

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-96-214

APPLICANT: John Adams

AGENT: John McNeil

PROJECT LOCATION: 24683 Brown Latigo Road and the adjacent lot, Malibu; Los Angeles County (APNs: 4453-023-004 and 4453-021-020)

PROJECT DESCRIPTION: Improvements to an existing access road and creation of a second access road resulting in one circular 1,700 foot long road that accesses two parcels. Improvements include widening and paving of the road and replacement of five existing culverts with an estimated 4,750 cubic yards of grading (2,200 cu. yds. cut, 2,550 cu. yds. fill), and a lot line adjustment between two lots resulting in a 5.56 acre lot and a 52.86 acre lot. The access road serves an existing and a proposed building site.

Lot area:	Parcel 1: 5.07 acres existing Parcel 2: 53.37 acres existing
Building coverage:	0 proposed
Pavement coverage:	1,700 linear feet
Landscape coverage:	0 proposed
Parking spaces:	0 proposed
Plan designation:	Rural Land 1 (3): 1 du/10 acres Mountain Land (M2): 1 du/20 acres
Project density:	1 du/5 acres 1 du/53 acres
Ht. abv. fin. grade:	N/A

LOCAL APPROVALS RECEIVED: Certificate of compliance for the lot-line adjustment from the Los Angeles County Department of Regional Planning. Fish and Game Streambed Alteration agreement for the replacement of existing culverts between ponds; Fire Department Approval for the 20 foot wide access road.

SUBSTANTIVE FILE DOCUMENTS: Malibu/Santa Monica Mountains Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION:

This is a partial after-the-fact application for access improvements on a lot which had a single family residence (the residence burned in the 1993 fire, after the work occurred). After-the-fact improvements include widening and

paving access roads, and replacing culverts between existing ponds along this road. The project also proposes a minor lot-line adjustment. Prior to the submittal of this application, the previous owner conducted the improvements to the road, including the replacement of the culverts, widening the road, paving the new road and repaving the old road. The lot-line adjustment has received local approval, but has not yet been recorded. There are existing ponds located on the property which pre-date the January 1, 1977 effectiveness date of the Coastal Act. These ponds are part of a blueline stream which runs east-west through the property. In addition, the project site is located partially within the Cold-Creek Resource Management Area; the remainder of the site is within the Malibu Canyon significant watershed. Although some of the development has already occurred, review of this project has been based solely on the Chapter Three policies of the Coastal Act. Based on this review, staff recommends that the Commission approve the project with special conditions regarding road maintenance, revegetation plans, condition compliance and timing of completion of work.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that 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.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.

5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Road Maintenance

It shall be the applicants responsibility to maintain the road and all drainage devices in working order. Should the road or the drainage structures fail or result in any erosion, the applicant shall be responsible for any necessary repairs and restoration. Should the restoration or repairs involve significant grading, vegetation removal or replacement, repair to the culverts, or landform alteration, an amendment to this coastal development permit or a new coastal development permit shall be required.

2. Revegetation and Monitoring Program

Prior to the issuance of the coastal development permit the applicant shall submit, for the review and approval of the Executive Director, two sets of detailed revegetation plans, prepared by a qualified landscape architect, biologist, or resource specialist, for all slopes which have been disturbed during the installation of the new culverts and the road. The plans shall detail the vegetation currently existing on site; include plans for removal and eradication of invasive plant species, and provide a detailed plan and schedule for the revegetation of those areas with native vegetation. The revegetation plans shall include an implementation and monitoring schedule; the plan shall further provide for 90 percent coverage of the site within three years.

The applicant agrees to monitor the project, for three years, to determine if a successful revegetation has occurred. The applicant shall submit to the Executive Director, annual reports on the status of the revegetation program, prepared by a qualified restoration specialist or other biologist with an expertise in restoration. These reports shall be required for a period of three years, and shall be submitted to the Executive Director no later than the first of May of each year. The first report shall be required at the completion of 1997-1998 rainy season, but no later than May 1, 1998.

The annual reports shall outline the success or failure of the revegetation project and include further recommendations and requirements for additional revegetation activities should initial planting efforts fail. If at any time, in the findings of the annual reports, the consultant determines that additional or different plantings are required to restore the site to its original condition, the applicant shall be required to do additional plantings within thirty days of such a recommendation. Prior to implementing any changes, a revised planting plan must then be prepared within 60 days and submitted for the review and approval of the Executive Director. If at the

completion of the third year of monitoring, the consulting specialist determines that the revegetation project has in part, or in whole, been unsuccessful the applicant submit, within 60 days, a revised, supplemental program to compensate for those portions of the original program which were not successful.

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 terminate this permit approval.

4. Implementation and Completion of the Revegetation Plan

The revegetation plan shall be implemented and completed within 90 days of the issuance of the permit. Should there be no rain by that time the applicant may request an extension of time. In no event, should the planting occur later than March 1, 1998. Such planting shall be adequate to provide 90 percent coverage of the site within two years and shall be repeated, if necessary, to provide such coverage.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description and Background

The applicant is proposing improvements to the existing access road, creation of a second access road, and improvements to existing culverts on a site which previously had a single family residence, and a lot line adjustment. The proposed improvements on site were done in 1993 by the previous owner of the site. When the improvements occurred, the site was developed with a single family residence. This residence subsequently burned down in the 1993 Topanga Fire Storm. The new owner intends to rebuild a residence in that location; however no request for an exemption or plans for a different residence have been submitted for approval. The lot-line adjustment has not yet occurred.

As shown in Exhibits 6 and 7, access to the previously existing residence was via a north-south trending road which nearly bisected the property. This is referred to as the "old" road in these exhibits. This road made a loop at the top; half of that loop has been abandoned. Sometime between 1977 and 1986 a north-south dirt path was improved into a road with three culverts which begins at the western side of the property, running parallel to the existing road, and then traversing east-west across the parcel toward the existing building site. This is referred to as the "new" road in the exhibits. Improvements to these two roads included repaving the old road, and replacing the existing culverts under the road; widening and paving the new road, and replacing three culverts along the road. A fifth culvert was replaced between two of the ponds adjacent to the new road. The total linear feet of the two roads is 1,700 feet.

There are a total of five culverts which were replaced on site, as noted above. Three of these culverts ("A," "C," and "D" in Exhibit 7) are between the existing ponds; one culvert ("E") is under the road at a minor drainage.

The final culvert ("B") is upslope of the road and ponds and directs water under the road instead of allowing water to sheet flow over the road. Culverts A, B, C, and D were existing 30 inch culverts which were replaced when the proposed work occurred in 1993. Culvert E was previously a 12 inch culvert and was replaced with a 30 inch culvert.

This application was originally filed in March 1997, and scheduled for a Commission hearing. Yet, upon further analysis of the project, questions arose as to whether or not the culverts, ponds and roads existed prior to the effectiveness date of the Coastal Act. If they did not exist, then the creation of the ponds, the roads, and the original installation of the culverts would need to be included in the application. If the ponds, roads, and culverts existed, the application would be only for the improvements done in 1993. Because, the applicant is the successor in interest to the person who did the work in 1993, the applicant was not present on site when the original work occurred. Neither the applicant nor Commission staff have been able to successfully contact the previous owner who conducted the proposed work in order to determine precisely when the work was done.

Staff analysis of the issues, however, yields the following conclusions. A review of aerial photographs and U.S.G.S. maps indicate that the series of ponds on site pre-date the January 1, 1977 effectiveness date of the Coastal Act. Thus, there were barriers between the ponds prior to the effectiveness date of the Coastal Act. For example, the large pond on the west side of the site is clearly existing in the 1977 photographic aerial of the site; thus, there was an existing barrier in the location of the road and culvert D that bisected the pond from the remaining property. Therefore, it can most likely be concluded that it was not the road that bisected or created that pond. There was either a natural or man-made barrier creating the pond to the west of the new road prior to the construction of the new road. Although there is evidence that the ponds pre-date the effectiveness date of the Coastal Act, and that there were barriers between them, it is not possible to say with 100% certainty that those barriers had culverts between ponds prior to the January 1, 1977 effectiveness date of the Coastal Act. No evidence has been submitted, however, nor discovered by staff which would indicate any absence of culverts before 1977.

However it can be concluded, based on the evidence gathered, that the ponds did exist. Thus, the culverts are either replacement of existing culverts or installations of culverts where earthen dams existed before, but no new ponds were created as a result of the work on site. There is a letter from the previous owner, submitted with the original incomplete application for this development, which indicates that no new ponds were created and that existing ponds were not altered (Exhibit 9). The Fish and Game Streambed Alteration agreement proposes the replacement of existing culverts in the stream and not new culverts. Thus, it can be concluded, based on the evidence available, that the ponds existed and that barriers or culverts separated them prior to the January 1, 1977 effectiveness date of the Coastal Act.

The 1977 aerial of the site does not clearly show the new road; however, there is some evidence of a path existing in the same general proximity. The applicant has provided the invoice from the company responsible for the paving of the roads. The invoice, included as Exhibit 10, indicates that only fine grading was done in 1993, in preparation for the paving of the road. No extensive grading was conducted by the paving company. Since the road does not appear in its current configuration in the 1977 photographic aerial, it

can be concluded that improvements of this road occurred some time between 1977 and 1993. Then, in 1993 the previous owner conducted improvements to the road. Since the new road does not pre-date the Coastal Act, this application include a request for its creation and improvements. No evidence has been submitted that contradicts these conclusions.

The amount of grading which occurred for the replacement of these culverts and the improvements to the road is not known. The previous owner did not submit any information, and can not be located at this time. As this is an after-the-fact application by a successor in interest, there is little evidence as to what the condition of the site was prior to the work that occurred in 1993 (the work now proposed). As explained above, there is some evidence as to what existed on site as of January 1, 1977, however, it can not be said, with certainty, the exact amount of grading that occurred to improve the road and replace the culverts since January 1, 1977. The applicant's consulting engineer calculated the amount of total grading for the installation of the new road and the placement of the culverts. Much of the grading is for culverts C and D; however, as noted above, it is certain that there was either a barrier or a culvert in these two locations prior to the effectiveness date of the Coastal Act. The grading calculations submitted by the consulting engineer does not take this into account; thus these figures are most likely too high. Only that grading which occurred after January 1, 1977 would be subject to this permit. Regardless, the total grading calculated by the consulting engineer for the road and culvert improvements is 4,750 cubic yards (2,200 cu. yds. cut, 2,550 cu. yds. fill). Detailed plans of this grading are shown in Exhibit 8.

The final development included in this application, is a lot line adjustment. There are two existing lots which pre-date the January 1, 1977 effectiveness date of the Coastal Act; these lots are 5.07 acres and 53.37 acres in size. The larger lot contains the previous residence and the roads noted above. The existing small lot is a narrow lot located north of the larger lot as shown in Exhibit 2. The lot-line adjustment will increase the smaller lot by .5 acres and decrease the larger lot by the same amount. The resulting sizes of the lots will be 5.56 acres and 52.86 acres respectively. Moreover, the lot line adjustment will result in a relocation of the building site of parcel 2 as indicated in Exhibit 6. The LUP zoning for the subject lots is divided into two land use designations. The majority of the larger lot zoned Rural Land 1 allowing for one dwelling in ten acres. The remainder of that lot and the small lot are zoned Mountain Land allowing one dwelling in twenty acres. The larger lot is consistent with the LUP; the smaller lot is a non-conforming lot that pre-dates the land use designations set forth in the Malibu/Santa Monica Mountains Land Use Plan.

The subject site is located north of Piuma Road, on a ridgetop parcel. The northern portion of parcel 2 and the majority of the existing parcel 1 are located within the southern portion of the Cold Creek Resource Management Area; the remainder of both parcels are located within the eastern portion of the Malibu Significant Watershed. There are a series of ponds which pre-date the January 1, 1977 effectiveness date of the Coastal Act and appear on the U.S.G.S. maps as ponds along the path of a blue-line stream. The site was previously developed with a single family residence, guest house and horse stables. The development on site was lost in the Old Topanga fire of 1993. No structures have been re-built at this time. The site is vegetated with native chaparral species as well as grass. The areas north of the road are covered mostly with grasses and contain some larger shrubs and boulders.

B. Road Improvements and Environmentally Sensitive Habitat Areas

One portion of the project involves the paving and widening of an existing driveway which leads to an existing building site and the creation of a new driveway leading to the proposed building site for the second lot. Along with these road improvements the five culverts on site were replaced in kind. The improvements to the road and culverts required a maximum of 4,750 cubic yards of grading. Areas adjacent to the roads have revegetated; however the slopes along the culverts are mixed with native and non-native invasive vegetation.

The improvements to the road and the replacement of the culverts occurred within an LUP designated significant watershed. The ponds affected by the replacement of the culverts and the road are part of a blueline stream but are not recognized as an inland ESHA. Three of the culverts are located in this blueline stream. Further downstream toward the middle and bottom of the canyon, the stream is considered an inland ESHA. The ponds on site pre-date the effectiveness date of the Coastal Act and are visible in both old aerial photographs and on the U.S.G.S. maps which show blueline streams. Vegetation on site, beyond the banks of the ponds, is a mix of native chaparral vegetation and grasses. Due to the proximity of the development in identified resource protection areas, the development must be reviewed to ensure the project does not create significant adverse environmental impacts. In addition, the construction of new roads and improvements to existing roads must be reviewed against the Chapter Three policies of the Coastal Act to ensure they do not adversely affect emergency access, or upset the natural drainage of a site. Finally, the Commission must evaluate the necessity of two access roads and determine if the grading is excessive. Therefore, the development shall be considered against the following Chapter Three policies of the Coastal Act:

Section 30231 of the Coastal Act states:

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

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30251 of the Coastal act states:

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

Section 30253 of the Coastal Act states in part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The applicant did receive a Fish and Game Streambed Alteration agreement for the replacement of the culverts. The Fish and Game permit specifically calls for the replacement of culverts. As noted above, although there is evidence that some type of barriers between ponds existed, such as earthen dams; it can not be concluded, based on the evidence gathered, whether or not culverts existed in all five locations. Regardless of whether or not the barriers between ponds had culverts or not, it was evident that there were barriers. The proposed, and installed, culverts do not contribute to increased erosion of the site. There is no evidence of additional siltation in the last, downslope pond. Therefore, the culverts do not appear to cause adverse impacts from erosion.

Although bridging is the most appropriate stream-crossing method, this case is unusual in that there were ponds on site at least as early as 1977. This portion of the stream is unusual in that there are depressed regions along the stream corridor creating natural ponding areas. Similarly, in at least two barrier locations, there are steep slopes which interrupt the stream leaving only narrow areas for water to pass. These areas probably naturally dammed up before any culvert was put in place. Thus, the culvert may actually help in this situation to allow water to continue flowing down stream.

The replacement of the culverts did require grading along the barrier where the culverts are. These slopes have not completely revegetated with native vegetation. Instead, a mix of native and invasive non-native vegetation are growing. Non-native invasive vegetation tends to out-compete native vegetation for soil space, water and sunlight. These plants often kill the native vegetation or prevent native vegetation from beginning to grow. The resulting change in the type of vegetation growing can affect the fauna which inhabit the area. Many animal species are dependent on certain types of plants for food, shelter, nesting and breeding areas. The loss of the

dependent habitat can cause a change or loss in the fauna as these animals search for the needed plants elsewhere. More opportunistic animals that are not as reliant on certain species will then populate these areas. Thus, invasive plant species, over time, will change the ecosystem of the Santa Monica Mountains. When invasive plant species are located in or adjacent to a stream course there is a greater potential for the seeds of these plants to be carried downstream to other areas not yet abundant with invasive species. As soon as these other areas experience a loss or decrease in habitat from fire, grading or vegetation activities, the seeds of the invasive plant species will have the opportunity to sprout and colonize a new area. Thus, the invasion of th invasive plant species is not limited to a specific site.

In order to prevent a change in the ecosystem, and preserve the natural habitat of the area pursuant to Section 30240 and 30251 of the Coastal Act, the Commission finds it necessary to require the applicant to submit and implement a revegetation plan which will remove all invasive plant species and replant those disturbed areas with native plant species common in the area. The applicant has agreed to implement a revegetation plan to return the slopes of the stream to its native habitat. However, the applicant has not submitted these plans. Therefore, the Commission finds it necessary to require the applicant to submit two sets of revegetation plans for the slopes adjacent to the culverts. Furthermore, because this work has already occurred, the commission finds it necessary to require the applicant to implement the revegetation within a timely manner as stated in special condition 5. Finally, to ensure that the revegetation is successful, the commission finds it necessary to require a monitoring program with annual reports for a period of three years upon completion of the revegetation plan.

Although the consulting engineer calculated a total of 4,750 cubic yards of grading over a linear road of approximately 1,700 feet, there is no indication as to how much of the grading for the culverts or barriers occurred prior to the effectiveness date of the Coastal Act. Nonetheless, this amount of grading over the entire road did not result in significant landform alteration. The grading did not result in significant cut or fill slopes. There is no adverse visual impact of this development from any scenic highway or lookout in the area. In fact, the developed portion of this site is relatively secluded and not visible from Piuma Road or Mulholland Highway. In addition, the gentle slopes adjacent to the road have revegetated. The slopes along the culverts have revegetated with both native and non-native invasive vegetation.

Sections 30240, 30250, and 30253 mandate the that new development neither contribute or create adverse impacts to coastal resources. The paving of the dirt road portions will change the drainage patterns, the velocity of runoff, and the quantity of run off by removing the pervious dirt material with an impervious surface. This change has the potential for significant increases in erosion and adverse environmental impacts. With the placement of an impervious material on the road, there will be an increase in run-off from the site down the road. The proposed paving for the road will result in a far greater fraction of rainfall which does not infiltrate but instead runs off the developed surface. This increase in runoff can increase erosion of the slopes below the road and result in an increase of siltation into downslope areas, such as the stream. This increase in siltation negatively affects the quality of the coastal waters. Erosion also adversely affects habitat by the loss of vegetation cover and degradation of the area.

In this case, much of the road is upslope from the ponds, and drainage appears to sheetflow to these ponds. Much of the slopes adjacent to the road are not steep and have already revegetated with native vegetation. The exception to this, are the slopes adjacent to the culverts. However, as noted above, the Commission is requiring a revegetation plan for these slopes. This plan will also help mitigate erosion by providing vegetative cover over the slopes. This vegetation cover reduces surficial erosion of the slope, collects pollutants and siltation from the road, and reduces the velocity of water flowing across the slope. In addition, the applicant has installed a culvert across the road above one of the ponds (Culvert B) to direct water in a non-erosive manner under the road and into the creek. The Commission finds that the proposed road improvements do direct runoff from the road in a non-erosive manner. Revegetation of the site, will further mitigate any potential for erosion and adverse impacts resulting from any increase in runoff.

Although the proposed project, once revegetated, will mitigate erosion, maintenance of the road is necessary to ensure long-term effective drainage of the road. Maintenance and repairs of the road shall be the responsibility of the applicants. Should any failure to the road or drainage devices occur, it shall be the responsibility of the applicant to make the repairs. Should those repairs require grading, landform alteration, vegetation removal or the replacement of vegetation an amendment to this permit, or a new coastal development permit shall be required. This requirement of the applicant is stated in special condition 1.

Pursuant to Section 30253 which mandates, in part, that new development minimize risks to life and property in areas of high fire hazard, P159 of the LUP suggests that new development continue the present requirements for emergency vehicle access and fire-flow water supply as determined by the Forester and Fire Warden.

The applicant has received an approval in concept from the Fire Department and is proposing a road consistent with the Current Fire Codes. The road will be a minimum of twenty feet in width and does provide turnouts. The previous owner of the property, without the benefit of a coastal development permit, widened the existing dirt road, replaced the culverts and graded the site to accommodate for the road at 20 feet and the culverts. In its current configuration, the road does provide all-weather access to the future building site on parcel 2 as well as continue to provide access to the building site at parcel 1. Thus, the improvements to the road provide better access than what was existing before.

Finally, the Commission must address the need for two access roads. The old road is the original driveway which serviced the residence lost in the 1993 fire. The grading in this portion of the site was minimal. The second access road, beginning at Brown Latigo Canyon Road and running along the western property line, parallel to the existing access road is necessary to provide access to the future building site on lot 2. Between these two access roads, there is a portion of the new road which traverses east-west and connects the two roads. Although this road is not necessary for primary access to either building site, it does provide an additional fire access or emergency exit from the site. The amount of grading along this portion of the new access roads was minimal. The Commission finds that the proposed road length is not excessive, does not resulting excessive landform alteration and does not contribute to adverse environmental impacts, with the conditions noted above.

Therefore, the Commission finds that the project, as conditioned, is consistent with Sections 30231, 30240, 30251 and 30253 of the Coastal Act.

C. Cumulative Impacts of New Development

Section 30250(a) of the Coastal Act provides that new development be located within or near existing developed areas able to accommodate it, with adequate public services, where it will not have significant adverse effects, either individually or cumulatively, on coastal resources:

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

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

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

The Malibu/Santa Monica Mountains Land Use Plan provides in Policy 271, in part, that:

New development in the Malibu Coastal Zone shall be guided by the Land Use Plan Map and all pertinent overlay categories. The land use plan map is inserted in the inside back pocket...

The land use plan map presents a base land use designation for all properties. Onto this are overlaid three resource protection and management categories: (a) significant environmental resource areas, (b) significant visual resource areas, and (c) significant hazardous areas. For those parcels not overlaid by a resource management category, development can normally proceed according to the base land use classification and in conformance with all policies and standards contained herein. Residential density shall be based on an average for the project; density standards and other requirements of the plan shall not apply to lot line adjustments. (emphasis added)

The Malibu/Santa Monica Mountains Land Use Plan provides in Policy 273(d) that:

In all other instances, land divisions shall be permitted consistent with the density designated by the Land Use Plan Map only if all parcels to be created contain sufficient area to site a dwelling or other principal structure consistent with the LCP. All land divisions shall be considered to be a conditional use.

The Coastal Act requires that new development, including land divisions, be permitted only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. The Commission has repeatedly emphasized the need to address the cumulative impacts of new development in the Malibu and Santa Monica Mountains area in past permit actions. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains creates cumulative impacts on coastal resources and public access over time. Because of the large number of existing undeveloped parcels and potential future development, the demands on road capacity, public services, recreational facilities, and beaches could be expected to grow tremendously.

The Los Angeles County Land Use Plan generally states that development can proceed according to the base land use classification and in conformance with the Land Use Plan policies and standards, except that for lot line adjustments, the density standards and other requirements of the plan do not apply.

The applicant is proposing a lot line adjustment between two lots of 5.07 acres and 53.37 acres which will result in two lots of 5.56 and 53.37 acres. The 5.07 acre lot is divided into two lot designations. Approximately three-quarters of the lot falls into a designation of Mountain Land which allows for one dwelling per 20 acres; one-quarter of the lot is in a one dwelling per ten acre designation. The 53 acre lot, on the other hand, is located mostly in the one dwelling per ten acre designation. Only about one-quarter is located within the Mountain Land designation area.

The new designations will put more of the larger lot into Mountain Land, and put the smaller lot entirely in land designated as one dwelling per ten acres. The larger lot meets the criteria of the land use designations. The building site on the lot is not affected by the lot-line adjustment. Changing the location of the smaller lot does change the building site, access, and potential impacts to the resources of the area.

Currently, access to the small lot is via a long winding road which extends over 1,000 feet past Brown Latigo Canyon Road. The road, as shown in Exhibit 6, is currently existing, but not used. In order to use this road, significant improvements would have to be made which could include widening the road to twenty feet. This road would not be regraded with the lot-line adjustment. There would be no need to do any further development on this road; no improvements to this road occurred when improvements to the subject roadways were made in 1993. Next, the building site on the existing lot is located on a steep ridge area with potentially significant adverse visual impacts from Stunt Road and Mulholland Highway. Due to the steep topography, there could be large amounts of grading necessary to develop a building site. As such, the potential for adverse environmental impacts from erosion, siltation, and loss of habitat are great in the existing lot configuration. On the contrary, the proposed building site would cluster the new development between existing residences, instead of leaving it in a more remote area with no other development. The proposed building site is relatively flat and would not require extensive grading to develop. There are no adverse visual impacts from the proposed building site. The road created for the proposed building site did not require extensive grading and occurred in a disturbed area. For all these reasons, the proposed lot configuration provides a more suitable building site for the smaller parcel.

The proposed lot configuration moves the smaller lot to an area with a less restrictive density determination and less environmental significance. The proposed configuration would move the lot into an area with a one residence per ten acre designation. Construction on the proposed lot is more desirable, as it is flatter and will require less grading. No more grading would be needed to provide access to the site. Finally, the proposed configuration will allow future residences to be clustered. The proposed lot configuration is less environmentally damaging and is a better alternative to the existing lot configuration.

The existing lot configuration has a legal 5 acre lot within an area designated for one residence every 20 acres; the new configuration would result in an approximately 5.5 acre lot in an area designated for one residence every ten acres. Thus, the smaller lot still does not meet precisely the criteria set forth in the Malibu/Santa Monica Mountains Land Use Plan; however, the proposed lot-line is preferable to the original lot configuration. The new configuration results in a larger lot, and although it will still be non-conforming, it is located in an area with a less restrictive density standard. Thus, although still non-conforming, the density is lower on the less steep area where the new lot is proposed.

In conclusion, the proposed lot line adjustment is consistent with Section 30250(a) of the Coastal Act as the lot line adjustment will cluster development and will reduce the impacts which would be caused if the existing site was developed. The the proposed lot line adjustment does not create any adverse impacts and does not raise any substantial issues regarding buildout of the property. The lots, as existing contain buildable sites; the lot line adjustment will still provide buildable sites. The Commission notes that future development for both proposed sites will have to be considered against the Chapter Three policies of the Coastal Act and the Malibu/Santa Monica Mountains Land Use Plan including those policies related to landform alteration, visual impacts, environmental impacts, geology and water quality. The Commission therefore finds that, as proposed, the lot line adjustment is consistent with Section 30250(a) of the Coastal Act.

D. Violation

Under the previous owner, unpermitted development occurred on this site. The unpermitted development is described as the widening and paving of a dirt road, construction of a new road, the replacement, and enlargement, of existing culverts under the road and between ponds. The current owners have not done any unpermitted development on site since the original work occurred.

Although development has taken place prior to submission of this permit application on lot 1, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval 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. Should the Commission deny the project, resolution and/or restoration of the site would occur through enforcement action.

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 the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal 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 section provides findings that the project as conditioned is in conformity with the provisions of Chapter 3. The proposed development, as conditioned, will not create adverse impacts and is found to be consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development, as conditioned, will not prejudice the County's ability to prepare a Local Coastal Program for Malibu which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

F. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (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 which would substantially lessen any significant adverse impact which the activity may have on the environment.

There are no negative impacts caused by the proposed development, as conditioned, which have not been adequately mitigated. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.

BOUNDARY

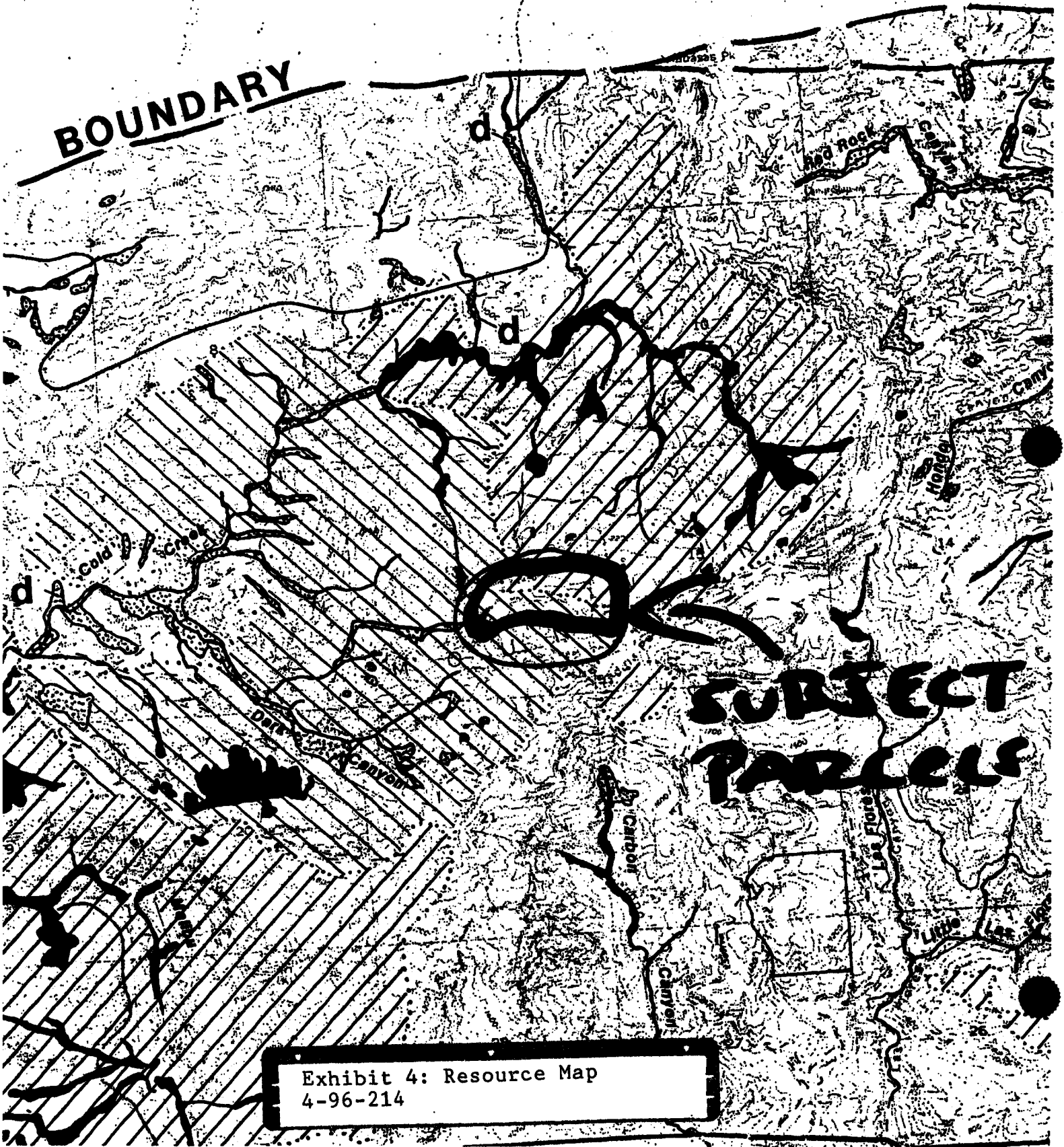


Exhibit 4: Resource Map
4-96-214

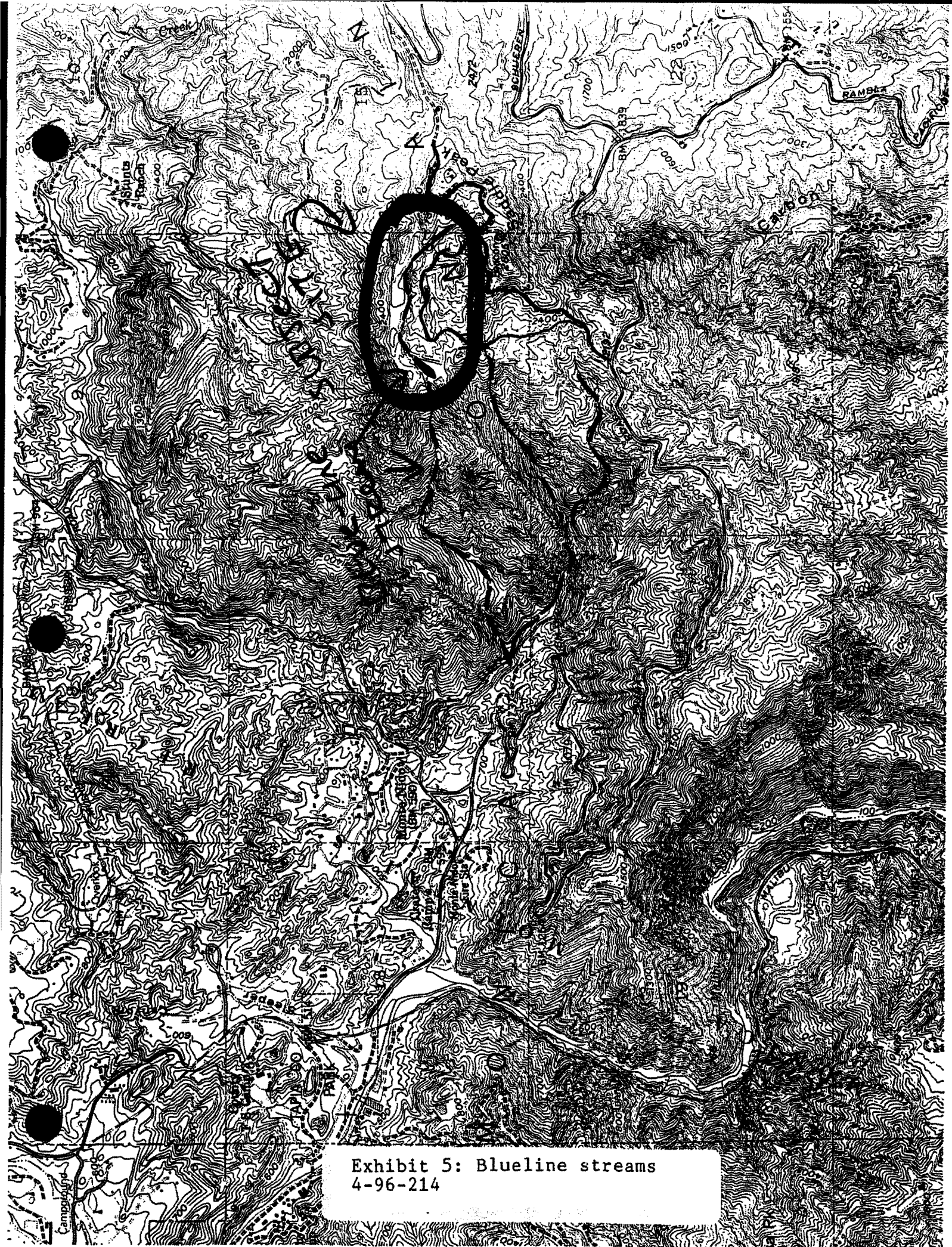


Exhibit 5: Blueline streams
4-96-214

SCALE: 1" = 400'

MAY 20, 1995

TENTATIVE LOT LINE ADJUSTMENT MAP

CC # 101,449

ROAD TO BE DELETED

BEING A PORTION OF THE NE 1/4 AND A PORTION OF THE SE 1/4 OF SECTION 16
TOWNSHIP 1 NORTH, RANGE 17 WEST S.B.N.

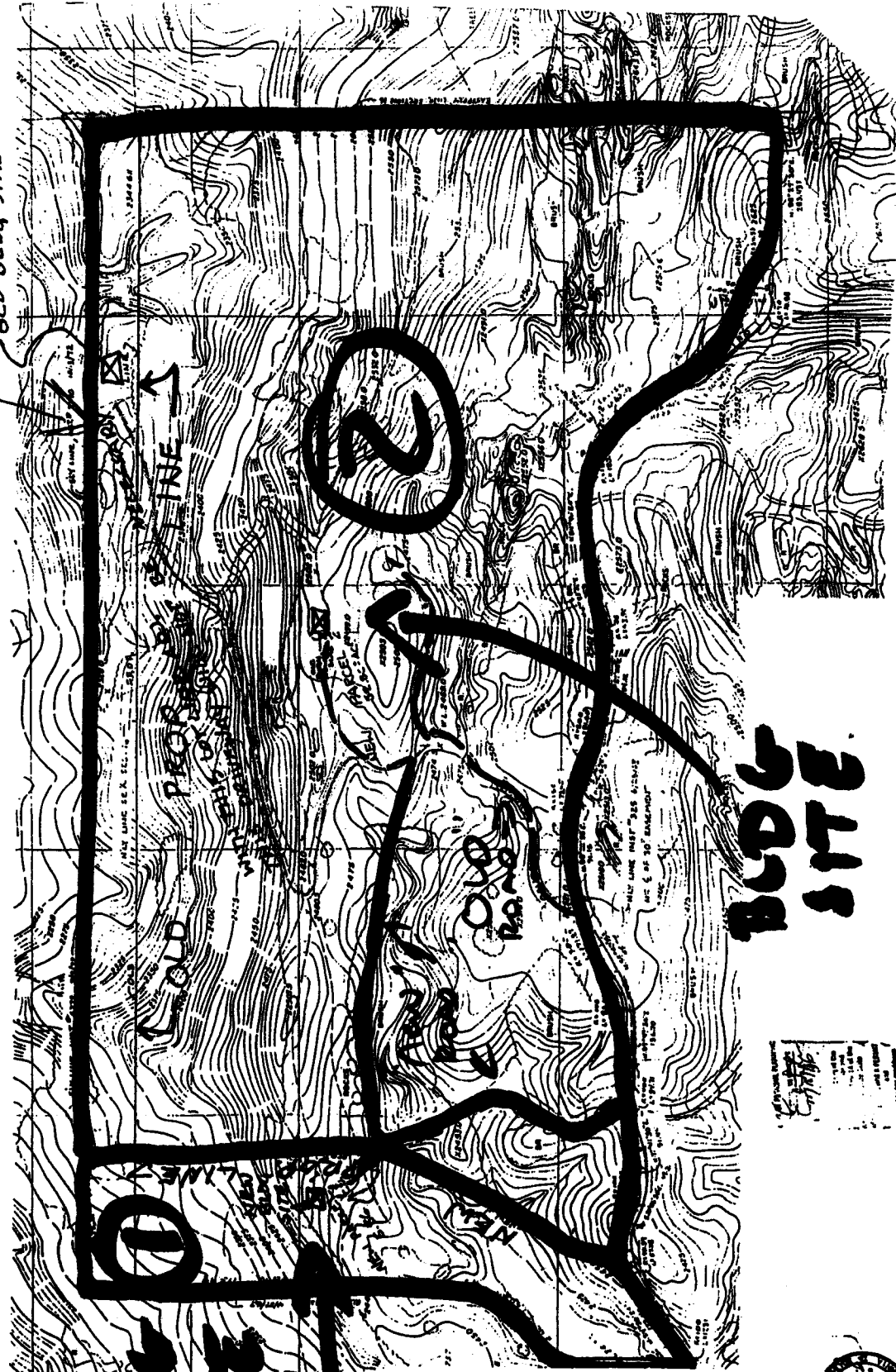


Exhibit 6: Lot Line Adjustment
4-96-214

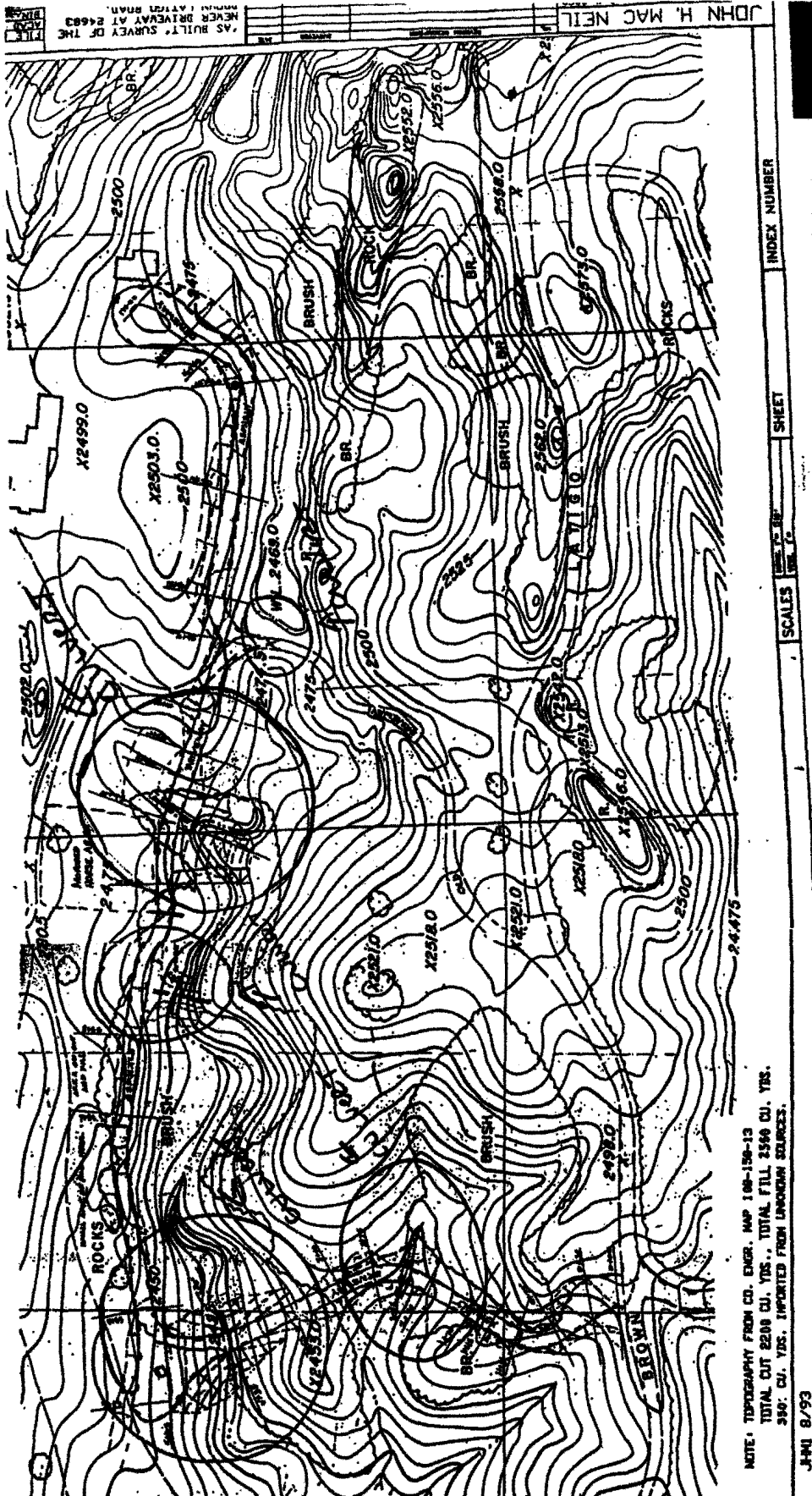
COPY 1995

SCALES: HORIZ. 1" = 400' VERT. 1" = 80' INDEX NUMBER SHEET

JOHN H. MAC NEIL
LICENSED LAND SURVEYOR # 3358
2330 N. TOPANGA CYN BL.
TOPANGA CA 90290
(310) 455-2013

ADAMS LOT LINE ADJUST-
MENT MAP ON BROWN
1" ALIQUOT ROAD

PROJECT SURVEYOR
BIN
ACAD
FILE # 9516
5/96



RECEIVED
JUL 30 1993
CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

4-93-122
Melissa Miller
18820 Pacific Coast Hwy
Suite #202
Malibu, Ca 90265

April 27, 1993

Dear Susan Friend,

First of all, may I express my apologies for the misunderstanding about the need for a permit from Coastal as per section 30600A of the Coastal Act. I would like to apply now for any permits you deem necessary for work already completed and work currently needed to satisfy the fire dept. codes. I would also like to address specifically the concerns mentioned in your letter; Regarding grading, the roads were widened and fine-graded to accomodate a fire truck with a hook and ladder. The brush removal occurred in the areas outlined in green. We removed California Sumac and several stockpiles of junk, wood, dead branches and debris. There are 5 ponds on the property. No new ponds were created by us nor did we alter existing ponds. We pruned dead branches on trees throughout the property, however we did not remove any trees.

When we received your request for a application for a coastal permit in March, we had a survey done of the area in question which I have enclosed. The survey indicates the maximum area of the ponds (i.e. water line) and the location of culverts and paved roads. We asked the building department in Calabasas to review the work we had done on site to see if we needed to file any permits with them. Fortunately, the building inspector that came to our property, Grant Lawseth, was very familar with the property and knew of the prior existence of the lakes and roads. The grading inspector indicated that we will need a permit for the reworking of the Culvert between ponds 1 & 2. Further, we are all in agreement that it would be best to reduce the intensity of water at this site, either by lowering the culvert or spanning the area with a bridge.

Enclosed please find 2 completed applications: One for the work already completed. The second for the proposed changes to the Culvert aforementioned and other proposed improvements. Thank you for your time and I look forward to working on this with you.

Sincerely,


Melissa Miller

Exhibit 9: Letter from previous
4-96-214 owner

(310) 478-2990
(818) 591-0580
(805) 373-8337
FAX (818) 591-9535

GATE
74920

S & S PAVING

PROPOSAL & CONTRACT

26847

2210 WILSHIRE BLVD., SUITE 607, SANTA MONICA, CA 90403
23875 VENTURA BLVD. SUITE 202B, CALABASAS, CA 91302

Job Address Private Dr. at end of Brown Ledge

Date July 6, 1992

Customer (810) 457-7188 ofc. (810) 457-7188
Phone: FAX (810) 457-8316

S & S Paving (Contractor) hereby agrees to furnish all labor and materials as follows:

Scott and Melissa Miller
31226 Bailard Rd.
Malibu, Ca. 90265

APR 07 1997

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Provide construction water for grading.

Scarify all areas to be paved. Add water

as necessary to obtain optimum moisture content and compact. Fine grade 33,500 sq. ft.

Machine roll subgrade and apply weed poison. Install approximately 2,100 lin. ft. of asphalt berm

for water control. Pave 33,500 sq. ft. with a finished 3 in. of compacted asphaltic concrete

paving, machine laid.

FOR THE SUM OF: \$34,785.00. Extra 3' Berm over 33,500 sq. ft. 2100' Berm with Cost 97.75

ALTERNATE: Import, lay and compact a finished 4 in. of C.M.B. or Class II base over 33,500 sq. ft.

FOR THE ADDITIONAL SUM OF: \$1,045.00.

NOTE: THE GENERAL TERMS & CONDITIONS ON THE REVERSE SIDE OF THIS CONTRACT ARE HEREBY MADE A PART OF THIS AGREEMENT.

☐ NOTE: IF BOX IS CHECKED, CUSTOMER AGREES AND UNDERSTANDS THAT DUE TO CRACKS IN EXISTING ASPHALT OR CONCRETE PAVING, S & S PAVING ASSUMES NO RESPONSIBILITY FOR FUTURE CRACKING THROUGH NEW SURFACE.

UNLESS OTHERWISE SPECIFIED IN WRITING THIS CONTRACT SHALL BE DUE AND PAYABLE WHEN INVOICED.

CONTRACTOR

Dated

Signed

S & S PAVING - California State License 286547

Customer

When signed by the buyer and approved by a sales representative of this company, this will constitute a firm contract between both parties hereto, for all labor and for materials herein referred to, according to terms and conditions on both sides hereof.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR OF THE BOARD, CONTRACTORS' STATE LICENSE BOARD, 8635 GOETHE ROAD, SACRAMENTO, CA 95826.
Exhibit 10: Contractor invoice
4-96-214

S Paving

BLVD., SUITE 202B, CALABASAS, CA 91302
(818) 591-0668

INVOICE

11387

Please remit to:

S & S PAVING, INC.
23875 Ventura Blvd., Suite 202B
Calabasas, CA 91302
(818) 591-0668

Scott and Melissa Miller
31226 Bailard Rd.
Malibu, Ca. 90265

INVOICE DATE

August 31, 1992

OUR ORDER NO.

26847

YOUR ORDER NO.

ON ADDRESS

Private Dr. at end of Brown Latigo

DESCRIPTION

PRICE

Grading, berm installation and paving as per contract 26847.	\$31,765.00
EXTRAS: 20 additional lin. ft. of asphalt berm at .97 cents per sq. ft.	19.00
1,325 sq. ft. of additional 3 in. asphaltic concrete paving at .97 per sq. ft.	7,978.00
Additional grading for skiploader and water truck to grade upper pad, 1.5 hours.	142.00

PAID
9-10-92

TOTAL DUE THIS INVOICE

\$42,904.00

PAID & PAYABLE UPON RECEIPT. Accounts delinquent 30 days or more will be subject to a 1.5% per month or 18% per year service charge on the unpaid balance commencing from date of invoice.

