

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff: JLA-V *[Signature]*
Staff Report: 8/22/01
Hearing Date: 9/11-14/01

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 4-00-059-A1

APPLICANT: John and Kathy Haag

PROJECT LOCATION: 20173 Rockport Way, Malibu, Los Angeles County

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a new, 6,189 sq. ft., 28 ft. high, two-story single family residence (SFR) with an 897 sq. ft. basement, a 797 sq. ft. attached 3-car garage, a 120 sq. ft. utilities shed, a swimming pool / spa, a grove of citrus trees, and an evapotranspiration type septic system to replace a 3,880 sq. ft. home destroyed by wildfire. The project also includes a lot combination, two 6-foot retaining walls, and 2,590 cu. yds. of grading (520 cut, 460 fill, 1,610 removal / recompaction).

AMENDMENT DESCRIPTION: Revise grading plan from 2,590 cubic yards of grading (520 cut, 460 fill, 1,610 removal / recompaction) to 4,330 cubic yards (930 cu. yds. fill, 3,400 cu. yds. removal / recompaction). The proposed grading has been revised to reflect additional subsurface remedial grading and to adjust the amount of cut and fill required for the project. The finished pad elevations will remain the same as originally proposed.

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval of the proposed amendment with no special conditions.

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, an objection to Executive Director's determination of immateriality was submitted to the Executive Director in compliance with Section 13166, Title 14, Div. 5.5 of the California Code of Regulations.

I. STAFF RECOMMENDATION

MOTION: I move that the Commission approve Amendment No. 4-00-059-A1 pursuant to the staff recommendation.

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE AMENDMENT:

The Commission hereby approves an amendment to the 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.

LOCAL APPROVALS RECEIVED: City of Malibu: Planning Department, Approval In Concept, dated 3/23/01.

SUBSTANTIVE FILE DOCUMENTS: *Reconnaissance Geology Report for Fire Restoration - 20173 Rockport Way and Adjacent Undeveloped Parcel, Big Rock Mesa Area, Malibu, California*, by consulting geologist E.D. Michael, dated November 21, 1995; *Geotechnical Engineering Reconnaissance Report - Proposed Remedial Residential Fire Re-Build - 20173 Rockport Way, Malibu, California*, by RJR Engineering Group, dated December 10, 1995; *Sewage Treatment System Description and Report for 20173 Rockport Way, Malibu, California*, by Topanga Underground, dated December 13, 1995; *City of Malibu Geology and Geotechnical Engineering Review Sheet for Site Address -- 20173 Rockport Way*, dated January 4, 1996; *Addendum Letter #1 - Response to the City of Malibu Review Comments - 20173 Rockport Way, Malibu, California*, by RJR Engineering Group, dated February 1996; *Agreement and Covenant to Hold Property as One Parcel*, dated July 16, 1997; *City of Malibu Geology and Geotechnical Engineering Review Sheet for Site Address -- 20173 Rockport Way*,

dated July 17, 1996; *Retaining Wall Calculations - Proposed Remedial Residential Fire Re-Build - 20173 Rockport Way, Malibu, California*, by RJR Engineering Group, dated October 27, 1999; *City of Malibu Geology Referral Sheet for Job Address -- 20173 Rockport Way*, dated October 28, 1999; *Supplemental Comments Re: E.D. Michael November 21, 1995 Reconnaissance Geology Report for Fire Restoration - 20173 Rockport Way and adjacent Undeveloped Parcel, Big Rock Mesa area, Malibu, California*, by consulting geologist E.D. Michael, dated November 3, 1999; *Geotechnical and Geologic Update Report - 20173 Rockport Way, Malibu, California*, by RJR Engineering Group, dated November 15, 1999; *City of Malibu Geology and Geotechnical Engineering Review Sheet for Site Address -- 20173 Rockport Way*, dated December 8, 1999; *Sewage Treatment System Description and Specifications for 20173 Rockport Way, Malibu, California*, by Topanga Underground, dated January 3, 2000.

All conditions of coastal development permit 4-00-059-A1 remain in effect.

II. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

On July 13, 2000 the applicant was granted a permit for the construction of a new, 6,189 sq. ft., 28 ft. high, two-story single family residence (SFR) with an 897 sq. ft. basement, a 797 sq. ft. attached 3-car garage, a 120 sq. ft. utilities shed, a swimming pool / spa, a grove of citrus trees, and an evapotranspiration (ET) type septic system to replace a 3,880 sq. ft. home destroyed by wildfire. The project includes two 6-foot retaining walls and 2,590 cu. yds. of grading (520 cut, 460 fill, 1,610 removal / recompaction). The permit was approved subject to special conditions regarding landscape and erosion control plans, drainage and polluted runoff control plans, conformance to geologic recommendations, removal of excavated material, assumption of risk and lot combination. The special conditions were complied with and the permit was issued on March 9, 2001

The applicant is proposing to amend the project grading plan from 2,590 cubic yards of grading (520 cut, 460 fill, 1,610 removal / recompaction) to 4,330 cubic yards of grading (930 cu. yds fill, 3,400 cu. yds. removal / recompaction). The proposed grading amounts for the project has been revised to reflect additional subsurface remedial grading required by the City of Malibu and applicant's geotechnical consultant. The finished pad elevations will remain the same as originally proposed. The amount of cut and fill has been adjusted to accurately reflect the grading required to create the proposed building pad.

The property is located in the Big Rock Mesa area of the City of Malibu, north and inland from Big Rock Beach (Exhibits 1-2). Access to the project site is from Pacific Coast Highway via Big Rock Drive to Rockport Way, a publicly accessible street which passes immediately south of the subject property. There have been no previous coastal permits obtained for the subject property, but there was existing development on-site including a 3,880 sq. ft. single family residence (SFR) and a driveway. This previously

existing home was destroyed in the 1993 Topanga wildfire leaving only the foundation, the driveway, and portions of the chimney.

The property is located on a sloping, southeast facing ridge in the Santa Monica Mountains. The western portion of the property descends into Dry Canyon. Drainage on the property is by sheetflow over the existing contours. The proposed site for the residence lies on a gently sloping upper pad area located on the west side of an north / south trending ridge. The property then slopes down to the lower portion of the property consisting of roughly two acres of level-to-gently rolling terrain with a flatter portion at the bottom of the canyon.

Drainage from the property flows overland in a southwesterly direction overland and along the driveway to Rockport Way. The drainage then travels southeast through various public and private curb and gutter stormwater conveyance systems, passes under Pacific Coast Highway, and outlets at Big Rock Beach.

Objections to The Amendment Request

As previously stated above, the Executive Director determined that the proposed amendment was immaterial and did not result in any adverse impacts to coastal resources and was consistent with the Chapter 3 policies of the Coastal Act. Notice of this determination was sent to neighboring property owners pursuant to the Commission's administrative regulations (*Title 14, Div. 5.5, Section 13166 of the California Code of Regulations*). An objection was received from neighboring property owner and the amendment request was scheduled for a public hearing as is required pursuant to the Commission's Administrative Regulations (*Title 14, Div. 5.5, Section 13166 of the California Code of Regulations*)

A neighboring property owner, Mr. Douglas Avery, objects to the amendment request on the grounds that the proposed grading is located in an area which is geologically unstable and the development will inject massive amounts of water into the ground which will serve to exacerbate this unstable situation (Exhibit 5). Mr. Avery also asserts that the increase in grading will aggravate the project's impact on threatened and/or endangered indigenous plant life and wildlife in the area, such as Coastal Sage and California Gnatcatchers. Finally, Mr. Avery claims the proposed residence will adversely impact the private views from neighboring properties. These objections are addressed in detail below. The applicant has submitted a response to Mr. Avery's objections which is attached as Exhibit 6.

B. 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...

The neighboring property owner, Mr. Avery, is objecting to the proposed amendment request on the grounds that the proposed project is located in an area notorious for its unstable topography and mudslides and that the proposed additional remedial grading would exacerbate this unstable situation. Furthermore, he claims that the proposed grading and construction anticipated by the project would necessarily entail injection of a massive amount of water into the ground which would serve to exacerbate the danger of a mudslide in the area. Mr. Avery has not provided staff with any evidence to support his conclusion that the proposed amendment will result in adverse impacts to the geologic stability of this site.

The Commission findings for approval of this permit application addressed the geologic stability of the building site in detail. The applicants' geologist acknowledged that the subject property is located within the Big Rock Mesa Landslide area and found that the geologic stability of the site is favorable for the project. The Big Rock Mesa Landslide is a deep-seated regional landslide which activated in September 1993. The slide area encompasses approximately 150 acres involving some 216 single family residences. The Big Rock Area has been implementing the landslide mitigative measures recommended by Bing Yen & Associates including drainage improvements, hydraugers, and dewatering wells which, according to the consulting geologists, should serve to increase the factor of safety against renewed earth movement.

Based on site observations, slope stability analysis, evaluation of previous research, analysis and mapping of geologic data, and subsurface exploration of the site, the engineering geologists prepared reports and provided recommendations to address the specific geotechnical conditions related to the site. The *Geotechnical Engineering Reconnaissance Report - Proposed Remedial Residential Fire Re-Build - 20173 Rockport Way, Malibu, California*, by RJR Engineering Group, dated December 10, 1995, states:

[T]he site is located in the Big Rock Landslide, and the overall stability of the site will be directly related to the stability of the adjacent area. ... At the time of our site reconnaissance, no evidence of recent damage, cracks, or other evidence of slope instability was observed. It should be noted that the future stability of the Big Rock Mesa Landslide can not be reliably predicted or modeled however...

The 1995 RJR Engineering Group report concludes:

It is the opinion of RJR Engineering Group that the site can be re-developed under the current City guidelines for fire re-builds as discussed above. The proposed remedial re-development, as planned, will not decrease the stability of the site or surrounding areas, relative to the conditions that existed at the time of the fire. It should be noted that the future stability of the Big Rock Landslide can not be reliably predicted or modeled, however, as the mitigate

measures recommended by Bing Yen & Associates will further increase the factor of safety against renewed movement. More importantly, it should be recognized that the stability of the site can be directly affected by movement or condition changes that could occur in other portions of the Big Rock Mesa Landslide.

This concluding statement is repeated nearly verbatim in the subsequent *Geotechnical and Geologic Update Report - 20173 Rockport Way, Malibu, California*, by RJR Engineering Group, dated November 15, 1999. The *Supplemental Comments Re: E.D. Michael November 21, 1995 Reconnaissance Geology Report for Fire Restoration - 20173 Rockport Way and adjacent Undeveloped Parcel, Big Rock Mesa area, Malibu, California*, by consulting geologist E.D. Michael, dated November 3, 1999, states:

Except for the effects of a strong earthquake which are essentially unpredictable, it is my opinion that so long as the dewatering system for the Mesa is maintained and ground-water levels are kept low, the subject property should experience about the same degree of movement as it has during the previous 17 years. In my opinion, on this basis, further movement should be of the same mode and order of magnitude as experienced previously, i.e., without significant effect in the subject property, although a more adverse effect in response to an unusually severe storm season, or because of a reduction in the effectiveness of the existing dewatering system, might eventually occur. In this regard, an especially stiff design for the proposed structures seems highly desirable.

The Commission noted in the findings for approval of the permit that the geologic and engineering consultants included a number of recommendations to increase the stability and geotechnical safety of the site. To ensure that these recommendations are incorporated into the project plans, the Commission found it necessary to require the applicant, through Special Condition Three, to submit project plans certified by the geologic / geotechnical engineering consultant as conforming to their recommendations.

The geotechnical consultants and the City of Malibu geologist have required additional remedial grading to further stabilize the proposed building site. This building site is in the same location as the previous residence on the site that was destroyed by a wildfire in 1993. The additional remedial grading includes the removal and recompaction of the soils on top of competent earth material and construction of sub-drains and surface drains to convey ground water and surface drainage away from the building site. This additional remedial grading will further stabilize the building site and will not destabilize the site as asserted by the neighboring property owner. In addition, the installation of subdrains and surfical drainage system will minimize the introduction of water into the larger Big Rock Landslide complex. Furthermore, the applicant is proposing a evapotranspiration (ET) septic system to minimize the introduction of ground water into the Big Rock slide complex. The proposed evapotranspiration septic system extends across the two lots (APN #s 4450-11-29 and 4450-11-30) which are the subject of this coastal permit. The ET septic systems require a larger land area than a standard system in order to disperse the effluent produced. In this case, the ET system has been designed to extend over the two adjoining parcels which have been combined or merged together as one parcel. This lot merger will eliminate the possibility of the

adjacent parcel from being developed with a residence in the future. Therefore, the proposed project will not result in the injection of massive amounts of water into the ground.

The proposed additional remedial grading will improve site stability and will not result any additional landform alteration. The final building pad elevations remain the same as originally permitted by the Commission. The subject permit included a number Special Conditions to further ensure the stability of the subject site, which apply to this amendment, including submission of: Landscaping and Interim Erosion Control Plans, Drainage and Polluted Runoff Control Plans and Plans Conforming to Geologic Recommendations. Therefore, the Commission finds that, based on the above findings, the proposed amendment is consistent with Section 30253 of the Coastal Act.

C. 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 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.

The neighboring property owner claims the proposed residence will adversely impact the view of surrounding properties. The visual resource policy of the Coastal Act (§ 30251) addresses the protection of scenic views and resources as seen from public viewsheds not private viewsheds. The interruption of private views is not a valid Coastal Act issue. In this case, as previously addressed in the Commission's findings for approval of this permit application, the proposed residence is not visible from Pacific Coast Highway or surrounding public beaches. The Commission findings also indicate the proposed building site is located on an existing building pad area, the grading is designed to minimize landform alteration and the structure is compatible with surrounding development. The additional remedial grading does not result in any changes to the final pad elevations or result in additional landform alteration. Therefore, Commission finds that proposed amendment is consistent with Section 30251 of the Coastal Act.

D. Environmentally Sensitive Resources

Section 30240 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 opponent to the amendment indicates the proposed grading would aggravate the project's impact on threatened and/or endangered indigenous plant life and wildlife in the area, such as Coastal Sage and California Gnatcatchers. The subject property was previously developed with a single family development surrounded by extensive landscaping consisting of primarily exotic vegetation which was destroyed in a wildfire. Subsequent to the fire, the site has been routinely cleared of vegetation as required by the Fire Department. Therefore, there is very little natural vegetation or habitat remaining on the subject site. In addition, the surrounding area is developed with existing single family developments and therefore this area cannot be not considered a natural area. The neighboring property owner has not provided any evidence of the presence of Gnatcatchers or Coastal Sage Scrub on the subject site. Given the lack of natural vegetation and habitat on the subject site the proposed grading will not adversely impact any environmentally sensitive habitat areas. Therefore, the Commission finds that the proposed amendment is consistent with Section 30240 of the Coastal Act.

E. Local Coastal Program

Section 30604(a) of the Coastal Act states (in part):

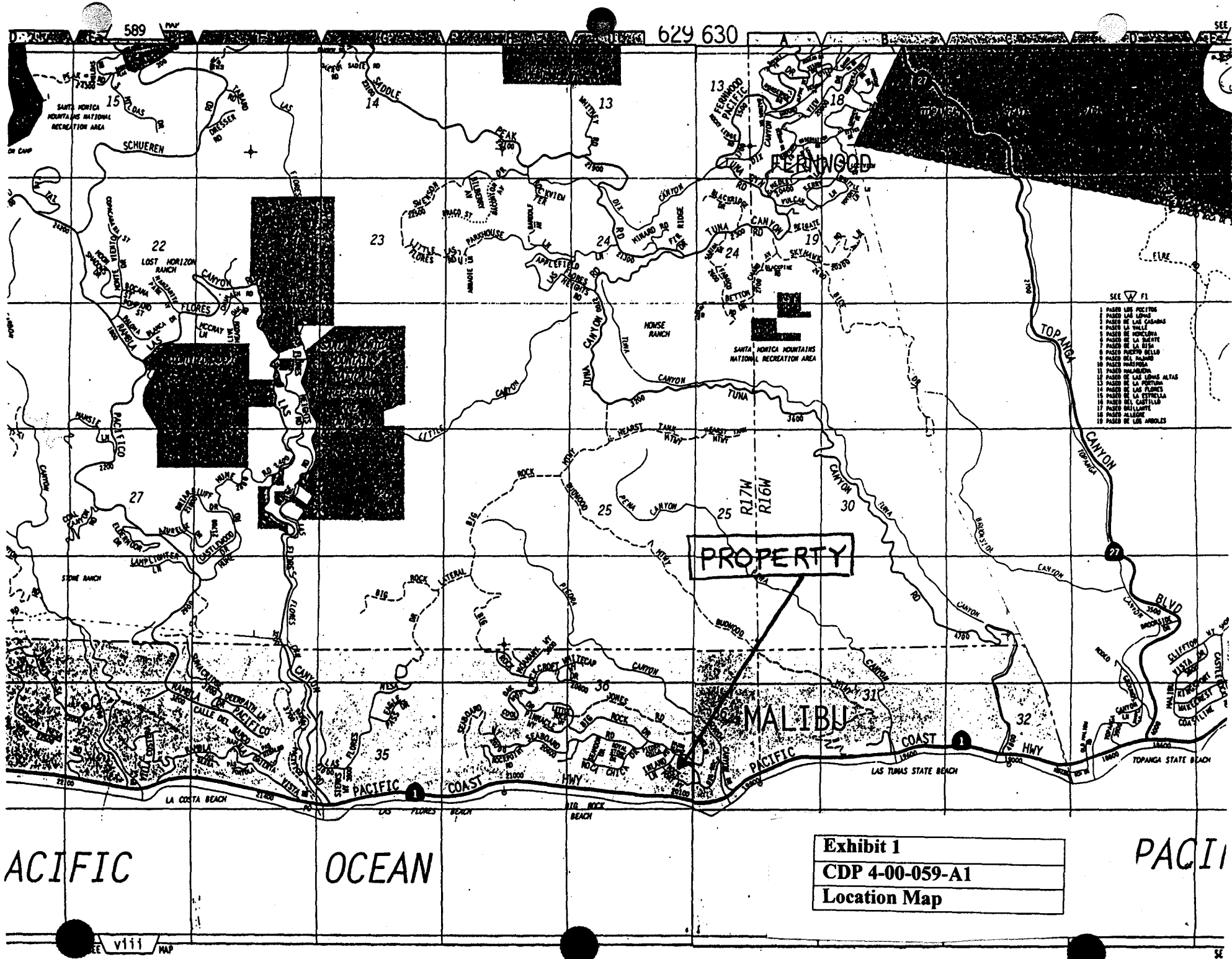
a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice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

Section 30604(a) of the Coastal Act stipulates 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).

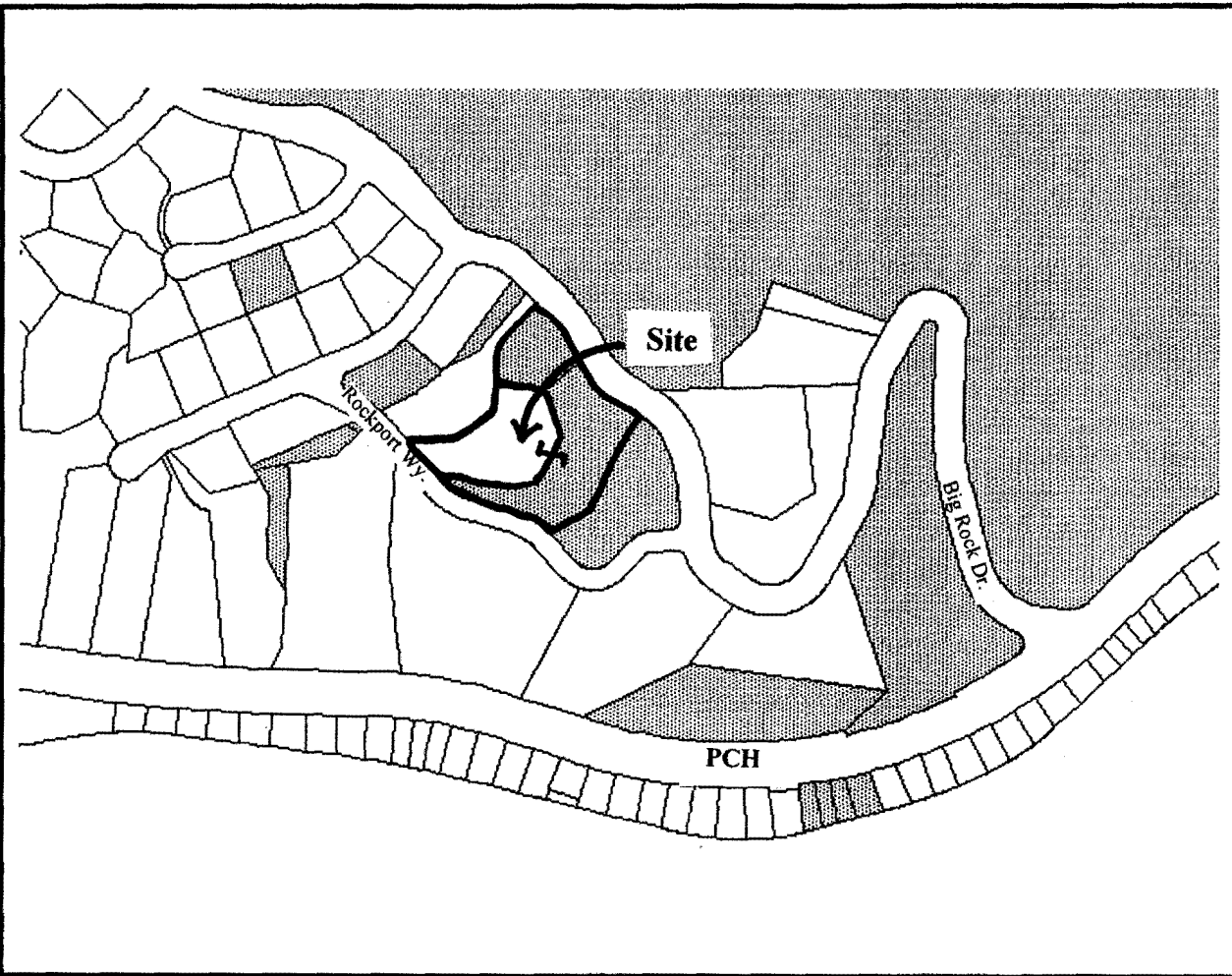
F. California Environmental Quality Act

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 effect which the activity would have on the environment.

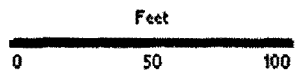
The Commission finds that the proposed amendment, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.



4-00-059-A1



vacant parcels



Thursday, Aug 23 2001

Exhibit 2
CDP 4-00-059-A1
Parcel Map

GIBSON, DUNN & CRUTCHER LLP
LAWYERS

A REGISTERED LIMITED LIABILITY PARTNERSHIP
 INCLUDING PROFESSIONAL CORPORATIONS

JAMBOREE CENTER

4 PARK PLAZA

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June 20, 2001

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WRITER'S DIRECT DIAL NUMBER

(949) 451-4114

OUR FILE NUMBER

G 03106-00016

VIA FACSIMILE AND U.S. MAIL

California Coastal Commission
 Marin County Board of Supervisors Chambers
 3501 Civic Center Drive, Room 329
 San Rafael, CA 94903

Re: *Notice of Proposed Permit Amendment: Permit No. 4-00-059-A1.*

Ladies and Gentlemen:

On behalf of Douglas W. Avery, a resident of Malibu, California, this firm would like to register an objection to the above-referenced proposed permit amendment. This objection is being registered at this time because at the time of the notice Mr. Avery was out of town on business and did not receive actual notice of the amendment until approximately June 18.

By letter dated July 10, 2000, Mr. Avery registered his objection to the proposed project on a number of grounds. Among those grounds was the fact that the project, which at the time entailed only 2,500 cubic yards of grading, is located in an area notorious for its unstable topography and mudslides. Accordingly, the grading and construction anticipated by the project would necessarily entail the injection of a massive amount of water into the ground which would serve only to exacerbate the danger of a mudslide in the area. Furthermore, the extensive excavation and cutting and grading in this naturally rocky area are bound to alter the natural geological balance.

The proposed amendment to the permit, which increases the amount of grading from 2,500 cubic yards to 4,330 cubic yards, would only serve to exacerbate the problems discussed above. We continue to register our objection to this project on the ground that the Commission has not adequately investigated the geological impact it would have on the surrounding properties.

Exhibit 5

CDP 4-00-059-A1

Letter of Opposition

GIBSON, DUNN & CRUTCHER LLP


California Coastal Commission
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Furthermore, the increase in grading would aggravate the project's impact on threatened and/or endangered indigenous plant life and wildlife in the area, such as Coastal Sage and California Gnatcatchers. We believe that in granting the permit and the amendment, the Commission has failed to properly address the impact this project would have on the delicate ecological and environmental balance in the area.

Finally, the construction of a 28-foot-high two-story residence on a lot which heretofore has only accommodated a one-story residence would adversely impact the view of surrounding properties. The primary view of neighboring properties faces to the south-southwest and overlooks the Pearl's Necklace. The proposed construction would unjustifiably restrict this view.

In light of the concerns set forth above, we request that the above-referenced proposed permit amendment be denied.

Respectfully submitted,



Charles H. Haake

CHH/lab

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JOHN & KATHY HAAG

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June 26, 2001

BY E-MAIL AND FAX 805-641-1732

Mr. Jack Ainsworth, Supervisor
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, California 93001

Re: 20173 Rockport Way, Malibu - Haag Fire Rebuild Project
Coastal Commission Application No. 4-00-059

Dear Mr. Ainsworth:

We are informed that you have received a June 20, 2001 letter (the "Letter") from attorney Charles Haake at the law firm of Gibson, Dunn & Crutcher. Mr. Haake's Letter was written on behalf of Douglas Avery. Prior to today, we never heard of Mr. Avery. We do not believe he is one of our immediate neighbors (the Letter merely indicates that Mr. Avery resides in Malibu). Moreover, we do not believe that our fire rebuilding project is doing any harm to Mr. Avery or his property.

The Letter objects to our request for an amendment to our permit (so as to clarify the amount of remedial grading). We believe the Letter mischaracterizes the impact of our project, and the minimal incremental impact of the requested amendment, and we write to provide clarification.

The Letter claims that the grading and construction will "necessarily entail the injection of massive amounts of water into the ground which would serve only to exacerbate the danger of a mudslide in the area." This claim is unfounded. The grading operations will use water to control surface dust (as required by the City and Coastal Commission), and will use water to assure the proper moisture content in the recompacted soil, neither of which will inject "massive amounts of water" and neither of which will cause a mudslide or a landslide.

The Letter next claims that the "excavation and cutting and grading in this naturally rocky area are bound to alter the natural geological balance." Again, this claim is unfounded, at least to the extent that the Letter implies that the geological balance will be negatively impacted. Most of the grading involves removal and replacement of old inadequately compacted dirt. When the

Exhibit 6

CDP 4-00-110

Applicant's response Letter

Mr. Jack Ainsworth
June 26, 2001
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work is done, the dirt will be properly benched and recompactd on top of bedrock/competent material with appropriate sub-surface drains. This costly work was required by the City geology/geotechnical department after careful study of the property by licensed geologists and geotechnical engineers. The effect of the grading on the "geological balance" will be favorable.

The Letter next claims that the "Commission has not adequately investigated the geological impact the grading ... will have on the surrounding properties." Again, this claim is unfounded. Our project was subjected to careful geological/geotechnical review, including the preparation of several reports analyzed by the City's geotechnical staff from Bing Yen & Associates (the same company that is responsible for assuring the geological stability of the Big Rock special assessment district area - they test subsurface conditions, install and monitor dewatering equipment, provide annual reports, etc.). Indeed, most of our grading is "remedial" - it is intended to improve geological stability. The Letter fails to provide any explanation for how the grading will undermine geological stability. Indeed, our new house (which will replace our home destroyed in the 1993 wildfire) will promote stability within the Big Rock area because the City geology/geotechnical department has required us to install an evapotranspiration-type septic system. Unlike most of our neighbors, who dump their septic water into cess pits which inject water deep into the sub-surface (thereby creating a potential geological problem), our system will create gray water that will be used to irrigate our landscaping with minimal injection of water into the sub-surface. This, like the remedial grading, is a costly mitigation measure which has been imposed on us as part of our seven year fire rebuild approval process.

The Letter next claims that the increased grading will harm "indigenous plant life and wild life." Again, this claim is unfounded. The grading is being conducted on our homesite that was destroyed by the Old Topanga wildfire. Our homesite was fully landscaped (mostly if not exclusively with non-indigenous plant life) when the fire occurred. Since then, the entire graded area has been cleared every year as required by the Fire Department. Moreover, most of the upper lot area was grubbed during the ongoing grading operations, and the rest of the property will need to be cleared shortly per the annual Fire Department requirements. So much for the claim that we are somehow harming indigenous plant life. Likewise, the ongoing grading operations are not hurting wild life, and properly completing our remedial grading on the upper lot area (which has already been cleared) per the requested amendment is not going to do any harm to the wild life. Indeed, the birds and squirrels seem to be enjoying watching us rebuilding our nest. The rats and snakes have hopefully moved to one of the adjacent vacant lots.

Finally, the Letter claims that our new home will "adversely impact the view of surrounding properties". Again, this claim is unfounded. Our new home will not obstruct the primary ocean view of any of our neighbors (including the Gutmans) - and the City so determined during the Site Plan Review process. Moreover, when we applied for approval of our new home, we did so with signed consents from almost all of our immediate neighbors. Nevertheless, the Letter claims, without support, that our new home will "unjustifiably restrict" the view of the "Pearl's Necklace." It is readily apparent from the topography of our residential

Mr. Jack Ainsworth
June 26, 2001
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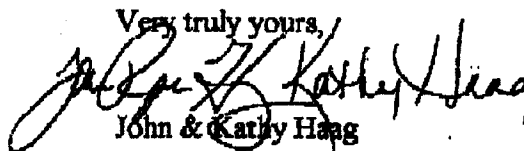
neighborhood, where the other homes are far away and at much different elevations), that this assertion is a gross exaggeration. When our new home is completed, the ocean views of our neighbors will be just as nice as they were before the fire destroyed our previous home. Before the fire, the Gutmans had no ocean view over our house – their ocean view was over the west wing of our property – which is not being developed. When our home is built, our other neighbors to the west and north-west will not have their views blocked by us because of the existing rooflines of the houses on Inland Lane. Indeed, at the request of one of our neighbors, our new home will extend less to the north view corridor than did our previous home, thereby enhancing the view. More importantly, the issues of views and house dimensions have already been decided after many years of work. Finally, now it is time to build.

It seems that Mr. Avery's real complaint is that we are building a "two story" home. That issue was previously addressed and resolved. The City and the Coastal Commission approved our plans – after many mitigation measures and conditions were imposed and satisfied. There are several other two story homes in our immediate vicinity (including another fire rebuild directly across Big Rock Drive at almost the same elevation as our pad). In summary, the Letter is an unfair attempt to use an immaterial remedial grading volume clarification as a means to interfere with the reconstruction of our home.

Finally, as allowed by the Coastal Commission and the City, please be advised that we have been diligently proceeding with grading/remediation work pursuant to our existing approvals. We cleared off the ruins of our old home, which has been an eyesore for over seven years. We have removed the old septic tank. We have completed most of the grading work in the vicinity of our west retaining wall, and the wall is being built (completion probably within the next week) with care given to preserve the pine tree at the corner of the property. We have graded two benches to "bedrock" so that we can begin building our east retaining wall and our canyon sub-drain (work to start soon), with remedial recompaction backfilling to follow. We will also be excavating and building our basement soon. Thereafter, we will be remediating/recompacting the remainder of the pad area to create an engineered "fill blanket" for the construction of our house and surrounding flatwork. We would like to get the requested amendment approved so that we can complete this remediation/recompaction work. As you will recall, our amendment does not change the final contours of our project. Rather, it merely reflects that the extent of remedial grading is somewhat greater than initially estimated because the geotechnical experts believe it is appropriate to remove and recompact all the non-competent dirt in our pad area so as to provide maximum geotechnical stability.

We respectfully urge the Coastal Commission to approve the amendment.

Very truly yours,



John & Kathy Haag