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STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
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Commission Action:



## RECORD PACKET COPY

### STAFF REPORT: REGULAR CALENDAR

**APPLICATION No.:** 4-99-267

**APPLICANT:** Sheila J. Rosenthal

**PROJECT LOCATION:** 549 Live Oak Circle Drive, Calabasas, Los Angeles County

**PROJECT DESCRIPTION:** Request for after-the-fact approval for the construction of a 350-foot long, approximately three foot high concrete and rock retaining wall and approximately three to five foot wide dirt path that zig zag to the top of a hill, nine rock and concrete benches, stairway from the top of the bank of Cold Creek to the stream bed below, retaining walls along the stream bed of Cold Creek and an oak tree that are approximately two feet high, installation of an irrigation system, and approximately 97.8 cubic yards of grading (48.9 cubic yards cut/excavation and 48.9 cubic yards fill).

**Lot Area:** 3.14 acres  
**Maximum Height Above Finished Grade:** Three feet

**LOCAL APPROVALS RECEIVED:** County of Los Angeles, Environmental Review Board, September 17, 2001; County of Los Angeles, Department of Public Works, October 16, 2000; and County of Los Angeles, Department of Regional Planning, October 5, 2000.

**SUBSTANTIVE FILE DOCUMENTS:** Letter from Alan Robert Block, Esq., January 29, 2002; Letter from Sheila and Jay Rosenthal with attachments and photographs for exhibits for staff report, January 15, 2002; Letter from Sheila and Jay Rosenthal, December 11, 2001; Letter from Sheila and Jay Rosenthal, November 1, 2001; "Supplemental Geotechnical Engineering Letter," West Coast Geotechnical, October 29, 2001; letter from County of Los Angeles, Fire Department, September 17, 2001; "Property at 549 Live Oak Circle," Cy Carlberg, Consulting Arborist, September 15, 2001; letter from County of Los Angeles Fire Department, July 13, 2000; letter from Alan Robert Block, Esq., May 8, 2001; "Supplemental Geotechnical Engineering Letter," West Coast Geotechnical, April 10, 2001; letter from Alan Robert Block, Esq., April 6, 2001; "Structural Engineering Comments," L. Liston & Associates, Inc., December 27, 2000; letter from Sheila and Jay Rosenthal, December 27, 2000; revised Coastal Development Permit ("CDP") Application, 4-99-267, submitted October 11, 2000; letter

from Sheila Rosenthal, received October 11, 2000; "Addendum Geotechnical Engineering Report," West Coast Geotechnical, August 21, 2000; revised CDP Application, 4-99-267, submitted June 29, 2000; "Footpath," L. Liston & Associates, Inc., June 26, 2000; "Limited Geotechnical Engineering Report," West Coast Geotechnical, June 12, 2000; letter from Alan Robert Block, Esq., March 30, 2000; letter from Sheila Rosenthal, submitted February 1, 2000; letter from Sheila Rosenthal, January 15, 2000; letter from Sheila Rosenthal, January 20, 2000; letter from Sheila Rosenthal, January 22, 2000; letter from Sheila Rosenthal, January 25, 2000; CDP Application, 4-99-267, submitted December 2, 1999; letter from Sheila Rosenthal, submitted December 2, 1999; Notice of Violation, County of Los Angeles, Department of Public Works, Building and Safety Division, November 17, 1999; "Geologic and Soils Engineering Investigation," Kovacs-Byer and Associates, Inc., July 21, 1978; "Oak Trees: Care and Maintenance," County of Los Angeles, Department of Forestry; Coastal Development Permits 5-90-661 (Allen), 5-91-328 (Contis), 4-99-192 (Mariposa Land Company Ltd.), 4-00-004 (Daly), 4-00-114 (Newlon), 4-00-190 (Trey Trust); 4-00-191 (Trey Trust), and 4-00-192 (Trey Trust); and the certified Malibu/Santa Monica Mountains Land Use Plan.

**STAFF RECOMMENDATION:** Staff recommends **denial** of the proposed project for the reasons discussed below.

## **I. STAFF RECOMMENDATION**

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 4-99-267 for the development proposed by the applicant.*

### **STAFF RECOMMENDATION OF DENIAL:**

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

### **RESOLUTION TO DENY THE PERMIT:**

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will not conform with the policies of Chapter 3 of the Coastal Act and will prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

## **I. Findings and Declarations**

The Commission hereby finds and declares:

### **A. Project Description and Background**

This application was previously scheduled to for the February 2002 Commission hearing. On January 29, however, Commissions staff received a request on behalf of the applicant for a continuance until the next Commission meeting scheduled in Southern California (Exhibit 35). As a result, Commission staff scheduled the application for April 2002 in Santa Barbara.

The applicant requests after-the-fact approval of the construction of a 350-foot long, approximately three foot high, concrete and rock retaining wall and approximately three to five foot wide pathway to the top of a hill on the subject site. In addition, the applicant also requests after-the-fact approval of five rock and concrete benches that are located along the proposed pathway to the top of the hill and which are incorporated into the 350-foot long retaining wall structure. The 350-foot long retaining wall with benches has not been completed to date, as the applicant was ordered by the County of Los Angeles to stop all work when the County issued a "Notice of Violation" to the applicant. As a result, an upper portion of the retaining wall has not yet been constructed and some of the finishing construction and detail work has not yet been completed. The applicant states that a County employee had previously informed her that no permit was required for the retaining wall with benches. The applicant is requesting approval for the completion of the development. In addition, the applicant is also requesting after-the-fact approval of an irrigation system that would provide water taps approximately every 30 feet along the pathway. Further, the applicant requests after-the-fact approval for the construction of a stairway from the top of the bank of Cold Creek to the stream bed of Cold Creek below, approximately two foot high retaining walls along the stream bed of Cold Creek and an oak tree adjacent to the stream bed, and four rock and concrete benches adjacent to and along the bank of Cold Creek. The applicant is also requesting approval for the placement of loose bricks around young oak trees on the property.

In addition, the applicant is also requesting after-the-fact approval for approximately 48.9 cubic yards of cut and excavation for the above development, (47.6 cubic yards of which is associated with the 350-foot long retaining wall with five benches) The applicant has stated that the excess 48.9 cubic yards of excavated and cut material would be used as fill on the site. Although the applicant has only requested approval for approximately 49.8 cubic yards of cut and excavation, as the cut and excavated material was used as fill on the site, the total amount of grading that has been performed is at least approximately 97.8 cubic yards when all cut, excavated, and fill material are included in the grading calculations for the proposed development on the site. Additionally, some rock has been removed from the streambed of Cold Creek in

order to construct portions of the proposed development, although the amount in cubic yards that may have been removed has not been quantified at this time.

The subject site is approximately 3.14 acres and is located at 549 Live Oak Circle Drive, just north of Piuma Road and east of Las Virgenes Road and Malibu Canyon Road, in the Calabasas area of Los Angeles County (Exhibits 1, 2, and 3). The lot is situated at the terminus of Live Oak Circle Drive on the eastern side of Cold Creek on the southwest flank of a northwest trending, secondary ridge. Slope gradients range from 8:1 to as steep as 1:1 (horizontal to vertical). Vegetation consists of a riparian oak woodland area, scrub oaks, shrubs, and grasses. Drainage from the site is by sheet flow runoff toward Cold Creek. The proposed development is after-the-fact in nature and has already been constructed without the benefit of a Coastal Development Permit ("CDP"). With the exception of the proposed after-the-fact development, the subject site is undeveloped and does not maintain any residential or other structures.

A portion of the subject site was specifically designated by the Commission-certified Malibu Santa Monica Mountains Land Use Plan ("LUP") as "oak woodland environmentally sensitive habitat area" ("ESHA"). The oak tree habitat is rich on the subject site, in part, due to the fact that Cold Creek traverses the site and provides for riparian habitat. Cold Creek enters the subject site at the northwestern end and exits the site at the southwestern end (Exhibits 4, 6, and 36). Further, Cold Creek, including the channel and riparian vegetation on site, is designated as an ESHA by the certified LUP and as a perennial blueline stream by the United States Geologic Service. Additionally, the project site is also located approximately one quarter of a mile south of the Cold Creek Management Area, which was also established under the certified LUP (Exhibit 36).

The area surrounding the project site is rural in character, with wide-open spaces and vistas, and some scattered residential development. A large network of publicly owned lands and trails in the region adds to this area's character. For example, Malibu Creek State Park is located to the west of the subject site and National Park Service land is located to the southeast. The Backbone Trail passes to the south of the subject site and the Malibu Creek Trail also passes to the west of the subject site, for example. Those areas within the vicinity of the project site that are not publicly owned land are developed with single family residences in a manner that has preserved the rural character of the surrounding area. Further, in reflection of the scenic character of this area, Malibu Canyon Road (to the west of the subject site) and Piuma Road (to the south and southeast of the subject site) are both designated as Scenic Highways under by the LUP (Exhibit 9). Additionally, there are numerous public vista points along those roads and scenic elements within this area.

The subject site is also within an area that was designated as the Santa Monica Mountains National Recreation Area (SMMNRA) in 1978 by the United States Congress. The SMMNRA was established to "manage the recreation area in a manner which will preserve and enhance its scenic, natural, and historical setting and its public health value as an air shed for the Southern California metropolitan area while providing

for the recreational and educational need of the visiting public.<sup>1</sup> The SMMNRA is unique in that it is checkered with large tracts of parkland, including numerous National Park Service Land, State Parks and Beaches, Los Angeles County Parks and Beaches, City of Malibu Parks, and various other preserves. The Santa Monica Mountains and the SMMNRA form the western backdrop for the metropolitan area of Los Angeles and the heavily urbanized San Fernando and Conejo Valleys. Los Angeles County is populated by well over nine million people, most of who are within an hour's drive of the Santa Monica Mountains.<sup>2</sup> Within the SMMNRA, the Santa Monica Mountains create rugged open spaces, jagged rock outcroppings, and primitive wilderness areas, in addition to homes, ranches, and communities. The SMMNRA provides the public and local residents with outdoor recreational opportunities and an escape from urban settings and experiences.

Furthermore, the 350-foot long retaining wall that traverses the hillside on the subject property is highly visible from Malibu Canyon Road, a designated scenic highway, and from the Malibu Creek Trail. Exhibit 38 is a copy of a photograph taken by Commission staff of the retaining wall, as seen from the subject site. Exhibit 39 is a copy of a photograph taken by Commission staff of the retaining wall, as seen from Malibu Canyon Road. In addition, the completion of the upper section of the retaining wall along the pathway will also be highly visible, as well. In addition, the proposed retaining wall running along the pathway may also be visible from public trails (including the Backbone Trail), Piuma Road (also a designated scenic highway), and from public viewing areas located along Malibu Canyon Road and Piuma Road (Exhibits 9 and 38). Although the 350-foot long retaining wall is highly visible, the additional development proposed by the applicant located within the streambed of Cold Creek and at the top of the stream bank, such as the stairway, is not visible from these scenic public roads, trails, and viewpoints.

The applicant has stated orally and in writing that she is proposing as part of this application to "rag wash" the 350-foot long, three foot high retaining wall that zig zags up the hillside with a color to "blend with the natural surroundings" and to landscape the area with plants and shrubs indigenous to the area along the wall to "enhance the natural appearance and cover the wall from view." The applicant is proposing to landscape the disturbed hillside, in the area where the 350-foot long retaining wall and path are located, with native plants. The applicant has also stated in a telephone conversation with Commission staff on January 31, 2000, that she has "taken ice plant cuttings" and would like to plant them on the slope of the hill to prevent erosion. Commission staff also noted the presence of ice plant cuttings on the property during the December 20, 1999, site visit.

In addition, the applicant has also submitted a computerized simulation of what the 350-foot long, three foot high retaining wall and path may look like if the proposed development was approved and the applicant completed it, colored, and landscaped the area (Exhibit 37).

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<sup>1</sup> Public Law 95-625.

<sup>2</sup> Santa Monica Mountains Area Recreational Trails Coordination Project, Final Report, September 1997, page 34.

Further, the applicant has also stated that as the adjacent single family residence to the east is located near the property line of the subject site, nearly all of the 200 feet of clearance of dry brush required by the Fire Department for that residence must be performed on the applicant's site in the area where the 350-foot long retaining wall and path are proposed. In her letter dated January 20, 2000, the applicant states (Exhibit 17):

*The man who cut the brush down and others before him had left a small trail across and up the hill when doing this task each year. My original idea was to water the native brush on the hill enough to keep it green enough that the Fire Department would no longer require that I cut down so much of it. . . . For this purpose I followed the path that the brush clearance man and others had left and widened it a bit for safety. Based on my understanding of what the County told me was permissible without a permit I put up small walls less than three feet high to discourage erosion until I could reestablish the native plants. It was impossible to water the brush on the hill from below so I had water pipes put in with spigots at approximately every 30 feet up the hill so I could keep the entire hill green and wouldn't be required to have it cut and looking unaesthetic each year. The bushes would grow to reach from 6 to 10 feet or more and would totally cover the path and walls and wipe them from view. Hopefully they would be green enough to remain and not be required to be cut nearly as much each year.*

To the Commission staff's knowledge, the Los Angeles County Fire Department has not reviewed or approved any proposed landscaping plan for the site.

As stated previously, portions of the subject site are designated as an oak woodland ESHA. Cold Creek, including the channel and riparian vegetation on site, is designated as an ESHA by the certified LUP and as a blueline stream by the United States Geologic Service. The applicant submitted a site plan mapping 28 Coast Live Oak trees on the subject site that are adjacent to proposed development (Exhibits 6 and 7). The applicant has not mapped all of the oak trees that exist on the subject site, but rather only those that are adjacent to the proposed development within the riparian oak woodland ESHA. Further, one letter submitted on September 11, 1978, pursuant to CDP P-8-16-78-3892 stated that there was a grove of 37 mature oak trees on the subject site (Exhibit 34).

The applicant is proposing development within the driplines or protected zones of approximately eleven Coast Live Oak trees on the subject site, located within the area designated as an oak woodland ESHA and within or in close proximity to the riparian canopy of Cold Creek. The applicant has stated orally and in writing that these retaining walls, benches, and the stairway (all located within the driplines of Coast Live Oak Trees) were constructed to promote easier access to the creek bed and for private viewing purposes.

The applicant is requesting after-the-fact approval for the construction of a three foot high (approximately 30 foot long) retaining wall constructed of native stone and concrete mortar around an existing mature Coast Live Oak tree ("T-9") that is approximately 50 feet in height with a 50 foot wide spread and 27.5 inch diameter, located within the area designated as an oak woodland ESHA and within the stream bed or bank of Cold

Creek. The retaining wall proposed around the oak tree is located approximately four to ten feet from the tree's trunk. The applicant has stated orally and in writing that soil was eroding around this tree and that she constructed the retaining wall on the upslope and downslope sides of the tree in an effort to prevent further erosion from the stream, protect the stability of tree, stabilize the roots, and prevent the tree from falling. Fill dirt was also placed within the streambed adjacent to this oak tree and was used as backfill for the retaining wall. The applicant has also stated orally and in writing that another oak tree had previously fallen over due to erosion from the stream and that she wanted to prevent the same occurring to this oak tree. On January 15, 2002, the applicant also submitted photographs of the oak tree ("T-9") with a statement that the retaining wall and backfill have "preserved the oak even in high water" (Exhibit 29).

In addition, the applicant is also requesting after-the-fact approval for the construction of five foot wide staircase built of native stone with wood risers approximately five feet south of the trunk of an additional Coast Live Oak tree ("T-7") that is approximately 55 feet high with a spread of 20 feet and diameter of 26 inches. This staircase is also located within the area identified as an oak woodland ESHA and is partially within the streambed or bank of Cold Creek. In addition, the staircase also encroaches within the dripline of at least one additional Coast Live Oak tree ("T-4") on the site, although this was not identified in the oak tree report submitted by the applicant.

The applicant is also requesting after-the-fact approval for the construction of an approximately 31 foot long, two foot high, 18 inch wide retaining wall located near the top of the stream bank of Cold Creek, also within the area designated as an oak woodland ESHA. The oak tree report submitted by the applicant's consultant states that this structure is located within the dripline of two Coast Live Oak trees ("T-18" and "T-21"). This retaining wall is located approximately 10 feet upslope from the trunk of Coast Live Oak "T-21," which is 40 feet high, with a spread of 20 feet and a diameter of 14 inches on one trunk and 19 inches on a second trunk. This retaining wall is also located approximately 16.5 feet downslope from the trunk of Coast Live Oak "T-18," which is 40 feet high, with a spread of 30 feet and a diameter of 21 inches. In addition, it also appears that this retaining wall may encroach within the driplines of additional oak trees on the subject site that were not addressed in the oak tree report submitted by the applicant, including but not limited to Coast Live Oaks "T-17" and "T-22."

Furthermore, the applicant is requesting after-the-fact approval for the construction of a retaining wall and bench approximately 30 feet in length and four feet in height, located near the top of the stream bank of Cold Creek along a dirt footpath. This retaining wall and bench structure is also located within the area designated as an oak woodland ESHA and encroaches into the driplines and protected zones of five Coast Live Oak trees ("T-24," "T-25," "T-26," "T-27," and "T-28.") Three of these oak trees are 25 feet in height and two are 15 feet in height. They range in spread from 15 to eight feet and in diameter from 12 to 4.5 inches. The retaining wall and bench structure is located approximately 12 feet upslope from three of the oak trees, 16 feet downslope from one oak tree, and immediately adjacent to the trunk of one oak tree, which caused root pruning, according to the arborist's report (Exhibit 11).

As stated above, the applicant has submitted a report prepared by a consulting arborist, dated September 15, 2001, evaluating impacts that may have occurred to date from the proposed development to the on site oak trees (Exhibit 11). That report states, in part, that as of September 14, 2001, there was "only minimal disruption from the 1998 construction activities . . . (Exhibit 11)." That report does state that currently there is a three-inch depression at the base of the trunk of an oak tree ("T-9"), which would allow standing water at the base of the trunk, which the report states should not occur. That report suggests minimal grading in order to achieve positive drainage away from the trunk. In addition, that report also states, "It was encouraging to note that after three years, if the trees had been negatively impacted, they would undoubtedly be showing signs of decline or construction-induced stress (Exhibit 11)."

In addition, in letters dated July 13, 2000 and September 17, 2001, the County of Los Angeles, Fire Department, Forestry Division states that although "any further planned improvements affecting the Oak resource should proceed with the benefit of necessary approved permits," the after-the-fact development currently proposed by the applicant should not require an Oak Tree Permit from the County of Los Angeles (Exhibit 12). Since the Forestry Division of the Los Angeles County Fire Department determined that the development was after-the-fact and that there is no currently visible damage to the oak trees, it decided that an oak tree permit was not necessary at this time. However, development within the protected zones of oak trees does require an oak tree permit and the County has specifically stated that any such further development should receive the benefit of such an oak tree permit or permits. Furthermore, the County of Los Angeles, Environmental Review Board ("ERB") also recommended that the applicant contact the Resource Conservation District of the Santa Monica Mountains for stream bank stabilization measures. Although the ERB determined that the development was approvable, the ERB provided no evidence, discussion, or analysis in support of this conclusion (Exhibit 14). The applicant has also submitted a letter dated January 25, 2000, stating she had spoken with the California Department of Fish and Game and that any further alteration of the stream bed would require approval by that agency, as well (Exhibit 19).

The applicant has stated orally and in writing to Commission staff that the purpose of the proposed development is to provide access across the property for the owners to view and enjoy the surrounding area and to protect an oak tree located adjacent to the stream from destruction through continued erosion.

Although the applicant has submitted an application for the some development that has occurred on the site, the applicant has not included a request for approval for the removal of rock from the streambed of Cold Creek that was used to construct at least portions of the proposed development. During the site visit on December 20, 1999, Commission staff noted that there were several piles of rock located at the top of the creek bank and within the creek bed that still had algae on them. Additionally, it appeared that there was a section of Cold Creek that crosses the subject site where rock had been removed from the streambed, as one segment of the creek bed was not lined with rock as the other segments of the creek were. Further, Commission staff noted that there was a wheelbarrow that had been left in this section of the creek bed



where it appeared that rock had been removed and that there was a path for the wheelbarrow to go up to the top of the stream bank. In addition, in a telephone conversation with the applicant on December 22, 1999, the applicant acknowledged to Commission staff that she had removed rocks from the streambed to use in the construction of the proposed development. Subsequently, however, the applicant has also stated in a letter dated January 22, 2000, that she obtained rock for the construction of the proposed development from another location in Agoura Hills (Exhibit 18). In that letter, she states:

*"[I]n the last two years following El Nino tons of debris washed down onto Agoura Road between Chesebro and Westlake Blvd. Road Crews regularly shoveled up the debris which spilled into the street. In between pickups I've picked up, literally, tons of river rock from alongside and on Agoura Rd. . . . which I brought to the land . . ."*

Further, the applicant has asserted that she purchased rocks for the development from commercial suppliers on Agoura Road, which she reports has subsequently closed (Exhibit 20). Commission staff conducted an additional site visit on December 13, 2001, and noted that the segment of Cold Creek where the rock appeared to have been removed previously remains devoid of larger sized rock, as are neighboring segments of the stream immediately to the north and south.

In addition, the applicant has stated as recently as January 15, 2002, that she intends to propose the construction of a single-family residence on the "flat area in front of the hill" in the future (Exhibit 28). The Commission approved CDP P-8-16-78-3892 (Keowen) for the construction of a two-story, four-bedroom single-family residence with an attached two-car garage located 25 feet and four inches above the centerline of Live Oak Circle on September 25, 1978. Although the address for that CDP was listed as 547 (rather than 549) Live Oak Circle, the subject site was the parcel on which that CDP was approved. Although that CDP was issued on April 12, 1979, the CDP expired, as the work authorized on that permit did not commence within two years from the date of the Commission's vote upon the application.

On January 15, 2002, the applicant submitted copies of CDP P-8-16-78-3892 to Commission staff, as the applicant stated that she would like the CDP to be attached to the staff report as an exhibit (Exhibit 30). The copies of CDP P-8-16-78-3892 submitted by the applicant, however, did not have page three of the CDP attached, which listed the special conditions. Commission staff ordered CDP P-8-16-78-3892 from the archive office and received it on January 15, 2002. The file for CDP P-8-16-78-3892 contained the complete permit, including page three with the special conditions (Exhibit 31).

The special conditions to CDP P-8-16-78-3892 included: 1) revised plans which indicate that no development shall be located within 50 feet from the bank of the riparian area of Cold Creek; 2) recordation of a deed restriction to include geology and soils reports as a part of the chain of title for the property; 3) recordation of a deed restriction prohibiting any development or riparian vegetation removal within 50 feet from the bank of Cold Creek to protect habitat value; 4) plans for a drainage system to dispose of roof and surface runoff into gravel filled wells or retention devices that maintain a rate of

discharge at the level that existed prior to development-the use of overland storm channels is not permitted; 5) revised plans to minimize landform alteration; 6) recordation of a deed restriction dedicating a 10 foot wide strip on the east side bank of Cold Creek along the entire length of property, from north to south, on which a present trail exists, to any public agency; and 7) recordation of a deed restriction noting that land divisions on the subject site are not permitted until the LCP permits a higher intensity use (Exhibit 31).

The file for CDP P-8-16-78-3892 also includes letters that were submitted by interested parties, which were concerned about potential impacts from the single family residence that was proposed on the subject site on the hiking and pedestrian trail crossing the site and on the oak tree resources. The letters that were submitted regarding potential impacts on the existing trail are dated September 9, 1978 and were signed by 38 concerned parties (Exhibit 33). In addition, a letter dated September 11, 1978, states:

*As interested, concerned neighbors and property owners . . . we are concerned about the future of a grove of California oak trees growing on this property.*

*The 37 mature oak trees have been here a long time, are all in apparent good health and, we feel, contribute immensely to the natural beauty and charm of this essentially rural area. . . .*

*[W]e are apprehensive about the future of these beautiful trees. We hope that his plans give full consideration to preserving these trees, and we request that any development of this property be planned and executed so that absolutely no oak trees are damaged, moved or destroyed.*

This letter was signed and submitted by 11 interested parties.

The permit that was issued for the residential development on the subject site pursuant to CDP P-8-16-78-3892 contained special conditions to protect the oak, riparian, and stream resources on the parcel. Further, CDP P-8-16-78-3892 also required special conditions to minimize landform alteration and to protect public trail access across the subject site. In addition, pursuant to the issuance of CDP P-8-16-78-3892, deed restrictions were recorded on the parcel to provide for a public trail and to restrict all development and vegetation removal within 50 feet from the bank of Cold Creek (Exhibit 32). As a result, in approving this prior permit, the Commission has underscored the importance of the visual and environmental resources located on the subject site.

## **B. Environmentally Sensitive Resources and Water Quality**

Section 30107.5 of the Coastal Act states:

*"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Section 30230 of the Coastal Act states:

*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.*

Section 30231 of the Coastal Act states:

*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.*

Section 30233(a) of the Coastal Act states, in part:

*The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

- (1) New or expanded port, energy, and coastal dependent industrial facilities . . .*
- (2) Maintaining existing . . . navigational channels . . .*
- (3) In wetland areas only, entrance channels for new or expanded boating facilities . . .*
- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities . . . that provide for public access and recreational opportunities.*
- (5) Incidental public service purposes . . .*
- (6) Mineral extraction . . . except in environmentally sensitive areas.*
- (7) Restoration purposes.*
- (8) Nature study, aquaculture, or similar resource dependent activities.*

Section 30236 of the Coastal Act states:

*Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.*

In addition, Section 30240 of the Coastal Act states:

***(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such 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 such areas, and shall be compatible with the continuance of such habitat areas.***

Section 30107.5 of the Coastal Act defines environmentally sensitive habitat area ("ESHA") as any "area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." Sections 30230 and 30231 of the Coastal Act require that the biological productivity and the quality of coastal waters and streams be maintained and, where feasible, restored through among other means, minimizing adverse effects of waste water discharge and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flows, maintaining natural buffer areas that protect riparian habitats, and minimizing alteration of natural streams. In addition, Section 30240 of the Coastal Act states that environmentally sensitive habitat areas must be protected against disruption of habitat values.

Furthermore, in past Commission actions, the Commission has emphasized the importance placed by the Coastal Act on protection of sensitive environmental resources. Specifically, the Commission has required that new structures shall be located at least 100 feet from the outer limit of the riparian tree canopy. In addition, in past actions, the Commission has required grading to be minimized to ensure that the potential negative effects of runoff and erosion on watershed and streams are lessened. In addition, the Commission has also denied permits for the placement of fill and structures within blue line streams.

As stated earlier, a portion of the subject site is located within an ESHA and was specifically designated by the Commission-certified Malibu Santa Monica Mountains Land Use Plan ("LUP") as oak woodland ESHA. In addition, as stated previously, the Coastal Act defines an environmentally sensitive area as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." An oak woodland is a unique habitat area that provides food and shelter for wildlife. Acorns from oak trees, for example, are used as a food source by deer, rodents, and various upland birds. In addition, roots of oak trees may often eaten by pocket gophers. In addition, the overlapping oak tree canopies that are present on the subject site enable various animal species to travel from tree to tree, rather than forcing them to travel on the ground, affording them increased protection from predation. Furthermore, oak trees are often used for wildlife habitat rehabilitation and restoration, in addition to watershed improvement. Due to this biological significance, areas of oak woodlands have been considered ESHA and oak woodland

areas, such as that on the subject site, were designated as ESHA under the certified LUP.

The benefits that oak trees and oak woodlands provide are manifold, rendering this resource significant in many respects. For example, in its publication dated September 5, 2000, the California Oak Foundation also lists the many benefits that oak trees and oak woodlands provide, stating:

*Direct benefits of oak woodlands and forests include increased water percolation to recharge groundwater; decreased storm runoff from forested lands; healthy soil chemistry and structural integrity; increased biological diversity resulting in decreased pest pressure for agriculture and landscaping. Oak habitats provide nesting and refuge sites for insectivorous birds. When these upland habitats are lost, insect balances in adjacent areas are altered. These imbalances can often result in chronic outbreaks of pests in agricultural areas and other vectors (such as mosquitoes) in urban areas. Oaks are important to owls and stellar jays, to mountain lions and deer, to frogs and tiger salamanders. Oaks throughout the state shade riparian areas and lower water temperatures in streams, thus protecting fish and other aquatic life.*

As stated above, oak trees, oak woodlands, and associated habitat areas have an intrinsic aesthetic, environmental, and ecological values. Oak trees provide shade, help to stabilize soil on steep slopes, minimize noise, deflect wind, and filter dust and pollutants from the air<sup>3</sup>. Oak woodlands also provide habitat for a wide range of wildlife species and corridors to maintain genetic diversity between wildlife populations<sup>4</sup>. Over 300 species of vertebrates and numerous species of birds, amphibians, reptiles, and mammals utilize oak woodlands<sup>5</sup>. Species such as the western bluebird and violet-green swallow, for example, depend on tree cavities to build their nests<sup>6</sup>. Oak woodlands harbor more wildlife species than any other major habitat type in California<sup>7</sup>.

Oak trees and oak woodlands are becoming increasingly rare, however, due to increased direct and indirect impacts from development and other factors, such as "Sudden Oak Death," a pathogen that threatens the lives of oak trees and that has become epidemic in California<sup>8</sup>. Over the past 200 years, human activities have dramatically changed the complexion of oak woodlands and vast acreages have been removed for intensive agriculture, forage production, fuel wood, and urban and residential development<sup>9</sup>. The publication, "A Planner's Guide for Oak Woodlands," states:

***It is clearly recognized that the future viability of California's oak woodland resources is dependent to a large extent on the maintenance of large scale land holdings or on***

<sup>3</sup> *A Planner's Guide for Oak Woodlands*, University of California, Integrated Hardwood Range Management Program, 1993, page 5.

<sup>4</sup> *Id.* at 6.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Tracking a Mysterious Killer, The Relentless Spread of Sudden Oak Death*, California Coast & Ocean, Winter 2001-02, Elizabeth F. Cole, page 3.

<sup>9</sup> *A Planner's Guide for Oak Woodlands*, University of California, Integrated Hardwood Range Management Program, 1993, page 2.

*smaller multiple holdings that are not divided into fragmented, non-functioning biological units. . . . Today, research suggests that residential development from California's growing human population is the single largest threat to the state's oak woodlands.*

This publication goes on to state:

*Residential and urban development generally results in a much more fragmented landscape. Once fragmented, the ecological values of these lands may be greatly reduced, negatively impacting wildlife habitats, open space viewsapes and recreational opportunities.*

An additional publication prepared by California State Polytechnic University for Los Angeles County, entitled, "Oak Revegetation Strategy," states:

*Only a few scattered stands of oak woodland remain intact today, and the surviving patches rarely include the range of plant and animal species that were once common. The steady disappearance of oaks has corresponded with the rapid growth of human settlement that began with establishment of the Pueblo of Los Angeles in 1781. Until then, the relatively small numbers of Native Americans, living in scattered villages in the valleys and foothills, appear to have had little effect on the oak woodlands.*

Oak trees and oak woodlands are not only rare and especially valuable due to their role in ecosystems, but they are also sensitive and may be easily disturbed or degraded by human activities and development. This sensitivity is reflected in the publication, "Oak Trees: Care and Maintenance," by the Los Angeles County Department of Forester and Fire Warden in 1989, which states:

*Oak trees in the residential landscape often suffer decline and early death due to conditions that are easily preventable. Damage can often take years to become evident, and by the time the tree shows obvious signs of disease it is usually too late to help. Improper watering...and disturbance to root areas are most often the causes.*

That publication goes on to state:

*Oaks are easily damaged and very sensitive to disturbances that occur to the tree or in the surrounding environment. The root system is extensive but surprisingly shallow, radiating out as much as 50 feet beyond the spread of the tree leaves, or canopy. The ground area at the outside edge of the canopy, referred to as the dripline, is especially important: the tree obtains most of its surface water and nutrients here, as well as conducts an important exchange of air and other gases.*

In addition, this publication also addresses the sensitive nature of oak trees to human disturbance, stating:

*Any change in the level of soil around an oak tree can have a negative impact. The most critical area lies within 6' to 10' of the trunk: no soil should be added or scraped away. . . . Construction activities outside the protected zone can have damaging impacts on existing trees. . . . Digging of trenches in the root zone should be avoided. Roots may be cut or severely damaged, and the tree can be killed. . . . Any roots exposed during this work should be covered with wet burlap and kept moist until the soil can be replaced. The roots depend on an important exchange of both water and air through the soil within*

*the protected zone. Any kind of activity which compacts the soil in this area blocks this exchange and can have serious long term negative effects on the trees. . . .*

In addition, in recognition of the sensitive nature of oak trees to human disturbance and to increase protection of these sensitive resources, the Los Angeles County Oak Tree Ordinance defines the "protected zone" around an oak tree as follows:

*The Protected Zone shall mean that area within the dripline of an oak tree and extending therefrom to a point at least 5 feet outside the dripline or 15 feet from the trunk, whichever distance is greater.*

Further, in past permit actions, the Commission has also found that development within the oak tree "protected zone" results in potential adverse impacts to these sensitive resources.

In sum, the environmental significance, increasing rarity, and susceptibility to disturbance from human activities, as detailed above, renders oak woodlands environmentally sensitive habitat area, as defined by Section 30107.5 of the Coastal Act. The oak tree habitat on the subject site is particularly significant, in part, due to the fact that Cold Creek traverses the site and provides for a rich riparian habitat. Cold Creek enters the subject site at the northwestern end and exits the site at the southwestern end (Exhibits 4, 6, and 36). Further, as stated previously, Cold Creek, including the channel and riparian vegetation on site, is designated as an ESHA by the certified LUP and as a perennial blueline stream by the United States Geologic Service. Additionally, the project site is also located approximately one quarter of a mile south of the Cold Creek Management Area, established under the certified LUP (Exhibit 36).

The project includes a request for after-the-fact approval for approximately 48.9 cubic yards of cut and excavation for the development, in addition to the use of the excess 48.9 cubic yards of excavated and cut material as fill on site. Although the applicant has only requested approval for approximately 49.8 cubic yards of cut and excavation, as the cut and excavated material was used as fill on the site, the total amount of grading that has been performed is at least approximately 97.8 cubic yards when all cut, excavated, and fill material are included in the grading calculations for the proposed development on the site. Additionally, rock has been removed from the stream bed of Cold Creek in order to construct portions of the proposed development, although the amount in cubic yards that may have been removed has not been quantified at this time.

In addition, the applicant submitted a site plan mapping 28 Coast Live Oak trees on the subject site that are adjacent to proposed development and that are within the area designated as an oak woodland ESHA on the site within or in close proximity to the riparian canopy adjacent to Cold Creek (Exhibits 6 and 7). The applicant has not mapped all of the oak trees that exist on the subject site, but rather only those that are adjacent to the proposed development within the riparian oak woodland ESHA. The applicant is proposing development within the driplines or protected zones of approximately 11 Coast Live Oak trees on the subject site, located within the area designated as an oak woodland ESHA and within the riparian canopy of Cold Creek. The applicant has stated orally and in writing that these retaining walls, benches, and

the stairway (all located within the driplines of Coast Live Oak Trees) were constructed to promote easier access to the creek bed and for private viewing purposes.

In addition, the applicant has stated as recently as January 15, 2002, that she intends to propose the construction of a single-family residence on the "flat area in front of the hill" in the future (Exhibit 28). The Commission approved CDP P-8-16-78-3892 (Keowen) for the construction of a two-story, four-bedroom single-family residence with an attached two-car garage located 25 feet and four inches above the centerline of Live Oak Circle on September 25, 1978. Although the address for that CDP was listed as 547 (rather than 549) Live Oak Circle, the subject site was the parcel on which that CDP was approved. Although that CDP was issued on April 12, 1979, the CDP expired, as the work authorized on that permit did not commence within two years from the date of the Commission's vote upon the application.

The special conditions to CDP P-8-16-78-3892 included: 1) revised plans which indicate that no development shall be located within 50 feet from the bank of the riparian area of Cold Creek; 2) recordation of a deed restriction to include geology and soils reports as a part of the chain of title for the property; 3) recordation of a deed restriction prohibiting any development or riparian vegetation removal within 50 feet from the bank of Cold Creek to protect habitat value; 4) plans for a drainage system to dispose of roof and surface runoff into gravel filled wells or retention devices that maintain a rate of discharge at the level that existed prior to development-the use of overland storm channels is not permitted; 5) revised plans to minimize landform alteration; 6) recordation of a deed restriction dedicating a 10 foot wide strip on the east side bank of Cold Creek along the entire length of property, from north to south, on which a present trail exists, to any public agency; and 7) recordation of a deed restriction noting that land divisions on the subject site are not permitted until the LCP permits a higher intensity use (Exhibit 31).

The file for CDP P-8-16-78-3892 also includes letters that were submitted by interested parties, which were concerned about potential impacts from the single family residence that was proposed on the subject site on the hiking and pedestrian trail crossing the site and on the oak tree resources. The letters that were submitted regarding potential impacts on the existing trail are dated September 9, 1978 and were signed by 38 concerned parties (Exhibit 33). In addition, a letter dated September 11, 1978, states:

***As interested, concerned neighbors and property owners . . . we are concerned about the future of a grove of California oak trees growing on this property.***

***The 37 mature oak trees have been here a long time, are all in apparent good health and, we feel, contribute immensely to the natural beauty and charm of this essentially rural area. . . .***

***[W]e are apprehensive about the future of these beautiful trees. We hope that his plans give full consideration to preserving these trees, and we request that any development of this property be planned and executed so that absolutely no oak trees are damaged, moved or destroyed.***



This letter was signed and submitted by 11 interested parties (Exhibit 34).

The permit that was issued for the residential development on the subject site pursuant to CDP P-8-16-78-3892 contained special conditions to protect the oak, riparian, and stream resources on the parcel. Further, CDP P-8-16-78-3892 also required special conditions to minimize landform alteration and to protect public trail access across the subject site. In addition, pursuant to the issuance of CDP P-8-16-78-3892, deed restrictions were recorded on the parcel to provide for a public trail and to restrict all development and vegetation removal within 50 feet from the bank of Cold Creek (Exhibit 32). As a result, in approving this prior permit, the Commission has underscored the importance of the visual and environmental resources located on the subject site.

Currently, however, the applicant is requesting after-the-fact approval for the construction of a three foot high (approximately 30 foot long) retaining wall constructed of native stone and concrete mortar around an existing mature Coast Live Oak tree ("T-9") that is approximately 50 feet in height with a 50 foot wide spread and 27.5 inch diameter, located within the area designated as an oak woodland ESHA and within the stream bed or bank of Cold Creek. The retaining wall that is proposed around the oak tree is located approximately four to ten feet from the tree's trunk. The applicant has stated orally and in writing that soil was eroding around this tree and that she constructed the retaining wall on the upslope and downslope sides of the tree in an effort to prevent further erosion from the stream, protect the stability of tree, stabilize the roots, and prevent the tree from falling. Fill dirt was also placed within the streambed adjacent to this oak tree and was used as backfill for the retaining wall. The applicant has also stated orally and in writing that another oak tree had previously fallen over due to erosion from the stream and that she wanted to prevent the same occurring to this oak tree.

In addition, the applicant is also requesting after-the-fact approval for the construction of a five foot wide staircase built of native stone with wood risers approximately five feet south of the trunk of an additional Coast Live Oak tree ("T-7") that is approximately 55 feet high with a spread of 20 feet and diameter of 26 inches. This staircase is also located within the area identified as an oak woodland ESHA and is partially within the streambed of Cold Creek. In addition, the staircase also encroaches within the dripline of at least one additional Coast Live Oak tree ("T-4") on the site, although this was not identified in the oak tree report submitted by the applicant.

The applicant is also requesting after-the-fact approval for the construction of an approximately 31 foot long, two foot high, 18 inch wide retaining wall located at the top of the stream bed of Cold Creek, also within the area designated as an oak woodland ESHA. The oak tree report submitted by the applicant's consultant states that this structure is located within the dripline of two Coast Live Oak trees ("T-18" and "T-21"). This retaining wall is located approximately 10 feet upslope from the trunk of Coast Live Oak "T-21," which is 40 feet high, with a spread of 20 feet and a diameter of 14 inches on one trunk and 19 inches on a second trunk. This retaining wall is also located approximately 16.5 feet downslope from the trunk of Coast Live Oak "T-18," which is 40 feet high, with a spread of 30 feet and a diameter of 21 inches. In addition, it also

appears that this retaining wall may encroach within the driplines of additional oak trees on the subject site that were not addressed in the oak tree report submitted by the applicant, including but not limited to Coast Live Oaks "T-17" and "T-22."

Furthermore, the applicant is requesting after-the-fact approval for the construction of a retaining wall and bench approximately 30 feet in length and four feet in height, located near the top of the stream bank of Cold Creek along a dirt footpath. This retaining wall and bench structure is also located within the area designated as an oak woodland ESHA and encroaches into the driplines and protected zones of five Coast Live Oak trees ("T-24," "T-25," "T-26," "T-27," and "T-28.") Three of these oak trees are 25 feet in height and two are 15 feet in height. They range in spread from 15 to eight feet and in diameter from 12 to 4.5 inches. The retaining wall and bench structure is located approximately 12 feet upslope from three of the oak trees, 16 feet downslope from one oak tree, and immediately adjacent to the trunk of one oak tree, which caused root pruning, according to the arborist's report (Exhibit 11).

As stated formerly, the applicant has submitted a report prepared by a consulting arborist, dated September 15, 2001, evaluating impacts that may have occurred to date from the proposed development to the on site oak trees (Exhibit 11). That report states, in part, that there as of September 14, 2001, there was "only minimal disruption from the 1998 construction activities . . . (Exhibit 11)." The report submitted by the applicant does state that currently there is a three-inch depression at the base of the trunk of the oak tree, which would allow standing water at the base of the trunk, which the report states should not occur. That report suggests minimal grading in order to achieve positive drainage away from the trunk. In addition, that report also states, "It was encouraging to note that after three years, if the trees had been negatively impacted, they would undoubtedly be showing signs of decline or construction-induced stress (Exhibit 11)."

The proposed construction activities can have detrimental impacts on those oak trees whose driplines are located both within and outside of the area to be disturbed by the project. As the Commission has found in past actions, however, it often takes many years for oak trees to display signs of damage and may be difficult to determine the precise cause of death or worsened health. As mentioned above, portions of the proposed development are located adjacent to or within the protected zones of numerous oak trees. In addition, the root systems of oak trees are extensive but shallow, radiating out as much as 50 feet beyond the spread of the canopies, the ground area at the outside edge of the dripline is especially important since the trees obtain most of their surface water and nutrients there, as well as exchanging of air and other gases. As a result, development, including the retaining walls, concrete and rock benches, and the stairway within an area maintaining these root systems of oak trees, can eliminate this exchange of water, nutrients, air, and other gases, thereby harming or killing the oak trees. Further, development of the subject site, particularly within the sensitive areas or on steep slopes could potentially increase erosion on the site, which could adversely impact the surrounding oak tree resources and ESHA by interfering with the interchange of air and water to the root zones of the oak trees. Although the applicant has submitted the above referenced report stating that no significant

disruption to the oak trees has resulted from the proposed development, it may take up to ten years or more for such damage to be displayed. As a result, due to the location of the proposed development, the proposed project will likely negatively impact the surrounding oak tree resources and ESHA.

Section 30236 of the Coastal Act allows for the channelization or other substantial alterations of streams only when necessary for (1) water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat. In this case, the proposed fill grading around the oak tree in the streambed, construction of retaining walls and benches within the streambed and along the stream banks, and removal of rock from the creek bed is not necessary for water supply or habitat restoration. Further, the proposed development will not serve to improve fish and wildlife habitat on site. In addition, the proposed grading and development are not necessary to protect any existing development on site. Furthermore, alternatives to the proposed project exist that would not require any development within the creek bed or within or immediately adjacent to the sensitive habitat areas on site. Some of the proposed rock retaining walls that were already constructed were built with rocks removed from the streambed. This also constitutes a substantial alteration of the stream. As such, the proposed project does not meet any of the above criteria regarding when channelization of a drainage or stream course may be allowed for flood control or when development may be allowed within an ESHA.

Although the applicant has stated that the fill and retaining wall proposed around the oak tree located in the streambed of Cold Creek are necessary to prevent undermining of the oak tree from erosion from the flow of the creek, such erosion is a natural process within a streambed and riparian oak woodland habitat area. The undermining of the oak tree through water erosion is a natural process that could result in large, woody debris within the creek that would provide for habitat for fish and wildlife, shade, and naturally slow the flow of water within the creek. In addition, the applicant has stated that the stairway down to the creek bed from the top of the creek bank and the path along the retaining wall will assist wildlife in accessing the creek and moving across the site. The primary function of the stairway is for private human access, however, rather than for the improvement of wildlife habitat or wildlife access. Further, there is no scientific basis for this argument. In addition, a Commission staff ecologist has reviewed this argument presented by the applicant and is not of the opinion that the proposed development would benefit wildlife. In sum, none of the proposed development meets the criteria set forth under Section 30236 of the Coastal Act and it is not necessary to improve fish and wildlife habitat.

Furthermore, portions of the proposed development are located within area covered by the deed restrictions recorded pursuant to CDP P-8-16-78-3892. Those deed restrictions were previously required as special conditions to protect, in part, the riparian area and environmental resources on the subject site. A deed restriction was recorded on the parcel to restrict all development and vegetation removal within 50 feet from the bank of Cold Creek (Exhibit 32). In order to construct development or remove

vegetation within this area, the applicant would need to amend the recorded deed restriction to allow for such development. Although the applicant has not requested the prior deed restriction to be superceded by a new deed restriction, such a new recordation would be inconsistent with the Chapter 3 policies of the Coastal Act. In addition, the special conditions required in 1978 under the previous permit required the above 50-foot setback from the bank of Cold Creek. In recent past Commission actions, however, 100-foot setbacks have routinely been required for new development from sensitive resource and environmentally sensitive habitat areas due to increased understanding of appropriate buffers required to protect such resources.

In addition, historically, the Commission has found that the construction of riprap or retaining walls along creek banks effectively hardens stream channels, thereby increasing the rate and volume of runoff, potentially causing increased erosion and sedimentation. Furthermore, the construction of retaining walls, stone and concrete benches, and a stairway within the creek bed and along the creek bank creates the possibility of repeated future armoring with more development as the channel bed may continue to lower and be subject to scour. This armoring of the creek bed and bank could also result in increased scour and erosion downstream from the applicant's site and have an adverse impact on neighboring sites, particularly those maintaining existing single family residences near the creek. The parcel located immediate down gradient of the subject site is developed with a single-family residence that is located near the top of the creek bank, for example.

Additionally, the Commission recognizes that new development in Malibu and the Santa Monica Mountains has the potential to adversely impact coastal water quality through the removal of native vegetation; increase of impervious surfaces; increase of runoff, erosion, and sedimentation; and introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. The proposed development will convert additional area of the project site from its natural state, result in an increase in the amount of impervious surface and reduce the naturally vegetated area. The removal of natural vegetation and placement of impervious surfaces also allows for less infiltration of rainwater into the soil, thereby increasing the rate and volume of runoff, causing increased erosion and sedimentation. Additionally, the infiltration of precipitation into the soil allows for the natural filtration of pollutants. When infiltration is prevented by impervious surfaces, pollutants in runoff are quickly conveyed to coastal streams and the ocean. Thus, new development can cause cumulative impacts to the hydrologic cycle of an area by increasing and concentrating runoff, leading to stream channel destabilization, increased flood potential, increased concentration of pollutants, and reduced groundwater levels.

Section 30240 of the Coastal Act allows for new development within identified ESHA only when such development is dependent upon the resources within such areas. In this case, the Commission notes that no portion of the proposed development constitutes a resource dependent use and that the proposed grading within the identified ESHA on site and approval of the proposed development located in this ESHA would be in conflict with Section 30240 of the Coastal Act. In addition, a portion of the proposed grading will occur directly within identified riparian habitat and creek bed.

Only the 350-foot long retaining wall is more than 100 feet in distance from the outer limit of riparian habitat and oak woodland areas on site. Due to the steep slope on which it is proposed, however, even the 350-foot long retaining wall and the proposed irrigation system with water taps at 30 foot intervals may result in increased erosion and runoff into Cold Creek and the adjacent ESHA area and negatively impact water quality. Thus, this development is not consistent with Sections 30240(b), 30230 and 30231.

Section 30240 of the Coastal Act allows for new development adjacent to environmentally sensitive habitat areas only when such development is sited and designed to minimize impacts. Without proper design, siting, construction, and buffers, new development can result in adverse effects from contaminated and increased runoff, increased erosion, displacement of habitat, and disturbance to wildlife dependent upon such resources. In this case, the proposed development would be located immediately adjacent to and partially within identified ESHA and Cold Creek. In addition, even with the required 100-foot setback from such sensitive habitat areas, there is still adequate area available on the subject site to place new development. As such, the Commission finds that the proposed project has not been sited or designed in a manner that would ensure that adverse impacts to environmentally sensitive habitat areas would be minimized, as required by Section 30240 of the Coastal Act.

In addition, the proposed project also includes grading and the placement of retaining walls and other development within and adjacent to Cold Creek. Further, the applicant has removed rock from the creek bed in order to construct at least portions of the proposed development. Stream bed alteration, channelization, and the placement of development within streams results in potential adverse effects to riparian areas resulting from downstream erosion, changes to stream flow velocities, and direct loss of natural riparian habitat, however. The placement of bricks along the bases of the young oak trees is also not consistent with Section 30240, since it could cause compaction of the root system and inhibit gas and water exchange by the roots. Further, the irrigation system with water taps at 30-foot intervals proposed by the applicant could change the surface hydrology and displace native vegetation that would grow under a normal hydrological cycle. In addition, native species may not be able to compete as well as non-native and/or invasive species in an irrigated environment. In sum, the proposed development would not be consistent with Section 30240 of the Coastal Act.

The applicant has indicated that she may landscaping portions of the property with ice plant. This is not consistent with Section 30240 of the Coastal Act, as ice plant is a non-native, invasive species that could spread into sensitive habitat areas on and offsite, thereby decreasing the habitat value of the area. The applicant also proposes planting native plants on the slope adjacent to the proposed 350-foot retaining wall and pathway. However, the applicant has not identified the species of native plants that would be planted. The applicant has also proposed planting several ornamental fruit trees (an orange tree and a lemon tree) and Mexican sage in this area. Mexican sage is not native to this location. Furthermore, as explained above, the applicant proposes to install an irrigation system to water the plants. The irrigation proposed in conjunction with the planting may cause more saturated soils, less slope stability, and additional erosion of sediment into the nearby ESHA. Therefore, the proposed planting has the

potential to cause adverse impacts to water quality and ESHA and conflicts with Sections 30230, 30231 and 30240. In addition, because the proposed species are not identified, there is no basis for concluding that the plants would be acceptable to the Fire Department and be permitted to grow large enough to avoid cutting them down during annual brush clearance. Therefore, the applicant has not demonstrated that the proposed plants would actually survive on the site and be able to provide any benefits to slope stability and/or water quality.

In summary, for the reasons discussed above, the Commission finds that the stairway, retaining walls and benches in and adjacent to the bed and banks of Cold Creek, grading within 100 feet of Cold Creek (including the fill around the oak tree and the removal of material from the creek bed and banks) is not consistent with Sections 30230, 302321, 30233, 30236, or 30240 of the Coastal Act. The Commission also finds that the 350-foot long retaining wall and pathway with benches, the irrigation system, the placement of bricks at the base of young oaks, the planting of ice plant, a non-native, invasive species and the portions of the grading that are not located within 100 feet of Cold Creek are not consistent with Sections 30240 of the Coastal Act.

### **C. Visual Impacts**

Section 30251 of the Coastal Act states:

*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.*

Section 30251 of the Coastal Act requires that visual qualities of coastal areas shall be considered and protected and that, where feasible, degraded areas shall be enhanced and restored. In addition, in past Commission actions, the Commission has required new development to be sited and designed to protect public views from scenic highways, scenic coastal areas, public parkland, and public trails. Further, the Commission has also required structures to be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment. As a result, in highly scenic areas and along scenic highways, new development (including buildings, fences, paved areas, signs, retaining walls, and landscaping) has been required to be sited and designed to protect views to and along the ocean and other scenic features, to minimize landform alteration, to be visually compatible with and subordinate to the character of the project setting, and to be sited so as not to significantly intrude into the skyline or public vistas as seen from public viewing places. Additionally, in past actions, the Commission has also required new development to be sited to conform to the natural topography.

As stated previously, the subject site is comprised of approximately 3.14 acres and is located at 549 Live Oak Circle Drive, just north of Piuma Road and east of Las Virgenes Road and Malibu Canyon Road, in the Calabasas area of Los Angeles County. The lot is situated at the terminus of Live Oak Circle Drive on the eastern side of Cold Creek on the southwest flank of a northwest trending, secondary ridge. Slope gradients range from 8:1 to as steep as 1:1 (horizontal to vertical). Vegetation consists of a riparian oak woodland area, scrub oaks, shrubs, and grasses. Drainage from the site is by sheet flow runoff toward Cold Creek. The subject site is located on the eastern side of Cold Creek on the southwest flank of a northwest trending, secondary ridge. The subject site is located in an area characterized by rugged open spaces, jagged rock outcroppings, hillsides, and wilderness areas.

In addition, the area surrounding the project site is rural in character, with wide-open spaces and vistas. A large network of publicly owned lands and trails in the region adds to this area's scenic nature and quality. For example, Malibu Creek State Park is located to the west of the subject site and National Park Service land is located to the southeast. The Backbone Trail passes to the south of the subject site and the Malibu Creek Trail also passes to the west of the subject site, for example. Those areas within the vicinity of the project site that are not publicly owned land are developed with single family residences in a manner that has preserved the rural character of the surrounding area.

Furthermore, in reflection of the scenic character of this area, Malibu Canyon Road (to the west of the subject site) and Piuma Road (to the south and southeast of the subject site) are both designated as Scenic Highways under by the LUP (Exhibit 9). In addition, due to the significant visual resources in this area, the certified LUP designated Malibu Canyon Road and Piuma Road as scenic highways and designated particularly scenic viewpoints along these roads as "public viewing areas." Five such public viewing areas are located within two miles of the subject site along Malibu Canyon Road and three more public viewing areas are located within a mile of the subject site along Piuma Road. In particular, Malibu Canyon Road, from which the proposed 350-foot long retaining wall is highly visible, is a scenic road within Malibu and the Santa Monica Mountains, providing numerous dramatic sweeping ocean and mountain views.

Additionally, as referenced earlier, the subject site is also within an area that was designated as the Santa Monica Mountains National Recreation Area (SMMNRA) in 1978 by the United States Congress. The SMMNRA was established to "manage the recreation area in a manner that will preserve and enhance its scenic, natural, and historical setting and its public health value as an air shed for the Southern California metropolitan area while providing for the recreational and educational need of the visiting public."<sup>10</sup> The Santa Monica Mountains and the SMMNRA form the western backdrop for the metropolitan area of Los Angeles and the heavily urbanized San Fernando and Conejo valleys. Los Angeles County is populated by well over nine million people, most of who are within an hour's drive of the Santa Monica Mountains.<sup>11</sup>

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<sup>10</sup> Public Law 95-625.

<sup>11</sup> Santa Monica Mountains Area Recreational Trails Coordination Project, Final Report, September 1997, page 34.



The SMMNRA provides the public and local residents with outdoor recreational opportunities and an escape from urban settings and experiences.

For the above reasons, the SMMNRA constitutes a unique and special wilderness and recreational area and, as a result, is a popular visitor destination point for active and passive recreational use. Available data indicate that existing recreational facilities in the region are currently experiencing sustained demand that is often over capacity. According to the State Department of Parks and Recreation, total visitation at state-managed parks and beaches alone was estimated at 2,747,000 from 1986 to 1987. The County of Los Angeles estimated that user activity days for hiking and backpacking will rise from 12,786,471 in 1980 to 16,106,428 in 2000; camping from 8,906,122 to 10,622,744; and horseback riding from 6,561,103 to 7,511,873. As the population in California, and in the Los Angeles metropolitan area in particular, continues to increase, the demand on the parks within the SMMNRA can be expected to grow. The preservation of the unique rural character of the parks and communities within the SMMNRA is, thus, of the utmost importance for continued quality coastal recreational opportunities.

As stated previously, the applicant is requesting approval for the construction of a 350-foot long, approximately three foot high concrete and rock retaining wall along a pathway to the top of a hill and ridgeline, rock and concrete benches, stairway from the top of the bank of Cold Creek to the stream bed below, retaining walls along the stream bed of Cold Creek and an oak tree that are approximately two feet high, installation of an irrigation system, and approximately 97.8 cubic yards of grading (48.9 cubic yards cut/excavation and 48.9 cubic yards fill).

The Commission finds that the construction of the proposed 350-foot long, approximately three-foot high concrete and rock retaining wall along a pathway to the top of the hillside and ridgeline on the site with rock and concrete benches will have an adverse impact on visual resources. The proposed 350-foot long retaining wall that traverses the hillside on the subject property is highly visible from Malibu Canyon Road, a designated scenic highway, and from the Malibu Creek Trail (Exhibit 39). In addition, the completion of the upper section of the retaining wall along the pathway will also be highly visible, as well, and will be located even higher upon the ridge (Exhibits 37 and 38). In addition, the proposed retaining wall running along the pathway may also be visible from public trails (including the Backbone Trail), Piuma Road (also a designated scenic highway), and from public viewing areas located along Malibu Canyon Road and Piuma Road (Exhibits 9 and 38). Although the 350-foot long retaining wall is highly visible, the additional development proposed by the applicant located within the streambed of Cold Creek and at the top of the stream bank, such as the stairway, is not visible from these scenic public roads, trails, and viewpoints.

In response to concerns regarding the negative visual impact of the proposed 350-foot long retaining wall, the applicant has stated orally and in writing that she is proposing as part of this application to "rag wash" the 350-foot long, three foot high retaining wall that zig zags up the hillside with a color to "blend with the natural surroundings" and to landscape the area with plants and shrubs indigenous to the area along the wall to



"enhance the natural appearance and cover the wall from view." The applicant has also stated in a telephone conversation with Commission staff on January 31, 2000, that she has "taken ice plant cuttings" and would like to plant them on the slope of the hill to prevent erosion. Incidentally, Commission staff also viewed ice plant cuttings on the site during the December 20, 1999, site visit. Furthermore, the applicant has also submitted a computerized simulation of what the 350-foot long, three foot high retaining wall may look like if the proposed development was approved and the applicant completed it, colored, and landscaped the area (Exhibit 37).

In addition, the area of the subject site maintaining the retaining wall that zig zags up the hillside has been cleared of vegetation, increasing the adverse visual impact from this portion of the proposed development, as this portion of the site has been nearly denuded of vegetation. The applicant has stated orally and in writing, however, that as the adjacent single family residence to the east is located near the property line of the subject site, nearly all of the 200 feet of clearance of dry brush required by the Fire Department for that residence must be performed on the applicant's site in the area where the 350-foot long retaining wall is proposed. In her letter dated January 20, 2000, the applicant states (Exhibit 17):

*The man who cut the brush down and others before him had left a small trail across and up the hill when doing this task each year. My original idea was to water the native brush on the hill enough to keep it green enough that the Fire Department would no longer require that I cut down so much of it. . . . For this purpose I followed the path that the brush clearance man and others had left and widened it a bit for safety. Based on my understanding of what the County told me was permissible without a permit I put up small walls less than three feet high to discourage erosion until I could reestablish the native plants. It was impossible to water the brush on the hill from below so I had water pipes put in with spigots at approximately every 30 feet up the hill so I could keep the entire hill green and wouldn't be required to have it cut and looking unaesthetic each year. The bushes would grow to reach from 6 to 10 feet or more and would totally cover the path and walls and wipe them from view. Hopefully they would be green enough to remain and not be required to be cut nearly as much each year.*

In 1987, CDP 5-86-966 (Miller/Breen) was issued for the construction of a single-family residence located to the east of the subject site at 551 Live Oak Circle Drive. The single-family residence is located and was approved approximately ten feet from the property line shared with the applicant. The single-family residence at 551 Live Oak Circle Drive is located on the flat portion of the site, approximately 100 feet north of the terminus of Live Oak Circle. The 350-foot long retaining wall is located approximately within 200 feet from the closest portion of the single family residence to the east of the subject site. The Fire Department has not reviewed or approved any proposed landscaping, fuel modification, or brush clearance plan for the subject site, however.

The Commission finds that the construction of the proposed 350-foot long, approximately three foot high concrete and rock retaining wall along a pathway to the top of the hillside and ridgeline on the site with rock and concrete benches would adversely impact visual resources and public views, detracting from the rugged, natural atmosphere that is a unique characteristic of this area. Although the applicant is proposing to paint the 350-foot long, three foot high retaining wall that zig zags up the

hillside with a color intended to blend with the natural surroundings and to landscape the area with plants and shrubs indigenous to the area along the wall in order to enhance the natural appearance and cover the wall from view, the wall would still be highly visible and would detract from the surrounding community character. Further, although the applicant has also submitted a computerized simulation of what the 350-foot long, three foot high retaining wall may look like if the proposed development was approved and the applicant were allowed to completed construction, paint the wall, and landscape the area, the wall is still highly visible and would still adversely impact the visual resources and public views in the surrounding area.

As a result, despite the mitigation measures proposed by the applicant intended to soften the visual impact of the proposed development, the Commission finds that the project would alter the valued rural, open, and scenic visual resources of this area within Malibu and the Santa Monica Mountains. Further, it would not protect the unique characteristics of the SMMNRA valued by many members of the public. In particular, the retaining wall zig zags up the side of the hill on the subject site and is highly visible due to the topography of the area from many scenic viewpoints, trails, and roads. As discussed above, the Commission also finds that the SMMNRA is a popular visitor destination point for recreational uses. As a result, the proposed development would adversely impact the visual resources and public views existing within the surrounding area. Therefore, for the reasons discussed above, the Commission finds that the proposed retaining wall with benches is not consistent with Sections 30251 of the Coastal Act.

As stated previously, the project site is located within the Santa Monica Mountains National Recreation Area (SMMNRA). Furthermore, the northern portion of the subdivision abuts the southern flank of the Santa Monica Mountains and Charmlee Park. The area surrounding the project site is highly scenic due to the rural atmosphere, wide-open spaces and vistas, and extensive network of publicly owned lands. This region maintains plant communities of grassland, coastal sage scrub, southern oak woodlands, and chaparral and provides numerous trails with sweeping vistas of the Santa Monica Mountains and of the Pacific Ocean. In addition, those areas within the vicinity of the project site that are not publicly owned, are sparsely developed, which has maintained the natural beauty of the area. Past Commission action with respect to density and use policies have been largely successful in maintaining the unique rural atmosphere of this area and presence of open space. Further, this highly scenic atmosphere provides the public with exceptional outdoor recreational opportunities and an escape from the urban environment.

The Commission finds that the construction of the proposed 350-foot long retaining wall and path, which would zig zag up to the top of the ridgeline on the subject site, is not consistent with the scenic character of the surrounding area and would not protect the unique attributes possessed by this region of the Santa Monica Mountains and the SMMNRA. The 350-foot long, three foot high, retaining wall is highly visible from scenic highways, trails, and public vistas and would alter the scenic qualities that this area offers by significantly changing the natural landscape of the area, particularly the scenic hillside. Further, the 350-foot long retaining wall proposed by the applicant would be a

relatively large, unnatural, manmade structure. Thus, the Commission finds that this portion of the proposed development would alter the valued scenic qualities that this area possesses and would not be visually harmonious with or subordinate to the character of its setting in this area of Malibu, the Santa Monica Mountains, and the SMMNRA.

Although the applicant has made revisions to the proposed development that would serve to somewhat soften the visual impact of the project, such as painting the wall with a color consistent with the surrounding environment and planting native vegetation, this proposed retaining wall running to the top of the hillside would nevertheless adversely affect public views to scenic coastal areas, including scenic highways, public trails, and public vistas. In addition, the proposed retaining wall and benches would not create a harmonious relationship with the surrounding environment, does not protect scenic views, will not be visually compatible with or subordinate to the character of the setting, and will not conform to the natural topography of the area. Even if the wall and benches were painted a color consistent with the surrounding environment, this color could not match the color of the surrounding vegetation during all of the seasons. As a result, the proposed 350-foot long retaining wall and benches would not be visually compatible with the character of the surrounding area, as required by Section 30251 of the Coastal Act.

Therefore, for the reasons discussed above, the Commission finds that the 350-foot long retaining wall with benches is not consistent with Section 30251 of the Coastal Act.

#### **D. Community Character**

Section 30251 of the Coastal Act states:

*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 .*

Section 30253(5) of the Coastal Act states:

*New development shall:*

*(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

As stated previously, the subject site is approximately 3.14 acres and is located at 549 Live Oak Circle Drive, just north of Piuma Road and east of Las Virgenes Road and Malibu Canyon Road, in the Calabasas area of Los Angeles County. The lot is situated at the terminus of Live Oak Circle Drive on the eastern side of Cold Creek on the southwest flank of a northwest trending, secondary ridge. Slope gradients range from

8:1 to as steep as 1:1 (horizontal to vertical). Vegetation consists of a riparian oak woodland area, scrub oaks, shrubs, and grasses. Drainage from the site is by sheet flow runoff toward Cold Creek. The subject site is located on the eastern side of Cold Creek on the southwest flank of a northwest trending, secondary ridge. The subject site is located in an area characterized by rugged open spaces, jagged rock outcroppings, hillsides, and wilderness areas, in addition to homes, ranches, and communities.

As stated previously, the subject site is also within an area that was designated as the Santa Monica Mountains National Recreation Area (SMMNRA) in 1978 by the United States Congress. The SMMNRA was established to "manage the recreation area in a manner which will preserve and enhance its scenic, natural, and historical setting and its public health value as an air shed for the Southern California metropolitan area while providing for the recreational and educational need of the visiting public."<sup>12</sup> The Santa Monica Mountains and the SMMNRA form the western backdrop for the metropolitan area of Los Angeles and the heavily urbanized San Fernando and Conejo Valleys. Los Angeles County is populated by well over nine million people, most of who are within an hour's drive of the Santa Monica Mountains.<sup>13</sup> The SMMNRA provides the public and local residents with outdoor recreational opportunities and an escape from urban settings and experiences. It is the unique beauty, wilderness, and rural character of this area that continues to draw so many visitors and residents to it.

For the above reasons, the SMMNRA constitutes a unique and special wilderness and recreational area and, as a result, is a popular visitor destination point for active and passive recreational use. Available data indicate that existing recreational facilities in the region are currently experiencing sustained demand that is often over capacity. According to the State Department of Parks and Recreation, total visitation at state-managed parks and beaches alone was estimated at 2,747,000 from 1986 to 1987. The County of Los Angeles estimated that user activity days for hiking and backpacking will rise from 12,786,471 in 1980 to 16,106,428 in 2000; camping from 8,906,122 to 10,622,744; and horseback riding from 6,561,103 to 7,511,873. As the population in California, and in the Los Angeles metropolitan area in particular, continues to increase, the demand on the parks within the SMMNRA can be expected to grow. The preservation of the unique rural character of the parks and communities within the SMMNRA is, thus, of the utmost importance for continued quality coastal recreational opportunities.

The applicant is requesting approval for the construction of a 350-foot long, approximately three foot high concrete and rock retaining wall along a pathway to the top of a hill, rock and concrete benches, stairway from the top of the bank of Cold Creek to the stream bed below, retaining walls along the stream bed of Cold Creek and an oak tree that are approximately two feet high, installation of an irrigation system, and approximately 97.8 cubic yards of grading (48.9 cubic yards cut/excavation and 48.9 cubic yards fill).

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<sup>12</sup> Public Law 95-625.

<sup>13</sup> Santa Monica Mountains Area Recreational Trails Coordination Project, Final Report, September 1997, page 34.

The Commission finds that the construction of the proposed 350-foot long, approximately three foot high concrete and rock retaining wall along a pathway to the top of the hillside on the site with rock and concrete benches is not consistent with the community character of the surrounding area and would detract from the rugged, natural atmosphere that is a unique characteristic of the SMMNRA, of which the subject site is a part (Exhibits 37 and 38). Although the applicant is proposing paint the 350-foot long, three foot high retaining wall that zig zags up the hillside with a color that intended to blend with the natural surroundings and to landscape the area with plants and shrubs indigenous to the area along the wall in order to enhance the natural appearance and cover the wall from view, the wall would still be highly visible and would detract from the surrounding community character. Further, although the applicant has also submitted a computerized simulation of what the 350-foot long, three foot high retaining wall may look like if the proposed development was approved and the applicant were allowed to completed construction, paint the wall, and landscape the area, the wall is still highly visible and would negatively impact the character of this rural area.

As a result, despite the mitigation measures proposed by the applicant intended to soften the visual impact of the proposed development, the Commission finds that the retaining wall with benches zig-zagging up the slope would alter the valued rural, open, and scenic community character of this area within Malibu and the Santa Monica Mountains and would not protect the unique characteristics of the SMMNRA. In particular, the retaining wall zig zags up the side of the hill on the subject site and is highly visible due to the topography of the area from many scenic viewpoints, trails, and roads. As discussed above, the Commission also finds that the SMMNRA is a popular visitor destination point for recreational uses. Since the 350-foot retaining wall with benches would not be compatible with the character of the surrounding area, the Commission finds that the proposed project is not consistent with Sections 30251 or 30253(5) of the Coastal Act.

## **E. Alternatives**

The applicant has stated that the purpose of the proposed development is to provide access across the property for the owners to view and enjoy the surrounding area and to protect an oak tree located adjacent to the stream from destruction through continued erosion. Although the Commission is denying the applicant a coastal development permit for this proposed development, the applicant is not barred from applying for a permit for or pursuing an alternative to the current proposal, such as constructing a natural foot path without a retaining wall to the top of the hillside that would not have significant adverse visual impacts or significant negative effects on the stream, ESHA, oak trees, or water quality. The applicant is also not precluded from applying for a coastal development permit to construct a single family residence on the subject site that would have adequate setbacks from the creek, ESHA, and oak trees and that would not have such adverse visual impacts as the development currently proposed. In addition, the site could maintain a single-family residence and accessory structures with a much more compact development envelope than what the applicant is currently

proposing. In addition, such an alternative development envelope would greatly reduce the scattered and highly visible development that the applicant is currently proposing.

In past Commission actions, the Commission has denied coastal development permits in situations where feasible alternatives were available to an applicant with fewer adverse impacts to visual and environmental resources. In CDP 5-90-661 (Allen), the Commission denied a permit for fill grading in a drainage course for the purpose of improving the backyard. Further, the Commission denied a permit for fill and a culvert in a stream to create a flat pad and construct residential development in CDP 5-91-328 (Contis). The Commission's decisions to deny those projects were based, in part, on the alternatives that were available to those applicants that would have a lesser adverse effect on coastal resources. In addition, the Commission has also denied permits for projects in which there were adverse impacts to visual resources, such as 4-98-264 (Diva Partners), and where there were feasible alternatives with a lesser impact.

Similarly, there also exists a range of more appropriate alternatives to the proposed development for the applicant, including a natural foot path to the top of the hill side on the site without a retaining wall, or even the construction of a single family residence that was sited and designed with proper setbacks, buffers, and minimization of landform alteration and impacts to coastal resources. In addition, the Fire Department may not require the amount of thinning of vegetation that has occurred pursuant to the proposed development on the steep slope that is eroding on the subject site. The applicant can consult with the Fire Department to develop a strategy that avoids indiscriminate brush cutting and allows native species to become established on this slope to provide erosion control.

Further, an irrigation system and water taps every 30 feet along the retaining wall and pathway that is proposed by the applicant is not necessary to provide water for native vegetation. Native vegetation is adapted to survive without artificial irrigation and may be hand watered when newly planted, if necessary. In addition, another alternative available to the applicant, which would also provide viewing spots of the site and the surrounding area, would be to place wooden benches at grade on flatter areas of site and in areas where they would not be located under the oak tree canopies, protected zones, or within the creek or ESHA. Although the applicant has stated that the retaining wall is necessary in order to safely walk up the slope, as stated above, there are alternatives to the construction of a 350-foot long, three foot high retaining wall to construct a footpath to the top of the hill on the subject site that would allow for safe access.

Therefore, the Commission finds that the proposed development is not consistent with the water quality, visual resource, or coastal resource protection policies of the Coastal Act and finds that alternatives are available that would be preferable with lesser adverse impacts.

## F. Violations

During the course of processing this application, Commission staff has discovered development on the subject site that has occurred without the required coastal development permit including the construction of an approximately 350-foot long, three foot high concrete and rock retaining wall and approximately three to five foot wide pathway to the top of a hill, rock and concrete benches, stairway from the top of the bank of Cold Creek to the stream bed below, retaining walls along the stream bed of Cold Creek and an oak tree that are approximately two feet high, installation of an irrigation system, approximately 97.8 cubic yards of grading (48.9 cubic yards cut/excavation and 48.9 cubic yards fill), removal of rock from the stream bed of Cold Creek, and placement of bricks along the base of young oak trees. The applicant did not request approval of the removal of rock from the streambed of Cold Creek or the placement of the excess 48.9 cubic yards of fill under this application.

Consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review 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.

## G. Local Coastal Program

Section 30604 of the Coastal Act states:

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

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program that conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project would not be in conformity with the provisions of Chapter 3 of the Coastal Act. The proposed development would result in adverse effects and is found to be inconsistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the proposed development would prejudice the County of Los Angeles' ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

## H. 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 that the activity may have on the environment.

The Commission finds that the proposed project would result in significant adverse effects on the environment, within the meaning of the California Environmental Quality Act of 1970 and that there are feasible alternatives that would not have significant impacts on coastal access or visual resources. Therefore, the proposed project is determined to be inconsistent with CEQA and the policies of the Coastal Act.



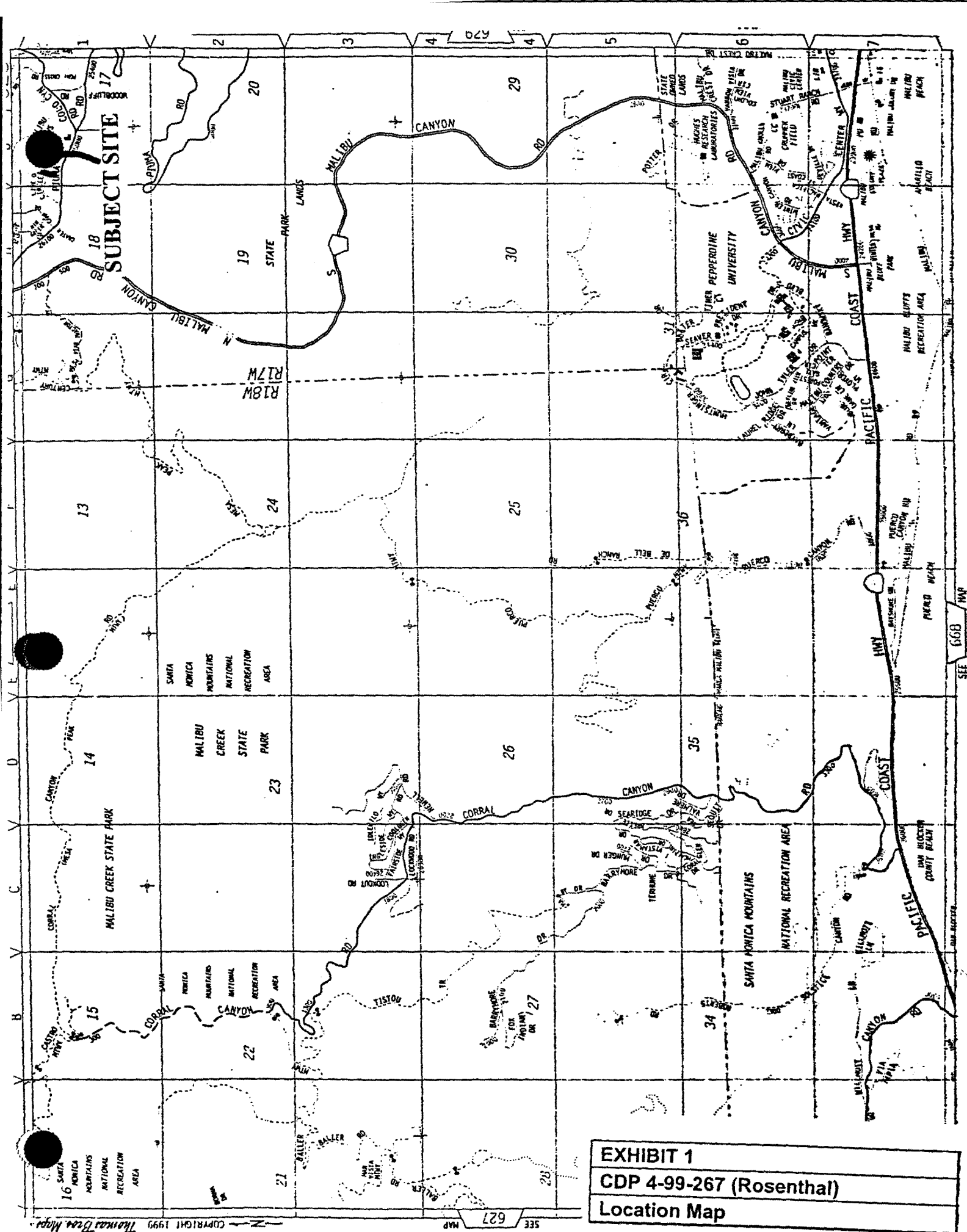


EXHIBIT 1  
CDP 4-99-267 (Rosenthal)  
Location Map

4456

5

SCALE 1" = 150'

RECEIVED

OCT 11 2000

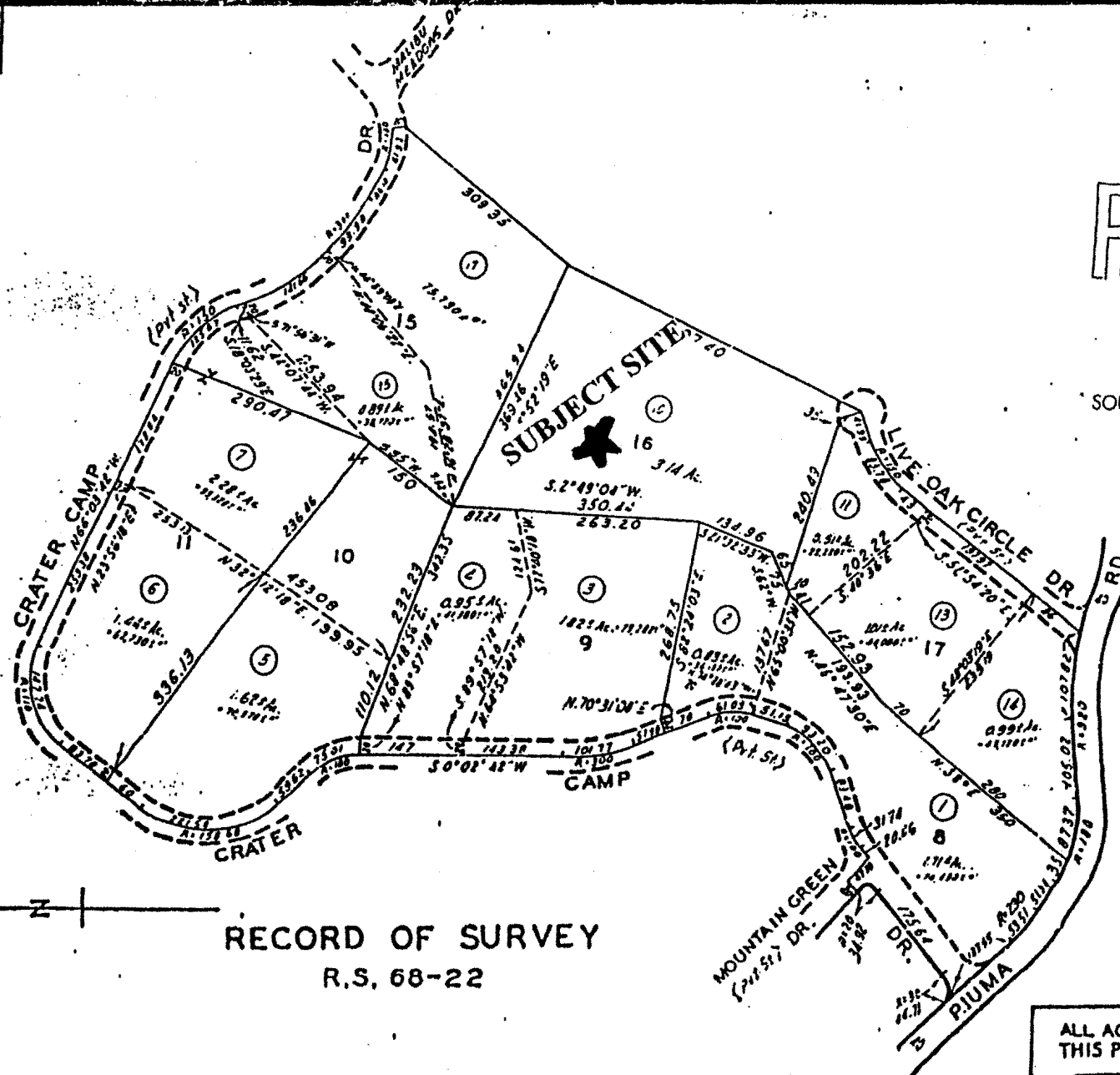
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

EXHIBIT 2

CDP 4-99-267 (Rosenthal)

Assessor Parcel Map of Site

ODE  
971

R. PREY, ASSMT. SEE: 4456.5

ASSISTANT  
COUNTY OF LOS ANGELES

4456 4

SCALE 1" = 200'

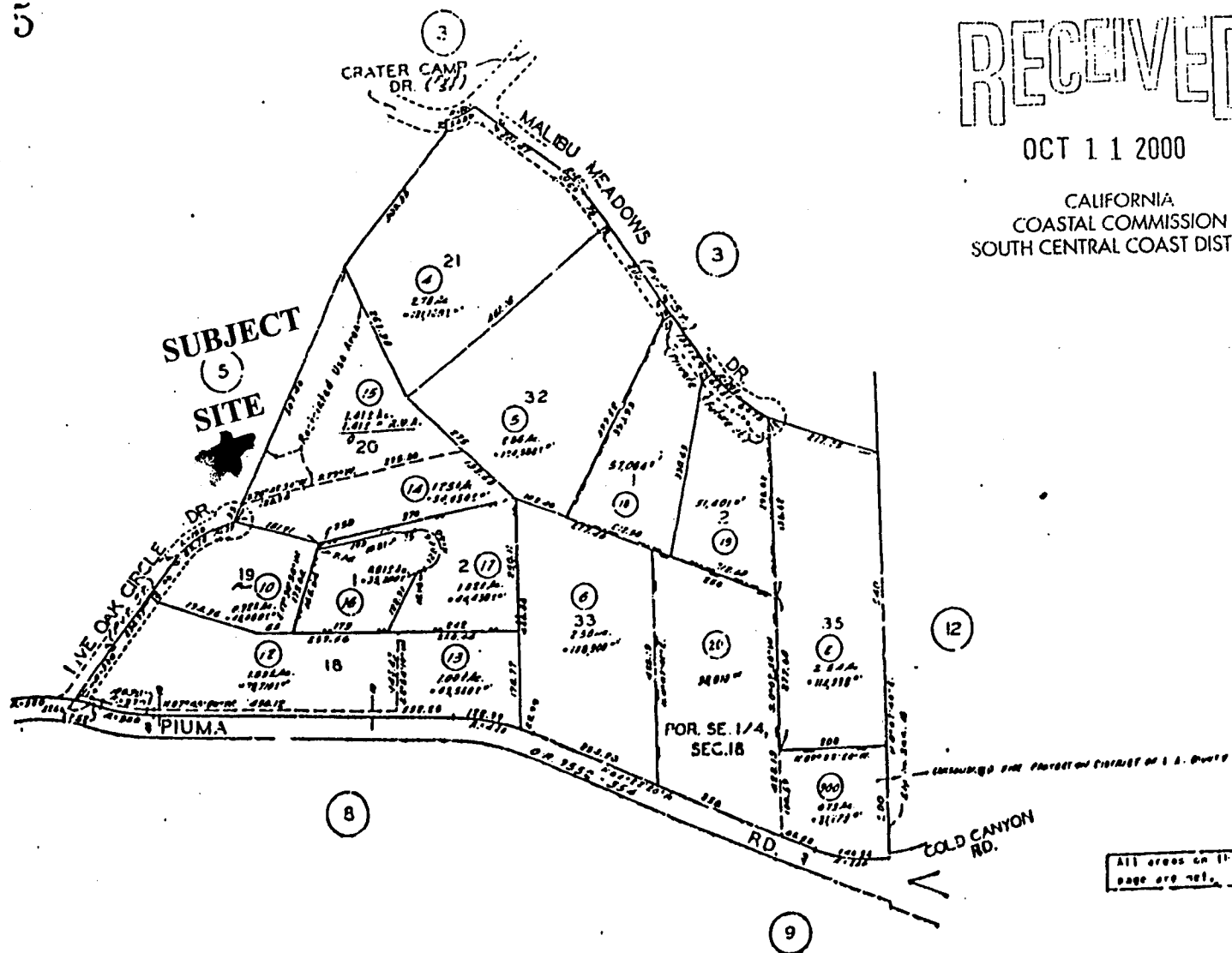
1995

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010203-81  
948914

RECEIVED

OCT 11 2000

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT



All areas on this page are not.

EXHIBIT 3  
CDP 4-99-267 (Rosenthal)  
Assessor Parcel Map to East of Site

T.15. R.17 W.  
RECORD OF SURVEY  
7/20/01 11:20

R.5.68-22  
111 22-64

3:4  
971

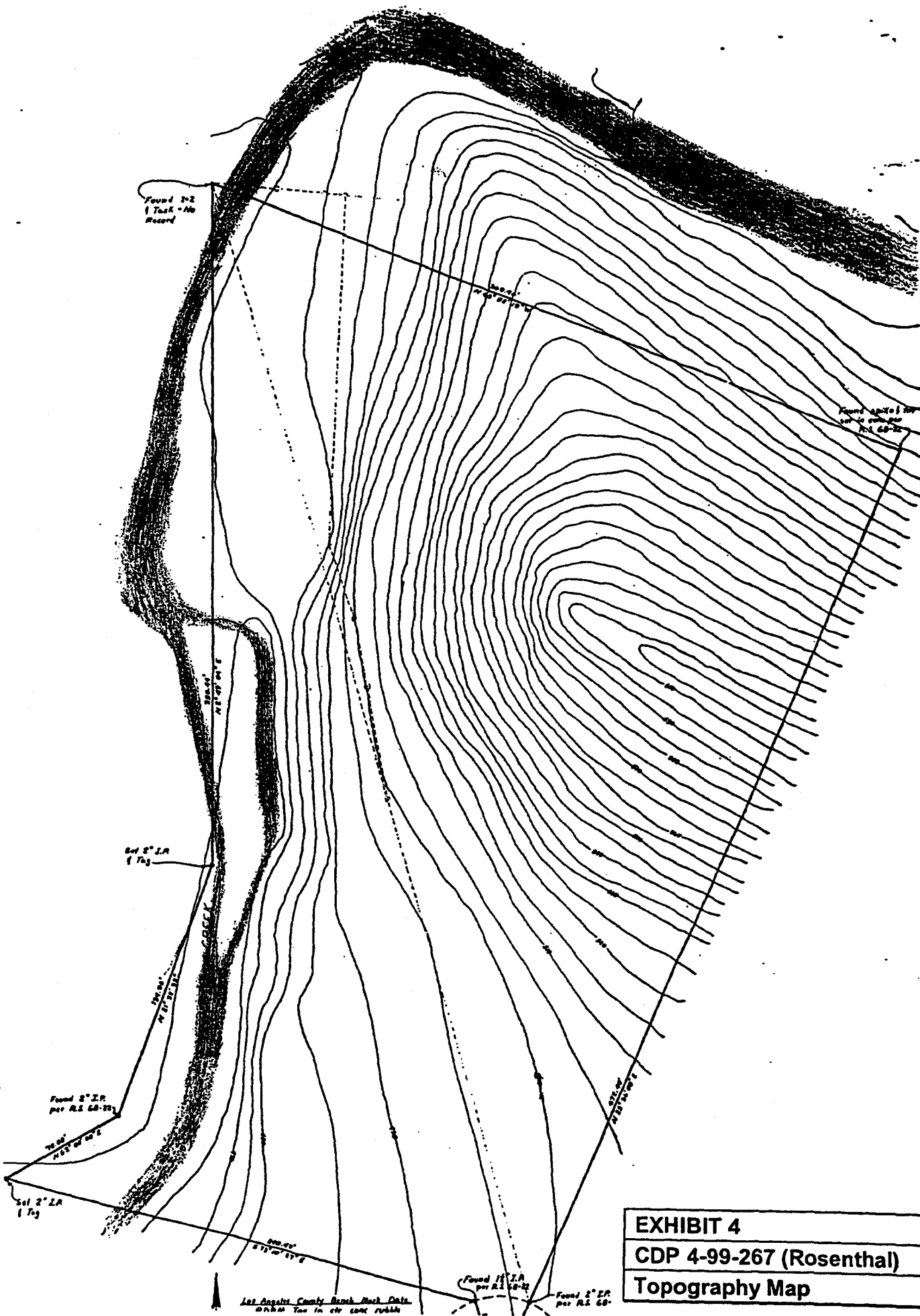
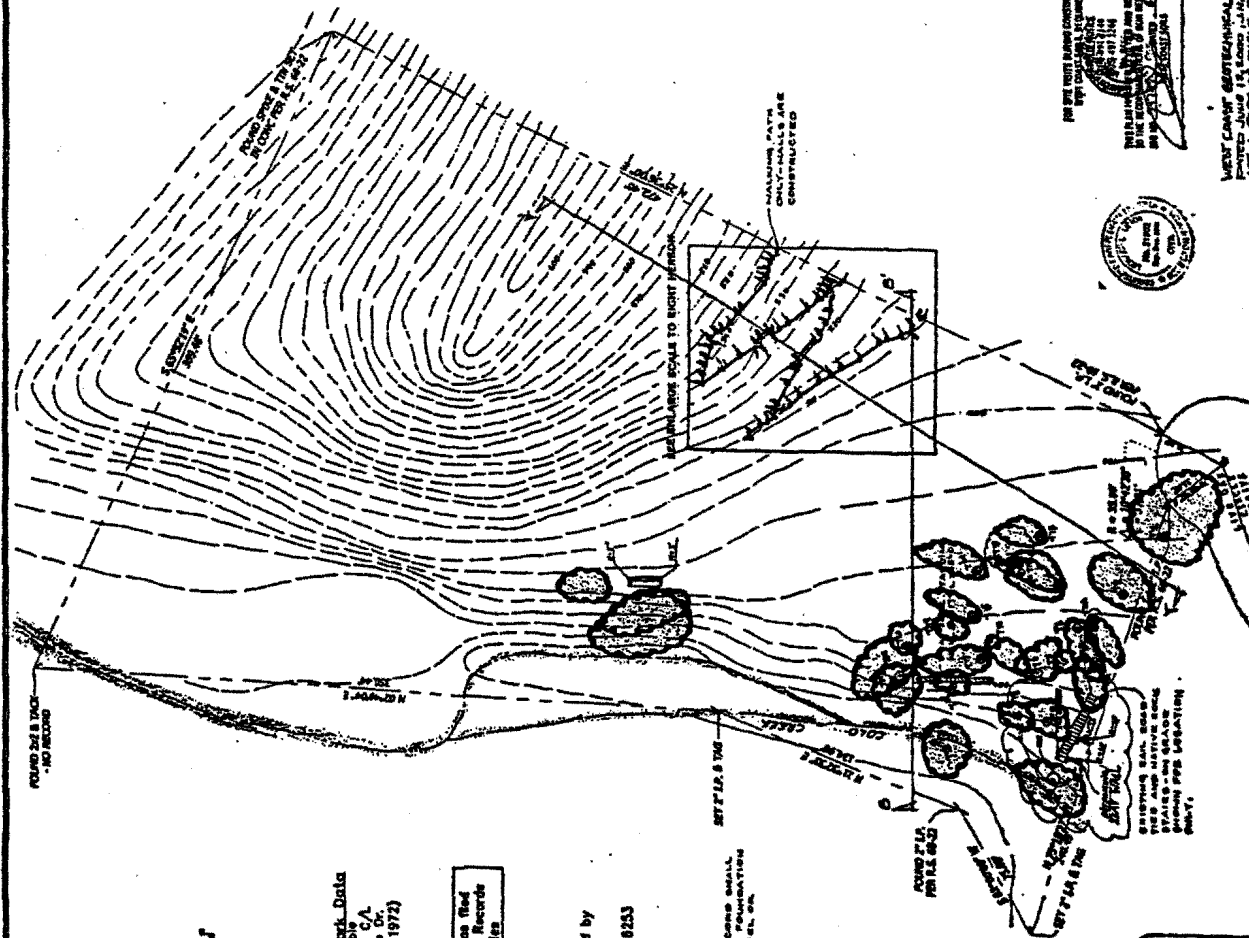


EXHIBIT 4

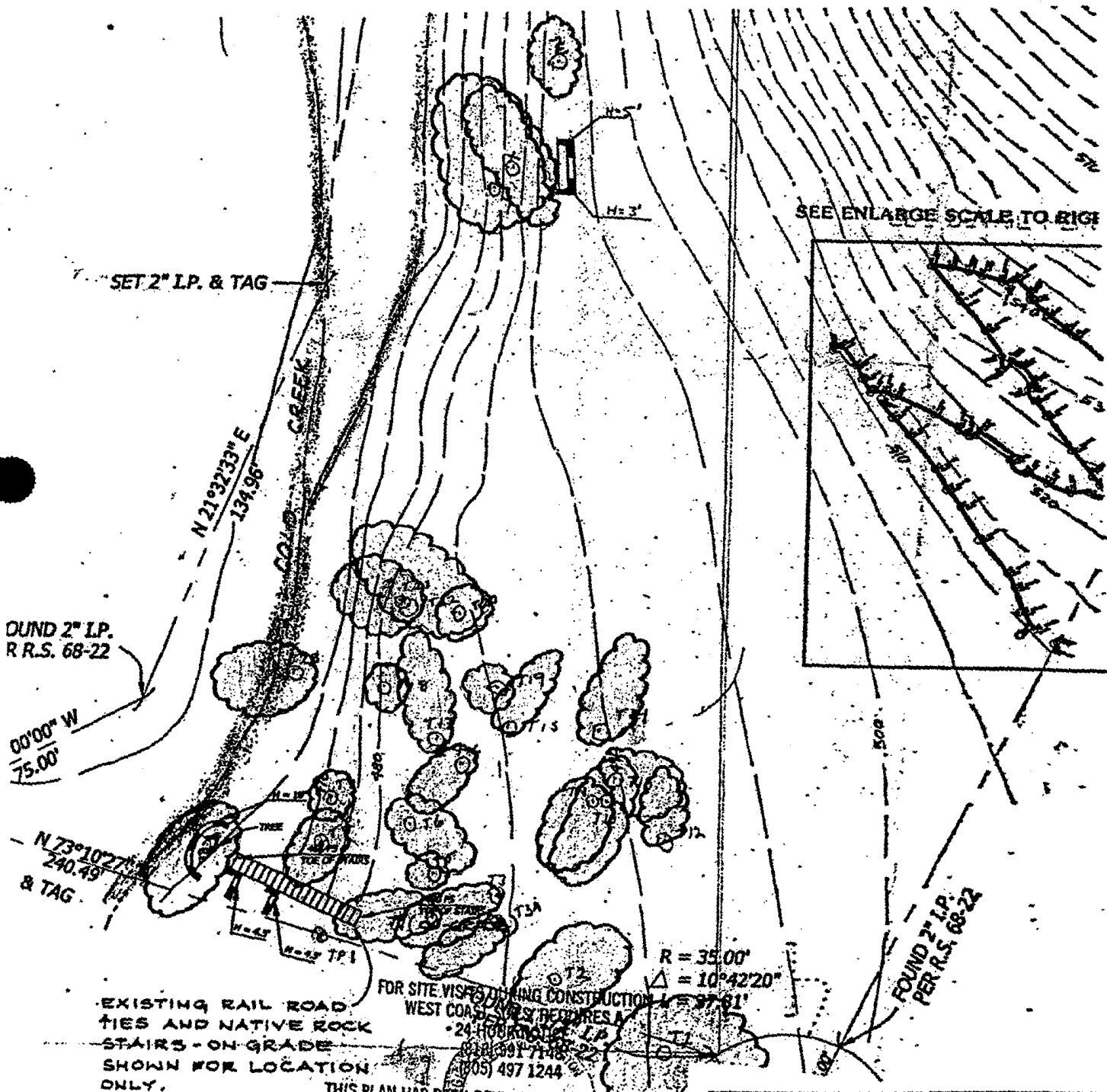
CDP 4-99-267 (Rosenthal)

Topography Map





**COUNTY OF LOS ANGELES**



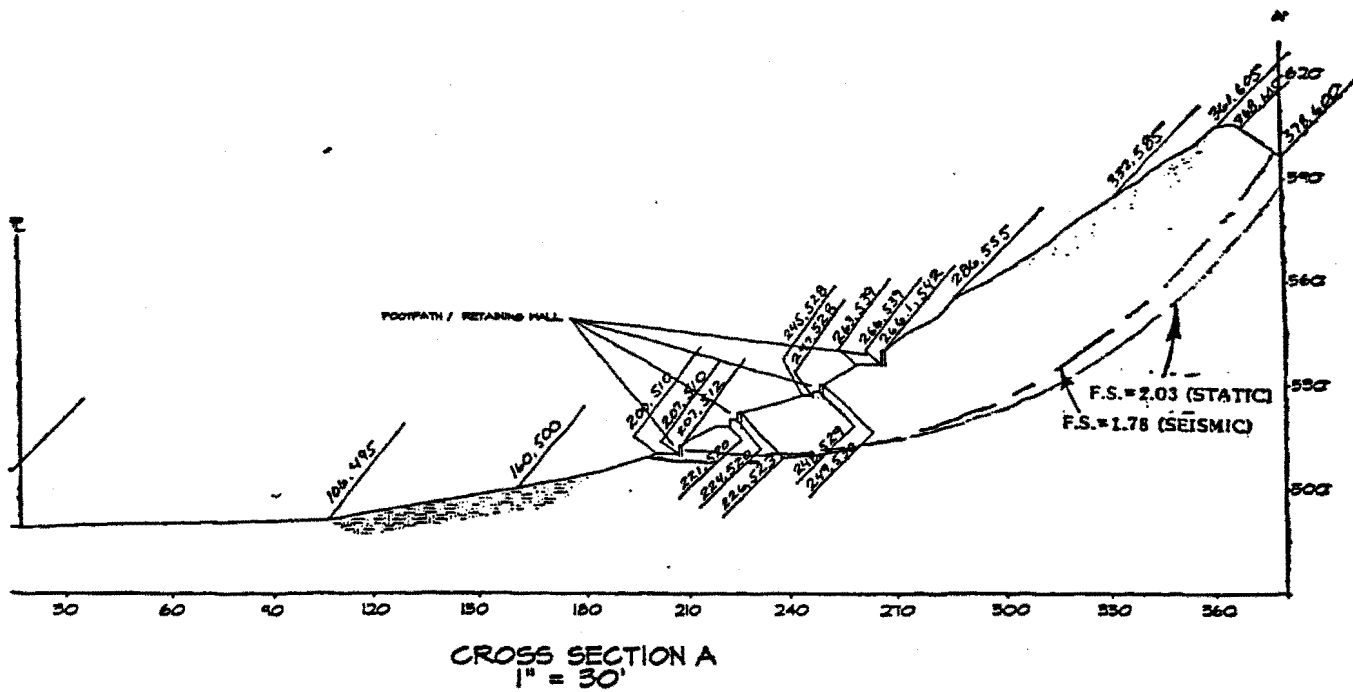
THIS PLAN HAS BEEN REVIEWED AND CONFORMS  
TO THE RECOMMENDATIONS OF OUR REPORT  
JOB NO. 3472 DATED 6-12-00  
WEST COAST S&S

# EXHIBIT 7

CDP 4-99-267 (Rosenthal)

Enlarged Site Plan of Riparian Area

# GEOTECHNICAL SECTION A



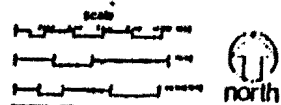
JOB NAME: ROSENTHAL	9-472
ADDRESS: 347 LIVE OAK CIRCLE DRIVE	
DATE: 8-21-2000	
DRAWN BY: JDN	

## EXHIBIT 8

CDP 4-99-267 (Rosenthal)

Cross Section-350 ft. Retaining  
Wall/Path





NOBLE, DEPARTMENT OF REGIONAL PLANNING - ENVIDOM CORPORATION

FIGURE 8

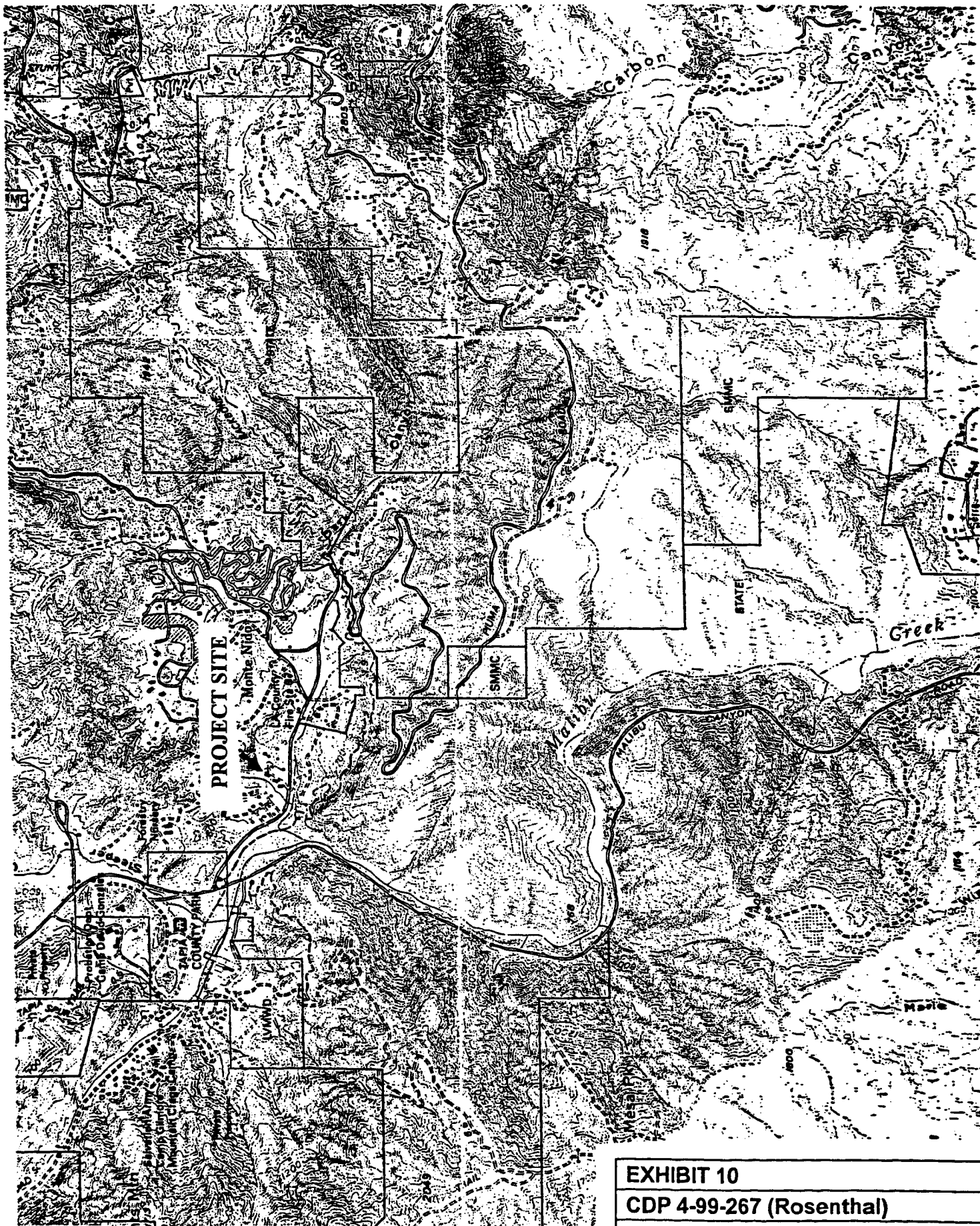


EXHIBIT 10

CDP 4-99-267 (Rosenthal)

Trails Map

CY CARLBERG

CONSULTING  
ARBORIST

RECEIVED

NOV 05 2001

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

September 15, 2001

Jay and Sheila Rosenthal  
5528 Fairview Place  
Agoura Hills, CA 91301**SUBJECT:** Property at 549 Live Oak Circle, Calabasas, LA County  
CDP Application No. 4-99-267, Assessor's Parcel Number 4456-005-010

Dear Mr. and Mrs. Rosenthal,

The following report is submitted in response to your request for arboricultural services.

**BACKGROUND AND ASSIGNMENT**

On Friday, September 14, you asked me to visit your property at the above-named address for the purpose of evaluating several coast live oak trees. In 1998-1999 you did some minor construction (stairs, seat and retaining walls) in the vicinity of the trees. The California Coastal Commission has requested that you submit oak tree reports that address impacts of the development with respect to the on-site oak trees. I met you on the property on September 15, and you explained the work that has been completed thus far, and I examined the trees to evaluate any possible detrimental effects of the construction.

I evaluated each tree that was encroached upon within its protected zone - the protected zone is that area within the dripline of the tree and extending to a point at least five feet outside the dripline. There were a total of nine oak trees of varying sizes and conditions that fell into this category. They are identified in detail below, using your numbering system (T1 - T28) to reference the trees in the field as well as on the topographic survey. I tagged the following trees with yellow tape supporting an aluminum-numbered tag. This report is based on information provided by you, the survey prepared by Leonard Liston & Associates and Chris Nelson and Associates (dated March 2001), and on my on-site visit this morning.

In summary, there has been virtually no impact to the subject trees. It was encouraging to note that after three years, if the trees had been negatively impacted, they would undoubtedly be showing signs of decline or construction-induced stress.

626.355.0271  
387 N. BALDWIN AVE.  
SIEIRA MADRE, CA 91024ISA  
M

EXHIBIT 11

CDP 4-99-267 (Rosenthal)

Arborist Report

## OBSERVATIONS AND DISCUSSION

## Tree 'T-9'

*Quercus agrifolia*

Coast Live Oak

Approximate Location: Southwest portion of property adjacent to streambed

Site Context: Unirrigated native setting, oak leaf mulch

Approximate Height: 50'

Approximate Spread: 50' - canopy is identified on topographic survey

Diameter (measured at 4.5' above existing grade): 27.5"

Physiological Condition (Health): Good; the tree displays good vigor, leaf color and decent shoot elongation. No pests or diseases were noted. It has not been pruned in many years, if ever. There is a moderate, though normal, amount of deadwood present.

Structural Integrity: Good, no defects were noted.

Discussion: This tree exists in the streambed, and according to you, adjacent soil was eroded to the extent that structural and stabilizing roots were undermined. In an attempt to curtail further erosion and protect the tree from failing, you built retaining walls on both the upslope and downslope sides of the tree. The new grade is at the elevation of the trunk flare, with some roots still exposed. The soil line now is at a level that would be considered natural grade. The semicircular wall closest to the stream is 3' in height and approximately five feet from the tree's trunk. It extends away from the stream approximately seven feet to another 3' wall. Both walls are constructed of native stone with concrete mortar. In no instance does the wall encroach closer than five feet from the tree's trunk.

This is a "mature" specimen - it has reached its "peak" and although still vital, it is no longer the vigorous tree it once was. Nevertheless, I was encouraged to note that there was healthy bark scanning with obvious new tissue. The tree has, in my opinion, not suffered from the adjacent construction, and may in fact benefit structurally and physiologically from the addition of soil. The soil level is at the trunk flare and consequently is neither too high nor too low. I explained how you might do minimal grading - by hand - to assure positive drainage away from the trunk. Presently there is an approximate 3" depression at the base of the trunk - at no time should there be standing water at the base of the tree.

## Tree 'T-7'

*Quercus agrifolia*

Coast Live Oak

Approximate Location: North of stairs

Site Context: Unirrigated native setting, oak leaf mulch

Approximate Height: 55'

Approximate Spread: 20' - canopy is identified on topographic survey

Diameter (measured at 4.5'): 26"

Physiological Condition (Health): Poor; there is a moderate amount of dead wood, and was either excessively pruned many years ago or has suffered in a fire. No pests or diseases were noted.

Structural Integrity: Good, no defects were noted.

Discussion: This is a "mature" to "overmature" specimen in poor health. There is a five foot wide staircase built of native stone with wood risers approximately nine feet south of the trunk. These stairs respect the existing grade of the slope and have not contributed nor caused the current decline of the tree. I suggest that we monitor the tree in years to come - it may recover from its current state of health.



## Tree 'T-18'

*Quercus agrifolia*

Coast Live Oak

Approximate Location: Middle of property, southeast side

Site Context: Unirrigated native setting, oak leaf mulch

Approximate Height: 40'

Approximate Spread: 30' - canopy is identified on topographic survey

Diameter (measured at 4.5'): 21"

Physiological Condition (Health): Good; the tree displays good vigor, leaf color and decent shoot elongation. No pests or diseases were noted. It has not been pruned in many years, if ever.

Structural Integrity: Good; no defects were noted.

Discussion: An approximate 2' tall, 18" wide and 31' long native stone wall was constructed downslope 16.5' from the west edge of the tree's trunk. Although the tree leans in the direction of the wall, it has not been negatively impacted from the wall construction.

## Tree 'T-21'

*Quercus agrifolia*

Coast Live Oak

Approximate Location: Southwest portion of property

Site Context: Unirrigated native setting, oak leaf mulch

Approximate Height: 40'

Approximate Spread: 20' - canopy is identified on topographic survey

Diameter (measured at 3'): Two trunks: 14" and 19"

Physiological Condition (Health): Good; the tree displays good vigor, leaf color and decent shoot elongation. No pests or diseases were noted. It has not been pruned in many years, if ever.

Structural Integrity: Good; no defects were noted.

Discussion: An approximate 2' tall, 18" wide and 31' long native stone wall was constructed upslope 10' from the east edge of the tree's trunk. The wall encroaches under the dripline by approximately 3'. The tree has not been negatively impacted from the wall construction.

## Trees 'T-24', 'T-25', 'T-26' (group of three)

*Quercus agrifolia*

Coast Live Oak

Approximate Location: Middle of property, southeast side

Site Context: Unirrigated native setting, oak leaf mulch

Approximate Height: 25' (all)

Approximate Spread: 8' ('T-24'), 15' ('T-25' and 'T-26') - canopies are identified on topographic survey

Diameter (measured at 4.5'): 12" ('T-24'), 11" ('T-25'), 10" ('T-26')

Physiological Condition (Health): Good to excellent; the trees display good vigor, leaf color and shoot elongation. No pests or diseases were noted. They have not been pruned.

Structural Integrity: Good; no defects were noted.

Discussion: An approximate 4' tall and 1.5' wide bench wall was constructed on the east side of the existing trail and is 12' upslope from the bases of this grouping of three oaks. The trees have not been impacted from wall construction.

## Tree 'T-27'

*Quercus agrifolia*

Coast Live Oak

Approximate Location: Middle of property, southeast side

Site Context: Unirrigated native setting, oak leaf mulch

Approximate Height: 15'

Approximate Spread: 8' - canopy is identified on topographic survey

Diameter (measured at 4.5'): 4" and 5"

Physiological Condition (Health): Fair, the tree displays only fair vigor, leaf color and shoot elongation. No pests or diseases were noted. It has not been pruned. Because the tree abuts the existing trail, it will undoubtedly remain more of a shrub than a tree.

Structural Integrity: Good; no defects were noted.

Discussion: An approximate 4' tall and 1.5' wide bench wall was constructed immediately adjacent to this tree. If it had been a more significant specimen, its health may have suffered by inevitable root pruning. Because it is an immature tree/shrub, I did not consider it adversely impacted from the wall construction.

Tree T-28

*Quercus agrifolia*

Coast Live Oak

Approximate Location: Middle of property, southeast side

Site Context: Unirrigated native setting, oak leaf mulch

Approximate Height: 15'

Approximate Spread: 8' - canopy is identified on topographic survey

Diameter (measured at 4.5'): 4.5"

Physiological Condition (Health): Fair, the tree displays only fair vigor, leaf color and shoot elongation. No pests or diseases were noted. It has not been pruned.

Structural Integrity: Good; no defects were noted.

Discussion: An approximate 4' tall and 1.5' wide bench wall was constructed approximately 16' downslope from the tree. The tree has not been negatively impacted by wall construction.

I have enjoyed preparing this study for you, and can offer you a level of comfort that there was only minimal disruption from the 1998 construction activities, and that your oak tree resource is intact and performing well. As always, I am available should you have any questions or concerns.

Sincerely,



Cy Carlberg

Consulting Arborist

International Society of Arboriculture Certified Arborist # WC575



# COUNTY OF LOS ANGELES

## FIRE DEPARTMENT

1320 NORTH EASTERN AVENUE  
LOS ANGELES, CALIFORNIA 90063-3294  
(323) 890-4330

P. MICHAEL FREEMAN  
FIRE CHIEF  
FORESTER & FIRE WARDEN  
July 13, 2000

RECEIVED

OCT 11 2000

Ms. Sabrina Tillis  
California Coastal Commission  
South Central Coast Office  
89 S. California Street, Suite 200  
Ventura, CA 93001

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

SUBJECT: SHEILA ROSENTHAL PROPERTY AT 549 LIVE OAK CIRCLE  
MONTE NIDO, (ASSESSORS PARCEL NUMBER 4456 005 010)

On Thursday July 6, 2000, Forestry Assistant Tom Bristow evaluated impacts to an Oak tree at the above address. Specifically, there was concern over effects of a retaining wall to mitigate soil erosion beneath an Oak tree located proximal to the streambed.

The subject tree is a Coast Live Oak, (*Quercus agrifolia*) measuring an estimated 22 inches in diameter at 4½ feet above mean grade, which is in relatively good condition. As a consequence of being subject to seasonal rains and stream flows, the tree's roots had apparently been undermined. Ms. Rosenthal in good faith had the wall built to stabilize and protect the tree from further erosion which threatened to eventually cause the tree's losing structural support to such an extent that it would conceivably fall over. The wall is constructed of surrounding natural stone and is about 16 inches high and encircles about half of the tree at a distance from four feet on the upstream side to ten feet on the downstream side from the tree trunk. Soil has been added to bring the grade back to its natural level, based on trunk flare.

In light of the fact that the tree has not suffered as a result of the above work and that it is beneficial to its structural integrity, it is our opinion that an Oak Tree Permit from the County of Los Angeles should not be required. However, any further planned improvements affecting the Oak resource should proceed with the benefit of necessary approved permits.

If you have any additional questions, please contact Forestry Assistant Tom Bristow at (818) 890-5719 or this office at (323) 890-4330.

Very truly yours,

DAVID R. LEININGER, ACTING CHIEF, FORESTRY DIVISION  
PREVENTION BUREAU

DRL:sc

c: Mr. Mark Pastrella, Los Angeles County Dept. of Public Works  
Ms. Gina Natoli, Department of Regional Planning  
Ms. Sheila A. Rosenthal ✓  
Ms. Susan Nissman, County Board of Supervisors

### SERVING THE UNINCORPORATED AREAS OF LOS ANGELES

HILLS	BRADBURY	CUDAHY	HIDDEN HILLS	LANCASTER
STIA	CALABASAS	DIAMOND BAR	HUNTINGTON PARK	LA PUENTE
IN PARK	CARSON	DUARTE	INDUSTRY	LAWDALE
	CERRITOS	EL MONTE	IRVINDALE	LOMITA
	CLAREMONT	GLENDORA	LA CANADA FLINTRIDGE	MALIBU
OWER	COMMERCE	HAWAIIAN GARDENS	LAKEWOOD	MAYWOOD
RDENS	COVINA	HAWTHORNE	LA MIRADA	NORWALK

EXHIBIT 12

CDP 4-99-267 (Rosenthal)

Letters Forestry Division-07/13/00 &  
11/17/01

AGOURA HILLS	BRADBURY	CUDAHY	HAWTHORNE	LA MIRADA	MALIBU	POMONA	SIGNAL HILL
ARTESIA	CALABASAS	DIAMOND BAR	HIDDEN HILLS	LA PUENTE	MAYWOOD	RANCHO PALOS VERDES	SOUTH EL MONTE
AZUSA	CARSON	DUARTE	HUNTINGTON PARK	LAKEWOOD	NORWALK	ROLLING HILLS	SOUTH GATE
BALDWIN PARK	CERRITOS	EL MONTE	INDUSTRY	LANCASTER	PALMDALE	ROLLING HILLS ESTATES	TEMPLE CITY
BELL	CLAREMONT	GARDENA	INGLEWOOD	LAWNDALE	PALOS VERDES ESTATES	ROSEMEAD	WALNUT
BELL GARDENS	COMMERCE	GLENORA	IRVINDALE	LOMITA	PARAMOUNT	SAN DIMAS	WEST HOLLYWOOD
BELLFLOWER	COVINA	HAWAIIAN GARDENS	LA CANADA-FLINTRIDGE	LYNWOOD	PICO RIVERA	SANTA CLARITA	WESTLAKE VILLAGE
							WHITTIER



Sabrina Tillis  
September 17, 2001  
Page 2

If you have any additional questions, please contact Deputy Forester Jon Baker at (818) 890-5719 or this office at (323) 890-4330.

Very truly yours,



DAVID R. LEININGER, ACTING CHIEF, FORESTRY DIVISION  
PREVENTION BUREAU

DRL:sc

c: Mark Pastrella, Los Angeles County Dept. of Public Works  
Daryl Koutnik, Department of Regional Planning  
Sheila A. Rosenthal

Received 12/02/99

(57)

2. Describe the proposed development in detail. Include secondary improvements such as grading, septic tanks, water wells, roads, driveways, outbuildings, fences, etc. (Attach additional sheets as necessary.)

Natural dirt pathway for viewing with short wall to prevent erosion, and benches to view. Place stone on benches and periodic locations on wall for aesthetics to blend with natural surroundings. Provide water outlets and plant native plants (ex. Mexican Sage and other native plants) plus several fruit trees. Drainage slots at bottom of entire wall to permit natural flow and drainage.

- a. If multi-family residential, state: N/A

Number of units			Number of bedrooms per unit (both existing and proposed)	Type of ownership proposed
Existing units	Proposed new units	Net number of units on completion of project		
				<input type="checkbox"/> rental <input type="checkbox"/> condominium <input type="checkbox"/> stock cooperative <input type="checkbox"/> time share <input type="checkbox"/> other _____

- b. If land division or lot line adjustment, indicate: N/A

Number of lots			Size of lots to be created (indicate net or gross acreage)	
Existing lots	Proposed new lots	Net number of lots on completion of project	Existing	Proposed

3. Estimated cost of development (not including cost of land) \$ \_\_\_\_\_
4. Project height: Maximum height of structure (ft.)  
 • above existing (natural) grade 2-3 ft.; average 2.5  
 • above finished grade \_\_\_\_\_  
 • as measured from centerline of frontage road \_\_\_\_\_
5. Total number of floors in structure, including subterranean floors, lofts, and mezzanines N/A

Received 10/11/00  
(84)

2. Describe the proposed development in detail. Include secondary improvements such as grading, septic tanks, water wells, roads, driveways, outbuildings, fences, etc. (Attach additional sheets as necessary.)

Zig-zag, natural dirt path half way up hill, to gain safe access to hill on property, with low (less than 3 feet) block wall (covered in spots with natural stone, and rag-washed to blend with natural surroundings) to maintain path and protect hill from erosion. Plants & shrubs, indigenous to area to be planted along wall to enhance the natural appearance and cover the wall from view. Four bench seats, covered with natural stone, and artistically-blended with the low wall, to provide places for owner to rest and view property and beautiful surroundings. Small rock wall at stream edge with soil backfill to protect badly exposed roots, and tilted endangered live oak tree to prevent imminent destruction along stream bed during high water, thereby extending its life. Stone and wood steps, rustic and beautifully created to blend with natural environment, for safe access down steep bank to stream on property. Additional stone-covered very low (~2 feet) and bench along top of tree-covered stream bank for viewing beautiful natural setting on land. Water tap at each level on path up hill to keep hill green and natural for both fire protection and beauty. Few loose bricks placed around baby oak trees to protect from being stepped on.

- a. If multi-family residential, state: N/A

Number of units			Number of bedrooms per unit (both existing and proposed)	Type of ownership proposed
Existing units	Proposed new units	Net number of units on completion of project		
				<input type="checkbox"/> rental <input type="checkbox"/> condominium <input type="checkbox"/> stock cooperative <input type="checkbox"/> time share <input type="checkbox"/> other _____

- b. If land division or lot line adjustment, indicate: N/A

Number of lots			Size of lots to be created (indicate net or gross acreage)	
Existing lots	Proposed new lots	Net number of lots on completion of project	Existing	Proposed

3. Estimated cost of development (not including cost of land) \$ = 11,850.-
4. Project height: Maximum height of structure (ft.)  
 • above existing (natural) grade ..... 2-3 feet (average 2.5 feet)  
 • above finished grade .....  
 • as measured from centerline of frontage road .....
5. Total number of floors in structure, including subterranean floors, lofts, and mezzanines N/A

~ 4-25-267 6/29/00 This submittal is to correct the previous submission based on changes requested by the Coastal Commission

Shirley J. R. Rosenthal

2. Describe the proposed development in detail. Include secondary improvements such as grading, septic tanks, water wells, roads, driveways, outbuildings, fences, etc. (Attach additional sheets as necessary.)

Zig-zag, natural dirt path half way up hill, to gain safe access to hill on property, with low (less than 3 feet) block wall (covered in spots with natural stone, and rag-washed to blend with natural surroundings) to maintain path and protect hill from erosion. Plants & shrubs, indigenous to area to be planted along wall to enhance the natural appearance and cover the wall from view. Few bench seats covered with natural stone, and artistically-blended with the low wall to provide places for owner to rest and view property and beautiful surroundings. Small rock wall at stream edge with soil backfill to protect badly exposed roots, and tilted endangered live oak tree to prevent imminent destruction along stream bed during high water, thereby extending its life. Stone and wood steps, rustic and beautifully created to blend with natural environment, to safe access down steep bank to stream on property. Additional stone-covered very low (~2 feet) and bench along top of tree-covered stream bank for viewing beautiful natural setting on land. Water tap at each level on path up hill to keep hill green and natural for both fire protection and beauty. Few loose bricks placed around baby oak trees to protect from being stepped on.

- a. If multi-family residential, state: N/A

Number of units			Number of bedrooms per unit (both existing and proposed)	Type of ownership proposed
Existing units	Proposed new units	Net number of units on completion of project		
				<input type="checkbox"/> rental <input type="checkbox"/> condominium <input type="checkbox"/> stock cooperative <input type="checkbox"/> time share <input type="checkbox"/> other

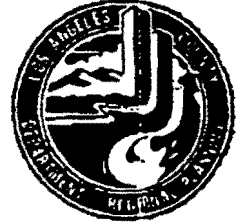
- b. If land division or lot line adjustment, indicate: N/A

Number of lots			Size of lots to be created (indicate net or gross acreage)	
Existing lots	Proposed new lots	Net number of lots on completion of project	Existing	Proposed

3. Estimated cost of development (not including cost of land) \$ 11,850.-
4. Project height: Maximum height of structure (ft.)  
 • above existing (natural) grade ..... 2-3 feet (average 2.5 feet)  
 • above finished grade .....  
 • as measured from centerline of frontage road .....
5. Total number of floors in structure, including subterranean floors, lots, and mezzanines N/A



*Los Angeles County*  
*Department of Regional Planning*  
*Director of Planning James E. Hartl, AICP*



**MINUTES OF THE ENVIRONMENTAL REVIEW BOARD (ERB)**  
**MEETING OF SEPTEMBER 17, 2001**  
(Approved as amended October 15, 2001)

**PERSONS IN ATTENDANCE:**

**ERB MEMBERS**

Jon Baker  
Noël Davis, PhD  
Richard Ibarra  
Travis Longcore, PhD  
Rudolf Mattoni, PhD  
Martha Witter, PhD

**REGIONAL PLANNING STAFF**

Robert Avila  
Daryl Koutnik, PhD  
Zenaida Lopez-Dee, PhD  
Gina Natoli  
Roxanne Tanemori

**Plot Plans 36577 & 47604 Representative**

Don Schmitz

(310) 589-0773

**Plot Plan 47010 Representative**

Bruce Royer

(310) 455-7120

**Plot Plan 20785 Representatives**

Jay & Sheila Rosenthal

(310) 456-8613

**Project 01-030 Representatives**

David Magney  
Steven Mecham, PhD  
Sherman L. Stacey  
Alan Armstrong

(805) 646-6045  
(310) 230-3644  
(949) 219-2000  
(310) 457-4058

**Projects 01-111, 01-114, 01-115, 01-124, 01-138 & 01-152 Representative**

W. Dean Brown

(714) 569-0616

**RECEIVED**

DEC 13 2001

**ERB MINUTES**  
**SEPTEMBER 17, 2001**

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

**AGENDA ITEMS**

1. Baker moved and Ibarra seconded to approve the August 20, 2001 ERB Minutes as written.

**EXHIBIT 14**

**CDP 4-99-267 (Rosenthal)**

**ERB Minutes and Approval**

**ERB MINUTES, September 17, 2001 (continued):**

**NEW BUSINESS**

2. Plot Plan 36577 - See ERB Item 2
3. Plot Plan 47010 - See ERB Item 3
4. Plot Plan 47604 - See ERB Item 4
5. Plot Plan 20785 - See ERB Item 5
6. Project 01-030 - See Attachment Item 6
7. Projects 01-111, 01-114, 01-115, 01-124, 01-138 & 01-152 - See Attachment Item 7.

\*\*\*\*\*  
NOTE: ERB MEETINGS ARE INFORMAL WORKING SESSIONS. MEMBERS ARE APPOINTED AS VOLUNTEERS TO SERVE IN AN ADVISORY CAPACITY. MINUTES ARE PREPARED BY PLANNING STAFF PRIMARILY FROM NOTES. MEETINGS ARE ALSO RECORDED ON TAPE WHICH ARE USED PRIMARILY AS A BACK-UP FOR STAFF. VISITORS ARE ADVISED TO TAKE PROPER NOTES AND/OR RECORD THE MEETING. NEW OR CLARIFIED INFORMATION PRESENTED IN BIOTA REVISIONS MAY RAISE NEW ISSUES AND REQUIRE FURTHER ANALYSIS. MINUTES ARE GENERALLY APPROVED AT THE FOLLOWING MEETING. DRAFT MINUTES MAY BE REQUESTED BUT ARE SUBJECT TO REVISION.

**RECEIVED**

DEC 13 2001

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

# ENVIRONMENTAL REVIEW BOARD

Case No. Plot Plan 20785

Location 549 Live Oak Circle Drive, Calabasas

Applicant Jay and Sheila Rosenthal

Request 350-ft. long retaining wall, wall around oak tree and other existing structures

Resource Category Cold Creek ESHA

ERB Meeting Date: September 17, 2001

ERB Evaluation: ☒ Consistent ☐ Consistent ☐ Inconsistent  
after Modifications

## Recommendations:

- Plant indigenous natives along the wall.
- Contact Resource Conservation District of the Santa Monica Mountains for stream bank stabilization recommendations.
- Use natural earth-tone colors for the wall.

Staff Recommendation: ☒ Consistent ☐ Consistent ☐ Inconsistent  
after Modifications

## Suggested Modifications:

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DEC 13 2001

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

INSPECTOR'S OFFICE HOURS 8-9 A.M. DAILY

DEPARTMENT OF PUBLIC WORKS  
 BUILDING AND SAFETY DIVISION  
 4111 NORTH LAS VIRGENES ROAD  
 CALABASAS, CALIFORNIA 91302  
 TELEPHONE: (818) 880-4150

JOB ADDRESS 549 Live Oak Circle.  
 OWNER \_\_\_\_\_

## NOTICE OF VIOLATION

The work performed is in violation of the Ordinance(s) indicated below:

<input checked="" type="checkbox"/> Building Code	_____ Plumbing Code
_____ Mechanical Code	_____ Electrical Code
<input checked="" type="checkbox"/> Grading Code	_____ Zoning Code
<input checked="" type="checkbox"/> Coastal	_____

DESCRIPTION: Retaining walls on a  
slope within coastal  
boundaries.  
was informed by this office  
that a 3' wall was ok.  
I Told property owner  
was misinformed.

☒ **STOP ALL WORK**

☒ Submit plans for the cited work within 10 days to the office listed above and apply for a plan check for the required permit(s).

☒ Obtain permit(s) within 10 days at the office listed above for the cited work.

\_\_\_\_\_ A referral has been made to the Enforcement Section of the Department of Regional Planning.

11-17-99 Kevin  
 DATE INSPECTOR'S SIGNATURE

RECEIVED  
 DEC 02 1999  
 CALIFORNIA  
 COASTAL COMMISSION  
 NORTH CENTRAL COAST DISTRICT

EXHIBIT 15

CDP 4-99-267 (Rosenthal)

Notice of Violation from County



Attn: Sabrina Tilles  
California Coastal Commission  
South Central Coast Area Office  
89 So. California Street, Suite 200  
Ventura, Ca. 93001

RECEIVED  
RECEIVED  
REC'D

JAN 18 REC'D  
COMMISSION  
SOUTH CENTRAL COAST DISTRICT

COASTAL COMM.  
SOUTH CENTRAL COAST DISTRICT  
January 15, 2000

Re: Application No. 4-99-267

Dear Sabrina:

Thank you for your recent correspondence and guidance on the re-submission of a permit application for 549 Live Oak Circle. We are gathering those specific items you requested, and may need to ask for your assistance on others. We have enlisted, signed a contract with a firm of Consulting Engineer and Geologists and sent them retainer checks. Marty Witter, the biologist for the city of Malibu recommended a biologist and I've attempted to contact him and left a message. We are busily gathering up the rest of the information.

We find it ironic how all these problems came about in the first place. Struck by the beauty of the land and its views of the local mountains, Sheila purchased this land on Live Oak Circle using funds she inherited from her mother, to use as sort of a natural preserve and wildlife refuge. The previous owner had flattened out an area for a potential house with complete geological reports and architectural plans. While she would some day love to have a log cabin or some rustic little house on the site, when she bought the land her only intention was, and still is, to maintain and preserve the natural beauty of her property, away from the noise and pollution of the city. It was in this spirit that, believing she had the approval of the Building & Safety Office, she had a path on the hill overlooking the rest of the property cleaned up and widened so she could safely climb to see the beautiful views, and also a less than 3-foot high zig-zag wall (as per the Building & Safety Office's sketch of what was permissible without a permit) to minimize erosion and maintain stability. The walls were constructed with holes for drainage, and several beautiful bench areas, covered by artistic and rustic stone brought mainly from outside the property, were constructed so we could see the views and relax in the surroundings.

Sheila is an artist and the plan was to "rag-wash" the wall with natural colors to blend into the natural aesthetics and then to encourage the indigenous plants and bushes on the other side of the path to grow and cover up the wall from view. Soil removed to widen the path and build the walls were maintained on neighboring segments of the property; nothing was taken off the land. Neighbors were so impressed by the quality and natural appearance of the work that they asked Sheila for the name of the artist/contractor so he could do some stonework for them. Roots of natural shrubs cleared for fire suppression which got covered up by the soil are still alive and waiting for the rains to come to return the land to its former appearance. It was, and is, Sheila's plan to plant additional shrubs and plants indigenous to the area and keep them green enough that most of them won't need cutting next summer, but all work has ceased under the County's stop work order.

EXHIBIT 16

CDP 4-99-267 (Rosenthal)

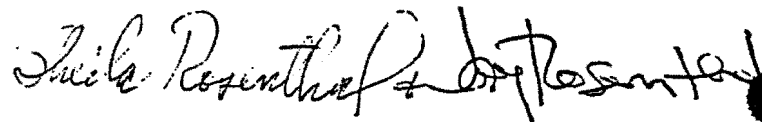
Letter from Applicant-01/15/00

With regard to Cold Creek which runs through the lower part of the property, several large Oak trees were seriously undermined, with roots exposed, by stream waters and erosion of the banks next to the stream. When Sheila first bought the property a very large oak tree had already fallen over due to erosion of the banks and she was very concerned that she might lose the others too. In a bid to *preserve* the one oak tree with the most root exposure, which looked as if it could topple over at any time, Sheila had the contractor cover the roots with soil, and built a low supporting wall to prevent further erosion and destruction of the tree. This wall was also covered with the same beautiful stonework as used on the hill, also brought in mainly from the outside. Wood and stone steps leading down to the stream from the higher embankment were added for safe access, and another low support wall added above for protection and viewing.

Everything done this past summer was done to promote preservation and the natural beauty of the land. Now, before completion has taken place, we have had to stop work, and hope the winter weather doesn't take its toll before planting, causing more erosion. It has been immensely painful to have to stop efforts to preserve Sheila's little Shan-gri-la, and to be faced with additional financial burdens. However, we are willing to do whatever we can to satisfy your requirements. In this regard, we would appreciate receiving a copy of any written documentation or field notes gathered from your recent field trip visit to the land so we can better know the specifics of your concerns.

Please let us know how all of this can best and quickly be resolved. We want to preserve the same natural beauty as you do.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Sheila Rosenthal". The signature is written in dark ink and is somewhat stylized, with the last name being more prominent.

Sheila and Jay Rosenthal

January 20, 2000

To: Coastal Commission  
Attn: Sabrina Tilles

This is how the situation on my land evolved: The Fire Department required 200 feet of clearance of all dry brush from the nearest building structure. This is the house next door which sits very close to the property line so that virtually all 200 feet extend onto my land. The 200 feet reach across the entire hill and cutting it each year left the hill looking quite barren. I am an artist and nature lover and want to see the hills look as natural as possible. On the other side of the hill where the natural vegetation exists you can hear many animals and birds talking and rustling around, safely hidden under the brush.

The man who cut the brush down and others before him had left a small trail across and up the hill when doing this task each year. My original idea was to water the native brush on the hill enough to keep it green enough that the Fire Department would no longer require that I cut down so much of it. Then the hill could restore itself to its natural order. For this purpose I followed the path that the brush clearance man and others had left and widened it a bit for safety. Based on my understanding of what the County told me was permissible without a permit I put up small walls less than three feet high to discourage erosion until I could reestablish the native plants. It was impossible to water the brush on the hill from below so I had water pipes put in with spigots at approximately every 30 feet up the hill so I could keep the entire hill green and wouldn't be required to have it cut and looking unaesthetic each year. The bushes would grow to reach from 6 to 10 feet or more and would totally cover the path and walls and wipe them from view. Hopefully they would be green enough to remain and not be required to be cut nearly as much each year.

\* I also planned to "ragwash" the wall in the natural colors of the terrain.

Very sincerely yours,

Sheila J. Rudich Rosenthal

EXHIBIT 17

CDP 4-99-267 (Rosenthal)

Letter from Applicant-01/20/00

1-22-2000

To: Coastal Commission  
Attn: Sabrina Tiller

Since we moved to Agoura Hills approximately seven years ago and especially in the last two years following El Niño tons of debris washed down onto Agoura Road between Chesebro and Westlake Blvd. Road crews regularly shoveled up the debris which spilled into the street. In between their pickups we picked up, literally, tons of river rock from alongside and on Agoura Rd in my old Volvo stationwagon which I brought to the land after buying it (549 Live Oak Creek).

Very sincerely yours,

Sheila J. Rosenthal

RECEIVED  
0003 - 0033

RECEIVED  
0003 - 0033

EXHIBIT 18

CDP 4-99-267 (Rosenthal)

Letter from Applicant-01/22/00

1-25-00

5 PM

Per Cindy Wood (Dept of Fish & Game) (313) 389-9407:

I didn't do any real harm to the habitat or animals and they aren't going to require any more of me but I can't do anything more to the streambed without first contacting Environmental Services to ask if it's okay.

Their number is (562) 590-5137. Cindy Wood said it's okay to take cuttings from upstream and bring to the area of the oak tree to have more greenery there. This would be better than buying new similar plants from a nursery.

Sheila Rosenthal

EXHIBIT 19

CDP 4-99-267 (Rosenthal)

Letter from Applicant-01/25/00

coastal commission:

I've been trying to contact Jessie Flores

of Jessie Flores Nursery  
on Agoura Road

which closed down & sold all plants  
furnishings, tools, rocks, etc.

I bought all their large rocks (masonry)

Jessie Flores (805) 494-9431  
growing grounds cell  
Land Scapes (818) 634-1181  
nursery closed

EXHIBIT 20

CDP 4-99-267 (Rosenthal)

Submittal from Applicant-Received 02/01/00

This letter is to verify that Sheila P. Rosenthal  
has purchased from us multiple bags and  
flat loads of all sizes of rocks from us  
at least ten times in 1999. She spends  
a great deal of time hand selecting each  
one.

Sincerely,

William R. White  
AGOURA BUILDING MATERIALS  
OPERATIONS MANAGER

AGOURA BUILDING MATERIALS

WILLIAM R. WHITE  
OPERATIONS MANAGER

818-889-1315  
805-497-6904

**ABM**

AGOURA BUILDING MATERIALS

FAX (818) 889-5120

29149 AGOURA RD. • P.O. BOX 880 • AGOURA HILLS, CA 91376-0880

# ABM AGOURA BUILDING MATERIALS

29149 AGOURA ROAD • P.O. BOX 880 • AGOURA HILLS, CA 91376-0880  
(818) 889-1315 FAX (818) 889-5120 (805) 497-6904

AN "F", "N" OR "D" AFTER PRICE EXTENSION  
"Friendly Service" INDICATES NO TERMS DISCOUNT AVAILABLE. "Quality Products"

CUSTOMER NO.	JOB NO.	PURCHASE ORDER NO.	REFERENCE	TERMS	CLERK	DATE	TIME
5				CASH/CHECK/BANKCARD	LLK	9/28/99	4:4

SOLD TO  
\*\*\*\* CASH \*\*\*\*

SHIP TO

SLSPR: 65 LARRY  
TAX : 001 LA COUNTY

DOC# 861519  
\*\*\*\*\*  
\* INVOICE \*  
\*\*\*\*\*

PLEASE NOTE: Customer assumes sole responsibility for location and securing of materials loaded onto their vehicle by A.B.M. personnel.

QUANTITY		UM	SKU	DESCRIPTION	LOCATION	UNITS	PRICE/PER	EXTENSION
SHIPPED	ORDERED							
940		LB	32585	YOSEMITE RIVER ROCK	WY	940	.075/LB	70.50
<div style="border: 1px solid black; border-radius: 50%; padding: 20px; text-align: center;"> <p>DP</p> <p>#1002</p> <p>9-28-99</p> </div>								

All returned pallets must have purchase document number. Also, all returned merchandise subject to a minimum 10% handling charge.

\*\* PAYMENT RECEIVED \*\*

\*\* PAID IN FULL \*\*

76.32 TAXABLE 70.50  
NON-TAXABLE 0.00  
SUBTOTAL 70.50

X  
I certify that I am authorized to sign for, and receive, materials for the above named company, and agree to listed terms and conditions of sale on back.

CHECK PAYMENT 76.32  
CK# 1002 0000  
DELIVERY COPY

TAX AMOUNT 5.82  
TOTAL AMOUNT 76.32



# ABM AGOURA BUILDING MATERIALS

29149 AGOURA ROAD • P.O. BOX 880 • AGOURA HILLS, CA 91376-0880  
 (818) 889-1315 FAX (818) 889-5120 (805) 497-6904

AN "M", "N" OR "D" AFTER PRICE EXTENSION  
 "Friendly Service" INDICATES NO TERMS DISCOUNT AVAILABLE "Quality Products"

CUSTOMER NO.	JOB NO.	PURCHASE ORDER NO.	REFERENCE	TERMS	CLERK	DATE	TIME
*5				CASH/CHECK/BANKCARD	JK	1/25/00	1:36

S  
O  
L  
D  
T  
O

\*\*\*\* CASH \*\*\*\*

S  
H  
I  
P  
T  
O

BOOK 677253

\*\*\*\*\*

\* INVOICE \*

\*\*\*\*\*

SLSPR: 04 JOHN  
 TAX : 001 LA COUNTY

PLEASE NOTE: Customer assumes sole responsibility for location and securing of materials loaded onto their vehicle by A.B.M. personnel.

QUANTITY		UM	SKU	DESCRIPTION	LOCATION	UNITS	PRICE/PER	EXTENSION
SHIPPED	ORDERED							
3		SK	38502	LARGE DECU PEBBLES - BAK/SNOVEL	P070	18	1.00 /SV	18.00
<div style="border: 1px solid black; border-radius: 50%; padding: 20px; text-align: center; width: fit-content; margin: auto;">           \$ 412.8            1-26-00         </div>								

All returned pallets must have purchase document number. Also, all returned merchandise subject to a minimum 10% handling charge.

\*\* PAYMENT RECEIVED \*\*

19.49

TAXABLE

18.00

\*\* PAID IN FULL \*\*

NON-TAXABLE

0.00

SUBTOTAL

18.00

X  
 I certify that I am authorized to sign for, and receive, materials for the above named company, and agree to listed terms and conditions of sale on back.

CHECK PAYMENT

19.49

CK# DELIVERY COPY

TAX AMOUNT

1.49

TOTAL AMOUNT

19.49

# ABM AGOURA BUILDING MATERIALS

29149 AGOURA ROAD • P.O. BOX 880 • AGOURA HILLS, CA 91376-0880  
(818) 889-1315 FAX (818) 889-5120 (805) 497-6904

AN "\*", "N" OR "D" AFTER PRICE EXTENSION  
"Friendly Service" INDICATES NO TERMS DISCOUNT AVAILABLE "Quality Products"

CUSTOMER NO.	JOB NO.	PURCHASE ORDER NO.	REFERENCE	TERMS	CLERK	DATE	TIME
85				C.O.D.	BW	1/27/80	2:1

SOLD TO

\*\*\*\* CASH \*\*\*\*

SHIP TO  
ROSENTHAL

DEL. DATE: 1/27/80

SLSPR: 07 BILL  
TAX : 001 LA COUNTY

DOC# B77434

\*\*\*\*\*

\*COP INVOICE\*

\*\*\*\*\*

PLEASE NOTE: Customer assumes sole responsibility for location and securing of materials loaded onto their vehicle by A.B.M. personnel.

QUANTITY		UM	SKU	DESCRIPTION	LOCATION	UNITS	PRICE/PER	EXTENSION
SHIPPED	ORDERED							
895		LB	32585	YOSEMITE RIVER ROCK	WY	895	.075/LB	67.13

All returned pallets must have purchase document number. Also, all returned merchandise subject to a minimum 10% handling charge.

\*\* PAYMENT RECEIVED \*\*

\*\* PAID IN FULL \*\*

72.67

TAXABLE

NON-TAXABLE  
SUBTOTAL

67.13

0.00

67.13

X  
I certify that I am authorized to sign for, and receive, materials for the above named company, and agree to listed terms and conditions of sale on back.

CASH PAYMENT

CHECK DELIVERY COPY  
CK# 1023 ABAM

65.00

7.67

TAX AMOUNT

TOTAL AMOUNT

5.54

72.67

EXHIBIT 21

CDP 4-99-267 (Rosenthal)

Letter from the Applicant-10/11/00

Wed. Oct. 11, 2000 @ 11:47 P.M.

Provided to Coastal Commission by Sheila Rosenthal

- ① Revised Applic. # 4-99-267 updated as per request  
incl (A) area maps  
(B) parcel maps

RECEIVED

OCT 11 2000

BK

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

- ② Computation of fill grading  
③ List of property owners  
④ Check for \$950 to Coastal Commission (Balance of Filing fee incl. permits)  
⑤ Fish & Game input  
⑥ Copy of Tax bill etc.  
⑦ List of adjacent property owners & parcels  
⑧ 11 stamped envelopes to above  
⑨ 2 Copies of plans updated as per request  
⑩ L.A. Dept Regional Planning - "Approvals in Concept"  
⑪ Documentation that Env. Review Bd. not required.  
⑫ 2 Sets of plans - 8 1/2 x 11  
⑬ L.A. County - Notice that Oak Tree Permit not required  
⑭ Draft LA Dept Public Works Geologic Review Sheet  
⑮ Soils Review sheet in line to be processed in about 1 month, all fees paid.  
⑯ Receipts showing proof of above  
⑰ 2 Copies of Updated Geotechnical Engineering reports dated Aug. 21, 2000  
⑱ Copy of original Geotechnical report of June 17, 2000  
⑲ Retaining wall calculations of 8/26/00 - 2 Copies  
⑳ 2 Copies of updated plans w/ Oak Trees surveyed  
㉑ 2 Copies of updated plans w/ Canopy of Oak Trees drawn  
㉒ Additional set of updated plans.

REGARDING:

DEPT. OF FISH & GAME

AS CONFIRMED AGAIN BY PHONE  
ON JUNE 3, 2000 WITH MS CINDI WOOD  
(818) 889-9407, SHE HAD PREVIOUSLY  
DETERMINED THAT THE VIOLATION OF  
DISTURBING OR USING THE STREAM BED/ROCKS  
TO SHIELD/PROTECT THE OAK TREE  
FROM EROSION, AND OTHER ASPECTS OF THE  
PROJECT DID NOT WARRANT PROSECUTION  
AND THEY WERE NOT GOING TO PURSUE IT.  
SHE INDICATED SHE WOULD BE CONTACTING  
THE COASTAL COMMISSION DIRECTLY TO  
INFORM THEM.

RECEIVED

OCT 11 2000

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

# EXPLANATION OF 'FILL', GRADING FOR WALLS/FOOT PATH/BENCHES AT 549/547 LIVE OAK CIRCLE

**NOTE:** NO FILL, AS SUCH, EITHER IMPORTED TO SITE, OR EXPORTED FROM SITE. EXISTING SOIL MOVED/DISPLACED TO ADJACENT PARTS OF PROPERTY FOR WALLS, PATH, BENCHES & STEPS. QUANTITATIVE BREAKDOWN AS FOLLOWS:

## PATH/WALL

- ① PATH WIDTH: RANGES FROM 2 to 3 FEET
- ② HEIGHT OF WALLS ABOVE GROUND RANGES FROM 24" (2 FT) TO 34" (2 FT, 10 INCHES)
- ③ WALL THICKNESS: (ONE BLOCK) 6 INCHES
- ④ ESTIMATE OF QUANTITY OF EARTH MOVED TO MAKE WALL AND PATH, AND RE-DEPOSITED ON ADJACENT AREAS:  
(5 SEGMENTS) TOTAL LENGTH 342.8 FT = 114.3 YARDS  
AVERAGE CUT (PER LINEAL YARD) ALONG PATH IS APPROXIMATELY  $\frac{1}{2}$  YARD PER LINEAL YARD.  
ASSUME AVERAGE WIDTH IS 2.5 FT (.83 YARD), THEN AVERAGE REMOVAL IS  $.83 \times .5 = .417$  CUBIC YARD PER LINEAL YARD OF PATH/WALL.  
ESTIMATED EARTH REMOVED:  $.417 \times 114.3 = \underline{47.6 \text{ CUBIC YARDS}}$

## STAIRS

2 SIDES OF APPROXIMATELY  $1 \times 1 \times 4 \text{ FT} = 8 \text{ FT}^3$   
STEPS  $\frac{1}{2} \text{ FT} \times \frac{2}{3} \text{ FT} \times 7 = 2.3 \text{ FT}^3$   
EXTRA STEPS - APPROXIMATELY  $3 \text{ FT}^3$   
(1 CUBIC YARD = 27  $\text{FT}^3$ )  
13.3 CUBIC FEET  
 $= \underline{0.49 \text{ CUBIC YARD}}$

## WALL TO PROTECT/SAVE OAK TREE

APPROXIMATELY  $1 \text{ FT} \times \frac{2}{3} \text{ FT} \times 8 \text{ FT} = 5.33 \text{ FT}^3 = \underline{0.20 \text{ CUBIC YARD}}$

## PROTECTIVE WALL - VIEW OF BELOW

APPROXIMATELY  $25 \text{ FT} \times 1 \text{ FT} \times \frac{2}{3} \text{ FT} = 16.67 \text{ FT}^3 = \underline{0.62 \text{ CUBIC YARD}}$

ESTIMATED

TOTAL CUT/SOIL DISPLACED =  $47.6 + .5 + .2 + .6 = 48.9 \text{ CUBIC YARDS}$

LAW OFFICES  
**ALAN ROBERT BLOCK**  
A PROFESSIONAL CORPORATION

ALAN ROBERT BLOCK  
OF COUNSEL  
MICHAEL N. FRIEDMAN

1901 AVENUE OF THE STARS, SUITE 1610  
LOS ANGELES, CALIFORNIA 90067-6001  
E-MAIL arblock@worldnet.att.net  
TELEPHONE (310) 552-3336  
TELEFAX (310) 552-1850

OF COUNSEL  
MOSS, LEVITT & MANDELL, LLP

March 30, 2000

VIA FAX & FIRST CLASS MAIL

California Coastal Commission  
South Central Coast Area  
89 South California Street, 2nd Floor  
Ventura, CA. 93001

Attention: Sabrina Tiles

Re: Violation No. 4-99-006 (Rosenthal)

Address: 549 Live Oak Circle, Calabasas,  
County of Los Angeles

**Alleged Unpermitted Development:** Retaining walls and benches along the top of bank and in streambed; rock stairway descending from top of bank to streambed; placement of fill along streambed, removal of stones from streambed for placement of retaining walls, stairs, and benches; and other miscellaneous structures and landform alteration in and around this segment of Cold Creek traversing the above site.

Dear Ms. Tiles:

Please be advised that this office represents Mrs. Sheila Rosenthal with regard to the above captioned alleged violation of the Coastal Act.

Mrs. Rosenthal has requested that I assist her in gaining local approval in concept in order to submit an application to the Commission for the proposed development. The County of Los Angeles has requested numerous documents from the property owner in order that her request for an approval in concept may be granted. Mrs. Rosenthal is presently in the process of gathering said information.

Clearly, Mrs. Rosenthal will only be able to submit an application to the Commission, within the immediate future only if the Executive Director would agree to waive local government approval in concept pursuant to Title 14, California Code of Regulations, Section 13052.

EXHIBIT 22

CDP 4-99-267 (Rosenthal)

Letter from Alan Block-03/30/00

RECEIVED  
APR 03 2000  
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

California Coastal Commission  
Re: Violation No. 4-99-006 (Rosenthal)  
March 30, 2000

Page 2


If the Commission will agree to waive local government approval in concept, I will advise the property owner to commence preparation of an application for a Coastal Development Permit (CDP).

If not, I will keep you abreast as to Mrs. Rosenthal's attempt to gain local approval in concept from the County of Los Angeles.

Thank you for your anticipated courtesy and cooperation.

Very truly yours,

LAW OFFICES OF  
ALAN ROBERT BLOCK  
A Professional Corporation

  
ALAN ROBERT BLOCK

ARB:mb

cc: Sheila Rosenthal

Ms Sabrina Tilles, Esq.  
California Coastal Commission  
South Central Coast Area  
89 South California Street, Suite 200  
Ventura, California 93001

December 27, 2000

RECEIVED  
DEC 28 2000  
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Re: Application No. 4-99-267

Dear Ms Tilles:

In response to your letter of October 16, 2000, we are hereby submitting the following items which we believe are the final items you requested in support of our application:

- (1) Section VIII, Page 8 signed to include Mr. Rosenthal as an authorized agent in addition to our attorney Mr. Alan Block, previously indicated.
- (2) Two (2) sets of revised project site plans prepared by West Coast Geotechnical Associates/Liston Associates to include the remaining rock and concrete wall inadvertently not included on the previous plans drawn by the engineering firm.
- (3) A reduced set of these legible drawings to 8 ½ by 11 inches in size based on these latest drawings.
- (4) Another 8 ½ by 11 inch copy of the oak trees and riparian cover in the vicinity of the stream and the areas on which walls and benches were constructed. These have previously been provided to you as part of our submission on October 11, 2000, both in full size as well as 8 ½ by 11 inch version. The oak trees were surveyed by a geodetic technician who retired from the Federal government after over 35 years of service performing precision surveying. The canopies of these trees were added to the maps based on best estimates and measurements. Subsequently, based on correspondence on October 25, 2000 from our attorney, Mr. Alan Block indicated he spoke with you and you again confirmed that the Commission is only requesting the riparian oak tree canopy along the creek. To obtain independent validation that our maps were complete and adequate, we forwarded copies to Ms Kay Greeley, who is an oak tree expert and advisor relied on by the City of Agoura Hills and other communities. Ms Greeley had previously visited the site at 549 Live Oak Circle, and on December 12, 2000, she indicated that the maps we had prepared were detailed and good representations of the oak canopy by contemporary standards. Also, the County of Los Angeles Fire Department in a July 13, 2000 letter to you had previously determined that a separate Oak Tree Permit from the County should not be required.
- (5) Copies of the County of Los Angeles Department of Public Works Land Development Division "Geologic Review Sheet" dated October 3, 2000 and "Soils Engineering Review Sheet" dated October 16, 2000. These replace the preliminary sheet previously provided to you on October 11<sup>th</sup>.
- (6) In response to items in (5) above, we are providing updated findings on the structural integrity of the walls and benches prepared by Liston Associates/West Coast Geotechnical Associates. It is their conclusion that the walls and benches are structurally sound for their intended purpose, which is to provide access to view and enjoy the natural surroundings, and to protect the oak tree near the stream from destruction through continued erosion.

We trust that these items now finally complete all outstanding items you requested as part of the submission of our application.

Very truly yours,

Copy to: Alan Block, Esq.

*Sheila R. Rosenthal*  
*Alan Block*

EXHIBIT 23

CDP 4-99-267 (Rosenthal)

Letter from Applicant-12/27/00



LAW OFFICES

**ALAN ROBERT BLOCK**

A PROFESSIONAL CORPORATION

1901 AVENUE OF THE STARS, SUITE 1610  
LOS ANGELES, CALIFORNIA 90067-6001

E-MAIL alanblock@pacbell.net  
TELEPHONE (310) 552-3336  
TELEFAX (310) 552-1850

ALAN ROBERT BLOCK  
OF COUNSEL  
MICHAEL N. FRIEDMAN

OF COUNSEL  
MOSS, LEVITT & MANDELL, LLP

April 6, 2001

VIA FAX & FIRST CLASS MAIL

California Coastal Commission  
South Central Coast Area  
89 South California Street, 2nd Floor  
Ventura, CA. 93001

Attention: Jack Ainsworth

Re: CDP Application No. 4-99-267 (Rosenthal)

Address: 549 Live Oak Circle, Calabasas,  
County of Los Angeles

Dear Jack:

As you will recall, the application involves the "after the fact" request for the artistic stone benches, steps, (three foot) retaining wall, and pathway on the subject property along this portion of Cold Creek.

The applicant constructed the stone benches, steps, retaining wall, and pathway after discussing the proposed improvements with County Building and Safety personnel and being advised that a CDP would not be necessary. The applicant, property owner, is an artist who merely visits the site for her artistic use. At the present time no further development is proposed.

Enclosed please find the County approval in concept regarding the above captioned CDP application. As you can see the County is not requiring Environmental Review Board or further approval. In addition, as evidenced by the attached letter from the Fire Department, dated July 30, 2000, the County believes that the small retaining in the stream bed constructed by the applicant actually saved the oak tree and provided structural integrity. The County is not requiring an Oak Tree permit.

In light of the fact that the applicant has repeatedly attempted to work with Sabrina in order to have her application deemed filed, it would be greatly appreciated if you could review

EXHIBIT 24

CDP 4-99-267 (Rosenthal)

Letter from Alan Block-04/06/01

Mr. Jack Ainsworth  
Re: CDP Application No. 4-99-267 (Rosenthal)  
April 6, 2001

Page 2

the file in order that it be deemed filed. At present, I believe the only document missing is a full oak tree canopy report, which the applicant believes she has complied with.

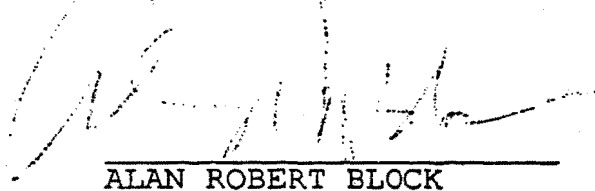
It is my hope that we can arrange a meaningful meeting on site in order to discuss a reasonable resolution which would permit both retention of the improvements, as well as mitigation, if necessary.

I look forward to discussing this matter with you at your earliest convenience.

Thank you for your anticipated courtesy and cooperation.

Very truly yours,

LAW OFFICES OF  
ALAN ROBERT BLOCK  
A Professional Corporation



ALAN ROBERT BLOCK

ARB:aw  
Enclosures

cc: Sheila Rosenthal

LAW OFFICES

# ALAN ROBERT BLOCK

A PROFESSIONAL CORPORATION

1901 AVENUE OF THE STARS, SUITE 1610  
LOS ANGELES, CALIFORNIA 90067-6001

E-MAIL [alanblock@pacbell.net](mailto:alanblock@pacbell.net)  
TELEPHONE (310) 552-3336  
TELEFAX (310) 552-1850

ALAN ROBERT BLOCK

OF COUNSEL  
MICHAEL N. FRIEDMAN

OF COUNSEL  
MOSS, LEVITT & MANDELL, LLP

May 8, 2001

California Coastal Commission  
South Central Coast Area  
89 South California Street, 2nd Floor  
Ventura, CA. 93001

MAY 14 2001

THE CALIFORNIA COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Attention: Jack Ainsworth

Re: CDP Application No. 4-99-267 (Rosenthal)

Address: 549 Live Oak Circle, Calabasas,  
County of Los Angeles

Dear Jack:

I am enclosing for your review a computer rendition of what the (three foot) retaining wall will look like if it can be completed, colored and landscaped.

The applicant has reasonably responded to every request of staff. We believe the application should be deemed filed and scheduled for hearing.

As you will recall, the application involves only the artistic stone benches, steps, (three foot) retaining wall, and pathway on the subject property along this portion of Cold Creek.

The applicant constructed the stone benches, steps, retaining wall, and pathway after discussing the proposed improvements with County Building and Safety personnel and being advised that a CDP would not be necessary. The applicant, property owner, is an artist who merely visits the site for her artistic use. At the present time there is no further development proposed.

It is my hope that we can arrange a meaningful meeting on site in order to discuss a reasonable resolution which would permit both retention of the improvements, as well as mitigation, if necessary.

EXHIBIT 25

CDP 4-99-267 (Rosenthal)

Letter from Alan Block-05/08/01

Mr. Jack Ainsworth

Re: CDP Application No. 4-99-267 (Rosenthal)

May 8, 2001

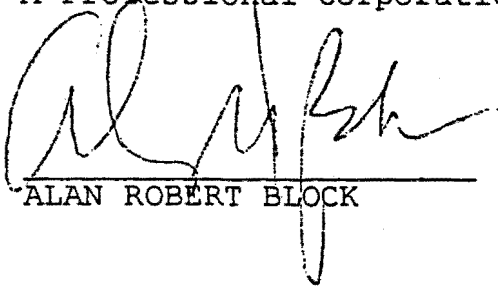
Page 2

I look forward to discussing this matter with you at your earliest convenience.

Thank you for your anticipated courtesy and cooperation.

Very truly yours,

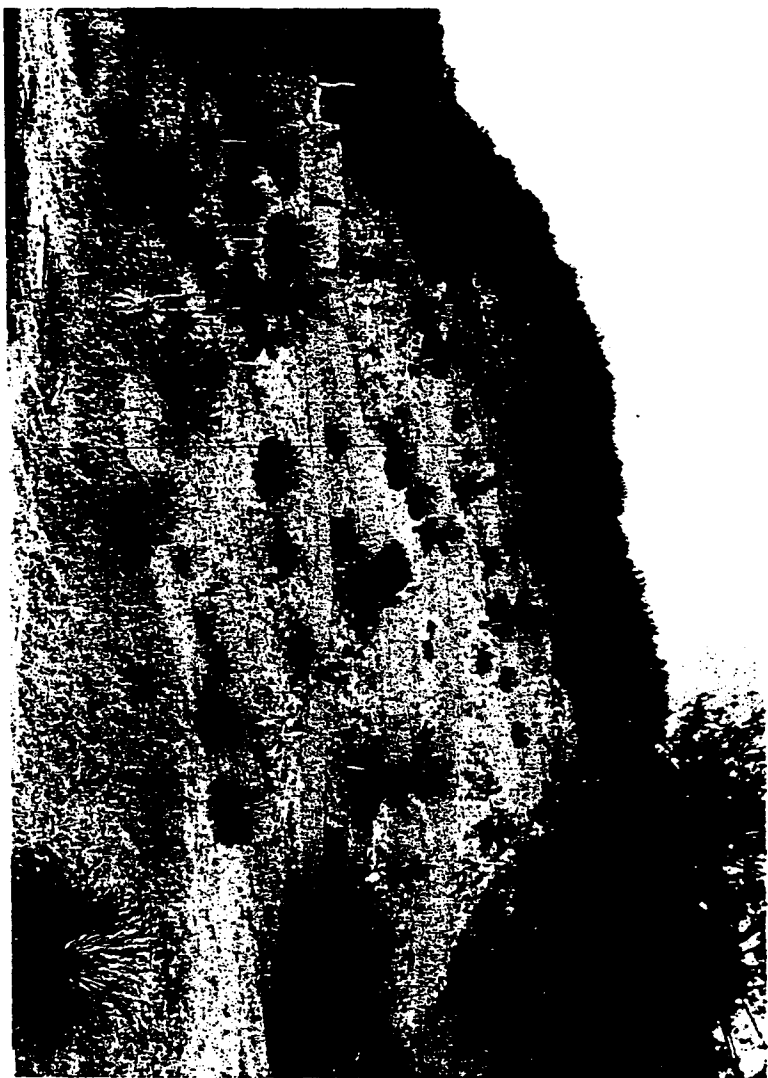
LAW OFFICES OF  
ALAN ROBERT BLOCK  
A Professional Corporation



ALAN ROBERT BLOCK

ARB:aw  
Enclosure

cc: Sheila Rosenthal



RECEIVED

MAY 14 2001

CALIFORNIA  
SPECIAL COMMISSION  
DISTRICT

Ms. Sabrina Haswell,  
Coastal Program Analyst  
California Coastal Commission, So. Central Coast Area  
89 So. California St., Suite 200  
Ventura, Calif. 93001

November 1, 2001

RECEIVED  
DEC 11 2001  
CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Re: CDP Application No. 4-99-267, 549 Live Oak Circle Drive,  
Calabasas, Los Angeles County, Calif.  
(Plot Plan 20785)

Dear Ms. Haswell:

Enclosed please find the following items in response to your letter dated July 30, 2001. This represents our fourth submission of materials to the Coastal Commission for approval of footpaths, retaining walls, benches and steps since the submission on December 2, 1999. As you're aware, this process has been very long and repetitive, especially considering the purpose and magnitude of work performed on the land. You may recall that Sheila purchased the land solely to enjoy the natural beauty, and that all of the "development" on the land was either for the purpose of safely and peacefully viewing the same natural beauty, or was built to save and preserve the large, beautiful oak that had its root structure badly undermined and exposed at the creek edge. Nevertheless, we have satisfied the additional requests in good faith, and trust that this submission will finally satisfy all of the Coastal Commission requirements. The items addressed follow your list of six from your letter of July 30, 2001.

1) Draft of minutes of the Environmental Review Board (ERB) meeting of September 17, 2001. Dr. Koutnik made a first-hand visit to the site on August 23, 2001 which you declined to participate in. Based on his visit to all of the development coupled with your request, the issue was placed on the agenda, and discussed during the Environmental Review Board (ERB) meeting on September 17, 2001. A draft of the minutes from this meeting is provided. As you will see, the ERB staff made three recommendations:

(a) Plant indigenous natives along the wall.

(b) Contact the Resource Conservation District of the Santa Monica Mountains for stream bank stabilization recommendations so we can further preserve the oaks along the bank. We have contacted the district, and have been reviewing the material they provided to us (received on October 20, 2001).

(c) Use natural earth-tone colors for the wall.

You may recall that we had wanted to do the things recommended in (a) and (c) when we first started the process, and now would very much like to bring these items to fruition as soon as possible.

2) Two full-sized sets of plans showing oak trees, their drip lines, and all development proposed on the site, including rock work and concrete work and development in or adjacent to the stream. The oak trees and canopies have been superimposed on the latest plans updated on March 27, 2001 to label those walls/benches you previously said were not included. These updated plans (Plot Plan 20785) have been reviewed by the Regional Planning Department who provided an amendment affixed to the Plot Plan giving approval for the stairway and retaining walls, stating that no Oak Tree Permit will be required, determined that there have been no negative impacts on the trees from the development, and indicates that this approval does not change the Approval in Concept previously granted on October 5, 2000. The date of this amendment and approval is October 29, 2001.

EXHIBIT 26

CDP 4-99-267 (Rosenthal)

Letter from Applicant-11/01/01

3) The revised "Approval in Concept" (as described above) by the County Regional Planning Department, affixed to the Plot Plan.

4) One reduced 8½ x 11 inch copy of the above required plans.

5) An oak tree report for the proposed development that addresses impacts of the development on the on-site oak trees. This was provided by consulting arborist Cy Carlberg on September 15, 2001 following her visit to the site. Please note that she concluded the oak tree resource is intact and performing well, and that if the trees had been negatively impacted, they would undoubtedly be showing signs of decline.

6) An updated report from the geotechnical engineer addressing all of the proposed development, including the stone and wood stairway from the creek bank down to the creek bed and all walls/benches along the creek. This was previously supplied to you in the form of their April 10, 2001 updated report, but a new letter has been prepared in response to your letter of July 30<sup>th</sup>.

Though not specifically included in your letter, we have also honored a prior verbal request to again have the Forester visit the site. They had previously provided to you a letter dated July 13, 2000, which addressed the beneficial aspect of the stone wall built by us around the endangered oak near the stream. As you know this wall was built solely to preserve it, and protect its badly exposed root structure from further erosion. On September 10, 2001, Deputy Forester Jon Baker made a second Department visit to the site to evaluate the impacts to all of the oaks. In their letter to you (enclosed) dated September 17, 2001, they described the natural material and appearance of the steps, and that they have not presented any damage to the trees. Nor has there been any adverse impact from the bench/retaining walls. Their only recommendation was to remove dead wood and perform yearly maintenance to improve the health and vigor of the oak stand.

We trust that these materials, provided in good faith, have finally satisfied your requirements for documentation, and we hope you will approve our application for Coastal Commission approval quickly.

Sincerely,

*Sheila R. Rosenthal*  
Sheila R. Rosenthal

*Jay Rosenthal*  
Jay Rosenthal

Cc: Steve Hudson, Enforcement Supervisor  
Dr. D. Koutnik, Dept of Regional Planning/ERB  
Alan Robert Block, Esq.  
Melanie Hale, Coastal Commission  
John Ainsworth, Coastal Commission  
Abe Doherty, Coastal Commission  
Assemblywoman Fran Pavley  
Cy Carlberg

December 11, 2001

Ms Sabrina Haswell,  
Coastal Program Analyst  
California Coastal Commission, South Central Coast Area  
89 South California Street, Suite 200  
Ventura, California 93001

Re: CDP Application No. 4-99-267, 549 Live Oak Circle Drive  
Calabasas, Los Angeles County, California  
(Plot Plan 20785)

Dear Ms. Haswell:

We were informed today during our phone call to Mr. Abe Doherty that you are requesting a final (approved) Minutes of the Environmental Review Board (ERB) Meeting of September 17, 2001 during which the ERB evaluated our proposed development as "Consistent" with the recommendations that (1) Indigenous natives be planted along the wall, (2) the Resources Conservation District of the Santa Monica Mountains be contacted for stream bank stabilization recommendations, and (3) Natural earth-tone colors be applied to the wall.

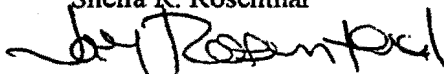
We contacted the Regional Planning staff today and they forwarded a copy, by fax, of the final meeting Minutes. Accordingly, we are sending you a copy of this fax by mail, as well as by fax, to replace the Draft Meeting Minutes provided to you earlier with our resubmission dated November 1, 2001.

Regarding the ERB's recommendations, we have already performed item (2) (communicating with the Resources Conservation District), and would like to proceed with items (1) and (3) as soon as possible.

Sincerely,



Sheila R. Rosenthal



Jay Rosenthal

Cc:  
Abe Doherty, Coastal Commission  
Daryl Koutnik, PhD, Regional Planning/ERB  
Assemblywoman Fran Pavley

RECEIVED

DEC 13 2001

EXHIBIT 27

CDP 4-99-267 (Rosenthal)

Letter from Applicant-12/11/01



California Coastal Commission  
South Central Coast area  
89 South California Street, Suite 200  
Ventura, California 93001

January 15, 2002

RECEIVED  
JAN 15 2002

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Re: Application No. 4-99-267 (549 Live Oak Circle Drive, Calabasas, CA 91302)

Dear Coastal Commission Members:

We are writing you this letter to request approval of our application for a Coastal Commission permit for the 3-foot retaining walls, adjacent dirt foot-paths, stone covered benches, stone-covered retaining wall to protect an endangered oak from streambed erosion, a stone and wood stairway to the stream from the high bank above, and irrigation faucets on the hill to maintain health and growth of natives while suppressing fire potential. This matter is scheduled for your consideration at the February 8, 2002 Coastal Commission hearing in San Diego, and has been pending since late 1999. Every good-faith effort has been made over a prolonged period to satisfy Coastal Commission requests, and necessary approvals have been obtained from other regulatory bodies that we were directed to by the Coastal Commission as will be described in the following:

1. History, Background and Reason for this after-the-fact request

Sheila is an artist, ceramicist, and as much of a naturalist as anyone I have ever known. Overwhelmed by the natural beauty and serenity of the land she accidentally came upon in 1993, she invested everything she inherited from her mother, also a nature lover, to purchase the property in Monte Nido. Her dream was, and still is, to be able to walk along paths that scale the hill overlooking the oak trees, and rest on artistically created benches to admire the surrounding mountains and hills. Besides are clusters of oaks that shelter Cold Creek as it runs through or along the length of the property. We love the opportunity to listen to the frogs throughout the spring and early summer, and we needed a way to safely scale the steep embankment to the creek which is on her land. So we envisioned a rustic stone and wood stairway that we could use to go up and down without falling or grabbing on to vegetation.

During wet winters, the creek runs very high, and we saw how badly undermined and exposed the root structure was on several of the oaks that border the stream. One big tree in particular seemed very much in danger, and Sheila wanted to protect it from eventual but certain destruction. Nothing was planned, or done, that was not motivated solely by the desire to view, appreciate and preserve the natural wonder of the land.

Several trips were made to the Building and Safety office to inquire of what would be needed in the way of approvals to construct the walls and viewing spots. It was our understanding from what was explained that as long as the walls were 3 feet or less, they could be free-standing and not require permits. They even sketched a zig-zag path to show how the path and retaining walls could be constructed to maintain and support the paths up the steep hill. While they suggested that the Coastal Commission could be contacted for further guidance, we had no indication that this was a mandatory step, and so Sheila naively set out to build her walls, benches and steps to view her paradise, thinking that all was fine as long as she followed the guidelines.

After also being notified by both the Fire department and neighbors that the high grass and brush needed to be cleared annually for up to 200 feet from others' homes, we did so, and then took the opportunity to plan and build a path with benches up the hill as had been described by the Building and safety office. A stone mason contractor was hired to build the walls, safely, strongly, but with special attention to aesthetic appearance and blending in to the naturalness of the surroundings. It was planned to at least partially cover the walls on the

EXHIBIT 28

CDP 4-99-267 (Rosenthal)

Letter from Applicant-1/15/02

hill with natural stone, and to ragwash the walls on the hill with natural Earth-tone colors prior to planting native vegetation to further shield the walls from view. This has never been allowed to be completed because we were subsequently ordered to 'not touch anything'.

## 2. The Violation, and Why it has Taken So Long

Apparently in response to complaints from a couple of disgruntled neighbors, who themselves were used to using as their own, what is now Sheila's property, our lack of permits set in motion the process we have been mired in the last few years. During this process, we have struggled to understand, and comply with each step. Initially, the Coastal Commission staff had suggested we apply for an exemption, but this was changed to our need to submit to the entire application process. Many thousands of dollars in borrowed money have been spent on permits, legal fees and studies as we attempted to satisfy the Coastal Commission's requests. Every time we thought we had completed the necessary items, or had amplified the information provided in our initial submission in 1999, we were presented with lists of new, or in some cases what appeared to be redundant requests for materials already provided. Early on, our concentration was somewhat slowed down as we dealt with a serious medical problem in the family. But we always took the Coastal Commission requests seriously, and tried our best to comply to the point where it has also affected Sheila's health as her dreams of enjoying her beautiful land have faded.

All the agencies and offices we have had to deal with all believe in, and support the inherent Coastal Commission goal of protecting our environment (as we do), but so many have also expressed surprise, and felt that in this case, the Coastal Commission was being unreasonable and unequal in its treatment of us and constant quest for more and more updates and studies, etc. Nearly everyone, and especially ourselves, realize the irony of being thwarted by an environmental organization from being able to observe, appreciate and preserve the natural wonders that has been Sheila's total motivation from the start.

When the walls were constructed on the hill, an unintended and unfortunate result was that the walls could be seen from the distant Las Virgenes Road scenic highway. Even though they are visible only at a brief curve in the road for an instant where no parking is permitted anytime, we felt terrible when this was pointed out to us over two years ago. We asked the Coastal Commission staff to be allowed to complete the rag-wash painting, and plant native vegetation to cover up the view of the walls which was the original plan all along, but we were repeatedly told 'no, don't touch anything'. And so it has remained this way for so long when it could have been expeditiously taken care of. We're sure the Coastal Commission staff had good intentions, but the result has been that the one thing we did that has a negative impact on one spot of the highway, could have been eliminated a long time ago as was our desire.

It should be noted that when the Environmental Review Board met and approved our developments, one of the few suggestions they made was to paint the walls with Earth tones, and plant native vegetation along the walls. We are asking again to please be allowed to make this improvement. Once the painting and planting is completed, the walls should not be visible to anyone driving by on Las Virgenes Road. We are attaching a color print of a photo modified by computer rendering showing the walls with a more earthy color. Please note that the picture doesn't even show the benefits that adding native plants will have. They will further cover the walls from view.

In addition, it is our plans, some day, to have a home built there in the flat area in front of the hill. When this is done, it will totally eliminate any chance of a wall being seen from the distant highway. Also attached, is a copy of the Coastal Commission Permit granted to the previous owner of the property who had at that time planned to build a house in that location.

Regarding the disputed walls, steps and benches near the stream, virtually every agency or entity we dealt with either determined there was no negative impact on the environment, or in several cases felt that the wall built to preserve the oak was in fact beneficial to the beautiful tree, -- which again was the *only* motivation for its construction.

Although the Los Angeles County Department of Regional Planning had originally concluded over a year ago that a full review of our development by the Environmental Review Board (ERB) was unnecessary, at the insistence of the Coastal Commission staff, we did go through the process. In an effort to provide the ERB with an opportunity to directly and objectively review the development with their own eyes, we invited Dr. Daryl Koutnik to visit the land late last summer, and inspect the premises. We thought it was also a great opportunity to have the Coastal Commission staff meet with the ERB on site to discuss and resolve their concerns, and we invited and requested that the Coastal Commission also participate. However, the staff declined and said they had already been to the land once, and no further visit was desired (although subsequently, they just made a recent visit there alone to take photographs).

### 3. What Steps of Compliance Have We Performed, and Approvals Obtained?

In our good-faith efforts, we have performed the following:

- (1) Submitted, and re-submitted our application to the Coastal Commission four times.
- (2) Had a reputable engineering firm perform structural studies, including on-site visits, and draw up formal plans. At the request of the Coastal Commission, these plans have been updated or additional correspondence generated 5 times.
- (3) Obtained from the engineering company two reports, -- one on geotechnical aspects, and one on structural engineering aspects. These reports have been updated several times at Coastal commission request, and continue to conclude that the development is structurally safe and sound for the purpose for which they were constructed, and that no modification is required if they are used for the purpose indicated, (walking and viewing the natural surroundings).
- (4) Obtained an approval and Soils Engineering Review Sheet from Los Angeles County on Aug 3, 2000, reissued on October 16, 2000.
- (5) Obtained an approval and Geological review Sheet from Los Angeles County on July 26, 2000, reissued on October 3, 2000.
- (6) Obtained an "Approval in Concept" from the Los Angeles Department of Regional Planning on October 5, 2000, and when this was subsequently challenged by Coastal Commission staff,
- (7) Obtained an "Approval in Concept" from Los Angeles Department of Regional Planning as amended (October 25, 2001).
- (8) Performed an Oak Tree survey using a precision geodetic technician (retired after 38 years of federal experience) using precision surveying equipment.
- (9) Had an on-site visit from Fish and Game office who concluded that there was no serious violation in the creek bed or they would have written it up. They relayed their findings verbally to the Coastal Commission.
- (10) Had an on-site visit from the County Forester to impact the oak in the stream bed area with the protective wall around it, and other oak resources on the property. They concluded that the wall around the oak tree was beneficial, and communicated this to the Coastal Commission staff on July 13, 2000.
- (11) Due to a subsequent challenge by the Coastal Commission staff, the Forester again went to the site and concluded in a letter of September 17, 2001 to the Coastal Commission staff that not only was the wall around the oak beneficial, but that the other oak resources were in good shape and not adversely impacted by the other developments (walls and benches). Their only suggestions were to clear dead wood, and perform annual maintenance on the oaks.

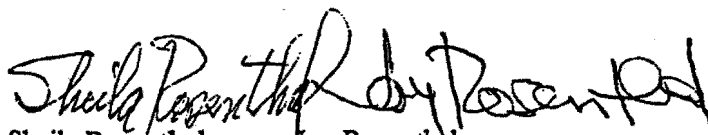
- (12) Obtained an Oak Tree Report from a certified arborist dated September 15, 2001 which also concluded that the oak tree resource was intact and performing well, that virtually no impacts to the trees were noted, and that the tree with the protective wall may benefit structurally and physiologically from the soil placed around the tree's root structure. The arborist did suggest that we might do minimal grading by hand to assure positive drainage away from the trunk. Another certified arborist who was out of town and unavailable when we needed to submit a report had also previously been to the site and also found no adverse impacts.
- (13) Even though the Los Angeles Department of Regional Planning ERB had previously determined that an ERB hearing and evaluation was unnecessary, we had an on-site visit to the property and evaluation by Dr. Daryl Koutnik, Environmental Review Board because the Coastal Commission was still pursuing this matter.
- (14) An Environmental Review Board hearing was convened on September 17, 2001 which determined that the development was "consistent" with their requirements and approved, but made the following recommendations:
- (a) Plant indigenous natives along the wall.
  - (b) Contact the resource Conservation District of the Santa Monica Mountains for stream bank stabilization recommendations.
  - (c) Use natural Earth-tone colors for the wall.
- Please note that we have wanted and planned to do items (a) and (c) but were prevented from doing so by Coastal Commission staff.
- (15) We have contacted the Resource Conservation District of the Santa Monica Mountains and they have provided us with information and recommendations on stream bank stabilization.

4. What We Are Requesting

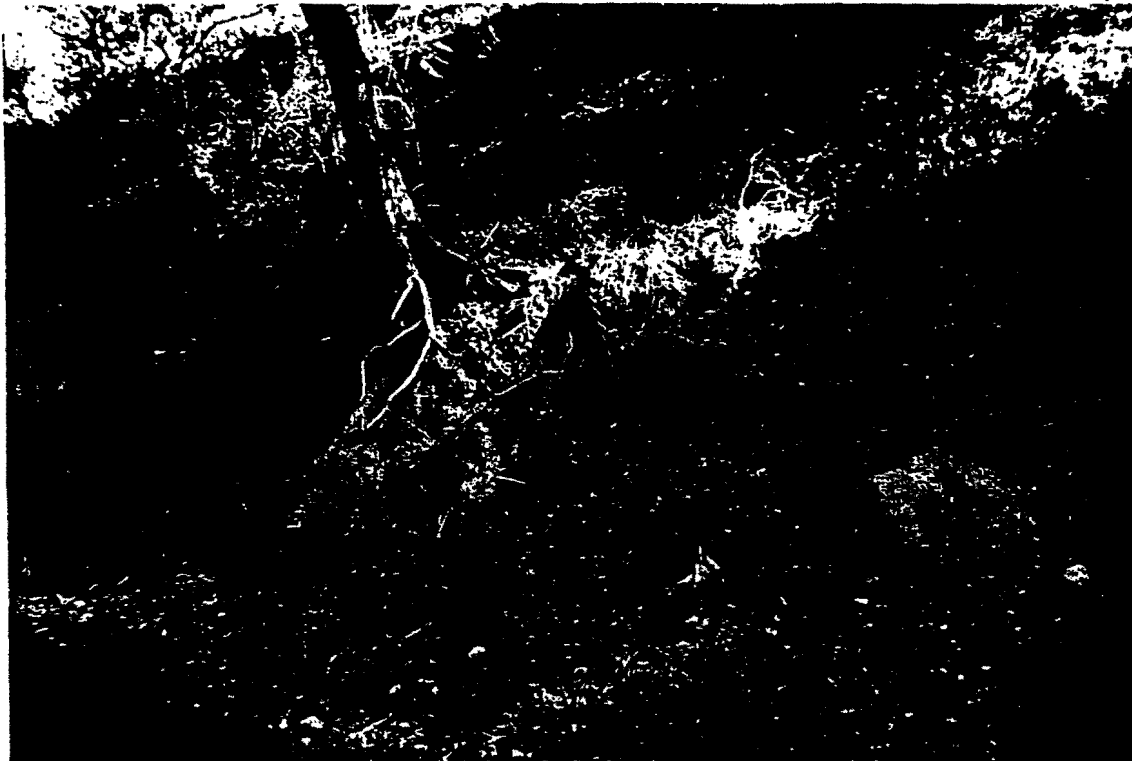
We hope you will agree that over this protracted period, we have made every good-faith effort to satisfy the Coastal Commission requests, even on those items we disagreed with or felt were redundant. Both Sheila and I are true Nature enthusiasts, -- that's the only reason why Sheila bought the land in the first place. We also appreciate and respect the Coastal Commission's desire to maintain our beautiful surroundings. We regret not having gone to the Coastal Commission initially due to our naivety, and respectfully request your approval of our application for a Coastal Commission permit so that the walls can be completed, aesthetically painted with Earth tones, and planted with natives to eliminate their sight as recommended by the ERB and others. This will finally end Sheila's ordeal, and permit her to pursue her dream of enjoying the natural wonder of her land.

Thank you for your consideration.

Very truly yours,

  
Sheila Rosenthal      Jay Rosenthal  
5528 Fairview Place  
Agoura Hills, California 91301  
(818) 991-0899

Copy to:  
Alan Block, Esq.  
Assemblywoman Fran Pavley



EXAMPLES OF ROOT EXPOSURE & UNDERMINING OF OAKS NEAR THE CREEK BANK THAT LED TO EFFORT TO PROTECT BIG OAK IN STREAM BED WITH PROTECTIVE WALL & SOIL BACK FILL. EFFORT HAS SO FAR PRESERVED OAK EVEN IN HIGH WATER.



EXHIBIT 29

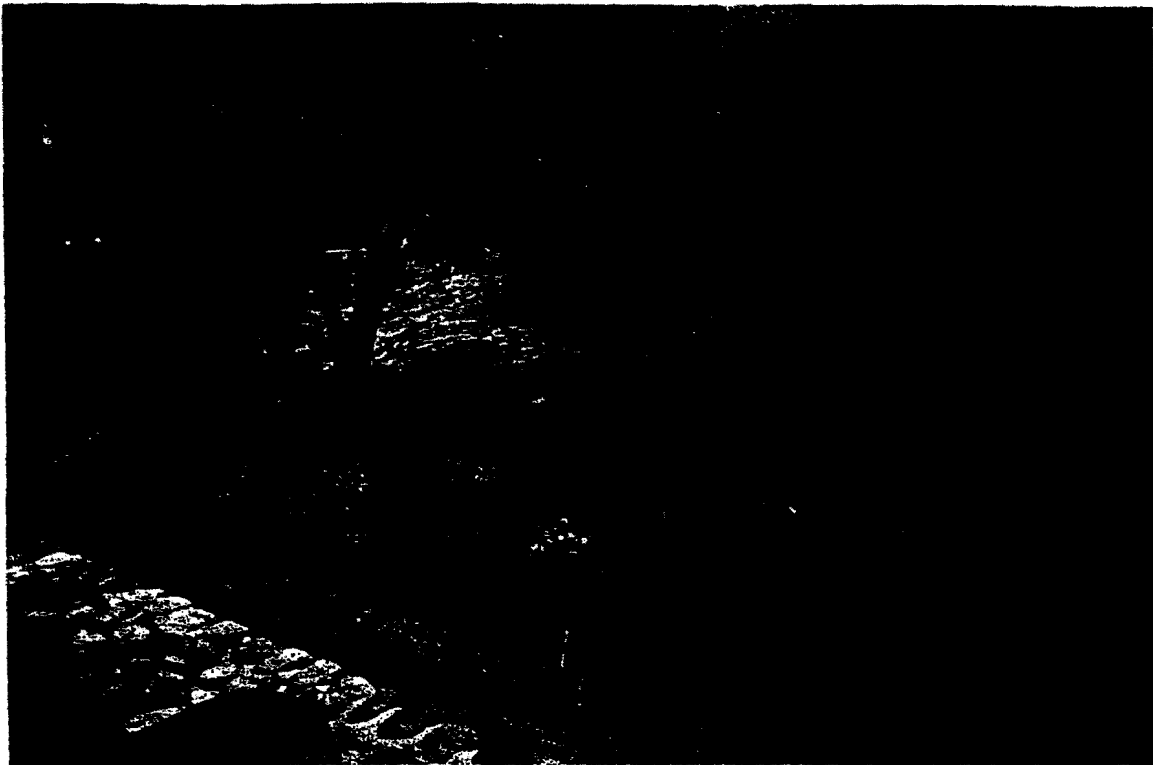
CDP 4-99-267 (Rosenthal)

Photographs submitted by Applicant

INLET

JAN 15 2002

CALIFORNIA  
COASTAL COMMISSION



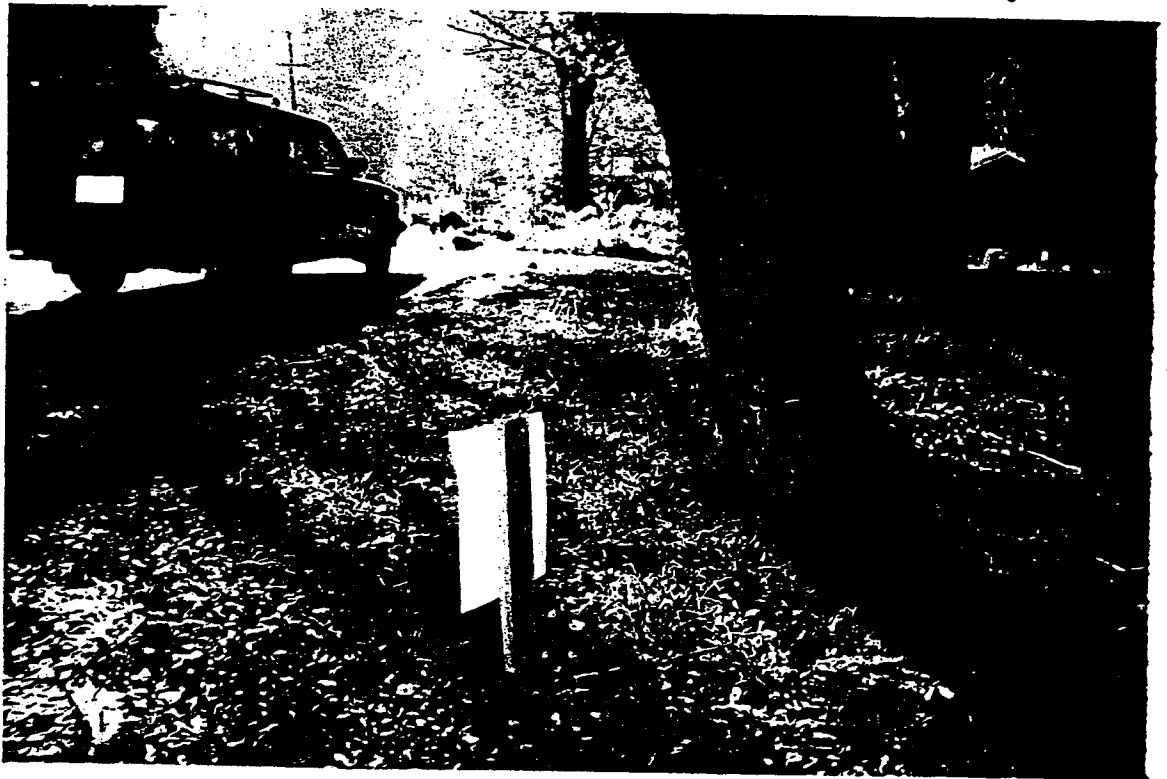
THE PROTECTIVE WALL SAVES THE BIG OAK TREE FROM FURTHER UNDERMINING IN HIGH WATER, AS INTENDED. THE ONLY PURPOSE WAS TO PRESERVE THE MAGNIFICENT OAK.



EVEN LITTLE BABY OAKS HAD PROTECTIVE BRICKS PLACED AROUND THEM TO PRESERVE THEM FROM UNADVERTENT DAMAGE.

UNCLASSIFIED  
JAN 15 2002

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT



RECEIVED

JAN 15 2002

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

CALIFORNIA COASTAL COMMISSION  
SOUTH COAST REGIONAL COMMISSION  
666 E. OCEAN BOULEVARD, SUITE 3107  
P.O. BOX 1450  
LONG BEACH, CALIFORNIA 90801  
(213) 590-5071 (714) 846-0648

RECEIVED



JAN 15 2002

COASTAL DEVELOPMENT PERMIT

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Application Number: P-8-16-78-3892

Name of Applicant: Robert S. Keowen

11140 North Trail, San Fernando, CA 91342

Permit Type: ☐ Emergency  
☒ Standard  
☐ Administrative

Development Location: 547 Live Oak Circle Drive, Calabasas, CA

Development Description: Construction of a two-story, four-bedroom single-family dwelling with attached two-car garage 25'4" above centerline of frontage road with conditions.

I. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

See attached Page 3 for conditions.

EXHIBIT 30

CDP 4-99-267 (Rosenthal)

Copy of Part of CDP No. P-8-16-78-3892 Submitted by Applicant

Condition/s Met On

By

dw



The South Coast Commission finds that:

A. The proposed development, or as conditioned;

1. The developments are in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976.
2. If located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.
3. There are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available for imposition by this Commission under the power granted to it which would substantially lessen any significant adverse impact that the development, as finally proposed may have on the environment.

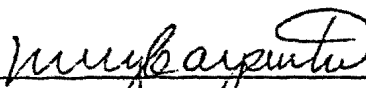
III. Whereas, at a public hearing, held on September 25, 1978 at Torrance by a unanimous ~~ex~~ vote permit application number P-8-16-78-3892 is approved.

IV. This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on April 12, 1979.

  
M. J. Carpenter  
Executive Director

\_\_\_\_\_, permittee/agent, hereby acknowledge receipt of Permit Number P-8-16-78-3892 and have accepted its contents.

CALIFORNIA COASTAL COMMISSION  
SOUTH COAST REGIONAL COMMISSION  
666 E. OCEAN BOULEVARD, SUITE 3107  
P.O. BOX 1450  
LONG BEACH, CALIFORNIA 90801  
(213) 590-5071 (714) 846-0648

COASTAL DEVELOPMENT PERMIT  
**FILE COPY**

Application Number: P-8-16-78-3892  
Name of Applicant: Robert S. Keowen  
11140 North Trail, San Fernando, CA 91342

Permit Type: ☐ Emergency  
☒ Standard  
☐ Administrative

Development Location: 547 Live Oak Circle Drive, Calabasas, CA

Development Description: Construction of a two-story, four-bedroom single-  
family dwelling with attached two-car garage 25'4" above centerline of  
frontage road with conditions.

I. The proposed development is subject to the following conditions imposed pursuant to the California Coastal Act of 1976:

See attached Page 3 for conditions.

Condition/s Met On \_\_\_\_\_

EXHIBIT 31

CDP 4-99-267 (Rosenthal)

CDP No. P-8-16-78-3892 (Keowen)

dw

Page 1 of 3

II. The South Coast Commission finds that:

A. The proposed development, or as conditioned:

1. The developments are in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976.
2. If located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.
3. There are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available for imposition by this Commission under the power granted to it which would substantially lessen any significant adverse impact that the development, as finally proposed may have on the environment.

III. Whereas, at a public hearing, held on September 25, 1978 at Torrance by a unanimous ~~ex~~ vote permit application number P-8-16-78-3892 is approved.

This permit may not be assigned to another person except as provided in Section 13170, Coastal Commission Rules and Regulations.

V. This permit shall not become effective until a COPY of this permit has been returned to the Regional Commission, upon which copy all permittees or agent(s) authorized in the permit application have acknowledged that they have received a copy of the permit and have accepted its contents.

VI. Work authorized by this permit must commence within two years from the date of the Regional Commission vote upon the application. Any extension of time of said commencement date must be applied for prior to expiration of the permit.

VII. Issued on behalf of the South Coast Regional Commission on April 12, 1979.

M. J. Carpenter  
M. J. Carpenter  
Executive Director

I. \_\_\_\_\_, permittee/agent, hereby acknowledge

receipt of Permit Number P-8-16-78-3892 and have accepted its contents.

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(signature)

cw

Conditions for P-78-3892

Prior to issuance of permit, applicant shall submit:

1. revised plans which indicate that no development shall be located within 50' from the bank of the riparian area (Cold Creek).
2. a deed restriction for recording that records the geology report and soils report as a part of the chain of title to the property.
3. a deed restriction for recording prohibiting any development or riparian vegetation removal within 50' from the bank of Cold Creek to protect habitat value.
4. plans for a drainage system, that shall be constructed and maintained to dispose roof and surface runoff into gravel filled wells or other retention devices that maintain a rate of discharge at the level that existed prior to development; the use of overland storm channels is not permitted.
5. revised plans indicating that the structure will be located in such area so as to minimize landform alterations.
6. a deed restriction for recording dedicating a 10 foot wide strip on the east side bank of Cold Creek along the entire length of property (north to south) on which a present trail exists, to any public agency, and
7. a deed restriction for recording noting that land divisions on the subject site are not permitted until the LCP permits a higher intensity use.

\* \* \*

## Recorded Deed Restriction

RECORDING REQUESTED BY AIR MAIL TO  
NAME CCC/SCR  
STREET PO Box 1450  
CITY Long Beach, CA 90801

RECORDED IN OFFICIAL RECORDS  
OF LOS ANGELES COUNTY, CA  
27 MIN. 11 A.M. APR 4 1979  
Recorder's Office

CALIFORNIA COASTAL COMMISSION  
SOUTH COAST REGION  
DEED RESTRICTIONS

DEC 56 - 1

WHEREAS, pursuant to the California Coastal Act of 1976, Sections 30000 through 30900 of the California Public Resources Code, the Permittee has made Application No. P-3892 to the California Coastal Commission, South Coast Region, for the issuance of a permit for the construction of two story four bedroom single family dwelling with attached two car garage, 25 feet, 4 inches above average finished grade and 25 feet, 4 inches above center line of frontage road.

on certain real property owned: ~~XXXXXXXXXX~~ / (Other - state permitted's  
interest in subject property)

WHEREAS, said Commission has determined to grant said application and issue a permit for the construction of two story four bedroom single family dwelling with attached two car garage, 25 feet, 4 inches above average finished grade and 25 feet, 4 inches above center line of frontage road.

on said real property, subject to the following conditions, imposed for the benefit of the Public, and without agreement to which by Permittee, said Commission could not grant the permit:

FILL ) Deed restriction for recording dedicating a 10 foot wide  
IN ) strip on the east side bank of Cold Creek along the entire  
CONDITIONS ) length of property (north to south) on which a present  
A. ) trail exists, to any public agency.  
 )

NOW, THEREFORE, in consideration of the issuance of said development permit, and of the benefit conferred thereby on the subject property, Permittee agrees that there shall be, and hereby is, created the following restriction on the use and enjoyment of said property, to be attached to and become a part of the deed to the property: See exhibit A attached hereto and made a part hereof.

I have read the condition and agree to it.

Permittee acknowledges that any violation of this deed restriction shall be constitute a violation of the permit and shall subject Permittee or any other violator thereof to civil action for violation of the terms of said permit and of the Coastal Act of 1976. Said deed restriction shall apply to the two story four bedroom single family dwelling with attached two car garage, (Project) 25 feet, 4 inches above average finished grade and 25 feet, 4 inches above center line of frontage road.

to be constructed/~~monodetach~~/  
(other)

on that certain real property in the City of Calabasas  
County of Los Angeles, State of California, described as:  
Lot 16 of Record of surveys, as per map recorded in Book 68, Page 22 of  
Record of surveys, in the office of the County Recorder of said County.

(Legal Description/Address of the Property)

Unless specifically modified or terminated by affirmative vote of the issuing Commission, said deed restriction shall remain in full force and effect during the period that said permit, or any modification or amendment thereof, remains effective, and during the period that the development authorized by said permit, or any modification of said development, remains in existence in or upon any part of, and thereby confers benefit upon, the real property described herein, and to that extent, said deed restriction is hereby deemed and agreed by Permittee to be a covenant running with the land, and shall bind Permittee and all his successors and assigns.

Nothing shall become payable to Permittee, nor to the successors or assigns of Permittee, for the agreement herein set forth.

Executed the date above written.

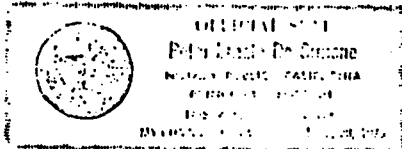
STATE OF CALIFORNIA

COUNTY OF Los Angeles } ss.

Permittee

On MARCH 12, 1979, before me, the undersigned Notary Public, personally appeared Robert S. Keowen and \_\_\_\_\_, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

Witness my hand and official seal the day and year in this certificate first above written.



Robert S. Keowen  
Notary Public, in and for the

County of Los Angeles,  
State of California.

TO BE FILLED IN BY COMMISSION \_\_\_\_\_

This is to certify that the deed restriction set forth above, dated March 12, 1979, and signed by Robert E. Keowen ~~and~~ \_\_\_\_\_ Permittee,

is hereby accepted by order of the California Coastal Commission, South Coast Region, on March 19, 1979 and said Commission consents to recordation thereof by its Executive Director, its duly authorized officer.

Date April 2, 1979

By William L. Mayer  
Chairman, California Coastal  
Commission, South Coast Region

STATE OF CALIFORNIA }  
COUNTY OF Los Angeles } ss.

On this 2nd day of April, 1979, before me, the undersigned Notary Public, personally appeared Donald E. Wilson \_\_\_\_\_, known to me to be the Chairman of the California Coastal Commission, South Coast Region, and known to me to be the person who executed the foregoing instrument on behalf of said Commission, and acknowledged to me that such Commission executed the same.

Witness my hand and official seal the day and year in the certificate first above written.



William L. Mayer  
Notary Public in and for the  
County of

Los Angeles,  
State of California.

EXHIBIT A

4

Deed restriction for 10 ft. wide strip east bank of Cold Creek along the entire length of property (No. to So.) on which a present trail exists, more specifically described as follows: an easement for a trail for horse riding over that portion of parcel 16 in the County of Los Angeles, State of California as shown on the record of survey filed in Book 68 Page 22 of record of surveys in the office of the County Recorder of said County, lying within the lines of a 10.00 foot strip of land, 5.00 feet of each side of the following described centerline:

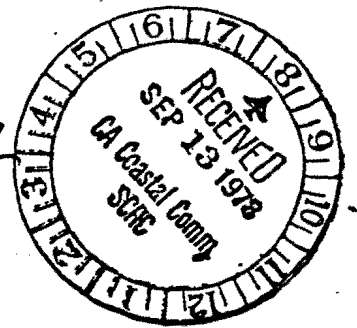
Beginning at a point on the Northeasterly line of said parcel 16, said point being a distance thereon south  $65^{\circ}52'19''$  East 23.00 feet from the most Northerly corner of said parcel 16, thence South  $27^{\circ}49'04''$  West, 40.00 feet; thence South  $2^{\circ}49'04''$  West, 172.50 feet; thence South  $50^{\circ}30'56''$  East, 30.00 feet; thence South  $1^{\circ}49'04''$  East, 107.00 feet; thence South  $21^{\circ}39'04''$  West 25.00 feet; thence South  $12^{\circ}39'04''$  West, 59.00 feet; thence South  $30^{\circ}49'04''$  West, 61.24 feet to a point on the Southwesterly line of said parcel 16 being a distance thereon South  $73^{\circ}10'27''$  East 94.63 feet from the most Westerly corner of said parcel 16.



Melvin J. Carpenter  
Executive Director  
South Coast Regional Commission  
P.O. Box 1150  
Long Beach, Ca. 90801

Agenda Item X C

Page 8 Item 5 P-3892



Re: Equestrian and hiking trail on P-3892  
Hearing September 25

September 9, 1978

Dear Mr. Carpenter:

We wish to apprise you of the hiking and riding trail that passes through the Keowen property in Monte Nido. For reference please see Monte Nido community trail map #108-158-15 (& 20) submitted by Jerry Daryea last year.

This charming little trail crosses Keowen's property at Live Oak Circle Drive, then follows an undeveloped part of Cold Creek for a quarter mile, connecting Live Oak Circle with the Malibu Meadows area of Monte Nido. Other than the street, this is the only available route for adults and children alike.

This trail is an important link in the Monte Nido community trail system that leads to major feeder trails of the Santa Monica Mountains and to the State and County Parks. It has been used for years by horsemen and neighborhood pedestrians and is, as the Keowens will soon discover, the kind of amenity that makes Monte Nido such a very special place to live.

While we do not object to the Keowens building their home on this lot, we do respectfully request that this trail be preserved for posterity.

Sincerely yours,

cc: Carl Hinderer

Some of the neighbors

Mari V. Wood

25522 Huckleberry Dr. Calabasas 91302

Shirley A. Dunge

25653 Wildwood Dr. Calabasas 91302

25374 Whittemore Dr. " "

Paula Ranney

852 Crater Lake Calabasas 91302

Ruth Besser

25678 Montevideo Dr. Calabasas 91302

Shirley Kellias

25610 Maynard Dr. Calabasas 91302

Carol Pelly

25733 Puntode Vista, Calabasas 91302

Glori Hall

844 Crater Lake Dr. Calabasas 91302

George Cavanah

1031 Mc

Pat Cavanah

1031 Mc

EXHIBIT 33

CDP 4-99-267 (Rosenthal)

09/09/78 Letters Regarding Trail

2

Melvin J. Carpenter  
Executive Director  
South Coast Regional Commission  
P.O. Box 1450  
Long Beach, Ca. 90801

Re: Equestrian and hiking trail on P-3892  
Hearing September 25

September 9, 1978

Dear Mr. Carpenter:

We wish to apprise you of the hiking and riding trail that passes through the Keowen property in Monte Nido. For reference please see Monte Nido community trail map #108-158-16 (& 20) submitted by Jerry Duryee last year.

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Sincerely yours,

cc: Carl Hinderer

Some of the neighbors

Tammy Ingram 736 Water Oak Dr Calabasas 913.  
Donald W. Wallace 1710 N. Cold Cyn Rd. Calabasas 91302  
Janet Wallace 1710 N. Cold Cyn. Rd. Calabasas 9130.  
Linda Enders 22833 Kinzie St. Chatsworth Ca 91311  
Alpine Koubel 876 Hill Oak Dr., Calabasas 91302

Melvin J. Carpenter  
Executive Director  
South Coast Regional Commission  
P.O. Box 1450  
Long Beach, Ca. 90801

Re: Equestrian and hiking trail on P-3892  
Hearing September 25

September 9, 1978

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Sincerely yours,

cc: Carl Hinderer

Some of the neighbors

*Lyle Link - 25728 Chino Rd. Calabasas 9130*  
*Red Dwyer 565 Mtn. Grn. Dr. CALABASAS 91302*  
*Chapman 975 Crater Camp Dr Calabasas*

Melvin J. Carpenter  
Executive Director  
South Coast Regional Commission  
P.O. Box 1450  
Long Beach, Ca. 90801

Re: Equestrian and hiking trail on P-3892  
Hearing September 25

September 9, 1978

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Sincerely yours,

cc: Carl Hinderer

Some of the neighbors

*Mary Miller*  
*John W. Miller*  
*Carey Miller*  
*Steve Miller*  
*Janice Miller*

550 LIVE OAK CIRCLE DR. - CHARLES  
550 Live Oak Circle Dr.  
550 Live Oak Circle Drive  
540 LIVE OAK CIRCLE DR.  
540 Live Oak Circle Dr.

Melvin J. Carpenter  
Executive Director  
South Coast Regional Commission  
P.O. Box 1450  
Long Beach, Ca. 90801

Re: Equestrian and hiking trail on P-3892  
Hearing September 25

September 9, 1978

Dear Mr. Carpenter:

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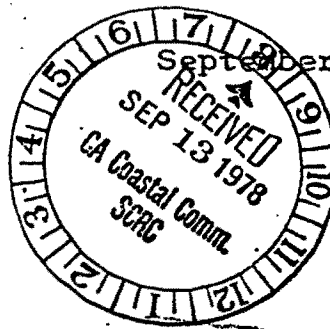
Sincerely yours,

cc: Carl Hinderer

Some of the neighbors

Stephanie Abronsen 975 Crater Camp Dr., Calabasas  
Leida Palmer 24735 Mulholland Hwy. Calabasas 913  
Anne Carson 531 Live Oak Cir Dr. Calabasas, Calif. 91312  
Charles Egger 536 Live Oak Cir Dr. Calabasas, Calif. 91302  
Jo Moeller 24683 Dry Cyn - Cold Creek Rd. Calabasas 91302  
Jeff Moeller 24683 Dry Cyn - Cold Creek Rd. Calabasas 91302  
Dick Vetter 952 CRATER CAMP DR Calabasas 91302  
Bob Moeller 24683 Dry Cyn. Cold Creek Rd. Calabasas 91302  
Jennifer Moeller 24683 Dry Cyn. Cold Creek Rd. Calabasas 91302  
Vivian Coleman 551 Mountain Blvd. Calabasas 91302  
Sam Coleman 551 Mountain Blvd. Calabasas 91302  
Cliff P. Coleman 551 Mountain Blvd. Calabasas 91302  
Kathy Browning 636 Crater Camp Dr. Calabasas 91302  
John Browning 636 Crater Camp Dr. Calabasas 91302  
William Miller 551 Live Oak Circle Calabasas 91302

California Coastal Commission  
South Coast Regional Commission  
666 E. Ocean Boulevard, Suite 3107  
P.O. Box 1450  
Long Beach, California 90801



September 11, 1978

Gentlemen:

Re: P-3892 Oak trees

As interested, concerned neighbors and property owners adjacent to the proposed to be developed property known as 547 Live Oak Circle Drive, Calabasas, we are concerned about the future of a grove of California oak trees growing on this property.

The 37 mature oak trees have been here a long time, are all in apparent good health and, we feel, contribute immensely to the natural beauty and charm of this essentially rural area.

We all fully recognize and respect the rights and privileges of the owner, Mr. Keown, to develop his property as he sees fit. However, since we are uninformed about his exact plans and the locations of his proposed improvements, we are apprehensive about the future of these beautiful trees. We hope that his plans give full consideration to preserving these trees, and we request that any development of this property be planned and executed so that absolutely no oak trees are damaged, moved or destroyed.

Respectfully submitted:

Marie V. Wood 25622 Huckleberry Dr. Calabasas 91303  
Shirley A. Dwyer 25653 Wildwood Dr. Calabasas 91302  
Randy Simmons 25671 Whitmore Dr. " "  
Paul E. Besser 25678 MONTENIDO Dr. Calabasas 91302  
Sheila R. Kallwas 25610 Maynard Dr. Calabasas 91302  
Carol Pelly 25733 Punto de Vista, Calabasas 91302  
Lori A. Hall 894 Crater Oak Dr. Calabasas 91302  
George Cavanah Jr. 1031 Meadows End Calabasas 91302  
Jan Cavanah 1031 Meadows End Calabasas  
Donald Wheeler 1710 N. Calabasas

(over)

over

EXHIBIT 34

CDP 4-99-267 (Rosenthal)

09/11/78 Letter Regarding Oak Trees

Charlene V Egger 536 Live Oak Cir Dr Calabasas

LAW OFFICES

**ALAN ROBERT BLOCK**

A PROFESSIONAL CORPORATION

ALAN ROBERT BLOCK

OF COUNSEL  
MICHAEL N. FRIEDMAN

1901 AVENUE OF THE STARS, SUITE 1610  
LOS ANGELES, CALIFORNIA 90067-6001

E-MAIL: alarblock@pacbell.net  
TELEPHONE (310) 552-3335  
TELEFAX (310) 552-1850

OF COUNSEL

MOSS, LEVITT & MANDELL, LLP

January 29, 2002

VIA FAX & FIRST CLASS MAIL

California Coastal Commission  
South Central Coast Area  
89 South California Street, 2nd Floor  
Ventura, CA. 93001

RECEIVED

JAN 29 2002

CALIFORNIA  
COASTAL COMMISSION  
SOUTH CENTRAL COAST DISTRICT

Attention: Sabrina Tiles

Re: CDP Application No. 4-99-267 (Rosenthal)  
Request For Continuance

Address: 549 Live Oak Circle, Calabasas,  
County of Los Angeles

Dear Sabrina:

The applicant herein requests that this matter be continued until the next meeting of the Commission scheduled in Southern California.

This request for continuance, in part, is based on the fact that the staff report received by this office and the applicants did not include the applicant's Exhibit 35 as part of the attached exhibits. It is our hope that all of the exhibits will be included in the packet when the matter is rescheduled.

Very truly yours,

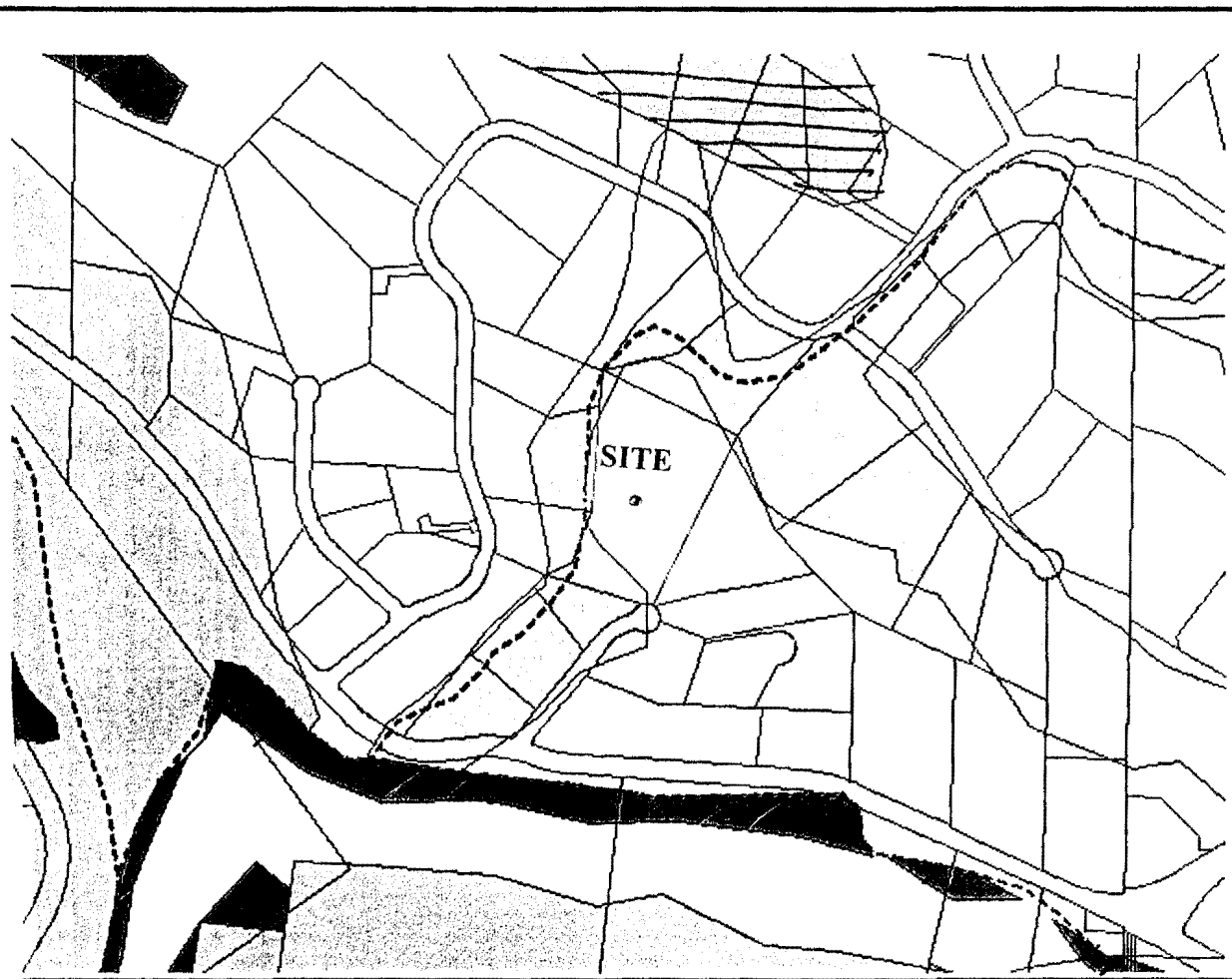
LAW OFFICES OF  
ALAN ROBERT BLOCK  
A Professional Corporation

  
ALAN ROBERT BLOCK

cc: Sheila and Jay Rosenthal

EXHIBIT 35
CDP 4-99-267 (Rosenthal)
Letter from Alan Block-1/29/02





- StrmsCCC
- laprcls
- esha (ESHA)
- Coldcreek management area
- inland
- locally disturbed resources
- oak woodlands and savannahs
- significant watersheds residential
- wildlife migration corridor



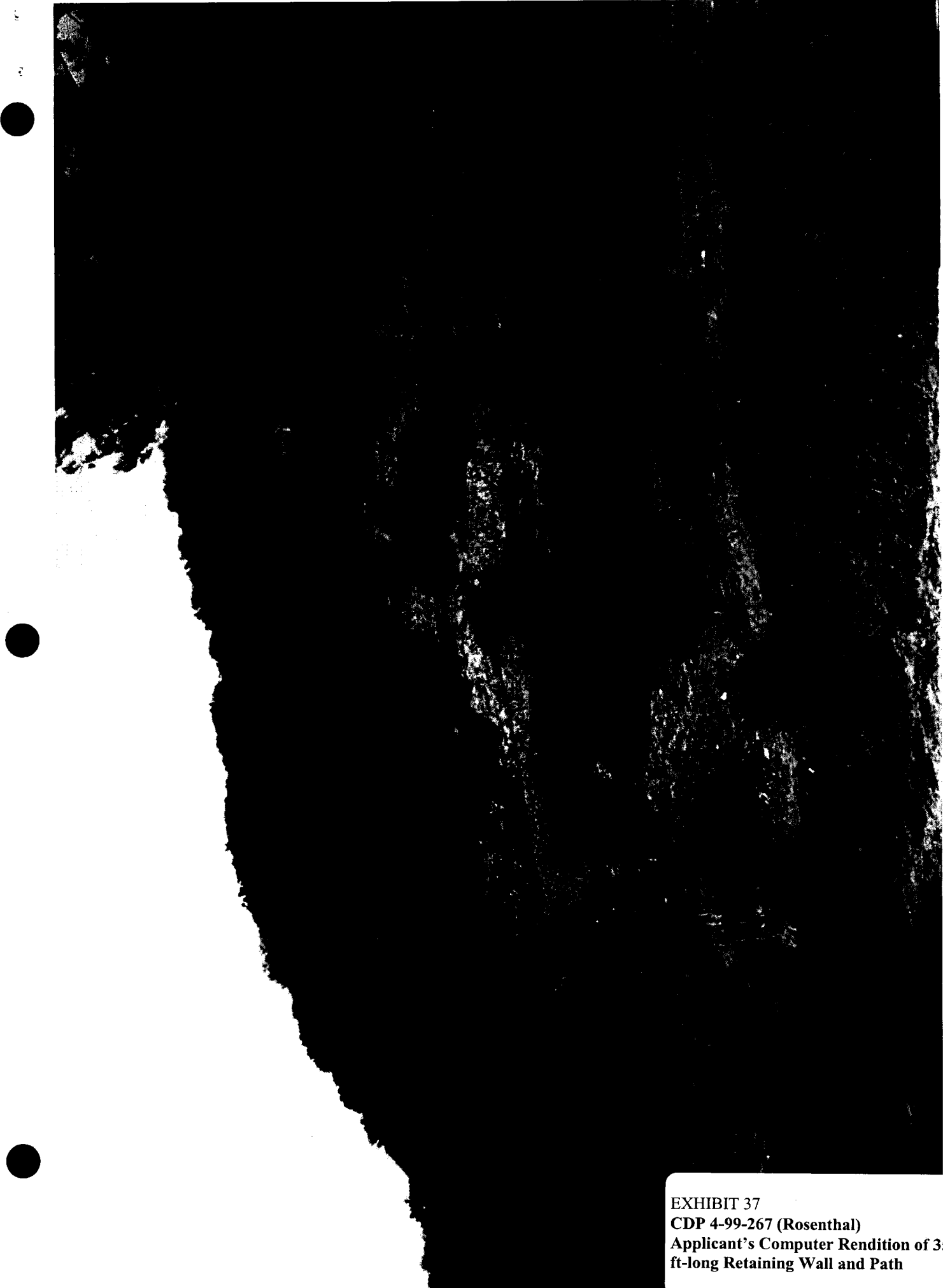


EXHIBIT 37  
CDP 4-99-267 (Rosenthal)  
Applicant's Computer Rendition of 350  
ft-long Retaining Wall and Path





EXHIBIT 38  
CDP 4-99-267 (Rosenthal)  
Photo by CCC Staff of 350 ft-long  
Retaining Wall and Path





EXHIBIT 39  
CDP 4-99-267 (Rosenthal)  
Photo by CCC Staff of 350 ft-long  
Retaining Wall and Path, visible from  
Malibu Cnyn. Rd.

