

**CALIFORNIA COASTAL COMMISSION**

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

**RECORD PACKET COPY**

Filed: 8/21/04  
49th Day: 10/09/04  
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Staff: LKF-V *SK*  
Staff Report: 10/28/04  
Hearing Date: 11/19/04

**STAFF REPORT: PERMIT AMENDMENT**

**APPLICATION NO.:** 5-90-1057-A2

**APPLICANTS:** Staz Trust

**AGENT:** Alan Robert Block

**PROJECT LOCATION:** 29150 Cliffside Drive, City of Malibu (Los Angeles County)

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Construction of a two story, 11,970 sq. ft. single family residence, 27 feet high (14 feet above the centerline of the frontage road), tennis court, swimming pool, cabana/guesthouse, septic system and 1,500 cubic yards of grading (950 cu. yds. cut, 550 cu. yds. fill).

**PREVIOUSLY AMENDED FOR (A):** Temporary placement of a six foot high chain link fence at the northern property boundary.

**PREVIOUSLY AMENDED FOR (A1):** Interior wall reconfiguration, building entry revised at entry/stairs and bedrooms 5 and 6, spiral stairs added to decks, deck and floor elevations re-adjusted and driveway/motor court readjusted to accommodate recent City of Malibu Public Works Department storm drain installation.

**DESCRIPTION OF AMENDMENT (A2):** Request for after-the-fact approval for installation of a six foot high chain link gated fence across a 10 foot wide public view corridor at the front of the subject property, facing Cliffside Drive. The proposed project also includes maintenance of the view corridor free of vegetation, and placement and maintenance of gravel ground cover within the view corridor.

**LOCAL APPROVALS RECEIVED:** Approval in Concept, City of Malibu, July 1, 2004.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Permits No. 5-90-1057, 5-90-1057-A, and 5-90-1057-A1; Coastal Development Permits No. 4-99-146, 4-99-154, 4-99-185, 4-99-246, and 4-02-166; certified City of Malibu Local Coastal Program.

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:

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

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

If the applicants or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material (14 Cal. Code of Regulations Section 13166). In this case, the Executive Director has determined that the proposed amendment is a material change to the project and has the potential to adversely affect previously imposed special conditions required for the purpose of protecting coastal resources.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of the applicant's proposal with **four (4) additional special conditions** regarding revised fence plans, view corridor maintenance, deed restriction, and condition compliance.

**I. STAFF RECOMMENDATION**

**MOTION:** *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 5-90-1057-A2 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 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 A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment for the proposed development on the ground that the development as amended and subject to conditions, will be in conformity with the policies of the City of Malibu Local Coastal Program (LCP). Approval of

the permit amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

## **II. STANDARD AND SPECIAL CONDITIONS**

***Note: Unless specifically altered by the amendment, all standard and special conditions previously applied to Coastal Development Permit (CDP) 5-90-1057-A1 continue to apply. The approved coastal development permit includes three (3) special conditions. In addition, the following additional special conditions (numbered 4, 5, 6 and 7) are hereby imposed as a condition upon the proposed project as amended pursuant to CDP 5-90-1057-A2.***

### **SPECIAL CONDITIONS**

#### **4. Revised Fence Plans**

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, revised plans that replace the proposed chain link gated fence with a visually permeable gated fence no more than six feet in height. Visually permeable materials include transparent materials, such as non-tinted glass or plastic panels, or wrought iron, which are 90 percent open to light and air consistent with Special Condition Five (5) below.

#### **5. View Corridor Maintenance**

By acceptance of this coastal development permit, the applicant agrees, on behalf of itself and its successors and assigns that:

- 1) A ten foot wide portion of the project site shall be maintained as a public view corridor from Cliffside Drive to the Pacific Ocean.
- 2) No structures, vegetation, or obstacles which result in an obstruction of public views of the Pacific Ocean from Cliffside Drive shall be permitted within the public view corridor as shown in Exhibit 2.
- 3) Fencing within the public view corridor shall be limited to visually permeable designs and materials, such as wrought iron or non-tinted glass materials. Fencing shall be limited to no more than six feet in height. All bars, beams, or other non-visually permeable materials used in the construction of the proposed fence shall be no more than ½ inch in thickness/width and shall be placed no less than six inches apart in distance, or shall be more than one inch in thickness/width and shall be placed no less than 12 inches apart in distance. Alternative designs may be allowed only if the

Executive Director determines that such designs are consistent with the intent of this condition and serve to minimize adverse effects to public views.

- 4) Vegetation within the public view corridor shall be limited to low-lying vegetation of no more than two feet in height. The public view corridor shall be maintained to ensure that landscaping and vegetation adjacent to the view corridor shall not encroach into the view corridor.

## **6. Deed Restriction**

Prior to issuance of the coastal development permit amendment, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit amendment or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

## **7. Condition Compliance**

Within 90 days of Commission action on this coastal development permit amendment application, or within such time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

## **III. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

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

The applicants request after-the-fact approval for installation of a six foot high chain link gated fence across a 10 foot wide public view corridor at the front of the subject property, facing Cliffside Drive. The proposed project also includes maintenance of the view corridor free of vegetation, and placement and maintenance of gravel ground cover within the view corridor. (Exhibits 2 and 6).

The project site is an approximately 1.3-acre bluff top lot on Point Dume in the City of Malibu. The site is located southeast of Cliffside Drive and northeast of the Pacific Ocean (Exhibit 1).

The gently sloping bluff top portion of the site is developed with a single family residence, garage, swimming pool, driveway, motor court, guesthouse, septic system and landscaping, approved by the Commission under Coastal Development Permit (CDP) No. 5-90-1057 and subsequent amendments (Exhibits 3 - 5). The remainder of the property consists of the bluff face, which contains no development with the exception of a concrete ditch drainage system within a drainage easement maintained by the County of Los Angeles. The proposed gated fence, which has already been installed, is located along the northwestern property line adjacent to Cliffside Drive.

The site provides public views of the ocean in a 10 foot wide view corridor adjacent to the western property line. In order to protect visual resources, **Special Condition Two (2)** of the underlying permit required the applicants to record a deed restriction prohibiting "alteration of landforms or the erection of structures" within the view corridor, and also prohibiting "any vegetation within the view corridor with the exception of groundcover." In order to further ensure protection of ocean views, **Special Condition Three (3)** of the underlying permit required the applicants to record a second deed restriction stating that all future improvements to the structures or property would require an amendment or new coastal development permit.

The proposed gated fence was installed across the view corridor without the benefit of a coastal development permit. In addition, landscaping was present in the view corridor, but was subsequently removed following the issuance of a third Notice of Violation by Commission enforcement staff on September 9, 2003. The current application was submitted on May 4, 2004, in response to direction from the Commission's Enforcement staff to either remove the fence in the recorded public view corridor or to obtain an amendment to CDP No. 5-90-1057 to remove the existing chain link fence and replace it with a new visually permeable fence consistent with those previously allowed by the Commission in other required public view corridors.

## **B. Visual Resources**

The Malibu LCP provides for the protection of scenic and visual resources, including views of the beach and ocean, views of mountains and canyons, and views of natural habitat areas. The LCP identifies Scenic Areas, which are those places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features, and that are not largely built out. The LCP policies require that new development not be visible from scenic roads or public viewing areas. Where this is not feasible, new development must minimize impacts through siting and design measures.

Section 30251 of the Coastal Act, which is incorporated as a policy of the Malibu LCP, states that:

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

*prepared by the Department of Parks and Recreation and by local government shall be subordinated to the character of its setting.*

In addition, the following LCP policies are applicable in this case:

- 6.1 *The Santa Monica Mountains, including the City, contain scenic areas of regional and national importance. The scenic and visual qualities of these areas shall be protected and, where feasible, enhanced.*
- 6.2 *Places on and along public roads, trails, parklands, and beaches that offer scenic vistas are considered public viewing areas. Existing public roads where there are views of the ocean and other scenic areas are considered Scenic Roads. Public parklands and riding and hiking trails which contain public viewing areas are shown on the LUP Park Map. The LUP Public Access Map shows public beach parks and other beach areas accessible to the public that serve as public viewing areas.*
- 6.4 *Places on, along, within, or visible from scenic roads, trails, beaches, parklands and state waters that offer scenic vistas of the beach and ocean, coastline, mountains, canyons and other unique natural features are considered Scenic Areas. Scenic Areas do not include inland areas that are largely developed or built out such as residential subdivisions along the coastal terrace, residential development inland of Birdview Avenue and Cliffside Drive on Point Dume, or existing commercial development within the Civic Center and along Pacific Coast Highway east of Malibu Canyon Road.*
- 6.5 *New development shall be sited and designed to minimize adverse impacts on scenic areas visible from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas visible from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.*
- 6.15 *Fences, walls, and landscaping shall not block views of scenic areas from scenic roads, parks, beaches, and other public viewing areas.*
- 6.17 *Where parcels on the ocean side of and fronting Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, or Cliffside Drive descend from the roadway, new development shall be sited and designed to preserve bluewater ocean views by:*
  - *Allowing structures to extend no higher than the road grade adjacent to the project site, where feasible.*
  - *Limiting structures to one story in height, if necessary, to ensure bluewater views are maintained over the entire site.*
  - *Setting fences away from the road edge and limiting the height of fences or walls to no higher than adjacent road grade, with the exception of fences that are composed of visually permeable design and materials.*

- *Using native vegetation types with a maximum growth height and located such that landscaping will not extend above road grade.*

6.18 *For parcels on the ocean side of and fronting Pacific Coast Highway, Malibu Road, Broad Beach Road, Birdview Avenue, or Cliffside Drive where it is not feasible to design a structure located below road grade, new development shall provide a view corridor on the project site, that meets the following criteria:*

- *Buildings shall not occupy more than 80 percent maximum of the lineal frontage of the site.*
- *The remaining 20 percent of lineal frontage shall be maintained as one contiguous view corridor.*
- *No portion of any structure shall extend into the view corridor.*
- *Any fencing across the view corridor shall be visually permeable and any landscaping in this area shall include only low-growing species that will not obscure or block bluewater views.*
- *In the case of development that is proposed to include two or more parcels, a structure may occupy up to 100 percent of the lineal frontage of any parcel(s) provided that the development does not occupy more than 70 percent maximum of the total lineal frontage of the overall project site and that the remaining 30 percent is maintained as one contiguous view corridor.*

The applicants request after-the-fact approval for installation of a six foot high chain link gated fence across a 10 foot wide public view corridor at the front of the subject property, facing Cliffside Drive. The proposed project also includes maintenance of the view corridor free of vegetation, and placement and maintenance of gravel ground cover within the view corridor.

The project site is an oceanfront lot located on Cliffside Drive on Point Dume in the City of Malibu. The Malibu LCP provides special development standards for the protection of public views for parcels, such as the subject site, that are located on the ocean side of Cliffside Drive. The Malibu LCP specifically requires fencing across view corridors to be visually permeable, and requires landscaping within view corridors to be of a low-lying nature that will not block or obscure views.

The subject site provides public views of the ocean in a 10 foot wide view corridor adjacent to the western property line. In order to protect visual resources, **Special Condition Two (2)** of the underlying permit required the applicants to record a deed restriction prohibiting "alteration of landforms or the erection of structures" within the view corridor, and also prohibiting "any vegetation within the view corridor with the exception of groundcover." In order to further ensure protection of ocean views, **Special Condition Three (3)** of the underlying permit required the applicants to record a second deed restriction stating that all future improvements to the structures or property would require an amendment or new coastal development permit.

The proposed gated fence was installed across the view corridor without the benefit of a coastal development permit. As noted above, Policy 6.18 of the Malibu LCP allows fencing across view corridors only when the fencing is constructed of visually permeable materials. The Malibu LCP defines "open/permeable, non-view obscuring" fencing as

*fencing constructed of material which is transparent, such as glass or plastic panels, or wrought iron or other solid material which is 90 percent open to light and air.*

The proposed gated fence is constructed of approximately 2" green chain link mesh with gray metal crossbars and posts (Exhibit 6). In past permit actions, the Commission has found that the use of alternative fencing materials (such as wrought iron or non-tinted plexi-glass) is feasible and provides greater visual permeability than the use of chain link fencing (CDP No. 4-99-146, CDP No. 4-99-154, CDP No. 4-99-185, CDP No. 4-99-246, and CDP No. 4-02-166). Because the proposed gated chain link fence is more visually obtrusive than available alternatives identified in the Malibu LCP, it is necessary to require alternative visually permeable fencing. Therefore, in order to maximize public views of the ocean within the public view corridor and to render the proposed gated fence consistent with Malibu LCP policies for the protection of visual resources, **Special Condition Four (4)** requires the applicants to submit revised plans that replace the proposed chain link gated fence with a visually permeable gated fence of the same or lesser height.

As noted above, the applicants propose to maintain the view corridor free of vegetation, and to place and maintain gravel ground cover within the view corridor. These proposals are consistent with **Special Condition Two (2)** of the underlying permit for the subject site, as well as with Malibu LCP Policy 6.18, which limits vegetation in view corridors to low-lying species. At the direction of the Commission's enforcement staff, the applicant has already removed all unpermitted landscaping that was previously installed within the public view corridor. With the exception of the as-built gated fence, public views of the ocean from Cliffside Drive are currently unobstructed. However, staff notes that existing landscaping is located immediately adjacent to the public view corridor. Any encroachment by the adjacent landscaping into the view corridor would result in the reduction or loss of public views of the ocean from the public street. Therefore, in order to ensure that the applicant's proposal to maintain the public view corridor free of vegetation to protect public views is adequately implemented, **Special Condition Five (5)** has been required. **Special Condition Five (5)** requires vegetation within the ten foot wide public view corridor be limited to no more than two feet in height and that adjacent landscaping and vegetation shall not be allowed to encroach into the view corridor. In addition, fencing within the public view corridor shall be limited to visually permeable designs and materials, such as wrought iron or non-tinted glass. All bars, beams, and other non-visually permeable materials used in construction of the proposed fence shall be no more than 1/2 inch in thickness/width and shall be placed no less than six inches apart in distance or one inch in thickness/width and placed no less than 12 inches apart. Alternative designs may be allowed only if the Executive Director determines that such designs are consistent with the intent of this condition and serve to minimize adverse effects to public views.

In addition, **Special Condition Six (6)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit amendment as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

Finally, in order to ensure that the unpermitted development component of this application is resolved in a timely manner, **Special Condition Seven (7)** requires the applicants to comply with all conditions of the permit amendment within 90 days of Commission action on the permit amendment application.

Based on the above findings and as condition above, the Commission finds that the proposed amendment, is consistent with the visual resource policies and development standards of the City of Malibu LCP.



**C. Violations**

Development has occurred on the subject site without the required coastal development permit, including the installation of unpermitted landscaping and a six foot high chain link gated fence within a recorded ten foot wide public view corridor on the subject property. At the direction of the Commission's enforcement staff, the applicant has already removed all unpermitted landscaping within the public view corridor. The applicants request after-the-fact approval for the gated chain link fence. The applicants also propose to maintain the view corridor free of vegetation, and to place and maintain gravel ground cover within the view corridor.

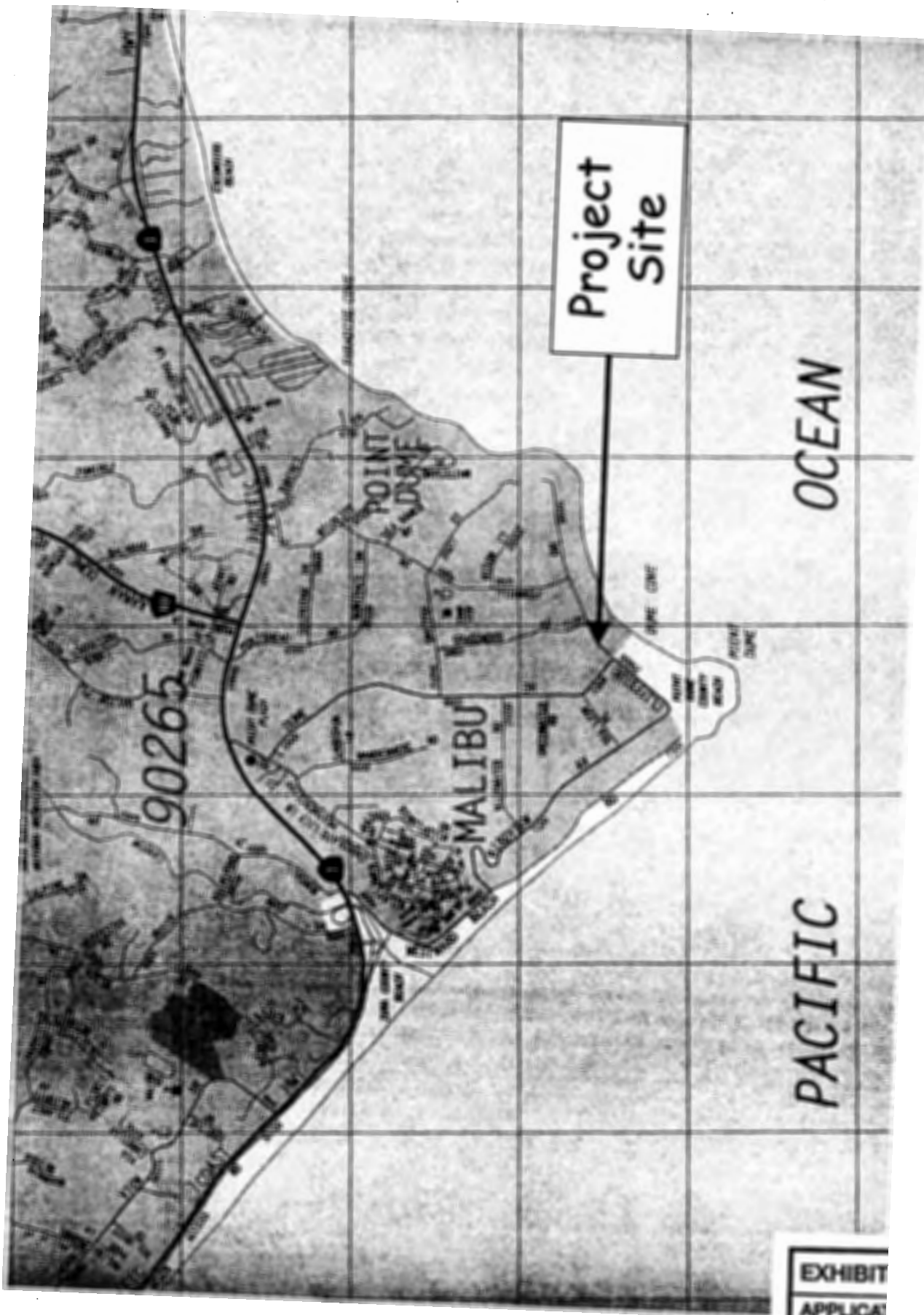
The subject permit application addresses the unpermitted development, as well as the new development proposed in the subject application. In order to ensure that the matter of unpermitted development is resolved in a timely manner, **Special Condition Seven (7)** requires that the applicant satisfy all conditions of this permit that are prerequisite to the issuance of this permit within 90 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Although development has taken place prior to the submission of this application, consideration of this application by the Commission has been based solely upon the policies of the Malibu LCP. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

**D. California Environmental Quality Act**

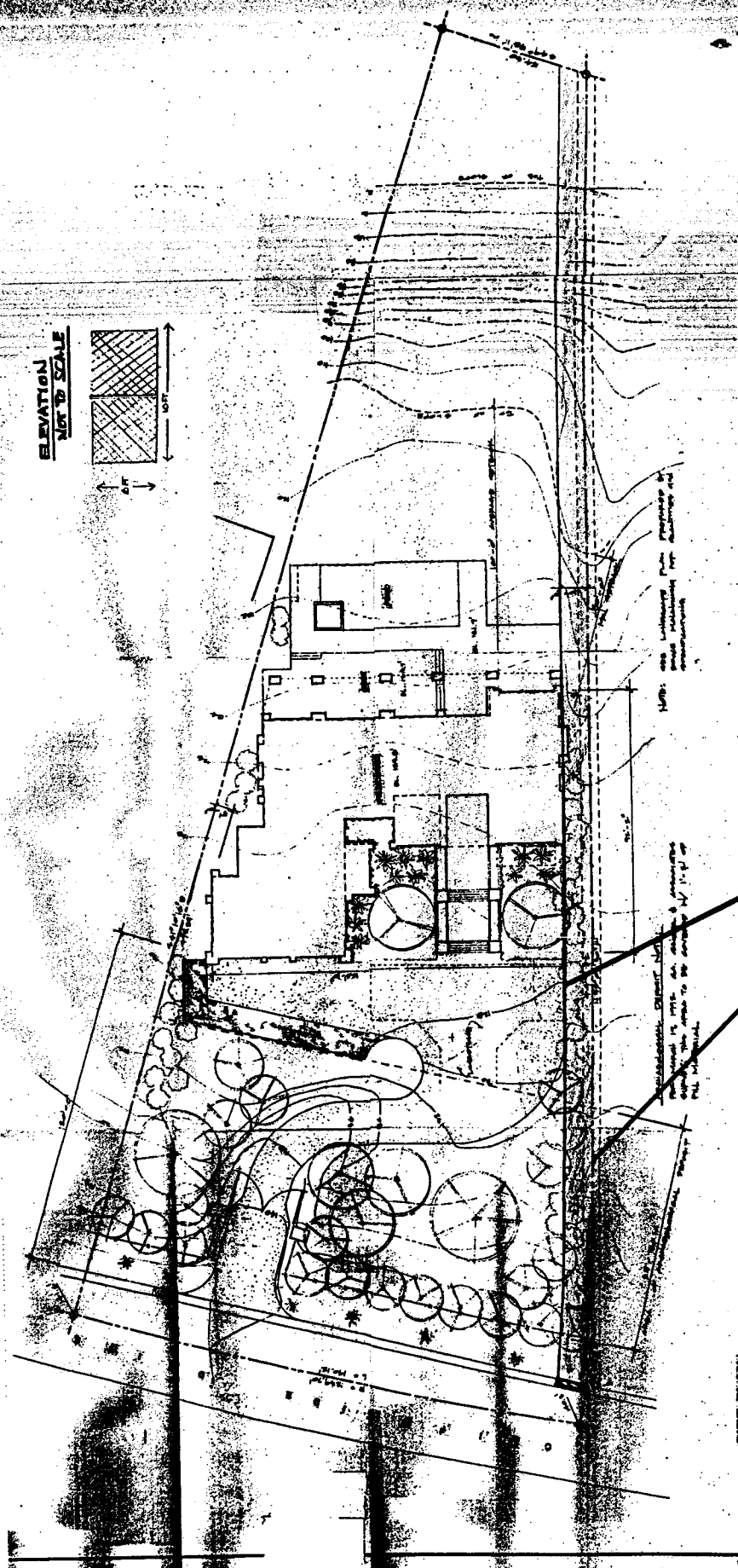
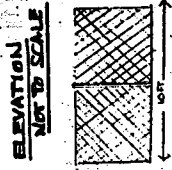
Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmentally 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 amendment, 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 City of Malibu Local Coastal Program.



NO. 1  
TION NO.

5-90-1057-A2  
VICINITY MAP



10 FT.  
WIDE  
VIEW  
CORRIDOR

SITE PLAN  
 LEGEND  
 1/8" CHAIN LINK FENCE  
 10 FOOT WIDE VIEWING CORRIDOR  
 PROPOSED GROUND COVER

EXHIBIT NO. 2  
 APPLICATION NO.  
 5-90-1057-A2  
 SITE PLAN

CALIFORNIA COASTAL COMMISSION  
South Coast Area  
245 West Broadway, Ste 380  
Long Beach, CA 90802-4416  
(213) 590-5071

Filed: 11/26/90  
49th Day: 1/14/91  
180th Day: 5/25/91  
Staff: BP-SD  
Staff Report: 12/20/90  
Hearing Date: 1/8-11/91

W-10p

REGULAR CALENDAR  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

APPLICATION NO.: 5-90-1057

APPLICANT: Kimberly C. Young

AGENT: Richard Scott

PROJECT LOCATION: 29150 Cliffside Drive, Malibu

PROJECT DESCRIPTION: Construction of a two story 11,970 sq.ft. single family residence, 27 feet high (14 feet above the centerline of frontage road), tennis court, swimming pool, cabana/guesthouse, septic system, and 1,500 cubic yards of grading (950 cu.yds. cut, 550 cu.yds. fill).

Lot area: 57,660 feet

Plan designation: M2, Mountain Land, Residential I (1 du/acre)

LOCAL APPROVALS RECEIVED: LA County Regional Planning Approval in Concept, LA County Department of Health Services Approval in Concept

SUBSTANTIVE FILE DOCUMENTS: Malibu Certified LUP, Coastal Development Permit nos. 5-84-616 (1758 Properties Ltd.), 5-90-20 (Young), A-288-73, (Smith), 5-83-255, (Malibu Riviera Properties), 5-89-132 (Steigler), P-3104 (Smith), 5-83-597A, Smith

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the application with special conditions requiring the provision of a view corridor, revised plans, and recordation of a future improvements condition.

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 California Environmental Quality Act.

EXHIBIT NO. 3
APPLICATION NO.
5-90-1057-A2
STAFF REPORT: 5-90-1057

## II. Standard Conditions.

1. Notice of Receipt and Acknowledgement. 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.

## III. Special Conditions.

### 1. Revised Plans

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, revised plans indicating that the proposed project has been redesigned so that: 1) there is a minimum of 25 feet between the bluff edge and any proposed development; and 2) the proposed bluff face fence has been deleted from the project.

### 2. View Corridor

Prior to the issuance of the coastal development permit, the applicant shall record a restriction against the subject property, free of all prior liens and encumbrances, except for tax liens, and binding on the permittee's successors in interest and any subsequent purchasers of any portion of the real property. The restriction shall indicate that a 10 foot wide view corridor, adjacent to the northern lot line, will be held in perpetuity so that unobstructed views shall be obtained through the site to the the Pacific

Ocean. The restriction shall also prohibit alteration of landforms or the erection of structures of any type in the area shown on the attached Exhibit "3" without the written approval of the California Coastal Commission or successor in interest. The restriction shall also prohibit any vegetation within the corridor with the exception of groundcover. The recording document shall include legal descriptions of both the applicant's entire parcel(s) and the restricted area, and shall be in a form and content acceptable to the Executive Director. Evidence of recordation of such restriction shall be subject to the review and written approval of the Executive Director.

### 3. Future Development:

Prior to the issuance of the coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in the Coastal Development Permit No. 5-90-1057; and that any future improvements to the property, including but not limited to clearing of vegetation and grading, will require a permit from the Coastal Commission or its successor agency. Clearing of vegetation as required by Los Angeles County for fire protection is permitted. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

## IV. FINDINGS AND DECLARATIONS.

The Commission hereby finds and declares as follows:

A. Project Description and History. The applicant proposes to construct a two-story 11,970 sq. ft. single family residence, 27 feet high above existing grade (14 feet above the centerline of frontage road), tennis court, swimming pool, cabana/guesthouse, septic system, and 1,500 cubic yards of grading (950 cu. yds. cut, 550 cu. yds. fill) on a blufftop lot on Cliffside Drive in the Point Dume area of Malibu.

This project site has been before the Commission on three separate occasions. On October 27, 1983 a single family residence was approved but the permit was subsequently revoked on March 12, 1984 with the Commission finding that the project had been inadequately noticed. On October 24, 1984 the Commission approved a 4,925 sq. ft. single family residence (5-84-616, 1758 Properties Ltd.) on the subject property subject to conditions including a lateral access dedication from the mean high tide line to the toe of the bluff, and revised plans indicating that the proposed residence would extend no higher than 5 feet above the centerline of the fronting street, Cliffside Drive. The permit subsequently expired. In September 1990, the Commission approved a 11,970 sq. ft. single family residence with a condition again requiring revised plans indicating that the proposed residence would extend no higher than 5 feet above the centerline of the fronting street, Cliffside Drive.

### Visual Impacts.

Section 30251 of the Coastal Act states:

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

The Malibu Land Use Plan contains the following applicable policies:

P125 New development shall be sited and designed to protect public views from LCP-designated scenic highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on sloped terrain should be set below road grade.

P130 In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:

be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LCP.

minimize the alteration of natural landforms.

be landscaped to conceal raw-cut slopes.

be visually compatible with and subordinate to the character of its setting.

be sited so as not to significantly intrude into the skyline as seen from public viewing places.

P131 Where feasible, prohibit placement of structures that will break the ridgeline view, as seen from public places.

The project site is one lot removed from the Point Dume Ecological Preserve which is maintained by the California Department of Parks and Recreation. The Preserve was acquired in part because of the highly scenic visual resources of the Point Dume area. Point Dume extends about one mile south of PCH and in addition to its habitat value affords unique views of both the near and distant shoreline. The Preserve is the location of hiking opportunities for the recreating public as well as as an important feeding, resting, and migrating ground for a diversity of bird species, including cormorants and rock doves. Additionally, the Preserve is the location of Giant Coreopsis (*coreopsis gigantea*), a plant found only in a few locations in Southern California and central California.

As previously mentioned the Commission has made several previous permit decisions on this property to limit the height of the proposed residence to extend no higher than 5 feet above the centerline of the fronting street,

Cliffside Drive. The Commission found these actions necessary to "protect existing public views across the site to the ocean and the adjacent State Preserve". Additionally, in these permit decisions the Commission noted that although some projects were approved in the vicinity of the proposed project without a similar height condition, these projects were submitted as small scale one-story projects (5-83-597).

The Commission has taken similar action, limiting structural height to 5 feet above the centerline of Cliffside Drive, on a number of other projects in proximity to the Reserve. The following applications were limited in this manner: A-288-78, Smith which is immediately adjacent the subject site on the east, 5-83-597, Steigler which is one lot removed from the subject site on the east, and 5-83-255, Malibu Riviera Properties which is adjacent to the Preserve on its west side on Birdview Drive. On the Steigler property the Commission also made two other permit decisions, 5-83-597A and 5-89-132 which also limited structural height (tower addition, guesthouse) to preserve public views across the site.

All of the above permit decisions except 5-89-132 were done prior to certification of the Malibu LUP in 1986. The Commission made findings in support of this height restriction based on a guideline from the Commission's Interpretive Guidelines for Malibu which was not subsequently retained in the LUP. Specifically, the guideline stated that "All development proposals within 1000 feet of publicly-owned park lands should be sited and designed with great sensitivity so as to not create adverse visual impacts affecting park areas...." Although this guideline was not certified as a policy within the LUP, other visual resource protection policies listed previously in this report call for new development to be sited and designed to protect views to and from scenic features such as the nearby Point Dume State Park. Additionally, the project site is designated as being within a "Scenic Element" in the LUP because of its prominent location on a high blufftop lot. Again, the visual resource policies require that new development within these visually sensitive designations be sensitively designed and sited.

The applicant has met with staff and redesigned the project. The project now proposes to construct a two-story 11,970 sq.ft. single family residence, 27 feet high (14 feet above the centerline of frontage road), tennis court, swimming pool, cabana/guesthouse, septic system, and 1,500 cubic yards of grading on a blufftop lot in the Point Dume area of Malibu. While the revised project is not consistent with the Commission's earlier 5 feet above the centerline of Cliffside Drive height restriction, the applicant has offered a 10 foot wide visual corridor through the site, which would provide visual access to the ocean from Cliffside Drive.

In its last review of this project the Commission noted that a residence of this size and bulk would present a larger mass than existing development in the area to hikers using the informal trails on the promontory that define this part of the State Park. Based on the site's proximity to the Preserve and the project's bulk, the Commission noted that the project as proposed would adversely affect public views originating from the parkland as well as impacting blue water views. Additionally, the Commission noted that the visual resource policies of the Malibu LUP require that new development be



sensitively sited near scenic coastal areas, including public parklands, because of their value as scenic and recreational resources. Based on these policies and the strong historic action that the Commission had taken to preserve and protect public views in this area, the Commission found that the former project must be redesigned consistent with past permit decisions in the area.

As mentioned the applicant has redesigned the project in consultation with staff. The applicant has provided a visual analysis in response to previous concerns about the residence adversely impacting public views to and from the Preserve and its trails, and the Pacific Ocean. The analysis indicates that because the residence is sited about midway on the lot (about 110 feet from Cliffside Drive frontage) there is an unobstructed view across the site to the Preserve from Cliffside Drive. While the proposed tennis court is sited between the street and residence, because the lot uniformly descends from its street frontage to the bluff top and because there is no vertical height associated with the tennis court, there will be no public view obstruction resulting from the residence as one looks to the Preserve from the street.

With respect to the proposed project's visual impact on views to the Pacific Ocean, the residence itself is setback approximately 48 feet from the bluff edge at its closest point and will not be seen from the beach below. Further, as noted the residence is sited on terrain that descends gently from the street to the bluff edge; therefore, its visual impact is further reduced. Moreover, although the proposed residence would still partially obstruct the bluewater view as seen from Cliffside Drive, this street is not designated as a "Scenic Highway" in the Malibu LUP (it was in the Work Plan for the Malibu LUP but did not make it into the certified LUP). Similarly, Dume Drive, a street that intersects Cliffside Drive near the subject site, is not designated in the certified LUP as a "Scenic Highway".

Staff notes that the Commission's most recent decision to limit structural height was strongly based on its permit history in this area, that is, the Commission approved a number of previous applications subject to the height restriction discussed in this report.

However, based on the above discussion and the applicant's redesign and offer of a visual corridor, staff feels that it is unfair to make the applicant strictly adhere to the height restriction. Therefore staff has been able to support the applicant's revised project. The 10 foot wide visual corridor, when added to a similar corridor on the adjacent property (i.e., there is a vacant residential lot between the subject property and the Preserve, which staff will similarly recommend that the Commission reserve in open space as a visual corridor when it comes forward for a coastal development permit) will ensure that public views to the ocean will be preserved. To formalize the applicant's offer of the visual corridor, the Commission finds that a deed restriction must be recorded to ensure that unobstructed views will be maintained within the corridor in perpetuity. The restriction shall also require that the only vegetation permitted within the corridor will be groundcover for the same reasons.

The revised project, however, does not conform with the certified LUP in two areas. First, Policy 164 of the LUP requires that new development on blufftop

lots must be setback a minimum of 25 feet from the top of the bluff (bluff edge) when a stringline setback method is not applicable (as is the case here). This policy minimizes not only the visual impact of new development but also reduces the hazard to the structure itself as the setback acts as a buffer between the naturally eroding bluff and the structure. The site plan indicates that a portion of the terrace (patio) encroaches within this setback; therefore, the project must be further revised to incorporate the setback. Second, the plans indicate that a 3 foot high fence is proposed along the bluff face for safety reasons. Policy 165 of the LUP requires that no permanent structures shall be permitted on the bluff face, except for engineered staircases or public accessways. Therefore the Commission finds that revised plans must be submitted indicating that: 1) there is a minimum of 25 feet between the bluff edge and any proposed development; and 2) the proposed bluff face fence has been deleted from the project. Finally, to assure that any future development proposals will be consistent with the visual amenities in the area, the Commission finds that any future improvements to the property must be reviewed and approved by the Commission. Only as conditioned is the project consistent with Section 30251 of the Coastal Act and the visual resource policies of the LUP.

C. Water Quality:

Section 30231 of the Coastal Act states that:

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

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

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

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

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

A favorable percolation test was performed on the subject property which indicates that the percolation rate exceeds the minimum Uniform Plumbing Code requirements for the project. Additionally, the Department of Health Services

has approved the proposed septic system for the proposed residence. The Commission finds therefore, that the proposed project is consistent with Section 30231 of the Coastal Act and all relevant policies of the LUP.

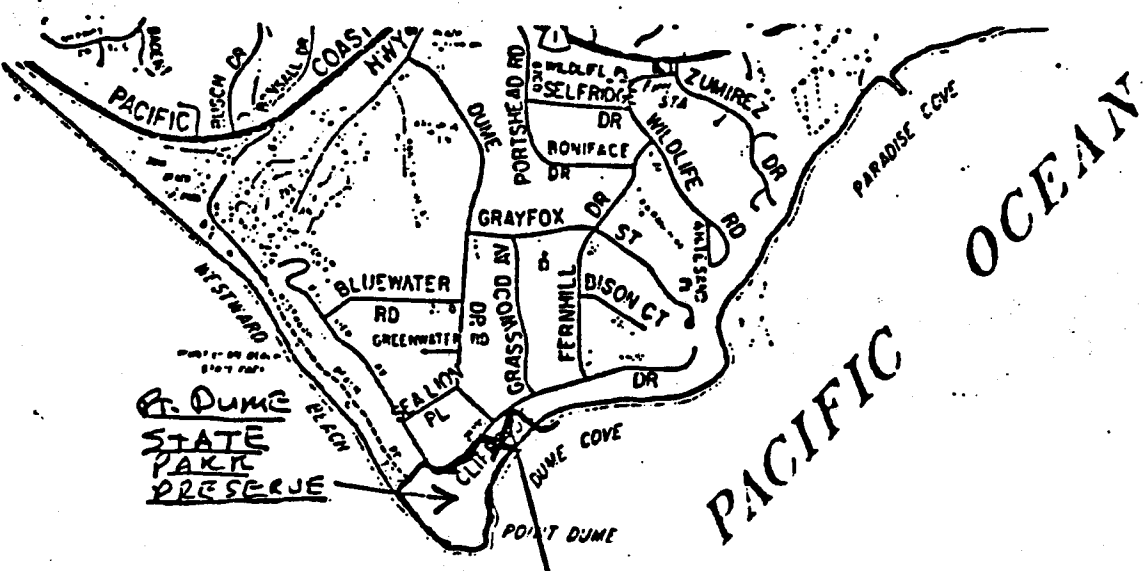
D. Local Coastal Program:

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

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

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

0058b



SITE

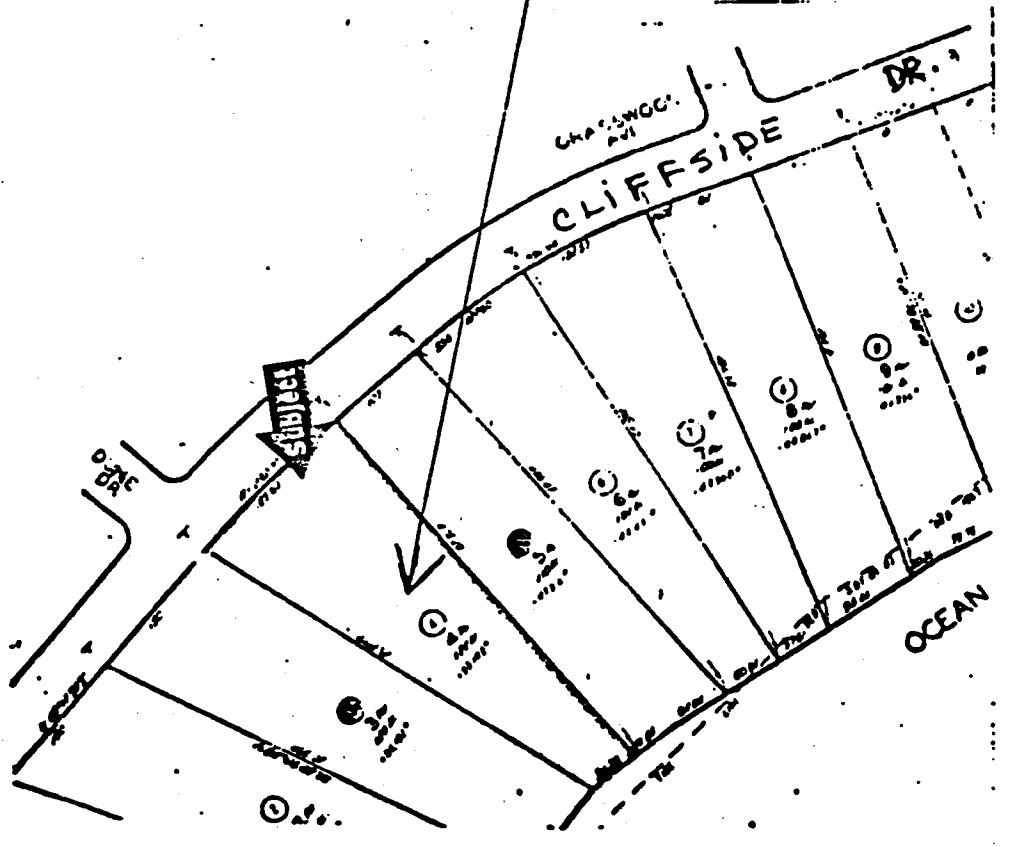
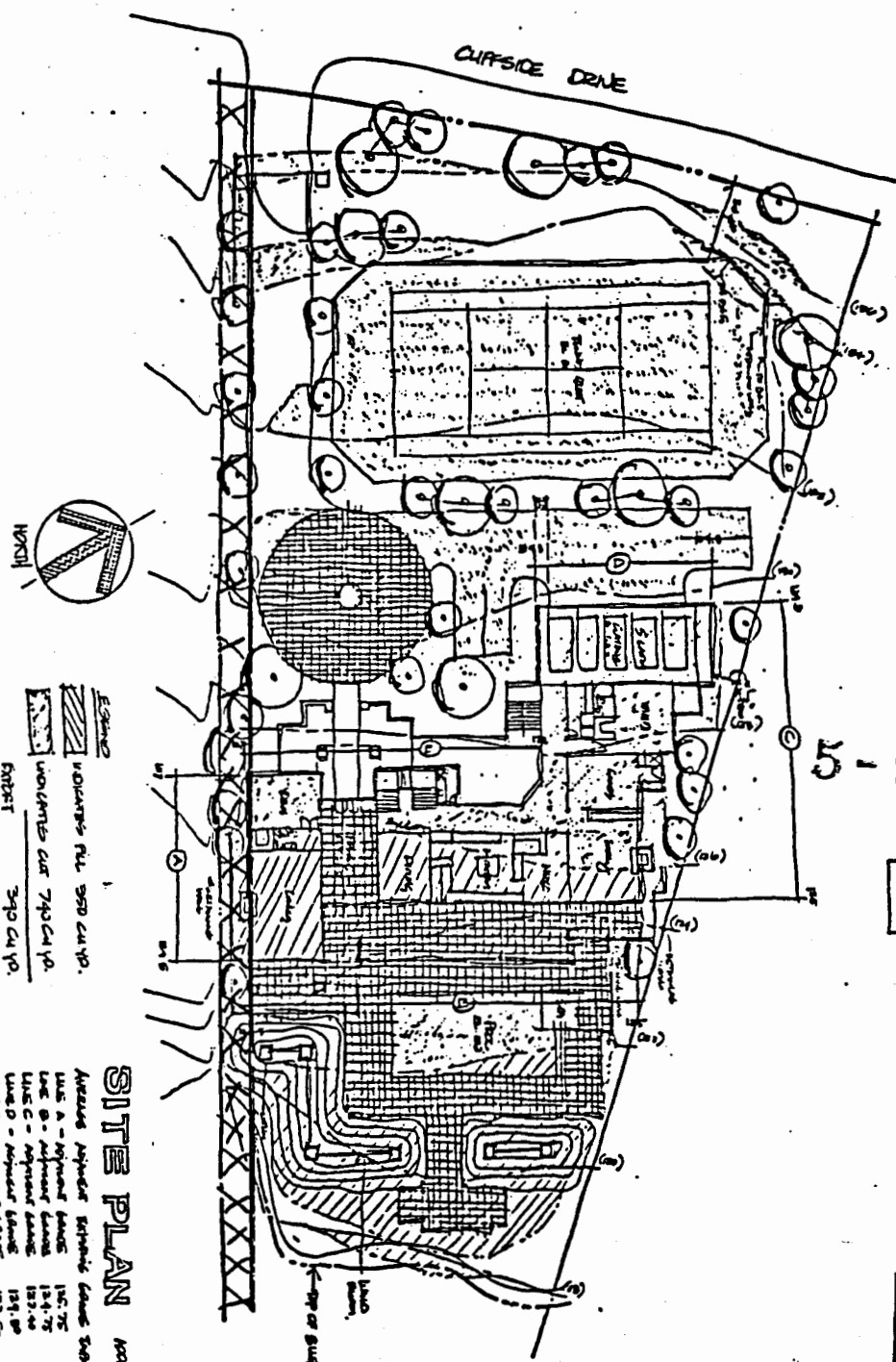


EXHIBIT NO. 1
APPLICATION NO.
5-90-1057
location



Hatched  
 indicates full SFD camp.  
 Unhatched  
 indicates car 740/541 p.  
 390 car p.

**SITE PLAN** Access: 3910 Cliffside Dr. 1000 ft.  
 Areas adjacent to site: 157.75  
 Line A - adjacent to 154.75  
 Line B - adjacent to 152.40  
 Line C - adjacent to 151.00  
 Line D - adjacent to 151.00  
 Line E - adjacent to 157.00

5-90-020

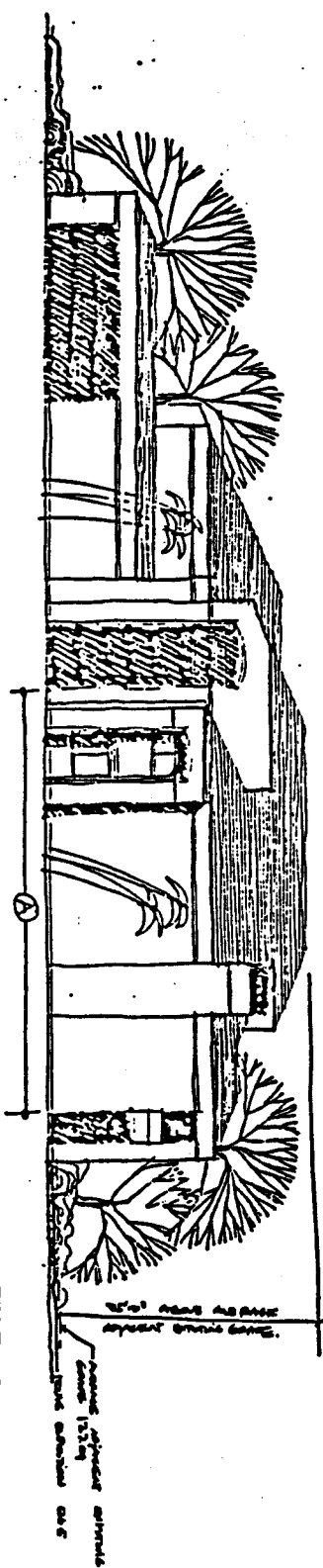
**RECEIVED**  
 JAN 12 1990  
 CALIFORNIA  
 COASTAL COMMISSION  
 SOUTH COAST DISTRICT

EXHIBIT NO. 2
APPLICATION NO.
5-90-1057
Site Plan

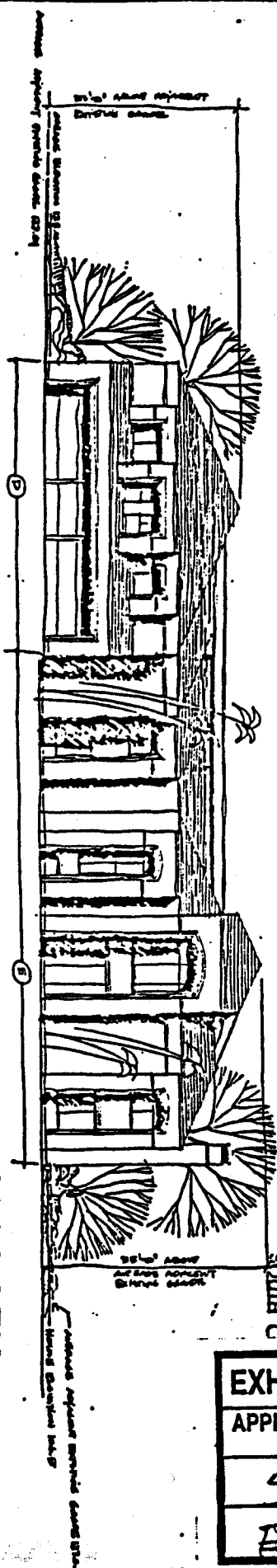
XXX = Visual Corridor

5-59-618

RIGHT SIDE ELEVATION



FRONT ELEVATION



CA  
COASTAL  
SOUTH C

REC  
SEP

5-90-1057

EXHIBIT NO. 3a
APPLICATION NO.
5-90-1057
Elevation

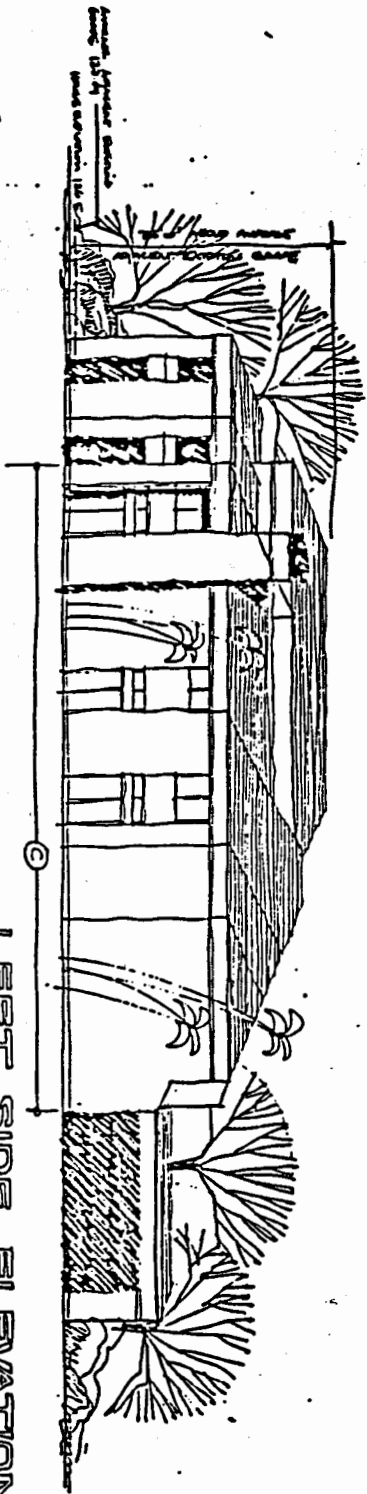


**J.B.K. A.I.A. & Associates**  
 2716 OCEAN PARK BOULEVARD, SUITE 3082  
 SANTA MONICA, CA 90405 (213) 392-0388

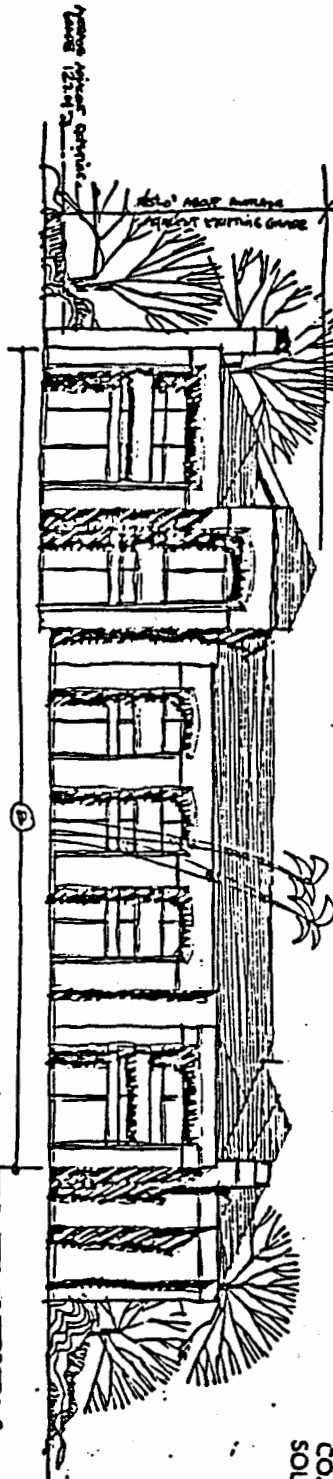
**YOUNG RESIDENCE**

1	2	3	4	5	6	7	8	9	10	11	12
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LEFT SIDE ELEVATION



REAR ELEVATION



COA  
SOUT

RE

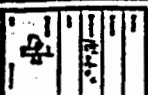
EXHIBIT NO. 3b

APPLICATION NO.

5-90-1057

Elevations

5-9-618



**J.B.K. A.I.A. & Associates**  
2716 OCEAN PARK BOULEVARD, SUITE 3082  
SANTA MONICA, CA 90405 (213) 392-0386

**YOUNG RESIDENCE**



**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST AREA  
 245 WEST BROADWAY, SUITE 380  
 LONG BEACH, CA 90802  
 (213) 590-5071

**NOTICE OF PROPOSED PERMIT AMENDMENT**

**TO:** All Interested Parties  
**FROM:** Peter Douglas, Executive Director  
**DATE:** May 29, 1992  
**SUBJECT:** Permit No. 5-90-1057 granted to Kimberly Young

for the construction of a two story, 11,970 sq. ft. single family residence, 27 feet high (14 feet above the centerline of the frontage road), tennis court, swimming pool, cabana/guesthouse, septic system and 1,500 cubic yards of grading (950 cu. yds. cut, 550 cu. yds. fill).

at 29150 Cliffside Drive, City of Malibu; Los Angeles County

The Executive Director of the California Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following change(s):

Temporary placement of a six foot high chain link fence at the northern property boundary.

**FINDINGS**

Pursuant to 14 Cal. Admin. Code Section 13166(a)(2) this amendment is considered to be IMMATERIAL and the permit will be modified accordingly if no written objections are received within ten working days of the date of this notice. This amendment has been considered "immaterial" for the following reason(s):

1. No grading or other landform alteration is involved.
2. There will be no significant visual impacts from the placement of this fence.
3. The placement of the fence is consistent with the Coastal Act and the Malibu Land Use Plan and will not prejudice the City's ability to prepare a certified LUP.

If you have any questions about the proposal or wish to register an objection, please contact Susan Friend at the Commission Area office.

C2: 4/88  
 0195M/SPF:LB

EXHIBIT NO. 4
APPLICATION NO.
5-90-1057-A2
NOTICE: 5-90-1057-A



**CALIFORNIA COASTAL COMMISSION**

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

5-90-1057-A1

**NOTICE OF PROPOSED PERMIT AMENDMENT**

TO: All Interested Parties

FROM: Peter Douglas, Executive Director

DATE: May 8, 1997

SUBJECT: Permit No. 5-90-1057 granted to Kimberly Young

for: Construction of a 11,970 sq. ft., two story, 27 ft. high single family residence, with tennis court, swimming pool, cabana/guest house, septic system, and 1,500 cu. yds of grading (950 cu. yds. cut and 550 cu. yds. fill)

at: 29150 Cliffside Dr., City of Malibu, Los Angeles County.

The Executive Director of the California Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following change(s):

Interior wall reconfiguration, building entry revised at entry/stairs and bedrooms 5 and 6, spiral stairs added to decks, deck and floor elevations re-adjusted and driveway/motor court readjusted to accommodate recent City of Malibu Public Works Department storm drain installation.

**FINDINGS**

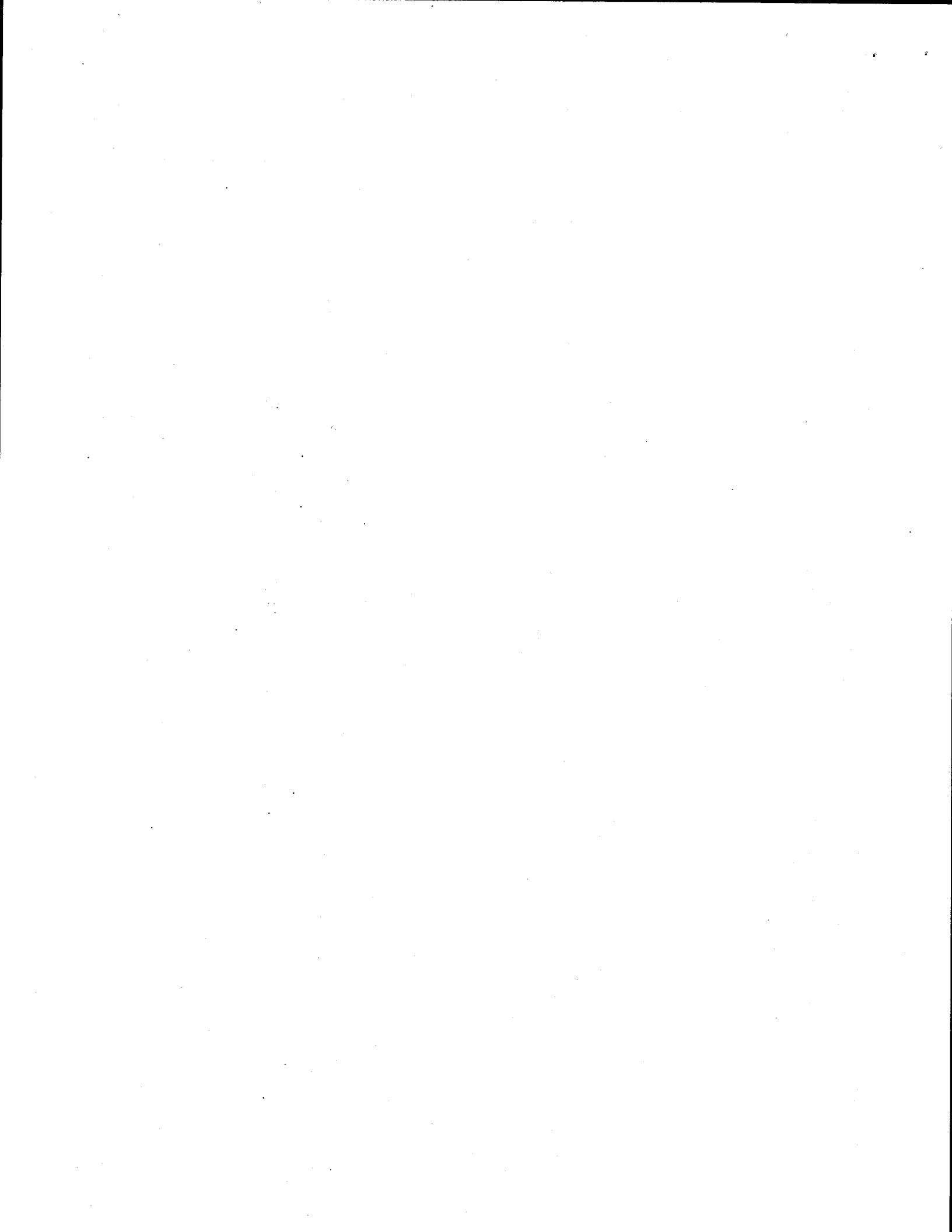
Pursuant to 14 Cal. Admin. Code Section 13166(a)(2) this amendment is considered to be IMMATERIAL and the permit will be modified accordingly if no written objections are received within ten working days of the date of this notice. This amendment has been considered "immaterial" for the following reason(s):

The changes to the development proposed will not interfere with the view corridor along the north property line as required by condition 2 of permit 5-90-1057. The proposed amendment does not affect conditions required for the purpose of protecting coastal resources or coastal access.

If you have any questions about the proposal or wish to register an objection, please contact Merle Betz at the Commission Ar---

7948A

EXHIBIT NO. <u>5</u>
APPLICATION NO.
<u>5-90-1057-A2</u>
NOTICE: <u>5-90-1057-A1</u>



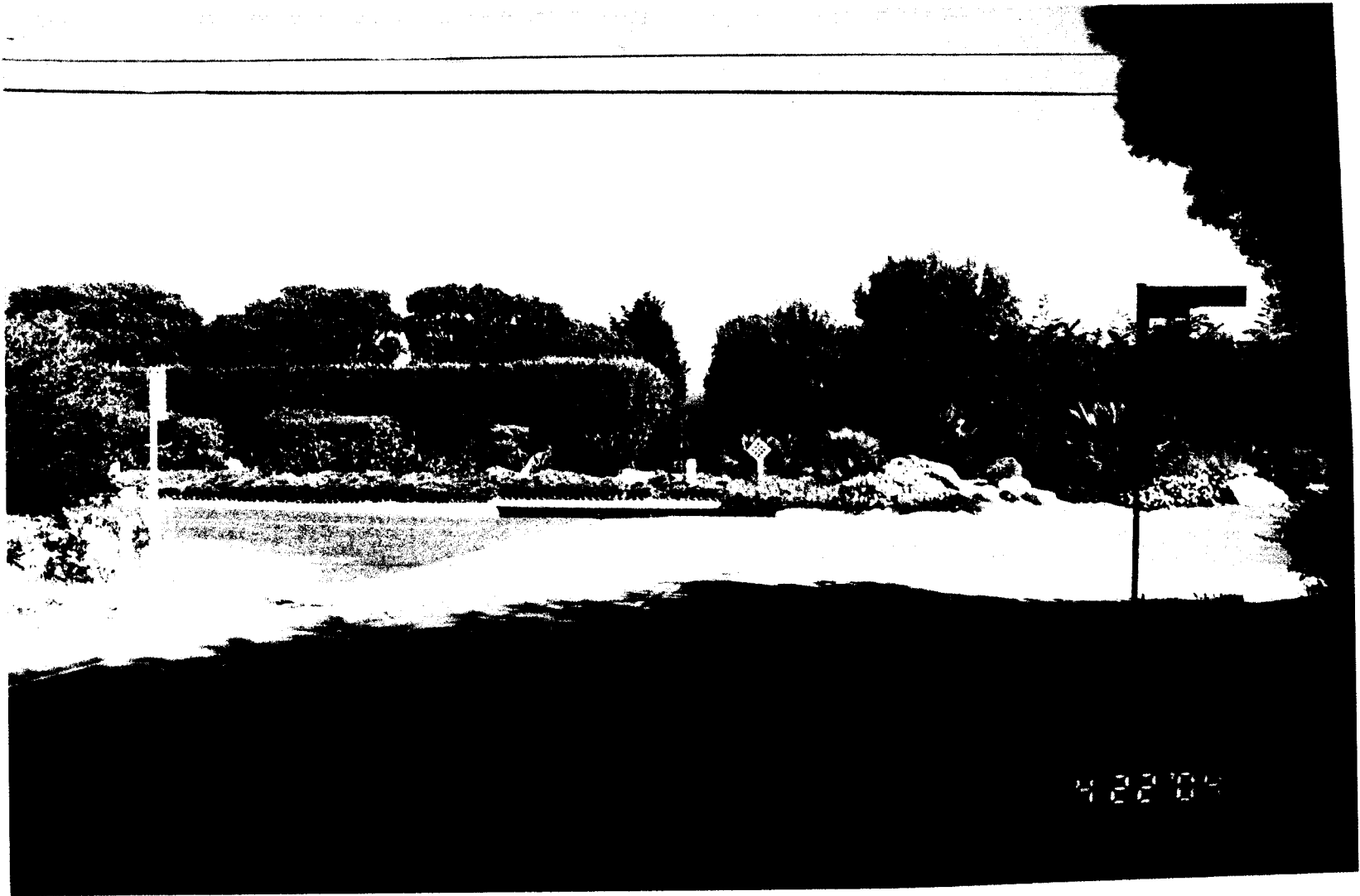
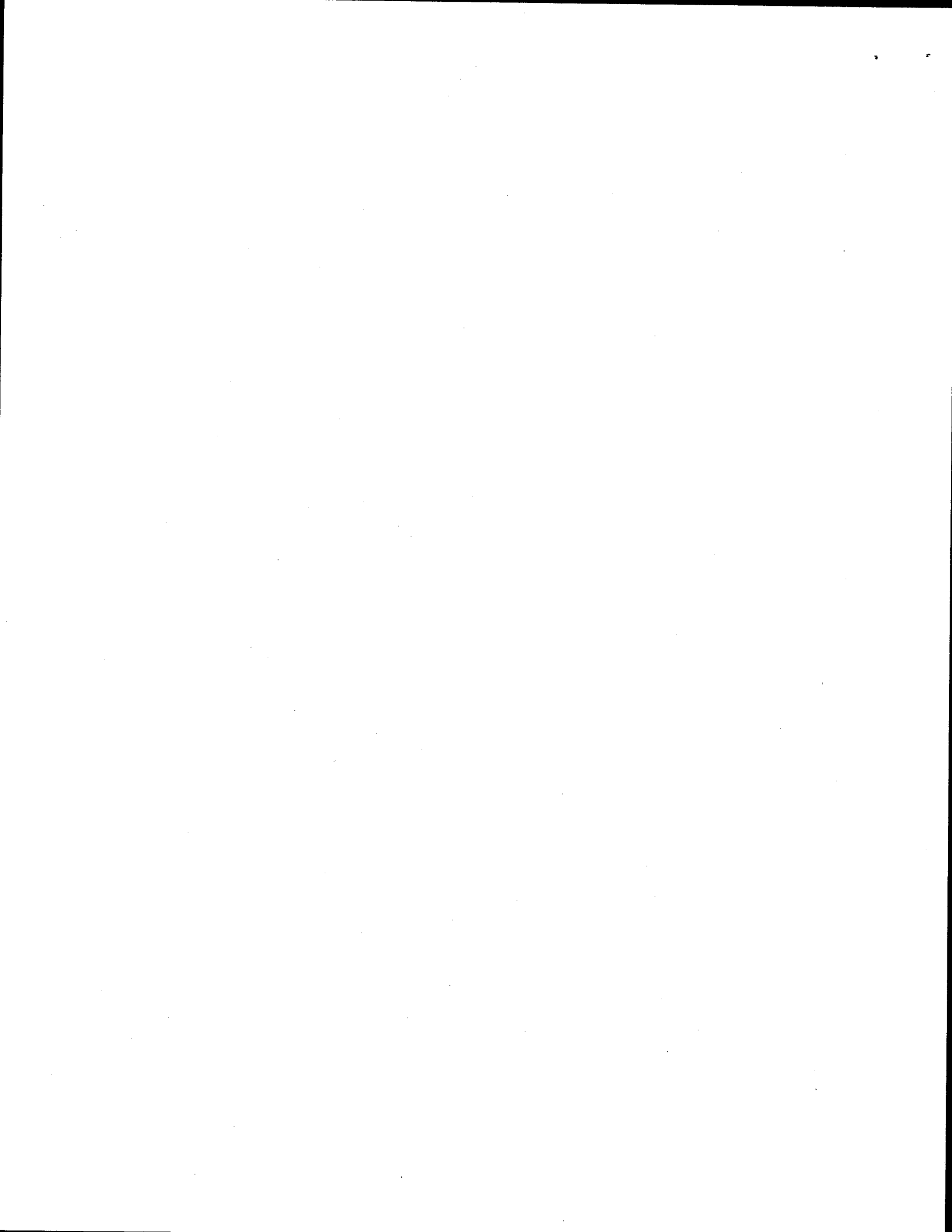


Photo 1. Public view corridor, as seen from intersection of Dume Drive and Cliffside Drive.

EXHIBIT 6  
5-90-1057-A2  
PHOTOS (2 p.)



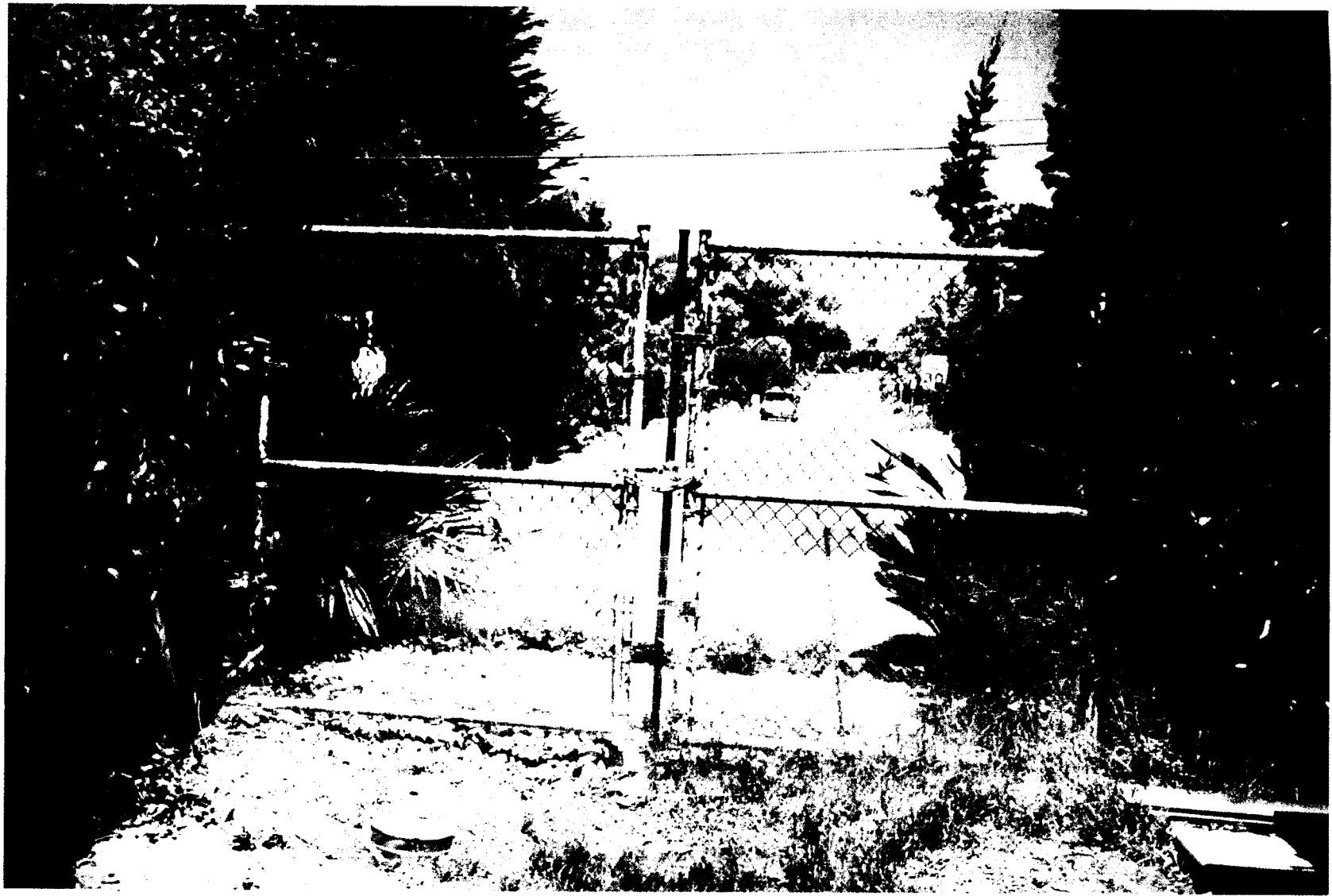


Photo 2. As-built gated fence, looking northwest from subject property up Dume Drive.

