

## CALIFORNIA COASTAL COMMISSION

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



### ADDENDUM

**DATE:** December 9, 2008

**TO:** Commissioners and Interested Parties

**FROM:** South Central Coast District Staff

**SUBJECT:** Agenda Item 10d, Thursday, December 11, 2008, CDP App No. 4-07-106 (Turcios)

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#### A. Statutory Deadlines

The information regarding the statutory deadlines that apply to CDP 4-07-106, which are shown on the Page 1 of the staff report should be modified to reflect that the 180-day deadline (November 29, 2008) for Commission action has been extended by the applicant for no more than 90-days. The information should also reflect that the extended 270-day deadline is February 27, 2009.

#### B. Correspondence

Correspondence has been received from several property owners near the project site, the Monte Nido Valley Community Association, and the Santa Monica Trails Council on December 8, 2008 and is attached as Exhibit 15. The five letters express concern with regard to the following issues: noticing of the hearing for this item; access and utility easements; visual resources; and riding and hiking trails.

With regard to noticing, two nearby property owners (Jeffrey Litow and Ahuva Rabani) have raised concerns that they were not noticed of the subject hearing. As required by Title 14, California Code of Regulations, §13054 and §13063, written notice of the hearing must be provided to all property owners within 100 feet of the project site, based on the assessor's parcel map and owner list provided by the applicant, and notice must be posted on the project site. Such written notice was provided by Commission staff on November 26, 2008. The properties owned by Dr. Litow and Mr. Rabani are not within 100 feet of the subject site.

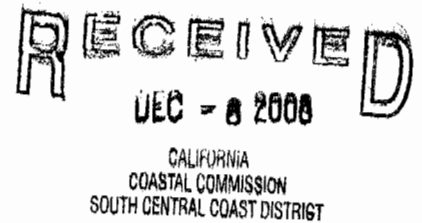
The Litow and Rabani letters also raise concerns that the applicant does not have valid easements for utilities or access to cross their properties along the access drive. The applicant has provided evidence of an easement granted from the Jetmas, L.P. property to the Kasco, L.P. property and an easement granted from the Kasco, L.P. property to the subject project site (Turcios property). The issues raised by the neighboring property owners regarding the validity of such easements is a private property dispute that does not raise issue with regard to any policy of Chapter 3 of the Coastal Act.

The Goldin, Litow, and Monte Nido Valley Community Association letters raise concerns with regard to the impact of the proposed structure on visual resources. The letter specifically state that the proposed 35-ft. high residence will degrade scenic views from nearby residences and from the Cold Creek trail to the south, that reducing the building height to 30 feet would help preserve the scenic viewshed in the area, and that more restrictive structure color and lighting

conditions should be required. As detailed in the staff recommendation, as conditioned, the proposed project has been sited and designed to reduce landform alteration, grading, impacts to ESHA, and impacts to visual resources to the maximum extent feasible. Given that the proposed development will be unavoidably visible from very limited and distant portions of Mulholland Highway, Cold Canyon Road, and the Cold Creek Trail, reducing the proposed building height from 35 feet to 30 feet would not result in a significant reduction in impacts to visual resources, in staff's opinion. Special conditions of approval have been included in the staff recommendation in order to screen and soften the visual impact of the proposed residence.

Finally, the Litow, Monte Nido Valley Community Association, and Santa Monica Mountains Trail Council letters raise several issues with regard to riding and hiking trails. These issues include: the protection of the north-south trail across the project site; protection of a trail easement granted on the adjacent parcel as part of CDP 5-81-263; and requiring a trail easement across a portion of the same trail that crosses the south-west corner of the subject project site. As detailed in the staff report, the unmapped north-south trail on the project site does not appear to have existed prior to 1994 (based on staff's review of aerial photographs of the area). The proposed residence will be constructed across the upper portion of this trail. However, the nearby, yet separate, trail for which a trail easement was previously granted in CDP 5-81-263 remains available and unaffected by the subject project. Finally, with regard to the portion of this trail that the Santa Monica Mountains Trail Council letter states crosses the south-west corner of the project site, this trail segment is located a distance downslope and south of the proposed residence, within the area of the site that is required to be conserved for habitat and open space purposes and that is restricted from being fenced. As such, the project will have no significant impacts on public access or recreational use of the trail segment in the south-west corner of the site and it is not necessary to require mitigation through the grant of a trail easement.

**Daniel & Judith Goldin  
1101 Cold Canyon Road  
Calabasas, CA 91302**



December 5, 2008

To: Ms. Deanna Christensen

Subject: Comments to be submitted at Coastal Commission hearing on Thursday  
December 11, 2008 with regard to Jose Turcios Application No 4-07-106

Project Location: 25710 Mulholland Highway, Santa Monica Mountains, Los Angeles  
County (APN 4455-017-015)

I have reviewed the staff recommendations for CDP 4-07-106 and make the following  
comments for submission to the coastal commission hearing on December 11, 2008 for  
the subject development permit:

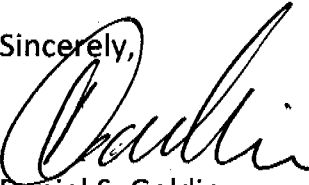
1. One year ago, I donated a 57 acre parcel (APN 4456-010-022) to the Mountains Restoration Trust to preserve in perpetuity the scenic view shed that is characterized by expansive, naturally vegetated hillside terrain. This 57 acre parcel is adjacent to the southern boundary of the parcel requesting a development permit. I am expressing deep concern that the requested building height of 35 feet will degrade the view shed for the Calabasas-Cold Creek trails in the parcel that I donated to the Mountains Restoration Trust. This height will also degrade the scenic view for the homes to the north on Mulholland Highway and those on Cold Canyon Road to the southwest of the subject property. My home is below Cold Canyon Road and in sight of the subject development. I request that the building height be reduced to 30 feet to help preserve the scenic view shed.

Furthermore, on page 34 of Section E of the staff report, it states that "the proposed development is consistent with the size and character of surrounding residences." I am unaware of any residences within the view shed of the subject parcel to the north of the subject parcel on Mulholland Highway or those southeast on Cold Canyon that are 35 feet in height. The 35 foot height allowance is excessive.

EXHIBIT 15  
4-07-106 (Turcios)  
Correspondence

2. Given the concern expressed in the staff report for “protecting as a resource of public importance the scenic and visual qualities of coastal areas” and section 30251 of the coastal act that “requires scenic and visual qualities to be considered and preserved”, the wording of Special Condition Four (4) of the subject CDP must be clarified. I request that the Coastal Commission be much more prescriptive for establishing the criteria on how to soften the visual impact of the subject structure with trees and shrubs as viewed from Mulholland Highway, Cold Canyon Road, and the Calabasas-Cold Creek Trail.

Thank you for consideration of my concerns.

Sincerely,  
  
Daniel S. Goldin

SANTA MONICA MOUNTAINS  
TRAILS COUNCIL



PO BOX 345 AGOURA HILLS, CA 91376 (818)222-4531

December 8, 2008

California Coastal Commission  
89 S. California Street, Suite 200  
Ventura, CA 93001  
Attention Deanna Christensen, Planner:

RECEIVED  
DEC - 8 2008

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

RE: CDP 4-07-106 (Turcios) - Lost Canyon Trail

Dear Commissioners:

Our concern with this project is the historic Lost Canyon Trail that runs generally north and south, connecting the recorded public trail on CDP 5-81-263 (Alan Satterlee) to the north with the recorded Calabasas-Cold Creek Trail to the south. The trail across CDP 5-81-263 is owned by the Mountains Recreation and Conservation Authority (MRCA). The Calabasas-Cold Creek Trail belongs to Los Angeles County Department of Parks & Recreation.

History: In 1982 Alan Satterlee offered to dedicate a public trail easement for the Lost Canyon Trail across his parcel CDP 5-81-263. This trail easement has been accepted by MRCA. A few years ago Mr. Satterlee did a lot-line adjustment involving this parcel and an adjacent parcel that he also owned, presumably to facilitate development of a house site.

To complete the connection to the Calabasas-Cold Creek Trail an easement is needed through the lower part of reconfigured parcel CDP 5-81-263, and through the adjacent parcel just west of subject parcel CDP 4-07-106, and finally across the south-west corner of CDP 4-07-106. See enclosed map.

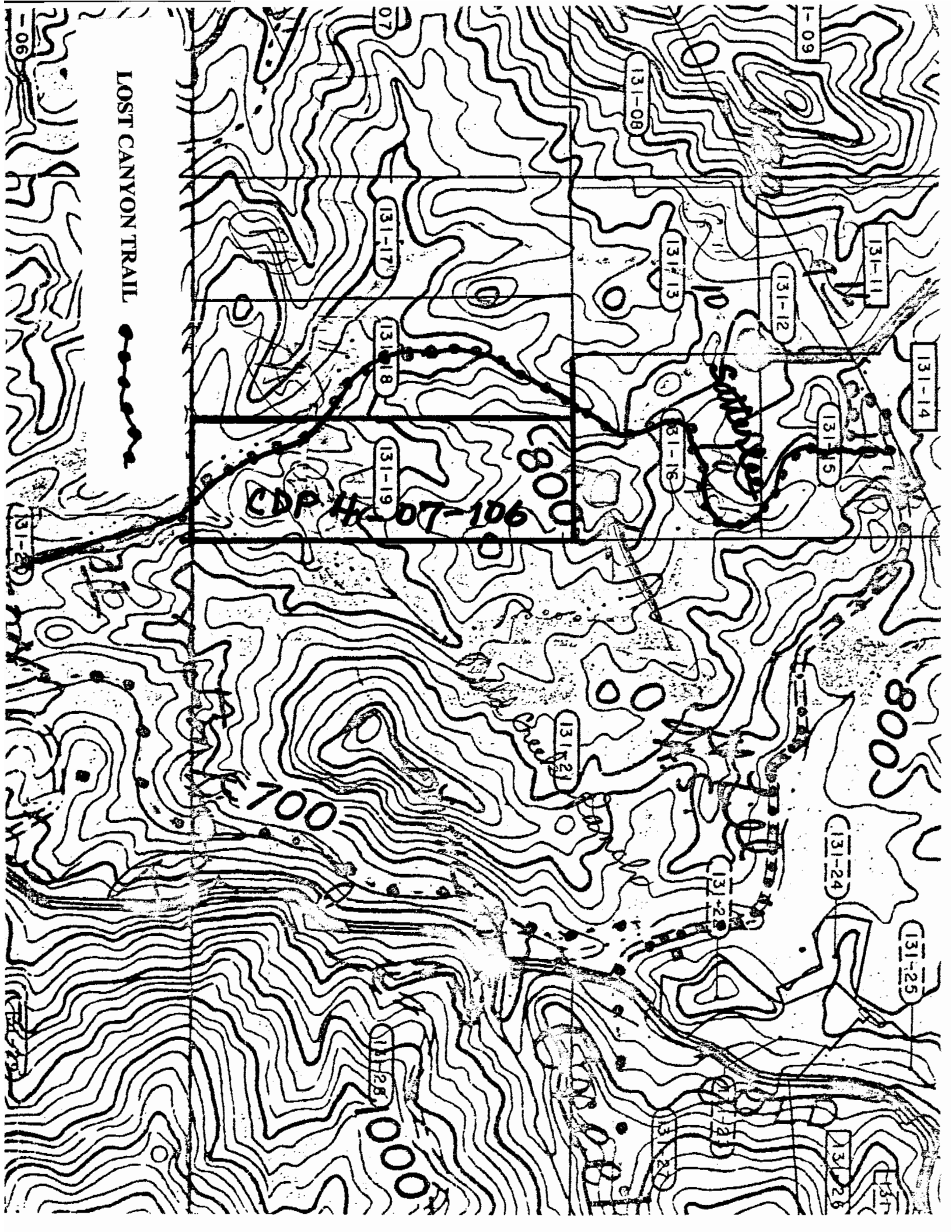
This was the historic route of the Lost Canyon Trail that has been here for well over 30 years. It follows parallel to a drainage that leads from CDP 5-81-263 (Satterlee) to Cold Creek. It does not come near the proposed house site. I believe that Mr. Satterlee is still associated with all three of these parcels, and I believe he understands the importance of the trail.

In order to preserve the recreational values in this area, we respectfully request that as a condition for this permit the applicant(s) offer to dedicate a feasible hiking and riding trail through these properties to connect with the Calabasas-Cold Creek Trail.

Sincerely,

A handwritten signature in cursive script that reads "Linda Palmer".

Linda Palmer, Vice President  
Santa Monica Mountains Trails Council



LOST CANYON TRAIL

CDP 41-07-106

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800

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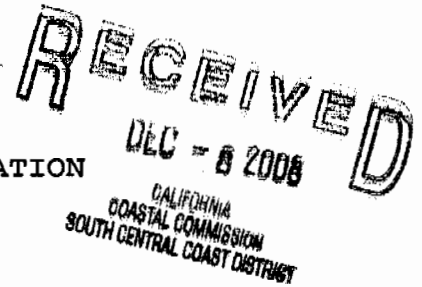
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MONTE NIDO VALLEY COMMUNITY ASSOCIATION



December 8, 2008

HAND DELIVERED

State of California  
California Coastal Commission  
89 South California Street, Suite 200  
Ventura, CA 93001-2801

Attention: Deanna Christensen

RE: Application No. 4-07-106  
Applicant: Jose Turcios  
Project Location: 25710 Mulholland Highway (APN 4455-017-015)

Dear California Coastal Commission:

This letter is being sent on behalf of the Monte Nido Valley Community Association ("MNVCA") and all of its members. The purpose of this letter is that the MNVCA opposes or requests further clarification and detail to applicant Jose Turcios' request to construct a 35-foot high, 4,759 square foot single-family residence with other amenities, as detailed in his Application.

Our concerns are as follows:

1. This Residence Will Contribute to the Degrading of Viewshed. This residence is being constructed on a ridge top that, with the size of the residence, will degrade the scenic view of all the homes in the surrounding area, as well as the scenic Mulholland Highway Corridor. The applicant proposes to construct a 35-foot high single-family residence. There are no homes in this vicinity that are in excess of 30-feet in height. The location of this residence is on a ridgeline, and that requires the height of the residence be consistent with the size and character of surrounding homes. This means that it should not be in excess of 28 to 30 feet. This would be consistent with like homes in the vicinity and would mitigate damage to the viewshed caused by this structure.
2. ESHA Protection. The project site is located within the Mediterranean ecosystem of the Santa Monica Mountains, and there are rare species or habitats in the subject area. It is respectfully requested that the Commission review this Application, as it appears that its location and usage could adversely affect this environmentally sensitive area, notwithstanding the 15 Special Conditions imposed by the Commission.

3. Light Restriction. We are a "dark sky community." We agree with the Report's acknowledgement that the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area creates a visual impact to the scenic area and trails. Night lighting alters or disturbs feeding, nesting, and roosting activities of native wildlife species, which are still abundant in this area. While this report limits the nighttime lighting of the property in the residence, garage, and pool area, it is not sufficiently detailed to avoid future problems. (Page 35) There is no other property, outside of this Application, that intrudes deeper into the wildlife corridor and existing open space. As a result, strict conditions and compliance are mandated.
4. Structural Appearance. The report recommends that the structure be of "acceptable colors" which are limited to colors compatible with the surrounding environment (earth tones). However, as acknowledged in the Staff Report, this applicant has not followed previous directions of the Commission, as set forth in the "Unpermitted Development." (Page 39) Notwithstanding that "development has taken place prior to submission of this Permit Application," the Commission ignores those prior abuses, and that is why the MNVCA is requesting greater specification with respect to the issues raised in this correspondence.
5. Trails. There are numerous trails that are used and enjoyed, by not only members of the MNVCA, but the public as well. The Cold Creek Trail easements (5-81-263) must be permanently preserved and dedicated as a condition to any land use entitlements.

The MNVCA also requests that the trail set forth in Exhibit 11, which is on the subject parcel, be kept open. If there is an issue of historical use for its current configuration, then this matter should be postponed in order to allow us an opportunity to submit substantial evidence of an implied dedication at the subject site.

Thank you for your attention to this matter.

Respectfully submitted,

JOAN SLIMOCOSKY, President



Jeffrey Litow, M.D.  
25650 Mulholland Highway  
Calabasas, CA 91302

December 8, 2008

HAND DELIVERED

State of California  
California Coastal Commission  
89 South California Street, Suite 200  
Ventura, CA 93001-2801

Attention: Deanna Christensen

RE: Application No. 4-07-106  
Applicant: Jose Turcios  
Project Location: 25710 Mulholland Highway (APN 4455-017-015)

Dear California Coastal Commission:

I reside at 25650 Mulholland Highway, Calabasas, California. I am also the fee owner of an approximately 10-acre parcel that I purchased from Julius Bogar which at that time was parcel number APN 4455-17-023. This parcel is directly north of the subject development.

I set forth this correspondence to request the application be denied or, in the alternative, postponed and clarified. The reasons for this request are as follows:

1. Maliview Drive: This applicant use a Mulholland Highway address (25710), yet seeks an extension of the Maliview Drive access road. My land covers part of this access road and to my knowledge it has never been formally named and it is not an access road, it is a **driveway**.
2. No Notice of Application. It has been previously brought to the attention of this Commission that this applicant has self-dealt lot line adjustments in order to not provide notice of this Application to anyone. I have personal and first-hand knowledge that my neighbor, Georgia Farinella, located at 25700 Mulholland Highway, on December 14, 2007, requested that she be notified when the development project proceeds. Please see her letter to Deanna Christensen, which is attached hereto and made a part hereof. No one, including myself, has ever received notice of this Application.
3. Applicant has No Easement for Ingress and Egress. For this parcel, to my knowledge I have never provided an easement, reciprocal or otherwise, for ingress and egress. The four adjoining parcels that, based upon information and belief, did have reciprocal easements are: APN 4455-017-022, Owners, Gallagher; APN 4455-017-024, Owners, Anselmo; APN 4455-017-025, Owners, Satterlee/Jetmas; and my parcel, APN 4455-017-023. There is no way that an easement was provided for ingress and egress to this Applicant's parcel, APN 4455-017-015.

Adding this additional parcel, even if a reciprocal grant exists, is an overtaxing of the existing access road, and I never consented to that when I purchased this property.

I am requesting that this Commission require the Applicant to prove that he has ingress and egress to this parcel. This parcel has ingress and egress from Cold Canyon, and not from this access road, to Mulholland Highway. Also, please see the letter of December 5, 2008, from Ahuva Rabani, owner of parcel APN 4455-016-005, that also claims that none of the parcels south of her, including Applicant's, have easements for ingress or egress.

This hearing must be postponed, and Applicant must prove with credible documentation from a civil engineer that he has valid easements for ingress and egress to this parcel. Shortly after I purchased parcel 4455-17-023, Alan Satterlee called me and requested an easement over my land for the benefit of the parcel herein (4455-017-015). I denied his request. I can assure this Commission that I have **never granted an easement** to Jose Turcios, contrary to his claim at page 15, Section A.

4. Preservation of Trail System. This Staff Report indicates the subject parcel is located "approximately 300 feet north of the Calabasas-Cold Creek Trail System (Exhibit 9 - page 36). It is essential that no vagueness or ambiguity exists if this Applicant's proposed residence is approved. In this regard, the public trail easements set forth in Exhibit 9 and further detailed in Exhibit 11 must remain in their current location and form as a condition to this Applicant's land use entitlements. It is unclear to me exactly what trails the Staff Report is insisting be preserved as a means of providing access and links for community benefit to the natural, scenic, and recreational areas in the mountains. Clearly, the public trail easement, 5-81-263, must be preserved with the Calabasas-Cold Creek Trail.

The Staff Report raises an issue that the "interested parties/residents did not provide evidence of the extent of general public use or whether general public use was adverse or without permission of the property owner." (Page 38) The Staff Report attached a letter from Robert Scapa of July 5, 2007, with multiple signatures. This correspondence, Exhibit 13, indicates that there is a "trail that traverses directly up this parcel (4455-017-015) in a northerly direction that has been used for more than 30 years." Since no notice was provided of this Application, further evidence could be provided by these residents to substantiate the historical use of this trail. Without that input, I do not know how this Commission can conclude that there was no use on this subject trail for the requisite five years prior to March 1, 1972. It is respectfully requested that this Application be postponed and that residents be given sufficient opportunity to provide declarations or

California Coastal Commission  
December 8, 2008  
Page Three

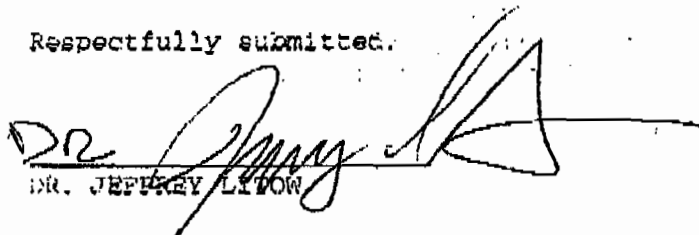
other supporting evidence of the existence of this trail. As the Staff Report correctly indicates, this trail will no longer exist if this Application is approved.

5. Dark Skies. I am also concerned that we are in a dark-sky community and that Applicant may put lights on the driveway or the proposed lighting around the residence will be adverse to this area and the sensitive wildlife. The night lighting in this area could create serious adverse visual impact, as well as alter the food, nesting, and roosting activities of native wildlife species. The Commission must detail how it is limiting the nighttime lighting for this property and appurtenant areas.
6. Viewshed. My residence view shed will substantially be degraded by the proposed height of this residence, which is 35 feet. I have personal and first-hand knowledge that there are no residences in the vicinity of this home that are in excess of 30 feet in height. I am therefore requesting that the height be reduced, as it is excessive and will degrade the scenic view of all of the homes in this vicinity, as well as the Mulholland Scenic Corridor.
7. Clarification of Visual Resources. The Staff Report correctly points out that the "areas surrounding the parcel to the south, east, and west are characterized by undeveloped natural hillside vegetated predominantly with undisturbed chaparral vegetation." (Page 33) The Report also acknowledges that the "project site will be visible from public viewing areas." (Page 34)

In this regard, it is imperative that the Commission dictate to the Applicant, in order to avoid future problems, what finish colors would be consistent with the surrounding landscape pursuant to Special Condition (5). This request would also be applicable to Special Condition (4) with respect to landscaping and vegetation. This is necessary, especially in light of applicant's history of non-compliance as set forth in Section C. *Unpermitted Development.*

Thank you for consideration of this matter. This declaration has been submitted of my own personal knowledge, to which I could competently testify thereto.

Respectfully submitted,

  
DR. JEFFREY LITOW

**GEORGIA FARINELLA**

25700 MULHOLLAND HWY.

CALABASAS, CA. 91302

T 818.880-6139

C 818.451-6139

[gbfarinella@earthlink.net](mailto:gbfarinella@earthlink.net)

December 14, 2007

Deanna Christensen  
California Coastal Commission  
89 South California Street, Suite 200  
Ventura, CA. 93001-2801

Re: Permit #4-07 106

Deanna,

Thank you for talking with me and answering my queries on December 3rd.

Enclosed please find the following documents for your review:

My e-mail correspondence to the Dept. of Regional Planning dated July 31, 2007

Dept. of Regional Planning e-mail reply dated September 27, 2007

My e-mail correspondence to the Dept. of Regional Planning dated December 9, 2007 with attachments

Scapa Law Group LLC letter dated July 5, 2007 with signature attachments (this document may be in the applicants file)

Please note: this current copy has additional signatures

Thank you for adding my name to the list of concerned persons to be notified when this development project proceeds.

If you have any questions or we can be of any further assistance, we can be contacted at the telephone numbers listed above.

Sincerely,

Georgia Farinella on behalf of concerned neighbors and associations

RE: APPLICATION NO.4-07-106  
APPLICANT : JOSE TURCIOS  
Hearing date: 12/10/08:  
OPPOSED

AHUVA RABANI  
20919 Abalar St.  
Wooland Hills, CA 91364  
818 888 5256  
E-Mail [Amadca10@sbcglobal.net](mailto:Amadca10@sbcglobal.net).

DECEMBER 5, 2008

RE: APPLICATION TO CONSTRUCT A HOME

1. I am the legal owner of parcel APN 4455-016-005 on Mulholland Highway, Calabassas, CA 91302.
2. I never received a timely notice of the above hearing.
3. On 12/3/08 a neighbor informed me that notice of the hearing was posted on the gate to my land, at Mulholland Highway.
4. Such late posting of the notice does not permit me to adequately respond and mail my objections for the Commission's consideration 7 days prior to hearing date.
5. Applicant Turcios, whose southerly parcel 4455-17-15 is five parcels away from mine, does not have a utilities easement, or access and ingress easement from me.
6. The only easement granted by previous owners from my parcel, is a utility easement given to parcels:  
4455-17-022            4455-17-023  
4455-17-024            4455-17-025
7. The Utilities easement from my parcel granted on 6/7/1984 should not be construed as expanding rights of Grantees other than what is specifically prescribed in that document, namely, that it is for public utility purposes and exclusively and specifically to the four above-named parcels.
8. Applicant has not requested from me any utilities or access and egress easements to parcel 4455-17-15.
9. The notice on the gate of my parcel states:  
"RIGHT TO PASS BY PERMISSION  
AND SUBJECT TO CONTROL OF OWNER SEC.1008 CA CIVIL CODE  
PROPERTY OWNER ASSUMES NO LIABILITY FOR ANY USAGE."
10. My title policy, to my understanding, has no liability coverage.

PT118

11. Nevertheless, Applicant has been trespassing on my parcel since January 2004 without asking or receiving my legal consent.
12. Applicant has engaged in Unpermitted Development for, among others, grading, major vegetation removal, widening of an existing trail as well as Lot Lines changes.
13. A Preliminary Report of applicant's parcel by The Chicago Title Company of 3/12/2001 states that "public record does not disclose that the ownership of said lands includes rights of access to and from any public street," and that applicant's parcel is not insured "against loss or damage by reason of a lack of a right of access to and from the land."
14. Applicant does not have a right of access to and from his parcel to my parcel.

#### CONCLUSION

##### A. POSTPONEMENT

This application should be postponed:

Applicant failed to timely notify contiguous property owners,

##### B. DENIAL OF APPLICATION

Applicant does not have a utility easement.

Applicant does not have an access/egress easement.

Applicant is attempting to overburden a utility easement.

Neither my parcel nor applicant's parcel carry liability insurance.

Applicant's land is five parcels away from mine. His intended use of my parcel as access will greatly diminish the value of my land as his intended use would set a precedent for other distant parcel developers to demand coastal and building permits and turn my parcel, and this rural area, into a thoroughfare.

#### THEREFORE,

I respectfully request that the Commission consider the impact this development will have with increased traffic and noise on the wildlife corridor, the environmentally sensitive habitat area, the hikers and equestrians who use this area daily, and my right to enjoy this property under the terms I originally purchased this land, and postpone or deny the application.

Sincerely,

*Ahuva Rabani*  
Mrs. Ahuva Rabani

EXHIBIT A -my letter of 3/10/06 to L.A. Bldg.&Safety.

EXHIBIT B - my letter to KASCO , l.p. of 12/6/08

MRS. AHUVA RABANI  
20919 ABALAR ST.  
WOODLAND HILLS, CA 91364  
818 888 5256

12/6/08

ALAN SATTERLEE  
KASCO, L.P.  
26560 CALABASSAS RD.,  
CALABASSAS, CA 91302

Mr. Satterlee,

**NOTICE TO COMPLY AND CEASE AND DESSIST**

- 1. **FORMAL, NAMING OF UTILITY EASEMENT ROAD**  
I understand that you have proceeded to formally name the utility easement road MALIVIEW DRIVE.

You are not the owner of this easement road.  
The Utility Easement only grants limited rights to access for only specified purposes.

Please withdraw your application for naming of this road and confirm to me that you have done so with the proper documents.

- 2. **EASEMENT YOU REQUESTED IN 1999**  
No other easement other than the existing Utility Easement has been granted to parcels 22, 23, 24 and 25. In our correspondence I did not grant you any other easements than whatever existed at that time. I indicated I was entitled to be properly paid for additional easements, but you refused and opted to "save that money" and proceeded to trespass through my property. Expanding the easement would require me to obtain liability insurance.

- 3. **GATE NOTICE : RIGHT TO ENTER**  
Requires permission of Owner to do so, other than for utility purposes.  
You have been ignoring this notice.  
You are overburdening the easement. Please ceases and desist.

Failure to comply may lead to legal action.

Sincerely,  
  
Mrs. Ahuva Rabani

EXHIBIT : GATE NOTICE

10/11/08

**PRIVATE PROPERTY**

**RIGHT TO PASS  
BY PERMISSION  
AND SUBJECT TO  
CONTROL OF OWNER**

SECTION 1008  
CALIFORNIA CIVIL CODE  
PROPERTY OWNER ASSUMES NO  
LIABILITY FOR ANY USAGE



**Ahuva Rabani**  
**20919 Abalar Street**  
**Woodland Hills, CA. 91364**

March 10, 2006

**RETURN RECEIPT REQUESTED**

Sohella Kalhor  
Building & Safety Engineering Manager  
Los Angeles County Building and Safety Department  
26600 Agoura Road, Suite 110  
Calabasas, CA. 91302

RE: Parcel # 4458 016 005  
Calabasas, CA. 91302

Dear Ms. Kalhor:

Please be advised that I am the legal owner of the above named parcel from which the ingress and egress easement starts at Mulholland Highway.

I am the grantor of the easement for public utility purposes which should not be construed as expanding rights of the grantees named here:

APN # 4455-17-022  
APN # 4455-17-023  
APN # 4455-17-024  
APN # 4455-17-025

No other parcel or lot line adjusted parcel is recognized as having valid ingress and egress utility rights.

It is my understanding that one of these parcels will be applying for a building permit. I do not believe the permit should be issued since they do not have a valid easement to access their parcel.

This is private property and I have not agreed to additional access and I have not given permission to a name for this utility easement.

For reference purposes enclosed please find a true and correct copy of the original grant of easement / utility easement. I have never authorized any road easements.

Respectfully Submitted,



Anuva Rabani

Enclosure (1)

CC:

Mr. & Mrs. Gallagher  
4305 Shorewood Trail  
Medina, MN 55340  
Parcel owner APN #4455-17-022

Mr. & Mrs. Julius Bogar  
3727 Selby Avenue, #A  
Los Angeles, CA. 90034  
Parcel owner APN #4455-17-023

Mr. & Mrs. Anselmo  
475 No. Cold Canyon Road  
Calabasas, CA. 91302  
Parcel owner APN #4455-17-024

Mr. & Mrs. Satterlee / Kasco L.P.  
28560 Agoura Road, Suite 101  
Calabasas, CA. 91302  
Parcel owner APN #4455-17-025

**CALIFORNIA COASTAL COMMISSION**

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

**Th 10d**

Filed: 6/2/08  
 49<sup>th</sup> Day: 7/21/08  
 180<sup>th</sup> Day: 11/29/08  
 Staff: D. Christensen  
 Staff Report: 11/20/08  
 Hearing Date: 12/11/08  
 Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION No.:** 4-07-106**APPLICANT:** Jose Turcios**AGENT:** Schmitz & Associates, Inc.**PROJECT LOCATION:** 25710 Mulholland Highway, Santa Monica Mountains, Los Angeles County (APN 4455-017-015)**PROJECT DESCRIPTION:** The applicant is proposing to construct a 35-foot high, 4,759 sq. ft. single-family residence, 822 sq. ft. attached garage, 719 sq. ft. veranda, pool, septic system, extension of Maliview Drive access road, driveway, gate, retaining walls, and 6,350 cu. yds. of grading (6,300 cu. yds. cut; 50 cu. yds. fill).

<b>Lot Area:</b>	13.3 acres
<b>Building Coverage:</b>	5,087 sq. ft.
<b>Paved Area:</b>	10,700 sq. ft.
<b>Ht. Abv. Fin. Grade:</b>	35 ft.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends **approval** of CDP 4-07-106 with **fifteen (15) special conditions** relating to plans conforming to geotechnical engineer's recommendations, assumption of risk, drainage and polluted runoff control, landscaping, revegetation, and erosion control, structural appearance, lighting restriction, site inspection, required approval, removal of natural vegetation, removal of excess excavated material, habitat impact mitigation, future development restriction, deed restriction, open space conservation easement, and condition compliance. The standard of review for the project is the Chapter 3 policies of the Coastal Act. In addition, the policies of the certified Malibu-Santa Monica Mountains Land Use Plan (LUP) serve as guidance. As conditioned, the proposed project will be consistent with the applicable policies of the Coastal Act.

**LOCAL APPROVALS RECEIVED:** County of Los Angeles Department of Regional Planning Approval-in-Concept, March 26, 2007; County of Los Angeles Environmental Health Services, Sewage Disposal System Design Approval, October 23, 2007; County of Los Angeles Fire Department, Final Fuel Modification Plan Approval, December 11, 2007; County of Los Angeles Fire Department, Fire Prevention Engineering Approval, August 14, 2007; Los Angeles County Environmental Review Board Recommendations, dated September 19, 2005.

**SUBSTANTIVE FILE DOCUMENTS:** Certified Malibu/Santa Monica Mountains Land Use Plan; "Percolation Test Results and Septic System Design Report," by Gold Coast Geoservices, Inc., July 9, 2007; "Geologic and Soils Engineering Report," Gold Coast Geoservices, Inc., July 30, 2007; "Geotechnical Analysis of Alternative Grading Site" by Gold Coast Geoservices, Inc., November 20, 2008; "Biological Resources Assessment," by Steven Nelson, June 2007; CDP No. 5-81-263 (Satterlee).

## **I. STAFF RECOMMENDATION**

**MOTION:**        *I move that the Commission approve Coastal Development Permit No. 4-07-106 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 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** Coastal Development Permit No. 4-07-106 for the proposed development and adopts the findings set forth below on grounds that the development as conditioned 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 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 development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the 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 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. **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 permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

#### 1. **Plans Conforming to Geotechnical Engineer's Recommendations**

All recommendations contained in the Geologic and Soils Engineering Report (July 30, 2007), and Geotechnical Analysis of Alternative Grading Site (November 20, 2008), prepared by Gold Coast Geoservices, Inc. shall be incorporated into all final design and construction, including recommendations concerning foundations, grading, and drainage, and must be reviewed and approved by the consultant prior to commencement of development. ***Prior to issuance of the coastal development permit***, the applicant shall submit evidence to the Executive Director of the consultant's 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, 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).

#### 2. **Assumption of Risk**

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs

(including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

### **3. Drainage and Polluted Runoff Control Plans**

***Prior to issuance of the coastal development permit***, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85<sup>th</sup> percentile, 24-hour runoff event for volume-based BMPs, and/or the 85<sup>th</sup> percentile, 1-hour runoff event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30<sup>th</sup> each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
- (e) The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

### **4. Landscaping, Erosion Control, Revegetation, and Fuel Modification Plans**

***Prior to issuance of the coastal development permit***, the applicant shall submit landscaping, erosion control, revegetation, and fuel modification plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval

by the Executive Director. The plans shall incorporate the criteria set forth below. All development shall conform to the approved landscaping, erosion control, revegetation, and fuel modification plans:

**A) Landscaping Plan**

1. All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. 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 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. Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
4. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
5. Fencing of the entire property is prohibited. Fencing shall extend no further than the building pad area. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in Special Condition No. 5 below.
6. Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen the residence to minimize impacts of the development on public views from Mulholland Highway and Cold Canyon Road.

The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal

Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

**B) Interim Erosion Control Plan**

1. The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
2. The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible. These erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved dumping location either outside of the coastal zone or within the coastal zone to a site permitted to receive fill.
3. The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

**C) Fuel Modification Plans**

Vegetation within 20 feet of the proposed house may be removed to mineral earth, vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with an approved long-term fuel modification plan submitted pursuant to this special condition. The fuel modification plan shall include details regarding the types, sizes and location of plant materials to be removed, and how often thinning is to occur. In addition, the applicant shall submit evidence that the fuel modification plan has been reviewed and approved by the Forestry Department of Los Angeles County. Irrigated lawn, turf and ground cover planted within the twenty foot radius of the proposed house



shall be selected from the most drought tolerant species or subspecies, or varieties suited to the Mediterranean climate of the Santa Monica Mountains.

#### **D) Revegetation Plan**

The applicant shall submit a detailed Revegetation Plan, using native chaparral plant species, for the widened area (from 4 feet to 8 feet) of the existing on-site trail that extends approximately 200 foot southeast of the proposed development area. The plan shall include details regarding the types, sizes, and location of plants to be placed within the revegetation area. Only native plant species appropriate for chaparral habitat and which are endemic to the Santa Monica Mountains shall be used, 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 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.

Successful site restoration shall be determined if the revegetation of native plant species on site is adequate to provide 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. The plan shall also include a detailed description of the process, materials, and methods to be used to meet the approved goals and performance standards and specify the preferable time of year to carry out restoration activities and describe the interim supplemental watering requirements that will be necessary.

#### **E) 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 and revegetation monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping and revegetation work is in conformance with the landscape and revegetation plans approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape/revegetation monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping and revegetation plans approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental plan for the review and approval of the Executive Director. The revised landscaping and/or revegetation 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.

## **5. Structural Appearance**

***Prior to issuance of the coastal development permit***, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of Coastal Development Permit No. 4-07-106. The palette samples shall be presented in a format not to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roofs, trims, exterior surfaces, driveways, retaining walls, fencing, gate, and other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass.

The approved structures shall be colored with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by Coastal Development Permit No. 4-07-106 if such changes are specifically authorized by the Executive Director as complying with this special condition.

## **6. Lighting Restriction**

A. The only outdoor night lighting allowed on the subject parcel is limited to the following:

1. The minimum necessary to light walkways used for entry and exit to the structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed two feet in height above finished grade, are directed downward and generate the same or less lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized by the Executive Director.
2. Security lighting attached to the residence and garage shall be controlled by motion detectors and is limited to same or less lumens equivalent to those generated by a 60 watt incandescent bulb.
3. The minimum necessary to light the entry area to the driveway with the same or less lumens equivalent to those generated by a 60 watt incandescent bulb.

B. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.

## 7. Site Inspection

- A. By acceptance of this permit, the applicant irrevocably authorizes, on behalf of himself and his successors-in-interest with respect to the subject property, Coastal Commission staff and its designated agents to enter onto the property to undertake site inspections for the purpose of monitoring compliance with the permit, including the special conditions set forth herein, and to document their findings (including, but not limited to, by taking notes, photographs, or video), subject to Commission staff providing 24 hours advanced notice to the contact person indicated pursuant to paragraph B prior to entering the property, unless there is an imminent threat to coastal resources, in which case such notice is not required. If two attempts to reach the contact person by telephone are unsuccessful, the requirement to provide 24 hour notice can be satisfied by voicemail, email, or facsimile sent 24 hours in advance or by a letter mailed three business days prior to the inspection. Consistent with this authorization, the applicant and his successors: (1) shall not interfere with such inspection/monitoring activities and (2) shall provide any documents requested by the Commission staff or its designated agents that are relevant to the determination of compliance with the terms of this permit.
- B. ***Prior to the issuance of the coastal development permit***, the applicant shall submit to Commission staff the email address and fax number, if available, and the address and phone number of a contact person authorized to receive the Commission's notice of the site inspections allowed by this special condition. The applicant is responsible for updating this contact information, and the Commission is entitled to rely on the last contact information provided to it by the applicant.

## 8. Required Approval

***Prior to issuance of the coastal development permit***, the applicant shall provide evidence of Los Angeles County Environmental Health approval of the septic system for the proposed residence. Any substantial changes in the proposed development approved by the Commission that may be required by the County Environmental Health Department relative to the septic system shall require an amendment to the permit or a new Coastal Development Permit.

## 9. Removal of Natural Vegetation

Removal of natural vegetation for the purpose of fuel modification within the 50 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 50-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

## **10. Removal of Excess Excavated Material**

***Prior to the issuance of the Coastal Development Permit***, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excess excavated material from the site. If the disposal site is located in the Coastal Zone, the disposal site must have a valid coastal development permit for the disposal of fill material. If the disposal site does not have a coastal permit, such a permit will be required prior to the disposal of material.

## **11. Habitat Impact Mitigation**

***Prior to issuance of the coastal development permit***, the applicant shall submit, for the review and approval of the Executive Director, a map delineating all areas of chaparral habitat (ESHA) that will be disturbed by the proposed development, including fuel modification and brush clearance requirements on the project site and adjacent property. The chaparral ESHA areas on the site and adjacent property shall be delineated on a detailed map, to scale, illustrating the subject parcel boundaries and, if the fuel modification/brush clearance zones extend onto adjacent property, adjacent parcel boundaries. The delineation map shall indicate the total acreage for all chaparral ESHA, both on and offsite, that will be impacted by the proposed development, including the fuel modification/brush clearance areas. A 200-foot clearance zone from the proposed structures shall be used to determine the extent of off-site brush clearance for fire protection purposes. The delineation shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains

Mitigation shall be provided for impacts to the chaparral ESHA from the proposed development and fuel modification/brush clearance requirements by one of the three following habitat mitigation methods:

### **A. Habitat Restoration**

#### 1) Habitat Restoration Plan

Prior to the issuance of the coastal development permit, the applicant shall submit a habitat restoration plan, for the review and approval of the Executive Director, for an area of degraded chaparral habitat equivalent to the area of chaparral ESHA impacted by the proposed development and fuel modification/brush clearance area. The habitat restoration area may either be onsite or offsite within the coastal zone either in the City of Malibu or elsewhere in the Santa Monica Mountains. The habitat restoration area shall be delineated on a detailed site plan, to scale, that illustrates the parcel boundaries and topographic contours of the site. The habitat restoration plan shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains and shall be designed to restore the area in question for habitat function, species diversity and vegetation cover. The restoration plan shall include a statement of goals and performance standards, revegetation and restoration methodology, and

maintenance and monitoring provisions. If the restoration site is offsite, the applicant shall submit written evidence to the Executive Director that the property owner has irrevocably agreed to allow the restoration work, maintenance and monitoring required by this condition and not to disturb any native vegetation in the restoration area.

The applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating compliance with the performance standards outlined in the restoration plan and describing the revegetation, maintenance and monitoring that was conducted during the prior year. The annual report shall include recommendations for mid-course corrective measures. At the end of the five-year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If this report indicates that the restoration project has been, in part or in whole, unsuccessful, based on the approved goals and performance standards, the applicant shall submit a revised or supplemental restoration plan with maintenance and monitoring provisions, for the review and approval of the Executive Director, to compensate for those portions of the original restoration plan that were not successful. Should supplemental restoration be required, the applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating the supplemental restoration areas. At the end of the five-year period, a final report shall be submitted evaluating whether the supplemental restoration plan has achieved compliance with the goals and performance standards for the restoration area. If the goals and performance standards are not met within 10 years, the applicant shall submit an application for an amendment to the coastal development permit for an alternative mitigation program and shall implement whatever alternative mitigation program the Commission approves, as approved.

The habitat restoration work approved in the restoration plan shall be carried out prior to occupancy of the residence.

## 2) Open Space Deed Restriction

No development, as defined in section 30106 of the Coastal Act, shall occur in the habitat restoration area, as shown on the habitat restoration site plan required pursuant to (A)(1) above.

Prior to the issuance of the coastal development permit, the applicant shall submit evidence that the applicant has executed and recorded a deed restriction (if the applicant is not the owner, then the applicant shall submit evidence that the owner has executed and recorded the deed restriction), in a form and content acceptable to the Executive Director, reflecting the above restriction on development and designating the habitat restoration area as open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of both the parcel on

which the restoration area lies and the open space area/habitat restoration area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

### 3) Performance Bond

Prior to the issuance of the permit, the applicant shall post performance bonds to guarantee implementation of the restoration plan as follows: a) one equal to the value of the labor and materials; and b) one equal to the value of the maintenance and monitoring for a period of 5 years. Each performance bond shall be released upon satisfactory completion of items (a) and (b) above. If the applicant fails to either restore or maintain and monitor according to the approved plans, the Coastal Commission may collect the security and complete the work on the property.

## **B. Habitat Conservation**

Prior to the issuance of the coastal development permit, the applicant shall (or, if the applicant is not the owner of the habitat conservation site, then the owner of the habitat conservation site shall) execute and record an open space deed restriction in a form and content acceptable to the Executive Director, over the entirety of a legal parcel or parcels containing chaparral ESHA. The chaparral ESHA located on the mitigation parcel or parcels must be of equal or greater area than the ESHA area impacted by the proposed development, including the fuel modification/brush clearance areas. No development, as defined in section 30106 of the Coastal Act, shall occur on the mitigation parcel(s) and the parcel(s) shall be preserved as permanent open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of the parcel or parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

Prior to occupancy of the residence, the applicant shall submit evidence, for the review and approval of the Executive Director, that the recorded documents have been reflected in the Los Angeles County Tax Assessor Records.

If the mitigation parcel(s) is/are larger in size than the impacted habitat area, the excess acreage may be used to provide habitat impact mitigation for other development projects that impact like ESHA.

## **C. Habitat Impact Mitigation Fund**

Prior to the issuance of the coastal development permit, the applicant shall submit evidence, for the review and approval of the Executive Director, that compensatory mitigation, in the form of an in-lieu fee, has been paid to the Mountains Recreation and Conservation Authority to mitigate adverse impacts to chaparral habitat ESHA. The fee shall be calculated as follows:

1. Development Area, Irrigated Fuel Modification Zones, Off-site Brush Clearance

The in-lieu fee for these areas shall be \$12,000 per acre within the development area and any required irrigated fuel modification zones. The total acreage shall be based on the map delineating these areas required by this condition.

2. Non-irrigated Fuel Modification Zones

The in-lieu fee for non-irrigated fuel modification areas shall be \$3,000 per acre. The total acreage shall be based on the map delineating these areas required by this condition.

Prior to the payment of any in-lieu fee to the Mountains Recreation and Conservation Authority, the applicant shall submit, for the review and approval of the Executive Director, the calculation of the in-lieu fee required to mitigate adverse impacts to chaparral habitat ESHA, in accordance with this condition. After review and approval of the fee calculation, the fee shall be paid to the Mountains Recreation and Conservation Authority's Coastal Habitat Impact Mitigation Fund for the acquisition, permanent preservation or restoration of natural habitat in the Santa Monica Mountains coastal zone, with priority given to the acquisition of or extinguishment of all development potential on properties containing environmentally sensitive habitat areas and properties adjacent to public parklands. The fee may not be used to restore areas where development occurred in violation of the Coastal Act's permit requirements.

**12. Future Development Restriction**

This permit is only for the development described in Coastal Development Permit No. 4-07-106. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to any future development on any portion of the parcel. Accordingly, any future improvements to any portion of the property, including but not limited to the residence, garage, landscaping, grading, or removal of vegetation other than as provided for in the approved fuel modification/landscape plan prepared pursuant to Special Condition 4, shall require an amendment to Coastal Development Permit No. 4-07-106 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

### **13. Deed Restriction**

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

### **14. Open Space Conservation Easement**

No development, as defined in Section 30106 of the Coastal Act, grazing, or agricultural activities shall occur outside of the approved development area, within the portion of the property identified as the “open space conservation easement area”, as shown in **Exhibit 14** except for:

1. Fuel modification required by the Los Angeles County Fire Department undertaken in accordance with the final approved fuel modification plan approved pursuant to Special Condition No. 4 or other fuel modification plans required and approved by the Commission pursuant to a different CDP(s) issued by the Commission;
2. Drainage and polluted runoff control activities required and approved pursuant to: (a) the drainage and runoff control plans approved pursuant to Special Condition No. 3 of this permit; and (b) the landscaping and erosion control plans approved pursuant to Special Condition No. 4 of this permit;
3. If approved by the Commission as an amendment to this coastal development permit or a new coastal development permit: (a) construction and maintenance of public hiking trails; and (b) construction and maintenance of roads, trails, and utilities consistent with existing easements.

***Prior to issuance of the Coastal Development Permit***, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, granting to the Mountains Recreation and Conservation Authority (“MRCA”) on behalf of the people of the State of California an open space conservation easement over the “open space conservation easement area” described above, for the purpose of habitat



protection. The recorded easement document shall include a formal legal description of the entire property; and a metes and bounds legal description and graphic depiction, prepared by a licensed surveyor, of the open space conservation easement area, as generally shown on **Exhibit 14**. The recorded document shall reflect that no development shall occur within the open space conservation easement area except as otherwise set forth in this permit condition. The grant of easement shall be recorded free of prior liens and encumbrances (other than existing easements for roads, trails, and utilities) which the Executive Director determines may affect the interest being conveyed, and shall run with the land in favor of the MRCA on behalf of the people of the State of California, binding all successors and assigns.

#### **15. Condition Compliance**

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

### **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

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

The applicant proposes to construct a 35-foot high, 4,759 sq. ft. single-family residence, 822 sq. ft. attached garage, 719 sq. ft. veranda, pool, septic system, extension of Maliview Drive access road, driveway, gate, retaining walls, and 6,350 cu. yds. of grading (6,300 cu. yds. cut; 50 cu. yds. fill) (**Exhibits 3-7**).

The subject property is an approximately 13.3-acre vacant parcel located approximately 2,000 feet south of Mulholland Highway and 2,000 feet west of Cold Canyon Road in the Santa Monica Mountains area of unincorporated Los Angeles County (**Exhibits 1-2**). An existing paved private road (Maliview Drive) provides access to the property from Mulholland Highway. The paved road terminates approximately 100 feet north of the applicant's north property boundary. The applicant proposes to extend the existing access road approximately 300 feet south, to the proposed development area in the northwest corner of the subject property. The applicant has obtained an easement across Maliview Drive and across that portion of the adjacent property that the applicant plans to extend the access road.

The subject parcel consists of moderately sloping ridge and hillside terrain that slopes in a southern direction. The northern portion of the property is at an elevation of approximately 840 feet above sea level (asl), and the southern end of the property is at an elevation of approximately 640 feet asl. A tributary to Cold Creek is situated south

and east (by a distance in excess of 500 feet) of the proposed development area. The parcel is vegetated with relatively undisturbed mixed chaparral vegetation, with the exception of an existing, unmapped, 4-ft. wide equestrian trail that extends from the terminus of Maliview Drive and south through the subject property. The areas surrounding the parcel are characterized by undeveloped natural hillside terrain, vegetated predominantly with undisturbed chaparral vegetation. There are several properties developed with single-family residences in the vicinity of the subject parcel: to the north adjacent to Mulholland Highway, and to the northeast adjacent to Cold Canyon Road (**Exhibit 8**). In 1981, the Coastal Commission issued a coastal development permit (No. 5-81-263) for construction of a 6,000 sq. ft. single-family residence on the property (APN 4455-017-035) immediately north of the subject property and paving of the private access road (Maliview Drive). The permit required an offer-to-dedicate a public trail easement across an existing trail on the property, which was recorded in 1982 (**Exhibit 10**). The trail easement was accepted by the Mountains Recreation and Conservation Authority in 2000. While the building pad and access road approved under CDP 5-81-263 were constructed prior to permit expiration, the approved residence has not yet been built (**Exhibit 8**).

The subject parcel is located within the Cold Creek Resource Management Area as designated by the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). Trail maps included in the 1986 LUP show the parcel as located approximately 300 feet north of the Calabasas-Cold Creek Trail system (**Exhibit 9**). The existing equestrian trail on the property appears to be informal and is not mapped or designated as a public trail by the Los Angeles County LUP or Tom Harrison trail maps. Commission staff has received correspondence from interested parties indicating that the informal trail on the subject property that leads to the mapped trail system to the south is utilized by the public and should be preserved (**Exhibit 13**). The proposed project will interfere with the informal trail on-site. However, Commission staff notes that there are several other existing trails in the vicinity that provide alternate routes to the County's mapped trail system, including the one identified in CDP 5-81-263 (Satterlee) and over which a public trail easement exists over a portion (**Exhibit 11**).

The proposed development site is visible from limited portions of Cold Canyon Road and the Cold Creek trail to the south, and Mulholland Highway to the north.

The applicant had initially proposed to construct the proposed residence with attached garage approximately 200 feet southeast of the current proposal, in a location on the property that would have required a 200-ft. longer access road and the addition of a second Fire Department hammerhead turnaround area, and a total of 10,950 cu. yds. of grading (5,500 cu. yds. cut, 5,450 cu. yds. fill) (**Exhibit 12**). In addition, the original site was not clustered with the adjacent approved residence to minimize removal of native vegetation for fuel modification. Staff requested that the applicant submit an alternatives analysis to identify different building sites and access driveway configurations on-site to reduce grading, further cluster with existing development, and minimize removal of native vegetation. The applicant's engineer and agent provided staff with an analysis of alternatives and ultimately arrived at the proposed development configuration, which

has significantly reduced grading, length of access road, and disturbance to environmentally sensitive habitat areas to the maximum extent feasible by situating the development closer to the applicant's northern property line and the approved residential development to the north.

### **Unpermitted Development**

Geologic testing was conducted on the subject parcel in 2007, which involved grading with mechanized equipment and major vegetation removal to widen (from approximately 4 feet to 8 feet) a 300-500 foot long stretch of existing path/trail on the property for geologic testing equipment access. The applicant did not obtain a coastal development permit for the grading with mechanized equipment and major vegetation removal, as required by Section 30600(a) of the Coastal Act. On June 27, 2007 Commission staff sent the property owner, Jose Turcios, Notice of Violation No. V-4-07-017 notifying him that grading with mechanized equipment and major vegetation removal in the Coastal Zone without a coastal development permit is a violation of the Coastal Act. Therefore, as part of the subject permit application, the applicant is (1) requesting after-the-fact authorization for the area of the work that is located within the area of the property proposed for development, and (2) proposing to revegetate the area of the existing on-site trail extending approximately 200 foot southeast of the proposed development area that was widened to eight feet.

### **B. Hazards and Geologic Stability**

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.***

The proposed development is located in the Malibu/Santa Monica Mountains area, an area historically subject to significant natural hazards including, but not limited to, landslides, erosion, flooding and wild fire. The submitted geology and soils report and geotechnical memo referenced as Substantive File Documents conclude that the project site is suitable for the proposed project based on the evaluation of the site's geology in relation to the proposed development. The reports contain recommendations to be incorporated into the project plans to ensure the stability and geologic safety of the proposed project, the project site, and the adjacent properties. To ensure stability and structural integrity and to protect the site and the surrounding sites, the Commission requires the applicant to comply with the recommendations contained in the applicable reports, to incorporate those recommendations into all final design and construction plans, and to obtain the geotechnical consultant's approval of the project's final plans prior to the issuance of the permit.

Additionally, to minimize erosion and ensure stability of the project site, the project must include adequate drainage and erosion control measures. In order to achieve these goals, the Commission requires the applicant to submit drainage and interim erosion control plans certified by the geotechnical engineer.

Further, the Commission finds that, for the project to ensure stability and avoid contributing significantly to erosion, all slopes and disturbed areas of the subject site must be landscaped, primarily with native plants, to stabilize disturbed soils and reduce erosion resulting from the development. To ensure that excess excavated material is moved off site so as not to contribute to unnecessary landform alteration and to minimize erosion and sedimentation from stockpiled excavated soil, excess excavated material shall be disposed at an appropriate disposal site or to a site that has been approved to accept fill material.

Although the conditions described above render the project sufficiently stable to satisfy the requirements of Section 30253, no project is wholly without risks. Due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from natural hazards, including wildfire, those risks remain substantial here. If the applicant nevertheless chooses to proceed with the project, the Commission requires the applicant to assume the liability from these associated risks. Through the assumption of risk condition, the applicant acknowledges the nature of the fire and/or geologic hazard that exists on the site and that may affect the safety of the proposed development.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30253 of the Coastal Act and as a response to the risks associated with the project:

- Special Condition 1. Plans Conforming to Geotechnical Engineer Recommendations
- Special Condition 2. Assumption of Risk, Waiver of Liability and Indemnity
- Special Condition 3. Drainage and Polluted Runoff Control Plan
- Special Condition 4. Landscaping, Interim Erosion Control, Fuel Modification Plans
- Special Condition 10. Removal of Excess Excavated Material

For the reasons set forth above, the Commission finds that, as conditioned, the proposed project is consistent with Section 30253 of the Coastal Act.

### **C. Environmentally Sensitive Habitat**

Section 30240 of the Coastal Act protects environmentally sensitive habitat areas (ESHA) by restricting development in and adjacent to ESHA. Section 30240 states:

***(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.***

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

Section 30107.5 of the Coastal Act, defines an environmentally sensitive area as:

***"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.***

In addition, the Malibu/Santa Monica Mountains LUP provides policy guidance regarding the protection of environmentally sensitive habitats. The Coastal Commission has applied the following relevant policies as guidance in the review of development proposals in the Santa Monica Mountains.

- P68 Environmentally sensitive habitat areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Residential use shall not be considered a resource dependent use.***
- P69 Development in areas adjacent to environmentally sensitive habitat areas (ESHAs) shall be subject to the review of the Environmental Review Board, shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.***
- P72 Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. Where new development is proposed adjacent to Environmentally Sensitive Habitat Areas, open space or conservation easements shall be required in order to protect resources within the ESHA.***
- P74 New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources.***
- P82 Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.***
- P84 In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low-growing ground covers to reduce heat output may be used. Within ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.***

## 1. Project Description and Site Specific Biological Resource Information

The subject 13.3-acre vacant property consists of moderately south-sloping ridge and hillside terrain vegetated with relatively undisturbed mixed chaparral vegetation, with the exception of an existing, unmapped, 4-ft. wide equestrian trail that extends south through the subject property. The portion of the existing trail in the vicinity of the proposed development area was widened to 8 feet by the applicant for geologic testing access purposes. However, grading and vegetation removal to widen the trail to eight feet was conducted without benefit of a coastal development permit. The subject parcel is located within the Cold Creek Resource Management Area as designated by the certified Malibu/Santa Monica Mountains Land Use Plan (LUP). The applicant proposes to construct a 35-foot high, 4,759 sq. ft. single-family residence, 822 sq. ft. attached garage, 719 sq. ft. veranda, pool, septic system, approximately 300 foot long extension of Maliview Drive access road, driveway, gate, retaining walls, and 6,350 cu. yds. of grading (6,300 cu. yds. cut; 50 cu. yds. fill). The proposed development area is located in the northwest corner of the subject property.

The project vicinity is characterized by undeveloped natural hillside terrain, vegetated predominantly with undisturbed chaparral vegetation. A tributary to Cold Creek is situated south and east (by a distance in excess of 500 feet) of the proposed development area. There are several properties developed with single-family residences in the vicinity of the subject parcel: to the north adjacent to Mulholland Highway, and to the northeast adjacent to Cold Canyon Road. In 1981, the Coastal Commission issued a coastal development permit (No. 5-81-263) for construction of a 6,000 sq. ft. single-family residence on the property (APN 4455-017-035) immediately north of the subject property. Maliview Drive was also approved as part of that permit. While the approved building pad and access road have since been constructed, the approved residence has not yet been built.

The applicant submitted a Biological Assessment, listed in the Substantive File Documents, which addresses the habitats present on the project site. The report describes these habitats thus:

### ***Mixed Chaparral***

The majority of the property is vegetated with a mixed chaparral plant community, dominated by chamise, laurel sumac, big-pod ceanothus, and bush mallow.

### ***Disturbed Habitat***

The area immediately north of the property and along an existing trail on the property that leads through the proposed development site are disturbed and contain non-native plant species.

Based on Commission staff review of the site, the Biological Assessment, and aerial photographs, the subject property consists of undisturbed native chaparral vegetation (with the exception of the unmapped, 4-ft. wide equestrian trail) that is part of a large, contiguous block of habitat to the south, east, and west.

According to public information, the applicant purchased the subject parcel in 2004 for \$100,000. The parcel was designated in the Los Angeles County Land Use Plan for residential use. The land use designation of the property is Rural Land I, which allows 1 dwelling unit per 10 acres. The parcel is approximately 13-acres in size, and there are other scattered, residential developments in the same vicinity. There is no public parkland or public open space directly adjacent to the subject property. There is currently no offer to purchase the property from any public park agency.

The project has been designed to place all development on a 9,500 sq. ft. pad in the northwest corner of the property. Any alternative location on the site would involve more grading and the removal of more native vegetation. Not including the area of the driveway or Fire Department turnaround, the proposed development area is estimated to measure approximately 9,500 sq. ft. The applicant's approved fuel modification plan (approved by the Los Angeles County Fire Department) shows the use of the standard three zones of vegetation modification. Zones "A" (setback zone) and "B" (irrigation zone) are shown extending in a radius of approximately 100 feet from the proposed structures. A "C" Zone (thinning zone) is provided for a distance of 100 feet beyond the "A" and "B" zones.

## **2. ESHA Designation on the Project Site**

Pursuant to Section 30107.5, in order to determine whether an area constitutes an ESHA, and is therefore subject to the protections of Section 30240, the Commission must answer three questions:

- 1) Is there a rare species or habitat in the subject area?
- 2) Is there an especially valuable species or habitat in the area, which is determined based on:
  - a) whether any species or habitat that is present has a special nature, OR
  - b) whether any species or habitat that is present has a special role in the ecosystem;
- 3) Is any habitat or species that has met either test 1 or test 2 (i.e., that is rare or especially valuable) easily disturbed or degraded by human activities and developments?

If the answers to questions one or two and question three are "yes", the area is ESHA.

The project site is located within the Mediterranean Ecosystem of the Santa Monica Mountains. The Coastal Commission has found that the Mediterranean Ecosystem in the Santa Mountains is rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodland have many special roles in the Mediterranean Ecosystem, including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of essential habitat for local endemics, the support of rare species, and the reduction of erosion, thereby protecting the water quality of coastal

streams. Additional discussion of the special roles of these habitats in the Santa Monica Mountains ecosystem are discussed in the March 25, 2003 memorandum prepared by the Commission's Ecologist, Dr. John Dixon<sup>1</sup> (hereinafter "Dr. Dixon Memorandum"), which is incorporated as if set forth in full herein.

Unfortunately, coastal sage scrub, chaparral, oak woodland and riparian habitats are easily disturbed by human activities. As discussed in the Dr. Dixon Memorandum, development has many well-documented deleterious effects on natural communities of this sort. These environmental impacts may be both direct and indirect and include, but certainly are not limited to, the effects of increased fire frequency, of fuel modification, including vegetation clearance, of introduction of exotic species, and of night lighting. Increased fire frequency alters plant communities by creating conditions that select for some species over others. The removal of native vegetation for fire protection results in the direct removal or thinning of habitat area. Artificial night lighting of development affects plants, aquatic and terrestrial invertebrates, amphibians, fish, birds and mammals. Thus, large, contiguous, relatively pristine stands of coastal sage scrub, chaparral, oak woodland, and riparian habitats are especially valuable because of their special roles in the Santa Monica Mountains ecosystem and are easily disturbed by human activity. Accordingly, these habitat types meet the definition of ESHA. This is consistent with the Commission's past findings in support of its actions on many permit applications and in adopting the Malibu LCP<sup>2</sup>.

As described above, the project site contains native chaparral habitat that is part of a large, contiguous block of pristine native vegetation. The only exception is the existing 4-ft wide trail, which was more recently widened by the applicant without a coastal development permit. According to aerial photographs of the area, the original trail did not exist prior to the effective date of the Coastal Act (January 1, 1977) and there is no Commission record of any permit granted for the construction of this trail. As such, the Commission must consider the habitat on the project site as though this unpermitted trail (and later widening) did not exist. As discussed above and in the Dr. Dixon Memorandum, this habitat is especially valuable because of its special role in the ecosystem of the Santa Monica Mountains and it is easily disturbed by human activity. Accordingly, the Commission finds that the chaparral habitat on the project site meets the definition of ESHA in the Coastal Act.

### **3. Resource Dependent Use**

The Commission finds that the subject property and the surrounding area constitutes an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act restricts development within ESHA to only those uses that are dependent on the resource. The applicant proposes to construct a single family residence on the parcel. As single-family residences do not have to be located within ESHA to function, single-

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<sup>1</sup> The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D, is available on the California Coastal Commission website at <http://www.coastal.ca.gov/ventura/smm-eshamemo.pdf>

<sup>2</sup> Revised Findings for the City of Malibu Local Coastal Program (as adopted on September 13, 2002) adopted on February 6, 2003.



family residences are not a use dependent on ESHA resources. Section 30240 also requires that ESHA be protected against significant disruption of habitat values. As the construction of a residence on the site will require removal of ESHA only from fuel modification for fire protection purposes around the proposed residence, the project would significantly disrupt the habitat value in those locations. Application of Section 30240, by itself, would therefore require denial of the project, because the project would result in significant disruption of habitat values and residential fuel modification is not a use dependent on those sensitive habitat resources.

However, the Commission must also consider Section 30010, and the United States Supreme Court's decision in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S.Ct. 2886. Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner that will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what sort of government action results in a "taking" was addressed by the Court in the *Lucas* case. In *Lucas*, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. For instance, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project denial would deprive his or her property of all economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the proposed project would constitute a nuisance under State law. Other Supreme Court precedent establishes that another factor that should be considered is the extent to which a project denial would interfere with reasonable investment-backed expectations.

The Commission interprets Section 30010, together with the *Lucas* decision, to mean that if Commission denial of the project would deprive an applicant's property of all reasonable economic use, the Commission may be required to allow some development even if a Coastal Act policy would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, Section 30240 of the Coastal Act cannot be read to deny all economically beneficial or productive use of land because Section 30240 cannot be interpreted to require the Commission to act in an unconstitutional manner.

As described above, the subject parcel was designated in the Los Angeles County Land Use Plan for residential use. Residential development has previously been approved by the Commission on sites in the immediate area. At the time the applicant purchased the parcel, the County's certified Land Use Plan did not designate the vegetation on the site as ESHA. Based on these facts, along with the presence of existing and approved residential development in the area, the applicant had reason to believe that it had purchased a parcel on which it would be possible to build a residence.

The Commission finds that in this particular case, other allowable uses for the subject site, such as a recreational park or a nature preserve, are not feasible and would not

provide the owner an economic return on the investment. There is currently no offer to purchase the property from any public park agency. The Commission thus concludes that in this particular case there is no viable alternative use for the site other than residential development. The Commission finds, therefore, that outright denial of all residential use on the project site would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.

Next the Commission turns to the question of nuisance. There is no evidence that construction of a residence on the project site would create a nuisance under California law. Other houses have been constructed in similar situations in similar habitat areas in Los Angeles County, apparently without the creation of nuisances. The County's Health Department has not reported evidence of septic system failures. In addition, the County has reviewed and approved the applicant's proposed septic system, ensuring that the system will not create public health problems. Furthermore, the use that is proposed is residential, rather than, for example, industrial, which might create noise or odors or otherwise create a public nuisance.

In conclusion, the Commission finds that, notwithstanding Section 30240, a residential project on the subject property must be allowed to permit the applicant a reasonable economic use of their property consistent with Section 30010 of the Coastal Act.

#### **4. Siting and Design Alternatives to Minimize Significant Disruption of Habitat Values**

While the applicant is entitled under Section 30010 to an assurance that the Commission will not act in such a way as to "take" the property, this section does not authorize the Commission to avoid application of the policies of the Coastal Act, including Section 30240, altogether. Instead, the Commission is only directed to avoid construing these policies in a way that would take property. Aside from this instruction, the Commission is still otherwise directed to enforce the requirements of the Act. Therefore, in this situation, the Commission must still assure compliance with Section 30240 by avoiding impacts that would significantly disrupt and/or degrade environmentally sensitive habitat, to the extent this can be done without taking the property.

Obviously, the construction of residential development, including vegetation removal for required fuel modification, will result in unavoidable loss of ESHA. The development can be sited and designed to minimize ESHA impacts by measures that include but are not limited to: limiting the size of structures, limiting the number of accessory structures and uses, clustering structures, siting development in any existing disturbed habitat areas rather than undisturbed habitat areas, locating development as close to existing roads and public services as feasible, and locating structures near other residences in order to minimize additional fuel modification.

In this case, siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to ESHA to the greatest extent feasible. The applicant had initially proposed to construct the proposed residence with attached

garage approximately 200 feet southeast of the current proposal, in a location on the property that would have required a 200-ft. longer access road and the addition of a second Fire Department hammerhead turnaround, and a total of 10,950 cu. yds. of grading (5,500 cu. yds. cut, 5,450 cu. yds. fill). In addition, the original site was not clustered with the adjacent approved residence to minimize removal of native vegetation for fuel modification. Staff requested that the applicant submit an alternatives analysis to identify different building sites and access driveway configurations on-site to reduce grading, further cluster with existing development, and minimize removal of native vegetation. The applicant's engineer and agent provided staff with an analysis of alternatives and ultimately arrived at the proposed development configuration, which has significantly reduced grading, length of access road, and disturbance to environmentally sensitive habitat areas to the maximum extent feasible by situating the development closer to the applicant's northern property line and the approved residential development to the north. In past permit actions, the Commission has allowed up to 10,000 sq. ft. of development area for a residence on a parcel zoned for residential development in this area of the Santa Monica Mountains to avoid a taking of property. As detailed above, the proposed development area conforms to the maximum development area of 10,000 sq. ft. All proposed structures are located within this development area. Although a smaller development area would reduce the ESHA loss somewhat, the reduction would not be significant. Nor are there other resources such as streams, riparian areas, or visual resources that would be protected by a smaller development area. As such, the Commission concludes that the proposed siting and design of the project will minimize impacts to ESHA to the extent feasible. The Commission also finds that the proposed development area provides a reasonable economic use.

## **5. Open Space Conservation**

This project is inconsistent with Section 30240 of the Coastal Act, and is only being allowed to avoid a taking of private property for public use. The Commission finds that for the project to be consistent with Section 30240 to the maximum extent feasible, while providing a reasonable economic use, this project must constitute the maximum amount of ESHA destruction on the site and the remaining ESHA on the property must be preserved in perpetuity.

The Commission finds that the most effective way to assure ESHA preservation on the site is the granting of an open space conservation easement to the Mountains Recreation and Conservation Authority (a joint powers authority) that prohibits development on the remainder of the site now and in the future. The Mountains Recreation and Conservation Authority (MRCA) is a public agency that represents a partnership between the Santa Monica Mountains Conservancy, the Conejo Recreation and Park District, and the Rancho Simi Recreation and Park District. The MRCA is dedicated to the preservation and management of open space, parkland, watershed lands, trails, and wildlife habitat. The MRCA manages and provides ranger services for almost 50,000 acres of public lands and parks that it owns or that are owned by the Santa Monica Mountains Conservancy. In the course of its normal duties, the MRCA

park rangers and other staff are better able to monitor open space areas to ensure that the restrictions are followed than Commission staff. Further, an easement will be recorded against the title to the property and thus provide notice to future owners of the limitations that apply to the open space conservation area, reducing the risk of a future irreparable violation of the restriction. The governing board of the MRCA has agreed to accept all open space easements required by the Commission for properties within the Santa Monica Mountains National Recreation Area.

It is important that the property owner grant an easement to MRCA rather than simply record an open space deed restriction. Although a deed restriction should notify future owners of the restriction in the same manner that a recorded easement would, it would not be as effective in preserving the remaining ESHA for the following two reasons. First, a deed restriction is not as reliable because a property owner can record another document purporting to rescind the deed restriction. Although any attempt to rescind a deed restriction required by a coastal development permit (“CDP”) without an amendment to that CDP authorizing such a rescission would constitute a violation of the CDP and the Coastal Act, the County Recorder’s office is likely to allow recordation of a rescission without the required Coastal Commission authorization. Indeed, the Commission has experienced the phenomenon of property owners recording documents purporting to modify deed restrictions recorded pursuant to CDP requirements. See, e.g., Commission findings for CDP Amendment F7453-A2 (Stephenson), approved March 2005, and Violation File V-6-04-010 (Del Mar Estates). On the other hand, because an easement necessarily involves more than one person, the County Recorder would not likely record a document purporting to rescind an easement unless the easement holder was also to sign the document. Thus, a condition requiring a deed restriction is much easier to violate, and therefore much less protective, than a condition requiring an easement.

Second, the Legislature has recently adopted new provisions to the Government Code specifically sanctioning the use of conservation easements for this purpose and changing procedures to ensure that they are prominent in searching title to property. In 2001, the Legislature adopted a new requirement that County Recorders keep a separate and “comprehensive index of conservation easements.” See Cal. Gov’t Code § 27255(a). As such, the Commission finds that the requirement of an open space and conservation easement is the most effective method of ensuring that the remaining ESHA on the project site will be conserved in the future. Finally, the Commission concludes that an open space easement that allows only the easement holder and no other entity to enter the property for inspection purposes does not interfere with the fee title owner’s right to exclude the general public. It therefore does not constitute a significant invasion of the fee title owner’s property interest.

In conclusion, the Commission finds that it is necessary to require the applicant to grant an open space easement to the MRCA over the open space area on the project site in order to insure that the remaining ESHA will be preserved, as detailed in **Special Condition Fourteen (14)**. Only as conditioned will the proposed project minimize impacts to ESHA, pursuant to Section 30240 of the Coastal Act.

## 6. Habitat Impact Mitigation

While impacts resulting from development within ESHA can be reduced through siting and design alternatives for new development and by ensuring that the remaining ESHA on the site is permanently protected, they cannot be completely avoided, given the location of ESHA around the project site, the high fire risk in the Santa Monica Mountains, and the need to modify fuel sources to protect life and property from wildfire.

Fuel modification is the removal or modification of combustible native or ornamental vegetation. It may include replacement with drought tolerant, fire resistant plants. The amount and location of required fuel modification will vary according to the fire history of the area, the amount and type of plant species on the site, topography, weather patterns, construction design, and siting of structures. There are typically three fuel modification zones applied by the Los Angeles County Fire Department, which include a setback zone immediately adjacent to the structure (Zone A) where all native vegetation must be removed, an irrigated zone adjacent to Zone A (Zone B) where most native vegetation must be removed or widely spaced, and a thinning zone (Zone C) where native vegetation may be retained if thinned or widely spaced although particular high-fuel plant species must be removed. The combined required fuel modification area around structures can extend up to a maximum of 200 feet. If there is not adequate area on the project site to provide the required fuel modification for structures, then brush clearance may also be required on adjacent parcels. In this way, for a large area around any permitted structures, native vegetation will be cleared, selectively removed to provide wider spacing, and thinned. The Commission has found in past permit actions, that a new residential development (with a 10,000 sq. ft. development area) within ESHA with a full 200 foot fuel modification radius will result in impact (either complete removal, irrigation, or thinning) to ESHA habitat of four to five acres.

Obviously, native vegetation that is cleared and replaced with ornamental species or substantially removed and widely spaced will be lost as habitat and watershed cover. As discussed in the Dr. Dixon Memorandum<sup>3</sup>, the cumulative loss of habitat cover also reduces the value of the sensitive resource areas as a refuge for birds and animals, for example by making them—or their nests and burrows—more readily apparent to predators. Further, fuel modification can result in changes to the composition of native plant and wildlife communities, thereby reducing their habitat value. Although the impacts from habitat removal cannot be avoided, the Commission finds that the loss of ESHA resulting from the removal, conversion, or modification of natural habitat for new development including the building site area, and fuel modification can be mitigated in order to ensure that ESHA impacts are minimized to the extent feasible.

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<sup>3</sup> The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D, is available on the California Coastal Commission website at <http://www.coastal.ca.gov/ventura/smm-asha-memo.pdf>

The Commission has identified three appropriate methods for providing mitigation for the unavoidable loss of ESHA resulting from development; namely, habitat restoration, habitat conservation, and the payment of an in-lieu fee for habitat conservation. The Commission finds that any of these measures is appropriate in this case to mitigate the loss of ESHA on the project site. The first method is to provide mitigation through the restoration of an area of degraded habitat (either on the project site, or at an off-site location) that is equivalent in size to the area of habitat impacted by the development. A restoration plan must be prepared by a biologist or qualified resource specialist and must provide performance standards, and provisions for maintenance and monitoring. The restored habitat must be permanently preserved through the recordation of an open space easement.

The second habitat impact mitigation method is habitat conservation. This includes the conservation of an area of intact habitat of a similar type as that impacted equivalent to the area of the impacted habitat. The parcel containing the habitat conservation area must be restricted from future development and permanently preserved. If the mitigation parcel is larger in size than the impacted habitat area, the excess acreage could be used to provide habitat impact mitigation for other development projects that impact ESHA.

The third habitat impact mitigation option is the payment of an in-lieu fee for habitat conservation. The fee is based on the habitat types in question, the cost per acre to restore or create comparable habitat types, and the acreage of habitat affected by the project. The Commission has, in past permit decisions, determined the appropriate fee for the restoration or creation of chaparral and coastal sage scrub habitat, based on research carried out by the Commission's biologist. A range of cost estimates was obtained that reflected differences in restoration site characteristics including topography (steeper is harder), proximity to the coast (minimal or no irrigation required at coastal sites), types of plants (some plants are rare or difficult to cultivate), density of planting, severity of weed problem, condition of soil, etc.

The Commission has determined that the appropriate mitigation for loss of coastal sage scrub or chaparral ESHA should be based on the actual installation of replacement plantings on a disturbed site, including the cost of acquiring the plants (seed mix and container stock) and installing them on the site (hydroseeding and planting). The in-lieu fee found by the Commission to be appropriate to provide mitigation for the habitat impacts to ESHA areas where all native vegetation will be removed (building site, the "A" zone required for fuel modification, and off-site brush clearance areas), and where vegetation will be significantly removed and any remaining vegetation will be subjected to supplemental irrigation (the "B" zone or any other irrigated zone required for fuel modification) is \$12,000 per acre. Further, the Commission has required a fee of \$3,000 per acre for areas where the vegetation will be thinned, but not irrigated ("C" zone or other non-irrigated fuel modification zone).

The acreage of ESHA that is impacted must be determined based on the size of the development area, required fuel modification (as identified on the fuel modification plan

approved by the Los Angeles County Fire Department) on the site, and required brush clearance off-site. The Commission finds that it is necessary to require the applicant to delineate the total acreage of ESHA on the site (and offsite brush clearance areas, if applicable) that will be impacted by the proposed development, and provide mitigation to compensate for this loss of habitat, through one of the three methods described above, and required by **Special Condition Eleven (11)**. Only as conditioned will the proposed project minimize impacts to ESHA, pursuant to Section 30240 of the Coastal Act.

## 7. Additional Mitigation Measures to Address Additional ESHA Impacts

The Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping, and mitigation for that effect was discussed in the previous section. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. This sort of impact was not addressed in the prior section. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area that are not directly and immediately affected by the proposed development, **Special Condition Four (4)** requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

In addition, the Commission has found that night lighting of ESHA areas in the Malibu/Santa Monica Mountains may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, **Special Condition Six (6)**, Lighting Restriction, limits night lighting of the site in general; limits lighting to the developed area of the site; and requires that lighting be shielded downward. Limiting security lighting to low intensity security lighting will assist in minimizing the disruption of wildlife that is commonly found in this rural and relatively undisturbed area and that traverses the area at night.

Furthermore, fencing of the property would adversely impact the movement of wildlife through the ESHA on this parcel. Therefore, the Commission finds it is necessary to limit fencing to the perimeter of the development area (building pad). This is required to be shown on the landscaping plan, required in **Special Condition Four (4)**.

The Commission notes that the use of rodenticides containing anticoagulant compounds have been linked to the death of sensitive predator species, including mountain lions and raptors, in the Santa Monica Mountains. These species are a key component of chaparral and coastal sage scrub communities in the Santa Monica

Mountains considered ESHA. Therefore, in order to avoid adverse impacts to sensitive predator species, **Special Condition Four (4)**, disallows the use of rodenticides containing any anticoagulant compounds on the subject property.

In order to ensure that vegetation clearance for fire protection purposes does not occur prior to commencement of grading or construction of the proposed structures, the Commission finds that it is necessary to impose a restriction on the removal of natural vegetation as specified in **Special Condition Nine (9)**. This restriction specifies that natural vegetation shall not be removed until grading or building permits have been secured and construction of the permitted structures has commenced. The limitation imposed by Special Condition 9 avoids loss of natural vegetative coverage resulting in unnecessary erosion in the absence of adequately constructed drainage and run-off control devices and implementation of the landscape and interim erosion control plans.

Geologic testing was conducted on the subject parcel in 2007, which involved grading with mechanized equipment and major vegetation removal to widen (from approximately 4 feet to 8 feet) a 300-500 foot long stretch of existing path/trail on the property for geologic testing equipment access. The applicant did not obtain a coastal development permit for the grading with mechanized equipment and major vegetation removal, as required by Section 30600(a) of the Coastal Act. To resolve the violation, the applicant is (1) requesting after-the-fact authorization for the area of the work that is located within the proposed development area, and (2) proposing to revegetate the area of the existing on-site trail extending approximately 200 foot southeast of the proposed development area that was widened to eight feet. Therefore, in order to ensure that adverse effects to chaparral habitat and water quality from increased erosion and sedimentation are minimized to the maximum extent feasible, the Commission finds that **Special Condition Four (4)**, Revegetation Plan, is necessary. Specifically, Special Condition 4 requires that prior to issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, a detailed Revegetation Plan, prepared by a biologist or environmental resource specialist with qualifications acceptable to the Executive Director, for the widened area of the existing on-site trail extending approximately 200 feet southeast of the proposed development area using native chaparral plant species. In addition, Special Condition 4 also requires the applicant to implement a five year monitoring program to ensure the success of the replanting.

Finally, the Commission finds that the amount and location of any new development that could be built in the future on the subject site consistent with the resource protection policies of the Coastal Act is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, the permitting exemptions that apply by default under the Coastal Act for, among other things, improvements to existing single family homes and repair and maintenance activities may be inappropriate here. In recognition of that fact, and to ensure that any future structures, additions, change in landscaping or intensity of use at the project site that may otherwise be exempt from coastal permit requirements are reviewed by the Commission for



consistency with the resource protection policies of the Coastal Act, **Special Condition Twelve (12)**, the future development restriction, has been required.

Lastly, **Special Condition Thirteen (13)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and thereby provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property. Finally, in order to ensure that the terms and conditions of this permit are adequately implemented, **Special Condition Seven (7)** authorizes Commission staff to enter onto the property (subject to 24 hour notice to the property owner) to undertake site inspections for the purpose of monitoring compliance with the permit.

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30240 of the Coastal Act.

#### **D. Water Quality**

Section 30231 of the Coastal Act states that:

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

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality because changes such as the removal of native vegetation, the increase in impervious surfaces, and the introduction of new residential uses cause increases in runoff, erosion, and sedimentation and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutants, as well as effluent from septic systems.

The proposed development will result in an increase in impervious surfaces, which leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site and eventually be discharged to coastal waters, including streams, wetlands, and estuaries. The pollutants commonly found in runoff associated with residential use can reduce the biological productivity and the quality of such waters and thereby reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to minimize the potential for such adverse impacts to water quality resulting from drainage runoff both during construction and in the post-development stage, the Commission requires the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the

developed site, including: 1) sizing post-construction structural BMPs to accommodate (infiltrate, filter, or otherwise treat) the runoff from all storms up to and including the 85<sup>th</sup> percentile storm runoff event; 2) implementing erosion control measures during construction and post construction; and 3) revegetating all graded and disturbed areas with primarily native landscaping. Additionally, the applicant's geologic consultants have concluded that the site is suitable for a septic system and that there would be no adverse impact to the site or surrounding areas from the use of a septic system.

The County of Los Angeles Environmental Health Department has not yet given in-concept approval of the proposed septic system for the revised development area that is now proposed in order to minimize impacts to coastal resources. The Commission has found that conformance with the provisions of the plumbing code is protective of water resources. Therefore, Los Angeles County Department of Environmental Health approval of the proposed septic system is required prior to issuance of the subject permit.

The following special conditions are required, as determined in the findings above, to assure the project's consistency with Section 30231 of the Coastal Act:

- Special Condition 3. Drainage and Polluted Runoff Control Plan
- Special Condition 4. Landscaping, Revegetation, and Erosion Control Plans
- Special Condition 8. Required Approval
- Special Condition 9. Removal of Natural Revegetation
- Special Condition 10. Removal of Excess Excavated Material

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30231 of the Coastal Act.

## **E. Visual Resources**

Section 30251 of the Coastal Act states:

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

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. Section 30251 also requires that development be sited and designed to protect views of scenic areas, minimize alteration of landforms, and be visually compatible with the surrounding area.

In addition, the Malibu/Santa Monica Mountains LUP provides policy guidance regarding the protection of visual resources. The Coastal Commission, as guidance in the review of development proposals in the Santa Monica Mountains, has applied these policies.

- P91** *All new development shall be designed to minimize impacts and alterations of physical features, such as ravines and hillsides, and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.*
- P125** *New development shall be sited and designed to protect public views from LCP-designated highways to and along the shoreline and to scenic coastal areas, including public parklands. Where physically and economically feasible, development on a sloped terrain should be set below road grade.*
- P129** *Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment.*
- P130** *In highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, and landscaping) shall:*
- Be sited and designed to protect views to and along the ocean and to and along other scenic features, as defined and identified in the Malibu LUP.*
  - Minimize the alteration of natural landforms*
  - Be landscaped to conceal raw cut slopes*
  - Be visually compatible with and subordinate to the character of its setting.*
  - Be sited so as to not significantly intrude into the skyline as seen from public viewing places.*
- P131** *Where feasible, prohibit placement of structures that will break the ridgeline views, as seen from public places*
- P134** *Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.*
- P142** *New development along scenic roadways shall be set below the road grade on the down hill side wherever feasible, to protect designated scenic canyon and ocean views.*

The subject site is located within a rural area characterized by expansive, naturally vegetated hillside terrain. The areas surrounding the parcel to the south, east, and west are characterized by undeveloped natural hillside terrain and vegetated predominantly with undisturbed chaparral vegetation. There are several properties developed with single-family residences in the vicinity of the subject parcel: to the north adjacent to Mulholland Highway, and to the northeast adjacent to Cold Canyon Road. In 1981, the Commission issued CDP No. 5-81-263 for construction of a 6,000 sq. ft. single-family residence on a secondary ridge-top immediately north of the subject property (APN 4455-017-035). Maliview Drive was also approved as part of that permit. While the approved building pad and access road have since been constructed, the approved residence has not yet been built. The proposed residence will be situated approximately

10 feet lower in elevation and 100 feet downslope in a southern direction from the approved development on the adjacent property.

Trail maps included in the 1986 Malibu/Santa Monica Mountains Land Use Plan (LUP) indicate that the closest public trail in the vicinity is the Calabasas-Cold Creek Trail located approximately 300 feet south of the subject property. This trail traverses west to east along various routes connecting Mulholland Highway on the east to the Stokes Ridge Trail on the west. Mulholland Highway to the north is classified as a First Priority Scenic Highway by the LUP and provides pristine scenic vistas in the area. Cold Canyon and Cold Canyon Road to the south is also recognized as a highly scenic area and given special treatment when evaluating potential impacts caused by new development. The proposed development site is visible from limited portions of Cold Canyon Road and the Cold Creek trail to the south, and Mulholland Highway to the north.

As discussed previously, the applicant and staff have explored alternatives to reduce grading, landform alteration, and vegetation removal. The proposed 35 ft. high, 4,759 sq. ft. single-family residence with attached garage is situated on a hillside slope below a secondary ridgeline in the northwestern corner of the subject property. The proposed building pad for the development will require 3,200 cu. yds. of grading (cut). Construction of the driveway and turnaround will require 3,150 cu. yds. of grading (3,100 cu. yds cut, 50 cu. yds fill). The proposed development is consistent with the size and character of surrounding residences and is situated in close proximity to the approved residence to the north. The proposed project has been sited and designed to reduce landform alteration, grading, and impacts to visual resources to the maximum extent feasible. The Commission finds, therefore, that the project has been sited and designed to minimize landform alteration and visual impacts to the extent feasible.

Since the project site will be visible from public viewing areas, mitigation to address potential visual impacts is needed for the proposed project. The visual impact of proposed structures can be minimized by requiring the structures be finished in a color consistent with the surrounding natural landscape and, further, by requiring that windows on the proposed residence be made of non-reflective glass. To ensure visual impacts associated with the colors of the structures and the potential glare of the window glass are minimized, the Commission requires the applicant to use colors compatible with the surrounding environment and non-glare glass, as detailed in **Special Condition Five (5)**.

Further, **Special Condition Four (4)** requires that the landscape plan be designed with vertical elements to partially screen and soften the visual impact of the structure with trees and shrubs as viewed from Mulholland Highway, Cold Canyon Road, and the Calabasas-Cold Creek Trail. Visual impacts can be further reduced by the use of appropriate and adequate landscaping. Therefore, **Special Condition Four (4)** requires the applicant to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. Implementation of Special Condition Four (4) will soften the visual impact of the development from public view areas. To ensure that

the final approved landscaping plans are successfully implemented, Special Condition 4 also requires the applicant to revegetate all disturbed areas in a timely manner and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time.

The Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area creates a visual impact to nearby scenic beaches, scenic roads, parks, and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, in order to protect the night time rural character of this portion of the Santa Monica Mountains, consistent with the scenic and visual qualities of this coastal area, the Commission limits the nighttime lighting of the property, residence, garage, and pool to that necessary for safety as outlined in **Special Condition Six (6)**.

**Special Condition Thirteen (13)** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

Therefore, the Commission finds that the project, as conditioned, minimizes impacts to public views to and along the coast and thus, is consistent with Section 30251 of the Coastal Act.

## **F. Public Access**

The Coastal Act requires that maximum public access to and along the coast be provided in new development projects. The Coastal Act also requires new development to provide adequate lands suitable for recreation to serve the needs of new residents.

Coastal Act Section 30210 states:

*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.*

Coastal Act Section 30212 states:

*(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.**

Coastal Act Section 30213 states:

**Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.**

Coastal Act Section 30223 states:

**Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.**

Coastal Act sections 30210, 30212, and 30223 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise Section 30213 mandates that lower cost visitor and recreational facilities, such as public hiking and equestrian trails, shall be protected, encouraged, and provided, where feasible. In the Malibu/Santa Monica Mountains area, the existing system of heavily used historic trails located on private property has been adversely impacted by the conversion of open lands to housing. In an effort to preserve and formalize the public's right to use these trails, Los Angeles County adopted the Riding and Hiking Trails Master Plan for the Santa Monica Mountains, which is adopted by ordinance into the highway element of the County's 1982 General Management Plan for the Santa Monica Mountains National Recreation Area as updated in 1984 as the Land Protection Plan. The trail system is mapped as part of the 1986 certified Land Use Plan (LUP) for the Malibu/Santa Monica Mountains Area. One of the trails identified in the adopted trail system is the Calabasas-Cold Creek Trail, which traverses west to east along various routes connecting Mulholland Highway on the east to the Stokes Ridge Trail on the west. These trails have become important and commonly used recreational assets and a means of providing access to and links between natural, scenic, and recreational areas in the mountains.

Trail maps included in the 1986 LUP show the subject parcel as located approximately 300 feet north of the Calabasas-Cold Creek Trail system (**Exhibit 9**). According to the LUP and Tom Harrison trail maps, there are no mapped public trails between Mulholland Highway to the north and the Cold Creek Trail to the south in this area. However, there are several informal, unmapped feeder trails in the vicinity that appear to be used by equestrians. In 1981, the Coastal Commission issued CDP No. 5-81-263 (Satterlee) for residential development on the adjacent parcel to the north that included a public trail easement dedication over an existing connector trail. The recorded public trail dedication, attached as **Exhibit 10**, is aligned along an existing trail that extends from the northeast corner to the southwest corner of that property, and continues in a southwest direction to ultimately connect to the Cold Creek Trail. This connector trail,

which appears in an aerial photograph from 1986, is situated to the west of the subject parcel and does not bisect it (**Exhibit 11**).

Another one of these informal trails traverses the subject property, extending south from Maliview Drive and ultimately connects to Cold Creek Trail to the south. The proposed residential development will be situated along this on-site trail. Commission staff has received correspondence (Exhibit 13) from residents of the area indicating that the informal trail on the subject property that leads to the mapped trail system to the south has been utilized for equestrian use for more than 30 years and should be dedicated for public use as a condition of obtaining a land use entitlement. However, evidence of use in the 30 year period was not provided. Furthermore, review of aerial photographs indicates that the trail on the subject site did not exist in its current configuration in 1977, 1986, or 1994. The trail does appear in an aerial photo from 2001. So while an existing equestrian trail currently exists on the subject property that will be impeded by the proposed residential development, evidence in the record suggests that the trail was established and used sometime after 1994 without benefit of a coastal permit. And since at least 1986 there has been an alternative connector trail in the vicinity, a portion of which was dedicated for public use. In addition, several alternate trails exist in the area that lead to the mapped Cold Creek Trail.

Section 30211 of the Coastal Act states, in part, that “development shall not interfere with the public’s right of access to the sea where acquired through use or legislative authorization.” Applicants for coastal development permits must demonstrate that their proposed developments are consistent with the Coastal Act, including the requirements of Section 30211 of the Act. In implementing these policies, the Commission must consider whether a proposed development will interfere with or adversely affect an area over which the public has obtained public rights of access. The agency must determine whether there is substantial evidence to support the conclusion that the area has been impliedly dedicated to public use.

A right of access through use is, essentially, an easement over real property which comes into being without the explicit consent of the owner. The acquisition of such an easement by the public is referred to as an “implied dedication.” The doctrine of implied dedication was confirmed and explained by the California Supreme Court in Gion v. City of Santa Cruz (1970) 2 Cal.3d 29. The right acquired is also referred to as a public prescriptive easement, or easement by prescription. This term recognizes the fact that the use must continue for the length of the “prescriptive period,” before an easement comes into being.

The rule establishes a statute of limitations, after which the owner cannot assert formal full ownership rights to terminate an adverse use. In California, the prescriptive period is five years.

For the public to obtain an easement by way of implied dedication, it must be shown that:

- 1) The public has used the land for a period of five years or more as if it were public land;
- 2) Without asking for or receiving permission from the owners;
- 3) With the actual or presumed knowledge of the owner;
- 4) Without significant objection or bona fide attempts by the owner to prevent or halt the use; and
- 5) The use has been substantial, rather than minimal.

When evaluating the conformance of a project with 30211, the Commission or the applicable local government cannot determine whether public prescriptive rights actually do exist; rather, that determination is made by a court of law. However, the Commission or the applicable local government is required under Section 30211 to prevent development from interfering with the public's right of access where acquired through use or legislative authorization. As a result, where there is substantial evidence that such rights may exist, the Commission or the applicable local government must ensure that proposed development would not interfere with any prescriptive rights which may exist.

The courts have recognized the strong public policy favoring access to the shoreline, and have been more willing to find implied dedication for that purpose on shoreline properties than when dealing with inland properties. A further distinction between inland and coastal properties was drawn by the Legislature subsequent to the Gion decision when it enacted Civil Code Section 1009. Civil Code Section 1009 provides that if lands are located more than 1,000 yards from the Pacific Ocean its bays, and inlets, unless there has been a written, irrevocable offer of dedication or unless a government entity has improved, cleaned, maintained the lands, the five years of continual public use must have occurred prior to March 4, 1972. In this case, the subject site is *not* within 1,000 yards of the sea; therefore the required five-year period of use must have occurred *prior* to March of 1972 in order to establish public rights in the property.

Based on staff's review of historic aerial photographs, the subject on-site trail did not exist in its current configuration until after 1994. In addition, the interested parties/residents did not provide evidence of the extent of general public use or whether general public use was adverse or without the permission of the property owner. Moreover, even if substantial general public use without the permission of the property owner could be established, there is evidence that such use did not occur across the subject trail for the requisite 5 years prior to March 1, 1972. Therefore, there is no substantial evidence of an implied dedication at the subject site.

For the above reasons, the Commission finds that the proposed project will not adversely impact recreational opportunities or public access and the proposed development is consistent with Sections 30210, 30212, 30213, and 30223 of the Coastal Act.



## **G. Unpermitted Development**

Unpermitted development has occurred on the subject parcel prior to submission of this permit application including, but not limited to, grading and major vegetation removal to widen an existing on-site trail from approximately 4 feet to 8 feet. The subject permit application addresses the unpermitted development, as well as the new development proposed in the subject application.

In order to ensure that the matter of unpermitted development addressed in this application is resolved without delay after approval of the application, **Special Condition Fifteen (15)** requires that the applicant to satisfy all conditions of this permit that are prerequisite to the issuance of this permit within 90 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

Although development has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Commission review and action on this permit application does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

## **H. Local Coastal Program**

Section 30604 of the Coastal Act states:

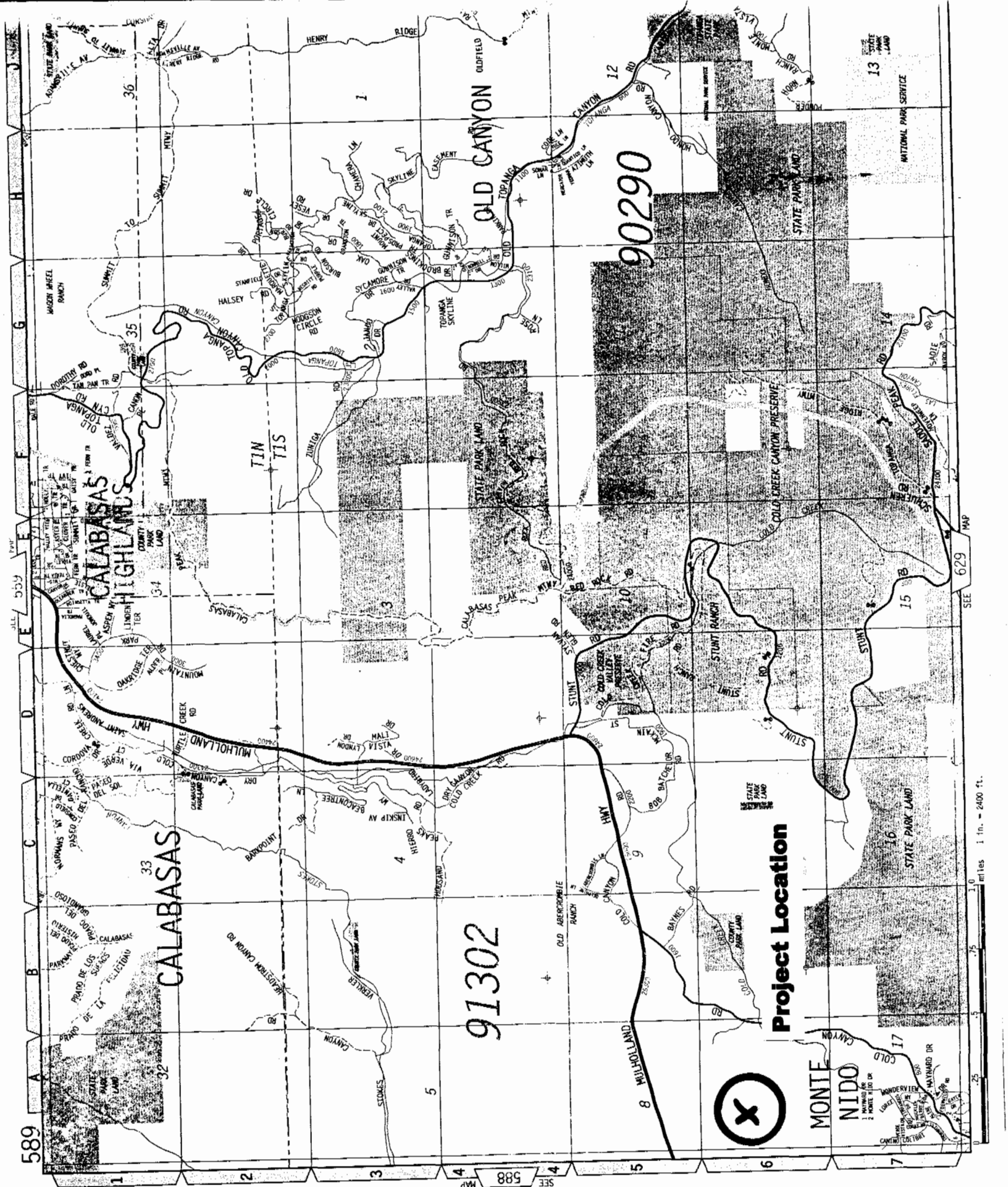
***a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the 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 Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed projects will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the projects and are accepted by the applicant. As conditioned, the proposed development 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 this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

## **I. 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 in detail above, project alternatives and mitigation measures have been considered and incorporated into the proposed project. Five types of mitigation actions include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures required as part of this coastal development permit include the avoidance of impacts to ESHA through siting, clustering, and prohibiting development outside of the approved development area as required by the granting of an open space and conservation easement. Mitigation measures required to minimize impacts include requiring drainage best management practices (water quality), interim erosion control (water quality and ESHA), limiting lighting (ESHA), requiring future improvements to be considered through a CDP, and employing construction best management practices (water quality). Finally, habitat impact mitigation is a measure required to compensate for impacts to ESHA. 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.



**Exhibit 1**  
**4-07-106 (Turcios)**  
**Vicinity Map**

**Project Location**



**MONTE NIDO**

91302

90290

OLD CANYON

CALABASAS HIGHLANDS

CALABASAS

589

588

SEE 629 MAP

1.0 miles 1 in. = 2400 ft.

LOS ANGELES CO.



**Exhibit 3**  
**4-07-106 (Turcios)**  
**Site/Grading Plan**

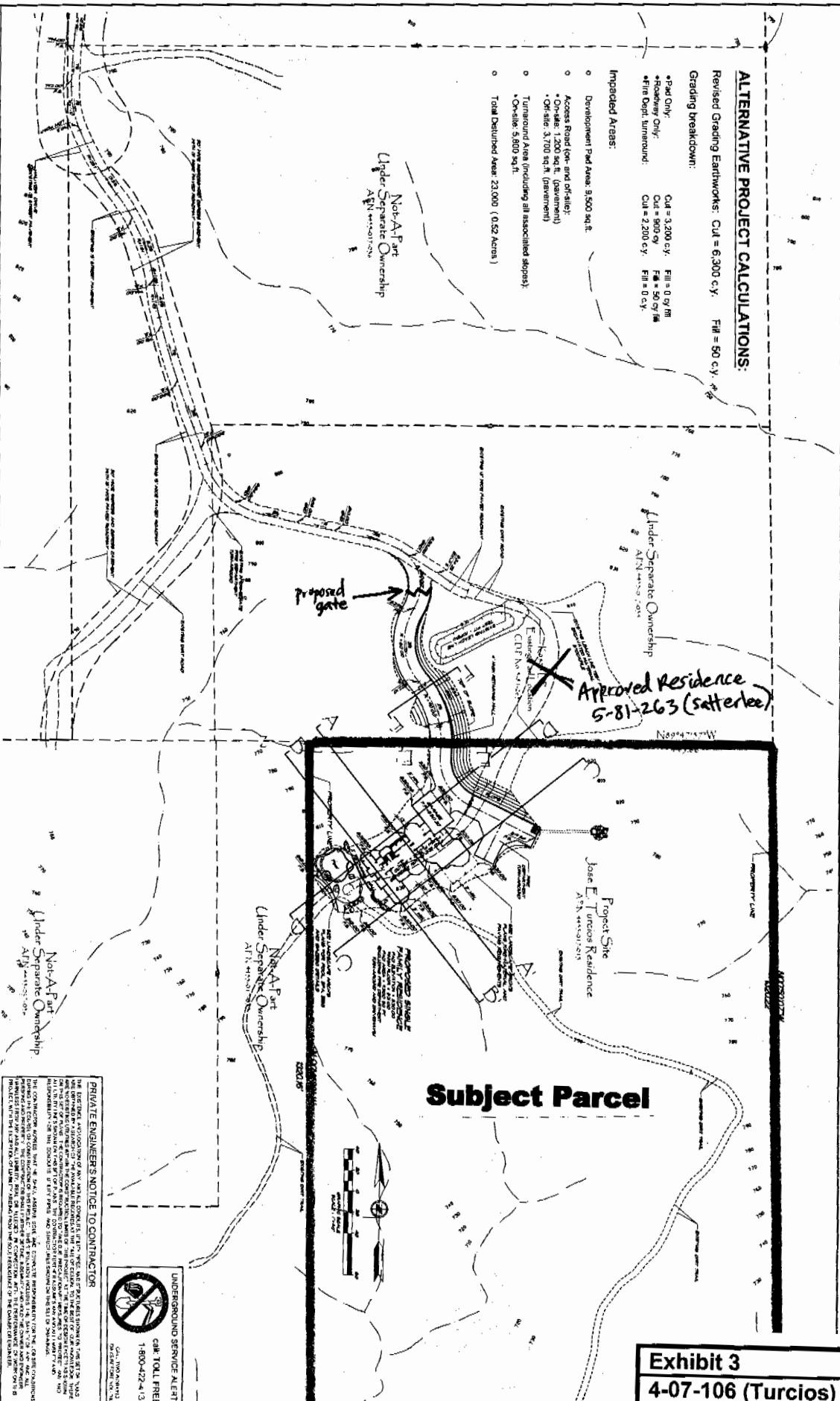
**ALTERNATIVE PROJECT CALCULATIONS:**

Revised Grading Earthworks: Cut = 6,300 c.y. Fill = 50 c.y.

Grading breakdown:  
 \* Pad Only: Cut = 3,200 c.y. Fill = 0 c.y./ft  
 \* Retaining City: Cut = 900 c.y. Fill = 50 c.y./ft  
 \* Final Dept. Turnround: Cut = 2,200 c.y. Fill = 0 c.y.

**Impeded Areas:**

- Development Pad Area: 9,500 sq. ft.
- Access Road (loc. and off-site): 1,200 sq. ft. (Impement)
- On-site: 3,700 sq. ft. (Impement)
- Turnaround Area (including all associated slopes): 5,800 sq. ft.
- On-site: 5,800 sq. ft.
- Total Impeded Area: 21,000 (0.52 Acres)



**REGISTERED PROFESSIONAL ENGINEER**  
 STATE OF CALIFORNIA  
 CIVIL ENGINEERING  
 No. 12345  
 Exp. 12/31/2025

**ENGINEERING STATEMENT**  
 I, the undersigned, am a duly licensed Professional Engineer in the State of California, and I am the author of the design shown on this plan. I have prepared this plan in accordance with the requirements of the California Engineering Law, and I am not aware of any false or misleading information contained herein.

**APPROVED BY:**  
 DESIGNER: [Name] DATE: [Date]  
 CHECKER: [Name] DATE: [Date]  
 JOB NUMBER: [Number]

**DESIGN DRAFTING**  
 3200 Central Express, Suite 200  
 San Jose, CA 95128  
 Tel: (408) 737-7373

REV.	DATE	DESCRIPTION
1	12/15/2024	Initial Design
2	01/10/2025	Revised Grading
3	02/05/2025	Final Erosion Control

**REVISION BLOCK**

**PROJECT PLAN - PFP 1200400298**

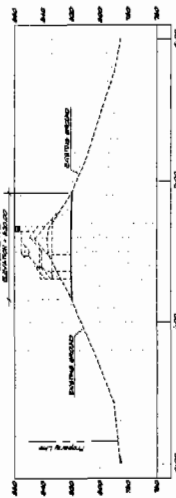
**ALTERNATIVE GRADING SITE SHEET**

DATE: 04/07/2025

**UNDERGROUND SERVICE ALERT**  
 CALL TOLL FREE 1-800-422-4131

**PRIVATE ENGINEER'S NOTICE TO CONTRACTOR**

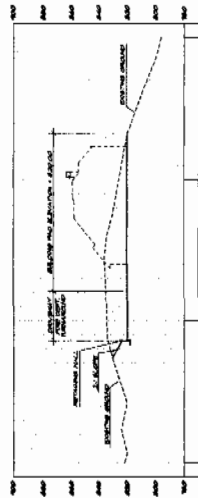
COASTAL APPLICATION NO 4-07-106



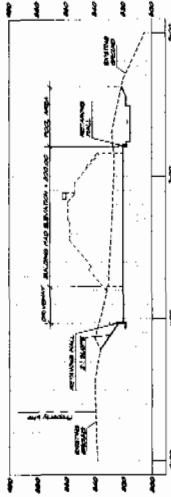
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Horizontal 1"=40'



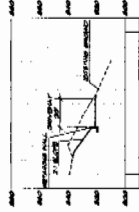
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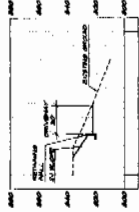
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Horizontal 1"=40'



Section "D-D"  
Profile Scale Vertical 1"=4'  
Horizontal 1"=40'



Section "E-E"  
Profile Scale Vertical 1"=4'  
Horizontal 1"=40'



Section "F-F"  
Profile Scale Vertical 1"=4'  
Horizontal 1"=40'



UNDERGROUND SERVICE ALERT  
Call TOLL FREE  
1-800-422-4133  
OR  
800-422-4133  
800-422-4133


PRIVATE ENGINEER'S NOTICE TO CONTRACTOR

THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES AND STRUCTURES SHOWN ON THE SET OF PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES AND STRUCTURES SHOWN ON THE SET OF PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES AND STRUCTURES SHOWN ON THE SET OF PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES AND STRUCTURES SHOWN ON THE SET OF PLANS.

DATE: _____ TIME: _____ BY: _____ FOR: _____		APPROVED BY: ENGINEER'S STAMP THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION. AS SHOWN DESIGNED: STAFF CHECKED: STAFF JOB NUMBER: _____		DESIGN DRAFTING		JOHN J. MURPHY, P.E. 1000 S. W. 10th Ave. Ft. Lauderdale, FL 33304 Phone: 561-531-7111 Fax: 561-531-7112 Email: jmurphy@murphyengineering.com		REVISION BLOCK REVISION DESCRIPTION DATE		SECTIONS - RFP 7200-400298 ALTERNATIVE GRADING SITE 2570 International Highway, APT. 466-07-06 GPOA MOOD 4 SCALE: AS NOTED	
NO.	DATE	BY	DATE	NO.	DATE	BY	DATE	SHEET	OF	BITS	
								2	2	2	

**Exhibit 4**  
**4-07-106 (Turcios)**  
**Grading Plan**  
**Cross-Sections**

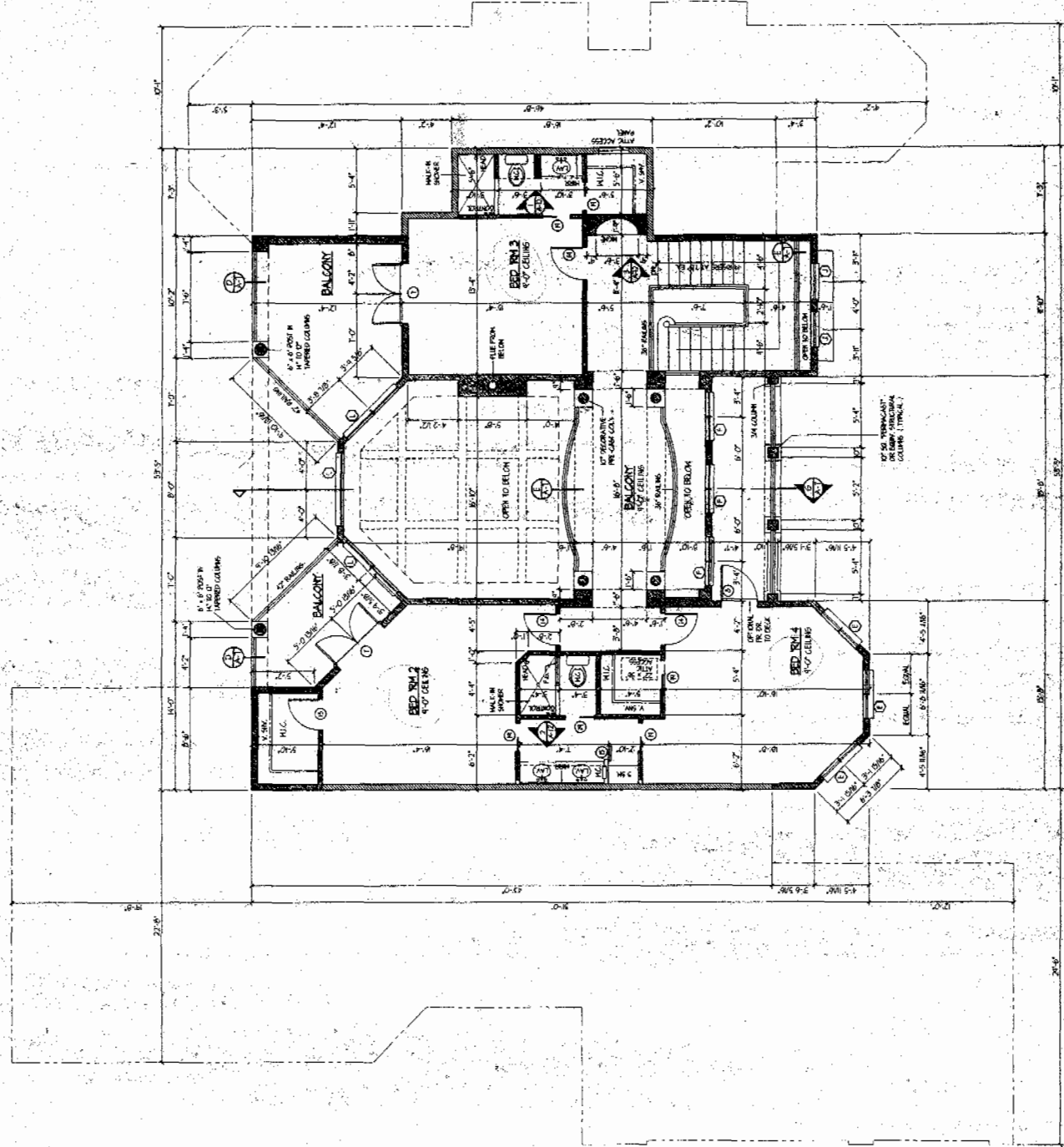


<b>HILLCREST RIDGE</b> PROJECT:	BORDER:	<b>Sater Design</b> ARCHITECTS 10000 W. 10th Ave., Suite 100 Denver, CO 80202 TEL: 303-755-1100	
Any reproduction of these plans is prohibited by Federal Copyright Law. Any illegal reproduction will be aggressively pursued to the fullest extent of the copyright law. © The Sater Design Collection Inc.		REVISIONS: DRAWN BY: DCS II CHECKED BY: DCS DATE: 5-15-95 DWG. NO.: 8651	

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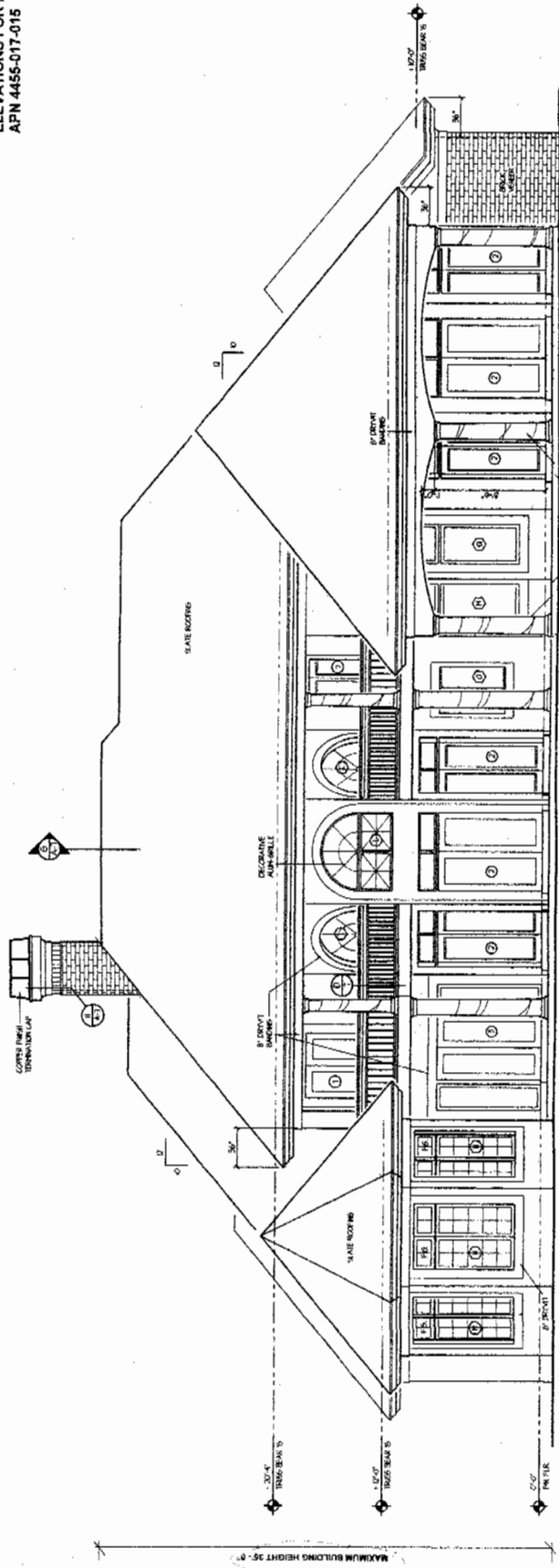
**SECOND FLOOR PLAN**  
 SCALE: 1/8" = 1'-0"



**Exhibit 6**  
**4-07-106 (Turcios)**  
**Second Floor Plan**

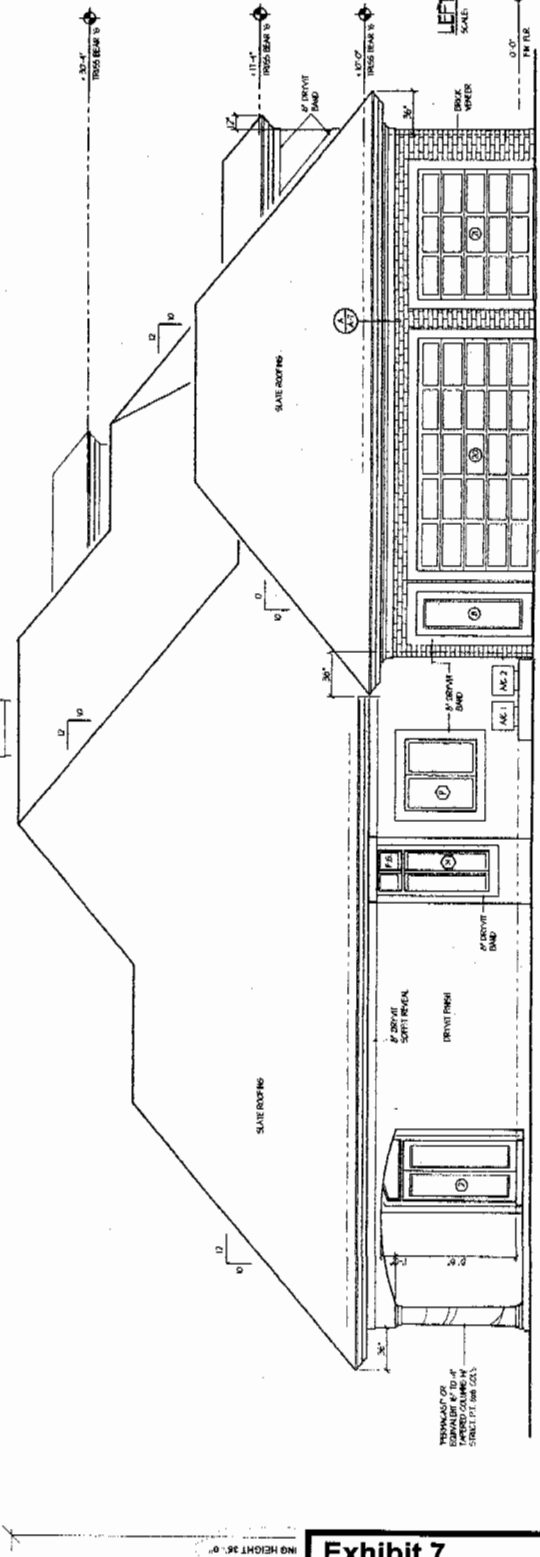


ELEVATIONS FOR PLOT PLAN 200400298  
 APN 4455-017-015 MALVIEW DRIVE  
 CALABASAS, CA



REAR ELEVATION  
 SCALE: 3/4" = 1'-0"

OWNER: JOSE TURCIOS  
 CONSULTANT: DAVID SATTERLEE  
 26560 AGOURA ROAD  
 SUITE 101  
 CALABASAS, CA 91302  
 818-880-5386

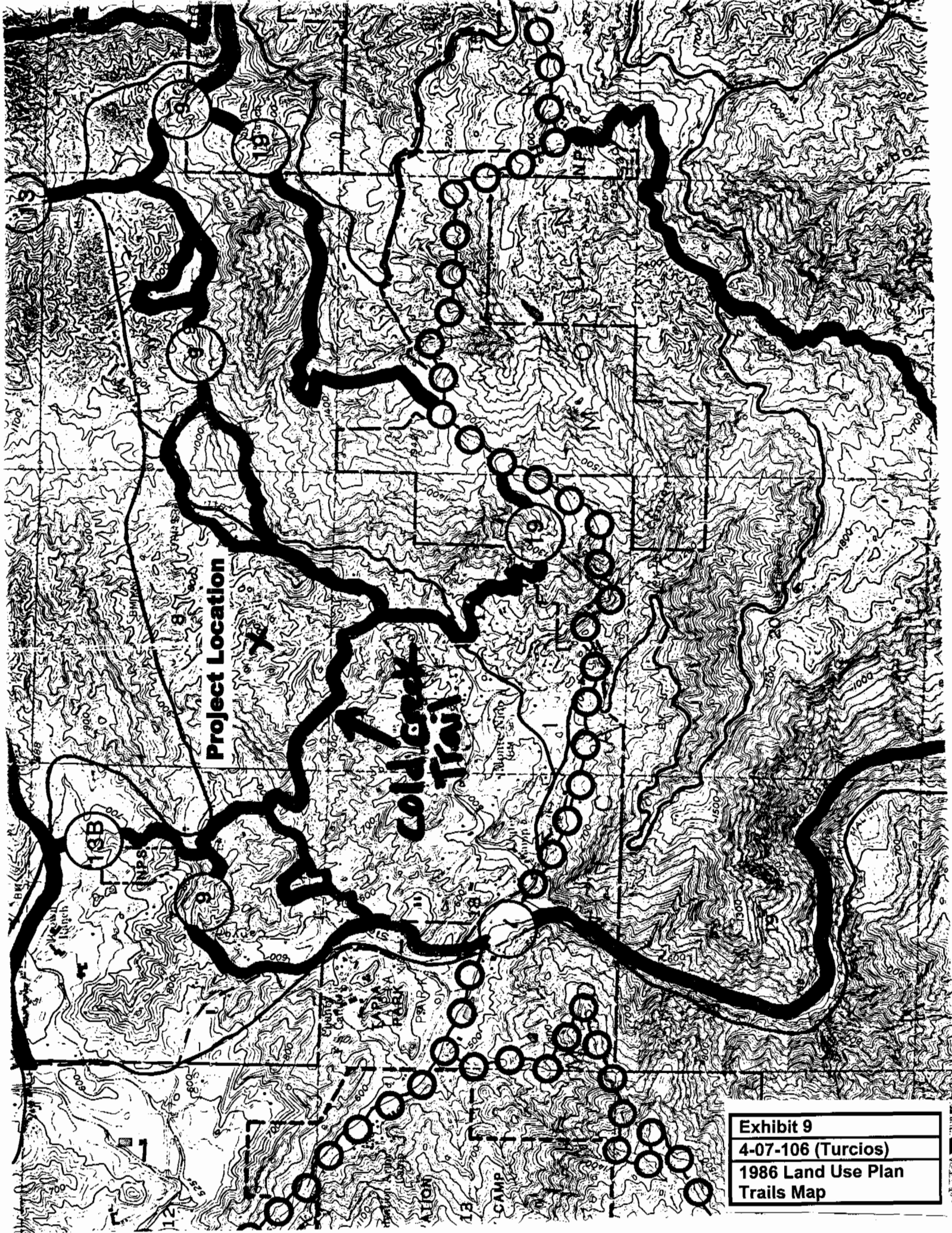


LEFT SIDE ELEVATION  
 SCALE: 3/4" = 1'-0"

Exhibit 7  
 4-07-106 (Turcios)  
 Elevations



2001 photo

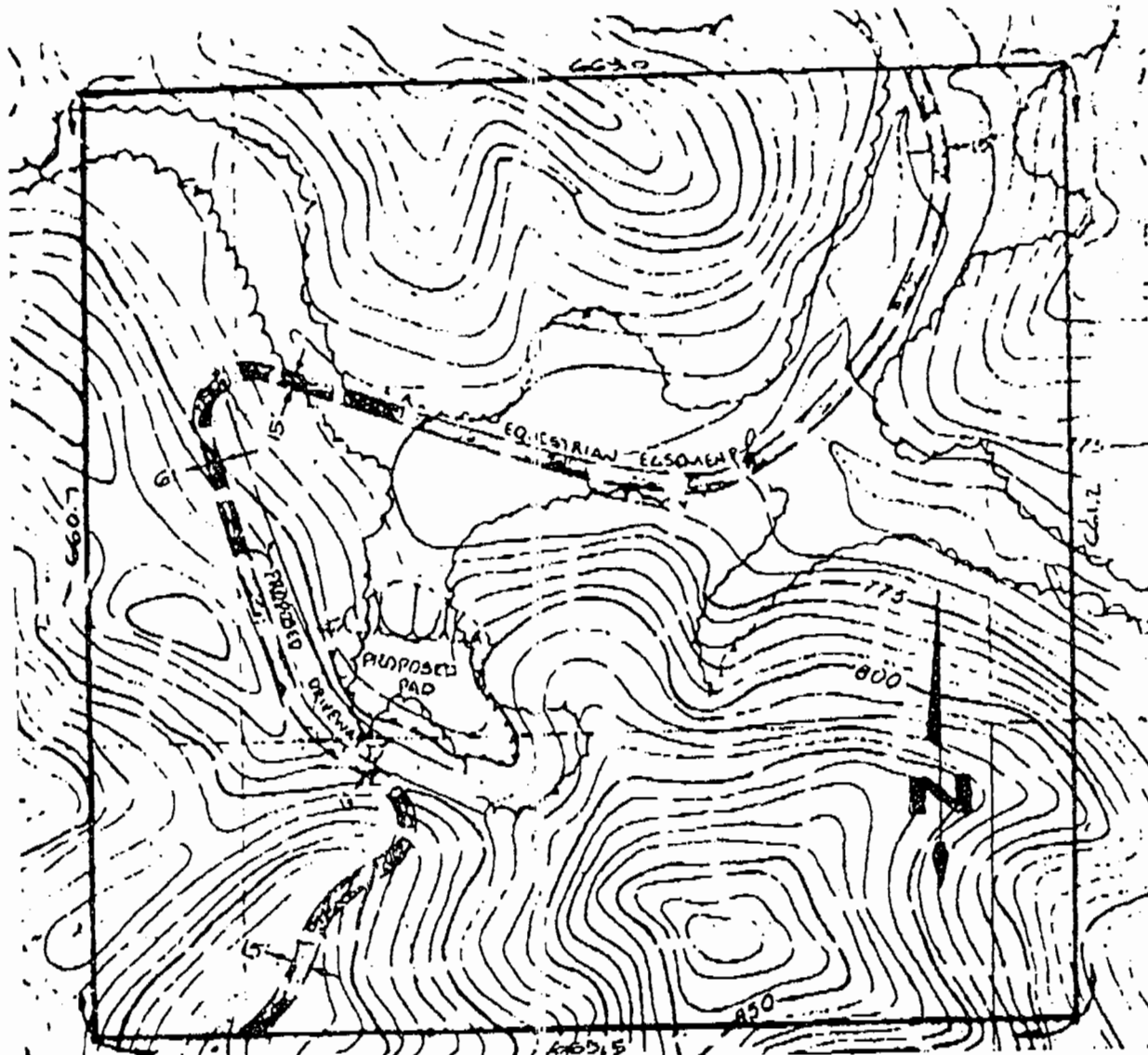


**Project Location**

# Coldwater Trail

**Exhibit 9**  
**4-07-106 (Turcios)**  
**1986 Land Use Plan**  
**Trails Map**

LEGAL DESCRIPTION OF SUBJECT PROPERTY:  
SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST  
ONE-QUARTER OF SECTION EIGHT, TOWNSHIP ONE SOUTH, RANGE TWENTY-EIGHT WEST.

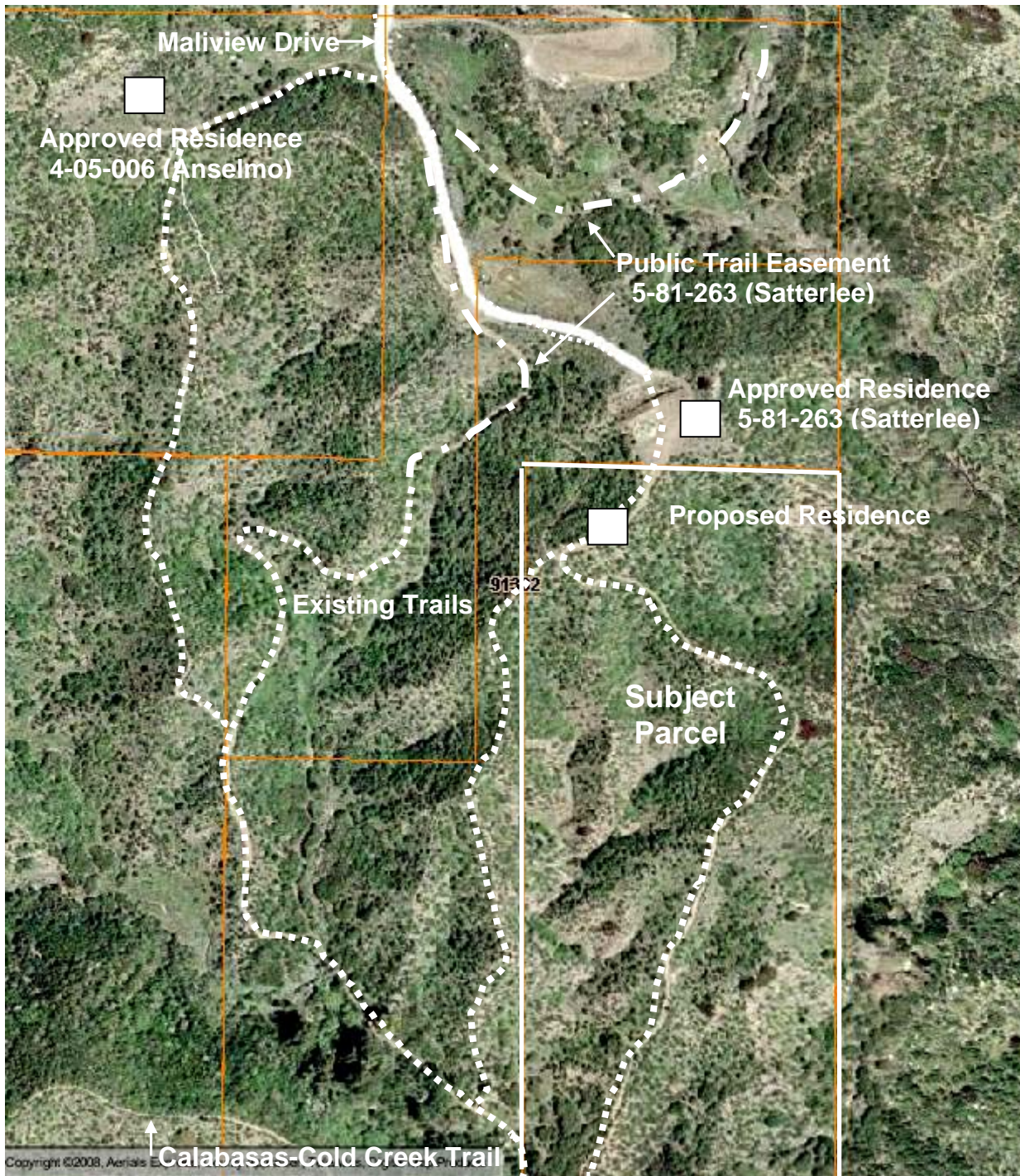


470273

CDP 5-81-263 (Satterlee)

...in interest or assign the right to relocate  
...future development of the property shall not  
...reasonably equivalent property. However,  
prior to any relocation or realignment of  
said trail, grantor must obtain the State of  
California's approval of the proposed trail  
relocation and such approval shall not be  
unreasonably withheld, provided that re-  
aligned trail provides equivalent quality  
trail for its stated purposes.

Exhibit 10
4-07-106 (Turcios)
Public Trail OTD Map
CDP 5-81-263



2006 aerial photo

**PLOT DATE:**  
Fri, January 18, 2008

**SOLD ENGINEER:**  
I hereby certify that I am a duly licensed Professional Engineer in the State of California, and that I am the author of the above described plans, and that I am not providing any services to the client in violation of the provisions of the California Engineering Act or the rules and regulations of the Board of Engineers and Surveyors.

**ENGINEERING STATEMENT:**  
I hereby certify that I am a duly licensed Professional Engineer in the State of California, and that I am the author of the above described plans, and that I am not providing any services to the client in violation of the provisions of the California Engineering Act or the rules and regulations of the Board of Engineers and Surveyors.

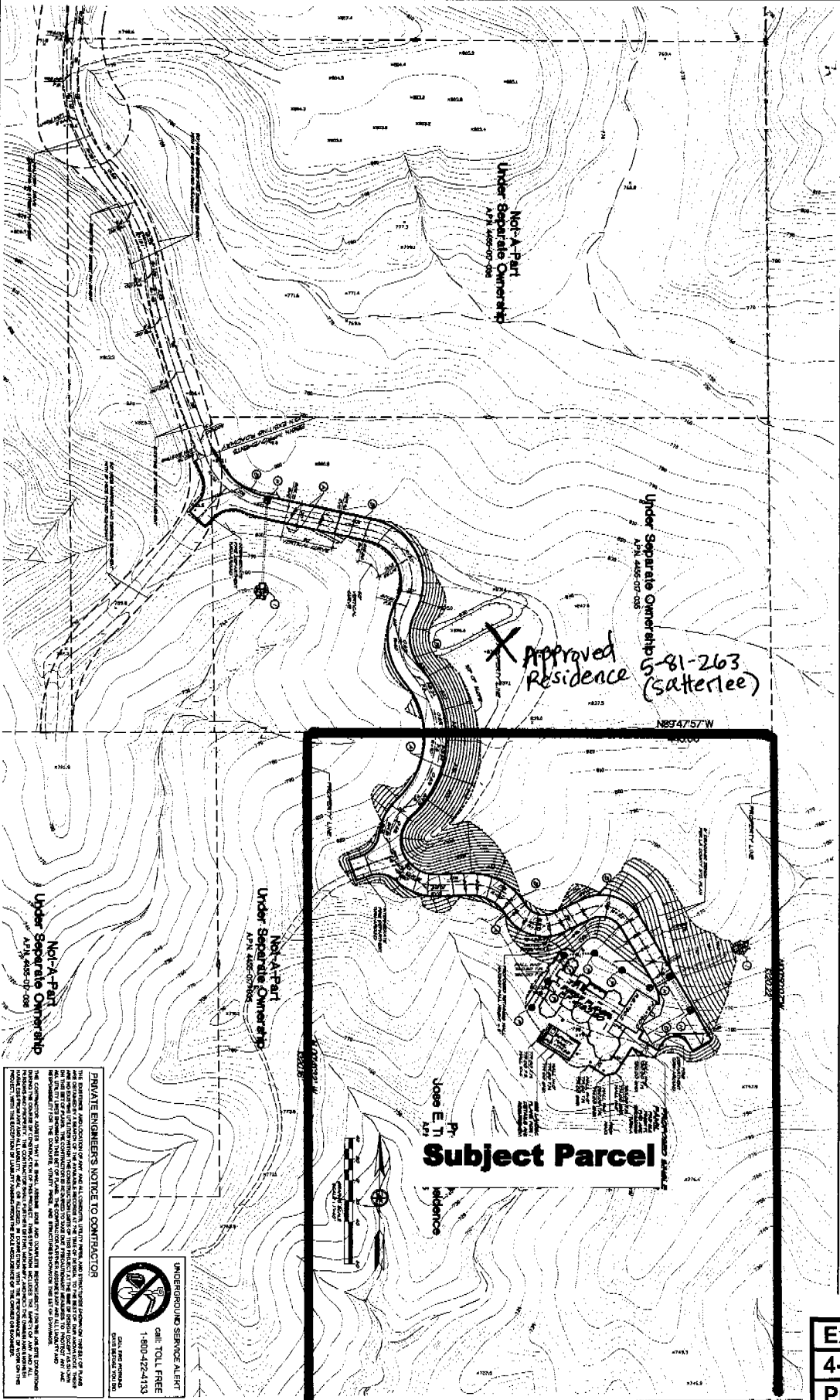


**APPROVED BY:**  
DRAWING SCALE: AS SHOWN  
DESIGNED BY: [Name]  
CHECKED BY: [Name]

**Design Drafting Inc.**  
30220 Camino Del Rio South  
Suite 100  
San Diego, CA 92108  
Tel: 619-591-7134  
Fax: 619-591-7135  
www.designdrafting.com

NO.	DATE	REVISION DESCRIPTION
1	01/18/08	ISSUE FOR PERMIT

**PROJECT:** POI Plan - RFP 1700400298  
**ROUGH GRADING PLAN**  
SHEET 4 OF 4



**PRIVATE ENGINEERS NOTICE TO CONTRACTOR:**  
THE ENGINEER'S NOTICE TO CONTRACTOR OF ANY VIOLATIONS OF THE PROFESSIONAL ENGINEERING ACT OR THE RULES AND REGULATIONS OF THE BOARD OF ENGINEERS AND SURVEYORS IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND FOR OBTAINING ALL NECESSARY INFORMATION FROM THE CLIENT AND THE PUBLIC RECORDS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE CLIENT AND THE PUBLIC RECORDS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE CLIENT AND THE PUBLIC RECORDS.



**Exhibit 12**  
**4-07-106 (Turcios)**  
**Previously Proposed**  
**Site Plan**

**SCAPA**  
Counselors & Litigators **LAW**  
**GROUP PC**

**RECEIVED**  
DEC 17 2007  
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

July 5, 2007

California Coastal Commission  
South Central Coastal Area  
89 S. California Street, Suite 200  
Ventura, CA 93001-2801

RE: Parcel Nos. 4455-017-015 and 4455-017-035

Dear California Coastal Commission:

On June 15, 2007, the undersigned wrote you concerning a Notice of Illegal Grading on Parcel No. 4455-017-015. It is my understanding that Pat Veasart performed an on-site inspection on June 20, 2007. Thank you for this follow-up.

The above two parcels are owned in whole or in part by Allen Satterlee, Kasco, L.P., and/or Turcios L.P. The purpose of this letter is to request that the California Coastal Commission, as a condition to allowing the owners any land use entitlement, require that they provide a permanent offer to dedicate the portion of the historical trails that pass over their properties.

For your review, I have enclosed two maps which show the Cold Creek/Lost Canyon Loop Trail. The maps are from the National Parks Service and County Map. The offer to dedicate would include the portion of this trail that passes through Parcel No. 4455-017-035 and the southerly portion of Parcel No. 4455-017-015.

In addition, on Parcel 4455-017-015, there is a trail that traverses directly up this parcel in a northerly direction that has been used for more than 30 years. It intersects the existing Cold Creek/Lost Canyon Loop Trail, and we believe should be annexed to the trail system. You can see this trail on the aerial map which is attached hereto.

The undersigned would be pleased on any convenient date and time to accompany you to view the existing trails.

In order to preserve public access to trails and maintain environmentally sensitive habitat areas, we believe it is essential that landowners be required to dedicate permanently to the public portions of their property that have been historically used as trails as a condition to obtaining land use entitlements.

Exhibit 13
4-07-106 (Turcios)
Correspondence Received

California Coastal Commission

July 5, 2007

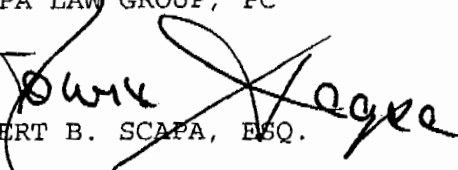
Page Two

All of the individuals and/or associations signing this correspondence join and agree with the request set forth herein.

We thank you for your anticipated cooperation. If you have any questions or we can be of any further assistance, please do not hesitate to contact any of us.

Sincerely,

SCAPA LAW GROUP, PC

  
ROBERT B. SCAPA, ESQ.

RBS:pl  
Enclosure



Sam May  
Name

25644 NERO DR  
Address  
Calabasas 91302

Sheila Kalivas  
Name

25610 MAYNARD DRIVE  
Address  
CALABASAS, CA 91302

Neidi Stompe  
Name

871 Malibu Meadows Dr  
Address  
CALABASAS, CA 91302

Gary Hudson  
Name

901 Crater Camp  
Address  
Calabasas CA 91302

John Low  
Name

25629 Buckhorn Drive  
Address  
Calabasas CA 91302

Name

Address

[Signature]  
Name

25681 Mountain View Dr.  
Address  
CALABASAS, CA 91302

Name

Address

Name

Address

Name

Address

Name

Address

Name

Address

Name

Address

THE FOLLOWING INDIVIDUALS AND/OR ASSOCIATIONS JOIN AND AGREE WITH THE REQUEST SET FORTH HEREIN:

Carol LaCorte 886 Camino Colibri  
Name Address  
Monte Nido, CA 91302

Lois Love 25752 Punto de Vista  
Name Address  
Monte Nido, CA 91302

[Signature] 25752 PUNTO DE VISTA  
Name Address  
Monte Nido, CA 91302

Michael G. ADAMS 893 CAMINO COLIBRI  
Name Address  
Monte Nido, CAL 91302

Tracey Hughes 25715 Vista Verde Dr  
Name Address  
CALABASAS, CA 91302

[Signature] 890 Camino Colibri  
Name Joshua Livingston Address  
Calabasas CA 91302

[Signature] 803 Wonder View Drive Calabasas  
Name DR. TOKE Hopper Address

Betsy Milligan 935 CAMINO COLIBRI CALABASAS  
Name BETSY (MARTY) MILLIGAN Address

[Signature] " " "  
Name LEE MILLIGAN Address

898 Camino Colibri

Jody Saltzman Calabasas 91302

Name

Address

VICTOR E LAURE BRANDT 859 CAMINO COLIBRI RD.  
CALABASAS CA 91302

Name

Address

1063 Meadows Blvd

Dalit Harasi Calabasas, Ca. 91302

Name

Address

708 Thornhill Rd.

Rubi Stokfosh Calabasas ca 91302

Name

Address

826 Camino Colibri  
Monte Nido, CA

Kevin Carpenter

Name

Address

Sally Livingston  
890 CAMINO COLIBRI  
MONTE NIDO, CA 91302

Name

Address

25770 VISTA VERDE

ADRIAN VANTRIEP CALABASAS CA 91302

Name

Address

25770 Vista Verde

Sherry van't Riet Calabasas, CA 91302

Name

Address

25736 Dark Creek Rd

Alicia Gonzalez Calabasas, Ca 91302

Name

Address

(818) 225-7378

25611 Timpangos Drive

Chantal Bradshaw Calabasas, CA 91302

Name

Address

25611 Timpangos Drive

Randy Snyder Calabasas, CA 91302

Name

Address

Andrew Lapins 25638 Loreley  
Calabasas, CA 91302



25231 Timpangos Dr  
Calabasas 91302

Alan Thompson

25631 Timpangos Dr

Calabasas 91302

Paul O. Hill

4865 Inglewood Blvd  
LA, CA 90230

THE FOLLOWING INDIVIDUALS AND/OR ASSOCIATIONS JOIN AND AGREE WITH THE REQUEST SET FORTH HEREIN:

Name James D. Wingly

Address 2340 STOKES CYN. RD.  
CALABASAS, 91302

Name Dale M. Lundell

Address 26005 MULHOLLAND HWY CALABASAS CA  
2990 Stokes Cyn Rd Calabasas 91302  
91302

Name Norma Lee Roney

Address \_\_\_\_\_

Name Ram Manan Ray

Address 24400 MULHOLLAND HWY  
Calabasas CA 91302

Name \_\_\_\_\_

Address 20155 Mulholland Hwy  
Calabasas, CA 91302

Name \_\_\_\_\_

Address 2000 Mulholland St.  
Calabasas 91302

Name Chickie M. Bennett

Address 288 Old. Cypress Rd. Calabasas  
24980 Bob Batchelor Rd. CA 91302

Name Suzanne Horde

Address Calabasas, Ca. 91302  
2121 McKim Street

Name Holly Kessler

Address Calabasas, CA 91302  
25700 MULHOLLAND HWY

Name Angie Ann Smith

Address CALABASAS, CA. 91302

Name \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

THE FOLLOWING INDIVIDUALS AND/OR ASSOCIATIONS JOIN AND AGREE WITH THE REQUEST SET FORTH HEREIN:

[Signature]  
Name

1710 N. Cobb Exp Rd.  
Address  
Walpole, Ca 91302

[Signature]  
Name

24435 Mulholland Hwy.  
Address  
Calabasas CA 91302

[Signature]  
Name

3450 [Signature]  
Address  
[Signature], CA 91301

DALE REICHENEDER  
Name

4240 Lost Hills Rd #1006  
Address  
CALABASAS CA 91301

[Signature]  
Name

3408 Lilac Trail  
Address  
Calabasas CA 91302

P. Warden  
Name

2543 GRAYSTONE PL  
Address  
SIMI VALLEY CA 93065

[Signature]  
Name

2543 Graystone Place  
Address  
Simi Valley, CA 93065

[Signature]  
Name

4575 Via Grande  
Address  
Newbury Park, CA 91320

[Signature]  
Name

28543 Conejo View Dr.  
Address  
AGOURA HILLS, CA 91301

[Signature]  
Name

11782 Ellice St.  
Address  
MALIBU, CA 90265

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

21700 Oxnard Street, Suite 670, Woodland Hills, CA 91367 T:(818) 710-1881 . (818) 981-3712 . F:(818) 710-1313

California Coastal Commission  
July 5, 2007  
Page Two

All of the individuals and/or associations signing this correspondence join and agree with the request set forth herein.

We thank you for your anticipated cooperation. If you have any questions or we can be of any further assistance, please do not hesitate to contact any of us.

Sincerely,

SCAPA LAW GROUP, PC

---

ROBERT B. SCAPA, ESQ.

RBS:pl  
Enclosure

THE FOLLOWING INDIVIDUALS AND/OR ASSOCIATIONS JOIN AND AGREE WITH THE REQUEST SET FORTH HEREIN:

<u>Therese Alcott</u>	<u>256 Wonder View</u>
Name	Address
<u>Stephanie Almonson</u>	<u>Monte Nido CA 91302</u>
Name	Address
	<u>543 Cold Canyon Rd</u>
	<u>Monte Nido, CA 91302-2206</u>
Name	Address

California Coastal Commission

July 5, 2007

Page Two

All of the individuals and/or associations signing this correspondence join and agree with the request set forth herein.

We thank you for your anticipated cooperation. If you have any questions or we can be of any further assistance, please do not hesitate to contact any of us.

Sincerely,

SCAPA LAW GROUP, PC

ROBERT B. SCAPA, ESQ.

RBS:pl  
Enclosure

THE FOLLOWING INDIVIDUALS AND/OR ASSOCIATIONS JOIN AND AGREE WITH THE REQUEST SET FORTH HEREIN:

<i>Victor H. Kuyse</i>	<i>25575 Pinna Rd</i>
Name	Address

<i>Susan Randall Kuyse</i>	<i>Monte Nido</i>
Name	Address

	<i>Ca 91302</i>
Name	Address
	<i>25575, Pinna rd,</i>
	<i>Monte Nido 91302</i>
	Address



herein.

We thank you for your anticipated cooperation. If you have any questions or we can be of any further assistance, please do not hesitate to contact any of us.

Sincerely,

SCAPA LAW GROUP, PC

---

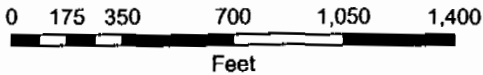
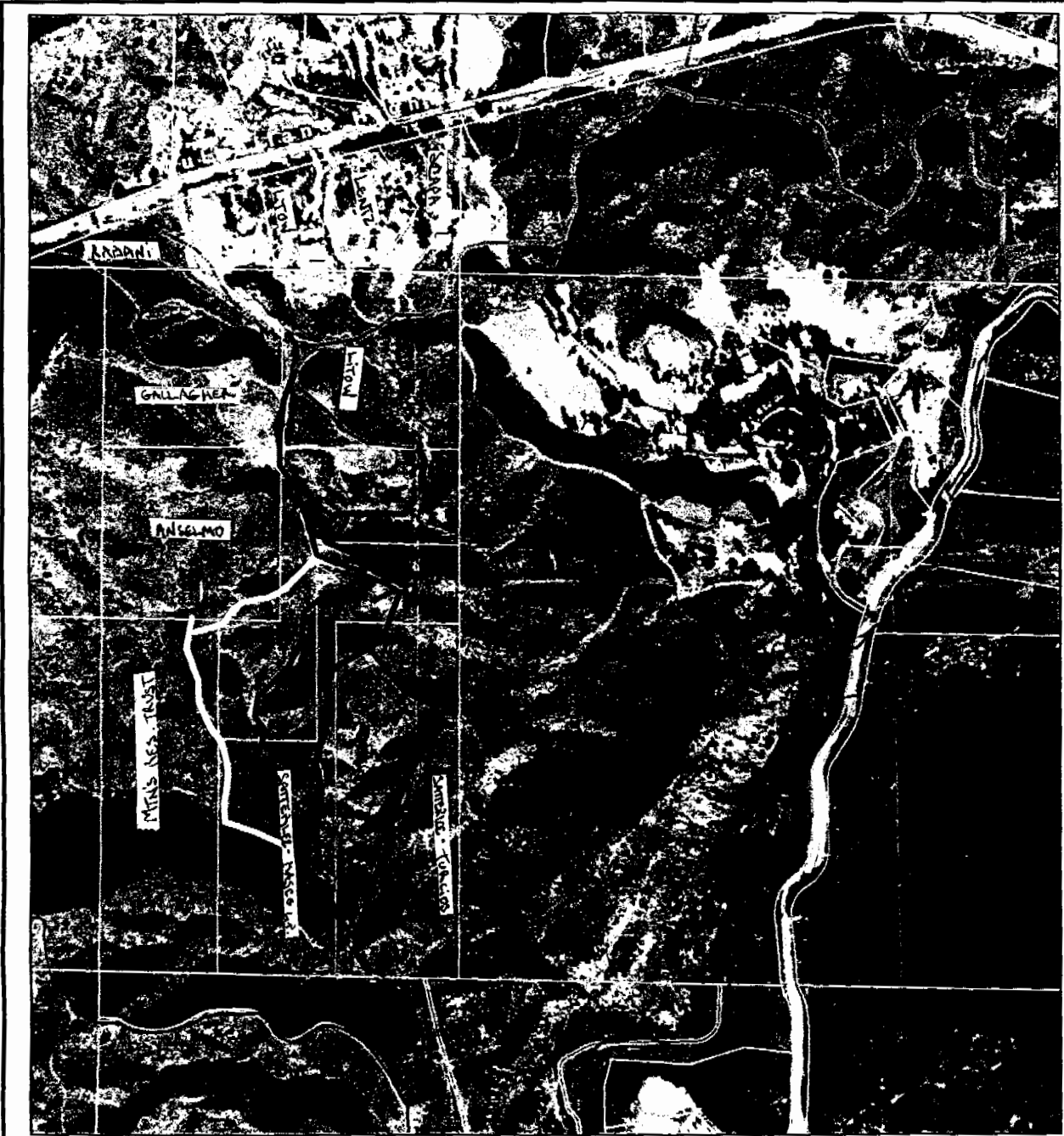
ROBERT B. SCAPA, ESQ.

RBS:pl  
Enclosure

Digital Signatures

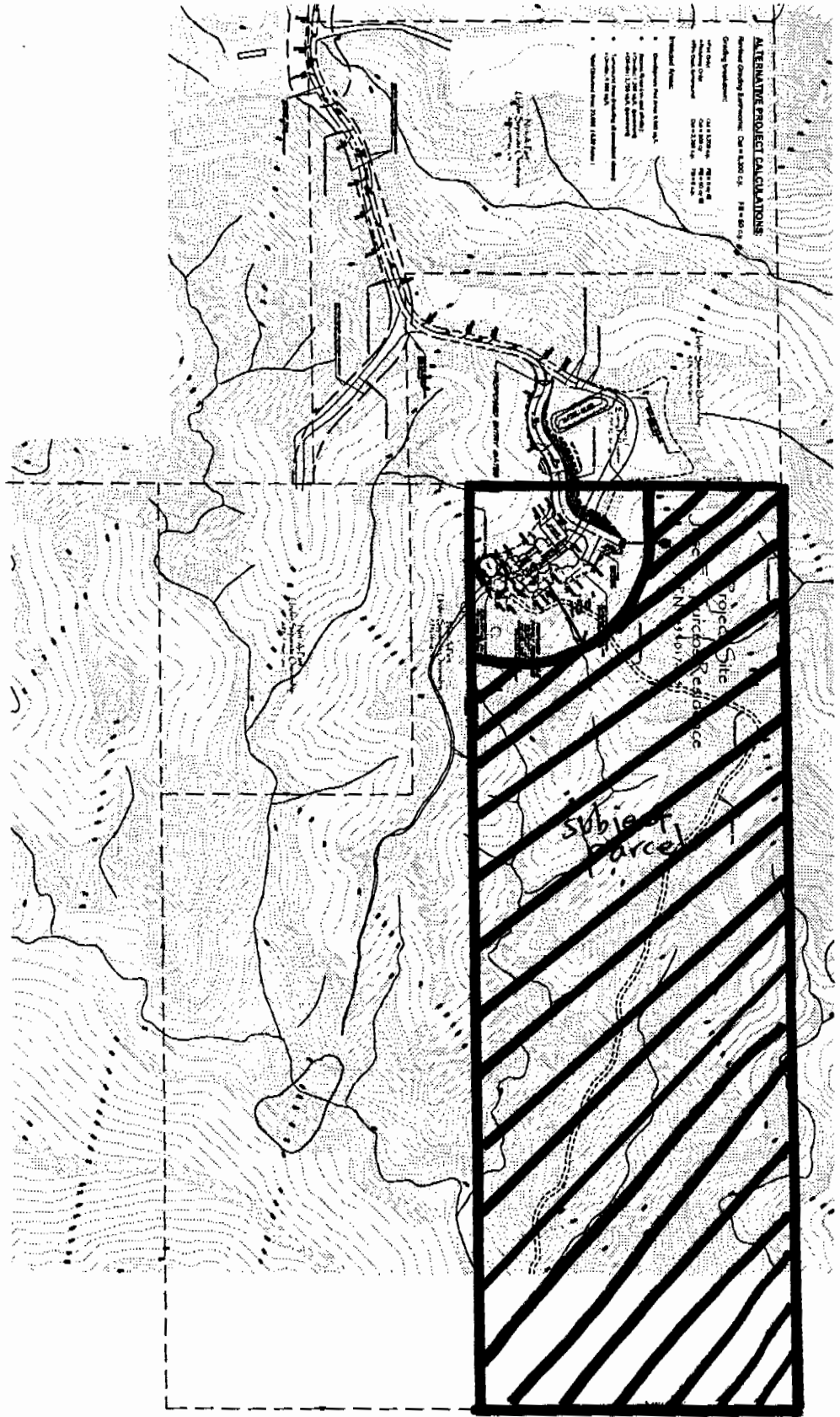
Scapa Letter.doc (30.0 KB)

# COLD CREEK / LOST CANYON LOOP TRAIL



Aerial Imagery Flown in 2000  
Los Angeles County Assessor Parcels 2003

N.P.S. MAP



**ALTERNATIVE PROJECT CALCULATIONS**

Map Scale: 1" = 100'

Projection: UTM

Zone: 18N

Datum: WGS 84

Units: Meters

Map Date: 04/07/10

Map Author: [Name]

Map Title: [Title]

Map Sheet: [Sheet]

Map Scale: 1" = 100'

Projection: UTM

Zone: 18N

Datum: WGS 84

Units: Meters

Map Date: 04/07/10

Map Author: [Name]

Map Title: [Title]

Map Sheet: [Sheet]

**Open space area**

Exhibit 14
4-07-106 (Turcios)
Open Space Area