

**CALIFORNIA COASTAL COMMISSION**

TH CENTRAL COAST AREA  
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Staff: mb-V  
Staff Report: 7/22/99  
Hearing Date: 8/13/99

**STAFF REPORT: PERMIT AMENDMENT**

**APPLICATION NO.:** 5-89-159-A1

**APPLICANT:** Juergan & Monika Schoelkopf

**PROJECT LOCATION:** 31507 Pacific Coast Highway, City of Malibu (Los Angeles County)

**PREVIOUSLY APPROVED PROJECT:** Construct a 2 story, 36 ft. high, 5,581 sq. ft. single family residence with pool, jacuzzi, 704 sq. ft. three car garage, and 2,496 cu. yds. of grading.

**PROJECT DESCRIPTION:** Reduce height to 18 ft. above natural grade, reduce size from 5,581 sq. ft. to 4,401 sq. ft., add 1,727 sq. ft. basement, expand garage from 704 sq. ft. to 1,320 sq. ft., reduce grading to 1,000 cu. yds. (955 cu. yds. cut and 45 cu. yds. fill).

<b>Lot area:</b>	4 acres
<b>Building coverage:</b>	5,581 sq. ft.
<b>Parking spaces:</b>	4 covered
<b>Height above average finished grade:</b>	18 ft.

**LOCAL APPROVALS RECEIVED:** City of Malibu, Approval in Concept, dated 4/14/98.

**SUBSTANTIVE FILE DOCUMENTS:** Malibu/Santa Monica Mountains certified Land Use Plan; Coastal development permit 5-89-159-A1(Schoelkopf); Solus Geotechnical, Geotechnical Investigation, May 4, 1988 and Addendum Letter, February 16, 1989.

**SUMMARY OF STAFF RECOMMENDATION**

Because the proposed design reduces the intensity of use, height, bulk, and landform alteration of the proposed residence, it is consistent with Coastal Act policies. Staff recommends approval of the amendment

**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 proposed amendment was elevated from an immaterial amendment because of objections received from adjoining property owners to the Executive Director's determination of immateriality. 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.

#### **STAFF RECOMMENDATION**

The staff recommends that the Commission adopt the following resolution:

##### **I. Approval with Conditions**

The Commission hereby approves, with conditions, the amendment to the coastal development permit on the grounds that 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 governments 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 of the previously approved permit remain in effect.

## II. Findings and Declarations

The Commission hereby finds and declares:

### A. **Project Description and Background**

The previously approved project was to construct a 2 story, 36 ft. high, 5,581 sq. ft. single family residence with pool, jacuzzi, 704 sq. ft. three car garage, and 2,496 cu. yds. of grading. The proposed residence is a single living story constructed over an understory containing a garage, basement and wine cellar. The applicant proposes to reduce the height to 18 ft. of the residence above natural grade, reduce the building size from 5,581 sq. ft. to 4,401 sq. ft., add a 1,727 sq. ft. basement, expand the garage from 704 to 1,320 sq. ft., and reduce grading to 1,000 cu. yds. (955 cu. yds. cut and 45 cu. yds. fill). In addition, the amendment application includes a revegetation and fuel modification plan to control erosion and further ensure site stability.

The originally project was approved in 1989 subject to conditions relative to a drainage plan, grading and landscaping, conformance to geologist's recommendations, dedication of open space, protection of archaeological resources, and a survey of development location. A notice of intent to issue the permit was issued on June 20, 1989. The permit has been extended. The project site is located inland of the Pacific Coast Highway and surrounding development consists of single family residences.

### B. **Determination of Immateriality/Visual Quality and Drainage**

The Executive Director Determination of Immateriality was objected to by two neighbors in the form of a FAX received on July 14, 1999. Gurmit Paul objected to the project on the grounds of: adverse visual impact of the 22 ft. structure height; the height and location allegedly in violation of a 1988 escrow agreement; and alleged location of the development on their land. Shoban Paul objected to the project on the grounds of: the visual impact of the 22 ft. structure height; and objection to drainage onto their lot without drainage easements. The FAX also included the 1988 escrow agreement signed by the Schoelkopf's and the Pauls.

Section 3025I 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.***

....

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

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

Staff has reviewed the allegations of the neighbors. The material includes a 1988 escrow agreement which address several subjects including percolation, road and water connection, and joint determination of the location and height of the house. Enforcement or implementation of any escrow agreement is not subject to Coastal Commission consideration or review.

Relative to the house location, the project plans show that the proposed residence is located on the Schoelkopf property. The original permit contains condition 7 which requires a survey be made by a registered surveyor establishing the location of all construction prior to development.

Relative to the drainage issue, the 1988 geotechnical report (Solus Geotechnical, Geotechnical Investigation, May 4, 1988) recommended that the project provide drainage away from any structures. The original permit includes a condition one (1) which specifies that prior to issuance the applicant shall submit a run-off control plan. The condition specifies that run off be collected run off from roofs, patios and other impervious surfaces and directed to on-site detention/desilting basins with no increase in peak run off from the site based on a ten year, six hour storm.

There is a grading and erosion control plan submitted with the amendment which includes swales and drains, which are features which control and direct runoff. As noted above, the amendment includes a revegetation and fuel modification plan to control erosion and further ensure site stability. The proposed plans show drainage onto adjacent lots downhill and the common access easement area to the west of the proposed residence. However, this plan does not comply with condition one (1) because it does not indicate that there will be no increase in peak run off from the site based on a ten year, six hour storm.

The project opponents, to review, were concerned with drainage adversely affecting their property. Drainage will flow onto their property and also extend down a driveway into the common access easement area. As noted, because of the requirement of subject condition one (1) this drainage cannot increase peak run off. Consequently, complying with this condition of the underlying permit will protect the site and the surrounding area from adverse impacts of drainage. The applicant will have to submit a revised plan that conforms to the requirement of this condition before the permit is

issued. Therefore the proposed project, as conditioned, is consistent with PRC Section 30253 because it will control and direct runoff in a nonerosive manner so as to not adversely affect the stability of the site or the surrounding area.

The remaining issues relate to scenic and visual quality and landform alteration. The opponents contend that the building height is 22 feet. The proposed development reduces the building height to 18 ft. as verified by a staff review of the project plans. Since the project is keyed into the terrain with a lower level basement and garage, the height varies depending on the point of measurement, but 18 feet is the height above average finished grade. This height is well below the previously approved 36 ft. Impact on scenic and visual quality and landform alteration was not an issue in review of the original proposed development.

In summary, for these reasons the proposed height of the residence is consistent with the character of the surrounding area. The proposed residence will not adversely impact the quality of views from the surrounding area or to and along the coast. The proposed development is in substantially the same location as that previously proposed. Because the proposed design reduces the intensity of use, height, bulk, and landform alteration of the proposed residence, it does not adversely impact the natural landform, scenic public views and visual character in this area of the Santa Monica Mountains and, therefore, is consistent with PRC Section 30251

### 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 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 amendment will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3.

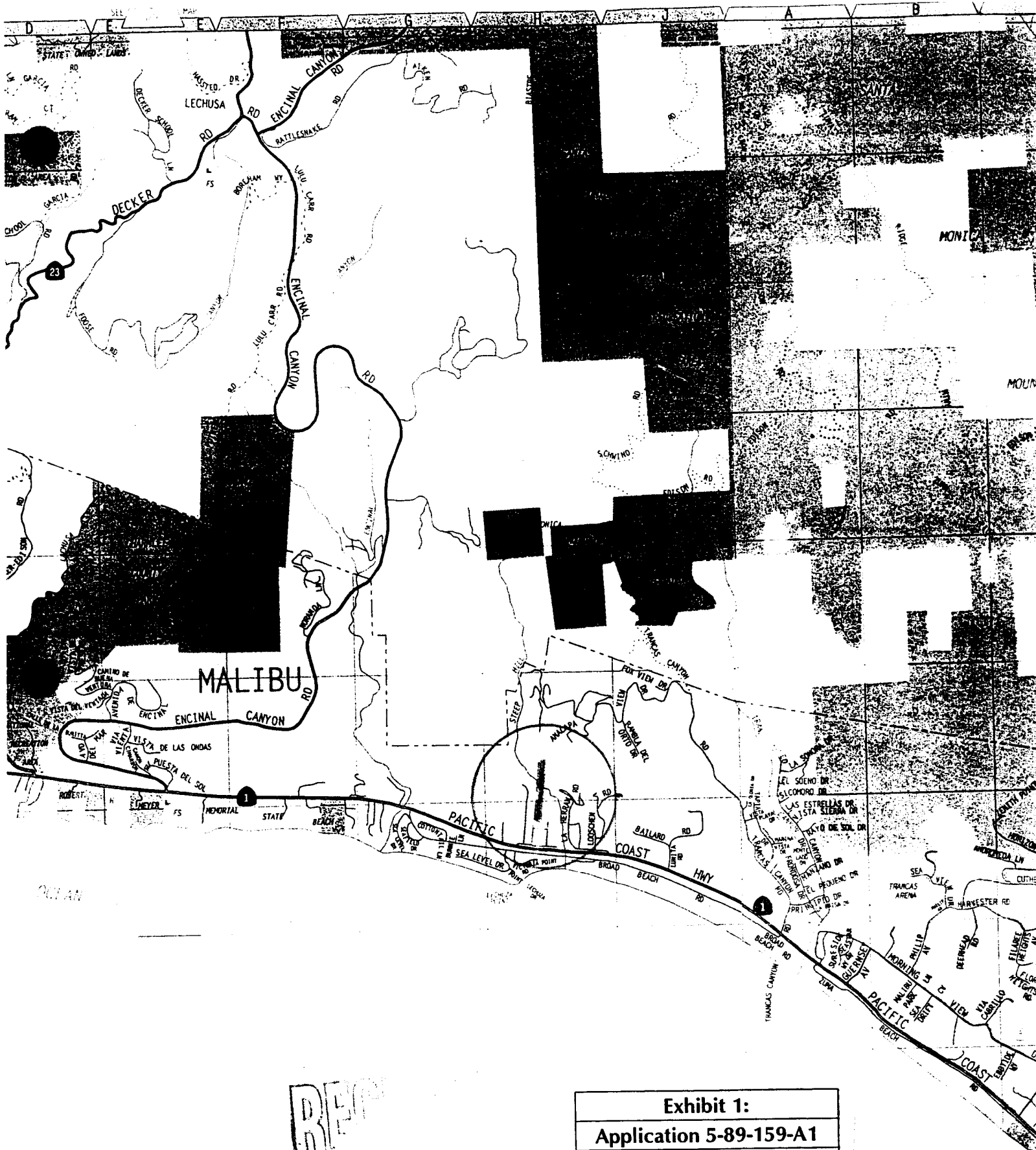
Therefore, the Commission finds that approval of the proposed amendment, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for

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 amendment would not cause significant, adverse environmental effects which would not be adequately mitigated by the conditions imposed by the Commission. Therefore, the proposed project, as conditioned, is found consistent with CEQA and with the policies of the Coastal Act.



REP

Exhibit 1:
Application 5-89-159-A1
(Schoelkopf)
Project Location

CC  
SOUTH

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST AREA  
245 WEST BROADWAY, SUITE 300  
LONG BEACH, CA 90802  
(213) 990-5071

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Staff Report: 4-24-89  
Hearing Date: May 9-12, 1989  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-89-159

APPLICANT: Jurgen and Monica Schoellkopf AGENT: Eric Stein

PROJECT LOCATION: 31507 Pacific Coast Highway  
Malibu, Los Angeles County

PROJECT DESCRIPTION: The construction of a 2 story, 36 ft. tall, 5,581 square foot single family dwelling, with a pool, septic system, jacuzzi, 704 sq. ft. 3 car garage, and landscaping. The driveway and pad will require 2,496 cu yds of grading.

Lot area:	4 acres
Building coverage:	6,285 sq. ft.
Pavement coverage:	9,000 sq. ft.
Landscape coverage:	15,000 sq. ft.
Parking spaces:	3
Zoning:	
Plan designation:	
Project density:	
Ht abv fin grade:	36 feet

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LOCAL APPROVALS RECEIVED: Los Angeles County approval in concept, County of Los Angeles Department of Health Services

**SUBSTANTIVE FILE DOCUMENTS:**

1. Los Angeles County Malibu/Santa Monica Mountains Land Use Plan
2. Coastal Commission Determination of Substantial Issue and Commission Action on Certification on Malibu Land Use Plan (March 24, 1983)
3. Staff Report, Revised Malibu/Santa Monica Mountains Land Use Plan, Nov. 25, 1986: Findings for Denial and Suggested Modifications, November, 1986
4. 31505 Pacific Coast Highway 5-83-888, 5-83-888E, 5-83-888E2, 5-83-888E3, T5-83-888, 5-83-888A, 5-88-1103

**SUMMARY OF STAFF RECOMMENDATION:** Staff is recommending approval of the proposed project with special conditions pertaining to a drainage plan, landscaping, archeological resources, geologic hazards, revised plans, development location, and habitat protection.



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 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 on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth 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 development during construction, 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.

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### III. Special Conditions.

#### 1. Drainage Plan:

Prior to the issuance of a coastal development permit, the applicant shall submit for the review and approval of the Executive Director a run-off control plan designed by a licensed engineer which assures that no increase in peak run-off rate from the site would result from the construction of the proposed project, as a result of a ten-year, six hour rainstorm. The run-off control plan shall include, but not be limited to, a system which collects run-off from the roof, patios, and all impervious surfaces and directs it to on-site detention/desilting basins.

#### 2. Grading and Landscaping:

Prior to authorization to proceed with development, the applicant shall submit for the review and approval of the Executive Director, a landscape and irrigation plan which incorporates the use of native plants selected from the list below.

#### Acceptable Plants:

Heteromeles arbutifolia  
Lyonothamnus species  
Quercus dumosa  
Quercus agrifolia  
Rhus integrifolia  
Rhus ovata  
Arbutus menziesii  
Arctostaphylos species  
Ceanothus species  
Baccharis species  
Eriogonum species  
Artemisia species  
Diets vegeta  
Echium fastuosum  
Iris douglasiana  
Lantana dwarf yellow  
Limonium perezii

#### ground cover hydro seed mix

Arctostaphylos "Camel Sur"  
Achillea millefolium  
Eschscholtzia californica  
Eriogonum fasciculatum  
Lasthenia chrysostoma  
Linum lewisii  
Lotus corniculatus  
Lupinus texensis  
Penstemon spectabilis  
Phacelia tanacetifolia

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In addition, the applicant shall submit for the review and approval of the Executive Director, a landscaping plan prepared by a qualified landscape architect/engineer which demonstrate that:

- (a) All graded areas shall be planted and maintained for erosion control and visual enhancement purposes. All landscaping shall consist of native, drought resistant species as listed above to minimize the need for irrigation and to screen or soften the visual impact of development. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. Clearance of vegetation up to 100 feet around the residence as required by Los Angeles County Fire Protection Regulations is permitted.
- (b) 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 run-off waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.
- (c) Cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native species 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.

3. Geologists Recommendations:

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and approval, a set of project design plans signed by the project geologist certifying that all recommendations for grading, foundations, retaining walls, pool construction, and waterproofing made in the report prepared by Solus Geotechnical Corporation, dated May 4, 1988, have been incorporated into the project design

4. Open Space Dedication

Prior to the issuance of the permit, the applicant as landowner shall map and record a deed restriction acceptable to the Executive Director which provides that the portion of the applicant's property North of contour 275 as indicated on a topographical survey will be precluded from future development so as to create open space for habitat protection. The deed restriction shall be over that portion of the dedicator's real property as generally depicted on Exhibit #1. The restriction shall prohibit the applicant or his successor in interest from grading, landscaping, and vegetation removal other than the minimum requirements of the Fire Department for fire protection.

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The restriction shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed. The restriction shall run with the land, binding successors and assigns of the applicant or landowner.

5. Archaeological Resources

Prior to the issuance of the permit the applicant shall agree in writing to archaeological monitoring during all excavating and grading procedures. The monitoring shall be conducted by a representative of the Chumash Tribe designated by the Native American Heritage Commission, who shall be notified by the applicant by certified mail no later than two weeks before the beginning of excavation. If potentially unique archaeological resources are discovered during excavation, all grading must be halted until a qualified archaeologist can make a determination upon its significance. The applicant shall follow the regulations of the State Office of Historic Preservation with respect to monitoring of excavation and appropriate mitigation and preservation of archaeological resources.

6. Revised Plans

Prior to the issuance of the permit, the applicant shall submit for the review and approval of the Executive Director, revised plans which delete the proposed new driveway. The revised plans shall show the access for the proposed project following the existing road which follows the Western boundary of the subject parcel and terminates at the proposed building site (Exhibit #2).

7. Surveyed Location of Development

Prior to the issuance of the permit, the applicant shall submit for the review and approval of the Executive Director, a parcel map signed by a registered surveyor which clearly delineates the location of the proposed development and establishes that all construction will occur within the parcel boundaries.

The staff recommends that the Commission adopt the following resolution:

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and History

The applicant proposes the construction of a 2 story, 36 ft. tall, 5,581 square ft. single family dwelling, with a pool, septic system, jacuzzi, 704 sq. ft. 2 car garage, and landscaping (Exhibit #3). The proposed project will require the grading of an access road and building pad for a total excavation/

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fill of 2,496 cubic yards. The project will be located on a 4 acre site on a partially graded knoll West of Trancas Canyon in Malibu, off of Pacific Coast Highway (Vicinity Map). The certified Malibu/Santa Monica Mountains Land Use Plan designates the site as partially Rural Land III (10U/10 acres), partially Rural Land V (10U/2 acres), and partially Mountain Land (1 DU/20 acres).

**B. Environmentally Sensitive Habitat Areas**

Section 30231 of the Coastal Act states:

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

Section 30240 of the Coastal Act states:

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

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

The certified Land Use Plan contains a number of policies to implement these sections of the Act. Those directly relevant to the project as proposed include:

- P58 Riparian woodlands, streams, oak woodlands, and savannahs which are located in areas of existing development and can no longer support a significant number of species normally associated with healthy habitat shall be designated as "Disturbed Sensitive Resources" (DSRs). These are depicted on Figure 6.
- P69 Development in areas adjacent to environmentally sensitive habitat areas (ESHA's) shall be subject to the review of the Environmental Review Board, shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

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- P72 Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. Where new development is proposed adjacent to Environmentally Sensitive Habitat Areas, open space or conservation easements shall be required in order to protect resources within the ESHA.
- P74 New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources.
- P79 To maintain natural vegetation buffer areas that protect all sensitive riparian habitats as required by Section 30231 of the Coastal Act, all development other than driveways and walkways should be set back at least 50 feet from the outer limit of designated environmentally sensitive riparian vegetation.
- P80 The following setback requirements shall be applied to new septic systems: (a) at least 50 feet from the outer edge of the existing riparian or oak canopy for leachfields, and (b) at least 100 feet from the outer edge of the existing riparian or oak canopy for seepage pits. A larger setback shall be required if necessary to prevent lateral seepage from the disposal beds into stream waters.
- P81 To control runoff into coastal waters, wetlands and riparian areas, as required by Section 30231 of the Coastal Act, the maximum rate of storm water runoff into such areas from new development should not exceed the peak level that existed prior to 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.
- P84 In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low-growing ground covers to reduce heat output may be used. Within ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.
- P85 Earthmoving operations within Environmentally Sensitive Habitat Areas, Significant Watersheds, and other areas of high potential erosion hazard (including areas with a slope exceeding 2:1) shall be prohibited between November 1 and March 31 unless a delay in grading until after the rainy season is determined by the Planning Director to be more environmentally damaging. Where grading begins before the rainy season, but extends into the rainy season for reasons beyond the applicant's control, measures to control erosion must be implemented at the end of each day's work.

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P86 A drainage control system, including on-site retention or detention where appropriate, shall be incorporated into the site design of new developments to minimize the effects of runoff and erosion. Runoff control systems shall be designed to prevent any increase in site runoff over pre-existing peak flows. Impacts on downstream sensitive riparian habitats must be mitigated.

P87 Require as a condition of new development approval abatement of any grading or drainage condition on the property which gives rise to existing erosion problems. Measures must be consistent with protection of ESHAs.

The northern section of the property is designated in the LUP as M2 mountain land (Exhibit #4), and is identified in the LUP as an Environmentally Sensitive Habitat Area. The majority of the property drains into the canyon area, which in addition to the M2/ESHA designations, contains a USGS identified blue line stream. The canyon located below the subject property supports riparian woodland habitat.

In its findings regarding the certification of the Land Use Plan, the Commission emphasized the importance placed by the Coastal Act on protecting sensitive environmental resources. The Commission found that:

coastal canyons in the Santa Monica Mountains require protection against significant disruption of habitat values, including not only the riparian corridors located in the bottoms of the canyons, but also the chaparral and coastal sage biotic communities found on the canyon slopes.

The LUP limits development in ESHA's to uses which are dependent on the resources of the habitat, e.g. trails, and access roads, and allows residential uses which can be built and maintained consistent with the resource protection policies of the LUP. The LUP also provides for protection of areas adjacent to environmentally sensitive resources from incompatible development consistent with Section 30240(b). Policy 67 provides that any project which cannot mitigate significant adverse impacts on sensitive environmental resources shall be denied. Table 1 of the LUP requires that development in areas adjacent to ESHAs shall be sited and designed to prevent excessive removal of native vegetation, and that grading shall be minimized and that site grading shall be accomplished in accordance with stream protection and erosion policies.

This property is located above a canyon ESHA and the drainage of a significant portion of the property feeds into the canyon watershed. The intent of the LUP is that open space easements be used to permanently remove undisturbed significant vegetation and areas adjacent to sensitive resources from future development pressures in order to protect the habitat. ESHAs are defined in the Coastal Act as those areas that contain significant habitat values such as the undisturbed watershed cover that currently exists on the applicant's slope ownership and the identified blue line stream and its associated riparian habitat near the subject site. The Commission has noted that the impacts of

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heavier human use of property next to ESHA's increases development pressure on the ESHA, the most sensitive land in a generally sensitive environment. Because development next to the ESHA will increase foot traffic, visits from domestic animals, alter runoff and create conflicts with introduced vegetation, the Commission finds that the value of the ESHA may only be preserved from these impacts if the portion of the steep slope that is adjacent to the ESHA is protected by an open space easement.

The Commission finds that only as conditioned to record an open space easement over the portions of the subject property which are designated M2 and ESHA, and the steep slope of the property, is the proposed development consistent with Section 30240 of the Coastal Act. The easement area, identified on Exhibit #1, would provide permanent protection of the drainage course and the watershed cover on the property.

The resource protection policies of the Land Use Plan also include erosion control policies addressing grading in and adjacent to sensitive habitat areas. Policy 82 provides that grading shall be minimized to ensure that the effects of runoff and erosion on these resource areas are minimized. Policy 86 provides that drainage control plans be incorporated into the site design of new development to minimize the effects of runoff and erosion. Policy 91 requires that all new development shall be designed to minimize impacts and alterations of physical features (ravines, hillsides) and processes of the site (i.e. geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible. Policy 82 requires that grading be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized. Policy 89 requires drainage and erosion control plans be approved prior to commencement of grading for new development in ESHAs and other areas of high potential erosion hazard. Policy 88 provides as follows:

- PBB In ESHAs and Significant Watersheds and in other areas of high potential erosion hazard, require site design to minimize grading activities and reduce vegetation removal based on the following guidelines:

Structures should be clustered

Grading for access roads and driveways should be minimized; the standard new on-site access roads shall be a maximum of 300 feet or one-third the parcel depth, whichever is less. Longer roads may be allowed on approval of the County Engineer and Environmental Review Board and the determination that adverse environmental impacts will not be incurred. Such approval shall constitute a conditional use.

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Designate building and access envelopes on the basis of site inspection to avoid particularly erodible areas.

Require all sidecast material to be recompacted to engineered standards, reseeded, and mulched and/or burlaped .

The intent of the policies referenced above is clearly to minimize the adverse impacts of runoff and erosion on environmentally sensitive habitat resources as a result of site development, especially grading. The subject property comprises steep hillside terrain with a significant drainage carrying runoff into the watershed of the canyon below, identified in the Malibu LUP as a ESHA with its designated blueline stream. The steepness of the property and the drainage course that traverse the site combine to make the subject property an area of high potential erosion hazard. For these reasons it is necessary to condition the project to provide detailed drainage and erosion control plans to protect the resource values of the watershed and the blue line stream. In addition, P88 of the LUP clearly states that grading for new access roads shall be minimized. The Commission notes that there presently exists an access road to the proposed building site through the adjacent parcel to the West of the subject property (Exhibit #2). The grading of a new access road running parallel to an existing road, and less than 150 ft. away, is inconsistent with the certified LUP. Therefore, only as conditioned to require the applicant to submit revised plans deleting the new access road or prove his inability to obtain an easement is the proposed project consistent with the relevant policies of the Coastal Act and the certified LUP.

### C. Geologic Hazards

Section 30253 of the Coastal Act states in part:

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.

In addition, the Malibu LUP contains the following policies regarding geologic stability:

#### Geologic Hazard

P147 Continue to evaluate all new development for impact on, and from, geologic hazard.

P149 Continue to require a geologic report, prepared by a registered geologist, to be submitted at the applicant's expense to the County Engineer for review prior to approval of any proposed development within potentially geologically unstable areas including landslide or rock fall areas and the potentially active Malibu Coast-Santa Monica Fault Zone. The report shall include mitigation measures proposed to be used in the development.

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The proposed project 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. Regarding the proposed septic system, a percolation test was conducted on the site which indicates that the minimum requirements of the L.A. County Health Services Department will be exceeded.

The applicant has submitted a geologic and soils report which concludes that the proposed site is free from geologic hazards such as landslides, active faults or future settlement and that the proposed development is considered feasible from a geologic and soils engineering standpoint. The report states that the site was found to be grossly stable and exhibited a factor of safety which meets the minimum standards required by Los Angeles County. This determination is contingent however, upon certain recommendations being incorporated into the construction plans and implemented during construction relative to foundations, retaining walls, grading, drainage, and sewage disposal. Therefore, the applicant must submit verification that all recommendations contained in the geotechnical report will be incorporated into the project's final design as a special condition of approval.

#### **D. Archaeology/Cultural Resources.**

Section 30244 of the Coastal Act states:

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

The Malibu Land Use Plan also recognizes archaeological/palaeontological resources:

P169: Site surveys performed by qualified technical personnel should be required for projects located in areas identified as archaeologically /paleontologically sensitive. Data derived from such surveys shall be used to formulate mitigating measures for the project.

There is an identified archaeological site adjacent to the site of the proposed project. The site was identified by an archaeological survey submitted by the UCLA Archaeological Survey on July 25, 1978, which identified the site as a prehistoric campsite, and labeled the site LAN-958. A special condition of a Coastal Development Permit, #5-83-888 (for the construction of a single family dwelling on the adjacent parcel where the site is located), required an archaeological survey of the site in keeping of the requirements of the California Environmental Quality Act (CEQA) of 1970 (Appendix K). The survey was conducted on July 21, 1987 by Dr. Roy Salls and Dana Bleitz-Sanburg of the UCLA Institute of Archaeology. They confirmed through surface collection and auger borings that the site on top of a 258 ft. knoll located

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on the adjacent property was a Millingstone Horizon archaeological site and was significant under the terms of CEQA, but did not meet the criteria for including in the National Register of Historical Places (36 CFR 800.10). In addition, the scientists determined that the site was being destroyed through erosion and that, in their opinion, the site should be excavated to salvage the artifacts there.

During the the spring of 1988, a team of archaeologists consisting of Roy A. Salls, Ph.D, Fred Reinman, Ph.D, Dana Bleitz-Sanburg, MA., Stan Whitman, M.D., and a field crew consisting of 40 members of the UCLA 1988 spring field class, 15 members of the CSULA spring field class, and 15 trained archaeologists from the UCLA "Friends of Archaeology" organization excavated the site. A total of 67 excavation pits were dug down to culturally sterile bedrock. The excavation was monitored by Ms. Elaine Schneider, Cultural Resource Coordinator of the Tribal Elders Council, Santa Ynez Chumash Indian Reservation. A report of the site excavation was drafted under the title of "Preliminary Report of Archaeological Resources from the Shoban Paul Site, CA-LAN-958 Malibu, CA" by the Northridge Center for Public Archaeology. The report stated that the site has been completely excavated for scientific purposes, and recommends against any further excavation for the purpose of artifact recovery.

The proposed project would be constructed near an identified archaeological site, specifically LAN-958. The archaeological report drafted by the Northridge Center for Public Archaeology states in conclusion that "Collection of scientific data from the site, beyond that already achieved, would result in little additional information and poor cost effectiveness. In fact, except for the recovery of some fish otoliths, the artifact assembly is extremely similar to those recovered from the Topanga sites, Little Sycamore Canyon, LAN-2, and Sweetwater Mesa.". "Based on these findings, we recommend no further archaeological work on the subject property".

The Commission notes that the expert analysis conducted on the archaeological site concludes that the site is not a unique archaeological resource, and that the site excavation already completed has adequately recovered the scientifically consequential information from and about the resource. Furthermore, Section 21083.2 (g) of CEQA states that:

A nonunique archaeological resource need be given no further consideration, other than the simple recording of its existence by the lead agency if it so elects.

Therefore, the presence of the site (LAN-958) is not an impediment to the construction of the structure as proposed in Coastal Development Permit application #5-89-159. However, Section 21083.2 (i) of CEQA states:

As part of the objectives, criteria, and procedures required by Section 21082 or as part of conditions imposed for mitigation, a lead agency may make provisions for archaeological sites accidentally discovered during construction. These provisions may include an immediate evaluation of

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the find. If the find is determined to be a unique archaeological resource, contingency funding and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance measures may be required under the provisions set forth in this section. Construction work may continue on other parts of the building site while archaeological mitigation takes place.

The Commission notes that the potential exists that additional, unique archaeological resources may be located, and as yet undiscovered, on the proposed building site. It is therefore necessary to require the applicant to contact the Native American Heritage Commission so that a qualified representative from the Chumash Tribe can be present during grading, for the purpose of monitoring the excavation for the exposure of any unique archaeological resources. Only as conditioned is the proposed project consistent with Section 30244 of the Coastal Act and P169 of the certified Malibu/Santa Monica LUP.

#### **E. Right to Build**

Section 30601.5 of the Coastal Act states in part:

In addition, prior to the issuance of a Coastal Development Permit, the applicant shall demonstrate the authority to comply with all conditions of approval.

The applicant's parcel, Assessor Parcel #4470-009-033, is a long and narrow "land locked" lot. The Assessor Parcel Map currently available to staff is inconsistent with the parcel map submitted for the project (Exhibit #5). Specifically of concern to the Commission, is the potential that the proposed building site will cross over the property boundary to the West into parcel #4470-09-32. Only as conditioned, requiring that a registered surveyor review the plot plan and establish that all proposed development is within the legal boundaries of parcel #4470-009-033, is the proposed project consistent with Section 30601.5 of the Coastal Act.

#### **F. Local Coastal Program**

**Local Coastal Program.** 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.

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

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3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would 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) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

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 type, location, and intensity of future development in the Malibu/Santa Monica Mountains area. Among these policies are those specified in the preceding sections regarding mitigating the individual and cumulative impacts of development and protecting sensitive environmental resources. Based upon the findings presented in the preceding staff report, the Commission further finds that the proposed development as conditioned will not create adverse impacts, both individually and cumulatively, on coastal resources and is, therefore, consistent with the policies contained in the certified LUP. In addition, for the reasons stated in the preceding section, the Commission finds that approval of the proposed development will not prejudice the County's ability to prepare a Local Coastal Program implementation program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

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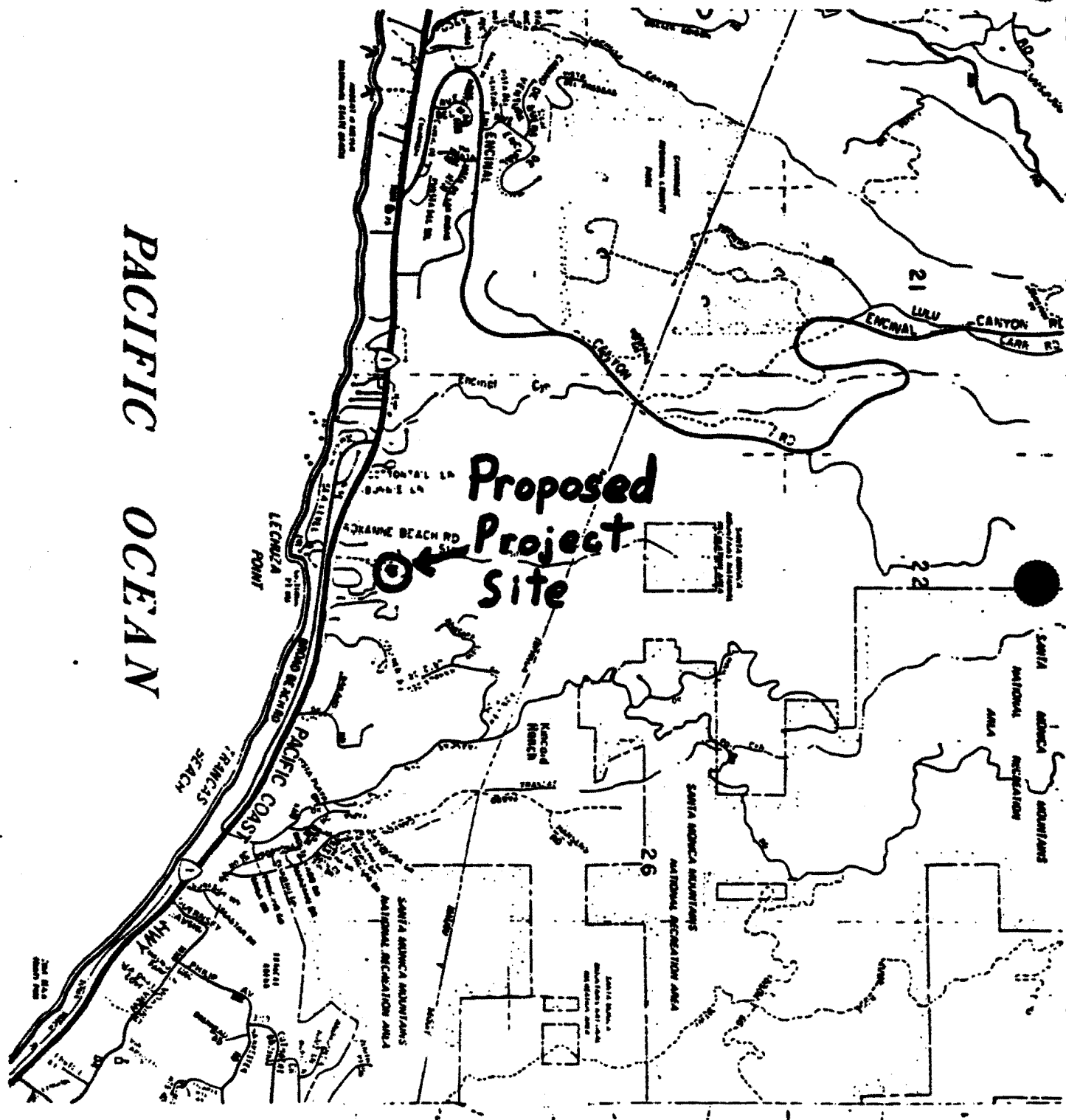

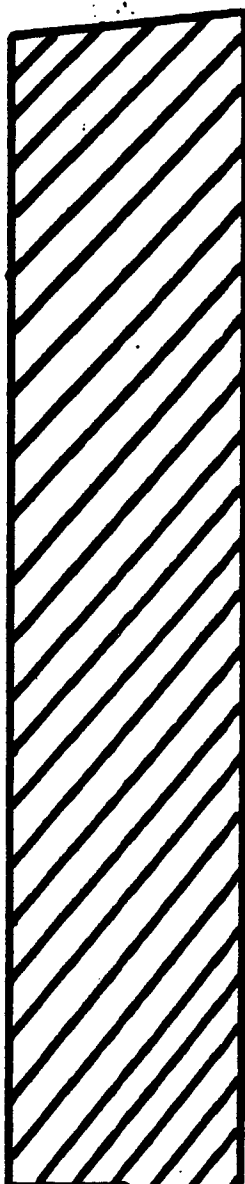


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Vicinity Map

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 California Coastal Commission



*Proposed Deed  
Restricted Open  
Space*

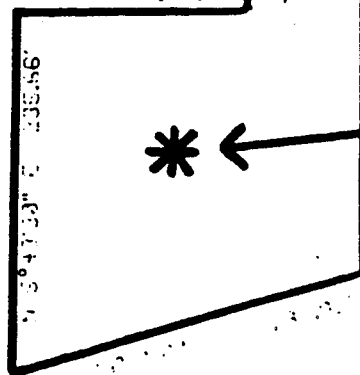
THE RESIDENCE

N ↑

N 84°16'00" W 75.00'

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Application 5-89-159-A1
(Schoelkopf)
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N 84°16'00" W 75.00'



*Project  
Site*

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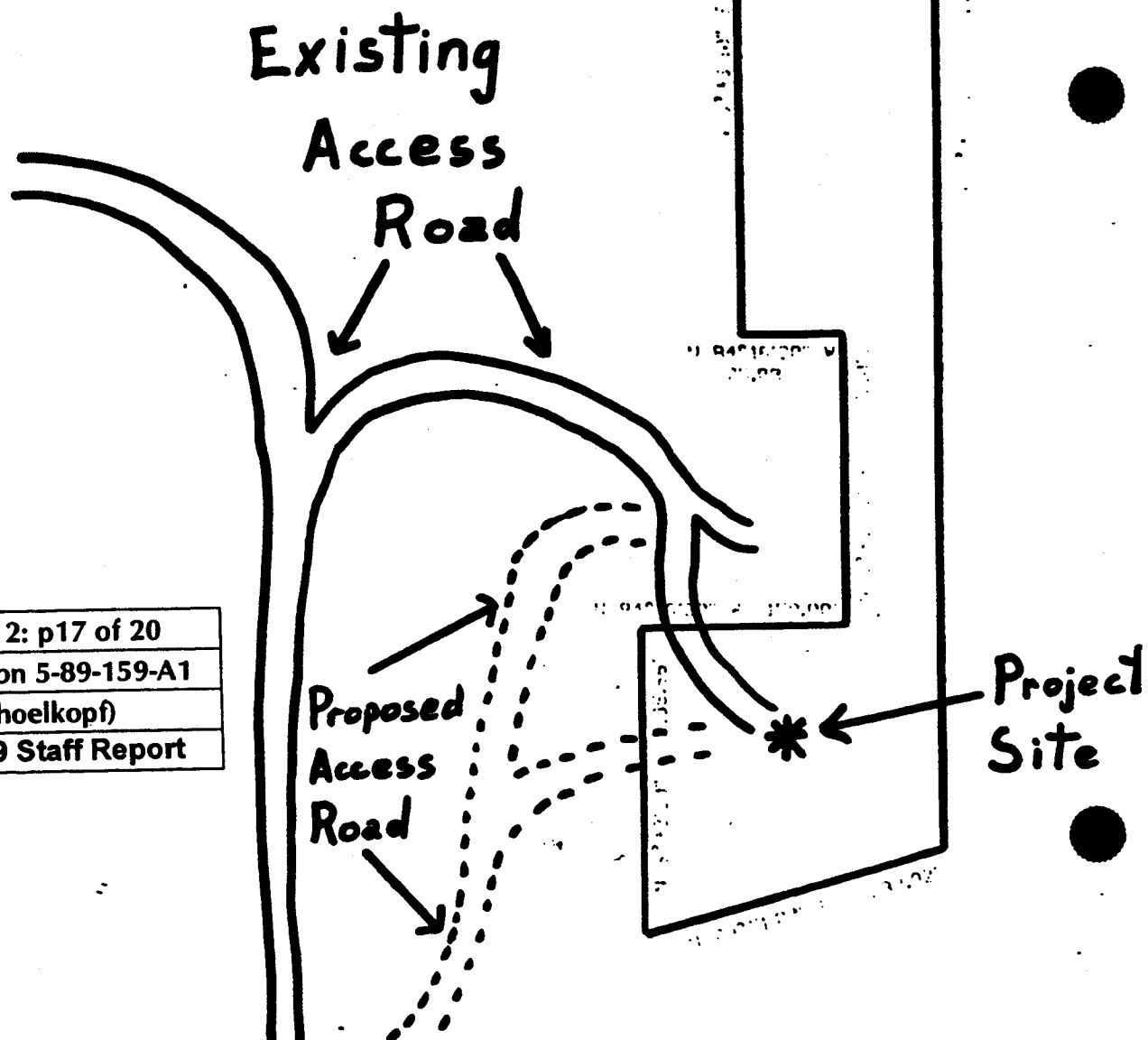
EXHIBIT NO. <b>2</b>
APPLICATION NO.
<b>5-89-159</b>
 California Coastal Commission

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Application 5-89-159-A1
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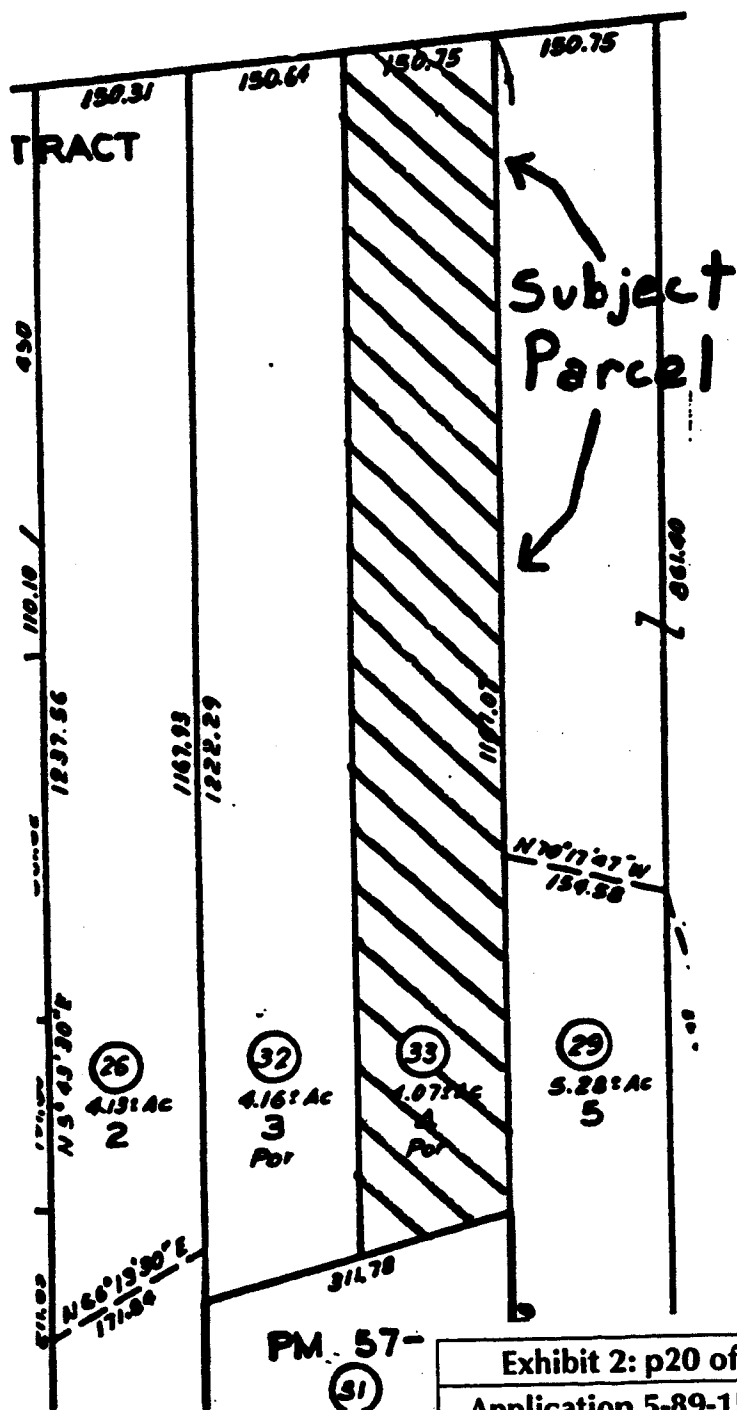






# 1988 Assessor Parcel Map

Parcel as  
Submitted




Areas  
of  
Discrepancy

PM 57-  
(51)

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EXHIBIT NO. 5
APPLICATION NO.
5-89-159
California Coastal Commission

EXHIBIT NO. <b>4</b>
APPLICATION NO.
<b>5-89-159</b>
 California Coastal Commission

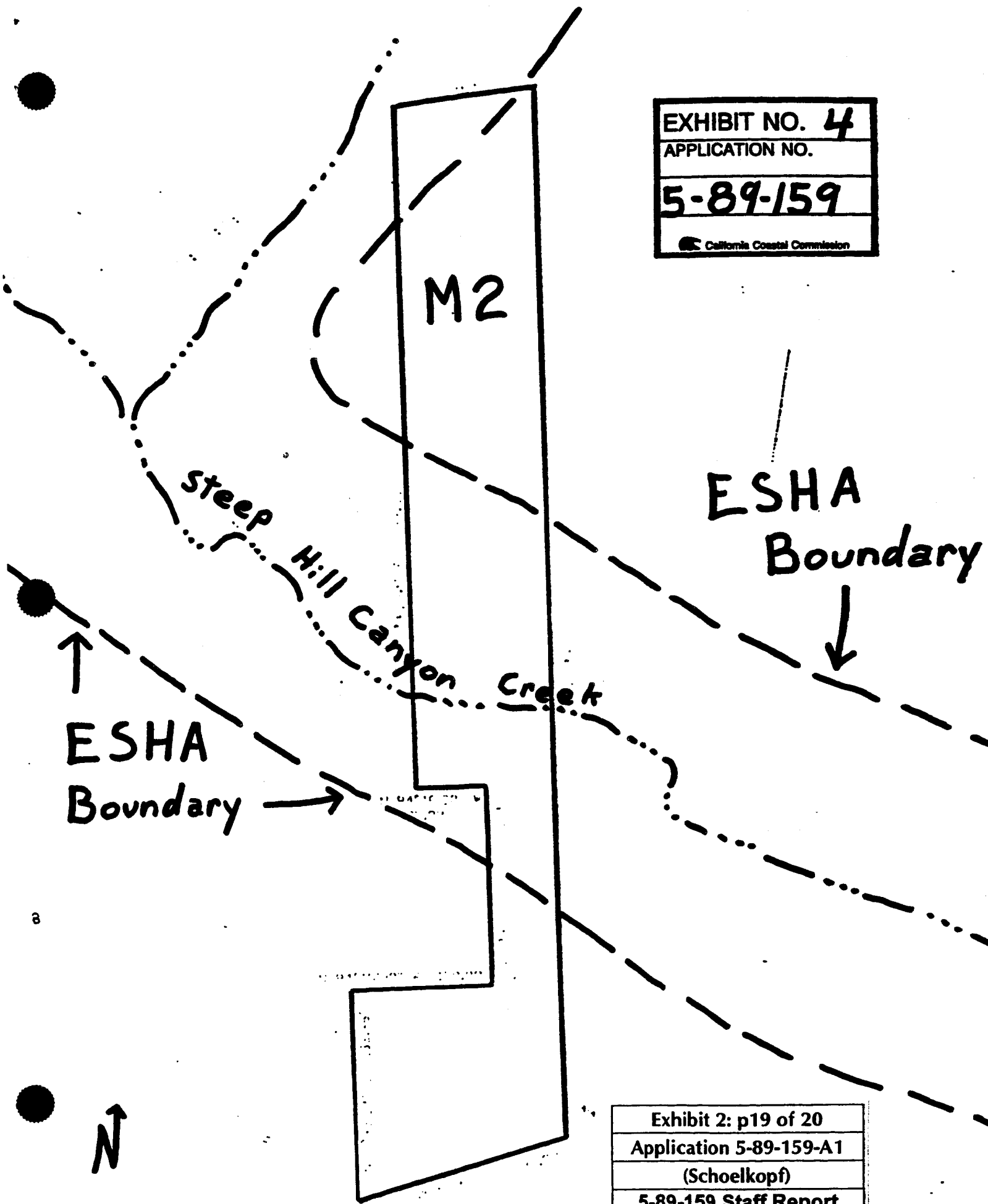


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Exhibit 3:  
Application 5-89-159-  
(Schoelkopf)  
Site Plan

The site plan shows a property bounded by a street to the north and a street to the east. The property contains several building footprints, including a large central building and a smaller building to the east. There are parking areas and a driveway. The plan includes dimensions for various areas and a north arrow.

NOTES:  
1. SEE RECORDS OF THIS  
PROJECT FOR THE  
LATEST REVISIONS.  
2. SEE RECORDS FOR  
THE LATEST REVISIONS.

DEED, FRONT 58'  
ADJUTED LOT  
AS PER PLAN  
SCHOOLFIELD  
PROPOSED BUILD  
FOOTPRINTS  
DEVELOPED FRONT

DEED, FRONT 58'  
ADJUTED LOT  
AS PER PLAN  
SCHOOLFIELD  
PROPOSED BUILD  
FOOTPRINTS  
DEVELOPED FRONT

DEED, FRONT 58'  
ADJUTED LOT  
AS PER PLAN  
SCHOOLFIELD  
PROPOSED BUILD  
FOOTPRINTS  
DEVELOPED FRONT

NOTE: No release on this.  
Also, proposed for that  
at the original cost structure is  
this report.



5:09 PM (UTC) 11/11/11  
ADFA MAP

[illegible]

drawn	7-7-78
checked	7-18-78
date	7-18-78
checked	7-18-78

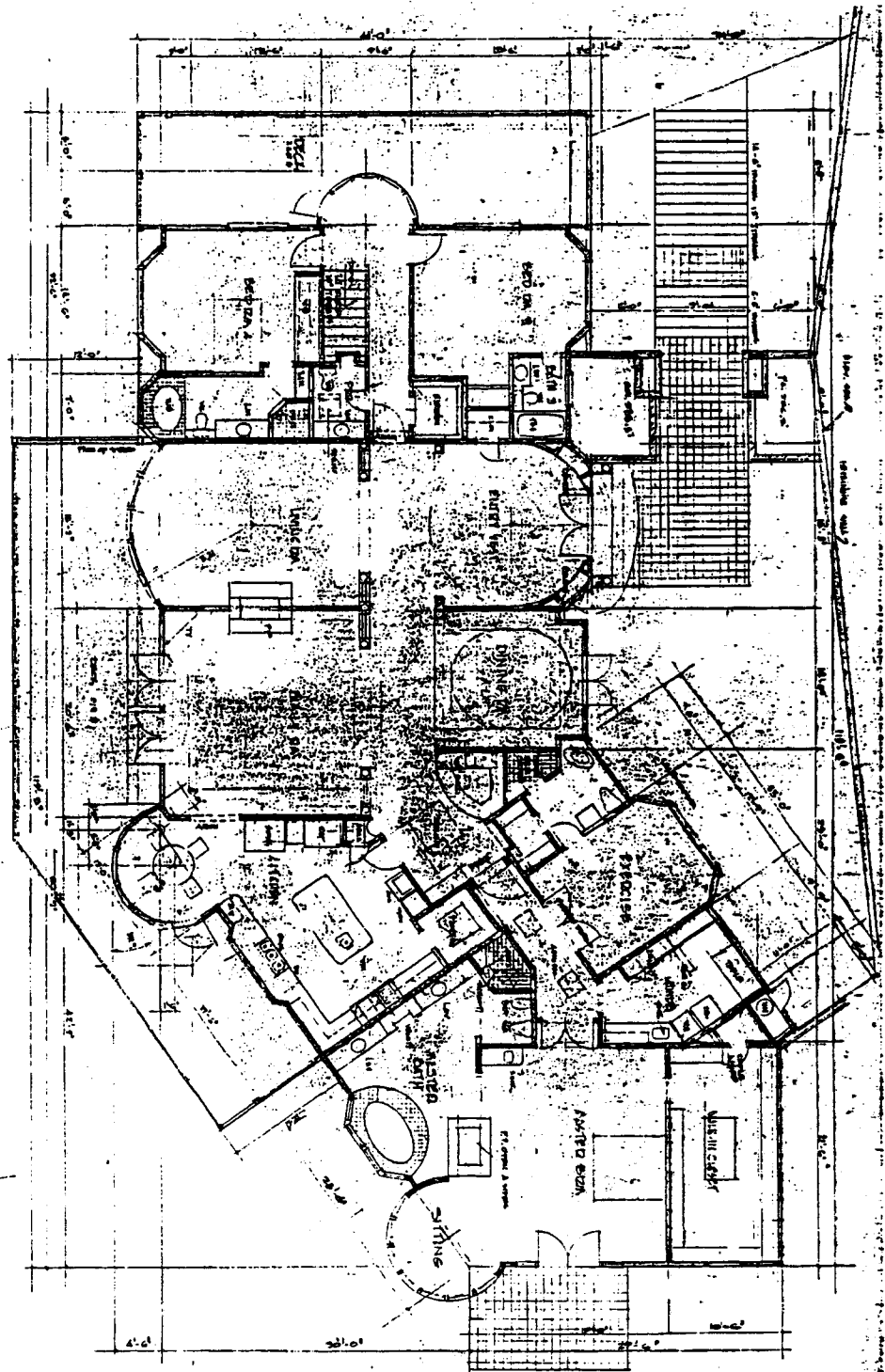
AD 125 JERGEN SCHOELLKOPF  
OWNER  
SITE PLAN  
1499 PACIFIC COAST HWY. NATIONAL CA.

architect  
GORDON F. POWERS  
planning - architecture  
1541 crescent avenue, red beach, california 90740 - 310-596-0140

[illegible]

Exhibit 4  
Application 5-89-159-A1  
(Schoelkopf)  
Floor Plan

FLOOR PLAN - see 15-10  
4101.75 sq. INING AREA 1250.00 DECK AREA



2  
DATE  
10-11-78  
10-11-78

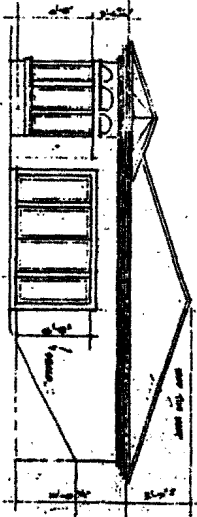
MR & MRS JUERGEN SCHOELLKOPF  
OWNED  
RESIDENCE FLOOR PLAN  
12455 WILLOW CREEK RD, SAN JOSE, CA

architect  
GORDON F. POWERS  
planning - architecture  
12455 WILLOW CREEK RD, SAN JOSE, CA 95128 310-594-0128

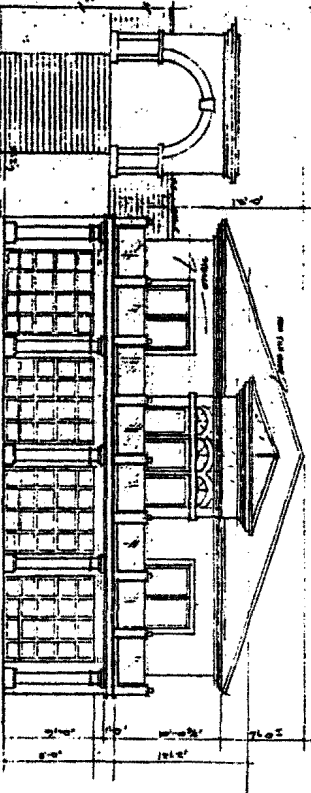
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Exhibit 5:  
Application 5-89-159-A1  
(Schoelkopf)  
Elevation

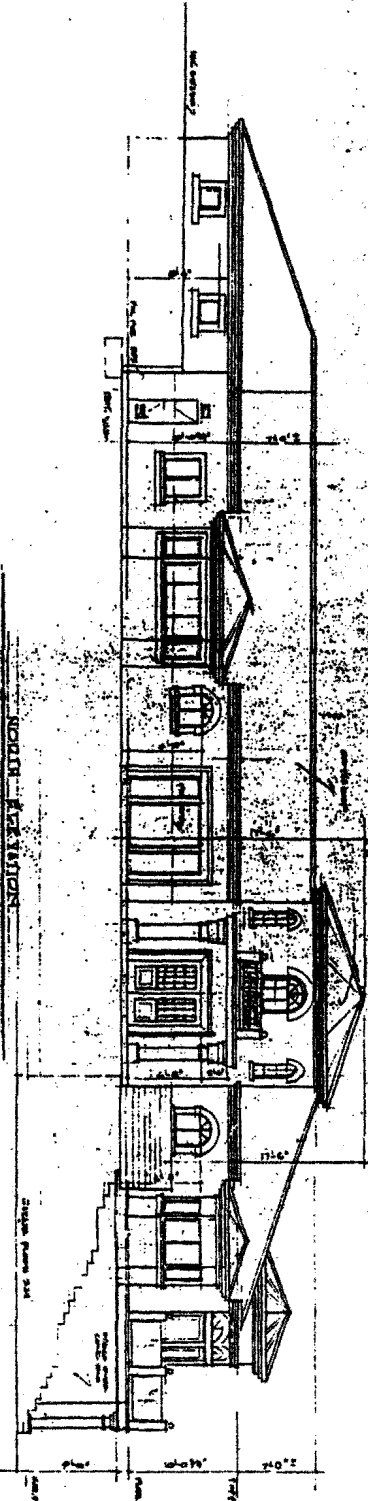
EAST ELEVATION



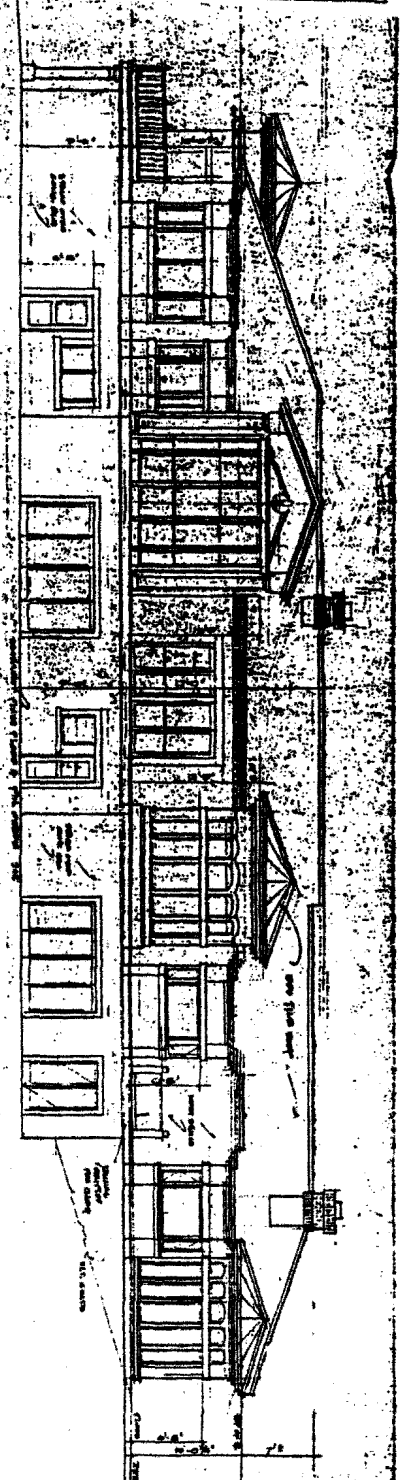
WEST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION



4  
Schoelkopf  
5-11-79  
5-11-79  
5-11-79

AD. AD. SCHOELKOPF  
RESIDENCE ELEVATIONS  
314 22 PACIFIC COAST HWY. SAN DIEGO, CA

Architect  
GORDON F. POWERS  
planning - architecture  
2345 CRENSHAW AVENUE, SOUT BEACH, CALIFORNIA 90740 - 310-596-0100

1. SCHOELKOPF  
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