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CALIFORNIA COASTAL COMMISSION

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January 27, 2000

TO: Commissioners and Interested Persons

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

SUBJECT: REVISED FINDINGS for Proposed Major Amendment 1-99 to the Pepperdine University Long Range Development Plan. For Public Hearing and Commission Action at the February 17, 2000 Commission Meeting

SUMMARY OF STAFF RECOMMENDATION ON REVISED FINDINGS

Staff recommends that the Commission adopt the following findings in support of the Commission's action on October 12, 1999. The findings reflect the approval of Major Amendment 1-99 to the Pepperdine University Long Range Development Plan, as submitted.

Commissioners on the Prevailing Side: Allgood, Daniels, Dettloff, Flemming, Krueger, and McClain-Hill.

AMENDMENT SUMMARY

The University is proposing to amend the certified Pepperdine University Long Range Development Plan (LRDP) to make seven revisions to the approved 50.4-acre Upper Campus. These proposed 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 and in the same location; 5) redesign of student housing buildings with the same number of units and in the same location; 6) resiting of water tank; and 7) addition of recreational field and pools associated with approved housing.

STANDARD OF REVIEW

The standard of review for the proposed amendment to the certified LRDP, pursuant to §30605 and §30512(c) of the Coastal Act, is that the LRDP, as amended, meets the requirements of and is in conformance with the Chapter 3 policies of the Coastal Act.

PUBLIC PARTICIPATION

§30503 of the Coastal Act requires public input in preparation, approval, certification and amendment of any LRDP. The University held a public hearing regarding the project and solicited comments from public agencies, organizations, and individuals. The hearing was duly noticed to the public consistent with §13552 and §13551 of the California Code of Regulations which require notice of availability of the draft LRDP amendment be made available six weeks prior to the Regent's approval of the LRDP amendment. Notice of the subject amendment has been distributed to all known interested parties.

I. ACTION ON PEPPERDINE UNIVERSITY LRDP AMENDMENT 1-99

Following a public hearing, staff recommends the Commission adopt the following findings. The adopted resolution and Commissioners on the prevailing side are indicated below.

Approval of Amendment 1-99, as submitted.

On October 12, 1999, the Commission **approved**, by a vote of 6-2, the Pepperdine University Long Range Development Plan Amendment 1-99, as submitted.

Commissioners on the Prevailing Side

Allgood, Daniels, Dettloff, Flemming, Krueer, and McClain-Hill.

Resolution

The Commission hereby certifies the Pepperdine University Long Range Development Plan Amendment 1-99, as submitted, and adopts the findings stated below on the grounds that the amendment, and the LRDP as thereby amended, meets the requirements and conforms with the policies of Chapter 3 of the Coastal Act and approval of the amendment will not have significant environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

II. FINDINGS.

A. Amendment Description

The University is proposing to amend the certified Pepperdine University Long Range Development Plan (LRDP) to make seven revisions to the approved 50.4-acre Upper Campus Development. The Upper Campus Development (UCD) area of Pepperdine University comprises 50.4-acres northwest of the 230-acre developed portion of the

campus. The 50.4-acre project site is in an essentially natural condition. The conditions on the site have not changed since the approval of the LRDP. The native plant communities found on the project site are primarily coastal sage scrub, valley needlegrass grassland, and mixed coastal sage scrub/grassland. There are several dirt fire roads which cross the area. Several intermittent stream courses cross the UCD site, primarily from northwest to southeast. One stream is designated as a blue-line stream on the United States Geologic Service (USGS) map for the area.

The proposed 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 and in the same location; 5) redesign of student housing buildings with the same number of units and in the same location; 6) resiting of water tank; and 7) addition of recreational field and pools associated with approved housing.

As described below, the Commission certified the Pepperdine University LRDP in 1989. The certified LRDP includes 3 million cu. yds. of grading for development of the Upper Campus Development (UCD), including landslide remediation. Subsequent to the LRDP certification, Los Angeles County informed the University that a secondary access road must be provided as part of the UCD project to provide emergency access. The University's geologic consultants undertook further investigations of the UCD site in 1993 to determine the feasibility of constructing this secondary access road. At that time a much deeper slide plane was identified. In order to stabilize the UCD site, the University now proposes a conceptual grading plan that represents an increase to 4.5 million cu. yds. of grading.

The LRDP, as proposed to be amended, would include the following development within the Upper Campus area:

- 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; and
- 1,338 parking spaces.

The Upper Campus project would accommodate 468 new full-time equivalent (FTE) students.

The County of Los Angeles approved a conditional use permit, parking permit and oak tree permit for the UCD project in May 1999. The Upper Campus Development Final Environmental Impact Report (EIR), prepared by Envicom Corporation, was certified by Los Angeles County in February 1999.

The list of substantive file documents is attached as Attachment 1. Exhibit 1 is a Vicinity Map. The existing, developed campus area is shown in relation to the UCD site in Exhibit 2. Exhibit 3 is the detailed plan of the proposed UCD buildings and roads.

B. LRDP Background.

The Coastal Act (§30605) provides for the Long Range Development Plan (LRDP) process: "to promote greater efficiency for the planning of any...state university or college or private university development projects and as an alternative to project-by-project review..." After an LRDP has been certified, prior to commencement of development of the approved facilities, the University submits a notice of impending development to the Commission. The Commission's review of the NOID is limited to imposing conditions to ensure consistency with the LRDP. The Commission cannot deny the development described in the Notice of Impending Development. LRDPs may be amended if the amendment is certified by the Commission as consistent with Chapter 3 of the Coastal Act.

While LRDPs are processed and reviewed like local coastal programs, they operate more like coastal development permits. The Coastal Act sections providing for LRDPs are found in Chapter 7 regarding development controls and coastal development permits. (§§ 30605-30606.) Once LCPs are approved, local government and the Commission, on appeal, review proposed development on a project-by-project basis through coastal development permit applications. In contrast, LRDPs are intended as an alternative to such a project-by-project review. LRDPs provide a greater level of certainty and specificity than land use plans or LCPs. As noted, once the LRDP is approved, any subsequent review by the Commission of a specific project is limited to imposing conditions consistent with sections 30607 and 30607.1 of the Coastal Act;

those sections authorize the Commission to impose conditions on coastal development permits to insure consistency with the Coastal Act. Particularly for private universities such as Pepperdine, LRDPs allow a greater degree of certainty and specificity as far as planning, budgeting and fund-raising for future development projects.

On September 12, 1989, the Commission considered the Pepperdine University Long Range Development Plan (LRDP) for the University's 830-acre campus. In its action, the Commission denied the LRDP as submitted and approved it with suggested modifications necessary to bring the LRDP into conformance with the Coastal Act. These modifications related to public access, hazards, visual resources, marine resources, and environmentally sensitive habitat protection. Findings for the September Commission action were adopted by the Commission on January 11, 1990. 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.

The Commission's approval of the LRDP was challenged by the Malibu Township Council. The trial court upheld the Commission's approval, finding that the Commission's review of the LRDP was consistent with the California Environmental Quality Act. The judgment was affirmed by the Court of Appeal in an unpublished decision. ((Malibu Township Council v. California Coastal Commission, Second District Court of Appeal, Division Two, Case No. B061265)

Since that time, the LRDP has been amended seven times and the University has processed eight notices of impending development. Amendments to the LRDP have been approved for such modifications as: additions to the Firestone Fieldhouse gym; relocation of tennis courts; combining and relocation of student housing units; relocation of faculty housing units to Malibu Country Estates subdivision; additions or redesign of various campus facilities; and addition of designated stockpile site in Marie Canyon.

Notices of Impending Development have been approved for such development as: addition to the gym; additions to the Law School; construction of student housing; construction of faculty houses in Malibu Country Estates; remediation of landslide above residential units in Malibu Country Estates; additions to Tyler Center; Alumni Park improvements; construction of stockpile site with restoration of eroded ravine as mitigation; relocation of wastewater flow station. With the exception of the stockpile site and residential units within Malibu Country Estates (residential subdivision adjacent to Pepperdine University campus), all of the amendments and notices of impending development involved projects within the developed area of the campus.

C. Review of Amendment.

The LRDP approved the exact location and extent of development on the site and authorized grading to stabilize the site and construct the approved structures. In the entire area where grading is authorized in the LRDP, all native vegetation will be destroyed. As described in detail above, the changes proposed to the UCD development in LRDP Amendment 1-99 include: increased grading to remediate a deeper slide plane, addition of a secondary access road to improve access for fire protection, and minor modifications to the design of approved structures and facilities. The UCD development, as amended, would not extend development beyond the footprint approved in the certified LRDP. The proposed amendment to the LRDP does not change the area in which vegetation will be destroyed. As such, the area of disturbance would be no greater than the approved project. The additional 1.5 million cu. yds. of grading will be located deeper under the 50.4-acre UCD site. The addition of the secondary access road is designed to improve access to the site for emergency vehicles. The remaining modifications are design changes to the approved buildings and facilities which do not extend outside the approved development footprint or increase the approved square footages or maximum approved enrollment.

Following approval of the LRDP, Pepperdine University, in reliance on that approval, sought and obtained contributions from numerous donors to help finance construction of the graduate campus. In addition, the University conducted extensive geologic investigation to determine the work necessary to stabilize the landslides located in the vicinity of the approved building sites.

Due to the size and extent of the landslides in the area of the proposed Upper Campus, there is no way to revise the project to avoid the destruction of native vegetation, including needlegrass, while still remediating the landslides present on the Upper Campus area. In addition, due to the presence of very steep slopes on the other undeveloped areas of the Pepperdine property, the Upper Campus buildings cannot be located elsewhere on the property to avoid the landslides. Nor is there enough room on the existing lower campus area to relocate the proposed graduate campus facilities. Thus, if the amendment to the LRDP authorizing additional grading is not approved by the Commission, construction of the Upper Campus would not be possible.

Based on the above facts, in reviewing the proposed amendment to the LRDP, the Commission determines that it will only review the changes that the University is proposing to determine if those changes are consistent with the Coastal Act and that it will not re-evaluate the entire approved project for consistency with the Coastal Act. Accordingly, the Commission will not re-evaluate the development that was previously approved in the LRDP that is not being modified in the proposed amendment.

D. History.

The University acquired its Malibu campus in 1968. In 1969, Los Angeles County approved a zone change to allow the campus site to be used for educational purposes. In 1972, the Planning Commission approved a Conditional Use Permit for the expansion of the University's facilities. Specific Plans were not adopted under this Conditional Use Permit until December 30, 1976.

Under the Coastal Act of 1976, the campus came under the jurisdiction of the Coastal Commission. The University applied for a claim of vested rights for all facilities shown on the 1976 Specific Plan. Prior to the effective date of the Coastal Act, the University had obtained numerous grading and building permits from the County and had completed construction of 35 permanent buildings and construction was under way on 4 additional structures. The University had yet to commence construction on a number of other buildings included in the Specific Plan.

The claim of vested rights to complete the remainder of the facilities under the 1976 Specific Plan was denied by the South Coast Regional Commission in June 1977. An appeal of this decision to the State Commission resulted in a finding of no substantial issue, leaving the denial in place.

E. Geologic Stability and Landform Alteration

§30251 of the Coastal Act states that:

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

§30253 of the Coastal Act states, in part, that:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

As described in detail above, the LRDP as proposed to be amended, would include 4.5 million cu. yds. of grading (2.25 million cu. yds. cut and 2.25 million cu. yds. fill). The proposed grading is both for the creation of building pads and roadways as well as the stabilization of geologic hazards on the UCD site. Exhibit 5 shows the conceptual grading plan for the UCD. Essentially, the plan consists of a main roadway, secondary fire access road, and several pads at different levels up the slopes. The amount of grading approved in the certified LRDP is 3 million cu. yds. The grading plan has been revised because of the discovery of more extensive landslides than were identified at the time of the LRDP certification. Exhibit 6 shows a comparison between the area of disturbance approved in the certified LRDP and that which is proposed in the LRDP as proposed to be amended herein. Following is a chart comparing the grading approved in the certified LRDP and the grading proposed in the LRDP as amended:

Proposed Grading—Pepperdine Upper Campus			
		1989 LRDP	1999 LRDP (As proposed to be amended.)
CUT	Project & Roads	1.1 million cu. yds.	0.9 million cu. yds.
	Landslide Remediation	0.4 million cu. yds.	1.1 million cu. yds.
	Contingency	N/A	0.25 million cu. yds.
FILL		1.5 million cu. yds.	2.25 million cu. yds.
TOTAL		3.0 million cu. yds.	4.5 million cu. yds.

The Preliminary Geotechnical Investigation of the Upper Campus Development Plan, dated 5/13/97, prepared by Leighton and Associates, Inc. identifies and characterizes the geologic conditions on the UCD site and makes recommendations for development of the site. This study formed the basis for the analysis of earth resources and potential impacts in the EIR for the UCD project. The University has also submitted a Geotechnical Review of Grading Plan for the Graduate Campus Project, dated 7/16/99, also prepared by Leighton and Associates, Inc. This report was prepared after the approval of the Final EIR. Up to date, the University's geologic consultants have conducted 31 subsurface borings in order to identify and characterize the materials and geologic structures of the site.

1. Geologic Conditions on the UCD site.

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. Several drainages cross the site, primarily from northwest to southeast. One stream course, which is a tributary to Marie Canyon, is designated as a blue-line stream on the United States Geologic Service (USGS) map for the area. Elevation of the site ranges from approximately 400 feet in the southwest to almost 1000 feet in the northeast. The slopes to the northwest continue rising to form the divide with the Puerco Canyon watershed. Exhibit 4 shows the topography of the UCD site and the surrounding area.

The site is predominately underlain by Sespe Formation sedimentary bedrock and landslide deposits. Small areas of alluvial deposits were identified along the bottoms of the stream courses. Finally, volcanic rock was also found to occur on the site. Identified faults in the area include the Malibu Coast Fault and the Malibu Bowl Faults. The Malibu Coast Fault, which is considered to be an active fault, is located over 4,000 feet to the southeast of the UCD site. One splay of the Malibu Bowl Faults crosses the UCD site, while the other splay is located to the east of the site. Trenching studies conducted by the project geologists found no evidence of activity on these faults within Quaternary time. As such, the Malibu Bowl Faults are considered to be inactive.

The UCD site is susceptible to landsliding and is affected by several large landslides and debris flows. According to the EIR, four translational bedrock slides were found within or adjacent to the UCD site. Additionally, five debris flows were identified on the UCD site. The landslide masses underlie most of the site.

The four landslides have been designated as QIs-2, QIs-6, QIs-7 and QIs-9. Sheared claystone interbeds in the Sespe Formation sedimentary rocks have generally served as planes of weakness along which these slides have occurred. The geologic investigation has indicated that the slides on the UCD site have failed along out-of-slope bedding planes on the northeast/easterly facing slopes. Following is a description of each slide:

QIs-2 is located approximately 150 feet outside the southwestern margin of the UCD project. The geologist has indicated that this slide is potentially unstable but a stable ridgeline of bedrock lies between the slide and the site. As such, the geology reports conclude that it would not impact the site.

QIs-6 is the largest landslide found on the UCD site. This slide extends across much of the site, from northwest to southeast. It is approximately 2,600 feet in length and 1,100 feet wide. The slide mass varies in depth up to a maximum depth of approximately 110 feet near the toe. The geology studies conclude that this slide is potentially unstable and without stabilization would negatively impact the proposed UCD development.

QIs-7 extends across the northwestern area of the UCD site. This slide is approximately 900 feet in length, 310 feet wide at its widest point and a maximum of 50 feet deep. The studies conclude that this landslide is potentially unstable and without stabilization would impact the proposed watertank pad and access road. (Further geologic investigation subsequent to adoption of the EIR indicated that a series of five staggered landslides should be mapped in the area of QIs-7)

QIs-9 is a slide complex comprised of three adjacent slides located northeast of the UCD site, although the western edge (headscarp) of the slide extends onto the development area. This slide extends in a southeastern direction away from the UCD and is 2,300 feet wide and 700 feet long. The slide is estimated to be a maximum of 70 feet thick. The geologic studies indicate that the upper elevations of this slide are potentially unstable and without stabilization would negatively impact the proposed graduate complex on the uppermost pad and the adjacent roadway.

In addition to the bedrock landslides, several debris flows were also identified on the site. The EIR states that: "Flows most commonly originate as shallow soil slumps in rounded, colluvium-filled 'hollows' at the heads of drainages. The rigid soil mass is deformed into a viscous fluid that moves down the drainage swale, incorporating into the flow additional soil and vegetation scoured from the channel". The EIR identified five debris flows affecting the UCD site. Subsequent geologic investigation identified two additional debris flows and re-characterized one debris flow as a landslide. Most of the debris flows are located on top of the landslides. According to the geology report, the debris flows in general consist of reactivated portions of the older landslides.

2. Stabilization.

As described above, the LRDP certified in 1989 included a grading plan comprising 3 million cu. yds. (1.5 million cu. yds. cut and 1.5 million cu. yds. fill) for the construction of the development approved for the UCD site. As part of its LRDP submittal, the University submitted the Preliminary Geotechnical Investigation of the Site for LRDP Units Outside of the Existing Developed Area at Pepperdine University, dated 3/15/89, prepared by Leighton and Associates. After their review of the geologic investigation report, staff requested additional information. The University provided a response letter from Leighton and Associates, dated 8/2/89. One of the questions raised by staff in 1989 was: "What efforts were made to ensure that there are no deeper slide planes?" The geologic consultant's response was as follows:

A number of factors were considered during the geologic evaluation of the site. These include observation of bedrock exposures and detailed geologic mapping, review of previous work performed by others, detailed aerial photo analysis, correlation of on and offsite features and our familiarity with the geologic processes of the area. Originally we proposed deeper borings. During our subsurface exploration, it was determined that deeper borings were not required. The landslide parameters depicted in the referenced report correlate well with the geomorphic/topographic features of the site.

While: "the geologic instability of the campus and the adjacent area south of the campus was of great concern to the Commission in its consideration of the development proposed in the LRDP", (Commission findings on the Pepperdine LRDP, 12/21/89) the Commission found that based on the geologic investigation and with four suggested modifications, the LRDP would be consistent with §30253 of the Coastal Act. These modifications were the addition of LRDP policies relating to hydrogeologic monitoring and the requirement of setbacks from the Malibu Coast Fault.

Subsequent to the LRDP certification, the University's geologic consultants undertook further investigations of the site in 1993 to determine the feasibility of constructing a secondary access road, as required by the Los Angeles County Fire Department. This investigation included additional borings in the area of the proposed secondary access road. Anomalies found in the geologic structures encountered in these new borings lead the geologic consultants to deepen one to determine if there was a deeper landslide

surface present. In this boring, a clay seam was found at 108 feet that the geologic consultants interpreted to be a deep-seated landslide feature. This feature is known as QIs-6, described above. The geologic consultants determined that a major buttress, an upper buttress, and a toe buttress would be required to stabilize this slide. The discovery of this deeper slide plane is the primary factor necessitating the additional 1.5 million cu. yds. of grading for site stabilization in the LRDP, as proposed to be amended.

The grading plan includes three buttress fills and two shear keys designed to stabilize the landslides identified on the UCD. In order to stabilize landslide QIs-6, a buttress is proposed across the south-central portion of the slide. This buttress would be approximately 700 feet long, 300 feet wide and up to 120 feet deep. This area would be excavated to a depth below the slide plane and benched into competent material. A buttress approximately 150 feet wide and 300 feet long is also proposed outside the UCD grading envelope to the south to support a lobe of QIs-6. A buttress across the center portion of landslide QIs-7, which would be approximately 330 feet wide and 350 feet wide, is proposed to stabilize this slide. A side hill shear key reinforced with geogrid material is proposed to isolate the pad and road from the QIs-9 slide complex, should it be activated. Finally, a side hill shear key would be constructed on the western edge of the UCD site, where a cut encroaches into the head region of landslide QIs-6 and debris flow QIs-d5.

All of the debris flow material would either be removed as part of the grading to buttress the landslides, removed by proposed cut, or removed to competent bedrock, all within the footprint of previously approved grading.

3. Grading

In addition to site stabilization, the 4.5 million cu. yds. of grading proposed for the UCD site includes grading of roads and pads. As shown on the Conceptual Grading Plan (Exhibit 5), several large and small pads would be provided. The northernmost pad is the proposed location of the Graduate Complex, including a seven-level terraced parking lot. The next pad downslope would contain the faculty/staff housing area, with several smaller pads for single family residences and two larger pads for townhouses. The next pad area downslope would be the location of the student housing. Finally, the lowest pad would contain the academic learning center and the academic support facility. The grading plan include a primary access road to serve all the pads, a secondary road that forms a figure "8" with the primary road. The certified LRDP included a primary access road that ended in a cul-de-sac. The Los Angeles County Fire Department would not permit an access road of this length without a secondary form of access. Additionally, roads are provided to the housing areas and to the proposed water tank.

As shown on the Conceptual Grading Plan, manufactured slopes would occupy approximately one-half (25-acres) of the overall area of the UCD site. Pads or level

areas would occupy 18.5-acres, and roadways would occupy 6.9-acres. Grading of the UCD site would create a sequence of manufactured slopes, each one supporting a pad area, as described above, upon which development would be located. According to the EIR, the total vertical extent of the successive manufactured slopes would be 530 feet.

The ridgelines on the UCD site would be widened by cutting and the canyons by filling. According to the EIR: "The highest elevations along the northeastern ridgeline are being lowered about 60 feet, and a less prominent northcentral ridgeline is being lowered about 75 feet".

Notwithstanding the increase of 1.5 million cu. yds. of grading for site stabilization, the ultimate profile of proposed grading, including the proposed manufactured slopes and pads will nearly approximate the grading approved in the certified LRDP. The area to be disturbed by grading will remain at 50.4-acres.

4. Analysis

New development must minimize landform alteration as required by §30251 of the Coastal Act. To ensure compliance with §30253 of the Coastal Act, development must minimize risks to life and property in areas of high geologic hazard. Additionally, §30253 requires that development assure stability and structural integrity.

In this case, the UCD site is affected by geologic hazards. As described above, several large bedrock landslides and debris flows cross the site. When the LRDP was certified in 1989, there was concern with the level of instability on the site and the 3 million cu. yds. of grading proposed for stabilization and pad/road creation. There was discussion at the time of approval that additional grading might prove necessary to stabilize the site, although the University was proposing 3 million cu. yds. of grading. In certifying the LRDP, the Commission found that with the addition of policies relating to hydrogeologic monitoring and setbacks from faults, that the development approved under the LRDP was consistent with §30253 of the Coastal Act. Since certification, the University's consultants have conducted more detailed geologic investigations of the UCD site and modified the mapping of the slides based on additional subsurface exploration. The presence of deeper and more extensive slide planes requires the necessary site stabilization to extend to a much greater depth, although the grading will be confined to the same footprint.

The Commission finds that the LRDP, as proposed to be amended, will not require additional landform alteration beyond that approved in the certified LRDP. While the grading for the UCD project will be increased from 3 million cu. yds. to 4.5 million cu. yds., this increase will result in grading which extends deeper for landslide remediation. The graded area of the site will not be increased beyond the 50.4-acre area of disturbance approved in the certified LRDP. Additionally, the University indicates that the ultimate profile of the site will remain the same as the proposed UCD project. The pad configuration, road location (with the exception of the added secondary access

road), slope grading, and building location (with slight modifications) will remain as approved. The proposed addition of recreation facilities to serve the proposed housing will be located on the graded pad area and will not require any modification to the grading plan. As such, the Commission finds that the proposed LRDP amendment will minimize landform alteration, as required by §30251 of the Coastal Act.

Given the uncertainties associated with estimating the extent of hazard associated with subsurface geologic conditions, redesign of new development to avoid hazards is the preferable means of minimizing risks to life and property from geologic hazards. In this case, the Commission considered the hazards associated with developing the UCD site when it certified the LRDP and found that the project, including slide remediation, would minimize risks to life and property from geologic hazard. The proposed LRDP amendment would include additional grading for landslide remediation, primarily to stabilize a deeper slide plane identified since certification of the LRDP. As such, the primary change proposed in this amendment is designed to minimize the risk to the approved UCD project from geologic hazard, by remediating the known landslides. Additionally, the proposed addition of a secondary access road to the UCD site will serve to reduce risks to life and property in the event of a wildfire or other emergency. The Commission finds that the proposed LRDP amendment will minimize risks to life and property from geologic and fire hazards, as required by §30253 of the Coastal Act.

As discussed above, the University's geologic consultants have concluded that the proposed 4.5 million cu. yds. of grading would result in slopes, pads, and roads that will be stable, assuring stability and structural integrity, as also required by §30253 of the Coastal Act. In addition, the University states that the landslide on the UCD site is currently unstable and endangers the existing development on the Lower Campus area. The University states that the proposed landslide remediation will also assure stability for the Lower Campus area. Based on the recommendations of the consulting geologists and geotechnical engineers, the Commission finds that the proposed LRDP amendment will assure stability and structural integrity, consistent with §30253 of the Coastal Act.

F. Sensitive Resources.

§30240 of the Coastal Act states that:

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

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

§30230 of the Coastal Act states that:

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

§30231 of the Coastal Act states that:

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

The Upper Campus Development (UCD) area of Pepperdine University comprises 50.4-acres northwest of the 230-acre developed portion of the campus. The 50.4-acre project site is in an essentially natural condition. There are several dirt fire roads which cross the area. Several intermittent stream courses cross the UCD site, primarily from northwest to southeast. One stream is designated as a blue-line stream on the United States Geologic Service (USGS) map for the area.

The Pepperdine University Biological Database (PCR 1995) and additional field surveys conducted in 1997 by Envicom Corporation identify and characterize the resources found on the UCD site. These studies formed the basis for the analysis of biological resources and potential impacts in the EIR for the UCD project.

There are several distinct plant communities that were found on the UCD site, including northern mixed chaparral, Venturan coastal sage scrub, annual grassland, and native perennial grasslands. In addition to these habitat areas, several oak trees (*Quercus agrifolia*) were identified. However, these trees are scattered and do not form a contiguous woodland or savanna. Further, although several stream channels cross the UCD site, including one blue-line stream, no riparian or wetland vegetation was found.

The identified habitat areas are shown on Exhibit 7. As explained in the EIR, "while the plant communities may be well-defined in some places, the vegetation associations tend to overlap considerably on the site". In this way, areas may contain elements of different communities. However, the dominant plant species in each area were designated for the purposes of mapping the plant communities, as shown on Exhibit 7. Following is an acreage breakdown of the habitat types identified on the UCD site:

PLANT COMMUNITY	AREA WITHIN UCD (ACRES)
Coastal Sage Scrub	31.2
Valley Needlegrass Grassland	8.1
Mixed Coastal Sage Scrub/Grassland	6.1
Northern Mixed Chaparral	5.0
Non-Native Grassland	0.02
Total	50.4

The UCD project EIR notes that Valley Needlegrass grassland is considered "very threatened" and meriting urgent monitoring and restoration efforts in the California Department of Fish and Game's Natural Diversity Database (NDDDB). The grassland habitat areas found on the UCD site are of particularly high quality. Much of the area was found to have a density of native grasses over 40 percent and some areas approach 90 percent cover with few non-native plant species present. As shown on Exhibit 7, the Valley Needlegrass habitat is located in several large patches on the flatter areas of the site. The plant community that occupies the largest area of the UCD site is the 31.2-acres of Venturan coastal sage scrub. Venturan coastal sage scrub habitat is considered "very threatened" by the CDFG's Natural Diversity Database (NDDDB). Finally, there are four individual plant species present on the UCD site which are considered to be sensitive: Catalina mariposa lily, Plummer's mariposa lily, Plummer's baccharis, and Fish's milkwort

Within the grading footprint previously approved in the LRDP, all existing native vegetation will be destroyed. As discussed above, the proposed increase in grading from 3 million cu. yds. to 4.5 million cu. yds. would be deeper under the site for landslide remediation within the same grading footprint. The proposed addition of a secondary access road and addition of recreation facilities for the approved housing would be located within the approved graded area. As such, the proposed amendment does not change the grading footprint and therefore does not change the area of destruction of existing native vegetation.

Opponents to the UCD contend that the project is inconsistent with the Coastal Act because it would have adverse impacts on environmentally sensitive habitat areas (ESHA), particularly needlegrass. However, given the unique facts of the proposed amendment, the Commission rejects the opponents' contentions. The Commission originally approved the LRDP in 1990. At that time there was needlegrass on the area proposed for the UCD. A "Biological Survey of the Pepperdine University Site for the Proposed School of Business and Management" was prepared by Environmental Audit, Inc., in 1989 for the Commission's consideration in acting on the LRDP. That survey identified three plant communities on the UCD site: southern coastal sage scrub, chaparral, and southern California grassland. The survey identified needlegrass on the site. The survey did not attach any sensitivity to the grassland habitat, stating that while "the vegetation in the study area seemed to represent a variety of types and conditions, none of these are unique with regard to the surrounding areas." The survey concluded

that there were no rare or endangered plants on the site and the site is not critical habitat for any of the animal species that utilize it.

The Commission did not designate the needlegrass as ESHA in its prior action on the LRDP. In approving the LRDP, the Commission imposed a number of conditions including conditions requiring the preservation of over 500 acres as open space and dedication of a 150-acre easement of environmentally sensitive habitat. Apart from the 150 acres of habitat, the Commission noted that the certified Land Use Plan designated none of the area Environmentally Sensitive Habitat Area or Significant Watershed, affording the highest levels of habitat protection. In approving the LRDP, the Commission did not make an express finding that the UCD area was to be considered ESHA. The Commission found that the LRDP with 500-acres of the campus designated as undeveloped open space and 150-acres within an open space easement to be dedicated to a public agency for protection and management, the modified plan was consistent with the application of habitat policies of the Coastal Act.

The amendment to the LRDP does not propose any changes to the footprint of the proposed UCD development which would alter the impacts of the development on the needlegrass. If Pepperdine were to proceed under the LRDP as approved, the impacts on the needlegrass would be identical to the impacts under the LRDP as amended. The amendment itself will have no addition or new impacts on the needlegrass.

Because the needlegrass is located in several areas throughout the graduate campus site, relocating the proposed buildings to avoid destruction of needlegrass is not feasible. Furthermore, the landslide remediation necessary for construction of any structures on the Upper Campus site will require grading of the needlegrass areas, even if the proposed structures (buildings and roads) could be relocated to avoid the needlegrass areas. Therefore, as discussed above, if the amendment is not approved, the Upper Campus Development cannot be built because the site will be geologically unstable.

In light of the Commission's previous approval of the LRDP, the absence of new or additional impacts due to a change in the location of the proposed development, and due to the fact that it is not possible to revise the project to avoid destruction of the needlegrass, the Commission has determined that it will not re-evaluate the impacts of the approved grading on native vegetation, including needlegrass. Therefore, the Commission finds the amendment to the LRDP has no adverse impacts to sensitive resources and is consistent with the sensitive resource policies of the Coastal Act.

G. California Environmental Quality Act

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Long Range Development Plans for compliance with CEQA. The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying LRDPs

qualifies for certification under Section 21080.5 of CEQA. In addition to making the finding that the LRDP amendment is in full compliance with CEQA, the Commission must make a finding that no less environmentally damaging feasible alternative exists. Section 21080.5(d)(1) of CEQA and Section 13540(f) of the California Code of Regulations require that the Commission not approve or adopt a LRDP, "...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment."

As described above, the Commission has previously determined, in certifying the LRDP, that the approved development, including the UCD project, was the least environmentally damaging feasible alternative. The Commission required mitigation measures as part of the certified LRDP to lessen any significant adverse impact that development of the LRDP would have on the environment.

The changes proposed to the UCD development in LRDP Amendment 1-99 include: increased grading to remediate a deeper slide plane, addition of a secondary access road to improve access for fire protection, and minor modifications to the design of approved structures and facilities. The Commission finds that the UCD development, as amended, would not extend development beyond the footprint approved in the certified LRDP. As such, the area of disturbance would be no greater than the approved project. The additional 1.5 million cu. yds. of grading will be located deeper under the 50.4-acre UCD site and will assure stability for the approved development. The addition of the secondary access road will improve access to the site for emergency vehicles. The remaining modifications are design changes to the approved buildings and facilities which do not extend outside the approved development footprint or increase the approved square footages or maximum approved enrollment.

The proposed changes to the grading plan will serve to minimize risks to life and property from geologic hazard and will not result in any adverse environmental impacts that have not been considered and mitigated in the Commission's certification of the LRDP. Similarly, the proposed secondary access road will serve to improve emergency access to the UCD and will be located within the approved graded area. As such, this additional road will have no adverse environmental impacts. Therefore, the Commission finds that the LRDP amendment is consistent with CEQA and the Chapter 3 policies of the Coastal Act.

Alternatives to the Amendment

As discussed above, it is not possible to revise the Upper Campus project to avoid destruction of the native needlegrass grassland on the Upper Campus site.

A potential alternative site for the graduate campus that would have less impact on threatened native grasslands is the Adamson property, located across Malibu Canyon Road, to the southwest of the existing Pepperdine campus. However, this alternative is not feasible because Pepperdine has already received Coastal Commission approval

for the graduate campus development at the proposed location, and the Commission does not have the authority to revoke this approval. In addition, the Adamson site is not a feasible alternative because it is not owned by Pepperdine, there is no indication that the property is available for sale, it is smaller than the approved graduate campus site and would not have room for all the proposed development, and would not provide for a contiguous campus that allows for easy access by both undergraduate and graduate students to all the facilities.

If the Commission denied the proposed LRDP amendment, Pepperdine would be entitled to proceed with the development as previously approved in the LRDP. It would not be able to conduct the deeper grading that it has determined is necessary to stabilize the site and remediate the geologic hazards on the site. No other alternative has been identified that would adequately remediate the geologic hazards at the site. As discussed above, revisions to the project that would avoid the landslides are not feasible. Accordingly, as a practical matter, if the LRDP amendment is denied, it is unlikely that Pepperdine could proceed with the development of the graduate campus due to the unremediated geologic hazards and lack of site stability. Therefore, denial of the LRDP amendment could mean that the proposed graduate campus project would not go forward. However, denial of the proposed LRDP amendment by the Commission is not authorized under the Coastal Act because the amendment (deeper grading and an additional road within the approved grading footprint) reduces geologic hazards and increases stability of the site, and therefore is consistent with the Coastal Act requirements for new development. Finally, if denial of the proposed amendment has the result that the graduate campus project cannot go forward, this would eliminate the educational benefits of the project. For all of these reasons, the Commission finds that the no-project alternative is not feasible.

When the Commission approved the LRDP, the Commission considered a number of alternatives, including a no-project alternative, full expansion of the campus, the 1988 LRDP alternative, the 1989 LRDP alternative, the expansion of Pepperdine's off-site educational centers and alternative sites for expansion. In the previous challenge to the Commission's approval of the LRDP, the Court of Appeal expressly found the Commission complied with its CEQA obligations in considering those alternatives. Having considered an adequate range of alternatives in approving the LRDP and having considered additional alternatives in connection with this amendment, the Commission finds that the amendment is the least damaging feasible alternative. The Commission previously considered and imposed mitigation measures on the approval of the LRDP. Having concluded that the amendment to the LRDP will minimize risks to life and property and will not result in any adverse environmental impacts that were not considered and mitigated in the Commission's prior approval of the LRDP, the Commission finds that there are no feasible mitigation measures available which would substantially lessen any significant adverse impact of the LRDP as amended on the environment.

ATTACHMENT 1

SUBSTANTIVE FILE DOCUMENTS

Revised Findings on the Pepperdine University Long Range Development Plan, adopted by the California Coastal Commission on January 11, 1990.

Final Environment Impact Report, Pepperdine University Upper Campus Development, prepared by Envicom Corporation, dated February 1999

Draft Environment Impact Report, Pepperdine University Upper Campus Development, prepared by Envicom Corporation, dated July 1998

Preliminary Geotechnical Investigation of the Site for LRDP units outside of the Existing Developed Area at Pepperdine University, prepared by Leighton and Associates, dated March 15, 1989

Geologic Review of Active, Potentially Active, and Inactive Faults on and in the Vicinity of Pepperdine University, prepared by Leighton and Associates, dated July 6, 1989

Response to California Coastal Commission Review Letter dated July 6, 1989, pertaining to the Long-Range Development Plan Pepperdine University, prepared by Leighton and Associates, dated August 2, 1989

Review of Tentative Tract Map No. 49767 for the Site of LRDP Units (Outside of Existing Developed Area), prepared by Leighton and Associates, dated August 16, 1990

Geotechnical Investigation of Secondary Access Road Feasibility, prepared by Leighton and Associates, dated November 23, 1993

Preliminary Geotechnical Investigation of the Upper Campus Development Plan, prepared by Leighton and Associates, dated May 13, 1997

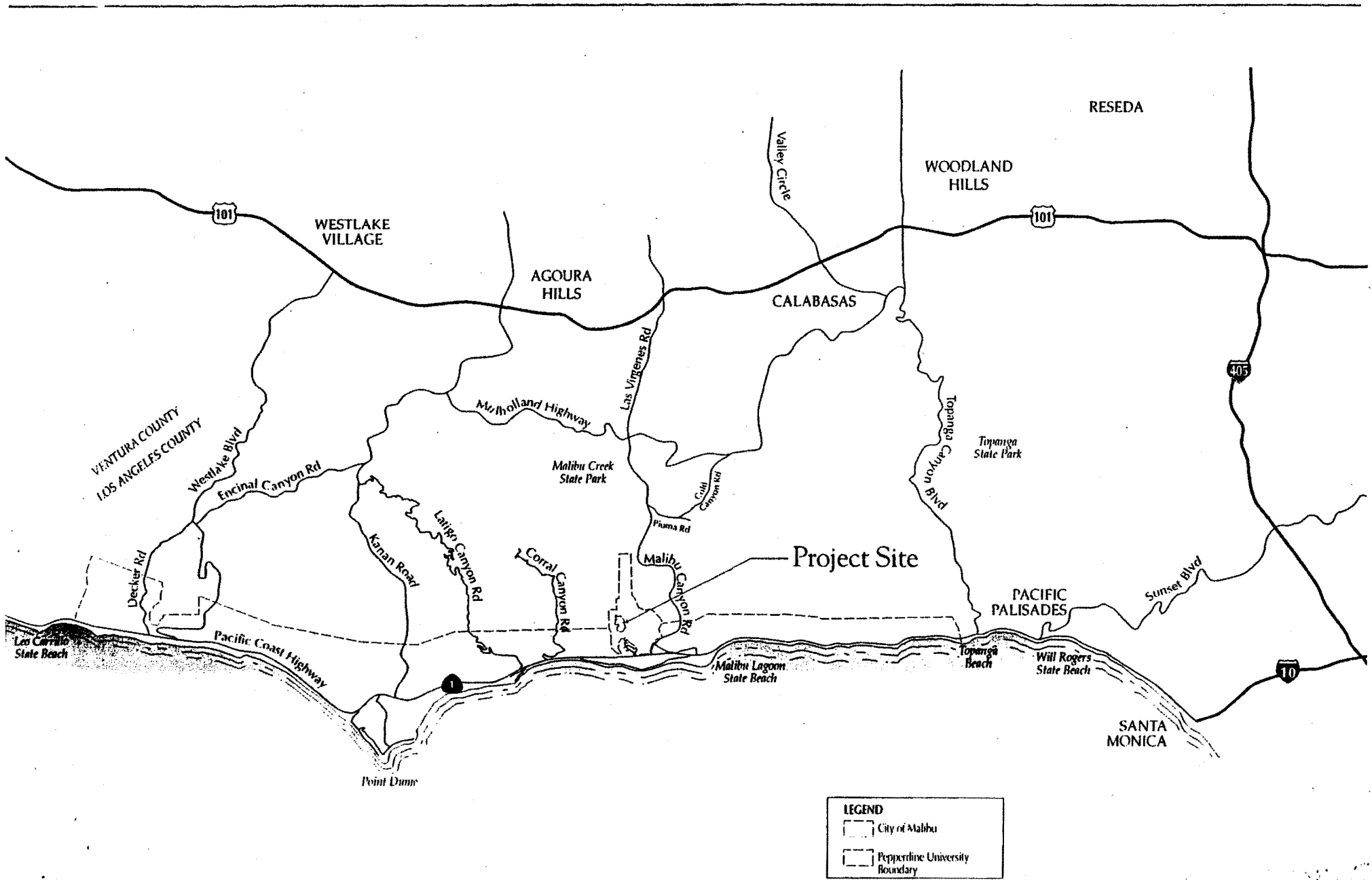
Geotechnical Review of Grading Plan for the Graduate Campus Project, prepared by Leighton and Associates, dated July 16, 1999

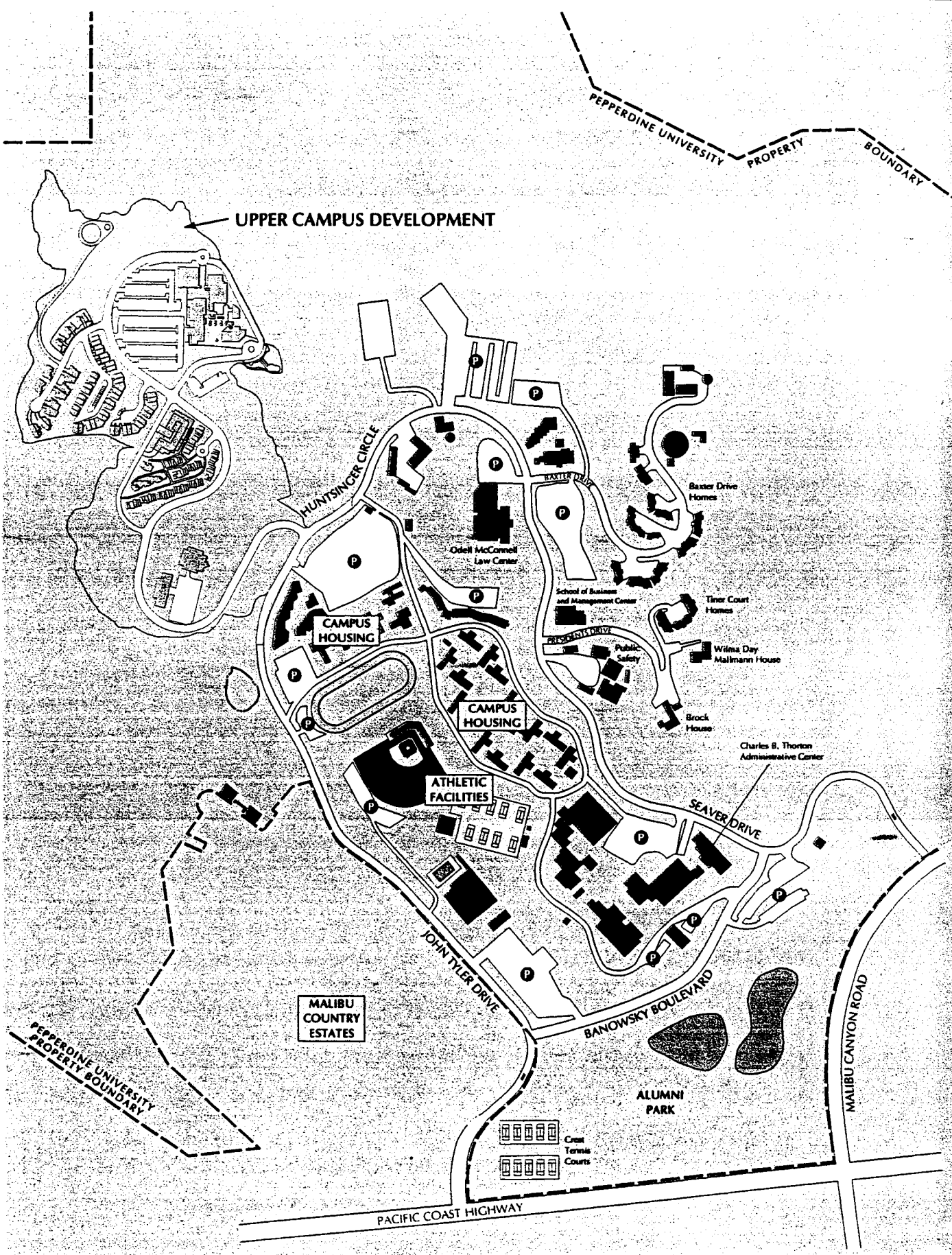
Biological Database for Pepperdine University, prepared by Planning Consultants Research, dated September 29, 1995

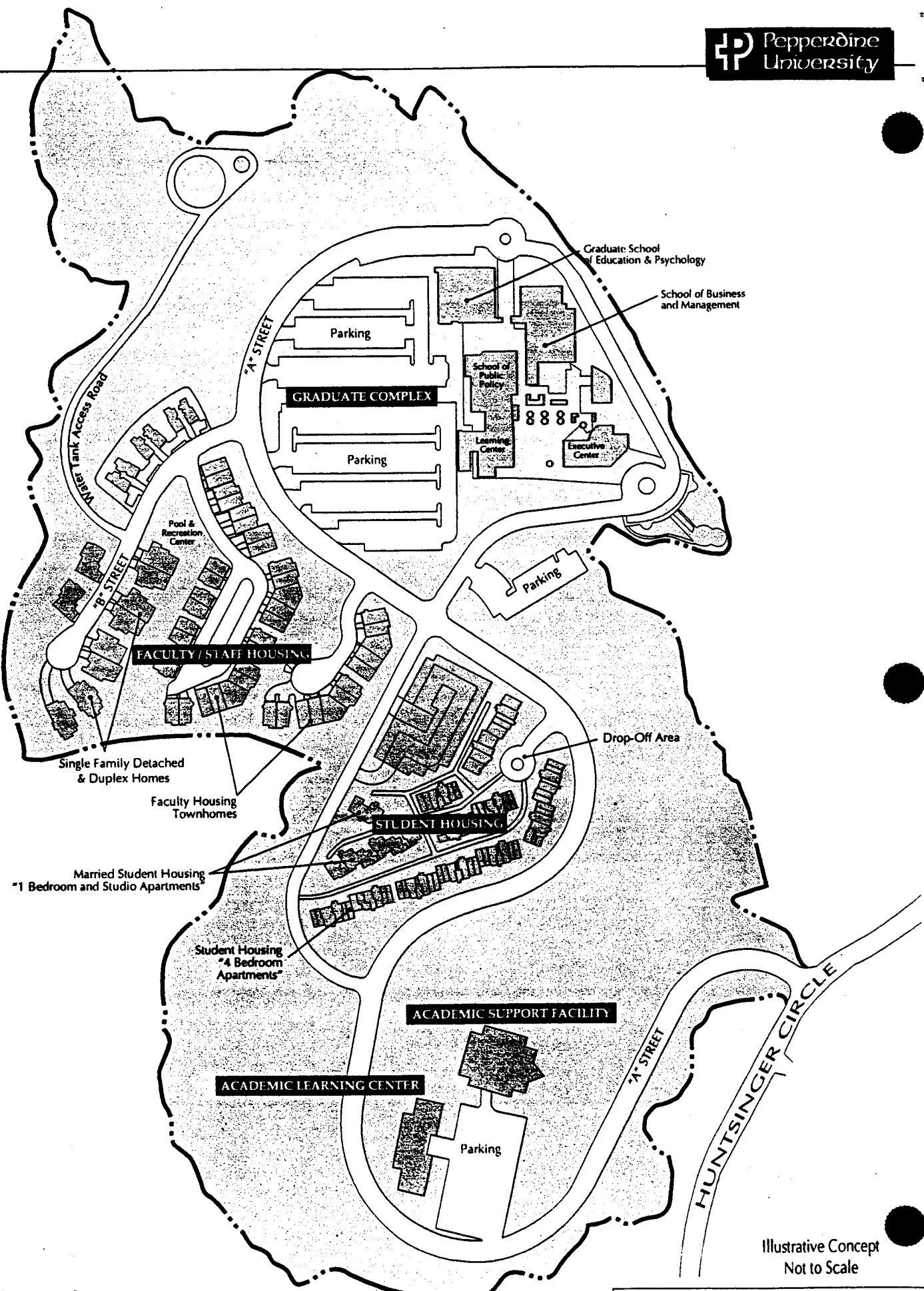
Oak Tree Report for Pepperdine University, prepared by Planning Consultants Research, dated January 1996

Draft Environmental Impact Report for the Pepperdine University Specific Plan 1982-1997, prepared by Bright & Associates, dated December 1983

Biological Survey of the Pepperdine University Site for the Proposed School of Business and Management, prepared by Environmental Audit, Inc., dated March 1989







Illustrative Concept
Not to Scale



Source: Pepperdine University, 1997

Proposed Graduate Campus Project

EXHIBIT 3
Pepperdine LRDPA 1-99
UCD Site Plan



LEGEND

-  Pepperdine University Property Boundary
-  UCD Grading Envelope

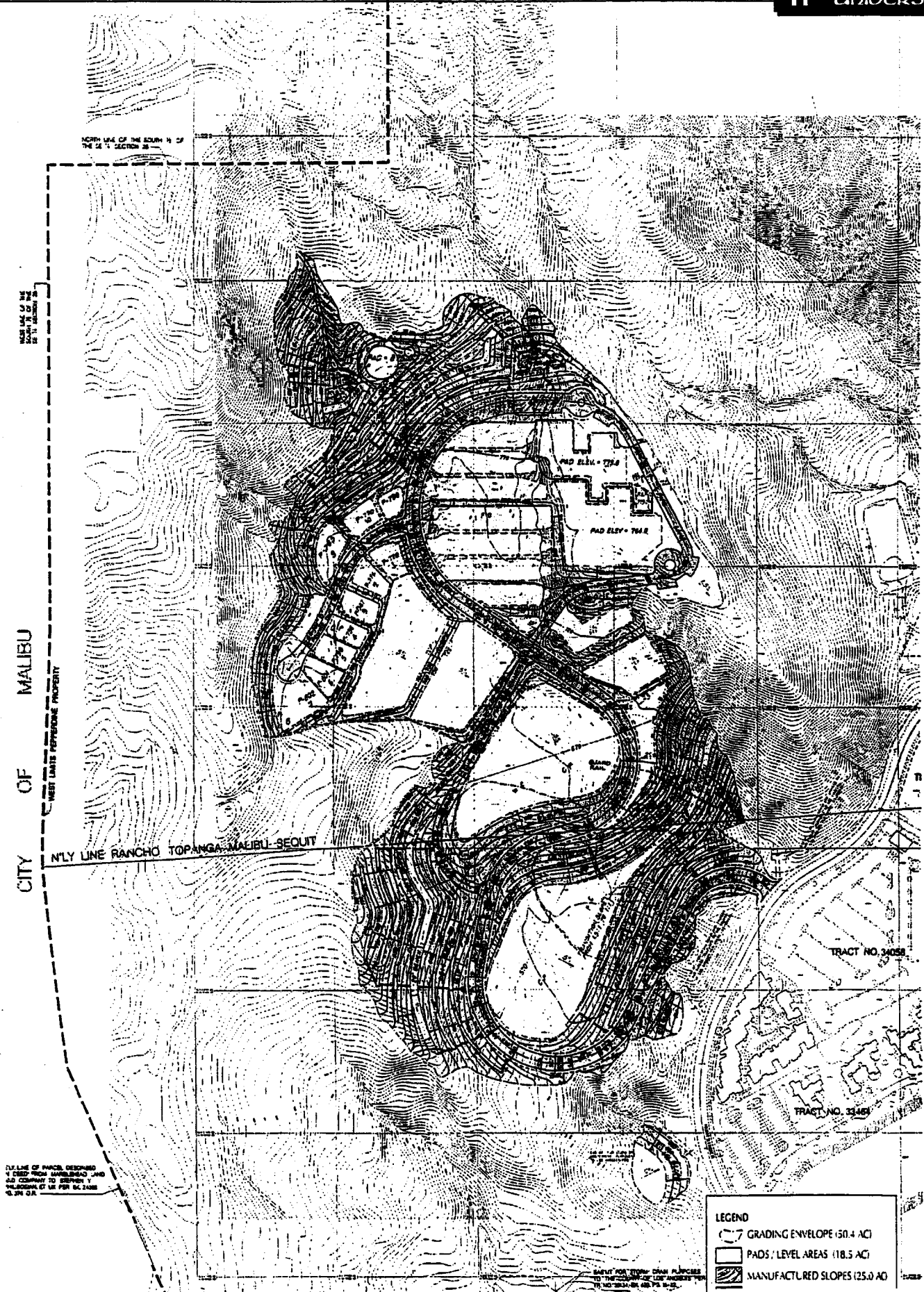
Source: LSCS Quadrangle, Malibu Beach, CA, 1981

Site Location Map



FEET

EXHIBIT 4
Pepperdine LRDPA 1-99
Topographic Map



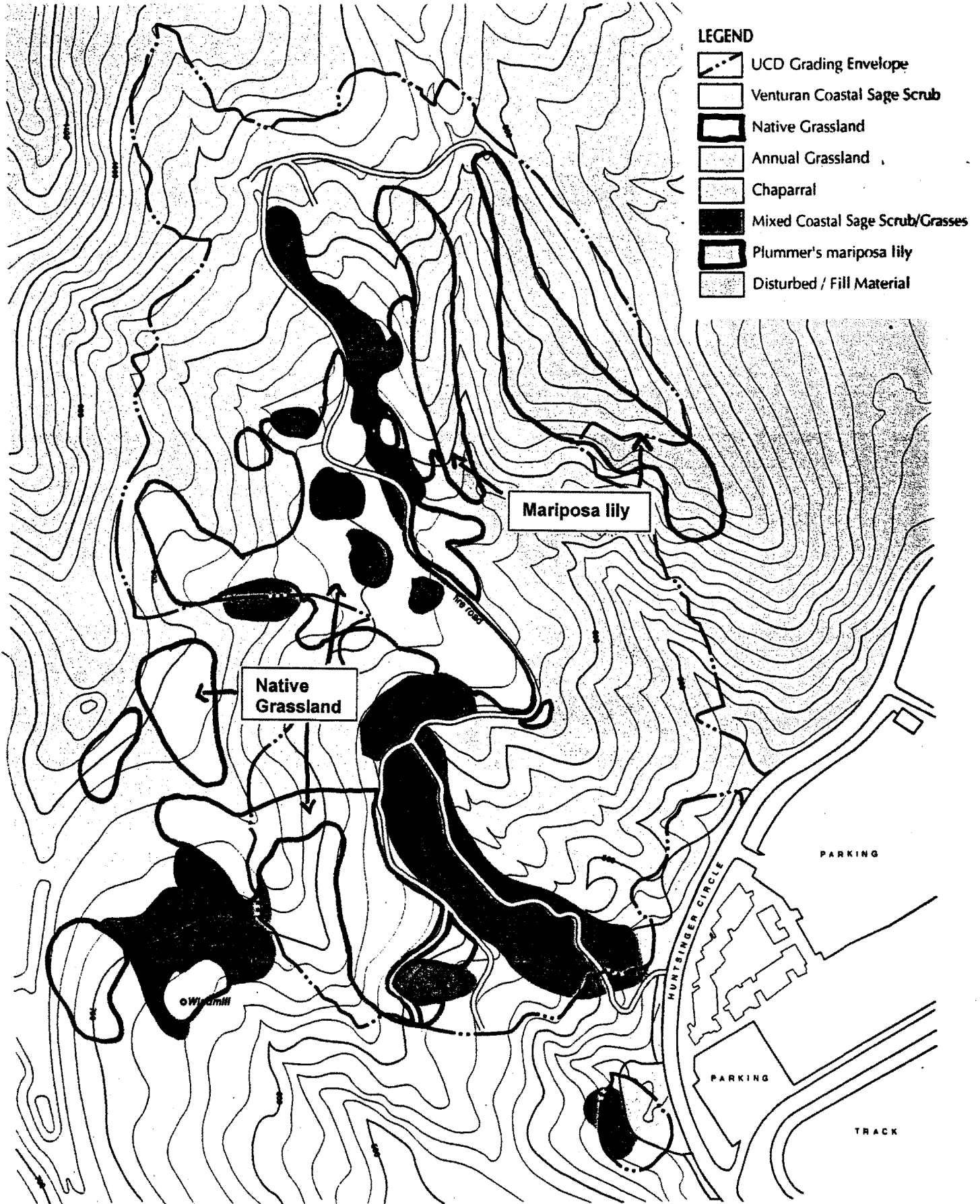
(Source: ALBERT C. MARTIN & ASSOCIATES, Plan Date: 12-4-95)

Conceptual Grading Plan



COMPARATIVE AREAS	
	Added Due to Grading Design Refinements (+1.9 Acres)
	Deleted Due to Grading Design Refinements (-1.2 Acres)
	Added Due to Further Geotechnical Investigations (+0.5 Acres)
	Deleted Due to Further Geotechnical Investigations (-1.6 Acres)
	Added Due to Revised Water Tank Location (+0.7 acres)
	Deleted Due to Revised Water Tank Location (-1.7 Acres)
	Added Due to New Fire Access Road (+1.4 Acres)
Net Change in Plan Area = 0.0 Acres	
	Grading Limits Per Plan Dated 7/28/89
	Geotechnical Grading Beyond, Per Plan Dated 7/28/89
	Current Grading Limits, Including Geotechnical Dated 12/4/95 LRDP

Comparison Between Original and Proposed Grading Plan



Source: Planning Consultants Research, 1986 / Envicom Corporation 1987

Vegetation Map



EXHIBIT 7
Pepperdine LRDP 1-99
Habitat Map

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STATE OF CALIFORNIA
COASTAL COMMISSION

COPY

PEPPERDINE UNIVERSITY,)	
)	
CITY OF MALIBU,)	Long Range Development Plan
)	Amendment 1-99
COUNTY OF LOS ANGELES)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Tuesday
October 12, 1999
Agenda Item No. 15.a

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COASTAL COMMISSION
SOUTH CENTRAL COAST DISTRICT

City of Oceanside
City Council Chambers
300 North Coast Highway
Oceanside, California

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EXHIBIT 8 (126 Pages)
Pepperdine LRDP 1-99
Hearing Transcript—October 12, 1999 Hearing

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A P P E A R A N C E S

COMMISSIONERS

Sara Wan, Chair
David Allgood, Alternate
Paula Daniels
Shirley Dettloff
Nancy Flemming
Patrick Kruer, Alternate
Cynthia McClain-Hill
Trent Orr, Alternate

STAFF

Peter Douglas, Executive Director
Chuck Damm, Chief Deputy Director
Ralph Faust, Chief Counsel
Jamee Jordan Patterson, Deputy Attorney General
Barbara Carey, Coastal Staff Analyst
John Dixon, Staff Geologist

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I N D E X T O S P E A K E R S

<u>STAFF</u>	<u>Page Nos.</u>
Chief Deputy Director Damm, Staff Report.....	9, 89, 94, 115
Coastal Staff Analyst Carey, Staff Report.....	12
Staff Geologist Dixon, Staff Report.....	22, 116
Executive Director Douglas.....	26, 101, 113, 125
Deputy Attorney General Patterson.....	34, 104
Chief Counsel Faust.....	34, 105
Closed Session Held.....	105

<u>PUBLIC TESTIMONY</u>	
Zev Yaroslavsky, Supervisor, L.A. County.....	4
Rod Wright, California State Assemblyman.....	31
Lauri Newman, for California State Assembly Member Kuehl.....	35
Andrew K. Benton, Pepperdine University.....	40, 69, 87
Cindy Starrett, Applicant.....	49, 88, 102, 114
David Davenport, Applicant.....	59
Charles McCullough, Student, Seaver College.....	61
Jeremy Estrada, Student, Pepperdine University.....	63
Katy Baucum, Student, Pepperdine University.....	64
Richard Hernandez, Hispanic Advisory Council.....	65
Reyna Hernandez, High School Student.....	66
Terry Giles, Tahoe Regional Planning Agency.....	68
Greg Aftergood, Malibu Rd. Property Owners Assn.....	70
Mark Massara, Sierra Club.....	73
Pat Healy, Malibu Coalition for Slow Growth.....	76
Ken Kearsley, Save Our Coast.....	79
Debbie DeCray, Malibu Coalition for Slow Growth....	80
Steve Streeter, Malibu Township Council.....	82
Melanie Godzwaard, Malibu Rd. Property Owners Assn..	84
Georgianna McBurney, Local Resident.....	85

<u>COMMISSIONER REMARKS</u>	
Allgood.....	29, 100, 113
Daniels.....	28, 102, 123, 125
Dettloff.....	29, 95, 117
Flemming.....	30, 102, 110, 124
Kruer.....	28, 93, 106, 110
McClain-Hill... ..	30, 97, 104, 125
Orr.....	28, 105
Wan.....	29, 33, 100, 119

<u>ACTIONS</u>	
Motion by McClain-Hill.....	110
Vote.....	125
<u>CONCLUSION</u>	126

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1 California Coastal Commission

2 October 12, 1999

3 Pepperdine Long Range Development Plan -- Amendment No. 1-99

4 * * * * *

5 CHAIR WAN: Yes, we have a quorum. With that, I
6 am going to call the meeting to order.

7 We are going to do something a little bit unusual.
8 I have a special request from Supervisor Yaroslavsky, who
9 would like to speak at this time, because he has another
10 meeting. I am going to honor that request.

11 Welcome Supervisor Yaroslavsky. I understand you
12 also have requested five minutes. So, for you to understand,
13 normally it is three minutes, but I will -- you are getting
14 one from Assemblywoman Sheila Kuehl, so I will give you the
15 extra minute -- and you are going to create problems for me
16 in the future, you do realize that, with other electeds.

17 MR. YAROSLAVSKY: The next time you come to the
18 board of supervisors, I'll reciprocate.

19 CHAIR WAN: Oh, thanks, okay.

20 MR. YAROSLAVSKY: I'll try to keep it less than
21 five minutes, Madam Chair, and I appreciate you taking me out
22 of order, because we do have a board meeting at 1:00 o'clock.

23 CHAIR WAN: And, I appreciated that, so that is
24 why I am doing this.

25 MR. YAROSLAVSKY: Thank you very much.

1 Welcome.

2 MR. YAROSLAVSKY: It is good to be here, members
3 of the Commission. I have never addressed your Commission on
4 any matter, including many matters that affected my district,
5 which includes the Malibu area of Los Angeles County. But, I
6 felt so strongly about this, that I wanted to personally
7 appear.

8 I am not going to comment on whether the original
9 idea of putting a university in Malibu was a good idea, or a
10 bad idea. Maybe some of us would have made a different
11 decision if we were in a position to do it at that time.

12 But, the fact is we have a university there. They
13 have been a good neighbor -- they have been more than a good
14 neighbor. They have done everything we have ever asked them
15 to do, through the zoning process, and otherwise, and they
16 are part of that community. And, while there are never any
17 settled issues in Malibu, the fact is that if there should be
18 one it is the existence of this university. It is not going
19 anywhere. It is not leaving.

20 So, now the question is: how do we work in
21 partnership with this major use, with this major neighbor, in
22 the Malibu community? To deny them their plan to build their
23 graduate school, which is consistent with the Long Range
24 Development Plan that this Commission approved, and which
25 this Commission defended in court, and which we have all

1 adhered to, and have all had reason to believe was the Long
2 Range Development Plan, it would be foolish on all of our
3 parts.

4 We have worked very closely. I, personally, and
5 my staff, have worked very closely with the university and
6 their staff in the development of their plan. Again, they
7 did everything we asked them to do. We asked them to do more
8 than they were required to do, they did it. We asked them to
9 dedicated Las Flores Canyon, they dedicated it. We asked
10 them to set aside needlegrass habitat on site, they did it.
11 We asked them to make traffic mitigations to accommodate the
12 concerns of the City of Malibu, and Calabassas, they did it.
13 We asked them to accommodate the issues that were of concern
14 to the National Park Service, and the State Park Service,
15 they did it. And, all of these entities, Malibu, Calabassas,
16 National Parks, State Parks, all come without opposition, or
17 even in support of this particular plan.

18 I am not going to get into the legal issues.
19 There are plenty of lawyers here who are paid much more than
20 I am. They can talk about the legal issues.

21 But, I do want to just talk about a common sense
22 human issue. A university is not like a local 7-11. It is
23 not like an office building, a spec office building, or
24 shopping center. A university is like a battleship. I
25 represent the biggest universities in Los Angeles County in

1 my district, from UCLA to CSUN, to Pepperdine, to a host of
2 small colleges.

3 These universities, when they plan their academic
4 futures, don't plan a year, or two, or three ahead of time.
5 They plan decades ahead of time. So, when you set a set of
6 rules and regulations, by which they then go out and raise
7 the funds, get the endowments, get the commitments, envision
8 what their academic future is, it is a 10-year, 15-year
9 proposition. That is what they did. They played by the
10 rules as they were set down. They played by the rules as
11 were affirmed by the court.

12 It is a good plan. I am here to tell you it is
13 good plan. I support housing for the university students and
14 faculty on site. I would rather have them on site than
15 traveling across Las Virgenes Canyon Road to the campus, or
16 up PCH, to the campus. I support the graduate school being
17 on the site. It makes sense to have graduate, and under
18 graduate on the same site. From an educational point of
19 view, it is a good thing.

20 So, all of the aspects of this plan -- and I am
21 not going to get to every micro-managed detail, but the big
22 picture of this plan, it is a good plan, and it is consistent
23 with what we have done.

24 And, I would urge you to balance whatever
25 technicality you may think has arisen, and there may be -- I

1 am not going to get into the technicalities either -- balance
2 that against the educational institution, which is this
3 university, Pepperdine University. They have been a solid
4 neighbor in Malibu. They have been good for the community.
5 They have been good for the economy of the community.

6 But, above all, they have fulfilled their mission,
7 which I think is partly our job to help them, once they are
8 there, not to stand in the way of their mission, which is to
9 educate young people. Education, whether it is private or
10 public -- and I am a product of public -- but whether it is
11 private or public, is a very important thing. It is the
12 backbone of our democracy, and of our society.

13 There is -- I would urge you today -- and I know
14 you have a short Commission, but I would urge you today, not
15 to disapprove, to approve the plan that they have before you
16 -- to approve a plan that was unanimously approved by the
17 board of supervisors of our county, unanimously approved by
18 the planning commission of our county, chaired by my
19 appointment, Esther Feldman, whom you know, many of you know,
20 and a resident of Malibu. And, they exacted the last pound
21 of flesh out of these folks, and maybe there is another ounce
22 of flesh that can be exacted. But, to deny the permit to
23 allow them to fulfill their dream, their vision, that they
24 have had reason to believe that they could do, based on what
25 has been approved previously, would be a horrible mistake,

1 and it would be wrong.

2 So, I thank you. I hope I didn't exceed my time
3 limit, Madam Chair, and I will reciprocate when you are in
4 our Hall of Administration. Thank you very much.

5 CHAIR WAN: Thank you very much. It is hard to
6 resist your own representative.

7 MR. ZAROSLAVSKY: I'm irresistible.

8 CHAIR WAN: Okay, with that, I will go to staff.
9 We do have a speaker from Sheila Kuehl's office,
10 Assemblyman Kuehl's, but she can wait until, I think, the
11 regular time.

12 So, with that I am going to go to the staff.

13 CHIEF DEPUTY DIRECTOR DAMM: Thank you, Madam
14 Chair.

15 Item 15.a. is proposed Major Amendment 1-99 to the
16 Pepperdine University Long Range Development Plan, or LRDP
17 for short. Commissioners, staff has a coordinated
18 presentation that will take about 10 to 15 minutes today. I
19 will make a few introductory comments, followed by Barbara
20 Carey, our staff person in the Ventura office who prepared
21 the staff report, and who will explain the basis for our
22 recommendation. And, then John Dixon, the Commission's staff
23 biologist will discuss the significance of the native
24 grasslands present on the upper campus of the University of
25 Pepperdine.

1 Before proceeding, staff does want to acknowledge
2 our appreciation to the university, to Dr. Benton, and the
3 staff members at the university who have worked with us
4 throughout the years, and including on this amendment that is
5 before you today. Certainly, they have always conducted
6 themselves in a very professional manner, and we very much do
7 appreciate that.

8 However, while the staff fully understands the
9 importance of educational facilities, and institutions at all
10 levels of education, we have a law to carry out, and that law
11 is the *California Coastal Act*, and in looking at that our
12 conclusion was that the amendment that is before you today is
13 not consistent with the policies -- more specifically the
14 resource protection policies, and the geologic hazards
15 policies of the *Coastal Act*.

16 This is a very difficult matter, and one of the
17 arguments that you are going to hear repeatedly today, I
18 suspect, is that there is a question of equity, that the
19 Commission, approximately 10 years ago approved a Long Range
20 Development Plan for the university, and as part of that Long
21 Range Development Plan it allowed for substantial expansion
22 of the university, within what is referred to as the
23 developed, or lower portion of the campus, as well as
24 expansion into the area that is referred to as the upper
25 campus. It is that upper campus area that is the issue of

1 concern today, and which the staff is recommending that you
2 not approve the amendment that would allow for the expansion
3 into the upper campus. It does not affect the lower campus
4 at all.

5 The reason that the staff concluded that we should
6 recommend denial of this Long Range Development Plan
7 amendment is that even 10 years ago, when the Commission was
8 reviewing this, there was great concern over the geologic
9 stability of the upper campus site. There was a large amount
10 of testimony that was presented at the time with regards to
11 geologic stability. In fact, the Commission required the
12 university to do additional testing of the geologic stability
13 of the site over a period of time, before you took action on
14 that Long Range Development Plan.

15 Part of what the issue is before you today is that
16 since you approved the Long Range Development Plan 10 years
17 ago, the university has discovered that the geologic issues
18 associated with the site are far worse than what was even
19 contemplated 10 years ago. The result of that is that the
20 remediation necessary for the site increases the amount of
21 grading from approximately 3 million cubic yards, to some 4.5
22 million cubic yards. So, that is one issue that is before
23 you today.

24 The other issue that is before you today revolves
25 around the staff's discovery that there is a significant

1 stand of native grasslands present on the portion of the
2 property where the upper campus improvements will be built,
3 and you will be hearing more on that from Barbara Carey, and
4 John Dixon of our staff.

5 At this point, I would like Barbara to go over the
6 bases, specific bases for our recommendation.

7 COASTAL STAFF ANALYST CAREY: Thank you.

8 Yes, Commissioners, just to give a very short
9 background. As we have heard, in 1989 the Commission
10 considered the Long Range Development Plan that included the
11 upper campus area, as well as the remainder of the 830-acre
12 campus.

13 In that action, the Commission denied the LRDP as
14 submitted, and approved it with suggested modifications.
15 That LRDP included three million cubic yards of grading for
16 the upper campus, and also included 234,000-square feet of
17 housing, and 150,000-square feet of academic buildings. The
18 university now proposes to make several revisions to that
19 certified LRDP, and that includes an increase in grading from
20 3 million to 4.5 million cubic yards, modifications to the
21 circulation system, which includes the addition of a
22 secondary access road. That was necessary to meet fire
23 department standards.

24 They are requesting to redesignate a church
25 facility to an academic facility, and there are also various

1 changes to the design of the approved structures within the
2 same square footages. The university is not proposing at
3 this time any changes in the total square footage of housing,
4 or academic buildings.

5 The upper campus project, as proposed to be
6 amended -- as we have heard -- was also considered by the
7 County of Los Angeles for a conditional use permit, as well
8 as other discretionary approvals, like an oak tree permit,
9 and a parking permit. An environmental impact report was
10 prepared, and certified by the county for the project.

11 As we have stated, staff is recommending that the
12 Commission deny LRDP Amendment 1-99 as submitted. The LRDP,
13 as proposed to be amended, is not consistent with Sections
14 30240, 30251, or 30253 of the Coastal Act. The two main
15 issues involved are the increased grading for site
16 stabilization, and the destruction of native grassland from
17 the site.

18 The motion and resolution necessary for this
19 action are detailed on page 2 in the staff report.

20 As I have mentioned, the original LRDP included 3
21 million cubic yards for the upper campus area, subsequent to
22 that certification, the university's geologic consultants
23 undertook further investigations of the site in response to
24 the fire department's requirement for a secondary access
25 road.

1 At that time, it was discovered that one of the
2 slides had a much deeper slide plane than was previously
3 identified. In order to take care of that slide, that is
4 primarily the increase in grading that we are seeing now.
5 The conceptual grading plan that the university is proposing
6 has 4.5 million cubic yards of grading. That is balanced on
7 site with 2.25 million cubic yards cut, and 2.25 million
8 yards of fill.

9 The proposed grading is both for the creation of
10 the building pads and roadways, and well as the stabilization
11 of the landslides. Four bedrock slides, and five debris
12 flows were found within or adjacent to the upper campus site.
13 The landslide masses underlie most of this site, and the
14 grading that is proposed includes three buttress fills, and
15 two shear keys designed to stabilize the landslides.

16 Just as an example, to give you an idea of the
17 scale we are talking about, the buttress to stabilize the
18 largest landslide, which is called QLS-6, is proposed along
19 the south-central portion of this slide, and that buttress
20 would be approximately 700-feet long, and 300-feet wide, and
21 up to 120-feet deep.

22 Given the uncertainties that are associated with
23 estimating the extent of hazard associated with sub-surface
24 geologic conditions, such as this, redesign and new
25 development to avoid hazards would be the preferable means of

1 minimizing risk to life and property from geologic hazards.

2 However, in this case, given the size and location
3 of the landslides on this site, it would not be possible to
4 redesign the project to avoid all of the landslides. They
5 would still need to be stabilized in order to develop this
6 site with the uses that are proposed.

7 The university's geologic consultants have
8 concluded that the proposed grading would result in slopes,
9 pads, and roads, that would be stable, assuring stability and
10 structural integrity.

11 While it may be technically possible to stabilize
12 this site, to do so requires excessive landform alteration of
13 a type and magnitude that the Commission has not approved for
14 other projects in the Santa Monica Mountains. The grading
15 plan would not minimize landform alteration, as required by
16 Section 30251.

17 Further, conditions may be such that during
18 construction it may prove necessary to do even more grading
19 than is currently anticipated. The Commission has certainly
20 found that to be the case in other projects, and certainly
21 not projects of even this scale.

22 So, getting back to the landform alteration, the
23 additional 1.5-million cubic yards of grading represents a 50
24 percent increase in total site grading, and although the
25 university has stated, and has designed the project, to

1 result in the same ultimate profile of the site, that is
2 certainly an excessive amount of landform alteration, in our
3 view, and not only from a landform alteration standpoint, but
4 also from the impacts it would have to sensitive resources on
5 the site, including the sensitive needlegrass.

6 The detailed onsite biological surveys that were
7 carried out for the EIR identify this needlegrass habitat of
8 over 8 acres to be found on and around the upper campus site,
9 and staff would just note that the majority of areas like
10 this in California have been converted to agriculture,
11 subjected to disturbance, that allows replacement of native
12 grassland species with annual grasses, or graded for
13 development, thereby significantly reducing the historical
14 extent of this habitat statewide.

15 While several sensitive habitats, and sensitive
16 plant and animal species were found, no listed endangered
17 species of plants or animals were identified on the upper
18 campus site; however, I would note that while the presence of
19 endangered species would be indicative of an environmentally
20 sensitive habitat area, under the Coastal Act that is not
21 required. Rather, environmentally sensitive area under the
22 Coastal Act, means any area in which plant or animal life, or
23 their habitats, are either rare, or especially valuable
24 because of their special nature and role in an ecosystem, and
25 which could be easily disturbed or degraded by human

1 activities and developments.

2 We feel there is substantial evidence provided by
3 the biological surveys that the grassland habitat located on
4 the upper campus site must be considered ESHA under this
5 definition, and our staff biologist, John Dixon, is going to
6 discuss in greater detail the reasons why we feel that is the
7 case. But, we are recommending that the Commission find that
8 this grassland constitutes ESHA under the meaning of the
9 *Coastal Act*.

10 Section 30240 of the *Coastal Act* requires that
11 environmentally sensitive habitat areas are protected against
12 any significant disruption of habitat values, and that only
13 uses dependent on those resources can be allowed within ESHA.
14 The LRDP, as it is proposed to be amended, is clearly not
15 consistent with this policy. The valley needlegrass grass-
16 land areas on and adjacent to the upper campus site would not
17 be protected against any significant disruption of habitat
18 values; rather, these areas would be destroyed as the result
19 of the proposed 4.5-million cubic yards of grading, and
20 additionally by the fuel modification that would be required
21 around the site.

22 Typically, to insure compliance with Section 30240
23 of the *Coastal Act* development must be located outside of all
24 ESHA areas, and development adjacent to an ESHA must provide
25 a setback, or buffer, around the ESHA that is adequate to

1 prevent impacts that would degrade the resources.

2 In this case, the instability of the upper campus
3 site would prevent the university from re-siting, or re-
4 designing development to be located outside of ESHAs, or to
5 provide an appropriate buffer to protect against any
6 significant disruption. Even if the road and pad grading
7 could be redesigned to avoid the grassland areas, the
8 underlying landslides would also require stabilization for
9 the site to be developed.

10 While the university has proposed, and is required
11 under the county approvals to provide several mitigation
12 measures to offset the impacts of the upper campus
13 development on biological resources, the county's EIR
14 acknowledges that there would be significant adverse impacts
15 to the valley needlegrass grassland that could not be
16 mitigated, even with the implementation of the mitigation
17 measures.

18 This mitigation is the protection, or the enhance-
19 ment of in-kind grassland habitat, or other degraded areas at
20 a 1:1 ratio, and the donation of \$75,000.00 as a contribution
21 for the acquisition by a public resource agency of property
22 that contains valley needlegrass habitat.

23 In conclusion, staff is recommending denial of the
24 amendment, in order to protect environmentally sensitive
25 habitat area, to minimize landform alteration, and to

1 minimize risks from geologic hazards, consistent with the
2 Chapter 3 policies of the Coastal Act.

3 [Slide Presentation]

4 And, we do have a few slides. Oh, that is really
5 dark. I don't think we are going to be able to see much from
6 that. Why don't we just go to the next slide, unfortunately.

7 This is a plan of the proposed upper campus
8 development, and this is showing the roads and general area.
9 The upper pad area would be the graduate campus uses, the
10 next pad down would be the faculty and staff housing, student
11 housing in the center pad, and then academic facilities at
12 the bottom.

13 This plan does show the additional loop road,
14 here, which was required for this secondary fire access.

15 Next.

16 CHAIR WAN: Could you show that again? I couldn't
17 see the --

18 COASTAL STAFF ANALYST CAREY: I am sorry.

19 CHAIR WAN: -- pointer very well. Which is the
20 secondary access, that was required?

21 COASTAL STAFF ANALYST CAREY: I am sorry. It is
22 this road. This was added.

23 Originally, the plan provided for a road much in
24 this configuration, that ended in a cul-de-sac, and the fire
25 department wants there to be two accessways in and out of the

1 site.

2 EXECUTIVE DIRECTOR DOUGLAS: Apparently, the
3 pointer doesn't reflect too well on this.

4 COASTAL STAFF ANALYST CAREY: Yes, a high-tech
5 screen. Well, this one is a little better, okay.

6 This shows the conceptual grading plan, and the
7 dark green areas on the map will all be manufactured slopes,
8 while the light green are the pad areas, and the gray are the
9 roadways.

10 This is the biological map showing the various
11 habitats on the upper campus site, and I think you can see,
12 in the yellow, these are the valley needlegrass grasslands.
13 The dark green are the coastal sage scrub, interspersed with
14 valley needlegrass areas. The light green areas are the
15 coastal sage scrub, and this pink is the area where the
16 Plummers Mariposa Lily was found in significant -- what am I
17 trying to say -- in concentrations that were significant
18 enough to be mapped in those areas. It is also found in
19 other areas of this site.

20 And, the line is showing the upper campus outline,
21 so there are few grassland areas over on this side. Some of
22 this area would be impacted by the fuel-mod, and the
23 remainder of the areas would be left naturally.

24 These are really dark. This is showing the upper
25 campus area, here.

1 This is from a ridge approximately the same
2 elevation on the other side of the campus.

3 I don't think these are going to turn out very
4 good.

5 CHAIR WAN: We can see them fairly well in our
6 video monitors.

7 COASTAL STAFF ANALYST CAREY: Can you? Okay.

8 CHAIR WAN: I am sorry for the audience may not be
9 able to see it too well, but that is why I have called the
10 other Commissioners over, who do not have monitors, to be
11 able to take a look.

12 COASTAL STAFF ANALYST CAREY: Okay, great.

13 You can see these squares are a way that the
14 university has flagged out the ultimate elevations. You can
15 see this ridge here, would be taken down to approximately
16 this pad elevation.

17 This is an example of some of the existing housing
18 on the site, and it would be about this approximate design,
19 is what is proposed for the housing on the upper campus.

20 And, this is showing the central area of where the
21 grassland is located. You can see it is a little less steep
22 in those areas.

23 And, this is a slide located in the grassland
24 area.

25 And, I think that's it. So, that would conclude

1 my comments, and I will pass it on to John Dixon.

2 STAFF GEOLOGIST DIXON: Good morning,
3 Commissioners. I would like to address the question of
4 whether valley needlegrass grassland should be considered
5 ESHA, and say a few words about the restoration potential.

6 The basis for designating an area as
7 environmentally sensitive is rarity or special value, and
8 susceptibility to disturbance and degradation.

9 Native prairies are now rare throughout
10 California, as the result of agriculture and development and
11 invasion by exotic annual grasses. Statewide, California
12 grasslands have been reduced from about 22 million acres in
13 the 1700s, to about 2 million acres now. And, of those 2
14 million acres, the vast majority have been converted to
15 exotic annual grasslands.

16 The valley needlegrass grassland is particularly
17 uncommon, especially in coastal areas, and this rarity is
18 underscored by the fact that examples of this habitat is
19 universally referred to as relic perineal grasslands by
20 specialists. Coastal terrace grasslands have almost entirely
21 been destroyed by development and agriculture.

22 The existing native grassland at the Pepperdine
23 site is apparently extraordinary for both its quality and its
24 size. The EIR and the biological data base of Pepperdine
25 University described the native grassland as usually

1 dominated by purple needlegrass that often forms dense mono-
2 specific patches, interspersed with other native perineal
3 bunch grasses, and annual flowering bulbs. The density of
4 native grasses exceeds 40 percent in many places, and is near
5 90 percent in some areas.

6 I described this community to several specialists,
7 including Dr. Mark Stromberg, who is manager of the UC
8 Berkeley's Hastings Reserve, which includes a substantial
9 needlegrass grassland. And, Dr. Stromberg is a native grass-
10 land expert, and you have before you an e-mail that he sent
11 with the understanding that it would be entered into the
12 record.

13 He, and his colleagues, have surveyed 80 relic
14 stands of perineal grassland along the central coast that
15 were particularly chosen because they were in pretty good
16 shape. Based on the description of the Pepperdine site in
17 the EIR it is probably a more pristine example of grasslands
18 than any of those chosen 80 sites.

19 The quality of the site suggests it has never been
20 plowed, or at least has not been plowed for a very, very long
21 time. Eight acres is an extremely significant area for such
22 a pristine community. In Dr. Stromberg's study, most of the
23 relic native grassland were less than 5 acres in extent.

24 These communities are also important because they
25 are characterized by very high bio-diversity. Many plant and

1 animal species are associated with needlegrass grassland.

2 Dr. Stromberg, and his colleagues, recorded 326
3 species of herbs in their study, with an average of about 50
4 species in a quarter-acre site. In addition, many insects
5 are relying on these plants species during some stage of
6 their life cycle.

7 Needlegrass grassland is also comprised of
8 unexpectedly long-lived individuals, and this is the result
9 of work that Dr. Jason Hamilton, who worked with Professor
10 Bruce McHall at UCSB at the Hastings Reserve, has recently
11 discovered. His study was of marked populations of purple
12 needlegrass, and based on the observation of nearly zero
13 mortality of large individual clumps, over a period of 40
14 years, he estimated that large individuals and natural
15 undisturbed habitats are at least several hundred years old.

16 Valley needlegrass grassland is rare. It has
17 special values, and its susceptibility to disturbance is
18 obvious.

19 I would also like to discuss the likelihood of
20 creating this habitat, or restoring valley needlegrass
21 grassland, where it has been previously grown, but has been
22 destroyed by development or agriculture -- actually, by
23 agriculture.

24 Now, it is relatively easy to grow individual
25 species of native grasses, and in particular it is a fairly

1 simply matter to grow gardens of needlegrass. Needlegrass is
2 frequently hydroseeded to stabilize slopes, or as part of
3 native ornamental planting in developed areas. These are
4 low-diversity, special purpose plantings, which are quickly
5 invaded by exotic annual species, and they bear little
6 resemblance to natural perineal grassland habitats.

7 It is difficult to create native perineal
8 grassland communities, because this requires particular soil
9 characteristics, and it involves a whole suite of species, in
10 addition to the needlegrass. In fact, to date, no one has
11 created a valley needlegrass grassland, similar to
12 undisturbed natural stands.

13 Natural perineal grasslands tend to occur on deep,
14 heavy soils. Once these soils are significantly disturbed,
15 they are extremely difficult to restore. It takes many
16 decades without additional disturbance for the microbial
17 community to approach its previous state. And, the disturbed
18 areas are quickly dominated by exotic annual grasses, which
19 have very shallow roots, compared to native grasses, and have
20 different effects on soil structure.

21 Dr. Stromberg and his associates have been working
22 many years developing techniques to restore old fields to
23 native prairie. They have established native perineal
24 grasses on over 30 sites. It has often required many years
25 to establish the perineal grasses and prevent evasion of

1 exotic annuals. And, even after this substantial effort,
2 diversity is low. It would require many decades to restore a
3 native grassland community.

4 And, this should not be surprising when one
5 considers the fact that as late as 1977 there was not a
6 single study of California Native grasslands that was based
7 on quantitative sampling.

8 So, in summary, by every ecological standard, the
9 native grassland described at Pepperdine is environmentally
10 sensitive habitat area, and although it is theoretically
11 possible to create a native grassland community, it has never
12 been accomplished.

13 Thank you.

14 EXECUTIVE DIRECTOR DOUGLAS: Madam Chair, just
15 some closing comments.

16 We understand the arguments by the university and
17 proponents that the Commission approved the underlying use
18 some 10 years ago, and that somehow the Commission should be
19 bound by that decision, but in fact there have been
20 significant changes on the ground, and the Commission cannot
21 ignore those changes in applying the law to the facts in this
22 case.

23 The geological information, and the changes in
24 that information requiring the additional grading, that is a
25 change, a very significant change that the Commission must

1 address. The fact that there are ESHA resources, and ESHA
2 issues that have now been discovered on the site, that were
3 not adequately dealt with before -- and I understand the
4 argument is, "Oh, yes, it was." It was not. If you look at
5 the environmental documentation back 10 years ago, it was
6 just mentioned in passing.

7 It was because there was an environmental impact
8 report that had to be done for this project that the issue of
9 the extent and the nature and the viability of the needle-
10 grass ESHA habitat was first brought to our attention. So,
11 that is an issue that the Commission must deal with as it
12 exists on the ground.

13 This is not a new situation for the Commission.
14 You often find issues that come before you -- you have some
15 in neighboring jurisdictions, where because of the emergence
16 of ESHA resources you have had to apply the law to the facts
17 as they exist; notwithstanding that the underlying plan did
18 not call for that level of protection. You have that in a
19 whole variety of issues. You have dealt with these before.
20 So, this is nothing new.

21 So, again, in closing, the staff wants to again
22 emphasize that in no way our recommendation based on any kind
23 of hostility or concern we have over private education. That
24 simply is not an issue here. And, the argument that somehow
25 the Commission should overlook these specific policies and

1 requirements in Chapter 3 of the Coastal Act for the benefit
2 of educational facilities, such as this, and use somehow the
3 policies in the first chapter of the Coastal Act to override
4 the resource protection policies is simply not the applica-
5 tion, proper application, of the law.

6 So, with that, Madam Chair, we have completed our
7 report.

8 CHAIR WAN: I am going to call for ex-parte
9 communications, and start with Commissioner Orr.

10 COMMISSIONER ORR: None.

11 CHAIR WAN: Commissioner Daniels.

12 COMMISSIONER DANIELS: Yes, I have some to
13 declare.

14 On October 7, 1999, I had a telephonic
15 communication with Dr. David Davenport of Pepperdine, Lucinda
16 -- I think she is also known as Cindy Starrett, and Lauren
17 Montgomery of Latham and Watkins, and we discussed their
18 contention of their reliance on the plans. We discussed an
19 interpretation of the Bolsa Chica case. We discussed
20 alternative siting. And, then, I called them again the
21 following day, and I spoke again with Cindy Starrett, and
22 Lauren Montgomery with respect to their arguments regarding
23 government estoppel and detrimental reliance.

24 CHAIR WAN: Commissioner Kruer.

25 COMMISSIONER KRUER: Yes, Madam Chairman, I on

1 10/6 I had a meeting with, in Commissioner Kehoe's office in
2 San Diego, and Craig Adams of her staff, and representing
3 Pepperdine, Cindy Starrett and Rick Zbur and Nancy Lucast,
4 and we talked about the Long Range Development Plan and the
5 relationship to the existing certified LRPD, and the
6 treatment of the needlegrass in the original Long Range
7 Development Plan and the proposed project, and the need for
8 remedial grading and to cure the geotechnical problems.

9 Also, I had a brief telephone conversation last
10 Friday, and yesterday, trying to arrange to get some grading
11 plans, and maps, so I could evaluate the remedial nature of
12 the grading, and look at that, with Lauren Montgomery.

13 CHAIR WAN: All of my ex-parte communications are
14 written and on file.

15 Commissioner Dettloff.

16 COMMISSIONER DETTLOFF: Yes, I met on 10/11 with
17 Lucinda Starrett and Joseph Bentley from Latham and Watkins,
18 and Eileen Padberg and Nancy Lucast, and we just went over
19 the past actions, and how those actions will now impact
20 decisions we are making today. We went over the project
21 site, and the ramifications of our decisions.

22 CHAIR WAN: Commissioner Allgood.

23 COMMISSIONER ALLGOOD: Yes, I met with Rick Zbur,
24 and Cindy Starrett, and David Davenport, in my offices on
25 October 7. We talked about their reliance on the Long Range

1 Plan, the reasons behind the additional grading, and their
2 view of the needlegrass issue.

3 CHAIR WAN: Commissioner McClain --

4 COMMISSIONER ALLGOOD: And, I had a conversation
5 this morning with Rick, as covering roughly the same items.

6 CHAIR WAN: Commissioner McClain-Hill.

7 COMMISSIONER MC CLAIN-HILL: October 7, I had a
8 telephone conversation with Los Angeles City Attorney James
9 Hahn, and we discussed the project amendment generally, and
10 Pepperdine's responsiveness to planning issues.

11 On October 8 I had a telephone conversation with
12 George Muhlsten, and we discussed, again, Pepperdine's Long
13 Range Development Plan. I also had a meeting in my office
14 with Cindy Starrett, and Andy Benton, where we discussed
15 Pepperdine's response to the staff report in detail, and also
16 arguments related to estoppel and reliance.

17 Thank you.

18 CHAIR WAN: Commissioner Flemming.

19 COMMISSIONER FLEMMING: I have actually been
20 unavailable, but I did have a brief discussion this morning
21 with Nancy Lucast, again, on the LRDP and their reliance on
22 the plans in place, similar conversation to Shirley's
23 conversation.

24 CHAIR WAN: With that, I am going to open the
25 public hearing, and let me tell you how I am going to

1 organize this. I have a couple of elected representatives,
2 or their aides, to speak. I am going to take them first.
3 Then Pepperdine has indicated that they have a prepared
4 presentation of 25 minutes, and a number of speakers who will
5 speak after them, of two minutes apiece. That should take us
6 about 45 minutes, is my estimate.

7 For those who are speaking in opposition, if you
8 have a prepared presentation, I will give that prepared
9 presentation, the 25 minutes that I am giving to Pepperdine,
10 so you might think about how you want to organize your time.
11 And, then, in addition, two minutes for each of the
12 individual speakers.

13 So, we are going to arrange the presentations that
14 way, and I am going to call first Assemblyman Wright,
15 welcome. You have three minutes.

16 MR. WRIGHT: Okay. Good afternoon, Madam Chair,
17 members. I am Assemblyman Wright, and I represent the 48th
18 Assembly District in the California State Assembly. And, I
19 am here today to express my support for the Pepperdine plan,
20 and also join with my colleague, Assemblywoman Sheila Kuehl,
21 who represents the area, who also is a supporter of the plan.

22 As many of you may know, I was the student body
23 president at Pepperdine in 1972, have been involved in
24 working with the university since actually going back to
25 1967, when it was located on 79th and Vermont, which was

1 actually in my Assembly District.

2 I am proud, as I was many years ago, to call
3 myself a wave and an alumnus of the university. You know, to
4 not take all of the time, as I have a number of other things
5 that I could say, but in three minutes, just to truncate the
6 remarks, Madam Chair.

7 You know, I think, again, the issues of the plan
8 were decided sometime ago. I mean, this was looked at,
9 Attorney General VandeKamp represented this matter in court.
10 It was heard. The issue of the needlegrass, and all of those
11 things were taken into account. There were some seismic
12 issues that have since come up, but what we are talking about
13 is not expanding the footprint of what's to be developed.
14 What we are simply talking about is making sure that you
15 anchor the new facility in the current seismic situation.
16 That is not expanding the footprint. It is not making this
17 situation any larger.

18 What's more, I think that there is enough
19 mitigation for the 500-and some acres that are being
20 preserved relative to the needlegrass, and a number of the
21 other things.

22 I think that if we are not able to approve this
23 that we hamper what, in affect, is a world-class university.
24 I don't think anyone would argue, and I know since '72, since
25 I have been both a student and affiliated with Pepperdine,

1 the university has been involved with civic affairs, is the
2 staging area for environmental things, and other things that
3 go on in the community. The students have been good
4 neighbors, and made sure that they have availed themselves,
5 and the community has availed itself of the university.

6 I think that given the fact that this matter has
7 been heard, given the fact that the university has been given
8 assurances that it could go ahead, to withdraw that at this
9 time, and to rescind what was, I believe, a properly heard
10 and adjudicated decision would violate, I think, all of the
11 rules of fairness, and other things, that we should have.

12 I would request, respectfully, that the members of
13 the Commission approve the Long Range Development Plan for
14 the graduate campus at Pepperdine University, for the
15 benefit, not just of the Malibu community, but for the
16 benefit of State of California, and the nation, as well,
17 because we all benefit when the private educational
18 institutions, such as Pepperdine, able to advance in this
19 manner.

20 Thank you very much.

21 CHAIR WAN: Thank you.

22 I have a question of Ms. Patterson. If there has
23 been a communication, even if it has been submitted in
24 writing, if the communication is less than 7 days, is it
25 necessary to declare it orally, as well? In other words, if

1 it has been submitted to the Commission's offices?

2 DEPUTY ATTORNEY GENERAL PATTERSON: Was this a
3 communication that was submitted to everyone? and to staff?
4 or just --

5 CHAIR WAN: No, I am talking about an ex-parte
6 communication to a Commissioner that was --

7 COMMISSIONER MC CLAIN-HILL: Seven days.

8 CHAIR WAN: -- held, or took place less than 7
9 days, but was submitted in writing to the Commission's
10 offices, the copy of it. Is it still necessary to disclose
11 it verbally, at the time of the hearing?

12 CHIEF COUNSEL FAUST: If copies were provided and
13 placed in the administrative record, and staff has it as part
14 of the administrative record, then you needn't separately
15 report it. I am assuming that you are talking about a
16 written document?

17 CHAIR WAN: Yeah, I am talking about --

18 COMMISSIONER MC CLAIN-HILL: It is oral.

19 CHAIR WAN: -- the ex-parte communication.

20 CHIEF COUNSEL FAUST: If it is an oral --

21 CHAIR WAN: The form.

22 CHIEF COUNSEL FAUST: -- the form is based upon an
23 oral communication.

24 CHAIR WAN: Correct.

25 CHIEF COUNSEL FAUST: Now, I understand what you

1 are saying. You need to report it today.

2 CHAIR WAN: Okay, that was the question --

3 CHIEF COUNSEL FAUST: I misunderstood you the
4 first time.

5 CHAIR WAN: -- that came up, okay.

6 In which case, I need to report that on October 8
7 -- because I did submit this in writing -- I did have a
8 conversation with Andy Benton at my home, and we discussed
9 the issues regarding the staff report in general. Given my
10 history with the project, and where I live, I was very
11 familiar with it, and we just went into some of the issues
12 that were -- I don't have my written report in front of me,
13 which I submitted, which are in the staff report --
14 specifically, the grading and the needlegrass, and the
15 university's reliance upon previous Commission action.

16 With that, I am going to call Laurie Newman.

17 Welcome.

18 MS. NEWMAN: Welcome, good afternoon, Honorable
19 Chair and members of the Commissioners. My name is Laurie
20 Newman. I am representing Assembly Member Sheila Kuehl this
21 afternoon, who made quite an attempt to be here. She
22 actually drove half way and turned around, realizing that she
23 wouldn't be back in time for her next appointment, so I just
24 wanted to let you know that she is sorry that she can't be
25 here.

1 And, I am going to read a letter that we sent to
2 you last week, that you probably have in your packet, but I
3 would like to read for the record.

4 "I am writing to express my strong support
5 for the proposed amendment to Pepperdine
6 University's LRDP. Pepperdine, which lies
7 in the 41st Assembly District is a premier
8 educational institution, and a good institutional
9 citizen who has consistently played by the rules.
10 The Coastal Commission approved the university's
11 LRDP in 1990, and the graduate campus project
12 was a key element of that plan.

13 "The staff's recommendation that the Commission
14 now deny the proposed amendments creates a
15 difficult, and essentially unfair, conundrum
16 for the university, which followed every
17 instruction, and now finds that it must defend
18 plans before the Commission, although different
19 in makeup, that granted approval nine years ago.
20 This is the university's final step after many
21 years of meetings, negotiations, and most
22 importantly agreements. The Coastal Act, in
23 recognizing the importance of education,
24 encourages long term planning for educational
25 uses in the coastal zone. In this particular

1 case, I believe the staff has given insufficient
2 weight to the educational, as well as the visitor-
3 serving uses of the graduate campus project.

4 "Certainly, almost every decision any governmental
5 body has to make involves the weighing of
6 positives and negatives, competing interests,
7 and the inherent conflict between serving people
8 and protecting our precious resources.

9 "Your charge, as I understand it, is to protect
10 the resources of California's coastal zone,
11 giving appropriate consideration to the complex
12 needs of the surrounding community. Pepperdine
13 University, as an educational institution, has
14 done exactly what the Coastal Act states: it
15 developed a long term plan, approved by the
16 Commission, that afford students the opportunity
17 to learn and visitors the opportunity to
18 participate in a multitude of stimulating
19 programs, while paying attention to the needs
20 of the coastal area.

21 "I understand the staff's two primary concerns,
22 the loss of valley needlegrass, and the amount
23 of grading deemed necessary to safely develop
24 this site. It is important to note that
25 the additional grading did not result from

1 any changes to the project, but rather came
2 about because of additional geological
3 information garnered from the EIR.

4 "The additional grading will not change the
5 surface land form alteration, but will serve
6 to make the upper campus safer. As regards
7 to the needlegrass, the amount of grass that
8 will be affected is no different from that
9 contained in the original long range plan.

10 "Denial on this basis does not make sense to me.
11 It is important to note all of the positive
12 things that Pepperdine has agreed to do in
13 order to address the environmentally sensitive
14 issues. Not only will 530 acres of the 830-
15 acre campus be designated as permanent open
16 space, the university has also agreed to
17 provide the funds to purchase 72 acres of an
18 environmentally sensitive habitat area for
19 the Santa Monica Mountains Conservancy, and
20 to allocate \$75,000 to State Parks, either
21 for purchasing land containing valley needle-
22 grass, or for restoring the grass off site.

23 "I most respectfully request that you approve
24 the proposed amendment. I am confident
25 that the university would be more than

1 happy to continue to work with your staff
2 to develop modifications that you both can
3 live with.

4 "The concern for environmentally sensitive
5 habitat is certainly warranted. Perhaps the
6 university would agree to an on-site program
7 that would involve further restoration and
8 research on the needlegrass. As far as the
9 grading, the increase will only serve to
10 make the project safer, and that is a good
11 thing.

12 "I ask you to consider the importance of higher
13 education in this state, and how lucky we are
14 to have a university that operates with such
15 integrity right in our back yard. Pepperdine
16 is a good neighbor, an incredible resource,
17 and most importantly, a university that does
18 an excellent job at educating its students.
19 I am confident that, with your approval,
20 the university will do an even better job
21 of providing that education by adding graduate
22 programs, and thus being able to serve
23 additional students. Thank you very much
24 for your consideration. Assembly Member
25 Sheila James Kuehl."

1 CHAIR WAN: Thank you.

2 With that, I am going to call the university, Dr.
3 Benton, and you have yourself, Lucinda Starrett, and David
4 Davenport, Dr. Davenport, and you are requesting 25 minutes,
5 is that correct?

6 MR. BENTON: And, we will try to be quicker than
7 that, if we can, Madam Chair.

8 CHAIR WAN: Thank you.

9 MR. BENTON: Thank you very much, and good
10 morning. My name is Andrew K. Benton. I serve as executive
11 vice president at Pepperdine University, and our address is
12 24255 Pacific Coast Highway in Malibu, 90263.

13 It is with no small measure of excitement that we
14 have reached this point after a long journey. Even now,
15 however, as we approach this hearing today, we don't know
16 exactly what to place in front of you, because after a long
17 and intricate process, your staff recommends denial of our
18 plan, and we, of course, respectfully disagree with that.

19 One school of thought is that we should go right
20 to the two issues that they have raised: needlegrass, and
21 grading. But, the problem with that, from our perspective,
22 is that it allows those two issues to define the project, and
23 we don't think that is right, or fair. And, so I am going to
24 take some of the limited time that you have been kind enough
25 to allocate to us this morning to tell you something about

1 Pepperdine University.

2 At Pepperdine University, we have decided not to
3 do everything that there is to do in higher education, but to
4 do well what we choose to undertake. We are not a leading
5 research institution, but we are considered to have one of --
6 and in some cases, the very best school in the nation in
7 certain areas, such as dispute resolution, organizational
8 behavior, or in the foreign study opportunities that we offer
9 to our students, and I name just those three.

10 We are proud that we rank 11th in the nation in
11 the number of MBA degrees that we award to Hispanic and
12 Latino students; and that we rank 16th in the nation for the
13 number of masters degrees awarded to African American
14 students in psychology; and, 2nd in the nation in the same
15 category for Asian Americans; and that we rank 5th in the
16 nation in the granting law degrees to Native Americans. I
17 could go on with these statistics, but I won't.

18 I am here today to say to you that we are asking
19 for your permission to proceed because we want to do our work
20 better in the future than we have in the past.

21 The mystique of Malibu suggests affluence to some,
22 but indeed 70 percent of all of our undergraduate students
23 receive some significant form of financial aid, and indeed,
24 29 percent of our freshman students come from homes with
25 household incomes of less than \$50,000 a year. Our small

1 undergraduate school is ranked in the top 51 in the nation.
2 We provide a diverse group of students with a remarkable
3 education that we think is second to none, in terms of having
4 a meaningful coastal zone experience. And, some day they
5 graduate, and they move on, and they are forever changed from
6 this experience.

7 As such, we probably bring to you a project
8 slightly different than you see from some applicants. We
9 have no profit motives. As a matter of fact, we operated at
10 a significant deficit, on purpose, made up only by the gifts
11 of others. We don't have any shareholders, just stake-
12 holders, and many of them are here today, stakeholders in the
13 future of this university.

14 I am teaching a course this term -- as a matter of
15 fact some of my students are here today -- and I will tell
16 them during the course of this study that I want them to make
17 outlines, and then summaries of those outlines, and that
18 eventually key words and phrases that must not be lost. And,
19 the key word that must not be lost, as you consider our
20 presentation today is the word "students."

21 [Slide Presentation]

22 Now, I am going to try to use the screen, and I
23 hope that perhaps, if you can't see it clearly, that maybe
24 you can avail yourselves of some of the monitors that are
25 available.

1 I would like very much if we could be holding this
2 hearing on our campus, so that you could know our students,
3 and so that you could know our faculty, and get a sense for
4 campus life, and the many co-curricular activities that they
5 undertake.

6 One of the things that I want to point out to you
7 is the great pride that we take in community service, and we
8 try to imbue each and every student with the importance of
9 making room in the course of their busy lives and careers for
10 service. Every year in September, on a Saturday morning, 750
11 college students gather to inaugurate the service year at the
12 university, and we call that "Step Forward Day". And, at a
13 certain time they step forward for a day of service in the
14 Malibu and surrounding community. And, it is not so much
15 that they are merely menial tasks that they are undertaking,
16 whether it picking up trash on the beach, or along Pacific
17 Coast Highway, or scraping chewing gum off of playground
18 surfaces at the elementary schools, the point is that they
19 are reaching out and serving other people, and we want them
20 to do that throughout their careers, and we believe they do.

21 A few words about the project, to augment what
22 staff has already said, we have a project that is 50.4 acres
23 in size, within the context of a 830-acre campus. We have
24 set aside 550-acres of campus as open space, as an open space
25 dedication.

1 What we are proposing in the graduate program is
2 immediately adjacent to the core campus, which you know is
3 important under the Coastal Act. All of the graduate campus
4 components are situated below skyline ridges, and will not
5 impact public viewshed impacts. Indeed, you can stand across
6 Pacific Coast Highway from the university, and you can look
7 straight ahead, and you can see the project. But, if you are
8 driving along Pacific Coast Highway, it is visible for only
9 six or seven seconds.

10 The architectural themes that we planned for this
11 campus are entirely consistent with what you already see in
12 place on the Malibu campus.

13 This is the project itself, made up of four
14 separate parts. The top-most pad is for the graduate campus,
15 itself, 95,500-square feet dedicated to serving three of our
16 graduate programs, a permanent facility, if you will, for
17 those graduate programs, for today they are served in
18 modular, or temporary facilities, which are simply not ideal.

19 Graduate library facilities will also be provided,
20 and conference and seminar facilities. The pad just next
21 door to that one is for faculty staff housing, 58 faculty
22 staff, single-family dwelling and condominium units.

23 We find that as we try to recruit a top faculty,
24 that we can go to say a university like, Duke, and attract a
25 biology professor, and offer her a salary that is interesting

1 to her, but when she comes to Southern California and finds
2 out how expensive it is to live here, frequently, that means
3 that she is unable to come. And, so, we have the practice of
4 developing housing on campus, that provides affordable
5 housing for a top faculty. That housing on campus also has
6 the beneficial impact of reducing traffic to and from campus
7 during prime drive times.

8 Just down from that facility, would be our student
9 housing. The LRDP called for 144 units. We now believe we
10 can do that with 96 units, providing beds for 300 additional
11 students, taking traffic off of the roads, once again, in
12 prime drive times, which we think is a good thing for the
13 community, and a good thing for this project.

14 The lowest pad is what we call the academic
15 support pad, providing some additional support facilities, as
16 well as some needed academic space.

17 Many project benefits -- it would be easy this
18 morning to focus primarily on the impacts, but I would like
19 for you to think about some of the benefits, as well. The
20 university is an educational and visitor-serving institution,
21 a point that your own attorneys made with force in their
22 advocacy on behalf of the Commission, and the university,
23 when the LRDP approval was litigated in 1990.

24 Many enrichment programs, I had originally invited
25 some faculty to come and speak today, and I wish you could

1 hear from them. And, I would be very happy if you could hear
2 from some of those in our national science division, that
3 take their classes outside of the buildings, and outside of
4 the laboratories into the Santa Monica Mountains, and into
5 the coastal waters, and into the streams, to study
6 vegetation, plant ecology, and the conservation of coastal
7 stream animals.

8 Many youth and community enrichment conferences
9 are held on campus. I don't know the number -- 50, 75. One
10 that I want to point out is Bay Watch Childrens Camp. We
11 have worked with them for seven years, I believe, and believe
12 it or not, there are young people living in the greater Los
13 Angeles area, not more than 45 or 60 minutes from the beach
14 who have never seen the ocean. And, through the Bay Watch
15 Children's Camp they are brought to our campus and introduced
16 to Malibu, and introduced to the coast. And, to many of
17 them, 90 percent Ty Collins tells me, don't know how to swim
18 when come to that camp, so we teach them to swim on our
19 campus, and introduce them for the first time, often in their
20 lives, to the coast, and we are proud of that association.

21 Planning approval has been a long-standing effort
22 for us. We began with the County of Los Angeles in 1984, and
23 conducted nine separate hearings. At the end of which, the
24 County of Los Angeles, to the regional planning commission,
25 to the board of supervisors, gave us approval for our Long

1 Range Plan for the campus, called the Development Program
2 Zone.

3 We, then, complied with *Public Resources Code*
4 *Section 30605* which authorizes private and public
5 institutions to prepare a Long Range Development Plan and we
6 did so. And, we processed it through this Commission
7 beginning in 1988, concluding with the final hearing in
8 January of 1990, and with that you gave us our blue print for
9 our future plans for the Malibu campus.

10 Since that time, we have raised a lot of money,
11 worked with the accrediting agencies, alumni groups,
12 students, faculty, staff, the many stakeholders that have
13 interest in our future, and prepared a plan that was entirely
14 consistent with what you have approved previously, and
15 brought it back to Los Angeles County beginning in 1998, and
16 conducted seven more hearings, at the end of which we had
17 unanimous approval from the regional planning commission, and
18 unanimous approval from the board of supervisors. And, we
19 have taken that plan, and we now return to you today, to ask
20 you for consideration for our graduate campus.

21 The Long Range Development Plan you have
22 previously approved, it included the graduate campus that is
23 virtually identical to what you see today. The Coastal
24 Commission previously reduced the grading envelope from the
25 impacted area, from about 100 acres to 72, relocated the

1 project to one site, instead of two, and reduced the square
2 feet of the project by nearly 600,000-square feet.

3 The Commission has previously required us to
4 dedicate an easement over 150 acres of the hiking trails, and
5 to protect 530 -- that is actually 550 acres of campus
6 property, and to increase the water tank capacity on the
7 site, which benefits not only us, and not only our neighbors
8 in Malibu Country Estates, but the whole of Malibu in times
9 of difficulty.

10 On the left, you see the plan that you approved in
11 1990. In the right, you see the plan that we bring to you
12 today, different only in detail, same number of square feet,
13 same rough location, same position on campus.

14 We believe this plan is consistent with the LRDP.
15 The grading footprint, we have further reduced from 72 acres
16 to 50.4 acres, continuing to tighten the project to make it
17 more compact. Same exact square footage, same uses in
18 layout, same building heights, same number of parking spaces,
19 same infrastructure.

20 The only differences are as follows: the County of
21 Los Angeles, for safety purposes, has asked us to install a
22 fire road that Ms. Carey properly identified on the map
23 earlier. Also, for safety purposes -- we knew there was a
24 landslide there. We thought we had done everything
25 appropriate to determine the extent of it, but indeed, it

1 turned out to be deeper. Nevertheless, we dealt with it. We
2 stayed in the same cut and fill, the same grading envelope.
3 There is no import, there is no export of soil in the coastal
4 zone. We are dealing with it on site, and we are going to
5 render the project safer as a consequence.

6 Church facility becomes an academic support
7 facility, and some detail changes, and slight reconfiguration
8 of the graduate complex, but the square footages are just the
9 same. We have added a park, that we call the recreation area
10 here, in this slide. And, then finally we have shifted the
11 water tank lower, which reduces grading, and shortens the
12 access road.

13 That is a very quick, whirlwind tour of the
14 university, and where we have been in the planning. I would
15 like to call on Cindy Starrett of Latham and Watkins, to talk
16 about our consistency with the Coastal Act.

17 Thank you.

18 MS. STARRETT: Good morning, Commissioners. I am
19 Cindy Starrett, from Latham and Watkins, and I have been
20 privileged to work with Pepperdine University for many years.
21 In fact, I worked on the approval of this project, by the
22 Commission, in the late 1980s.

23 Very little has changed since that time, and that
24 is why we believe that this amendment needs to be approved by
25 the Commission so the project can go forward.

1 Principles of equity and fairness, together with
2 legal principles of justifiable reliance, and estoppel,
3 require approval of this project. The Commission's findings,
4 which were previously defended, and upheld by the court of
5 appeal, remain applicable and remain binding on this
6 amendment.

7 The Long Range Development Plan already answers
8 the first key question: should the university be allowed a
9 reasonable expansion into the undeveloped area of its campus?
10 The Commission concluded that the university's expansion
11 should be permitted, in order to remain competitive, the
12 university must expand its facilities.

13 Staff said that their recommendation doesn't
14 affect the lower campus at all. Staff misses the point, as
15 we see it, which is that our Long Range Development Plan is
16 an integrated project. It cannot be separated into discreet
17 parts. We spent tens of millions of dollars implementing it.
18 The housing in the upper campus services the students in the
19 lower campus. This is one project. It allows our students
20 to live and study on campus. We can't cut off an entire
21 segment of the university.

22 The second question is whether there are
23 alternatives available to this project? In exchange for the
24 permission to build this project, the university was required
25 to protect over 500 acres on the campus as undeveloped land.

1 That commitment has been made.

2 There is no no-project alternative. There is no
3 reduced-project alternative, because there are no feasible
4 alternatives that have less grading, or fewer environmental
5 impacts.

6 The Commission found, on the LRDP, this
7 alternative, as modified and approved is the least environ-
8 mentally damaging alternative. It has mitigation measures to
9 lessen the impacts to the extent feasible. The county
10 reached that same conclusion in a more recent full
11 environmental impact report.

12 The university should be allowed to expand into
13 the upper campus. This is the best and only alternative to
14 do that. So, where do we go from here?

15 Based on that decision in 1990, the university has
16 reasonably proceeded to implement the Long Range Development
17 Plan. It has complied with all of the Commission's require-
18 ments, and we appreciate staff's acknowledgement of how hard
19 the university has worked with the staff, over the years.

20 Not only that has gone forward to other agencies,
21 to the County of Los Angeles, the regional planning
22 commission, the County of Los Angeles Board of Supervisors,
23 they just approved the project unanimously. Permits have
24 been issued by the Regional Water Quality Control Board, by
25 the California Department of Fish and Game, by the Army Corps

1 of Engineers, by the U.S. Fish and Wildlife Service, all of
2 these permits are based on the project as approved by the
3 Long Range Development Plan; therefore, the project that we
4 bring to you today -- we are processing a grading permit, and
5 we are ready to go forward with this project.

6 That's why it was such a shock to us, of only two
7 weeks ago -- and it has been a long two weeks, I think, for
8 all of us -- to learn that staff advised that because of the
9 increased depth of grading, and the recently decided Bolsa
10 Chica case, our project should be disapproved.

11 We have responded in writing. We have put a lot
12 of paper on your table, and we apologize for that. But, I
13 would like to just summarize why we believe the project
14 should go forward, and why the findings can be made under the
15 *Coastal Act*.

16 First, the increased depth of grading does not
17 alter the Commission's prior finding that the land form
18 alteration of this project is consistent with the *Coastal*
19 *Act*. The graduate campus site protects views to and along
20 the ocean, and the scenic coastal areas. It was modified by
21 the Commission to minimize land form alteration, and it
22 protects the most sensitive, scenic and visual features on
23 the rest of the 830-acre campus. That was the requirement
24 that the Commission imposed.

25 The additional depth of grading does not change

1 the scenic and visual qualities, because it does not change
2 the land form alteration. The elevations are the same. The
3 pads are the same. The depth of grading merely increases the
4 geotechnical stability, which is the next finding. We have
5 shown you here, Section 30251, the project mitigates adverse
6 visual impacts to the greatest extent feasible.

7 And, the Commission also found development under
8 the LRDP will not cause instability on or off site. That
9 also remains true today. The graduate campus assures
10 stability and structural integrity. The increase depth of
11 grading is only in one landslide. We knew the landslide was
12 there previously. We have now gone down to bedrock under-
13 neath that landslide, and we are repairing it so that the
14 project is completely safe.

15 The grading is still balanced on site. There is
16 no import or export, and the Commission was advised by its
17 geologist in 1989 and 1990 -- we have supplied to you some
18 excerpts from the staff reports, and from the testimony --
19 that there could be additional grading required for landslide
20 stabilization. There was a comprehensive review of this
21 issue. It was overseen by Commission staff, and the County
22 of Los Angeles is carefully scrutinizing this issue, as well,
23 and did during the full EIR process.

24 The increase in quantities does not alter the
25 Commission's ability to make the finding that the geological

1 stability of this project is consistent with the Coastal Act.
2 That has not changed. This has been very extensively
3 studied. Our geologists are here today. We look forward to
4 responding to any questions you have on that issue.

5 The next issue, the needlegrass issue, we believe
6 does not stop this project for four reasons. There are four
7 different ways that you can approve this project. The first
8 is that we believe this issue is not raised by our amendments
9 before you.

10 The second issue is that there are no changed
11 circumstances. The Commission knew about this grass in 1989,
12 and nothing has changed since then with regard to this
13 property.

14 Thirdly, if you believe that there should be more
15 recent review, we have just had that in 1998 and 1999 by a
16 number of agencies. This is not an ESHA, because it does not
17 meet the criteria for an ESHA -- and I'll get into that.

18 And, then the fourth issue, and we will only reach
19 that issue if you conclude that it is an ESHA, is because
20 under the Coastal Act we need to balance and approve this
21 project.

22 First, we believe the needlegrass issue is not
23 reopened by our amendments, because none of our amendments
24 change the location of this site. The increased depth of
25 grading does not affect the impacts on the surface -- of

1 course, the needlegrass is on the surface.

2 In reviewing amendments to LRDPs, the Commission
3 reviews those only to the extent necessary to achieve the
4 goals of the Act, and the Coastal Act admonishes, "Don't
5 diminish and abridge local authority in reviewing those
6 amendments."

7 We ask you not to reopen the issue of the location
8 of this site, based on our amendments, because that question
9 is not posed by the amendments.

10 Secondly, the issue should not be reopened,
11 because there is nothing new about this grass. We knew it
12 was there then. In fact, staff, I think, recites in their
13 report the needlegrass was identified. And, the finding that
14 this project complies with Section 30240 remains valid. The
15 Commission found -- and here is the section -- with a
16 significant portion of the campus designated as undeveloped
17 open space, or within an open space easement, the plan is
18 consistent with the application of habitat policies. The
19 Commission found specifically that this area was not an ESHA.
20 We do not believe this issue should be reopened.

21 In the ensuing 10 years, many other agencies have
22 reviewed this site. Neither this site, nor any other site
23 with native grasses in Los Angeles County, have been
24 designated as an ESHA. And, Los Angeles County has an
25 environmental review board. It is charged with identifying

1 ESHAs. Three agencies on that board, the National Park
2 Service, State Parks, the Santa Monica Mountains Conservancy,
3 participated in the hearings on this project, discussed the
4 needlegrass on this project. The mitigation they requested
5 was funding for off-site acquisition of other property with
6 needlegrass. None suggested that this site was an ESHA, and
7 that is the responsibility of the ERB, under the Malibu Land
8 Use Plan, is to suggest when an ESHA exists.

9 Nor did the Coastal Commission, which was a
10 responsible agency, and received our EIR, even comment on our
11 document, or participate in those two years of hearings
12 before the county. And, that again is why this was such a
13 shock to us for this issue to arise so recently.

14 We respect staff's position. In fact, I learned
15 more this morning about why staff believes it is an ESHA, but
16 we respectfully disagree. There is no substantial evidence
17 before you to justify that this property is now an ESHA. We
18 do not believe the definition of 30107.5 is met. Needlegrass
19 is not rare. It is found throughout the Santa Monica
20 Mountains, and up and down the coast. There are 740 acres of
21 needlegrass in California. It is not included on lists of
22 sensitive species, even by the California Native Plant
23 Society, nor is it on the California Department of Fish and
24 Game's special plant list.

25 The Malibu Land Use Plan identifies criteria for

1 an ESHA. They include riparian habitat, wetlands, oak
2 woodlands. Needlegrass is none of these. And, in fact, in
3 the recent RECAP the coastal staff issued in March of 1999 --
4 we cited this in our response to the staff report -- coastal
5 staff noted that not even all areas that have those specified
6 criteria, such as oak woodlands, would constitute ESHA. You
7 could have an oak woodland that, perhaps, might be
8 significant in some way, but unless there is substantial
9 evidence to show that it meets the Coastal Act definition, it
10 is not an ESHA.

11 Our EIR disclosed that this plant was something we
12 should mitigate, and we did. But, that does not mean that it
13 is an ESHA that should prohibit development on this site. We
14 do not believe that needlegrass has a special role in the
15 ecosystem, because there is no protected animal or plant
16 species dependent on it. These native grasses are mixed in
17 with the Mediterranean grasses. All the grass are used by
18 all of the species. None of them depend on the needlegrass.
19 It is not listed by the federal government, nor the state
20 government, as rare or endangered. Fish and Game does not
21 call it critical habitat, and the Commission has already
22 required significant mitigation for the project's impacts.
23 We are preserving eight other acres. We provided funding to
24 purchase 12 acres, that's 20. And, again, this is a tiny
25 percentage. There is a lot of needlegrass in California. It

1 is not rare, and it is not an ESHA.

2 We also believe that the Bolsa Chica case is very,
3 very different from our situation, and I have given you in
4 writing this chart, because I realize the lettering is fairly
5 small here. But, Bolsa Chica was a situation where unlike
6 ours there was process. The LCP identified an area as an
7 ESHA. That hasn't happened here, as you know.

8 The LRDP, in our circumstance, designated other
9 property as an ESHA, 150 acres, and specifically concluded
10 that this area was not. In Bolsa Chica, there were 11 bird
11 species --

12 CHAIR WAN: I just want to warn you that you have
13 three minutes left to the 25 minutes, and you have a speaker
14 after you.

15 MS. STARRETT: Thank you.

16 The distinctions between Bolsa Chica and our
17 circumstance, we think, are very significant. We don't think
18 the Bolsa Chica case controls here, and in any event Bolsa
19 Chica acknowledges that balancing can occur. At Bolsa Chica
20 there was no evidence in the record of competing interests,
21 and the Commission did not engage in balancing.

22 If you conclude, and only if you conclude, that
23 this property is an ESHA, then we ask the Commission to move
24 to the balancing issue, and to consider the values of the
25 Pepperdine project.

1 The Commission has already found that the
2 university is a visitor-serving use, and we believe that that
3 issue cannot be revisited.

4 Moreover, both the goals and the policies under
5 Chapter 3 of this Act are served by approval of the
6 Pepperdine project, of the graduate campus. The goals of
7 education, the goals of social and economic benefits are
8 served, but also conflicts can be resolved in a manner most
9 protective of coastal resources because the expressed trade-
10 off for development of 50 acres, is protection of 530.

11 The campus is located adjacent to the existing
12 campus, as this section requires. There is public access,
13 visitor-serving uses, and the project protects sensitive
14 coastal areas, and sensitive resource values. In addition,
15 we are donating another 72 acres off site.

16 As the Commission found in approving --

17 CHAIR WAN: There is less than one minute left.

18 MS. STARRETT: I would just like to ask Dr.
19 Davenport to come up to the mike.

20 Thank you.

21 CHAIR WAN: And, you've got one minute.

22 MR. DAVENPORT: Fortunately, Dr. Davenport is a
23 rapid speaker, and I would just like to say, in closing,
24 perhaps we could place this in a slightly larger context.

25 One of the great challenges of moving a university

1 forward is bringing together all of the pieces required for a
2 project like this one. In this case, we need to do extensive
3 academic planning, which we have done over the last 15 or 20
4 years. We then needed to work with neighbors and community
5 groups. We have had over 40 hearings and meetings with
6 community groups in the last two years for this project. We
7 had to raise extensive money, because we don't have state
8 resources with which to build it. We have gone to donors and
9 raised \$30 million for this project. We have to do the
10 architectural and building planning. We have spent \$5
11 million doing that in the last 10 years, and then we have to
12 work, as we have been doing carefully, with government.

13 I would just say in closing, that to bring all of
14 those pieces forward, as we have done so carefully in recent
15 years, when education is such a high priority of the state,
16 when serving visitors is an important priority of the Coastal
17 Act, when you have a university who by all accounts does both
18 of those things extraordinarily well, and when we have no
19 real alternatives for the graduate campus, to come to this
20 stage, when the university has relied, and developed so
21 carefully, and say that the project cannot go forward,
22 strikes me as both unfair to the university, and really not a
23 good approach to public policy.

24 So, we would encourage you to stay with your
25 original approval for this project.

1 Thank you.

2 CHAIR WAN: Thank you.

3 Charles McCullough, followed by Jeremy Estrada,
4 and you have two minutes to speak.

5 And, will you please, staff, keep track of the
6 time.

7 MR. MC CULLOUGH: Thank you, Madam Chair. My name
8 is Charles McCullough, and I am president of Student
9 Government Association at Seaver College.

10 A university, but especially Pepperdine
11 University, is an alma mater, knowing her children one by
12 one. It is not a foundry, or a mint, or a tread mill.

13 The argument is not development versus the
14 environment. The argument is not mitigation analysis versus
15 impact. A university is people, my peers, a community, a
16 family. That is the real argument. That is where the
17 balance and the decision truly lies.

18 As I said before, I am currently a senior at
19 Seaver College, into my second term as president of the
20 Student Government Association. This morning, I come forward
21 to say that my constituency, perhaps for the first time, is
22 in agreement with the administration fully, who is seeking to
23 provide the best for us, and in the best way possible.

24 Perhaps not in the same way, but a more complete
25 way you understand, that -- but, back at Seaver, we

1 understand -- our administration has been working diligently
2 by communicating and compromising in over 40 different
3 meetings with community groups, and local government
4 agencies. All of this was done to provide our tangible
5 future, my peers, with the campus development that unites,
6 educates, increases opportunity, and most importantly does so
7 with as little impact as possible.

8 Now, there are some that may disagree with the
9 measure, citing remote or obscure impacts, but I urge you to
10 join my constituency and I in our belief that the benefits of
11 this project do loom larger. You are in many ways voting not
12 on just buildings, but on futures. I know it may sound
13 strange, but as a pre-alum, me speaking so wistfully about
14 this college, but I assure you there were no deals were made
15 here, my grades are still just as average, and my loans are
16 still just as high.

17 But, still in speaking of Pepperdine University,
18 my personal dream factory, I often recall the words of Daniel
19 Webster, when speaking of a college like ours --

20 CHAIR WAN: You are going to have to wind up.
21 Your two minutes are up.

22 MR. MC CULLOUGH: Yes, yes.

23 In much the same predicament, he said to the
24 Justices of the Supreme Court, "She is a small college, but
25 there are those that love her."

1 And, I am just saying to you, that in hearing all
2 of this testimony, understand that and vote, "Yes".

3 CHAIR WAN: Jeremy Estrada, followed by Katy
4 Baucum, and you have two minutes.

5 MR. ESTRADA: I will be brief, Madam Chair, and
6 fellow Commissioners. Ladies and gentlemen of the
7 Commission, you have heard a great deal of information
8 regarding Pepperdine University, and I am not here to present
9 some brilliant fact that will inspire the, "Aha, that is what
10 we should do," instinct.

11 I am here, however, to ask a favor. When you make
12 this decision, think of me, think of Charles, think of Katy,
13 think of your grandchildren, and think of my daughter,
14 because the reality is Pepperdine University provides
15 opportunities.

16 This staff has asked us to separate between
17 grading and the rules and the mitigation, between the goal of
18 this project, however, it is impossible, because what we are
19 talking about is we are talking about a university that takes
20 chances, and does things for people that other universities
21 do not.

22 I, myself, grew up in the Boyle Heights area of
23 East Los Angeles, on welfare, and from the projects, and in
24 and out of trouble, and in and out of trouble with the law,
25 and college was unthinkable to me, because graduating high

1 school, itself, was an impossible feat. However, through
2 guidance, I graduated high school and went to a junior
3 college, and through one gentleman by the name of Wayne
4 Straum, and by the help of a man name Israel Rodriguez,
5 Pepperdine University was made available to me. And, my
6 voice quivers, and I get goose-bumps as I speak about it.

7 However, the reality is Pepperdine University has
8 enabled me to dream, to dream of going to medical school.
9 So, when you please make your decision today, don't look at
10 the details, we are adults here, we can deal with the
11 details. Think of the opportunities that we can provide.

12 Thank you very much.

13 CHAIR WAN: Thank you.

14 Katy Baucum, followed by Richard Hernandez.

15 MS. BAUCUM: Good afternoon, my name is Katy
16 Baucum, and I am a senior at Pepperdine University. It is an
17 honor for me to be here today. And, like my grandfather,
18 former county supervisor Kenneth Hahn, he graduated from
19 Pepperdine over 50 years ago, and my uncle, City Attorney
20 James Hahn, graduated from Seaver College, and also the law
21 school, and, I am anticipating graduation in April. It is an
22 honor for me to be here on behalf of Pepperdine, the school
23 that I love so much.

24 It has been good to my family. It has been good
25 to me. It is a remarkable place to learn, and to be

1 challenged. The opportunities to learn lie in abundance for
2 every student. We are taught to live a life of service, and
3 you have seen that through the presentations today, and the
4 opportunity for students to serve others in our community,
5 and the world around us.

6 Pepperdine provides a place for students to learn,
7 and for students to become better citizens of the United
8 States, and in the State of California.

9 My family has taken what they have learned from
10 Pepperdine, and gone out into our city and have made it a
11 better place.

12 I urge you to approve this project today, because
13 it is going to create even more students, and more citizens
14 who are going to better Los Angeles and the State of
15 California.

16 Thank you.

17 CHAIR WAN: Richard Hernandez, followed by Terry
18 Giles. You have two minutes.

19 MR. HERNANDEZ: Honorable members of the
20 Commission, my name is Richard Hernandez. I am the chairman
21 of the Hispanic Advisory Council for Pepperdine University.

22 Over the last few weeks, I have been discussing
23 this issue with my daughter, who is a senior in high school,
24 and an active environmentalist. She has visited the campus.
25 She reviewed all of the issues. We have discussed it. And,

1 she assisted me in preparing my notes, and asked me if she
2 could accompany me.

3 And, I am going to turn the mike over to my
4 daughter, Reyna.

5 MS. HERNANDEZ: Hello, I am very honored to be
6 here.

7 I take great pride in having the opportunity of
8 speaking of behalf of this great institution. Over the last
9 four years, my father has been working closely with Mr.
10 Israel Rodriguez, Hispanic Affairs Director at Pepperdine, in
11 its outreach program designed to identify and recruit
12 Hispanic students to the school.

13 This commitment to create a more diverse and
14 multi-cultural student body was initiated by the university,
15 itself, and not because or due to any other influence, other
16 than it was the right and correct thing to do.

17 My father has been impressed with the aggressive
18 role the university has demonstrated in the recruitment and
19 admission of Hispanic students from lower socio-economic
20 backgrounds. Who would ever dream of attending a prestigious
21 university such as Pepperdine?

22 The Hispanic Advisory Council --

23 CHAIR WAN: You have 30 seconds.

24 MS. HERNANDEZ: The Hispanic Advisory Council has
25 been given, virtually, Carte Blanche in achieving this goal.

1 Ladies and gentlemen, what does this have to do
2 with the issue at hand? My father views the campus of
3 Pepperdine -- excuse me, when my father views the campus at
4 Pepperdine, he does not just observe a gorgeous setting, of
5 meticulously maintained grounds and buildings. He sees an
6 institution that is offering so many young men and women an
7 incredible opportunity to attend a university that will --

8 CHAIR WAN: Your two minutes are up, so you are
9 going to have to wind up, thank you.

10 MS. HERNANDEZ: -- that will not only prepare them
11 academically, but with an ethical and moral foundation, that
12 is so vital and necessary in developing our leaders of
13 tomorrow.

14 My father, knowing first hand, Pepperdine's
15 reputation for integrity and sensitivity, he can assure that
16 any and all environmental issues have been carefully studied,
17 and have been carefully studied and --

18 CHAIR WAN: You do have to end now. It is not
19 fair to others.

20 MS. HERNANDEZ: Excuse me.

21 Therefore, my father and I urge your support for
22 the graduate campus project.

23 Thank you.

24 CHAIR WAN: Terry Giles, followed by Frederick
25 Gebhardt, you have two minutes.

1 MR. GILES: Thank you. My name is Terry Giles. I
2 am the Governor of California's appointee to the Tahoe
3 Regional Planning Agency, sometimes called the Coastal
4 Commission for Lake Tahoe.

5 You have before you today two issues. A
6 geological issue, it sounds dramatic in the movement of a 1.5
7 million additional square feet of dirt, but when you actually
8 look at the fact that it deals with the depth, and not the
9 width, they have actually reduced their grading plan. They
10 are simply going down deeper, in order to be safer.

11 Technology in the area of seismic moving and
12 stability is always changing, constantly improving. Should
13 Pepperdine ignore what they now know today could make this
14 area stable, when they are simply talking about nothing that
15 has to do with the surface going deeper, and stabilizing that
16 environment. I would sincerely imagine that all of us would
17 say that they have done the right thing in their research,
18 their planning, their development, and the plan that they
19 have come with -- the amendment that they have come forward
20 with today.

21 The second issue is the biological. I think a lot
22 of things have been brought up here, but most important is
23 almost half of that site is going to remain untouched there,
24 within that environment.

25 Pepperdine is there for the long run. This is not

1 a development that comes in, develops, sells off the land,
2 and they are gone. They are going to be there for decades,
3 maybe hundreds of years.

4 I would suggest that the needlegrass environments
5 that remain at Pepperdine will be the most well protected
6 needlegrass areas in the State of California when they are
7 finished. In addition to that, they are giving 72 acres of
8 land, and the money to the State Parks to develop other
9 needlegrass sites there in Malibu Canyon.

10 I would finish by just saying that there is an
11 extraordinary convergence of groups and interests that come
12 in support of Pepperdine, the educational, the environment,
13 the communal, even the political.

14 History, two decades they have proved themselves
15 as a worthy member of the coastal community, in tune with the
16 concerns and interests of those around them --

17 CHAIR WAN: You are going to have to wind up.

18 MR. GILES: -- from the citizens and their
19 neighbors, to the flora and fauna, that surround them.

20 Thank you.

21 CHAIR WAN: Thank you.

22 Frederick Gebhardt, you have two minutes.

23 MR. BENTON: Actually, Madam Chair, Andy Benton
24 for the record, again.

25 Mr. Gebhardt is one of our consultants. He is

1 He is merely prepared to respond to questions.

2 CHAIR WAN: Okay, I didn't realize that. It
3 didn't say that. Okay, thank you.

4 That is going to bring us to the opponents, and
5 they have given me an order of speaking, and I will call Greg
6 Aftergood, first. You have five minutes.

7 MR. AFTERGOD: Thank you, Chair Wan. My name is
8 Greg Aftergood. I have been representing the Malibu Road
9 Property Owners Association for roughly 20 years now, and
10 most of my time over that period has been dealing with
11 Pepperdine University, its development plans, and its
12 operations.

13 Pepperdine wants to enlarge its campus right now,
14 and the question before us is simple and straightforward: is
15 this expansion consistent with the legislative mandates
16 imposed under the Coastal Act?

17 I have reviewed countless Commission staff reports
18 over the years, but I have never read a more thorough and
19 well reasoned analysis than that contained in the staff
20 report for this proposal. Drawing upon incontrovertible
21 evidence, the expressed provisions of the applicable
22 statutes, and prevailing California case authority, your
23 staff provides compelling, legal, and logical authority for
24 denial of this proposal.

25 I certainly had the pleasure of knowing a number

1 of top-notch people at the university over the years, both
2 professionally and socially. I hold Dr. Benton in high
3 esteem, and consider him a friend, even though we have
4 certainly not seen eye-to-eye on certain issues relating to
5 the campus.

6 And, we know that Pepperdine has a great number of
7 friends, such as Sheila Kuehl, and Supervisor Yaroslavsky,
8 but friendship is not the yardstick by which development
9 project are to be measured.

10 And, we can't summarily ignore evidence, and legal
11 authority, no matter how much one wants to assist the
12 university in its expansion goals. Precedent is an important
13 element of our legal system, and it certainly stands very
14 importantly, in terms of this Commission's decision-making
15 process.

16 It would be a sad day, indeed, if violations of
17 the Coastal Act, posed by this proposal, are sanctioned,
18 while other applicants are held to the strict letter of the
19 statutory enactment.

20 For the reasons enunciated by your staff report, I
21 submit it is impossible to reconcile the project with the
22 provisions of California law, given the massive amounts of
23 grading, 1.5 million cubic yards is not something we can
24 summarily ignore.

25 And, moreover, as your staff points out, the

1 actual amount of grading will no doubt increase once they are
2 actually excavating the site. That is what happens all of
3 the time.

4 The destruction of an ESHA for non-resource
5 dependent uses is equally impermissible, given the provisions
6 of Section 30240, and the case holding in Bolsa Chica.

7 Now, counsel for Pepperdine argues that an
8 estoppel should apply to you, that you can't consider this
9 new information, that you should give Carte Blanche to the
10 changes in the project simply because you approved something
11 similar 10 years ago. I submit that is not the standard
12 under the law.

13 If the consequences of this project were the same,
14 a supplemental EIR would not have been required. The
15 preparation of the new EIR brings new points to this
16 Commission, and those new points deserve the same kind of
17 merit as if they were brought to this Commission 10 years
18 ago. There is no vested rights applicable to this, as well,
19 under prevailing California law. The necessary permits,
20 building permits, and construction activities have not been
21 started.

22 There will always be consultants who will opine
23 that the impacts and hazards proposed by a proposal can be
24 dismissed through mitigation, but perhaps some of you might
25 have read the L.A. Times article at the beginning of the

1 year, which assessed how prudent development in the Santa
2 Monica Mountains over the past two decades, in areas such as
3 this, which are plagued by fire, flood, and geologic hazards,
4 have all too often resulted in tragic adverse consequences
5 despite well intentioned mitigation measures, and 20/20
6 hindsight is then too late.

7 And, we certainly cannot forget the fact that the
8 losses that are experienced by these disasters cannot simply
9 be measured in dollars and cents. There are places which
10 simply should not be developed, and I submit that
11 Pepperdine's upper campus area is one of those places, as sad
12 as it might be.

13 The staff's analysis is comprehensive, and
14 carefully crafted. Feasibly alternatives do exist,
15 infiltration could be an option, and of course there is the
16 possible use of a different site across the street.

17 We urge you to move per staff, and adopt the
18 recommendation of denial. Thank you.

19 CHAIR WAN: Thank you.

20 Mark Massara. Mr. Massara, you have five minutes.

21 MR. MASSARA: Thank you, Madam Chair. I am Mark
22 Massara. I represent the Sierra Club's Coastal Program, and
23 our 70,000-member Angeles Chapter.

24 And, we join in staff, and most every homeowner's
25 association group, and environmental organizations for nearly

1 50 miles surrounding this project in urging you to deny.

2 Here we have a proposal of 4.5 million cubic yards
3 of grading. Certainly one of the largest strip-grading
4 proposals ever submitted to this Commission. To justify the
5 project, Pepperdine claims reliance on an old plan, and that
6 equity here should allow them to go forward.

7 We would urge you to consider equity for all of
8 the other property owners in the California coastal zone, who
9 are forced to reconcile and protect ESHA, protect red-legged
10 frogs, protect snowy plovers, to protect Monarch butterflies,
11 and least terns.

12 I suggest that for a glimpse of this project, you
13 take a look at the pictures of the Irvine Company's grading
14 in Newport Beach, adjacent to the Crystal Cove property, in
15 order to understand the size and scope of the grading that
16 will occur here -- only here, it is in the disaster prone
17 Santa Monica Mountains. And, for what? For all of the loss,
18 the university gets a couple of hundred dorm rooms, a couple
19 of graduate buildings, and 1300 parking spaces. In all, 468
20 new students will be accommodated. Do the math,
21 Commissioners, That is 10,000 cubic yards of grading for each
22 student. You would not allow this for any other use. It is
23 off of the equity chart. No amount of education can justify
24 that habitat destruction. And, it is obvious that these
25 developments, and benefits, can be accommodated and

1 accomplished elsewhere, without the need to permanent
2 disfigure the coastal zone.

3 A long list of less environmentally damaging
4 alternatives has been examined, and at what costs will these
5 benefits be obtained? ESHA is clearly the show-stopper here.
6 It is the key word, if you like. The upper campus area
7 happens to contain unusually rare and important native
8 grasses in unusually high densities. These native grasses,
9 and pristine coastal sage scrub habitats support an intensely
10 diverse and dense wildlife population. The staff report is
11 conclusive that this area is rare and endangered ESHA.

12 Your biologist, John Dixon, has just told you, I
13 believe, that based on his research and consultation this is
14 the single best example of coastal native grasslands left in
15 existence. Unfortunately, page 21 of the staff report
16 concludes that the LRPD, as proposed, will result in a
17 complete loss of all habitat areas from the entire 50.4-acre
18 upper campus site. That is a quote, everything -- a complete
19 and total take.

20 In the end, the question is not whether the
21 project is consistent with the old LRPD, but whether it is
22 consistent with the law today, regarding protection of ESHA
23 native grasses, which it certainly is not, by any measure.

24 Unfortunately, the applicant and their lawyers,
25 haven't even attempted to accommodate the law, or the ESHA.

1 They don't even attempt to mitigate the entire loss of the
2 ESHA. Instead, they invoke the now discredited tradeoff
3 language that has been judicially rejected.

4 No matter how great Pepperdine claims this project
5 to be, no matter how many Nobel Prizes may result, or dreams
6 that may be accommodated by this project, it must be denied.
7 And, Pepperdine must be given another opportunity to pursue
8 these dorm rooms and parking lots without this destruction.

9 Let's dispel the notion that dreams and the
10 university itself will be destroyed by denial here today. In
11 fact, Pepperdine will be given the opportunity to shepherd
12 nature, as well as students. Any other result will destroy
13 ancient, nearly distinct grasslands, that cannot ever be
14 restored or recreated. We urge your denial.

15 Thank you.

16 CHAIR WAN: Thank you.

17 Pat Healy, and you have five minutes.

18 MS. HEALY: Good afternoon, Commissioners. I am
19 Pat Healy, speaking on behalf of the Malibu Coalition for
20 Slow Growth, and some of those who couldn't be here today.
21 Most of Malibu doesn't even know this hearing is taking
22 place. It was over a 3-day holiday weekend that a small
23 portion of the community first learned of this amendment, and
24 gave up part of their holiday to comment. There are letters
25 from the Malibu Coalition for Slow Growth, the Sierra Club

1 Angeles Chapter, and Santa Monica Mountains Chapter, Wetlands
2 Action Network, Malibu Coastal Land Conservancy, Save Our
3 Coast, Malibu Township Council, and 13 homeowner
4 associations, which include the following: Baylord
5 Properties, Lachuza Cove, Malibu Encinal, Malibu Knolls,
6 Malibu Park, Malibu West, Point Dume, Ramirez Canyon, Serra
7 Canyon, Trancas Properties Association, which is Broad Beach,
8 Upper Mesa, Zuma Mesa, and Malibu Road.

9 As the Malibu West Homeowners Association stated
10 -- and I think you should look at your Exhibit 2 -- that it
11 indicates that the upper campus creates a risk to life and
12 property in a high fire area, in violation of Section 30253.
13 This fire issue needs the Commissioners' attention, for when
14 L.A. County Fire Department approves a project, they are
15 saying that they can come and defend a structure fire, never
16 a wildfire.

17 Since L.A. County is totally irresponsible in this
18 area, the Commission should look at the escape route. There
19 is a figure eight that the fire department required, but
20 there is only one escape route from this project, and this,
21 since it is a high risk to property and life, is a violation
22 of the Coastal Act.

23 The Baylord Road Property Owners, point out that
24 the development plan cannot be built outside of the original
25 graded area, unless all of the impacts of the LRDP can be

1 fully mitigated, consistent with all of the policies of the
2 LCP. Clearly, this cannot be done.

3 The 1.5-million cubic yards of grading was not
4 known when this project was previously approved. This is new
5 information, and changed circumstances that warrant denial.

6 Spread throughout this site is needlegrass,
7 creating an ESHA, and therefore it must be protected. The
8 proposed campus is not a resource dependent use, as required
9 under Section 30240.

10 Another changed circumstances is the Bolsa Chica
11 decision, where the Court of Appeals determined that you
12 cannot destroy an ESHA, even if there is off-site mitigation,
13 for such intangibles cannot be moved from place to place.

14 Other important threatened plant and animal
15 species need protection, and are endangered by this project.
16 As Save Our Coast said, the land is already occupied by the
17 wildlife.

18 Pepperdine has other choices for this campus. As
19 Ramey O'Neil states in her letter, the Coastal Act seeks to
20 protect the environment, which supports life for all of us,
21 and each of you are entrusted to uphold this Act. As we
22 enter the new millennium, we must learn to protect the
23 multiplicity of species, and their habitats, as an integral
24 part of the web of life, for our very survival depends on it.

25 Thank you.

1 CHAIR WAN: Ken Kearsley.

2 MR. KEARSLEY: You've got it right.

3 CHAIR WAN: Okay.

4 MR. KEARSLEY: Thank you.

5 CHAIR WAN: Five minutes.

6 MR. KEARSLEY: Madam Chairman, Commissioners,
7 friends from Malibu, and neighbors.

8 I, too, am an educator. I have taught school for
9 30 years, and I know the importance of a campus like
10 Pepperdine; however, my organization, Save Our Coast,
11 believes that the amendment is not productive to the
12 environment. In fact, I will postulate with you, that it has
13 nothing to do with Pepperdine. It has to do with your charge
14 under the Coastal Act to protect the environment. Pepperdine
15 is strictly an adjunct, is a resident there, for the 200 to
16 300 students who could be put elsewhere on campus -- or even
17 in South Central Los Angeles -- I think that fine school of
18 education would serve well in South Central Los Angeles, the
19 graduate school.

20 What we need is to protect the wildlife, the biota
21 of that campus, and of those mountains. With 4.5-million
22 square cubic feet, I really have a hard time fathoming what
23 4.5-million cubic feet was. When I was a child, I remember I
24 thought, what do a million marshmallows look like?

25 I did a little homework, because I am a teacher.

1 The great pyramid in Agiza, Coohoos, [sic.] is 3.4 million
2 cubic yards. That is 900,000 yards less than the project.
3 The EIR states the total vertical, successive, manufactured
4 slopes, the grading would be 530 feet. The pyramid's total
5 height is 481 feet. And, I want to tell you something, the
6 only two objects that can be seen from space, by the naked
7 eye, is the pyramid, the great pyramid, and the great wall.

8 How about the Empire State Building, 1,700,000
9 cubic yards. That is three Empire State buildings. So,
10 under this you could take three Empire State Building, and
11 one great pyramid, and you could still put up a sign, "Free
12 Dirt, Help Yourself."

13 Now, to end this on a more serious note, we had
14 some trials in Los Angeles. First, was the first trial of
15 Rodney King. The second trial was O.J. Simpson. And, the
16 lawyers had the audacity to ask those juries to ignore the
17 law and the facts. And, that is what you are being asked.
18 You are being asked to ignore the Coastal Act, and the facts
19 that those ESHAs have to be protected.

20 Thank you.

21 CHAIR WAN: Debbie DeCray, you have five minutes.

22 MS. DECRAV: I am Debbie DeCray, and I am speaking
23 on behalf of the Malibu Coalition for Slow Growth. And, you
24 have a letter from us in there, and I just want to bring to
25 your attention a couple of things from that.

1 Several of the legislators, and the represent-
2 atives, have indicated that the City of Malibu did not oppose
3 this project, and you may ask, why the City of Malibu has not
4 opposed this project? Well, we looked into the records, and
5 took the opportunity to review the city council's minutes of
6 April 26 meeting. The city agreed not to oppose this
7 project, in exchange for amenities, because they were told
8 that the board of supervisors was going to approve this
9 project, and told by the city planner, Craig Ewing, that the
10 Coastal Commission action was a ministerial act. That means
11 that it wouldn't come to public hearings, so they wouldn't
12 have any say anyway.

13 There was a video tape of the meeting, which
14 indicates that the city planner -- which was Craig Ewing --
15 stated that Jack Ainsworth, from the Coastal Commission, had
16 told him this fact, that it was a ministerial act.

17 Now, I suspect that this is the case which also
18 the National Park Service, and the State Parks, that they
19 were told the same thing, so they went in and got what they
20 could get, because they couldn't be heard otherwise.

21 So, we ask you to really pay particular attention,
22 and listen to the facts. This is an extremely horrendous
23 project, and there are other ways for the development to be
24 done on the existing campus. I have been there. I go by it
25 all of the time. There is plenty of open space, still on the

1 existing grading campus to locate these buildings.

2 Thank you very much.

3 CHAIR WAN: I am now going to go to the two-minute
4 speakers.

5 Steve Streeter, you have two minutes, followed by
6 Melanie Godzwaard.

7 MR. STREETER: Yes, good afternoon, my name is
8 Steve Streeter, from the Malibu Township Council. I have
9 been asked to read a letter from David Cagen, who can't be
10 here today, due to ill health.

11 "Dear Commissioners. As a member of the board of
12 directors, and the immediate past-co-president of the Malibu
13 Township Council, I have been requested by the MTC board of
14 directors to express its opposition to the Pepperdine
15 University proposed Major Amendment 1-99 to the Pepperdine
16 Long Range Development Plan.

17 For more than 50 years, the MTC, a voluntary
18 organization consisting of several hundred and sometimes
19 thousands -- depending on the issue -- concerned Malibu
20 residents, and property owners, has been at the forefront in
21 supporting the highest and strictest standards for the
22 purpose of protecting our fragile environment ecosystem, and
23 a standard of living for our residents, as well as those who
24 visit Malibu, of which the State of California and the nation
25 can be proud.

1 We join in commending the Commission staff in
2 presenting its findings and conclusions in a totally
3 objective manner, without regards to the identity and
4 political leverage of the applicant. That is the way it
5 should be. In these days of growing cynicism about the
6 integrity of government at all levels, your staff has fully
7 and admirably discharged its responsibility to the Coastal
8 Commission and the people of the State of California, by
9 rendering an unbiased opinion, predicated on the facts of the
10 laws applicable thereto.

11 It is a refreshing reaffirmation of one of our
12 most precious and sacred legacies, that we are all equal
13 under the law, regardless of our financial, social, or
14 political stations.

15 In view of your staff's findings and conclusion,
16 can anyone seriously contend that Pepperdine's proposed
17 amendment would be approved if the applicants were the
18 average Jane or John Doe? You are being asked by Pepperdine,
19 notwithstanding your oath of office, to uphold the laws of
20 the State of California, and regardless of its precedential
21 consequences, and the affects on the reputation of your
22 office on the Coastal Commission, to approve an amendment
23 totally unsupportable by the facts --

24 CHAIR WAN: Your time --

25 MR. STREETER: -- and law --

1 CHAIR WAN: -- you time is up. You are going to
2 have to wind up.

3 MR. STREETER: The amendment should be denied.
4 Thank you.

5 CHAIR WAN: Melanie Godzwaard, followed by Georgia
6 McBurney.

7 MS. GODZWAARD: Thank you, Madam Chair. That was
8 actually pretty good. My name is Melanie Godzwaard. I am
9 president of the Malibu Road Property Owners Association. I
10 represent 200 homeowners, and 10 other board members, and we
11 are unanimously opposed to this project.

12 We accept that Pepperdine is powerful, and
13 politically very well connected. We don't have politicians
14 here on our side of the fence. We think it is a shame this
15 has become a political issue, because we think it should have
16 been an environmental one, and nothing else.

17 I would like to say that I have nothing against
18 Pepperdine. I actually love the place. I would love to send
19 my kids there. I got married in that beautiful chapel. My
20 husband has been a university professor for over 30 years, so
21 I fully appreciate the benefits of higher education, as well.

22 This is not a political issue. This is an
23 environmental issue, and nothing else. The Coastal
24 Commission exists to protect our coastline and our mountains,
25 not to destroy them. You have a duty to adhere to the

1 Coastal Act and not to buckle under to the political pressure
2 that you face today. You must focus strictly on the issue
3 before you, and address the impact the extra grading will
4 have on the environment, and the Santa Monica Mountains.

5 I put it to you, that to permit development and
6 excessive grading in an ESHA is unheard of, and would be a
7 dangerous precedent to set. Your own staff recommends this
8 project be denied. Their staff report is long and detailed.
9 I am not going to go into that now. I urge you to support
10 it, and reject this motion.

11 Pepperdine, in my opinion, is trying to make a
12 square peg fit into a round hole. The whole project is not
13 going to work for them in that location. They need to find
14 an alternative location. There are others within Malibu,
15 within the same area. I urge them to do that. Please
16 support your staff report, and reject them.

17 Thank you.

18 CHAIR WAN: Georgia McBurney, that is the last
19 speaker.

20 MS. MC BURNEY: In that case, I'd better make it
21 good, huh? My name is Georgianna Mc Burney. My main
22 credential is I am a citizen. I am also a member of a
23 homeowners association of 17 homes, that exists in Winter
24 Canyon, which makes me a neighbor of Pepperdine. And, I see
25 that most of my neighbors are here today.

1 My main interest, having taken up the activities
2 of my husband, is to continue that, and that is to say that
3 there are other visions first, before us, just in the vision,
4 and in the very admirable vision that Pepperdine has come up
5 with.

6 The main vision that my husband and I held, and
7 the speakers that you have listened to have held, is that the
8 concern and the dedication that the next generation will know
9 the same heritage that was given to us, and that is that
10 beautiful coastline of 27 miles, along the sea, in which the
11 mountains hauntingly come down to touch it. It is a rare
12 natural treasure. Let me say it is a national treasure that
13 is unduplicated.

14 I am here to ask today for you to deny
15 Pepperdine's request to increase their grading by 50 percent.
16 One of the school's argumentd is the necessity to stabilize
17 geologically sensitive ground. The request for more grading
18 would indicate the architects didn't realize the land was so
19 geologically unstable. That is interesting, because the
20 Santa Monica Mountains, and their fragility, are such common
21 knowledge, I would surmise most courts would --

22 CHAIR WAN: Your two minutes are up. You are
23 going to have to wind up.

24 MS. MC BURNEY: Really?

25 CHAIR WAN: Yes --

1 MS. MC BURNEY: All right.

2 CHAIR WAN: -- I am afraid so.

3 MS. MC BURNEY: Can I have one sentence?

4 CHAIR WAN: One sentence, yes.

5 MS. MC BURNEY: And, that is, I would ask that
6 Pepperdine, being a citizen like the rest of us, revise its
7 plans to be more environmentally favorable, and to join with
8 us to maintain that heritage for the coming generations.

9 CHAIR WAN: Thank you.

10 Now, although Pepperdine has used up all their
11 time, I will give you three minutes for rebuttal. So, you
12 can pick who you want.

13 MR. BENTON: I'll use my time wisely, Madam Chair.
14 For the record, Andy Benton, once again.

15 Well, I have met a lot of new people here today,
16 that I had not had the pleasure of knowing in Malibu before.
17 Mr. Aftergood is right, the precedent is very important, and
18 so is Ms. McBurney. We are planning many years ahead for
19 students that we haven't even met yet. And the purpose of
20 this Long Range Development Plan, provided for us in the
21 Coastal Act, is to plan for the students, and not to engage
22 in piecemeal planning.

23 One of the things that we heard after we received
24 approval in 1989, was that we had better go out and build
25 that project, because we will never have an opportunity to do

1 it. We didn't do that. We were methodical and we were
2 careful in our planning, and I feel like in some respects we
3 are paying a price for that today.

4 It is an old plan, Mr. Massara is right, but it is
5 a plan that constrains us, and we have felt and acted in the
6 last ten years as if that plan did constrain us, and it told
7 us what we could and what we couldn't do. That same plan
8 that constrains us is a plan that ought to enable us, I
9 believe.

10 I appreciated hearing from some of these
11 homeowners groups that, frankly, I have not heard from at any
12 point in the process. I have a letter, just a piece of which
13 I would like to read, from our nearest neighbors in Malibu,
14 Country Estates.

15 If I can find the entry.

16 CHAIR WAN: I think that is in our packet --

17 MR. BENTON: All right.

18 CHAIR WAN: -- and I know I have read it, so.

19 MR. BENTON: And, to paraphrase it, they say if
20 anybody in Malibu is going to be concerned about this
21 project, it would be Malibu Country Estates, and we are not.

22 There are other things that I would like to say,
23 but I think I had better leave the last 45 seconds, or so,
24 for Ms. Starrett, at least.

25 MS. STARRETT: We are asking you to approve this

1 project because we believe it is consistent with the Coastal
2 Act.

3 A number of those who commented said that we were
4 asking you to ignore the law. We are not. We believe the
5 law was complied with, with the LRDP. The law should be
6 complied with by approving this Long Range Development Plan.
7 These issues have been not changed. We are a visitor-serving
8 use. The impacts on grass have not changed. The amendments
9 don't reopen this issue.

10 The sole question, we believe, that is
11 legitimately a question, is the geological stability, and
12 that, we believe, remains valid. We ask you to approve the
13 project as it was approved previously, approve this amendment
14 to the LRDP.

15 CHAIR WAN: Thank you.

16 With that, I am going to close the public hearing,
17 and return to staff.

18 CHIEF DEPUTY DIRECTOR DAMM: Thank you, Madam
19 Chair. Staff has several comments to make.

20 First of all, just so there is no misunder-
21 standings, with regards to the acreages, the Pepperdine
22 University campus consists of 830 acres. What is referred to
23 as the developed, or lower campus, is 230 acres, and that --
24 as I said earlier -- remains unchanged. That is not before
25 you today as part of the amendment. What you hearing the

1 discussion today is on the 50-acre expansion, or upper campus
2 area. There is then some 550 acres that is designated as
3 open space.

4 Staff feels, in the almost 10 years since the Long
5 Range Development Plan was approved, that changes have
6 occurred. The severity of the geologic hazard has become
7 much more apparent, and that is why some 1.5 million cubic
8 yards of additional grading is required to remediate the
9 site.

10 And, with regards to the question of the native
11 grasslands, that those essentially were not even discussed 10
12 years ago when the Commission took action. We have a
13 biologic report that was submitted at that time. It is a
14 narrative of some five pages, with a few tables attached to
15 it, and I just want to read one short paragraph that it
16 concludes with, and it states:

17 "While the vegetation in the study area
18 seemed to represent a variety of types
19 and conditions, none of these are unique
20 with regards to the surrounding area."

21 That, from the staff's standpoint, is why we are
22 recommending denial, as to the issue of environmentally
23 sensitive habitat. It wasn't dealt with 10 years ago, as to
24 the native grasslands. In the environmental impact report,
25 that was submitted with the current amendment, the

1 significance and extent of those grasslands was described in
2 detail, and certainly, in staff's opinion, those native
3 grasslands, the needlegrass constitutes environmentally
4 sensitive area as defined in the Coastal Act. And, if you
5 have any questions on that, John Dixon, the staff biologist,
6 is here to answer those questions.

7 I want to emphasize that the staff is not somehow
8 trying to simply revisit issues that were discussed 10 years
9 ago. The basis for our recommendation of denial is that
10 Section 30240 and 30253 dictate, in our opinion, that the
11 expansion, the 50-acre expansion area, is not appropriate for
12 approval under the Coastal Act.

13 That would conclude my comments.

14 I don't know if the Director has --

15 EXECUTIVE DIRECTOR DOUGLAS: No.

16 CHIEF DEPUTY DIRECTOR DAMM: -- that concludes the
17 staff's comments, except to answer any questions.

18 CHAIR WAN: All right.

19 I have had a request by a Commissioner, because
20 there are a number of legal issues, and there is a likelihood
21 of litigation, that we have an executive session on the legal
22 aspects of this, and our legal questions.

23 However, before we go to that closed session, I
24 will take, if Commissioners want, some very pointed
25 questions, just specific questions of staff. I don't want to

1 get into the discussion now, at this point, but if you have
2 specific questions, I will take them.

3 Mr. Douglas.

4 EXECUTIVE DIRECTOR DOUGLAS: Madam Chair, just a
5 question on logistics.

6 As you know, the city has provided a caterer for
7 lunch. It is hot lunch. It has been there for 1:15 minutes,
8 and is probably cold by now, but in any event, I would like
9 to kind of know what your plans are? My suggestion would be
10 that -- and you have three public speakers, public comments,
11 before you break for lunch -- my suggestion would be that the
12 Commission go into closed session, or come back and do the
13 closed session after lunch, whenever you break for that.

14 CHAIR WAN: I am going to take some suggestions
15 from my Commissioners, as to whether you feel you want to
16 break for lunch before we go into our deliberations? or you
17 want to continue our deliberations, and just keep going.

18 COMMISSIONER FLEMMING: Yes.

19 COMMISSIONER ORR: Let's keep going.

20 CHAIR WAN: Okay.

21 COMMISSIONER FLEMMING: Well, excuse me, Madam
22 Chair. Why could we not eat our lunch in the closed session,
23 and have the closed session in the back room?

24 EXECUTIVE DIRECTOR DOUGLAS: It is all set up in
25 the room down across the complex.

1 CHAIR WAN: Yes, it is in the room down --
2 remember last year.

3 COMMISSIONER FLEMMING: Oh, yes.

4 CHAIR WAN: Okay, I think the Commission is
5 willing, in lieu of the public that is here, to simply ruin
6 our lunch, and just push right through. So, I think that
7 that is what we are going to do.

8 I am going to take a couple of very short pointed
9 questions. Commissioner Kruer, and then Commissioner
10 Dettloff, have them.

11 Anyone else?

12 [No Response]

13 And, I have one.

14 COMMISSIONER KRUER: Just a question for Chuck,
15 maybe.

16 In reviewing the grading plans, of what was
17 approved over 10 years ago, and what it is today, as far as
18 the remedial grading, there weren't any lateral movement of
19 the grading, itself, and 750,000 yards of cut and fill, why
20 do you believe that that is an appropriate measure, when it
21 doesn't change the previous plan, grading plan, that was done
22 some years ago?

23 And, number two, as you look at that particular
24 landslide, QE-6, that travels 1500 feet down, and 1000 feet
25 wide, that 70- to 90-foot different, why do you think -- the

1 second part of that question is why wouldn't that, in fact,
2 under the Coastal Act make the project more stable for
3 development, and certainly the lower project that is already
4 developed? because the landslide is right above it.

5 CHAIR WAN: Mr. Damm.

6 CHIEF DEPUTY DIRECTOR DAMM: I wasn't sure you
7 were wanting response now, or a little later.

8 CHAIR WAN: Yes, we do want that. I just don't
9 want to get into discussion, at this point.

10 CHIEF DEPUTY DIRECTOR DAMM: Okay.

11 Commissioner, the staff is not disagreeing with
12 the university that, essentially, when the grading is all
13 complete, it is nearly identical to what was approved 10
14 years ago. We have never, never disputed that.

15 Our concern is that under Section 30253 of the
16 Coastal Act it indicates that you should not be approving
17 development when you find that development to be in hazardous
18 areas. Ten years ago, this was known to be mountain land,
19 steep terrain, that had hazards associated with it, in the
20 form of landslides. The staff, at this point, simply feels
21 that the degree of hazard has been exacerbated, in that they
22 are now going to have to dig up much more dirt, because there
23 was a deeper landslide than was known 10 years ago.

24 Certainly, you can make the argument that when the
25 grading and work is completed, that by doing this it will be

1 a more stable site than if you had graded it as proposed 10
2 years ago. There is no argument about that. Staff's
3 position is avoidance is the better way to go.

4 CHAIR WAN: Commissioner Dettloff.

5 CHIEF DEPUTY DIRECTOR DAMM: I am not sure I
6 answered the second part of your question.

7 COMMISSIONER KRUER: No, but that is okay, we
8 won't get into it at this time.

9 COMMISSIONER DETTLOFF: Along the same lines --
10 and this is either through reading the transcripts, and if
11 that hasn't been done just state that, and we won't go any
12 further with the questions -- but I am wondering what the
13 Commission, during the 1990 hearings, I think it has been
14 stated that there would be additional studies done, as far as
15 the requirements for grading, that you knew there were some
16 geological problems. Did you pick up from any of the old
17 transcripts what the Commission thought would be done in this
18 interim period, and what that might lead to, and what did
19 they determine would be the best course of action, if
20 something like this has occurred, that there would be
21 additional work required?

22 CHIEF DEPUTY DIRECTOR DAMM: In reading the
23 transcript from that hearing, there was a large amount of
24 discussion regarding geologic hazards, and the amount of
25 grading associated with the geologic hazards.

1 And, certainly, there was discussion that there
2 could well be more grading required than the 3 million cubic
3 yards that the university was suggesting at that time. The
4 means to resolve that certainly would be that the university
5 would come back, just as they have, with a Long Range
6 Development Plan amendment to deal with that situation.

7 What concerns the staff is the degree, or severity
8 of the hazard, and the amount of additional excavation that
9 is required in order to remediate and stabilize the site.
10 Certainly, no one 10 years ago knew whether or not there was
11 going to have to be additional grading, because in reading
12 the transcript there was testimony, you know, "We are very
13 certain that 3 million yards is all we are going to need."

14 And, then a little later on, you read in the
15 transcript, "Well, there might be more grading required."

16 So, the means to resolve that is to come back to
17 the Commission, and the university is doing that.

18 Again, it is the question of degree and severity,
19 and staff concluded that it is best not to build in an area
20 that has that type of landslide, and that type of remediation
21 required in order stabilize the site.

22 COMMISSIONER DETTLOFF: You also acknowledge that
23 there was a discussion on the needlegrass at that time. Was
24 there any discussion of how that acknowledgement that there
25 was this species on the site, what should be done with it?

1 how expanded? because I think this all leads into we are
2 making a decision, really, based on some decisions that were
3 made earlier. They acknowledged it, and then what was the
4 final decision, as to its importance on the project site,
5 which they went on to approve?

6 CHIEF DEPUTY DIRECTOR DAMM: Commissioner, in
7 reading the transcript, I did not really see where the
8 Commission did any discussion of the question of the native
9 grasslands, or the needlegrass, and the significance of that
10 from an environmental standpoint. I did not come across any
11 discussion of that sort.

12 COMMISSIONER DETTLOFF: Do you have a current
13 position, a status position, from Fish and Game, as to how
14 they regard this specific area on the campus?

15 CHIEF DEPUTY DIRECTOR DAMM: The Department of
16 Fish and Game, at this point, the only thing we have is a 160
17 -- it is either a 1601 or 1603 streamline alteration
18 agreement. We do not have information from the Department of
19 Fish and Game as to the grasslands.

20 CHAIR WAN: Commissioner McClain-Hill.

21 COMMISSIONER MC CLAIN-HILL: I want to go back to
22 the geologic issues for a moment, because I want to clarify
23 staff's position, with respect to its concern in that regard.

24 Are you indicating that your concern goes to the
25 magnitude of grading necessary to provide remediation? or are

1 you indicating that you are concerned that after remediation
2 we have still got -- we can't assure adequate safety?

3 CHIEF DEPUTY DIRECTOR DAMM: The staff's position,
4 Commissioner, is that the geologic hazard that is present, is
5 indicated by the amount of grading and remediation work that
6 has got to be done in order to stabilize the site.

7 And, in our opinion, that geologic hazard is
8 clearly greater, significantly greater, than what was thought
9 when the Commission acted on the Long Range Development Plan
10 --

11 COMMISSIONER MC CLAIN-HILL: And, on what --

12 CHIEF DEPUTY DIRECTOR DAMM: -- 10 years ago.

13 COMMISSIONER MC CLAIN-HILL: -- do you base your
14 opinion that it is significantly greater? because it seems to
15 me reasonably clear from the record, that at the time that
16 the plan was approved, there was not only a recognition that
17 there was a hazard, but a recognition that the work necessary
18 to remediate that hazard may not have been completely defined
19 at that time?

20 So, could you tell me what the basis for your
21 conclusion that the hazard is significantly greater today
22 than it was at that time, is? And, also, and finally, what
23 information do you have from the applicant on this issue?

24 CHIEF DEPUTY DIRECTOR DAMM: I am sorry, I didn't
25 hear you?

1 COMMISSIONER MC CLAIN-HILL: What information do
2 you have from the applicant that addresses this issue?

3 CHIEF DEPUTY DIRECTOR DAMM: On the last point,
4 the applicant has provided a great deal of information
5 regarding geologic hazards associated with the property, as
6 well as the proposed remediation.

7 As to your first question, the applicant, for fire
8 safety purposes, needed to put in an additional loop road for
9 fire equipment servicing this site. As part of that, they
10 did additional borings, and in doing those borings it was
11 discovered that there was a much deeper landslide plane, than
12 was known at the time the Commission approved the Long Range
13 Development Plan 10 years ago. It is that much deeper
14 landslide plane that is requiring them to have to excavate
15 the additional material, in order to stabilize the site, and
16 that is also the reason that the staff concluded that the
17 hazard is significantly greater than what was known 10 years
18 ago.

19 COMMISSIONER MC CLAIN-HILL: With respect to the
20 plan, the remediation plan, does staff have a view?

21 CHIEF DEPUTY DIRECTOR DAMM: As far as the actual
22 remediation plan, I think the university has done a good job
23 of coming up with a remediation plan, if development is to
24 occur in the expansion area, that it is done in a way that
25 is, to the best of their knowledge, going to result in safe

1 construction, and safe use of the buildings.

2 CHAIR WAN: Does that answer your questions?

3 COMMISSIONER MC CLAIN-HILL: I just want to be
4 clear, that is the staff's view?

5 CHIEF DEPUTY DIRECTOR DAMM: If the site is to be
6 developed, yes. The university has done a great -- there is
7 no question they have done a lot of geologic work.

8 CHAIR WAN: Commissioner Allgood. Again, let's --

9 COMMISSIONER ALLGOOD: Just one question --

10 CHAIR WAN: -- just have points of clarification
11 here.

12 COMMISSIONER ALLGOOD: -- is there further
13 expansion planned after this upper campus development? is
14 that in the Long Range Plan?

15 CHIEF DEPUTY DIRECTOR DAMM: It is not in the Long
16 Range Development Plan, at this time.

17 COMMISSIONER ALLGOOD: Okay.

18 CHAIR WAN: That is basically my question, is that
19 the 550 acres that are set aside, are set aside simply not in
20 perpetuity, am I correct? they are simply, that is an open
21 space zoning, which if I remember the original hearing, the
22 university specifically said that at some point in the future
23 they might be able to come -- they would have to come back to
24 the Commission, but they would have the ability, it is not in
25 perpetuity, it is open space zoning, is that correct?

1 CHIEF DEPUTY DIRECTOR DAMM: Essentially, that is
2 correct.

3 The Commission, in approving the Long Range
4 Development Plan, there is approximately 550 acres of open
5 space, of that 150 acres was required to be dedicated open
6 space. The remainder of it was simply to be designated in
7 the plan as open space.

8 CHAIR WAN: Then there is the question raised in
9 the National Park Service letter, about the 72-acre donation
10 property in Las Flores Canyon, on page 3, have you read that?

11 CHIEF DEPUTY DIRECTOR DAMM: Hold on a minute.

12 CHAIR WAN: And, that question is that they
13 question about the feasibility of their accepting that
14 acreage, simply because they say that there is a failing
15 canyon side road, and that the property needs to be fully
16 remediated, and all easements associated with the property
17 must be disclosed. Until these two requirements are
18 fulfilled the park land agency cannot consider accepting the
19 property in full fee title.

20 Do you know if that issue has been resolved to
21 this point?

22 EXECUTIVE DIRECTOR DOUGLAS: I don't.

23 CHAIR WAN: So, we don't know whether that 72-acre
24 mitigation parcel is even possibly a mitigation parcel,
25 whether it will be accepted or not?

1 CHIEF DEPUTY DIRECTOR DAMM: I do not know that.

2 CHAIR WAN: Okay.

3 COMMISSIONER FLEMMING: Could we ask their
4 attorney if that has been settled?

5 CHAIR WAN: Yes, you can always ask a question.

6 MS. STARRETT: I am Cindy Starrett.

7 The letter you refer to was from December of 1998.
8 It was submitted in the county process. The county required
9 that that issue be resolved, and we are in the process of
10 resolving that issue, such that the property can be accepted.

11 CHAIR WAN: But it hasn't been resolved to this
12 point?

13 MS. STARRETT: It is currently being resolved, and
14 it has to be resolved before we could pull any permits.

15 CHAIR WAN: All right, that answers my question.

16 With that, I am -- oh, Commissioner Daniels.

17 COMMISSIONER DANIELS: Thank you, just a couple of
18 quick follow-up questions on the geological issue.

19 Does staff have an opinion as to the geologic
20 stability of the area, without any grading at all, as
21 compared to the 4.5 million cubic yards of grading,
22 remediation proposed? how does the geologic stability
23 compare, if you have any opinion at all?

24 CHIEF DEPUTY DIRECTOR DAMM: I am not a geologist.

25 EXECUTIVE DIRECTOR DOUGLAS: We are getting one.

1 CHIEF DEPUTY DIRECTOR DAMM: I don't think I can
2 really answer that question.

3 The only thing I can tell you is it is not moving
4 at this time, the slide. But, comparing the remediation, and
5 the site after the remediation done, versus current
6 conditions, and whether one is better, I don't feel that I
7 can answer that.

8 COMMISSIONER DANIELS: Okay, and one other
9 question, it may seem unrelated. But, at the time of the
10 approval of the Long Range Development Plan in 1990, was any
11 consideration given to urban runoff, and measures for that?

12 CHIEF DEPUTY DIRECTOR DAMM: I think you are going
13 to have to hear from the university's representatives, with
14 regards to the question of urban pollutants, and non-point
15 source type pollutants, such as from parking lots, or
16 something like that. We did not review that issue at this
17 time, Commissioner. We focused on the changes that were
18 occurring.

19 MS. STARRETT: Hi, Cindy Starrett, again.

20 Yes, in 1989 and 1990, waste water runoff, spray
21 irrigation, were all very major issues considered by the
22 Commission, and in fact those were some of the modifications
23 that were imposed on the project, to restrict those issues.

24 In the recent county process, once again, we have
25 a number of conditions, NPDES permits, storm water management

1 plans. We have about 200 mitigation measures from the county
2 that deal with those issues.

3 COMMISSIONER DANIELS: Thank you.

4 CHAIR WAN: One more question, and then we will go
5 to closed session.

6 COMMISSIONER MC CLAIN-HILL: Just absent the
7 filing of the amendment, what would the process -- what
8 process would have been required of Pepperdine, to proceed
9 with development of this project?

10 CHIEF DEPUTY DIRECTOR DAMM: Under the *Coastal Act*
11 provisions for Long Range Development Plans, once the plan is
12 approved then the university is required to submit what is
13 referred to as a notice of impending development. They
14 submit that to our office, and the Commission staff, and
15 ultimately the Commission review that. You can only approve
16 as submitted, or approve with conditions that notice of
17 impending development. You cannot deny it, under the
18 provisions in the *Coastal Act*.

19 CHAIR WAN: With that, we are going to go into
20 closed session, and I am going to ask the audience to clear
21 the room -- is that how we are going to do it? or do we have
22 a room?

23 You can stay here. We are going to go.

24 DEPUTY ATTORNEY GENERAL PATTERSON: We will go
25 into the back room.

1 [Closed Session]

2 CHAIR WAN: Everyone here? Okay.

3 Mr. Faust.

4 CHIEF COUNSEL FAUST: Yes, Madam Chair.

5 In closed session, the Commission discussed its
6 litigation risk with regard to the pending Pepperdine LRDP
7 amendment, received advice from its counsel, but took no
8 action.

9 Madam Chair, that concludes my report on closed
10 session.

11 CHAIR WAN: Thank you.

12 With that, I am going to open the matter for
13 discussion. Commissioner Orr, and then Commissioner Kruer,
14 and then Commissioner McClain-Hill.

15 COMMISSIONER ORR: Thank you, Madam Chair.

16 For me, really the critical issue is whether or
17 not there is an environmentally sensitive habitat area at
18 issue here -- or ESHA, as we use the term -- and to me I am
19 completely convinced that this not something that was looked
20 at all, or with any seriousness, or serious information, when
21 the prior decision was made.

22 It also seems to me, in light of what our
23 biologist has said, in light of what one of the leading
24 experts from Berkeley on rare grasslands in this area has
25 said, that this is an ESHA, that the 8 acres on the site are

1 probably the best example of this habitat type that exists,
2 and it strikes me that it really is this Commission's duty to
3 both identify those areas, and rigorously protect them when
4 they are there.

5 And, for that reason, and you know, opening a
6 lively discussion, it seems to me that we really have an
7 obligation as a Commission to protect the ESHA, and that in
8 looking at this amendment to the LRDP, as a whole, that we
9 really have to weigh it against the standards in the Act for
10 protection of ESHA, and I think there is no doubt in the
11 record that this complete ESHA, what I believe is an ESHA,
12 would go away, would disappear, with this project. And,
13 there is plenty of evidence in the record that it is anything
14 but certain that these ancient well established ecosystems
15 can be easily -- or be reestablished at all offsite. We just
16 don't know.

17 And, again, we have the Bolsa Chica case saying
18 that even if they could, it is not our business to decide
19 that you try to move it somewhere else, or that you try to
20 recreate it somewhere else.

21 So, for all of those reasons, I am going to
22 support staff.

23 CHAIR WAN: Commissioner Kruer.

24 COMMISSIONER KRUEER: Thank you, Madam Chairman.

25 I think, after reviewing everything that I have

1 the last week or so on this particular project, I am very
2 concerned by the precedent. I believe that this was a pre-
3 approved Long Range Development Plan, similar to other things
4 that are approved during a long process.

5 This particular process has taken this applicant
6 almost 10 years, \$7.5 million of entitlement and infra-
7 structure costs, et cetera. I find it a very weak argument,
8 in reviewing the grading plans of the previous Long Range
9 Development Plan, and overlaying it over the new Long Range
10 Development Plan. I heartedly feel the facts are there, that
11 there is a change in the land formation, because it is almost
12 always the case, when you are looking at a project like this,
13 that has three -- the walls are very high on three sides, in
14 a flat area where it is now the upper campus, where the lower
15 campus used to be, it appears to me, a canyon, that there is
16 going to be geological stability problems that you have to
17 do.

18 In fact, I think the university, through its
19 geologist, and long term planning in looking in this, they
20 have done substantial amounts of boring, almost one for every
21 1.5 acres, which is much greater than normally you do. You
22 normally do 10 to 20 acres.

23 I think, in fact, that the stability of the
24 landslide area not only is something that should be done, but
25 it is obviously something to protect the lower campus, I

1 think, also. This is a big landslide area.

2 I would be very concerned if the amount of
3 grading, this extra 1.5 million yards that everybody makes a
4 big ado about, was off site, and had to be -- but it is
5 750,000 yards of cut, and 750,000 yards of fill, totally
6 filled, totally balanced on the site, totally to take care of
7 what I think the Coastal Act says, to make this project, to
8 make this area stable, and surrounding areas around it.

9 And, I think that the fact of using this grading
10 issue, which does not -- if it went outside of the grading
11 envelope, by the previous Long Range Development Plan, and it
12 was a latitude movement, I don't know -- then, I would have a
13 problem, and I don't know what I would have done with this
14 project in 1988.

15 But, I know today that I think that there is an
16 issue of reliance, there is an issue of fair play, there is
17 an issue, whether it is a specific plan, a tentative map with
18 conditions, a Long Range Development Plan, you have to stick
19 by previous decisions.

20 And, I don't know why this needed an amendment,
21 but because it needs an amendment, I think it should have
22 been very narrow. It should have been very narrow, because
23 this is the same development that was approved in 1988, the
24 same development that this Coastal Commission went to court
25 and fought to defend. It is the same square footage. It is

1 the same grading area. It is the same elevations. They have
2 made minor changes, for fire and safety, they have put in a
3 second loop road.

4 I think it is very, very important, and I don't
5 agree with, in this particular case, as some of the people
6 have said, that it isn't important to the university. I
7 think to any great institution of this magnitude, the
8 closeness of having other faculty and student housing, to
9 have it in the coastal zone, to have it part of their campus,
10 helps them attract, recruit, and make them a greater
11 university.

12 But, I have grave problems with using the grading,
13 as a way to open up, "Oops, we didn't like what we approved
14 10 years ago. We don't like the fact you spent \$7.5 million.
15 We don't like the fact you went through the County of Los
16 Angeles."

17 And, I don't like the fact that this particular
18 project is now down to 52 acres, hundreds of acres have been
19 mitigated and put aside for ESHA, for open space, for other
20 things. I don't hear much about that.

21 I have a real problem of supporting the staff on
22 this particular project. I think it sends the wrong message.
23 It is the wrong thing for our educational institutions. This
24 is the type of visitor-serving thing we want. We want to
25 make the university a better place.

1 This grading issue, I have a real problem, because
2 no where in the Coastal Act does it indicate to me that if I
3 did the geology, and it was 20 feet deep, and now it is 90-
4 feet deep, and it is all balanced on site, that that is a
5 reason, that is a reason to deprive 10 years of planning, and
6 deprive this campus from happening. I have a real problem
7 with that, and I really think the scope should be a very
8 narrow amendment.

9 And, keep our word, as the Coastal Commission,
10 that we did 1988, and we defended that. So, I cannot support
11 the staff, and I would support the approval.

12 CHAIR WAN: Commissioner McClain-Hill, and then
13 Commissioner Allgood.

14 COMMISSIONER MC CLAIN-HILL: Commissioner Wan, I
15 would like to make a motion, and then have the opportunity,
16 assuming it gets a "second", to speak to that motion.

17 [MOTION]

18 I move that the Commission certify the Pepperdine
19 University Long Range Development Plan Amendment 1-99 as
20 submitted, and I recommend a "Yes" vote.

21 COMMISSIONER FLEMMING: Second.

22 COMMISSIONER KRUER: Second.

23 CHAIR WAN: Moved by Commissioner McClain-Hill,
24 seconded by Commissioner Krueer.

25 Commissioner McClain-Hill.

1 COMMISSIONER MC CLAIN-HILL: This particular
2 application, or amendment, presents a very, very, very
3 difficult issue to the Commission, in my view.

4 I am, however, persuaded that -- and would like to
5 say very firmly -- that it is our job to enforce the law.
6 And, it seems to me that in the context of the Coastal Act,
7 that we are -- the most appropriate action for this
8 Commission to take, would be to approve this particular
9 amendment.

10 The fact of the matter is the Act provides for a
11 planning process specific to universities. That planning
12 process is different from the general application and
13 permitting process. It is also different from our Local
14 Coastal Plans.

15 With respect to that planning process, Pepperdine
16 came in, had their project reviewed, had their project
17 significantly conditioned, and then certified by this
18 Commission. There is nothing before us today, which in any
19 way undermines the integrity of the plan that was certified
20 by this Commission.

21 It seems to me that our integrity as a body, and
22 our role in government, I mean, we have the Coastal Act, and
23 the Coastal Act exists to protect the environment, but the
24 Coastal Act is to be administered like every other law in the
25 land. There must be consistency. There must be an ability

1 to rely on the law.

2 Maybe in 1989, the Commission should have done
3 something different. Maybe in 1990, it should have done
4 something different. It didn't. It doesn't seem to me to be
5 appropriate, in fact, it is not consistent with due process
6 for us to, at this juncture, say, "We get another shot," not
7 because the university is coming in to modify what it
8 committed to.

9 And, with respect to the grading issues, staff has
10 indicated that this grading plan that the university is now
11 submitting an amendment for, in its view, will create a
12 project that assures safety. So, the grading plan, the
13 change, is merely a pretext, in my view, to the extent that
14 at the very time that we certified this plan, we knew that
15 there may be additional changes, with respect to grading. We
16 were absolutely aware of that. It was fully discussed, and
17 in fact, conceptually, it makes sense that there would be, as
18 we got more specific with respect to preparation for
19 development, some changes on grading.

20 So, to use that as a pretext now, to go back and
21 to say that the plan that we certified is no longer
22 consistent with the Coastal Act, and we are going to, in
23 effect, take back the approval to go forward, to me, is not
24 consistent with our role as a body in the overall chain of
25 development of this kind. And, again, this is different.

1 On the issue of reliance, applicants know when
2 they come in for permit extensions, things can change.
3 Applicants know that just because they have a certified LCP,
4 that that doesn't insure any specific site, with respect to
5 development.

6 With respect to this Long Range planning document,
7 though, the very purpose of the document is to identify
8 sites, to agree as to what can be legally developed. It is
9 different. And, in my view, with respect to specific changes
10 that go to the integrity of the plan siting, this body cannot
11 in good faith, and with any degree of integrity enforce the
12 law in a way that withdraws the approval.

13 CHAIR WAN: Commissioner Allgood.

14 COMMISSIONER ALLGOOD: Thank you. I have got a
15 couple of questions of staff, and then a comment.

16 If the project were denied, and the land remained
17 intact, is there any assurance that that landslide above the
18 developed campus, would be stable?

19 EXECUTIVE DIRECTOR DOUGLAS: I am glad you asked
20 that question, because I wanted to make sure that for the
21 record, before you take any action, that be made clear.

22 There is nothing in the record that indicates the
23 upper campus area, that is designated for that, in any way
24 threatens the lower campus. That has not been raised as an
25 issue, so we have no information to suggest that the safety

1 of the lower campus depends on the installation of this
2 project, the grading involved with this project.

3 COMMISSIONER ALLGOOD: Is there any indication
4 that it is safe? I mean, was the question asked? One of the
5 things that strikes me about the record from '89 is that a
6 lot of questions weren't asked, so I am hoping to ask some of
7 the questions that are relevant today.

8 Is there any assurance, any record, that that
9 slide is stable?

10 EXECUTIVE DIRECTOR DOUGLAS: Well, maybe the
11 applicant's representative can respond to that.

12 But, when the Commission approved the lower
13 campus, I mean, there must have been some discussion there
14 about whether or not it was safe to do that without the
15 necessity of grading the upper. But, I don't know the answer
16 specifically.

17 MS. STARRETT: If I could address that.

18 Cindy Starrett, for the applicant.

19 I just talked with our geologist. There is
20 evidence in the record -- it is in the documents that we have
21 submitted -- that that landslide is unstable. We will have
22 to protect it for the lower campus, as well.

23 COMMISSIONER ALLGOOD: My next question, in regard
24 to the slide, is if that area does slide, what will that do
25 to the needlegrass grasslands there? how do they respond to

1 disturbed soils?

2 CHIEF DEPUTY DIRECTOR DAMM: Commissioner, staff
3 doesn't have the answer to that. It would depend on the way
4 the slide occurred, whether there was some sort of mass waste
5 or destruction as a result of the slide, or possibly it just
6 moves, and the needlegrass moves with it.

7 COMMISSIONER ALLGOOD: Okay.

8 CHIEF DEPUTY DIRECTOR DAMM: We don't know the
9 answer to that.

10 COMMISSIONER ALLGOOD: In the discussion in
11 looking at the transcript from the '88 - '89 hearings, there
12 was a lot of acknowledgement that there was needlegrass and
13 other flora on the site, but it didn't seem to occur to
14 anybody, and maybe it was not, in 1988 or '89, considered to
15 be an indicator of an ESHA. Do you have any recollection,
16 any feel, were we declaring needlegrass habitats ESHA in 1988
17 and '89 when this was approved?

18 CHIEF DEPUTY DIRECTOR DAMM: In this particular
19 instance, Commissioner, I was at the hearing. I have read
20 the transcript. The question of the needlegrass, it was a
21 non-issue at that time. It was identified, as I said, in
22 this very brief report at that time, as existing, but it was
23 given no significance from an environmental standpoint.

24 COMMISSIONER ALLGOOD: Is needlegrass only -- has
25 needlegrass only been recently recognized to be in limited

1 supply and endangered?

2 EXECUTIVE DIRECTOR DOUGLAS: We'll ask Dr. Dixon
3 to respond to this.

4 STAFF GEOLOGIST DIXON: Needlegrass has been
5 identified as very threatened by the California Department of
6 Fish and Game, as part of the natural diversity data base.

7 What I am searching for here is a document that
8 might have that date.

9 [Pause in Proceedings]

10 Well, unfortunately, these are documents that are
11 frequently updated, and this one is 1997. I don't know how
12 it was listed 10 years prior to that.

13 COMMISSIONER ALLGOOD: Yes.

14 STAFF GEOLOGIST DIXON: It was, in fact, probably
15 already somewhat rare, but whether or not it was sufficient
16 that it came sort of into the official spotlight, I don't
17 know.

18 COMMISSIONER ALLGOOD: Okay, thank you.

19 I am troubled by a couple of things. If, in fact,
20 there is ESHA here, that is a concern. But, I tend to
21 believe that Pepperdine wouldn't be here today, had they not
22 discovered the need to grade more deeply, and that they would
23 have gone ahead anyway without the need for a hearing of this
24 sort without that discovery.

25 And, it strikes me that they are about to

1 potentially be punished for both following the law, and being
2 open and honest. This is a very difficult decision for me to
3 have to vote on. I don't want to see any environmentally
4 sensitive habitat areas destroyed.

5 On the other hand, it seems to me that Pepperdine
6 has relied on a decision made 10 years ago, by our
7 predecessors on this Commission. It is a major expense and
8 investment on their part. They are not altering the plan,
9 except in very minor ways, that was approved 10 years ago.

10 I think, if there is a deficiency here, it was on
11 the part of the Commission and its staff for not recognizing
12 what they had to protect 10 years ago. And, that is kind of
13 troubling. It troubles me that we are -- this is probably
14 not going to be the last situation like this that we are
15 going to face, but we had approved this plan 10 years ago, a
16 host of people are relying on it in good faith, and acting in
17 good faith on their part, and it seems to me that we are
18 using the deeper grading -- not an expansion of the foot-
19 print, but a deeper grading to accomplish what we should have
20 -- to do the duty we should have done 10 years ago, I guess,
21 is what is troubling to me.

22 I want to listen to my fellow Commissioners now.

23 CHAIR WAN: Commissioner Dettloff.

24 COMMISSIONER DETTLOFF: This, I am sure, has been
25 a very difficult decision for all of the Commissioners. We

1 have two competing values. We have the educational goals by
2 the university, and the competing value of habitat protection
3 from those who are opposing this project, both are very good
4 goals, so this is very difficult for the Commission.

5 However, I think I am looking at it from a
6 different perspective. I am an elected official, and so I am
7 viewing it from that position. I think that, when the
8 decision was made in 1990, that decision was based on the
9 facts that the Commissioners then had at hand. I don't know
10 how I would have voted then, quite possibly, with the
11 information we have today, I would not have been able to
12 support this project; however, the Commission, in 1990 made
13 the decision that they would support the project. Not only
14 did they support the project, but throughout the following
15 months, years, they went to court, not only as the applicant,
16 but a longstanding forward was also the Commission's
17 representatives, through their legal staff, supporting this
18 project.

19 The project really has not changed that much, in
20 those 10 years. We still see the same footprint. We know
21 that there are some geological problems on the site. Those
22 were there in 1990, and the Commission dealt with them then,
23 knowing that there would be additional work that had to be
24 done.

25 So, a decision was made, and I think that is very

1 important, especially to applicants, cities, and counties,
2 anyone who comes forward to the Commission after a decision
3 is made, those local entities then go forward to make other
4 decisions. Many times those are very costly decisions.
5 Cities and counties have to put forward a great deal of an
6 investment in their planning staff, who will go over those
7 plans, based their decision on the decision that has already
8 been make by this Coastal Commission. So, there is a great
9 dependence upon how good our decisions are, and can they be
10 relied upon.

11 The applicants are putting a great deal of money
12 into their projects, they are going to the banks for their
13 financing, so many steps take place after a decision is made.
14 We have had good decisions, we have had bad decisions, by
15 this Commission.

16 But, we are now in a position where we are going
17 to have to address a decision that was made some time ago,
18 and then certain actions took place after that. So, even
19 though we may view this project somewhat differently than we
20 would have in 1990, there is some new information. I still
21 feel that we have to stand by the decision that was made in
22 the '90s, and so with that I am going to be supportive of the
23 university being able to go ahead with their plans, their
24 future plans, for this site.

25 CHAIR WAN: Let me say that this is, with all of

1 my fellow Commissioners, I think a difficult decision. It is
2 particularly difficult for me, since I live in the area. I
3 know the university. I consider people like Dr. Benton a
4 friend, and I think that Pepperdine, in fact, is a good
5 neighbor. But, I have to look at a decision based on the
6 law, and not on who the applicant is.

7 What the law says is, basically, that we treat
8 LRDPs -- and this is the way the Commission has done it in
9 the past -- that we treat LRDPs as we treat LCPs, and that
10 when there is an amendment we review the LRDP as amended.
11 There is an amendment in this case. If they had not come in
12 for an amendment, that would be different.

13 And, when we review the LRDP, we have to review it
14 for consistency with the Coastal Act. This is the way we
15 have been applying it to other LRDPs, and if we don't do that
16 here, we won't be able to do that -- I know the Commission
17 isn't always consistent, but I like to think that we try to
18 be consistent -- with regards to other LRDPs.

19 And that brings me to one of the key issues, and
20 that is the issue of the ESHA. Is needlegrass ESHA? I don't
21 think there is any question. The applicant, themselves, made
22 the comment that I didn't even realize: only 760 acres left.
23 I don't know how many there were in 1989, but I am sure there
24 is far fewer now. But, let me assure you, there was no
25 discussion about needlegrass in 1989.

1 The discussions about ESHAs were not about
2 needlegrass ESHAs. They were about ESHAs that were located
3 in the areas that were to be restricted, either through deed
4 restriction, or in the open space areas.

5 The only information that anybody had about the
6 needlegrass was, in essence, a listing in the biota report.
7 It was not in an EIR. It was in a biota report that had a
8 list of plants. Did we know that needlegrass, as a plant
9 existed there, along with all of the other plants? yes. Was
10 it indicated that it was a habitat, a needlegrass habitat, a
11 community of plants that constituted an ESHA? no. There was
12 nothing in the record, and there was nothing in the
13 discussion that indicated it.

14 When I look for consistency in review of the LRDP,
15 with the Coastal Act, then I have to look at the needlegrass,
16 and it is, in fact, an ESHA. It is not one of the ESHAs that
17 is defined by the county. The county, frankly, hasn't
18 updated their ESHAs since I think they did their original LUP
19 in the late 1970s, but it doesn't even matter, the LUP
20 doesn't take precedent here. It is consistency with the
21 Coastal Act, and so the reference to the county's ESHAs
22 doesn't matter.

23 In my opinion, this is very rare. If there are
24 only 760 acres left, these are -- and I learned something
25 new, that this grass, as old as it is, is extremely

1 interesting. Grasslands are very fast disappearing. They
2 are one of the most endangered habitats around. It does make
3 a difference, contrary to what is said in the appendix that
4 was handed to us, which indicates, and makes the comment that
5 -- if I can find this, "For most wildlife there is no
6 difference between annual and native grasslands." I beg to
7 differ with that. There is a huge difference between a
8 non-native, and a native grassland. It is like saying to me
9 that there is no difference between a tree, a clump of trees
10 is a clump of trees. It provides food. It provides habitat.
11 It provides, you know, security, yes, but the species that
12 depend on it are very different.

13 And, when you are losing your native grasslands,
14 you are going to lose the species that depend on those native
15 grasslands. You cannot replace this. You cannot move this,
16 if you choose to move it.

17 And, I therefore am forced to review this, as I
18 said, for consistency with the Coastal Act. The Coastal Act
19 requires that we protect environmentally sensitive habitat,
20 and I don't see how you can view these native grasslands --
21 it is a grassland habitat, it is not just a clump of grass,
22 okay, these grasslands habitat -- as anything other than
23 ESHA.

24 And, for that reason, I will not support the
25 motion.

1 Commissioner Daniels.

2 COMMISSIONER DANIELS: I am going to vote in favor
3 of the motion.

4 My decision is not based on who the applicant is
5 and, in fact, I don't even agree with many of the arguments
6 that the applicant has presented. And, I do have to say that
7 if the decision was before me today, as what I am
8 characterizing for myself is an original decision, in other
9 words, if I was to decide this LRDP for the first time, based
10 on what we know, I am not sure that I would agree with the
11 siting. But, the fact of the matter is that there was an
12 LRDP that was approved, and the specific site was selected
13 and approved by this Commission.

14 What I see before us is an amendment, that doesn't
15 change that site. It only changes the amount of grading.
16 The footprint is the same, they are just going to go deeper,
17 and they are going deeper for safety reasons. Based on that,
18 I agree with the motion.

19 I want to say that if there had been any effort to
20 change the site, to site the project somewhat differently, my
21 view would probably be different, and I would urge a
22 different result.

23 But, based on the fact that it is exactly the same
24 site that was already approved by us, I will support the
25 motion.

1 CHAIR WAN: Commissioner Flemming.

2 COMMISSIONER FLEMMING: Okay, thank you. I wasn't
3 going to weigh in on this, because I agree with so much that
4 has already been said.

5 And, so to save time, I thought Patrick's analysis
6 was extremely good, and then Cynthia summed up for me an
7 awful lot, and then Paula, with your wrestling with if it
8 were de novo, which it is not, I think it is incredibly
9 important to honor the decisions made, and to give a sense of
10 certainty to the LRDP.

11 And, for those who are wrestling with this
12 conflict, the Section 30007.5 on -- the title is Resolution
13 of Conflicts. If you would read through that, it makes your
14 decision, I think, easier, because the Coastal Act is dealing
15 with change all of the time. We have conflicting interests
16 all of the time, and these decisions are difficult, but they
17 do provide a way to deal with this. The Legislature has done
18 that for us.

19 So, I would urge support of this, and giving
20 certainty to Pepperdine on their Long Range Development Plan.

21 COMMISSIONER ORR: Call the question.

22 CHAIR WAN: Shall I call the question?

23 COMMISSIONER ORR: Yes.

24 CHAIR WAN: Mr. Faust, did you -- okay.

25 I am going to call the question.

1 Will you call the roll, please.

2 SECRETARY GOEHLER: Commissioner Daniels?

3 EXECUTIVE DIRECTOR DOUGLAS: Madam Chair?

4 CHAIR WAN: Yes, go ahead.

5 EXECUTIVE DIRECTOR DOUGLAS: Before you go for the
6 vote, I just want to make sure that the Commission
7 understands that it requires six votes for approval of an
8 LRDP amendment, a majority of the appointed membership.

9 COMMISSIONER DANIELS: And, I would just like to
10 clarify the motion?

11 COMMISSIONER MC CLAIN-HILL: The motion is to
12 certify the amendment, and I am requesting a "Yes" vote.

13 COMMISSIONER DANIELS: Right.

14 CHAIR WAN: The maker of the motion is requesting
15 a "Yes" vote, which would approve the amendment.

16 COMMISSIONER FLEMMING: Right.

17 CHAIR WAN: Call the roll.

18 SECRETARY GOEHLER: Commissioner Daniels?

19 COMMISSIONER DANIELS: Yes.

20 SECRETARY GOEHLER: Commissioner Dettloff?

21 COMMISSIONER DETTLOFF: Yes.

22 SECRETARY GOEHLER: Commissioner Allgood?

23 COMMISSIONER ALLGOOD: Yes.

24 SECRETARY GOEHLER: Commissioner Flemming?

25 COMMISSIONER FLEMMING: Yes.

1 SECRETARY GOEHLER: Commissioner Kruer?
2 COMMISSIONER KRUER: Yes.
3 SECRETARY GOEHLER: Commissioner McClain-Hill?
4 COMMISSIONER MC CLAIN-HILL: Yes.
5 SECRETARY GOEHLER: Commissioner Orr?
6 COMMISSIONER ORR: No.
7 SECRETARY GOEHLER: Chairman Wan?
8 CHAIR WAN: No.
9 SECRETARY GOEHLER: Six, two.
10 CHAIR WAN: The amendment passes.

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13 [Whereupon the hearing was concluded.]
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