Exhibit #1

Coastal Commission Adopted Findings for Cease and Desist Order No. CCC-04-CD-09 and Restoration Order No. CCC-04-RO-03 September 8, 2004

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, GOVERNOR

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Item W14, W15, W16, & W17

Staff: AM-SF
Staff Report: 8/25/2004
Hearing Date 9/8/2004

STAFF RECOMMENDATIONS AND FINDINGS FOR CEASE AND DESIST AND RESTORATION ORDERS

CONSENT CEASE AND DESIST ORDER TO HEADLAND PROPERTIES ASSOCIATES, LP:	CCC-04-CD-08
CEASE AND DESIST ORDER TO JOSEPH FRYZER:	CCC-04-CD-09
CONSENT RESTORATION ORDER TO HEADLAND PROPERTIES ASSOCIATES, LP:	CCC-04-RO-02
RESTORATION ORDER TO JOSEPH FRYZER:	CCC-04-RO-03
RELATED VIOLATION FILE:	V-5-01-045
PROPERTY LOCATION:	Lot G (a dedicated and deed restricted open space lot) and Lot 41 of Tract 32184 in the Palisades Highlands area of Pacific Palisades in the City of Los Angeles
DESCRIPTION OF PROPERTY:	1. Lot G: The portion of property that was not accepted by the State of California or the City of Los Angeles in the original Offer to Dedicate; 2. Lot 41 of Tract 32184
PROPERTY OWNER:	Headland Properties Associates, LP
PERSONS SUBJECT TO THESE ORDERS:	1. Headland Properties Associates, LP and 2. Joseph Fryzer
VIOLATION DESCRIPTION:	Unpermitted development, including 1) unpermitted construction of an

	approximately 1,040 cubic yard capacity debris basin, 2) unpermitted demolition of the unpermitted basin by removal of a concrete lining and filling approximately half of the unpermitted basin with earth creating an extension of a flat building pad, and 3) unpermitted placement of grass turf, palm trees, sand, fencing, and concrete paving on the filled basin/building pad extension. This development violates the terms and conditions of Coastal Development Permit A-381-78 (as amended) and a recorded open space deed restriction.
SUBSTANTIVE FILE DOCUMENTS:	1) Coastal Development Permit A-381-78, A1 through A12 2) Commission Adopted Findings for denial of CDP A-381-78-A13 3) Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings, February 20, 2003 4) Background Exhibits 1-14
CEQA STATUS:	Exempt (CEQA Guidelines (CG) §§ 15060(c)(2) and (3)) and Categorically Exempt (CG §§ 15061(b)(2), 15307, 15308 and 15321).

I. SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve Cease and Desist and Restoration Orders (as described below) to remove unpermitted development located on portions of Lot G and Lot 41 of Tract 32184 in the City of Los Angeles ("subject property") and to restore the impacted areas by means of restorative grading and revegetation of the impacted area with native plant species associated with this segment of the Santa Monica Mountains. In addition, the Cease and Desist Order directed to Joseph Fryzer will include the requirement to allow Headland Properties Associates, LP (hereinafter "Headland") access across his property (Lot 81) to reach Lot 41 and Lot G to undertake removal of unpermitted development and restoration of the site.

Headland has agreed to settling this matter through Consent Cease and Desist and Restoration Orders, as described in the attached Consent Orders, and Headland is cooperating and will be voluntarily both remedying the violation and paying a fine. Mr. Fryzer has not settled this matter or agreed to a Consent Order and staff is seeking issuance of a regular Cease and Desist and Restoration Order against the non-cooperating party, Mr. Fryzer.

The subject properties are located on an open space, deed restricted area at the head of a canyon in the southern portion of the Santa Monica Mountains. The properties are directly adjacent to Topanga State Park in the Palisades Highlands area of the Pacific Palisades in the City of Los Angeles, (Exhibit #1). Temescal Ridge, a prominent ridgeline in Topanga State Park and the Santa Monica Mountains is located above the area of unpermitted development. Atop this ridge is the Temescal Ridge Trail (one of many public hiking trails in Topanga State Park).

In September 2001, Commission staff confirmed that the unpermitted construction of an approximately 1,040 cubic yard capacity debris basin and partial fill of the basin had occurred on lands that were both deed restricted for open space and intended to be dedicated to State Parks (Exhibit #3). These lands are owned by Headland. It appears that Headland constructed the original unpermitted debris basin and the adjacent property owner, Mr. Fryzer, had then filled the basin to extend his flat building pad and yard, an extension of Lot 81, Tract 32184. After receiving a Notice of violation from Commission staff directing Headland and Mr. Fryzer to submit a permit application to retain the unpermitted development after-the-fact, Headland and Mr. Fryzer as co-applicants, sought the after-the-fact authorization for the construction of the debris basin, the demolition of the unpermitted debris basin, and the fill of portions of the basin. The proposed project also included filling the remainder of the hole that was the debris basin with earth and the construction of a new 673 cubic yard capacity debris basin with retaining and deflection walls. All development (including the existing unpermitted development) would have been located on lands deed restricted for open space. The Commission denied this proposed project on July 8, 2002 (See Exhibit #13 for Commission adopted findings). After the Commission's denial of the application to retain the unpermitted development and without applying for or receiving a coastal development permit for any further development, Mr. Fryzer placed grass turf, palm trees, sand, fencing, and concrete paving on the denied filled basin/building pad extension, creating a small private golf pitching and putting area and an extension to Mr. Fryzer's back yard into lands both deed restricted and dedicated for open space (Exhibit #14). Therefore, additional development was constructed on top of the previously denied unpermitted development, again, without benefit of a Coastal Development Permit or amendment to the underlying Coastal Development Permit A-381-78, as amended.

In order to issue a Cease and Desist Order under Section 30810 of the Coastal Act, the Commission must find that the activity that is the subject of the order has occurred

either without a required coastal development permit (CDP) or in violation of a previously granted CDP. In order to issue a Restoration Order under section 30811 of the Coastal Act, the Commission must find that development 1) has occurred without a coastal development permit, 2) is inconsistent with Chapter 3 of the Coastal Act, and 3) is causing continuing resource damage.

The unpermitted activity that has occurred on the subject property clearly meets the definition of "development" set forth in Section 30106 of the Coastal Act. The development was undertaken without a coastal development permit, in violation of Public Resources Code 30600. In addition, the unpermitted development is inconsistent with Coastal Development Permit A-381-78, as amended. Lot 41, which is owned by Headland, is deed restricted for open space and located within Tract 32184. The underlying CDP required Lot 41 to remain as a private open space area maintained by the Homeowners Association. Lot G is located outside Tract 32184 on lands that are deed restricted for public open space and were intended to be dedicated to either CA State Parks, the City of Los Angeles, or a private non-profit corporation (as further discussed in more detail below). The unpermitted development is located on both Lot G and Lot 41 of Tract 32184.

The unpermitted development and the ongoing maintenance of it are inconsistent with the underlying coastal development permit and the Coastal Act, including Sections 30240 (ESHA/Parks and Recreation Areas) and 30251 (Scenic Resources and Alteration of Landforms) of the Coastal Act (as fully discussed below). The unpermitted development is also causing continuing resource damage, as defined by Section 13190 of the Commission's regulations.

The impacts caused by the unpermitted development meet the definition of damage provided in Section 13190(b) of the Commission's administrative regulations (Title 14, Division 5.5, California Administrative Code (CCR)): "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 unpermitted development will lead to continuing degradation of the adjacent Topanga State Park and does not minimize the alteration of natural landforms.

II. HEARING PROCEDURES

The procedures for a hearing on a proposed Cease and Desist Order and Restoration Order are set forth in section 13185 and 13195 of the Commission's regulations. The Cease and Desist Order and Restoration Order hearing procedures are similar in most respects to the procedures that the Commission uses for permit and Local Coastal Program matters.

For Cease and Desist and Restoration Order hearings, the Chair shall announce the matter and request that all alleged violators or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and 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, in his or her discretion, to ask of any person, other than the violator or its representative. The Commission 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 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 CCR section 13185, 13186, and13195, incorporating by reference sections 13185, 13186 and 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 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 and Restoration Orders, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of a motion, per staff recommendation or as amended by the Commission, will result in issuance of the Orders.

III. STAFF RECOMMENDATIONS

Staff recommends that the Commission adopt the following four motions:

Headland Properties Associates, LP

1.A. Motion

I move that the Commission issue Consent Cease and Desist Order No. CCC-04-CD-08 pursuant to the staff recommendation.

1.B. Staff Recommendation of Approval

Staff recommends a **YES** vote. 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.

1.C. Resolution to Issue Consent Cease and Desist Order

The Commission hereby issues Consent Cease and Desist Order No. CCC-04-CD-08, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit and that development has occurred in non-compliance with the terms and conditions of CDP No. A-381-78, as amended.

2.A. Motion

I move that the Commission issue Consent Restoration Order No. CCC-04-RO-02 pursuant to the staff recommendation.

2.B. Staff Recommendation of Approval

Staff recommends a **YES** vote. 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.

2.C. Resolution to Issue Consent Restoration Order

The Commission hereby issues Consent Restoration Order number CCC-04-RO-02, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit, the development is inconsistent with the Coastal Act, and the development is causing continuing resource damage.

Joseph Fryzer

3.A. Motion

I move that the Commission issue Cease and Desist Order No. CCC-04-CD-09 pursuant to the staff recommendation.

3.B. Staff Recommendation of Approval

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

3.C. Resolution to Issue Cease and Desist Order

The Commission hereby issues Cease and Desist Order No. CCC-04-CD-09, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit and that development has occurred in non-compliance with the terms and conditions of CDP No. A-381-78, as amended.

4.A. Motion

I move that the Commission issue Restoration Order No. CCC-04-RO-03 pursuant to the staff recommendation.

4.B. Staff Recommendation of Approval

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

4.C. Resolution to Issue Restoration Order

The Commission hereby issues Restoration Order number CCC-04-RO-03, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit, the development is inconsistent with the Coastal Act, and the development is causing continuing resource damage.

IV. RECOMMENDED FINDINGS FOR CONSENT CEASE AND DESIST ORDER CCC-04-CD-08 AND CONSENT RESTORATION ORDER CCC-04-RO-02 & CEASE AND DESIST ORDER CCC-04-CD-09 AND RESTORATION ORDER CCC-04-RO-03

Staff recommends the Commission adopt the following findings of fact in support of its action.

A. Description of Unpermitted Development

The unpermitted development, which is the subject matter of these Cease and Desist and Restoration Orders, consist of 1) construction of an approximately 1,040 cubic yard capacity debris basin, 2) demolition of the unpermitted basin by removal of a concrete lining, 3) fill of approximately half of the unpermitted basin with earth, creating an extension of a flat building pad, 4) and placement of grass turf, palm trees, sand, fencing, and concrete paving on the filled basin/building pad extension for the creation of a private golf chipping and putting area. The unpermitted development lies on Lot G and Lot 41 of Tract 32184. Lot G was deed restricted and dedicated for public open space and Lot 41 was deed restricted for interior open space to be maintained by the homeowners association. The Commission, through its denial of A-381-78-A13 on July 8, 2002, has already found that the unpermitted debris basin, the unpermitted partial fill of the basin, and the request to completely fill the unpermitted basin and construct a new debris basin (as previously proposed) are inconsistent with the Chapter 3 policies of the Coastal Act. After this denial, Mr. Fryzer placed additional unpermitted development on top of and around the denied development, creating a private golf chipping and putting area and an extension of his back yard

B. History of Commission Actions on Subject Properties

Coastal Development Permit A-381-78 (as amended) authorized the subdivision of 1200 acres into approximately 740 residential lots, an institutional site, commercial sites, and massive grading all within an "Urban Limit Line". The Urban Limit Line set a boundary for development, beyond which development was restricted except for minor grading to re-contour previously graded land, and paved or unpaved pathways and other incidental improvements for low intensity recreation.

The underlying coastal development permit restricted the use of land outside the designated Urban Limit Line to, among other things, minimize the alteration of natural landforms as it affects scenic habitat and recreational resources. In this case, the subject unpermitted development is located predominantly on Lot G, public open space land that is deed restricted to limit subdivisions, development, and grading. In addition, portions of the unpermitted development extend across Lot 41. Lot 41 is deed restricted to ensure the maintenance of the engineered slope area, restrict structures with the exception of certain park and maintenance related structures, and protect State Park land from the conflict of fire control needs.

A-381-78, as amended, authorized the subdivision on which Lot 41 (an open space Lot owned by Headland), Lot 81 (16670 Calle Allicante, owned by Joseph Fryzer), and Lot G (land both deed restricted and dedicated for public open space and partially owned by Headland)[1] are located. Permit A-381-78A allowed the subdivision of 1200 acres for 740 dwelling units but limited structural development outside the Urban Limit Line to the construction of "paved or unpaved pathways and other incidental improvements for low intensity recreation" and, under certain circumstances, "minor facilities to provide public or utility services". The Permit required the applicant, Headland, to dedicate the area outside the urban limit line to either State Parks, a private non-profit organization approved by the Executive Director, or to the City of Los Angeles Department of Recreation and Parks and also to deed restrict the land to "[p]revent development outside the urban limit line except as permitted by this permit or for park purposes". The findings for A-381-78A state "it is only with the dedication of these lands for permanent preservation of visual a[n]d landform resources and for public recreational use that the Commission can find the development of the four tracts on the balance most protective of significant coastal resources."

Special Condition 1 as modified by the Commission at the time of the seventh and ninth amendment states in part:

[1] Originally, A-381-78 required all lands outside the Urban Limit Line to be dedicated to the CA State Parks. The State accepted all lands outside the ULL with the exception of land approximately 200 feet from the Tract boundary. These lands were then allowed to be dedicated to the City of Los Angeles. For reasons unknown to Commission staff, the City of Los Angeles did not accept the land and the property owner, Headland Properties, retained ownership. It is on this strip of land where the unpermitted development is located. The land continues to be encumbered by a public open space deed restriction.

> *"a. This permit amendment authorizes subdivision of four tracts of Palisades Highlands, for up to 740 residential units, a two-acre commercial site and a seven-acre institutional site, grading for all streets and lots, installation of drainage and utilities and construction of residential units as described in the attached Findings and Declarations. All grading, structural development, and subdivided lots shall be located entirely within the urban limit line, as described in the "Modification Exhibit" by VTN Inc shown on PH 87-4 and "Master Plan" PH 87-14, submitted by applicant to the Coastal Commission on Sept 29, 1987, and identified in the Coastal Commission files as approved applicant's Exhibits PH 87-4 and "Master Plan" PH 87-14."* (Emphasis added)

The Commission required, in Special Condition 2 and 3, that all lots outside the urban limit line, including Lot G, be deed restricted and dedicated for public open space. These conditions were adopted in the first amendment in 1980 and have remained the same in subsequent amendments. The original applicants, Headland Properties Inc. and Gateway Properties recorded such a deed restriction in 1981. Although the State and the City of Los Angeles declined to accept the dedication of the portion of Lot G closest to the tract boundary, the permit conditions and deed restriction remain applicable.

The permit and amendments regarding the subject property were conditioned so as to comply with Sections 30210 and 30223 of the Coastal Act, which require maximum public access and recreational support; Sections 30230 and 30231, which protect watershed land, streams and water quality; Section 30240, which protects sensitive habitat; and Sections 30250 and 30252, which require the Commission to review the location and intensity of development with respect to its impacts on public access. The land that is subject to this Cease and Desist and Restoration Order lies predominantly within the area designated as public open space (Lot G), and upon which the Commission placed significant restrictions. In addition, portions of the subject unpermitted development were constructed on Lot 41 (an open space lot), which also carries significant conditions. The unpermitted development is in conflict with the conditions required on these open space lots.

C. History of Violation

On May 9, 2001, Mr. Fryzer received an approval letter, Log # 32870-01, from the Department of Building and Safety for Soils and Engineering Reports "concerning the proposed elimination of a graded debris basin and construction of debris walls to contain potential debris from the hillside drainage area." Soon after the issuance of this approval letter, Mr. Fryzer attempted to obtain from the City of Los Angeles Planning Department an exemption from permit requirements of the Coastal Act. The City contacted Commission staff for guidance. At this time, Commission staff first became aware of the existing unpermitted debris basin and its proposed alteration. Soon after

discussions with the City, Commission staff received proposed project drawings from Mr. Fryzer for the alteration of the existing unpermitted debris basin. On June 8, 2001, after review of the project plans, Commission staff sent a letter to the City of Los Angeles Planning Department and to Mr. Fryzer's representatives noting that the project was not exempt from permit requirements of the Coastal Act (See Exhibit #13, adopted findings for denial of A-381-78-A13). In addition, staff noted that the project plans included a lot line adjustment 1) for lands that appeared to be located on State Park property, and 2) for which a coastal development permit would also be required.

On June 27, 2001, Mr. Fryzer submitted Coastal Development Permit application No. 5-01-241 for the (1) resizing of a debris basin that would be located on Lot 41 of Tract 32184, and on Lot G; (2) a lot line adjustment that would merge a portion of Lot 41, designated as an open space area in map PH87-4, into Lot 81 of Tract 32184; and (3) a further lot line adjustment that would merge portions of Lot G (deed restricted for public open space and originally intended for dedication to State Parks) with the new combination of portions of Lot 41 and Lot 81. This would have transferred 10.14 acres of Lot 41 and Lot G to Mr. Fryzer. Mr. Fryzer submitted this application to the Coastal Commission as a request for a new coastal development permit. However, after review of the file and researching the underlying permit, A-381-78 as amended, the application was treated as an application to amend A-381-78-A12. On September 4, 2001, as required under the Commission's Regulations, Commission staff rejected this amendment application because "the proposed amendment would lessen or avoid the intended effect of an approved or conditionally approved permit"[2] because it would have, among other things, transferred deed restricted and dedicated public open space land (as required in A-381-78, as amended) to an individual for private use (See Exhibit #13).

On September 24, 2001, Commission Enforcement staff confirmed additional unpermitted development at the subject properties. Staff confirmed that further grading of the site and storage of construction material on Lot G and Lot 41 had taken place. On October 11, 2001, Mr. Fryzer and Headland, as co-applicants, submitted amendment application, A-381-78-A13 for after-the-fact authorization of 1) the demolition of an unpermitted debris basin (with the capacity to hold 1,040 cubic yards) and 2) the fill of approximately half of the demolished basin. In addition, the application requested 3) to fill the remaining half of the debris basin and 4) the construction of a 673 cubic yard capacity debris basin with retaining and deflection walls.[3] The entire project would require 940 cubic yards of cut and 1,882 cubic yards of fill. The existing unpermitted debris basin would be filled level with Mr. Fryzer's existing flat building pad

[2] Section 13166(a) of Title 14, California Code of Regulations (CCR) provides that an amendment shall not be accepted if it lessens or avoids the intended effect of an approved or conditionally approved permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.

[3] Mr. Fryzer was the sole applicant originally. However, because the unpermitted and proposed development was located entirely on Headland property, Headland was required to be a co-applicant.

and single family home, creating an extension of the flat pad area of Lot 81, approximately 60 to 80 feet across Lot 41 and onto Lot G. The new containment area for the debris basin would have been located north of the existing unpermitted basin. Thus, the expanded fill pad would extend Mr. Fryzer's existing building pad onto land that was deed restricted as public open space and originally intended to be dedicated to State Parks.

On November 15, 2001, a "Notice of Violation" letter was sent to Headland and Mr. Fryzer, regarding the fact that there had been additional unpermitted development on the subject property and to notify them of the need to complete amendment application A-381-78-A13 to authorize the development after the fact or to authorize the removal of the unpermitted development (See Exhibit #13). At that time, the Commission's enforcement staff recommended that they 1) immediately cease all grading activity on the subject property and remove construction equipment and 2) submit the requested items necessary to complete the amendment application no later than January 18, 2002. Headland and Mr. Fryzer completed their amendment application and it was filed on December 28, 2001.[4]

The proposed amendment was presented to the Commission on July 8, 2002. On July 8, 2002, the Commission unanimously denied CDP amendment application No. A-381-78-A13. The denial was based on the findings set forth in the Staff Report presented to the Commission on July 8, 2002, attached as Exhibit #13 and incorporated herein.

On September 4, 2002, Commission staff observed a number of new, additional items of unpermitted development placed on the subject properties: 1) a golf putting/chipping grass turf and sand traps on Lot 41 and Lot G (on top of the fill of the unpermitted basin, which had been denied by the Commission), 2) additional fill between the grass turf and sand areas, 3) grass lawn on Lot 41 and Lot G, 4) approximately 8 palm trees on Lot 41 and Lot G, 5) an extension of a wrought iron fence on Lot 41 and Lot G, 5) paving on Lot 41 and 6) additional fill in the unpermitted debris basin. This new unpermitted development was placed on top of and surrounding the unpermitted development that was denied by the Commission on July 8, 2002.

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

On February 20, 2003, the Commission's statewide enforcement unit sent a *Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings* (NOI) to Headland Properties Associates and Joseph Fryzer.

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[4] The Executive Director did not reject Amendment application A-381-78-A13 under § 13166(a) because the applicants alleged that there was new, material information regarding the need for drainage devices in this area to protect public safety, and because the applicant claimed that this information was not previously known and could not, with reasonable diligence, have been discovered and produced before the permit was granted.

The NOI stated:

> *"The purpose of these enforcement proceedings is to resolve outstanding issues associated with the unpermitted development activities that have occurred at the subject property. Collectively, the Cease and Desist Order and Restoration Order will direct you to cease and desist from performing or maintaining any development that is subject to the permit requirements of the Coastal Act without a coastal development permit and will compel the removal of unpermitted development and restoration of the areas impacted by the unpermitted development to the condition it was in before the violation took place."*

Commission staff scheduled Cease and Desist and Restoration Order proceedings at the Commission's May 2003 and August 2004 hearings. The May scheduled hearing was postponed because both parties had expressed interest in resolving the violation through Consent Orders (similar to a settlement agreement). Headland presented several restoration options to Commission staff and finalized a proposed restorative grading plan to the City of Los Angeles, Department of Building and Safety. The August 2004 hearing was also postponed to finalize Consent Orders with Headland. Headland has agreed to a Consent Cease and Desist and Restoration Order, where Headland agrees to remove unpermitted development and perform restorative grading and revegetation of the site.

Since the postponement of the May 2003 scheduled Cease and Desist Order and Restoration Order proceedings, Mr. Fryzer has not expressed any interest in resolving the violation. Therefore, Commission staff continues to recommend that the Commission issue a "unilateral" Cease and Desist and Restoration Order to Mr. Fryzer.

As briefly discussed below, both the original unpermitted development and the most recent additional unpermitted development discovered on September 4, 2002, are inconsistent with and not authorized by the underlying permit and would have required a coastal development permit. The unpermitted development is clearly included in the definition of "development" (Section 30106 of the Coastal Act), and therefore requires a coastal development permit. Mr. Fryzer and Headland submitted Coastal Development Permit amendment application A-381-78-A13 to retain the unpermitted development after-the-fact and to construct a new debris basin. The Commission found the proposed amendment inconsistent with the Chapter 3 policies of the Coastal Act; and the amendment was denied.

D. Basis for Issuance of Orders

Cease and Desist Order

The statutory authority for issuance of this Cease and Desist Order is provided in §30810 of the Coastal, which states, in relevant part:

a) *If the Commission, after public hearing, determines that any person…has undertaken, or is threatening to undertake, any activity that 1) requires a permit from the commission without first securing the permit or 2) is inconsistent with any permit previously issued by the Commission, the Commission may issue an order directing that person…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…*

Restoration Order

The statutory authority for issuance of this Restoration Order is provided in §30811 of the Coastal, 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* [a] *the development has occurred without a coastal development permit from the commission…* [b] *the development is inconsistent with this division, and* [c] *the development is causing continuing resource damage.*

The following paragraphs set forth the basis for the issuance of the Cease and Desist and Restoration Orders by providing substantial evidence that the development meets all of the required grounds listed in Section 30810 and 30811 for the Commission to issue a Cease and Desist and Restoration Order.

i. Development has Occurred without a Coastal Development Permit ("CDP")

The unpermitted development that is the subject of these Cease and Desist and Restoration Orders meet the definition of "development" contained in Section 30106 of the Coastal Act. This definition includes but is not limited to: 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 or change in the density or intensity of the use land. In this case, 1) construction of an approximately 1,040 cubic yard capacity debris basin, 2) demolition of the unpermitted basin by removal of a concrete lining, 3) fill of approximately half of the unpermitted basin with earth, creating an extension of a flat building pad, 4) and placement of grass turf, palm trees, sand, fencing, and concrete paving on the filled basin/building pad extension are all "development" as defined by Section 30106.

Under the Coastal Act, "development" requires a coastal development permit pursuant to section 30600(a). In this case, Joseph Fryzer Headland, as co-applicants, sought

after-the-fact authorization for the construction of a 1,040 cubic yard capacity debris basin, the demolition of the unpermitted debris basin, and the fill of portions of the basin. The proposed project also included fill of the remainder of the hole that was the debris basin and the construction of a 673 cubic yard capacity debris basin with retaining and deflection walls. The entire proposed project would have required 940 cubic yards of cut and 1,882 cubic yards of fill. The Commission denied this proposed project on July 8, 2002. Between the Commission's July 8, 2002 denial and September 4, 2002, additional unpermitted development was constructed on top of the previously denied unpermitted development. Such development included placement of grass turf, palm trees, sand, fencing, and concrete paving on the filled basin/building pad extension, creating a small private golf chipping and putting area and an extension to Mr. Fryzer's back yard. Therefore, additional development was constructed on top of the previously denied unpermitted development without benefit of a Coastal Development Permit or amendment to the underlying Coastal Development Permit A-381-78, as amended.

The subject unpermitted development is not exempt from the Coastal Act's permitting requirements. The subject unpermitted development does not qualify for any exemption from permit requirements under section 30610 of the Coastal Act and/or Title 14, California Code of Regulations Sections 13250-13253 because the development is not an improvement directly attached to an existing single family home or other structure, is not a structure normally associated with a single family home, is not a repair and maintenance activity, and even if it was, it would have a potential for significant adverse effects on coastal resources in one or more of the respects identified in Sections 13250 and 13252 of the Commission's regulations.

ii. Inconsistency with Terms and Conditions of Previously Issued Permit

The special conditions included in CDP A-381-78 were designed to minimize impacts to coastal resources and ensure that the authorized development would comply with the Chapter 3 policies of the Coastal Act. These policies are more fully discussed in the staff report for CDP A-381-78, as amended (Exhibit #13).

As stated in Section B. above, Coastal Development Permit A-381-78, as amended established development limits around the outer edge of the approved subdivision (the "Urban Limit Line". Permit A-381-78A allowed the subdivision of 1200 acres for 740 dwelling units but limited structural development outside the Urban Limit Line to the construction of "paved or unpaved pathways and other incidental improvements for low intensity recreation" and (under certain circumstances) "minor facilities to provide public or utility services". The permit required the applicant to dedicate the area outside the urban limit line to State Parks (or, as later amended (A-381-78-A7), to either State Parks, a private non-profit organization approved by the Executive Director, or to the City of Los Angeles Department of Recreation and Parks) and also to deed restrict the land to "[p]revent development outside the urban limit line except as permitted by this permit of for park purposes" (Condition 3.b.). The findings for A-381-78A state "it is only

with the dedication of these lands for permanent preservation of visual ad (sic) landform resources and for public recreational use that the Commission can find the development of the four tracts on the balance most protective of significant coastal resources."

The first amendment expanded the permitted number of dwelling units to 740 with an expanded limit of development. The findings for the first amended permit state, "[t]he project would result in permanent alteration of approximately 145 acres of the 185 acres in Tract 31935 and 32184. A firm Urban Limit Line is to be established with permanently preserved buffer areas designed to protect the integrity of the local wildlife systems from both construction and residential impacts" (emphasis added).
In the ninth amendment, the ULL was expanded because reconstructive grading was necessary to prevent landslides from occurring, creating Lots 40, 41, 42, and 43 (lots that were previously outside the urban limit line). The ninth amendment lessened the area to be dedicated but added a restriction on the use of the interior open space lots. These lots are referenced as "interior open space" lots because they were originally included in lands that were to be dedicated to the State, City, or other private, non-profit, and were identified as "open space areas". Special Condition 2g. of the ninth amendment states.

> *(2) g. Maintenance of private open space. The applicant shall demonstrate to the Executive Director that adequate legal instruments exist to maintain the slope and open space areas identified in map PH87-4. The applicant has agreed to maintain the slope areas adjacent to the development, and upon completion of development to transfer this obligation to the Homeowners' association(s) in accordance with City conditions 13j, 21, 22, and 23. Some of this land is subject to landscaping conditions and fire control setbacks. The applicant or the successor in interest shall maintain the slope areas shown on PH 87-4, and areas identified for special planting using native, fire-resistant vegetation of the Oak Savannah, Coastal sage scrub and chaparral communities, and fuel modification and erosion control techniques approved by the Executive Director.*
>
> *Within the areas designated as slope areas on the PH87-4 plan there shall be no structures with the exception of park and maintenance facilities such as trails, drainage channels, park furniture and vehicle entry gates. The grading shall be limited to that approved in this amendment.*
>
> *To protect State Park lands from conflict with the fire control needs of the community, Headland Properties or its successor in interest shall either redesign the lot lines so that no private lot lies closer than 200 feet from the land dedicated to the State Park system or shall develop and record on the final tract map, an easement that retains the right of entry and maintenance of privately held slope areas within 200 feet of the State Park for the homeowners association. The restriction shall prevent future homeowners from construction of combustible structures within the area identified as slope area. The easement or restrictions*

shall be subject to the review and approval of the Executive Director be binding on heirs an assigns, and be recorded free of prior liens, and shall be valid for the duration of the subdivision.

It is clear from the Commission's findings and permit conditions that the establishment of the Urban Limit Line and the requirement to maintain the interior open space lots were necessary to offset the subdivision's impacts to the surrounding environment. The unpermitted development is located outside the Urban Limit Line on lands that were both deed restricted and dedicated for public open space (Lot G) and on lands that were to be maintained as interior open space lots with firm restrictions on development (Lot 41). Therefore, the unpermitted development is clearly inconsistent with a permit previously issued by the Commission (A-381-78, as amended).

iii. Unpermitted Development is Inconsistent with the Coastal Act

The unpermitted development meets the definition of "development" which requires a Coastal Development Permit (CDP). A CDP may be approved only when development is consistent with the resource protection policies contained in Chapter 3 of the Coastal Act. As demonstrated in the Commission's adopted findings for its denial of Coastal Development Permit amendment application A-381-78-A13 (incorporated hereto as Exhibit #13), the Commission has already found the unpermitted development to be inconsistent with the following Chapter 3 policies of the Coastal Act: Sections 30240 and 30251. The additional unpermitted development placed on top of the denied unpermitted development (grass turf, palm trees, sand, fencing, and concrete paving) is also inconsistent with Section 30240 and 30251 of the Coastal Act for the same reasons addressed in the denial of A-381-78-A13.

Section 30240: Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas.

Section 30240 of the Coastal Act requires that development in areas adjacent to parks and recreation areas and environmentally sensitive habitat areas be sited and designed to prevent impacts, which would significantly degrade such areas. The project site is located adjacent to Topanga State Park and Temescal Ridge Trail and Trailhead. The Park and the surrounding habitat within the Santa Monica Mountains still contain large expanses of native vegetation, which is home to several avian and terrestrial species. Such vegetation includes coastal sage scrub, chaparral, scrub oak, and several other plant species endemic to the Santa Monica Mountains. The adjacent slope above the proposed project consists of chaparral and coastal sage scrub. While some areas in the Santa Monica Mountains near highly developed areas in the Pacific Palisades have lost most of the natural habitat diversity, large expanses of Topanga State Park have been left untouched by development and human interference.

The unpermitted development is located directly adjacent to Topanga State Park, on land deed restricted for open space. The recreational experience intended for this park

is an open, coastal mountain appearance. All development located adjacent to the State Park system must be sited and designed to prevent impacts that would significantly degrade such areas. Development that could occur in this area must be compatible with the park system. Such development that could be authorized are paths, trails, and trailheads, picnic areas, observation areas, and other low intensity uses associated with public parks and recreational area. The unpermitted development includes clearing and grading on deed restricted open space land adjacent to Topanga State Park and the Temescal Ridge Trail, construction of a debris basin, the demolition and partial fill of the unpermitted basin, and the construction of a private golf chipping and putting facility.

Such development is neither consistent with nor compatible to the State Park system. The unpermitted development, located almost predominantly outside a designated urban limit line and adjacent to Topanga State Park and Temescal Ridge Trail is not consistent with Section 30240 of the Coastal Act.

Section 30251: Scenic Resources/Landform Alteration.

The Coastal Act protects public views and the visual qualities of coastal areas and limits landform alteration that would detract from such resources. Topanga State Park surrounds the subject properties on all but the west side. In fact, the portion of Lot G on which most of the unpermitted is located was originally required to be dedicated to the State of California as open space.

The unpermitted development did not minimize the alteration of natural landforms. The unpermitted development included an extensive amount of grading to fill in an unpermitted debris basin in an area deed restricted for public open space and below Temescal Ridge, a prominent ridge in the southern portion of the Santa Monica Mountains and Topanga State Park (Exhibit #4). The Temescal Ridge Trail follows this ridgeline and connects to other trails in the park.

The unpermitted development does not minimize alteration of natural landforms and is not sited and designed to protect the scenic and visual characteristics of the surrounding area, and contributes to a cumulative adverse impact of increased development along the canyon and canyon slope. As such, the unpermitted development is inconsistent with Section 30251.

The unpermitted development continues to impact Topanga State Park and its associated habitat and recreational values, the scenic resources of this area, and will lead to continued alteration of natural landforms.

iv. Unpermitted Development is Causing Continuing Resource Damage

The unpermitted development is causing continuing resource damage, as defined by §13190 of the Commission's regulations.

a) Definition of Continuing Resource Damage

The term "continuing" is defined by 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."*

The unpermitted development remains on the subject property and is being maintained by Mr. Fryzer. The denied unpermitted development continues to impact the public recreational area, scenic resources, and natural landforms on the subject properties. The additional unpermitted development (grass turf, palm trees, sand, fencing, and concrete paving) constructed on the subject properties after the Commission's denial further continues the impacts to coastal resources. As described below, such unpermitted development is causing impacts to resources protected by the Coastal Act that continue to occur as of the date of this proceeding and damage to resources is "continuing" for purposes of Section 30811 of the Coastal Act.

Section 13190(a) of the Commission's regulations 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 term "damage" in the context of Restoration Order proceedings is provided in Section 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."*

In this case, the damage is the continuing degradation of Topanga State Park and its associated habitat and recreation values, scenic resources, and the alteration of natural landforms. The damage caused by the development, which is described in the above paragraphs, satisfies this regulatory definition.

b) Description of Continuing Resource Damage on the subject property

The unpermitted development is causing the ongoing adverse impacts to coastal resources that are described in subsection iii, above. The area disturbed by the unpermitted development is visible from Topanga State Park and the Temescal Ridge Trail. As constructed the unpermitted debris basin, the unpermitted fill within the basin, and the construction of a private golf chipping and putting facility continues to impact the scenic qualities of this area and does not minimize natural landform alteration. Furthermore, the unpermitted removal of coastal sage scrub and chaparral and the unpermitted installation of grass turf, palm trees, paving, fencing, and extensive grading continues to impact native plant and animal species of the Santa Monica mountains. As long as the landowner and/or Mr. Fryzer continues to maintain the unpermitted development, these impacts will continue to occur. The unpermitted development has taken place adjacent to Topanga State Park, on lands that are deed restricted and dedicated for public open space, on lands that were maintained as open space lots with clear restrictions on development, and in an area of significant scenic resources, located on portions of Lot G and Lot 41 of Tract 32184 in the Pacific Palisades area of the City of Los Angeles, inconsistent with the Coastal Act and the underlying permit conditions.

E. California Environmental Quality Act (CEQA)

The issuance of Cease and Desist and Restoration Orders to compel the removal of the unpermitted development and restoration of disturbed areas with restorative grading and revegetation of native plant species is exempt from any applicable requirements of the California Environmental Quality Act (CEQA) of 1970 and will not have significant adverse effects on the environment, within the meaning of CEQA. The Cease and Desist and Restoration Orders are exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15060(c)(2) and (3), 15061(b)(2), 15307, 15308 and 15321 of CEQA Guidelines.

F. Respondents' Defenses

Headland Properties Associates have agreed to a Consent Cease and Desist and Restoration Order whereby they waived their rights to contest the issuance of the Orders and present defenses or evidence at a public hearing to contest the issuance and enforceability of these Consent Orders.

Mr. Fryzer did not agree to a Consent Order and therefore has not waived his right to present defenses. Section 13181(a) of the Commissions Regulations states, in part:

> *"The notice of intent shall be accompanied by a 'statement of defense form' that conforms to the format attached to these regulations as Appendix A. The person(s) to whom such notice is given shall complete and return the statement*

of defense form to the Commission by the date specified therein, which date shall be no earlier than 20 days from transmittal of the notice of intent."

As of the date of this report, Mr. Fryzer has not responded to staff's allegations as set forth in the February 20, 2003 NOI. The final date for submittal of the statement of defense form ("SOD") was March 12, 2003. On March 7, 2003, Mr. Fryzer requested an extension of time to submit a response to the February 20 NOI. On March 12, 2003, the Executive Director granted a 30-day extension of time to submit the SOD, giving Mr. Fryzer no later than April 11, 2003 to submit such a response. Mr. Fryzer did not submit the SOD by the April 11, 2003 deadline. Since the completion of Section 13181's statement of defense form is mandatory, Mr. Fryzer has failed to raise and preserve any defenses that he may have.

G. Actions in Accordance with Statutory Authority

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

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

The statutory authority for issuance of this Restoration Order is provided for in Section 30811 of the Coastal Act, which states the following:

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.

The procedures for the issuance of Cease and Desist and Restoration Orders are described in the Commission's regulations in Sections 13180 through 13188 and 13190 through 13197 of the California Code of Regulations, Title 14. 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, the purpose of these Cease and Desist and Restoration Orders is to order removal of unpermitted development and restoration of the subject property to the conditions that existed prior to the occurrence of the unpermitted development described below.

Staff recommends that the Commission issue the following Cease and Desist and Restoration Orders to Mr. Fryzer and the following Consent Cease and Desist and Consent Restoration Orders to Headland Properties Associates, LP:

**CEASE AND DESIST ORDER NO. CCC-04-CD-09 &
RESTORATION ORDER NO. CCC-04-RO-03**

Pursuant to its authority under Public Resource Code §30810 AND §30811, the California Coastal Commission hereby orders and authorizes Joseph Fryzer, his agents, contractors and employees, and any person acting in concert with any of the foregoing (hereinafter "Fryzer") to cease and desist from maintaining on the subject property any structures or other development constructed or erected without a Coastal Development Permit and/or inconsistent with Coastal Development Permit A-381-78, as amended and to ensure that the subject properties are restored in accordance with Consent Cease and Desist Order No. CCC-04-CD-08 and Restoration Order No. CCC-04-CD-02 (hereinafter "Consent Orders"), attached as Exhibit 1. Accordingly, Fryzer shall, within 30 days of its issuance, fully comply with paragraphs A, B, C, D, and E as follows.

A. Fryzer shall allow Headland Properties Associates, LP and all their employees, agents, and contractors access across Lot 81, Tract 32184 to reach Lot 41, Tract 32184 and Lot G for the purpose of conducting the restorative work on the subject properties and performing any maintenance or monitoring required by the Consent Orders.

B. Fryzer shall not block or impede the ability of Headland Properties Associates, LP to perform and carry out the approved Restoration Plan consistent with the Consent Orders.

C. Fryzer shall cooperate with the implementation of the Restoration Plan prepared by Headland Properties Associates, LP as required in Consent Cease and Desist Order No. CCC-04-CD-08 and Consent Restoration Order No. CCC-04-RO-02.

D. For the duration of the restoration project, including the monitoring period, Fryzer shall allow the Executive Director of the Commission, and/or his/her designees access to Lot 81, Tract 32184 for purposes of inspecting the subject property to assess compliance with the Cease and Desist and Restoration Order, subject to twenty-four hours advance notice.

E. Fryzer shall ensure that all components of the Consent Orders are undertaken and completed including, but not limited to, removal of unpermitted development and implementation of the Restoration Plan, grading plans, landscaping plans, and erosion control plans, consistent with all requirements and deadlines contained in the Consent Orders.

I. Persons Subject to the Orders

Joseph Fryzer, and his agents, contractors and employees, and any persons acting in concert with any of the foregoing.

II. Identification of the Property

The property that is subject to these Orders is a portion of Lot G (a deed restricted open space lot located east of Tract 32184) that was not accepted by the State of California and Lot 41 of Tract 32184 (an interior tract open space lot) Pacific Palisades, City and County of Los Angeles.

III. Description of Unpermitted Development

The development that is the subject of these Consent Orders includes the unpermitted construction of an approximately 1,040 cubic yard capacity debris basin, 2) demolition of the unpermitted basin by removal of a concrete lining and filling approximately half of the unpermitted basin with earth creating an extension of a flat building pad, 3) unpermitted placement of grass turf, palm trees, sand, fencing, and concrete paving on the filled basin/building pad extension, and 4) construction of a private golf chipping and putting area.

IV. Effective Date and Terms of the Orders

The effective date of these Orders is the date the Cease and Desist and Restoration Orders are issued by the Commission. These Orders shall remain in effect permanently unless and until modified or rescinded by the Commission, or deemed by the Executive Director to be in complete compliance with all terms and conditions of these Consent Orders.

V. Findings

The Orders are issued on the basis of the findings adopted by the Commission at the September 8, 2004 hearing, as set forth in the attached document entitled "Recommended Findings for Consent Cease and Desist Orders CCC-04-CD-08 and Consent Restoration Order CCC-04-RO-02 & Cease and Desist Order CCC-04-CD-09 and Restoration Order CCC-04-RO-03".

VI. Compliance Obligation

Strict compliance with the orders by all parties subject thereto is required. Failure to comply strictly with any term or condition of the orders including any deadline contained in the orders will constitute a violation of this order and may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS ($6,000) per day for each day in

which such compliance failure persists, in addition to any other penalties authorized under Section 30820.

VII. Deadlines

Deadlines may be extended by the Executive Director for good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least 10 days prior to expiration of the subject deadline.

VIII. Appeal

Pursuant to Public Resources Code Section 30803(b), any person or entity against whom the orders are issued may file a petition with the Superior Court for a stay of this order.

Executed in _____ on _____, on behalf of the California Coastal Commission.

Peter Douglas, Executive Director

By: _____

CONSENT CEASE AND DESIST ORDER CCC-04-CD-08 AND CONSENT RESTORATION ORDER CCC-04-RO-02 (HEADLAND PROPERTIES)

Pursuant to its authority under Public Resources Code Sections 30810 and 30811 the California Coastal Commission (hereinafter "Commission") hereby orders and authorizes Headland Properties Associates, all their employees, agents, contractors, and any persons acting in concert with any of the foregoing (hereinafter, "Respondent"), to: cease and desist from maintaining unauthorized development on Lot G and Lot 41, Tract 32184 (hereinafter "Subject Properties") and refrain from conducting any future development on the Subject Properties not authorized by a CDP or this Consent Cease and Desist Order and Consent Restoration Order ("hereinafter Consent Orders"). Accordingly, all persons subject to these Consent Orders shall, within 30 days of their issuance, remove all unpermitted development on the Subject Properties including, but not necessarily limited to, landscaping, fencing, paving, golf course amenities, irrigation lines, and sand fill (with the exception of any fill material used for restorative work authorized by these Consent Orders) and thereafter restore the site in accordance with Section 1.0, below.

Within 45 days of the issuance of these Consent Orders, Commission staff will conduct a site inspection to confirm compliance with the terms and conditions of the Cease and Desist Order.

1.0 RESTORATION PLAN

1.1 Within 60 days of issuance of the Consent Orders, Respondent agrees to submit for the review and approval of the Executive Director, a plan to restore the Subject Properties consistent with the preliminary grading plan submitted by Respondent, entitled Grading Plan Lot 41, Tract No. 32184 and Lot G, prepared by VTN West, Inc., July 12, 2004 (hereinafter "Restoration Plan"). Respondent agrees to submit the Restoration Plan to the City of Los Angeles for its review and approval prior to submitting the Restoration Plan to the Executive Director. Restoration plans should include sections showing original and finished grades, and quantitative breakdown of grading amounts (cut/fill), drawn to scale with contours that clearly illustrate the original topography of the subject site prior to any grading disturbance and after the construction of the initial debris basin. The location for any excavated material to be removed from the site as a result of the restoration of the impacted areas shall be identified. If the dumpsite is located in the Coastal Zone and is not an existing sanitary landfill, a Coastal Development Permit shall be required.

Respondent agrees that the Restoration Plan will minimize the size of the area and the intensity of the impacts from disturbances caused by the restoration of the impacted areas. Other than those areas subject to

revegetation activities, the areas of the site and surrounding areas currently undisturbed shall not be disturbed by activities related to this restoration project. Prior to initiation of any activities resulting in physical alteration of the subject property, the disturbance boundary shall be physically delineated in the field using temporary measures such as stakes or colored tape. In addition, the boundary between Lot 41 and Lot 81 of Tract 32184 shall be physically delineated with similar markers to ensure that all unpermitted development on the subject properties is removed and the appropriate areas restored.

Upon approval of the Restoration Plan, Respondent agrees to implement the plan pursuant to the approved schedule, with all Restoration work to be completed as early as possible pursuant to recommendations by the consulting engineer and shall be no later than 90 days after the approval of the Restoration Plan, where the Executive Director may extend this deadline for good cause.

1.2 Within 60 days of Issuance of the Consent Orders, Respondent agrees to submit for the review and approval of the Executive Director a Landscaping Plan. The Landscaping Plan will include all graded areas and areas impacted by the removal of vegetation (hereinafter "Planting Area") so that disturbed areas have a similar plant density, total cover and species composition as that typical of undisturbed coastal sage/chaparral vegetation in the surrounding area within 5 years from the initiation of revegetation activities. The Landscaping Plan shall be prepared by a qualified restoration ecologist or resource specialist and include a map showing the type, size, and location of all plant materials that will be planted in the Planting Area, all invasive and non-native plants to be removed from the Planting Area, the topography of the site, all other landscape features, and a schedule for installation of plants and removal of invasive and/or non-native plants.

A. The Landscaping Plan shall show all existing vegetation. The vegetation planted on the Subject Properties shall consist only of native, non-invasive, drought-tolerant plants endemic to this section of the Santa Monica Mountains (See Attachment 1). All plantings used shall consist of native plants that were propagated from plants as close as possible to the subject property, in order to preserve the genetic integrity of the flora in and adjacent to the revegetation area. Respondent shall not employ invasive plant species on the Subject Properties, which could supplant native and drought tolerant plant species.

B. The Landscaping Plan shall describe the use of artificial inputs, such as watering or fertilization that may be used to support the

establishment of the plantings and specify that only the minimal necessary amount of such inputs are used.

C. Respondent agrees that no permanent irrigation system is allowed on the Subject Properties. Any existing in-ground irrigation systems shall be removed. Temporary above ground irrigation to provide for the establishment of the plantings is allowed for a maximum of three years or until the landscaping has become established, whichever occurs first. If, after the three-year time limit, the landscaping has not established itself, the Executive Director may allow for the continued use of the temporary irrigation system until such time as the landscaping is established.

D. All planting in the approved Landscaping Plan shall be installed in accordance with the schedule and requirements of the approved Landscaping Plan and no later than 15 days after the completion of the components of the Restoration Plan.

E. The landscaping shall be planted using accepted planting procedures required by the professionally licensed restoration ecologist or resource specialist. Such planting procedures may suggest that planting would best occur during a certain time of the year. If so, and if this necessitates a change in the planting schedule, the 15 day deadline to implement the Landscaping Plan in Section 1.6, may be extended as provided for under the provisions of Section 11.1, herein.

F. The qualified restoration ecologist or resource specialist shall specify the methods to be used after restoration to stabilize the soil and make it capable of supporting native vegetation. Such methods shall not include the placement of retaining walls or other permanent structures, grout, geogrid or similar materials. Any soil stabilizers identified for erosion control shall be compatible with native plant recruitment and establishment. The plan shall specify the erosion control measures that shall be installed on the project site prior to or concurrent with the initial grading operations and maintained until the impacted areas have been revegetated to minimize erosion and transport of sediment outside of the disturbed areas. The Landscaping Plan shall identify measures to prevent erosion and dispersion of sediments across the Subject Property via rain, nuisance flow runoff, or wind. Such measures shall be provided at all times of the year, in conformance with Section 1.4 of these Consent Orders.

G. Respondent agrees to implement the approved Landscaping Plan 15 days after completion of the Restoration Plan.

H. The Landscaping Plan shall describe the monitoring and maintenance methodology and shall include the following provisions:

1) Respondent agrees to submit, on an annual basis for a period of five years (no later than December 31st of each year) a written report, for the review and approval of the Executive Director, prepared by a qualified resource specialist, evaluating compliance with the approved Landscaping Plan. The annual reports shall include further recommendations and requirements for additional restoration activities in order for the project to meet the objectives of the Restoration Plan and Landscaping 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 in the Planting Area.

2) At the end of the five-year period, Respondent agrees to submit a final detailed report for the review and approval of the Executive Director. If this report indicates that the restoration project has in part, or in whole, been unsuccessful, based on the approved Restoration and Landscaping Plan, Respondent agrees to submit a revised or supplemental plan to compensate for those portions of the original program that were not successful. The Executive Director will determine if the revised or supplemental restoration plan must be processed as a CDP, a new Restoration Order, or modification of Restoration Order CCC-04-RO-02.

3) Solely with respect to the obligations listed in this Section 1.2.H, Respondent may transfer its obligations hereunder in the same manner as provided for in the transfer of permit obligations as specified in the regulations promulgated by the Coastal Commission at 14 C.C.R. 13170.

1.3 Within 60 days of issuance of the Consent Orders, Respondent agrees to submit, for the review and approval of the Executive Director, an Interim Erosion Control Plan. The Interim Erosion Control Plan shall include measures to minimize erosion across the site (to be implemented during the restoration process conducted pursuant to these Consent Orders). The Interim Erosion Control Plan shall be prepared by a qualified restoration professional or resource specialist. The interim Erosion Control Plan shall be implemented prior to, and concurrently with

the implementation of the Restoration and Landscaping Plan and shall include the following:

A. Temporary erosion control measures, including but not limited to the following, shall be used: temporary hay bales, silt fences, swales, sand bag barriers, wind barriers, and biodegradable erosion control material. Erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and resources. In addition, all stockpiled material shall be covered with geofabric covers or other appropriate cover and all graded areas shall be covered with geotextiles or mats.

B. Interim Erosion Control Plan will include, at a minimum, the following components:

1) A narrative describing all temporary runoff, and erosion control measures to be used and any permanent erosion control measures to be installed for permanent erosion control.

2) A detailed site plan showing the location of all temporary erosion control measures.

3) A schedule for installation and removal of temporary erosion control measures, in coordination with the long-term landscaping and monitoring plan.

1.4 Within 45 days of the issuance of the Consent Orders, Respondent agrees to submit to the Executive Director a report documenting the complete removal of the unpermitted development specified above. The report shall include photographs that clearly show all portions of the Subject Properties.

1.5 Within 30 days of approval of the Restoration Plan, Respondent agrees to implement the Restoration Plan.

1.6 Within 15 days of completion of the Restoration Plan, Respondent agrees to implement the approved Landscaping Plan.

1.7 Within 30 days of the implementation of the Landscaping Plan, Respondent agrees to submit to the Executive Director a report documenting the projects completion. The report shall include photographs that clearly show the entire Planting Area on the Subject Properties.

1.8 Commission staff will conduct a site visit to determine whether the terms and conditions of sections 1.5 -1.8 of the Consent Orders were complied with.

1.9 All persons subject to these Consent Orders agree to allow the Executive Director of the Commission, and/or his/her designees to inspect the subject property as necessary to assess compliance with these Consent Orders.

1.10 Prior to undertaking any work or improvements pursuant to Sections 1.0 -1.4, Respondent shall have obtained such permits and approvals as are required by agencies having jurisdiction over such work or improvements (other than the Commission).

1.11 Any time period referenced in these Consent Orders relating to any work or improvement that requires agency permits and approvals other than the Commission shall not commence until said permits and approvals have been obtained. Similarly, any time period referenced herein relating to any work or improvement that requires access across property not owned or controlled by the Respondent shall not commence until said access has been obtained. Respondent shall demonstrate that all necessary applications for permits, approvals, and access have been submitted in a complete and reasonably timely way and are being diligently pursued, and shall notify the Executive Director of same in writing and such notice shall be received by Commission staff at least ten (10) days prior to expiration of the subject deadline.

1.12 All plans, reports, photographs and any other materials required by these Consent Orders shall be sent to:

California Coastal Commission
Headquarters Enforcement Program
Attn: Aaron McLendon
45 Fremont Street, Suits 2000
San Francisco, California 94105
(415) 904-5220
Facsimile (415) 904-5235

2.0 PERSONS SUBJECT TO THE CONSENT ORDERS

2.1 Headland Properties Associates and all their employees, agents, contractors, and any successors and assigns and any persons acting in concert with any of the foregoing.

3.0 IDENTIFICATION OF THE SUBJECT PROPERTY

3.1 The properties that are subject to these Consent Orders are a portion of Lot G (a deed restricted open space lot located east of Tract 32184) that was not accepted by the State of California and Lot 41 of Tract 32184 (an interior tract open space lot) Pacific Palisades, City and County of Los Angeles.

4.0 DESCRIPTION OF COASTAL ACT VIOLATION

4.1 The development that is the subject of these Consent Orders includes the unpermitted construction of an approximately 1,040 cubic yard capacity debris basin, 2) demolition of the unpermitted basin by removal of a concrete lining and filling approximately half of the unpermitted basin with earth creating an extension of a flat building pad, 3) unpermitted placement of grass turf, palm trees, sand, fencing, and concrete paving on the filled basin/building pad extension, and 4) construction of a private golf pitching and putting area on lands deed restricted and dedicated for open space.

5.0 COMMISSION JURISDICTION

5.1 The Commission has jurisdiction over resolution of these alleged Coastal Act violations pursuant to Public Resources Code Section 30810 and 30811. Respondent agrees that conditions for issuance of these Consent Orders under 30810 and 30811 have been met. Therefore, for the purposes of issuance and enforceability of these Consent Orders, the Commission has jurisdiction to act as set forth in these Consent Orders, and Respondent agrees that it will not contest the Commission's jurisdiction to issue or enforce these Consent Orders.

6.0 WAIVER OF DEFENSES

6.1 In light of the intent of the parties to resolve these matters in settlement, and solely with respect to these Consent Orders, Respondent waives its right to contest the terms, issuance, and enforcement, subject to Section 6.2 below, of these Consent Orders, and Respondent does not contest the Commission's jurisdiction for the purposes of adoption, issuance and enforcement of these Consent Orders. Specifically, in the interest of resolving this matter with Consent Orders, Respondent has waived its right to present defenses or evidence at a public hearing to contest the issuance and enforcement, subject to Section 6.2 below, of these Consent Orders.

6.2 Respondent's waiver of defenses does not apply to any proceeding subsequent to the public hearing convened to issue these Consent

Orders, provided that Respondent agrees that the Commission has met the jurisdictional prerequisites under Section 30810 and 30811 of the Coastal Act to issue these Orders. Respondent retains all rights to present defenses or evidence in any proceeding based on Respondent's alleged failure to comply with the terms and conditions of these Consent Orders, or in any proceeding alleging Coastal Act violations at the Subject Properties other than those that are the subject of these Consent Orders. Respondent's waiver of defenses is strictly limited to these Consent Orders and does not constitute an admission of facts or law by Respondent for any purpose.

7.0 NO ADMISSION OF GUILT OR LIABILITY

7.1 Issuance and enforcement of these Consent Orders reflect the intent of the parties to resolve these matters in settlement, but in no event shall the Consent Orders be interpreted or construed as an admission of guilt or liability by the Respondent, provided that Respondent agrees that the Commission has met the jurisdictional prerequisites under Section 30810 and 30811 of the Coastal Act to issue these Orders.

8.0 EFFECTIVE DATE AND TERMS OF THE ORDERS

8.1 The effective date of these Consent Orders is the date these Consent Orders are issued by the Commission. These Consent Orders shall remain in effect permanently unless and until modified or rescinded by the Commission, or deemed by the Executive Director to be in complete compliance with all terms and conditions of these Consent Orders.

9.0 FINDINGS

9.1 The Commission is issuing these Consent Orders on the basis of those findings that relate to the Respondent, as adopted by the Commission on September 8, 2004, as set forth in the attached document entitled "Staff Recommendations and Findings for Cease and Desist Order No. CCC-04-CD-08 and Restoration Order CCC-04-CD-02."

10.0 SETTLEMENT/COMPLIANCE OBLIGATION

10.1 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 $30,000. The settlement monies shall be deposited in accordance with the provisions of the Coastal Act specified at Public Resources Code Section 30823. Respondent shall submit the settlement payment amount by September 30, 2004 to the attention of Aaron McLendon of the Commission, payable as specified in Public Resources Code Section 30823, at the address in Section 1.12, above.

10.2 Strict compliance with these Consent Orders by all parties subject thereto is required. Failure to comply with any term or condition of these Consent Orders, including any deadline contained in these Consent Orders, unless the Executive Director grants an extension, will constitute a violation of these Consent Orders and shall result in Respondent being liable for stipulated penalties in the amount of $500 per day per violation. Respondent agrees to pay these stipulated penalties within 15 days of receipt of written demand by the Commission for such penalties. 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 Public Resources Code Sections 30821.6, 30822 and 30820 as a result of the lack of compliance with the Consent Orders and for the underlying Coastal Act violations as described herein.

10.3 The Commission and Respondent agrees that these Consent Orders settle monetary claims for relief for those violations of the Coastal Act alleged in the Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings (dated February 23, 2003) occurring prior to the date of these Consent Orders (specifically including but not limited to claims for civil penalties, fines, or damages under the Coastal Act, including Sections 30805, 30820, and 30822), 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. However, these Consent Orders do not limit the Commission from taking enforcement action due to Coastal Act violations at the Subject Properties other than those that are the subject of these Consent Orders.

11.0 DEADLINES

11.1 The Executive Director shall extend deadlines if he/she determines there is good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least ten (10) days prior to expiration of the subject deadline. For purposes of this Section 11.1, good cause includes, but is not limited to, the failure to meet any deadline caused by the force of an earthquake, flood, tidal wave, hurricane, or other similar act of nature, or act of terrorism, or other event that is beyond Respondent's ability to reasonably anticipate and control. In such an event, Respondent agrees to notify and provide an explanation to the Executive Director at the first reasonably possible time.

11.2 Such a request shall be made in writing and directed to the Executive Director in the San Francisco office of the Commission.

12.0 SITE ACCESS

12.1 Respondent agrees to provide access to the Subject Properties at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under these Consent Orders. Nothing in these Consent Orders are intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission staff may enter and move freely about the portions of the Subject Properties on which the violations are located, and on adjacent areas of the Subject Properties to view the areas where development is being performed pursuant to the requirements of the 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.

13.0 GOVERNMENT LIABILITIES

13.1 The State of California shall not 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 be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to these Consent Orders. Respondent acknowledges and agrees (a) to assume the risks to the properties that are the subject of these Consent Orders and damage from such hazards in connection with carrying out activities pursuant to these Consent Orders; and (b) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents and employees for injury or damage from such hazards.

14.0 WAIVER OF RIGHT TO APPEAL AND SEEK STAY

14.1 Pursuant to the agreement of the parties set forth in these Consent Orders and in light of the fact that this matter is being settled, Respondent agrees to waive whatever right it might have exercised to challenge the issuance and enforceability of these Consent Orders, or to seek a stay under Public Resources Code Section 30083(b).

15.0 SUCCESSORS AND ASSIGNS

15.1 These Consent Orders shall run with the land binding all successors in interest, future respondents of the property, interest and facility, heirs and assigns. Notice shall be provided by Respondent to all successors,

heirs and assigns of any remaining obligations under these Consent orders.

16.0 MODIFICATIONS AND AMENDMENTS

16.1 Except as provided in Section 10.0, these Consent Orders may be amended or modified only in accordance with the standards and procedures set forth in Section 13188(b) of the Commission's administrative regulations.

17.0 GOVERNMENTAL JURISDICTION

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

18.0 LIMITATION OF AUTHORITY

18.1 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.

19.0 INTEGRATION

19.1 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.

20.0 STIPULATION

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

IT IS SO STIPULATED AND AGREED:
On behalf of Respondent:

8/25/04
Date

Edward Miller, CEO
Cal-Coast Homes, LLC, authorized representative for Headland Properties Associates LP

Executed in Eureka, California on behalf of the California Coastal Commission:

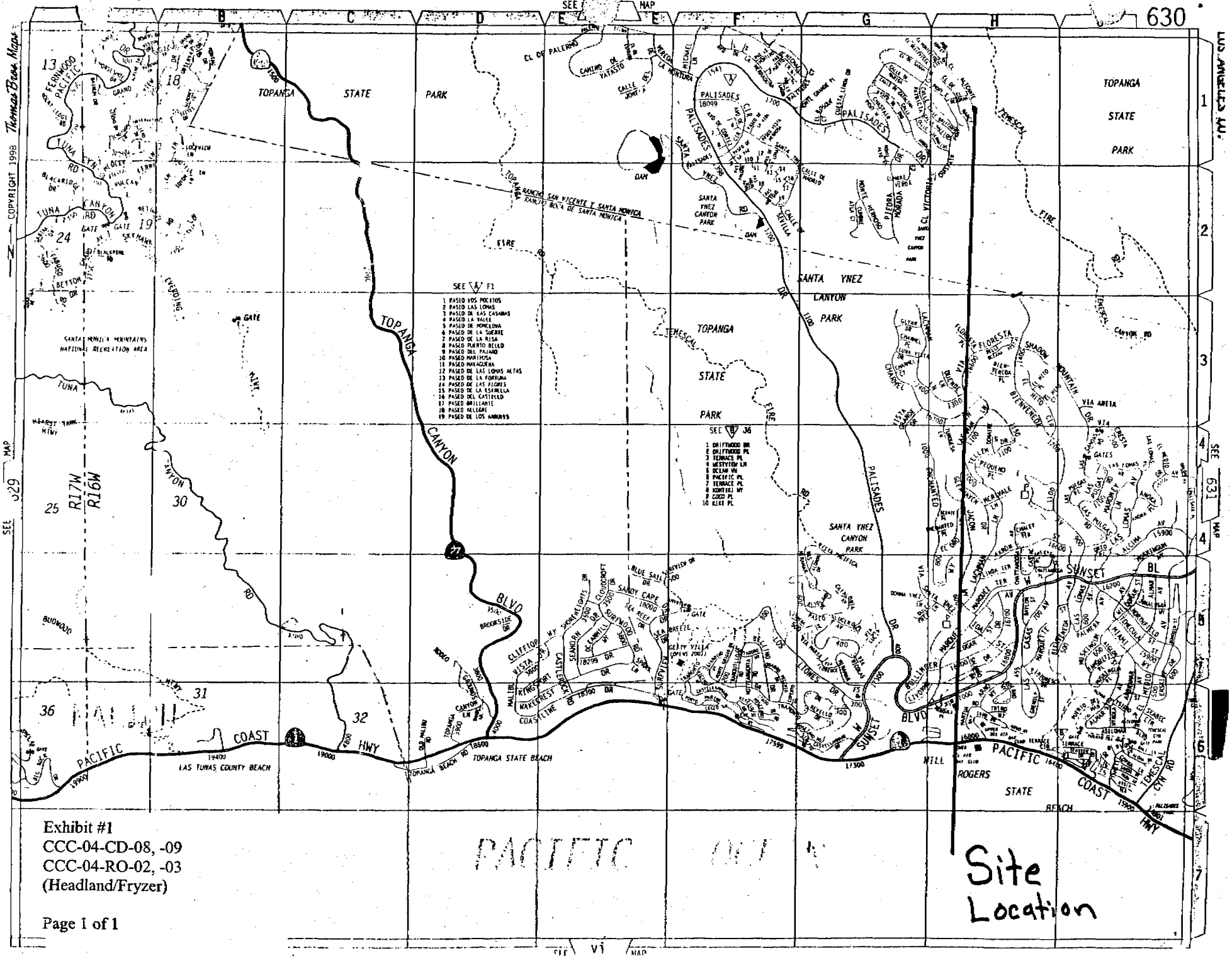
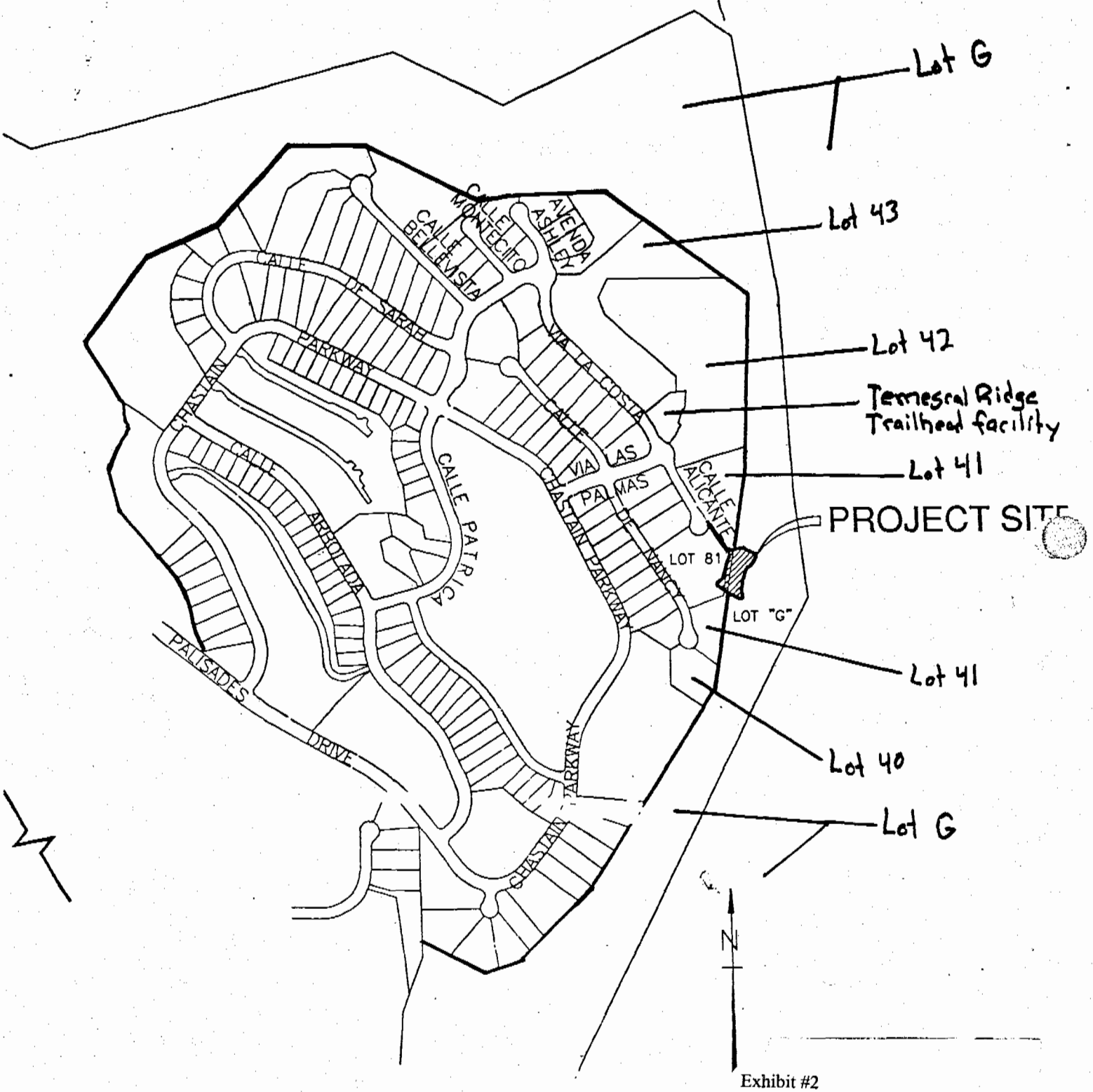


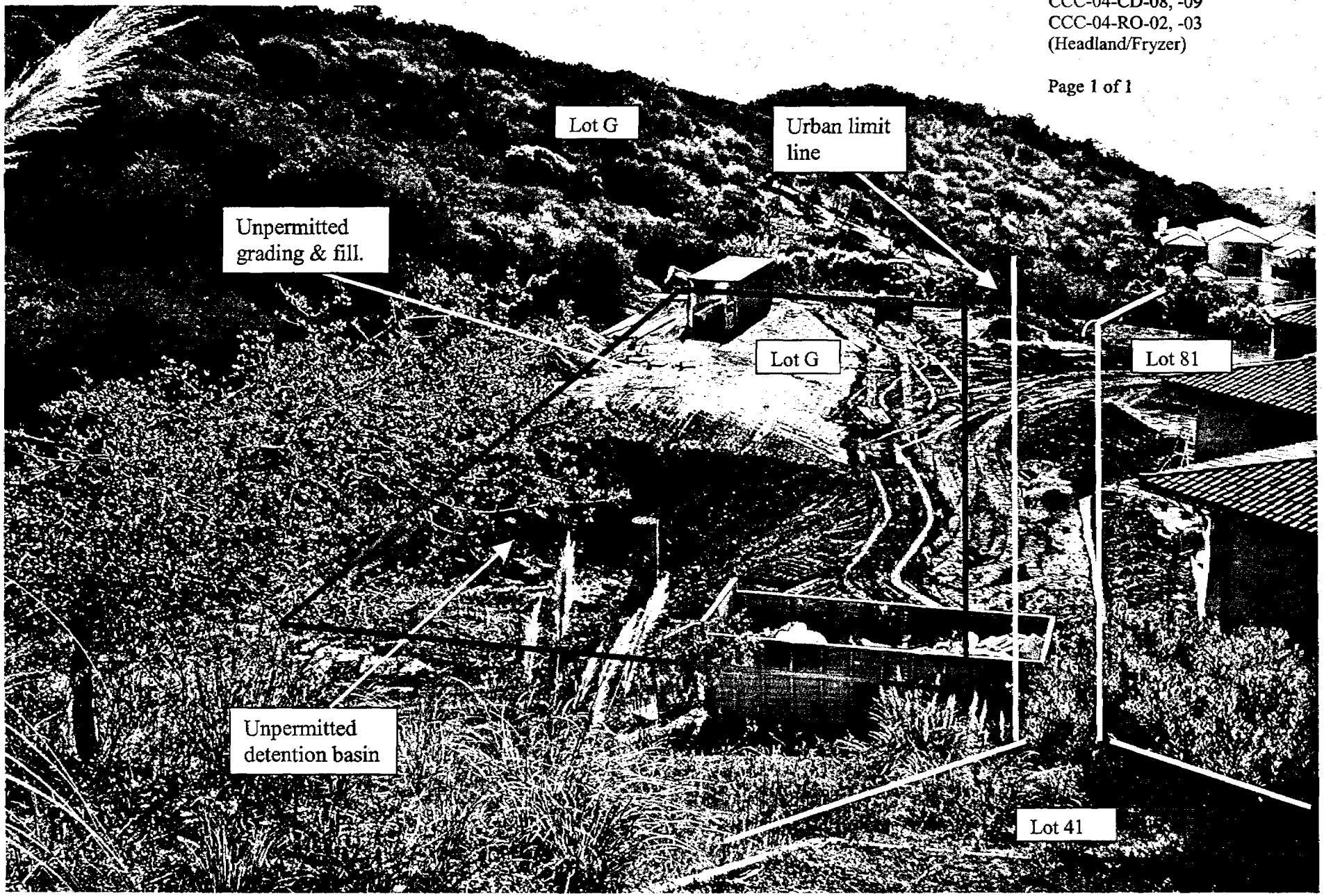
Exhibit #1
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)



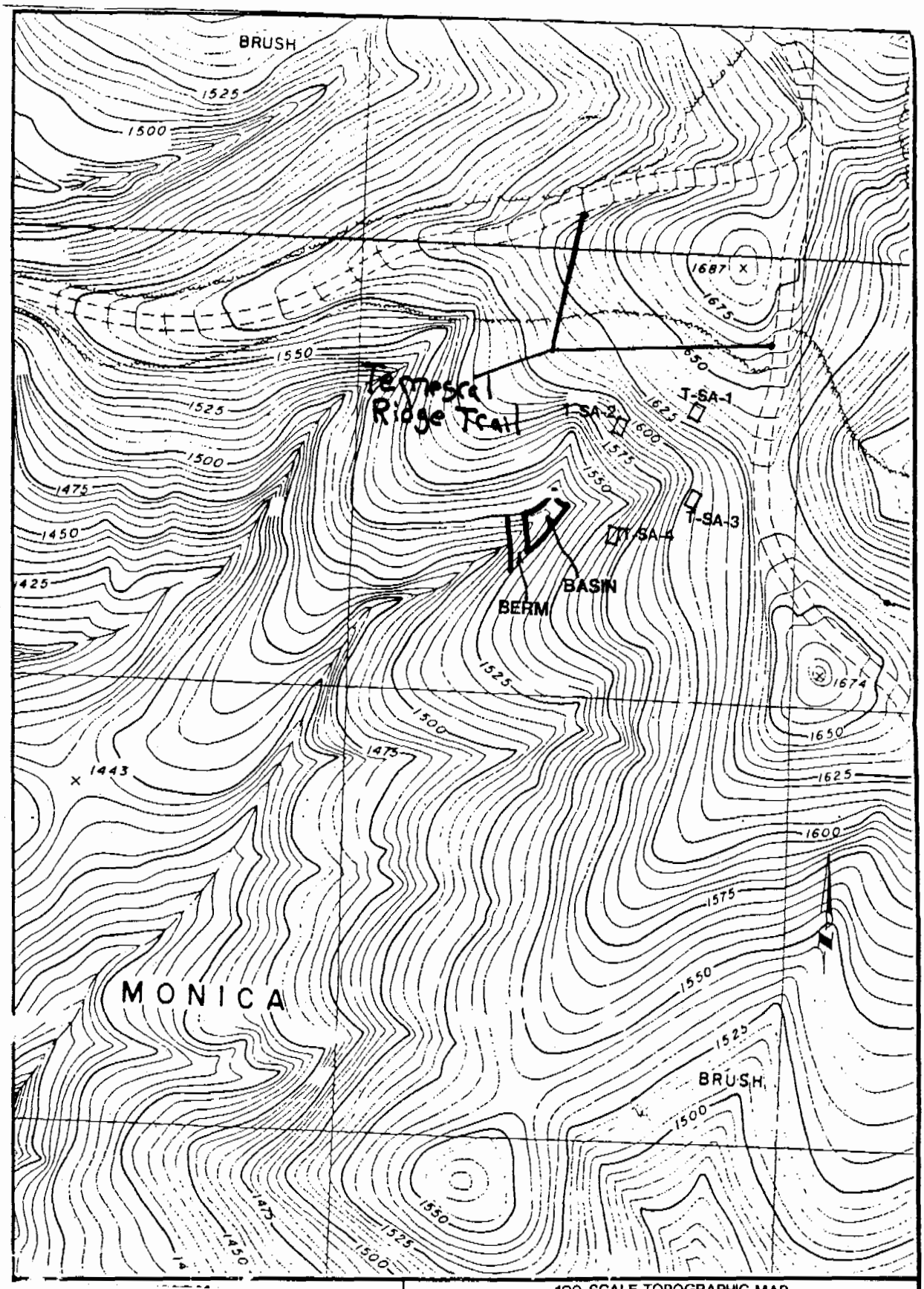
KEY MAP

N.T.S.

Exhibit #2
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)



Lot lines are approximations from plans submitted by the applicant.
Lot G and Lot 41 are deed-restricted, open space lots. Lot 81 – Mr. Fryzer's lot.
Area outlined in red is the approximate location and size of the preexisting detention basin that was allegedly demolished by Mr. Fryzer. The demolished detention basin was lined with concrete as indicated in plans submitted by the applicant from December 17, 1999.



100-SCALE TOPOGRAPHIC MAP
16670 CALLE ALICANTE LOT 87, TRACT 32184

Mr. JOE FRYZER

DATE 03-2001 W.O. NO.

PLATE 3

sultants Inc.

Exhibit #4
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)

STATE OF CALIFORNIA—THE RESOURCES AGENCY GRAY DAVIS, GOVERNOR

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

February 20, 2003

Headlands Properties Associates -
Metropolitan Life Insurance Company
Attn: Edward Miller
27520 Hawthorne Blvd., Suite 250
Rolling Hills Estates, CA 90274
(Certified Mail Article No. 7001 2510 0009 2099 7781)

Joseph Fryzer
11859 Wilshire Blvd., #600
Los Angeles, CA 90025
(Certified Mail Article No. 7001 2510 0009 2099 7798)

Subject:	**Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings**
Violation No.:	V-5-01-045
Location:	Lot G (a deed restricted open space lot located east of Tract 32184) and Lot 41 of Tract 32184 (an interior tract open space lot) Pacific Palisades, City of Los Angeles
Violation Description:	Unpermitted construction of an approximately 1,040 cubic yard capacity debris basin, demolition of the unpermitted basin by removal of a concrete lining and filling approximately half of the unpermitted basin with earth creating an extension of a flat building pad, and placement of grass turf, palm trees, sand, fencing, and concrete paving on the filled basin/building pad extension

Dear Mr. Miller and Mr. Fryzer:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission"), to commence proceedings for issuance of Cease and Desist and Restoration Orders to compel the removal of unpermitted development and restoration of the site. The unpermitted development consists of construction of an approximately 1,040 cubic yard capacity debris basin, demolition of the unpermitted basin by removal of a concrete lining and filling approximately half of the unpermitted basin with earth creating an extension of a flat building pad, and placement of sod turf, palm trees, sand, fencing, and concrete paving on the filled basin for a private golf pitching and putting facility and an extension of the back yard on Lot 81

Exhibit #5
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)

(a private lot with a single family home owned by Mr. Fryzer) ("unpermitted development").

This development is located on portions of Lot G (a deed restricted and dedicated open space lot located east of Tract 32184) and Lot 41 of Tract 32184 (a deed restricted interior tract open space lot), in the Pacific Palisades area of the City of Los Angeles ("subject properties"). The subject properties are located in the southern portion of the Santa Monica Mountains on lands that are adjacent to Topanga State Park. The unpermitted, partially filled debris basin is located at the head of a canyon at an elevation of approximately 1,530 ft. Northeast of the subject area, the slope rises to a peak at an elevation of 1,687 ft. and east-southeast to a peak at an elevation of 1,674 ft. These peaks are a part of the Temescal Ridge, a prominent ridgeline in Topanga State Park and the Santa Monica Mountains. Downslope and south of the project location is the continuation of Tract 32184, which follows the subject canyon to the edge of the subdivision. West of the project location is the bulk of Tract 32184. Headlands Properties Associates/Metropolitan Life Insurance Company owns the subject properties. Mr. Fryzer owns lot 81 Tract 32184, property adjacent to Lot 41 and Lot G.

The purpose of these enforcement proceedings is to resolve outstanding issues associated with the unpermitted development activities that have occurred at the subject property. Collectively, the Cease and Desist Order and Restoration Order will direct you to cease and desist from performing or maintaining any development that is subject to the permit requirements of the Coastal Act without a coastal development permit and will compel the removal of unpermitted development and restoration of the areas impacted by the unpermitted development to the condition it was in before the violation took place. The Cease and Desist Order and Restoration Order are discussed in more detail in the following sections of this letter.

Background of Coastal Development Permit A-381-78, as Amended

As you are aware, a majority of the unpermitted development is located outside the Urban Limit Line, which was established by Coastal Development Permit A-381-78 as amended. A-381-78, as amended authorized the subdivision on which Lot 41 (an interior open space Lot owned by Headlands Properties Associates), Lot 81 (16670 Calle Allicante, owned by Joseph Fryzer), and Lot G (land outside the Urban Limit Line dedicated for open space and partially owned by Headlands Properties Associates) are located. Permit A-381-78A allowed the subdivision of 1200 acres for 740 dwelling units but limited structural development outside the Urban Limit Line to the construction of "paved or unpaved pathways and other incidental improvements for low intensity recreation" and, under certain circumstances, "minor facilities to provide public or utility services". The Commission required the applicant, Headlands Properties, to dedicate the area outside the urban limit line to either State Parks, a private non-profit organization approved by the Executive Director, or to the City of Los Angeles Department of Recreation and Parks and also to deed restrict the land to "[p]revent development outside the urban limit line except as permitted by this permit or for park purposes". The findings for A-381-78A state "it is only with the dedication of these lands

for permanent preservation of visual ad (sic) landform resources and for public recreational use that the Commission can find the development of the four tracts on the balance most protective of significant coastal resources."

Special Condition 1 as modified by the Commission at the time of the seventh and ninth amendment states in part:

> *a. This permit amendment authorizes subdivision of four tracts of Palisades Highlands, for up to 740 residential units, a two-acre commercial site and a seven-acre institutional site, grading for all streets and lots, installation of drainage and utilities and construction of residential units as described in the attached Findings and Declarations. All grading, structural development, and subdivided lots shall be located entirely within the urban limit line, as described in the "Modification Exhibit" by VTN Inc shown on PH 87-4 and "Master Plan" PH 87-14, submitted by applicant to the Coastal Commission on Sept 29, 1987, and identified in the Coastal Commission files as approved applicant's Exhibits PH 87-4 and "Master Plan" PH 87-14.* (Emphasis added)

The Commission required, in Special Condition 2 and 3, that all lots outside the urban limit line, including Lot G, be deed restricted and dedicated for public open space. These conditions were adopted in the first amendment in 1980 and have remained the same in subsequent amendments. The original applicants, Headlands Properties Inc. and Gateway Properties recorded such a deed restriction in 1981.

The unpermitted development is located on Lot 41 and Lot G, lands that were dedicated and deed restricted for open space with very limited allowable development.

History of the Violation Investigation

On May 9, 2001, Mr. Fryzer received an approval letter, Log # 32870-01, from the Department of Building and Safety for Soils and Engineering Reports "concerning the proposed elimination of a graded debris basin and construction of debris walls to contain potential debris from the hillside drainage area." Soon after the issuance of this approval letter, Mr. Fryzer attempted to obtain from the City of Los Angeles Planning Department an exemption from permit requirements of the Coastal Act. The City contacted Commission staff for guidance. At this time, Commission staff first became aware of the existing unpermitted debris basin and its proposed alteration. Soon after discussions with the City, Commission staff received proposed project drawings from Mr. Fryzer for the alteration of the existing unpermitted debris basin. On June 8, 2001, after review of the project plans, Commission staff sent a letter to the City of Los Angeles Planning department and to Mr. Fryzer's representatives stating that the project was not exempt from permit requirements of the Coastal Act. In addition, staff noted that the project plans included a lot line adjustment 1) for lands that appeared to be located on State Park property, and 2) for which a coastal development permit would also be required.

On June 27, 2001, Mr. Fryzer submitted Coastal Development Permit application No. 5-01-241 for the (1) resizing of a tract debris basin that would be located on Lot 41 of Tract 32184, and on Lot G; (2) a lot line adjustment that would merge a portion of Lot 41, designated as an open space area in map PH87-4, into Lot 81 of Tract 32184; and (3) a further lot line adjustment that would merge portions of Lot G with the new combination of portions of Lot 41 and Lot 81. This would have transferred 10.14 acres of Lot 41 and Lot G to Mr. Fryzer. Mr. Fryzer submitted this application to the Coastal Commission as a request for a new coastal development permit. However, after review of the file and researching the underlying permit, A-381-78 as amended, the application was treated as an application to amend A-381-78-A12. On September 4, 2001, Commission staff rejected this amendment application because "the proposed amendment would lessen or avoid the intended effect of an approved or conditionally approved permit"[1].

On October 11, 2001, Mr. Fryzer and Headlands Properties Associates, as co-applicants, submitted amendment application, A-381-78-A13 for after-the-fact authorization for 1) the demolition of an unpermitted debris basin (with the capacity to hold 1,040 cubic yards) and 2) the fill of portions of the demolished basin. In addition, the application requested 3) the fill of the remainder of the hole that was the debris basin and 4) the construction of a 673 cubic yard capacity debris basin with retaining and deflection walls.[2] The entire project would require 940 cubic yards of cut and 1,882 cubic yards of fill. The existing unpermitted debris basin would be filled level with Mr. Fryzer's existing flat building pad and single family home, creating an extension of the flat pad area of Lot 81, approximately 60 to 80 feet across Lot 41 and onto Lot G. The new containment area for the debris basin would have been located north of the existing unpermitted basin.

After Commission Enforcement staff confirmed further grading of the site and storage of construction material on Lot G and Lot 41, a "Notice of Violation" letter was sent to you on November 15, 2001, regarding the fact that there had been unpermitted development on the subject property and to notify you of the need to complete amendment application A-381-78-A13 to authorize the development after the fact. At this time, the Commission's enforcement staff recommended that you 1) immediately cease all grading activity on the subject property and remove construction equipment and 2) submit the requested items necessary to complete the amendment application no later than January 18, 2002. You completed your amendment application on

[1] Section 13166(a) of Title 14, California Code of Regulations (CCR) provides that an amendment shall not be accepted if it lessens or avoids the intended effect of an approved or conditionally approved permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.

[2] The Executive Director did not reject Amendment application A-381-78-A13 under § 13166(a) because the applicants presented new, material information regarding the need for drainage devices in this area to protect public safety, and because the applicant claimed that this information was not previously known and could not, with reasonable diligence, have been discovered and produced before the permit was granted.

December 28, 2001. The proposed amendment was presented to the Commission on July 8, 2002.

As you know, on July 8, 2002, the Commission unanimously denied CDP amendment application No. A-381-78-A13.

On September 4, 2002, Commission staff observed a number of new, additional items of unpermitted development: 1) a golf putting/chipping grass turf and sand trap on Lot 41 and Lot G (on top of the fill of the unpermitted basin, which had been denied by the Commission), 2) additional fill between the grass turf and sand areas, 3) grass lawn on Lot 41 and Lot G, 4) approximately 8 palm trees on Lot 41 and Lot G, 5) an extension of a wrought iron fence on Lot 41 and Lot G, 5) the placement of paving on Lot 41 and 6) additional fill in the unpermitted debris basin.

As briefly discussed below, both the original unpermitted development and the most recent additional unpermitted development noted on September 4, 2002, are not consistent with and not authorized by the underlying permit, would have required a coastal development permit, and are inconsistent with the Chapter 3 policies of the Coastal Act. In fact, the Commission has already denied many of the items of unpermitted development. Even if the unpermitted development were consistent with the Chapter 3 policies of the Coastal Act, such activities are clearly included in the definition of "development" (Section 30106 of the Coastal Act), and therefore require a coastal development permit. No such permits were obtained. Again, such development without a permit is a violation of the Coastal Act. In addition, you were made aware that the unpermitted development is inconsistent with the Coastal Act by the Commission's denial on July 8, 2002 of your request to retain such unpermitted structures.

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 compel the removal of the unpermitted development on the subject properties. The unpermitted development is located on lands that were deed restricted and dedicated for open space purposes (as required under the underlying Coastal Development Permit for the subdivision, A-381-78, as amended).

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 (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).

The unpermitted development is located on Lot 41 and Lot G, lands that were dedicated and deed restricted for open space with very limited allowable development. As you are aware from the Commission's adopted findings for the denial of your requested amendment, A-381-78-A13, the unpermitted development is inconsistent with the prior permit action (Coastal Development Permit A-381-78, as amended).

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 development or material or the setting of a schedule within which steps shall be taken to obtain a permit pursuant to the requirements of the Coastal Act.

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.*

I have determined that the specified activity meets the criteria of Section 30811 of the Coastal Act, based on the following:

1) The unpermitted development constitutes development that has occurred on the subject properties without a coastal development permit.

2) This development is inconsistent with the resource protection policies of the Coastal Act, including, but not limited to the following:

   a) Section 30231 (water quality),
   b) Section 30240 (habitat - parks and recreation areas),
   c) Section 30251 (scenic resources and landform alteration), and
   d) Section 30253 (adverse impacts)

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 continued presence of the unpermitted development 1) will lead to the degradation of the adjacent Topanga State Park, 2) will impact coastal sage scrub and chaparral native to the Santa Monica Mountains, 3) is neither consistent with nor compatible to the State Park system and 4) will create adverse impacts to water quality, the scenic and visual qualities of this natural area, and the alteration of natural landforms. All of the impacts from the unpermitted development continue to occur at the subject property; therefore, the damage that said development is causing to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence a Restoration Order proceeding before the Commission in order to restore the subject property to the condition it was 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 Order and Restoration Order proceedings by completing the enclosed Statement of Defense (SOD) form. **The SOD**

form must be returned to the Commission's San Francisco office, directed to the attention of Aaron McLendon, no later than March 12, 2003.

The Commission staff intends to schedule the hearings for the Cease and Desist Order and Restoration Order during the Commission meeting that is scheduled for April 8-11, 2003 in Santa Barbara. If you have any questions regarding this letter or the enforcement case, please call Aaron McLendon at (415) 904-5220 or send correspondence to his attention at the address listed on the letterhead.

Sincerely,

Peter Douglas
Executive Director

cc: Lisa Haage, Chief of Enforcement
John Bowers, Staff Counsel
Amy Roach, Deputy Chief Counsel
Steve Hudson, Southern California Enforcement Supervisor
Aaron McLendon, Headquarters Enforcement Officer
Deborah Lee, Deputy Director, Southern California
Teresa Henry, South Coast District Coastal Program Manager

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

JOSEPH FRYZER
16670 Via La Costa
Pacific Palisades, CA 90272
Phone (310) 459-8000
Fax (310) 459-8856

RECEIVED
MAR 11 2003
CA COASTAL COMMISSION
LEGAL DIVISION

VIA FAX (415) 904-5235
& OVERNIGHT MAIL

March 7, 2003

CALIFORNIA COASTAL COMMISSION
45 Fremont Street, Suite 2000
San Francisco, CA 94105
Attn: Aaron McLendon
Legal Division

Re: Violation No.: V-5-01-045
Location: Lot G and Lot 41 of Tract 32184, Pacific Palisades, City of Los Angeles
Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings

Dear Mr. McClendon:

Pursuant to your conversation on March 4, 2003 with my assistant, Darlene Mercado, I am writing to request for a postponement to respond to the Statement of Defense Form; reason being is that I am out of the country and will be returning in the middle of March and if possible, to be given at least thirty (30) days to complete my Statement of Defense.

Thank you.

Sincerely,

Joseph Fryzer

JF/dsm

Exhibit #6
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)

STATE OF CALIFORNIA -- THE RESOURCES AGENCY GRAY DAVIS, *Governor*

CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

Sent Via Regular Mail and Facsimile

March 12, 2003

Joseph Fryzer
16670 Via La Costa
Pacific Palisades, CA 90272

Subject: **Request for Extension of Time to Submit Statement of Defense Form**

Violation No.: V-5-01-045

Location: Lot G and Lot 41 of Tract 32184, Pacific Palisades, City of Los Angeles

Dear Mr. Fryzer,

We received your request on March 7, 2003, for an extension of time to submit a response to the February 20, 2003 Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings (NOI). Section 13181(a) and 13191(a) of the Commission's regulations states, in part, "The person(s) to whom such notice is given shall complete and return the statement of defense form to the Commission by the date specified therein, which date shall be no earlier than 20 days from transmittal of the notice of intent."

The NOI was sent to Headlands Properties Associates and you on February 20, 2003. The final date for submittal of the statement of defense form (SOD) was March 12, 2003. You have requested an extension to complete and respond to the SOD because you are currently out of the Country.

Section 13181(b) and 13191(b) of the Commission's regulations states, in part, "The executive director may... extend the time limit for submittal of the statement of defense form... upon receipt within the time limit of a written request for such extension and a written demonstration of good cause. The extension shall be valid only to those specific items or matters that the executive director identifies to the requesting party as being exempt from the submittal deadline and shall be valid only for such additional time as the executive director allows." In this particular case your request was submitted within the time limit and you have demonstrated good cause to extend the time limit. Therefore, the Executive Director grants a 30-day extension of time to submit the SOD form. **The SOD form must be returned to the Commission's San Francisco office, directed to the attention of Aaron McLendon, no later than April 11, 2003.**

Exhibit #7
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)

The Commission staff intends to schedule the hearings for Cease and Desist Order and Restoration Order during the Commission's May 6-9, 2003 meeting. If you have any questions regarding this letter or the enforcement case, please call Aaron McLendon at (415) 904 5220 or send correspondence to his attention at the address on the letterhead.

Sincerely,

Aaron N. McLendon
Headquarters Enforcement Officer

cc: Lisa Haage, Chief of Enforcement
Steve Hudson, Southern California Enforcement Supervisor
Headlands Properties Associates

Exhibit #7
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)

Joseph Fryzer
16670 Via La Costa
Pacific Palisades, Ca 90272
310-459-8000

April 9, 2003

Aaron McLendon
Legal Division
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105

Re: Violation# V-5-01-045

Dear McLendon,

Pursuant to a discussion between Nancy Lucast and Steve Hudson, which occurred on April 9, 2003, we would like to request an extension on the April 11, 2003, deadline to submit a response to the February 20, 2003, Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings (NOI).

Ideally, we are hoping to work with the Coastal Commission staff to reach a mutually agreeable set of terms for a consent order. We are just beginning to understand the full scope of this situation, and have every intention to act in good faith toward a resolution. Therefore, we would like to request an extension of one month during which time we will work with the Coastal Commission staff.

Respectfully,

Joseph Fryzer

CC: Steve Hudson
Ed Miller
Donna Andrews
Nancy Lucast

Exhibit #8
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)

RUSS AUGUST & KABAT

12424 WILSHIRE BOULEVARD
SUITE 1200
LOS ANGELES CALIFORNIA 90025
TELEPHONE 310.826.7474
FACSIMILE 310.826.6991

2361 JEFFERSON DAVIS HIGHWAY
SUITE 522
ARLINGTON VIRGINIA 22202
TELEPHONE 703.415.0933
FACSIMILE 703.418.2768

RECEIVED
APR 14 2003
CALIFORNIA COASTAL COMMISSION

Via Facsimile and U.S. Mail

April 10, 2003

Peter Douglas
Executive Director
California Coastal Commission
45 Freemont, Suite 2000
San Francisco, California 94105

Re: *Violation V-5-01-045*

Dear Mr. Douglas:

This firm represents Mr. Joseph Fryzer ("Fryzer") in connection with the above referenced violation and the enforcement action to be considered by the California Coastal Commission ("Commission") as outlined in your letter dated February 20, 2003. Please be advised that Headlands Properties Associates - Metropolitan Life Insurance Company ("Headlands") is the owner of the subject property, Lot G and Lot 41 of Tract 32184. It is Fryzer's position that Headlands is responsible for compliance with any enforcement action, including whatever restoration requirements that may be imposed by the Commission. This being the case, Fryzer requests that the Commission hold any enforcement action against him in abeyance until such time as the matter is resolved with Headlands.

Fryzer hereby reserves any and all rights he has to make a supplemental filing in this matter and to appear at any hearing on the matter before the Commission.

Very truly yours,

Steven M. Siemens

SMS/dg
Enclosure

cc: Joseph Fryzer

Exhibit #9
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)

CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

Sent Via Regular Mail and Facsimile

April 24, 2003

Headlands Properties Associates -
Metropolitan Life Insurance Company
Attn: Edward Miller
27520 Hawthorne Blvd., Suite 285
Rolling Hills Estates, CA 90274

Subject: **Request for Postponement of Cease and Desist and Restoration Orders for Purposes of Finalizing Consent Orders**

Violation No.: V-5-01-045

Location: Lot G and Lot 41 of Tract 32184, Pacific Palisades, City of Los Angeles

Dear Mr. Miller,

Pursuant to our telephone conversation on April 22, 2003, Commission staff has postponed Cease and Desist Order CCC-03-CD-03 and Restoration Order CCC-03-RO-04 from the Commission's May 2003 hearing. The postponement was authorized after you agreed to a consent order, whereby Headlands Properties Associates (and/or other party directed by the Order) would remove the unpermitted development (maintaining the stability of lot 81 and downslope properties, and in a manner that provides sufficient management of runoff debris) and restore the area with native plant species of the Santa Monica Mountain. In addition, because we feel that this was a knowing and intentional violation of the Coastal Act, it is likely that we will pursue monetary penalties pursuant to Section 30820(b) of the Coastal Act.[1]

At your request, we have agreed to meet with you, your staff, and others involved in this matter in our San Francisco office to work out a consent order and discuss the issues relating to monetary penalties. This meeting will likely take place during the week of May 5-9, 2003.

[1] "(b) Any person who performs or undertakes development that is in violation of this division or that is inconsistent with any coastal development permit previously issued by the commission... when the person intentionally and knowingly performs or undertakes the development in violation of this division or inconsistent with any previously issued coastal development permit, may, in addition to any other penalties, be civilly liable in accordance with this subdivision. Civil liability may be imposed by the superior court in accordance with this article for a violation as specified in this subdivision in an amount which shall not be less than one thousand dollars ($1,000), not more than fifteen thousand dollars ($15,000), per day for each day in which the violation persists."

Exhibit #10
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)

The Commission staff intends to reschedule the hearings for Cease and Desist Order and Restoration Order for the Commission's June 10-13, 2003 meeting. We hope to reach a mutual agreement to allow for a consent order before this time.

Thank you for your continued cooperation. We look forward to working with you to resolve this matter. If you have any questions regarding this letter or the enforcement case, please call Aaron McLendon at (415) 904 5220 or send correspondence to his attention at the address on the letterhead.

Sincerely,

Aaron N. McLendon
Headquarters Enforcement Officer

cc: Lisa Haage, Chief of Enforcement
Steve Hudson, Southern CA Enforcement Supervisor
Lesley Ewing, Commission Staff Engineer
Joseph Fryzer
Steven Siemens
Nancy Lucast

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, GOVERNOR

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

Facsimile and Regular Mail

July 30, 2004

Headlands Properties Associates
Attn: Edward Miller
27520 Hawthorne Blvd., Suite 286
Rolling Hills Estates, CA 90274

Subject: Cease and Desist Order CCC-04-CD-08 and Restoration Order CCC-04-RO-02
Lot 41, Tract 32184 and Lot G

Dear Mr. Miller,

This letter is to confirm that we are postponing the Cease and Desist and Restoration Order proceedings from the August hearing to further our efforts in settling the matter. We look forward to working with you and plan to reschedule these items at the Commission's September hearing in Eureka.

Thank you in advance for your continued cooperation.

Sincerely,

Aaron N. McLendon
Statewide Enforcement Analyst

cc: Joseph Fryzer

Exhibit #11
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)

CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

Sent Via Regular Mail and Facsimile

August 18, 2004

Joseph Fryzer
16670 Via La Costa
Pacific Palisades, CA 90272

Subject: **Commencement of Proceedings for Issuance of Cease and Desist and Restoration Orders**

Violation No.: V-5-01-045

Location: Lot G and Lot 41 of Tract 32184, Pacific Palisades, City of Los Angeles

Dear Mr. Fryzer,

This letter is to inform you that Commission staff has scheduled a hearing for Cease and Desist and Restoration Orders at the Commission's Wednesday, September 8, 2004 meeting in Eureka. These items were previously scheduled for May 2003 and most recently August 2004. On July 30, 2004 I sent you a copy of a letter from Commission staff to Headlands Properties Associates confirming the postponement of the proceedings from the August hearing and notifying you that the hearing would be rescheduled at the Commission's September hearing in Eureka. The items were postponed in an attempt to resolve the violation through a Consent Order (settlement agreement). Since postponing the Orders from the May 2003 Commission hearing, we have not received any correspondence from you or any indication that you are willing to resolve the violation. We are currently working with Headlands Properties Associates, as the property owner, to reach a mutually acceptable settlement agreement, and we hope to reach this agreement prior to the September hearing. At this time, since we have not heard from you in over a year and since you are the party who conducted a majority of the unpermitted development (most of which occurred after the Commission denied the unpermitted fill that you placed on lands deed restricted for public open space), we are proceeding with recommending to the Commission that it issue a Cease and Desist Order and Restoration Order to you. These Orders would compel you to cease maintenance of the unpermitted development, remove all of the development, and restore the area. The Orders would also require you to allow Headlands Properties Associates access across your property to conduct restoration work on Lot 41 and Lot G.

Please be advised that Coastal Act Sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil penalties in response to any violation of the Coastal Act. Coastal Act Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not

Exhibit #12
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)

to exceed $30,000. Further, Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of up to $15,000 for each day in which the violation persists. Additional penalties of up to $6,000 per day can be imposed if a cease and desist or restoration order is violated. Section 30822 further provides that exemplary damages may also be imposed for knowing and intentional violations of the Coastal Act or of any orders issued pursuant to the Coastal Act.

We look forward to hearing from you and remain willing and ready to resolve these issues through a Consent Order (settlement agreement). If you have any questions regarding this letter or the pending Commission hearing, please call me at (415) 904 5220 or send correspondence to my attention at the address on the letterhead.

Sincerely,

Aaron N. McLendon
Headquarters Enforcement Officer

cc: Lisa Haage, Chief of Enforcement, CCC
Edward Miller, Headlands Properties Associates

Exhibit #13

Coastal Commission Adopted Findings for Denial of Coastal Development Permit Amendment Application A-381-78-A13 (Headland/Fryzer) July 8, 2002.

FILE COPY

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

Mon 10a

Filed:	12/28/01
49th Day:	2/15/02
180th Day:	6/26/02
270th Day:	9/9/02
Staff:	AM-LB AM
Staff Report:	June 19, 2002
Hearing Date:	July 8, 2002
Commission Action:	

STAFF REPORT: PERMIT AMENDMENT

AMENDMENT APPLICATION NUMBER: A-381-78-A13

APPLICANTS: Headlands Properties Associates - Metropolitan Life Insurance Company; Joseph Fryzer

AGENT: VTN West, Inc. Mark Allen

PROJECT LOCATION: Lot G (a dedicated open space lot), Lot 41 Tract 32184 (an interior tract open space lot), and 16670 Calle Allicante (Lot 81 Tract 32184 – a private lot with an existing single family home), Pacific Palisades, City of Los Angeles

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED (A-381-78 as amended):

Permit #A-381-78 was approved in 1979 for grading, roads, and utilities to accommodate a 230 unit residential tract and the creation of an Urban Limit Line around the development. This permit (A-381-78-A) was amended on May 21, 1980, which authorized four tracts, established the total number of dwelling units at 740, created an extended Urban Limit Line, allowed massive grading for roadways and building pads within that Urban Limit Line, authorized the construction of a church (described as an "institutional site") and two sites for commercial development (2 acre total), and required the dedication in fee of approximately 1,000 acres of public open space, the area outside the Urban Limit Line, to State Parks, the City of Los Angeles Department of Recreation and Parks, and/or a private, non-profit corporation acceptable to the Executive Director. Eight additional amendments were approved by the Commission as described below.

DESCRIPTION OF AMENDMENT (A-381-78-A13):

Demolition of an existing, unpermitted, 1,040 cubic yard capacity debris basin by removal of a concrete lining and filling of the basin hole, and creation of a flat pad area and a separate, 673 cubic yard capacity debris basin with retaining and deflection walls, predominantly located outside a designated urban limit line (established in the original Permit as modified in subsequent amends. The total project involves removal of 940 cubic yards of earth, import of 942 cubic yards of

earth, and placement of 1,882 cubic yards of fill (1,040 for fill of existing debris basin and 842 for creation of new debris basin).

SUMMARY OF STAFF RECOMMENDATION:

The applicants are requesting after-the-fact approval for the partial demolition (by removing the lining and filling in approximately half of its capacity) of an unpermitted debris basin located on portions of Lot G, Lot 41 Tract 32184, and 16670 Calle Allicante (Lot 81 Tract 32184). The applicants are also proposing new development in this amendment application that consists of (1) filling the remaining portion of the existing debris basin to create a somewhat flat pad area, (2) fashioning a new debris basin with the capacity to hold 673 cubic yards of debris, and (3) the construction of retaining and deflection walls to direct water runoff to the storm drain system. The proposed project is located in the Palisades Highlands area of the Pacific Palisades in the City of Los Angeles. The Commission has not certified a Local Coastal Program for the Pacific Palisades; therefore, the standard of review is the policies in Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200 *et seq.*). In order to approve this amendment application, the Commission must find this project consistent with the policies within the Coastal Act. The key issues before the Commission in this amendment request are landform alteration, the importance of preserving scenic resources, the cumulative effect of precedent setting development outside the established urban limit line, and consistency with a prior permit action that limits the type of development outside an established urban limit line. Staff recommends that the Commission **DENY** the proposed project.

The hillside surrounding the proposed project as well as most of the land on which the proposed development would occur is deed restricted to prevent further division of land and development (with some exceptions as indicated in Condition 1.C. of the first amendment) outside the established Urban Limit Line for any purpose other than a park purpose. Only a small portion of land on which the proposed development would occur is located within the urban limit line, where the subject permit, as modified in subsequent amendments, has allowed grading to occur. The Urban Limit Line and dedications and restrictions imposed and carried out by Headlands Properties Associates were required to mitigate the underlying 740-unit project's (A-381-78 as amended) impacts on resources protected by Sections 30250, 30251, 30253, 30210 and 30223 of the Coastal Act.

As previously stated, a majority of the proposed development would be located outside the Urban Limit Line established by Permit A-381-78 as amended, which created the subdivision on which Lot 41 (an interior open space Lot owned by Headlands Properties Associates), Lot 81 (16670 Calle Allicante owned by Joseph Fryzer), and Lot G (land outside the urban limit line dedicated for open space and partially owned by Headlands Properties Associates) are located (Exhibit #3). Permit A-381 78A allowed the subdivision of 1200 acres for 740 dwelling units but limited structural development outside the Urban Limit Line to the construction of "paved or unpaved pathways and other incidental improvements for low intensity recreation" and (under certain circumstances) "minor

facilities to provide public or utility services" (Exhibit #14). The Commission required the applicant to dedicate the area outside the urban limit line to State Parks (or, as later amended (A-381-78-A7), to either State Parks, a private non-profit organization approved by the Executive Director, or to the City of Los Angeles Department of Recreation and Parks) and also to deed restrict the land to "[p]revent development outside the urban limit line except as permitted by this permit of for park purposes" (Condition 3.b.). The findings for A-381-78A state "[f]or it is only with the dedication of these lands for permanent preservation of visual ad (sic) landform resources and for public recreational use that the Commission can find the development of the four tracts on the balance most protective of significant coastal resources."

The original Permit A-381-78 authorized the building sites for a 230 unit residential tract. . At the time of the approval, there were proposals forthcoming to create a total of 2,200 residential units. The first amendment expanded the permitted number of dwelling units to 740 with an expanded Urban Limit Line. The findings for the first amended permit state, "[t]he project would result in permanent alteration of approximately 145 acres of the 185 acres in Tract 31935 and 32184. A firm Urban Limit Line is to be established with permanently preserved buffer areas designed to protect the integrity of the local wildlife systems from both construction and residential impacts" (emphasis added).

In the ninth amendment, approved in 1987, Palisades Resources and Headlands Properties, Inc., the previous owner, applied for an amendment to adjust the urban limit line because reconstructive grading was necessary to prevent landslides from occurring along the portion of its property that lay closest to Temescal Ridge. This Urban Limit Line around Tract 32184 was expanded to allow for the safety of the proposed tract. In addition, the applicant requested an expansion to compensate for the loss of lots in other tracts and to reach the total build-out of 740 units permitted under the original permit as amended, allowing development of single family homes and condos further up the sloped areas.

Section 13166(a) of title 14 of the California Code of Regulations states:

> *The executive director shall reject an application for an amendment to an approved permit if he or she determines that the proposed amendment would lessen or avoid the intended effect of an approved or conditionally approved permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.*

The proposed project would be located outside the established urban limit line, in an area dedicated for scenic habitat and public recreation. Commission staff concluded that this proposal would lessen or avoid the intended effect of the approved permit in that it would involve grading and structural development outside the urban limit line (in conflict with the limitations on such actions contained in Condition 1, the purpose of the dedication

contained in Condition 2, and the restrictions listed in condition 3b, of the permit). However, Commission staff did not reject this permit amendment application because the applicant presented new, material information regarding the need for drainage devices in this area to protect public safety, and because the applicant claimed that this information was not previously known and could not, with reasonable diligence, have been discovered and produced before the permit was granted.

The existing debris basin is unpermitted. It was constructed and homes were then built in the vicinity of it. Therefore, the building pads and existing homes have limited the potential location of any debris basin in this area. However, staff is recommending that the Commission **deny** the proposed project on the grounds that there are less damaging alternatives that could be found consistent with the Chapter 3 policies of the Coastal Act and could protect public safety.

As submitted, the proposed project is primarily inconsistent with Sections 30240 and 30251 of the Coastal Act. The proposed project is located adjacent to and on land that was conditioned against most forms of grading and development, dedicated as open space and deed restricted, as required in the original Permit, A-381-78 as amended.

LOCAL APPROVALS RECEIVED:

1. City of Los Angeles Planning Department, Approval In Concept No. 2001-3164, June 27, 2001
2. City of Los Angeles, Department of Building and Safety, Log #31393, July 28, 2000
3. City of Los Angeles, Department of Building and Safety, Log #32870-01, May 9, 2001

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Development Permit #A-381-78 as amended
2. Coastal Development Permit 5-01-190 (Calvary Church of Pacific Palisades)
3. Hydrology-Hydraulic Study Project No. 4344, L. Liston & Associates, Inc., June 28, 2000
4. Geologic and Geotechnical Engineering Report No. 1201C-84-81-VN, as updated,
5. Letter to Mr. Joseph Fryzer from Commission staff, September 4, 2001

EXHIBITS

1. The photograph was taken on November 13, 2001, from an extension of a drainage culvert off Temescal Canyon Trail on Lot 41. The Exhibit shows an approximation of the partially filled, unpermitted debris basin, Lot G, Lot 41, and Lot 81. These approximations were gathered from the applicants' geology and soils reports, submitted plans, and discussions with the applicants (shown on Exhibit #3 thru #7).

35 color copies of Exhibit #1 are included for Commissioners, Commission staff, and the applicants. All other copies will be in black and white print.

2. Site location map (Thomas Guide map #630
3. Map of Tract 32184 showing Lot 81, Lot 41, Lot G, the Temescal Ridge Trailhead, and the project location
4. Topographical map prior to the grading for the subdivision. This map shows the location of the pre-existing debris basin and the Temescal Ridge Trail
5. The proposed fill and reduction of the pre-existing debris basin
6. Cross sections of the proposed debris basin
7. This site plan (from a Dec. 17, 1999 geologic report by GeoSoils for Mr. Fryzer) shows the proposed single family home on the flat portion of Lot 81. The debris basin is shown adjacent to the eastern side of Mr. Fryzer's property on Lot 41 and Lot G. The entire down-sloping portion of the debris basin is indicated as "concrete". A dike is shown surrounding the upper slope of the debris basin. Some time after this report, approximately the southern half of this debris basin was filled to match the flat level of Lot 81 without benefit of a coastal development permit.
8. May 21, 2002, letter from Commission staff engineer, Lesley Ewing, addressing the issues of the proposed debris basin
9. June 8, 2001, letter from Commission staff analyst, Aaron McLendon, to the City of Los Angeles Planning Department stating that the proposed debris is not exempt
10. Lot Line Adjustment Agreement between Headlands Properties Associates and Mr. Joseph Fryzer
11. September 4, 2001, letter from Commission staff Pam Emerson and Aaron McLendon, rejecting coastal development permit application #5-01-241
12. Report of the General Manager, Board of Recreation and Park Commission, April 10, 1989, accepting land dedicated by Headlands Properties
13. Ordinance No. 155203, authorizing acceptance of dedication or conveyance f real property for park and recreational purposes
14. Revised Findings staff report for A-381-78-A1
15. The addendum package to item Tu 13a (A-381-78-A13) submitted to the Commission's June 11, 2002 meeting
16. June 7, 2002, letter from Mark Allen (Mr. Fryzer's rep.)
17. June 10, 2002, letter from Mark Allen (Mr. Fryzer's rep.)
18. June 18, 2002, letter from Commission staff analyst, Aaron McLendon, responding to the June 7 and 10, 2002, letters sent by Mark Allen

STAFF RECOMMENDATION:

I. STAFF RECOMMENDATION OF DENIAL

Staff recommends that the Commission reject the following motion and thereby adopt the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

MOTION:

I move that the Commission approve the proposed amendment to Coastal Development Permit No. A-381-78 for the development as proposed by the applicant.

STAFF RECOMMENDATION OF DENIAL:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit amendment and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY A PERMIT AMENDMENT:

The Commission hereby **DENIES** the proposed amendment to the coastal development permit on the ground that the development, as amended, will not conform with the policies of Chapter 3 of the Coastal Act and will 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 would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

PROCEDURAL NOTE

A. Coastal Development Permit Amendments

The Commission's regulations provide for referral of permit amendment requests to the Commission if:

1) The Executive Director determines that the proposed amendment is a material change,

2) Objection is made to the Executive Director's determination of immateriality, or
3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

The subject application is being forwarded to the Commission because the Executive Director has determined that the proposed amendment is a material change and affects conditions required for the purposes of protecting coastal resources or coastal access.

Staff Note

Section 30600(b)(1) of the Coastal Act allows local governments to assume permitting authority prior to certification of a Local Coastal Program. Under this section, a local government may establish procedures for the filing, processing, review, and modification, approval, or denial of coastal development permits within its area of jurisdiction in the coastal zone. Section 30601 establishes that in certain areas, and in the case of certain projects, a permit from both the Commission and local government will be required. Section 30602 states that any action taken by a local government on a coastal development permit application prior to certification of the government's local coastal program can be appealed to the Commission by the Executive Director of the Commission, any person, or any two members of the Commission within 20 working days from the receipt of the notice of City action.

In 1978, the City of Los Angeles opted to issue its own Coastal Development Permits. The Commission staff prepared maps that indicate the area of Los Angeles in which Coastal Development Permits from both the Commission and the City are required. This area is commonly known as the "Dual Permit Jurisdiction." Areas in the Los Angeles coastal zone outside the dual permit jurisdiction are known as the "Single Permit Jurisdiction". The City assumes permit jurisdiction for projects located in the single permit jurisdiction, with some exceptions. This project (A-381-78-A13) is located within the "Single Permit Jurisdiction". The City, however, opted not to issue a local coastal development permit amendment because of the issues pertaining to the underlying Permit A-381-78 and its issuance and amendment by the Commission. Therefore, the City issued Approval In Concept No. 2001-3164 and directed the applicant to the South Coast District of the Coastal Commission.

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The proposed project is for the demolition of an unpermitted debris basin (by removal of its lining and filling in the hole) located on portions of Lot G Lot 41 Tract 32184, and 16670 Calle Allicante (Lot 81 Tract 32184) (Exhibit #1 thru ...). The application seeks both after-the-fact authorization for work already completed (the removal of the lining and partial filling of the whole), as well as authorization for new development consisting of filling in the remainder of the existing debris basin, creating a relatively flat pad, creating a

new debris basin with the capacity to hold 673 cubic yards of debris, and the construction of retaining and deflection walls to direct water runoff to the storm drain system (Exhibit #5). The proposed fill of the existing unpermitted basin would, in effect, create a relatively flat pad-like area extending from Lot 81 (owned by Joseph Fryzer) through portions of Lot 41(a deed restricted interior open space lot) and portions of Lot G (a 206.8 acre parcel that was dedicated and deed restricted for open space).

The proposed project is located in the Palisades Highlands area of the Pacific Palisades in the City of Los Angeles (Exhibit #2 & #3). The project site is located in the southern portion of the Santa Monica Mountains on lands that are adjacent to Topanga State Park. The existing debris basin is located at the head of a canyon that was partially filled during the grading of the subdivision, at approximately elevation 1,530 (Exhibit #4 & #5). Northeast of the subject area, the slope rises to a peak at elevation 1,687 and east-southeast to a peak at elevation 1,674 (Exhibit #4). These peaks are a part of the Temescal Ridge, a prominent ridgeline in Topanga State Park and the Santa Monica Mountains. Downslope and south of the project location is the continuation of Tract 32184, which follows the subject canyon to the edge of the subdivision. West of the project location is the bulk of Tract 32184 (Exhibit #3). Within Tract 32184 and directly east of Mr. Fryzer's Lot 81, is Lot 41. The land encompassing Lot 40, 41, 42, and 43 (shown on Exhibit #3) was originally located outside the Urban Limit Line (Exhibit #14).

In 1987, Palisades Resources, the previous owner, applied for an amendment (A-381-78-A9) to adjust the urban limit line because reconstructive grading was necessary to prevent landslides from occurring along the portion of its property that lay closest to Temescal Ridge (A-381-78A9). The City of Los Angeles Department of Building and Safety had required this land to be excavated, benched and recompacted to prevent any possibility of landslides resulting from the adverse bedding planes that underlay the land north of the then tract boundary. The Commission approved that grading and an adjustment of the urban limit line, consistent with two exhibits prepared by the Palisades Resources, PH87-4 and PH87-14. The adjustment pushed out the Urban Limit Line further into previously deed restricted area, creating Lots 40, 41, 42 and 43 in land that was previously identified as portions of Lots E and G, public open space. Lot 41 is directly related to the proposed project in that the strip of Lot 41 separating Lot 81 and Lot G would be graded and leveled to approximately match Mr. Fryzer's Lot 81.

Under the original Permit, A-381-78A, all lands located outside the Urban Limit Line were to be dedicated to the State of California for public open space and park purposes (Exhibit #14). Condition No. 2 of the seventh amendment to the original permit allowed the Offers of Dedication of this area outside the Urban Limit Line (Tract 32184 boundary) to include the City of Los Angeles or other private, non-profit association as recipients of the public open space land. This was requested and the Commission approved the change to Condition No. 2 because the State would not accept the lands unless an organization or agency maintained a 200-foot fire buffer between residential structures and the State Park land. The total area offered to the City of Los Angeles, Department of Recreation and

Parks for public open space and park purposes was 400.46 aces. The 400.46 acres would act as a buffer between the State Park and the built out subdivision. The City Department of Recreation and Parks accepted 108.46 acres located south of Santa Ynez Canyon Park and adjacent to Palisades Drive. However, the City did not, at that time, accept the additional 292 acres near the ridgeline but did plan for the future acceptance of this property (as further described in the below section) (Exhibit #12). The subject property is located primarily within portions of the remaining 292 acres that were not, at the time, accepted by the City.

Both the area offered to the City of Los Angeles Department of Recreation and Parks and the area dedicated and accepted by to the State of California to expand Topanga State Park are a part of Lot G (Exhibit #3). The proposed project is located partially on Lot 41 (an interior open space lot maintained by the homeowner's association- Headlands Properties Associates) and the portion of Lot G that was offered to the City of Los Angeles, Department of Recreation and Parks for public open space and park purposes, but deeded to Headlands Properties Associates.

B. History of Underlying Permit A-381-78

The Commission granted Permit A-381-78 to Headlands Properties[1] in 1979 for grading, roads and utilities to accommodate a 230 unit residential tract within an Urban Limit Line in the Santa Monica Mountains, in a then undeveloped 1200-acre holding in the Pacific Palisades District of the City of Los Angeles.

A-381-78A (Exhibit #14)
In a 1980 amendment to the Permit, A-381-78A, the Commission approved four tracts, established the total number of dwelling units at 740, allowed massive grading within an expanded Urban Limit Line, the construction of a church (described as an "institutional site"), two sites for commercial development (2 acre total), and required the dedication in fee of approximately 1,000 acres of public open space, the area outside the Urban Limit Line, to State Parks[2]. In approving the amended project A-381-78A, the Commission found that:

> *The major issues in its previous action July 1979 were: the density of the project as it affected the traffic impact on access to the coast, the extent of grading and alteration of natural landforms as it affected scenic habitat and recreational resources and the provision of housing opportunities for persons of low and*

[1] Headlands is also known as Palisades Resources, Palisades Highlands and Gateway Corporation

[2] In 1979 in approving A-381-78, the Commission approved 230 units; in 1980 in approving A-381-78A the Commission approved four tracts and 740 units. In that action the Commission required the dedications and established the ULL. The urban limit line has been extended twice since. Once to accommodate Calvary Church and it's required buttress fills for geological mitigation (A-381-78-A6) and once to respond to geological problems near Temescal Ridge (A-381-78-A9), which is above the subject site.

moderate incomes. Approval of this amendment authorizes an increase in the number of units…. In all cases the balance of the 968 acre Phase II site would be either dedicated as open space or dedicated for park purposes.

The Commission required the Urban Limit Line to assure consistency of the underlying project with Sections 30210, 30223, 30230, 30231, 30240, 30250 30251 and 30252 of the Coastal Act, in order to consolidate massive grading in one part of the 1200 acre site and to protect public views, land forms, public recreational opportunities and habitat outside the disturbed area. Condition No. 3 of A-381-78A required the applicant to record a deed restriction applicable to all lands outside the urban limit line along with the recordation of all tracts to restrict the use of all lands outside this area. The deed restriction required by this condition would prevent further subdivision of lands except for park purposes (Condition 3a) and prevent development outside the urban limit line "except as permitted by the permit or for park purposes" (Condition 3b). The recorded deed restriction applies to Lot G in this amendment application.

Condition 1(a) stated that all "grading, structural development, and subdivided lots shall be located entirely within the urban limit line," and Condition 1(c) created some limited exceptions to that prohibition, stating in part that "outside of the Urban Limit Line: minor grading may be performed to re-contour previously graded land; paved or unpaved pathways and other incidental improvements for low intensity recreation may be constructed . . . ".

The first amendment A-381-78A expanded the Urban Limit Line established in the original action. The objective of the conditions within the first amendment was to protect scenic habitat and recreational resources and local wildlife systems (pgs.9-10, A-381-78-A Revised Findings). Condition 2 required the applicant, as it recorded the four tracts, to dedicate the land outside the Urban Limit Line in fee to the California Department of Parks and Recreation, and in the meantime, restricted its use to protect land from grading and development and to mitigate the demand that this new development would put on existing coastal and mountain recreational facilities.

The Revised Findings further explained the purpose of the dedication, and indicated emphatically that the purpose of the dedication was to provide public land for "public recreational use" (Revised Findings A-381-78A, p.8.) Based on the clarification in the findings, and given that the land was dedicated to a *public* entity the only allowable use of the land, except for open space, is as a *public park*.

A-381-78-A2

On June 18, 1980, the Commission authorized the construction of a 25,000 square foot commercial building with 175 parking spaces on Parcel Map 5371. The amendment also authorized the construction of a single-family residence on Parcel Map 3947 located north of Tract 32200. These parcels are not located in the vicinity of the proposed project, A-381-78-A13.

A-381-78-A3
This amendment was based upon preliminary architectural plans prepared for the site subsequent to authorization of A-381-78-A that were not available at that time.

A-381-78-A4
This amendment was approved by the commission on July 22, 1980 and authorized the construction of a church and school with a 158-car parking lot. The deed restrictions required in the first amendment were recorded soon after this fourth amendment.

A-381-78-A5
On August 27, 1985, the Commission denied a request to modify the affordable housing condition included in the May 21, 1980 approval.

A-381-78-A6
On December 11, 1986, the Commission approved the sixth amendment for minor adjustments to the Urban Limit Line near the church site and additional grading for buttress fills to mitigate for geologic instability. This reduced the area of dedication for park purposes by 7 acres and approved the dedication of Lots A and B (additional open space lots outside of the Urban Limit Line) to the City of Los Angeles in lieu of the State of California. The amendment included changes to the construction of the church and required conditions to include additional parking and limited the church-related development to only the "institutional" site.

A-381-78-A7
On February 26, 1987, the Commission authorized the applicant, Headland Properties, to extend the date of the applicant's obligation to dedicate all the land outside the Urban Limit Line from May 21, 1987 to May 21, 1994. The original seven-year time limit for the dedication was established in Condition 2.e. of Permit A-381-78-A. The seven-year time was extended because the State, who the applicant was originally required to dedicate all the land to, was not willing to accept lands within approximately 200 feet of the subdivision. The additional seven years was to allow the applicant more time to offer the land to another agency or organization. In addition, Condition 2 was modified under the authorization of the seventh amendment to permit the Offers of Dedication to include the City of Los Angeles or a private, non-profit corporation acceptable to the Executive Director.[3]

[3] In a 1993 letter to this office, the applicant, Headlands Properties, indicated that the City accepted these lands outside the Urban Limit Line that the State declined to accept. Commission staff believed that the City had accepted the strip of land between the outer boundary of tract 32184 and State Park land. For reasons unknown to Commission staff, the lands subject to the offer of dedication for public open space lands to the City were, in fact, deeded to the property owner, Headlands Properties Associates. A Preliminary Title Report indicates that the land is now held by Headlands Properties, Associates.

A-381-78-A9

The text of the conditions, findings and exhibits referenced in A-381-78A, and in subsequent amendments, identify Lot G as being located outside the Urban Limit Line[4]. The Urban Limit Line remained in the location established in 1980 until the Commission approved the ninth amendment to the permit in 1987.

In 1987, Palisades Resources and Headlands Properties, Inc., the previous owner, applied for an amendment to adjust the urban limit line because reconstructive grading was necessary to prevent landslides from occurring along the portion of its property that lay closest to Temescal Ridge (A-381-78A9). The City of Los Angeles Department of Building and Safety had required this land to be excavated, benched and recompacted to prevent any possibility of landslides resulting from the adverse bedding planes that underlay the land north of the then tract boundary. The Commission approved that grading and an adjustment of the urban limit line, consistent with two exhibits prepared by the Palisades Resources, PH87-4 and PH87-14. This action created Lots 40, 41, 42 and 43 in land that was previously identified as portions of Lots E and G, public open space, and rendered those new lots *inside* the urban limit line. However, they remained restricted in their use as described in condition 2.g. below. The proposed project subject to this amendment request (A-381-78-A13) is located predominantly on Lot 41 and Lot G.

In the ninth amendment the urban limit line is described in condition 1 "Scope of Permit" and identified as the line shown on "Master Plan PH 87-14":

Special Condition 1 as modified by the Commission at the time of the seventh and ninth amendment states in part:

> *a. This permit amendment authorizes subdivision of four tracts of Palisades Highlands, for up to 740 residential units, a two-acre commercial site and a seven-acre institutional site, grading for all streets and lots, installation of drainage and utilities and construction of residential units as described in the attached Findings and Declarations. All grading, structural development, and subdivided lots shall be located entirely within the urban limit line, as described in the "Modification Exhibit" by VTN Inc shown on PH 87-4 and "Master Plan" PH 87-14, submitted by applicant to the Coastal Commission on Sept 29, 1987, and identified in the Coastal Commission files as approved applicant's Exhibits PH 87-4 and "Master Plan" PH 87-14.* (Emphasis added)

The Commission required, in Special Condition 2 and 3, that all lots outside the urban limit line, including Lot G, be deed restricted and dedicated for public open space. These conditions were adopted in the first amendment in 1980 and have remained the same in subsequent amendments. The original applicants, Headlands Properties Inc. and

[4] The proposed project is located predominantly on Lot G

Gateway Properties recorded such a deed restriction in 1981. The deed restriction applies to Lot G as modified by this amendment, which is located outside the urban limit line.

As mentioned, the expansion of the Urban Limit Line around Tract 32184 was approved to construct engineered sloped lots - Lots 40, 41, 42, and 43 (lots that were previously outside the urban limit line). The amendment lessened the area to be dedicated but included a restriction on the use of the interior open space lots. These lots are referenced as "interior open space" lots because they were originally included in lands that were to be dedicated to the State, City, or other private, non-profit, were indicated as open space on the applicant's submitted plans, PH87-4, and addressed as "open space areas" in Condition 2g. below. The maintenance of the resulting engineered slopes was also addressed in Condition 2g of the permit as amended in 1987.

> *(2) g. Maintenance of private open space. The applicant shall demonstrate to the Executive Director that adequate legal instruments exist to maintain the slope and open space areas identified in map PH87-4. The applicant has agreed to maintain the slope areas adjacent to the development, and upon completion of development to transfer this obligation to the Homeowners' association(s) in accordance with City conditions 13j, 21, 22, and 23. Some of this land is subject to landscaping conditions and fire control setbacks. The applicant or the successor in interest shall maintain the slope areas shown on PH 87-4, and areas identified for special planting using native, fire-resistant vegetation of the Oak Savannah, Coastal sage scrub and chaparral communities, and fuel modification and erosion control techniques approved by the Executive Director.*
>
> *Within the areas designated as slope areas on the PH87-4 plan there shall be no structures with the exception of park and maintenance facilities such as trails, drainage channels, park furniture and vehicle entry gates. The grading shall be limited to that approved in this amendment.*
>
> *To protect State Park lands from conflict with the fire control needs of the community, Headlands Properties or its successor in interest shall either redesign the lot lines so that no private lot lies closer than 200 feet from the land dedicated to the State Park system or shall develop and record on the final tract map, an easement that retains the right of entry and maintenance of privately held slope areas within 200 feet of the State Park for the homeowners association. The restriction shall prevent future homeowners from construction of combustible structures within the area identified as slope area. The easement or restrictions shall be subject to the review and approval of the Executive Director be binding on heirs an assigns, and be recorded free of prior liens, and shall be valid for the duration of the subdivision.*

A-381-78-A10
This amendment modified condition 2 of A-381-78-A9, which required signs at the trailheads of the State Park Trails. The amended Condition No. 2 required the signs prior to completion of the authorized development instead of prior to transmittal of the amended permit.

A-381-78-A11
In 1991, Headlands Properties request the authorization to install gates in the upper 32184 Tract. Because these gates posed a threat to public access entering Topanga State Park by blocking the Temescal Trailhead parking area and trail, the amendment request was denied. During this amendment, the applicant included a new map for Tract 32184 showing the expansion of streets and building lots in the northern portion of the tract, inconsistent with PH 87-4 and PH 87-14 (exhibits showing the previously approved Tract 32184). These new streets and building lots include Calle Allicante and its associated lots, including Mr. Fryzer's Lot 81. Commission staff found no reason to challenge this because the area is within the urban limit line, which allowed grading, and the tract is within its unit count.

A-381-78-A12
This amendment application would have allowed the construction of a 32,400 square foot sports field, a retaining wall on each side of the field, the relocation of 33 existing parking spaces, and 16,400 cubic yards of grading, which would extend on to 1.25 acres of a 107.23 acre City park. The project was located behind the existing Calvary Church. After acceptance of the application, Commission staff determined the project could be reviewed as a separate application (5-01-190). This project was approved on November 15, 2001.

Conclusion
The Commission based its prior actions with respect to this site on Sections 30210 and 30223 of the Coastal Act, which require maximum public access and recreational support; Sections 30230 and 30231, which protect watershed land, streams and water quality; Section 30240, which protects sensitive habitat; and Sections 30250 and 30252, which require the Commission to review the location and intensity of development with respect to its impacts on public access. This prior history establishes two tests for approval of a permit on the land subject to A-381-78 as amended. The first test, as always in an uncertified area of the coastal zone, is consistency with the Chapter 3 policies of the Coastal Act. However, land that is subject to this permit lies predominantly outside the Urban Limit Line, which carries significant pre-existing restrictions. The Urban Limit Line was established under the original permit, A-381-78, as amended to, among other things, minimize the alteration of natural landforms as it affects scenic habitat and recreational resources. In this case, the proposed project is located predominantly on public park land that is also deed restricted to limit subdivision, development and grading (Lot G). In addition, portions of the proposed project extend across Lot 41. Lot 41, which was located outside the Urban Limit Line prior to the ninth amendment, was deed restricted to ensure the maintenance of the engineered slope area, restrict structures with the exception of

certain park and maintenance related structures, and protect State Park land from the conflict of fire control needs.

C. History of Proposed Project

As previously mentioned, the approval of the underlying permit, as amended, authorized four tracts, established the total number of dwelling units at 740, allowed massive grading for roadways and building pads within an Urban Limit Line, authorized the construction of a church (described as an "institutional site"), two sites for commercial development (2 acre total), and required the dedication in fee of approximately 1,000 acres of public open space, the area outside the Urban Limit Line, to State Parks, the City of Los Angeles Department of Recreation and Parks, and/or a private, non-profit corporation acceptable to the Executive Director (Exhibit #14).

The co-applicant and owner of Lot 81 Tract 32184, Joseph Fryzer, purchased the property (Lot 81) on November 8, 2000. Soon after this purchase, Mr. Fryzer began construction of an approximately 11,000 square foot house (approved by the City of Los Angeles under Categorical Exclusion Order #E-79-8 as amended).

20 days after Mr. Fryzer purchased the property, Mr. Fryzer and Headlands Properties Associates (Metropolitan Life Insurance Company) entered into a Lot Line Adjustment Agreement ("agreement") on November 28, 2000 (Exhibit #10). The agreement would have allowed the transfer of portions of Lot 41 and Lot G to Mr. Fryzer, creating a much larger Lot 81. As previously explained, Lot G was deed restricted and dedicated for public open space and Lot 41 was deed restricted for interior open space maintained by the homeowners association. The "agreement" states in part:

> *HPA* [Headlands Properties Associates (Metropolitan Life Insurance Company)] *and Fryzer hereby agree to adjust the boundaries of Lot 41 and the Open Space Lot* [Lot G] *and Lot 81. ... The Lot Line Adjustment shall be at no cost or expense to HPA. Fryzer shall be solely responsible for the payment of all costs, fees and expenses which pertain to the processing the Lot Line Adjustment and obtaining a Certificate of Compliance and any other necessary government approvals... from all government agencies with jurisdiction over the Lot Line Adjustment.*

The agreement would have allowed the transfer of 0.7 acres of land from Lot 41 and 9.44 acres of land from Lot G to Mr. Fryzer for a total of 10.14 acres or 441,698.5 square feet of land. This land would then be added to Mr. Fryzer's Lot 81. Mr. Fryzer would then be required to pay Headlands Properties Associates (Metropolitan Life Insurance Company) a sum of $20,000 for the 441,698.5 square feet of deed restricted and dedicated property (Exhibit #10). Again, Lot G was deed restricted and dedicated for public open space and Lot 41 was deed restricted for interior open space maintained by the homeowners association.

During, or soon after the Lot Line Agreement was signed by both parties, Mr. Fryzer graded the previously rough-graded lot (Lot 81) for the construction of his proposed single family home. In doing so, a paved accessway and berm connecting Calle Allicante to the existing unpermitted debris basin was demolished. This accessway and berm, which was constructed during the grading for the subdivision, allowed for the maintenance and continued operation of the debris basin located on portions of Lot 41 and Lot G. The reasons for the construction of a maintenance road and debris basin berm on a residential lot are unclear. However, the plans (PH87-4) approved by the Commission for the extension of the Urban Limit Line around Tract 32184 (Amendment #9) show the entire area of Calle Allicante and the associated residential lots on Calle Allicante (including Lot 81) as "open space". In the eleventh amendment, the applicant submitted revised plans for Tract 32184 that included Calle Allicante and new residential lots, including Lot 81. Lot 81 was then created without addressing the existence of an access road and debris basin wall. Eliminating the access road impeded any further maintenance by an outside party other than Mr. Fryzer.

The City of Los Angeles Department of Building and Safety required the applicant to submit hydrology and geotechnical reports for the elimination of the access road. Mr. Fryzer submitted these reports prior to his ownership of the property. These reports were approved on July 28, 2000, by the Department of Building and Safety. A condition of this approval required Mr. Fryzer to accept full responsibility for all future maintenance of the debris basin. In addition, the Homeowners Association, who previously maintained the basin, had to agree to relinquish the responsibility of maintaining the basin. At this time, staff believes the 1,040 cubic yard capacity debris basin was still in existence, as demonstrated by the submitted Geologic and Geotechnical Report dated December 17, 1999 and the submitted approval letter Log No. 31393 by the Department of Building and Safety, dated July 28, 2000. The Dec. 17, 1999 geologic report by GeoSoils, Inc. includes a "Site Plan Tract 32184, Lot 81 Mr. Joe Fryzer" map (Exhibit #7). This site plan shows the proposed single family home on the flat portion of Lot 81. The debris basin is shown adjacent to the eastern side of Mr. Fryzer's property on Lot 41 and Lot G. The entire down-sloping portion of the debris basin is indicated as "concrete". A dike is shown surrounding the upper slope of the debris basin. Some time after this report, approximately the southern half of this debris basin was filled to match the flat level of Lot 81. In addition, the City of Los Angeles Department of Building and Safety approval letter Log No. 31393 dated July 28, 2000, indicates that the only proposal was to eliminate the access road to the debris basin. As a condition, Mr. Fryzer was required to maintain the basin but there was no indication that the basin was to be filled.

On May 9, 2001, the applicant received an approval letter, Log # 32870-01 from the Department of Building and Safety for the applicant's Soils and Engineering Reports "concerning the proposed elimination of a graded debris basin and construction of debris walls to contain potential debris from the hillside drainage area." Soon after this approval letter was received, Mr. Fryzer attempted to obtain an exemption from the City of Los Angeles Planning Department. The City was unsure as to how to proceed and contacted

Commission staff for guidance. At this time, Commission staff first became aware of the proposed debris basin. Soon after discussions with the City, Commission staff received proposed project drawings from Mr. Fryzer for the alteration of the existing unpermitted debris basin. After review of the project plans, a letter was sent to the City of Los Angeles Planning department and to Mr. Fryzer's representatives stating that the project was not exempt (Exhibit #9). In addition, staff noted that the project plans included a lot line adjustment for lands that appeared to be located on State Park property. Staff's letter additionally stated that a lot line adjustment would also require a coastal development permit.

On June 27, 2001, Mr. Joseph Fryzer submitted Coastal Development Permit application No. 5-01-241 for the (1) resizing of a tract debris basin that would be located on Lot 41 of Tract 32184, and on Lot G; (2) a lot line adjustment that would merge a portion of Lot 41, an engineered slope designated as a private open space area in map PH87-4, into Lot 81 of Tract 32184; and (3) a further lot line adjustment that would merge portions of Lot G with the new combination of portions of Lot 41 and Lot 81. This would transfer 10.14 acres of Lot 41 and Lot G to Mr. Fryzer. This application was received by the South Coast District office as a request for a new coastal development permit. However, after review of the file and researching the underlying permit, A-381-78 as amended, the application was treated as an application to amend A-381-78-A12. This amendment application was rejected on September 4, 2001 because "the proposed amendment would lessen or avoid the intended affect of an approved or conditionally approved permit"[5]. A further explanation of the rejected amendment is found on Exhibit #11.

The present amendment application was submitted on October 11, 2001. Although the application was submitted on October 11, 2001, it was not deemed a complete application by Commission staff until December 28, 2001. The applicants include Headlands Properties Associates (Metropolitan Life Insurance Company), the owners of Lot 41 (as assigned Homeowners Association – see condition 2g. of the ninth amendment) and a portion of Lot G, and Mr. Joseph Fryzer, the owner of Lot 81. This amendment application, A-381-78-A13, does not include the lot line adjustment.

The proposal seeks after-the-fact authorization for the demolition of an unpermitted debris basin (with the capacity to hold 1,040 cubic yards) and the fill of portions of the basin. The proposed project also includes fill of the remainder of the hole that was the debris basin and the construction of a 673 cubic yard capacity debris basin with retaining and deflection walls. The entire project would require 940 cubic yards of cut and 1,882 cubic yards of fill. As shown on Exhibit #1, #5, & #6, the existing unpermitted debris basin would be filled, creating an extension of the flat pad area of Lot 81, approximately 60 to 80 feet across Lot 41 and onto Lot G. The new containment area (as indicated as mudflow storage on Exhibit #5 & #6) for the debris basin would then be located north of the existing

[5] Section 13166(a) Title 14, California code of Regulations

unpermitted basin and the existing unpermitted basin would be filled level with Mr. Fryzer's existing flat building pad and single family home.

Although the applicants have conceded in three separate letters to Commission staff that they could not prove the Commission authorized the pre-existing debris basin, Mark Allen (Mr. Fryzer's representative) now claims that the debris basin was consistent with the prior permit and was specifically authorized by the Commission. The recently submitted documents (as shown in Exhibit 15, A-E) do not demonstrate that the Commission approved the subject debris basin. The burden is therefore on the applicants to prove that the Commission authorized the debris basin. As of this date, the applicants have not produced such evidence. Thus, the debris basin subject to this permit amendment application is legally presumed to be unpermitted.

The original Hydrology and Hydraulic Study conducted by L. Liston & Associates, Inc. dated June 28, 2000 and approved by the City of LA on July 28, 2000, stated that the existing debris basin, with the capacity to hold 1,040 cubic yards of material, could be eliminated. The study states, "the basin, although it may have had some purpose in the initial phases of the Tract development, is at the very least, over-designed for the current conditions, and in the opinion of this office, is more appropriately, not required from a hydrologic or hydraulic point of view in terms of providing protection from the surrounding developed properties." In a later approval by the Department of Building and Safety for the reports submitted by the applicant to fill the debris basin, it was found that the 1.7 acre watershed (the amount of offsite tributary watershed area to the basin) necessitated a debris basin with a minimum capacity of 672 cubic yards. The applicant has proposed a debris basin with a capacity to hold 673 cubic yards.

D. Parks and Recreational Areas/Topanga State Park/Temescal Ridge Trail

Section 30240 of the Coastal Act states, in pertinent part:

> *(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.*

Dedication of Lot G for Public Open Space

The original subdivision permit for this tract required the dedication of approximately 1,000 acres of land to Topanga State Park to offset the expansive development within the Santa Monica Mountains. This dedication protected a large portion of the Santa Monica Mountains from development and ensured the protection of views, landforms, habitat for avian and terrestrial species (such as coastal sage), and open space for the public enjoyment of the State Park system. Tracts approved within A-381-78 were conditioned to prohibit most development outside a designated area, defined by the Urban Limit Line.

The Urban Limit Line prevents an expansion of the subdivision that would impact public views from the State Park and extirpate native habitat within the Santa Monica Mountains.

As indicated above in the summary of the underlying permit, the State Department of Parks and Recreation had concerns about maintaining brush clearance in areas within 200 feet of the boundary of Tract 32184 (the Urban Limit Line). In a subsequent amendment (A-381-78-A7), the areas approximately 200 feet away from the tract boundary (typically the slopes below the ridgelines) could be dedicated to the City of Los Angeles or a private non-profit organization acceptable to the Executive Director. The State of California accepted all lands outside this approximately 200-foot boundary. In the ninth amendment, the Urban Limit Line was expanded to allow for the construction of engineered slopes to prevent further instability. These lands were required to be maintained by the Homeowners Association (Headlands Properties) as further described in Condition 2g. of A-381-78-A9. These newly created "slope and open space" areas were not deeded to the State, City, or private non-profit organization.

On April 10, 1989, the City of Los Angeles Department of Recreation and Parks Commission approved the acceptance of the Offer to Dedicate 108.46 of the 400.46 acres of land in areas outside the urban limit line, located in the Gateway Tract, adjacent to Palisades Road. The report indicates, "the future dedication of ±292 acres will be designated as open space and used for picnicking and hiking into the adjacent Topanga State Park." [6] During a personal communication between the Commission's Los Angeles County Supervisor, Pam Emerson and Eugene Dudley, City of Los Angeles Department of Recreation and Parks, it was discovered that the City was anticipating accepting the dedications. However, sometime prior to 1991, Mr. Dudley sought to inspect the land within Lot G but was prevented from doing so because the property owner, Headlands Properties Associates had erected gates and fences around the property. Soon thereafter, the City rejected the acceptance of Lot G and cited, as the reason for that rejection, that the Department of Recreation and Parks presumed they could not properly maintain the area. Eventually, the property owner, Headlands Properties Associates, dedicated the land to itself. Regardless of ownership, however, the lands outside the Urban Limit Line and within Lot G are deed restricted for public open space, preventing further development in this area with certain limited, narrow exceptions.

Temescal Ridge Trail and Trailhead

The proposed project is located downslope of Temescal Ridge, a prominent ridge in the southern Santa Monica Mountains with views of the greater Topanga State Park and Pacific Ocean (Exhibit #4). The Temescal Ridge Trail crosses this area and connects to other State Park trails. The Temescal Ridge Trail is accessible by the Temescal Ridge Trailhead located on Lot 41 (Exhibit #3). This trailhead, with associated trailhead parking lot and restrooms, was required under A-381-78A and enhanced in amendments A9, A10,

[6] This ±292 acres includes part of Lot G, which includes the location of the proposed project

and A11. A portion of the proposed project is located on Lot 41, which separates Lot 81 from Lot G.

Condition #7 of A-381-78-A9 states

7. Park Facilities.

Concurrent with the grading of Lots 86 and 87 of Tract 32184, the applicant shall construct trailhead facilities (including a 6 - 10 car parking lot, gates and signs) in vicinity of said Lots 86 and 87 substantially as shown in applicant's Exhibit A-1, so as to provide foot trail access to an existing trail on Temescal Ridge. The applicant shall also construct a restroom facility in the vicinity of Palisades Highlands at a location designated by the State Department of Parks and Recreation in Topanga State Park or on the dedicated lands. If the applicant is unable to construct the restroom prior to completion of Tract 32184, the applicant may post a bond in an amount sufficient to fund construction by the State if such facilities are determined to be necessary by the Department of Parks and Recreation. All facilities shall be constructed to the usual specifications of the Department of Parks and Recreation, and shall be turned over to the Department for operation and maintenance.

Condition #8 of A-381-78-A9 states, in part:

8) Completion of Trail Access Improvements required in condition 7
Prior to transmittal of the authorization of this amendment the applicant shall provide evidence that the following improvements to the accessibility of the dedicated open space areas will be completed according to the time schedule indicated below, but in all events, before construction of condominium units authorized by this amendment in Tract 32184 begins.

The improvements shall be approved by the Executive Director and shall conform to the design standards of the accepting agency.

A-381-78-A11 states

Temescal Ridge Trailhead. Concurrent with the construction of streets and utilities approved in this tract, the applicant shall construct the improvements proposed for the Temescal Ridge Trail head, including signs, a 12 car parking facility and public restroom. The final designs must be reviewed by the accepting agency prior to construction. The trailhead may be transferred to the City of Los Angeles Department of Recreation and Parks for purposes of maintenance and liability, or other public or non-profit agency approved by the Executive Director. The applicant or its successor in interest shall maintain the trail and engineered slope to Temescal Ridge from Calle Nancy as part of the other open space maintenance agreed to in this permit. More specifically the applicant shall provide a public

access/recreation signage program subject to the review and approval of the Executive Director, that provides that, at a minimum, signs will be conspicuously and appropriately placed to adequately identify the location of the Temescal Ridge Trailhead. The program shall include, at a minimum, posted signs located on both sides of Chastain Parkway West at the intersection of Calle Deborah. Signs shall also be posted at the intersections of Chastain Parkway West/Palisades Road, Calle Deborah/Calle Nancy and Calle Deborah/Calle Allicante.

The trailhead parking lot, the trailhead, and the trail are open and accessible to the public. The City of Los Angeles, Department of Recreation and Parks is in the process of obtaining this property for maintenance and operational control purposes.

Habitat

The 1980 findings that addressed the protection of the hillside habitat were based on a characterization of the slopes as an important watershed, and a finding that if the slopes were not cleared, more watersheds would remain. The intent of the underlying permit was to protect the sloping watershed land from all grading and open the steeper slopes only to low intensity uses. However, it did make an exception for public park use. Significant public use is required to satisfy the Coastal Act requirements for public access and recreation, as the Commission recognized in 1980 when it imposed deed restrictions applicable to the site.

Section 30240 of the Coastal Act requires that development in areas adjacent to parks and recreation areas be sited and designed to prevent impacts, which would significantly degrade such areas. The project site is located adjacent to Topanga State Park and Temescal Ridge Trail and Trailhead. The Park and the surrounding habitat within the Santa Monica Mountains still contain large expanses of native vegetation, which is home to several avian and terrestrial species. Such vegetation includes coastal sage scrub, chaparral, scrub oak, and several other plant species endemic to the Santa Monica Mountains. Coastal sage scrub has incurred tremendous losses statewide. Native plants common to this community are highly adapted to the temperate climate of Southern California and provide habitat for the endangered California gnatcatcher, cactus wren, and orange-throated whiptail lizard, among a list of approximately 100 potentially threatened or endangered species[7].

The adjacent slope above the proposed project consists of chaparral and coastal sage scrub (Exhibit #1). While some areas in the Santa Monica Mountains near highly developed areas in the Pacific Palisades have lost most of the natural habitat diversity, large expanses of Topanga State Park have been left untouched by development and human interference.

[7] Premises on Coastal Sage Scrub Ecology, CA Department of Fish and Game

Conclusion

This project is within and adjacent to a Topanga State Park. The recreational experience intended for this park is an open, coastal mountain appearance. All development located adjacent to the State Park system must be sited and designed to prevent impacts, which would significantly degrade such areas. Development that could occur in this area must be compatible with the park system. Such development that could be authorized are paths, trails, and trailheads, picnic areas, observation areas, and other low intensity uses associated with public parks and recreational area. The proposed project includes clearing and grading on deed restricted open space land adjacent to Topanga State Park and the Temescal Ridge Trail. The filling of the existing, unpermitted debris basin and additional grading surrounding the basin, as proposed, would require 940 cubic yards of cut and 1,882 cubic yards of fill. As seen on the submitted project plans (Exhibit #5), the applicants propose to extend an unpermitted fill area over the entire debris basin and create a new retention area above the previous debris basin. An approximately 17,600 square foot area located on Lot 41 and Lot G would be affected by the proposed project. In addition, the fill area would create an almost flat, approximately 12,750 square foot area on Lot 41 and Lot G, resembling an extension of Mr. Fryzer's (Lot 81) rear yard (Exhibit #1).

Such development is neither consistent with nor compatible to the State Park system. The proposed project, the demolition of an existing, unpermitted 1,040 cubic yard capacity debris basin, removal of 940 cubic yards of earth and placement of 1,882 cubic yards of fill to create a 673 cubic yard capacity debris basin with retaining and deflection walls and an extended unpermitted, flat pad area, located outside a designated urban limit line and adjacent to Topanga State Park and Temescal Ridge Trail is also not consistent with Section 30240 of the Coastal Act. Therefore, the project must be denied.

Cumulative Impacts

Development that encroaches into this park area, which could lead to further development within and adjacent to Topanga State Park would have a major impact and significantly degrade the park area. The underlying permit established an urban limit line around Tract 32184 to lessen impacts to the surrounding State Park. The Commission's approval was a balancing to allow some development in this large subdivision but also to retain and protect the existing habitat, public hiking trails, natural landforms, and public views within Topanga State Park and the Santa Monica Mountains.

The proposed project is located outside the established Urban Limit Line and would require massive grading to fill an existing unpermitted debris basin and create a new debris basin with the capacity to hold 673 cubic yards of material. The project is not designed or sited to prevent impacts that would significantly degrade the park and recreation area. Allowing development in the canyon and along the slopes of the canyon outside the Urban Limit Line and adjacent to the State Park system would be precedent

setting, allowing future development to encroach into this area. This cumulative impact would result in a degraded area that would ultimately lessen the recreational enjoyment of Topanga State Park and may influence the decisions of those who would have recreated in this location. Therefore, the proposed project is inconsistent with Section 30240 of the Coastal Act.

The proposed project would not be compatible with the continuance of this park and recreation area. The proposed project is inconsistent with Section 30240 of the Coastal Act and the underlying conditions applied to the subdivision. Therefore, the project must be denied.

E. Scenic Resources/Landform Alteration

The Coastal Act protects public views and the visual qualities of coastal areas and limits landform alteration that would detract from such resources. Topanga State Park surrounds the project site on all but the west side. In fact, the portion of Lot G on which both the existing unpermitted and the proposed debris basin are located (the area owned by Headlands Properties Associates – Metropolitan Life Insurance Company) was originally required to be dedicated to the State of California as open space. Under the seventh amendment to the underlying permit, the applicant could offer to dedicate the lands to the City of Los Angeles or other private non-profit organization. As discussed in the above sections, the City declined to accept this portion of Lot G and the property owner, Headlands Properties Associates dedicated the land to themselves. The above-described portion of Lot G that was dedicated to the property owner is still deed restricted for public open space.

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 the surrounding areas, and, where feasible, to restore and enhance the visual quality in visually degraded areas.*

Landform Alteration

The proposed amendment application is for the after-the-fact approval of the demolition of an existing unpermitted debris basin with the capacity to hold 1,040 cubic yards of material and partial fill of this basin. Also included in the proposed project is the construction of a new debris basin with the capability to retain 673 cubic yards of debris. This is achieved by removing 940 cubic yards of earth and placing 1,382 cubic yards of fill in and around the pre-existing unpermitted debris basin and constructing retaining and deflection walls north of the fill area. Therefore, as seen on the submitted project plans (Exhibit #5), the

applicants propose to extend an unpermitted fill area over the entire debris basin and create a new retention area above the previous debris basin. An approximately 17,600 square foot area located on Lot 41 and Lot G would be affected by the proposed project. In addition, the fill area would create an almost flat, approximately 12,750 square foot area on Lot 41 and Lot G, resembling an extension of Mr. Fryzer's (Lot 81) rear yard (Exhibit #1).

A topographic map submitted by the applicants within a March 29, 2001, Response to City of Los Angeles Review Sheet, Project No. 1201C-84-81-VN depicted the subject area prior to the grading of the subdivision as the head of a canyon below Temescal Ridge (Exhibit #4). This natural north-south trending canyon was partially filled during the subdivision, however, some of the canyon bottom and predominantly the entire eastern slope of the ridge was located outside the urban limit line and are, for the most part, undeveloped. All areas outside the urban limit line were to be protected as public open space. As indicated in the applicants' submitted project plans and Exhibit #1, #3, #5, & #6, an approximately 17,600 square foot area of Lot 41 and Lot G would be graded. A large portion of this area is located outside the urban limit line (Exhibit #1, #3, & #5).

As previously mentioned, the Urban Limit Line was established under the original permit, A-381-78, as amended to, among other things, minimize the alteration of natural landforms as it affects scenic habitat and recreational resources. As stated, the proposed project site is located predominantly outside the Urban Limit Line and in close proximity to Topanga State Park, Temescal Ridge, and the Temescal Trailhead and Trail. Portions of the debris basin can be seen from Temescal Ridge. The proposed filling of the unpermitted debris basin and construction of a new debris basin would require 2,822 cubic yards of grading. Commission staff engineer, Lesley Ewing, has reviewed the proposed project and has determined that there are less environmentally damaging alternatives that would provide the basin capacity the City found to be necessary but that would require much less grading and could retain some of the natural contours of the slope below Temescal Ridge (Exhibit #8).

The applicants disagree with staff's alternatives, stating that this project is the only feasible one that can be accomplished while retaining the integrity of the slopes and the functionality of a debris basin (as discussed further in the Alternatives section below).

The proposed project does not minimize the alteration of natural landforms. The proposed project relies on an unpermitted fill pad as a base, and it requires an extensive amount of grading to fill in an unpermitted debris basin outside the Urban Limit Line and below Temescal Ridge, a prominent ridge in the southern portion of the Santa Monica Mountains and Topanga State Park (Exhibit #4). The Temescal Ridge Trail follows this ridgeline and connects to other trails in the park. The applicants contend that this area has been previously graded for the construction of the subdivision and the debris basin. While this may be true, neither the fill nor the grading for the debris basin was permitted. Moreover, the establishment of the Urban Limit Line was "firm" and only a very narrow scope of

development could be allowed outside this area (see summary of underlying permit, above). Over-excavation for the subdivision and the construction of a debris basin (that was not previously approved in the subdivision) are not types of development authorized under the original permit. Therefore, the subject area must be viewed as if all grading that took place without benefit of a coastal development permit was nonexistent. In this case, as shown by the applicants' geotechnical report, the area of the proposed project was, at one time, a natural head of a canyon.

Therefore, the Commission finds, consistent with its findings in approving A-381-78 as amended, that the proposed project does not minimize alteration of natural landforms and will have a negative effect on the scenic and visual qualities of the surrounding area by contributing to a cumulative adverse impact of increased development along the canyon and canyon slope. As such, the proposed project is inconsistent with Section 30251 as further discussed below.

Cumulative Effects

Approval of the proposed project would set a precedent for future development outside the Urban Limit Line. The Urban Limit Line was established to offset the cumulative impacts of developing a large subdivision with extensive landform alteration. Over time, as continued applications are submitted for similar development, such incremental impacts can result in significant cumulative impacts.

The applicants have stated that the proposed project is not visible from the surrounding area because it is located in a canyon below the ridgelines. The applicants have also stated that the area was already graded and the proposed project would allow for more landscaping of native vegetation. While the proposed project may only be visible from a small portion of the ridgeline above and the area has been graded without benefit of a coastal development permit, approval of the project would set a precedent to allow further development along the slopes and canyons outside the Urban Limit Line, which would not minimize the alteration of natural landforms effecting the visual quality of the area without. This, in effect, could lead to the approval of other small projects to resolve previous unpermitted development that would significantly impact the visually quality of Topanga State Park and Park trails. The incremental approval of such developments would also jeopardize the protection of coastal resources required under the original permit as amended to balance the impacts of this subdivision. Therefore, development on the subject property must be sited and designed to be visually compatible with the undisturbed characteristic of the surrounding area.

Conclusion

The Commission finds that the project, as proposed, is not sited and designed to protect the scenic and visual characteristics of the surrounding area and does not minimize the alteration of natural landforms. Denial of the proposed project would preserve the existing

scenic resources in the subject location. Also, denial of the project will ensure that the visual quality of Topanga State Park is safeguarded against cumulative impacts resulting from multiple encroachments outside the established Urban Limit Line. The proposed project would lead to the disruption of the visually quality of the area. Therefore, the Commission finds that the proposed project is inconsistent with Section 30251 of the Coastal Act and the underlying conditions applied to the subdivision; therefore, the project must be denied.

F. Unpermitted Development

Development has occurred on site without benefit of the required coastal development permit, including but not limited to, construction of a debris basin with the capacity of 1,040 cubic yards, the subsequent demolition of this debris basin, and the partial fill of this debris basin. The work that was undertaken constitutes development that requires a coastal development permit.

Consideration of the permit amendment application by the Commission has been based solely on the consistency of the proposed development with the policies of Chapter 3 of the Coastal Act. Approval or denial of this permit amendment application does not constitute a waiver of any legal action with regard to the alleged unpermitted development, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

G. Local Coastal Program

Section 30604 (a) of the Coastal Act states:

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

In 1978, the Commission approved a work program for the preparation of Local Coastal Programs in a number of distinct neighborhoods (segments) in the City of Los Angeles. In the Pacific Palisades, issues identified included public recreation, preservation of mountain and hillside lands, and grading and geologic stability.

The City has submitted five Land Use Plans for Commission review and the Commission has certified three (Playa Vista, San Pedro, and Venice). However, the City has not prepared a Land Use Plan for Pacific Palisades.

The demolition of an existing, unpermitted 1,040 cubic yard capacity debris basin, removal of 940 cubic yards of earth and placement of 1,882 cubic yards of fill (1) in the existing unpermitted 1,040 cubic yard capacity debris basin, and (2) elsewhere on elsewhere on unpermitted fill pad for the construction of a new 673 cubic yard capacity debris basin with retaining and deflection walls, predominantly located (portions of the new debris basin would be located across portions of Lot 41) outside a designated urban limit line (established in the original permit as amended) is inconsistent with the Chapter 3 policies of the Coastal Act as previously discussed. The development located predominantly outside the Urban Limit Line on Lot 41 and Lot G would result in the alteration of natural landforms, the degradation of the scenic and visual quality of the area, displacement of and degradation of land that should be habitat, and the siting of development that would impact Topanga Sate Park, which is inconsistent with Section 30240 and 30251 of the Coastal Act. Section 30240 states that development adjacent to parks and recreation areas shall be sited and designed to prevent impacts that would significantly degrade such areas. Section 30251 states that development should minimize landform alteration and visual impacts. The proposed development would prejudice the City of Los Angeles' ability to prepare a Local Coastal Program for Pacific Palisades that is consistent with the Chapter 3 policies of the Coastal Act, as required by Section 30604(a). Therefore, the proposed project is found inconsistent with the Chapter 3 policies of the Coastal Act and must be denied.

H. Alternatives

Denial of the proposed project, the demolition of an existing, unpermitted 1,040 cubic yard capacity debris basin, removal of 940 cubic yards of earth and placement of 1,882 cubic yards of fill (1) in the existing unpermitted 1,040 cubic yard capacity debris basin and (2) elsewhere on unpermitted fill pad for construction of a new 673 cubic yard capacity debris basin with retaining and deflection walls, located outside a designated urban limit line (established in the original permit as amended), will not deny all reasonable use of the subject property. Almost the entire proposed project is located on Lot 41 and Lot G. The co-applicant, Headlands Properties, owns Lot 41. This lot, originally included in lands outside the Urban Limit Line (see A-381-78-A9), was required to be maintained as an interior tract private open space area. Tax records also show that Headlands Properties owns this portion of Lot G. Lot G was deed restricted and dedicated for public park purposes. The deed restrictions prevented further division of Lot G and prevented development outside the Urban Limit Line (except as permitted by the permit or for park purposes). Thus, the limitations on the uses of these lots are inherent in the title to the land itself. The applicants have stated that this proposed project is necessary to safely contain and divert water runoff and debris from the hillsides above this portion of Tract 32184. In addition, the applicants have stated that the existing debris basin must be filled to remove an attractive nuisance on the property. They feel that the basin, as it is in its current state, could pose a hazard for someone walking or playing in the area.

Commission staff, on several occasions, have discussed with the applicants' representatives that a temporary fence could be erected around the existing basin until a solution is found. On every occasion, the applicants' representatives refused this offer.

The applicant (Mr. Fryzer) claimed to have suggested "several compromises in an attempt to reach a resolution with [Commission] Staff."[8] The applicant has not, at any time, proposed "several" compromises to reach a solution with staff (see responses to Mr. Allen's letters in the Exhibit section at the end of the staff report findings).

Some of the many possible alternatives to both the debris basin and the issue of an attractive nuisance would include the following:

- The current site configuration contains an unpermitted fill pad that is not the least amount of fill that would be needed for Lots G and Lot 41. There are alternatives for Lot G and Lot 41 that can remove or reduce the area of the flat pad and volume of fill that are now on these lots and also address the drainage and debris that would be generated from this fill area and any upslope areas. A significant amount of the fill on both Lot 41 and Lot G between Mr. Fryzer's Lot 81 and the undeveloped ridge slope can be removed. This area can be recontoured and vegetated to more closely resemble the undeveloped ridge slope that it abuts. The intersection of the ridge slope and the break in slope of the fill slope could be modified with regrading and recontouring working back from the ridge slope location. The regrading and recontouring would require some development to address drainage and debris, including but not limited to a small debris basin, some down drains, brow ditches, vegetated swales, etc.

- To alleviate concerns of an attractive nuisance, the applicants could erect a fence around the basin. Also, some grass or other low vegetation could be planted in the basin itself. Finally, the applicants could place warning signs in the area giving notification to trespassers that there is a debris basin located in the subject area and possible hazards do exist. The area could be made even safer by limiting all access to this area, halting the use of Lot G and Lot 41 by construction trucks and erecting some barrier at the end of the access road so these lots would not be open to use.

I. California Environmental Quality Act

Section 13096 of the California Code of Regulations requires Commission approval of 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

[8] Excerpted from Mark C. Allen's (Mr. Fryzer's representative) letter dated June 5, 2002. Mr. Allen made the same claims in his June 7, 2002, letter.

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 which the activity may have on the environment.

As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available, as described in the preceding sections that would lessen any significant adverse impact, which the development may have on the environment. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act and the project must be denied.

End/am

EXHIBIT# 1
Page 1 of 1
Application Number:
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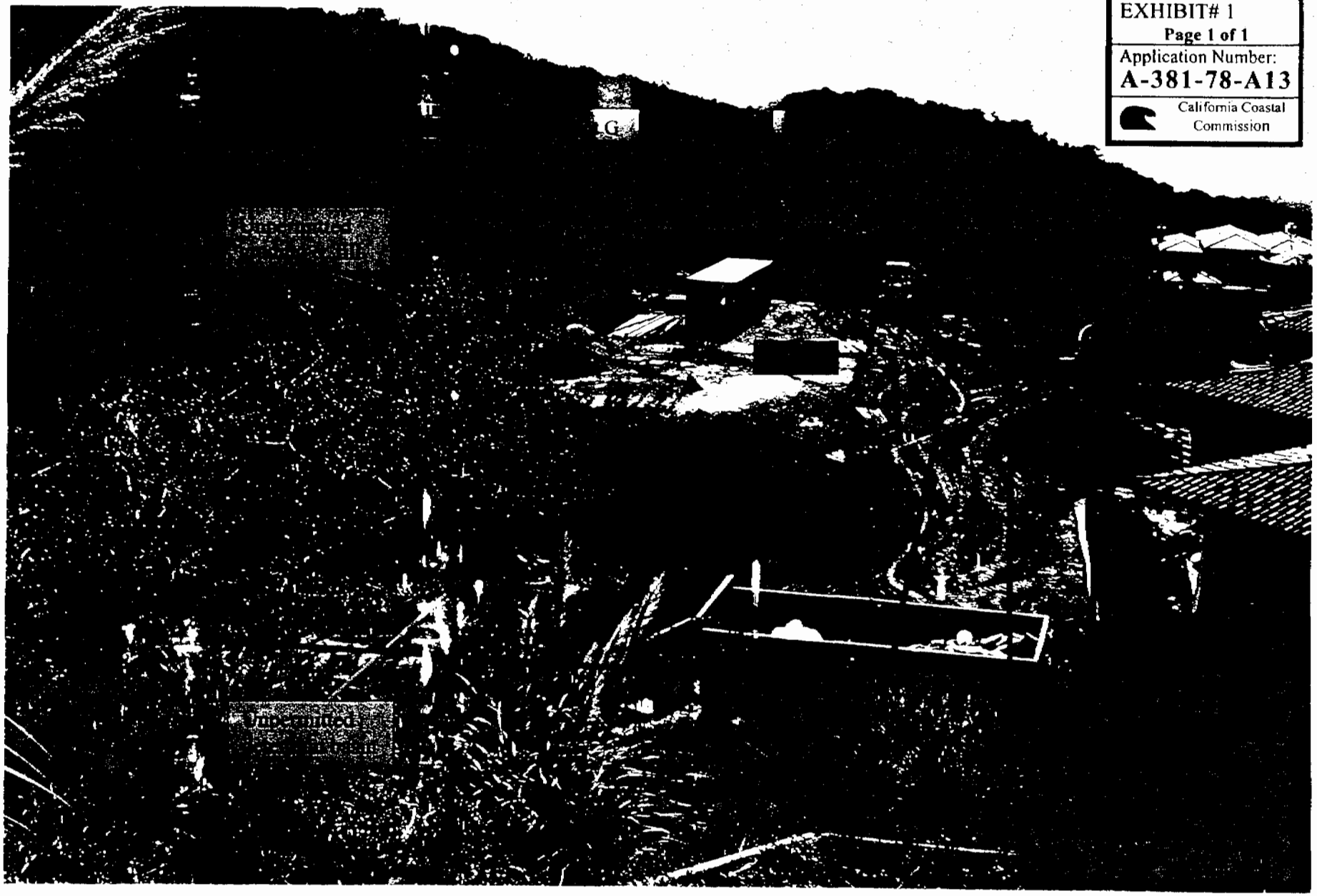
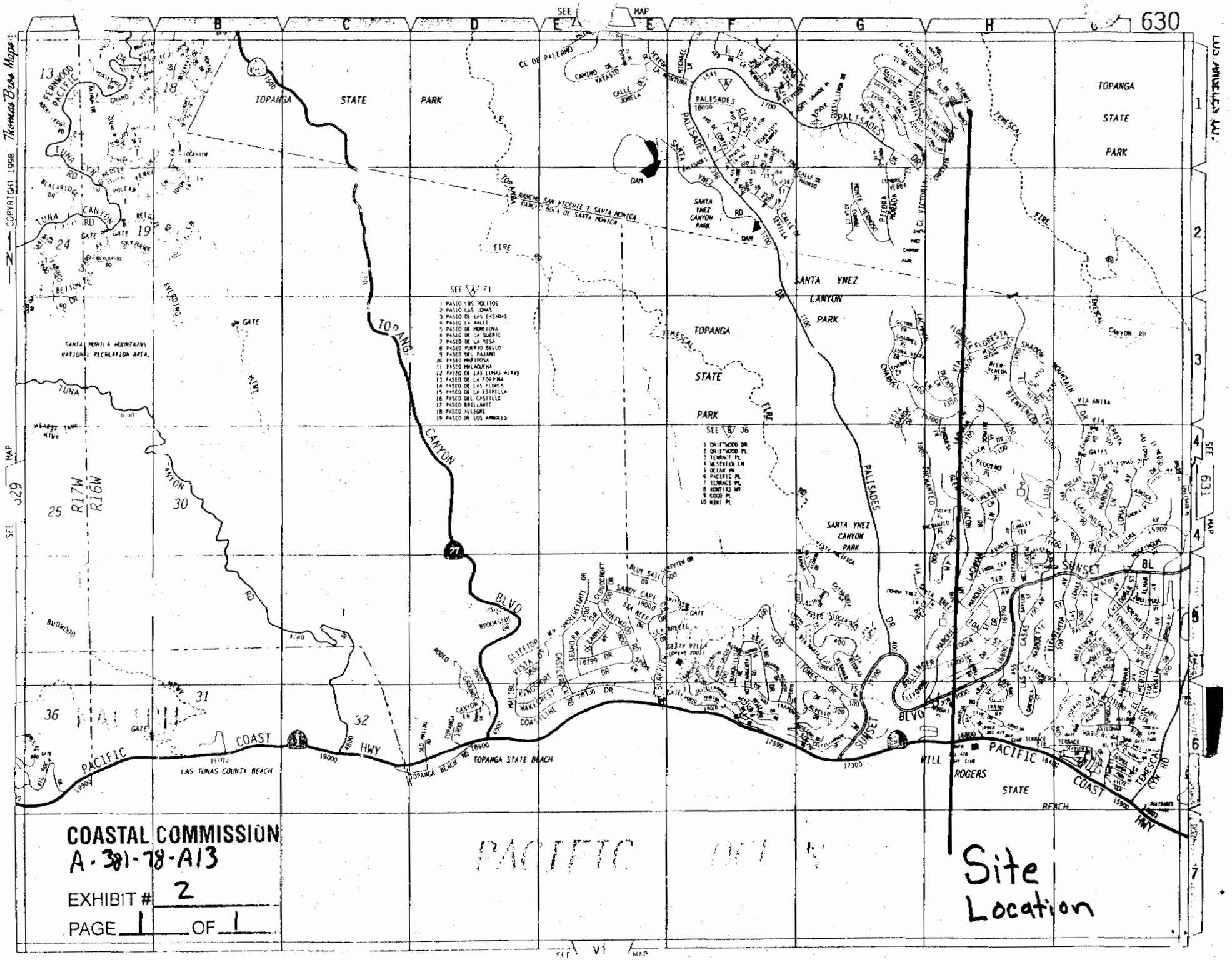
California Coastal Commission



Lot lines are approximations from plans submitted by the applicant.
Lot G and Lot 41 are deed-restricted, open space lots. Lot 81 – Mr. Fryzer's lot.

☐ Area outlined in red is the approximate location and size of the preexisting detention basin that was allegedly demolished by Mr. Fryzer



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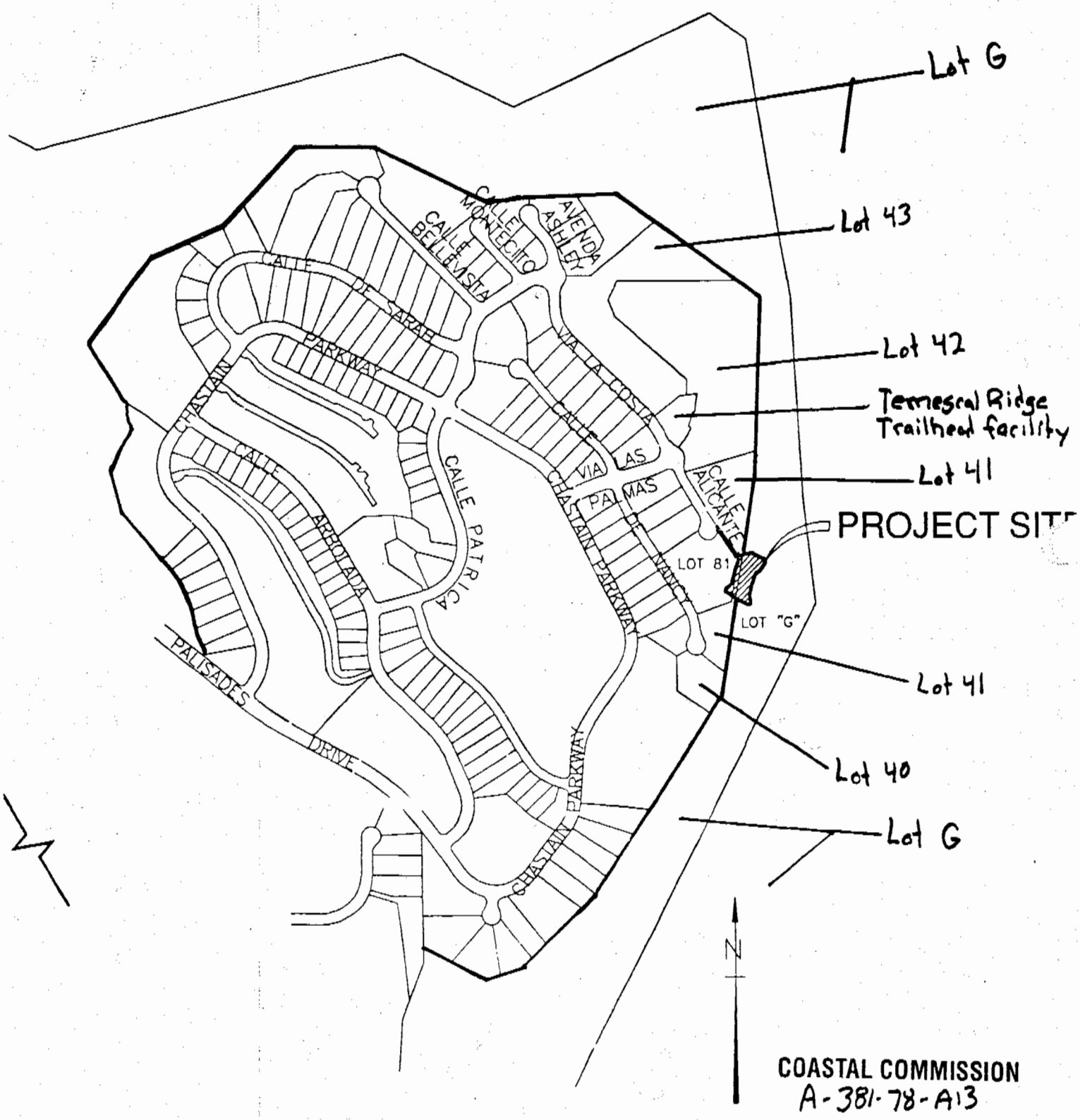

KEY MAP

N.T.S.

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EXHIBIT # 3

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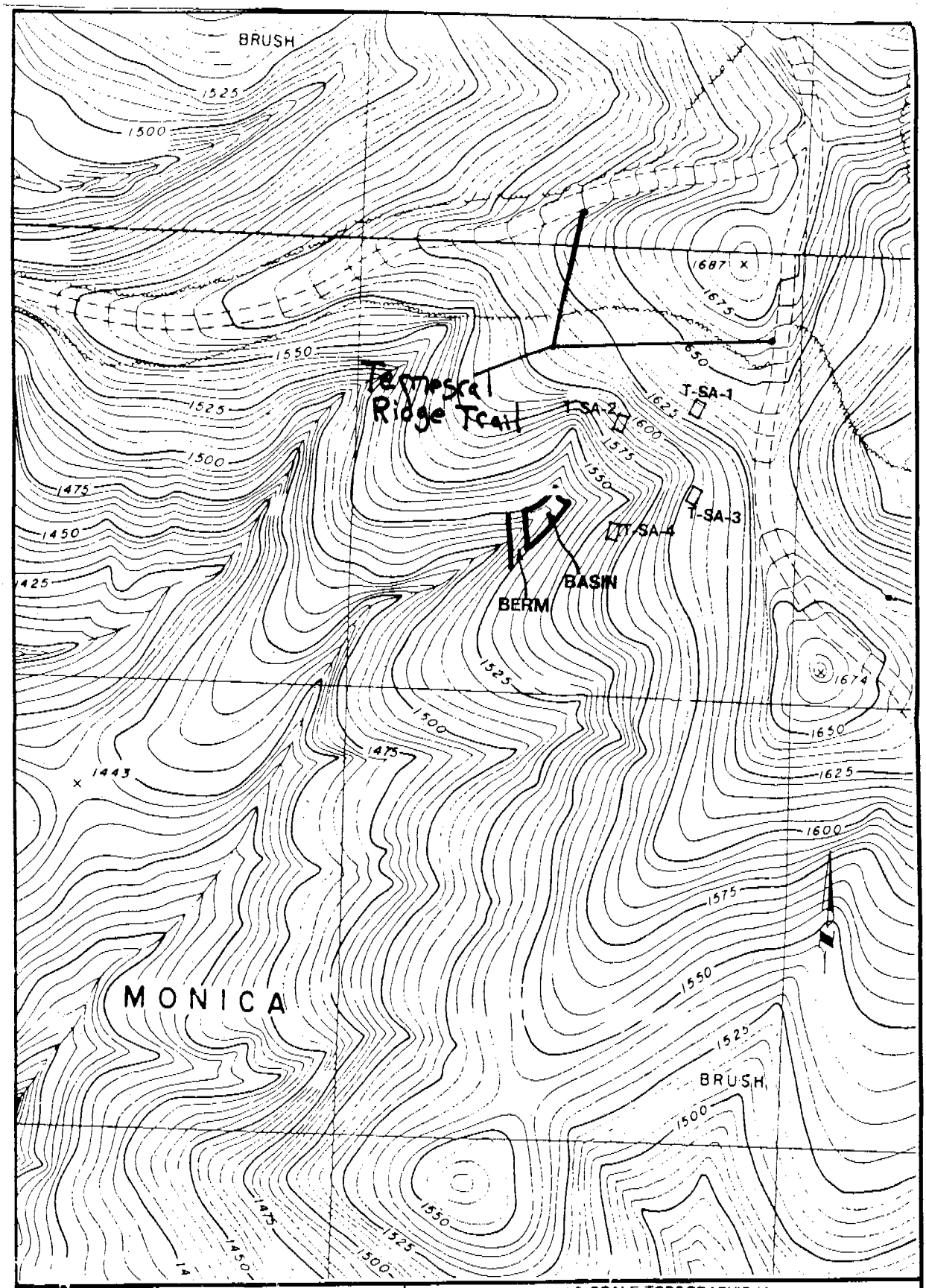

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EXHIBIT # 4
PAGE 1 OF 1

GeoSoils Consultants Inc.

100-SCALE TOPOGRAPHIC MAP
16670 CALLE ALICANTE LOT 87, TRACT 32184

Mr. JOE FRYZER

DATE 03-2001 W.O. NO.

PLATE 3

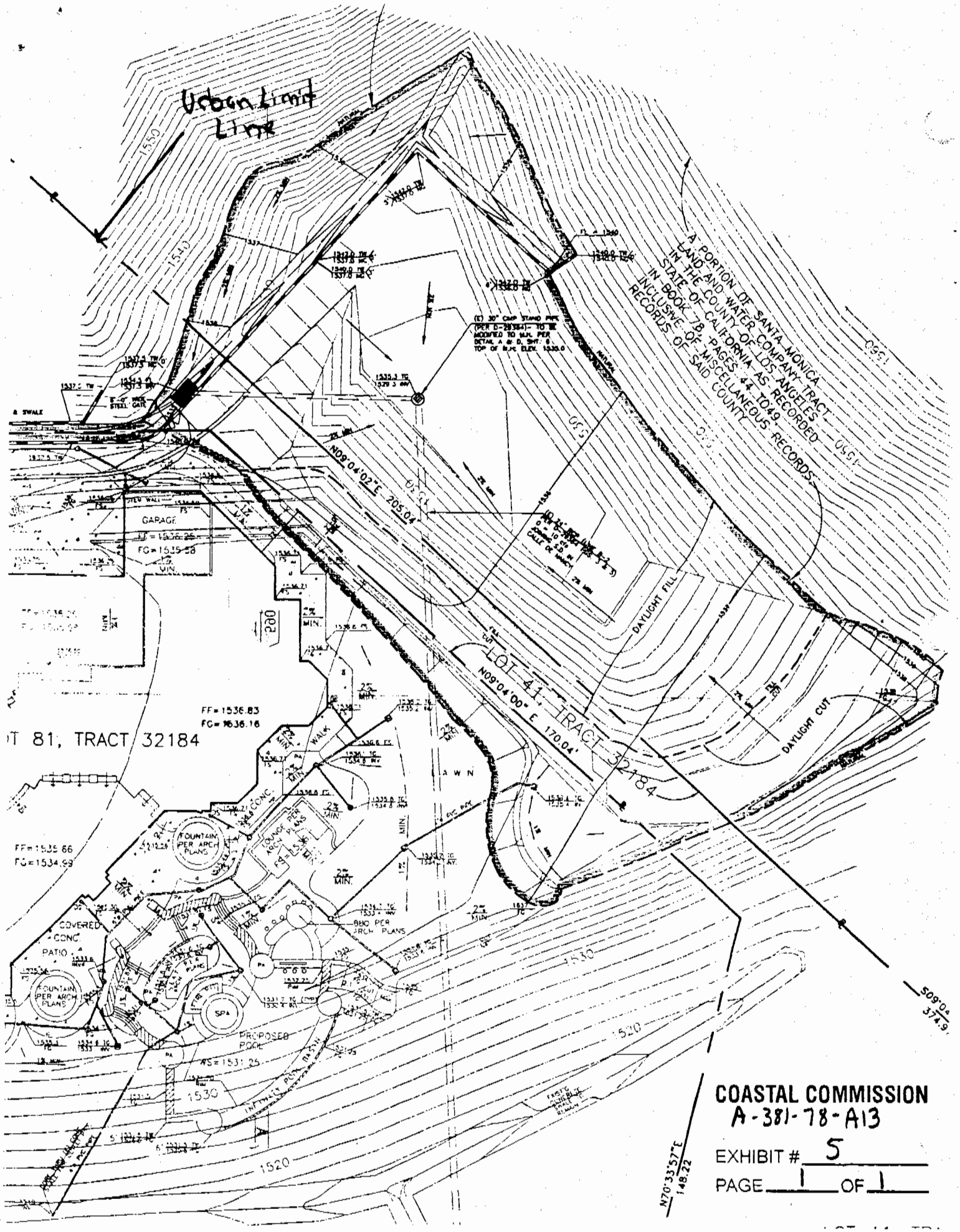

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EXHIBIT # 5

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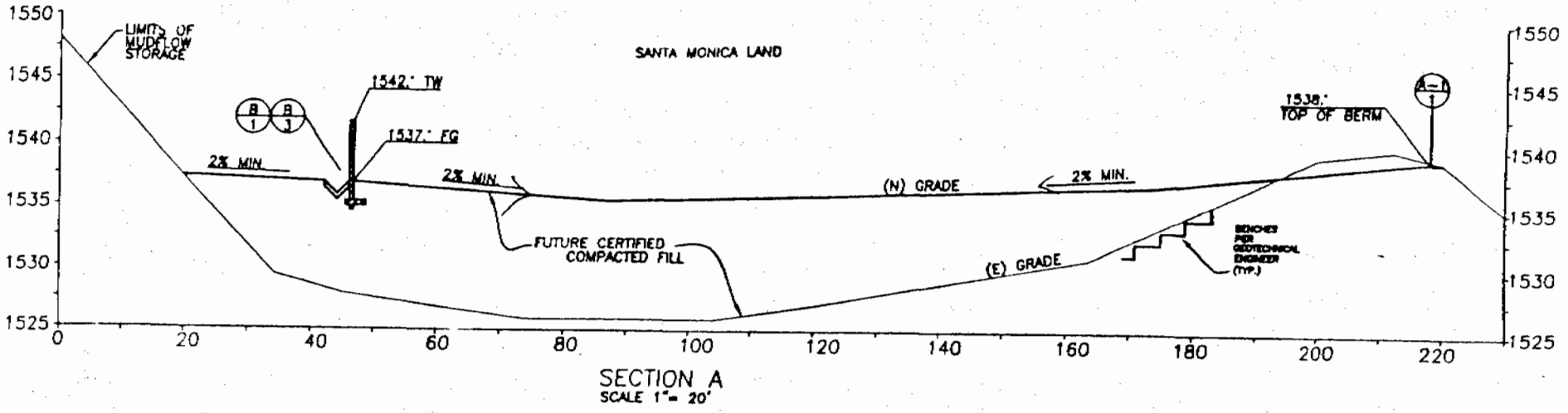
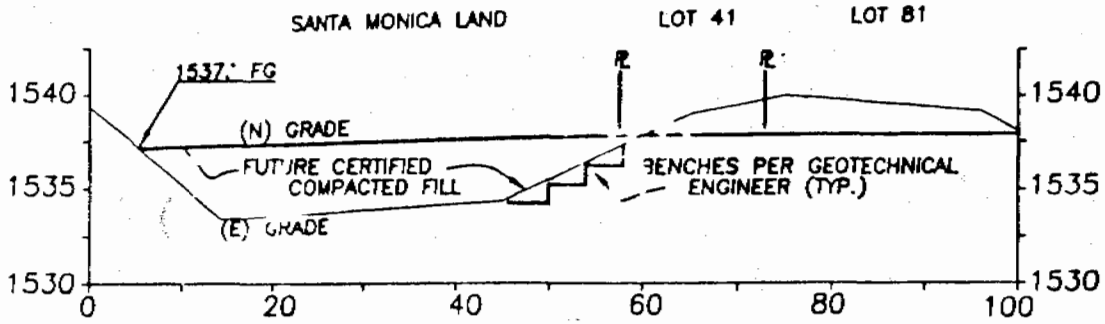


SECTION A
SCALE 1"= 20'



SECTION C
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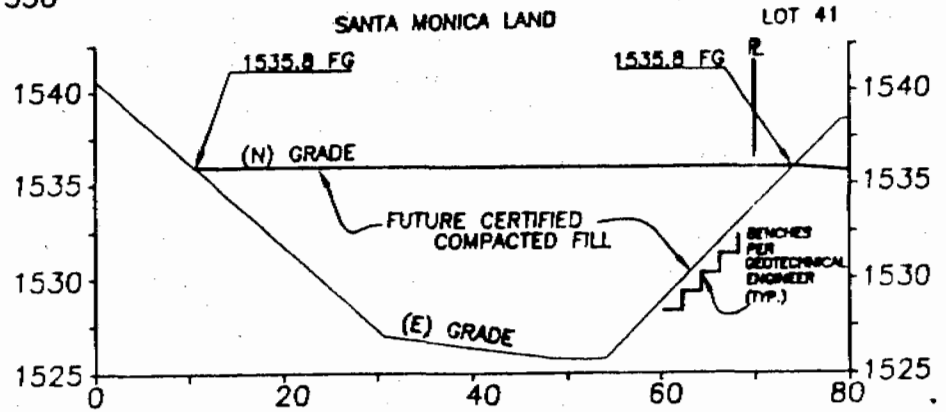

SECTION B
SCALE 1"= 20'

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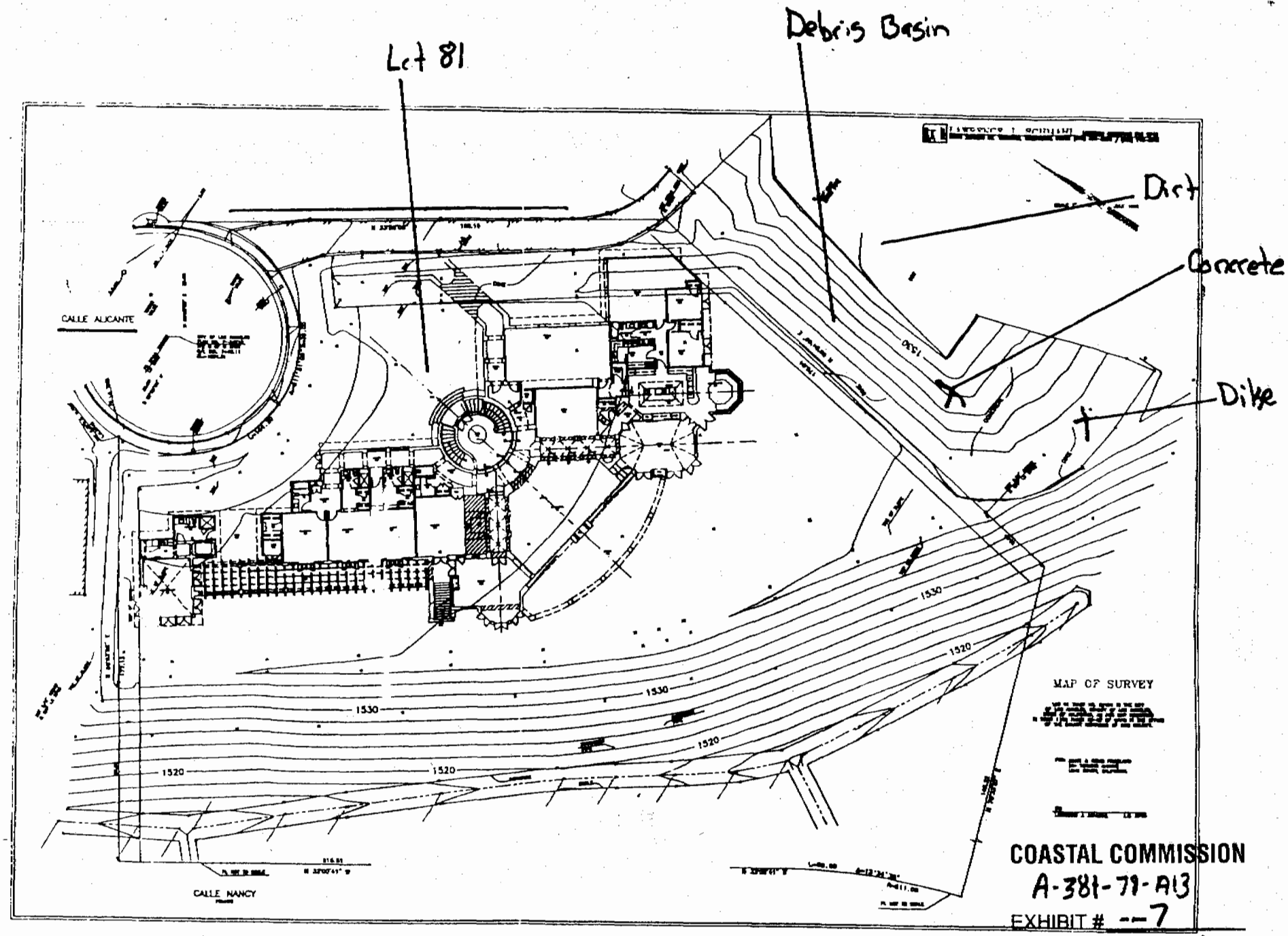

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STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY DAVIS, GOVERNOR

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

May 21, 2002

TO: Aaron McLendon, Coastal Program Analyst
FROM: Lesley Ewing, Sr. Civil Engineer
SUBJECT: Fill and Debris Basin in Headlands Property, Lot G

On April 9th, I went to the Headlands Housing Project and followed a public access trail/drainage swale to a spot where I could overlook the Fryzer site, and the adjoining properties that have been graded and/or that contain the debris basin that the applicant would like to modify. I could not get to property directly because the only developed access is by way of a locked gate road. Nor I did not climb down the slope from the drainage swale to inspect the various lots.

The general area includes an undeveloped ridge, an undeveloped slope coming down from the ridge line, and a flat fill slope extending from the undeveloped slope through Lot G, the lot with the debris basin, Lot 41, the undeveloped lot, the Fryzer lot and several more home site lots that either have been developed or are now being developed. It is my assumption that the flat fill slope is fairly uniform across all these properties, consisting of a flat building pad and a linear "break in slope" leading down to the next set of building pads. In a subsequent conversation with Lloyd Poindexter on 1 May 2002, he confirmed this general assumption and stated that the slope between each row of homes is about 2H:1V (similar to the side slopes for the debris basin).

The drainage swale and access trail are the only developments immediately upslope of the access road and group of lots that include the Fryzer pad and adjacent lots. To the northeast of Calle Alicante are an access and maintenance road and another debris basin of a design similar to the one that is on Lot G. Down slope of the Fryzer lot there are several rows of flat pad development that are accessed only by locked gate roads. Because all the roads were locked gated and because I had not called ahead to arrange to have the applicant or one of the applicant's representatives meet me at Calle Alicante, I did not go on any of the properties in question. It was not possible to determine whether there is any development immediately down slope of the lots between the Fryzer lot and the undeveloped ridge slope. The site plan shows that there should be one lot and the cul-de-sac of Calle de Nancy immediately down slope of the fill and debris basin on Lot G. Finally, from my viewing location, it was not possible to see any lot line distinctions. There were workers and construction vehicles using most of the flat pad that now spans from the ridge to the Fryzer residence, so it has the appearance of being one large lot. There was a french drain-type trench system being installed on the southeast side of the Fryzer home and I was using that as one lot line indicator.

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Based on the access that was available, it remains my belief that a significant amount of the fill on the two lots between the Fryzer lot and the undeveloped ridge slope can be removed, and that this area can be recontoured and vegetated to more closely resemble the undeveloped ridge slope that it abuts. In my 1 May 2002 conversation with Lloyd Poindexter, he agreed, in general, with this assertion. We did not discuss or develop any detailed removal and recontouring plans since he noted that his client's only interest in the development on Lot G was to make the debris basin safe and to comply with an earlier County permit condition for maintenance of the basin.

The fill slope and debris basin on Lots G and 41 address the current drainage and debris concerns for this part of the Headlands development. This debris basin should continue to be functional for many years, but since there is no access to the debris basin for maintenance, the basin will eventually fill in and cease to function. Mr. Poindexter (during our conversation of 1 May 2002) estimated that it will take several decades for the basin to fill completely, and voiced the concern of his client that the basin will remain an attractive nuisance till that time.

The current site configuration is not the least amount of fill that would be needed for Lots G and 41. There are alternatives for Lot G and Lot 41 that can remove or reduce the area of the flat pad and volume of fill that are now on these lots and also address the drainage and debris that would be generated from this fill area and any areas upslope areas. The biggest area for modification would be at the intersection of the ridge slope and the break in slope of the fill slope, with regrading and recontouring working back from that location. The regrading and recontouring would likely require some development to address drainage and debris, including but not limited to a small debris basin, some down drains, brow ditches, vegetated swales, etc. The actual drainage structures would need to be addressed in any type of site restoration that might be developed by the property owner.

Finally, the slopes of the Lot G debris basin are similar to or more gradual than other manufactured and natural areas within the general vicinity. The debris basin is similar to the one that is adjacent to the access trail leading into Topanga Canyon. Also the debris basin adjacent to the access trail is accessible to anyone who enters this area to go hiking, whereas the debris basin on Lot G is only accessible to people who are already in the locked gate area or who climb down a rather steep slope to get to the debris basin. The remaining natural area adjacent to the Lot G debris basin is steeper than the slopes of the debris basin. The manufactured slopes that separate each row of houses are similar to the side slopes for the debris basin. The debris basin on Lot G does not seem to pose a vastly greater safety risk that the nearby manufactured or natural slopes. However, it would make this area safer if there were a fence around the basin, some grass or other low vegetation planted in the basin itself, and perhaps some warning signs. The area could be made even safer by limiting all access to this area, halting the use of Lot G and Lot 41 by construction trucks and erecting some barrier at the end of the access road so these lots would not be open to use.

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CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

June 8, 2001

Andrew Montealegre
Department of City Planning
Room 300, Counter 19
201 N. Figueroa Street
Los Angeles, CA 90012

RE: **Request for debris basin alteration at 16670 Calle Alicante Lot 81, Tract 32184**

Dear Mr. Montealegre,

We have reviewed the project plans for the proposed debris basin at 16670 Calle Alicante. After review of the project we have determined that an exemption cannot be issued and thus, a coastal development permit is required. I will be forwarding a permit application to the applicant's representatives.

The subject property is included in the original subdivision permit A-381-78. Categorical Exclusion E-79-8 was adopted, which exempted certain categories of development in the Pacific Palisades. The categories of development that can be excluded include among other things, single family homes on individual legal lots. Grading, retaining walls, and demolition of structures is not included in this categorical exclusion. The subject property is included in the categorical exclusion, however the proposed project is not a category of development that can be exempted. Therefore, the applicant must submit an application for a coastal development permit from the Commission's South Coast District office.

It has come to our attention that the applicant proposes to apply for a lot line adjustment. Please be advised that lot mergers, lot splits, and lot line adjustments **ALSO** require a coastal development permit because they are changes in density or intensity of use of the land (see Section 30106 of the Coastal Act).

Thank you for your cooperation and attention to these matters. If you have any questions, you may contact me at (562) 590-5071.

Sincerely,

Aaron N. McLendon

Aaron N. McLendon
Coastal Program Analyst

Cc: Leonard Liston, consulting engineer
Shannon Nonn, permit expeditor
Craig Grannon, applicant representative

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LOT LINE ADJUSTMENT AGREEMENT

THIS LOT LINE ADJUSTMENT AGREEMENT ("Agreement") is made and entered into as of this 28th day of November, 2000, by and between Headland Properties Associates, a California limited partnership ("HPA"), and Joseph Fryzer, an individual ("Fryzer"). HPA and Fryzer are sometimes hereinafter each singularly referred to as a "Party" and collectively referred to as the "Parties."

RECITALS:

A. HPA is the owner in fee simple of the unimproved real property consisting of Lot 41 of Tract 32184 ("Lot 41") and the open space parcel identified as APN-4431-023-026 ("Open Space Parcel") located in the County of Los Angeles, California. A map showing the location of Lot 41 and the Open Space Parcel is attached.

B. Fryzer is the owner in fee simple of Lot 81 of Tract 32184 ("Lot 81"), which is contiguous to Lot 41 and the Open Space Parcel. Lot 81 is also shown on Exhibit A.

C. The Parties desire to effect a lot line adjustment among Lot 41, Lot 81, and the Open Space Parcel on the terms and conditions hereinafter set forth.

IN CONSIDERATION of the above Recitals and the terms and conditions hereinafter set forth, the Parties agree as follows:

1. LOT LINE ADJUSTMENT.

1.01 Lot Line Adjustment. HPA and Fryzer hereby agree to adjust the boundaries of Lot 41 and the Open Space Parcel and Lot 81 as set forth on Exhibit A (the "Lot Line Adjustment"). The Lot Line Adjustment shall be at no cost or expense to HPA. Fryzer shall be solely responsible for the payment of all costs, fees and expenses which pertain to the processing the Lot Line Adjustment and obtaining a Certificate of Compliance and any other necessary government approvals (collectively, the "Certificate") from all governmental agencies with jurisdiction over the Lot Line Adjustment.

1.02 Consideration. As consideration for the Lot Line Adjustment, upon the execution and delivery of this Agreement by HPA, Fryzer shall pay to HPA the sum of $20,000.00, which funds shall be held in trust by HPA's attorney, Paul W. Kaufman ("Kaufman") whose address is 10960 Wilshire Blvd., Suite 1225, Los Angeles, California 90024 until such time as Fryzer obtains the Certificate. Upon Fryzer obtaining the Certificate, Kaufman is authorized to release said funds to HPA without any further authorization from Fryzer. In the event Fryzer terminates this Agreement as provided for in Section 3, Kaufman, after written request from Fryzer, shall return such funds to Fryzer with no further authorization from HPA.

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1.03 Expenses. HPA has incurred engineering fees with respect to the analyzing proposed Lot Line Adjustment and reviewing/drafting this Agreement in the amount of Five Thousand One Hundred Dollars ($5,100.00). Fryzer shall reimburse HPA in said amount for said expenses upon the execution hereof.

2. DUE DILIGENCE INFORMATION.

2.01 Due Diligence Documents. Within five (5) business days after the date hereof, HPA shall deliver to Fryzer the following documents and records relating to Lot 41 and the Open Space Parcel which are in HPA's possession (the "Due Diligence Information") for Fryzer's inspection:

(a) all soils and geological testing reports (HPA does not know of any such reports); and

(b) copies of the current tax bill or bills.

2.02 No Warranty. Any of the Due Diligence Information prepared by entities other than HPA is delivered by HPA to Fryzer without representation or warranty by HPA regarding the accuracy or correctness of such information.

3. PROCESSING.

In addition to the other conditions precedent set forth in this Agreement, Fryzer shall, at its sole cost and expense, be responsible for processing the Lot Line Adjustment, and provided such cooperation shall be at no cost or expense to HPA, HPA shall cooperate with Fryzer in doing such further and additional acts as may be requested by Fryzer, including, without limitation executing additional instruments to effect the intent of this Agreement. HPA hereby agrees, following reasonable review by HPA to execute any and all applications and documents submitted to the City of Los Angeles or any other governmental agency regarding the Lot Line Adjustment. In the event Fryzer is unable to effect the Lot Line Adjustment within one year (1) from the date of this Agreement, Fryzer may thereafter terminate this Agreement at any time by giving HPA written notice of termination.

4. CONDITION OF TITLE.

Upon consummation of the Lot Line Adjustment the property being transferred to Fryzer pursuant to the Lot Line Adjustment ("Property") shall be subject only to non-delinquent real property taxes and assessments and such other exceptions to title which Fryzer has approved.

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5. HPA'S WARRANTIES.

5.01 HPA's Authority.

(a) HPA has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.

(b) All requisite action has been taken by HPA in connection with entering into this Agreement and the consummation of the transaction contemplated hereby.

(c) The individuals executing this Agreement and the instruments referenced herein on behalf of HPA have the legal power, right and actual authority to bind HPA to the terms and conditions hereof.

5.02 No Litigation. HPA hereby represents and warrants for the benefit of Fryzer that to HPA's best knowledge, there are no pending legal actions which affect title to or occupancy of the Property.

5.03 As Is. Except for the express representation and warranty of HPA contained in Section 5.01 hereof, the Property being acquired by Fryzer and the Improvements (as hereafter defined) located thereon are being acquired by Fryzer "AS IS" without any warranty of HPA, express, implied or statutory, as to the nature or condition of or title thereto or its fitness for Fryzer's intended use. Fryzer is relying solely upon its own, independent inspection, investigation and analysis of the Property as he deems necessary or appropriate, including, without limitation, any and all matters concerning the condition of the Property and its suitability for Fryzer's intended purposes, and all applicable laws, ordinances, rules and governmental regulations (including, but not limited to, those relative to building, zoning and land use) affecting the development, use, occupancy or enjoyment of the Property. Fryzer hereby forgives and releases HPA, its officers, directors, partners and affiliates from any and all causes of action, claims, liabilities and demands of any type or nature whatsoever which in any way relate to the Property.

6. DEFAULT

6.01 Remedies of Fryzer.

In the event Fryzer is the non-breaching Party, in addition to any other rights or remedies which may be available to Fryzer pursuant to this Agreement or under applicable law, Fryzer may elect to either: (i) pursue the equitable remedy of specific performance, or (ii) terminate this Agreement by giving HPA written notice describing HPA's default and setting forth Fryzer's election to immediately terminate this Agreement.

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6.02 Remedies of HPA. In the event HPA is the non-breaching Party, HPA shall be released from its obligation to effect the Lot Line Adjustment, and HPA may terminate this Agreement by giving Fryzer written notice describing Fryzer's default and stating HPA's election to immediately terminate this Agreement. In the event HPA elects to terminate this Agreement, HPA shall receive the amount specified as consideration in Section 1.02 as its sole remedy and as liquidated damages.

7. NON-EXCLUSIVE LICENSE AND MAINTENANCE.

7.01 License. HPA hereby grants to Fryzer its agents and employees, a non-exclusive license to enter upon Lot 41 and the Open Space Parcel for the purpose of conducting an inspection and investigation of the Property (the "Property Inspection"). Subject to prior written notice to HPA and HPA's written approval which shall not be unreasonably withheld, Fryzer may also perform such grading, filling and construction upon the Property as may be approved by the City of Los Angeles. Fryzer agrees to indemnify, defendant and hold HPA, its agents, partners and employees harmless from any and all costs, liabilities, liens, actions, damages and expenses, including, without limitation, attorney's fees, resulting from the activities or entry upon Lot 41 and the Open Space Parcel by Fryzer, or its agents, contractors or employees pursuant to the non-exclusive license granted to Fryzer hereby. In the event the Lot Line Adjustment is not completed for any reason other than HPA's default, Fryzer at its sole cost and expense, shall return the Property to its condition as of the date of this Agreement.

7.02 Maintenance. Fryzer hereby acknowledges that the Property contains certain improvements, including, but not limited to, a debris basin (the "Improvements"). Fryzer hereby agrees both to assume all responsibility for the maintenance of the Improvements and to indemnify and hold harmless HPA in connection therewith. In the event the Lot Line Adjustment is not completed and this Agreement is termination as provided for herein, Fryzer's obligations under this Section 7.02 shall likewise terminate.

8. MISCELLANEOUS.

8.01 Exhibits. All exhibits to which reference is made herein are deemed incorporated into this Agreement, whether or not actually attached hereto, upon the execution hereof by the Parties. References to Articles and Sections herein refer to the Articles and Sections of this Agreement.

8.02 Amendments. This Agreement may only be amended in writing signed by each of the Parties to this Agreement.

8.03 Binding Effect and Assignment. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective heirs, nominees, successors, legal representatives and assigns. This Agreement may be assigned by Fryzer, without the consent of HPA.

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8.04 Caption Headings. Captions at the beginning of each numbered or lettered section of this Agreement are solely for the convenience of the Parties and shall not be deemed part of this Agreement.

8.05 Attorney's Fees. Should any litigation be commenced between the Parties concerning any provision of this Agreement including the Exhibits hereto or the rights and duties of any person or entity in relation thereto, the Party prevailing in such litigation shall be entitled, in addition to such other relief that may be granted, to such Party's in-house or outside attorneys' fees and legal costs in such litigation.

8.06 Governing Law: Venue. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California. The Parties hereby consent to the jurisdiction of the State of California, with venue for any legal action arising out of this Agreement in Los Angeles County, California.

8.07 Entire Agreement. This Agreement contains the entire agreement between the Parties and supersedes any prior written or oral agreement or statement by the Parties or any third party concerning the Property. This Agreement may only be amended in writing, signed by the parties hereto.

8.08 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute but one agreement.

8.09 Notices. All notices required to be given under this Agreement shall be in writing and shall be transmitted either by personal delivery, overnight courier (such as Federal Express) or through the facilities of the United States Post Office, postage prepaid, certified or registered mail, return receipt requested. Any such notice shall be effective upon delivery, if delivered by personal delivery or overnight courier, and forty-eight (48) hours after dispatch, if mailed in accordance with the above. Notices to the respective parties shall be sent to the following addresses unless written notice of a change of address has been previously given pursuant hereto:

HPA: Headland Properties Associates
c/o California Coast Homes, LLC
Attention: Edward Miller, CEO
27520 Hawthorne Blvd.
Suite 250
Rolling Hills Estates, CA 90274
Phone: (310) 544-5900
Fax: (310) 544-5907

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Fryzer: Joseph Fryzer
11859 Wilshire Boulevard
Suite 600
Los Angeles, CA 90025
Phone: (310) 954-3043
Phone: (310) 954-2142

With a copy to: Russ, August & Kabat
Attn: Steven M. Siemens
12424 Wilshire Boulevard
Suite 1200
Los Angeles, CA 90025
Phone: (310) 826-7474
Phone: (310) 826-6991

8.10 Waivers. The failure by Fryzer or HPA to insist upon strict performance of any of the terms and conditions hereof shall not be deemed a waiver of any subsequent breach or default in any of the terms and conditions hereof.

8.11 Partial Invalidity. If any portion of this Agreement as applied to either party or to any circumstances shall be adjudged by a court of competent jurisdiction to be void or unenforceable, such portion shall be deemed severed from this Agreement and shall in no way affect the validity or enforceability of the remaining portions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

"Fryzer" Joseph Fryzer

"HPA" HEADLAND PROPERTIES ASSOCIATES,
a California limited partnership,

By: Headland-Pacific Palisades, LLC,
a California limited liability company
General Partner

By: Metropolitan Life Insurance Company,
a New York corporation
Managing Member

By: Edward M. Bollard
Assistant general Counsel

Shared\HPA\Lot Li

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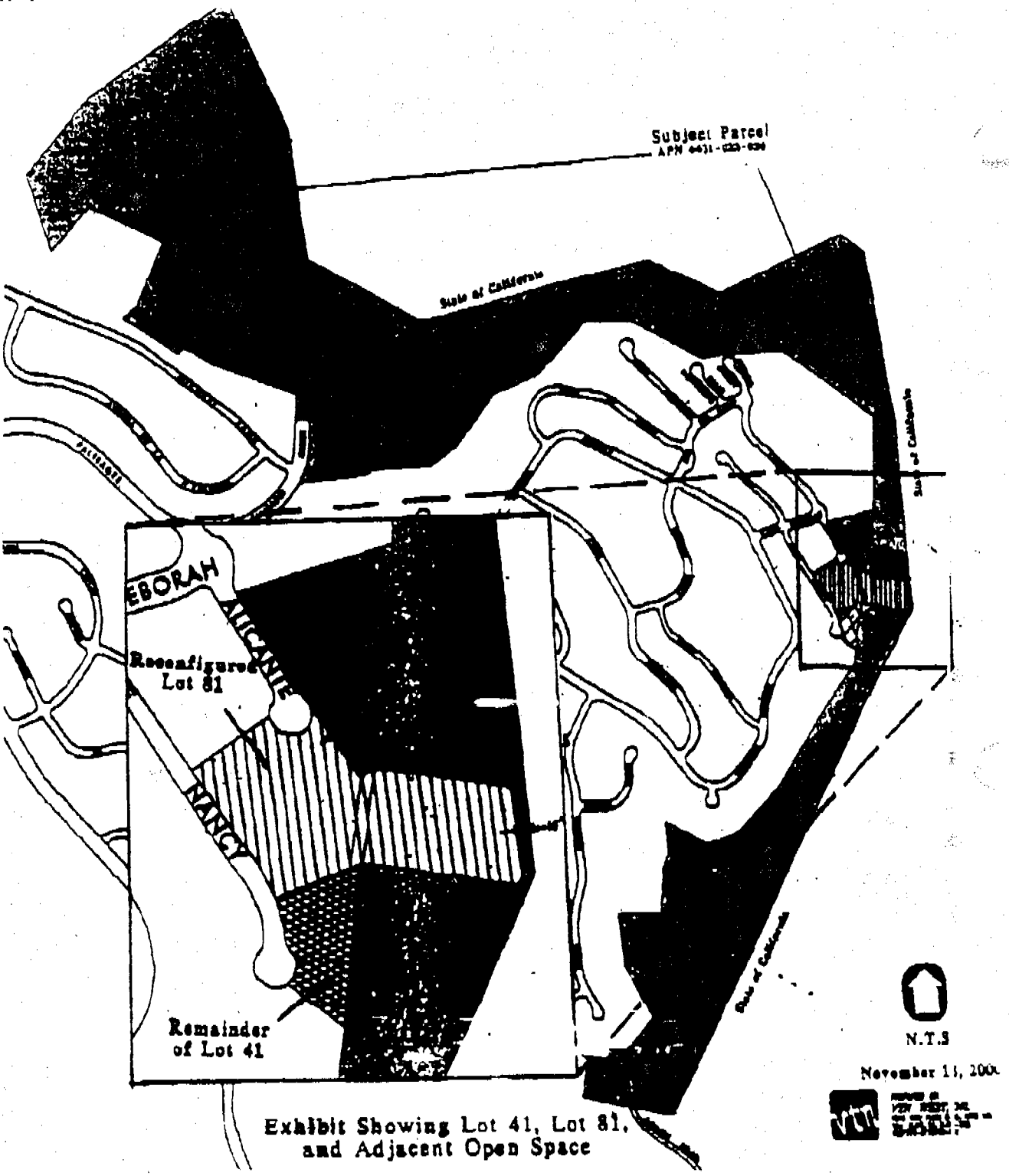

Exhibit Showing Lot 41, Lot 81, and Adjacent Open Space

EXHIBIT A

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CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

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September 4, 2001

Joseph Fryzer
11859 Wilshire Boulevard, #600
Los Angeles, CA 90025

Subject: **Application #5-01-241 (Fryzer)**
Coastal Development Permit A-381-78 and amendments 1-11

Project Location: **16670 Via La Costa (lot 81 - Tract 32184), Lot 41 – Tract 32184, and Lot G, Pacific Highlands, Pacific Palisades, City and County of Los Angeles.**
Underlying coastal development permit A-381-78 as amended.

Dear Mr. Fryzer:

On June 27, 2001, the South Coast District office of the California Coastal Commission received the above referenced application. The application includes three elements: (1) resizing of a tract debris basin that is located on lot 41 of tract 32184, and on lot G; (2) a lot line adjustment that would merge a portion of lot 41, an engineered slope designated as a private open space area in map PH87-4, into lot 81 of tract 32184, a residential lot owned by you; and (3) a further lot line adjustment that would merge portions of lot G with the new combination of portions of lot 41 and lot 81. Your application identifies lot G as "the remainder lot".

You are correct that all of the development you propose requires a coastal development permit. Section 30600 of the Coastal Act establishes that all development within the Coastal Zone requires a coastal development permit. Lot G and Tract 32184 are located within the Coastal Zone. A lot line adjustment is a "division of land"; the lot line adjustment proposed by you also would involve a "change in intensity of use." The grading necessary to reduce the size of the debris basin is also development. Grading, division of land and changes of intensity of use fall under the definition of development as defined in Section 30106 of the California Coastal Act of 1976:

Section 30106.

"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, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and

timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

In this case, the development you propose is located in an area subject to a previously issued, vested permit approved by the Coastal Commission in 1978 and subsequently amended, permit A-381-78. This permit, as amended, allowed the creation of four residential tracts, including Tract 32184, and required the dedication and protection of land outside the urban limit line for public space.

In 1978, the Coastal Commission granted Coastal Development Permit A-381-78 to Headlands Properties (also known as Palisades Highlands) for the grading of roads and the installation of utilities to accommodate a 230 unit residential tract in the Santa Monica Mountains, in a then undeveloped 1,200 acre holding in the Pacific Palisades district of the City of Los Angeles. The original permit also established an urban limit line restricting development to certain locations. In a 1980 amendment to the permit, A-381-78A, the Commission approved four tracts, established the total number of dwelling units at 740, allowed massive grading within an extended urban limit line (beyond the limit line approved in the original permit), authorized construction of two sites for commercial development (2 acre total) and a 7-acre institutional site, and required the dedication of almost 1,000 acres of public open space, the area outside the urban limit line, to State Parks. In 1981 the Applicant recorded certain documents and commenced development, vesting the permit. Permit No. A-381-78 was amended 11 times. The development proposed in your application is located in areas subject to terms and conditions of permit No. A-381-78 as amended.

Permit A-381-78 as amended requires that development that occurs on the land must be consistent with the permit. Changes to an underlying permit can occur only if an amendment is approved by the Commission. The California Code of Regulations requires the rejection of any application for an amendment that would lessen or avoid the intended effect of an existing permit (except in certain circumstances inapplicable here), see section 13166(a) of Title 14 of the California Code of Regulations. After analysis of your request, the Director has determined that the development that you request (1) is located on the land subject to permit A-381-78 as amended, (2) is inconsistent with the adopted conditions applying to this land, and (3) that it is not possible to accept your particular request as an amendment because the development that you propose would lessen or avoid the intended effect of that permit. Therefore, staff is returning your request to you. The development restrictions applicable to the land at issue remain those specified in the current version of the permit (A-381-78-A11, Enclosed).

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During a telephone conversation with your representative, Shannon Nonn, on or about July 30, 2001, Coastal Commission analyst Aaron McLendon informed Ms. Nonn that this application constitutes a request for an amendment to the original permit for the subdivision of this portion of Pacific Highlands (Permit No. A-381-78, as amended) that cannot be accepted. A more thorough explanation is provided below.

Special Conditions 1 and 3 – The Urban Limit Line

In the original Permit No. A-381-78, the Commission defined the scope of the project and the approved development in Condition 1, termed the "Scope of the Approval." This condition states in part that "all grading, structural development and subdivided lots shall be located entirely within the urban limit line . . .." The text of the conditions, findings and exhibits referenced in A-381-78A, and in subsequent amendments, identify Lot G as being located outside the Urban Limit Line. The urban limit line remained in the location established in 1980 until the Commission approved the seventh amendment to the permit in 1987. In the seventh amendment the urban limit line is described in condition 1 "Scope of Permit" and identified as the line shown on "Master Plan PH 87-14":

Special Condition 1 as modified by the Commission at the time of the seventh amendment states in part:

> a. This permit amendment authorizes subdivision of four tracts of Palisades Highlands, for up to 740 residential units, a two-acre commercial site and a seven-acre institutional site, grading for all streets and lots, installation of drainage and utilities and construction of residential units as described in the attached Findings and Declarations. **All grading, structural development, and subdivided lots shall be located entirely within the urban limit line, as described in the "Modification Exhibit" by VTN Inc shown on PH 87-4 and "Master Plan" PH 87-14, submitted by applicant to the Coastal Commission on Sept 29, 1987**, and identified in the Coastal Commission files as approved applicant's Exhibits PH 87-4 and "Master Plan" PH 87-14. (Emphasis added)

This Condition remains in effect in the current permit. Special Condition 1c lists some limited development that may occur outside the urban limit line:

> c. Subject to the review and approval of the Executive Director, in areas outside of urban limit line: minor grading may be performed to re-contour previously graded land; paved or unpaved pathways and other incidental improvements for low intensity recreation may be constructed; minor facilities to provide public or utility services which do not require significant grading may be installed if alternative locations are not feasible; vegetation within 100 feet of any residential structure may be removed or altered for fire protection purposes.

The Commission required in Special Condition 3 that all lots outside the urban limit line, including lot G, be deed restricted. Condition 3 required a deed restriction that included the following provisions:

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a. Prevent further division of such dedication parcels for any purposes except park purposes outside of the urban limit line.

b. Prevent development outside of the urban limit line except as permitted by this permit, or for park purposes.

c. Waive all claims against the public for damages due to flood, fire or geologic instability which may arise as a consequence of approval of development within the permitted tracts.

This condition was adopted in the first amendment in 1980 and has remained the same in subsequent amendments. The original applicants, Headlands Properties Inc. and Gateway Properties recorded such a deed restriction in 1981. The deed restriction applies to lot G, which is located outside the urban limit line and identified in your application as the "remainder lot." Pursuant to conditions 1a and 3a, any further division of lot G except for park purposes is not permitted. Your application would divide lot G for a purpose other than park purposes. Your proposal also would include other development on lot G, outside the urban limit line, that is not for park purposes, in the form of modifications to the tract debris basin, which is inconsistent with condition 3b. Therefore, the Executive Director rejects your application because it proposes development that would conflict with the permit conditions that apply to lot G, and would thus lessen or avoid the permit's intended effect.

Special Condition 2 – Dedications and Maintenance

Land Outside the Urban Limit Line

Special Condition 2 establishes a method for maintaining the land outside the urban limit line. It requires that the land be offered for dedication. First, in 1981 it required the land outside the urban limit line to be offered in fee to the State. In a subsequent amendment, the Commission agreed to add the City or a Private Association approved by the Executive Director as possible agencies accepting fee ownership. A second provision of condition 2 requires that the applicant's offer to dedicate Parcel G be made concurrently with the recordation of Tract 31935, and that it be valid for 21 years from the date of that recording. The applicable paragraphs of the condition state:

Dedication...As final maps for the respective four tracts (noted below) are recorded, said offers shall be irrevocable as to specified parcels for 21 years thereafter and shall require dedication in fee of such specified parcels upon acceptance by the State of California or its agent. The offers of dedication shall contain the following provisions as to the parcels specified below:

...

c. Tract 31935. Within 30 days following the recordation of a final map subdividing tract 31935 the applicant shall record an irrevocable offer to dedicate the full fee interest in the approximately 386 acres adjoining the portion of Tract 31935 to be developed (shown as areas D and G in Exhibit 2)...

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In 1993, when the present owner applied for an after-the-fact permit for some gates on interior streets of the "Enclave" portion of tract 32184, the applicant's representative testified that all of lot G had been accepted by either State Parks or the City of Los Angeles Department of Recreation and Parks. Tax records show that a considerable area within lot G, including land that you propose to annex to your individual lot 81 is owned by State Parks. The California Department of Parks and Recreation confirms this. The part of lot G that the applicant claimed in 1993 had been accepted by the City was accepted according to a 1981 ordinance that allowed the Department of Recreation and Parks to accept all land outside the urban limit line that the State might be unable to accept. As we understand it, the City did accept the strip between the State Park land and the outer boundary of tract 32184 (part of lot G), but claims subsequently to have returned it to the applicant. Tax records indicate that this land is now held by the Headlands Properties Inc.

Irrespective of ownership, this condition does not allow the sale of any part of lot G, as it is to be dedicated in fee. . Your proposal also would involve the transfer of land within lot G, which is inconsistent with condition 2c. Therefore, the Executive Director rejects your application because it would again conflict with a permit condition that applies to lot G, and would thus lessen or avoid the permit's intended effect.

Land Within the Urban Limit Line

"Private Open Space." In 1987, Palisades Resources, the previous owner, applied for an amendment to adjust the urban limit line because reconstructive grading was necessary to prevent landslides from occurring along the portion of its property that lay closest to Temescal Ridge (A-381-78A7). The City of Los Angeles Department of Building and Safety had required this land to be excavated, benched and recompacted to prevent any possibility of landslides resulting from the adverse bedding planes that underlay the land north of the then tract boundary. The Commission approved that grading and an adjustment of the urban limit line, consistent with two exhibits prepared by the Palisades Resources, PH87-4 and PH87-14. This action created lots 41, 42 and 43 in land that was previously identified as portions of lots E and G, public open space. The maintenance of the resulting engineered slopes was addressed in condition 2g of the permit as amended in 1987.

> (2) g. Maintenance of private open space. The applicant shall demonstrate to the Executive Director that adequate legal instruments exist to maintain the slope and open space areas identified in map PH87-4. The applicant has agreed to maintain the slope areas adjacent to the development, and upon completion of development to transfer this obligation to the Homeowners' association(s) in accordance with City conditions 13j, 21, 22, and 23. Some of this land is subject to landscaping conditions and fire control setbacks. The applicant or the successor in interest shall maintain the slope areas shown on PH 87-4, and areas identified for special planting using native, fire-resistant vegetation of the Oak Savannah, Coastal sage scrub and chaparral communities, and fuel modification and erosion control techniques approved by the Executive Director.

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> Within the areas designated as slope areas on the PH87-4 plan there shall be no structures with the exception of park and maintenance facilities such as trails, drainage channels, park furniture and vehicle entry gates. The grading shall be limited to that approved in this amendment.

In the ninth amendment, in 1988, the Commission added language to condition 2g addressing this private open space land, which, again, included all land noted in PH-87-4, the land now identified as lots 41, 42, and 43.

> To protect State Park lands from conflict with the fire control needs of the community, Headlands Properties or its successor in interest shall either redesign the lot lines so that no private lot lies closer than 200 feet from the land dedicated to the State Park system or shall develop and record on the final tract map, an easement that retains the right of entry and maintenance of privately held slope areas within 200 feet of the State Park for the homeowners association. The restriction shall prevent future homeowners from construction of combustible structures within the area identified as slope area. The easement or restrictions shall be subject to the review and approval of the Executive Director be binding on heirs an assigns, and be recorded free of prior liens, and shall be valid for the duration of the subdivision. [New condition in response to private maintenance of open space]

This addition to Condition 2g provides that, *if* lots within 200 feet of State Park land are transferred, the seller must provide an easement for "entry and maintenance of privately held slope areas within 200 feet of the State Park for the homeowners association". Your proposal also would involve the transfer of land within lot 41 that is within 200 feet of the State Park land, without providing an easement, which is inconsistent with condition 2g. Therefore, the Executive Director rejects your application because it would conflict with a permit condition that applies to lot 41, and would thus lessen or avoid the permit's intended effect.

Please also note that condition 2g says that the "obligation" (to maintain the area) shall be transferred to the Homeowners' Association. It states that the Homeowners Association in conformance with underlying tract conditions shall maintain the private open-space land. By effecting the transfer of part of lot 41 to you without reserving the ability to transfer the maintenance obligation to the Homeowners' Association, your proposal would also conflict with this requirement.

Under the terms of this condition private open -space lots fewer than 200 feet from State Park Land, if they are transferred, must allow entry to a public entity or Homeowners Association for purposes of fire control. Your proposed new lot does not maintain this distance from State Parks land nor does it provide the required easement, so the staff cannot accept the amendment.

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Special Conditions 7 and 8 – Public Trail

Because your proposal involves lot 41 there is an additional issue with the respect to the public trail. The public trail to Temescal Ridge crosses lot 41 and is required in the underlying permit and amplified in amendments A7, A9 and A11. We also note this requirement of the permit, which is not addressed in your proposal.

Amendment A7 states

7. Park Facilities.

Concurrent with the grading of Lots 86 and 87 of Tract 32184, the applicant shall construct trailhead facilities (including a 6 - 10 car parking lot, gates and signs) in vicinity of said Lots 86 and 87 substantially as shown in applicant's Exhibit A-1, so as to provide foot trail access to an existing trail on Temescal Ridge. The applicant shall also construct a restroom facility in the vicinity of Palisades Highlands at a location designated by the State Department of Parks and Recreation in Topanga State Park or on the dedicated lands. If the applicant is unable to construct the restroom prior to completion of Tract 32184, the applicant may post a bond in an amount sufficient to fund construction by the State if such facilities are determined to be necessary by the Department of Parks and Recreation. All facilities shall be constructed to the usual specifications of the Department of Parks and Recreation, and shall be turned over to the Department for operation and maintenance.

Amendment A9 states, in part:

8) Completion of Trail Access Improvements required in condition 7

Prior to transmittal of the authorization of this amendment the applicant shall provide evidence that the following improvements to the accessibility of the dedicated open space areas will be completed according to the time schedule indicated below, but in all events, before construction of condominium units authorized by this amendment in Tract 32184 begins.

The improvements shall be approved by the Executive Director and shall conform to the design standards of the accepting agency.

Amendment A11 states

d) Temescal Ridge Trailhead. Concurrent with the construction of streets and utilities approved in this tract, the applicant shall construct the improvements proposed for the Temescal Ridge Trail head, including signs, a 12 car parking facility and public restroom. The final designs must be reviewed by the accepting agency prior to construction. The trailhead may be transferred to the City of Los Angeles Department of Recreation and Parks for purposes of maintenance and liability, or other public or non-profit agency approved by the Executive Director. The applicant or its successor in interest shall maintain the trail and engineered slope to Temescal Ridge from Calle Nancy as part of the other open space maintenance agreed to in

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this permit. More specifically the applicant shall provide a public access/recreation signage program subject to the review and approval of the Executive Director, that provides that, at a minimum, signs will be conspicuously and appropriately placed to adequately identify the location of the Temescal Ridge Trailhead. The program shall include, at a minimum, posted signs located on both sides of Chastain Parkway West at the intersection of Calle Deborah. Signs shall also be posted at the intersections of Chastain Parkway West/Palisades Road, Calle Deborah/Calle Nancy and Calle Deborah/Calle Alicante.

The City and the Commission both required the debris basin and fire buffer and the private open space to be maintained by an entity responsible to the owners of the entire tract, and established by the permit conditions –the Homeowners Association in the case of lot 41. Lot G must be held in fee by a public entity or private association approved by the Executive Director. Consequently, the Executive Director has determined that your request to amend the original permit A-381-78 and amendments would lessen or avoid the intended effect of the Commission's prior actions on Coastal Development Permit A-381-78 (as amended). Section 13166(A)(1) of Title 14 of the California Code of Regulations states:

An application for an amendment shall be rejected if, in the opinion of the Executive Director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted.

As discussed in telephone conversations with your representative, Shannon Nonn, you have not presented any newly discovered material information that would allow the Executive Director to accept a permit application for subdivision of land outside the urban limit line for private use. This is inconsistent with Conditions 1a, 3a and 2c. Development on private open space that is within 200 feet of the State Park that does not leave an easement for its maintenance is inconsistent with condition 2g. Therefore, your amendment application is rejected.

The amendment application must be rejected for the reasons above. In addition, even if the scope of the application were acceptable, the submittal would not be adequate because your agent submitted it with inadequate proof of ownership, and inadequate review from the planning department for its conformance with underlying tract conditions. The proposed parcel map appears to propose to divide land that is owned by State Parks. Our records show that state parkland is located within 200 feet of the boundary of the subdivided lots of tract 32184. While you have provided a signed option between Mr. Fryzer and Mr. Miller, there is no proof that the seller owns the property, and no indication of the recorded tract map conditions. Condition 2g seems to affect the rights and obligations of the tract homeowners association, yet there is no evidence that these owners are co-applicants in this request or even that they agree with the request. The

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proposed parcel map and the illustration on the option agreement are mutually inconsistent.

If you believe there is information that we do not have in our permit files (such as title reports, deeds, or other ownership information) that would allow the staff to accept the application for an amendment you may submit such documentation with a new permit amendment application. In support of the submittal, you should provide information showing how the lot lines you show are consistent with lot lines approved by the Commission. At that time we will evaluate this information to determine if it is consistent with the Commission actions taken on Permit No. A-381-78 as amended. We are returning the application materials. A refund of your application fee will be sent under separate cover.

If you have any questions regarding this matter, please call Pam Emerson or Aaron McLendon of the South Coast District Office at (562) 590-5071.

Sincerely,

Pam Emerson
Los Angeles Area Supervisor

Aaron McLendon by PE
Aaron McLendon
Coastal Program Analyst

cc: Headlands Properties Associates, Edward Miller, CEO
Shannon Nonn
Chuck Yelverton
Leonard Liston
Robert Janovici, Chief Zoning Administrator, City of Los Angeles
Russ Guiney, Department of Parks and Recreation
Teresa Henry, South Coast District Manager California Coastal Commission
Deborah Lee, Southern California Deputy Director California Coastal Commission
Grace Noh, Enforcement Officer, South Coast District
Gregory Shoop, Planing Department City of Los Angeles
Emily Gabel-Luddy, Planning Department, City of Los Angeles
Eugene Dudley, City of Los Angeles Department of Recreation and Parks
Councilwoman Cindy Miscikowski, City of Los Angeles
Lisa Gritzner

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REPORT OF GENERAL MANAGER NO. 204-89

DATE April 10, 1989 C.D. 11

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: Santa Ynez Canyon Park Addition: Acceptance of Grant Deed for 108.46 Acres of Additional Open Space Along Palisades Drive

*JB ✓ GWR ____
SNJ ____ DG ____
SEK ____ JT ____
JR ____

General Manager

Approved X Disapproved ____ Further Report ____

RECOMMENDATION:

That the Board:

1. Accept the Grant Deed for the conveyance of 108.46 acres of additional open space property from Headland Properties Associates along Palisades Drive adjacent to our Santa Ynez Canyon Park; and,

2. Direct the Board Secretary to transmit the Grant Deed to the Department of Public Works, Title Officer, for recordation, and to transmit a copy of the recorded deed to Headland Properties Associates.

SUMMARY:

In conjunction with their development of the Palisades Highlands located northerly of Sunset Boulevard off of Palisades Drive, the Headland Properties Associates have offered to convey via Grant Deed a 108.46 acre parcel of open space to our Department. The subject property is located southerly of and directly adjacent to our Santa Ynez Canyon Park as shown on the attached exhibit.

Headland Properties originally deeded 48.46 acres of Santa Ynez Canyon Park to the Department in 1972. They deeded an additional 25.17 acres to the Park in 1981 bringing the total to 73.63 acres. The above properties were offered to fulfill their Quimby requirements.

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REPORT OF GENERAL MANAGER

PG. 2 NO. 204-89

Due to a reduction in residential density imposed by the California Coastal Commission, 108.46 acres of open space was offered to the Department by Headland Properties.

On May 7, 1981, the City Council adopted Ordinance No. 155,203 authorizing the Department of Recreation and Parks to receive and record grant deeds for several parcels of property including the subject 108.46 acres. These additional dedications will be completed on an incremental basis as various tracts within Headland Properties Associates holdings are recorded.

It is anticipated that the Department will receive an additional ±292 acres of open space as these additional tracts are recorded. Including the previously dedicated 73.63 acres, plus the subject 108.46 acre dedication, and the estimated future dedication of 292 acres, the Santa Ynez Canyon Park will be comprised of a total of approximately 475 acres.

Headland Properties has previously dedicated 95.48 acres to the State Department of Parks and Recreation as an addition to Topanga State Park with an additional estimated 536 acres to be dedicated in the near future.

The 108.46 acres plus the future dedication of ±292 acres will be designated as open space and used for picnicking and hiking into the adjacent Topanga State Park.

The Assistant General Manager, Pacific Region, and Councilman Braude of the District endorses the acceptance of this property by the Board.

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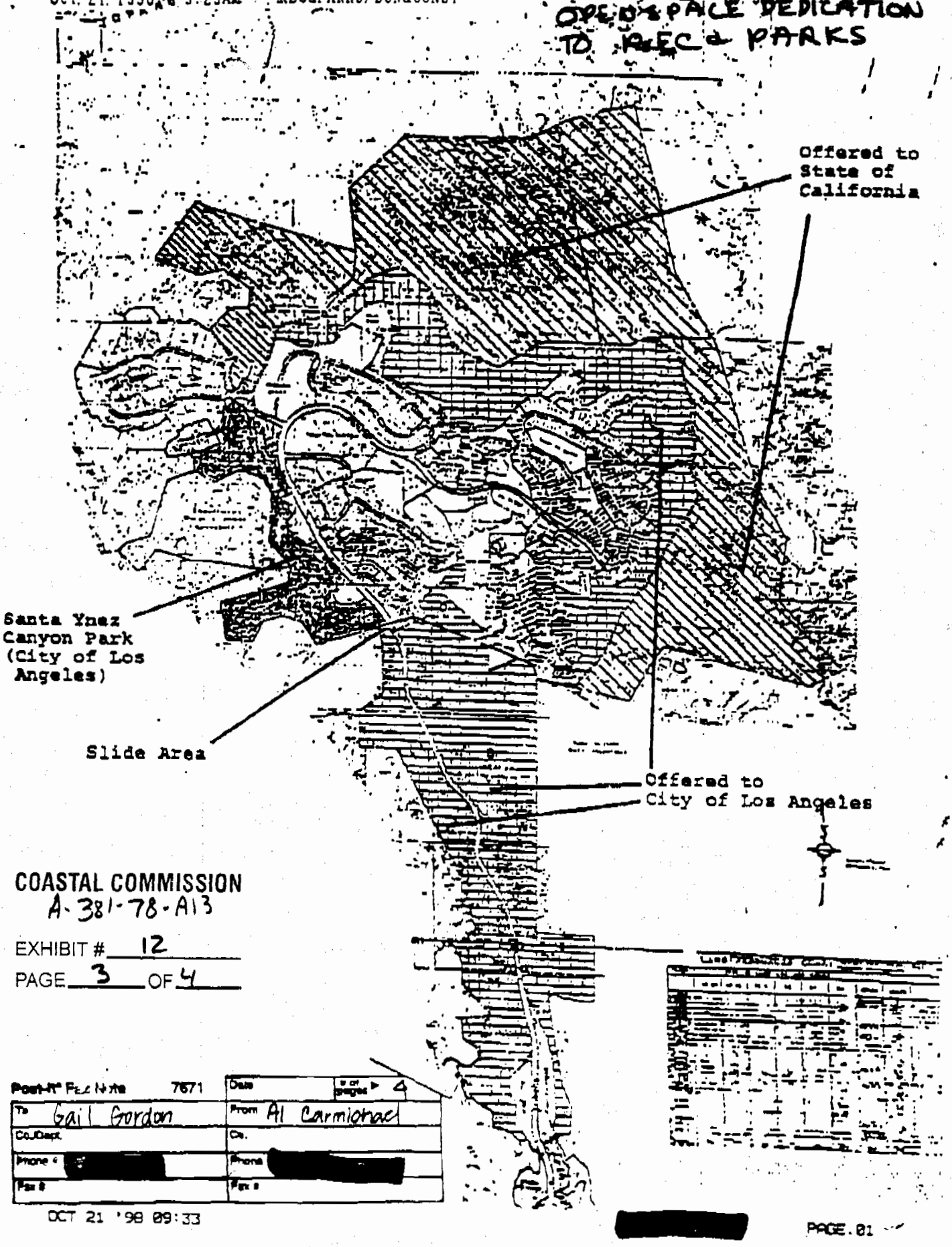
OPEN SPACE DEDICATION TO REC & PARKS



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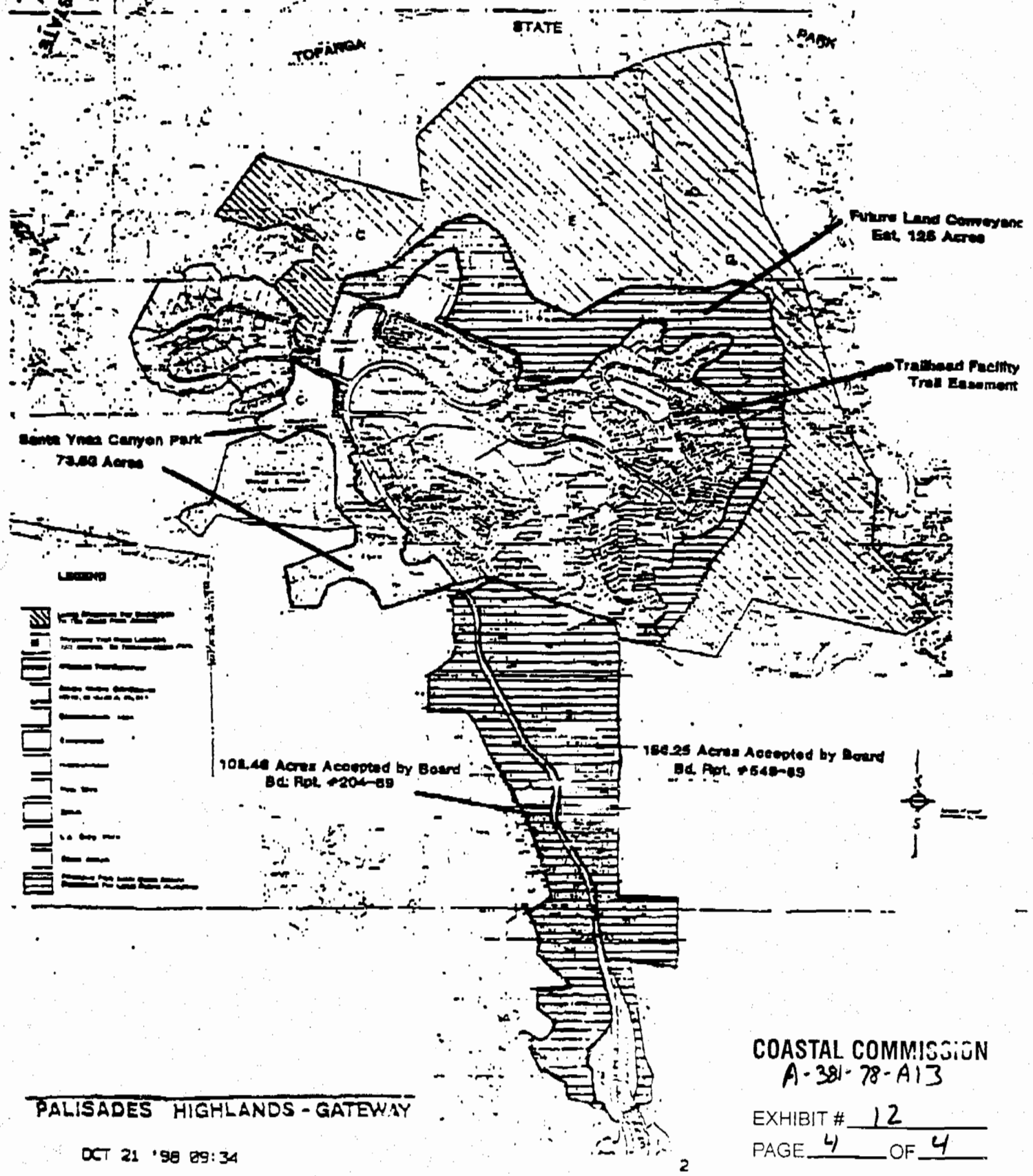
Post-it Fax Note 7671	Date	# of pages ▶ 4
To Gail Gordon	From Al Carmichael	
Co./Dept.	Co.	
Phone # [redacted]	Phone [redacted]	
Fax #	Fax #	

SANTA YNEZ CANYON PARK MASTER PLAN



PALISADES HIGHLANDS - GATEWAY

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ORDINANCE NO. 155203 & 47

An Ordinance authorizing acceptance of dedication or conveyance of real property for park and recreational purposes to serve future inhabitants of proposed subdivisions and providing that the land so dedicated may be credited against dedications or fees required for said proposed subdivisions, and consenting to the relinquishment of an agreement right to obtain a dedication of certain other real properties for park and recreational purposes.

THE PEOPLE OF THE CITY OF LOS ANGELES

DO ORDAIN AS FOLLOWS:

Section 1. Headland Properties, Incorporated and Palisades Resources Incorporated have filed tentative tract maps and preliminary Parcel maps and will file additional tentative tract maps and preliminary parcel maps and will file final subdivision maps and parcel maps for the subdivision of certain lands located in the Pacific Palisades area of the City of Los Angeles. Said lands proposed for subdivision are shown on the map attached to Council File No. 73-2040 S which number appears at the end of this ordinance and which map is identified as "Master Plan, Palisades Highlands" and is dated February 4, 1981. The said lands proposed subdivision are outlined in red on said map and are also identified by the following numbers:

Tract No. 41661, P.M. 14109, P.M. 14108

Tract No. 41662, P.M. 3947 Tract No. 41709, Tract No. 41710, Tract No. 31935, Tract No. 32184, and unnumbered "P.M."

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CA 146

lying between Tract No. 41710 and 31934, Tract 34923, and Tract No. 31070.

Sec. 2. As a condition of said subdivisions, Headland Properties must dedicate or convey to the City of Los Angeles 25 acres of real property for park and recreational purposes, which 25 acres are identified on said map as "to be dedicated to L.A. City Park." It must also dedicate or convey to the State of California 95.4 acres of real property, which real property is identified on said map as "to be dedicated to State of California," and an additional approximately 857 acres identified on the map with the letters "A," "B," "D," "E," and "G." The 25 acres of land to be dedicated or conveyed to the City of Los Angeles will satisfy all requirements of California Government Code Section 66477 and Los Angeles Municipal Code Section 17.12 (known as "Quimby" statute and ordinance) for dedication of land for park and recreational purposes as a condition of subdivision of the lands proposed for subdivision. Pursuant to Los Angeles Municipal Section 17.12-F-2, it is intended that the dedication or conveyance of said 25 acre parcel as a condition of the first subdivision of any of the lands proposed for subdivision shall also satisfy the park and recreational dedication requirement for all of the lands proposed for subdivision. It is,however, the desire of the City that should the dedications or conveyances to the State of California not be made, revoked, terminated, or rejected, then the City shall have the opportunity to obtain all of the parcels or any portions thereof which were "to be dedicated to the State of California" or which are identified with the letters "D," "E" and "G" as City-owned recreation and park or open space land,

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should it choose to obtain same.

Sec. 3. The Council of the City of Los Angeles hereby finds and determines that the public interest and convenience requires the dedication or conveyance of the said 25 acre parcel of real property to the City of Los Angeles for park and recreational purposes; and pursuant to Section 17.12-F-2 of the Los Angeles Municipal Code the Council authorizes the acceptance of said land as a credit for the dedication requirement for all of the parcels proposed for subdivision, as identified above, or any resubdivision or subsidary subdivision thereof; and if the City of Los Angeles receives clear title to said 25 acre parcel of land for park and recreational purposes as a condition of the first subdivision, no further dedication of lands or payment of fees in lieu thereof shall be required as a condition of subdivision of any of the other parcels identified on said map as proposed for subdivision. Provided, that this acceptance is authorized only if concurrently with the conveyance or offer of dedication of the 25-acre parcel, an offer is made to the City of Los Angeles for recreation and park and/or open space purposes describing all of the land identified as "A," "B," "C," "D," "E," and "G" on said map, said offer to be irrevocable, but said offer shall provide that it may be accepted only as to such portions of the land for which the conveyance or offer of dedication to the State of California is revoked, expired, or rejected by the State of California.

Sec. 4. The Council of the City of Los Angeles further approves of the release of a promise made by Healland Properties Incorporated in April, 1969 to donate approximately 150 acres of land to the Department of Recreation and Parks.

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the Board of Recreation and Park Commissioners on September, 1969, as the conveyances to the City and State mentioned above all satisfy the objectives of said promise.

Sec. 5. The Department of Recreation and Parks and/or the City Engineer are authorized to receive and record a grant deed or deeds to the real property identified as "to be dedicated for L.A. City Park" conveying same to the City of Los Angeles for park or recreational purposes and to receive and record offers of dedication of the land which is "to be dedicated to the State of California" and also which is identified with the letters "A," "B," "D," "E," and "G," which offers of dedication shall be conditioned as described above.

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Sec. 6 The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of MAY 7 - 1991.

REX E. LAYTON, City Clerk,

By Edward L. Ashdown
Deputy.

Approved

Mayor.

Approved as to Form and Legality

April 23 1981

BURT PINES, City Attorney,

By
NORMAN L. ROBERTS, Asst. City Attorney

File No. 73-2040 S

City Clerk Form 23

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CALIFORNIA COASTAL COMMISSION
631 Howard Street, San Francisco 94105 — (415) 543-8555

REVISED FINDINGS
AMENDMENT TO PERMIT.

Permit No. 381-78
(Headland Properties)
Amendment Approved: 5/21/80
Findings Adopted: 6/4/80

AMENDMENT APPLICANT: Headland Properties Inc.

DEVELOPMENT LOCATION: Palisades Drive, Pacific Palisades, City of Los Angeles

AMENDMENT DESCRIPTION: (See Conditions and Findings)

COMMISSION ACTION: Amendment Approved: May 21, 1980; Findings Adopted June 4, 1980

I. Approval With Conditions.

The Commission hereby grants an amendment to the permit as described below, subject to the conditions below, on the grounds that, as conditioned, the amendment will be inconformity with the provisions of Chapter 3 of the California Coastal Act of 1976, 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 of Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Conditions

The permit is subject to the following conditions:

1. Scope of Approval.

a. This permit amendment authorizes subdivision of 4 tracts of Palisades Highlands, for up to 740 residential units, a two-acre commercial site and a 7-acre institutional site, grading for all streets and lots, installation of drainage and utilities and construction of residential units as described in the attached Findings and Declarations. All grading, structural development, and subdivided lots shall be located entirely within the urban limit line, as described in the surveys and maps prepared by VTN Engineers and submitted by Applicant to the Coastal Commission on March 21 and 26, 1980, and [illegible] Coastal Commission files as approved Applicants Exhibits A-1, B-1 and B-2, except as provided below. (See Exhibits 4 and 5).

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Upon notice to the Executive Director, the applicant may reduce the number of multiple family units and replace them with single-family units. The Executive Director shall approve such minor modifications to the project provided that there is no increase in the area graded or in the amount of traffic generated by the project, there is no interference with the provision in this permit for low and moderate income housing, and the modifications are otherwise consistent with this approval.

b. Concurrent with the development of Tract 31935, the applicant shall construct an emergency access road and pedestrian-bicycle path as generally indicated in Exhibit 4, between the southern terminus of public roadways serving Tract 31935 and the southern boundary of applicant's property. The road shallbe designed and constructed so as to require the minimum amount of land form alteration and to provide/emergency entry to and exit from the Palisades Highlands development. The road shall be wide enough to accommodate two lanes of vehicles and meet the minimum specifications of the City of Los Angeles but at no point should the road width exceed 20 ft. Cuts and fills required for the construction of the road shall be the minimum required by the City of Los Angeles.

c. Subject to the review and approval of the Executive Director, in areas outside of urban limit line : minor grading may be performed to re-contour previously graded land; paved or unpaved pathways and other incidental improvements for low intensity recreation may be constructed; minor facilities to provide public or utility services which do not require significant grading may be installed if alternative locations are not feasible; vegetation within 100 ft. of any residential structure may be removed or altered for fire protection purposes.

2. Dedication. Within 10 days following the issuance of this permit, Applicant and Palisades Resources, Inc. (a co-applicant) shall record offers to dedicate to the State of California all of the property lying outside the urban limit line. Such offers shall be of a form and content approved in writing by the Executive Director. Such offers of dedication shall be irrevocable for a period of 7 years, except in the event of revocation of this permit. As final maps for the respective four tracts (noted below) are recorded, said offers shall be irrevocable as to specified parcels for 21 years thereafter and shall require dedication in fee of such specified parcels upon acceptance by the State of California or its agent. The offers of dedication shall contain the following provisions as to the parcels specified below:

a. Canyon Park. Concurrent with the recordation of a final map for Tract 34923 and prior to construction of residential units on such tract, the applicant shall record an irrevocable offer to dedicate the full fee interest in approximately 120 acres of land in Santa Ynez Canyon north of the existing City park and west of Palisades Drive (areas C and C-1 in Exhibit 2). With the exception of tax liens and the prior offer of dedication of such property to the City of Los Angeles Park Commission, the dedication shall be free of all prior liens and encumbrances. The applicant shall use best efforts to secure the waiver of the City Parks Commission to such prior offer of dedication. However to promote the most efficient and orderly operating and maintenance of these parklands, the applicant may withdraw the offer in favor of the State with regards only to the approximately 25 acres south of Avenida de la Montura (area C-1, Exhibit 4) and adjacent to the existing City park, provided that the City Park Commission accepts the dedication of area C-1 for operation as a City park.

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b. Gateway. Concurrent with the recordation of a final map subdividing the Gateway Tract, Palisades Resources, Inc., shall record an irrevocable offer to dedicate the full fee interest in approximately 297 acres of land outside of the urban limit line on the Gateway tract established pursuant to Condition 1 above (generally shown as areas A and B in Exhibits 2 and 5).

c. Tract 31935. Within 30 days following the recordation of a final map subdividing Tract 31935 the applicant shall record an irrevocable offer to dedicate the full fee interest in the approximately 386 acres adjoining the portion of Tract 31935 to be developed (shown as areas D and G in Exhibit 2).

d. Tract 32184. Within 30 days following the recordation of the final map subdividing the first unit of Tract 32184 the applicant shall record an irrevocable offer to dedicate a full fee interest in the approximately 338 acres shown as area E in Exhibit 2.

e. Permit Expiration. In the event the obligation of Palisades Resources, Inc., and applicant to dedicate all of the property lying outside the urban limit line does not occur within seven(7) years after issuance of this permit, applicant shall be obligated to surrender and abandon this permit upon expiration of such seven year period and this permit shall have no further force or effect insofar as this permit pertains to any property not then subject to a final subdivision map.

f. Road Easements. Prior to recordation of any final maps for the authorized development, the applicant shall grant to the State of California all of the applicant's interests in road easements through Topanga State Park, including Palisades Drive extension to Mollholland Drive and Temescal Canyon Road towards Sunset Boulevard.

3. Restrictions. Concurrent with the recordation of final maps as noted in 2a,2b, 2c, and 2d above, the applicant shall record an instrument covering such parcels in a form approved in writing by the Executive Director. Such instrument shall be considered a covenant running with the land in favor of the people of the State of California, shall be recorded free of prior liens and encumbrances except tax liens and shall bind the applicant and all successors in interest. Such instrument shall provide specifically as follows:

a. Prevent further division of such dedication parcels for any purposes except park purposes outside of the urban limit line.

b. Prevent development outside of the urban limit line except as permitted by this permit or for park purposes.

c. Waive all claims against the public for damages due to flood, fire or geologic instability which may arise as a consequence of approval of development within the permitted tracts.

4. Landscaping Plans. The Applicant has submitted landscaping plans and specifications for Tract 31935 and 32184, which have been reviewed and approved by the Executive Director. The final landscaping plans shall provide that slope areas exposed by grading or other construction shall be revegetated with primary endemic

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drought and fire resistant vegetation. On Tracts 31935 and 32184, landscaping shall be designed to screen and soften the visual impact of the project as seen from Topanga State Park. The areas of special landscaping concern (identified in Exhibit 4) shall be screened from view by a combination of berms and extra vegetation in conformance with the preliminary landscaping plan submitted by the applicant. No further review of landscaping plans for Tracts 31935 and 32184 is required. Landscaping plans for the Gateway shall be submitted for review and approval by the Executive Director prior to the start of construction of any units on the Gateway.

5. Archaeological Site. Prior to the development of Tract 32184, the applicant shall undertake or fund a thorough examination and test excavation of Archaeological Site LAn - 666 as recommended in the archaeological investigation performed by Roberts S. Greenwood in June of 1976. The examination and test excavation shall be performed under the direction of a qualified Archaeologist. Development of Tract 32184 shall not proceed until excavation of all significant features of site LAn - 666 is complete. The Archaeologist shall be notified of and allowed to observe all brush clearing and grading operations within the permitted development. All contractors and construction personnel shall be advised of the potential existance of other archaeological resources; all work shall be halted and professional consultation be obtained promptly if prehistoric materials are encountered or suspected in the process of development.

6. Housing. Prior to issuance of the permit, the applicant shall enter into an agreement with the Coastal Commission to provide for affordable housing as stated below. The agreement shall bind the applicant and any successors in interest and shall be recorded as a covenant to run with the land, with no prior liens other than tax liens. The agreement shall be recorded as a covenant on the 75 unit residential site on the Gateway ± (as shown in Exhibit 5) and Lot 193, Tract 32184 as shown on Exhibit 4 . The agreement shall provide:

a. The applicant shall either provide 60 units of affordable dwelling units, subject to resale controls, at prices which are affordable to low and moderate income persons earning from 50-120% of median income on Lot 193, Tract 32184, or 100 units of affordable housing in the same manner on the Gateway site if and when that site it rezoned to allow such development.

b. When and if the Gateway tract is rezoned to allow for the provision of the 100 affordable units described above, the restriction on Lot 193, Tract 32184 shall terminate.

c. Upon issuance of a certificate of occupancy as to 60 affordable housing units on Lot 193, Tract 32184 or 100 affordable housing units on the affordable housing site in the Gateway the agreement shall terminate as to the 75 unit residential site in the Gateway.

d. If five (5) years after the date of the rezoning of the affordable housing site in the Gateway no construction has commenced for affordable housing thereon and if applicant thereafter dedicates the fee interest in the affordable housing site to a public housing agency the agreement to construct such affordable units shall terminate as of the date of recordation of such dedication.

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e. Prior to the applicant commencing construction of the affordable housing or prior to the dedication referred to in paragraph d, applicant shall enter into an agreement, approved by the Executive Director, with a public housing authority or other agency acceptable to the Executive Director, providing that such agency agrees to construct if necessary and administer the affordability (resale) controls provided for in the Commission agreement.

f. The units shall be priced to be affordable to the range from 50-120% of median income so that an equal number of units is available in each of the following price ranges: 50%, 60%, 70%, 80%, 90%, 100%, 110%, and 120%. At least one third of the units in each range shall be three bedroom units of at least 1000 square feet. All other units, if any, shall be at least 600 square feet. Up to two thirds of all the units may be designated for elderly, and at least one third shall be designated for families.

g. The sales price in each range shall be determined by the following formula:

$$\text{Sales Price} = \frac{(1/3)(\text{median income})(\text{family size adjustment})(\text{income range}) - (\text{Homeowners Association Dues + Insurance Premiums})}{(\text{Debt Service Constant Percent})(\text{Loan to Value Ratio}) + 1\%}$$

The family size adjustment shall be as follows: for a one bedroom unit, 80%(.8); for a two bedroom unit, 95% (.95); for a three bedroom unit, 108.5% (1.085). Median income shall be the median income for a family of four as last calculated by HUD prior to the issuance by the Department of Real Estate of the Public Report for the units.

h. The affordable units shall be offered for sale subject to controls on resale, substantially as provided in the Commission's guidelines, subject to the approval of the Executive Director, in order to assure continued affordability.

i. No residential development shall take place on the 75 unit residential site in the Gateway until such site shall have been released from the agreement in accordance with either 6c or 6d above.

7. Park Facilities. Concurrent with the grading of Lots 86 and 87 of Tract 32184, the applicant shall construct trailhead facilities (including a 6-10 car parking lot, gates and signs) in vicinity of said Lots 86 and 87 substantially as shown in Applicant's Exhibit A-1, so as to provide foot trail access to an existing trail on Temescal Ridge. The applicant shall also construct a restroom facility in the vicinity of Palisades Highlands at a location designated by the State Department of Parks and Recreation in Topanga State Park or on the dedicated lands. If the applicant is unable to construct the restroom prior to completion of Tract 32184, the applicant may post a bond in an amount sufficient to fund construction by the State if such facilities are determined to be necessary by the Department of Parks and Recreation. All facilities shall be constructed to the usual specifications of the Department of Parks and Recreation, and shall be turned over to the Department for operation and maintenance.

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III. FINDINGS AND DECLARATIONS:

The Commission finds and declares as follows:

1. Amendment Description. The proposed amendment to this development permit consists of expanding its scope to authorize: (a) the division of acres on Tract 31935 into 137 lots for 133 single-family dwellings, 2 lots for a total of 50 condominiums (the condominiums may require a local government rezoning at a later date), one recreation lot and a 30-acre open space lot; (b) the division of 115 acres on the remaining undeveloped portion of the Palisades Highlands (Tract 32184) into 260 lots for 257 single-family dwellings, 1 site for 60 condominiums, a recreation lot and an approximately 8-acre open-space lot; (c) the division of approximately 322 acres in the "Gateway" area (immediately northerly of the intersection of Sunset Boulevard and Palisades Drive) into six separate parcels: a 10 acre site for 75 market price residential units; about 7.5 acres for church, school, or similar public serving institutional use; a commerical and parking site of approximately 2.5 acres; a site of approximately 5 acres for 100 units of affordable housing; and 2 parcels for permanent open space totalling 297 acres to be dedicated to the public; (d) the development of a 6 acre graded site into 64 condominium units on Tract 34923. The project would include approximately 3.5 million cubic yards of grading in the Palisades Highlands, and additional, comparatively minor, grading in the Gateway, for streets and building pads, and installation of drainage facilities, utilities, streets, landscaping, and improvement of the active recreational site in Tract 31935 (Exhibit 4);(e) a 1 acre recreation site adjacent to the westerly boundry of Tract 31935; and, (f) construction of single family dwellings and condominium units on each of the permitted tracts consistant with applicable City zoning standards.

The Palisades Highlands portion of the project site is vacant and in a natural state except for a small area on the north end of Tract 31935 where some grading and slope work was performed in connection with off-site improvements for another tract. The site is within Palisades Highlands which is 2 to 3 miles north of the shoreline on the southern slopes of the Santa Monica Mountains in the City of Los Angeles. Existing development in Palisades Highlands is set into a bowl graded out of Santa Ynez Canyon; the proposed tracts would be above and to the east of the existing development and along, below, and northerly of the ridge separating Santa Ynez Canyon from Pulga and Temescal Canyons.

The Gateway project site is located on both sides of Palisades Drive, immediately north of its intersection with Sunset Boulevard in the Pacific Palisades area of the City of Los Angeles. It is approximately one mile from the shoreline, and is not between the first public road and the sea. The site is adjacent to existing developed areas, and lies south of Palisades Highlands, at the southerly terminus of the Santa Monica Mountains in this part of Los Angeles. Except for Palisades Drive and a small frame structure on Parcel 1 used by applicant's employees, the site is vacant. The areas proposed for development were previously graded in conjunction with the construction of Palisades Drive and related facilities. About 25 acres of the site proposed for development are essentially level so that minimal additional grading will be required, and no alteration of significant landforms will occur. About 297 acres of the Gateway are in a natural state and would not be graded or otherwise developed.

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The Palisades Highlands portion of the project authorized in this amendment is the ninth and tenth of 10 major tracts approved or proposed in Palisades Highlands. The first eight tracts, containing 1018 dwelling units on 417 acres, ("Phase I" of the overall Headland project), are nearly complete. Included in this action is the approval of 64 condominium units on a 6 acre tract (Tract 34923), which is the last vacant site in Phase I. This site was once designated for commercial use. Because the Gateway will include about 2 acres of neighborhood commercial uses, the Commission can approve residential development on all of Tract 34923.

This action of the Commission authorizes 500 units in the Phase II area of Palisades Highlands, to be concentrated on about 185 acres in two separate tracts. The permit includes development of up to 183 dwelling units on Tract 31935, grading of roads and building pads and installation of necessary subdivision improvements (streets, sewers, drains, utilities, and recreational facilities) for up to 50 high density condominiums on about 6 acres and 133 single-family dwellings (RE-15 zoning). The Commission also approves, subject to conditions, development of 317 dwelling units on Tract 32184, grading of roads and building pads and installation of necessary subdivision improvements (streets, sewers, drains and utilities) for 60 high density condominiums on about 6 acres and 257 single-family dwellings (R-1 and RE-15 zoning) on the remainder of the tract. As proposed, this project -- 500 dwelling units on 185 acres -- would have a net density of 2.71 d.u./acre. Conditions requiring dedication of substantially more than 800 acres for State park purposes will reduce the effective density to significantly less than 1 d.u. per 2 acres. Current City zoning would allow 2.93 d.u./acre. This project was specifically exempted from application of the slop-density formula applied by the City to most other hillside projects within the area. However if the slope-density formula had been applied, development would have been limited to approximately 300 units in Phase II.

Finally, this action authorized all subdivision, minor grading, installation of subdivision improvements and construction of up to 175 multiple family residential units on 15 acres of the Gateway tract. The Gateway is also to be prepared for the development of about 25,000 square feet of neighborhood commercial uses and parking on a 3 acre site and community-institutional uses on a 7 acre site. Construction of institutional and commercial structures is not authorized by this permit, as sufficient detail of design has not yet been specified. As permitted, the residential components of the Gateway project, involving a total of 175 dwelling units on 15 acres, would have a net density of 11.66 u./acre. Conditions requiring dedication of 297 acres for open space park purposes reduce the effective density to 1 d.u./1.8 acres.

The Gateway portion of the project is not compatible with existing City zoning. Rezoning will be necessary to implement this portion of the project, and the conditions of this permit require the applicant to use best efforts to obtain it. While rezoning should be obtainable within 2 years, if the City of Los Angeles is willing to take such action, the need for rezoning will necessarily delay implementation of the project. For this reason, the Commission has allowed 7 years for the commencement of construction under this permit. The Commission finds that the departures from existing City zoning required by this action are reasonable and necessary to bring the project into conformity with the policies of the Coastal

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Act. Without them, the project could not be approved. The City's slop-density formula would have limited development on this site to about 50 residential units. However all 175 units approved in this action can be sited within already graded areas. The Commission has approved this higher density in order to reduce the amount of development in the Phase II area of Palisades Highlands, there by reducing the total amount of landform alteration. In addition, the higher density allows the applicant to provide 100 units of low and moderate cost housing at this site which is more convenient to bus lines, commercial uses and other community services, than would be sites in Palisades Highlands.

Conditions on this approval require the applicant to construct an emergency access road south from Tract 31935 to the southerly boundary of the applicant's property (adjoining the AMH project site), provide 100 units of low and moderate cost housing (especially for the elderly and families), to dedicate title to between 1067 and 1180 acres (depending on the final grading and tract boundaries) for public park purposes, and to vacate easements for road extensions through Topanga State Park. The Commission recognized that the four tracts are proposed for development in a integrated development plan. Thus the Commission has issued a single permit authoring all development (except as specified) necessary to complete these four tracts and does not intent that the applicant or his successor return for further permits, except for construction the commerical and institutional structures or the Gateway. Minor changes in design or unit which have no adverse affect on Coastal resources and which do not conflict with this approval, will be approved administratively by the Executive Director. Like all major land development projects, the project authorized by this permit will proceed in at least four major stages (one for each of the noted tracts). The conditions require permance of stated obligations (dedications, construction of facilities) phased with the development of associated tracts. However it is the intent of this Commission that this permit be considered a comprehensive and final approval, and not be voidable once any portion of the approved development is undertaken unless the applicant fails to comply with the conditions. As the development plan is integrated, so are the dedications required by the conditions. For it is only with the dedication of these lands for permanent preservation of visual ad landform resources and for public recreational use that the Commission can find the development of the four tracts on balance most protective of significant coastal resources. The dedication of these lands also provides a conclusion to the issue of continuing development in the area. With the approval of this amendment with the dedication of open space areas outside the last four tracts, the Commission and the applicant have achieved a compromise beneficial both to the public and to the developer, resolving once and for all the major Coastal Act issues of location and intensity of development, traffic impacts, amount of grading and provision of low and moderate cost housing. Therefore it is intended that once any portion of the permit is exercised or any offer dedication made, that the entire development and dedication plan proceed to completion as expeditiously as possible.

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2. Coastal Resources. The major issue in the Commission's July, 1979 action were: the density of the project as it affected the traffic impact on access to the coast, the extent of grading and alteration of natural land forms as it affected scenic habitat and recreational resources and the provision of housing opportunities for persons of low and moderate incomes. Approvals of this amendment authorizes an increase in the number of units in the total project from about 600 to about 740 units, with proportionately greater impacts on the local traffic network, substantial increase in the area to the graded in the Phase II (i.e., Tract 31935 and 32184) area of Palisades Highlands from about 100 acres to about 185 acres. However, the projects originally proposed and authorized by the City's District Plan for this area would have contained 1850 units on 445 acres. In all cases the balance of the 968-acre Phase II site would be either dedicated as open space or dedicated for park purposes. Both the July, 1979 permit and this amendment provide for 100 units of affordable housing to be located on the Gateway Tract.

a. Traffic. By limiting approval of units in the Highlands and by further finding that only 500 other units in addition to the 64 townhomes on Tract 34923 and 1 residential estate can be approved in the area, the Commission can find that the ultimate direct and cumulative traffic impacts would be substantially reduced to less than about 5000 vehicle trips per day.

As conditioned by the Commission to limit the total number of dwelling units to 175, the Gateway portion of the project will have an adverse impact on local and regional traffic circulation. If all 175 residential units were market price, the project might be expected to generate about 1650 vehicle trips per day. However, since 100 units will be for persons of low and moderate income, this estimate can be reduced substantially, since such persons generally own fewer cars and use those they own less frequently. Vehicle trip generation will be further mitigated by the provision of a 2.5-acre commercial and parking site which will reduce the need for residents to travel elsewhere to secure needed goods and services. Since the commercial site will serve the Palisades Highlands as well, it will also reduce to some extent vehicle trips over Sunset Boulevard and Pacific Coast Highway by residents in developments there. The total traffic generated by the 4 tracts will amount to about 6500 vehicle trips per day. The traffic impacts from development permitted as a result of this action is significant. Because of these impacts, these projects could not be approved but for the fact that the projects as conditioned will provide beneficial impacts by preserving natural landforms, habitats, scenic vistas, granting free of charge to the public substantial lands with significant recreational potential, and providing needed affordable housing in this area of the coastal zone.

b. Alteration of Natural Landforms. The 181-unit Tract 31935 development is designed to require about 1.5 million cubic yards (mcy) of grading, most of which is a cut to remove a hillside required in order to extend Palisades Drive, the only access to the proposed new tracts. The 317-unit Tract 32184 development is designed to require about 2 million cubic yards (mcy) of grading. The developed portions of the Gateway property under the project approved here would be limited to relatively flat areas adjacent to Palisades Drive; Grading will be minimized and no material alteration of natural landforms will occur. There are no views to or along the ocean from anywhere in the area to be developed on the Gateway tract; and hillside areas will be left virtually untouched.

The project EIR for the entire project originally proposed in Phase II notes that an additional 8.0 mcy of grading would be performed to build roadways and pads for an additional 1850 units. The presently revised plan for an additional 317 DU's in the

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remainder of Palisades Highlands would require only about 3.5 mcy, a reduction of more than 50%. Although grading for Tract 31935 averages about 1875 cubic yards of cut and fill for each dwelling unit, a large portion of this grading is necessary in order to satisfy the Secondary Access Road connection. Because of the need to make the road connection, the overall reduction of grading in the total project area and the fact that grading and lot placement has been sensitively designed to protect landforms (including the "Split Rock" formation in Tract 31935) and views of particular significance, it is determiend by the Commission that this landform alteration is consistent with Section 30251 of the Coastal Act. Visual impact of the grading will be mitigated by revegetation of exposed slopes and lots consistent with Coastal Act policies, and in conformity with approved landscaping plans.

The project would result in permanent alteration of approximately 145 acres of the 185 acres in Tracts 31935 and 32184. A firm Urban Limit Line is to be established with permanently preserved buffer areas designed to project the integrity of the local wildlife systems from both construction and residential impacts.

The project will result in alteration of only approximately 25 acres out of the total 322 acre Gateway property. The substantial acreage left intact will protect the integrity of local wildlife systems from construction and residential/commercial impacts. Based upon this fact the Commission finds this project does not involve any signifcant disruption of habitat values and is compatible with the continuance of surrounding habitat areas, so that it is consistent with the policies of Section 30240 of the Coastal Act.

The project is visually compatible with both the surrounding areas adjacent to Sunset Boulevard, which contain existing residential and commercial development, and with the Palisades Highlands to the north. The Commission finds that the minimal landform alterations involved are mitigated by the permanent preservation of far larger areas in a natural state. Within these conditions, the Commission finds that development on the Gateway would be consistent with the policies of the Coastal Act.

Although the amended permit allows for a significantly greater graded area, it is more protective of the undeveloped areas as they will be dedicated to park purposes. Thus, on balance the Commission finds that the project is protective of natural landforms, and, as conditioned, is consistent with Sections 30240 and 30251 of the Coastal Act.

c. Affordable Housing. Section 30213 of the Coastal Act provides that:

> ...housing opportunities for persons of low and moderate income shall be protected, encouraged, and where feasible, provided...

The Commission's Interpretive Guideline on New Construction of Housing, adopted on 22 January 1980, generally requires that 25 percent of the units in new residential developments be set aside for persons of low and moderater income. The Gateway development being approved in this action, considered by itself, significantly exceeds this minimum requirement by providing affordable housing which is 133 percent of the market price units proposed (100 vs. 75).

However, this Gateway project is being approved as part of a series of actions by the Commission intended to provide for the coordinated development, consistent with Coastal Act policies, of the Gateway and the remaining undeveloped portions of the

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Palisades Highlands. This combined development adds a total of 640 new market rate residential units to the housing supply in the Pacific Palisades area. (183 units on Tract 31935 (Appeal No. 381-78); 64 units on Tract 34923; 317 units in the remainder of the Phase II area of the Highlands; and 75 in the Gateway). The 100 units of affordable housing are only 15.6 percent of this total; and, were it not for the other significant public benefits provided by the project, the Commission could not find that the Coastal Act's affordable housing requirement had been met.

Section 30007.5 specifically contemplates balancing of competing Coastal Act policies, and requires that conflicts be resolved in a manner which is most protective of coastal resources. With respect to affordable housing, the Interpretive Guideline on New Construction of Housing specifically provides that the Commission may require a smaller percentage of affordable housing where a project includes significant other public benefits such as "extraordinary public access or parkland dedications". The Commission finds that the Gateway and Palisades Highlands projects being approved together clearly provide such extraordinary public benefits of open space park dedication and habitat and landform preservation that reduction of the general 25 percent requirement is appropriate.

The Interpretive Guideline on New Construction of Housing also requires the Commission to consider community need for lower cost housing. The Commission notes that Pacific Palisades has a relatively high proportion of demand for housing for elderly persons. Consequently the Commission has required that up to 2/3 of the units be reserved for this group. The Commission finds that the Gateway Tract is an appropriate location to provide the project's inclusionary units as it is located on the Sunset Blvd. bus line, across the street from a neighborhood commercial center, and within 1/4 mile of both a large food store and the beach.

Because the Gateway Tract is not zoned for multiple unit development, however, there is some potential that the affordable housing would not be allowed. Therefore, the Commission has required that a 6-acre condominium site in Tract 32184, large enough for about 60 units, be held available to provide an alternative location for inclusionary housing units. If the Gateway Tract is not rezoned for higher densities (RD-1.5 or RD-2) the condominium site in Tract 32184 would be used as the site for 60 units of affordable housing. It is the intent of this condition to provide assurance that low and moderate cost housing units be constructed by the applicant and provided for purchase by qualified members of the public within a resale control program administered by a local housing agency. Although the Commission prefers that affordable units be sited in the Gateway, if such location is not allowed a lesser number (60 units) must be provided in the Palisades Highlands Phase II area. In the event that the applicant is either unable or unwilling to construct the units, within 5 years securing City rezoning for the higher density affordable units (i.e. to RD-2), the applicant may dedicate the site to a local housing agency provided that the applicant receives housing agency agreement to construct and maintain the units and the Executive Director of the Commission approves such agreement. The Commission recognizes that agreement of the housing agency may depend upon the applicant providing sufficient funds to enable the agency to complete the project expeditiously and actually provide the housing opportunities such a provision is entirely within the intent of this condition. Without this condition, the Commission could not find that the development of the four tracts subject to this action would be consistant with the mandate of Section 30213 which states "...housing opportunities for persons of low and moderate income shall be protected, encouraged and where feasible, provided."

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d. Archaeological Resources. The archaeological survey performed for the EIR on the Phase II area, noted that there are two significant pre-historical sites in the area. One of these, site LAn-666 is located within the area to be totally altered during grading for Tract 32184. The other site is outside the area to be developed. The EIR survey noted:

> The milling stone site LAn-666 is a highly significant cultural resource with the potential for contributing important data for research into the cultural history of the Santa Monica Mountains and the broader sequence of development in Southern California.

The report recommended that the site be excavated and analyzed prior to grading, as a mitigation for its destruction. Conditions on this approval incorporate the recommendations of this report in conformance with Section 30244 of the Coastal Act. Only with these conditions can the Commission find the project consistent with the policies of the Coastal Act. The report also notes the potential existance of other archeological resources. Therefore the Commission's conditions require that the applicant notify a qualified archeologist before starting any grading or brush clearing in the Phase II area (Tracts 31935 and 32184), allow the archeologist to be present to observe such operations, and to require that work stop if new archeological sites are found, while appropiate mitigation is undertaken. Only with these conditions can the Commission find the proposed development of Tracts 31935 and 32184 consistent with the policies of the Coastal Act.

4. Precedent. As the Commission noted in its findings in July of 1978, these tracts may be approved only because the significant impacts of buildout have been identified and mitigated to the maximum extent feasible, in a comprehensive review of all potential large scale development in Pacific Palisades. The Commission is fully aware that the scope of these approvals is one which is generally more appropriate to Local Coastal Program. However, because of the already extensive planning and permit reviews of this project by the City of Los Angeles the City's reluctance to further review this area in its Local Coastal Program and the extent of mitigation as offered by the applicant and confirmed by the conditions, the Commission finds these projects may be approved prior to certification of the City's LCP. In conformance with Section 30625 of the Coastal Act, this decision shall guide preparation of the Local Coastal Program for this area.

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The following Exhibit #15 includes the addendum package to item Tu 13a for the Commission meeting of June 11, 2001.

It contains correspondence from Mr. Fryzer's representative, Mark Allen, responses to two of those letters, copies of documentation obtained from the City of Los Angeles by the applicants, and two additional Exhibits from Commission staff.

CALIFORNIA COASTAL COMMISSION
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Item Tu 13a

ADDENDUM

June 7, 2002

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: ADDENDUM TO **ITEM Tu 13a**, COASTAL COMMISSION PERMIT APPLICATION **#A-381-78-A13 (Headlands Properties Associates & Joseph Fryzer)** FOR THE COMMISSION MEETING OF **June 11, 2002**

This addendum includes the following:
1. A revision to page 10 of the staff recommendation
2. A faxed letter from Mark C. Allen, dated May 28, 2002
3. Response by Commission staff to Mark C. Allen's letter dated May 28, 2002
4. A faxed letter from Mark C. Allen dated June 5, 2002
5. Response by Commission staff to Mark C. Allen's letter dated June 5, 2002
6. A copy of an application for grading permits and a copy of the "as built" grading plan for Tract 32184, submitted on May 28 and May 31, 2002 by VTN West Inc (shown as Exhibit #15A-E)
7. Response by Commission staff to the submitted documents in item #6
8. Two additional exhibits from Commission staff showing Tract 32184 (shown as Exhibit #16A-B)
9. Copies of Special Condition #2 of Permit #A-381-78-A and Special Condition #2 as revised in Permit #A-381-78-A7
10. Prior correspondence sent by Mark C. Allen to Commission staff

1. Commission staff recommends revisions to page 10 of the staff report. Language to be added is shown in ***bold italic and underlined*** and language to be deleted is in ~~strike-out,~~ as shown below:

   - The last paragraph of PAGE 10 should read as follows:

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On ~~December 12~~ ***February 26***, 1987, the Commission authorized the applicant, Headland Properties, to extend the date of the applicant's obligation to dedicate all the land outside the Urban Limit Line from May 21, 1987 to May 21, 1994. The original seven-year time limit for the dedication was established in Condition 2.e. of Permit A-381-78-A. The seven-year time was extended because the State, who the applicant was originally required to dedicate all the land to, was not willing to accept lands within approximately 200 feet of the subdivision.

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The remainder of this addendum relates to documents that were submitted by the applicants after the completion of the staff report for A-381-78-A13 and two additional exhibits included by Commission staff (attached as Exhibits #15A-E, and Exhibits #16A-B, respectively). The documents submitted by the applicants include 1) a faxed letter from Mark C. Allen III dated May 28, 2002, alleging that a grading permit application obtained from the City of Los Angeles Department of Building and Safety records shows Coastal Commission approvals for the grading of Tract 32184 (Exhibit #15A), 2) a copy of an application for grading permits for Tract 32184 obtained from the Department of Building and Safety (Exhibit #15B), 3) a copy of the back page of the grading permit application with handwritten notes dated 8/28/86 (Exhibit #15C), 4) a map for Tract 32184 taken from the "as built" grading plan (Exhibit #15D), and 5) a portion of the "as built" grading plan located in the vicinity of Lot 81, Lot 41, and Lot G (the area of the proposed development in A-381-78-A13) (Exhibit #15E). Commission staff has included additional Exhibits #16A and #16B.

As indicated, the applicants submitted material after the completion of the staff report for A-381-78-A13, alleging that the Coastal Commission approved the existing debris basin as of 1986. Commission staff hereby responds to each of the above five documents submitted by Mark C. Allen and VTN West Inc., representatives of the applicants.

3. Responses to the applicants' submitted documents and letter dated May 28, 2002

The letter from Mark C. Allen III states that VTN West obtained a copy of the grading permit application for Tract 32184 from the City of Los Angeles Department of Building and Safety. He further states that this grading permit application "shows notes indicating the Coastal approvals were on file as of 1986." A representative of VTN West, Inc., Lloyd Poindexter, conveyed, in a phone conversation to Commission staff, that the handwritten notes were copied from the back page of the grading permit application. The handwritten notes state, in part, "- Fire Dept., Public Work and Coastal Clearances on micro-film prints." As of this time, the micro-film prints have not been found at the City archives. Thus, we find no reliable evidence of Coastal approvals. In addition, the letter states that the engineer at the time indicated that the debris basin was always a part of the original design of the subdivision. As seen on the grading permit application submitted by the applicants, there is no indication that the Coastal Commission contemplated the debris basin in approving the original design or otherwise approved the grading that was done outside of the Urban Limit Line for the debris basin.

7. The "as built" grading plans submitted on May 31, 2002, by VTN West Inc. indicate that there was offsite grading outside of the established Urban Limit Line. There is no indication that the Commission approved these 'as built' grading plans, however. Assuming, for reason of argument, that the Commission had approved the offsite grading shown on the "as built" grading plans, it would still not establish the authorization of a debris basin in the current location with an extended fill pad from Mr.

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Fryzer's property. The area shown does not correspond to the existing debris basin and fill adjacent to Mr. Fryzer's Lot 81 and on both Lot 41 and Lot G. Rather, the area shown corresponds to the grading required for the engineered slope on lot 41 (see page 11 of the staff report, which describes A-381-78-A9). The debris basin, as it appears now, is partially filled and is located on Lot G and extending across Lot 41, on a flat pad area that is level with Mr. Fryzer's Lot 81. The "as built" grading plans do show a stand pipe for a debris basin and grading to create a 2:1 slope on Mr. Fryzer's Lot 81 and a 3:1 slope on a small portion of Lot 41 and Lot G. Currently in this area is a flat graded pad extending from Lot 81, across Lot 41, and onto Lot G.

Staff has included two additional exhibits (Exhibits #16A and #16B). Exhibit 16A is a copy of a portion of Exhibit PH 87-4. This exhibit was sited in Special Condition #1 of the seventh and ninth amendment. The last revision of this exhibit (as submitted to the Commission) was dated 8/4/87. It is from this last revision that Exhibits 16A was taken. Special Condition #1 of the seventh amendment states, in part:

> *All grading, structural development, and subdivided lots shall be located entirely within the urban limit line, as described in the "Modification Exhibit" by VTN Inc shown on PH 87-4 and "Master Plan" PH 87-14 submitted by the applicant to the Coastal Commission on Sept 29, 1987, and identified in the Coastal Commission files as approved applicant's Exhibits PH 87-4 and "Master Plan" PH 87-14.*

Special Condition #1b of the ninth amendment states, in part:

> *The Executive Director may approve minor reallocation among the types of units and minor changes of design of the subdivision* ***within*** *the revised urban limit line* (Emphasis added).

As seen in Exhibit 16A attached to this addendum, Calle Allicante, Lot 81, and other residential lots along Calle Allicante did not exist at the time of the revised PH 87-4. In the eleventh amendment Headlands Properties relocated some residential lots and created Calle Allicante. This was done within the Urban Limit Line. However, staff has not discovered any authorization to construct a debris basin in the current location or any authorization to fill approximately half of the basin. Exhibit #16B was taken from this amendment. While this exhibit is of a Master Landscape Concept Plan, it shows, nonetheless, that "offsite" grading was undertaken outside the Urban Limit Line for the engineered slope above Lot 41. It does not show a debris basin outside the Urban Limit Line.

In conclusion, the applicants have submitted documentation that they believe provides evidence that the debris basin in its current location adjacent to Mr. Fryzer's Lot 81, across Lot 41, and on Lot G, was authorized by the Coastal Commission. After reviewing the submitted documents, staff continues to believe that the Commission did not authorize the debris basin or the partial fill of the debris basin. Furthermore, there is no indication on any of the documents submitted by the applicants that verifies Coastal Commission approvals for the debris basin, the partial fill of the basin, and all other

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grading that has taken place in this location. Therefore, staff continues to recommend denial of the proposed project.

5. Response to Mark C. Allen's letter dated June 5, 2002

The following will respond to each of the 5 bulleted points in Mark C. Allen's letter of June 5, 2002. An excerpt from each of his bulleted points is quoted (and underlined) below, preceding staff's response:

"The Staff Report indicates that the original detention basin was 'unpermitted.' This mischaracterizes the record and, indeed the Staff's own report...."

As previously described in the response to Mark C. Allen's letter of May 28, 2002, staff continues to hold the position that there is no indication of the Commission authorizing the debris basin or, for that matter, the partial fill of the basin. While it may be true that the City of Los Angeles Department of Building and Safety and/or the Department of Public Works has records of "as built" grading plans on file, none of the documentation of the Commission's approval for A-381-78 as amended (including the "Modification Exhibit" PH 87-4 and "Master Plan" PH 87-14 by VTN Inc. and approved by the Commission, which established the current Urban Limit Line) shows an approved debris basin in its current location. Therefore, indicating that the basin is unpermitted throughout the staff report does not mischaracterize the record or its own staff report.

Commission staff has found that the Commission record does not contain evidence that the debris basin was permitted. In three separate letters by Mark C. Allen to Commission staff the issue of the legality of the debris basin was raised. In a January 18, 2002 letter Mr. Allen states:

> *"...we have diligently searched the records that are available to us, and have been unable to find any maps showing that the Coastal Commission approval was ever given for this detention basin. I suggested that we assume, for purposes of the immediate situation, that the detention basin is, in fact, placed outside the urban limit line without specific approval. I suggested to you that it made little sense for the Coastal Commission to prohibit someone to, what amounts to, filling in a hole that was placed illegally in the first place."*

Mr. Allen's February 15, 2002 letter to Commission staff states:

> *"Based on our conversation, I believe we have come to the understanding that the history of the debris basin and the approvals (or lack thereof) leading up to its construction are beyond our ability to identify at the present time."*

Mr. Allen's March 20, 2002 letter to Commission staff states:

> *"Despite months of effort, no one has been able to determine whether the debris basin was constructed in accordance with a Coastal Commission permit."*

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Mark C Allen has stated, "The Commission simply does not have complete records." As mentioned above, the recently submitted documents (as shown in this addendum as Exhibit 15A-E) does not demonstrate that the Commission approved the subject debris basin. The burden is therefore on the applicants to prove that the Commission authorized the debris basin. As of this date, the applicants have not produced such evidence. Thus, the debris basin subject to this permit amendment application is legally presumed to be unpermitted.

"Construction of detention (sic) basin outside the urban limit line does *not* violate the CDP for the Headlands property. Flood control measures are one of the few items that are allowed outside the urban limit line. What the staff characterizes as 'fill' is merely the dirt that creates the flood control measure – a fact pointed out by the engineer for the project on several occasions."

Mr. Allen states that flood control measures are allowed outside the urban limit line. This is not an accurate statement. Special Condition #1C of A-381-78-A states:

> *Subject to the review and approval of the Executive Director, in areas outside of urban limit line: minor grading may be performed to re-contour previously graded land; paved or unpaved pathways and other incidental improvements for low intensity recreation may be constructed; minor facilities to provide public or utility services which do not require significant grading may be installed if alternative locations are not feasible; vegetation within 100 feet of any residential structure may be removed or altered for fire protection purposes.*

Flood control measures are not a category of development explicitly stated in Special Condition #1C of the amended permit (or anywhere else in the permit) as being authorized outside the urban limit line. Assuming, for reasons of argument, that flood control measures could be interpreted as following under one of the above categories that the Executive Director can allow outside the urban limit line, it would most likely fall under "minor facilities to provide public or utility services." However, that category of development is only authorized if it would "not require significant grading" and "alternative locations are not feasible." The subject debris basin would require significant grading. In fact, just to fill the basin would require 1,882 cubic yards of grading (as proposed in the amendment application). In addition, alternatives to placing the basin within the urban limit line were not analyzed. Therefore, the subject debris basin does violate special conditions placed on the original permit as amended.

Marc C. Allen states that staff's characterization of "fill" is merely the dirt that creates the flood control measure. This is also not an accurate statement. As seen on Exhibit #7 (a survey map from Mr. Fryzer's submitted technical reports), the debris basin that was constructed during the subdivision contains a small dike berm around the basin with a descending slope to the bottom of the basin. Currently (as seen on Exhibit #1 of the staff report), there is an extensive flat pad-like fill area. This is not how the debris basin, as built by the subdivider, is shown on all reports and "as built" grading plans submitted by the applicants.

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The applicant proposed several compromises in an attempt to reach a resolution with the Staff. The Staff has rejected *all* compromises, demanding that the entire pad area be removed....

The applicant has not, at any time, proposed "several" compromises to reach a solution with staff, and staff has not directed the applicants to remove the entire pad area. On April 3, 2002, Commission staff (staff analysts – Aaron Mclendon, staff legal counsel – Alex Helperin, Southern California Enforcement Supervisor – Steve Hudson, and staff engineer – Lesley Ewing) and the applicants' representatives (Mark C. Allen, and Lloyd Poindexter and Scott Wolfe of VTN West Inc.) discussed the possibilities of alternative projects. Commission staff asked if there were other options that could remove some of the fill area to create a more natural slope while maintaining adequate debris detention and flood control (as discussed in the alternatives section of the staff report). Both Mr. Allen and representatives of VTN West Inc stated that the proposed project was the only viable option. Staff engineer Lesley Ewing has stated that there are other alternatives that would provide for a safe debris basin that would not require an extensive fill pad outside the urban limit line.

None of the correspondence between the Commission and us made it into the Staff Report....

At the time of the staff report, Commission staff did not feel that correspondence between the applicants' representatives and the staff was relevant to the proceedings. However, all written correspondence between Mr. Allen and Commission staff is included in this addendum.

The Staff Report is vague about conversations relating to the application. For example, the Staff report mentions, cryptically, discussions with the "applicant" about putting a fence around the detention basin. Was this matter discussed with the property owners of the property, Headlands? One cannot tell from the report....

Commission staff feels that including exact date and time for, and the parties to, each of the multitude of conversations between staff and the applicants' representatives is irrelevant to the facts in this case. However, in the case of commission staff advising to erect a fence around the basin to avoid Mr. Fryzer's concern of creating an attractive nuisance, Mr. Allen is correct in stating that he could not advise his client to place a fence on property owned by Headlands Properties Associates without Headlands' authorization. Mr. Allen questions why staff did not discuss the fencing with the property owner (Headlands). In fact, Commission staff spoke with Mr. Edward Miller of Headlands Properties on approximately the first week of May 2002. In that conversation Commission staff discussed the denial recommendation and that to temporarily avoid possible hazards they could erect a fence around the basin. At this time Mr. Miller did not make a decision as to the fencing issue. Commission staff attempted to contact Mr. Miller five additional times between that first conversation and now. All messages left for Mr. Miller were not returned.

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MAY 2 8 2002

CALIFORNIA
COASTAL COMMISSION

LAQUER, URBAN, CLIFFORD & HODGE LLP
LAWYERS

MARK C. ALLEN III
mcallen@luch.com

3700 SANTA FE AVENUE, SUITE 300
LONG BEACH, CALIFORNIA 90810
(310) 830-0292
FAX (310) 830-9902

PASADENA, CALIFORNIA
BELLEVUE, WASHINGTON
LAS VEGAS, NEVADA

FILE NO. 400.0200

May 28, 2002

VIA FACSIMILE TRANSMISSION to 562/590-5084

Mr. Aaron McLendon
Coastal Program Analyst
CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, California 90802-4302

Re: Application #5-01-241 (Fryzer)
Coastal Development Permit A-381-78 and amendments 1-11

Dear Mr. McLendon:

VTN West has obtained further information from the Los Angeles City Department of Building and Safety regarding the grading on the above-referenced tract. VTN West has sent you a legible copy separately. The Application shows notes indicating the Coastal approvals were on file as of 1986. The engineer at the time, Lloyd Poindexter, indicates the detention basin adjacent to the Fryzer property was always a part of the original design because it was necessary to protect the rest of the subdivision. This incidentally is entirely consistent with the CDP, which allows drainage structures needed to protect the subdivision to be constructed outside the urban limit line.

Please call if you have any questions with regard to this matter.

Very truly yours,

LAQUER, URBAN, CLIFFORD & HODGE LLP

MARK C. ALLEN III

MCA/nsv
cc: Joe Fryzer (Via fax)
Lloyd Poindexter, VTN West (Via fax)

COASTAL COMMISSION
[redacted] A-381-78-A13
EXHIBIT # 15
PAGE 1 OF 28

A

LAQUER, URBAN, CLIFFORD & HODGE LLP
LAWYERS

MARK C. ALLEN III
allen@luch.com

3700 SANTA FE AVENUE, SUITE 300
LONG BEACH, CALIFORNIA 90810
(310) 830-0292
FAX (310) 830-9802

PASADENA, CALIFORNIA
BELLEVUE, WASHINGTON
LAS VEGAS, NEVADA

FILE NO. 400.0200

June 5, 2002

VIA FACSIMILE TRANSMISSION to 562/590-5084
(Original Via First Class Mail)

Mr. Aaron McLendon
Coastal Program Analyst
CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, California 90802-4302

Re: **Coastal Development Permit A-381-78 and amendments 1-11**
Item No. Tu 13a
Application #5-01-241 (Fryzer)

Dear Mr. McLendon:

On June 3, 2002, I received the Staff Report in the above-referenced matter. As you know, I represent only Mr. Fryzer, the adjacent owner, not Headlands. I was disappointed, but not surprised, by the Staff's conclusion that it would refuse to allow a properly engineered solution to the detention basin on the adjacent property. However, I was shocked that the Staff did not provide, as it usually does, a fair presentation of the applicant's position. Because the Staff Report was issued so late, this letter cannot fully respond to all of the matters contained in the Staff Report. However, a few things jump out. As to those, I ask that the Staff issue an immediate correction.

- The Staff Report indicates that the original detention basin was "unpermitted." This mischaracterizes the record and, indeed, the Staff's own report. About all that can be said about the detention basin is that the original drawings approving the basin have not been found. The Commission simply does not have complete records. The only documents we have been able to dig up (pardon the pun) from the time when the basin was originally constructed indicate that Coastal approval was obtained. Records from the City of Los Angeles Department of Public Works indicate that Commission approval was on file. Further, Lloyd Poindexter, the applicant's civil engineer, indicates that to the best of his knowledge, Coastal approval was obtained by Headlands Properties in every instance when it was necessary.

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- Construction of detention basin outside the urban limit line does not violate the CDP for the Headlands property. Flood control measures are one of the few items that are allowed outside the urban limit line. What the Staff characterizes as "fill" is merely the dirt that creates the flood control measure—a fact pointed out by the engineer for the project on several occasions.
- The applicant proposed several compromises in an attempt to reach a resolution with the Staff. The Staff has rejected all compromises, demanding that the entire pad area be removed. This is, of course, a physical impossibility. Moreover, even if it were physically possible to do so, the result would create a flood disaster for the people downstream in Palisades Highlands.
- None of the correspondence between the Commission and us made it into the Staff Report. For example, here is what I said in my letter to you of February 14:

> *Thank you for taking the time to speak with me last week regarding the above project. Allow me to summarize what I believe are the main points in our conversation.*
>
> - *We agree that tracing the history of the existing debris basin is impractical for my client.*
> - *There seems to be universal agreement that the debris basin as it currently exists is both unsightly and dangerous. It was for this reason that the City of Los Angeles approved plans to put in a properly engineered basin, properly sized, at this location.*
> - *The need for a debris basin at this location also seems to be beyond peradventure.*
> - *My client, Mr. Fryzer, was in the process of filling in the debris basin and constructing a proper facility when he was stopped by the Coastal Commission.*

- The Staff Report is vague about conversations relating to the application. For example, the Staff report mentions, cryptically, discussions with the "applicant" about putting a fence around the detention basin. Was this matter discussed with the owners of the property, Headlands? One cannot tell from the report. You did talk to me about this once. As I explained at the time, my client, Joe Fryzer, does not own the property and does not have permission to build a fence. Further, I could not recommend he take on the liability associated with undertaking voluntary protection measures on someone else's property. Finally, I understand that placing a chain link fence through which mud and water would have to flow to reach the detention basin could be dangerous and counter-productive.

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Please let me know if you will include all our correspondence in the Board package and clarify whom the staff talked to and when the discussions took place.

Very truly yours,

LAQUER, URBAN, CLIFFORD & HODGE LLP

MARK C. ALLEN III

MCA/nsv
cc: Via Facsimile Transmission:
Peter Douglas
Pamela Emerson
Deborah Lee
Alex Helberin
All Commissioners (by mail, c/o Aaron McLendon)

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G APPLICATION FOR INSPECTION — CERTIFICATE

INSTRUCTIONS: 1. Applicant to Complete Numbered Items Only. 2. Plot Plan Required on Back of Original.

1. LEGAL DESC: SEE ATTACHED — LOT: 35 — TRACT: Santa Monica Land & Water Co TT 32184 — BLOCK: 11 — PERMIT NO: 138-117 — CENSUS TRACT: 2626 — ZONE: RE15-1-H
2. PURPOSE OF GRADING: 'C' Residential Development — TRACT GRADING — FIRE DIST: MFD
3. JOB ADDRESS: 2001 Palisades Drive (AMD 78-41) — LOT (TYPE):
4. BETWEEN CROSS STREETS: AND
5. OWNER'S NAME: Headland Properties, [redacted] Assoc. PHONE: (213)459-2361 — LOT SIZE: Incomplete Legal
6. OWNER'S ADDRESS: 1750 Palisades Drive CITY: Pac. Palisades ZIP: 90272
7. PLANS BY CIVIL ENGR: Vin west, Inc. BUS LIC NO: RCE 25973 ACTIVE STATE LIC NO: PHONE: (818)894-8261 — ALLEY:
8. CIVIL ENGR ADDRESS: 16933 Parthenia CITY: Sepulveda ZIP: 91343 — BLDG LINE:
9. ENGR GEOLOGIST: GeoSoils, Inc. BUS LIC NO: RCE16496 ACTIVE STATE LIC NO / CERT NO: PHONE: (818)785-2758 — APPROVED: ZI 1022 T.T. 32184
10. SOIL ENGR — TESTING AGENCY: SAME AS ABOVE BUS LIC NO: ACTIVE STATE LIC NO: PHONE:
11. CONTRACTOR: TBS — OWNER BUILDER BUS LIC NO: ACTIVE STATE LIC NO: PHONE:
12. CONTRACTOR'S ADDRESS: CITY: ZIP:

G
13. JOB ADDRESS: 2001 Palisades Drive — STREET GUIDE: — DIST. OFFICE: WLA — GRADING: YES — FLOOD:
14. NUMBER OF CUBIC YARDS: CUT 2,069,700 FILL 2,069,700
15. MAXIMUM SLOPE: CUT 2:1 FILL 2:1 — RETAINING WALL REQUIRED: YES NO XX — HAZARD FILE NO.
SOIL DENSITY TESTS & CERTIFICATION: X REQUIRED ☐ NOT REQUIRED
CALIF. ENVIRONMENTAL QUALITY ACT REQUIREMENTS: EXEMPT — COMPLETED
BOND: AMOUNT 1,305,217.00 — ☐ CASH — DATE POSTED 5-16-88 — X SURETY — CA = 008911
PC 1629.90 — GPA NO 42 — SPC — P NO — GP 26046 — 4204 — FEES 339.44 — DIST. OFFICE WLA — 5208.84 — ZP E4037
Claims for refund of fees paid on permits may be made: 1. Within one year from date of payment of fee; or 2. Within one year from date of expiration or cancellation for building or grading permits granted by the Dept. of B & S, SECTIONS 22.12 & 22.13 LAMC.
PLAN CHECK EXPIRES ONE YEAR AFTER FEE IS PAID. PERMIT EXPIRES TWO YEARS AFTER FEE IS PAID OR 180 DAYS AFTER FEE IS PAID IF CONSTRUCTION IS NOT COMMENCED.

15929.90 G-PC
42.00 GRA
339.44 DIS
89726 5 08/28/86 17311:36 CHTG
08/15/88 15:07.00 CHTG
98137

DECLARATIONS AND CERTIFICATIONS

LICENSED CONTRACTORS DECLARATION

I, [redacted], am licensed under the provisions of [redacted] and my license is in full force and effect.

Date [redacted] License No. [redacted] Contractor [redacted]

OWNER-BUILDER DECLARATION (Signature only)

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to issuance of it, requires the applicant for such permit to file a signed statement that he is licensed pursuant to the provisions of the Contractor's License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars ($500):)

I, as owner of the property, or my employees with wages as their sole compensation, will do the work and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or through his own employees, provided that such improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the owner must prove to the satisfaction of the Contractor's License Board that he did not build or improve for the purpose of sale.)

X I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractor's License Law.).

I am exempt under Sec. [redacted] B & P C for this reason [redacted]

Date Dec. 19, 1986 Owner [redacted], Vice President

WORKERS' COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers' Compensation Insurance, or a copy certified by the insurer, or a certificate of exemption from the Workers' Compensation laws of California.

Policy No. [redacted] Insurance Company [redacted]

Certificate No. [redacted] Expiration Date [redacted]

This certificate supersedes the one previously filed for the project address as indicated above.

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation laws of California.

Date Dec. 19, 1986 Applicant's Signature [redacted], Vice President

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation laws of California.

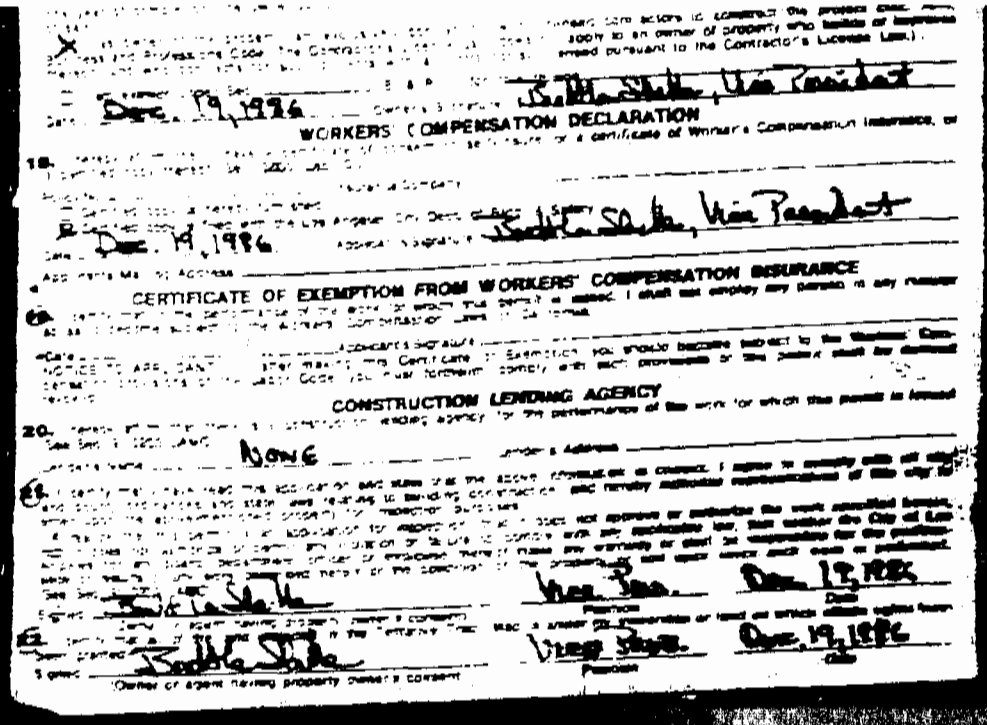
Address [redacted] Date [redacted] Applicant [redacted]

I hereby affirm that I am exempt from Contractor's License Law for the following reason: I am exempt under Sec. [redacted] B & P C for this reason [redacted]

B

RECEIVED
South Coast Region
MAY 29 2002
CALIFORNIA COASTAL COMMISSION

COASTAL COMMISSION
[redacted] A-381-78-A13
EXHIBIT # 15
PAGE 11 OF 28



Dec. 19, 1986

WORKERS' COMPENSATION DECLARATION

Dec. 19, 1986

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

CONSTRUCTION LENDING AGENCY

NONE

Dec. 19, 1986

Dec. 19, 1986

Owner or agent having property owner's consent

Twoerk 8-28-86

TT 32184

TT 32184 (UNIT TRACTS. 32186, 44651, 44625, 32154)
— PLAN CHECK EXTENSION MOD DATED 8/15/87
— FILE DEPT. PUBLIC WORK AND COASTAL CLEARANCES
IN MICRO-FILM PRINTS
— CSHL PERMIT NO. 0525259
— EIR NO. 70-81-EC(CUE) STATE CLEARING HOUSE
NO. 81072413

RECEIVED
South Coast Reg.
MAY 29

C.

COASTAL COMMISSION
A-381-78-A13
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[redacted] A-381-78-A13
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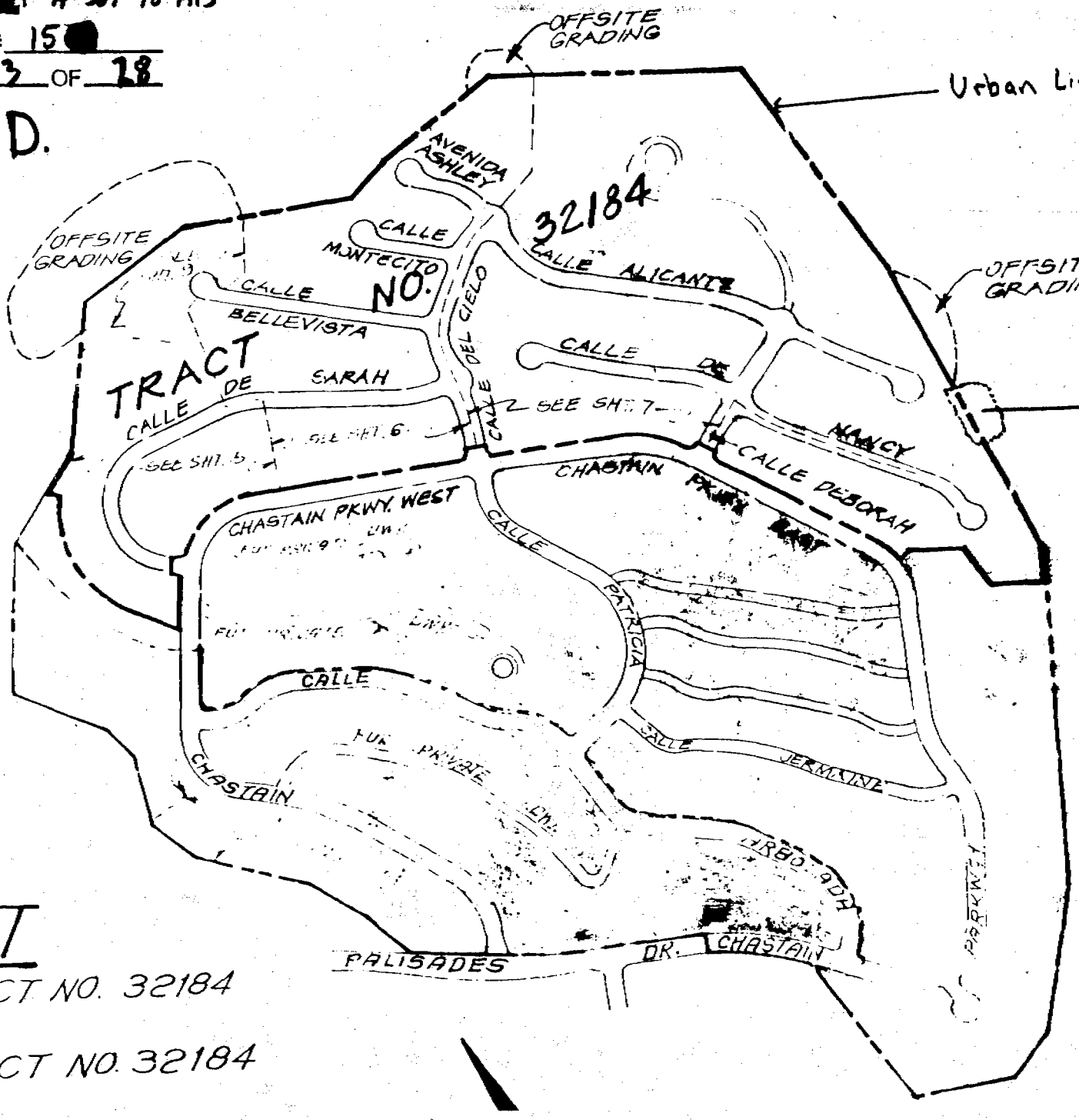
SHEET NUMBER 1

D.



OUT)

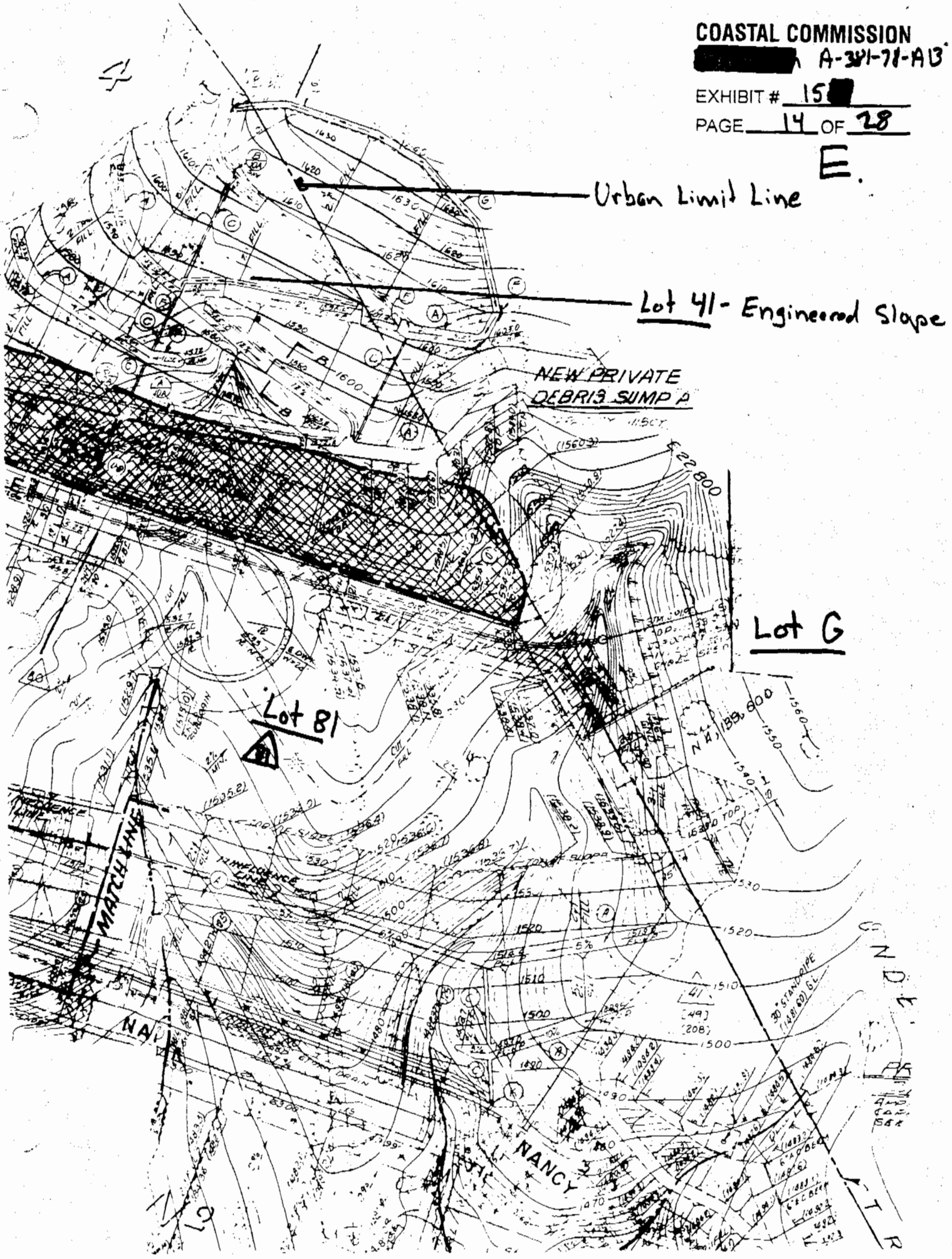
TRACT NO.

BUILT

6 TRACT NO. 32184

40 TRACT NO. 32184

E.


Urban Limit Line
Lot 41 - Engineered Slope
NEW PRIVATE DEBRIS SUMP A
Lot G
Lot 81
MATCH LINE
NANCY

16A.

COASTAL COMMISSION
[redacted] A-381-7[redacted]-13
EXHIBIT # [redacted] 15
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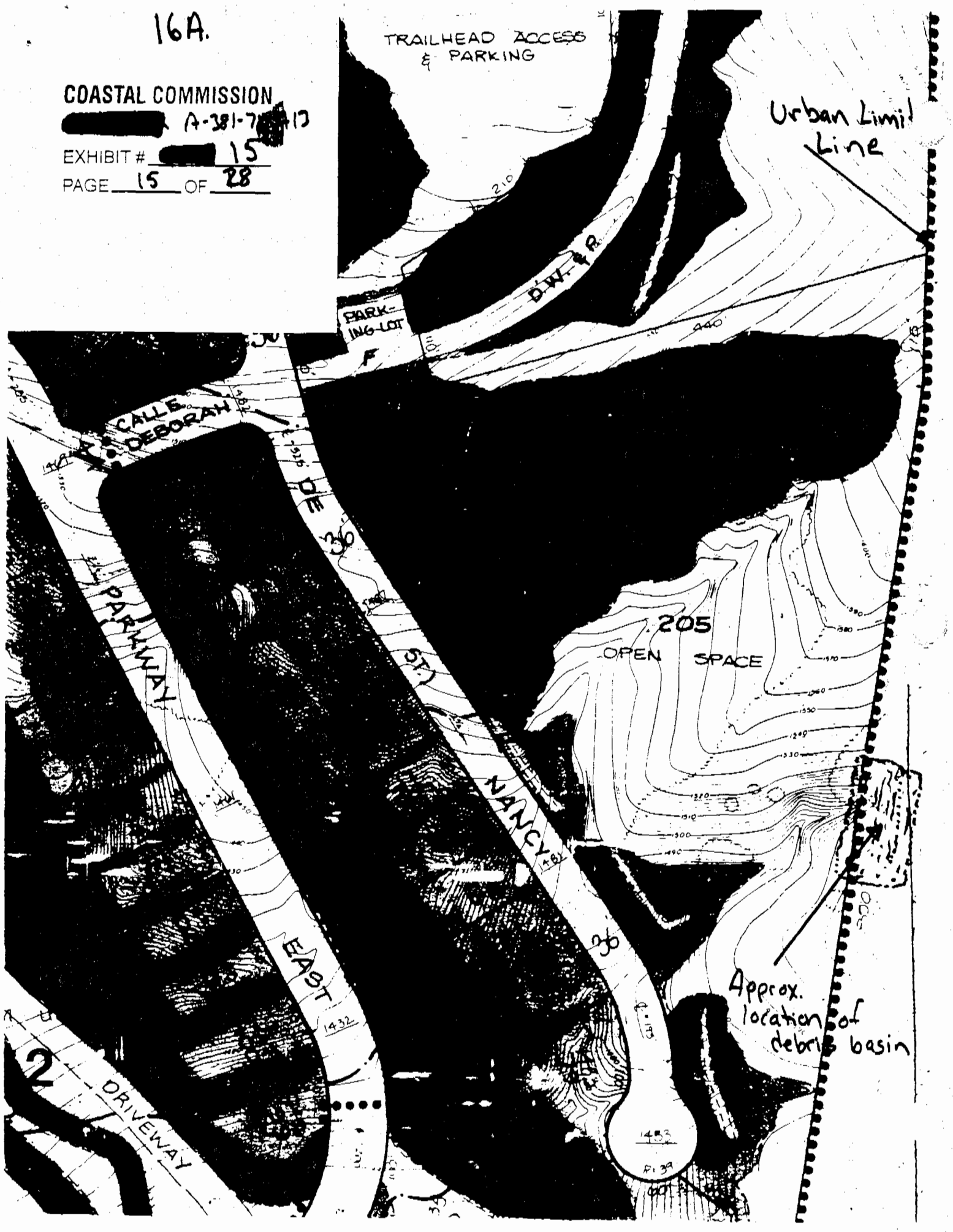

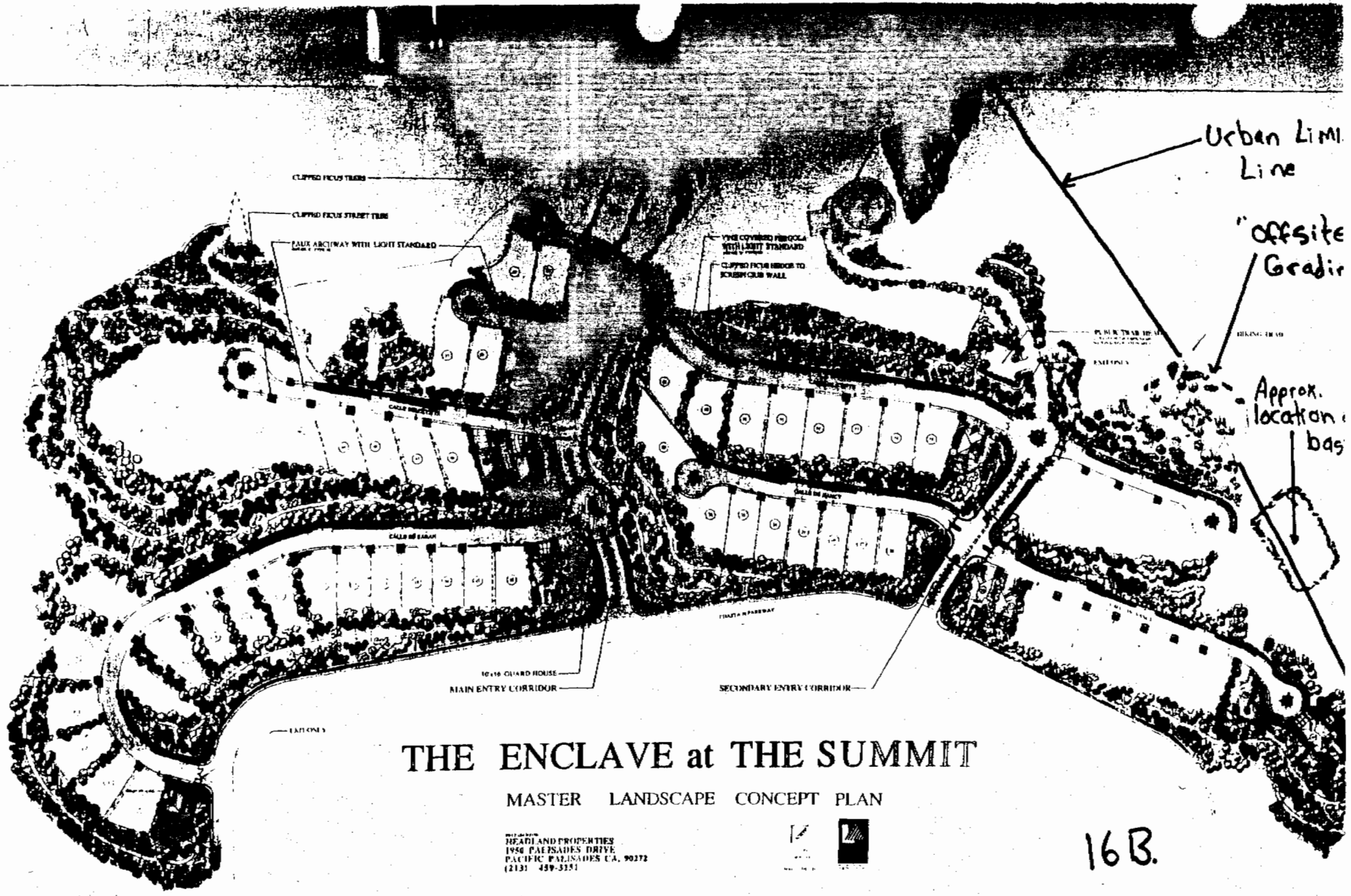

THE ENCLAVE at THE SUMMIT

MASTER LANDSCAPE CONCEPT PLAN

HEADLAND PROPERTIES
1950 PALISADES DRIVE
PACIFIC PALISADES CA. 90272
(213) 459-3151

16B.

COASTAL COMMISSION
A-381-78-A13
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PALISADES HIGHLANDS
TRACT 32184

Applic. CDP A-381-78 (A11)

Upon notice to the Executive Director, the applicant may reduce the number of multiple family units and replace them with single-family units. The Executive Director shall approve such minor modifications to the project provided that there is no increase in the area graded or in the amount of traffic generated by the project, there is no interference with the provision in this permit for low and moderate income housing, and the modifications are otherwise consistent with this approval.

b. Concurrent with the development of Tract 31935, the applicant shall construct an emergency access road and pedestrian-bicycle path as generally indicated in Exhibit 4, between the southern terminus of public roadways serving Tract 31935 and the southern boundary of applicant's property. The road shallbe designed and constructed so as to require the minimum amount of land form alteration and to provide/emergency entry to and exit from the Palisades Highlands development. The road shall be wide enough to accommodate two lanes of vehicles and meet the minimum specifications of the City of Los Angeles but at no point should the road width exceed 20 ft. Cuts and fills required for the construction of the road shall be the minimum required by the City of Los Angeles.

c. Subject to the review and approval or the Executive Director, in areas outside of urban limit line : minor grading may be performed to re-contour previously graded land; paved or unpaved pathways and other incidental improvements for low intensity recreation may be constructed; minor facilities to provide public or utility services which do not require significant grading may be installed if alternative locations are not feasible; vegetation within 100 ft. of any residential structure may be removed or altered for fire protection purposes.

2. Dedication. Within 10 days following the issuance of this permit, Applicant and Palisades Resources, Inc. (a co-applicant) shall record offers to dedicate to the State of California all of the property lying outside the urban limit line. Such offers shall be of a form and content approved in writing by the Executive Director. Such offers of dedication shall be irrevocable for a period of 7 years, except in the event of revocation of this permit. As final maps for the respective four tracts (noted below) are recorded, said offers shall be irrevocable as to specified parcels for 21 years thereafter and shall require dedication in fee of such specified parcels upon acceptance by the State of California or its agent. The offers of dedication shall contain the following provisions as to the parcels specified below:

a. Canyon Park. Concurrent with the recordation of a final map for Tract 34923 and prior to construction of residential units on such tract, the applicant shall record an irrevocable offer to dedicate the full fee interest in approximately 120 acres of land in Santa Ynez Canyon north of the existing City park and west of Palisades Drive (areas C and C-1 in Exhibit 2). With the exception of tax liens and the prior offer of dedication of such property to the City of Los Angeles Park Commission, the dedication shall be free of all prior liens and encumbrances. The applicant shall use best efforts to secure the waiver of the City Parks Commission to such prior offer of dedication. However to promote the most efficient and orderly operating and maintenance of these parklands, the applicant may withdraw the offer in favor of the State with regards only to the approximately 25 acres south of Avenida de la Montura (area C-1, Exhibit 4) and adjacent to the existing City park, provided that the City Park Commission accepts the dedication of area C-1 for operation as a City park.

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b. Gateway. Concurrent with the recordation of a final map subdividing the Gateway Tract, Palisades Resources, Inc., shall record an irrevocable offer to dedicate the full fee interest in approximately 297 acres of land outside of the urban limit line on the Gateway tract established pursuant to Condition 1 above (generally shown as areas A and B in Exhibits 2 and 5).

c. Tract 31935. Within 30 days following the recordation of a final map subdividing Tract 31935 the applicant shall record an irrevocable offer to dedicate the full fee interest in the approximately 386 acres adjoining the portion of Tract 31935 to be developed (shown as areas D and G in Exhibit 2).

d. Tract 32184. Within 30 days following the recordation of the final map subdividing the first unit of Tract 32184 the applicant shall record an irrevocable offer to dedicate a full fee interest in the approximately 338 acres shown as area E in Exhibit 2.

e. Permit Expiration. In the event the obligation of Palisades Resources, Inc., and applicant to dedicate all of the property lying outside the urban limit line does not occur within seven(7) years after issuance of this permit, applicant shall be obligated to surrender and abandon this permit upon expiration of such seven year period and this permit shall have no further force or effect insofar as this permit pertains to any property not then subject to a final subdivision map.

f. Road Easements. Prior to recordation of any final maps for the authorized development, the applicant shall grant to the State of California all of the applicant's interests in road easements through Topanga State Park, including Palisades Drive extension to Mollholland Drive and Temescal Canyon Road towards Sunset Boulevard.

3. Restrictions. Concurrent with the recordation of final maps as noted in 2a,2b, 2c, and 2d above, the applicant shall record an instrument covering such parcels in a form approved in writing by the Executive Director. Such instrument shall be considered a covenant running with the land in favor of the people of the State of California, shall be recorded free of prior liens and encumbrances except tax liens and shall bind the applicant and all successors in interest. Such instrument shall provide specifically as follows:

a. Prevent further division of such dedication parcels for any purposes except park purposes outside of the urban limit line.

b. Prevent development outside of the urban limit line except as permitted by this permit or for park purposes.

c. Waive all claims against the public for damages due to flood, fire or geologic instability which may arise as a consequence of approval of development within the permitted tracts.

4. Landscaping Plans. The Applicant has submitted landscaping plans and specifications for Tract 31935 and 32184, which have been reviewed and approved by the Executive Director. The final landscaping plans shall provide that slope areas exposed by grading or other construction shall be revegetated with primary endemic

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2. Dedication.

Prior to the extension of the date of surrender and abandonment (expiration date), the applicant shall record offers to dedicate open space lands specified in Condition 2. In each of the offers, the accepting agency shall include the City of Los Angeles or a private non-profit association acceptable to the Executive Director as specified in the revised condition. The expiration date of the interim offer to dedicate that applies to area E shall be extended an additional seven years, until May 21, 1994. Consistent with Condition 2, the applicant shall record offers to dedicate the areas where tracts have already been recorded, that is, offers pertaining to areas A, B, C, C-1, D. and G. The offers shall be irrevocable for a period of 21 years from the date of recordation of the offers. These offers shall also reflect the change in possible accepting agencies in the revised Condition 2.

After the applicant records these changes in the offers to dedicate in a manner acceptable to the Executive Director, the expiration date of the permit (date of surrender and abandonment) shall be extended to May 21, 1994. If the process of dedication is not complete by that time, the applicant shall abandon the permit.

Dedication. Within 10 days following the issuance of this permit, applicant and Palisades Resources, Inc. (a co-applicant) shall record offers to dedicate to the State of California, the City of Los Angeles, and/or a private, non-profit corporation acceptable to the Executive Director all of the property lying outside the urban limit line. Such offers shall be of a form and content approved in writing by the Executive Director. Such offers of dedication shall be irrevocable until May 21 1994 except in event of revocation of this permit. As final maps for the respective four tracts (noted below) are recorded, said offers shall be irrevocable as to specified parcels for 21 years thereafter and shall require dedication in fee of such specified parcels upon acceptance by the State of California or its agent. The offers of dedication shall contain the following provisions as to the parcels specified below:

a. Canyon Park. Concurrent with the recordation of a final map for Tract 34923 and prior to construction of residential units on such tract, the applicant shall record an irrevocable offer to dedicate the full fee interest in approximately 120 acres of land in Santa Ynez Canyon north of the existing City park and west of Palisades Drive (Areas C and C-1 in Exhibit 2) With the exception of tax liens and the prior offer of dedication of such property to the City of Los Angeles Park Commission, the dedication shall be free of all prior liens and encumbrances. The applicant shall use best efforts to secure the waiver of the City Parks Commission to such prior offer of dedication. However to promote the most efficient and orderly operation and maintenance of these parklands, the applicant may

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withdraw the offer in favor of the State with regards only to the approximately 25 acres south of Avenida de la Montura (area C-1, Exhibit 4) and adjacent to the existing City park, provided that the City Park Commission accepts the dedication of area C-1 for operation as a City park.

b. Gateway. Concurrent with the recordation of a final map subdividing the Gateway Tract, Palisades Resources, Inc., shall record an irrevocable offer to dedicate the full fee interest in approximately 297 acres of land outside of the urban limit line on the Gateway tract established pursuant to condition 1 above (generally shown as areas A and B in Exhibits 2 and 5).

c. Tract 31935. Within 30 days following the recordation of a final map subdividing tract 31935, the applicant shall record an irrevocable offer to dedicate the full fee interest in the approximately 386 acres adjoining the portion of Tract 31935 to be developed (shown as areas D and G in Exhibit 2). Parcel D may be combined with the private recreation site of parcel map 5164 as private open space.

d. Tract 32184. Within 30 days following the recordation of the final map subdividing the final unit of Tract 32184 the applicant shall record an irrevocable offer to dedicate a full fee interest in the approximately 338 acres shown as area E in Exhibit 2.

e. Permit Expiration. In the event the obligation of Palisades Resources, Inc., and applicant to dedicate all of the property lying outside the urban limit lines does not occur before May 21, 1994, applicant shall be obligated to surrender and abandon this permit on May 22, 1994, and this permit shall have no further force or effect insofar as this permit pertains to any property not then subject to a final subdivision map.

f. Road Easements. Prior to recordation of any final maps for the authorized development, the applicant shall grant to the State of California all of the applicant's interests in road easements through Topanga State Park, including Palisades Drive extension to Mulholland Drive and Temescal Canyon Road towards Sunset Boulevard.

g. Maintenance of private open space. The applicant shall demonstrate to the Executive Director that adequate legal instruments exist to maintain the slope and open space areas identified in map PH87-4. The applicant has agreed to maintain the slope areas adjacent to the development, and upon completion of development to transfer this obligation to the Homeowners' association(s) in accordance with City conditions 13j, 21 22, and 23. Some of this land is subject to landscaping conditions and fire control setbacks.

The applicant or the successor in interest shall maintain the slope areas shown on PH 87-4, and areas identified for special planting using native, fire-resistant vegetation of the Oak Savannah, Coastal

COASTAL COMMISSION
A-381-78-A13
EXHIBIT # 15
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sage scrub and chaparral communities, and fuel modification and erosion control techniques approved by the Executive Director.

Within the areas designated as slope areas on the PH87-4 plan there shall be no structures with the exception of park and maintenance facilities such as trails, drainage channels, park furniture and vehicle entry gates. The grading shall be limited to that approved in this amendment.

To protect State Park lands from conflict with the fire control needs of the community, Headlands Properties or its successor in interest shall either

redesign the lot lines so that no private lot lies closer than 200 feet from the land dedicated to the State Park system

or shall develop and record on the final tract map, an easement that retains the right of entry and maintenance of privately held slope areas within 200 feet of the State Park for the homeowners association. The restriction shall prevent future homeowners from construction of combustible structures within the area identified as slope area. The easement or restrictions shall be subject to the review and approval of the Executive Director be binding on heirs an assigns, and be recorded free of prior liens, and shall be valid for the duration of the subdivision. [new condition in response to private mainteneance of open space]

3. Restrictions.

Concurrent with the recordation of final maps as noted in 2a, 2b, 2c, and 2d above, the applicant shall record an instrument covering such parcels in a form approved in writing by the Executive Director. Such instrument shall be considered a covenant running with the land in favor of the People of the State of California, shall be recorded free of prior liens and encumbrances except tax liens and shall bind the applicant and all successors in interest. Such instrument shall provide specifically as follows:

a. Prevent further division of such dedication parcels for any purposes except park purposes outside of the urban limit line.

b. Prevent development outside of the urban limit line except as permitted by this permit or for park purposes.

c. Waive all claims against the public for damages due to flood, fire or geologic instability which may arise as a consequence of approval of development within the permitted tracts.

COASTAL COMMISSION
A-381-78-A13
EXHIBIT # 15
PAGE 21 OF 28

LAQUER, URBAN, CLIFFORD & HODGE LLP
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(310) 837-0292
FAX (310) 830-9902

PASADENA, CALIFORNIA
BELLEVUE, WASHINGTON
LAS VEGAS, NEVADA

MARK C. ALLEN III
allen@luch.com

FILE NO 400.0200

January 18, 2002

RECEIVED
South Coast Region
JAN 23 2002
CALIFORNIA
COASTAL COMMISSION

Mr. Aaron McLendon
Coastal Program Analyst
CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, California 90802-4302

Re: Application #5-01-241 (Fryzer)
Coastal Development Permit A-381-78 and amendments 1-11

Dear Mr. McLendon:

This will follow-up on our telephone earlier this week regarding the above application. In our conversation, we agreed that the large open detention basin next to Mr. Fryzer's property is a hazard and needs to be eliminated. Unfortunately, practically no progress has been made towards that goal for months. As you requested, we have diligently searched the records that are available for us, and have been unable to find any maps showing that the Coastal Commission approval was ever given for this detention basin. I suggested that we assume, for purposes of the immediate situation, that the detention basin is, in fact, placed outside the urban limit line without specific approval. I suggested to you that it made little sense for the Coastal Commission to prohibit someone to, what amounts to, filling in a hole that was placed illegally in the first place. I pointed out that the current condition of the site, when combined with the inevitable rains to come in the late winter California monsoon season, creates a situation that is ripe for problems. I felt that the Coastal Commission would be well within its authority to allow the remedial work to go forward, subject to the Coastal Commission's further review and necessary adjustment of the work to meet Coastal Commission requirements. While you allowed that the Coastal Commission had in some situations allowed work to go forward while the permanent permit process was pursued, you did not know whether the Commission could approve such action in this circumstance. You also indicated that further work by Mr. Fryzer's contractor would be considered an additional violation of the CDP. You said you would review this matter with your superiors to see if the Coastal Commission might be willing to reconsider its position. As of this writing, I have not heard back from you on the topic of our conversation.

COASTAL COMMISSION
A-381-78-A13
EXHIBIT # 15
PAGE 22 OF 28

I realize that the Staff has many other pressing matters before it. However, the situation my client faces is hazardous and not of his making. He is willing to step up to correct this problem, understanding the Coastal Commission may be undertaking further investigation as to how the present configuration of the site was created and what other action would be appropriate.

I have prepared an attached authorization to allow the work to proceed. I hope that the Commission will see fit to sign this document, or one like it, immediately, so that the physical problems on the site can be addressed.

For good order, I add that we are ready to go forward forthwith with a separate and/or modified application addressing only the physical changes to the property. Your immediate attention to this matter would be appreciated.

Very truly yours,

LAQUER, URBAN, CLIFFORD & HODGE LLP

MARK C. ALLEN III

MCA/nsv
Attachment
cc: Joe Fryzer (Via fax)

COASTAL COMMISSION
A-381-78-A13

EXHIBIT # 15
PAGE 23 OF 28

LAQUER, URBAN, CLIFFORD & HODGE LLP
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FAX (310) 830-9902

MARK C. ALLEN III
allen@luch.com

PASADENA, CALIFORNIA
BELLEVUE, WASHINGTON
LAS VEGAS, NEVADA

FILE NO. 400.0200

February 15, 2002

VIA FACSIMILE TRANSMISSION to 562/590-5084

Mr. Aaron McLendon
Coastal Program Analyst
CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, California 90802-4302

Re: Application #5-01-241 (Fryzer)
Coastal Development Permit A-381-78 and amendments 1-11

Dear Mr. McLendon:

Thank you for taking the time to speak with me last week regarding the above project. Allow me to summarize what I believe are the main points in our conversation.

- We agree that tracing the history of the existing debris basin is impractical for my client.
- There seems to be universal agreement that the debris basin as it currently exists is both unsightly and dangerous. It was for this reason that the City of Los Angeles approved plans to put in a properly engineered basin, properly sized, at this location.
- The need for a debris basin at this location also seems to be beyond peradventure.
- My client, Mr. Fryzer, was in the process of filling in the debris basin and constructing a proper facility when he was stopped by the Coastal Commission.

Based on our conversation, I believe we have come to the understanding that the history of the debris basin and the approvals (or lack thereof) leading up to its construction are beyond our ability to identify at the present time. However, even assuming that the debris basin was constructed improperly, the Commission could still allow a properly engineered solution be put in place expeditiously. You believe that this would require a noticed hearing. I suggested in my letter of January 18 and [illegible] conversation that it is a matter of enforcement. The Commission could allow the construction to go forward immediately, subject to additional conditions should they be necessary. You indicated that the Commission was not prepared to authorize such construction absent action by the full Commission. You indicated that you expected such action would probably take place at the April meeting, meaning that the construction could not be finished until May.

COASTAL COMMISSION
A-381-78-A13
EXHIBIT # 15
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I have reflected on this matter, and I think the Commission may be conflating two separate issues. Issue number one is the illegality of the original basin and the grading of the pad and whether proper permits were issued for these actions. This issue need not be addressed now.

A second issue is whether the basin Mr. Fryzer was approved to build by the City conforms to the original permit. I think it does. If the Staff had found the properly engineered basin there, no one from the Commission would have even thought to raise an issue of non-conformance (remember, we are talking only about the basin, not about the graded pad area—a separate issue). When the original permit was issued, detailed engineering for drainage facilities was neither expected nor even possible, given the scope of the project and the multitude of concerns. It was expected that some structures would be required for public health and safety purposes, even in open space and otherwise restricted areas due to the exigencies of construction. Replacing a temporary structure, even an improperly engineered one, to one that meets proper engineering criteria does not violate the CDP. Rather, the CDP contemplates that the applicant would be responsible for building properly engineered structures to protect life and property. That my client is being prevented from constructing just such a structure strikes me as being a bit perverse. The fact that it replaces a structure both poorly designed and illegal to boot, makes the irony more, rather than less, apparent.

I would ask, therefore, that we set up a conference call at the earliest time to address the possibility of the Commission staff making a finding of conformance for the basin only at the earliest possible date.

Thank you once again for your help in addressing this unique situation. I hope that we can address this matter before it creates further problems. For good order, I add that since my client is being prevented from taking actions to prevent injury by the Commission, any liability occasioned thereby should be considered the Commission's sole responsibility. Please feel free to contact me at your earliest convenience. If I am out of the office, please feel free to call my cell phone number, 714/343-6171.

Very truly yours,

LAQUER, URBAN CLIFFORD & HODGE LLP

MARK C. ALLEN III

MCA/nsv
cc: Joe Fryzer (Via fax)

COASTAL COMMISSION
A-381-78-A13
EXHIBIT # 15
PAGE 25 OF 28

LAW OFFICES

WIEZOREK, RICE & LOVELACE

A LIMITED LIABILITY PARTNERSHIP

3700 SANTA FE AVENUE, SUITE 300

POST OFFICE BOX 2190

LONG BEACH, CALIFORNIA 90810

(310) 834-5028

FAX (310) 834-8018

EMAIL: info@wrl-law.com

ANTHONY F. WIEZOREK
STEVEN C. RICE
SUSAN GRAHAM LOVELACE

WILLIAM R. MOORE
KIMBERLEY H. GOEI

OF COUNSEL
GEOFFREY S. PAYNE

400.0200

March 7, 2002

RECEIVED
South Coast Region

MAR 8 2002

CALIFORNIA
COASTAL COMMISSION

VIA FACSIMILE TRANSMISSION to 562/590-5084

Mr. Aaron McLendon
Coastal Program Analyst
CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, California 90802-4302

Re: Application #5-01-241 (Fryzer)
Coastal Development Permit A-381-78 and amendments 1-11

Dear Mr. McLendon:

Thank you for returning my call. I am happy to hear that we will be hearing back from the Staff early next week. I remind you that this matter has been dragging on now for months, without resolution. As you confirmed, all the added documentation that you requested (additional engineering studies, topo maps, etc.) has been on file for several weeks.

I recognize that moving this matter along involves several other people and is not entirely within your control. I have, therefore, taken the liberty of copying Alex Helberin, the attorney you indicated is involved in this matter. For reference, I am providing you with copies of my most recent correspondence. As I told you when we talked, I cannot understand why the Commission refuses to allow my client to correct an obviously improper, and possibly unsafe, situation.

We await your response.

Very truly yours,

LAQUER, URBAN, CLIFFORD & HODGE LLP

MARK C. ... EN III

MCA/nsv
Enclosures
cc: Via First Class Mail w/encls.)
Pamela Emerson
Deborah Lee
Alex Helberin

COASTAL COMMISSION
A-381-78-A13
EXHIBIT # 15
PAGE 26 OF 28

LAQUER, URBAN, CLIFFORD & HODGE LLP
LAWYERS

MARK C. ALLEN III
allen@luch.com

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FAX (310) 830-9902

PASADENA, CALIFORNIA
BELLEVUE, WASHINGTON
LAS VEGAS, NEVADA

FILE NO 400.0200

March 20, 2002

RECEIVED
South Coast Region

MAR 22 2002

CALIFORNIA
COASTAL COMMISSION

Alex Helberin, Attorney
CALIFORNIA COASTAL COMMISSION
45 Fremont St., Suite 2000
San Francisco, California 94105-2219

Re: Application #5-01-241 (Fryzer)
Coastal Development Permit A-381-78 and amendments 1-11

Dear Mr. Helberin:

I am disappointed that you were unable to arrange to speak with me over the past few days. According to my secretary, you cited busyness as the reason for your inability to respond. Unfortunately, my client does not have the luxury of continuing delay. As I understand you are aware, my client, Joseph Fryzer, owns property in Palisades Highlands, miles from the ocean. Only coastal cognoscente would be aware of the fact of the Coastal Commission's jurisdiction over this property. Mr. Fryzer purchased the property and proceeded to build in accordance with approval from the City of Los Angeles.

Adjacent to my client's property is large hole that serves as a debris basin for a small hillside area above his property. Despite months of effort, no one has been able to determine whether the debris basin was constructed in accordance with a Coastal Commission permit. By everyone's account, the hole is, at best, unsightly and, at worst, unsafe. It certainly constitutes an attractive nuisance to neighborhood children in the colloquial, if not the common law, sense. My client, the City, the neighbors, and the Commission staff unanimously agree a properly engineered solution is needed. My client has, at his own cost, agreed to provide such a properly engineered structure that will adequately protect his property, look better, and provide greater safety for the surrounding community. Despite approval from the City of Los Angeles, providing hydrology studies, filing applications—in short, doing everything that the Commission could wish, the Commission has refused to allow him to correct the situation. In fact, the Commission seems to be adamantly refusing to take any action whatsoever until they resolve enforcement issues having nothing to do with my client.

I will not go into detail about the nature of the discussions or correspondence over the past six months except to say that my client has done everything that he could possibly do to move this matter forward, save one—sue the Coastal Commission to force it to act.

COASTAL COMMISSION
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I believe a mere perusal of the accompanying information will indicate that the Commission has no basis upon which to continue to insist that a dangerous condition remain on this property. I further understand from the Commission Staff, that it believes that the engineered solution proposed by my client is both appropriate and consistent with the Commission policy. I solicit, therefore, your immediate attention to this matter as a last, best, and final attempt to avoid litigation. I will make myself available at your convenience to discuss this matter.

Very truly yours,

LAQUER, URBAN, CLIFFORD & HODGE LLP

MARK C. ALLEN III

MCA/nsv
Enclosures
cc: Aaron McLendon (w/o encls.)
Pamela Emerson (w/o encls.)
Deborah Lee (w/o encls.)

COASTAL COMMISSION
A-381-78-A13
EXHIBIT # 15
PAGE 28 OF 28

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FAX (310) 830-9902
PASADENA, CALIFORNIA
BELLEVUE, WASHINGTON
LAS VEGAS, NEVADA

FILE NO. 400.0200

June 7, 2002

VIA FACSIMILE TRANSMISSION to 562/590-5084
(Original Via First Class Mail)

Mr. Aaron McLendon
Coastal Program Analyst
CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, California 90802-4302

Re: **Coastal Development Permit A-381-78 and amendments 1-11**
Item No. Tu 13a
Application #5-01-241 (Fryzer)

Dear Mr. McLendon:

I have been unable to reach you by phone and have not received any response to my last letter. Therefore, I address here two issues regarding the Staff Report that we need to have clarified for our presentation to the Commission.

- In reading the Staff Report, I noted that the Staff Report seems inconsistent in describing my client's request. As you know, and as has been confirmed in numerous conversations and letters, Mr. Fryzer is not asking for a lot line adjustment or for any change in the permit. He is only asking for a finding of conformance. I believe that such a finding by the Commission is appropriate given the fact that all Mr. Fryzer wants to do is to correct what is beyond peradventure a bad situation.
- We understand the Staff rejected our latest offer to compromise, *viz.*, re-contour the site at a 10% or even 15% grade instead of the proposed 2% grade, which would create a more natural appearance. You indicated that the Staff was not in a position to consider such a proposal. The Staff Report implies that the Staff has suggested an alternative design protocol. We are unaware of any such alternative, except to fence the basin—something we regard as dangerous. In fact, Mr. Fryzer has offered to compromise on this matter on several occasions. Unfortunately, the Staff has been unwilling or unable to provide any positive feedback.

RECEIVED
South Coast Region
JUN 07 2002
CALIFORNIA
COASTAL COMMISSION

COASTAL COMMISSION
A-381-78-A13
EXHIBIT # 16
PAGE 1 OF 13

Please let me know immediately if either of these understandings is incorrect, as we will be relying on them in our presentation to the Commission and in our informal discussions with Commissioners and other members of the Staff. As I understand the Staff's position, you are adamant that the basin was never permitted. Nonetheless, and for good order I attach the City of Los Angeles records that clearly show the basin was part of the allowed "Development Easements" constructed after review of CDP requirements by the City.

Very truly yours,

LAQUER, URBAN, CLIFFORD & HODGE LLP

MARK C. ALLEN III

MCA/nsv
Attachments
cc: Via Facsimile Transmission:
Peter Douglas
Pamela Emerson
Deborah Lee
Alex Helberin
All Commissioners (by mail, c/o Aaron McLendon)

COASTAL COMMISSION
A-381-78-A13
EXHIBIT # 16
PAGE 2 OF 13

RECEIVED BY
JUL 08 1991
VIN WEST, INC.

G-3 MODIFICATION OF GRADING
Tract 32184, Lot 81
2001 Palisades Drive
Pacific Palisades, California

for

Headland Properties

W.O. 1201-C-VN July 3, 1991

COASTAL COMMISSION
A-381-78-A13
EXHIBIT # 16
PAGE 3 OF 13

T.T.
100'
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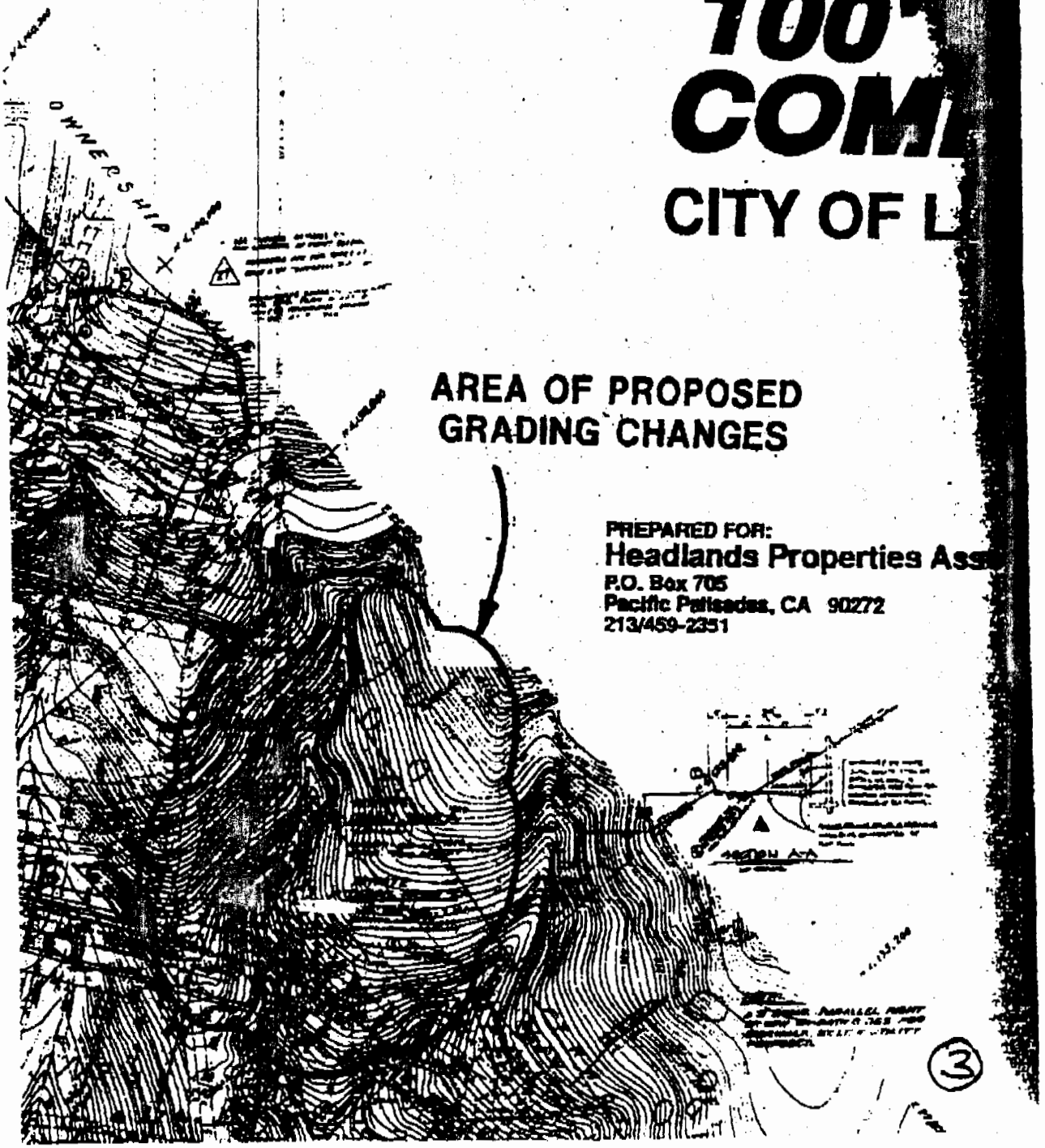
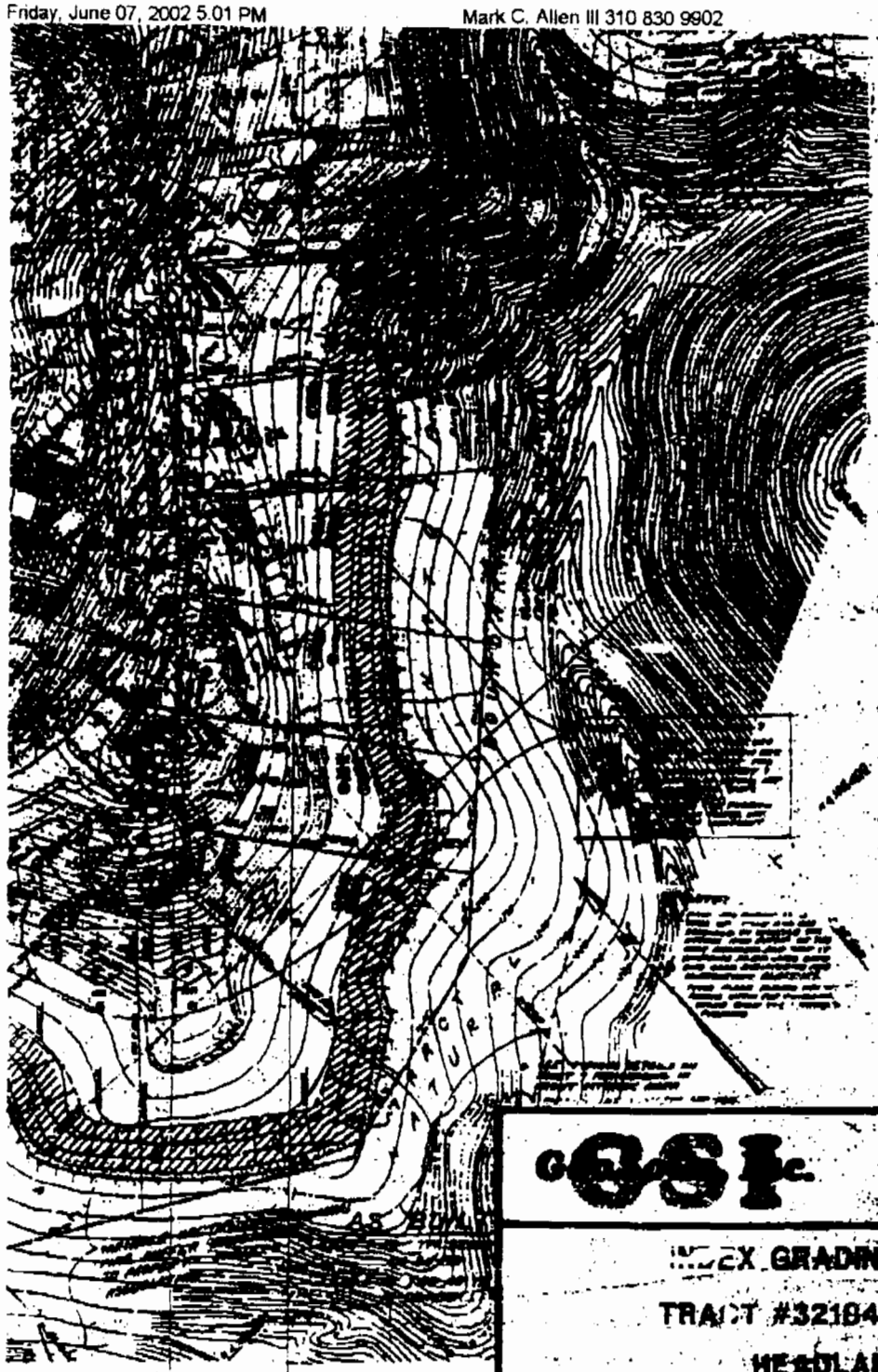


PREPARED FOR:
Headlands Properties Ass
P.O. Box 705
Pacific Palisades, CA 90272
213/459-2351

(3)



GSI

LOS ANGELES CO.
RIVERSIDE CO.
ORANGE CO.
SAN DIEGO CO.

INDEX GRADING PLAN

TRACT #32184, LOT 81

HEADLANDS

WORK ORDER	DATE	SCALE
1201C-VN	7/91	1" = 100'

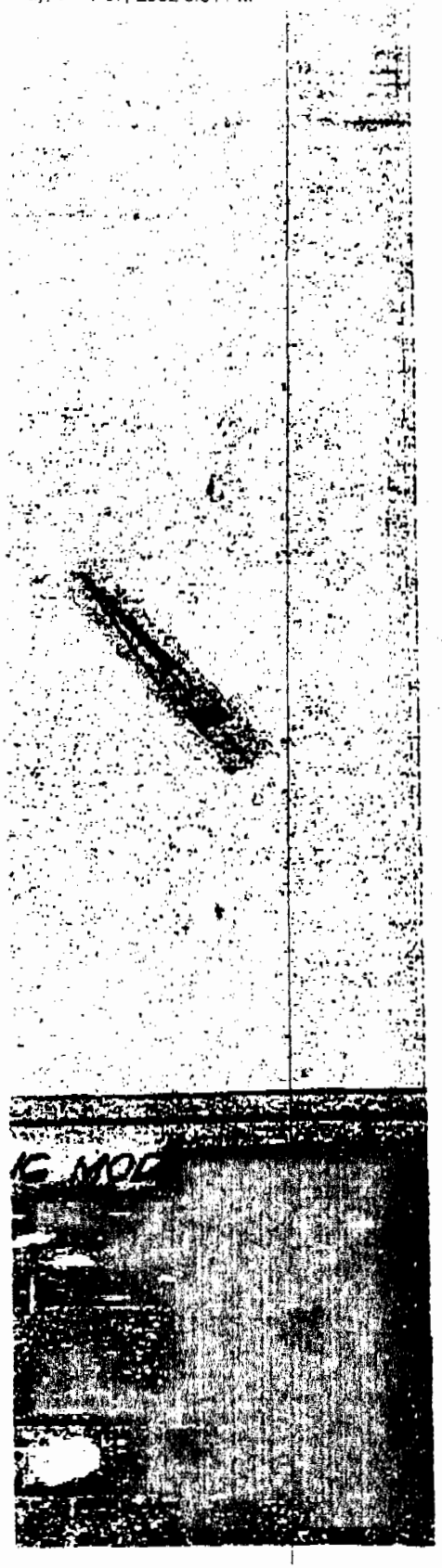
REVISED

PLATE 1 (2)

COASTAL COMMISSION
A-381-78-A13

EXHIBIT # 16

PAGE 5 OF 13



cgl CONGLOMERATE

GEOLOGIC CONTACT LINE. DASHED WHERE INFERRED

BEDDING

SHEAR

VERTICAL SHEAR

SHEAR SET

JOINT

JOINT SET

FAULT LINE

A A' LOCATION OF CROSS SECTION

GeoSoils, Inc.

LOS ANGELES CO.
RIVERSIDE CO.
ORANGE CO.
SAN DIEGO CO.

GEOLOGIC MAP

TRACT #32184, LOT 81

HEADLAND PROPERTIES

WORK ORDER	DATE	SCALE
1201C-VN	7/91	1" = 40'

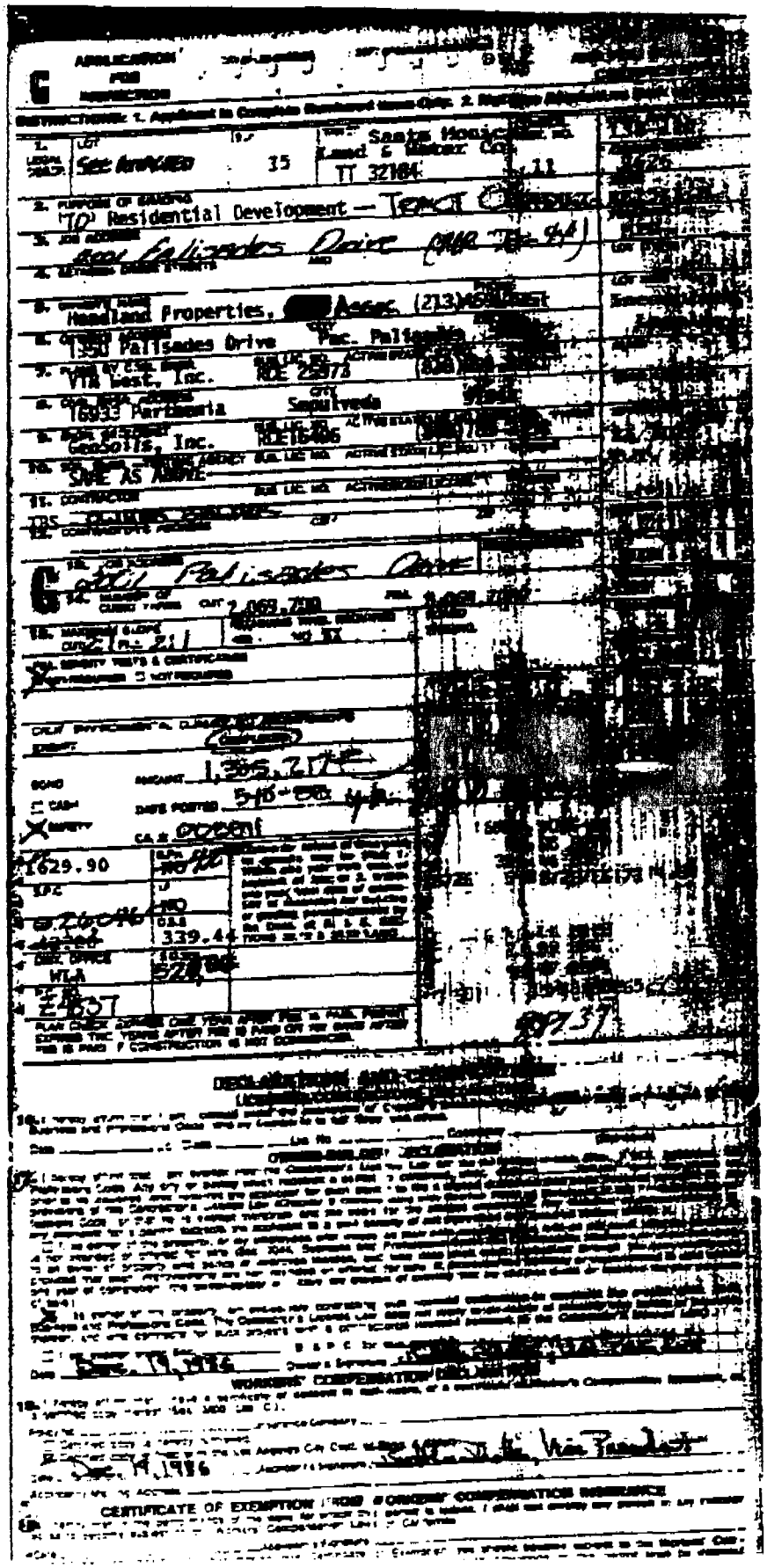
REVISED

PLATE 2 (4)

COASTAL COMMISSION
A-381-78-A13

EXHIBIT # 16

PAGE 6 OF 13



COASTAL COMMISSION
A-381-78-A13

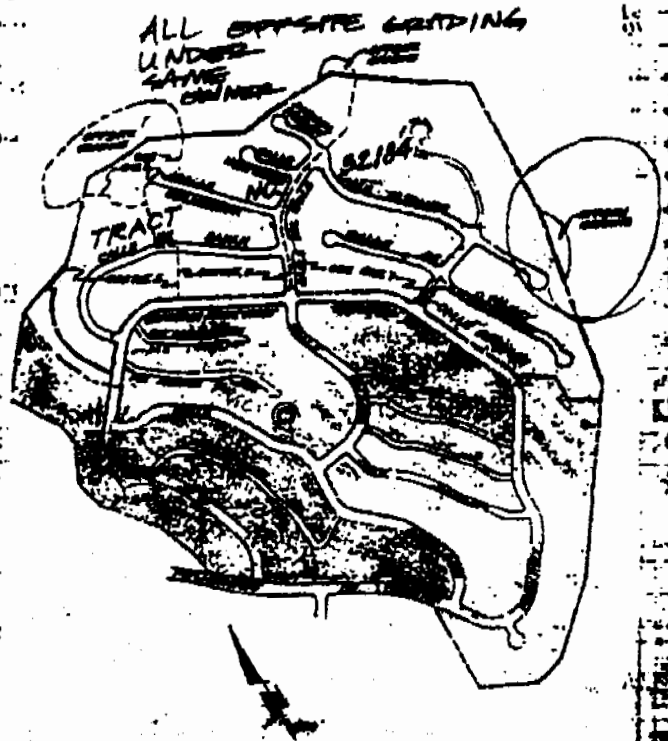
EXHIBIT # 16

PAGE 8 OF 13

COASTAL COMMISSION
A-381-78-A13

EXHIBIT # 16

PAGE 9 OF 13



APPLICATION FOR INSPECTION — CITY OF LOS ANGELES — DEPT OF BUILDING AND SAFETY — OF GRADING AND FOR GRADING CERTIFICATE

INSTRUCTIONS: 1. Applicant to Complete Numbered Items Only. 2. Plot Plan Required on Back of Original.

1. LEGAL DESCR. LOT 1-43(E) 1-81(N) BLK. TRACT 32194 32154 COUNCIL DIST NO. 11 CENSUS TRACT 2626.01 ZONE RE15-1-H
2. PURPOSE OF GRADING (70) modified tract - SITE PREP FOR TRACT
3. JOB ADDRESS 2001 Palisades Drive
4. BETWEEN CROSS STREETS AND
5. OWNER'S NAME Headland Prop Assoc PHONE 213 459-2351
6. OWNER'S ADDRESS CITY P.O. Box 705 Pacific Palisades ZIP 90272
7. PLANS BY CIVIL ENGR. CIVIL LIC. NO. ACTIVE STATE LIC. NO. PHONE Mark 36138
8. CIVIL ENGR. ADDRESS CITY ZIP 8540 Balboa Sepulveda #200
9. ENGR. GEOLOGIST Geocon, Inc
10. SOIL ENGR.—TESTING AGENCY
11. CONTRACTOR CONTACT
12. CONTRACTOR'S ADDRESS CITY ZIP
13. JOB ADDRESS 2001 Palisades Drive
14. NUMBER OF CUBIC YARDS CUT 140,000 FILL 40,000
15. MAXIMUM SLOPE CUT 2:1 FILL 2:1 RETAINING WALL REQUIRED YES NO
16. FILL SURETY TAXES & CERTIFICATION ASSURED NOT REQUIRED
17. CALIF. ENVIRONMENTAL QUALITY ACT REQUIREMENTS EXEMPT COMPLETION
18. BOND AMOUNT USE EXIST'G
CA 1M DATE POSTED 4-95137
SURETY CA 2
19. F.P. 3144.00 G.P.L. 99 PAID
U.P.C.
20. 4990015472 CASH
21. DIST. OFFICE
22. 2000074 S.D.R.S.

Checks for refund of fees paid on permits may be filed 1. Within one year from date of expiration of this or 2. Within one year from date of completion for permits granted for the Const. of S. & S. SECTIONS 98.12 & 98.13 LAMC

* PLAN CHECK EXPIRES ONE YEAR AFTER FEE IS PAID. PERMIT EXPIRES TWO YEARS AFTER FEE IS PAID OR 180 DAYS AFTER FEE IS PAID IF CONSTRUCTION IS NOT COMMENCED.

6/96 11:20:00AM LA06 T-6135 C 0
GRADING PLAN C 3144.00
GRADING PERMIT 2940.00
ONE STOP 165.72
TOTAL 6145.72
CHECK 6145.72

91LA 73997
91LA 73997

DECLARATIONS AND CERTIFICATIONS

LICENSED CONTRACTORS DECLARATION

I, I hereby affirm that I am licensed under the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

Date _____ Lic. Class _____ Lic. No. _____ Contractor _____ (Signature)

OWNER-BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for such permit to file a signed statement that he is licensed pursuant to the provisions of the Contractor's License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars ($500).):

☐ I, an owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or through his own employees, provided that such improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he did not build or improve for the purpose of sale.).

☐ I, an owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractor's License Law.)

☐ I am exempt under Sec. _____ B. & P. C. for this reason

Date _____ Owner's Signature _____

COASTAL COMMISSION
A-382-78-A13

EXHIBIT # 16
PAGE 10 OF 13

CITY OF LOS ANGELES
CALIFORNIA

COMMISSIONERS
MARCIA MARCUS
PRESIDENT
TOM WOO
VICE-PRESIDENT
REVELACION P. ABRACCOSA
RICHARD W. HARTZLER
BENITO A. SINCLAIR

JUL 31 1991

MIYS

TOM BRADLEY
MAYOR

DEPARTMENT OF
BUILDING AND SAFETY
411 CITY HALL
LOS ANGELES, CA 90012-4868
WARREN V. O'BRIEN
GENERAL MANAGER
EARL SCHWARTZ
EXECUTIVE OFFICER

July 19, 1991

Log # 24706
C.D. 11
(SOILS/GEO FILE - 2)

Headland Properties
P. O. Box 705
Pacific Palisades, CA 90272

TRACT: 32184
LOT: 81
LOCATION: 2001 PALISADES DRIVE

CURRENT REFERENCE REPORT/LETTER(S)	REPORT NO.	DATE(S) OF DOCUMENT	PREPARED BY
SOILS/GEO REPORT	WO1201-C-VN	July 3, 1991	GeoSoils

The above report concerning a G-3 Modification Plan to move the proposed Debris Basin off site and above Lot 81 has been reviewed by the Grading Division of the Department of Building and Safety.

According to the report, the presently planned open space which includes a natural drainage course and Debris Sump "A" and Debris Basin "E" would be filled in and Lot 81 will be enlarged to the east. The proposed Debris Basin will be out side the tract boundary, however, the clean-out access and overflow channel will be through the tract.

The report is acceptable, provided the following conditions are complied with during site development:

1. Approval shall be obtained from the off site property owner with a regard to the proposed construction.

2. Suitable arrangements shall be made with the Department of Public Works for the proposed construction within a natural watercourse.

AN EQUAL EMPLOYMENT OPPORTUNITY - AFFIRMATIVE ACTION EMPLOYER

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3. Prior to the issuance of any permits, the owner shall record with the Office of the County Recorder an access and drainage easement over Lot 81 and a notarized Covenant and Agreement to insure permanent maintenance and access to the offsite debris basin

4. The geologist and soils engineer shall review and approve the detailed plans prior to issuance of any permits. This approval shall be by signature on the plans which clearly indicates that the geologist and soils engineer have reviewed the plans prepared by the design engineer and that the plans include the recommendations contained in their reports.

5. All graded slopes shall be no steeper than 2:1.

6. All recommendations of the report which are in addition to or more restrictive than the conditions contained herein shall be incorporated into the plans.

7. If the grading permit involves the import or export of more than 1000 cubic yards of earth materials, and is in the grading hillside area, approval is required by the Board of Building and Safety. Application for approval of the import-export route should be filed with the Grading Division. Processing time of this application is approximately six weeks.

8. A grading permit shall be secured and a grading bond posted.

9. A copy of the subject and appropriate referenced reports and this approval letter shall be attached to the District Office and field set of plans. Submit one copy of the above reports to the Building Department Plan Checker prior to issuance of the permit.

10. The consulting geologist shall periodically inspect the grading and upon completion submit a final report stating that the completed work complies with his recommendations. Geological data shall be obtained from grading exposures, particularly at back slope cuts for fills and buttress and on cut surfaces. This data shall be presented on a final geological map and as-graded plan.

11. Any recommendations prepared by the consulting geologist and/or the soils engineer for correction of geological hazards found during grading shall be submitted to the Department for approval prior to utilization in the field.

12. The geologist and soil engineer shall inspect all excavations to determine that conditions anticipated in the report have been encountered and to provide recommendations for the correction of hazards found during grading.

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13. Any unsupported shale planes, either existing or exposed by grading, shall be supported by a designed retaining wall or buttress fill.

14. All man-made fill shall be compacted to a minimum 90 percent of the maximum dry density of the fill material per the latest version of ASTM 1557 and field testing shall be done per ASTM D1556-82 (minimum 6 inch cone).

15. Subdrains must be installed in all natural drainage courses within which compacted fill is to be placed.

16. The consultants shall inspect the buttress fill subdrain outlets to insure the lateral drains extend beyond the slope surface and are functioning as designed.

17. All graded, brushed or bare slopes shall be planted with low-water consumption, native-type plant varieties recommended by a landscape architect. Suitable arrangements shall be made with the Department with respect to continued maintenance of the recommended plant varieties until they are established as an effective ground cover.

18. All concentrated drainage shall be conducted in an approved device and disposed of in a manner approved by the Department.

LARRY WESTPHAL
Chief of Grading Division

J. W. COBARRUBIAS
Engineering Geologist

Theo R. Seeley
THEO R. SEELEY
Geotechnical Engineer

TRS/JWC:gas
TGRSGL071991H/2GR
(213) 485-2160

cc: GeoSoils
WLA District Office

COASTAL COMMISSION
A-381-78-A13
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PAGE 13 OF 13

LAQUER, URBAN, CLIFFORD & HODGE LLP
LAWYERS
MARK C. ALLEN III
3700 SANTA FE AVENUE, SUITE 300
LONG BEACH, CALIFORNIA 90810
(310) 830-0292
FAX (310) 830-9902
PASADENA, CALIFORNIA
BELLEVUE, WASHINGTON
LAS VEGAS, NEVADA

June 10, 2002

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South Coast Region
JUN 10 2002
CALIFORNIA
COASTAL COMMISSION

VIA FACSIMILE TRANSMISSION to 562/590-5084
(Original Via First Class Mail)

Mr. Aaron McLendon
Coastal Program Analyst
CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, California 90802-4302

Re: Coastal Development Permit A-381-78 and amendments 1-11
Item No. Tu 13a
Application #5-01-241 (Fryzer)

Dear Mr. McLendon:

This will confirm our telephone conversation from earlier today. We have resolved the above-referenced matter. We have agreed to provide revised drawings that show more contoured grading in the area now occupied by the detention basin. The Staff believes that such an approach will be acceptable. You have agreed to expedite the review of these documents. Before spending money doing the drawings, our engineers will contact Staff engineers to resolve any technical issues.

In order to effectuate this understanding, we request that the hearing currently scheduled for tomorrow, June 11, be continued to the next available date. The applicants waive all statutory and regulatory requirements to have the matter be heard at an earlier time. This request does not waive any substantial and procedural rights except as necessary to extend the time for hearing.

Thank you for your continued courtesy and cooperation. Please call me if you have any questions with regard to this letter.

Very truly yours,

LAQUER, URBAN, CLIFFORD & HODGE LLP

MARK C. ALLEN III

MCA/nsv
cc: Via Facsimile Transmission:
Pamela Emerson
Deborah Lee
Alex Helberin

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COASTAL COMMISSION
A-381-78-A13
EXHIBIT # 17
PAGE 1 OF 1

STATE OF CALIFORNIA - THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071

June 18, 2002

Mark C. Allen
3700 Santa Fe Avenue, Suite 300
Long Beach, CA 90810

Subject: Responses to your letter sent June 7, 2002, with attached documents and your June 10, 2002, letter requesting a continuance of item No. Tu 13a (A-381-78-A13) scheduled for the June 11, 2002 Coastal Commission hearing.

1. Response to Mark C. Allen's letter including submitted documents (a "Modification of Grading" plan by GeoSoils, Inc, July 3, 1991 and a City of Los Angeles, Department of Building and Safety approval letter for Soils and Geology Report, Log # 24706)

Per your request at the end of your letter, we are writing to inform you that the understandings expressed therein are *not* correct. To begin with, you have incorrectly identified the current application as 5-01-241 (Fryzer). The Executive Director of the Coastal Commission rejected this application on September 4, 2001 (see page 16 of the most recent staff report – May 29, 2002). As submitted by the applicants, the current amendment application number is A-381-78-A13.

The following will respond to each of the two bulleted points in your letter of June 7, 2002. An excerpt from each of your bulleted points is quoted (and underlined) below, preceding staff's response:

"... As you know, and as has been confirmed in numerous conversations and letters, Mr. Fryzer is not asking for a lot line adjustment or for any change in the permit. He is only asking for a finding of conformance. I believe that such a finding by the Commission is appropriate given the fact that all Mr. Fryzer wants to do is correct what is beyond peradventure a bad situation."

Page 16 of the most recent staff report – May 29, 2002 - clearly indicates staff's understanding that the current application does not include a lot line adjustment. Page 16, paragraph 3 of this staff report states, "The present amendment application was submitted on October 11, 2001. The applicants include Headlands Properties Associates (Metropolitan Life Insurance Company), the owners of Lot 41 (as assigned Homeowners Association – see condition 2g. of the ninth amendment) and a portion of Lot G, and Mr. Joseph Fryzer, the owner of Lot 81. **This amendment application, A-381-78-A13, does not include the lot line adjustment**" (emphasis added). Also, Mr. Fryzer is not the only applicant. As shown on the Coastal Development Permit

Amendment Request Form, both Mr. Fryzer and Headlands Properties Associates are listed as applicants. As discussed in several conversations with you and VTN West Inc., Commission staff has determined that the proposed project is not in conformance with the underlying permit as amended (or the Chapter 3 policies of the Coastal Act). Therefore, the proposed development outside the designated Urban Limit Line requires an amendment to the original permit, and Mr. Fryzer, by applying for such development, is applying to amend the permit. As for your request for a finding of conformance, it is the Coastal Commission that would make the final decision as to the project's consistency with the Chapter 3 policies of the Coastal Act. Moreover, were we to analyze conformance with the existing permit, neither the current situation nor your proposed fix conforms to that permit's requirements.

"We understand the staff rejected our latest offer to compromise, *viz*, re-contour the site at a 10% or even 15% grade instead of the proposed 2% grade, which would create a more natural appearance. You indicated that the staff was not in a position to consider such a proposal. The Staff Report implies that the Staff has suggested an alternative design protocol. We are unaware of any such alternative, except to fence the basin – something we regard as dangerous. In fact, Mr. Fryzer has offered to compromise on this matter on several occasions. Unfortunately, the Staff has been unwilling or unable to provide any positive feedback.

We agree that you did propose that the applicants could remove some of the "fill" pad area at a greater contour than what was proposed in the original project, A-381-78-A13. This was done in a phone conversation with staff during the staff production week for the June Commission hearing items (between May 20 and May 23, 2002). Staff did not "reject" this offer. However, staff could not analyze this proposal prior to the June hearing because 1) staff did not have geotechnical, soils engineering, hydraulic or grading reports and plans for such a proposal, 2) you gave an arbitrary number of re-contoured grading without the support of appropriate technical documents, and 3) the request was never submitted in writing. In addition, as indicated above, the request came too late in the production cycle for staff to analyze it for the June calendar. However, staff informed you of your option of signing a request to extend the 180-day deadline for Commission action on your application by 90 days or withdrawing the application and resubmitting with the new information and an alternate project description. This would be necessary in order to consider your new suggestion for the next calendar because the 180th day (under the Permit Streamlining Act) is June 26, 2002 and staff could not review a change in the project description (which was never submitted in writing and without benefit of any technical reports) in less than a week's time. At that time, you declined to sign the 90-day time extension and requested to move forward with the current amendment application.

The staff report included an *Alternatives* section, which listed a broad range of alternatives that could be found consistent with the Chapter 3 policies of the Coastal Act. This section (and the alternatives listed) does not bind the applicant to implement

such recommendations but merely provides guidance in creating a project that can, in staff's opinion, be found consistent with the Chapter 3 policies of the Coastal Act.

Finally, you have stated, "Mr. Fryzer has offered to compromise on this matter on several occasions." The applicant has not, at any time, proposed "several" compromises to reach a solution with staff. On April 3, 2002, Commission staff (staff analysts – Aaron McLendon, staff legal counsel – Alex Helperin, Southern California Enforcement Supervisor – Steve Hudson, and staff engineer – Lesley Ewing) and the applicants' representatives (yourself, and Lloyd Poindexter and Scott Wolfe of VTN West Inc.) discussed the possibilities of alternative projects. Staff engineer, Lesley Ewing, has stated that there are other alternatives that would provide for a safe debris basin and flood control that would not require an extensive fill pad outside the urban limit line. Commission staff asked if there were other options that could remove some of the fill area to create a more natural slope while maintaining adequate debris detention and flood control (as discussed in the alternatives section of the May 29, 2002, staff report). Both you and representatives of VTN West Inc. stated that the proposed project was the only viable option. At that time the original project description was the only project that had been proposed and no compromises were received from the applicants. As indicated above, you did offer to re-contour some of the existing fill area. However, as previously discussed, staff did not receive technical reports supporting any re-contoured grading, the amount of grading, or an amended project description in writing. This compromise, which was not offered in writing and which was offered without the support of technical documents, was (and remains, as of the date of this letter) the only alternative proposed by the applicants.

You have submitted a "Modification of Grading" plan by GeoSoils, Inc, July 3, 1991 and a City of Los Angeles, Department of Building and Safety approval letter for Soils and Geology Report, Log # 24706 with your June 7, 2002, letter. The grading plan by GeoSoils and the City's approval letter of that grading plan do not demonstrate that the Coastal Commission approved the revised grading. Your letter states, "... for good order I attach the City of Los Angeles records that clearly show the basin was part of the allowed 'Development Easements' constructed after review of CDP requirements by the City."

The City of Los Angeles, Department of Building and Safety's approval letter does not mention that they reviewed Coastal Development Permit A-381-78 as amended prior to or concurrent with their approval. This July 19, 1991, approval letter was the approval for "Soils/Geo Report W01201-C-VN" and not an amendment of the underlying coastal development permit #A-381-78. The submitted documents obtained by the City of Los Angeles do not show that the existing debris basin (as demolished and filled by either Mr. Fryzer or the previous developer) is consistent with the underlying permit as amended, or that any government body found it to be so consistent. In addition, the "Modification of Grading" plan by GeoSoils, Inc, July 3, 1991, submitted in your letter do not show any Coastal Commission approvals. Therefore, neither the GeoSoils grading

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plan nor the approval of this plan by the Department of Building and Safety demonstrate that the Coastal Commission approved the pre-existing debris basin.

2. Response to Mark C. Allen's letter of June 10, 2002

As with your June 7, 2002, letter, you have incorrectly identified the current application as 5-01-241 (Fryzer). The Executive Director of the Coastal Commission rejected this application on September 4, 2001 (see page 16 of the most recent staff report – May 29, 2002). As submitted by the applicants, the current amendment application number is A-381-78-A13.

As you have stated, during our telephone conversation on June 10, 2002, we discussed A-381-78-A13. In our conversation you expressed your desire to postpone the scheduled item, Tu 13a, to allow the applicants time to work with staff and design a project that could be found consistent with the Coastal Act. You stated in your June 10, 2002, letter, "We have resolved the above-referenced matter [relating to A-381-78-A13]." As discussed in our later telephone conversation on June 10, 2002, we have not resolved any issues related to the amendment application A-381-78-A13. The reason for the postponement was to allow time for your client and Commission staff to attempt to design a project that Commission staff could recommend approval for. The only thing that was resolved during our telephone conversation was that the applicants and Commission staff would work together to attempt to design a project that could be consistent with the Coastal Act and resolve the current violation.

You also stated in your June 10, 2002, letter, "You have agreed to expedite the review of these documents." In our earlier June 10, 2002, conversation, you had asked if Commission staff could expedite the review process. I told you that I would try to get the item rescheduled as soon as possible after the necessary review by our technical staff.

Thank you for your continued cooperation in these matters.

Sincerely,

Aaron N. McLendon

Aaron N. McLendon
Coastal Program Analyst
South Coast District office

Exhibit #2

Addendum to Cease and Desist Order No. CCC-04-CD-09 and Restoration Order No. CCC-04-RO-03 for the Commission Meeting of September 8, 2004

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, GOVERNOR

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

Wed 13,15 & 17

ADDENDUM

September 3, 2004

TO: Coastal Commissioners and Interested Parties

FROM: Lisa Haage, Chief of Enforcement

SUBJECT: ADDENDUM TO **ITEMS Wed 13, 15 and 17** COASTAL COMMISSION CEASE AND DESIST ORDER CCC-04-CD-09 AND RESTORATION ORDER CCC-04-RO-03 FOR THE COMMISSION MEETING OF **September 8, 2004**.

Documents included in this addendum are as follows:

Items Wed 15 and 17

1. A letter signed by Steven M. Siemens of Russ, August & Kabat on behalf of Joseph Fryzer, dated September 3, 2004; and
2. A letter from Lisa Haage, Chief of Enforcement, dated September 3, 2004.

Item Wed 13

1. A letter from the Peninsula Democratic Club, dated August 19, 2004, addressed to Chairman Reilly, regarding 450 Asilomar Avenue, City of Pacific Grove; and
2. A letter from Nancy Cave, Northern California Enforcement Supervisor, dated September 3, 2004.

RUSS AUGUST KABAT LAWYERS

5959 TOPANGA CANYON BOULEVARD
SUITE 130
WOODLAND HILLS, CALIFORNIA 91367

TELEPHONE: (818) 887-7000
FACSIMILE: (818) 887-7730

FACSIMILE TRANSMITTAL SHEET

Date:			Total No. Of Pages Including Cover:
September 3, 2004			2
To:	**Company:**	**Telephone:**	**Facsimile:**
Aaron McLendon	California Coastal Commission	(415) 904-5220	**(415) 904-5235**
cc:			
Joseph Fryzer		310-459-8000	**310-459-8856**
From:		**Re:**	
Steven M. Siemens/dg		*Violation V-5-01-045*	

Original will follow: Yes ☒ No ☐

Message:

CONFIDENTIALITY NOTICE

THE DOCUMENTS ACCOMPANYING THIS FACSIMILE TRANSMISSION MAY CONTAIN CONFIDENTIAL INFORMATION WHICH IS LEGALLY PRIVILEGED. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in this transmission is strictly PROHIBITED.

IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL FACSIMILE TO US ADDRESSED TO: Russ, August & Kabat, 5959 Topanga Canyon Boulevard, Suite 130, Los Angeles, California 91367.

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September 3, 2004

Via Facsimile and U.S. Mail

Aaron McLendon
California Coastal Commission
Headquarters Enforcement Program
45 Freemont Street, Suite 2000
San Francisco, California 94105

Re: *Violation V-5-01-045*

Dear Mr. McLendon:

This firm represents Joseph Fryzer ("Fryzer") in connection with the above referenced violation and the enforcement action maintained by the California Coastal Commission ("Commission") against Fryzer and the adjoining property owner, Headlands Properties Associates ("HPA"). We have been advised that the Commission and HPA have entered into to a proposed Consent, Cease and Desist Order CCC-04-CD-08 and Consent Restoration Order CCC-04-RD-02 (the "Orders") in connection with the above referenced violation.

As set forth in my letter to Mr. Peter Douglas dated April 10, 2003, it has always been Fryzer's position that HPA was responsible for compliance with any enforcement action, including restoration requirements imposed by the Commission. It now being the case that the Commission and HPA have reached a settlement of such actions, including restoration of the subject property, as evidenced by the Orders, Fryzer requests that the Commission dismiss the enforcement action against him. In exchange for such dismissal Fryzer will, of course, fully cooperate with the Commission and HPA in carrying out the terms and conditions of the Orders. I understand that the Orders will be considered by the Commission on September 8, 2004. Therefore, your prompt response is appreciated.

Very truly yours,

Steven M. Siemens

SMS/dg

cc: Joseph Fryzer

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, GOVERNOR

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

September 3, 2004

Sent by Facsimile and U.S. Mail (818) 887-7730

Steven M. Siemens
Russ, August and Kabat
5959 Topanga Canyon Blvd., Suite 130
Los Angeles, CA 91367

re: Fryzer (V-5-01-045)

Dear Mr. Siemens:

I am in receipt of your letter of today's date, addressed to Mr. Aaron McLendon, in which you request that the Commission dismiss the enforcement action against your client. As I indicated on August 26, 2004 to your client, Mr. Fryzer, Mr. McLendon is out of the office at the current time, so I am handling this matter in his absence.

We understand that your client asserts, as you indicated in your letter of this date referencing your letter of April 10, 2003, that Headland Property Associates is responsible for compliance with any enforcement action regarding this property. However, the Commission staff has, over a period of years, indicated to Mr. Fryzer and Headland that we considered them both legally responsible for the numerous violations of the Coastal Act being addressed in this enforcement case. This has been reiterated in letters to your client, including the first notice of violation sent to your client on November 15, 2001, the formal Notice Of Intent to Commence Cease and Desist Order and Restoration Order Proceedings (dated February 20, 2003) and most recently, in our letter of August 18, 2004, in which we noted that although Headland Properties had contacted us and were working towards reaching a mutually acceptable resolution with the Commission, we had not heard from Mr. Fryzer in over a year.

In this latest letter, in fact, we pointed out to your client that he was "the party who conducted a majority of the unpermitted development (most of which occurred after the Commission denied the unpermitted fill that [he] placed on lands deed restricted for public open space) [and therefore] we are proceeding with recommending to the Commission that it issue a Cease and Desist Order and Restoration Order to [him]." We also noted that we remained, at that date, "willing and ready to resolve these issues through a Consent Order (settlement agreement)." I attach a copy of this letter for your convenience. Despite this offer, and a subsequent telephone conversation I had with your client in which I told him we were indeed

pursuing legal action against him, we never received any settlement offer whatsoever from your client and therefore, are proceeding with the Orders as indicated in our earlier correspondence.

Having said that, we appreciate the indication in your letter that your client intends to cooperate with the restoration work to be done by Headland Properties under their consent agreement with us. If you have any questions, please to do not hesitate to contact us. Mr. McLendon will return to the office on September 13, 2004; until that time, please contact me if you need any assistance.

Very truly yours,

Lisa A. Haage
Chief of Enforcement

enc.

cc: Joseph Fryzer (w/enc.)
Aaron McLendon, Headquarters Enforcement Officer
Deborah Lee, Deputy Director, Southern California
Teresa Henry, South Coast District Coastal Program Manager
Sandra Goldberg, Staff Counsel

CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

Sent Via Regular Mail and Facsimile

August 18, 2004

Joseph Fryzer
16670 Via La Costa
Pacific Palisades, CA 90272

Subject: **Commencement of Proceedings for Issuance of Cease and Desist and Restoration Orders**

Violation No.: V-5-01-045

Location: Lot G and Lot 41 of Tract 32184, Pacific Palisades, City of Los Angeles

Dear Mr. Fryzer,

This letter is to inform you that Commission staff has scheduled a hearing for Cease and Desist and Restoration Orders at the Commission's Wednesday, September 8, 2004 meeting in Eureka. These items were previously scheduled for May 2003 and most recently August 2004. On July 30, 2004 I sent you a copy of a letter from Commission staff to Headlands Properties Associates confirming the postponement of the proceedings from the August hearing and notifying you that the hearing would be rescheduled at the Commission's September hearing in Eureka. The items were postponed in an attempt to resolve the violation through a Consent Order (settlement agreement). Since postponing the Orders from the May 2003 Commission hearing, we have not received any correspondence from you or any indication that you are willing to resolve the violation. We are currently working with Headlands Properties Associates, as the property owner, to reach a mutually acceptable settlement agreement, and we hope to reach this agreement prior to the September hearing. At this time, since we have not heard from you in over a year and since you are the party who conducted a majority of the unpermitted development (most of which occurred after the Commission denied the unpermitted fill that you placed on lands deed restricted for public open space), we are proceeding with recommending to the Commission that it issue a Cease and Desist Order and Restoration Order to you. These Orders would compel you to cease maintenance of the unpermitted development, remove all of the development, and restore the area. The Orders would also require you to allow Headlands Properties Associates access across your property to conduct restoration work on Lot 41 and Lot G.

Please be advised that Coastal Act Sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil penalties in response to any violation of the Coastal Act. Coastal Act Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not

Exhibit #12
CCC-04-CD-08, -09
CCC-04-RO-02, -03
(Headland/Fryzer)

to exceed $30,000. Further, Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of up to $15,000 for each day in which the violation persists. Additional penalties of up to $6,000 per day can be imposed if a cease and desist or restoration order is violated. Section 30822 further provides that exemplary damages may also be imposed for knowing and intentional violations of the Coastal Act or of any orders issued pursuant to the Coastal Act.

We look forward to hearing from you and remain willing and ready to resolve these issues through a Consent Order (settlement agreement). If you have any questions regarding this letter or the pending Commission hearing, please call me at (415) 904 5220 or send correspondence to my attention at the address on the letterhead.

Sincerely,

Aaron N. McLendon
Headquarters Enforcement Officer

cc: Lisa Haage, Chief of Enforcement, CCC
Edward Miller, Headlands Properties Associates

Exhibit #3

Consent Agreement and Cease and Desist Order Amendment No. CCC-04-CD-09-A and Restoration Order Amendment No. CCC-04-RO-03-A

CONSENT AGREEMENT AND CEASE AND DESIST ORDER AMENDMENT NO. CCC-04-CD-09-A AND RESTORATION ORDER AMENDMENT NO. CCC-04-RO-03-A

Consent Agreement and Amendments to Cease and Desist Order No. CCC-04-CD-09 and Restoration Order No. CCC-04-RO-03 (hereinafter, "Consent Agreement and Amendments") modify the orders previously issued by the California Coastal Commission (hereinafter, "Commission") by removing some obsolete provisions from the orders and appending new, mutually acceptable language to the orders to settle all Coastal Act related claims, including claims for monetary fines and penalties under Chapter 9 of the Coastal Act. Cease and Desist Order No. CCC-04-CD-09 and Restoration Order No. CCC-04-RO-03, as amended herein, remain fully in effect and legally binding regarding the work to be performed under the original orders. The retained provisions of those orders shall also apply to the obligations of the Consent Agreement and Amendments. However, as indicated above, not all provisions are retained. Specifically, Section VIII (Appeal) of the original orders is superceded by Section 10.0 of the Consent Agreement and Amendments. As to the obligations arising under the Consent Agreement and Amendments, Section VI (Compliance Obligation) of the original orders is superceded by Section 8.0 of the Consent Agreement and Amendments. Cease and Desist Order No. CCC-04-CD-09 and Restoration Order No. CCC-04-RO-03, as amended herein, are hereby incorporated by reference and attached hereto as Exhibit A to the Consent Agreement and Amendments. The text of the Consent Agreement and Amendments is presented in Section 2.0 through Section 15.0, below.

2.0 AMENDMENTS TO CEASE AND DESIST AND RESTORATION ORDERS

Pursuant to its authority under Public Resources Code Section 30810 and Section 30811 and California Code of Regulations Title 14, Division 5.5, Section 13188 and Section 13197, the Commission, with the consent and agreement of Joseph Fryzer (hereinafter, "Respondent"), hereby amends Cease and Desist Order No. CCC-04-CD-09 and Restoration Order No. CCC-04-RO-03, which were previously approved by the Commission on September 8, 2004. Accordingly, through the execution of the Consent Agreement and Amendments, Respondent agrees to comply with the terms of the above referenced orders and these amendments thereto, and agrees to accept the following terms and conditions.

3.0 PERSON SUBJECT TO THE CONSENT AGREEMENT AND AMENDMENTS

Joseph Fryzer, all his employees, agents, and contractors, and any persons acting in concert with any of the foregoing are subject to all the requirements of the Consent Agreement and Amendments, and agree to comply with all the requirements of the Consent Agreement and Amendments.

4.0 COMMISSION JURISDICTION

The Commission has jurisdiction over resolution of this Coastal Act violation pursuant to Public Resources Code Section 30810 and 30811. Respondent agrees to not contest the Commission's jurisdiction to issue or enforce the Consent Agreement and Amendments.

5.0 WAIVER OF DEFENSES

In light of the intent of the parties to resolve these matters in settlement, Respondent has

waived his right to contest the legal and factual bases and the terms and issuance of the Consent Agreement and Amendments, including the allegations of Coastal Act violations contained in the Notice of Intent to Issue a Cease and Desist Order and Restoration Order dated February 20, 2003 (hereinafter, "NOI"). Specifically, Respondent waived his right to present defenses or evidence to contest the issuance of the Consent Agreement and Amendments and hereby waives any rights to contest the enforcement of the Consent Agreement and Amendments at a public hearing or any other proceeding.

6.0 EFFECTIVE DATE AND TERMS OF THE CONSENT AGREEMENT AND AMENDMENTS

The effective date of the Consent Agreement and Amendments is the day the Commission approves the Consent Agreement and Amendments. The Consent Agreement and Amendments shall remain in effect permanently unless and until rescinded by the Commission.

7.0 FINDINGS

The Consent Agreement and Amendments are issued on the basis of the findings adopted by the Commission on April 12, 2006, as set forth in the attached document entitled "Recommendations and Findings for Consent Agreement and Amendments to Cease and Desist and Restoration Orders." The activities authorized and required in the Consent Agreement and Amendments are consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act.

8.0 SETTLEMENT/COMPLIANCE OBLIGATION

8.1 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 $40,000. The settlement monies shall be deposited in the Violation Remediation Account of the California Coastal Conservancy Fund (see Public Resources Code Section 30823). Respondent shall submit the settlement payment amount by May 12, 2006 to the attention of Aaron McLendon of the Commission, payable to the California Coastal Commission/Coastal Conservancy Violation Remediation Account. The settlement payment is a personal obligation of Respondent.

8.2 Strict compliance with the Consent Agreement and Amendments by all parties subject thereto is required. Failure to comply with any term or condition of the Consent Agreement and Amendments, including any deadline contained in the Consent Agreement and Amendments, unless the Executive Director grants an extension under Section 9.0, below, will constitute a violation of the Consent Agreement and Amendments and shall result in Respondent being liable for stipulated penalties in the amount of $500 per day per violation. Respondent shall pay stipulated penalties within 15 days of receipt of written demand by the Commission for such penalties regardless of whether Respondent has subsequently complied. If Respondent violates the Consent Agreement and Amendments, 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 Public Resources Code Sections 30821.6, 30822 and 30820 as a result of

the lack of compliance with the Consent Agreement and Amendments and for the underlying Coastal Act violations as described herein.

9.0 DEADLINES

Prior to the expiration of the deadlines established by the Consent Agreement and Amendments, Respondent may request from the Executive Director an extension of the deadlines. Such a request shall be made in writing 10 days in advance of the deadline and directed to the Executive Director in the San Francisco office of the Commission. The Executive Director shall grant an extension of deadlines upon a showing of good cause, if the Executive Director determines that Respondent has diligently worked to comply with his obligations under the Consent Agreement and Amendments, but cannot meet deadlines due to unforeseen circumstances beyond his control.

10.0 WAIVER OF RIGHT TO APPEAL AND SEEK STAY

Pursuant to the agreement of the parties as set forth in the Consent Agreement and Amendments, Respondent agrees to waive any rights to seek a stay or to challenge the issuance and enforceability of the Consent Agreement and Amendments in a court of law.

11.0 SETTLEMENT OF CLAIMS

The Commission and Respondent agree that the Consent Agreement and Amendments settle the Commission's monetary claims for relief for those violations of the Coastal Act alleged in the NOI occurring prior to the date of this Consent Order (specifically including claims for civil penalties, fines, or damages under the Coastal Act), with the exception that, if Respondent fails to comply with any term or condition of the Consent Agreement and Amendments, the Commission may seek monetary or other claims for both the underlying violations of the Coastal Act and for the violation of the Consent Agreement and Amendments. In addition, the Consent Agreement and Amendments do not limit the Commission from taking enforcement action due to Coastal Act violations other than those that are the subject of the NOI.

12.0 MODIFICATIONS AND AMENDMENTS

Except as provided in Section 9.0, the Consent Agreement and Amendments may be amended or modified only in accordance with the standards and procedures set forth in Section 13188 or Section 13197 of the Commission's administrative regulations.

13.0 GOVERNMENTAL JURISDICTION

The Consent Agreement and Amendments shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California.

14.0 LIMITATION OF AUTHORITY

14.1 Except as expressly provided herein, nothing in the Consent Agreement and Amendments 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 the Consent Agreement and Amendments.

14.2 Correspondingly, Respondent has entered into the Consent Agreement and Amendments and waived his right to contest the factual and legal basis for issuance of the Consent Agreement and Amendments, and the enforcement thereof according to its terms. Respondent has agreed not to contest the Commission's jurisdiction to issue and enforce the Consent Agreement and Amendments.

15.0 INTEGRATION

The Consent Agreement and Amendments constitutes the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in the Consent Agreement and Amendments.

16.0 STIPULATION

Respondent and his representatives attest that they have reviewed the terms of the Consent Agreement and Amendments and understand that their consent is final and stipulate to its issuance by the Commission.

IT IS SO STIPULATED AND AGREED:
On behalf of Respondents:

_____ _____
Joseph Fryzer Date

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

_____ _____
Peter Douglas, Executive Director Date

authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with the Consent Agreement and Amendments.

14.2 Consequentially, Respondent has entered into the Consent Agreement and Amendments and waived his right to contest the factual and legal basis for issuance of the Consent Agreement and Amendments, and the enforcement thereof according to its terms. Respondent has agreed not to contest the Commission's jurisdiction to issue and enforce the Consent Agreement and Amendments.

15.0 INTEGRATION

The Consent Agreement and Amendments constitutes the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in the Consent Agreement and Amendments.

16.0 STIPULATION

Respondent and his representatives attest that they have reviewed the terms of the Consent Agreement and Amendments and understand that their consent is final and stipulate to its issuance by the Commission.

IT IS SO STIPULATED AND AGREED:
On behalf of Respondents:

Joseph Pryzer — 3/29/06
Date

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

Peter Douglas, Executive Director — Date

[redacted]

Exhibit A

CEASE AND DESIST ORDER NO. CCC-04-CD-09 &
RESTORATION ORDER NO. CCC-04-RO-03

Pursuant to its authority under Public Resource Code §30810 AND §30811, the California Coastal Commission hereby orders and authorizes Joseph Fryzer, his agents, contractors and employees, and any person acting in concert with any of the foregoing (hereinafter "Fryzer") to cease and desist from maintaining on the subject property any structures or other development constructed or erected without a Coastal Development Permit and/or inconsistent with Coastal Development Permit A-381-78, as amended and to ensure that the subject properties are restored in accordance with Consent Cease and Desist Order No. CCC-04-CD-08 and Restoration Order No. CCC-04-CD-02 (hereinafter "Consent Orders"), attached as Exhibit 1. Accordingly, Fryzer shall, within 30 days of its issuance, fully comply with paragraphs A, B, C, D, and E as follows.

A. Fryzer shall allow Headland Properties Associates, LP and all their employees, agents, and contractors access across Lot 81, Tract 32184 to reach Lot 41, Tract 32184 and Lot G for the purpose of conducting the restorative work on the subject properties and performing any maintenance or monitoring required by the Consent Orders.

B. Fryzer shall not block or impede the ability of Headland Properties Associates, LP to perform and carry out the approved Restoration Plan consistent with the Consent Orders.

C. Fryzer shall cooperate with the implementation of the Restoration Plan prepared by Headland Properties Associates, LP as required in Consent Cease and Desist Order No. CCC-04-CD-08 and Consent Restoration Order No. CCC-04-RO-02.

D. For the duration of the restoration project, including the monitoring period, Fryzer shall allow the Executive Director of the Commission, and/or his/her designees access to Lot 81, Tract 32184 for purposes of inspecting the subject property to assess compliance with the Cease and Desist and Restoration Order, subject to twenty-four hours advance notice.

E. Fryzer shall ensure that all components of the Consent Orders are undertaken and completed including, but not limited to, removal of unpermitted development and implementation of the Restoration Plan, grading plans, landscaping plans, and erosion control plans, consistent with all requirements and deadlines contained in the Consent Orders.

I. Persons Subject to the Orders

Joseph Fryzer, and his agents, contractors and employees, and any persons acting in concert with any of the foregoing.

II. Identification of the Property

The property that is subject to these Orders is a portion of Lot G (a deed restricted open space lot located east of Tract 32184) that was not accepted by the State of California and Lot 41 of Tract 32184 (an interior tract open space lot) Pacific Palisades, City and County of Los Angeles.

III. Description of Unpermitted Development

The development that is the subject of these Consent Orders includes the unpermitted construction of an approximately 1,040 cubic yard capacity debris basin, 2) demolition of the unpermitted basin by removal of a concrete lining and filling approximately half of the unpermitted basin with earth creating an extension of a flat building pad, 3) unpermitted placement of grass turf, palm trees, sand, fencing, and concrete paving on the filled basin/building pad extension, and 4) construction of a private golf chipping and putting area.

IV. Effective Date and Terms of the Orders

The effective date of these Orders is the date the Cease and Desist and Restoration Orders are issued by the Commission. These Orders shall remain in effect permanently unless and until modified or rescinded by the Commission, or deemed by the Executive Director to be in complete compliance with all terms and conditions of these Consent Orders.

V. Findings

The Orders are issued on the basis of the findings adopted by the Commission at the September 8, 2004 hearing, as set forth in the attached document entitled "Recommended Findings for Consent Cease and Desist Orders CCC-04-CD-08 and Consent Restoration Order CCC-04-RO-02 & Cease and Desist Order CCC-04-CD-09 and Restoration Order CCC-04-RO-03".

VI. Compliance Obligation

Strict compliance with the orders by all parties subject thereto is required. Failure to comply strictly with any term or condition of the orders including any deadline contained in the orders will constitute a violation of this order and may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS ($6,000) per day for each day in which such compliance failure persists, in addition to any other penalties authorized under Section 30820.

VII. Deadlines

Deadlines may be extended by the Executive Director for good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least 10 days prior to expiration of the subject deadline.

VIII. Appeal

Pursuant to Public Resources Code Section 30803(b), any person or entity against whom the orders are issued may file a petition with the Superior Court for a stay of this order.

Executed in _____ on _____, on behalf of the California Coastal Commission.

Peter Douglas, Executive Director

By: _____