

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 3-83-76-A11

APPLICANT: UNIVERSITY OF CALIFORNIA SANTA CRUZ (UCSC) and
CALIFORNIA DEPARTMENT OF FISH AND GAME (CDFG)
AGENT: Steve Davenport, Long Marine Lab

PROJECT LOCATION: 100 Shaffer Road, Santa Cruz City, Santa Cruz County, APN 59-101-07

DESCRIPTION OF PROJECT 3-83-76 PREVIOUSLY APPROVED: Long Marine Laboratory (LML) aquariums; marine biology research facility and museum.

DESCRIPTION OF AMENDMENT 3-83-76-A5 PREVIOUSLY APPROVED: Facility for the rescue and rehabilitation of oiled wildlife and for ongoing marine research and education: ±15,800 sq. ft. animal cleaning building; 43,500 sq. ft. outdoor holding pools, raceways, veterinarian vans, parking, et al.

DESCRIPTION OF PROPOSED AMENDMENT: Extension of private water main from City of Santa Cruz to California Department of Fish & Game Oiled Wildlife Veterinary Care and Research Center across Terrace Point Properties

APPROVALS RECEIVED: City of Santa Cruz and UCSC. Agreement for Water Service to Long Marine Lab/Veterinary Care and Research Center, January 27, 1997;
City of Santa Cruz Water Department, December 18, 1996.

CEQA: Long Marine Lab Master Plan EIR, UCSC, Nov. 19, 1993 Addendum to Negative Declaration for Oiled Wildlife Research Rehabilitation Center, Santa Cruz, January 23, 1997

SUMMARY OF STAFF RECOMMENDATION: Staff recommends approval, with conditions, based on the following considerations and circumstances.

The Commission approved the California Department of Fish and Game's (DFG) Oiled Wildlife Veterinarian Care and Research Center (OWVCRC), located on the University of California's (UCSC) 10-acre Long Marine Lab/Younger Lagoon Reserve (LML) property, on January 12, 1994. The LML property is situated on the coastal terrace on the perimeter of Santa Cruz City contiguous to the

agricultural fields of north Santa Cruz County. Intervening between the University property and the developed area of Santa Cruz City are 60 acres of fallow agricultural fields known as Terrace Point which separate LML from City services and have historically delineated the urban/rural boundary. When the Local Coastal Program was certified in 1981, this key undeveloped oceanfront site was not certified, but was designated as part of the Westside Area of Deferred Certification because the City declined to accept Commission modifications limiting development. Though within the City limits, no public services, i.e., water, sewer, roads, reach the site and no extension of public services was proposed or permitted under any Commission's permit.

After commencement of construction of the OWVCR, the State Fire Marshall rescinded his approval of the use of seawater for fire protection and will not allow the DFG to occupy their facility until adequate fireflow is provided. Neither the existing Long Marine Lab nor the Oiled Wildlife Facility currently meets California Fire Code standards for fire flow according to the State Fire Marshall.

The applicant proposes to extend a private water main across Terrace Point to connect to a City of Santa Cruz water main at the intersection of Shaffer Road and Delaware Avenue to serve the OWVCR and all existing LML facilities. As originally proposed the water line would be ten inches in diameter for the first 2,000 feet reducing to eight inches in diameter for the last 850 feet which was determined by the flow rate required by the Uniform Fire Code for the existing Research Support Building at LML, near the end of the water line. However, further review by the DFG indicates a 10 inch line may be required for the full distance. In either case this capacity line is large enough to serve all future uses on the UCSC property as well as all future development density scenarios proposed by the Terrace Point property owners. However, the same size line would be needed to meet existing fireflow requirements even if no other developments were approved.

The extension of a water line across the Westside/Terrace Point Area of Deferred Certification and the excess capacity of the water line raise Coastal Act issues regarding location of development and adequacy of public services (CA 30250); maintaining a stable urban/rural boundary (CA 30241) and permitting development that would prejudice preparation of the Local Coastal Program (CA 30604).

The Terrace Point site has been the center of ongoing development planning and ongoing public controversy for several years. Throughout this period no public services have been extended. The current proposal to extend municipal water has resulted in substantial controversy because of concerns that it would encourage intensive development on Terrace Point and Long Marine Lab. Terrace Point development proposals have been opposed based on intensity of development and the loss of agricultural potential. Though the amendment has the potential to lessen the intended effect of the permit, the Executive Director has accepted the amendment for processing because the applicant has presented newly discovered information that was not available before the permit was granted.

The University examined the feasibility of improving the seawater system which would preclude the need to extend public services and eliminate the associated issue of the potential growth-inducing impacts. Though feasible, it would require higher maintenance, is not as dependable as the municipal water supply, and would cost \$455,473 as compared to \$251,025 for extension of freshwater.

The University also examined the feasibility of extending the waterline around Terrace Point via an easement, the Younger Route, on the adjacent agricultural lands. The route was rejected because it is three times longer, crosses a wetland, is on farmed agricultural land, requires a Santa Cruz County permit and is outside the City Water District, and would require an agreement with Southern Pacific to cross its railroad tracks.

The University proposes the Delaware Extension Route as the most feasible. The City of Santa Cruz concluded that it is legally bound to serve water but that the proposed water line extension across Terrace Point is "somewhat extraordinary" and to protect its interests, has entered into an agreement (Resolution NS-23,117, January 28, 1997) with the University. Under the provisions of the agreement a private 10 inch water line constructed to public water line specifications and inspected by City personnel during construction will be constructed by the University across the adjacent Terrace Point property. It will be a requirement to install a backflow prevention assembly and a domestic meter adjacent to the point of connection to the municipal system at Delaware. If Terrace Point is developed, the University will offer to dedicate the water main to the City which upon City acceptance would become a public main operated and maintained by the City. The University will at its expense relocate the back flow prevention devices and any service meters. (Draft Agreement attached as Exhibit 3.)

Wells Fargo has no legal right to use of the water on the UCSC private line, is not paying for the improvements, will not incur any taxes or service charges because the water is extended across their property, and by entering into a non exclusive easement with the University to allow the extension of a private line across their property is effectively acknowledging the independence of this water supply from any decisions of the Coastal Commission on future uses of their site. Therefore, the proposed project will not prejudice preparation of the LCP Section 30604) for the Area of Deferred Certification.

Regarding capacity, the quantity of water proposed to be brought to the LML site, is needed to serve existing uses previously approved by the Commission. Whether or not any future development takes place, the University requires this flow. Therefore, regarding extension of municipal water to LML, the proposed development is consistent with Section 30254 which requires that expanded public works be permitted to accommodate uses generated by the development or uses consistent with the Coastal Act.

The proposed development, as conditioned, does not change development patterns or prejudice Commission decisions on future developments, and will not alter the relationship between agricultural and urban land uses consistent with Section 30241 of the Coastal Act.

The staff, therefore, recommends that the Commission approve the proposed water line extension as conditioned to require Commission review of any changes in the structures, location, uses, or users of the water line or in private status of the water line and to require review of the utility easement with Wells Fargo to assure it is legally secure and makes no commitment to Wells Fargo as to type or intensity of development.

SUBSTANTIVE FILE DOCUMENTS: Coastal Permit File 3-83-76 and subsequent amendments, and specifically 3-83-76-A5 UCSC Long Marine Lab Master Plan and certified EIR, 11/19/93; Water Service and Fire Protection Study for LML and Oiled Wildlife Facility, UCSC, Ifland Engineers, January 1997.

EXHIBITS: Exhibit 1 - Location Map; Exhibit 2 - Site Area Map; Exhibit 3 - Resolution NS-23,117 UCSC/City of Santa Cruz Water System Connections/Constructions Agreement; Exhibit 4 - Correspondence in concern.

STAFF RECOMMENDATION

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby approves the amendment to the coastal development permit, subject to the conditions below, on the grounds that the development with the proposed amendment is consistent with the requirements of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the adjacent area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

Note: Unless specifically altered by the amendment, all conditions attached to the previously approved permit and subsequent amendments remain in effect.

1. This permit amendment allows the construction of a private 10 inch water line from the Santa Cruz City water main located at the terminus of Delaware Avenue to the California Department of Fish and Game's Oiled Wildlife Center on the University of California Long Marine Laboratory Campus following the easement location shown on Exhibit A attached and an eight inch or greater diameter water line extension from the Oiled Wildlife Center to the Long Marine Laboratory facilities on the oceanfront. The water line shall serve only the Oiled Wildlife Center and existing, legally permitted facilities on the University's Long Marine Laboratory properties. The water line may supply both domestic and fireflow needs. The water line shall be adequate to deliver the 2500 gallons per minute fireflow required for the existing Long Marine Laboratory oceanfront structures. Any change in the structures, location, use, or users of the waterline, will require an amendment to this permit.

2. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director for review and approval the final plans.

3. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director for review and approval the fully executed Water System Connections/Construction Agreement between the University of California and the City of Santa Cruz. Any amendments to the Water System Connections/Construction Agreement shall be subject to the review of the Executive Director and may require an amendment to this permit..

4. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director for review and approval, a copy of the permanent utility easement for the water line which makes no commitment to Wells Fargo to provide water service or as to type or intensity of development on the Terrace Point land. Upon approval by the Executive Director, an executed copy of the easement shall be submitted within 30 days. .

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Background, Procedures, and Description.

Background

The California Department of Fish and Game's (DFG) Oiled Wildlife Veterinarian Care and Research Center (OWVCRC) is located on the University of California's (UCSC) 40-acre Long Marine Lab/Younger Lagoon Reserve (LML) property. The Commission approved the OWVCRC on January 12, 1994. The first center for the rescue and rehabilitation of oiled wildlife was constructed to comply with the Oil Spill Prevention and Response Act of 1990. The coastal-dependent facility is expected to respond to major oil spills on the average approximately every three to five years and will be used on an ongoing basis as a place for continuous study and research by both DFG and UCSC staff.

The LML property was annexed to the City in the early 1980's. It is situated on the coastal terrace on the perimeter of Santa Cruz City contiguous to the agricultural fields of north Santa Cruz County. Intervening between the University property and the developed area of Santa Cruz City are 60 acres of fallow agricultural fields known as Terrace Point which separate LML from City services and have historically delineated the urban/rural boundary. When the Local Coastal Program was certified in 1981, this key undeveloped oceanfront site was not certified, but was designated as part of the Westside Area of Deferred Certification because the City declined to accept Commission modifications limiting development.

In 1976 the Commission found that the Long Marine Laboratory facility (P-1859 UCSC Phase I, 1976; 3-83-76 Phase II, 1983) was a coastal dependent use, which needed to be located in a remote, semi-rural area. On the Long Marine Laboratory site an existing well provides fresh water; wastewater is contained in tanks and hauled off-site; seawater provides fireflow; and a permanent easement provides for access through adjacent private lands. Though within the City limits, no public services, i.e., water, sewer, roads, reach the site and no extension of public services was proposed or permitted under the Commission's permits.

Because urban services were not being extended to the facility, it was found in the original coastal permit and subsequent amendments including amendment 3-83-76-A5 for the DFG Oiled Wildlife Facility that the development would not adversely affect adjacent agricultural uses, would maintain the urban rural boundary, and would not prejudice preparation of the Local Coastal Program for the Westside Lands/Terrace Point Area of Deferred Certification.

Project Description

The proposed project will develop a private water main to serve the California Department of Fish & Game's Oiled Wildlife Veterinary Care and Research Center, currently under construction, and to serve the existing campus of Long Marine Laboratory. The water line will connect to a City of Santa Cruz water main at the intersection of Shaffer Road and Delaware Ave., and cross Terrace Point, private land owned by ATC Realty Sixteen, Inc., a subsidiary of Wells Fargo Bank (see Exhibit 2, attached). As originally proposed the water line would be ten inches in diameter for the first 2,000 feet reducing to eight inches in diameter for the last 850 feet which was determined by the flow rate required by the Uniform Fire Code for the existing Research Support Building at LML, near the end of the water line. However, further review by the DFG indicates a 10 inch line may be required for the full distance. In either case, incidental to meeting fire flow requirements the 10 inch diameter provides a capacity sufficient to serve all future uses on the UCSC property and would theoretically be sufficient to serve all future development density scenarios proposed by the Terrace Point property owners. However, the same size line would be needed to meet existing fireflow requirements even if no other developments were approved.

Based on environmental reviews for recent Terrace Point proposals the route crosses ruderal grass lands without any special resource values.

Reason for Extension of Water Line

After OWVCRC coastal permit approval and project construction, the Fire Marshall rejected the existing seawater system as inadequate to meet California Fire Code requirements.

According to the coastal permit application for the water line:

The immediate requirement for municipal water to the LML campus is driven by the need for Uniform Fire Code compliance in order for the California Department of Fish and Game to gain occupancy of its Oiled Wildlife Veterinary Care and Research Center at the completion of construction in June 1997. Part of the campus of Long Marine Laboratory, the OWWCRC was designed to use seawater for fire protection, as is the existing facility of LML. Plans for the Center had gained State Fire Marshall approval prior to the award of the construction contract by the State. After construction had commenced, a subsequent review of the plans by UCSC's newly appointed Fire Chief, a Deputy State Fire Marshall, revealed that Uniform Fire Code requirements for water flow could not be met by the system as it was designed, nor was flow found to be adequate for the existing LML facilities. The State Fire Marshall approval of the OWWCRC plans was rescinded.

The immediate need is to serve the Oiled Wildlife Facility which cannot be occupied without adequate fire flow. In addition when the Department of Fish and Game was told that it could not occupy the building with the use of seawater for fire suppression, they did not put in the pressurized system and storage tank needed for domestic use from on-site wells and in anticipation of a municipal fresh water supply they installed fresh water fire sprinklers. Hence, the Oiled Wildlife Facility is not only not designed to use seawater for fire suppression, it is not designed to use on site freshwater for ordinary daily use. These changes in plans were not submitted to nor approved by the Coastal Commission.

Procedures - Acceptance of Amendment Request

Section 13166 of the California Code of Regulations provides in part:

13166. Amendments to Permits Other than Administrative Permits

(a) Applications for amendments to previously approved developments shall be filed with the commission.

(1) An application for an amendment shall be rejected if, in the opinion of the executive director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.

The amendment proposes the use of municipal water in conflict with permit findings and conditions and has the potential to avoid the intended effects of the permit. However, the Fire Marshall's revised determination regarding Fire code (non)compliance constitutes new information which warrants a new fire Marshall

Summary

(1) Neither the existing Long Marine Lab nor the Oiled Wildlife Facility currently meets California Fire Code standards for fire flow according to the State Fire Marshall. The Fire Marshall will not allow the Department of Fish and Game to occupy their facility until adequate fireflow is provided.

(2) The extension of a water line across the Westside/Terrace Point Area of Deferred Certification and the excess capacity of the water line raise Coastal Act issues regarding location of development and adequacy of public services (CA 30250); maintaining a stable urban/rural boundary (CA 30241) and permitting development that would prejudice preparation of the Local Coastal Program (CA 30604).

(3) Though the amendment has the potential to lessen the intended effect of the permit, the Executive Director has accepted the amendment for processing because the applicant has presented newly discovered information regarding fire protection requirements that was not available before the permit was granted.

2. Findings of Water Service and Fire Protection Study

With rescission of State Fire Marshall approval of the existing seawater system for fireflow, UCSC contracted Ifland Engineers to prepare a Water Service and Fire Protection Study for Long Marine Laboratory and the Oiled Wildlife Veterinary Care and Research Center (January 1997).

Fireflow Requirements

The Ifland Study reports that fire flow requirements are determined by the Uniform Fire Code and enforced by local fire agencies. In general, these requirements are determined by building construction type and structure size. The Study indicates that adequate fireflow for the OWVCRC is 1,500 gpm; for OWVCRC and existing development it is 2,500 gpm. An eight-inch diameter line is needed to adequately serve the DFG facility and 10 inches is needed to serve existing development at LML. The study also indicated that no greater flow would be required to serve buildout under the Long Marine Lab Master Plan, nor would additional flow be needed to serve buildout of the 60-acre Terrace Point Area of Deferred Certification.

Hence, the proposed 10-inch line has a capacity in excess of what is needed for domestic water requirements due to the engineering design needed to accommodate domestic and fireflow requirements at acceptable pressures, and as a result could create growth inducement pressures upon surrounding agricultural lands. Though the City prohibits water connections outside its existing service area, in the long term it could induce additional development on agricultural lands.

Because the extension of municipal water raises several coastal issues and was expected to be controversial, the University evaluated the feasibility of improving its existing seawater system.

University Rejection of the Expansion of Seawater System as an Alternative

Expansion of the seawater system was studied by Ifland. Expansion of the seawater system to serve the fireflow requirements of the University property would obviate the growth inducing issues raised with the extension of fresh water.

The Ifland Study determined fire flow required at LML will be 2,500 gallons per minute for 2 hours and 1,500 gallons per minute for 2 hours at OWVCRC. Any seawater system at LML or OWVCRC would require additional pressurization in order to develop the required fire flow through the fire department fire truck pumper. A standby seawater pump would be required along with a diesel powered generator to provide emergency power to the seawater pumps in case of a power failure.

The study reported that to provide fire protection at the OWVCRC, 51,000 gallons of additional seawater storage would be required. To provide fire protection for Long Marine Laboratory, 144,000 gallons of storage would be required. Together, seven 12-foot diameter tanks, 35 feet high would be

required (p. 5). These tanks would potentially have a negative visual impact. A site plan and elevations would be needed for staff to make this analysis.

The study did show that adequate fire flow could be produced by improvements to the University's seawater system. However, there are problems inherent in the use of seawater. Sealife collects inside the pipes reducing the diameter; salt water corrodes pipes and equipment. Seawater systems require higher maintenance and are not as dependable as a municipal water supply. Equipment, such as fire trucks, need to be taken out of service for cleanup. Nevertheless, the Santa Cruz City Fire Chief (Mark Latham, personal communication, February 1997) said if the necessary improvements are made, the City will provide the service.

In addition to possible associated visual impacts, lack of dependability, and high maintenance requirements, the costs for installation of the improvements to the seawater system including a salt water sprinkler system would be \$455,473. This is substantially more than the cost of the University's preferred alternative, \$251,025, for extending a water line from the nearest City main.

The improvement of the seawater system would preclude the need to extend public services and eliminate the associated issue of the potential growth-inducing impacts. However, the use of seawater, though feasible, is not the preferred alternative of the University or of the City of Santa Cruz Fire Chief who would fight the fire. The extension of a water main from the Santa Cruz municipal water system was found most feasible and would obviate the need to rely on the existing private well for domestic water as well.

For the above reasons the University has requested an amendment to the permit to extend water from the municipal water supply.

3. Extension of Municipal Water

Several Coastal Act policies apply to this proposed development.

Section 30241 of the Coastal Act provides in part that the maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through...establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.

Section 30250 requires that development be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

Section 30254 of the Coastal Act provides that, "New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with this division;..."

Section 30604 requires that development must conform to Coastal Act policies and must not prejudice the local governments ability to prepare a local coastal program that conforms to Coastal Act policies.

The City Municipal Water District service area coincides with the City boundaries. The Terrace Point properties have been in the service area since prior to the Coastal Act but have not been served or paid any fees for service. The University LML property was annexed into the City in the early 1980's and by virtue of being within the City limits is also within the water district service area. The City of Santa Cruz has concluded that it is legally bound to provide water to the existing facilities on the Long Marine Lab site.

The closest water mains to the Long Marine Lab property are (1) at the intersection of Delaware and Shaffer and (2) at Highway 1 and Shaffer Road (see Exhibit 2 for locations). This provides two possible routes for the extension of municipal water- the Younger Route and the Delaware Extension Route.

Younger Route: The first, the Younger Route, is along an unused University easement that extends from the LML northern property line through the adjacent Younger family agricultural lands to a point north of the Raytek Plant, veers east and meets Highway 1 on Shaffer Road.

This route would avoid crossing the Terrace Point/Westside Lands Area of Deferred Certification. This route had been discussed in University's Long Marine Lab Master Plan (1993) as an alternative that would prevent prejudice to City planning efforts on Terrace Pt. and as an option in the event Wells Fargo did not permit utility access across the site. The University has again reviewed the feasibility of this route. The University has rejected the easement route across Younger lands for the following reasons:

- (1) it is three times longer than the Delaware route (3300 ft. vs 1120 ft.) and would increase both construction and operational costs.
- (2) It would cross a U.S. Army Corps of Engineers delineated wetland
- (3) In its entirety it would be on actively farmed agricultural land.
- (4) It is in the County of Santa Cruz, would require a County permit and is outside the City's water service area.
- (5) It crosses the Southern Pacific railroad and an agreement with Southern Pacific would be needed.
- (6) It would require jacking a casing under the railroad which is very costly.

The University concluded that the Younger route, because of its length and additional development challenges, is cost prohibitive.

Delaware Extension: The second route is that requested by the University in this permit amendment. The Delaware Extension route crosses Terrace Point running directly from the end of Delaware due west approximately 400 feet, turns south for approximately 300 feet, then again west 400 feet to the DFG OWVCR facility.

This is not the existing road alignment across Terrace Point. It would follow a route proposed for a road and utility alignment on one of the Terrace Point draft site plans. Hence, both the capacity and the location would facilitate its use in the future to serve other facilities including Terrace Point and Long Marine Lab. In this case according to the draft easement with Wells Fargo the road and all other potential utilities with the exception of water will remain along the existing road easement.

Future Development on the LML Site: UCSC Long Marine Lab campus is a 40 acre site of which 28 acres (70%) are a natural preserve and 12 acres (30%) are low intensity coastal dependent and experimental agricultural development. Site development has fragmented the parcel so that it is not viable for row crops. The current uses on LML are wholly priority uses under the Coastal Act.

In November 1993 the University adopted the Long Marine Lab Master Plan and certified its EIR. The Master Plan identified 135,000 square feet of new and expanded research teaching and laboratory facilities. The Coastal Commission staff had extensive comments (August 27, 1993) on the Draft EIR and concluded that "further modifications are necessary to result in a product consistent with the Coastal Act." Staff comments also stated that despite constraints the site was appropriate for coastal dependent and possibly some coastal related development which are priority land uses under the Coastal Act.

The Master Plan was not subject to Commission review and has no legal standing under the Coastal Act. Nevertheless, the future direction of development on the LML site is well established and though elements of different development plans could not be found consistent with the Coastal Act, the goal of buildout of LML as a marine research center is consistent with the Coastal Act in terms of types of uses.

Regarding capacity, by whatever route, Younger or Delaware Extension, the quantity of water proposed to be brought to the site, is needed to serve existing uses previously approved by the Commission. Whether or not any future development takes place, the University requires this flow. Therefore, regarding extension of municipal water to LML, the proposed development is consistent with Section 30254 which requires that expanded public works be limited to accommodate uses generated by the development or uses consistent with the Coastal Act.

Section 30241 of the Coastal Act requires establishing stable boundaries separating urban and rural areas, including clearly defined buffer areas, to minimize conflicts between agricultural and urban land uses. Although management of surfer access has been an issue with adjacent farmers, the existing LML uses in themselves have been found compatible with the surrounding agricultural uses. These uses provide a buffer for the agricultural uses in Santa Cruz County north of the site. Therefore, the proposed water extension is consistent with Section 30241.

Therefore, approval of a waterline would not prejudice Commission action on future decisions regarding development of the University lands.

Future Development on Terrace Point: Terrace Point comprises about 60 acres of fallow agricultural land (see Exhibit 2 for location). The site has been the focus of ongoing development planning and ongoing public controversy for several years. Throughout this period no public services have been extended. The current proposal to extend municipal water has generated substantial public concern that such utility extensions would encourage intensive development on Terrace Point and Long Marine Lab. Terrace Point development proposals have been opposed based on intensity of development and the loss of agricultural potential.

The City of Santa Cruz has concluded that it is legally bound to serve water but that the proposed water line extension across Terrace Point is "somewhat extraordinary" and to protect its interests, has entered into an agreement (Resolution NS-23,117, January 28, 1997) with the University. Under the provisions of the agreement a private 10 inch water line constructed to public water line specifications and inspected by City personnel during construction will be

constructed by the University across the adjacent Terrace Point property. It will include a requirement to install a backflow prevention assembly and a domestic meter adjacent to the point of connection to the municipal system at Delaware. If Terrace Point is developed, the University will offer to dedicate the water main to the City which upon City acceptance would become a public main operated and maintained by the City. The University will at its expense relocate the back flow prevention devices and any service meters. (Draft Agreement attached as Exhibit 3.)

Wells Fargo has no legal right to use of the water on the UCSC private line, is not paying for the improvements, will not incur any taxes or service charges because the water is extended across their property, and by entering into a non-exclusive easement with the University to allow the extension of a private line across their property is effectively acknowledging the independence of this water supply from any decisions of the Coastal Commission on future uses of their site.

The approved City Resolution to execute the agreement between the City and UCSC for a private line has been received by the Commission. A signed copy of the agreement has not. This agreement which assures that the waterline remains a private line is important to find conformance with the Coastal Act. A public main would facilitate development of any parcels it crosses; a private main cannot be used without changes to the facilities and development permits. To assure limitation on use of the water the coastal permit is conditioned to require submittal of the Agreement and any proposed subsequent amendments to the Agreement for the review and approval of the Executive Director. The permit is further conditioned to require that the water line shall serve only the Oiled Wildlife Facility and existing, legally permitted facilities on the U.C.S.C. Long Marine Laboratory properties. The water line may supply both domestic and fireflow needs. Any change in the structures, location, use, or users of the waterline, is subject to the prior review and approval of the Coastal Commission pursuant to the Coastal Act.

In order to assure that there are no inconsistencies between the USCS utility easement over the Wells Fargo property and the City of Santa Cruz' Water Line Agreement and the Commission's action, the permit is also conditioned to require Executive Director review of the UCSC permanent utility easement for the water line which makes no commitment to Wells Fargo to provide them water service nor as to type or intensity of development on the Terrace Point land.

The Younger route would avoid bringing fresh water directly across Terrace Point. However, in any case water is at the Terrace Point property line. Routing fresh water lines outside the city limits through agricultural lands in Santa Cruz County (this would require county approval) could pose as great a threat of urban expansion into agricultural lands as a line that crosses Terrace Point. In addition Santa Cruz County LCP policies prohibit extension of public services into the County and Santa Cruz City LCP policies prohibit extension of services beyond the city limits.

The capacity of the proposed line is necessary to serve existing approved uses and the City's Agreement with the University is designed to prohibit use of the water except by the University. Therefore, as conditioned, the proposed development is consistent with Section 30254 which requires that public works facilities shall be designed to accommodate uses permitted consistent with the Coastal Act, with Section 30241 which protects agricultural uses and the urban/rural boundary, and

with Section 30604 which requires that development not prejudice local governments ability to prepare a local coastal program that conforms to the Coastal Act.

4. City of Santa Cruz Local Coastal Program and University of California Long Range Development Plan/CEQA

Section 30604 of the Coastal Act states in part:

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a local coastal program that is in conformity with Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for that conclusion.

(b) After 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 certified local coastal program.

The University of California properties are not subject to local jurisdiction review. However, any Long Range Development Plan prepared by a University or State University must be consistent to the fullest extent feasible with the affected jurisdiction's LCP. In this case the subject Terrace Point property is within an Area of Deferred Certification and, therefore, there are no LCP policies relating to the particular site. Nevertheless, the City's certified LCP has numerous policies that would apply to development of the non-contiguous University lands. However, the extension of the water line as discussed in the preceding findings and as conditioned in this Coastal Permit will have no significant impacts on existing resources or future planning efforts, either for University lands or for the intervening Terrace Point Area of Deferred Certification.

Under the Coastal Act Section 30605 for University properties in the Coastal Zone, the University can as an alternative to project-to-project review submit Long Range Development Plans (LRDP) in the same manner that Local Coastal Programs are reviewed. To date the University has chosen not to prepare an LRDP for the LML site. Hence, there is no Coastal Commission approved planning context for development of the UCSC property.

The University's Master Plan of 1993 considered two options, Option 1 which restricted development to the 40 acre LML site, and Option 2 which included use of 12 acres of the adjacent Terrace Pt. site. This required close coordination with the development of the Terrace Point Specific Plan which at that time included 347 dwelling units, 22 acres of coastal dependent/related development, and 6.5 acres of coastal park. Because of the complexity and controversy of the Terrace Point Plan, the University has disassociated its planning from that of the Terrace Point to the degree possible. It is now negotiating with the Wells Fargo to purchase only the 2.5 acres on the bluff needed for the future LML Visitor Center.

The Coastal Act provides a specific planning process, the Long Range Development Plan, to allow the University to incorporate coastal law into University regulation and thence to issue their own coastal

development permits. This planning process would have been the appropriate vehicle to address extension of public services. The University has not chosen to prepare an LRDP for its LML property.

Without an adopted plan individual projects can drive the planning process such as has occurred in this instance. Though the Coastal Act assumes LRDP's will be prepared for University properties in the Coastal Zone, the law does not require that the planning be done.

The City of Santa Cruz Westside Lands (including Terract Point) remains an Area of Deferred Certification. Wells Fargo is currently preparing a draft Environmental Impact Report for its development. The DEIR is expected to be issued sometime before summer.

As discussed in the preceding findings the extension of municipal water to the Long Marine Lab site will not impact future planning for either site because the line is private and is necessary to serve existing development. and as conditioned no connections will be allowed as it crosses Terrace Point Lands.

CEQA: The Department of Fish and Game approved an addendum to the Long Marine Lab Master Plan EIR, UCSC, Nov. 19, 1993, Negative Declaration for Oiled Wildlife Research Rehabilitation Center, Santa Cruz on January 23, 1997.

5. Public Access

Section 30604 of the Coastal Act provides in part:

(c) Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The water line development and change in location of the easement does not alter or restrict public access. Pursuant to the previous findings of this recommendation since the proposed water line will not prejudice decisions of the Commission regarding future development of either the Long Marine Lab site or the Terrace Point site no impact on public access will occur.

SITE

APPROXIMATE COASTAL ZONE BOUNDARY

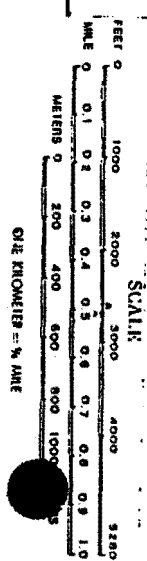
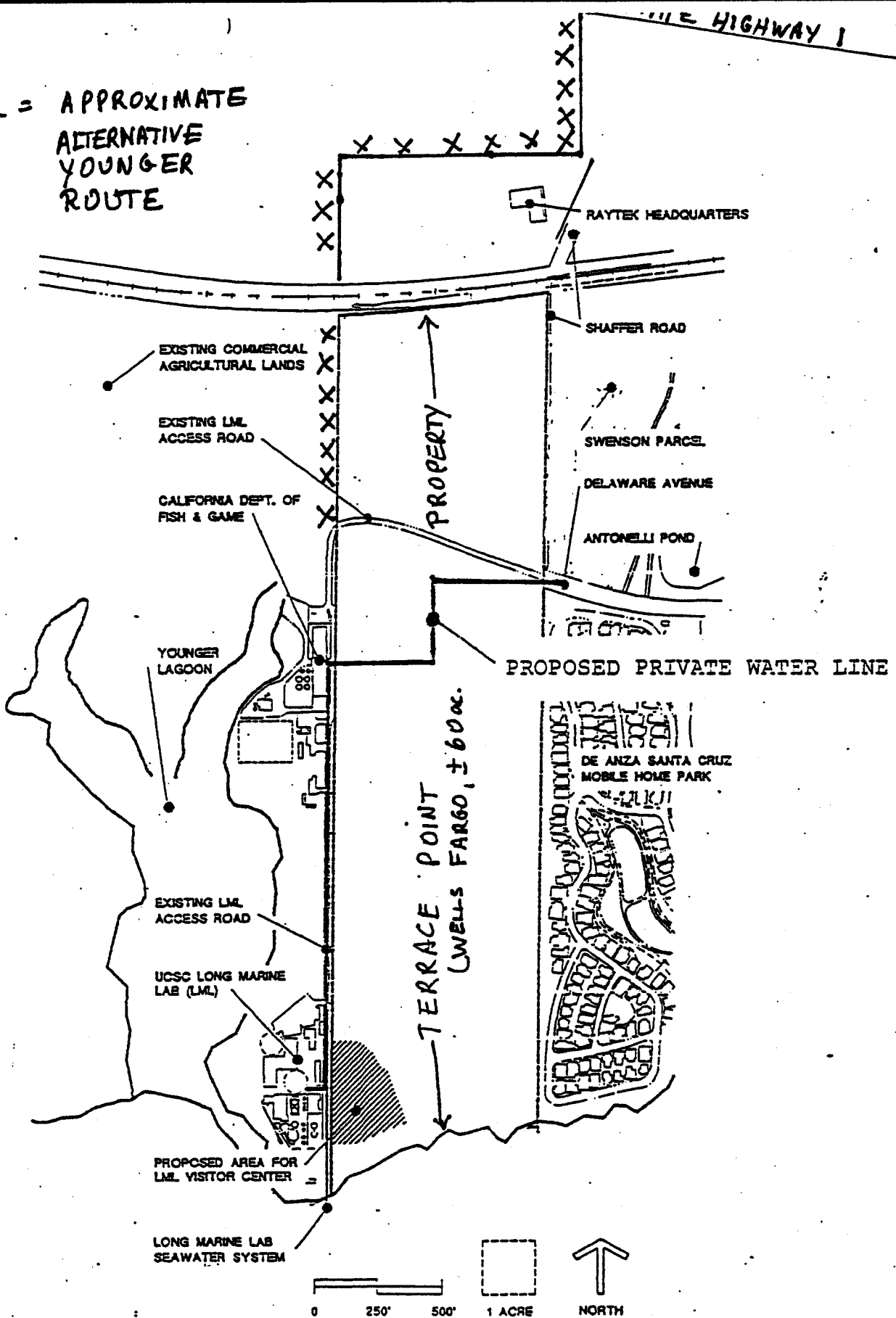


EXHIBIT NO. 1
APPLICATION NO. 3-83-76-A11
LOCATION
California Coastal Commission

SANTA CRUZ CITY - WEST

XXX = APPROXIMATE
ALTERNATIVE
YOUNGER
ROUTE



VICINITY MAP

3-83-76-A11
CALIFORNIA COASTAL COMMISSION
EXHIBIT 2

RESOLUTION NO. NS-23,117

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE UNIVERSITY OF CALIFORNIA SANTA CRUZ (UCSC), SETTING FORTH THE TERMS AND CONDITIONS UNDER WHICH THE CITY WILL PROVIDE WATER SERVICE TO THE LONG MARINE LAB/VETERINARY CARE AND RESEARCH CENTER.

WHEREAS, the State Fire Marshall has required a fire system that can only be accomplished with a City water service; and,

WHEREAS, the University of California Santa Cruz (UCSC) has requested City water service to its Long Marine Lab/Veterinary Care and Research Center; and,

WHEREAS, the City and UCSC wish to place certain terms and conditions on such service through a written agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz that the City Manager be, and is hereby authorized and directed, to enter into an agreement with the University of California Santa Cruz (UCSC), setting forth the terms and conditions under which the City will provide water service to the Long Marine Lab/Veterinary Care and Research Center.

PASSED AND ADOPTED this 28th day of January, 1997, by the following vote:

- AYES: Councilmembers: Kennedy, Campbell, Beiers, Hernandez, Rotkin, Mayor Mathews.
- NOES: Councilmembers: Scott.
- ABSENT: Councilmembers: None.
- DISQUALIFIED: Councilmembers: None.

APPROVED: C. A. Mathews
Mayor

ATTEST: Lynne Holden
City Clerk

3-83-76-A11 RECEIVED
FEB 3 1997

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST AREA

EXHIBIT 3 116

WATER SYSTEM CONNECTIONS/CONSTRUCTION AGREEMENT

This Agreement, is made and entered into this ___ of _____, 1997, by and between the University of California at Santa Cruz hereinafter referred to as "University", and the City of Santa Cruz, a municipal corporation, hereinafter referred to as "City". Whereas the University is the fee simple owner of Assessor's Parcel Number _____, in the City of Santa Cruz upon which the Long Marine Laboratory is located (hereinafter referred to as the "Long Marine Laboratory Parcel" and legally described in Exhibit A attached hereto);

Whereas the Long Marine Laboratory Parcel is within the City limits of the City of Santa Cruz and within the City of Santa Cruz Water Department's water service area;

Whereas the University intends to further develop the Long Marine Laboratory Parcel with additional facilities which will require a new domestic water service as well as a new fire protection service;

Whereas the City of Santa Cruz Water Department is ready and willing to provide said water services to the Long Marine Laboratory Parcel provided that the University obtains the utility easement necessary to traverse privately owned property that separates the Long Marine Laboratory Parcel from the nearest City water main located at the intersection of Delaware and Shaeffer Streets in the City of Santa Cruz, said intervening parcel currently under the ownership of Wells Fargo Bank and commonly referred to as the "Terrace Point Parcel" (a legal description of the Terrace Point Parcel is attached hereto as Exhibit B and a legal description of the necessary utility easement is attached hereto as Exhibit C);

NOW, THEREFORE, IT IS AGREED by and between the City and the University:

1. In consideration of the City's agreement to provide water service to the University as herein described, the University agrees to furnish, directly or through an independent contractor of its choosing, and approved by the City, all supervision, labor, equipment, material, services, and transportation, in strict conformance with the City's standard specifications and particular specifications which are incorporated herein by reference and made additional terms to this Agreement, necessary for the construction of a ten inch water main capable of providing the domestic and fire protection services called for by this Agreement. The University shall bear all expense necessary or incidental to the performance of the work herein specified. All work and materials shall be subject to the approval of, and shall be provided and installed to the satisfaction of, the City's Water Department Director. Prior to commencing said work all necessary plans and specifications will be submitted to the City for review and approval and work shall not proceed until such approval is received. During, and upon completion of, the University's construction of the subject water main, the University shall grant the City the right to inspect the water main and it

is understood that the City may reject any material or workmanship that does not comply with, or conform to, the approved design specifications and plans for the water main. The University shall pay to the City all plan review and inspection fees applicable to the City's review and inspection of newly constructed water mains. The University shall, at its own expense, comply with all applicable laws and regulations of the United States, the State of California, and the City of Santa Cruz.

2. The City's final approval of the newly constructed University water main, and the City's obligation to connect that main to its currently functioning water main at Delaware and Shaeffer Streets, will be contingent upon the University's demonstration to the City that it has obtained from Wells Fargo Bank or other owner of the Terrace Point Parcel a utility easement authorizing the placement of the newly constructed water main over the Terrace Point Parcel in the precise location where it has been constructed. Proof of such an easement will be in the form of a duly executed, notarized and recorded easement deed.

3. The City's obligation to connect the newly constructed University water main to its currently functioning water main at Delaware and Shaeffer Streets is further conditioned upon the University's prior payment of the necessary connection fees to the City. Said connection fees shall be based on the equivalent domestic size service which, in the estimation of the Water Department Director, is required to meet the needs of the new Long Marine Laboratory facilities to be served by the main. The City shall be entitled to assess further connection fees should domestic flow through the newly constructed water main at any time exceed the allowable levels for that equivalent domestic size service per documents published by the City at the time of service connection.

4. At its sole cost and expense, the University shall provide backflow prevention devices as may be required by the City and will locate said backflow prevention devices to the satisfaction of the City on private property as close as possible to the point of connection to the City's Delaware/Shaeffer street water main. The University shall provide proof satisfactory to the City that it has received permission to locate said backflow prevention devices on said private property from the owner of said property. Satisfactory proof shall be offered in the form of a duly executed, notarized and recorded easement deed.

5. If at any future point in time the Terrace Point Parcel is developed in such a manner that the water main which is the subject of this Agreement is located within or beneath, right-of-ways constructed in connection with the development of the Terrace Point Parcel, the University, at the time said right-of-ways are offered for dedication to the City by the developer of the Terrace Point Parcel, shall immediately offer for dedication to the City the water main it has constructed pursuant to this Agreement. Upon completion of said offer of dedication the City, without further consideration to the University, shall be entitled to, but under no obligation to, accept the privately constructed University water main and thereby incorporate said privately constructed water main into its publicly owned water distribution system. Upon acceptance by the City, the privately constructed University water main will become publicly owned City Water Department property

3-83-76-A11

for which the City, subject to the provisions of Paragraph 6, will accept operation and maintenance responsibility. The City's decision to accept the University's offer of dedication shall be made by the City in its sole discretion and until the City does accept the University's offer of dedication, it is understood that the University will remain solely responsible for the water main's operation and maintenance. Upon the City's acceptance of the University's offer of dedication, the University, at its sole cost and expense, and to the satisfaction of the City, shall relocate onto the Long Marine Laboratory Parcel any service meters and backflow prevention devices which have been installed in connection with the construction of the University water main. Prior to relocation, the site of the new location shall be submitted to the City for approval.

6. If, within a period of one year after the City's acceptance of the privately constructed University water main, the water main or any structure or part of any structure furnished, installed or constructed in connection with the University water main, or any work done by the University or its contractor pursuant to this Agreement, fails to fulfill any of the requirements of this Agreement or the standard or particular specifications referred to herein, the University shall, without delay and without any cost to City, repair, replace or reconstruct any defective or otherwise unsatisfactory part or parts of the water main or related structure. Should the University fail to act promptly or in accordance with this Agreement, or should the exigencies of the case require repairs or replacements to be made before the University can be notified, the City may, at its option, make the necessary repairs or replacements or perform the necessary work and the University shall pay to the City the actual cost of such repairs or replacements plus an administrative overhead fee of fifteen percent (15%). In order to secure the University's performance of its obligations in this regard, at the time of acceptance by the City the University shall furnish to the City security in the form of a warranty bond, letter of credit, cash deposit, or other security satisfactory to the City. The security shall be in the amount of 10% of the total actual construction cost of the work provided for in this Agreement.

7. It is agreed and understood that the City's acceptance of the University's offer of dedication, as provided for in Paragraph 5 of this Agreement, will be made only by affirmative action of the City Council in session as evidenced by a duly executed City Council resolution.

8. This Agreement is contingent upon University's commencing construction by ____, 19___. If construction is not undertaken by this date, unless extended by mutual agreement of the University and the City, this Agreement shall automatically become null and void.

9. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the parties hereto.

10. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which he or she may be entitled. Either the Santa Cruz County Superior or Municipal Court shall have jurisdiction over any such action and that Court shall be authorized to

determine which party is the prevailing party and what amount constitutes reasonable attorneys' fees to be awarded to the prevailing party.

IN WITNESS HEREOF, the City and the University have executed this Agreement the day and year first hereinabove written.

By University: _____

Date

Title: _____

Approved as to Technical Accuracy:

for Engineering Division

Date

Authorized:

Water Director

Date

3-83-76-A11
CALIFORNIA COASTAL COMMISSION
EXHIBIT 3 5 of 6

Approved as to Form:

[Signature]
City Attorney

1-17-97

Date

CITY OF SANTA CRUZ, a municipal corporation,

By: _____

Richard C. Wilson
City Manager

_____ Date

3-83-76-A11

CALIFORNIA COASTAL COMMISSION

EXHIBIT 3 6 of 6

Diane Doubrava
2395 Delaware Ave. #136
Santa Cruz, CA 95060

January 29, 1997

Ms. Joy Chase
Coastal Commission
725 Front St.
Santa Cruz, CA 95060

Dear Joy:

Thank you for your time today. I felt I still had a voice in our city process after speaking with you.

Please find attached the staff report to the Council for January 28, 1997. Terrace Point Action Network (TPAN) is very concerned about how this water issue has been handled and the lack of information forthcoming from the University and the City on this very important development.

I understand the University has free reign to develop their lands and don't have to adhere to city and county laws. In this particular case, because it involves a State owned building, they have to comply with fire protection to the States standard. Because they have to beat a permit deadline to get on the Coastal Commissions calendar for their March meeting, the Council had to drop everything to take action on an agreement for water service to LML/Veterinary Care and Research Center before all the information was in. This building has been under construction since early last fall, and it's my opinion that to build a research building of that size someone must've thought about water long before this deadline.

The D.E.I.R. for Terrace Point hasn't even been released to the public, although the City Planning Department has been fine-tuning it for one year, and it's now back with the consultant for more revisions. Now even before we see the public document, the City has approved a 10" pipeline agreement to traverse private land and habitat, that we're trying to protect, to the Wildlife Bldg. and ultimately to the new visitors center that is planned for the bluff on LML property and adjacent acreage Wells Fargo has dedicated to the University.

Joy, I'll send you the minutes from this council meeting as soon as available. Forgive my rambling, but TPAN will not go quietly.

Thank you again for your time and consideration

Diane
Diane Doubrava
TPAN

CENTRAL
COAST AREA

RECEIVED
JAN 30 1997

CALIFORNIA CALIFORNIA COASTAL COMMISSION
COASTAL COMMISSION

3-83-76-A11
EXHIBIT 4

