

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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 Hearing Date: June 9, 1998
 Commission Action:

**STAFF REPORT: PERMIT AMENDMENT**

APPLICATION NO.: 4-94-178-A4

APPLICANT: Jack Skene

PROJECT LOCATION: 27975 Winding Way, Malibu (Los Angeles County)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 10,112 sq. ft., 28 ft. high, single family residence with pool house, 4-car garage, septic system, driveway, patio, walkway, paving, and 802 cu. yds. of grading (538 cu. yds. of cut and 264 cu. yds. of fill).

DESCRIPTION OF AMENDMENT: Construction of a new non-habitable 354 sq. ft., 18 ft. high, tack house/stall with 63 cu. yds. of grading (1 cu. yd. of cut, 25 cu. yds. of fill, and 37 cu. yds. of removal and recompaction), and after-the-fact approval for a horse corral and approximately 4,773 cu. yds. of grading (365 cu. yds. of cut; 2,408 cu. yds. of fill; and 2,000 cu. yds. of removal and recompaction) for a building pad.

LOCAL APPROVALS RECEIVED: City of Malibu Approval in Concept, Approval in Concept City of Malibu Health Department (Septic).

SUBSTANTIVE FILE DOCUMENTS: Archaeological Report Letter by Dr. Holly Love dated 4/2/98; Archaeological Report Letter by Dr. Holly Love dated 6/14/97; Monitoring Report by Gilbert Unzueta, Chumash Consultant dated 10/10/96; Phase II Excavation Report by W.H. Bonner Associates dated 11/2/95; Results of Archaeological Monitoring by HEART Research Team dated 11/95; Archaeological Reconnaissance Report by Chester King dated 4/25/94; Geotechnical Update Letter by Advanced Geotechnical Services dated 3/31/98; and Geotechnical Update Letter by Advanced Geotechnical Services dated 12/12/96.

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

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

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

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission determine that the proposed development with the proposed amendment, subject to seven (7) special conditions regarding archaeological monitoring during all grading activity, landscaping, plans conforming to the geotechnical consultant's recommendations, future development, color restriction, wild fire waiver of liability, and condition compliance, is consistent with the requirements of the Coastal Act.

The applicant proposes to amend Coastal Development Permit 4-94-178 to allow for the construction of a new non-habitable 354 sq. ft., 18 ft. high, tack house/stall with 63 cu. yds. of grading (1 cu. yd. of cut, 25 cu. yds. of fill, and 37 cu. yds. of removal and recompaction), and after-the-fact approval for a horse corral and approximately 4,773 cu. yds. of grading (365 cu. yds. of cut; 2,408 cu. yds. of fill; and 2,000 cu. yds. of removal and recompaction) for a building pad.

The subject site is located on the landward side of Pacific Coast Highway northeast of the Point Dume area in Malibu. The site has been previously developed with an 800 sq. ft. residence to be connected to the 10,112 sq. ft. single family residence approved by the underlying coastal development permit. Various grading has taken place on site without the required coastal development permit. Approximately 2,000 cu. yds. of fill material has been imported onto the subject site. The imported material was less expansive than the on site soils and was used as replacement fill to construct a new building pad for the single family residence. The original soil which was removed from the building pad area was placed over the remaining undisturbed portion of the property.

Archaeological Site CA-LAN-30 has been identified as extending over the majority of the subject site including all areas of proposed development. In addition, the proposed development will be visible from public viewing areas including Pacific Coast Highway. Staff notes that an archaeologist and a Native American Monitor were present on site during the grading activities which occurred without the required permits. To ensure that impacts to archaeological resources are minimized during the construction of the new proposed tack house/barn, Special Condition One (1) requires that the applicant have a qualified archaeologist(s) and Native American consultant(s) present on-site to monitor all earth moving operations. Special Condition Two (2) has been required to ensure that all disturbed areas are stabilized and vegetated with native vegetation in order to minimize visual impacts, as well as to minimize erosion and runoff. To further minimize impacts to visual resources, Special Condition Five (5) requires the applicant to use only colors compatible with the surrounding environment for the proposed tack house/stall and Special Condition Four (4) requires a deed restriction to ensure that any future development on site will be reviewed by the Commission in order to ensure that any adverse impacts to archaeological and visual resources will be minimized.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby **approves** the amendment to the coastal development permit, on the grounds that as modified, 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.

NOTE: All standard and special conditions attached to the previously approved permit remain in effect to the extent not otherwise modified herein.

II. Special Conditions

1. Archaeological Resources

(a) By acceptance of this permit, the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation, site preparation, installation of irrigation systems or landscaping features that involve any earth moving operations. The number of monitors shall be adequate to observe the earth moving activities of each piece of active earth moving equipment. Specifically, the earth moving operations on the project site shall be controlled and monitored by the archaeologist(s) with the purpose of locating, recording and collecting any archaeological materials. In the event that any significant archaeological resources are discovered during operations, grading work in this area shall be halted and an appropriate data recovery strategy be developed, subject to review and approval of the Executive Director, by the applicant's archaeologist, the City of Malibu archaeologist and the native American consultant consistent with CEQA guidelines.

2. Landscaping and Erosion Control Plan

Prior to issuance of the coastal development permit, the applicant shall submit landscaping and erosion control plans for review and approval by the Executive Director. The landscaping and erosion control plans shall be reviewed and approved by the consulting geologic and geotechnical consultants to ensure that the plans are in conformance with the consultants' geotechnical recommendations. The plans shall incorporate, but not be limited to, the following criteria:

(a) All graded and disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

(b) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.

(c) Should grading take place during the rainy season (November 1 - March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

(d) The applicant shall implement and complete the restoration landscaping plans for all areas of the site where after-the-fact grading has occurred within 45 days of the issuance of this permit. The Executive Director may grant additional time for good cause

3. Plans Conforming to Geologic Recommendation

All recommendations by the applicant's geotechnical consultant, Advanced Geotechnical Services, shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by the consultant as conforming to said recommendations. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all final project plans as incorporating the above referenced geological recommendations.

The applicant shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission-approved amendment to the coastal development permit unless the Executive Director determines that no amendment is required.

4. Future Improvements

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that any future grading activities, structures, additions, or improvements on site, will require a permit from the Coastal Commission or its successor agency. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Color Restriction

Prior to the issuance of the coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, which restricts the color of the tack house/stall and roof to colors compatible with the surrounding environment. White tones shall not be acceptable. All windows shall be of non-glare glass. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

6. Wild Fire Waiver of Liability

Prior to the issuance of the coastal development permit, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

7. Condition Compliance

Within 60 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

III. Findings and Declarations.

A. Project Description and Background

The applicant is requesting an amendment to Permit 4-94-178 to construct a new non-habitable 354 sq. ft., 18 ft. high, stall/tack house with 63 cu. yds. of grading (1 cu. yd. of cut, 25 cu. yds. of fill, and 37 cu. yds. of removal and recompaction), and after-the-fact approval for a horse corral and approximately 4,773 cu. yds. of grading (365 cu. yds. of cut; 2,408 cu. yds. of fill; and 2,000 cu. yds. of removal and recompaction) for a building pad.

The subject site is a 5.15 acre lot located on the landward side of Pacific Coast Highway northeast of the Point Dume area in Malibu (Exhibit 1). The site slopes to the south at a slope gradient of approximately 6:1 (H:V). The site has been previously developed with an 800 sq. ft. residence. Archaeological Site CA-LAN-30 has been identified as extending over the majority of the subject site including all areas of proposed development.

The site has been the subject of past Commission action. On December 11, 1994, the Commission approved coastal development permit 4-94-178 for the construction of a 10,112 sq. ft., 28 ft. high, single family residence with pool house, 4-car garage, septic system, driveway, patio, walkway, paving, and 802 cu. yds. of grading (538 cu. yds. of cut and 264 cu. yds. of fill). The approval was subject to four special conditions regarding landscaping, color restriction, plans conforming to geologic recommendation, and wild fire waiver of liability. The Commission received a subsequent request to revoke Coastal Development Permit 4-94-178 on the basis that adverse impacts to archaeological resources on site were not adequately mitigated by the permit conditions. On November 14, 1995, the Commission denied the revocation request finding that the basis for a revocation was dependent upon whether the applicant had submitted inaccurate or incomplete information and that, in the case of Coastal Development Permit 4-94-178, the applicant had provided accurate information regarding the presence of archaeological resources on site. In addition, on May 6, 1995, Amendment 4-94-178A1 was submitted for modifications to the previously approved pool house; however, this application was incomplete and was not heard by the Commission. On August 8, 1995, Amendment 4-94-178A2 was approved as an immaterial amendment to delete the previously approved pool house and to allow for the construction of an 800 sq. ft. guest house to be attached to the previously approved main house. On September 26, 1995, Amendment 4-94-178A3 was approved as an immaterial amendment to modify the previously required color restrictions condition.

In addition, various grading has taken place on site without the required coastal development permits (Exhibit 4). Approximately 2,000 cu. yds. of fill material has been imported onto the subject site. The imported material was less expansive than the on site soils and was used as replacement fill to construct a new building pad for the single

family residence. The original soil which was excavated from the building pad area was placed over the remaining undisturbed portion of the property.

B. Archaeological Resources

PRC Section 30244 of the Coastal Act states that:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Archaeological resources are significant to an understanding of cultural, environmental, biological, and geological history. The proposed development is located in a region of the Santa Monica Mountains which contains one of the most significant concentrations of archaeological sites in southern California. The Coastal Act requires the protection of such resources to reduce the potential adverse impacts through the use of reasonable mitigation measures.

Degradation of archaeological resources can occur if a project is not properly monitored and managed during earth moving activities and construction. Site preparation can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. As a result, the remaining sites, even though often less rich in materials, have become increasingly valuable as a resource. Further, because archaeological sites, if studied collectively, may provide information on subsistence and settlement patterns, the loss of individual sites can reduce the scientific value of the sites which remain intact.

As previously mentioned, the applicant is proposing to conduct 63 cu. yds. of grading (1 cu. yd. of cut, 25 cu. yds. of fill, and 37 cu. yds. of removal and recompaction) for the construction of a new tack house/stall, as well as requesting after-the-fact approval for approximately 4,773 cu. yds. of grading (365 cu. yds. of cut; 2,408 cu. yds. of fill; and 2,000 cu. yds. of removal and recompaction) for a building pad.

A portion of Archaeological Site CA-LAN-30 is located over the majority of the subject site, including the proposed location for the tack house/stall and where the unpermitted grading for the single family residence building pad has been previously carried out. CA-LAN-30 was first recorded by Chester King, City of Malibu Archaeologist, on February 8, 1967. The recorded map of CA-LAN-30 indicates that the archaeological site extends over almost the entire subject site. The Archaeological Reconnaissance Report dated 4/25/94 by Chester King, Malibu City Archaeologist states:

CA-LAN-30 is possibly the most intact large Early period settlement site left on the Malibu coast....The project [single family residence] will involve excavation of intact soils

and will disturb archaeological remains. The house is proposed to be built on the area of highest artifact concentration...

Staff notes that the location of the single family residence has been previously approved by Coastal Development Permit 4-94-178. However, the importation of approximately 2,000 cu. yds. of material which was used as replacement fill to construct a new building pad for the single family residence, as well as the subsequent placement of the original soil removed from the building pad area over an undisturbed portion of the property, in addition to other grading on site, was not included as part of Coastal Development Permit 4-94-178.

The applicant's geotechnical consultant has indicated that the importation of offsite soil to reconstruct the building pad was utilized in order to reduce the expansiveness of the soil for the building pad. Staff notes that if offsite soil had not been used to construct a new building pad, the original building pad soil would still have required additional grading for removal and recompaction in order to reduce the effects of soil expansion and create a stable site or the proposed residence would have required deepened foundations such as caissons. Thus, some adverse impacts to the archaeological resources on site would have been unavoidable due to the removal and recompaction of the building pad material necessary to assure structural stability.

Dr. Holly Love, Professor of Archaeology and Anthropology at Pepperdine University, has indicated that, in this case, excavation of the original building pad material with archaeological monitors on site to recover artifacts during the grading operations and subsequent use of the excavated material to "cap" the remaining undisturbed portion of the site is the preferred alternative to minimize impacts to archaeological resources on site. Dr. Love states in her letter dated April 2, 1998, that:

If the soil (containing midden debris) had been left in place and compacted for the building pad it would have completely destroyed all of the faunal samples. The faunal debris consists of shell, animal bones and botanical specimens.

Further, Dr. Love also states in her letter dated June 14, 1997, that:

The deposition of this [original building pad] material on top of the undisturbed area of the archaeological site is, in my opinion, the best possible way to preserve this area for future investigation by qualified archaeologists.

In past permit actions regarding development on sites containing archaeological resources, the Commission has required that a qualified archaeologist and appropriate Native American consultant be present on-site during all grading, excavation and site preparation that involve earth moving operations. Staff notes that both an archaeologist and a Native American consultant were present on site to monitor the above mentioned grading activity, as would have been required as a condition if the applicant had applied for a coastal development permit, and that the applicant's archaeological consultant has indicated that such grading was the preferred alternative in order to minimize impacts to archaeological resources. Thus, the Commission notes that adequate mitigation

measures were implemented in order to minimize any adverse impacts from the previously conducted grading activity.

Further, to ensure that impacts to archaeological resources are minimized during the construction of the new proposed tack house/barn, Special Condition One (1) requires that the applicant have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation in order to monitor all earth moving operations. In addition, if any significant archaeological resources are discovered during construction, work shall be stopped and an appropriate data recovery strategy shall be developed by the City of Malibu's archaeologist, the applicant's archaeologist, and the Native American consultant consistent with California Environmental Quality Act (CEQA) guidelines. Further, staff notes that Archaeological Site CA-LAN-30 extends over almost the entire subject parcel. To ensure that any future potential impacts to the archaeological resources on site are minimized, Special Condition Four (4) provides that any future development of the site will be reviewed by the Commission which might otherwise be exempt from permit requirements.

In conclusion, the Commission notes that the after-the-fact grading, which was monitored by a qualified archaeologist and Native American consultant, did not result in any significant adverse impacts to archaeological resources on site. The Commission further notes that adverse impacts to archaeological resources will be adequately mitigated through archaeological monitoring of all new proposed grading activity and the requirement that any future development will be reviewed by the Commission. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30244 of the Coastal Act.

C. Geologic Hazards and Visual Resources

Section 30253 of the Coastal Act states:

New development shall:

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

Section 30251 of the Coastal Act states that:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the

California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.

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.

Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission will only approve the project if the applicant assumes liability from the associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by Special Condition Six (6).

As previously mentioned, the applicant is proposing to conduct 63 cu. yds. of grading (1 cu. yd. of cut, 25 cu. yds. of fill, and 37 cu. yds. of removal and recompaction) for the construction of a new tack house/stall, as well as after-the-fact approval for approximately 4,773 cu. yds. of grading (365 cu. yds. of cut; 2,408 cu. yds. of fill; and 2,000 cu. yds. of removal and recompaction). The approximately 2,000 cu. yds. of imported material was less expansive than the on site soils and was used as replacement fill to construct a new building pad for the single family residence. The original soil which was removed from the building pad area was placed over the remaining undisturbed portion of the property. Advanced Geotechnical Services has indicated in their letter dated March 31, 1998, that the 2,000 cu. yds. of imported soil was used to allow for the creation of a more stable building pad since it was less expansive than the original soil.

Further, the construction of the tack house/stall, which is also located on expansive soil, will require additional grading, as well as removal and recompaction of the original soil (Exhibit 5). To ensure that all recommendations of the geotechnical consultant are incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by Special Condition Three (3) to submit project plans certified by the consulting geotechnical engineer as conforming to their recommendations.

The Commission also finds that the minimization of site erosion will add to the stability of the graded slope. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. In addition, staff notes that the project site is visible from public viewing areas including Pacific Coast Highway. In past permit actions, the Commission has approved similar projects with the requirement that the applicant revegetate all graded or disturbed areas on site with native vegetation in order to minimize visual impacts, as well

as to minimize erosion and runoff. Therefore, Special Condition Two (2) has been required in order to ensure that all disturbed areas are stabilized and vegetated with native vegetation.

Further, in order to ensure that the color of the single family residence would not result in visual impacts as seen from Pacific Coast Highway, Coastal Development Permit 4-94-178 required the applicant to use only colors compatible with the surrounding environment. Staff notes that the proposed tack house/stall will also be visible from Pacific Coast Highway. In order to ensure consistency with the intent of the conditions of Coastal Development Permit 4-94-178 and to minimize impacts to visual resources, Special Condition Five (5) requires the applicant to use only colors compatible with the surrounding environment for the proposed tack house/stall. Further, Special Condition Four (4) also requires that any future development on site, which might otherwise be exempt from permit requirements, will be reviewed by the Commission in order to consistency with the visual resource policy of the Coastal Act.

As conditioned, the Commission notes that the proposed project will serve to ensure site stability and structural integrity of the existing and proposed structures, and neither create nor contribute significantly to erosion. In addition, adverse impacts to visual resources will be minimized through landscaping, a restriction on the color of structures, and the requirement that any future development will be reviewed by the Commission. Therefore, the Commission finds that the proposed amendment, as conditioned, is consistent with Sections 30251 and 30253 of the Coastal Act.

D. Septic System

The Commission recognizes that the potential build-out of lots in Malibu and the Santa Monica Mountains, 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 includes the installation of a new 750 gallon septic system for the proposed tack house/stall to provide for adequate sewage disposal. The applicant has submitted approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance with the minimum requirements of the City of Malibu Uniform Plumbing Code. The City of Malibu's minimum health code standards for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of soils along the

coastline, the depth to groundwater, etc. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

E. Violations

Development has occurred on site without the required coastal development permits including the construction of a horse corral and approximately 4,773 cu. yds. of grading (365 cu. yds. of cut; 2,408 cu. yds. of fill; and 2,000 cu. yds. of removal and recompaction). To ensure that restorative landscaping for all areas of the site where grading has previously occurred without the required permits is carried out in a timely manner, Special Condition Two (2) requires the applicant to implement the restorative landscaping plan within 45 days of the issuance of the permit. In addition, to ensure that the violation is resolved in a timely manner, Special Condition Seven (7) requires that the applicant satisfy all conditions of this permit amendment which are prerequisite to the issuance of this amendment within 60 days of Commission action of this permit application.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 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 amendment, 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).

G. 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 amendment, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed amendment, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

SMH-VNT

File: SMH12/94-178a4

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SCALE 1" = 200'

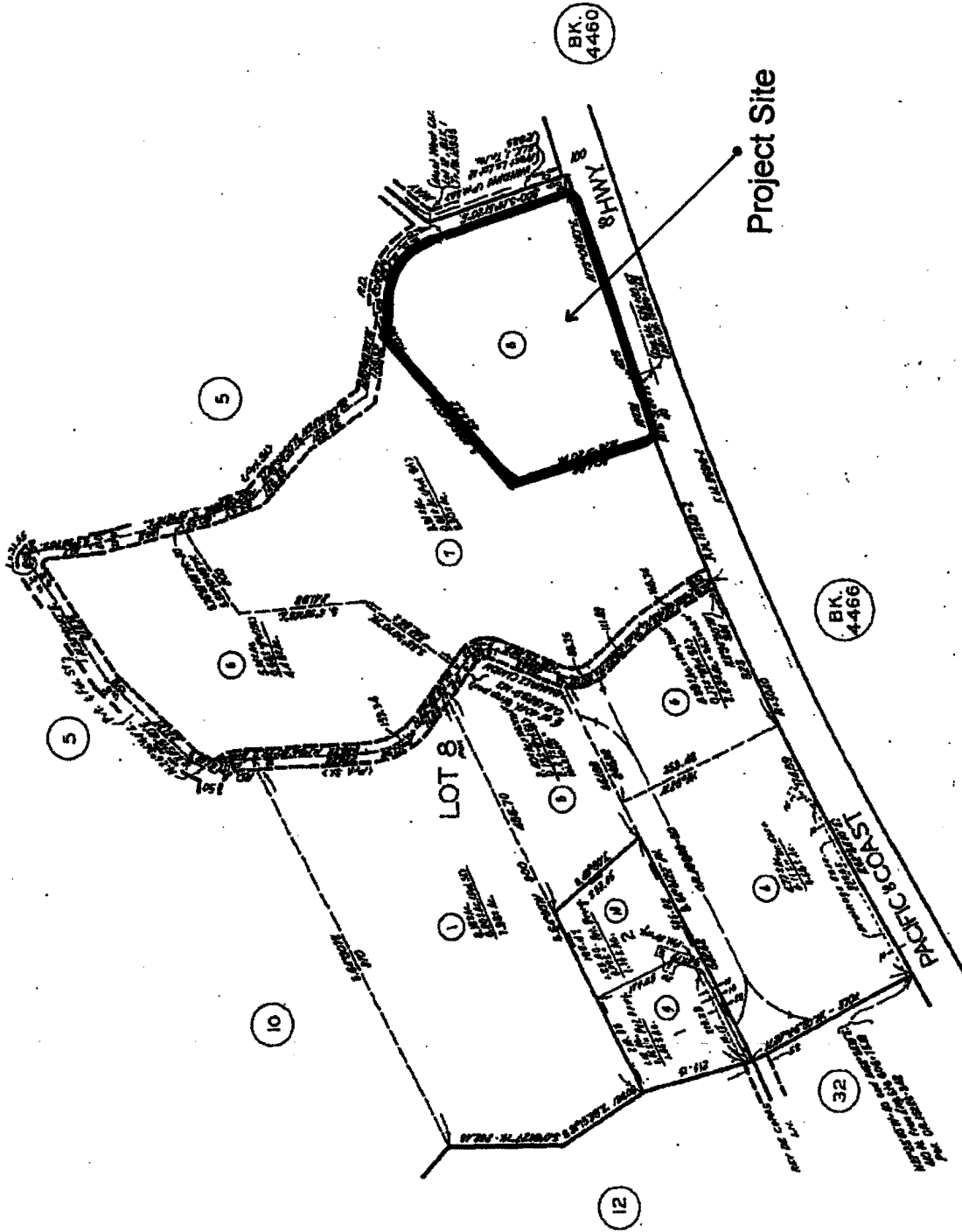


Exhibit No. 2: (4-94-178A4) Parcel Map

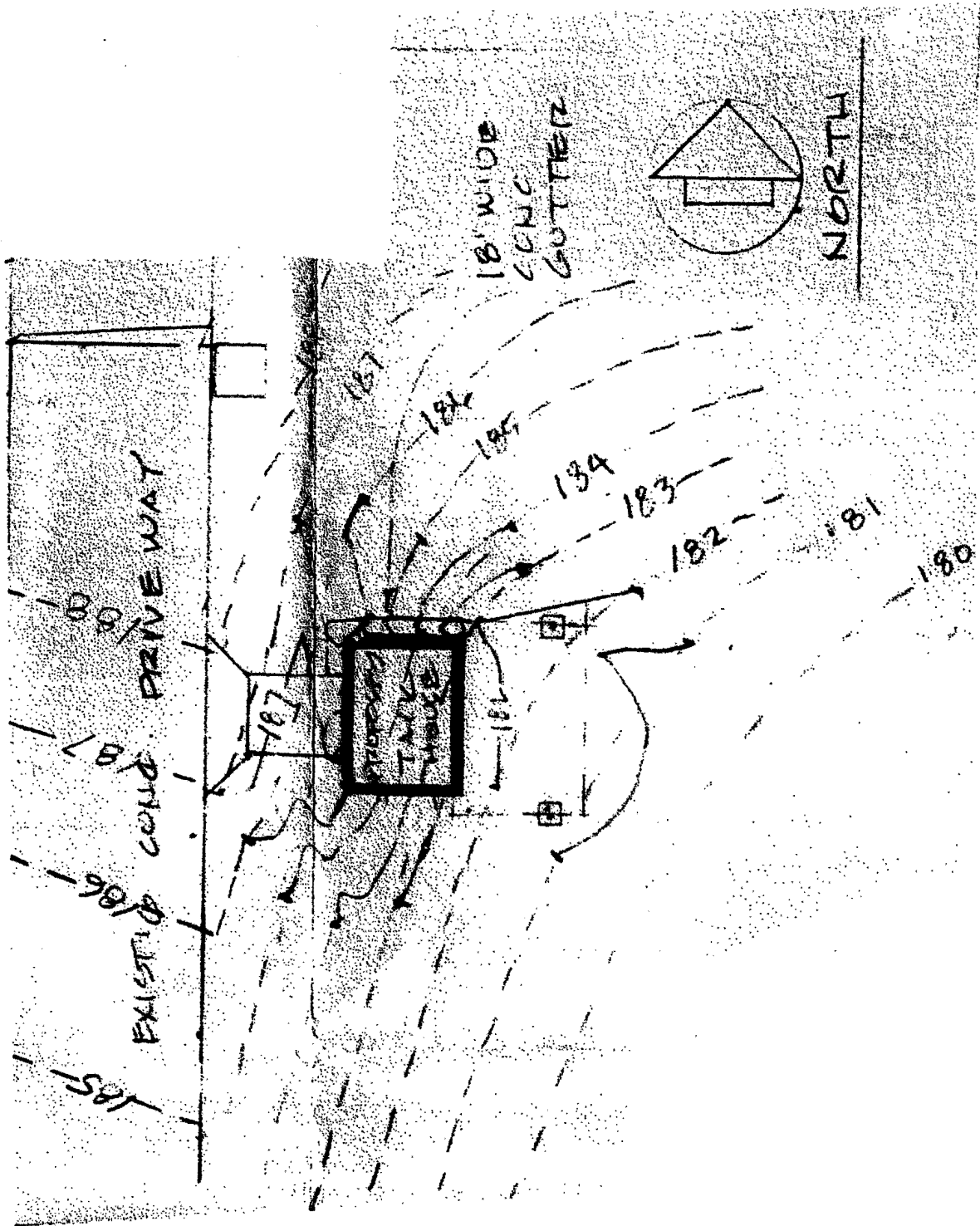


Exhibit No. 5: (4-94-178A4) Grading Plan for Proposed Tack House/Stall

