

**CALIFORNIA COASTAL COMMISSION**

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Hearing Date: 4/11-14/06  
Commission Action: 6/11/03

**STAFF REPORT: REVISED FINDINGS**

**LOCAL GOVERNMENT:** City of Los Angeles

**LOCAL DECISION:** Approval with Conditions

**APPEAL NUMBER:** A-5-PPL-99-225

**APPLICANT:** Mount Holyoke Homes, Ltd. et. al

**PROJECT LOCATION:** 425 Mount Holyoke Avenue, Pacific Palisades

**PROJECT DESCRIPTION:** Subdivision of a vacant 41,880 sq. ft. parcel into three residential lots consisting of approximately 13,559 square feet, 13,939 square feet and 14,385 square feet.

**COMMISSION ACTION:** June 11, 2003 -- Denial

**COMMISSIONERS ON PREVAILING SIDE:** Burke, Hart, Iseman, Kruer, Reilly, Wan and Woolley

**Summary of Staff Recommendation**

Staff recommends that the Commission adopt the following revised findings in support of the Commission's action on JUNE 11, 2003, DENYING the permit for the subdivision of a vacant 41,880 sq. ft. parcel into three lots, consisting of 13,559 square feet, 13,939 square feet and 14,385 square feet, because the creation of two additional buildable lots on a steep slope increases the potential risk to life and property and does not protect the visual qualities of the coastal area. Therefore the proposed project is found inconsistent with the Chapter three polices of the Coastal Act. (See Exhibit No. 8 for transcripts of June 11, 2003 hearing)

**SUBSTANTIVE FILE DOCUMENTS:**

1. Parcel Map No 6810
2. CDP No. 90-052

3. Mitigated Negative Declaration No. 90-0843-PM(CDP)
4. Geologic Report No. 4-798-1 by Sousa and Associates, dated 22 Sept 1994
5. Geologic Addendum Report No. 1 to Geologic Report No. 4-798-1 by Sousa and Associates, dated 27 Oct 1994
6. Soils Engineering Report no. 2670 by G.C. Masterman & Associates, dated 4 Oct 1994
7. Addendum I to Soils Engineering Report no. 2670 by G.C. Masterman & Associates, dated 2 Nov 1994
8. Additional Stability Analysis for Soils Engineering Report no. 2670 by G.C. Masterman & Associates, dated 5 Dec 1994
9. Amended Foundation recommendations and Slope Stability, for Soils Engineering Report no. 2670 by G.C. Masterman & Associates, dated 27 April 1995
10. Addendum II to Soils Engineering Report no. 2670 by G.C. Masterman & Associates, dated 7 Aug 1995
11. Addendum III to Soils Engineering Report no. 2670, by Subsurface Designs, Inc, dated 19 Sept 1995
12. Addendum IV to Soils Engineering Report no. 2670, by Subsurface Designs, Inc, dated 7 Nov 1995
13. Addendum V to Soils Engineering Report no. 2670, by Subsurface Designs, Inc, dated 19 Apr 1996
14. Amendment for Addendum V to Soils Engineering Report no. 2670, by Subsurface Designs, Inc, dated 8 May 1996
15. Revised Amendment for Addendum V to Soils Engineering Report no. 2670, by Subsurface Designs, Inc, dated 8 May 1996

Staff Note:

The proposed development is within the coastal zone area of the City of Los Angeles. Section 30600(b) of the Coastal Act allows local governments to assume permit authority prior to certification of a local coastal program. Under that section, the local government must agree to issue all permits within its jurisdiction. In 1978, the City of Los Angeles chose to issue its own coastal development permits.

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the Dual Permit Jurisdiction area, the Coastal Act requires that any development that receives a local coastal development permit also obtain a permit from the Coastal Commission. Section 30601 requires a second coastal development permit from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, or (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff. Outside that area (in the area known as the Single Permit Jurisdiction area), the local agency's (City of Los Angeles) coastal development permit is the only coastal

development permit required, although any such permit may be appealed to the Coastal Commission.

The development approved by the City is within the single permit area. The City approved a coastal development permit No. 90-052. The City's permit was appealed by Ms. Barbara Schelbert c/o Robert J. Glushon, Esq., Richman, Luna, Kichaven and Glushon. In May of 2000, the Commission found the appeal to raise a substantial issue with respect to conformity of the local approval with the policies of Chapter 3 of the Coastal Act, based on visual impacts and geologic stability. Subsequently, the proposed project was scheduled for a *De Novo* hearing. The *De Novo* portion of the appeal is the subject of this staff report.

### **STAFF RECOMMENDATION:**

Staff recommends that the Commission adopt the Revised Findings proposed in this report

#### **I. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR A-5-PPL-99-225:**

**MOTION:** I move that the Commission adopt the revised findings in support of the Commission's action on June 11, 2003 concerning Coastal Development Permit #A-5-PPL-99-225.

### **STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote on the motion. Passage of this motion will result in the adoption of revised findings as set forth in this staff report. The motion requires a majority vote of the members from the prevailing side present at the April, 2006 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote on the revised findings.

### **RESOLUTION TO ADOPT REVISED FINDINGS:**

The Commission hereby adopts the findings set forth below for denial of Coastal Development Permit No. A-5-PPL-99-225 on the ground that the findings support the Commission's decision made on June 11, 2003, and accurately reflect the reasons for it.

**Commissioners eligible to Vote on Revised Findings for Coastal Development Permit No. A5-PPL-99-225:**

**Burke, Kruer, Wan, Reilly**

## **II. Revised Findings and Declarations**

**[Staff Note:** These revised findings include all of the staff's recommended findings that were set forth in the May 21, 2003 staff report for the Commission's June 11, 2003 hearing for the de novo coastal development permit. The portions of those findings that are being deleted are crossed-out in the following revised findings. The supplemental findings being added as having supported the Commission's June 11, 2003 action are identified with underlined text]. A copy of the transcripts of the June 11, 2003 hearing on application A-5-PPL-99-225 is attached at the end of the staff report as Exhibit No. 8.

The Commission hereby finds and declares:

### **A. Project Description and Location**

The proposed project is to subdivide a vacant 41,880 sq. ft. parcel into three lots consisting of 13,559 square feet, 13,939 square feet and 14,385 square feet. The three proposed lots will have street frontage of approximately 73 feet, 78 feet, and 80 feet, with a maximum depth ranging from 175 feet to 182 feet.

Topographically, the site consists of a narrow near level pad, varying from approximately 5'-25' wide, adjacent to the street. The lot then descends westerly at approximately 35 degrees. The overall topographic relief is about 117 feet. Below the lot, a portion of the hillside continues to slope to Temescal Park with an overall relief of 175 feet below Mt. Holyoke Avenue.

The site is located on the western side of Mount Holyoke Avenue, along the eastern rim of Temescal Canyon, in the Pacific Palisades area, a planning subarea of the City of Los Angeles. The site is approximately 1,500 feet, or just over a quarter mile, inland of the intersection of Temescal Canyon Road and Pacific Coast Highway. The site is vacant and is vegetated with predominantly exotic vegetation with some native vegetation located in isolated areas.

Temescal Canyon is a narrow canyon with a four-lane road running along the bottom of the canyon from Pacific Coast Highway to Sunset Boulevard. A linear landscaped park is improved along the east and west side of the road.

The proposed project is for the subdivision of land only. A separate coastal development permit or permits would be required for the future construction of any single-family residences.

### **B. Planning Background of City's Action**

In 1992, the City Council denied a 4-lot subdivision on the subject parcel. Following is a more detailed description as submitted by the City:

After the Council's original denial of Parcel Map LA No. 6810 and Coastal Development Permit No. 90-052 for a 4-lot subdivision on the subject property, the owner filed a lawsuit in the Superior Court challenging that disapproval (Mt. Holyoke Homes Ltd., et al. v. City of Los Angeles, et al., LASC NO. BC 060 183). The Superior Court issued a writ of mandate requiring the Council to set aside its decision denying the parcel map and coastal development permit and to reconsider the owner's application. On January 21, 1994, the Council adopted a motion setting aside its previous disapproval and referred the matter back to the Planning and Land Use Management Committee (Committee) for further consideration of the applications. The Committee was then to report back to the Council for its further action.

Subsequently, the Department of Building and Safety, Grading Division (Division) reviewed additional soils and geology reports on the site's topography relative to a 3-lot subdivision. The Division has now released a favorable report on the 3-lot subdivision.

The City's original denial was based on adverse impacts on public views and concerns regarding geologic stability of the lot. The Court rejected the City's denial. The Court found that the City's findings were inadequate to deny the application. The Court found the findings to be conclusory and not supported by substantial evidence. The Court issued a writ of mandate requiring the City to set its denial decision aside. Subsequently, the City conditionally approved Parcel Map No. 6810 (See Exhibit No. 3) and Coastal Development Permit No. 90-052 (See Exhibit No. 5) for a 3-lot subdivision rather than four lots.

### **C. Description of Local Approval**

On April 7, 1999, City Council approved a coastal development permit, with conditions. At the same time, the City approved a parcel map and a mitigated negative declaration. Those approvals had numerous conditions addressing soils/geology and architectural criteria for the design of future homes to be built after a subdivision approval. The CDP contained conditions addressing architectural design criteria for the homes that included floor area, height limits, and setbacks.

The floor area for each residence is limited to 3,500 square feet. The height limit for the future residences is limited to 28 feet within the defined building envelope. Setbacks were required to be fifteen-feet between structures with landscaping and structures within these yard areas limited to a height of 4-feet.

The parcel map also included the housing conditions as well as soils/geology conditions. According to the applicant's representative, the construction of the homes, along with the caissons, are not proposed now. The City required caissons and development conditions in response to geologic and view issues raised during the approval process for the

subdivision. Those homes are subject to future coastal developments permits. The City's underlying CDP is for a three-lot subdivision only.

**D. Visual Resources**

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 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.*

and Section 30240 (b), in part states:

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

The subject parcel is located on the western side of Mount Holyoke Avenue, on a steep hillside bluff overlooking Temescal Canyon. The bottom of the canyon is developed with Temescal Park, a regional linear park that extends along the four-lane Temescal Canyon Road from Pacific Coast Highway to Sunset Boulevard. The park abuts the project site along the western boundary of the parcel and near the bottom of the slope. The slopes of the canyon are heavily vegetated and may support some native vegetation. The lower flat portion of the park contains ornamental grasses and other non-native plants. Views from within the park consist of the canyon slopes and houses constructed along the top of the canyon. There are no trails along the bluff within the canyon, and the only views of the beach and ocean are views from down along Temescal Canyon Road or from the canyon ridge at the project site up along Mount Holyoke Avenue.

The proposed project site is a vacant 41,880 sq. ft. parcel that provides 231 feet of street frontage along Mount Holyoke Avenue. Because the parcel slopes down and away from Mount Holyoke Avenue, the site provides uninterrupted coastal views of the beach, ocean, ocean horizon, and coastal mountains. The proposed subdivision, which would create three residential lots for future residential development, would lead to increased visibility of development on the slope from Temescal Canyon Park and the beach by enabling the increase in massing created by three single-family residences, as compared to a single residence, and loss of undeveloped open space. Furthermore, the development of three residences along Mount Holyoke Avenue would also significantly reduce the existing views of the beach, ocean and mountains from the

public sidewalk and street (Mount Holyoke Avenue). The Commission heard argument that these views are not "public" views, and thus not protected by the Coastal Act's view protection policies, since the street is not a scenic highway, but a residential street serving mainly local residents in the area. However, based on the volume and breadth of opposition letters the Commission received to this proposal on the basis that it would block a prized public viewing spot, the Commission rejects this argument and concludes that this site does provide public views. The southcoast district office received numerous letters from the public stating that they have for many years enjoyed the coastal views from the site and that during the 4<sup>th</sup> of July the neighborhood gathers and watches the firework displays along the coast from the project site.

The protection of public views as a resource of public importance must be considered as required in Section 30240 (b) and 30251 of the Coastal Act. The development of three single-family residences that cascade, or step-down, the slope, will be visible from Temescal Canyon. The amount of visibility from the park will depend on how far the homes are allowed down the slope and the massing of the structures. Ocean views from Mount Holyoke Avenue may be obstructed once the homes are constructed, however, Mount Holyoke Avenue is not a scenic highway but a residential street serving mainly the local residents in the area. View blockage from Mount Holyoke Avenue is mainly a neighborhood issue. Available public views are from the local sidewalk. At its hearing, the Coastal Commission considered testimony that the public has used Mount Holyoke Avenue as a vantage point from which to view the ocean and coast across the project site, and the proposed subdivision, with the future construction of three single-family residences, will obscure public views of the coast from the public sidewalk and street. The Commission also considered evidence that, when houses are eventually constructed on these lots, they will be visible from the park below, within Temescal Canyon, and from the beach area (Will Rogers State Beach). Because of the steep slope and lack of a large flat building area at the top of the bluff, future houses will be sited down the slope and will be more visible from Temescal Canyon than houses that have a larger building pad at the street level.

Mount Holyoke Avenue is a local neighborhood street that terminates at Via de Las Olas Park, that overlooks Pacific Coast Highway and the beach. From the project site, a person can see a portion of Temescal Park and view the ocean and coastline. According to letters submitted by residences of the area, the public has used this street to access nearby Via de las Olas Park and to view the ocean and coast and that the proposed lot design and layout, with the future construction of three single-family residences will obscure public views of the coast from the street. Also, when houses are constructed on these lots, they will be visible from the park below and from the beach area (Will Rogers State Beach).

Pursuant to Section 30240(b) of the Coastal Act, development in areas adjacent to parks and recreation areas shall be sited and designed so as not to degrade these areas. Temescal Canyon Park is basically an urban park. Although the slopes are heavily vegetated and may support some native vegetation, the lower flat portion of the park contains ornamental grass. The park also provides basketball courts, tennis courts, picnic and barbeque areas. Views from within the park are not of a natural undisturbed setting but a row of houses at the top of the

slope with a natural appearing slope below. Although developed, the slopes of the canyon provide public views of vegetated slopes from the park and the development of additional homes along the slopes will adversely impact those views. ~~There are no trails along the bluff within the Canyon, and the only views of the beach and ocean are views from down along Temescal Canyon Road.~~

Because of the physical nature of the site with steep western facing slopes, development on this site will be visible from surrounding public areas and will impact coastal views from Mount Holyoke Avenue. ~~Exhibits No. 8 and 9 show the project site from Temescal Canyon Park and Temescal Canyon Road and the approximate locations of future development on the proposed subdivision property. The photographs show the high visibility of the site from the public areas and the significant visual impact this development will have from these public locations.~~<sup>1</sup>

The project site, as well as the surrounding properties, is zoned R-1 which permits a minimum lot area of 5,000 square feet, with a minimum lot width requirement of 50 feet. The surrounding area is fully subdivided and developed with single-family residences. Adjacent lots to the south and along the west side of Mount Holyoke Avenue typically have lot widths of 55 feet and lot depths of 175 feet. Smaller lots with lot widths of 50 to 60 feet and lot depths of 110 feet, are located along the east side of Mount Holyoke Avenue. The average lot size along Mount Holyoke Avenue is approximately 11, 540 square feet.

The proposed property provides approximately 231 feet of frontage along Temescal Canyon's eastern bluff top, which includes Mount Holyoke Avenue and Radcliffe Avenue. This site is one of the last undeveloped parcels along Temescal Canyon's eastern bluff edge. ~~However, the~~ eastern bluff edge is developed with over 50 single-family residences, with a number of these residences visible from Temescal Canyon Road and from the beach area, which is over 1,500 feet from the project site. Because of the steepness of the eastern slope, a number of homes are visible from Temescal Canyon Park and the beach area to the south. The existing residences on either side of the proposed project site, and the ones located directly behind the project site, on the eastern side of Mount Holyoke Avenue, are also visible from Temescal Canyon Road and beach area.

In the City's local permit action, the City found that the project raised two visual resource issues. The first one was impacts to public views from down below from Temescal Canyon and the second was impacts to the neighborhood from Mount Holyoke Avenue. The City addressed the view issues by reducing the subdivision from four lots to three, limiting the height of the homes over the slope to a maximum of 28 feet, limiting the extension of the homes down the slope, and limited future homes to a maximum of 3,500 square feet. The City also restricted the siting of any future residences with increased side yard setbacks from the standard of 5 feet to 7.5 feet and required 15 feet along the north and south property line, to break up the massing of the structures and increase visibility of the coast from the street area. Further, the City limited the

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<sup>1</sup> Photographs listed as Exhibits No. 8 and 9 were not included in the original staff report due to reproduction quality. All references to these exhibits should be removed and this footnote should be deleted once the revised findings have been adopted.



distance that any future residences can extend down the slope to minimize the visibility of the structures on the slope from Temescal Canyon and other public areas. The City limited structures to extend no further than 60 feet from the front yard setback of 5 feet as measured from the western edge of the public sidewalk.

Based on the City's 5-foot front yard setback for this R1 zoned lot, the 60 ~~feet~~foot slope encroachment restriction would allow development to encroach no further than approximately between the 245 foot and 253 foot contour line, as shown on the City approved Preliminary Parcel Map No. 6810 (see Exhibit No. 4). According to the applicant's representative, using the City's 60-foot requirement, any future residence will encroach no further down slope than the adjacent development to the south and north. Therefore, the applicant's representative states, that as restricted by the City, any future development will be visually compatible with the surrounding development and character of the area. However, after review of the tentative siting plans for the future homes and siting of the adjoining development, the 60 foot restriction, as conditioned by the City, would allow the structures to extend 5 feet to 20 feet further down slope than the development on the adjoining properties compared to using a string line drawn from the adjacent corners of the structures on the adjoining properties. The enclosed habitable structures on the two adjoining properties extend approximately 48 feet and 65 feet from the front property line, to the 267 and 274 foot contour lines, respectively. Drawing a line from the nearest corners of the adjacent developments, the line would limit development on the proposed lots to approximately between the 248 foot and 264 foot contour line on the project site. Although the City's restriction would limit development to extend out from the street no further than the furthest development, the topography of the adjoining lots is different and the City's restriction would actually allow the future homes to extend further down the slope to a lower elevation than the adjoining residences. This encroachment down the slope, allowed under the City's requirement, would expose more building on the slope which would increase the visibility of the structures from the park area and beach area. As proposed, although down slope encroachment for any future residential development has been limited by City design restrictions, the amount of massing on the slope face by the future construction of three residential structures would have a significant visual impact along the slope from the beach and Temescal Park.

~~By limiting the down slope encroachment with a string line, the amount of massing on the slope face will be minimized and development will be inline with the adjoining development and will be visually compatible with the surrounding development and character of the area. Therefore, this permit includes a special condition that requires that the siting of all future residential structures, including accessory structures, shall be limited to a string line drawn from the nearest adjacent lower corners of the adjacent structures on the adjoining properties. Furthermore, to ensure that no development will encroach further down the slope beyond a string line, the area shall be restricted as open space, prohibiting any future development in the area, except for landscaping and vegetation removal for fire clearance.~~

~~Although the City's side yard restrictions address the neighborhood visual issues from Mount Holyoke, the Commission finds that the side yard requirements create additional spacing between buildings and breaks up the massing of any future structures. This spacing will help reduce the visual impact of the structures on the slopes from Temescal Canyon and beach area. Therefore, consistent with the City's approval, to ensure that the massing of the three future homes is broken up, all residential structures shall maintain on each side, a side yard of not less than 7.5 feet, except that a side yard of not less than 15 feet shall be observed and maintained along the southerly and northerly boundaries of the subject property. Furthermore, to maintain the view areas from Mount Holyoke through the 15 foot side yards along the southerly and northerly boundaries of the subject property, all landscaping and fencing shall be limited to a height of no greater than 4 feet, from grade.~~

~~To further reduce the visual impact of the future structures on the slope from Temescal Canyon and the beach, the exterior color of any structure shall be restricted to earth tone colors that will help blend the development with the surrounding area. Landscaping would also further minimize the visual impact of any future development. However, since the homes are not proposed at this time and the actual design of the homes are not before the Commission, landscaping will be addressed and incorporated into the design once the applicant has applied for a coastal development permit for the homes.~~

~~As stated, to stabilize the development, a foundation design using piles and grade beams was designed to demonstrate that geologically the site could be developed. Based on the pile design, the City indicated that the piles would be constructed below grade with the grade beams hidden from view within the exterior walls of the future residences. With the use of piles for construction on steep hillsides, over time, due to weathering and erosional processes, the piles may become exposed. In past Commission permit action, the Commission has require that in the event piles become exposed the applicant is required to take measures to reduce the visual exposure by such measures as re-grading or landscaping. Since the proposed project only includes the division of the land and no construction at this time, this issue will be further addressed once permits for the future construction of the residences are applied for.~~

~~The Commission, therefore, finds that only as conditioned will the proposed development be consistent with Section 30240 and 30251 of the Coastal Act.~~

Currently, with one legal lot, the applicant is permitted the development of only one single-family residence. The proposed subdivision would allow the construction of two additional residences. This increase of two additional residences in this location of the bluff would increase the visibility of development on the slope from Temescal Canyon Park and the beach through the increase in massing created by three single-family residences, as compared to a single residence, and loss of undeveloped open space. The proposed subdivision would increase residential development on a prominent canyon slope and increase visibility of development along the slope from Temescal Canyon Park and the beach area. Furthermore, the project will replace vegetated open space which is visible

from the park with residential development. This development would degrade the public's visual experience from within the park and surrounding area.

Moreover, the development of three future residences along Mount Holyoke Avenue will also significantly reduce the existing views of the beach, ocean and mountains from the public street (Mount Holyoke Avenue). The project will have a significant adverse impact on existing views from Mount Holyoke Avenue. The project site currently provides uninterrupted coastal views of the beach, ocean horizon and coastal mountains. These coastal views are an important public coastal resource in this area where existing development blocks all coastal views except along this portion of Mount Holyoke Avenue. Allowing the subdivision to create two additional buildable lots that will increase development and structural massing along this vacant portion of Mount Holyoke Avenue will significantly impact the scenic and visual qualities of the area. As designed, the proposed development does not protect views to and along the ocean and scenic coastal areas as required under Section 30240(b) and 30251 of the Coastal Act. Therefore, the Commission finds the proposed development inconsistent with Section 30240 and 30251 of the Coastal Act and denies the development.

#### **E. Hazards and Landform Alteration**

Section 30251 states in part:

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

Section 30253 states:

*New development shall:*

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

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

*(3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.*

*(4) Minimize energy consumption and vehicle miles traveled.*

*(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

The project site consists of a very narrow near-level pad adjacent to Mount Holyoke Avenue with slopes descending to the west. Slope gradients vary from approximately 30 degrees below the street to 40 degrees on the western portion of the site.

The geologic reports prepared for the site state that the site is underlain by bedrock consisting of thin siltstone, shale and sandstone beds. Natural alluvial terrace overlies the bedrock. The reports also indicate that a minor amount of approximately 1.5 to 2.5 feet of fill material was encountered along the eastern portion of the site. It is assumed that the fill was placed during street construction.

According to the reports the bedrock structure at the site is tight, continuous, steeply dipping and undulating which is similar to the local structure. No pattern of adversely orientated fractures or joints were observed. Furthermore, according to the reports, no ancient or recent bedrock landslides were observed on the property. The Sousa & Associates report (September 22, 1994) states:

*Geologic maps by the City of Los Angeles (1964), the Dibblee Geological Foundation (1991), and the U.S. Geological Survey (1973 to 1989 do not depict landslides in the local area that could adversely affect the subject property from a geologic viewpoint. The closest landslide to the subject site is approximately 500 feet to the south which appears to be controlled by the axis of a syncline.*

There are no known active faults on the property or the immediate area. The geologic reports conclude that the site is suitable for the proposed project provided the geologic recommendations are incorporated into the design and subsequent construction of the project.

In 1992, when the City originally approved a proposed four-lot subdivision on the subject parcel, the Department of Building and Safety (Grading Division) approved the soils and geology reports. The City's approval was disputed by geotechnical reports from E. D. Michael, an Engineering Geologist, and Douglas E. Moran, an Engineering Geologist and Geotechnical Engineer. Subsequently, the Department of Building and Safety rescinded its prior approval and the City Council denied the project. Subsequently, the applicant filed a lawsuit in 1992, challenging the City's decision. In 1993, the City's denial was remanded by the court. In 1994, the applicant agreed with the City to reduce the proposed number of lots from four to three, and retained a new soils engineer and geologist. New soils and geology reports for the proposed three lot subdivision were submitted and reviewed by the City. In 1998, the Department of Building and Safety approved the reports. The Department found that a factor of safety of 1.5 could be achieved by installing four rows of soldier piles interconnected with grade beams.

Subsequently, after being reviewed by the City's Engineering Geology Advisory Committee, comprised of three independent professionals in the fields of soils engineering, engineering geology, and geology, on April 7, 1999, the City Council approved the coastal development permit and parcel map for the proposed three lot subdivision. The approval was based upon the construction of 4 rows of soldier piles (20' apart) interconnected with grade beams in order to bring the safety factor from 1.38 to 1.5 for the site. As designed, graded cut and fill slopes were not proposed, and no retaining walls were planned for the future construction of the residences.

The City of Los Angeles Department of Building and Safety has issued a geotechnical engineering review letter that indicates that the City has reviewed and approved the project's geologic and soils reports and design. The geologic and soils reports conclude that the proposed development is considered feasible from an engineering geologic and soil standpoint and will be safe from landslide, settlement or slippage, provided the recommendations with respect to foundations, drainage and sewage disposal are incorporated into the plans and implemented.

The Commission's geologist, Dr. Mark Johnsson, reviewed the geology reports for the project and the City's reports, including the report submitted by the opponent's geologists. Dr. Johnsson initially had concerns regarding the stability of the site and the applicant's ability to develop the site in a geologic safe manner. Dr. Johnsson was concerned that the City approved reports did not demonstrate the stability of the slopes during seismic loading. Accordingly, the applicant was asked to produce additional analyses, and after review of the pseudostatic slope stability analyses by Dr. Johnsson, and review of the structural calculations by the Commission's coastal engineer Lesley Ewing, staff has concluded that the site can be developed in a geologically safe manner without creating or significantly contributing to erosion or geologic instability.

However, the engineering methods required to stabilize the slope and allow the development of three homes will be extensive. The proposed project lots have approximately 10 to 25 feet of flat area at street level, which makes it infeasible to keep all construction on the flat portion of the lot and away from the bluff face. Therefore, the applicant is proposing to create three building sites with the use of caissons built into the slope. The Commission, in past permit action, has limited development on steep slopes due to the inherent hazards associated with building on steep slopes, and potential of increased erosion and alteration of natural landforms. In previous actions on hillside development in geologically hazardous areas the Commission has found that there are certain risks with hillside development that can never be entirely eliminated and that in order to satisfy Section 30253(1)'s mandate to "minimize risks," development should be avoided in particularly risky areas to the extent possible, rather than allowed to continue with extraordinary engineering. The creation of additional buildable lots on steep slopes will increase the potential risks to life and property as opposed to a project that would minimize the number of lots and extraordinary engineering measures that would be required to build on such lot. In addition, the Commission notes that the applicant has no control over off-site or on-site conditions that may change and adversely affect the coastal

slope on the property. Based on the information in the applicant's geologic reports and the City's review, the proposed project will continue to be subject to risk from erosion and/or slope failure (topple). The creation of a total of three developable lots for construction of residential development on a slope that has high geologic hazards and requires extensive geologic engineering to create buildable sites, will not minimize risk to life and property as required by Section 30253. Extensive use of caissons constructed into the slope can be minimized by reducing the number of homes on the site. By reducing the number of proposed building sites the applicant would minimize the geologic hazards and reduce the amount geologic engineering on the slope required to create buildable areas. The Commission, therefore, finds that as proposed the development is inconsistent with Section 30253 of the Coastal Act.

~~The Commission in past coastal development permit action has required that development be set back as far as is feasible from the bluff edge to minimize any potential erosion risk or geologic hazard. The proposed project lots have approximately 10 to 25 feet of flat area at street level, which makes it infeasible to keep all construction on the flat portion of the lot and away from the bluff face. As conditioned by this permit, to limit development encroachment down the slope no further than a line drawn from the corners of the adjacent existing residences, future down slope encroachment will be minimized and development will be consistent with the surrounding area.~~

~~Furthermore, in previous actions on hillside development in geologically hazardous areas the Commission has found that there are certain risks that can never be entirely eliminated. In addition, the Commission notes that the applicant has no control over off-site or on-site conditions that may change and adversely affect the coastal slope on the property. Therefore, based on the information in the applicant's geologic reports and the City's review, the Commission finds that the proposed project is subject to risk from erosion and/or slope failure (topple) and that the applicant should assume the liability of such risk. Although structural development is not being proposed under this permit application, the applicant is creating two additional lots that can be developed in the future. Therefore, the applicant and any future owner of the properties should be aware of such risks. The assumption of risk, when recorded against the property as a deed restriction, will show notice to all future owners of the site of the nature of the hazards which may exist on the site and which may adversely affect the stability or safety of the proposed development. Furthermore, a future improvements special condition is required to place the applicant and any future buyer of the property, that all future development of the site will require a new coastal development permit. The Commission, therefore, finds that only as conditioned will the proposed development be consistent with Section 30253 of the Coastal Act~~

#### **F. Environmentally Sensitive Habitat Areas**

Section 30240 of the Coastal Act states:

*(a) 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.*

As stated, the subject parcel is located on the western side of Mount Holyoke Avenue, on a steep hillside bluff overlooking Temescal Canyon. The undeveloped parcel consists of a strip, approximately 5-25 feet wide of relatively flat land, and a west-facing slope.

According to the botanical report prepared for the applicant by Anderson Botanical Consulting, vegetation on the site consists of predominantly of exotic vegetation that is non-native to southern California. Native plants include encelia (*Encelia californica*) California sagebrush (*Artemisia californica*), ashy-leaf buckwheat (*Eriogonum cinereum*), lemonadeberry (*Rhus integrifolia*) and giant wild rye (*Leymus condensatus*). See Vegetation Map, Exhibit No. 6. None of the species are classified as rare, threatened, endangered or especially valuable by any public agency or the California Native Plant Society.

According to the applicant and botanical report, the site has historically been cleared of vegetation in compliance with Los Angeles City fire codes. Remnant native scrub occurs below the property line on the lower slope of Temescal Canyon.

As shown on the vegetation map, the majority of the native plants are located outside of the planned building area for the three residences. The map shows that giant coreopsis (*Coreopsis gigantea*) and lemonadeberry (*Rhus integrifolia*) in the vicinity of the future building areas. The botanical report recommends that the native species be preserved on site and any plants that may be disturbed due to future construction or fire clearance requirements, should be relocated. The report also recommends that once the homes are constructed, the slope should be restored and enhanced with low-growing fire-resistant native landscaping that is compatible with the conservation of the native plants.

The division of the parcel into three lots and any future construction on the created lots will not impact any sensitive habitat areas. Once coastal development permit applications are submitted potential impacts to the few native plants on the site caused by future construction can be minimized through the incorporation of the recommendations made by the applicant's botanist into the design of the three future individual residences. Therefore, the proposed division of land into three separate residential lots is consistent with Section 30240 of the Coastal Act.

## **G. Alternatives**

Denial of the proposed project will neither eliminate all economically beneficial or productive use of the applicant's property nor unreasonably limit the owner's reasonable investment backed expectations of the subject property. There is no automatic entitlement to subdivide property. In addition, several alternatives to the proposed development exist that would provide significant economic value. Among those alternative developments are the following (though this list is not intended to be, nor is it, comprehensive of the possible alternatives):

### **1. No Subdivision**

The applicant currently has a single legal lot that could be developed with a single-family residence. If designed and sited consistent with the applicable policies of the Coastal Act, the Commission could approve a single-family residence. The applicant could design a single-family residence consistent with surrounding development. The development of a single-family residence, in this location and given the significant coastal views available, is a viable economic alternative.

### **2. Subdivision into Two Lots Instead of Three**

Another alternative that may be available to the applicant is a two lot subdivision. This alternative would reduce the number of lots, thus reducing the visibility of the massing of future structures along the slope, and provide a greater view corridor from Mount Holyoke, as compared to the current proposal. This alternative would reduce the visual impacts from the park, beach and along Mount Holyoke Avenue, reduce impacts to vegetation along the slope and reduce the geologic hazards associated with constructing on steep slopes as compared to the current proposal. The development of two lots, if found consistent with the Coastal Act, is a viable economic alternative.

## **G H. 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).*



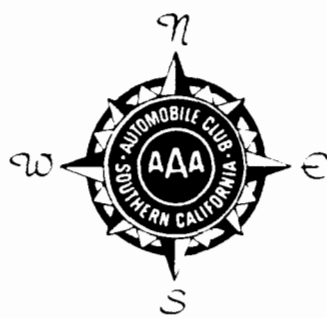
The City of Los Angeles has not prepared a draft Land Use Plan for this planning subarea. However, the City's work program to develop a Local Coastal Program considers natural hazards as an issue for this area of the City. Approval of the proposed development will have adverse impacts to public views and will not minimize the risks from natural hazards as conditioned to minimize risks from natural hazards, will not prejudice the city's ability to. As proposed, the project will not prejudice the City's ability to prepare a certifiable Local Coastal Program, as it would be an example of an approval that is inconsistent with the visual protection and natural hazard policies of the Coastal Act. The Commission, therefore, finds that the proposed project is inconsistent with the provisions of Section 30604 (a) of the Coastal Act.

#### **H I. California Environmental Quality Act**

~~As conditioned t~~There are feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the activity may have on the environment in comparison to the proposed project. Alternatives include constructing a single-family residence on the underlying lot or reducing the number of residential lots created by the proposed subdivision to preserve the view corridor and minimize natural hazards and erosion along the bluff. Therefore, the Commission finds that the proposed project, ~~as conditioned to mitigate the identified impacts,~~ is not the least environmentally damaging feasible alternative and cannot be found consistent with the requirements of the Coastal Act to conform to CEQA.



*Site of  
Vicinity*



LOS ANGELES AREA

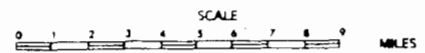


EXHIBIT NO.	1
Application Number	A-5-VPL-99-225
	Vicinity Map
California Coastal Commission	

HUNTINGTON BI

Channel  
O C E A N

11-7A

**EXHIBIT NO. 2**

Application Number

45-771-99-223

Perce / M21

COASTAL DEVELOPMENT PERMIT  
PRELIMINARY PARCEL MAP

AFRIAT / BLACKSTONE CONSULTANTS, INC.

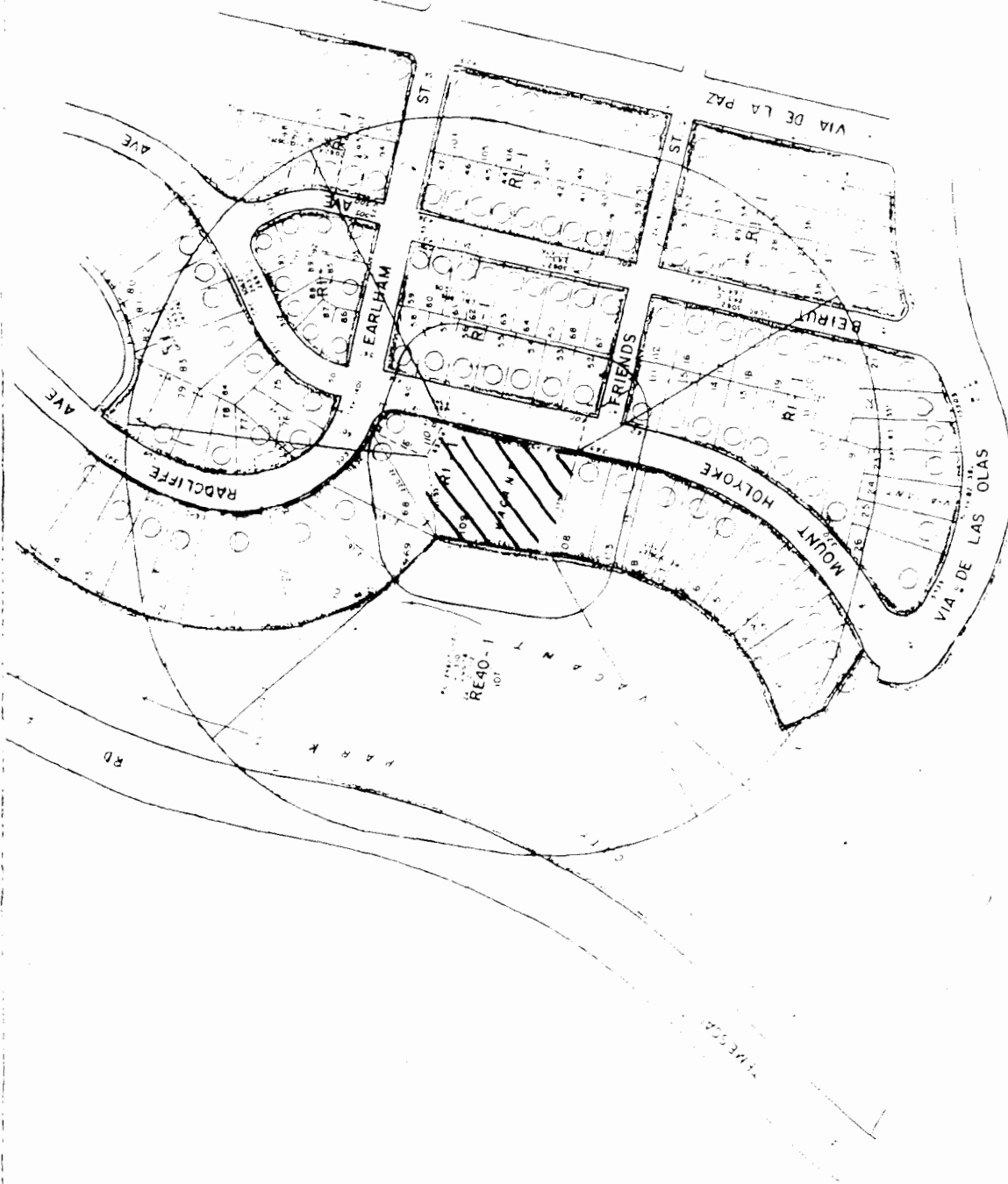
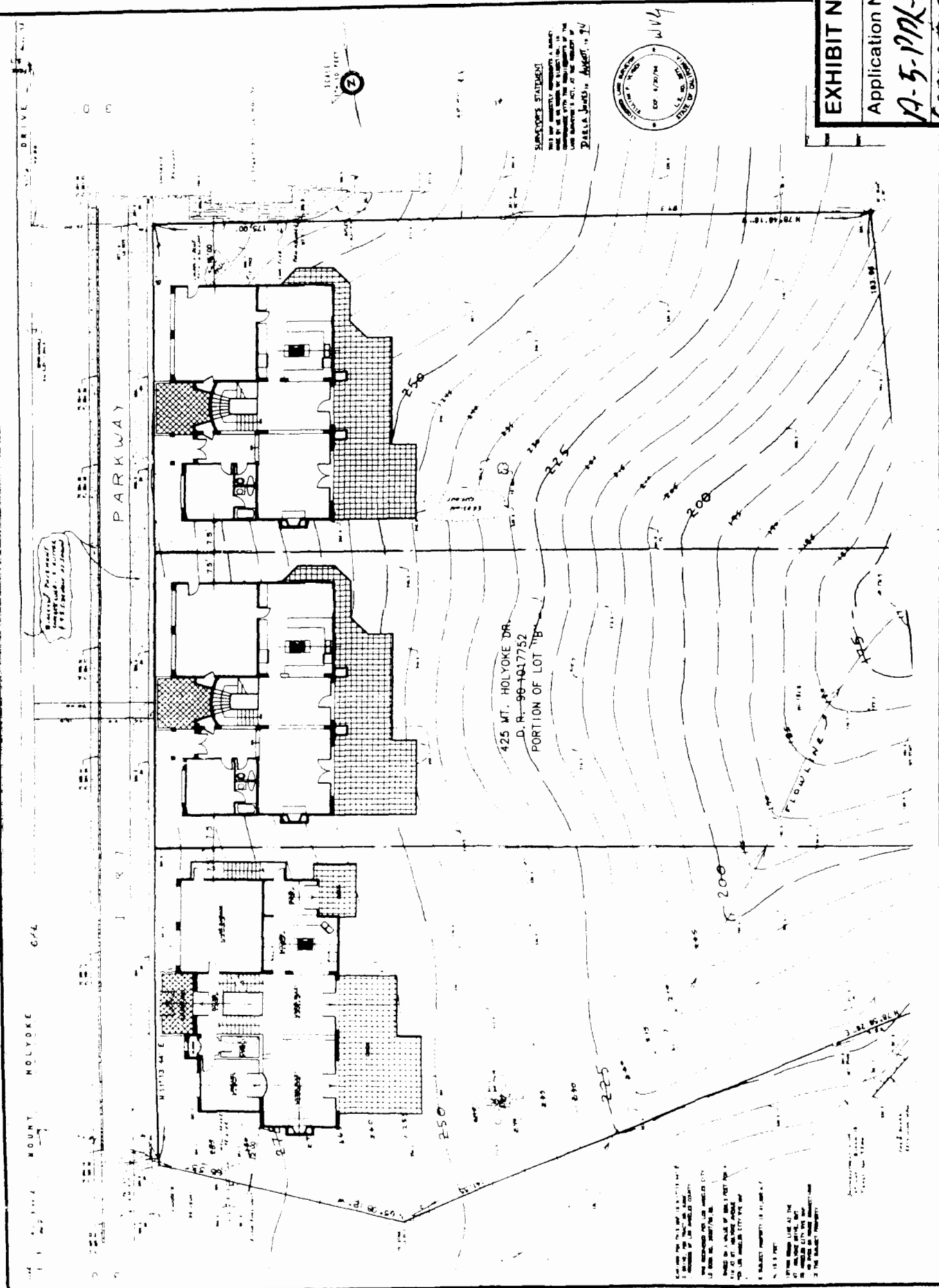
[illegible]

EXHIBIT NO. **3**  
Application Number  
**A-5-PPL-99-22**  
*Concrete 21 New  
at Homes based  
City Restriction*



425 MT. HOLYOKE DR.

DRIVE

PARKWAY

String Line

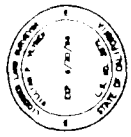
425 MT. HOLYOKE DR.  
O.R. 98-1017752  
PORTION OF LOT 18

City's  
Development  
Limit

SURVEYOR'S STATEMENT

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.



NOTICE: THIS MAP IS A PRELIMINARY MAP AND IS NOT TO BE USED FOR ANY PURPOSES OTHER THAN THE PRESENT PURPOSE. THE CITY OF SAN JOSE, CALIFORNIA, IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS MAP. THE CITY OF SAN JOSE, CALIFORNIA, IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS MAP.

SITE PLAN  
16605737AVE

MT. HOLYOKE HOMES  
PARCEL A, B & C

Alegre Mackenzie  
ARCHITECTURE + PLANNING  
145 VIA MARINA  
MARINA DEL REY, CA 90292

EXHIBIT NO. 4  
Application Number  
1A-5-99L-99-22  
Developer  
C. Khan & Associates

CITY OF LOS ANGELES  
CALIFORNIARICHARD J. RIORDAN  
MAYORDEPARTMENT OF  
CITY PLANNING  
221 N. FIGUEROA STREET  
LOS ANGELES, CA 90012-2601CITY PLANNING  
COMMISSIONPETER M. WEIL  
PRESIDENTROBERT L. SCOTT  
VICE PRESIDENT

JORGE JACKSON

MARNA SCHNABEL

NICHOLAS W. STONNINGTON

GABRIELE WILLIAMS  
COMMISSION EXECUTIVE ASSISTANT  
(213) 580-5234DATE: APR 27 1999Mr. and Mrs. Stan Jones  
529 Swarthmore Avenue  
Pacific Palisades, CA 90272NOTICE OF RECEIPT AND ACKNOWLEDGMENT AND  
ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 90-052

The Deputy Advisory Agency has approved Parcel Map No. 6810 and Coastal Development Permit No. 90-052, both found to be respectively in accordance with Section 17.53, and 12.20.2 of the Los Angeles Municipal Code, as well as the 1976 California Coastal Act.

Please sign below and return no later than 10 working days from MAY 07 1999.

Parcel Map No.: 6810

Development Location: 425 Mt. Holyoke Avenue, Pacific Palisades

Development Description: Division of 1 Lot into 3 parcels.

I, DARRYL L. FISHER, hereby acknowledge receipt of this Permit No. 90-052 and accept the attached conditions herein made a part. I also acknowledge that if either construction starts before recordation of the parcel map or expiration of the coastal permit 2-year limit occurs, then I must file a new coastal permit application.5-5-99  
(Date)Darryl L. Fisher  
(Signature)

Pursuant to the California Coastal Act of 1976, the proposed development is subject to the attached conditions and conditions of approved Parcel Map No. 6810.

Con Howe  
Advisory AgencyDARRYL L. FISHER  
Deputy Advisory Agency

DF:GR:tlh

Attachment

cc: John Bowman

Jeffer, Mangels, Butler and Marmaro

California Coastal Commission

CP-1926

VAN NUYS - 6251 VAN NUYS BLVD., 11 FLOOR, VAN NUYS 91401 - (818) 758-8598

AN EQUAL EMPLOYMENT OPPORTUNITY - AFFIRMATIVE ACTION EMPLOYER

EXECUTIVE OFFICES  
16TH FLOORCON HOWE  
DIRECTOR  
(213) 580-1160FRANKLIN P. EBERHARD  
DEPUTY DIRECTOR  
(213) 580-1163GORDON B. HAMILTON  
DEPUTY DIRECTOR  
(213) 580-1165ROBERT M. SUTTON  
DEPUTY DIRECTOR  
(213) 580-1167

FAX (213) 580-1176

INFORMATION  
(213) 580-1172RECEIVED  
South Coast Region

MAY 14 1999

CALIFORNIA  
COASTAL COMMISSION

EXHIBIT NO. 5
APPLICATION NO. A-5-PML-98-225
City Permit



California Coastal Commission

CITY OF LOS ANGELES  
CALIFORNIA

DEPARTMENT OF  
CITY PLANNING  
221 N FIGUEROA STREET  
LOS ANGELES CA 90012-2601

CITY PLANNING  
COMMISSION

PETER M. WEIL  
PRESIDENT

ROBERT L. SCOTT  
VICE-PRESIDENT

JORGE JACKSON

MARNA SCHNABEL

NICHOLAS H. STONNINGTON

GABRIELE WILLIAMS  
COMMISSION EXECUTIVE ASSISTANT  
(213) 580-3234



RICHARD J. RIORDAN  
MAYOR

RECEIVED  
South Coast Region

MAY 14 1999

CALIFORNIA  
COASTAL COMMISSION

EXECUTIVE OFFICES  
16TH FLOOR

CON HOWE  
DIRECTOR  
(213) 580-1160

FRANKLIN P. EBERHARD  
DEPUTY DIRECTOR  
(213) 580-1163

GORDON B. HAMILTON  
DEPUTY DIRECTOR  
(213) 580-1165

ROBERT H. SUTTON  
DEPUTY DIRECTOR  
(213) 580-1167

FAX (213) 580-1176

INFORMATION  
(213) 580-1172

NOTICE OF PERMIT ISSUANCE

Date: MAY 13 1999


TO: California Coastal Commission

FROM: City of Los Angeles Advisory Agency

SUBJECT: Parcel Map No.6810 and Coastal Development Permit No. 90-052

Pursuant to a Los Angeles City Council Action for 425 Mount Holyoke Avenue, Pacific Palisades, approval of Parcel Map No. 6810 and Coastal Development Permit No. 90-052 became final and in effect on April 7, 1999, and not subject to any further appeals. Unless an appeal has been filed with your office after Commission receipt of the enclosed Letter of Determination, and Notice of Receipt and Acknowledgment and Coastal Permit with conditions signed by the permittee, the action on Coastal Development Permit No. 90-052 should also become final and effective 20 days after receipt of the enclosures.

Note: Project is in the single permit jurisdiction area.

  
DARRYL L. FISHER  
Deputy Advisory Agency

DLF:GR:tlh

cc: Applicant's representative

C:\My Files\The\Problems\6810\natperm.wpd

FINAL LOCAL  
ACTION NOTICE

RECEIVED

5.14.99

REFERENCE =

CAP 90-052

APPEAL PERIOD

6.14.99

PUBLIC COUNTER & CONSTRUCTION SERVICES CENTER  
201 NORTH FIGUEROA STREET, ROOM 300 - (213) 977-8083  
VAN NUYS - 6251 VAN NUYS BLVD. - 1<sup>ST</sup> FLOOR, VAN NUYS 91401 - (818) 756-8596

AN EQUAL EMPLOYMENT OPPORTUNITY - AFFIRMATIVE ACTION EMPLOYER

A-5-PPL-99-225

Coastal Development Permit Conditions

1. That prior to obtaining a Coastal Development Permit, a Covenant and Agreement (Form CP-1874) satisfactory to the Advisory Agency be recorded as follows: (Room 1540, 221 North Figueroa Street)
  - a. That per the definition of "floor area" contained in Section 12.03 of the Los Angeles Municipal Code, the total floor area of any dwelling to be constructed or maintain shall not exceed 3,500 square feet.
  - b. That for the purpose of determining the building height envelope and buildable area, each parcel to be developed shall be divided into two segments. The maximum width of each building height segment shall be the distance between the required side yard setbacks. The maximum depth of each building height segment shall be 40 feet. No development may extend beyond a depth of 60 feet measured from the front yard setback. The average existing natural grade of each building height segment shall be the average existing natural grade of the four corners of that building height segment.
  - c. That no building or structure shall exceed a height of 28 feet, measured as the vertical distance between the average existing natural grade (as defined under Condition No. 1-b above) to the highest point of the roof or parapet wall, whichever is higher. No allowance for additional building height, as otherwise provided under Section 12.21.1.-B 2 and 3 or Section 12.21-A 17(c) of the Los Angeles Municipal Code, shall be permitted.
  - d. That any landscaping or fencing to be done within the fifteen-foot side yard along the southerly and northerly boundaries of the subject property (see Condition 1-f below) shall be maintained at, or be of a type that will not exceed a height of 4 feet measured from the midpoint of the front yard setback and continuing at that height on a horizontal plane for the depth of the building or structure.
  - e. That in accordance with the definition of "front yard" contained in Section 12.03 of the Los Angeles Municipal Code and notwithstanding Los Angeles Municipal Code Sections 12.08, 12.26, 12.27 and 12.21-A 17, any structures to be built shall observe and maintain on each side, a side yard of not less than 7 feet 6 inches, except that a side yard of not less than 15 feet shall be observed and maintained along the southerly and northerly boundaries of the subject property.
  - f. That in accordance with the definition of "side yard" contained in Section 12.03 of the Los Angeles Municipal Code and notwithstanding Los Angeles

~~\_\_\_\_\_~~  
A-5-P2-99-225



Municipal Code Sections 12.08, 12.26, 12.27 and 12.21-A 17, any structures to be built shall observe and maintain on each side, a side yard of not less than 7 feet 6 inches, except that a side yard of not less than 15 feet shall be observed and maintained along the southerly and northerly boundaries of the subject property.

2. That the conditions imposed under the approval of Parcel Map LA No. 6810 be strictly complied with.
3. That a Coastal Development Permit will not be of force or effect unless and until Parcel Map LA No. 6810 is recorded.
4. That any assignment of the Coastal Permit shall be in compliance with Section 13170 of the Coastal Commission Administrative Regulations.
5. That the Coastal Development Permit is valid for an initial 2 years, and effective 20 days after the Coastal Commission receives a signed Notice of Receipt and Acknowledgment and Permit Issuance, unless an appeal is filed with the Coastal Commission. The permit is renewable annually, for 1-year periods, if a request to extend the time is submitted before the 2-year expiration date and before construction begins.
6. That if the Notice of Receipt and Acknowledgment and Issuance of Coastal Development Permit No. 90-052 is not signed and returned within the prescribed 10 day period, MAY 07 1999, an application for a time extension may not be accepted and the permit appeal period will not commence.

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
A-5-P2-99-225

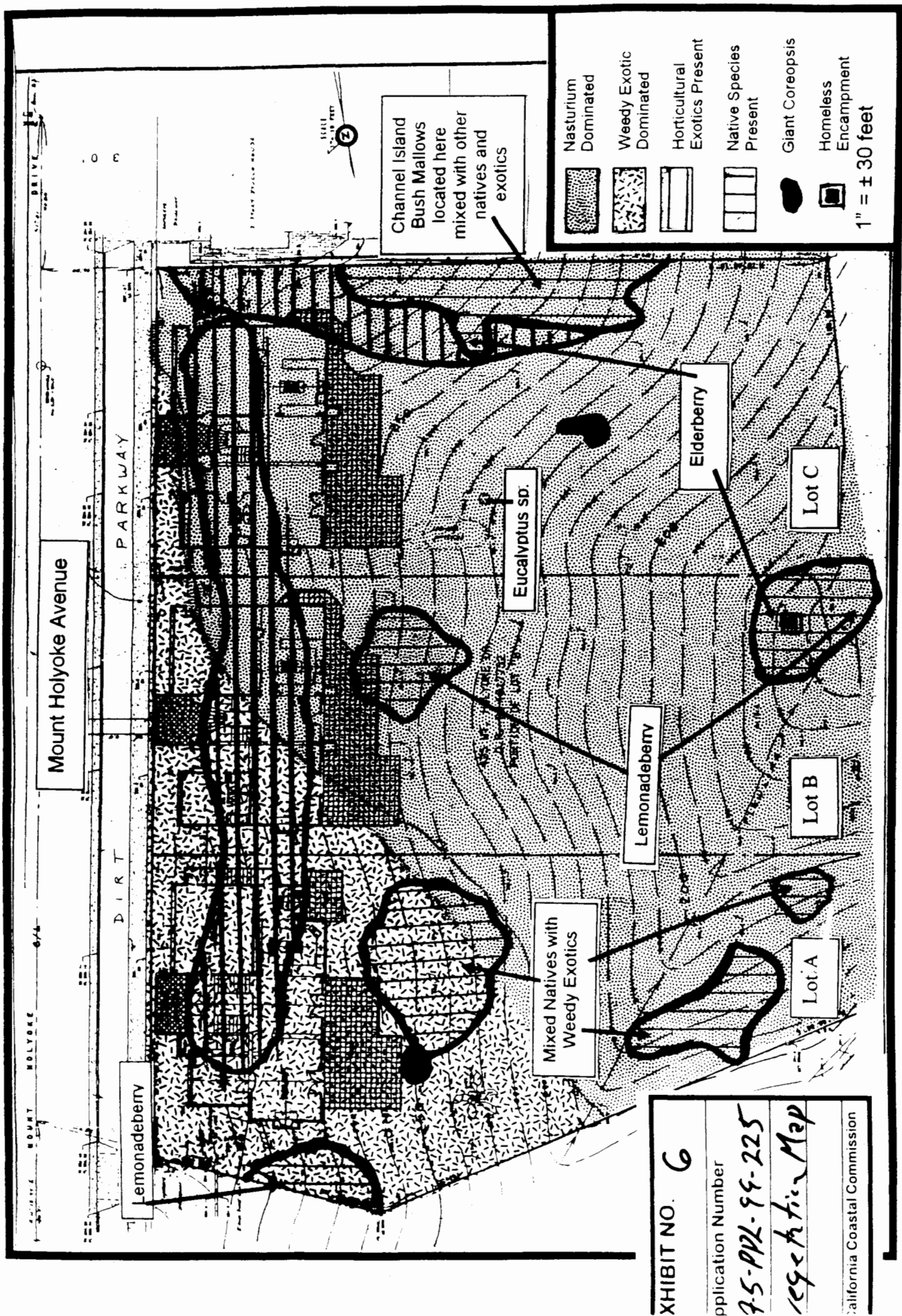


EXHIBIT NO. 6

Application Number 75-PPL-99-225

Vegetation Map

California Coastal Commission

Figure 1. Vegetation Map for 425 Mount Holyoke Avenue, Pacific Palisades, California (3/9/03)  
(Base map reproduced from William P. Vymen, Land Surveyor, 9/5/94)

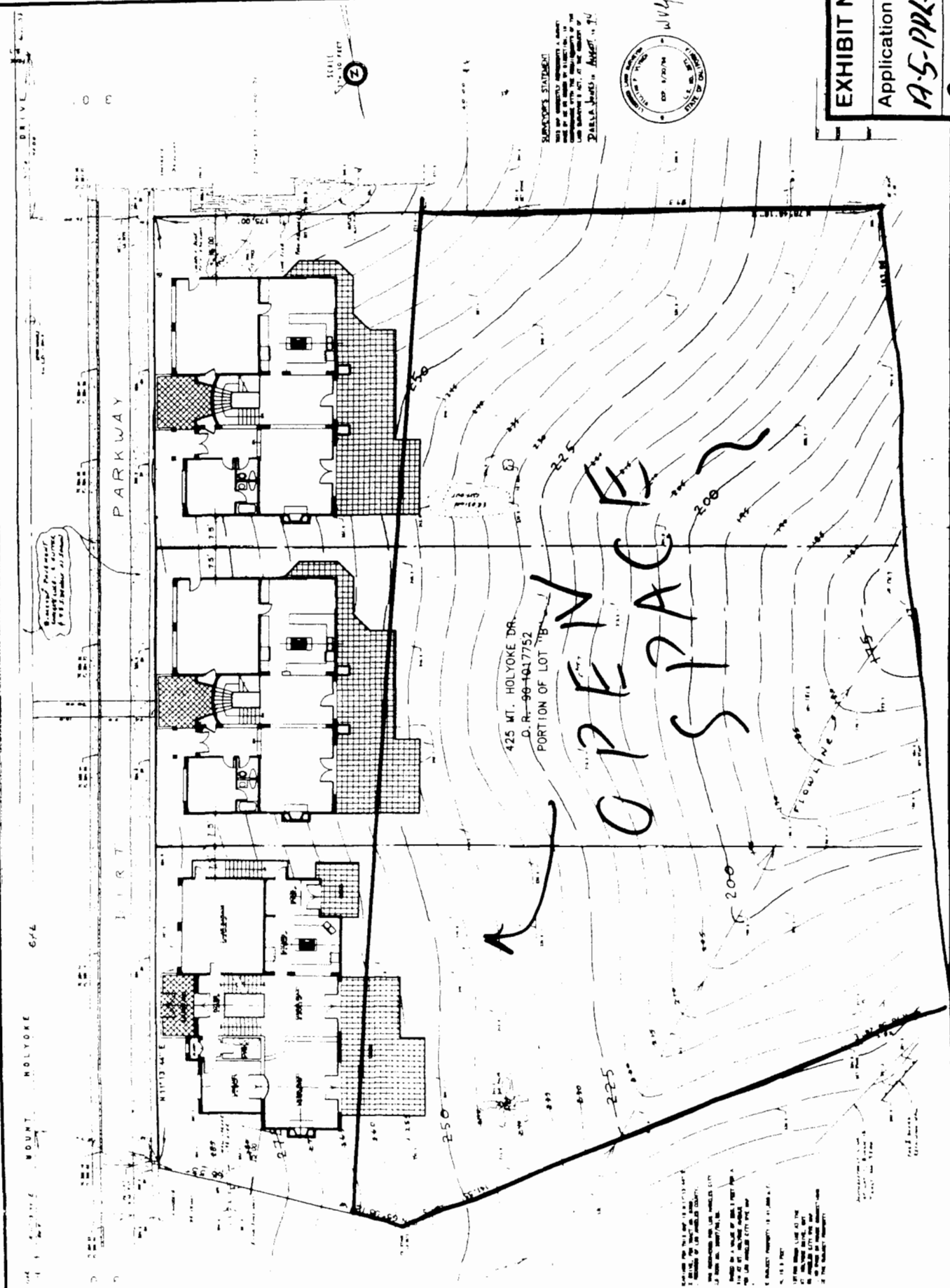


EXHIBIT NO. 8
Application Number A5-PPX-99-225
Reporter's Transcript June 11, 2003 Hearing
California Coastal Commission

STATE OF CALIFORNIA  
COASTAL COMMISSION

ORIGINAL

MT HOLYOKE HOMES, LTD. et al. )  
COMMUNITY OF PACIFIC PALISADES ) Appeal No. A-5-99-225  
COUNTY OF LOS ANGELES )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Wednesday  
June 11, 2003  
Agenda Item No. 9.a.

The Queen Mary  
1126 Queens Highway  
Long Beach, California

006886

A P P E A R A N C E S

COMMISSIONERS

Mike Reilly, Chair  
William A. Burke, Vice Chair  
Christina L. Desser  
Gregg Hart  
Toni Iseman  
Patrick Kruer  
Cynthia McClain-Hill  
Scott Peters  
Dave Potter  
Sara Wan  
John Woolley

STAFF

Peter Douglas, Executive Director  
Amy Roach, Staff Counsel  
Jamee Jordan Patterson, Deputy Attorney General  
Dan Olivas, Deputy Attorney General  
Deborah Lee, Deputy Director  
Teresa Henry, District Manager  
Al Padilla, Coastal Staff Analyst  
Mark Johnsson, Senior Geologist

-oOo-

006887

# I N D E X   T O   S P E A K E R S

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-000-

006888

1 California Coastal Commission

2 June 11, 2003

3 Mt. Holyoke Homes, Ltd. et al -- Appeal No. A-5-99-225

4 \* \* \* \* \*

5 9:10 a.m.

6 DEPUTY DIRECTOR LEE: Thank you.

7 That brings us now to Item 9.a. Teresa Henry, the  
8 District Manager from the Long Beach office will present this  
9 matter.

10 DISTRICT MANAGER HENRY: Good morning, Commission-  
11 ers, Item 9.a. is the de novo portion of Application No.  
12 A-5-PPL-99-225. It is the application of Mt. Holyoke Homes,  
13 Ltd. et al for the subdivision of one lot into three  
14 residential lots. No homes are proposed or are being  
15 approved at this time.

16 The proposed project is located at 425 Mt. Holyoke  
17 Avenue, in the Pacific Palisades area of the City of Los  
18 Angeles.

19 Staff is recommending that you approve the  
20 proposed project, subject to nine special conditions which  
21 have been modified in the addendum. There are some  
22 typographic corrections, primarily, on several of the special  
23 conditions, dealing with the exhibit numbers. So, staff is  
24 recommending that you approve the project, subject to those  
25 nine special conditions.

006889

1           The issues raised in this application are geologic  
2 hazards and visual impacts. The proposed project -- as you  
3 will see in the slides that we will show at the end of the  
4 presentation. The proposed project is located in a scenic  
5 area. The area is scenic from both Mt. Holyoke Avenue, which  
6 is a small residential street, which is not a coastal access  
7 route; however, it is also visible from Will Rogers State  
8 Beach. And, due to that visibility from Will Rogers State  
9 Beach, staff is recommending conditions that would lessen the  
10 visual impact of the development, by moving the development  
11 up to the top of the bluff, as close as possible.

12           The flat area of the bluff is very narrow in this  
13 particular site, and therefore the development cannot be  
14 contained solely on the bluff top, therefore, staff is  
15 recommending that the development be allowed to come down the  
16 bluff slope to a certain extent, but to protect the visual  
17 impacts of the development from Will Rogers State Beach.

18           If you look at staff's exhibit -- and I would also  
19 like to add that the applicant is in disagreement with the  
20 setback requirements, as well as all of the special  
21 conditions, and I will let the applicant's representative go  
22 over that.

23           But, the primary special condition that the  
24 applicant is opposed to, is the staff's attempt to keep the  
25 development as close to the bluff top as possible to reduce

006890



1 the visual impacts from Will Rogers State Park -- and as I  
2 said, we will show you in slides.

3 However the staff's recommendation for the  
4 development to move it as close to the slope top as possible  
5 is shown in Exhibit 4 of the staff recommendation.

6 The city has approved this project, allowing the  
7 development to come down the slope, based on a setback from  
8 the street. Using the city's setback, as you see on Exhibit  
9 4, it would allow the development to come down the bluff, we  
10 feel, in a significant amount more, creating a visual impact.

11 Staff is recommending a string line, as you see on  
12 Exhibit 4. The string line is drawn from -- if you look at  
13 the left edge of the exhibit, that house, the edge of the  
14 house, it is a white house -- as you will see in the slide --  
15 was approved by the Commission, and we are using the enclosed  
16 living area from the house at the left, on the left side of  
17 the exhibit, and the string line is drawn to the nearest  
18 corner of the house on the right side of the exhibit.

19 The house on the right side of the exhibit, was  
20 pre-coastal, and therefore we don't have plans showing the  
21 exact location of the enclosed living area; however, staff  
22 went down to the city offices and reviewed the file, and we  
23 believe that the string line that we show is accurate, with  
24 respect to the house on the right. So, the staff's  
25 recommendation is that the house, the three proposed homes

006891

1 that are the potential building sites, because homes are not  
2 proposed at this time, but staff is recommending that the  
3 houses be kept off of the bluff face, to the extent that a  
4 string line drawn from the nearest adjacent corners of the  
5 existing structures. And, you can see the difference in what  
6 the city has approved, with the staff's recommendation.

7 The rationale for the staff's recommendation is  
8 that the Commission has routinely used a string line in areas  
9 where you want to prevent the incremental encroachment of  
10 development, either on beaches, or on canyon areas such as  
11 San Clemente -- the certified Land Use Plan uses the string  
12 line concept.

13 So, we believe that the string line concept is  
14 appropriate here, and it would allow reasonable development  
15 on each of these lots, but keep the development off of the  
16 bluff face, to the maximum extent to protect views from Will  
17 Rogers State Beach.

18 The other issue, in terms of views, is one of the  
19 community. We have received several letters from the  
20 community, including the Councilwoman for the district,  
21 asking that the Commission either create a larger view  
22 corridor from Mt. Holyoke, or not allow the development at  
23 all.

24 The opinion of staff is that the city's special  
25 condition protecting the views from Mt. Holyoke are adequate,

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1 and there is no need for additional set backs for that area.

2 The city has required a 15-foot view corridor  
3 between Lots A and B, and between Lots B and C, to allow  
4 views from Mt. Holyoke. Many members of the community use  
5 Mt. Holyoke for viewing the fire works on the 4th of July,  
6 and general viewing of the coastal area from Mt. Holyoke;  
7 however, this is not a major coastal access route. It is not  
8 a coastal route at all. It is a neighborhood street. Those  
9 views are important to the community, and we feel that the  
10 city's recommendations for the set backs are adequate to  
11 protect that public interest, and it is not, necessarily, a  
12 coastal view.

13 The other issue that has arisen is geologic  
14 stability. Many members of the community have cited  
15 information to say that the lots are unstable and should not,  
16 the subdivision should not be allowed; however, the city has  
17 conducted -- the applicant has prepared geologic information,  
18 the city has reviewed it, and made recommendations for  
19 potential homes, that if caissons are used to construct the  
20 homes, that they would meet the minimum factor of safety, I  
21 believe it was four rows of caissons.

22 The Commission's staff geologist, Dr. Mark  
23 Johnsson, has also reviewed the geologic information, and  
24 feels that three potential homes sites can be built here.

25 The applicant's representative is opposed to the

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1 special condition regarding assumption of risk. We believe  
2 that the assumption of risk condition is appropriate here.  
3 The site, although it can be built upon, following  
4 geotechnical recommendations, staff notes that that is only  
5 with the use of four rows of caissons.

6 And, this is a slope area, and the Commission has  
7 found that development on slopes are inherently risky, and  
8 that all risks cannot be completely eliminated. It is  
9 standard procedure to require the assumption of risk, and we  
10 feel that it is justified here.

11 I think that would conclude the staff's present-  
12 ation, at this time. We will go to the slides, but as I  
13 stated, the applicant is opposed to all of the special  
14 conditions, and we will go over them as the applicant  
15 elaborates his disagreement with those conditions.

16 So, at this time, we will show the slides.

17 The staff analyst, Al Padilla, will now show the  
18 slides.

19 [ Slide Presentation ]

20 COASTAL STAFF ANALYST PADILLA: The first slide,  
21 Slide No. 1, shows the property, with Mt. Holyoke on the  
22 right side here. The property is this area here, which  
23 slopes down 30 to 40 degree, down below to Temescal Canyon  
24 Park.

25 The house, here, is under remodel. That is the

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1 house that Teresa referred to as the house that we are  
2 drawing the string line from. A correction to Teresa's  
3 statement is that the Commission did not approve this house.  
4 The City of L.A. did. Basically, it was a remodel. It was  
5 an existing house, built back in the -- prior to the Coastal  
6 Act, and they just recently remodeled it, and the city issued  
7 an exemption, or a permit for it, but I believe it was an  
8 exemption.

9 This is looking in the opposite direction to the  
10 south, seaward, the beach is in this location. This is the  
11 next adjoining house to the south, where the string line is  
12 being drawn from the adjacent corner.

13 Looking north, across the property, and across  
14 Temescal Canyon, this is a view looking up from Temescal  
15 Canyon Road to the property. The property is in this  
16 location, here.

17 Here is another view from Temescal Canyon. The  
18 house that was showed that was under remodel is right here.  
19 It is now finished. It is a white structure. The property  
20 is this area, here, which extends down to this area.

21 Another view, a little further up the canyon.  
22 This is the property across here. The white house that was  
23 adjacent to the property is behind this house. This house,  
24 here, extends out a little further on a knoll that extends  
25 out, further out, into the canyon.

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1           This view is from Will Rogers State Beach parking  
2 lot, near the entrance, between Temescal Canyon and PCH. The  
3 property is right here, with the white house in that  
4 location.

5           A view further out onto the beach. The property  
6 -- this is the white house, and here is the vacant property  
7 right here, that extends down. You can see the other, rest  
8 of the development, along the ridge here.

9           That concludes the slides.

10          CHAIR REILLY: Does that conclude staff's  
11 comments?

12          DISTRICT MANAGER HENRY: Yes, it does, thank you.

13          CHAIR REILLY: Thank you.

14          We will come to the Commission, and I will as for  
15 ex partes, starting with Commissioner Desser.

16          Anything?

17          Commissioner Potter?

18          COMMISSIONER POTTER: I had a phone conversation  
19 with Norbert Dall regarding this project, Monday morning.  
20 Mr. Dall expressed his concerns about the string line  
21 restriction at this time.

22          COMMISSIONER KRUEER: Mr. Chairman, I had a phone  
23 conversation on Thursday, June 5, with Norbert Dall. And,  
24 also, I got a letter on June 7, in regards to this particular  
25 issue, and what the discussion was, in the letter, was that

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1 the project, basically, the discussion was, as I recall, the  
2 location of this property is in an area that is fully  
3 developed. There is this one-acre parcel that wants to be  
4 divided into three lots, and they are reducing the grading,  
5 was an issue, and they are going to build with caissons,  
6 houses, and they figure they can meet their stability and  
7 geological tests by doing it that way.

8 And, also, they are going to -- I asked, in  
9 effect, architecturally, cover a lot of the caissons, et  
10 cetera, so that when you look at it from below, or whatever,  
11 it will be much more appealing. And, then on top of it, you  
12 won't have the grading issues.

13 And, that was it.

14 CHAIR REILLY: Bill, did you have any?

15 COMMISSIONER BURKE: My ex parte is the same as  
16 Commissioner Potter's.

17 CHAIR REILLY: I spoke to Norbert Dall two days  
18 ago, and essentially the same conversation as Commissioner  
19 Potter had.

20 COMMISSIONER WAN: I think I had one, and it is on  
21 file.

22 COMMISSIONER ISEMAN: None.

23 COMMISSIONER WOOLLEY: Last night, I had a phone  
24 call conversation with Norbert Dall regarding some of the  
25 similar matters that Commissioner Kruer spoke to, and then

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1 discussing the string line approach, as well.

2 CHAIR REILLY: Okay, we will go to the public  
3 hearing.

4 I will call on the representative for the  
5 applicant, Norbert Dall.

6 Mr. Dall, my understanding is that you and Mr.  
7 Bowman will need a combined 10 minutes for your presentation.  
8 You are asking for 5 minutes for a rebuttal. That seems a  
9 little bit long to me. I'll give you 3 on that.

10 And, staff, can you set the clock at 7 minutes, so  
11 we can let Mr. Dall know when 7 minutes has expired on that.  
12 [ Pause in proceedings. ]

13 Do we have a mike up there?

14 MR. DALL: Mr. Chairman -- no.

15 CHAIR REILLY: Go ahead and speak into it, and  
16 let's see.

17 MR. DALL: Mr. Chairman.

18 CHAIR REILLY: Yes, it is working.

19 MR. DALL: Thank you, Mr. Chairman and  
20 Commissioners. Norbert Dall for Darla and Stan Jones, the  
21 partners that are Mt. Holyoke Homes.

22 Commissioners, the project that is before you  
23 today is for the division of a one-acre lot that has been  
24 owned by my clients since 1976, before the Coastal Act was  
25 enacted. The property is zoned R-1 3 to 7 units to the acre,

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1 and the City of Los Angeles, after extensive consideration,  
2 approved a three-way division into three lots for future  
3 processing of single family homes. The lots are larger than  
4 average size, and as you can see in Mr. Adelman's excellent  
5 photograph -- and we commend Mr. Adelman for his public  
6 service.

7 Unfortunately, I do not have a pointer -- thank  
8 you.

9 The white house that Mr. Padilla referenced is  
10 right there. The lot is right there. Contrary to the  
11 impression you may have received, the lot only goes down to,  
12 approximately, this area. It does not go down to Temescal  
13 linear park.

14 Commissioners, the issue before you today is on an  
15 appeal by a neighbor who lives on the inland side of the  
16 street, who wishes to protect her private views. This  
17 property has been approved by the city, and as we have  
18 clarified in communications and correspondence with staff, is  
19 fully consistent with Section 30250(a) the infill policy of  
20 the Coastal Act.

21 It is fully consistent with 30240, insofar as  
22 there is no ESHA on this property; and furthermore --

23 May we please go to the second graphic.

24 This is the long distance view -- similar to Mr.  
25 Padilla's -- of the property from Will Rogers State Beach.

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1 The property is behind this slope. That is the white house.  
2 There are, clearly, distant views that are at issue here. We  
3 would submit to you --

4 Next graphic, please.

5 A similar view from the concession area. The  
6 white house is right there. Our property is right there.

7 Next view, please.

8 Coming up Temascal, the white house, our property,  
9 and part hidden by those trees.

10 Next view, please.

11 This is more or less a view from Temascal, looking  
12 at the site. The site is right here. You will recognize the  
13 top of the slope. These are some of the existing homes, and  
14 they extend for 10 homes to the south, and for upwards of 40  
15 homes to the north.

16 Next view, please.

17 This is your own 2002 aerial photograph of the  
18 area. This goes to the heart of the matter of the string  
19 line. These homes along here are in, roughly, comparably  
20 sized, slightly smaller lots, that extend to this line.

21 These are the three proposed building envelopes,  
22 that the city approved. This is the white house. This is  
23 the neighbor on Radcliff, another neighbor on Radcliff.

24 The geology, or the topography of this area forms  
25 a small bowl. Commissioners --

1                   Next graphic, please.

2                   This is an illustrative site plan, and I apologize  
3 to staff.. The person who prepared this referenced, in a  
4 footnote, that the string line as shown is Commission's  
5 staff. This is an AutoCat file, and it is very correct.

6                   Ms. Henry has pointed out to me that the  
7 Commission's staff Exhibit 4 shows this home, the adjacent  
8 home, as ending right there. The addition is, under the city  
9 approved expansion of that house, that has been built -- and  
10 we have submitted photographs that show that -- this line is  
11 the AutoCat file of Commission's staff's proposed string  
12 line. What it would do, is it would depart, not from the  
13 existing corner, but inboard of the adjacent house to the  
14 south.

15                   You will notice that our three building envelopes  
16 are actually recessed, approximately, five or six feet from  
17 the edge of this home. Staff draws a line to the nearest  
18 corner of this highly anomalous white house, which is on a  
19 very small, 5000-square foot lot. Our lots are 13,000- to  
20 14,500-square feet.

21                   Staff draws the line to here, and in affect would  
22 deny my client -- each one of these is a 3500-square foot  
23 home, when processed and built. This area, here, constitutes  
24 habitable space below a deck. This constitutes a 1000-  
25 square feet of this home.

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1           We would submit to you, Commissioners, that given  
2           the size of the homes in this community, especially as they  
3           are now being built and rebuilt, 3500-square feet is actually  
4           near the bottom of the market range.

5           If we were to make this home smaller, by adopting  
6           or accepting the string line proposed by staff, we would  
7           render this home, effectively, unmarketable.

8           We would ask that the Commission concur with the  
9           city's strong line, with one important alteration, and that  
10          is this is one of the view corridors. This is the second  
11          major view corridor, in which no vegetation is allowed,  
12          greater than 4-feet in height, at the street.

13          We would be prepared to revise this edge of the  
14          building envelope, to move this part of the building over --  
15          this home -- over, so that a greater view corridor, from the  
16          sidewalk at Mr. Holyoke would be affordable towards the  
17          coast.

18          Commissioners, with regards to geology, my  
19          colleague, John Bowman will address that matter, and geo-  
20          technical issues.

21          With regard to the other special conditions, you  
22          have from us a detailed memorandum that speaks to each of  
23          those special conditions, and fundamentally, on careful  
24          reading, those conditions are either duplicative of what is  
25          already in my client's project description, most

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1 significantly, the agreement to paint the exterior color in  
2 an earth tone that matches the restored native vegetation on  
3 the slope below. We commit that that color scheme will be in  
4 place in perpetuity for the life of the home.

5 Similarly, there are conditions where your staff  
6 cites your own regulations, as the basis for the condition.  
7 This has to do with repair and maintenance. If you read that  
8 regulation, closely, what your staff is recommending is not  
9 authorized by your own law.

10 And, finally, there are other conditions that are  
11 duplicative of what the city has already required us to do,  
12 and attached to your staff report is my client's concurrence  
13 and acceptance, in all of the city's conditions, which  
14 therefore become part of the project description.

15 DISTRICT MANAGER HENRY: Time's up.

16 MR. DALL: Thank you.

17 In conclusion, we ask that on the facts and the  
18 law, as set forth in our correspondence, that the string line  
19 be revised as I have stated. And, secondly, that Conditions  
20 2 through 9 be omitted, if possible, precisely because they  
21 are duplicative, or not legally supported.

22 Mr. Colleague, John Bowman.

23 CHAIR REILLY: Thank you.

24 Set the clock at three minutes, please, staff.

25 MR. BOWMAN: Good morning, Mr. Chair, members of

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1 the Commission, my name is John Bowman, with Jeffer, Mangels,  
2 Butler & Marmaro. I represent the applicant and property  
3 owners. I have personally been involved in this case since  
4 the early '90s, and I have been asked to address two issues.

5 The first of which is an issue that was raised at  
6 the proverbial eleventh hour by the appellant's represent-  
7 ative. The appellant is now contending that there is a deed  
8 restriction on the property, which precludes any development  
9 of the site.

10 I would like to respond to that issue, because  
11 that deed restriction is completely unenforceable. The deed  
12 restriction, itself, appears in a 1935 deed to one of the  
13 original owners. That deed restriction, basically, indicates  
14 that if there is a violation of that restriction, that the  
15 property reverts back to the original property owner. It is  
16 called the power of termination under the law.

17 Powers of termination are dealt with in *Civil Code*  
18 *Section 885.010 et seq.* That code section provides that  
19 those powers of termination, or right of reverter, expire  
20 within 30 days of the date of their creation, unless that  
21 power is renewed, by recording an extension within that 30-  
22 year period. That did not occur.

23 Therefore, under the *Civil Code Section* it is now  
24 black and white. This is not just my opinion. It is clear  
25 in the statute that power is terminated, and is unenforce-

1       able. It is a non-issue.

2               And, by the way, this is an issue that was not  
3       raised in the original appeal, was not addressed in the  
4       substantial issue determination, and for that reason, alone,  
5       I believe should be rejected.

6               The second issue I would like to touch on --  
7       although time doesn't really permit me to go into this in  
8       much detail -- but, there is a Special Condition No. 5, which  
9       has been recommended by staff. As you have heard, we are  
10      asking that it not be imposed. That is the condition which  
11      requires, among other things, that the applicant acknowledge  
12      and agree that the site is subject to, among other things,  
13      landslide risks, and earth movement.

14              We have difficulty with that for a number of  
15      reasons, the most important of which is there is no evidence  
16      to support that kind of finding. All of our reports prepared  
17      by our geologists, our soils engineer, indicate just the  
18      opposite.

19              CHAIR REILLY: Your three minutes is up, Mr.  
20      Bowman.

21              MR. BOWMAN: If I could take 30 seconds to try to  
22      complete this point?

23              CHAIR REILLY: That is fine, we will take it out  
24      of rebuttal time, go ahead.

25              MR. BOWMAN: I would just like to point out that

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1 the geologic and soils issues have been subject to very  
2 rigorous review, first by the City of Los Angeles, which took  
3 the extraordinary step of convening a special meeting, of  
4 their engineering geology committee, made up of three  
5 independent geologists who reviewed all of these studies,  
6 which agreed with the building and safety department that the  
7 site can be safely built, and meets the factor of safety 1.5.

8 Furthermore, on appeal, your own Commission  
9 geologist, Dr. Johnsson, reviewed this matter, requested  
10 additional reports, including additional seismic, and now as  
11 you have seen in the staff report, has also concurred that  
12 the site can be safely developed, and we would ask you to  
13 accept the staff's recommendation for approval, and not  
14 impose the special conditions.

15 CHAIR REILLY: Thank you.

16 MR. BOWMAN: Thank you, very much.

17 CHAIR REILLY: Call Rob Glushon, followed by Jack  
18 Allen.

19 Mr. Glushon, how much time will you need?

20 MR. GLUSHON: I need five minutes. I know you  
21 have got a lot of speaker cards here.

22 CHAIR REILLY: Yes, we do.

23 MR. GLUSHON: What I would ask to simplify this  
24 for you is that you call John Murdock after me, who is  
25 counsel to the Pacific Palisades Residents Association.



1 CHAIR REILLY: That is fine, we will go with Mr.  
2 Murdock next, then.

3 MR. GLUSHON: Thank you.  
4 Rob Glushon, Luna and Glushon --

5 CHAIR REILLY: You have five minutes, sir.

6 MR. GLUSHON: Thank you -- appearing for the  
7 appellants.

8 The subject site provides one of the most  
9 magnificent and dramatic views of the ocean and coastline in  
10 Southern California. It is a scenic vista that is enjoyed by  
11 the public, not by one neighbor, as suggested by the  
12 applicant's representative.

13 The slide show that you were shown by staff,  
14 interestingly, does not show the view of the ocean, or the  
15 coastline from the property, that you can see from the side-  
16 walk or the street. You should have a copy of this all  
17 before you, but that is the most important exhibit to look  
18 at, not the other slides, because this is the issue, it is  
19 whether or not there is a significant visual impact from this  
20 development.

21 The deed restriction that counsel was referring to  
22 is not an eleventh hour. We provided information of that to  
23 you in writing before this hearing, in order for you to  
24 understand that the applicant purchased the property with  
25 knowledge that there was a deed restriction in the CC&Rs that

1 said no residence shall be permitted on this property, and  
2 this was the reason.

3 Now, this is a civil matter. We understand, and  
4 we are mindful that the Commission can't enforce that deed  
5 restriction. I do not agree with Mr. Bowman, but that is a  
6 civil matter between the owners of the tract, in the tract,  
7 and the applicant, but it is important that you understand  
8 that the property owner bought this property with that  
9 knowledge.

10 The evidence before you is overwhelming, that  
11 there are significant adverse public view impacts. You have  
12 -- and I apologize for all of the documents we have given you  
13 -- but, you should have received an almost, you know, a foot  
14 thick compilation of letters of opposition from individuals  
15 and community groups, most of whom do not live in this  
16 neighborhood, or on this street.

17 You will hear from the community groups directly,  
18 including the Pacific Palisades Community Council, which  
19 includes not only local residents, but representatives of  
20 business, religious institutions, schools, and the broader  
21 community interests.

22 You also have two letters from local and state  
23 officials. You have a letter from Councilwoman Cindy  
24 Miscikowski, you have a letter from Assemblywoman Fran  
25 Pavley. To my understanding, Assemblywoman Pavley has never

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1 weighed in on an individual project before, but she has done  
2 so in this case, because not of one neighbor, or of two  
3 neighbors, but of the significance of the public views that  
4 would be impacted by this.

5 There was a mitigated negative declaration that is  
6 referenced in your staff report that says there is no  
7 feasible alternatives. No where in the staff report -- and  
8 we do commend staff for attempting to provide some greater  
9 view corridors, it is just the string line doesn't go far  
10 enough.

11 But, there are no alternatives that are even put  
12 out on the table for you, and there are some alternatives.  
13 You could deny the project, and still leave the property  
14 owner with the ability for getting about the deed restriction  
15 to develop that parcel. You could approve two lots, and  
16 provide a view corridor of 25 feet on each side, in between  
17 and on each side of the lots, and still leave more than  
18 enough room for building frontage.

19 And, even if three lots were to be approved, as  
20 requested, you still could approve it by imposing a meaning-  
21 ful view corridor of 15 feet between the lots.

22 There is an item on your agenda today that has  
23 been postponed on Resolano, where the local government  
24 agency, the zoning administrator approved the project subject  
25 to a 42-foot view corridor. That is on one lot, and that lot

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1 doesn't have anywhere near the views as this lot.

2 And, this Commission has either imposed, or upheld  
3 that type of view corridor before on other properties, not as  
4 sensitive as this. The courts have upheld these view  
5 corridors as a valid exercise of your discretion, in  
6 accordance with Section 30251.

7 So, I have more to say, but I think there are  
8 others that want to weigh in on this. I ask that you  
9 seriously look at alternatives to insure that the public  
10 views, from the sidewalk, from the street, that are enjoyed  
11 by people, people that are shown in the pictures that you  
12 have there, that are attested to in the volume of letters  
13 that you have received, that those views which are important  
14 are protected and preserved.

15 Thank you.

16 CHAIR REILLY: Thank you, Mr. Glushon.

17 John Murdock, followed by Jack Allen.

18 MR. MURDOCK: Thank you, Commissioners.

19 CHAIR REILLY: Mr. Murdock, how much time will you  
20 need for your comments?

21 MR. MURDOCK: Three minutes.

22 CHAIR REILLY: Fine.

23 MR. MURDOCK: I am here to represent the Pacific  
24 Palisades Residents Association, which is a community-wide  
25 organization. It is not a tract association. It is

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1 completely a voluntary organization throughout the Palisades.

2 This is more than just a private neighbor view  
3 issue. You have pictures, obviously, in your packet that  
4 show the view from up top. I was kind of astounded to see  
5 the slide show from staff, did not present one picture from  
6 the sidewalk looking towards the ocean and the sunset. It is  
7 one of the most stunning views in all of the Palisades.

8 So, my client is concerned about the public view  
9 shed from the top. People do go up there. They enjoy that  
10 view. And, I reiterate the comments made by Mr. Glushon that  
11 I don't find anything in the staff report that seriously  
12 discusses alternatives. Where are the alternatives?

13 First of all, let's be clear. This lot was deeded  
14 in 1935 with the restriction that said this parcel shall not  
15 have a residence, period.

16 Mr. Bowman says, well, you know, we have a law,  
17 *Civil Code Section 885*, but he doesn't point out that the  
18 power of reversion is terminated. I agree with that  
19 completely. If they build something, the lot does not revert  
20 to the grantor; however, if you look carefully at *Section*  
21 *885.060 Subdivision C*, it says even though a power of  
22 reversion is terminated, this does not take away the right to  
23 enforce by injunction an equitable servitude. This is an  
24 equitable servitude. I mean, you can get into the quagmire  
25 of what servitudes are, but this is, clearly, a part of the

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1 CC&Rs of Tract 9300. We don't want to get into that  
2 litigation, believe me, but you have to realize that you are  
3 not going to fall into a takings trap here, by denying,  
4 reducing, eliminating this project.

5 This applicant bought the property for \$78,000 --  
6 according to the records I have been present with -- on pure  
7 speculation, that somehow, some way they could overcome that  
8 deed restriction. Well, low and behold, the legislature gave  
9 them that gift in 1982, about reversion, but it didn't take  
10 away the right to enforce by injunction. And, believe me, I  
11 think there are people who will sue to enjoin this project.

12 So, first of all, be assured you are not going to  
13 be the loser in a takings case, if you severely reduce this  
14 project.

15 Okay, the applicant bought it for \$78,000. I am  
16 sure the city could condemn it, or somebody could buy it for  
17 \$78,000 or \$80,000 and make it into a park, but let's get  
18 beyond that.

19 The issue is there is no alternative here. Why  
20 not one house? why three houses? This is a subdivision.  
21 There is nothing that you can look at in your report that  
22 says why don't we have one house. There is nothing analyzing  
23 the economic value of that, or any detriment at all to the  
24 applicant.

25 CHAIR REILLY: That is three minutes, Mr. Murdock.

1 MR. MURDOCK: All right, thank you, very much.

2 CHAIR REILLY: Thank you.

3 Jack Allen, followed by Mark Stafford.

4 MR. ALLEN: Yes.

5 CHAIR REILLY: Welcome, Mr. Allen, can you do it  
6 in two minutes?

7 MR. ALLEN: Less than that.

8 CHAIR REILLY: All right, thank you.

9 MR. ALLEN: Jack Allen, I am appearing on behalf  
10 of the Pacific Palisades Community Council, and also as  
11 president of the Palisades Preservation Association.

12 We are opposed to this because, not only the view,  
13 but we don't think the geology reports are supported. We  
14 think there is ample evidence in the record that would  
15 sustain the Commission denying this project on the basis that  
16 it is not geologically stable. It will destabilize the area.

17 CHAIR REILLY: Thank you, Sir.

18 I am going to ask the rest of the speakers to try  
19 to limit their comments to two minutes.

20 Mark Stafford, followed by Douglas Truwhitt.

21 MR. STAFFORD: Thank you, Commissioners.

22 I just wanted to briefly --

23 COASTAL STAFF ANALYST PADILLA: How much --

24 MR. STAFFORD: Two minutes.

25 CHAIR REILLY: Your name for the record, yes.

006913

1 MR. STAFFORD: Mark Stafford.

2 CHAIR REILLY: Thanks, Mr. Stafford.

3 MR. STAFFORD: I want to refer back to the larger  
4 photograph, in the blue, and when you look at that photograph  
5 that photograph was taken on a diagonal of about 45 degrees  
6 off of the perpendicular axis from that lot. That means if  
7 you look at the second page of that same little packet, if  
8 you are standing and looking at the view, a view corridor of  
9 15 feet will give absolutely no view of the ocean from any  
10 place once that project is built, because due to the diagonal  
11 view it cuts off the view. All we will be able to see from  
12 the upper part of Mt. Holyoke is the crest of the mountains  
13 on the opposite side, no ocean, no sand, at all.

14 Also, the applicants are calling this an infill of  
15 an existing subdivision, but it is obvious from the fact that  
16 there is a deed restriction placed by the subdivision,  
17 itself, in 1935, that they intended this to be a view lot for  
18 the subdivision, and for the community.

19 The fact that someone was able to buy it for about  
20 \$.06 on the dollar, does not mean that now it is an infill of  
21 an existing subdivision, and it is something that should be  
22 taken from the community.

23 And, also in that deed restriction, there is  
24 nothing about engineering. Engineering was not a concern of  
25 the original deed restriction. At that time, engineering --

006914



1 if somebody wanted to put a home on that lot, they could. In  
2 1929, they had built the Empire State Building, 1935, the  
3 Golden Gate Bridge was built, essentially, if you stick  
4 enough money into this slope it could be built, but that is  
5 not what the deed restriction says.

6 Thank you, very much.

7 CHAIR REILLY: Thank you.

8 Douglas Truwhitt, followed by Mark Schelbert.

9 How badly did I mangle your name, sir?

10 MR. TRUWHITT: Not too bad, sir. It is Douglas  
11 Truwhitt.

12 CHAIR REILLY: Okay, thank you.

13 MR. TRUWHITT: But, I wanted to thank you for  
14 hearing us. I was actually born in West Los Angeles, in  
15 Santa Monica. I have been enjoying that view for about 36  
16 years out of my 47 years. I rode my bike to that view,  
17 probably, two to three times a week during my adolescence. I  
18 have gone there through my teenage years with friends. I go  
19 there in my adult years.

20 Probably 400 people a day come by to see that  
21 view, and which to say, roughly, 40,000 people a year, 5  
22 million during the years that I've enjoyed it.

23 It happens to be, probably, the most used picture  
24 for a web site of the Palisades, representing the community,  
25 and what the essence of the Palisades is. Our Community

006915

1 paper, the *Palisades Post*, uses a picture from that site to  
2 represent our community to the rest of the world. I mean, it  
3 is truly a coastal vista.

4 When they say it is not a public view corridor, I  
5 don't buy that. It might not be a significant driving  
6 corridor, it is a significant pedestrian corridor. If you  
7 stood and watched that street, people come by to look at the  
8 day time view, the night time view, they probably do it 20  
9 hours out of a 24-hour day.

10 Anyway, it is truly a resource, something that I  
11 hope you maintain.

12 Thank you.

13 CHAIR REILLY: Thank you.

14 Mark Schelbert, followed by Robert Cavage.

15 MR. SCHELBERT: Thank you, Commissioners. I'll  
16 just take two minutes.

17 I just would like to let you guys know, again --

18 CHAIR REILLY: Your name for the record, sir.

19 MR. SCHELBERT: Mark Schelbert.

20 CHAIR REILLY: Thank you.

21 MR. SCHELBERT: This is a scenic vista. This is a  
22 destination site that people go to, as is evidenced by the  
23 thousands of letters that we've stacked for you, as is  
24 evidenced by the opposition of the PPRA in the Pacific  
25 Palisades, as is evidenced by Cindy Miscikowski, as is

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1 evidenced by Fran Pavley, and as evidenced by all of the  
2 photographs which we've shown you which clearly show people  
3 gathering there at the 4th of July, year 'round, in the  
4 evening, and at all times.

5 I would also like to point out that in the staff  
6 report we applaud the string line. We also make note that  
7 the view corridor is inefficient in its angle, and does not  
8 provide a view of the ocean.

9 Also, other details in the staff report, I think,  
10 should be reviewed. There are no basketball courts, or  
11 tennis courts in the canyon. The land, as described in the  
12 staff report says there is flat area of 5 to 25 feet -- it is  
13 only 5 feet, and I think that should be considered.

14 Again, please take into consideration the  
15 opposition by our appellant.

16 Thank you.

17 CHAIR REILLY: Robert Cavage, followed by Mark  
18 Massara.

19 MR. CAVAGE: It is Bob Cavage, for the record.

20 CHAIR REILLY: Okay.

21 MR. CAVAGE: I represent the Pacific Palisades  
22 Residents Association, and we are a community-wide  
23 organization representing all four corners of the Palisades,  
24 and I think it is appropriate that we are having this meeting  
25 here at the Queen Mary, because in our belief that view is

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1 the flagship view of Pacific Palisades.

2 And, I would like to assert that that view is  
3 almost 180 degrees, from the ocean to the mountains, and if  
4 you put any building in there, you just wipe it out, destroy  
5 it. So, we are, as a community, has a very, very, very  
6 valuable asset.

7 In terms of the geology, this has been an ongoing  
8 affair. I will address myself, mainly, to the city here,  
9 which has been the bulk of the process. Basically, the  
10 judgmental bodies in the city feel it is their prerogative to  
11 accept any of the different technical views given to them,  
12 and frequently they can select a geologist's report that is  
13 one, standing by itself, or two, opposing, three, 10 to 100,  
14 they pick the one they like.

15 And, we've never seen a point-by-point reputation  
16 of the objections of the geologist that came out of our  
17 pocket money in the community to try to refute what has been  
18 submitted by the applicant. We've never seen a point-by-  
19 point refutation. And, we think the safety of that site is  
20 worthy of a lot more than that.

21 And, finally, I would like to say the best  
22 resolution for this would be public ownership of that  
23 property, and if you could deny it, you know, this project,  
24 and give us a chance, time to negotiate with that person, we  
25 think that is the best solution.

1 Thank you.

2 CHAIR REILLY: Thank you.

3 Mark Massara.

4 MR. MASSARA: Mr. Chair, Commissioners, I am Mark  
5 Massara, and I represent Sierra Club's Coastal Program.

6 The Club has a long history on this parcel, and as  
7 testament to that I have received calls from as far away as  
8 Monterey regarding this one acre.

9 There are a couple of important Coastal Act issues  
10 that we would like to highlight for you, and first off is the  
11 public view shed that will be eliminated by this project, and  
12 that provides views of the beach and the sea. This view  
13 shed, and these views, are explicitly and legally protected  
14 by the Act, and regardless of whether this deed restriction  
15 is enforceable or not, I want to highlight for you, the most  
16 important photographs for the Sierra Club are the photographs  
17 of the 4th of July, and all of the members of the public that  
18 gather at this site to look at the ocean, and the beach, and  
19 the fireworks, and the goings on along the coast.

20 While this Commission has had deliberations in the  
21 past on the nature of the view shed protections under the  
22 Coastal Act those discussions have occurred, with respect to  
23 protecting views, looking back at hillsides and coastal  
24 vistas from the ocean. There has never been any discussion  
25 as to the value of public views of the ocean from the

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1 hillsides, and that is precisely what we are talking about in  
2 this case.

3 The issue is black and white, and those views are  
4 protected. Those public views are protected under the  
5 Coastal Act, and they will be eliminated by this project, and  
6 that is why the project must be denied as currently proposed.

7 Second, are these geological issues, and I just  
8 want to emphasize, again, the photographs. The parcel is  
9 like this. It doesn't pass the common sense, straight face  
10 test. Obviously, private property owners have a legal right  
11 to use their property. On the other hand, no individual has  
12 a right to create a nuisance for the community and the  
13 public, and in allowing people to build on hillsides like  
14 this is the very definition of a nuisance.

15 You know, if you can build on this hillside, why  
16 then what hillsides left in the coast are not buildable?  
17 And, under those considerations, we ask that the project be  
18 denied.

19 Thank you.

20 CHAIR REILLY: Thank you, Mr. Massara.

21 That concludes the public testimony.

22 I will call on the appellant back for rebuttal.  
23 Mr. Dall, two minutes.

24 MR. BOWMAN: Thank you, Mr. Chair, and members. I  
25 will speak for 30 seconds, and then I will turn it over to

006920

1 Mr. Dall, with your permission.

2 I would just like to respond to two points. One,  
3 Mr. Murdock misspoke when he was referring to the Civil Code  
4 Section that I was discussing. It does not, as he stated,  
5 provide that even though it is unenforceable, it still is  
6 enforceable by injunction. That is not what it says. It  
7 says it is enforceable if it is inequitable servitude. I do  
8 not have time to explain why this is not inequitable  
9 servitude, but I would like to state for the record that it  
10 is not remotely inequitable servitude in this situation.

11 COURT REPORTER: May I have your name for the  
12 record, please.

13 MR. BOWMAN: Oh, I am sorry, John Bowman.

14 COURT REPORTER: Thank you.

15 MR. BOWMAN: Thank you.

16 Secondly, very briefly, you heard some arguments  
17 under CEQA that there needs to be a more thorough review of  
18 alternatives. I would just like to point out that the City  
19 of Los Angeles, as the lead agency under CEQA, did approve a  
20 mitigative negative declaration in 1999. That decision was  
21 not challenged by any party. It is now, by law, presumed  
22 adequate. This Commission, as a responsible agency, it is  
23 obligated by law to accept that determination, because it was  
24 not challenged previously. So, there is no CEQA issue in  
25 this case.

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1                   So, with that I would like to turn it over to Mr.  
2                   Dall.

3                   Thank you, very much.

4                   MR. DALL: Mr. Chairman, Commissioners, may I ask  
5                   you to refer to the photograph once more. This is Mr.  
6                   Adelman's.

7                   Norbert Dall, for the applicant.

8                   On the right side of that photograph is Via de la  
9                   Olas Park, which extends for one-half mile to the south. The  
10                  city acquired that as the major public view area.

11                  It goes from here to half a mile to the south. It  
12                  affords spectacular public views from Palos Verdes to Point  
13                  Dume. The point here is Mt. Holyoke, this street that is  
14                  suppose to offer the unique views, was closed by the city,  
15                  and the vehicular access to the park that does offer these  
16                  spectacular views is on the next three streets "en echelon"  
17                  inland, out to the coast.

18                  Number 2, since the Northridge earthquake, as Dr.  
19                  Johnsson knows, every local government that deals with geo-  
20                  technical issues in a serious manner, requires that prior to  
21                  issuance of building permits, that the geotechnical informa-  
22                  tion, once more be reviewed to make sure --

23                  DISTRICT MANAGER HENRY: Time is up.

24                  MR. DALL: If I may conclude.

25                  -- that the geotechnical information that is in

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1 the record remains current. That is standard practice. It  
2 is the practice in the City of L.A.

3 CHAIR REILLY: Thank you.

4 MR. DALL: Finally, the Commission has not  
5 determined, and specifically determined that this is not --  
6 my client's site, is not a coastal bluff.

7 Thank you.

8 CHAIR REILLY: Thank you.

9 Go back to staff.

10 DISTRICT MANAGER HENRY: Thank you, Chairman  
11 Reilly.

12 At this time, staff counsel, Amy Roach, will  
13 address the deed restriction issue, and Dr. Mark Johnsson  
14 will address the geologic stability, and then I will address  
15 the visual issues.

16 CHAIR REILLY: All right.

17 STAFF COUNSEL ROACH: Chairman Reilly, there is a  
18 debate between the applicant and the opponents over the  
19 effectiveness of this 1935 deed restriction that limits  
20 development on the property.

21 Under the Coastal Act, to obtain a Coastal  
22 Development Permit, the applicant has to demonstrate that he  
23 is either the fee owner of the property, or if not has some  
24 other legal interest in the property. Here, that is met,  
25 because this applicant is the fee owner of the property.

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1           The next question is whether the proposed  
2 development is consistent with Chapter 3. This dispute over  
3 the effectiveness of the 1935 deed restriction is not an  
4 issue that can be resolved by the Coastal Commission. The  
5 landowner has made reasonable argument that the deed  
6 restriction doesn't prohibit development, whether that  
7 argument is the right one, is really an argument that should  
8 be decided by the courts, not by the Coastal Commission.

9           Here, the issue before you really is, is the  
10 proposed development consistent with Chapter 3, or not? If  
11 the Commission approves a Coastal Development Permit, that  
12 doesn't effect the debate between the landowner and the  
13 opponents. It doesn't decide the issue of whether that deed  
14 restriction is effective or not? or enforceable by whom? that  
15 is still a live issue that can be addressed and resolved by  
16 the courts.

17           SENIOR GEOLOGIST JOHNSON: Thank you, Mr. Chair,  
18 Commissioners.

19           Just very briefly, this site has been the subject  
20 of discussion, argument, over the geologic stability for at  
21 least a decade, literally dozens of geologic reports by the  
22 opponents to the project, and the owners, back and forth.

23           After a long history, the city found that a design  
24 was possible that would achieve the standard of practice  
25 factor of safety of 1.5. It is, essentially, correct to say

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1 that this is an engineering solution. It takes an extra-  
2 ordinary number of very deep caissons in order to make this  
3 site developable.

4 However, given that, an extraordinary foundation  
5 system be designed, it is developable, the city found that.  
6 The city did not require analysis for seismic stability, and  
7 so in my analysis I asked the applicant to go back and  
8 analyze it for seismic stability. They did. They  
9 demonstrated the standard of practice factor of safety for  
10 seismic stability. Staff engineer, Leslie Ewing, reviewed  
11 the structural calculations, and it is staff's opinion that  
12 the site can be subdivided, three houses that would meet  
13 Chapter 3 policies.

14 Oh, yes, given that, however, there have been, as  
15 any development on a steep slope such as this, there is  
16 always uncertainty, given uncertainties in these types of  
17 analyses, in general, and so we feel that the assumption of  
18 risk is an appropriate response to this.

19 DISTRICT MANAGER HENRY: And, now I will comment  
20 on the visual impacts.

21 As you heard from the testimony from the residents  
22 of the area, the Pacific Palisades Residents Association, and  
23 many of the community members, this is a significant view for  
24 the community. Staff believes that that is a community  
25 issue, and because that this is not a public coastal access

1 route, it does not lead to the coast, nor would the general  
2 public travel or walk along this road, staff did not consider  
3 protection of views from Mt. Holyoke Avenue.

4 Although, we agree that this land does provide for  
5 significant views of the ocean, but we believe that those are  
6 community issues, not private, but community issues.

7 When we were looking at this project, staff did  
8 seriously consider alternatives to this three-lot sub-  
9 division. We considered whether or not allowing just a  
10 single house to be built on the unsubdivided land would  
11 protect scenic views to and along the coast. And, the views  
12 that staff was looking at were the ones from Will Rogers  
13 State Beach, looking up towards this area.

14 We concluded that allowing one home on the site  
15 would not significantly change the views from Will Rogers,  
16 given the fact that the area -- if you would recall the  
17 slides -- from Will Rogers, the area is, in general, built  
18 out. This would be infill, so we didn't feel there was a  
19 significant difference in one house, versus three homes.  
20 And, we also note that the proposal, originally, was for four  
21 lots, and the city denied four lots, and it is now three lots  
22 that are being approved.

23 However, in considering the visual impact of the  
24 development from Will Rogers, we do feel that there is a need  
25 to keep the development, as close as possible, to the top of

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1 the bluff, and not allow it to cascade down the slope. If  
2 you see the homes that were shown in the various slides, they  
3 are at the top of the bluff.

4 On this particular lot, however, the flat area at  
5 the top of the bluff, adjacent to the street, is only 5 to 7  
6 feet wide, and so therefore some cascading of the homes would  
7 have to be allowed in the future. Again, this is for  
8 subdivision only. The homes would come back to the  
9 Commission.

10 So, given the fact that in order to develop, if we  
11 kept it to one home, and kept it at the bluff top, it would  
12 really be infeasible to have a five-foot wide home to go the  
13 length of the lot, so staff considered that the three lots,  
14 the three homes should be allowed.

15 And, again, however, staff is looking at a string  
16 line drawn from the nearest corners, as shown in Figure 4 of  
17 the staff's recommendation -- not the applicant's -- and  
18 under the staff's recommendation, that string line would  
19 allow more development on the site closest to the white house  
20 that was shown, if you consider the staff's string line.

21 So, that is the issue with regards to the visual  
22 impacts.

23 Now, with regards to all of the special  
24 conditions, the applicant never really elaborated. Staff  
25 just would have you to note that if you look at the

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1 applicant's proposal, in terms of one of the conditions that  
2 he raised was the one for colorization. He is arguing that,  
3 as proposed, Special Condition 4, he is arguing that in his  
4 applicant's modified project description in the letter that  
5 was submitted June 7, that they -- well, he modified the  
6 special condition that he has removed the portion of the  
7 special condition that would require this color to be  
8 maintained throughout the life of the structure. His project  
9 description says when the house is completed it will be in  
10 earth tones, period.

11 He also says that they would submit photographic  
12 evidence within 30 days following the completion of the  
13 structure. That doesn't allow the Executive Director the  
14 typical review that we have, which is a written agreement  
15 that not only will, when the house is completed, it will be  
16 in those earth tone colors, but that those colors would be  
17 maintained throughout the life of the structure.

18 And, more importantly, the way that the special  
19 conditions are recommended by staff, the last special  
20 condition is one that requires a deed restriction requiring  
21 that all of these conditions be recorded. Remember that this  
22 is a subdivision, only. The homes will be built sometime in  
23 the future.

24 As staff recommends, is the deed restriction that  
25 would require all of these special conditions to be recorded,

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1 the assumption of risk, the future colors, the fact that the  
2 homes need a coastal permit, the side yard requirements to  
3 protect the views that the city thought were appropriate for  
4 Mt. Holyoke, would all be memorialized in the deed  
5 restriction, and that is the Commission's typical way of  
6 handling these types of sites.

7 And, staff would recommend that the Commission  
8 approve the proposed project subject to the nine special  
9 conditions in the staff report.

10 That concludes staff's comments.

11 CHAIR REILLY: Thank you.

12 Go to Commission discussion.

13 Commissioner Wan.

14 COMMISSIONER WAN: I have a lot of questions on  
15 this one, but to begin with -- and I don't know where we are  
16 going to go, but if this is approved, there does need to be a  
17 condition prohibiting the use of invasives.

18 Now, I realize that Temescal Canyon Park has  
19 invasives in it, because I am familiar with this area, but  
20 shall we say, as the crow flies it is not far to the Santa  
21 Monica Mountains, and that is precisely how seeds are  
22 dispersed. So, there needs to be a prohibition on the use of  
23 invasives, and that is not a condition, presently.

24 Getting onto the other issues, that deal more  
25 specifically with whether or not this should be approved, I'm

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1 still a little confused about the deed restriction issue that  
2 needs to be sort of answered for me. Are you saying to me  
3 that if an applicant comes in and he owns the property, and  
4 that property has a deed restriction -- and I am talking in a  
5 more generic sense -- that this Commission does not have to  
6 consider whether or not that deed restriction prohibits  
7 development on the property?

8 STAFF COUNSEL ROACH: Well, it depends on the  
9 terms of the deed restriction, and here it is not entirely  
10 clear whether the deed restriction still limits development  
11 or not. The applicant has made a reasonable argument that  
12 the deed restriction doesn't limit development.

13 So, at that point, it seems to me that the  
14 Commission's enquiry stops, and there is enough to go forward  
15 for the Commission.

16 COMMISSIONER WAN: Okay, so because it is not  
17 clear, you are saying that we can't resolve that issue?  
18 because under ordinary circumstances, we certainly do look at  
19 deed restrictions and consider them, and I wanted to under-  
20 stand the distinction in this case.

21 The existence of a deed restriction, and the  
22 possibility therefore that this needs to -- why is this not  
23 being resolved -- I guess this has to be resolved by a law-  
24 suit? is that it? so it doesn't have to be resolved prior to  
25 our decision?

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1                   STAFF COUNSEL ROACH: I think that is right, and  
2                   our decision doesn't affect those issues, or that lawsuit.

3                   COMMISSIONER WAN: So, it will not have any  
4                   influence on that, the outcome of that decision, you don't  
5                   believe?

6                   STAFF COUNSEL ROACH: I don't believe that it  
7                   would.

8                   COMMISSIONER WAN: Okay, then it gets me to the  
9                   question of this is a subdivision, and regardless of whether  
10                  you believe there should be development on this property, or  
11                  not, the question then becomes -- let's assume we have to  
12                  approve something, or there has to be some development that  
13                  takes place, the question does really get to why allow a  
14                  subdivision on this property?

15                  Subdivision is not an automatic entitlement, so it  
16                  is not something that an applicant is entitled to, unless he  
17                  can show that it doesn't violate various policies, and  
18                  consistency with Coastal Act policies. So, let me have some  
19                  questions about some of the public -- the Coastal Act  
20                  policies that concern me.

21                  First one is public views, and there is a huge  
22                  distinction if you are going to allow one house, or  
23                  difference, and we don't have an alternatives analysis in the  
24                  staff report. We did hear that the staff did consider  
25                  alternatives, but I certainly haven't seen that analysis, and

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1 there is a huge difference in the impact of public views, if  
2 you have one lot versus three lots, because with one lot you  
3 could take one of those houses, and just move it to one side,  
4 and still be left with two-thirds of the property, which does  
5 protect views. So, the question becomes are we dealing with  
6 public views, or not?

7 I am a little concerned that we are sort of hair-  
8 splitting here as to what constitutes a public view. When we  
9 talk in terms of, well, it is not a private view, it is  
10 community view, which isn't a public view. At what point  
11 does a community view become a public view? We are not  
12 talking about, as we can see from the enormous stack of  
13 letters that we got, we are not talking about a couple of  
14 people who feel this way. We are talking about an entire  
15 community, and I am not sure how far that community reaches.  
16 It may not be just Pacific Palisades area. It may reach out  
17 into other communities.

18 At some point, that clearly becomes public, and I  
19 am not sure that we are not splitting hairs. So, from my  
20 perspective, this is, in fact, a public view lot. So, sub-  
21 division does impact the ability to find consistency with the  
22 protection of public views.

23 The other two issues that I am concerned about,  
24 relative to subdivision deal with the questions of geology  
25 and the slope. I agree that you can always find an engineer-

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1 ing solution to any geologic problem, and our geologist has  
2 said that this is an, quote, extraordinary solution.

3 Well, in that case, then any of the geologic  
4 constraints that we have in conditions relative to concerns  
5 for consistency with hazard policies of the Coastal Act  
6 become moot, if you can always build on everything.

7 So, I am concerned that we are setting a precedent  
8 here by saying, well, you can build here, so, therefore you  
9 can subdivide it. I realize that we can -- if the deed  
10 restriction isn't appropriate, that we cannot say that you  
11 cannot build anything, but again, a big difference between  
12 three houses, and one house.

13 And, I don't find that it is consistent to say  
14 that you can subdivide this, if that is consistent with the  
15 geological hazard policies of the Coastal Act.

16 In addition, I note that this property is  
17 extremely steep -- and that is just part of the geology --  
18 and in every place that I am aware of we have -- most  
19 districts, most jurisdictions, have prohibitions on develop-  
20 ment in slopes greater than 25 or 30 percent, for example,  
21 and this is greater than 30 percent.

22 And, again, you can build on it, because you can  
23 use extraordinary methods, but to do that, and again say not  
24 only can you build one house, but you can go ahead and sub-  
25 divide and build three houses, in an area that normally would

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1 be prohibited just from the steepness of the slope, I find  
2 that that is inappropriate.

3 And, so I am not sure where I am going to come,  
4 relative to any development, but I certainly don't believe  
5 that it is consistent with either the public view policies,  
6 or the hazards policies, or the slope policies of the Coastal  
7 Act, slope protection policies of the Coastal Act, to allow a  
8 subdivision.

9 CHAIR REILLY: Commissioner Hart.

10 [ MOTION ]

11 COMMISSIONER HART: I move that the Commission  
12 approve Coastal Development Permit No. A-5-PPL-99-225  
13 pursuant to the staff recommendation, and recommend a "No"  
14 vote.

15 CHAIR REILLY: Is there a "second"?

16 COMMISSIONER WAN: Second.

17 CHAIR REILLY: Do you wish to speak to the motion?

18 COMMISSIONER HART: Actually, I think Commissioner  
19 Wan covered the issues very well.

20 CHAIR REILLY: Is there any other Commission  
21 discussion?

22 [ No Response ]

23 Will the secretary call the roll. The maker of  
24 the motion is asking for a "No" vote on the project.

25 SECRETARY GOEHLER: Commissioner Burke?

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1 COMMISSIONER BURKE: No.

2 SECRETARY GOEHLER: Commissioner Desser?

3 COMMISSIONER WAN: She is not here.

4 COMMISSIONER HART: Me, or? did you say me? I am  
5 sorry, no, I can't hear you.

6 SECRETARY GOEHLER: Commissioner Iseman?

7 COMMISSIONER ISEMAN: No.

8 SECRETARY GOEHLER: Commissioner Kruer?

9 COMMISSIONER KRUEER: No.

10 SECRETARY GOEHLER: Commissioner McClain-Hill?

11 [ Absent ]

12 SECRETARY GOEHLER: Commissioner Peters?

13 [ Absent ]

14 SECRETARY GOEHLER: Commissioner Potter?

15 [ Absent ]

16 SECRETARY GOEHLER: Commissioner Wan?

17 COMMISSIONER WAN: No.

18 SECRETARY GOEHLER: Commissioner Woolley?

19 COMMISSIONER WOOLLEY: No.

20 SECRETARY GOEHLER: Chairman Reilly?

21 CHAIR REILLY: No.

22 SECRETARY GOEHLER: Zero, eight.

23 CHAIR REILLY: All right, the application has been  
24 denied.

25 [ Whereupon the hearing concluded at 10:15 a.m. ]

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who is the signatory below.

STATE OF CALIFORNIA )  
 )  
COUNTY OF MADERA ) ss.  
 )

Dated: June 20, 2003

PRISCILLA PIKE

