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CALIFORNIA COASTAL COMMISSION

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Commission Action:

8073A

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-97-113

APPLICANTS: Ms. Grace Eisenstein AGENT: Goldman, Firth, & Boccato Architects

PROJECT LOCATION: 29920 Cuthbert Road, City of Malibu, Los Angeles County

PROJECT DESCRIPTION: Subdivide one vacant 2.44 acre parcel into two parcels and grade a total of 600 cubic yards of material (500 cu. yds of cut and 100 cu. yds. of fill, excess cut material to be disposed offsite outside the coastal zone) for driveway and building pads. Construct 60 foot long retaining wall, 0-3 feet high for driveway turnaround. Provide an offer to dedicate a public trail easement along the western portion of the proposed parcels.

Existing Parcel Area: 2.44 acres
Proposed Parcel 1: 1.0 acres
Proposed Parcel 2: 1.44 acres

Plan Designation: Residential I and Rural Land III Zoning: 1 du / 1 acre and 1 du / 2 acres

Project Density: 1 du / 1 acre

LOCAL APPROVALS RECEIVED: Approval in Concept, City of Malibu Planning Department, dated 12-12-94 and expires 12-12-97; City of Malibu Environmental Health Department Approval, dated 6/26/97; City of Malibu Geology Referral Sheet, dated 7/17/97.

<u>SUMMARY OF STAFF RECOMMENDATION</u>: Staff recommends approval of the proposed minor land division with conditions addressing cumulative impact mitigation, plans conforming to geologic recommendations, and a landscape/erosion control plan. The project site is located in the City of Malibu near the Point Dume area inland of Pacific Coast Highway and Morning View Drive. The proposed parcel size of one dwelling unit per acre is about the same size and character as the parcels located in the vicinity of the project site.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan; Coastal Permit No. 4-95-115, (Lauber, Stevinson, and Smith); Coastal Permit No. 4-96-124, (Gordon); Coastal Permit No. 4-93-132, (Nelson and Nadlman); Coastal Permit No. 5-90-685, (Pascotto); Coastal Permit No. 5-89-878, (Cariker & Kinzer, Inc.); Updated Preliminary Soils and Engineering Geologic Report for Proposed Single Family Residence, 29920 Cuthbert Road, Malibu, California, dated July 10, 1997, by Geosystems; Addendum to Preliminary Soils and Engineering-Geologic Investigation for Proposed Residence, 29920 Cuthbert Road, Malibu, California,



dated June 24, 1994, by Geosystems; Preliminary Soils and Engineering Geologic Investigation for Proposed Single-Family Residence 29920 Cuthbert Road, Malibu, California, dated 11-17-93, by California Geosystems; Geology Referral Sheet, City of Malibu Geologist, dated 7/17/97.

I. STAFF RECOMMENDATION

Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

- 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.
- Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
- 4. <u>Interpretation</u>. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 5. <u>Inspections</u>. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
- 6. <u>Assignment</u>. 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. <u>Terms and Conditions Run with the Land</u>. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. CUMULATIVE IMPACT MITIGATION

Prior to the issuance of the Coastal Development Permit, the applicants shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject development with respect to build-out of the Santa Monica Mountains are adequately mitigated. Prior to issuance of this permit, the applicants shall provide evidence to the Executive Director that development rights for residential use have been extinguished on one (1) building site in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

- a) a TDC-type transaction, consistent with past Commission actions;
- b) participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

2. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION

All recommendations, applicable to the subdivision, grading and site improvements, contained in the Updated Preliminary Soils and Engineering Geologic Report for Proposed Single-Family Residence, 29920 Cuthbert Road, Malibu, dated July 10, 1997, Addendum to Preliminary Soils and Engineering Geologic Investigation, dated June 24, 1994, and Preliminary Soils and Engineering Geologic Investigation, dated 11-17-93, all prepared by Geosystems, shall be incorporated into all final design and construction plans including site preparation, retaining walls, pavement, drainage protection, and private sewage disposal system. All plans must be reviewed and approved by the consultants. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

3. LANDSCAPE/EROSION CONTROL PLANS

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a landscape / erosion control plan designed by a licensed landscape architect. The plans shall incorporate the following criteria:

a) All disturbed areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes according to the submitted landscape plan at the completion of grading. To minimize the need for irrigation and to screen or soften the visual impact of development, all landscaping shall consist of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled "Recommended Native

<u>Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains</u>," dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.

- b) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide ninety (90) percent coverage within two (2) years and shall be repeated, if necessary, to provide such coverage.
- c) Should grading take place during the rainy season (November 1 March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved disposal location.

IV. Findings and Declarations.

A. Project Description and Location

The project site is located in the City of Malibu north of the vicinity of Point Dume, about four thousand (4,000) feet landward of Pacific Coast Highway. Specifically, the site is on the Malibu terrace area landward of Morning View Drive and Harvester Road; it is accessed from Cuthbert Road. The site is surrounded by existing lots developed with single family residences. (Exhibits 1, 2, and 3).

The applicant is proposing to divide a vacant 2.44 acre parcel into two parcels 1.0 and 1.44 (net) acres in size. (Exhibit 4) In addition, the applicant proposes to grade a total of 600 cubic yards of material for a driveway, fire department turnaround, and two building pads. The grading consists of 500 cubic yards of cut and 100 cubic yards of fill; the excess cut material will be disposed offsite outside the coastal zone. A small retaining wall for the driveway turnaround is proposed; 60 feet long and 0 - 3 feet high.

The parcel is currently planted with cut flowers and extends from Cuthbert Road south in a triangular fashion. The applicant proposes to divide the parcel nearly in half, into northern and southern parcels, accessed by one driveway with a turnaround area located on the southern parcel, parcel 2. The applicant proposes to offer to dedicate for 21 years a 10 - 15 foot wide public trail easement located generally along the western boundary of the proposed parcels as noted in a property survey provided by the Los Angeles County Parks and Recreation Department, as illustrated in Exhibit 12. Exhibit 13 is a letter amending the project description accordingly. The majority of the proposed easement area is predominantly 10 feet wide; there are two areas where it is 12 and 15 feet wide at the southwest corner.

The certified Los Angeles County Land Use Plan (LUP) designates portions of this parcel as: Residential I, one dwelling unit per acre; and Rural Land III, one dwelling unit per two acres. (Exhibit 5) The parcel is not located within or near a designated environmentally sensitive habitat area, nor within a significant visual resource area, or significant hazardous area.

B. New Development/ Cumulative Impacts

Section 30250 (a) of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not 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. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Section 30105.5 of the Coastal Act defines the term "cumulatively", as it is applied in Section 30250(a) to mean that:

... the incremental effects of an individual project shall be reviewed in conjunction with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

In addition, the certified Land Use Plan includes policy 271 regarding lot line adjustments and land divisions. This LUP policy cited below has been found to be consistent with the Coastal Act and therefore, may be looked to as guidance by the Commission in determining consistency of the proposed project with the Coastal Act. Policy 271 states, in part, that:

New development in the Malibu Coastal Zone shall be guided by the Land Use Plan Map and all pertinent overlay categories. The land use plan map is inserted in the inside back pocket

The land use plan map presents a base land use designation for all properties. Onto this are overlaid three resource protection and management categories: (a) significant environmental resource areas, (b) significant visual resource areas, and (c) significant hazardous areas. For those parcels not overlaid by a resource management category, development can normally proceed according to the base land use classification and in conformance with all policies and standards contained herein. Residential density shall be based on an average for the project; density standards and other requirements of the plan shall not apply to lot line adjustments.

The Coastal Act requires that new development, including land divisions, be permitted within, contiguous with, or in close proximity to existing developed areas or if outside such areas, only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. The land use designations in the Los Angeles County Land Use Plan provide guidance for the Commission to consider, among other issues, during the review of land divisions.

The applicant proposes a minor land division of one parcel into two parcels, each with a graded residential building site. This parcel is located within a residentially developed area commonly known as the Malibu terrace. The land use designations will be addressed first. The parcel is split by two County land use designations; Residential I and Rural Land III, providing one residential unit each for one acre and two acres, respectively. As noted in Exhibit 5, about one third of the parcel is designated as one unit per two acres and about two thirds of the parcel is designated as one unit per one acre. The areas designated as one unit for two acres are along two separate drainage areas located along the western and eastern boundaries of the property. Specifically, 0.89 acres of the subject parcel is designated as one unit per one acre.

The LUP density standard or guideline for this site calculates to 1.995 units. The applicant is requesting a two lot subdivision or two units. Given the density for this lot is within less than one tenth of a unit (0.1) from what would be required under the LUP density guideline for a two lot subdivision, and that the parcel is not located in or near any of the 3 resource protection areas; therefore, the Commission finds that the proposed two lot subdivision is in substantial conformance with the LUP density guideline for this parcel.

From the City of Malibu's perspective, this land division is unique. The City of Malibu had adopted an Interim Zoning Ordinance (IZO) in 1993 which allowed for one dwelling unit per one acre on the subject site and in the surrounding area. The City amended the IZO in May 1996 to revise the area, studied below, to one dwelling unit per two acres. The City also has a slope intensity ordinance that applies to new subdivisions. This ordinance increases the land area necessary for land divisions as the slope of the land increases. This application was submitted to the City prior to the date the City amended the IZO; as a result, the City approved this application for a land division. Thus, this application for a land division in this subject area is considered a unique situation.

Although the subject parcel is in substantial conformance with the density requirements of the Los Angeles County LUP, the proposed land division must meet the standards of the Coastal Act. Section 30250 provides the standard of review for the Commission to consider when reviewing this application for a land division. This section requires that new development, including this proposed land division, must meet two tests. These tests include: 1) the site must be located within an existing developed area able to accommodate it with adequate public services, and 2) in locations where the development will not have significant adverse effects on coastal resources.

Regarding the first test, the subject parcel is located in an area commonly known as the Malibu terrace. This area is a neighborhood of existing residential parcels, a significant majority with existing residences. Exhibit 3 illustrates this neighborhood on the City of Malibu Interim Zoning Ordinance Map. This geographic area was studied by staff, which is also within about a one third of a mile radius of the subject property. The average size of lots within this area is slightly larger than one acre (1.086 acre). Therefore, the acreage character of this surrounding area, on average, consists of lots slightly larger than one acre. The acreage size of the proposed lots, at 1.0 and 1.44 (net size), is comparable in size. Staff's review of this area indicates that there are about 257 parcels with about 225 or 87.5 % of them developed with residences. Therefore, the subject property is located within an existing developed area. As a result, the average lot criteria provided in Section 30250(a) is not applicable.

Regarding public services, the subject property is served by the following public services: water is provided by the Los Angeles County Water Works District No. 29; fire suppression is provided by the Los Angeles County Fire Department with a fire hydrant located across Cuthbert Road; a paved public road (Cuthbert Road) exists along the northern property line maintained by the City of Malibu Public Works Department; electric power is provided by Southern California Edison. Sewage disposal service is proposed to be provided by on-site private septic systems, as is common in this area. The feasibility of the proposed septic system is discussed further below. Therefore, the proposed project is located in an existing developed area where adequate public services are available, and therefore, the project meets the first test.

Regarding the second test, first the issue of impacts to coastal resources on an individual basis will be discussed; cumulative impacts will be discussed The applicant proposes to locate the building sites on the flatest portion of the parcels. The slope of the building site on parcel one is about 17 percent. The slope of the building site on parcel two is about 13 The subject parcel is geologically stable as determined by the applicant's consulting geologist. One shared private driveway is proposed to lead from Cuthbert Road south along the flattest portion of the property to As a result, the grading necessary to create the both building sites. building pads and driveway is 600 cubic yards of material, 500 cubic yards of cut and 100 cubic yards of fill. Therefore, the landform alteration for this project is considered minimal. Further, the building sites are located in the area designated for one acre land uses in the Los Angeles County LUP. There are no designated environmentally sensitive habitats on or near the property. The property is not located within a sensitive watershed. Because this parcel is located inland and is not visible from Pacific Coast Highway, no adverse visual impacts are expected. As required by condition number three (3). erosion of the site and the potential for sedimentation into drainages leading onto Zuma County Beach Park will be limited due to the landscape and erosion control plan. Therefore, the proposed project, as conditioned, will not create impacts on coastal resources on an individual basis.

Regarding the issue of cumulative impacts to coastal resources, the Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu and Santa Monica Mountains area in past permit actions. The cumulative impact issue is important because of the existence of thousands of undeveloped and poorly sited parcels and multi-unit projects. The Commission has reviewed land division applications to ensure that newly created or reconfigured parcels are of sufficient size, have access to roads and other utilities, are geologically stable and contain an appropriate potential building pad area where future structures can be developed consistent with the resource protection policies of the Coastal Act. In particular, the Commission has ensured that future development on new or reconfigured lots minimizes landform alteration and other visual impacts, and impacts to environmentally sensitive habitat areas.

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots which already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains would create cumulative impacts on coastal resources and public access over time. Because of the large number of existing undeveloped parcels and potential future development, the demands on

road capacity, public services, recreational facilities, and beaches would be expected to grow tremendously.

As a means of addressing the cumulative impact problem in past actions, the Commission has consistently required, as a special condition to development permits for land divisions and multi-unit projects, participation in the Transfer of Development Credit (TDC) program as mitigation (155-78, Zal; 158-78, Eide; 182-81, Malibu Deville; 196-86, Malibu Pacifica; 5-83-43, Heathercliff; 5-83-591, Sunset-Regan; and 5-85-748, Ehrman & Coombs). The TDC program resulted in the retirement from development of existing, poorly-sited, and non-conforming parcels at the same time hew parcels or units were created. The intent was to insure that no net increase in residential units resulted from the approval of land divisions or multi-family projects while allowing development to proceed consistent with the requirements of Section 30250(a).

In several permit actions in Los Angeles County prior to the City of Malibu's incorporation (5-86-592, Central Diagnostic Labs; 5-86-951, Ehrman and Coombs; 5-85-459A2, Ohanian; and 5-86-299A2 and A3, Young and Golling), the Commission found that until other mitigation programs were both in place and able to be implemented, it is appropriate for the Commission to continue to require purchase of TDC's as a way to mitigate the cumulative impacts of new Subdivisions and multi-residential development. In 1986, the Commission certified the Malibu/Santa Monica Mountains Land Use Plan, which is no longer legally binding within the City of Malibu. The Plan contained six potential mitigation programs that if in place would adequately mitigate the cumulative impacts of new development. However, in approving the above cited permit requests, the Commission found that none of the County's six mitigation programs were defined in the LUP as "self-implementing" or adequate to offset the impact of increased lots in the Santa Monica Mountains and that mitigation was still required to offset the cumulative impacts created by land divisions and multi-unit projects. The Commission found that the TDC program, or a similar technique to retire development rights on selected lots, remained a valid means of mitigating cumulative impacts. Without some means of mitigation, the Commission would have no alternative but denial of such projects based on the provisions of Section 30250(a) of the Coastal Act.

Because the subject parcel is an existing legal parcel, no cumulative impact mitigation requirements are imposed as a condition of approval of this permit regarding the legality of the existing parcel. The cumulative impacts of creating an additional parcel is discussed further below.

As discussed above, the Commission has approved new subdivisions, but has continued to require purchase of TDC's as one of the alternative mitigation strategies. Staff review indicates that the incremental contribution to cumulative impacts would be the creation of one additional lot. Impacts such as traffic, sewage disposal, recreational uses, visual scenic quality and resource degradation would be associated with the development of the additional lot in this area. Therefore, the Commission determines that it is necessary to impose special condition number one (1) on the applicant, in order to insure that the cumulative impacts of the creation of one additional legal buildable lot is adequately mitigated. The Commission finds it necessary to require special condition number one (1) to require the applicant to mitigate the cumulative impacts of the subdivision of this property, either through purchase of one (1) TDC or participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of

potential building sites. The Commission finds that as conditioned, the proposed project is consistent with Section 30250 of the the Coastal Act.

C. Public Access and Recreation

Section 30210 of the Coastal Act states in part that:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states that:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sandy and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states in part that:

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:
 - (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
 - (2) adequate access exists nearby, or,
 - (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30214 of the Coastal Act states in part that:

- (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:
 - (1) Topographic and geologic site characteristics.
 - (2) The capacity of the site to sustain use and at what level of intensity.
 - (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
 - (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

Generally, the Coastal Act requires that public access and recreational opportunities to and along the coast be provided in all new development projects except where adequate access exists nearby. In addition, the certified Los Angeles County Land Use Plan includes the following policy regarding protection of public access and recreational opportunities, which can used as guidance relative to the proposed development. These policies have been applied by the Commission as guidance, in the review of development proposals in the Santa Monica Mountains.

- P32 Provide a safe trail system throughout the mountain and seashore that can achieve the following:
 - * Link major recreational facilities
 - * Link with trail systems of adjacent jurisdictions
 - * Provide recreational corridors between the mountains and the coast
 - * Provide for flexible, site-specific design and routing to minimize impact on adjacent property, communities, and fragile habitats. In particular, ensure that trails located within Environmentally Sensitive Habitat Areas are designed to protect fish and wildlife values
 - * Provide connections with populated areas
 - * Provide for and be designed to accommodate multiple use (walking, hiking and equestrian) wherever appropriate
 - * Facilitate linkages to community trail systems
 - * Provide for a diversity of recreational and aesthetic experiences
 - * Reserve certain trails for walking and hiking only
 - * Prohibit public use of motorized vehicles on hiking/equestrian trails

The project site is located about 4,000 feet from the coast and inland of the first public road along the coast, Pacific Coast Highway. Therefore, access to the beach is not an issue. Rather, access to and along the coast is the issue. The Santa Monica Mountains include a number of public hiking and equestrian trails established to allow the public to access the area to and along this section of coast. There is one major trail in the vicinity of this project as noted in the map of the Malibu/Santa Monica Mountains Trail System, Los Angeles County Department of Parks and Recreation, dated June 1983.

(Exhibit 6) This trail, the Zuma Ridge trail, is proposed to be located along the western boundary of the subject property. (Exhibit 8)

The Zuma Ridge Trail leads from Morning View Road to the west to Harvester Road. From Harvester Road, south of the subject property, this trail leads north to Cuthbert Road. As the trail traverses from Harvester to Cuthbert Roads, it follows along the western boundary of the subject property. Once this trail reaches Cuthbert Road, it crosses Cuthbert Road and turns east along Cuthbert Road, ultimately connecting with the Coastal Slope Trail. The Coastal Slope Trail leads north along a ridgeline at the end of Busch Drive and east to Bonsali Drive. The portion of the Coastal Slope Trail leading up the ridge from the end of Busch Drive is also known as the Zuma Ridge Trail on the Trail Map of the Santa Monica Mountains Central, dated 1993, by Tom Harrison. (Exhibit 7)

Coastal Act Sections 30210 and 30211 require that public access and recreational opportunities be provided for all people and that development not interfere with the public's right of access to the sea where acquired through use. The Los Angeles County Department of Parks and Recreation Trails Map indicates that the trail traversing the western boundary of the subject site is a planned trail since 1983. A review of the Commission access records indicates that there are only two offers to dedicate trail easements along this section of the Zuma Ridge Trail located about 2,200 feet to the west and about 1,400 feet to the east of the subject site. In addition, the Santa Monica Mountains Trails Council submitted a letter dated August 13, 1997 which states that the Los Angeles County Masterplan of Trails shows the Zuma Ridge Trail traversing the westerly side of the parcel. The letter goes on to say that this vicinity of the trail was a heavily used equestrian trail until it was fenced off a few years ago. (Exhibit 9) A letter was also received from the Malibu Trails Association dated August 13, 1997 requesting that the trail on this property be preserved. (Exhibit 11)

Further, staff received a letter from the Los Angeles County Department of Parks and Recreation dated August 14, 1997. The letter also indicated that while the planned Zuma Ridge Trail does traverse the western portion of the subject property, the alignment is not currently in use. The County initially asked that the applicant be asked to require a offer to dedicate a 20 foot wide corridor to allow the County or another agency to develop the trail at a future date. However, the applicant has proposed to provide an offer to dedicate a 10-15 foot wide trail easement along the western boundary of the subject property, as part of the project description of this application. (Exhibit 13) The County, subsequently, revised their request in a property survey to a 10-15 foot wide easement as noted in Exhibit 12.

It is important to note that the proposed project consisting of a land division creating two parcels, and the grading of a common driveway accessing two building pads will not block access to this proposed trail. The proposed building pads and the driveway alignment will occur in the middle of the proposed parcels and not along the western boundary of the parcels where the proposed trail easement will exist. Therefore, the proposed project does not impact or interfere with the future alignment of the Zuma Ridge Trail.

Coastal Act Sections 30212 and 30214 generally state that public access along the coast shall be provided in new development projects except where adequate access exists nearby. This section of the planned Zuma Ridge Trail connects Pacific Coast Highway at the western end of Zuma Beach County Park inland along the coast with the north end of Busch Drive. (Exhibits 2 and 6) Beyond

the end of Busch Drive the Zuma Ridge Trail connects to the Coastal Slope Trail to the east.

The applicant has included in the project description the provision of an offer to dedicate a public trail easement for 21 years along a 10 - 15 foot wide public trail easement located generally along the western boundary of the proposed parcels. The majority of the proposed easement is 10 feet wide; there are two areas where it is 12 and 15 feet wide at the southwest corner as noted in the property survey provided by the Los Angeles County Park and Recreation Department. See Exhibit 12. Therefore, the Commission need not make a determination as to whether imposition of an trail easement would be appropriate in this project.

Therefore, the Commission finds that the proposed project does not affect public access to and along the coast and is thus, as proposed, consistent with the public access and recreation policies, Sections 30210, 30211, 30212, and 30214, of the Coastal Act.

D. Geologic Hazards/Landform Alteration

Section 30253 of the Coastal Act states, in part, that new development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alternatural landforms along bluffs and cliffs.

Section 30251 of the Coastal Act states that:

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

In addition, the certified LUP contains the following policies regarding landform alteration and the protection of visual resources which are applicable to the proposed development. The LUP policies (P82, P90, P91, and P135) have been found by the Commission as consistent with the Coastal Act and therefore, may be considered as guidance by the Commission in determining consistency of the proposed project with the Coastal Act. These LUP policies require that grading be minimized for all new development to ensure that the potential negative effects of runoff and erosion on these resources are minimized. Further, all new development shall be designed to minimize impacts and alterations of physical features, such as ravines, and hillsides to the maximum extent feasible. Lastly, development must ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.

Geologic Stability/Hazards

The proposed development site is located in the terrace area of the Santa Monica Mountains. The Santa Monica Mountains is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to this mountain area include landslides, erosion, and flooding.

The subject site is topographically situated on a low lying ridge in the foothills of the southern flanks of the Santa Monica Mountains. The proposed building sites are located near the center of the lot on the crest of the ridge with slopes descending to the south, east, and west. The building sites are relatively flat. Slopes on the crest of the ridge descend to the south at gradients from 5:1 to 10:1. The steepest slopes affecting the site descend to the east and west into natural drainage courses on either side of the property. These slopes into the drainage courses are as steep as 2 1/2:1. The site drains to a blue line stream located about 1,000 feet to the east. Elevation relief on the site is about 100 feet. The site is currently used to grow cut flowers.

The engineering geologic report with the addendum and update by Geosystems, states that the development of the site for residential use is considered suitable from a soils and engineering geologic standpoint. As noted in the June 24, 1994 Addendum to the Preliminary Soils and Engineering Geologic Investigation, "It is our opinion the proposed building sites are free of geologic hazards from active surface faulting and stable from a geotechnical standpoint. It is our opinion that proposed parcel split is acceptable from a soils and engineering-geologic standpoint provided all recommendations of our referenced report are incorporated into the final grading and foundation plans."

In addition, the City of Malibu has conceptually approved the geological aspects of the proposed project as noted in the Geologic Referral Sheet dated 7-17-97. This document notes that the City of Malibu geologist has determined that the project is geologically feasible and can proceed through the planning process.

Based on the findings and recommendation of the consulting geologist, the Commission finds that the development is consistent with Section 30253 so long as all recommendations regarding the proposed land division are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicants to submit the final project plans that have been certified in writing by the engineering geologist as conforming to their recommendations, as noted in special condition two (2).

Minimizing the erosion of the site is important to reduce geological hazards and minimize sediment deposition in adjacent drainages along the west and east sides of the property. These drainages lead into a blue line stream that drains onto Zuma Beach, ch, however, this watershed is not a designated In addition, the recommendations of the consulting significant watershed. engineer emphasize the importance of proper drainage and erosion control measures to ensure the stability of development on the site. The applicant has submitted a plan titled; "Tentative Minor Land Division" which includes a drainage plan that will adequately direct drainage from the future building pads and driveway to the on-site drainage channel in an non-erosive manner. This drainage plan was completed by a licensed engineer. Without such a plan to reduce erosion from storm water runoff, the building sites and driveway could become unstable. However, this plan does not include provisions for landscaping which is also necessary to minimize erosion.

Therefore, the Commission finds that it is necessary to require the applicant to submit landscape/erosion control plan for the proposed development. This plan will incorporate native plant species and illustrate how these materials will be used to provide erosion control to those areas of the site disturbed by development activities. Special Condition number three (3) provides for such a landscape/erosion control plan prepared by a licensed landscape architect.

Visual Resources

In the review of this project, the Commission reviews the accessible public locations where the proposed development is visible to assess potential visual impacts to the public. The Malibu/Santa Monica Mountains Land Use Plan protects visual resources in the Santa Monica Mountains. The Commission examines the building site, the proposed grading, and the size of the building pad. As previously stated, this project involves a two lot land division, the grading of two building pads and a driveway.

The grading of the site for two building pads and a connecting driveway raises two issues regarding the siting and design: whether or not public views from public roadways will be adversely impacted; or two, whether or not public views from public parks and trails will be impacted. The subject site is located about three quarters of a mile inland from Zuma Beach and Pacific Coast Highway within the developed Malibu terrace area. The visibility of the subject site from Zuma Beach County Park and Pacific Coast Highway is limited due to the distance and intervening topography. The site will be visible from the access road to the north, Cuthbert Road, and Harvester Road to the south. These two public roads and others in this area are not designated as scenic roadways in the Malibu/Santa Monica Mountains LUP. Regarding trails, the planned Zuma Ridge Trail alignment transverses west to east connecting to the Coastal Slope Trail. (Malibu/Santa Monica Mountains Area Plan, Trail System, by the Los Angeles County Department of Parks & Recreation, dated June 1983.) An access trail easement is proposed to be located along the western portion of the subject lot. The proposed grading will be visible from this future However, the quantity of the grading is limited to 500 cubic feet of cut and 100 cubic feet of fill. The site will be landscaped with native plants at the completion of the grading. Visual impacts from this trail of the grading, once landscaped, will be limited. A second trail, the Coastal Slope Trail, is located to the northeast of the site. Public views of the site will also be limited due to the distance from this trail. It is important to note that the vicinity of the subject site includes numerous similar sized lots, the majority of these lots are developed with residences. To ensure that potential visual impacts of the grading are adequately mitigated to the extent feasible and to minimize soil erosion, the Commission finds it is necessary to require the applicant to submit a landscape/erosion plan, as required by condition three (3). Therefore, public views of the site and proposed development will not be impacted.

Regarding landform alteration, the amount of grading to prepare the site is reasonable, consisting of 500 cubic yards of cut and 100 cubic yards of fill. All exposed areas will be landscaped as required by condition number three (3) to minimize erosion on graded and disturbed areas. The applicant has identified the export location for the excess cut grading as a disposal site location outside the coastal zone. As conditioned, the applicant's project will minimize grading and will not significantly alter the existing landform on the property. Therefore the project, as conditioned, is consistent with Sections 30251 and 30253 of the Coastal Act.

E. Septic Systems.

The Commission recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area. Section 30231 of the Coastal Act states that:

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

In addition, the Malibu/Santa Monica Mountains Land Use Plan includes the following policies addressing sewage disposal. The LUP policies cited below have been found to be consistent with the Coastal Act and therefore, may be looked to as guidance by the Commission in determining consistency of the proposed project with the Coastal Act.

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

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

The applicant submitted a geologic report prepared for the proposed project site which indicates that the site is stable and it would be possible to provide septic systems for waste disposal for future residences. Percolation tests of the site demonstrated that the site is adequate to provide for septic systems. In addition, the City of Malibu Environmental Health Department has approved in concept this proposed minor land division of a single lot into two lots as it relates to the City's Uniform Plumbing Code.

The applicants do not, at this time, propose any construction of structures (except for a retaining wall for the driveway) or septic systems. At such time as coastal development permit applications are reviewed for development of the proposed lots, a full geologic evaluation which includes additional percolation testing will be necessary to ensure adequate percolation exists to accommodate effluent disposal. However, based on the applicant's geology and percolation report and the City's approval in concept, future residences can be located such that adequate septic systems can be provided. Therefore, the project is consistent, as conditioned, with Section 30231 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

(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).

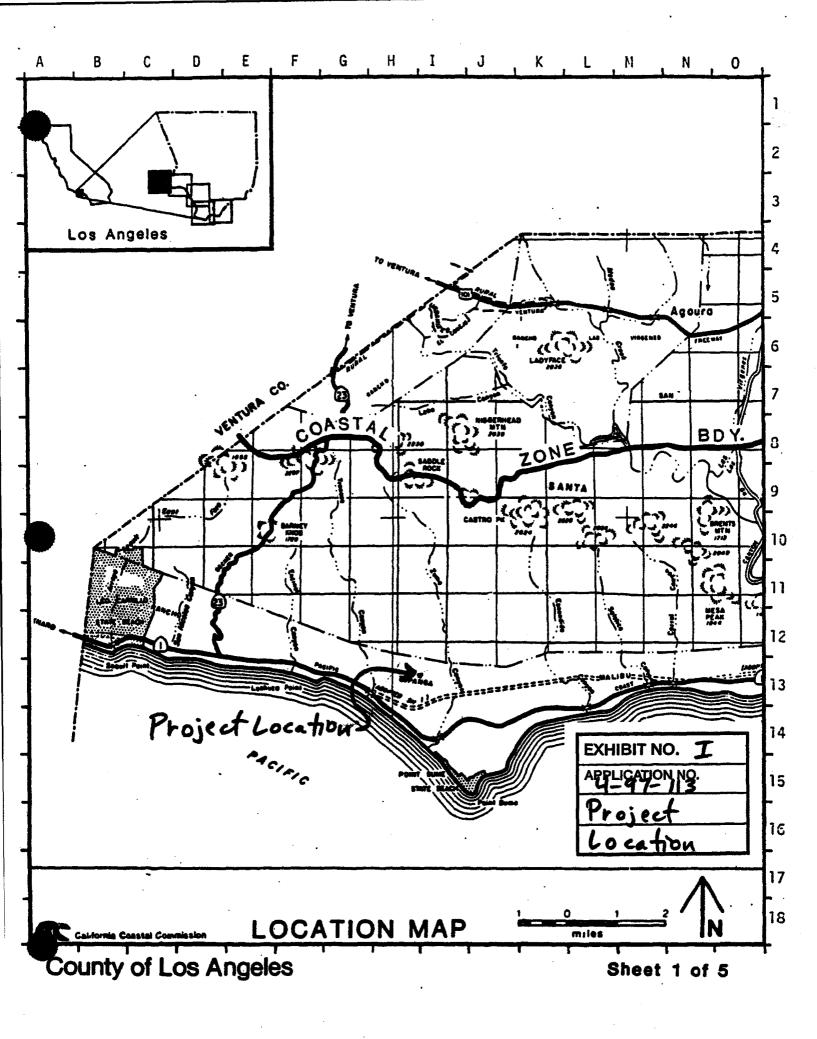
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3. As conditioned, the development will not create significant adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development will not prejudice the City of Malibu's ability to prepare a Local Coastal Program for this area of the Santa Monica Mountains that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

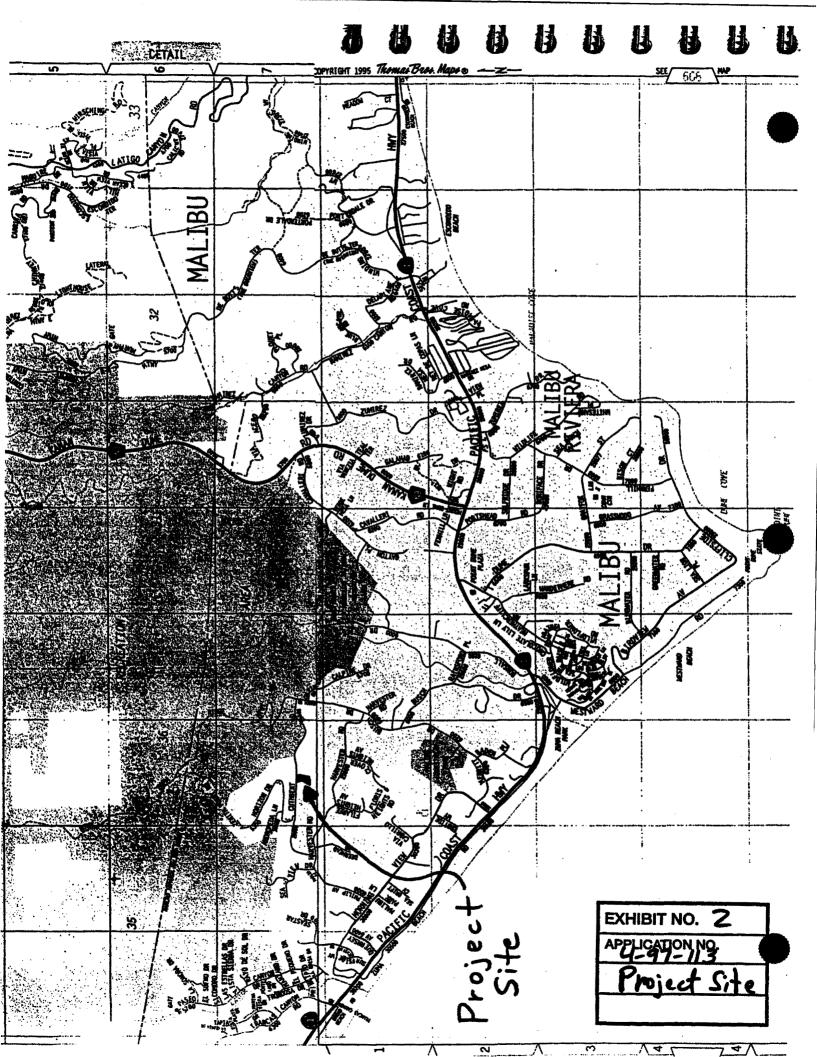
G. California Environmental Quality Act

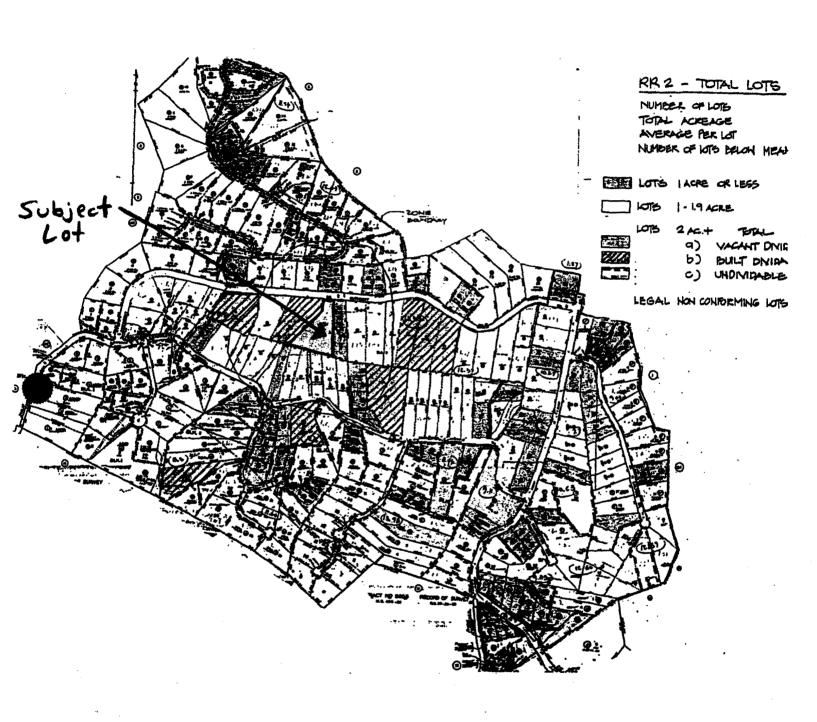
The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5 (d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment.

As conditioned, the project will not have significant adverse effects on the environment within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed project has been determined to be consistent with CEQA and the policies of the Coastal Act.

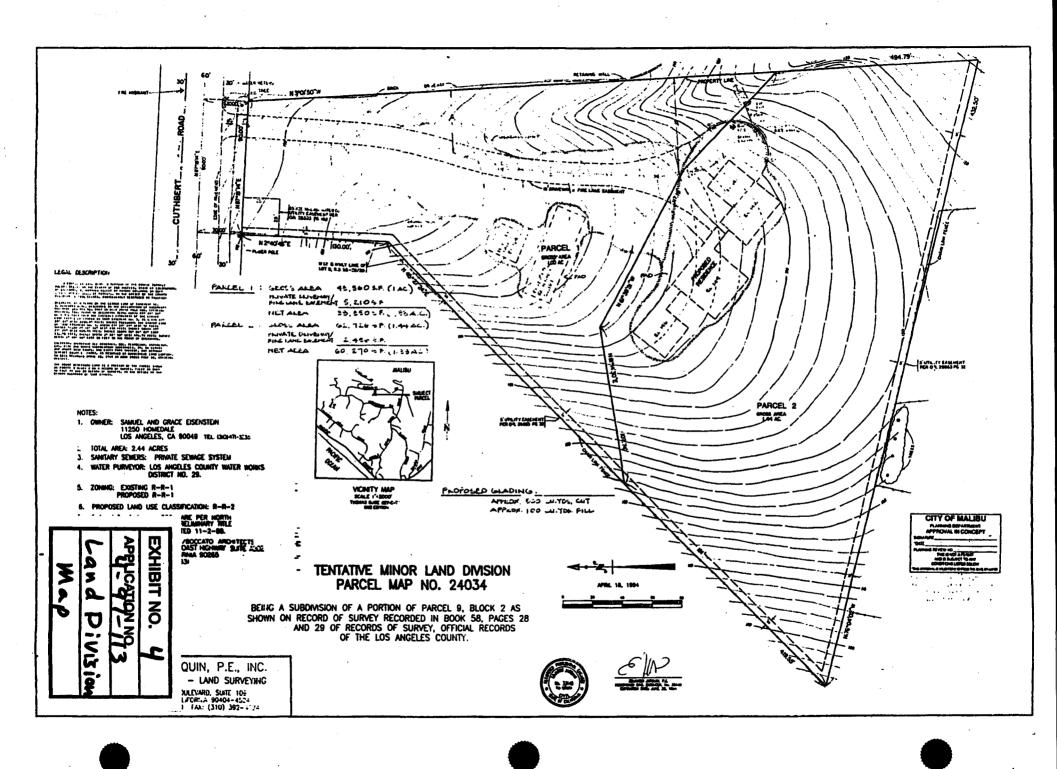
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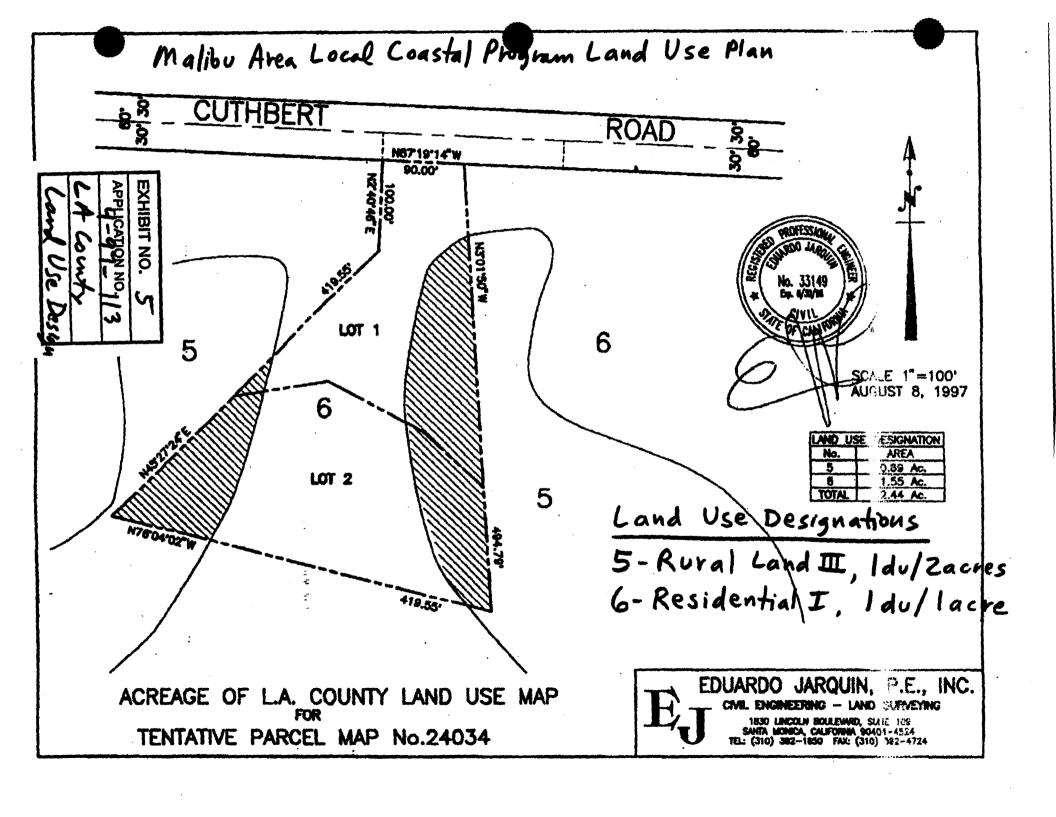


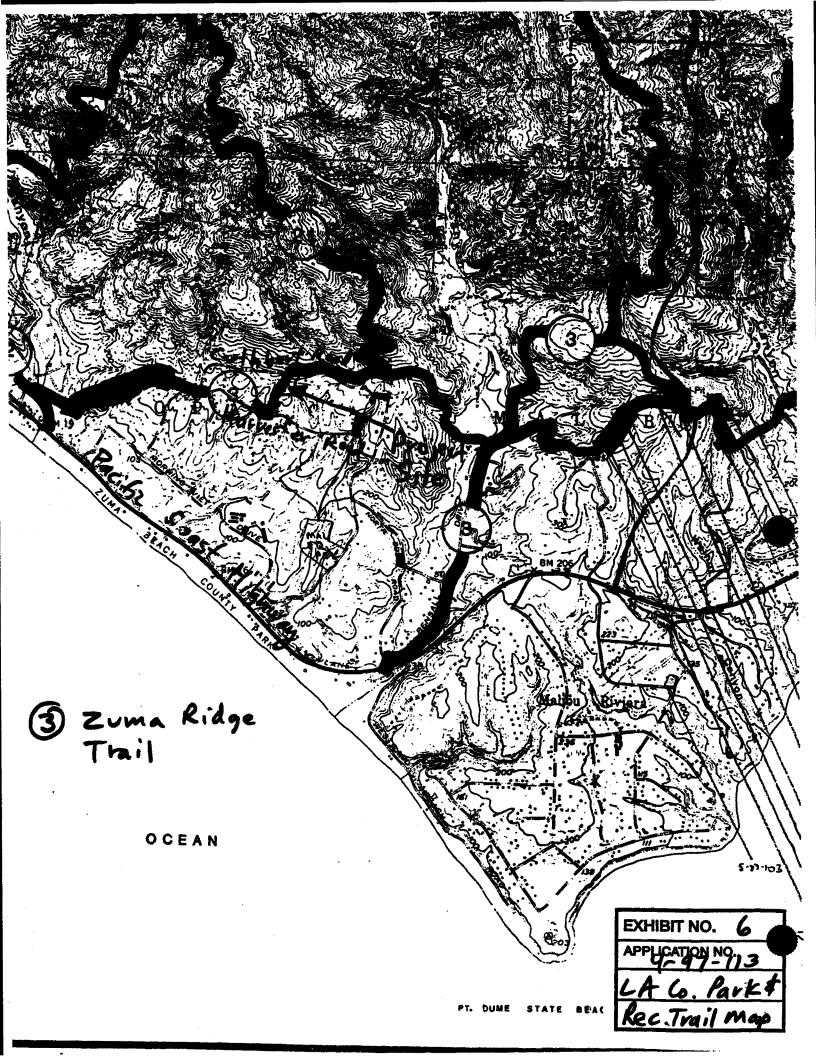


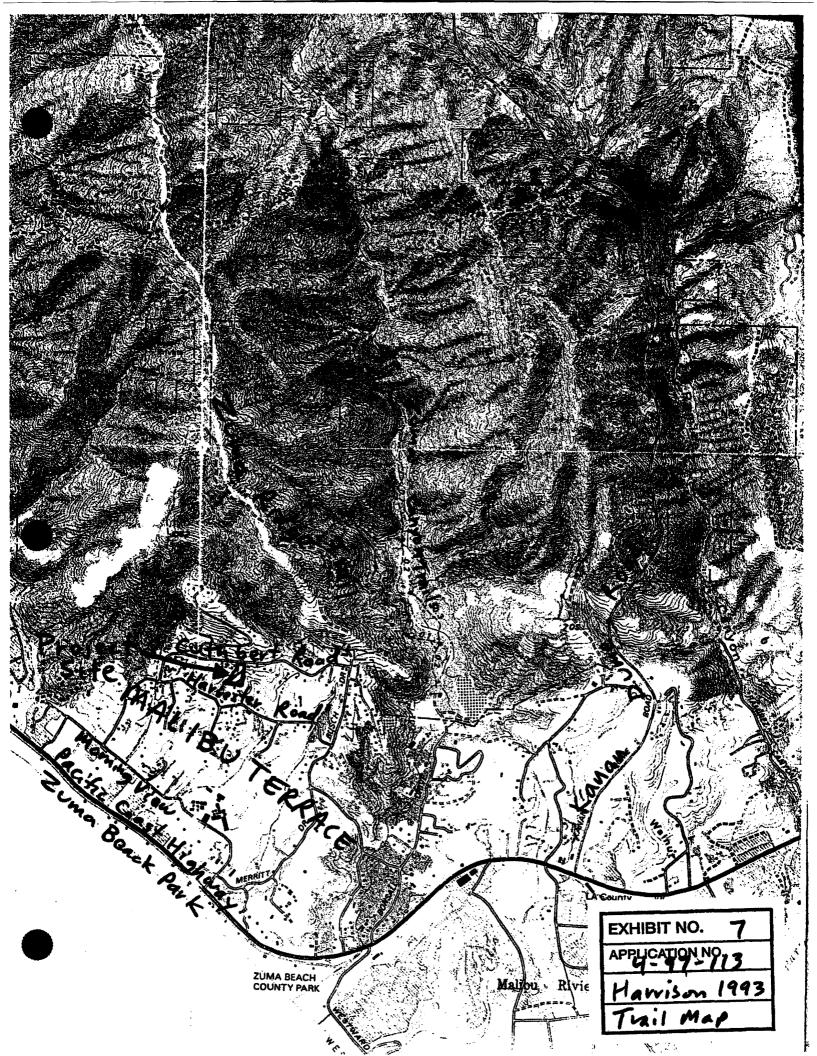


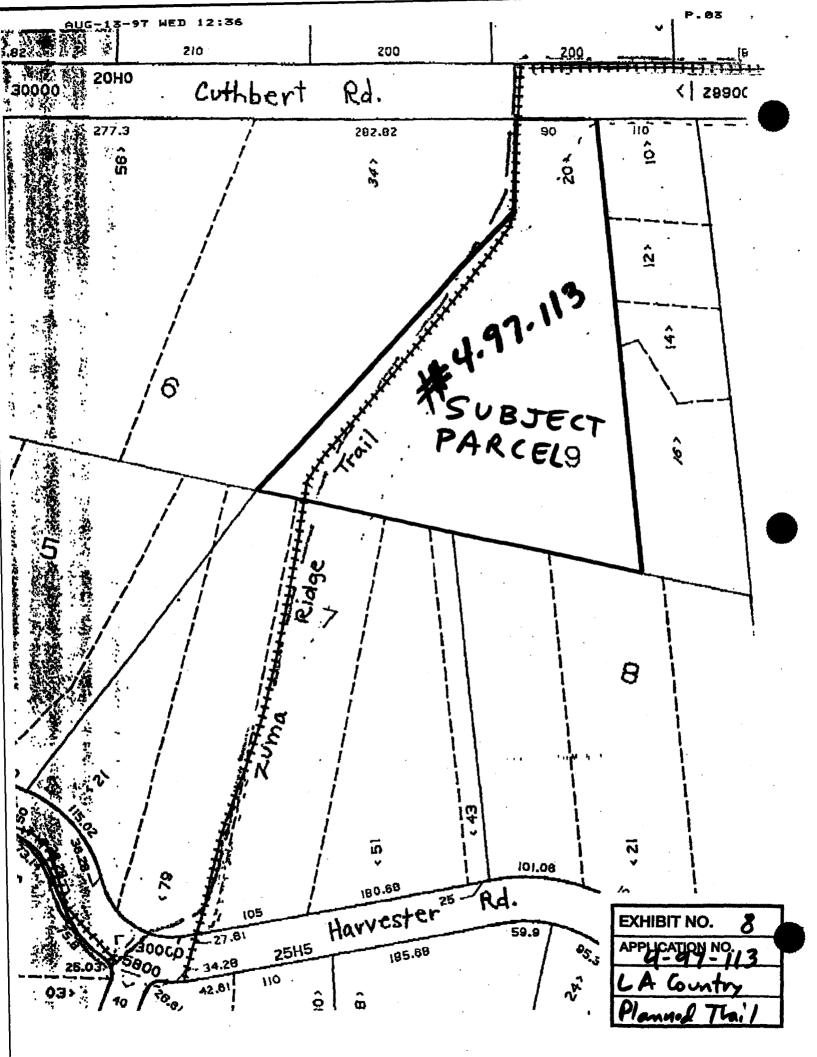
APPLICATION NO3
Subject
Lot













August 13, 1997

Attention James Johnson California Coastal Commission 89 S. Califorina St., Suite 200 Ventura, CA 93001

REFERENCE: #4-97-113 at 29920 Cuthbert Road, Malibu - ZUMA RIDGE TRAIL

Dear Commissioners:

The Los Angeles County Masterplan of Trails for Santa Monica Mountains clearly shows the Zuma Ridge Trail traversing the westerly side of the parcel located at 29920 Cuthbert Road.

Zuma Ridge Trail approaches this parcel from the east along the shoulder of Cuthbert, then goes southerly through the parcel, and passes along the boundry of one or two parcels to the south, and then continues west along the shoulder of Harvester. This was a heavily used equestrian trail until it was fenced off a few years ago.

We are not aware of any previous offers to dedicate the trail on this parcel or on the parcel(s) south of it.

We recummend that the owner of this proposed lot split dedicate a 12' wide easement for the Zuma Ridge Trail generally along the western side of the property, the specific alignment subject to final approval by Ios Angeles County Parks Department, Malibu Trails Association, and Santa Monica Mountains Trails Council.

Thank you for this opportunity to comment.

Sincerely yours,

Linda Palmer

Enc.

CC James Park, LA Co. Dept of Parks & Rec Jean Marie Webster, MTA

APPLICATION NO. 13
S. M.M. Thail
Comail Letter



COUNTY OF LOS ANGELES DEPARTMENT OF PARKS AND RECREATION



Rodney E. Cooper, Director

August 14, 1997

TO:

James Johnson, California Coastal Commission

FROM:

Jim Park, Chief, Planning Division

SUBJECT:

Zuma Ridge Trail

This is in reference to your August 6, 1997 memo regarding the an application for a coastal permit to divide one lot into two lots at 29920 Cuthbert Road, in the City of Malibu. We have completed our review of the Malibu/Santa Monica Mountains Trail Plan for this area which indicates the Zuma Ridge Trail does traverse the western boundary of the property.

It is therefore requested that a condition be imposed on the applicant to require an offer to dedicate a 20 foot wide cooridor along the western boundary to allow for the construction of the Zuma Ridge Trail. Our records indicate that while this alignment is not in use, it is an integral link to this trail and is required to allow us or another agency to develop the trail at some future date.

We appreciate the opportunity to comment on this application. If you have any questions, please call me at (213) 738-2965.

c: Linda Palmer Bertha Ruiz Zuma Ridge Tra

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| C.C.C. | - L.A. CITY SEPT OF PICE/MEC Phores (213) 736-2965 |
| THE 3 4 PL 1-12-2 | 455-6500 |
| (905) 641-1732 | |

APPLICATION NO. 10

APPLICATION NO. 10

LA County

Parks Letter



MALIBU TRAILS ASSOCIATION

August 13, 1997

California Coastal Commission South Central Coast Area 89 South California Ventura, Ca 93001

Dear Sirs,

Regarding the application for a coastal permit to divide into two lot the lot located at29920 Cuthbert Road. First of all the lots in this area of Malibu Park are 3-5 acres as the
norm with pastoral trails intersecting the area. The trail on this parcel should be preserved
and brought into an alignment with the other trails in the under the County's master plan.
Currently, there is a movement for M. I.A. to acquire a lot of the trail encoments in the
City of Malibu and to being some sort of order to them. There are too many trails being
lost and if we can preserve one unit here and there then we will be able to keep the
pastoral feeling that Malibu Park enjoys.

Jean-Marie Webster

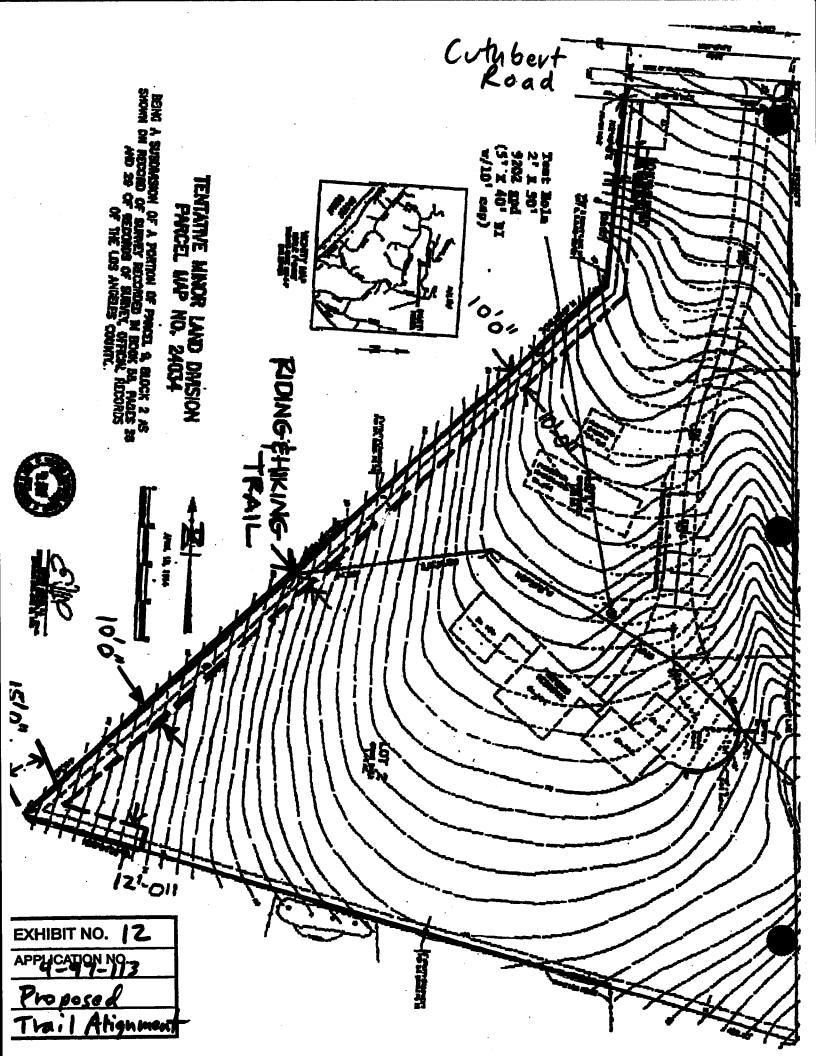
P. O. Box 6824 . Malibu . California . 90265

APPLICATION NO. 11

APPLICATION NO.

Malibu Trails

Association





August 22, 1997

Mr. James Johnson California Coastal Commission 89 S. California St. 2nd Floor Ventura, CA 93001 805-641-0142; Fax: 805-641-1732

Re:

29920 Cuthbert Road, Malibu

C.C.C. File No. 4-97-113

Dear Mr. Johnson,

Mrs. Grace Eisenstein has agreed to amend her application for a lot split to include an offer to dedicate a ten foot wide public trail easement along the westerly boundary of the property, as indicated on the property survey which you received yesterday from Jim Park at Los Angeles County Parks and Recreation.

As there is not enough time to determine if prescriptive rights exist due to the time constraints in being able to record the parcel map, Mrs. Eisenstein has decided to proceed in this direction with the understanding that the application will be acted on in the September meeting of the commission.

Yours-truly

Ron Goldman

Applicant's Representative

cc: Grace Eisenstein Helen Zukin

APPLICATION NO. 13
Letter Amending
Project Descript