

# Item Th 10 a

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641 - 0142

## RECORD PACKET COPY



Filed: 9/10/99  
Staff: J. Johnson *CS*  
Staff Report: 12/15/99  
Hearing Date: 1/13/00  
Commission Action:

### STAFF REPORT: PERMIT EXTENSION REQUEST

**APPLICATION NO.: 5-85-214-E-13**

**APPLICANT: Michel Ghosn**

**AGENT: Mark Handel**

**PROJECT LOCATION: 1955 Cold Canyon Road, Malibu, Los Angeles County**

**PROJECT DESCRIPTION:** Subdivide three (3) existing parcels consisting of 160 acres into thirteen (13) residential lots, grade a total of 134,600 cubic yards of material to create one access road and thirteen (13) building pads (removal and compaction; cut 31,700 cu. yds. and full 31,700 cu. yds.; road cut 29,700 cu. yds. and road fill 28,500 cu. yds.; site pad cut 7,000 cu. yds. and site fill 6,000 cu. yds.)

### STAFF RECOMMENDATION:

The staff recommends that extension be granted for the following reason: No changed circumstances have occurred since the approval of the subject development, proposed thirteen (13) lot subdivision, that affects the project's consistency with the Coastal Act.

The project site is located within the Cold Creek Watershed just north of the two intersections of Mulholland Highway and Cold Canyon Road. In 1985, the Commission approved the division of three (3) lots consisting of about 160 acres into 23 lots, with 187,199 cubic yards of grading. The Commission's approval has since been extended to September 1999.

On July 13, 1999, the Commission approved with special conditions an Amendment (Coastal Permit Amendment No. 5-85-214-A-3) to this approved coastal permit to reduce the number of approved lots from 23 to 13. The geographic area of these thirteen lots and the road comprise 9.5 acres of the total 160 acre site, the remainder is restricted to open space while an area adjacent to the building pad restricted by a future development restriction. The applicant has accepted the Commission's approval of this amendment. The applicant proposes to extend this approval for another year to September 2000 for the proposed 13 lot residential subdivision.

Staff recommends approval of the proposed time extension for this project previously approved with conditions.

## **PROCEDURAL NOTE**

The Commission's regulations provide that when a request to extend the expiration date of a permit is received, the Executive Director shall:

- 1) Determine whether there are changed circumstances that may affect the consistency of the proposed development with the Coastal Act, and
- 2) Provide notice of the Executive Director's determination of consistency with the Coastal Act to the interested parties, adjacent residents and landowners and to the Commission. (14 C.C.R. Section 13169).

If three (3) Commissioners object to an extension request on the grounds that the proposed development may not be consistent with the Coastal Act, the application shall be set for a full hearing as though it were a new application. If three objections are not received, the permit will be extended for an additional one-year period. The Executive Director has determined that this proposed time extension will be processed as a material extension.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Notice of Intent to Issue Permit No. 5-85-214, Ghosn; Coastal Development Permit Extension Nos. 5-85-214 E-1 through 12, Ghosn; Coastal Development Permit Amendment Nos. 5-85-214 A-1, A-2, A-3, Ghosn; Coastal Permit No. 4-99-164, Olson.

**LOCAL APPROVALS RECEIVED:** Approval in Concept Los Angeles County Regional Planning Department, dated December 13, 1995 extended to December 12, 2000; Los Angeles County Fire Department, dated 3/15/99.

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## **I. STAFF RECOMMENDATION**

### **A. RECOMMENDATION:**

Staff recommends that the Commission find no changed circumstances, which results in approval of the request for a one year extension of the amended permit.

### **MOTION:**

Staff recommends a **NO** vote and adoption of the Resolution and Findings set forth below.

I move that the Commission determine that there are changed circumstances that affect consistency of the development proposed in Coastal Development Permit No. 5-85-214-A-3 with the Coastal Act and therefore the request for a one year extension of the amended permit is denied.

If three Commissioners vote YES, the request for a one year extension of the amended permit is denied. If three Commissioners do not vote YES, the one year extension is granted.

B. RESOLUTION:

The Commission hereby determines that there are no changed circumstances that affect the consistency of the development proposed in Coastal Development Permit No. 5-85-214-A-3 with the Coastal Act and therefore a one year extension of the Permit is granted.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Location

The applicant has requested a one year extension of the Coastal Development Permit Amendment No. 5-85-214-A-3 to subdivide three (3) existing parcels consisting of 160 acres into thirteen (13) residential lots, grade a total of 134,600 cubic yards of material to create one access road and 13 building pads (removal and compaction; cut 31,700 cu. yds. and full 31,700 cu. yds.; road cut 29,700 cu. yds. and road fill 28,500 cu. yds.; site pad cut 7,000 cu. yds. and site fill 6,000 cu. yds.) The geographic area of these thirteen lots and the road comprise of 9.5 acres of the total 160 acre site. (Exhibit A, Staff Report Permit Amendment, pages 23 – 26, Exhibits 1 – 4 and Exhibit B, Revised Notice of Intent to Issue Amendment to Coastal Development Permit) The remainder of the site is restricted to open space and a small area adjacent to the building pad is restricted by a future development restriction as noted in Special Conditions four (4), seven (7), and eight (8) identified in Exhibit B.

The subject site is located about four and one quarter miles inland of the coast on the inland side of Cold Canyon Road, north of two intersections with Mulholland Road and west of Stunt Road. Within the Santa Monica Mountains, the site is near the inland extent of the coastal zone boundary. The 160 acre (actually 160.1 acres) property includes gently sloping and steeply sloping terrain with ravines that was once part of the Old Abercrombie Ranch as noted on Exhibit A, page 23, Exhibit 1. A dirt road provides access to the property from Cold Canyon Road, a portion of which is proposed to be improved to provide access to the proposed building pads. The surrounding area is partially developed; parcels along Cold Canyon Road include numerous residences ranging from one half acre to 80 acres in size (Exhibit A, page 26, Exhibit 4). Although the site is not located within any designated Significant Watersheds, it does include two small areas of designated Environmentally Sensitive Habitat (Exhibit A, page 28, Exhibit 6). There is a riparian area located in the center of the property and significant oak woodland located at the southern portion of the property designated as Environmentally Sensitive Habitat. The proposed road and graded building pads are located beyond these mapped Habitats. The latter habitat is located within a tributary of Cold Canyon Creek that drains the subject property. Staff conducted a site visit in 1997 observing that the property burned in the 1993 Malibu Fire and that there were no trees on the property, particularly in the vicinity of the mapped designated oak woodland. The property is covered with chaparral species and grasses. It is important to identify that the

property is not located within either the mapped Significant Cold Creek Watershed or the Cold Canyon Resource Management Area.

## **B. Background and Permit History**

On November 21, 1979, the State Coastal Commission approved a prior coastal development permit for a 51 lot residential subdivision on the subject site in Coastal Permit Appeal No. 204-79. The Commission approval included conditions addressing: a requirement to participate in a Conservancy Program to extinguish the development potential on 48 lots; incorporate an on-site tertiary treatment plant, and reduce grading to a minimum of 1,400 cubic yards per residence, not including grading for streets; recording an offer to dedicate an Open Space/Viewshed Easement, restricting development on about 85 acres of the site. After the Commission's approval of a one year time extension, the permit expired in 1982.

On September 27, 1985, the Commission approved Coastal Permit Number 5-85-214 to subdivide the same three parcels consisting of 160 acres into 23 lots utilizing on-site septic systems for sewage disposal. The Commission approval included conditions addressing: participation in an In Lieu Fee Program for Cold Creek Watershed Lot Retirement Program; revised grading plans; revised project plans redesigning number of lots from 51 to 23; an Offer To Dedicate an Open Space and View Protection Easement over hillside portions of the project site; and an on-site sewage disposal system. Grading consisted of a total of 187,199 cubic yards of material to create one access road and 23 building pads. Grading for the access road from Cold Canyon Road consisted of a road cut of 76,251 cubic yards with a road fill of 88,541 cubic yards of material. Grading for the 23 building pads consisted of a cut of 13,344 cubic yards and a fill of 9,063 cubic yards of material. The applicant proposed to balance a total of 98,000 cubic yards of material on site. These grading quantities did not include any removal and recompaction necessary to remediate the site.

The Notice of Intent to Issue Coastal Permit No. 5-85-214 is attached as Exhibit A, page 34, Exhibit 12. The Commission amended the permit on July 9, 1987 to delete the first condition requiring participation with the Cold Creek Watershed Lot Retirement Program (Permit Amendment No. 5-85-214-A). The Commission substituted a condition to retire 20 lots based on the policies contained in the certified Malibu/Santa Monica Mountains Land Use Plan (Exhibit A, page 38, Exhibit 13). Although the applicant has met most of the conditions, Special Condition One (1), as amended, has not been satisfied to date. The condition requires that development rights be extinguished on 20 building sites or parcels located within Zone II - Cold Creek Watershed portion of the Santa Monica Mountains Coastal Zone prior to the issuance of the permit.

Since 1987, the Commission has approved twelve (12) sequential permit time extensions; the last time extension for the Coastal Permit (No. 5-85-214-E-12) extended the permit to September 27, 1999. As of this date, the permit has not been issued as all of the Special Conditions have not been satisfied.

In May 1997, the applicant submitted an application to amend the subject Coastal Permit (Number 5-85-214-A-2) to reconfigure and reduce the number of approved lots from 23 to 13.

This application was determined to be incomplete and was returned to the applicant in April 1998.

The applicant submitted a third amendment application (Coastal Permit Amendment No. 5-98-214-A-3), which was filed in May 1999, to subdivide the same three lots consisting of 160 acres into 13 lots, grade a total of 134,600 cubic yards of material to create one access road and 13 building pads (removal and compaction; cut 31,700 cubic yards and fill 31,700 cubic yards; road cut 29,700 cubic yards and road fill 28,500 cubic yards; site pad cut 7,000 cubic yards and site pad fill 6,000 cubic yards). On July 13, 1999, the Commission approved this Coastal Permit Amendment with special conditions addressing cumulative impact mitigation, landscape and erosion control plans, future grading limitation deed restriction, plans conforming to the geologist's and engineer's recommendations, and a wildfire waiver of liability to bring the proposed 13 lot residential subdivision into conformance with the Coastal Act (Exhibit B).

Of these conditions of approval for Coastal Permit Amendment No. 5-85-214-A-3, five Special Conditions are particularly noteworthy (Exhibit B). First, Special Condition number one, Cumulative Impact Mitigation, was required with the original approval of this coastal permit in 1985. This Special Condition was revised with the approval of this third amendment to require the applicant to provide evidence that development rights for residential use have been extinguished on ten (10) building sites, rather than the previously required twenty (20) building site, located within the Cold Creek Watershed (Zone II) portion of the Santa Monica Mountains Local Coastal Program Segment.

Second, Special Condition number four (4) required that the applicant map and record an irrevocable offer to dedicate to a public agency or private association an easement for open space and view protection restricting further development over the steep hillside portions of the project site.

Third, Special Condition number six (6) was added to the third amendment to this coastal permit to require the applicant to submit final landscape and erosion control plans, including a landscape plan with native plants to stabilize all graded and disturbed areas on the subject site, an interim erosion control plan specifying no grading during the rainy season (November 1 – March 31), and a monitoring report completed five years after the completion of the grading.

Fourth, Special Condition number seven (7) was added to the third amendment to this coastal permit to require the applicant to record a deed restriction to increase the open space area on the lot from the existing deed restricted area on the steep slopes to the flatter area which includes a drainage area to a line titled the "No Build Line" (Exhibit A, page 39, Exhibit 14).

Fifth, Special Condition number ten (10) was added to the third amendment to this coastal permit to require the applicant to record a deed restriction to require the applicant and any successors in interest to apply for an amendment to Coastal Permit Number 5-85-214-A-3 for any future improvements proposed in the area between the "No Build Line" and the approved

graded building pad. Among these Special Conditions, the applicant has met number Special Condition number four but has not met the others noted above to date. In addition Special Condition number five addressing sewage disposal was met by the applicant in 1987 (See Exhibit A, page 3).

### **C. Changed Circumstances**

Staff conducted a review of the Commission's files on this proposed project as amended by Coastal Permit Amendment No. 5-85-214-A-3. Staff contacted the Los Angeles County Department of Regional Planning to request information on the status of the County approved Vesting Tentative Tract No. 30737 for this project. County staff member, John Hartman, Section Head for the Land Division of the Department of Regional Planning confirmed on December 13, 1999 that the Regional Planning Commission has approved the thirteen (13) lot tentative tract map in 1995. The County approval was extended and will now expire on December 12, 2000. Therefore, the status of the Local Approval for the proposed project has not changed.

Regarding the subject property, there are no known changed circumstances relative to the status of the property and its coastal resources since the development proposed in the permit amendment was approved by the Commission in July 1999. There are no rare or endangered plant or animal species known to exist on the subject property that may constitute changed circumstances.

There are no changes to the Coastal Act or Commission's 1986 certified Coastal Land Use Plan policies of the Los Angeles County Malibu/Santa Monica Mountains Land Use Plan potentially affecting the subject property. No objection to the proposed time extension of this Coastal Permit has been received by staff to date.

Therefore, the Commission finds, as described above, that there are no issues that constitute changed circumstances pursuant to 14 C.C.R. Section 13169 of the California Code of Regulations that would affect the consistency of the amended project with the Coastal Act. Accordingly, the Commission finds that there are no "**changed circumstances**" present that have occurred since the approval of the amended project that affect its consistency with the Coastal Act. Therefore, the Commission grants a one year extension of the Coastal Development Permit No. 5-85-214-A-3.

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA

100 SOUTH CALIFORNIA ST., SUITE 200

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EXHIBIT NO. **A**

APPLICATION NO.

**5-85-214-E-13****Staff Report:****Permit Amendment****# 5-85-214-A-3****pages 1-39**

Filed: 5/14/99  
49th Day: 7/2/99  
180th Day: 11/10/99  
Staff: J Johnson-V  
Staff Report: 6/25/99  
Hearing Date: 7/13/99  
Commission Action:

**STAFF REPORT: PERMIT AMENDMENT**

APPLICATION NO.: 5-85-214-A-3

APPLICANT: Michel Ghosn

AGENT: Jerome Bulkmeier

PROJECT LOCATION: 1955 Cold Canyon Road, Malibu, Los Angeles County

**DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:** Subdivide three (3) parcels consisting of 160 acres into 23 lots, grade a total of 187,199 cubic yards of material to create one access road and 23 building pads (road cut, 76,251 cubic yards; road fill, 88,541 cubic yards; pad cut, 13,344 cubic yards; pad fill, 9,063 cubic yards).

**DESCRIPTION OF AMENDMENT:** Subdivide three (3) parcels consisting of about 160 acres into 13 residential lots, grade a total of 134,600 cubic yards of material to create one access road and 13 building pads (removal and compaction; cut 31,700 cubic yards and fill 31,700 cubic yards; road cut 29,700 cubic yards and road fill 28,500 cubic yards; site pad cut 7,000 cubic yards and site pad fill 6,000 cubic yards).

**SUMMARY OF STAFF RECOMMENDATION**

The project site is located within the Cold Creek Watershed just north of the two intersections of Mulholland Highway and Cold Canyon Road. In 1985, the Commission approved the division of three (3) lots consisting of about 160 acres into 23 lots, with 187,199 cubic yards of grading, not including site remediation which is removal and recompaction grading. The Commission's approval has since been extended to September 1999. The applicant proposes to amend this Coastal Permit to reduce the number of approved lots from 23 to thirteen (13). At the request of Staff, the proposed amendment was revised by the applicant to reduce the proposed grading by over 51 % from 274,800 to 134,600 cubic yards of material, which now includes removal and recompaction grading. As compared to the quantity of grading originally permitted, this amendment proposes to reduce the site grading by about 28% while including grading for site remediation.

In 1990, the applicant recorded an offer to dedicate an open space easement on the steeply sloping northern half of the property required by Special Condition No. Four (4); this portion of the property is visible from Mulholland Highway, a designated scenic highway. This easement area would not be altered by this amendment and will be

located on the steep portions of ten of the subject lots. There is a mapped riparian area located in the central portion of the property and a significant oak woodland located on the southern portion of the property designated as Environmentally Sensitive Habitat. These ESHA's are located beyond the proposed graded areas for the road and building site pads. The property is not located within either the mapped Significant Cold Creek Watershed or the Cold Canyon Resource Management Area. Staff recommends approval of the proposed project with conditions as the project results in a density reduction by nearly one half and a substantial reduction in the quantity of permitted site grading. Staff also recommends one (1) revised and four (4) additional Special Conditions addressing: Cumulative Impact Mitigation, Landscape and Erosion Control Plans, Future Grading Limitation Deed Restriction, Plans Conforming to the Geologist's and Engineer's Recommendations, and a Wild Fire Waiver of Liability to further bring the proposed project amendment into compliance with the Coastal Act.

**LOCAL APPROVALS RECEIVED:** Los Angeles County Regional Planning Department "Approval in Concept", dated April 6, 1999; Los Angeles County Department of Public Works Geology Review Sheet, "Geologically Approved", dated 1/4/99; Los Angeles County Fire Department, Conditions of Approval dated 7/25/94, 1/19/99, and 3/15/99.

**SUBSTANTIVE FILE DOCUMENTS:** Coastal Development Notice of Intent to Issue Permit No. 5-85-214 (Ghosn); Coastal Development Notice of Intent to Issue Permit No. 5-85-214-A (Ghosn); Coastal Development Permit Time Extensions 5-85-214-E-1 through E-12 (Ghosn); Coastal Development Permit Appeal No. 204-79 (Ghosn); Permit No. 4-97-113, Eisenstein; Coastal Permit No. 4-96-163, Embleton/Cullum; Coastal Permit No. 4-96-028, Harberger et.al.

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

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

If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material (14 Cal. Admin. Code Section 13166). The Executive Director has determined that this proposed amendment is a material change and will therefore be processed as a material amendment.

## **I. STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution:



## **II. Approval with Conditions**

The Commission hereby approves the amendment to the coastal development permit, subject to the conditions below, for the proposed development on the grounds that the development, as conditioned, 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 governments 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.

Staff Note: All standard conditions attached to the original permit shall remain in effect and are attached in Exhibit 11 and incorporated herein. Three of the five special conditions (condition numbers four (4) and five (5) have been met by the applicant) attached to the original permit (No. 5-85-214) remain in effect, except that special condition number one (1) is revised as noted below. The original special condition numbers two (2) and three (3) are no longer applicable and thus are deleted. Four (4) additional special conditions as a result of this amendment are noted with a "new" notation below. The approved special conditions required in Coastal Permit No. 5-85-214 are included in Exhibit 12 and the special condition Number One (1) revision approved previously in Coastal Permit Amendment No. 5-85-214-A-1 is attached in Exhibit 13.

## **III. Special Conditions**

### **1. Cumulative Impact Mitigation (Revised Special Condition Replaces Previously Amended (No. 5-85-214-A-1) Special Condition No. 1)**

Prior to the issuance of the Coastal Development Permit, the applicants shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject development with respect to build-out of the Santa Monica Mountains are adequately mitigated. Prior to issuance of this permit, the applicants shall provide evidence to the Executive Director that development rights for residential use have been extinguished on ten (10) building sites located within the Cold Creek Watershed (Zone II) portion of the Santa Monica Mountains Local Coastal Program Segment in the Coastal Zone. The method used to extinguish the development rights shall be either:

- a) a TDC-type transaction, consistent with past Commission actions;
- b) participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites.

Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

The building sites on which development rights are extinguished must either be a legal lot located in a small-lot subdivision or a potential building site located in a Significant Watershed. Retirement of any lot demonstrated to be unbuildable under the Land Use Plan shall not satisfy this condition.

Unsubdivided land located within a Significant Watershed may be used to generate development rights according to a ratio which is consistent with residential densities contained in the certified Land Use Plan.

**(Previous Approved Special Conditions 2 and 3 are deleted, while Special Conditions 4 and 5 remain in effect see Exhibit 12.)**

**6. Landscaping and Erosion Control Plans (New)**

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

**A) Landscaping Plan**

- 1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes at the completion of site grading. The applicant shall notify the Executive Director within ten (10) days in writing of the date the site's final grading inspection is completed by the Los Angeles County Department of Building and Safety. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plan species which tend to supplant native species shall not be used.
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;

- 3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

**B) Interim Erosion Control Plan**

- 1) The Interim Erosion Control Plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- 2) The Interim Erosion Control Plan shall specify that no grading shall take place during the rainy season (November 1 – March 31).
- 3) The Interim Erosion Control Plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.

**C) Monitoring.**

Five years from the date of the completion of grading, the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The

revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

**7. FUTURE GRADING LIMITATION DEED RESTRICTION (New)**

- A. No additional site alteration or grading on any of the thirteen (13) residential lots approved by Coastal Permit Amendment No. 5-85-214-A-3 is allowed, except for excavation necessary for future development of foundations, basements, pool/spas, and other development normally associated with a single family residence and a second unit or guest house located on the approved building pad.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the restrictions stated above on the proposed development. The document shall run with the land for the life of the structure approved in this permit, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**8. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION (New)**

All recommendations, applicable to the subdivision, grading and site improvements, contained in the Engineering Geologic Memorandum/Update, Vesting Tentative Tract #30737, dated February 12, 1997, Engineering Geologic Memorandum, Effluent Discharge-Private Disposal System, dated April 16, 1987, and Engineering Geologic Memorandum, Update and Review of Grading Plan, dated May 16, 1986, by Geoplan, Inc., and 1955 Cold Canyon Road letter dated February 18, 1997 and Tentative Tract Plan, Tract No. 30737, dated January 31, 1995, by Earth Systems Consultants shall be incorporated into all final design and construction plans including site preparation, grading, and private sewage disposal system. All plans must be reviewed and approved by the consultants. PRIOR TO 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 consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

9. WILDFIRE WAIVER OF LIABILITY (New)

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Location and Description

The subject site is located about four and one quarter miles inland of the coast on the inland side of Cold Canyon Road, north of two intersections with Mulholland Road and west of Stunt Road. Within the Santa Monica Mountains, the site is near the inland extent of the coastal zone boundary (Exhibit 1). The 160 acre (actually 160.1 acres) property includes gently sloping and steeply sloping terrain with ravines that was once part of the Old Abercrombie Ranch as noted on Exhibit 1. A dirt road provides access to the property from Cold Canyon Road, a portion of which is proposed to be improved to provide access to the proposed building pads. The surrounding area is partially developed; parcels along Cold Canyon Road include numerous residences ranging from one half acre to 80 acres in size (Exhibit 4). Although the site is not located within any designated Significant Watersheds, it does include two small areas of designated Environmentally Sensitive Habitat (Exhibit 6). There is a riparian area located in the center of the property and significant oak woodland located at the southern portion of the property designated as Environmentally Sensitive Habitat. The proposed road and graded building pads are located beyond these mapped Habitats. The later habitat is located within a tributary of Cold Canyon Creek that drains the subject property. Staff conducted a site visit in 1997 observing that the property burned in the 1993 Malibu Fire and that there were no trees on the property, particularly in the vicinity of the mapped designated oak woodland. The property is covered with chaparral species and grasses. It is important to identify that the property is not located within either the mapped Significant Cold Creek Watershed or the Cold Canyon Resource Management Area.

The applicant now proposes to amend this Coastal Permit No. 5-85-214 to reduce the number of approved lots from 23 to thirteen (13) and reconfigure the road and building site pad location (Exhibits 2 and 3). The thirteen (13) building pads are proposed to be clustered near the southeast corner of the site and would be accessed from Cold

Canyon Road via a 36-foot wide private road within a 60-foot right-of-way. Initially, the applicant proposed to grade a total of 274,800 cubic yards of material (including 143,400 cubic yards of removal and recompaction grading) over a geographic area of nearly 13 acres. At the request of Staff, the proposed amendment was revised by the applicant to reduce the grading from 274,800 to 134,600 cubic yards of material, including removal and recompaction grading. The proposed grading now consists of 63,400 cubic yards of removal and recompaction, 7,000 cubic yards of cut and 6,000 yards of fill for the site grading and 29,700 cubic yards of cut and 28,500 cubic yards of fill for the road grading. The building pads range in size from 8,400 sq. ft. to 15,800 sq. ft. (Exhibit 10). The total cut for each building pad ranges from 100 cubic yards to 2,600 cubic yards (Exhibits 7 - 10). The proposed grading for the pads and road is limited to a geographic area of about 9.5 acres. The 13 lot sizes range from 10.04 to 26.45 acres. Ten (10) of the proposed lots include land recorded in 1990 with the Commission required offer to dedicate open space easement (Exhibit 14). The easement includes the steeply sloping lands along the northern portion of the property. The remainder of the 160-acre property beyond the proposed road and building pads would remain natural and undeveloped as proposed by the applicant.

The Los Angeles County Land Use Plan designates three densities for the site: Rural Land III (1 dwelling unit (du)/ 2 acres); Rural Land II (1 du/ 5 acres); and Mountain Land (1 du/ 20 acres) (Exhibit 5).

## **B. Background**

On November 21, 1979, the State Coastal Commission approved a prior coastal development permit for a 51 lot residential subdivision on the subject site in Coastal Permit Appeal No. 204-79. The Commission approval included conditions addressing: a requirement to participate in a Conservancy Program to extinguish the development potential on 48 lots; incorporate an on-site tertiary treatment plant, and reduce grading to a minimum of 1,400 cubic yards per residence, not including grading for streets; recording an offer to dedicate an Open Space/Viewshed Easement, restricting development on about 85 acres of the site. After the Commission's approval of a one year time extension, the permit expired in 1982.

On September 27, 1985, the Commission approved Coastal Permit Number 5-85-214 to subdivide the same three parcels consisting of 160 acres into 23 lots utilizing on-site septic systems for sewage disposal. The Commission approval included conditions addressing: participation in an In Lieu Fee Program for Cold Creek Watershed Lot Retirement Program; revised grading plans; revised project plans redesigning number of lots from 51 to 23; an Offer To Dedicate an Open Space and View Protection Easement over hillside portions of the project site; and an on-site sewage disposal system. Grading consisted of a total of 187,199 cubic yards of material to create one access road and 23 building pads. Grading for the access road from Cold Canyon Road consisted of a road cut of 76,251 cubic yards with a road fill of 88,541 cubic yards

of material. Grading for the 23 building pads consisted of a cut of 13,344 cubic yards and a fill of 9,063 cubic yards of material. The applicant proposed to balance a total of 98,000 cubic yards of material on site. These grading quantities did not include any removal and recompaction necessary to remediate the site.

The Notice of Intent to Issue Coastal Permit No. 5-85-214 is attached as Exhibit 12. The Commission amended the permit on July 9, 1987 to delete the first condition requiring participation with the Cold Creek Watershed Lot Retirement Program (Permit Amendment No. 5-85-214-A). The Commission substituted a condition to retire 20 lots based on the policies contained in the certified Malibu/Santa Monica Mountains Land Use Plan (Exhibit 13). Although the applicant has met most of the conditions, Special Condition One (1), as amended, has not been satisfied to date. The condition requires that development rights be extinguished on 20 building sites or parcels located within Zone II - Cold Creek Watershed portion of the Santa Monica Mountains Coastal Zone prior to the issuance of the permit.

Since 1987, the Commission has approved twelve (12) sequential permit time extensions; the last time extension for the Coastal Permit (No. 5-85-214-E-12) extended the permit to September 27, 1999. As of this date, the permit has not been issued as Special Condition number one (1) has not been satisfied.

In May 1997, the applicant submitted an application to amend the subject Coastal Permit (Number 5-85-214-A-2) to reconfigure and reduce the number of approved lots from 23 to 13, a similar application to this subject application. This application was determined to be incomplete and was returned to the applicant in April 1998.

### C. New Development/Cumulative Impacts

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 applied 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.

In addition, the certified Land Use Plan includes policy 271 regarding lot line adjustments and land divisions. This LUP policy cited below has been found to be consistent with the Coastal Act and therefore, may be looked to as guidance by the Commission in determining consistency of the proposed project with the Coastal Act. Policy 271 states, 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.

The Coastal Act requires that new development, including land divisions, be permitted within, contiguous with, or in close proximity to existing developed areas or if outside such areas, only where public services are adequate and only where public access and coastal resources will not be cumulatively affected by such development. The land use designations in the Los Angeles County Land Use Plan provide guidance for the Commission to consider, among other issues, during the review of land divisions.

The applicant proposes to amend an approved subdivision of three (3) parcels into 23 lots to reduce the number of lots created to 13, each with a graded building pad accessed by one road in the shape of a "T" (Exhibits 2 and 3). The land use designations will be addressed first. The subject 160 acres is split by three County land use designations; Rural Land III, Rural Land II, and Mountain Land providing one residential dwelling unit for each two acres, five acres, and 20 acres, respectively (Exhibit 5). The proposed development as revised by the applicant at the request of Staff is clustered on about 9.5 acres of the property designated as Rural Land III, for one residential unit for two acres. The applicant's proposed subdivision will create lots ranging from about 10 acres to 26 acres well within the LUP guideline for density on the



site. The result of this Coastal Permit Amendment is to reduce the approved density by nearly one half, from 23 lots to thirteen (13) lots. Therefore, the Commission finds that the proposed thirteen (13) lot subdivision is in substantial conformance with the LUP density guideline for this property.

Although the subject property is in substantial conformance with the density requirements of the Los Angeles County LUP, the proposed land division must meet the standards of the Coastal Act. Section 30250 (a) provides the standard of review for the Commission to consider when reviewing this application for a land division. This section requires that new development, including this proposed land division, must meet three tests. These tests include: 1) the site must be located within an existing developed area able to accommodate it or in other areas not able to accommodate it, in other areas with adequate public services; 2) in locations where the development will not have significant adverse effects on coastal resources (Coastal Act Sections 30231, 30240, 30251, and 30253); and 3) land divisions outside existing developed areas shall be permitted only where 50 percent of the useable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

Regarding the first test of Section 30250 (a), the subject parcel is located in an area commonly known as the Upper Cold Creek-Southern Calabasas area. This area is a neighborhood of existing parcels ranging in size from about one half (1/2) acre to 80 acres (Exhibit 4). The subject project is located on three existing parcels of about one acre, 79 acres, and 80 acres. The applicant proposes to create 13 parcels ranging in size from 10 acres to 26 acres. The surrounding area is partially developed with low density residential development. A limited number of residences are located to the west, south and east of the project site generally along Mulholland Highway, Cold Canyon and Stunt Roads. A few new residences are located to the north of the site along Thousand Peaks Road. Because most of the surrounding land is undeveloped, The Commission finds that the subject property is not located within an existing developed area. Regarding public services, the subject property is served by the following public services: water is provided by the Las Virgenes Municipal Water District, fire suppression is provided by the Los Angeles County Fire Department with four new fire hydrants required to be located along the proposed roadway. An existing paved public road (Cold Creek Canyon Road) exists along the southern property line maintained by the County of Los Angeles Public Works Department; electric power is provided by Southern California Edison. Sewage disposal service is proposed to be provided by on-site private septic systems at the time residential development is proposed, as is common in this area. The feasibility of the proposed septic system is discussed further below. Although the proposed project is not located in an existing developed area but is located in an "other area" where adequate public services are available, the Commission therefore finds that the proposed amendment meets the first test of Section 30250 (a).

Regarding the second test of Section 30250 (a), the issue of impacts to coastal resources on an individual basis will first be discussed; cumulative impacts will subsequently be discussed. The applicant proposes to locate the building sites on the relatively flat and gently sloping portion of the parcels, clustered a short distance from Cold Canyon Creek Road. The slope of the existing building sites range from about zero to 25 percent. The building area is geologically stable and after the removal and recompaction of certain areas as determined by the applicant's consulting geologist and geotechnical engineer the building area will be adequate for the construction of residential development. One shared private road in the shape of a "T" is proposed to lead from Cold Canyon Road north-west to a new cross street with cul-de-sacs at each end. The building sites are located along the north and south side of the entry access road and the west side of the cross street. Initially, the applicant proposed to disturb and grade a geographic area of about 13 acres and grade a total of 274,800 cubic yards of material including removal and recompaction grading to improve site stability for residential development. As a result of Staff's concerns about the proposed landform alteration, the applicant reduced the disturbed and graded geographic area to about 9.5 acres and total grading to 134,600 cubic yards of material including removal and recompaction (Exhibits 7 - 9). Grading for the road totals 58,200 cubic yards; for the thirteen (13) building sites, 13,000 cubic yards; and for the removal and recompaction 63,400 cubic yards of material (Exhibit 10). Grading for each building site is about 1,000 cubic yards of material which is consistent with the guidance of Policies 90 and 91 in the Malibu/Santa Monica Mountains Land Use Plan. Therefore, the applicant has minimized the landform alteration for this project.

Further, the building sites are located in the area designated for two acre residential lots in the Los Angeles County LUP. The building sites are not located within any designated or mapped environmentally sensitive habitats on the property. This issue is discussed further below. The property is not located within a sensitive watershed. The building sites are located on the flat and gently sloping portion of the property and will not be visible from Mulholland Highway, a designated scenic highway due to the intervening topography. The portion of the subject property visible from Mulholland Highway has a recorded offer to dedicate an open space easement recorded in 1990 by the applicant as a result of the Special Condition Number Four (4) required in the original approval of Coastal Permit No. 5-85-214. As a result, no adverse visual impacts are expected from the construction of the proposed road and building pads. As required by Special Condition Number Six (6), Landscaping and Erosion Control Plan, and Special Condition Number Seven (7), Future Grading Limitation Deed Restriction, the potential for sedimentation into an onsite drainage leading into Cold Creek will be minimized. Therefore, the proposed project amendment, as conditioned, will not create impacts on coastal resources on an individual basis.

Regarding the issue of cumulative impacts to coastal resources, 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.

The cumulative impact issue is important because of the existence of thousands of undeveloped and poorly sited parcels and multi-unit projects. The Commission has reviewed land division applications to ensure that newly created or reconfigured parcels are of sufficient size, have access to roads and other utilities, are geologically stable and contain an appropriate potential building pad area where future structures can be developed consistent with the resource protection policies of the Coastal Act. In particular, the Commission has ensured that future development on new or reconfigured lots minimize landform alteration and other visual impacts, and impacts to environmentally sensitive habitat areas.

The Commission has found that minimizing the cumulative impacts of new development is especially critical in the Malibu/Santa Monica Mountains area because of the large number of lots which already exist, many in remote, rugged mountain and canyon areas. From a comprehensive planning perspective, the potential development of thousands of existing undeveloped and poorly sited parcels in these mountains would create 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 would be expected to grow tremendously.

As a means of addressing the cumulative impact problem in past actions, the Commission has consistently required, as a special condition to development permits for land divisions and multi-unit projects, participation in the Transfer of Development Credit (TDC) program as mitigation (155-78, Zal; 158-78, Eide; 182-81, Malibu Deville; 196-86, Malibu Pacifica; 5-83-43, Heathercliff; 5-83-591, Sunset-Regan; and 5-85-748, Ehrman & Coombs). The TDC program resulted in the retirement from development of existing, poorly-sited, and non-conforming parcels at the same time new parcels or units were created. The intent was to insure that no net increase in residential units resulted from the approval of land divisions or multi-family projects while allowing development to proceed consistent with the requirements of Section 30250(a).

In several coastal permit actions in Los Angeles County (5-86-592, Central Diagnostic Labs; 5-86-951, Ehrman and Coombs; 5-85-459A2, Ohanian; and 5-86-299A2 and A3, Young and Golling), the Commission found that until other mitigation programs were both in place and able to be implemented, it is appropriate for the Commission to continue to require purchase of TDC's as a way to mitigate the cumulative impacts of new Subdivisions and multi-residential development. In 1986, the Commission certified the Malibu/Santa Monica Mountains Land Use Plan. The Plan contained six potential mitigation programs that if in place would adequately mitigate the cumulative impacts of new development. However, in approving the above cited permit requests, the Commission found that none of the County's six mitigation programs were defined in the LUP as "self-implementing" or adequate to offset the impact of increased lots in the Santa Monica Mountains and that mitigation was still required to offset the cumulative impacts created by land divisions and multi-unit projects. The Commission found that

the TDC program, or a similar technique to retire development rights on selected lots, remained a valid means of mitigating cumulative impacts. Without some means of mitigation, the Commission would have no alternative but denial of such projects based on the provisions of Section 30250(a) of the Coastal Act.

Because the subject site includes three (3) existing legal parcels, no cumulative impact mitigation requirements are imposed as a condition of approval of this permit regarding the legality of the existing three (3) parcels. The cumulative impacts of creating ten (10) additional parcels are discussed further below.

As discussed above, the Commission has approved new subdivisions, but has continued to require purchase of TDC's as one of the alternative mitigation strategies. Staff review indicates that the incremental contribution to cumulative impacts would be the creation of ten (10) additional lots. Impacts such as traffic, sewage disposal, recreational uses, visual scenic quality and resource degradation would be associated with the development of the additional lots in this area. Therefore, the Commission determines that it is necessary to revise existing Special Condition Number One (1) through this amendment application to reduce the number of required TDC's from 20 to ten (10) to reflect the reduced number of proposed new lots. This revised Special Condition is necessary to insure that the cumulative impacts of creating ten (10) additional legal buildable lots are adequately mitigated. The Commission finds it necessary to modify Special Condition Number One (1) to require the applicant to mitigate the cumulative impacts of the subdivision of this property, either through purchase of ten (10) TDCs or participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites located within the Cold Creek Watershed (Zone II) portion of the Santa Monica Mountains Local Coastal Program Segment in the Coastal Zone, as previously required by the Commission in Coastal Permit No. 5-85-214. In addition, Special Condition Number One (1) is further revised and updated consistent with past Commission action in addressing cumulative impacts through the TDC program. Therefore, the Commission finds that the proposed project amendment meets the second test of Section 30250 (a).

Regarding the third test of Section 30250 (a), a review of the average lot size of the parcels within one quarter mile of the site indicates that the proposed ten (10) to (26) acre lots are larger than the average size of those surrounding the subject property (Exhibit 4). In addition, the Commission has approved a total of 23 lots ranging in size from about two (2) acres to 17 acres in Coastal Permit Number 5-85-214. The result of this amendment will create larger lots than those currently approved by the Commission. Therefore, the Commission finds that the proposed amendment meets the average lot criteria provided in Section 30250(a) and the third test of Section 30250 (a).

The Commission therefore finds that, as conditioned, the proposed project amendment is consistent with Section 30250 (a) of the Coastal Act.

**D. Geologic and Fire Hazards/Landform Alteration and ESHA**

Section 30240 of the Coastal Act states that:

(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 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.

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 subordinate to the character of its setting.

In addition, the certified LUP contains the several policies regarding landform alteration, the protection of environmentally sensitive habitat areas, and the protection of visual resources that are applicable to the proposed development. The LUP policies (P68, P72, P74, P79, P82, P86, P90, P91, and P135 incorporated by reference) have been found by the Commission as consistent with the Coastal Act and therefore, may be considered as guidance by the Commission in determining consistency of the proposed

project with the Coastal Act. These LUP policies require that grading be minimized for all new development to ensure that the potential negative effects of runoff and erosion on these environmentally sensitive resources are minimized. Further, all new development shall be designed to minimize impacts and alterations of physical features, such as ravines, and hillsides to the maximum extent feasible. Lastly, development must ensure that any alteration of the natural landscape from earthmoving activity blends with the existing terrain of the site and the surroundings.

1. Geologic Stability/ESHA

Minimizing the erosion of the site is important to reduce geological hazards and minimize sediment deposition in the drainage ravine along the central portion of the property. This drainage ravine is a blue line stream that drains into Cold Creek, an Environmentally Sensitive Resource watershed designated as a Significant Watershed in one portion of the watershed and as the Cold Creek Resource Management Area in another portion of the watershed.

Although the site is not located within any designated Significant Watersheds, it does include two small areas of designated Environmentally Sensitive Habitat (Exhibit 6). There is a riparian area and significant oak woodland designated as Environmentally Sensitive Habitat located on the property beyond the proposed road and graded building pads. The riparian habitat is located within the blue line stream that drains the subject property leading to Cold Creek. Staff conducted a site visit in 1997 observing that the property burned in the 1993 Malibu Fire and there were no significant trees on the property, particularly in the vicinity of the mapped designated oak woodland. However, these mapped trees may have been mapped in error or may be located on adjoining properties or the mapped designation may have reflected large chaparral vegetation that has since burned. The remainder of the property is covered with chaparral species and grasses. It is important to identify that the property is not located within either the Significant Cold Creek Watershed or the Cold Canyon Resource Management Area. The proposed grading and site disturbance is not located near the mapped riparian habitat within the blue line stream on the property. In fact, the amendment proposes to locate the road and building pads further away from this designated habitat compared to the existing Commission approved location for the 23 building pads and road approved in Coastal Permit Number 5-85-214.

In addition, the submitted Grading Plan prepared by the applicant's consulting engineer emphasizes the importance of proper drainage and erosion control measures to ensure the stability of development on the site (Exhibits 7 – 9). The grading plan includes a drainage plan that will adequately direct drainage from the future building pads and roadway to two (2) on-site drainage channels in a non-erosive manner. Without such a plan to reduce erosion from storm water runoff, the building sites and driveway could become unstable. The applicant submitted a preliminary landscape plan for the initially submitted project with a larger graded area and additional grading that is no longer

proposed at this time. Therefore, a final landscaping plan is necessary to minimize erosion and offsite sedimentation for the revised project that now includes the grading of a 9.5 acre area with a total of 134,600 cubic yards of material.

The final landscape plan should be designed to minimize and control erosion. The landscape plan should include primarily native, drought resistant plants. All cut and fill slopes shall be stabilized at the completion of final grading and adequate to provide 90 percent coverage within two years. Planting shall be maintained throughout the life of the project in accordance with the approved plan. No grading is allowed during the rainy season (November 1 – March 31) as noted in the Interim Erosion Control Plan to protect the designated ESHA on the subject site, the Significant Cold Creek Watershed, and the Cold Canyon Resource Management Area located downstream from sedimentation and other non-point source pollution.

The plan shall include temporary erosion control measures should grading cease for a period of time of more than 30 days. Lastly, a landscape monitoring report shall be provided five (5) years from the date of the final grading inspection by the Los Angeles County Department of Building and Safety to ensure that the final landscape plan has meet the performance standards in the plan and provide a revised plan in the event the landscaping is not in conformance with the approved final landscape plan.

Therefore, Special Condition Number Six (6) requires the applicant to submit a final landscape and erosion control/drainage plan with a monitoring plan meeting the above requirements to minimize the potential for erosion on site and sedimentation on site and downstream.

Regarding future developments, the resulting building pads are expected to be developed with single family residential development after a coastal development permit is issued for each proposed lot. The future owners of each lot will be preparing plans to construct a residence and possibly a guest house, pool/spas, and other development normally associated with a single family residence. Each proposed lot will be created with the grading of about 1,000 cubic yards of material. Further grading is needed to excavate for foundations, basements, pool/spas, etc. It is necessary to limit this additional grading to minimize potential impacts on the onsite ESHA and the designated Sensitive Resources located downstream within Cold Creek Significant Watershed and the Cold Creek Canyon Management Area. Special Condition Number Seven (7) requires the applicant to record a deed restriction limiting the additional site alteration or grading on any of the thirteen (13) residential lots approved by Coastal Permit Amendment No. 5-85-214-A-3 to excavation necessary for future development of foundations, basements, pool/spas, and other development normally associated with a single family residence and a second unit or guest house located on the approved building pad. Special Condition Number Seven (7) is necessary to ensure compliance with the coastal resource protection policies addressing landform alteration (Section 30251) and environmentally sensitive habitats areas (Section 30240).

2. Geologic Stability/ Fire Hazards

The proposed development site is located in the southern Calabasas area of the Santa Monica Mountains. The Santa Monica Mountains is generally considered to be subject to an unusually high amount of natural hazards. Geologic hazards common to this mountain area include landslides, erosion, and flooding.

The subject site of 160 acres includes steep slopes on the northern 60 percent of the property and gently sloping land on the remaining 40 percent. The proposed building sites are located along the southeast portion of the property on slopes ranging from flat to 25 percent slope. The site is traversed by several drainage ravines leading into one principal ravine, a blue line stream, leading into a tributary of Cold Creek Canyon. Although portions of these ravines are designated by the County as a flood hazard, the proposed building sites are not located within the flood hazard boundaries. The proposed location of the access road and building sites are relatively flat. The site is currently vacant.

The applicant submitted a geologic letter update titled, 1955 Cold Canyon Road Tract 30737, dated February 18, 1997 by Earth Systems Consultants addressing the geologic stability of the revised thirteen lot subdivision by concluding that:

Based upon the findings summarized in the previous reports, it is our professional opinion that the proposed construction will not be subject to a hazard from settlement, slippage, or landslide, provided the recommendations of the reports are incorporated into the proposed construction. It is also our opinion that the proposed construction will not adversely affect the geology stability of the site or adjacent properties provided the recommendations contained in the reports are incorporated into the proposed construction. Test findings and statements of professional opinion do not constitute a guarantee or warranty, expressed or implied.

In addition, the applicant submitted a letter titled, Engineering Geologic Memorandum/Update, dated February 12, 1997 by Geoplan, Inc. which states that:

It is concluded that the grading plan for Vesting Tentative Tract 30737 is feasible, that it implements the recommendations in Geoplan's reports and memoranda and that it is free from hazard of landslide, settlement or slippage. Proposed grading in accordance with plans and specifications, the County Building Ordinance and the recommendations of the project consultants will not affect neighboring property adversely.



In addition, the County of Los Angeles Department of Public Works Material Engineering Division has reviewed this geology report and determined that the plan is geologically approved on January 4, 1999.

Based on the findings and recommendation of the consulting geotechnical engineer, and geologist the Commission finds that the development is consistent with Section 30253 so long as all recommendations, including site preparation, grading, and private sewage disposal system, regarding the proposed land division are incorporated into the project plans. Therefore, the Commission finds it necessary to require the applicant to submit the final project plans that have been certified in writing by the engineering geologist and geologist as conforming to their recommendations, as noted in Special Condition Number Eight (8).

Further, due to the fact that the proposed project including roadway and drainage devices is located in an area subject to an extraordinary potential for damage or destruction from wild fire, the Commission will only approve the project if the applicant assumes liability from the associated risks. Through the waiver of liability, the applicant acknowledges and appreciates the nature of the fire hazard which exists on the site and which may affect the safety of the proposed development, as incorporated by Special Condition Number Nine (9).

### 3. Visual Resources

The project site is located within the viewshed of Mulholland Highway, just north of two separate intersections of Mulholland Highway and Cold Canyon Road (Exhibit 1). The certified Los Angeles County Malibu/Santa Monica Mountains Land Use Plan designates Mulholland Highway as a Scenic Highway. The Land Use Plan provides guidance for new development along scenic highways to be sited and designed to protect views along the ocean, minimize alteration of landforms, be visually compatible with and subordinate to the character of its setting, and be sited so as to not significantly intrude into the skyline as seen from public viewing places (P130). Further guidance is provided in the Land Use Plan to maintain the character and value of the Mulholland Scenic Corridor as a scenic and recreational resource connecting public parklands within the Santa Monica Mountains (P132). The Commission found in Coastal Permit Number 5-85-214 that over half of the site will remain undeveloped. The Commission also found that the Offer to Dedicate an Open Space/Viewshed Easement, as conditioned, over the portion of the project site not proposed for development on the northern periphery of the site would mitigate impacts on coastal scenic and visual resources. The applicant has recorded this Offer to Dedicate in 1990 pursuant to Special Condition Number Four (4) of the original Commission approval of Coastal Permit No. 5-85-214.

Therefore, the Commission finds that the proposed project, as conditioned, will minimize grading and landform alteration, minimize erosion on the property and

sedimentation on and beyond the property, and protect designated ESHA located on the property and downstream in the Cold Creek Watershed. Therefore the proposed project amendment, as conditioned, is consistent with Sections 30240, 30251 and 30253 of the Coastal Act.

#### **E. Septic Systems.**

The Commission recognizes that the potential build-out of the Santa Monica Mountains, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards. The Coastal Act includes policies to provide for adequate infrastructure including waste disposal systems. 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.

Section 30250(a) of the Coastal Act states in part that:

New residential, ... development, ... shall be located within, ... existing developed areas able to accommodate it ... and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

In addition, the Malibu/Santa Monica Mountains Land Use Plan includes the following policies addressing sewage disposal. The LUP policies cited below have been found to be consistent with the Coastal Act and therefore, may be looked to as guidance by the Commission in determining consistency of the proposed project with the Coastal Act.

P217 Wastewater management operations within the Malibu Coastal Zone shall not degrade streams or adjacent coastal waters or cause or aggravate public health problems.

P218 The construction of individual septic tank systems shall be permitted only in full compliance with building and plumbing codes ...

The applicant proposes to create thirteen (13) building pads for future residential development. It is intended that these thirteen (13) lots be served by individual sewage disposal systems on each lot. The Commission approved Coastal Permit No. 5-85-214 with Special Condition No. Five (5) requiring the applicant to provide plans for project

sewage disposal via a non-growth inducing connector line to Tapia Treatment Facility service lines for the future proposed residential development. In the alternative, the applicant may utilize on-site sewage disposal systems if evidence is submitted for review and approval by the Executive Director which shows no off-site impacts from on-site sewage disposal.

The applicant submitted a geologic report prepared for the proposed project site which indicates that the site is stable and that individual sewage disposal systems will not result in lateral flow into Cold Creek and it would be possible to provide septic systems for waste disposal for future residences. In the Engineer Geologic Memorandum dated April 16, 1987 by Geoplan, Inc., states:

It is concluded that the sustained use of properly maintained private sewage disposal systems in Tract 30737 will not result in surfacing of effluent nor in lateral percolation of effluent into Cold Creek.

GeoPlan also notes that percolation tests of the site demonstrated that the site is adequate to provide for septic systems.

The applicant submitted an update geologic report, dated December 23, 1994 by Geoplan, which indicates that the revised thirteen lot subdivision and building pads were evaluated and determined to include sites for installation of a private sewage disposal system for each lot. Therefore, the applicant has met Special Condition Number Five (5) required pursuant to the original Coastal Permit Number 5-85-214.

The applicant does not, at this time, propose any construction of structures (except for the access road and two drainage channels. At such time as coastal development permit applications are reviewed for development of the proposed lots, a full geologic evaluation which includes additional percolation testing and approval in concept by the Los Angeles County Department of Environmental Health will be necessary to ensure adequate percolation at a specific site on each of the minimum ten acre lots to accommodate effluent disposal. Therefore, the proposed project amendment is consistent, as conditioned, with Sections 30231 and 30250 of the Coastal Act.

F. Local Coastal Program

Section 30604 of the Coastal Act states that:

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

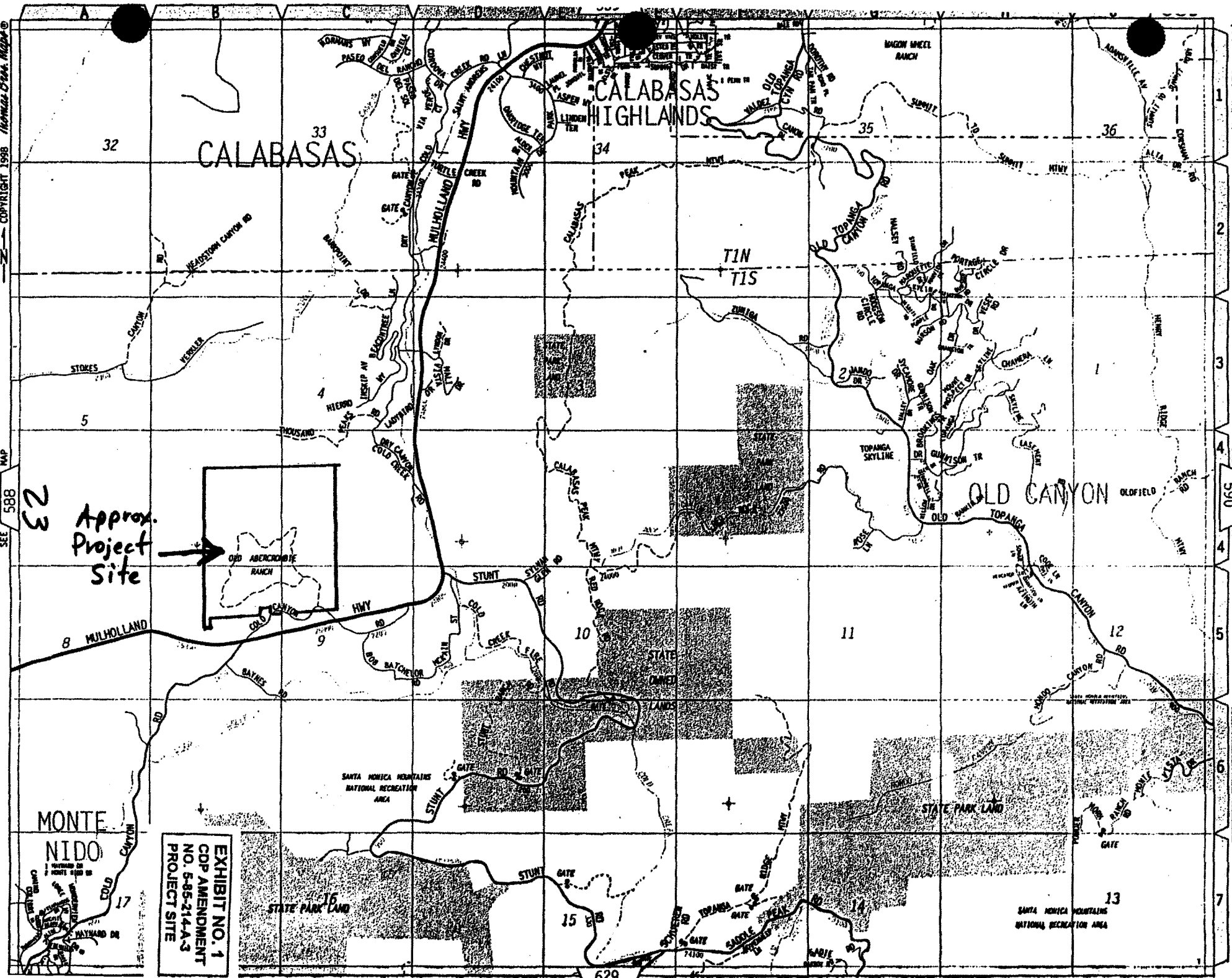
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The preceding sections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

G. California Environmental Quality Act

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

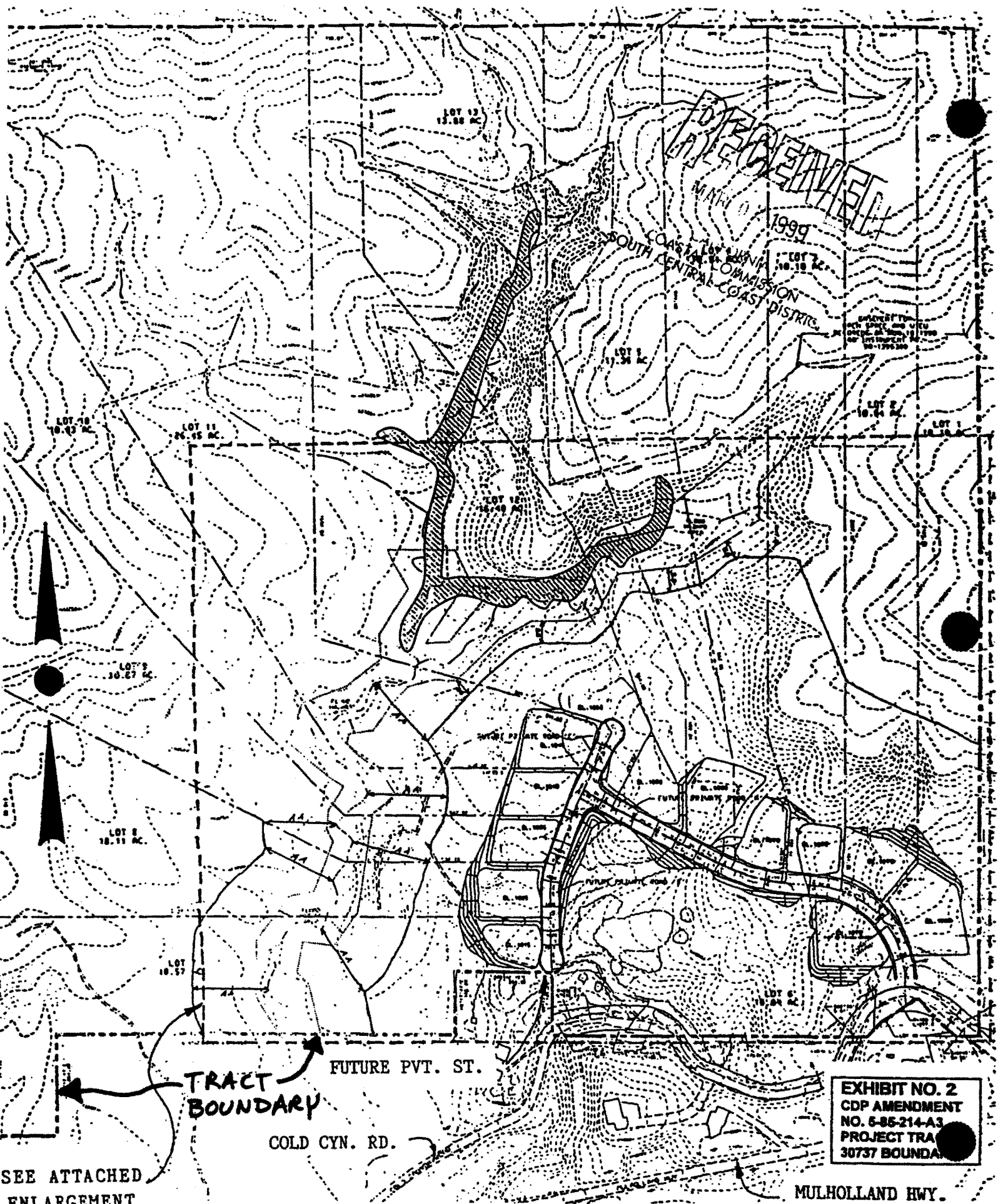
The proposed development, as conditioned, will not have significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970. Therefore, the Commission finds that the proposed project amendment, as conditioned to mitigate the identified effects, is consistent with the requirements of CEQA and the policies of the Coastal Act.

585214A3Ghosnreport



23  
Approx.  
Project  
Site

EXHIBIT NO. 1  
CDP AMENDMENT  
NO. 5-85-214-A-3  
PROJECT SITE



TRACT 30737 - 13 LOTS ON 160 ACRES

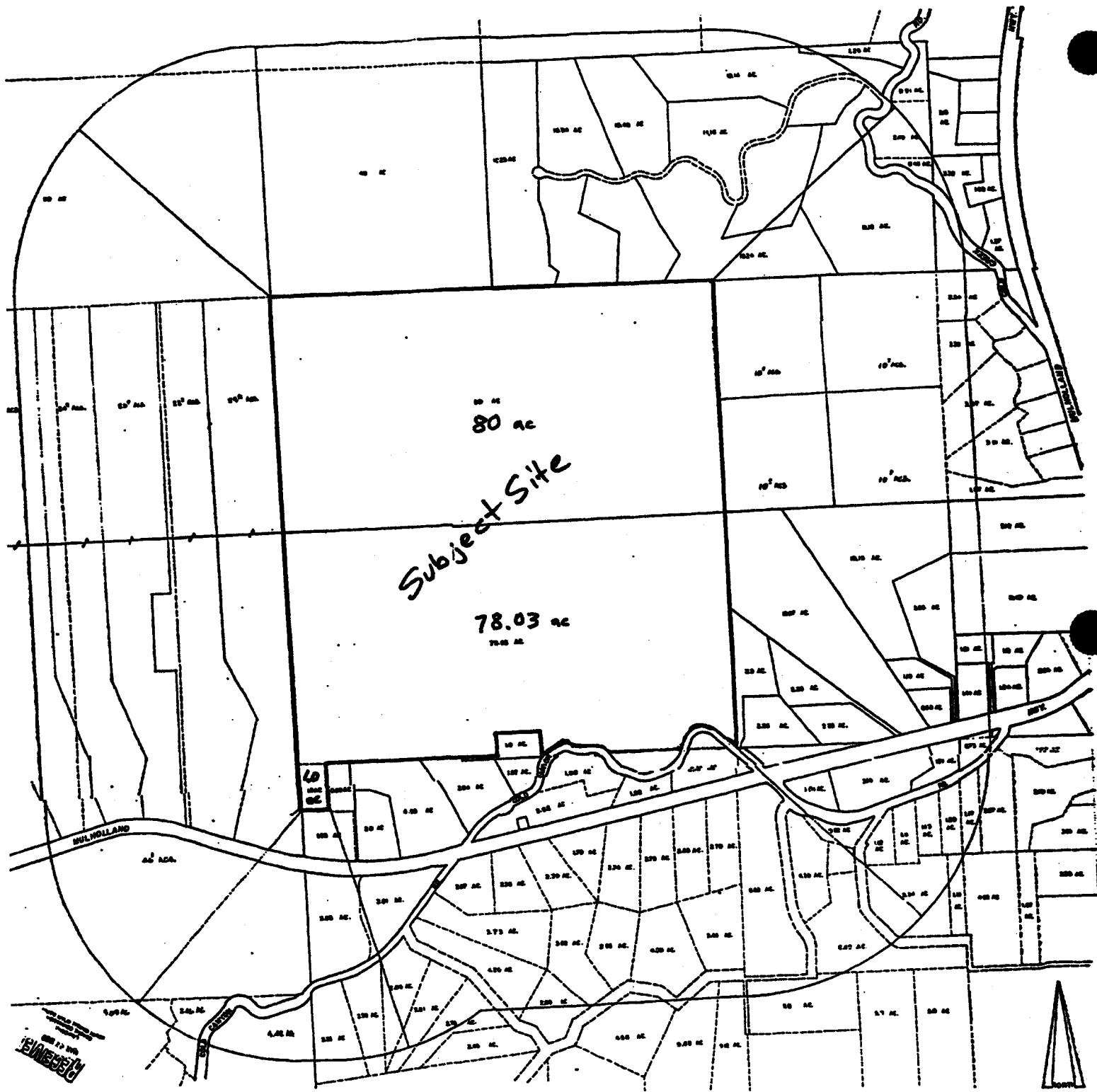


AA &amp; BB BUFFER AREAS\*\*

GOOD HAZARD  
AREA \*

**EXHIBIT NO. 3  
CDP AMENDMENT  
NO. 5-85-214-A-3  
TRACT 30737  
ENLARGEMENT**

### ENLARGEMENT OF PORTION OF TR. MAP



1320' (1/4 mile) RADIUS MAP

DATE 8-24-88  
SCALE 1" = 200'

EXHIBIT NO. 4  
CDP AMENDMENT  
NO. 5-85-214-A-3  
SURROUNDING  
PARCELS





**LEGEND:**

- M2 - Mountain Land 1DU/20AC
- 3 - Rural Land I 1DU/10AC
- 4 - Rural Land II 1DU/5AC
- 5 - Rural Land III 1DU/2AC
- 6 - Residential I 1DU/AC
- 7 - Residential II 2DU/AC
- 8A - Residential III(A) 2-4DU/AC
- 8B - Residential III(B) 4-6DU/AC
- 9A - Residential IV(A) 6-8DU/AC
- 9B - Residential IV(B) 8-10DU/AC
- 9C - Residential IV(C) 10-20DU/AC
- 11 - Institution and Public Facilities
- 12 - Rural Business
- 13 - General Commercial
- 14 - Office/Commercial Services
- 16 - Low-Intensity Visitor-Serving Commercial Recreation
- 17 - Recreation-Serving Commercial
- 18 - Parks
- MU - Mixed Use - Specific Plan Required

27

## SANTA MONICA MOUNTAINS LOCAL COASTAL PROGRAM

### Land Use Plan

Adopted by the Board of Supervisors: October 7, 1986

Certified by the California Coastal Commission: December 11, 1986

EXHIBIT NO. 5  
CDP AMENDMENT  
NO. 5-85-214-A-3  
PROJECT LAND USE  
DESIGNATIONS

# Z. BOUNDARY

APPROX.  
PROJECT SITE

Hwy.

Mulholland

Cold Creek

Dart

Canyon

EXHIBIT NO. 6  
CDP AMENDMENT  
NO. 5-85-214-A-3  
PROJECT SITE  
ESHA MAP

## SENSITIVE ENVIRONMENTAL RESOURCES OVERLAY ZONES

ENVIRONMENTALLY SENSITIVE  
HABITAT AREA — RESOURCE  
DEPENDENT USES



INLAND



OFFSHORE —  
KELP BEDS



SHORELINE —  
ROCKY AREAS



MALEB/  
COLD CREEK RESOURCE  
MANAGEMENT AREA



SIGNIFICANT OAK WOODLAND  
AND SAVANNAS



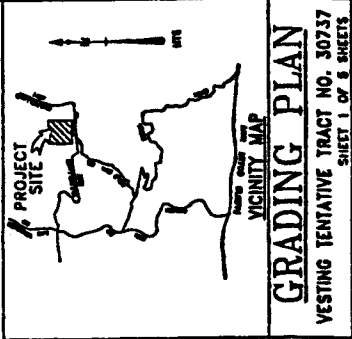
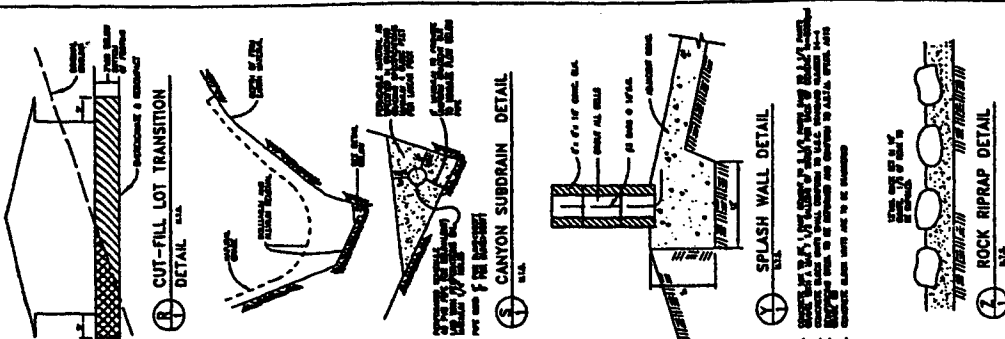
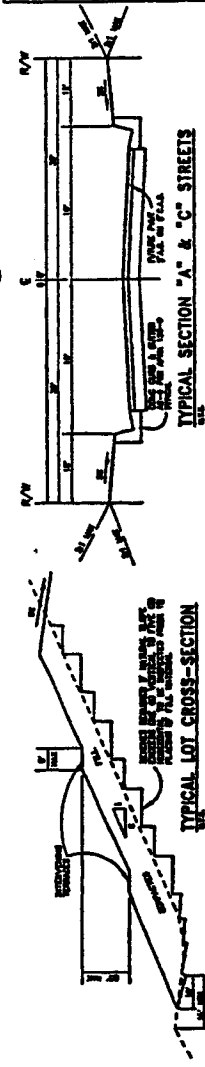
LOCALLY DISTURBED  
SENSITIVE RESOURCES AREAS



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ROBERT M. WANKEMA  
10011 ACHAM STREET  
BETHESDA, MD 20814  
TEL: (301) 440-1177  
FAX: (301) 440-1178

REVISED TENTATIVE TRACT MAP NO. 30737  
PAD GRADING PLAN FOR ACCESS ROAD TO LOTS 1 THRU 13  
"REVISED TO BUILDING"

NO.	DATE	DESCRIPTION
1	10/1/09	ISSUED FOR REVIEW
2	10/1/09	REVISED TO BUILDING
3	10/1/09	REVISED TO BUILDING
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APPROXIMATE LIMITS OF REMEDIAL  
EXCAVATION.  
ESTIMATED DEPTH OF REMEDIAL  
REMOVALS:  
⑤

SCALE: 1" = 50'

NOTES:  
1. THIS PLAN IS A TENTATIVE GRADING PLAN FOR THE PROPOSED ACCESS ROAD TO LOTS 1 THRU 13. IT IS NOT TO BE USED FOR CONSTRUCTION.  
2. THE PROPOSED ACCESS ROAD IS SHOWN IN DASHED LINES. IT IS NOT TO BE USED FOR CONSTRUCTION.  
3. THE PROPOSED ACCESS ROAD IS SHOWN IN DASHED LINES. IT IS NOT TO BE USED FOR CONSTRUCTION.

EXHIBIT NO. 9  
CDP AMENDMENT  
NO. 5-85-214-A-3  
REVISED PAD  
GRADING PLAN

**ROBERT K. KAMEOKA**

Subdivisions • Parcel Maps • Land Planning

**REGISTERED CIVIL ENGINEER**

5011 ACACIA STREET, SAN GABRIEL, CA 91778

(323) 283-1515

(626) 286-6127

FAX (626) 286-3955

TABLE SHOWING PAD SIZES AND GRADING QUANTITIES FOR EACH LOT  
FOR  
TRACT NO. 30737

<u>LOT NO.</u>	<u>PAD</u> <u>s.f.</u>	<u>CUT</u> <u>c.y.</u>	<u>FILL</u> <u>c.y.</u>
1	11,100	1,600	400
2	12,200	-	200
3	15,500	600	200
4	12,600	2,300	300
5	14,300	-	100
6	12,400	-	700
7	13,200	-	400
8	8,400	400	800
9	8,700	400	800
10	9,800	200	700
11	10,800	400	700
12	15,800	400	400
13	15,000	700	300
Total		<u>7,000</u>	<u>6,000</u>

**RECEIVED**

JUN 22 1999

COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Attachment X

To: Permit Applicants  
From: California Coastal Commission, South Coast District  
Subject: Standard Conditions

The following standard conditions are imposed on all permits issued by the California Coastal Commission.

**I. STANDARD CONDITIONS**

1. Notice of Receipt and Acknowledgement. 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 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 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.

90-1395300



CALIFORNIA COASTAL COMMISSION

December 27, 1985

COAST AREA  
1001 BROADWAY, SUITE 200  
BEACH, CA 90262  
909-3071



NOTICE OF INTENT TO ISSUE PERMIT

On September 27, 1985, by a vote of 10 to 2, the

California Coastal Commission granted to Michael Green

Permit 85-214, subject to the attached conditions, for

development consisting of subdivision of 3 parcels consisting of

160 acres into 51 residential lots. The 51 residences as proposed

would be sited on grassy lots and would utilize on-site septic

systems as the means of sewage disposal.

more specifically described in the application file in the Commission offices.

The development is within the coastal zone

in Los Angeles County at 1955 Cold Canyon Rd.

The actual development permit is being held in the Commission

office until fulfillment of the Special Conditions I - 5

imposed by the Commission. Once these conditions have been

fulfilled, the permit will be issued. For your understanding,

all the imposed conditions are attached.

Issued on behalf of the California Coastal Commission

on December 27, 1985.

PETER DOUGLAS  
Executive Director

By Doug Green  
Title Regional Area Analyst

The undersigned permittee acknowledges receipt of this notice of

the California Coastal Commission determination on

Permit 85-214, and fully understands its contents, including

all conditions imposed.

1/10/85

Date

M. J. J. T. R.

Permittee

Please sign and return one copy of this form to the Commission office at the above address.

EXHIBIT NO. 12  
CDP AMENDMENT  
NO. 85-214-A-3  
NOTICE OF INTENT  
TO ISSUE PERMIT  
NO. 85-214  
PAGE 1 OF 4



disposal via a non-growth inducing connector line to Tapia Treatment Facility service lines. such a connector line if used as the sewage disposal system for the project shall be sized and designed only for the proposed development. Such plans shall be subject to review and approval by the Executive Director. In the alternative, the applicant may utilize on-site a sewage disposal system if evidence is submitted for review and approval by the Executive Director of the Commission which shows no off-site impacts from on-site sewage disposal.

#### IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

##### A. Project Description.

The project consists of the subdivision of three parcels consisting of 160 acres into 51 residential lots. The project would also allow for the construction of 51 custom single family residences on each of the proposed residential lots. The subdivision is proposed as a gated community with private streets. The 51 units proposed in the subdivision will be clustered on the southern portion of the 160-acre site. The balance of the site is not proposed to be developed. The applicant has indicated the project will involve approximately 153,588 cubic yards of cut and fill for development of the subdivision. The applicant indicates in addition that the means of on-site sewage disposal will be individual septic systems. The project will be located just north of the intersection of Cold Canyon Road and Mulholland Highway at 1953 Cold Canyon Road, Malibu.

##### B. Background.

The State Commission previously acted to approve a prior permit application for a 51-lot residential subdivision on this site in Appeal 204-79. In acting to approve the project the Commission required that the applicant participate in a Conservancy Program to extinguish the development potential on 48 lots. The Commission also imposed a condition that the project incorporate an on-site tertiary treatment plant. Additionally, the Commission required that project grading be reduced to a minimum of 1,400 cubic yards per residence (not including grading for streets). In addition, the Commission required that the applicant offer an Open Space/Viewshed Easement, restricting development on the undeveloped portions of the site, (approximately 85 acres). The State Commission took an action to approve the project on November 21, 1979. A one-year extension of the permit was approved by the State Commission in February of 1982; however, the permit subsequently lapsed.

**III. Special Conditions:****1. In Lieu Fee Program.**

Prior to issuance of permit, the applicant shall be required to submit evidence of participation in the alternative Fee Program for the Cold Creek Basin. Such evidence shall be subject to review and approval of the Executive Director and shall be based upon the Commission approved Lot Retirement Program for the Cold Creek Watershed as described in the Suggested Modifications to the Malibu/Santa Monica Mountains Land Use Plan as adopted by the Commission on June 13, 1985.

**2. Revised Grading Plans.**

Prior to transmittal of permit, the applicant shall be required to submit revised grading plans consistent with the grading policies contained in the Suggested Modifications to the Malibu/Santa Monica Mountains Land Use Plan as adopted by the Commission on June 13, 1985.

**3. Revised Plans - Project Design.**

Prior to transmittal of permit, the applicant shall be required to submit revised plans which indicate a project redesign to a maximum of 23 lots. Such revised plans shall be subject to the review and approval of the Executive Director.

**4. Open Space/View Easement.**

Prior to the transmittal of the permit, the applicant shall be required to map and record an irrevocable offer to dedicate to a public agency or private association acceptable to the Executive Director an easement for open space and view protection restricting further development over the steep hillside portions of the project site. The maps of the areas subject to the open space/view protection easement shall be subject to review and approval by the Executive Director.

The offer shall run with the land in favor of the People of the State of California. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

**5. Sewage Disposal.**

Prior to transmittal of permit, the applicant shall be required to provide plans which allow for project sewage

sewage

EXHIBIT NO. 12  
CDP AMENDMENT  
NO. 5-85-214-A-3  
NOTICE OF INTENT  
TO ISSUE PERMIT  
NO. 5-85-214  
PAGE 3 OF 4

Application NO. E-85-214

**CONDITIONS:**

**Receipt of Permit and Acknowledgment.** The permit is not valid and construction shall not commence until a copy of 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.

**Expiration.** If construction has not commenced, the permit will expire two years from the date on which the Commission is on the application. Construction 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.

**Compliance.** All construction 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.

**Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.

**Inspection.** The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.

**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.

**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.

**ADDITIONAL CONDITIONS:** See Attachments.

A documents needed to comply with Condition 4 will be sent to you from the San Francisco office AFTER the Commission meeting. When you receive the documents if you have any questions, please contact Dennie Benrubi (415) 543-8555.

**Exhibit No. 13**  
**Coastal Permit Amendment No. 5-85-214-A-3**  
**Special Condition One Revised As Result of Coastal Permit**  
**Amendment No. 5-85-214-A-1**

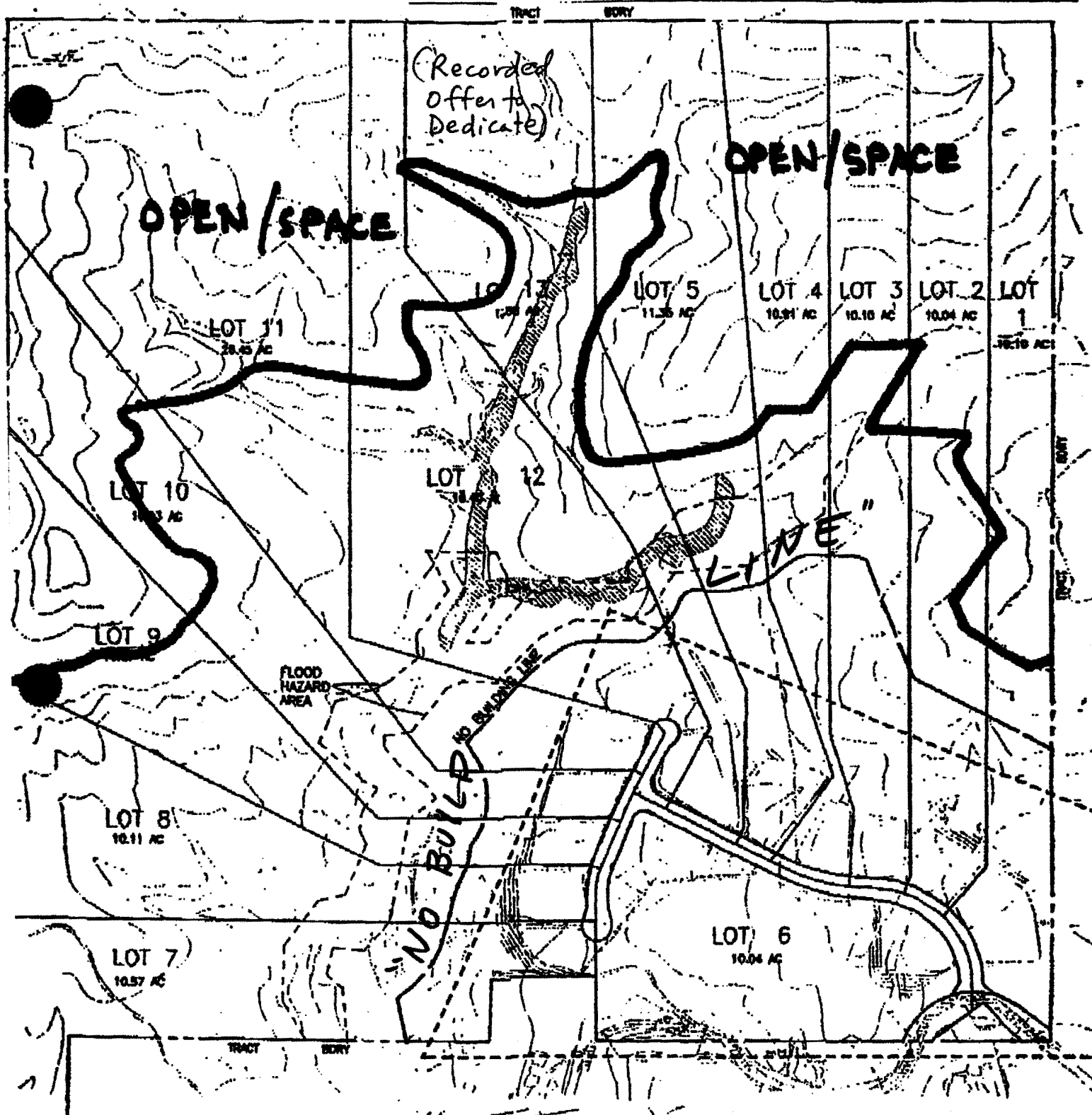
1. Prior to transmittal of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director, evidence that residential development rights have been extinguished on 20 building sites located within the Cold Creek Watershed (Zone II) portion of the Santa Monica Mountains LCP Segment. The method used to extinguish the development rights shall be either:

- (a) One of the five lot retirement or lot purchase programs contained in the Malibu/Santa Monica Mountains Land Use Plan (Policy 272 2-6);
- (b) Participation in the Alternative Fee Program for the Cold Creek Basin consistent with past Commission actions;
- (c) Or participation along with a public agency or private non-profit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites in the Cold Creek Watershed. Retirement of a site that is unable to meet the County's health and safety standards shall not satisfy this condition.

The building sites on which development rights are extinguished must either be a legal lot located in a small-lot subdivision or a potential building site located in a Significant Watershed. Retirement of any lot demonstrated to be unbuildable under the Land Use Plan shall not satisfy this condition.

Unsubdivided land located within a Significant Watershed may be used to generate development rights according to a ratio which is consistent with residential densities contained in the certified Land Use Plan.

<b>EXHIBIT NO. 13</b> <b>CDP AMENDMENT</b> <b>NO. 5-85-214-A-3</b> <b>REVISED SPECIAL</b> <b>CONDITION 1 PER</b> <b>CDP 5-85-214-A-1</b>
---



**SITE LAYOUT/PLAN**

SCALE: NONE

EXHIBIT NO. 14  
CDP AMENDMENT  
NO. 5-85-214-A-3  
OPEN SPACE  
EASEMENT AREA

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 841-0142



Page 1 of 7

Date: September 2, 1999

Permit Application No. 5-85-214-A3

**REVISED**  
**NOTICE OF INTENT TO ISSUE AMENDMENT**  
**TO COASTAL DEVELOPMENT PERMIT**

On July 13, 1999, the California Coastal Commission granted to Michel Ghosn, an amendment to Permit No. 5-85-214-A3, subject to the conditions attached, for changes to the development or conditions imposed on the existing permit. The development originally approved by the permit consisted of: Subdivide three (3) parcels consisting of 160 acres into 23 lots, grade total of 187,199 cu. yds. of material to create one access road and 23 building pads (road cut, 76,251 cu. yds.; road fill, 88,541 cu. yds.; pad cut, 13,344 cu. yds.; pad fill, 9,063 cu. yds.).

at: 1955 Cold Canyon Rd., Malibu (Los Angeles County).

Changes approved by this amendment consist of: Subdivide three (3) parcels consisting of about 160 acres into 13 residential lots, grade a total of 134,600 cu. yds. of material to create one access road and 13 building pads (removal and compaction; cut 31,700 cu. yds. and fill 31,700 cu. yds.; road cut 29,700 cu. yds. and road fill 28,500 cu. yds.; site pad cut 7,000 cu. yds. and site pad fill 6,000 cu. yds.) more specifically described in the application filed in the Commission offices.

Unless changed by the amendment, all conditions attached to the existing permit remain in effect.

The amendment is being held in the Commission office until fulfillment of Special Conditions 1-10, imposed by the Commission. Once these conditions have been fulfilled, the amendment will be issued. For your information, all the imposed conditions are attached.

Issued on behalf of the California Commission by,

PETER M. DOUGLAS  
Executive Director

By: James Johnson  
Coastal Program Analyst

EXHIBIT NO. <b>B</b>
APPLICATION NO. <b>5-85-214-E-13</b>
<b>Revised Notice of</b>
<b>Intent to issue...</b>
<b>Pages 1-7</b>

Please sign and return a copy of this form to the Commission office.

**ACKNOWLEDGMENT**

I have read and understood the above Notice of Intent and agree to be bound by its conditions and the remaining conditions of Permit No: \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

**REVISED NOTICE OF INTENT TO ISSUE PERMIT**

Page 2 of 7  
Permit Application No. 5-85-214-A3

**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 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.

**SPECIAL CONDITIONS:**

1. **Cumulative Impact Mitigation (Revised Special Condition Replaces Previously Amended (No. 5-85-214-A-1) Special Condition No. 1)**

Prior to the issuance of the Coastal Development Permit, the applicants shall submit evidence, subject to the review and approval of the Executive Director, that the cumulative impacts of the subject development with respect to build-out of the Santa Monica Mountains are adequately mitigated. Prior to issuance of this permit, the applicants shall provide evidence to the Executive Director that development rights for residential use have been extinguished on ten (10) building sites located within the Cold Creek Watershed (Zone II) portion of the Santa Monica Mountains Local Coastal Program Segment in the Coastal Zone. The method used to extinguish the development rights shall be either:

- a) a TDC-type transaction, consistent with past Commission actions;

**REVISED NOTICE OF INTENT TO ISSUE PERMIT**

Page 3 of 7

Permit Application No. 5-85-214-A3

b) participation along with a public agency or private nonprofit corporation to retire habitat or watershed land in amounts that the Executive Director determines will retire the equivalent number of potential building sites. Retirement of a site that is unable to meet the County's health and safety standards, and therefore unbuildable under the Land Use Plan, shall not satisfy this condition.

The building sites on which development rights are extinguished must either be a legal lot located in a small-lot subdivision or a potential building site located in a Significant Watershed. Retirement of any lot demonstrated to be unbuildable under the Land Use Plan shall not satisfy this condition.

Unsubdivided land located within a Significant Watershed may be used to generate development rights according to a ratio which is consistent with residential densities contained in the certified Land Use Plan.

2. **Special Condition 2 has been deleted**

3. **Special Condition 3 has been deleted**

4. **Open Space/View Easement**

Prior to the transmittal of the permit, the applicant shall be required to map and record an irrevocable offer to dedicate to a public agency or private association acceptable to the Executive Director an easement for open space and view protection restricting further development over the steep hillside portions of the project site. The maps of the areas subject to the open space/view protection easement shall be subject to review and approval by the Executive Director.

The offer shall run with the land in favor of the People of the State of California. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

5. **Sewage Disposal**

Prior to transmittal of permit, the applicant shall be required to provide plans which allow for project sewage disposal via a non-growth inducing connector line to Tapia Treatment Facility service lines, such a connector line if used as the sewage disposal system for the project shall be sized and designed only for the proposed development. Such plans shall be subject to review and approval by the Executive Director. In the alternative, the applicant may utilize on-site a sewage disposal system if evidence is submitted for review and approval by the Executive Director of the Commission which shows no off-site impacts from on-site sewage disposal.



REVISED NOTICE OF INTENT TO ISSUE PERMIT

Page 4 of 7

Permit Application No. 5-85-214-A3

**6. Landscaping and Erosion Control Plans (New)**

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

**A) Landscaping Plan**

- 1) All graded & disturbed areas on the subject site shall be planted and maintained for erosion control purposes at the completion of site grading. The applicant shall notify the Executive Director within ten (10) days in writing of the date the site's final grading inspection is completed by the Los Angeles County Department of Building and Safety. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- 2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils;
- 3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- 4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

**REVISED NOTICE OF INTENT TO ISSUE PERMIT**

Page 5 of 7

Permit Application No. 5-85-214-A3

**B) Interim Erosion Control Plan**

1) The Interim Erosion Control Plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.

2) The Interim Erosion Control Plan shall specify that no grading shall take place during the rainy season (November 1 – March 31).

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

**C) Monitoring.**

Five years from the date of the completion of grading, the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

**7. OPEN SPACE DEED RESTRICTION (New)**

- A. No development, as defined in Section 30106 of the Coastal Act or any agricultural related activities shall occur in the area located between the "No Build Line" and the existing recorded Offer To Dedicate Open Space area as shown in Exhibit 14 except for:

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1. Vegetation removal for fire management purposes to protect any future permitted residential development pursuant to a fuel modification plan approved by the Los Angeles County Fire Department, Forestry Division, Fire Prevention Bureau.

AND

2. the following development, if approved by the Coastal Commission as an amendment to this coastal development permit:

Planting of native vegetation and minor hiking and equestrian trails.

**B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**8. PLANS CONFORMING TO GEOLOGIC RECOMMENDATION (New)**

All recommendations, applicable to the subdivision, grading and site improvements, contained in the Engineering Geologic Memorandum/Update, Vesting Tentative Tract #30737, dated February 12, 1997, Engineering Geologic Memorandum, Effluent Discharge-Private Disposal System, dated April 16, 1987, and Engineering Geologic Memorandum, Update and Review of Grading Plan, dated May 16, 1986, by Geoplan, Inc., and 1955 Cold Canyon Road letter dated February 18, 1997 and Tentative Tract Plan, Tract No. 30737, dated January 31, 1995, by Earth Systems Consultants shall be incorporated into all final design and construction plans including site preparation, grading, and private sewage disposal system. All plans must be reviewed and approved by the consultants. **PRIOR TO 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 consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultants shall require an amendment to the permit or a new coastal permit.

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**9. WILDFIRE WAIVER OF LIABILITY (New)**

PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses, of liability arising out of the acquisition, design, construction, operations, maintenance, existence, or failure of the permitted project in an area where an extraordinary potential for damage or destruction from wild fire exists as an inherent risk to life and property.

**10. FUTURE DEVELOPMENT DEED RESTRICTION (New)**

A. This permit is only for the development described in Coastal Development Permit No. 5-85-214-A-3. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610 (a) shall not apply to the area located between the "No Build Line" and the approved graded building pad identified on each of the thirteen lots on Exhibit 14 of the Staff Report. Accordingly, any future improvements to the area located between the "No Build Line" and the approved graded building pad, including the clearing of vegetation or grading, other than as provided for in the erosion control plan prepared pursuant to Special Condition Number Six B (6 B) and any future Commission approved fuel modification plans, shall require an amendment to Permit No. 5-85-214-A-3 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, which reflects the above restrictions on development in the deed restriction and shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

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