

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 585 - 1800

Filed: 4/11/01  
49th Day: 5/30/01  
180th Day: 10/8/01  
Staff: K. Kemmler  
Staff Report: 4/18/01  
Hearing Date: 5/8-11/01  
Commission Action:



## RECORD PACKET COPY

## STAFF REPORT: CONSENT CALENDAR

**APPLICATION NO.:** 4-00-270  
**APPLICANT:** Amerigas  
**AGENT:** Bob Merz  
**PROJECT LOCATION:** 21216 Pacific Coast Highway, Malibu (Los Angeles County)

**PROJECT DESCRIPTION:** Proposal for installation of a 499 gallon 4 ft. high above ground propane tank with eight 3 ft. high crash posts. No grading proposed.

**Lot area** 1540 sq. ft.  
**Project area** 180 sq. ft.  
**Height Above Finished Grade** 4 ft.

**LOCAL APPROVALS RECEIVED:** City of Malibu Planning Department, Approval in Concept, December 6, 2000; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, September 26, 2000; County of Los Angeles Fire Department, Liquefied Petroleum Gases Permit, September 26, 2000.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan; Propane Dispensing Station Training Manual, Amerigas Propane, Inc., ©1998.

### Summary of Staff Recommendation

Staff recommends **approval** of the proposed project with **two (2) special conditions** regarding (1) assumption of risk and (2) abandonment.

## I. Staff Recommendation

**MOTION:** *I move that the Commission approve Coastal Development Permit No. 4-00-270 pursuant to the staff recommendation.*

### Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and 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. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## 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. Interpretation.** Any questions of intent or interpretation of any term or condition will be resolved by the Executive Director or the Commission.

**4. 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.

**5. 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. Assumption of Risk, Waiver of Liability, and Indemnity

- A. By acceptance of this permit, the applicant acknowledges and agrees (i) that there are inherent risks in the aboveground storage of Propane that may not be completely eliminated and may be subject to hazards from fire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. *Prior to issuance of the coastal development permit*, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

#### 2. Abandonment

If the aboveground storage tank for propane approved under permit 4-00-270 is no longer used for a period of six months, the aboveground storage tank shall be considered abandoned and an application shall be submitted to the Commission within 30 days for the removal of the aboveground storage tank.

### IV. Findings and Declarations

The Commission hereby finds and declares:

#### A. Project Description and Background

The applicant is proposing to install a 499 gallon, 4 ft. high above ground propane tank with eight 3 ft. high crash posts (see Exhibits 3 & 4). No grading is proposed for the project.

The subject site is located just south of Rambla Pacifico and north of the Pacific Ocean, on Pacific Coast Highway in the City of Malibu (Exhibit 1). The parcel is bounded on the north by Pacific Coast Highway, on the west and south by an L-shaped lot that consists of a condo development, and on the east by a vacant lot (Exhibit 2). The project site, which has been previously paved, is occupied by a 76 gas station (Exhibits 5 & 6). The remainder of the site consists mainly of an asphalt parking lot. This application is for the installation of a 499 gallon, 4 ft. high aboveground propane storage tank with eight crash posts. The proposed project area

is approximately 180 sq. ft. adjacent to an existing 15 ft. high cinder block wall that runs along the western edge of the lot (see picture #1, Exhibit 5).

A multi-residential development exists adjacent to the proposed project area (see picture #2, Exhibits 5 & 6). The nature of propane presents an inherent danger when storing the liquid petroleum gas in populated areas. Propane is a naturally colorless and odorless, nontoxic gas. Propane is flammable, and, under specific circumstances, can explode. If liquid propane is released into the atmosphere, it vaporizes and rapidly expands to 270 times its original volume. At this point of release, extremely cold temperatures are produced and if the mist comes in contact with skin, it can cause severe frostbite. Within the tank, the pressure varies proportionally with the temperature of the propane, which is affected by the outside temperature, thus, extreme ambient temperatures can create unsafe pressures inside the tank.

The proposed 499 gallon aboveground storage tank is built to the specifications of the American Society of Mechanical Engineers. The tank is equipped with a safety relief valve, which is designed to open or close to maintain safe internal pressures. In addition, there are eight 3 ft. high crash posts proposed, which surround the propane storage tank to prevent accidental impacts from vehicles (Exhibit 3). Furthermore, the proposed project includes a remote emergency shut off valve 18 ft. north of the storage tank and a 40 lb. ABC Fire Extinguisher located adjacent to the storage tank in case of an emergency situation (Exhibit 3). Finally, the proposed aboveground storage tank and crash posts also meet all the Liquefied Petroleum Gases Permit Requirements as established by the Los Angeles County Fire Department Fire Prevention Division.

## **B. Hazards**

The proposed development is located in the Santa Monica Mountains area, an area that is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Furthermore, the proposed development involves a new aboveground propane storage tank. There are inherent risks in the storage of propane that may not be completely eliminated through design elements. In addition, there is also an increased risk of fire, as propane is a highly flammable substance.

Section 30253 of the Coastal Act states in pertinent 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.**

Section 30253 of the Coastal Act mandates that new development be sited and designed to minimize risks to life and property in areas of high geologic, flood, and fire hazard. As previously described, the proposed project includes the installation of a 499 gallon, 4 ft. high aboveground propane storage tank. The proposed project does not involve any grading that would alter the stability of the subject site or the surrounding properties. Furthermore, the site

is located in a relatively flat area and is therefore not likely to be subject to landslides, slippage or other localized instabilities.

Due to the concerns previously discussed, however, the proposed development will continue to be subject to a certain degree of risk posed by the storage of propane that may not be completely eliminated through design elements. Furthermore, the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wildfire. As a result, the Commission can only approve the project if the applicant assumes the liability from the associated risks, as required by **Special Condition No. One (1)**. This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the safety of the proposed development. Moreover, through acceptance of Special Condition No. One, the applicant also agrees to indemnify the Commission, its officers, agents and employees against any and all expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

Furthermore, the Commission also finds that if the aboveground storage tank for propane were to be abandoned and no longer in use, the inherent risks associated with an aboveground storage tank for propane could increase due to a potential lack of maintenance. As a result, **Special Condition No. Two (2)**, requires that if the aboveground storage tank approved under this permit is no longer used for a period of six months, it will be considered abandoned and an application must be submitted within 30 days to the Commission for the removal of the aboveground storage tank.

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with §30253 of the Coastal Act.

### C. Local Coastal Program

Section 30604(a) of the Coastal Act states:

*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 project will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3 of the Coastal Act. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program for Malibu which is consistent with the policies of Chapter 3 of the Coastal Act as required by §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 by any conditions of approval, 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 effect that the activity may have on the environment.

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

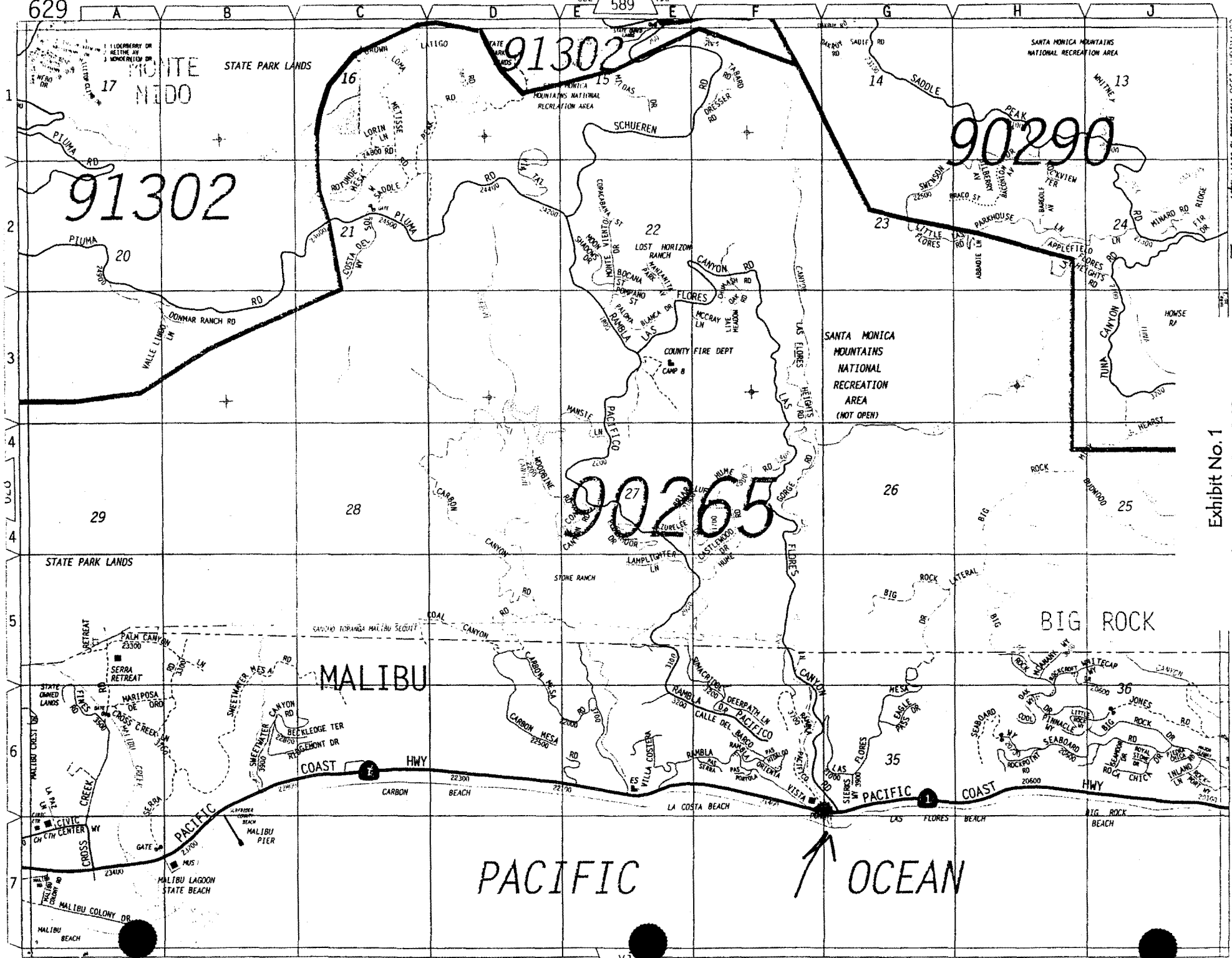
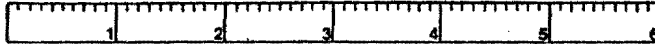


Exhibit No. 1  
 App. No. 4-00-270  
 Vicinity Map

1-800-345-7334



SCALE IN 1/16 OF AN INCH

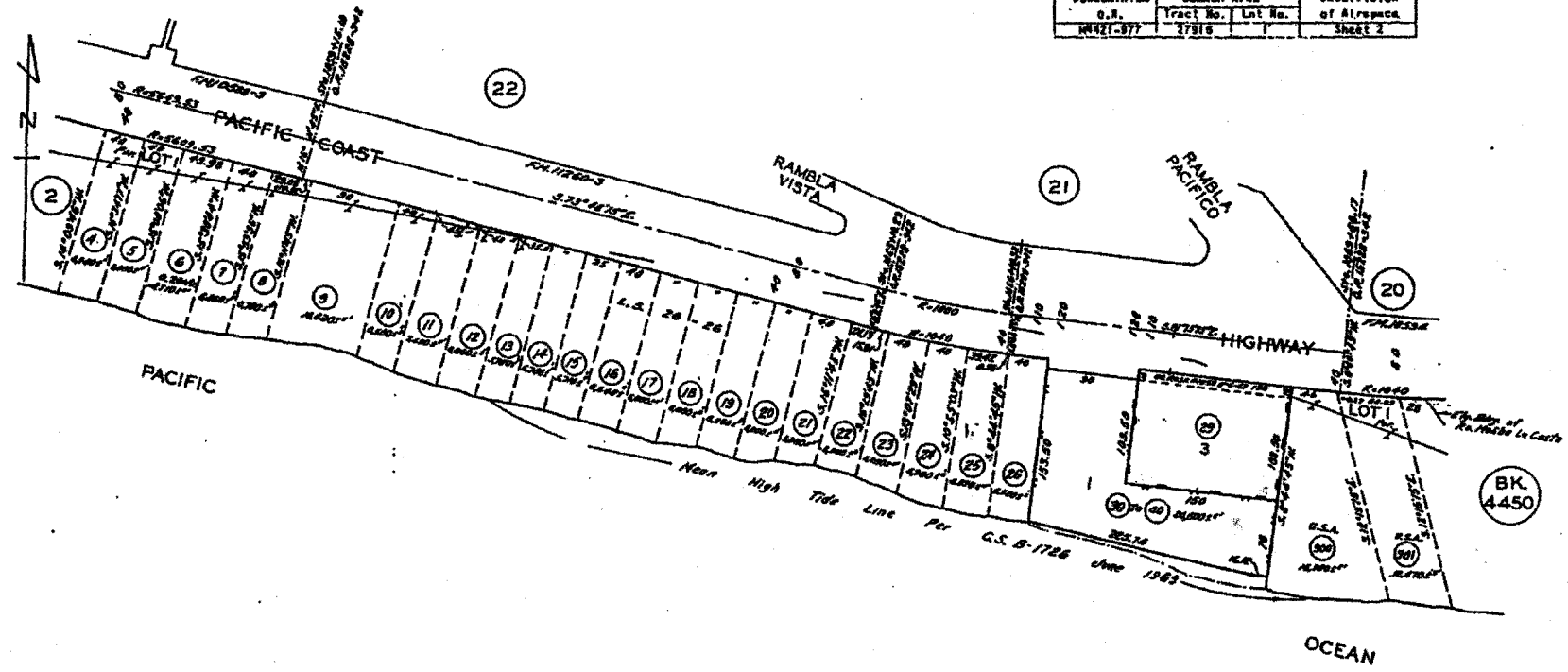
4451 SHEET 1  
SCALE 1" = 100'

1998

310688  
06/20/0006001-25  
304220-001001-25

The assessment of units in the following Condominium Plan O.R. M's includes all rights and interests in the common areas as set forth in deeds of record.

Condominium O.R.	Common Area Tract No.	Subdivision of Airspace Lot No.	Sheet
44421-377	27916		Sheet 2



CODE 10865

LAND OF MATTHEW KELLER IN THE RANCHO  
 TOPANGA MALIBU SEQUIT R.F.534  
 CONDOMINIUM TRACT NO. 27916 .. M.B.830-23-24

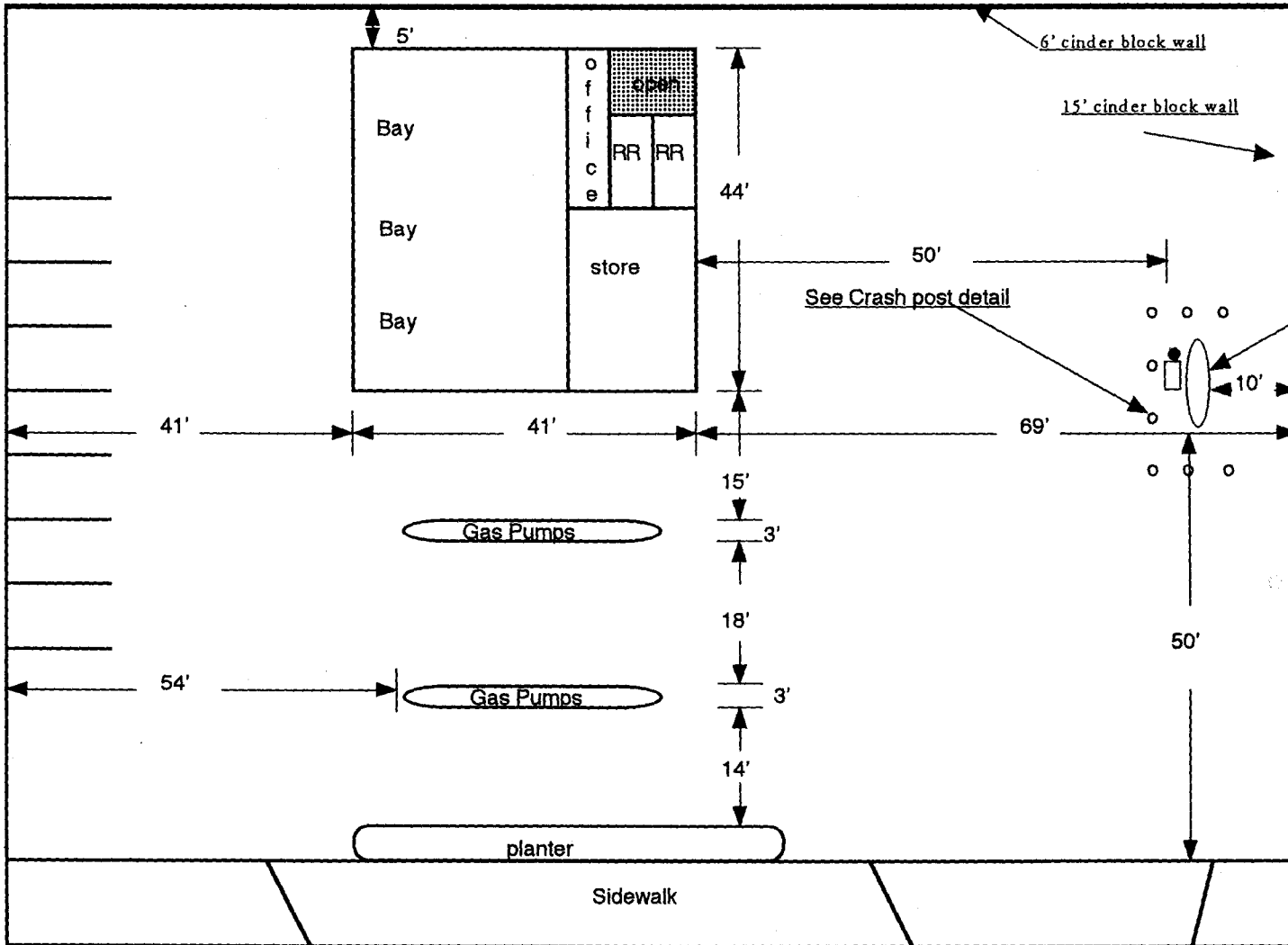
PARCEL MAP - - - P.M. 22-74

FOR PREV. ASSM'T SEE:  
4451-34 & 35

MAR 27 1998  
 ASSESSOR'S MAP  
 COUNTY OF LOS ANGELES, CALIF.

Exhibit No. 2  
 App. No. 4-00-270  
 Parcel Map





See Tank Foundation Details

See Crash post detail

Coverd Parking

Vacant lot

Exhibit No. 3  
App. No. 4-00-270  
Site Plan

**CITY OF MALIBU**  
Planning Department  
APPROVAL IN CONCEPT

Signature: *[Signature]*

\*Date: \_\_\_\_\_

Planning Review No.: \_\_\_\_\_

THIS IS NOT A PERMIT AND IS SUBJECT TO ANY CONDITIONS LISTED BELOW

\*THIS APPROVAL IS VOID FROM THE DATE STAMPED

- Emergency shut off
- 40# ABC Fire extinguisher

**499 Gallon Propane Tank**  
76 station  
21216 Pacific Coast Highway  
Scale 1"=20'

# Crash post Detail

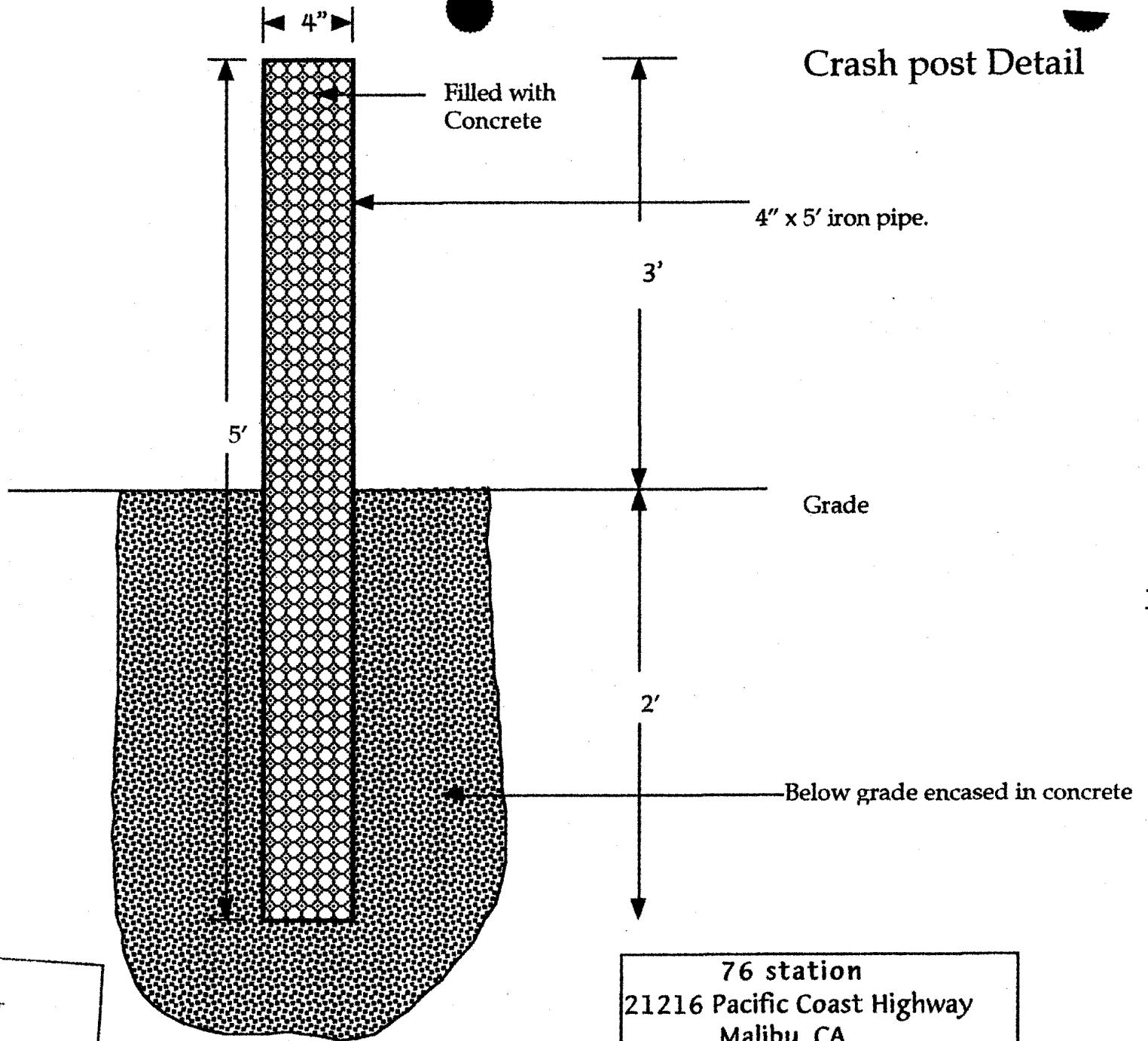


Exhibit No. 4  
 App. No. 4-00-270  
 Crash Post Elevation

**CITY OF MALIBU**  
 Planning Department  
 APPROVAL IN CONCEPT

Signature: *[Handwritten Signature]*

\*Date: \_\_\_\_\_

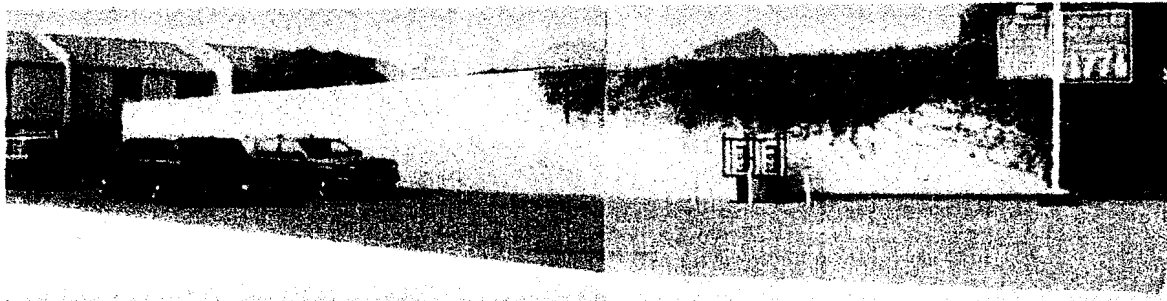
Planning Review No.: \_\_\_\_\_

THIS IS NOT A PERMIT AND IS SUBJECT TO ANY CONDITIONS LISTED BELOW

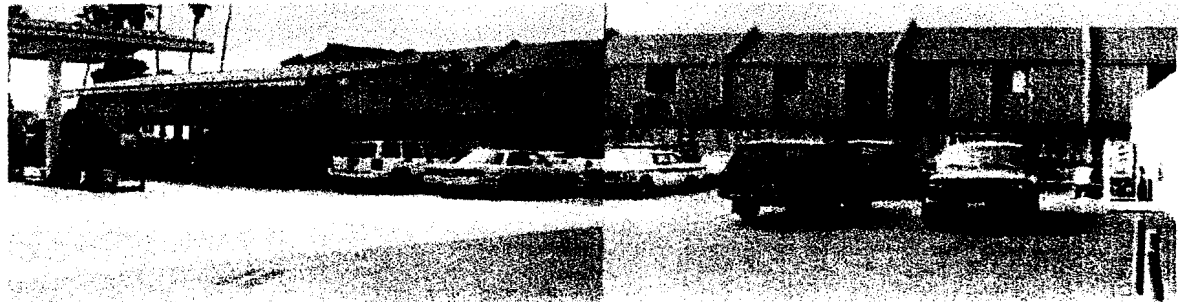
\*THIS APPROVAL IS VALID FOR 1 YR FROM THE DATE STAMPED

76 station  
 21216 Pacific Coast Highway  
 Malibu, CA

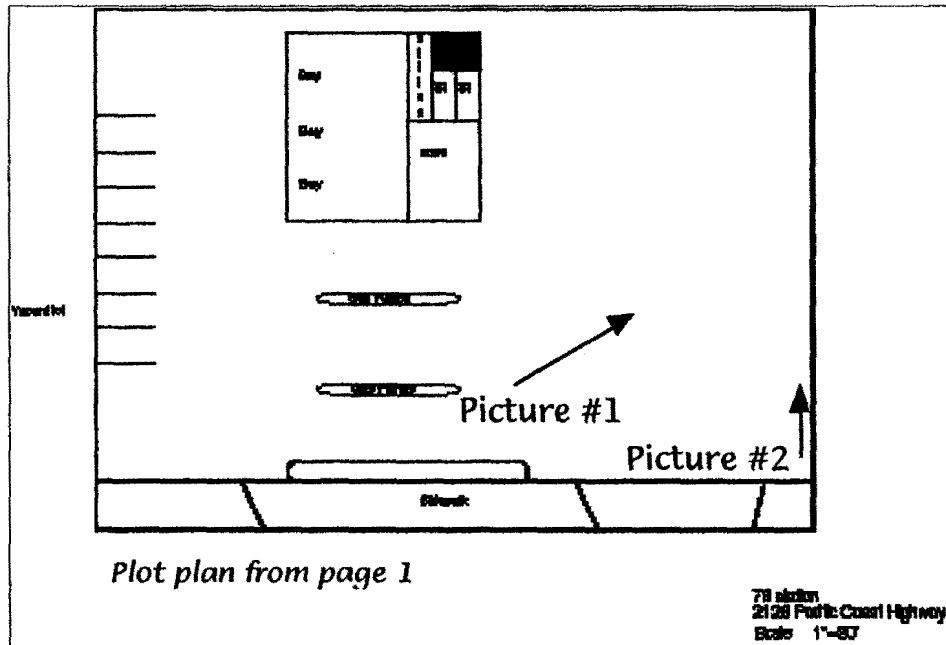
**BAD** Publishing



Picture #1



Picture #2



Pictures of eastern section of property.  
Showing area of propane tank  
installation near cynder block wall.

Exhibit No. 5  
App. No. 4-00-270  
Pictures of Project Area

CITY OF MALIBU  
Planning Department  
APPROVAL IN CONCEPT

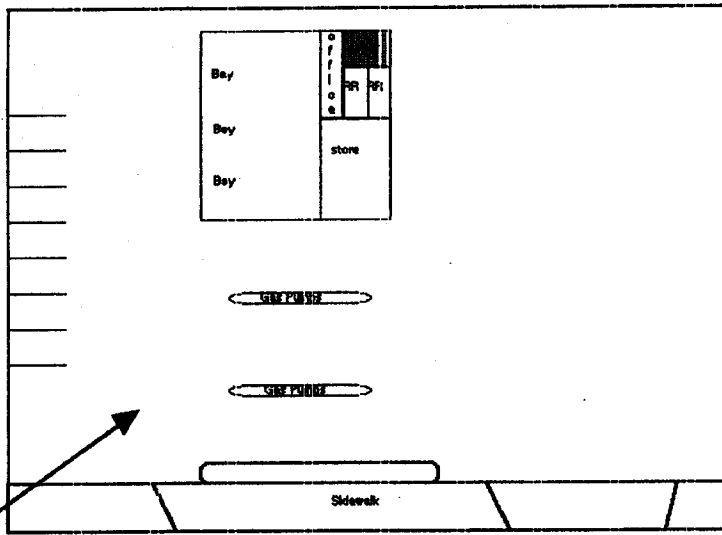
Signature: \_\_\_\_\_

\*Date: \_\_\_\_\_

Planning Review No.: \_\_\_\_\_

THIS IS NOT A PERMIT AND IS SUBJECT  
TO ANY CONDITIONS LISTED BELOW

\*THIS APPROVAL IS VALID FOR 1 YEAR FROM DATE STAMPED

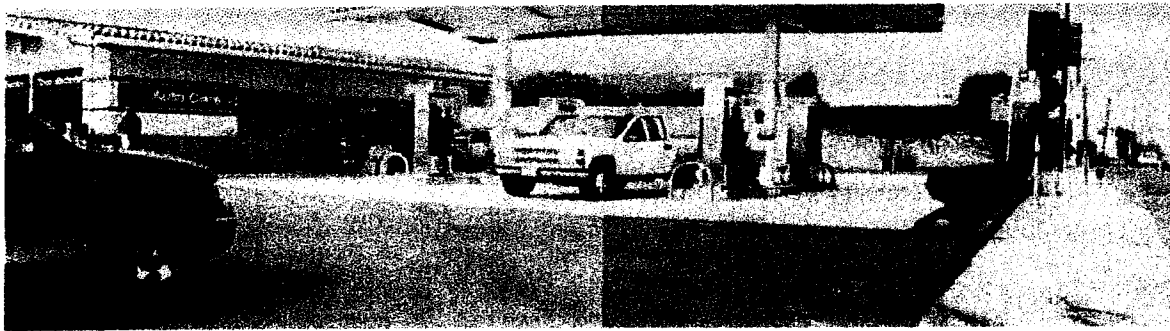


Picture #1

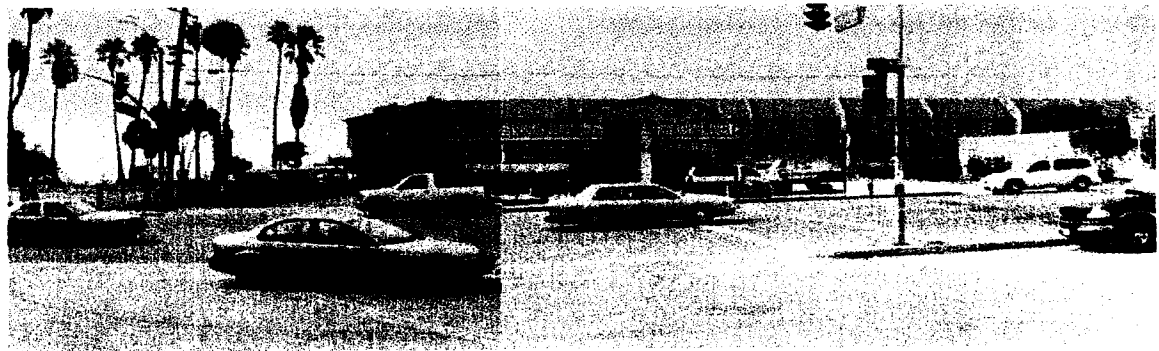
Plot plan from page 1

76 station  
2125 Pacific Coast Highway  
Scale 1"=20'

Pictures from northern section of property.  
Showing front of station.



Picture #1



Picture #2

From across the intersection of PCH

Signature: [Signature]  
 Date: \_\_\_\_\_  
 Planning Review No.: \_\_\_\_\_  
 THIS IS NOT A PERMIT AND IS SUBJECT  
 TO ANY CONDITIONS LISTED BELOW  
 \*THIS APPROVAL IS VALID FOR 1 YR FROM THE DATE STAMPED

Exhibit No. 6  
App. No. 4-00-270  
Pictures of Subject Lot