

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff: AT-V
Staff Report: 6/21/07
Hearing Date: 7/11/07
Commission Action:

M 14a

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 4-95-173-A2

APPLICANT: M.H.A.B. Trust

PROJECT LOCATION: Intersection of Palm Canyon and Serra Road, Malibu, Los Angeles County

DESCRIPTION OF PREVIOUSLY APPROVED PROJECT: Subdivision of 35.8 acre parcel into 4 single-family residential parcels ranging in size from 7.3 to 13.1 acres, private roadway improvements, dedication of 30 acres of permanent open space, existing water storage tank and access road, building pads and utilities, drainage management devices (culverts, energy dissipaters), 8,460 cu. yds. of grading (3,850 cu. yds. of cut and 4,230 cu. yds. of fill), and an Arizona style creek crossing. Additionally, project included removal of four fire-damaged coastal live oak trees and approximately 150 avocado trees.

DESCRIPTION OF AMENDMENT: Revise project plans to consolidate two driveways/access roads into one realigned driveway/access road, eliminate an Arizona crossing and replace with a prefabricated bridge pursuant to previously approved CDP No. 4-95-173. Paved roadway will be reduced by approximately 328 feet and total grading for the project will be reduced from 8,460 cubic yards to 7,930 cubic yards (3,495 cubic yards of cut and 4,435 cubic yards of fill). Grading amounts for the flat pad areas have not changed, no new structures, including retaining walls and drainage swales are proposed, and the modified project will not result in additional removal or encroachment of oak trees.

LOCAL APPROVALS RECEIVED: Los Angeles County Department of Regional Planning, Approval-in-Concept, dated November 14, 2006; County of Los Angeles Fire Department (Access), Approval-in-Concept, dated April 14, 2006.

SUBSTANTIVE FILE DOCUMENTS: Updated Geology and Geotechnical Engineering Report, Parcel Map 23897, Palm Canyon Road, Malibu, by GeoConcepts, Inc., dated

March 15, 2007.; "Limited Geologic and Soils Engineering Investigation," Grading Plan Review Parcel Map 23897, Palm Canyon Lane, Malibu, CA, by GeoConcepts, Inc., dated September 13, 1999; "Addendum to Biological Report and Habitat Management Plan for M.H.A.B. Trust, Parcel Map 23897," by Land Design Consultants, Inc., dated April 2007; Coastal Development Permit (CDP) No. 4-95-173.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed amendment with **the revision of one (1) special condition** regarding the geotechnical engineer's recommendations and **the addition of two (2) special conditions** regarding supplemental landscaping plans and updated revegetation and implementation monitoring plans.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No 4-95-173-A2 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

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

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. STANDARD 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 permittees 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. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

4. 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.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

NOTE: All standard and special conditions attached to the previously approved permit remain in effect, with the exception of Special Condition No. 11, which is replaced by the Revised Special Condition No. 11. Special Conditions 12 and 13 are added to this Permit Amendment.

11. Revised Revegetation Implementation and Monitoring Plan

Prior to the issuance of the Permit Amendment, the applicant shall submit, for the review and approval of the Executive Director, a revised Biological Report and Habitat Management Plan that shall include an updated revegetation and monitoring plan to expressly include the portion of the riparian area that will be impacted from the removal of the existing culvert and construction of the bridge. The updated plan shall also provide for the submittal, on an annual basis for a period of five years (no later than December 31st each year), of a written monitoring report, for the review and approval of the Executive Director, prepared by an environmental resource specialist, indicating the success or failure of the revegetation project. In all other respects, the updated plan shall be consistent with the Habitat Management and Fuel Modification Plan for the M.H.A.B Trust, by Rachel Tierney Consulting, dated May 20, 1994.

The updated revegetation and monitoring plan must be implemented no later than thirty (30) days after completion of final grading and bridge construction. The applicant shall submit, on an annual basis for a period of five years (no later than December 31st each year), a written report, for the review and approval of the Executive Director, prepared by an environmental resource specialist, indicating the success or failure of the

revegetation project. The annual reports shall include further recommendations and requirements for additional revegetation activities in order for the project to meet the criteria and performance standards listed in the revegetation plan. These reports shall also include photographs taken from pre-designated locations (annotated to a copy of the site plans) indicating the progress of recovery. During the monitoring period, all artificial inputs shall be removed except for the purposes of providing mid-course corrections or maintenance to ensure the long-term survival of the plantings. If these inputs are required beyond the first four (4) years, then the monitoring program shall be extended for a sufficient length of time so that the success and sustainability of the project is ensured. Successful site restoration shall be determined if the revegetation of native plant species on-site is adequate to provide ninety percent (90%) coverage by the end of the five (5) year monitoring period and is able to survive without additional outside inputs, such as supplemental irrigation.

At the end of the five year period, a final detailed report shall be submitted, for the review and approval of the Executive Director, which indicates whether the on-site revegetation is in conformance with the updated revegetation and monitoring plan. The final report shall include photographic documentation of plant species and plant coverage. If this report indicates that the restoration project has in part, or in whole, been unsuccessful, based on the approved performance standards, the applicants shall be required to submit a revised or supplemental restoration program to compensate for those portions of the original plan that were not successful. The revised, or supplemental, restoration program shall be processed as an amendment to this Coastal Development Permit.

All oak resource protection measures outlined in the Habitat Management and Fuel Modification Plan shall be implemented prior to, and during, all grading and construction activities. All tree replacement measures shall be implemented within 30 days of final grading completion and new tree seedlings shall be planted out during the first spring following such grading completion. Any future removal of trees other than those specified shall require a new coastal development permit or an amendment to Permit 4-95-173.

The applicant also agrees to remove any existing fencing within 25 feet of the outer extent of the scour line of the blue line stream within 30 days of the completion of final grading and that no future fencing within 25 feet of the outer extent of the scour line of the blue line stream shall be constructed.

12. Updated Plans Conforming to Geotechnical Engineer's Recommendations

By acceptance of this Permit Amendment, the applicant agrees to comply with the recommendations contained in the Updated Geology and Geotechnical Engineering Report, Parcel Map 23897, Palm Canyon Road, Malibu, by GeoConcepts, Inc., dated March 15, 2007 and the "Limited Geologic and Soils Engineering Investigation," Grading Plan Review Parcel Map 23897, Palm Canyon Lane, Malibu, CA, by GeoConcepts, Inc., dated September 13, 1999. These recommendations, including any recommendations

concerning grading and drainage, shall be incorporated into all final design and construction plans, which must be reviewed and approved by the consultant prior to commencement of development.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to grading and drainage. Any substantial changes in the proposed development approved by the Commission that may be required by the consultant shall require amendment(s) to the permit(s) or new Coastal Development Permit(s).

13. Supplemental Landscaping Plan

Prior to issuance of the Permit Amendment, the applicants shall submit a supplemental landscaping plan prepared by a licensed landscape architect or qualified resource specialist for review and approval by the Executive Director. The plan shall incorporate the following criteria:

- 1) All graded & disturbed areas on the subject site for the proposed realigned driveway and the portion of the former driveway not proposed for further use shall be planted and maintained for erosion control purposes within (60) days of completion of the development approved by CDP Amendment No. 4-95-173-A2. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
- 2) All cut and fill slopes for the realigned driveway 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. All native plant species shall be of local genetic stock. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.

3) Monitoring

Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition.

The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Background

The Commission approved CDP No. 4-95-173 on August 15, 1996 for the property for the subdivision of a 35.8 acre parcel (APN 4457-002-037) into 4 single-family residential parcels ranging in size from 7.3 to 13.1 acres, private roadway improvements, dedication of 30 acres of permanent open space, existing water storage tank and access road, building pads and utilities, drainage management devices (culverts, energy dissipaters), 8,460 cubic yards of grading, and an Arizona creek crossing. The approved development also consists of removal of four-fire damaged coastal live oak trees and approximately 150 avocado trees. The project site is located in an unincorporated area of Los Angeles County (**Exhibits 2-4**) just north of the City of Malibu. Permit Amendment No. 4-95-173-A1 was subsequently approved to permit a road easement for a previously existing dirt access road as an allowable use in the dedicated open space area to the northwest of lot 4. A copy of the permit for CDP No. 4-95-173, issued on June 23, 2000, is attached as **Exhibit 1**. Pursuant to the CDP and Permit Amendment, the applicant has recorded the parcel map and carried out much of the grading on the site.

The applicant now proposes amended project plans for a previously approved four lot subdivision on a 35.8 acre parcel to consolidate two driveways into one realigned driveway that will provide access to all four lots and eliminate an Arizona crossing and replace with a prefabricated bridge.

Per this proposed permit amendment, the original 400 foot long driveway from Serra Road accessing Lots 1-3, shown on **Exhibit 3**, will be moved to the south, with 126 feet to remain as previously approved and 286 feet added. The total realigned driveway, to access Lots 1-4, shown on **Exhibit 4**, is proposed to be 412 feet in length and about 30 feet in width, extending northwest from Serra Road located to the southeast of the subject property. The previously approved 340 foot road from Palm Canyon Lane (to the west) to access Lot 4 will be eliminated from the plans. The access to Lot 4 is now

proposed to be only via the 412 foot long realigned driveway to the east. The project as currently proposed will result in 328 feet less paved roadway than the originally approved project.

Grading for the project has been completed with the exception of the realigned access road and area where the bridge will cross the stream. Grading for the entire project will be reduced by a total of 530 cubic yards, from 8,460 cubic yards to 7,930 cubic yards (3,495 cubic yards of cut and 4,435 cubic yards of fill). Deleting the previously approved driveway to Lot 4 will result in 80 less cubic yards of cut and 500 less cubic yards of fill. The grading quantities associated with the newly proposed bridge and realigned driveway section includes 255 cubic yards of fill. Grading amounts for the flat pad areas have not changed and no new structures, including retaining walls and drainage swales, are proposed

In addition to the driveway realignment, this project amendment also includes plans for a pre-fabricated bridge (**Exhibit 5**). The existing culvert will be removed and replaced by a pre-fabricated bridge 37 feet in length and 20 feet in width. It will cross an unnamed blue-line tributary to Malibu Creek. The bridge will be composed of galvanized steel beams with twin faux wood rails on each side. The bridge will be placed approximately 30 feet to the southwest from the location of the existing culvert to be removed. The grading quantities associated with the bridge and access to Lot 4 includes 255 cubic yards of fill.

The project site is located in Los Angeles County just north of the City of Malibu boundary at the southernmost foothills of the Santa Monica Mountains (**Exhibit 2**). Access to the property is via Serra Road to the east. The property consists of very steep south facing slopes to the north and gentle slopes on the southerly section of the property where the four residential lots are proposed to be located. A portion of one unnamed USGS blue-line stream flows in a southwesterly direction toward Malibu Creek about .6 miles away. Malibu Lagoon is approximately 1.1 miles southwest of the site. The southern portion of the property consists of avocado trees and the northern portion of the property is vacant undeveloped land. State Park lands are located to the north and single family residences surround the property to the south, east, and west.

The site consists of Northern Mixed Chaparral, Sycamore Riparian Forest, Freshwater Salt Marsh, and Non-Native Grassland, and scattered coast live oak trees. Much of the 35.8 acre property is considered by Los Angeles County to be a Significant Ecological Area. Additionally, a portion of the site is designated "significant watershed" in the Malibu/Santa Monica Mountains Land Use Plan (LUP). However, none of the development proposed to be modified by the subject amendment is within the significant watershed area. Rather, all of the modifications will be within the area that the Commission previously found to be appropriate for residential development, and sensitive biological resources that may be affected by brush clearance from fuel modification are addressed in the updated Biological Report and Habitat Management Plan, dated April 2007. The proposed amendment will not result in additional impacts to Environmentally Sensitive Habitat Area or result in additional removal or encroachment

of oak trees. The project plans have been redesigned to avoid impacts to all remaining living oak trees. The revised project will avoid encroachments within 5 feet of the drip lines of oak trees. Further, areas to be affected by fuel modification have not changed since the previously approved project.

B. Water Quality

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, and introduction of pollutants. Section 30231 of the Coastal Act states:

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.

Further, Section 30236 of the Coastal Act prevents stream alteration except in very limited instances and requires the incorporation of the best mitigation measures feasible. Section **30236** of the Coastal Act states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

In addition, the Malibu/Santa Monica Mountains LUP provides policy guidance regarding the protection of streams, and water quality and marine resources. The Coastal Commission, as guidance in the review of development proposals in the Santa Monica Mountains, has applied the following policies:

P76 ***In accordance with Section 30236 of the Coastal Act, channelizations, dams, or other substantial alterations of stream courses shown as blue line streams on the latest available USGS map should incorporate the best mitigation measures feasible, and be limited to 1) necessary water supply projects, 2) flood control projects that are necessary to protect public safety or existing structures, and 3)***

developments where the primary purpose is the improvement of fish and wildlife habitat.

- P78 Stream road crossings shall be undertaken by the least environmentally damaging feasible method. Road crossings of streams should be accomplished by bridging, unless other methods are determined by the ERB to be less damaging. Bridge columns shall be located outside stream courses, if feasible. Road crossings of streams within ESHAs designated by the LCP may be allowed as a conditional use for the purpose of providing access to recreational areas open to the public or homesites located outside the ESHA where there is no feasible alternative for providing access.***
- P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.***

The amended project will reduce impacts to an existing stream and riparian area because an Arizona crossing will be replaced with a pre-fabricated bridge. Also, an additional 24 sq. ft. within the stream will be restored by removal of the existing road crossing consisting of two corrugated metal pipe culverts covered with fill and supported by concrete and rock walls. While this will ultimately improve stream flow and reduce impacts to water quality because cars will no longer drive through the stream bed, there will still be impacts to the stream from the removal of the existing structure and the construction of the bridge. Impacts to the stream for the amended project include the placement of a riprap pad (about 6.5 ft. by 6.5 ft.) associated with a filtered outlet for street runoff. A total of about 17 sq. ft. surrounding the creek crossing may be temporarily impacted during removal and construction of the new bridge. However, this area will be restored and revegetated pursuant to **Special Condition Eleven (11)**. No impacts to the riparian canopy will result. Thus, the revised plans will result in a 10 sq. ft. permanent impact to the stream course versus the 525 sq. ft. area that is currently impacted by the existing Arizona crossing.

The applicant has proposed minor revised mitigation measures in the updated Habitat Management and Fuel Modification Plan. However, the originally proposed exotic species removal plan, per Section 3.3.2 of the Habitat Management and Fuel modification plan will still be implemented, including removal of large non-native plant species within the creek, plus a 50 ft. buffer measured from both sides. The upland areas and drainage will be planted with native trees and shrubs as described in Section 3.3.3 of the Habitat Management Plan. Therefore, approximately 500 feet of stream corridor will be subject to the revegetation and monitoring plan. Based on changed conditions at the site, however, the Habitat Management and Fuel Modification Plan has been modified to eliminate the hydroseeding component within undisturbed areas of the stream course because of the current density of herbaceous weeds and the low likelihood of herbaceous revegetation success.

Section 30236 requires that streams are not altered, except for a few very specific instances, and that any such development must employ all feasible mitigation measures. The Malibu/Santa Monica Mountains LUP, which the Commission uses as guidance, states that stream road crossings must be accomplished by bridging. The Commission has consistently required that bridges be employed for the crossing of streams in the Santa Monica Mountains. In approving CDP 4-96-173, the Commission found that the Arizona crossing with culverts existed prior to the effective date of the Coastal Act and the removal of this crossing was not required as a condition of the subdivision approval. The applicant now proposes to remove the crossing and replace it with a bridge. The abutments will be located outside of the stream banks. Water quality will be improved because vehicles will no longer drive through the stream bed. A small area of the stream bank will be impacted by the construction and the removal of the existing crossing. As such, the Commission finds it necessary to require the applicant to revegetate these areas in order to minimize erosion and sedimentation, and to restore the riparian habitat.

Special Condition Eleven (11) of this amendment requires the applicant to submit an updated revegetation implementation and monitoring plan to expressly include the portion of the riparian area to be impacted from the removal of the existing culvert and construction of the bridge. Condition Eleven (11) requires the revegetation and monitoring plan to be implemented no later than thirty (30) days after completion of final grading and bridge construction. This condition has also been updated to require the applicant to monitor the revegetation work for a period of 5 years (instead of three years required in the original condition) and to report annually to the Executive Director regarding the success of the revegetation. The Commission has found in past permit actions, that it is necessary to monitor revegetation or restoration projects for at least five years in order to ensure that the plantings are successful. Special Condition Eleven (11) of this permit amendment replaces the special condition of the same number required by the Commission in CDP 4-95-173.

Additionally, a supplemental landscape plan, required by **Special Condition Thirteen (13)** requires the proposed realigned driveway and the portion of the former driveway not proposed for further use to be planted and maintained for erosion control purposes. This plan will supplement the landscaping plan requirement of CDP 4-95-173 (included as Special Condition No. 1 of that permit) in order to ensure that the new areas of disturbance for the realigned roadway are also successfully landscaped to minimize erosion and sedimentation.

The Commission finds that as so conditioned, the development, as amended, will maintain and enhance water quality and reduce the alteration of the on-site stream, consistent with Sections 30231 and 30236 of the Coastal Act.

C. Geologic Hazard

The proposed development is located in the Santa Monica Mountains, an area that is generally considered to be subject to an unusually high amount of natural hazards.

Geologic hazards common to the Santa Monica Mountains area include landslides, erosion, and flooding.

Section **30253** of the Coastal Act states, in pertinent 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, instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.***

Section 30253 of the Coastal Act mandates that new development be sited and designed to provide geologic stability and structural integrity, and minimize risks to life and property in areas of high geologic, flood, and fire hazard. The applicant has submitted an Updated Geology and Geotechnical Engineering Report, Parcel Map 23897, Palm Canyon Road, Malibu, by GeoConcepts, Inc., dated March 15, 2007 and a "Limited Geologic and Soils Engineering Investigation," Grading Plan Review for Parcel Map 23897, Palm Canyon Lane, Malibu, CA, by GeoConcepts, Inc., dated September 13, 1999. These reports address the geologic conditions on the site, including drainage, subsurface conditions, groundwater, landslides, faulting, and seismicity.

The subject property is located in Los Angeles County just north of the City of Malibu boundary at the southernmost foothills of the Santa Monica Mountains (**Exhibit 2**). The property consists of very steep south facing slopes to the north and gentle slopes on the southerly section of the property where the four residential lots are proposed to be located. The site is underlain by volcanic and sedimentary bedrock. Previous farming and access road grading have resulted in minor placement of non-compacted fill on the subject site. Fill consists of silty sand, gravels, cobbles, and boulders. Landslide debris from an ancient landslide was mapped as consisting of well-cemented sandstone with interbedded siltstone. The geologic consultants have found that the proposed subdivision will be adequately protected from rockfall, surficial slumping, natural runoff and erosion potential due to the large catchment area and earthen berm. The geologic consultants have stated that:

It is the finding of this corporation, based upon the subsurface data, that the proposed project will be safe from landslide, settlement or slippage and will not adversely affect adjacent property, provided this corporation's recommendations and those of the Los Angeles County Code are followed and maintained.

To ensure that the recommendations of the consultant have been incorporated into all proposed development, **Special Condition Twelve (12)** requires that the applicant comply with and incorporate the recommendations contained in the submitted geologic

reports into all final design and construction, and to obtain approval of the geotechnical consultants prior to commencement of construction.

Further, the Commission finds that landscaping of graded and disturbed areas along the realigned driveway and the portion of the former driveway not proposed for further use will serve to stabilize disturbed soils, reduce erosion and thus enhance and maintain geologic stability of the site. Therefore, **Special Condition Thirteen (13)** requires the applicant to submit a supplemental landscaping plan certified by the consulting geotechnical engineer as in conformance with their recommendations for landscaping of the project site. **Special Condition Thirteen (13)** also requires the applicant to utilize and maintain native and noninvasive plant species compatible with the surrounding area for landscaping the project site.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foilage weight. The Commission notes that non-native and invasive plant species with high surface/foilage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition Thirteen (13)**.

The Commission finds that the amended project, as conditioned, will minimize potential geologic hazards on the project site and adjacent properties, as required by §30253 of the Coastal Act

D. Local Coastal Program

Section 30604(a) of the Coastal Act states:

Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of 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 that conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and accepted by the applicants. As conditioned, the proposed project

will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for the Malibu/Santa Monica Mountains area that is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. California Environmental Quality Act

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Coastal Act. Feasible mitigation measures which will minimize all adverse environmental effects have been required as special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

CALIFORNIA COASTAL COMMISSION

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CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Page 1 of 6
June 23, 2000

Permit Application No. 4-95-173

COASTAL DEVELOPMENT PERMIT

On August 15, 1996, the California Coastal Commission granted to MHAB Trust, permit 4-95-173, subject to the attached Standard and Special Conditions, for development consisting of: Subdivision of 35.8-acre parcel (APN 4457-002-037) into 4 single-family residential parcels ranging in size from 7.3 to 13.1 acres, private roadway improvements, dedication of 30 acres of permanent open space, existing water storage tank and access road, building pads and utilities, drainage management devices (culverts, energy dissipaters), 8,460 cu. yds. of grading (3,850 cu. yds. of cut and 4,230 cu. yds. of fill); and an "Arizona"-style creek crossing at the Palm Canyon Road entrance to one of the four parcels. Applicant also proposes to remove four fire-damaged coastal live oak trees and approximately 150 avocado trees and is more specifically described in the application on file in the Commission offices.

The development is within the coastal zone in Los Angeles County at Northwesterly of the intersection of Palm Canyon and Serra Roads in the unincorporated Malibu..

Issued on behalf of the California Coastal Commission by,

PETER DOUGLAS

Executive Director

By: Melanie Hale
Coastal Program Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part, that: "A public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGEMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

M.H.A.B. Trust

by: Co-Trustee

June 26, 2000

Date

EXHIBIT 1**CDP 4-95-173-A2 (M.H.A.B. Trust)****CDP 4-95-173**

COASTAL DEVELOPMENT PERMIT

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.

SPECIAL CONDITIONS:

1. **Landscaping and Erosion Control Plans**

Prior to issuance of permit, the applicant shall submit landscaping and erosion control plans prepared by a licensed architect and engineer for review and approval by the Executive Director. The plans shall incorporate the following criteria:

- (a) All graded areas on the subject site shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development all landscaping shall consist primarily of native, drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended Native Plant Species for Landscaping Wildland Corridors in the Santa Monica Mountains, dated January 20, 1992. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) Grading shall not take place during the rainy season (November 1 - March 31). The development shall minimize sediment from runoff waters during construction through the use of sediment basins (including debris basins, desilting basins, or silt traps) on the project site prior to or concurrent with the initial grading operations and maintained through the development process.

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All sediment shall be retained on-site unless removed to a dumping location subject to the prior review and approval of the Executive Director.

(c) All grading activities shall be carried out as expeditiously as feasible and all building pads shall be hydroseeded with native grasses or native annuals and access roads paved within 30 days of grading completion. In the event that grading activities are interrupted for a period of more than 30 days, all exposed areas shall be hydroseeded with native seed, all access roads shall be paved, and sediment retention methods shall be implemented during the period of interruption.

2. Recordation of Permit

Prior to project commencement, the applicant shall record Permit 4-95-173 and the associated Commission findings. The document shall run with the land, binding all successors and assigns.

3. Installation of Fencing

(a) Applicant agrees that all fencing utilized on the subject site shall be of a type that neither injures nor restricts the movement of wildlife. No fencing shall be placed closer than 25 feet from the nearest edge of streambed scour. No barbed wire, mesh or chainlink fencing shall be allowed.

4. Cumulative Impact Mitigation

Prior to the issuance of the Coastal Development Permit, the applicant 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 in 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 three (3) building sites in the Santa Monica Mountains Coastal Zone. The method used to extinguish the development rights shall be either:

- (a) one of the five lot retirement or lot purchase programs referred to in the Malibu/Santa Monica Mountains Land Use Plan (Policy 272, 2-6);
- (b) a TDC-type transaction, consistent with past Commission actions;
- (c) 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 is therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

5. Plans Conforming to Geologic Recommendations

All recommendations contained in the Geologic Report dated February 7, 1994, and addendum Geologic Reports dated August 29, 1994, January 24, 1995, and March 28, 1995, prepared (all) by R.L. Sousa & Associates, as well as the Soils Engineering Investigation dated February 17, 1994 and addendum to the Soils Engineering Investigation dated September 6, 1994 and January 23, 1995, prepared (all) by G.C. Masterman & Associates, Inc., shall be incorporated into all final design and construction including grading, septic

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systems, and drainage. All plans must be reviewed by the consultants prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall

submit evidence for the review and approval of the Executive Director of the consultants' review and approval of all final design and construction plans. The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading, fault setback, and drainage. Any substantial changes in the proposed development approved by the commission which may be required by the applicant's consultants shall require an amendment to the permit or a new coastal development permit.

6. Archaeological Resources

By acceptance of this permit the applicant agrees to have a qualified archaeologist(s) and appropriate Native American consultant(s) present on-site during all grading, excavation and site preparation that involve earth moving operations. The number of monitors shall be adequate to observe the activities of each piece of active earth moving equipment. Specifically, the earth moving operations on the project site shall be controlled and monitored by the archaeologist(s) for the purpose of locating, recording and collecting any archaeological materials. In the event that an area of intact buried cultural deposits are discovered during operations, grading work in this area shall be halted and an appropriate data recovery strategy be developed by the applicant's archaeologist and the Native American consultant consistent with Special Condition 14 of Tentative Parcel Map No. 23897 and CEQA guidelines implemented, subject to the review and approval of the Executive Director.

7. Drainage and 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 drainage and erosion control plan, designed by a licensed engineer and approved by the Los Angeles County Department of Public Works. The drainage and erosion control plan will not result in increases in either peak run-off volume or velocity for a 25 year / 24 hour rainfall event. Specifically, runoff volumes and velocities for a 25-year and 24-hour event must be calculated for existing and post-project conditions to demonstrate that no increase in runoff volume or velocity will occur. The drainage and erosion control plan shall include, but not be limited to, a system which collects run-off from the roads, driveways, and other impervious surfaces, and discharges it in a non-erosive manner including, if appropriate, on-site detention/desilting basins, dry wells, etc.

If any on-site detention system is planned either on or upslope from an engineered fill or an identified landslide, the drainage and erosion control plans shall be reviewed and signed by a licensed civil engineer or engineering geologist, indicating that the drainage and erosion control plan will not negatively impact or destabilize the identified fill or landslide. Any substantial changes in the proposed development approved by the Commission which may be required by the drainage consultant shall require an amendment to the permit or a new coastal development permit.

8. Revised Plans

(a) Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the Executive Director's review and approval, revised plans limiting grading setbacks to not less than a minimum of

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twenty-five (25) feet from the outer extent of scour lines of the mapped blue line stream traversing the applicant's property.

9. Open Space Deed Restriction

In accordance with the applicant's proposal, prior to issuance of the Coastal Development Permit, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, stating that an open space area shall be created on the subject parcel that includes the area shown on Exhibit 4. Within the open space area, north of the Significant Watershed boundary line, all development activity, except the continued existence and maintenance of the agricultural water tank and access roadway depicted on Exhibit 4, vegetation clearance as required by the Fire Department, and the installation of fencing necessary to exclude livestock from the open space area consistent with the requirements of Special Condition 3, is prohibited, including the alteration of landforms, removal of vegetation, use of heavy machinery or equipment, use of the area for livestock grazing, or the erection of structures of any type. Within the open space area south of the Significant Watershed boundary line, as depicted on Exhibit 4, all development with the exception of livestock grazing, landscaping and vegetation clearance as required by the Fire Department and a road and pipeline easement leading to the adjacent parcel to the west, is prohibited including grading and erection of structures.

10. Fencing of Open Space Area

In accordance with the applicant's proposal, within 30 days of completion of final grading, applicant agrees to install wildlife-compatible fencing in accordance with the requirements of special conditions set forth herein to restrict livestock from those areas of the dedicated open spaces north of significant watershed boundary, as shown on Exhibit 4, that would otherwise be accessible. Where terrain is too steep to allow livestock to pass or where fencing would require removal of significant vegetation, no fencing shall be required. Applicant agrees that such fencing shall be permanently maintained by himself or his successors-in-interest, so as to permanently restrict access to the open space area by livestock.

11. Revegetation Implementation and Monitoring

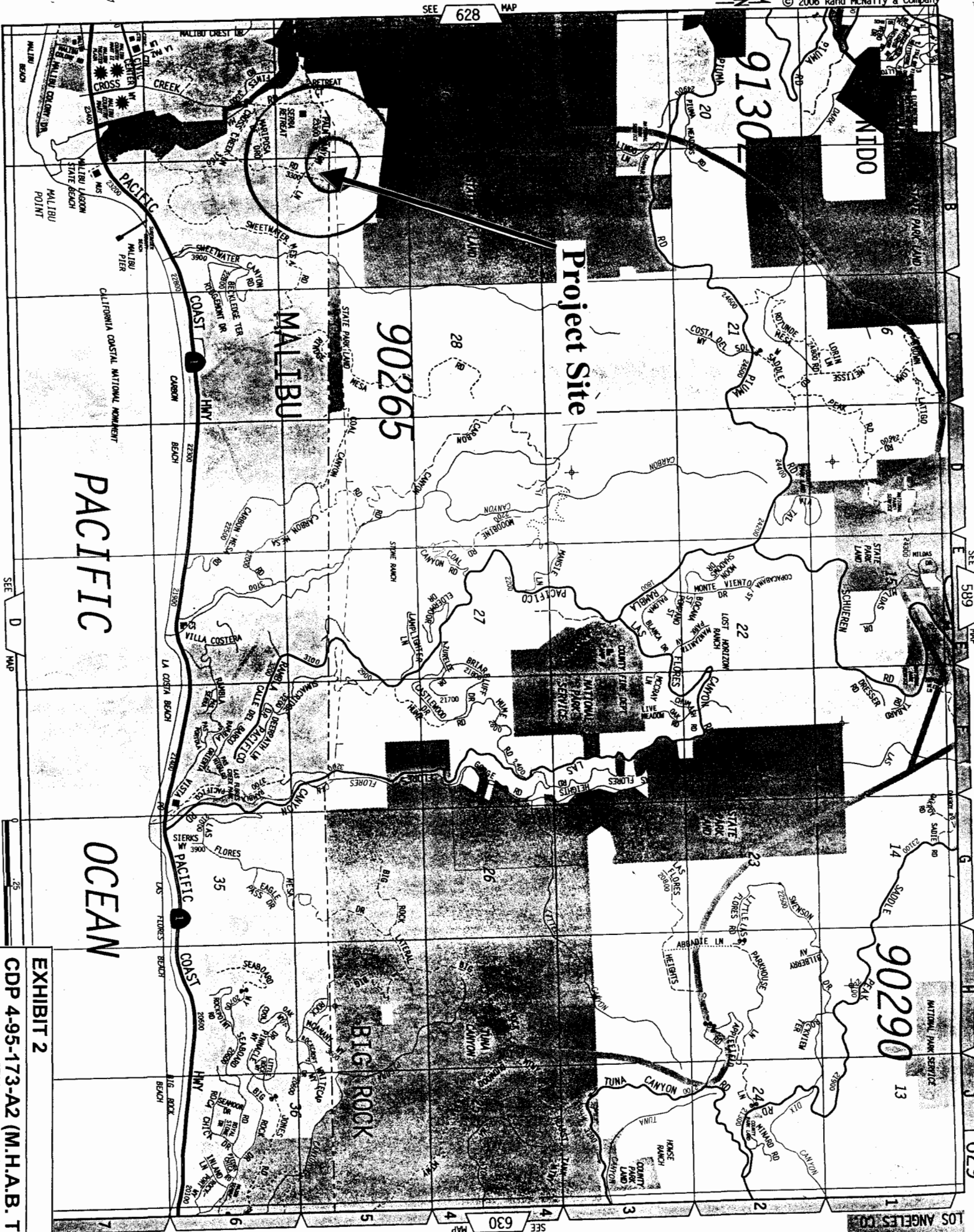
In accordance with the applicant's proposal:

a) Within thirty (30) days of completion of final grading, applicant shall implement the Habitat Management and Fuel Modification Plan attached as Exhibit 10, and herein incorporated by reference. At the end of the third year after Plan implementation, the applicant shall submit a final revegetation monitoring report prepared by a qualified botanist or resource specialist, for the review and approval of the Executive Director, which indicates the success or failure of revegetation activities. If the report finds that revegetation activities are in part, or in whole, unsuccessful, then the applicant shall be required to extend revegetation activities for an additional two (2) years to insure that the site is adequately revegetated. The applicant agrees to submit an additional revegetation monitoring report to the Executive Director at the end of the additional two year period, should such an extension be required. Commission staff shall verify the results of reports required herein.

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(b) All oak resource protection measures outlined in the Habitat Management and Fuel Modification Plan (Exhibit 10) shall be implemented prior to, and during, all grading and construction activities. All tree replacement measures shall be implemented within 30 days of final grading completion and new tree seedlings shall be planted out during the first spring following such grading completion. Any future removal of trees other than those specified shall require a new coastal development permit or an amendment to Permit No. 4-95-173.

(c) Applicant also agrees to remove any existing fencing within 25 feet of the outer extent of the scour line of the blue line stream within 30 days of the completion of final grading and that no future fencing within 25 feet of the outer extent of the scour line of the blue line stream shall be constructed..

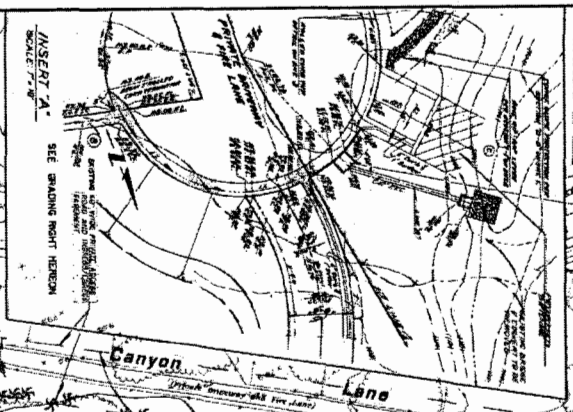


Project Site

PACIFIC

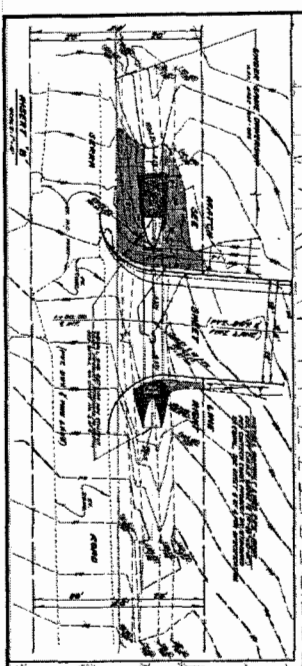
OCEAN

EXHIBIT 2
CDP 4-95-173-A2 (M.H.A.B. Trust)
Location Map



Realigned Driveway

Proposed Bridge Location



COUNTY OF LOS ANGELES

REVISED EXHIBIT "A"

LDC

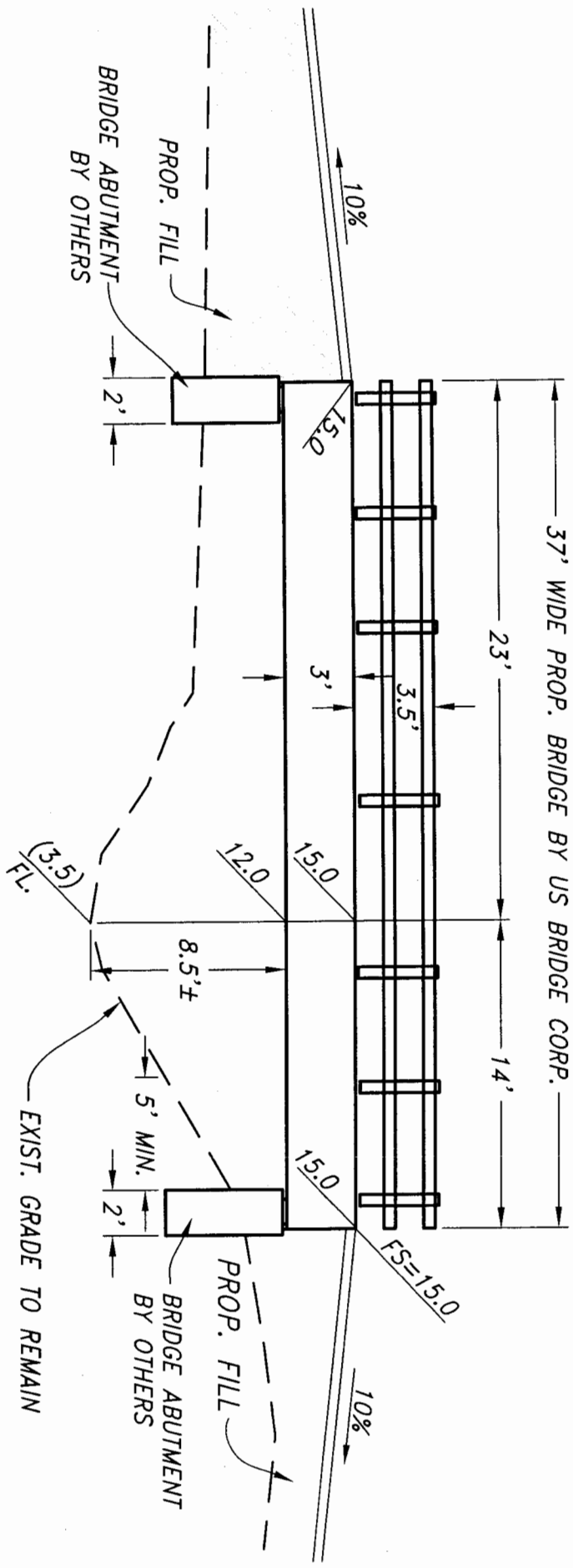
LAND DESIGN CONSULTANTS INC.

PARCEL MAP NO. 23827

EXHIBIT 4

CDP 4-95-173-A2 (M.H.A.B Trust)

Proposed Site Plans



SECTION "A" - "A"

N.T.S.

LDG