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**Staff:** Justin Buhr-SF  
**Staff Report:** 02/19/2016  
**Hearing Date:** 03/10/2016

## **STAFF REPORT: Recommendations and Findings for Consent Cease and Desist and Consent Restoration Orders**

**Consent Cease and Desist Order No.:** CCC-16-CD-01

**Consent Restoration Order No.:** CCC-16-RO-01

**Related Violation File:** V-4-10-004

**Persons Subject to these Consent Orders:** Dean Isaacson

**Property Location:** 2053 Rambla Pacifico, Los Angeles County (Assessor's Parcel Number 4453-004-039); the adjacent property described as Assessor's Parcel Number 4453-004-026; the adjacent property described as Assessor's Parcel Number 4453-004-038; the adjacent property described as Assessor's Parcel Number 4453-004-040; and the property across Rambla Pacifico described as Assessor's Parcel Number 4453-004-049.

**Violation Description:** Unpermitted development and/or development inconsistent with Coastal Development Permit No. 4-08-012 including, but not necessarily limited to: grading; grading that occurred during a period of time explicitly prohibited by Special Condition No. 2.B of CDP No. 4-08-012; development associated with the failure to install erosion control measures as required by Special Condition 2.B.3 of CDP No. 4-08-012; placement of fill, sand bags, construction equipment and/or materials; removal of major vegetation, including vegetation within an environmentally sensitive habitat area; and failure to obtain a CDP to permanently authorize the work that was temporarily approved under Emergency CDPs Nos. 4-11-054-G and 4-12-012-G.

<b>Substantive File Documents:</b>	<ol style="list-style-type: none"><li>1. Public documents in Cease and Desist Order file No. CCC-16-CD-01 and Restoration Order file No. CCC-16-RO-01</li><li>2. CDP File No. 4-08-012</li><li>3. Emergency CDP No. 4-11-054-G</li><li>4. Emergency CDP No. 4-12-012-G</li><li>5. Exhibits 1 through 12 and Appendix A of this staff report</li></ol>
<b>CEQA Status:</b>	Exempt (CEQA Guidelines (CG) §§ 15060(c)(2) and (3)) and Categorically Exempt (CG §§ 15061(b)(2), 15307, 15308, and 15321)

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## SUMMARY OF STAFF RECOMMENDATION AND FINDINGS

The Santa Monica Mountains are part of a unique ecosystem that comprises the largest, most pristine, and ecologically complex example of a Mediterranean ecosystem remaining in coastal southern California. Consent Cease and Desist Order No. CCC-16-CD-01 and Consent Restoration Order No. CCC-16-RO-01 address development that occurred in the Santa Monica Mountains that was unpermitted and/or in violation of a coastal development permit<sup>1</sup> (“CDP”) and, therefore, the Coastal Act. The violations include, but are not necessarily limited to: grading; grading that occurred during a period of time explicitly prohibited by the CDP (Special Condition No. 2.B); development associated with the failure to install erosion control measures as required by the CDP (Special Condition 2.B.3); placement of fill, sand bags, construction equipment and/or materials; removal of Major Vegetation, including vegetation within an environmentally sensitive habitat area; and failure to obtain a CDP to permanently authorize the work that was temporarily approved under Emergency CDPs.<sup>2</sup> This is all collectively referred to herein as the “Unpermitted Development”<sup>3</sup>. The Unpermitted Development is also inconsistent with policies in Chapter 3 of the Coastal Act, and is causing continuing resource damage, as explained in more detail below.

These actions occurred in an area the Commission specifically found to be environmentally sensitive habitat area (“ESHA”)<sup>4</sup>, in the Carbon Canyon region of the Santa Monica Mountains, primarily on property located at 2053 Rambla Pacifico<sup>5</sup>, now owned by Dean Isaacson

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<sup>1</sup> The CDP at issue is 4-08-012.

<sup>2</sup> Emergency Permit Nos. 4-11-054-G and 4-12-012-G.

<sup>3</sup> The phrase “Unpermitted Development,” as used herein, refers to “development,” as that term is defined in the Coastal Act (Public Resources Code Section 30106), that: 1) has occurred on the Properties and required authorization pursuant to the Coastal Act, but for which no such authorization was obtained; and/or 2) is inconsistent with any of the requirements of CDPs Nos. 4-08-012, 4-11-054-G, and/or 4-12-012-G.

<sup>4</sup> See CDP 4-08-112 (Exhibit 6).

<sup>5</sup> Assessor’s Parcel Number 4453-004-039.

(“Respondent”), but also extending onto four parcels not owned by Respondent (“the Properties”)<sup>6</sup>.

#### Permit Violations

CDP No. 4-08-012 (“the Permit”) was approved in November 2008 and authorized the construction of a single family dwelling at 2053 Rambla Pacifico (“Isaacson Property”). At the Permit hearing, the Commission found that the entire Isaacson Property is ESHA. Additionally, the Isaacson Property is located in an area historically subject to significant natural hazards, including, landslides, erosion, flooding and wild fire. Of particular significance here, the Properties were the subject of previous landslide activity. In order to protect ESHA and help prevent future landslides, the Permit contained conditions that explicitly prohibited grading during the rainy season and required the installation of temporary erosion control measures. These conditions were typical erosion control measures the Commission has applied to projects in the Santa Monica Mountains. The purpose of these conditions is to minimize erosion from hillside development, minimize sedimentation of streams, and minimize impacts to riparian and chaparral ESHA. Another reason for these conditions is to ensure geologically unstable areas are disturbed during the rainy season, which could result in and contribute to landsliding and geologic instability.

Unfortunately, these Permit conditions were not adhered to, grading work was conducted during the rainy season, and in February 2010, a landslide occurred on the Properties, destroying a segment of the County owned road called Rambla Pacifico and burying ESHA adjacent to the areas where the unpermitted grading had occurred.

Since the time of the landslide, two emergency coastal development permits (“ECDP”) were issued (in 2011 and 2012) to temporarily authorize partial restoration of the area where the landslide occurred, repair Rambla Pacifico, and to attempt to reduce future resource damage. Unfortunately, however, the applicant failed to monitor the erosion control measures and the replanting of the site required under the ECDP, never obtained permanent authorization for the development under taken pursuant to the ECDP, and, moreover, further work is required to provide complete restoration of the habitat on the Properties.

The Unpermitted Development occurred primarily on the Isaacson Property, but as noted above, the Unpermitted Development impacted four additional parcels and, therefore, these Consent Orders also address the unpermitted development on those parcels, as well<sup>7</sup>.

The Unpermitted Development, included grading activities performed across a known landslide on the Isaacson Property, which occurred during a time that such activity was explicitly prohibited by the terms of the permit and/or without installing required erosion control features.

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<sup>6</sup> These properties include Assessor’s Parcel Numbers (“APN”) 4453-004-026; 4453-004-038; 4453-004-040; and 4453-004-049.

<sup>7</sup> The proposed Consent Orders require Respondent to obtain permission from the adjacent property owners to allow Respondent to conduct restoration activities to address the unpermitted development that occurred on those properties. The restoration activities on these properties will primarily consist of erosion control and revegetation with appropriate native vegetation. The Orders provide a path forward should Isaacson not be able to acquire permission for the required restoration work from the adjacent property owners.

These activities impacted the stability of the site and contributed to a massive landslide that not only had the effect of impacting large sections of ESHA through the destruction of southern maritime chaparral and coastal sage scrub vegetation, but also completely destroyed a large segment of Rambla Pacifico, a public road designated as a Scenic Road in the Santa Monica Mountains Local Coastal Program (“SMM LCP”). As discussed in further detail in Section III.D.2.b, the resource damages caused by the Unpermitted Development include the loss of the quality and abundance of contiguous blocks of chaparral vegetation considered to be ESHA, the increase in potential adverse impacts to water quality, a reduction in the ability for the public to access the coast, and the alteration of natural landforms, which is not visually compatible with the character of surrounding areas. As of this time, that Unpermitted Development and the results thereof remain on the Properties. The removal of native vegetation continues to impact the coastal resources by displacing the native ecosystem and preventing it from functioning, thereby disrupting the biological productivity of that ecosystem. Without removing the Unpermitted Development and restoring the impacted areas, the foregoing impacts are continuing to occur.

#### Ownership History

Dr. Charles Weber was the owner of the property located at 2053 Rambla Pacifico at the time the violations occurred, and was the applicant for CDP No. 4-08-012. Respondent was the contractor who was hired to perform the development, and did so in violation of the conditions of the CDP. Shortly after the landslide occurred, an Executive Director Cease and Desist Order (“ED-CDO”) was issued directing Dr. Weber and Respondent to cease and desist from undertaking further unpermitted development, maintaining existing unpermitted development on the Properties, and maintaining or undertaking further development inconsistent with CDP No. 4-08-012 or the Coastal Act. In addition, the ED-CDO required the applicant to submit plans for the restoration and remediation of the Properties and to carry out those plans once approved by the Executive Director.

Dr. Weber passed away in 2013, and Mr. Timothy McAdam, as trustee of the Weber Living Trust, took fee title ownership of the Isaacson Property. Prior to Dr. Weber’s passing, Commission staff had been working with Dr. Weber and Respondent in an effort to resolve this matter through consent orders. Although progress in working towards resolving the violations was made at that time, agreement was never reached. After Dr. Weber’s passing, progress towards resolution slowed as the trustee of the Weber Living Trust appeared to be not interested in further discussion and the trust ultimately let the property fall into foreclosure proceedings. In July 2015, Bank of America N.A. (“BoFA”) became the owner of the Isaacson Property through the foreclosure process. Then, in November 2015, Respondent purchased the property from BoFA. Since the time of acquisition, Respondent has worked cooperatively with Commission staff to amicably reach this resolution to resolve Respondent’s liabilities, both in his capacity as the current owner of the Isaacson Property and as a violator.

#### Consent Orders

Therefore, Commission staff recommends that the Commission issue Consent Cease and Desist Order No. CCC-16-CD-01 and Restoration Order No. CCC-16-RO-01 (hereinafter collectively referred to as “Consent Orders”), which will establish a process by which Respondent will



resolve the Coastal Act violations associated with the Unpermitted Development. These Consent Orders are included as Appendix A of this staff report.

Through the execution of these Consent Orders, Respondent has agreed to, among other things: 1) cease and desist from conducting any further unpermitted development; 2) install temporary erosion control measures; 3) perform remedial grading; 4) remove the physical items of unpermitted development placed or allowed to come to rest on the Properties, 5) restore areas impacted by Unpermitted Development with appropriate native vegetation; 6) undertake measures to protect and enhance coastal resources on-site and in the surrounding areas by conducting mitigation for temporal loss of habitat on the Properties caused by the Unpermitted Development at a ration of 6:1 (mitigation provided: damaged resources); 7) take all steps necessary to ensure compliance with the Coastal Act and these Consent Orders; and 8) resolve civil liabilities under the Coastal Act by paying a monetary settlement in the amount of up to \$700,000.00. Commission staff has worked closely with the Respondent to reach an amicable resolution of this matter and these Consent Orders are the result of those cooperative efforts to resolve the violations amicably and without the need for a contested hearing or any litigation.

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## APPENDICES

Appendix A Proposed Consent Cease and Desist and Restoration Orders

## EXHIBITS

Exhibit 1:	Vicinity Map
Exhibit 2:	Assessor's Parcel Map
Exhibit 3:	Isaacson Property
Exhibit 4:	Photographs of the Properties; Landslide, Rambla Pacifico
Exhibit 5:	Photographs of the Properties; Insufficient Erosion Control
Exhibit 6:	Coastal development permit 4-08-012 Staff Report
Exhibit 7:	Notice Prior to Issuance of EDCDO and Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings, dated March 4, 2010
Exhibit 8:	Executive Director Cease and Desist Order ED-10-CD-01, dated March 5, 2010
Exhibit 9:	Recordation of Notice of Violation, dated March 30, 2010
Exhibit 10:	Emergency coastal development permit 4-11-054-G
Exhibit 11:	Emergency coastal development permit 4-12-012-G
Exhibit 12:	Dean Isaacson Letters

## **I. MOTION AND RESOLUTION**

### **Motion 1: Consent Cease and Desist Order**

*I move that the Commission **issue** Consent Cease and Desist Order No. CCC-16-CD-01 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in issuance of the Consent Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

### **Resolution to Issue Consent Cease and Desist Order:**

*The Commission hereby issues Consent Cease and Desist Order No. CCC-16-CD-01, as set forth below, and adopts the findings set forth below on grounds that development has occurred without the requisite coastal development permit, and in violation of CDP No. 4-08-012, in violation of the Coastal Act, and that the requirements of the Order are necessary to ensure compliance with the Coastal Act.*

### **Motion 2: Consent Restoration Order**

*I move that the Commission issue Consent Restoration Order No. CCC-16-RO-01 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in issuance of the Consent Restoration Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

### **Resolution to Issue Consent Restoration Order:**

*The Commission hereby issues Consent Restoration Order No. CCC-16-RO-01, as set forth below, and adopts the findings set forth below on the grounds that 1) development has occurred without a coastal development permit, 2) the development is inconsistent with the Coastal Act, and 3) the development is causing continuing resource damage.*

## **II. HEARING PROCEDURES**

The procedures for a hearing on a Cease and Desist Order and Restoration Order are outlined in Section 13185 and Section 13195 of Title 14 of the California Code of Regulations ("14 CCR"), respectively.

For a Cease and Desist Order and Restoration Order hearing, the Chair shall announce the matter and request that all parties or their representatives present at the hearing identify themselves for the record. The Chair shall then have staff indicate what matters are already part of the record and the Chair shall announce the rules of the proceeding, including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the

close of the hearing, any question(s) for any Commissioner, at his or her discretion, to ask of any other party. Staff shall then present the report and recommendation to the Commission, after which the alleged violator(s), or their representative(s), may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons, after which time staff typically responds to the testimony and to any new evidence introduced.

The Commission will receive, consider, and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in 14 CCR Sections 13186 and 13195, incorporating by reference Section 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including, if any Commissioner so chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist Order and Restoration Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of the motions above, per the staff recommendation or as amended by the Commission, will result in issuance of the Cease and Desist Order and Restoration Order.

### **III. FINDINGS FOR CONSENT ORDERS<sup>8</sup>**

#### **A. DESCRIPTION OF PROPERTY**

The Isaacson Property is a 10.67 acre parcel located in the Santa Monica Mountains at 2053 Rambla Pacifico (APN 4453-004-039), immediately southwest of the intersection of Rambla Pacifico and Las Flores Canyon Road (Exhibit 1). The defined term “Properties” refers to the Isaacson Property but also includes adjacent parcels of land identified as APNs 4453-004-026; 4453-004-038; 4453-004-040; and 4453-004-049 (Exhibit 2), where Unpermitted Development also occurred. The Properties are entirely undeveloped except for the public road Rambla Pacifico, development that was granted after the fact approval under the Permit and the development conducted under Emergency CDP Nos. 4-11-054-G and 4-12-012 (Exhibit 3). The surrounding area is vacant to the west, north and east of the Properties. The area south of the Properties is developed with a cluster of five single family residences. The Isaacson Property itself is comprised of moderate to steep sloping hillside terrain, with elevations ranging from 1465 feet at the entrance from Rambla Pacifico to 1358 feet at the building pad location for the CDP-approved house. The Properties are located in the Carbon Canyon watershed, with one intermittent and two ephemeral streams running through the Properties. The two ephemeral streams, flowing from the east side of the project site are tributaries to the intermittent stream flowing across the property from north to south. Just a few hundred feet downstream from where the intermittent stream leaves the Properties, the stream is recognized by the United States

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<sup>8</sup> These findings also hereby incorporate by reference the sections “Summary of Staff Recommendation and Findings” at the beginning of this February 19, 2016 staff report (“STAFF REPORT: Recommendations and Findings for Consent Cease and Desist and Consent Restoration Orders”) in which these findings appear.

Geological Survey (“USGS”) as an intermittent blue-line stream, which, during rainfall events, drains into Carbon Canyon Creek.

Given the location of the Properties in the Santa Monica Mountains, it is part of a unique ecosystem that comprises the largest, most pristine, and ecologically complex example of a Mediterranean ecosystem remaining in coastal southern California. California’s coastal sage scrub, chaparral, oak woodlands, and associated riparian areas have analogues with similar climate in only a few areas of the world. Throughout the world, this ecosystem, with its specially adapted vegetation and wildlife, has suffered severe loss and degradation as a consequence of human development. Therefore, the Commission has found, in numerous permit and enforcement actions, that the Mediterranean ecosystem in the Santa Monica Mountains is rare and particularly valuable because of its relatively pristine character, physical complexity, and resultant biological diversity.

The Santa Monica Mountains are also an area historically subject to significant natural hazards, including, but not limited to, landslides, erosion, flooding and wild fire. Of significance here, the Properties were the subject of previous landslide activity and the southern portion of the site is underlain by a large ancient landslide. This landslide, identified on regional geologic maps from the early 1980’s, is 40-60 feet in depth and extends offsite to the east below Rambla Pacifico. In this instance, the Unpermitted Development had the effect, among others, of contributing to a new, massive landslide that buried large swathes of ESHA and destroyed a large segment of Rambla Pacifico.

## **B. DESCRIPTION OF UNPERMITTED DEVELOPMENT**

The Unpermitted Development includes, but is not limited to: unpermitted grading; grading that occurred during a period of time explicitly prohibited by Special Condition No. 2.B of the Permit; development associated with the failure to install erosion control measures as required by Special Condition 2.B.3 of the Permit; unpermitted placement of fill, sand bags, construction equipment and or materials; unpermitted removal of Major Vegetation, including vegetation within an environmentally sensitive habitat area; and failure to obtain a CDP to permanently authorize the work that was temporarily approved under Emergency CDP Nos. 4-11-054-G and 4-12-012-G.

The Unpermitted Development has occurred, and the effects thereof continue to exist on the Properties in violation of the Coastal Act and the previously issued CDP, which include an explicit requirement in Special Condition 2.B.2 of the Permit that all grading on the Isaacson Property was to take place only during the dry season (April 1 – October 31). This condition was explicitly included by the Commission in light of the potential for landslides in this location, and the critical need to reduce these risks by avoiding construction and disturbed surfaces during the rainy season<sup>9</sup>. Nonetheless, grading activities were conducted outside the time period allowed for in the Permit, and, as feared, these unpermitted development activities, coupled with a large rain event, triggered a landslide that resulted in the destruction of a segment of Rambla Pacifico,

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<sup>9</sup> See Exhibit 6, Coastal development permit 4-08-012, pages 5, 18-21.

a public road providing coastal access, and impacts to ESHA (Exhibit 4). The landslide ran from east to west across the Properties and was several hundred feet wide. Additionally, the disturbed area affected by the unpermitted grading activities, and landslide, was left unprotected without measures necessary to prevent further erosion and instability of the Properties (Exhibit 5). This was in direct violation of Special Condition 2.B.3 of the Permit, which required the installation of temporary erosion control measures should grading or site preparation cease for a period of more than 30 days. This failure to install temporary erosion control measures, once grading activities ceased, resulted in increased erosion during rain events, which led to further resource damage, beyond the damage that already occurred, by increasing sediment loads in down slope streams.

The Permit authorized the construction of a single family dwelling, as described in further detail below, including after-the-fact authorization of some items of development that had already been constructed on the Isaacson Property by the prior owner before applying for the Permit. Then, after issuance of the Permit, and prior to the landslide, some of the development authorized by the Permit was undertaken or was in the process of being constructed. Under the terms of the Consent Orders, Respondent must provide evidence to establish that any development previously conducted in accordance with the authorized Permit, or granted after the fact authorization, persists in a condition such that those elements can and will be incorporated into the development as authorized under CDP 4-08-012. If the Respondent is not able to establish that those elements constructed previously under the Permit meet this requirement, they are required to be included in the Removal Plan and scheduled for removal.

## **C. PERMIT AND ENFORCEMENT HISTORY**

### *Coastal Development Permit No. 4-08-012*

On November 13, 2008, the Commission issued CDP No. 4-08-012 to Dr. Charles Weber for the construction of a 2 story, 7,802 sq. ft. single family home, with a detached 828 sq. ft. garage with 748 sq. ft. guest quarters above, pool, new 1,250 ft. long driveway, septic system, 6 ft. retaining walls, 384 sq. ft. stable, 6,493 cu. yds. of grading for the residence, garage, drainage structures, and pool, and 26,234 cu. yds. of grading for over excavation/alluvial removal and compaction for remedial slope repair (Exhibit 6). The permit also provided after-the-fact approval of an unpermitted 5,007 sq. ft. graded pad area. The grading proposed included restorative grading to restore the natural grade of the unpermitted road used to access the flat pad area. Finally, Dr. Weber proposed to revegetate various unpermitted access roads on the Isaacson Property that were constructed without the benefit of a coastal development permit.

The CDP approval contained sixteen special conditions relating to: (1) plans conforming to geotechnical engineer's recommendations, (2) landscaping and erosion control, (3) assumption of risk, (4) drainage and polluted runoff control, (5) removal of natural vegetation, (6) structural appearance, (7) lighting restriction, (8) habitat impact mitigation, (9) future development restriction, (10) deed restriction, (11) open space conservation easement, (12) site inspection, (13) final approved fuel modification plans, (14) pool and spa drainage and maintenance, (15) native restoration/revegetation plan, and (16) condition compliance.

These conditions were imposed to ensure the project's consistency with the Coastal Act. Among these, Special Condition 2 contained an explicit requirement that all grading on the Isaacson Property take place only during the dry season (April 1 – October 31). In fact, this condition was specifically discussed during the staff presentation at the Commission hearing for the Permit, where Commission Deputy Director John Ainsworth explained the rationale for the necessity of this condition. At the Commission hearing, Mr. Ainsworth stated that “The no grading during the rainy season provision is a typical erosion control measure the Commission has applied to projects in the Santa Monica Mountains. The basis for this provision is to minimize erosion from hillside development, minimize sedimentation of streams, and impacts to riparian and chaparral ESHA. Another reason for this provision is to ensure geologically unstable areas are not opened up during the rainy season, which could result in and contribute to landsliding and geologic instability.” In the presentation, Mr. Ainsworth noted that the applicant requested approval to grade the house pad area during the rainy season, but not the landslide remediation area<sup>10</sup>, and continued by stating, “...staff continues to recommend an outright prohibition during the rainy season because there is a significant amount of grading and even for the building pad and access to this area is through the landslide area. If grading is allowed during the rainy season, staff believes there is a significant risk for de-stabilizing of the landslide area and potential sedimentation of nearby streams, drainages, and adverse impacts to riparian chaparral ESHA.”

After the Commission staff presentation, Respondent, as Mr. Weber's agent and contractor, requested that Special Condition 2.B. of the Permit be deleted so that he could be allowed to grade during the rainy season. He stated that there was a possibility of losing financing for the project unless the applicant could begin grading during the rainy season. As an alternative to Special Condition 2.B., Respondent stated that they would like to do a phased grading plan that would have allowed them to grade the flat building pad area during the rainy season and then grade the landslide remediation area during the dry season.

In response to this request, Mr. Ainsworth stated, “I don't know how you would actually phase a grading plan in like that because the building site's way out ... they're going to have to access the building pad through that road that crosses that landslide area and just the action of moving across that road and would open that road up even further to erosion. I just don't know how that would happen, how we would phase it in, and how we would monitor it as well.” The Commission concurred with the staff recommendation and approved the project with the condition to prohibit all grading on the site during the rainy season.

#### *Unpermitted Grading/Violation of CDP 4-08-012*

Prior to the landslide, on November 3, 2009, after being alerted to grading work being performed on the Isaacson Property outside of the April through October timeframe allowed for grading in

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<sup>10</sup> We note that the area that was graded in violation of the Permit was actually in the area of the historic landslide and not on the house pad area. During the hearing, Respondent requested approval to grade only the house pad area during the rainy season and stated that he would not grade the landslide remediation area until the dry season. In any event, the permit specifically prohibited any grading of the Isaacson Property during the rainy season, and the grading that occurred is inconsistent with Special Condition No. 2.B. of the Permit.

the Permit, the Los Angeles County Department of Public Works issued a Notice of Stop Work Order on the Isaacson Property. That Order stated that all work on the Isaacson Property was to cease and that temporary erosion control measures needed to prevent further resource damage could be installed subject to Coastal Commission approval.

On November 9, 2009, Respondent sent Commission staff a letter alleging that he needed to continue grading because the site was in an “unsafe and geologically unstable condition” and requested that Commission staff allow Respondent to complete the grading/slope repair during the rainy season.

Commission staff visited the site on November 16, 2009 and found that the grading had stopped, but no erosion control measures had been installed. Then, during a December 3, 2009 telephone conversation, Commission staff discussed concerns regarding the grading work conducted during the prohibited time period with Respondent. In this conversation, Commission staff indicated that remedial grading to stabilize the access road for the sole purpose of preparing the site for the rainy season could be allowed. This limited grading work would be allowed only because Commission staff was left with no other option due to the failure of the Respondent to implement erosion control measures as required in the Permit. The commencement of a massive grading project by the applicant, within a known geologic hazard area and just prior to the beginning of the rainy season, was inconsistent with the Permit conditions and created a situation that left Commission staff without any options, other than to allow minimal additional grading to reduce instability and erosion with the hope of limiting potential future resource damage.

During that same December 3, 2009 telephone conversation, given the site status, Commission staff requested that Respondent design an interim erosion control plan so Commission staff could analyze how additional erosion and potential instability of the site could be addressed. However, Respondent did not comply with this request and Commission staff did not receive the submission of a satisfactory interim erosion plan as requested. Thereafter, on December 14, 2009, Commission staff sent Respondent a letter confirming the December 3, 2009 conversation and requesting the submittal of the following items: 1) an interim erosion control plan; 2) a detailed work schedule; and 3) a comprehensive erosion control plan prepared by a qualified civil engineer. Again, and, although the preparation of these items was deemed necessary to allow continued limited stabilization work during the rainy season and to prevent potential future resource damage, Commission staff did not receive the items as requested..

On January 28, 2010, Commission staff visited the site and confirmed that unauthorized grading in violation of the Permit and the Coastal Act continued to occur. It did not appear that the grading was limited to simply preparing the site for the rainy season. Furthermore, it also did not appear that necessary erosion control measures were in place. Ultimately, on February 5, 2010, the unpermitted grading performed by Respondent, in combination with a large rain event, resulted in a massive landslide on and adjacent to the Isaacson Property, that entirely destroyed a large swath of ESHA adjacent to the areas where the unpermitted grading had occurred and portions of Rambla Pacifico, a public road designated as Scenic Road in the SMM LCP.

Executive Director Cease and Desist Order



*ED-10-CD-01*

On March 4, 2010, the Executive Director of the Commission sent Dr. Weber and Respondent a Notice Prior to Issuance of an Executive Director Cease and Desist Order (“ED-CDO”) and Notice of Intent to Commence Cease and Desist Order Proceedings (“NOI”) for the Unpermitted Development (Exhibit 7). As indicated in the NOI, the unpermitted development, and the development conducted inconsistent with the requirements of the Permit, were also inconsistent with resource protection policies of the Coastal Act, including, but not limited to, Sections 30231 (biological productivity and water quality), Section 30240 (environmentally sensitive habitat areas or ESHA), Section 30251 (scenic and visual qualities), and Section 30253 (hazards/geologic stability).

Dr. Weber and Respondent did not respond to the requirements of the NOI in a “satisfactory manner,” within the meaning of Coastal Act section 30809(b), as that phrase is defined in 14 CCR Section 13180(a), thus authorizing the Executive Director to issue the ED-CDO.<sup>11</sup>

Therefore, on March 10, 2010, the Executive Director of the Commission issued an ED-CDO directing Dr. Weber and Respondent to cease and desist from undertaking further unpermitted development, maintaining existing unpermitted development on the Properties, or maintaining or undertaking further development inconsistent with CDP No. 4-08-012 or the Coastal Act. In addition, pursuant to Section 30809(c) of the Coastal Act, the ED-CDO required the applicant to submit plans for the restoration and remediation of the Properties and to carry out those plans once approved by the Executive Director (Exhibit 8).

*Notice of Violation of the Coastal Act*

Along with the issuance of the ED-CDO, the applicant was also given formal notice of the Executive Director’s intent to record a Notice of Violation of the Coastal Act (“NOVA”) based on unpermitted development (Exhibit 9). No objection was received by March 25, 2010, the legal deadline for such an objection to a notification of the recordation of a NOVA to be submitted. Therefore the Executive Director of the Commission recorded the NOVA on March 30, 2010, as provided for in Coastal Act Section 30812.<sup>12</sup>

*Emergency Coastal Development Permits**ECDP 4-11-054-G*

On November 1, 2011, after the landslide had occurred, at the request of Dr. Weber and Respondent, the Executive Director of the Commission issued Emergency Coastal Development

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<sup>11</sup> Section 13180(a) of the Commission’s regulations (Title 14 of the California Code of Regulations) defines the phrase “satisfactory manner,” as that term is used in PRC Section 30809(b), as being, in part, “a response which is made in the manner and within the timeframe specified in the notice.”

<sup>12</sup> This resolution of Respondent’s liabilities through these Consent Orders, does not extinguish the liabilities attached to other named parties responsible for the Coastal Act violations subject to these Consent Orders, as identified in the March 4, 2010 NOI. (See Exhibit 7).

Permit (“ECDP”) 4-11-054-G to temporarily authorize landslide remediation work to be performed on the Isaacson Property and the adjacent properties identified by APNs 4453-004-026 and 4453-004-049, in an attempt to reduce the adverse effects of the unpermitted work and landslide, and avoid additional harm (Exhibit 10). This ECDP temporarily authorized: the implementation of temporary erosion control and “winterization” measures to stabilize the active landslide and slope failure, including installation of 3 HDPE drain lines (a 300 linear ft. - 8 in. diameter line; a 265 linear ft. - 12 in. diameter line; and a 160 linear ft. - 12 in. diameter line); a 670 sq. ft. debris basin; placement of approximately 93,000 sq. ft. of plastic sheeting/ground cover with associated sand bags, minor grading, and clearing/grubbing to facilitate placement of plastic sheeting; and installation of straw wattles and silt fencing as necessary.

Condition 5 of this ECDP required the applicant to, within 180 days of the date of issuance of the ECDP, submit a complete application for a regular coastal development permit to have the emergency work be considered permanent or authorized pursuant to a comprehensive slope repair and stabilization plan. The applicant never submitted a complete application to authorize the development performed according to the ECDP. Therefore, permanent authorization for this development is still necessary.

#### *ECDP 4-12-012-G*

On April 5, 2012, to further address the impacts of the landslide, a second ECDP was issued (ECDP No. 4-12-012-G) to, among other things, temporarily authorize landslide remediation work on the Properties that would reduce the negative impacts of the unpermitted work and landslide, avoid further landslide associated damage and destruction of coastal resources, and to address repairs to the County owned Rambla Pacifico, which was destroyed by the landslide (Exhibit 11). In order to accomplish those goals, this ECDP temporarily authorized: the installation of 26 3-foot diameter reinforced concrete shear pins along the upside slope of Rambla Pacifico; the removal and compaction of existing debris upslope of Rambla Pacifico and downslope with a fill buttress that involves approximately 73,987 cubic yards of grading; the installation of 2098 linear feet of subdrains along the base of the fill; construction of a new 24-foot wide roadway with a 2-foot shoulder and swale; and the planting with native plant species of a 60,621 square foot area at the completion of final grading. Condition 5 of the ECDP required the applicant to obtain permanent authorization of the work performed under the ECDP through an amendment to the Permit, by obtaining a separate CDP, or through the issuance of a Cease and Desist Order and/or Restoration Order. However, the applicant never obtained permanent authorization for this ECDP development, nor did the applicant maintain any of the native vegetation that was planted pursuant to this EDCDP.

In order to facilitate the amicable resolution of this matter and because of the willingness of Respondent to perform necessary restoration efforts on the Properties, permanent authorization for the development conducted consistent with both ECDPs is included as an element of the Consent Orders.<sup>13</sup>

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<sup>13</sup>The permanent authorization of work performed under ECDP Nos. 4-11-054-G and 4-12-012-G does not include any elements of work performed under those ECDPs included for removal in the Consent Orders.

Foreclosure

Unfortunately, Dr. Weber passed away in 2013, and Mr. Timothy McAdam, as trustee of the Weber Living Trust, took fee title ownership of the Isaacson Property. Prior to Dr. Weber's passing, Commission staff had been working with Dr. Weber and Respondent in an effort to resolve this matter through consent orders. Although progress was made in working towards resolving the violation, agreement was not reached prior to Dr. Weber's passing. After Dr. Weber's passing, it took several months to even discover the identification of and to locate the trustee of the Weber Living Trust. Once Mr. Timothy McAdam was identified as that person, Commission staff began attempts to work with Respondent and the Trustee to resolve this matter amicably. However, the Trustee became increasingly difficult to contact and was unwilling to continue discussions to resolve the matter through a Consent Order. While the Trustee was unwilling to resolve the matter, Respondent continued to be willing to resolve his liabilities and work with Commission staff throughout this process (Exhibit 12).

Then, on February 26, 2015, a Notice of Default was recorded against the Isaacson Property<sup>14</sup> and subsequently, on July 22, 2015; the Isaacson Property was put up for auction at a trustee sale. However, because no bids greater than the minimum reserve value were received to purchase the Isaacson Property, Bank of America, N.A. ("BofA"), as the foreclosing entity, became the fee titleholder of the Isaacson Property on July 22, 2015.

Resolution

As detailed above, Commission staff made numerous attempts to resolve this matter with Mr. Weber, the Trustee of the Weber Living Trust and Respondent. Unfortunately, during those prior discussions, an agreement for resolution of this matter with those parties was never reached. Shortly after BofA took ownership of the Isaacson Property from the Weber Living Trust, in November 9, 2015, Respondent purchased the Isaacson Property from BofA. Since the time of acquisition, and even before, Respondent has worked cooperatively with Commission staff to amicably reach this resolution that will resolve Respondent's liabilities, both as the owner of the Isaacson Property and as one of the entities that undertook the Unpermitted Development,<sup>15</sup> and on February 19 2015, Respondent agreed to and signed the Consent Orders, which are being presented to the Commission for approval today.

**D. BASIS FOR ISSUANCE OF ORDERS**

## 1) STATUTORY PROVISIONS

(a) Consent Cease and Desist Order


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<sup>14</sup> Recorded as Instrument No. 05-1003565 in the Office of the Recorder of Los Angeles County

<sup>15</sup> Although Respondent is now the fee titleholder of the Isaacson Property, this resolution of Respondent's liabilities through these Consent Orders, does not extinguish the liabilities attached to other named parties in the March 4, 2010 NOI.

The statutory authority for issuance of Cease and Desist Orders is provided in Section 30810 of the Coastal Act, which states, in relevant part:

*(a) If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist...*

*(b) The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material...*

(b) Consent Restoration Order

The statutory authority for issuance of Restoration Orders is provided in Section 30811 of the Coastal Act, which states, in relevant part:

*In addition to any other authority to order restoration, the commission... may, after a public hearing, order restoration of a site if it finds that [1] the development has occurred without a coastal development permit from the commission, ...[2] the development is inconsistent with this division, and [3] the development is causing continuing resource damage.*

2) FACTUAL SUPPORT FOR STATUTORY ELEMENTS

The following pages set forth the basis for the issuance of these Consent Orders by providing substantial evidence that the Unpermitted Development meets all of the required grounds listed in Coastal Act Sections 30810 and 30811 for the Commission to issue a Cease and Desist Order and a Restoration Order.

(a) Development has occurred without a Coastal Development Permit

The Properties are located in the Santa Monica Mountains area of unincorporated Los Angeles County, within the Coastal Zone. Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the Coastal Zone must obtain a coastal development permit. "Development" is broadly defined by Section 30106 of the Coastal Act in relevant part as follows:

*"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land...change in the intensity of use of water, or of access thereto...and the removal or harvesting of major vegetation other than for agricultural purposes...*

The Santa Monica Mountains LCP was effectively certified by the Commission on October 10, 2014. After an LCP is certified by the Commission, authority to review CDP applications for new development within the portion of the coastal zone covered by the LCP rests with the locality, with the Commission retaining limited appellate jurisdiction over those decisions and limited enforcement authority. The Properties are located within the certified LCP jurisdiction of the Santa Monica Mountains in unincorporated Los Angeles County. In this case, however, the Commission retains enforcement jurisdiction over this matter in its entirety because the violations involved development that, at the time it occurred, required a permit from the Commission, and none was obtained. Thus, a CDP was required “from the commission,” as stated in section 30810. The Commission therefore has jurisdiction to issue cease and desist and restoration orders to address these violations pursuant to Section 30810(a)(1) of the Coastal Act. Moreover, many of the violations at issue herein are also violations of a prior CDP (CDP No. 4-08-012) issued by the Commission, itself.

Unpermitted Development occurred on the Properties without a CDP and/or in violation of the Permit. These activities constitute “Development” as defined by Coastal Act section 30106.

The actions that occurred on the Properties clearly constitute “development” within the meaning of the above-quoted definition and therefore those actions are subject to the permit requirements of Section 30600(a) of the Coastal Act. The Unpermitted Development was not exempt from permitting requirements, required a CDP from the Commission, and was in direct violation of the Permit. Commission staff has confirmed that no CDP was issued for the development and the development was conducted in violation of the Permit. Therefore, the criterion for issuance of the Consent Cease and Desist Order has been met, and the first of three criteria necessary to support the Commission’s issuance of the Consent Restoration Order has also been met.

**(b) The Unpermitted Development is not Consistent with the Coastal Act**

The Coastal Act includes policies to protect, maintain, enhance and restore the quality of coastal resources within the coastal environment. As described below, the Unpermitted Development is inconsistent with multiple resource protection policies of the Coastal Act, including, but not necessarily limited to: Section 30231 (biological productivity and water quality), Section 30240 (environmentally sensitive habitat areas), Section 30251 (scenic and visual qualities), and Section 30253 (hazards/geologic stability), as well as corresponding policies of the certified Santa Monica Mountains LCP.

**Environmentally Sensitive Habitat Areas**

The Unpermitted Development is inconsistent with Coastal Act Section 30240, which requires the protection of Environmentally Sensitive Habitat Areas (“ESHA”). Section 30240 states, in part:

*(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.*

Coastal Act Section 30107.5 defines ESHA 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.*

The Commission has found in multiple, previous CDP reviews and enforcement actions in the Santa Monica Mountains region, through concurrence with the determination of its senior ecologist, Dr. John Dixon, that the “Santa Monica Mountains ecosystem is itself rare and especially valuable because of its special nature as the largest, most pristine, physically complex, and biologically diverse example of a Mediterranean ecosystem in coastal southern California.”<sup>16</sup> The Commission has therefore previously determined that “because of the rare and special nature of the Santa Monica Mountains ecosystem,”<sup>17</sup> the ecosystem roles of large, contiguous, substantially intact areas of specific constituent plant communities are “especially valuable” under the Coastal Act. Contiguous swaths of chaparral are one such plant community that has specifically been found to rise to the level of ESHA in the Santa Monica Mountains<sup>18</sup>.

According to the biological assessment for the site, performed by the contractor for and submitted by the original applicant as a part of the CDP permit application process (CDP No. 4-08-012), a total of nine habitat and land cover types were identified on the Isaacson Property, including Mixed Chaparral (6.41 acres), disturbed Mixed Chaparral (0.10 acres), Chamise Chaparral (0.76 acres), Laurel Sumac Chaparral (1.16 acres), Riparian Scrub (0.24 acres), Coastal Sage Scrub (0.23 acres), Coastal Sage Scrub (grassland) (0.38 acres), and Coast Live Oak Woodland (0.58 acres). Thus, the primary vegetation community present on the Isaacson Property and, since the habitat type is similar if not the same on adjacent properties, the Properties as a whole, are classified as chaparral and coastal sage scrub.<sup>19</sup> Chaparral within the Santa Monica Mountains provides critical linkages among riparian corridors, provides essential habitat for species that require several habitat types during the course of their life histories, provides essential habitat for sensitive species, and stabilizes steep slopes and reduces erosion, thereby protecting the water quality of coastal streams and drainages. The Commission has found that “because of its important roles in the functioning of the Santa Monica Mountains Mediterranean ecosystem and its extreme vulnerability to development, chaparral within the Santa Monica Mountains meets the definition of ESHA under the Coastal Act.”<sup>20</sup>

Additionally, the site was surveyed for special-status wildlife.<sup>21</sup> Two special-status wildlife species were observed onsite, or immediately adjacent to the parcel, including the San Diego Desert Woodrat (*Neotoma lepida* ssp. *intermedia*) and the Peninsular Shoulderband Snail

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<sup>16</sup> John Dixon, Ph.D., “Designation of ESHA in the Santa Monica Mountains,” (March 25, 2003), p. 5-6.

<sup>17</sup> Id. at 6.

<sup>18</sup> Under the Santa Monica Mountains LCP, the Properties are designated as a Sensitive Environmental Resource Area (“SERA”), an equivalent designation to ESHA

<sup>19</sup> A map of these habitats on the site was prepared by the biological consultant (Figure 5 on Page 14 of the February 2008 Magney Report).

<sup>20</sup> John Dixon, Ph.D., “Designation of ESHA in the Santa Monica Mountains,” (March 25, 2003), p. 17.

<sup>21</sup> David Magney Environmental Consulting, January 9, 2008.

(*Helminthoglypta traskii* ssp. *intermedia*). San Diego Desert Woodrat occurs in coastal scrub in Southern California from San Diego to San Luis Obispo County. It prefers moderate to dense canopies, and is particularly abundant in rock outcrops and rocky cliffs and slopes. Peninsular Shoulderband Snail occurs in chaparral and coastal sage scrub in coastal Southern California.

Commission staff has visited the Properties and confirmed that the native habitat on the Properties, including the areas of the removed habitat, is entirely ESHA. The area contains contiguous areas of chaparral and this type of chaparral within the Santa Monica Mountains meets ESHA criteria pursuant to Section 30107.5 of the Coastal Act. Accordingly, when the Permit was before the Commission, the Commission found that the habitat on the Isaacson Property met the definition of ESHA in the Coastal Act.

The Unpermitted Development, directly and indirectly, eliminated mature vegetation that served as food, foraging habitat, and shelter for many species of native animals, eliminated and disturbed numerous physical and biological habitat services and functions, and left the cleared and graded area vulnerable to the negative impacts associated with erosion. Therefore, the Unpermitted Development resulted in the significant disruption of ESHA by physically removing and having the effect of removing (through being buried by several feet of landslide debris), the native vegetation. Section 30240 of the Coastal Act requires that only uses dependent on the resource be allowed in ESHA. However the Unpermitted Development clearly does not constitute a resource-dependent use. Furthermore, the Unpermitted Development also impacted areas adjacent to the cleared and graded areas by creating erosion leading to the potential deposition of sediment into tributaries to Carbon Canyon Creek. Therefore, the Unpermitted Development has resulted in impacts to ESHA and has significantly disrupted habitat values on the site, inconsistent with Coastal Act Section 30240 regarding the protection of sensitive habitat<sup>22</sup>.

### **Water Quality**

The Unpermitted Development is inconsistent with Section 30231 of the Coastal Act, which states:

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

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<sup>22</sup> The restoration work performed under ECDP Nos. 4-11-054-G and 4-12-012-G was an essential step towards full restoration of the native chaparral habitat. This restoration work provided added benefits in the prevention of additional erosion and an increase in the geologic stability of the Properties, which also served to limit the potential for increased resource damages. Therefore, ECDP Nos. 4-11-054-G and 4-12-012-G are consistent with Coastal Act Section 30240 regarding the protection of sensitive habitat.

The Unpermitted Development had potential adverse impacts to coastal water quality because changes, such as the removal of native vegetation, resulted in increased runoff and erosion, and the potential for increased sedimentation of streams.

The unpermitted removal of native chaparral vegetation from the Isaacson Property and privately-owned, neighboring properties (APNs 4453-004-026, 4453-004-038, 4453-004-040 and 4453-004-049), has increased the potential for impacts caused by erosion, including increased erosion into a nearby USGS designated intermittent “blue-line” stream, which functions as a tributary of Carbon Canyon Creek. Chaparral is also adapted to control erosion, especially on steep slopes, such as found at the Properties. The root systems of chaparral plants are very deep, extending far below the surface and penetrating the bedrock below<sup>23</sup>, so chaparral vegetation holds the hillsides together and prevents slippage.<sup>24</sup> In addition, the direct soil erosion from precipitation is also greatly reduced by 1) water interception on the leaves and above ground foliage and plant structures, and 2) slowing the runoff of water across the soil surface and providing greater soil infiltration. The deep roots particularly help maintain ecosystem health and soil stability by reducing erosion and, thus, sediment loading of streams and watercourses. Increased sediment loads in streams and coastal waters can increase turbidity, reducing the growth of aquatic plants, and harming benthic organisms by changing the composition of the streambed habitat, and burying invertebrates. These impacts reduce the biological productivity and the quality of coastal waters and reduce optimum populations of marine organisms. Therefore, the Unpermitted Development impacts the biological productivity of the Carbon Canyon Creek watershed, inconsistent with Section 30231 of the Coastal Act<sup>25</sup>.

### **Scenic and Visual Qualities**

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 recreational opportunities in the Santa Monica Mountains encourage millions of people each year to visit the mountains and beaches in the area.<sup>26</sup> Most visitors drive or bike along the

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<sup>23</sup> Helmers, H., J.S. Horton, G. Juhren and J. O’Keefe. 1955. Root systems of some chaparral plants in southern California. *Ecology* 36(4):667-678. Kummerow, J. and W. Jow. 1977. Root systems of chaparral shrubs. *Oecologia* 29:163-177.

<sup>24</sup> Radtke, K. 1983. *Living more safely in the chaparral-urban interface*. General Technical Report PSW-67. U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station, Berkeley, California. 51 pp.

<sup>25</sup> The work performed under ECDP Nos. 4-11-054-G and 4-12-012-G was designed to be a first step towards restoration of the site, which also served to improve water quality. Therefore, ECDP Nos. 4-11-054-G and 4-12-012-G are consistent with Coastal Act Section 30231 and the protection of water quality.

<sup>26</sup> SMM LCP, Conservation and Open Space Element



canyon roads either to access State and National Parks and beaches or as a form of recreation in itself. The Santa Monica Mountains are a highly scenic area and offer expansive views of natural ridgelines, large rock formations, and expansive hillsides covered with vast, contiguous areas of native chaparral, coastal sage scrub, and woodland vegetation. The SMM LCP specifically recognized the scenic character of the views in this portion of the Santa Monica Mountains by designating Rambla Pacifico a “Scenic Route”, including three designated public viewing areas<sup>27</sup>.

The Unpermitted Development impacts the defining visual characteristics of the area – the steep topography and the native vegetation that covers it. The unpermitted grading and landslide altered natural landforms and has resulted in large areas of bare earth. Therefore, the Unpermitted Development is inconsistent with Section 30251 of the Coastal Act<sup>28</sup>.

### **Hazards/Geologic Stability.**

Section 30253 of the Coastal Act states:

*New development shall do all of the following:*

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

The Unpermitted Development is inconsistent with the Permit that was conditioned to set a specific timeframe for when any grading could take place (the period between April 1 and October 31). As discussed above, the Unpermitted Development contributed to an extensive landslide. The Unpermitted Development has not assured the stability of the area and in fact has contributed significantly to geologic instability and erosion, and is therefore inconsistent with Coastal Act Section 30253.

In total, the Unpermitted Development has impacted, and continues to impact the habitat functions of contiguous blocks of chaparral vegetation considered an ESHA, impact the scenic and visual qualities of the area, and negatively contributing to potential erosion and geologic stability, which increases potential impacts to the water quality of a coastal stream. Therefore, the Unpermitted Development is inconsistent with the resource protection policies of the Coastal Act and the analogous sections of the SMM LCP, and thus the second prong for issuance of a restoration order has been met<sup>29</sup>.

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<sup>27</sup> SMM LCP, Conservation and Open Space Element, CO-126

<sup>28</sup> The work performed under ECDP Nos. 4-11-054-G and 4-12-012-G was designed to be a first step towards restoration of the site, which also served to improve visual resources. Therefore, ECDP Nos. 4-11-054-G and 4-12-012-G are consistent with Coastal Act Section 30253 and the protection of scenic and visual resources.

<sup>29</sup> The work performed under ECDP Nos. 4-11-054-G and 4-12-012-G was designed to be a first step towards restoration of the site, which also served to improve the geologic stability of the Property. Therefore, ECDP Nos. 4-

(c) Unpermitted Development is Causing Continuing Resource Damage

The Unpermitted Development is causing “continuing resource damage,” as defined in 14 CCR Section 13190. 14 CCR Section 13190(a) defines the term “resource” as it is used in Section 30811 of the Coastal Act as follows:

*‘Resource’ means any resource that is afforded protection under the policies of Chapter 3 of the Coastal Act, including but not limited to public access, marine and other aquatic resources, environmentally sensitive wildlife habitat, and the visual quality of coastal areas.*

The chaparral habitats, water quality and biological productivity of streams, and stability of the steep slopes on the Properties, and the scenic coastal views present from public viewpoints are afforded protection under Coastal Act Sections 30231, 30240, 30251, and 30253, and are therefore “resources” as defined in Section 13190 (a) of the Commission’s regulations.

The term “damage” in the context of Restoration Order proceedings is defined in Section 14 CCR 13190(b) as follows:

*‘Damage’ means any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development.*

The term “continuing” is defined by 14 CCR Section 13190(c) of the Commission’s regulations as follows:

*‘Continuing’, when used to describe ‘resource damage’, means such damage, which continues to occur as of the date of issuance of the Restoration Order.*

In this case, the resource damages caused by the Unpermitted Development include the reduction in quality and abundance of contiguous blocks of chaparral vegetation, which is ESHA, the increase in potential adverse impacts to water quality, and the alteration of natural landforms, which is not visually compatible with the character of surrounding areas. As of this time, that Unpermitted Development and the results thereof remain on the Properties. This removal of native vegetation continues to impact the coastal resources by displacing the native ecosystem and preventing it from functioning, thereby disrupting the biological productivity of that ecosystem. Without removing unpermitted development and restoring the impacted areas, the foregoing impacts are continuing. The persistence of these impacts constitutes “continuing” resource damage, as defined in Section 13190(c) of the Commission’s regulations. As a result, the third and final criterion for the Commission’s issuance of the proposed Restoration Order pursuant to Coastal Act Section 30811 is therefore satisfied.

(d) Consent Orders are Consistent with Chapter 3 of the Coastal Act

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11-054-G and 4-12-012-G are consistent with Coastal Act Section 30253 and the minimization of hazards and geologic stability.

These Consent Orders, attached to this staff report as Appendix A, are consistent with the resources protection policies found in Chapter 3 of the Coastal Act. These Consent Orders require and authorize Respondents to, and Respondents has agreed to, among other things, cease and desist from conducting any further unpermitted development on the Properties, remove the physical items that were placed or allowed to come to rest as a result of Unpermitted Development, and restore the areas impacted by the Unpermitted Development through, among other things, undertaking restorative grading, removing non-native vegetation, and planting native vegetation. Further, the Consent Orders require Respondent to, and Respondent has agreed to perform off-site restoration to mitigate for the temporal loss of habitat suffered due to the unpermitted development. Further, the Consent Orders require and authorize Respondent to plant native plant species to be compatible with the surrounding chaparral habitat and to ensure that non-native plant species do not colonize the newly restored site and spread from there to supplant the surrounding native habitat. Failure to revegetate the site would lead to potential invasion of non-native plant species, thus decreasing the biological productivity of this habitat, inconsistent with the resource protection policies of the Coastal Act. The primary function of the native habitat revegetation is the restoration of ESHA; therefore, the proposed use is consistent with the Coastal Act. These Consent Orders also authorize the work performed under the two ECDPs that were necessary to decrease resource damages and reconstruct a segment of Rambla Pacifico that was destroyed by the landslide.

Therefore, the Consent Orders are consistent with the Chapter 3 policies of the Coastal Act, and their issuance is consistent with Coastal Act Section 30810(b).

## **E. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The Commission finds that issuance of these Consent Orders, to compel the removal of the Unpermitted Development and restoration of the property, and implementation of these Consent Orders are exempt from the requirements of the California Environmental Quality Act of 1970 (CEQA), Cal. Pub. Res. Code §§ 21000 *et seq.*, for the following reasons. First, the CEQA statute (section 21084) provides for the identification of “classes of projects that have been determined not to have a significant effect on the environment and that shall be exempt from [CEQA].” The CEQA Guidelines (which, like the Commission’s regulations, are codified in 14 CCR) provide the list of such projects, which are known as “categorical exemptions,” in Article 19 (14 CCR §§ 15300 *et seq.*). Because this is an enforcement action designed to protect, restore, and enhance natural resources and the environment, and because the Commission’s process, as demonstrated above, involves ensuring that the environment is protected throughout the process, three of those exemptions apply here: (1) the one covering actions to assure the restoration or enhancement of natural resources where the regulatory process involves procedures for protection of the environment (14 CCR § 15307); (2) the one covering actions to assure the restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment (14 CCR § 15308); and (3) the one covering enforcement actions by regulatory agencies (14 CCR § 15321).

Secondly, although the CEQA Guidelines provide for exceptions to the application of these categorical exemptions (14 CCR § 15300.2), the Commission finds that none of those exceptions applies here. Section 15300.2(c), in particular, states that:

*A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.*

CEQA defines the phrase “significant effect on the environment” (in Section 21068) to mean “a substantial, or potentially substantial, adverse change in the environment.” These Consent Orders are designed to protect and enhance the environment, and they contain provisions to ensure, and to allow the Executive Director to ensure, that they are implemented in a manner that will protect the environment. Thus, this action will not have any significant effect on the environment, within the meaning of CEQA, and the exception to the categorical exemptions listed in 14 CCR section 15300.2(c) does not apply. An independent but equally sufficient reason why that exception in section 15300.2(c) does not apply is that this case does not involve any “unusual circumstances” within the meaning of that section, in that it has no significant feature that would distinguish it from other activities in the exempt classes listed above. This case is a typical Commission enforcement action to protect and restore the environment and natural resources.

In sum, given the nature of this matter as an enforcement action to protect and restore natural resources and the environment, and since there is no reasonable possibility that it will result in any significant adverse change in the environment, it is categorically exempt from CEQA.

## **F. SUMMARY OF FINDINGS OF FACT**

1. Dean Isaacson is the owner of the property identified by the Los Angeles County Assessor's Office as APN 4453-004-039.
2. Development occurred, as defined by Coastal Act Section 30106, without a coastal development permit or in violation of a coastal development permit on the Isaacson Property.
3. The Unpermitted Development also occurred on four other properties proximate to the Isaacson Property: described as APNs 4453-004-026, 4453-004-038, 4453-004-040, and 4453-004-049.
4. The properties listed in #1 and #3 above are located within the Coastal Zone.
5. The Commission approved CDP No. 4-08-012 with conditions that required, among other things, that all grading on the Properties take place only during the dry season and that installation of temporary erosion control are installed, if grading or site preparation ceased for a period of more than 30 days.
6. The Coastal Commission has jurisdiction over this matter because it involves development that, at the time it occurred, required a permit from the Commission, and none was obtained, or was in violation of a coastal development permit issued by the Commission.
7. The Coastal Commission issued two emergency coastal development permits (ECDP Nos. 4-11-054-G and 4-12-012) to limit the potential for increased resource damages.
8. The ECDPs in #7 required the applicant to obtain follow up authorization under the Coastal Act and none was sought or obtained.
9. The Coastal Commission retains authority to enforce all coastal development permits and emergency coastal development permits issued by the Commission.
10. The Unpermitted Development is inconsistent with Chapter 3 of the Coastal Act, including Sections 30231, 30240, 30251, and 30253, and analogous sections of the SMM LCP.
11. The Unpermitted Development is causing "continuing resource damage" within the meaning of Coastal Act Section 30811 and Title 14, California Code of Regulations, Section 13190.
12. A Notice of Violation was recorded against Respondent's property on March 30, 2010.
13. Respondent obtained ownership of the Isaacson Property with knowledge of the Coastal Act violations on the Isaacson Property.
14. Coastal Act Section 30810 authorizes the Commission to issue a cease and desist order in these circumstances. Coastal Act Section 30811 authorizes the Commission to issue a restoration order in these circumstances.

15. The criteria for issuance of both a Cease and Desist Order and a Restoration Order have been met pursuant to Section 30810 and 30811 of the Coastal Act.
16. The work to be performed under these Consent Orders, if completed in compliance with the Consent Orders and the plans required therein, will be consistent with Chapter 3 of the Coastal Act and is exempt from CEQA, and is therefore being authorized by issuance of these Consent Orders.

**ATTACHMENT A**  
**(CONSENT ORDERS)**

## **CONSENT CEASE AND DESIST ORDER CCC-16-CD-01 AND CONSENT RESTORATION ORDER CCC-16-RO-01**

### **1.0 CONSENT CEASE AND DESIST ORDER CCC-16-CD-01**

Pursuant to its authority under California Public Resources Code (“PRC”) Section 30810, the California Coastal Commission (“Commission”) hereby orders and authorizes Dean R. Isaacson, and all his successors, assigns, employees, agents, contractors, and future owners of the property located at 2053 Rambla Pacifico, identified by the Los Angeles County Assessor’s Office as Assessor’s Parcel Number (“APN”) 4453-004-039 (“Isaacson Property”), and any persons acting in concert with any of the foregoing (hereinafter collectively referred to as “Respondent”) to:

- 1.1 Cease and desist from engaging in any further development, as that term is defined in PRC Section 30106, that would require a Coastal Development Permit (“CDP”) on any of the properties identified in Section 5.3 below (“Properties”), unless authorized pursuant to the Coastal Act (PRC Sections 30000-30900), which includes through these Consent Orders. So long as the terms and conditions of CDP 4-08-012 are complied with in full, these Consent Orders do not affect Respondent’s rights and obligations associated with previously vested and valid CDP 4-08-012.
- 1.2 Remove, pursuant to and consistent with the terms of an approved Removal Plan as set forth in Section 6.3, below, and pursuant to the terms and conditions set forth herein, all physical items placed or allowed to come to rest on the Properties as a result of any Unpermitted Development, including, but not necessarily limited to: fill, sand bags, construction equipment and other materials, non-native vegetation, and other items that are required to be removed pursuant to Section 6.3, below.
  - A. Elements of the CDP Development, as defined in Section 5.5, below, may remain in place subject to the Removal Plan, as detailed in Section 6.3, below.
- 1.3 Fully and completely comply with the terms and conditions set forth below, including the terms and conditions of Consent Restoration Order CCC-16-RO-01, and with the terms and conditions of all CDPs issued for the Properties, including CDP No 4-08-012.

### **2.0 CONSENT RESTORATION ORDER CCC-16-RO-01**

Pursuant to its authority under PRC Section 30811, the Commission hereby orders and authorizes Respondent to restore the Properties by complying with the terms and conditions listed herein, including taking all restorative actions described in Section 6 and performing all mitigation required by Section 7, below, which require restoring disturbed and maintaining existing chaparral and other native habitats.



## **PROVISIONS COMMON TO BOTH ORDERS**

### **3.0 PERSONS SUBJECT TO THESE CONSENT ORDERS**

In his sole capacity as the property owner, Dean R. Isaacson, all of his successors, assigns, employees, agents, contractors, and anyone acting in concert with any of the foregoing, are jointly and severally subject to all requirements of these Consent Orders. Respondent agrees to undertake the work required herein and agrees to cause his employees, agents, and any contractors performing any of the work required herein, any persons acting in concert with any of these entities, to comply with the terms and conditions of these Consent Orders. Respondent shall provide notice to all successors, assigns, and potential purchasers of the Isaacson Property of any remaining restrictions or obligations under these Consent Orders.

### **4.0 NATURE OF ORDERS AND OF CONSENT**

- 4.1 Through the execution of Consent Cease and Desist Order CCC-16-CD-01 and Consent Restoration Order CCC-16-RO-01 (hereinafter collectively referred to as “Consent Orders”), Respondent agrees to comply with the terms and conditions of these Consent Orders. These Consent Orders order and authorize the removal, restoration, and mitigation activities, among other things, outlined in these Consent Orders. Nothing in these Consent Orders guarantees or conveys any right to development on the Properties other than the work expressly authorized by these Consent Orders. Any development subject to Coastal Act permitting requirements that is not specifically authorized under these Consent Orders requires a CDP. Through the execution of these Consent Orders, Respondent agrees to comply with these Consent Orders, including the following terms and conditions.
- 4.2 Respondent further agrees to condition any contracts for work related to these Consent Orders upon an agreement that any and all employees, agents, contractors, and any persons acting in concert with any of the foregoing, adhere to and comply with the terms and conditions set forth herein.
- 4.3 Pursuant to condition of approval 5 of Emergency CDP No. 4-12-012-G, by issuance of these Consent Orders, the work that was performed under Emergency CDP Nos. 4-11-054-G and 4-12-012-G is hereby permanently authorized.

### **5.0 DEFINITIONS**

- 5.1 “Consent Orders”

Refers collectively to Coastal Commission Cease and Desist Order CCC-16-CD-01 and Restoration Order CCC-16-RO-01.

## 5.2 “Unpermitted Development”

“Unpermitted Development” means all “development,” as that term is defined in the Coastal Act (PRC Section 30106), that: 1) has occurred on the Properties and required authorization pursuant to the Coastal Act, but for which no such authorization was obtained; and/or 2) is inconsistent with the requirements of CDP No. 4-08-012, 4-11-054-G, and 4-12-012-G. This specifically includes, but is not necessarily limited to : grading; grading that occurred during a period of time explicitly prohibited by Special Condition No. 2.B of CDP No. 4-08-012; development associated with the failure to install erosion control measures as required by Special Condition 2.B.3 of CDP No. 4-08-012; placement of fill, sand bags, construction equipment and or materials; unpermitted removal of Major Vegetation, including vegetation within an environmentally sensitive habitat area; and failure to obtain a CDP to permanently authorize the work that was temporarily approved under Emergency CDP Nos. 4-11-054-G and 4-12-012-G.

## 5.3 “Properties”

The properties that are the subject of these Consent Orders are described as follows: 1) 2053 Rambla Pacifico, unincorporated Los Angeles County, California, APN 4453-004-039; 2) the adjacent property described as APN 4453-004-026; 3) the adjacent property described as APN 4453-004-038; 4) the adjacent property described as APN 4453-004-040; 5) and the property described as APN 4438-004-049.

## 5.4 “Restoration Area”

Refers to all areas of the Properties that have been impacted by the Unpermitted Development, as well as any areas that may be impacted during the course of the activities required by these Consent Orders, including areas covered by the removal of CDP Development, and all areas that were graded and/or disturbed pursuant to Emergency CDP Nos. 4-11-054-G and 4-12-012-G.

## 5.5 “CDP Development”

Refers to the elements of development on the Isaacson Property constructed according to and/or authorized by CDP No. 4-08-012 that remain in place on the Isaacson Property.

# 6.0 RESTORATION PLAN

These Consent Orders require the preparation and implementation of a Removal Plan, Remedial Grading Plan, Temporary Erosion Control Plan, Revegetation Plan, and Monitoring Plan (hereinafter collectively referred to as “the Restoration Plan”), and Mitigation Plan as described in Section 7.0. The Restoration Plan shall set forth the measures that Respondent shall undertake

to remove the unpermitted items subject to these Consent Orders, and conduct, where necessary, remedial grading, install temporary erosion control measures, revegetate the Restoration Area, and monitor the restoration area to ensure the success of restoration activities.

#### 6.1 General Provisions

A. Within 60 days of the effective date of these Consent Orders, Respondent shall submit, for review and approval of the Chief of Enforcement or the Deputy Chief of Enforcement, the Restoration Plan.

B. The Restoration Plan shall contain the following plan components of restoration, described in detail below: (1) Erosion Control, (2) Remedial Grading, (3) Removal, (4) Revegetation, and (5) Monitoring. The Restoration Plan shall outline all proposed erosion control, remedial grading, removal, revegetation, and monitoring activities to address impacts caused by the Unpermitted Development or potential impacts caused by any activities undertaken through these Consent Orders

C. The Restoration Plan, and any reports prepared pursuant to the Restoration Plan or these Consent Orders, shall be prepared by a qualified restoration, ecologist(s), resource specialist(s), a licensed geotechnical engineer(s) or other qualified professional(s) ("Specialist"). Within 30 days of the effective date of these Consent Orders and prior to submittal of the Restoration Plan, Respondent shall submit, for the Chief of Enforcement or the Deputy Chief of Enforcement's review and approval, the qualifications of the proposed Specialist, including a description of the Specialist's educational background, training, and experience related to preparation and implementation of the Restoration Plan described herein. To meet the requirements to be a qualified Specialist for this project, one must have experience successfully completing restoration and revegetation (using southern California native plant species) of chaparral habitats, preferably in the Santa Monica Mountains region of Los Angeles County. If the Chief of Enforcement or the Deputy Chief of Enforcement determines that the qualifications of the Specialist are not adequate to conduct the required restoration work, the Chief of Enforcement or the Deputy Chief of Enforcement shall notify Respondent and, within 10 days of such notification, Respondent shall submit a different Specialist for the Chief of Enforcement or the Deputy Chief of Enforcement's review and approval.

D. The Restoration Plan shall include a map(s), drawn to scale, that shows the specific parameters, locations, and extents of: 1) all applicable property boundaries; 2) the physical items placed or allowed to come to rest on the Properties, including landslide debris, as a result of Unpermitted Development and development discussed in Section 6.3.B, below, that are to be removed under Section 6.3, below; 3) the areas of native vegetation removal that shall be removed from and adjacent to the Restoration Area; 4) the locations of all species, individually delineated and labeled, to be planted pursuant to Section 6.5.D,

below; and 5) the specific locations and directions from which photographs will be taken for the annual monitoring reports pursuant to Section 6.6, below.

E. The Restoration Plan shall provide that, prior to initiation of any restoration activities, the boundaries of the Restoration Area shall be physically delineated in the field, using temporary measures such as fencing, stakes, colored flags, or colored tape. The Restoration Plan shall state further that all delineation materials shall be removed when no longer needed, and verification of such removal shall be provided in the annual monitoring report corresponding to the reporting period during which the removal occurred.

F. The Restoration Plan shall include a schedule/timeline of activities, the procedures to be used, and identification of the parties who will be conducting the restoration activities. The schedule/timeline of activities in the Restoration Plan shall be in accordance with the deadlines in these Consent Orders.

G. The Restoration Plan shall describe in detail all equipment to be used. All tools utilized shall be hand tools unless the Specialist demonstrates to the satisfaction of the Chief of Enforcement or the Deputy Chief of Enforcement that mechanized equipment is needed and will not impact resources protected under the Coastal Act, including but not limited to: geological stability, integrity of landforms, freedom from erosion, and the existing native vegetation. If mechanized equipment is proposed, the Restoration Plan shall provide for:

1. Limitations on the hours of operations for all equipment and a contingency plan that addresses at a minimum: 1) impacts from equipment use, including disturbance of areas where revegetation and/or mitigation will occur, and the responses thereto; 2) potential spills of fuel or other hazardous releases that may result from the use of mechanized equipment and the responses thereto; and 3) any potential water quality impacts.

2. Designated areas for staging of construction equipment and materials, including receptacles and temporary stockpiles of materials. All stock piles and construction materials shall be covered, enclosed on all sides, located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil. 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 wind or runoff erosion and dispersion.

3. Designated and confined areas for maintaining and washing machinery and equipment specifically designed to control runoff. Thinners or solvents shall not be discharged anywhere on the Properties, including into sanitary or storm sewer systems. The discharge of hazardous materials into any receiving waters is prohibited.

## 6.2 Temporary Erosion Control Plan

A. Respondent shall submit, as part of the Restoration Plan, a Temporary Erosion Control Plan, prepared by a qualified Specialist approved pursuant to Section 6.1.C, above, to address ground disturbance during any construction or restoration activities and erosion during the establishment of any vegetation planted pursuant to Section 6.5, below, and to stabilize the soil and prevent erosion. Within 15 days of the effective date of these Consent Orders, Respondent may submit a Temporary Erosion Control Plan, separate from the Restoration Plan, to address the potential for an immediate need for protection of the Restoration Area during the current rainy season. This Temporary Erosion Control Plan shall contain a combination of removal, restoration, and erosion control measures necessary to prevent further resource damage during the rainy season and through the duration of the implementation of the Restoration Plan. Any work requested during this interim step and approved under these Consent Orders shall be incorporated into the Restoration Plan.

B. The Temporary Erosion Control Plan shall: 1) include a narrative report describing all temporary run-off and erosion control measures to be used during remedial grading/removal/restoration activities; 2) identify and delineate on a site or grading plan the location of all temporary erosion control measures; and 3) specify that the remedial grading, removal work, and construction of erosion control features shall take place only during the “dry” season (April 1 – November 1). If recommended by the Specialist, this period may be extended for a limited period of time pursuant to Section 14.0, below.

C. The Temporary Erosion Control Plan shall indicate that all erosion control measures are required to be installed and fully functional on the Restoration Area prior to, or concurrent with, the initial removal activities required by these Consent Orders and maintained at all times of the year throughout the removal, remedial grading, and revegetation process, to minimize erosion across the site and potential sedimentation of streams, drains, and/or culverts.

D. The Temporary Erosion Control Plan shall indicate that all erosion control measures, including measures to encase filtering devices, shall be comprised of bio-degradable materials. Any soil stabilizers shall be compatible with native plant recruitment and establishment. Soil stabilization methods shall not include the placement of retaining walls or other permanent structures, grout, geogrid, or similar materials.

E. The Temporary Erosion Control Plan shall indicate that all erosion control measures are temporary and will be removed from the Restoration Area by Respondent once the native plant habitat is established. Verification of such removal shall be provided in the annual monitoring report for the reporting period during which time the removal occurred.

F. The Temporary Erosion Control Plan shall include the following deadlines:

1. Within 15 days of approval of the Restoration Plan, or the Temporary Erosion Control Plan if submitted separate from the Restoration Plan, by the Chief of Enforcement or the Deputy Chief of Enforcement, Respondent shall commence implementation of the Temporary Erosion Control Plan.
2. Within 30 days of commencing installation activities under the Temporary Erosion Control Plan, Respondent shall conclude installation, unless such measures must be installed after completion of the removal activities pursuant to Section 6.3, below, in which case Respondent shall conclude installation of any such measures immediately after removal activities are completed.
3. Within 15 days of the completion of the installation of erosion control measures under the Temporary Erosion Control Plan, Respondent shall submit evidence in the form of a narrative report, for the Chief of Enforcement or the Deputy Chief of Enforcement's review and approval, as described in Section 6.6.D below. The Temporary Erosion Control Plan Report shall also show the devices installed, the type of devices installed, and document their potential impacts on the Restoration Area.

### 6.3 Removal Plan

A. Respondent shall submit, as part of the Restoration Plan, a Removal Plan, prepared by a qualified Specialist approved pursuant to Section 6.1.C, that will describe, in detail, all measures to be used for the removal and off-site disposal of all physical items that were placed or that have come to rest on the Properties as a result of the Unpermitted Development and CDP Development and are required to be removed pursuant to these Consent Orders.

B. The Removal Plan shall include a description of the location, identity, and a proposed plan for the removal of all physical items or vegetation resulting from Unpermitted Development and CDP Development to be removed from the Properties, including all of the items specifically identified in Sections 5.2 and 5.5, above.

1. If the Specialist determines that any elements of the CDP Development persist in a condition such that the elements of the CDP Development can and will be incorporated into the development as authorized under CDP 4-08-012, those elements of the CDP Development are not required to be removed pursuant to this section. The Removal Plan must include details sufficient to establish that the CDP Development is in sufficient condition to be incorporated into the development as authorized

by CDP 4-08-012. All elements of the CDP Development that are not in such a condition that they can be incorporated into the development as authorized by CDP 4-08-012 must be removed and shall be included in the Removal Plan.

C. The Removal Plan shall identify the location of the site(s) for the off-site disposal of all materials removed from the Properties and all waste generated during restoration activities pursuant to these Consent Orders. If a disposal site is located in the Coastal Zone and is not an existing sanitary landfill, a CDP is required for such disposal. All hazardous waste must be disposed of at a suitable licensed disposal facility.

D. The Removal Plan shall indicate that removal activities shall not disturb areas outside of the Restoration Area. The Removal Plan shall indicate that any areas in or outside of the Restoration Area disturbed by the removal activities under the Removal Plan shall be included in restoration activities under this Restoration Plan, including any further removal, temporary erosion control, remedial grading, and/or revegetation measures that are required to address the additional disturbance.

E. The Removal Plan shall include the following deadlines:

1. Within 15 days of approval of the Restoration Plan by the Chief of Enforcement or the Deputy Chief of Enforcement, Respondent shall initiate removal of the physical items related to the Unpermitted Development and CDP Development.

2. Within 30 days from the implementation of the Removal Plan, all removal activities shall be completed.

3. Within 15 days of the completion of the removal of all unpermitted items, Respondent shall submit evidence, for the Chief of Enforcement or the Deputy Chief of Enforcement's review and approval, in the form of a narrative report as described in Section 6.6.D, below, demonstrating that the removal has been completed pursuant to these Consent Orders and the approved Restoration Plan.

#### 6.4 Remedial Grading Plan

A. Respondent shall submit, as part of the Restoration Plan, a Remedial Grading Plan prepared by a qualified Specialist approved pursuant to Section 6.1.C above, that will describe all measures necessary to return the Properties to their pre-violation topography.

B. The Remedial Grading Plan shall include sections showing original and finished grades, and a quantitative breakdown of grading amounts (cut/fill), drawn

to scale with contours that clearly illustrate, as accurately as possible, the pre-development violation and the current, unpermitted topography. The Remedial Grading Plan shall demonstrate how the proposed remedial grading will restore the Properties to their original, pre-violation topography. The Remedial Grading Plan shall identify the source and date of all data used to produce this information.

C. The Remedial Grading Plan shall indicate that the proposed remedial grading shall as closely as possible restore the Properties to the condition that existed prior to any unpermitted disturbance and that will be sufficient to support restoration of chaparral and other native habitat.

D. If the Specialist determines that alterations to the original topography, or to any other aspect of the Properties from its pre-violation state, are necessary to ensure successful restoration of the habitat, the Remedial Grading Plan shall include this proposed topography or a description of the aspects that are proposed to be changed and the methods that shall be used to attain the modified outcome.

E. Implementation of the Restorative Grading Plan shall be undertaken in a way that minimizes the impacts to the Restoration Area. Areas adjacent to the Restoration Area shall not be disturbed by activities related to remedial grading or any other activity required by these Consent Orders. Prior to initiation of any activities resulting in physical alteration of the Properties, the disturbance boundary shall be physically delineated in the field using temporary measures identified in Section 6.1.E, above.

F. Respondent may submit a report prepared by the Specialist for review and approval of the Chief of Enforcement or the Deputy Chief of Enforcement that shows pre-violation and current topography as described in 6.4.B, above, to demonstrate that no further remedial grading, other than that authorized through these Consent Orders as performed under Emergency CDP Nos. 4-11-054-G and 4-12-012-G, is needed. The Chief of Enforcement or the Deputy Chief of Enforcement may then determine that no remedial grading plan is required to be submitted pursuant to these Consent Orders.

G. The Remedial Grading Plan shall include the following deadlines:

1. Within 15 days of completing implementation of the Removal Plan, Respondent shall commence implementation of the Remedial Grading Plan.
2. Within 30 days of commencing implementation of the remedial grading activities, Respondent shall complete implementation of the Remedial Grading Plan.
3. Within 15 days of the completion of the Remedial Grading Plan, Respondent shall submit evidence, for the Chief of Enforcement or the



Deputy Chief of Enforcement's review and approval, in the form of a narrative report with supporting photographs, showing that the remedial grading has been completed pursuant to the approved Restoration Plan. The narrative report will include any reference sites, case studies, or other data that was used in the analysis; and, if applicable, provide reasons for altering the topography from the original contours or changing any other aspect of the pre-violation topography conditions of the Properties.

#### 6.5 Revegetation Plan

A. Respondent shall submit, as part of the Restoration Plan, a Revegetation Plan prepared by a qualified Specialist approved pursuant to Section 6.1.C, above, that will describe the measures necessary to revegetate the Restoration Area such that the Restoration Area has a similar plant density, total cover, and species composition as that is typical of undisturbed chaparral (or other native habitat found in the reference site, pursuant to Section 6.5.C) in the surrounding area.

B. The Revegetation Plan shall include a detailed description of the methods that shall be utilized to restore the Restoration Area to the condition that existed prior to the Unpermitted Development occurring. The Revegetation Plan shall include detailed descriptions, including graphic representations, narrative reports, and photographic evidence, as necessary, of the vegetation in the Restoration Area prior to any unpermitted development activities undertaken on the Properties, and the present state of the Restoration Area. The Revegetation Plan shall demonstrate that the Restoration Area will be revegetated using plant species endemic to and appropriate for the subject site.

C. The Revegetation Plan shall identify the natural habitat type that is the model for the restoration and describe the desired relative abundance of particular species in each vegetation layer. This section shall explicitly lay out the restoration goals and objectives for revegetation based on that model. The Revegetation Plan shall be based on a Reference Site ("Reference Site") which will be used as a model or goal for restoration. The Reference Site(s) shall be undisturbed and may be located on-site or, if such a site is not present, in the general vicinity of the Property, and shall include coastal sage scrub and southern maritime chaparral habitats. The Revegetation Plan shall include a detailed description of reference site(s), including rationale for selection, location, and species compositions, distributions, and densities. The reference site(s) shall be located as close as possible to the Restoration Area, shall be similar in all relevant respects, and shall serve as the standard for measuring success of restoration activities under these Consent Orders.

1. Based on these goals and the composition of the reference site(s), the Revegetation Plan shall list the species to be planted, including other native species that may be utilized alongside chaparral and other native habitat endemic to and appropriate for the Restoration Area. The plan

shall identify, describe, and provide a rationale for the species that are to be planted (plant “palette”), as well as their size and number, the number of container plants, and the rate and method of seed application.

2. The Revegetation Plan shall indicate that plant propagules and seeds must come from local, native stock of the Santa Monica Mountains. If plants, cuttings, or seeds are obtained from a nursery, the nursery must certify that they are of local origin (Santa Monica Mountains) and are not cultivars. The Revegetation Plan shall provide specifications for preparation of nursery stock. Technical details of planting methods (e.g. spacing, micorrhyzal inoculation, etc.) shall be included. Respondent shall not employ non-native plant species, which could supplant native plant species in the Restoration Area.

D. The Revegetation Plan shall include a map showing the type, size, and location of all plant materials that will be planted in the Restoration Area; the location of all non-native plants to be removed from the Restoration Area; the topography of all other landscape features on the site; and the location of photographs of the Restoration Areas that will provide reliable photographic evidence for annual monitoring reports, as described in Section 6.6.D, below.

E. The Revegetation Plan shall include, for the review and approval of the Chief of Enforcement or the Deputy Chief of Enforcement a schedule, consistent with the deadlines listed in these Consent Orders, prepared by the Specialist, for installation of plants, removal of non-native plants, and completion of revegetation on the Properties.

1. The revegetation schedule shall include specific time periods and deadlines, including identifiable interim goals, for planting, other revegetation activities, and additional non-native species removal work spread out over the time period established in this section.

F. The Revegetation Plan shall include a detailed explanation of the performance standards that will be utilized to determine the success of the restoration. The performance standards shall identify that ‘x’ native species appropriate to the habitat should be present, each with at least ‘y’ percent cover or with a density of at least ‘z’ individuals per square meter. The description of restoration success shall be described in sufficient detail to enable an independent specialist to duplicate it.

G. The Revegetation Plan shall demonstrate that all non-native vegetation within the Restoration Area will be eradicated prior to any revegetation activities on the Properties. In addition, the Revegetation Plan shall specify that non-native vegetation removal shall occur year round, including on a monthly basis during the rainy season (November through April) for the duration of the Monitoring Plan described in Section 6.6.

H. The Revegetation Plan shall describe the proposed use of artificial inputs, such as irrigation, fertilizer or herbicides, including the full range of amounts of the inputs that may be utilized. The minimum amount necessary to support the establishment of the plantings for successful restoration shall be utilized.

1. No prerequisite permanent irrigation system is allowed in the Restoration Area. A temporary, above-ground irrigation system to provide for the establishment of plantings is allowed for a maximum of 3 year or until the revegetation has become established, whichever comes first.

2. If, after the 3 year time limit, the vegetation planted pursuant to the Revegetation Plan has not become established, the Chief of Enforcement or the Deputy Chief of Enforcement may, upon receipt of a written request from Respondent, allow for the continued use of the temporary irrigation system. The written request shall outline the need for and duration of the proposed extension.

I. The Revegetation Plan shall include the following deadlines:

1. Within 60 days of approval of the Restoration Plan by the Chief of Enforcement or the Deputy Chief of Enforcement, Respondent shall commence initial phases of revegetation activities by implementing the Revegetation Plan.

2. Within 30 days of commencing implementation of activities under the Revegetation Plan, Respondent shall complete implementation of all planting activities under the Revegetation Plan.

3. Within 15 days of the completion of all revegetation activities, Respondent shall submit evidence, for the Chief of Enforcement or the Deputy Chief of Enforcement's review and approval, in the form of a narrative report as described in Section 6.6.D, below, demonstrating that the revegetation has been completed pursuant to these Consent Orders and the approved Restoration Plan.

4. If the Specialist recommends planting to occur at a certain time of year beyond deadlines set forth herein, the Chief of Enforcement or the Deputy Chief of Enforcement may, at the written request of Respondent, extend the deadlines as set forth in Section 14.0 of these Consent Orders in order to achieve optimal growth of the vegetation.

#### 6.6 Monitoring Plan

A. Respondent shall submit, as part of the Restoration Plan, a Monitoring Plan prepared by a qualified Specialist approved pursuant to Section 6.1.C, above,

that will provide for monitoring the Restoration Area over a period of, at a minimum, 5 years from the completion and full implementation of the Revegetation Plan to ensure successful restoration.

B. The Monitoring Plan shall describe the monitoring and maintenance methodology, including sampling procedures, sampling frequency, and contingency plans to address potential problems with restoration activities or unsuccessful restoration of the Properties.

C. The Monitoring Plan shall specify that the Specialist shall conduct at least 4 site visits annually for the duration of the monitoring period, for the purposes of inspecting and maintaining: all erosion control measures; non-native species eradication; trash and debris removal; the health and abundance of existing vegetation and/or vegetation planted pursuant to these Consent Orders; and any other activities undertaken through the Restoration Plan.

D. Respondent shall submit, on an annual basis and during the same one-month period of each year (no later than December 31st of the first year after completion of the revegetation), for 5 years starting from the completion of the revegetation phase of the Restoration Plan, a written report, for the review and approval of the Chief of Enforcement or the Deputy Chief of Enforcement, prepared by the Specialist, evaluating compliance with the Restoration Plan.

1. These reports shall include photographs taken during the periodic site inspections at the same time of year indicating the progress of recovery in the Restoration Area. The photographs will be taken from the same pre-designated locations (as identified on the map submitted pursuant to Section 6.1.D, above). The locations from which the photographs are taken shall not change over the course of the monitoring period unless the Specialist requests changes that are approved by the Chief of Enforcement or the Deputy Chief of Enforcement.

E. If periodic inspections or the monitoring reports indicate that the restoration project or a portion thereof is not in conformance with the Restoration Plan or these Consent Orders, or is failing to meet the goals and/or performance standards specified in the Restoration Plan, Respondent shall submit a revised or supplemental Restoration Plan ("Revised Restoration Plan") for review and approval of the Chief of Enforcement or the Deputy Chief of Enforcement.

1. The Revised Restoration Plan shall be prepared by a qualified Specialist, approved by the Chief of Enforcement or the Deputy Chief of Enforcement pursuant to Section 6.1.C, above, and shall specify measures to correct those portions of the restoration that have failed or are not in conformance with the original, approved Restoration Plan or these Consent Orders. The Chief of Enforcement or the Deputy Chief of Enforcement will then determine whether the Revised Restoration Plan

must be processed as a modification of these Consent Orders, a new Restoration Order, or a new or amended Coastal Development Permit.

2. After the Revised Restoration Plan has been approved, these measures, and any subsequent measures necessary to carry out the original, approved Restoration Plan, shall be undertaken by Respondent until the goals of the original, approved Restoration Plan have been met to the satisfaction of the Chief of Enforcement or the Deputy Chief of Enforcement. Following completion of the Revised Restoration Plan's implementation, the duration of the monitoring period shall be extended for at least a period of time equal to that during which the project remained out of compliance, but in no case less than 2 annual reporting periods.

F. At the end of the 5 year monitoring period, or any other monitoring duration required by a Revised Restoration Plan, Respondent shall submit, for the review and approval of the Chief of Enforcement or the Deputy Chief of Enforcement, a final, detailed report prepared by the Specialist that documents the successful restoration of the Properties.

1. If the Chief of Enforcement or the Deputy Chief of Enforcement determines from this final report that the restoration has in part, or in whole, been unsuccessful, based on the requirements of the approved Restoration Plan, Respondent shall submit a Revised Restoration Plan, in accordance with the requirements of these Consent Orders, and the monitoring program shall be revised accordingly.

#### 6.7 Implementation and Completion of Restoration Plan

A. Upon approval of the Restoration Plan (including the Removal, Revegetation, and Monitoring plan components) by the Chief of Enforcement or the Deputy Chief of Enforcement, Respondent shall fully implement each phase of the Restoration Plan consistent with all of its terms and the terms set forth herein. Respondent shall complete all work described in the Restoration Plan, other than the monitoring activities required by Section 6.6, no later than 105 days from approval of the Restoration Plan. If Section 6.6.F.1, above, requires Respondent to complete a Revised Restoration Plan, Respondent shall also implement the approved version of that Revised Restoration Plan and complete that work within 90 days of approval of that plan.

B. Within 15 days of the completion of all the work described pursuant to the Restoration Plan, Respondent shall submit a written report, prepared by the Specialist, for the review and approval of the Chief of Enforcement or the Deputy Chief of Enforcement, documenting all restoration work performed on the Properties pursuant to the Restoration Plan. This report shall include a summary of dates when work was performed and photographs taken from the pre-

designated locations documenting implementation of the respective components of the Restoration Plan, including photographs of the Properties before any work occurs and after it is completed.

## **7.0 MITIGATION PLAN**

A. Within 75 days of the effective date of these Consent Orders, Respondent shall submit, for review and approval of the Chief of Enforcement or the Deputy Chief of Enforcement, a plan to mitigate for the temporal loss of native habitat on the Properties caused by the Unpermitted Development (“Mitigation Plan”). The Mitigation Plan shall be implemented consistent with all the terms of the Restoration Plan.

B. The Mitigation Plan shall contain a map overlain with the dimensions of the area impacted by the Unpermitted Development and the dimensions of each proposed area of mitigation. Respondent shall additionally provide the aerial extent of each element calculated in square footage.

1. The Mitigation Plan shall provide site and resource-specific mitigation for each distinct area of disturbance at a ratio of 6:1 (mitigation provided: damaged resources).

2. If Respondent demonstrates to the satisfaction of the Chief of Enforcement or the Deputy Chief of Enforcement that there are not sufficient areas on the Properties, excluding the Restoration Area, that are in need of re-establishment of native vegetation and could thus serve as mitigation areas, Respondent shall propose that the balance of the required square footage of mitigation be established in areas upon public lands within the Santa Monica Mountains. In the event that offsite mitigation is necessary, Respondent shall obtain consent and will provide, as part of the submittal required in Section 7.0.A, written documentation from the property owner of the offsite mitigation site that Respondent, and other parties including Commission staff, have permission to access and perform restoration activities on the offsite mitigation site, as set forth in these Consent Orders.

C. Respondent shall begin implementation of the Mitigation Plan within 30 days of approval of the Mitigation Plan by the Chief of Enforcement or the Deputy Chief of Enforcement, and shall complete all elements of the Mitigation Plan based upon the deadlines provided in the Mitigation Plan, but in any case no later than 90 days from the approval of the Mitigation Plan by the Chief of Enforcement or the Deputy Chief of Enforcement.

D. The Mitigation Plan shall indicate that mitigation activities carried out shall be consistent with the requirements of the Revegetation Plan, including, but

not limited to, requirements regarding type, composition, and location of planting, and monitoring.

## **ADDITIONAL PROVISIONS COMMON TO BOTH CONSENT ORDERS**

### **8.0 SUBMITTAL OF DOCUMENTS**

All documents submitted to the Commission pursuant to these Consent Orders shall be sent to:

California Coastal Commission  
Attn: Justin Buhr  
45 Fremont St, Suite 2000  
San Francisco, CA 94105

With a copy sent to:  
California Coastal Commission  
Attn: Molly Troup  
89 South California Street #200  
Ventura, CA 93001

### **9.0 SITE ACCESS**

- 9.1 Respondent shall provide access to the Properties at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under these Consent Orders. Commission staff may enter and move freely about the portions of the Restoration Area and on adjacent areas to view the areas where development is being performed pursuant to these Consent Orders for purposes including, but not limited to: inspecting records, operating logs, and contracts relating to the site and overseeing, inspecting, and reviewing the progress of Respondent in carrying out the terms of these Consent Orders. Nothing in these Consent Orders is intended to limit in any way the right of entry or inspection that any agency may otherwise have by any law.
- 9.2 Respondent shall provide, within 30 days of the effective date of these Consent Orders, written documentation from the owners of the Properties described as 2053 Rambla Pacifico, unincorporated Los Angeles County, California, APN 4453-004-039; APN 4453-004-026; APN 4453-004-038; APN 4453-004-040; and APN 4438-004-049, that the Respondent and other parties, including Commission staff, have permission to access the respective property(ies) and perform restoration activities as set forth in these Consent Orders on the parts of those properties onto which the Restoration Area extends, and that those property owners agree not to impede Respondent from undertaking the activities required by these Consent Orders or to impede Commission staff from accessing these properties for purposes of inspecting records, operating logs, and contracts relating to the site and overseeing, inspecting, and reviewing the progress of Respondent in carrying out the terms of these Consent Orders.
- 9.3 If at any point prior to Respondent's completion of the obligations set forth in these Consent Orders, Respondent is denied permission to access or perform

restoration activities on any property within the Restoration Area, the following shall occur:

A. Respondent shall refrain from accessing or performing work on that property and notify the Chief of Enforcement or the Deputy Chief of Enforcement immediately.

B. The obligation to resolve the violations described in these Consent Orders shall remain in effect and Respondent shall utilize all efforts to re-secure permission to access and complete restoration work upon that property.

C. Respondent shall continue to promptly complete removal and restoration activities in all other areas of the Restoration Area, where access has not been denied, in accordance with all deadlines in these Consent Orders.

- 9.4 If at any point prior to Respondent's completion of the obligations set forth in these Consent Orders, Respondent is denied permission to access or perform restoration activities in any part of the Restoration Area and is unable to complete restoration activities required by these Consent Orders, Respondent may submit a request for the Chief of Enforcement or the Deputy Chief of Enforcement's approval to substitute for that unrestored portion of the Restoration Area by increasing the mitigation area covered in Section 7.0.B, above. The area to be increased in the mitigation plan shall be twice the size of the area in the Restoration Area left unrestored.

## **10.0 EFFECTIVE DATE AND TERMS OF THESE CONSENT ORDERS**

The effective date of these Consent Orders is the date the Commission votes to issue these Consent Orders. These Consent Orders shall remain in effect permanently unless and until rescinded by the Commission.

## **11.0 FINDINGS**

These Consent Orders are issued on the basis of the findings adopted by the Commission, as set forth in the document entitled "Staff Report and Findings for Consent Cease and Desist Order No. CCC-16-CD-01 and Consent Restoration Order No. CCC-16-RO-01." The Commission has authorized the activities required in these Consent Orders as being consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act.

## **12.0 COMMISSION JURISDICTION**

The Commission has jurisdiction over resolution of the Coastal Act violations on the Properties pursuant to PRC Sections 30810 and 30811. In light of the desire to settle these matters, Respondent agrees not to contest the Commission's jurisdiction to issue or enforce these Consent Orders.



### **13.0 REVISIONS OF DELIVERABLES**

The Chief of Enforcement or the Deputy Chief of Enforcement may require revisions to deliverables required under these Consent Orders, and Respondent shall revise any such deliverables consistent with the Chief of Enforcement or the Deputy Chief of Enforcement's specifications, and resubmit them for further review and approval by the Chief of Enforcement or the Deputy Chief of Enforcement within any deadlines established by the modification request from the Chief of Enforcement or the Deputy Chief of Enforcement.

### **14.0 DEADLINES**

Prior to the expiration of any given deadline established by these Consent Orders, Respondent may request from the Chief of Enforcement or the Deputy Chief of Enforcement an extension of the unexpired deadline. Such a request shall be made in writing 10 days in advance of the deadline, and directed to the Chief of Enforcement or the Deputy Chief of Enforcement, care of Justin Buhr at the Commission's San Francisco office address identified in Section 8.0, above. The Chief of Enforcement or the Deputy Chief of Enforcement may grant an extension of deadlines upon a showing of good cause, if the Chief of Enforcement or the Deputy Chief of Enforcement determines that Respondent has demonstrated that Respondent has diligently worked to comply with its obligations under these Consent Orders but cannot meet deadlines due to unforeseen circumstances beyond its control. A violation of deadlines established pursuant to these Consent Orders will result in stipulated penalties, as provided for in Section 17.2, below.

### **15.0 RESOLUTION OF MATTER VIA SETTLEMENT**

In light of the intent of the parties to resolve these matters in settlement, Respondent has not submitted a "Statement of Defense" form as provided for in Sections 13181 and 13191 of Title 14 of the California Code of Regulations ("14 CCR") and has agreed not to contest the legal and factual bases for, the terms of, or the issuance of these Consent Orders, including the allegations of Coastal Act violations contained in the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings dated March 4, 2010. Respondent hereby (1) waives any right it may have to receive a formal notice, prior to commission action, of the Executive Director's intent to commence proceedings and (2) agrees that the California Coastal Commission has jurisdiction to enter into and enforce these Consent Orders, and, therefore, (3) stipulates that all necessary jurisdictional prerequisites to enter into and enforce this order have been met.

### **16.0 SETTLEMENT VIA CONSENT ORDERS**

In light of the desire to settle this matter via these Consent Orders and avoid litigation, pursuant to the agreement of the parties as set forth in these Consent Orders, Respondent hereby agrees not to seek a stay pursuant to PRC Section 30803(b) or to challenge the issuance and enforceability of these Consent Orders in a court of law or equity.

## **17.0 SETTLEMENT/COMPLIANCE OBLIGATION**

- 17.1 In light of the intent of the parties to resolve these matters in settlement, Respondent has agreed to pay a monetary settlement in the amount of \$550,000.00. This \$550,000.00 amount will be paid in three installments. Respondent agrees to make an initial payment of \$75,000.00, due 30 days after the date of issuance of these Consent Orders. Respondent further agrees to make a second payment of \$225,000.00, due 18 months after the date of issuance of these Consent Orders. Respondent further agrees to make a third payment of \$250,000.00, due 36 months after the date of issuance of these Consent Orders. If Respondent has not made each and every payment in accordance with the above described deadlines established for the payment of this monetary settlement, Respondent agrees to make a payment of \$150,000.00, in addition to any outstanding balance due on the initial \$550,000.00, due no later than 60 months after the date of issuance of these Consent Orders. These settlement monies shall be deposited in the Violation Remediation Account of the California Coastal Conservancy (see PRC Section 30823) or into such other public account as authorized by applicable California law at the time of the payment, and as designated by the Chief of Enforcement or the Deputy Chief of Enforcement. These settlement payments shall be directed to the Commission's San Francisco office, at the address listed in Section 8.0, above, to the attention of Justin Buhr, payable to the account designated under the Coastal Act.
- 17.2 Strict compliance with these Consent Orders by all parties subject hereto is required. Failure to comply with any term or condition of these Consent Orders, including any deadline contained in these Consent Orders, unless the Chief of Enforcement or the Deputy Chief of Enforcement grants an extension under Section 14.0, will constitute a violation of these Consent Orders and shall result in Respondent being liable for stipulated penalties in the amount of \$1,000 per day per violation. Respondent shall pay stipulated penalties regardless of whether Respondent subsequently complies. If Respondent violates these Consent Orders, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to PRC Sections 30820, 30821.6, and 30822, as a result of the lack of compliance with these Consent Orders and for the underlying Coastal Act violations as described herein.

## **18.0 SETTLEMENT OF MONETARY CLAIMS**

The Commission and Respondent agree that these Consent Orders settle the Commission's monetary claims for relief from Respondent for the violations of the Coastal Act specified in Section 5.2, above, occurring prior to the date of these Consent Orders, (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including under PRC Sections 30805, 30820, and 30822), provided that the Restoration Plan and Mitigation Plan discussed in

Sections 6.0 and 7.0, respectively, are fully implemented and the obligations of these Consent Orders are fully satisfied, and with the exception that, if Respondent fails to comply with any term or condition of these Consent Orders, the Commission may seek monetary or other claims for both the underlying violations of the Coastal Act and for the violation of these Consent Orders.

## **19.0 LIMITATION OF AUTHORITY**

Except as expressly provided herein, nothing in these Consent Orders shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with these Consent Orders and the authority to take enforcement action for Coastal Act violations beyond those that are specified in Section 5.2 of these Consent Orders. Failure to enforce any provision of these Consent Orders shall not serve as a waiver of the ability to enforce those provisions or any others at a later time.

## **20.0 SEVERABILITY**

Should any provision of these Consent Orders be found invalid, void or unenforceable, such illegality or unenforceability shall not invalidate the whole, but these Consent Orders shall be construed as if the provision(s) containing the illegal or unenforceable part were not a part hereof.

## **21.0 GOVERNMENT LIABILITIES**

Neither the State of California, the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent in carrying out activities pursuant to these Consent Orders, nor shall the State of California, the Commission or its employees be held as a party to any contract entered into by Respondent in carrying out activities pursuant to these Consent Orders.

## **22.0 GOVERNMENT JURISDICTION**

These Consent Orders shall be interpreted, construed, governed, and enforced under and pursuant to the laws of the State of California.

## **23.0 CONTRACTUAL OBLIGATION**

These Consent Orders constitute both an administrative order issued to Respondent personally and a contractual obligation between Respondent and the Commission, and therefore shall remain in effect until all terms and conditions are fulfilled.

## **24.0 SUCCESSORS AND ASSIGNS**

These Consent Orders shall run with the land binding Respondent and all heirs, assigns, and successor business entities or successors to ownership of the property located at 2053 Rambla Pacifico. Respondent shall provide notice to all heirs, assigns, and successor business entities or

successors to ownership of the property located at 2053 Rambla Pacifico of any remaining obligations under these Consent Orders.

## **25.0 MODIFICATIONS AND AMENDMENTS**

Except as provided in Section 14.0, and for other minor, immaterial modifications, upon mutual written agreement of the Chief of Enforcement or the Deputy Chief of Enforcement and Respondent, these Consent Orders may be amended or modified only in accordance with the standards and procedures set forth in 14 CCR Sections 13188(b) and 13197.

## **26.0 INTEGRATION**

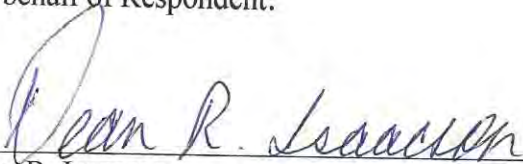
These Consent Orders constitute the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in these Consent Orders.

## **27.0 STIPULATION**

Respondent attests that he has reviewed the terms of these Consent Orders and understands that his consent is final and stipulates to its issuance by the Commission.

IT IS SO STIPULATED AND AGREED:

On behalf of Respondent:

  
\_\_\_\_\_  
Dean R. Isaacson

2-19-16  
Date

Executed in Santa Monica on behalf of the California Coastal Commission:

\_\_\_\_\_  
John Ainsworth, Senior Deputy Director

\_\_\_\_\_  
Date





**Exhibit 1**  
**CCC-16-CD-01**  
**CCC-16-RO-01**  
**(Isaacson)**  
**Page 1 of 1**



2010

PG  
3

NW 1/4 SW 1/4

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266.41± 367.75  
N 47°01'20"E (RAD), 30

RS 87 - 92

(29)  
16.71±AC

T1S R17W

(37)  
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PM 74-97-98

RAMBLA PACIFICO FIRE CISTERN  
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(900)  
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Exhibit 2

CCC-16-CD-01

CCC-16-RO-01

(Isaacson)

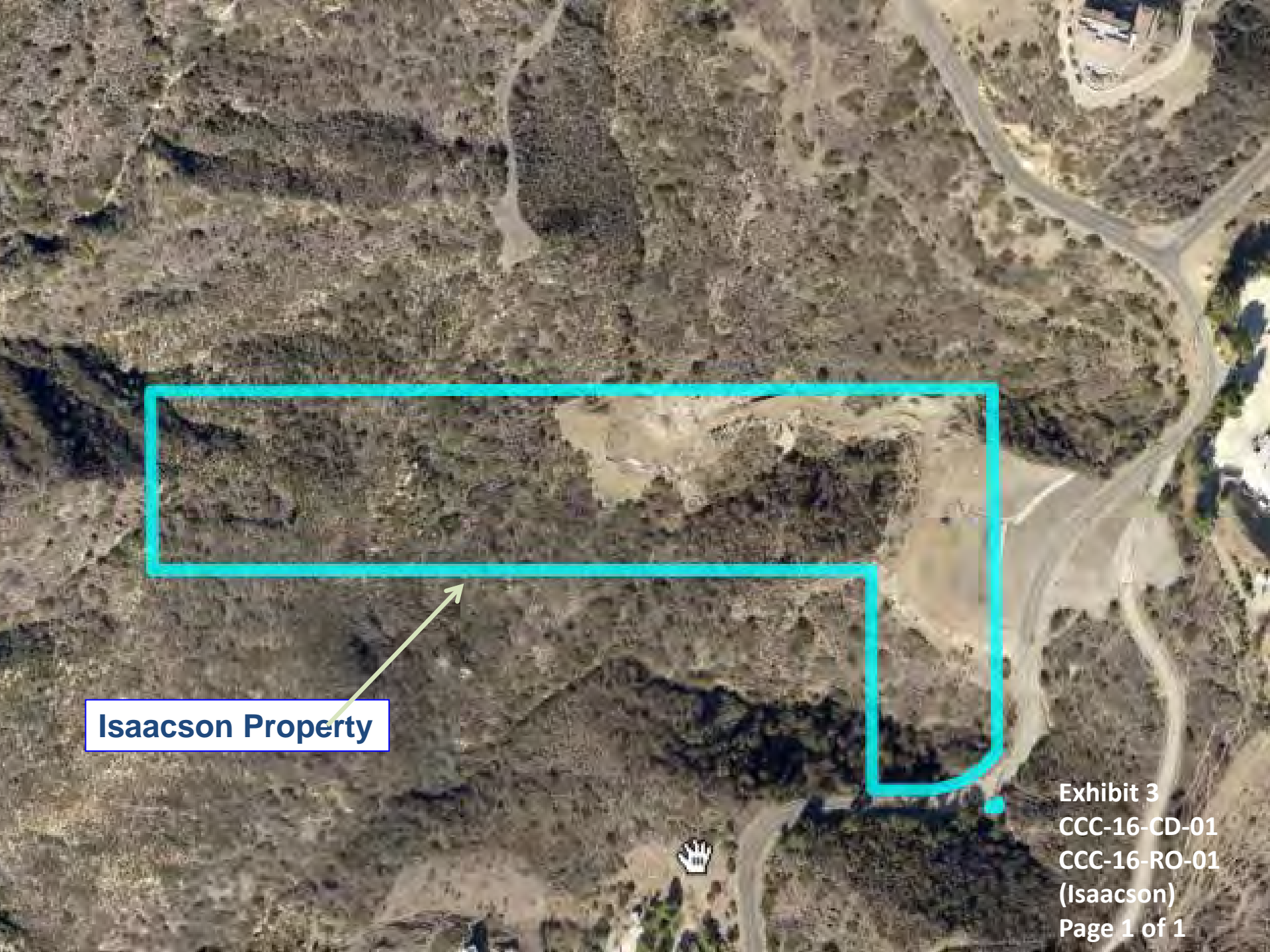
Page 1 of 1

MAPPING AND GIS  
SERVICES  
SCALE 1" = 400'

Isaacson Property

"Properties"

SECTION LINES PER CSB 12



**Isaacson Property**





Exhibit 4  
CCC-16-CD-01  
CCC-16-RO-01  
(Isaacson)  
Page 1 of 4





Exhibit 4  
CCC-16-CD-01  
CCC-16-RO-01  
(Isaacson)  
Page 2 of 4





Exhibit 4  
CCC-16-CD-01  
CCC-16-RO-01  
(Isaacson)  
Page 3 of 4









**Exhibit 5**  
**CCC-16-CD-01**  
**CCC-16-RO-01**  
**(Isaacson)**  
**Page 1 of 2**





Exhibit 5  
CCC-16-CD-01  
CCC-16-RO-01  
(Isaacson)  
Page 2 of 2



**CALIFORNIA COASTAL COMMISSION**

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



# Th 21f

## ADDENDUM

**DATE:** November 10, 2008  
**TO:** Commissioners and Interested Parties  
**FROM:** South Central Coast District Staff  
**SUBJECT:** Agenda Item 21f, Application No. 4-08-012 (Weber) Malibu, Los Angeles County, Thursday, November 13, 2008

---

The purpose of this addendum is to clarify the project description based on updated information submitted by the applicant's representative on November 6, 2008 and add three new exhibits depicting a slightly revised grading plan (showing increased remedial grading limit on the west side of the access road), a new cross section, and new details of the retaining walls.

Note: ~~Strikethrough~~ indicates text to be deleted from the October 29, 2008 staff report and underline indicates text to be added to the October 29, 2008 staff report.

1.) The project description shall be revised as follows:

-Page 1

**PROJECT DESCRIPTION:** : Construction of a 2 story, 7,802 sq. ft. single family home, with a detached 828 sq. ft. garage with 748 sq. ft. guest quarters above, pool, new 1,250 ft. long driveway, septic system, 6 ft. - 9 ft. retaining walls...

-Page 18, Section A.1.

The applicant is proposing to construct a 2 story, 7,802 sq. ft. single family home, with a detached 828 sq. ft. garage with 748 sq. ft. guest unit above, pool, new 1,250 ft. long driveway, septic system, 6 ft. - 9 ft. retaining walls...

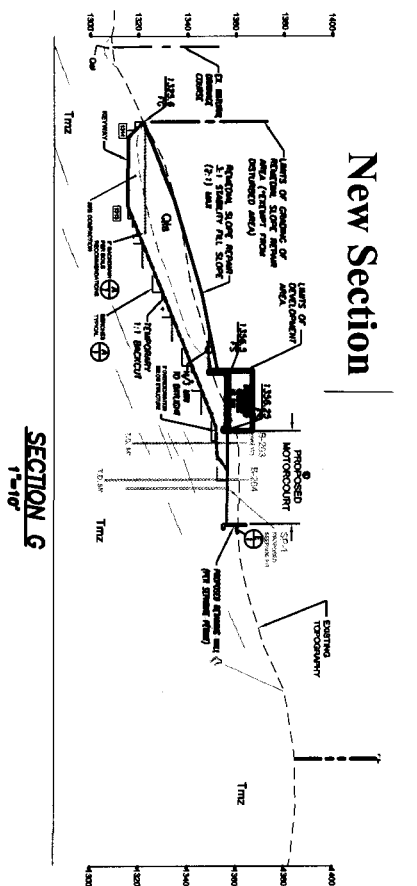
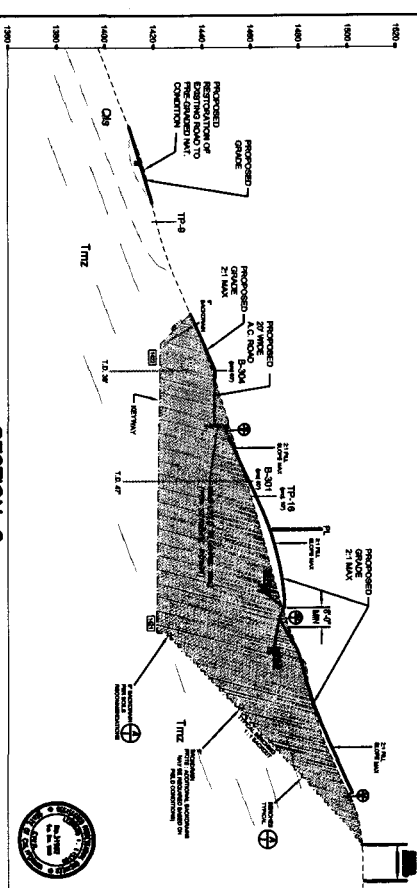
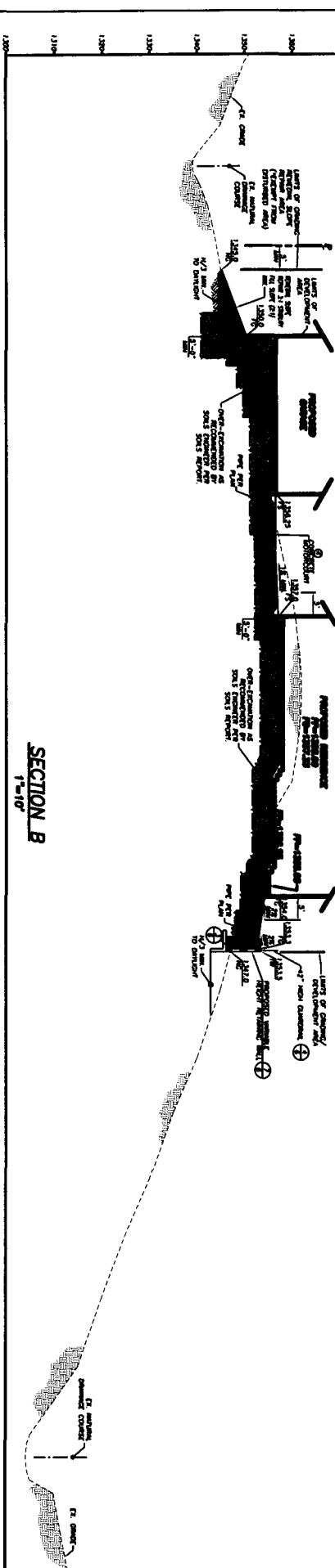
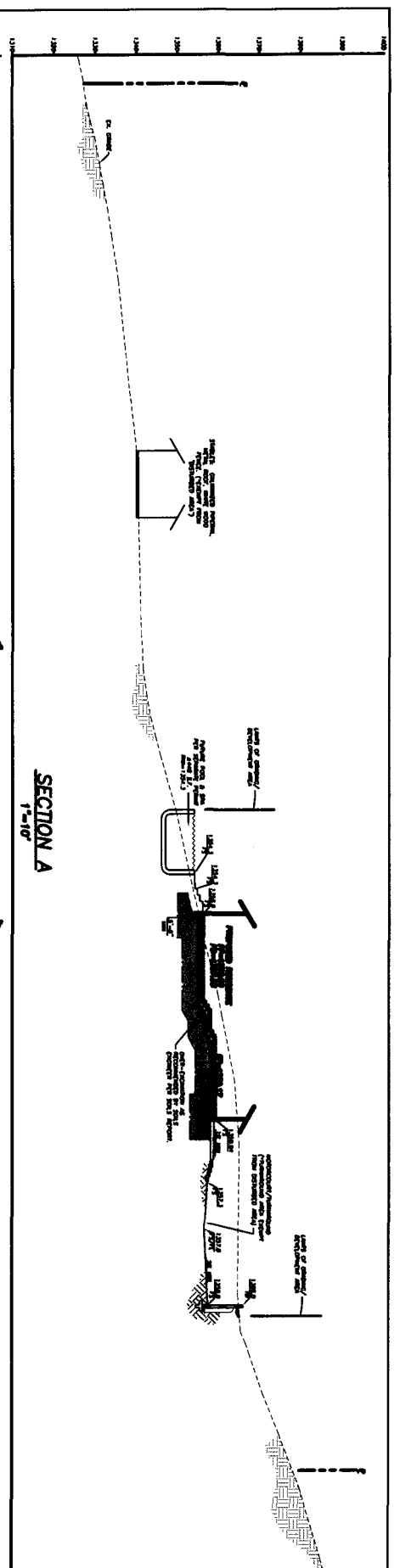


PROJECT NO. 4-19C-27265  
 SHEET NO. 1  
 COUNTY OF LOS ANGELES  
 APR. 4453 004 038  
 CDP 4-08-012

1. CONSTRUCTION AREA  
 2. PROPOSED GRADING  
 3. ESTIMATED USE AREA  
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EXHIBIT 15  
 CDP 4-08-012 (Weber)  
 Revised Grading Plan

CDP 4-08-012  
 SHEET NO. 1



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## CALIFORNIA COASTAL COMMISSION

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

# Th 21f

Filed: 5/30/08  
180<sup>th</sup> Day: 11/26/08  
Staff: A. Tysor  
Staff Report: 10/29/08  
Hearing Date: 11/13/08



## STAFF REPORT: REGULAR CALENDAR

**APPLICATION NO:** 4-08-012

**APPLICANT:** Charles Weber

**PROJECT LOCATION:** 2053 Rambla Pacifico, Malibu, Los Angeles County

**PROJECT DESCRIPTION:** Construction of a 2 story, 7,802 sq. ft. single family home, with a detached 828 sq. ft. garage with 748 sq. ft. guest quarters above, pool, new 1,250 ft. long driveway, septic system, 6 ft. retaining walls, 384 sq. ft. stable, 6,493 cu. yds. of grading for the residence, garage, drainage structures, and pool (5,080 cu. yds. cut, 1,318 cu. yds. fill, 95 cu. yds import), and 26,234 cu. yds. of grading for over excavation/alluvial removal and recompaction for remedial slope repair. The application includes a request for after-the-fact approval of a 5,007 sq. ft. flat pad area. (**Exhibits 1-12**). The grading proposed includes restorative grading proposed by the applicant to restore the grade of the existing unpermitted road accessing the flat pad area. Finally, the applicant proposes to revegetate this access road and various other access roads that were constructed without the benefit of a coastal development permit. (**Exhibit 10**)

<b>Lot area:</b>	<b>10.67 acres</b>
<b>Building coverage:</b>	<b>6,600 sq. ft.</b>
<b>Ht. above finished grade:</b>	<b>35'</b>

### SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with **sixteen (16) special conditions** relating to (1) plans conforming to geotechnical engineer's recommendations, (2) landscaping and erosion control, (3) assumption of risk, (4) drainage and polluted runoff control, (5) removal of natural vegetation, (6) structural appearance, (7) lighting restriction, (8) habitat impact mitigation, (9) future development restriction, (10) deed restriction, (11) open space conservation easement, (12) site inspection, (13) final approved fuel modification plans, (14) pool and spa drainage and maintenance, (15) native restoration/revegetation plan, and (16) condition compliance. The standard of review for the project is the Chapter 3 policies of the Coastal Act. In addition, the policies of the certified Malibu-Santa Monica Mountains Land Use Plan (LUP) serve as guidance. As conditioned, the proposed project will be consistent with the applicable policies of the Coastal Act and the LUP.

**LOCAL APPROVALS RECEIVED:** Los Angeles County Department of Regional Planning Approval-in-Concept, dated May 16, 2007; Updated Los Angeles County

Department of Regional Planning Approval-in-Concept, dated February 27, 2008; Los Angeles County Department of Health Services Approval-in-Concept for septic system, dated December 20, 2005; Los Angeles County Department of Public Works Geotechnical and Materials Engineering Division and Geologic Review Sheet approval, dated March 6, 2008; Los Angeles County Soils and Engineering Review Sheet approval, dated August 28, 2007; Los Angeles County Fire Department Access Approval-in-concept, dated March 4, 2008; Los Angeles County Fire Department, Fire Prevention Division, Fire Hydrant Flow Approval, December 20, 2007; Los Angeles County Fire Department Preliminary Fuel Modification Plan Approval, dated May 27, 2008.

**SUBSTANTIVE FILE DOCUMENTS:**

California Department of Fish and Game, Streambed Alteration Agreement (agency failed to meet deadline), dated October 16, 2004; California State Water Resources Control Board agreement re: storm water discharges associated with construction activity, dated June 1, 2004; "Response to County of Los Angeles Department of Public Works, Geotechnical and Materials Engineering Division, Geologic Review Sheet," prepared by Todd Engineers, dated July 21, 2004"; Geologic and Geotechnical Engineering Supplemental Geotechnical Information and Response," prepared by Pacific Soils Engineering, Inc., dated November 9, 2006; Update letter re: November 9, 2006 Geotechnical Response, prepared by Pacific Soils Engineering, Inc., dated January 30, 2008; Letter submitted to the Coastal Commission, prepared by Pacific Soils Engineering, Inc., dated May 7, 2008; "Biological Resources Assessment and Impacts Analysis," prepared by David Magney Environmental Consulting, dated February 14, 2008; Letter re: Weber-2053 Rambla Pacifico Biological Impacts Update, prepared by David Magney Environmental Consulting, dated May 9, 2008; "Declaration of Covenant by Off-Site Property Owner" re: offsite-grading for ingress and egress, recorded by Los Angeles County Registrar, dated April 8, 2008

**I. Approval with Conditions**

**A. STAFF RECOMMENDATION**

**MOTION:**        *I move that the Commission approve Coastal Development Permit No 4-08-012 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

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

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves 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. Plans Conforming to Geotechnical Engineer's Recommendations**

By acceptance of this permit, the applicant agrees to comply with the recommendations contained in the reports prepared for the site, including the "Geologic and Geotechnical Engineering Supplemental Geotechnical Information and Response," prepared by Pacific Soils Engineering, Inc., dated November 9, 2006. These recommendations shall be incorporated into all final design and construction plans, including recommendations concerning grading, foundation, retaining walls, sewage disposal, and drainage.

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

## 2. Landscaping and Erosion Control Plans

***Prior to issuance of a coastal development permit***, the applicant shall submit final landscaping and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The plans shall incorporate the criteria set forth below. All development shall conform to the approved landscaping and erosion control plans:

### A) Landscaping Plan

- 1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes within (60) days of receipt of the certificate of occupancy for the residence. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants, as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Native Plants for Landscaping in the Santa Monica Mountains, updated August 2007. All native plant species shall be of local genetic stock. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized or maintained within the property.
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting shall be primarily 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) Vegetation within 20 feet of the proposed house may be removed to mineral earth. Vegetation within a 200-foot radius of the main structure may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with the approved final approved fuel modification plan. Irrigated lawn, turf and ground cover planted within the first twenty foot radius of

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

- 5) Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- 6) Fencing of the entire property is prohibited. Fencing shall extend no further than Zone B shown on the final approved fuel modification plan. The fencing type and location shall be illustrated on the landscape plan. Fencing shall also be subject to the color requirements outlined in Special Condition Six (6) below.

The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

**B) Interim Erosion Control Plan**

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

technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

**C) Monitoring**

- (1) Five years from the date of the receipt of the Certificate of Occupancy for the residence the applicants shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies whether 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.
- (2) If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicants, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

**3. 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 wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

**4. Drainage and Polluted Runoff Control Plan**

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

conformance with geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

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

## **5. Removal of Natural Vegetation**

Removal of natural vegetation for the purpose of fuel modification within the 100 foot zone surrounding the proposed structure(s) shall not commence until the local government has issued a building or grading permit for the development approved pursuant to this permit. Vegetation thinning within the 100-200 foot fuel modification zone shall not occur until commencement of construction of the structure(s) approved pursuant to this permit.

## **6. Structural Appearance**

***Prior to the issuance of the coastal development permit***, the applicant shall submit for the review and approval of the Executive Director, a color palette and material specifications for the outer surface of all structures authorized by the approval of



Coastal Development Permit No. 4-08-012. The palette samples shall be presented in a format not to exceed 8½" x 11" x ½" in size. The palette shall include the colors proposed for the roofs, trims, exterior surfaces, driveways, retaining walls, and other structures authorized by this permit. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones. All windows shall be comprised of non-glare glass. All building surfaces, including siding and roofing, shall consist of non-glare and non-reflective materials.

The approved structures shall be colored and constructed with only the colors and window materials authorized pursuant to this special condition. Alternative colors or materials for future repainting or resurfacing or new windows may only be applied to the structures authorized by Coastal Development Permit No. 4-08-012 if such changes are specifically authorized by the Executive Director as complying with this special condition.

## **7. Lighting Restriction**

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

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

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

## **8. Habitat Impact Mitigation**

***Prior to issuance of the coastal development permit,*** the applicant shall submit, for the review and approval of the Executive Director, a map delineating all areas of chaparral or coastal sage scrub habitat (ESHA) that will be disturbed by the proposed development, including fuel modification on the project site and brush clearance

requirements on adjacent property. The chaparral ESHA areas on the site and adjacent property shall be delineated on a detailed map, to scale, illustrating the subject parcel boundaries and, if the fuel modification/brush clearance zones extend onto adjacent property, adjacent parcel boundaries. The delineation map shall indicate the total acreage for all chaparral ESHA, both on and offsite that will be impacted by the proposed development, including the fuel modification/brush clearance areas. The location and acreage of on-site fuel modification shall be based on the Final Fuel Modification Plans required by Special Condition Thirteen (13). A 200-foot clearance zone from the proposed structures shall be used to determine the extent of off-site brush clearance for fire protection purposes. The delineation shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains.

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

**A. Habitat Restoration**

**1) Habitat Restoration Plan**

Prior to the issuance of the coastal development permit, the applicant shall submit a habitat restoration plan, for the review and approval of the Executive Director, for an area of degraded chaparral habitat equivalent to the area of chaparral ESHA impacted by the proposed development and fuel modification/brush clearance area. The habitat restoration area may either be onsite or offsite within the coastal zone either in the City of Malibu or elsewhere in the Santa Monica Mountains. The habitat restoration area shall be delineated on a detailed site plan, to scale, that illustrates the parcel boundaries and topographic contours of the site. The habitat restoration plan shall be prepared by a qualified resource specialist or biologist familiar with the ecology of the Santa Monica Mountains and shall be designed to restore the area in question for habitat function, species diversity and vegetation cover. The restoration plan shall include a statement of goals and performance standards, revegetation and restoration methodology, and maintenance and monitoring provisions. If the restoration site is offsite, the applicants shall submit written evidence to the Executive Director that the property owner has irrevocably agreed to allow the restoration work, maintenance and monitoring required by this condition and not to disturb any native vegetation in the restoration area.

The applicant shall submit, on an annual basis for five years, a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating compliance with the performance standards outlined in the restoration plan and describing the revegetation, maintenance and

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

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

## **2) Open Space Deed Restriction**

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

Prior to the issuance of the coastal development permit, the applicant shall submit evidence that the applicants have executed and recorded a deed restriction (if the applicants are not the owners, then the applicants shall submit evidence that the owner has executed and recorded the deed restriction), in a form and content acceptable to the Executive Director, reflecting the above restriction on development and designating the habitat restoration area as open space. The deed restriction shall include a graphic depiction and narrative legal descriptions of both the parcel on which the restoration area lies and the open space area/habitat restoration area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

## **3) Performance Bond**

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

## **B. Habitat Conservation**

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

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

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

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

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

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

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

## **2. Non-irrigated Fuel Modification Zones**

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

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

## **9. Future Development Restriction**

This permit is only for the development described in Coastal Development Permit No. 4-08-012. Pursuant to Title 14 California Code of Regulations Sections 13250(b)(6) and 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) and (b) shall not apply to any future development on any portion of the parcel. Accordingly, any future improvements to any portion of the property, including but not limited to the residence, guesthouse, stable, septic system, landscaping, and removal of vegetation or grading other than as provided for in the approved landscape plan prepared pursuant to Special Condition Two (2) and the fuel modification plan required by Special Condition Thirteen (13), shall require an amendment to Coastal Development Permit No. 4-08-012 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

## **10. Deed Restriction**

***Prior to issuance of the coastal development permit,*** the applicant shall submit to the Executive Director, for review and approval, documentation demonstrating that the applicants have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1)

indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

#### **11. 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 development area, within the portion of the property identified as the “open space conservation easement area”, as shown in **Exhibit 14** except for:

1. Fuel modification required by the Los Angeles County Fire Department undertaken in accordance with the final approved fuel modification plan required by Special Condition Thirteen (13) or other fuel modification plans required and approved by the Commission pursuant to a different CDP(s) issued by the Commission;
2. Drainage and polluted runoff control activities required and approved pursuant to:
  - a. The drainage and runoff control plans approved pursuant to Special Condition Four (4) of this permit; and
  - b. The landscaping and erosion control plans approved pursuant to Special Condition Two (2);
3. If approved by the Commission as an amendment to this coastal development permit or a new coastal development permit,
  - a. construction and maintenance of public hiking trails, and
  - b. construction and maintenance of roads, trails, and utilities consistent with existing easements;
4. One accessory stable structure, constructed of non-flammable materials.

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 14**. The recorded easement 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) that 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.

## **12. Site Inspection**

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

## **13. Final Approved Fuel Modification Plans**

- A. ***Prior to issuance of the Coastal Development Permit***, the applicant shall submit, for the review and approval of the Executive Director, Fuel Modification Plans for the approved development that have been granted Final Approval by the Los Angeles County Fire Department. Fuel modification shall not occur within any riparian area on the property.

B. The Permittee shall undertake development in accordance with the final approved site plan(s) and elevations, grading plan(s), and fuel modification plan(s). Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required

**14. Pool and Spa Drainage and Maintenance**

By acceptance of this permit, the applicant agrees to install a no chlorine or low chlorine purification system and agrees to maintain proper pool water pH, calcium and alkalinity balance to ensure any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat areas. In addition, the applicant agrees not to discharge chlorinated or non-chlorinated pool water into a street, storm drain, creek, canyon drainage channel, or other location where it could enter receiving waters.

**15. Native Vegetation Restoration/ Revegetation Plan**

**A. *Prior to issuance of the coastal development permit***, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of restoration / revegetation plans for all previously disturbed areas not approved for development in this permit (including the main access road and other access roads that were cleared for exploratory drilling), as well as the two areas approved for remedial grading, as generally depicted in **Exhibit 10** (Areas D & E as shown on Sheet 2 of 10 of plans labeled "Alternative Site Design Clustering Development Within 10,000 S.F.," prepared by LC Engineering Group, Inc., dated 5/5/08). The plan shall also include a revegetation and erosion control plan, including a temporary irrigation plan, prepared by a qualified habitat restoration consultant. The restoration and revegetation plan shall include, but not be limited to, the following criteria:

- (a) A revegetation program, prepared by a qualified habitat restoration consultant with credentials acceptable to the Executive Director, which utilizes only native plant species that have been obtained from local Santa Monica Mountains genetic stock, and are consistent with the surrounding native plant community. Native seeds shall be collected from areas as close to the restoration site as possible. The native plant species chosen to revegetate the remedial grading area west of the residence shall take in account the fuel modification requirements of the Los Angeles County Fire Department. The plan shall specify the preferable time of year to carry out the restoration and describe the supplemental watering requirements that will be necessary, including a detailed irrigation plan. The plan shall also specify performance standards to judge the success of the restoration effort. The revegetation plan shall identify the species, location, and extent of all plant materials and shall use a mixture of seeds and container plants to increase the potential for successful



revegetation. The plan shall include a description of technical and performance standards to ensure the successful revegetation of the restored slope. A temporary irrigation system may be used until the plants are established, as determined by the habitat restoration consultant, but in no case shall the irrigation system be in place longer than two (2) years. The restored area shall be planted within thirty (30) days of completion of the remedial grading operations.

- (b) Implementation of the restoration plan shall commence within ninety (90) days of the issuance of this permit. Revegetation shall provide ninety percent (90%) coverage within five (5) years and shall be repeated, if necessary, to provide such coverage. The Executive Director may extend this time period for good cause. Plantings shall 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 the revegetation requirements.
- (c) A monitoring program, prepared by a qualified environmental resource specialist. The monitoring program shall demonstrate how the approved revegetation and restoration performance standards prepared pursuant to section (b) above shall be implemented and evaluated for compliance with this Special Condition. The program shall require the applicant to submit, on an annual basis for a period of five years (no later than December 31<sup>st</sup> each year), a written report, for the review and approval of the Executive Director, prepared by an environmental resource specialist, indicating the success or failure of the restoration project. The annual reports shall include further recommendations and requirements for additional restoration activities in order for the project to meet the criteria and performance standards listed in the restoration plan. These reports shall also include photographs taken from pre-designated locations (annotated to a copy of the site plans) indicating the progress of recovery. During the monitoring period, all artificial inputs shall be removed except for the purposes of providing mid-course corrections or maintenance to ensure the long-term survival of the plantings. If these inputs are required beyond the first two (2) years, then the monitoring program shall be extended for a sufficient length of time so that the success and sustainability of the project is ensured. Successful site restoration shall be determined if the revegetation of native plant species on-site is adequate to provide ninety percent (90%) coverage by the end of the five (5) year monitoring period, and all vegetation is able to survive without additional outside inputs, such as supplemental irrigation.
- (d) At the end of the five year period, a final detailed report shall be submitted, for the review and approval of the Executive Director, that indicates whether the on-site landscaping is in conformance with the revegetation / restoration plan approved pursuant to this Special Condition. The final report shall include photographic documentation of plant species and plant coverage. If this report indicates that the restoration project has in part, or in whole, been unsuccessful,

based on the approved performance standards, the applicant shall be required to submit a revised or supplemental restoration program to compensate for those portions of the original plan that were not successful. The revised, or supplemental, restoration program shall be processed by the applicant/landowner as an amendment to this Coastal Development Permit unless the Executive Director determines that no amendment is required.

- B.** The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission-approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

#### **16. 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**

##### **1. Project Description**

The applicant is proposing to construct a 2 story, 7,802 sq. ft. single family home, with a detached 828 sq. ft. garage with 748 sq. ft. guest unit above, pool, new 1,250 ft. long driveway, septic system, 6 ft. retaining walls, 384 sq. ft. stable, 6,493 cu. yds. of grading for the residence, garage, drainage structures, and pool (5,080 cu. yds. cut, 1,318 cu. yds fill, 95 cu. yds import), and 26,234 cu. yds. for over-excavation/alluvial removal and recompaction for remedial slope repair. The application includes a request for after-the-fact approval of a 5,007 sq. ft. flat pad area. (**Exhibits 1-12**). The grading proposed includes restorative grading proposed by the applicant to restore the grade of the existing unpermitted road accessing the flat pad area. Finally, the applicant proposes to revegetate this access road and various other access roads that were constructed without the benefit of a coastal development permit. (**Exhibit 13**)

The 10.67 acre subject site is located in the Santa Monica Mountains at 2053 Rambla Pacifico (APN 4453-004-039), immediately southwest of the intersection of Rambla

Pacifico and Las Flores Canyon Road. (**Exhibit 1**) The area surrounding the site is vacant to the west, north, and east of the site. The south side of the site is developed with a cluster of 5 single-family residences. The subject site is comprised of moderate to steep sloping hillside terrain, with elevations ranging from 1465 feet at the entrance to the pad elevation of 1358. The building pad is approximately 107 ft. below the elevation of Rambla Pacifico. The site is located in the Carbon Canyon watershed. One intermittent and two ephemeral streams exist on the site. The two ephemeral streams, flowing from the east side of the project site, are tributary to the intermittent stream flowing across the property from north to south, that turns into a stream that is recognized by the United States Geological Survey (USGS) as an intermittent blue-line stream on the property a few hundred feet from the property line that eventually drains into Carbon Canyon Creek during rainfall events. A culvert will be constructed for the crossing of the this intermittent drainage by the proposed driveway. There is no other feasible location for the driveway and pad area given the extent of the instability of the property due to past landslides.

The site is located in a relatively undisturbed canyon area and contains environmentally sensitive habitat area, except for an existing flat pad and various cleared road areas on the property. According to an analysis of historical aerial photographs of the subject site, the driveway, flat pad area, and other vegetation clearance appear to have been constructed after to the January 1, 1977 effectiveness date of the Coastal Act. The applicant has calculated the existing disturbed area on the site to be a total of .56 acres, which includes the flat pad area, the main access road, and three other access roads cleared for exploratory drilling. These areas are proposed to be restored and revegetated, except for the existing flat pad area that will be utilized for the single-family residence.

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

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

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

The proposed development is located in the Malibu/Santa Monica Mountains area, an area historically subject to significant natural hazards including, but not limited to, landslides, erosion, flooding and wild fire. The submitted geology, geotechnical, and/or soils reports referenced as Substantive File Documents conclude that the project site is suitable for the proposed project based on the evaluation of the site's geology in relation to the proposed development. The reports contain recommendations to be incorporated

into the project plans to ensure the stability and geologic safety of the proposed project, the project site, and the adjacent properties.

A letter prepared by Pacific Soils Engineering, Inc., dated January 30, 2008, provides the history of geologic analysis on the site. According to that update letter, Pacific Soils Engineering had been investigating the engineering geology and soils engineering aspects of the property for about 20 years. During that time, several preliminary soils and geologic engineering reports were prepared to address the development plans for a single family residence and access road on the site. The site is the subject of previous landslide activity, the southern portion of the site is underlain by a large ancient landslide. This landslide, identified on regional geologic maps from the early 1980's, is 40-60 feet in depth and extends offsite to the east below Rambla Pacifico. (See letter prepared by Pacific Soils Engineering, Inc., dated May 7, 2008). A "Restricted Use Area" has been established for slope areas containing mapped landslides which are outside the grading limits. Portions of the site, including the existing access road, will not be utilized due to the "Restricted Use Area" designation and will be re-graded and restored. Additionally, in order to support the new access road and isolate it from the unstable lower portion of the landslide, the upper portions of the landslide will require total removal and replacement with compacted fill (See Geologic and Geotechnical Engineering Supplemental Geotechnical Information and Response," prepared by Pacific Soils Engineering, Inc., dated November 9, 2006).

Several technical issues were raised by the Los Angeles County Department of Public Works Geotechnical and Materials Engineering Division in the Geologic and Soils Engineering reviews. Additional field exploration was conducted at the site and these issues were addressed by Pacific Soils Engineering, Inc. reports dated April 20, 2007, June 4, 2007, and June 26, 2007. Subsequently, the Los Angeles County Department of Public Works Geotechnical and Materials Engineering Division recommended approval of the project from a geologic standpoint (Los Angeles County Geologic Review Sheet, March 6, 2008) and recommended approval of the grading plan (Los Angeles County Soils and Engineering Review Sheet, August 28, 2007). A large amount of earthwork is necessary to remediate a landslide area and restore previously disturbed areas on the site. The total earthwork breakdown is as follows: driveway and turnaround (3,371 cu. yds. cut, 478 cu. yds. fill, 2,892 cu. yds. export), residence and garage (1,156 cu. yds. cut, 760 cu. yds. fill, 396 cu. yds. export), drainage structures and pool (222 cu. yds. cut, 45 cu. yds. fill, 177 cu. yds. export), existing access road to be restored to natural state (331 cu. yds. cut, 35 cu. yds. fill, 296 cu. yds. export), remedial grading for landslide repair (22,378 cu. yds. cut, 26,234 cu. yds. fill, 3, 856 cu. yds. import). The applicant has calculated the total amount of earthwork for the development area to be about 5,080 cu. yds. cut and about 1,318 cu. yds. fill and the total amount of over excavation/alluvial removal and compaction to be a total of 26,234 cu. yds. Further, a small amount of remedial grading will take place off site, on an area that the applicant holds an access easement over.

As described, the proposed project includes a very large amount of grading and landform alteration which, as discussed in detail below, will potentially result in significant adverse impacts to ESHA, water quality, and visual resources. However, according to the applicant's geotechnical engineers, Pacific Soils Engineering, Inc., siting the proposed residence on the existing unpermitted flat pad area is the best alternative due to the underlying geologic conditions. Given the location and extent of the landslide area, there is no siting alternative that would assure structural stability while reducing the length of the road or reducing the overall amount of grading required to construct the road, pad, and landslide remediation. The consulting geologists and engineers have concluded that the existing unpermitted flat pad area, above the ancient landslide area, is isolated from any possible future movement of slide debris and therefore, the proposed development can assure structural stability in this location.

Given this large amount of earthwork, in order to ensure stability and structural integrity and to protect the site and the surrounding sites, the Commission requires the applicant to comply with the recommendations contained in the applicable reports, to incorporate those recommendations into all final design and construction plans, and to obtain the geotechnical consultant's approval of those plans prior to the commencement of construction.

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

Further, the Commission finds that, for the project to ensure stability and avoid contributing significantly to erosion, all slopes and disturbed areas of the subject site must be landscaped, primarily with native plants, to stabilize disturbed soils and reduce erosion resulting from the development.

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

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

1. Plans Conforming to Geotechnical Engineer's Recommendations

2. Landscaping and Erosion Control Plan
3. Assumption of Risk, Waiver of Liability and Indemnity
4. Drainage and Polluted Runoff Control Plan
13. Final Approved Fuel Modification Plans

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

### **C. Environmentally Sensitive Resources**

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.***

Section **30250(a)** of the Coastal Act states:

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

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.*

- P63** *Uses shall be permitted in ESHAs, DSRs, Significant Watersheds, and Significant Oak Woodlands, and Wildlife Corridors in accordance with Table I and all other policies of this LCP.*
- P68** *Environmentally sensitive habitat areas (ESHAs) shall be protected against significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Residential use shall not be considered a resource dependent use.*
- P69** *Development in areas adjacent to environmentally sensitive habitat areas (ESHAs) shall be subject to the review of the Environmental Review Board, shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*
- P72** *Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. Where new development is proposed adjacent to Environmentally Sensitive Habitat Areas, open space or conservation easements shall be required in order to protect resources within the ESHA.*
- P74** *New development shall be located as close as feasible to existing roadways, services, and existing development to minimize the effects on sensitive environmental resources.*
- P82** *Grading shall be minimized for all new development to ensure the potential negative effects of runoff and erosion on these resources are minimized.*
- P84** *In disturbed areas, landscape plans shall balance long-term stability and minimization of fuel load. For instance, a combination of taller, deep-rooted plants and low-growing ground covers to reduce heat output may be used. Within ESHAs and Significant Watersheds, native plant species shall be used, consistent with fire safety requirements.*

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

The subject site is located in the Santa Monica Mountains at 2053 Rambla Pacifico, immediately southwest of the intersection of Rambla Pacifico and Las Flores Canyon Road. The subject site is comprised of moderate to steep sloping hillside terrain, with elevations ranging from 1465 feet at the entrance to the pad elevation of 1358. The

building pad is approximately 107 ft. below the elevation of Rambla Pacifico. The site is located in the Carbon Canyon watershed. One intermittent and two ephemeral streams exist on the site. The two ephemeral streams, flowing from the east side of the project site, are tributary to the intermittent stream flowing across the property from north to south. That north to south stream turns into a stream that is recognized by the United States Geological Survey (USGS) as an intermittent blue-line stream a few hundred feet from the property line and it eventually drains into Carbon Canyon Creek during rainfall events. During the site visit on January 9, 2008 conducted by biologists from the David Magney Environmental Consulting firm, flowing water was present in the intermittent stream, while the two ephemeral tributaries contained surface water that was generally not flowing and present as shallow pools and saturated substrate. The area surrounding the site is vacant to the west, north, and east of the site. The south side of the site is developed with a cluster of 5 single-family residences.

According to the biological assessment for the site, (listed in the Substantive File Documents) submitted by the applicant, a total of nine habitat and land cover types were identified on the Weber property, including Mixed Chaparral (6.41 acres), Mixed Chaparral (disturbed) (0.10 acres), Chamise Chaparral (0.76 acres), Laurel Sumac Chaparral (1.16 acres), Riparian Scrub (0.24 acres), Coastal Sage Scrub (0.23 acres), Coastal Sage Scrub (grassland) (0.38 acres), Coast Live Oak Woodland (0.58 acres). Thus, the primary vegetation community present on the site and adjacent to the site is classified as chaparral and sage scrub. A map of these habitats on the site was prepared by the biological consultant (Figure 5 on Page 14 of the February 2008 David Magney Report). As shown in the map, 30 meter tall canopy of Coast Live Oak Woodland is located on the southern portion of the property (.58 acres) and occurs predominantly on steep north-facing slopes and on raised stream banks and terraces on low elevations. No oak trees are located in the development envelope and no oak trees are proposed to be disturbed for development of the site.

Additionally, the site was surveyed for special-status wildlife by David Magney Environmental Consulting on January 9, 2008. Two special-status wildlife species were observed onsite, or immediately adjacent to the parcel, including the San Diego Desert Woodrat ( *Neotoma lepida* ssp. *intermedia* ) and the Peninsular Shoulderband Snail ( *Helminthoglypta traskii* ssp. *traskii* ). San Diego Desert Woodrat occurs in coastal scrub in Southern California from San Diego County to San Luis Obispo County. It prefers moderate to dense canopies, and is particularly abundant in rock outcrops and rocky cliffs and slopes. Peninsular Shoulderband Snail occurs in chaparral and coastal sage scrub in coastal Southern California.

According to public information, the applicant purchased the subject parcel in 1994 for \$100,000. The parcel was designated in the Los Angeles County Land Use Plan for residential use. The land use designation that applies to the property is Mountain Land II, allowing residential development at a maximum density of 1 dwelling unit per 20 acres of land, Rural Land, allowing residential development at a maximum density of 1 dwelling unit per 10 acres of land and Rural Land III, allowing residential development at



a maximum density of 1 dwelling unit per 2 acres of land. The project has been designed to cluster all development on the existing, unpermitted, disturbed flat pad area located in the northern portion of the site. According to the applicant's geotechnical engineers, Pacific Soils Engineering, Inc., siting the proposed residence on the existing flat pad area is the best siting alternative due to the underlying geologic conditions. As explained above, a large portion of the site is underlain by a large ancient landslide and the current flat pad area, above the ancient landslide area, is isolated from any possible future movement of slide debris. In their May 7, 2008 letter, Pacific Soils Engineering, Inc., concluded that the location of the building pad area is less susceptible to potential adverse mud flow, debris flow and drainage effects. Additionally, onsite sewage disposal system is located under the driveway area north of the residence. This will allow for percolation into the underlying bedrock will be more beneficial for site stability. Further, a 384 sq. ft. non-flammable stable (that will not require additional fuel modification) is proposed to be constructed to the south of the proposed residence on a 4:1 slope with minimal grading only for the foundation.

Not including the area of the driveway or turnaround, and not including the remedial grading for slope repair, the proposed development area is estimated by the applicant to measure less than 10,000 sq. ft. The applicant's fuel modification plan (preliminarily approved by the Los Angeles County Fire Department) shows the use of the standard three zones of vegetation modification. Zones "A" (setback zone) and "B" (irrigation zone) are shown extending in a radius of approximately 100 feet from the proposed structures. A "C" Zone (thinning zone) is provided for a distance of 100 feet beyond the "A" and "B" zones.

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

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

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

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

The project site is located within the Mediterranean Ecosystem of the Santa Monica Mountains. The Coastal Commission has found that the Mediterranean Ecosystem in

the Santa Mountains is rare, and valuable because of its relatively pristine character, physical complexity, and resultant biological diversity. Large, contiguous, relatively pristine areas of native habitats, such as coastal sage scrub, chaparral, oak woodland, and riparian woodland have many special roles in the Mediterranean Ecosystem, including the provision of critical linkages between riparian corridors, the provision of essential habitat for species that require several habitat types during the course of their life histories, the provision of essential habitat for local endemics, the support of rare species, and the reduction of erosion, thereby protecting the water quality of coastal streams. Additional discussion of the special roles of these habitats in the Santa Monica Mountains ecosystem are discussed in the March 25, 2003 memorandum prepared by the Commission's Ecologist, Dr. John Dixon<sup>1</sup> (hereinafter "Dr. Dixon Memorandum"), which is incorporated as if set forth in full herein.

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

As described above, the project site contains pristine chaparral and coastal sage scrub habitat that is part of a large, contiguous block of pristine native vegetation. As discussed above and in the Dr. Dixon Memorandum, this habitat is especially valuable because of its special role in the ecosystem of the Santa Monica Mountains and it is easily disturbed by human activity. Accordingly, the Commission finds that the chaparral and coastal sage scrub habitat on the project site meets the definition of ESHA in the Coastal Act.

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

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

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

The Commission finds that the project site and the surrounding area constitutes an environmentally sensitive habitat area (ESHA). Section 30240 of the Coastal Act restricts development within ESHA to only those uses that are dependent on the resource. The applicant proposes to construct a single family residence on the parcel. As single-family residences do not have to be located within ESHA to function, single-family residences are not a use dependent on ESHA resources. Section 30240 also requires that ESHA be protected against significant disruption of habitat values. As the construction of a residence on the site will require both the complete removal of ESHA from the home site and fuel modification for fire protection purposes around it, the proposed project would also significantly disrupt the habitat value in those locations. Application of Section 30240, by itself, would therefore require denial of the project, because the project would result in significant disruption of habitat values and is not a use dependent on those sensitive habitat resources.

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

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

As described above, the subject parcel was designated in the Los Angeles County Land Use Plan for residential use. Residential development has previously been approved by the Commission on sites in the immediate area. At the time the applicant purchased the

parcel, the County's certified Land Use Plan did not designate the vegetation on the entire site as ESHA. Based on these facts, along with the presence of existing and approved residential development in the area, the applicant had reason to believe that it had purchased a parcel on which it would be possible to build a residence.

The Commission finds that in this particular case, other allowable uses for the subject site, such as a recreational park or a nature preserve, are not feasible and would not provide the owner an economic return on the investment. There is currently no offer to purchase the property from any public park agency. The Commission thus concludes that in this particular case there is no viable alternative use for the site other than residential development. The Commission finds, therefore, that outright denial of all residential use on the project site would interfere with reasonable investment-backed expectations and deprive the property of all reasonable economic use.

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

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

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

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

Obviously, the construction of residential development, including vegetation removal for both the development area as well as required fuel modification, grading, construction of a residence and accessory structures, and the use of the development by residents will result in unavoidable loss of ESHA. The development can be sited and designed to

minimize ESHA impacts by measures that include but are not limited to: limiting the size of structures, limiting the number of accessory structures and uses, clustering structures, siting development in any existing disturbed habitat areas rather than undisturbed habitat areas, locating development as close to existing roads and public services as feasible, and locating structures near other residences in order to minimize additional fuel modification.

In this case, siting and design alternatives have been considered in order to identify the alternative that can avoid and minimize impacts to ESHA to the greatest extent feasible. As described, the proposed project includes a very large amount of grading and landform alteration which will potentially result in significant adverse impacts to ESHA. The residence is not located close to the road, thereby requiring a long access driveway with a substantial amount of grading and vegetation removal. However, according to the applicant's geotechnical engineers, Pacific Soils Engineering, Inc., siting the proposed residence on the existing unpermitted flat pad area is the best alternative due to the underlying geologic conditions. Given the location and extent of the landslide area, there is no siting alternative that would assure structural stability while reducing the length of the road or reducing the overall amount of grading or ESHA removal required to construct the road, pad, and landslide remediation. The consulting geologists and engineers have concluded that the existing unpermitted flat pad area, above the ancient landslide area, is isolated from any possible future movement of slide debris and therefore, the proposed development can assure structural stability in this location. As such, the Commission concludes that there are no other feasible siting alternatives that would reduce the landform alteration or ESHA removal proposed.

In past permit actions, the Commission has allowed up to 10,000 sq. ft. of development area for a residence on a parcel zoned for residential development in this area of the Santa Monica Mountains to avoid a taking of property. As detailed above, the proposed development area conforms to the maximum development area of 10,000 sq. ft. All proposed structures are located within this development area. Although a smaller development area would reduce the ESHA loss somewhat, the reduction would not be significant. Nor are there other resources such as streams, riparian areas, or visual resources that would be protected by a smaller development area. As such, the Commission concludes that the proposed siting and design of the project will minimize impacts to ESHA to the extent feasible. The Commission also finds that the proposed development area provides a reasonable economic use.

## **5. Open Space Conservation.**

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

The Commission finds that the most effective way to assure ESHA preservation on the site is the granting of an open space conservation easement to the Mountains Recreation and Conservation Authority (a joint powers authority) that prohibits development on the remainder of the site now and in the future. The Mountains Recreation and Conservation Authority (MRCA) is a public agency that represents a partnership between the Santa Monica Mountains Conservancy, the Conejo Recreation and Park District, and the Rancho Simi Recreation and Park District. The MRCA is dedicated to the preservation and management of open space, parkland, watershed lands, trails, and wildlife habitat. The MRCA manages and provides ranger services for almost 50,000 acres of public lands and parks that it owns or that are owned by the Santa Monica Mountains Conservancy. In the course of its normal duties, the MRCA park rangers and other staff are better able to monitor open space areas to ensure that the restrictions are followed than Commission staff. Further, an easement will be recorded against the title to the property and thus provide notice to future owners of the limitations that apply to the open space conservation area, reducing the risk of a future irreparable violation of the restriction. The governing board of the MRCA has agreed to accept all open space easements required by the Commission for properties within the Santa Monica Mountains National Recreation Area.

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

Second, the Legislature has recently adopted new provisions to the Government Code specifically sanctioning the use of conservation easements for this purpose and changing procedures to ensure that they are prominent in searching title to property. In 2001, the Legislature adopted a new requirement that County Recorders keep a separate and "comprehensive index of conservation easements." See Cal. Gov't Code

§ 27255(a). As such, the Commission finds that the requirement of an open space and conservation easement is the most effective method of ensuring that the remaining ESHA on the project site will be conserved in the future. Finally, the Commission concludes that an open space easement that allows only the easement holder and no other entity to enter the property for inspection purposes does not interfere with the fee title owner's right to exclude the general public. It therefore does not constitute a significant invasion of the fee title owner's property interest.

In conclusion, the Commission finds that it is necessary to require the applicant to grant an open space easement to the MRCA over the open space area on the project site in order to insure that the remaining ESHA will be preserved, as detailed in **Special Condition Eleven (11)**. Only as conditioned will the proposed project minimize impacts to ESHA, pursuant to Section 30240 of the Coastal Act.

## **6. Habitat Impact Mitigation**

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

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

Obviously, native vegetation that is cleared and replaced with ornamental species or substantially removed and widely spaced will be lost as habitat and watershed cover. As

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

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

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

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

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



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

The acreage of ESHA that is impacted must be determined based on the size of the development area, required fuel modification (as identified on the final fuel modification plan approved by the Los Angeles County Fire Department) on the site, and required brush clearance off-site. The Commission finds that it is necessary to require the applicant to delineate the total acreage of ESHA on the site (and offsite brush clearance areas, if applicable) that will be impacted by the proposed development, and provide mitigation to compensate for this loss of habitat, through one of the three methods described above, and required by **Special Condition Eight (8)**. Only as conditioned will the proposed project minimize impacts to ESHA, pursuant to Section 30240 of the Coastal Act.

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

The Commission finds that the use of non-native and/or invasive plant species for residential landscaping results in both direct and indirect adverse effects to native plants species indigenous to the Malibu/Santa Monica Mountains area. Direct adverse effects from such landscaping result from the direct occupation or displacement of native plant communities by new development and associated non-native landscaping, and mitigation for that effect was discussed in the previous section. Indirect adverse effects include offsite migration and colonization of native plant habitat by non-native/invasive plant species (which tend to outcompete native species) adjacent to new development. The Commission notes that the use of exotic plant species for residential landscaping has already resulted in significant adverse effects to native plant communities in the Malibu/Santa Monica Mountains area. This sort of impact was not addressed in the prior section. Therefore, in order to minimize adverse effects to the indigenous plant communities of the Malibu/Santa Monica Mountains area that are not directly and immediately affected by the proposed development, **Special Condition 2** requires that all landscaping consist primarily of native plant species and that invasive plant species shall not be used.

In addition, the Commission has found that night lighting of ESHA areas in the Malibu/Santa Monica Mountains may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. Therefore, **Special Condition 7**, Lighting Restriction, limits night lighting of the site in general; limits lighting to the developed area of the site; and requires that lighting be shielded downward. Limiting security lighting to low intensity security lighting will assist in minimizing the disruption of wildlife that is commonly found in this rural and relatively undisturbed area and that traverses the area at night.

Furthermore, fencing of the property would adversely impact the movement of wildlife through the ESHA and wildlife migration corridor on this parcel. Therefore, the Commission finds it is necessary to limit fencing to this perimeter of the development area, as generally indicated by "Zone B" of the final fuel modification plan (approximately 100 feet radius from the residence) . This is required to be shown on the landscaping plan, required in **Special Condition 2**.

Additionally, the Commission finds that the amount and location of any new development that could be built in the future on the subject site consistent with the resource protection policies of the Coastal Act is significantly limited by the unique nature of the site and the environmental constraints discussed above. Therefore, the permitting exemptions that apply by default under the Coastal Act for, among other things, improvements to existing single family homes and repair and maintenance activities may be inappropriate here. In recognition of that fact, and to ensure that any future structures, additions, change in landscaping or intensity of use at the project site that may otherwise be exempt from coastal permit requirements are reviewed by the Commission for consistency with the resource protection policies of the Coastal Act, **Special Condition 9** the future development restriction, has been required.

Further, **Special Condition 10** requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and thereby provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property. In order to ensure that the terms and conditions of this permit are adequately implemented, **Special Condition 12** authorizes Commission staff to enter onto the property (subject to 24 hour notice to the property owner) to undertake site inspections for the purpose of monitoring compliance with the permit.

Lastly, unpermitted development occurred on the subject parcel prior to submission of this permit application, including the flat pad area, the existing access road, and other vegetation clearance for access roads for exploratory drilling. Analysis of historical 1977 infrared aerial photographs of the site does not show this development existing on the site. The applicant's engineers, LC Engineering Group, Inc. has estimated the existing disturbed area to be 0.56 acres. As discussed above, the existing flat pad area is the only feasible alternative location for the residence and garage. A new access driveway will be constructed, with associated grading and over-excavation and recompaction. So,

the applicant is proposing, as part of the project, to restore all of the disturbed areas that are not approved for development as part of the subject CDP, including restorative grading of the existing access driveway and revegetation of the driveway and several access roads where ESHA was removed (but no grading was carried out to allow for geologic testing). Finally, there are two areas (one is located to the east of the access driveway and the other is to the west of the development area) where remedial grading (over-excavation and recompaction) are required to assure geologic stability. These areas must also be restored after grading in order to minimize erosion and sedimentation, to minimize ESHA impacts as well as impacts to water quality. To ensure that previously disturbed ESHA is restored to maintain habitat value consistent with resource protection policies of the Coastal Act, **Special Condition 15** requires the applicant to restore the existing driveway, geologic test roads, and geologic remediation areas back to natural conditions and requires the applicant to submit final restoration/revegetation plans for the area (area shown as areas D & E in **Exhibit 10**), for review and approval by the Executive Director. These plans shall include use of native drought resistant plants and monitoring for a period of no less than five years. **Special Condition 12**, site inspection, is necessary to ensure compliance with **Special Condition 15**, restoration of the area subject to unpermitted vegetation and removal.

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

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

Section 30231 of the Coastal Act states:

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

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

The proposed development will result in an increase in impervious surfaces, which leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site and eventually be discharged to coastal waters, including

streams, wetlands, and estuaries. The pollutants commonly found in runoff associated with residential use can reduce the biological productivity and the quality of such waters and thereby reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to minimize the potential for such adverse impacts to water quality resulting from drainage runoff both during construction and in the post-development stage, the Commission requires the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site, including: 1) sizing post-construction structural BMPs to accommodate (infiltrate, filter, or otherwise treat) the runoff from all storms up to and including the 85<sup>th</sup> percentile storm runoff event; 2) implementing erosion control measures during construction and post construction; and 3) revegetating all graded and disturbed areas with primarily native landscaping.

Additionally, the applicant's geologic consultants have concluded that the site is suitable for the proposed septic system and that there would be no adverse impact to the site or surrounding areas from the use of a septic system. The County of Los Angeles Environmental Health Department has given in-concept approval of the proposed septic system, indicating that it meets the plumbing code requirements. The Commission has found that conformance with the provisions of the plumbing code is protective of water resources.

Finally, as described above, there are existing, unpermitted, disturbed areas on the site. The applicant is proposing, as part of the project, to restore all of the disturbed areas that are not approved for development as part of the subject CDP, including restorative grading of the existing access driveway and revegetation of the driveway and several access roads where ESHA was removed (but where no grading was carried out to allow for geologic testing). Finally, there are two areas (one is located to the east of the access driveway and the other is to the west of the development area) where remedial grading (over-excavation and recompaction) are required to assure geologic stability. These areas must also be restored after grading in order to minimize erosion and sedimentation, to minimize ESHA impacts as well as impacts to water quality.

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

- 2. Landscaping and Erosion Control Plan
- 4. Drainage and Polluted Runoff Control Plan
- 13. Final Approved Fuel Modification Plans
- 15. Native restoration/revegetation Plan

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

## **E. Visual Resources**

Section 30251 of the Coastal Act states:

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

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

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

- P131**     *Where feasible, prohibit placement of structures that will break the ridgeline views, as seen from public places*
- P134**     *Structures shall be sited to conform to the natural topography, as feasible. Massive grading and reconfiguration of the site shall be discouraged.*
- P142**     *New development along scenic roadways shall be set below the road grade on the down hill side wherever feasible, to protect designated scenic canyon and ocean views.*

Section 30251 of the Coastal Act requires scenic and visual qualities to be considered and preserved. In the review of this project, Commission staff analyzed the publicly accessible locations where the proposed development is visible to assess potential visual impacts to the public. Staff examined the building site, the size of the proposed structure, and alternatives to the size, bulk and scale of the structure. The development of the residence raises the issue of whether or not views from public viewing areas will be adversely affected.

The applicant is proposing to construct a 2 story, 7,802 sq. ft. single family home, with a detached 828 sq. ft. garage with 748 sq. ft. second floor guest unit, pool, new 1,250 ft. long driveway, septic system, 6 ft. retaining walls, 384 sq. ft. stable, 6,493 cu. yds. of grading for the residence, garage, drainage structures, and pool (5,080 cu. yds. cut, 1,318 cu. yds fill, 95 cu. yds import), and 26,234 cu. yds. for over excavation/alluvial removal and recompaction for remedial slope repair. The 10.67 acre subject site is located in the Santa Monica Mountains at 2053 Rambla Pacifico immediately southwest of the intersection of Rambla Pacifico and Las Flores Canyon Road. (**Exhibit 1**) The area surrounding the site is vacant to the west, north, and east of the site. The south side of the site is developed with a cluster of 5 single-family residences. The subject site is comprised of moderate to steep sloping hillside terrain, with elevations ranging from 1465 feet at the entrance to the pad elevation of 1358. The building pad is approximately 107 ft. below the elevation of Rambla Pacifico.

The applicant has provided a visual analysis of the property showing photographs taken looking towards the subject site from several different vantage points. The subject site will be visible from portions of Rambla Pacifico; however, views of the structure will be reduced at points due to intervening terrain and due to the mountainous topography of the area. Additionally, the plans for the residential structure and pool have been clustered on one existing pad area with a development area of less than 10,000 sq. ft. in size, and designed to minimize landform alteration and removal of native vegetation that is considered environmentally sensitive habitat. The applicant originally submitted plans for the proposed residence with several accessory structures, including a detached art studio, pool house, gym, and vineyard but has since reduced the reduced the project to be constructed within a 10,000 sq. ft. development area. As previously described, the proposed project includes a very large amount of grading and landform alteration which will potentially result in significant adverse impacts to visual resources. However,,



according to the applicant's geotechnical engineers, Pacific Soils Engineering, Inc., siting the proposed residence on the existing flat pad area is the best siting alternative due to the underlying geologic conditions. As explained above, a large portion of the site is underlain by a large ancient landslide and the current flat pad area, above the ancient landslide area, is isolated from any possible future movement of slide debris. As such, the proposed structures will be sited and designed to minimize impacts to visual resources to the extent feasible.

Since the project site will be unavoidably visible from public viewing areas, mitigation to address potential visual impacts is needed for the proposed residence. The visual impact of the proposed structures can be minimized by requiring these structures to be finished in a color consistent with the surrounding natural landscape and, further, by requiring that windows on the proposed residence be made of non-reflective glass. To ensure visual impacts associated with the colors of the structures and the potential glare of the window glass are minimized, the Commission requires the applicants to use colors compatible with the surrounding environment and non-glare glass, as detailed in **Special Condition Six (6)**.

Visual impacts can be further reduced by the use of appropriate and adequate landscaping. Therefore, **Special Condition Two (2)** requires the applicants to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. Implementation of Special Condition 2 will soften the visual impact of the development from public view areas. To ensure that the final approved landscaping plans are successfully implemented, Special Condition 2 also requires the applicants to revegetate all disturbed areas in a timely manner and includes a monitoring component to ensure the successful establishment of all newly planted and landscaped areas over time.

In addition, the Commission has found that night lighting of areas in the Malibu/Santa Monica Mountains area creates a visual impact to nearby scenic roads and trails. In addition, night lighting may alter or disrupt feeding, nesting, and roosting activities of native wildlife species. The subject site contains environmentally sensitive habitat. Therefore, **Special Condition Seven (7)** limits night lighting of the site in general, limits lighting to the developed area of the site, and specifies that lighting be shielded downward. The restriction on night lighting is necessary to protect the nighttime rural character of this portion of the Santa Monica Mountains consistent with the scenic and visual qualities of this coastal area.

Further, as described above, there are existing, unpermitted, disturbed areas on the site. The applicant is proposing, as part of the project, to restore all of the disturbed areas that are not approved for development as part of the subject CDP, including restorative grading of the existing access driveway and revegetation of the driveway and several access roads where ESHA was removed, but no grading was carried out to allow for geologic testing. Finally, there are two areas (one is located to the east of the access driveway and the other is to the west of the development area) where remedial

grading (over-excavation and recompaction) are required to assure geologic stability. These areas must also be restored after grading in order to minimize the visual impacts of bare slopes in contrast to the natural slopes vegetated with chaparral and coastal sage scrub habitat. To ensure that previously disturbed areas are revegetated to minimize impacts to visual resources, **Special Condition 15** requires the applicant to restore the existing driveway, geologic test roads, and geologic remediation areas back to natural conditions and requires the applicant to submit final restoration/ revegetation plans for the area (areas D & E shown in **Exhibit 10**), for review by the Executive Director. These plans shall include use of native drought resistant plants and monitoring for a period of no less than five years.

Finally, regarding future developments or improvements, certain types of development on the property, normally associated with a single-family residence, which might otherwise be exempt, have the potential to impact scenic and visual resources in this area. It is necessary to ensure that any future development or improvements normally associated with the entire property, which might otherwise be exempt, is reviewed by the Commission for compliance with the visual resource policies contained in Section 30251 of the Coastal Act. **Special Condition Nine (9)**, the Future Development Restriction, will ensure that the Commission will have the opportunity to review future projects for compliance with the Coastal Act. Further, **Special Condition Ten (10)** requires the applicants to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the subject property and provides any prospective purchaser with recorded notice that the restrictions are imposed on the property.

Therefore, the Commission finds that the project, as conditioned, minimizes adverse effects to public views to and along the coast and minimizes the alteration of natural landforms. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act.

## **F. Cumulative Impacts**

Section **30250(a)** of the Coastal Act states:

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

Section **30252** of the Coastal Act states:

***The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.***

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

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

The Commission has consistently emphasized the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains area, particularly those of subdivisions, multi-family residential development, and second residential units, all of which result in increased density. It is particularly critical to evaluate the potential cumulative impacts of increased density given the existence of thousands of undeveloped and poorly sited parcels in the mountains that were created decades ago in antiquated subdivisions. Construction of a guest house unit or second unit on a site where a primary residence exists intensifies the use of the subject parcel. The intensified use creates additional demands on public services, such as water, sewage, electricity, and roads. Thus, guest houses and second units pose potential cumulative impacts in addition to the impacts otherwise caused by the primary residential development.

In past actions, the Commission has limited the development of guest house units and second units on residential parcels in the Malibu and Santa Monica Mountain areas to a maximum of 750 sq. ft. In its review and action on the Malibu/Santa Monica Mountains Land Use Plan (LUP), the Commission found that placing an upper limit on the size of these units (750 sq. ft.) was necessary given the traffic and infrastructure constraints which exist in Malibu/Santa Monica Mountains area and given the abundance of existing vacant residential lots. Furthermore, in allowing these small units, the Commission found that the small size of units (750 sq. ft.) and the fact that they are likely to be occupied by one, or at most two people, such units would have less impact on the limited capacity of Pacific Coast Highway and other roads (as well as infrastructure constraints such as water, sewage, and electricity) than an ordinary single family residence.

The applicant is proposing a 748 sq. ft. guest unit. This conforms to the Commission's past actions, allowing a maximum of 750 square feet for a guest unit or second dwelling unit in the Santa Monica Mountains area. However, future improvements to the proposed unit such as additional square footage could raise issues with regard to individual or cumulative impacts to coastal resources. Such improvements and their potential impacts must be addressed by the Commission to ensure conformance with the Chapter 3 policies of the Coastal Act.

To ensure that any additions or improvements that could further intensify the use of the unit will be reviewed by the Commission and to ensure that the unit conforms with the maximum 750 sq. ft. guidance, the Commission requires that any additions or improvements related to the unit, that may otherwise be exempt from coastal permit requirements, shall be reviewed by the Commission for consistency with the resource protection policies of the Coastal Act.

Additionally, the Commission requires the applicant to record a deed restriction that imposes the terms and conditions of this permit as restrictions on use and enjoyment of the property and provides any prospective purchaser of the site with recorded notice that the restrictions are imposed on the subject property.

The following special conditions are required to assure the project's consistency with Sections 30250 and 30252 of the Coastal Act, as well as the Los Angeles County LUP:

Special Condition 8. Future Development Restriction

Special Condition 9. Deed Restriction

The Commission finds that, as conditioned, the proposed development is consistent with Sections 30250 and 30252 of the Coastal Act.

## **G. Unpermitted Development**

Unpermitted development occurred on the subject parcel prior to submission of this permit application, including an existing approximately 5,000 sq. ft. flat pad and various cleared road areas on the property. According to an analysis of historical aerial photographs of the subject site, the driveway, flat pad area, and other vegetation clearance appears to have been constructed after to the January 1, 1977 effectiveness date of the Coastal Act. The applicant has calculated the existing disturbed area on the site to be a total of .56 acres, which includes the flat pad area, the main access road, and three other access roads cleared for exploratory drilling (**Exhibit 13**). The applicant is now requesting after-the-fact approval to authorize the flat pad area for construction of the residence and to authorize restorative grading and revegetation of the main access driveway and other access roads. **Special Condition Fifteen (15)** requires the applicant to restore the disturbed areas (except the flat pad) back to natural conditions and requires the applicant to submit final restoration/ revegetation plans for review by the Executive Director. These plans shall include use of native drought resistant plants

and monitoring for a period of no less than five years. **Special Condition Twelve (12)**, site inspection, is necessary to ensure compliance with **Special Condition Fifteen (15)**, restoration of the area subject to unpermitted vegetation and removal. Finally, in order to ensure that the unpermitted development component of this application is resolved in a timely manner, the Commission finds it necessary, **in Special Condition Sixteen (16)**, to require the applicant to fulfill all of the Special Conditions that are a prerequisite to the issuance of this permit, within 180 days of Commission action.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

## **H. Local Coastal Program**

Section 30604 of the Coastal Act states:

*a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).*

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project will be in conformity with the provisions of Chapter 3 if certain conditions are incorporated into the project and are accepted by the applicant. As conditioned, the proposed development will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County of Los Angeles' ability to prepare a Local Coastal Program for this area which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

## **I. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being

approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed in detail above, project alternatives and mitigation measures have been considered and incorporated into the project. Five types of mitigation actions include those that are intended to avoid, minimize, rectify, reduce, or compensate for significant impacts of development. Mitigation measures required as part of this coastal development permit amendment include the avoidance of impacts to ESHA through clustering structures, prohibiting development outside of the approved development area as required by the open space easement, and prohibiting the removal of native vegetation prior to commencement of construction. Mitigation measures required to minimize impacts include, drainage best management practices (water quality), interim erosion control (water quality and ESHA), limiting lighting (ESHA and visual), restricting structure color (visual resources), and requiring future improvements to be considered through a CDP. Finally, the habitat impact mitigation condition is a measure required to compensate for impacts to ESHA. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.



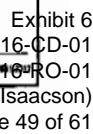
SEE EGO MAP

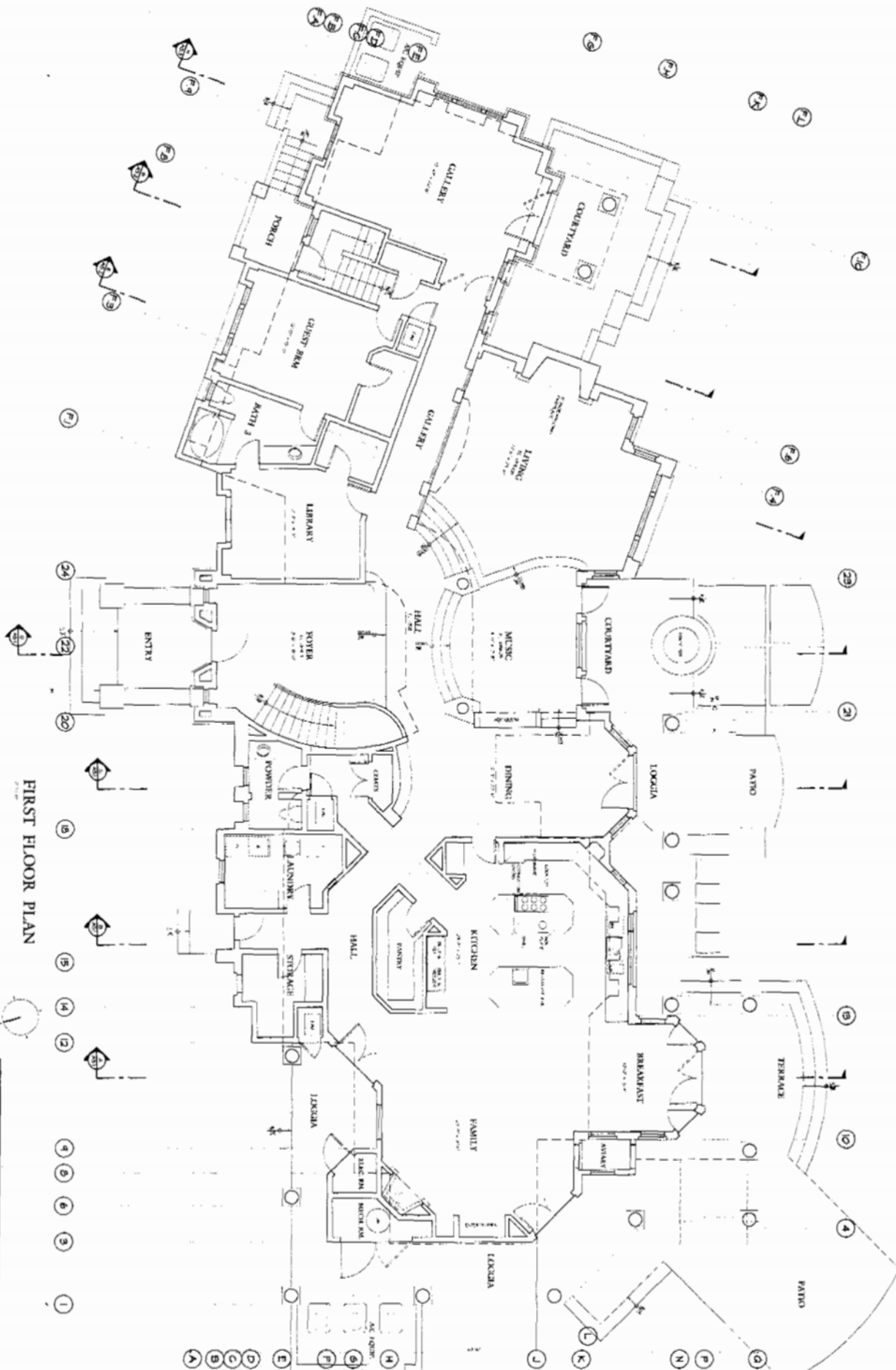
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EXHIBIT 1
CDP 4-08-012 (Weber)
Project Location







**EXHIBIT 3**  
**CDP 4-08-012 (Weber)**  
**First Floor Plan**

SECOND FLOOR PLAN

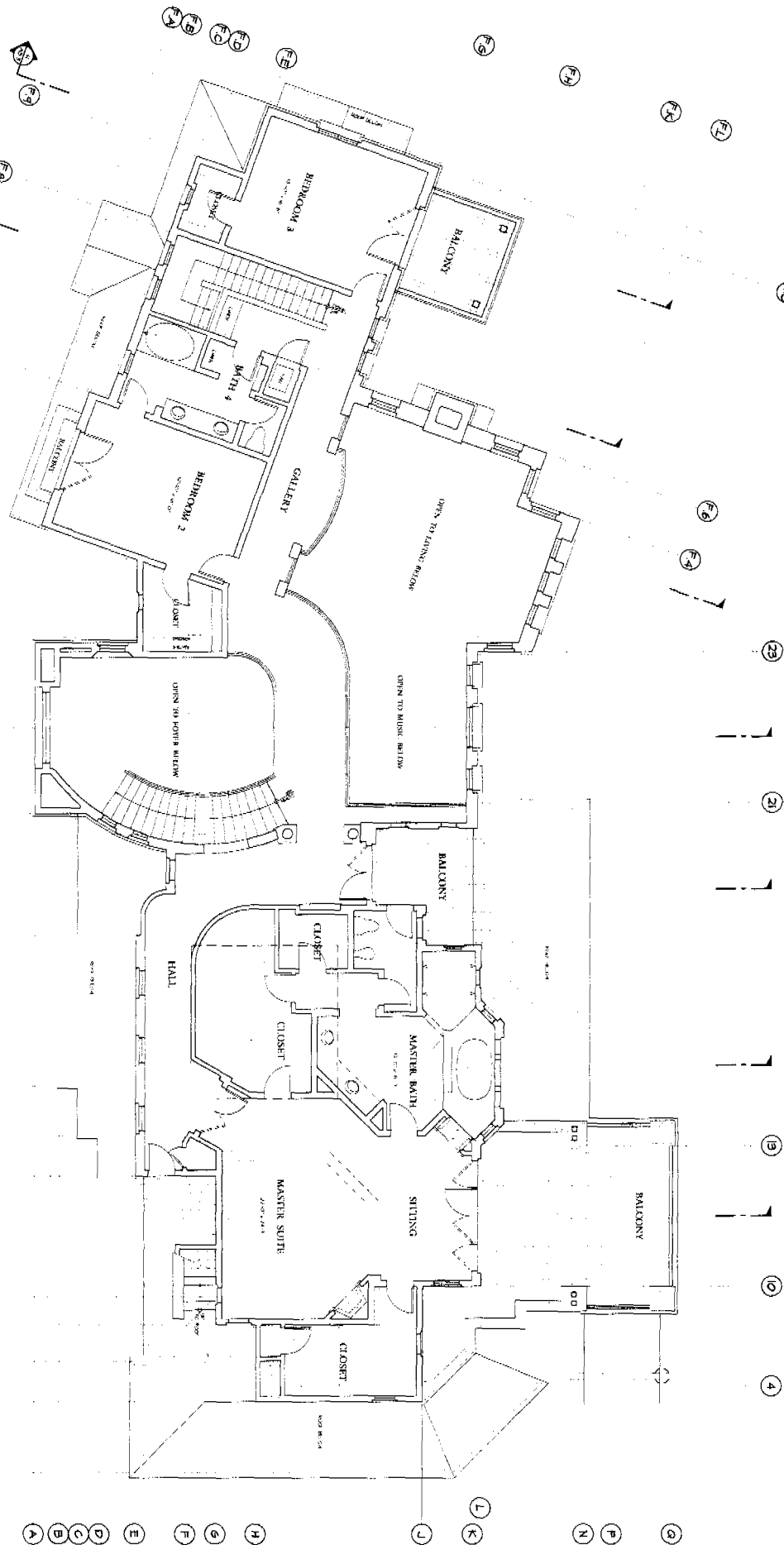


EXHIBIT 4

CDP 4-08-012 (Weber)

Second Floor Plan

SECOND FLOOR PLAN

RAMBLA PACIFICO MALIBU RESIDENCE

2053 Rambla Pacifico Malibu California 90265

Dr. Charles Weber

P.O. Box 9148 Culver City California 90232

BRUCE LABINS  
ARCHITECT

800 S. Santa Clara Street • Ventura, California 93001 • 805.941.2010 Fax 805.941.2011

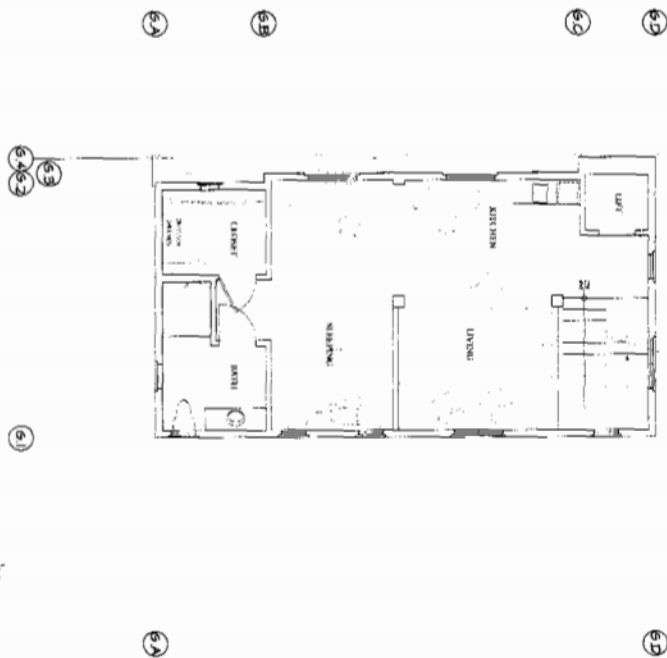
Exhibit 6

CCC-16-CD-01

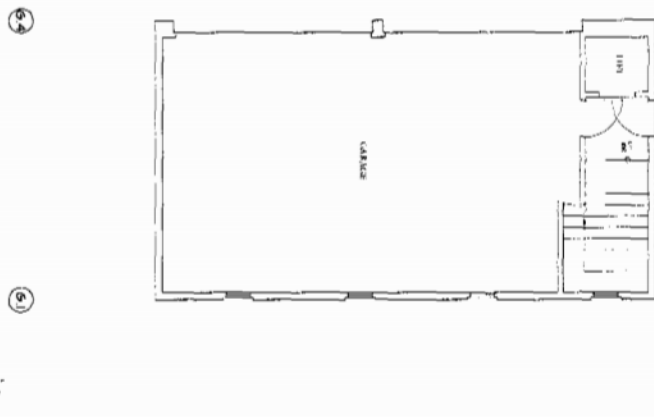
CCC-16-RO-01

(Isaacson)

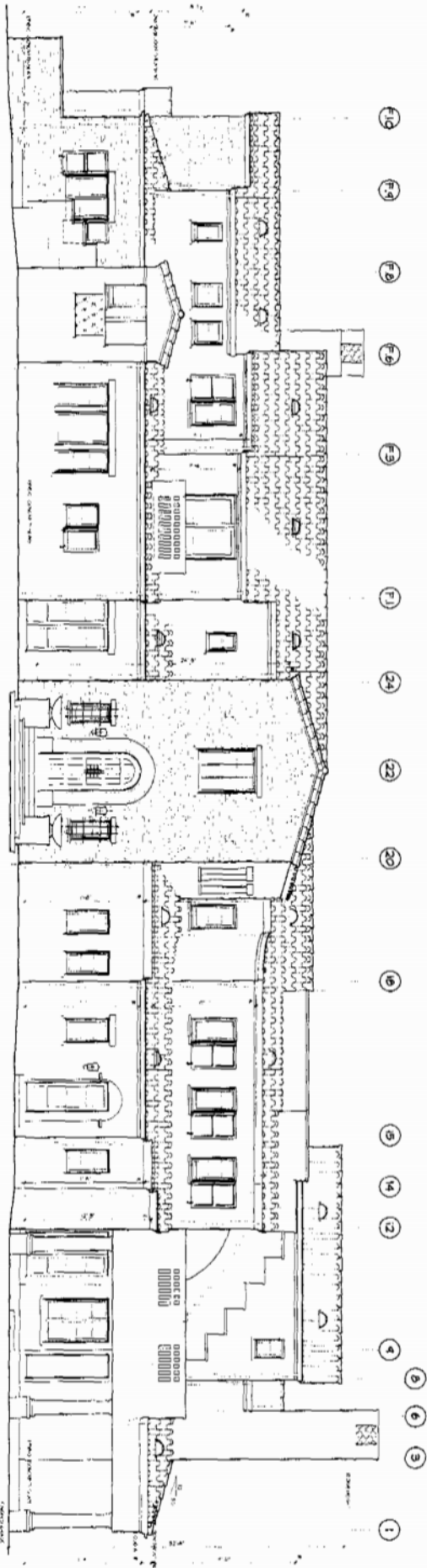
GUEST ROOM SECOND FLOOR PLAN



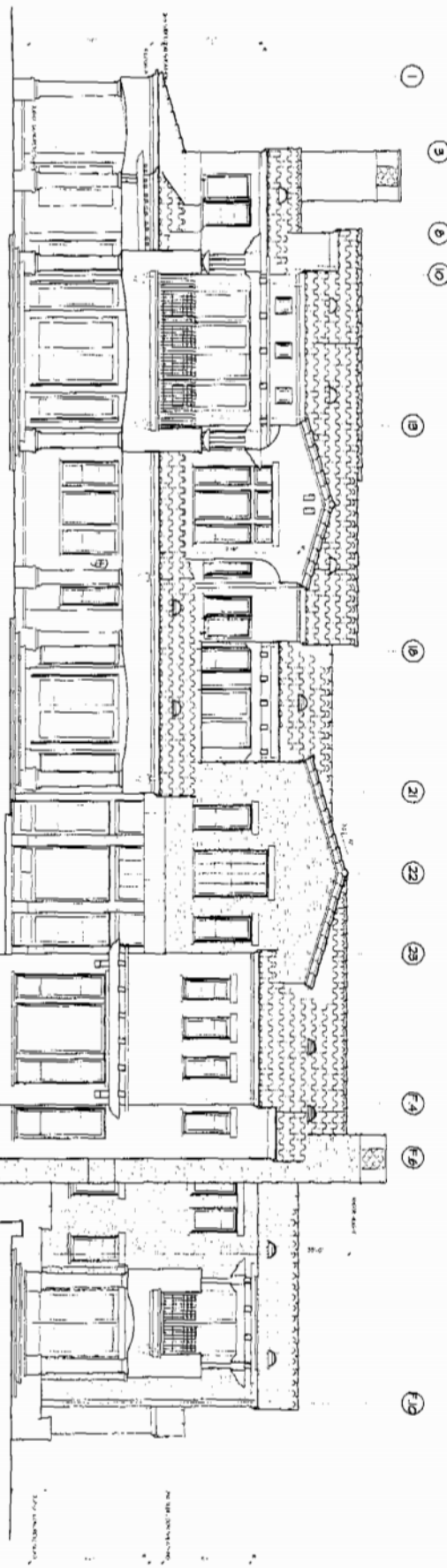
GARAGE FIRST FLOOR PLAN



**EXHIBIT 5**  
**CDP 4-08-012 (Weber)**  
**Garage Plans**



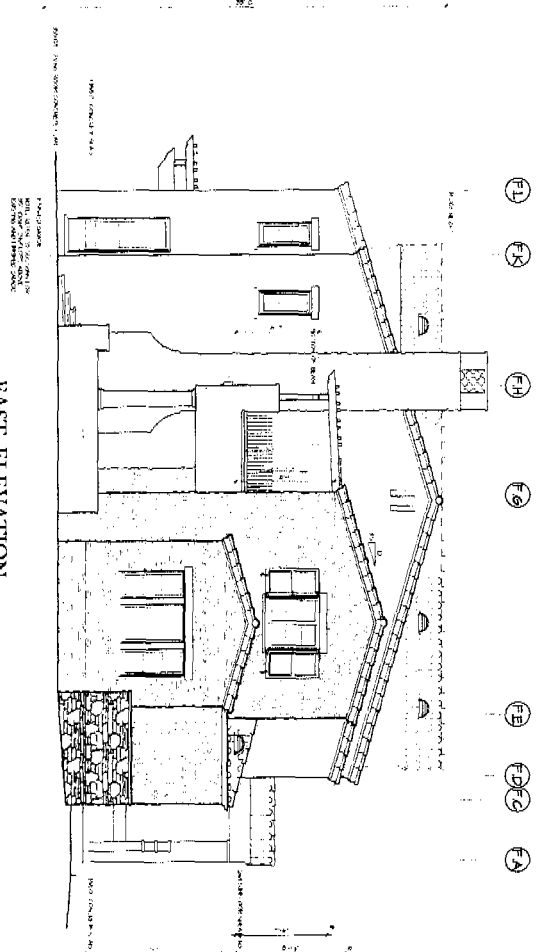
NORTH ELEVATION



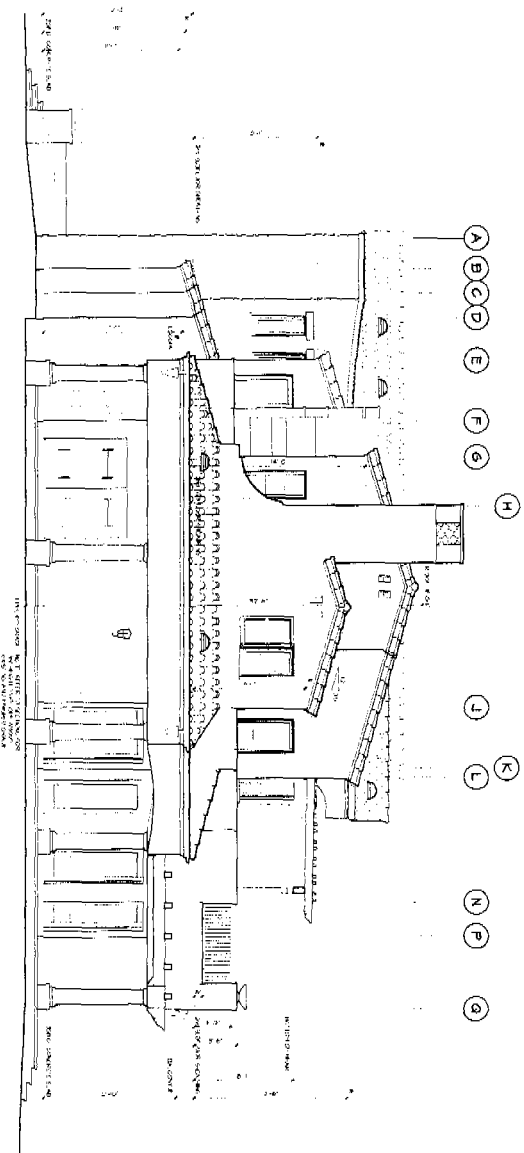
SOUTH ELEVATION

**EXHIBIT 6**  
**CDP 4-08-012 (Weber)**  
**North and South Elevations**

ELEVATIONS 1/8" = 1'-0" 1/4" = 2'-0" 1/2" = 4'-0" 3/4" = 6'-0" 1" = 8'-0" 1 1/4" = 10'-0" 1 1/2" = 12'-0" 1 3/4" = 14'-0" 2" = 16'-0" 2 1/4" = 18'-0" 2 1/2" = 20'-0" 2 3/4" = 22'-0" 3" = 24'-0" 3 1/4" = 26'-0" 3 1/2" = 28'-0" 3 3/4" = 30'-0" 4" = 32'-0" 4 1/4" = 34'-0" 4 1/2" = 36'-0" 4 3/4" = 38'-0" 5" = 40'-0" 5 1/4" = 42'-0" 5 1/2" = 44'-0" 5 3/4" = 46'-0" 6" = 48'-0" 6 1/4" = 50'-0" 6 1/2" = 52'-0" 6 3/4" = 54'-0" 7" = 56'-0" 7 1/4" = 58'-0" 7 1/2" = 60'-0" 7 3/4" = 62'-0" 8" = 64'-0" 8 1/4" = 66'-0" 8 1/2" = 68'-0" 8 3/4" = 70'-0" 9" = 72'-0" 9 1/4" = 74'-0" 9 1/2" = 76'-0" 9 3/4" = 78'-0" 10" = 80'-0" 10 1/4" = 82'-0" 10 1/2" = 84'-0" 10 3/4" = 86'-0" 11" = 88'-0" 11 1/4" = 90'-0" 11 1/2" = 92'-0" 11 3/4" = 94'-0" 12" = 96'-0" 12 1/4" = 98'-0" 12 1/2" = 100'-0" 12 3/4" = 102'-0" 13" = 104'-0" 13 1/4" = 106'-0" 13 1/2" = 108'-0" 13 3/4" = 110'-0" 14" = 112'-0" 14 1/4" = 114'-0" 14 1/2" = 116'-0" 14 3/4" = 118'-0" 15" = 120'-0" 15 1/4" = 122'-0" 15 1/2" = 124'-0" 15 3/4" = 126'-0" 16" = 128'-0" 16 1/4" = 130'-0" 16 1/2" = 132'-0" 16 3/4" = 134'-0" 17" = 136'-0" 17 1/4" = 138'-0" 17 1/2" = 140'-0" 17 3/4" = 142'-0" 18" = 144'-0" 18 1/4" = 146'-0" 18 1/2" = 148'-0" 18 3/4" = 150'-0" 19" = 152'-0" 19 1/4" = 154'-0" 19 1/2" = 156'-0" 19 3/4" = 158'-0" 20" = 160'-0" 20 1/4" = 162'-0" 20 1/2" = 164'-0" 20 3/4" = 166'-0" 21" = 168'-0" 21 1/4" = 170'-0" 21 1/2" = 172'-0" 21 3/4" = 174'-0" 22" = 176'-0" 22 1/4" = 178'-0" 22 1/2" = 180'-0" 22 3/4" = 182'-0" 23" = 184'-0" 23 1/4" = 186'-0" 23 1/2" = 188'-0" 23 3/4" = 190'-0" 24" = 192'-0" 24 1/4" = 194'-0" 24 1/2" = 196'-0" 24 3/4" = 198'-0" 25" = 200'-0" 25 1/4" = 202'-0" 25 1/2" = 204'-0" 25 3/4" = 206'-0" 26" = 208'-0" 26 1/4" = 210'-0" 26 1/2" = 212'-0" 26 3/4" = 214'-0" 27" = 216'-0" 27 1/4" = 218'-0" 27 1/2" = 220'-0" 27 3/4" = 222'-0" 28" = 224'-0" 28 1/4" = 226'-0" 28 1/2" = 228'-0" 28 3/4" = 230'-0" 29" = 232'-0" 29 1/4" = 234'-0" 29 1/2" = 236'-0" 29 3/4" = 238'-0" 30" = 240'-0" 30 1/4" = 242'-0" 30 1/2" = 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EAST ELEVATION



WEST ELEVATION

EXHIBIT 7

CDP 4-08-012 (Weber)

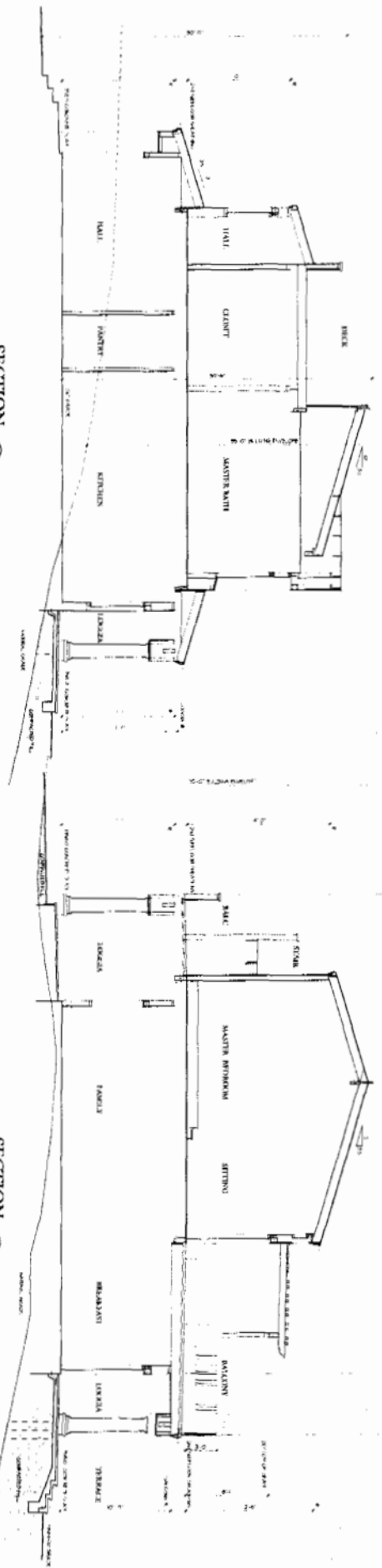
East and West Elevations

<p>DATE: 08/11/10 DRAWN BY: [Signature] CHECKED BY: [Signature]</p>	<p>ELEVATIONS</p>	<p>RAMBLA PACIFICO MALIBU RESIDENCE 2051 Rambla Pacifico Malibu, California 90265 Dr. Charles Weber P.O. Box 1146, Calabasas, California 91302</p>	<p>PROJECT: 08/11/10 SHEET: 01 OF 01 SCALE: 1/8" = 1'-0"</p>	<p>BRUCE LABINS ARCHITECT 1000 E. Santa Clara Street, Suite 100, Ventura, California 93001 805.941.2310 FAX 805.941.2311</p>	<p>THIS DOCUMENT IS THE PROPERTY OF BRUCE LABINS ARCHITECT. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, WITHOUT THE WRITTEN PERMISSION OF BRUCE LABINS ARCHITECT.</p>	<p>Exhibit 6 CCC-16-CD-01 CCC-16-RO-01 (Isaacson)</p>
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B C E L N  
 E 6 L N P G

SECTION B

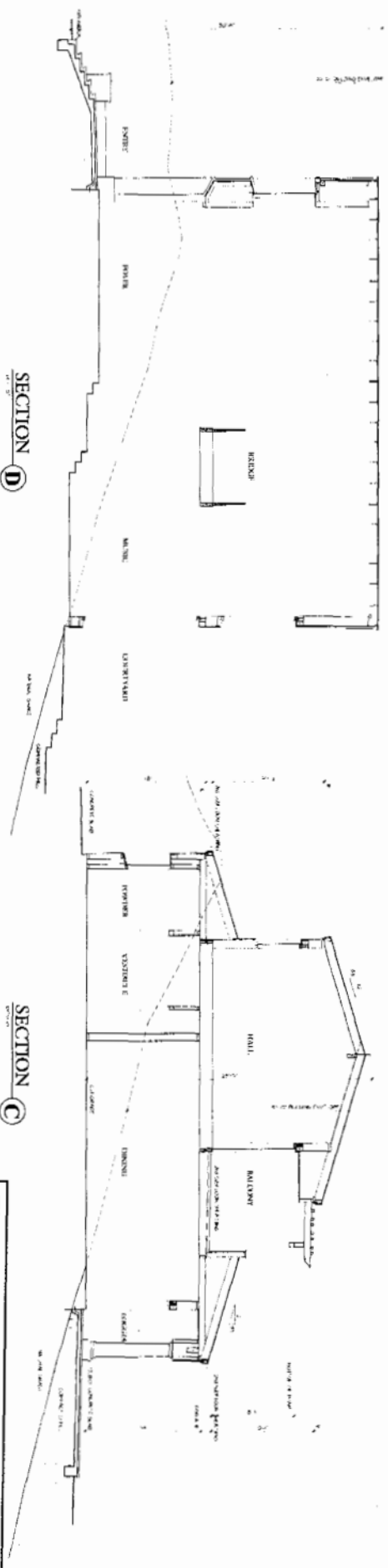
SECTION A



A K C E L N  
 C E L N

SECTION D

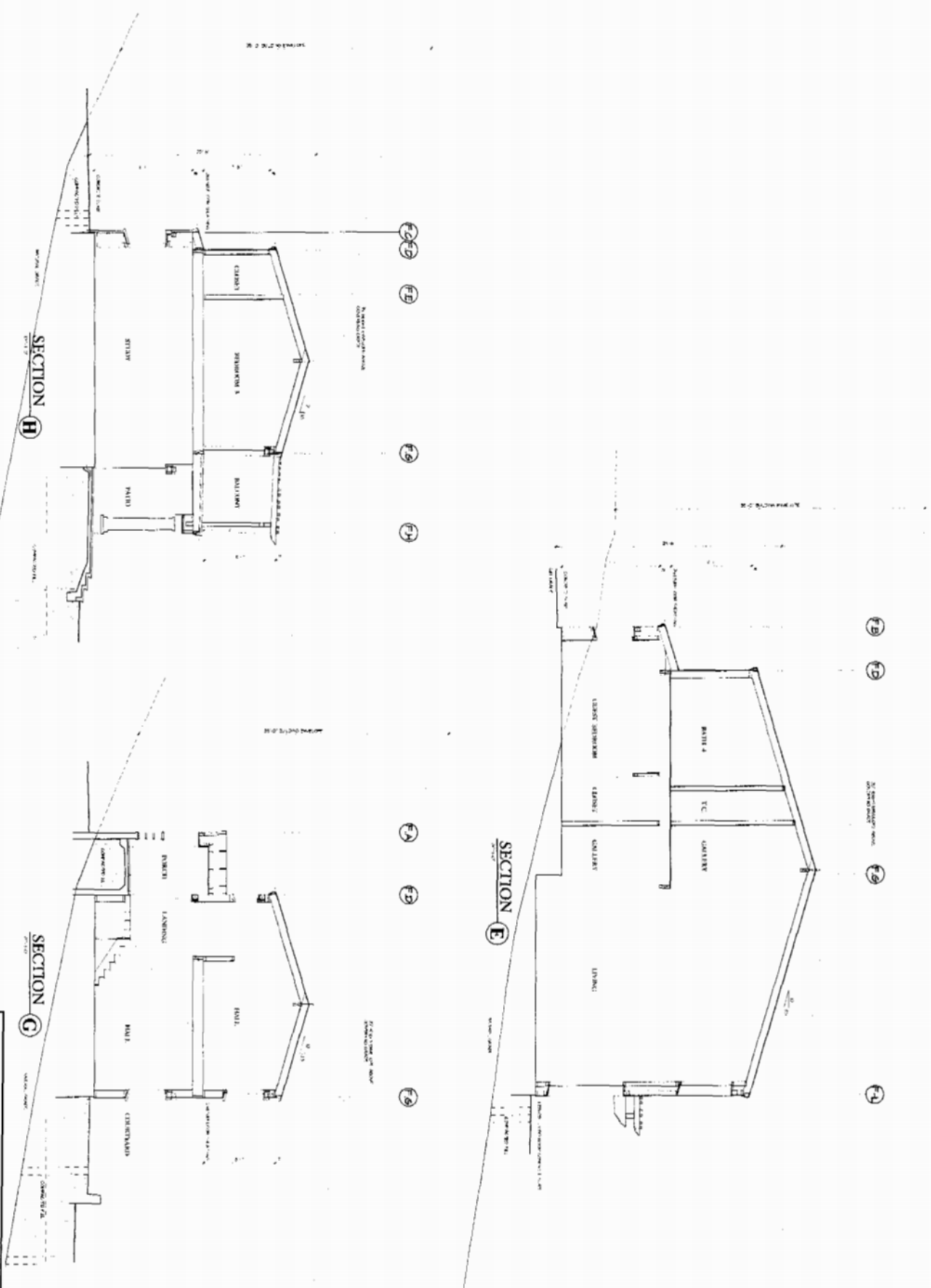
SECTION C

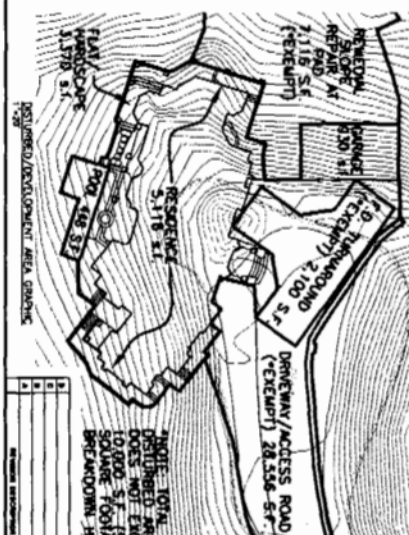
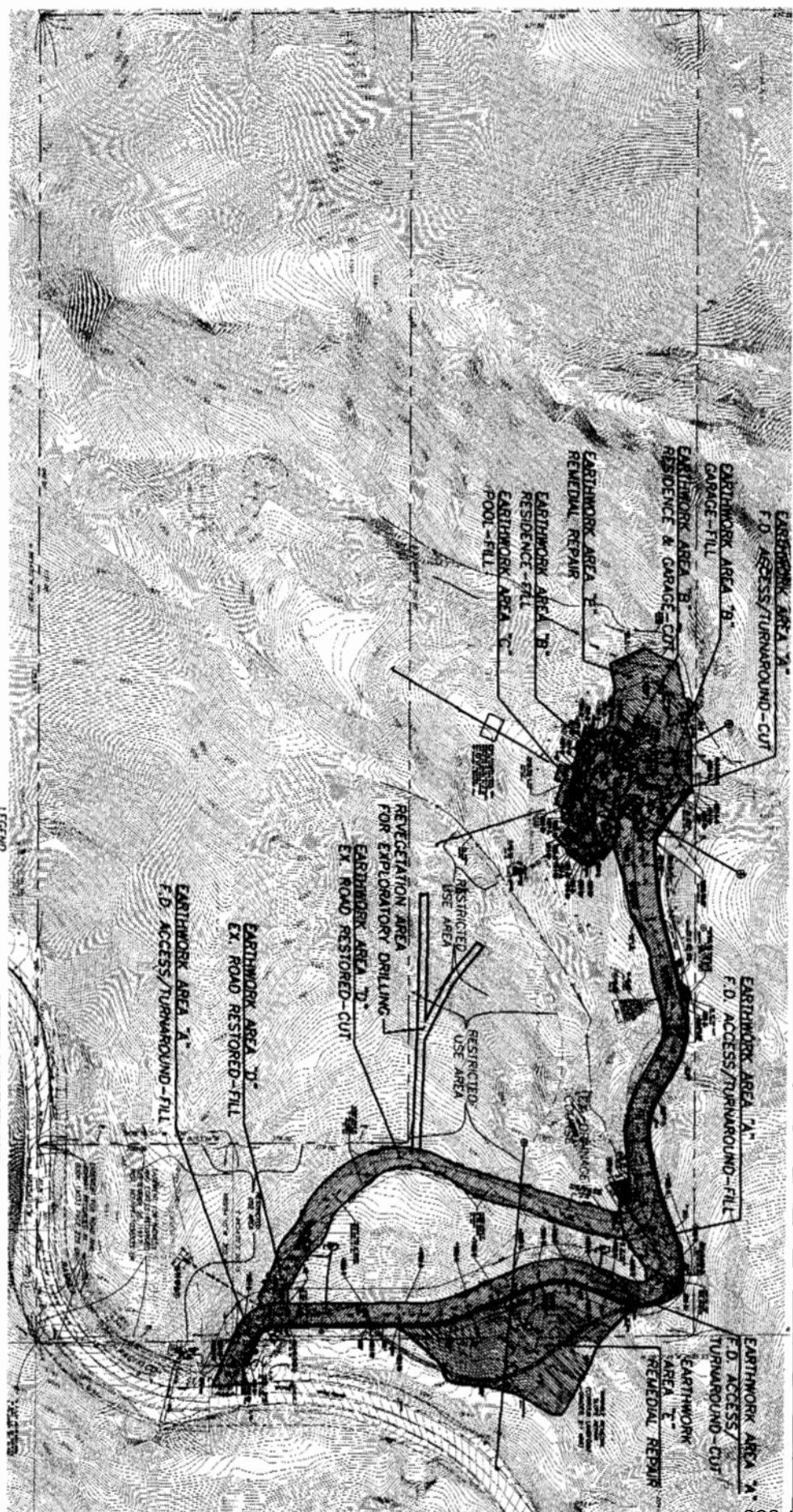


**EXHIBIT 8**  
**CDP 4-08-012 (Weber)**  
**Cross Sections A-D**



**EXHIBIT 9**  
**CDP 4-08-012 (Weber)**  
**Cross Sections E-G**





NOTE: TOTAL DISTURBED AREA DOES NOT EXCEED 100,000 SQ. FT. (BREADED IN SECTION).

MOBILE TOTAL DISTURBED AREA DOES NOT EXCEED 100,000 SQ. FT. (BREADED IN SECTION).

CONSTRUCTION NOTES:

1. EARTHWORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
2. EARTHWORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
3. EARTHWORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
4. EARTHWORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
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8. EARTHWORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
9. EARTHWORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
10. EARTHWORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

LEGEND:

- 1. EARTHWORK AREA A
- 2. EARTHWORK AREA B
- 3. EARTHWORK AREA C
- 4. EARTHWORK AREA D
- 5. EARTHWORK AREA E
- 6. EARTHWORK AREA F
- 7. F.D. ACCESS/TURNAROUND-CUT
- 8. REMEDIAL REPAIR
- 9. RESTRICTED USE AREA
- 10. REVEGETATION AREA FOR EXPLORATORY DRILLING
- 11. EX ROAD RESTORED-CUT

GENERAL NOTES:

1. EARTHWORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
2. EARTHWORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
3. EARTHWORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.
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10. EARTHWORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

ALTERNATIVE SITE DESIGN CLUSTERING DEVELOPMENT WITHIN 10,000 S.F. CDP 4-08-012

OVERALL SITE PLAN

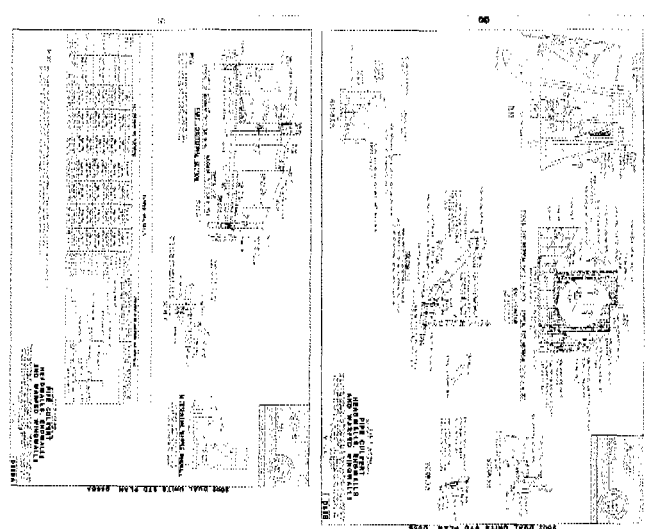
EXHIBIT 10

CDP 4-08-012 (Weber)

Earthwork Areas







- SQUARE FOOTAGE SUMMARY**
- 1. TOTAL LOT AREA = 100,000 S.F.
  - 2. TOTAL EXISTING LOT AREA = 100,000 S.F.
  - 3. TOTAL EXISTING LOT AREA = 100,000 S.F.
  - 4. TOTAL EXISTING LOT AREA = 100,000 S.F.
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  - 9. TOTAL EXISTING LOT AREA = 100,000 S.F.
  - 10. TOTAL EXISTING LOT AREA = 100,000 S.F.
- PERMITS REQUIRED SUMMARY**
- 1. PERMITS REQUIRED FOR THE PROJECT ARE:
  - 2. PERMITS REQUIRED FOR THE PROJECT ARE:
  - 3. PERMITS REQUIRED FOR THE PROJECT ARE:
  - 4. PERMITS REQUIRED FOR THE PROJECT ARE:
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  - 10. PERMITS REQUIRED FOR THE PROJECT ARE:



- CONSTRUCTION NOTES**
- 1. EXISTING GRADE, SEE SHEET 100,000 S.F.
  - 2. EXISTING GRADE, SEE SHEET 100,000 S.F.
  - 3. EXISTING GRADE, SEE SHEET 100,000 S.F.
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- LEGEND**
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- CONSTRUCTION NOTES**
- 1. EXISTING GRADE, SEE SHEET 100,000 S.F.
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- LEGEND**
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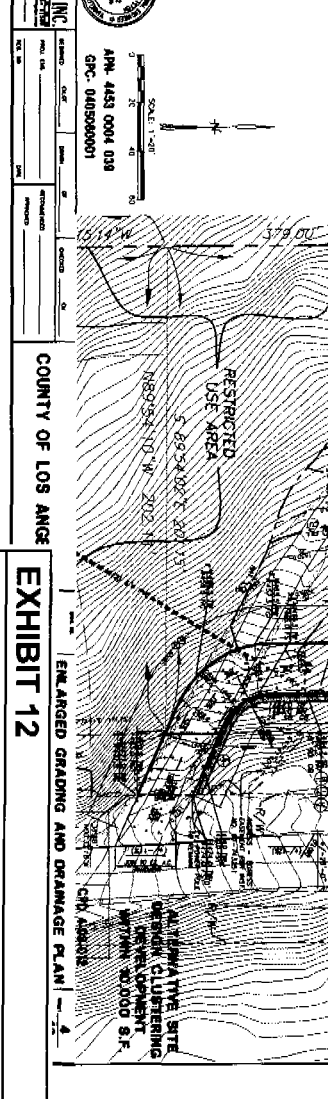
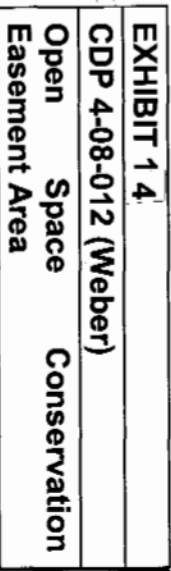


Exhibit 6  
CCC-16-CD-01  
CCC-16-RO-01  
(Isaacson)  
Page 60 of 61



## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



Via Certified and Regular Mail  
And Facsimile

March 4, 2010

Charles L. Weber  
2060-D E Avenida De Los Arboles  
Thousand Oaks, CA 91362-1376  
(Certified Mail Article No. 7006 2760 0005 5883 6375)

4422 Oak Place Drive  
Westlake Village, CA 91362  
(Certified Mail Article No. 7006 2760 0005 5883 6399)

Dean Isaacson  
23935 De Ville Way  
Malibu, CA 90265  
(Certified Mail Article No. 7006 2760 0005 5883 6382)

**Subject: Notice Prior to Issuance of Executive Director Cease and Desist Order for Violation No. V-4-10-004 and Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings**

**Location: 2053 Rambla Pacifica, Malibu, Los Angeles County**

**Violation Description: Unpermitted grading and grading inconsistent with Coastal Development Permit No. 4-08-012 during a period of time explicitly prohibited by Special Condition No. 2.B of Coastal Development Permit No. 4-08-012, placement of fill on the subject property, and destruction of Environmentally Sensitive Habitat.**

Dear Mr. Weber and Mr. Isaacson:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission") to: 1) issue an Executive Director Cease and Desist Order ("EDCDO") directing you to cease and desist from conducting any further unpermitted development or development that is inconsistent with Coastal Development Permit (CDP) No. 4-08-012, including, but not limited to, grading beyond any remedial measures required by this EDCDO or other Order issued by the Commission or government agency having jurisdiction in this matter, on property located at 2053 Rambla Pacifica ("Subject Property"); and



2) commence proceedings for issuance by the Commission of Cease and Desist and Restoration Orders to direct you to cease and desist from undertaking further unpermitted development or development inconsistent with CDP 4-08-012, and to undertake restoration efforts on the Subject Property.

The unpermitted development and the development inconsistent with the previously issued CDP include grading the Subject Property in a manner, and during a period of time, that was directly inconsistent with Special Condition No. 2.B of CDP 4-08-012; destruction of Environmentally Sensitive Habitat, and unpermitted placement of fill material on the Subject Property (see below for more details).

### **History of CDP Action and Violation Investigation**

#### **CDP No. 4-08-012**

On November 13, 2008, the Commission approved CDP No. 4-08-012 which authorized the construction of a 2-story, 7,802 sq. ft. single family home, with a detached 828 sq. ft. garage with 748 sq. ft. guest quarters above, pool, new 1,250 ft. long driveway, septic system, 9 ft. retaining walls, 384 sq. ft. stable, 32,727 cu. yds. of grading, and granted after-the-fact approval of an unpermitted graded pad and required restorative grading and revegetation of unpermitted roads.

The CDP contained several conditions to ensure the project's consistency with the Coastal Act. Among these conditions was an explicit requirement that all grading on the Subject Property take place only during the dry season (April 1 – October 31). During the staff presentation at the Commission hearing for this CDP, Commission Deputy Director, John Ainsworth, explained the necessity of this condition. He stated, "The no grading during the rainy season provision is a typical erosion control measure the Commission has applied to projects in the Santa Monica Mountains. The basis for this provision is to minimize erosion from hillside development, minimize sedimentation of streams, and impacts to riparian and chaparral ESHA. Another reason for this provision is to ensure geologically unstable areas are not opened up during the rainy season, which could result in and contribute to landsliding and geologic instability." Mr. Ainsworth noted in his presentation that you, the applicant, were requesting to grade the house pad area during the rainy season (but not the landslide remediation area).<sup>1</sup> Mr. Ainsworth continued by stating, "...staff continues to recommend an outright prohibition during the rainy season because there is a significant amount of grading and even for the building pad and access to this area is through the landslide area. If grading is allowed during the rainy season, staff believes there is a significant risk for de-stabilizing of the landslide area and potential sedimentation of nearby streams, drainages, and adverse impacts to riparian chaparral ESHA."

<sup>1</sup> We note that the area that was graded in violation of the CDP was actually in the area of the prior landslide and not on the house pad area. During the hearing Mr. Isaacson requested to grade the house pad area only during the rainy season and would not grade the landslide remediation area until the dry season. In any event, the permit specifically prohibited any grading of the property during the rainy season, and the grading that occurred is inconsistent with Special Condition No. 2.B. of the CDP.

After the staff presentation, Mr. Isaacson requested that he be allowed to grade during the rainy season and that Special Condition 2.B. be deleted. He stated that there was a possibility of losing financing for the project unless the applicant could begin grading during the rainy season. Mr. Isaacson stated that they would like to do a phased grading plan that allows them to grade the flat building pad area during the rainy season and then grade the landslide remediation area during the dry season.

In response to this request, Mr. Ainsworth stated, "I don't know how you would actually phase a grading plan in like that because the building site's way out ... they're going to have to access the building pad through that road that crosses that landslide area and just the action of moving across that road and would open that road up even further to erosion. I just don't know how that would happen, how we would phase it in, and how we would monitor it as well." The Commission concurred with the staff presentation and approved the project with the condition to prohibit all grading anywhere on the site during the rainy season, among several other conditions to ensure the protection of coastal resources.

#### Unpermitted Grading/Violation of CDP 4-08-012

After requesting the Commission delete the special condition restricting grading in the rainy season, having the reasons why it was critical to not grade this particular property during the rainy season (including the resource impacts and possible landslides that could be caused if such grading did occur on the property during the rainy season) highlighted at the hearing, and having the Commission retain the condition based on the need to protect not only the coastal resources in this area but also to prevent a landslide from occurring, the condition and concerns were made clear. Despite this, you chose to ignore the discussion at the Commission hearing and the clear language of the CDP and continued your grading work into the rainy season in violation of your permit.

On November 3, 2009, the Los Angeles County Department of Public Works issued a Notice of Stop Work Order on the Subject Property. The Order stated that work was to cease except for the installation of erosion control measures (and these were to be installed only after being approved by the Commission). Subsequent to this time, Commission staff became aware that there had been additional grading after the timeframes provided for in the CDP, in violation of the CDP and the Coastal Act. On November 9, 2009, you sent Commission staff a letter alleging that you needed to continue grading because the site was in an "unsafe and geologically unstable condition" and requesting that Commission staff contact the County of Los Angeles to allow you to complete the grading/slope repair during the rainy season.

Commission staff visited the site on November 16, 2009, and found that the grading had stopped, yet no erosion control measures were in place. During a December 3, 2009 telephone conversation with Mr. Isaacson, Commission staff analyst, Amber Tysor, explained our concerns regarding your grading work conducted during the prohibited time period. In this conversation, staff indicated that we would allow you to conduct remedial grading to stabilize the access road for the sole purpose of preparing the site for the rainy season. We were allowing this limited grading work to occur only because we were left with no other option because you failed to

implement erosion control measures as required in the CDP to ensure that erosion and geologic instability would not occur during the rainy season, in addition to continuing to grade during the timeframe prohibited by the condition of your CDP, and your having left the unpermitted graded area unprotected, without measures to prevent erosion and instability, which would only lead to further resource damage beyond the damage that had already occurred because of your activities. Commencing a massive grading project within a known geologic hazard zone just days before the beginning of the rainy season was both inconsistent with the permit conditions, and also created a situation that left us with no other option other than to allow minimal additional grading that would cause potentially less resource damage than leaving the site open to greater erosion and instability.

During the December 3 telephone conversation, Ms. Tysor requested an interim erosion control plan so we could analyze how you were going to ensure that additional erosion and potential instability of the site would be addressed. We did not receive this requested document. Therefore, on December 14, 2009, Ms. Tysor sent Mr. Isaacson a letter confirming the December 3, 2009 conversation and required the submittal of the following items; 1) interim erosion control plans, 2) a detailed work schedule, and 3) a comprehensive erosion control plan prepared by a civil engineer. We gave you until December 22, 2009 to submit this information. As of this date, over 2 ½ months later, we have not received any of the documents requested as a condition of allowing you to continue to do limited stabilization work during the rainy season.

On January 28, 2010, Commission staff visited the site and confirmed that grading was continuing, almost 2 months after we authorized only limited grading to stabilize the site through the rainy season, and required erosion control measures and schedules as noted above and in our letter of December 14, 2009. Unfortunately, it did not appear that the grading was limited to simply preparing the site for the rainy season. It also did not appear that the necessary erosion control measures were in place. Even more unfortunately, on February 5, 2010, a massive landslide occurred on and adjacent to the Subject Property, destroying Rambla Pacifica above the Subject Property and burying ESHA adjacent to the unpermitted graded areas. This landslide and resultant destruction of ESHA and closure of a public road came about as a direct result of your violation of the conditions of your permit that specifically does not allow grading during the rainy season.

#### **Executive Director Cease and Desist Order**

Section 30809 of the Coastal Act authorizes the Executive Director to issue an order directing a person to cease and desist if that person has undertaken, or threatened to undertake, any activity that may require a permit without securing a permit or may be inconsistent with any permit previously issued by the Commission. The grading of the Subject Property constitutes development which requires a CDP. As detailed above, grading during the raining season was prohibited by a condition of your CDP. In addition, no CDP or amendment to your CDP has been issued by the Commission. Therefore, the unpermitted development is both inconsistent with a previously issued CDP and unpermitted, and in either event, constitutes a violation of the Coastal Act.

Section 30809(b) of the Coastal Act states:

*The cease and desist order shall be issued only if the person or agency has failed to respond in a satisfactory manner to an oral notice given in person or by telephone, followed by a written confirmation, or a written notice given by certified mail or hand delivered to the landowner or the person performing the activity.*

Section 13180(a) of the Commission's regulations (Title 14, Division 5.5 of the California Code of Regulations (CCR)) defines the term "satisfactory manner" as that term is used in Section 30809(b) as being, in part, "a response which is made in the manner and within the timeframe specified in the notice." **Therefore, to prevent the issuance of the Executive Director Cease and Desist Order to you, you must provide a response that satisfies the standards of sections 13180(a)(2)(B) and (C) of the Commission's regulations. If you do not comply with these requirements, an EDCDO will be issued to you, the violation of which could subject you to additional penalties. This response should include:**

1. Agreement to immediately and completely cease and desist from performing any unpermitted development or development that is inconsistent with CDP 4-08-012 on the Subject Property, including, but not limited to, grading, removal of major vegetation, or placement of fill, unless authorized by the Commission through a CDP or an Order issued by the Executive Director or the Commission.
2. Agreement that from this point forward you will comply with all terms and conditions of CDP 4-08-012.
3. By 12:00 pm, March 5, 2010, confirm that all such activities have indeed ceased, and commit to perform no further unpermitted development or development inconsistent with CDP 4-08-012 at the Subject Property. This confirmation should be provided by telephone to Aaron McLendon at (415) 904-5330 and followed by a written confirmation faxed to Aaron McLendon at (415) 904-5235.
4. By 4:00 pm, March 5, 2010, submit via facsimile at (415) 904-5235:
  - A. Two copies of an interim erosion control plan including a provision that erosion control measures will be monitored several times a day during any rain event to ensure that the measures are working properly;
  - B. A detailed work schedule;
  - C. Two copies of a comprehensive erosion control plan prepared by a civil engineer; and
  - D. A detailed plan by a Restoration Specialist to restore any habitat area damaged by the grading or as a result of the February 5, 2010 landslide.

The Executive Director Cease and Desist Order may be subject to such terms and conditions as the Executive Director may determine are necessary to avoid irreparable injury to any area within the jurisdiction of the Commission pending action by the Commission under Section 30810 and 30811 of the Coastal Act (which grants the Commission the authority to issue Cease and Desist and Restoration Orders). The Executive Director Cease and Desist Order shall be effective upon its issuance.

**Notice of Intent to Commence Commission Cease and Desist and Restoration Order Proceedings**

I am also notifying you of my intent to commence proceedings for issuance by the Commission of a Cease and Desist and Restoration Order to direct you to cease and desist from undertaking further unpermitted development or development inconsistent with CDP 4-08-012 on the Subject Property and to restore the Subject Property to the conditions that existed prior to the occurrence of the unpermitted development.

**Cease and Desist Order**

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

*If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.*

The Executive Director of the Commission is issuing this notice of intent to commence Cease and Desist Order proceedings to require you to cease and desist from conducting any further unpermitted development or development inconsistent with CDP 4-08-012, and to take actions to ensure compliance with the Coastal Act. The Subject Property where the unpermitted development occurred is located in the Santa Monica Mountains, immediately southwest of the intersection of Rambla Pacifico and Las Flores Canyon Road. The Subject Property is comprised of moderate to steep sloping hillside terrain, and located in the Carbon Canyon watershed. One intermittent and two ephemeral streams exist on the Subject Property.

Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. "Development" is defined by Section 30106 of the Coastal Act as follows:

*"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land...change in the intensity of use of*

*water, or of access thereto...and the removal or harvesting of major vegetation other than for agricultural purposes...*

The unpermitted development clearly constitutes "development" within the meaning of the above-quoted definition and therefore is subject to the permit requirement of section 30600(a). A CDP was not issued to authorize the subject unpermitted development. Further, the unpermitted development is inconsistent with CDP 4-08-012 that was conditioned to set a specific timeframe for when any grading could take place (the period between April 1 and October 31).

For these reasons, the criteria of Section 30810(a) of the Coastal Act have been met and I am sending this letter to initiate proceedings for the Commission to determine whether to issue a Cease and Desist Order.

Based on Section 30810(b) of the Coastal Act, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including removal of any unpermitted development or material.

#### Restoration Order

Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site in the following terms:

*In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission... the development is inconsistent with this division, and the development is causing continuing resource damage.*

Pursuant to Section 13191 of the Commission's regulations, I have determined that the specified activities meet the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Unpermitted development consisting of grading the property has occurred.
- 2) This development is inconsistent with numerous resource protection policies of the Coastal Act, including, but not limited to the following:
  - a) Sections 30231 (biological productivity and water quality),
  - b) Section 30240 (environmentally sensitive habitat areas or ESHA),
  - c) Section 30251 (scenic and visual qualities), and
  - g) Section 30253 (hazards/geologic stability).
- 3) The unpermitted development is causing continuing resource damage, as defined by Section 13190 of the Commission's regulations. The unpermitted development has impacted the resources listed in the previous paragraph (item number two). Such impacts meet the definition of damage provided in Section 13190(b): "any degradation or other

reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development." The existence of the unpermitted development will lead to adverse impacts to this area of the Santa Monica Mountains, including the disruption of sensitive habitat, impacts to the biologic productivity within and water quality of the streams below the graded areas, increases in geologic instability of the property and surrounding properties, and effects to the scenic qualities of this area.

In addition, the continuation of the unpermitted development, as listed above, will create further adverse impacts to water quality, the scenic and visual qualities of this natural area, ESHA, and would create and/or contribute to erosion of the site and adjacent areas and cause increased instability across the property. The impacts from the unpermitted development continue to exist at the subject property; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence proceedings for a Restoration Order before the Commission in order to restore the Subject Property to the condition they were in before the unpermitted development occurred.

The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations. Section 13196(e) of the Commission's regulations states the following:

*Any term or condition that the commission may impose which requires removal of any development or material shall be for the purpose of restoring the property affected by the violation to the condition it was in before the violation occurred.*

Accordingly, any Restoration Order that the Commission may issue will have as its purpose the restoration of the Subject Property to the conditions that existed prior to the occurrence of the unpermitted development described above.

In accordance with Sections 13181(a) and 13191(a) of the Commission's Regulations, you have the opportunity to respond to the Commission staff's allegations as set forth in this notice of intent to commence Cease and Desist and Restoration Order proceedings by completing the enclosed Statement of Defense (SOD) form. **The SOD form must be returned to the Commission's Long Beach office (200 Oceangate, 10<sup>th</sup> Floor, Long Beach, CA 90802), directed to the attention of Aaron McLendon, no later than March 24, 2010.**

You should be aware that Section 30820(a) provides for civil liability to be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission in an amount that shall not exceed \$30,000 and shall not be less than \$500 for each violation. Section 30820(b) provides that additional civil liability may be imposed on any person who performs or undertakes development without a CDP and/or that is inconsistent with any CDP previously issued by the Commission when the person intentionally and knowingly performs or undertakes such development, in an amount not less

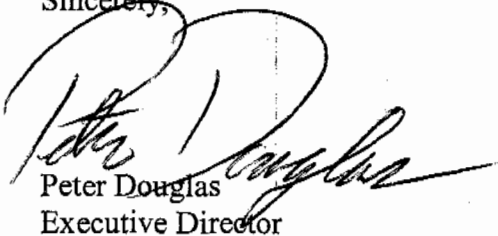


than \$1,000 and not more than \$15,000 per day for each day in which each violation persists. Section 30821.6 provides that a violation of a cease and desist order, including an EDCDO, or a restoration order can result in civil fines of up to \$6,000 for each day in which each violation persists.

In addition, the Commission may commence an action to record a Notice of Violation against the subject property, pursuant to section 30812 of the Coastal Act.

The Commission staff intends to schedule the hearings for the Cease and Desist and Restoration Order during the Commission's May 2010 meeting in Santa Rosa or Marin. If you have any questions regarding this letter or the enforcement case, please call Aaron McLendon at (415) 904-5220 or (562) 590-5071.

Sincerely,



Peter Douglas  
Executive Director

cc: Aaron McLendon, Statewide Enforcement Analyst  
Lisa Haage, Chief of Enforcement  
Alex Helperin, Staff Counsel  
John Ainsworth, Deputy Director  
Steve Hudson, South Central Coast District Manager  
Pat Veesart, Southern California Enforcement Supervisor  
Tom Sinclair, South Central Coast District Enforcement Officer

Encl. Statement of Defense Form for Cease and Desist Order and Restoration Order

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400

**SENT VIA REGULAR AND CERTIFIED MAIL  
AND FACSIMILE**

March 5, 2010

Charles L. Weber  
2060-D E Avenida De Los Arboles  
Thousand Oaks, CA 91362-1376  
(Certified Mail Article No. 7006 2760 0005 5883 6528)

4422 Oak Place Drive  
Westlake Village, CA 91362  
(Certified Mail Article No. 7006 2760 0005 5883 6511)

Dean Isaacson  
23935 De Ville Way  
Malibu, CA 90265  
(Certified Mail Article No. 7006 2760 0005 5883 6504)

**Subject: Executive Director Cease and Desist Order No. ED-10-CD-01 and  
Notification of Intent to Record a Notice of Violation of the Coastal Act**

**Date Issued:** March 5, 2010

**Expiration Date:** June 3, 2010

**Violation File No.:** V-4-10-004

**Property Location:** 2053 Rambla Pacifico, Malibu, Assessor's Parcel No. 4453-004-039, Los Angeles County

**Alleged Coastal Act Violation:** Unpermitted grading and grading inconsistent with Coastal Development Permit No. 4-08-012 during a period of time explicitly prohibited by Special Condition No. 2.B of Coastal Development Permit No. 4-08-012, failure to install erosion control measures as required by Special Condition 2.B.3, placement of fill on the subject property, and destruction of Environmentally Sensitive Habitat.

## I. ORDER

Pursuant to my authority under California Public Resources Code ("PRC") Section 30809, I hereby order you, as the legal owner of the property identified as 2053 Rambla Pacifico, Malibu, Assessor's Parcel No. 4453-004-039, Los Angeles County ("Subject Property"), and the agent/contractor/representative(s) responsible for the work being performed under Coastal Development Permit ("CDP") No. 4-08-012, your employees, agents and contractors, and any other persons acting in concert with you, to cease and desist from undertaking further unpermitted development or maintaining existing unpermitted development on the site, including but not limited to unpermitted grading, grading inconsistent with CDP No. 4-08-012 during a period of time explicitly prohibited by Special Condition 2.B.2 of CDP No. 4-08-012, failure to install erosion control measures as required by Special Condition 2.B.3, placement of fill on the Subject Property, and destruction of Environmentally Sensitive Habitat. In addition, I hereby order you to comply with the following terms and conditions to avoid irreparable injury to the Subject Property pending any possible action by the Commission under Section 30810 and 30811 of the Coastal Act:

1. You shall immediately and completely cease and desist from conducting any further unpermitted development or development that is inconsistent with CDP No. 4-08-012, including, but not limited to, grading beyond any remedial measures required by this Executive Director Cease and Desist Order or other Order issued by the Commission or other government agency having jurisdiction in this matter, on the Subject Property.
2. Submit all plans necessary to remove the impacts of the unpermitted development or the development inconsistent with CDP No. 4-08-012, and restore the Subject Property to its previous condition and consistent with CDP No. 4-08-012. Such measures include, but are not limited to, remedial grading to address the February 5 landslide and to ensure that the landslide does not continue, installation of temporary erosion control measures, installation of permanent erosion control measures, and restoration of impacted ESHA. Erosion control measures shall ensure, among other things, the creek that runs across the Subject Property is protected against impacts due to the unpermitted development and development inconsistent with CDP No. 4-08-012. Grading and engineering plans shall ensure the landslide stops and does not cause additional resource impacts. The Restoration Plan shall address all steps necessary to protect the creek and restore the area fully, including restoration of the graded areas and of all vegetation impacted (using a nearby undisturbed ESHA as a comparison site).
3. All grading and temporary and permanent erosion control plans shall be prepared by a licensed civil engineer, approved by the Los Angeles County Department of Public Works and any other local, state, or federal government agency having jurisdiction over this matter. The plans shall be submitted for the review and approval of the Executive Director of the Commission by no later than March 17, 2010.

4. All Restoration Plans shall be prepared by a restoration ecologist/resource specialist with expertise in restoring coastal sage scrub/chaparral habitat in the Santa Monica Mountains area. The plans shall be submitted for the review and approval of the Executive Director of the Commission by no later than March 17, 2010.
5. Within 7 days of the approval by the Executive Director of the documents submitted under this Order, or within such additional time as the Executive Director may grant for good cause in accordance with the requirements of Section I.7 herein, you shall commence implementation of the approved plans.
6. Within 7 days from completion of the work required under this Order, you shall submit a plan, including photographic evidence, documenting the completion of the work authorized by this Order. Photographs shall be taken that adequately represent the disturbed areas of the site.
7. Prior to the expiration of any given deadline established by this Order, you may request from the Executive Director an extension of the unexpired deadline. Such a request shall be made in writing ten days in advance of the deadline and directed to the Executive Director in the San Francisco office of the Commission. The Executive Director may grant an extension of any deadline upon a showing of good cause, if the Executive Director determines that you have diligently worked to comply with their obligations under this Order but cannot meet deadlines due to unforeseen circumstances beyond your control. A violation of this Section will result in penalties, as provided for in Section 30821.6 of the Coastal Act.
8. The Executive Director may require revisions to deliverables required under this Order, and you shall revise any such deliverables consistent with the Executive Director's specifications, and resubmit them for further review and approval by the Executive Director, within ten days of receipt of a modification request from the Executive Director.

## II. PERSONS SUBJECT TO THE ORDER

The persons subject to this Executive Director Cease and Desist Order are Charles Weber and Dean Isaacson, and anyone conducting development on their behalf or on their above-referenced property, their employees, agents, contractors, and anyone acting in concert with the foregoing.

## III. IDENTIFICATION OF THE PROPERTY

The property that is the subject of this Executive Director Cease and Desist Order is located at 2053 Rambla Pacifico, Malibu, Assessor's Parcel No. 4453-004-039, Los Angeles County.

#### IV. DESCRIPTION OF VIOLATIONS

The activity that is the subject of this Order includes unpermitted grading and grading inconsistent with CDP No. 4-08-012 during a period of time explicitly prohibited by Special Condition No. 2.B.2 of CDP No. 4-08-012, placement of fill on the subject property, destruction of Environmentally Sensitive Habitat, and failure to comply with the requirements for stabilization of the Subject Property contained in the erosion control plan required by and approved under the CDP noted above.

#### V. COMMISSION AUTHORITY TO ACT

The Executive Director of the Commission is issuing this Order pursuant to his authority under PRC Sections 30809(a).

#### VI. FINDINGS

The unpermitted development includes unpermitted grading and grading inconsistent with CDP No. 4-08-012 during a period of time explicitly prohibited by Special Condition No. 2.B.2 of CDP No. 4-08-012, placement of fill on the subject property, destruction of Environmentally Sensitive Habitat, and failure to comply with the requirements for stabilization contained in the erosion control plan required by and approved under the CDP noted above.. The development has occurred, and the effects thereof continue to exist, on the Subject Property in violation of the Coastal Act and previously issued CDP 4-08-012, which includes an explicit requirement in Special Condition No. 2 that all grading on the Subject Property take place only during the dry season (April 1 – October 31).

In addition, you failed to implement erosion control measures as required by the CDP to ensure that erosion and geologic instability would not occur during the rainy season, and your having left the unpermitted graded area unprotected, without measures to prevent erosion and instability, led to further resource damage beyond the damage that had already occurred because of your original activities.

Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. "Development" is defined by Section 30106 of the Coastal Act as follows:

*"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land...change in the intensity of use of water, or of access thereto...and the removal or harvesting of major vegetation other than for agricultural purposes...*

The unpermitted development clearly constitutes “development” within the meaning of the above-quoted definition and therefore requires a CDP. The activities undertaken were either unpermitted or inconsistent with CDP 4-08-012, or both, and no other CDP has been issued for the activity, nor has a permit application been applied for.

The unpermitted development is also not exempt from the Coastal Act’s permitting requirements under Section 30610 of the Coastal Act and/or Title 14, California Code of Regulations Sections 13250-13253.

In addition, the development activities undertaken were inconsistent with the clear requirements of Special Condition No. 2 of Coastal Development Permit (CDP) No. 4-08-012, which clearly specified times when such activities were permitted and were prohibited. The activities were also inconsistent with the requirements for stabilization contained in the erosion control plan required by and approved under the CDP noted above.

Special Condition 2.B.2 states, in part:

*“The plan shall specify that grading shall take place only during the dry season (April 1 – October 31). This period may be extended for a limited period of time if the situation warrants such a limited extension, if approved by the Executive Director. The applicants shall install or construct temporary sediment basins (including debris basins, desilting basins, or silt traps), temporary drains and swales, sand bag barriers, silt fencing, and shall stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes, and close and stabilize open trenches as soon as possible.”*

Special Condition 2.B.3 states, in part:

*“The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.”*

Grading for this massive grading project (for the construction of the home, driveway, and other amenities) commenced on approximately October 9, 2009, just weeks before the rainy season and just weeks before the prohibition on grading activity pursuant to conditions of your CDP began. While you were clearly aware of the requirement to stop grading on October 31, and the requirement to prepare the site for the rainy season and install temporary erosion control measures because you would be stopping grading activity for over 30 days (see Special Condition 2.B.3, above), you continued to grade into the prohibited time period and failed to

prepare the site with temporary erosion control measures, in violation of CDP No. 4-08-012. Therefore, the activity was also in violation of your CDP.

On November 3, 2009, the Los Angeles County Department of Public Works issued a Notice of Stop Work Order on the Subject Property. The Order stated that work was to cease except for the installation of erosion control measures (and these were to be installed only after being approved by the Commission). Subsequent to this time, Commission staff became aware that there had been additional grading after the timeframes provided for in the CDP, in violation of the CDP and the Coastal Act.

On November 9, 2009, you sent Commission staff a letter alleging that you needed to continue grading because the site was in an "unsafe and geologically unstable condition" and requesting that Commission staff contact the County of Los Angeles to allow you to complete the grading/slope repair during the rainy season.

Commission staff visited the site on November 16, 2009, and found that the grading had halted, yet no erosion control measures were in place as required by Special Condition 2. During a December 3, 2009 telephone conversation with Mr. Isaacson, Commission staff analyst, Amber Tysor, explained our concerns regarding your grading work conducted during the prohibited time period. In this conversation, given the site conditions created by the failure to abide by the time limitations and erosion control requirements, staff indicated that we would allow you to conduct remedial grading to stabilize the access road for the sole purpose of preparing the site for the rainy season. We were allowing this limited grading work to occur only because we were left with no other option because you failed to implement erosion control measures as required in the CDP to ensure that erosion and geologic instability would not occur during the rainy season, in addition to continuing to grade during the timeframe prohibited by the condition of your CDP, and your having left the unpermitted graded area unprotected, without measures to prevent erosion and instability, which would only lead to further resource damage beyond the damage that had already occurred because of your activities.

Your commencing a massive grading project within a known geologic hazard zone just days before the beginning of the rainy season and the commencement of the period during which you knew you were prohibited from completing any unfinished grading work was both inconsistent with the permit conditions and also created a situation that left us with no other option other than to allow minimal additional grading that would cause potentially less resource damage than leaving the site open to greater erosion and instability.

During the December 3 telephone conversation, Ms. Tysor requested an interim erosion control plan so we could analyze how you were going to ensure that additional erosion and potential instability of the site would be addressed. We did not receive this requested document. Therefore, on December 14, 2009, Ms. Tysor sent Mr. Isaacson a letter confirming the December 3, 2009 conversation and required the submittal of the following items: 1) interim erosion control plans, 2) a detailed work schedule, and 3) a comprehensive erosion control plan prepared by a civil engineer. We gave you until December 22, 2009 to submit this information. As of this



date, over 2 ½ months later, we have not received any of the documents requested as a condition of allowing you to continue to do limited stabilization work during the rainy season.

On January 28, 2010, Commission staff visited the site and confirmed that grading was continuing, almost 2 months after we authorized only limited grading to stabilize the site through the rainy season and required erosion control measures and schedules as noted above and in our letter of December 14, 2009. Unfortunately, it did not appear that the grading was limited to simply preparing the site for the rainy season. It also did not appear that the necessary erosion control measures were in place.

Even more unfortunately, on February 5, 2010, a massive landslide occurred on and adjacent to the Subject Property, destroying Rambla Pacifico above the Subject Property and impacts to ESHA adjacent to the unpermitted graded areas. This landslide and resultant destruction of ESHA and closure of a public road was clearly caused by or exacerbated by your violation of the conditions of your permit that specifically does not allow grading during the rainy season.

On March 4, 2010, the Executive Director of the Commission sent you a Notice Prior to Issuance of an EDCDO ("NOI"). As indicated in the NOI, the unpermitted development and development conducted inconsistent with the requirements of CDP 4-08-12 is inconsistent with resource protection policies of the Coastal Act, including but not limited to Sections 30231 (biological productivity and water quality), Section 30240 (environmentally sensitive habitat areas or ESHA), Section 30251 (scenic and visual qualities), and Section 30253 (hazards/geologic stability).

The NOI gave you the opportunity to provide assurances which would obviate the need to issue this Order. The NOI stated, in part:

*"[T]o prevent the issuance of the Executive Director Cease and Desist Order to you, you must provide a response that satisfies the standards of sections 13180(a)(2)(B) and (C) of the Commission's regulations. If you do not comply with these requirements, an EDCDO will be issued to you, the violation of which could subject you to additional penalties. This response should include:*

*1. Agreement to immediately and completely cease and desist from performing any unpermitted development or development that is inconsistent with CDP 4-08-012 on the Subject Property, including, but not limited to, grading, removal of major vegetation, or placement of fill, unless authorized by the Commission through a CDP or an Order issued by the Executive Director or the Commission.*

*2. Agreement that from this point forward you will comply with all terms and conditions of CDP 4-08-012.*

*3. By 12:00 pm, March 5, 2010, confirm that all such activities have indeed ceased, and commit to perform no further unpermitted development or development inconsistent with*

*CDP 4-08-012 at the Subject Property. This confirmation should be provided by telephone to Aaron McLendon at (415) 904-5330 and followed by a written confirmation faxed to Aaron McLendon at (415) 904-5235.*

*4. By 4:00 pm, March 5, 2010, submit via facsimile at (415) 904-5235:*

- a. Two copies of an interim erosion control plan including a provision that erosion control measures will be monitored several times a day during any rain event to ensure that the measures are working properly;*
- b. A detailed work schedule;*
- c. Two copies of a comprehensive erosion control plan prepared by a civil engineer; and*
- d. A detailed plan by a Restoration Specialist to restore any habitat area damaged by the grading or as a result of the February 5, 2010 landslide."*

Unfortunately, you did not respond to the NOI, and specifically, you did not commit to perform no further unpermitted development at the Subject Property and did not agree to submit the necessary information to our office. You did not provide a satisfactory response by telephone or facsimile by 12:00 pm March 5, 2010, did not submit required plans via facsimile by 4:00 pm March 5, 2010, and therefore did not respond to the requirements of the NOI in a "satisfactory manner".<sup>1</sup>

I have determined that you have undertaken development that requires a permit without first securing a permit and development inconsistent with an existing CDP. I have also determined that you failed to respond to the NOI in a "satisfactory manner". Therefore I am issuing this EDCDO to direct you to cease and desist from undertaking further unpermitted development or maintaining existing unpermitted development on the Subject Property or maintaining or undertaking further development inconsistent with CDP 4-08-012. In addition, pursuant to Section 30809(c) of the Coastal Act, I am issuing this EDCDO to require you to submit plans demonstrating the restoration and remediation of the Subject Property and carry out those plans once approved by the Executive Director.

## VII. COMPLIANCE OBLIGATION

Strict compliance with this order by all parties subject thereto is required. Failure to comply strictly with any term or condition of this order may result in the imposition of civil penalties up to Six Thousand Dollars (\$6,000) per day for each day in which violation persists and other such penalties and relief as provided for in the Coastal Act.

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<sup>1</sup> Section 13180(a) of the Commission's regulations (Title 14 of the California Code of Regulations) defines the phrase "satisfactory manner," as that term is used in PRC Section 30809(b), as being, in part, "a response which is made in the manner and within the timeframe specified in the notice."

### VIII. APPEAL

Pursuant to PRC section 30803(b), any person or entity against whom this order is issued may file a petition with the Superior Court seeking a stay of this order.

### IX. EFFECTIVE DATE

This order shall be effective upon its issuance and shall expire 90 days from the date this Order was issued.

### **Notification of Intent to Record a Notice of Violation of the Coastal Act**

By this EDCDO, I am also notifying you of my intent to record a Notice of Violation of the Coastal Act for unpermitted development including unpermitted grading, and grading inconsistent with CDP No. 4-08-012 during a period of time explicitly prohibited by Special Condition No. 2.B of CDP No. 4-08-012, failure to install erosion control measures as required by Special Condition 2.B.3, placement of fill on the subject property, and destruction of Environmentally Sensitive Habitat. The unpermitted development and development inconsistent with an existing CDP is located on your property at 2053 Rambla Pacifico, Malibu, Assessor's Parcel No. 4453-004-039, Los Angeles County.

Section 30600(a) states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. "Development" is defined by Section 30106 as follows:

*"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land...change in the intensity of use of water, or of access thereto...and the removal or harvesting of major vegetation other than for agricultural purposes...*

The unpermitted development and development inconsistent with the CDP that has occurred on the Subject Property constitutes development under Section 30106 of the Coastal Act and as such is subject to the Coastal Act. The activity is not authorized under CDP 4-08-012, and no other CDP has been issued for the activity, nor has a permit application been applied for. In addition, it is inconsistent with the terms of CDP 4-08-12, which is also a violation of the Coastal Act.

### **Notice of Violation**

The Commission's authority to record a Notice of Violation is set forth in Section 30812(a) of the Coastal Act, which states the following:

*Whenever the executive director of the commission has determined, based on substantial evidence, that real property has been developed in violation of this division, the executive director may cause a notification of intention to record a notice of violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.*

I am issuing this notice of intent to record a Notice of Violation because unpermitted development and development inconsistent with an existing permit has occurred at the Subject Property, in violation of the Coastal Act. This determination is based on staff's observations of the Subject Property made during site visits on November 16, 2009, January 28, 2010, and March 3, 2010, and in correspondence from you and Los Angeles County Department of Building and Safety.

If you object to the recordation of a Notice of Violation in this matter and wish to present evidence on the issue of whether a violation has occurred, you must respond in writing, within 20 days of the postmarked mailing of this notification. If, within 20 days of the notification's mailing, you fail to inform the Commission of an objection to the recordation of a Notice of Violation, I shall record the Notice of Violation in the Los Angeles County Recorder's office pursuant to Section 30812 of the Coastal Act.

**If you object to the recordation of a Notice of Violation in this matter and wish to present evidence on the issue of whether a violation has occurred, you must respond in writing, to the attention of Aaron McLendon, no later than March 25, 2010.**

We would like to work with you to resolve these issues amicably and remain willing and ready to discuss options that could involve agreeing to a "consent order". A consent order is similar to a settlement agreement. A consent order would provide you with an opportunity to have input into the process and timing of restoration of the Subject Property and mitigation of the damages caused by the unpermitted activity, and could potentially allow you to negotiate a penalty amount with Commission staff in order to resolve the complete violation without any further formal legal action. If you are interested in discussing the possibility of a consent order, please contact or send correspondence to the attention of Aaron McLendon, at the address listed on the letterhead when you receive this letter to discuss options to resolve this case.

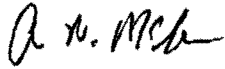
March 5, 2010

Page 11

Should you have any questions regarding this matter, please contact Aaron McLendon, Statewide Enforcement Analyst, at (415) 904-5330 or (562) 590-5060.

Executed in San Francisco, California on March 5, 2010.

Signed,

  
For

PETER M. DOUGLAS  
Executive Director  
California Coastal Commission

cc: Aaron McLendon, Statewide Enforcement Analyst  
Lisa Haage, Chief of Enforcement  
Alex Helperin, Staff Counsel  
John Ainsworth, Deputy Director  
Steve Hudson, South Central Coast District Manager  
Pat Veesart, Southern California Enforcement Supervisor  
Tom Sinclair, South Central Coast District Enforcement Officer



## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885



March 25, 2010

**RECEIVED**  
South Coast Region

MAR 29 2010

CALIFORNIA  
COASTAL COMMISSION

Los Angeles County Recorder's Office  
Document Analysis and Recording  
P.O. Box 53115  
Los Angeles, CA 90053-0115

**RE: Recordation of Notice of Violation – Charles L. Weber**

Dear County Clerk:

On behalf of the California Coastal Commission and as provided for under Section 30812 of the California Public Resources Code (a section of the California Coastal Act), we request that you record the enclosed original Notice of Violation. The recording of this document is exempt from payment of a recording fee pursuant to Government Code Section 27383.

We also request a stamp-recorded copy be returned to us. We have enclosed a self-addressed envelope for your convenience, and a copy of the Notice of Violation, Government Code Section 27383, Public Resources Code Section 30812, and the Delegation of Authority Under Section 30812.

If you have any questions, please contact Aaron McLendon at (562) 590-5071.

Sincerely,

LISA HAAGE  
Chief of Enforcement

cc: Aaron McLendon, Statewide Enforcement Analyst (w/o encls.)

Encls: Notice of Violation for Charles L. Weber  
Public Resources Code Section 30812  
Government Code Section 27383  
Delegation of Authority  
Self-addressed, stamped envelope



This page is part of your document - DO NOT DISCARD



**20100428050**

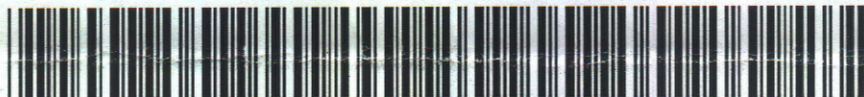


Pages:  
0007

Recorded/Filed in Official Records  
Recorder's Office, Los Angeles County,  
California

03/30/10 AT 09:30AM

FEES:	0.00
TAXES:	0.00
OTHER:	0.00
PAID:	0.00



LEADSHEET



201003300780014

00002138103



002609049

SEQ:  
01

DAR - Mail (Hard Copy)



**THIS FORM IS NOT TO BE DUPLICATED**

E404727



RECORDING REQUESTED BY:

California Coastal Commission

WHEN RECORDED MAIL TO:

California Coastal Commission  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4416  
Attention: Aaron McLendon

03/30/2010



\*20100428050\*

[Exempt from recording fee pursuant to Cal. Gov. Code § 27383]

DOCUMENT TITLE:

NOTICE OF VIOLATION OF THE COASTAL ACT

Re: Assessor's Parcel No. 4453-004-039

Property Owner: Charles L. Weber

3  
RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

CALIFORNIA COASTAL COMMISSION  
Attention: Aaron McLendon  
200 Oceangate, 10th Floor  
Long Beach, CA 90802-4416

STATE OF CALIFORNIA OFFICIAL BUSINESS  
Document entitled to free recordation pursuant to:  
California Government Code section 27383

NOTICE OF VIOLATION OF THE COASTAL ACT  
(California Public Resources Code Section 30812)

On behalf of Peter Douglas, I, Lisa Haage declare:

1. Peter Douglas is the Executive Director of the California Coastal Commission (hereinafter, "Commission"). The Commission was created by the California Coastal Act of 1976 (hereinafter, "Coastal Act"), which is codified in the California Public Resources Code (hereinafter, "PRC") at sections 30000 to 30900. PRC Section 30812 provides for the Executive Director to record Notices of Violation of the Coastal Act in the County Recorder's office for the county in which all or part of a property on which a violation of the Coastal Act has occurred is located. Peter Douglas, as Executive Director of the Commission, has specifically delegated this authority to me to act on his behalf.
2. A violation of the Coastal Act has occurred on a certain parcel situated in Los Angeles County, California, more particularly described as follows:

LOT (EX OF ST) COM AT SE COR OF SE 1/4 OF SW 1/4 OF SEC 22 T 1N R 17W TH N TO  
N LINE OF S 1/2 OF SE 1/4 OF SW 1/4 OF SD SEC TH W THEREON TO W LINE OF SD  
SE 1/4 OF SW 1/4 TH S TO N LINE OF S 379 FT

AND/OR

A parcel of land located in the State of California, County of Los Angeles, with a situs address of 2053 Rambla Pacifico, Malibu, CA, having a Tax Assessor Number of 4453-004-039.

Owner of Record: Charles L. Weber.

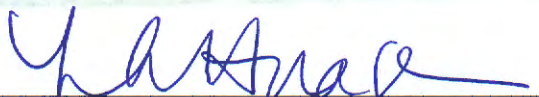
The Violation consists of the undertaking of development activity without the authorization required by the Coastal Act and in violation of Coastal Development Permit ("CDP") No. 4-08-012.



3. This property is located within the Coastal Zone as that phrase is defined in the Coastal Act (PRC Section 30103).
4. The record owner of said real property is: Charles L. Weber.
5. The violation of the Coastal Act includes undertaking unpermitted development and development inconsistent with a previously issued CDP including, unpermitted grading and grading inconsistent with CDP No. 4-08-012 during a period of time explicitly prohibited by Special Condition No. 2.B of CDP No. 4-08-012, failure to install erosion control measures as required by Special Condition 2.B.3 of CDP No. 4-08-012, placement of fill on the subject property, and destruction of Environmentally Sensitive Habitat. The Commission retains files on this matter under Violation File No. V-4-10-004.
6. The requirements set forth in PRC Section 30812 (attached hereto as Exhibit A) for notice and recordation of this Notice of Violation have been satisfied. Recording of this notice is authorized under Section 30812 of the California Public Resources Code.
7. The California Coastal Commission notified the record owner, Charles L. Weber, of its intent to record a Notice of Violation in this matter in a letter dated March 5, 2010.
8. In addition, on March 5, 2010, pursuant to PRC Section 30809 the Executive Director of the Commission issued Executive Director Cease and Desist Order No. ED-10-CD-01 to Charles L. Weber and Dean Isaacson to cease and desist from undertaking further unpermitted development or maintaining existing unpermitted development on the property, and to comply with terms and conditions (as listed in ED-10-CD-01) to avoid irreparable injury to the property pending any possible action by the Commission under PRC Section 30810 and 30811.
9. No objection was received by March 25, 2010, the legal deadline for such an objection to be submitted. Therefore, the Commission has not received a timely written objection to the recordation of the Notice of Violation. Therefore the Executive Director of the Commission is recording the Notice of Violation as provided for in the Coastal Act, under PRC Section 30812.

Executed in San Francisco, California, on 25 March 2010.

I declare under penalty of perjury that the foregoing is true and correct.



LISA HAAGE, Chief of Enforcement,  
California Coastal Commission

NOTARY ACKNOWLEDGMENT ON NEXT PAGE



5

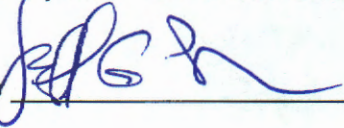
State of California  
County of San Francisco

On March 25, 2010 before me, Jeff G. Staben, a Notary Public, personally appeared Lisa Haage, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



**CALIFORNIA COASTAL ACT – California Public Resources Code**  
**Section 30812 Notice of Violation**

(a) Whenever the executive director of the commission has determined, based on substantial evidence, that real property has been developed in violation of this division, the executive director may cause a notification of intention to record a notice of violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.

(b) The notification specified in subdivision (a) shall indicate that the owner is required to respond in writing, within 20 days of the postmarked mailing of the notification, to object to recording the notice of violation. The notification shall also state that if, within 20 days of mailing of the notification, the owner of the real property at issue fails to inform the executive director of the owner's objection to recording the notice of violation, the executive director shall record the notice of violation in the office of each county records where all or part of the property is located.

(c) If the owner submits a timely objection to the proposed filing of the notice of violation, a public hearing shall be held at the next regularly scheduled commission meeting for which adequate public notice can be provided, at which the owner may present evidence to the commission why the notice of violation should not be recorded. The hearing may be postponed for cause for not more than 90 days after the date of the receipt of the objection to recordation of the notice of violation.

(d) If, after the commission has completed its hearing and the owner has been given the opportunity to present evidence, the commission finds that, based on substantial evidence, a violation has occurred, the executive director shall record the notice of violation in the office of each county recorder where all or part of the real property is located. If the commission finds that no violation has occurred, the executive director shall mail a clearance letter to the owner of the real property.

(e) (1) The notice of violation shall be contained in a separate document prominently entitled "Notice of Violation of the Coastal Act." The notice of violation shall contain all of the following information:

- (A) The names of the owners of record.
- (B) A legal description of the real property affected by the notice.
- (C) A statement specifically identifying the nature of the alleged violation.
- (D) A commission file number relating to the notice.

(2) The notice of violation, when properly recorded and indexed, shall be considered notice of the violation to all successors in interest in that property. This notice is for informational purposes only and is not a defect, lien, or encumbrance on the property.

(f) Within 30 days after the final resolution of a violation that is the subject of a recorded notice of violation, the executive director shall mail a clearance letter to the owner of the real property and shall record a notice of rescission in the office of each county recorder in which the notice of violation was filed, indicating that the notice of violation is no longer valid. The notice of rescission shall have the same effect of a withdrawal or expungement under Section 405.61 of the Code of Civil Procedure.

(g) The executive director may not invoke the procedures of this section until all existing administrative methods for resolving the violation have been utilized and the property owner has been made aware of the potential for the recordation of a notice of violation. For purposes of this subdivision, existing methods for resolving the violation do not include the commencement of an administrative or judicial proceeding.



(h) This section only applies in circumstances where the commission is the legally responsible coastal development permitting authority or where a local government or port governing body requests the commission to assist in the resolution of an unresolved violation if the local government is the legally responsible coastal development permitting authority.

(i) The commission, 24 months from the date of recordation, shall review each notice of violation that has been recorded to determine why the violation has not been resolved and whether the notice of violation should be expunged.

(j) The commission, at any time and for cause, on its own initiative or at the request of the property owner, may cause a notice of rescission to be recorded invalidating the notice of violation recorded pursuant to this section. The notice of rescission shall have the same effect of a withdrawal or expungement under Section 405.61 of the Code of Civil Procedure.

(Added by Ch. 235, Stats. 2002; Amended by Ch. 62, Stats. 2003.)

**CALIFORNIA COASTAL COMMISSION**

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

**EMERGENCY PERMIT**

November 1, 2011

Permit No.: 4-11-054-G

Applicant: Weber Living Trust; Michael Josephson; & Full Mill Sagaponack Corporation

Agent: GeoKinetics/Glenn Tofani

Project Location: 2053 Rambla Pacifico, Santa Monica Mountains, Los Angeles County (APNs 4453-004-039; 4453-004-026; & 4453-004-049)

Work Proposed: Implementation of temporary erosion control and "winterization" measures to stabilize an active landslide and slope failure including installation of 3 HDPE drain lines (a 300 linear ft. - 8 in. diameter line; a 265 linear ft. - 12 in. diameter line; and a 160 linear ft. - 12 in. diameter line); a 670 sq. ft. debris basin; placement of approximately 93,000 sq. ft. of plastic sheeting/ground cover with associated sand bags, minor grading, and clearing/grubbing to facilitate placement of plastic sheeting; and installation of straw wattles and silt fencing as necessary.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from the information submitted that an unexpected occurrence in the form of the active and continuing landslide which previously resulted in the failure of a 250 linear ft. segment of Rambla Pacifico Road in 2010 and which is now threatening adjacent residential parcels as a result of continued slope erosion and constitutes a risk to public health and safety in the Santa Monica Mountains. This occurrence requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 60 days unless otherwise specified by the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and

The work is hereby approved, subject to the conditions listed on the reverse.

Very Truly Yours,

Peter M. Douglas  
Executive Director

A handwritten signature in black ink, appearing to read "John Ainsworth".

for By: John Ainsworth  
Title: Deputy Director



## CONDITIONS OF APPROVAL

1. The enclosed form must be signed by the applicant and returned to our office within fifteen (15) days.
2. Only that work specifically described above and for the specific property listed above is authorized. Any additional work at the location of the proposed project requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within sixty (60) days of the date of this permit. The Executive Director may grant additional time for good cause.
4. In exercising this emergency permit, the applicant agrees to hold the California Coastal Commission (Commission) harmless from any liabilities for damage to public or private properties or personal injury that may result from the project and to indemnify the Commission, which includes its officers, agents, and employees, against any and all liability, related claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any such damage or personal injury.
5. The work authorized by this emergency permit is temporary, unless permanent retention of the development is authorized through the issuance of a regular Coastal Development Permit from the California Coastal Commission. **Within 180 days of the date of this permit, the permittee shall submit a complete application for a regular coastal development permit to have the emergency work be considered permanent or authorized pursuant to a comprehensive slope repair and stabilization plan.**
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.
7. Appropriate Best Management Practices and temporary erosion control measures shall be installed on the work site concurrent with all development authorized by this emergency permit and shall be maintained throughout the rainy season to minimize erosion and sediment from runoff waters.
8. A geotechnical consultant shall be retained to monitor the work site during construction to ensure that their recommendations are implemented and that the Best Management Practices perform effectively.

The emergency work is considered to be temporary work done in an emergency situation. If the applicant wishes to have the emergency work become a permanent development, a coastal permit must be obtained. A regular permit would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly.

If you have any questions about the provisions of this emergency permit, please call Steve Hudson at the Commission Area office.

Enclosures: 1) Acceptance Form

**CALIFORNIA COASTAL COMMISSION**

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

**EMERGENCY PERMIT ACCEPTANCE FORM**

Emergency Permit No. 4-11-054-G

Instructions: After reading the attached Emergency Permit, please sign this form and return within 15 days from the Permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them. I understand that the emergency work is temporary and a regular Coastal Permit is necessary to make it a permanent installation.

\_\_\_\_\_  
Signature of property owner or  
Authorized representative

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date of Signing

**CALIFORNIA COASTAL COMMISSION**

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

**EMERGENCY PERMIT**

**April 5, 2012**

**Permit No:** 4-12-012-G

**Applicant:** Charles Weber

**Agent:** GeoKinetics, Glenn Tofani

**Project Location:** 2053 Rambla Pacifico (APN: 4453-004-049) and adjacent properties (APNs: 44653-004-026 and 4453-004-049), Santa Monica Mountains, Los Angeles County

**Work Proposed:** Remediation of landslide including: A) installation of 26 3-foot diameter reinforced concrete shear pins along the upslope edge of Rambla Pacifico; B) slope remediation involving removal and recompaction of existing landslide debris upslope of Rambla Pacifico and downslope with a fill buttress that involves approximately 73,987 cu. yds. of grading (34,973 cu. yds. of cut and 39,014 cu. yds. of fill; C) installation of 2098 linear ft. total of subdrains along the base of the fill, an 8 ft. concrete terrace drain, a 100 linear ft. 18 in. diameter HDPE drain line and 200 linear ft. total of 4 in. diameter downdrains along the face of the fill slope below the roadway; D) construction of a new 24 ft. wide roadway with a 2 ft. shoulder and a 2 ft. swale (total of 28 ft. wide) and 430 ft. long, totaling 12,040 sq. ft. in area and E) Planting (hydroseeding) of 60,621 sq. ft. of disturbed area at the completion of final grading.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the locations listed above. I understand from the information submitted that an unexpected occurrence in the form of an active and continuing landslide which previously resulted in the failure of a 250 linear ft. segment of Rambla Pacifico Road in 2010 is still threatening adjacent residential parcels and has closed emergency vehicular access to several existing residences as a result of continued slope erosion and constitutes a risk to public health and safety in the Santa Monica Mountains. This occurrence requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Code of Regs. Section 13009. While the emergency work described above is being temporarily authorized by this Emergency Permit, I note that unpermitted development and development inconsistent with an underlying Coastal Development Permit occurred prior to and during the landslide event, and may have contributed to the cause of the landslide, itself. My review of this Emergency Permit request is based on the current situation and the need to repair a critical vehicular access route in the Santa Monica Mountains and to ensure that additional properties are protected against further slope failure. Issuance of this Emergency Permit does not, in any way, affect the conclusions, reflected in the Notices of Violation sent in this matter, that this matter arises from a violation of the Coastal Act, nor does it in any way preclude the Coastal Commission from pursuing all remedies under the Coastal Act to resolve the underlying Coastal Act violations that have occurred on the above-listed properties as well as the results thereof. In

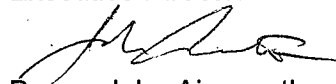
addition, issuance of this Emergency Permit in no way releases the applicant or any other party involved in the underlying Coastal Act violations from liability under the Coastal Act. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 120 days unless otherwise specified by the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows; and

The work is hereby approved, subject to the conditions listed below.

Very Truly Yours,

Charles Lester  
Executive Director



By: John Ainsworth  
Title: District Director, South Central Coast District

#### CONDITIONS OF APPROVAL

1. The enclosed form must be signed by the applicant and returned to our office within fifteen (15) days.
2. Only that work specifically described above and for the specific properties listed above is authorized. Any additional work at the location of the proposed project requires separate authorization from the Executive Director.
3. In exercising this emergency permit, the applicant agrees to hold the California Coastal Commission (Commission) harmless from any liabilities for damage to public or private properties or personal injury that may result from the project and to indemnify the Commission, which includes its officers, agents, and employees, against any and all liability, related claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any such damage or personal injury.
4. The work authorized by this permit must be completed within one hundred and twenty (120) days of the date of this permit. The Executive Director may grant additional time for good cause. If, immediately prior to commencement of construction rainstorms are predicted to occur, work shall not begin until all predicted rainstorms have left the area or rain is otherwise no longer expected. Every effort shall be made to avoid work during the rain events.
5. Authorization for this work is temporary, and the development must be permanently authorized under the Coastal Act, either through the issuance of an Amendment to Coastal Development Permit No. 4-08-012 (Weber) or a separate Coastal Development Permit, or through the issuance of a Cease and Desist Order and/or Restoration Order from the California Coastal Commission, or some combination of the two. Within **180** days of the date of this permit, or as

extended through written correspondence, the applicant shall submit a complete application for either a coastal development permit or an amendment to CDP 4-08-012 to have the emergency work permanently authorized, unless all emergency work has been permanently authorized through the acceptance of a Cease and Desist Order and/or Restoration Order issued by the California Coastal Commission. **Failure to submit an application for a coastal development permit or amendment to CDP 4-08-012 that satisfies the requirements of Section 13053.5 and Section 13055 of Title 14 of the California Code of Regulations by the deadline indicated above or to accept a Consent Cease and Desist Order and/or Consent Restoration Order will constitute a knowing and intentional violation of the Coastal Act and may result in formal enforcement action by the Commission. This formal action could include a recordation of a Notice of Violation on your property pursuant to Section 30812; the issuance of a Cease and Desist Order and/or Restoration Order pursuant to Section 30810 and 30811; and/or a civil lawsuit, which may result in the imposition of monetary penalties, including daily penalties of up to \$15,000 per violation per day under Section 30820(b), and other applicable penalties and other relief pursuant to Chapter 9 of the Coastal Act.**

6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies.
7. Appropriate Best Management Practices and temporary erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. The applicant shall install or construct temporary sediment basins (including debris basins, desilting basins or silt traps), temporary drains and swales, sand bag barriers, silt fencing, stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. A geotechnical consultant shall be retained and present at the site to monitor the work site during construction to make recommendations to ensure its stability. The applicant shall implement the consultant's recommendations and ensure that the Best Management Practices perform effectively.
8. Prior to the commencement of development, the applicant shall submit, for the review and approval of the Executive Director, a hydroseeding mixture consisting entirely of native plant species indigenous to the Santa Monica Mountains and consistent with the vegetation of the area surrounding the project site using accepted planting procedures, consistent with fire safety requirements. Once approved, the applicant shall hydroseed with the approved species. Only native plant species that have been obtained from local Santa Monica Mountains genetic stock and are consistent with the surrounding native plant community shall be used. All graded and disturbed areas shall be stabilized with planting at the completion of final grading. Planting shall be of native species indigenous to the Santa Monica Mountains. The applicant shall submit, upon completion of the initial planting, a written report prepared by a qualified resource specialist, for the review and approval of the Executive Director, documenting the completion of the initial planting/revegetation work. This report shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) documenting the completion of the initial planting/revegetation work. The applicant also, by acceptance of this Emergency Permit, acknowledges and agrees that future full restoration will be associated with and approved by either a Commission-issued Restoration Order, Amendment to Coastal Development Permit No. 4-08-012 (Weber) or a separate Coastal Development Permit, consistent with the deadlines established, herein. Regardless of the manner in which full restoration is required, failure to implement such restoration to restore the disturbed/graded areas, consistent with the terms and conditions of either a Restoration Order, Amendment or CDP by December 31, 2012 will be

considered an additional, new violation and will subject the applicant to additional actions provided to the Commission under the Coastal Act, including fines and penalties for knowing and intentional violations.

9. The applicant shall fully conform to the proposed Upper Rambla Pacifico Landslide Repair Plan identified in the project plans dated January 25, 2012 and received in the Commission's office on February 28, 2012 titled Upper Rambla Pacifico Landslide Repair. The applicant shall also fully conform to any plans to be submitted as a requirement of this Emergency Permit. Any proposed changes to the County-approved plan, or other plans approved under this Emergency Permit shall be reported to the Executive Director. No changes to the approved plan shall occur without a coastal development permit unless the Executive Director determines that no coastal development permit is legally required. Failure to fully comply with the plans detailed above is a violation of the Emergency Permit that will subject the applicant to additional liabilities under the Coastal Act, including additional fines and penalties under Chapter 9 of the Coastal Act.

The emergency work is considered to be temporary work done in an emergency situation. The work authorized by this emergency permit is temporary, unless the development is permanently authorized through the issuance of an Amendment to Coastal Development Permit No. 4-08-012 (Weber), a separate coastal development permit, or through the issuance of a Cease and Desist Order and/or Restoration Order from the California Coastal Commission or some combination of these documents. A regular permit or amendment would be subject to all of the provisions of the California Coastal Act and may be conditioned accordingly.

If you have any questions about the provisions of this emergency permit, please call Steve Hudson at the Commission Area office.

Enclosures: 1) Acceptance Form



**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885

**Via Regular U.S. Mail**

January 17, 2014

Dean Isaacson  
23935 De Ville Way  
Malibu, CA 90265

Subject: Coastal Act Violation No. V-4-10-004

Property Location: 2053 Rambla Pacifica, Malibu, Los Angeles County  
APN: 4453-004-039

Dear Mr. Isaacson:

I would like to take this opportunity to introduce myself as the Coastal Commission staff member assigned to Coastal Act violation file No. V-4-10-004, regarding unpermitted development that occurred on property located at the address described above.

While some time has passed since our last correspondence, we remain willing and ready to work with you to address this matter. This letter is an effort to reconvene our discussions in the hope of resolving the outstanding Coastal Act violations with which you were involved, amicably and in the most efficient manner possible.

Please contact me by January 24, 2014, so that we may continue to discuss the issues related to this matter. If there is an entity representing you to whom I should instead direct any future correspondence, please let me know as well. I can be reached at (415) 904-5255, and I look forward to hearing from you soon. Thank you very much for your attention to this matter and your anticipated cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cody Naylor".

Cody Naylor  
Statewide Enforcement Analyst

cc: Lisa Haage, Chief of Enforcement  
Aaron McLendon, Statewide Enforcement Supervisor



**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885

**Via Regular and Certified U.S. Mail**

April 22, 2014

Dean Isaacson  
P.O. Box 9148  
Calabasas, CA 91372  
Certified Mail No. 7006 2760 0005 5883 2797

Subject: Coastal Act Violation No. V-4-10-004

Property Location: 2053 Rambla Pacifico, Malibu, Los Angeles County  
APN: 4453-004-039

Dear Mr. Isaacson:

The purpose of this letter is to memorialize our April 18, 2014 telephone conversation and to remind you of your ongoing liabilities associated with the above-listed violation case, as outlined in the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings ("NOI") dated March 4, 2010, which was directed to both you and Dr. Charles L. Weber.

While it appears you do not currently have the legal authority to represent the interests of the owners of the property located at 2053 Rambla Pacifico ("the Property"), during our conversation, you explained that you were working directly with the financial lender to avert foreclosure of the Property, which you alleged was caused by the Property owners' failure to make loan payments in the amount of \$12,000. Furthermore, you stated that you were arranging an undisclosed, new ownership interest in the Property, in consultation with the owners, and that the owners and bank had expressed a mutual desire to conduct such a transfer of the Property through a "short sale."

In response to my inquiry as to whether you are legally representing and/or acting as the agent for the Weber Trust, owners of the Property, and to my request to provide me with a letter from the Property owners (which would include their names, addresses, and telephone numbers) designating you as their legal representative, you stated that you did not have such a letter at this time and that you would have more information about this matter by May 2, 2014, and asked that I contact you again on that date.

As you are aware, it is necessary for you and the owners of the Property to resolve the outstanding violations of the Coastal Act, as enumerated in the NOI issued to you on March 4, 2010. As we discussed with you in previous meetings, phone calls, and letters, we would like to

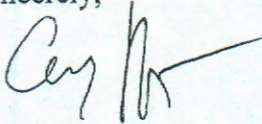


Dean Isaacson  
April 22, 2014  
Page -2-

work with you and the Property owners to resolve this matter through "Consent Orders," which would include, at a minimum, requirements to restore and revegetate the areas disturbed beyond the authorized limits of development under Coastal Development Permit 4-08-012, mitigate for the loss of habitat caused by the activities in the NOI, and resolve civil liabilities under the Coastal Act.

I look forward to speaking to you again on or before May 2, 2014.

Sincerely,



CODY NAYLOR

Statewide Enforcement Analyst

cc: Weber Trust (via Certified and Regular mail) / Certified Mail No. 7006 2760 0005 5883 2766  
Lisa Haage, Chief of Enforcement  
Aaron McLendon, Statewide Enforcement Supervisor

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5200  
FAX (415) 904-5400  
TDD (415) 597-5885

**Via Electronic and Regular U.S. Mail**

July 16, 2015

Dean Isaacson  
P.O. Box 9148  
Calabasas, CA 91372  
Bobby5261@msn.com

Eric Hawes  
23901 Calabasas Road  
Suite 260  
Calabasas, CA 91302-3311  
ehawes@perezhawes.com

Subject: Coastal Act Violation No. V-4-10-004

Property Location: 2053 Rambla Pacifico, Malibu, Los Angeles County  
APN: 4453-004-039

Dear Mr. Isaacson and Mr. Hawes:

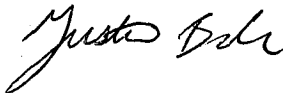
Thank you for talking with us today. We appreciate your efforts in working with us to resolve the violations associated with the Rambla Pacifico property listed above ("Property"). Please find attached the documents you requested in your July 16, 2015 e-mail to me.

This letter also serves as a reminder of Mr. Isaacson's ongoing liabilities associated with the Property as outlined in the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings ("NOI") dated March 4, 2010. Currently, it is our understanding, through conversation with Mr. Isaacson and representatives for Bank of America ("BoFA"), the Property has been approved for sale (through a Trustee sale) and is currently scheduled to be sold on July 22, 2015. As we informed you today and in previous communications, regardless of whether or not Mr. Isaacson, BoFA, or an unknown third party becomes the owner of the Property through the foreclosure proceedings, Mr. Isaacson remains liable for the violations as described in the above-mentioned NOI. We appreciate Mr. Isaacson's continued assurances that he fully intends to resolve all of his liabilities associated with the violations, including restoring the Property and resolving his civil liabilities. Additionally, we do expect that all outstanding violations of the Coastal Act will be addressed prior to the undertaking of any prospective development on the Property (other than that which would be authorized by an Order issued by the Commission).

We continue to remain open to work with you to resolve this matter amicably through "Consent Orders," which, as we discussed today and in many prior conversations, would include, at a minimum, requirements to restore and revegetate the areas impacted by the unpermitted development, to conduct long-term monitoring of the restoration performed, to provide mitigation for the loss of habitat caused by the unpermitted development, and to resolve the civil liabilities under the Coastal Act.

Thank you for cooperating with us and confirming your intent to resolve all your liabilities associated with the violations. Please do not hesitate to contact me if you have any questions or to discuss resolution of this matter through Consent Orders.

Sincerely,

A handwritten signature in cursive script, appearing to read "Justin Buhr".

Justin Buhr

Statewide Enforcement Analyst

cc: Aaron McLendon, Deputy Chief of Enforcement