

CALIFORNIA COASTAL COMMISSION

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Commission Action:



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;

Los Angeles County Fire Department, Approval, June 25, 2001; and Los Angeles County, Geologic Review, Approval in Concept, February 28, 1998.

SUBSTANTIVE FILE DOCUMENTS: "Grant of Easement," Document 01 2312351, dated November 28, 2001; "Biological Assessment", Steven G. Nelson, Consulting Biologist, October 1, 2001; "Update Geological and Geotechnical Engineering Investigation," GeoSoils Consultants, Inc., September 11, 2001; "Limited Geotechnical Investigation for Proposed Swimming Pool and Carport," Miller Geosciences, Inc., December 6, 1995; Cease and Desist Order CCC-01-CD-01; and Coastal Development Permits 5-88-056 (Moses/Landry), 5-90-661 (Allen), 5-91-328 (Contis), and 4-98-264 (Diva Partners)..

SUMMARY OF STAFF RECOMMENDATION: Staff recommends that the Commission take one vote adopting the following two-part resolution for the proposed project:

Part One: To approve the request for a permit for the construction of a swimming pool with spa and pump, 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, and irrigation system; placement of 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 with eight special conditions regarding geologic and engineering recommendations, revised plans, landscape and erosion control, removal of concrete, drainage and polluted runoff, pool and spa drainage and maintenance, condition compliance, and implementation.

Part Two: To deny the request for a permit 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.

I. STAFF RECOMMENDATION

MOTION: *I move that the Commission deny 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 and approve the construction and installation of a swimming pool with spa and pump, 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 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 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, 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 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 in significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

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

III. Special Conditions

1. **Plans Conforming to Geotechnical Engineer's Recommendations**

All recommendations contained in the reports prepared by GeoSoils Consultants, Inc., dated September 11, 2001 and Miller Geosciences, Inc., dated December 6, 1995 that apply to the development approved in this permit amendment shall be incorporated into all final design and construction, including recommendations concerning construction, foundation, slope stabilization, and drainage. Prior to issuance of the Coastal Development Permit amendment, the applicants shall submit evidence to the Executive Director of the geotechnical consultants' review and approval of all final design and construction plans.

To ensure that the geotechnical recommendations regarding the after-the-fact development are implemented in a timely manner, within 60 days of the issuance of the permit amendment, or within such additional time as the Executive Director may grant for good cause, the applicants shall 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 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 native plant species indigenous to the Santa Monica Mountains using accepted planting procedures, consistent with fire safety requirements. Such planting shall

be adequate to provide 90 percent coverage within two years, and this requirement shall apply to all disturbed soil areas on site.

- 2) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.
- 3) The Permittees shall undertake development in accordance with the final approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Coastal Commission - approved amendment to the Coastal Development Permit amendment, unless the Executive Director determines that no amendment is required.
- 4) If additional fuel modification is required under Fire Department of Los Angeles County Fuel Modification and/or brush clearance requirements, vegetation within 50 feet of the proposed carport, propane tank, and/or water tank may be removed to mineral earth and vegetation within a 200 foot radius of these structures may be selectively thinned in order to reduce fire hazard. However, such thinning shall only occur in accordance with a revised, approved long-term fuel modification plan submitted pursuant to this special condition. The revised fuel modification plan shall include details regarding the types, sizes, and location of plant materials to be removed, and how often thinning is to occur. The revised fuel modification plan must illustrate the location of the proposed irrigation system which may only be located within the area that is required to be irrigated by the Fire Department of Los Angeles County.
- 5) Vertical landscape elements shall be included in the landscape plan that are designed, upon attaining maturity, to screen the approved carport, propane tank, and water tank from the public views from Piuma Road and the Backbone Trail.

B. Monitoring

Five years from the issuance of this permit amendment, or within such additional time as the Executive Director may grant for good cause, the applicants shall submit for the review and approval of the Executive Director a landscape monitoring report, prepared by a licensed landscape architect or qualified resource specialist, certifying that the on-site landscaping is in conformance with the landscape plan approved pursuant to this 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 project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicants or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicants shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new Coastal Development Permit is required to authorize such work.

6. Pool and Spa Drainage and Maintenance

Prior to issuance of the Coastal Development Permit amendment, the applicants shall submit, for review and approval of the Executive Director, a written pool and spa maintenance agreement to install and use a non-chemical water purification system and a program to maintain proper pH, calcium and alkalinity balance in a manner that any runoff or drainage from the pool or spa will not include excessive amounts of chemicals that may adversely affect water quality or environmentally sensitive habitat area. In addition, the plan shall, at a minimum: 1) provide a separate water meter for the pool and spa to allow monitoring of water levels for the pool and spa, 2) identify the materials, such as plastic linings or specially treated concrete to be used to waterproof the underside of the pool and spa to prevent leakage, and information regarding past success rates of these materials, 3) identify methods to control pool and spa drainage and to control infiltration and runoff resulting from pool and spa drainage and maintenance activities, and 4) identify methods for periodic disposal of pool and spa water for maintenance purposes to an appropriate location and in no case shall the water be disposed of on the subject site. The Permittees shall undertake development and maintenance in compliance with this pool and spa maintenance agreement and program approved by the Executive Director. No changes shall be made to the agreement or plan unless they are approved by the Executive Director.

7. Condition Compliance

Within 60 days of Commission action on this Coastal Development Permit amendment application, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action with respect to the development approved in this Permit under the provisions of Chapter 9 of the Coastal Act.

8. Implementation Condition

Within 60 days of issuance of this permit amendment, the applicant shall (a) cap the grey water outlet and properly connect it to the existing septic system; (b) submit to the Commission written confirmation from the Los Angeles County Department of Health Services that (a) has been completed; and (c) remove the concrete placed in the eastern drainage. The Executive Director may grant additional time for good cause.

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 portions of the subject site which have not been cleared of native vegetation maintain 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 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.² Within the SMMNRA, the Santa Monica Mountains create rugged open spaces, jagged rock outcroppings, and primitive wilderness areas, in addition to homes, ranches, and communities. The SMMNRA provides the public and local residents with outdoor recreational opportunities and an escape from urban settings and experiences.

¹ Public Law 95-625.

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

In addition, there is a history of past Commission action on the subject site. On March 24, 1988, the Commission approved Coastal Development Permit (CDP) 5-88-056 for construction of a four level 4,260 square foot, 28-foot high single family residence with a water well and a septic system on the subject site (Exhibit 7). At that time, the property was owned by Jack and Annie Moses and Ron and Marco Landry. The single family residence was approved to be located on one of two preexisting graded pads. As a result, that permit minimized landform alteration, as the single family residence and all proposed development was proposed and approved on one existing, graded pad adjacent to and immediately north of Piuma Road with only minor grading required to construct the driveway under CDP 5-88-056. Furthermore, in addition to the concentration of the development footprint on one existing graded pad adjacent to Piuma Road, the development approved under CDP 5-88-056 was also located on the upper portion of the slope and was set back from the blueline stream to the north, steep slopes on the site, and ESHA. In addition, the development footprint and fuel modification and landscape plan submitted pursuant to CDP 5-88-056 also minimized the disturbance of native vegetation, consisting mainly of undisturbed, mature chaparral. In approving CDP 5-88-056, the Commission also imposed special conditions in order to mitigate potential adverse impacts of the residential development on sensitive environmental and visual resources.

Special Condition 2 of CDP 5-88-056 required fuel modification and landscape plans to be submitted to the Commission staff for review and approval. The approved fuel modification and landscape plans that were submitted and approved prior to issuance of CDP 5-88-056 included the following statement:

It is the intent of the fuel modification plan to avoid vegetation clearance in any designated "OPEN SPACE" area as shown on the attached site plan including the drainage courses to the west and east of the building pad.

The fuel modification and landscaping plans submitted pursuant to CDP 5-88-056 limited the clearance of vegetation to a distance of 30 feet from any structure and the cutting of flammable vegetation to a height of 18 inches for another 70 feet, unless additional clearance was authorized or required by the Los Angeles County Fire Marshall.

In addition, Special Condition 4 of 5-88-056 required the previous applicants to execute and record an irrevocable offer to dedicate (OTD) an open space and conservation 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 coastal development 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 February 14, 1990, title to the property was transferred to Howard and Terry Rubinroit, the current applicants and owners of the subject site.

On June 10, 1997, Commission staff received a report of a possible violation of the Coastal Act on the subject site, including the construction of a sports court. On June 19, 1997, Commission staff confirmed the presence of a sports court in the area of the OTD open space easement. On this same date, Commission staff sent the Rubinroits the first of five letters requesting that they apply for an after-the-fact CDP for all unpermitted development on the subject property. The June 19, 1997 letter specifically

identified the alleged violation as the sports court and excessive vegetation removal. While investigating the violation during the fall of 1998, Commission staff subsequently discovered additional unpermitted development, including the swimming pool and retaining wall.

After the Rubinroits failed to comply with enforcement deadlines, on October 9, 1998, Commission staff sent the Rubinroits a notice of intent (NOI) to schedule a public hearing on the issuance of a cease and desist order by the Commission. This NOI described the violation as the unpermitted construction of the sports court, swimming pool and retaining wall. During a conversation with Commission staff on November 12, 1998, Mr. Rubinroit indicated that he would file a complete CDP application. In reliance on this commitment by Mr. Rubinroit, the Commission enforcement staff removed the cease and desist order from the Commission's agenda. On November 13, 1998, Commission staff sent Mr. Rubinroit a letter memorializing the November 12, 1998 conversation and establishing a deadline of December 11, 1998 for submittal of the applications.

On December 9, 1998, during a conversation with Commission staff, Mr. Rubinroit agreed to file two CDP applications, one for the sports court and the other for the swimming pool and retaining wall. Commission staff determined that they would likely recommend approval of the swimming pool and retaining wall, and denial of the sports court. As the Rubinroits suggested that they would contest a denial of the sports court, staff stated that the Rubinroits could file two separate permit applications—one for the sports court and development within the OTD open space easement area and the another for the development adjacent to the permitted single family residence and outside of the OTD open space easement area. Commission staff indicated that staff would likely recommend denial of that portion of the development within the area covered by the OTD open space deed restriction as a courtesy to save the Rubinroits potential time and money that could be expended in an attempt to retain the sports court and other development located within the OTD open space easement area. Commission staff also advised the applicants that they had the right to apply for and request approval of the sports court, despite the likely Commission staff recommendation. Commission staff indicated to the Rubinroits that filing two applications would enable the Rubinroits to expeditiously resolve the swimming pool and retaining wall violations, while contesting the likely denial of the sports court.

On January 29, 1999, the Rubinroits submitted two CDP applications to the Commission. They submitted CDP 4-99-023 for the construction of decking and fencing (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 of 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 Rubinroits asserted numerous defenses seeking to prevent issuance of the Cease and Desist Order; however, the Commission found that these defenses were legally and/or factually deficient. The Rubinroits' defenses included assertions that some of the unpermitted development had not occurred at all and that other unpermitted development was exempt from permit requirements. These defenses were rejected. The Rubinroits raise some of these defenses again in the context of this permit amendment application. However, the Commission has already addressed these issues raised by the Rubinroits in the Cease and Desist Order findings. The findings of the Cease and Desist Order have become final and are binding on the Rubinroits. Therefore, the Commission need not address these defenses again in these findings on the permit amendment application. 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 proposed 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 proposed 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 approximately sixty feet from a 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 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.

3. Approximately 25 square feet of concrete apparently poured on a portion of the eastern drainage, adjacent to the sports court.
4. On the northeastern side of the sports court is an area of unvegetated nonnative sand fill that is adjacent to the blueline stream corridor. This fill is in addition to any grading that was done to create the pad for the sports court.
5. Capping an exposed grey water outlet (an approximately two inch pipe) to the west of the residence is proposed. This outlet is located outside of the area approved for the septic system and also represents a change in the design of the system by discharging grey water directly to the ground surface.

The following proposed development is located partially within the area defined by the OTD:

1. Sprinkler heads for an irrigation system are shown on plans submitted as part of this application as being both on the graded pad for the existing single family residence and extending into the area defined by the OTD , to the east of the residence and along Piuma Road.
2. Project plans submitted by the applicant illustrate the proposed drainage system, including portions of the drainage system within the area defined by the OTD. Partially buried PVC pipe that is part of this drainage system is located to the northeast of the pool area, on the southwestern side of the sports court and within the shrubs to the northwest of the sports court.
3. An area of sand fill, which appears to be used as a children's play area, is located to the east of the residence, and is located both within and outside of the area defined by the OTD.
4. A lighted stairway extends from the pool area to the sports court. The majority of this stairway is located within the area defined by the OTD. This stairway, which is illuminated with light posts, is constructed with wooden steps and a railing made of wooden posts with connecting ropes.
5. A chain link fence around the pool and house that extend off of the eastern side of the graded pad for the single family residence into the adjacent area defined by the OTD open space easement.

The following proposed development appears to be located completely within the boundaries of the graded pad for the existing single family residence and is outside of the area defined by the OTD:

1. An in-ground swimming pool (approximately 10 feet by 40 feet) with an attached spa and an adjacent pool equipment and pump storage area are located on the northern portion of the graded pad for the single family residence.
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. However, the Commission reviews the application for a permit to authorize the existing development as if the development was proposed and did not exist and on that basis, the Commission must determine whether authorizing the development is consistent with the Coastal Act.

Under the current amendment application, the applicants are proposing 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 proposed development raises issues under Sections 30230 and 30231 regarding water quality, 30240 regarding sensitive resources and ESHA, 30253 regarding hazards, and 30251 regarding scenic and visual resources.

B. Geologic Hazard and Stability

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

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

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

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

It is the finding of this firm that the proposed swimming pool, spa and carport will be safe and that the proposed improvements will not be affected by any hazard from landslide, settlement or slippage and the completed work will not adversely affect adjacent property . . . provided our recommendations are followed.

That report, dated December 6, 1995, also states:

Based on the findings of our investigation, the site is considered to be suitable from a soils and engineering geologic standpoint for construction of a swimming pool, carport 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 facilities. Care should be taken to watch for signs of leaks in any plumbing including landscape-watering systems.

That report concludes:

General overall site stability is in accordance with current code standards at this time. Shallow surficial soils are subject to slope creep on the steeper descending slopes about the property. Further, the area of shallow uncompacted fill on the slope below the swimming pool could be subject to surficial slope failure in the event of extended periods of heavy rainfall, or heavy landscape watering. As recommended above, care should be taken to avoid excessive landscape watering and to be observant of plumbing leaks. We further recommend deep-rooted drought tolerant plants be utilized on the man-made slopes in particular to aid in surface stabilization of the slopes. . . .

We understand that the house foundations were constructed in competent bedrock. Further, a cursory inspection of the exterior of the house, carport, and associated retaining walls indicate that they have performed satisfactorily since construction.

The swimming pool, spa, and adjacent decking have performed satisfactorily since construction in 1996, and we see no reason that they should not continue to do so for the anticipated normal life for these improvements.

The sports court has performed satisfactorily since construction. 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.

The house and hardscape development performed on the subject site protects to some extent, the immediate area from rainwater infiltration. Significant rainfall or landscape water infiltration could cause reduced stability of the adjacent descending slopes.

As set forth in Section 30253 of the Coastal Act, new development shall assure structural integrity and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area. With respect to the proposed development consisting of: construction of a swimming pool with spa and pump, 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 storage tank for propane 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, and irrigation system; and placement of sand fill for play area east of the pool; none of this development, as conditioned, will involve construction outside of the immediate development footprint and existing graded pad on which the single family residence is located. Accordingly, this portion of the proposed development will not significantly decrease the stability of the subject site or the existing residential development. Further, these portions of the proposed development are not located on the undeveloped steep slopes of the site or adjacent to the canyon below the site. In addition, the proposed capping of the grey water outlet and connection to the existing 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 approved development. The areas of the subject site adjacent to the stairs on the sides of the single family residence and the swimming pool, spa, and patio area may have been disturbed pursuant to construction activities. In addition, the applicants' geotechnical consultant identified soil instability adjacent to the swimming pool area, specifically. Erosion in this area and other areas of the subject site that were disturbed through the approved development may be controlled through planting. 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. In addition, **Special Condition 3** also requires the applicants to submit a revised fuel modification plan, if additional fuel modification or brush clearance is required under the Fire Department of Los Angeles County requirements for the approved structures, such as the carport, propane tank, and/or water tank. A revised fuel modification plan will also ensure that only vegetation required to be removed pursuant to the Fire Department's requirements is cleared, thereby increasing stability by ensuring that there will not be indiscriminate brush clearance.

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 located on which 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, irrigation system, and sand fill play area to the east of the residence may be relocated. These structures may be located closer to the single family residence and outside of the area covered by the offer to dedicate an open space easement. The clustering of the structures associated with the residential development on the site adjacent to the existing single family residence and existing graded pad upon which the residence is built will reduce disturbance of the site and erosion. As a result, the clustering of development adjacent to the existing single family residence will also serve to increase the stability of the site by decreasing disturbance and erosion. Therefore, **Special Condition 2** is necessary to require the applicants to submit revised project plans that 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.

The Commission finds that the development consisting of: construction of a swimming pool with spa and pump, 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 storage tank for propane 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, and irrigation system; and placement of sand fill for play area east of the pool; capping of the grey water outlet and connection to the existing septic system; and removal of concrete from the eastern drainage are consistent with Section 30253 of the Coastal Act, provided that the geotechnical consultant's and the structural engineering consultant's recommendations are incorporated into project plans. Therefore, **Special Condition 1** requires the applicants to submit final project plans and designs that have been certified in writing by the geologic and geotechnical engineering consultants as conforming to their recommendations. To ensure that the recommendations regarding geologic hazards and stability are implemented, **Special Condition 1** also requires the applicant to submit written confirmation that all recommendations that apply to development approved by this permit were implemented.

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 blue-line 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.

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 Consultants, Inc., also states:

Further, the area of shallow uncompacted fill on the slope below the swimming pool could be subject to surficial slope failure in the event of extended periods of heavy rainfall, or heavy landscape watering.

The lighted stairway extending from the pool area to the sports court proposed by the applicants is located on the steep slopes of the site, which the applicants' consultant have stated are subject to creep. In addition, the lighted stairway extending from the pool area to the sports court are also located below the swimming pool, in an area which the applicants' consultant states could be subject to surficial slope failure. Further, Commission staff noted during a visit to the subject site that there was visible evidence of surficial slumping below the swimming pool, in the area where the lighted stairway from the pool area to the sports court is proposed. Commission staff also noted erosion directly adjacent to and beneath the stairs leading from the pool area to the sports court.

As a result, the Commission finds that 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 is likely to be subject to instability and therefore denies this portion of the proposed development since it is not consistent with Section 30253 of the Coastal Act. Therefore, the Commission denies this portion of the proposed development, since it is not consistent with Section 30253 of the Coastal Act. Consequently, **Special Condition 2** requires the applicants to submit revised plans deleting 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 from the project plans.

The Commission finds that, as conditioned to provide evidence of the geotechnical consultant's review and approval of the final plans, evidence of removal of the concrete debris from the eastern drainage area to an appropriate disposal location, revised plans, landscape, and fuel modification, the portions of the proposed development approved are consistent with Section 30253 of the Coastal Act.

B. Environmentally Sensitive Resources and Water Quality

Section 30107.5 of the Coastal Act states:

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

Section 30230 of the Coastal Act states:

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

Section 30231 of the Coastal Act states:

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

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 blue line streams and drainages.

As stated earlier, a blue line stream and chaparral and riparian ESHA are located adjacent to and/or on the subject site and the portion of the adjacent parcel for which an easement was granted to authorize the development related to the sports court. In addition, the Dark Canyon area in the vicinity of the subject site is ESHA and has been recognized as ESHA under past Commission actions. Further, as stated previously, the Coastal Act defines an environmentally sensitive area as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments." Chaparral, which occupies the surrounding area and portions of the subject site which have not been cleared of native vegetation, and the blue line stream and riparian habitat adjacent to the subject site are unique habitat areas that provide water, shelter, and migration corridors for wildlife. In addition, the chaparral on the subject site is part of an overall, large, contiguous, undeveloped area comprised of mature, rich chaparral habitat. Chaparral and riparian plant species are often used for wildlife habitat rehabilitation and restoration, in addition to watershed improvement. Due to this biological significance, areas of chaparral and riparian habitat, such as that on and adjacent to the subject site, have been considered ESHA pursuant to previous Commission actions. In addition, there are several oak trees located adjacent to the subject site, which are also an unique and significant resource.

Further, the subject site and the surrounding area is also within the Cold Creek Resource Management Area that has been recognized as an significant area by the Commission under past permit actions. In past Commission actions, the Commission has recognized that this designation this portion of the Santa Monica Mountains as the Cold Creek Resource Area reflects the unique resources that must be protected in the Cold Creek region, of which the subject site is a valuable part.

The benefits of chaparral and riparian areas are manifold, rendering these resources significant in many respects. For example, direct benefits of chaparral plant communities include increased water percolation to recharge groundwater, decreased storm runoff, healthy soil chemistry and structural integrity, and increased biological diversity resulting in decreased pest pressure for agriculture and landscaping. The direct benefits of riparian habitat include providing shade cover to moderate water temperature, stabilizing the stream banks to reduce erosion, providing food and shelter for wildlife migrating along the riparian corridor, and providing perching sites for birds that depend on streams for prey and water. Chaparral and riparian habitat also provide nesting and refuge sites for insectivorous birds. When these upland habitats are lost, insect balances in adjacent areas are altered. These imbalances can often result in chronic outbreaks of pests in agricultural areas and other vectors (such as mosquitoes) in urban areas. These plant communities are also important to species such as birds, mountain lions, deer, frogs, and tiger salamanders. Chaparral and riparian plant communities, including oak trees, provide shade and lower water temperatures in streams, thereby protecting fish and other aquatic life.³

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.

³The California Oak Foundation, September 5, 2000.

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.

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 as flowing within approximately fifty feet from the non-native sand or decomposed granite located adjacent to the sports court. This stream is located approximately sixty feet from the eastern portion of 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 Area and ESHA, particularly impacts from runoff, as well as erosion from construction activities. To address this concern, the Commission conditioned the permit to require the landowner to obtain an amendment to CDP 5-88-056 or a new CDP before constructing any additional development on the property, including improvements that might otherwise be exempt from permit requirements, to record an OTD open space easement on the portion of the property outside of the development footprint for the single family residence and the graded pad upon which it was approved, and develop fuel modification and landscaping plans to minimize vegetation clearance in the open space area.

Those portions of the development that are proposed within the area covered by the OTD an open space deed restriction, in particular, have the potential to negatively impact the blueline stream, water quality, and ESHA that the Commission intended to protect through the standard and special conditions of the underlying CDP. The sports court proposed by the applicants is constructed down slope from the single family residence, adjacent to the drainages and blueline stream, and is within the area covered by the OTD an open space deed restriction. The Commission's files indicate that the pad for the sports court did not exist at the time the application for CDP 5-88-056 was reviewed. In fact, approximately 40 square feet of the sports court was constructed on the adjacent parcel not owned by the applicants. As a result, the applicants purchased an easement for this portion of the development on November 28, 2001.

Steve Nelson, the biological consultant hired by the Rubinroits, concluded that the nearest blueline stream was approximately 100 feet to the northeast of the sports court. With respect to the riparian canopy for the blueline stream, he concluded that the "canopy of this vegetation does not extend beyond 10 to 20 feet on either side of the flow line and does not come close to the affected area." However, the plans submitted by the Rubinroits show the stream as being located approximately sixty feet to the east of the sports court and fifty feet from the area of decomposed granite adjacent to the sports court. In addition, Steve Nelson based his analysis of the impacts of the removal of vegetation for the construction of the sports court on the conditions that existed after the area had already been graded and the native vegetation had already been removed. Therefore, his conclusion that "no impacts of consequence" resulted from the proposed development does not reflect the impacts that occurred pursuant to the grading and removal of vegetation in this area. The grading and removal of native vegetation associated with the construction of the sports court and placement of fill on the eastern side of the sports court will eliminate ESHA and result in adverse impacts to habitat, water quality, and alteration of floodwaters.

By increasing the amount of impervious surface area through the construction of the lighted sports court and lighted stairway extending from the pool area to the sports court, the amount of stormwater infiltration in the area is reduced, thereby potentially increasing the volume and velocity of sheet flow down the hillside, into the blueline stream that is a tributary to Cold Creek and ESHA. This increased surface transport of 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 applicants assert that only minimal or no grading occurred for the construction of the sports court and decomposed granite area adjacent to the sports court, although they refused to provide staff with an engineer or geologist's analysis of the amount of grading to document this claim. In issuing the Cease and Desist Order, however, the Commission already determined that grading had occurred in these areas, and that finding is final and binding. Although the Commission does not know the exact amount of grading that occurred, because the applicants refused to provide this information, the exact amount is not necessary to evaluate the applicants' proposal because no amount of grading would be consistent with the Coastal Act policy protecting ESHA. Even if only minimal (or even no) grading was performed, construction of the sports court and decomposed granite area still resulted in removal of native chaparral habitat in close proximity to a stream, which is inconsistent with the policy of the Coastal Act requiring the protection of ESHA and which states that only resource dependent uses (which the current proposal is not) may be allowed within ESHA. 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. Therefore, the Commission finds that the proposal to amend the permit that authorized a single family residence on the subject site, but required an open space condition to protect ESHA, to allow accessory structures in the open space area would be inconsistent with the Coastal Act policy that requires protection of ESHA.

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 Consultants, Inc., also states that the "area of shallow uncompacted fill on the slope below the swimming pool could be subject to surficial slope failure in the event of extended periods of heavy rainfall, or heavy landscape watering." The lighted stairway extending from the pool area to the sports court proposed by the applicants is located on the steep slopes of the site, which the applicants' consultant have stated are subject to creep. In addition, the lighted stairway extending from the pool area to the sports

court are also located below the swimming pool, in an area which the applicants' consultant states could be subject to surficial slope failure. Further, Commission staff noted during a visit to the subject site that there was visible evidence of surficial slumping below the swimming pool, in the area where the lighted stairway from the pool area to the sports court is proposed.

In addition to these potential direct impacts to the ESHA, the development within the area defined by the OTD may deter acceptance of the OTD. To date, the OTD has not been accepted. Acceptance of the OTD open space easement ensures that it will be maintained and that the integrity of the environmental resources on site will be preserved.

As a result, the Commission finds that 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 is likely to have adverse impacts on significant environmental resources and water quality. Due to these considerations, the Commission finds that those portions of the proposed development located within the area restricted by the OTD open space deed restriction, including 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 Sections 30230, 30231, 30240 of the Coastal Act.

As conditioned, however, that portion of the proposed development including the construction of the swimming pool with spa and pump, 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, and irrigation system; placement of 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 are consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

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, certain portions of the irrigation system, 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 area covered by the OTD open space deed 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.

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, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

Therefore, in order to find the portion of the proposed development approved under this amendment consistent with the water and marine resource policies of the Coastal Act, the Commission finds it necessary to require the incorporation of Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. Critical to the successful function of post-construction

structural BMPs in removing pollutants in stormwater to the Maximum Extent Practicable (MEP), is the application of appropriate design standards for sizing BMPs. The majority of runoff is generated from small storms because most storms are small. Additionally, storm water runoff typically conveys a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost.

The Commission finds that sizing post-construction structural BMPs to accommodate (infiltrate, filter, or treat) the runoff from the 85th percentile storm runoff event, in this case, is equivalent to sizing BMPs based on the point of diminishing returns (i.e., the BMP capacity beyond which, insignificant increases in pollutants removal (and hence water quality protection) will occur, relative to the additional costs. Therefore, the Commission requires the selected post-construction structural BMPs be sized based on design criteria specified in **Special Condition 5**, and finds this will ensure the approved development will be designed to minimize adverse impacts to coastal resources, in a manner consistent with the water and marine policies of the Coastal Act.

As stated previously, the proposed project includes a swimming pool and spa. There is the potential for swimming pools and spas to have deleterious effects on aquatic habitat if not properly maintained and drained. In addition, chlorine and other chemicals are commonly added to pools and spas to maintain water clarity, quality, and pH levels. Further, both leakage and periodic maintenance of the proposed pool and spa, if not monitored and/or conducted in a controlled manner, may result in excess runoff and erosion potentially causing instability of the site and adjacent properties and may result in the transport of chemicals, such as chlorine, into coastal waters, adversely impacting intertidal and marine habitats. In order to minimize potential adverse impacts from the proposed swimming pool and spa, the Commission requires the applicant to submit a pool drainage and maintenance plan, as detailed in **Special Condition 6**. The plan shall include a separate water meter for the pool and spa, which will serve to monitor water levels of the pool and spa and identify leakage. The plan shall also include a description of the materials to be utilized to prevent leakage of the pool and spa shell and shall identify methods to control infiltration and run-off from periodic pool and spa drainage and regular maintenance activities. The Commission finds that, as conditioned to minimize potential impacts of the proposed pool and spa, this portion of the project is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

Furthermore, landscaping will serve to minimize the potential for adverse impacts to water quality resulting from drainage runoff during construction and in the post-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 area covered by the OTD open space deed restriction are a feasible alternatives that would substantially lessen significant adverse environmental impacts of the project. As a result, these portions of the proposed project, as conditioned, have been adequately mitigated and are determined to be consistent with the resource protection policies 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 from the area covered by the OTD open space deed restriction is a feasible alternative that would substantially lessen significant adverse environmental impacts of the project.

C. Visual Resources

Section 30251 of the Coastal Act states:

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

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

As stated previously, the subject site is a 2.76 acres lot, located at 25351 Piuma Road, in the Calabasas area of Los Angeles County. The property 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. 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 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 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.

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.

⁸ Public Law 95-625.

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

The County of Los Angeles estimated that user activity days for hiking and backpacking will rise from 12,786,471 in 1980 to 16,106,428 in 2000; camping from 8,906,122 to 10,622,744; and horseback riding from 6,561,103 to 7,511,873. As the population in California, and in the Los Angeles metropolitan area in particular, continues to increase, the demand on the parks within the SMMNRA can be expected to grow. The preservation of the unique rural character of the parks and communities within the SMMNRA is, thus, of the utmost importance for continued quality coastal recreational opportunities.

As stated previously, the applicants are 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 proposed lighted sports court, lighted stairway extending from the pool area to the sports court, and the above ground water tank, masonry pump enclosure and screen wall in their proposed location, and installation of decomposed granite on the eastern side of the sports court will have adverse impacts on visual resources. These structures will be highly visible from Piuma Road, a designated scenic highway, and/or from the Backbone Trail. The swimming pool with spa and pump, pool equipment storage area, chain link fence and gates around the pool and single family residence, patio area with landscaping walls near the pool, and lighted steps and pathways on both sides of the single family residence will also be visible from Piuma Road and the Backbone Trail. The proposed above ground propane storage tank with concrete pad, drainage system, and irrigation system; placement of sand fill for the 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 will not be as highly visible from Piuma Road or the Backbone Trail. The retaining wall and carport will, however, be visible from Piuma Road. In addition, the proposed above ground water storage tank, masonry pump enclosure for water tank, screen wall for water tank will need to be relocated to an area adjacent to the single family residence and outside of the area subject to the open space deed restriction. As a result, these structures may also be visible from Piuma Road or the Backbone Trail when relocated under the revised plans required pursuant to **Special Condition 2**. However, the retaining wall and carport, swimming pool, relocated above ground water storage tank, masonry pump enclosure for water tank, and screen wall for the water 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, and the above ground water storage tank, masonry pump enclosure for water tank, screen wall for water tank in their proposed location 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, and the above ground water storage tank, masonry pump enclosure for water tank, screen wall for water tank in their proposed location 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 proposal to amend the permit that authorized construction of a large single family residence that is highly visible from public parkland, a scenic highway, and public trails, to authorize construction of the accessory structures identified above, would be inconsistent with the Coastal Act policy that requires the

minimization of adverse impact on public views in scenic coastal areas. 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 scenic character of the surrounding area and would not protect the unique attributes possessed by this region of the Santa Monica Mountains and the SMMNRA. These portions of the proposed development are highly visible from scenic highways, trails, and public vistas and would alter the scenic qualities that this area offers by significantly changing the natural landscape of the area, particularly the scenic hillside. Further, these portions of the proposed development are relatively large, unnatural, manmade structures. Thus, the Commission finds that this portion of the proposed development would alter the valued scenic qualities that this area possesses and would not be visually harmonious with or subordinate to the character of its setting in this area of Malibu, the Santa Monica Mountains, and the SMMNRA.

As stated previously, the swimming pool with spa and pump, pool equipment storage area, chain link fence and gates around the pool and single family residence, patio area with landscaping walls near the pool, and lighted steps and pathways on both sides of the single family residence will be visible from Piuma Road. The proposed above ground propane storage tank with concrete pad, drainage system, and irrigation system; placement of sand fill for the 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 will not be as highly visible from Piuma Road and/or the Backbone Trail. The retaining wall and carport will, however, be visible from Piuma Road. In addition, the proposed above ground water storage tank, masonry pump enclosure for water tank, screen wall for water tank will need to be relocated to an area adjacent to the single family residence and outside of the area subject to the open space deed restriction. As a result, these structures may also be visible from Piuma Road or the Backbone Trail when relocated under the revised plans required pursuant to **Special Condition 2**. However, the retaining wall and carport, swimming pool, relocated above ground water storage tank, masonry pump enclosure for water tank, and screen wall for the water 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.

However, due to the visible nature of portions of the approved development from Piuma Road and the Backbone Trail, the Commission finds it necessary to require mitigation measures to minimize visual impacts. Visual impacts associated with structures such as the carport, retaining walls, above ground water storage tank, masonry pump enclosure for water tank, and screen wall for water tank can be further reduced by the use of appropriate and adequate landscaping. **Special Condition 3**, the landscape and fuel modification plan, incorporates the requirement that vertical screening elements be added to the landscape plan to soften views of the proposed residence from Piuma Road and the Backbone Trail. In addition, **Special Condition 3** requires the applicant to prepare a landscape plan relying mostly on native, noninvasive plant species to ensure that the vegetation on site remains visually compatible with the native flora of surrounding areas. The implementation of **Special Condition 3**, therefore, will help to partially screen and soften the visual impact of the development from Piuma Road and

the Backbone Trail. In order to ensure that the final approved landscaping plans are successfully implemented, **Special Condition 3** requires the applicant to revegetate all disturbed areas in a timely manner, and includes a monitoring component, to ensure the 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.

D. Community Character

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas . . .

Section 30253(5) of the Coastal Act states:

New development shall:

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

As stated previously, the subject site is a 2.76 acres lot, located at 25351 Piuma Road, in the Calabasas area of Los Angeles County. The property 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. 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 as Dark Canyon ESHA. The subject site maintains chaparral vegetation and is part of an larger, contiguous, fairly undeveloped area maintaining mature and significant 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.

As stated previously, the subject site is also within an area that was designated as the Santa Monica Mountains National Recreation Area (SMMNRA) in 1978 by the United States Congress. The SMMNRA was established to "manage the recreation area in a manner which will preserve and enhance its scenic, natural, and historical setting and its public health value as an air shed for the Southern California metropolitan area while providing for the recreational and educational need of the visiting public."¹⁰ The Santa

¹⁰ Public Law 95-625.

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.¹¹ The SMMNRA provides the public and local residents with outdoor recreational opportunities and an escape from urban settings and experiences. It is the unique beauty, wilderness, and rural character of this area that continues to draw so many visitors and residents to it.

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

The applicant is requesting approval for the construction of a 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

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

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 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, 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 may be minimized through **Special Conditions 2, 3, and 4**, discussed in previous sections of this report.

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 Sections 30251 and 30253(5) 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 character of the surrounding area 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 impacts to the community character of the surrounding area of the project. Therefore, these portions of the proposed project are determined to be inconsistent with Sections 30251 and 30253(5) of the Coastal Act.

E. Violations

Various development has been carried out on the subject site without the required Coastal Development Permit(s) or amendment(s). The applicants request after the fact approval of 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, 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. In addition, the applicants are proposing to cap the unpermitted grey water outlet that currently exists on the site and connect it to the existing septic system. The applicants are also proposing to 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 that the grey water outlet has been capped and connected to the existing septic system, **Special Condition 8** requires that the applicants submit documentation from the Los Angeles County Department of Health Services confirming 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. In addition, to insure timely removal of the concrete in the eastern drainage, as proposed by the applicants, **Special Condition 8** requires completion of this within 60 days of the issuance of this permit amendment.

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 would not be in conformity with the provisions of Chapter 3 of the Coastal Act. The proposed development would result in adverse impacts and is found to be not consistent with the applicable policies contained in Chapter 3. Therefore, the Commission finds that approval of the portion of the proposed project consisting of the lighted sports court, lighted stairway extending from the pool area to the sports court, installation of decomposed granite on the eastern side of the sports court, and water tank in its proposed location would prejudice Los Angeles County's ability to prepare a Local Coastal Program which is also consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

The Commission also 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, relocated 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, would not prejudice Los Angeles County's ability to prepare a Local Coastal Program and is consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

G. CEQA

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit or amendment application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA) of 1970. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Commission finds that the approved 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, relocated 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 the project. Therefore, environmental impacts of the project, as conditioned, have been adequately mitigated and are determined to be consistent with CEQA and the policies of the Coastal Act.

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MAP 628

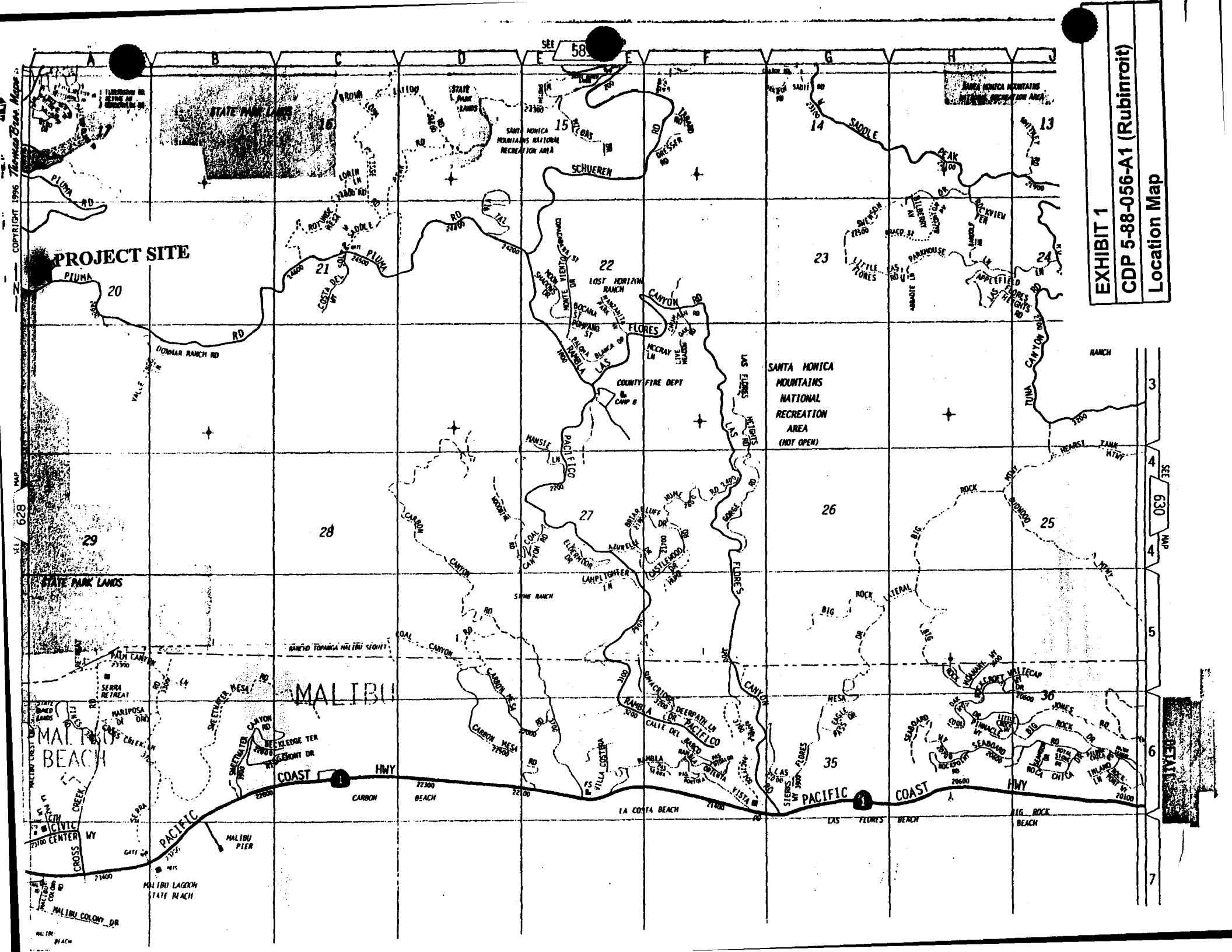


EXHIBIT 1

CDP 5-88-056-A1 (Rubinroit)

Location Map

MAP 630

DETAIL

7

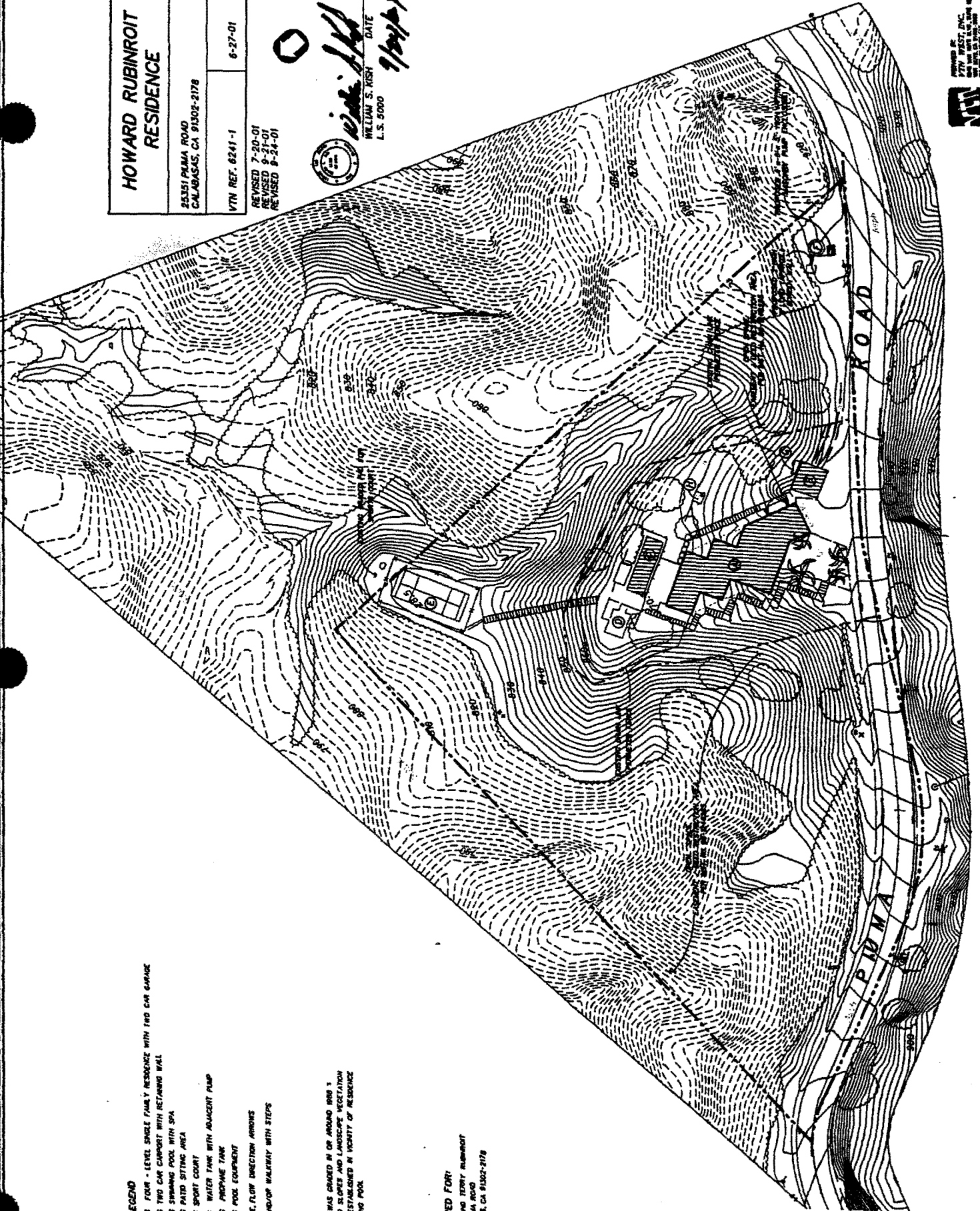
**HOWARD RUBINROIT
RESIDENCE**

25351 PRIMA ROAD
CALABASAS, CA 91302-2178

VTN REF. 6241-1
6-27-01

REVISED 7-20-01
REVISED 9-21-01
REVISED 9-24-01

William S. Nesh
WILLIAM S. NESH
L.S. 5000
DATE
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 PATIO 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 WAS GRADED IN OR AROUND 1980'S
ALL GRADED SLOPES AND LANDSCAPE VEGETATION
ARE WELL ESTABLISHED IN VICINITY OF RESIDENCE
AND SWIMMING POOL

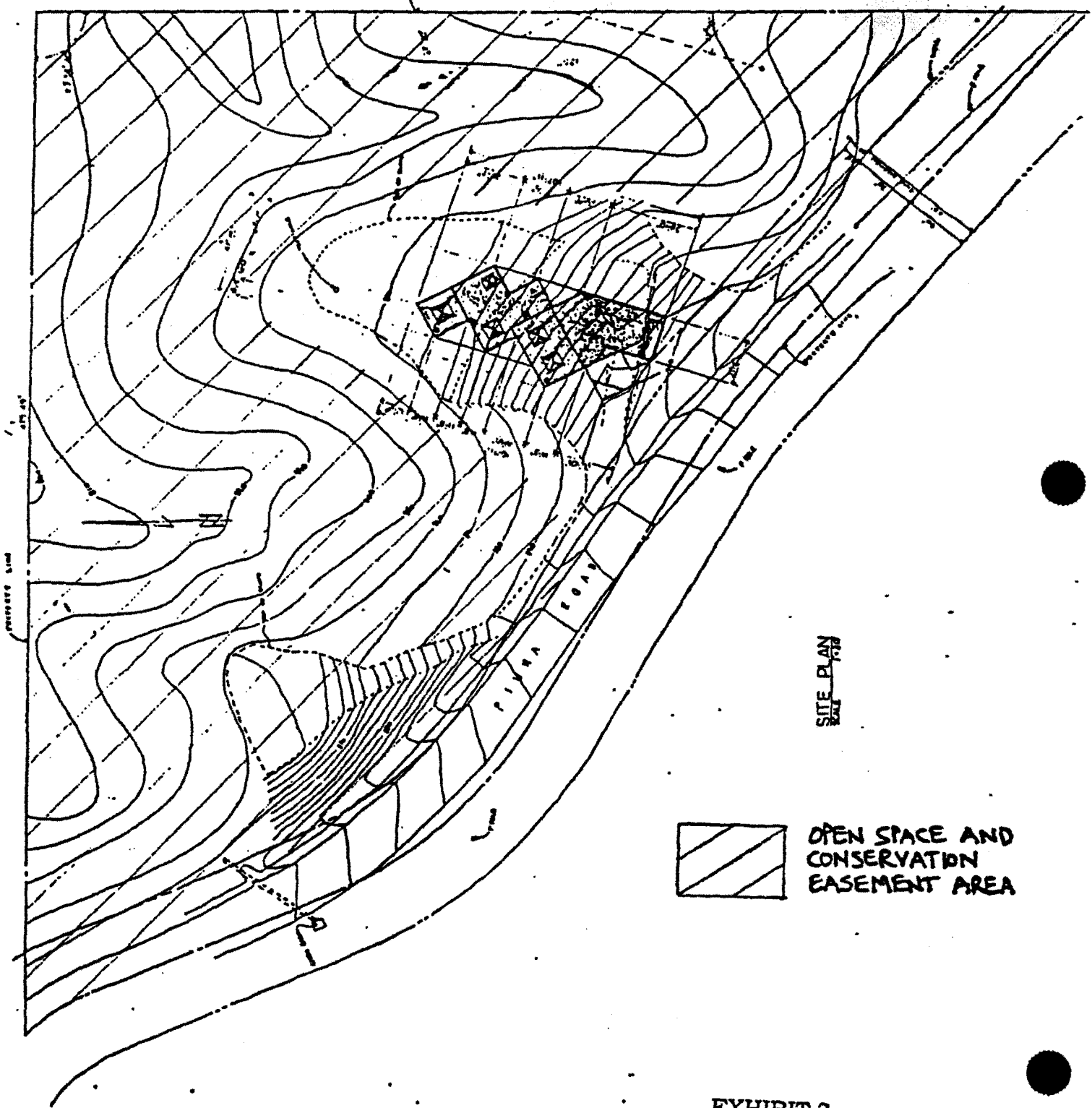
PREPARED FOR:
HOWARD AND TERRY RUBINROIT
25351 PRIMA ROAD
CALABASAS, CA 91302-2178

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

19

THE ABOVE PAGE
AND PAGE 11
WAS RECORDED
IN THE PUBLIC
RECORDS OF
SANTA CLARA
COUNTY, CALIFORNIA
ON 11/15/1988
BY THE COUNTY CLERK
OF SANTA CLARA
COUNTY, CALIFORNIA

RECORDER'S MEMO:
POOR RECORD IS DUE TO
QUALITY OF ORIGINAL DOCUMENT



OPEN SPACE AND
CONSERVATION
EASEMENT AREA

88-1246284

EXHIBIT 3
CCC-01-CD-1 (RUBINROIT)
Page 12 of 12

FILE COPY

CALIFORNIA COASTAL COMMISSION

10TH COAST AREA
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 SAMMON

EXHIBIT 7

CDP 5-88-056-A1 (Rubinroit)

CDP 5-88-056 (8 pages)

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

(See Page 3)


SPECIAL CONDITIONS:

(See Page 7)

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.


Applicant's Signature


Date of Signing

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

recent landslides on the property; only minor soil sloughing adjacent to on-site drainage courses was observed and will present no hazard to the proposed development. The consultant concludes that "the site is considered to be suitable from a soils and engineering geologic standpoint for construction of a single family residence" provided that the geologic report recommendations are followed.

Vegetation surrounding the building site is native chaparral, a highly combustible plant community. Fuel load modification pursuant to Los Angeles County Fire Marshall requirements will be necessary in order to reduce the risks of wildfire on the site. In addition, Landscaping plans that utilize native plants suitable for fuel modification criteria and soil erosion control, and that incorporate drainage devices to control runoff and erosion, will serve to lessen the possibility of fire and erosion hazards, and to assure the continued protection of resources within this portion of the Malibu/Cold Creek Resource Management Area.

The Coastal Act recognizes that new development may involve the taking of some risk. Coastal Act policies require the Commission to establish the appropriate degree of risk acceptable for the proposed development and to determine who should assume the risk. When development in areas of identified hazards is proposed, the Commission considers the hazard associated with the project site and the potential cost to the public, as well as the individual's right to use his property.

The Commission finds that due to the unforeseen possibility of slope failure following wildfires and their resultant effect on slope stability due to loss of protective vegetative cover, the applicant shall assume these risks as a condition of approval, as well as prepare fuel modification and landscape plans and follow all the recommendations contained in the geology report prepared for this project and site. Because the risk of harm cannot be completely eliminated, The Commission is requiring the applicant to waive any claim of liability on the part of the Commission for damage to life or property which may occur as a result of the permitted development. The applicant's assumption of risk, when executed and recorded on the property deed, will show that the applicant is aware of and appreciates the nature of the hazards which exist on the site, and which may adversely affect the stability or safety of the proposed development. Only as conditioned can the Commission find the project consistent with Section 30253 of the Coastal Act and the geology and natural hazard policies of the LUP.

C. VISUAL RESOURCES.

Section 30251 of the Coastal Act requires that the scenic quality of coastal areas be protected as an important public resource and that permitted development be sited to protect the visual quality of coastal areas. In addition, the Malibu/Santa Monica Mountains LUP contains several policies (P72, 125, 129, and 130) regarding viewshed protection which are applicable to the proposed development. Due to presence of a previously-graded building pad, only minor grading (less than 50 cubic yards) is proposed for a short driveway. The proposed residence is designed to step down from the garage which is located just below the elevation of Piuma Road. From this point, the

structure descends in three steps down the existing pad to the lowest level, 30 feet below the elevation Pioma Road. As a result, the structure extends only 11 feet above the centerline of Pioma 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 Pioma 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 Pioma 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

habitat, and clustering and open space easements to protect resources shall be required in order to minimize impacts on the habitat.

Grading and vegetation removed shall be limited to that necessary to accommodate the residential unit, garage, one other structure, one access road, and brush clearance required by the Los Angeles County Fire Department.

Stream protection standards shall be followed.

On both sides of the existing building pad proposed for development are undisturbed drainage courses which collect runoff from and above the property and carry it downslope to the Dark Canyon ESHA. The applicants propose only minimal grading on this pad and no development is proposed in the drainage courses. In addition, no development is proposed at this time on the smaller, existing building pad in the northwest corner of the parcel. Nevertheless, the Commission still has concerns about the cumulative impacts in the Malibu/Cold Creek Resource Management Area, particularly impacts of urbanization such as runoff, erosion from construction and grading activities, and pollutants from septic systems, pesticides, and herbicides.

Staff is recommending two special conditions to prevent future impacts to the Dark Canyon ESHA. One condition will require the landowner to secure an amendment to this coastal permit or apply for a new coastal permit for any future additions or development on the property. The Commission finds that as conditioned, the proposed development is consistent with Section 30240(b) of the Coastal Act.

A second condition will require the landowner to offer to dedicate an open space and conservation easement for resource protection on that portion of the subject property outside the building site (Exhibit 4). This easement will serve to protect the remaining, undisturbed watershed cover on the property, and limit adverse impacts on critical resources within the nearby Dark Canyon ESHA that might arise from future development on the subject property. Of concern to the staff is the potential future use of the second building pad, located in the northwest corner of the property. Utilization of this site for the second structure allowed by the LUP "Table 1 Standards" would require improvement of the existing accessway off Piuma Road. This accessway would constitute a second driveway on the property, separate from the driveway included as a part of the currently proposed development and, therefore, not allowed by the LUP. Development of this second pad, at some distance from the proposed residence, would also conflict with "Table 1 Standards" that require clustering of allowable structures to minimize impacts on habitat. In addition, vegetation removal required by the Los Angeles County Fire Department for a structure on this second pad, and the vegetation clearance necessary for the improvement of the accessway would constitute a significant impact on watershed cover. Siting any future development adjacent to the proposed residence would be much less disruptive to habitat values and more in keeping with the "Table 1 Standards" of the LUP. Therefore, the Executive Director finds that it is necessary to require the applicant to offer to

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,

as shown in Exhibit 4. The applicant shall also submit as a part of said document a "meets and bounds" survey description of the easement. The document shall run with the land in favor of the people of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

5. Future Development.

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, stating that the subject permit is only for the development described in the coastal development permit No. 5-88-056; and that any future additions or development as defined in Public Resources Code section 30106 will require an amendment to Permit 5-88-056, or will require an additional coastal development permit from the California Coastal Commission or its successor agency. Clearing of vegetation for fire protection, outside of on-site drainage courses, as required by the Los Angeles County Fire Marshall is allowed and shall not require a new permit. The document shall be recorded as a covenant running with the land binding all successors and assigns in interest to the subject property.

After you have signed and returned the duplicate copy of this Administrative Permit, you will be receiving the legal forms to complete (with instructions) from the San Francisco office. When you receive the documents if you have any questions, please call the Legal Department at (415) 543-8555.

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
I MIN. PAST 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 16, 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)

1 was granted on March 24, 1988, by the Commission in
2 accordance with the provision of the Staff Recommendation and Findings,
3 attached hereto as Exhibit B and hereby incorporated by reference, subject to
4 the following condition:

5 Conservation and Open Space: Prior to authorization to proceed with development
6 the applicant shall execute and record a document in a form and content
7 acceptable to the Executive Director, irrevocably offering to dedicate to a
8 public agency or private association approved by the Executive Director, an
9 open space and conservation easement for Environmentally Sensitive Habitat Area
10 resource protection. Such easement shall be located at 25351 Piuma Road,
11 Malibu, as shown in Exhibit 4. The applicant shall also submit as a part of
12 said document a "meets and bounds" survey description of the easement. The
13 document shall run with the land in favor of the people of the State of
14 California, binding all successors and assignees, and shall be irrevocable for a
15 period of 21 years, such period running from the date of recording.

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VI. WHEREAS, the Commission, acting on behalf of the People of the State of
California and pursuant to the Act, granted the permit to the Grantor upon
condition (Hereinafter the "Condition") requiring inter alia that the Grantor
record a deed restriction and irrevocable offer to dedicate an open-space
easement over the Property and agrees 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 and public access to the coast which could occur if the
Property were not restricted in accordance with this Offer; and

88-1246285

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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1 This Offer and Declaration of Restrictions subjects the Property to the
2 following terms, conditions, and restrictions which shall be effective from the
3 time of recordation of this instrument.

4 1. USE OF PROPERTY. The use of the Protected Land shall be limited to
5 natural open space for habitat protection, private recreation, and resource
6 conservation uses. No development as defined in Public Resources Code Section
7 30106, attached hereto as Exhibit D and incorporated herein by reference,
8 including but not limited to removal of trees and other major or native
9 vegetation, grading, paving, installation of structures such as signs,
10 buildings, etc, or except as approved by the Coastal Commission or its'
11 successor agency on a subsequent Coastal Permit, shall occur or
12 be allowed on the Protected Land with the exception of the following subject to
13 applicable governmental regulatory requirements:

14 (a) the removal of hazardous substances or conditions or diseased plants
15 or trees;

16 (b) the removal of any vegetation which constitutes or contributes to a
17 fire hazard to residential use of neighboring properties, and which vegetation
18 lies within 100 feet of existing or permitted residential development;

19 (c) the installation or repair of underground utility lines and septic
20 systems,

21 (d) development approved by the Coastal Commission or its' successor
22 agency on a subsequent Coastal Permit.

23
24 2. RIGHT OF ENTRY. The Grantee or its agent may enter onto the Property
25 to ascertain whether the use restrictions set forth above are being observed at
26 times reasonably acceptable to the Grantor.

27 88-1246285

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 CANDY PARK, CA.

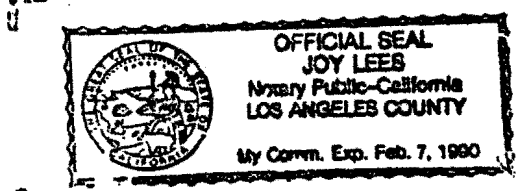
21 [Signature] [Signature]
22 [Signature] [Signature]
23 [Signature] [Signature]
24 Jack Moses Ron Landry
TYPE OR PRINT NAME ABOVE TYPE OR PRINT NAME ABOVE

25 [Signature] [Signature]
26 [Signature] [Signature]
27 Ann-Marie Moses -7- Margo Landry
TYPE OR PRINT NAME ABOVE TYPE OR PRINT NAME ABOVE

1 NOTE TO NOTARY PUBLIC: If you are notarizing the signature of anyone
2 signing on behalf of a trust, corporation, partnership, etc., please use
3 the correct notary jurat (acknowledgment) as explained in your Notary Law
4 Book.

5 STATE OF CALIFORNIA
6 COUNTY OF LOS ANGELES } ss

7 On this 16th day of JULY, in the year 1988,
8 before me Joy Lees, a Notary Public, personally
9 appeared JACK MOSES ANN-MARIE MOSES RONALD LANDRY &
10 MARGO LANDRY,
11 personally known to me (or proved to me on the basis of satisfactory
12 evidence) to be the person whose name is subscribed to this instrument, and
13 acknowledged that he/she executed it.



Joy Lees
NOTARY PUBLIC IN AND FOR SAID COUNTY
STATE

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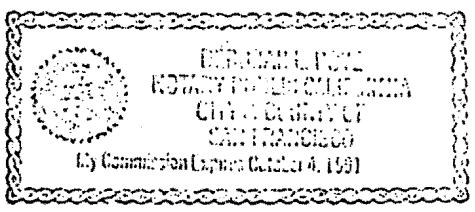
This is to certify that the Offer to Dedicate set forth above is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to the action of the Commission when it granted Coastal Development Permit No. 5-88-056 on March 24, 1988 and the California Coastal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

Dated: July 29, 1988

John Bowers
John Bowers, Staff Counsel
California Coastal Commission

STATE OF California
COUNTY OF San Francisco

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



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

19

EXHIBIT A
Property

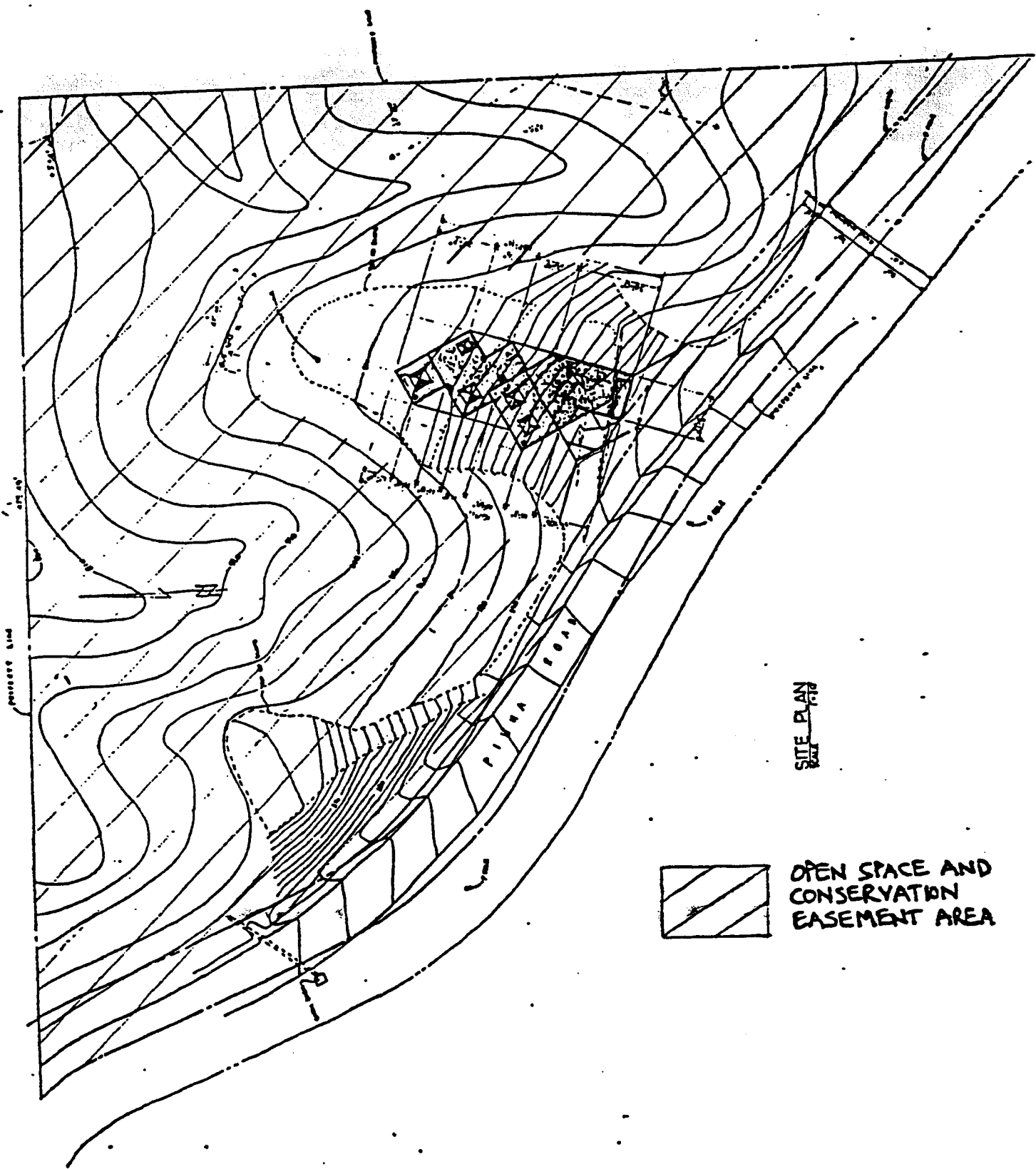
The land referred to in this policy is situated in the County of Los Angeles, State of California, and is described as follows:

That portion of the Northeast quarter of the Northwest quarter of Section 20, Township 1, South, Range 17 West, San Bernardino Meridian, according to the official plat said land approved by the Surveyor General June 20, 1896, described as follows:

Beginning at the Northeast corner of said Northeast quarter of the Northwest quarter; thence along the Northerly line of said Northeast quarter of the Northwest quarter; North $89^{\circ} 54' 40''$ West 475.49 feet to the center line of Pioma Road (formerly Caol Canyon Road) 60 feet wide, as described in parcel 1 in the deed to the county of Los Angeles, recorded on November 30, 1931, as Instrument No. 954, in Book 11285 Page 87, Official Records of said county; thence Southeasterly along said center line, being a curve concave Southwesterly, (a radial line to said intersection of the Northerly line of the Northeast quarter of the Northwest quarter with said center line bears North $46^{\circ} 51' 40''$ East) an arc distance of 34.68 feet; thence South $23^{\circ} 16' 05''$ East, 114.04 feet, tangent to said curve, to the beginning of a tangent curve concave Northeasterly, having a radius of 200 feet; thence Southeasterly along said last mentioned curve, an arc distance of 130.74 feet; thence tangent to said last mentioned curve, South $60^{\circ} 43' 20''$ East, 134.48 feet to the beginning of a tangent curve concave Southwesterly, having a radius of 200 feet; thence Southeasterly along said last mentioned curve, an arc distance of 36.98 feet; thence tangent to said last mentioned curve, South $50^{\circ} 07' 45''$ East to the Easterly line of said Northeast quarter of the Northwest quarter; thence Northerly along said Easterly line to the point of beginning.

THE MCGEE ENGINEERING FIRM
15151 BAYVIEW DRIVE
SAN DIEGO, CALIFORNIA 92127
TEL: (619) 591-1111
FAX: (619) 591-1112
DATE: 10/19/88

23



SITE PLAN



OPEN SPACE AND
CONSERVATION
EASEMENT AREA

24

LEGAL DESCRIPTION OF OPEN SPACE

The land referred to in this policy is situated in the County of Los Angeles, State of California, and is described as follows:

That portion of the Northeast quarter of the Northwest quarter of Section 20, Township 1, South, Range 17 West, San Bernardino Meridian, according to the official plat said land approved by the Surveyor General June 20, 1896, described as follows:

Beginning at the Northeast corner of said Northeast quarter of the Northwest quarter; thence along the Northerly line of said Northeast quarter of the Northwest quarter; North 89°54'40" West 475.49 feet to the centerline of Piuma Road (formerly Caol Canyon Road) 60 feet wide, as described in parcel 1 in the deed to the County of Los Angeles, recorded on November 30, 1931, as Instrument No. 954, in Book 11285 Page 87, Official Records of said County; thence South-easterly along said centerline, being a curve concave Southwesterly, (a radial line to said intersection of the Northerly line of the Northeast quarter of the Northwest quarter with said centerline bears North 46°51'40" East) an arc distance of 34.68 feet; thence South 23° 16'05" East, 114.04 feet, tangent to said curve, to the beginning of a tangent curve concave Northeasterly, having a radius of 200 feet; thence Southeasterly along said last mentioned curve, an arc distance of 130.74 feet; thence tangent to said last mentioned curve, South 60°43'20" East, 134.48 feet to the beginning of a tangent curve concave Southwesterly, having a radius of 200 feet; thence Southeasterly along said last mentioned curve, an arc distance of 36.98 feet, thence tangent to said last mentioned curve, South 50°07'45" East to the Easterly line of said Northeast quarter of the Northwest quarter; thence Northerly along said Easterly line to the point of beginning.

Excepting the following:

Beginning at a point in the centerline of Piuma Road at the South-easterly terminus of that certain curve of radius 200.00 feet and a arc distance of 130.74 feet as described above. Thence along said centerline tangent to said curve South 60°43'20" East, 96.00 feet to the true point of beginning. Thence, North 28°16'37" East, 120.00 feet to a point; thence, North 36°46'37" East, 40.00 feet to a point; thence; North 22°46'37" East, 36.00 feet to a point; thence, North 81°06'37" East, 22.00 feet to a point; thence, South 52°53'23" East, 34.00 feet to a point; thence, South 22°13'23" East, 56.00 feet to a point; thence, South 18°43'23" East, 36.00 feet to a point; thence, South 07°23'23" East, 27.00 to a point; thence South 30°06'37" West, 138.31 feet (more or less) to the centerline of said Piuma Road; thence along said centerline North 50°07'45" West, 60.50 feet (more or less) to the beginning of a tangent curve concave Southwesterly having a radius of 200.00 feet; thence northwesterly along said curve, an arc distance of 36.98 feet; thence tangent to said last mentioned curve, North 60°43'20" West, 38.48 feet to the true point of beginning.

EXHIBIT D

27

Public Resources Code Section 30106

[30106. Development

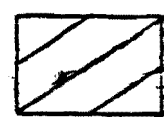
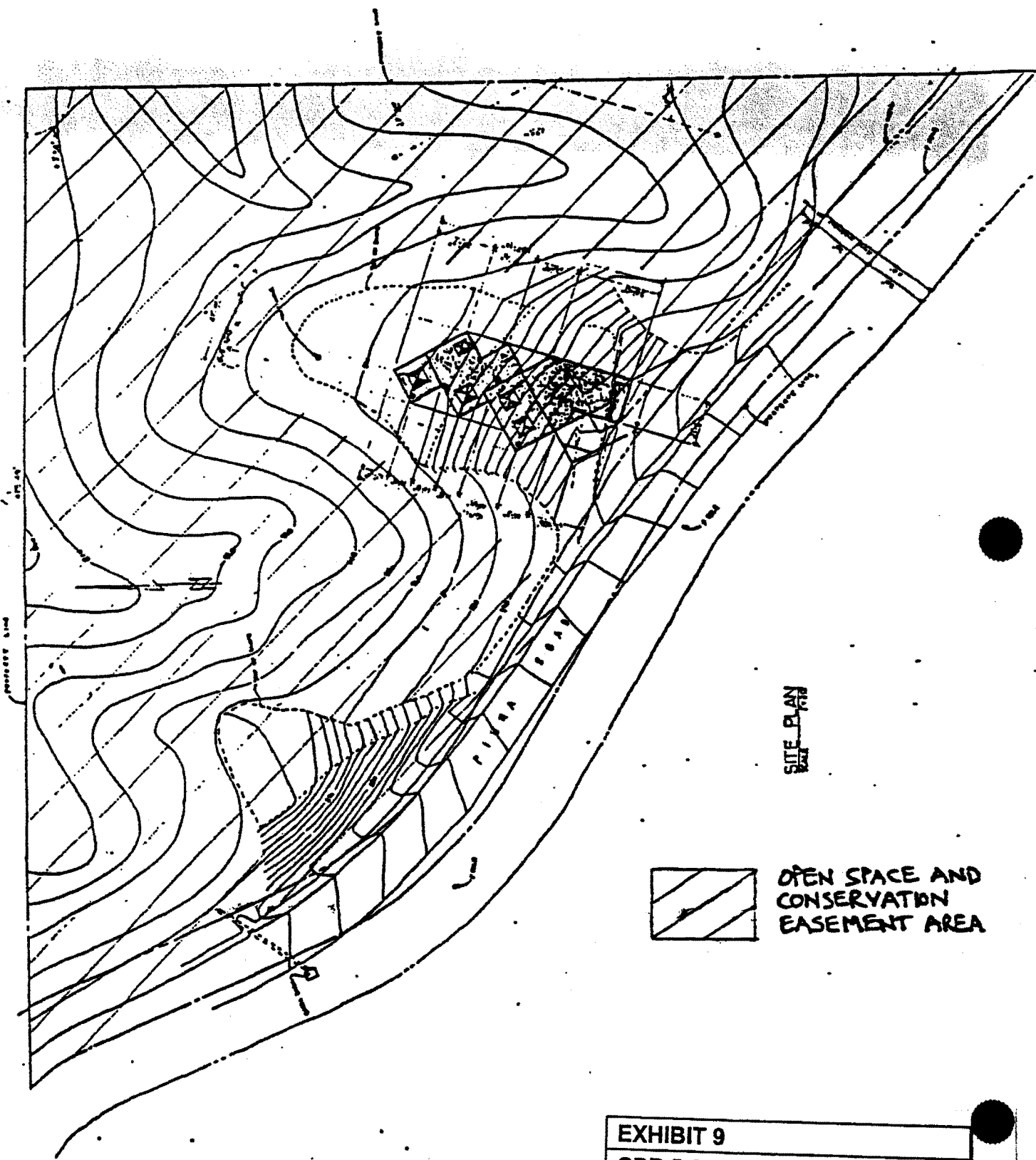
"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or 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

THE MCGEE ARCHIVE
3851 PALM ST. #100
PASADENA, CALIFORNIA 91107
TEL: 818/795-1111
WWW.MCGEEARCHIVE.COM
CANCELED: 01/01/2011
P-C-E 1-11-11
01/01/2011

2



OPEN SPACE AND
CONSERVATION
EASEMENT AREA

EXHIBIT 9
CDP 5-88-056-A1 (Rubinroit)
Map of Open Space OTD

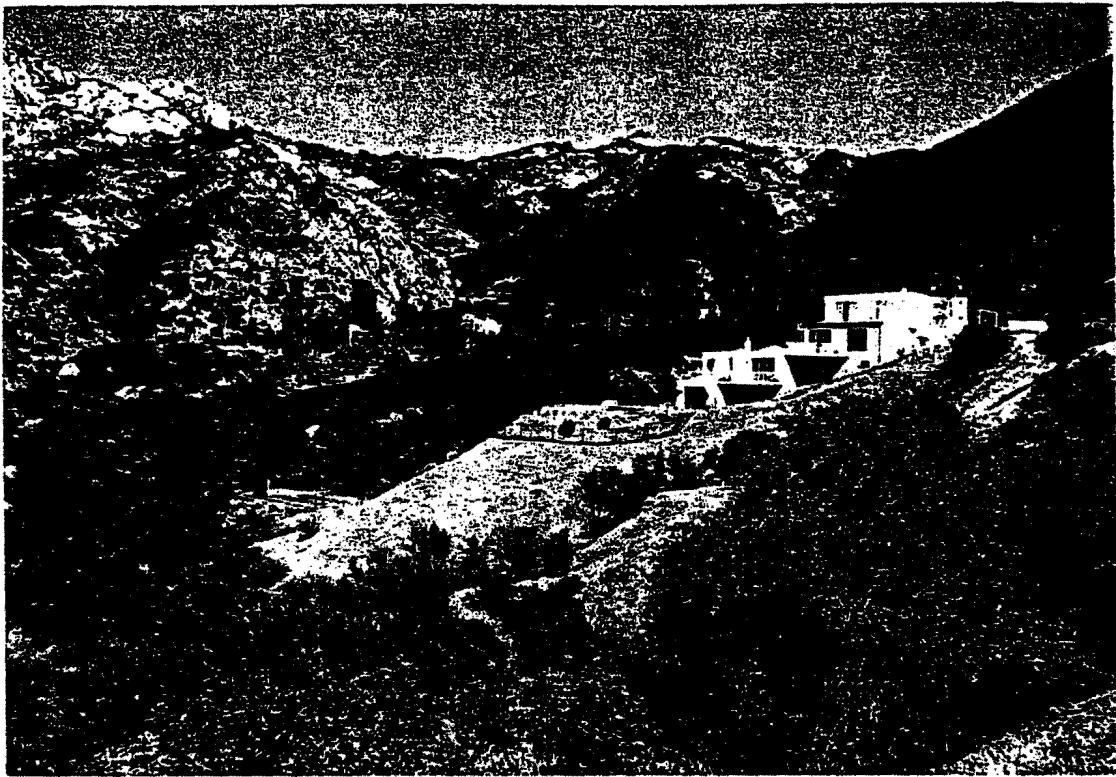


PHOTO 1 Looking east from Piuma Road at sports court, major vegetation removal outside of approved area, pool/patio area, chain link fence and residence on June 9, 1997

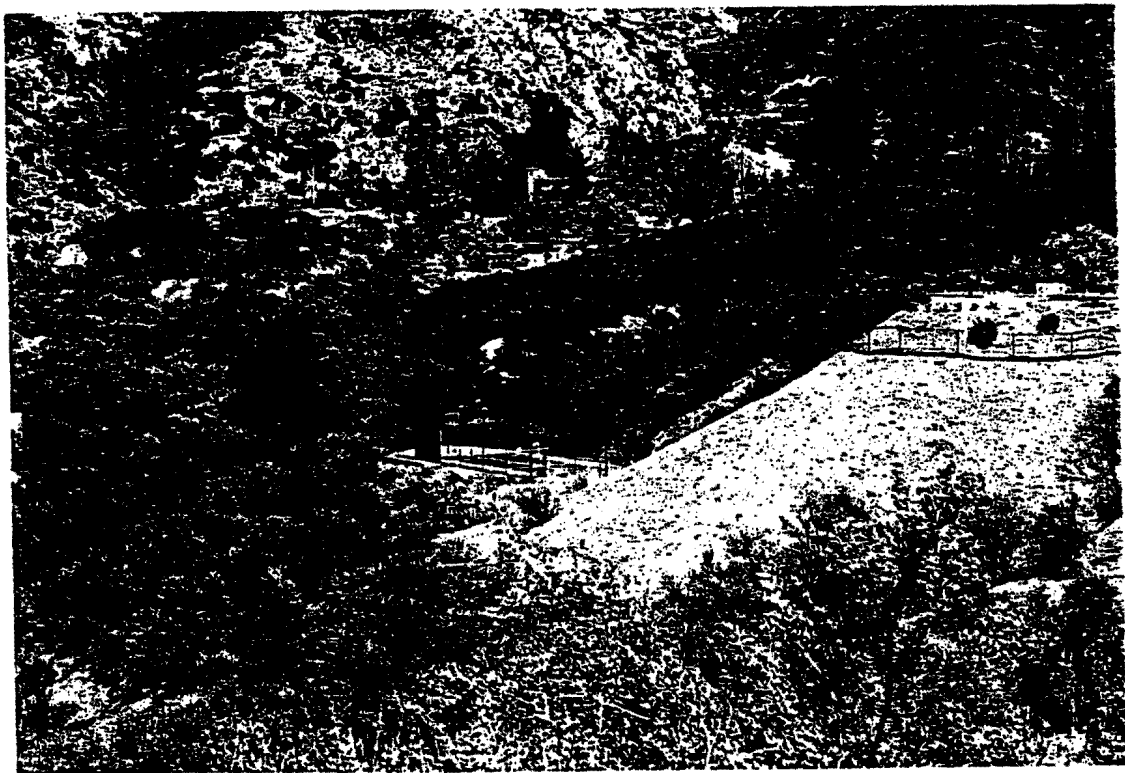


PHOTO 2 Looking east from Piuma Road at sports court, major vegetation removal outside of approved area, chain link fence and pool/patio area on June 9, 1997

EXHIBIT 10
CDP 5-88-056-A1 (Rubinroit)
Photos of Subject Site (4 pages)

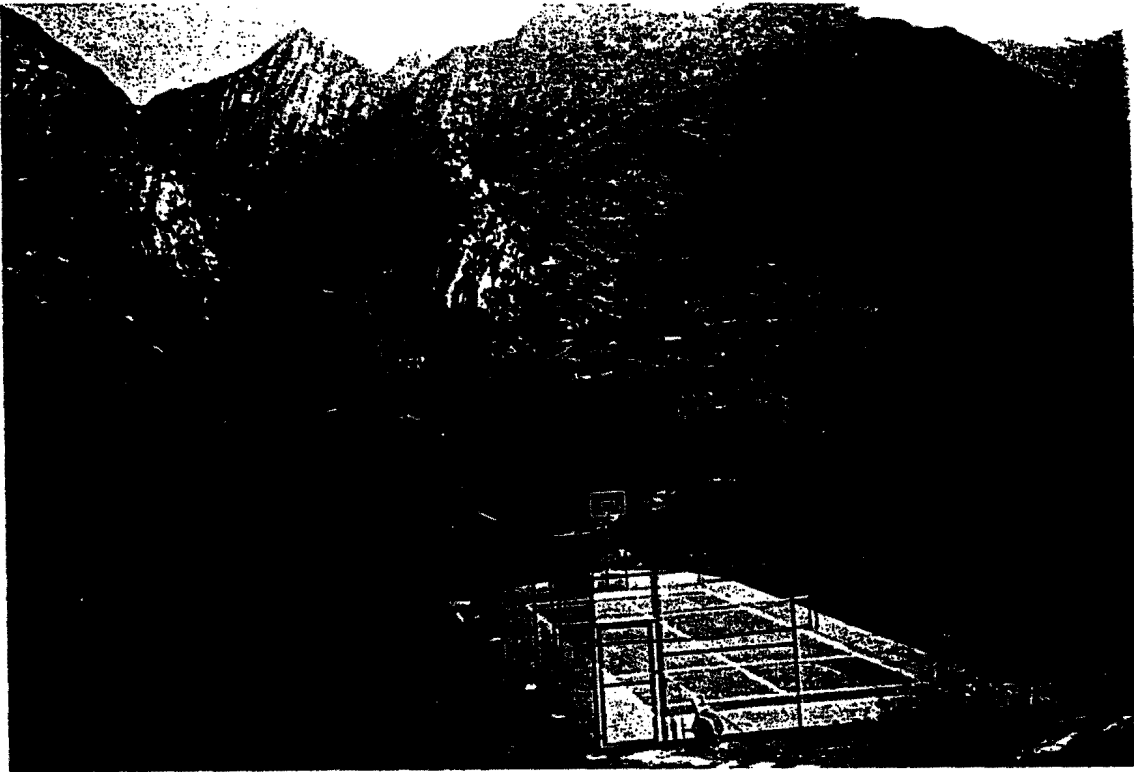


PHOTO 3 Looking north (from area south of pool) at sports court on building pad number three on March 15, 2001.

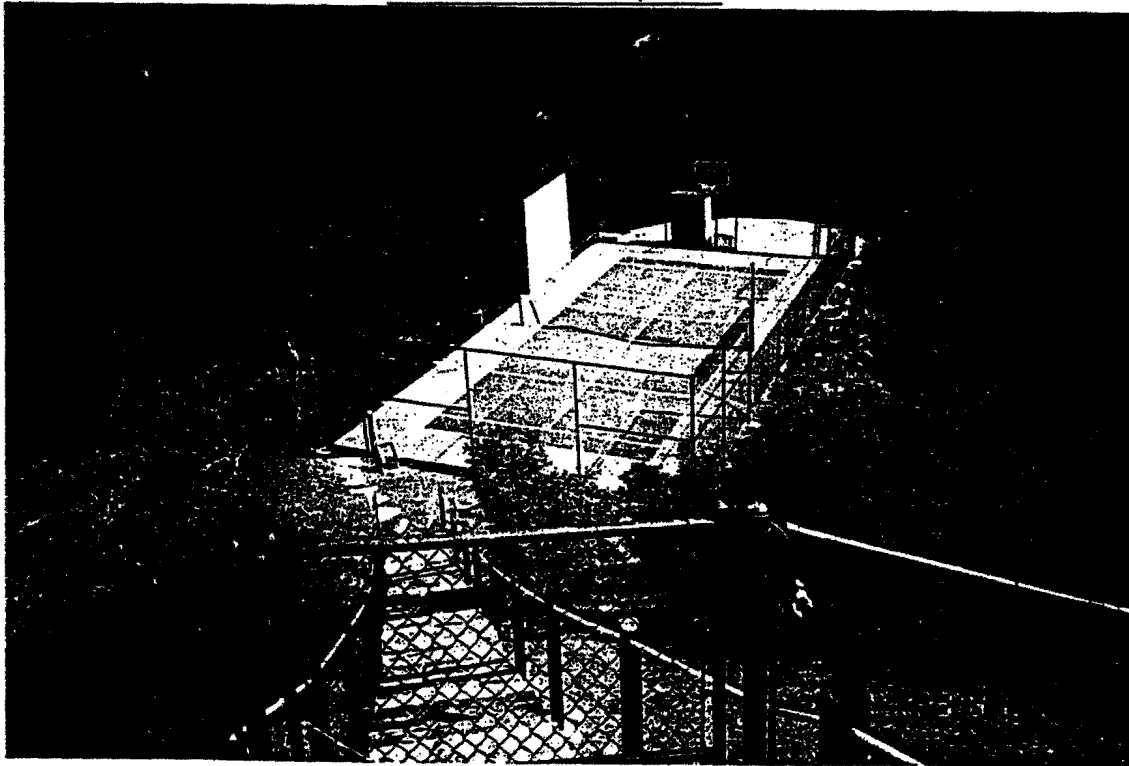


PHOTO 4 Looking north (from stairs below pool) at 1) stairs leading from pool area to sports court, 2) sports court and 3) nonnative sand fill behind basketball net, adjacent to blue line stream on March 15, 2001.

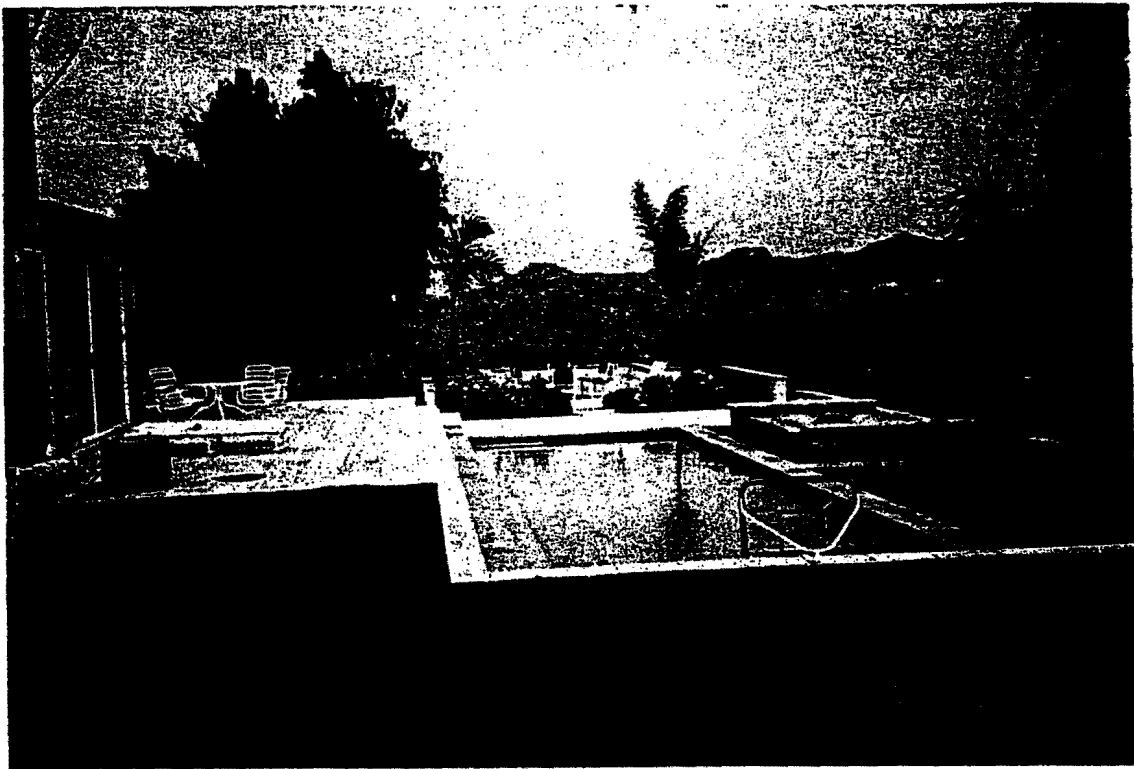


PHOTO 5 Looking west at pool, spa and patio area with low walls on March 15, 2001



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

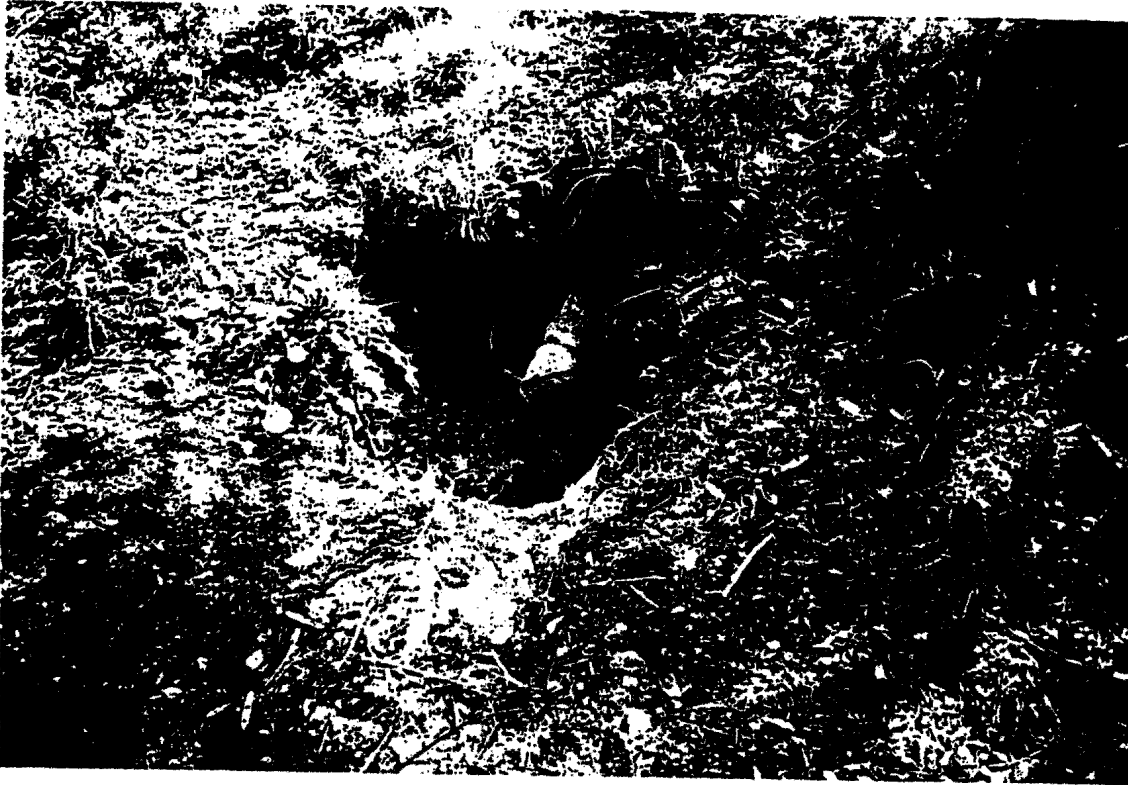


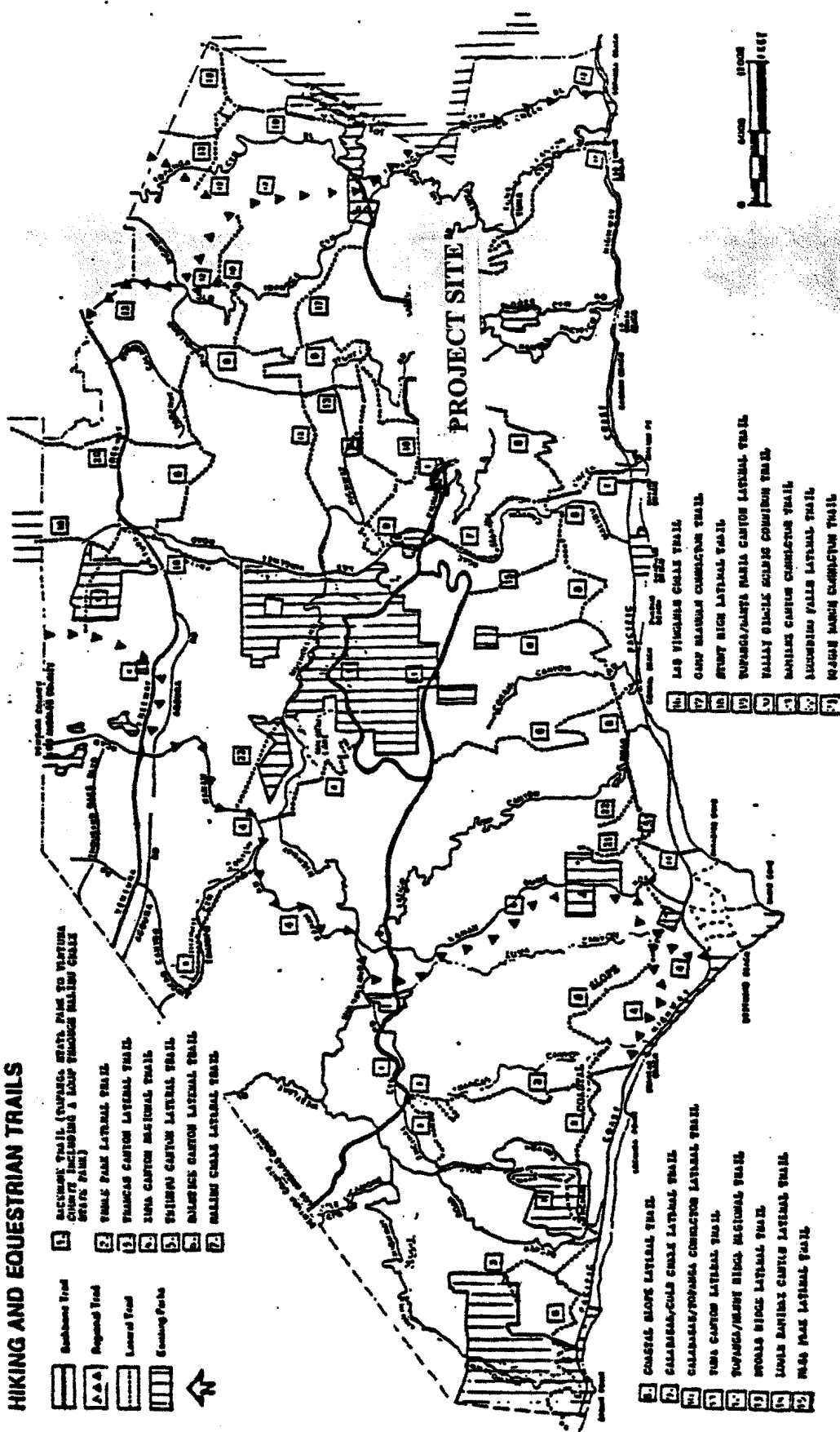
PHOTO 7 View of exposed septic/grey water outlet located on slope to the west of house on
March 15, 2001



PHOTO 8 Looking south from sports court at eastern watercourse, slump area with falling
chain link fence, stairs on eastern side of house, house on March 15, 2001

HIKING AND EQUESTRIAN TRAILS

- Backbone Trail
 - Regional Trail
 - Local Trail
 - Existing Path
 - Directional Arrow
- SACRAMENTO TRAIL (SACRAMENTO STATE PARK TO MOUNTAIN CHAPEL INCLUDING A LOOP THROUGH MALIBU CHAPEL STATE PARK)
 - PINNACLES LATERAL TRAIL
 - FRANCISCO CANYON LATERAL TRAIL
 - ZUMA CANYON NATIONAL TRAIL
 - SERRANO CANYON LATERAL TRAIL
 - SERRANO CANYON LATERAL TRAIL
 - MALIBU CHAPEL LATERAL TRAIL

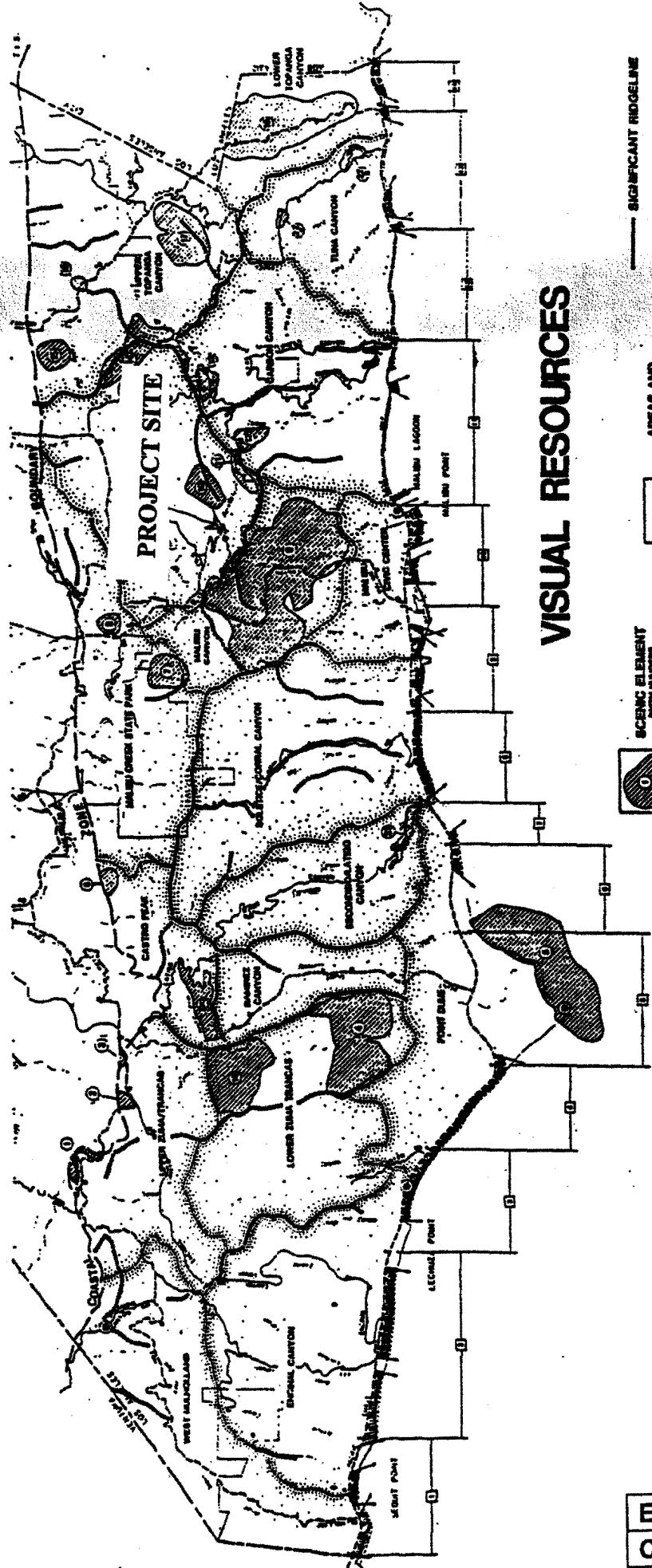


- COASTAL BLUFFS LATERAL TRAIL
- CALIFORNIA/CORRAL CREEK LATERAL TRAIL
- ZUMA CANYON LATERAL TRAIL
- SERRANO/MOUNT BIRDS NATIONAL TRAIL
- SERRANO BIRDS LATERAL TRAIL
- LITTLE MALIBU CANYON LATERAL TRAIL
- MALIBU CHAPEL LATERAL TRAIL

- LAS VIRGENES CANYON TRAIL
- GARDNER CANYON TRAIL
- SERRANO HIGH LATERAL TRAIL
- SERRANO/MOUNT BIRDS NATIONAL TRAIL
- SERRANO BIRDS LATERAL TRAIL
- MALIBU CHAPEL CANYON TRAIL
- SERRANO FALLS LATERAL TRAIL
- MALIBU CHAPEL CANYON TRAIL

EXHIBIT 11
CDP 5-88-056-A1 (Rubinroit)
Trail Map

FIGURE 3



VISUAL RESOURCES

- SCENIC ELEMENT WITH NUMBER REFERENCED IN TEXT
- VIEWSHED
- AREA HAVING OCEAN VIEWS FROM EXISTING ROAD
- AREAS AND ORIENTATIONS OF VIEWS FROM PACIFIC COAST HIGHWAY
- PACIFIC COAST HIGHWAY SEGMENTS WITH NUMBERED VIEWS
- SIGNIFICANT RIDGE LINE
- WATERSHED BOUNDARY
- SCENIC HIGHWAY
- VISTA POINT
- PUBLIC VIEWING AREA



S DEPARTMENT OF REGIONAL PLANNING • DMICOM CORPORATION

FIGURE 8

EXHIBIT 12
CDP 5-88-056-A1 (Rubinroit)
Visual Resource Map