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Hearing Date: 10/9/13

STAFF REPORT: REGULAR CALENDAR

Application No.:	**4-12-067**
Applicant:	**Los Angeles County Department of Public Works**
Agent:	**N/A**
Project Location:	**21656 Las Flores Heights Rd., Santa Monica Mountains, Los Angeles County**
Project Description:	Removal of an existing 18" diameter, 27' long corrugated metal culvert located underneath a portion of Las Flores Heights Rd.; installation of a new 36" diameter, 27' long, reinforced concrete culvert; installation of a new 3ft. tall headwall with associated 36' wide wing walls and 4 ft. tall debris posts located on the upstream (western) side of the new culvert; 42 cubic yards of grading (25 cu. yds. of cut grading and 17cu. yds. of fill grading); and removal and replacement of 2 cu. yds. of roadway asphalt.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed development with seven (7) Special Conditions.

The standard of review for the proposed project is the Chapter Three policies of the Coastal Act. In addition, the policies of the certified Malibu – Santa Monica Mountains Land Use Plan (LUP) serve as guidance.

The project is proposed by Los Angeles County Department of Public Works (LACDPW) in order to upgrade an undersized drainage culvert, which, during past storm seasons, has resulted in an overflow of debris and mud onto Las Flores Heights Road. The applicant is proposing to remove an existing 18" diameter; 27' long culvert located underneath Las Flores Heights rd., as well as the existing debris posts located on the upslope (western) side of the existing roadway and to install a new 36" diameter, 27' long culvert located underneath Las Flores Heights rd. and a new 3 ft. high headwall, and 4ft. high debris posts, within the same general footprint as the existing culvert, with 42 cubic yards of grading (25 cu. yds. of cut and 17 cu. yds of fill). The project area is located 170 feet to the south of the residence located at 21656 Las Flores heights rd., and 75 ft. upslope of Las Flores Creek, a designated Environmentally Sensitive Habitat (ESHA), which flows through the canyon floor below the project site. Additionally, the proposed project is located within the protected zone (5 feet outside the drip line or 15 feet from the trunk, whichever is greater) of two Coast Live Oak trees, considered to be ESHA. The proposed project includes the encroachment of development within the protected zone of oak trees that is unavoidable given the nature of the culvert replacement and location of the trees. The encroachments are minor and are unlikely to significantly impact the health of the trees, if care is taken to avoid injury to the trees during construction. Therefore, staff is recommending Special Condition #6, which will require a biological monitor to be present on site during construction activities to ensure that impacts to the two oak trees are avoided to the maximum extent feasible. In order to protect sensitive bird species that may be nesting or roosting in the surrounding ESHA, staff is recommending Special Condition #3, requiring the applicant to survey the area within 500 ft. of the construction zone to detect the nests of any raptor or sensitive bird species, 30 days prior to commencement of construction. If any nests are found, measures must be taken to avoid impacts. Furthermore, as there is a potentially active landslide identified to the north of the project site and the subject site is located on top of a steeply sloping hillside, staff is recommending special condition # 2, requiring the applicant to acknowledge potential hazards on the project site and waive any claim of liability against the Commission for damages to life or property which may occur. To ensure that the proposed project does not result in increased erosion of the subject site or contribute to sedimentation of the downslope Las Flores Creek, staff is recommending Special Condition #5, requiring the applicant to revegetate any disturbed areas on the project site with native vegetation compatible with the surrounding habitats. Staff is also recommending special conditions regarding construction best management practices, removal of excavated materials and material/design specifications. Therefore, as proposed and conditioned, the subject project can be found consistent with all applicable Chapter 3 policies of the Coastal Act and is not anticipated to result in adverse impacts to coastal resources.

TABLE OF CONTENTS

APPENDICES

EXHIBITS

LOCAL APPROVALS RECEIVED: County of Los Angeles Department of Regional Planning, Approval in Concept, dated 9/17/13.

I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

*I move that the Commission **approve** Coastal Development Permit No 4-12-067 pursuant to the staff recommendation.*

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:

The Commission hereby approves a coastal development permit 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. Material/Design Specifications

Prior to the issuance of the coastal development permit, the applicant shall submit detailed plans, for the review and approval of the Executive Director, which show that all exposed surfaces of the approved headwalls and wingwalls, shall be designed to include, or mimic, the native materials and appearance (including color and texture) of the natural environment (such as the appearance of rock facing).

2. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from slope instability, flooding, and erosion; (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. Nesting Bird Protection Measures

For any construction activities between February 15th and September 1st, the applicant shall retain the services of a qualified biologist or environmental resource specialist (hereinafter, "environmental resources specialist") to conduct raptor and other sensitive bird species surveys and monitor project operations. At least 30 calendar days prior to commencement of any project operations, the applicants shall submit the name and qualifications of the environmental resources specialist, for the review and approval of the Executive Director. The environmental resources specialist shall ensure that all project construction and operations shall be carried out consistent with the following:

A. The applicant shall ensure that a qualified environmental resource specialist, with experience in conducting bird surveys shall conduct bird surveys 30 calendar days prior to construction and/or tree removal activities to detect any active bird nests in all trees within 500 feet of the project (including, but not limited to, eucalyptus trees). A follow-

up survey must be conducted 3 calendar days prior to the initiation of grading/construction and nest surveys must continue on a monthly basis throughout the nesting season or until the project is completed, whichever comes first.

B. If an active nest of any federally or state listed threatened or endangered species, species of special concern, or any species of raptor is found within 300 ft. of the project (500 ft. for raptors), the applicant shall retain the services of a qualified biologist with experience conducting bird and noise surveys, to monitor bird behavior and construction noise levels. The biological monitor shall be present at all relevant construction meetings and during all significant construction activities (those with potential noise impacts) to ensure that nesting birds are not disturbed by construction related noise. The biological monitor shall monitor birds and noise every day at the beginning of the project and during all periods of significant construction activities. Construction activities may occur only if construction noise levels are at or below a peak of 65 dB at the nest (s) site. If construction noise exceeds a peak level of 65 dB at the nest(s) site, sound mitigation measures such as sound shields, blankets around smaller equipment, mixing concrete batches off-site, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction within 300 ft. (500 ft for raptors) of the nesting trees shall cease and shall not recommence until either new sound mitigation can be employed or nesting is complete.

C. If an active nest of a federally or state-listed threatened or endangered species, bird species of special concern, or any species of raptor is found, the applicant will notify the appropriate State and Federal Agencies within 24 hours, and appropriate action specific to each incident will be developed. The applicant will notify the California Coastal Commission by e-mail within 24 hours and consult with the Commission regarding determinations of State and Federal agencies.

4. Construction Best Management Practices

By acceptance of this permit, the applicant acknowledges and agrees to incorporate the following measures into all construction activities:

(a) No demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.

(b) No demolition or construction equipment, materials, or activity shall be placed in or occur in any location that would result in impacts to environmentally sensitive habitat areas, streams, wetlands or their buffers.

(c) Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.

(d) Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.

(e) All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.

(f) The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.

(g) Debris shall be disposed of at a permitted disposal site or recycled at a permitted recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.

(h) All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.

(i) Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.

(j) The discharge of any hazardous materials into any receiving waters shall be prohibited.

(k) Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.

(l) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with demolition or construction activity, shall be implemented prior to the on-set of such activity

(m) All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

5. Landscape Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit two sets of a landscape plan, prepared by a licensed landscape architect, or qualified landscape professional . The consulting landscape architect or qualified landscape professional

shall certify in writing that the final Landscape and Fuel Modification plans are in conformance with the following requirements:

(1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within thirty (30) days of the completion of construction. 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 (http://www.CNPS.org/), the California Invasive Plant Council (formerly the California Exotic Pest Plant Council) (http://www.cal-ipc.org/), or as may be identified from time to time 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 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.

Three years from the date the proposed project is completed the applicant shall submit to the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the requirements specified in this condition, the applicant, or successors in interest, shall submit, within 30 days of the date of the monitoring report, a revised or supplemental landscape plan, certified by a licensed Landscape Architect or a qualified Resource Specialist, that specifies additional or supplemental landscaping measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. This remedial landscaping plan shall be implemented within 30 days of the date of the final supplemental landscaping plan and remedial measures shall be repeated as necessary to meet the requirements of this condition.

6. Removal of Excavated Material

PRIOR TO 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.

7. Oak Tree Monitoring

To ensure that all oak trees located on the subject parcel are protected during construction activities, temporary protective barrier fencing shall be installed around the protected zones (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of all oak trees and retained during all construction operations. If required construction operations cannot feasibly be carried out in any location with the protective barrier fencing in place, then flagging shall be installed on trees to be protected.

The applicant shall retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during all excavation, grading, removal or placement of culverts, and concrete construction within 15 feet of any oak tree. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if habitat is removed or impacted beyond the scope of the work allowed by this Coastal Development Permit. This monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise.

The applicant shall retain the services of a biological consultant or arborist with appropriate qualifications acceptable to the Executive Director to monitor all oak trees that will be encroached upon to determine if the trees are adversely impacted by the encroachment. Should any of these trees be lost or suffer worsened health or vigor as a result of this project, the applicant shall plant replacement trees on the site or on adjacent properties outside of the Los Angeles County road right of way with the approval of the respective owner(s), at a rate of 10:1. If replacement plantings are required, the applicant shall submit, for the review and approval of the Executive Director, an oak tree replacement planting program, prepared by a qualified biologist, arborist, or other qualified resource specialist, which specifies replacement tree locations, planting specifications, and a ten-year monitoring program with specific performance standards to ensure that the replacement planting program is successful. An annual monitoring report on the oak tree replacement area shall be submitted for the review and approval of the Executive Director for each of the 10 years. Upon submittal of the replacement planting program, the Executive Director shall determine if an amendment to this coastal development permit or an additional coastal development permit is required.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

1. PROJECT DESCRIPTION AND BACKGROUND

The proposed project is for removal of an existing 18" diameter; 27' long culvert located underneath Las Flores Heights Rd., and removal of existing debris posts located at the inlet of the culvert and the installation of a new 36" diameter, 27' long culvert located underneath Las Flores Heights rd. and new headwall, wingwall and debris posts in the same general footprint as the existing culvert and existing drainage facilities. The proposed project requires 25 cu. yds. of cut and 17 cubic yards of fill grading, as well as the removal of 2 cu. yds. of existing asphalt and repaving of 2 cu.yds. of new asphalt road area. The proposed project site is located adjacent to and within the public roadway of Las Flores Heights Road, which offers scenic vistas of the Las Flores Canyon ESHA from the eastern side of the roadway. Although the roadway is accessible to public pedestrian and vehicular traffic, no public trails are located within close proximity to the subject site. The surrounding area consists of scattered residential development and is located approximately 1.5 miles north of Pacific Coast Highway in Malibu, between 600-625 ft. above mean sea level.

The project site is located entirely within a Los Angeles County road right of way, approximately 170 feet to the south of the residence located at 21656 Las Flores Heights Rd. (Exhibit 1). To the east of the subject site, slopes descend from Las Flores Heights Road to Las Flores Creek (located on the canyon bottom approximately 75 ft. to the east) at an approximate slope gradient of 1:1 (45°) or steeper. Las Flores Creek is designated by the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) as an environmentally sensitive habitat area (ESHA) and as a blueline stream by the United States Geologic Service. The proposed project will occur approximately 75 ft. upslope of the Las Flores Creek ESHA, within the existing paved Las Flores heights roadway and within a .002 acre area of ruderal vegetation. However, two coast live oak trees are located adjacent to the eastern side of the subject roadway and the proposed project will involve work within portions of the protected zones of two oak trees. Nonetheless, no oak trees are proposed to be removed as part of the subject project and encroachments into the protected root zone of the two coast live oak trees are expected to be minor.

In addition, the project site is located within a large potentially active regional landslide. A surficial slope failure occurred within 175 ft. of the proposed project site during the winter storm season in 1995 and CDP # 4-99-148, approved by the Commission on 9/14/99, authorized the construction of a 40 ft. long, 10 ft. high concrete retaining wall and 62 cu. yds. of grading for slope remediation, installation of a 60 ft. long metal beam guardrail, and replacement of a 42 linear ft. section of the road and a 22 linear ft. long section of sidewalk. The proposed project will not involve any modifications to the development constructed pursuant to CDP # 4-99-148 and will only occur within LA County road right of way, approximately 170 ft. away from the project area identified in CDP # 4-99-148. The proposed project will serve to improve drainage underneath Las Flores Heights Rd. in the subject location and will help prevent debris, mud, and stormwater runoff from impeding public vehicular and pedestrian traffic on Las Flores Rd.

The Commission recognizes that new development in the Santa Monica Mountains has the potential to adversely impact coastal water quality and aquatic resources because changes such

as the removal of native vegetation or the increase in impervious surfaces cause increases in runoff, erosion, and sedimentation, reductions in groundwater recharge and the introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutants, as well as effluent from septic systems. Increases in impervious surfaces 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. However, the proposed development will not result in an increase in impervious surfaces from what currently exists on the subject site and no adverse impacts to water quality are anticipated to occur as a result of the proposed project.

Coastal Permit Required for Repair and Maintenance within ESHA

The proposed work is designed to repair a damaged public roadway drainage culvert. The project constitutes repair and maintenance work. The Commission has expressly recognized, since 1978, certain types of repair and maintenance work related to roads as exempt from permit requirements pursuant to Section 13252 of the Commission's regulations and Section 30610(d) of the Public Resource Code. See California Public Resources Code ("PRC") Section 30610(d) and the "Repair, Maintenance and Utility Hook-Up Exclusions From Permit Requirements" (adopted by the Commission on Sept. 5, 1978) (hereafter, "R&M Exclusions") Appendix I, § 3 (referring to "installation of slope protection devices, minor drainage facilities"). Specifically, 14 CCR Section 13252(a) states that "activities specifically described in the [R&M Exclusions guidance document that] that will have a risk of substantial adverse impact on . . . environmentally sensitive habitat area" are not exempt based on that document and may require a coastal development permit, pursuant to the normal application of section 13252. Thus, in this case, although the project is a repair and maintenance project, since the work is to be performed adjacent to ESHA, Section 13252(a)'s limits on the repair and maintenance exemption do apply, and this project does require a permit to ensure that the method employed is as consistent as possible with the Chapter 3 policies of the Coastal Act. Moreover, this project involves excavation, and the R&M Exclusions guidance document expressly states that a permit is required "for excavation . . . outside of the roadway prism" Id. at § II.A., page 2. Therefore, a coastal development permit is required for this project.

2. 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 Los Angeles County Department of Public Works (LACDPW) is requesting approval for construction of a culvert replacement project to include minimal grading (25 cu. yds. of cut grading and 17 cu. yds. of fill grading) of the upslope (Western) portion of the existing Las Flores Heights roadway. Specifically, the applicant proposes to remove an existing 18" diameter; 27' long culvert located underneath Las Flores Heights rd., and debris posts located on the upslope (western) side of the existing roadway and to install a new headwall, wing walls, and debris posts and a new 36" diameter, 27' long culvert located underneath Las Flores Heights rd. within the same general footprint as the existing culvert.

The County has determined that the proposed project, to improve culvert drainage in this location, is necessary to maintain the public's ability to use this road for vehicular and pedestrian access and to ensure continued emergency services/access for nearby developed residential communities. The proposed project will also help to further stabilize the slope located below the project site by directing runoff away from the slope edge and improving drainage during storm events. The proposed culvert will direct water runoff under the existing Las Flores Heights Road, downslope into an outfall pipe located in the hillside directly above the Las Flores Creek canyon. While the proposed culvert replacement project will double the water carrying capacity of the culvert in this location (from an existing 18" diameter pipe to a 36" diameter pipe), LA County engineers have stated that this will not significantly increase the velocity of the water flow. They also state that no increase in downstream erosion is expected to occur as a result of the subject project.

However the Commission finds that although the proposed development is necessary to remediate a damaged, undersized, culvert condition, it is not possible to eliminate the potential for erosion of the creek drainage and slopes adjacent to the subject site. The Commission finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to plant all disturbed areas of the site, that are not located within the paved roadway, with native plants compatible with the surrounding oak woodland habitat. The project, as proposed, has been designed to ensure that the disturbed areas on the site are held in place and revegetated with native vegetation and that Best Management Practices are implemented to ensure site and slope stability to the maximum extent feasible.

Although the condition described above renders 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 slope instability, flooding, and erosion, 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 flood 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 2: Assumption of Risk, Waiver of Liability and Indemnity
Special Condition 4: Construction Practices
Special Condition 5: Landscaping

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

3. 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.

> *P57 Designate the following areas as Environmentally Sensitive Habitat Areas (ESHAs): (a) those shown on the Sensitive Environmental Resources Map (Figure 6), and (b) any undesignated areas which meet the criteria and which are identified through the biotic review process or other means, including those oak woodlands and other areas identified by the Department of Fish and Game as being appropriate for ESHA designation.*
>
> *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 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.

The project site is located entirely within a Los Angeles County road right of way, approximately 170 ft. south of the residence located at 21656 Las Flores heights Rd. (Exhibit 1). To the east of the subject site, slopes descend from Las Flores Heights Road to Las Flores Creek (located on the canyon bottom approximately 75 ft. to the east) at an approximate slope gradient of 1:1 (45°) or steeper. Las Flores Creek is designated by the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) as an environmentally sensitive habitat area and as a blueline stream by the United States Geologic Service. The proposed project is located approximately 75 ft. upslope of the larger Las Flores Creek ESHA corridor.

ESHA Designation

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[1] (hereinafter "Dr. Dixon Memorandum"), which is incorporated as if set forth in full herein.

Unfortunately, the native habitats of the Santa Monica Mountains, such as coastal sage scrub, chaparral, oak woodland and riparian woodlands 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 areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodlands 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[2].

The applicant has submitted a biological reconnaissance survey dated March, 2013 by Chambers Group, Inc., which finds that coast live oaks and Greenbark ceanothus chapparal habitats are located directly adjacent to the project site. A map of the habitats on the site was also prepared by the biological consultant. Commission staff visited the subject property on September 18, 2013 and confirmed the accuracy of the submitted biological report. The report approximates the acreages of the habitats located directly adjacent to the subject project site and describes these habitats as follows:

> ***Greenbark Ceanothus Chaparral (.01 acres)***
> *This vegetation type is dominated by Greenbark Ceanothus (Ceanothus spinosus).* .01 acres of this vegetation type is located on the southeastern side of the proposed project boundary (on the upslope side of the roadway).
>
> ***Coast Live Oak (.03 acres)***
> *Coast Live Oaks (Quercus agrifolia) Coast Live Oak Woodland consists of evergreen trees dominated by coast live oak reaching between 30 to 80 feet in height. The shrub layer is often poorly developed with chaparral-type species scattered in the understory. The herbaceous layer is typically continuous and can be dominated by non-native species. This community is most frequently found on exposed north-facing slopes below 4,000 feet amsl and in shaded ravines.* .03 acres of Coast Live Oak habitat is located adjacent to the eastern portion of the proposed project area.

[1] 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-esha-memo.pdf

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

Additionally, the subject biological report identified the vegetation within the proposed project boundaries, which consists of:

> ***Ruderal (.002 acre)***
> *Areas classified as ruderal tend to be dominated by pioneering herbaceous species that readily colonize disturbed ground and that are typically found in temporary, often disturbed, habitats. The soils in ruderal areas are typically characterized as heavily compacted or frequently disturbed. The vegetation in these areas is adapted to living in compact soils where water does not readily penetrate the soil. Often, ruderal areas are dominated by species of Centaurea, Brassica, Malva, Salsola, Eremocarpous, Amaranthus, and Atriplex genrea.* Ruderal habitat is located on the western (upslope) side of Las Flores Heights rd.
>
> ***Developed (roadway)***
> *Developed areas are areas that have been altered by humans and now display man-made structures such as houses, paved roads, and other maintained areas.*

The proposed project will be located only within the existing paved roadway and the .002 acres of ruderal vegetation, adjacent to the west side of the road. The project includes the replacement of an existing 18" culvert with a larger 36" sized culvert pipe and the installation of a headwall and wingwalls, and debris posts that will be placed at the inlet of the subject culvert. These improvements will be located in the same location as the existing facilities, and no expansion of the footprints of these drainage control devices will occur, other than the increase in diameter of the culvert pipe. The Los Angeles County Department of Public Works has indicated that the existing 18" culvert size is not adequate to receive the volume of water flows, and the proposed 36" culvert design is the minimum size necessary to accommodate water flows in this location. The proposed project involves a minimal amount of grading and new drainage facilities, all to be located within an area of ruderal vegetation and installed underneath the existing Las Flores Heights paved roadway. The submitted biological report did not identify any wetland vegetation on the subject site and no National Wetlands Inventory mapped wetlands are located within the project limits. As such, no adverse impacts to ESHA are anticipated as part of the proposed project. However, while the proposed project area does not extend into any habitats that could be considered environmentally sensitive habitat area (ESHA), .04 acres of Coast Live Oak ESHA is located directly to the east of the proposed project site. The proposed project includes the encroachment of development within the protected zone of two coast live oak trees that is unavoidable given the nature of the culvert replacement and location of the trees. The encroachment(s) are minor and are unlikely to significantly impact the health of the trees, if care is taken to avoid injury to the trees during construction.

Protection of Oaks

The project site contains two coast live oak trees that meet the definition of ESHA. Through past permit actions in the Santa Monica Mountains, the Commission has found that native oak trees are an important coastal resource, especially where they are part of a larger woodland or other habitat area that is ESHA. As required by Section 30250 of the Coastal Act, the proposed new development can be approved only where it will not have impacts on coastal resources. Additionally, oak trees are an important component of the visual character of the area and must be protected in order to ensure that the proposed development is visually compatible with this character, as required by Section 30251 of the Coastal Act. Furthermore, native trees prevent the erosion of hillsides and stream banks, moderate water temperatures in streams through shading,

provide food and habitat, including nesting, roosting, and burrowing to a wide variety of wildlife. Individual oak trees such as those on or adjacent to the subject site do provide habitat for a wide variety of wildlife species and are considered to be an important part of the character and scenic quality of the area.

Oak trees are easily damaged. They are shallow-rooted and require air and water exchange near the surface. The oak tree root system is extensive, extending as much as 50 feet beyond the spread of the canopy, although the area within the "protected zone" (the area around an oak tree that is five feet outside the dripline or fifteen feet from the trunk, whichever is greater) is the most important. Oaks are therefore sensitive to surrounding land uses, grading or excavation at or near the roots and irrigation of the root area particularly during the summer dormancy. Improper watering, especially during the hot summer months when the tree is dormant and disturbance to root areas are the most common causes of tree loss. Oak trees in residentially landscaped areas often suffer decline and early death due to conditions that are preventable. Damage can often take years to become evident and by the time the tree shows obvious signs of disease it is usually too late to restore the health of the tree.

Obviously, the removal of an oak tree results in the total loss of the habitat values of the tree. Encroachments into the protected zone of an oak tree can also result in significant adverse impacts. Changes in the level of soil around a tree can affect its health. Excavation can cut or severely damage roots and the addition of material affects the ability of the roots to obtain air or water. Soil compaction and/or pavement of areas within the protected zone will block the exchange of air and water through the soil to the roots and can have serious long term negative effects on the tree. In order to ensure that oak trees are protected so that development does not have impacts on coastal resources and so that the development is compatible with the visual character of the area, the Commission has required, in past permit actions, that the removal of native trees, particularly oak trees, or encroachment into the root zone be avoided unless there is no feasible alternative for the siting of development.

The proposed project includes some 42 cubic yards of grading and culvert installation that is partly within the protected zone of oak tree(s) on or adjacent to the site. The "protected zone" is defined as the area around an oak tree that is five feet outside the dripline or fifteen feet from the trunk, whichever is greater. Encroachments of the proposed development and construction activities may result in the following potential impacts: root cutting or damage, compaction, changes in drainage patterns, and excess watering. Given the location of the individual oak trees on the site, there are no siting or design alternatives that can be employed to avoid or reduce encroachment impacts to the trees. In this case, the impacts to individual oak trees are anticipated to be minor and are not anticipated to result in a severe lessening of health, (including death), provided that the applicant takes care to avoid impacts to the oak trees during construction.

The Commission finds that impacts to oak trees on the project or adjacent site will be minimized by employing protective measures during project construction. The Commission finds it necessary to require the applicant to install temporary protective barrier fencing around the protected zones (5 feet beyond dripline or 15 feet from the trunk, whichever is greater) of all oak trees and to retain it during all construction operations. If required construction operations cannot feasibly be carried out in any location with the protective barrier fencing in place, then temporary flagging must be installed on all oak trees to ensure protection during construction. Further, the

Commission requires that a biological consultant, arborist, or other resource specialist shall be present on-site during all construction operations on site and shall be directed to immediately notify the Executive Director if unpermitted activities occur or if any oak trees are damaged, removed, or impacted beyond the scope of the work allowed by this coastal development permit. This monitor will have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen impacts to oak trees arise. Should either of the oak trees be lost or suffer worsened health as a result of the construction, the applicant will be required to plant replacement oak trees at a ratio of 10:1 as mitigation for the impact.

Additionally, the proposed project will involve landform alteration adjacent to a steep slope and downslope riparian canyon and will result in potential erosion on the project site. The Commission notes that increased erosion on site would subsequently result in a potential increase in the sedimentation of Las Flores Creek located downslope. The Commission finds that the minimization of site erosion will avoid adverse impacts to the riparian ESHA in Las Flores Creek. Erosion can best be minimized by requiring the applicant to landscape all disturbed and graded areas of the site with native plants, compatible with the surrounding environment. Thus, Special Condition Four (5) has been required to ensure that all proposed disturbed and graded areas are stabilized and vegetated and that erosion control devices and construction best management practices are implemented during the construction phase of the subject project.

Furthermore, in order to protect sensitive bird species that may be nesting or roosting in the surrounding Las Flores Canyon ESHA or the two adjacent Coast Live oak trees, staff is recommending Special Condition 3, requiring the applicant to survey the area within 500 ft. of the construction zone to detect the nests of any raptor or sensitive bird species, 30 days prior to commencement of construction. If any nests are found, measures must be taken to avoid impacts.

As described above, the proposed project is not anticipated to result in adverse impacts to ESHA. However, due to the close proximity of two coast live oak trees to the subject project site and the Las Flores Creek ESHA located 75 ft. downslope of the project site, the following special conditions are required, as determined in the findings above, to assure that the project is consistent with Section 30240 of the Coastal Act:

Special Condition 3:	Nesting Bird Protective Measures
Special Condition 4:	Construction Practices
Special Condition 5:	Landscape Plan
Special Condition 7:	Oak Tree Monitoring

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

4. 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.

The proposed project includes the removal and replacement of an existing 18" diameter (CMP) culvert with a new 36" reinforced concrete pipe (RCP) culvert. The project also includes installation of the associated headwalls, wingwalls, and debris posts on the western (upslope) side of Las Flores Heights Road, approximately 170 ft. north of the residence located at 21656 Las Flores Heights road. The proposed project site is located adjacent to and within the public roadway of Las Flores Heights Road, which offers scenic vistas of the Las Flores Canyon ESHA from the eastern side of the roadway. Although the roadway is accessible to public pedestrian and vehicular traffic, no public trails are located within close proximity to the subject site. The surrounding area consist of scattered residential development and is located approximately 1.5 miles north of Pacific Coast Highway in Malibu, between 600-625 ft above mean sea level. All of the proposed work will occur either on the western side of the existing roadway or within the roadway itself.

Although the proposed culvert will be located underneath the existing roadway and will not be visible, the proposed debris posts will be 4 ft. high and the proposed headwall will be 3ft high. Both of these drainage devices will be located on the western side of the existing roadway and will not obstruct or impede any existing public views in this location. However, they will still be visible from the public Las Flores Heights Road, will be more urban in appearance, and will be less consistent with the rural nature of the area surrounding the project site than previously existed. Therefore, in order to ensure that any adverse effects to public views resulting from the visible portions of the proposed development are minimized, Special Condition One (1) requires that the surface of the headwalls and wingwalls, be designed to include, or mimic, the color and texture of native materials and appearance of the natural environment (such as the appearance of rock facing).

Therefore, for the reasons discussed above, the Commission finds that the proposed development, as conditioned, will not result in any adverse effects to public views and is consistent with Section 30251 of the Coastal Act.

The following special conditions are required to assure the project's consistency with Section 30251 of the Coastal Act:

Special Condition 1: Structural Appearance

For the reasons set forth above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

5. LOCAL COASTAL PROGRAM PREPARATION

Section 30604(a) 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 coastal 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 avoid or minimize adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. The following special conditions are required to assure the project's consistency with Section 30604 of the Coastal Act:

Special Conditions 1 through 7

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).

6. 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.

The following special conditions are required to assure the project's consistency with Section 13096 of the California Code of Regulations:

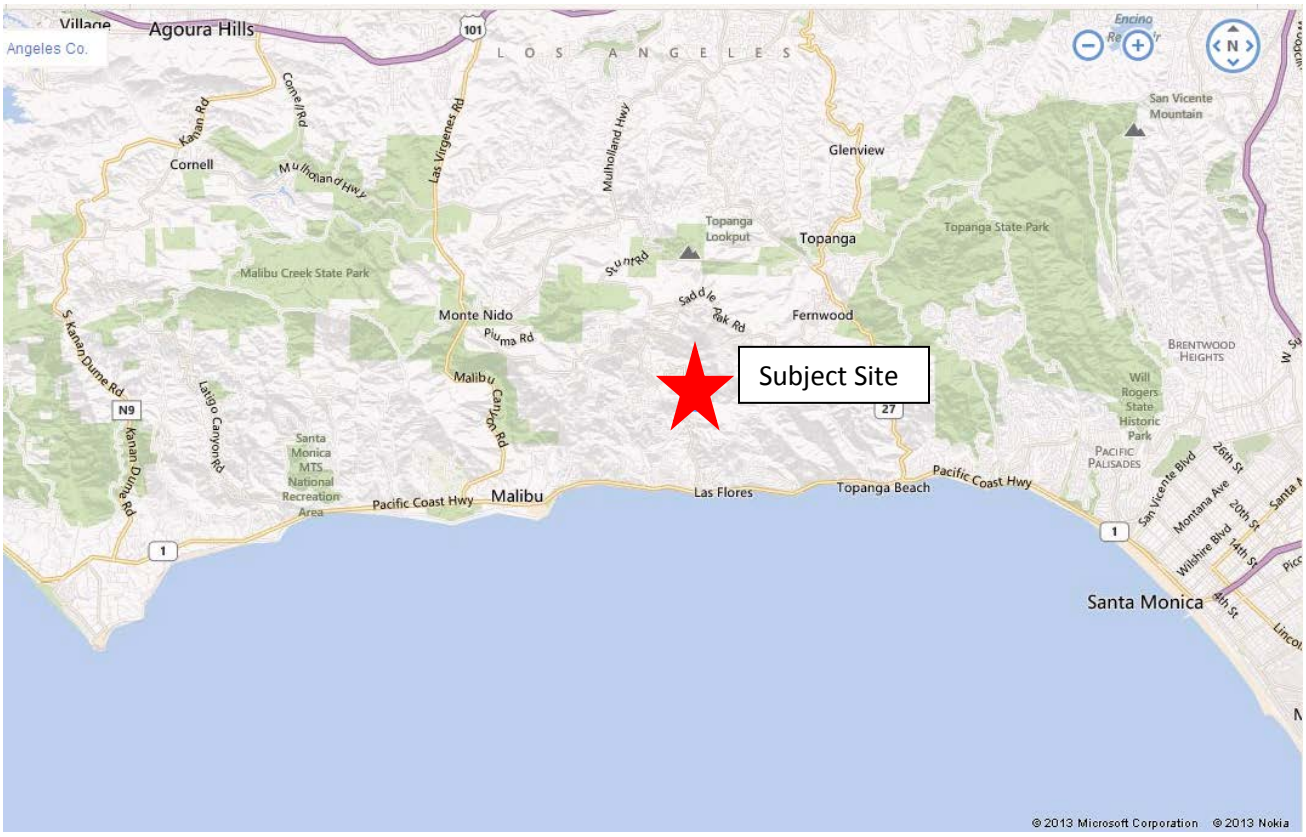
Special Conditions 1 through 7

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.

APPENDIX 1

Substantive File Documents

Certified Malibu/Santa Monica Mountains Land Use Plan; The March 25, 2003 Memorandum Regarding the Designation of ESHA in the Santa Monica Mountains, prepared by John Dixon, Ph. D; Chambers Group Biological Report dated March 2013, Coastal Development Permit 4-99-148 (LACDPW).



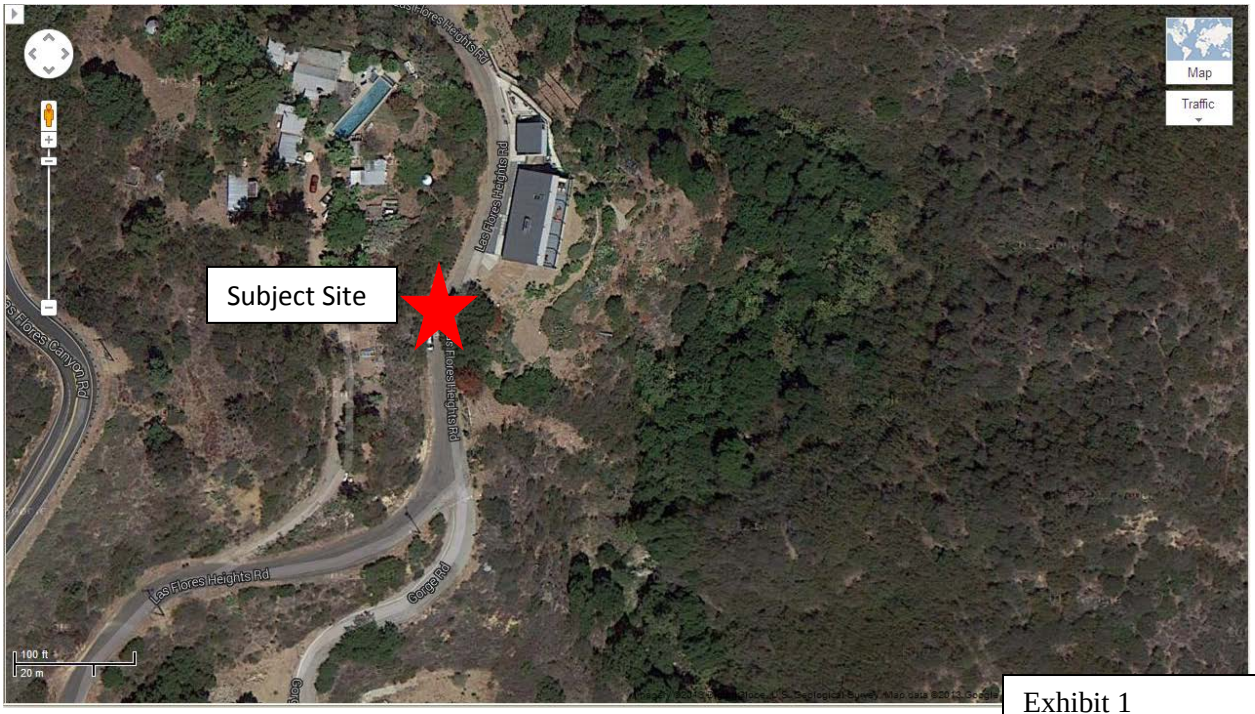
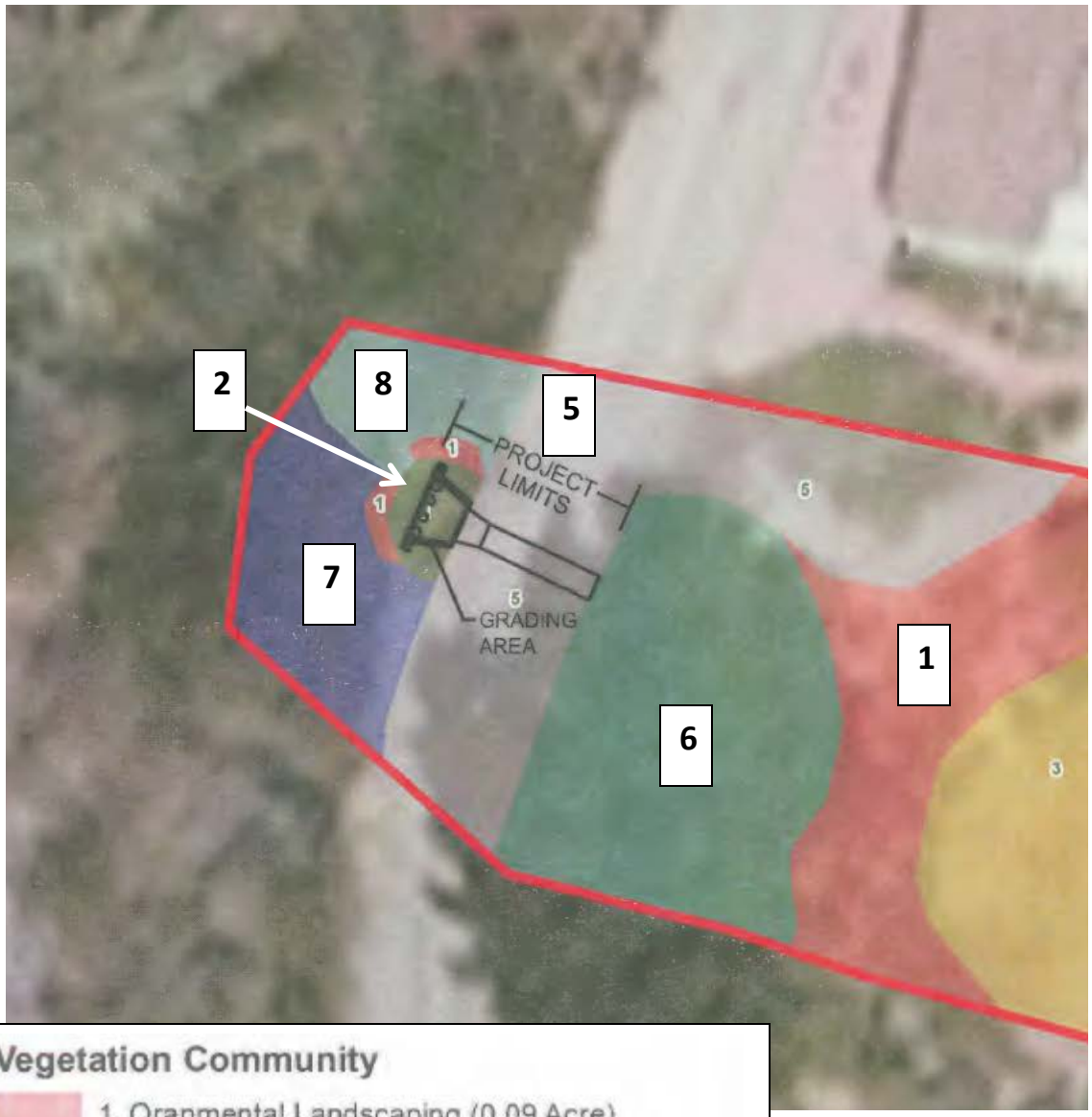


Exhibit 1

4-12-067

Vicinity Map



Vegetation Community

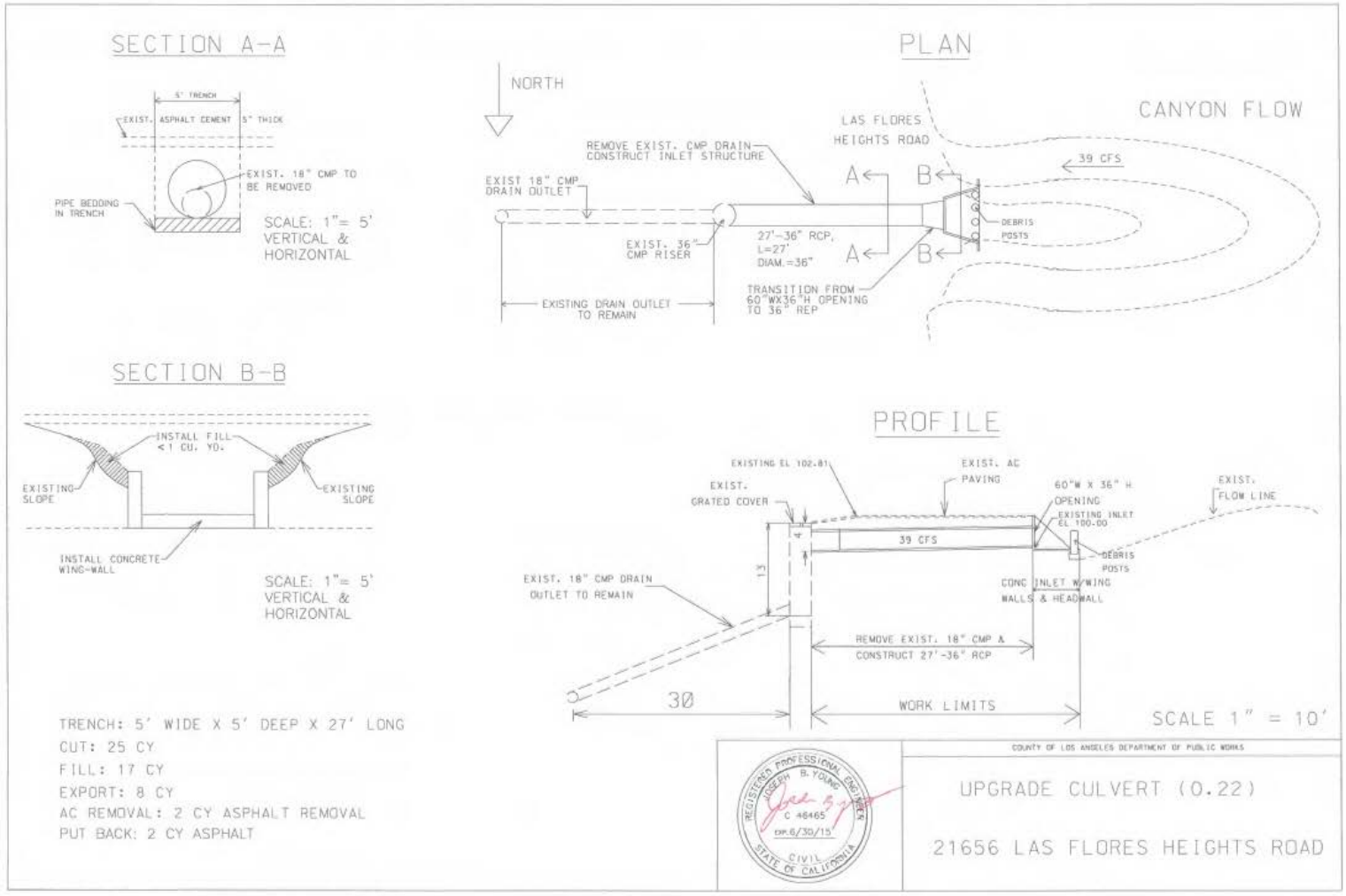
1. Oranmental Landscaping (0.09 Acre)
2. Ruderal (0.002 Acre)
3. Disturbed (0.03 Acre)
4. Coast Live Oak Woodland (0.04 Acre)
5. Developed (0.04 Acre)
6. Coast Live Oak (0.03 Acre)
7. Greenbark Ceanothus Chaparral (0.01 Acre)
8. Laurel Sumac (0.01 Acre)
9. Coyote Bush (Cultivated) (0.003 Acre)

Exhibit 2

4-12-067

Site Plan/ Vegetation Map

Exhibit 3
4-12-067
Grading Plan



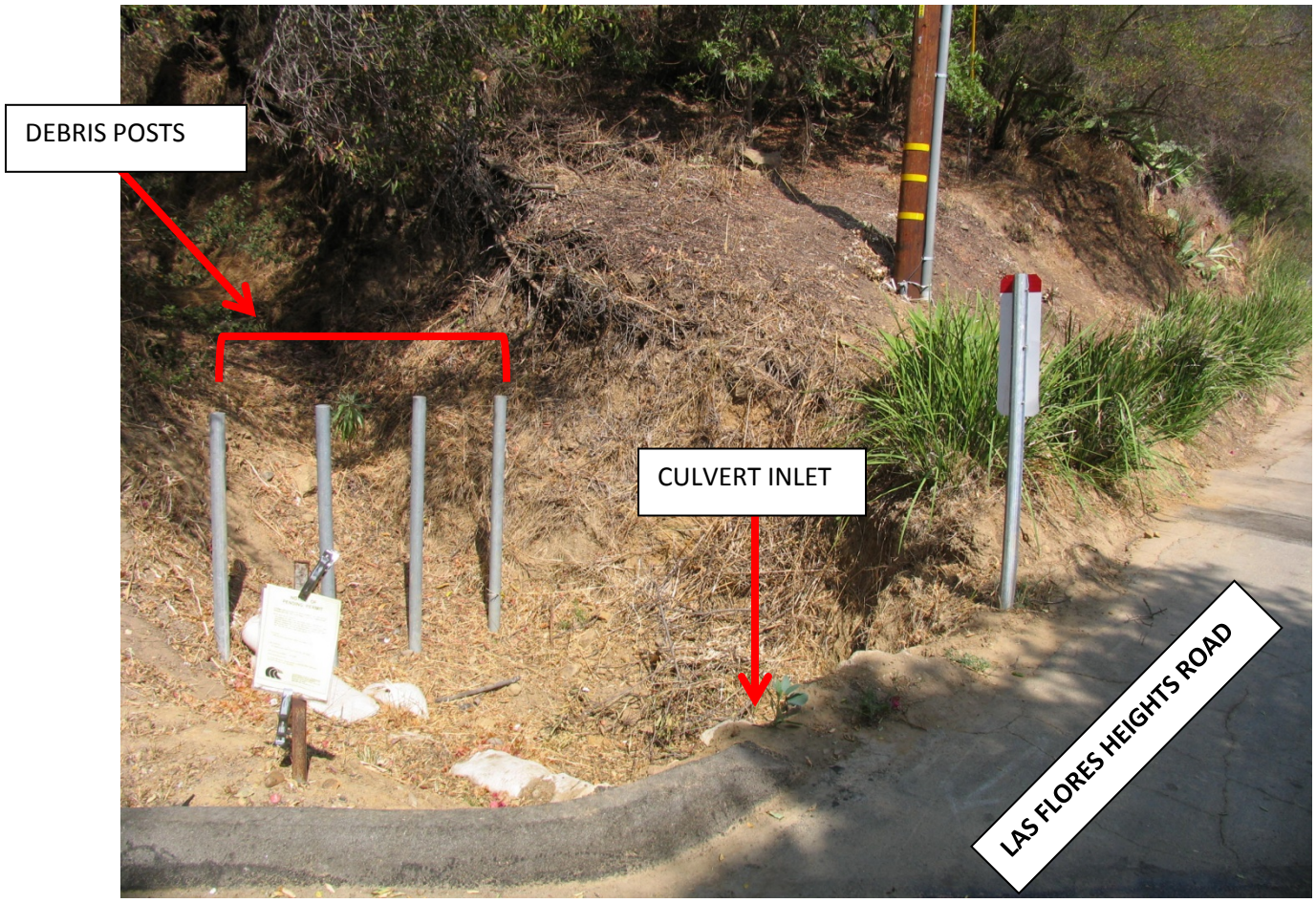


Exhibit 4

4-12-067

Site Photographs

Page 1 of 2


COAST LIVE OAK TREES
Residence at 21656 Las Flores Heights Rd.
LAS FLORES HEIGHTS ROAD
CULVERT INLET