

**CALIFORNIA COASTAL COMMISSION**

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# Th17d

Filed: 9/11/14  
180th Day: 3/10/15  
Staff: J. Blaugrund  
Staff Report: 11/20/14  
Hearing Date: 12/11/14

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 4-13-0256

**Applicant:** Thomas Uger and Williams Consolidated Inc.

**Agent:** Joseph Lazama, Burdge & Associates, Inc.

**Project Location:** 2161 Encinal Canyon Road, Santa Monica Mountains, Los Angeles County (APNs: 4472-027-005, 4472-026-017, and 4472-026-018)

**Project Description:** Adjust the lot lines of two parcels that are approximately 1.5 acres and 38 acres in size (Parcel One: APN 4472-027-009 and Parcel Two: APNs 4472-026-017 and 4472-026-018), to create two parcels that will be approximately 7 acres and 32 acres in size. The proposed project also includes the designation of a 10,000 square foot building site on one of the reconfigured parcels.

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## SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed Coastal Development Permit with **four (4) special conditions** regarding (1) open space conservation easement, (2) lot combination, (3) update to county assessor office records, and (4) condition compliance.

The proposed project includes a lot line adjustment between two existing parcels that are approximately 1.5 acres and 38 acres in size. Parcel One is identified by Assessor's Parcel Number (APN) 4472-027-009, and Parcel Two is identified by APNs 4472-026-017 and 4472-026-018. The subject lot line adjustment will result in the creation of two newly reconfigured parcels that will be approximately 7 acres and 32 acres in size. The proposed project also

includes the designation of a 10,000 square foot building site on the proposed approximately 32-acre newly reconfigured parcels.

As mentioned above, Parcel Two is comprised of APNs 4472-026-017 and 4472-026-018. This parcel is identified by two APNs due to the fact that a prior owner of this parcel, which was previously identified by one APN (4472-026-009), attempted to subdivide the parcel without the required coastal development permit. As the previous owners did not obtain a coastal development for the subdivision, Commission enforcement staff opened an enforcement investigation, and subsequently the Commission required the recordation of a notice of violation against the property. However, the applicants have worked closely with Commission staff to resolve this outstanding violation. The currently proposed lot line adjustment in conjunction with the required special conditions will serve to resolve the existing land division violation.

The subject parcels are located at 2161 Encinal Canyon Road in the Santa Monica Mountains portion of Los Angeles County, as depicted on Exhibit 1. The subject parcels are surrounded largely by undeveloped hillsides, although scattered single family residences are located in close proximity. As depicted on Map 2: Biological Resources of the Santa Monica Mountains Land Use Plan (LUP) the subject parcels contain H1, H2, and H3 habitat. As depicted on LUP Map 3: Scenic Resources, Encinal Canyon Road, which bisects a portion of the subject parcels, is designated as a major road and scenic route. Furthermore, a public trail is located west of the subject parcel, and is depicted on LUP Map 4: Recreation.

The Santa Monica Mountains Local Coastal Program was effectively certified by the Commission on October 10, 2014. Pursuant to Section 22.44.910 of the certified LCP, coastal development permit applications that were filed complete by the Commission on or before the certification date may, at the option of the applicant, remain with the Coastal Commission for completion of review. The standard of review for such an application is the policies and provisions of the certified LCP.

## TABLE OF CONTENTS

<b>I. MOTION AND RESOLUTION .....</b>	<b>4</b>
<b>II. STANDARD CONDITIONS.....</b>	<b>4</b>
<b>III. SPECIAL CONDITIONS.....</b>	<b>5</b>
1. Open Space Conservation Easement .....	5
2. Lot Combination.....	6
3. Update to County Assessor Office Records .....	6
4. Condition Compliance.....	6
<b>IV. FINDINGS AND DECLARATIONS .....</b>	<b>7</b>
A. PROJECT DESCRIPTION AND BACKGROUND .....	7
B. CUMULATIVE IMPACTS AND ENVIRONMENTALLY SENSITIVE HABITAT .....	8
C. SCENIC AND VISUAL RESOURCES .....	16
D. UNPERMITTED DEVELOPMENT.....	18
E. CALIFORNIA ENVIRONMENTAL QUALITY ACT.....	18

## APPENDICES

Appendix 1 Substantive File Documents

## EXHIBITS

- Exhibit 1. Vicinity Map
- Exhibit 2. Existing Parcel Configuration
- Exhibit 3. Proposed Parcel Configuration
- Exhibit 4. Open Space Easement Areas

## 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. 4-13-0256 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 the Santa Monica Mountains Local Coastal Program. 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

*Prior to issuance of the Coastal Development Permit, and prior to transfer of the reconfigured parcel approved pursuant to the subject Coastal Development Permit, Williams Consolidated, Inc. shall complete Special Condition One (1) pursuant to the following:*

#### 1. Open Space Conservation Easement

A. No development, as defined in Section 30106 of the Coastal Act, grazing, or agricultural activities shall occur outside of the approved building site, within the portion of the property identified as the “open space conservation easement area”, as shown in **Exhibit Four (4)** except for:

- (1) Fuel modification required by the Los Angeles County Fire Department undertaken in accordance with the final approved fuel modification plan for structures approved by the County of Los Angeles in a coastal development;
- (2) Drainage and polluted runoff control activities required and approved by the County of Los Angeles in a coastal development permit;
- (3) Planting of native vegetation and other restoration activities, if approved by the County of Los Angeles in a coastal development permit;
- (4) If approved by the County of Los Angeles in a 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.

B. 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 Four (4)**. 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.

*Prior issuance of the Coastal Development Permit, and prior to the completion of Special Condition Two (2) the owner shall provide evidence that the sale of 4472-026-017 has been effectuated.*

## **2. Lot Combination**

- A. By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns with respect to the subject property, that: (1) All portions of the land currently known as APN 4472-026-017 and APN 4472-027-005 shall henceforth be considered and treated as a single parcel of land for all purposes, including but not limited to sale, conveyance, lease, development, taxation or encumbrance; and (2) the single parcel so described shall not be divided, and none of the subareas to which separate assessor's parcel numbers were assigned at the time of this permit approval shall be alienated from each other or from any portion of the unified parcel hereby recognized.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction against the entire property at issue, in a form acceptable to the Executive Director, reflecting the restrictions set forth above. To the extent there is any argument that the areas identified by the separate assessor's parcel numbers listed above constitute separate parcels for Subdivision Map Act (SMA) purposes, this action shall function to recombine and unify those parcels for purpose of the SMA. The deed restriction shall include a legal description and graphic depiction of the entire property at issue. 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.

## **3. Update to County Assessor Office Records**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall provide evidence to the Executive Director that the applicants have requested that the assessor's office (a) revise its records and maps to reflect that APN 4472-026-017 and 4472-027-005 constitute a single legal parcel and that APN 4472-026-018 constitutes a single legal parcel, including assigning a new, single APN for each property, and (b) send the Commission notice when it has done so.

## **4. Condition Compliance**

Within 180 days of Commission action on this coastal development permit application, or within such additional 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 expiration of this coastal permit approval and the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

## **IV. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

### **A. PROJECT DESCRIPTION AND BACKGROUND**

The proposed project includes a lot line adjustment between two existing parcels that are approximately 1.5 acres and 38 acres in size. Parcel One is identified by Assessor's Parcel Number (APN) 4472-027-009, and Parcel Two is identified by APNs 4472-026-017 and 4472-026-018. The subject lot line adjustment will result in the creation of two newly reconfigured parcels that will be approximately 7 acres and 32 acres in size. The proposed project also includes the designation of a 10,000 square foot building site on the newly reconfigured 32-acre parcel. A development area (building site) has already been designated for the proposed 7-acre parcel, as described below.

The subject parcels are located at 2161 Encinal Canyon Road in the Santa Monica Mountains portion of Los Angeles County, as depicted on Exhibit 1. The subject parcels are surrounded largely by undeveloped hillsides, although scattered single family residences are located in close proximity. As depicted on Map 2: Biological Resources of the Santa Monica Mountains Land Use Plan (LUP) the subject parcels contain H1, H2, and H3 habitat. As depicted on LUP Map 3: Scenic Resources, Encinal Canyon Road, which bisects a portion of the subject parcels, is designated as a major road and scenic route. Furthermore, a public trail is located west of the subject parcel, and is depicted on LUP Map 4: Recreation.

As mentioned above, the subject lot line adjustment would reconfigure two existing parcels in order to create two newly reconfigured parcels, each with a designated 10,000 square foot building site. The existing Parcel One of the currently proposed project is approximately 1.5 acres, and is comprised of APN 4472-027-009. At its hearing in March 2006, the Commission approved Coastal Development Permit 4-05-069 (Dodds), on this parcel. This permit allowed for the construction of a one story, 2,174 square foot single family residence, 825 square foot detached three-car garage, grading, accessory development, and after-the-fact approval of an existing water well, all within a 10,000 square foot development area (building site).

Parcel Two of the currently proposed project is comprised of APNs 4472-026-017 and 4472-026-018. This parcel is identified by two APNs due to the fact that a prior owner of this parcel, (which was previously identified by APN 4472-026-009), attempted to subdivide the parcel without the required coastal development permit.

As the previous owners did not obtain a coastal development for the subdivision, Commission enforcement staff opened an enforcement investigation, and subsequently recorded a notice of violation against the property. However, the current applicants have worked closely with Commission staff to resolve this violation going forward. The currently proposed lot line adjustment in conjunction with the required special conditions will serve to resolve the existing violation. Furthermore, it is the applicants' intention to resolve the subject violation in a timely manner through completion of the required special conditions, so that they may effectuate the sale of a portion of the property. Currently Thomas Uger owns Parcel 1 (identified as APN 4472-027-009) and Williams Consolidated, Inc. owns Parcel 2 (identified as APNs 4472-026-

017 and 4472-026-018). However, Thomas Uger is in escrow to purchase the portion of the Williams Consolidated parcel that is identified as 4472-026-017.

## **B. CUMULATIVE IMPACTS AND ENVIRONMENTALLY SENSITIVE HABITAT**

Policy CO-75a of the Santa Monica Mountains Land Use Plan states:

*Land divisions, including but not limited to lot line adjustments, shall only be permitted in accordance with all applicable policies of the LCP, and where substantial evidence demonstrates that each new parcel being created through subdivision or being reconfigured through a lot line adjustment contains an identified, feasible building site, and any necessary access road thereto that are (1) located outside of H1 habitat, H1 habitat buffer, and H2 High Scrutiny habitat, and (2) capable of being developed consistent with other LCP policies and without requiring vegetation removal or thinning for fuel modification in H1 habitat, H1 habitat buffer, and H2 High Scrutiny habitat. In the case of subdivisions or lot line adjustments that include the creation of a parcel(s) that is dedicated or restricted to open space uses (through open space easement, deed restriction, or donation to a public agency for park purposes), no demonstration of building site or access road outside of H1 habitat, H1 habitat buffer, and H2 High Scrutiny habitat is required for the open space parcel(s).*

*Land divisions in H2 habitat shall only be permitted in accordance with all applicable policies of the LCP, and where substantial evidence demonstrates that each new parcel being created through subdivision or being reconfigured through a lot line adjustment contains an identified, feasible building site, and any necessary access road thereto that will cluster and concentrate development in areas able to accommodate the development consistent with all other policies of the LCP and in compliance with the following:*

- *The proposed parcels are configured and building sites are sited and designed to ensure that future structures will have overlapping fuel modification zones and in no case shall the proposed building sites be located more than 100 feet apart.*
- *The building site on each newly created parcel is located no more than 200 feet from an existing public roadway and is capable of being served by existing power and water service.*
- *Each building site is located only on slopes of 3:1 or less.*
- *The proposed newly created parcels shall be within 1/4 mile of existing developed parcels.*
- *Land divisions on parcels adjacent to public parklands or parcels restricted as permanent open space are prohibited.*
- *A Transfer of Development Credit (TDC) shall be required for the creation of any new parcel in H2 habitat in accordance with Policy LU-15.*
- *The County shall make a finding that the land division and associated TDC will result in the transfer and concentration of existing development rights to a location that results in the preservation of H2 habitat in a manner that is superior to the pre-land division lot configuration if developed.*



*In the case of subdivisions or lot line adjustments that include the creation of a parcel(s) in H2 habitat that is dedicated or restricted to open space uses (through an open space easement, deed restriction, or donation to a public agency for park purposes), no demonstration of the building site or access road meeting the requirements above is required for the open space parcel(s).*

Policy CO-75b of the Santa Monica Mountains Land Use Plan states:

*Lot line adjustments may be approved between existing, legally created parcels only where consistent with Policy CO-75a. If the existing, legally-created parcels do not meet the requirement of Policy CO-75a, then a lot line adjustment may only be approved where it is demonstrated that the reconfigured parcels: (1) can accommodate development that more closely conforms to LCP policies than development on the existing parcels could; (2) will not increase the amount of H2 habitat that would be removed or modified by development on each of the existing parcels (including necessary roads and fuel modification); and (3) will not increase the amount of landform alteration or have greater adverse impacts to scenic and visual resources than would have occurred from development on the existing parcels. Minor lot line adjustments between existing lawfully developed parcels may be authorized provided the adjustment would not adversely impact H1 habitat, H1 habitat buffer, H2 habitat, or scenic resources. Lot line adjustments for the sole purpose of combining two or more parcels may also be authorized as a means of reversing a purported but illegal division of property.*

Policy SN-10 of the Santa Monica Mountains Land Use Plan states:

*Prohibit land divisions, including lot line adjustments, unless all proposed parcels can be demonstrated to be safe from flooding, erosion, and geologic hazards and will provide a safe, legal, all-weather access road(s), which can be constructed consistent with all policies of the LCP.*

Policy LU-9 of the Santa Monica Mountains Land Use Plan states:

*Land divisions shall only be permitted if each new parcel being created contains an identified building site area and any necessary access road that could each be developed consistent with all policies of the LCP and without building in H1 or H2 “High Scrutiny” habitat areas, H1 habitat buffer, or removing or modifying H1 or H2 “High Scrutiny” habitat for fuel modification. In the case of subdivisions or lot line adjustments that include the creation of a parcel(s) that is dedicated or restricted to open space uses (through open space easement, deed restriction, or donation to a public agency for park purposes), no demonstration of building site or access road outside of SERA is required for the open space parcel(s).*

Policy CO-51 of the Santa Monica Mountains Land Use Plan states in relevant part:

*Where new development is permitted in H2 habitat pursuant to this LCP, the maximum allowable building site area on parcels shall be 10,000 square feet, or 25 percent of the parcel size, whichever is less.*

Policy CO-74 of the Santa Monica Mountains Land Use Plan states in relevant part:

*New development shall be clustered to the maximum extent feasible and located as close as possible to existing roadways, services and other developments to minimize impacts to biological resources.*

Policy CO-67 of the Santa Monica Mountains Land Use Plan states:

*Coastal development permits for the development of uses allowed within or adjoining H1 and H2 habitat shall include an open space conservation easement over the remaining H1 habitat, H1 habitat buffer, or H2 habitat, in order to avoid and minimize impacts to biological resources.*

Policy CO-117 of the Santa Monica Mountains Land Use Plan states:

*Require open space easements or deed restrictions as part of development projects on sites containing SERAs in order to ensure that approved building site areas are limited and impacts to coastal habitat are minimized.*

Policy LU-20 of the Santa Monica Mountains Land Use Plan states:

*Land divisions shall be designed to cluster development, including building pads, if any, in order to minimize site disturbance, landform alteration, and removal of native vegetation, to minimize required fuel modification, and to maximize open space.*

Section 22.44.630 of the Santa Monica Mountains Implementation Plan defines land division and lot line adjustment as the following:

*"Land Division" or "Division of Land" means the division of improved or unimproved land, including subdivisions (through parcel map or tract map), and any other divisions of land including lot splits, lot line adjustments, redivisions, mergers, reversions to acreage, and legalization of lots purported to be created by a method that was not in compliance with applicable laws.*

*"Lot line adjustment" means the modification of one or more lines that form the boundary(ies) between two or more adjacent parcels, where a greater number of parcels than originally existed is not thereby created.*

Section 22.44.1910 Land Planning and Development Standards of the Santa Monica Mountains Implementation Plan states in relevant part:

*A. New non-resource dependent development shall be prohibited in areas designated H1 Habitat to protect these most sensitive environmental resource areas from disruption of habitat values, unless otherwise provided in Section 22.44.1890 and subject to the standards of this section, Section 22.44.1920, and Section 22.44.1950.*

*B. New development shall avoid H2 Habitat (including H2 High Scrutiny Habitat), where feasible, to protect these sensitive environmental resource areas from disruption of habitat values, subject to the standards of this section, Section 22.44.1920, and Section*

*22.44.1950. H2 High Scrutiny Habitat is considered a rare and extra sensitive H2 Habitat subcategory that shall be given protection priority over other H2 habitat and shall be avoided to the maximum extent feasible.*

*C. New development shall be sited in a manner that avoids the most biologically-sensitive habitat on site where feasible, in the following order of priority--(H1, H2 High Scrutiny, H2, H3-- while not conflicting with other LCP policies.*

Section 22.44.640(A) of the Santa Monica Mountains Implementation Plan states:

*A CDP shall be required to authorize that portion of any land division that lies within, in whole or in part, the boundaries of the Coastal Zone Any CDP for a land division shall include the consideration of the proposed building site (including a building pad if necessary), access road, and the driveway (if necessary) for each proposed parcel (other than a parcel that is dedicated or restricted to open space uses) as well as all grading, whether onsite or offsite, necessary to construct the building site and road/driveway improvements. The County shall only approve a CDP for a land division where substantial evidence demonstrates that the land division meets all of the following requirements:*

- 1. All existing parcels proposed to be divided as part of a land division must be legal lots.*
- 2. The land division shall be consistent with all applicable LCP policies.*
- 3. The density proposed by the land division does not exceed the maximum density allowed for the property by the LIP zoning map and compliance with the other policies of the LCP which may further limit the maximum allowable density.*
- 4. The land division does not create any parcels that are smaller than the average size of surrounding parcels.*
- 5. The land division clusters building sites, including building pads, if any, to maximize open space and minimize site disturbance, erosion, sedimentation and required fuel modification.*
- 6. The land division includes a safe, all-weather access road and driveway(s), if necessary, that comply with all applicable policies and provisions of the LCP and all applicable fire safety regulations, and does not locate the access road or driveway on slopes of 25 percent or more; and, does not result in grading on slopes of 25 percent or more.*
- 7. The land division does not divide an existing lot entirely designated as H1 habitat, H1 habitat buffer, and/or H2 high scrutiny habitat as defined in Section 22.44.1810.*
- 8. The land division does not create any lot the development of which would require construction of a road and/or driveway in H1 habitat area, in H1 habitat buffer, in H1 Quiet Zone, on a coastal bluff or on a beach.*
- 9. The layout of the lots is designed to avoid or minimize impacts to visual resources consistent with all scenic and visual resources policies of the LUP, through measures which include, but are not limited to the following:*
  - A. Clustering the building sites to minimize site disturbance and maximize open space.*
  - B. Prohibiting building sites on ridgelines.*
  - C. Minimizing the length of access roads and driveways.*

- D. Using shared driveways to access development on adjacent lots.*
  - E. Reducing the maximum allowable density in steeply sloping and visually sensitive areas.*
  - F. Minimizing grading and alteration of natural landforms.*
- 10. Each lot proposed to be created meets the following minimum standards:*
- A. Is dedicated or restricted to open space uses through open space easement, deed restriction, or donation to a public agency for park purposes; or*
  - B. Contains an approved building site that can be developed consistent with all policies and standards of the LCP, and satisfies all of the following criteria:*
    - i. Is safe from flooding, erosion, geologic and extreme fire hazards;*
    - ii. Will not result in grading on slopes over 25 percent;*
    - iii. Has the legal rights that are necessary to use, improve, and/or construct an all-weather access road to the parcel from an existing, improved public road;*
    - iv. Is located in an area where adequate public services are or will be available and construction of structures will not have significant effects, either individually or cumulatively, on coastal resources;*
    - v. Has the appropriate conditions on-site for a properly functioning onsite wastewater treatment system and an adequate water supply for domestic use;*
    - vi. The building site, and any necessary access road and/or driveway thereto, meets all of the following: 1) does not include any H1 habitat area, H1 habitat buffer, H1 habitat Quiet Zone, or H2 high scrutiny habitat; 2) would not require vegetation removal or thinning for fuel modification in an H1 habitat area, H1 habitat buffer, or H2 high scrutiny habitat; and 3) would not require irrigated fuel modification within an H1 Quiet Zone. Creation of a new Open Space parcel shall be allowed within any habitat category or buffer, as long as the entire parcel is used exclusively as Open Space in perpetuity and the construction rights over the entire parcel are dedicated to the County;*
    - vii. Is located where a shoreline protection structure or bluff stabilization structure will not be necessary to protect development on the parcel from wave action, erosion or other hazards at any time during the full 100-year life of any structures;*
    - viii. If located on the beachfront, has sufficient area to site a dwelling or other principal structure, onsite wastewater treatment system, if necessary, and any other necessary facilities without development on sandy beaches or bluffs;*

The Santa Monica Mountains LCP requires that lot line adjustments may only be approved where they result in parcels with feasible building sites. The policies and provisions of the LCP also require that building sites (development area) be limited to a maximum of 10,000 square feet, that building sites are clustered, and that impacts to H1 and H2 habitat are minimized.

The proposed project includes a lot line adjustment between two existing parcels in order to create two reconfigured parcels, each with a designated 10,000 square foot development area. As mentioned above, Parcel One is currently identified by APN 4472-027-005. Parcel Two is comprised of APNs 4472-026-017 and 4472-026-018. This parcel is identified by two APNs due to the fact that a prior owner of this parcel, attempted to subdivide the parcel by obtaining a certificate of compliance from Los Angeles County, but without obtaining the required coastal development permit.

The Subdivision Map Act (SMA) [Cal. Gov't Code §§ 66410 *et seq.*] is a state law that sets statewide standards for the division of land that are implemented by local governments through their ordinances. Among other requirements, the SMA currently requires that all divisions of land must be approved by the local government through a parcel map (for the division of four or fewer parcels) or a tract map (for the division of five or more parcels). Prior to legislative changes to the SMA that were effective March 4, 1972, the SMA did not require approval for divisions of fewer than five parcels (although the division of five or more parcels did require a tract map approval).

However, prior to March 4, 1972, the SMA did provide that a local government could adopt ordinances to regulate the division of fewer than five parcels, so long as the provisions of such an ordinance were not inconsistent with the SMA. The County of Los Angeles adopted Ordinance No. 9404 (effective September 22, 1967) to regulate land divisions of fewer than five parcels. This ordinance required the approval of a "Certificate of Exception" for a "minor land division", which was defined as: "...any parcel or contiguous parcels of land which are divided for the purpose of transfer of title, sale, lease, or financing, whether present or future, into two, three, or four parcels...". This ordinance provided standards for road easements, and other improvements. After March 4, 1972, when the SMA included a statewide requirement for the approval of a parcel map for divisions of fewer than five parcels, the County of Los Angeles abandoned the "Certificate of Exception" requirement and began requiring the approval of a parcel map instead.

In 1952, the owner of the 38-acre parcel (previously identified as APN 4472-026-009 and currently identified as APNs 4472-026-017 and 4472-026-018) granted an easement for public road and highway purposes to Los Angeles County for Encinal Canyon Road to cross the subject parcel. Although the road physically crossed the subject parcel, the recordation of the easement and the construction of the road did not result in the subdivision of the parcel into two legal parcels. After the owner of the parcel passed away, in February 1970, a superior court authorized the conservator of her estate to transfer the subject 38-acre parcel (APN 4472-026-009) to new ownership, and described it erroneously as Parcel One (west of the road easement) and Parcel Two (east of the road easement). A conservator's deed was then recorded in March 1970, which described the parcel as Parcel One and Parcel Two, and the property was transferred. As described above, at this time, for a subdivision resulting in four or fewer parcels, the County of Los Angeles required a Certificate of Exception and a Plot Plan map approval. Although the court described APN 4472-026-009 as consisting of two parcels at the time that it was transferred, since there was not compliance with the County ordinance, the transfer of the parcel did not constitute a legal subdivision into two parcels.

Furthermore, the SMA provides that any owner of property may request that the local government determine whether the property complies with the provisions of the SMA and local

subdivision ordinances. If the local government, in this case, Los Angeles County, determines that the property complies, the County shall issue a “certificate of compliance” (C of C), which will be recorded<sup>1</sup>. If the County determines that the property does not comply with the SMA or local ordinances, then it shall issue a “conditional certificate of compliance”<sup>2</sup>. The conditional C of C will be subject to conditions that would have been applicable to the division of the property at the time that the owner acquired it. If the applicant was the owner who divided the property in violation of the SMA, then the County may impose any conditions that would be applicable to a land division at the time the C of C is issued.

In 2004 previous owners requested and received two Conditional Certificates of Compliance for the property, indicating that the 38-acre property consisted of two parcels, one on each side of Encinal Canyon Road. By requesting and receiving the two Conditional Certificates of Compliance, the previous owners purported to have subdivided the property identified as APN 4472-026-009, into two parcels identified as APNs 4472-026-017 and 4472-026-018. Although the County of Los Angeles found these two parcels to be in conformance with the requirements of the Subdivision Map Act and County Subdivision Ordinance, the owners did not seek approval of a coastal development permit and none was ever granted for the land division. At the time of issuance of the certificates of compliance (2004), a coastal development permit was required, as land divisions constitute development under the Coastal Act.

Additionally, in 2014 the current applicants requested and received a Certificate of Compliance from Los Angeles County in order to in effect “merge” APN 4472-027-005 with 4472-026-017 into one parcel. Although this Certificate of Compliance was obtained while the applicants were in the process of obtaining the currently proposed coastal development permit with Commission staff, a coastal development permit had not been issued for the “merger”.

As described above, Parcel Two of the subject lot line adjustment is identified by two APNs, even though the property constitutes one parcel for purposes of the Coastal Act. Additionally, Los Angeles County tax assessment records indicate two assessor parcel numbers (APNs) for reconfigured APNs 4472-027-005 and 4472-026-017 despite the fact that the County issued a certificate of compliance that seems to give recognition of this parcel and a portion of a parcel as one lot. To ensure that the subject lot line adjustment adequately resolves the existing violations going forward on the subject parcels, the Commission finds it necessary to require **Special Condition Three (3)**, which requires the applicant to provide evidence to the Executive Director that the applicant have requested that the assessor's office (a) revise its records and maps to reflect that APN 4472-026-017 and 4472-027-005 constitute a single legal parcel and that APN 4472-026-018 constitutes a single legal parcel, including assigning a new, single APN for each property, and (b) send the Commission notice when it has done so. Furthermore, **Special Condition Two (2)** requires the applicant to record a lot combination deed restriction that makes clear that the resultant property is one parcel and cannot be separated without approval of a coastal development permit, effectively merging APN 4472-026-017 and 4472-027-005.

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<sup>1</sup> This type of certificate of compliance issued pursuant to Gov't Code § 66499.35(a) is commonly known as an “exempt” C of C, in that it indicates that the parcel was created legally or before there were regulations.

<sup>2</sup> This type of certificate of compliance is issued pursuant to Gov't Code § 66499.35(b).

Although the subject application does not propose any physical improvements on the subject parcels, coastal development permit 4-05-069 was approved by the Commission in March 2006, and allowed for residential development on the parcel identified as APN 4472-027-005. As depicted on Exhibit 3, the proposed lot line adjustment would essentially result in the combination of the property currently identified as APN 4472-027-005 and 4472-026-017 into one 7-acre parcel. As development has already been approved on APN 4472-027-005, the subject reconfigured approximately 7-acre parcel will already have a 10,000 square foot development area designated.

The proposed project also includes the designation of a 10,000 square foot building site (or development area) on the other reconfigured approximately 32-acre parcel (currently identified by APN 4472-026-018). Although the subject application does not propose any structural development, it is critical to evaluate the potential cumulative impacts that could result from the any future development on this reconfigured parcel. The applicants have submitted evidence which indicates that the construction of a single family residence at the location of the proposed development area depicted on Exhibit 4 is feasible.

Through past permit actions, the Commission has limited the development area (building site) for residential development in ESHA to a maximum development area of 10,000 square feet in order to minimize cumulative impacts and adverse impacts to ESHA from fuel modification requirements. As mentioned above, the subject parcels contain H1, H2, and H3 habitat. The Commission has found that both H1 and H2 habitat constitute ESHA, and areas designated as H3 constitute existing developed areas. The location of the proposed building site is within designated H2 habitat. The Santa Monica Mountains LCP also requires a maximum building site of 10,000 square feet in H2 habitat. The applicants have provided plans which depict a residence at the location of the proposed building site. The proposed building site does not exceed 10,000 square feet. Therefore, the building site proposed by the applicants conforms to the maximum development area of 10,000 square feet that the policies and provisions of the Santa Monica Mountains LCP require. These measures will avoid impacts to H1 habitat and minimize impacts H2 habitat on the site. However, given the location of H2 on the subject properties, the identified building site and associated fuel modification that will be required as part of any residential development located in the proposed development area will still result in unavoidable habitat impacts.

The policies and provisions of the Santa Monica Mountains LUP specifically require the recordation of open space easements or deed restrictions in order to ensure that approved building site areas are limited and impacts to coastal habitat are minimized. In this case, the subject lot line adjustment will result in two newly configured parcels, each with a 10,000 square foot building site. The applicants have proposed to designate the future building site on one of the subject parcels, and a development area (building site) was previously approved by the Commission on the second proposed reconfigured parcel. In order to adequately implement the applicants' proposal to designate the subject development area, and to ensure that the remaining H1 and H2 habitat on the subject parcels is protected, **Special Condition One (1)** requires that the applicants grant to the Mountains Conservation and Recreation Authority an open space and conservation easement on the portions of the properties outside of the designated building sites, as depicted on Exhibit 4. As detailed in Special Condition One (1), the open space and conservation easement will run with the land and will prohibit all development, with exceptions

including fuel modification required by the Los Angeles County Fire Department undertaken in accordance with development approved in a CDP(s) issued by the County; drainage and polluted runoff control activities approved in a CDP(s) issued by the County; construction and maintenance of public hiking trails, if approved by the County in a coastal development permit; and construction and maintenance of roads, trails, and utilities pursuant to existing easements, if approved by the County in a coastal development permit.

Under the terms of Special Condition One (1), an open space and conservation easement over the open space will be granted by the applicant Williams Consolidated, Inc. to the Mountains Recreation and Conservation Authority (“MRCA”), a joint powers authority. The MRCA is 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 are owned by the Santa Monica Mountains Conservancy. 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.

The Commission finds that the proposed lot line adjustment and designation of a 10,000 building site on each of the reconfigured parcels will be consistent with the land division policies and provisions of the LCP and will serve to minimize adverse individual and cumulative impacts to environmentally sensitive habitat. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the policies and provisions of the Santa Monica Mountains LCP.

### **C. SCENIC AND VISUAL RESOURCES**

Policy CO-154 of the Santa Monica Mountains Land Use Plan states:

*Land divisions, including lot line adjustments, shall be designed to minimize impacts to visual resources by:*

- a. Clustering the building sites to minimize site disturbance and maximize open space.*
- b. Prohibiting building sites on ridgelines.*
- c. Minimizing the length of access roads and driveways.*
- d. Using shared driveways to access development on adjacent lots where feasible.*
- e. Reducing the maximum allowable density in steeply sloping and visually sensitive areas.*
- f. Minimizing grading and alteration of natural landforms.*

Policy CO-108 of the Santa Monica Mountains Land Use Plan states:

*Site and design new development to minimize the amount of grading and the alteration of natural landforms.*



Policy CO-109 of the Santa Monica Mountains Land Use Plan states:

*Site and design new development to protect natural features, and minimize removal of natural vegetation.*

Policy LU-1 of the Santa Monica Mountains Land Use Plan states in relevant part:

*New residential, commercial, or industrial development shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it.*

The policies and provisions of the Santa Monica Mountains LCP require that land divisions, including lot line adjustments, minimize impacts to visual resources. Additionally, the LCP requires that new development minimize the amount of landform alteration, and that new development is located within, contiguous with, or in close proximity to existing developed areas. The subject site is located within a rural area characterized by expansive, naturally vegetated mountains and hillsides. Existing residential development in the vicinity consists of single-family residences. Commission review of the publicly accessible locations from which the previously approved development located on the proposed approximately 7-acre parcel and future development that may be approved within the designated building site on the proposed approximately 32-acre parcel could be visible from include Encinal Canyon Road, which as mentioned above is an LUP designated scenic route, as well as a LUP designated trail located west of the subject parcels.

A component of the subject coastal development permit includes the designation of a future 10,000 square foot development area on the proposed 32-acre parcel (currently identified by APN 4472-026-018). The identified future development site is located immediately adjacent to Encinal Canyon Road, as depicted on Exhibit 1. Williams Consolidated, Inc. previously submitted an application proposing to construct a single-family residence and associated development at the location of the currently proposed 10,000 square foot development area. This location is immediately adjacent to Encinal Canyon Road, and development in this location would minimize landform alteration, consistent with the policies of the Santa Monica Mountains LCP. Furthermore, the applicants have provided evidence which indicates that the construction of a residence in this location is feasible.

The proposed lot line adjustment will result in the same number of parcels, and therefore the same number of potential residences. Designation of the future building site on the proposed approximately 32-acre parcel will facilitate a clustered development configuration that is near the existing road access, which will minimize the visual impacts of grading and landform alteration, including the length of any access driveway. Additionally, the proposed building site will not exceed the maximum development area of 10,000 square feet, which the Santa Monica Mountains LCP requires, and that the Commission has previously found in similar cases to minimize impacts to visual resources in similar situations on sites that are in highly scenic areas. Furthermore, designation of the subject building site in any other location on the project site would result in increased grading and landform alteration, as well as increased impacts to H2 habitat, resulting from increased access road length, and less overlapping fuel modification. Lastly, as described above, the areas of the site outside of the road, driveways, development area and irrigated fuel modification (Zone B) for each reconfigured parcel will be preserved through

the recordation of an open space conservation easement (Special Condition No. 1), which will also ensure that the visual quality of this area is protected.

While the siting of development on the reconfigured approximately 32-acre parcel (currently identified as 4472-026-018) ensures that impacts to visual resources are minimized, the County of Los Angeles will still have to review, through the consideration of a coastal development permit application, the design of any structures proposed on the parcel created in this permit for compliance with the policies and provisions of the Santa Monica Mountains LCP.

The Commission finds that the proposed lot line adjustment and designation of a 10,000 building site on the subject parcel will serve to minimize adverse effects to public views and minimize the alteration of natural landforms. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the policies and provisions of the Santa Monica Mountains LCP.

#### **D. UNPERMITTED DEVELOPMENT**

Development has occurred on the subject site without the required coastal development permit. The unpermitted development includes the attempted subdivision of APN 4472-026-009 into two parcels currently identified by APNs 4472-026-017 and 4472-026-018. The development proposed in this application will, if effectuated, resolve the existing violation going forward relating to the subject subdivision through the proposed lot line adjustment and designation of a 10,000 square foot maximum building site. However, in order to ensure that the unpermitted development component of this application is resolved in a timely manner, **Special Condition Four (4)** requires the applicants to fulfill all of the Special Conditions that are a prerequisite to the issuance of this permit, within 180 days of Commission action.

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the policies and provisions of the Santa Monica Mountains Local Coastal Program. Approval of this permit does not constitute a waiver of any legal action with regard to any alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit. The Commission's enforcement division will evaluate further actions to address this matter.

#### **E. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

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

The Commission incorporates its findings on Local Coastal Program consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the proposed development, as conditioned, is consistent with the policies of the Certified Local Coastal Program. Feasible mitigation measures, which will minimize all adverse environmental effects, have been required as special conditions. Special Conditions One (1) through Four (4) are required to assure the project's consistency with Section 13096 of the California Code of Regulations.

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 Santa Monica Mountains Local Coastal Program; Certificate of Compliance RCOC201400006; Certificate of Compliance Correction RCOC200700253; Certificate of Compliance 04-030; Certificate of Compliance 04-031; Engineering Geologic Reconnaissance and Feasibility Evaluation, dated September 4, 2003, by Mountain Geology Inc.; Geologic and Soils Engineering Investigation, dated June 30, 2010, by Alpine Geotechnical.



**Project Location**

Exhibit 1  
4-13-0256  
Vicinity Map



4472-026-018

4472-026-017

Encinal  
Canyon Road

4472-027-005

Exhibit 2  
4-13-0256  
Existing Parcel Configuration



**Encinal  
Canyon Road**

Exhibit 3  
4-13-0256  
Proposed Parcel Configuration

Approximate location  
of proposed 10,000  
sq. ft. building site

Open Space  
Easement Areas

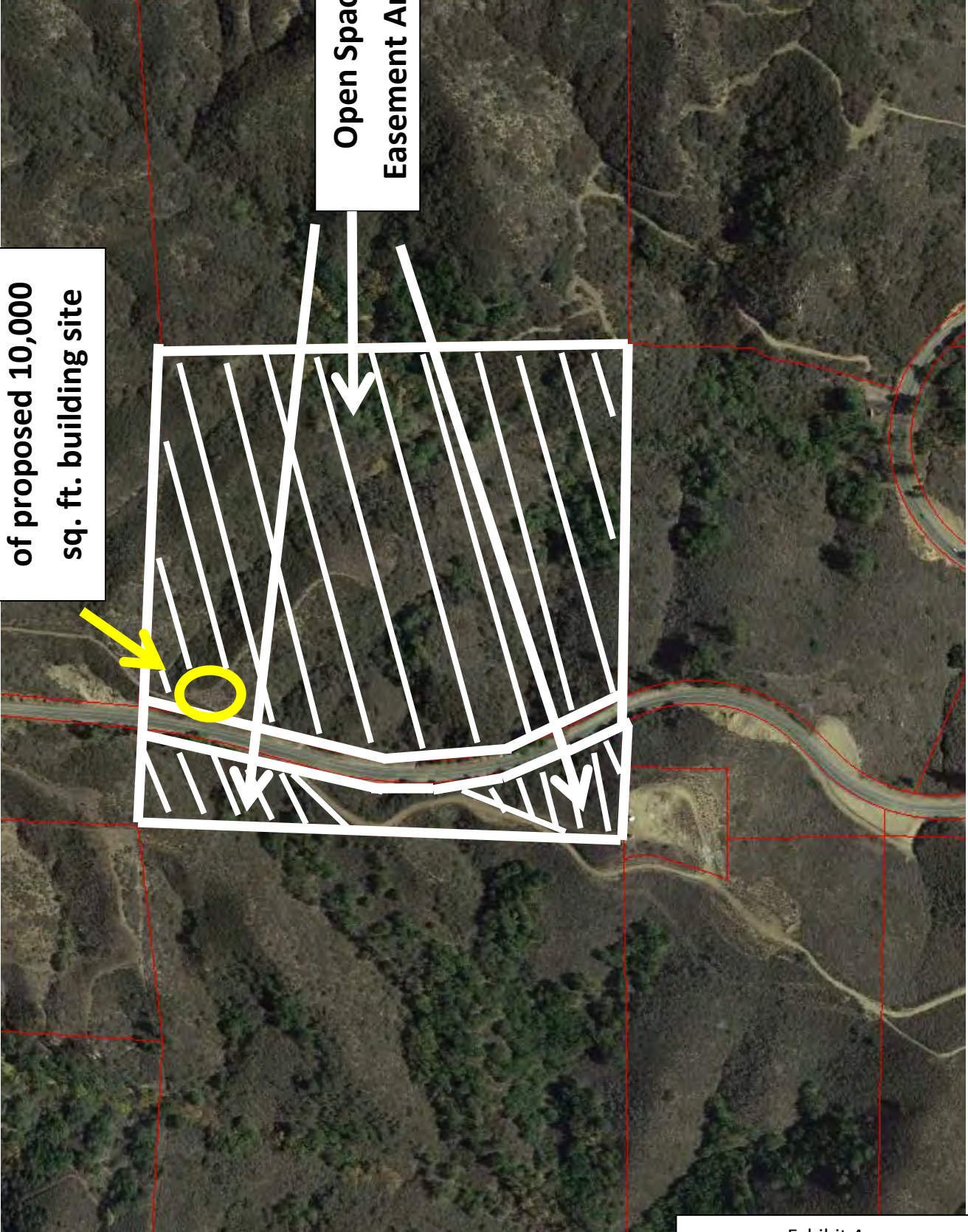


Exhibit 4  
4-13-0256  
Open Space Easement Areas