

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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Staff: CCF
Staff Report: 7/19/01
Hearing Date: Aug. 10, 2001
Commission Action:



RECORD PACKET COPY

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: 4-99-207

APPLICANTS: California Department of Transportation

PROJECT LOCATION: Adjacent to the north shoulder of Ventura Highway 101 at Post Mile 33.7, approximately one mile north of the Old Rincon Highway 1 exit. (Ventura County).

PROJECT DESCRIPTION: Excavation and remedial grading to stabilize an unstable slope and clear a detention basin. This project includes (1) excavation and re-grading of slopes involving 135,000 cubic yards of grading (all cut), (2) implementation of erosion control measures, (2) landscaping and re-vegetation of slopes, (3) repair of existing drainage and culvert systems, and (4) monitoring and maintenance of re-vegetation and erosion control measures. (5) Erosion control and revegetation on approximately 1.5 acres of adjacent slope area accidentally cleared of vegetation by the applicant. Approximately 129,000 cubic yards of this grading has already been conducted and is being requested after-the-fact. An additional 6,000 cubic yards of grading and excavation is being requested to stabilize a recent slope failure.

LOCAL APPROVALS RECEIVED: County of Ventura Zoning Clearance No. 78892 dated 11/11/98.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends **approval** of the proposed project with Seven (7) special conditions regarding, landscape and erosion control plans, drainage structure maintenance responsibility, revised plans and design specifications, removal of excavated material, required approvals, assumption of risk, and condition compliance. A landslide is located on the project site. Slide activity on the project site has resulted in past downslope movement of slide material during rain seasons that has blocked drainage facilities and threatens temporary closure of adjacent Ventura Highway 101. The applicant proposes to remediate the landslide through grading of the slope, establishment of soil benches in the slope, and installation and maintenance of erosion control and landscaping to provide long term stabilization of the slopes.

SUBSTANTIVE FILE DOCUMENTS:

Exemption of Santa Barbara County CDP for grading (fill) 7/19/01. Drain Restoration and Slope Stabilization letter by California Department of Transportation dated 4/4/01, Slope/Slide Review letter by Engineering Service Center of California Department of Transportation dated 3/12/01, Complaint on unauthorized grading letter by Environmental Defense Center dated 12/11/00. Erosion Control Review by Camp Dresser and McKee dated April-June 2000, Emergency Permit #4-99-207-G by California Coastal Commission dated 9/15/99, Drain Restoration and grading Fax by California Department of Transportation dated 9/13/99, Emergency Application for Interim Grading letter from the California Department of Transportation dated 9/9/99, Request for Emergency Permit by California Department of Transportation dated 8/30/99, Drain Restoration and Grading letter by California Department of Transportation dated 8/24/99, Landslide Review letter from Caltrans Engineering Service Center dated 8/18/99, List of Disposal Sites faxed by California Department of Transportation 8/11/99, Stop Work Request by California Coastal Commission dated 8/6/99, California Regional Water Quality Control Board Los Angeles Region Section 401 exemption letter dated 4/7/99, Streambed Alteration Agreement by California Department of Fish and Game dated 2/18/99, Natural Environment Study Report by California Department of Transportation dated 1/13/99, Department of the Army, Los Angeles District, Corps of Engineers exemption from 404 permit requirements letter dated 2/8/99, Categorical Exemption for EA 4C1001 effective 11/30/98, County of Ventura Zoning Clearance No. 78892 dated 11/11/98, California Department of Transportation Permit to Enter and Construct Form dated 11/8/98.

STAFF RECOMMENDATION:

MOTION: *I move that the Commission approve Coastal Development Permit No. 4-99-207 pursuant to the staff recommendation.*

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

The Commission hereby **approves** a permit, subject to the conditions below, for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and with the Ventura County Local Coastal Plan. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures

and/or alternatives substantially lessen any significant adverse impacts of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Landscape and Erosion Control Plans

Prior to issuance of a coastal development permit, the applicant shall submit landscape and erosion control plans, prepared by a licensed landscape architect or a qualified resource specialist, for review and approval by the Executive Director. The revegetation and erosion control plans shall be reviewed and approved by the consulting engineering geologist to ensure that the plans are in conformance with the consultants' recommendations. The plans shall identify the species, extent, and location of all plant materials and shall incorporate the following criteria:

A. Landscape Plan

- (1) All graded and disturbed areas on the subject site (including temporary access roads, staging areas, and stockpile areas and the 1.5 acre area accidentally cleared of vegetation) shall be planted and maintained for erosion control purposes within (60) days after the completion of final grading. To minimize the need for irrigation all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated February 5, 1996. Invasive, non-indigenous plant species which tend to supplant native species shall not be used. Two (2) weeks prior to construction activities, a biological survey shall be conducted to delineate environmentally sensitive habitat area and record pre-construction conditions of the natural environment and submitted to the Executive Director prior to grading start;
- (2) All cut and fill slopes shall be stabilized with planting at the completion of final grading. Planting should be of native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall be adequate to provide 60 percent coverage within two (2) years and 90 percent coverage within 5 years. This requirement shall apply to all disturbed soils;
- (3) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements;
- (4) The Permittee shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the coastal development permit, unless the Executive Director determines that no amendment is required.

B. Interim Erosion Control Plan

- (1) The plan shall delineate the areas to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. The natural areas on the site shall be clearly delineated on the project site with fencing or survey flags.
- (2) The plan shall specify that no grading shall take place during the rainy season (November 1 – March 31) the applicant shall install or construct temporary drains and swales, sand bag barriers, and silt fencing. Applicant shall also stabilize any stockpiled fill with geofabric covers or other appropriate cover, install geotextiles or

mats on all cut or fill slopes and close and stabilize open trenches as soon as possible. These erosion measures shall be required on the project site prior to and concurrent with the initial grading operations and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction.

- (3) The plan shall also include temporary erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The plans shall also specify that all disturbed areas treated for temporary erosion control purposes shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume;
- (4) Appropriate Best Management Practices to regulate sediment tracking from vehicles involved in all construction shall be implemented throughout the life of the project and during any subsequent maintenance activities. All sediment should be retained on-site unless removed to an appropriate approved dumping location either outside the coastal zone or to a site within the coastal zone permitted to receive fill.

C. Monitoring

One year, three years, five years, and ten years from the completion of final grading , the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that indicates whether the on-site landscaping is in conformance with the revegetation plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage, a listing of the species that did not establish properly, and a listing of the plant species that were replanted to comply with these Special Conditions.

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

2. Drainage Structure Maintenance Responsibility

With acceptance of this permit, the applicant agrees that should any of the project's surface or subsurface drainage structures fail or result in erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

3. Revised Plans/Design Specifications

Prior to the issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, detailed revised grading/drainage plans and specifications, prepared by a qualified engineer, which clearly illustrate the as-built topography of the graded area, all drainage elements included in the project, and detail of all permanent and temporary structures, stockpile sites, access ways included in this project. These plans shall also clearly delineate the 1.5 acre area that was mistakenly cleared of vegetation in 1999.

4. Removal of Excavated Material

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all excavated material from the site. Should the dump site(s) be located in the coastal zone, a coastal development permit shall be required.

5. Required Approvals

- (1) Prior to the issuance of a coastal development permit, the applicant shall submit to the Executive Director evidence of the applicant's permission to enter on any adjacent properties that will be impacted by the project.
- (2) Prior to the issuance of a coastal development permit, the applicant shall submit to the Executive Director evidence that the California Department of Transportation has obtained a Streambed Alteration Agreement from the California Department of Fish and Game for this project, for the work as proposed in this coastal development permit application.

6. Assumption of Risk, Waiver of Liability and Indemnity Agreement

Prior to issuance of the coastal development permit, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, which states

that the applicant acknowledges and agrees (i) that the site may be subject to hazards from landslide, erosion, and wildfire; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

7. Condition Compliance

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

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The project site is located in Ventura County (Exhibit 1), north of the City of Ventura, adjacent to the northbound shoulder of U.S. Highway 101 at post mile 33.7, approximately one mile north of the State Park Highway 1 (Old Rincon Highway) exit (Exhibit 2). The project is located on the Coastal Mountain Range parallel to Emmawood State Beach to the west. Ventura Highway 101 is located immediately west of the detention basin on the project site. The detention basin drains a watershed of approximately 63 acres.

The applicant proposes to remediate a failed and unstable slope and clear a detention basin. This project will include (1) regrading of slopes involving 135,000 cubic yards of grading (all cut), (2) implementation of erosion control measures, (2) revegetation of slopes, (3) repair of existing drainage and culvert systems, and (4) monitoring and maintenance of revegetation and erosion control measures. Approximately 129,000 cubic yards of this grading has already been conducted and is being requested after-the-fact. An additional 6,000 cubic yards is being requested in this regular permit to stabilize a recent slope failure. Approximately 1.5 acres of adjacent area that was erroneously cleared of vegetation by the applicant was revegetated in 1999 after issuance of emergency permit 4-00-207-G.

Topography on the subject site is characterized by steep slopes which descend from north to south and from east to west (Exhibit 3). There are numerous slumps visible in the overall watershed. The dominant soil type is classified as Nacimiento silty clay loam, with moderately high soil erodability. Rainfall during the wet seasons of 1997-2000 resulted in erosion and slide damage during the winter months. During this time period erosion and slide activity occurred causing repeated migration of soils downslope and blockage of the detention basin at the toe of the slope that drains this watershed to the other side of Ventura Highway 101 towards Emmawood State Beach. Blockage of this detention basin drain threatened temporary closures of the highway.

The project site has been subject to past Commission and Ventura County actions. In November 1998 Ventura County issued Zoning Clearance No. 78892 for restoration of the existing cross highway drain inlet. The County originally determined that the project only required the issuance of a Zoning Clearance because it was a Public Works facility being restored to design capacities. The County later recognized that the work involved massive amounts of grading and contouring and was not eligible for the Zoning Clearance. Construction was stopped on August 16th 1999 with the project approximately 50% completed. Coastal Commission staff subsequently issued Emergency Coastal Development Permit 4-00-207-G on September 15, 1999, to the California Department of Transportation to stabilize the site prior to the rainy season and construction activities resumed. Although this project is within the jurisdiction of the certified Ventura County Local Coastal Program (LCP) the Ventura County LCP does not include provisions for the Planning Director to issue emergency permits. Therefore, the Executive Director of the Commission issued an emergency permit for stabilization grading and erosion control measures. The emergency permit allowed for an additional 35,000 cubic yards of excavation to stabilize the slope and remove sediment blocking the detention basin that may have caused flooding of adjacent highway 101. The emergency permit was not intended to allow completion of the project, but only to stabilize the slopes in place until a regular coastal development permit was obtained by the applicant from the Coastal Commission to complete the project. Construction resumed in September 1999 and the entire grading project was completed by November 1999. At this time 129,000 cubic yards of grading and excavation had occurred at the project. Condition Four (4) of the emergency permit required the applicant to submit a follow-up regular coastal permit application by November 14, 1999 seeking to have the work authorized on a permanent basis. A follow-up permit application was submitted by the applicant for the proposed development on December 21, 2000. During the winter season of 2000/2001 additional sliding occurred at the project site, again blocking the detention basin drain. This new slide will require the removal of an additional 6,000 cubic yards from the standpipe (drain) area, additional grading, erosion control measures, and landscaping.

B. Hazards

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

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The Ventura County Local Coastal Plan states in part that that new development shall be:

(1) Sited and designed to minimize risks to life and property in areas high geologic, flood, and fire hazards.

(2) Evaluated for its impacts to and from geologic hazards, flood hazards, and fire hazards. Feasible mitigation measures shall be required where necessary.

(3) Sited and designed so as not to cause or contribute to flood hazards, or lead to the expenditure of public funds for flood control works.

The proposed development is located in the Coastal Mountain Range, an area which is generally considered to be subject to a high amount of natural hazards. Geologic hazards common to the Coastal Mountain Range include landslides, erosion, and flooding. In addition, fire is an inherent threat to the indigenous chaparral community of the coastal mountains. Wild fires often denude hillsides in the Coastal Mountain Range of all existing vegetation, thereby contributing to an increased potential for erosion and landslides on property.

The applicant proposes to remediate a failed and unstable slope and clear a detention basin. This project will include (1) regrading of slopes, (2) implementation of erosion control measures, (2) revegetation of slopes, (3) repair of existing drainage and culvert systems, Grading or removal of approximately 135,000 cubic yards of soils, and (4) monitoring and maintenance of revegetation and erosion control measures. 129,000 cubic yards of this grading is being requested after-the-fact. An additional 6,000 cubic yards of new grading is being requested in this permit application.

The Slope/ Slide Review at Ven-101 P.M. 33.7 from the California Department of Transportation Engineering Service Center dated 3/12/01 states:

The grading performed by Caltrans in 1999 under project 07-4C1004 has experienced some "pop outs" due to small variations in the attitude of the bedding and the high amount of precipitation during this rainy season at

the region. Based on field observations, these failures are superficial in nature and overall the 1999 grading appears to be grossly stable. The additional space gained by the 1999 grading at the mouth of the canyon (standpipe location) has been filled with debris from a well developed landslide at the south side of the canyon.

The Commission finds that the minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to revegetate all graded and disturbed areas of the site with native plants, compatible with the surrounding environment. Thus, Special Condition One (1) has been required to ensure that all proposed graded and disturbed areas are stabilized and vegetated.

The Erosion Control Review U.S. Highway 101 in Ventura County P.M. 33.7 by Camp Dresser and McKee dated April-June 2000 states in part:

The harder shale slopes need support at the toe. Incorporating biotechnical techniques to reinforce and screen the rock buttress matrix should be considered, but low soil fertility in this area may limit the success of this technique. Native species adaptable to the droughty conditions of these slopes should be considered. The drainage on each terrace needs to be directed to a stabilized outlet. Vegetation on the slopes need to be varied and diverse, including plants with surface roots to prevent surface erosion and trees/shrubs to hold the deeper slumps.

Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. The Commission notes that non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native and invasive species, and once established aid in preventing erosion. Therefore, the Commission finds that in order to ensure site stability, all slopes and disturbed and graded areas of the site, including those areas accidentally cleared of vegetation, shall be landscaped with appropriate native plant species, as specified in Special Condition Number One (1).

In addition, the Commission finds that there are backdrains and structures associated with this remediation and the applicant is responsible for repairs. Because of this, the Commission requires, as specified in Special Condition Number Two (2), the applicant to agree that should any of the project's surface or subsurface drainage structures fail or result in erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage system and restoration of the eroded area. As also specified in Special Condition Two (2), the applicant must agree that should repairs or restoration become necessary prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan

to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

The Commission also finds that the as-built plans previously submitted by Caltrans do not accurately reflect the as-built conditions on site, and that the proposed 6,000 cubic yards of grading is not illustrated on these plans. There are some minor discrepancies and missing details between the grading plans submitted and the as-built graded condition. To ensure the as-built condition and the proposed 6,000 cubic yards of grading are accurately illustrated on the project plans, the Commission finds, that it is necessary to require the applicant to submit revised grading/drainage plans, as specified in Special Condition Number three (3).

The 129,000 cubic yards of material generated from the grading and excavation of the unstable slope was properly disposed of outside the coastal zone or to sites within the coastal zone authorized to accept fill material. The proposed 6,000 cubic yards of excavation and grading (all cut) will result in a large amount of soil and excavated material. If this material is stockpiled on site it would be subject to erosion and could adversely impact coastal waters. In addition, this stockpiled material would result in additional landform alteration if the excavated material were to be retained on site. In order to ensure that excavated material will not be stockpiled on the site and that landform alteration is minimized, Special Condition Number Four (4) requires the applicant to remove all excavated material from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site(s) prior to issuance of the permit. Should the dump site(s) be located in the Coastal Zone, a coastal development permit shall be required.

The Commission also notes that additional documentation is required of the applicant to ensure that all necessary approvals are obtained to conduct the work proposed by this project. Special Condition Number Five (5) requires that the Executive Director be supplied with the applicants proof that they have the right to work on any adjacent properties if needed, and evidence that the applicant has obtained a Streambed Alteration Agreement from the California Department of Fish and Game for this project, if required. If these approvals are deemed not necessary, proof that they are not required shall be provided to the Executive Director.

The proposed landslide/hillside stabilization project will serve to increase the overall stability of the project site. However, the Commission also notes that the proposed development is located in an area of the Coastal Zone subject to landslide, erosion, and wildfire hazards. The Coastal Act recognizes that certain development, such as the proposed project, may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public. As such, the Commission finds that due to the unforeseen possibility of landslide, erosion, and

wildfire, the applicant shall assume these risks as a condition of approval. Therefore, Special Condition Six (6) requires the applicant to waive any claim of liability against the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act and the Ventura County Local Coastal Program.

C. Visual Resources

Section 30251 of the Coastal Act requires that visual qualities of coastal areas shall be considered and protected, landform alteration shall be minimized, and where feasible, degraded areas shall be enhanced and restored. Section 30251 of the Coastal Act states that:

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

The Ventura County Local Coastal Plan states in part:

(1) Grading plans shall minimize cut and fill operations. If it is determined a project is feasible with less alteration of the natural terrain than is proposed, that project shall be denied.

(2) All development shall be designed to minimize impacts and alterations of physical features and processes of the site (i.e., geological, soils, hydrological, water percolation and runoff) to the maximum extent feasible.

The completed 129,00 cubic yards, and proposed 6,000 additional cubic yards of grading is remedial in nature and required to ensure geologic stability and public safety. However, the Commission notes that the proposed graded slopes will be visible from Ventura Highway 101, Old Rincon Highway 1, and from Emmawood State Beach, and will result in adverse effects to public views if not adequately mitigated. The project proposes grading, excavation and revegetation of approximately 2.0 acres in the

immediate project area, and included clearing and revegetation of approximately 1.5 acres at the adjacent area that was erroneously cleared by the applicant. Overall site and off-site drainage to the detention basin and cross highway drain is estimated at 63 acres.

Prior to the incidence of land slides at this location, the slopes on the project site had not been graded. Major grading was conducted in 1999 on the northern slope only, with surficial grading to the south slope to accommodate revegetation. The north and south slopes meet in a gully that acts as the main drainage feeding the detention basin at the base of the slopes, immediately adjacent to Ventura Highway 101. The stand pipe and cross highway drain inlet at risk of flooding are located in this detention basin. To stabilize the slide and prevent further slope failure a series of benches (Exhibit 4) were installed on the northern slope and the detention basin at the base of the slopes was expanded. The benches are designed to intercept surface runoff and possible subsurface flows and channel these towards the drainage gully between the north and south slopes.

The applicant has maintained that the amount of grading for this project was the minimum amount necessary to stabilize the site. They state that other alternatives would have involved additional grading and landform alteration. Alternatives analysis investigated the possibility of using 1:2 slopes on the major slope faces but the much greater amount of grading and excavation that this would require, as well as a much larger landform alteration of these slopes resulted in the applicant adopting the current design implementing 1:1 slopes.

Therefore, in order to ensure that any potential adverse effects to public views resulting from the proposed development are minimized, Special Condition One (1) requires landscape and erosion control features that will reduce, and eventually soften reduce the visual impacts of this project. The Commission finds that the minimization of site erosion will add to the stability of the slope, thereby serving to minimize adverse effects to the visual resources on the subject site. Erosion can best be minimized by requiring the applicant to landscape the remediated slope with native plants that are compatible with the surrounding environment. Thus, Special Condition One (1) is also required to ensure that all disturbed and graded areas will be stabilized and vegetated with native plant species.

Therefore, for the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act and the Ventura County Local Coastal Program.

D. Violations

This application includes an after-the-fact request for grading and slope remediation to stabilize a landslide. The project site has been subject to past Commission action. In

November 1998 Ventura County issued Zoning Clearance No. 78892 for restoration of the existing cross highway drain inlet. The County originally determined that the project only required the issuance of a Zoning Clearance because it was a Public Works facility being restored to design capacities. The County later recognized that the work involved massive amounts of grading and contouring and was not eligible for the Zoning Clearance. Construction was stopped on August 16th 1999 with the project approximately 50% completed. Coastal Commission staff subsequently issued Emergency Coastal Development Permit 4-00-207-G on September 15, 1999, to the California Department of Transportation to stabilize the site prior to the rainy season and construction activities resumed. Although this project is within the jurisdiction of the certified Ventura County Local Coastal Program (LCP) the Ventura County LCP does not include provisions for the Planning Director to issue Emergency Permits. Therefore, the Executive Director of the Commission issued an Emergency Permit for stabilization grading and erosion control measures. This emergency permit allowed for an additional 35,000 cubic yards of excavation to stabilize the slope and remove sediment blocking the detention basin that may have caused flooding of adjacent highway 101.

This emergency permit was not intended to allow completion of the project, but only to stabilize the slopes in place until a regular coastal development permit was obtained by the applicant from the Coastal Commission to complete the project. Construction resumed in September 1999 and the project was completed by November 1999. Condition Four (4) of the emergency permit required the applicant to either submit a follow-up regular coastal permit application by November 14, 1999. A follow-up permit application was submitted by the applicant on December 21, 2000 for the proposed development, exceeding the time limit by 403 days. Pursuant to the applicant's failure to apply for a regular coastal development permit within the prescribed time period, all 129,000 cubic yards of grading conducted to date is in violation. To ensure that the violation aspect of this application is resolved in a timely manner, Special Condition Seven (7) requires the applicant to satisfy all conditions of this permit which are prerequisite to the issuance of this permit within 90 days of Commission action.

Although construction has taken place prior to submission of this permit application, consideration of the application by the Commission has been based upon the Chapter 3 policies of the Coastal Act and upon the Ventura County LCP. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

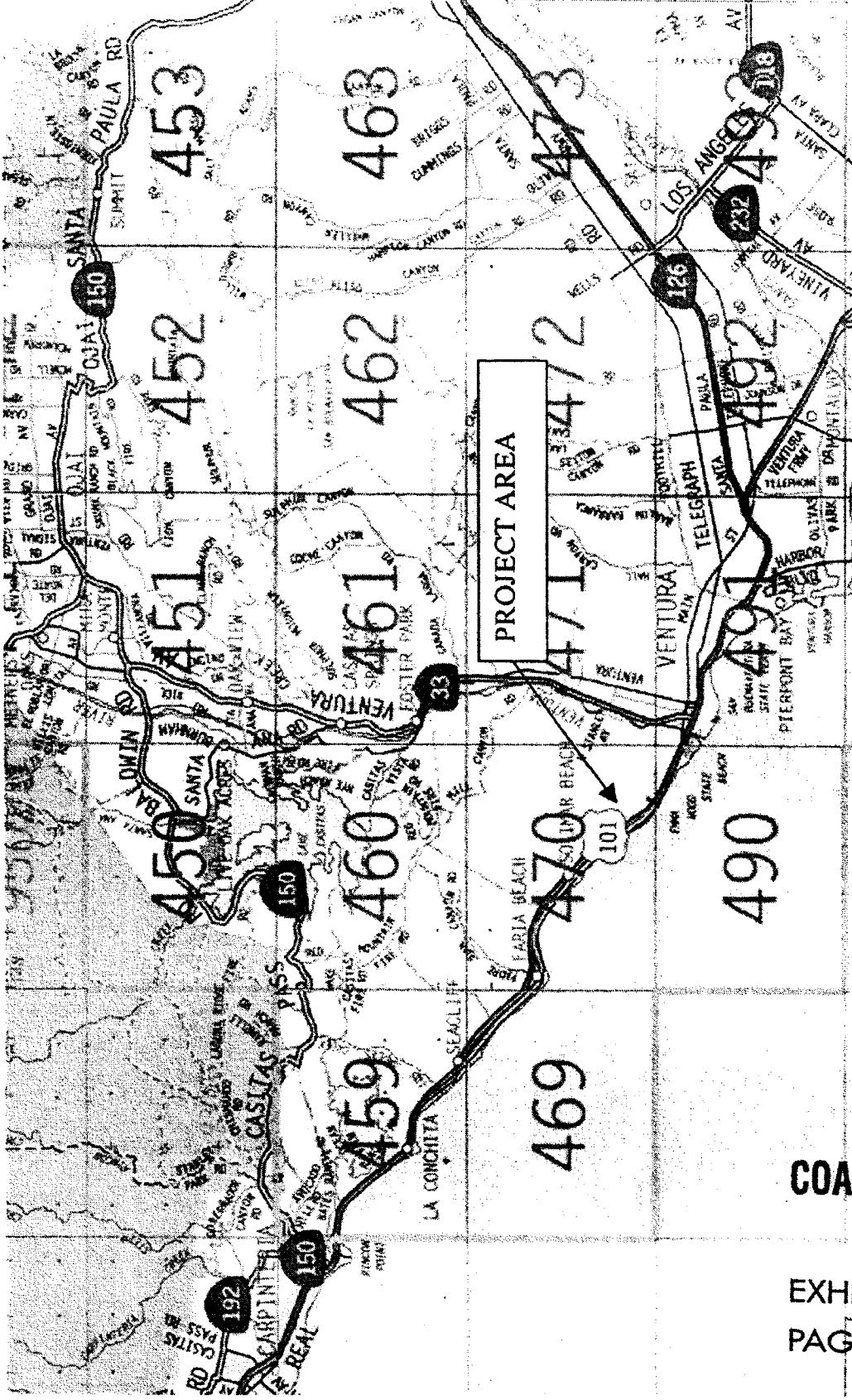
E. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA).

Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

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

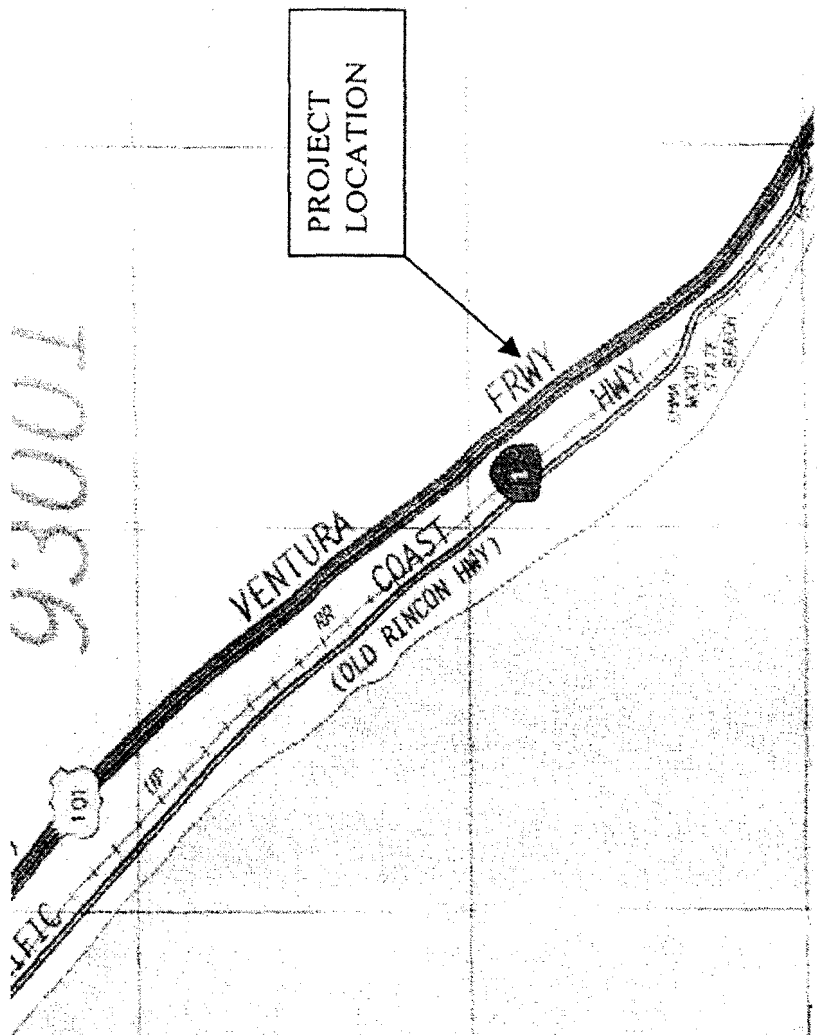
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COASTAL COMMISSION

EXHIBIT # 1
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PROJECT LOCATION MAP



93001
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CEAN

CDP #4-00-207

COASTAL COMMISSION

EXHIBIT # 2
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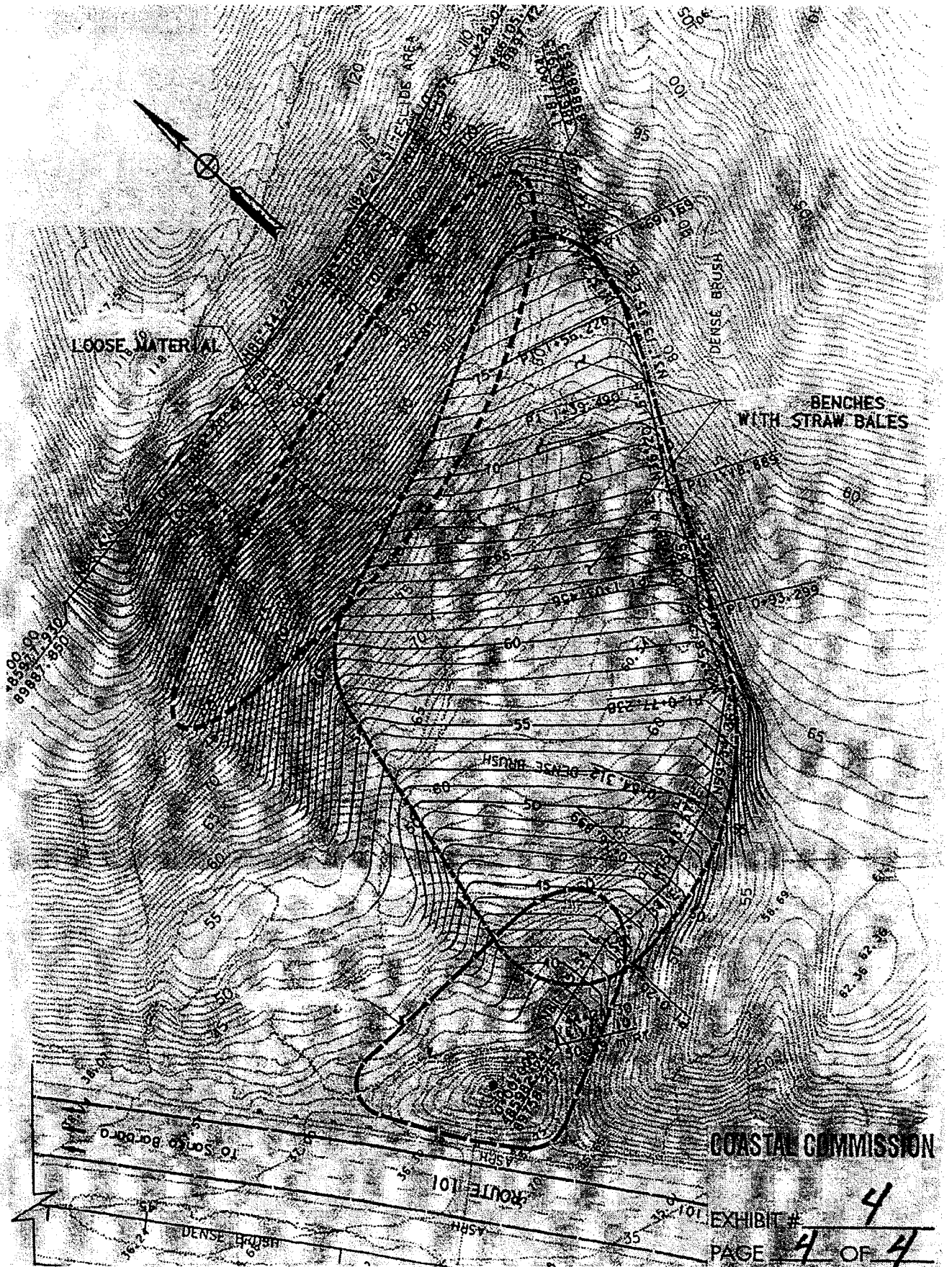
COUNTOUR GRADING PLAN

CDP #4-00-207



SLOPE GRADING PLAN

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COASTAL COMMISSION

EXHIBIT # 4
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