


CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Hearing Date: December 8, 1998
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NO.:** 4-98-212**APPLICANT:** Stephen Enkeboll**AGENT:** Klaus Radtke**PROJECT LOCATION:** 3655 Noranda Lane , City of Malibu; Los Angeles County

PROJECT DESCRIPTION: Construction of a 2,750 sq. ft., one-story, single family residence with an 1,100 sq. ft. attached garage, a driveway, a 120 sq. ft. greenhouse, a stone stairway, a 150 ft. long, 6 ft. high non-retaining privacy wall, 250 cu. yds of grading (200 cu. yds. of excavation for the residence and 50 cu. yds. of fill for restoration of a small graded pad) and the recordation of an offer to dedicate a public hiking and equestrian trail easement. The project also includes after-the-fact approval for the construction of a horse stall, a corral, a garden area, one stone stairway, six stone garden walls not to exceed 4.6 ft. in height, and 1,000 cu. yds. of grading (600 cu. yds. of cut for hiking and equestrian trail improvements, 200 cu. yds. of cut for a garden area, and 150 cu. yds. of cut for the garden area access path).

Lot area:	5.03 acres
Building coverage:	3,363 sq. ft.
Pavement coverage:	3,520 sq. ft.
Landscape coverage:	32,000 sq. ft.
Parking spaces:	2
Ht abv ext grade:	19 ft.

LOCAL APPROVALS RECEIVED: City of Malibu Approval in Concept, City of Malibu Environmental Review Board Approval, Approval in Concept City of Malibu Health Department, Los Angeles County Fire Department Approval.

SUBSTANTIVE FILE DOCUMENTS: Addendum Engineering Geologic Report dated 4/27/98 by Mountain Geology, Inc.; Addendum Engineering Geologic Report dated 1/19/98 by Mountain Geology, Inc.; Geotechnical Engineering Response Report dated 3/9/98 by Coastline Geotechnical Consultants, Inc.; Geotechnical Engineering Response Report dated 5/18/98 by Coastline Geotechnical Consultants, Inc.; Geotechnical Engineering Investigation Report dated 10/28/97 by Coastline Geotechnical Consultants, Inc.; Oak Tree Evaluation and Management Report dated 10/5/98 by Geo Safety, Inc.; Resource Evaluation Report prepared by Geo Safety dated 10/23/98.

SUMMARY OF STAFF RECOMMENDATION:

The Commission **approves** the proposed project with twelve (12) special conditions as found on pages 4-7. The applicant proposes to construct a new 2,750 sq. ft., one-story, single family residence with an 1,100 sq. ft. attached garage, a driveway, a 120 sq. ft. greenhouse, a stone stairway, a 150 ft. long, 6 ft. high non-retaining privacy wall, 250 cu. yds of grading (200 cu. yds. of excavation for the residence and 50 cu. yds. of fill for restoration of a small graded pad) and the recordation of an offer to dedicate a public hiking and equestrian trail easement. The project also includes after-the-fact approval for the construction of a horse stall, a corral, a garden area, one stone stairway, six stone garden walls not to exceed 4.6 ft. in height, and 1,000 cu. yds. of grading (600 cu. yds. of cut for hiking and equestrian trail improvements, 200 cu. yds. of cut for a garden area, and 150 cu. yds. of cut for the garden area access path).

A portion of the subject site is designated by the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) as disturbed significant oak woodland. In addition, the subject site is located approximately 1,000 ft. upslope and to the west of Encinal Canyon Creek. Further, 67 individual specimens of Santa Susanna Tarweed (*Hemizonia minithornii*), listed as a rare species by the State of California, are located on the subject site. The certified Malibu/Santa Monica Mountains LUP also indicates that a planned segment of the Coastal Slope Trail is located on the project site in order to link Charmlee Park to the Coastal Slope Trail. The Santa Monica Mountains Conservancy has expressed interest in accepting the proposed public trail easement (Exhibit 8).

Existing development on site includes a horse stall, six stone garden walls less than 4.6 ft in height in height, a stone stairway, and 1,000 cu. yds. of grading (600 cu. yds. of cut for the construction of a 12 ft. wide dirt road, 250 cu. yds. of cut for two small "garden" pad areas, and 150 cu. yds. of cut for the "garden" access path) that have been previously constructed without the required coastal development permit. The applicant is proposing to convert the 12 ft. wide dirt road to an improved public hiking and equestrian trail, conduct 50 cu. yds. of grading to restore a small unpermitted garden pad and requesting after-the-fact approval for the horse stall, stone stairway, six stone garden walls, and 350 cu. yds. of cut grading for the second garden area pad and access path.

The project site is also the subject of a current related permit amendment application. Coastal Development Permit (CDP) 4-94-064 was issued to Raymond Enkeboll for the construction of a single family residence and other related development on an adjacent parcel, as well as the removal of a vineyard and horse corrals and the subsequent restoration of oak tree habitat on the subject site. As offered by the applicant and required by Special Condition Five (5) of CDP 4-94-064, an open space deed restriction was recorded over several portions of both properties, including a one acre open space dedication over the currently proposed building pad site on the subject property at 3655 Noranda Lane. The applicant has submitted information indicating that the construction of a single family residence on the portion of the property previously designated as open space will result in less adverse effects to the habitat value of the site than if the residence is constructed on a portion of the property not presently restricted for open space.

Therefore, in conjunction with this permit application, an amendment to CDP 4-94-064 to modify the location of the open space area and increase the size of the dedicated open space area from one acre to approximately 3 acres has also been scheduled for the December 1998 Commission Hearing. Approval of such amendment would eliminate the restriction in the deed restriction precluding development on the portion of the site where this project is proposed to be located. Three letters have been received in support of the proposed project (Exhibit 7).

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 effects 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 on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as 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 development during construction, 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. Consistency with CDP 4-94-064-A3

Prior to the issuance of this coastal development permit, CDP Amendment 4-94-064-A3 to modify the location of the open space easement on the subject site must be approved by the Commission and the deed restriction recorded in accordance with Special Condition Five (5) specified in such amendment.

2. Implementation and Completion of the Fuel Modification, Landscape, Vegetation Management and Oak Tree Plan

The applicant shall implement and complete the Fuel Modification, Landscape, Vegetation Management and Oak Tree Plan prepared by Klaus Radtke and included as Exhibit 4, within 45 days of the issuance of this permit. The Executive Director may grant additional time for good cause.

3. Habitat Restoration, Landscape, and Oak Tree Monitoring Program

Prior to the issuance of the permit, the applicant shall submit for the review and approval of the Executive Director, a Habitat Restoration and Oak Tree Monitoring Program for the 10:1 replacement of the two oak trees removed for the proposed development and the restoration and revegetation of the lower garden area as shown on Exhibit 4 and consistent with Special Condition Two (2). The restoration and monitoring program shall include, but not be limited to the following:

a. Technical Specifications

The plan shall specify the preferable time of year to carry out the restoration and describes the supplemental watering requirements that will be necessary. The plan shall also specify specific performance standards to judge the success of the restoration effort. The performance standards shall incorporate ground and canopy coverage and survival rates typical to oak woodland areas in the Santa Monica Mountains. All recommendations contained in both the Oak Tree Evaluation and Management Report dated 10/5/98 by Geo Safety, Inc. shall be incorporated into the monitoring plan.

b. Restoration Monitoring Program

A monitoring program shall be implemented to monitor the project for compliance with the guidelines and performance standards outlined in the Habitat Restoration and Oak Tree Monitoring Program. The applicant shall submit, on an annual basis, a written report prepared by an environmental resource specialist indicating the success or failure of the restoration project. This report shall include further recommendations and requirements for additional restoration activities in order for the project to meet the criteria and performance standards listed in the proposed restoration plan. These reports shall also include photographs taken from pre-designated sites (annotated to a copy of the site plans) indicating the progress of recovery at each of the sites.

At the end of a five year period, a final detailed report shall be submitted for the review and approval of the Executive Director. If this report indicates that the restoration project has in part, or in whole, been unsuccessful, based on the approved performance standards, 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.

During the monitoring period, all artificial inputs shall be removed except for the purposes of providing mid-course corrections or maintenance to ensure the long-term survival of the project site. If these inputs are required beyond the first two years, then the monitoring program shall be extended for an equal length of time so that the success and sustainability of the project sites is ensured. Restoration sites shall not be considered successful until they are able to survive without artificial inputs.

4. Construction Monitoring

The applicant shall retain the services of an independent biological consultant or arborist with appropriate qualifications acceptable to the Executive Director. The biological consultant or arborist shall be present on site during construction of the driveway and all grading activity. All recommendations contained in both the Oak Tree Evaluation and Management Report dated 10/5/98 by Geo Safety, Inc. shall be incorporated into the monitoring plan. Protective fencing shall be used around all oak trees which may be disturbed during construction activities. The consultant shall immediately notify the Executive Director if unpermitted activities occur or if habitat is removed or impacted beyond the scope of the work allowed by Coastal Development Permit 4-98-212. This monitor shall have the authority to require the applicant to cease work should any breach in permit compliance occur, or if any unforeseen sensitive habitat issues arise. If significant impacts or damage occur to any oak trees on site beyond the scope of work allowed for by this permit, the applicant shall be required to submit a revised, or supplemental, restoration program to adequately mitigate such impacts at 10:1 oak tree replacement ratio. The revised, or supplemental, restoration program shall be processed as an amendment to this coastal development permit.

5. Plans Conforming to Geologic Recommendation

All recommendations contained in the Addendum Engineering Geologic Report dated 4/27/98 by Mountain Geology, Inc.; Addendum Engineering Geologic Report dated 1/19/98 by Mountain Geology, Inc.; Geotechnical Engineering Response Report dated 3/9/98 by Coastline Geotechnical Consultants, Inc.; Geotechnical Engineering Response Report dated 5/18/98 by Coastline Geotechnical Consultants, Inc.; and the Geotechnical Engineering Investigation Report dated 10/28/97 by Coastline Geotechnical Consultants, Inc. shall be incorporated into all final design and construction including foundations, grading and drainage. All plans must be reviewed and approved by the geologic consultant. Prior to the issuance of the coastal development permit, the applicant shall submit, for review and approval by the Executive Director, evidence of the consultant's review and approval of all project plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

6. Drainage and Erosion Control Plans

Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, a run-off and erosion control plan designed by a licensed engineer which assures that run-off from the roof, patios, and all other impervious surfaces on the subject parcel are collected and discharged in a non-erosive manner which avoids ponding on the pad area. Site drainage shall not be accomplished by sheetflow runoff. Should the project's drainage structures fail or result in erosion, the applicant/landowner or successors in interest shall be responsible for any necessary repairs and restoration.

7. Removal of Excavated Material

Prior to the issuance of the Coastal Development Permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.

8. Future Improvements

Prior to the issuance of a coastal development permit, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, stating that the subject permit is only for the development described in Coastal Development Permit 4-98-212 and that any additions to permitted or existing structures, future structures, or improvements to the property, including but not limited to clearing of vegetation, grading, or any additional modifications to the revised Fuel Modification, Landscape, Vegetation Management and Oak Tree Plan prepared by Klaus Radtke and included as Exhibit 4, that is required to be implemented by Special Condition Two (2) that might otherwise be exempt under Public Resource Code Section 30610(a) will require a permit or permit amendment from the Coastal Commission or from the appropriate local government with a certified Local Coastal Program. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

9. Offer to Dedicate Public Hiking and Equestrian Trail Easement

In order to implement the applicant's proposal of an offer to dedicate a 12 ft. wide public access hiking and equestrian trail easement for passive recreational use as part of this project, the applicant as landowner agrees to complete the following prior to issuance of the permit: the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for public access and passive recreational use in the general location and configuration depicted in Exhibit 3. The dedicated trail easement shall not be open for hiking and equestrian use until a public agency or private association approved by the Executive Director agrees to accept responsibility for maintenance and liability associated with the easement. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use that may exist on the property

The offer shall provide the public the right to pass and repass over the dedicated route limited to hiking and equestrian uses only. The document shall be recorded free of prior encumbrances except for tax liens, that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees of the applicant or landowner, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions of both the applicant's entire parcel(s) and the easement area.

10. Color Restriction

Prior to issuance of a coastal development permit, the landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which restricts the color of the subject structure and roof to natural earth tones, compatible with the surrounding earth colors (white tones will not be acceptable). All windows shall be of non-glare glass. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

11. Applicant's Assumption of Risk

Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from fire, landsliding, and erosion and the applicant assumes the risks from such hazards; and (b) that the applicant unconditionally waives any claim of liability against the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

12. Condition Compliance

Within 90 days of Commission action on this coastal development permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The applicant proposes to construct a new 2,750 sq. ft., one-story, single family residence with an 1,100 sq. ft. attached garage, a driveway, a 120 sq. ft. greenhouse, a stone stairway, a 150 ft. long, 6 ft. high non-retaining privacy wall, 250 cu. yds of grading (200 cu. yds. of excavation for the residence and 50 cu. yds. of fill for restoration of a small graded pad) and the recordation of an offer to dedicate a public hiking and equestrian trail easement. The project also includes after-the-fact approval for the construction of a horse stall, a corral, a garden area, one stone stairway, six stone garden walls not to exceed 4.6 ft. in height, and 1,000 cu. yds. of grading (600 cu. yds. of cut for hiking and equestrian trail improvements, 200 cu. yds. of cut for a garden area, and 150 cu. yds. of cut for the garden area access path).

The subject site is an irregularly shaped 5.03 acre parcel located upslope and west of Encinal Canyon Road approximately one mile north of Pacific Coast Highway in the City of Malibu (Exhibit 1). Slopes generally descend from the north west corner of the property to the south east with slope gradients varying from nearly horizontal to as steep as 1:1 (45°). A portion of the subject site is designated by the certified Malibu/Santa Monica Mountains Land Use Plan as disturbed significant oak woodland. No streams are located on the project site; however, the subject site is located approximately 1,000 ft. upslope and to the west of Encinal Canyon Creek. In addition, the subject site is located approximately 400 ft. to the east of Charmlee Park which is held by the City of Malibu as a "natural area" available for passive recreational use by the public including hiking and equestrian use. The certified Malibu/Santa Monica Mountains LUP also indicates that a planned segment of the Coastal Slope Trail is located on the project site in order to link Charmlee Park to the Coastal Slope Trail.

The applicant is offering to dedicate a 12 ft. hiking and equestrian public trail easement across the subject site as part of this application. In addition, although not part of this application, the Enkeboll Foundation, which owns the adjacent property, has recently recorded other related trail easements and deeded an undisturbed one-acre oak woodland site to Charmlee Park. The dedication in this application will complete the trail network connecting the Coastal Slope Trail and Charmlee Park.

In addition, the proposed horse stall, six stone garden walls not to exceed 4.6 ft in height in height, a stone stairway and 1,000 cu. yds. of grading (600 cu. yds. of cut for the construction of a 12 ft. wide dirt road, 250 cu. yds. of cut for two small "garden" pad areas, and 150 cu. yds. of cut for the "garden" access path) have been previously constructed without the required coastal development permit. The applicant is proposing to convert the 12 ft. wide dirt road to an improved public hiking and equestrian trail, conduct 50 cu. yds. of grading to restore the second lower garden area

pad and requesting after-the-fact approval for the horse stall, stone stairway, six stone garden walls not to exceed 4.6 ft. in height, and 350 cu. yds. of cut grading for the construction of the upper garden area pad and access path.

The project site is the subject of a current related permit amendment application, as well as past Commission action. Coastal Development Permit (CDP) 4-94-064 was issued to Raymond Enkeboll for the construction of a single family residence and other related development on the adjacent parcel at 3640 Noranda Lane, as well as the removal of a vineyard and horse corrals and the subsequent restoration of oak tree habitat on the subject site at 3655 Noranda Lane. As offered by the applicant of CDP 4-94-064 and required by Special Condition Five (5), an open space deed restriction was recorded over several portions of both properties, including a one acre open space dedication over the currently proposed building pad site on the subject property at 3655 Noranda Lane. The applicant is currently proposing to locate the project in this application within the area deed restricted as open space under CDP 4-94-064. Therefore, in addition to this permit application, an amendment to CDP 4-94-064 to modify the location of the open space area which will allow for the construction of the proposed residence and also to increase the size of the dedicated open space area from one acre to approximately 3 acres has also been scheduled for the December 1998 Commission Hearing. Special Condition One has been required to ensure that the development proposed as part of CDP 4-98-212, which would be located in the area previously designated as open space by CDP 4-94-064, will be consistent with the Commission's action regarding the proposed amendment to CDP 4-94-064.

B. Environmentally Sensitive Habitat Area

Section 30230 of the Coastal Act states that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 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 states:

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

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

Sections 30230 and 30231 of the Coastal Act require 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. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values:

Although the subject site is not located within an environmentally sensitive habitat area (ESHA), the certified Malibu/Santa Monica Mountains Land Use Plan (LUP) indicates that a portion of the project site is designated as a disturbed significant oak woodland. In addition, the subject site is located approximately 1,000 ft. upslope and to the west of Encinal Canyon Creek. Although not designated as a significant watershed area by the Malibu/Santa Monica Mountains LUP, the subject site has been designated as a significant watershed area for Encinal Canyon Creek in the Malibu General Plan. Further, the applicant has submitted a Resource Evaluation Report prepared by Geo Safety, Inc. dated October 23, 1998, which indicates that 67 individual specimens of Santa Susanna Tarweed (*Hemizonia minithornii*), listed as a rare species by the State of California, are located on the subject site.

To assist in the determination of whether a project is consistent with Section 30230, 30231, and 30240 of the Coastal Act, the Commission has, in past Malibu coastal development permit actions, looked to the certified Malibu/Santa Monica Mountains LUP for guidance. The Malibu LUP has been found to be consistent with the Coastal Act and provides specific standards for development along the Malibu coast and within the Santa Monica Mountains. For instance, in concert with Sections 30230, 30231, and 30240 of the Coastal Act, Policy 60 of the LUP provides that oak woodlands (Non-riparian) shall be considered as significant resources. In addition, Policy 63 provides that development shall be permitted in ESHAs, DSRs, significant watersheds, and significant oak woodlands, and wildlife corridors in accordance with Table 1 and all other policies of the LUP. Table 1 of the LUP states that:

- *Encroachment of structures within an oak woodland shall be limited such that at least 90% of the entire woodland is retained. Leachfields shall be located outside the dripline of the existing oak trees.*

- *Clustering of structures shall be required to minimize the impacts on natural vegetation.*
- *Development shall adhere to the provisions of the County of Los Angeles Oak Tree Ordinance.*
- *Land alteration and vegetation removal shall be minimized.*
- *Structures shall be located as close to the periphery of the oak woodland as feasible, including outside the woodland, or in any other location for which it can be demonstrated that the effects of development will be less environmentally damaging.*
- *Structures shall be located as close as feasible to existing roadways and other services to minimize the construction of new infrastructure.*
- *Site grading shall be accomplished in accordance with the stream protection and erosion policies.*

The proposed building site will be located on a minor natural ridge line and will utilize a relatively flat portion of the subject site allowing for construction of the residence with minimal grading and landform alteration (200 cu. yds. of excavation). The proposed building site is also located as close as feasible to Noranda Lane and no grading is required for the construction of a 40 ft. long driveway. In addition, the proposed septic system will utilize a seepage pit located outside the dripline of any oak trees and will not result in any adverse effects to the habitat value of the site. However, the proposed development will include the removal of one fire damaged oak tree to construct the residence and one fire damaged oak tree to construct the driveway. The two oak trees to be removed are medium in size, moderately to severely fire damaged, and each with two trunks [diameter of trunks at 4.5 ft. in height: Tree 1 (8.1", 7.2") and Tree 2 (7.9", 12.2")]. The applicant had originally submitted project plans that would have required the removal of five oak trees for the construction of the proposed development. In cooperation with staff, the applicant has subsequently revised the project plans to reconfigure the proposed driveway and allow minor pruning of one oak tree located near the residence to reduce the number of oak trees to be removed. With the exception of the one oak tree to be removed and one oak tree to be selectively pruned the proposed residence will not be located within the dripline of, or result in any adverse effects to, any other oak trees on site. In addition, the proposed driveway will be constructed using permeable paver stone in order to minimize impermeable surface on site and adverse effects to the oak tree habitat. Further, the proposed small horse corral will not be located within the dripline of any oak trees and will not result in any adverse effects to the oak tree habitat from soil compaction.

In order to determine whether the removal of any oak trees or other adverse effects to the habitat value of the subject site could be further minimized or eliminated, staff has analyzed alternative building sites located outside the area that is presently restricted as open space. Due to topographic, environmental, and geologic constraints, including the presence of an ancient landslide on the southern portion of the lot, the only feasible alternative building site is the proposed "garden area" located south and downslope

from the proposed pad, where two small pads have been previously graded (Exhibit 4). However, the applicant's consultant, Geo Safety, Inc., has indicated that the construction of a residence at this location would require approximately 10,000 cu. yds. of grading and the use of substantial retaining walls on a steep slope to convert the existing 12 ft. wide dirt trail to a 20 ft. wide, 280 ft. long, access road with adequate turning areas adequate to satisfy Los Angeles County Fire Department Requirements. The additional grading for the access road would also require the removal of three medium to large healthy oak trees [diameter of trunks at 4.5 ft. in height: Tree 1 (8.3"), Tree 2 (9.2") and Tree 3 (13.1", 10.1", 9.9", 9.7")] and would significantly impact a fourth oak tree with two separated trunks on the down slope side of the road [diameter (16.8", 10.4")]. In addition, the Commission notes that in order to minimize grading on the steep slope, the paved driveway for the alternative building site would occupy the same location as the proposed public hiking and equestrian trail easement.

Further, the Commission notes that vegetation clearance for fuel modification as required by the Los Angeles County Fire Department would result in greater adverse effects to the habitat value of the site if the proposed single family residence was located on the alternative "garden area" building site. Although fewer oak trees are located in close proximity to the alternative building site, the 200 ft. radius fuel modification zone would require vegetation clearance of undisturbed chaparral habitat. In addition, the 67 individual specimens of Santa Susanna Tarweed (*Hemizonia minithornii*), listed as a rare species by the State of California would also be located within 200 ft. of the residence and may be adversely impacted by brush clearance if a residence was sited in this location.

In comparison, the Commission notes that although the proposed project site will be located near several oak trees, the applicant has submitted a Fuel Modification Plan approved by the Los Angeles County Fire Department which will minimize any clearance of undisturbed chaparral habitat located on site. Vegetation clearance will primarily consist of "deadwooding" the oak trees and clearing underbrush beneath the tree canopies. In addition, due to topographical location and the presence of several rock outcroppings, vegetation clearance for the proposed project site will not result in any adverse effects to the population of Santa Susanna Tarweed on site.

For the reasons discussed above, the Commission notes that the construction of a single family residence on the proposed building site will result in fewer adverse effects to the habitat value of the site than the construction of a residence on the alternative "garden area" building site. Therefore, the Commission finds that the proposed building site is the preferred location for the construction of a residence on the subject property. The applicant has submitted a Fuel Modification, Landscape, Vegetation Management, and Oak Tree Plan which will provide for the replacement of the two fire damaged oak trees to be removed at a 10:1 replacement ratio. Special Condition Two (2) has been required to ensure that the Fuel Modification, Landscape, Vegetation Management, and Oak Tree Plan will be implemented. Further, the Oak Tree Evaluation and Management Report by Geo Safety, Inc. dated October 5, 1998, includes a number of recommendations to ensure that any adverse effects resulting from the proposed

project to the existing oak trees on site are minimized and that the proposed oak tree restoration efforts are successful. Therefore, Special Condition Three (3) requires the applicant to submit a habitat restoration and oak tree monitoring program to ensure that all recommendations contained in the Oak Tree Evaluation and Management Report dated 10/5/98 by Geo Safety, Inc. are implemented and that the restoration efforts, including the 20 replacement oak trees required by Special Condition Two (2), are successful. Special Condition Three (3) also requires the applicant to submit annual reports indicating the success or failure of the restoration effort for a period of five years. If the restoration effort is in part, or in whole, unsuccessful, the applicant shall be required to submit a revised or supplemental restoration program.

In addition, the Commission notes that in addition to the removal of the two fire damaged oak trees, the construction of the proposed development in close proximity to several oak trees will also result in potential adverse impacts to oak trees on the subject site. In order to ensure that any potential adverse effects to the oak trees on the project site are minimized, Special Condition Four (4) requires the applicant to retain the services of an independent biological consultant or arborist to be present on site during construction of the driveway and all grading activity. In addition, Special Condition Four (4) also requires the use of protective fencing around all oak trees which may be disturbed during construction activity.

The proposed project also includes "after-the-fact" approval for 200 cu. yds. of cut for a small "garden" area, and 150 cu. yds. of cut for an access path. The applicant is proposing to restore the second smaller graded pad area located immediately south of the garden area. The previously graded pad for the proposed garden will not result in any adverse effects to the habitat value of the subject site and is consistent with the surrounding development. Special Condition Two (2) has also been required to ensure that the restoration and revegetation of the lower garden pad which was previously graded without the required coastal development permit will be carried out as proposed by the previously submitted Fuel Modification, Landscape, Vegetation Management, and Oak Tree Plan as shown on Exhibit 4.

Further, the Oak Tree Evaluation and Management Report by Geo Safety dated 10/5/98 indicates that the amount of development that may be allowed on the subject site without resulting in adverse effects to the habitat value of the site is limited by environmental constraints. The report states:

Oaks within 200 feet west to north of the structure are being maintained in a fire-safe condition as this was part of standard oak management practices on the Enkeboll Foundation property of which this property was a part until recently. The same will be done with the remaining oaks which are found on the eastern slopes below the "oak knoll" [building site] along the hiking and equestrian trail (access road to alternate building site), and around the proposed garden area...Furthermore, environmental constraints within the oak knoll will preclude accessory structures that may require additional clearance or could become a fire hazard.

Therefore, in order to ensure that any future structures, additions, or landscaping that may result in any adverse effects to the habitat value of the subject site will be reviewed by the Commission, Special Condition Eight (8) has been required.

The Commission also notes that increased erosion on site would subsequently result in a potential increase in the sedimentation of the downslope Encinal Canyon Creek. The Commission finds that the minimization of site erosion will minimize the project's potential individual and cumulative contribution to sedimentation of Encinal Canyon Creek. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment and oak tree habitat. The applicant has previously submitted a Fuel Modification, Landscape, Vegetation Management and Oak Tree Plan. With the exception of the proposed garden area, landscaping will be limited only to the planting of 20 oak trees. In order to enhance the oak tree habitat, landscaping will be limited to the use of woodchips, bark, and mulch to supplement the existing oak litter and to minimize erosion. As typically required by the Commission, no non-native or invasive plant species will be used for landscaping on the subject site. As previously mentioned, in order to ensure that adverse effects to the oak tree habitat on site are minimized, Special Condition Eight (8) requires that any modification to the Fuel Modification, Landscape, Vegetation Management and Oak Tree Plan will require a coastal development permit or amendment. Further, in order to ensure that the proposed project's cumulative contribution to sedimentation of the stream is minimized, Special Condition Two (2) requires that the applicant to implement the Fuel Modification, Landscape, Vegetation Management and Oak Tree Plan. Special Condition Six (6) has also been required to ensure that project drainage be achieved in a non-erosive manner and that the applicant assume responsibility for the maintenance of all drainage devices on site.

Therefore, the Commission finds that the proposed amendment, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

C. Grading and Hazards

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

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, 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 proposed development is located in the Santa Monica Mountains, an area which is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to the Santa Monica Mountains include landslides, erosion,

and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Santa Monica Mountains of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The Engineering Geologic Report by Mountain Geology, Inc. dated October 8, 1997, indicates that an erosional remnant of a prehistoric landslide is present on the southern portion of the subject property and adjacent properties. However, the subject property is a large irregularly shaped parcel and all development will be located in the northern portion of the property away from the ancient landslide area. The geologic and geotechnical consultants have indicated that the proposed development will not be subject to landslide hazard. The Engineering Geologic Report by Mountain Geology, Inc. dated October 8, 1997, states:

Based upon our investigation, the proposed development will be free from geologic hazards such as landslides, slippage, active faults, and settlement. The proposed development and installation of the private sewage disposal system will have no adverse effect upon the stability of the site or adjacent properties provided the recommendations of the Engineering Geologist and Geotechnical Engineer are complied with during construction.

In addition, the Geotechnical Engineering Investigation Report by Coastline Geotechnical Consultants, Inc. dated October 28, 1997, states that:

Provided the recommendations of this report are followed, and the designs, grading and construction are properly and adequately executed, it is our opinion that construction within the building site would not be subject to geotechnical hazards from landslides, slippage, or excessive settlements. Further, it is our opinion that the proposed building and anticipated site grading would not adversely effect the stability of the site, nor adjacent properties with the same provisos as listed above.

In addition, the Commission notes that the geologic and engineering consultants have included a number of geotechnical recommendations which will increase the stability and geotechnical safety of the site. To ensure that the recommendations of the geologic geotechnical consultant are incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by Special Condition Five (5), to submit project plans certified by both consulting geologic and geotechnical engineers as conforming to their recommendations.

However, because there remains some inherent risk in building on sites with ancient landslides, and due to the fact that the proposed project is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission can only approve the project if the applicant assumes the liability from the associated risks as required by Special Condition Eleven (11). This responsibility is carried out through the recordation of a deed restriction. The assumption of risk deed restriction, when recorded against the property, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site and which may adversely affect the

stability or safety of the proposed development and agrees to assume any liability for the same.

It should be noted that an assumption of risk deed restriction for hazardous geologic conditions is commonly required for new development throughout the greater Malibu/Santa Monica Mountains region in areas where there exist potentially hazardous geologic conditions, or where previous geologic activity has occurred either directly upon or adjacent to the site in question. The Commission has required such deed restrictions for other development throughout the Malibu/Santa Monica Mountains region including as a condition of Coastal Development Permit 5-90-534 (Quiros) which was approved for the construction of a single family residence on the property adjacent to and immediately west of the subject site.

The Commission also finds that minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to landscape all disturbed areas of the site with native plants, compatible with the surrounding environment. The applicant has previously submitted a Fuel Modification, Landscape, Vegetation Management and Oak Tree Plan. In order to ensure that the Fuel Modification, Landscape, Vegetation Management and Oak Tree Plan is implemented, Special Condition Two (2) has been required.

In addition, the applicant's geologic and geotechnical consultants have recommended that drainage not be allowed to pond on the pad or against any foundation or retaining wall but should be collected and distributed in a non-erosive manner. To ensure that adequate drainage is incorporated into the project plans, the Commission finds that it is necessary to require the applicant, as required by Special Condition Six (6), to submit drainage and erosion control plans conforming to the recommendations of the consulting geotechnical engineer for review and approval by the Executive Director and that the applicant assume responsibility for the maintenance of all drainage devices on site.

The Commission further notes that the amount of cut proposed by the applicant is larger than the amount of fill to be placed and will result in approximately 150 cu. yds. of excess excavated material. Excavated materials that are placed in stockpiles are subject to increased erosion. The Commission also notes that additional landform alteration would result if the excavated material were to be retained on site. In order to ensure that excavated material will not be stockpiled on site and that landform alteration is minimized, Special Condition Seven (7) requires the applicant to remove all excavated material from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required. The Commission finds that the proposed project, as conditioned above, is consistent with Section 30253 of the Coastal Act.

D. Public Access and Visual Resources

One of the basic mandates of the Coastal Act is to maximize public access and recreational opportunities within coastal areas and to reserve lands suitable for coastal recreation for that purpose. The Coastal Act has several policies which address the issues of public access and recreation within coastal areas.

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 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30223 of the Coastal Act states:

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

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by...(6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30251 of the Coastal Act states that:

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.

Coastal Act sections 30210, 30212.5, 30223, and 30252 mandate that maximum public access and recreational opportunities be provided and that development not interfere with the public's right to access the coast. Likewise Section 30213 mandates that lower cost visitor and recreational facilities, such as public hiking and equestrian trails, shall be protected, encouraged, and where feasible provided. Further, Section 30251 of the Coastal Act requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored.

The proposed project site is located approximately 400 ft. to the east of Charmlee Park which is held by the City of Malibu as a "natural area" available for passive recreational use by the public including hiking and equestrian use. The certified Malibu/Santa Monica Mountains LUP indicates that a planned segment of the Coastal Slope Trail is located on the project site in order to link Charmlee Park to the Coastal Slope Trail. A second public hiking and equestrian trail easement has been previously recorded by the Enkeboll Foundation on an adjacent lot approximately 1,000 ft. to the north of the subject site to provide an alternate entrance to the park from the Coastal Slope Trail.

In the Malibu/Santa Monica Mountains area, the existing system of heavily used historic trails located on private property has been adversely impacted by the conversion of open lands to housing. In order to preserve and formalize the public's right to use these trails, a trail system map has been included as part of the certified Malibu/Santa Monica Land Use Plan (LUP). The trail system is composed of the Backbone and Coastal Slope Trails in addition to several connector trails. The Backbone Trail is the primary hiking and equestrian trail leading from the Los Angeles metropolitan area through the Santa Monica Mountains to Point Mugu State Park in Ventura County. The trail network will provide hikers and equestrians with large number of varied destinations including such highly scenic locations as Escondido Falls or the Castro Crag area and historic sites including several motion picture locations and active film sets. Significant coastal views from the public trail system include panoramic views of the coastline, the Channel Islands, and mountain views.

The Coastal Slope Trail is identified in the certified Malibu/Santa Monica LUP as a significant trail system that serves to provide access between the growing urban areas on and above the coastal terrace and the Santa Monica Mountain park system. The trail easement that the applicant is proposing to offer to dedicate for public access on the project site represents an important "missing" link that will further complete the Coastal Slope Trail by connecting Charmlee Park to the Santa Monica Mountains Trail System. Further, the Santa Monica Mountains Trails Council, Malibu Trails Association, and the Charmlee Park Preserve Foundation have indicated their support of the proposed trail location (Exhibit 7).

Further, in past permit actions for those properties immediately adjacent to the subject site on Noranda Lane that were also identified in the Malibu/Santa Monica Mountains LUP as being located within the planned route for the Coastal Slope Trail, the Commission has required that adverse effects to public access resulting from new

development be mitigated. Coastal Development Permit 5-90-534 (Quiros) was issued for the construction of an 800 sq. ft. single family residence on the property adjacent to and immediately west of the subject site with a special condition requiring the recordation of an offer to dedicate a public hiking and equestrian trail easement. In addition Coastal Development Permit 5-86-472 (Zilberg) was issued for the construction of 2,517 sq. ft. single family residence and 750 sq. ft. guest unit on another adjacent property with a special condition requiring the recordation of an offer to dedicate a public hiking and equestrian trail easement.

In order to avoid any cumulative and site specific adverse effects to public access resulting from the proposed development and to enhance the Santa Monica Mountains Trail System, the applicant has included an offer to dedicate an improved 12 ft. wide public hiking and equestrian trail easement that will serve to connect the existing Coastal Slope Trail to Charmlee Park. Therefore, Special Condition Nine (9) has been included in order to implement the applicant's offer to dedicate a 12 ft. wide public hiking and equestrian trail easement prior to the issuance of the coastal development permit.

In addition, although the proposed development will not be visible from Pacific Coast Highway and will not be easily visible to passing motorists on Encinal Canyon Road, the proposed development will be visible from both existing and proposed segments of the Coastal Slope Trail. However, the construction of a 2,750 sq. ft., one-story, single family residence with an 1,100 sq. ft. attached garage, is visually consistent with neighboring development. Given the proposed location of the single family residence upslope from the trail, on top of and behind a natural ridge, the proposed development will not block or result in adverse effects to the panoramic views of the Pacific Ocean or the undisturbed chaparral covered hills located downslope from the trail that would constitute the primary viewshed for trail users. In addition, grading for the proposed residence will be limited to 200 cu. yds. of excavation entirely within the footprint of the structure itself and will not result in any visible landform alteration. Further, although the proposed "after-the-fact" garden pad will be visible from the public trail, the Commission note that the construction of the small pad area did not result in significant landform alteration and that the proposed development is visually consistent with the surrounding rural area.

However, the proposed structure would result in adverse effects to public views from the Coastal Slope Trail if it is finished in a color inconsistent with the surrounding natural landscape. Further, should the numerous windows of the proposed structure be of a reflective nature, the resultant glare from the windows would create an adverse visual impact to those using the Trail. Therefore, because the residence is visible from both existing and proposed segments of a public trail it is necessary to ensure that the design of the project will minimize any visual impacts to the maximum extent feasible. To ensure any visual impacts associated with the colors of the structure and the potential glare of the window glass will be minimized, the Commission finds it necessary to require the applicant to use colors compatible with the surrounding environment and non-glare glass, as required by Special Condition Ten (10).

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30210, 30212.5, 30213, 30223, 30251 and 30252 of the Coastal Act.

E. Septic System

The Commission recognizes that the potential build-out of lots in Malibu and the Santa Monica Mountains, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local 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, minimizing alteration of natural streams.

The proposed development includes constructing a septic system for the new residence to provide for adequate sewage disposal. The proposed septic system will utilize a seepage pit located outside the dripline of any oak trees and will not result in any adverse effects to the habitat value of the site. The applicant has submitted approval from the City of Malibu Environmental Health Department stating that the proposed septic system is in conformance with the minimum requirements of the City of Malibu Uniform Plumbing Code. The City of Malibu's minimum health code standards for septic systems have been found protective of coastal resources and take into consideration the percolation capacity of soils along the coastline, the depth to groundwater, etc. Therefore, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

F. Violations

This application includes the after-the-fact request for the construction of one stone stairway, six stone garden walls not to exceed 4.6 ft. in height, improvements for 12 ft. wide hiking and equestrian trail for public use, 1000 cu. yds. of grading (600 cu. yds. of cut for hiking and equestrian trail improvements, 250 cu. yds. of cut for the two "garden area" pads, and 150 cu. yds. of cut for the "garden area" access road).

To ensure that the violation aspect of this application is resolved in a timely manner, Special Condition Twelve (12) requires that the applicant satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action. The applicant has submitted a Fuel Modification, Landscape,

Vegetation Management, and Oak Tree Plan which will provide for restoration of the lower garden area pad. Special Condition Two (2) has been required to ensure that that the Fuel Modification, Landscape, Vegetation Management, and Oak Tree Plan will be implemented.

Although construction 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. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

G. 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 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 development, as conditioned, will not prejudice the City'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).

H. 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 by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available

which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission finds that, the proposed project, 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 project, as conditioned, has been adequately mitigated and is determined to be consistent with CEQA and the policies of the Coastal Act.

SMH-VNT

File SMH/permits/regular/4-98-212 enkeboll



EXHIBIT 1
Permit 4-98-212
Location Map

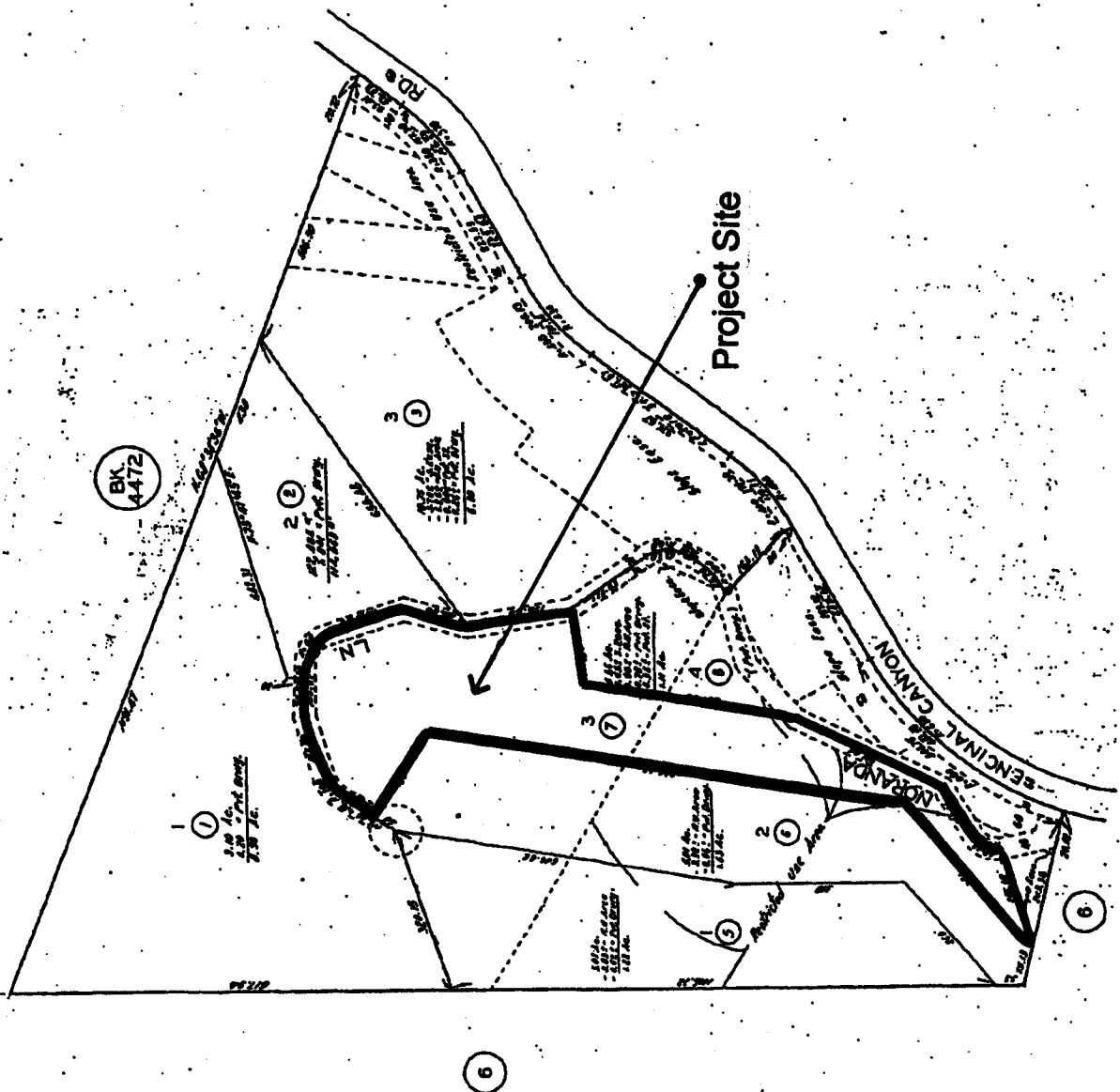


EXHIBIT 2
Permit 4-98-212
Parcel Map

CHARNELEE PARK

Existing Open Space Easements

Existing Open Space Easement to be Deleted

Proposed Trail Easement

Proposed Open Space Easement

COASTAL SLOPE TRAIL

LEGEND

Open Space Easement

NOTES

Revised/Revised Trail to Indicated
Revised August 24, 1998

EXHIBIT 3

Permit 4-98-212

Proposed Trail/Open Space
Easement Map

GEO SAFETY, INC.
1462 Larchmont Lane
Pacific Palisades, CA 90272
(310) 454-0453 • Fax: 454-6187

Prepared by
Klaus Radtke, Ph.D.
Wildland Resource Scientist
6-3-1998 Rev. 11-15-98

N

SCALE IN FEET

CONTOUR INTERVAL = 2 FEET

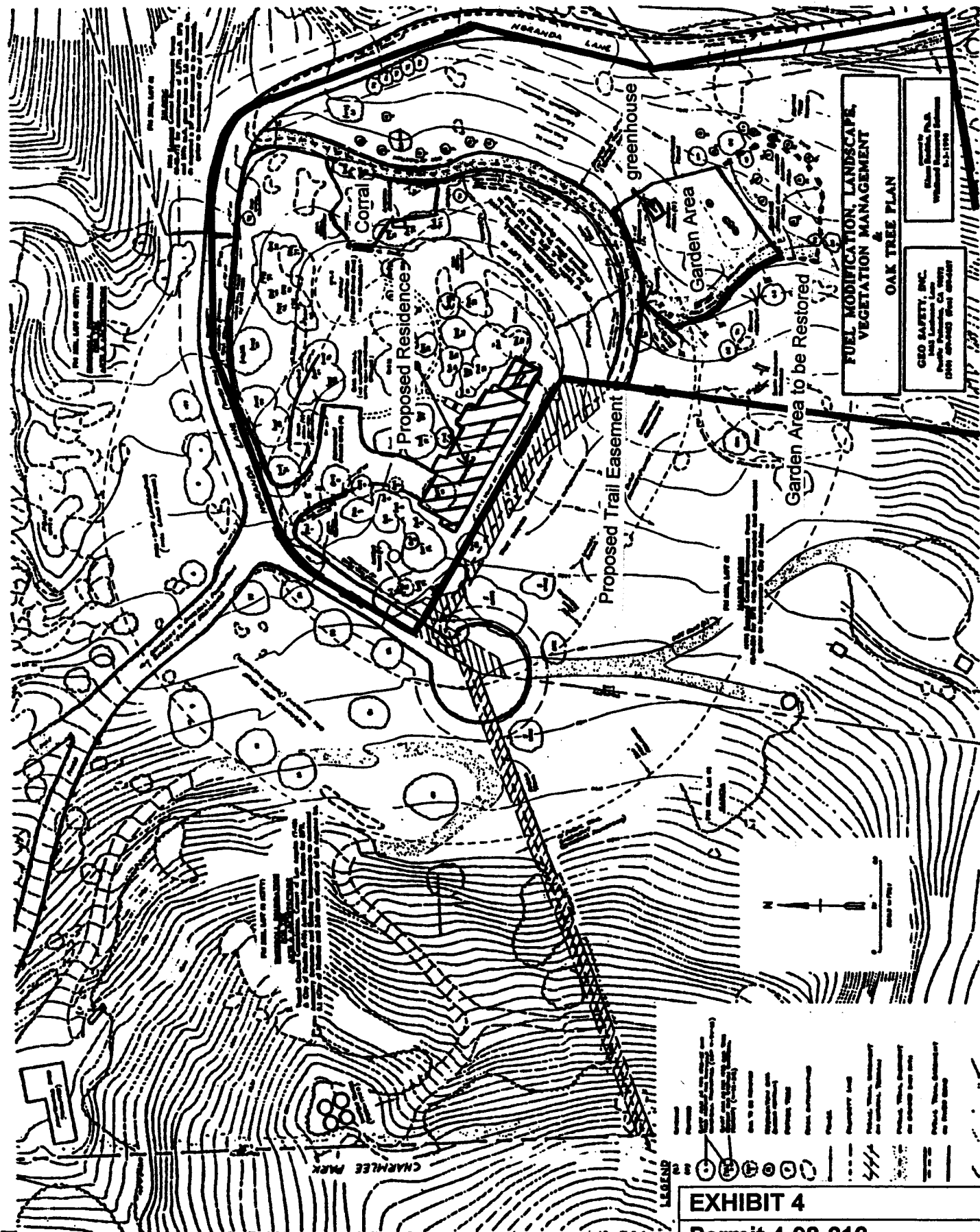
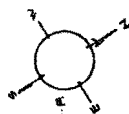
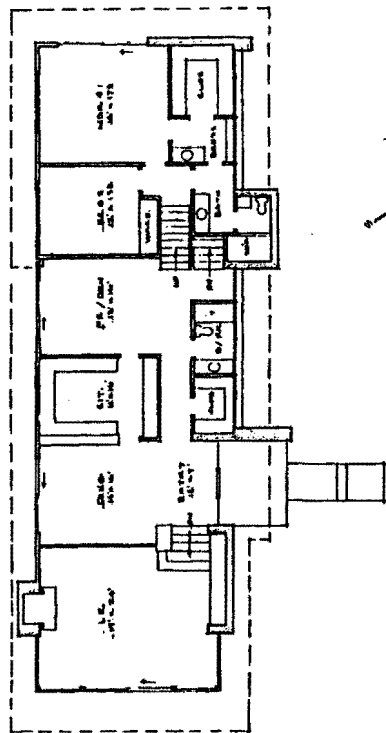


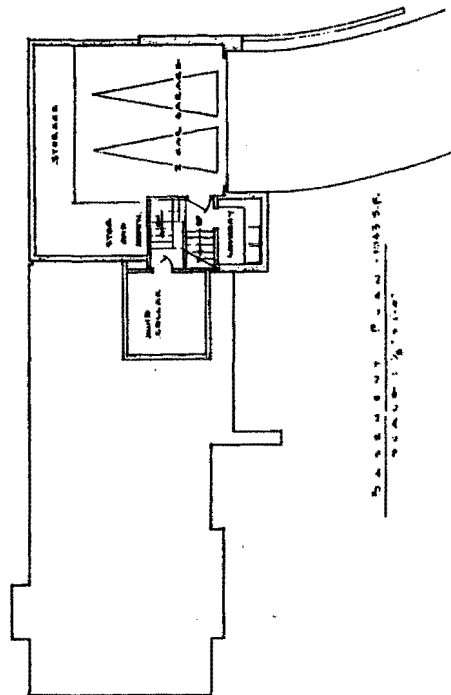
EXHIBIT 4

Permit 4-98-212

Site Plan/Fuel Modification,
Landscape, Vegetation
Management & Oak Tree Plan



Floor Plan - 2500 sq ft



Basement Plan - 1000 sq ft

D WALLACE DENISON
ARCHITECT & ENGINEERS
1115 RICO BLVD. - SANTA MONICA, CA 90403
PHONE 310-450-5055 FAX 310-451-3883

PROPOSED RESIDENCE FOR:
MR. STEVE ERCSOLL
3635 NORANDA LANE - MALIBU, CA.
PHONE 1-800-748-9887

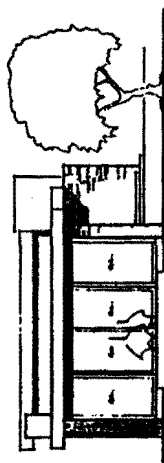
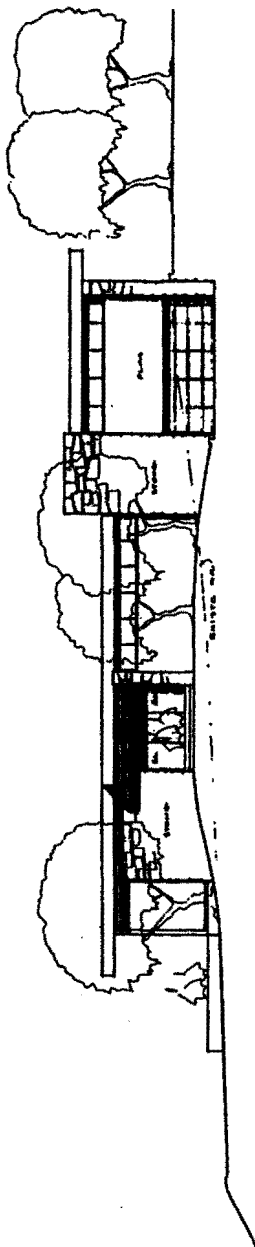
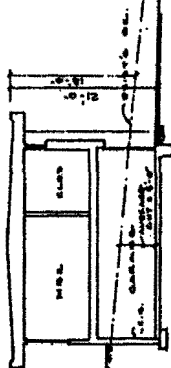
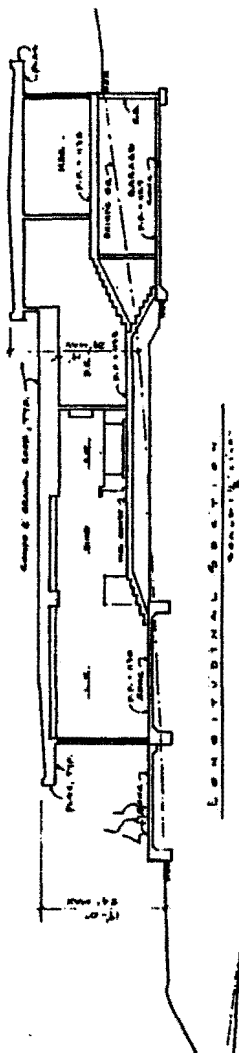
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6/18/97

SHEET NO.
A2

EXHIBIT 5

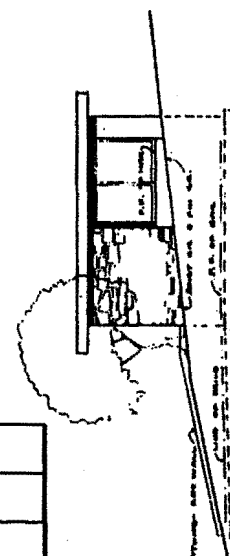
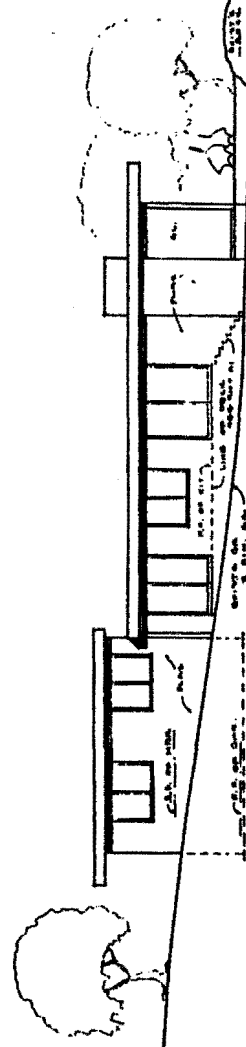
Permit 4-98-212

Floor Plan



Northwest Elevation

Southwest Elevation



Southwest Elevation

Northwest Elevation

EXHIBIT 6
Permit 4-98-212
Structural Elevations

D. WALLACE DENTON ARCHITECT 2214 PICO BLVD. - SANTA MONICA, CA 90404 PHONE 310-450-9333 FAX 310-450-9333	PROPOSED RESIDENCE FOR MR. STEVE ENKESOLL 3039 ROSARDA LANE - MALIBU, CA PHONE 310-309-7428	DATE 11/11/97	SHEET NO. A3
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Charmlee Nature Preserve Foundation

4244 Avenida de la Encinal, Malibu, CA 90265

Phone (310) 457-4445, Fax (310) 457-4149

By Fax 805 641-1732

October 23, 1998

Chairman and Commissioners
California Coastal Commission
89 South California Street, Suite 200
Ventura, CA 93001

RECEIVED
OCT 27 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: CDP 494-06-A3, Application 4-98-212, adjacent to Charmlee Natural Area, Malibu

Dear Chairman and Commissioners:

The Charmlee Nature Preserve Foundation is a private, not-for-profit organization created to support Charmlee Natural Area, particularly the public educational programs at Charmlee. The Foundation is also keenly interested in protecting the open space and outstanding natural values of Charmlee and the area around it.

We have followed the above referenced applications through the City of Malibu permitting process, and urge you to approve them. The proposals are environmentally sound and environmentally sensitive, and will not have adverse impacts on the nearby Charmlee Natural Area. On the contrary, the applications, if approved, will finally make it possible to have a continuous Coastal Slope trail section from lower Encinal Canyon Road to the eastern boundary of Charmlee, connecting to the trails within Charmlee, without any cost to the public.

The dedications of the trail easements as part of the application could not have come at a more fortunate time for Charmlee. On October 21, 1998, the Los Angeles County Board of Supervisors unanimously approved permanent open space deed restrictions for Charmlee, which will be recorded when Charmlee is transferred from the County to the City of Malibu in a few weeks. The Malibu City Council had previously voted unanimously to accept Charmlee and manage and protect the park, allowing only passive recreation and resource dependent uses, including hiking and horseback riding.

The donation of the trail easements as part of the Coastal development permit will immediately enhance public access to the park for riding and hiking. Additionally, the 1+ acre parcel of riparian oak woodland that was deeded by the

EXHIBIT 7a

Permit 4-98-212

Letters in Support of Project

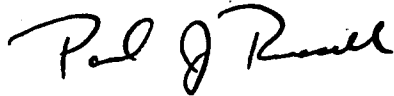
California Coastal Commission
October 23, 1998
Page 2

applicant to Charmlee - while not directly part of the above application - greatly enhances the resource values of Charmlee.

We wish that more landowners had the foresight and thoughtfulness to protect our precious natural resources through cooperative planning with public agencies and surrounding landowners, as this applicant has done.

The Charmlee Nature Preserve Foundation urges your approval of these applications.

Sincerely,

A handwritten signature in cursive script, reading "Paul J. Russell". The signature is written in dark ink and is positioned above the printed name and title.

Paul J. Russell
President, Charmlee Nature Preserve Foundation

CALIFORNIA COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

SANTA MONICA MOUNTAINS TRAILS COUNCIL

P.O. Box 345, Agoura Hills, CA 91376
October 1, 1998

RECEIVED

OCT 02 1998

California Coastal Commission
89 S. California St. # 200
San Buenaventura, CA 93001

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Re: CDP494-06-A3

Remove open space deed restriction and horse corral restriction on the one-acre 'oak knoll' Application 4-98-212: construction of a 2500-sq.ft single family residence with a 2-horse corral; transfer of the one-acre open space deed restriction onto the lower 3+acres of a 5.03 acre parcel; voluntary granting by the owner of a 12-foot-wide hiking and equestrian trail easement connecting disjointed deeded sections of the Coastal Slope Trail into Charmlee Park; and cooperative planning with adjacent landowners for trail connections and parkland deeding.

We have reviewed and completely support the Cooperative Planning Map for the above-listed Coastal Development Application. The map titled Open Space Deed Restrictions Lot #3 of PM 6081 (Stephen Enkeboll) & Coastal Slope Trail (Encinal Canyon Road to Charmlee Park) has received 'Conceptual Project Approval' from the City of Malibu, and, according to the city's ERB (Environmental Review Board), provides trail easement access into Charmlee Park along related development with minimizing impacts. We concur.

For over ten years the Santa Monica Mountains Trails Council has been spearheading the drive for voluntary easement dedications by property owners of segments of the Coastal Slope Trail that leads from lower Encinal Canyon Road into Charmlee Park. We were successful with the first such dedication in 1991 by Mr. Quiros, the landowner to the south of the applicant, and we had also been working closely with the deceased father of the applicant on further trail easements.

The Coastal Slope Trail connections as developed by the applicant in conjunction with Klaus Radtke and the adjacent landowners, primarily the Enkeboll Foundation for the Arts and Architecture, will provide an immediate trail connection from Encinal Canyon Road into Charmlee Park when a small building site is located on the 'oak knoll'. As a bonus, it also offers a prime one-acre oak woodland to Charmlee Park through lot line adjustments. The alternate 'trailer' building site, namely locating the structure along or at the terminus of the dirt road that is now being deeded as a trail, was not considered a feasible building site when Mr. Quiros offered his Coastal Slope Trail easement in 1991, nor is it now. It would preclude the deeding of the final trail easement link and would also have greater environmental impacts such as excessive fuel reduction for a fire-prone sideslope home and excessive grading for a new roadway and hammerhead.

Sincerely,



Ruth L. Gerson, President

EXHIBIT 7b

Permit 4-98-212

Letters in Support of Project



MALIBU TRAILS ASSOCIATION

Mr. Steve Hudson
California Coastal Commission
89 S. California St., Ste 200
Ventura, CA 93001

RE CFP494-06-A3 Application 4-98-212

November 2, 1998

Dear Mr. Hudson,

Malibu Trails Association (MTA) strongly supports providing a public trail easement into Charmlee Park, Malibu's first park! MTA further supports the minimal impact of the single-family development as reflected in Cooperative Planning Map Open Space Deed Restrictions Lot #3 of PM 6081 & Coastal Slope Trail for the above referenced application.

Sincerely,

Patricia Keenan
President

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COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

EXHIBIT 7c

Permit 4-98-212

Letters in Support of Project

SANTA MONICA MOUNTAINS CONSERVANCY

STREISAND CENTER FOR CONSERVANCY STUDIES
5750 RAMIREZ CANYON ROAD
MALIBU, CALIFORNIA 90265
PHONE (310) 589-3200
FAX (310) 589-3207

**RECEIVED**

August 7, 1998

AUG 10 1998

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Jack Ainsworth
Area Supervisor
California Coastal Commission
89 South California Street, Suite 200
Ventura, California 90801

Coastal Development Application 4-98-212

Dear Mr. Ainsworth:

Klaus Radtke of Geo Safety, Inc has contacted this agency regarding a potential dedication of open space and trail easement on and over property located in Encinal Canyon adjacent to Charmlee Park.

Public Resources Code Section 33207(a) provides in relevant part:

Areas offered for open space dedication or trail easement by any person...shall not be lost to public use.... The Conservancy shall serve as a repository for these lands and interest in land and for this purpose may accept dedication of fee title, easements, development rights, or other interests.

The Governing Board of the Santa Monica Mountains Conservancy, subject to approval of the State Coastal Conservancy as provided in Section 33203.5 of the Public Resources Code, has approved the acceptances by the Conservancy of a number of similar easements within its jurisdiction. If the Offer to Dedicate the open space and trail easement is made staff will present the Offer to the Governing Board for consideration of the acceptance of the Offer.

Sincerely,

LAURIE C. COLLINS
Senior Staff Counsel

EXHIBIT 8**Permit 4-98-212****Letter from Santa Monica
Mountains Conservancy**

