

Item No. F8

CALIFORNIA COASTAL COMMISSION

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

RECORD PACKET COPY



DATE: September 26, 2000

TO: Commissioners and Interested Parties

FROM: South Central Coast District Staff

SUBJECT: Agenda Item No. 8, Friday October 13, 2000 (Pepperdine University Request for modification of Special Conditions for Notice of Impending Development 3-99)

Please disregard the staff report dated November 19, 1999 which was mailed out in the first mailing package. The November 1999 staff report was the original staff recommendation for Notice of Impending Development (NOID) 3-99 when it was considered and approved by the Commission in December 1999. That report was inadvertently distributed.

Attached is the correct report for the University's request to modify Special Condition No. 7 of NOID 3-99.



Item Fr8

CALIFORNIA COASTAL COMMISSION

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



September 21, 2000

TO: Commissioners and Interested Parties

FROM: Charles Damm, Senior Deputy Director
Gary Timm, District Manager
Barbara Carey, Coastal Program Analyst

SUBJECT: Request for modification of Special Conditions for
Notice of Impending Development 3-99, Pursuant to the
Pepperdine University Certified Long Range Development Plan
(LRDP) for Public Hearing and Commission Action at the meeting of
October 13, 2000 in Oceanside

SUMMARY AND STAFF RECOMMENDATION

The University requests that the Commission modify Special Condition No. 7 of Notice of Impending Development 3-99 to allow grading activities to continue throughout the rainy season. Special Condition No. 7 prohibits grading for the approved project during the rainy season. The Commission did allow for the University to request Commission consideration of grading extending into the rainy season in the case of unanticipated circumstances. The University's request was received in the South Central Coast Office on September 13, 2000. Staff is recommending that the Commission not grant the University's request to modify Special Condition No. 7 of NOID 3-99.

LRDP HISTORY

On September 12, 1989, the Commission denied the Pepperdine University LRDP as submitted and approved it with suggested modifications necessary to bring the LRDP into conformance with the Coastal Act. On February 7, 1990, the Board of Regents of the University acknowledged the receipt of the Commission's certification and agreed to the terms of the modifications to the LRDP. On April 12, 1990, the Commission concurred with the Executive Director's determination that the Board's action accepting the certification was legally adequate and sent such determination to the Secretary of Resources, thereby effectively certifying the LRDP. Since that time, the LRDP has been amended eight times and the University has processed ten notices of impending development.

Most recently, the Commission approved, as submitted, LRDP Amendment 1-99 to make seven revisions to the approved 50.4-acre Upper Campus Development. The approved changes are: 1) increase in grading to create roads/pads and to stabilize landslides from 3 million cubic yards to 4.5 million cubic yards within the same area of

disturbance; 2) modifications to circulation system, including addition of loop road to meet fire access standards; 3) redesignation of a church facility to a academic support facility; 4) redesign of graduate complex structures within the same total square footage; 5) redesign of student housing buildings with the same number of units; 6) resiting of water tank; and 7) deletion of recreational field and pools associated with approved housing.

As certified in the LRDP, Pepperdine University's ultimate buildout will accommodate 5,000 Full Time Equivalent Students (FTE), 500 faculty, 777 staff members, and 17 administrators. The latest (1997-1998, up to and including Summer 1998) figures provided by the University show an enrollment of 2,433 FTE students, and employment of 238 faculty members and 677 staff members. The Upper Campus Development (UCD) project would accommodate 268 new full-time equivalent (FTE) students. Space vacated in the existing lower campus by existing students moving to Upper Campus facilities would allow for an addition of 200 FTE students, for a total increase of 468 FTE students.

I. Staff Recommendation: Motion and Resolution.

Motion: I move that the Commission determine that the Request to Modify Special Condition No. 7 of Notice of Impending Development 3-99, is consistent with the Certified Pepperdine University LRDP.

Staff Recommendation:

Staff recommends a **NO** vote. Failure of this motion will result in the retention of Special Condition No. 7 and the adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission determines that the Request to Modify Special Condition No. 7 of Notice of Impending Development 3-99, is not consistent with the Certified Pepperdine University LRDP, for the reasons discussed in the findings herein.

II. Findings and Declarations.

The Commission hereby finds and declares:

A. Background.

In December 1999, the Commission approved NOID 3-99 for the project known as the Upper Campus Development (UCD). The 50.4-acre UCD site is located northwest of the existing, developed campus, above Huntsinger Circle. Steep slopes with some flatter terrace areas characterize the site.

The approved development will include the following:

- A 95,500 sq. ft. graduate complex including the graduate schools of business and management, public policy, and education and psychology;
- 104,000 sq. ft. of student housing (96 units);
- 100,800 sq. ft. of faculty/staff condominiums (48 units);
- 30,000 sq. ft. of faculty/staff homes (10 detached and duplex units)
- A 30,000 sq. ft. academic support facility;
- A 25,000 sq. ft. academic learning center;
- Ancillary facilities including potable water tank, reclaimed water tank, cooling plant, and 2 debris basins;
- Access roads, including a primary road 40 feet in width, a secondary road 26-30 feet wide, a 20-foot road to provide access to proposed water tanks and various other roads and driveways to provide access to the proposed residential uses;
- 1,338 parking spaces;
- and 4.5 million cu. yds. of grading (2.25 million cu. yds. cut and 2.25 million cu. yds. fill).

Exhibit 1 is the conceptual grading plan and Exhibit 2 is the site plan for the approved project.

The Commission approved NOID 3-99 subject to 7 special conditions (Exhibit 3 contains these conditions). The conditions relate to conformance with geologic recommendations, geologic review sheets, landscaping and erosion control, runoff pollution prevention program, assumption of risk, biological mitigation measures, and timing of construction.

Special Conditions 1 through 6 were recommended by staff in the staff report. Special Condition No. 7 (Prohibition on grading during the rainy season) was added by unanimous vote of the Commission at the December 1999 hearing on NOID 3-99. When asked for comment on the addition of this condition, the University's representative stated that the University had no intention of grading during the rainy season unless there was a need to finish something that was already begun prior to the rainy season or if it would be a worse circumstance for the site to remain unfinished through the rainy season. The Commission discussed, along with staff, that there might be some unanticipated circumstance whereby a certain aspect of the grading might take longer than predicted, extending into the rainy season. In that case, the Commission determined that the University would need further approval from the Commission. Exhibit 4 is the transcript from the December 1999 hearing on NOID 3-99.

The University completed its compliance with the special conditions of NOID 3-99 and the Authorization to Proceed with the development was issued on May 11, 2000. The University commenced grading operations shortly thereafter.

B. Description of Request.

The University requests that the Commission modify Special Condition No. 7 of Notice of Impending Development 3-99 to allow grading activities to continue throughout the rainy season. Special Condition No. 7 states that:

The University shall undertake no grading during the rainy season (November 1 – March 31). No construction activities shall extend into the rainy season without the approval of the Commission.

The University has submitted a short report on the status of its grading operations, and the reasons behind the request to extend grading throughout the rainy season. This document is attached as Exhibit 5.

The University states five bases for the request to extend grading operations throughout the rainy season: 1) precedent; 2) increased erosion control; 3) increased gross stability; 4) timing of grading completion; and 5) timing of native vegetation landscaping.

With regard to precedent, the University has stated that rainy season prohibitions on grading would more typically be applied to projects in Northern California. The University asserts that projects in Southern California would typically be allowed to continue through the rainy season if storm water pollution prevention plans are in place.

Additionally, the University states that if grading is halted for the rainy season, the site will remain for months with only a portion of the permanent drainage system in place. If allowed to continue grading, the University states that the drainage system will be getting closer to completion every day.

Further, the University asserts that the risks of activating the landslides that are to be stabilized by the remedial grading would decrease daily if grading were allowed to continue throughout the rainy season. The University estimates that the buttress key for Landslide 6, the largest slide on the UCD site, will be 60% complete by November 1st. If the grading were allowed to continue, the University predicts this buttress would be complete by February 2001. Exhibit 6 is a chart prepared by the University regarding risk mitigation on the site.

Regarding project scheduling, the University predicts that if grading was allowed to continue throughout the rainy season, all grading could be completed by September 2001. If grading operations must be halted for the rainy season, then the grading would not be completed by the start of the next rainy season (November 1, 2001), delaying completion until August 2002 and leaving the site exposed during a second rainy season. Finally, the University contends that this schedule will not allow for effective planting of native vegetation since the optimal time for such planting is just prior to the rainy season. Exhibit 7 compares the University's estimated schedules with and without halting grading during the rainy season.

C. Analysis.

The certified LRDP contains the following policy:

All future developments will incorporate measures to mitigate and/or prevent significant damage to the environment.

The approved UCD project includes 4.5 million cu. yds. of grading for the creation of 25-acres of manufactured slopes, 18.5-acres of pads, and 6.9-acres of roadways. This would result in the placement of impervious surfaces over more than ½ of the 50.4-acre site. There are ways that development on the proposed site, both during and after construction, could impact downstream habitat areas, including the unchannelized portions of Marie Canyon and the ocean habitats of Santa Monica Bay. The potential impacts would include increased erosion and sedimentation; increased impervious surfaces, increased volume or velocity of runoff which can alter the natural stream regime, and introduction of point or non-point pollutants. Increased erosion and sedimentation could bury habitat areas. Increased runoff velocity or amount as a result of additional impervious surfaces could alter the natural stream regime. Pollutants could be introduced to the stream flow which could kill fish directly or damage habitat area. In order to minimize such potential impacts, the Commission required the University to prepare and implement a Runoff Pollution Prevention Program (Special Condition No. 4) to include a Stormwater Pollution Prevention Plan to minimize impacts during grading and other construction, a permanent drainage plan, and a drainage improvement maintenance plan.

Additionally, as described above, the Commission required (Special Condition No. 7) that the University not undertake any grading during the rainy season. The intent of this requirement is to minimize erosion, movement of sediment from the site, and geologic hazards.

The Commission has applied such a condition to many projects in the Santa Monica Mountains, particularly those with large amounts of grading or where the project is in proximity to sensitive resources. The purpose of such conditions is to minimize erosion and sedimentation that can lead to non-point source pollution of streams and their associated riparian areas. For instance, a condition prohibiting grading during the rainy season was applied to Permit 4-00-028 (Lehman) which permitted a 4-lot subdivision with 7,000 cu. yds. of grading. Permit 4-95-173 (M.H.A.B. Trust) for a 4-lot subdivision with 8,460 cu. yds. of grading was also conditioned to prohibit grading during the rainy season. This restriction was also applied to Permit 4-95-115 (Lauber) for a 7-lot subdivision with 96,200 cu. yds. of grading. Further, Permit 4-93-211 (Hovenweep) for a 4-lot subdivision with 15,683 cu. yds. of grading did not permit rainy-season grading. A rainy season prohibition on grading was also required in Permits 4-93-144, 4-93-145, 4-93-146, 4-93-147, 4-93-148, and 4-93-149, each of which approved the construction of a single family residence with grading for each site which ranged from 3,400 cu. yds. to

37,732 cu. yds. Finally, the Commission required a prohibition on grading during the rainy season in Permit Amendment 5-85-214-A3 (Ghosn) for a 13-lot subdivision with 134,000 cu. yds. of grading.

In adding the condition prohibiting grading during the rainy season, the Commission recognized that circumstances could arise that might require the University to continue grading operations for a period beyond the beginning of the rainy season (November 1st). For instance, the Commission discussed that if there was a situation where a certain aspect of the grading had begun and for some unanticipated reason could not be completed before the start of the rainy season or if there was some emergency situation that required additional time to rectify, the University could ask the Commission to approve such grading to extend into the rainy season. The Commission recognizes that applicants may encounter different conditions in the field from those that have been predicted by geologic and engineering studies before grading a site. Therefore, grading can take longer than first expected.

However, in this case, the University has not asserted that there are any unanticipated conditions on the UCD site, nor has it stated that there is any unsafe or emergency situation that has arisen. Further, the University has not requested that grading be allowed to extend into the rainy season in order to complete aspects of the project that have taken longer than anticipated or in order to winterize the site.

Rather, the University requests that it be allowed to continue the grading as planned throughout the rainy season to its estimated completion in September 2001. The University is in the process of constructing the buttress key to remediate Landslide 6, which is the largest, deepest slide on the UCD site. The University states that the buttress key will be approximately 60% complete by November 1st and that every day that grading continues the site will be incrementally safer from landslide risk. Additionally, the permanent drainage facilities will be closer to completion.

Certainly, the project would be completed in a shorter period of time and the landslides on site would be remediated sooner if the grading operations were to continue throughout the rainy season. However, the Commission was aware of the extensive grading required for landslide remediation and construction of pads and roads when it considered NOID 3-99. Clearly, requiring a suspension of grading activities during the rainy season can result in delays in completing the overall project. However, the Commission found that the need to minimize potential impacts from grading during the rainy season warranted the requirement of Special Condition No. 7. As described above, the Commission has required such a prohibition on rainy season grading in other projects in the Santa Monica Mountains that involve a large amount of grading.

With regard to the University's assertion that ceasing grading operations during the rainy season would cause the University to be unable to successfully revegetate slopes with native plantings, staff would note that according to the schedules provided by the University, grading would be completed in the month of September if allowed to

continue throughout the rainy season and in the month of August if halted during the rainy season. As such, the wait for winter rains to successfully plant native plants would only be increased by one month, which should not substantially interfere with the implementation of the landscaping plan.

The University's request to extend grading throughout the rainy season is completely contrary to and would lessen the intent of Special Condition No. 7 of NOID 3-99. Therefore, the Commission finds that the request to modify Special Condition No. 7 is inconsistent with NOID 3-99 and the certified LRDP.



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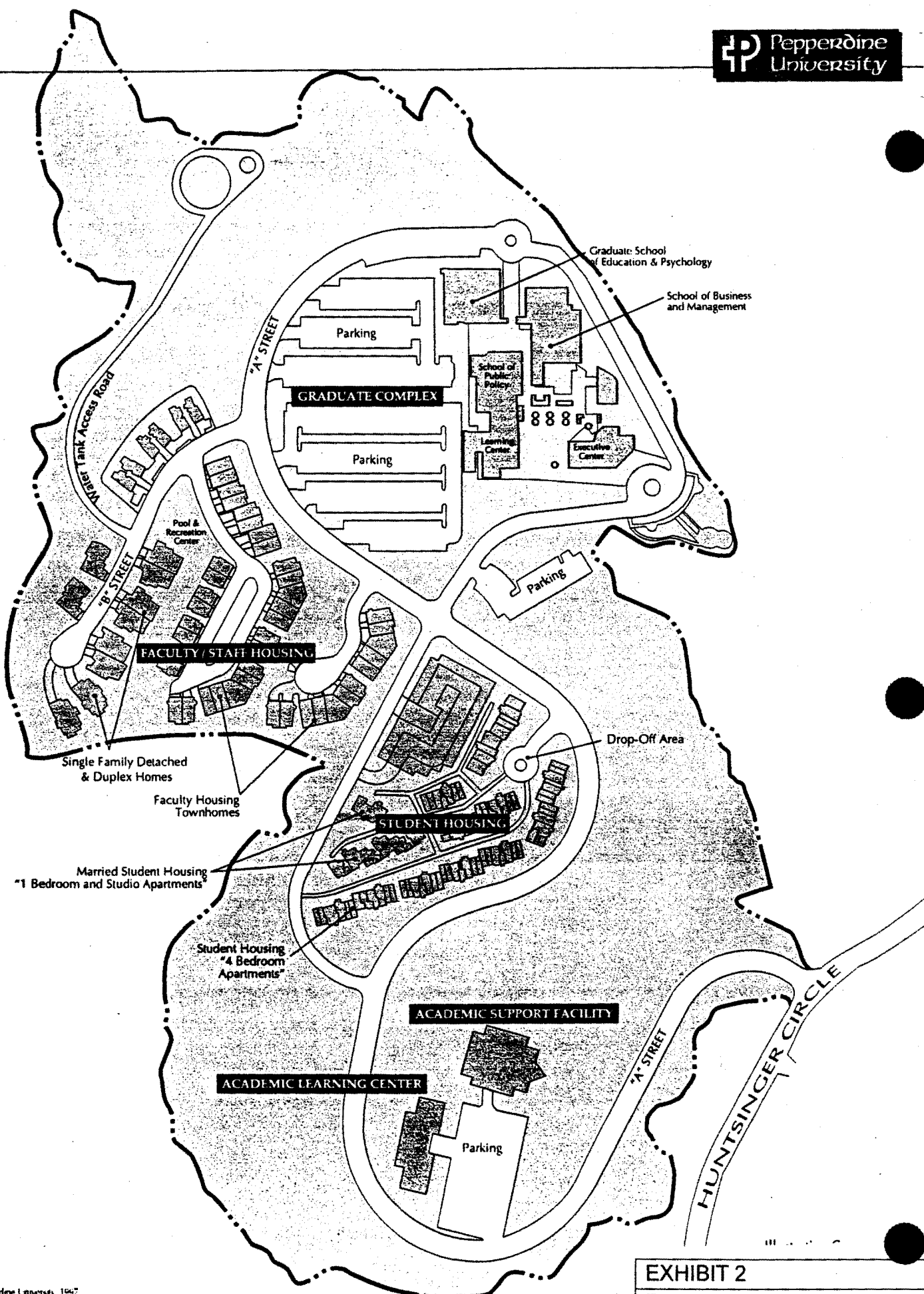


- LEGEND
- GRADING ENVELOPE (50.4 AC)
 - PADS (LEVEL AREAS) (18.5 AC)

EXHIBIT 1
 Pepperdine LRDP
 Request to Modify NOID 3-99
 Conceptual Grading Plan

(Source: ALBERT C. MARTIN & ASSOCIATES, Plan Date: 12-4-95)

Conceptual Grading Plan



Source: Pepperdine University, 1997

Proposed Graduate Campus Project

EXHIBIT 2
Pepperdine LRDP
Request to Modify NOID 3-99
Site Plan

RECEIVED

FEB 07 2000

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

STATE OF CALIFORNIA

COASTAL COMMISSION

COPY

PEPPERDINE UNIVERSITY)
LONG RANGE DEVELOPMENT PLAN)
CITY OF MALIBU,)
COUNTY OF LOS ANGELES)

Notice of Impending
Development No. 3-99

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Thursday
December 9, 1999
Agenda Item No. 14

Marin County Civic Center
Board of Supervisors Chambers
Administration Building, Room 322
San Rafael, California

EXHIBIT 3
Pepperdine LRDP
Request to Modify NOID 3-99
Hearing Transcript (25 pages)

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A P P E A R A N C E S

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Dave Potter, Vice Chair
Paula Daniels
Christina L. Desser
Shirley Dettloff
Cecilia Estolano
Nancy Flemming
Christine Kehoe
Trent Orr, Alternative
Annette Rose, Alternate

Julie Bornstein, Business, Transportation & Housing
Agency

STAFF

Peter Douglas, Executive Director
Chuck Damm, Chief Deputy Director
Ralph Faust, Chief Counsel
Jamee Jordan Patterson, Deputy Attorney General

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STAFF

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1 California Coastal Commission

2 December 9, 1999

3 Pepperdine Notice of Impending Development No. 3-99

4 * * * * *

5 DEPUTY DIRECTOR DAMM: Thank you, that would bring
6 the Commission to Item 14 on the agenda. And, this involves
7 the Notice of Impending Development for the Pepperdine
8 University. This is Impending Development No. 3-99.

9 The Notice of Impending Development is for the
10 upper campus expansion. It is the same item, in effect, that
11 the Commission reviewed under the Long Range Development Plan
12 Amendment a couple of months ago. This Notice of Impending
13 Development is really the equivalent of the University having
14 a Coastal Development Permit to proceed with the project.

15 The staff is recommending that the Commission
16 approve the Notice of Impending Development, subject to the
17 special conditions contained in your staff report, plus you
18 have an addendum handout from staff, in which we are also
19 recommending two additional Special Conditions.

20 Those two additional conditions are: one, the
21 recordation of an Assumption of Risk Condition; and secondly,
22 that the University comply with all of the mitigation
23 measures contained in the Environmental Impact Report, and
24 the Conditional Use Permit that the County of Los Angeles
25 issued for this project.

1 That Conditional Use Permit includes the
2 mitigation measures for habitat protection, and Items 21 and
3 22 in that Conditional Use Permit are the ones that require
4 the University to pay a \$75,000 mitigation fee to go towards
5 mitigating for the loss of valley needlegrass, and also for
6 the University to record a conservation easement over a
7 72-acre parcel in Little Las Flores Canyon, that the
8 University owns, to offset the loss of habitat values in this
9 area. The County required both of those to be done prior to
10 the grading permit being issued to the University.

11 So, we wanted to formalize that, and we've
12 included that additional condition in your addendum packet.
13 We also attached to that the actual EIR mitigation measures,
14 and the conditions in the Conditional Use Permit that the
15 county approved. So, if you have any questions on those,
16 certainly ask staff and we will try to respond.

17 The other Special Conditions dealing with this
18 project, involve conditions related to landscape and erosion
19 control requirements, as well as a runoff, pollution,
20 prevention program condition, and that condition is at the
21 bottom of page 4 and top of page 5, and deals with storm
22 water pollution prevention, both during the construction
23 phase, and the post-construction phase, as well as an overall
24 maintenance program to insure that the best management
25 practices are maintained in an operable condition, so that

1 they perform as intended.

2 The University did submit a one-page letter to
3 staff indicating that there were some minor corrections, or
4 errors in the staff report that they felt should be made. We
5 have reviewed those corrections, they are very minor. We
6 agree with the University. We will incorporate those changes
7 into the findings. They don't in anyway change the
8 provisions of the Notice of Impending Development. They just
9 clarify, as I said, minor points.

10 With that, we would recommend that the Commission
11 approve the Notice of Impending Development. Procedurally,
12 you may approve a Notice of Impending Development with
13 conditions. You cannot, under the provisions of the Coastal
14 Act deny a Notice of Impending Development. And, the legal
15 basis for your decision is whether or not the Notice of
16 Impending Development conforms with the provisions of the
17 certified Long Range Development Plan. Staff feels that it
18 does, and for that reason we are recommending approval.

19 That concludes staff's comment.

20 CHAIR WAN: I don't have any speaker slip from
21 Pepperdine. I know you are here. Do you not wish to say
22 anything?

23 MS. STARRETT: We are here just to respond to any
24 questions.

25 CHAIR WAN: Okay, thank you.

1 I do have a speaker slip, however, Mark Massara.
2 Can we get that door closed, to the outside?
3 Mr. Massara.

4 MR. MASSARA: Madam Chair, Commissioners, I am
5 Mark Massara, representing Sierra Club and the Malibu
6 Township Council.

7 We don't dispute staff's opinion that you cannot
8 now deny this project, no matter how deserving that result
9 may be. We merely wish to urge your support for three
10 additional conditions, in order to bring the project into
11 conformity with the Act, the regs, and the LRDP.

12 CHAIR WAN: Oh, before you continue, let me hold
13 for a minute.

14 Are there any ex-parte communications to declare?
15 [No Response]

16 And, I have one, so I forgot about the fact that I
17 have to declare that on the 2nd of December, at 10:00
18 o'clock, I received a phone call from Andy Benton, and he had
19 simply called to find out if there was anything he needed to
20 be concerned about. And, I told him that I had no way of
21 knowing, but it was, you know, it was a Notice of Impending
22 Development with the requirements. That was it.

23 I am sorry, Mr. Massara, I didn't mean to
24 interrupt you.

25 MR. MASSARA: So we are recommending that you

1 adopt three additional conditions.

2 First, the project should be conditioned to
3 protect the rare and endangered native grasses which will be
4 destroyed by the project. As staff has determined, the
5 grasses are ESHA, and alternative locations for the project
6 exist. The law requires you protect the grasses.

7 Second, we would appreciate your clarification
8 that no grading shall occur before the end of the rainy
9 season. The region is prone to massive mud slides of epic
10 proportions, and the project, itself, is located on top of a
11 gigantic landslide. Any grading over this winter, or during
12 the rainy season, or subsequent rainy seasons, would be, in
13 our opinion, foolhardy and potentially catastrophic.

14 Third, the property to be deeded to the Park
15 Service should be deeded before any grading occur.

16 Thank you.

17 CHAIR WAN: With that I would close the public --

18 COMMISSIONER ROSE: Could I ask Mr. Massara a
19 question?

20 CHAIR WAN: Yes, go ahead. I was going to close
21 the public comment period, but you can.

22 COMMISSIONER ROSE: Mr. Massara, I have question
23 about your condition, your requested Condition No. 1, the
24 native grasses, and the protection. Are you indicating that
25 you feel the buildings should be moved? or relocated? What

1 is it?

2 MR. MASSARA: My recommendation is that you not
3 allow the ESHA to be destroyed by the project. Whether the
4 project can be built around the grasses in order to protect
5 them, or moved off site, staff would be -- it has been more
6 than prepared to discuss that issue with you.

7 COMMISSIONER ROSE: Thank you.

8 CHAIR WAN: With that, I will close the public
9 hearing, and return to staff.

10 DEPUTY DIRECTOR DAMM: Thank you, Madam Chair.

11 With regards to the three points that were
12 mentioned by Mr. Massara, at the hearing on the Long Range
13 Development Plan Amendment there was extensive discussion
14 with regards to the native grasslands. The county, in their
15 approval of this Notice of Impending Development, did require
16 the mitigations that were called for in the Environmental
17 Impact Report, and that -- as I mentioned earlier -- includes
18 the \$75,000 mitigation fee to go towards the enhancement of
19 needlegrass elsewhere in the area. The county also, as part
20 of the Conditional Use Permit, requires that the 72-acre
21 conservation easement be recorded prior to issuance of the
22 grading permit.

23 The other issue that was raised, with regards to
24 no grading during the rainy season, staff did identify that
25 as a possible best management practice to minimize movement

1 of materials during the rainy season. We did not make that
2 an absolute requirement, in that if they can, and provide for
3 adequate erosion control, that those erosion control measures
4 may be adequate to allow increments of grading to occur
5 during the rainy season.

6 You may want to hear from the University
7 representatives in that regard. They may be willing to
8 accept that as a requirement, because we certainly did
9 indicate that that was a concern.

10 CHAIR WAN: Commissioner Rose.

11 COMMISSIONER ROSE: I have a question of staff,
12 following up on the protection of the native grasses, and the
13 \$75,000 mitigation fee. How many square inches of Malibu can
14 you buy for \$75,000? I mean, if it is anything like Marin,
15 that is nothing. You could buy four blades of grass.

16 CHAIR WAN: Well, you can't not only buy a lot of
17 the property, but you have to understand what that native
18 grassland is like.

19 Go ahead, staff. I didn't mean to interrupt.

20 DEPUTY DIRECTOR DAMM: In response, Commissioner,
21 this issue was discussed in great detail at the hearing on
22 the Long Range Development Plan Amendment for this very upper
23 campus expansion that is before you today, under this Notice
24 of Impending Development.

25 The requirements of the Long Range Development

1 Plan are to pay this mitigation fee. I understand you may
2 have concerns about it, but the legal basis for your decision
3 is whether or not this conforms to the Long Range Development
4 Plan, and that is what the plan calls for.

5 COMMISSIONER ROSE: And, the fee was set at that
6 amount at that time?

7 DEPUTY DIRECTOR DAMM: Yes, it was.

8 CHAIR WAN: I would like to make a comment, and
9 you know how I feel about what we are doing to that ESHA. It
10 doesn't matter how much money you pay, by the way, that is
11 old growth grassland. That grassland is somewhere between
12 200 and 1000 years old, and, I don't want to go into it, as
13 you said, we did. We don't have a choice on this today.

14 But, I am extremely concerned about -- and I was
15 going to bring it up myself -- about the grading during the
16 rainy season. We are talking about 4.5 million cubic yards
17 of grading, literally a mountain. I do not know how you can
18 put in protective measures to prevent that from running down
19 and swamping the community's adjacent ESHAs, the adjacent
20 streams, if we should have a major rainfall. I mean, if it
21 is not major, that is one thing.

22 And, I can't make a motion, but I would certainly
23 appreciate it if somebody would make a motion, because we can
24 put in conditions to say that they cannot begin grading, or
25 do any grading during the rainy season.

1 COMMISSIONER ROSE: Right.

2 CHAIR WAN: Commissioner Desser.

3 [MOTION]

4 COMMISSIONER DESSER: I would make that motion.

5 COMMISSIONER ORR: Second.

6 COMMISSIONER DESSER: And, I also -- I mean, I am
7 sorry that I wasn't here at that hearing. It is the only
8 meeting that I have missed, so, I need a brief -- and I find
9 this a travesty. This absolutely does not belong in the
10 coastal zone. It is ridiculous in all ways, for many reasons
11 that I know were raised at that hearing.

12 But, can you explain to me why we can't -- I mean,
13 no, I don't want to rehash it, but why we can't do something
14 to protect the rare and endangered habitat? that there is
15 nothing we can do to condition this that would do that? there
16 is no conditions we can put on there? why not?

17 CHAIR WAN: Staff.

18 DEPUTY DIRECTOR DAMM: And, I don't know if legal
19 counsel is going to want to make any comments on this, maybe
20 they do. Okay.

21 CHAIR WAN: Go ahead. I'll go to legal counsel.

22 CHIEF COUNSEL FAUST: The proposed development
23 here was approved under a particular and unique provision of
24 the Coastal Act, in which in effect a specific plan, that is
25 a little bit like a cross between a planning document and a

1 permit, comes before the Commission.

2 And, the Commission -- which does these for
3 universities basically -- the Commission then approves or
4 disapproves that plan, and can modify it in various way, but
5 once it is approved, under the very specific terms of the
6 statute, you only have the ability to condition the proposed
7 development. The university then gives you a Notice of
8 Development.

9 You only are allowed to condition that
10 development. You no longer have the ability to disapprove
11 it. And, the conditions that you impose need to be
12 consistent with the certified Long Range Development Plan.

13 So, here, where the very specific issue of
14 approval of development that would cause the destruction of
15 this grassland was specifically contemplated, and
16 specifically approved by the requisite super majority of the
17 Commission, you no longer have the discretion to deny that.

18 COMMISSIONER DESSER: Okay, so let's just get it
19 very clearly on the record, that Pepperdine is going to be
20 developing this project in a sensitive habitat area, directly
21 in violation of the Coastal Act, that is just what is
22 happening here.

23 And, because we approved it for whatever reason,
24 we have no power to act on something that directly contra-
25 venes aspects of the Coastal Act.

1 CHIEF COUNSEL FAUST: As the attorney for the
2 Commission, I, obviously, disagree with a portion of what you
3 just said. A majority of the Commission has found that it is
4 consistent with the Coastal Act.

5 CHAIR WAN: No -- yes, it was --

6 COMMISSIONER DESSER: No, but if it --

7 CHAIR WAN: -- a majority.

8 COMMISSIONER DESSER: -- but, if it is consistent
9 with the Coastal Act, then that means that we ought to be
10 able to condition this so that it doesn't destroy sensitive
11 habitat areas.

12 [General Discussion]

13 CHAIR WAN: Okay.

14 COMMISSIONER DANIELS: Yes, and I just wanted to
15 state for the record, I don't think there was a determination
16 that it was ESHA.

17 [General Discussion]

18 CHAIR WAN: We have a motion on dealing with the
19 grading.

20 I am going to ask the applicant to come up. Would
21 you like to make a comment? The motion is to not permit
22 grading until after the rainy season.

23 MS. STARRETT: I am Cindy Starrett, from Latham
24 and Watkins, representing Pepperdine University.

25 We have a county condition -- and I think it is

1 consistent with the one that staff has recommended -- and it
2 is that to the maximum degree feasible, grading activities
3 will occur during the dry season.

4 The only occasion where we would ever grade during
5 the rainy season is if under the best management practices
6 that the county has approved -- and I believe that will be
7 submitted to staff, also -- we have started the grading, and
8 something has to be finished during the rainy season, because
9 it would be a worse circumstance for it to stay there
10 unfinished during the rains.

11 So, we absolutely agree. We have no intention of
12 grading during the rainy season, unless there is some very
13 particular best management practice to finish something that
14 we have already started during the dry season, and to the
15 maximum degree feasible, all grading will occur during the
16 dry season.

17 CHAIR WAN: Staff, am I correct, that generally
18 what that means is that if we put in a condition as we are
19 putting it in, I have seen other cases where if there is
20 something that they have started, and they have started, say,
21 after the rainy season, and they are in that situation, they
22 do come back and get permission to do that, is that not
23 correct?

24 DEPUTY DIRECTOR DAMM: That is correct, Madam
25 Chair.

1 Typically, what the Commission has done is require
2 that an applicant provide a grading schedule as to when the
3 grading will commence, and how long it will be ongoing so
4 that we can determine that it will be completed by the onset
5 of the rainy season.

6 There have been times where for reasons that the
7 applicant didn't anticipate the grading took longer than
8 expected, but the way you have handled it in the past, is
9 then they would come back for further Commission action.

10 I just want to add one other thing: that, in the
11 opinion of staff, the Commission does have discretion in this
12 regards, because in the certified Long Range Development
13 Plan, under the hazards policies, there is a provision that
14 says all available safety standards, regulations, and related
15 research information will be incorporated into the planning
16 and design of all new developments. So you could certainly
17 find that no grading during the rainy season is necessary
18 from a safety standard standpoint.

19 CHAIR WAN: And, for you to understand, you could
20 come back under those circumstances, if you needed. That is
21 what staff is saying. We do that routinely. So, if we put
22 this condition in, it would not preclude you from doing what
23 you are talking about.

24 MS. STARRETT: I guess our only question is what
25 we have now, is that it is to the maximum degree feasible.

1 It has to be done pursuant to a schedule. The only occasion
2 in which it could continue during the rainy season is if,
3 under the best management practices, the county determined
4 that it was safer to finish it.

5 If we were in that circumstance, our concern is
6 that we would have about a six -- we would potentially have a
7 delay before we could come back and get an amendment. So,
8 that is what we would like to insure, that we wouldn't have a
9 delay, in the event that there was a safety reason why we
10 needed to go forward.

11 COMMISSIONER ESTOLANO: Is it still questions?
12 I'm sorry.

13 CHAIR WAN: Commissioner Rose, and then
14 Commissioner Estolano.

15 COMMISSIONER ROSE: I have a question. Is there a
16 definition of rainy season?

17 MS. STARRETT: In the condition, there is, which
18 is that the dry season is normally April through October, so
19 the rainy season would be --

20 COMMISSIONER ROSE: Starting on --

21 MS. STARRETT: -- the other months.

22 COMMISSIONER ROSE: -- November 1st?

23 DEPUTY DIRECTOR DAMM: And, staff would agree with
24 that.

25 MS. STARRETT: And, again, the county grading

1 permit will also condition this.

2 COMMISSIONER ROSE: Right, well, I would like to
3 point out in Marin County it is October 15th through April
4 15th, is the rainy season -- of course, we have different
5 climate than you have in Southern California -- and we permit
6 no grading whatsoever on any project.

7 And, also, by October 15th, any projects that have
8 been begun during the summer have to winterized, and have to
9 have winterization written programs that have been authorized
10 by the department of public works, in advance of October
11 15th.

12 So, this is not at all unusual, and in fact, it is
13 a -- it is something that I know the residents of this area
14 really insist upon, because of the runoffs that can cloud
15 streams, and ruin fish habitat, as well as the very real
16 possibility of slides. We have those in this county, as
17 well.

18 So, I would really urge the Commission, especially
19 because of the history of this location, that we have a
20 strict a condition as possible for the public safety, and for
21 the environment.

22 CHAIR WAN: Thank you.

23 Commissioner Estolano.

24 COMMISSIONER ESTOLANO: I think I am prepared to
25 support the motion, but I did want to clarify, if we put in

1 that motion, and if there is an instance -- as Ms. Starrett
2 is saying -- that they would need to go in and grade to
3 ameliorate the situation, would it be through like an
4 emergency permit? I know it is not a permit, but would that
5 be an administrative action that would allow them to do that
6 on a short-term basis, rather than waiting a month or two to
7 hear from us.

8 DEPUTY DIRECTOR DAMM: In response, if it was an
9 emergency situation, yes. The more typical situation is, as
10 I said, the grading takes longer than was expected. In that
11 case, it is simply they come in for an amendment, or another
12 Notice of Impending Development, to allow for the period of
13 time to be extended. And, we have done that any number of
14 times on projects.

15 COMMISSIONER ESTOLANO: And, they would know, as
16 they are reaching the rainy season, that yeah, it is going to
17 take another two months, or whatever --

18 DEPUTY DIRECTOR DAMM: That is exactly --

19 COMMISSIONER ESTOLANO: -- then, okay, I am
20 prepared to support --

21 MS. STARRETT: Could I just speak -- I feel Philip
22 has just asked me to provide some additional, factual,
23 information, which is that the grading, itself, is going to
24 longer than six months to complete, so the schedule that we
25 will supply to the county -- and of course our county public

1 works in Los Angeles is similar to what Supervisor Rose
2 mentioned in Marin, is very strict about grading in the rainy
3 season -- we will submit a schedule in advance of when the
4 grading will occur.

5 Because we need to insure safety during the whole
6 grading process, we will, as part of that schedule -- and
7 again, this will be subject to review in advance -- possibly
8 have some circumstances where in order to complete a certain
9 area, make sure that a landslide is stabilized, the amount of
10 time may extend past that April to October season, because
11 part of the goal here, also, is to complete the grading as
12 quickly as possible, and as safely as possible, and that may
13 mean that there may need to be some activity during the rainy
14 season.

15 So, that is just why we would ask that, again, it
16 be to the maximum extent feasible, with review by staff,
17 because we have got to insure that the safety is there, and
18 to minimize any conditions that could occur. There may be
19 some circumstances where the grading needs to be completed,
20 as opposed to just leaving the hillside there.

21 CHAIR WAN: All right, thank you very much.

22 We have a motion, and a second, I believe, yes.
23 Is there anymore discussion on that motion?

24 No, this is our -- excuse me. We have to make a
25 main motion first, and then we will do an amending motion,

1 okay?

2 Can I have someone make the main motion?

3 DEPUTY DIRECTOR DAMM: And, that is on page 2 of
4 your staff report.

5 CHAIR WAN: Which is on page 2.

6 [MOTION]

7 COMMISSIONER POTTER: Yes, I move that the
8 Commission determine that the development described in the
9 Notice of Impending Development 3-99, as conditioned, is
10 consistent with the certified Pepperdine University LRDP, and
11 recommend a "Yes" vote.

12 CHAIR WAN: Do I have a "second"?

13 COMMISSIONER DETTLOFF: Second.

14 CHAIR WAN: Moved by Commissioner Potter -- who
15 was the "second"? Seconded by Commissioner Dettloff.

16 Do I have an amending motion?

17 [MOTION]

18 COMMISSIONER DESSER: The motion that I made, that
19 it be amended to limit grading to -- what did we decide?

20 CHAIR WAN: To prohibit grading during the rainy
21 season.

22 COMMISSIONER DESSER: And, do we have a -- we
23 specifically define the rainy season?

24 CHAIR WAN: Yes.

25 DEPUTY DIRECTOR DAMM: The rainy season, in this

1 case, is defined as November 1st to April 1st.

2 CHAIR WAN: Okay, I have an amending motion by
3 Commissioner Desser, seconded by Commissioner Orr.

4 Any additional discussion on the amending motion?

5 MS. STARRETT: Could I ask a question, is the
6 intent that it would prohibit grading even if that grading
7 was pre-approved by the county, and the staff, as part of the
8 original grading plan?

9 CHAIR WAN: As I understand it, yes, you would
10 have to come back to the staff, if you recognized that it was
11 going to need to extend beyond the rainy season, you would
12 have to come back to our staff, and they would have to
13 approve it.

14 DEPUTY DIRECTOR DAMM: That is correct. That is
15 staff's understanding.

16 CHAIR WAN: That is my understanding of the
17 amending motion.

18 Okay --

19 MS. STARRETT: But if staff and the county, in
20 advance --

21 CHAIR WAN: You know, I think that we've had --

22 MS. STARRETT: -- said that -- okay.

23 CHAIR WAN: -- a sufficient -- okay.

24 I have a motion, and a "second".

25 Do you want to call the roll? Do I have any

1 objections to the motion?

2 COMMISSIONER ESTOLANO: Is this the motion to
3 complete --

4 CHAIR WAN: No, this is the amending motion.

5 COMMISSIONER ESTOLANO: Okay.

6 CHAIR WAN: Do I have any objections to an
7 unanimous roll call on the amending motion?

8 [No Response]

9 Seeing none, the amending motion is approved.

10 We are now back at the main motion, which is to
11 approve the Notice of Impending Development, as amended.
12 I am going to ask you to call the roll on this one.

13 SECRETARY GOEHLER: Commissioner Daniels.

14 CHAIR WAN: The maker of the motion is
15 recommending a "Yes" vote, which would approve the Notice of
16 Impending Development.

17 COMMISSIONER DANIELS: Yes.

18 SECRETARY GOEHLER: Commissioner Desser?

19 COMMISSIONER DESSER: Yes.

20 SECRETARY GOEHLER: Commissioner Dettloff?

21 COMMISSIONER DETTLOFF: Yes.

22 SECRETARY GOEHLER: Commissioner Estolano?

23 COMMISSIONER ESTOLANO: Yes.

24 SECRETARY GOEHLER: Commissioner Flemming.

25 [No Response]

1 Commissioner Orr?
2 COMMISSIONER ORR: No.
3 SECRETARY GOEHLER: Commissioner Potter?
4 COMMISSIONER POTTER: Aye.
5 SECRETARY GOEHLER: Commissioner Rose?
6 COMMISSIONER ROSE: No.
7 SECRETARY GOEHLER: Chairman Wan?
8 CHAIR WAN: No.
9 SECRETARY GOEHLER: Five, four --
10 COMMISSIONER DESSER: Can I --
11 SECRETARY GOEHLER: -- five, three.
12 CHAIR WAN: Three.
13 COMMISSIONER DESSER: -- and, I have a question of
14 -- I mean, I sort of felt like having made that motion, I
15 needed to vote "Yes" on that motion, I think. I don't see
16 how I could do an amending motion, and not vote for the
17 motion, but -- I didn't? Well, it doesn't matter.
18 What other stuff is going to be coming before us
19 from -- are we going to see lots of -- are we going to have
20 to approve lots of permits on this project? because I don't
21 want it to just be a meaningless effort.
22 You know, what kinds of conditions are we going to
23 be able to impose? Or is it just -- or is this really -- it
24 feels ministerial, having approved their development plan,
25 and I don't -- so, I would like to know what it is like, how

1 this Pepperdine scenario is going to unfold over the next few
2 months?

3 EXECUTIVE DIRECTOR DOUGLAS: If you would like,
4 Madam Chair, I will ask Mr. Faust to quickly review again the
5 unique process that was adopted by the legislature for
6 dealing with university LRDPs, and the scope of discretion
7 that the Commission has once the LRDP --

8 COMMISSIONER DESSER: That is really my question
9 --

10 EXECUTIVE DIRECTOR DOUGLAS: -- or amendments are
11 approved --

12 COMMISSIONER DESSER: -- I guess.

13 EXECUTIVE DIRECTOR DOUGLAS: -- it is pretty
14 limited once you approve the LRDP, or an amendment to the
15 LRDP. Then, it is basically you get the notice as you have
16 here, and your conditioning of that is limited to what is
17 provided in the underlying LRDP, as I understand it, which
18 does limit your discretion.

19 COMMISSIONER DESSER: I am just -- we don't need
20 to spend a lot of time on it, but I mean --

21 COMMISSIONER ORR: Yes, let's move on.

22 COMMISSIONER DESSER: -- I am just curious as to
23 what --

24 CHAIR WAN: Okay, let's move on.

25 [Whereupon the hearing was concluded.]

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
ITURIA, CA 93001
5) 841 - 0142



May 11, 2000

TO: Dr. Andrew Benton, President
Pepperdine University

FROM: Gary Timm, District Manager
South Central Coast District

SUBJECT: **Authorization to Proceed Pursuant to Pepperdine University Long Range Development Plan (LRDP) Notice of Impending Development 3-99**

This notice is to advise you that the California Coastal Commission on December 9, 1999 determined that the following development, subject to the attached special conditions, was consistent with the certified LRDP:

The Construction of the Upper Campus Development, including:

- A 95,500 sq. ft. graduate complex including the graduate schools of business and management, public policy, and education and psychology;
- 104,000 sq. ft. of student housing (96 units);
- 100,800 sq. ft. of faculty/staff condominiums (48 units);
- 30,000 sq. ft. of faculty/staff homes (10 detached and duplex units)
- A 30,000 sq. ft. academic support facility;
- A 25,000 sq. ft. academic learning center;
- Ancillary facilities including potable water tank, reclaimed water tank, cooling plant, and 2 debris basins;
- Access roads, including a primary road 40 feet in width, a secondary road 26-30 feet wide, a 20-foot road to provide access to proposed water tanks and various other roads and driveways to provide access to the proposed residential uses;
- 1,338 parking spaces; and
- 4.5 million cu. yds. of grading (2.25 million cu. yds. cut and 2.25 million cu. yds. fill).

The seven Special Conditions to NOID 3-99 (Attached) require that the University provide evidence of the geologic consultant's review and approval of the final plans, evidence of the final Los Angeles County approval of the grading plan, the preparation, implementation and monitoring of a landscaping plan for all disturbed areas, the preparation and implementation of a polluted runoff control program, the recordation of an assumption of risk deed restriction, compliance with all mitigation measures required by Los Angeles County, and restriction of the time that grading activities may occur. Those requirements of these conditions that were necessary prior to commencement of development have now been satisfied. Therefore, the University is authorized to commence construction of the above noted development. The University shall comply with all requirements of the attached conditions during and after construction of the development.

EXHIBIT 4
Pepperdine LRDP
Request to Modify NOID 3-99
Authorization to Proceed (6 pages)

Authorized on behalf of the California Coastal Commission by:

PETER DOUGLAS
Executive Director

By: GARY TIMM
District Manager

SPECIAL CONDITIONS

1. Plans Conforming to Geologic Recommendation

All recommendations contained in the Preliminary Geotechnical Investigation of the Upper Campus Development Plan, prepared by Leighton and Associates, dated May 13, 1997 and the Geotechnical Review of Grading Plan for the Graduate Campus Project, prepared by Leighton and Associates, dated July 16, 1999 shall be incorporated into all final design and construction including grading, foundations, and drainage. All plans must be reviewed and approved by a geologic/geotechnical engineer as conforming to said recommendations. Prior to the commencement of development, the University 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 grading, foundations, and drainage.

2. Geologic/Geotechnical Review Sheets.

Prior to the commencement of development, the University shall submit, for review and approval of the Executive Director, evidence of the final approval by the Los Angeles County Department of Public Works of geologic and geotechnical review sheets for the Upper Campus Development. The final grading design approved by the County shall be in substantial conformance with the plans approved by the Commission. If changes required by the County result in development extending beyond the development envelope approved in the certified LRDP, and amendment to the LRDP shall be required, unless the Executive Director determines that no amendment is necessary.

3. Landscaping and Erosion Control.

A. Landscape Plan.

Prior to the commencement of development, the University shall submit a landscaping and erosion control plan prepared by a licensed landscape architect for review and approval by the Executive Director. The plan shall incorporate the following criteria:

- (1) All graded & disturbed areas on the subject site, including the manufactured slopes, shall be planted and maintained for erosion control and visual enhancement purposes. To minimize the need for irrigation and to screen or soften the visual impact of development 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 graded and disturbed slopes shall be stabilized with planting at the completion of final grading. Planting should be primarily 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 shall 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;

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 the submittal to the Commission of a notice of impending development describing the changes and a Commission determination of consistency with the LRDP, unless the Executive Director determines that no notice of impending development is necessary.

B. Monitoring Plan

- (1) Five years from the date of the completion of landscape installation, the University 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.
- (2) 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.

4. Runoff Pollution Prevention Program.

Prior to the commencement of development, the University shall submit for the review and approval of the Executive Director, a runoff pollution prevention program, prepared by a licensed civil engineer, designed to prevent or minimize the discharge of non-point source pollutants to surface waters, both during and after construction.

Said program shall include, but not be limited to:

- a. A Storm Water Pollution Prevention Plan, which identifies the best management practices (BMP's) for use during construction, prepared in accordance with Regional Water Quality Control Board requirements. Such BMP's would include, but not be limited to sediment basins, and filter fencing.
- b. A permanent Drainage Plan, which identifies the BMP's for use after construction. Such BMP's would include, but not be limited to physical improvements such as debris basins, catch basins, and trash racks designed to reduce sediment and debris, interceptor vaults or other oil/water separator methods to remove oil, grease and other pollutants from parking lots and roadways, as well as facilities management measures such as street sweeping programs.
- c. A comprehensive maintenance program for all approved drainage improvements and BMP's, including debris basins, catch basins, and interceptor vaults. Said program shall include details concerning the timing, frequency, and method of such maintenance, including, but not limited to, clearing of debris and sediment from debris basins, removal and disposal of trash and debris from catch basins and trash racks, and replacement and disposal of oil absorbing material.

The University shall implement the approved maintenance program such that drainage improvements and other BMP's function as designed and intended.

5. Assumption of Risk, Waiver of Liability, and Indemnity

- A. The University acknowledges and agrees (i) that the site of the development described in Notice of Impending Development 3-99 may be subject to hazards from fire, landsliding, earth movement, and erosion; (ii) to assume the risks to the University and the property that is the subject of this development of injury and damage from such hazards in connection with this development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the development against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- B. **PRIOR TO THE COMMENCEMENT OF DEVELOPMENT**, the University shall execute and record a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of this condition. The deed restriction shall include a legal description of the University's entire parcels. 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.

6. Biological Resources

The University shall comply with all mitigation measures designed to reduce impacts to biological resources as enumerated in the Upper Campus Development Final Environmental Impact Report (certified 5/25/99) and the Conditions of Approval of Conditional Use Permit No. 97-191(3), approved by Los Angeles County (5/25/99). No changes to the mitigation measures or conditions of approval shall occur without the submittal to the Commission of a notice of impending development describing the changes and a Commission determination of consistency with the LRDP, unless the Executive Director determines that no notice of impending development is necessary.

7. Timing of Construction

The University shall undertake no grading during the rainy season (November 1 – March 31). No construction activities shall extend into the rainy season without the approval of the Commission.

PEPPERDINE UNIVERSITY
GRADUATE CAMPUS PROJECT



REQUEST TO CONTINUE GRADING

Pepperdine University (the "University") began grading activities for its Graduate Campus Project site immediately following the issuance of the Coastal Commission's Notice of Impending Development No. 3-99 for the Project (the "NOID") and the subsequent authorization to proceed by Coastal staff and issuance of the grading permit by County staff. The grading has proceeded carefully, with no unforeseen events in the field. The grading efforts are currently at an important juncture with ongoing installation of drainage infrastructure. The University has been advised by its technical consultants that site stability will be greatly improved if grading efforts are not required to terminate from November 1 to March 31.

Continuing grading operations, consistent with the grading conditions imposed on other local projects, would provide a safer site than shutting down the project for five months. Further, a five-month delay would cause the site to remain open and exposed into a second rainy season – 2001-2002 – rather than being able to complete grading within a sixteen-month period. Based on the practical experience of other Southern California projects that took the proper precautions and continued grading during the rainy season, the University requests that Special Condition No. 7 of the NOID be interpreted to allow the safe continuation of grading through the rainy season.

As more fully explained below, there would be significant benefits from continuing grading operations, including:

- The large buttress for landslide 6 would be fully stabilized.
- The tie backs would be completed.
- The complete drainage system would be constructed.
- The site would not be left open to erosion and the elements for two rainy seasons, because grading would be able to be completed within 16 months rather than being continued over 26 months with two rainy season interruptions.
- The site would be seeded and further stabilized by native vegetation.
- The site would be carefully graded in accordance with the strict requirements and oversight by the County of Los Angeles.

BACKGROUND:
STATUS OF GRADING OPERATIONS

The University commenced site preparation and grading as soon as the Coastal Commission conditions were cleared and the County grading permit was issued. The University has removed debris flows from the canyons and excavated down to approved bedrock and compacted fill in the canyons in the area of the site that roughly corresponds to the large parking

EXHIBIT 5
Pepperdine LRDP
Request to Modify NOID 3-99
Request to Continue Grading

lot. The contractors have also excavated a large portion of the cut for the large buttress that will mitigate landslide 6.

As of August 31, a total of approximately 940,000 Cubic Yards (CY) of soil have been excavated and placed. Approximately 247,000 CY of soil were stockpiled in August. Counting both cut and fill, the total earthwork accomplished through August is 1.63 MCY. This equals approximately 36% of the total 4.5 MCY of grading approved for the Project. In accordance with approved plans, the University has also installed two inclinometers and four monitoring wells and nine hydraugers (used to measure groundwater).

Currently, grading operations are concentrating on excavating the slot cuts for the major buttress key and preparing for and placing layers of geogrid reinforcing material on the east side of the buttress. Segmental retaining walls for the terrace drains will simultaneously be constructed with the placement of the geogrid as the slope rises. This process of building up the buttress is labor and time intensive and will continue for several months. In order to steadily increase the resistance of the buttress to slippage, this relatively slow operation of geogrid placement, wall construction and backfill should not be stopped. Termination on November 1 would increase the risk of slippage during the winter, because the soil is most subject to slippage due to increased moisture.

ANALYSIS:

BENEFITS OF CONTINUING GRADING OPERATIONS

If operations are halted from November 1, 2000 through March 31, 2001, critical design features of the drainage system would not be in place and the site would not be protected to the optimum level. If the University is allowed to continue grading operations, there would be a net benefit from a safety and environmental perspective as described below:

1. Precedent / Best Management Practices: The University has been advised by qualified experts and in accordance with direction from the County of Los Angeles that it is safe to proceed with grading operations during the rainy season in Southern California so long as certain precautions are taken. The condition imposed on the University, which was added without prior discussion or notice, more accurately reflects normal Northern California rainy season conditions, rather than those of Southern California projects.

More typically in Southern California, projects are permitted to proceed so long as the requirements of the approved Storm Water Pollution Prevention Plan (SWPPP) and Storm Water Management Plan (Erosion Control Plan) are followed, including that sediment basins are in place to contain any run-off debris. Other coastal projects, for example, have the standard condition that states:

Should grading take place during the rainy season (November 1 – March 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site and maintained throughout the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an approved dumping location.

The County of Los Angeles agrees to allow the continued grading so long as the University complies with its SWPPP and an Erosion Control Plan that will be in place during the rainy season. The University is committed to taking every precaution and adhering to all best management practices, SWPPP requirements, and the Erosion Control Plan if allowed to continue grading. In general, such precautions include, among others:

- Construct and maintain desilting basins, sand bags, silt fences, and brush filters, among other control devices.
- Regular site inspections and on-going oversight by County of Los Angeles.
- Contain waste.
- Minimize disturbed areas.
- Stabilize disturbed areas.
- Protect slopes.
- Control site perimeter.
- Control internal erosion.

Specifically, the County has already imposed strict conditions that set forth the circumstances under which the University may grade during the rainy season, which include detailed mitigation measures. [Exhibit A: Rainy Season Mitigation]

2. Erosion Control: Each day that the project is allowed to continue into the rainy season, there would be important, incremental changes to the site that would increase erosion control. The construction of the drainage channels and bench drains would be continued to completion, providing a permanent system that would be able to control any runoff. During the rainy season, the lower pad would be used as the central debris/desilting basin for storm flow. The size and capacity of this basin have been carefully calculated to control any debris, run-off, and storm conditions. [Exhibit B: Development Progress / Debris Basin]

In addition to the completion of the debris basin, continued operations would allow for the completion of permanent storm drains. For example, at buildout there will be approximately 14,400 linear feet of buttress drains, 11,015 linear feet of terrace drains, 5,520 linear feet of brow ditch drains, and 4,105 linear feet of concrete down drains. By November 1, only approximately 1,500 linear feet of the buttress drains and 200 linear feet of terrace drains would be in place. If grading were shut down, the site would remain for months with only a portion of the drainage system in place.

3. Gross Stability: The risk of activating the landslides that are to be stabilized by the buttress would decrease daily if grading operations were allowed to continue. By November 1, the buttress key for landslide 6 will be approximately 60% completed. If allowed to continue, the entire buttress would be constructed and any necessary rock anchors would be in place by February.

The major buttress for landslide 6 must be constructed in sections using slot cuts. At least four of these slots are required. The slots are being constructed from north to south, and the first one will be complete by November 1. The others will be constructed over the next two

months by "flip-flopping" the soil from the excavation into the approved slots. If the grading is stopped November 1, the backcut for the buttress will be left in an unstable condition throughout the rainy season and slides may result. If grading is allowed to continue, the buttress fill would be higher and stronger each day, thus reducing instability and providing increased stabilization to prevent movement. As the buttress is built, the face of the slope will contain terrace drains that will control the slope face drainage. If grading is stopped, no slope face drainage control would be in place on the back cut. By allowing grading operations to continue, landslide risks would be incrementally mitigated with each month of continued grading, until 100% of the slopes are stabilized and 100% of the risk mitigated by May 2001. [Exhibit C: Risk Mitigation]

4. Timing: If the University is allowed to continue grading during the rainy season, all grading operations are anticipated to be completed by September 2001, before the beginning of the next rainy season. If the University is required to shut down the site for five months during the rainy season, however, the grading operations would continue into the next grading season, extending grading operations for another full year. If the work is required to stop and start, therefore, it would keep the site exposed for an unnecessarily longer period of time, extending any potential risks. Moreover, costs would escalate and the graduate campus academic facilities would not be able to house classes for students until the middle of the 2004 academic year, rather than by Fall 2003 as currently planned. [Exhibit D: Comparative Grading Schedules]

5. Native Vegetation: If required to temporarily stop operations during the rainy season, the University would not be able to effectively grow important native plantings. The University is required to adhere to strict landscaping requirements that specify a majority of native plants. In order to successfully grow, the native plants need to be watered by natural rain during the rainy season rather than by recycled water. There will be no irrigation systems on the manufactured slopes, as the use of the recycled water as irrigation is ineffective for successfully growing the native plants. Experience on the existing campus and professional consultants agree that native seeds germinate and thrive best when planted in contact with wet soil and watered with natural rain. If the University is allowed to continue working, it would be able to place the native seeds at the optimal time to grow the groundcover that protects the slopes. This would improve the short-term erosion control for the site, as well as the long-term landscaping goals.

CONCLUSION

The University, therefore, requests that controlled grading be allowed during the rainy season because it would be safer and more environmentally protective than interrupting the grading operations during the rainy season. The continuation of grading operations would allow the University to continue grading so long as strict BMPs, and SWPPP / Erosion Control Plan conditions are met. Grading would, of course, only continue when it is safe to do so, with the debris basin capturing any storm event.

Further, the rainy season grading condition was proposed at the hearing without prior discussion or notice. Had the condition been proposed in advance, the University would have had an opportunity to provide technical analysis of its applicability to the conditions of this location. Since the hearing, the University has been able to study the consequences of the rainy

season prohibition based on actual commencement of construction and to anticipate accurately the status of the project as of November 1. During the deliberations that took place at the hearing, the Commission acknowledged the possibility that the University would present such evidence and seek relief. The analysis performed by the University has demonstrated that it would be more beneficial from a safety and environmental perspective to complete the grading portion of the project without interruption for the rainy season.

EXHIBIT A:

RAINY SEASON MITIGATION

Graduate Campus Project Mitigation Measures imposed by the County of Los Angeles:

5.2.3-1 A stormwater pollution prevention plan (SWPPP) shall be developed prior to issuance of grading permits in accordance with Regional Water Quality Control Board requirements. The plan shall identify the best management practices (BMPs) for use during and after construction of the proposed UCD project to minimize the pollution from stormwater runoff. Such practices shall include, but not necessarily be limited to the following:

- (a) Contractors shall be required to control runoff during periods of rain in order to minimize surface water contamination during construction of the proposed UCD.
- (b) In order to intercept sediment-laden runoff generated during construction activities, and trap and retain sediment, sediment basins shall be employed within the UCD project site.
- (c) Filter fences designed to intercept and detain sediment while decreasing the velocity of runoff shall be employed within the UCD project site during construction.

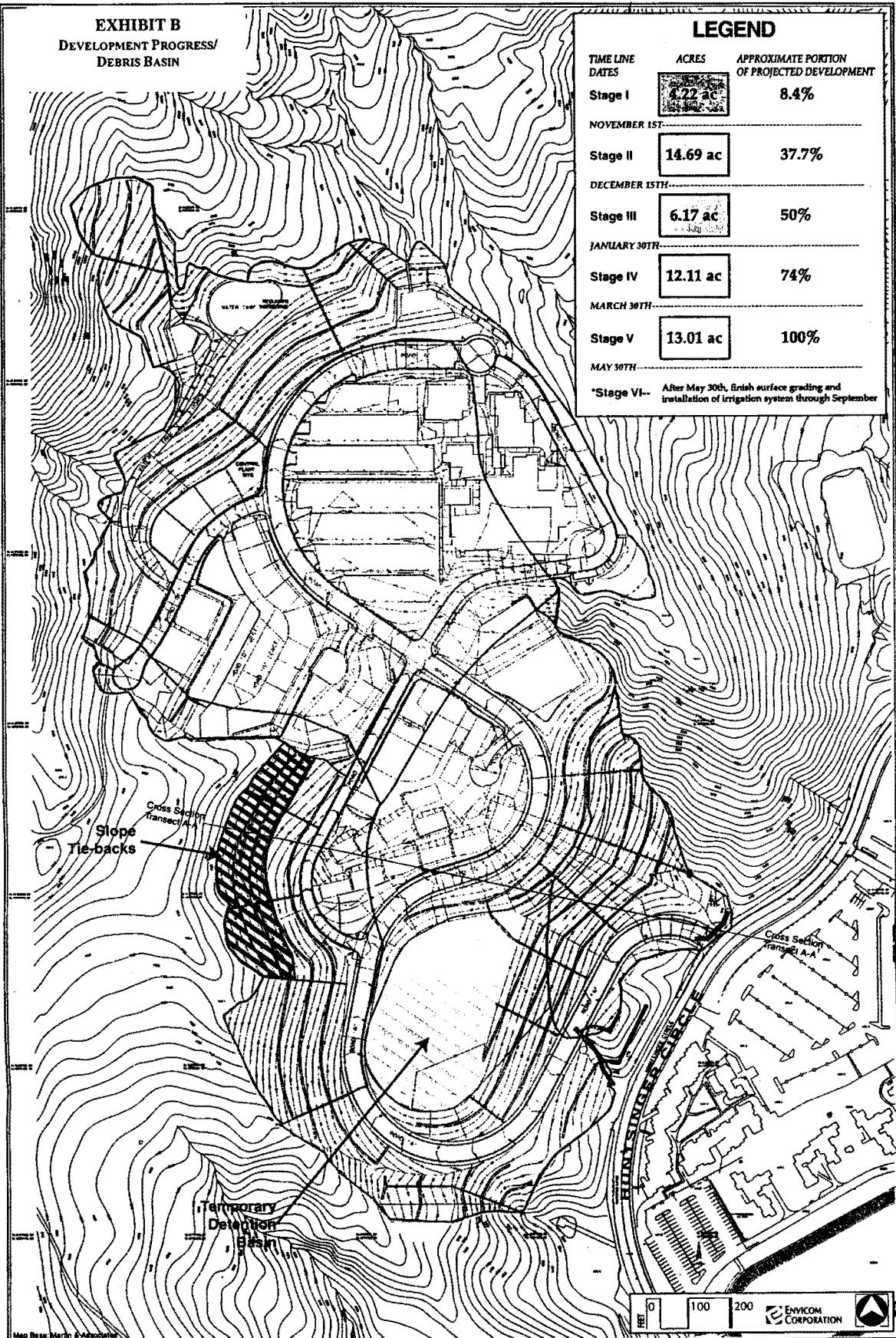
5.2.3-2 To the maximum degree feasible grading activities within the UCD site shall be planned to occur during the southern California dry season (normally April through October). Grading during the remainder of the year may continue to the extent that Best Management Practices are implemented and effective.

5.2.3-3 In order to retain soils, reduce the potential for erosion, and minimize sedimentation of adjacent waters, stabilization of cut-and-fill slopes and exposed areas after construction activities shall be accomplished through landscaping. This action shall be approved by the Department of Public Works and the Department of Regional Planning.

EXHIBIT B
**DEVELOPMENT PROGRESS/
 DEBRIS BASIN**

LEGEND

TIME LINE DATES	ACRES	APPROXIMATE PORTION OF PROJECTED DEVELOPMENT
Stage I	4.72 ac	8.4%
NOVEMBER 1ST		
Stage II	14.69 ac	37.7%
DECEMBER 15TH		
Stage III	6.17 ac	50%
JANUARY 30TH		
Stage IV	12.11 ac	74%
MARCH 30TH		
Stage V	13.01 ac	100%
MAY 30TH		
*Stage VI-	After May 30th, finish surface grading and installation of irrigation system through September	



Development Progress in Site Grading, Erosion Control, and Slope Stabilization

Potential Slope Instability Risk Mitigation

EXHIBIT C
RISK MITIGATION

IDENTIFIED SLOPE INSTABILITY RISK MITIGATED

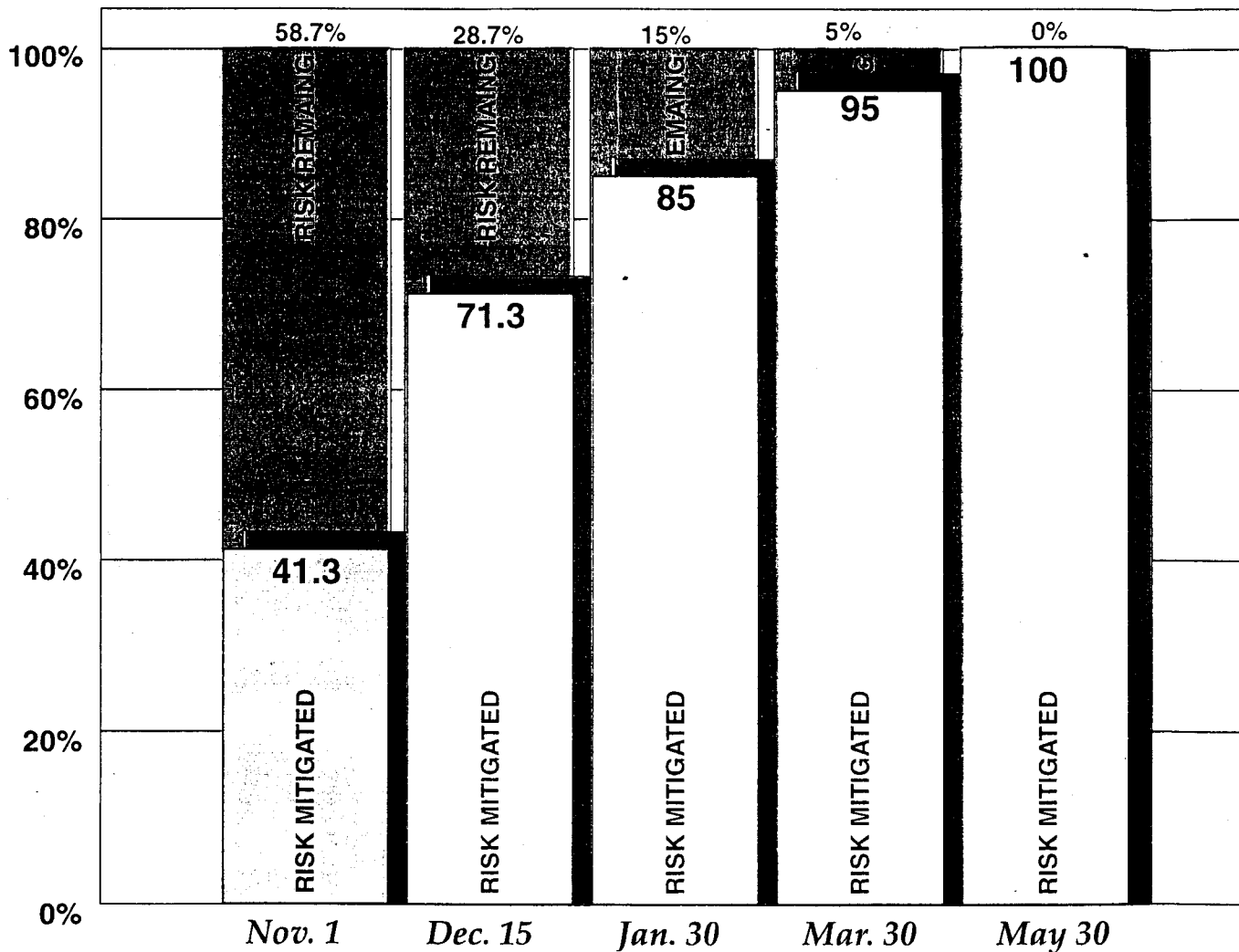
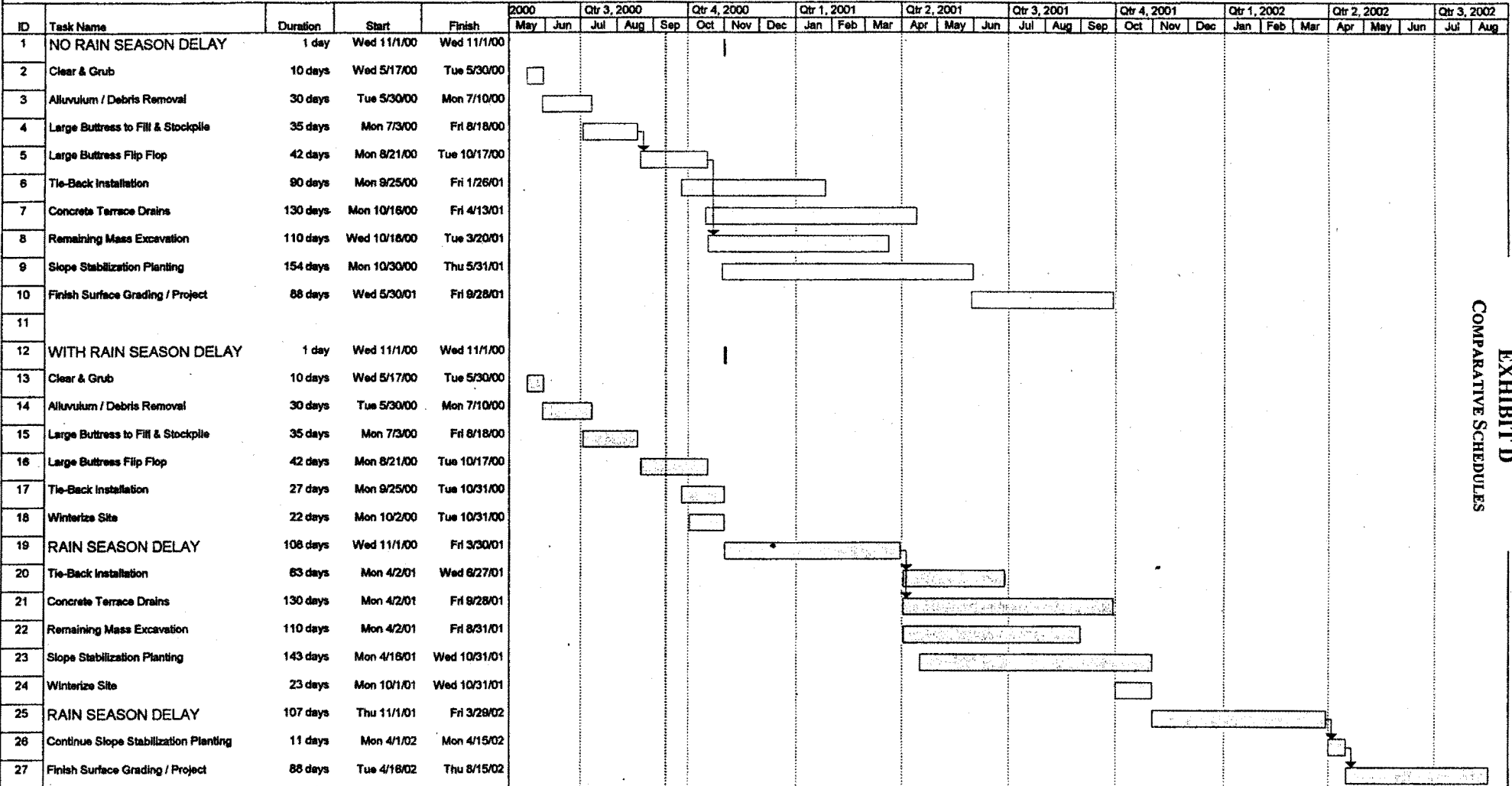


EXHIBIT 6
Pepperdine LRDP
Request to Modify NOID 3-99
Risk Mitigation Chart

**PEPPERDINE UNIVERSITY GRADUATE CAMPUS PROJECT
RAIN SEASON COMPARISON**



**EXHIBIT D
COMPARATIVE SCHEDULES**

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EXHIBIT 7
Pepperdine LRDP
Request to Modify NOID 3-99
Comparative Grading Schedules