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STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION

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Commission Action:



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STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 5-88-056-A1

APPLICANTS: Howard and Terry Rubinroit

PROJECT LOCATION: 25351 Piuma Road, Calabasas (Los Angeles County). The application proposes development on the parcel owned by the applicant, APN 4456-037-007 and on a portion of the adjacent parcel, APN 4456-037-010, for which the applicant has an easement.

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 4,260 square foot, 28 foot high, four level single family residence with water well and septic system.

DESCRIPTION OF AMENDMENT: The applicant is requesting after-the-fact construction of a lighted sports court, swimming pool with spa and pump, pool equipment storage area, retaining wall and carport, lighted stairway extending from the pool area to the sports court, lighted steps and pathways on both sides of the single family residence, chain link fence and gates around the pool and single family residence, above ground propane storage tank with concrete pad, above ground water storage tank, patio area with landscaping walls near the pool, drainage system, and irrigation system; the installation of decomposed granite on the eastern side of the sports court and sand fill for play area east of the pool. The applicant is also proposing to address after-the-fact development through the capping of a grey water outlet and connection to the existing septic system and removal of concrete from the eastern drainage on the site. The applicant is also requesting approval of a masonry pump enclosure for the water tank and a screen wall for the water tank.

Lot Area:	2.76 acres (+/-120,225 square feet)
Building Coverage:	4,370 square feet
Impermeable Coverage:	7,405 square feet
Height Above Finished Grade:	Maximum of 10 feet

LOCAL APPROVALS RECEIVED: Los Angeles County, Health Department, March 14, 2002; Los Angeles County, Regional Planning, Approval in Concept, March 1, 2002;

and connection to the existing septic system; and removal of concrete from eastern drainage proposed in the amendment to Coastal Development Permit 5-88-056, pursuant to the staff recommendation.

A. STAFF RECOMMENDATION OF APPROVAL IN PART AND DENIAL IN PART:

Staff recommends a **YES** vote. Passage of this motion will result in approval of all of the development proposed, as conditioned, except for the construction of a lighted sports court, lighted stairway extending from the pool area to the sports court, and installation of decomposed granite on the eastern side of the sports court, which are denied, and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

B. TWO PART RESOLUTION FOR APPROVAL IN PART AND DENIAL IN PART:

Part 1: Approval with Conditions of a Portion of the Development:

The Commission hereby approves a Coastal Development Permit amendment for the portion of the proposed project consisting of the following after the fact development: (1) swimming pool with spa, pump, and pool equipment storage area, (2) retaining wall and carport, (3) lighted steps and pathways on both sides of the single family residence, (4) chain link fence and gates around the pool and single family residence, (5) above ground propane storage tank with concrete pad, (6) patio area with landscaping walls near the pool, (7) above ground water storage tank, (8) masonry pump enclosure for water tank, (9) screen wall for water tank, (10) drainage system, (11) irrigation system, (12) sand fill for play area east of the pool, (13) capping of grey water outlet and connection to the existing septic system, and (14) removal of concrete from eastern drainage on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is in conformance with the public access and public recreational policies of Chapter 3 of the Coastal Act, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

Part 2: Denial of the Remainder of the Development:

The Commission hereby **denies** a Coastal Development Permit amendment for the portion of the proposed development consisting of the following after the fact and proposed development: (1) lighted sports court, (2) lighted stairway extending from the pool area to the sports court, and (3) installation of decomposed granite on the eastern side of the sports court, on the grounds that the development will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, is not in conformance with the Chapter 3 policies of the Coastal Act, would prejudice the ability of the local governments having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and would result

adjacent to the sports court shall not be implemented, since the Commission is denying construction of the sports court development.

The final plans approved by the geotechnical consultants shall be in substantial conformance with the plans approved by the Commission relative to construction, foundation, and drainage. Any substantial changes in the proposed development approved by the Commission, which may be required by the consultants, shall require a new Coastal Development Permit or an amendment.

2. Revised Project Plans

Prior to issuance of the Coastal Development Permit amendment, the applicants shall submit, for the review and approval of the Executive Director, revised project plans that delete the development that has not been approved in this permit amendment, i.e., the lighted sports court, lighted stairway extending from the pool area to the sports court, and installation of decomposed granite on the eastern side of the sports court. These revised plans must also remove the portions of the irrigation system that may be located in the area subject to the offer to dedicate the open space deed restriction and show a relocation of the above ground water storage tank, masonry pump enclosure for water tank, screen wall for water tank, eastern portion of the fence adjacent to the single family residence, and sand fill play area closer to the single family residence and outside of the area covered by the offer to dedicate an open space deed restriction, as described in and shown on Exhibit 8.

3. Landscaping and Erosion Control Plans

Prior to issuance of the Coastal Development Permit amendment, the applicants shall submit revised landscaping, erosion control, and fuel modification plans, prepared by a licensed landscape architect or qualified resource specialist, for review and approval by the Executive Director. The landscaping, erosion control, and fuel modification plans shall be reviewed and approved by the geotechnical consultant to ensure that the plans are in conformance with the geotechnical consultant's recommendations. The plans shall incorporate the following criteria:

A. Plan Requirements

- 1) All areas on the subject site that are graded or disturbed as a result of development authorized by this permit amendment shall be planted and maintained for erosion control purposes. To minimize the need for irrigation and to screen and soften the visual impact of development, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled *Recommended List of Plants for Landscaping in the Santa Monica Mountains*, dated February 5, 1996. Invasive, non-indigenous plant species that tend to supplant native species shall not be used. The plan shall specify the erosion control measures to be implemented and the materials necessary to accomplish short-term stabilization, as needed on the site. All graded or disturbed areas shall be stabilized with planting of

special condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

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

4. Removal of Concrete from the Eastern Drainage

This permit amendment only approves the removal of concrete in the eastern drainage. Native, natural components of the drainage (including sediment, rocks, and live or dead vegetation) shall not be removed. All concrete removed from the drainage shall be exported to an appropriate location outside of the coastal zone or, should the dumpsite be located in the coastal zone, an amendment to this Coastal Development Permit or a new Coastal Development Permit shall be required.

5. Drainage and Polluted Runoff Control Plan

Prior to issuance of the Coastal Development Permit amendment, the applicants shall submit for the review and approval of the Executive Director, final drainage and runoff control plans, including supporting calculations. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity, and pollutant load of stormwater leaving the developed site. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with the engineering geologist's recommendations. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, one hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Energy dissipating measures shall be installed at the terminus of outflow drains.
- (d) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to the onset of the storm season, no later than September 30th each year and (2) should any of the

I. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Background

The project site is a 2.76 acres lot, located at 25351 Piuma Road, in the Calabasas area of Los Angeles County (Exhibit 1). The subject site is situated on a steep northerly trending descending ridge, with drainages located to the east and west of the single family residence. Descending natural slopes are present on both sides of the ridge at gradients up to 1 ½ to 1 (horizontal to vertical). The subject site is also located within the upper portions of the Cold Creek Resource Management Area (Exhibit 6). In addition, the site is located adjacent to a blueline stream, which is a tributary to Cold Creek, and is an environmentally sensitive habitat area (ESHA). Further, the property is located in the vicinity of an area that is an ESHA and that has been recognized in previous Commission actions and referred to as Dark Canyon ESHA. The subject site maintains substantial chaparral vegetation. In addition, the property is highly visible from Piuma Road, the Backbone Trail, and public lands (including State Park lands) located adjacent to and in the vicinity of the site.

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 State Park and National Park Service land are also located nearby. Furthermore, the Backbone Trail passes approximately 650 feet to the north of the subject site (Exhibit 11). 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. In addition, in reflection of the scenic character of this area, Malibu Canyon Road (to the west of the subject site) and Piuma Road (directly to the south of the subject site) have both been recognized in past Commission actions as scenic highways (Exhibit 12). Additionally, there are numerous public vista points along those roads and significant 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."¹ 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

¹ Public Law 95-625.

easement on the subject site prior to issuance of the CDP. This condition required that the open space easement encompass all the area on the property outside the boundary of the single graded pad on which the single family residence was proposed to be located (Exhibits 8 and 9). This OTD was required pursuant to the approval of CDP 5-88-056 to protect the remaining, undisturbed watershed cover and chaparral on the property and to limit adverse impacts on critical resources within the nearby blueline stream and ESHA that might arise from future development on the subject property. The findings for CDP 5-88-056 also state that the OTD would also aid in assuring that any future development would be located directly adjacent to the single family residence, ensuring that future development would be less disruptive to habitat values. In past Commission actions, including CDP 5-88-056, open space or conservation easements have been required in order to protect undisturbed watershed cover and environmental resources located on parcels on which development is proposed. In addition, in past Commission actions, including CDP 5-88-056, where new development is proposed adjacent to blueline streams, riparian areas, and ESHA, open space or conservation easements have been required in order to protect those significant resources.

On August 8, 1988, pursuant to Special Condition 4 of CDP 5-88-056, the Moseses and the Landrys recorded the OTD an open-space easement, as Instrument No. 88-1246285, at the Los Angeles County Recorder's Office. The OTD prohibits "development as defined in Public Resources Code section 30106 . . . including but not limited to removal of trees and other major or native vegetation, grading, paving, installation of structures such as signs, buildings, etc." The language of the OTD indicates that its purpose is to "restrict development on and use of the Property so as to preserve the open-space and scenic values present on the property and so as to prevent the adverse direct and cumulative effects on coastal resources . . ." The OTD restricts the use of the open space easement to "natural open space for habitat protection, private recreation, and resource conservation uses," and prohibits development except as approved by the Coastal Commission in a subsequent permit.

Further, Special Condition 5 of CDP 5-88-056 required the prior applicants to record a document stating that any future development of the property (as defined in Public Resources Code section 30106) would require either an amendment to CDP 5-88-056 or an additional CDP permit. The Commission imposed this condition so that future development that would otherwise be exempt, such as certain improvements to the residence, would be subject to permit requirements. The purpose of this condition is to enable the Commission to ensure that future development does not damage the recognized adjacent blueline stream, and ESHA or habitat values on the subject site, such as the mature, extensive, and rich chaparral habitat. On August 8, 1988, the Moseses and the Landrys recorded the deed restriction, as Instrument No. 88-1246284 at the Los Angeles County Recorder's Office.

After meeting all special conditions, including those listed above, CDP 5-88-056 was issued to the Moseses and the Landrys on December 5, 1988. Based on the final dates listed in the Los Angeles County permits for the single family residence, it appears that construction of the residence was completed by February 2, 1990. Subsequently, on

(of the sports court), and CDP 4-99-024 for the construction of a swimming pool, decking, fencing, carport and retaining wall. In a cover letter accompanying the applications, Mr. Rubinroit challenged the need for the CDPs and requested that the Commission waive the permit requirements for the retaining wall and swimming pool. Commission staff determined that a waiver was not appropriate due to the issues discussed in this report, including potential impacts on visual and sensitive resources. In addition, after receiving the CDP applications, Commission staff became aware of the presence of the carport, for which the main structural component is the associated retaining wall.

On December 1, 2000, Mr. Rubinroit informed Commission staff that he had no intention submitting the information required to complete either CDP application. As a result, on January 2, 2001, Commission staff sent the Rubinroits a second NOI to commence cease and desist order proceedings. The unpermitted development was described in this NOI as the construction of a sports court (decking and fencing), swimming pool, and retaining wall with a footnote referencing the carport. In order to review all of the unpermitted development at the same cease and desist order hearing, Commission staff issued an amended NOI to commence cease and desist order hearings on March 20, 2001 to include the unpermitted carport and other unpermitted development. Following a public hearing, on May 8, 2001, the Commission issued Cease and Desist Order CCC-01-CD-01. The Cease and Desist Order required, in part, that the Rubinroits submit a complete application to address all of the items of unpermitted development. The applicant subsequently combined the applications for CDP 4-99-023 and CDP 4-99-024 into an incomplete permit application that was submitted on July 31, 2001 and filed on April 10, 2002.

The following paragraphs describe the proposed development in greater detail and indicate where the development is located in relation to the area defined by the OTD. These descriptions are based upon a review of plans for the property, aerial photographs, photographs of the development and observations of Commission staff.

The following development appears to be located entirely within the area defined by the OTD open space easement:

1. A lighted sports court is located in the northeastern portion of the site, adjacent to a drainage and blueline stream. The sports court is approximately 1,250 square feet in area and consists of a chain link fence, a section of solid wall, and gates with a concrete pad, light post, basketball net, tennis net, and small storage shed. A portion of the development sports court and development associated with the sports court is located on the adjacent, vacant parcel. As part of this application, the applicants have submitted an easement from the owner of that parcel for this portion of the development.
2. An above ground water storage tank is located in the southeastern corner of the property adjacent to Piuma Road. Plans submitted by the applicants indicate that this tank has a capacity of 8,000 gallons. The applicants are also proposing to construct a screen wall and masonry pump enclosure for the water tank.

2. A nine foot high, 20 foot long retaining wall and an attached carport (pipes attached to the retaining wall and pavement supporting a cloth covering) with spaces for two cars are located to the southeast of the residence, adjacent to Piuma Road.
3. Lighted steps and pathways are located in close proximity to the eastern and western sides of the house. On the eastern side of the house, these steps are constructed primarily of wood and have railings. On the western side of the house, the steps closer to Piuma Road are constructed with wood with concrete pads, while the lower steps are constructed with wood steps without concrete.
4. An above ground storage tank for propane with a concrete pad is located on the northern side of the retaining wall, adjacent to the carport.
5. A tiled patio area with landscape walls is located in the vicinity of the pool to the north of the house.

With the exception of the removal of concrete from the eastern drainage, capping of the grey water outlet and connection to the existing septic system, and construction of a masonry pump enclosure for the water tank, and screen wall for the water tank, all of the development included in the project description has been undertaken without the benefit of a CDP or amendment.

The applicants have asserted that the grading of the pad where the sports court is located, lighted steps on both sides of the house, propane tank, water tank, drainage system, septic system with grey water outlet, irrigation system, and some of the vegetation removal outside of the permitted limits of clearance were installed or constructed at the time that the house was originally constructed by the previous owners. In addition, the applicants have stated that the sports court, swimming pool with spa and pump, retaining wall and associated carport, lighted stairway extending from the pool area to the sports court, lighted pathways alongside the house, chain link fence and gates around the pool and house, patio area with landscape walls near the pool, sand fill adjacent to the blueline stream, and sand fill to the east of the pool were installed or constructed in 1996. The Commission's files indicate that the graded pad where the sports court is located did not exist at the time that the Commission reviewed the application for CDP 5-88-056 and that CDP 5-88-056 authorized the construction of a single family residence on the site, but did not authorize the other development described above.

The applicants have also denied that there was any grading or native vegetation removal in connection with the improvements performed in 1996. The applicants have stated that the only work necessary to install the pad for the sports court was to do slight leveling of the already graded pad, which was done essentially by hand. In addition, the applicants assert that the only vegetation that was disturbed were some sporadic and sparse weeds that had sprung up after the rainy season. The applicants have also denied that the proposed development requires a CDP or amendment.

the ESHA and to make the development of the house consistent with Section 30240(b) of the Coastal Act.

Furthermore, the applicants have also argued that the Commission has no jurisdiction over the subject property since it is "in excess of five miles from the mean high-tide line and separated from the sea by at least one ridge line." In 1976, however, the California State Legislature specifically mapped the inland boundary of the Coastal Zone. These maps are on file with the Commission and the Secretary of State. In 1977, the Commission adopted conformed copies of these maps pursuant to Section 30103 of the Coastal Act of 1976. The inland boundary of the coastal zone is now depicted on a set of 161 maps that are on file with the Commission and the County Clerk of the respective coastal counties. These maps include Coastal Zone Map 135, which depicts the Malibu area. Real property that is located within the coastal zone, as shown on these maps, is subject to the statutory authority of the Coastal Act of 1976. The subject property at 25351 Piuma Road (which can also be described as a portion of the northeast quarter of the north half of Section 20, T1S, R17W, San Bernardino Base and Meridian) is located within the coastal zone as depicted on Coastal Zone Map 135 (Malibu Beach Quadrangle). Coastal Zone Map 135 indicates that the subject property is located approximately 2.5 miles inland of the mean high tide line and approximately 2.5 miles seaward on the inland coastal zone boundary. Since the property is shown on this map as being within the coastal zone, the Commission has jurisdiction over development on the subject property.

The applicants have also asserted that Commission staff understood that the lighted steps on both sides of the house, propane tank, water tank, drainage system, septic system extending out of the permitted area, irrigation system, and vegetation removal would take place as part of the project authorized by CDP 5-88-056, even though the permit did not explicitly authorize this development. The application for CDP 5-88-056 (Section II, question 2) instructed the applicants to "describe the proposed development." The applicants are instructed to "include secondary improvements such as septic tanks, water wells, roads, etc." The applicants for the underlying permit described the development as "construct single family residence, water well (and) septic system." Later in the application, the Moses state that there will be two covered parking spaces and two uncovered parking spaces and that no grading was being proposed. Therefore, with the exception of the septic system, all of the development listed above was not included in the description of the proposed development under CDP 5-88-056. Consistent with the description of the proposed development contained in the application for CDP 5-88-056, the adopted findings state that the applicants propose to "construct a 4,260 square-foot, 28-foot high (above existing grade), four-level single family residence with water well and septic system." In order to have been authorized by CDP 5-88-056, all of the items listed above would need to have been explicitly described as part of the proposed development. Although a septic system was approved as part of the development under CDP 5-88-056, an exposed grey water outlet discharging directly to the ground surface was observed by Commission staff outside of the approved location for the septic system. This change in the location and design of the septic system was not approved by the Commission. In addition, the plans that were approved by the Commission do not show any of the development listed

maintain the development on their property, unless they obtain a CDP or amendment from the Commission.

The applicants also argue that the demand for and acceptance of the easement appear to constitute a per se taking which was and is unlawful and unconstitutional, and which they as subsequent owners may challenge. The original permittees, the Moses and Landrys, had the ability and opportunity to file a legal challenge contesting Special Condition 4 of CDP 5-88-056 (requiring an offer to dedicate an open space easement) at the time it was imposed by the Commission. Any such legal challenge would have had to have been made pursuant to the terms and within the timeframe specified by Section 30801 of the Coastal Act, which states:

Any aggrieved person shall have a right to judicial review of any decision or action of the Commission by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure, within 60 days after the decision or action has become final.

The Moseses and Landrys did not file such a legal challenge, however. They accepted the permit as granted by the Commission and met all necessary conditions of approval, including the recordation of the irrevocable OTD in compliance with Special Condition 4. Permittees who fail to challenge a permit condition within the appropriate limitations period lose the ability to challenge it later. The permittees' successors in interest, such as Rubinroits, are subject to this legal incapacity to the same extent as the permittees. Furthermore, once the permittees have acquiesced in and accepted the benefits of a permit approval, they are deemed to have waived their right to challenge any requirement associated with that approval. Thus, once the permittees acquiesce in a permit and accepts its benefits, the burdens of the permit run with the land and bind both the permittees and all successors in interest.

Further, the applicants also argue that the OTD open space indicates that the land could be used for "private recreation" purposes, such as the sports court. The findings of CDP 5-88-056 state that Special Condition 4 requires the OTD to prevent future impacts to the ESHA. Therefore, the intent of the open space easement OTD was to protect the adjacent ESHA. In fact, Special Condition 4 of CDP 5-88-056 specifically refers to "an open space and conservation easement for Environmentally Sensitive Habitat Area resource protection." Further, the OTD stated that "the use of the Protected Land shall be limited to natural open space for habitat protection, private recreation, and resource conservation uses." Therefore, private recreation is one of the authorized uses of the OTD open space easement. Any development in the OTD open space easement requires a CDP regardless of the purpose of the development. The limitation on uses in the OTD easement is not an authorization to undertake development; rather, it indicates that certain uses may be compatible with the intent of the easement. This description of the uses does not obviate the need for a CDP for development in support of such a use, it simply allows for the possibility for such development to be approved in a CDP. In fact, the OTD explicitly states that no development in the easement area shall occur without a CDP.

and related facilities provided the recommendations included herein are followed and integrated into the building plans. No grading is anticipated at this time except for the excavation for the swimming pool and adjoining hot tub.

In addition, that report entitled, "Limited Geotechnical Investigation for Proposed Swimming Pool and Carport," dated December 6, 1995, Miller Geosciences, Inc., also states:

In order to minimize sloughing on slope faces, it is recommended that a slope maintenance program be implemented as soon as possible. Slope maintenance includes proper drainage control, planting, irrigation, and rodent control. Slopes shall be planted with a light weight, drought resistant, deep-rooted groundcover or bushes.

That report goes on to state:

All drainage from the lot should be collected and transferred to the canyon bottom in non-erosive drainage devices. Drainage should not be allowed to pond on the pad or against any foundation or retaining wall.

The applicants have also submitted a report entitled, "Update Geological and Geotechnical Engineering Investigation," dated September 11, 2001, GeoSoils Consultants, Inc., which states:

The house foundations were founded in bedrock. Both the house and associated exterior sidewalks and stairways appear to have performed satisfactorily. A fill has been placed on the slope on the east side of the pad. . . .

The swimming pool, spa and adjacent decking were founded, for the most part, in fill. The pool was designed and constructed as "free-standing", the swimming pool design concept that provides the maximum strength to the pool shell. The pool, spa, and adjacent concrete/stone decking all appear to have performed and continue to perform satisfactorily.

The sports court was constructed on the cut portion of the ridge with the removed material being placed as fill in the shallow swale to the west of the sports court. Minor erosion has occurred in the surficial soils at single locations on the east and west sides of the paving for the sports court. Otherwise, the court and surrounding fencing appear to be performing satisfactorily.

A water well and tank have been constructed on a small cut pad adjacent to Piuma Road in the most southerly corner of the property. An erosion gully has developed in the road fill slope to the northwest of the water tank. This is the result of surface water runoff from a portion of Piuma Road, which we understand was caused by grading changes in Piuma Road by the County Road Department.

This report also states:

It is important to note that heavy landscape watering and extended periods of heavy rainfall can contribute to slope instability. Consequently, we recommend that care be taken to avoid heavy landscape watering and to carefully maintain existing site drainage

septic system and removal of concrete from eastern drainage will also enhance the long term stability of the site.

In addition, **Special Condition 3** requires the implementation of landscaping that will reduce potential erosion that might otherwise occur pursuant to the proposed development. As such, landscaping of the disturbed and graded areas on the subject property, required by **Special Condition 3**, will serve to enhance the geological stability of the site and reduce erosion. The minimization of site erosion will add to the stability of the site. Erosion can best be minimized by requiring the applicant to revegetate all disturbed and graded areas of the site with native plants, compatible with the surrounding chaparral environment.

The landscape plan required pursuant to **Special Condition 3** requires the use of primarily native plant species. Invasive and non-native plant species are generally characterized as having a shallow root structure in comparison with their high surface/foliage weight. Non-native and invasive plant species with high surface/foliage weight and shallow root structures do not serve to stabilize slopes and that such vegetation results in potential adverse effects to the stability of the project site. Native species, alternatively, tend to have a deeper root structure than non-native, invasive species and therefore aid in preventing erosion. The revised fuel modification plan required under **Special Condition 3** must also illustrate the location of the proposed irrigation system and the irrigation system must be limited to the area that is required to be irrigated by the Forestry Department of Los Angeles County, in order to increase site stability and reduce erosion.

In addition, the use of invasive, non-indigenous plant species tends to supplant species that are native to the Malibu/Santa Monica Mountains area. Increasing urbanization in this area has caused the loss or degradation of major portions of the native habitat and loss of native plant seed banks through grading and removal of topsoil. Moreover, invasive groundcovers and fast growing trees that originate from other continents that have been used as landscaping in this area have invaded and seriously degraded native plant communities adjacent to development.

Therefore, the Commission finds that in order to ensure site stability, the disturbed or graded areas of the site shall be landscaped with appropriate native plant species, as specified in **Special Condition 3**.

Further, additional landform alteration would result if the concrete removed from the eastern drainage were to be retained on site. In order to ensure that this removed material will not be stockpiled on site and that landform alteration is minimized, **Special Condition 4** requires the applicants to remove the concrete debris from the site to an appropriate location and provide evidence to the Executive Director of the location of the disposal site prior to the issuance of the permit. Should the dump site be located in the Coastal Zone, a Coastal Development Permit or amendment shall be required.

In addition, there are alternative locations within the immediate development footprint of the existing single family residence and pad upon which the single family residence is

As stated above, Section 30253 of the Coastal Act requires new development to minimize risks to life and property in areas of high geologic, flood, and fire hazard and to assure stability and structural integrity.

The proposed construction of a lighted sports court, lighted stairway extending from the pool area to the sports court, and installation of decomposed granite on the eastern side of the sports court are located away from the development footprint approved under CDP 5-88-056 and existing single family residence and graded pad upon which the residence is located. In addition, portions of these proposed developments are located on steep slopes with two drainages. In addition, the sports court is located adjacent to a blueline stream and is resulting in erosion.

As stated previously, the applicants have submitted a report entitled, "Update Geological and Geotechnical Engineering Investigation," dated September 11, 2001, GeoSoils Consultants, Inc., which states:

Shallow surficial soils are subject to slope creep on the steeper descending slopes about the property. . . .

The sports court was constructed on the cut portion of the ridge with the removed material being placed as fill in the shallow swale to the west of the sports court. Minor erosion has occurred in the surficial soils at single locations on the east and west sides of the paving for the sports court. . . .

As described previously in this report, two areas of soil adjacent to the paved surface have experienced erosion, which is believed to have been present prior to installation of the sports court. Riprap or other erosion protection should be placed at these locations to mitigate further erosion.

This report indicates concerns regarding the stability of portions of the subject site, particularly the steep slopes. In addition, this report states that there are currently problems regarding erosion adjacent to the paved surface of the sports court. Further, this report recommends the installation of riprap or other erosion protection devices adjacent to the sports court to "mitigate further erosion". Although the applicants are not currently proposing the installation of any riprap or other erosion protection devices adjacent to the sports court, the findings of the report referenced above indicate that this development would likely be required in the future. Therefore, further development would possibly be required in the future to stabilize the proposed sports court. As a result, the sports court will not minimize risks to life and property in areas of high geologic, flood, and fire hazard and to assure stability and structural integrity, as required by Section 30253 of the Coastal Act. Further, the installation of decomposed granite on the eastern side of the sports court may also exacerbate instability in this area, as it discourages the growth of native vegetation that would decrease scouring and erosion of the site.

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.

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 area designated as ESHA. 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 blueline streams and drainages.

As stated above, chaparral and riparian habitat communities have intrinsic aesthetic, environmental, and ecological values. In addition to providing shade, these resources help to stabilize soil on steep slopes, minimize noise, deflect wind, and filter dust and pollutants from the air⁴. In addition, these areas also provide habitat for a wide range of wildlife species and corridors to maintain genetic diversity between wildlife populations⁵. Chaparral and riparian habitat areas are becoming increasingly rare, however, due to increased direct and indirect impacts from development and other factors⁶. Over the past 200 years, human activities have dramatically changed the complexion of chaparral and riparian habitat areas, as vast acreages have been removed for intensive agriculture, forage production, and urban and residential development⁷. Chaparral and riparian 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.

In sum, the environmental significance, increasing rarity, and susceptibility to disturbance from human activities, as detailed above, render chaparral and riparian plant communities environmentally sensitive habitat areas, as defined by Section 30107.5 of the Coastal Act. The chaparral habitat on the subject site and riparian habitat adjacent to the subject site are particularly significant, as the blueline stream to the north of the site drains into Cold Creek. In addition, there are two drainages on the subject site that filter into this blueline stream. Further, as stated previously, Dark Canyon to the north of the subject site has been recognized as ESHA under past Commission actions. Additionally, the project site is within the Cold Creek Management Area, as also recognized in past Commission actions.

The applicants have asserted that no harm has been suffered to the environment in the area of their property. The applicant have also argued that the area in which the existing single family residence is located is not sensitive habitat. Further, the applicants have also claimed that a blueline stream no longer traverses the property in the area of the sports court. However, the subject property is located directly adjacent to a stream that is an unnamed blueline stream that is a tributary to Cold Creek and does constitute ESHA. The stream is shown on the USGS Malibu Beach Quadrangle as a blueline stream and was observed by Commission staff during the March 15, 2001 site visit as flowing within approximately five feet of the northern portion of the grading (including the fill with non-native sand or decomposed granite) associated with the sports court.

Furthermore, when the underlying project (construction of a four level, 4,260 square foot single family residence with a well and a septic system) was permitted, the Commission was concerned about the cumulative impacts on the Cold Creek Resource Management

⁴ *A Planner's Guide for Oak Woodlands*, University of California, Integrated Hardwood Range Management Program, 1993, page 5.

⁵ *Id.* at 6.

⁶ *Tracking a Mysterious Killer, The Relentless Spread of Sudden Oak Death*, California Coast & Ocean, Winter 2001-02, Elizabeth F. Cole, page 3.

⁷ *A Planner's Guide for Oak Woodlands*, University of California, Integrated Hardwood Range Management Program, 1993, page 2.

stormwater could result in increased erosion, changes in stream morphology, and impaired water quality. In addition, the removal of vegetation in this area to construct the sports court also harms the ESHA by reducing the amount and quality of available habitat and increasing the potential for erosion. The night lighting also has a negative impact on the riparian area and ESHA, as it has the potential to cause negative impacts to wildlife. In addition, the drainage system, grey water outlet, and irrigation system could also cause erosion and contribute to degradation of resources and water quality on the subject site.

In fact, as stated in the previous section, the applicants have submitted a report entitled, "Update Geological and Geotechnical Engineering Investigation," dated September 11, 2001, GeoSoils Consultants, Inc., which states:

Shallow surficial soils are subject to slope creep on the steeper descending slopes about the property. . . .

The sports court was constructed on the cut portion of the ridge with the removed material being placed as fill in the shallow swale to the west of the sports court. Minor erosion has occurred in the surficial soils at single locations on the east and west sides of the paving for the sports court. . . .

As described previously in this report, two areas of soil adjacent to the paved surface have experienced erosion, which is believed to have been present prior to installation of the sports court. Riprap or other erosion protection should be placed at these locations to mitigate further erosion.

This report raises concerns regarding the stability and erosion of portions of the subject site, particularly the steep slopes. In addition, this report states that there are currently problems regarding erosion adjacent to the paved surface of the sports court. Further, this report recommends the installation of riprap or other erosion protection devices adjacent to the sports court to "mitigate further erosion". Although the applicants are not currently proposing the installation of any riprap or other erosion protection devices adjacent to the sports court, the findings of the report referenced above indicate that this development would likely be required in the future. Therefore, further development would possibly be required in the future to stabilize the proposed sports court. As a result, the sports court could have adverse impacts on water quality and sensitive resources by increasing erosion. Further, the installation of decomposed granite on the eastern side of the sports court may also exacerbate erosion in this area and discourages the growth of native vegetation that would decrease scouring and erosion of the site. Further, both the proposed sports court and the decomposed granite adjacent to the sports court occupy an area that is not adjacent to the existing single family residence or graded pad upon which the existing single family residence is located. As a result, these structures create a fragmentation of the chaparral habitat on site and of the contiguous, open, undisturbed chaparral in the overall area that is devoid of such development.

In addition to stating that "soils are subject to slope creep on the steeper descending slopes about the property," the report dated September 11, 2001, by GeoSoils

restriction. As conditioned, this development will be relocated within the development footprint approved pursuant to the underlying permit, CDP 5-88-056 and outside of the area subject to the open space deed restriction. In addition, **Special Condition 2** will also ensure that the adverse impacts to sensitive resources and water quality from the approved development will be minimized, as the development approved will be located entirely outside of the area restricted by the OTD and will be within the general development footprint of the existing single family residence, thereby clustering development.

In addition, the Commission recognizes that new development in 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, as well as effluent from septic systems. Furthermore, the Commission also recognizes that the potential build-out of lots in Malibu, and the resultant installation of septic systems, may contribute to adverse health effects and geologic hazards in the local area.

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, minimizing alteration of natural streams.

The portion of the proposed development approved under this amendment will result in an increase in impervious surface, which in turn decreases the infiltrative function and capacity of existing permeable land on site. The reduction in permeable space therefore leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries,

development stage. In addition, the landscape and fuel modification plan required under **Special Condition 3**, as discussed previously, will also mitigate adverse impacts to native vegetation, surrounding resources, and water quality. Therefore, the Commission finds that **Special Condition 3** is necessary to ensure the proposed development will not adversely impact water quality or coastal resources.

The removal of concrete from the eastern drainage will also improve water quality. In order to ensure that the applicants dispose of this removed concrete in an appropriate location, **Special Condition 4** requires the applicant to dispose of this material outside of the Coastal Zone or obtain a new CDP or amendment to dispose of it within the Coastal Zone. Furthermore, **Special Condition 8**, which requires the applicant, within 60 days of issuance of this permit amendment, to cap the grey water outlet and properly connect it to the existing septic system, submit to the Commission written confirmation from the Los Angeles County Department of Health Services that this has been completed, and remove the concrete placed in the eastern drainage will also ensure that the potential adverse impacts from this unpermitted development that the applicant is proposing to resolve will be resolved in a timely manner.

In addition, the applicant is proposing to cap the existing grey water system that discharges on the slopes of the subject site and connect it to the existing septic system. The Environmental Health Department of the County of Los Angeles has given in concept approval for the septic system that is existing on the subject site and has also required the applicant to cap the grey water system and connect it to the existing septic system. This conceptual approval by the County of Los Angeles indicates that the sewage disposal system to which the grey water outlet will be connected to complies with all minimum requirements of the Uniform Plumbing Code. The final approval and verification that this capping has been performed, as required by **Special Condition 8**, will ensure that this has been completed.

The Commission has found in past permit actions that conformance with the provisions of the plumbing, health, and safety codes is protective of resources and serves to minimize any potential for wastewater discharge that could adversely impact coastal waters.

Therefore, the Commission finds that the portion of the proposed project consisting of the swimming pool with spa, pump, and pool equipment storage area, retaining wall and carport, lighted steps and pathways on both sides of the single family residence, chain link fence and gates around the pool and single family residence, above ground propane storage tank with concrete pad, patio area with landscaping walls near the pool, above ground water storage tank, masonry pump enclosure for water tank, screen wall for water tank, drainage system, irrigation system, sand fill for play area east of the pool, capping of grey water outlet and connection to the existing septic system, and removal of concrete from eastern drainage, as conditioned, are consistent with Sections 30230, 30231, and 30240 of the Coastal Act. The Commission also finds that relocating the eastern portion of the fence adjacent to the single family residence, above ground water storage tank, masonry pump enclosure for water tank, screen wall for water tank, and sand fill play area closer to the single family residence and outside of

the site is located adjacent to a blueline stream, which is a tributary to Cold Creek, and is an environmentally sensitive habitat area (ESHA). Further, the property is located in the vicinity of an area that has been recognized as an ESHA in previous Commission actions and which has specifically been referred to as Dark Canyon ESHA. The subject site maintains substantial and mature chaparral vegetation and is part of an overall area that is fairly undeveloped and which comprises a large, significant, and contiguous area of chaparral habitat. In addition, the subject site is highly visible from Piuma Road, the Backbone Trail, and public lands (including State Park lands) located adjacent to the site and in the vicinity of the site. 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 State Park and National Park Service is also located nearby the site. In addition, the Backbone Trail passes to the north of the subject site. 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, Piuma Road (to the immediate south of the subject site) has been recognized as a scenic highway under past Commission actions. In addition, due to the significant visual resources in this area, the Commission has also recognized particularly scenic viewpoints along these roads as unique "public viewing areas." Three such recognized, significant public viewing areas are located within one mile of the subject site along Piuma Road. In particular, Piuma Road, from which the subject site and proposed development is highly visible, is a scenic road within the Santa Monica Mountains and provides 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.⁸" 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.⁹ The SMMNRA provides the public and local residents with outdoor recreational opportunities and an escape from urban settings and experiences.

⁸ Public Law 95-625.

⁹ Santa Monica Mountains Area Recreational Trails Coordination Project, Final Report, September 1997, page 34.

tank will be located adjacent to the existing 4,260 square foot single family residence and will not result in any significant additional adverse visual impacts from Piuma Road.

In addition, areas where development is proposed have been cleared of vegetation, increasing the adverse visual impact from this portion of the proposed development, as these portion of the site has been nearly denuded of vegetation. The applicant has stated, however, that minimal vegetation was cleared for the proposed development and that the clearing that has occurred was required by the Fire Department.

The Commission finds that the construction of the proposed lighted sports court, lighted stairway extending from the pool area to the sports court, above ground water storage tank, masonry pump enclosure for water tank, screen wall for water tank and installation of decomposed granite on the eastern side of the sports court would adversely impact visual resources and public views, detracting from the rugged, natural atmosphere that is a unique characteristic of this area. As a result, 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 sports court is highly visible and is of particular significance due to the undisturbed nature of the area surrounding the sports court and 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 lighted sports court, lighted stairway extending from the pool area to the sports court, above ground water storage tank, masonry pump enclosure for water tank, screen wall for water tank and installation of decomposed granite on the eastern side of the sports court would adversely impact the visual resources and public views existing within the surrounding area. Therefore, for the reasons discussed above, the Commission finds that these portions of the proposed development are 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 lighted sports court, lighted stairway extending from the pool area to the sports court, and installation of decomposed granite

successful establishment of all newly planted and landscaped areas over time. In addition, fuel modification requirements can affect natural vegetation for up to 200 feet from the footprint of defensible structures. As a result, the fuel modification plan should be designed to reduce negative visual impacts from Piuma Road and the Backbone Trail that may be caused by vegetation clearance. Therefore, the Commission finds that it is necessary to require the applicant to submit a landscape plan and to monitor the success of that plan and a fuel modification plan, as specified under **Special Condition 3**.

In addition, **Special Condition 2** requires revised project plans that delete the development that has not been approved in this permit amendment, i.e., the lighted sports court, lighted stairway extending from the pool area to the sports court, and installation of decomposed granite on the eastern side of the sports court, and that show a relocation of the eastern portion of the fence adjacent to the single family residence, above ground water storage tank, masonry pump enclosure for water tank, and screen wall for water tank, and the sand fill play area closer to the single family residence and outside of the area covered by the OTD open space deed restriction. These requirements pursuant to **Special Condition 2** will ensure that the visual impacts of the approved development are minimized, as the development approved will be located entirely outside of the area restricted by the OTD and will be within the general development footprint of the existing single family residence, thereby clustering development.

Therefore, the Commission finds that the portion of the proposed project consisting of the swimming pool with spa, pump, and pool equipment storage area, retaining wall and carport, lighted steps and pathways on both sides of the single family residence, chain link fence and gates around the pool and single family residence, above ground propane storage tank with concrete pad, patio area with landscaping walls near the pool, above ground water storage tank, masonry pump enclosure for water tank, and screen wall for water tank, drainage system, irrigation system, sand fill for play area east of the pool, capping of grey water outlet and connection to the existing septic system, and removal of concrete from eastern drainage, as conditioned, are consistent with Section 30251 of the Coastal Act. As a result, these portions of the proposed project, as conditioned, have been adequately mitigated and are determined to be consistent with the visual resource protection policies of the Coastal Act.

The Commission also finds that the portion of the proposed project consisting of the construction of a lighted sports court, lighted stairway extending from the pool area to the sports court, and installation of decomposed granite on the eastern side of the sports court would result in significant adverse effects on the environment and are inconsistent with Section 30251 of the Coastal Act. The Commission finds that deleting the lighted sports court, lighted stairway extending from the pool area to the sports court, and decomposed granite area on the eastern side of the sports court is a feasible alternative that would substantially lessen significant adverse visual impacts of the project. Therefore, these portions of the proposed project are determined to be inconsistent with Section 30251 of the Coastal Act.

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 lighted sports court, swimming pool with spa and pump, pool equipment storage area, retaining wall and carport, lighted stairway extending from the pool area to the sports court, lighted steps and pathways on both sides of the single family residence, chain link fence and gates around the pool and single family residence, above ground propane storage tank with concrete pad, above ground water storage tank, patio area with landscaping walls near the pool, masonry pump enclosure for water tank, screen wall for water tank, drainage system, and irrigation system; installation of decomposed granite on the eastern side of the sports court and sand fill for play area east of the pool; capping of grey water outlet and connection to the existing septic system; and removal of concrete from eastern drainage.

The Commission finds that the construction of the lighted sports court, lighted stairway extending from the pool area to the sports court, and installation of decomposed granite on the eastern side of the sports court are 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. In particular, the sports court is highly visible and located in an area characterized by natural vegetation and open space and would detract from the surrounding community character and negatively impact the character of this rural area. Further, the lighted stairway extending from the swimming pool to the sports court and the decomposed granite proposed adjacent to the sports court also detract from the character of the surrounding area, as they are not located within the development footprint of the single family residence and fragment development. Adverse impacts on the character of the area from the construction of the swimming pool with spa, pump, and pool equipment storage area, retaining wall and carport, lighted steps and pathways on both sides of the single family residence, chain link fence and gates around the pool and single family residence, above ground propane storage tank with concrete pad, patio area with

remove unpermitted concrete that was placed in the eastern drainage. The applicants are not proposing to authorize or restore the major vegetation that was removed within the area subject to the OTD, beyond that authorized by the fuel modification plan.

The Commission staff currently lacks confirmation that the after-the-fact development was performed in compliance with the geotechnical consultant's recommendations. Therefore, to ensure that the recommendations regarding the after-the-fact development are implemented in a timely manner, **Special Condition 1** requires that, within 60 days of the permit issuance, the applicant submit written confirmation from a geotechnical consultant that these recommendations were properly implemented. The recommendations regarding installation of riprap or other erosion control measures adjacent to the sports court should not be implemented since the Commission has denied authorization of the sports court and decomposed granite area.

In order to confirm (a) that the grey water outlet has been capped and connected to the existing septic system and (b) that concrete placed in the eastern drainage has been removed, **Special Condition 8** requires that the applicants submit documentation of this change in development, as authorized by this amendment.

In order to ensure that the unpermitted development is resolved in a timely manner, **Special Condition 7** requires that the applicants satisfy all conditions of this permit amendment, which are prerequisite to the issuance of this permit amendment, within 60 days of Commission action, or within such additional time as the Executive Director may grant for good cause.

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

F. 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).

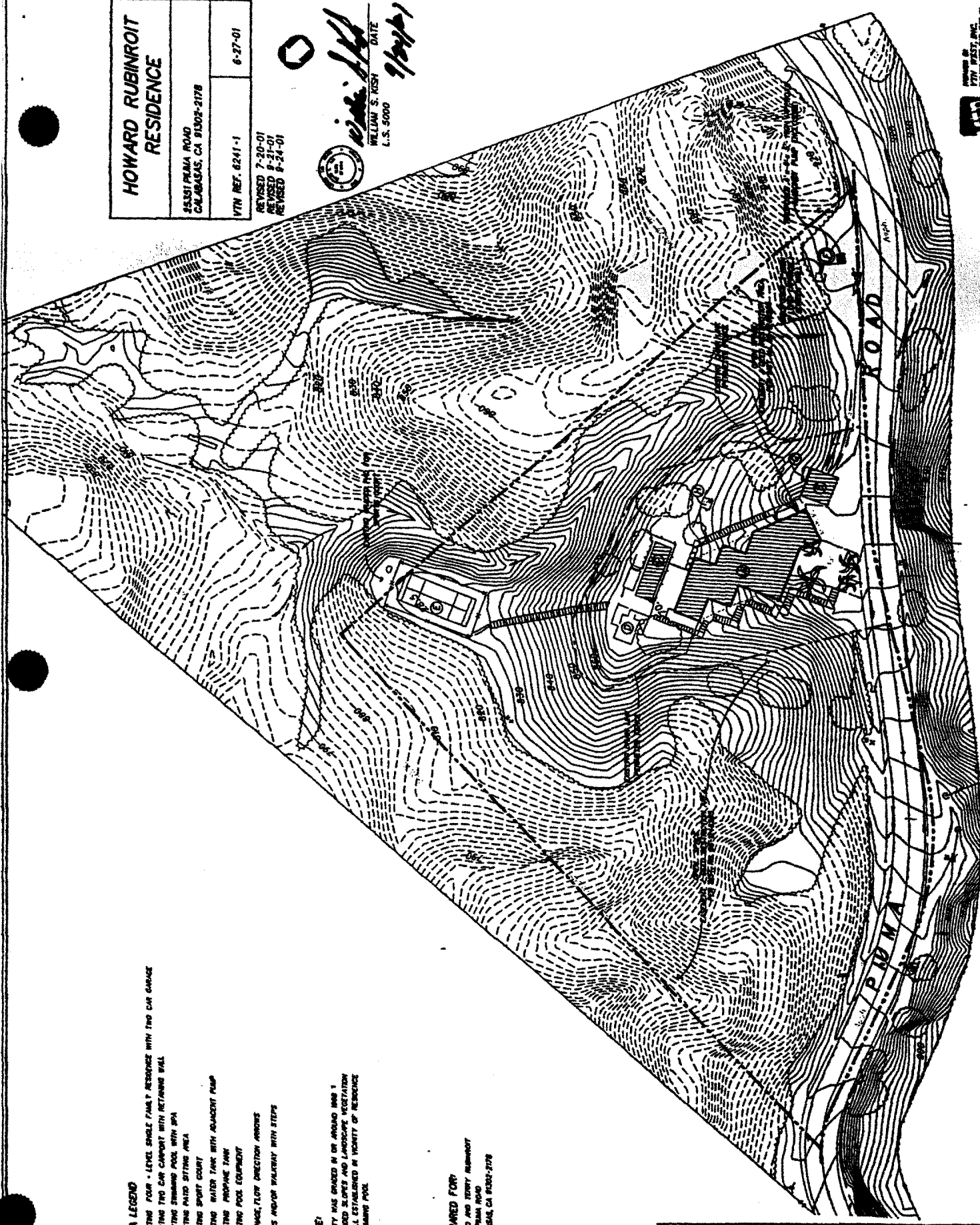
Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program, which conforms to Chapter 3 policies of the Coastal Act. The preceding sections provide findings that the proposed project

In addition, the Commission finds that the portion of the proposed project consisting of the swimming pool with spa, pump, and pool equipment storage area, retaining wall and carport, lighted steps and pathways on both sides of the single family residence, chain link fence and gates around the pool and single family residence, above ground propane storage tank with concrete pad, patio area with landscaping walls near the pool, above ground water storage tank, masonry pump enclosure for water tank, and screen wall for water tank, drainage system, irrigation system, sand fill for play area east of the pool, capping of grey water outlet and connection to the existing septic system, and removal of concrete from eastern drainage, as conditioned, will not have significant adverse effects on the environment, within the meaning of CEQA. The Commission finds that there are no additional feasible alternatives or mitigation measures that would substantially lessen any significant adverse environmental impact of these portions of the project. Therefore, these portions of the proposed project, as conditioned, have been adequately mitigated and are determined to be consistent with CEQA and the policies of the Coastal Act.

HOWARD RUBINROIT RESIDENCE	
35351 PUMA ROAD CALABAS, CA 91302-2178	
VTH REF. 6241-1	6-27-01

REVISED 7-20-01
REVISED 8-21-01
REVISED 8-24-01

W. S. KISH
DATE
WILLIAM S. KISH
L.S. 5000
9/24/01

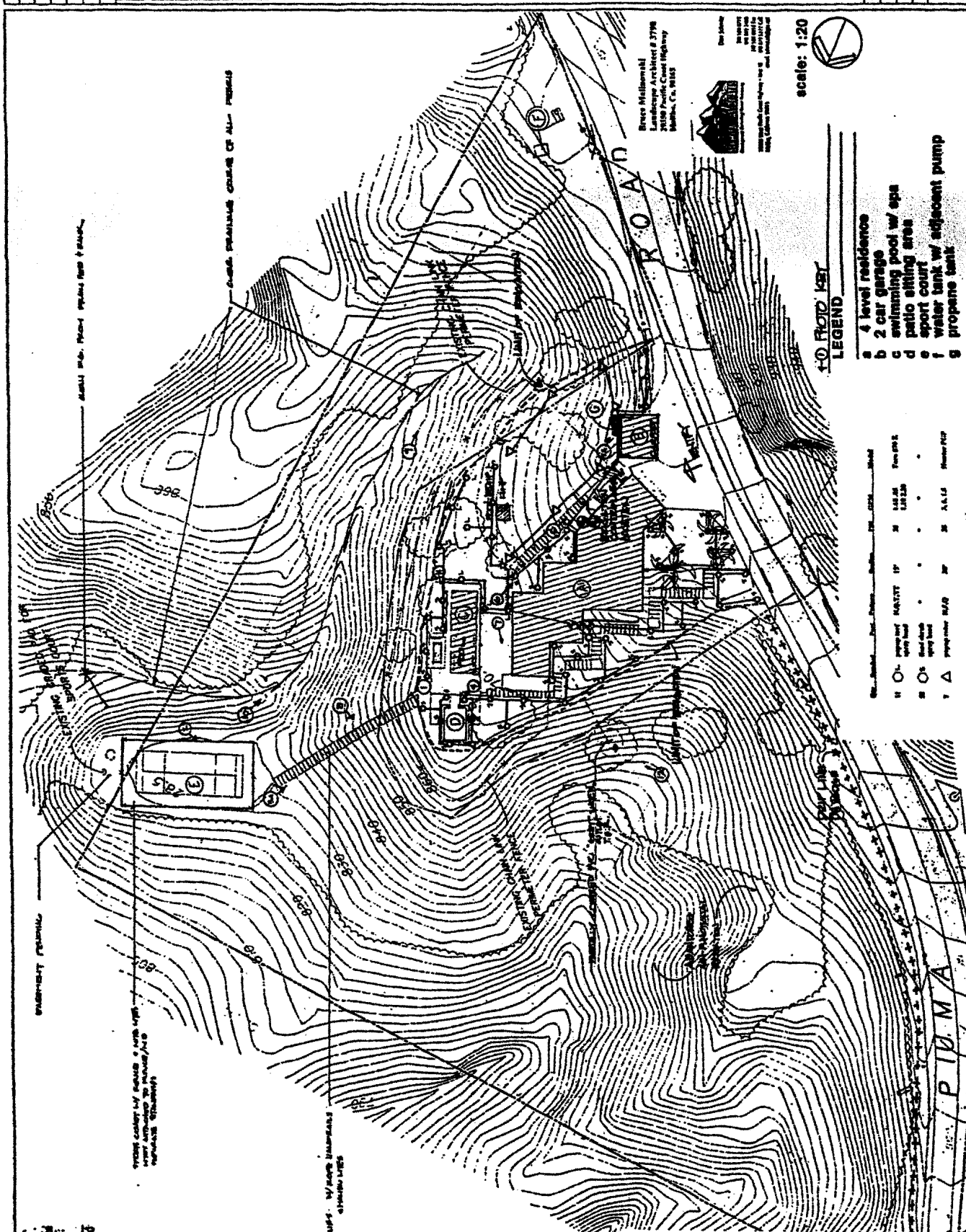


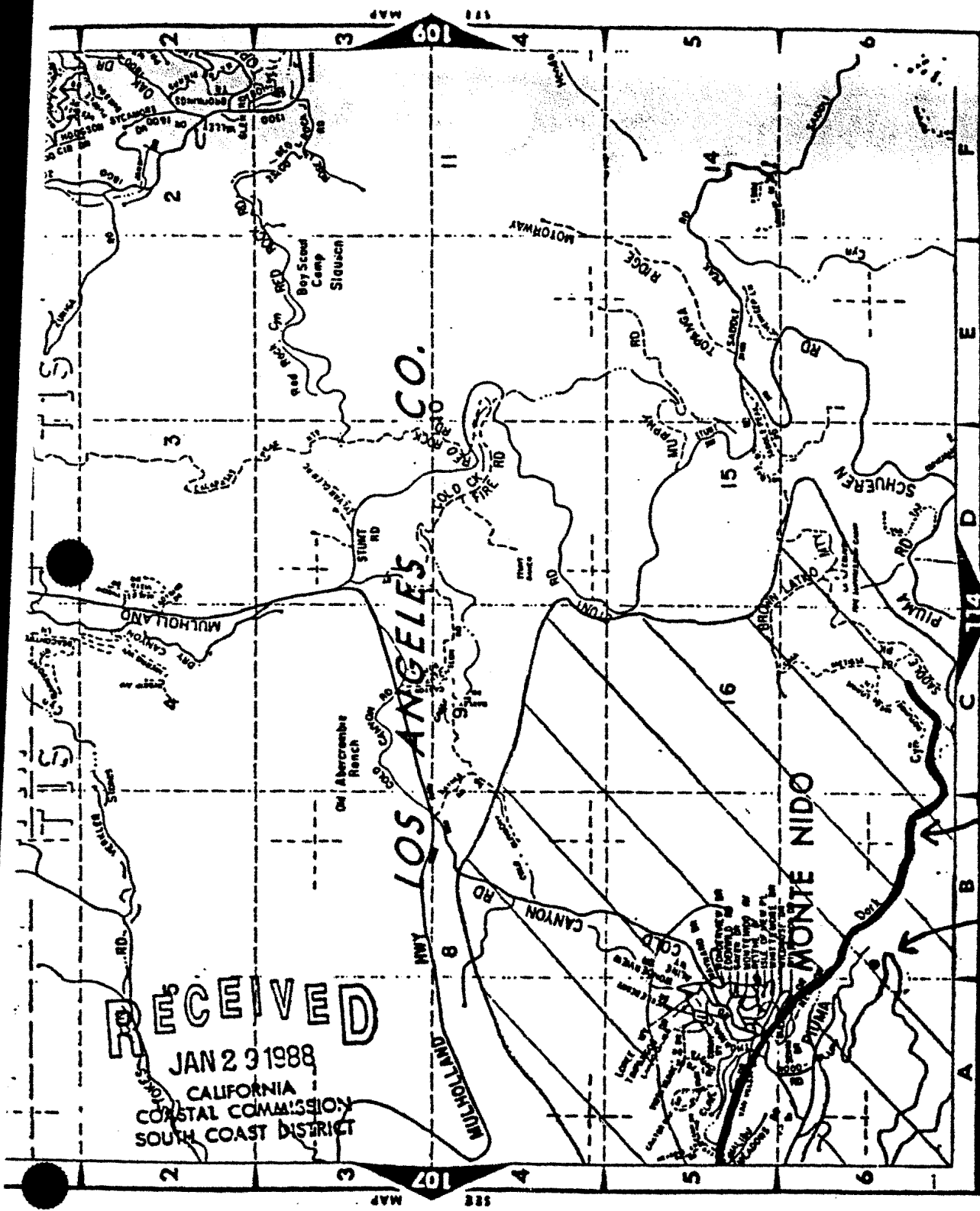
- ALPHA LEGEND**
- A EXISTING FOUR - LEVEL SINGLE FAMILY RESIDENCE WITH TWO CAR GARAGE
 - B EXISTING TWO CAR GARAGE WITH RETAINING WALL
 - C EXISTING SWIMMING POOL WITH SPA
 - D EXISTING PAVED SITTING AREA
 - E EXISTING SPORT COURT
 - F EXISTING WATER TANK WITH ADJACENT PUMP
 - G EXISTING PROPANE TANK
 - H EXISTING POOL EQUIPMENT
- DRAINAGE, FLOW DIRECTION ARROWS
- ===== STEPS AND/OR WALKWAY WITH STEPS

NOTE:
PROPERTY HAS GRAD IN ON AROUND 1988
ALL GRADED SLOPES AND LANDSCAPE VEGETATION
ARE WELL ESTABLISHED IN VICINITY OF RESIDENCE
AND SWIMMING POOL

PREPARED FOR:
HOWARD AND TERRY RUBINROIT
35351 PUMA ROAD
CALABAS, CA 91302-2178

EXHIBIT 2
CDP 5-88-056-A1 (Rubinroit)
Topographic Map





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 CALIFORNIA
 COASTAL COMMISSION
 SOUTH COAST DISTRICT

PROJECT
 LOCATION
 DARK
 CANYON
 ESHA

MALIBU-COLD CREEK
 RESOURCE MANAGEMENT AREA

EXHIBIT 6
CDP 5-88-056-A1 (Rubinroit)
Resource Map

FILE COPY

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GEORGE DEUKMEJIAN, Governor

CALIFORNIA COASTAL COMMISSION

SOUTHERN COAST AREA
245 WEST BROADWAY, SUITE 380
LONG BEACH, CA 90802
(213) 590-5071

Page 1 of 8

Permit Application No. 5-88-056/1s

Date 29 February 1988



ADMINISTRATIVE PERMIT

APPLICANT: Jack and Annie Moses, and Ron and Margo Landry

PROJECT DESCRIPTION: Construct a 4260 square-foot, 28-foot high, four-level single family residence with water well and septic system.

PROJECT LOCATION: 25351 Piuma Road, Malibu.

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, are discussed on subsequent pages.

Pursuant to Public Resources Code Section 30624, the Executive Director hereby determines that the proposed development, subject to Standard and Special Conditions as attached, is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, 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, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. Any development located between the nearest public road and the sea is in conformity with the public access and public recreation policies of Chapter 3.

NOTE: The Commission's Regulations provide that this permit shall be reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, a permit will not be issued for this permit application. Instead, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

Thursday, 9:00 A. M. March 24, 1988. (415) 873-3200

Grosvenor Airport Inn, 380 South Airport Blvd., San Francisco.

IMPORTANT - Before you may proceed with development, the following must occur:

For this permit to become effective you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you an authorization to proceed with development. **BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE PERMIT AUTHORIZATION FROM THIS OFFICE.**

PETER DOUGLAS
Executive Director

by: LARRY SANCHEZ

EXHIBIT 7

CDP 5-88-056-A1 (Rubinroit)

CDP 5-88-056 (8 pages)

EXECUTIVE DIRECTOR'S DETERMINATION (Continued):

A. PROJECT DESCRIPTION.

The applicant proposes to construct a 4260 square-foot, 28-foot high (above existing grade), four-level single family residence with water well and septic system on a 2.76-acre parcel of land along Piuma Road in the Santa Monica Mountains (Exhibits 1 and 2). The site is a north descending hillside characterized by a series of minor ridges and drainage courses. Slopes range from nearly level on the two previously-graded building pads to no greater than 2:1 below the pads. The proposed residence will be sited on the larger pad in the southeast corner of the property. Vegetation is absent on the pads but consists of moderate chapparal cover on the balance of the property. Minor grading of less than 50 cubic yards will be required for a short driveway access. The seepage pits for the proposed septic system will be located north of the residence at the nose of the building pad. A favorable percolation test was performed at this site and the consulting geologist has stated in his report that the site of the proposed septic system is acceptable and that "percolation of effluent from the proposed residence is not expected to raise groundwater levels in the area, adversely affect site stability, or pose a hazard to the site or adjacent properties."

The parcel is located within the Malibu/Cold Creek Resource Management Area and runoff from the parcel drains into Dark Canyon (Exhibit 3). The Malibu/Santa Monica Mountains Land Use Plan (LUP) designates the parcel as Rural Land II (1 DU/5 acres), and allows development of non-conforming parcels if LUP resource protection policies are met. The proposed development is therefore consistent with the allowable LUP density. The subject parcel was included in the Malibu/Santa Monica Mountains build-out survey conducted in 1978 using the Los Angeles County Engineer Maps. Therefore, no cumulative impact mitigation requirements shall be imposed as a condition of approval of this permit.

B. HAZARDS.

The proposed project is located in an area which is subject to an unusually high amount of natural hazards, including landslides and fire. Section 30253 of the Coastal Act states in part that new development shall:

- (1) minimize the risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

In addition, the Malibu/Santa Monica Mountains LUP contains numerous policies addressing the geologic (P147-150) and fire (P156-160) hazards present in the Santa Monica Mountains. The applicant's geology report states that the basaltic bedrock which is exposed over much of the proposed building site is "very competent...and is expected to provide excellent support for the proposed residence." The geology consultant found no evidence of ancient or

structure descends in three steps down the existing pad to the lowest level, 30 feet below the elevation Piuma Road. As a result, the structure extends only 11 feet above the centerline of Piuma Road and at no point extends more than 28 feet above the existing graded pad.

However, because the project is adjacent to and visible from Piuma Road and State Park lands immediately to the east, and in order to mitigate any adverse visual impacts which could occur as a result of construction of the residence, the Commission finds that it is necessary to require the applicant to submit landscaping plans designed to screen or soften the visual impact of the proposed development. Only as conditioned will the proposed development not adversely impact visual resources along Piuma Road and from State Park lands to the east in the upper Dark Canyon drainage. As conditioned, the project conforms to Section 30251 of the Coastal Act and the visual resource protection policies of the LUP.

D. LAND RESOURCES.

Section 30240(b) of the Coastal Act states that:

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.

The proposed development site is located in the upper portion of the Malibu/Cold Creek Resource Management Area, and runoff from the site drains into the Dark Canyon Environmentally Sensitive Habitat Area (ESHA). The Malibu/Santa Monica Mountains LUP policies addressing protection of ESHAs are among the strictest and most comprehensive concerning new development, and are designed to protect significant resources from individual and cumulative impacts of development. Among them is Policy 72, which states that:

Open space or conservation easements or equivalent measures may be required in order to protect undisturbed watershed cover and riparian areas located on parcels proposed for development. Where new development is proposed adjacent to Environmentally Sensitive Habitat Areas, open space or conservation easements shall be required in order to protect resources within the ESHA.

In addition, Table 1 of the LUP contains a discussion of permitted land uses and development standards in Resource Management Areas:

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

Development standards: Allowable structures shall be located in proximity to existing roadways, services and other development to minimize impacts on the

dedicate an open space and conservation easement for FSHA and Resource Management Area protection on that portion of the subject property outside the building site (Exhibit 4). As conditioned, the proposed development is consistent with Section 30240(b) of the Coastal Act and the land resource protection policies of the LUP.

SPECIAL CONDITIONS.

1. Geologic Recommendations.

The applicant must comply with the recommendations contained in the "Soils and Engineering Geologic Investigation Report for Proposed Single-Family Residence, 25351 Piuma Road, Malibu, California, 1-19-88," prepared by California Geosystems, Inc.

2. Fuel Modification and Landscape Plans.

Prior to authorization to proceed with development, the applicant shall submit for review and approval by the Executive Director, plans that show the provision for the Los Angeles County Fire Marshall fuel modification requirements. The plans shall indicate that no vegetation clearing will occur in the drainage courses to the west and east of the building pad. The plans shall incorporate the use of primarily native plants which are suitable for fuel modification criteria, controlling erosion, screening or softening the visual impact of the development, and are suitable to be used as a part of the ornamental planting scheme. The plans shall include non-erosive, energy-dissipating drainage devices which collect all concentrated runoff generated from the residence area and discharge it into the two watercourses that flank the building pad.

3. Assumption of Risk.

Prior to authorization to proceed with development, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide (a) that the applicant understands that the site may be subject to extraordinary hazard from landslide, slope failure, and fire, and (b) that the applicant hereby waives any future claims of liability against the Commission or its successors in interest for damage from such hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

4. Conservation and Open Space.

Prior to authorization to proceed with development, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director, an open space and conservation easement for Environmentally Sensitive Habitat Area resource protection. Such easement shall be located at 25351 Piuma Road, Malibu,

88 1246285

Recording Requested by and
When Recorded, Mail To:
California Coastal Commission
631 Howard Street, 4th Floor
San Francisco, California 94105
Attention: Legal Department

RECORDED IN OFFICIAL RECORDS
RECORDER'S OFFICE
LOS ANGELES COUNTY
CALIFORNIA

MIN. 11 A.M. AUG 8 1988

IRREVOCABLE OFFER TO DEDICATE OPEN-SPACE EASEMENT

AND

FEE \$ 57 F

DECLARATION OF RESTRICTIONS

THIS IRREVOCABLE OFFER TO DEDICATE OPEN-SPACE EASEMENT AND

DECLARATION OF RESTRICTIONS (hereinafter "offer") is made this 16th day
of July, 19 88, by Jack Moses and Ann-Marie Moses
Ron Landry and Margo Landry
(hereinafter referred to as "Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest of certain real
property located in the County of Los Angeles; State of
California, and described in the attached Exhibit A (hereinafter referred to as
the "Property"); and

II. WHEREAS, all of the Property is located within the coastal zone as
defined in Section 30103 of the California Public Resources Code (which code is
hereinafter referred to as the "Public Resources Code"); and

III. WHEREAS, the California Coastal Act of 1976, (hereinafter referred to
as the "Act") creates the California Coastal Commission, (hereinafter referred
to as the "Commission") and requires that any coastal development permit
approved by the Commission must be consistent with the policies of the Act set
forth in Chapter 3 of Division 20 of the Public Resources Code; and

IV. WHEREAS, pursuant to the Act, Grantor applied to the California Coastal
Commission for a permit to undertake development as defined in the Act within
the Coastal zone of Los Angeles County (hereinafter the
"Permit"); and

V. WHEREAS, a coastal development permit (Permit No. 5-88-056

EXHIBIT 8

CDP 5-88-056-A1 (Rubinroit)

Open Space Deed Restriction (13 pages)

1 VII. WHEREAS, the Commission has placed the Condition on the permit because
2 a finding must be made under Public Resources Code Section 30604(a) that the
3 proposed development is in conformity with the provisions of Chapter 3 of the
4 Act and that in the absence of the protections provided by the Condition said
5 finding could not be made; and

6 VIII. WHEREAS, Grantor has elected to comply with the Condition and execute
7 this Offer so as to enable Grantor to undertake the development authorized by
8 the Permit; and

9 IX. WHEREAS, it is intended that this Offer is irrevocable and shall
10 constitute enforceable restrictions within the meaning of Article XIII, Section
11 8 of the California Constitution and that said Offer when accepted shall
12 thereby qualify as an enforceable restriction under the provision of the
13 California Revenue and Taxation Code, Section 402.1;

14 NOW THEREFORE, in consideration of the above and the mutual benefit
15 and conditions set forth herein, the substantial public benefits for the
16 protection of coastal resources to be derived, the preservation of the Property
17 in open-space uses and the granting of the Permit by the Commission, Grantor
18 hereby irrevocably offers to dedicate to the State of California, a political
19 subdivision or a private association acceptable to the Executive Director of
20 the Commission (hereinafter the "Grantee"), an open-space easement in gross and
21 in perpetuity for light, air, view, and for the preservation of scenic
22 qualities over that certain portion of the Property specifically described in
23 Exhibit C (hereinafter the Protected Land); and

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5. ENFORCEMENT. Any act or any conveyance, contract, or authorization whether written or oral by the Grantor which uses or would cause to be used or would permit use of the Protected Land contrary to the terms of this Offer will be deemed a breach hereof. The Grantee may bring any action in court necessary to enforce this Offer, including but not limited to injunction to terminate a breaching activity, or an action to enforce the terms and provisions hereof by specific performance. It is understood and agreed that the Grantee may pursue any appropriate legal and equitable remedies. The Grantee shall have sole discretion to determine under what circumstances an action to enforce the terms and conditions of this Offer shall be brought in law or in equity. Any forbearance on the part of the Grantee to enforce the terms and provisions hereof in the event of a breach shall not be deemed a waiver of Grantee's rights regarding any subsequent breach.

-5-

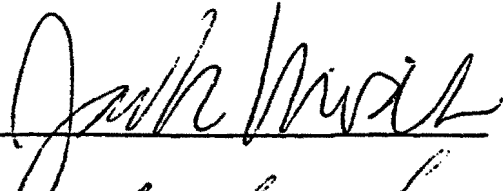
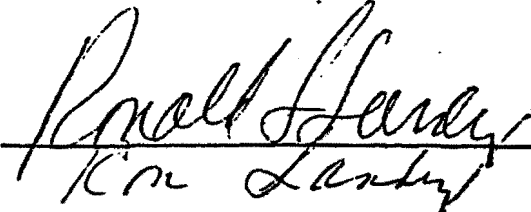

URT PAPER
 STATE OF CALIFORNIA
 2. 113 (REV. 8-72)

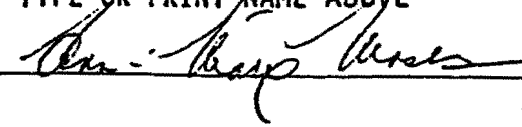
1 9. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions,
2 exceptions, obligations, and reservations contained in this Offer shall be
3 binding upon and inure to the benefit of the successors and assigns of both
4 the Grantor and the Grantee, whether voluntary or involuntary.

5 10. TERM. This irrevocable offer of dedication shall be binding upon the
6 owner and the heirs, assigns, or successors in interest to the Property
7 described above for a period of 21 years. Upon recordation of an acceptance
8 of this offer by the grantee in the form attached hereto as Exhibit E, this
9 offer and terms, conditions, and restrictions shall have the effect of a grant
10 of open-space and scenic easement in gross and perpetuity for light, air, view
11 and the preservation of scenic qualities over the open-space area that shall
12 run with the land and be binding on the parties, heirs, assigns, and
13 successors.

14 Acceptance of the Offer is subject to a covenant which runs with the
15 land, providing that any offeree to accept the easement may not abandon it but
16 must instead offer the easement to other public agencies or private
17 associations acceptable to the Executive Director of the Commission for the
18 duration of the term of the original Offer to Dedicate.

19 Executed on this 16th day of JULY, 1988
20 at CANOGA PARK, CA.

21 
22 
23 
24 Jack Moses Ron Landry
25 TYPE OR PRINT NAME ABOVE TYPE OR PRINT NAME ABOVE

26 
27 Ann-Marie Moses -7- Margo Landry
TYPE OR PRINT NAME ABOVE TYPE OR PRINT NAME ABOVE

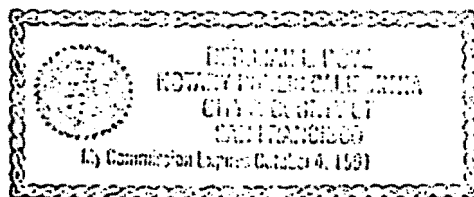
1 This is to certify that the Offer to Dedicate set forth above is
2 hereby acknowledged by the undersigned officer on behalf of the California
3 Coastal Commission pursuant to the action of the Commission when it granted
4 Coastal Development Permit No. 5-88-056 on March 24, 1988
5 and the California Coastal Commission consents to recordation thereof by its
6 duly authorized officer.

7 Dated: July 29, 1988

8 John Bowers
9 John Bowers, Staff Counsel
10 California Coastal Commission

11 STATE OF California
12 COUNTY OF San Francisco

13 On July 29, 1988, before me DEBORAH L. BOVE,
14 a Notary Public, personally appeared JOHN BOWERS, personally known to
15 me to be (or proved to me on the basis of satisfactory evidence)
16 to be the person who executed this instrument as the STAFF COUNSEL
17 and authorized representative of the California Coastal Commission and
18 acknowledged to me that the California Coastal Commission executed it.

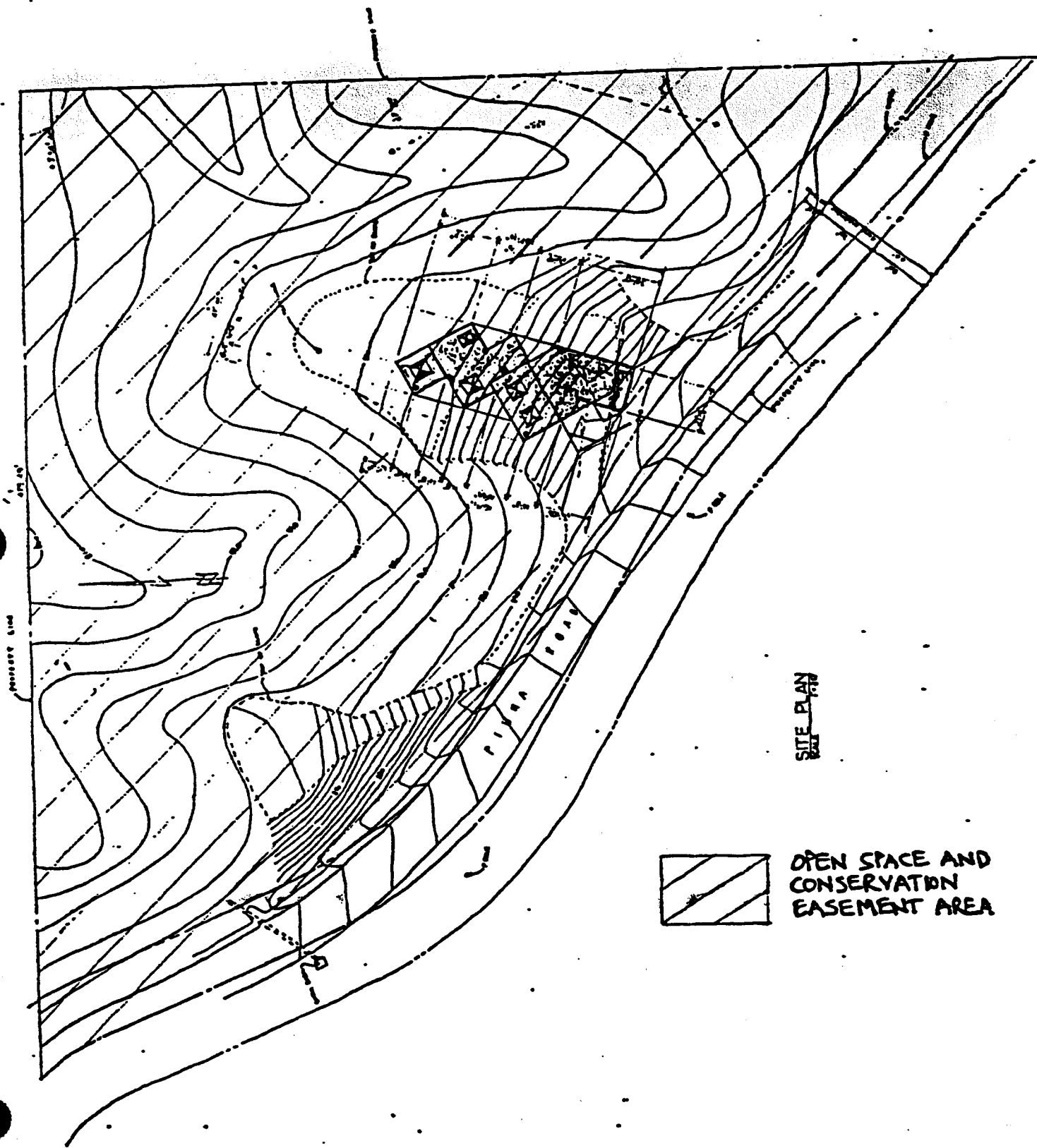


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Deborah L. Bove
NOTARY PUBLIC IN AND FOR
SAID STATE AND COUNTY

THE ABOVE MAP
 WAS PREPARED BY
 THE U.S. GEOLOGICAL SURVEY
 WASHINGTON, D.C. 20506
 DATE 1988

2



OPEN SPACE AND
 CONSERVATION
 EASEMENT AREA

Public Resources Code Section 30106**[30106. Development**

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal of harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

88-1246285



PHOTO 1 Looking east from Piuma Road at sports court, major vegetation removal outside of approved area, pool/patio area, chain link fence and residence on June 9, 1997

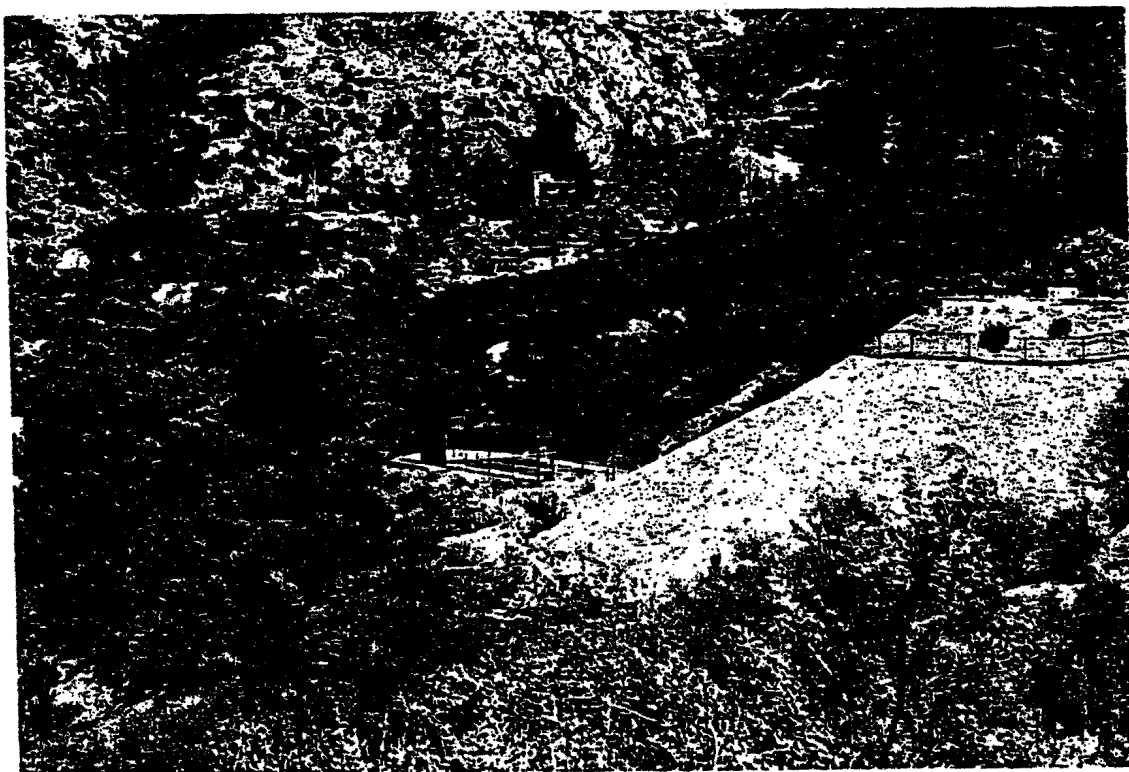


PHOTO 2 Looking east from Piuma Road at sports court, major vegetation removal outside of approved area, chain link fence and pool/patio area on June 9, 1997

EXHIBIT 10

CDP 5-88-056-A1 (Rubinroit)

Photos of Subject Site (4 pages)

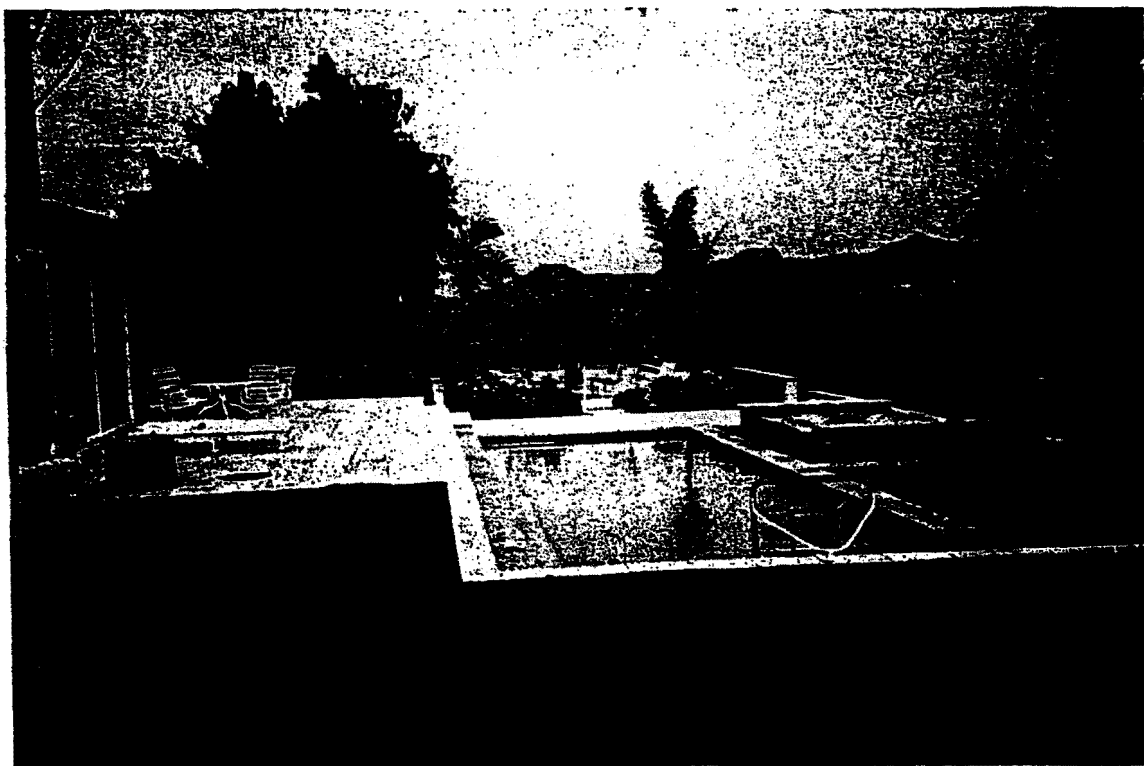


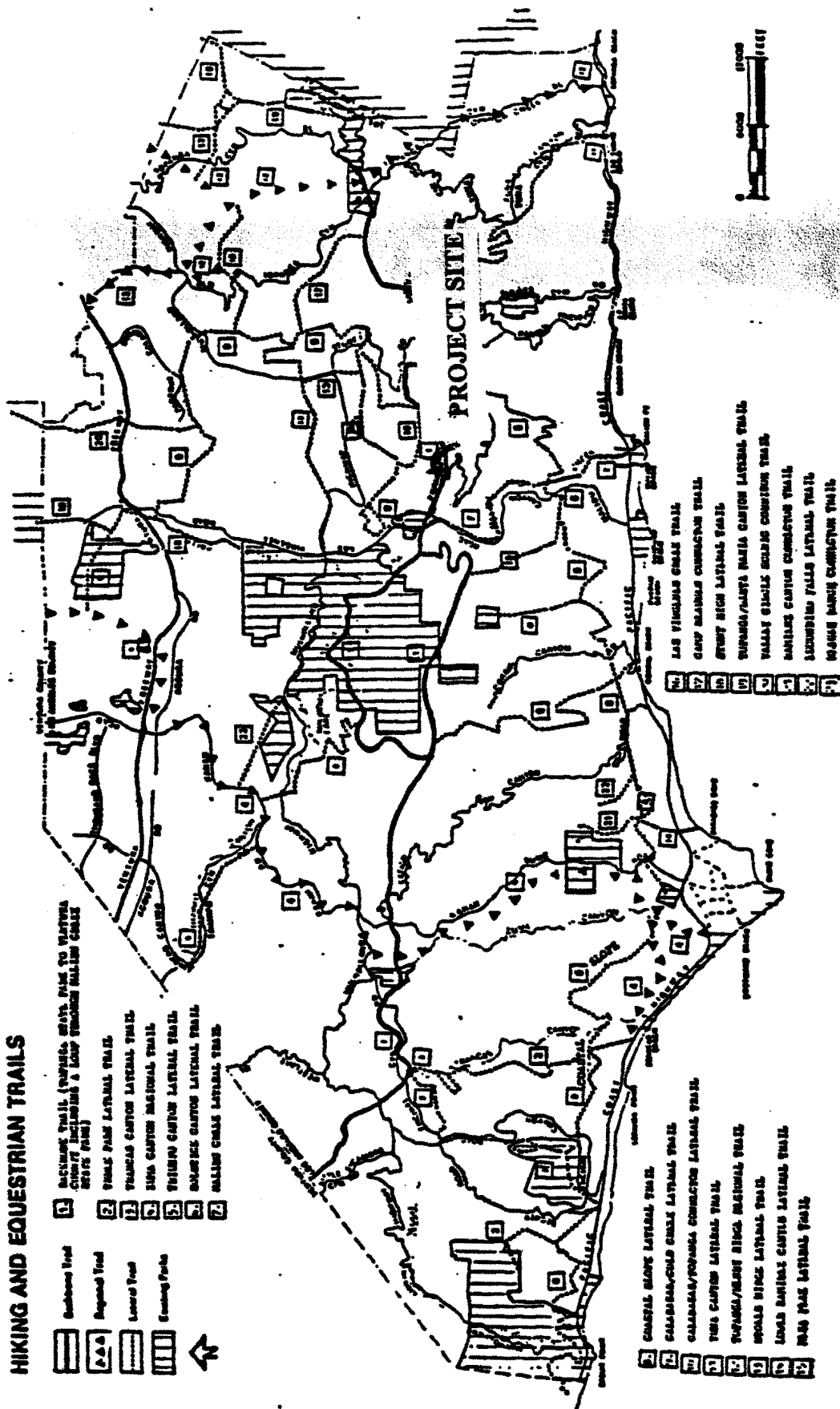
PHOTO 5 Looking west at pool, spa and patio area with low walls on March 15, 2001



PHOTO 6 Looking west at retaining wall, carport, propane tank with concrete pad, irrigation system, chain link fence and house on March 15, 2001.

HIKING AND EQUESTRIAN TRAILS

- Outboard Trail
 Improved Trail
 Lateral Trail
 Existing Path
 Direction of Flow
1. ACQUICUT TRAIL (IMPROVED, SOUTH FARM TO VENTURA CANYON INCLUDING A LOW SMOKEHILL LATERAL CROSS FARM)
 2. THOMAS FARM LATERAL TRAIL
 3. THOMAS CANYON LATERAL TRAIL
 4. LUNA CANYON LATERAL TRAIL
 5. THOMAS CANYON LATERAL TRAIL
 6. THOMAS CANYON LATERAL TRAIL
 7. MALLING CROSS LATERAL TRAIL



8. CARRERA CROSS LATERAL TRAIL
 9. CARRERA-CROSS CROSS LATERAL TRAIL
 10. CARRERA/TOMAS CANYON LATERAL TRAIL
 11. THOMAS CANYON LATERAL TRAIL
 12. THOMAS/VENTURA CANYON LATERAL TRAIL
 13. THOMAS CANYON LATERAL TRAIL
 14. THOMAS CANYON LATERAL TRAIL
 15. THOMAS CANYON LATERAL TRAIL

16. LAS VENTURAS CROSS TRAIL
 17. CARRERA CANYON LATERAL TRAIL
 18. STONY RICH LATERAL TRAIL
 19. THOMAS/VENTURA CANYON LATERAL TRAIL
 20. THOMAS CANYON LATERAL TRAIL
 21. THOMAS CANYON LATERAL TRAIL
 22. THOMAS CANYON LATERAL TRAIL
 23. THOMAS CANYON LATERAL TRAIL

FIGURE 3