

CALIFORNIA COASTAL COMMISSION

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

F10b

Filed: 12/14/98
49th Day: 2/01/99
180th Day: 6/12/99
Staff: MH-V
Staff Report: 12/14/98
Hearing Date: 1/12-15/99

**STAFF REPORT: PERMIT AMENDMENT****APPLICATION NO.: 5-92-159-A1****APPLICANT: Milton and Florence Bienenfeld****PROJECT LOCATION:** 21965 Saddle Peak Road, Topanga, Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 3,352 sq. ft. 29.5 ft. high from existing grade single family residence with 3-car garage, pool, spa, septic system, and 2,041 cu. yds. of grading (1,239 cu. yds. cut and 802 cu. yds. fill), on an approximately 9.72-acre parcel. Applicable special conditions of approval imposed by the Commission included deed restrictions for future improvements (Special Condition 1) and color restrictions (Special Condition 3).

DESCRIPTION OF AMENDMENT: The applicants intend to convey the northerly 5.01-acre portion of the 9.72-acre subject lot the National Park Service (NPS). As a result, the applicants propose to amend the recorded Deed Restrictions required through Special Conditions 1 (Future Improvements) and 3 (Structure and Roof Color Restrictions) to Coastal Development Permit No. 4-92-159 by substituting a revised project description for Exhibit "B", which is attached to Exhibit "A" of said recorded Deed Restrictions. The revised Exhibit B shall contain a legal description of the 4.67-acre portion of the applicant's subject 9.72-acre tract that will not be conveyed to the NPS, which property shall remain subject to said Deed Restriction. The applicant shall submit the amendment to the Deed Restriction and the deed to the National Park Service in escrow. The escrow instructions shall provide that the amendment to the Deed Restrictions and the deed from the applicants to the 5.01-acre parcel to be donated to the NPS shall be released from escrow and recorded concurrently.

LOCAL APPROVALS RECEIVED: N/A

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan; Coastal Development Permit 4-92-159 (Bienenfeld).

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.

In this case, the Executive Director has determined that the proposed amendment is material.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed development with the proposed amendment is consistent with the requirements of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval

The Commission hereby approves the amendment to the coastal development permit, as conditioned herein, on the grounds that the development is 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 shown in Exhibit 3 attached hereto remain in effect, except as revised by the new Special Condition 6 as set forth herein:

6. Procedures to Revise Deed Restrictions

The applicants shall execute an amendment to the Deed Restriction recorded pursuant to Special Condition No. 1 (Future Improvements) and No. 3 (Structure and Roof Color Restrictions), in a form and content acceptable to the Executive Director. The amendment to the Deed Restriction shall substitute a revised property description for Exhibit "B" (which is attached to Exhibit "A" of said Deed Restriction) that provides a legal description of the 4.67-acre portion of the applicant's subject 9.72-acre tract that will not be conveyed to the National Park Service. Said 4.67-acre tract shall remain fully subject to the Deed Restriction.

Prior to and as a condition to the Executive Director's approval of the amendment to the Deed Restriction, the applicants shall submit a copy of the escrow instructions for the review and approval of the Executive Director that provide that the amendment to the deed restriction and the deed from the applicants to the 4.67-acre tract shall be recorded concurrently.

II. Findings and Declarations.

A. Project Description

The applicants are adjusting their lot line to reduce an existing 9.68-acre parcel located approximately 500 feet north of Saddle Peak Road, in Topanga, to a 4.67-acre remaining parcel and to convey to the Nation Park Service (NPS) the 5.01-acre balance of the tract. The subject site contains the applicants' existing single family residence, which is located on a low, rounded knob in the southeasterly portion of the site. The residence and appurtenant structures were approved pursuant to Coastal Development Permit 4-92-159. The 4.67-acre portion of the parcel, which the applicant will retain, contains the applicants' residence and is identified as "Parcel 2" on Exhibit 2. The applicant proposes to convey the northerly 5.01-acre balance of the acreage to the NPS for merger into an existing, adjacent 80-acre parcel owned by the NPS. The resultant merger will create a larger, 85-acre parcel immediately north of the applicant's parcel. (See Exhibits 1--3).

Lot line adjustments are defined as development under Section 30106 of the Coastal Act, and thus require a coastal development permit, unless such adjustments are undertaken in connection with the acquisition of such lands by a public agency for public recreational use. Therefore, the proposed lot line adjustment for acquisition by NPS for public recreational use is exempt from the requirement of obtaining a coastal development permit.

NPS, however, has a policy that it will not accept title to lands for public acquisition if such lands are encumbered by deed restrictions. Therefore, the applicant is seeking the removal of previously imposed deed restrictions (future improvements, color restrictions) on the portion of the subject property to be conveyed to the NPS to facilitate the conveyance.

The amendment to the underlying permit conditions will not have any adverse effects on coastal resources since the property is to be used for public recreation by the NPS. The Executive Director determined, however, that the proposed amendment is material for two reasons: 1) to ensure that the Commission is advised of the unusual circumstances surrounding the applicant's petition for relief from the deed restrictions applicable to the lands proposed for donation to NPS; and 2) to ensure that the permit record is clear by requiring the formal amendment of the underlying permit conditions by the Coastal Commission and imposing an additional condition requiring establishment of an escrow to ensure that the deed restrictions are only amended concurrent recordation with the deed from the applicants to the NPS conveying the 5.01-acre tract. These measures additionally ensure that should the conveyance to the NPS not be completed, transaction fail, the future improvement conditions and the color restriction continue to apply to the entire 9.68 acres.

B. Visual Resources and Landform Alteration

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 subordinate to the character of its setting.

In addition, the certified Malibu/Santa Monica Mountains LUP includes the following policies regarding protection of visual resources, which may be used as guidance by the Commission and are applicable to the proposed development. The Commission has applied these policies as guidance in the review of development proposals in the Santa Monica Mountains.

- P125** *New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on sloped terrain should be set below road grade.*
- P129** *Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.*
- P130** *In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:*
- be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP;*
 - minimize the alteration of natural land forms;*
 - be landscaped to conceal raw-cut slopes;*
 - be visually compatible with and subordinate to the character of its setting;*
 - be sited so as not to significantly intrude into the skyline as seen from public viewing places.*
- P131** *Where feasible, prohibit placement of structures that will break the ridgeline view, as seen from public places.*
- P134** *Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.*
- P135** *Ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.*

The subject lands are located approximately 500 feet north of Saddle Peak Road, in Topanga. The site of the existing single family residence is a low, rounded knob in the southeasterly portion of the site.

To ensure that visual impacts from development proposed pursuant to Coastal Development Permit 4-92-159 were adequately mitigated, the Commission required at the time of permit approval, special conditions a) requiring the applicant to seek coastal development permits for future development of the site that might otherwise be exempt from permit requirements, and b) requiring all structures to be limited to a specific palette of compatible colors and materials. These conditions will continue to apply to the residual 4.67-acre parcel containing the applicants' residence. The 5.01-acre portion of the subject parcel that will be donated to NPS will no longer continue, pursuant to this amendment request, to be subject to the deed restrictions set forth in Special Conditions 1 and 3 of Coastal Development Permit 4-92-159.

New Special Condition 6 set forth herein ensures that the amended deed restrictions and conveyance of title to NPS are handled concurrently in escrow. This provision provides for the continued application of the Deed Restrictions of Special Conditions 1 and 3 to the entire 9.68-acre parcel should the conveyance of land to the NPS not occur.

The Commission finds that as conditioned by Special Condition 6, the proposed amendment would have no adverse effects upon coastal visual resources and that the proposed project, as amended and conditioned, is therefore consistent with the requirements of Section 30251 of the Coastal Act.

C. Local Coastal Program

Section 30604(a) of the Coastal Act states that:

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).

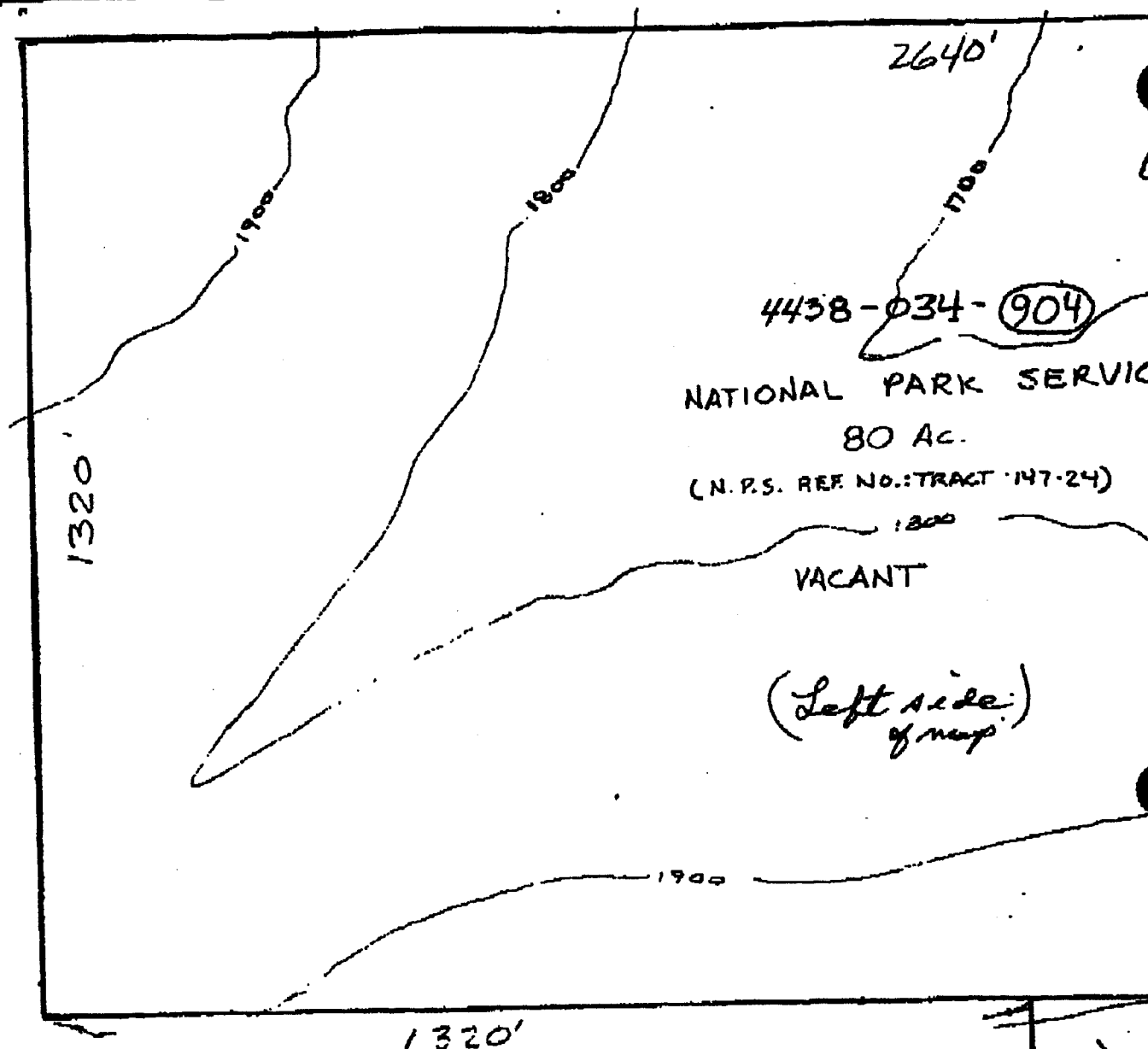
Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project, as amended, will be in conformity with the provisions of Chapter 3 if certain conditions and revised conditions continue to be 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 County's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

D. 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 which the activity would have on the environment.

The proposed development, as conditioned, will not have any significant adverse effects on the environment, within the meaning of CEQA. Therefore, the Commission finds that the proposed project, as conditioned, has been adequately mitigated and is consistent with CEQA and with the policies of the Coastal Act.



AREAS		
	BEFORE	AFTER
PARCEL 1	80 ACS	85 ACS
PARCEL 2	9.68 ACS.	4.67 ACS

NOTE: ZONING A-1-1
 CONTOURS VERY APPROXIMATE

THIS PORTION BEING
 MERGED INTO NATIONAL
 PARK SERVICE LAND
 (5.01 ACS.)

4438-039-(32)
 BIENENFELD
 PROPERTY

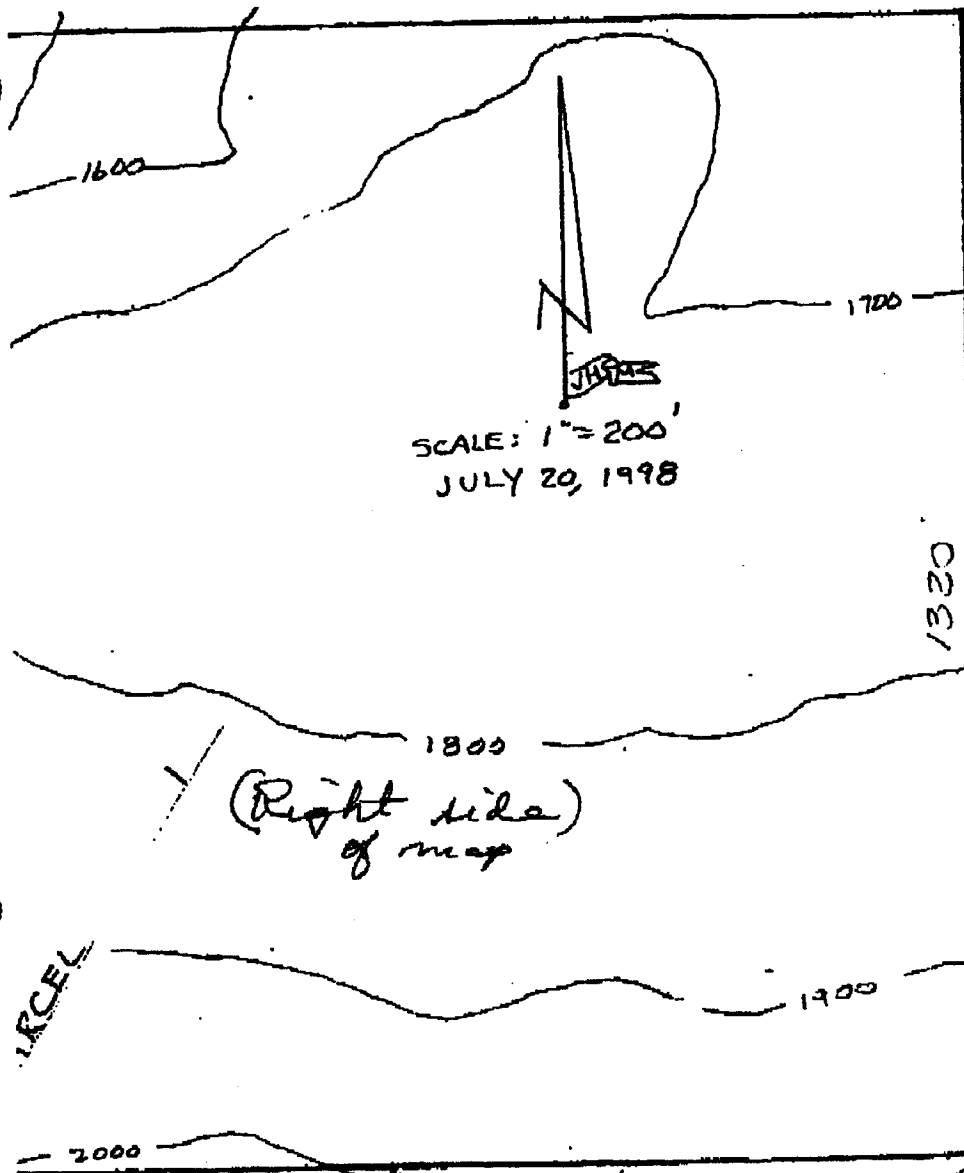
EXHIBIT NO. 2

APPLICATION NO.

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 5-92-159-A1

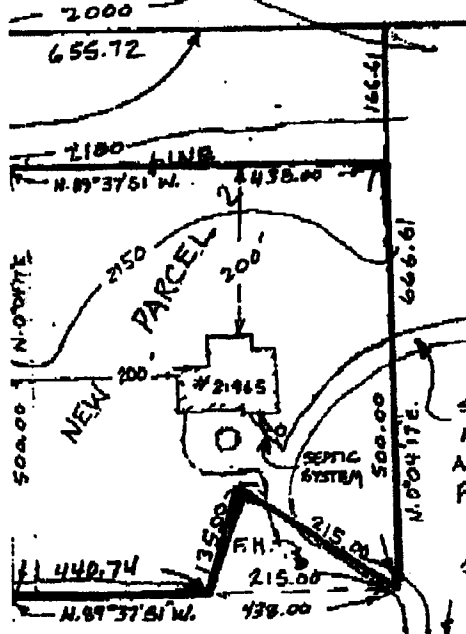
Bienenfeld

YOUR COPY



(Right side)
of map

VICINITY MAP
THOM. BROS. GUIDE
PG. 629 J-1



PROPOSED LOT LINE ADJUSTMENT
5N/4 SEC. 13, T. 1 S., R. 17 W. S.B.M.
21965 SADDLE PEAK ROAD, TOPANGA, CA

PARK DONATION

SHOWN AS WHITNEY
ROAD ON THOM. GUIDE,
ADDRESSES ARE SADDLE
PEAK ROAD

900 TO SADDLE
PEAK ROAD
FILE # 7803



JOHN H. MAC NEIL
LICENSED LAND SURVEYOR NO. 3358
2350 NO. TOPANGA
TOPANGA

EXHIBIT NO. 2
APPLICATION NO. Page 2 of 2
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Bienenfeld

PARCEL BEING DONATED

The northwest quarter of the southeast quarter of the southwest quarter of Section 13, Township 1 South, Range 17 West, San Bernardino Meridian according to the original plat of said land. EXCEPT therefrom the southerly 500.00 feet of the easterly 438.00 feet thereof.

PARCEL BEING RETAINED

The southerly 500.00 feet of the easterly 438.00 feet of northwest quarter of the southeast quarter of the southwest quarter of Section 13, Township 1 South, Range 17 West, San Bernardino Meridian according to the original plat of said land, EXCEPT therefrom the following described land: Beginning at the southeast corner of said land thence along the southerly line of said land N.89°49'47"W. 215.00 feet, thence N.18°28'04"E. 135.00 feet, thence S.53°14'04"E. 215.00 feet to the point of beginning.

EXHIBIT NO. 3
APPLICATION NO.
5-92-159-A1
Bienenfeld



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE
Santa Monica Mountains National Recreation Area
401 West Hillcrest Drive
Thousand Oaks, California 91360-4207

L1425
Tract 151-04

JUL 29 1998

Dr. Florence Bienenfeld
P.O. Box 40
Pacific Palisades, California 90272

Dear Dr. Bienenfeld:

Thank you for your letter of July 13, 1998, expressing your interest in proceeding with your donation offer that was withdrawn in March. We have alerted our Regional Land Resources Office in San Francisco to continue with the process. Earlier this week, Mr. MacNeill spoke with our Realty Specialist and was provided with assessor's information that he needed to proceed with his survey.

Every effort will be made to close on this donation in calendar year 1998. Our San Francisco Office will continue with accepting your donation and inform you of the process as it progresses. At any time, however, should you have a question or concern, please contact our Realty Specialist Dottie Anderson at (805) 370-2333.

Sincerely,

for
Arthur E. Eck
Superintendent

EXHIBIT NO. 4

APPLICATION NO.

5-92-159-A1

Bienenfeld

CALIFORNIA COASTAL COMMISSION

SOUTH COAST AREA
245 W. BROADWAY, STE. 380
P.O. BOX 1450
LONG BEACH, CA 90802-4416
(310) 590-5071

1h 50
Filed: 10/21/92
49th Day: 12/9/92
180th Day: 4/19/93
Staff: CAREY
Staff Report: 11/2/92
Hearing Date: 11/17-20/92
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-92-159

APPLICANT: Milton and Florence Bienenfeld AGENT: Paul Mailloux

PROJECT LOCATION: 21965 Saddlepeak Road, Malibu, Los Angeles County

PROJECT DESCRIPTION: Construction of 3,352 sq. ft., 29.5 ft. high from existing grade single family residence with 3-car garage, pool, spa, septic system, and 2,041 cu. yds. of grading (1,239 cu. yds. cut and 802 cu. yds. fill).

Lot area:	9.72 acres
Building coverage:	5,195 sq. ft.
Pavement coverage:	4,750 sq. ft.
Landscape coverage:	22,000 sq. ft.
Parking spaces:	3
Plan designation:	Rural Land III (1 du/2 ac)
Ht abv fin grade:	29 ft., 6 in.

LOCAL APPROVALS RECEIVED: County of Los Angeles Approval in Concept

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan, 5-89-428 (Dailey, et. al.), 5-90-1122 (Adamson), 5-91-299 (Meyer)

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval with special conditions regarding future improvements, color restrictions, landscaping and geology.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of

EXHIBIT NO. 5
APPLICATION NO. (10 Pages)
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Bienenfeld

1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

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 this permit is reported to the Commission. 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 Conditions.

1. Future Improvements

Prior to issuance of the permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that Coastal Commission permit 4-92-159 is only for the proposed development and that any future additions or improvements to the property including clearing of vegetation and grading, will require a permit from the Coastal Commission or its successor agency. Clearing of vegetation up to 100 feet around the residence for fire protection is permitted. The document shall run with the land, binding all successors and assigns, and shall be

recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

Landscaping and Erosion Control Plan

Prior to issuance of permit, the applicant shall submit landscaping and fuel modification plans prepared by a licensed architect for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All graded areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated November 23, 1988. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) 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 materials to be removed, and how often thinning is to occur.
- (c) 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 90 days and shall be repeated, if necessary, to provide such coverage. This requirement shall apply to all disturbed soils including all existing graded roads and pads;
- (d) 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.

Structure and Roof Color Restriction

Prior to issuance of the permit, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which restricts the color of the subject structure to natural earth tones, compatible with the surrounding earth colors (white tones will not be acceptable). The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens.

4. Plans Conforming to Geologic Recommendations.

All recommendations contained in the Engineering Geologic Report prepared by GeoPlan, Inc., dated July 7, 1992 regarding the proposed development shall be incorporated into all final design and construction including grading, foundations, and drainage. All plans must be reviewed and approved by the consultants. Prior to issuance of the permit the applicant shall submit, for review and approval by the Executive Director, evidence of the consultants' review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

5. Road Easement.

Prior to issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, evidence of a legal easement for ingress and egress to the project site.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description.

The applicant proposes to construct a 3,352 sq. ft., 29.5 ft. high from existing grade single family residence with 3-car garage, pool, spa, septic system, and 2,041 cu. yds. of grading (1,239 cu. yds. cut and 802 cu. yds. fill).

The subject site is an irregular shaped parcel of approximately 9.72 acres. The parcel is located approximately 500 feet north of Saddle Peak Road. The proposed building pad area would be on a low rounded knob in the southeasterly portion of the site. Much of the rest of the site is moderately to very steeply sloping, particularly the northern portion of the site. Access to the site is proposed to be provided on an existing partially improved roadway from Saddle Peak Road.

The subject property is located in a small pocket of existing development. Single-family residences exist on the adjoining lots to the west, south, and east. A number of single-family residences exist on the south side of Saddle Peak Road. The Certified Malibu Land Use Plan designates the site as Rural Land III (one dwelling unit per two acre). The subject lot has been counted on the County's 1978 buildout study map.

The Commission has in the past approved permits for development in this area. In 5-89-428 (Daily, et. al.) the Commission approved a permit for the installation of underground utilities in the road easement and 1,700 cu. yds. of grading for road improvements. The Commission later approved 5-90-1122 (Adamson) for the construction of a 6,108 sq. ft. single family residence, lap pool, tennis court and 4,371 cu. yds. of grading (2,187 cu. yds. cut and 2,184

u. yds. fill) at 21965 Saddle Peak which is adjacent to the subject project site. More recently the Commission approved Permit 5-91-299 (Meyer) for the construction of a 3,167 sq. ft. single family residence with pool and 800 cu. yds. of grading at 21839 Saddle Peak Road.

Grading and Visual Resources.

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 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.

In addition, the Malibu LUP contains the following policies regarding protection of visual resources which are applicable to the proposed development:

- P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.
- P90 Grading plans in upland areas of the Santa Monica Mountains should minimize cut and fill operations in accordance with the requirements of the County Engineer.
- P91 All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.
- P129 Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.
- P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:
 - be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.
 - minimize the alteration of natural landforms.
 - be landscaped to conceal raw-cut slopes.
- P134 Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.

P135 Ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.

As previously stated, the applicant proposes to construct a 3,352 sq. ft., 29.5 ft. high from existing grade single family residence with 3-car garage, pool, spa, septic system, and 2,041 cu. yds. of grading (1,239 cu. yds. cut and 802 cu. yds. fill).

The subject site is an irregular shaped parcel of approximately 9.72 acres. The parcel is located approximately 500 feet north of Saddle Peak Road. The proposed building pad area would be on a low rounded knob in the southeasterly portion of the site.

In reviewing the grading plan, it has become apparent that the proposed grading is for driveway improvements, to create a crawl space beneath the proposed structure, and to remove 6 inches of topsoil in the area of the proposed structure and to place it in an area northeast of the building site where the applicant wishes to plant a fruit tree orchard. As such, the proposed grading will not result in excessive landform alteration. However, the proposed slopes associated with the road grading need to be revegetated to ensure that all visual impacts and erosion hazards of the grading are minimized. Therefore, the Commission finds it necessary to require the applicant to submit landscape plans. Additionally, given the location of the proposed structure it will be visible from Saddlepeak Road. At 3,352 sq. ft., the proposed structure will be significantly smaller than the Adamson structure approved by the Commission in 5-90-1122 and located further from Saddle Peak Road than the Adamson project and the Meyer residence approved in 5-91-299. As such the visual impacts of the proposed structure could be expected to be less than previously approved projects. However, in order to further ensure that the proposed project will not have adverse visual impacts, a condition restricting the color of the structure and roof to natural earth tones and requiring landscaping of all graded areas is necessary. Furthermore, to ensure that any future development, that may otherwise be exempt from the coastal permit process, will not have adverse visual impacts and will not significantly alter the existing landform, a future improvement condition is necessary. The Commission, therefore, finds that only as conditioned, to properly landscape all graded areas, to restrict the color of the structure to natural earth tones, and require that all future improvements obtain a permit, will the proposed project be consistent with the visual resource policies of the Malibu LUP and with Section 30251 of the Coastal Act.

C. Geology

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

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The applicant has submitted an Engineering Geologic Report, dated July 7, 1992, prepared by GeoPlan, Inc. This report address the geology of the site and of the general area. The geologic review of the site identified no instability or faults on the site. The report states that:

It is concluded from the engineering geologic investigation and review of data that proposed development is feasible and that it may take place according to plans and specifications, the requirements of the County Building Ordinance and the recommendations of the project consultants. The building site is not affected by landslide, settlement or slippage and implementation of the proposed development will not affect neighboring property.

The Commission finds therefore that the project will be safe from geologic hazards so long as the recommendations of the geologist are incorporated into the project design. Thus, the Commission finds it necessary to require the applicant to follow all recommendations of the consultants. The Commission, therefore, finds that only as conditioned to incorporate into the project plans all recommendations made by the consulting geologist, will the proposed development be consistent with Section 30253 of the Coastal Act.

D. Septic System

Section 30231 of the Coastal Act states that:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment,

controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

In addition, the Malibu/Santa Monica Mountains Land Use Plan contains the following policies concerning sewage disposal:

P217 Wastewater management operations within the Malibu Coastal Zone shall not degrade streams or adjacent coastal waters or cause or aggravate public health problems.

P218 The construction of individual septic tank systems shall be permitted only in full compliance with building and plumbing codes....

P226 The County shall not issue a coastal permit for a development unless it can be determined that sewage disposal adequate to function without creating hazards to public health or coastal resources will be available for the life of the project beginning when occupancy commences.

The proposed development includes the installation of an on-site septic system to serve the residence. Percolation testing was undertaken and the consulting

geologist states that the site is suitable for the septic system and there should be no adverse influence on the site and surrounding areas. The Commission, therefore, finds that the proposed project is consistent with Section 30231 of the Coastal Act and all relevant policies of the LUP.

E. Driveway Easement

The applicant proposes to access the property from a private driveway off of Saddle Peak Road. There are several parcels which will take access from this drive. A neighboring property owner has claimed (Exhibit 5) that the applicants do not have an ingress/egress easement to use this driveway to gain access to their parcel. The neighboring property owner has not submitted any evidence to back up this claim. On the other hand, the applicant has not submitted evidence of a legal easement. The issue of legal easements was raised by the Commission in its approval of Permit 5-89-428 (Daily et. al.) The Commission found it necessary to require the applicants to submit evidence that legal easements had been secured for the proposed access road. In the same way that an applicant must provide evidence of ownership of project sites, they must also provide evidence that they have vehicular access to the property. Therefore, in order to ensure that the applicant has a legal right for ingress and egress purposes, the Commission finds it necessary to require the applicant to submit evidence of a legally recorded easement.

F. Local Coastal Program:

Section 30604(a) of the Coastal Act states that:

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

On December 11, 1986, the Commission certified the Land Use Plan portion of the Malibu/Santa Monica Mountains LCP. The Certified LUP contains policies to guide the types, locations and intensity of future development in the Malibu/Santa Monica Mountains area. Among these policies are those specified in the preceding sections regarding grading and visual impacts, geology, and septic systems. As conditioned the proposed development will not create adverse impacts and is consistent with the policies contained in the LUP. Therefore, the Commission finds that approval of the proposed development will not prejudice the County's ability to prepare a Local Coastal Program implementation program for Malibu and the Santa Monica Mountains consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits

a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

There are no negative impacts caused by the proposed development which have not been adequately mitigated. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.

0403M
BJC

EXHIBIT A

Exhibits one (1) through (7) to the Staff Report (Exhibit A) of Coastal Development Permit No. 4-92-159 are on file and can be viewed in the Office of the California Coastal Commission, South Coast District Office, at 4245 West Broadway, Ste 380, Long Beach, CA 90802-4416 - (310) 590-5071.

Content of Exhibits

- Exhibit 1: Vicinity Map
- Exhibit 2: Plot Plan
- Exhibit 3: Floor Plan
- Exhibit 4: Elevations
- Exhibit 5: Letter from Dr. Meyers to Barbara Carey, dated 10/5/92

