

CALIFORNIA COASTAL COMMISSION

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Hearing Date: 11/16/00
Commission Action

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-99-029

APPLICANT: James & Lynn Cornfield; Steven Besbeck; and Edmond & Andrea Papazian

PROJECT LOCATION: 25771, 25769, and 25773 Vista Verde Drive, Calabasas, County of Los Angeles

PROJECT DESCRIPTION: Merger and redivision of four existing parcels into three parcels, (each containing an existing single family residence), including applicants' offer to dedicate an easement for a hiking/equestrian trail that connects to the Calabasas/Cold Creek Trail north/northwest of the subject acreage.

LOCAL APPROVALS RECEIVED: Los Angeles County Regional Planning Approval in Concept for Lot Line Adjustment, Tentative Lot Line Adjustment Map No. 101654, dated July 22, 1999.

SUBSTANTIVE FILE DOCUMENTS: Certified Malibu/Santa Monica Mountains Land Use Plan (LUP).

PROCEDURAL NOTE: The 180 day deadline for Commission action has already been extended by 90 days, thus no further extensions may be granted and the Commission must take action at the November, 2000 hearing.

EXECUTIVE SUMMARY

Staff recommends approval of the proposed project with a special condition to implement the applicants' offer to dedicate a trail easement. (continued)

Redivision of four lots into three:

The proposed project redivides four parcels into three. Currently, a jointly owned, undeveloped 40-acre parcel adjoins three contiguous small lots (each approximately ½-acre in size), and each developed with an existing single family residence. The applicants propose to merge the 40-acre lot with the three small lots and then redivide the lots to distribute portions of the extinguished 40-acre parcel among the three resultant lots. The final result will be three developed parcels ranging in size from ten to twenty acres each.

The applicants' initially proposed to redivide the lots from four lots to four reconfigured lots, leaving a relatively small, remainder fourth parcel. However, rather than investigate geology, drainage, grading, sensitive habitat, fire department approval, etc., and obtain a Conditional Use Permit for such a lot redivision, as required by Commission staff and by County ordinances, the applicants instead decided to absorb the 40-acre parcel entirely into the three existing, contiguous individual lots containing their own residences. They accomplished this through a tentative lot line adjustment conceptually approved by Los Angeles County Department of Regional Planning. The applicants have informed Commission staff that they do not plan to further divide any of the resultant three parcels in the future, but to the contrary purchased the 40-acre parcel among them to prevent additional development adjacent to their properties.

The applicants have been advised by staff that further division of the three resultant parcels would be unlikely to receive favorable review from the Commission or a successor agency for reasons described more fully in this summary and in the findings of the staff report.¹

Further divisions of resultant parcels unlikely

Further division of any of the three resultant parcels is unlikely to receive favorable Commission review for the following reasons: The certified Malibu/Santa Monica

¹ Commission staff recently determined that the owners of other, nearby properties have undertaken lot line adjustments and lot splits without benefit of coastal development permits during the past fifteen years, and that in some cases these actions were recognized by Los Angeles County through the issuance of Certificates of Compliance (in one case as recently as two months ago). However, County action on development does not substitute for a coastal development permit. Moreover, favorable County action (often taken at an administrative level only) does not necessarily imply that the same development will receive favorable Coastal Commission review when evaluated in light of the applicable policies of the Coastal Act, or with the guidance of the certified LUP (which the Commission has relied on in the past in considering permit requests).

Mountains Land Use Plan (LUP) Map designates the lands comprising the 40-acre parcel that will be absorbed into three redivided parcels as a mixture of Mountain Land—density: 1 du/20 acres; Rural Land I—density: 1 du/10 acres; and Rural Land II—density: 1 du/5 acres. The land use designations of the three small, existing residential parcels is Residential I—density: 1 du/acre. Each of the three parcels is less than one acre. Thus, although a simple interpretation of the land use densities alone may appear to suggest that further division of the subject parcels is possible, an overriding constraint upon further division of the subject parcels exists: The subject lands are located within the Malibu-Cold Creek Resource Management Area, which is shown on the Sensitive Resource Maps of the certified LUP. The certified LUP contains specific policies that are applicable to lands in the Malibu-Cold Creek Resource Management Area, and these policies control the interpretation of the further divisibility of any lands so situated. For these reasons, a more accurate analysis of the policies controlling the future divisibility of the subject lands indicates that further division of the resultant parcels would likely not be authorized because of the restrictions in Table 1 of the certified LUP for the Malibu-Cold Creek Resource Management Area. The applicable policy states: (Table 1, page 5, certified Malibu/Santa Monica Mountains LUP):

...for parcels less than 20 acres, buildout at existing parcel cuts (buildout of parcels of record) at 1 unit/parcel in accordance with specified standards and policies and subject to review by the Environmental Review Board.

for parcels greater than 20 acres, land divisions are allowable, but not below 20 acres per parcel.

Thus, two of the resultant lots will be less than twenty acres each, and could not be further divided according to this policy, and the third resultant lot, which would be slightly more than 20 acres, but could not be further divided according to this policy because one or both of the parcels resulting from further division would be less than twenty acres in size, rendering the proposed action inconsistent with the applicable policies of Table 1.

The Coastal Act defines any land division as development. Therefore any future proposal to further divide parcels resulting from Coastal Development Permit 4-99-029 would require a new coastal development permit from the Coastal Commission or its successor agency. In addition to consideration of the Table 1 policies cited above, further division of any of the three resultant parcels would raise a number of potential impacts to coastal resources under the Chapter 3 policies of the Coastal Act. Among these considerations are: the steep topographic relief of much of the subject lands, geologic stability, the extent of landform alteration required to construct the necessary additional roads and pads, the potential destruction of habitat and further encroachment into native habitat of fuel modification and brush clearance impacts, constrained infrastructure availability, restrictions on the kind and extent of development allowable within or adjacent to an ESHA, and increased

wildfire and geologic hazards in a remote area already subject to extreme hazard from these sources, among others. These considerations, even without the difficulties raised by the Table 1 land division restrictions applicable in the Resource Management Area, give rise to additional constraints on potential approval of such land divisions under the applicable policies of Chapter 3 of the Coastal Act (upon which the Table 1 policies were based at the time of Commission certification of the Malibu/Santa Monica Mountains Land Use Plan).

In addition, two of the small parcels and a portion of the 40-acre parcel are also located within Environmentally Sensitive Habitat Areas (significant oak woodlands and savannas) mapped in the LUP. Lands lying within designated ESHAS are subject to even more significant restrictions on allowable new development of such lands under both the LUP policies and the applicable policies of the Coastal Act.

In the course of the County review of an application for such a subdivision, review by the Los Angeles County Fire Department, would also be required. The Los Angeles County Fire Department has indicated that further land divisions in the Santa Monica Mountains subject to the cited constraints, including the use of substandard, narrow, bridged, or one-way access routes in remote, rural areas, are unlikely to comply with the County's ordinances. Access to the subject parcels is via remote, substandard roadways and bridges winding through portions of a small lot subdivision. Thus, the Fire Department's concerns would be relevant to further divisions of the subject parcels.

For all of these reasons, it appears unlikely that further division of any of the subject parcels would receive favorable consideration from the County or Coastal Commission in the future. As previously noted, however, Commission staff has learned that Los Angeles County has (through administrative review and action) recognized land divisions undertaken without the benefit of the required coastal development permits since the effective date of the Coastal Act. According to County staff, the County has recognized land divisions undertaken without the necessary approvals, such as conditional use permits or coastal development permits, by issuing Certificates of Compliance when applicants claim to be the unknowing purchasers of lands that the applicants claim to have believed were legal lots. This practice is the subject of an ongoing, internal County review according to County staff. Staff notes that the applicants and successor interests should be aware that no further division of the subject parcels will be legally valid or binding unless approved pursuant to a coastal development permit, and for the reasons explained herein, that such favorable consideration of a coastal development permit application for any further division of the three resultant parcels authorized by Coastal Development Permit 4-99-029 is unlikely.

Offer to Dedicate Trail Easements

In addition, a well used portion of the main Calabasas/Cold Creek Trail, and a connector trail to the main trail, traverse a portion of the easternmost of the three resultant lots (the Besbeck lot). To eliminate the need for significant staff analysis of the history of use of these trails, and thus to ensure that the lot line adjustment is consistent with the Coastal Act policies concerning coastal access and recreation, the applicants have acknowledged the existence of the trail corridor and offered to dedicate public access easements to all or a portion of the main and connector trail, as part of the proposed project description. Special Condition 1 ensures the implementation of the applicants' offer, and requires the recordation of the offers and specified supporting documents prior to the issuance of the coastal development permit. Through the applicants' acknowledgement of the presence of actively used trail corridors within the subject lands, and through the applicants' offer to dedicate public access easements to these corridors--formalized through the imposition of Special Condition 1--further staff analysis of the potential impacts of the lot line adjustment on coastal recreation and access has been rendered unnecessary.

I. STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit 4-99-029 pursuant to the staff recommendation.*

The staff recommends that the Commission adopt the following resolution:

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible

mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

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

4. **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.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Trail Dedication

In order to implement the applicants' proposal of an offer to dedicate a public access hiking and equestrian trail easement, twenty feet in width, as part of this project, the applicants as landowners agree to complete the following prior to the issuance of Coastal Development Permit 4-99-029:

- (a) The applicants, as landowners, shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director, all or part, at the accepting agency's or association's discretion, of the easement described as Attachment A, for public access for hiking, equestrian, and passive recreational uses. The document shall provide that the offer of dedication shall not be used or construed by anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use that may exist on

the property. The offer shall provide the public the right to pass and re-pass over the dedicated route.

- (b) The document shall be recorded free of prior encumbrances, except for tax liens, that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees of the applicants or future landowners, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include a copy of the revised Line Adjustment Map No. 101654, showing the subject trail easement offered herein, and the legal description of the trail easement set forth in Attachment A. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description.

The applicants propose to redivide and merge four existing parcels, totaling approximately 42 acres, into three newly configured parcels at 25771, 25769, and 25773 Vista Verde Drive, Calabasas, County of Los Angeles. Each of the three resultant parcels contains one of the single family residences owned and occupied by the applicants. Thus, under current zoning, the resultant parcels would not be eligible for the development of additional residences.

Two resultant parcels will contain approximately ten acres each, and the third parcel will contain slightly more than twenty acres. Exhibits 2 through 5 show the existing and proposed parcel configurations. Comparison of these exhibits shows that the effect of the proposed project would be to divide the 40-acre parcel among the three existing small lots, with the result that no undeveloped lots would remain after the redivision. The potential for the construction of an additional residence on the 40-acre lot will be eliminated as the result of the proposed land redivision.

The subject lands are located just north of the Monte Nido small lot subdivision, at the terminus of Vista Verde Drive, in the unincorporated Los Angeles County area of Calabasas. A portion of the Calabasas/Cold Creek Trail (mapped on the certified Malibu/Santa Monica Mountains Land Use Plan Trail Maps) traverses a corner of the upper, and easternmost, quadrant of the existing 40-acre parcel. This portion of the Calabasas/Cold Creek Trail (shown also in Exhibit 4), and a portion of a locally-used connector trail to the main trailway, are shown on the surveyed description of the applicants' proposed offer to dedicate a trail easement, contained in Attachment A. The proposed project description includes the applicants' offer to dedicate a twenty

ft. wide hiking/equestrian trail easement for these trails, which is implemented through Special Condition 1.

Existing Parcel Configuration

As illustrated on Exhibit 4, the existing configuration consists of three small, residentially developed parcels, each less than one acre in size, located adjacent to, and each sharing a common boundary with, an undeveloped 40-acre parcel north of the residential parcels. All three residences take access off Vista Verde Drive; a dead-end, paved rural street. There is no secondary access route to the subject parcels. The table shown below sets forth the existing parcel ownerships and sizes.

OWNER NAME	APPROX. SIZE	APN	EXIST. DEVELOPMENT
Papazian 25773 Vista Verde Drive	0.53 acres LUP: 1 du/acre	4456-35-6	Single Family Residence
Cornfield 25771 Vista Verde Drive	0.46 acres LUP: 1 du/acre	4456-35-7	Single Family Residence
Besbeck 25769 Vista Verde Drive	0.69 acres LUP: 1 du/acre	4456-35-41	Single Family Residence
Papazian, Corn- field, & Besbeck	40.55 acres LUP:	4456-10-11	Undeveloped

Proposed Configuration

The proposed redivision would result in the creation of three reconfigured lots including a 20.80-acre lot (Papazian), and two 10+-acre parcels (Cornfield, Besbeck). The following table sets forth the redivided parcel sizes and ownerships.

OWNER NAME	APPROX. SIZE	EXIST. DEVELOPMENT
Papazian	20.80 acres	Single Family Residence
Cornfield	10.60 acres	Single Family Residence
Besbeck	10.83 acres	Single Family Residence

The applicants originally proposed to redivide the subject acreage in such a manner that a fourth, remainder lot would result in the portion of what is presently proposed to comprise the Papazian 20+-acre parcel (Exhibit 5). Commission staff expressed concern regarding lack of road access, lack of development clustering potential, potential pad location, landform alteration due to the steep slopes on site (according to information submitted by the applicants, 17.55 acres of the 40-acre parcel contain slopes greater than 50 percent, and an additional 18.75 acres contain slopes between 25 percent and 50 percent), intensified fire hazard in a remote rural location,

and difficult access for emergency response vehicles. In addition, staff required the applicants to obtain a written confirmation from the County that no conditional use permit would be required for the land division.

In response, the applicants revised the proposed project to eliminate the remainder fourth parcel rather than undertake the necessary review required by staff for filing. In addition, the County eventually responded that the proposed land redivision, characterized by the County as a lot line adjustment, despite involving the triggering number of lot lines to require a conditional use permit under the County's ordinances, passed a lot steepness analysis that allowed the County to process the application as a lot line adjustment without a CUP. Thus, the applicants did not obtain a conditional use permit, and the proposal has since been processed as Tentative Lot Line Adjustment Map No. 101654, approved in concept by the Los Angeles County Department of Regional Planning, July 22, 1999. Because the County elected not to require a CUP, the proposed redivision has not been reviewed by other County authorities such as the Los Angeles County Fire Department.

As noted in the staff summary, the biggest obstacle to further divisions of the resultant three parcels in the future arises from the inclusion of the affected lands in the Malibu/Cold Creek Resource Management Area, and the additional inclusion of some portions of the resultant parcels within the boundaries of mapped Environmentally Sensitive Resource Areas (ESHAs). The Commission has relied in the past on the policies of the certified Malibu/Santa Monica Mountains Land Use Plan for guidance in the review of proposed development in the Santa Monica Mountains. The certified LUP contains specific policies restricting the further division of lands located within the Malibu/Cold Creek Resource Management Area. These policies, set forth on Page 5 of Table 1 of the certified LUP state that lots of less than 20 acres within the Resource Management Area may only be developed at existing parcel cuts, and lots larger than 20 acres may only be divided if no resultant lot would be less than 20 acres in size. None of the three resultant lots that would be created by the redivision proposed in the pending application would qualify for further division under this policy.

In addition, the Los Angeles County Fire Department ordinarily reviews applications for land divisions submitted to the County (but is not included in the review of such land divisions when the County approves them through the issuance of a Certificate of Compliance). The Fire Department has informed staff that further lot divisions in remote rural areas where emergency fire access routes are highly constrained would be unlikely to receive fire department approval. In light of this, the Commission would be unlikely to find a proposal that did not receive favorable fire department review (whether undertaken formally through use permit review or informally at the request of Commission staff when a Certificate of Compliance is issued) to be consistent with the pertinent requirements of Chapter 30253 of the Coastal Act (hazards).

Pursuant to the present proposal, Commission staff has determined that access to the subject parcels presently requires crossing at least one potentially substandard width wooden bridge on the overall route to Vista Verde Drive, among other potential constraints cited by the Fire Department. In addition, in light of the overall steepness of the lots, the constraints on access, the significant landform alteration required to develop additional lots in this area, and the impacts to habitat and sensitive resources within the mapped ESHAs and the Resource Management Area, further division of the redivided parcels appears unlikely to receive favorable review under the County's ordinances or by the Coastal Commission or successor agency under the policies of Chapter 3 of the Coastal Act.

**B. New Development/Land Use Densities and Overlay Categories;
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 Malibu/Santa Monica Mountains Land Use Plan (LUP) contains the following policies regarding land divisions and new development which are applicable to the proposed development. The LUP policies cited below have been found to be consistent with the Coastal Act and the Commission has relied on these policies for guidance in past permit decisions. 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 presents a base land use designation for all properties... 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.

Table 1 Policies provide that, in the Malibu/Cold Creek Resource Management Area:

...for parcels less than 20 acres, buildout at existing parcel cuts (buildout of parcels of record) at 1 unit/parcel in accordance with specified standards and policies and subject to review by the Environmental Review Board.

for parcels greater than 20 acres, land divisions are allowable, but not below 20 acres per parcel.

Policy 273(d) provides that:

All land divisions shall be considered to be a conditional use.

The Coastal Act requires that new development, including land divisions, be permitted within, contiguous, 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.

In past permit actions, the Commission has found that for Malibu and the Santa Monica Mountains, the coastal terrace area represents the existing developed area. The Commission has repeatedly emphasized, in past permit decisions, the need to address the cumulative impacts of new development in the Malibu/Santa Monica Mountains coastal zone. 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 can minimize landform alteration and other visual impacts, and impacts to environmentally sensitive habitat areas. Finally, the Commission has required that all new or reconfigured lots have adequate public services, including road, bridge, and driveway access that meets the requirements of the Fire Department.

The Commission has considered several projects which the applicants and the County treated as "lot line adjustments" which actually resulted in major reconfiguration of lot lines amongst several lots [4-96-28 (Harberger, et. al.) 4-96-

150 (Rein, et. al.), 4-96-189 (Flinkman), 4-96-187 (Sohal)]. In these cases, the Commission has considered the proposed projects to actually be "redivisions" whereby existing property boundary lines are significantly modified to redivide the project site into the same number or fewer wholly reconfigured lots. The Commission has analyzed these proposals just as it analyzes a new subdivision of lots. The Commission has only permitted such redivisions where adequate fire access and other public services are available and where the resultant lots could be developed minimizing impacts to coastal resources.

As noted in the project description, the proposed project involves the redivision of four existing lots into three reconfigured lots. As such, the project would result in the reduction of lots by one and a reduction in overall density across the project site. Currently, three of the four existing parcels are developed with existing single family residences. Under the applicants' proposed redivision to absorb the 40-acre parcel into the three residentially developed parcels, the potential for further development is reduced.

Although the certified LUP provides standards for density and intensity of development, the Commission must also review land divisions for consistency with the Coastal Act. The proposed project site is located outside of the coastal terrace area that the Commission has previously found constitutes the existing developed area for the Malibu/Santa Monica Mountains. As such, the provisions of §30250(a) apply. Staff has determined that the proposed redivision is consistent with the average lot size and 50% development of useable parcels criteria of Section 30250(a) of the Coastal Act. As shown on Exhibits 2 through 6, the lots in the surrounding area vary greatly in size, with relatively small parcels south of the applicants' parcels, and larger, isolated parcels to the north. The proposed size of the three resultant, redivided parcels is larger than the typical residential lots south of the subject acreage and the parcels are therefore consistent with lots in the surrounding area. As such, the proposed redivision would be consistent with these two provisions of §30250(a).

As noted previously, the proposed redivision will result in the reconfiguration of four existing parcels into three new lots. Each of the three proposed lots is already developed and has access from surface streets and driveways that have already been constructed. The access to the subject area is via the typically narrow, winding roads and substandard bridges common in the Monte Nido small lot subdivision area. According to the Los Angeles County Fire Department, these access conditions border on being inadequate to serve the existing legal lots developed in these areas, and would likely result in an unfavorable review by the Fire Department of any proposal to create additional lots that would be served by the same access routes and subject to the same limitations. Thus, future additional lots proposed through the division of the resultant lots subject to the present application are unlikely to receive Fire Department approval – a necessary prerequisite to future Commission (or local government) consideration of such proposals. For this and other reasons discussed

herein, the applicants should note that if they or successor interests ever contemplate further division of the subject parcel(s), such future proposal(s) would not be likely to receive favorable review by Los Angeles County or by the Coastal Commission.

Because the applicants' proposal extinguishes the development rights associated with the separate, legal 40-acre lot proposed for redivision herein, and additionally in consideration of the fact that the three resultant parcels are already developed and therefore are ineligible for the construction of additional residences, the net effect of the applicants' proposal is to reduce the potential density of development in this area.

The most important factor constraining any future, further division of the resultant three parcels is the location of the subject lands within the Malibu-Cold Creek Resource Management Area, as designated by the certified Malibu/Santa Monica Mountains LUP Maps. The certified LUP contains specific policies applicable to lands in the Malibu-Cold Creek Resource Management Area. These policies indicate that further division of the resultant parcels would likely not be authorized due to the sizes of the resultant parcels created by the subject redivision. The applicable policy states that residential uses may only be allowed according to the following standard (Table 1, page 5, certified Malibu/Santa Monica Mountains LUP):

...for parcels less than 20 acres, buildout at existing parcel cuts (buildout of parcels of record) at 1 unit/parcel in accordance with specified standards and policies and subject to review by the Environmental Review Board.

for parcels greater than 20 acres, land divisions are allowable, but not below 20 acres per parcel.

Thus, two of the resultant lots (Cornfield and Besbeck) will be less than twenty acres each, and could not be further divided according to this policy. The third resultant lot (Papazian), will be slightly more than 20 acres in size, but could not be further divided according to this policy because one or both of the parcels resulting from any further division would be less than twenty acres in size, rendering such a proposed division inconsistent with applicable Table 1 policies.

Although the present applicants indicate that they will not seek additional land divisions of any of the three resultant lots in the future, it is possible that successor interests may seek such divisions unaware of the history of the present Commission action, or of the limits placed on such further divisions by Table 1 of the certified LUP. As noted in the Executive Summary, staff has recently discovered that Los Angeles County is allowing the recordation of unpermitted legal descriptions of parcels that are eventually recognized by the County through the issuance of Certificates of Compliance pursuant to the County's own interpretation of the Subdivision Map Act. Notwithstanding whatever action on unauthorized land

divisions that the County may take, the Commission notes that no such actions are legally valid or binding until or unless authorized pursuant to an approved coastal development permit. The Commission further notes that such approval is unlikely for the reasons discussed herein.

In addition, and as discussed in the next section, a well used trail corridor traverses the Besbeck portion of the redivided lands. This corridor is part of the mapped Calabasas/Cold Creek Trail and there is evidence of significant, long standing use of the main trail corridor. The Los Angeles County Department of Parks and Recreation has expressed interest in accepting an offer to dedicate the trail easement according to the applicants. The applicants do not dispute the existence of the trail and acknowledge that foreclosing the use of the well worn trail corridor could adversely affect coastal access and recreation. To reduce the requirement of extensive staff analysis of the potential impacts of the proposed redivision on the trail corridor, the applicants the applicants have included an offer to dedicate a public access easement to an existing hiking/equestrian trail that traverses the subject acreage. Special Condition One, if fully implemented, will ensure that the subject trail is mapped, and the offer to dedicate the necessary trail easement recorded, thereby protecting public access to this portion of the Calabasas/Cold Creek Trail system.

Therefore, for all of the reasons set forth above, the Commission finds that, as conditioned to reduce the potential individual and cumulative impacts of the proposed project, the project is consistent with Section 30250(a) of the Coastal Act.

C. Coastal Access and Recreation/Trails.

The Coastal Act protects and encourages maximum public access and recreational opportunities within the coastal zone.

Coastal Act Section 30210 states:

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

Coastal Act Section 30212.5 states:

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

Coastal Act Section 30213 states:

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

Coastal Act Section 30223 states:

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

Coastal Act sections 30210, 30212.5, and 30223 mandate that maximum public access and recreational opportunities be provided for the public use and enjoyment of coastal resources and that development not interfere with the public's right to access the coast. Section 30213 mandates that lower cost visitor and recreational facilities, such as public hiking and equestrian trails, shall be protected, encouraged, and where feasible provided.

The Commission staff, in reviewing the applicants' proposal, contacted the staff of the Los Angeles County Department of Parks and Recreation to inquire about the apparent existence of established trails on the subject site. The County staff determined that the subject 40-acre parcel proposed for redivision in this permit application contains a prominent link to the Calabasas/Cold Creek Trail and that a portion of that trail that had already been accepted by the County as a dedicated easement terminates at the easternmost boundary of the subject parcel (that is, that portion of a dedicated easement to the trail accepted and maintained by the County terminated at the boundary, but the trail continued as is evidenced by the photographic evidence of the trail footprint in the Commission files.)

In addition, neighborhood residents contacted Commission staff and presented photographic and videotaped evidence that such a trail clearly exists on the subject acreage, and that the trail shows evidence of significant wear, further demonstrating frequent use of the trail.

The applicants initially claimed that no public trails traversed the subject parcels, but revised their position in light of the additional evidence that such a trail clearly exists. The applicants thereafter amended the project description to include an offer to dedicate a 20 ft. wide public access easement for hiking, equestrian use, shown in Attachment A, and passive recreation along the route where use of the trail has traditionally existed. By amending the project description, the applicants have forestalled the more detailed analysis of trail use patterns and connections that might otherwise have been undertaken by Commission staff and have additionally provided mitigation of any adverse effects upon public coastal access and recreation that might otherwise have arisen from the proposed lot redivision. In order to implement the mitigation of potential impacts to coastal access and recreation which the

applicants have acknowledged and addressed through their offer to dedicate a 20 ft. wide public access easement to the main and connector trail portions that traverse the subject parcel, Special Condition 1 requires a deed restriction formalizing the applicants' offer. Special Condition 1 shall not be construed to interfere with any rights of public access acquired through use that may exist on the subject property.

The Commission finds that for all of the reasons set forth above, that as conditioned, the proposed project is consistent with the policies set forth in Sections 30210, 30212.5, and 30223 of the Coastal Act.

D. Local Coastal Program.

Section 30604 of the Coastal Act states, in part, that:

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

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

E. California Environmental Quality Act.

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures

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

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

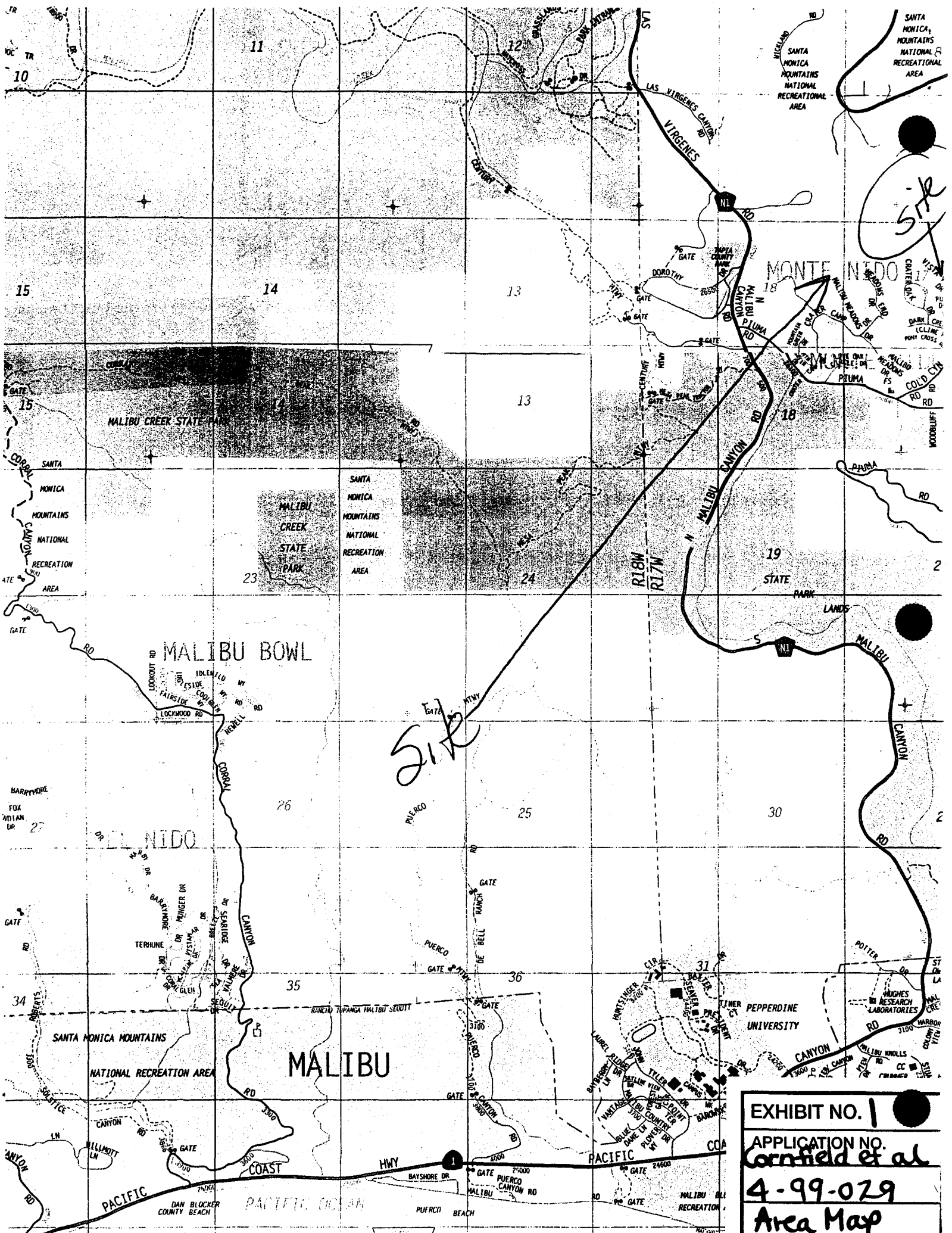


EXHIBIT NO. 1
APPLICATION NO.
Cornfield et al
4-99-029
Area Map

4456 - 55

TRACT NO. 28790

M. B. 840 - 12 - 13

EDENWILD TRACT

M. B. 30 - 44 - 45

TRACT NO. 29384

M. B. 788 - 73 - 74

TRACT NO. 29448

M. B. 788 - 71 - 72

TRACT NO. 27553

M. B. 822 - 94



FOR PREV. ASSM'T. SEE: 4456-35

(340 acres)
3 small parcels

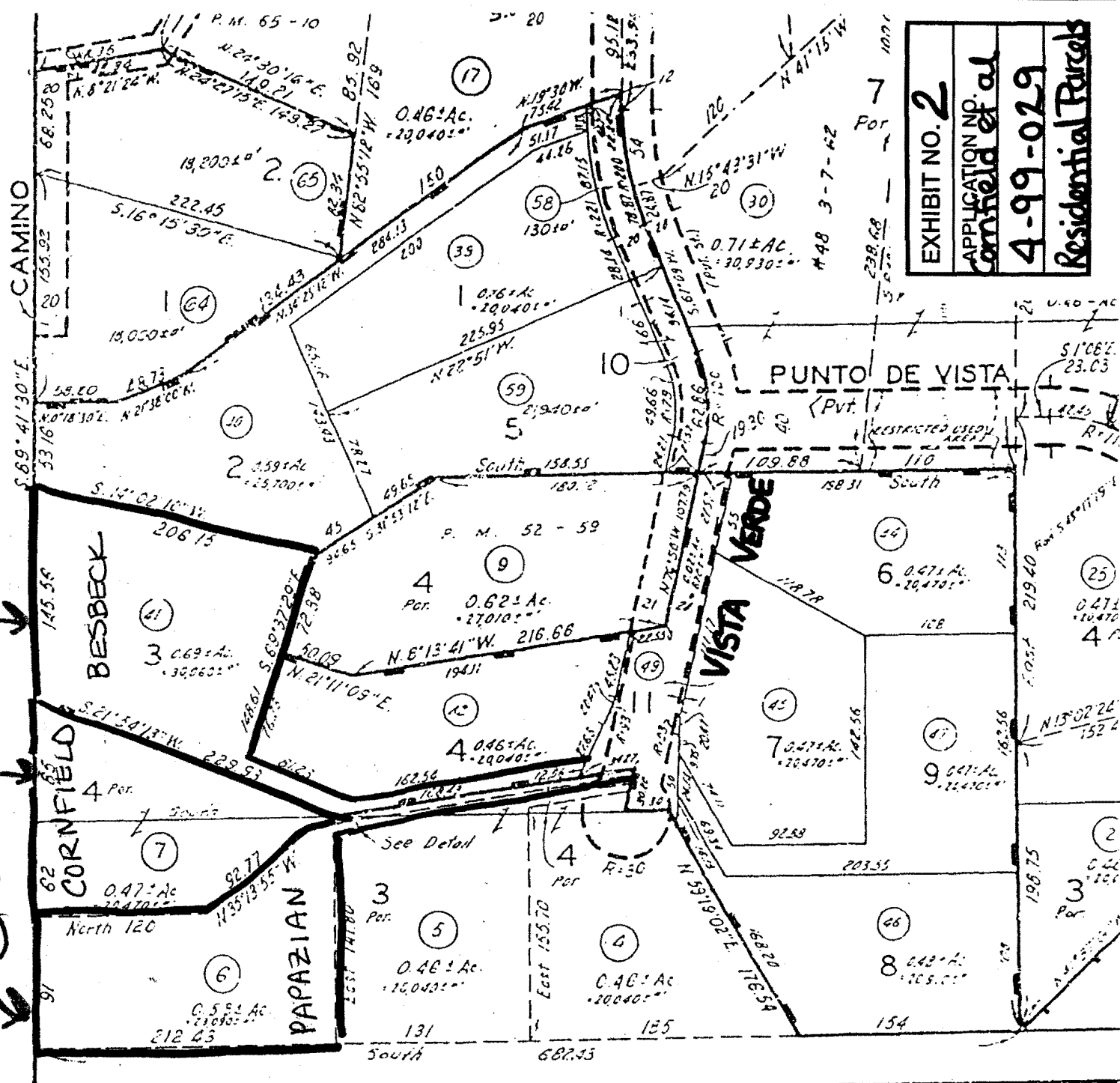


EXHIBIT NO. 2
APPLICATION NO. **Cornfield et al**
4-99-029
Residential Parcels

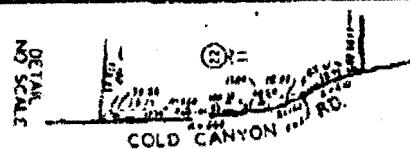
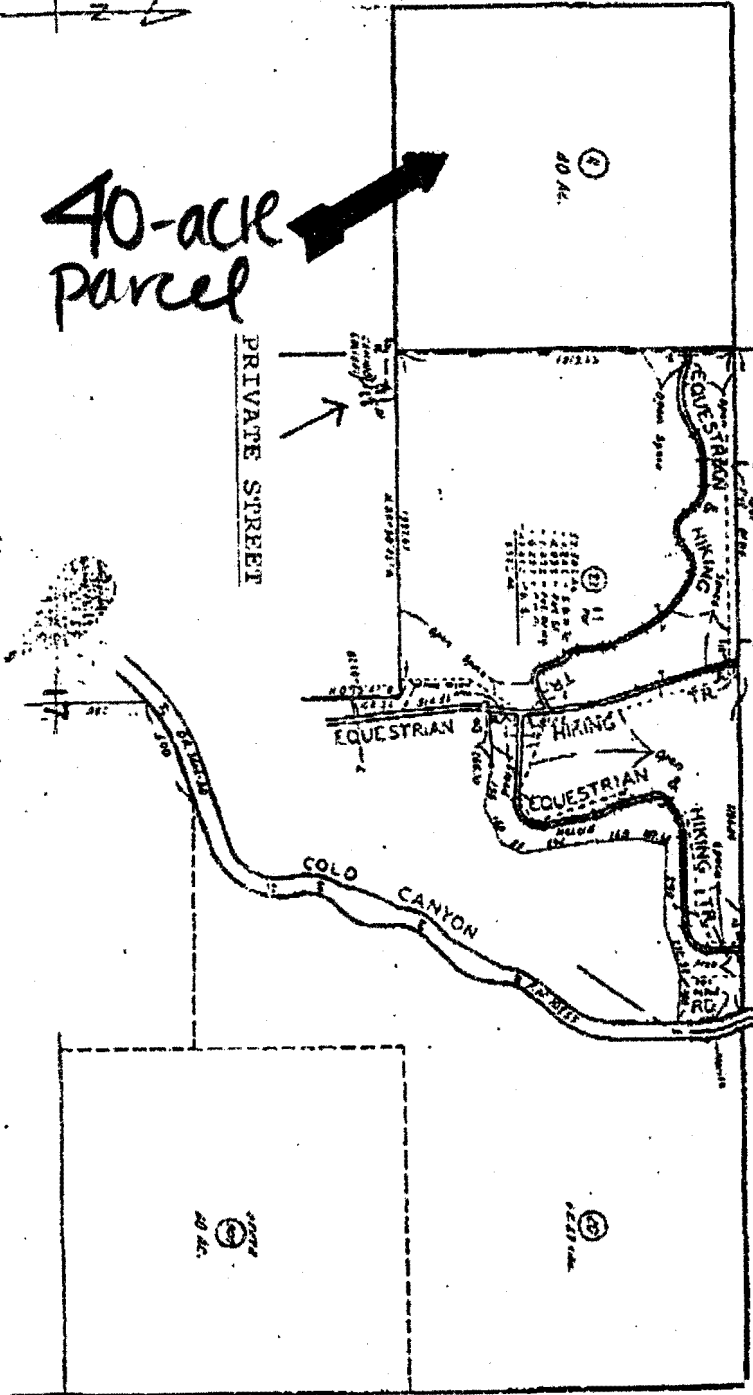
TRW-REDI

4456 10

SCALE 1" = 400'



1-90



40-acre
parcel

PRIVATE STREET

COLD CANYON

EQUESTRIAN & HIKING

TR

40 AC.

40 AC.

40 AC.

40 AC.

40 AC.

40 AC.

40 AC.

40 AC.

40 AC.

CODE
4871
4874

FOR MAP, ASMT, SEE 4456-10

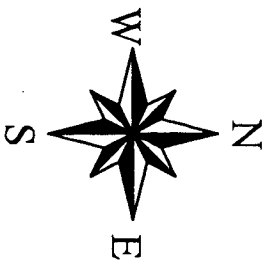
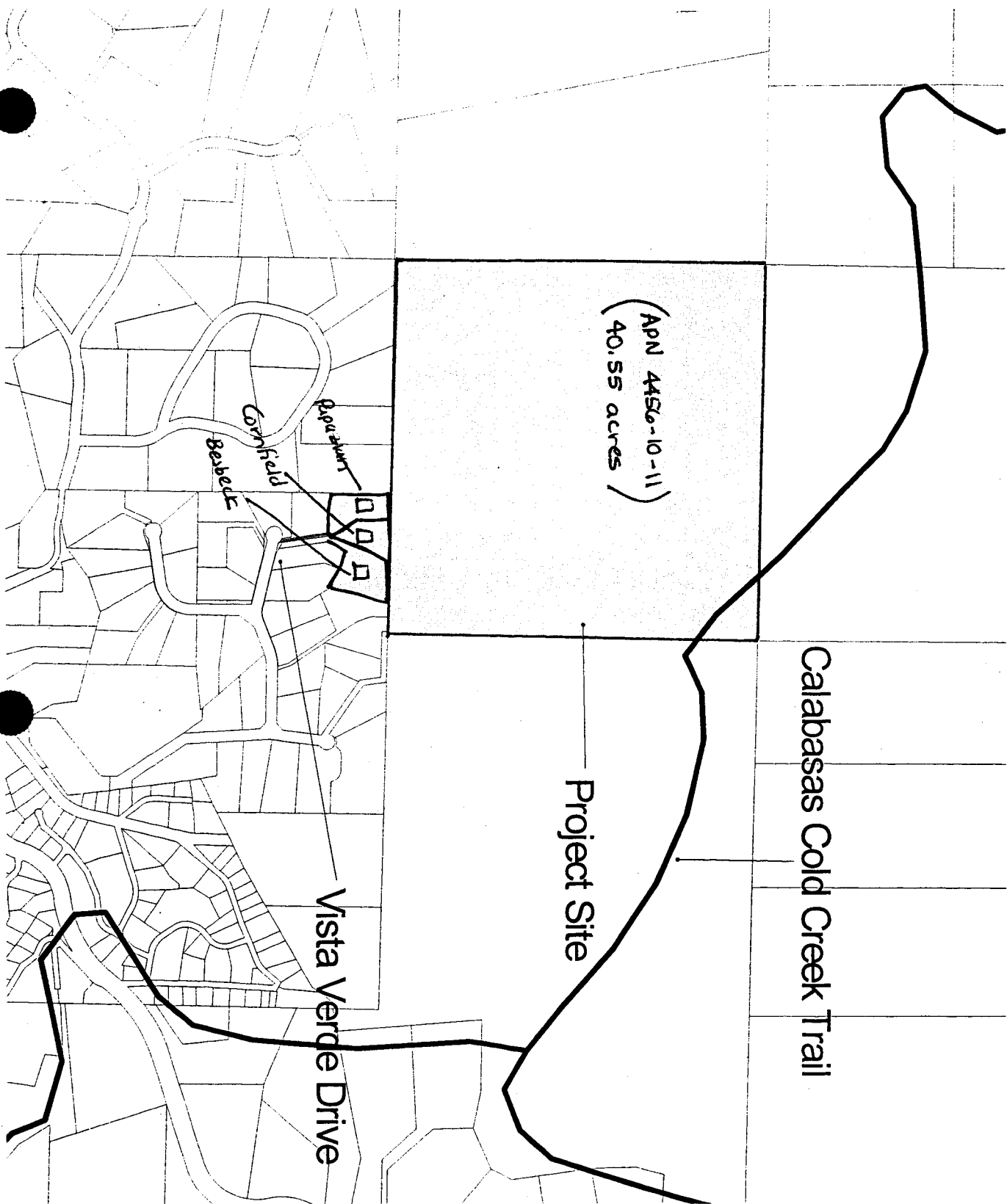
T.1S.R.17 W.
TRACT NO. 33873
M.B. 1136-12-19

ASSISTANT
COUNTY OF LOS ANGELES, CALIF.

TRW-REDI

EXHIBIT NO. 3
APPLICATION NO Cornfield et al
4-99-029
40 acre parcel

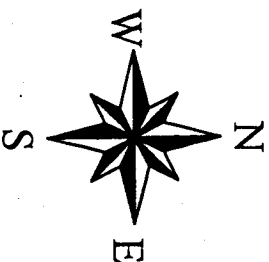
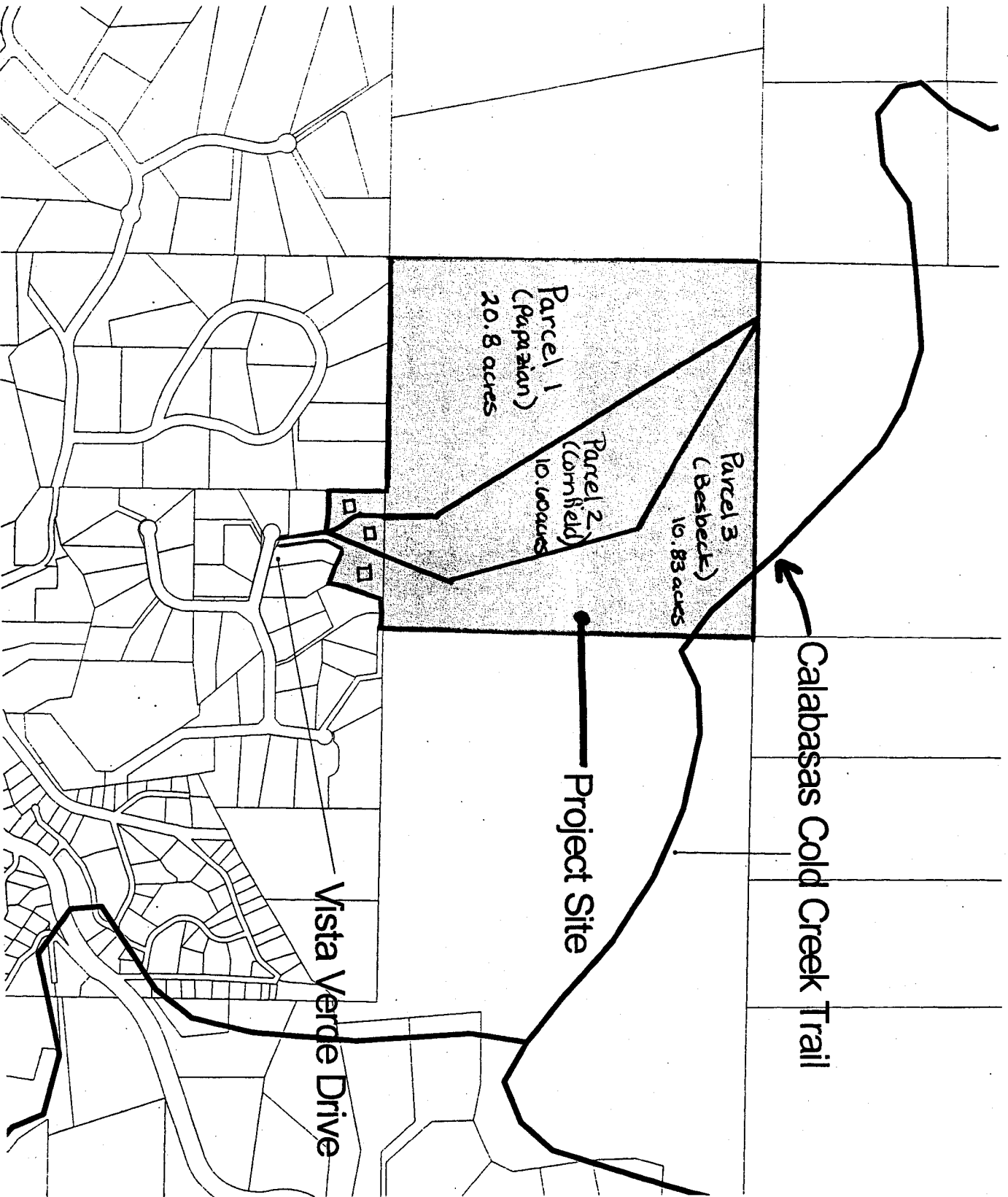
Permit Application 4-99-029



(Existing) →

EXHIBIT NO. 4
APPLICATION NO. Cornfield et al
4-99-029
4 subject Parcels

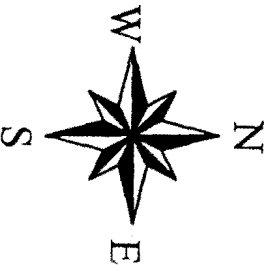
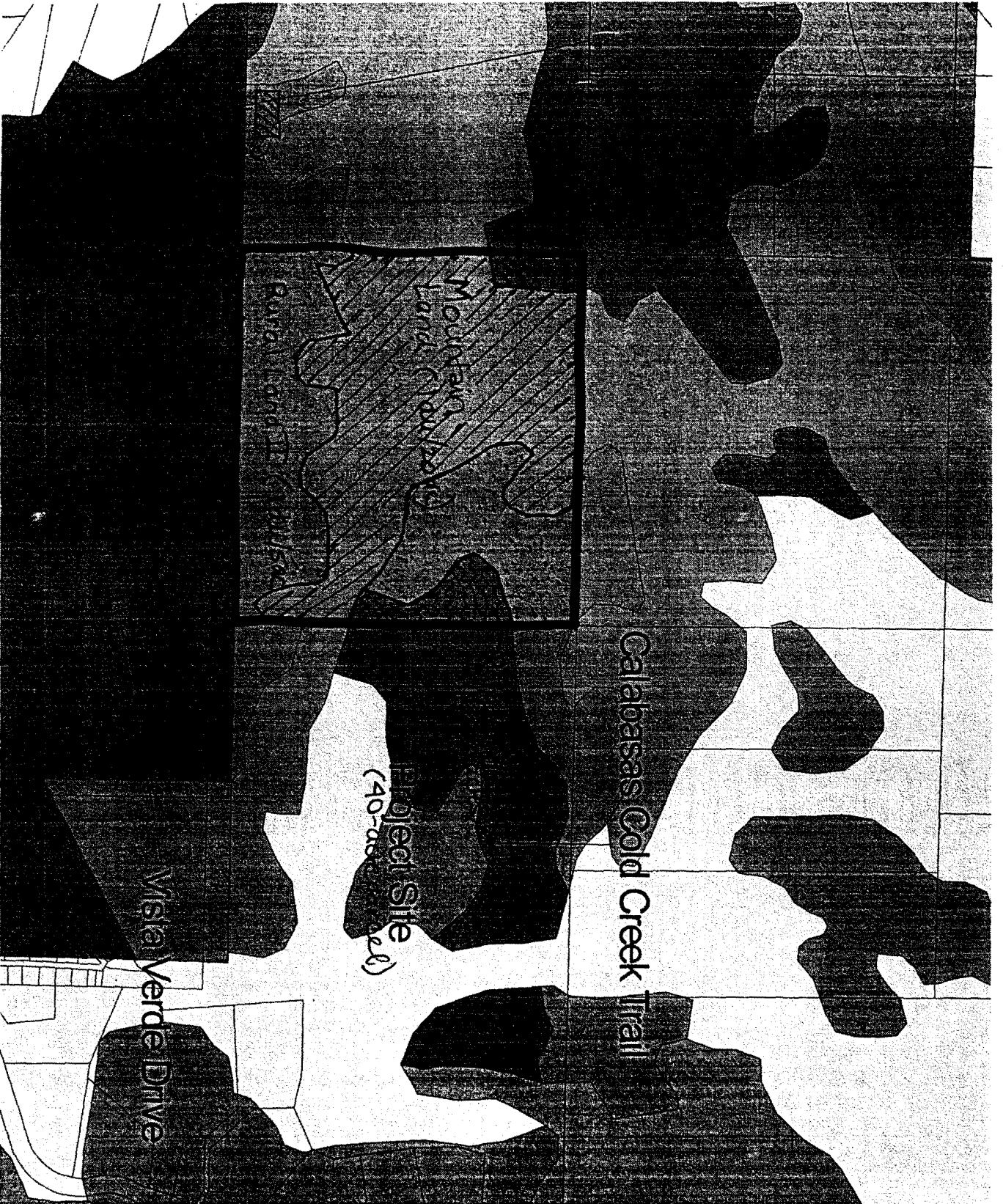
Permit Application 4-99-029



(Redivided)

EXHIBIT NO. 5
APPLICATION NO. Cornfield et al
4-99-029
Proposed Parcels

Permit Application 4-99-029



Lup Densities

EXHIBIT NO. 6
APPLICATION NO. Cornfield et al
4-99-029
Land Use Densities

Shaded Area = Malibu/Cold Creek
Resource Management Area

ESHAs

40-acre
+ 3 small parcels

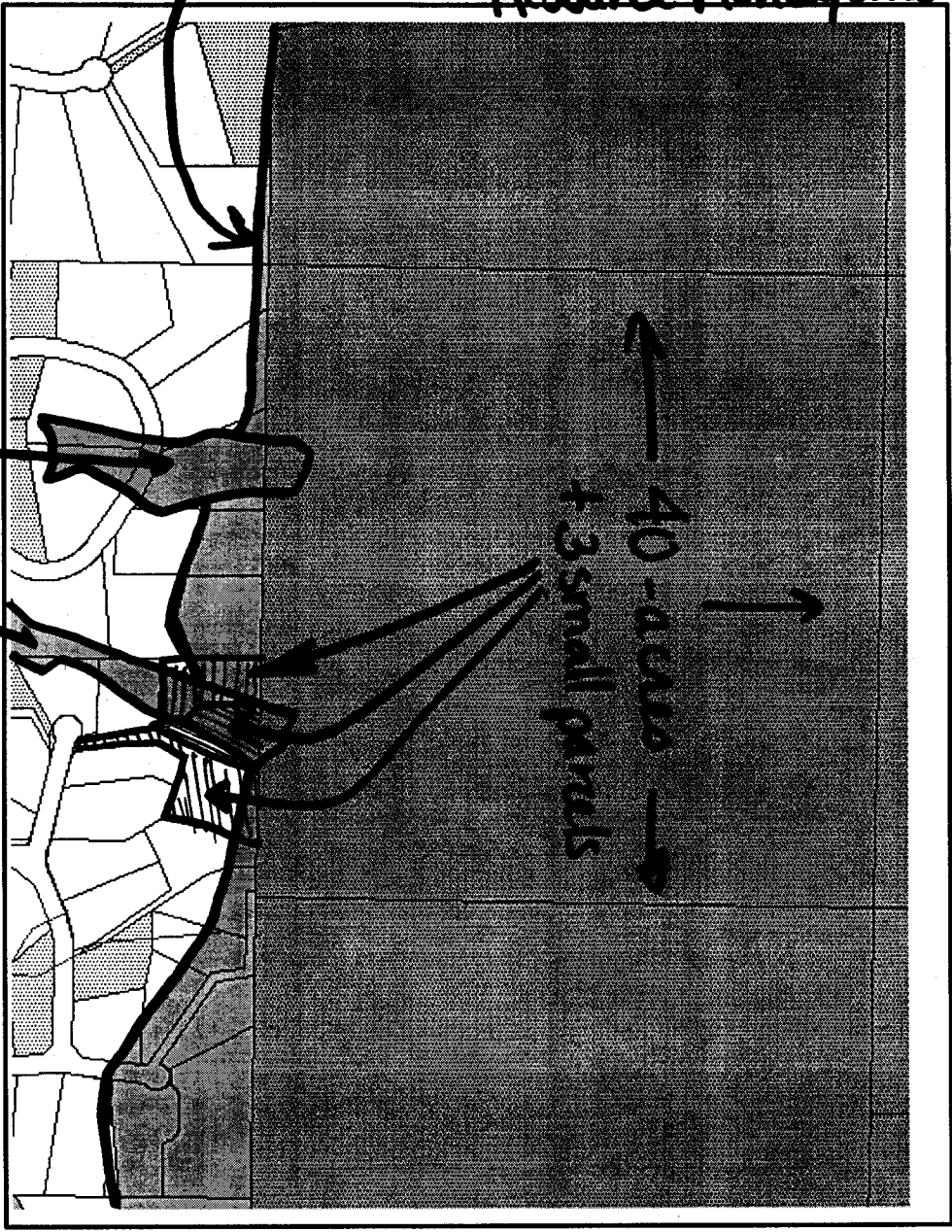


EXHIBIT NO.	7
APPLICATION NO.	Cornfield et al
	4-99-029
	Malibu/Cold Creek Resource Management Area

and ESHAs

Area

Steven M. Besbeck
25769 Vista Verde Dr.
Calabasas, CA 91302
(818) 591-9644

FEDERAL EXPRESS

August 17, 2000

CALIFORNIA
COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

Melanie Hale
Coastal Program Analyst
California Coastal Commission
89 South California St
Ventura, CA 93001

AUG 21 2000
RECEIVED

RE: Application No.: 4-99-029

Applicants: James and Lynn Cornfield, Steven Besbeck, and
Edmond and Andrea Papazian

Dear Ms. Hale:

We are submitting herewith documentation relating to the legal descriptions and surveyor's maps of three individual trail easements that we are offering to dedicate in regards to the above referenced property and our pending coastal permit application. We have expended considerable effort and expense in order to comply with your request in this matter and although we are amenable to doing so, there are conditions that the Coastal Commission should be aware of that could affect the dedication of the trails and their acceptance by appropriate governmental agencies.

Our offer to dedicate the easements is predicated on a governmental agency (such as the Los Angeles County Department of Parks and Recreation) accepting the easements and assuming all liability for the trails and their maintenance. We have no intention of assuming any liability or responsibility for the trails. In addition we make this offer in good faith and it is conditioned upon our reaching an agreement with the Coastal Commission with respect to a redefinition of the proposed deed restrictions outlined in your original staff report. We believe that the deed restrictions as originally proposed are too broad and will encompass the entire property including our existing residences, thereby creating restrictions that do not now apply. Such a scenario will cause us to suffer a diminution in the market value of our respective properties that will have considerable negative ramifications to us. We can agree that there should be appropriate restrictions to preserve the dedicated trail corridors. We that there should be restrictions as there are currently for color and de

Page 1 of 7

Attachment
EXHIBIT NO. A
APPLICATION NO. 4-99-029
Cornfield et al
OTD-Trail

Melanie Hale
California Coastal Commission
August 17, 2000
Page 2

We have contacted and discussed the proposed dedication of the trail easements with the Los Angeles County Department of Parks and Recreation and the Santa Monica Mountains Trail Planning Team, a group of several agencies that are trying to establish a consolidated trail plan for the Santa Monica Mountains. In general we were informed that there's not enough of a budget to maintain the trails that have already been dedicated. In addition part of the master plan is to abandon trails that are redundant and/or do not have public staging areas for parking, etc. We were advised that the portion of the Cold Creek trail described below is probably a trail that will be accepted because it connects established trails and open spaces to the Malibu Creek State Park.

With respect to the three proposed easements and their legal descriptions, I refer to the enclosed documents that have been labeled A, B, and C. They are described individually as follows:

A...describes a proposed easement of an established connecting portion of the Cold Creek Trail that transects the northeastern corner of our property. You described this in your original staff report. The Cold Creek Trail is documented by the County of Los Angeles as a hiking and equestrian trail. Our contact at the Los Angeles Department of Parks and Recreation indicated that in all probability this proposed easement would be accepted since it completes the connection of the Cold Creek Trail.

B...describes a north/south-connecting trail to A that traverses a ridge running on and off our property. Although it is well worn in places the course changes from season to season due to erosion. It is quite dangerous in places. A horse fell and became stuck on a portion of it a few weeks ago and a rescue team had to be called in. This trail traverses off our property to the east and disappears into dedicated open space on the adjacent property on our eastern border. The County is uncertain whether they would accept this easement.

C...describes a north/south-connecting trail to B that wanders on and off the extreme southeastern border of our property. It too is worn in places and a portion of the trail is on a ridgeline that people have randomly used. Immediately adjacent to B is dedicated open space on the adjacent property. My neighbors bordering that area moved a portion of the trails about four years ago to prevent people from trampling their landscaping that surrounds their residences. Since the residences are within a private community with posted private roads there is only use by local residents. We were told that the County probably would not accept this easement because there is no public access. Furthermore, there are actually more direct trails on the open space area that connect to B that are also randomly used. We propose that the trails on the open space area be official trail and the section that is now on our property be abandoned.

Pg. 2 of 7

Attachment
EXHIBIT NO.
APPLICATION NO.
Cornfield et al
4-99-029
OTD-trail

Melanie Hale
California Coastal Commission
August 17, 2000
Page 3

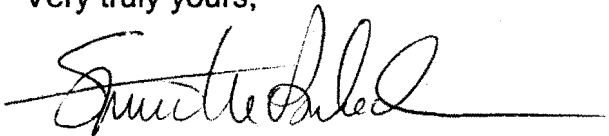
We are informed that certain individuals that reside in the private residential community of Edenwild where our residences are located have opposed our permit application and have offered "evidence" of the trails in the form of pictures and home movies. Upon our review of their "evidence" at our meeting with you last May we indicated that some of the pictures were not of our property. The enclosed documents prepared by the surveyor are the only true and accurate maps and legal descriptions of the trails and proposed easements. Unless the opposing parties come forward with their own bonafide independent survey we request that their home movies and other "evidence" not be allowed, or if it is, it shall be qualified since no independent authentication has been provided.

Lastly, we requested that the Board of Directors of the Edenwild Property Owners and Water Association that governs our private community of Edenwild and the majority of the property owners bordering our property, pass a resolution accepting our Coastal Permit Application and the resulting re-division. We were pleased with the vote in favor of our request and accepted the agreed conditions as outlined in the resolution. I am enclosing a copy of the minutes of that meeting that contain the resolution for your perusal. Hopefully you will consider including this information in your final staff report.

To our knowledge our Coastal Permit Application has only been opposed by a couple of individuals who have yet to establish or state a tangible justification for their opposition. If you have information provided by them that states material facts that justifies their opposition we would like an opportunity to review it.

If there is any other information you require from us, please contact me. We appreciate your assistance in this matter.

Very truly yours,



Steven M. Besbeck

Enclosures

Page 3 of 7

Attachment
EXHIBIT NO. A
APPLICATION NO. Cornfield et al
4-99-029
OTD - Trail

Quirós Surveying

Job No. 1259-3

Mr. Steve Besbeck

22249 Pacific Coast Hwy.
P.O. Box 186
Malibu, California 90265
Telephone (310) 456-8022
FAX (310) 456-1168

Subject: CA Coastal Com. Application No. 4-99-029, and
proposed Offer to Dedicate Trail Easement.

Following is the legal description for said proposed Offer.

DESCRIPTION:

AN EASEMENT, FOR THE PURPOSE OF TRAILS, ETC. AS MORE PARTICULARLY SPECIFIED HEREINBEFORE, OVER A STRIP OF LAND TWENTY FEET (20') IN WIDTH, OVER THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, T.1 S., R.17 W., S.B.M., IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED IN THREE PARTS, AS FOLLOWS:

PART A

A STRIP OF LAND 20' WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER, SAID POINT BEING THE MOST WESTERLY EXTREMITY OF THE CENTERLINE OF THAT 12' WIDE EQUESTRIAN AND HIKING TRAIL EASEMENT AS SHOWN ON MAP OF TRACT NO. 33873, RECORDED IN BOOK 1136, PAGES 12 THROUGH 19, OF MAPS, RECORDS OF SAID COUNTY, SAID EASTERLY LINE SHOWN ON SAID TRACT AS HAVING A BEARING OF NORTH 0°17'41" EAST, AND HAVING A BEARING OF NORTH 0°21'00" EAST FOR THE PURPOSES OF THIS DESCRIPTION, SAID POINT BEING DISTANT SOUTH 0°21'00" WEST 177.65 FEET FROM THE NORTHEAST CORNER OF SAID NW 1/4 OF THE NW 1/4; THENCE NORTH 89°10'00" WEST 90.00 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A"; THENCE NORTH 20°10'00" WEST 85.00 FEET; THENCE NORTH 32°32'25" WEST 116.41 FEET TO A POINT ON THE NORTHERLY LINE OF SAID NW 1/4 OF THE NW 1/4, THAT IS DISTANT THEREON NORTH 89°30'15" WEST 183.00 FEET FROM THE NORTHEAST CORNER OF SAID NW 1/4 OF THE NW 1/4.

THE SIDELINES OF SAID 20' WIDE STRIP ARE TO BE SHORTENED OR PROLONGED AT EACH OF THE ANGLE POINTS TO PROVIDE A CONTINUOUS 20' WIDE STRIP, AND SHORTENED OR PROLONGED EASTERLY AND NORTHERLY, RESPECTIVELY TO TERMINATE ON SAID EASTERLY AND NORTHERLY LINES.

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Attachment
EXHIBIT NO. A
APPLICATION NO. Cornfield et al
4-99-029
OTD-trail

PART B

A STRIP OF LAND 20' WIDE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE ABOVE REFERENCED POINT "A"; THENCE SOUTH 18°15'00" WEST 72.00 FEET; THENCE SOUTH 32°17'00" WEST 108.00 FEET; THENCE SOUTH 25°28'00" EAST 132.00 FEET; THENCE SOUTH 4°12'00" WEST 108.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 140.00 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 54°24'00", A LENGTH OF 132.92 FEET; THENCE TANGENT TO SAID CURVE, SOUTH 50°12'00" EAST 48.00 FEET; THENCE SOUTH 34°17'30" EAST 54.91 FEET TO A POINT ON THE EASTERLY LINE OF SAID NW 1/4 OF THE NW 1/4, THAT IS DISTANT THEREON SOUTH 0°21'00" WEST 756.82 FEET FROM THE NORTHEAST CORNER OF SAID NW 1/4 OF THE NW 1/4.

THE SIDELINES OF SAID 20' WIDE STRIP ARE TO BE SHORTENED OR PROLONGED AT EACH OF THE ANGLE POINTS TO PROVIDE A CONTINUOUS 20' WIDE STRIP, AND SHORTENED OR PROLONGED TO TERMINATE SOUTHEASTERLY ON SAID EASTERLY LINE, AND NORTHERLY ON THE SOUTHWESTERLY AND SOUTHERLY SIDELINES OF THE 20' STRIP AS PER ABOVE DESCRIBED PART A.

PART C

A LIKE EASEMENT, OVER A STRIP OF LAND 20' WIDE, DESCRIBED AS A WHOLE AS FOLLOWS: THE EASTERLY 20.00 FEET, OF THE NORTHERLY 300.00 FEET, OF THE SOUTHERLY 330.00 FEET OF SAID NW 1/4 OF THE NW 1/4, MEASURED AT RIGHT ANGLES TO THE EASTERLY AND SOUTHERLY LINES OF SAID NW 1/4 OF THE NW 1/4 OF SECTION 17.

Prepared August 7, 2000

By:

Mario J. Quiros

Mario J. Quiros

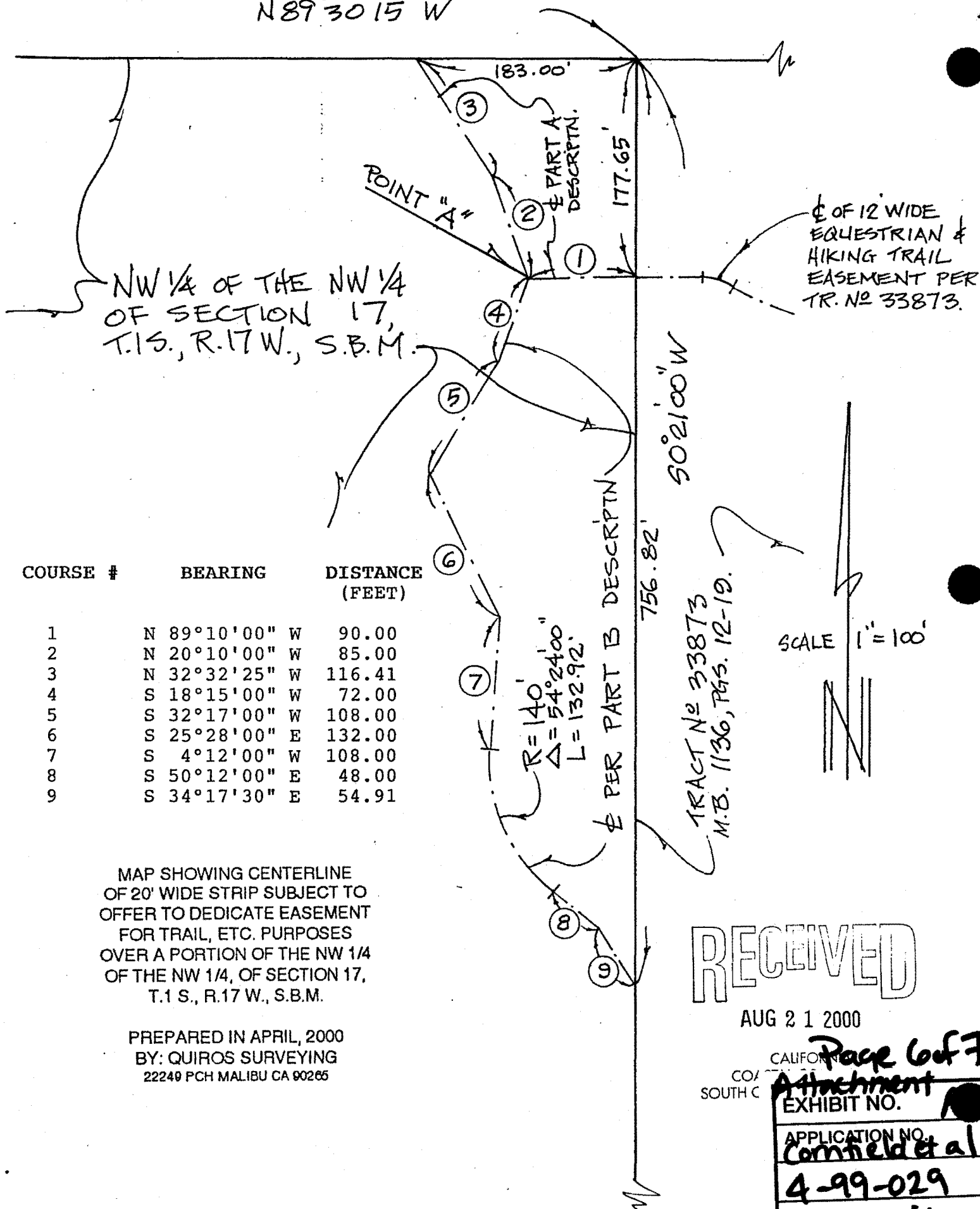
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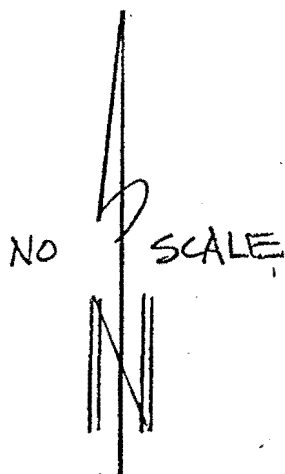
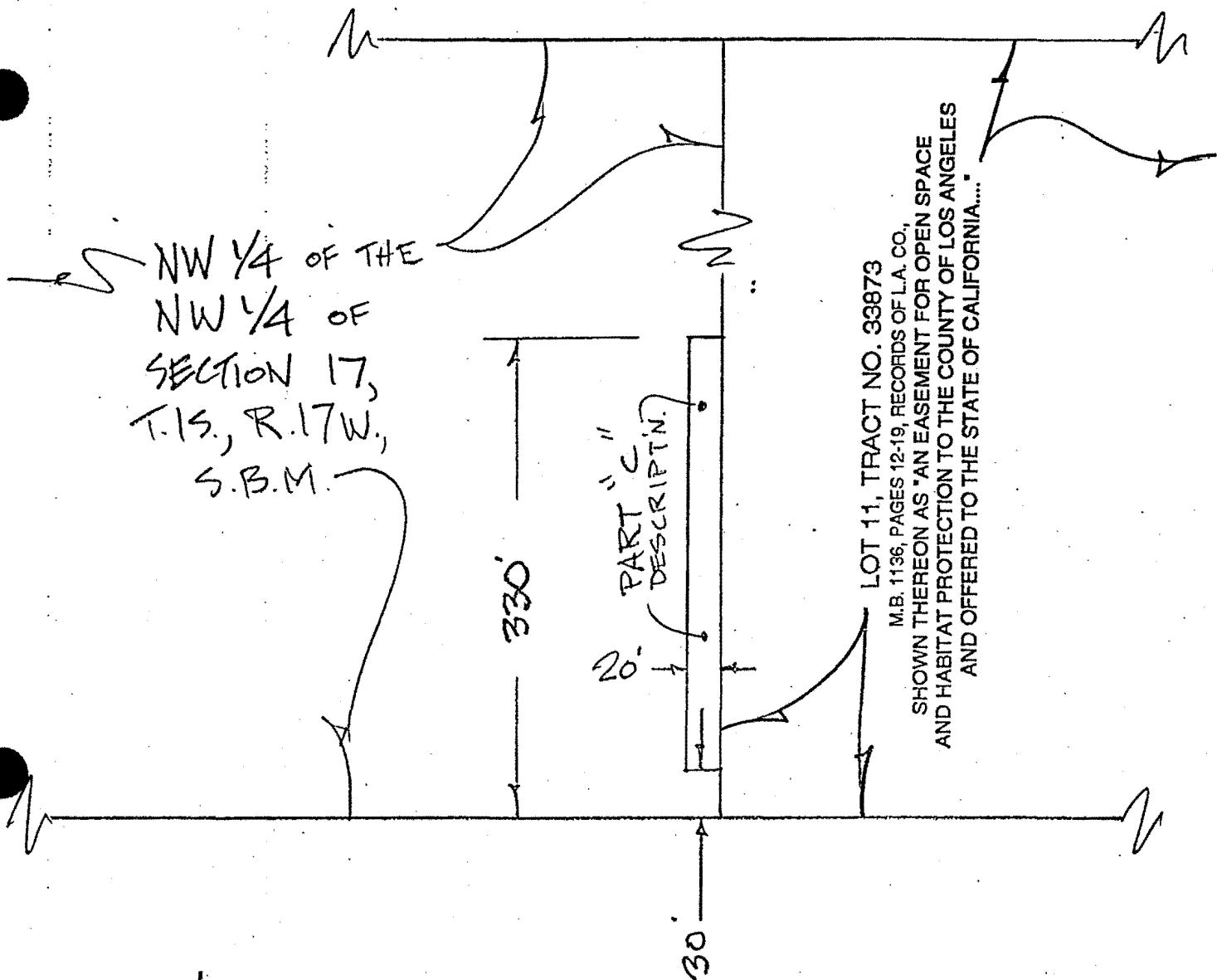
Page 5 of 7

Attachment
EXHIBIT NO. A
APPLICATION NO. Cornfield et al
4-99-029
OTD-trail

C.D.P. No 4-99-029

N 89° 30' 15" W





MAP SHOWING PARCEL PER PART C
OF ATTACHED LEGAL DESCRIPTION, BEING AN
OFFER FOR TRAIL, ETC., PURPOSES OVER A PORTION
OF THE NW 1/4, OF THE NW 1/4 OF SECTION 17,
T. 1 S., R. 17 W., S.B. M.

PREPARED IN AUGUST, 2000
BY QUIROS SURVEYING
22249 PCH MALIBU CA 90265 310 456-8022

REC'D

AUG 1

CA
COASTAL
SOUTH CENTRAL

Page 7 of 7
Attachment
EXHIBIT NO. A
APPLICATION NO. Cornfield et al
4-99-029
OTD-trail

