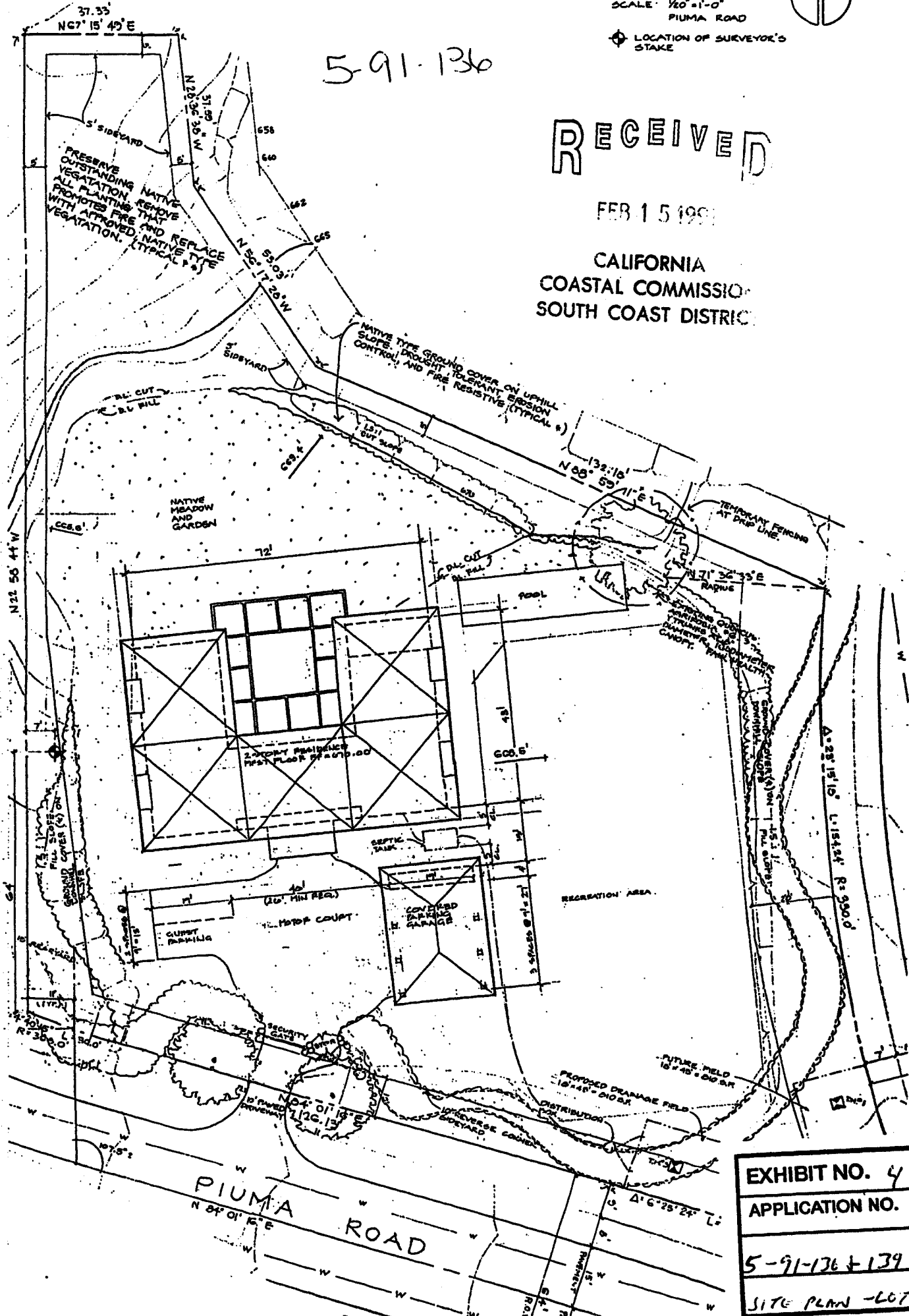
LOCATION OF SURVEYOR'S STAKE

5-91-136

RECEIVED

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CALIFORNIA
COASTAL COMMISSION
SOUTH COAST DISTRICT



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| EXHIBIT NO. 4 |
| APPLICATION NO. |
| 5-91-136 & 139 |
| SITE PLAN - 6074 |

BERNSTEIN

**santa monica mountains
task force/sierra club
angeles chapter**

Box 344 • Woodland Hills, California 91365-0344

November 25

to: Jack Ainsworth or John Ledbetter

from: David M. Brown

re: Appeal of time extension for permit 5-87-458-E9 and any related amendments, including list of four changed circumstances to justify denying the extension. A map showing new park acquisitions and existing water lines (verified by viewing the Las Virgenes Municipal Water District's water line map) is also enclosed.

We believe that, after the passage of ten years with no development activity on this site, it is in both the public interest and that of ensuring conformity with the requirements of the Coastal Act and the Malibu LUP that the original permit - including the 1991 amendment - be allowed to lapse and a new application be made and reviewed under the changed circumstances noted below.

Sincerely,



David M. Brown
Conservation Chair
Santa Monica Mountains
Task Force

P. S. A clean copy of this submittal will follow by mail.

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| EXHIBIT NO. 5 |
| APPLICATION NO. |
| 5-91-136+139 |
| OBJECTION LETTER |

PERMIT EXTENSION NO. 5-87-458-E9 (BERNSTEIN) - CHANGED CIRCUMSTANCES

(This is a ten-year-old permit for a 4400 sq ft single-family home expanded to 7800 sq ft in 1991. The site is the crest of Pioma Ridge, which forms both the north rim of 1500-1800'-deep Malibu Canyon and the prominent ridgeline that forms the visual backdrop for Malibu Lagoon (Surfrider) State Beach and Pacific Coast Highway in the Civic Center area of Malibu.)

(The site is at 1700' elevation on Pioma Road, a scenic highway in the Malibu LUP, and directly above Malibu Canyon Road, another scenic highway. Today state park land virtually surrounds the site at distances of 1200' to 2100' from the permit site.)

(Though the site is on a paved road, the nearest water line is 4000 linear feet to the north and 1100' below the site in the community of Monte Nido. Following Pioma Road, the nearest water line is approximately 14,600' from the site. A second water line is situated 5800' linear feet and 8500 road feet east of the site at an elevation of 2192'. All lots between these two water lines on Pioma Ridge are lacking in piped-in water.)

CHANGED CIRCUMSTANCES

- 1) At the time of approval of this permit a tract (Dempster, T.T. 44238) was pending before Los Angeles County on a mile-long 200+-acre property. This tract was expected to extend the easterly water main along Pioma Road to within 4000' of the Bernstein property.

The Dempster tract was not approved and the property has been purchased by the Santa Monica Mountains Conservancy for addition to the Malibu Canyon unit of Malibu Creek State Park. No development will be built on this, the largest ownership in the vicinity of the Bernstein property.

It is very possible that, without the Dempster tract, it will not be financially feasible to extend the water main to service the handful of lots along this section of Pioma Road.

Given the location of this project on the crest of a rugged ridge rising over 1500' above the canyon below, there is good reason to believe that a well alone will not provide sufficient water to meet the needs of a 7800 sq ft house, keep a water tank filled, and water in the erosion control landscaping required in Special Condition 1. (a) of the 1987 approval.

The adequacy of the water supply for this house needs to be reviewed in a new hearing to ensure that the proposed water supply for any home built on this site constitutes an "adequate public service" under Section 30250 (a) and minimizes risk to life and property in areas of high geologic ... and fire hazard" as required by Section 30253 (1).

page 2

CHANGED CIRCUMSTANCES, 5-87-458-E9, cont.

- 2) Parcels with two small houses on them border the Bernstein property on the west and the north. The house to the west, a 1200 sq ft home owned by a party named Olney, was approved by the Commission in 1979, using a well for water supply.

According to a recent conversation with David Clark, who owns a small, very unobtrusive home on the north side of Pioma road just north of Bernstein, Olney never had sufficient flow from his well to serve the needs of Olney and his tenant. In fact, according to Clark, Olney "... burned out three transmissions ... " trucking water up to his home,

As for Clark's water supply from his well, he made the following comments about his and his wife's living habits,

- "We don't flush very much; we have a big yard."
- "We could never have a washing machine."
- "I would never live here if I had kids."

This new information about the inadequacy of wells as a source of water for the two modest homes bordering on the Bernstein site needs to be investigated through a reopening of the Bernstein permit to ensure conformity of a future project on this site with Sections 30250 (a) and 30253 (1).

- 3) Since the 1987 Bernstein approval, the Santa Monica Mountains Conservancy has purchased over 300 acres of park lands within a mile of the Bernstein site. These purchases include several existing and potential viewsites offering spectacular views of Malibu Canyon and Lagoon, Santa Monica Bay, Saddle Peak, and the Goat Buttes.

These new parklands provide views of the Bernstein site from directions and locations that were not accessible to the public when the Bernstein application was approved in 1987.

Pioma Ridge certainly qualifies as a "highly scenic area" under Section 30251 of the Coastal Act. It dominates the view from Malibu Lagoon State Beach and Malibu Canyon Road, and it is a prominent and highly visible landform from several scenic highways and from Malibu Creek State Park.

In addition, the State Backbone Trail descends the spectacular west face of Saddle peak north of the subject property, passing within half a mile of the Bernstein site. The land for this major trail was purchased before 1987, but the trail itself was not constructed until after the approval of the Bernstein permit, providing public access to a number of views of the site.

300-plus acres of new park purchases and a major new trail since 1987, all providing views of this highly visible site on this prominent ridgeline in this "highly scenic area", as designated in the Malibu LUP (#9, Malibu Canyon, #11, Pioma Road Crest) certainly constitute "changed circumstances"

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CHANGED CIRCUMSTANCES. 5-87-458-E9, cont.

requiring reevaluation of the potential visual impacts of the 1987 approval to ensure conformity with Section 30251.

The 1987 staff report (p. 5) notes that "... in past permit decisions the Commission has required new development to be reduced in size or be redesigned to be no higher than one story high when it has found it necessary to minimize a project's visual impact." Yet this project was approved and subsequently expanded through amendment to a house of 7800 sq ft and a height of 31 feet. Would such a house be approved on a prominent ridgeline in Big Sur? Why was Piuma Ridge treated any differently?

The changed circumstances of an inadequate well water supply with little likelihood of future water main expansion to the site and the purchase of additional parkland and construction of new trails on all sides of the site would seem to dictate a reevaluation of the Commission's original decision not to require this house to be limited to one story and a smaller footprint, as is the case with the Olney and Clark homes.

- 4) The 1987 Coastal Development Permit (p.3) permits selective thinning of native vegetation within 100' of the main structure, but the Los Angeles County Fire Department changed its requirements after the 1993 Topanga-Malibu Fire and now commonly requires clearance or thinning of brush for 200' around structures. This new requirement will impact the open space dedication required in that permit. It will also make it much more difficult to bring the project into conformity with Section 30253 (2).

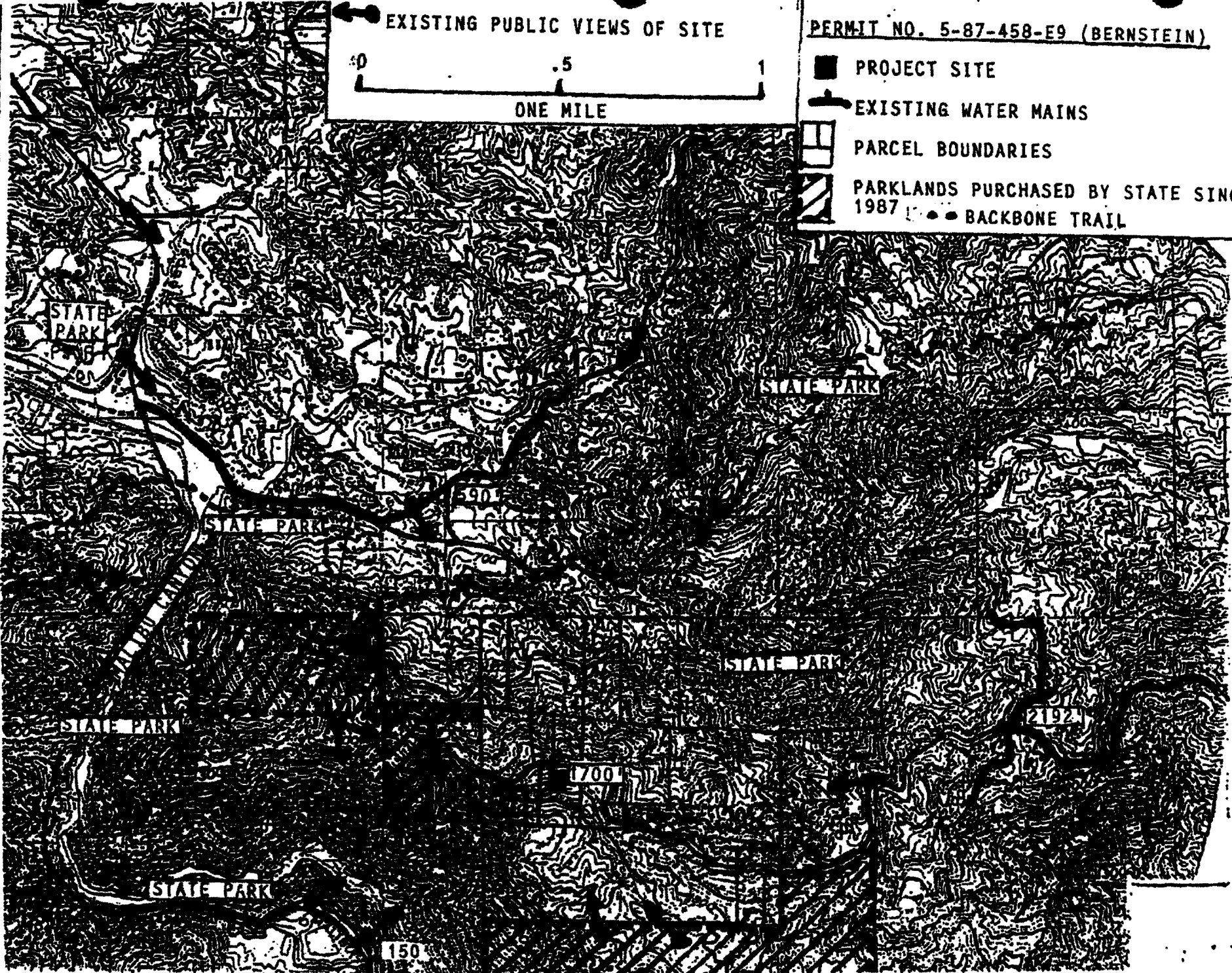
There is every reason to believe the Fire Department would require the maximum brush clearance on this site. It is at the crest of two draws in a steep north-to-northeast facing slope that rises 900' in about 2000'. (Brush fires are driven by Santa Ana winds from the northeast that commonly reach gale force with humidity of 1-10% and temperatures up to 100°. According to Chief Don Anthony of the Los Angeles City Fire Department, 40-100 acres of mature coastal chaparral generate the heat of the Hiroshima atomic bomb. Chief Anthony also points out that, under Santa Ana conditions even the greens on a golf course will burn.)

Given the County's new brush clearance requirements and the steep, winding configuration of Piuma Road, which takes escaping residents northeast (into the oncoming fire) which ever direction they flee, 5-87-458 needs to be reexamined to ensure that fire hazard can be minimized in conformity with Section 30253 (1) without creating conflicts with the erosion prevention and geologic stability requirements of Section 30250 (2) and the park and ESHA protection requirements of 30240 (b).

Nov. 26 1997 08:33AM P05

PHONE NO. :

FROM :



EXISTING PUBLIC VIEWS OF SITE



PERMIT NO. 5-87-458-E9 (BERNSTEIN)

- PROJECT SITE
- EXISTING WATER MAINS
- ▭ PARCEL BOUNDARIES
- ▨ PARKLANDS PURCHASED BY STATE SINCE 1987
- BACKBONE TRAIL

**santa monica mountains
task force/sierra club
angeles chapter**

Box 344 • Woodland Hills, California 91365-0344

November 30, 1997

to: Jack Ainsworth or John Ledbetter

from: David M. Brown

re: Addendum to appeal of time extension for permit 5-87-458-E9
faxed to Ventura office on 11/25.

Addendum to 5-87-458-E9

- The 1987 staff report notes that a 'hydrology plan' was required as a condition of a previous approval on this site, but was apparently never completed. The 1987 staff report requires submission of a "current hydrology report" as a condition of the new (1987) approval. Given the fact that no water main has been extended any closer to this site in the 20 years I have been aware of permit activity in this area and that the chief development that might have brought about such an extension (Dempster) has been purchased for parkland, shouldn't a "current hydrology report" be required and reviewed in a public hearing before issuing any further permit extensions for 5-87-458-E9? (See p. 9 of 8/25/87 report)

(The 1991 staff report for the additional 3200 square feet makes no mention of the required hydrology report, nor does it evaluate the ability of the well to supply domestic and fire protection water for the added square footage of structure.)

- The 1987 staff report requires that the house be of a "sandstone rock color" "color coordinated to match the existing terrain" (p. 4). These conditions do not appear in the 1991 staff report for the amended square footage or in the Coastal development permit for the amended project issued the following year.

Yesterday I drove Piuma Road with my Sister and Brother-in-law from Milwaukee and my Brother-in-law's mother from Pittsburgh. My guests, who had traveled to many scenic places in their lifetimes, were simply stunned by the spectacular views of mountains, coast, and canyon available from viewsites in the vicinity of this project. Two of these viewsites were from property that was not in public ownership at the time of the 1987 approval, again emphasizing the need to review the design and size of any project approval on this site in light of the changed circumstances of additional park acquisitions in the immediate vicinity of the site.

- The 1987 staff report contains a number of references to geologic hazard areas on this property ("ancient landslide areas", p. 11, "landslide areas" and "restricted area geologic setback", p. 14, and "on site active landslides", p. 19). Geologic conditions need to be reevaluated in light of the Fire department's requirement of 200' of vegetation clearance and the impact of such clearance on slope stability.