

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff: S. Hudson *ja*
Staff Report: 11/13/97
Hearing Date: December 9-12, 1997
Commission Action:

**STAFF REPORT: PERMIT AMENDMENT**

APPLICATION NO.: 5-90-761-A1

APPLICANT: Richard Witkin

AGENT: Mark Ryavec

PROJECT LOCATION: 5872 Ramirez Canyon Road, Malibu (Los Angeles County)

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 7816 sq. ft., 35 ft. high, single family residence, garage, swimming pool, septic system and 2147 cu. yds. of grading on a 3 acre parcel.

DESCRIPTION OF AMENDMENT: Restore and revegetate a deed restricted open space easement and trail easement disturbed by unpermitted landscaping. The open space and trail easements were required as special conditions under Coastal Development Permit 5-88-614-A.

LOCAL APPROVALS RECEIVED: City of Malibu Planning Department Approval in Concept.

SUBSTANTIVE FILE DOCUMENTS: Landscape Restoration Plan by Las Pilitas Nursery dated 6/7/97; Landscape Restoration Response Letter by Las Pilitas Nursery date-stamped 10/3/97; and Coastal Development Permit 5-88-614.

PROCEDURAL NOTE: 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.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission determine that the proposed development with the proposed amendment, subject to three (3) special conditions regarding monitoring, implementation of the restoration plan and condition compliance, is consistent with the requirements of the Coastal Act. The applicant proposes to amend their permit to include the restoration of both a trail and open space easement previously required as special conditions under Coastal Development Permit 5-88-614-A. The project includes the removal of non-native invasive vegetation and part of an irrigation system which have been placed by previous property owners within the trail and open space easements without the benefit of a coastal development permit and the subsequent revegetation of the easements with native plant species. A portion of the Coastal Slope Trail is located on site. In addition, the project site is located immediately upslope from Ramirez Canyon Creek, designated as a disturbed environmentally sensitive habitat area, as well as a secondary drainage course which drains to Ramirez Canyon Creek.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby approves the amendment to the coastal development permit, on the grounds that as modified, the development will be in conformity 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 the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

NOTE: *All standard and special conditions attached to the previously approved permit remain in effect.*

II. Special Conditions

1. Monitoring Program

(a) Prior to the issuance of a coastal development permit the applicant shall submit, for the review and approval of the Executive Director, a three (3) year Monitoring Program, prepared by a landscaping architect or resource specialist, which outlines revegetation performance standards to ensure that revegetation efforts at the project site are successful. Successful site restoration shall be determined if the revegetation of native plant species on site is adequate to provide 90% coverage by the end of the three (3) year monitoring period and is able to survive without additional outside inputs, such as supplemental irrigation.

(b) The applicant shall submit, for the review and approval of the Executive Director, written annual reports, beginning after the first year following implementation of the restoration program and include recommendations for mid-program corrections, if necessary. At the end of a three (3) year period, a final detailed report shall be submitted for 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 performance standards outlined in the monitoring program, the applicant shall be required to submit a revised or supplemental program to compensate for those portions of the original program which were not successful. The revised, or supplemental restoration program shall be processed as an amendment to this coastal development permit.

2. Implementation and Completion of the Restoration Plan

The applicant shall implement and complete the restoration and revegetation plans for the trail and open space easements within 45 days of the issuance of this permit. The Executive Director may grant additional time for good cause.

3. Condition Compliance

The requirements specified in the foregoing special conditions that the applicant is required to satisfy as a prerequisite to the issuance of this permit must be fulfilled within 45 days of Commission action. Failure to comply with such additional time as may be granted by the Executive Director for good cause, will result in the nullification of this permit approval.

III. Findings and Declarations.

A. Project Description and Background

The applicant is requesting an amendment to their permit to restore and revegetate a previously dedicated trail easement and open space easement required as special conditions under Coastal Development Permit 5-88-614-A. The amended project would include the removal of invasive non-native vegetation and part of an irrigation system which have been placed by previous property owners within the trail and open space easements without the benefit of a coastal development permit and the subsequent revegetation of the easements with native plant species.

The subject site is a 3.24 acre parcel located on the eastern slope of Ramirez Canyon approximately one mile north of Pacific Coast Highway. Surrounding vegetation consists of native grasses, chaparral and eucalyptus trees. A secondary drainage course is located downslope from the project site on an adjacent parcel to the south west which drains to Ramirez Canyon Creek located across Ramirez Canyon Road to the west. In addition, a portion of the Coastal Slope Trail is located on site along the south eastern property line.

The project site was created as part of a four-parcel subdivision under Coastal Development Permit 5-88-614 subject to nine special conditions including the dedication of both an open space and a

public trail easement. An amendment to this permit was issued on December 11, 1990, to realign the access road and to encroach into the open space easement which included the construction of two crib walls along the access road and trail easement. In addition, on November 14, 1990, Coastal Development Permit 5-90-761 was issued for the construction of a 7816 sq. ft., 35 ft. high, single family residence, garage, swimming pool, septic system and 2147 cu. yds. of grading on the project site subject to two (2) special conditions including plans conforming to geologic recommendations and compliance with all special conditions of Coastal Development Permit 5-88-614A.

B. Access and Visual Resources

A portion of the Coastal Slope Trail runs along the southern property line of the project site. The Coastal Act requires the Coastal Commission to provide the maximum public access for every project and to reserve lands suitable for coastal recreation for that purpose. The Coastal Act also requires each development to provide adequate recreational lands to serve the needs of the development. As such, the protection of trails and access in the Santa Monica Mountains is a key concern of the Commission. Sections 30251 and 30253 of the Coastal Act address the impacts of new developments. Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30213 states in part:

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

Section 30251 states:

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

Sections 30210, 30213 and 30251 of the Coastal Act require the Coastal Commission to provide for maximum public access and to reserve lands suitable for coastal recreation for that purpose, as well as, to protect public visual resources. As such, the protection of trails and access in the Santa Monica Mountains is a key concern of the Commission.

The realignment of an access road and the construction of two crib walls on either side of the Coastal Slope Trail was originally approved as part of an amendment to Coastal Development Permit 5-88-614. However, as shown in Exhibit 3, only one crib wall between the access road and

the trail was actually constructed by the previous property owner. Further, as an additional wall is not necessary for slope stability and would result in additional adverse impacts to visual resources along the public trail easement, the applicant has deleted the second crib wall from the project plans.

In addition, non-native invasive vegetation has been planted within the trail and open space easements creating impacts to both public access and visual resources. The installation of an irrigation system within the existing trail configuration has also created a hazard to trail users. In order to restore the trail easement and to maximize public access along the Coastal Slope Trail, the applicant has submitted a restoration plan to remove all non-native invasive vegetation from within the easement and to revegetate with native species along the trail. In addition, the applicant proposes to remove those portions of the irrigation system that are within the open space easement (*Exhibit 4*) and the existing trail configuration. The applicant further proposes to retain those parts of the irrigation system which are located outside the dedicated open space easement along side the existing access road in an area previously graded under Coastal Development Permit 5-88-614. Staff notes that the trail alignment will not be finalized until an agency accepts the trail easement and determines the appropriate trail width and route within the easement area. Although the applicant is removing the irrigation system from the existing trail route, portions of the system will remain in the dedicated trail easement on the graded slopes supporting the road. It is unlikely that the encroachment of the irrigation system into the trail easement area would adversely impact some future trail alignment given the location of the system on the fill slopes supporting the road. However, in the event that the public agency which eventually accepts the trail easement chooses to reconfigure the existing trail alignment to include those areas located along the access road, any parts of the irrigation system which are located within that final alignment of the trail easement would need to be removed or relocated.

To ensure that the restoration and revegetation is successful, special condition one (1) requires that the applicant agree to monitor the site for a period of three (3) years as discussed in further detail below. Monitoring shall include the submittal of annual reports to the Executive Director which shall outline the progress of the restoration project and shall include any recommendations for modifications to the project if the initial restoration effort fails. In addition, to ensure that the restoration project is carried out in a timely manner, special condition two (2) requires that the applicant implement the restoration plan within 45 days of the issuance of this permit.

C. Environmentally Sensitive Habitat Area

Section 30231 of the Coastal Act states that:

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

Although no streams cross the subject parcel, the project site is located immediately upslope from Ramirez Canyon Creek, as well as a secondary drainage course which drains to Ramirez Canyon Creek. The Commission in the Certified Malibu/Santa Monica Mountains Land Use Plan, which is still used as guidance in the City of Malibu in evaluating a project's consistency with Coastal Act Policy, and through past permit actions has designated the developed portion of Ramirez Canyon and its riparian corridor as a disturbed sensitive resource area. Existing residential developments and their appurtenant structures and landscaping adjacent to the creek have resulted in the disturbance of the riparian corridor through this portion of the canyon. In several areas, the creek has been channelized and extensively modified by landowners in the canyon.

Although this disturbed riparian corridor does not meet the technical definition of an environmentally sensitive habitat area, Section 30231 of the Coastal Act requires that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. The applicant has submitted a restoration plan to restore the open space easement and existing trail by removing non-native invasive vegetation and portions of an unpermitted irrigation system and revegetating with native plant species. Although impacts to the environment on site may be minimal, improper restoration of the site would lead to increases in erosion off site and introduction of invasive exotic plant species, further impacting the disturbed environmentally sensitive habitat area of Ramirez Canyon Creek. To ensure erosion is minimized and restoration efforts are successful, special condition one (1) requires that the applicant agree to monitor the site for a period of three (3) years. Monitoring shall include the submittal of annual reports to the Executive Director which shall outline the progress of the restoration project and shall include any recommendations for modifications to the project if the initial restoration effort fails. In addition, to ensure that the restoration project is carried out in a timely manner, special condition two (2) requires that the applicant implement the restoration plan within 45 days of the issuance of this permit.

D. Violation

Non-native invasive plant species and an irrigation system have been placed within the open space and trail easements located on the subject site without the benefit of a coastal development permit. The applicant proposes to restore both the open space easement and the existing trail by removing all non-native invasive vegetation and portions of the irrigation system and revegetating with native plant species. To ensure that this violation is resolved in a timely manner, special condition two (2) requires the applicant to implement and complete the restoration and revegetation plans for the trail and open space easement within 45 days of the issuance of this permit.

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred.

E. Local Coastal Program

Section 30604 of the Coastal Act states that:

(a) Prior to certification of the local coastal program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with Chapter 3 (commencing with Section 30200) 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 Chapter 3 (commencing with Section 30200).

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

F. California Environmental Quality Act

The Coastal Commission's permit process has been designated as the functional equivalent of CEQA. Section 13096(a) of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of CEQA. Section 21080.5 (d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse impacts that the activity may have on the environment.

The proposed amendment, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the proposed amendment, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

SMH-VNT

File: SMH2/90-761a1

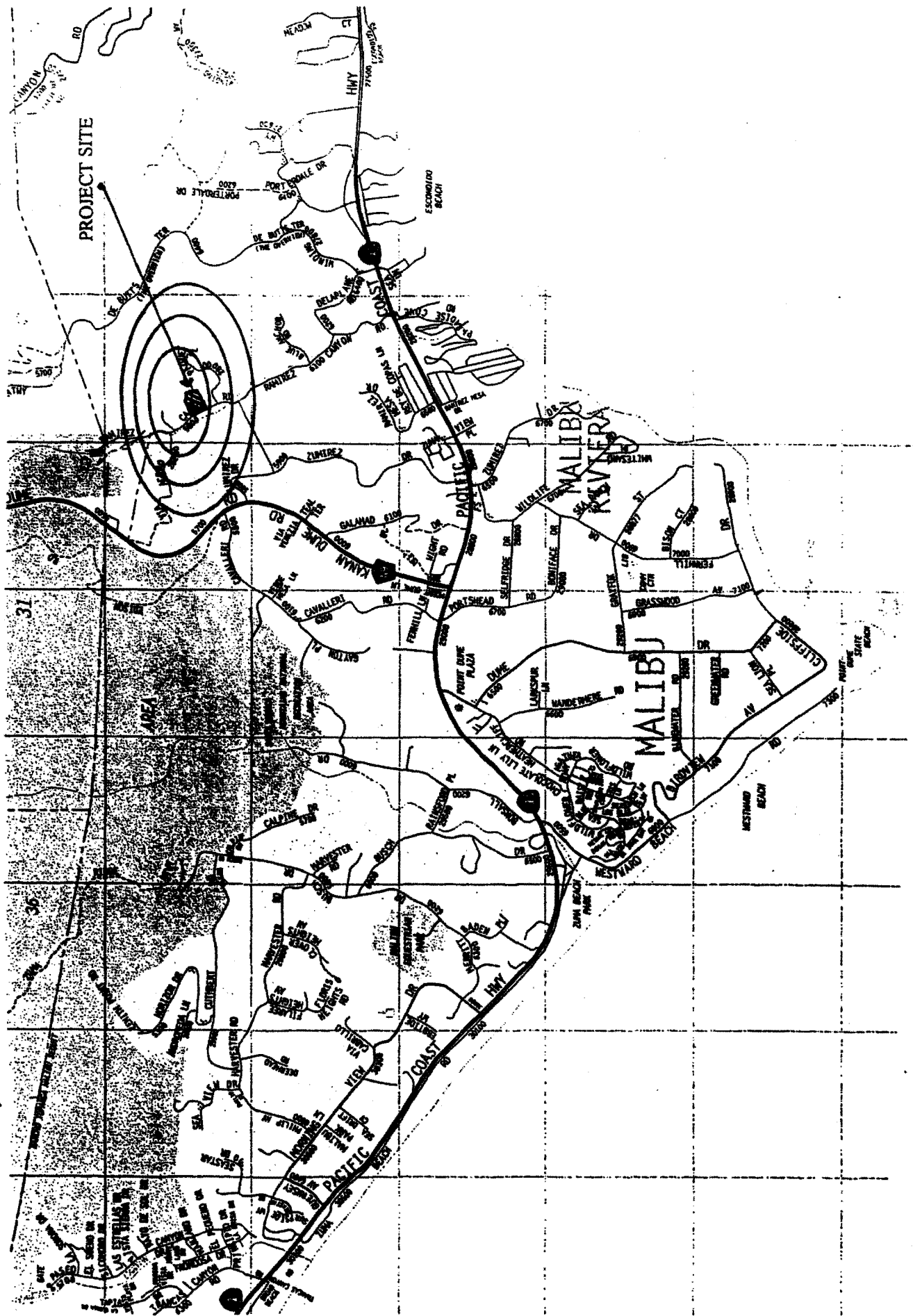


Exhibit No. 1: (S-90-761-A1) Location Map

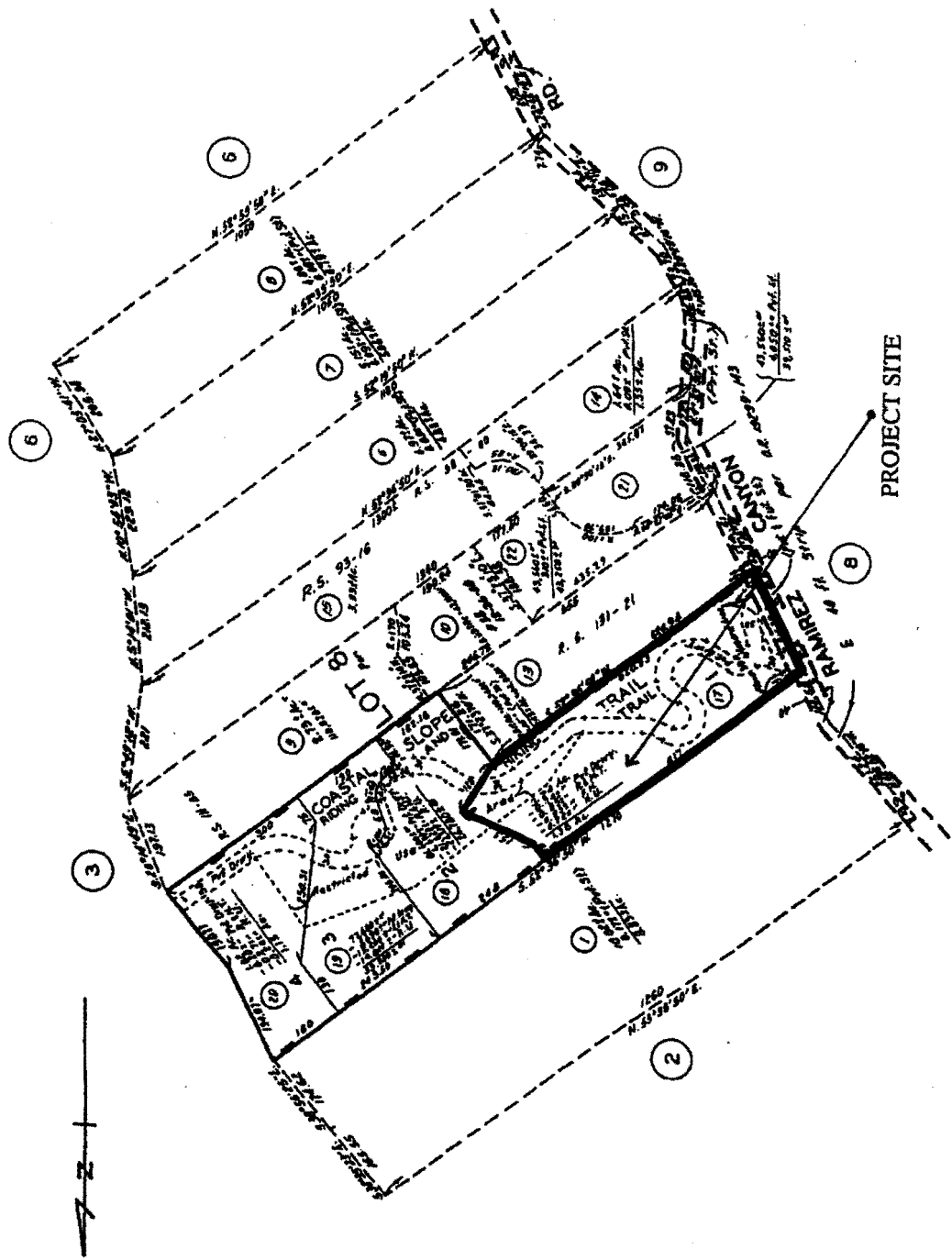


Exhibit No. 2: (S-90-761-A1) Parcel Map for Project Site

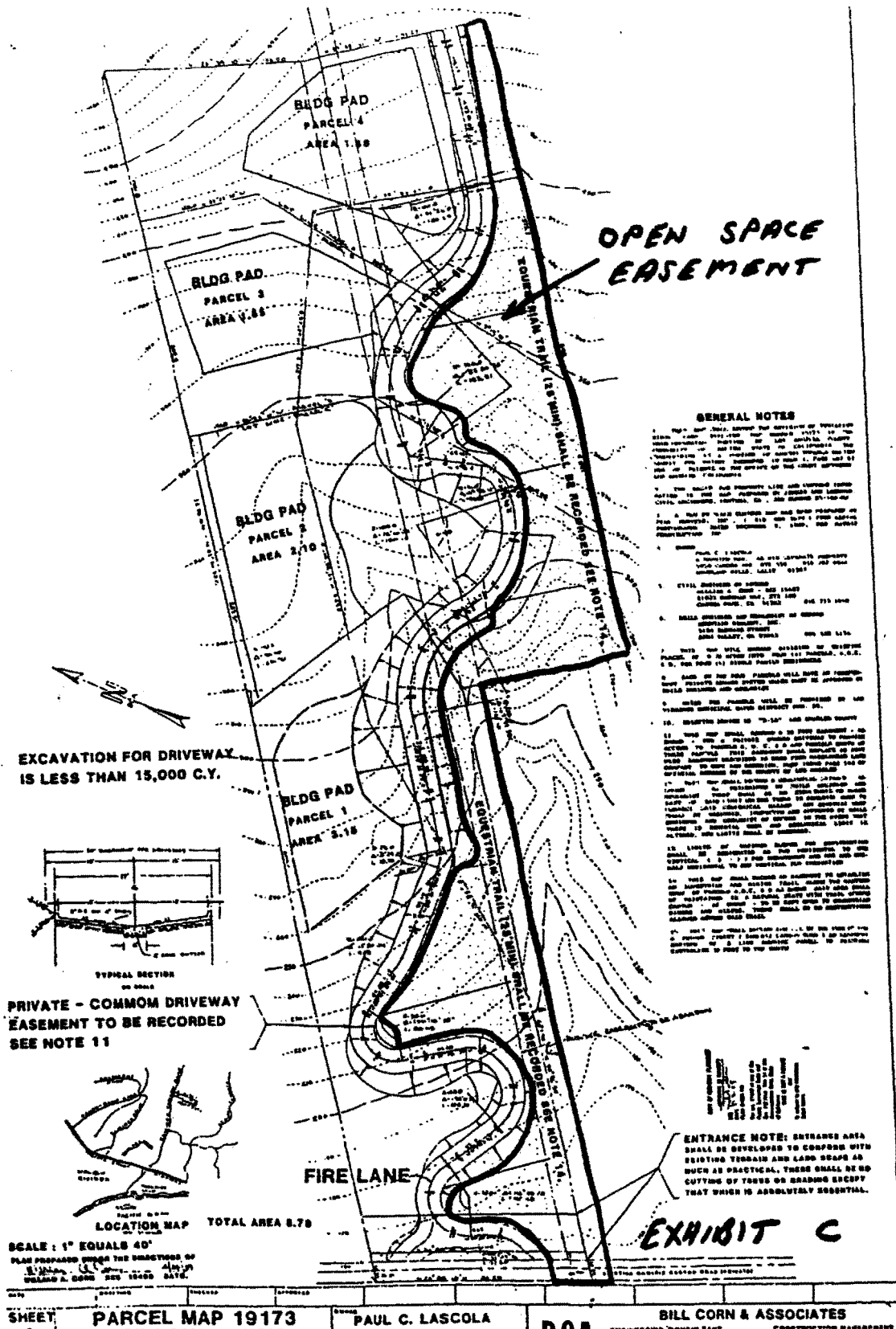


Exhibit No. 4: (5-90-761-A1) Open Space Easement as Recorded on January 3, 1990